LAWS
of
UTAH 2021

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36th District
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57th District
JON HAWKINS (R) ..... Utah

58th District
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59th District
VAL L. PETERSON (R) ..... Utah

60th District
NELSON T. ABBOTT (R) ..... Utah

61st District
MARSHA JUDKINS (R) ..... Utah

62nd District
TRAVIS M. SEEGMILLER (R) ..... Washington

63rd District
ADAM ROBERTSON (R) ..... Utah

64th District
NORMAN K. THURSTON (R) ..... Utah

65th District
FRANCIS D. GIBSON (R) ..... Utah

66th District
BURTON S. JEFFERSON (R) ..... Utah

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DOUGLAS R. WELTON (R) ..... Utah

68th District
MERRILL F. NELSON (R) ..... Beaver, Juab, Millard, Tooele, Utah

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72nd District
REX P. SHIPP (R) ..... Iron

73rd District
PHIL LYMAN (R) ..... Beaver, Garfield, Kane, Piute, San Juan, Sevier, Wayne

74th District
V. LOWRY SNOW (R) ..... Washington

75th District
WALT BROOKS (R) ..... Washington

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LAWS

of the

STATE OF UTAH, 2020

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

Convened at the State Capitol in the City of Salt Lake
and Adjourned Sine Die
August 20, 2020

STATE OF UTAH

OFFICE OF THE LIEUTENANT GOVERNOR

CERTIFICATE

THIS IS TO CERTIFY that the acts and resolutions published in this volume are, according to our best information and belief, full and correct copies of the originals passed at the 2020 Sixth Special Session of the Sixty-third Legislature of the state of Utah, as they appear of record in the Office of the Lieutenant Governor; and

That the 2020 Sixth Special Session of the Sixty-third Legislature of the state of Utah convened at the Capitol in Salt Lake City on the 20th of August, 2020, and adjourned on the 20th day of August, 2020.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the Great Seal of the State of Utah at Salt Lake City, this 18th day of November, 2021.

Deidre M. Henderson
Lieutenant Governor

CHAPTER 1
H. B. 6001
Passed August 20, 2020
Approved August 31, 2020
Effective August 31, 2020

UNIFORM ELECTRONIC WILLS ACT

Chief Sponsor: V. Lowry Snow
Senate Sponsor: Lyle W. Hillyard

LONG TITLE

General Description:

This bill enacts the Uniform Electronic Wills Act.

Highlighted Provisions:

This bill:

- amends provisions related to disqualifying notarial acts;
- creates definitions;
- establishes the applicability of electronic wills;
- addresses the effect of a will electronically executed in another jurisdiction;
- sets requirements for executing and revoking an electronic will;
- addresses records that are not executed in compliance with the requirements for an electronic will;
- provides requirements for an electronic will to be self-proving;
- allows for certified paper copies of an electronic will;
- addresses uniformity of the law; and
- provides that the Uniform Electronic Wills Act applies to wills of decedents who die on or after the effective date of this bill.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

46-1-7, as last amended by Laws of Utah 2017, Chapter 259

ENACTS:

75-2-1401, Utah Code Annotated 1953
75-2-1402, Utah Code Annotated 1953
75-2-1403, Utah Code Annotated 1953
75-2-1404, Utah Code Annotated 1953
75-2-1405, Utah Code Annotated 1953
75-2-1406, Utah Code Annotated 1953
75-2-1407, Utah Code Annotated 1953
75-2-1408, Utah Code Annotated 1953
75-2-1409, Utah Code Annotated 1953
75-2-1410, Utah Code Annotated 1953
75-2-1411, Utah Code Annotated 1953

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

Section 1. Section 46-1-7 is amended to read:

46-1-7. Disqualifications.

A notary may not perform a notarial act if the notary:

(1) is a signer of the document that is to be notarized, except [~~in case of~~] for:

(a) a self-proved will as provided in Section 75-2-504; or

(b) a self-proved electronic will as provided in Section 75-2-1408;

(2) is named in the document that is to be notarized except [~~in the case of a~~] for:

(a) a self-proved will as provided in Section 75-2-504;

(b) a self-proved electronic will as provided in Section 75-2-1408;

[~~(b)~~] (c) a licensed attorney that is listed in the document only as representing a signer or another person named in the document; or

[~~(c)~~] (d) a licensed escrow agent, as defined in Section 31A-1-301, that:

(i) acts as the title insurance producer in signing closing documents; and

(ii) is not named individually in the closing documents as a grantor, grantee, mortgagor, mortgagee, trustor, trustee, vendor, vendee, lessor, lessee, buyer, or seller;

(3) will receive direct compensation from a transaction connected with a financial transaction in which the notary is named individually as a principal; or

(4) will receive direct compensation from a real property transaction in which the notary is named individually as a grantor, grantee, mortgagor, mortgagee, trustor, trustee, beneficiary, vendor, vendee, lessor, lessee, buyer, or seller.

Section 2. Section 75-2-1401 is enacted to read:

Part 14. Uniform Electronic Wills Act

75-2-1401. Title.

This part is known as the "Uniform Electronic Wills Act."

Section 3. Section 75-2-1402 is enacted to read:

75-2-1402. Definitions.

As used in this part:

(1) "Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

(2) "Electronic presence" means the relationship of two or more individuals in different locations communicating in real time to the same extent as if the individuals were physically present in the same location.

(3) "Electronic will" means a will executed electronically in compliance with Subsection 75-2-1405(1).

(4) "Record" means information that is inscribed on a tangible medium or that is stored in an

electronic or other medium and is retrievable in perceivable form.

(5) "Sign" means, with present intent to authenticate or adopt a record:

(a) to execute or adopt a tangible symbol; or

(b) to affix to or logically associate with the record an electronic symbol or process.

(6) (a) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

(b) "State" includes a federally recognized Indian tribe.

(7) "Will" includes a codicil and any testamentary instrument that merely appoints an executor, revokes or revises another will, nominates a guardian, or expressly excludes or limits the right of an individual or class to succeed to property of the decedent passing by intestate succession.

Section 4. Section 75-2-1403 is enacted to read:

75-2-1403. Law applicable to electronic will -- Principles of equity.

(1) An electronic will is a will for all purposes of the law of this state.

(2) The law of this state applicable to wills and principles of equity apply to an electronic will, except as modified by this part.

Section 5. Section 75-2-1404 is enacted to read:

75-2-1404. Choice of law regarding execution.

A will executed electronically but not in compliance with Subsection 75-2-1405(1) is an electronic will under this part if executed in compliance with the law of the jurisdiction where the testator is:

(1) physically located when the will is signed; or

(2) domiciled or resides when the will is signed or when the testator dies.

Section 6. Section 75-2-1405 is enacted to read:

75-2-1405. Execution of an electronic will.

(1) Subject to Subsection 75-2-1408(4) and except as provided in Section 75-2-1406, an electronic will shall be:

(a) a record that is readable as text at the time of signing under Subsection (1)(b);

(b) signed:

(i) by the testator; or

(ii) in the testator's name by some other individual in the testator's conscious presence and by the testator's direction; and

(c) signed in the physical or electronic presence of the testator by at least two individuals within a reasonable time after witnessing:

(i) the signing of the will under Subsection (1)(b); or

(ii) the testator's acknowledgment of the signing of the will under Subsection (1)(b) or the testator's acknowledgment of the will.

(2) Intent of a testator that the record under Subsection (1)(a) be the testator's electronic will may be established by extrinsic evidence.

Section 7. Section 75-2-1406 is enacted to read:

75-2-1406. Harmless error.

Section 75-2-503 applies to a will executed electronically.

Section 8. Section 75-2-1407 is enacted to read:

75-2-1407. Revocation.

(1) An electronic will may revoke all or part of a previous will.

(2) All or part of an electronic will is revoked by:

(a) a subsequent will that revokes all or part of the electronic will expressly or by inconsistency; or

(b) a physical act if it is established by a preponderance of the evidence that the testator, with the intent of revoking all or part of the will, performed the act or directed another individual who performed the act in the testator's physical presence.

Section 9. Section 75-2-1408 is enacted to read:

75-2-1408. Electronic will attested and made self-proving at time of execution.

(1) An electronic will may be simultaneously executed, attested, and made self-proving by acknowledgment of the testator and affidavits of the witnesses.

(2) The acknowledgment and affidavits under Subsection (1) shall be:

(a) made before an officer authorized to administer oaths under law of the state in which execution occurs, regardless of whether that officer is also a witness to the electronic will; and

(b) evidenced by the officer's certificate under official seal affixed to or logically associated with the electronic will.

(3) The acknowledgment and affidavits under Subsection (1) shall be in substantially the following form:

I, _____, the testator, and, being sworn, declare to the undersigned officer that I sign this instrument as my electronic will, I willingly sign this instrument or willingly direct another individual to sign this instrument for me, I execute it as my voluntary act for the purposes expressed in this instrument, and I am 18 years old or older, of

sound mind, and under no constraint or undue influence.

_____

Testator

We, _____ and _____, the witnesses, being sworn, declare to the undersigned officer that the testator signed this instrument as the testator's electronic will, that the testator willingly signed this instrument or willingly directed another individual to sign for the testator, and that each of us, in the physical or electronic presence of the testator, signs this instrument as witness to the testator's signing, and to the best of our knowledge the testator is 18 years old or older, of sound mind, and under no constraint or undue influence.

_____

Witness

_____

Witness

Certificate of officer:

State of _____

County of _____

Subscribed, sworn to, and acknowledged before me by _____, the testator, and subscribed and sworn to before me by _____ and _____, witnesses, this _____ day of _____, ____.

_____

Signed

_____

Capacity of Officer

(4) A signature physically or electronically affixed to an affidavit that is affixed to or logically associated with an electronic will under this part is deemed a signature of the electronic will under Subsection 75-2-1405(1).

(5) To the extent that this section conflicts with Title 46, Chapter 1, Notaries Public Reform Act, this section supersedes Title 46, Chapter 1, Notaries Public Reform Act.

Section 10. Section 75-2-1409 is enacted to read:

75-2-1409. Certification of paper copy.

(1) An individual may create a certified paper copy of an electronic will by affirming under penalty of perjury that a paper copy of the electronic will is a complete, true, and accurate copy of the electronic will.

(2) If the electronic will is made self-proving, the certified paper copy of the will shall include the self-proving affidavits.

Section 11. Section 75-2-1410 is enacted to read:

75-2-1410. Uniformity of application and construction.

In applying and construing this part, consideration shall be given to the need to promote uniformity of the law with respect to the subject matter of this uniform act among states that enact this uniform act.

Section 12. Section 75-2-1411 is enacted to read:

75-2-1411. Transitional provision.

This part applies to the will of a decedent who dies on or after the effective date of this part.

Section 13. Effective date.

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

CHAPTER 2
H. B. 6002
Passed August 20, 2020
Approved August 31, 2020
Effective August 31, 2020

SUPPLEMENTAL BUDGET BALANCING AND CORONAVIRUS RELIEF APPROPRIATIONS

Chief Sponsor: Bradley G. Last
Senate Sponsor: Jerry W. Stevenson

LONG TITLE

General Description:

This bill supplements or reduces appropriations otherwise provided for the support and operation of state government for the fiscal year beginning July 1, 2020 and ending June 30, 2021.

Highlighted Provisions:

This bill:

- provides budget increases and decreases for certain state agencies and higher education institutions;
- appropriates federal funds provided for responses to COVID-19 and Coronavirus;
- makes technical changes; and,
- provides intent language.

Money Appropriated in this Bill:

This bill appropriates $160,022,500 in operating and capital budgets for fiscal year 2021, including:

- $10,643,600 from the General Fund;
- $1,300,200 from the Education Fund; and
- $148,078,700 from various sources as detailed in this bill.

This bill appropriates $84,100 in expendable funds and accounts for fiscal year 2021, including:

- $100,000 from the General Fund; and
- ($15,900) from various sources as detailed in this bill.

This bill appropriates $113,191,100 in business-like activities for fiscal year 2021.

This bill appropriates ($3,701,600) in restricted fund and account transfers for fiscal year 2021, all of which is from the General Fund.

This bill appropriates ($25,300) in fiduciary funds for fiscal year 2021.

Other Special Clauses:

This bill takes effect immediately.

Utah Code Sections Affected:

ENACTS UNCODIFIED MATERIAL

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

Section 1. FY 2021 Appropriations. The following sums of money are appropriated for the fiscal year beginning July 1, 2020 and ending June 30, 2021. These are additions to amounts otherwise appropriated for fiscal year 2021.

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

EXECUTIVE OFFICES AND CRIMINAL JUSTICE

ATTORNEY GENERAL

Item 1
To Attorney General
From General Fund, One-Time ..... (757,200)
Schedule of Programs:
Administration ..... (142,800)
Child Protection ..... (5,700)
Civil ..... (124,400)
Criminal Prosecution ..... (484,300)

BOARD OF PARDONS AND PAROLE

Item 2
To Board of Pardons and Parole
From General Fund, One-Time ..... (6,600)
Schedule of Programs:
Board of Pardons and Parole ..... (6,600)

UTAH DEPARTMENT OF CORRECTIONS

Item 3
To Utah Department of Corrections - Programs and Operations
From General Fund, One-Time ..... (29,800)
Schedule of Programs:
Department Executive Director ..... (29,800)

JUDICIAL COUNCIL/ STATE COURT ADMINISTRATOR

Item 4
To Judicial Council/State Court Administrator - Administration
From General Fund, One-Time 2,101,800
Schedule of Programs:
Administrative Office 560,500
District Courts 1,541,300

Item 5
To Judicial Council/State Court Administrator - Contracts and Leases
From General Fund, One-Time 459,100
Schedule of Programs:
Contracts and Leases 459,100

GOVERNORS OFFICE

Item 6
To Governors Office - Commission on Criminal and Juvenile Justice
From General Fund, One-Time 499,000
From Federal Funds, One-Time ..... (800)
From Crime Victim Reparations Fund, One-Time ..... (600)
Schedule of Programs:
CCJJ Commission 498,700
Utah Office for Victims of Crime ..... (1,100)

Item 7
To Governors Office - Governor's Office
From General Fund, One-Time 21,000
From Dedicated Credits Revenue, One-Time ..... (400)

Schedule of Programs:
Lt. Governor's Office 20,600

Item 8
To Governors Office – Office of Management and Budget
From General Fund, One-Time 198,700
Schedule of Programs:
Administration 198,700

Item 9
To Governors Office – Indigent Defense Commission
From General Fund Restricted – Indigent Defense Resources, One-Time 498,400
Schedule of Programs:
Office of Indigent Defense Services .... (1,600)
Indigent Appellate Defense Division ... 500,000

OFFICE OF THE STATE AUDITOR

Item 10
To Office of the State Auditor – State Auditor
From General Fund, One-Time ..... (1,500)
From Dedicated Credits Revenue, One-Time ..... (1,200)
Schedule of Programs:
State Auditor ..... (2,700)

DEPARTMENT OF PUBLIC SAFETY

Item 11
To Department of Public Safety – Driver License
From General Fund, One-Time ..... (100)
From Department of Public Safety Restricted Account, One-Time ..... (10,100)
Schedule of Programs:
Driver Services ..... (10,200)

Item 12
To Department of Public Safety – Emergency Management
From General Fund, One-Time 250,000
Schedule of Programs:
Emergency Management 250,000

Item 13
To Department of Public Safety – Peace Officers' Standards and Training
From General Fund, One-Time ..... (2,000)
Schedule of Programs:
POST Administration ..... (2,000)

Item 14
To Department of Public Safety – Programs & Operations
From General Fund, One-Time ..... (268,600)
From Dedicated Credits Revenue, One-Time ..... (300)
From Department of Public Safety Restricted Account, One-Time ..... (400)
From General Fund Restricted – Fire Academy Support, One-Time ..... (4,200,000)
Schedule of Programs:
CITS State Bureau of Investigation .... (5,100)
Department Commissioner's Office ..... (255,700)
Department Intelligence Center ..... (5,100)
Fire Marshall – Fire Fighter Training ..... (4,200,000)
Highway Patrol – Administration ..... (3,400)

STATE TREASURER

Item 15
To State Treasurer
From General Fund, One-Time ..... (800)
From Dedicated Credits Revenue, One-Time ..... (600)
From Land Trusts Protection and Advocacy Account, One-Time ..... (1,200)
From Unclaimed Property Trust, One-Time ..... (1,000)
Schedule of Programs:
Advocacy Office ..... (1,200)
Money Management Council ..... (200)
Treasury and Investment ..... (1,200)
Unclaimed Property ..... (1,000)

INFRASTRUCTURE AND GENERAL GOVERNMENT

DEPARTMENT OF ADMINISTRATIVE SERVICES

Item 16
To Department of Administrative Services – Administrative Rules
From General Fund, One-Time ..... (1,600)
Schedule of Programs:
DAR Administration ..... (1,600)

Item 17
To Department of Administrative Services – Building Board Program
From Capital Projects Fund, One-Time .. (1,900)
Schedule of Programs:
Building Board Program ..... (1,900)

Item 18
To Department of Administrative Services – DFCM Administration
From General Fund, One-Time ..... (700)
From Education Fund, One-Time ..... (200)
From Dedicated Credits Revenue, One-Time ..... (200)
From Capital Projects Fund, One-Time .... (600)
Schedule of Programs:
DFCM Administration ..... (1,700)

Item 19
To Department of Administrative Services – Executive Director
From General Fund, One-Time ..... (800)
Schedule of Programs:
Executive Director ..... (800)

Item 20
To Department of Administrative Services – Finance – Mandated
From Federal Funds – Coronavirus Relief Fund, One-Time 122,846,800
Schedule of Programs:
Emergency Disease Response 122,846,800

The Legislature intends that the Division of Finance partner with state agencies, higher education institutions, and the State Board of Education to implement the following programs with appropriations provided by this item: Department of Heritage and Arts,

COVID-19 Cultural Assistance Grant Program $7,500,000, Multi-cultural Affairs $3,000,000; Governor's Office of Economic Development, Department of Workforce Services, and Utah System of Higher Education, COVID-19 Displaced Workers Grant Program $7,500,000; Governor's Office of Economic Development, COVID-19 Impacted Businesses Grant Program $20,000,000, Oil, Mining, and Gas Grant Program $5,000,000, Stay Safe to Stay Open $1,000,000; Utah State University, Utah Industry Alliance, $1,000,000; Department of Health and Governor's Office of Economic Development, Mobile Testing for Business $1,000,000, Healthcare Outreach and Public Awareness $1,000,000, Public Health Practices Mass Media $2,000,000; Governor's Office of Management and Budget and University of Utah Kem C. Gardner Policy Institute, Consumer Confidence Survey $50,000; Governor's Office of Management and Budget, Department of Health, and Department of Administrative Services, Warehouse Costs $25,500; Department of Transportation, Department of Natural Resources, and Department of Administrative Services, Broadband Internet Upgrades for Impacted Communities $25,000,000; State Board of Education, Classroom Supplies, Enhancements, and Equipment $19,000,000; WiFi Access in San Juan County $3,900,000; Department of Human Services, Waiting List Respite Care and Equipment $7,421,300; Department of Health, Public Health Lab Capacity $15,000,000 and Staffed Intensive Care Unit Beds $750,000; Department of Workforce Services, WorkforceNOW/Hot Jobs $1,000,000, and Unemployment Insurance Administration $1,700,000.

The Legislature further intends that the $1,000,000 for Utah Industry Resource Alliance (the Alliance) be distributed to Utah State University on behalf of the Alliance and that Utah State University distribute the funds to the Alliance members according to the budget created by the Alliance. Funds are to be used according to the budget detail created by the Alliance. These funds are to support Utah manufacturers adversely effected by COVID-19.

The Legislature intends that the State Board of Education use $3.9 million of the $19.0 million coronavirus relief funding distributed to the Board to pay for personal protective equipment and other allowable expenses for schools. The Legislature further intends that the Board use $3.9 million from federal Elementary and Secondary School Emergency Relief Fund to support the expansion of students in online charter schools.

The Legislature intends that the Division of Finance may, in accordance with Utah Code Annotated 63J-1-206, reallocate funds appropriated for Emergency Disease Response among the projects and uses enumerated by intent language in this item of appropriation, Senate Bill 3006 and Senate Bill 3001 from the 2020 Third Special Session, House Bill 4001 from the 2020 Fourth Special Session, and Senate Bill 5001 and House Bill 5010 from the 2020 Fifth Special Session, after consultation with the Governors Office of Management and Budget and the COVID-19 Economic Recovery Programs Committee established in House Bill 5010, 2020 Fifth Special Session.

Item 21
To Department of Administrative Services - Finance Administration
From General Fund, One-Time ..... (10,300)
Schedule of Programs:
Finance Director's Office ..... (10,300)

Item 22
To Department of Administrative Services - Inspector General of Medicaid Services
From General Fund, One-Time ..... (1,600)
From Revenue Transfers, One-Time .... (3,100)
Schedule of Programs:
Inspector General of Medicaid Services ..... (4,700)

Item 23
To Department of Administrative Services - Purchasing
From General Fund, One-Time ..... (6,200)
Schedule of Programs:
Purchasing and General Services ..... (6,200)

Item 24
To Department of Administrative Services - State Archives
From General Fund, One-Time ..... (800)
Schedule of Programs:
Archives Administration ..... (800)

DEPARTMENT OF TECHNOLOGY SERVICES

Item 25
To Department of Technology Services - Integrated Technology Division
From General Fund, One-Time ..... (100)
From Dedicated Credits Revenue, One-Time ..... (100)
Schedule of Programs:
Automated Geographic Reference Center ..... (200)

TRANSPORTATION

Item 26
To Transportation - Aeronautics
From General Fund, One-Time 6,000,000
Schedule of Programs:
Airport Construction 6,000,000

Item 27
To Transportation - Support Services
From Transportation Fund, One-Time ..... (88,400)
Schedule of Programs:
Administrative Services ..... (88,400)

BUSINESS, ECONOMIC DEVELOPMENT, AND LABOR

DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL

Item 28
To Department of Alcoholic Beverage Control – DABC Operations
From Liquor Control Fund, One-Time ..... (14,700)
Schedule of Programs:
Executive Director ..... (14,700)

DEPARTMENT OF COMMERCE

Item 29
To Department of Commerce – Commerce General Regulation
From Federal Funds, One-Time ..... (1,300)
From Dedicated Credits Revenue, One-Time ..... (400)
From General Fund Restricted – Commerce Service Account, One-Time ... (400)
From General Fund Restricted – Public Utility Restricted Acct., One-Time ... (30,800)
Schedule of Programs:
Administration ..... (400)
Office of Consumer Services ..... (16,300)
Public Utilities ..... (16,200)

GOVERNOR'S OFFICE OF ECONOMIC DEVELOPMENT

Item 30
To Governor's Office of Economic Development – Administration
From General Fund, One-Time 67,600
Schedule of Programs:
Administration 67,600

Item 31
To Governor's Office of Economic Development – Business Development
From General Fund, One-Time ..... (75,000)
Schedule of Programs:
Corporate Recruitment and Business Services 325,000
Outreach and International Trade ... (400,000)

Item 32
To Governor's Office of Economic Development – Pass-Through
From General Fund, One-Time 1,159,100
Schedule of Programs:
Pass-Through 1,159,100

FINANCIAL INSTITUTIONS

Item 33
To Financial Institutions – Financial Institutions Administration
From General Fund Restricted – Financial Institutions, One-Time ..... (1,100)
Schedule of Programs:
Administration ..... (1,100)

DEPARTMENT OF HERITAGE AND ARTS

Item 34
To Department of Heritage and Arts – Administration
From General Fund, One-Time ..... (7,600)
From Dedicated Credits Revenue, One-Time ..... (900)
Schedule of Programs:
Administrative Services ..... (8,500)

Item 35
To Department of Heritage and Arts – State History
From General Fund, One-Time 115,000
Schedule of Programs:
Historic Preservation and Antiquities 115,000

Item 36
To Department of Heritage and Arts – Stem Action Center
From General Fund, One-Time ..... (100,000)
Schedule of Programs:
STEM Action Center ..... (100,000)

INSURANCE DEPARTMENT

Item 37
To Insurance Department – Insurance Department Administration
From Federal Funds, One-Time ..... (600)
From General Fund Restricted – Insurance Department Acct., One-Time 1,700
Schedule of Programs:
Administration 1,100

LABOR COMMISSION

Item 38
To Labor Commission
From General Fund, One-Time ..... (13,300)
From Employers' Reinsurance Fund, One-Time ..... (100)
Schedule of Programs:
Administration ..... (13,400)

UTAH STATE TAX COMMISSION

Item 39
To Utah State Tax Commission – Tax Administration
From General Fund, One-Time 126,800
From Education Fund, One-Time ..... (43,700)
From Federal Funds, One-Time ..... (2,700)
From Dedicated Credits Revenue, One-Time ..... (1,300)
From General Fund Restricted – Motor Vehicle Enforcement Division Temporary Permit Account, One-Time ... (900)
From General Fund Rest. – Sales and Use Tax Admin Fees, One-Time ..... (17,700)
From Revenue Transfers, One-Time ..... (700)
Schedule of Programs:
Administration Division ..... (900)
Auditing Division ..... (20,700)
Motor Vehicle Enforcement Division ..... (900)
Motor Vehicles ..... (2,000)
Property Tax Division 55,200

Tax Payer Services 29,100

SOCIAL SERVICES

DEPARTMENT OF HEALTH

Item 40
To Department of Health – Executive Director's Operations
From General Fund, One-Time ..... (20,600)
From Federal Funds, One-Time ..... (21,800)
From Revenue Transfers, One-Time .... (6,500)
Schedule of Programs:
Executive Director ..... (48,900)

The Legislature intends that the following intent language in Item 178 of Chapter 440, Laws of Utah 2020 is deleted: The Legislature intends that the Department of Health report by May 1, 2021 to the Health and Human Services Interim Committee on the findings from the health care waste calculator and recommended steps that the State could take to reduce wasteful spending and ways to bring duplicative quality measurements into alignment.

Item 41
To Department of Health – Family Health and Preparedness
From General Fund, One-Time 168,000
From Federal Funds, One-Time 14,500
Schedule of Programs:
Maternal and Child Health 82,500
Primary Care 100,000

Item 42
To Department of Health – Medicaid and Health Financing

The Legislature intends that the following intent language in Item 89 of Chapter 416, Laws of Utah 2020 is deleted: The Legislature intends that the Department of Health report to the Social Services Appropriations Subcommittee by October 1, 2020 on the current and projected impact of Medicaid expansion on the state subsidy needed for the state-run medical and dental clinics.

Item 43
To Department of Health – Medicaid Services
From General Fund, One-Time 1,465,000
Schedule of Programs:
Accountable Care Organizations 975,000
Other Services 490,000

Notwithstanding the intent language in Item 144 of Chapter 8 of Laws of Utah 2020 Fifth Special Session, The Legislature intends that the Department of Health start a statewide preferred drug list in Medicaid beginning no sooner than July 1, 2021.

DEPARTMENT OF HUMAN SERVICES

Item 44
To Department of Human Services – Division of Child and Family Services
From General Fund, One-Time ..... (199,500)
From Federal Funds, One-Time ..... (121,600)
Schedule of Programs:
Selected Programs ..... (321,100)

Item 45
To Department of Human Services – Executive Director Operations
From General Fund, One-Time ..... (24,800)
From Federal Funds, One-Time ..... (3,600)
From Revenue Transfers, One-Time .... (1,900)
Schedule of Programs:
Legal Affairs ..... (30,300)

DEPARTMENT OF WORKFORCE SERVICES

Item 46
To Department of Workforce Services – Housing and Community Development
From General Fund, One-Time ..... (900)
From Federal Funds, One-Time ..... (3,200)
From Dedicated Credits Revenue, One-Time ..... (300)
From Gen. Fund Rest. – Pamela Atkinson Homeless Account, One-Time ..... (100)
From General Fund Restricted – Homeless Shelter Cities Mitigation Restricted Account, One-Time ..... (300)
From Housing Opportunities for Low Income Households, One-Time ..... (400)
From Olene Walker Housing Loan Fund, One-Time ..... (400)
From OWHT-Fed Home, One-Time ..... (400)
From OWHTF-Low Income Housing, One-Time ..... (400)
From Permanent Community Impact Loan Fund, One-Time ..... (400)
Schedule of Programs:
Community Development ..... (2,600)
Community Development Administration ..... (300)
Homeless Committee ..... (700)
Housing Development ..... (3,200)

Item 47
To Department of Workforce Services – Operations and Policy
From General Fund, One-Time ..... (200)
From Federal Funds, One-Time ..... (200)
From Revenue Transfers, One-Time ..... (200)
Schedule of Programs:
Eligibility Services ..... (600)

Item 48
To Department of Workforce Services – State Office of Rehabilitation
From Federal Funds, One-Time ..... (1,000)
Schedule of Programs:
Disability Determination ..... (1,000)

Item 49
To Department of Workforce Services – Unemployment Insurance
From General Fund, One-Time ..... (500)
From Federal Funds, One-Time 25,069,500
From Revenue Transfers, One-Time ..... (100)
Schedule of Programs:
Adjudication ..... (2,400)
Unemployment Insurance Administration 25,071,300

HIGHER EDUCATION

UNIVERSITY OF UTAH

Item 50
To University of Utah – Education and General
From Education Fund, One-Time 2,560,700
From Dedicated Credits Revenue,
One-Time ..... (3,900)
Schedule of Programs:
Education and General 4,341,300
Operations and Maintenance ..... (1,784,500)

The legislature further intends that the University of Utah College of Business use $75,000 one-time, provided by this item to carry out a housing study through the Kem C. Gardner Policy Institute.

Item 51
To University of Utah –
Educationally Disadvantaged
From Education Fund, One-Time ..... (18,300)
Schedule of Programs:
Educationally Disadvantaged ..... (18,300)

Item 52
To University of Utah – School of Medicine
From Education Fund, One-Time ..... (966,300)
Schedule of Programs:
School of Medicine ..... (966,300)

Item 53
To University of Utah – University Hospital
From Education Fund, One-Time ..... (136,800)
Schedule of Programs:
University Hospital ..... (133,200)
Miners' Hospital ..... (3,600)

Item 54
To University of Utah – School of Dentistry
From Education Fund, One-Time ..... (71,000)
Schedule of Programs:
School of Dentistry ..... (71,000)

Item 55
To University of Utah – Public Service
From Education Fund, One-Time ..... (57,500)
Schedule of Programs:
Seismograph Stations ..... (19,600)
Natural History Museum of Utah .... (34,600)
State Arboretum ..... (3,300)

Item 56
To University of Utah – Statewide
TV Administration
From Education Fund, One-Time ..... (69,200)
Schedule of Programs:
Public Broadcasting ..... (69,200)

Item 57
To University of Utah – Poison Control Center
From Education Fund, One-Time ..... (73,700)
Schedule of Programs:
Poison Control Center ..... (73,700)

Item 58
To University of Utah – Center on Aging
From Education Fund, One-Time ..... (2,900)
Schedule of Programs:
Center on Aging ..... (2,900)

UTAH STATE UNIVERSITY

Item 59
To Utah State University – Education and General
From Education Fund, One-Time 1,713,800
From Dedicated Credits Revenue,
One-Time ..... (1,900)
Schedule of Programs:
Education and General 2,273,700
USU – School of Veterinary
Medicine ..... (122,200)
Operations and Maintenance ..... (439,600)

Item 60
To Utah State University – USU –
Eastern Education and General
From Education Fund, One-Time ..... (259,300)
Schedule of Programs:
USU – Eastern Education
and General ..... (259,300)

Item 61
To Utah State University –
Educationally Disadvantaged
From Education Fund, One-Time ..... (2,200)
Schedule of Programs:
Educationally Disadvantaged ..... (2,200)

Item 62
To Utah State University – USU –
Eastern Educationally Disadvantaged
From Education Fund, One-Time ..... (2,600)
Schedule of Programs:
USU – Eastern Educationally
Disadvantaged ..... (2,600)

Item 63
To Utah State University – USU – Eastern
Career and Technical Education
From Education Fund, One-Time ..... (146,600)
Schedule of Programs:
USU – Eastern Career and
Technical Education ..... (146,600)

Item 64
To Utah State University – Regional Campuses
From Education Fund, One-Time ..... (382,500)
Schedule of Programs:
Administration ..... (149,800)
Uintah Basin Regional Campus ..... (131,500)
Brigham City Regional Campus ..... (29,300)
Tooele Regional Campus ..... (71,900)

Item 65
To Utah State University – Water
Research Laboratory
From Education Fund, One-Time ..... (56,000)
Schedule of Programs:
Water Research Laboratory ..... (56,000)

Item 66
To Utah State University – Agriculture
Experiment Station
From Education Fund, One-Time ..... (357,900)
Schedule of Programs:
Agriculture Experiment Station ..... (357,900)

Item 67
To Utah State University – Cooperative Extension
From Education Fund, One-Time ..... (428,400)
Schedule of Programs:
Cooperative Extension ..... (428,400)

Item 68
To Utah State University – Prehistoric Museum
From Education Fund, One-Time ..... (12,000)
Schedule of Programs:
Prehistoric Museum ..... (12,000)

Item 69
To Utah State University – Blanding Campus
From Education Fund, One-Time ..... (72,100)
Schedule of Programs:
Blanding Campus ..... (72,100)

WEBER STATE UNIVERSITY

Item 70
To Weber State University – Education and General
From Education Fund, One-Time ..... (2,300)
From Dedicated Credits Revenue, One-Time ..... (800)
Schedule of Programs:
Education and General ..... (3,100)

SOUTHERN UTAH UNIVERSITY

Item 71
To Southern Utah University – Education and General
From Education Fund, One-Time ..... (5,800)
From Dedicated Credits Revenue, One-Time ..... (1,900)
Schedule of Programs:
Education and General 492,300
Operations and Maintenance ..... (500,000)

UTAH VALLEY UNIVERSITY

Item 72
To Utah Valley University – Education and General
From Education Fund, One-Time ..... (2,300)
From Dedicated Credits Revenue, One-Time ..... (800)
Schedule of Programs:
Education and General 261,900
Operations and Maintenance ..... (265,000)

Item 73
To Utah Valley University – Fire and Rescue Training
From Education Fund, One-Time ..... (300,000)
Schedule of Programs:
Fire and Rescue Training ..... (300,000)

SNOW COLLEGE

Item 74
To Snow College – Education and General
From Education Fund, One-Time ..... (3,500)
From Dedicated Credits Revenue, One-Time ..... (1,100)
Schedule of Programs:
Education and General ..... (4,600)

DIXIE STATE UNIVERSITY

Item 75
To Dixie State University – Education and General
From Education Fund, One-Time ..... (5,800)
From Dedicated Credits Revenue, One-Time ..... (1,900)
Schedule of Programs:
Education and General ..... (7,700)

SALT LAKE COMMUNITY COLLEGE

Item 76
To Salt Lake Community College – Education and General
From Education Fund, One-Time ..... (5,800)
From Dedicated Credits Revenue, One-Time ..... (1,900)
Schedule of Programs:
Education and General ..... (7,700)

UTAH BOARD OF HIGHER EDUCATION

Item 77
To Utah Board of Higher Education – Administration
From Education Fund, One-Time 754,300
Schedule of Programs:
Administration 754,300

Item 78
To Utah Board of Higher Education – Student Assistance
From Education Fund, One-Time 68,200
Schedule of Programs:
Minority Scholarships ..... (36,200)
T.H. Bell Teaching Incentive Loans Program 250,000
Public Safety Officer Career Advancement Reimbursement ..... (200,000)
Talent Development Incentive Loan Program ..... (981,800)
Access Utah Promise Scholarship P Program 274,600
Career and Technical Education Scholarships 800,000
Engineering Loan Repayment ..... (38,400)

Item 79
To Utah Board of Higher Education – Student Assistance
From Education Fund, One-Time 146,000
Schedule of Programs:
Public Safety Officer Career Advancement Reimbursement 146,000

To implement the provisions of Law Enforcement Tuition Reimbursement (Senate Bill 6003, 2020 Sixth Special Session).

Item 80
To Utah Board of Higher Education – Student Support
From Education Fund, One-Time .... (6,536,800)
From Education Fund Restricted – Performance Funding Rest. Acct., One-Time 1,005,800
Schedule of Programs:
Concurrent Enrollment ..... (2,200)
Articulation Support ..... (500)
Higher Education Technology Initiative ..... (1,005,800)
Engineering Initiative ..... (5,000,000)
Math Competency Initiative ..... (528,300)
Performance Funding — Colleges and Universities 1,005,800

Item 81
To Utah Board of Higher Education – Economic Development
From Education Fund, One-Time 4,998,200
Schedule of Programs:
Economic Development Initiatives ... 4,998,200

Item 82
To Utah Board of Higher Education – Education Excellence
From Education Fund, One-Time ..... (2,700)
Schedule of Programs:
Education Excellence ..... (2,700)

Item 83
To Utah Board of Higher Education – Math Competency Initiative
From Education Fund, One-Time ..... (200)
Schedule of Programs:
Math Competency Initiative ..... (200)

Item 84
To Utah Board of Higher Education – Medical Education Council
From Education Fund, One-Time ..... (46,000)
Schedule of Programs:
Medical Education Council ..... (46,000)

NATURAL RESOURCES, AGRICULTURE, AND ENVIRONMENTAL QUALITY

DEPARTMENT OF AGRICULTURE AND FOOD

Item 85
To Department of Agriculture and Food – Administration
From General Fund, One-Time ..... (16,000)
From Federal Funds, One-Time ..... (3,100)
From Dedicated Credits Revenue, One-Time ..... (3,500)
From General Fund Restricted – Cat and Dog Community Spay and Neuter Program Restricted Account, One-Time ..... (200)
From Revenue Transfers, One-Time ..... (400)
Schedule of Programs:
General Administration ..... (23,200)

DEPARTMENT OF ENVIRONMENTAL QUALITY

Item 86
To Department of Environmental Quality – Air Quality
From General Fund, One-Time ..... (7,200)
From Federal Funds, One-Time ..... (7,200)
From Dedicated Credits Revenue, One-Time ..... (5,500)
From Clean Fuel Conversion Fund, One-Time ..... (100)
Schedule of Programs:
Air Quality ..... (20,000)

Item 87
To Department of Environmental Quality – Drinking Water
From General Fund, One-Time ..... (300)
From Federal Funds, One-Time ..... (1,000)
From Dedicated Credits Revenue, One-Time ..... (100)
From Water Dev. Security Fund – Drinking Water Loan Prog., One-Time ..... (200)
Schedule of Programs:
Drinking Water ..... (1,600)

Item 88
To Department of Environmental Quality – Environmental Response and Remediation
From General Fund, One-Time ..... (1,300)
From Federal Funds, One-Time ..... (7,000)
From Dedicated Credits Revenue, One-Time ..... (1,000)
From General Fund Restricted – Petroleum Storage Tank, One-Time ..... (100)
From Petroleum Storage Tank Cleanup Fund, One-Time ..... (900)
From Petroleum Storage Tank Trust Fund, One-Time ..... (2,600)
From General Fund Restricted – Voluntary Cleanup, One-Time ..... (1,000)
Schedule of Programs:
Environmental Response and Remediation ..... (13,900)

Item 89
To Department of Environmental Quality – Executive Director's Office
From General Fund, One-Time ..... (12,700)
From Federal Funds, One-Time ..... (1,500)
From General Fund Restricted – Environmental Quality, One-Time .... (4,700)
Schedule of Programs:
Executive Director's Office ..... (18,900)

Item 90
To Department of Environmental Quality – Waste Management and Radiation Control
From General Fund, One-Time ..... (1,100)
From Federal Funds, One-Time ..... (1,800)
From Dedicated Credits Revenue, One-Time ..... (3,200)
From General Fund Restricted – Environmental Quality, One-Time .... (7,600)
From Gen. Fund Rest. – Used Oil Collection Administration, One-Time .. (1,000)
From Waste Tire Recycling Fund, One-Time ..... (200)
Schedule of Programs:
Waste Management and Radiation Control ..... (14,900)

Item 91
To Department of Environmental Quality – Water Quality
From General Fund, One-Time ..... (3,500)
From Federal Funds, One-Time ..... (5,000)
From Dedicated Credits Revenue, One-Time ..... (2,000)
From Revenue Transfers, One-Time ..... (300)
From Gen. Fund Rest. – Underground Wastewater System, One-Time ..... (100)
From Water Dev. Security Fund – Utah Wastewater Loan Prog., One-Time ..... (1,600)
From Water Dev. Security Fund – Water Quality Orig. Fee, One-Time ..... (100)
Schedule of Programs:
Water Quality ..... (12,600)

GOVERNOR'S OFFICE

Item 92
To Governor's Office – Office of Energy Development
From General Fund, One-Time ..... (1,100)
From Federal Funds, One-Time ..... (500)
From Dedicated Credits Revenue, One-Time ..... (200)
From Ut. S. Energy Program Rev. Loan Fund (ARRA), One-Time ..... (200)
Schedule of Programs:
Office of Energy Development ..... (2,000)

DEPARTMENT OF NATURAL RESOURCES

Item 93
To Department of Natural Resources – Administration
From General Fund, One-Time ..... (69,700)
Schedule of Programs:
Administrative Services ..... (99,200)
Executive Director ..... (15,500)
Lake Commissions 45,000

Item 94
To Department of Natural Resources – Forestry, Fire and State Lands
From General Fund, One-Time ..... (10,000)
Schedule of Programs:
Project Management ..... (10,000)

PUBLIC LANDS POLICY COORDINATING OFFICE

Item 95
To Public Lands Policy Coordinating Office
From General Fund, One-Time ..... (32,800)
From General Fund Restricted – Constitutional Defense, One-Time ... (13,700)
Schedule of Programs:
Public Lands Policy Coordinating Office ..... (46,500)

SCHOOL AND INSTITUTIONAL TRUST LANDS ADMINISTRATION

Item 96
To School and Institutional Trust Lands Administration – School and Institutional Trust Lands Administration Capital
From Land Grant Management Fund, One-Time 3,285,000
Schedule of Programs:
Capital 3,285,000

PUBLIC EDUCATION

STATE BOARD OF EDUCATION

Item 97
To State Board of Education – State Administrative Office
From General Fund, One-Time ..... (100)
From Education Fund, One-Time ..... (13,500)
From General Fund Restricted – Mineral Lease, One-Time ..... (1,900)
Schedule of Programs:
Board and Administration ..... (15,500)

Item 98
To State Board of Education – State Charter School Board
From Education Fund, One-Time ..... (1,600)
Schedule of Programs:
State Charter School Board ..... (1,600)

Item 99
To State Board of Education – Utah Schools for the Deaf and the Blind
From Education Fund, One-Time 1,144,700
From Revenue Transfers, One-Time ..... (100)
Schedule of Programs:
Support Services ..... (400)
Administration 1,145,000

SCHOOL AND INSTITUTIONAL TRUST FUND OFFICE

Item 100
To School and Institutional Trust Fund Office
From School and Institutional Trust Fund Management Acct., One-Time ... (1,600)
Schedule of Programs:
School and Institutional Trust Fund Office ..... (1,600)

RETIREMENT AND INDEPENDENT ENTITIES

UTAH EDUCATION AND TELEHEALTH NETWORK

Item 101
To Utah Education and Telehealth Network
From Education Fund, One-Time ..... (200)
From Federal Funds, One-Time ..... (200)
Schedule of Programs:
Administration ..... (400)

EXECUTIVE APPROPRIATIONS

LEGISLATURE

Item 102
To Legislature – Office of Legislative Research and General Counsel
From General Fund, One-Time 277,000
Schedule of Programs:
Administration 277,000

Item 103
To Legislature – Legislative Services
From General Fund, One-Time ..... (277,000)
Schedule of Programs:
Pass-Through ..... (277,000)

Item 104
To Legislature – Legislative Services Digital Wellness Commission
From General Fund, One-Time ..... (300,000)
Schedule of Programs:
Digital Wellness Commission ..... (300,000)

UTAH NATIONAL GUARD

Item 105
To Utah National Guard
From General Fund, One-Time ..... (400)
Schedule of Programs:

Operations and Maintenance ..... (400)

DEPARTMENT OF VETERANS AND MILITARY AFFAIRS

Item 106
To Department of Veterans and Military Affairs - Veterans and Military Affairs
From General Fund, One-Time ..... (200)
From Federal Funds, One-Time ..... (100)
Schedule of Programs:
Administration ..... (100)
Outreach Services ..... (100)
State Approving Agency ..... (100)

Subsection 1(b). Expendable Funds and Accounts. The Legislature has reviewed the following expendable funds. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated. Outlays and expenditures from the funds or accounts to which the money is transferred may be made without further legislative action, in accordance with statutory provisions relating to the funds or accounts.

INFRASTRUCTURE AND GENERAL GOVERNMENT

DEPARTMENT OF ADMINISTRATIVE SERVICES

Item 107
To Department of Administrative Services - State Debt Collection Fund
From Dedicated Credits Revenue, One-Time ..... (15,500)
Schedule of Programs:
State Debt Collection Fund ..... (15,500)

SOCIAL SERVICES

DEPARTMENT OF HUMAN SERVICES

Item 108
To Department of Human Services - Mental Health Services Donation Fund
From General Fund, One-Time 100,000
Schedule of Programs:
Mental Health Services Donation Fund 100,000

EXECUTIVE APPROPRIATIONS

DEPARTMENT OF VETERANS AND MILITARY AFFAIRS

Item 109
To Department of Veterans and Military Affairs - Utah Veterans Nursing Home Fund
From Federal Funds, One-Time ..... (400)
Schedule of Programs:
Veterans Nursing Home Fund ..... (400)

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

EXECUTIVE OFFICES AND CRIMINAL JUSTICE

ATTORNEY GENERAL

Item 110
To Attorney General - ISF - Attorney General

Notwithstanding ISF-Attorney General fees found in H.B. 8, "State Agency Fees and Internal Service Fund Rate Authorization and Appropriations" and under the terms and conditions of Utah Code Title 63J Chapter 1 and other fee statutes as applicable, the following fees and rates are approved for the use and support of the government of the State of Utah for the Fiscal Year beginning July 1, 2020 and ending June 30, 2021: Child Protection Attorney I-II - Co-Located Rate: $77; Child Protection Attorney III-IV - Co-Located Rate: $97; Child Protection Attorney V - Co-Located Rate: $121; Child Protection Attorney Manager - Co-Located Rate: $121; Child Protection Paralegal - Co-Located Rate: $56; Child Protection Attorney I-II - Office Rate: $80; Child Protection Attorney III-IV - Office Rate: $100; Child Protection Attorney V - Office Rate: $125; Child Protection Attorney Manager - Office Rate: $125; Child Protection Paralegal - Office Rate: $58; Civil Attorney I-II Co-Located Rate: $82; Civil Attorney III-IV Co-Located Rate: $102; Civil Attorney V Co-Located Rate: $126; Civil Attorney Paralegal Co-Located Rate: $61; Civil Attorney I-II Office Rate: $85; Civil Attorney III-IV Office Rate: $105; Civil Attorney V Office Rate: $130; Civil Attorney Paralegal Office Rate: $63; Civil Attorney I-II Litigation Rate: $96; Civil Attorney III-IV Litigation Rate: $115; Civil Attorney V Litigation Rate: $139; Civil Attorney Paralegal Litigation Rate: $62. The Legislature intends that the aforementioned fees apply for the Attorney General Internal Service Fund.

INFRASTRUCTURE AND GENERAL GOVERNMENT

DEPARTMENT OF ADMINISTRATIVE SERVICES INTERNAL SERVICE FUNDS

Item 111
To Department of Administrative Services Internal Service Funds - Risk Management
From Premiums, One-Time ..... (284,600)
From Interest Income, One-Time ..... (6,100)
Schedule of Programs:
Risk Management - Liability ..... (290,700)

DEPARTMENT OF TECHNOLOGY SERVICES INTERNAL SERVICE FUNDS

Item 112
To Department of Technology Services Internal Service Funds – Enterprise Technology Division
From Dedicated Credits Revenue, One-Time ..... (2,800)
Schedule of Programs:
ISF – Enterprise Technology Division .. (2,800)

SOCIAL SERVICES

DEPARTMENT OF WORKFORCE SERVICES

Item 113
To Department of Workforce Services – Unemployment Compensation Fund
From Federal Funds, One-Time 113,484,600
Schedule of Programs:
Unemployment Compensation Fund 113,484,600

Subsection 1(d). Restricted Fund and Account Transfers. The Legislature authorizes the State Division of Finance to transfer the following amounts between the following funds or accounts as indicated. Expenditures and outlays from the funds to which the money is transferred must be authorized by an appropriation.

EXECUTIVE OFFICES AND CRIMINAL JUSTICE

Item 114
To General Fund Restricted – Indigent Defense Resources Account
From General Fund, One-Time 498,400
Schedule of Programs:
General Fund Restricted – Indigent Defense Resources Account 498,400

Item 115
To General Fund Restricted – Fire Academy Support Account
From General Fund, One-Time ..... (4,200,000)
Schedule of Programs:
General Fund Restricted – Fire Academy Support Account ..... (4,200,000)

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

BUSINESS, ECONOMIC DEVELOPMENT, AND LABOR

LABOR COMMISSION

Item 116
To Labor Commission – Uninsured Employers Fund
From Dedicated Credits Revenue, One-Time ..... (19,600)
From Interest Income, One-Time ..... (400)
From Trust and Agency Funds, One-Time ..... (5,300)
Schedule of Programs:
Uninsured Employers Fund ..... (25,300)

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

CHAPTER 3
H. B. 6003
Passed August 20, 2020
Approved August 31, 2020
Effective August 31, 2020

PREMIUM SUBSIDY AMENDMENTS

Chief Sponsor: James A. Dunnigan
Senate Sponsor: Luz Escamilla

LONG TITLE

General Description:

This bill amends the maximum premium subsidy the Department of Health can request for the Utah Premium Partnership for Health Insurance program.

Highlighted Provisions:

This bill:

- amends the maximum premium subsidy the Department of Health can request for the Utah Premium Partnership for Health Insurance program in fiscal year 2020–21; and
- permits the Department of Health to increase that maximum in subsequent fiscal years subject to:
  - increases in premium costs; and
  - appropriations.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

26–18–3.8, as last amended by Laws of Utah 2020, Fifth Special Session, Chapters 4 and 20

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

Section 1. Section 26-18-3.8 is amended to read:

26-18-3.8. Maximizing use of premium assistance programs -- Utah's Premium Partnership for Health Insurance.

(1) (a) The department shall seek to maximize the use of Medicaid and Children's Health Insurance Program funds for assistance in the purchase of private health insurance coverage for Medicaid–eligible and non–Medicaid–eligible individuals.

(b) The department's efforts to expand the use of premium assistance shall:

(i) include, as necessary, seeking federal approval under all Medicaid and Children's Health Insurance Program premium assistance provisions of federal law, including provisions of the Patient Protection and Affordable Care Act, Public Law 111–148;

(ii) give priority to, but not be limited to, expanding the state's Utah Premium Partnership for Health Insurance Program, including as required under Subsection (2); and

(iii) encourage the enrollment of all individuals within a household in the same plan, where possible, including enrollment in a plan that allows individuals within the household transitioning out of Medicaid to retain the same network and benefits they had while enrolled in Medicaid.

(2) The department shall seek federal approval of an amendment to the state's Utah Premium Partnership for Health Insurance program to adjust the eligibility determination for single adults and parents who have an offer of employer sponsored insurance. The amendment shall:

(a) be within existing appropriations for the Utah Premium Partnership for Health Insurance program; and

(b) provide that adults who are up to 200% of the federal poverty level are eligible for premium subsidies in the Utah Premium Partnership for Health Insurance program.

(3) For the fiscal year 2020–21, the department shall seek authority to increase the maximum premium subsidy per month for adults under the Utah Premium Partnership for Health Insurance program to $300.

(4) Beginning with the fiscal year 2021–22, and in each subsequent fiscal year, the department may increase premium subsidies for single adults and parents who have an offer of employer–sponsored insurance to keep pace with the increase in insurance premium costs, subject to appropriation of additional funding.

Section 2. Effective date.

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

CHAPTER 4
H. B. 6004
Passed August 20, 2020
Approved August 31, 2020
Effective August 31, 2020

SCHOOL EMERGENCY DRILLS AMENDMENTS

Chief Sponsor: Carol Spackman Moss
Senate Sponsor: Kathleen Riebe

LONG TITLE

General Description:

This bill makes changes to the State Fire Code related to emergency evacuation drill requirements for certain educational facilities during the 2020–2021 school year.

Highlighted Provisions:

This bill:

- requires Group E occupancies to provide monthly age–appropriate fire evacuation instruction in lieu of emergency evacuation drills for a portion of the 2020–2021 school year and a monthly emergency evacuation drill for the remainder of the school year; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

15A–5–202.5, as last amended by Laws of Utah 2019, Chapters 103 and 441

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

Section 1. Section 15A-5-202.5 is amended to read:

15A-5-202.5. Amendments and additions to Chapters 3 and 4 of IFC.

(1) For IFC, Chapter 3, General Requirements:

(a) IFC, Chapter 3, Section 304.1.2, Vegetation, is amended as follows: Delete line six and replace it with: " Utah Administrative Code, R652–122–1300, Minimum Standards for County Wildland Fire Ordinance".

(b) IFC, Chapter 3, Section 310.8, Hazardous environmental conditions, is deleted and rewritten as follows: "1. When the fire code official determines that existing or historical hazardous environmental conditions necessitate controlled use of any ignition source, including fireworks, lighters, matches, sky lanterns, and smoking materials, any of the following may occur:

1.1. If the existing or historical hazardous environmental conditions exist in a municipality, the legislative body of the municipality may prohibit the ignition or use of an ignition source in:

1.1.1. mountainous, brush–covered, forest–covered, or dry grass–covered areas;

1.1.2. within 200 feet of waterways, trails, canyons, washes, ravines, or similar areas;

1.1.3. the wildland urban interface area, which means the line, area, or zone where structures or other human development meet or intermingle with undeveloped wildland or land being used for an agricultural purpose; or

1.1.4. a limited area outside the hazardous areas described in this paragraph 1.1 to facilitate a readily identifiable closed area, in accordance with paragraph 2.

1.2. If the existing or historical hazardous environmental conditions exist in an unincorporated area, the state forester may prohibit the ignition or use of an ignition source in all or part of the areas described in paragraph 1.1 that are within the unincorporated area, after consulting with the county fire code official who has jurisdiction over that area.

1.3. If the existing or historical hazardous environmental conditions exist in a metro township created under Title 10, Chapter 2a, Part 4, Incorporation of Metro Townships and Unincorporated Islands in a County of the First Class on and after May 12, 2015, the metro township legislative body may prohibit the ignition or use of an ignition source in all or part of the areas described in paragraph 1.1 that are within the township.

2. If a municipal legislative body, the state forester, or a metro township legislative body closes an area to the discharge of fireworks under paragraph 1, the legislative body or state forester shall:

2.1. designate the closed area along readily identifiable features like major roadways, waterways, or geographic features;

2.2. ensure that the boundary of the designated closed area is as close as is practical to the defined hazardous area, provided that the closed area may include areas outside of the hazardous area to facilitate a readily identifiable line; and

2.3. identify the closed area through a written description or map that is readily available to the public.

3. A municipal legislative body, the state forester, or a metro township legislative body may close a defined area to the discharge of fireworks due to a historical hazardous environmental condition under paragraph 1 if the legislative body or state forester:

3.1. makes a finding that the historical hazardous environmental condition has existed in the defined area before July 1 of at least two of the preceding five years;

3.2. produces a map indicating the boundaries, in accordance with paragraph 2, of the defined area described; and

3.3. before May 1 of each year the defined area is closed, provides the map described in paragraph 3.2 to the county in which the defined area is located.

4. A municipal legislative body, the state forester, or a metro township legislative body may not close an area to the discharge of fireworks due to a historical hazardous environmental condition unless the legislative body or state forester provides a map, in accordance with paragraph 3."

(c) IFC, Chapter 3, Section 311.1.1, Abandoned premises, is amended as follows: On line 10 delete the words "International Property Maintenance Code and the".

(d) IFC, Chapter 3, Section 311.5, Placards, is amended as follows: On line three delete the word "shall" and replace it with the word "may".

(2) IFC, Chapter 4, Emergency Planning and Preparedness:

(a) IFC, Chapter 4, Section 403.10.2.1, College and university buildings, is deleted and replaced with the following:

"403.10.2.1 College and university buildings and fraternity and sorority houses.

(a) College and university buildings, including fraternity and sorority houses, shall prepare an approved fire safety and evacuation plan, in accordance with Section 404.

(b) Group R-2 college and university buildings, including fraternity and sorority houses, shall comply with Sections 403.10.2.1.1 and 403.10.2.1.2."

(b) IFC, Chapter 4, Section 405.2, Table 405.2, is amended to add the following footnotes:

(i) "e. Secondary schools in Group E occupancies shall have an emergency evacuation drill for fire conducted at least every two months, to a total of four emergency evacuation drills during the nine-month school year. The first emergency evacuation drill for fire shall be conducted within 10 school days after the beginning of classes. The third emergency evacuation drill for fire, weather permitting, shall be conducted 10 school days after the beginning of the next calendar year. The second and fourth emergency evacuation drills may be substituted by a security or safety drill to include shelter in place, earthquake drill, or lock down for violence. If inclement weather causes a secondary school to miss the 10-day deadline for the third emergency evacuation drill for fire, the secondary school shall perform the third emergency evacuation drill for fire as soon as practicable after the missed deadline."

(ii) "f. In Group E occupancies, excluding secondary schools, if the AHJ approves, the monthly required emergency evacuation drill can be substituted by a security or safety drill to include shelter in place, earthquake drill, or lock down for violence. The routine emergency evacuation drill must be conducted at least every other drill."

(iii) "g. A-3 occupancies in academic buildings of institutions of higher learning are required to have one emergency evacuation drill per year, provided the following conditions are met:

(A) The building has a fire alarm system in accordance with Section 907.2.

(B) The rooms classified as assembly shall have fire safety floor plans as required in Subsection 404.2.2(4) posted.

(C) The building is not classified a high-rise building.

(D) The building does not contain hazardous materials over the allowable quantities by code."

(iv) "h. Notwithstanding any other provision of law, during the 2020-2021 school year, Group E occupancies are not required to conduct an emergency evacuation drill before March 1, 2021. For the period beginning the first day of the 2020-2021 school year and ending February 28, 2021, each calendar month, Group E occupancies shall provide in-class instruction to students in an age-appropriate manner that describes the procedures for emergency evacuation for fire. Group E occupancies shall complete the first monthly instruction no later than 15 days after the day on which the 2020-2021 school year begins. In addition to the monthly instruction, Group E occupancies may provide in-class security or safety drills to include shelter in place, earthquake drill, or lock down for violence."

(v) "i. Notwithstanding any other provision of law, for the period beginning March 1, 2021, and ending the last day of the 2020-2021 school year, in Group E occupancies, if the AHJ approves, the monthly required emergency evacuation drill can be substituted by a security or safety drill to include shelter in place, earthquake drill, or lock down for violence. The routine emergency evacuation drill must be conducted at least every other month."

Section 2. Effective date.

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

CHAPTER 5
H. B. 6005
Passed August 20, 2020
Approved August 31, 2020
Effective August 31, 2020

COSMETOLOGY AND ASSOCIATED PROFESSIONS AMENDMENTS

Chief Sponsor: Melissa G. Ballard
Senate Sponsor: Todd Weiler

LONG TITLE

General Description:

This bill modifies provisions of the Cosmetology and Associated Professions Licensing Act.

Highlighted Provisions:

This bill:

- provides that certain licensed cosmetology and associated professions schools may offer 50% of their instruction online;
- provides a sunset date; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

58-11a-302.5, as enacted by Laws of Utah 2016, Chapter 238
63I-1-258, as last amended by Laws of Utah 2020, Chapters 154 and 252

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

Section 1. Section 58-11a-302.5 is amended to read:

58-11a-302.5. Online curriculum for a licensed school.

[~~(1) An applicant for licensure as an esthetics school under Subsection 58-11a-302(13) and an~~] A barber school, cosmetology/barber school, electrologist school, esthetics school, hair design school, or nail technology school licensed under this chapter may offer up to [~~30% of its total~~] 50% of the school's total per program curriculum online[~~: (a) for instruction in theory; and (b)~~] in accordance with standards adopted by an applicable nationally recognized accrediting [~~organizations~~] organization.

[~~(2) The provisions of this section do not:~~]

[~~(a) require the board to allow other schools licensed under this chapter to offer curriculum online; or~~]

[~~(b) limit the authority of the board to allow other schools licensed under this chapter to offer curriculum online.~~]

Section 2. Section 63I-1-258 is amended to read:

63I-1-258. Repeal dates, Title 58.

(1) Section 58-3a-201, which creates the Architects Licensing Board, is repealed July 1, 2026.

(2) Section 58-11a-302.5 is repealed July 1, 2022.

[~~(2)~~] (3) Title 58, Chapter 13, Health Care Providers Immunity from Liability Act, is repealed July 1, 2026.

[~~(3)~~] (4) Title 58, Chapter 15, Health Facility Administrator Act, is repealed July 1, 2025.

[~~(4)~~] (5) Title 58, Chapter 20b, Environmental Health Scientist Act, is repealed July 1, 2028.

[~~(5) Section 58-37-4.3 is repealed January 1, 2020.~~]

(6) Subsection 58-37-6(7)(f)(iii) is repealed July 1, 2022, and the Office of Legislative Research and General Counsel is authorized to renumber the remaining subsections accordingly.

(7) Title 58, Chapter 40, Recreational Therapy Practice Act, is repealed July 1, 2023.

(8) Title 58, Chapter 41, Speech-Language Pathology and Audiology Licensing Act, is repealed July 1, 2029.

(9) Title 58, Chapter 42a, Occupational Therapy Practice Act, is repealed July 1, 2025.

(10) Title 58, Chapter 46a, Hearing Instrument Specialist Licensing Act, is repealed July 1, 2023.

(11) Title 58, Chapter 47b, Massage Therapy Practice Act, is repealed July 1, 2024.

(12) Subsection 58-55-201(2), which creates the Alarm System and Security Licensing Advisory Board, is repealed July 1, 2027.

(13) Subsection 58-60-405(3), regarding certain educational qualifications for licensure and reporting, is repealed July 1, 2022.

(14) Title 58, Chapter 61, Part 7, Behavior Analyst Licensing Act, is repealed July 1, 2026.

(15) Title 58, Chapter 72, Acupuncture Licensing Act, is repealed July 1, 2027.

(16) Title 58, Chapter 86, State Certification of Commercial Interior Designers Act, is repealed July 1, 2021.

(17) The following sections are repealed on July 1, 2022:

(a) Section 58-5a-502;

(b) Section 58-31b-502.5;

(c) Section 58-67-502.5;

(d) Section 58-68-502.5; and

(e) Section 58-69-502.5.

Section 3. Effective date.

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

signature, or in the case of a veto, the date of veto override.

CHAPTER 6
H. B. 6006
Passed August 20, 2020
Approved August 31, 2020
Effective August 31, 2020

ALCOHOL LICENSE AND PERMIT AMENDMENTS

Chief Sponsor: Timothy D. Hawkes
Senate Sponsor: Jerry W. Stevenson

LONG TITLE

General Description:

This bill amends provisions of the Alcohol Beverage Control Act regarding certain licenses and permits.

Highlighted Provisions:

This bill:

- delays the expiration date of certain retail licenses in the year 2020;
- adjusts percentage of annual gross receipts from the sale of alcoholic products that a reception center licensee may maintain and what is included in that percentage;
- defines "hospitality room" in relation to a public service permittee;
- allows a public service permittee operating at an international airport to change location under certain conditions;
- establishes commission power and duties in approving a public service permittee's change in location request;
- provides a repeal date for provisions regarding delayed retail license renewals; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

32B-5-202, as last amended by Laws of Utah 2020, Chapter 219
32B-6-803, as last amended by Laws of Utah 2020, Chapter 219
32B-10-206, as last amended by Laws of Utah 2020, Chapters 219 and 354
32B-10-302, as enacted by Laws of Utah 2010, Chapter 276
32B-10-303, as last amended by Laws of Utah 2011, Chapter 334
32B-10-304, as last amended by Laws of Utah 2011, Chapter 334
63I-2-232, as last amended by Laws of Utah 2020, Chapter 219

ENACTS:

32B-10-305, Utah Code Annotated 1953

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

Section 1. Section 32B-5-202 is amended to read:

32B-5-202. Renewal requirements.

(1) A retail license expires each year on the day specified in the relevant chapter or part for that type of retail license.

(2) (a) To renew a person's retail license, a retail licensee shall, by no later than the day specified in the relevant chapter or part for the type of retail license that the person seeks to renew, submit:

(i) a completed renewal application in a form prescribed by the department; and

(ii) a renewal fee in the amount specified in the relevant chapter or part for the type of retail license that the person seeks to renew.

(b) A retail licensee shall submit a responsible alcohol service plan as part of the retail licensee's renewal application if, since the retail licensee's most recent application or renewal, the retail licensee:

(i) made substantial changes to the retail licensee's responsible alcohol service plan; or

(ii) violated a provision of this chapter.

(c) The department may audit a retail licensee's responsible alcohol service plan.

(3) Failure to meet the renewal requirements results in an automatic forfeiture of the retail license effective on the day on which the existing retail license expires.

(4) (a) In the year 2020, the following retail licenses expire on December 22:

(i) a full-service restaurant license;

(ii) a limited-service restaurant license;

(iii) an airport lounge license;

(iv) an on-premise banquet license;

(v) a reception center license;

(vi) a resort license; and

(vii) a hotel license.

(b) To renew a license described in Subsection (4)(a) in the year 2020, a person shall:

(i) submit to the department on or before December 21, a completed renewal application in a form the department prescribes; and

(ii) ensure that the department receives on or before December 21, a renewal fee in the amount specified in the relevant chapter or part for the type of retail license that the person seeks to renew.

(c) The provisions of this Subsection (4) supersede any conflicting provision of law in this title.

Section 2. Section 32B-6-803 is amended to read:

32B-6-803. Commission's power to issue reception center license.

(1) Before a person may store, sell, offer for sale, or furnish an alcoholic product on the person's premises as a reception center, the person shall first obtain a reception center license from the commission in accordance with this part.

(2) The commission may issue a reception center license to establish reception center licensed premises at places and in numbers the commission considers proper for the storage, sale, offer for sale, furnishing, and consumption of an alcoholic product on premises operated as a reception center.

(3) Subject to Section 32B-1-201, the commission may not issue a total number of reception center licenses that at any time exceeds the number determined by dividing the population of the state by 251,693.

(4) The commission may not issue a reception center license for premises that do not meet the proximity requirements of Section 32B-1-202.

(5) (a) To be licensed as a reception center, a person [~~shall maintain at least 50%~~] may not maintain more than 30% of the person's total annual gross receipts from the sale of [~~food, which does not include:~~] alcoholic products.

[~~(i) mix for an alcoholic product; or~~]

[~~(ii) a charge in connection with the furnishing of an alcoholic product.~~]

(b) For purposes of Subsection (5)(a):

(i) an alcoholic product includes:

(A) mix for an alcoholic product; and

(B) a charge in connection with the furnishing of an alcoholic product; and

(ii) gross receipts do not include any charge for renting a room or facility.

[~~(b)~~] (c) A reception center licensee shall report the information necessary to show compliance with this Subsection (5) to the department on an annual basis.

Section 3. Section 32B-10-206 is amended to read:

32B-10-206. General operational requirements for special use permit.

(1) (a) A special use permittee and staff of the special use permittee shall comply with this title and rules of the commission, including the relevant part of the chapter that applies to the type of special use permit held by the special use permittee.

(b) Failure to comply as provided in Subsection (1)(a) may result in disciplinary action in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:

(i) a special use permittee;

(ii) individual staff of a special use permittee; or

(iii) a special use permittee and staff of the special use permittee.

(c) The commission may suspend or revoke a special use permit with or without cause.

(2) (a) If there is a conflict between this part and the relevant part under this chapter for the specific type of special use permit, the relevant part under this chapter governs.

(b) Notwithstanding that this part may refer to "liquor" or an "alcoholic product," a special use permittee may only purchase, use, store, sell, offer for sale, allow consumption, or manufacture an alcoholic product authorized for the special use permit that is held by the special use permittee.

(c) Notwithstanding that this part or the relevant part under this chapter for the type of special use permit held by a special use permittee refers to "special use permittee," a person involved in the purchase, use, storage, sale, offering for sale, allowing consumption, or manufacture of an alcoholic product for which the special use permit is issued is subject to the same requirement or prohibition.

(3) (a) A special use permittee shall make and maintain a record, as required by commission rule, of any alcoholic product purchased, used, sold, or manufactured.

(b) Section 32B-1-205 applies to a record required to be made or maintained in accordance with this Subsection (3).

(4) (a) Except as otherwise provided in this title, a special use permittee may not purchase liquor except from a state store or package agency.

(b) A special use permittee may transport liquor purchased by the special use permittee in accordance with this Subsection (4) from the place of purchase to the special use permittee's premises.

(c) A special use permittee shall purchase liquor at prices set by the commission.

(d) When authorized by a special use permit, a special use permittee may purchase and receive an alcoholic product directly from a manufacturer for a purpose that is industrial, educational, scientific, or manufacturing.

(e) A health care facility may purchase and receive an alcoholic product directly from a manufacturer for use at the health care facility.

(5) A special use permittee may not use, mix, store, sell, offer for sale, furnish, manufacture, or allow consumption of an alcoholic product in a location other than as designated in a special use permittee's:

(a) application[~~.~~]; or

(b) change of location request, as described in Section 32B-10-305, if:

(i) the special use permittee is a public service permittee; and

(ii) the commission approved the special use permittee's change in location request.

(6) Except as otherwise provided, a special use permittee may not sell, offer for sale, or furnish an alcoholic product to:

(a) a minor;

(b) a person actually, apparently, or obviously intoxicated;

(c) a known interdicted person; or

(d) a known habitual drunkard.

(7) A special use permittee may not employ a minor to handle an alcoholic product.

(8) (a) The location specified in a special use permit may not be transferred from one location to another location, except as provided in Chapter 8a, Transfer of Alcohol License Act.

(b) A special use permittee may not sell, transfer, assign, exchange, barter, give, or attempt in any way to dispose of the permit to another person whether for monetary gain or not, except as provided in Chapter 8a, Transfer of Alcohol License Act.

(9) A special use permittee may not purchase, use, mix, store, sell, offer for sale, furnish, consume, or manufacture an alcoholic product for a purpose other than that authorized by the special use permit.

(10) The commission may prescribe by policy or rule consistent with this title, the general operational requirements of a special use permittee relating to:

(a) physical facilities;

(b) conditions of purchase, use, storage, sale, consumption, or manufacture of an alcoholic product;

(c) purchase, storage, and sales quantity limitations; and

(d) other matters considered appropriate by the commission.

Section 4. Section 32B-10-302 is amended to read:

32B-10-302. Definitions.

[~~Reserved~~] As used in this part, "hospitality room" means a room or facility:

(1) that a public service permittee operates; and

(2) in which an alcoholic product is sold, offered for sale, furnished, or consumed.

Section 5. Section 32B-10-303 is amended to read:

32B-10-303. Specific application and renewal requirements for public service permit.

(1) To obtain a public service permit, in addition to complying with Section 32B-10-202, a person shall submit to the department:

(a) a statement of the total of regularly numbered flights, trains, buses, boats, or other types of public conveyance for which the person plans to use the special use permit;

(b) a floor plan of any room or facility in which the person plans to establish a hospitality room [~~where the sale, offer for sale, or furnishing of an alcoholic product is made to a patron then in transit, using the host company's airline, railroad, bus, boat, or other public conveyance~~]; and

(c) evidence of proximity of a proposed hospitality room to the arrival and departure area used by a person traveling on the [~~host company's~~] person's airline, railroad, bus, boat, or other public conveyance.

(2) (a) The nonrefundable application fee for a public service permit is $75.

(b) The initial permit fee for a public service permit is $250.

(c) The bond amount required for a public service permittee is the penal sum of $1,000.

(3) (a) To renew a public service permit, a person shall comply with Section 32B-10-203.

(b) The renewal fee for a public service permit is $30 for each regularly numbered passenger airplane flight, passenger train, bus, boat, or any other regularly scheduled public conveyance upon which an alcoholic product is sold, offered for sale, or furnished.

Section 6. Section 32B-10-304 is amended to read:

32B-10-304. Specific operational requirements for a public service permit.

(1) (a) In addition to complying with Section 32B-10-206, a public service permittee and staff of the public service permittee shall comply with this section.

(b) Failure to comply as provided in Subsection (1)(a) may result in disciplinary action in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:

(i) a public service permittee;

(ii) individual staff of a public service permittee; or

(iii) both a public service permittee and staff of the public service permittee.

(2) (a) A public service permittee whose public conveyances operate on an interstate basis may do the following:

(i) purchase an alcoholic product outside of the state;

(ii) bring an alcoholic product purchased outside of the state into the state; and

(iii) sell, offer for sale, and furnish an alcoholic product purchased outside of the state to a passenger traveling on the public service permittee's public conveyance for consumption while en route on the public conveyance.

(b) A public service permittee whose public conveyance operates solely within the state, to sell, offer for sale, or furnish to a passenger traveling on the public service permittee's public conveyance for consumption while en route on the public conveyance, shall purchase:

(i) liquor from a state store or package agency; and

(ii) beer from a beer wholesaler licensee.

(3) (a) A public service permittee may establish a hospitality room [~~in which an alcoholic product may be stored, sold, offered for sale, furnished, and consumed~~], if:

(i) the room is located within a depot, terminal, or similar facility adjacent to and servicing the public service permittee's airline, railroad, bus, boat, or other public conveyance;

(ii) the room is completely enclosed and the interior is not visible to the public;

(iii) the sale, offer for sale, or furnishing of an alcoholic product is made only to a person:

(A) then in transit using the [~~host company's~~] public service permittee's airline, railroad, bus line, or other public conveyance; and

(B) holding a valid boarding pass or similar travel document issued by the [~~host company~~] public service permittee; and

(iv) (A) liquor is purchased from:

(I) a state store; or

(II) a package agency; and

(B) beer is purchased from a beer wholesaler licensee.

(b) (i) A public service permittee operating a hospitality room shall display in a prominent place in the hospitality room, a sign in large letters that consists of text in the following order:

(A) a header that reads: "WARNING";

(B) a warning statement that reads: "Drinking alcoholic beverages during pregnancy can cause birth defects and permanent brain damage for the child.";

(C) a statement in smaller font that reads: "Call the Utah Department of Health at [insert most current toll-free number] with questions or for more information.";

(D) a header that reads: "WARNING"; and

(E) a warning statement that reads: "Driving under the influence of alcohol or drugs is a serious crime that is prosecuted aggressively in Utah."

(ii) (A) The text described in Subsections (3)(b)(i)(A) through (C) shall be in a different font style than the text described in Subsections (3)(b)(i)(D) and (E).

(B) The warning statements in the sign described in Subsection (3)(b)(i) shall be in the same font size.

(iii) The Department of Health shall work with the commission and department to facilitate consistency in the format of a sign required under this section.

(c) A hospitality room shall be operated in accordance with this chapter and rules adopted by the commission.

Section 7. Section 32B-10-305 is enacted to read:

32B-10-305. Change in location request for a public service permit.

(1) A public service permittee operating at an international airport may request a change in location within the international airport, if the international airport requires the public service permittee to relocate to another location within the international airport.

(2) To request a change in location, a public service permittee described in Subsection (1) shall, in a manner prescribed by the department, submit to the department:

(a) a statement of the total number of regularly numbered flights for which the public service permittee plans to use the special use permit;

(b) a floor plan of any room or facility in which the public service permittee plans to establish a hospitality room;

(c) evidence of the proximity of each proposed hospitality room to the arrival and departure area used by a person traveling the public service permittee's airline; and

(d) any other information the department requires.

(3) (a) Before approving a public service permittee's request to change location at an international airport, the commission shall:

(i) determine that the public service permittee filed a complete change in location request, as described in Subsection (2);

(ii) determine that the public service permittee is in compliance with this chapter and part;

(iii) consider the physical characteristics of the premises where an alcoholic product is proposed to be used, mixed, stored, sold, offered for sale, or furnished, including:

(A) the conditions of the premises;

(B) public visibility; and

(C) safety considerations; and

(iv) consider any other factor the commission considers necessary.

(b) The commission may delegate to the department:

(i) the authority to approve a change in location for a public service permittee at an international airport; and

(ii) the duties described in this Subsection (3).

(4) Upon commission approval of the public service permittee's request to change location, the public service permittee shall move to the newly approved location within the international airport.

Section 8. Section 63I-2-232 is amended to read:

63I-2-232. Repeal dates -- Title 32B.

(1) Subsection 32B-1-102(9) is repealed July 1, 2022.

(2) Subsection 32B-1-407(3)(d) is repealed July 1, 2022.

(3) Section 32B-2-211.1 is repealed November 1, 2020.

(4) Subsection 32B-5-202(4), which addresses license renewal during 2020, is repealed January 1, 2021.

[~~(4)~~] (5) Subsections 32B-6-202(3) and (4) are repealed July 1, 2022.

[~~(5)~~] (6) Section 32B-6-205 is repealed July 1, 2022.

[~~(6)~~] (7) Subsection 32B-6-205.2(16) is repealed July 1, 2022.

[~~(7)~~] (8) Section 32B-6-205.3 is repealed July 1, 2022.

[~~(8)~~] (9) Subsections 32B-6-302(3) and (4) are repealed July 1, 2022.

[~~(9)~~] (10) Section 32B-6-305 is repealed July 1, 2022.

[~~(10)~~] (11) Subsection 32B-6-305.2(15) is repealed July 1, 2022.

[~~(11)~~] (12) Section 32B-6-305.3 is repealed July 1, 2022.

[~~(12)~~] (13) Section 32B-6-404.1 is repealed July 1, 2022.

[~~(13)~~] (14) Section 32B-6-409 is repealed July 1, 2022.

[~~(14)~~] (15) Subsection 32B-6-703(2)(e)(iv) is repealed July 1, 2022.

[~~(15)~~] (16) Subsections 32B-6-902(1)(c), (1)(d), and (2) are repealed July 1, 2022.

[~~(16)~~] (17) Section 32B-6-905 is repealed July 1, 2022.

[~~(17)~~] (18) Subsection 32B-6-905.1(15) is repealed July 1, 2022.

[~~(18)~~] (19) Section 32B-6-905.2 is repealed July 1, 2022.

[~~(19)~~] (20) Subsection 32B-8d-104(3) is repealed July 1, 2022.

Section 9. Effective date.

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

CHAPTER 7
H. B. 6007
Passed August 20, 2020
Approved August 31, 2020
Effective October 20, 2020

MUNICIPAL ANNEXATION REVISIONS

Chief Sponsor: Calvin R. Musselman
Senate Sponsor: Kirk A. Cullimore

LONG TITLE

General Description:

This bill modifies provisions related to municipal annexation.

Highlighted Provisions:

This bill:

- repeals provisions that allow a municipality to annex certain unincorporated areas without an annexation petition; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

10-2-402, as last amended by Laws of Utah 2020, Fifth Special Session, Chapter 15
10-2-418, as last amended by Laws of Utah 2020, Fifth Special Session, Chapter 15
17B-1-503, as last amended by Laws of Utah 2020, Chapter 208

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

Section 1. Section 10-2-402 is amended to read:

10-2-402. Annexation -- Limitations.

(1) (a) A contiguous, unincorporated area that is contiguous to a municipality may be annexed to the municipality as provided in this part.

(b) Except as provided in Subsection (1)(c), an unincorporated area may not be annexed to a municipality unless:

(i) it is a contiguous area;

(ii) it is contiguous to the municipality;

(iii) annexation will not leave or create an unincorporated island or unincorporated peninsula:

(A) except as provided in Subsection 10-2-418(3) [~~or (4)~~]; or

(B) unless the county and municipality have otherwise agreed; and

(iv) for an area located in a specified county with respect to an annexation that occurs after December 31, 2002, the area is within the proposed annexing municipality's expansion area.

(c) A municipality may annex an unincorporated area within a specified county that does not meet the requirements of Subsection (1)(b), leaving or creating an unincorporated island or unincorporated peninsula, if:

(i) the area is within the annexing municipality's expansion area;

(ii) the specified county in which the area is located and the annexing municipality agree to the annexation;

(iii) the area is not within the area of another municipality's annexation policy plan, unless the other municipality agrees to the annexation; and

(iv) the annexation is for the purpose of providing municipal services to the area.

(2) Except as provided in Section 10-2-418, a municipality may not annex an unincorporated area unless a petition under Section 10-2-403 is filed requesting annexation.

(3) (a) An annexation under this part may not include part of a parcel of real property and exclude part of that same parcel unless the owner of that parcel has signed the annexation petition under Section 10-2-403.

(b) A piece of real property that has more than one parcel number is considered to be a single parcel for purposes of Subsection (3)(a) if owned by the same owner.

(4) A municipality may not annex an unincorporated area in a specified county for the sole purpose of acquiring municipal revenue or to retard the capacity of another municipality to annex the same or a related area unless the municipality has the ability and intent to benefit the annexed area by providing municipal services to the annexed area.

(5) (a) As used in this subsection, "expansion area urban development" means:

(i) for a specified county, urban development within a city or town's expansion area; or

(ii) for a county of the first class, urban development within a city or town's expansion area that:

(A) consists of 50 or more acres;

(B) requires the county to change the zoning designation of the land on which the urban development is located; and

(C) does not include commercial or industrial development that is located within a mining protection area as defined in Section 17-41-101, regardless of whether the commercial or industrial development is for a mining use as defined in Section 17-41-101.

(b) A county legislative body may not approve expansion area urban development unless:

(i) the county notifies the city or town of the proposed development; and

(ii) (A) the city or town consents in writing to the development;

(B) within 90 days after the county's notification of the proposed development, the city or town

submits to the county a written objection to the county's approval of the proposed development and the county responds in writing to the city or town's objection; or

(C) the city or town fails to respond to the county's notification of the proposed development within 90 days after the day on which the county provides the notice.

(6) (a) An annexation petition may not be filed under this part proposing the annexation of an area located in a county that is not the county in which the proposed annexing municipality is located unless the legislative body of the county in which the area is located has adopted a resolution approving the proposed annexation.

(b) Each county legislative body that declines to adopt a resolution approving a proposed annexation described in Subsection (6)(a) shall provide a written explanation of its reasons for declining to approve the proposed annexation.

(7) (a) As used in this Subsection (7), "airport" means an area that the Federal Aviation Administration has, by a record of decision, approved for the construction or operation of a Class I, II, or III commercial service airport, as designated by the Federal Aviation Administration in 14 C.F.R. Part 139.

(b) A municipality may not annex an unincorporated area within 5,000 feet of the center line of any runway of an airport operated or to be constructed and operated by another municipality unless the legislative body of the other municipality adopts a resolution consenting to the annexation.

(c) A municipality that operates or intends to construct and operate an airport and does not adopt a resolution consenting to the annexation of an area described in Subsection (7)(b) may not deny an annexation petition proposing the annexation of that same area to that municipality.

(8) (a) As used in this subsection, "project area" means a project area as defined in Section 63H-1-102 that is in a project area plan as defined in Section 63H-1-102 adopted by the Military Installation Development Authority under Title 63H, Chapter 1, Military Installation Development Authority Act.

(b) A municipality may not annex an unincorporated area located within a project area without the authority's approval.

(c) (i) Except as provided in Subsection (8)(c)(ii), the Military Installation Development Authority may petition for annexation of the following areas to a municipality as if it was the sole private property owner within the area:

(A) an area within a project area;

(B) an area that is contiguous to a project area and within the boundaries of a military installation;

(C) an area owned by the Military Installation Development Authority; and

(D) an area that is contiguous to an area owned by the Military Installation Development Authority that the Military Installation Development Authority plans to add to an existing project area.

(ii) If any portion of an area annexed under a petition for annexation filed by the Military Installation Development Authority is located in a specified county:

(A) the annexation process shall follow the requirements for a specified county; and

(B) the provisions of Subsection 10-2-402(6) do not apply.

Section 2. Section 10-2-418 is amended to read:

10-2-418. Annexation of an island or peninsula without a petition -- Notice -- Hearing.

(1) As used in Subsection (2)(b)(ii), for purposes of an annexation conducted in accordance with this section of an area located within a county of the first class, "municipal-type services" does not include a service provided by a municipality pursuant to a contract that the municipality has with another political subdivision as "political subdivision" is defined in Section 17B-1-102.

(2) Notwithstanding Subsection 10-2-402(2), a municipality may annex an unincorporated area under this section without an annexation petition if:

(a) for an unincorporated area within the expansion area of more than one municipality, each municipality agrees to the annexation; and

(b) (i) (A) the area to be annexed consists of one or more unincorporated islands within or unincorporated peninsulas contiguous to the municipality;

(B) the majority of each island or peninsula consists of residential or commercial development;

(C) the area proposed for annexation requires the delivery of municipal-type services; and

(D) the municipality has provided most or all of the municipal-type services to the area for more than one year;

(ii) (A) the area to be annexed consists of one or more unincorporated islands within or unincorporated peninsulas contiguous to the municipality, each of which has fewer than 800 residents; and

(B) the municipality has provided one or more municipal-type services to the area for at least one year;

(iii) the area consists of:

(A) an unincorporated island within or an unincorporated peninsula contiguous to the municipality; and

(B) for an area outside of the county of the first class proposed for annexation, no more than 50 acres; or

(iv) (A) the area to be annexed consists only of one or more unincorporated islands in a county of the second class;

(B) the area to be annexed is located in the expansion area of a municipality; and

(C) the county legislative body in which the municipality is located provides notice to each property owner within the area to be annexed that the county legislative body will hold a public hearing, no less than 15 days after the day on which the county legislative body provides the notice, and may make a recommendation of annexation to the municipality whose expansion area includes the area to be annexed after the public hearing.

[~~(3) Notwithstanding Subsection 10-2-402(1)(b)(iii), (2), or (6), a municipality may annex an unincorporated area without an annexation petition or the consent of the county in which the area proposed for annexation is located, if:~~]

[~~(a) the area proposed for annexation:~~]

[~~(i) is located within a specified county;~~]

[~~(ii) includes private real property that is located within a county that is not the county in which the proposed annexing municipality is located;~~]

[~~(iii) includes real property that is:~~]

[~~(A) owned by a public entity; and~~]

[~~(B) located in the county in which the proposed annexing municipality is located; and~~]

[~~(iv) does not include urban development;~~]

[~~(b) any portion of the private real property described in Subsection (3)(a)(ii) is located within two miles of the proposed annexing municipality's boundary; and~~]

[~~(c) each owner of private real property within the area proposed for annexation consents in writing to the proposed annexation.~~]

[~~(4)~~] (3) Notwithstanding Subsection 10-2-402(1)(b)(iii), a municipality may annex a portion of an unincorporated island or unincorporated peninsula under this section, leaving unincorporated the remainder of the unincorporated island or unincorporated peninsula, if:

(a) in adopting the resolution under Subsection [~~(6)~~] (5)(a) the municipal legislative body determines that not annexing the entire unincorporated island or unincorporated peninsula is in the municipality's best interest; and

(b) for an annexation of one or more unincorporated islands under Subsection (2)(b), the entire island of unincorporated area, of which a portion is being annexed, complies with the requirement of Subsection (2)(b)(ii) relating to the number of residents.

[~~(5)~~] (4) (a) This subsection applies only to an annexation within a county of the first class.

(b) A county of the first class shall agree to an annexation if the majority of private property owners within the area to be annexed give written consent to the annexation, in accordance with Subsection [~~(5)~~] (4)(d), to the recorder of the annexing municipality.

(c) For purposes of Subsection [~~(5)~~] (4)(b), the majority of private property owners is property owners who own:

(i) the majority of the total private land area within the area proposed for annexation; and

(ii) private real property equal to at least 1/2 the value of private real property within the area proposed for annexation.

(d) A property owner consenting to annexation shall indicate the property owner's consent on a form which includes language in substantially the following form:

"Notice: If this written consent is used to proceed with an annexation of your property in accordance with Utah Code Section 10-2-418, no public election is required by law to approve the annexation. If you sign this consent and later decide you do not want to support the annexation of your property, you may withdraw your signature by submitting a signed, written withdrawal with the recorder or clerk of [name of annexing municipality]. If you choose to withdraw your signature, you must do so no later than the close of the public hearing on the annexation conducted in accordance with Utah Code Subsection 10-2-418[~~(5)~~](4)(d).".

(e) A private property owner may withdraw the property owner's signature indicating consent by submitting a signed, written withdrawal with the recorder or clerk no later than the close of the public hearing held in accordance with Subsection [~~(6)~~] (5)(b).

[~~(6)~~] (5) The legislative body of each municipality intending to annex an area under this section shall:

(a) adopt a resolution indicating the municipal legislative body's intent to annex the area, describing the area proposed to be annexed; and

(b) hold a public hearing on the proposed annexation no earlier than 30 days after the adoption of the resolution described in Subsection [~~(6)~~] (5)(a).

[~~(7)~~] (6) A legislative body described in Subsection [~~(6)~~] (5) shall publish notice of a public hearing described in Subsection [~~(6)~~] (5)(b):

(a) (i) at least once a week for three successive weeks before the public hearing in a newspaper of general circulation within the municipality and the area proposed for annexation;

(ii) if there is no newspaper of general circulation in the combined area described in Subsection [~~(7)~~] (6)(a)(i), at least three weeks before the day of the public hearing, by posting one notice, and at least one additional notice per 2,000 population in the combined area, in places within the combined area that are most likely to give notice to the residents

within, and the owners of real property located within, the combined area; or

(iii) at least three weeks before the day of the public hearing, by mailing notice to each residence within, and each owner of real property located within, the combined area described in Subsection [~~(7)~~] (6)(a)(i);

(b) on the Utah Public Notice Website created in Section 63F-1-701, for three weeks before the day of the public hearing;

(c) in accordance with Section 45-1-101, for three weeks before the day of the public hearing;

(d) by sending written notice to:

(i) the board of each local district and special service district whose boundaries contain some or all of the area proposed for annexation; and

(ii) the legislative body of the county in which the area proposed for annexation is located; and

(e) if the municipality has a website, on the municipality's website for three weeks before the day of the public hearing.

[~~(8)~~] (7) The legislative body of the annexing municipality shall ensure that:

(a) each notice described in Subsection [~~(7)~~] (6):

(i) states that the municipal legislative body has adopted a resolution indicating the municipality's intent to annex the area proposed for annexation;

(ii) states the date, time, and place of the public hearing described in Subsection [~~(6)~~] (5)(b);

(iii) describes the area proposed for annexation; and

(iv) except for an annexation that meets the requirements of Subsection [~~(9)~~] (8)(b) or (c), states in conspicuous and plain terms that the municipal legislative body will annex the area unless, at or before the public hearing described in Subsection [~~(6)~~] (5)(b), written protests to the annexation are filed by the owners of private real property that:

(A) is located within the area proposed for annexation;

(B) covers a majority of the total private land area within the entire area proposed for annexation; and

(C) is equal in value to at least 1/2 the value of all private real property within the entire area proposed for annexation; and

(b) the first publication of the notice described in Subsection [~~(7)~~] (6)(a) occurs within 14 days after the day on which the municipal legislative body adopts a resolution under Subsection [~~(6)~~] (5)(a).

[~~(9)~~] (8) (a) Except as provided in Subsections [~~(9)~~] (8)(b)(i) and [~~(9)~~] (8)(c)(i), upon conclusion of the public hearing described in Subsection [~~(6)~~] (5)(b), the municipal legislative body may adopt an ordinance approving the annexation of the area proposed for annexation under this section unless, at or before the hearing, written protests to the annexation have been filed with the recorder or clerk of the municipality by the owners of private real property that:

(i) is located within the area proposed for annexation;

(ii) covers a majority of the total private land area within the entire area proposed for annexation; and

(iii) is equal in value to at least 1/2 the value of all private real property within the entire area proposed for annexation.

(b) (i) Notwithstanding Subsection [~~(9)~~] (8)(a), upon conclusion of the public hearing described in Subsection [~~(6)~~] (5)(b), a municipality may adopt an ordinance approving the annexation of the area proposed for annexation under this section without allowing or considering protests under Subsection [~~(9)~~] (8)(a) if[~~: (A)~~] the owners of at least 75% of the total private land area within the entire area proposed for annexation, representing at least 75% of the value of the private real property within the entire area proposed for annexation, have consented in writing to the annexation[~~; or~~].

[~~(B) the annexation meets the requirements of Subsection (3).~~]

(ii) Upon the effective date under Section 10-2-425 of an annexation approved by an ordinance adopted under Subsection [~~(9)~~] (8)(b)(i), the area annexed is conclusively presumed to be validly annexed.

(c) (i) Notwithstanding Subsection [~~(9)~~] (8)(a), upon conclusion of the public hearing described in Subsection [~~(6)~~] (5)(b), a municipality may adopt an ordinance approving the annexation of an area that the county legislative body proposes for annexation under this section without allowing or considering protests under Subsection [~~(9)~~] (8)(a) if the county legislative body has formally recommended annexation to the annexing municipality and has made a formal finding that:

(A) the area to be annexed can be more efficiently served by the municipality than by the county;

(B) the area to be annexed is not likely to be naturally annexed by the municipality in the future as the result of urban development;

(C) annexation of the area is likely to facilitate the consolidation of overlapping functions of local government; and

(D) annexation of the area is likely to result in an equitable distribution of community resources and obligations.

(ii) The county legislative body may base the finding required in Subsection [~~(9)~~] (8)(c)(i)(B) on:

(A) existing development in the area;

(B) natural or other conditions that may limit the future development of the area; or

(C) other factors that the county legislative body considers relevant.

(iii) A county legislative body may make the recommendation for annexation required in Subsection [~~(9)~~] (8)(c)(i) for only a portion of an

unincorporated island if, as a result of information provided at the public hearing, the county legislative body makes a formal finding that it would be equitable to leave a portion of the island unincorporated.

(iv) If a county legislative body has made a recommendation of annexation under Subsection [~~(9)~~] (8)(c)(i):

(A) the relevant municipality is not required to proceed with the recommended annexation; and

(B) if the relevant municipality proceeds with annexation, the municipality shall annex the entire area that the county legislative body recommended for annexation.

(v) Upon the effective date under Section 10-2-425 of an annexation approved by an ordinance adopted under Subsection [~~(9)~~] (8)(c)(i), the area annexed is conclusively presumed to be validly annexed.

[~~(10)~~] (9) (a) Except as provided in Subsections [~~(9)~~] (8)(b)(i) and [~~(9)~~] (8)(c)(i), if protests are timely filed under Subsection [~~(9)~~] (8)(a), the municipal legislative body may not adopt an ordinance approving the annexation of the area proposed for annexation, and the annexation proceedings under this section shall be considered terminated.

(b) Subsection [~~(10)~~] (9)(a) does not prohibit the municipal legislative body from excluding from a proposed annexation under Subsection (2)(b) the property within an unincorporated island regarding which protests have been filed and proceeding under Subsection [~~(4)~~] (3) to annex some or all of the remaining portion of the unincorporated island.

Section 3. Section 17B-1-503 is amended to read:

17B-1-503. Withdrawal or boundary adjustment with municipal approval.

(1) A municipality and a local district whose boundaries adjoin or overlap may adjust the boundary of the local district to include more or less of the municipality, including the expansion area identified in the annexation policy plan adopted by the municipality under Section 10-2-401.5, in the local district by following the same procedural requirements as set forth in Section 17B-1-417 for boundary adjustments between adjoining local districts.

(2) (a) Notwithstanding any other provision of this title, a municipality annexing all or part of an unincorporated island or peninsula under Title 10, Chapter 2, Classification, Boundaries, Consolidation, and Dissolution of Municipalities, that overlaps a municipal services district organized under Chapter 2a, Part 11, Municipal Services District Act, may petition to withdraw the area from the municipal services district in accordance with this Subsection (2).

(b) For a valid withdrawal described in Subsection (2)(a):

(i) the annexation petition under Section 10-2-403 or a separate consent, signed by owners of at least 60% of the total private land area, shall state that the signers request the area to be withdrawn from the municipal services district; and

(ii) the legislative body of the municipality shall adopt a resolution, which may be the resolution adopted in accordance with Subsection 10-2-418[~~(6)~~](5)(a), stating the municipal legislative body's intent to withdraw the area from the municipal services district.

(c) The board of trustees of the municipal services district shall consider the municipality's petition to withdraw the area from the municipal services district within 90 days after the day on which the municipal services district receives the petition.

(d) The board of trustees of the municipal services district:

(i) may hold a public hearing in accordance with the notice and public hearing provisions of Section 17B-1-508;

(ii) shall consider information that includes any factual data presented by the municipality and any owner of private real property who signed a petition or other form of consent described in Subsection (2)(b)(i); and

(iii) identify in writing the information upon which the board of trustees relies in approving or rejecting the withdrawal.

(e) The board of trustees of the municipal services district shall approve the withdrawal, effective upon the annexation of the area into the municipality or, if the municipality has already annexed the area, as soon as possible in the reasonable course of events, if the board of trustees makes a finding that:

(i) (A) the loss of revenue to the municipal services district due to a withdrawal of the area will be offset by savings associated with no longer providing municipal-type services to the area; or

(B) if the loss of revenue will not be offset by savings resulting from no longer providing municipal-type services to the area, the municipality agreeing to terms and conditions, which may include terms and conditions described in Subsection 17B-1-510(5), can mitigate or eliminate the loss of revenue;

(ii) the annexation petition under Section 10-2-403, or a separate petition meeting the same signature requirements, states that the signers request the area to be withdrawn from the municipal services district; or

(iii) the following have consented in writing to the withdrawal:

(A) owners of more than 60% of the total private land area; or

(B) owners of private land equal in assessed value to more than 60% of the assessed value of all private real property within the area proposed for

withdrawal have consented in writing to the withdrawal.

(f) If the board of trustees of the municipal services district does not make any of the findings described in Subsection (2)(e), the board of trustees may approve or reject the withdrawal based upon information upon which the board of trustees relies and that the board of trustees identifies in writing.

(g) (i) If a municipality annexes an island or a part of an island before May 14, 2019, the legislative body of the municipality may initiate the withdrawal of the area from the municipal services district by adopting a resolution that:

(A) requests that the area be withdrawn from the municipal services district; and

(B) a final local entity plat accompanies, identifying the area proposed to be withdrawn from the municipal services district.

(ii) (A) Upon receipt of the resolution and except as provided in Subsection (2)(g)(ii)(B), the board of trustees of the municipal services district shall approve the withdrawal.

(B) The board of trustees of the municipal services district may reject the withdrawal if the rejection is based upon a good faith finding that lost revenues due to the withdrawal will exceed expected cost savings resulting from no longer serving the area.

(h) (i) Based upon a finding described in Subsection (e) or (f):

(A) the board of trustees of the municipal services district shall adopt a resolution approving the withdrawal; and

(B) the chair of the board shall sign a notice of impending boundary action, as defined in Section 67-1a-6.5, that meets the requirements of Subsection 67-1a-6.5(3).

(ii) The annexing municipality shall deliver the following to the lieutenant governor:

(A) the resolution and notice of impending boundary action described in Subsection (2)(g)(i);

(B) a copy of an approved final local entity plat as defined in Section 67-1a-6.5; and

(C) any other documentation required by law.

(i) (i) Once the lieutenant governor has issued an applicable certificate as defined in Section 67-1a-6.5, the municipality shall deliver the certificate, the resolution and notice of impending boundary action described in Subsection (2)(h)(i), the final local entity plat as defined in Section 67-1a-6.5, and any other document required by law, to the recorder of the county in which the area is located.

(ii) After the municipality makes the delivery described in Subsection (2)(i)(i), the area, for all purposes, is no longer part of the municipal services district.

(j) The annexing municipality and the municipal services district may enter into an interlocal agreement under Title 11, Chapter 13, Interlocal Cooperation Act, stating:

(i) the municipality's and the district's duties and responsibilities in conducting a withdrawal under this Subsection (2); and

(ii) any other matter respecting an unincorporated island that the municipality surrounds on all sides.

(3) After a boundary adjustment under Subsection (1) or a withdrawal under Subsection (2) is complete:

(a) the local district shall, without interruption, provide the same service to any area added to the local district as provided to other areas within the local district; and

(b) the municipality shall, without interruption, provide the same service that the local district previously provided to any area withdrawn from the local district.

(4) No area within a municipality may be added to the area of a local district under this section if the area is part of a local district that provides the same wholesale or retail service as the first local district.

CHAPTER 8
H. B. 6011
Passed August 20, 2020
Approved August 31, 2020
Effective August 31, 2020

PHARMACEUTICAL REPORTING AMENDMENTS

Chief Sponsor: Paul Ray
Senate Sponsor: Evan J. Vickers

LONG TITLE

General Description:

This bill amends the Prescription Drug Price Transparency Act.

Highlighted Provisions:

This bill:

- amends certain reporting requirements in the Prescription Drug Price Transparency Act.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

31A-48-103, as enacted by Laws of Utah 2020, Chapter 198

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

Section 1. Section 31A-48-103 is amended to read:

31A-48-103. Manufacturer reports -- Insurer report -- Publication by department.

(1) (a) A manufacturer of a drug shall, beginning January 1, 2022, report to the department the information described in Subsection (1)(b) no more than 30 days after the day on which an increase to the wholesale acquisition cost of the drug results in an increase to the wholesale acquisition cost of the drug of:

(i) greater than 16% over the preceding two calendar years; or

(ii) greater than 10% over the preceding calendar year.

(b) The manufacturer shall report:

(i) (A) the name of the drug;

(B) the dosage form of the drug; and

(C) the strength of the drug;

(ii) whether the drug is a brand name drug or a generic drug;

(iii) the effective date of the increase in the wholesale acquisition cost of the drug;

(iv) a written description, suitable for public release, of the factors that led to the increase in the wholesale acquisition cost of the drug and the significance of each factor;

(v) the manufacturer's aggregate company-wide research and development costs for the most recent year for which final audit data is available;

(vi) the name of each of the manufacturer's drugs approved by the United States Food and Drug Administration during the preceding three calendar years; and

(vii) the names of drugs manufactured by the manufacturer that lost patent exclusivity in the United States during the preceding three calendar years.

(c) Subsection (1)(a) applies only to a drug with a wholesale acquisition cost of at least $100 for a 30-day supply before the effective date of the increase in the wholesale acquisition cost of the drug.

(d) A manufacturer's obligations under this Subsection (1) are fully satisfied by submission of information and data that a manufacturer includes in the manufacturer's annual consolidated report on Securities and Exchange Commission Form 10-K or any other public disclosure.

(e) The department shall consult with representatives of manufacturers to establish a single, standardized format for reporting information under this section that minimizes the administrative burden of reporting for manufacturers and the state.

(f) Information provided to the department under Subsection (1)(b) may not be released in a manner that:

(i) would allow for the identification of an individual drug, therapeutic class of drugs, or manufacturer; or

(ii) is likely to compromise the financial, competitive, or proprietary nature of the information.

(2) [~~Before August 1 of each year,~~] On or before August 1, 2021, and on or before August 1 of each year thereafter, an insurer shall report to the department in aggregate the following information for the preceding [~~plan~~] calendar year for health benefit plans offered by the insurer:

(a) for the 25 drugs for which spending by the insurer was the greatest, after adjusting for rebates:

(i) the name of the drug;

(ii) the dosage form of the drug; and

(iii) the strength of the drug;

(b) the percentage increase over the previous year in net spending for all drugs, after adjusting for rebates; and

(c) the percentage of the increase in premiums over the previous year attributable to all drugs; and

(d) the percentage of the increase in premiums over the previous year attributable to specialty drugs.

(3) The department shall publish on the department's website:

(a) no later than 60 days after receiving the information, information reported to the department under Subsection (1); and

(b) no later than [~~November~~] December 1 of each year, information reported to the department under Subsection (2).

(4) The department may not publish information under Subsection (3)(b) in a manner that allows the identity of an insurer to be determined.

(5) The department shall make rules, as necessary, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to promote comparability of information reported to the department under this chapter.

Section 2. Effective date.

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

CHAPTER 9
H. B. 6012
Passed August 20, 2020
Approved August 31, 2020
Effective August 31, 2020

PUBLIC EDUCATION FUNDING AND ENROLLMENT AMENDMENTS

Chief Sponsor: Jefferson Moss
Senate Sponsor: Ann Millner

LONG TITLE

General Description:

This bill amends provisions related to funding for public schools and educators and provisions related to enrollment in district and charter schools.

Highlighted Provisions:

This bill:

- defines terms;
- permits the State Board of Education (state board) to use a different date or dates for counting average daily membership when calculating the growth factor for the 2020-2021 school year;
- amends the distribution of small district base funding for necessarily existent small schools;
- creates a salary supplement for teachers who hold a certification from the National Board for Professional Teaching Standards;
- appropriates money to the state board to allocate to local education agencies to pay for software licenses for English language learner student instruction;
- allows a charter school to give enrollment preference for the 2021-2022 school year to a student who withdrew from the charter school to attend an online school or home school in the 2020-2021 school year due to the COVID-19 emergency; and
- allows the state board to use federal Elementary and Secondary School Emergency funds and nonlapsing Minimum School Program funds for charter school local replacement funding in the 2020-2021 school year.

Monies Appropriated in this Bill:

This bill appropriates:

- to the State Board of Education - Minimum School Program - Related to Basic School Programs:
  - from the Education Fund, $246,300; and
- to the State Board of Education - Minimum School Program - Related to Basic School Programs:
  - from the Education Fund, One-time, $3,000,000.

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

53F-2-302, as last amended by Laws of Utah 2019, Chapter 186
53F-2-304, as last amended by Laws of Utah 2020, Fifth Special Session, Chapter 14
53F-2-312, as last amended by Laws of Utah 2019, Chapter 186
53G-6-502, as last amended by Laws of Utah 2019, Chapters 151 and 293
53G-6-504, as last amended by Laws of Utah 2020, Chapter 408

ENACTS:

53F-2-523, Utah Code Annotated 1953

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

Section 1. Section 53F-2-302 is amended to read:

53F-2-302. Determination of weighted pupil units.

The number of weighted pupil units in the Minimum School Program for each year is the total of the units for each school district and, subject to Subsection (4), charter school, determined as follows:

(1) The number of units is computed by adding the average daily membership of all pupils of the school district or charter school attending schools, other than kindergarten and self-contained classes for children with a disability.

(2) The number of units is computed by adding the average daily membership of all pupils of the school district or charter school enrolled in kindergarten and multiplying the total by .55.

(a) In those school districts or charter schools that do not hold kindergarten for a full nine-month term, the local school board or charter school governing board may approve a shorter term of nine weeks' duration.

(b) Upon LEA governing board approval, the number of pupils in average daily membership at the short-term kindergarten shall be counted for the purpose of determining the number of units allowed in the same ratio as the number of days the short-term kindergarten is held, not exceeding nine weeks, compared to the total number of days schools are held in that school district or charter school in the regular school year.

(3) (a) The state board shall use prior year plus growth to determine average daily membership in distributing money under the Minimum School Program where the distribution is based on kindergarten through grade 12 ADMs or weighted pupil units.

(b) Under prior year plus growth, kindergarten through grade 12 average daily membership for the current year is based on the actual kindergarten through grade 12 average daily membership for the previous year plus an estimated percentage growth factor.

(c) The growth factor is the percentage increase in total average daily membership on the first school day of October in the current year as compared to the total average daily membership on the first school day of October of the previous year.

(4) In distributing funds to charter schools under this section, charter school pupils shall be weighted, where applicable, as follows:

(a) .55 for kindergarten pupils;

(b) .9 for pupils in grades 1 through 6;

(c) .99 for pupils in grades 7 through 8; and

(d) 1.2 for pupils in grades 9 through 12.

(5) Notwithstanding Subsection (3)(c):

(a) for the 2020-2021 school year the state board may use a count of average daily membership on any day or days of the current school year in 2020 to calculate a growth factor for the 2020-2021 school year; and

(b) when calculating the growth factor as described in Subsection (5)(a), the state board shall comply with all applicable federal requirements.

Section 2. Section 53F-2-304 is amended to read:

53F-2-304. Necessarily existent small schools -- Computing additional weighted pupil units -- Consolidation of small schools.

(1) As used in this section, "necessarily existent small schools funding balance" means the difference between:

(a) the amount appropriated for the necessarily existent small schools program in a fiscal year; and

(b) the amount distributed to school districts for the necessarily existent small schools program in the same fiscal year.

(2) (a) Upon application by a local school board, the state board shall, in consultation with the local school board, classify schools in the school district as necessarily existent small schools, in accordance with this section and state board rules adopted under Subsection (3).

(b) An application must be submitted to the state board before April 2, and the state board must report a decision to a local school board before June 2.

(3) The state board shall adopt standards and make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:

(a) govern the approval of necessarily existent small schools consistent with principles of efficiency and economy that serve the purpose of eliminating schools where consolidation is feasible by participation in special school units; and

(b) ensure that school districts are not building secondary schools in close proximity to one another where economy and efficiency would be better served by one school meeting the needs of secondary students in a designated geographical area.

(4) The state board shall prepare and publish objective standards and guidelines for determining which small schools are necessarily existent after consultation with local school boards.

(5) (a) Additional weighted pupil units for schools classified as necessarily existent small schools shall be computed using distribution formulas adopted by the state board.

(b) The distribution formulas establish the following maximum sizes for funding under the necessarily existent small school program:

(i) an elementary school	160
(ii) a one or two-year secondary school	300
(iii) a three-year secondary school	450
(iv) a four-year secondary school	500
(v) a six-year secondary school	600

(c) An elementary school with fewer than 10 students shall receive the same add-on weighted pupil units as an elementary school with 10 students.

(d) A secondary school with fewer than 15 students shall receive the same add-on weighted pupil units as a secondary school with 15 students.

(e) If a necessarily existent small school generates ADM in both elementary and secondary grades, the state board may divide the school's ADM between an elementary and secondary distribution formula.

(f) The state board shall prepare and distribute an allocation table based on the distribution formula to each school district.

(6) (a) To avoid penalizing a school district financially for consolidating the school district's small schools, additional weighted pupil units may be allowed a school district each year, not to exceed two years.

(b) The additional weighted pupil units may not exceed the difference between what the school district receives for a consolidated school and what the school district would have received for the small schools had the small schools not been consolidated.

(7) (a) The state board may allocate up to 208 weighted pupil units to support schools that:

(i) have isolating conditions, as defined by the state board, including geographic isolation; and

(ii) do not qualify for necessarily existent small schools funding due to formula limitations.

(b) The state board shall review funding allocations under this Subsection (7) at least once every five calendar years.

(8) If the state board classifies a school as a necessarily existent small school in accordance with this section, the state board shall, subject to legislative appropriation, distribute small district base funding to the relevant school district in the following amounts:

(a) for a district with [~~250~~] 500 students or less, 83 additional weighted pupil units;

[~~(b) for a district with 251 to 500 students, 56 additional weighted pupil units;~~]

[~~(c)~~] (b) for a district with 501 to 1,000 students, 28 additional weighted pupil units; and

[~~(d)~~] (c) for a district with 1,001 to 2,000 students, 14 additional weighted pupil units.

(9) Subject to legislative appropriation, the state board shall give first priority from an appropriation made under this section to funding an expense approved by the state board as described in Subsection 53G-6-305(3)(a).

(10) (a) Subject to Subsection (10)(b) and after a distribution made under Subsection (9), the state board may distribute a portion of necessarily existent small schools funding:

(i) in accordance with a formula adopted by the state board that considers the tax effort of a local school board; or

(ii) to isolated small schools, as identified by the state board.

(b) The amount distributed in accordance with Subsection (10)(a) may not exceed the necessarily existent small schools fund in balance of the prior fiscal year.

(11) A local school board may use the money allocated under this section for maintenance and operation of school programs or for other school purposes as approved by the state board.

Section 3. Section 53F-2-312 is amended to read:

53F-2-312. Appropriation for class size reduction.

(1) Money appropriated to the state board for class size reduction shall be used to reduce the average class size in kindergarten through grade 8 in the state's public schools.

(2) A school district or charter school shall receive an allocation for class size reduction based on the school district or charter school's prior year average daily membership plus growth in kindergarten through grade 8 as determined under [~~Subsection~~] Section 53F-2-302[~~(3)~~] compared to the total prior year average daily membership plus growth in kindergarten through grade 8 statewide.

(3) (a) An LEA governing board may use an allocation to reduce class size in any one or all of the grades referred to under this section, except as otherwise provided in Subsection (3)(b).

(b) (i) An LEA governing board shall use 50% of an allocation to reduce class size in any one or all of grades kindergarten through grade 2, with an emphasis on improving student reading skills.

(ii) If a school district's or charter school's average class size is below 18 students in kindergarten through grade 2, an LEA governing board may petition the state board for, and the state board may grant, a waiver of the requirement described in Subsection (3)(b)(i).

(4) A school may use nontraditional innovative and creative methods to reduce class sizes with this appropriation and may use part of an allocation to focus on class size reduction for specific groups, such as at risk students, or for specific blocks of time during the school day.

(5) (a) An LEA governing board may use up to 20% of an allocation under this section for capital facilities projects if such projects would help to reduce class size.

(b) If a school district's or charter school's student population increases by at least 5% or at least 700 students from the previous school year, the LEA governing board may use up to 50% of an allocation received by the school district or charter school under this section for classroom construction.

(6) This appropriation is to supplement any other appropriation made for class size reduction.

(7) The Legislature shall provide for an annual adjustment in the appropriation authorized under this section in proportion to the increase in the number of students in the state in kindergarten through grade 8.

Section 4. Section 53F-2-523 is enacted to read:

53F-2-523. Salary supplement for National Board-certified teachers.

(1) As used in this section:

(a) "National Board certification" means the same as that term is defined in Section 53E-6-102.

(b) "National Board-certified teacher" or "board-certified teacher" means a teacher who:

(i) holds a National Board certification; and

(ii) has an assignment to teach in an LEA.

(c) "Salary supplement" means a salary supplement for a board-certified or Title I school board-certified teacher described in this section.

(d) "Title I school" means a school that receives funds under Title I of the Elementary and Secondary Education Act of 1965, 20 U.S.C. Sec. 6301 et seq.

(e) "Title I school board-certified teacher" means a board-certified teacher who is assigned to teach at a Title I school.

(2) (a) Subject to future budget constraints, the Legislature shall:

(i) annually appropriate money to maintain annual salary supplements provided in previous years; and

(ii) provide salary supplements to new recipients.

(b) Money appropriated for salary supplements shall include money for the following employer-paid benefits:

(i) retirement;

(ii) workers' compensation;

(iii) Social Security; and

(iv) Medicare.

(3) (a) The annual salary supplement for a board-certified teacher is $1,000.

(b) The annual salary supplement for a Title I school board-certified teacher is $2,000.

(c) A board-certified teacher who qualifies for a salary supplement under Subsections (3)(a) and (b) may only receive the salary supplement that is greater in value.

(d) The employer paid benefits described in Subsection (2)(b) are in addition to an amount described in this Subsection (3).

(4) The state board shall:

(a) create an online application system for a teacher to apply to receive a salary supplement;

(b) establish a deadline by which a teacher is required to apply in order to receive a salary supplement;

(c) determine whether a teacher who applies for a salary supplement is a board-certified teacher or a Title I school board-certified teacher;

(d) verify, as needed, a determination made under Subsection (4)(c) with LEA or school administrators; and

(e) certify a list of board-certified teachers and Title I school board-certified teachers.

(5) To receive a salary supplement, a board-certified teacher or a Title I school board-certified teacher shall apply to the state board before the deadline described in Subsection (4)(b).

(6) The state board shall establish and administer an appeal process for a teacher who applies for but does not receive a salary supplement that allows the teacher to appeal eligibility by providing evidence to the state board:

(a) of the teacher's National Board certification; or

(b) (i) of the teacher's National Board certification; and

(ii) that the teacher is assigned to teach in a Title I school.

(7) The state board shall:

(a) distribute money appropriated for salary supplements to LEAs in accordance with the provisions of this section; and

(b) include the cost of employer-paid benefits described in Subsection (2)(b) in the amount distributed to an LEA for each salary supplement.

(8) (a) An LEA shall use money received under this section to provide a salary supplement to each board-certified teacher and Title I school board-certified teacher in an amount equal to the amount described in Subsection (3).

(b) A salary supplement is part of a teacher's base pay, subject to the teacher's qualification as a board-certified teacher or Title I school board-certified teacher every year, semester, or trimester.

(9) Notwithstanding the provisions of this section, if an annual appropriation for salary supplements is not sufficient to cover the costs associated with salary supplements, the state board shall distribute the funds on a pro rata basis.

Section 5. Section 53G-6-502 is amended to read:

53G-6-502. Eligible students.

(1) As used in this section:

(a) "At capacity" means operating above the school's open enrollment threshold.

(b) "COVID-19 emergency" means the spread of COVID-19 that the World Health Organization declared a pandemic on March 11, 2020.

[~~(b)~~] (c) "Open enrollment threshold" means the same as that term is defined in Section 53G-6-401.

[~~(c)~~] (d) "Refugee" means a person who is eligible to receive benefits and services from the federal Office of Refugee Resettlement.

[~~(d)~~] (e) "School of residence" means the same as that term is defined in Section 53G-6-401.

(2) All resident students of the state qualify for admission to a charter school, subject to the limitations set forth in this section and Section 53G-6-503.

(3) (a) A charter school shall enroll an eligible student who submits a timely application, unless the number of applications exceeds the capacity of a program, class, grade level, or the charter school.

(b) If the number of applications exceeds the capacity of a program, class, grade level, or the charter school, the charter school shall select students on a random basis, except as provided in Subsections (4) through (8).

(4) A charter school may give an enrollment preference to:

(a) a child or grandchild of an individual who has actively participated in the development of the charter school;

(b) a child or grandchild of a member of the charter school governing board;

(c) a sibling of an individual who was previously or is presently enrolled in the charter school;

(d) a child of an employee of the charter school;

(e) a student articulating between charter schools offering similar programs that are governed by the same charter school governing board;

(f) a student articulating from one charter school to another pursuant to an articulation agreement between the charter schools that is approved by the State Charter School Board;

(g) a student who resides within up to a two-mile radius of the charter school and whose school of residence is at capacity; [~~or~~]

(h) a child of a military servicemember as defined in Section 53B-8-102[~~.~~]; or

(i) for the 2021-2022 school year, a student who withdraws from the charter school to attend an online school or home school for the 2020-2021 school year due to the COVID-19 emergency.

(5) (a) Except as provided in Subsection (5)(b), and notwithstanding Subsection (4)(g), a charter school that is approved by the state board after May 13, 2014, and is located in a high growth area as defined in Section 53G-6-504 shall give an enrollment preference to a student who resides within a two-mile radius of the charter school.

(b) The requirement to give an enrollment preference under Subsection (5)(a) does not apply to a charter school that was approved without a high priority status pursuant to Subsection 53G-6-504(7)(b).

(6) If a district school converts to charter status, the charter school shall give an enrollment preference to students who would have otherwise attended it as a district school.

(7) (a) A charter school whose mission is to enhance learning opportunities for refugees or children of refugee families may give an enrollment preference to refugees or children of refugee families.

(b) A charter school whose mission is to enhance learning opportunities for English language learners may give an enrollment preference to English language learners.

(8) A charter school may weight the charter school's lottery to give a slightly better chance of admission to educationally disadvantaged students, including:

(a) low-income students;

(b) students with disabilities;

(c) English language learners;

(d) migrant students;

(e) neglected or delinquent students; and

(f) homeless students.

(9) A charter school may not discriminate in the charter school's admission policies or practices on the same basis as other public schools may not discriminate in admission policies and practices.

Section 6. Section 53G-6-504 is amended to read:

53G-6-504. Approval of increase in charter school enrollment capacity -- Expansion.

(1) For the purposes of this section:

(a) "High growth area" means an area of the state where school enrollment is significantly increasing or projected to significantly increase.

(b) "Next school year" means the school year that begins on or after the July 1 immediately following the end of a general session of the Legislature.

(2) The state board may approve an increase in charter school enrollment capacity subject to the Legislature:

(a) appropriating funds for an increase in charter school enrollment capacity in the next school year; or

(b) authorizing an increase in charter school enrollment capacity in the school year immediately following the next school year.

(3) In appropriating funds for, or authorizing, an increase in charter school enrollment capacity, the Legislature shall provide a separate appropriation or authorization of enrollment capacity for a charter school proposed and approved in response to a request for applications issued under Section 53G-5-301.

(4) (a) A charter school may annually submit a request to the state board for an increase in enrollment capacity in the amount of .25 times the number of students in grades 9 through 12 enrolled in an online course in the previous school year through the Statewide Online Education Program.

(b) A charter school shall submit a request for an increase in enrollment capacity pursuant to Subsection (4)(a) on or before October 1 of the school year for which the increase in enrollment capacity is requested.

(c) The state board shall approve a request for an increase in enrollment capacity made under Subsection (4)(a) subject to the availability of sufficient funds appropriated under Title 53F, Chapter 2, Part 7, Charter School Funding, to provide the full amount of the per student allocation for each charter school student in the state to supplement school district property tax revenues.

(d) An increase in enrollment capacity approved under Subsection (4)(c) shall be a permanent increase in the charter school's enrollment capacity.

(e) For the 2021-2022 school year, the previous school year described in Subsection (4)(a) is the 2019-2020 school year.

(5) (a) On or before January 1, 2017, the state board shall, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and after considering suggestions from charter school authorizers, make rules establishing requirements, procedures, and deadlines for an expansion of a charter school.

(b) The rules described in Subsection (5)(a) shall include rules related to:

(i) an expansion of a charter school when another charter school issues a notice of closure; and

(ii) the establishment of a satellite campus.

(6) (a) If the Legislature does not appropriate funds for an increase in charter school enrollment capacity that is tentatively approved by the state board, the state board shall prioritize the tentatively approved schools and expansions based on approved funds.

(b) A charter school or expansion that is tentatively approved, but not funded, shall be considered to be tentatively approved for the next application year and receive priority status for available funding.

(7) (a) Except as provided in Subsection (6)(b) or (7)(b), in approving an increase in charter school

enrollment capacity for new charter schools and expanding charter schools, the state board shall give:

(i) high priority to approving a new charter school or a charter school expansion in a high growth area; and

(ii) low priority to approving a new charter school or a charter school expansion in an area where student enrollment is stable or declining.

(b) An applicant seeking to establish a charter school in a high growth area may elect to not receive high priority status as provided in Subsection (7)(a)(i).

(8) For fiscal year 2021, in addition to an appropriation described in Subsection 53F-2-704(2)(a), for the guarantee described in Section 53F-2-704, the state board may use up to $8,000,000 from the following sources in priority order:

(a) funds from the federal Elementary and Secondary School Emergency Relief Fund described in the Coronavirus Aid, Relief, and Economic Security Act, Pub. L. 116-136; and

(b) notwithstanding anything to the contrary in Subsection 53F-2-205(3)(b), nonlapsing Minimum School Program funds.

Section 7. Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2020, and ending June 30, 2021. These are additions to amounts previously appropriated for fiscal year 2021. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 1

To State Board of Education - Minimum School Program - Related to Basic School Programs

From Education Fund	$246,300
Schedule of Programs:	
National Board-Certified Teacher Program	$246,300

ITEM 2

To State Board of Education - Minimum School Program - Related to Basic School Programs

From Education Fund, One-time	$3,000,000
Schedule of Programs:	
English Language Learner Software Support	$3,000,000

The Legislature intends that:

(1) the State Board of Education allocate the appropriation under this section to a local education agency in proportion to the local education agency's share of statewide English language learner students; and

(2) a local education agency select a vendor and use an allocation of money allocated under Subsection (1) to pay for software licenses for software used for English language learner student instruction.

Section 8. Effective date.

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

CHAPTER 10
H. B. 6013
Passed August 20, 2020
Approved August 31, 2020
Effective August 31, 2020
(Retrospective operation to January 1, 2018)

CORPORATE INCOME NET LOSS AMENDMENTS

Chief Sponsor: Robert M. Spendlove
Senate Sponsor: Curtis S. Bramble

LONG TITLE

General Description:

This bill amends corporate franchise and income tax provisions related to Utah net loss.

Highlighted Provisions:

This bill:

- removes the 80% limitation on a Utah net loss carry forward for the 2018 through 2020 income tax years.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

This bill provides retrospective operation.

Utah Code Sections Affected:

AMENDS:

59-7-110, as last amended by Laws of Utah 2018, Second Special Session, Chapter 3

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

Section 1. Section 59-7-110 is amended to read:

59-7-110. Utah net loss -- Carryforward -- Deduction.

(1) A taxpayer shall determine the amount of Utah net loss that the taxpayer may carry forward to offset income of another taxable year as provided in this section.

(2) Subject to the other provisions of this section, a taxpayer:

(a) may carry forward a Utah net loss from a taxable year to a future taxable year; and

(b) may not carry back a Utah net loss from a taxable year.

(3) A taxpayer that carries forward a Utah net loss shall carry forward the Utah net loss to the earliest eligible year for which the Utah taxable income before net loss deduction, minus Utah net losses from previous years that a taxpayer applied or was required to apply to offset income, is not less than zero.

(4) (a) Subject to Subsection (4)(b), the amount of Utah net loss that a taxpayer may carry to the year identified in Subsection (3) is the lesser of:

(i) the remaining Utah net loss after deduction of any amounts of the Utah net loss that a taxpayer carried to previous years; or

(ii) the remaining Utah taxable income before net loss deduction of the year identified in Subsection (3) after deduction of Utah net losses from previous years that a taxpayer carried or was required to carry to the year identified in Subsection (3).

(b) (i) [~~The~~] For a taxable year beginning on or after January 1, 2021, the amount of Utah net loss that a taxpayer may carry forward to a taxable year may not exceed 80% of Utah taxable income computed without regard to the deduction allowable under this section.

(ii) A taxpayer may carry a remaining Utah net loss to one or more taxable years in accordance with this section.

(5) (a) (i) Subject to Subsection (5)(a)(ii), a corporation acquiring the assets or stock of another corporation may not deduct any net loss incurred by the acquired corporation prior to the date of acquisition.

(ii) Subsection (5)(a)(i) does not apply if the only change in the corporation is that of the state of incorporation.

(b) An acquired corporation may deduct the acquired corporation's net losses incurred before the date of acquisition against the acquired corporation's separate income as calculated under Subsections (6) and (7) if the acquired corporation has continued to carry on a trade or business substantially the same as that conducted before the acquisition.

(6) For purposes of Subsection (5)(b), the amount of net loss an acquired corporation that is acquired by a unitary group may deduct is calculated by:

(a) subject to Subsection (7):

(i) except as provided in Subsection (6)(a)(ii), calculating the sum of:

(A) an amount determined by dividing the average value of the acquired corporation's real and tangible personal property owned or rented and used in this state during the taxable year by the average value of all of the unitary group's real and tangible personal property owned or rented and used during the taxable year;

(B) an amount determined by dividing the total amount paid in this state during the taxable year by the acquired corporation for compensation by the total compensation paid everywhere by the unitary group during the taxable year; and

(C) an amount determined by:

(I) dividing the total sales of the acquired corporation in this state during the taxable year by the total sales of the unitary group everywhere during the taxable year; and

(II) if the unitary group elects or is required to calculate the fraction for apportioning business income to this state using the method described in Subsection 59-7-311(4) in taxable year 2019 or taxable year 2020, multiplying the amount calculated under Subsection (6)(a)(i)(C)(I) by, for the taxable year 2019, four, or, for the taxable year 2020, eight; or

(ii) if the unitary group is required or elects to calculate the fraction for apportioning business income to this state using the method described in Subsection 59-7-311(2), calculating an amount determined by dividing the total sales of the acquired corporation in this state during the taxable year by the total sales of the unitary group everywhere during the taxable year;

(b) dividing the amount calculated under Subsection (6)(a) by the same denominator of the fraction the unitary group uses to apportion business income to this state for that taxable year in accordance with Section 59-7-311;

(c) multiplying the amount calculated under Subsection (6)(b) by the business income of the unitary group for the taxable year that is subject to apportionment under Section 59-7-311; and

(d) calculating the sum of:

(i) the amount calculated under Subsection (6)(c); and

(ii) the following amounts allocable to the acquired corporation for the taxable year:

(A) nonbusiness income allocable to this state; or

(B) nonbusiness loss allocable to this state.

(7) The amounts calculated under Subsection (6)(a) shall be derived in the same manner as those amounts are derived for purposes of apportioning the unitary group's business income before deducting the net loss, including a modification made in accordance with Section 59-7-320.

Section 2. Effective date.

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

Section 3. Retrospective operation.

This bill has retrospective operation for a taxable year beginning on or after January 1, 2018.

CHAPTER 11
S. B. 6001
Passed August 20, 2020
Approved August 31, 2020
Effective August 31, 2020

COMMUNITY REINVESTMENT AGENCY MODIFICATIONS

Chief Sponsor: Wayne A. Harper
House Sponsor: Mike Winder

LONG TITLE

General Description:

This bill modifies provisions related to community reinvestment agencies.

Highlighted Provisions:

This bill:

- allows a community reinvestment agency to extend for up to two years the collection period for certain project areas impacted by the COVID-19 emergency.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

ENACTS:

17C-1-416, Utah Code Annotated 1953

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

Section 1. Section 17C-1-416 is enacted to read:

17C-1-416. Extension of collection period for project areas impacted by COVID-19 emergency -- Requirements -- Limitations.

(1) For purposes of this section:

(a) "COVID-19 emergency" means the same as that term is defined in Section 53-2c-102.

(b) "Extension period" means the period of an impacted project area's project area funds collection period that is the result of an extension under this section.

(c) "Impacted project area" means a project area:

(i) from which an agency expects to receive tax increment;

(ii) that is subject to a project area funds collection period;

(iii) that is subject to a project area plan that was adopted on or before December 31, 2019; and

(iv) in which the agency determines the conditions resulting from the COVID-19 emergency will likely:

(A) delay the agency's implementation of the project area plan; or

(B) cause the agency to receive an amount of tax increment from the project area that is less than the amount of tax increment the agency expected the agency would receive from the project area.

(d) "Tax increment" includes additional tax increment as that term is defined in Section 17C-1-403.

(2) (a) Subject to Subsection (3), an agency may extend the project area funds collection period of an impacted project area for a period not to exceed two years from the day on which the project area funds collection period ends if:

(i) the board adopts a resolution on or before December 31, 2021, describing:

(A) the conditions resulting from the COVID-19 emergency that the board determines will likely delay the implementation of the project area plan or reduce the amount of tax increment that the agency receives from the impacted project area;

(B) why an extension of the project area funds collection period is needed; and

(C) the date on which the extension period will end; and

(ii) no later than November 1 of the year immediately preceding the year in which the project area funds collection period, not including any extension under this section, ends, the agency mails or electronically submits a copy of the resolution described in Subsection (2)(a)(i) to:

(A) the State Tax Commission;

(B) the State Board of Education;

(C) the state auditor;

(D) the auditor of the county in which the impacted project area is located; and

(E) each taxing entity affected by the agency's collection of tax increment from the impacted project area.

(b) Notwithstanding any other provision of law, an agency is not required to obtain taxing entity or taxing entity committee approval to extend a project area funds collection period under this section.

(c) An extension of a project area funds collection period under this section takes effect on the day on which the agency mails or electronically submits a copy of the resolution described in Subsection (2)(a)(i) to each entity specified in Subsection (2)(a)(ii).

(3) (a) This section does not allow an agency to change:

(i) the amount or percentage of tax increment that the agency is authorized to receive from the impacted project area in the final two years of the project area funds collection period; or

(ii) the cumulative dollar amount of tax increment that the agency is authorized to receive from the impacted project area, if the agency's receipt of tax increment is limited to a maximum cumulative dollar amount.

(b) An agency that extends a project area funds collection period under this section shall use any tax

increment received during the extension period in the same manner as provided in:

(i) the project area plan; and

(ii) (A) the project area budget; or

(B) the resolution or interlocal agreement authorizing the agency to receive tax increment from the impacted project area.

(c) (i) An extension of a project area funds collection period under this section does not automatically extend the payment of tax increment under a previously approved participation agreement for the extension period, regardless of any contrary term in the participation agreement.

(ii) An agency that extends a project area funds collection period under this section may only extend the payment of tax increment under a previously approved participation agreement for the extension period by:

(A) amending the previously approved participation agreement; or

(B) entering into a new participation agreement.

(d) Nothing in this section limits the right of an agency to extend the agency's collection of tax increment as otherwise provided in this title.

Section 2. Effective date.

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

CHAPTER 12
S. B. 6002
Passed August 20, 2020
Approved August 31, 2020
Effective August 31, 2020

FINANCIAL REPORT DATE AMENDMENT

Chief Sponsor: Curtis S. Bramble
House Sponsor: Phil Lyman

LONG TITLE

General Description:

This bill modifies the deadline for the governor to submit an audited financial statement.

Highlighted Provisions:

This bill:

- changes the deadline for the governor to submit an audited financial statement from December 1 to December 31.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

63J-1-201.5, as enacted by Laws of Utah 2011, Chapter 378

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

Section 1. Section 63J-1-201.5 is amended to read:

63J-1-201.5. Financial statement to be submitted annually.

The governor shall submit an audited financial statement no later than December [~~1~~] 31 of each year that shows:

(1) the revenues and expenditures for the last fiscal year;

(2) payment and discharge of the principal and interest of the indebtedness of the state;

(3) the current assets, liabilities, and reserves, surplus or deficit, and the debts and funds of the state;

(4) an estimate of the state's financial condition as of the beginning and the end of the period covered by the budget; and

(5) a complete analysis of lease with an option to purchase arrangements entered into by state agencies.

Section 2. Effective date.

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

CHAPTER 13
S. B. 6003
Passed August 20, 2020
Approved August 31, 2020
Effective August 31, 2020

LAW ENFORCEMENT TUITION REIMBURSEMENT

Chief Sponsor: Karen Mayne
House Sponsor: Lee B. Perry

LONG TITLE

General Description:

This bill reopens the Public Safety Officer Career Advancement Reimbursement Program for new applicants.

Highlighted Provisions:

This bill:

- removes a prohibition on new applicants to the Public Safety Officer Career Advancement Reimbursement Program;
- provides for pro rata reimbursement distributions for eligible applicants in certain circumstances;
- repeals a repeal date; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

53B-8-112, as last amended by Laws of Utah 2019, Chapter 444
53B-8-114, as enacted by Laws of Utah 2019, Chapter 444
63I-2-253, as last amended by Laws of Utah 2020, Fifth Special Session, Chapter 7

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

Section 1. Section 53B-8-112 is amended to read:

53B-8-112. Public Safety Officer Career Advancement Reimbursement Program.

(1) The Public Safety Officer Career Advancement Reimbursement Program is created.

[~~(2) (a) Notwithstanding the provisions in this section, the board may not accept a new application for a reimbursement described in this section for an academic year that begins on or after July 1, 2019.~~]

[~~(b)~~] (2) Subject to legislative appropriations and Subsection (7) the board shall reimburse an applicant who:

[~~(i)~~] (a) is a certified peace officer, currently employed by a law enforcement agency within the state;

[~~(ii)~~] (b) has been employed as a certified peace officer for three or more consecutive years;

[~~(iii)~~] (c) is seeking a post-secondary degree in the area of criminal justice from a credit-granting higher education institution within the state system of higher education, described in Section 53B-1-102; and

[~~(iv)~~] (d) is employed as a peace officer for one year following completion of the academic year for which the individual is seeking reimbursement.

(3) Individuals who qualify for reimbursement from the Public Safety Officer Career Advancement Reimbursement Program may apply for reimbursement by July 1 one year after each academic year for which they are requesting reimbursement.

(4) Subject to Legislative appropriations, of the funds appropriated for the Public Safety Officer Career Advancement Reimbursement Program:

(a) 25% of the annual appropriation shall be designated for applicants who are currently employed by a law enforcement agency with jurisdiction in a county of the third or fourth class; and

(b) 12% of the annual appropriation shall be designated for applicants who are currently employed by a law enforcement agency with jurisdiction in a county of the fifth or sixth class.

(5) (a) A qualified applicant may be reimbursed up to half of the cost of tuition and fees.

(b) A reimbursement under Subsection (5)(a) is limited to:

(i) a maximum of $5,000 each academic year; and

(ii) a maximum of eight academic years.

(6) (a) The board shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:

(i) set deadlines for receiving reimbursement applications and supporting documentation; and

(ii) establish the application process and an appeal process for a reimbursement from the Public Safety Officer Career Advancement Reimbursement Program, including procedures to allow for online application submittals.

(b) The board shall include a disclosure on all applications and related materials that the amount of the awarded reimbursements may be subject to funding or be reduced, in accordance with Subsection (7).

(7) (a) Subject to future budget constraints, the Legislature shall make an annual appropriation from the Education Fund to the board for the costs associated with the Public Safety Officer Career Advancement Reimbursement Program authorized under this section.

(b) Notwithstanding the provisions of this section, if the appropriation under this section is insufficient to cover the costs associated with the Public Safety Officer Career Advancement Reimbursement Program, the board:

(i) may reduce the amount of a reimbursement[~~.~~]; and

(ii) shall distribute reimbursements on a pro rata basis to all eligible applicants who submitted a complete application before the application deadline.

(c) Any individual who is denied reimbursement because of insufficient funds appropriated may re-apply for reimbursement up to two years after the first year of eligibility.

Section 2. Section 53B-8-114 is amended to read:

53B-8-114. Continuation of previously authorized scholarships.

(1) As used in this section:

(a) "Institution of higher education" means an institution that awards money through a program described in Subsection (2)(a).

(b) "Scholarship term" means the length of time during which an individual is eligible to receive award money through a program described in Subsection (2)(a).

(2) The board or an institution of higher education:

(a) beginning on July 1, 2019, may not accept a new application for an award described in[~~: (i)~~] Section 53B-6-105.7, which describes engineering and computer technology scholarships; [~~or~~] and

[~~(ii) Section 53B-8-112, which describes a reimbursement for public safety officers; and~~]

(b) may pay, through the end of the scholarship term, an award through a program described in Subsection (2)(a) to an individual whose application for the program was accepted before the applicable date described in Subsection (2)(a).

Section 3. Section 63I-2-253 is amended to read:

63I-2-253. Repeal dates -- Titles 53 through 53G.

(1) (a) Section 53-2a-217, regarding procurement during an epidemic or pandemic emergency, is repealed on December 31, 2021.

(b) When repealing Section 53-2a-217, the Office of Legislative Research and General Counsel shall, in addition to the office's authority under Subsection 36-12-12(3), make necessary changes to subsection numbering and cross references.

(2) Section 53B-2a-103 is repealed July 1, 2021.

(3) Section 53B-2a-104 is repealed July 1, 2021.

(4) (a) Subsection 53B-2a-108(5), regarding exceptions to the composition of a technical college board of trustees, is repealed July 1, 2022.

(b) When repealing Subsection 53B-2a-108(5), the Office of Legislative Research and General Counsel shall, in addition to its authority under Subsection 36-12-12(3), make necessary changes to subsection numbering and cross references.

(5) Section 53B-6-105.7 is repealed July 1, 2024.

(6) (a) Subsection 53B-7-705(6)(b)(ii)(A), the language that states "Except as provided in Subsection (6)(b)(ii)(B)," is repealed July 1, 2021.

(b) Subsection 53B-7-705(6)(b)(ii)(B), regarding comparing a technical college's change in performance with the technical college's average performance, is repealed July 1, 2021.

(7) (a) Subsection 53B-7-707(3)(a)(ii), the language that states "Except as provided in Subsection (3)(b)," is repealed July 1, 2021.

(b) Subsection 53B-7-707(3)(b), regarding performance data of a technical college during a fiscal year before fiscal year 2020, is repealed July 1, 2021.

[~~(8) Section 53B-8-112 is repealed July 1, 2024.~~]

[~~(9)~~] (8) Section 53B-8-114 is repealed July 1, 2024.

[~~(10)~~] (9) (a) The following sections, regarding the Regents' scholarship program, are repealed on July 1, 2023:

(i) Section 53B-8-202;

(ii) Section 53B-8-203;

(iii) Section 53B-8-204; and

(iv) Section 53B-8-205.

(b) (i) Subsection 53B-8-201(2), regarding the Regents' scholarship program for students who graduate from high school before fiscal year 2019, is repealed on July 1, 2023.

(ii) When repealing Subsection 53B-8-201(2), the Office of Legislative Research and General Counsel shall, in addition to its authority under Subsection 36-12-12(3), make necessary changes to subsection numbering and cross references.

[~~(11)~~] (10) Section 53B-10-101 is repealed on July 1, 2027.

[~~(12)~~] (11) Title 53B, Chapter 18, Part 14, Uintah Basin Air Quality Research Project, is repealed July 1, 2023.

[~~(13)~~] (12) Section 53E-3-519 regarding school counselor services is repealed July 1, 2020.

[~~(14)~~] (13) Section 53E-3-520 is repealed July 1, 2021.

[~~(15)~~] (14) Subsection 53E-5-306(3)(b)(ii)(B), related to improving school performance and continued funding relating to the School Recognition and Reward Program, is repealed July 1, 2020.

[~~(16)~~] (15) Section 53E-5-307 is repealed July 1, 2020.

[~~(17)~~] (16) Subsection 53E-10-309(7), related to the PRIME pilot program, is repealed July 1, 2024.

[~~(18)~~] (17) In Subsections 53F-2-205(4) and (5), regarding the State Board of Education's duties if contributions from the minimum basic tax rate are overestimated or underestimated, the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

[~~(19)~~] (18) Subsection 53F-2-301(1), relating to the years the section is not in effect, is repealed July 1, 2023.

[~~(20)~~] (19) In Subsection 53F-2-515(1), the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

[~~(21)~~] (20) Section 53F-4-207 is repealed July 1, 2022.

[~~(22)~~] (21) In Subsection 53F-9-302(3), the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

[~~(23)~~] (22) In Subsection 53F-9-305(3)(a), the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

[~~(24)~~] (23) In Subsection 53F-9-306(3)(a), the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

[~~(25)~~] (24) In Subsection 53G-3-304(1)(c)(i), the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

[~~(26)~~] (25) Subsections 53G-10-204(1)(c) through (e), and Subsection 53G-10-204(7), related to the civics engagement pilot program, are repealed on July 1, 2023.

[~~(27)~~] (26) On July 1, 2023, when making changes in this section, the Office of Legislative Research and General Counsel shall, in addition to the office's authority under Subsection 36-12-12(3), make corrections necessary to ensure that sections and subsections identified in this section are complete sentences and accurately reflect the office's perception of the Legislature's intent.

Section 4. Effective date.

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

CHAPTER 14
S. B. 6004
Passed August 20, 2020
Approved August 31, 2020
Effective August 31, 2020

REGULATORY CERTAINTY AMENDMENTS

Chief Sponsor: Ronald Winterton
House Sponsor: Carl R. Albrecht

LONG TITLE

General Description:

This bill addresses a moratorium on rulemaking and fee changes.

Highlighted Provisions:

This bill:

- prohibits the making, amending, or repealing of certain rules for a set period of time unless certain conditions are met;
- prohibits imposing new fees or increasing fees for a set period of time; and
- provides for exceptions.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

This bill provides revisor instructions.

Utah Code Sections Affected:

ENACTS:

19-1-207, Utah Code Annotated 1953
40-6-22, Utah Code Annotated 1953 Utah Code Sections Affected by Revisor Instructions:
19-1-207, Utah Code Annotated 1953
40-6-22, Utah Code Annotated 1953

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

Section 1. Section 19-1-207 is enacted to read:

19-1-207. Regulatory certainty to support economic recovery.

(1) On or before June 30, 2021, the Air Quality Board or the Water Quality Board may not make, amend, or repeal a rule related to air or water quality pursuant to this title, if formal rulemaking was not initiated on or before July 1, 2020, unless the rule constitutes:

(a) a state rule related to a federally-delegated program;

(b) a rule mandated by statute to be made, amended, or repealed on or before July 1, 2020; or

(c) subject to Subsection (2), a rule that is necessary because failure to make, amend, or repeal the rule will:

(i) cause an imminent peril to the public health, safety, or welfare;

(ii) cause an imminent budget reduction because of budget restraints or federal requirements;

(iii) place the agency in violation of federal or state law; or

(iv) fail to provide regulatory relief.

(2) In addition to complying with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department shall report to the Administrative Rules Review Committee as to whether the need to act meets the requirements of Subsection (1)(c).

(3) On or after the effective date of this bill but on or before June 30, 2021, the Air Quality Board, Division of Air Quality, Water Quality Board, or Division of Water Quality may not impose a new fee or increase a fee related to air or water quality pursuant to this title or rules made under this title.

(4) Only the Legislature may extend the time limitations of this section.

(5) Notwithstanding the other provisions of this section, this section does not apply to a rule, fee, or fee increase to the extent that the rule, fee, or fee increase applies to an activity in a county of the first or second class.

(6) Notwithstanding the other provisions of this section, the agencies may engage with stakeholders in the process of discussing, developing, and drafting a rule, fee, or fee increase on or after July 1, 2020, but on or before June 30, 2021.

Section 2. Section 40-6-22 is enacted to read:

40-6-22. Regulatory certainty to support economic recovery.

(1) On or before June 30, 2021, the board or division may not make, amend, or repeal a rule pursuant to this title, if formal rulemaking was not initiated on or before July 1, 2020, unless the rule constitutes:

(a) a state rule related to a federally-delegated program;

(b) a rule mandated by statute to be made, amended, or repealed on or before July 1, 2020; or

(c) subject to Subsection (2), a rule that is necessary because failure to make, amend, or repeal the rule will:

(i) cause an imminent peril to the public health, safety, or welfare;

(ii) cause an imminent budget reduction because of budget restraints or federal requirements;

(iii) place the agency in violation of federal or state law; or

(iv) fail to provide regulatory relief.

(2) In addition to complying with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the board or division shall report to the Administrative Rules Review Committee as to whether the need to act meets the requirements of Subsection (1)(c).

(3) On or after the effective date of this bill but on or before June 30, 2021, the board or division may

not impose a new fee or increase a fee pursuant to this title or rules made under this title.

(4) Only the Legislature may extend the time limitations of this section.

(5) Notwithstanding the other provisions of this section, this section does not apply to a rule, fee, or fee increase to the extent that the rule, fee, or fee increase applies to an activity in a county of the first or second class.

(6) Notwithstanding the other provisions of this section, the agencies may engage with stakeholders in the process of discussing, developing, and drafting a rule, fee, or fee increase on or after July 1, 2020, but on or before June 30, 2021.

Section 3. Effective date.

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

Section 4. Revisor instructions.

The Legislature intends that the Office of Legislative Research and General Counsel, in preparing the Utah Code database for publication, replace the references in Subsections 19-1-207(3) and 40-6-22(3) from "the effective date of this bill" to the bill's actual effective date.

CHAPTER 15
S. B. 6005
Passed August 20, 2020
Approved August 31, 2020
Effective August 31, 2020
(Retrospective operation to January 1, 2020)

INCOME TAX AMENDMENTS

Chief Sponsor: Wayne A. Harper
House Sponsor: Robert M. Spendlove

LONG TITLE

General Description:

This bill modifies income tax provisions to provide that certain amounts received in response to COVID-19 are not subject to state income tax.

Highlighted Provisions:

This bill:

- provides that certain amounts received from a forgiven loan under the Paycheck Protection Program or similar program are exempt from state corporate franchise and income tax by:
  - modifying the definition of "unadjusted income"; and
  - creating a subtraction from unadjusted income;
- provides that a grant or a forgiven loan provided by the state, a county within the state, or a municipality within the state in response to COVID-19 using certain federal funds is exempt from state corporate franchise and income tax by creating a subtraction from unadjusted income;
- provides that certain amounts received from a forgiven loan under the Paycheck Protection Program or similar program and an amount received as an individual recovery rebate are exempt from state individual income tax by:
  - modifying the definition of "adjusted gross income"; and
  - creating a subtraction from adjusted gross income;
- provides that a grant or a forgiven loan provided by the state, a county within the state, or a municipality within the state in response to COVID-19 using certain federal funds is exempt from state individual income tax by creating a subtraction from adjusted gross income; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

This bill provides retrospective operation.

Utah Code Sections Affected:

AMENDS:

59-7-101, as last amended by Laws of Utah 2019, Chapters 11, 418, and 466
59-7-106, as last amended by Laws of Utah 2020, Fifth Special Session, Chapter 12
59-7-402, as last amended by Laws of Utah 2019, Chapters 418 and 466
59-10-103, as last amended by Laws of Utah 2019, Chapter 323
59-10-114, as last amended by Laws of Utah 2020, Fifth Special Session, Chapter 12

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

Section 1. Section 59-7-101 is amended to read:

59-7-101. Definitions.

As used in this chapter:

(1) "Adjusted income" means unadjusted income as modified by Sections 59-7-105 and 59-7-106.

(2) (a) "Affiliated group" means one or more chains of corporations that are connected through stock ownership with a common parent corporation that meet the following requirements:

(i) at least 80% of the stock of each of the corporations in the group, excluding the common parent corporation, is owned by one or more of the other corporations in the group; and

(ii) the common parent directly owns at least 80% of the stock of at least one of the corporations in the group.

(b) "Affiliated group" does not include corporations that are qualified to do business but are not otherwise doing business in this state.

(c) For purposes of this Subsection (2), "stock" does not include nonvoting stock which is limited and preferred as to dividends.

(3) "Apportionable income" means adjusted income less nonbusiness income net of related expenses, to the extent included in adjusted income.

(4) "Apportioned income" means apportionable income multiplied by the apportionment fraction as determined in Section 59-7-311.

(5) "Business income" means the same as that term is defined in Section 59-7-302.

(6) "Captive insurance company" means the same as that term is defined in Section 31A-1-301.

(7) (a) "Captive real estate investment trust" means a real estate investment trust if:

(i) the shares or beneficial interests of the real estate investment trust are not regularly traded on an established securities market; and

(ii) more than 50% of the voting power or value of the shares or beneficial interests of the real estate investment trust are directly, indirectly, or constructively:

(A) owned by a controlling entity of the real estate investment trust; or

(B) controlled by a controlling entity of the real estate investment trust.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules defining "established securities market."

(8) (a) "Common ownership" means the direct or indirect control or ownership of more than 50% of the outstanding voting stock of:

(i) a parent-subsidiary controlled group as defined in Section 1563, Internal Revenue Code, except that 50% shall be substituted for 80%;

(ii) a brother-sister controlled group as defined in Section 1563, Internal Revenue Code; or

(iii) three or more corporations each of which is a member of a group of corporations described in Subsection (2)(a)(i) or (ii), and one of which is:

(A) a common parent corporation included in a group of corporations described in Subsection (2)(a)(i); and

(B) included in a group of corporations described in Subsection (2)(a)(ii).

(b) Ownership of outstanding voting stock shall be determined by Section 1563, Internal Revenue Code.

(9) (a) "Controlling entity of a captive real estate investment trust" means an entity that:

(i) is treated as an association taxable as a corporation under the Internal Revenue Code;

(ii) is not exempt from federal income taxation under Section 501(a), Internal Revenue Code; and

(iii) directly, indirectly, or constructively holds more than 50% of:

(A) the voting power of a captive real estate investment trust; or

(B) the value of the shares or beneficial interests of a captive real estate investment trust.

(b) "Controlling entity of a captive real estate investment trust" does not include:

(i) a real estate investment trust, except for a captive real estate investment trust;

(ii) a qualified real estate investment subsidiary described in Section 856(i), Internal Revenue Code, except for a qualified real estate investment trust subsidiary of a captive real estate investment trust; or

(iii) a foreign real estate investment trust.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules defining "established securities market."

(10) "Corporate return" or "return" includes a combined report.

(11) "Corporation" includes:

(a) entities defined as corporations under Sections 7701(a) and 7704, Internal Revenue Code; and

(b) other organizations that are taxed as corporations for federal income tax purposes under the Internal Revenue Code.

(12) "COVID-19" means:

(a) the severe acute respiratory syndrome coronavirus 2; or

(b) the disease caused by severe acute respiratory syndrome coronavirus 2.

[~~(12)~~] (13) "Dividend" means any distribution, including money or other type of property, made by a corporation to its shareholders out of its earnings or profits accumulated after December 31, 1930.

[~~(13)~~] (14) (a) "Doing business" includes any transaction in the course of business by a domestic corporation or by a foreign corporation qualified to do or doing business in this state.

(b) Except as provided in Subsection [~~(13)~~] (14)(c) or Subsection 59-7-102(3), "doing business" includes:

(i) the right to do business through incorporation or qualification;

(ii) owning, renting, or leasing of real or personal property within this state;

(iii) the participation in joint ventures, working and operating agreements, the performance of which takes place in this state;

(iv) selling or performing a service in this state; and

(v) earning income from the use of intangible property in this state.

(c) "Doing business" does not include the business activity of a corporation if the corporation's only business activity within the state is the solicitation of orders for sales of tangible personal property that are protected under 15 U.S.C. Secs. 381 through 384.

[~~(14)~~] (15) "Domestic corporation" means a corporation that is incorporated or organized under the laws of this state.

[~~(15)~~] (16) "Exercising a corporate franchise" does not include the business activity of a corporation if the corporation's only business activity within the state is the solicitation of orders for sales of tangible personal property that are protected under 15 U.S.C. Secs. 381 through 384.

[~~(16)~~] (17) (a) "Farmers' cooperative" means an association, corporation, or other organization that is:

(i) (A) an association, corporation, or other organization of farmers or fruit growers; or

(B) an association, corporation, or other organization that is similar to an association, corporation, or organization described in Subsection [~~(16)~~] (17)(a)(i)(A); and

(ii) organized and operated on a cooperative basis to:

(A) (I) market the products of members of the cooperative or the products of other producers; and

(II) return to the members of the cooperative or other producers the proceeds of sales less necessary marketing expenses on the basis of the quantity of the products of a member or producer or the value of the products of a member or producer; or

(B) (I) purchase supplies and equipment for the use of members of the cooperative or other persons; and

(II) turn over the supplies and equipment described in Subsection [~~(16)~~] (17)(a)(ii)(B)(I) at actual costs plus necessary expenses to the members of the cooperative or other persons.

(b) (i) Subject to Subsection [~~(16)~~] (17)(b)(ii), for purposes of this Subsection [~~(16)~~] (17), the commission by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, shall define:

(A) the terms "member" and "producer"; and

(B) what constitutes an association, corporation, or other organization that is similar to an association, corporation, or organization described in Subsection [~~(16)~~] (17)(a)(i)(A).

(ii) The rules made under this Subsection [~~(16)~~] (17)(b) shall be consistent with the filing requirements under federal law for a farmers' cooperative.

[~~(17)~~] (18) "Foreign corporation" means a corporation that is not incorporated or organized under the laws of this state.

[~~(18)~~] (19) (a) "Foreign operating company" means a corporation that:

(i) is incorporated in the United States;

(ii) conducts at least 80% of the corporation's business activity, as determined under Section 59-7-401, outside the United States; and

(iii) as calculated in accordance with Part 3, Allocation and Apportionment of Income - Utah UDITPA Provisions, has:

(A) at least $1,000,000 of payroll located outside the United States; and

(B) at least $2,000,000 of property located outside the United States.

(b) "Foreign operating company" does not include a corporation that qualifies for the Puerto Rico and possession tax credit as provided in Section 936, Internal Revenue Code.

[~~(19)~~] (20) (a) "Foreign real estate investment trust" means:

(i) a business entity organized outside the laws of the United States if:

(A) at least 75% of the business entity's total asset value at the close of the business entity's taxable year is represented by:

(I) real estate assets, as defined in Section 856(c)(5)(B), Internal Revenue Code;

(II) cash or cash equivalents; or

(III) one or more securities issued or guaranteed by the United States;

(B) the business entity is:

(I) not subject to income taxation:

(Aa) on amounts distributed to the business entity's beneficial owners; and

(Bb) in the jurisdiction in which the business entity is organized; or

(II) exempt from income taxation on an entity level in the jurisdiction in which the business entity is organized;

(C) the business entity distributes at least 85% of the business entity's taxable income, as computed in the jurisdiction in which the business entity is organized, to the holders of the business entity's:

(I) shares or beneficial interests; and

(II) on an annual basis;

(D) (I) not more than 10% of the following is held directly, indirectly, or constructively by a single person:

(Aa) the voting power of the business entity; or

(Bb) the value of the shares or beneficial interests of the business entity; or

(II) the shares of the business entity are regularly traded on an established securities market; and

(E) the business entity is organized in a country that has a tax treaty with the United States; or

(ii) a listed Australian property trust.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules defining:

(i) "cash or cash equivalents";

(ii) "established securities market"; or

(iii) "listed Australian property trust."

[~~(20)~~] (21) "Income" includes losses.

[~~(21)~~] (22) "Internal Revenue Code" means Title 26 of the United States Code as effective during the year in which Utah taxable income is determined.

[~~(22)~~] (23) "Nonbusiness income" means the same as that term is defined in Section 59-7-302.

[~~(23)~~] (24) "Real estate investment trust" means the same as that term is defined in Section 856, Internal Revenue Code.

[~~(24)~~] (25) "Related expenses" means:

(a) expenses directly attributable to nonbusiness income; and

(b) the portion of interest or other expense indirectly attributable to both nonbusiness and business income that bears the same ratio to the aggregate amount of such interest or other expense, determined without regard to this Subsection [~~(24)~~] (25), as the average amount of the asset producing the nonbusiness income bears to the average amount of all assets of the taxpayer within the taxable year.

[~~(25)~~] (26) "S corporation" means an S corporation as defined in Section 1361, Internal Revenue Code.

[~~(26)~~] (27) "Safe harbor lease" means a lease that qualified as a safe harbor lease under Section 168, Internal Revenue Code.

[~~(27)~~] (28) "State of the United States" includes any of the 50 states or the District of Columbia.

[~~(28)~~] (29) (a) "Taxable year" means the calendar year or the fiscal year ending during such calendar year upon the basis of which the adjusted income is computed.

(b) In the case of a return made for a fractional part of a year under this chapter or under rules prescribed by the commission, "taxable year" includes the period for which such return is made.

[~~(29)~~] (30) "Taxpayer" means any corporation subject to the tax imposed by this chapter.

[~~(30)~~] (31) "Threshold level of business activity" means business activity in the United States equal to or greater than 20% of the corporation's total business activity as determined under Section 59-7-401.

[~~(31)~~] (32) (a) "Unadjusted income" means federal taxable income as determined on a separate return basis before intercompany eliminations as determined by the Internal Revenue Code, before the net operating loss deduction and special deductions for dividends received.

(b) "Unadjusted income" includes deferred foreign income described in Section 965(a), Internal Revenue Code.

(c) "Unadjusted income" does not include income received from:

(i) a loan forgiven in accordance with 15 U.S.C. Sec. 636(a)(36), to the extent that a deduction for the expenditures paid with the loan is disallowed; or

(ii) a similar paycheck protection loan that is:

(A) authorized by the federal government;

(B) provided in response to COVID-19;

(C) forgiven if the borrower meets the expenditure requirements; and

(D) exempt from federal income tax, to the extent that a deduction for the expenditures paid with the loan is disallowed.

[~~(32)~~] (33) (a) "Unitary group" means a group of corporations that:

(i) are related through common ownership; and

(ii) by a preponderance of the evidence as determined by a court of competent jurisdiction or the commission, are economically interdependent with one another as demonstrated by the following factors:

(A) centralized management;

(B) functional integration; and

(C) economies of scale.

(b) "Unitary group" includes a captive real estate investment trust.

(c) "Unitary group" does not include an S corporation.

[~~(33)~~] (34) "United States" includes the 50 states and the District of Columbia.

[~~(34)~~] (35) "Utah net loss" means the current year Utah taxable income before Utah net loss deduction, if determined to be less than zero.

[~~(35)~~] (36) "Utah net loss deduction" means the amount of Utah net losses from other taxable years that a taxpayer may carry forward to the current taxable year in accordance with Section 59-7-110.

[~~(36)~~] (37) (a) "Utah taxable income" means Utah taxable income before net loss deduction less Utah net loss deduction.

(b) "Utah taxable income" includes income from tangible or intangible property located or having situs in this state, regardless of whether carried on in intrastate, interstate, or foreign commerce.

[~~(37)~~] (38) "Utah taxable income before net loss deduction" means apportioned income plus nonbusiness income allocable to Utah net of related expenses.

[~~(38)~~] (39) (a) "Water's edge combined report" means a report combining the income and activities of:

(i) all members of a unitary group that are:

(A) corporations organized or incorporated in the United States, including those corporations qualifying for the Puerto Rico and Possession Tax Credit as provided in Section 936, Internal Revenue Code, in accordance with Subsection [~~(38)~~] (39)(b); and

(B) corporations organized or incorporated outside of the United States meeting the threshold level of business activity; and

(ii) an affiliated group electing to file a water's edge combined report under Subsection 59-7-402(2).

(b) There is a rebuttable presumption that a corporation which qualifies for the Puerto Rico and possession tax credit provided in Section 936, Internal Revenue Code, is part of a unitary group.

[~~(39)~~] (40) "Worldwide combined report" means the combination of the income and activities of all members of a unitary group irrespective of the country in which the corporations are incorporated or conduct business activity.

Section 2. Section 59-7-106 is amended to read:

59-7-106. Subtractions from unadjusted income.

(1) In computing adjusted income, the following amounts shall be subtracted from unadjusted income:

(a) the foreign dividend gross-up included in gross income for federal income tax purposes under Section 78, Internal Revenue Code;

(b) subject to Subsection (2), the net capital loss, as defined for federal purposes, if the taxpayer elects to deduct the net capital loss on the return

filed under this chapter for the taxable year for which the net capital loss is incurred;

(c) the decrease in salary expense deduction for federal income tax purposes due to claiming the federal work opportunity credit under Section 51, Internal Revenue Code;

(d) the decrease in qualified research and basic research expense deduction for federal income tax purposes due to claiming the federal credit for increasing research activities under Section 41, Internal Revenue Code;

(e) the decrease in qualified clinical testing expense deduction for federal income tax purposes due to claiming the federal credit for clinical testing expenses for certain drugs for rare diseases or conditions under Section 45C, Internal Revenue Code;

(f) any decrease in any expense deduction for federal income tax purposes due to claiming any other federal credit;

(g) the safe harbor lease adjustment required under Subsections 59-7-111(1)(b) and (2)(b);

(h) any income on the federal corporation income tax return that has been previously taxed by Utah;

(i) an amount included in federal taxable income that is due to a refund of a tax, including a franchise tax, an income tax, a corporate stock and business tax, or an occupation tax:

(i) if that tax is imposed for the privilege of:

(A) doing business; or

(B) exercising a corporate franchise;

(ii) if that tax is paid by the corporation to:

(A) Utah;

(B) another state of the United States;

(C) a foreign country;

(D) a United States possession; or

(E) the Commonwealth of Puerto Rico; and

(iii) to the extent that tax was added to unadjusted income under Section 59-7-105;

(j) a charitable contribution, to the extent the charitable contribution is allowed as a subtraction under Section 59-7-109;

(k) subject to Subsection (3), 50% of a dividend considered to be received or received from a subsidiary that:

(i) is a member of the unitary group;

(ii) is organized or incorporated outside of the United States; and

(iii) is not included in a combined report under Section 59-7-402 or 59-7-403;

(l) subject to Subsection (4) and Section 59-7-401, 50% of the adjusted income of a foreign operating company;

(m) the amount of gain or loss that is included in unadjusted income but not recognized for federal purposes on stock sold or exchanged by a member of a selling consolidated group as defined in Section 338, Internal Revenue Code, if an election has been made in accordance with Section 338(h)(10), Internal Revenue Code;

(n) the amount of gain or loss that is included in unadjusted income but not recognized for federal purposes on stock sold, exchanged, or distributed by a corporation in accordance with Section 336(e), Internal Revenue Code, if an election under Section 336(e), Internal Revenue Code, has been made for federal purposes;

(o) subject to Subsection (5), an adjustment to the following due to a difference between basis for federal purposes and basis as computed under Section 59-7-107:

(i) an amortization expense;

(ii) a depreciation expense;

(iii) a gain;

(iv) a loss; or

(v) an item similar to Subsections (1)(o)(i) through (iv);

(p) an interest expense that is not deducted on a federal corporation income tax return under Section 265(b) or 291(e), Internal Revenue Code;

(q) 100% of dividends received from a subsidiary that is an insurance company if that subsidiary that is an insurance company is:

(i) exempt from this chapter under Subsection 59-7-102(1)(c); and

(ii) under common ownership;

(r) subject to Subsection 59-7-105(10), for a corporation that is an account owner as defined in Section 53B-8a-102, the amount of a qualified investment as defined in Section 53B-8a-102.5:

(i) that the corporation or a person other than the corporation makes into an account owned by the corporation during the taxable year;

(ii) to the extent that neither the corporation nor the person other than the corporation described in Subsection (1)(r)(i) deducts the qualified investment on a federal income tax return; and

(iii) to the extent the qualified investment does not exceed the maximum amount of the qualified investment that may be subtracted from unadjusted income for a taxable year in accordance with Subsection 53B-8a-106(1);

(s) for a corporation that makes a donation, as that term is defined in Section 53B-8a-201, to the Student Prosperity Savings Program created in Section 53B-8a-202, the amount of the donation to the extent that the corporation did not deduct the donation on a federal income tax return;

(t) for purposes of income included in a combined report under Part 4, Combined Reporting, the entire amount of the dividends a member of a

unitary group receives or is considered to receive from a captive real estate investment trust;

(u) the increase in income for federal income tax purposes due to claiming a:

(i) qualified tax credit bond credit under Section 54A, Internal Revenue Code; or

(ii) qualified zone academy bond under Section 1397E, Internal Revenue Code;

(v) for a taxable year beginning on or after January 1, 2019, but beginning on or before December 31, 2019, only:

(i) the amount of any FDIC premium paid or incurred by the taxpayer that is disallowed as a deduction for federal income tax purposes under Section 162(r), Internal Revenue Code, on the taxpayer's 2018 federal income tax return; plus

(ii) the amount of any FDIC premium paid or incurred by the taxpayer that is disallowed as a deduction for federal income tax purposes under Section 162(r), Internal Revenue Code, for the taxable year;

(w) for a taxable year beginning on or after January 1, 2020, the amount of any FDIC premium paid or incurred by the taxpayer that is disallowed as a deduction for federal income tax purposes under Section 162(r), Internal Revenue Code, for the taxable year; and

(x) for a taxable year beginning on or after January 1, 2020, but beginning on or before December 31, 2020, the amount of:

(i) a paycheck protection loan similar to a loan forgiven in accordance with 15 U.S.C. Sec. 636(a)(36) that is:

(A) authorized by the federal government;

(B) provided in response to COVID-19;

(C) forgiven if the borrower meets the expenditure requirements; and

(D) subject to federal income tax, to the extent that a deduction for the expenditures paid with the loan is disallowed; and

(ii) any grant funds [~~the taxpayer receives under Title 9, Chapter 6, Part 9, COVID-19 Cultural Assistance Grant Program, Subsection 63N-12-508(3), or Title 63N, Chapter 15, COVID-19 Economic Recovery Programs, to the extent that the grant funds are included in unadjusted income~~] or forgiven loans that:

(A) the taxpayer receives from the state, a county within the state, or a municipality within the state in response to COVID-19;

(B) are funded using federal revenue received by the state, the county, or the municipality to respond to COVID-19; and

(C) are included in unadjusted income.

(2) For purposes of Subsection (1)(b):

(a) the subtraction shall be made by claiming the subtraction on a return filed:

(i) under this chapter for the taxable year for which the net capital loss is incurred; and

(ii) by the due date of the return, including extensions; and

(b) a net capital loss for a taxable year shall be:

(i) subtracted for the taxable year for which the net capital loss is incurred; or

(ii) carried forward as provided in Sections 1212(a)(1)(B) and (C), Internal Revenue Code.

(3) (a) For purposes of calculating the subtraction provided for in Subsection (1)(k), a taxpayer shall first subtract from a dividend considered to be received or received an expense directly attributable to that dividend.

(b) For purposes of Subsection (3)(a), the amount of an interest expense that is considered to be directly attributable to a dividend is calculated by multiplying the interest expense by a fraction:

(i) the numerator of which is the taxpayer's average investment in the dividend paying subsidiaries; and

(ii) the denominator of which is the taxpayer's average total investment in assets.

(c) (i) For purposes of calculating the subtraction allowed by Subsection (1)(k), in determining income apportionable to this state, a portion of the factors of a foreign subsidiary that has dividends that are partially subtracted under Subsection (1)(k) shall be included in the combined report factors as provided in this Subsection (3)(c).

(ii) For purposes of Subsection (3)(c)(i), the portion of the factors of a foreign subsidiary that has dividends that are partially subtracted under Subsection (1)(k) that shall be included in the combined report factors is calculated by multiplying each factor of the foreign subsidiary by a fraction:

(A) not to exceed 100%; and

(B) (I) the numerator of which is the amount of the dividend paid by the foreign subsidiary that is included in adjusted income; and

(II) the denominator of which is the current year earnings and profits of the foreign subsidiary as determined under the Internal Revenue Code.

(4) (a) For purposes of Subsection (1)(l), a taxpayer may not make a subtraction under Subsection (1)(l):

(i) if the taxpayer elects to file a worldwide combined report as provided in Section 59-7-403; or

(ii) for the following:

(A) income generated from intangible property; or

(B) a capital gain, dividend, interest, rent, royalty, or other similar item that is generated from

an asset held for investment and not from a regular business trading activity.

(b) In calculating the subtraction provided for in Subsection (1)(l), a foreign operating company:

(i) may not subtract an amount provided for in Subsection (1)(k) or (l); and

(ii) prior to determining the subtraction under Subsection (1)(l), shall eliminate a transaction that occurs between members of a unitary group.

(c) For purposes of the subtraction provided for in Subsection (1)(l), in determining income apportionable to this state, the factors for a foreign operating company shall be included in the combined report factors in the same percentages as the foreign operating company's adjusted income is included in the combined adjusted income.

(d) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes:

(i) income generated from intangible property; or

(ii) a capital gain, dividend, interest, rent, royalty, or other similar item that is generated from an asset held for investment and not from a regular business trading activity.

(5) (a) For purposes of the subtraction provided for in Subsection (1)(o), the amount of a reduction in basis shall be allowed as an expense for the taxable year in which a federal tax credit is claimed if:

(i) there is a reduction in federal basis for a federal tax credit; and

(ii) there is no corresponding tax credit allowed in this state.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes an item similar to Subsections (1)(o)(i) through (iv).

Section 3. Section 59-7-402 is amended to read:

59-7-402. Water's edge combined report.

(1) Except as provided in Section 59-7-403, if any corporation listed in Subsection 59-7-101[~~(38)~~](39)(a) is doing business in Utah, the unitary group shall file a water's edge combined report.

(2) (a) A group of corporations that are not otherwise a unitary group may elect to file a water's edge combined report if each member of the group is:

(i) doing business in Utah;

(ii) part of the same affiliated group; and

(iii) qualified, under Section 1501, Internal Revenue Code, to file a federal consolidated return.

(b) Each corporation within the affiliated group that is doing business in Utah must consent to filing a combined report. If an affiliated group elects to file a combined report, each corporation within the affiliated group that is doing business in Utah must file a combined report.

(c) Corporations that elect to file a water's edge combined report under this section may not thereafter elect to file a separate return without the consent of the commission.

Section 4. Section 59-10-103 is amended to read:

59-10-103. Definitions.

(1) As used in this chapter:

(a) (i) "Adjusted gross income":

[~~(i)~~] (A) for a resident or nonresident individual, [~~is as defined~~] means the same as that term is defined in Section 62, Internal Revenue Code; or

[~~(ii)~~] (B) for a resident or nonresident estate or trust, is as calculated in Section 67(e), Internal Revenue Code.

(ii) "Adjusted gross income" does not include:

(A) income received from a loan forgiven in accordance with 15 U.S.C. Sec. 636(a) (36), to the extent that a deduction for the expenditures paid with the loan is disallowed, or a similar paycheck protection loan that is authorized by the federal government, provided in response to COVID-19, forgiven if the borrower meets the expenditure requirements, and exempt from federal income tax, to the extent that a deduction for the expenditures paid with the loan is disallowed; or

(B) an amount that an individual receives in accordance with Section 6428, Internal Revenue Code, or an amount that an individual receives that is authorized by the federal government as a tax credit for the 2020 tax year, provided in response to COVID-19, paid in advance of the filing of the individual's 2020 federal income tax return, and exempt from federal income tax.

(b) "Corporation" includes:

(i) an association;

(ii) a joint stock company; and

(iii) an insurance company.

(c) "COVID-19" means:

(i) the severe acute respiratory syndrome coronavirus 2; or

(ii) the disease caused by severe acute respiratory syndrome coronavirus 2.

[~~(c)~~] (d) "Distributable net income" [~~is as defined~~] means the same as that term is defined in Section 643, Internal Revenue Code.

[~~(d)~~] (e) "Employee" [~~is as defined~~] means the same as that term is defined in Section 59-10-401.

[~~(e)~~] (f) "Employer" [~~is as defined~~] means the same as that term is defined in Section 59-10-401.

[~~(f)~~] (g) "Federal taxable income":

(i) for a resident or nonresident individual, means taxable income as defined by Section 63, Internal Revenue Code; or

(ii) for a resident or nonresident estate or trust, is as calculated in Section 641(a) and (b), Internal Revenue Code.

[~~(g)~~] (h) "Fiduciary" means:

(i) a guardian;

(ii) a trustee;

(iii) an executor;

(iv) an administrator;

(v) a receiver;

(vi) a conservator; or

(vii) any person acting in any fiduciary capacity for any individual.

[~~(h)~~] (i) "Guaranteed annuity interest" [~~is as defined~~] means the same as that term is defined in 26 C.F.R. Sec. 1.170A-6(c)(2).

[~~(i)~~] (j) "Homesteaded land diminished from the Uintah and Ouray Reservation" means the homesteaded land that was held to have been diminished from the Uintah and Ouray Reservation in Hagen v. Utah, 510 U.S. 399 (1994).

[~~(j)~~] (k) "Individual" means a natural person and includes aliens and minors.

[~~(k)~~] (l) "Irrevocable trust" means a trust in which the settlor may not revoke or terminate all or part of the trust without the consent of a person who has a substantial beneficial interest in the trust and the interest would be adversely affected by the exercise of the settlor's power to revoke or terminate all or part of the trust.

[~~(l)~~] (m) "Military service" [~~is as defined~~] means the same as that term is defined in Pub. L. No. 108-189, Sec. 101.

[~~(m)~~] (n) "Nonresident individual" means an individual who is not a resident of this state.

[~~(n)~~] (o) "Nonresident trust" or "nonresident estate" means a trust or estate which is not a resident estate or trust.

[~~(o)~~] (p) (i) "Partnership" includes a syndicate, group, pool, joint venture, or other unincorporated organization:

(A) through or by means of which any business, financial operation, or venture is carried on; and

(B) [~~which~~] that is not, within the meaning of this chapter[:], a trust, an estate, or a corporation.

[~~(I) a trust;~~]

[~~(II) an estate; or~~]

[~~(III) a corporation.~~]

(ii) "Partnership" does not include any organization not included under the definition of "partnership" in Section 761, Internal Revenue Code.

(iii) "Partner" includes a member in a syndicate, group, pool, joint venture, or organization described in Subsection (1)[~~(o)~~](p)(i).

[~~(p)~~] (q) "Qualified nongrantor charitable lead trust" means a trust:

(i) that is irrevocable;

(ii) that has a trust term measured by:

(A) a fixed term of years; or

(B) the life of a person living on the day on which the trust is created;

(iii) under which:

(A) a portion of the value of the trust assets is distributed during the trust term:

(I) to an organization described in Section 170(c), Internal Revenue Code; and

(II) as a[:] guaranteed annuity interest or a unitrust interest; and

[~~(Aa) guaranteed annuity interest; or~~]

[~~(Bb) unitrust interest; and~~]

(B) assets remaining in the trust at the termination of the trust term are distributed to a beneficiary:

(I) designated in the trust; and

(II) that is not an organization described in Section 170(c), Internal Revenue Code;

(iv) for which the trust is allowed a deduction under Section 642(c), Internal Revenue Code; and

(v) under which the grantor of the trust is not treated as the owner of any portion of the trust for federal income tax purposes.

[~~(q)~~] (r) "Resident individual" means an individual who is domiciled in this state for any period of time during the taxable year, but only for the duration of the period during which the individual is domiciled in this state.

[~~(r)~~] (s) "Resident estate" or "resident trust" [~~is as defined~~] means the same as that term is defined in Section 75-7-103.

[~~(s)~~] (t) "Servicemember" [~~is as defined~~] means the same as that term is defined in Pub. L. No. 108-189, Sec. 101.

[~~(t)~~] (u) "State income tax percentage for a nonresident estate or trust" means a percentage equal to a nonresident estate's or trust's state taxable income for the taxable year divided by the nonresident estate's or trust's total adjusted gross income for that taxable year after making the adjustments required by:

(i) Section 59-10-202;

(ii) Section 59-10-207;

(iii) Section 59-10-209.1; or

(iv) Section 59-10-210.

[~~(u)~~] (v) "State income tax percentage for a nonresident individual" means a percentage equal to a nonresident individual's state taxable income for the taxable year divided by the difference between:

(i) subject to Section 59-10-1405, the nonresident individual's total adjusted gross income for that taxable year, after making the:

(A) additions and subtractions required by Section 59-10-114; and

(B) adjustments required by Section 59-10-115; and

(ii) if the nonresident individual described in Subsection (1)[~~(u)~~](v)(i) is a servicemember, the compensation the servicemember receives for military service if the servicemember is serving in compliance with military orders.

[~~(v)~~] (w) "State income tax percentage for a part-year resident individual" means, for a taxable year, a fraction:

(i) the numerator of which is the sum of:

(A) subject to Section 59-10-1404.5, for the time period during the taxable year that the part-year resident individual is a resident, the part-year resident individual's total adjusted gross income for that time period, after making the:

(I) additions and subtractions required by Section 59-10-114; and

(II) adjustments required by Section 59-10-115; and

(B) for the time period during the taxable year that the part-year resident individual is a nonresident, an amount calculated by:

(I) determining the part-year resident individual's adjusted gross income for that time period, after making the:

(Aa) additions and subtractions required by Section 59-10-114; and

(Bb) adjustments required by Section 59-10-115; and

(II) calculating the portion of the amount determined under Subsection (1)[~~(v)~~](w)(i)(B)(I) that is derived from Utah sources in accordance with Section 59-10-117; and

(ii) the denominator of which is the difference between:

(A) the part-year resident individual's total adjusted gross income for that taxable year, after making the:

(I) additions and subtractions required by Section 59-10-114; and

(II) adjustments required by Section 59-10-115; and

(B) if the part-year resident individual is a servicemember, any compensation the servicemember receives for military service during the portion of the taxable year that the servicemember is a nonresident if the servicemember is serving in compliance with military orders.

[~~(w)~~] (x) "Taxable income" or "state taxable income":

(i) subject to Section 59-10-1404.5, for a resident individual, means the resident individual's adjusted gross income after making the:

(A) additions and subtractions required by Section 59-10-114; and

(B) adjustments required by Section 59-10-115;

(ii) for a nonresident individual, is an amount calculated by:

(A) determining the nonresident individual's adjusted gross income for the taxable year, after making the:

(I) additions and subtractions required by Section 59-10-114; and

(II) adjustments required by Section 59-10-115; and

(B) calculating the portion of the amount determined under Subsection (1)[~~(w)~~](x)(ii)(A) that is derived from Utah sources in accordance with Section 59-10-117;

(iii) for a resident estate or trust, is as calculated under Section 59-10-201.1; and

(iv) for a nonresident estate or trust, is as calculated under Section 59-10-204.

[~~(x)~~] (y) "Taxpayer" means any individual, estate, trust, or beneficiary of an estate or trust, that has income subject in whole or part to the tax imposed by this chapter.

[~~(y)~~] (z) "Trust term" means a time period:

(i) beginning on the day on which a qualified nongrantor charitable lead trust is created; and

(ii) ending on the day on which the qualified nongrantor charitable lead trust described in Subsection (1)[~~(y)~~](z)(i) terminates.

[~~(z)~~] (aa) "Uintah and Ouray Reservation" means the lands recognized as being included within the Uintah and Ouray Reservation in:

(i) Hagen v. Utah, 510 U.S. 399 (1994); and

(ii) Ute Indian Tribe v. Utah, 114 F.3d 1513 (10th Cir. 1997).

[~~(aa)~~] (bb) "Unadjusted income" means an amount equal to the difference between:

(i) the total income required to be reported by a resident or nonresident estate or trust on the resident or nonresident estate's or trust's federal income tax return for estates and trusts for the taxable year; and

(ii) the sum of the following:

(A) fees paid or incurred to the fiduciary of a resident or nonresident estate or trust:

(I) for administering the resident or nonresident estate or trust; and

(II) that the resident or nonresident estate or trust deducts as allowed on the resident or

nonresident estate's or trust's federal income tax return for estates and trusts for the taxable year;

(B) the income distribution deduction that a resident or nonresident estate or trust deducts under Section 651 or 661, Internal Revenue Code, as allowed on the resident or nonresident estate's or trust's federal income tax return for estates and trusts for the taxable year;

(C) the amount that a resident or nonresident estate or trust deducts as a deduction for estate tax or generation skipping transfer tax under Section 691(c), Internal Revenue Code, as allowed on the resident or nonresident estate's or trust's federal income tax return for estates and trusts for the taxable year; and

(D) the amount that a resident or nonresident estate or trust deducts as a personal exemption under Section 642(b), Internal Revenue Code, as allowed on the resident or nonresident estate's or trust's federal income tax return for estates and trusts for the taxable year.

[~~(bb)~~] (cc) "Unitrust interest" [~~is as defined~~] means the same as that term is defined in 26 C.F.R. Sec. 1.170A-6(c)(2).

[~~(cc)~~] (dd) "Ute tribal member" means [~~a person~~] an individual who is enrolled as a member of the Ute Indian Tribe of the Uintah and Ouray Reservation.

[~~(dd)~~] (ee) "Ute tribe" means the Ute Indian Tribe of the Uintah and Ouray Reservation.

[~~(ee)~~] (ff) "Wages" [~~is as defined~~] means the same as that term is defined in Section 59-10-401.

(2) (a) Any term used in this chapter has the same meaning as when used in comparable context in the laws of the United States relating to federal income taxes unless a different meaning is clearly required.

(b) Any reference to the Internal Revenue Code or to the laws of the United States shall mean the Internal Revenue Code or other provisions of the laws of the United States relating to federal income taxes that are in effect for the taxable year.

(c) Any reference to a specific section of the Internal Revenue Code or other provision of the laws of the United States relating to federal income taxes shall include any corresponding or comparable provisions of the Internal Revenue Code as amended, redesignated, or reenacted.

Section 5. Section 59-10-114 is amended to read:

59-10-114. Additions to and subtractions from adjusted gross income of an individual.

(1) There shall be added to adjusted gross income of a resident or nonresident individual:

(a) a lump sum distribution that the taxpayer does not include in adjusted gross income on the taxpayer's federal individual income tax return for the taxable year;

(b) the amount of a child's income calculated under Subsection (4) that:

(i) a parent elects to report on the parent's federal individual income tax return for the taxable year; and

(ii) the parent does not include in adjusted gross income on the parent's federal individual income tax return for the taxable year;

(c) (i) a withdrawal from a medical care savings account and any penalty imposed for the taxable year if:

(A) the resident or nonresident individual does not deduct the amounts on the resident or nonresident individual's federal individual income tax return under Section 220, Internal Revenue Code;

(B) the withdrawal is subject to Subsections 31A-32a-105(1) and (2); and

(C) the withdrawal is subtracted on, or used as the basis for claiming a tax credit on, a return the resident or nonresident individual files under this chapter;

(ii) a disbursement required to be added to adjusted gross income in accordance with Subsection 31A-32a-105(3); or

(iii) an amount required to be added to adjusted gross income in accordance with Subsection 31A-32a-105(5)(c);

(d) the amount withdrawn under Title 53B, Chapter 8a, Utah Educational Savings Plan, from the account of a resident or nonresident individual who is an account owner as defined in Section 53B-8a-102, for the taxable year for which the amount is withdrawn, if that amount withdrawn from the account of the resident or nonresident individual who is the account owner:

(i) is not expended for:

(A) higher education costs as defined in Section 53B-8a-102.5; or

(B) a payment or distribution that qualifies as an exception to the additional tax for distributions not used for educational expenses provided in Sections 529(c) and 530(d), Internal Revenue Code; and

(ii) is:

(A) subtracted by the resident or nonresident individual:

(I) who is the account owner; and

(II) on the resident or nonresident individual's return filed under this chapter for a taxable year beginning on or before December 31, 2007; or

(B) used as the basis for the resident or nonresident individual who is the account owner to claim a tax credit under Section 59-10-1017;

(e) except as provided in Subsection (5), for bonds, notes, and other evidences of indebtedness acquired on or after January 1, 2003, the interest from bonds, notes, and other evidences of indebtedness:

(i) issued by one or more of the following entities:

(A) a state other than this state;

(B) the District of Columbia;

(C) a political subdivision of a state other than this state; or

(D) an agency or instrumentality of an entity described in Subsections (1)(e)(i)(A) through (C); and

(ii) to the extent the interest is not included in adjusted gross income on the taxpayer's federal income tax return for the taxable year;

(f) subject to Subsection (2)(c), any distribution received by a resident beneficiary of a resident trust of income that was taxed at the trust level for federal tax purposes, but was subtracted from state taxable income of the trust pursuant to Subsection 59-10-202(2)(b);

(g) any distribution received by a resident beneficiary of a nonresident trust of undistributed distributable net income realized by the trust on or after January 1, 2004, if that undistributed distributable net income was taxed at the trust level for federal tax purposes, but was not taxed at the trust level by any state, with undistributed distributable net income considered to be distributed from the most recently accumulated undistributed distributable net income; and

(h) any adoption expense:

(i) for which a resident or nonresident individual receives reimbursement from another person; and

(ii) to the extent to which the resident or nonresident individual subtracts that adoption expense:

(A) on a return filed under this chapter for a taxable year beginning on or before December 31, 2007; or

(B) from federal taxable income on a federal individual income tax return.

(2) There shall be subtracted from adjusted gross income of a resident or nonresident individual:

(a) the difference between:

(i) the interest or a dividend on an obligation or security of the United States or an authority, commission, instrumentality, or possession of the United States, to the extent that interest or dividend is:

(A) included in adjusted gross income for federal income tax purposes for the taxable year; and

(B) exempt from state income taxes under the laws of the United States; and

(ii) any interest on indebtedness incurred or continued to purchase or carry the obligation or security described in Subsection (2)(a)(i);

(b) for taxable years beginning on or after January 1, 2000, if the conditions of Subsection (3)(a) are met, the amount of income derived by a Ute tribal member:

(i) during a time period that the Ute tribal member resides on homesteaded land diminished from the Uintah and Ouray Reservation; and

(ii) from a source within the Uintah and Ouray Reservation;

(c) an amount received by a resident or nonresident individual or distribution received by a resident or nonresident beneficiary of a resident trust:

(i) if that amount or distribution constitutes a refund of taxes imposed by:

(A) a state; or

(B) the District of Columbia; and

(ii) to the extent that amount or distribution is included in adjusted gross income for that taxable year on the federal individual income tax return of the resident or nonresident individual or resident or nonresident beneficiary of a resident trust;

(d) the amount of a railroad retirement benefit:

(i) paid:

(A) in accordance with The Railroad Retirement Act of 1974, 45 U.S.C. Sec. 231 et seq.;

(B) to a resident or nonresident individual; and

(C) for the taxable year; and

(ii) to the extent that railroad retirement benefit is included in adjusted gross income on that resident or nonresident individual's federal individual income tax return for that taxable year;

(e) an amount:

(i) received by an enrolled member of an American Indian tribe; and

(ii) to the extent that the state is not authorized or permitted to impose a tax under this part on that amount in accordance with:

(A) federal law;

(B) a treaty; or

(C) a final decision issued by a court of competent jurisdiction;

(f) an amount received:

(i) for the interest on a bond, note, or other obligation issued by an entity for which state statute provides an exemption of interest on its bonds from state individual income tax;

(ii) by a resident or nonresident individual;

(iii) for the taxable year; and

(iv) to the extent the amount is included in adjusted gross income on the taxpayer's federal income tax return for the taxable year;

(g) the amount of all income, including income apportioned to another state, of a nonmilitary spouse of an active duty military member if:

(i) both the nonmilitary spouse and the active duty military member are nonresident individuals;

(ii) the active duty military member is stationed in Utah;

(iii) the nonmilitary spouse is subject to the residency provisions of 50 U.S.C. Sec. 4001(a)(2); and

(iv) the income is included in adjusted gross income for federal income tax purposes for the taxable year;

(h) for a taxable year beginning on or after January 1, 2019, but beginning on or before December 31, 2019, only:

(i) the amount of any FDIC premium paid or incurred by the taxpayer that is disallowed as a deduction for federal income tax purposes under Section 162(r), Internal Revenue Code, on the taxpayer's 2018 federal income tax return; plus

(ii) the amount of any FDIC premium paid or incurred by the taxpayer that is disallowed as a deduction for federal income tax purposes under Section 162(r), Internal Revenue Code, for the taxable year;

(i) for a taxable year beginning on or after January 1, 2020, the amount of any FDIC premium paid or incurred by the taxpayer that is disallowed as a deduction for federal income tax purposes under Section 162(r), Internal Revenue Code, for the taxable year; and

(j) for a taxable year beginning on or after January 1, 2020, but beginning on or before December 31, 2020, the amount [~~of~~]:

(i) of a paycheck protection loan similar to a loan forgiven in accordance with 15 U.S.C. Sec. 636(a)(36) that is:

(A) authorized by the federal government;

(B) provided in response to COVID-19;

(C) forgiven if the borrower meets the expenditure requirements; and

(D) subject to federal income tax, to the extent that a deduction for the expenditures paid with the loan is disallowed;

(ii) that a resident or a nonresident individual receives that is:

(A) authorized by the federal government as a tax credit for the 2020 tax year;

(B) provided in response to COVID-19;

(C) paid in advance of the filing of the individual's 2020 federal income tax return; and

(D) subject to federal income tax; and

(iii) of any grant funds [~~the resident or nonresident individual receives under Title 9, Chapter 6, Part 9, COVID-19 Cultural Assistance Grant Program, Subsection 63N-12-508(3), or Title 63N, Chapter 15, COVID-19 Economic Recovery Programs, to the extent that the grant funds are included in adjusted gross income~~] or forgiven loans that:

(A) the resident or nonresident individual receives from the state, a county within the state, or a municipality within the state in response to COVID-19;

(B) are funded by using federal revenue received by the state, the county, or the municipality to respond to COVID-19; and

(C) are included in adjusted gross income.

(3) (a) A subtraction for an amount described in Subsection (2)(b) is allowed only if:

(i) the taxpayer is a Ute tribal member; and

(ii) the governor and the Ute tribe execute and maintain an agreement meeting the requirements of this Subsection (3).

(b) The agreement described in Subsection (3)(a):

(i) may not:

(A) authorize the state to impose a tax in addition to a tax imposed under this chapter;

(B) provide a subtraction under this section greater than or different from the subtraction described in Subsection (2)(b); or

(C) affect the power of the state to establish rates of taxation; and

(ii) shall:

(A) provide for the implementation of the subtraction described in Subsection (2)(b);

(B) be in writing;

(C) be signed by:

(I) the governor; and

(II) the chair of the Business Committee of the Ute tribe;

(D) be conditioned on obtaining any approval required by federal law; and

(E) state the effective date of the agreement.

(c) (i) The governor shall report to the commission by no later than February 1 of each year regarding whether or not an agreement meeting the requirements of this Subsection (3) is in effect.

(ii) If an agreement meeting the requirements of this Subsection (3) is terminated, the subtraction permitted under Subsection (2)(b) is not allowed for taxable years beginning on or after the January 1 following the termination of the agreement.

(d) For purposes of Subsection (2)(b) and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules:

(i) for determining whether income is derived from a source within the Uintah and Ouray Reservation; and

(ii) that are substantially similar to how adjusted gross income derived from Utah sources is determined under Section 59-10-117.

(4) (a) For purposes of this Subsection (4), "Form 8814" means:

(i) the federal individual income tax Form 8814, Parents' Election To Report Child's Interest and Dividends; or

(ii) (A) a form designated by the commission in accordance with Subsection (4)(a)(ii)(B) as being substantially similar to 2000 Form 8814 if for purposes of federal individual income taxes the information contained on 2000 Form 8814 is reported on a form other than Form 8814; and

(B) for purposes of Subsection (4)(a)(ii)(A) and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules designating a form as being substantially similar to 2000 Form 8814 if for purposes of federal individual income taxes the information contained on 2000 Form 8814 is reported on a form other than Form 8814.

(b) The amount of a child's income added to adjusted gross income under Subsection (1)(b) is equal to the difference between:

(i) the lesser of:

(A) the base amount specified on Form 8814; and

(B) the sum of the following reported on Form 8814:

(I) the child's taxable interest;

(II) the child's ordinary dividends; and

(III) the child's capital gain distributions; and

(ii) the amount not taxed that is specified on Form 8814.

(5) Notwithstanding Subsection (1)(e), interest from bonds, notes, and other evidences of indebtedness issued by an entity described in Subsections (1)(e)(i)(A) through (D) may not be added to adjusted gross income of a resident or nonresident individual if, as annually determined by the commission:

(a) for an entity described in Subsection (1)(e)(i)(A) or (B), the entity and all of the political subdivisions, agencies, or instrumentalities of the entity do not impose a tax based on income on any part of the bonds, notes, and other evidences of indebtedness of this state; or

(b) for an entity described in Subsection (1)(e)(i)(C) or (D), the following do not impose a tax based on income on any part of the bonds, notes, and other evidences of indebtedness of this state:

(i) the entity; or

(ii) (A) the state in which the entity is located; or

(B) the District of Columbia, if the entity is located within the District of Columbia.

Section 6. Effective date.

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

Section 7. Retrospective operation.

This bill has retrospective operation for a taxable year beginning on or after January 1, 2020.

CHAPTER 16
S. B. 6006
Passed August 20, 2020
Approved August 31, 2020
Effective August 31, 2020

DEPARTMENT OF HEALTH MODIFICATIONS

Chief Sponsor: Allen M. Christensen
House Sponsor: Kelly B. Miles

LONG TITLE

General Description:

This bill amends provisions relating to the Department of Health.

Highlighted Provisions:

This bill:

- amends the qualifications and other provisions relating to the executive director of the Department of Health.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

26-1-9, as last amended by Laws of Utah 2011, Chapter 141

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

Section 1. Section 26-1-9 is amended to read:

26-1-9. Executive director -- Qualifications.

(1) Except as provided in Subsection (2), the executive director shall be a physician who is a graduate of a regularly chartered and legally constituted medical school, licensed to practice medicine and surgery in all branches in the state, who has successfully completed:

(a) a master's degree of public health from an accredited school of public health or from an accredited program of public health and has at least three years professional full-time experience in a senior level administrative capacity; or

(b) at least one year's graduate work in an accredited school of public health and has at least five years professional full-time experience, of which at least three years have been in public health in a senior level administrative capacity.

(2) If the executive director is not a physician under Subsection (1), the executive director shall:

(a) (i) have successfully completed at least a master's degree of public health or public administration from an accredited school of public health or from an accredited program of public health or public administration; and

(ii) have at least five years of professional full-time experience, of which at least two years have been in public health in a senior level administrative capacity; or

(b) have at least [~~seven~~] five years of professional full-time experience in public health programs, of which at least [~~five~~] three years have been in a senior level administrative capacity.

(3) An executive director shall be thoroughly informed and experienced in all aspects of public health work.

(4) If the executive director is not a physician[~~, the~~]:

(a) a deputy director of the department shall [~~be a physician who has~~] have:

(i) successfully completed at least one year's graduate work in an accredited school of public health or an accredited program of public health[~~.~~]; and

(ii) at least five years of professional full-time experience in public health programs; and

(b) if the individual described in Subsection (4)(a) is not a physician licensed to practice medicine in the state, a deputy director of the department shall be a physician who has experience in public health and is licensed to practice medicine in the state.

Section 2. Effective date.

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

CHAPTER 17
S. B. 6007
Passed August 20, 2020
Approved August 31, 2020
Effective August 31, 2020

AMENDMENTS TO ELECTIONS

Chief Sponsor: Wayne A. Harper
House Sponsor: Stephen G. Handy

LONG TITLE

General Description:

This bill makes temporary changes to the Election Code and related provisions, as they relate to the 2020 regular general election only, to conduct the election in a manner that protects the public health and safety in relation to the COVID-19 pandemic, and modifies ballot harvesting provisions in relation to all elections.

Highlighted Provisions:

This bill:

- preempts conflicts between this bill and other provisions of the Utah Code, emergency declarations, and other restrictions;
- requires the lieutenant governor's office to:
  - issue protocols to protect the health and safety of voters and government employees, including poll workers, in the conduct of the 2020 regular general election; and
  - conduct a campaign to educate the public on the provisions of this bill and to encourage voting by mail;
- authorizes the lieutenant governor's office to make other modifications relating to deadlines, locations, and methods of conducting the 2020 regular general election to the extent the modifications are necessary to carry out the provisions of this bill;
- modifies election notice provisions to inform voters of changes applicable to the 2020 regular general election;
- modifies multiple provisions relating to the 2020 regular general election, including that:
  - the election will be conducted primarily by mail; and
  - a county is required to provide in-person voting, for both early voting and on election day, by traditional voting or outdoor voting;
- lists several code provisions that are not in effect, or that are otherwise modified, for the 2020 regular general election;
- provides for accessible voting options for a voter with a disability for the 2020 regular general election;
- modifies ballot harvesting provisions for all elections;
- repeals all provisions of this bill, except the ballot harvesting provisions, on January 1, 2021; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

20A-3a-501, as renumbered and amended by Laws of Utah 2020, Chapter 31
63I-2-220, as last amended by Laws of Utah 2020, Chapters 31 and 49

ENACTS:

20A-1-310, Utah Code Annotated 1953

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

Section 1. Section 20A-1-310 is enacted to read:

20A-1-310. Regular general election, 2020 -- COVID-19 measures.

(1) As used in this section, and for the 2020 regular general election:

(a) (i) "Building" means, except as provided in Subsection (1)(a)(ii), a structure that is completely enclosed from the exterior by walls and a roof.

(ii) "Building" does not include a structure approved by the election officer for voters to drive through the structure.

(b) (i) "Outdoor voting" means a voting procedure where the voter does not enter a building at any time during the voting process.

(ii) "Outdoor voting" includes voting by:

(A) walking up to, or driving up to, an exterior window of a building;

(B) walking up to, or driving up to, an outdoor location; or

(C) driving through a structure approved by the election officer for voters to drive through the structure.

(c) "Outdoor voting station" means a location described in Subsection (1)(b)(ii) where outdoor voting occurs.

(d) "Polling place" means:

(i) a building where polling is conducted; or

(ii) an outdoor voting station.

(2) In relation to conducting the 2020 regular general election, the Legislature takes the action described in this section to protect the public health and safety in relation to the COVID-19 pandemic.

(3) If any provision of the Utah Code conflicts with a provision of this section, this section prevails.

(4) Notwithstanding any emergency declaration issued under the authority of this state, or any other restriction imposed by the governor, the Department of Health, a local government, a local health department, or any other government entity of the state, and consistent with the requirements of this section, the conduct of the 2020 regular general election:

(a) subject to the provisions of this section, is an essential service, including voting, voter registration, the mailing of ballots, the return of completed ballots, the processing of ballots, the

counting and tallying of votes, and the release of election results; and

(b) except as expressly provided in this section, is not prohibited or affected by the emergency declaration or restriction.

(5) The lieutenant governor's office shall, in consultation with the county clerks and consistent with the provisions of this section and other applicable requirements of law, issue protocols to protect the health and safety of voters and government employees in the conduct of the 2020 regular general election, including:

(a) requiring poll workers to use protective gear and to wash hands regularly;

(b) prohibiting ill poll workers from working; and

(c) promoting, to the extent practicable, social distancing between poll workers.

(6) The lieutenant governor's office shall conduct a campaign to:

(a) educate the public on the provisions of this section, especially provisions relating to changes in the voter registration, voting methods, and voting process; and

(b) encourage voters to vote by mail rather than at an outdoor voting station.

(7) The lieutenant governor's office may make other modifications relating to deadlines, locations, and methods of conducting the 2020 regular general election to the extent the modifications are necessary to carry out the provisions of this section.

(8) For the 2020 regular general election only:

(a) a county shall:

(i) conduct the election primarily by mail;

(ii) provide in-person voting on election day and during early voting, via one or more of the following in-person voting methods:

(A) traditional in-person voting at a polling location in a building; or

(B) outdoor voting;

(b) a covered voter, as defined in Section 20A-16-102, may vote in any manner approved by the election officer;

(c) an election officer shall:

(i) provide a method of accessible voting to a voter with a disability who is not able to vote by mail; and

(ii) include, on the election officer's website and with each ballot mailed, instructions regarding how a voter described in Subsection (8)(c)(i) may vote;

(d) an individual assisting a voter described in Subsection (8)(c)(i) may vote at the same time and place as the voter;

(e) the notice of election shall include the following statement: "To help prevent the spread of the coronavirus, for the 2020 regular general election only:

• the election will be conducted primarily by mail;

• in-person voting will be available by [indicate the methods of in-person voting that will be available in the county and a web address where an individual may obtain more information about voting in-person];

• drop boxes will be available for depositing mail-in ballots until 8 p.m. on election day; and

• registration by provisional ballot will be available at a polling place.

An individual with a disability who is not able to vote a manual ballot by mail may obtain information on voting in an accessible manner from the county's website, by contacting the county clerk, or by reviewing the information included with a ballot mailed to the voter.";

(f) subject to Subsection (9), the following are in effect in a county to the extent in-person voting occurs via the methods of in-person voting in effect in the county:

(i) in relation to voter registration:

(A) Subsections 20A-2-102.5(2)(b) and (2)(c); and

(B) the portion of Subsections 20A-2-202(3)(b), 20A-2-204(6)(c)(iii), 20A-2-205(7)(b), and 20A-2-206(9)(b) following the words "pending election";

(ii) in relation to polling places:

(A) Sections 20A-3a-203, 20A-3a-402, 20A-4-101, 20A-4-102, 20A-4-103, 20A-5-403, 20A-5-404, 20A-5-406, 20A-5-407, and 20A-6-203;

(B) Subsections 20A-3a-201(1)(b) and (c), 20A-3a-202(2)(a)(iv), 20A-3a-209(1) and (2), 20A-4-202(2)(a), 20A-5-102(2), 20A-5-205(2), and 20A-5-405(1)(i) and (3)(b)(ii);

(C) Subsections 20A-5-101(4)(b), (4)(c), (4)(e), and (6)(c)(iii);

(D) Subsections 20A-3a-204(2)(b)(i), (3), (4), (7), (8), and (9); and

(E) the portion of Subsection 20A-5-102(1)(c)(xiii) following the words "date of the election";

(iii) in relation to an election day voting center, Chapter 3a, Part 7, Election Day Voting Center, Subsection 20A-3a-202(2)(a)(iv) and (v) and (8)(a) and (b), and Subsection 20A-7-801(3)(e);

(iv) relating to early voting, Chapter 3a, Part 6, Early Voting, and Subsection 20A-3a-202(8)(c);

(v) registration by provisional ballot, described in Section 20A-2-207;

(vi) in relation to bond elections:

(A) Subsections 11-14-202(3), (4)(a)(ii), (4)(a)(iv), (4)(b), and (6); and

(B) the portion of Subsection 11-14-202(4)(a)(iii) following the words "election officer's website";

(vii) in relation to in-person voter registration that occurs on or after the effective date of this bill,

Section 20A-2-201, Subsection 20A-2-304(1)(a), and Subsection 20A-2-307(2)(a);

(viii) in relation to a provisional ballot, the portion of Subsection 20A-3a-804(3)(b)(ii) following the words "provisional ballot";

(ix) in relation to voting a provisional ballot in-person, Section 20A-3a-205; and

(x) in relation to a challenge at a polling place, Section 20A-3a-805;

(g) provisional ballots, described in Section 20A-3a-205, may only be cast:

(i) by mail;

(ii) at a polling location for in-person voting, to the extent the in-person voting occurs via a method of in-person voting in effect in the county; or

(iii) for an individual with a disability, as otherwise authorized by the election officer;

(h) the statement described in Subsections 20A-5-101(4)(d) and 20A-7-702(1)(m) and (1)(n) shall refer to the following:

(i) polling places, to the extent the in-person voting occurs via a method of in-person voting in effect in the county; and

(ii) ballot drop boxes;

(i) the statement described in Subsection 20A-5-101(6)(b) shall state "A [indicate election type] will be held in [indicate the jurisdiction] on [indicate date of election]. Information relating to the election, including ballot drop box locations, polling locations, accessible options for voters with a disability, and qualifications of voters may be obtained from the following sources:";

(j) notwithstanding Subsection 20A-3a-202(10), the election officer shall mail a manual ballot to each active voter who is eligible to vote in the election, regardless of whether the voter has requested that the election officer not send a ballot by mail to the voter;

(k) the election officer may modify the number of poll workers to an amount that the election officer determines is appropriate and may alter or otherwise designate the duties of poll workers in general, and of each individual poll worker;

(l) the election officer may reduce the number of watchers and alter or otherwise regulate the placement and conduct of watchers as the election officer determines is appropriate;

(m) Subsection 20A-2-102.5(2)(a)(i), relating to voter registration at the office of the county clerk, is in effect only if permitted, and only to the extent permitted, by the election officer;

(n) in relation to a ballot drop box, the words "in line at" in Subsection 20A-3a-204(2)(d) are replaced with the words "waiting in the vicinity of";

(o) in relation to assisting a voter, the words "or otherwise vote" are inserted immediately after the words "enter a polling place" in Subsection 20A-3a-208(1);

(p) Section 20A-3a-301, relating to emergency ballots, is in effect only to the extent that the process can be completed:

(i) by mail;

(ii) if approved by the lieutenant governor's office, by electronic means; or

(iii) in-person, if approved by the election officer;

(q) Subsection 20A-3a-804(1)(b), relating to a pre-election challenge to a voter, shall be completed by mail;

(r) Subsection 20A-3a-804(4)(a) is not in effect, and the election officer is, instead, required to determine whether each challenged individual is eligible to vote before the day on which the canvass is held;

(s) the requirement in Subsection 20A-4-303(1)(b) regarding a public canvass may be fulfilled by recording the canvass and making the recording available to the public;

(t) the posting requirements described in Subsections 20A-5-403.5(3)(b) and 20A-5-405(1)(h)(i) and (2)(c)(ii) are not in effect;

(u) the "in-person" requirement in Subsection 20A-7-609.5(3)(a)(i) is not in effect;

(v) any duty of care owed by a government entity in relation to voting at a polling place is the sole responsibility of the county, not the state, but this section does not impose a duty of care or other legal liability not already owed under the provisions of law;

(w) in Subsection 20A-3a-202(2)(a), the words "send or" are inserted immediately before the word "mail"; and

(x) for a county where there is a significant risk that timely-mailed ballots may be postmarked too late to be counted as valid, the county shall:

(i) work with the local post office to arrange for the post office to separate and date-stamp the ballots in a manner that accurately reflects that the ballots were timely mailed; or

(ii) place additional secure drop boxes in the county, starting at least two days before the election, that will be emptied by poll workers at 8:00 pm on the day of the election.

(9) A county clerk may, consistent with the provisions of this section and the other requirements of law that remain in effect for the 2020 regular general election, alter requirements relating to a polling place to the extent necessary to address the practical differences between outdoor voting and voting in a building.

(10) A county that provides outdoor voting:

(a) shall operate one or more outdoor voting stations:

(i) during early voting hours; and

(ii) during normal polling hours on election day;

(b) may not operate an outdoor voting station at any time other than a time described in Subsection (10)(a);

(c) may permit a voter to access an outdoor voting station by walking up to the voting station or driving up to the voting station;

(d) shall establish procedures and requirements to protect the health and welfare of voters and poll workers at an outdoor voting station, including the use of protective gear;

(e) shall operate the outdoor voting station in a manner that permits a voter to vote in one or more of the following manners:

(i) while remaining outside; or

(ii) while remaining in the voter's vehicle; and

(f) shall take measures to ensure that a voter's vote is secret and secure.

(11) An individual in line at an outdoor voting station at 8 p.m. on election day may vote at the outdoor voting station.

(12) This section does not supersede a federal court order entered in relation to elections in San Juan County.

Section 2. Section 20A-3a-501 is amended to read:

20A-3a-501. Prohibited conduct at polling place -- Other prohibited activities.

(1) As used in this section:

(a) "electioneering" includes any oral, printed, or written attempt to persuade persons to refrain from voting or to vote for or vote against any candidate or issue; and

(b) "polling place" means the physical place where ballots are cast and includes the physical place where a ballot drop box is located.

(2) (a) An individual may not, within a polling place or in any public area within 150 feet of the building where a polling place is located:

(i) do any electioneering;

(ii) circulate cards or handbills of any kind;

(iii) solicit signatures to any kind of petition; or

(iv) engage in any practice that interferes with the freedom of voters to vote or disrupts the administration of the polling place.

(b) A county, municipality, school district, or local district may not prohibit electioneering that occurs more than 150 feet from the building where a polling place is located, but may regulate the place and manner of that electioneering to protect the public safety.

(3) (a) An individual may not obstruct the doors or entries to a building in which a polling place is located or prevent free access to and from any polling place.

(b) A sheriff, deputy sheriff, or municipal law enforcement officer shall prevent the obstruction of the entrance to a polling place and may arrest an individual creating an obstruction.

(4) An individual may not solicit any voter to show the voter's ballot.

[~~(5) An individual may not receive a voted ballot from any voter or deliver an unused ballot to a voter unless that individual is a poll worker.~~]

(5) (a) An individual may not knowingly possess or control another individual's voted manual ballot, unless:

(i) the individual is an election official or postal worker acting in the capacity of an election official or postal worker;

(ii) the individual possesses or controls the voted ballot in accordance with Section 20A-3a-301, relating to emergency ballots;

(iii) the possession or control is authorized in order to deliver a military-overseas ballot in accordance with Chapter 16, Uniform Military and Overseas Voting Act;

(iv) subject to Section 20A-3a-208, the individual is authorized by a voter to possess or control the voter's voted ballot if the voter needs assistance delivering the ballot due to the voter's age, illness, or disability; or

(v) the individual resides in the same household as the voter.

(b) A violation of Subsection (5)(a) does not invalidate the ballot.

(6) An individual who violates any provision of this section is, in addition to the penalties described in Subsections 20A-1-609(2) and (3), guilty of a class A misdemeanor.

(7) A political subdivision may not prohibit political signs that are located more than 150 feet away from a polling place, but may regulate their placement to protect public safety.

Section 3. Section 63I-2-220 is amended to read:

63I-2-220. Repeal dates -- Title 20A.

(1) On January 1, 2021:

(a) Subsection 20A-1-201.5(1), the language that states "Except as provided in Subsection (4)," is repealed.

(b) Subsection 20A-1-201.5(4) is repealed.

(c) Subsections 20A-1-204(1)(a)(i) through (iii) are repealed and replaced with the following:

"(i) the fourth Tuesday in June; or

(ii) the first Tuesday after the first Monday in November.".

(d) In Subsections 20A-1-503(4)(c), 20A-9-202(3)(a), 20A-9-403(3)(d)(ii), 20A-9-407(5) and (6)(a), and 20A-9-408(5), immediately following the reference to Subsection

20A-9-202(1)(b), the language that states "(i) or (ii)" is repealed.

(e) Subsection 20A-9-202(1)(b) is repealed and replaced with the following:

"(b) Unless expressly provided otherwise in this title, for a registered political party that is not a qualified political party, the deadline for filing a declaration of candidacy for an elective office that is to be filled at the next regular general election is 5 p.m. on the first Monday after the third Saturday in April.";

(f) Subsection 20A-9-409(4)(c) is repealed and replaced with the following:

"(c) The deadline described in Subsection (4)(b) is 5 p.m. on the first Wednesday after the third Saturday in April.".

(2) Subsection 20A-5-803(8) is repealed July 1, 2023.

(3) Section 20A-5-804 is repealed July 1, 2023.

(4) On January 1, 2026:

(a) In Subsection 20A-1-102(18)(a), the language that states "or [~~Title 20A,~~] Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project" is repealed.

(b) In Subsections 20A-1-303(1)(a) and (b), the language that states "Except as provided in Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project," is repealed.

(c) In Section 20A-1-304, the language that states "Except for a race conducted by instant runoff voting under Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project," is repealed.

(d) In Subsection 20A-3a-204(1)(a), (c), or (d), the language that states "except as provided in Subsection (6)," is repealed.

(e) Subsection 20A-3a-204 (5)(b), the language that states "subject to Subsection (6)," is repealed.

(f) Subsection 20A-3a-204(6) is repealed and the remaining subsections in Section 20A-3a-204 are renumbered accordingly.

(g) In Subsection 20A-4-101(2)(c), the language that states "Except as provided in Subsection (2)(f)," is repealed.

(h) Subsection 20A-4-101(2)(f) is repealed.

(i) Subsection 20A-4-101(3) is repealed and replaced with the following:

"(3) To resolve questions that arise during the counting of ballots, a counting judge shall apply the standards and requirements of Section 20A-4-105.".

(j) In Subsection 20A-4-102(1)(b), the language that states "or a rule made under Subsection 20A-4-101(2)(f)(i)" is repealed.

(k) Subsection 20A-4-102(1)(c) is repealed and replaced with the following:

"(b) To resolve questions that arise during the counting of ballots, a counting judge shall apply the standards and requirements of Section 20A-4-105.".

(l) In Subsection 20A-4-102(6)(a), the language that states ", except as provided in [~~Title 20A, Chapter 4,~~] Part 6, Municipal Alternate Voting Methods Pilot Project, or a rule made under Subsection 20A-4-101(2)(f)(i)" is repealed.

(m) In Subsection 20A-4-105(1)(a), the language that states ", except as otherwise provided in [~~Title 20A, Chapter 4,~~] Part 6, Municipal Alternate Voting Methods Pilot Project," is repealed.

(n) In Subsection 20A-4-105(2), the language that states "Subsection 20A-3a-204(6), or [~~Title 20A, Chapter 4,~~] Part 6, Municipal Alternate Voting Methods Pilot Project," is repealed.

(o) In Subsections 20A-4-105(3), (4), and (11), the language that states "Except as otherwise provided in [~~Title 20A, Chapter 4,~~] Part 6, Municipal Alternate Voting Methods Pilot Project," is repealed.

(p) In Subsection 20A-4-106(2), the language that states "or Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project" is repealed.

(q) In Subsection 20A-4-304(1)(a), the language that states "except as provided in [~~Title 20A, Chapter 4,~~] Part 6, Municipal Alternate Voting Methods Pilot Project," is repealed.

(r) Subsection 20A-4-304(2)(e) is repealed and replaced with the following:

"(v) from each voting precinct:

(A) the number of votes for each candidate; and

(B) the number of votes for and against each ballot proposition;".

(s) Subsection 20A-4-401(1)(a) is repealed, the remaining subsections in Subsection (1) are renumbered accordingly, and the cross-references to those subsections are renumbered accordingly.

(t) Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project, is repealed.

(u) Subsections 20A-5-400.1(1)(c) and (d), relating to contracting with a local political subdivision to conduct an election, is repealed.

(v) In Section 20A-5-802, relating to the certification of voting equipment:

(i) delete "Except as provided in Subsection (2)(b)(ii):" from the beginning of Subsection (2); and

(ii) Subsection (2)(b)(ii) is repealed, and the remaining subsections are renumbered accordingly.

(w) Section 20A-6-203.5 is repealed.

(x) In Subsections 20A-6-402(1) and (2), the language that states "Except as otherwise required for a race conducted by instant runoff voting under Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project," is repealed.

(y) In Subsection 20A-9-203(3)(a)(i), the language that states "or Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project" is repealed.

(z) In Subsection 20A-9-203(3)(c)(i), the language that states "except as provided in Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project," is repealed.

(aa) In Subsection 20A-9-404(1)(a), the language that states "or Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project" is repealed.

(bb) In Subsection 20A-9-404(2), the language that states "Except as otherwise provided in Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project," is repealed.

(5) Section 20A-7-407 is repealed January 1, 2021.

(6) Section 20A-1-310 is repealed January 1, 2021.

Section 4. Effective date.

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

CHAPTER 18
S. B. 6008
Passed August 20, 2020
Approved August 31, 2020
Effective August 31, 2020
(Retrospective operation to August 15, 2020)

TOBACCO RETAILER AMENDMENTS

Chief Sponsor: Evan J. Vickers
House Sponsor: Jon Hawkins

LONG TITLE

General Description:

This bill amends and clarifies provisions relating to tobacco retailers.

Highlighted Provisions:

This bill:

- amends and clarifies the requirements that a retail tobacco specialty business must meet in order to receive an exemption from certain community location distancing provisions; and
- makes technical and corresponding changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

This bill provides retrospective operation.

Utah Code Sections Affected:

AMENDS:

10-8-41.6, as last amended by Laws of Utah 2020, Chapters 302, 347 and last amended by Coordination Clause, Laws of Utah 2020, Chapter 302
17-50-333, as last amended by Laws of Utah 2020, Chapters 302, 347 and last amended by Coordination Clause, Laws of Utah 2020, Chapter 302
26-62-202, as last amended by Laws of Utah 2020, Chapter 347
63I-1-210, as last amended by Laws of Utah 2020, Chapter 302
63I-1-217, as last amended by Laws of Utah 2020, Chapters 154 and 302

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

Section 1. Section 10-8-41.6 is amended to read:

10-8-41.6. Regulation of retail tobacco specialty business.

(1) As used in this section:

(a) "Community location" means:

(i) a public or private kindergarten, elementary, middle, junior high, or high school;

(ii) a licensed child-care facility or preschool;

(iii) a trade or technical school;

(iv) a church;

(v) a public library;

(vi) a public playground;

(vii) a public park;

(viii) a youth center or other space used primarily for youth oriented activities;

(ix) a public recreational facility;

(x) a public arcade; or

(xi) for a new license issued on or after July 1, 2018, a homeless shelter.

(b) "Department" means the Department of Health, created in Section 26-1-4.

(c) "Electronic cigarette product" means the same as that term is defined in Section 76-10-101.

(d) "Flavored electronic cigarette product" means the same as that term is defined in Section 76-10-101.

(e) "Licensee" means a person licensed under this section to conduct business as a retail tobacco specialty business.

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

(g) "Nicotine product" means the same as that term is defined in Section 76-10-101.

(h) "Retail tobacco specialty business" means a commercial establishment in which:

(i) sales of tobacco products, electronic cigarette products, and nicotine products account for more than 35% of the total quarterly gross receipts for the establishment;

(ii) 20% or more of the public retail floor space is allocated to the offer, display, or storage of tobacco products, electronic cigarette products, or nicotine products;

(iii) 20% or more of the total shelf space is allocated to the offer, display, or storage of tobacco products, electronic cigarette products, or nicotine products;

(iv) the commercial establishment:

(A) holds itself out as a retail tobacco specialty business; and

(B) causes a reasonable person to believe the commercial establishment is a retail tobacco specialty business;

(v) any flavored electronic cigarette product is sold; or

(vi) the retail space features a self-service display for tobacco products, electronic cigarette products, or nicotine products.

(i) "Self-service display" means the same as that term is defined in Section 76-10-105.1.

(j) "Tobacco product" means:

(i) a tobacco product as defined in Section 76-10-101; or

(ii) tobacco paraphernalia as defined in Section 76-10-101.

(2) The regulation of a retail tobacco specialty business is an exercise of the police powers of the

state by the state or by delegation of the state's police powers to other governmental entities.

(3) (a) A person may not operate a retail tobacco specialty business in a municipality unless the person obtains a license from the municipality in which the retail tobacco specialty business is located.

(b) A municipality may only issue a retail tobacco specialty business license to a person if the person complies with the provisions of Subsections (4) and (5).

(4) (a) Except as provided in Subsection (7), a municipality may not issue a license for a person to conduct business as a retail tobacco specialty business if the retail tobacco specialty business is located within:

(i) 1,000 feet of a community location;

(ii) 600 feet of another retail tobacco specialty business; or

(iii) 600 feet from property used or zoned for:

(A) agriculture use; or

(B) residential use.

(b) For purposes of Subsection (4)(a), the proximity requirements shall be measured in a straight line from the nearest entrance of the retail tobacco specialty business to the nearest property boundary of a location described in Subsections (4)(a)(i) through (iii), without regard to intervening structures or zoning districts.

(5) A municipality may not issue or renew a license for a person to conduct business as a retail tobacco specialty business until the person provides the municipality with proof that the retail tobacco specialty business has:

(a) a valid permit for a retail tobacco specialty business issued under Title 26, Chapter 62, Tobacco, Electronic Cigarette, and Nicotine Product Retail Permit, by the local health department having jurisdiction over the area in which the retail tobacco specialty business is located; and

(b) (i) for a retailer that sells a tobacco product, a valid license issued by the State Tax Commission in accordance with Section 59-14-201 or 59-14-301 to sell a tobacco product; and

(ii) for a retailer that sells an electronic cigarette product or a nicotine product, a valid license issued by the State Tax Commission in accordance with Section 59-14-803 to sell an electronic cigarette product or a nicotine product.

(6) (a) Nothing in this section:

(i) requires a municipality to issue a retail tobacco specialty business license; or

(ii) prohibits a municipality from adopting more restrictive requirements on a person seeking a license or renewal of a license to conduct business as a retail tobacco specialty business.

(b) A municipality may suspend or revoke a retail tobacco specialty business license issued under this section:

(i) if a licensee engages in a pattern of unlawful activity under Title 76, Chapter 10, Part 16, Pattern of Unlawful Activity Act;

(ii) if a licensee violates federal law or federal regulations restricting the sale and distribution of tobacco products or electronic cigarette products to protect children and adolescents;

(iii) upon the recommendation of the department or a local health department under Title 26, Chapter 62, Tobacco, Electronic Cigarette, and Nicotine Product Retail Permit; or

(iv) under any other provision of state law or local ordinance.

(7) (a) [~~Except as provided in Subsection (8), a~~] A retail tobacco specialty business [~~that has a~~] is exempt from Subsection (4) if:

(i) on or before December 31, 2018, the retail tobacco specialty business was issued a license [~~and~~] to conduct business as a retail tobacco specialty business;

(ii) the retail tobacco specialty business is operating in a municipality in accordance with all applicable laws except for the requirement in Subsection (4)[~~, on or before December 31, 2018, is exempt from Subsection (4).~~]; and

(iii) beginning July 1, 2021, the retail tobacco specialty business is not located within 1,000 feet of a public or private kindergarten, elementary, middle, junior high, or high school.

(b) A retail tobacco specialty business may maintain an exemption under Subsection (7)(a) if:

(i) the [~~retail tobacco specialty business~~] license described in Subsection (7)(a)(i) is renewed continuously without lapse or permanent revocation;

(ii) the retail tobacco specialty business does not close for business or otherwise suspend the sale of tobacco products, electronic cigarette products, or nicotine products for more than 60 consecutive days;

(iii) the retail tobacco specialty business does not substantially change the business premises or business operation; and

(iv) the retail tobacco specialty business maintains the right to operate under the terms of other applicable laws, including:

(A) Title 26, Chapter 38, Utah Indoor Clean Air Act;

(B) zoning ordinances;

(C) building codes; and

[~~(D) the requirements of a retail tobacco specialty business license issued before December 31, 2018.~~]

[~~(8) Beginning August 15, 2020, a retail tobacco specialty business that has a business license and is~~

~~operating in a municipality may not be located within 1,000 feet of any school.~~]

(D) the requirements of the license described in Subsection (7)(a)(i).

(c) A retail tobacco specialty business that does not qualify for an exemption under Subsection (7)(a) is exempt from Subsection (4) if:

(i) on or before December 31, 2018, the retail tobacco specialty business was issued a general tobacco retailer permit or a retail tobacco specialty business permit under Title 26, Chapter 62, Tobacco, Electronic Cigarette, and Nicotine Product Retail Permit, by the local health department having jurisdiction over the area in which the retail tobacco specialty business is located;

(ii) the retail tobacco specialty business is operating in the municipality in accordance with all applicable laws except for the requirement in Subsection (4); and

(iii) beginning July 1, 2022, the retail tobacco specialty business is not located within 1,000 feet of a public or private kindergarten, elementary, middle, junior high, or high school.

(d) A retail tobacco specialty business may maintain an exemption under Subsection (7)(c) if:

(i) on or before December 31, 2020, the retail tobacco specialty business receives a retail tobacco specialty business permit from the local health department having jurisdiction over the area in which the retail tobacco specialty business is located;

(ii) the permit described in Subsection (7)(d)(i) is renewed continuously without lapse or permanent revocation;

(iii) the retail tobacco specialty business does not close for business or otherwise suspend the sale of tobacco products, electronic cigarette products, or nicotine products for more than 60 consecutive days; and

(iv) the retail tobacco specialty business maintains the right to operate under the terms of other applicable laws, including:

(A) Title 26, Chapter 38, Utah Indoor Clean Air Act;

(B) zoning ordinances;

(C) building codes; and

(D) the requirements of the retail tobacco permit described in Subsection (7)(d)(i).

Section 2. Section 17-50-333 is amended to read:

17-50-333. Regulation of retail tobacco specialty business.

(1) As used in this section:

(a) "Community location" means:

(i) a public or private kindergarten, elementary, middle, junior high, or high school;

(ii) a licensed child-care facility or preschool;

(iii) a trade or technical school;

(iv) a church;

(v) a public library;

(vi) a public playground;

(vii) a public park;

(viii) a youth center or other space used primarily for youth oriented activities;

(ix) a public recreational facility;

(x) a public arcade; or

(xi) for a new license issued on or after July 1, 2018, a homeless shelter.

(b) "Department" means the Department of Health, created in Section 26-1-4.

(c) "Electronic cigarette product" means the same as that term is defined in Section 76-10-101.

(d) "Flavored electronic cigarette product" means the same as that term is defined in Section 76-10-101.

(e) "Licensee" means a person licensed under this section to conduct business as a retail tobacco specialty business.

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

(g) "Nicotine product" means the same as that term is defined in Section 76-10-101.

(h) "Retail tobacco specialty business" means a commercial establishment in which:

(i) sales of tobacco products, electronic cigarette products, and nicotine products account for more than 35% of the total quarterly gross receipts for the establishment;

(ii) 20% or more of the public retail floor space is allocated to the offer, display, or storage of tobacco products, electronic cigarette products, or nicotine products;

(iii) 20% or more of the total shelf space is allocated to the offer, display, or storage of tobacco products, electronic cigarette products, or nicotine products;

(iv) the commercial establishment:

(A) holds itself out as a retail tobacco specialty business; and

(B) causes a reasonable person to believe the commercial establishment is a retail tobacco specialty business;

(v) any flavored electronic cigarette product is sold; or

(vi) the retail space features a self-service display for tobacco products, electronic cigarette products, or nicotine products.

(i) "Self-service display" means the same as that term is defined in Section 76-10-105.1.

(j) "Tobacco product" means:

(i) the same as that term is defined in Section 76-10-101; or

(ii) tobacco paraphernalia as defined in Section 76-10-101.

(2) The regulation of a retail tobacco specialty business is an exercise of the police powers of the state by the state or by the delegation of the state's police power to other governmental entities.

(3) (a) A person may not operate a retail tobacco specialty business in a county unless the person obtains a license from the county in which the retail tobacco specialty business is located.

(b) A county may only issue a retail tobacco specialty business license to a person if the person complies with the provisions of Subsections (4) and (5).

(4) (a) Except as provided in Subsection (7), a county may not issue a license for a person to conduct business as a retail tobacco specialty business if the retail tobacco specialty business is located within:

(i) 1,000 feet of a community location;

(ii) 600 feet of another retail tobacco specialty business; or

(iii) 600 feet from property used or zoned for:

(A) agriculture use; or

(B) residential use.

(b) For purposes of Subsection (4)(a), the proximity requirements shall be measured in a straight line from the nearest entrance of the retail tobacco specialty business to the nearest property boundary of a location described in Subsections (4)(a)(i) through (iii), without regard to intervening structures or zoning districts.

(5) A county may not issue or renew a license for a person to conduct business as a retail tobacco specialty business until the person provides the county with proof that the retail tobacco specialty business has:

(a) a valid permit for a retail tobacco specialty business issued under Title 26, Chapter 62, Tobacco, Electronic Cigarette, and Nicotine Product Retail Permit, by the local health department having jurisdiction over the area in which the retail tobacco specialty business is located; and

(b) (i) for a retailer that sells a tobacco product, a valid license issued by the State Tax Commission in accordance with Section 59-14-201 or 59-14-301 to sell a tobacco product; or

(ii) for a retailer that sells an electronic cigarette product or a nicotine product, a valid license issued by the State Tax Commission in accordance with Section 59-14-803 to sell an electronic cigarette product or a nicotine product.

(6) (a) Nothing in this section:

(i) requires a county to issue a retail tobacco specialty business license; or

(ii) prohibits a county from adopting more restrictive requirements on a person seeking a license or renewal of a license to conduct business as a retail tobacco specialty business.

(b) A county may suspend or revoke a retail tobacco specialty business license issued under this section:

(i) if a licensee engages in a pattern of unlawful activity under Title 76, Chapter 10, Part 16, Pattern of Unlawful Activity Act;

(ii) if a licensee violates federal law or federal regulations restricting the sale and distribution of tobacco products or electronic cigarette products to protect children and adolescents;

(iii) upon the recommendation of the department or a local health department under Title 26, Chapter 62, Tobacco, Electronic Cigarette, and Nicotine Product Retail Permit; or

(iv) under any other provision of state law or local ordinance.

(7) (a) [~~Except as provided in Subsection (8), a~~] A retail tobacco specialty business [~~that has a~~] is exempt from Subsection (4) if:

(i) on or before December 31, 2018, the retail tobacco specialty business was issued a license [~~and~~] to conduct business as a retail tobacco specialty business;

(ii) the retail tobacco specialty business is operating in a county in accordance with all applicable laws except for the requirement in Subsection (4)[~~, on or before December 31, 2018, is exempt from Subsection (4).~~]; and

(iii) beginning July 1, 2021, the retail tobacco specialty business is not located within 1,000 feet of a public or private kindergarten, elementary, middle, junior high, or high school.

(b) A retail tobacco specialty business may maintain an exemption under Subsection (7)(a) if:

(i) the [~~retail tobacco specialty business~~] license described in Subsection (7)(a)(i) is renewed continuously without lapse or permanent revocation;

(ii) the retail tobacco specialty business does not close for business or otherwise suspend the sale of tobacco products, electronic cigarette products, or nicotine products for more than 60 consecutive days;

(iii) the retail tobacco specialty business does not substantially change the business premises or business operation; and

(iv) the retail tobacco specialty business maintains the right to operate under the terms of other applicable laws, including:

(A) Title 26, Chapter 38, Utah Indoor Clean Air Act;

(B) zoning ordinances;

(C) building codes; and

[~~(D) the requirements of a retail tobacco specialty business license issued before December 31, 2018.~~]

[~~(8) Beginning August 15, 2020, a retail tobacco specialty business that has a business license and is operating in a county may not be located within 1,000 feet of any school.~~]

(D) the requirements of the license described in Subsection (7)(a)(i).

(c) A retail tobacco specialty business that does not qualify for an exemption under Subsection (7)(a) is exempt from Subsection (4) if:

(i) on or before December 31, 2018, the retail tobacco specialty business was issued a general tobacco retailer permit or a retail tobacco specialty business permit under Title 26, Chapter 62, Tobacco, Electronic Cigarette, and Nicotine Product Retail Permit, by the local health department having jurisdiction over the area in which the retail tobacco specialty business is located;

(ii) the retail tobacco specialty business is operating in the county in accordance with all applicable laws except for the requirement in Subsection (4); and

(iii) beginning July 1, 2022, the retail tobacco specialty business is not located within 1,000 feet of a public or private kindergarten, elementary, middle, junior high, or high school.

(d) A retail tobacco specialty business may maintain an exemption under Subsection (7)(c) if:

(i) on or before December 31, 2020, the retail tobacco specialty business receives a retail tobacco specialty business permit from the local health department having jurisdiction over the area in which the retail tobacco specialty business is located;

(ii) the permit described in Subsection (7)(d)(i) is renewed continuously without lapse or permanent revocation;

(iii) the retail tobacco specialty business does not close for business or otherwise suspend the sale of tobacco products, electronic cigarette products, or nicotine products for more than 60 consecutive days; and

(iv) the retail tobacco specialty business maintains the right to operate under the terms of other applicable laws, including:

(A) Title 26, Chapter 38, Utah Indoor Clean Air Act;

(B) zoning ordinances;

(C) building codes; and

(D) the requirements of the retail tobacco permit described in Subsection (7)(d)(i).

Section 3. Section 26-62-202 is amended to read:

26-62-202. Permit application.

(1) A local health department shall issue a permit under this chapter for a tobacco retailer if the local health department determines that the applicant:

(a) accurately provided all information required under Subsection (3) and, if applicable, Subsection (4); and

(b) meets all requirements for a permit under this chapter.

(2) An applicant for a permit shall:

(a) submit an application described in Subsection (3) to the local health department with jurisdiction over the area where the tobacco retailer is located; and

(b) pay all applicable fees described in Section 26-62-203.

(3) The application for a permit shall include:

(a) the name, address, and telephone number of each proprietor;

(b) the name and mailing address of each proprietor authorized to receive permit-related communication and notices;

(c) the business name, address, and telephone number of the single, fixed location for which a permit is sought;

(d) evidence that the location for which a permit is sought has a valid tax commission license;

(e) information regarding whether, in the past 24 months, any proprietor of the tobacco retailer has been determined to have violated, or has been a proprietor at a location that has been determined to have violated:

(i) a provision of this chapter;

(ii) Chapter 38, Utah Indoor Clean Air Act;

(iii) Title 76, Chapter 10, Part 1, Cigarettes and Tobacco and Psychotoxic Chemical Solvents;

(iv) Title 76, Chapter 10, Part 16, Pattern of Unlawful Activity Act;

(v) regulations restricting the sale and distribution of cigarettes and smokeless tobacco issued by the United States Food and Drug Administration, 21 C.F.R. Part 1140; or

(vi) any other provision of state law or local ordinance regarding the sale, marketing, or distribution of a tobacco product, an electronic cigarette product, or a nicotine product; and

(f) the dates of all violations disclosed under this Subsection (3).

(4) (a) In addition to the information described in Subsection (3), an applicant for a retail tobacco specialty business permit shall include evidence showing whether the business is located within:

(i) 1,000 feet of a community location;

(ii) 600 feet of another retail tobacco specialty business; or

(iii) 600 feet of property used or zoned for agricultural or residential use.

(b) For purposes of Subsection (4)(a), the proximity requirements shall be measured in a straight line from the nearest entrance of the retail tobacco specialty business to the nearest property boundary of a location described in Subsections (4)(a)(i) through (iii), without regard to intervening structures or zoning districts.

(5) The department or a local health department may not deny a permit to a retail tobacco specialty business under Subsection (4) if the retail tobacco specialty business [~~obtained a license to operate the retail tobacco specialty business before December 31, 2015, from:~~] meets the requirements described in Subsection 10-8-41.6(7) or 17-50-333(7).

[~~(a) a municipality under Section 10-8-41.6; or~~]

[~~(b) a county under Section 17-50-333.~~]

(6) (a) The department shall establish by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, a permit process for local health departments in accordance with this chapter.

(b) The permit process established by the department under Subsection (6)(a) may not require any information in an application that is not required by this section.

Section 4. Section 63I-1-210 is amended to read:

63I-1-210. Repeal dates, Title 10.

[~~(1) Subsection 10-8-41.6(7), the language that states "December 31, 2018" is repealed July 1, 2022, and replaced with "December 31, 2015".~~]

[~~(2)~~] Section 10-9a-526 is repealed December 31, 2020.

Section 5. Section 63I-1-217 is amended to read:

63I-1-217. Repeal dates, Title 17.

(1) Subsection 17-16-21(2)(d) is repealed July 1, 2023.

(2) Title 17, Chapter 21a, Part 3, Administration and Standards, which creates the Utah Electronic Recording Commission, is repealed July 1, 2022.

[~~(3) Subsection 17-50-333(7), the language that states "December 31, 2018" is repealed July 1, 2022, and replaced with "December 31, 2015".~~]

Section 6. Effective date -- Retrospective operation.

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

(2) This bill has retrospective operation to August 15, 2020.

CHAPTER 19
S. B. 6009
Passed August 20, 2020
Approved August 31, 2020
Effective August 31, 2020

CARES ACT AND COVID-19 ASSISTANCE AND RECOVERY AMENDMENTS

Chief Sponsor: Daniel Hemmert
House Sponsor: Robert M. Spendlove

LONG TITLE

General Description:

This bill modifies statutory provisions in response to the federal Coronavirus Aid, Relief, and Economic Security (CARES) Act, including provisions related to assistance and economic recovery programs created by the state.

Highlighted Provisions:

This bill:

- defines terms;
- modifies provisions of the COVID-19 Agricultural Operations Grant Program;
- modifies provisions of the Cultural Assistance Grant Program, including the entities that may participate in the program;
- modifies provisions related to COVID-19 residential housing assistance;
- modifies provisions of the Utah Works Program;
- changes the name of the Commercial Rental Assistance Program to the Commercial Rental and Mortgage Assistance Program and modifies provisions of the program, including the entities that may participate in the program;
- modifies provisions of the Impacted Businesses Grant Program;
- modifies provisions of the COVID-19 PPE Support Grant Program;
- creates the Oil, Mining, and Gas Grant Program within the Governor's Office of Economic Development;
- describes how certain provisions of the CARES Act apply to tenants under state law; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

4-18-106.1 (Repealed 05/31/21), as enacted by Laws of Utah 2020, Third Special Session, Chapter 11
9-6-901, as enacted by Laws of Utah 2020, Fifth Special Session, Chapter 12
9-6-902, as enacted by Laws of Utah 2020, Fifth Special Session, Chapter 12
35A-8-2302 (Repealed 05/31/21), as last amended by Laws of Utah 2020, Fifth Special Session, Chapter 11
63N-12-508, as last amended by Laws of Utah 2020, Fifth Special Session, Chapters 12 and 12
63N-14-101 (Repealed 05/31/21), as enacted by Laws of Utah 2020, Third Special Session, Chapter 11
63N-14-102 (Repealed 05/31/21), as last amended by Laws of Utah 2020, Fifth Special Session, Chapter 11
63N-14-201 (Repealed 05/31/21), as last amended by Laws of Utah 2020, Fifth Special Session, Chapter 11
63N-15-102, as enacted by Laws of Utah 2020, Fifth Special Session, Chapter 12
63N-15-103, as enacted by Laws of Utah 2020, Fifth Special Session, Chapter 12
63N-15-201, as enacted by Laws of Utah 2020, Fifth Special Session, Chapter 12
63N-15-301, as enacted by Laws of Utah 2020, Fifth Special Session, Chapter 12
78B-6-802, as last amended by Laws of Utah 2020, Chapters 280 and 329

ENACTS:

63N-15-501, Utah Code Annotated 1953
63N-15-502, Utah Code Annotated 1953

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

Section 1. Section 4-18-106.1 (Repealed 05/31/21) is amended to read:

4-18-106.1 (Repealed 05/31/21). COVID-19 Agricultural Operations Grant Program.

(1) As used in this section:

(a) "CARES Act" means the Coronavirus Aid, Relief, and Economic Security Act, Pub. L. 116-136.

(b) "COVID-19" means:

(i) severe acute respiratory syndrome coronavirus 2; or

(ii) the disease caused by severe acute respiratory syndrome coronavirus 2.

(c) "COVID-19 emergency" means the spread of COVID-19 that the World Health Organization declared a pandemic on March 11, 2020.

(d) "Program" means the COVID-19 Agricultural Operations Grant Program established in Subsection (2).

(2) The commission shall establish and administer a COVID-19 Agricultural Operations Grant Program to ensure in this state the continuation of food and fiber production, the maintenance of product supply chains, and the ability to get products to market during and immediately following the COVID-19 emergency.

(3) (a) Under the program, the commission may make a grant:

(i) to an agricultural operation that[~~:(A)~~] on or after March 1, 2020, but on or before December 30, 2020, is financially harmed as a result of federal, state, or local public health measures taken to minimize the public's exposure to COVID-19; [~~and~~]

[~~(B) does not receive funds from the COVID-19 Commercial Rental Assistance Program established in Title 63N, Chapter 14, COVID-19 Commercial Rental Assistance Program;~~]

(ii) for the purpose of assisting an agricultural operation with the financial harm described in Subsection (3)(a)(i), including measures to continue food and fiber production in the state, maintain the agricultural operation's supply chains, or deliver the agricultural operation's product to market; [~~and~~]

(iii) in an amount not to exceed $40,000[~~.~~]; and

(iv) for a grant awarded under this section after October 15, 2020, the $40,000 limit described in Subsection (3)(a)(iii) does not apply.

(b) The commission may utilize the board appointed in Section 4-18-106 to:

(i) oversee the award process for grants, as described in this section; and

(ii) approve grants.

(4) (a) Upon application for a grant described in this section, an agricultural operation shall disclose whether the agricultural operation has received or applied for funds from the Paycheck Protection Program described in the CARES Act.

(b) (i) An agricultural operation that receives funds between February 15, 2020, and June 30, 2020, from the Paycheck Protection Program described in the CARES Act, is only eligible to receive a grant under this section in an amount not to exceed $20,000.

(ii) For a grant awarded under this section after October 15, 2020, the $20,000 limit described in Subsection (4)(b)(i) does not apply.

(c) An agricultural operation described in Subsection (4)(b) that receives more than the amount for which the agricultural operation is eligible under Subsection (4)(b) shall return to the commission any funds for which the agricultural operation is not eligible.

(5) Grants the commission makes in accordance with this section shall be made using funds:

(a) the state receives from the Coronavirus Relief Fund described in the CARES Act;

(b) the Legislature appropriates; and

(c) in a total amount not to exceed $20,000,000.

(6) The commission may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to carry out the provisions of this section.

(7) This section supersedes any conflicting provisions of Utah law.

(8) The commission shall provide a report to the Natural Resources, Agriculture, and Environment Interim Committee before May 15, 2021, regarding grants made under this section, including:

(a) the number of applications submitted to receive a grant under the program;

(b) the number of grants awarded under the program;

(c) the amount of money granted under the program; and

(d) any other information the commission considers relevant to evaluating the success of the program.

Section 2. Section 9-6-901 is amended to read:

9-6-901. Definitions.

As used in this part:

(1) "COVID-19" means:

(a) severe acute respiratory syndrome coronavirus 2; or

(b) the disease caused by severe acute respiratory syndrome coronavirus 2.

(2) "Legislative committee" means:

(a) the president of the Senate;

(b) the speaker of the House of Representatives;

(c) the minority leader of the Senate; and

(d) the minority leader of the House of Representatives.

(3) "Qualified organization" means[~~: (a)~~] an entity that is eligible to receive funding from the tax authorized under Title 59, Chapter 12, Part 7, County Option Funding for Botanical, Cultural, Recreational, and Zoological Organizations or Facilities, regardless of whether the entity receives any funding[~~; or (b) a for-profit equivalent of an entity described in Subsection (3)(a)~~].

Section 3. Section 9-6-902 is amended to read:

9-6-902. COVID-19 Cultural Assistance Grant Program -- Eligibility -- Grant limit.

(1) There is established a grant program known as COVID-19 Cultural Assistance Grant Program that is administered by the division in accordance with this part.

(2) To be eligible to apply for a grant under this part, a qualified organization:

(a) on or before December 30, 2020, shall offer or propose to offer[~~, on or before December 30, 2020,~~] a cultural, artistic, botanical, [~~recreational,~~] or zoological activity in this state that[~~: (i)~~] promotes travel and tourism in this state; and

[~~(ii) in aggregate has a cost that is estimated to equal or exceed 50% of the grant amount that the qualified organization requests;~~]

(b) shall describe to the division how receipt of grant funds will benefit the communities or artists in this state affected by COVID-19[~~;~~].

[~~(c) shall have an average three-year operational expenditure of $5,000,000 or more per year; and~~]

[~~(d) may not receive grant funds under Title 63N, Chapter 15, Part 2, COVID-19 Impacted Businesses Grant Program.~~]

[~~(3) The amount of a grant that the division awards to a qualified organization under this part may not exceed two times the net cost of the cultural, artistic, botanical, recreational, or zoological activity that the qualified organization offers or proposes to offer.~~]

Section 4. Section 35A-8-2302 (Repealed 05/31/21) is amended to read:

35A-8-2302 (Repealed 05/31/21). COVID-19 residential housing assistance -- Rulemaking.

(1) The division shall assist qualifying state residents [~~financially harmed~~] negatively impacted on or after March 1, 2020, but on or before December 30, 2020, by COVID-19 to retain or obtain housing:

(a) through a new or existing housing-related program or service; and

(b) using funds:

(i) the state receives from the Coronavirus Relief Fund described in the Coronavirus Aid, Relief, and Economic Security Act, Pub. L. 116-136;

(ii) the Legislature appropriates; and

(iii) in a total amount not to exceed $20,000,000.

(2) (a) A qualifying state resident described in Subsection (1) may include a residential landlord applying on behalf of one or more tenants who would otherwise qualify for the assistance described in this section.

(b) The total amount of assistance a landlord receives under this Subsection (2) shall be applied to the payment of rent for the tenants on whose behalf the landlord is receiving the assistance.

[~~(2)~~] (3) The division [~~shall~~] may:

(a) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for any program or service the division establishes or modifies to carry out the provisions of this part, including rules related to the application process and requirements for a state resident to qualify for assistance under this part[~~.~~]; and

(b) use up to 5% of the appropriations described in this section for marketing and outreach to state residents who may qualify for assistance under this section,

Section 5. Section 63N-12-508 is amended to read:

63N-12-508. Utah Works Program.

(1) There is created within the center the Utah Works Program.

(2) The program, under the direction of the center and the talent ready board, shall coordinate and partner with the entities described below to develop short-term pre-employment training and short-term early employment training for student and workforce participants that meet the needs of businesses that are creating jobs and economic growth in the state by:

(a) partnering with the office, the Department of Workforce Services, and the Utah system of higher education;

(b) partnering with businesses that have significant hiring demands for primarily newly created jobs in the state;

(c) coordinating with the Department of Workforce Services, education agencies, and employers to create effective recruitment initiatives to attract student and workforce participants and business participants to the program;

(d) coordinating with the Utah system of higher education to develop educational and training resources to provide student participants in the program qualifications to be hired by business participants in the program; and

(e) coordinating with the State Board of Education and local education agencies when appropriate to develop educational and training resources to provide student participants in the program qualifications to be hired by business participants in the program.

(3) (a) Subject to appropriation, beginning on August 5, 2020, the office, in consultation with the talent ready board, may respond to the COVID-19 pandemic by directing financial grants to institutions of higher education described in Section 53B-2-101 to offer short-term programs to:

(i) provide training to furloughed, laid off, dislocated, underserved, or other populations affected by COVID-19 to fill employment gaps in the state;

(ii) provide training and education related to industry needs; and

(iii) provide students with certificates or other recognition after completion of training.

(b) (i) As soon as is practicable but on or before July 31, 2020, the office shall report to the director of the Division of Finance about the grant program under this Subsection (3), including:

(A) the process by which the office shall determine which institutions of [~~public~~] higher education shall receive financial grants; and

(B) the formula for awarding financial grants.

(ii) The office shall:

(A) participate in the presentation that the director of the Division of Finance provides to the president of the Senate, the speaker of the House of Representatives, the minority leader of the Senate, and the minority leader of the House of Representatives under Section 63A-3-111; and

(B) consider any recommendations for adjustments to the grant program from the president of the Senate, the speaker of the House of Representatives, the minority leader of the Senate, and the minority leader of the House of Representatives.

(c) To implement Subsection (3)(a), an institution of higher education that receives grant funds:

(i) may use grant funds for:

(A) costs associated with developing a new program; or

(B) costs associated with expanding an existing program; and

(ii) shall demonstrate industry needs and opportunities for partnership with industry.

(d) (i) The office shall award grant funds:

(A) after an initial application period that ends on or before August 31, 2020; and

(B) if funds remain after the initial application period, on a rolling basis until the earlier of funds being exhausted or November 30, 2020.

(ii) An institution of higher education that receives grant funds shall expend the grant funds on or before December 1, 2020.

(e) The center shall conduct outreach, including education about career guidance, training, and workforce programs, to the targeted populations.

(4) The office, in consultation with the talent ready board, may, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and in accordance with the provisions of this section, make rules regarding the development and administration of the Utah Works Program.

(5) The center shall report the following metrics to the office for inclusion in the office's annual report described in Section 63N-1-301:

(a) the number of participants in the program;

(b) how program participants learned about or were referred to the program, including the number of participants who learned about or were referred to the program by:

(i) the Department of Workforce Services;

(ii) marketing efforts of the center or talent ready board;

(iii) a school counselor; and

(iv) other methods;

(c) the number of participants who have completed training offered by the program; and

(d) the number of participants who have been hired by a business participating in the program.

Section 6. Section 63N-14-101 (Repealed 05/31/21) is amended to read:

CHAPTER 14. COVID-19 COMMERCIAL RENTAL AND MORTGAGE ASSISTANCE PROGRAM

63N-14-101 (Repealed 05/31/21). Title.

This chapter is known as "COVID-19 Commercial Rental and Mortgage Assistance Program."

Section 7. Section 63N-14-102 (Repealed 05/31/21) is amended to read:

63N-14-102 (Repealed 05/31/21). Definitions.

As used in this chapter:

(1) "Business entity" means a business that:

(a) employs fewer than the equivalent of [~~100~~] 250 full-time employees;

(b) has the business's principal place of business in this state; and

(c) (i) is properly registered with the Division of Corporations and Commercial Code;

(ii) is tax exempt under Section 501(c)(3) or (19) of the Internal Revenue Code;

(iii) is a Tribal business concern described in 15 U.S.C. Sec. 657a (b)(2)(C); or

(iv) is an individual who:

(A) operates under a sole proprietorship;

(B) operates as an independent contractor; or

(C) is self-employed.

(2) "CARES Act" means the Coronavirus Aid, Relief, and Economic Security Act, Pub. L. 116-136.

(3) "Commercial property" means property used solely for business purposes.

[~~(3)~~] (4) "COVID-19" means:

(a) severe acute respiratory syndrome coronavirus 2; or

(b) the disease caused by severe acute respiratory syndrome coronavirus 2.

(5) "Mortgage payment" means the amount that a business entity owes as a result of a loan from a mortgagee for commercial property owned and operated by the business entity or the business entity's affiliate.

[~~(4)~~] (6) "Program" means the COVID-19 Commercial Rental and Mortgage Assistance Program established in Section 63N-14-201.

[~~(5)~~] (7) "Qualified business entity" means a business entity that:

(a) (i) is a lessee of commercial property in the state for the sole purpose of conducting the business entity's business on the property; or

(ii) is a mortgagor of commercial property in the state for the sole purpose of conducting the business entity's business on the property and the business entity does not lease or rent the property to another unaffiliated entity;

(b) demonstrates to the office that the business entity lost at least 30% of the business entity's monthly gross revenue:

(i) for a four-week period:

(A) beginning on or after March 1, 2020; and

(B) ending on or before December 30, 2020; and

(ii) as a result of federal, state, or local public health measures taken to minimize the public's exposure to COVID-19; and

(c) does not receive funds from the COVID-19 Agricultural Operations Grant Program established in Section 4-18-106.1.

(8) "Qualified startup entity" means a business entity that:

(a) meets the requirements of a qualified business entity under Subsection (7) except for Subsection (7)(b);

(b) began operations on or after March 1, 2020, and can demonstrate that the business is still operational at the time of application; and

(c) entered into a lease or mortgage for commercial property in the state for the sole purpose of conducting the business entity's business on the property and can demonstrate as required by the office that the business entity has incurred expenses and is operating at a net loss:

(i) for a four-week period:

(A) beginning on or after March 1, 2020; and

(B) ending on or before December 30, 2020; and

(ii) as a result of federal, state, or local public health measures and guidelines taken to minimize the public's exposure to COVID-19.

[~~(6)~~] (9) (a) "Rent" means the amount under a rental agreement that a business entity owes a lessor for the right to occupy commercial property.

(b) "Rent" does not include a charge or fee for a utility the lessor furnishes in accordance with a rental agreement.

Section 8. Section 63N-14-201 (Repealed 05/31/21) is amended to read:

63N-14-201 (Repealed 05/31/21). Creation of the COVID-19 Commercial Rental and Mortgage Assistance Program.

(1) The office shall establish and administer a COVID-19 Commercial Rental and Mortgage Assistance Program in accordance with this chapter.

(2) In administering the program, the office:

(a) shall accept applications beginning on or after May 11, 2020, for commercial rental and mortgage assistance;

(b) shall determine whether an applicant for commercial rental or mortgage assistance is a qualified business entity or qualified startup entity; and

(c) subject to Subsection (3), may grant up to [~~two~~] three months of rental or mortgage assistance per location for an applicant that is a qualified business entity or qualified startup entity in the following amounts:

(i) if [~~the~~] a qualified business entity demonstrates a monthly gross revenue loss of 30% or greater, but less than 45%, an amount equal to 50% of the qualified business entity's monthly rent or mortgage payment; [~~or~~]

(ii) if [~~the~~] a qualified business entity demonstrates a monthly gross revenue loss of 45% or greater, an amount equal to 100% of the qualified business entity's monthly rent[~~.~~] or mortgage payment; or

(iii) if a qualified startup entity demonstrates that it is operating at a net loss, an amount equal to 100% of the qualified business entity's monthly rent or mortgage payment.

(3) Notwithstanding the amounts described in Subsection (2)(c), the total [~~maximum~~] amount of rental or mortgage assistance that may be provided for rental or mortgage assistance under the program may be no more than[~~: (a) $15,000 for a qualified business entity with one location; or (b) $30,000 for a qualified business entity with more than one location, with no more than $5,000 awarded per month for any one location~~] $5,000 per month for any one location for a qualified business entity or qualified startup entity.

(4) To demonstrate gross revenue loss, a business entity shall submit to the office:

(a) (i) for a qualified business entity, a signed attestation that the business entity has lost at least 30% of the business entity's monthly gross revenue as a result of federal, state, or local public health measures and guidelines taken to minimize the public's exposure to COVID-19; [~~and~~] or

(ii) for a qualified startup entity, a signed attestation that the startup entity has demonstrated an operational net loss as a result of federal, state, or local public health measures and guidelines taken to minimize the public's exposure to COVID-19; and

(b) any additional information or documentation required by the office as determined by the office.

(5) The office shall provide commercial rental and mortgage assistance in accordance with this chapter using funds:

(a) the state receives from the Coronavirus Relief Fund described in the CARES Act;

(b) the Legislature appropriates; and

(c) in a total amount not to exceed [~~$40,000,000~~] $30,000,000.

Section 9. Section 63N-15-102 is amended to read:

63N-15-102. Definitions.

As used in this chapter:

(1) (a) "Business entity" means a business that:

(i) was in operation in this state on March 1, 2020;

(ii) has 250 or fewer full-time equivalent employees;

[~~(ii)~~] (iii) has employees who report to a physical location in this state; and

[~~(iii)~~] (iv) (A) is properly registered with the Division of Corporations and Commercial Code;

(B) is tax exempt under Section 501(c)(3), (6), or (19) of the Internal Revenue Code;

(C) is a Tribal business concern described in 15 U.S.C. Sec. 657a (b)(2)(C); or

(D) is an individual who operates under a sole proprietorship, operates as an independent contractor, or is self-employed.

(b) "Business entity" does not include a marketplace that connects travelers with private property owners offering accommodation for compensation.

(2) "CARES Act" means the Coronavirus Aid, Relief, and Economic Security Act, Pub. L. 116-136.

[~~(2)~~] (3) "COVID-19" means:

(a) severe acute respiratory syndrome coronavirus 2; or

(b) the disease caused by severe acute respiratory syndrome coronavirus 2.

[~~(3)~~] (4) (a) "COVID-19 expenses" means the costs incurred by a business entity:

(i) on or after March 1, 2020, but on or before December 30, 2020; and

(ii) to comply with COVID-19 public health guidelines on safely returning employees to work.

(b) "COVID-19 expenses" includes:

(i) personal protection equipment for employees and customers;

(ii) cleaning and sanitizing supplies;

(iii) signage providing public health guidelines;

(iv) technology upgrades related to teleworking;

(v) costs for office redesign to provide adequate separation between employees or between employees and customers; or

(vi) other costs that the office approves as complying with Subsection [~~(3)~~] (4)(a)(ii).

[~~(4)~~] (5) "Legislative committee" means:

(a) the president of the Senate;

(b) the speaker of the House of Representatives;

(c) the minority leader of the Senate; and

(d) the minority leader of the House of Representatives.

[~~(5)~~] (6) "Monthly revenue decline" means the amount of the business entity's revenue loss in this state for the month calculated by subtracting the month's revenue from:

(a) for a business entity that began operating in this state before July 1, 2019, the business entity's revenue in this state for the same month in 2019; and

(b) for a business entity that began operating in this state on or after July 1, 2019, the business entity's revenue in this state for February 2020.

(7) "Oil, gas, or mining business entity" means a business entity that is substantially involved in the extraction of oil, gas, or minerals in the state or directly provides services to oil, gas, or mining businesses in the state.

(8) "Qualified startup entity" means an entity that:

(a) meets the definition of a business entity under Subsection (1) except for Subsection (1)(a)(i);

(b) began operations after March 1, 2020, and can demonstrate that the entity is still operational at the time of application; and

(c) can demonstrate as required by the office that the entity has incurred expenses and is operating at a net loss due to the public health emergency related to COVID-19.

[~~(6)~~] (9) "Revenue decline" means the sum of the monthly revenue declines for the months of March through June 2020.

[~~(7) "Small business" means a business entity with 250 or fewer full-time equivalent employees.~~]

Section 10. Section 63N-15-103 is amended to read:

63N-15-103. Reporting and use of appropriations.

(1) The office shall include in the office's 2020 and 2021 annual reports to the governor and the Legislature under Section 63N-1-301 the following information about each of the grant programs established under this chapter:

[~~(1)~~] (a) the number of applications submitted under the grant program;

[~~(2)~~] (b) the number of grants awarded under the grant program;

[~~(3)~~] (c) the aggregate amount of grant funds awarded under the grant program; and

[~~(4)~~] (d) any other information the office considers relevant to evaluating the success of the grant program.

(2) After providing notice to members of the legislative committee, the executive director, in cooperation with the director of the Division of Finance, may move funds among the following programs to make efficient and full use of CARES Act funding:

(a) the COVID-19 Commercial Rental and Mortgage Assistance Program described in Chapter 14, COVID-19 Commercial Rental and Mortgage Assistance Program;

(b) any of the programs described in this chapter;

(c) after consultation with the commissioner of the Department of Agriculture and Food, the COVID-19 Agricultural Operations Grant Program described in Section 4-18-106.1;

(d) after consultation with the executive director of the Department of Heritage and Arts, the COVID-19 Cultural Assistance Grant Program described in Title 9, Chapter 6, Part 9, COVID-19 Cultural Assistance Grant Program; and

(e) after consultation with the executive director of the Department of Workforce Services, COVID-19 Residential Housing Assistance described in Title 35A, Chapter 8, Part 23, COVID-19 Residential Housing Assistance.

Section 11. Section 63N-15-201 is amended to read:

63N-15-201. Creation of COVID-19 Impacted Businesses Grant Program -- Eligibility -- Grant limits.

(1) There is established a grant program known as COVID-19 Impacted Businesses Grant Program that is administered by the office in accordance with this part.

(2) To be eligible to apply for a grant under this part, a business entity or a qualified startup entity:

(a) (i) shall have experienced a revenue decline in this state due to the public health emergency related to COVID-19[;], if the entity is a business entity; or

(ii) shall have incurred expenses and be operating at a net loss due to the public health emergency related to COVID-19, if the entity is a qualified startup entity;

(b) shall offer a financial incentive:

(i) for individuals or businesses to make purchases from the business entity; and

(ii) that in aggregate is estimated to equal or exceed 50% of the grant amount that the business entity requests; and

(c) shall describe to the office how receipt of grant funds will benefit the state economy[~~; and~~].

[~~(d) may not have received grant funds under Title 9, Chapter 6, Part 9, COVID-19 Cultural Assistance Grant Program.~~]

[~~(3) (a) The amount of a grant that the office awards to a business entity under this part may not exceed the amount of the business entity's revenue decline. (b) For applications received on or before August 31, 2020, the office shall award at least 75% of the grant funds to small businesses that meet the eligibility requirements.~~]

(3) Notwithstanding the amount of any grant awarded under this part before August 24, 2020, in awarding a grant to a business entity under this part on or after August 24, 2020, the office may award up to the following amounts:

(a) for a business entity whose revenue decline was 50% or more, 75% of the revenue decline;

(b) for a business entity whose revenue decline was more than 25% but less than 50%, 50% of the revenue decline; and

(c) for a business entity whose revenue decline was 25% or less, 25% of the revenue decline.

(4) (a) Subject to available funds, the office may only award a grant to a qualified startup entity that applies for the grant on or after September 15, 2020.

(b) The office may award an amount up to the amount of the net loss of the qualified startup entity.

Section 12. Section 63N-15-301 is amended to read:

63N-15-301. Creation of COVID-19 PPE Support Grant Program -- Eligibility -- Grant limits.

(1) There is established a grant program known as COVID-19 PPE Support Grant Program that is administered by the office in accordance with this part.

(2) To be eligible to apply for a grant under this part, the business entity shall:

(a) (i) demonstrate that the business entity has incurred COVID-19 expenses; or

(ii) certify that the business entity will spend grant funds on COVID-19 expenses; and

(b) describe to the office the business entity's actual or anticipated cost to comply with public health guidelines on safely returning employees to work.

(3) [~~(a)~~] The amount of a grant that the office awards to a business entity under this part may not exceed the lesser of:

[~~(i)~~] (a) the amount of the business entity's COVID-19 actual and anticipated expenses; or

[~~(ii) $100~~] (b) $250 per full-time equivalent employee.

[~~(b) For applications received on or before August 31, 2020, the office shall award at least 75% of grant funds to small businesses that meet the eligibility requirements.~~]

Section 13. Section 63N-15-501 is enacted to read:

Part 5. COVID-19 Oil, Gas, and Mining Grant Program

63N-15-501. COVID-19 Oil, Gas, and Mining Grant Program.

(1) There is established a grant program known as the Oil, Gas, and Mining Grant Program that is administered by the office in accordance with this part.

(2) To be eligible to apply for a grant under this part, an oil, gas, or mining business entity that operates in the state:

(a) shall have experienced a revenue decline in this state due to the public health emergency related to COVID-19; and

(b) shall describe to the office how receipt of grant funds will benefit the state economy.

(3) The amount of a grant that the office awards to an oil, gas, or mining business entity under this part

may not exceed the amount of the business entity's revenue decline.

Section 14. Section 63N-15-502 is enacted to read:

63N-15-502. Duties of the office.

(1) As soon as is practicable, but on or before September 15, 2020, the office shall:

(a) establish an application process by which an oil, gas, or mining business entity may apply for a grant under this part, which application shall include:

(i) a declaration, signed under penalty of perjury, that the application is complete, true, and correct; and

(ii) an acknowledgment that the business entity is subject to audit;

(b) collaborate with the Office of Energy Development to establish a method for the office to determine which applicants are eligible to receive a grant;

(c) establish a formula to award grant funds; and

(d) report the information described in Subsections (1)(a) through (c) to the director of the Division of Finance.

(2) The office shall consider any recommendations for adjustment to the grant program from the legislative committee.

(3) Subject to appropriations, beginning on September 15, 2020, the office shall:

(a) collect applications for grant funds from oil, gas, or mining business entities;

(b) determine which applicants meet the eligibility requirements for receiving a grant; and

(c) award the grant funds:

(i) (A) after an initial application period that ends on or before September 29, 2020; and

(B) if funds remain after the initial application period, on a rolling basis until the earlier of funds being exhausted or December 30, 2020; and

(ii) in accordance with the process established under Subsection (1) and the limits described in Subsection 63N-15-501(3).

(4) (a) The office may audit an oil, gas, or mining business entity to ensure that the business entity experienced the revenue decline reported in the application.

(b) The office may recapture grant funds if, after the audit, the office determines that a business entity made representations to the office about the business entity's revenue decline that are not complete, true, and correct.

(c) (i) A business entity that is subject to recapture shall pay to the Division of Finance a penalty equal to the amount of the grant recaptured multiplied by the applicable income tax rate in Section 59-7-104 or 59-10-104.

(ii) The Division of Finance shall deposit the penalty into the Education Fund.

(5) The office shall encourage any oil, gas, or mining business entity that receives grant funds to commit to following best practices to preserve jobs and to protect the health and safety of the business entity's employees and customers.

(6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office may make rules to administer the grant program.

(7) As part of any advertisement of the COVID-19 Oil, Gas, and Mining Grant Program, the office:

(a) shall encourage economically disadvantaged oil, gas, or mining business entities, including minority-owned and woman-owned business entities, that meet the eligibility requirements to apply for grant funds; and

(b) may feature any business entity that:

(i) shows evidence of a commitment to following best practices to protect the health and safety of the business entity's employees and customers; and

(ii) consents to being featured.

Section 15. Section 78B-6-802 is amended to read:

78B-6-802. Unlawful detainer by tenant for a term less than life.

(1) A tenant holding real property for a term less than life is guilty of an unlawful detainer if the tenant:

(a) continues in possession, in person or by subtenant, of the property or any part of the property, after the expiration of the specified term or period for which it is let to the tenant, which specified term or period, whether established by express or implied contract, or whether written or parol, shall be terminated without notice at the expiration of the specified term or period;

(b) having leased real property for an indefinite time with monthly or other periodic rent reserved:

(i) continues in possession of the property in person or by subtenant after the end of any month or period, in cases where the owner, the owner's designated agent, or any successor in estate of the owner, 15 calendar days or more before the end of that month or period, has served notice requiring the tenant to quit the premises at the expiration of that month or period; or

(ii) in cases of tenancies at will, remains in possession of the premises after the expiration of a notice of not less than five calendar days;

(c) continues in possession, in person or by subtenant, after default in the payment of any rent or other amounts due and after a notice in writing requiring in the alternative the payment of the rent and other amounts due or the surrender of the detained premises, has remained uncomplied with for a period of three business days after service, which notice may be served at any time after the rent becomes due;

(d) assigns or sublets the leased premises contrary to the covenants of the lease, or commits or permits waste on the premises after service of a three calendar days' notice to quit;

(e) sets up or carries on any unlawful business on or in the premises after service of a three calendar days' notice to quit;

(f) suffers, permits, or maintains on or about the premises any nuisance, including nuisance as defined in Section 78B-6-1107 after service of a three calendar days' notice to quit;

(g) commits a criminal act on the premises and remains in possession after service of a three calendar days' notice to quit;

(h) continues in possession, in person or by subtenant, after a neglect or failure to perform any condition or covenant of the lease or agreement under which the property is held, other than those previously mentioned, and after notice in writing requiring in the alternative the performance of the conditions or covenant or the surrender of the property, served upon the tenant and upon any subtenant in actual occupation of the premises remains uncomplied with for three calendar days after service; or

(i) (i) is a tenant under a bona fide tenancy as described in Section 702 of the Protecting Tenants at Foreclosure Act; and

(ii) continues in possession after the effective date of a notice to vacate given in accordance with Section 702 of the Protecting Tenants at Foreclosure Act.

(2) After service of the notice and the time period required for the notice, the tenant, any subtenant in actual occupation of the premises, any mortgagee of the term, or other person interested in the lease's continuance may perform the condition or covenant and save the lease from forfeiture, except that if the covenants and conditions of the lease violated by the lessee cannot afterwards be performed, or the violation cannot be brought into compliance, a notice provided for in Subsections (1)(d) through (g) may be given.

(3) Unlawful detainer by an owner resident of a mobile home is determined under Title 57, Chapter 16, Mobile Home Park Residency Act.

(4) The notice provisions for nuisance in Subsections (1)(d) through (g) do not apply to nuisance actions provided in Sections 78B-6-1107 through 78B-6-1114.

(5) The notice to vacate requirement under 15 U.S.C. 9058(c), which is part of the Coronavirus Aid, Relief, and Economic Security Act, Pub. L. 116-136:

(a) applies only to a notice provided to a tenant of a covered dwelling in a covered property as that term is defined in 15 U.S.C. 9058(a);

(b) applies only to the amount of time before a tenant may be required to vacate a covered property through an order of restitution as provided by Section 78B-6-812;

(c) for a notice provided under Subsection (1)(c), applies only when delinquent rent or other amounts have accrued during the 120-day moratorium described in 15 U.S.C. 9058(b);

(d) does not require that a tenant be given more than three business days after service to pay rent and other amounts due under a notice provided under Subsection (1)(c);

(e) does not apply to a notice provided under Subsections (1)(d) through (h);

(f) does not prohibit or nullify the service of any notice described in this section; and

(g) does not limit the accrual of damages under Section 78B-6-811.

(6) Service of a notice as provided by 15 U.S.C. 9058(c) or under Subsection (5) does not nullify the service or validity of any other notice provided in accordance with this section.

Section 16. Effective date.

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

LAWS

of the

STATE OF UTAH, 2021

Passed at the
GENERAL SESSION
of the
SIXTY-FOURTH LEGISLATURE

Convened at the State Capitol in the City of Salt Lake
January 18, 2021
and Adjourned Sine Die on
March 4, 2021

STATE OF UTAH

OFFICE OF THE LIEUTENANT GOVERNOR

CERTIFICATE

THIS IS TO CERTIFY that the acts and resolutions published in this volume are, according to our best information and belief, full and correct copies of the originals passed at the 2021 General Session of the Sixty-fourth Legislature of the state of Utah, as they appear of record in the Office of the Lieutenant Governor; and

That the 2021 General Session of the Sixty-fourth Legislature of the state of Utah convened at the Capitol in Salt Lake City on the 25th of January, 2021, and adjourned on the 11th day of March, 2021.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the Great Seal of the State of Utah at Salt Lake City, this 18th day of November, 2021.

Deidre M. Henderson
Lieutenant Governor

CHAPTER 1
H. B. 1
Passed January 28, 2021
Approved February 4, 2021
Effective July 1, 2021

HIGHER EDUCATION BASE BUDGET

Chief Sponsor: Kelly B. Miles
Senate Sponsor: Keith Grover

LONG TITLE

General Description:

This bill supplements or reduces appropriations otherwise provided for the support and operation of state government for the fiscal year beginning July 1, 2020 and ending June 30, 2021 and appropriates funds for the support and operation of state government for the fiscal year beginning July 1, 2021 and ending June 30, 2022.

Highlighted Provisions:

This bill:

- provides appropriations for the use and support of higher education agencies and institutions;
- provides appropriations for other purposes as described.

Money Appropriated in this Bill:

This bill appropriates $2,116,945,900 in operating and capital budgets for fiscal year 2022, including:

- $421,811,600 from the General Fund;
- $766,228,900 from the Education Fund; and
- $928,905,400 from various sources as detailed in this bill.

This bill appropriates $16,500,000 in restricted fund and account transfers for fiscal year 2022, all of which is from the Education Fund.

Other Special Clauses:

Section 1 of this bill takes effect immediately. Section 2 of this bill takes effect on July 1, 2021.

Utah Code Sections Affected:

ENACTS UNCODIFIED MATERIAL

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

Section 1. FY 2021 Appropriations. The following sums of money are appropriated for the fiscal year beginning July 1, 2020 and ending June 30, 2021. These are additions to amounts otherwise appropriated for fiscal year 2021.

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

UNIVERSITY OF UTAH

Item 1
To University of Utah – Education and General
From Land Grant Management
Fund, One–Time ..... (502,100)
From Uniform School Fund Rest. –
Trust Distribution Account,
One–Time 502,100

UTAH STATE UNIVERSITY

Item 2
To Utah State University – Education and General
From Land Grant Management
Fund, One–Time ..... (150,600)
From Uniform School Fund Rest. –
Trust Distribution Account,
One–Time 150,600

Section 2. FY 2022 Appropriations. The following sums of money are appropriated for the fiscal year beginning July 1, 2021 and ending June 30, 2022. These are additions to amounts otherwise appropriated for fiscal year 2022.

Subsection 2(a). Operating and Capital Budgets. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

UNIVERSITY OF UTAH

Item 3
To University of Utah – Education and General
From General Fund 204,063,900
From Education Fund 80,635,200
From Dedicated Credits Revenue ... 307,879,800
From Education Fund Restricted –
Performance Funding Rest. Acct. 4,479,700
From Uniform School Fund Rest. –
Trust Distribution Account 502,100
From Beginning Nonlapsing
Balances 8,388,900
From Closing Nonlapsing Balances ... (8,388,900)
Schedule of Programs:
Education and General 528,034,500
Operations and Maintenance 69,526,200

The Legislature intends that $200,000 ongoing from the General Fund provided by this item be used for Econometric and Public Finance Decision Support at the Kem C. Gardner Policy Institute.

Item 4
To University of Utah –
Educationally Disadvantaged
From Education Fund 709,800
From Revenue Transfers 34,500
From Beginning Nonlapsing Balances ... 298,800
From Closing Nonlapsing Balances .... (298,800)
Schedule of Programs:
Educationally Disadvantaged 744,300

Item 5
To University of Utah – School of Medicine
From Education Fund 37,597,800
From Dedicated Credits Revenue 30,671,400
From General Fund Restricted –
Cigarette Tax Restricted Account 2,800,000
From Beginning Nonlapsing
Balances 9,506,200
From Closing Nonlapsing Balances ... (9,506,200)

Schedule of Programs:
School of Medicine 71,069,200

Item 6
To University of Utah – Cancer Research and Treatment
From Education Fund 8,002,100
From General Fund Restricted – Cigarette Tax Restricted Account 2,000,000
From Beginning Nonlapsing Balances ... 188,700
From Closing Nonlapsing Balances .... (188,700)
Schedule of Programs:
Cancer Research and Treatment ... 10,002,100

Item 7
To University of Utah – University Hospital
From Education Fund 5,287,600
From Dedicated Credits Revenue 455,800
From Beginning Nonlapsing Balances ... 428,800
From Closing Nonlapsing Balances .... (428,800)
Schedule of Programs:
University Hospital 5,146,500
Miners' Hospital 596,900

Item 8
To University of Utah – School of Dentistry
From Education Fund 2,750,100
From Dedicated Credits Revenue 4,105,100
From Beginning Nonlapsing Balances ... 107,900
From Closing Nonlapsing Balances .... (107,900)
Schedule of Programs:
School of Dentistry 6,855,200

Item 9
To University of Utah – Public Service
From Education Fund 2,226,400
From Beginning Nonlapsing Balances ... 454,700
From Closing Nonlapsing Balances .... (454,700)
Schedule of Programs:
Seismograph Stations 760,200
Natural History Museum of Utah ... 1,339,000
State Arboretum 127,200

Item 10
To University of Utah – Statewide TV Administration
From Education Fund 2,677,400
From Beginning Nonlapsing Balances ... 123,000
From Closing Nonlapsing Balances .... (123,000)
Schedule of Programs:
Public Broadcasting 2,677,400

Item 11
To University of Utah – Poison Control Center
From Education Fund 2,853,400
From Beginning Nonlapsing Balances ... 227,300
From Closing Nonlapsing Balances .... (227,300)
Schedule of Programs:
Poison Control Center 2,853,400

Item 12
To University of Utah – Center on Aging
From Education Fund 112,000
From Beginning Nonlapsing Balances 3,700
From Closing Nonlapsing Balances ..... (3,700)
Schedule of Programs:
Center on Aging 112,000

Item 13
To University of Utah – Rocky Mountain Center for Occupational and Environmental Health
From Education Fund 1,000
From General Fund Restricted – Workplace Safety Account 174,000
From Beginning Nonlapsing Balances 5,500
From Closing Nonlapsing Balances ..... (5,500)
Schedule of Programs:
Center for Occupational and Environmental Health 175,000

Item 14
To University of Utah – SafeUT Crisis Text and Tip
From General Fund 250,000
From Education Fund 2,645,000
Schedule of Programs:
SafeUT Operations 2,895,000

UTAH STATE UNIVERSITY

Item 15
To Utah State University – Education and General
From General Fund 117,244,600
From Education Fund 44,844,700
From Dedicated Credits Revenue ... 128,365,700
From Education Fund Restricted – Performance Funding Rest. Acct. 3,146,000
From Revenue Transfers 634,800
From Uniform School Fund Rest. – Trust Distribution Account 150,600
From Beginning Nonlapsing Balances 19,350,300
From Closing Nonlapsing Balances ..... (19,350,300)
Schedule of Programs:
Education and General 253,858,200
USU – School of Veterinary Medicine 5,362,600
Operations and Maintenance 35,165,600

Item 16
To Utah State University – USU – Eastern Education and General
From Education Fund 12,205,300
From Dedicated Credits Revenue 3,045,900
From Beginning Nonlapsing Balances 1,595,000
From Closing Nonlapsing Balances ... (1,595,000)
Schedule of Programs:
USU – Eastern Education and General 15,251,200

Item 17
To Utah State University – Educationally Disadvantaged
From Education Fund 97,800
From Beginning Nonlapsing Balances 34,000
From Closing Nonlapsing Balances ..... (34,000)
Schedule of Programs:
Educationally Disadvantaged 97,800

Item 18
To Utah State University – USU – Eastern Educationally Disadvantaged
From Education Fund 102,400
From Beginning Nonlapsing Balances 64,600
From Closing Nonlapsing Balances ..... (64,600)
Schedule of Programs:
USU – Eastern Educationally Disadvantaged 102,400

Item 19
To Utah State University – USU – Eastern Career and Technical Education
From Education Fund 3,374,100
From Revenue Transfers 5,500
From Beginning Nonlapsing Balances ... 163,800
From Closing Nonlapsing Balances .... (163,800)
Schedule of Programs:
USU – Eastern Career and Technical Education 3,379,600

Item 20
To Utah State University – Regional Campuses
From Education Fund 14,023,100
From Dedicated Credits Revenue 27,985,100
From General Fund Restricted – Infrastructure and Economic Diversification Investment Account 250,000
From Revenue Transfers 324,200
From Beginning Nonlapsing Balances 2,913,600
From Closing Nonlapsing Balances ... (2,913,600)
Schedule of Programs:
Administration 5,020,100
Uintah Basin Regional Campus 10,714,900
Brigham City Regional Campus 14,782,400
Tooele Regional Campus 12,065,000

Item 21
To Utah State University – Water Research Laboratory
From Education Fund 2,203,000
From General Fund Restricted – Mineral Lease 1,745,800
From Gen. Fund Rest. – Land Exchange Distribution Account 66,400
From Beginning Nonlapsing Balances 2,344,700
From Closing Nonlapsing Balances ... (2,344,700)
Schedule of Programs:
Water Research Laboratory 4,015,200

Item 22
To Utah State University – Agriculture Experiment Station
From Education Fund 14,115,100
From Federal Funds 1,813,800
From Beginning Nonlapsing Balances ... 411,200
From Closing Nonlapsing Balances .... (411,200)
Schedule of Programs:
Agriculture Experiment Station 15,928,900

Item 23
To Utah State University – Cooperative Extension
From Education Fund 17,832,500
From Federal Funds 2,088,500
From Revenue Transfers 69,600
From Beginning Nonlapsing Balances 1,387,400
From Closing Nonlapsing Balances ... (1,387,400)
Schedule of Programs:
Cooperative Extension 19,990,600

Item 24
To Utah State University – Prehistoric Museum
From Education Fund 472,300
From Beginning Nonlapsing Balances 10,600
From Closing Nonlapsing Balances ..... (10,600)
Schedule of Programs:
Prehistoric Museum 472,300

Item 25
To Utah State University – Blanding Campus
From Education Fund 3,105,400
From Dedicated Credits Revenue 1,053,300
From Revenue Transfers 117,300
From Beginning Nonlapsing Balances ... 105,900
From Closing Nonlapsing Balances .... (105,900)
Schedule of Programs:
Blanding Campus 4,276,000

WEBER STATE UNIVERSITY

Item 26
To Weber State University – Education and General
From Education Fund 96,286,400
From Dedicated Credits Revenue 78,040,700
From Education Fund Restricted – Performance Funding Rest. Acct. 1,673,200
From Revenue Transfers 1,786,500
From Beginning Nonlapsing Balances 3,605,900
From Closing Nonlapsing Balances ... (3,605,900)
Schedule of Programs:
Education and General 160,923,500
Operations and Maintenance 16,863,300

Item 27
To Weber State University – Educationally Disadvantaged
From Education Fund 398,700
From Beginning Nonlapsing Balances ... 128,500
From Closing Nonlapsing Balances .... (128,500)
Schedule of Programs:
Educationally Disadvantaged 398,700

SOUTHERN UTAH UNIVERSITY

Item 28
To Southern Utah University – Education and General
From General Fund 20,100
From Education Fund 48,482,000
From Dedicated Credits Revenue 50,525,100
From Education Fund Restricted – Performance Funding Rest. Acct. 790,400
From Beginning Nonlapsing Balances 6,598,800
From Closing Nonlapsing Balances ... (6,598,800)
Schedule of Programs:
Education and General 91,025,600
Operations and Maintenance 8,792,000

Item 29
To Southern Utah University – Educationally Disadvantaged
From Education Fund 97,600
From Beginning Nonlapsing Balances 26,400
From Closing Nonlapsing Balances ..... (26,400)
Schedule of Programs:
Educationally Disadvantaged 97,600

Item 30
To Southern Utah University – Shakespeare Festival
From Education Fund 21,600
Schedule of Programs:
Shakespeare Festival 21,600

Item 31
To Southern Utah University – Rural Development

From Education Fund 110,600
From Beginning Nonlapsing Balances 40,500
From Closing Nonlapsing Balances ..... (40,500)
Schedule of Programs:
Rural Development 110,600

UTAH VALLEY UNIVERSITY

Item 32
To Utah Valley University – Education and General
From General Fund 100,005,700
From Education Fund 26,949,200
From Dedicated Credits Revenue ... 144,961,100
From Education Fund Restricted –
Performance Funding Rest. Acct. 2,014,900
From Other Financing Sources 135,000
From Beginning Nonlapsing
Balances 18,238,700
From Closing Nonlapsing
Balances ..... (18,238,700)
Schedule of Programs:
Education and General 252,518,800
Operations and Maintenance 21,547,100

Item 33
To Utah Valley University –
Educationally Disadvantaged
From Education Fund 185,000
From Beginning Nonlapsing Balances 10,000
From Closing Nonlapsing Balances ..... (10,000)
Schedule of Programs:
Educationally Disadvantaged 185,000

Item 34
To Utah Valley University – Fire and
Rescue Training
From Education Fund 4,200,000
Schedule of Programs:
Fire and Rescue Training 4,200,000

SNOW COLLEGE

Item 35
To Snow College – Education and General
From General Fund 90,200
From Education Fund 27,609,000
From Dedicated Credits Revenue 12,016,200
From Education Fund Restricted –
Performance Funding Rest. Acct. 401,600
From Revenue Transfers 753,400
From Beginning Nonlapsing
Balances 2,103,200
From Closing Nonlapsing Balances ... (2,103,200)
Schedule of Programs:
Education and General 35,208,900
Operations and Maintenance 5,661,500

Item 36
To Snow College – Educationally Disadvantaged
From Education Fund 32,000
Schedule of Programs:
Educationally Disadvantaged 32,000

Item 37
To Snow College – Career and Technical Education
From Education Fund 1,873,200
Schedule of Programs:
Career and Technical Education 1,873,200

DIXIE STATE UNIVERSITY

Item 38
To Dixie State University – Education and General
From General Fund 100,500
From Education Fund 45,321,900
From Dedicated Credits Revenue 34,658,000
From Education Fund Restricted –
Performance Funding Rest. Acct. 492,500
From Revenue Transfers 150,000
From Other Financing Sources 555,000
From Beginning Nonlapsing
Balances 3,599,000
From Closing Nonlapsing Balances ... (3,599,000)
Schedule of Programs:
Education and General 72,676,500
Operations and Maintenance 8,601,400

Item 39
To Dixie State University –
Educationally Disadvantaged
From Education Fund 25,500
From Beginning Nonlapsing Balances 500
From Closing Nonlapsing Balances ..... (500)
Schedule of Programs:
Educationally Disadvantaged 25,500

Item 40
To Dixie State University –
Zion Park Amphitheater
From Education Fund 58,200
From Dedicated Credits Revenue 34,700
From Beginning Nonlapsing Balances 2,400
From Closing Nonlapsing Balances ..... (2,400)
Schedule of Programs:
Zion Park Amphitheater 92,900

SALT LAKE COMMUNITY COLLEGE

Item 41
To Salt Lake Community College – Education and
General
From General Fund 30,900
From Education Fund 98,948,800
From Dedicated Credits Revenue 58,533,400
From Education Fund Restricted – Performance
Funding Rest. Acct. 1,708,000
From Revenue Transfers 3,688,300
From Beginning Nonlapsing
Balances 3,054,900
From Closing Nonlapsing Balances ... (3,054,900)
Schedule of Programs:
Education and General 141,857,600
Operations and Maintenance 21,051,800

Item 42
To Salt Lake Community College –
Educationally Disadvantaged
From Education Fund 178,400
From Beginning Nonlapsing Balances ... (1,500)
From Closing Nonlapsing Balances 1,500
Schedule of Programs:
Educationally Disadvantaged 178,400

Item 43
To Salt Lake Community College –
School of Applied Technology
From Education Fund 7,068,100
From Dedicated Credits Revenue 1,028,600
From Beginning Nonlapsing Balances ... 261,700
From Closing Nonlapsing Balances .... (261,700)

Schedule of Programs:
School of Applied Technology 8,096,700

UTAH BOARD OF HIGHER EDUCATION

Item 44
To Utah Board of Higher Education – Administration
From General Fund 5,700
From Education Fund 8,003,700
From Revenue Transfers 477,800
From Beginning Nonlapsing Balances 2,178,100
From Closing Nonlapsing Balances ... (2,178,100)
Schedule of Programs:
Administration 8,487,200

Item 45
To Utah Board of Higher Education – Student Assistance
From Education Fund 30,811,400
From Beginning Nonlapsing Balances ... 331,900
From Closing Nonlapsing Balances .... (331,900)
Schedule of Programs:
Regents' Scholarship 16,072,200
Student Financial Aid 3,252,800
New Century Scholarships 1,983,900
Success Stipend 1,391,200
Western Interstate Commission for Higher Education 840,200
T.H. Bell Teaching Incentive Loans Program 2,031,800
Veterans Tuition Gap Program 125,000
Public Safety Officer Career Advancement Reimbursement 146,000
Student Prosperity Savings Program ... 50,000
Talent Development Incentive Loan Program 1,543,700
Access Utah Promise Scholarship Program 2,274,600
Career and Technical Education Scholarships 1,100,000

Item 46
To Utah Board of Higher Education – Student Support
From Education Fund 14,662,200
From Education Fund Restricted – Performance Funding Rest. Acct. 381,100
From Beginning Nonlapsing Balances 1,192,400
From Closing Nonlapsing Balances ... (1,192,400)
Schedule of Programs:
Services for Hearing Impaired Students 796,300
Higher Education Technology Initiative 4,498,800
Utah Academic Library Consortium 3,410,000
Math Competency Initiative 1,397,900
Performance Funding — Colleges and Universities 381,100
Custom Fit 4,559,200

Item 47
To Utah Board of Higher Education – Medical Education Council
From Education Fund 1,794,900
From Dedicated Credits Revenue 215,000
From Revenue Transfers 190,500
From Beginning Nonlapsing Balances ... 485,400
From Closing Nonlapsing Balances .... (485,400)
Schedule of Programs:
Medical Education Council 2,200,400

UTAH SYSTEM OF TECHNICAL COLLEGES

Item 48
To Utah System of Technical Colleges – Bridgerland Technical College
From Education Fund 15,383,100
From Dedicated Credits Revenue 1,452,400
From Education Fund Restricted – Performance Funding Rest. Acct. 261,400
From Beginning Nonlapsing Balances ... 242,800
From Closing Nonlapsing Balances .... (242,800)
Schedule of Programs:
Bridgerland Tech Equipment 720,700
Bridgerland Technical College 16,376,200

Item 49
To Utah System of Technical Colleges – Davis Technical College
From Education Fund 18,936,200
From Dedicated Credits Revenue 2,007,100
From Education Fund Restricted – Performance Funding Rest. Acct. 355,600
Schedule of Programs:
Davis Tech Equipment 851,100
Davis Technical College 20,447,800

Item 50
To Utah System of Technical Colleges – Dixie Technical College
From Education Fund 8,658,300
From Dedicated Credits Revenue 737,700
From Education Fund Restricted – Performance Funding Rest. Acct. 94,700
Schedule of Programs:
Dixie Tech Equipment 372,600
Dixie Technical College 9,118,100

Item 51
To Utah System of Technical Colleges – Mountainland Technical College
From Education Fund 14,852,300
From Dedicated Credits Revenue 1,426,300
From Education Fund Restricted – Performance Funding Rest. Acct. 205,300
Schedule of Programs:
Mountainland Tech Equipment 661,200
Mountainland Technical College ... 15,822,700

Item 52
To Utah System of Technical Colleges – Ogden–Weber Technical College
From Education Fund 17,038,500
From Dedicated Credits Revenue 1,697,400
From Education Fund Restricted – Performance Funding Rest. Acct. 238,900
Schedule of Programs:
Ogden–Weber Tech Equipment 763,800
Ogden–Weber Technical College 18,211,000

Item 53
To Utah System of Technical Colleges – Southwest Technical College
From Education Fund 6,063,600
From Dedicated Credits Revenue 336,700
From Education Fund Restricted – Performance Funding Rest. Acct. 104,700

From Beginning Nonlapsing Balances 27,000
From Closing Nonlapsing Balances ..... (27,000)
Schedule of Programs:
Southwest Tech Equipment 349,900
Southwest Technical College 6,155,100

Item 54
To Utah System of Technical Colleges – Tooele Technical College
From Education Fund 4,867,300
From Dedicated Credits Revenue 248,800
From Education Fund Restricted – Performance Funding Rest. Acct. 60,800
Schedule of Programs:
Tooele Tech Equipment 334,100
Tooele Technical College 4,842,800

Item 55
To Utah System of Technical Colleges – Uintah Basin Technical College
From Education Fund 9,437,700
From Dedicated Credits Revenue 410,500
From Education Fund Restricted – Performance Funding Rest. Acct. 91,200
Schedule of Programs:
Uintah Basin Tech Equipment 490,000
Uintah Basin Technical College 9,449,400

Subsection 2(b). Restricted Fund and Account Transfers. The Legislature authorizes the State Division of Finance to transfer the following amounts between the following funds or accounts as indicated. Expenditures and outlays from the funds to which the money is transferred must be authorized by an appropriation.

Item 56
To Performance Funding Restricted Account
From Education Fund 16,500,000
Schedule of Programs:
Performance Funding Restricted Account 16,500,000

Section 3. Effective Date.

If approved by two-thirds of all the members elected to each house, Section 1 of this bill takes effect upon approval by the Governor, or the day following the constitutional time limit of Utah Constitution Article VII, Section 8 without the Governor's signature, or in the case of a veto, the date of override. Section 2 of this bill takes effect on July 1, 2021.

CHAPTER 2
H. B. 4
Passed January 28, 2021
Approved February 4, 2021
Effective July 1, 2021

BUSINESS, ECONOMIC DEVELOPMENT, AND LABOR BASE BUDGET

Chief Sponsor: Christine F. Watkins
Senate Sponsor: Michael K. McKell

LONG TITLE

General Description:

This bill supplements or reduces appropriations otherwise provided for the support and operation of state government for the fiscal year beginning July 1, 2020 and ending June 30, 2021 and appropriates funds for the support and operation of state government for the fiscal year beginning July 1, 2021 and ending June 30, 2022.

Highlighted Provisions:

This bill:

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

Money Appropriated in this Bill:

This bill appropriates $34,463,200 in operating and capital budgets for fiscal year 2021, including:

- $20,411,700 from the General Fund; and
- $14,051,500 from various sources as detailed in this bill.

This bill appropriates $921,600 in expendable funds and accounts for fiscal year 2021.

This bill appropriates $4,696,500 in restricted fund and account transfers for fiscal year 2021, including:

- $5,354,000 from the General Fund; and
- ($657,500) from various sources as detailed in this bill.

This bill appropriates $17,266,700 in fiduciary funds for fiscal year 2021.

This bill appropriates $348,716,900 in operating and capital budgets for fiscal year 2022, including:

- $93,750,100 from the General Fund;
- $23,242,100 from the Education Fund; and
- $231,724,700 from various sources as detailed in this bill.

This bill appropriates $40,198,400 in expendable funds and accounts for fiscal year 2022.

This bill appropriates $265,000 in business-like activities for fiscal year 2022.

This bill appropriates $24,724,700 in restricted fund and account transfers for fiscal year 2022, including:

- $24,732,200 from the General Fund; and
- ($7,500) from various sources as detailed in this bill.

This bill appropriates $28,705,500 in fiduciary funds for fiscal year 2022.

Other Special Clauses:

Section 1 of this bill takes effect immediately. Section 2 of this bill takes effect on July 1, 2021.

Utah Code Sections Affected:

ENACTS UNCODIFIED MATERIAL

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

Section 1. FY 2021 Appropriations. The following sums of money are appropriated for the fiscal year beginning July 1, 2020 and ending June 30, 2021. These are additions to amounts otherwise appropriated for fiscal year 2021.

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

DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL

Item 1

To Department of Alcoholic Beverage Control - DABC Operations
From Beginning Nonlapsing Balances . . . 500,000
Schedule of Programs:
Operations 500,000

Under Section 63J-1-603 of the Utah Code, the Legislature intends that $500,000 of the appropriations provided to the Department of Alcoholic Beverage Control shall not lapse at the close of Fiscal Year 2021. The use of any non-lapsing funds is limited to infrastructure, development and implementation of DABC's operating system, D365 (DABC automated system).

Item 2

To Department of Alcoholic Beverage Control - Parents Empowered
From Beginning Nonlapsing Balances . . . 236,600
Schedule of Programs:
Parents Empowered 236,600

Under Section 63J-1-601(22) of the Utah Code, the Legislature intends that $100,000 of the appropriations provided to the Underage Drinking Prevention Media and Education Campaign Restricted Account in 32B-2-306 shall not lapse at the close of FY 2021. The use of any non-lapsing funds is limited to the Underage Drinking Prevention Media and Education campaigns.

DEPARTMENT OF COMMERCE

Item 3

To Department of Commerce - Building Inspector Training
From Beginning Nonlapsing Balances . . . 842,700
From Closing Nonlapsing Balances 71,500
Schedule of Programs:
Building Inspector Training 914,200

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for the Building Codes and Land Use Education Funds received by the Commerce Building Inspector training in

Laws of Utah 2020 Chapter 8 Item 51, shall not lapse at the close of Fiscal Year 2021. The use of any non-lapsing funds shall be consistent with the statutory guidelines for the funds, comprising dedicated credits estimated at up to $2,300,000.

Item 4
To Department of Commerce - Commerce
General Regulation
From General Fund Restricted - Commerce
Service Account, One-Time 62,400
From Beginning Nonlapsing
Balances 3,545,200
Schedule of Programs:
Administration 418,800
Consumer Protection 13,200
Occupational and Professional
Licensing 602,600
Office of Consumer Services 1,150,400
Public Utilities 1,422,600

Of the appropriations provided by this item, $4,600 is to implement the provisions of Prescription Revisions (House Bill 177, 2020 General Session), $2,700 is to implement the provisions of Consumer Sales Practices Amendments (House Bill 113, 2020 General Session), $5,000 is to implement the provisions of Telephone and Facsimile Solicitation Act Amendments (House Bill 165, 2020 General Session), $3,900 is to implement the provisions of Delegation of Health Care Services Amendments (House Bill 274, 2020 General Session), $5,500 is to implement the provisions of Maintenance Funding Practices Act (House Bill 312, 2020 General Session), $4,800 is to implement the provisions of Professional Licensing Amendments (Senate Bill 201, 2020 General Session), $3,000 is to implement the provisions of Dental Practice Act Amendments (Senate Bill 135, 2020 General Session), $5,900 is to implement the provisions of Pharmacy Practice Act Amendments (Senate Bill 145, 2020 General Session), $14,700 is to implement the provisions of Special Group License Plate Amendments (Senate Bill 212, 2020 General Session), $6,200 is to implement the provisions of Veterinary Technician Certification Amendments (House Bill 455, 2020 General Session), $20,800 is to implement the provisions of Division of Occupational and Professional Licensing Amendments (Senate Bill 23, 2020 General Session).

Item 5
To Department of Commerce - Office of Consumer
Services Professional and Technical Services
From Beginning Nonlapsing
Balances 2,404,400
Schedule of Programs:
Professional and Technical
Services 2,404,400

Item 6
To Department of Commerce - Public
Utilities Professional and Technical Services
From Beginning Nonlapsing
Balances 1,731,400
Schedule of Programs:
Professional and Technical
Services 1,731,400

GOVERNOR'S OFFICE OF ECONOMIC DEVELOPMENT

Item 7
To Governor's Office of Economic Development -
Administration
From General Fund, One-Time 3,000,000
Schedule of Programs:
Administration 3,000,000

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided to the Governor's Office of Economic Development-Administration in Laws of Utah 2020, shall not lapse at the close of Fiscal Year 2021. The use of any non-lapsing funds is limited to: System Management Enhancements, $500,000; Operations Support and Contractual Obligations, $2,500,000; and Business Marketing, $500,000.

Of the appropriations provided by this item, $3,000,000 is to be used for the "In Utah" marketing campaign.

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided to the Governor's Office of Economic Development-Administration for the "In Utah" marketing campaign shall not lapse at the close of Fiscal Year 2021, $3,000,000.

Item 8
To Governor's Office of Economic Development -
Business Development
From General Fund, One-Time ..... (75,000)
From Beginning Nonlapsing
Balances 2,913,700
From Closing Nonlapsing Balances .... (834,600)
Schedule of Programs:
Corporate Recruitment and Business
Services 689,000
Outreach and International Trade ... 1,315,100

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided to the Governor's Office of Economic Development-Business Development in Laws of Utah 2020, shall not lapse at the close of Fiscal Year 2021. The use of any non-lapsing funds is limited to: Business Development $2,500,000; Business Cluster Support $700,000; SBIR/STTR Support $700,000; Outdoor Recreation $250,000; System Development $1,500,000; Corporate Recruitment, Diplomacy contracts and support $1,000,000; Compliance Contracts and Support $500,000; Rural Development Contracts and Support $550,000; Procurement and Technical Assistance Center Contracts $500,000.

Item 9
To Governor's Office of Economic Development – Office of Tourism
From Beginning Nonlapsing Balances 5,436,800
From Closing Nonlapsing Balances ... (4,220,800)
Schedule of Programs:
Administration 201,900
Film Commission 2,709,000
Marketing and Advertising ..... (2,338,600)
Operations and Fulfillment 643,700

Under Section 63J–1–603 of the Utah Code, the Legislature intends that appropriations provided to the Governor's Office of Economic Development–Tourism in Laws of Utah 2020, shall not lapse at the close of Fiscal Year 2021. The use of any non–lapsing funds is limited to contractual obligations and support, $12,000,000.

Item 10
To Governor's Office of Economic Development – Pass–Through

Under Section 63J–1–603 of the Utah Code, the Legislature intends that appropriations provided to the Governors Office of Economic Development–Pass–Through in Laws of Utah 2020, shall not lapse at the close of Fiscal Year 2021. Usage of any non–lapsing funds is limited to contractual obligations and support, $15,000,000.

Item 11
To Governor's Office of Economic Development – Pete Suazo Utah Athletics Commission
From Beginning Nonlapsing Balances 68,900
From Closing Nonlapsing Balances ..... (66,500)
Schedule of Programs:
Pete Suazo Utah Athletics Commission 2,400

Under Section 63J–1–603 of the Utah Code, the Legislature intends that appropriations provided to the Governors Office of Economic Development–Pete Suazo Athletic Commission in Laws of Utah 2020, shall not lapse at the close of Fiscal Year 2021. The use of any non–lapsing funds is limited to: Development of Pete Suazo staff, the commission on best practices, systems integration, and support, $150,000.

Item 12
To Governor's Office of Economic Development – Utah Office of Outdoor Recreation
From Beginning Nonlapsing Balances 99,600
Schedule of Programs:
Utah Children's Outdoor Recreation and Education Grant 99,600

Under Section 63J–1–603 of the Utah Code, the Legislature intends that appropriations provided to the Governor's Office of Economic Development– Office of Outdoor Recreation in Laws of Utah 2020, shall not lapse at the close of Fiscal Year 2021. The use of any non–lapsing appropriated funds is limited to contractual obligations and support, $100,000.

Item 13
To Governor's Office of Economic Development – Rural Employment Expansion Program
From Beginning Nonlapsing Balances ... 604,000
From Closing Nonlapsing Balances .... (794,000)
Schedule of Programs:
Rural Employment Expansion Program ..... (190,000)

Under Section 63J–1–603 of the Utah Code, the Legislature intends that appropriations provided to the Governor's Office of Economic Development– Rural Employment Expansion (Rural Economic Development Initiative) in Laws of Utah 2020, shall not lapse at the close of Fiscal Year 2021. The use of any non–lapsing funds is limited to contractual obligations and support, $2,100,000.

Item 14
To Governor's Office of Economic Development – Talent Ready Utah Center
From General Fund, One–Time 15,000,000
From Beginning Nonlapsing Balances 4,461,900
From Closing Nonlapsing Balances ... (4,600,000)
Schedule of Programs:
Talent Ready Utah Center 15,053,000
Utah Works Program ..... (191,100)

Under Section 63J–1–603 of the Utah Code, the Legislature intends that appropriations provided to the Governor's Office of Economic Development – Talent Ready Utah in Laws of Utah 2020, shall not lapse at the close of Fiscal Year 2021. The use of any non–lapsing funds is limited to contractual obligations and support, $6,000,000.

Under Section 63J–1–603 of the Utah Code, the Legislature intends that the appropriations provided to the Governor's Office of Economic Development–Talent Ready Utah for the COVID–19 Displaced Worker Grant Program shall not lapse at the close of Fiscal Year 2021, $15,000,000.

Of the appropriations provided by this item, $15,000,000 is to be used for the COVID–19 Displaced Worker Grant Program, also known as "Learn and Work in Utah."

Item 15
To Governor's Office of Economic Development – Rural Coworking and Innovation Center Grant Program
From Beginning Nonlapsing Balances ... 500,000
From Closing Nonlapsing Balances .... (580,000)
Schedule of Programs:
Rural Coworking and Innovation Center Grant Program ..... (80,000)

Under Section 63J–1–603 of the Utah Code, the Legislature intends that appropriations provided to the Governor's Office of Economic Development – Rural Coworking & Innovation Center Grants Program in Laws of Utah 2020, shall not lapse at the close of Fiscal Year 2021. Usage of any non–lapsing funds is limited to contractual obligations and support related to the program. $1,250,000.

Item 16
To Governor's Office of Economic Development – Rural Rapid Manufacturing Grant
From Beginning Nonlapsing Balances . . . 219,900
Schedule of Programs:
Rural Rapid Manufacturing Grant 219,900

Under Section 63J–1–603 of the Utah Code, the Legislature intends that appropriations provided to the Governors Office of Economic Development– Rural Rapid Manufacturing Grant in Laws of Utah 2020, shall not lapse at the close of Fiscal Year 2021. The use of any non–lapsing funds is limited to contractual obligations and support, $220,000.

Item 17
To Governor's Office of Economic Development – Inland Port Authority

Under Section 63J–1–603 of the Utah Code, the Legislature intends that appropriations provided to the Governor's Office of Economic Development– Inland Port Authority in Laws of Utah 2020, shall not lapse at the close of Fiscal Year 2021. The use of any non–lapsing funds is limited to contractual obligations and support $2,250,000.

Item 18
To Governor's Office of Economic Development – Point of the Mountain Authority

Under Section 63J–1–603 of the Utah Code, the Legislature intends that appropriations provided to the Governor's Office of Economic Development – Point of the Mountain in Laws of Utah 2020, shall not lapse at the close of Fiscal Year 2021. The use of any non–lapsing funds is limited to contractual obligations and support $5,085,000.

Item 19
To Governor's Office of Economic Development – Rural County Grants Program

Under Section 63J–1–603 of the Utah Code, the Legislature intends that appropriations provided to the Governor's Office of Economic Development – Rural County Grants Program in Laws of Utah 2020, shall not lapse at the close of Fiscal Year 2021. The use of any non–lapsing funds is limited to contractual obligations and support, $2,300,000.

Item 20
To Governor's Office of Economic Development – SBIR/STTR Center

Under Section 63J–1–603 of the Utah Code, the Legislature intends that appropriations provided to the Governor's Office of Economic Development– Economic Assistance Grants in Laws of Utah 2020, shall not lapse at the close of Fiscal Year 2021. The use of any non–lapsing funds is limited to contractual obligations and support, $400,000.

FINANCIAL INSTITUTIONS

Item 21
To Financial Institutions – Financial Institutions Administration
From General Fund Restricted –
Financial Institutions, One–Time . . . . . (1,100)
Schedule of Programs:
Administration . . . . . (1,100)

DEPARTMENT OF HERITAGE AND ARTS

Item 22
To Department of Heritage and Arts – Administration
From Beginning Nonlapsing Balances . . . 379,500
From Closing Nonlapsing Balances . . . . (264,300)
Schedule of Programs:
Administrative Services . . . . . (79,400)
Information Technology 200,700
Utah Multicultural Affairs Office . . . . . (6,100)

Under section 63J–1–603 of the Utah Code, the Legislature intends that up to $350,000 of the General Fund provided by Item 110, Chapter 8, Laws of Utah 2020 for the Department of Heritage and Arts – Administration Division not lapse at the close of Fiscal Year 2021. These funds are to be used for special projects, building maintenance, renovation, and outreach.

Under section 63J–1–603 of the Utah Code, the Legislature intends that up to $280,000 of the General Fund provided by Item 110, Chapter 8, Laws of Utah 2020 for the Department of Heritage and Arts – Administration Division not lapse at the close of Fiscal Year 2021. These funds are to be used for outreach and community programming.

Under section 63J–1–603 of the Utah Code, the Legislature intends that up to $537,300 of the General Fund provided by Item 110, Chapter 8, Laws of Utah 2020 for the Department of Heritage and Arts – Administration Division not lapse at the close of Fiscal Year 2021. These funds are to be used for digital, IT, and innovation purposes.

Item 23
To Department of Heritage and Arts – Division of Arts and Museums
From Beginning Nonlapsing Balances . . . 292,400
From Closing Nonlapsing Balances . . . . (100,000)
Schedule of Programs:
Community Arts Outreach . . . . . (7,600)
Grants to Non–profits 200,000

Under Section 63J–1–603 of the Utah Code, the Legislature intends that up to $300,000 of the General Fund provided by Item 111, Chapter 8, Laws of Utah 2020 for the Department of Heritage and Arts – Division of Arts and Museums not lapse at the close of Fiscal Year 2021. These funds will be used as intended as the "Milk Money" appropriated during the 2018 General Session.

Under Section 63J–1–603 of the Utah Code, the Legislature intends that up to $200,000 of the General Fund provided by Item 111, Chapter 8, Laws of Utah 2020 for the Department of Heritage and Arts – Division of Arts and Museums not lapse at the close of Fiscal Year 2021. These funds are to be used

for cultural outreach, community programming, and the purchase of art.

Item 24
To Department of Heritage and Arts - Commission on Service and Volunteerism

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to $50,000 of the General Fund provided by Item 112, Chapter 8, Laws of Utah 2020 for the Department of Heritage and Arts - Commission on Service and Volunteerism not lapse at the close of Fiscal Year 2021. These funds will be used for community outreach and programming.

Item 25
To Department of Heritage and Arts - Historical Society
From Beginning Nonlapsing Balances 10,200
From Closing Nonlapsing Balances ..... (10,200)

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to $124,900 of the General Fund provided by Item 113, Chapter 8, Laws of Utah 2020 for the Department of Heritage and Arts - Historical Society Division not lapse at the close of Fiscal Year 2021. These funds will be used for publishing and promoting the Historical Quarterly magazine.

Item 26
To Department of Heritage and Arts - Indian Affairs
From Beginning Nonlapsing Balances 4,800
From Closing Nonlapsing Balances ..... (8,500)
Schedule of Programs:
Indian Affairs ..... (3,700)

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to $200,000 of the General Fund provided by Item 114, Chapter 8, Laws of Utah 2020 for the Department of Heritage and Arts - Indian Affairs Division not lapse at the close of Fiscal Year 2021. The funds will be used for operations, projects, and community outreach.

Item 27
To Department of Heritage and Arts - Pass-Through
From Beginning Nonlapsing Balances ... 995,000
Schedule of Programs:
Pass-Through 995,000

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriation of General Fund provided by Item 115, Chapter 8, Laws of Utah 2020 for the Department of Heritage and Arts - Pass Through not lapse at the close of Fiscal Year 2021. These funds will be used for contractual obligations and support.

Item 28
To Department of Heritage and Arts - State History
From Beginning Nonlapsing Balances ..... (302,200)
From Closing Nonlapsing Balances 370,700
Schedule of Programs:
Historic Preservation and Antiquities ... 68,500

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to $150,000 of the General Fund provided by Item 116, Chapter 8, Laws of Utah 2020 for the Department of Heritage and Arts - State History Division not lapse at the close of Fiscal Year 2021. These funds will be used for operations, application maintenance, projects, and community outreach.

Item 29
To Department of Heritage and Arts - State Library
From Beginning Nonlapsing Balances ..... (88,900)
From Closing Nonlapsing Balances 342,400
Schedule of Programs:
Administration 349,600
Blind and Disabled 115,400
Library Resources ..... (211,500)

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to $500,000 of the General Fund provided by Item 117, Chapter 8, Laws of Utah 2020 for the Department of Heritage and Arts - Division of State Library not lapse at the close of Fiscal Year 2021. These funds will be used for operations, application maintenance, projects, and community outreach.

Item 30
To Department of Heritage and Arts - Stem Action Center
From Beginning Nonlapsing Balances ... 121,000
Schedule of Programs:
STEM Action Center 121,000

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to $1,000,000 of the General Fund provided by Item 118, Chapter 8, Laws of Utah 2020 for the Department of Heritage and Arts - STEM Action Center Division not lapse at the close of Fiscal Year 2021. These funds will be used for contractual obligations and support.

Item 31
To Department of Heritage and Arts - One Percent for Arts
From Beginning Nonlapsing Balances ... (7,400)
From Closing Nonlapsing Balances 7,400

INSURANCE DEPARTMENT

Item 32
To Insurance Department - Health Insurance Actuary
From Beginning Nonlapsing Balances 65,900
From Closing Nonlapsing Balances ..... (65,900)

Item 33
To Insurance Department - Insurance Department Administration
From General Fund Restricted - Insurance Department Acct., One-Time 10,800
From Beginning Nonlapsing Balances ... 324,600
From Closing Nonlapsing Balances .... (650,300)
Schedule of Programs:

Administration ..... (261,800)
Captive Insurers ..... (53,100)

Of the appropriations provided by this item, $2,500 is to implement the provisions of Insurance Amendments (House Bill 37, 2020 General Session) and $8,300 is to implement the provisions of Insurance Modifications (House Bill 349, 2020 General Session).

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided from the Insurance Department Restricted Account for the Insurance Department Administrative line item not lapse at the close of Fiscal Year 2021. The use of non-lapsing funds is limited IT-related expenses and projects.

Item 34
To Insurance Department - Title Insurance Program
From Beginning Nonlapsing Balances 51,900
From Closing Nonlapsing Balances ..... (51,800)
Schedule of Programs:
Title Insurance Program 100

LABOR COMMISSION

Item 35
To Labor Commission
From General Fund, One-Time 2,486,700
From Employers' Reinsurance Fund, One-Time ..... (100)
Schedule of Programs:
Administration 2,486,600

Of the appropriations provided by this item, $2,500,000 is to be used for Small Business Quarantine Grant Program.

Under Section 63J-1-603 of the Utah Code, the Legislature intends that the appropriations provided to the Labor Commission line item for the Small Business Quarantine Grant Program shall not lapse at the close of Fiscal Year 2021, $2,500,000.

PUBLIC SERVICE COMMISSION

Item 36
To Public Service Commission
From Beginning Nonlapsing Balances ... 235,000
From Closing Nonlapsing Balances .... (235,000)

UTAH STATE TAX COMMISSION

Item 37
To Utah State Tax Commission - License Plates Production
From Beginning Nonlapsing Balances ... 115,600
From Closing Nonlapsing Balances .... (115,600)

Item 38
To Utah State Tax Commission - Tax Administration
From Dedicated Credits Revenue, One-Time 22,500
Schedule of Programs:
Motor Vehicles 22,500

Of the appropriations provided by this item, $7,500 is to implement the provisions of Special Group License Plate Amendments (Senate Bill 212, 2020 General Session).

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided to the Tax Commission - Administration up to $1,000,000 not lapse at the close of FY 2020. The use of nonlapsing funds is limited to protecting and enhancing the State's tax and motor vehicle systems and processes; paying for mailed postcard reminders; continuing to protect the State's revenues from tax fraud, identity theft, and security intrusions; and litigation and related costs.

Subsection 1(b). Expendable Funds and Accounts. The Legislature has reviewed the following expendable funds. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated. Outlays and expenditures from the funds or accounts to which the money is transferred may be made without further legislative action, in accordance with statutory provisions relating to the funds or accounts.

DEPARTMENT OF COMMERCE

Item 39
To Department of Commerce - Architecture Education and Enforcement Fund
From Beginning Fund Balance 38,900
From Closing Fund Balance ..... (13,900)
Schedule of Programs:
Architecture Education and Enforcement Fund 25,000

Item 40
To Department of Commerce - Consumer Protection Education and Training Fund

Under the terms of Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for the Consumer Protection Education and Training Fund not lapse at the close of Fiscal Year 2021. Expendable Special Revenue Funds are exempt from lapsing at year-end. The use of any non-lapsing funds herein is limited to: Covering costs associated with opioid litigation undertaken by the state, including that contemplated by House Joint Resolution 12, "Joint Resolution Calling Upon the Attorney General to Sue Prescription Opioid Manufacturers": $500,000; Commerce Department Consumer Information Efforts $300,000; and Standard Division Education and Enforcement as defined in statute: $500,000.

Item 41
To Department of Commerce - Cosmetologist/Barber, Esthetician, Electrologist Fund
From Beginning Fund Balance 9,400
From Closing Fund Balance ..... (9,400)

Item 42
To Department of Commerce –
Land Surveyor/Engineer Education and Enforcement Fund
From Beginning Fund Balance 22,400
From Closing Fund Balance ..... (22,400)

Item 43
To Department of Commerce –
Landscapes Architects Education and Enforcement Fund
From Beginning Fund Balance 28,700
From Closing Fund Balance ..... (28,700)

Item 44
To Department of Commerce –
Physicians Education Fund
From Beginning Fund Balance 17,400
From Closing Fund Balance ..... (17,400)

Item 45
To Department of Commerce – Real Estate Education, Research, and Recovery Fund
From Beginning Fund Balance 119,900
From Closing Fund Balance ..... (35,400)
Schedule of Programs:
Real Estate Education, Research, and Recovery Fund 84,500

Item 46
To Department of Commerce – Residence Lien Recovery Fund
From Beginning Fund Balance 69,300
From Closing Fund Balance ..... (69,300)

Item 47
To Department of Commerce – Residential Mortgage Loan Education, Research, and Recovery Fund
From Beginning Fund Balance ..... (47,700)
From Closing Fund Balance 47,700

Item 48
To Department of Commerce – Securities Investor Education/Training/Enforcement Fund
From Beginning Fund Balance ..... (47,900)
From Closing Fund Balance 47,900

GOVERNOR'S OFFICE OF ECONOMIC DEVELOPMENT

Item 49
To Governor's Office of Economic Development – Outdoor Recreation Infrastructure Account
From Beginning Fund Balance 8,204,900
From Closing Fund Balance ..... (7,400,000)
Schedule of Programs:
Outdoor Recreation Infrastructure Account 804,900

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided to the Governor's Office of Economic Development- Outdoor Recreation Infrastructure Account in Laws of Utah 2020, shall not lapse at the close of Fiscal Year 2021. Usage of any non-lapsing funds is limited to contractual obligations and support. $10,000,000.

DEPARTMENT OF HERITAGE AND ARTS

Item 50
To Department of Heritage and Arts –
History Donation Fund
From Beginning Fund Balance ..... (83,600)
From Closing Fund Balance 83,600

Item 51
To Department of Heritage and Arts –
State Arts Endowment Fund
From Beginning Fund Balance 2,300
From Closing Fund Balance 4,900
Schedule of Programs:
State Arts Endowment Fund 7,200

Item 52
To Department of Heritage and Arts – State Library Donation Fund
From Beginning Fund Balance 189,700
From Closing Fund Balance ..... (189,700)

INSURANCE DEPARTMENT

Item 53
To Insurance Department – Insurance Fraud Victim Restitution Fund
From Beginning Fund Balance 120,100
From Closing Fund Balance ..... (120,100)

Item 54
To Insurance Department – Title Insurance Recovery Education and Research Fund
From Beginning Fund Balance 47,800
From Closing Fund Balance ..... (47,800)

PUBLIC SERVICE COMMISSION

Item 55
To Public Service Commission – Universal Public Telecom Service
From Beginning Fund Balance 4,653,700
From Closing Fund Balance ..... (4,653,700)

Subsection 1(c). Restricted Fund and Account Transfers. The Legislature authorizes the State Division of Finance to transfer the following amounts between the following funds or accounts as indicated. Expenditures and outlays from the funds to which the money is transferred must be authorized by an appropriation.

Item 56
To Latino Community Support Restricted Account
From Dedicated Credits Revenue, One-Time 12,500
Schedule of Programs:
Latino Community Support Restricted Account 12,500

Of the appropriations provided by this item, $12,500 is to implement the provisions of Special Group License Plate Amendments (Senate Bill 212, 2020 General Session).

Item 57
To General Fund Restricted – Industrial Assistance Account
From General Fund, One-Time 5,354,000
From Interest Income, One-Time ..... (550,000)

Schedule of Programs:
General Fund Restricted – Industrial Assistance Account 4,804,000

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided to the Governor's Office of Economic Development – Industrial Assistance Account in Laws of Utah 2020, shall not lapse at the close of Fiscal Year 2021. Usage of any non-lapsing funds is limited to contractual obligations and support. $15,000,000.

Item 58
To General Fund Restricted – Motion Picture Incentive Fund

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided to the Governor's Office of Economic Development- Motion Picture Incentive Account in Laws of Utah 2020, shall not lapse at the close of Fiscal Year 2021. Usage of any non-lapsing funds are for contractual obligations and support. $2,500,000.

Item 59
To General Fund Restricted – Tourism Marketing Performance Fund

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided to the Governor's Office of Economic Development – Tourism Marketing Performance Fund in Laws of Utah 2020, shall not lapse at the close of Fiscal Year 2021. Usage of any non-lapsing funds is for contractual obligations and support. $24,000,000.

Item 60
To General Fund Restricted – Native American Repatriation Restricted Account
From Beginning Fund Balance 20,000
From Closing Fund Balance ..... (40,000)
Schedule of Programs:
General Fund Restricted – Native American Repatriation Restricted Account ..... (20,000)

Item 61
To General Fund Restricted – National Professional Men's Soccer Team Support of Building Communities
From Dedicated Credits Revenue, One-Time ..... (100,000)
Schedule of Programs:
General Fund Restricted – National Professional Men's Soccer Team Support of Building Communities ..... (100,000)

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

LABOR COMMISSION

Item 62
To Labor Commission – Employers Reinsurance Fund
From Beginning Fund Balance 16,087,600
Schedule of Programs:
Employers Reinsurance Fund 16,087,600

Item 63
To Labor Commission – Uninsured Employers Fund
From Dedicated Credits Revenue, One-Time ..... (19,600)
From Interest Income, One-Time ..... (400)
From Trust and Agency Funds, One-Time ..... (5,300)
From Beginning Fund Balance 1,204,400
Schedule of Programs:
Uninsured Employers Fund 1,179,100

Item 64
To Labor Commission – Wage Claim Agency Fund
From Beginning Fund Balance ..... (1,055,600)
From Closing Fund Balance 1,055,600

Section 2. FY 2022 Appropriations. The following sums of money are appropriated for the fiscal year beginning July 1, 2021 and ending June 30, 2022.

Subsection 2(a). Operating and Capital Budgets. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL

Item 65
To Department of Alcoholic Beverage Control – DABC Operations
From Liquor Control Fund 59,128,900
Schedule of Programs:
Administration 961,500
Executive Director 3,384,400
Operations 3,796,900
Stores and Agencies 45,815,400
Warehouse and Distribution 5,170,700

In accordance with UCA 63J-1-201, the Legislature intends that the Department of Alcoholic Beverage Control report performance measures for the DABC Operations line item, whose mission is, "Conduct, license, and regulated the sale of alcoholic products in a manner and at prices that: Reasonably satisfy the public demand and protect the public interest, including the rights of citizens who do not wish to be involved with alcoholic products." The Department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measure for FY 2022: 1) On Premise licensee audits conducted (Target = 85%); 2) Percentage of net profit to sales (Target = 23%); Supply chain (Target = 97% in stock); 4) Liquor payments processed within 30 days of invoices received (Target = 97%).

Item 66
To Department of Alcoholic Beverage Control – Parents Empowered
From General Fund Restricted – Underage Drinking Prevention Media and Education Campaign Restricted Account 2,340,900
Schedule of Programs:
Parents Empowered 2,340,900

In accordance with UCA 63J–1–201, the Legislature intends that the Department of Alcoholic Beverage Control report performance measures for the Parents Empowered line item, whose mission is, "pursue a leadership role in the prevention of underage alcohol consumption and other forms of alcohol misuse and abuse. Serve as a resource and provider of alcohol educational, awareness, and prevention programs and materials. Partner with other government authorities, advocacy groups, legislators, parents, communities, schools, law enforcement, business and community leaders, youth, local municipalities, state and national organizations, alcohol industry members, alcohol licensees, etc., to work collaboratively to serve in the interest of public health, safety, and social well–being, for the benefit of every one in our communities." The Department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measure for FY 2022: 1) Ad awareness of the dangers of underage drinking and prevention tips (Target =70%); 2) Ad awareness of "Parents Empowered" (Target =60%); 3) Percentage of students who used alcohol during their lifetime (Target = 16%).

DEPARTMENT OF COMMERCE

Item 67
To Department of Commerce – Building Inspector Training
From Dedicated Credits Revenue 832,000
From Beginning Nonlapsing Balances ... 832,000
From Closing Nonlapsing Balances .... (812,600)
Schedule of Programs:
Building Inspector Training 851,400

Item 68
To Department of Commerce – Commerce General Regulation
From General Fund 600
From Federal Funds 426,700
From Dedicated Credits Revenue 1,985,200
From General Fund Restricted – Commerce Service Account 23,631,900
From General Fund Restricted – Factory Built Housing Fees 105,600
From Gen. Fund Rest. – Geologist Education and Enforcement 20,800
From Gen. Fund Rest. – Latino Community Support Rest. Acct 12,500
From Gen. Fund Rest. – Nurse Education & Enforcement Acct. 50,700
From General Fund Restricted – Pawnbroker Operations 142,500
From General Fund Restricted – Public Utility Restricted Acct. 6,079,400
From Revenue Transfers 800
From General Fund Restricted – Utah Housing Opportunity Restricted .. 20,400
From Pass–through 134,800
From Beginning Nonlapsing Balances ... 650,000
From Closing Nonlapsing Balances .... (400,000)
Schedule of Programs:
Administration 4,776,600
Building Operations and Maintenance 298,900
Consumer Protection 2,402,500
Corporations and Commercial Code 2,774,100
Occupational and Professional Licensing 10,910,500
Office of Consumer Services 1,492,100
Public Utilities 5,199,300
Real Estate 2,570,500
Securities 2,437,400

Of the appropriations provided by this item, $4,600 is to implement the provisions of Prescription Revisions (House Bill 177, 2020 General Session), $2,700 is to implement the provisions of Consumer Sales Practices Amendments (House Bill 113, 2020 General Session), $5,000 is to implement the provisions of Telephone and Facsimile Solicitation Act Amendments (House Bill 165, 2020 General Session), $4,100 is to implement the provisions of Maintenance Funding Practices Act (House Bill 312, 2020 General Session), $14,700 is to implement the provisions of Special Group License Plate Amendments (Senate Bill 212, 2020 General Session), $11,500 is to implement the provisions of Veterinary Technician Certification Amendments (House Bill 455, 2020 General Session), $3,600 is to implement the provisions of Division of Occupational and Professional Licensing Amendments (Senate Bill 23, 2020 General Session).

In accordance with UCA 63J–1–201, the Legislature intends that the Department of Commerce report performance measures for the Commerce General Regulation line item, whose mission is "to protect the public and to enhance commerce through licensing and regulation." The Department of Commerce shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measures for FY 2022: 1) Increase the percentage of all available licensing renewals to be performed online by licensees in the Division of Occupational and Professional Licensing. (Target = Ratio of potential online renewal

licensees who actually complete their license renewal online instead of in person on paper to be greater than 94%) 2) Increase the utility of and overall searches within the Controlled Substance Database by enhancing the functionality of the database and providing outreach. (Target = 5% increase in the number of controlled substance database searches by providers and enforcement through increased outreach) 3) Achieve and maintain corporation annual business online filings vs. paper filings above to or above (Target = 97% of the total filings managed to mitigate costs to the division and filer in submitting filing information).

Item 69

To Department of Commerce – Office of Consumer Services Professional and Technical Services
From General Fund Restricted –
Public Utility Restricted Acct. 503,100
From Beginning Nonlapsing Balances . . . 503,100
From Closing Nonlapsing Balances . . . . (503,100)
Schedule of Programs:
Professional and Technical Services . . . 503,100

In accordance with UCA 63J-1-201, the Legislature intends that the Department of Commerce report performance measures for the Office of Consumer Services Professional and Technical Services line item, whose mission is to "assess the impact of utility regulatory actions and advocate positions advantageous to residential, small commercial, and irrigation consumers of natural gas, electric and telephone public utility service." The Department of Commerce shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measures for FY 2022: 1) Evaluate total "dollars at stake" in the individual rate cases or other utility regulatory actions to ensure that this fund is hiring contract experts in cases that overall have high potential dollar impact on customers. (Target = 10%, i.e. total dollars spent on contract experts will not exceed 10% of the annual potential dollar impact of the utility actions.), 2) The premise of having a state agency advocate for small utility customers is that for each individual customer the impact of a utility action might be small, but in aggregate the impact is large. To ensure that contract experts are used in cases that impact large numbers of small customers, consistent with the vision for this line item, the dollars spent per each instance of customer impact could be measured. (Target = less than ten cents per customer impact.)

Item 70

To Department of Commerce – Public Utilities Professional and Technical Services
From General Fund Restricted – Public Utility Restricted Acct. 150,000
From Beginning Nonlapsing Balances . . . 150,000
From Closing Nonlapsing Balances . . . . (150,000)
Schedule of Programs:
Professional and Technical Services . . . 150,000

In accordance with UCA 63J-1-201, the Legislature intends that the Department of Commerce report performance measures for the Public Utilities Professional and Technical Services line item, whose mission is to "retain professional and technical consultants to augment division staff expertise in energy rate cases." The Department of Commerce shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measures for FY 2022: 1) contract with industry professional consultants who possess expertise that the Division of Public Utilities requires for rate and revenue discussion and analysis of regulated utilities (Target = A fraction of consultant dollars spent vs. the projected cost of having full time employees with the extensive expertise needed on staff to complete the consultant work target of 40% average savings.)

GOVERNOR'S OFFICE OF ECONOMIC DEVELOPMENT

Item 71

To Governor's Office of Economic Development – Administration
From General Fund 2,638,700
From Beginning Nonlapsing Balances 1,516,700
Schedule of Programs:
Administration 4,155,400

In accordance with UCA 63J-1-201, the Legislature intends that the Governors Office of Economic Development report performance measures for the Administration line item, whose mission is to "Enhance quality of life by increasing and diversifying Utah's revenue base and improving employment opportunities" The Governors Office of Economic Development shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measures for FY 2022: 1) Finance processing: invoices and reimbursements will be processed and remitted for payment within five days (Target = 90%), 2) Contract processing efficiency: all contracts will be drafted within 14 days and all signed contracts will be processed and filed within 10 days of receiving the partially executed contract. (Target = 95%), 3) Public and Community Relations – Increase

development, dissemination, facilitation and support of media releases, media advisories, interviews, cultivated articles and executive presentations. (Target = 10%).

Item 72

To Governor's Office of Economic Development – Business Development
From General Fund 7,038,200
From Federal Funds 686,000
From Dedicated Credits Revenue 386,900
From General Fund Restricted – Industrial Assistance Account 258,400
From Beginning Nonlapsing Balances ... 834,600
Schedule of Programs:
Corporate Recruitment and Business Services 6,203,700
Outreach and International Trade ... 3,000,400

In accordance with UCA 63J-1-201, the Legislature intends that the Governor's Office of Economic Development report performance measures for the Corporate Recruitment & Business Services line item, whose mission is to "grow the economy by identifying, nurturing, and closing proactive corporate recruitment opportunities and by providing robust business services to organizations throughout the state." The Governor's Office of Economic Development shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measures for FY 2022: 1) Corporate Recruitment: increase year over year average wage by 2%. 2) Business services: increase the total number of businesses served by 4% per year. 3) Compliance: perform assessments on 60% of active contracts with follow up to each.

Item 73

To Governor's Office of Economic Development – Office of Tourism
From General Fund 4,311,400
From Transportation Fund 118,000
From Dedicated Credits Revenue 343,000
From General Fund Rest. – Motion Picture Incentive Acct. 1,432,000
From General Fund Restricted – Tourism Marketing Performance ... 22,822,800
From Beginning Nonlapsing Balances 4,220,800
Schedule of Programs:
Administration 1,169,000
Film Commission 2,256,200
Marketing and Advertising 27,043,600
Operations and Fulfillment 2,779,200

In accordance with UCA 63J-1-201, the Legislature intends that the Utah Office of Tourism report performance measures for the Tourism and Film line item, whose mission is to "promote Utah as a vacation destination to out-of-state travelers, generating state and local tax revenues to strengthen Utah's economy and to market the entire State Of Utah for film, television and commercial production by promoting the use of local professional cast & crew, support services, locations and the Motion Picture Incentive Program." The Utah Office of Tourism shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measures for FY 2022: 1) Tourism Marketing Performance Account – Increase state sales tax revenues in weighted travel-related NAICS categories as outlined in Utah Code 63N-7-301 (Target = Revenue Growth over 3% or Consumer Price Index – whichever baseline is higher). 2) Tourism SUCCESS Metric – increase number of engaged visitors to VisitUtah.com website (engaged website visitors are those who meet specific thresholds for time on site and page views) (Target = 20% increase annually). 3) Film Commission Metric – Increase film production spending in Utah (Target = 5% annually).

Item 74

To Governor's Office of Economic Development – Pass-Through
From General Fund 7,455,400
Schedule of Programs:
Pass-Through 7,455,400

In accordance with UCA 63J-1-201, the Legislature intends that the Governor's Office of Economic Development report performance measures for the Pass-through line item, whose mission is to "enhance quality of life by increasing and diversifying Utahs revenue base and improving employment opportunities." The Governor's Office of Economic Development shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measures for FY 2022: 1) Contract processing efficiency: all contracts will be drafted within 14 days following proper legislative intent and all signed contracts will be processed and filed within 10 days of receiving the partially executed contract. (Target = 95%), 2) Assessment: Completed contracts will be assessed against scope of work, budget, and contract, (Target = 100%) 3) Finance processing: invoices will be processed and remitted for payment within five days. (Target = 90%)

Item 75

To Governor's Office of Economic Development – Pete Suazo Utah Athletics Commission
From General Fund 174,000
From Dedicated Credits Revenue 69,200
From Beginning Nonlapsing Balances 66,500
Schedule of Programs:

Pete Suazo Utah Athletics
Commission 309,700

In accordance with UCA 63J-1-201, the Legislature intends that the Pete Suazo Utah Athletic Commission report performance measures for the Pete Suazo Athletic Commission line item, whose mission is Maintaining the health, safety, and welfare of the participants and the public as they are involved in the professional unarmed combat sports. The Pete Suazo Utah Athletic Commission shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measures for FY 2022: 1) High Profile Events - The Pete Suazo Utah Athletic Commission (PSUAC) averages 37 "Combat Sports" events and one "high profile event" per year. PSUAC will target one additional "high profile event" next year. 2) Licensure Efficiency -The PSUAC has averaged 991 licenses issued annually over the last 3 years, with less than 5% of those licenses issued in advance of the events. Implementation of an online registration will improve efficiency (Target = 90%). 3) Increase revenue - Annual average revenue of nearly $30,000 over the last 3 years. (Target = 12%)

Item 76
To Governor's Office of Economic Development - Rural Employment Expansion Program
From General Fund 1,500,000
From Beginning Nonlapsing Balances ... 794,000
Schedule of Programs:
Rural Employment Expansion Program 2,294,000

In accordance with UCA 63J-1-201, the Legislature intends that the Governor's Office of Economic Development report performance measures for the Rural Employment Expansion Program line item, whose mission is to "partner growing companies statewide with a quality workforce in rural Utah." The Governor's Office of Economic Development shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measures for FY 2022: (1) Business development: Increase state-wide business participation in program (Target = 5%). (2) Workforce: Increase REDI-qualified position participation (Target = 5%).

Item 77
To Governor's Office of Economic Development - Talent Ready Utah Center
From General Fund 1,422,700
From Dedicated Credits Revenue 50,000
From Beginning Nonlapsing Balances 4,600,000
Schedule of Programs:
Talent Ready Utah Center 472,700
Utah Works Program 5,600,000

In accordance with UCA 63J-1-201, the Legislature intends that Talent Ready Utah report performance measures for the Talent Ready Utah line item, whose mission is "focus and optimize the efforts businesses make to enhance education." Talent Ready Utah shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measures for FY 2022: (1) Support new industry and education partnership each year (Target = 20%). (2) Expand current pathway programs throughout school districts in the state each year (Target = 5%). (3) Create/Support new pathway programs each year (Target = 10%).

Item 78
To Governor's Office of Economic Development - Rural Coworking and Innovation Center Grant Program
From General Fund 750,000
From Beginning Nonlapsing Balances ... 580,000
Schedule of Programs:
Rural Coworking and Innovation Center Grant Program 1,330,000

In accordance with UCA 63J-1-201, the Legislature intends that the Governor's Office of Economic Development report performance measures for the Rural Coworking and Innovation Center Grant Program line item, whose mission is to "enhance quality of life by increasing and diversifying Utah's revenue base and improving employment opportunities" The Governor's Office of Economic Development shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measures for FY 2022: (1) Program Efficiency: Award the total legislative appropriation for fiscal year. (Target = 100%) (2) Assessment: Completed projects will be assessed against scope of work and budget. (Target = 100%). (3) Finance processing: invoices will be processed and remitted for payment within five days. (Target = 90%)

Item 79
To Governor's Office of Economic Development - Inland Port Authority
From General Fund 2,250,000
Schedule of Programs:
Inland Port Authority 2,250,000

In accordance with UCA 63J-1-201, the Legislature intends that the Governor's Office of Economic Development report performance measures for the Inland Port

Authority line item, whose mission is to "enhance quality of life by increasing and diversifying Utah's revenue base and improving employment opportunities" The Governor's Office of Economic Development shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measures for FY 2022: (1) Finance & Budget: Accounting standards will be in compliance with state regulations and guidance set forth by the State Auditors Office; budget reports will be made quarterly and maintain board approved balances. (Target = 98%). (2) Business Development: Report on business development in targeted areas to focus needs in all counties 29 counties across the state. (Target = 24). (3) Communications: Actively respond to requests via webpage for information, comments, or other purposes. (Target = 95%).

Item 80

To Governor's Office of Economic Development – Point of the Mountain Authority
From General Fund 950,000
Schedule of Programs:
Point of the Mountain Authority 950,000

In accordance with UCA 63J-1-201, the Legislature intends that the Governor's Office of Economic Development report performance measures for the Point of the Mountain Authority line item, whose mission is to "enhance quality of life by increasing and diversifying Utah's revenue base and improving employment opportunities" The Governor's Office of Economic Development shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measures for FY 2022: (1) Engage a planning team to develop the framework master plan for The Point by June 30, 2021. (2) Conduct a process to gather input on the proposed master plan from the Working Groups, key stakeholders, and the public by June 30, 2021. (3) Create a process to evaluate development proposals from outside parties for The Point by June 30, 2021.

Item 81

To Governor's Office of Economic Development – Rural County Grants Program
From General Fund 2,300,000
Schedule of Programs:
Rural County Grants Program 2,300,000

In accordance with UCA 63J-1-201, the Legislature intends that the Governor's Office of Economic Development report performance measures for the Rural County Grants Program line item, whose mission is to "enhance quality of life by increasing and diversifying Utah's revenue base and improving employment opportunities" The Governor's Office of Economic Development shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measures for FY 2022: (1) Program Efficiency: Award the total legislative appropriation for fiscal year. (Target = 100%) (2) Assessment: Completed projects will be assessed against scope of work and budget. (Target = 100%). (3) Finance processing: invoices will be processed and remitted for payment within five days. (Target = 90%)

Item 82

To Governor's Office of Economic Development – SBIR/STTR Center
From General Fund 385,600
From Dedicated Credits Revenue 16,100
Schedule of Programs:
SBIR/STTR Center 401,700

In accordance with UCA 63J-1-201, the Legislature intends that the Governor's Office of Economic Development report performance measures for the SBIR/STTR Center line item, whose mission is to "enhance quality of life by increasing and diversifying Utah's revenue base and improving employment opportunities" The Governor's Office of Economic Development shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measures for FY 2022: (1) Provide statewide access to SBIR/STTR Assistance Center services and SBIR/STTR programs (Target: 15 workshops annually = 100%). (2) Increase development and dissemination of Utah SBIR/STTR information (Target – weekly disbursement; 100%). (3) Staff will be up to date on changes and requirements of the eleven agencies within the SBIR/STTR program (Target: Staff will attend/participate in related conferences/meetings programs and report to the team; 100%).

FINANCIAL INSTITUTIONS

Item 83

To Financial Institutions – Financial Institutions Administration
From General Fund Restricted – Financial Institutions 8,097,500
Schedule of Programs:
Administration 7,777,500
Building Operations and Maintenance 320,000

In accordance with UCA 63J-1-201, the Legislature intends that the Department of Financial Institutions report performance measures for the Financial Institutions Administration line item, whose mission is to "to charter, regulate, and supervise persons, firms, organizations, associations, and other business entities furnishing financial services to the citizens of the state of Utah." The Department of Financial Institutions shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measures for FY 2022: (1) Depository Institutions not on the Departments "Watched Institutions" list (Target = 80.0%), (2) Number of Safety and Soundness Examinations (Target = Equal to the number of depository institutions chartered at the beginning of the fiscal year), and (3) Total Assets Under Supervision, Per Examiner (Target = $3.8 billion), to the Business, Economic Development, and Labor Appropriations Subcommittee.

DEPARTMENT OF HERITAGE AND ARTS

Item 84

To Department of Heritage and Arts - Administration
From General Fund 3,859,000
From Dedicated Credits Revenue 123,400
From General Fund Restricted - Martin Luther King Jr Civil Rights Support Restricted Account 7,500
From Beginning Nonlapsing Balances ... 840,600
From Closing Nonlapsing Balances .... (504,200)
Schedule of Programs:
Administrative Services 1,955,400
Executive Director's Office 512,200
Information Technology 1,405,700
Utah Multicultural Affairs Office 453,000

In accordance with UCA 63J-1-201, the Legislature intends that the Department of Heritage and Arts report performance measures for the Administration line item, whose mission is, "Increase value to customers through leveraged collaboration between divisions and foster a culture of continuous improvement to find operational efficiencies." The Department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measure for FY 2022: 1) Foster collaboration across division and agency lines. Percentage of division programs that are engaged in at least one collaborative project annually. (Target = 66% annually); 2) Assess areas of internal risk. Complete Internal Performance audits aligned with department-wide risk assessment. (Target = 2 annually); 3) Move organization toward outcome/impact measurement by developing at least one outcome-based performance measure per division. (Target = 33% annually); 4) Digitally share the States historical and art collections (including art, artifacts,manuscripts, maps, etc.) The percentage of collection digitized and available online. (Target = 35%); 5) Expand the reach and impact of youth engagement without disrupting the quality of programming by engaging a target number of students from a wide range of schools. (Target = 1,450 Students and 60 Schools); 6) Implement procedures to ensure that programming is available to vulnerable student populations by measuring the percentage of students attending that align with identified target audiences. (Target = 78%)

Item 85

To Department of Heritage and Arts - Division of Arts and Museums
From General Fund 5,170,300
From Federal Funds 910,500
From Dedicated Credits Revenue 102,000
From Beginning Nonlapsing Balances ... 100,000
Schedule of Programs:
Administration 635,300
Community Arts Outreach 2,010,600
Grants to Non-profits 3,371,600
Museum Services 265,300

In accordance with UCA 63J-1-201, the Legislature intends that the Department of Heritage and Arts report performance measures for the Arts and Museums line item, whose mission is, "connect people and communities through arts and museums." The Department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measure for FY 2022: 1) Foster collaborative partnerships to nurture understanding of art forms and cultures in local communities through a travelling art exhibition program emphasizing services in communities lacking easy access to cultural resources. Measure the number of counties served by Travelling Exhibitions annually (Target = 69% of counties annually); 2)Support the cultural and economic health of communities through grant funding, emphasizing support to communities lacking easy access to cultural resources. The number of counties served by grant funding will be tracked (Target=27); 3) : Provide training and professional development to the cultural sector, emphasizing services to communities lacking easy access to cultural resources. The number of people served will be tracked (Target=2500)

Item 86
To Department of Heritage and Arts –
Commission on Service and Volunteerism
From General Fund 437,500
From Federal Funds 4,689,400
From Dedicated Credits Revenue 37,700
Schedule of Programs:
Commission on Service and
Volunteerism 5,164,600

In accordance with UCA 63J-1-201, the Legislature intends that the Department of Heritage and Arts report performance measures for the Commission on Service and Volunteerism line item. The Department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measure for FY 2022: 1) Assist organizations in Utah to effectively use service and volunteerism as a strategy to fulfill organizational missions and address critical community needs by measuring the percent of organizations trained that are implementing effective volunteer management practices (Target = 85%); 2) Manage the AmeriCorps program for Utah to target underserved populations in the focus areas of Economic Opportunity, Education, Environmental Stewardship, Disaster Preparedness, Healthy Futures, and Veterans and Military Families by measuring the percent of AmeriCorps programs showing improved program management and compliance through training and technical assistance (Target = 90%); 3) Manage the AmeriCorps program for Utah to target underserved populations in the focus areas of Economic Opportunity, Education, Environmental Stewardship, Disaster Preparedness, Healthy Futures, and Veterans and Military Families by measuring the percent of targeted audience served through Americorps programs (Target = 88%)

Item 87
To Department of Heritage and Arts –
Historical Society
From Dedicated Credits Revenue 125,100
From Beginning Nonlapsing Balances ... 103,400
From Closing Nonlapsing Balances ..... (91,200)
Schedule of Programs:
State Historical Society 137,300

Item 88
To Department of Heritage and Arts –
Indian Affairs
From General Fund 387,600
From Dedicated Credits Revenue 55,000
From General Fund Restricted –
Native American Repatriation 61,200
From Beginning Nonlapsing Balances ... 133,600
From Closing Nonlapsing Balances .... (116,500)
Schedule of Programs:
Indian Affairs 520,900

In accordance with UCA 63J-1-201, the Legislature intends that the Department of Heritage and Arts report performance measures for the Indian Affairs line item, whose mission is, "to address the socio-cultural challenges of the eight federally-recognized Tribes residing in Utah." The Department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measure for FY 2022: 1) Assist the eight tribal nations of Utah in preserving culture and growing communities by measuring the percent of attendees participating in the Youth Track of the Governor's Native American Summit (Target = 30%); 2) Assist the eight tribal nations of Utah in preserving culture and interacting effectively with State of Utah agencies by managing an effective liaison working group as measured by the percent of mandated state agencies with designated liaisons actively participating to respond to tribal concerns (Target = 70%); 3) Represent the State of Utah by developing strong relationships with tribal members by measuring the percent of tribes personally visited on their lands annually. (Target = 80% annually).

Item 89
To Department of Heritage and Arts –
Pass-Through
From General Fund 1,120,900
From Gen. Fund Rest. –
Humanitarian Service Rest. Acct 6,000
From General Fund Restricted –
National Professional Men's
Soccer Team Support of Building
Communities 100,000
Schedule of Programs:
Pass-Through 1,226,900

Item 90
To Department of Heritage and Arts – State History
From General Fund 2,564,500
From Federal Funds 1,257,300
From Dedicated Credits Revenue 613,400
From Beginning Nonlapsing Balances ... 235,900
From Closing Nonlapsing Balances .... (349,100)
Schedule of Programs:
Administration 413,400
Historic Preservation and
Antiquities 2,473,500
History Projects and Grants 25,000
Library and Collections 742,700
Public History, Communication and
Information 667,400

In accordance with UCA 63J-1-201, the Legislature intends that the Department of Heritage and Arts report performance measures for the State History line item, whose mission is, "to preserve and share the past for a better present and future." The Department shall report to the Office of the

Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measure for FY 2022: 1) Support management and development of public lands by completing cultural compliance reviews (federal Section 106 and Utah 9-8-404) within 20 days. (Target = 95%); 2) Promote historic preservation at the community level. Measure the percent of Certified Local Governments actively involved in historic preservation by applying for a grant at least once within a four year period and successfully completing the grant-funded project (Target = 60% active CLGs); 3) Provide public access to the states history collections. Percentage of collection prepared to move to a collections facility: Identified, Digitized, Cataloged, Packed for moving and long term storage (Target = 33%).

Item 91

To Department of Heritage and Arts - State Library
From General Fund 3,607,700
From Federal Funds 1,887,300
From Dedicated Credits Revenue 2,075,900
From Beginning Nonlapsing Balances ... 689,500
From Closing Nonlapsing Balances .... (717,400)
Schedule of Programs:
Administration 844,800
Blind and Disabled 1,812,900
Bookmobile 956,700
Library Development 1,968,000
Library Resources 1,960,600

In accordance with UCA 63J-1-201, the Legislature intends that the Department of Heritage and Arts report performance measures for the State Library line item, whose mission is, "to preserve and share the past for a better present and future." The Department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measure for FY 2022: 1) Improve library service throughout Utah by supporting libraries and librarians through training, grant funding, consulting, youth services, outreach, and more. The Division measures the number of online and in-person training hours provided to librarians. (Target = 8,000 annually); 2) Provide library services to people lacking physical access to a library. Total Bookmobile circulation annually. (Target = 445,000 items annually); 3) Provide library services to people who are blind or print disabled. Total Blind and Print Disabled circulation annually (Target = 305,500 items annually); 4) Advance and promote equal access to information and library resources to all Utah residents. The Division measures resources viewed/used annually from all state-wide database resources on Utah's online Public Library (Target=314,945); and 5) Provide access to online eBooks and audiobooks through the Beehive Library Consortium. The Division measures the number of checkouts of digital materials across the state through its subscription to OverDrive (Target=3,404,811).

Item 92

To Department of Heritage and Arts -
Stem Action Center
From General Fund 10,237,200
From Federal Funds 280,000
From Dedicated Credits Revenue 1,538,900
Schedule of Programs:
STEM Action Center 2,616,000
STEM Action Center - Grades 6-8 .. 9,440,100

In accordance with UCA 63J-1-201, the Legislature intends that the Department of Heritage and Arts report performance measures for the Utah STEM Action Center line item, whose mission is, "to promote science, technology, engineering and math through best practices in education to ensure connection with industry and Utah's long-term economic prosperity." The Department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measure for FY 2022: 1) Percentage of students being served by math programs reaching grade level proficiency (Target=50%); 2) Percentage of Utah school districts served by the STEM in Motion programs (Target=50%); and 3) Percentage of Utah k-12 public educators with access to high quality professional learning support (Target=40%)

Item 93

To Department of Heritage and Arts -
One Percent for Arts
From Pass-through 1,600,000
From Beginning Nonlapsing
Balances 3,953,600
From Closing Nonlapsing Balances ... (4,685,800)
Schedule of Programs:
One Percent for Arts 867,800

In accordance with UCA 63J-1-201, the Legislature intends that the Department of Heritage and Arts report performance measures for the One Percent for Art line item, whose mission is "to connect the people and communities of Utah through art and museums." The Department of Heritage and Arts shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measures for FY 2022: 1) Annual inspection of the public art collection for condition and maintenance needs. The percentage of the collection

inspected will serve as the performance measure (Target=25%)

INSURANCE DEPARTMENT

Item 94
To Insurance Department - Bail Bond Program
From General Fund Restricted - Bail Bond Surety Administration 37,600
Schedule of Programs:
Bail Bond Program 37,600

In accordance with UCA 63J-1-201, the Legislature intends that the Department of Insurance report performance measures for the Insurance Bail Bond Program line item, whose mission is to "to foster a healthy insurance market by promoting fair and reasonable practices that ensure available, affordable and reliable insurance products and services." The Department of Insurance shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measure for FY 2022: 1) timely response to reported allegations of violations of insurance statute and rule (Target = 90% within 75 days).

Item 95
To Insurance Department - Health Insurance Actuary
From General Fund Rest. - Health Insurance Actuarial Review 205,100
From Beginning Nonlapsing Balances ... 189,800
From Closing Nonlapsing Balances .... (123,900)
Schedule of Programs:
Health Insurance Actuary 271,000

In accordance with UCA 63J-1-201, the Legislature intends that the Department of Insurance report performance measures for the Health Insurance Actuary line item, whose mission is to "to foster a healthy insurance market by promoting fair and reasonable practices that ensure available, affordable and reliable insurance products and services." The Department of Insurance shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measure for FY 2022: 1) timeliness of processing rate filings (Target = 95% within 45 days).

Item 96
To Insurance Department - Insurance Department Administration
From General Fund 9,700
From Federal Funds 323,200
From Dedicated Credits Revenue 8,800
From General Fund Restricted - Captive Insurance 956,500
From General Fund Restricted - Criminal Background Check 165,000
From General Fund Restricted - Guaranteed Asset Protection Waiver .. 129,100
From General Fund Restricted - Insurance Department Acct. 8,535,600
From General Fund Rest. - Insurance Fraud Investigation Acct. 2,476,000
From General Fund Restricted - Relative Value Study Account 119,000
From General Fund Restricted - Technology Development 628,600
From Beginning Nonlapsing Balances 3,025,500
From Closing Nonlapsing Balances ... (2,431,200)
Schedule of Programs:
Administration 8,816,300
Captive Insurers 956,500
Criminal Background Checks 175,000
Electronic Commerce Fee 1,065,800
GAP Waiver Program 129,100
Insurance Fraud Program 2,684,100
Relative Value Study 119,000

In accordance with UCA 63J-1-201, the Legislature intends that the Department of Insurance report performance measures for the Insurance Administration line item, whose mission is to "to foster a healthy insurance market by promoting fair and reasonable practices that ensure available, affordable and reliable insurance products and services." The Department of Insurance shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measures for FY 2022: 1) timeliness of processing work product (Target = 95% within 45 days); 2) timeliness of resident licenses processed (Target = 75% within 15 days); 3) increase the number of certified examination and captive auditors to include Accredited Financial Examiners and Certified Financial Examiners (Target = 25% increase); 4) timely response to reported allegations of violations of insurance statute and rule (Target = 90% within 75 days).

Item 97
To Insurance Department - Title Insurance Program
From General Fund Rest. - Title Licensee Enforcement Acct. 127,000
From Beginning Nonlapsing Balances ... 139,800
From Closing Nonlapsing Balances .... (119,400)
Schedule of Programs:
Title Insurance Program 147,400

In accordance with UCA 63J-1-201, the Legislature intends that the Department of Insurance report performance measures for the Title Insurance Program line item, whose mission is to "to foster a healthy insurance market by promoting fair and reasonable practices that ensure available, affordable and reliable insurance products and

services." The Department of Insurance shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measure for FY 2022: 1) timely response to reported allegations of violations of insurance statute and rule (Target = 90% within 75 days).

LABOR COMMISSION

Item 98
To Labor Commission
From General Fund 6,626,800
From Federal Funds 3,082,000
From Dedicated Credits Revenue 114,000
From Employers' Reinsurance Fund 84,200
From General Fund Restricted –
Industrial Accident Account 3,627,900
From Trust and Agency Funds 2,700
From General Fund Restricted –
Workplace Safety Account 1,667,800
Schedule of Programs:
Adjudication 1,518,600
Administration 2,158,500
Antidiscrimination and Labor 2,224,000
Boiler, Elevator and Coal Mine
Safety Division 1,687,700
Building Operations and
Maintenance 174,600
Industrial Accidents 2,194,900
Utah Occupational Safety and
Health 4,024,300
Workplace Safety 1,222,800

In accordance with UCA 63J-1-201, the Legislature intends that the Labor Commission report performance measures for the Labor Commission line item, whose mission is "to achieve safety in Utah's workplaces and fairness in employment and housing." The Labor Commission shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measures for FY 2022: (1) Percentage of workers compensation decisions by the Division of Adjudication within 60 days of the date of the hearing (Target-100%), (2) Percentage of decisions issued on motions for review within 90 days of the date the motion was filed (Target-100%), (3) Percentage of UOSH citations issued within 45 days of the date of the opening conference (Target-90%) (4) Number and percentage of elevator units that are overdue for inspection (Target-0%), (5) Percentage of the improvement over baseline of the number of employers determined to be in compliance with the state requirement for workers compensation insurance coverage (Target-25%), (6) Percentage of employment discrimination cases completed within 180 days of the date the complaint was filed (Target-70%).

PUBLIC SERVICE COMMISSION

Item 99
To Public Service Commission
From Dedicated Credits Revenue 600
From General Fund Restricted –
Public Utility Restricted Acct. 2,640,700
From Revenue Transfers 10,100
From Beginning Nonlapsing Balances ... 843,900
From Closing Nonlapsing Balances .... (730,700)
Schedule of Programs:
Administration 2,733,300
Building Operations and
Maintenance 31,300

In accordance with UCA 63J-1-201, the Legislature intends that the Public Service Commission report performance measures for the Administration line item, whose mission is "to provide balanced regulation ensuring safe, reliable, adequate, and reasonably priced utility service." The Public Service Commission shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measures for FY 2022: (1) Electric or natural gas rate changes within a fiscal year not consistent or comparable with other states served by the same utility (Target = 0); (2) Number of appellate court cases within a fiscal year modifying or reversing Public Service Commission decisions (Target = 0); (3) Number, within a fiscal year, of financial sector analyses of Utahs public utility regulatory climate resulting in an unfavorable or unbalanced assessment (Target= 0).

UTAH STATE TAX COMMISSION

Item 100
To Utah State Tax Commission –
License Plates Production
From Dedicated Credits Revenue 4,005,900
From Beginning Nonlapsing Balances ... 392,300
From Closing Nonlapsing Balances .... (312,500)
Schedule of Programs:
License Plates Production 4,085,700

Item 101
To Utah State Tax Commission –
Liquor Profit Distribution
From General Fund Restricted –
Alcoholic Beverage Enforcement
and Treatment Account 5,651,400
Schedule of Programs:
Liquor Profit Distribution 5,651,400

Item 102
To Utah State Tax Commission –
Rural Health Care Facilities Distribution
From General Fund Restricted – Rural
Healthcare Facilities Acct 218,900
Schedule of Programs:

Rural Health Care Facilities
Distribution 218,900

Item 103
To Utah State Tax Commission –
Tax Administration
From General Fund 28,552,300
From Education Fund 23,242,100
From Transportation Fund 5,857,400
From Federal Funds 618,000
From Dedicated Credits Revenue 7,638,900
From General Fund Restricted –
Electronic Payment Fee Rest. Acct .. 7,609,700
From General Fund Restricted –
Motor Vehicle Enforcement
Division Temporary Permit
Account 4,229,400
From General Fund Rest. – Sales
and Use Tax Admin Fees 11,952,200
From General Fund Restricted –
Tobacco Settlement Account 18,500
From Revenue Transfers 174,400
From Uninsured Motorist Identification
Restricted Account 143,800
From Beginning Nonlapsing
Balances 1,000,000
From Closing Nonlapsing Balances ... (1,000,000)
Schedule of Programs:
Administration Division 10,208,600
Auditing Division 13,676,900
Motor Vehicle Enforcement
Division 4,452,100
Motor Vehicles 24,694,100
Multi–State Tax Compact 282,200
Property Tax Division 6,053,700
Seasonal Employees 113,500
Tax Payer Services 12,837,700
Tax Processing Division 6,659,200
Technology Management 11,058,700

In accordance with UCA 63J–1–201, the Legislature intends that the Utah State Tax Commission report performance measures for the Tax Administration line item, whose mission is "to collect revenues for the state and local governments and to equitably administer tax and assigned motor vehicle laws." The Utah State Tax Commission shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measures for FY 2022: (1) Tax returns processed electronically (Target = 81%), (2) Closed Delinquent Accounts from assigned inventory (Target 5% improvement), (3) Motor Vehicle Large Office Wait Times (Target: 94% served in 20 minutes or less).

Subsection 2(b). Expendable Funds and Accounts. The Legislature has reviewed the following expendable funds. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated. Outlays and expenditures from the funds or accounts to which the money is transferred may be made without further legislative action, in accordance with statutory provisions relating to the funds or accounts.

DEPARTMENT OF COMMERCE

Item 104
To Department of Commerce –
Architecture Education and Enforcement Fund
From Licenses/Fees 3,000
From Beginning Fund Balance 40,500
From Closing Fund Balance ..... (28,500)
Schedule of Programs:
Architecture Education and
Enforcement Fund 15,000

Item 105
To Department of Commerce – Consumer Protection Education and Training Fund
From Licenses/Fees 260,900
From Beginning Fund Balance 500,000
From Closing Fund Balance ..... (500,000)
Schedule of Programs:
Consumer Protection Education and
Training Fund 260,900

Item 106
To Department of Commerce –
Cosmetologist/Barber, Esthetician,
Electrologist Fund
From Licenses/Fees 52,500
From Interest Income 1,000
From Beginning Fund Balance 93,600
From Closing Fund Balance ..... (61,400)
Schedule of Programs:
Cosmetologist/Barber, Esthetician,
Electrologist Fund 85,700

Item 107
To Department of Commerce –
Land Surveyor/Engineer Education
and Enforcement Fund
From Licenses/Fees 9,000
From Beginning Fund Balance 60,300
From Closing Fund Balance ..... (37,900)
Schedule of Programs:
Land Surveyor/Engineer Education
and Enforcement Fund 31,400

Item 108
To Department of Commerce –
Landscapes Architects Education
and Enforcement Fund
From Licenses/Fees 4,100
From Beginning Fund Balance 38,900
From Closing Fund Balance ..... (38,000)
Schedule of Programs:
Landscapes Architects Education
and Enforcement Fund 5,000

Item 109
To Department of Commerce –
Physicians Education Fund
From Dedicated Credits Revenue 1,200
From Licenses/Fees 22,000
From Beginning Fund Balance 98,200
From Closing Fund Balance ..... (96,400)
Schedule of Programs:
Physicians Education Fund 25,000

Item 110
To Department of Commerce – Real
Estate Education, Research, and Recovery Fund

From Dedicated Credits Revenue 130,000
From Beginning Fund Balance 575,700
From Closing Fund Balance ..... (249,000)
Schedule of Programs:
Real Estate Education, Research, and Recovery Fund 456,700

Item 111
To Department of Commerce – Residence Lien Recovery Fund
From Dedicated Credits Revenue 20,000
From Licenses/Fees 30,000
From Beginning Fund Balance 1,171,900
From Closing Fund Balance ..... (721,900)
Schedule of Programs:
Residence Lien Recovery Fund 500,000

Item 112
To Department of Commerce – Residential Mortgage Loan Education, Research, and Recovery Fund
From Licenses/Fees 155,600
From Interest Income 10,300
From Beginning Fund Balance 855,000
From Closing Fund Balance ..... (836,400)
Schedule of Programs:
RMLERR Fund 184,500

Item 113
To Department of Commerce – Securities Investor Education/Training/Enforcement Fund
From Licenses/Fees 200,500
From Beginning Fund Balance 318,300
From Closing Fund Balance ..... (240,500)
Schedule of Programs:
Securities Investor Education/Training/Enforcement Fund 278,300

Item 114
To Department of Commerce – Electrician Education Fund
From Licenses/Fees 28,800
Schedule of Programs:
Electrician Education Fund 28,800

Item 115
To Department of Commerce – Plumber Education Fund
From Licenses/Fees 11,500
Schedule of Programs:
Plumber Education Fund 11,500

GOVERNOR'S OFFICE OF ECONOMIC DEVELOPMENT

Item 116
To Governor's Office of Economic Development – Outdoor Recreation Infrastructure Account
From Dedicated Credits Revenue 5,002,300
From Beginning Fund Balance 7,400,000
Schedule of Programs:
Outdoor Recreation Infrastructure Account 12,402,300

Item 117
To Governor's Office of Economic Development – Transient Room Tax Fund
From Revenue Transfers 1,384,900
Schedule of Programs:
Transient Room Tax Fund 1,384,900

DEPARTMENT OF HERITAGE AND ARTS

Item 118
To Department of Heritage and Arts – History Donation Fund
From Dedicated Credits Revenue 2,600
From Interest Income 8,400
From Beginning Fund Balance 269,600
From Closing Fund Balance ..... (280,600)

Item 119
To Department of Heritage and Arts – State Arts Endowment Fund
From Dedicated Credits Revenue 20,400
From Interest Income 9,700
From Beginning Fund Balance 409,200
From Closing Fund Balance ..... (425,600)
Schedule of Programs:
State Arts Endowment Fund 13,700

Item 120
To Department of Heritage and Arts – State Library Donation Fund
From Interest Income 29,000
From Beginning Fund Balance 1,234,000
From Closing Fund Balance ..... (1,263,000)

Item 121
To Department of Heritage and Arts – Heritage and Arts Foundation Fund
From Dedicated Credits Revenue 500,000
Schedule of Programs:
Heritage and Arts Foundation Fund ... 500,000

INSURANCE DEPARTMENT

Item 122
To Insurance Department – Insurance Fraud Victim Restitution Fund
From Licenses/Fees 425,000
From Beginning Fund Balance 324,100
From Closing Fund Balance ..... (324,100)
Schedule of Programs:
Insurance Fraud Victim Restitution Fund 425,000

Item 123
To Insurance Department – Title Insurance Recovery Education and Research Fund
From Dedicated Credits Revenue 48,000
From Beginning Fund Balance 47,800
Schedule of Programs:
Title Insurance Recovery Education and Research Fund 95,800

PUBLIC SERVICE COMMISSION

Item 124
To Public Service Commission – Universal Public Telecom Service
From Dedicated Credits Revenue 24,753,900
From Beginning Fund Balance 12,740,200
From Closing Fund Balance ..... (14,000,200)
Schedule of Programs:
Universal Public Telecommunications Service Support 23,493,900

In accordance with UCA 63J-1-201, the Legislature intends that the Public Service Commission report performance measures for the Universal Telecommunications Support Fund line item, whose mission is "to

provide balanced regulation ensuring safe, reliable, adequate, and reasonably priced utility service." The Public Service Commission shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measures for FY 2022: (1) Number of months within a fiscal year during which the Fund did not maintain a balance equal to at least three months of fund payments (Target = 0); (2) Number of times a change to the fund surcharge occurred more than once every three fiscal years (Target = 0); (3) Total adoption and usage of Telecommunications Relay Service and Caption Telephone Service within a fiscal year (Target = 50,000).

Subsection 2(c). Business-like Activities. The Legislature has reviewed the following proprietary funds. Under the terms and conditions of Utah Code 63J-1-410, for any included Internal Service Fund, the Legislature approves budgets, full-time permanent positions, and capital acquisition amounts as indicated, and appropriates to the funds, as indicated, estimated revenue from rates, fees, and other charges. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated.

INSURANCE DEPARTMENT

Item 125
To Insurance Department - Individual & Small Employer Risk Adjustment Enterprise Fund
From Licenses/Fees 265,000
Schedule of Programs:
Individual & Small Employer Risk Adjustment Enterprise 265,000

Subsection 2(d). Restricted Fund and Account Transfers. The Legislature authorizes the State Division of Finance to transfer the following amounts between the following funds or accounts as indicated. Expenditures and outlays from the funds to which the money is transferred must be authorized by an appropriation.

Item 126
To Latino Community Support Restricted Account
From Dedicated Credits Revenue 12,500
Schedule of Programs:
Latino Community Support Restricted Account 12,500

Of the appropriations provided by this item, $12,500 is to implement the provisions of Special Group License Plate Amendments (Senate Bill 212, 2020 General Session).

Item 127
To General Fund Restricted - Industrial Assistance Account
From General Fund 250,000
From Beginning Fund Balance 15,024,700
From Closing Fund Balance ..... (15,024,700)
Schedule of Programs:
General Fund Restricted - Industrial Assistance Account 250,000

Item 128
To General Fund Restricted - Motion Picture Incentive Fund
From General Fund 1,420,500
Schedule of Programs:
General Fund Restricted - Motion Picture Incentive Fund 1,420,500

Item 129
To General Fund Restricted - Tourism Marketing Performance Fund
From General Fund 22,822,800
Schedule of Programs:
General Fund Restricted - Tourism Marketing Performance 22,822,800

Item 130
To General Fund Restricted - Native American Repatriation Restricted Account
From General Fund 20,000
From Beginning Fund Balance 40,000
From Closing Fund Balance ..... (60,000)

Item 131
To General Fund Restricted - Rural Health Care Facilities Fund
From General Fund 218,900
Schedule of Programs:
General Fund Restricted - Rural Health Care Facilities Fund 218,900

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

LABOR COMMISSION

Item 132
To Labor Commission - Employers Reinsurance Fund
From Dedicated Credits Revenue 3,000,000
From Interest Income 1,466,000
From Premium Tax Collections 17,300,000
From Beginning Fund Balance 10,801,100
From Closing Fund Balance ..... (10,801,100)
Schedule of Programs:
Employers Reinsurance Fund 21,766,000

Item 133
To Labor Commission - Uninsured Employers Fund
From Dedicated Credits Revenue 5,025,100
From Interest Income 102,100
From Premium Tax Collections 1,350,200
From Trust and Agency Funds 12,100
From Beginning Fund Balance 7,596,300
From Closing Fund Balance ..... (7,596,300)
Schedule of Programs:
Uninsured Employers Fund 6,489,500

Item 134
To Labor Commission - Wage Claim Agency Fund
From Dedicated Credits Revenue 1,600,000
From Beginning Fund Balance 21,255,400

From Closing Fund Balance ..... (22,405,400)
Schedule of Programs:
Wage Claim Agency Fund 450,000

Section 3. Effective Date.

If approved by two-thirds of all the members elected to each house, Section 1 of this bill takes effect upon approval by the Governor, or the day following the constitutional time limit of Utah Constitution Article VII, Section 8 without the Governor's signature, or in the case of a veto, the date of override. Section 2 of this bill takes effect on July 1, 2021.

CHAPTER 3
H. B. 6
Passed January 28, 2021
Approved February 4, 2021
Effective July 1, 2021

INFRASTRUCTURE AND GENERAL GOVERNMENT BASE BUDGET

Chief Sponsor: Douglas V. Sagers
Senate Sponsor: Chris H. Wilson

LONG TITLE

General Description:

This bill supplements or reduces appropriations otherwise provided for the support and operation of state government for the fiscal year beginning July 1, 2020 and ending June 30, 2021 and appropriates funds for the support and operation of state government for the fiscal year beginning July 1, 2021 and ending June 30, 2022.

Highlighted Provisions:

This bill:

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

Money Appropriated in this Bill:

This bill appropriates $263,369,900 in operating and capital budgets for fiscal year 2021, including:

- $14,184,000 from the General Fund; and
- $249,185,900 from various sources as detailed in this bill.

This bill appropriates $52,378,200 in expendable funds and accounts for fiscal year 2021.

This bill appropriates $2,583,100 in business-like activities for fiscal year 2021.

This bill appropriates $11,100 in transfers to unrestricted funds for fiscal year 2021.

This bill appropriates $59,344,800 in capital project funds for fiscal year 2021.

This bill appropriates $2,462,966,900 in operating and capital budgets for fiscal year 2022, including:

- $196,470,400 from the General Fund;
- $107,875,300 from the Education Fund; and
- $2,158,621,200 from various sources as detailed in this bill.

This bill appropriates $45,065,800 in expendable funds and accounts for fiscal year 2022.

This bill appropriates $322,340,900 in business-like activities for fiscal year 2022.

This bill appropriates $18,660,000 in restricted fund and account transfers for fiscal year 2022, including:

- $3,660,000 from the General Fund; and
- $15,000,000 from various sources as detailed in this bill.

This bill appropriates $8,189,800 in transfers to unrestricted funds for fiscal year 2022.

This bill appropriates $1,836,202,100 in capital project funds for fiscal year 2022, including:

- $2,077,400 from the General Fund; and
- $1,834,124,700 from various sources as detailed in this bill.

Other Special Clauses:

Section 1 of this bill takes effect immediately. Section 2 of this bill takes effect on July 1, 2021.

Utah Code Sections Affected:

ENACTS UNCODIFIED MATERIAL

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

Section 1. FY 2021 Appropriations. The following sums of money are appropriated for the fiscal year beginning July 1, 2020 and ending June 30, 2021. These are additions to amounts otherwise appropriated for fiscal year 2021.

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

CAREER SERVICE REVIEW OFFICE

Item 1
To Career Service Review Office
From General Fund, One-Time 3,000
From Beginning Nonlapsing Balances . . . . . (200)
From Closing Nonlapsing Balances 200
Schedule of Programs:
Career Service Review Office 3,000

Of the appropriations provided by this item, $3,000 is to implement the provisions of Abusive Conduct Reporting Amendments (House Bill 12, 2020 General Session).

In accordance with UCA 63J-1-201, the Legislature intends that the Career Service Review Office report performance measures to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measures for FY 2022: (1) the length of time to issue a jurisdictional decision on a new grievance (target for FY 2021 is 15 days); (2) the length of time to conduct an evidentiary hearing once a grievance has been established (target for FY 2021 is 150 days); (3) the length of time to issue a written decision after an evidentiary hearing has adjourned (target for FY 2021 is 20 working days); and (4) hire and retain hearing officers who meet the performance standards set by DHRM (target for FY 2021 is 100% of officers).

DEPARTMENT OF HUMAN RESOURCE MANAGEMENT

Item 2
To Department of Human Resource Management - Human Resource Management
From Dedicated Credits Revenue, One-Time . . . . . (240,200)
From Beginning Nonlapsing Balances 2,300

From Closing Nonlapsing Balances ..... (50,000)
Schedule of Programs:
ALJ Compliance ..... (257,000)
Statewide Management Liability Training ..... (30,900)

UTAH EDUCATION AND TELEHEALTH NETWORK

Item 3
To Utah Education and Telehealth Network – Digital Teaching and Learning Program
From Beginning Nonlapsing Balances ..... (36,800)
From Closing Nonlapsing Balances .... (146,900)
Schedule of Programs:
Digital Teaching and Learning Program ..... (183,700)

Item 4
To Utah Education and Telehealth Network
From Federal Funds, One-Time 190,100
From Dedicated Credits Revenue, One-Time 444,800
From Transfer for COVID-19 Response, One-Time 125,000,000
From Beginning Nonlapsing Balances 13,703,200
From Closing Nonlapsing Balances ... (2,179,500)
Schedule of Programs:
Administration 71,651,200
Course Management Systems 1,726,900
Instructional Support 20,588,700
KUEN Broadcast 101,500
Operations and Maintenance ..... (30,300)
Public Information 4,500
Technical Services 40,143,400
Utah Telehealth Network 2,972,700

In accordance with UCA 63J-1-201, the Legislature intends that the Utah Education and Telehealth Network report performance measures to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measures for FY 2022: (1) the number of circuits (target for FY 2021 is 1,377); (2) the percentage of potential customers using UETNs services (target for FY 2021 is 72.7%); and (3) the number of IVC instances (target for FY 2021 is 50.733).

DEPARTMENT OF ADMINISTRATIVE SERVICES

Item 5
To Department of Administrative Services – Administrative Rules
From Beginning Nonlapsing Balances ... 395,300
From Closing Nonlapsing Balances .... (256,600)
Schedule of Programs:
DAR Administration 138,700

Item 6
To Department of Administrative Services – Building Board Program
From Beginning Nonlapsing Balances ... 142,000
Schedule of Programs:
Building Board Program 142,000

Item 7
To Department of Administrative Services – DFCM Administration
From Beginning Nonlapsing Balances ... 569,100
From Closing Nonlapsing Balances .... (506,200)
Schedule of Programs:
DFCM Administration 58,500
Energy Program 4,400

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for DFCM Administration in Item 38, Chapter 10, Laws of Utah 2020, shall not lapse at the close of FY 2021. Expenditures of these funds are limited to information technology projects, customer service, optimization efficiency projects, time-limited FTE's, and Governor's Mansion maintenance: $1,200,000; and Energy Program operations: $200,000.

Item 8
To Department of Administrative Services – Executive Director
From Beginning Nonlapsing Balances 52,200
From Closing Nonlapsing Balances .... (250,000)
Schedule of Programs:
Executive Director ..... (197,800)

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for Executive Director in Item 40, Chapter 10, Laws of Utah 2020, shall not lapse at the close of FY 2021. Expenditures of these funds are limited to telework, space utilization needs including alternative workplace solutions, leadership training, internal auditing, security improvements, department optimization projects, customer service, and website maintenance: $250,000.

Item 9
To Department of Administrative Services – Finance – Mandated
From General Fund, One-Time 6,000,000
From Beginning Nonlapsing Balances 14,759,300
Schedule of Programs:
Emergency Disease Response 20,759,300

The Legislature intends that the $6 million appropriated in this item be used for rural emergency medical services. The Legislature further intends that the funding shall not lapse at the close of FY 2021.

Item 10
To Department of Administrative Services – Finance – Mandated – Ethics Commissions
From Beginning Nonlapsing Balances 9,800
From Closing Nonlapsing Balances ..... (14,400)
Schedule of Programs:
Executive Branch Ethics Commission .. (2,000)
Political Subdivisions Ethics Commission ..... (2,600)

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that

appropriations provided for Ethics Commission in Item 42, Chapter 10, Laws of Utah 2020, shall not lapse at the close of FY 2021. Expenditures of these funds are limited to Ethics Commission investigations and Commission and staff expenses: $110,000.

Item 11
To Department of Administrative Services – Finance Administration
From General Fund, One-Time 5,800
From Beginning Nonlapsing Balances 2,015,100
From Closing Nonlapsing Balances .... (835,800)
Schedule of Programs:
Finance Director's Office ..... (113,200)
Financial Information Systems 1,071,500
Financial Reporting 33,900
Payables/Disbursing 51,600
Payroll 138,600
Technical Services 2,700

Of the appropriations provided by this item, $5,800 is to implement the provisions of Phased Retirement Amendments (House Bill 225, 2020 General Session).

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for Finance Administration in Item 43, Chapter 10, Laws of Utah 2020 shall not lapse at the close of FY 2021. Expenditures of these funds are limited to maintenance and operation of statewide systems and websites, studies, training, consulting, professional services, computer replacement, and information technology systems, support and hardware, as well as costs associated with federal funds accountability: $3,400,000.

The Legislature intends that, if revenues deposited in the Land Exchange Distribution Account exceed appropriations from the account, the Division of Finance distribute the excess deposits according to the formula provided in UCA 53C-3-203(4).

The Legislature intends that, if the amount available in the Mineral Bonus Account from payments deposited in the previous fiscal year exceeds the amount appropriated, the Division of Finance distribute the excess according to the formula provided in UCA 59-21-2(1)(e).

Item 12
To Department of Administrative Services – Inspector General of Medicaid Services
From Beginning Nonlapsing Balances ... 155,200
From Closing Nonlapsing Balances .... (155,200)

Under terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for Inspector General of Medicaid Services in Item 44, Chapter 10, Laws of Utah 2019, shall not lapse at the close of FY 2021. Expenditures of these funds are limited to monitor compliance with State and Federal Regulations and implement measures to identify, prevent, and reduce fraud, waste, and abuse, and monitor the quality and reliability of Utah Medicaid providers service delivery and accuracy of billing: $750,000.

Item 13
To Department of Administrative Services – Judicial Conduct Commission
From Beginning Nonlapsing Balances 23,600
From Closing Nonlapsing Balances ..... (5,100)
Schedule of Programs:
Judicial Conduct Commission 18,500

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for Judicial Conduct Commission in Item 45, Chapter 10, Laws of Utah 2020, shall not lapse at the close of FY 2021. Expenditures of these funds are limited to professional services for investigations: $75,000.

Item 14
To Department of Administrative Services – Post Conviction Indigent Defense
From Beginning Nonlapsing Balances 33,600
From Closing Nonlapsing Balances ..... (33,600)

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for Post Conviction Indigent Defense in Item 46, Chapter 10, laws of Utah 2020, shall not lapse at the close of FY 2021. Expenditures of these funds are limited to legal costs for death row inmates: $170,000.

Item 15
To Department of Administrative Services – State Archives
From Beginning Nonlapsing Balances ... 162,700
From Closing Nonlapsing Balances ..... (58,300)
Schedule of Programs:
Archives Administration 352,500
Patron Services 245,500
Preservation Services ..... (590,800)
Records Analysis 97,200

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for State Archives in Item 48, Chapter 10, Laws of Utah 2020, shall not lapse at the close of FY 2021. Expenditures of these funds limited to electronic records management and preservation, records repository systems improvements, and computer systems upgrades: $150,000.

STATE BOARD OF BONDING COMMISSIONERS - DEBT SERVICE

Item 16
To State Board of Bonding Commissioners – Debt Service – Debt Service
From General Fund, One-Time 4,175,200
From Transportation Investment Fund of 2005, One-Time 2,647,000
From Federal Funds, One-Time 14,000
From Dedicated Credits Revenue, One-Time 1,247,700
From County of First Class Highway Projects Fund, One-Time ..... (400)
From Revenue Transfers, One-Time ... (11,100)

From Beginning Nonlapsing Balances ... 848,900
From Closing Nonlapsing Balances ... (2,099,500)
Schedule of Programs:
G.O. Bonds - State Govt 4,164,100
G.O. Bonds - Transportation 2,657,700

The Legislature intends that in the event that sequestration or other federal action reduces the anticipated Build America Bond subsidy payments that are deposited into the Debt Service line item as federal funds, the Division of Finance, acting on behalf of the State Board of Bonding Commissioners, shall reduce the appropriated transfer from Nonlapsing Balances Debt Service to the General Fund, one-time proportionally to the reduction in subsidy payment received, thus holding the Debt Service line item harmless.

DEPARTMENT OF TECHNOLOGY SERVICES

Item 17
To Department of Technology Services - Chief Information Officer
From Beginning Nonlapsing Balances ... 297,700
Schedule of Programs:
Chief Information Officer 297,700

Under terms of Utah Code Annotated Section 63J-1-603, the Legislature intends that up to $250,000 of appropriations provided for the Chief Information Officer line item in Item 53, Chapter 10, Laws of Utah 2020, shall not lapse at the close of FY 2021. Expenditures of these funds are limited to costs associated with Department of Technology Services rate study and other IT initiatives and to implement the provisions of S.B. 65, "Postal Facilities and Government Services," 2017 General Session; H.B. 395, "Technology Innovation Amendments," 2018 General Session; and S.B. 137, "Single User Data Correlation Act," 2019 General Session.

Item 18
To Department of Technology Services - Integrated Technology Division
From Beginning Nonlapsing Balances ... 371,300
Schedule of Programs:
Automated Geographic Reference Center 371,300

Under terms of Utah Code Annotated Section 63J-1-603, the Legislature intends that up to $600,000 of appropriations provided for the Integrated Technology Division line item in Item 54, Chapter 10, Laws of Utah 2020, shall not lapse at the close of FY 2021. Expenditures of these funds are limited to Automated Geographic Reference Center projects, Google imagery, Global Positioning System Reference Network upgrades and maintenance, and Survey Monument Restoration grant obligations to local government.

TRANSPORTATION

Item 19
To Transportation - Aeronautics
From General Fund, One-Time 4,000,000
From Beginning Nonlapsing Balances 1,902,600
Schedule of Programs:
Administration 152,100
Airport Construction 5,750,600
Civil Air Patrol ..... (100)

Under terms of Utah Code Annotated Section 63J-1-603, the Legislature intends that any unexpended funds from the one-time appropriation of $5,000,000 from the Aeronautics Restricted Account to the Aeronautics line item in Item 22, Chapter 282, Laws of Utah 2014, shall not lapse at the close of FY 2021. Expenditures of these funds are limited to airport construction projects.

Item 20
To Transportation - Highway System Construction
From Federal Funds, One-Time 86,132,200
Schedule of Programs:
Federal Construction 86,132,200

Item 21
To Transportation - Engineering Services
From Beginning Nonlapsing Balances ... 646,800
Schedule of Programs:
Engineering Services 161,100
Highway Project Management Team ... 780,000
Materials Lab ..... (480,000)
Preconstruction Admin 53,300
Program Development ..... (1,132,600)
Research 1,265,000

Under terms of Utah Code Annotated Section 63J-1-603, the Legislature intends that up to $1,800,000 of appropriations provided for the Engineering Services line item in Item 58, Chapter 10, Laws of Utah 2020, shall not lapse at the close of FY 2021. Expenditures of these funds are limited to engineering special services projects - $300,000; road usage charge program - $800,000; and technical planning assistance - $700,000.

Item 22
To Transportation - Operations/ Maintenance Management
From Federal Funds, One-Time ..... (92,100)
From Beginning Nonlapsing Balances 2,721,600
Schedule of Programs:
Equipment Purchases 200,000
Lands and Buildings 521,600
Maintenance Administration 2,000,000
Region 1 ..... (154,100)
Region 2 165,800
Region 3 257,100
Region 4 ..... (360,900)

Under terms of Utah Code Annotated Section 63J-1-603, the Legislature intends that up to $2,200,000 of appropriations provided for the Operations/Maintenance Management line item in Item 59, Chapter 10, Laws of Utah 2020, shall not lapse at the

close of FY 2021. Expenditures of these funds are limited to highway maintenance – $2,000,000; and equipment purchases – $200,000.

The Legislature intends that up to $1,500,000 in unexpended proceeds that are derived from the sale of real property or an interest in real property from a maintenance facility shall not lapse at the close FY 2021. Expenditures of these funds are limited to the purchase or improvement of another maintenance facility, including real property.

Item 23
To Transportation – Region Management
From Beginning Nonlapsing Balances ... 200,000
Schedule of Programs:
Cedar City ..... (134,100)
Price 25,800
Region 2 200,000
Region 4 115,200
Richfield ..... (6,900)

Under terms of Utah Code Annotated Section 63J-1-603, the Legislature intends that up to $200,000 of appropriations provided for the Region Management line item in Item 60, Chapter 10, Laws of Utah 2020, shall not lapse at the close of FY 2021. Expenditures of these funds are limited to region management.

Item 24
To Transportation – Safe Sidewalk Construction
From Beginning Nonlapsing Balances ... 540,300
From Closing Nonlapsing Balances .... (540,300)

Item 25
To Transportation – Support Services
From Beginning Nonlapsing Balances 1,299,200
Schedule of Programs:
Administrative Services 382,000
Community Relations 78,200
Comptroller 39,000
Data Processing 300,000
Ports of Entry 500,000

Under terms of Utah Code Annotated Section 63J-1-603, the Legislature intends that up to $800,000 of appropriations provided for the Support Services line item in Item 63, Chapter 10, Laws of Utah 2020, shall not lapse at the close of FY 2021. Expenditures of these funds are limited to computer software development projects – $300,000; and building improvements – $500,000.

Under terms of Utah Code Annotated Section 63J-1-603, the Legislature intends that any unexpended funds from the one-time appropriation of $850,000 from the Transportation Fund to the Support Services line item in Item 138, Chapter 463, Laws of Utah 2018, shall not lapse at the close of FY 2021. Expenditures of these funds are limited to the development of rules and standards.

Item 26
To Transportation – Amusement Ride Safety
From Beginning Nonlapsing Balances ... 170,300
Schedule of Programs:
Amusement Ride Safety 170,300

Under terms of Utah Code Annotated Section 63J-1-603, the Legislature intends that up to $200,000 of appropriations provided for the Amusement Ride Safety line item in Item 66, Chapter 10, Laws of Utah 2020, shall not lapse at the close of FY 2021. Expenditures of these funds are limited to the amusement ride safety program.

Item 27
To Transportation – Transit
Transportation Investment

Under terms of Utah Code Annotated Section 63J-1-603, the Legislature intends that appropriations provided for the Transit Transportation Investment line item in Item 57, Chapter 416, Laws of Utah 2020, shall not lapse at the close of FY 2021. Expenditures of these funds are limited to the Transit Transportation Investment program.

Item 28
To Transportation – Railroad Crossing
Safety Grants

Under terms of Utah Code Annotated Section 63J-1-603, the Legislature intends that up to $152,500 of appropriations provided for the Railroad Crossing Safety Grants line item in Item 2, H.B. 4002, 2020 Fourth Special Session, shall not lapse at the close of FY 2021. Expenditures of these funds are limited to railroad crossing safety grants.

Subsection 1(b). Expendable Funds and Accounts. The Legislature has reviewed the following expendable funds. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated. Outlays and expenditures from the funds or accounts to which the money is transferred may be made without further legislative action, in accordance with statutory provisions relating to the funds or accounts.

DEPARTMENT OF ADMINISTRATIVE SERVICES

Item 29
To Department of Administrative Services – State Debt Collection Fund
From Beginning Fund Balance ..... (443,200)
From Closing Fund Balance 2,328,100
Schedule of Programs:
State Debt Collection Fund 1,884,900

TRANSPORTATION

Item 30
To Transportation – County of the First Class Highway Projects Fund
From Licenses/Fees, One-Time ..... (16,100)
From Interest Income, One-Time ..... (324,300)
From Revenue Transfers, One-Time 11,477,000
From Beginning Fund Balance 16,733,400
From Closing Fund Balance 22,623,300

Schedule of Programs:
County of the First Class Highway Projects Fund 50,493,300

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

DEPARTMENT OF HUMAN RESOURCE MANAGEMENT

Item 31
To Department of Human Resource Management - Human Resources Internal Service Fund
From Dedicated Credits Revenue, One-Time ..... (9,900)
From Beginning Fund Balance 440,500
From Closing Fund Balance 21,700
Schedule of Programs:
Administration 459,900
Information Technology ..... (874,700)
ISF - Core HR Services 3,300
ISF - Field Services ..... (244,700)
ISF - Payroll Field Services ..... (59,500)
Policy 1,168,000
Budgeted FTE ..... (6.6)

In accordance with UCA 63J-1-201, the Legislature intends that the Department of Human Resources report performance measures to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measures for FY 2022: (1) the ratio of DHRM staff to agency staff (target for FY 2021 is 39.2%); (2) the amount of operating expenses held in reserve (target for FY 2021 is 25 days); and (3) the latest satisfaction survey results (target for FY 2021 is above 91%).

DEPARTMENT OF ADMINISTRATIVE SERVICES INTERNAL SERVICE FUNDS

Item 32
To Department of Administrative Services Internal Service Funds - Division of Facilities Construction and Management - Facilities Management
From Beginning Fund Balance 1,119,600
From Closing Fund Balance 1,878,000
Schedule of Programs:
ISF - Facilities Management 2,997,600
Authorized Capital Outlay ..... (22,800)

The Legislature intends that the DFCM Internal Service Fund may add up to 12 FTEs, up to 7 vehicles, and multiple capital assets, beyond the authorized level if new facilities come on line or maintenance agreements are requested. Any added FTEs, vehicles, and capital assets will be reviewed and may be approved by the Legislature in the next legislative session.

Item 33
To Department of Administrative Services Internal Service Funds - Division of Finance
From Beginning Fund Balance 46,400
From Closing Fund Balance 6,700
Schedule of Programs:
ISF - Purchasing Card 53,100
Budgeted FTE 1.0

Item 34
To Department of Administrative Services Internal Service Funds - Division of Fleet Operations
From Beginning Fund Balance ..... (457,700)
From Closing Fund Balance 765,700
Schedule of Programs:
ISF - Fuel Network ..... (707,900)
ISF - Motor Pool 1,028,800
ISF - Travel Office 1,300
Transactions Group ..... (14,200)

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations for Fleet Operations in Item, Chapter, Laws of Utah 2020, shall not lapse at the close of FY 2021. Expenditures of these funds are limited to capital outlay authority granted within FY 2021 for vehicles not delivered by the end of FY 2021.

Item 35
To Department of Administrative Services Internal Service Funds - Division of Purchasing and General Services
From Beginning Fund Balance 593,700
From Closing Fund Balance ..... (238,200)
Schedule of Programs:
ISF - Central Mailing 35,500
ISF - Cooperative Contracting 279,200
ISF - Federal Surplus Property ..... (10,700)
ISF - Print Services 55,900
ISF - State Surplus Property ..... (4,400)
Budgeted FTE ..... (5.3)

Item 36
To Department of Administrative Services Internal Service Funds - Risk Management
From Premiums, One-Time ..... (387,400)
From Interest Income, One-Time ..... (548,900)
From Beginning Fund Balance ..... (4,292,700)
From Closing Fund Balance 3,937,900
Schedule of Programs:
ISF - Workers' Compensation ..... (11,000)
Risk Management - Auto ..... (191,400)
Risk Management - Liability ..... (1,674,000)
Risk Management - Property 585,300

DEPARTMENT OF TECHNOLOGY SERVICES INTERNAL SERVICE FUNDS

Item 37
To Department of Technology Services Internal Service Funds - Enterprise Technology Division
From Beginning Fund Balance 3,980,400

From Closing Fund Balance ..... (4,272,100)
Schedule of Programs:
ISF - Enterprise Technology Division ..... (291,700)

TRANSPORTATION

Item 38
To Transportation - State Infrastructure Bank Fund
From Interest Income, One-Time .... (1,850,000)
From Beginning Fund Balance ..... (11,209,900)
From Closing Fund Balance 13,059,300
Schedule of Programs:
State Infrastructure Bank Fund ..... (600)

Subsection 1(d). Transfers to Unrestricted Funds. The Legislature authorizes the State Division of Finance to transfer the following amounts to the unrestricted General Fund, Education Fund, or Uniform School Fund, as indicated, from the restricted funds or accounts indicated. Expenditures and outlays from the General Fund, Education Fund, or Uniform School Fund must be authorized by an appropriation.

Item 39
To General Fund
From Nonlapsing Balances - Build America Bond Subsidy 11,100
Schedule of Programs:
General Fund, One-time 11,100

Subsection 1(e). Capital Project Funds. The Legislature has reviewed the following capital project funds. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated.

CAPITAL BUDGET

Item 40
To Capital Budget - DFCM Capital Projects Fund
From Other Financing Sources, One-Time ..... (10,220,000)
From Beginning Fund Balance .... (490,251,700)
From Closing Fund Balance 500,471,700

Item 41
To Capital Budget - DFCM Prison Project Fund
From Interest Income, One-Time ..... (833,000)
From Other Financing Sources, One-Time 3,000,000
From Beginning Fund Balance 345,892,000
From Closing Fund Balance ..... (451,770,500)
Schedule of Programs:
DFCM Prison Project Fund ..... (103,711,500)

Item 42
To Capital Budget - SBOA Capital Projects Fund
From Beginning Fund Balance ..... (7,562,400)
From Closing Fund Balance ..... (1,787,600)
Schedule of Programs:
SBOA Capital Projects Fund ..... (9,350,000)

TRANSPORTATION

Item 43
To Transportation - Transportation Investment Fund of 2005
From Transportation Fund, One-Time ..... (2,844,900)
From Licenses/Fees, One-Time ..... (1,615,000)
From Interest Income, One-Time 636,100
From County of First Class Highway Projects Fund, One-Time 2,665,900
From Designated Sales Tax, One-Time ..... (564,400)
From Revenue Transfers, One-Time ..... (2,665,900)
From Other Financing Sources, One-Time ..... (175,824,000)
From Beginning Fund Balance 494,668,100
From Closing Fund Balance ..... (148,049,600)
Schedule of Programs:
Transportation Investment Fund 166,406,300

Item 44
To Transportation - Transit Transportation Investment Fund
From Designated Sales Tax, One-Time 1,102,600
From Beginning Fund Balance 6,218,000
From Closing Fund Balance ..... (1,320,600)
Schedule of Programs:
Transit Transportation Investment Fund 6,000,000

Section 2. FY 2022 Appropriations. The following sums of money are appropriated for the fiscal year beginning July 1, 2021 and ending June 30, 2022.

Subsection 2(a). Operating and Capital Budgets. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

CAREER SERVICE REVIEW OFFICE

Item 45
To Career Service Review Office
From General Fund 291,700
From Beginning Nonlapsing Balances 30,000
From Closing Nonlapsing Balances ..... (30,000)
Schedule of Programs:
Career Service Review Office 291,700

Of the appropriations provided by this item, $3,000 is to implement the provisions of Abusive Conduct Reporting Amendments (House Bill 12, 2020 General Session).

DEPARTMENT OF HUMAN RESOURCE MANAGEMENT

Item 46
To Department of Human Resource Management - Human Resource Management
From General Fund 42,400
From Beginning Nonlapsing Balances 82,600
From Closing Nonlapsing Balances .... (105,900)

Schedule of Programs:
Statewide Management Liability Training 19,100

UTAH EDUCATION AND TELEHEALTH NETWORK

Item 47
To Utah Education and Telehealth Network – Digital Teaching and Learning Program
From Education Fund 169,700
From Dedicated Credits Revenue 108,200
From Beginning Nonlapsing Balances ... 338,500
From Closing Nonlapsing Balances .... (339,400)
Schedule of Programs:
Digital Teaching and Learning Program 277,000

Item 48
To Utah Education and Telehealth Network
From General Fund 842,100
From Education Fund 27,215,200
From Federal Funds 4,265,800
From Dedicated Credits Revenue 14,934,500
From Beginning Nonlapsing Balances 3,765,000
From Closing Nonlapsing Balances ... (1,136,800)
Schedule of Programs:
Administration 3,393,900
Course Management Systems 2,703,100
Instructional Support 4,566,900
KUEN Broadcast 646,000
Operations and Maintenance 451,900
Public Information 343,800
Technical Services 36,052,200
Utah Telehealth Network 1,728,000

DEPARTMENT OF ADMINISTRATIVE SERVICES

Item 49
To Department of Administrative Services – Administrative Rules
From General Fund 695,200
From Beginning Nonlapsing Balances ... 261,600
From Closing Nonlapsing Balances .... (324,300)
Schedule of Programs:
DAR Administration 632,500

In accordance with UCA 63J-1-201, the Legislature intends that the Department of Administrative Services report performance measures for the Office of Administrative Rules line item, whose mission is "to enable citizen participation in their own government by supporting agency rulemaking and ensuring agency compliance with the Utah Administrative Rulemaking Act." The Department of Administrative Services shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measures for FY 2022: 1) average number of business days to review rule filings (target: 4 days or less); and average number of days from the effective date to publish the final version of an administrative rule after the rule becomes effective (target: 14 days or less).

Item 50
To Department of Administrative Services – DFCM Administration
From General Fund 3,433,600
From Education Fund 680,800
From Dedicated Credits Revenue 934,500
From Capital Projects Fund 3,582,200
From Beginning Nonlapsing Balances ... 577,100
From Closing Nonlapsing Balances .... (189,300)
Schedule of Programs:
DFCM Administration 8,311,800
Energy Program 530,000
Governor's Residence 177,100

In accordance with UCA 63J-1-201, the Legislature intends that the Department of Administrative Services report performance measures for the DFCM Administration line item, whose mission is "to provide professional services to assist State entities in meeting their facility needs for the benefit of the public." The Department of Administrative Services shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measures for FY 2022: 1 capital improvement projects completed in the fiscal year they are funded (target: at least 86%); and (2) accuracy of Capital Budget Estimates (CBE) (baseline +/- 10%; target +/- 5%).

The Legislature intends that any excess DFCM Project Reserve Funds or Contingency Reserve Funds, as determined by DFCM's analysis of current balances and projected needs, will be transferred to the Utah State Correctional Facility project before any other uses of these funds for FY 2022.

Item 51
To Department of Administrative Services – Finance – Elected Official Post-Retirement Benefits Contribution
From General Fund 1,248,800
Schedule of Programs:
Elected Official Post-Retirement Trust Fund 1,248,800

Item 52
To Department of Administrative Services – Executive Director
From General Fund 1,182,400
From Dedicated Credits Revenue 270,000
From Beginning Nonlapsing Balances ... 250,000
From Closing Nonlapsing Balances .... (150,000)
Schedule of Programs:
Executive Director 1,552,400

In accordance with UCA 63J-1-201, the Legislature intends that the Department of Administrative Services report performance measures for the Executive Director line item, whose mission is "to create innovative solutions to transform government services."

The Department of Administrative Services shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measures for FY 2022: 1) independent evaluation/audit of divisions/key programs (target: at least 4 annually); and 2) air quality improvement activities across state agencies (targets: 25 activities each year).

Item 53

To Department of Administrative Services – Finance – Mandated
From General Fund 5,278,000
From General Fund Restricted – Economic Incentive Restricted Account 3,255,000
From Gen. Fund Rest. – Land Exchange Distribution Account 308,200
Schedule of Programs:
Development Zone Partial Rebates .. 3,255,000
Land Exchange Distribution 308,200
State Employee Benefits 5,278,000

Item 54

To Department of Administrative Services – Finance – Mandated – Ethics Commissions
From General Fund 17,300
From Beginning Nonlapsing Balances 99,100
From Closing Nonlapsing Balances .... (100,700)
Schedule of Programs:
Executive Branch Ethics Commission 5,700
Political Subdivisions Ethics Commission 10,000

Item 55

To Department of Administrative Services – Finance Administration
From General Fund 6,965,900
From Transportation Fund 450,000
From Dedicated Credits Revenue 1,825,000
From Gen. Fund Rest. – Internal Service Fund Overhead 1,344,700
From Qualified Patient Enterprise Fund ... 2,500
From Beginning Nonlapsing Balances ... 835,800
From Closing Nonlapsing Balances .... (200,500)
Schedule of Programs:
Finance Director's Office 541,400
Financial Information Systems 4,347,200
Financial Reporting 1,997,000
Payables/Disbursing 2,056,200
Payroll 1,991,600
Technical Services 290,000

In accordance with UCA 63J-1-201, the Legislature intends that the Department of Administrative Services report performance measures for the Finance Administration line item, whose mission is "to serve Utah citizens and state agencies with fiscal leadership and quality financial systems, processes, and information." The Department of Administrative Services shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measures for FY 2022: close the fiscal year within 60 days of the end of the fiscal year (baseline: 101 days after June 30; target: 60 days after June 30).

Item 56

To Department of Administrative Services – Inspector General of Medicaid Services
From General Fund 1,246,500
From Federal Funds 8,000
From Medicaid Expansion Fund 36,300
From Revenue Transfers 2,469,500
From Beginning Nonlapsing Balances ... 155,200
From Closing Nonlapsing Balances .... (155,200)
Schedule of Programs:
Inspector General of Medicaid Services 3,760,300

In accordance with UCA 63J-1-201, the Legislature intends that the Office of Inspector General of Medicaid Services, whose goal is to "eliminate fraud, waste, and abuse within the Medicaid program" report its performance measures to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measures for FY 2022: 1) cost avoidance projected over one year and three years; 2) Medicaid dollars recovered through cash collections, directed re-bills, and credit adjustments; 3) the number of credible allegations of provider and/or recipient fraud received, initial investigations conducted, and referred to an outside entity (e.g. Medicaid Fraud Control Unit, Department of Workforce Services, local law enforcement, etc.); 4) the number of fraud, waste, and abuse cases identified and evaluated; and 5) the number of recommendations for improvement made to the Department of Health.

The Legislature intends that the Inspector General of Medicaid Services retain up to an additional $60,000 of the states share of Medicaid collections during FY 2022 to pay the Office of the Attorney General for the state costs of the one attorney FTE that the Office of the Inspector General is using.

Item 57

To Department of Administrative Services – Judicial Conduct Commission
From General Fund 277,200
From Beginning Nonlapsing Balances 5,100
From Closing Nonlapsing Balances ..... (9,800)
Schedule of Programs:
Judicial Conduct Commission 272,500

Item 58

To Department of Administrative Services – Post Conviction Indigent Defense
From General Fund 33,900
From Beginning Nonlapsing Balances ... 136,500

From Closing Nonlapsing Balances .... (136,500)
Schedule of Programs:
Post Conviction Indigent Defense Fund 33,900

Item 59
To Department of Administrative Services – Purchasing
From General Fund 829,800
Schedule of Programs:
Purchasing and General Services 829,800

In accordance with UCA 63J–1–201, the Legislature intends that the Department of Administrative Services report performance measures for the Purchasing and General Services line item, whose purpose is to ensure that the state agencies adhere to the requirement of the Utah Procurement Code when conducting procurements. The Department of Administrative Services shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measures for FY 2022: 1) increase the average discount on State of Utah Best Value Cooperative contracts (baseline: 32%, target: 40%); 2) increase the number of State of Utah Best Value Cooperative Contracts for public entities to use (baseline: 950, target: 1,000); and 3) increase the amount of total spend on State of Utah Best Value Cooperative contracts (baseline: $550 million, target: $600 million).

Item 60
To Department of Administrative Services – State Archives
From General Fund 3,276,100
From Federal Funds 42,600
From Dedicated Credits Revenue 67,300
From Beginning Nonlapsing Balances 58,300
From Closing Nonlapsing Balances ..... (92,800)
Schedule of Programs:
Archives Administration 1,711,100
Patron Services 687,400
Preservation Services 257,000
Records Analysis 696,000

In accordance with UCA 63J–1–201, the Legislature intends that the Department of Administrative Services report performance measures for the State Archives line item, whose mission is "to assist Utah government agencies in the efficient management of their records, to preserve those records of enduring value, and to provide quality access to public information." The Department of Administrative Services shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measures for FY 2022: 1) percentage of reformatted records that meet or exceed estimated completion date (target: 80%); 2) percentage of reformatted records projects completed that were error–free in quality control checks (target: 90%); and 3) government employees receiving training and certified as a records officer (target: at least a 10% increase).

Item 61
To Department of Administrative Services – Finance Mandated – Mineral Lease Special Service Districts
From General Fund Restricted – Mineral Lease 27,797,500
Schedule of Programs:
Mineral Lease Payments 24,162,700
Mineral Lease Payments in Lieu 3,634,800

CAPITAL BUDGET

Item 62
To Capital Budget – Capital Development – Other State Government
From Capital Projects Fund 2,077,400
Schedule of Programs:
Offender Housing 2,077,400

Item 63
To Capital Budget – Capital Improvements
From General Fund 74,359,700
From Education Fund 79,809,600
Schedule of Programs:
Capital Improvements 154,169,300

Item 64
To Capital Budget – Pass–Through
From General Fund 3,000,000
From General Fund, One–Time 8,600,000
Schedule of Programs:
Olympic Park Improvement 11,600,000

The Legislature intends that appropriations for Olympic Park Improvement may be used for improvements at the Utah Olympic Park, Utah Olympic Oval, and/or Soldier Hollow Nordic Center.

STATE BOARD OF BONDING COMMISSIONERS - DEBT SERVICE

Item 65
To State Board of Bonding Commissioners – Debt Service – Debt Service
From General Fund 71,875,400
From General Fund, One–Time 8,189,800
From Transportation Investment Fund of 2005 356,279,800
From Federal Funds 1,358,400
From Federal Funds, One–Time 8,189,800
From Dedicated Credits Revenue 29,423,600
From County of First Class Highway Projects Fund 7,779,400
From Revenue Transfers, One–Time ..... (8,189,800)
From Beginning Nonlapsing Balances 22,640,500
From Closing Nonlapsing Balances ..... (23,545,800)
Schedule of Programs:
G.O. Bonds – State Govt 71,875,400

G.O. Bonds – Transportation 372,249,000
Revenue Bonds Debt Service 29,876,700

DEPARTMENT OF TECHNOLOGY SERVICES

Item 66
To Department of Technology Services – Chief Information Officer
From General Fund 673,600
Schedule of Programs:
Chief Information Officer 673,600

In accordance with UCA 63J-1-201, the Legislature intends that the Department of Technology Services, whose mission is "to provide innovative, secure, and cost-effective technology solutions that are convenient and empower our partner agencies to better serve the residents of Utah," report performance measures for the Chief Information Officer line item. The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measures for FY 2022: (1) data security – ongoing systematic prioritization of high-risk areas across the state (target: score below 5,000); (2) application development – satisfaction scores on application development projects from agencies (target: average at least 83%); and (3) procurement and deployment – ensure state employees receive computers in a timely manner (target: at least 75%).

Item 67
To Department of Technology Services – Integrated Technology Division
From General Fund 1,234,300
From Federal Funds 700,000
From Dedicated Credits Revenue 1,213,500
From Gen. Fund Rest. – Statewide Unified E-911 Emerg. Acct. 334,200
Schedule of Programs:
Automated Geographic Reference Center 3,482,000

In accordance with UCA 63J-1-201, the Legislature intends that the Department of Technology Services, whose mission is "to provide innovative, secure, and cost-effective technology solutions that are convenient and empower our partner agencies to better serve the residents of Utah," report performance measures for the Integrated Technology Division line item. The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measures for FY 2022: (1) uptime for the Automated Geographic Reference Center's (AGRC) portfolio of streaming geographic data web services and State Geographic Information Database connection services (target: at least 99.5%); (2) road centerline and addressing map data layer required for Next Generation 911 services is published monthly to the State Geographic Information Database (target: at least 120 county-sourced updates including 50 updates from Utah's class I and II counties); and (3) uptime for AGRC's TURN GPS real-time, high precision geo-positioning service that provides differential correction services to paying and partner subscribers in the surveying, mapping, construction, and agricultural industries (target: at least 99.5%).

TRANSPORTATION

Item 68
To Transportation – Aeronautics
From Federal Funds 200,000
From Dedicated Credits Revenue 412,600
From Aeronautics Restricted Account 7,239,800
Schedule of Programs:
Administration 922,700
Aid to Local Airports 2,240,000
Airplane Operations 1,088,600
Airport Construction 3,521,100
Civil Air Patrol 80,000

Item 69
To Transportation – B and C Roads
From Transportation Fund 181,658,400
Schedule of Programs:
B and C Roads 181,658,400

Item 70
To Transportation – Highway System Construction
From Transportation Fund 189,382,800
From Federal Funds 318,972,700
From Expendable Receipts 1,550,000
Schedule of Programs:
Federal Construction 150,000,000
Rehabilitation/Preservation 356,905,500
State Construction 3,000,000

There is appropriated to the Department of Transportation from the Transportation Fund, not otherwise appropriated, a sum sufficient, but not more than the surplus of the Transportation Fund, to be used by the department for the construction, rehabilitation, and preservation of State highways in Utah. The Legislature intends that the appropriation fund first, a maximum participation with the federal government for the construction of federally designated highways, as provided by law, and last the construction of State highways, as funding permits. No portion of the money appropriated by this item shall be used either directly or indirectly to enhance the appropriation otherwise made by this act to the Department of Transportation for other purposes.

Item 71
To Transportation – Cooperative Agreements
From Federal Funds 50,323,800
From Expendable Receipts 24,897,100
Schedule of Programs:

Cooperative Agreements 75,220,900

Item 72
To Transportation - Engineering Services
From General Fund 900,000
From Transportation Fund 27,698,300
From Federal Funds 31,068,400
From Dedicated Credits Revenue 2,162,200
Schedule of Programs:
Civil Rights 270,700
Construction Management 1,884,500
Engineer Development Pool 1,734,300
Engineering Services 2,956,000
Environmental 2,302,700
Highway Project Management Team ... 854,900
Planning and Investment 567,600
Materials Lab 5,962,500
Preconstruction Admin 2,455,100
Program Development 29,876,000
Research 6,112,000
Right-of-Way 3,025,000
Structures 3,827,600

Item 73
To Transportation - Operations/ Maintenance Management
From Transportation Fund 165,082,200
From Transportation Investment Fund of 2005 6,901,400
From Federal Funds 9,034,500
From Dedicated Credits Revenue 9,527,300
Schedule of Programs:
Equipment Purchases 12,923,700
Field Crews 16,832,300
Lands and Buildings 3,600,000
Maintenance Administration 11,341,200
Maintenance Planning 1,782,700
Region 1 23,791,400
Region 2 31,253,300
Region 3 22,306,400
Region 4 46,251,900
Seasonal Pools 1,535,900
Shops 932,700
Traffic Operations Center 14,556,700
Traffic Safety/Tramway 3,437,200

The Legislature intends that the Department of Transportation use maintenance funds previously used on state highways that now qualify for Transportation Investment Fund of 2005 to address maintenance and preservation issues on other state highways.

Item 74
To Transportation - Region Management
From Transportation Fund 27,281,000
From Federal Funds 3,089,300
From Dedicated Credits Revenue 2,215,800
Schedule of Programs:
Cedar City 253,500
Price 405,000
Region 1 6,951,900
Region 2 11,281,700
Region 3 5,769,200
Region 4 7,680,000
Richfield 244,800

Item 75
To Transportation - Safe Sidewalk Construction
From Transportation Fund 500,000
From Beginning Nonlapsing Balances ... 540,300
From Closing Nonlapsing Balances .... (540,300)
Schedule of Programs:
Sidewalk Construction 500,000

The Legislature intends that the funds appropriated from the Transportation Fund for pedestrian safety projects be used specifically to correct pedestrian hazards on State highways. The Legislature also intends that local authorities be encouraged to participate in the construction of pedestrian safety devices. The appropriated funds are to be used according to the criteria set forth in Section 72-8-104, Utah Code Annotated, 1953. The funds appropriated for sidewalk construction shall not lapse at the close of FY 2021. If local governments cannot use their allocation of Sidewalk Safety Funds in two years, these funds will be available for other governmental entities which are prepared to use the resources. The Legislature intends that local participation in the Sidewalk Construction Program be on a 75% state and 25% local match basis.

Item 76
To Transportation - Share the Road
From General Fund Restricted - Share the Road Bicycle Support 35,000
Schedule of Programs:
Share the Road 35,000

Item 77
To Transportation - Support Services
From Transportation Fund 37,894,300
From Federal Funds 3,475,200
Schedule of Programs:
Administrative Services 3,681,700
Building and Grounds 967,700
Community Relations 1,337,800
Comptroller 3,039,900
Data Processing 12,263,800
Human Resources Management 3,098,500
Internal Auditor 1,195,400
Ports of Entry 10,057,600
Procurement 1,259,400
Risk Management 4,467,700

In accordance with UCA 63J-1-201, the Legislature intends that the Department of Transportation, whose mission is to "Keep Utah Moving," report performance measures for the department. The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measures for FY 2022 for the goal of reducing crashes, injuries, and fatalities: (1) traffic fatalities (target: at least a 2% reduction from the 3-year rolling average); (2) traffic serious injuries (target: at least a 2% reduction from the 3-year rolling average); (3) traffic crashes (target: at least a 2% reduction from the 3-year rolling average); (4) internal fatalities (target: zero);

(5) internal injuries (target: injury rate below 6.5%); and (6) internal equipment damage (target: equipment damage rate below 7.5%). The department will use the strategies contained in the 2020 UDOT Strategic Direction Document to accomplish these targets including implementing safety infrastructure improvements, partnering with law enforcement and emergency services, improving employee safety, and public outreach and education.

In accordance with UCA 63J-1-201, the Legislature intends that the Department of Transportation, whose mission is to "Keep Utah Moving," report performance measures for the department. The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measures for FY 2022 for the goal of preserving infrastructure: (1) pavement performance (target: at least 50% of pavements in good condition and less than 10% of pavements in poor condition); (2) maintain the health of structures (target: at least 80% in fair or good condition); (3) maintain the health of Automated Transportation Management Systems (ATMS) (target: at least 90% in good condition); and (4) maintain the health of signals (target: at least 90% in good condition). The department will use the strategies contained in the 2020 UDOT Strategic Direction Document to accomplish these targets including pavement management, bridge management, and ATMS/Signal system management.

In accordance with UCA 63J-1-201, the Legislature intends that the Department of Transportation, whose mission is to "Keep Utah Moving," report performance measures for the department. The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measures for FY 2022 for the goal of optimizing mobility: (1) delay along I-15 (target: overall composite annual score above 90); (2) maintain a reliable fast condition on I-15 along the Wasatch Front (target: at least 85% of segments); (3) achieve optimal use of snow and ice equipment and materials (target: at least 92% effectiveness); and (4) support increase of trips by public transit (target: at least 10%). The department will use the strategies contained in the 2020 UDOT Strategic Direction Document to accomplish these targets including strategic capacity improvements, efficient operations, and facilitating travel choices.

Item 78
To Transportation - Transportation Investment Fund Capacity Program
From Transportation Fund 1,813,400
From Transportation Investment Fund of 2005 576,188,000
Schedule of Programs:
Transportation Investment Fund Capacity Program 578,001,400

There is appropriated to the Department of Transportation from the Transportation Investment Fund of 2005, not otherwise appropriated, a sum sufficient, but not more than the surplus of the Transportation Investment Fund of 2005, to be used by the department for the construction, rehabilitation, and preservation of State and Federal highways in Utah. No portion of the money appropriated by this item shall be used either directly or indirectly to enhance or increase the appropriations otherwise made by this act to the Department of Transportation for other purposes.

Item 79
To Transportation - Motorcycle Safety Awareness
From General Fund Restricted - Motorcycle Safety Awareness Support Rest Account 12,500
Schedule of Programs:
Motorcycle Safety Awareness 12,500

Item 80
To Transportation - Amusement Ride Safety
From General Fund Restricted - Amusement Ride Safety Restricted Account 350,800
Schedule of Programs:
Amusement Ride Safety 350,800

Item 81
To Transportation - Transit Transportation Investment
From Transit Transportation Investment Fund 15,687,000
Schedule of Programs:
Transit Transportation Investment 15,687,000

Item 82
To Transportation - Transportation Safety Program
From Transportation Safety Program Restricted Account 15,000
Schedule of Programs:
Transportation Safety Program 15,000

Item 83
To Transportation - Pass-Through
From General Fund 1,976,700
Schedule of Programs:
Pass-Through 1,976,700

Item 84
To Transportation - Railroad Crossing Safety Grants
From Rail Transportation Restricted Account 366,000
Schedule of Programs:
Railroad Crossing Safety Grants 366,000

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

following expendable funds. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated. Outlays and expenditures from the funds or accounts to which the money is transferred may be made without further legislative action, in accordance with statutory provisions relating to the funds or accounts.

DEPARTMENT OF ADMINISTRATIVE SERVICES

Item 85
To Department of Administrative Services – State Archives Fund
From Beginning Fund Balance 2,600
From Closing Fund Balance ..... (2,600)

Item 86
To Department of Administrative Services – State Debt Collection Fund
From Dedicated Credits Revenue 3,603,800
From Other Financing Sources 200
From Beginning Fund Balance 792,400
From Closing Fund Balance ..... (909,200)
Schedule of Programs:
State Debt Collection Fund 3,487,200

Item 87
To Department of Administrative Services – Wire Estate Memorial Fund
From Beginning Fund Balance 168,200
From Closing Fund Balance ..... (168,200)

TRANSPORTATION

Item 88
To Transportation – County of the First Class Highway Projects Fund
From Licenses/Fees 2,020,500
From Interest Income 393,500
From Revenue Transfers 40,523,500
From Beginning Fund Balance 28,317,100
From Closing Fund Balance ..... (29,676,000)
Schedule of Programs:
County of the First Class Highway Projects Fund 41,578,600

Subsection 2(c). Business-like Activities. The Legislature has reviewed the following proprietary funds. Under the terms and conditions of Utah Code 63J-1-410, for any included Internal Service Fund, the Legislature approves budgets, full-time permanent positions, and capital acquisition amounts as indicated, and appropriates to the funds, as indicated, estimated revenue from rates, fees, and other charges. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated.

DEPARTMENT OF HUMAN RESOURCE MANAGEMENT

Item 89
To Department of Human Resource Management – Human Resources Internal Service Fund
From Dedicated Credits Revenue 14,494,300
From Beginning Fund Balance 1,780,800
From Closing Fund Balance ..... (919,800)
Schedule of Programs:
Administration 1,599,300
Information Technology 1,079,200
ISF – Core HR Services 246,900
ISF – Field Services 9,689,800
ISF – Payroll Field Services 674,900
Policy 2,065,200
Budgeted FTE 122.0
Authorized Capital Outlay 1,500,000

DEPARTMENT OF ADMINISTRATIVE SERVICES INTERNAL SERVICE FUNDS

Item 90
To Department of Administrative Services Internal Service Funds – Division of Facilities Construction and Management – Facilities Management
From Dedicated Credits Revenue 37,041,000
From Beginning Fund Balance 3,825,800
From Closing Fund Balance ..... (347,200)
Schedule of Programs:
ISF – Facilities Management 40,519,600
Budgeted FTE 162.0
Authorized Capital Outlay 396,600

In accordance with UCA 63J-1-201, the Legislature intends that the Department of Administrative Services report performance measures for the ISF – Facilities Management line item, whose mission is "to provide professional building maintenance services to State facilities, agency customers, and the general public." The Department of Administrative Services shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measures for FY 2022: average maintenance cost per square foot compared to the private sector (target: at least 18% less than the private market).

Item 91
To Department of Administrative Services Internal Service Funds – Division of Finance
From Dedicated Credits Revenue 621,300
From Beginning Fund Balance 34,100
From Closing Fund Balance ..... (42,900)
Schedule of Programs:
ISF – Purchasing Card 612,500
Budgeted FTE 2.5

Item 92
To Department of Administrative Services Internal Service Funds – Division of Fleet Operations
From Dedicated Credits Revenue 60,263,700
From Beginning Fund Balance 50,454,400
From Closing Fund Balance ..... (49,713,900)
Schedule of Programs:
ISF – Fuel Network 27,146,200
ISF – Motor Pool 32,688,100
ISF – Travel Office 496,200
Transactions Group 673,700
Budgeted FTE 41.0
Authorized Capital Outlay 21,000,000

In accordance with UCA 63J-1-201, the Legislature intends that the Department of Administrative Services report performance measures for the Fleet Operations line item, whose mission is "emphasizing customer service, provide safe, efficient, dependable, and responsible transportation options." The Department of Administrative Services shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measures for FY 2022: 1) improve EPA emission standard certification level for the State's light duty fleet in non-attainment areas (target: reduce average fleet emission by 1 mg/mile annually); 2) maintain the financial solvency of the Division of Fleet Operations (target: 30% or less of the allowable debt); and 3) audit agency customers' mobility options and develop improvement plans for audited agencies (target: at least 4 annually).

Item 93

To Department of Administrative Services Internal Service Funds - Division of Purchasing and General Services
From Dedicated Credits Revenue 20,233,000
From Other Financing Sources 27,500
From Beginning Fund Balance 9,500,600
From Closing Fund Balance ..... (9,499,200)
Schedule of Programs:
ISF - Central Mailing 12,750,000
ISF - Cooperative Contracting 4,242,000
ISF - Federal Surplus Property 66,400
ISF - Print Services 2,543,500
ISF - State Surplus Property 660,000
Budgeted FTE 97.3
Authorized Capital Outlay 4,070,000

Item 94

To Department of Administrative Services Internal Service Funds - Risk Management
From Dedicated Credits Revenue 610,700
From Premiums 54,670,700
From Interest Income 1,181,700
From Other Financing Sources 415,700
From Beginning Fund Balance 5,223,700
From Closing Fund Balance ..... (5,513,700)
Schedule of Programs:
ISF - Risk Management Administration 1,311,000
ISF - Workers' Compensation 7,842,300
Risk Management - Auto 2,496,600
Risk Management - Liability 26,244,400
Risk Management - Property 18,694,500
Budgeted FTE 32.0
Authorized Capital Outlay 500,000

In accordance with UCA 63J-1-201, the Legislature intends that the Department of Administrative Services report performance measures for the Risk Management line item, whose mission is "to insure, restore and protect State resources through innovation and collaboration." The Department of Administrative Services shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measures for FY 2022: 1) follow up on life safety findings on onsite inspections (target: 100%); 2) annual independent claims management audit (target: at least 96%); and 3) ensure liability fund reserves are actuarially and economically sound (baseline: 90.57%; target: 100% of the actuary's recommendation).

DEPARTMENT OF TECHNOLOGY SERVICES INTERNAL SERVICE FUNDS

Item 95

To Department of Technology Services Internal Service Funds - Enterprise Technology Division
From Dedicated Credits Revenue ... 127,672,400
From Beginning Fund Balance 26,960,600
From Closing Fund Balance ..... (26,636,200)
Schedule of Programs:
ISF - Enterprise Technology Division 127,996,800
Budgeted FTE 730.6
Authorized Capital Outlay 6,000,000

In accordance with UCA 63J-1-201, the Legislature intends that the Department of Technology Services, whose mission is "to provide innovative, secure, and cost-effective technology solutions that are convenient and empower our partner agencies to better serve the residents of Utah," report performance measures for the Enterprise Technology Division line item. The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measures for FY 2022: (1) customer satisfaction - measure customers' experiences and satisfaction with IT services (target: an average of at least 4.5 out of 5); (2) application availability - monitor DTS performance and availability of key agency business applications/systems (target: at least 99%); and (3) competitive rates - ensure all DTS rates are market competitive or better (target: 100%).

TRANSPORTATION

Item 96

To Transportation - State Infrastructure Bank Fund
From Interest Income 1,242,100
From Beginning Fund Balance 76,535,100
From Closing Fund Balance ..... (77,775,400)
Schedule of Programs:
State Infrastructure Bank Fund 1,800

Subsection 2(d). Restricted Fund and Account Transfers. The Legislature authorizes the State Division of Finance to

transfer the following amounts between the following funds or accounts as indicated. Expenditures and outlays from the funds to which the money is transferred must be authorized by an appropriation.

Item 97
To Transit Transportation Investment Fund – Rail Transportation Restricted Account
From General Fund 3,660,000
Schedule of Programs:
Rail Transportation Restricted Account 3,660,000

Item 98
To Electronic Cigarette Substance and Nicotine Product Tax Restricted Account
From Dedicated Credits Revenue 15,000,000
Schedule of Programs:
Electronic Cigarette Substance and Nicotine Product Tax Restricted Account 15,000,000

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

Item 99
To General Fund
From Nonlapsing Balances – Build America Bond Subsidy 8,189,800
Schedule of Programs:
General Fund, One-time 8,189,800

Subsection 2(f). Capital Project Funds. The Legislature has reviewed the following capital project funds. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated.

CAPITAL BUDGET

Item 100
To Capital Budget – Capital Development Fund
From General Fund 2,077,400
Schedule of Programs:
Capital Development Fund 2,077,400

Item 101
To Capital Budget – DFCM Capital Projects Fund
From Revenue Transfers, One-Time 874,069,400
From Beginning Fund Balance 471,587,100
From Closing Fund Balance ..... (807,506,500)
Schedule of Programs:
DFCM Capital Projects Fund 538,150,000

Item 102
To Capital Budget – DFCM Prison Project Fund
From Other Financing Sources, One-Time 2,500,000
From Beginning Fund Balance 497,770,500
From Closing Fund Balance ..... (130,270,500)
Schedule of Programs:
DFCM Prison Project Fund 370,000,000

Item 103
To Capital Budget – SBOA Capital Projects Fund
From Dedicated Credits Revenue 450,000
From Other Financing Sources 10,200,000
From Beginning Fund Balance 5,265,300
From Closing Fund Balance ..... (5,265,300)
Schedule of Programs:
SBOA Capital Projects Fund 10,650,000

TRANSPORTATION

Item 104
To Transportation – Transportation Investment Fund of 2005
From Transportation Fund 29,630,400
From Licenses/Fees 93,917,600
From Interest Income 9,946,000
From County of First Class Highway Projects Fund 2,666,200
From Designated Sales Tax 651,583,600
From Beginning Fund Balance 417,311,000
From Closing Fund Balance ..... (304,056,500)
Schedule of Programs:
Transportation Investment Fund 900,998,300

Item 105
To Transportation – Transit Transportation Investment Fund
From Designated Sales Tax 13,005,800
From Beginning Fund Balance 1,320,600
Schedule of Programs:
Transit Transportation Investment Fund 14,326,400

Section 3. Effective Date.
If approved by two-thirds of all the members elected to each house, Section 1 of this bill takes effect upon approval by the Governor, or the day following the constitutional time limit of Utah Constitution Article VII, Section 8 without the Governor's signature, or in the case of a veto, the date of override. Section 2 of this bill takes effect on July 1, 2021.

CHAPTER 4
H. B. 7
Passed January 28, 2021
Approved February 4, 2021
Effective July 1, 2021

NATIONAL GUARD, VETERANS AFFAIRS, AND LEGISLATURE BASE BUDGET

Chief Sponsor: Bradley G. Last
Senate Sponsor: Jerry W. Stevenson

LONG TITLE

General Description:

This bill supplements or reduces appropriations otherwise provided for the support and operation of state government for the fiscal year beginning July 1, 2020 and ending June 30, 2021 and appropriates funds for the support and operation of state government for the fiscal year beginning July 1, 2021 and ending June 30, 2022.

Highlighted Provisions:

This bill:

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

Money Appropriated in this Bill:

This bill appropriates $646,200 in operating and capital budgets for fiscal year 2021, including:

- $33,800 from the General Fund; and
- $612,400 from various sources as detailed in this bill.

This bill appropriates ($126,200) in expendable funds and accounts for fiscal year 2021.

This bill appropriates ($9,500) in restricted fund and account transfers for fiscal year 2021.

This bill appropriates $110,706,600 in operating and capital budgets for fiscal year 2022, including:

- $47,972,700 from the General Fund; and
- $62,733,900 from various sources as detailed in this bill.

This bill appropriates $44,146,400 in expendable funds and accounts for fiscal year 2022.

This bill appropriates $0 in restricted fund and account transfers for fiscal year 2022, including:

- $9,500 from the General Fund; and
- ($9,500) from various sources as detailed in this bill.

This bill appropriates $12,000,000 in fiduciary funds for fiscal year 2022, all of which is from the General Fund.

Other Special Clauses:

Section 1 of this bill takes effect immediately. Section 2 of this bill takes effect on July 1, 2021.

Utah Code Sections Affected:

ENACTS UNCODIFIED MATERIAL

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

Section 1. FY 2021 Appropriations. The following sums of money are appropriated for the fiscal year beginning July 1, 2020 and ending June 30, 2021. These are additions to amounts otherwise appropriated for fiscal year 2021.

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

CAPITOL PRESERVATION BOARD

Item 1
To Capitol Preservation Board

Under terms of Section 63J-1-603(3)(a) Utah Code Annotated, the Legislature intends that appropriations provided for the Capitol Preservation Board in item 13, Chapter 11, Laws of Utah 2020 not lapse at the close of Fiscal Year 2021. Use of any nonlapsing funds is limited to one-time operations costs.

LEGISLATURE

Item 2
To Legislature - Senate
From General Fund, One-Time ..... (135,700)
From Beginning Nonlapsing Balances ... 102,300
From Closing Nonlapsing Balances ..... (37,900)
Schedule of Programs:
Administration ..... (71,300)

Of the appropriations provided by this item, $800 is to implement the provisions of *Native American Legislative Liaison Committee Amendments* (Senate Bill 13, 2020 General Session), $3,200 is to implement the provisions of *Murdered and Missing Indigenous Women and Girls Task Force* (House Bill 116, 2020 General Session), $1,600 is to implement the provisions of *Labor Commission Amendments* (House Bill 15, 2020 General Session), $4,000 is to implement the provisions of *Higher Education Amendments* (Senate Bill 111, 2020 General Session), and $2,800 is to implement the provisions of *Digital Wellness, Citizenship, and Safe Technology Commission* (House Bill 372, 2020 General Session).

Item 3
To Legislature - House of Representatives
From General Fund, One-Time ..... (182,200)
From Beginning Nonlapsing Balances ..... (96,100)
From Closing Nonlapsing Balances 305,000
Schedule of Programs:
Administration 26,700

Of the appropriations provided by this item, $1,600 is to implement the provisions of *Native American Legislative Liaison Committee Amendments* (Senate Bill 13, 2020 General Session), $3,200 is to implement the provisions of *Murdered and Missing Indigenous Women and Girls Task Force* (House Bill 116, 2020 General Session), $1,600 is to implement the provisions of

Labor Commission Amendments (House Bill 15, 2020 General Session), $4,000 is to implement the provisions of *Higher Education Amendments* (Senate Bill 111, 2020 General Session), and $2,800 is to implement the provisions of *Digital Wellness, Citizenship, and Safe Technology Commission* (House Bill 372, 2020 General Session).

Item 4
To Legislature – Office of Legislative Research and General Counsel
From General Fund, One-Time ..... (1,403,100)
From Beginning Nonlapsing Balances 1,184,300
From Closing Nonlapsing Balances .... (725,800)
Schedule of Programs:
Administration ..... (944,600)

Of the appropriations provided by this item, $2,800 is to implement the provisions of *Murdered and Missing Indigenous Women and Girls Task Force* (House Bill 116, 2020 General Session), $1,200 is to implement the provisions of *Higher Education Amendments* (Senate Bill 111, 2020 General Session), and $4,200 is to implement the provisions of *Digital Wellness, Citizenship, and Safe Technology Commission* (House Bill 372, 2020 General Session).

Item 5
To Legislature – Office of the Legislative Fiscal Analyst
From General Fund, One-Time ..... (166,900)
From Beginning Nonlapsing Balances ... 143,600
From Closing Nonlapsing Balances ..... (80,400)
Schedule of Programs:
Administration and Research ..... (103,700)

Item 6
To Legislature – Office of the Legislative Auditor General
From General Fund, One-Time ..... (137,500)
From Beginning Nonlapsing Balances ... 335,400
From Closing Nonlapsing Balances .... (279,000)
Schedule of Programs:
Administration ..... (81,100)

Item 7
To Legislature – Legislative Services
From General Fund, One-Time 2,059,200
From Beginning Nonlapsing Balances 1,216,900
From Closing Nonlapsing Balances .... (577,400)
Schedule of Programs:
Pass-Through 1,490,200
Information Technology 1,208,500

UTAH NATIONAL GUARD

Item 8
To Utah National Guard
From Beginning Nonlapsing Balances 1,276,400
From Closing Nonlapsing Balances ... (2,464,300)
Schedule of Programs:
Administration 11,300
Operations and Maintenance ..... (1,923,700)
Tuition Assistance 68,100
West Traverse Sentinel Landscape 656,400

DEPARTMENT OF VETERANS AND MILITARY AFFAIRS

Item 9
To Department of Veterans and Military Affairs – Veterans and Military Affairs
From Beginning Nonlapsing Balances ... 309,400
Schedule of Programs:
Administration 50,000
Cemetery 109,400
Military Affairs 100,000
Outreach Services 50,000

Under terms of Section 63J-1-603(3)(a) Utah Code Annotated, the Legislature intends that appropriations provided for the Department of Veterans and Military Affairs in Item 20, Chapter 11, Laws of Utah 2020 not lapse at the close of Fiscal Year 2021. Use of any nonlapsing funds is limited to one-time operations costs.

Subsection 1(b). Expendable Funds and Accounts. The Legislature has reviewed the following expendable funds. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated. Outlays and expenditures from the funds or accounts to which the money is transferred may be made without further legislative action, in accordance with statutory provisions relating to the funds or accounts.

CAPITOL PRESERVATION BOARD

Item 10
To Capitol Preservation Board – State Capitol Fund
From Dedicated Credits Revenue, One-Time ..... (138,200)
From Beginning Fund Balance 272,600
From Closing Fund Balance ..... (260,600)
Schedule of Programs:
State Capitol Fund ..... (126,200)

UTAH NATIONAL GUARD

Item 11
To Utah National Guard – National Guard MWR Fund
From Beginning Fund Balance 218,000
From Closing Fund Balance ..... (218,000)

DEPARTMENT OF VETERANS AND MILITARY AFFAIRS

Item 12
To Department of Veterans and Military Affairs – Utah Veterans Nursing Home Fund
From Beginning Fund Balance ..... (637,000)
From Closing Fund Balance 637,000

Subsection 1(c). Restricted Fund and Account Transfers. The Legislature authorizes the State Division of Finance to transfer the following amounts between the following funds or accounts as indicated. Expenditures and outlays from the funds to

which the money is transferred must be authorized by an appropriation.

Item 13
To General Fund Restricted - National Guard Death Benefits Account
From Beginning Fund Balance 338,000
From Closing Fund Balance ..... (347,500)
Schedule of Programs:
National Guard Death Benefit Account ..... (9,500)

Section 2. FY 2022 Appropriations. The following sums of money are appropriated for the fiscal year beginning July 1, 2021 and ending June 30, 2022.

Subsection 2(a). Operating and Capital Budgets. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

CAPITOL PRESERVATION BOARD

Item 14
To Capitol Preservation Board
From General Fund 5,081,300
Schedule of Programs:
Capitol Preservation Board 5,081,300

In accordance with UCA 63J-1-201, the Legislature intends that the Capitol Preservation Board (CPB) report performance measures for the CPB line item, whose mission is "to be the stewards of the Capitol [to] maintain, improve, and oversee the buildings and grounds on the Capitol Hill Complex." The CPB shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measures for FY 2022: 1) Stewardship plan for a safe, sustainable environment through maintenance, facility operations, and improvements (Target = 100 year life); 2) Provision of high quality tours, information, and education to the public (Target = 50,000 students and 200,000 visitors annually); 3) Provision of event and scheduling program for all government meetings, free speech activities, and public events (Target = 4,000 annually); and 4) Provision of exhibit and curatorial services on Capitol Hill to maintain the collections of artifacts for use and enjoyment of the general public (Target = 9,000 items).

LEGISLATURE

Item 15
To Legislature - Senate
From General Fund 2,973,100
From Beginning Nonlapsing Balances 1,876,200
From Closing Nonlapsing Balances ... (1,876,200)
Schedule of Programs:
Administration 2,973,100

Of the appropriations provided by this item, $800 is to implement the provisions of *Native American Legislative Liaison Committee Amendments* (Senate Bill 13, 2020 General Session), $1,600 is to implement the provisions of *Labor Commission Amendments* (House Bill 15, 2020 General Session), and $2,800 is to implement the provisions of *Digital Wellness, Citizenship, and Safe Technology Commission* (House Bill 372, 2020 General Session).

Item 16
To Legislature - House of Representatives
From General Fund 5,056,300
From Beginning Nonlapsing Balances 3,484,700
From Closing Nonlapsing Balances ... (3,371,800)
Schedule of Programs:
Administration 5,169,200

Of the appropriations provided by this item, $1,600 is to implement the provisions of *Native American Legislative Liaison Committee Amendments* (Senate Bill 13, 2020 General Session), $1,600 is to implement the provisions of *Labor Commission Amendments* (House Bill 15, 2020 General Session), and $2,800 is to implement the provisions of *Digital Wellness, Citizenship, and Safe Technology Commission* (House Bill 372, 2020 General Session).

Item 17
To Legislature - Office of Legislative Research and General Counsel
From General Fund 9,816,300
From Beginning Nonlapsing Balances 5,174,700
From Closing Nonlapsing Balances ... (4,970,700)
Schedule of Programs:
Administration 10,020,300

The Legislature intends that the Office of Legislative Research and General Counsel (LRGC) report performance measures for the LRGC line item, which "is responsible for drafting and processing all legislation, performing policy research and analysis, providing legal counsel, and staffing legislative committees." The LRGC shall report to the Subcommittee on Oversight before October 31, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measures for FY 2022: 1) Bills ready for introduction within two business days after receiving approval from the sponsor (Target = 95%); 2) Bills numbered and ready for introduction on the first day of the annual general session (Target = 200 bills); 3) Live priority bills completed or abandoned by the 5th Friday of the session (Target = 85%); 4) Timely distribution of "Interim Highlights" to the Legislature (Target = Four business days after interim); 5) Review bills that have

passed a chamber within 24 hours of the bill's passage (Target = 98%); 6) Comply with court-established deadlines when representing the Legislature, a legislator, or a legislative employee in litigation (Target = 100%); 7) Comply with time limits for submission of ballot titles and impartial analyses (Target = 100%); 8) Comply with Open and Public Meeting notice requirements for legislative committees (Target = 100%); 9) Prepare final redistricting plans (congressional, legislative, and state school board districts) for the Legislature to adopt (Target = On or before the last day of the 2022 Annual General Session); 10) Provide the House, Senate, and Lieutenant Governor with electronic redistricting plans (Target = Within three business days after final adoption by the Legislature); 11) Provide the Redistricting Committee with the tools and information it needs to begin drawing redistricting maps, including loading census data onto computer hardware and calculating the official population counts in congressional, legislative, and state school board districts (Target = Within 15 days of receiving the 2020 Redistricting data tabulation from the U.S. Census Bureau).

Of the appropriations provided by this item, $4,200 is to implement the provisions of *Digital Wellness, Citizenship, and Safe Technology Commission* (House Bill 372, 2020 General Session).

Item 18

To Legislature - Office of the Legislative Fiscal Analyst
From General Fund 3,366,700
From Beginning Nonlapsing Balances 1,486,000
From Closing Nonlapsing Balances ... (1,486,000)
Schedule of Programs:
Administration and Research 3,366,700

The Legislature intends that the Office of the Legislative Fiscal Analyst (LFA) report performance measures for the LFA line item, whose mission is to "affect good government through objective, accurate, relevant budget advice." The LFA shall report to the Subcommittee on Oversight before October 31, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measures for FY 2022: 1) On-target revenue estimates (Target = 92% accurate for estimates 18 months out, 98% accurate for estimates four months out); 2) Correct appropriations bills (Target = 99%); 3) Unrevised fiscal notes (Target = 99.5%); 4) Timely fiscal notes (Target = 95%); and 5) Timely performance notes (Target = 85%).

Item 19

To Legislature - Office of the Legislative Auditor General
From General Fund 4,553,400
From Beginning Nonlapsing Balances 1,327,600
From Closing Nonlapsing Balances ... (1,327,600)
Schedule of Programs:
Administration 4,553,400

The Legislature intends that the Office of the Legislative Auditor General (LAG) report performance measures for the LAG line item, whose mission is "to serve the Utah Legislature and the citizens of Utah by providing objective and credible information, in-depth analysis, findings, and conclusions that help legislators and other decision-makers improve programs, reduce costs, and promote accountability." The LAG shall report to the Subcommittee on Oversight before October 31, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measures for FY 2022: 1) Total audits completed each year (Target = 18); (2) Agency recommendations implemented (Target = 98%); and (3) Legislative recommendations implemented (Target = 100%).

Item 20

To Legislature - Legislative Services
From General Fund 5,610,400
From Dedicated Credits Revenue 263,400
From Beginning Nonlapsing Balances 2,498,800
From Closing Nonlapsing Balances ... (2,498,800)
Schedule of Programs:
Administration 1,305,500
Pass-Through 555,600
Information Technology 4,012,700

The Legislature intends that the Office of Legislative Services (LS) report performance measures for the LS line item, which provides centralized "back office" administrative functions for the legislative branch. The LS shall report to the Subcommittee on Oversight before October 31, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measures for FY 2022: 1) New employee onboarding and computer account set up within one business day after receiving notification of hire (Target = 100%); (2) Former employee offboarding and computer account removed within one business day after termination (Target = 100%); and (3) Legislative committee rooms opened, tested, and ready for meetings no later than one hour before any scheduled meetings (Target = 100%).

Item 21
To Legislature – Legislative Services
Digital Wellness Commission
From General Fund 300,000
Schedule of Programs:
Digital Wellness Commission 300,000

UTAH NATIONAL GUARD

Item 22
To Utah National Guard
From General Fund 7,524,000
From Federal Funds 58,648,800
From Dedicated Credits Revenue 45,700
From Beginning Nonlapsing Balances 5,464,300
From Closing Nonlapsing Balances ... (3,000,000)
Schedule of Programs:
Administration 1,308,700
Operations and Maintenance 66,174,100
Tuition Assistance 1,200,000

The Legislature intends that the Utah National Guard be allowed to increase its vehicle fleet by up to three vehicles with funding from existing appropriations.

In accordance with UCA 63J-1-201, the Legislature intends that the Utah National Guard (UNG) report performance measures for the UNG line item, whose mission is "to provide mission-ready military forces to assist both state and federal authorities in times of emergency or war." The UNG shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measures for FY 2022: 1) Personnel readiness (Target = 100% assigned strength); 2) Individual training readiness (Target = 90% Military Occupational Specialty qualification); 3) Collective unit training readiness (Target = 100% fulfillment of every mission assigned by the Commander in Chief; and 4) Installation readiness (Target = Installation Status Report of category 2 or higher for each facility).

DEPARTMENT OF VETERANS AND MILITARY AFFAIRS

Item 23
To Department of Veterans and Military Affairs – Veterans and Military Affairs
From General Fund 3,691,200
From Federal Funds 675,500
From Dedicated Credits Revenue 306,800
From General Fund Restricted – Transportation of Veterans to Memorials Supp Rest Acct 12,500
Schedule of Programs:
Administration 863,200
Cemetery 815,800
Military Affairs 804,200
Outreach Services 1,928,200
State Approving Agency 262,100
Transportation of Veterans to Memorials 12,500

In accordance with UCA 63J-1-201, the Legislature intends that the Department of Veterans and Military Affairs (DVMA) report performance measures for the DVMA line item, whose purpose is to "Advocate for and honor veterans for their unique contributions; Connect veterans, family members, community groups, service organizations, military installations, support groups, and other stakeholders to each other and external resources; and Grow military missions and associated military installation workloads, consistent with national security." The DVMA shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measures for FY 2022: 1) Provide programs that assist veterans with filing and receiving compensation, pension, and educational benefits administered by the U.S. Veterans Administration (Target = 5% annual growth); 2) Assist in ensuring veterans are employed in the Utah workforce (Target = Veterans unemployment rate no greater than the statewide unemployment rate); 3) Increase the number of current conflict veterans who are connected to appropriate services (Target = 10% annual increase); 4) Provide veterans with a full range of burial services and related benefits that reflect dignity, compassion, and respect (Target = 95% satisfaction); and 5) Identify, plan, and advise on military mission workload opportunities through engagement with federal and state parties and decision makers (Target = Report on accomplishments).

Subsection 2(b). Expendable Funds and Accounts. The Legislature has reviewed the following expendable funds. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated. Outlays and expenditures from the funds or accounts to which the money is transferred may be made without further legislative action, in accordance with statutory provisions relating to the funds or accounts.

CAPITOL PRESERVATION BOARD

Item 24
To Capitol Preservation Board – State Capitol Fund
From Dedicated Credits Revenue 527,500
From Beginning Fund Balance 1,571,300
From Closing Fund Balance ..... (1,409,500)
Schedule of Programs:
State Capitol Fund 689,300

UTAH NATIONAL GUARD

Item 25
To Utah National Guard – National Guard MWR Fund
From Dedicated Credits Revenue 2,709,600
From Beginning Fund Balance 351,800
From Closing Fund Balance ..... (351,800)
Schedule of Programs:
National Guard MWR Fund 2,709,600

In accordance with UCA 63J-1-201, the Legislature intends that the Utah National Guard (UNG) report performance measures for the Morale, Welfare, and Recreation Fund line item, which "is focused on enriching the lives of our fellow service members by offering a selection of military services and discounts." The UNG shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measures for FY 2022: 1) Sustainability (Target = Income equal to or greater than expenses); and 2) Enhanced morale (Target = 70% positive feedback).

DEPARTMENT OF VETERANS AND MILITARY AFFAIRS

Item 26
To Department of Veterans and Military Affairs – Utah Veterans Nursing Home Fund
From Federal Funds 40,515,300
From Dedicated Credits Revenue 232,200
From Beginning Fund Balance 8,323,500
From Closing Fund Balance ..... (8,323,500)
Schedule of Programs:
Veterans Nursing Home Fund 40,747,500

In accordance with UCA 63J-1-201, the Legislature intends that the Department of Veterans and Military Affairs (DVMA) report performance measures for the Veterans Nursing Home line item, whose purpose is to accept donations and gifts, and receive funds from state and federal agencies, insurance reimbursements, or cash payments, for the benefit of each home and its residents. The DVMA shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measures for FY 2022: 1) Occupancy rate (Target = 95% average); 2) Compliance with all state and federal regulations for operations, licensing, and payments (Target = 95%); 3) Best in class rating in all national customer satisfaction surveys (Target = 80%); and 4) Deviations in operations, safety, or payments are addressed within specified times (Target = 95%).

Subsection 2(c). Restricted Fund and Account Transfers. The Legislature authorizes the State Division of Finance to transfer the following amounts between the following funds or accounts as indicated. Expenditures and outlays from the funds to which the money is transferred must be authorized by an appropriation.

Item 27
To General Fund Restricted – National Guard Death Benefits Account
From General Fund 9,500
From Beginning Fund Balance 347,500
From Closing Fund Balance ..... (357,000)

Item 28
To West Traverse Sentinel Landscape Fund

In accordance with UCA 63J-1-201, the Legislature intends that the Utah National Guard (UNG) report performance measures for the West Traverse Sentinel Landscape Fund line item, whose purpose is "to provide: matching funds for established federal funding programs concerning sentinel landscapes; matching funds for local and private funding programs that assist with sentinel landscape designations; and incentives for landowners who voluntarily participate in land management practices that are consistent with Camp Williams's military missions." The UNG shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measures for FY 2022: 1) Number of acres preserved; 2) Number of acres under agreement for preservation.

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

FUND AND ACCOUNT TRANSFERS

Item 29
To Fund and Account Transfers – Firefighters Retirement Trust & Agency Fund
From General Fund 12,000,000
Schedule of Programs:
Firefighters Retirement Trust & Agency Fund 12,000,000

Section 3. Effective Date.
If approved by two-thirds of all the members elected to each house, Section 1 of this bill takes effect upon approval by the Governor, or the day following the constitutional time limit of Utah Constitution Article VII, Section 8 without the Governor's signature, or in the case of a veto, the date of override. Section 2 of this bill takes effect on July 1, 2021.

CHAPTER 5
H. B. 8
Passed January 28, 2021
Approved February 4, 2021
Effective July 1, 2021

STATE AGENCY AND HIGHER EDUCATION COMPENSATION APPROPRIATIONS

Chief Sponsor: Jefferson Moss
Senate Sponsor: Don L. Ipson

LONG TITLE

General Description:

This bill supplements or reduces appropriations otherwise provided for the support and operation of state government for the fiscal year beginning July 1, 2021 and ending June 30, 2022.

Highlighted Provisions:

This bill:

- provides funding for a 3.0% labor market increase for state employees;
- provides funding for a 3.0% labor market increase for higher education employees;
- provides funding equivalent to a 3.0% labor market adjustment for discretionary salary changes in the legislative and judicial branches and constitutional offices;
- provides funding for step and lane increases for employees of the Utah Schools for the Deaf and the Blind;
- provides funding for an average 4.3% increase in health insurance benefits rates for state and higher education employees;
- provides funding for retirement rate changes for certain state employees;
- provides funding for an up-to $26 per pay period match for qualifying state employees enrolled in a defined contribution plan;
- provides for adjustments to other employee benefits trust funds; and
- provides for other compensation adjustments as authorized.

Money Appropriated in this Bill:

This bill appropriates $95,412,200 in operating and capital budgets for fiscal year 2022, including:

- $15,893,200 from the General Fund;
- $44,249,400 from the Education Fund; and
- $35,269,600 from various sources as detailed in this bill.

This bill appropriates $178,000 in expendable funds and accounts for fiscal year 2022.

This bill appropriates $212,500 in business-like activities for fiscal year 2022.

This bill appropriates ($11,000) in restricted fund and account transfers for fiscal year 2022, including:

- $16,000 from the General Fund; and
- ($27,000) from various sources as detailed in this bill.

This bill appropriates $900 in fiduciary funds for fiscal year 2022.

Other Special Clauses:

This bill takes effect on July 1, 2021.

Utah Code Sections Affected:

ENACTS UNCODIFIED MATERIAL

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

Section 1. FY 2022 Appropriations. The following sums of money are appropriated for the fiscal year beginning July 1, 2021 and ending June 30, 2022.

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

EXECUTIVE OFFICES AND CRIMINAL JUSTICE

ATTORNEY GENERAL

Item 1

To Attorney General
From General Fund 435,600
From General Fund, One-Time 99,800
From Federal Funds 46,900
From Federal Funds, One-Time 10,900
From Dedicated Credits Revenue 98,500
From Dedicated Credits Revenue, One-Time 22,900
From Attorney General Crime & Violence Prevention Fund 300
From Attorney General Crime & Violence Prevention Fund, One-Time 100
From Attorney General Litigation Fund 100
From Revenue Transfers 13,100
From Revenue Transfers, One-Time 3,100
Schedule of Programs:
Administration 116,300
Child Protection 159,600
Civil 39,500
Criminal Prosecution 415,900

Item 2

To Attorney General - Children's Justice Centers
From General Fund 8,100
From General Fund, One-Time 1,700
From Dedicated Credits Revenue 100
From Expendable Receipts 700
From Expendable Receipts, One-Time 200
Schedule of Programs:
Children's Justice Centers 10,800

Item 3

To Attorney General - Prosecution Council
From General Fund 5,400
From General Fund, One-Time 1,700
From Dedicated Credits Revenue 2,500
From Dedicated Credits Revenue, One-Time 700
From Revenue Transfers 2,500
From Revenue Transfers, One-Time 700
Schedule of Programs:
Prosecution Council 13,500

BOARD OF PARDONS AND PAROLE

Item 4

To Board of Pardons and Parole

From General Fund 78,600
From General Fund, One-Time 21,200
Schedule of Programs:
Board of Pardons and Parole 99,800

UTAH DEPARTMENT OF CORRECTIONS

Item 5
To Utah Department of Corrections - Programs and Operations
From General Fund 3,971,000
From General Fund, One-Time 1,089,700
Schedule of Programs:
Adult Probation and Parole Administration 95,600
Adult Probation and Parole Programs 1,446,900
Department Administrative Services .. 289,700
Department Executive Director 127,900
Department Training 44,800
Prison Operations Administration 59,200
Prison Operations Central Utah/Gunnison 858,600
Prison Operations Draper Facility ... 1,583,400
Prison Operations Inmate Placement ... 63,900
Programming Administration 12,500
Programming Skill Enhancement 239,500
Programming Treatment 238,700

Item 6
To Utah Department of Corrections - Department Medical Services
From General Fund 366,300
From General Fund, One-Time 83,200
Schedule of Programs:
Medical Services 449,500

JUDICIAL COUNCIL/STATE COURT ADMINISTRATOR

Item 7
To Judicial Council/State Court Administrator - Administration
From General Fund 2,001,300
From General Fund, One-Time 466,600
From Federal Funds 10,700
From Federal Funds, One-Time 3,300
Schedule of Programs:
Administrative Office 78,600
Court of Appeals 84,100
Courts Security 2,200
Data Processing 131,300
District Courts 1,123,300
Grants Program 14,000
Judicial Education 15,000
Justice Courts 3,500
Juvenile Courts 944,200
Law Library 21,300
Supreme Court 64,400

The Legislature intends that salaries for District Court judges be increased by the same percentage as state employees generally. Unless otherwise determined by the Legislature, the salary for a District Court judge for the fiscal year beginning July 1, 2021 and ending June 30, 2022 shall be $175,550. The Legislature intends that other judicial salaries shall be calculated in accordance with the formula set forth in UCA Title 67 Chapter 8 Section 2 and rounded to the nearest $50.

Item 8
To Judicial Council/State Court Administrator - Contracts and Leases
From General Fund 400
Schedule of Programs:
Contracts and Leases 400

Item 9
To Judicial Council/State Court Administrator - Guardian ad Litem
From General Fund 150,200
From General Fund, One-Time 38,300
Schedule of Programs:
Guardian ad Litem 188,500

Item 10
To Judicial Council/State Court Administrator - Jury and Witness Fees
From General Fund 9,300
From General Fund, One-Time 3,300
Schedule of Programs:
Jury, Witness, and Interpreter 12,600

GOVERNORS OFFICE

Item 11
To Governors Office - Commission on Criminal and Juvenile Justice
From General Fund 64,800
From General Fund, One-Time 21,400
From Federal Funds 33,700
From Federal Funds, One-Time 11,200
From Dedicated Credits Revenue 900
From Dedicated Credits Revenue, One-Time 300
From Crime Victim Reparations Fund 2,600
From Crime Victim Reparations Fund, One-Time 900
From General Fund Restricted - Criminal Forfeiture Restricted Account 1,800
From General Fund Restricted - Criminal Forfeiture Restricted Account, One-Time 200
Schedule of Programs:
CCJJ Commission 44,900
Extraditions 1,000
Judicial Performance Evaluation Commission 9,300
Sentencing Commission 3,200
State Asset Forfeiture Grant Program ... 2,000
State Task Force Grants 1,300
Substance Use and Mental Health Advisory Council 3,000
Utah Office for Victims of Crime 73,100

Item 12
To Governors Office - Governor's Office
From General Fund 65,800
From General Fund, One-Time 10,800
From Dedicated Credits Revenue 16,200
From Dedicated Credits Revenue, One-Time 2,100
From Expendable Receipts 200
Schedule of Programs:
Administration 51,300

Governor's Residence 5,000
Literacy Projects 1,100
Lt. Governor's Office 33,800
Washington Funding 3,900

Under provisions of Section 67-22-1, Utah Code Annotated, the Legislature intends that salaries for Governor be increased by the same percentage as state employees generally. Unless otherwise determined by the Legislature the Governor's salary for the fiscal year beginning July 1, 2021 and ending June 30, 2022 shall be $165,600. Other constitutional offices shall be calculated in accordance with the formula set forth in Section 67-22-1.

Item 13
To Governors Office - Office of Management and Budget
From General Fund 45,600
From General Fund, One-Time 12,200
Schedule of Programs:
Administration 14,600
Operational Excellence 8,000
Planning and Budget Analysis 35,200

Item 14
To Governors Office - Indigent Defense Commission
From Expendable Receipts 600
From Expendable Receipts, One-Time 200
From General Fund Restricted - Indigent Defense Resources 12,600
From General Fund Restricted - Indigent Defense Resources, One-Time 3,400
From Revenue Transfers 600
From Revenue Transfers, One-Time 200
Schedule of Programs:
Office of Indigent Defense Services 17,600

DEPARTMENT OF HUMAN SERVICES - DIVISION OF JUVENILE JUSTICE SERVICES

Item 15
To Department of Human Services - Division of Juvenile Justice Services - Programs and Operations
From General Fund 1,061,300
From General Fund, One-Time 307,100
From Federal Funds 25,700
From Federal Funds, One-Time 8,900
From Dedicated Credits Revenue 9,300
From Dedicated Credits Revenue, One-Time 2,500
From Revenue Transfers 11,600
From Revenue Transfers, One-Time 3,300
Schedule of Programs:
Administration 66,700
Community Programs 87,900
Correctional Facilities 405,500
Early Intervention Services 716,700
Youth Parole Authority 7,800
Case Management 145,100

OFFICE OF THE STATE AUDITOR

Item 16
To Office of the State Auditor - State Auditor
From General Fund 42,900
From General Fund, One-Time 12,500
From Dedicated Credits Revenue 42,400
From Dedicated Credits Revenue, One-Time 12,400
Schedule of Programs:
State Auditor 110,200

DEPARTMENT OF PUBLIC SAFETY

Item 17
To Department of Public Safety - Driver License
From Dedicated Credits Revenue 400
From Dedicated Credits Revenue, One-Time 100
From Department of Public Safety Restricted Account 478,600
From Department of Public Safety Restricted Account, One-Time 127,600
From Public Safety Motorcycle Education Fund 1,500
From Public Safety Motorcycle Education Fund, One-Time 700
From Pass-through 900
From Pass-through, One-Time 300
Schedule of Programs:
Driver License Administration 34,500
Driver Records 155,800
Driver Services 417,600
Motorcycle Safety 2,200

Item 18
To Department of Public Safety - Emergency Management
From General Fund 101,000
From General Fund, One-Time 25,100
Schedule of Programs:
Emergency Management 126,100

Item 19
To Department of Public Safety - Highway Safety
From Federal Funds 25,800
From Federal Funds, One-Time 6,800
From Dedicated Credits Revenue 100
From Public Safety Motorcycle Education Fund 300
From Public Safety Motorcycle Education Fund, One-Time 100
Schedule of Programs:
Highway Safety 33,100

Item 20
To Department of Public Safety - Peace Officers' Standards and Training
From General Fund 66,400
From General Fund, One-Time 11,000
From Dedicated Credits Revenue 3,400
From Dedicated Credits Revenue, One-Time 400
Schedule of Programs:
Basic Training 42,600
POST Administration 21,600
Regional/Inservice Training 17,000

Item 21
To Department of Public Safety - Programs & Operations
From General Fund 1,462,400
From General Fund, One-Time 346,700
From Federal Funds 14,100
From Federal Funds, One-Time 2,000

From Dedicated Credits Revenue 133,700
From Dedicated Credits Revenue, One-Time 29,300
From Department of Public Safety Restricted Account 53,800
From Department of Public Safety Restricted Account, One-Time 12,900
From General Fund Restricted - Fire Academy Support 37,500
From General Fund Restricted - Fire Academy Support, One-Time 7,100
From Gen. Fund Rest. - Motor Vehicle Safety Impact Acct. 45,400
From Gen. Fund Rest. - Motor Vehicle Safety Impact Acct., One-Time 11,000
From Revenue Transfers 7,400
From Revenue Transfers, One-Time 1,000
From Gen. Fund Rest. - Utah Highway Patrol Aero Bureau 2,400
From Gen. Fund Rest. - Utah Highway Patrol Aero Bureau, One-Time 100
From Pass-through 100
Schedule of Programs:
Aero Bureau 11,900
CITS Administration 10,700
CITS Communications 199,200
CITS State Bureau of Investigation 103,200
CITS State Crime Labs 156,700
Department Commissioner's Office 78,400
Department Fleet Management 1,600
Department Grants 21,100
Department Intelligence Center 25,300
Fire Marshal - Fire Fighter Training 7,300
Fire Marshal - Fire Operations 44,900
Highway Patrol - Administration 20,700
Highway Patrol - Commercial Vehicle 106,100
Highway Patrol - Field Operations 1,033,200
Highway Patrol - Protective Services 132,100
Highway Patrol - Safety Inspections 18,000
Highway Patrol - Special Enforcement 80,600
Highway Patrol - Special Services 98,500
Highway Patrol - Technology Services 17,400

Item 22
To Department of Public Safety - Bureau of Criminal Identification
From General Fund 5,000
From General Fund, One-Time 1,300
From Dedicated Credits Revenue 104,800
From Dedicated Credits Revenue, One-Time 27,000
From General Fund Restricted - Concealed Weapons Account 61,100
From General Fund Restricted - Concealed Weapons Account, One-Time 15,800
From Revenue Transfers 500
From Revenue Transfers, One-Time 100
Schedule of Programs:
Non-Government/Other Services 215,600

STATE TREASURER

Item 23
To State Treasurer
From General Fund 14,300
From General Fund, One-Time 2,500
From Dedicated Credits Revenue 14,100
From Dedicated Credits Revenue, One-Time 2,500
From Land Trusts Protection and Advocacy Account 5,000
From Unclaimed Property Trust 23,500
From Unclaimed Property Trust, One-Time 7,500
Schedule of Programs:
Advocacy Office 5,000
Money Management Council 2,000
Treasury and Investment 31,400
Unclaimed Property 31,000

INFRASTRUCTURE AND GENERAL GOVERNMENT

CAREER SERVICE REVIEW OFFICE

Item 24
To Career Service Review Office
From General Fund 4,400
From General Fund, One-Time 1,400
Schedule of Programs:
Career Service Review Office 5,800

UTAH EDUCATION AND TELEHEALTH NETWORK

Item 25
To Utah Education and Telehealth Network - Digital Teaching and Learning Program
From Education Fund 4,300
Schedule of Programs:
Digital Teaching and Learning Program 4,300

Item 26
To Utah Education and Telehealth Network
From General Fund 26,600
From Education Fund 362,300
From Federal Funds 83,700
From Dedicated Credits Revenue 12,200
Schedule of Programs:
Administration 79,100
Instructional Support 85,200
KUEN Broadcast 6,500
Public Information 9,000
Technical Services 265,900
Utah Telehealth Network 39,100

DEPARTMENT OF ADMINISTRATIVE SERVICES

Item 27
To Department of Administrative Services - Administrative Rules
From General Fund 7,000
From General Fund, One-Time 1,900
Schedule of Programs:
DAR Administration 8,900

Item 28
To Department of Administrative Services - DFCM Administration
From General Fund 43,100
From General Fund, One-Time 11,500
From Education Fund 9,100
From Education Fund, One-Time 2,600
From Dedicated Credits Revenue 12,300
From Dedicated Credits Revenue, One-Time 3,400
From Capital Projects Fund 47,900
From Capital Projects Fund, One-Time ... 13,400
Schedule of Programs:
DFCM Administration 135,400
Energy Program 7,900

Item 29
To Department of Administrative Services - Executive Director
From General Fund 13,400
From General Fund, One-Time 2,700
From Dedicated Credits Revenue 3,100
From Dedicated Credits Revenue, One-Time 600
Schedule of Programs:
Executive Director 19,800

Item 30
To Department of Administrative Services - Finance - Mandated
From General Fund, One-Time ..... (4,500,000)
Schedule of Programs:
State Employee Benefits ..... (4,500,000)

Under provisions of Section 67-19-43, Utah Code Annotated, the employer defined contribution match for the fiscal year beginning July 1, 2021 and ending June 30, 2022 shall be $26 per pay period.

Item 31
To Department of Administrative Services - Finance Administration
From General Fund 69,500
From General Fund, One-Time 21,900
From Dedicated Credits Revenue 22,800
From Dedicated Credits Revenue, One-Time 7,300
From Gen. Fund Rest. - Internal Service Fund Overhead 10,800
From Gen. Fund Rest. - Internal Service Fund Overhead, One-Time 3,000
Schedule of Programs:
Finance Director's Office 9,400
Financial Information Systems 36,100
Financial Reporting 40,000
Payables/Disbursing 34,600
Payroll 15,200

Item 32
To Department of Administrative Services - Inspector General of Medicaid Services
From General Fund 14,000
From General Fund, One-Time 4,300
From Medicaid Expansion Fund 400
From Medicaid Expansion Fund, One-Time 100
From Revenue Transfers 27,600
From Revenue Transfers, One-Time 8,500
Schedule of Programs:
Inspector General of Medicaid Services 54,900

Item 33
To Department of Administrative Services - Judicial Conduct Commission
From General Fund 4,000
From General Fund, One-Time 700
Schedule of Programs:
Judicial Conduct Commission 4,700

Item 34
To Department of Administrative Services - Purchasing
From General Fund 30,500
From General Fund, One-Time 4,500
Schedule of Programs:
Purchasing and General Services 35,000

Item 35
To Department of Administrative Services - State Archives
From General Fund 35,800
From General Fund, One-Time 11,500
From Federal Funds 1,500
From Federal Funds, One-Time 500
From Dedicated Credits Revenue 300
From Dedicated Credits Revenue, One-Time 100
Schedule of Programs:
Archives Administration 14,300
Patron Services 14,700
Preservation Services 5,300
Records Analysis 15,400

DEPARTMENT OF TECHNOLOGY SERVICES

Item 36
To Department of Technology Services - Chief Information Officer
From General Fund 7,600
From General Fund, One-Time 700
Schedule of Programs:
Chief Information Officer 8,300

Item 37
To Department of Technology Services - Integrated Technology Division
From General Fund 8,400
From General Fund, One-Time 2,600
From Federal Funds 5,600
From Federal Funds, One-Time 1,700
From Dedicated Credits Revenue 8,400
From Dedicated Credits Revenue, One-Time 2,500
From Gen. Fund Rest. - Statewide Unified E-911 Emerg. Acct. 2,300
From Gen. Fund Rest. - Statewide Unified E-911 Emerg. Acct., One-Time ... 700
Schedule of Programs:
Automated Geographic Reference Center 32,200

TRANSPORTATION

Item 38
To Transportation - Aeronautics
From Dedicated Credits Revenue 12,500
From Dedicated Credits Revenue, One-Time 1,300

From Aeronautics Restricted Account 44,000
From Aeronautics Restricted Account, One-Time 5,100
Schedule of Programs:
Administration 26,700
Airplane Operations 36,200

Item 39
To Transportation - Engineering Services
From Transportation Fund 796,300
From Transportation Fund, One-Time .. 105,500
From Federal Funds 307,200
From Federal Funds, One-Time 42,800
From Dedicated Credits Revenue 54,100
From Dedicated Credits Revenue, One-Time 7,500
Schedule of Programs:
Civil Rights 10,600
Construction Management 74,400
Engineer Development Pool 75,200
Engineering Services 121,900
Environmental 94,500
Highway Project Management Team 34,300
Planning and Investment 20,300
Materials Lab 183,400
Preconstruction Admin 107,500
Program Development 264,100
Research 62,800
Right-of-Way 112,800
Structures 151,600

Item 40
To Transportation - Operations/ Maintenance Management
From Transportation Fund 3,162,100
From Transportation Fund, One-Time 494,400
From Federal Funds 244,800
From Federal Funds, One-Time 38,600
From Dedicated Credits Revenue 51,600
From Dedicated Credits Revenue, One-Time 8,400
Schedule of Programs:
Field Crews 606,900
Maintenance Planning 102,400
Region 1 440,500
Region 2 627,500
Region 3 404,700
Region 4 854,900
Seasonal Pools 105,400
Shops 313,200
Traffic Operations Center 427,300
Traffic Safety/Tramway 117,100

Item 41
To Transportation - Region Management
From Transportation Fund 929,000
From Transportation Fund, One-Time 133,000
From Federal Funds 105,800
From Federal Funds, One-Time 15,100
From Dedicated Credits Revenue 75,600
From Dedicated Credits Revenue, One-Time 10,700
Schedule of Programs:
Cedar City 9,800
Price 14,500
Region 1 279,500
Region 2 433,100
Region 3 231,200
Region 4 291,000
Richfield 10,100

Item 42
To Transportation - Support Services
From Transportation Fund 599,500
From Transportation Fund, One-Time ... 88,400
From Federal Funds 95,200
From Federal Funds, One-Time 14,800
Schedule of Programs:
Administrative Services 79,700
Community Relations 52,900
Comptroller 131,100
Data Processing 12,000
Human Resources Management 61,400
Internal Auditor 45,300
Ports of Entry 335,800
Procurement 52,700
Risk Management 27,000

Item 43
To Transportation - Amusement Ride Safety
From General Fund Restricted - Amusement Ride Safety Restricted Account 6,300
From General Fund Restricted - Amusement Ride Safety Restricted Account, One-Time 700
Schedule of Programs:
Amusement Ride Safety 7,000

BUSINESS, ECONOMIC DEVELOPMENT, AND LABOR

DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL

Item 44
To Department of Alcoholic Beverage Control - DABC Operations
From Liquor Control Fund 484,600
From Liquor Control Fund, One-Time 90,400
Schedule of Programs:
Administration 16,400
Executive Director 69,100
Stores and Agencies 425,600
Warehouse and Distribution 63,900

DEPARTMENT OF COMMERCE

Item 45
To Department of Commerce - Building Inspector Training
From Dedicated Credits Revenue 1,300
From Dedicated Credits Revenue, One-Time 300
Schedule of Programs:
Building Inspector Training 1,600

Item 46
To Department of Commerce - Commerce General Regulation
From Federal Funds 4,600
From Federal Funds, One-Time 1,500
From Dedicated Credits Revenue 27,400
From Dedicated Credits Revenue, One-Time 7,000
From General Fund Restricted - Commerce Service Account 299,500
From General Fund Restricted - Commerce Service Account, One-Time 83,800

From General Fund Restricted – Factory Built Housing Fees 1,400
From General Fund Restricted – Factory Built Housing Fees, One–Time 400
From Gen. Fund Rest. – Geologist Education and Enforcement 300
From Gen. Fund Rest. – Geologist Education and Enforcement, One–Time 100
From Gen. Fund Rest. – Nurse Education & Enforcement Acct. 700
From Gen. Fund Rest. – Nurse Education & Enforcement Acct., One–Time 200
From General Fund Restricted – Pawnbroker Operations 2,300
From General Fund Restricted – Pawnbroker Operations, One–Time 900
From General Fund Restricted – Public Utility Restricted Acct. 61,900
From General Fund Restricted – Public Utility Restricted Acct., One–Time 20,300
From Revenue Transfers 2,400
From Revenue Transfers, One–Time 900
From Pass–through 2,000
From Pass–through, One–Time 600
Schedule of Programs:
Administration 42,500
Consumer Protection 52,600
Corporations and Commercial Code 51,700
Occupational and Professional Licensing 187,200
Office of Consumer Services 14,200
Public Utilities 76,100
Real Estate 46,100
Securities 47,800

GOVERNOR'S OFFICE OF ECONOMIC DEVELOPMENT

Item 47
To Governor's Office of Economic Development – Administration
From General Fund 29,600
From General Fund, One–Time 8,100
Schedule of Programs:
Administration 37,700

Item 48
To Governor's Office of Economic Development – Business Development
From General Fund 56,800
From General Fund, One–Time 14,200
From Federal Funds 4,600
From Federal Funds, One–Time 1,100
From Dedicated Credits Revenue 3,100
From Dedicated Credits Revenue, One–Time 800
From General Fund Restricted – Industrial Assistance Account 1,700
From General Fund Restricted – Industrial Assistance Account, One–Time 500
Schedule of Programs:
Corporate Recruitment and Business Services 51,300
Outreach and International Trade 31,500

Item 49
To Governor's Office of Economic Development – Office of Tourism
From General Fund 38,100
From General Fund, One–Time 10,500
From Dedicated Credits Revenue 3,700
From Dedicated Credits Revenue, One–Time 1,200
From General Fund Rest. – Motion Picture Incentive Acct. 6,200
From General Fund Rest. – Motion Picture Incentive Acct., One–Time 1,900
Schedule of Programs:
Administration 10,000
Film Commission 12,800
Operations and Fulfillment 38,800

Item 50
To Governor's Office of Economic Development – Pete Suazo Utah Athletics Commission
From General Fund 2,200
From General Fund, One–Time 500
From Dedicated Credits Revenue 1,000
From Dedicated Credits Revenue, One–Time 200
Schedule of Programs:
Pete Suazo Utah Athletics Commission 3,900

Item 51
To Governor's Office of Economic Development – Talent Ready Utah Center
From General Fund 5,800
From General Fund, One–Time 1,400
From Dedicated Credits Revenue 600
From Dedicated Credits Revenue, One–Time 200
Schedule of Programs:
Talent Ready Utah Center 7,500
Utah Works Program 500

FINANCIAL INSTITUTIONS

Item 52
To Financial Institutions – Financial Institutions Administration
From General Fund Restricted – Financial Institutions 103,200
From General Fund Restricted – Financial Institutions, One–Time 32,400
Schedule of Programs:
Administration 135,600

DEPARTMENT OF HERITAGE AND ARTS

Item 53
To Department of Heritage and Arts – Administration
From General Fund 36,100
From General Fund, One–Time 10,400
From Dedicated Credits Revenue 1,000
From Dedicated Credits Revenue, One–Time 200
Schedule of Programs:
Administrative Services 28,000
Executive Director's Office 9,000
Information Technology 4,300
Utah Multicultural Affairs Office 6,400

Item 54
To Department of Heritage and Arts – Division of Arts and Museums
From General Fund 25,700

From General Fund, One-Time 8,200
From Federal Funds 3,700
From Federal Funds, One-Time 1,200
From Dedicated Credits Revenue 1,400
From Dedicated Credits Revenue, One-Time 400
Schedule of Programs:
Administration 7,600
Community Arts Outreach 33,000

Item 55
To Department of Heritage and Arts - Commission on Service and Volunteerism
From General Fund 1,200
From General Fund, One-Time 300
From Federal Funds 13,400
From Federal Funds, One-Time 3,600
From Dedicated Credits Revenue 100
Schedule of Programs:
Commission on Service and Volunteerism 18,600

Item 56
To Department of Heritage and Arts - Indian Affairs
From General Fund 3,800
From Dedicated Credits Revenue 600
Schedule of Programs:
Indian Affairs 4,400

Item 57
To Department of Heritage and Arts - State History
From General Fund 34,600
From General Fund, One-Time 8,300
From Federal Funds 13,900
From Federal Funds, One-Time 3,100
From Dedicated Credits Revenue 7,000
From Dedicated Credits Revenue, One-Time 1,600
Schedule of Programs:
Administration 8,300
Historic Preservation and Antiquities ... 36,300
Library and Collections 10,800
Public History, Communication and Information 13,100

Item 58
To Department of Heritage and Arts - State Library
From General Fund 36,600
From General Fund, One-Time 12,000
From Federal Funds 6,600
From Federal Funds, One-Time 2,500
From Dedicated Credits Revenue 22,500
From Dedicated Credits Revenue, One-Time 6,800
Schedule of Programs:
Administration 5,400
Blind and Disabled 33,800
Bookmobile 15,700
Library Development 15,700
Library Resources 16,400

Item 59
To Department of Heritage and Arts - Stem Action Center
From General Fund 16,500
From General Fund, One-Time 4,100
From Federal Funds 800
From Federal Funds, One-Time 200
From Dedicated Credits Revenue 2,100
From Dedicated Credits Revenue, One-Time 600
Schedule of Programs:
STEM Action Center 24,300

INSURANCE DEPARTMENT

Item 60
To Insurance Department - Bail Bond Program
From General Fund Restricted - Bail Bond Surety Administration 2,100
From General Fund Restricted - Bail Bond Surety Administration, One-Time 300
Schedule of Programs:
Bail Bond Program 2,400

Item 61
To Insurance Department - Health Insurance Actuary
From General Fund Rest. - Health Insurance Actuarial Review 2,300
From General Fund Rest. - Health Insurance Actuarial Review, One-Time ... 300
Schedule of Programs:
Health Insurance Actuary 2,600

Item 62
To Insurance Department - Insurance Department Administration
From General Fund 100
From Federal Funds 4,200
From Federal Funds, One-Time 1,000
From General Fund Restricted - Captive Insurance 21,600
From General Fund Restricted - Captive Insurance, One-Time 6,100
From General Fund Restricted - Insurance Department Acct. 113,900
From General Fund Restricted - Insurance Department Acct., One-Time 29,400
From General Fund Rest. - Insurance Fraud Investigation Acct. 25,200
From General Fund Rest. - Insurance Fraud Investigation Acct., One-Time 3,300
Schedule of Programs:
Administration 148,000
Captive Insurers 27,700
Insurance Fraud Program 29,100

Item 63
To Insurance Department - Title Insurance Program
From General Fund Rest. - Title Licensee Enforcement Acct. 1,700
From General Fund Rest. - Title Licensee Enforcement Acct., One-Time ... 700
Schedule of Programs:
Title Insurance Program 2,400

LABOR COMMISSION

Item 64
To Labor Commission
From General Fund 90,200
From General Fund, One-Time 24,500
From Federal Funds 47,300
From Federal Funds, One-Time 14,600
From Dedicated Credits Revenue 2,100
From Dedicated Credits Revenue, One-Time 400

From Employers' Reinsurance Fund 1,100
From Employers' Reinsurance Fund, One-Time 300
From General Fund Restricted - Industrial Accident Account 51,200
From General Fund Restricted - Industrial Accident Account, One-Time 14,200
From Trust and Agency Funds 100
From General Fund Restricted - Workplace Safety Account 8,100
From General Fund Restricted - Workplace Safety Account, One-Time ... 2,500
Schedule of Programs:
Adjudication 30,500
Administration 25,500
Antidiscrimination and Labor 46,400
Boiler, Elevator and Coal Mine Safety Division 36,000
Industrial Accidents 36,400
Utah Occupational Safety and Health ... 80,000
Workplace Safety 1,800

PUBLIC SERVICE COMMISSION

Item 65
To Public Service Commission
From General Fund Restricted - Public Utility Restricted Acct. 34,600
From General Fund Restricted - Public Utility Restricted Acct., One-Time 10,800
From Revenue Transfers 100
Schedule of Programs:
Administration 45,500

UTAH STATE TAX COMMISSION

Item 66
To Utah State Tax Commission - Tax Administration
From General Fund 362,800
From General Fund, One-Time 112,300
From Education Fund 280,300
From Education Fund, One-Time 86,900
From Federal Funds 8,700
From Federal Funds, One-Time 2,700
From Dedicated Credits Revenue 116,500
From Dedicated Credits Revenue, One-Time 35,300
From General Fund Restricted - Motor Vehicle Enforcement Division Temporary Permit Account 56,000
From General Fund Restricted - Motor Vehicle Enforcement Division Temporary Permit Account, One-Time 11,100
From General Fund Rest. - Sales and Use Tax Admin Fees 151,400
From General Fund Rest. - Sales and Use Tax Admin Fees, One-Time 47,300
From Revenue Transfers 2,500
From Revenue Transfers, One-Time 800
From Uninsured Motorist Identification Restricted Account 2,200
From Uninsured Motorist Identification Restricted Account, One-Time 700
Schedule of Programs:
Administration Division 180,800
Auditing Division 247,100
Motor Vehicle Enforcement Division 69,700
Motor Vehicles 308,300
Property Tax Division 107,800
Seasonal Employees 3,100
Tax Payer Services 255,900
Tax Processing Division 104,800

SOCIAL SERVICES

DEPARTMENT OF HEALTH

Item 67
To Department of Health - Children's Health Insurance Program
From General Fund 2,700
From General Fund, One-Time 500
From Federal Funds 9,400
From Federal Funds, One-Time 1,600
From Dedicated Credits Revenue 100
Schedule of Programs:
Children's Health Insurance Program ... 14,300

Item 68
To Department of Health - Disease Control and Prevention
From General Fund 169,800
From General Fund, One-Time 39,600
From Federal Funds 354,300
From Federal Funds, One-Time 115,200
From Dedicated Credits Revenue 97,600
From Dedicated Credits Revenue, One-Time 24,900
From Expendable Receipts 19,900
From Expendable Receipts, One-Time 6,400
From Department of Public Safety Restricted Account 4,000
From Department of Public Safety Restricted Account, One-Time 600
From General Fund Restricted - Electronic Cigarette Substance and Nicotine Product Tax Restricted Account 46,300
From General Fund Restricted - Electronic Cigarette Substance and Nicotine Product Tax Restricted Account, One-Time 15,700
From Gen. Fund Rest. - State Lab Drug Testing Account 6,100
From Gen. Fund Rest. - State Lab Drug Testing Account, One-Time 1,700
From General Fund Restricted - Tobacco Settlement Account 16,700
From General Fund Restricted - Tobacco Settlement Account, One-Time 5,700
From Revenue Transfers 17,600
From Revenue Transfers, One-Time 5,600
Schedule of Programs:
Clinical and Environmental Lab Certification Programs 12,800
Epidemiology 397,300
General Administration 34,100
Health Promotion 250,200
Utah Public Health Laboratory 148,400
Office of the Medical Examiner 104,900

Item 69
To Department of Health - Executive Director's Operations

From General Fund 74,300
From General Fund, One-Time 19,700
From Federal Funds 57,900
From Federal Funds, One-Time 15,300
From Dedicated Credits Revenue 32,500
From Dedicated Credits Revenue, One-Time 9,300
From Revenue Transfers 30,100
From Revenue Transfers, One-Time 8,200
Schedule of Programs:
Adoption Records Access 1,400
Center for Health Data and Informatics 102,400
Executive Director 60,600
Office of Internal Audit 20,800
Program Operations 60,800
Center for Medical Cannabis 1,300

Item 70
To Department of Health - Family Health and Preparedness
From General Fund 157,300
From General Fund, One-Time 51,300
From Federal Funds 224,500
From Federal Funds, One-Time 69,500
From Dedicated Credits Revenue 25,400
From Dedicated Credits Revenue, One-Time 8,400
From Expendable Receipts 200
From Expendable Receipts, One-Time 100
From General Fund Restricted - Adult Autism Treatment Account 2,400
From General Fund Restricted - Adult Autism Treatment Account, One-Time 800
From Gen. Fund Rest. - Children's Hearing Aid Pilot Program Account 1,200
From Gen. Fund Rest. - Children's Hearing Aid Pilot Program Account, One-Time 500
From Gen. Fund Rest. - K. Oscarson Children's Organ Transp. 500
From Gen. Fund Rest. - K. Oscarson Children's Organ Transp., One-Time 200
From General Fund Restricted - Emergency Medical Services System Account 10,800
From General Fund Restricted - Emergency Medical Services System Account, One-Time 3,400
From Revenue Transfers 54,200
From Revenue Transfers, One-Time 18,300
Schedule of Programs:
Children with Special Health Care Needs 192,100
Director's Office 44,300
Emergency Medical Services and Preparedness 28,200
Health Facility Licensing and Certification 176,000
Maternal and Child Health 97,900
Primary Care 14,800
Public Health and Health Care Preparedness 47,000
Emergency Medical Services Grants 28,700

Item 71
To Department of Health - Medicaid and Health Financing
From General Fund 50,800
From General Fund, One-Time 15,200
From Federal Funds 262,400
From Federal Funds, One-Time 80,400
From Expendable Receipts 69,600
From Expendable Receipts, One-Time 20,800
From Medicaid Expansion Fund 25,100
From Medicaid Expansion Fund, One-Time 8,100
From Nursing Care Facilities Provider Assessment Fund 11,100
From Nursing Care Facilities Provider Assessment Fund, One-Time 3,500
From Revenue Transfers 48,300
From Revenue Transfers, One-Time 15,400
Schedule of Programs:
Long-term Services and Supports 56,200
Healthcare Policy and Authorization 90,900
Director's Office 47,800
Eligibility Policy 63,800
Financial Services 93,200
Managed Health Care 154,400
Medicaid Operations 104,400

Item 72
To Department of Health - Medicaid Services
From General Fund 10,700
From General Fund, One-Time 2,700
From Federal Funds 88,100
From Federal Funds, One-Time 23,200
From Expendable Receipts 900
From Expendable Receipts, One-Time 400
From Expendable Receipts - Rebates 5,700
From Expendable Receipts - Rebates, One-Time 500
From Revenue Transfers 5,400
From Revenue Transfers, One-Time 1,800
Schedule of Programs:
Home and Community Based Waivers 22,700
Other Services 11,100
Pharmacy 10,500
Provider Reimbursement Information System for Medicaid 95,100

Item 73
To Department of Health - Rural Physicians Loan Repayment Assistance
From General Fund 4,700
From General Fund, One-Time 100
Schedule of Programs:
Rural Physicians Loan Repayment Program 4,800

DEPARTMENT OF HUMAN SERVICES

Item 74
To Department of Human Services - Division of Aging and Adult Services
From General Fund 69,900
From General Fund, One-Time 20,600
From Federal Funds 20,800
From Federal Funds, One-Time 6,000

Schedule of Programs:
Administration - DAAS 31,400
Adult Protective Services 77,300
Aging Alternatives 2,700
Aging Waiver Services 5,900

Item 75
To Department of Human Services - Division of Child and Family Services
From General Fund 1,065,000
From General Fund, One-Time 316,900
From Federal Funds 375,700
From Federal Funds, One-Time 111,800
From Expendable Receipts 700
From Expendable Receipts, One-Time 200
Schedule of Programs:
Administration - DCFS 86,000
Child Welfare Management Information System 30,600
Domestic Violence 10,000
Facility-Based Services 17,500
Minor Grants 24,700
Service Delivery 1,701,500

Item 76
To Department of Human Services - Executive Director Operations
From General Fund 160,600
From General Fund, One-Time 47,300
From Federal Funds 92,900
From Federal Funds, One-Time 28,500
From Dedicated Credits Revenue 14,600
From Dedicated Credits Revenue, One-Time 5,300
From Revenue Transfers 56,200
From Revenue Transfers, One-Time 16,200
Schedule of Programs:
Executive Director's Office 121,700
Fiscal Operations 47,800
Information Technology 5,900
Legal Affairs 10,500
Office of Licensing 108,300
Office of Quality and Design 119,000
Utah Developmental Disabilities Council 8,400

Item 77
To Department of Human Services - Office of Public Guardian
From General Fund 9,500
From General Fund, One-Time 3,600
From Federal Funds 500
From Federal Funds, One-Time 200
From Revenue Transfers 5,700
From Revenue Transfers, One-Time 2,200
Schedule of Programs:
Office of Public Guardian 21,700

Item 78
To Department of Human Services - Office of Recovery Services
From General Fund 167,600
From General Fund, One-Time 59,600
From Federal Funds 260,300
From Federal Funds, One-Time 88,800
From Dedicated Credits Revenue 83,100
From Dedicated Credits Revenue, One-Time 27,700
From Medicaid Expansion Fund 800
From Medicaid Expansion Fund, One-Time 400
From Revenue Transfers 36,500
From Revenue Transfers, One-Time 14,400
Schedule of Programs:
Administration - ORS 20,700
Child Support Services 520,000
Children in Care Collections 15,700
Electronic Technology 49,900
Financial Services 52,200
Medical Collections 80,700

Item 79
To Department of Human Services - Division of Services for People with Disabilities
From General Fund 314,900
From General Fund, One-Time 81,800
From Federal Funds 4,200
From Federal Funds, One-Time 1,200
From Dedicated Credits Revenue 29,400
From Dedicated Credits Revenue, One-Time 7,100
From Revenue Transfers 523,000
From Revenue Transfers, One-Time 130,000
Schedule of Programs:
Administration - DSPD 92,000
Service Delivery 136,500
Utah State Developmental Center 863,100

Item 80
To Department of Human Services - Division of Substance Abuse and Mental Health
From General Fund 902,700
From General Fund, One-Time 205,800
From Federal Funds 39,400
From Federal Funds, One-Time 12,100
From Federal Funds - CARES Act 600
From Federal Funds - CARES Act, One-Time 200
From Dedicated Credits Revenue 76,800
From Dedicated Credits Revenue, One-Time 17,100
From Expendable Receipts 300
From General Fund Restricted - Electronic Cigarette Substance and Nicotine Product Tax Restricted Account 300
From General Fund Restricted - Electronic Cigarette Substance and Nicotine Product Tax Restricted Account, One-Time 100
From Revenue Transfers 242,500
From Revenue Transfers, One-Time 55,700
Schedule of Programs:
Administration - DSAMH 75,000
Community Mental Health Services 51,500
State Hospital 1,402,400
State Substance Abuse Services 24,700

DEPARTMENT OF WORKFORCE SERVICES

Item 81
To Department of Workforce Services - Administration
From General Fund 42,600
From General Fund, One-Time 14,800
From Federal Funds 99,900
From Federal Funds, One-Time 33,300
From Dedicated Credits Revenue 1,400

From Dedicated Credits Revenue, One-Time 500
From Expendable Receipts 700
From Expendable Receipts, One-Time 200
From Gen. Fund Rest. - Homeless Housing Reform Rest. Acct 300
From Gen. Fund Rest. - Homeless Housing Reform Rest. Acct, One-Time 100
From Navajo Revitalization Fund 100
From Permanent Community Impact Loan Fund 1,800
From Permanent Community Impact Loan Fund, One-Time 600
From Qualified Emergency Food Agencies Fund 100
From General Fund Restricted - School Readiness Account 200
From General Fund Restricted - School Readiness Account, One-Time 100
From Revenue Transfers 26,000
From Revenue Transfers, One-Time 8,900
From Uintah Basin Revitalization Fund 100
Schedule of Programs:
Administrative Support 168,800
Communications 26,000
Executive Director's Office 16,700
Internal Audit 20,200

Item 82
To Department of Workforce Services - General Assistance
From General Fund 10,800
From General Fund, One-Time 4,900
From Revenue Transfers 600
From Revenue Transfers, One-Time 300
Schedule of Programs:
General Assistance 16,600

Item 83
To Department of Workforce Services - Housing and Community Development
From General Fund 3,500
From General Fund, One-Time 1,300
From Federal Funds 43,000
From Federal Funds, One-Time 14,100
From Dedicated Credits Revenue 2,400
From Dedicated Credits Revenue, One-Time 600
From Expendable Receipts 800
From Expendable Receipts, One-Time 300
From Gen. Fund Rest. - Pamela Atkinson Homeless Account 1,200
From Gen. Fund Rest. - Pamela Atkinson Homeless Account, One-Time ... 500
From Gen. Fund Rest. - Homeless Housing Reform Rest. Acct 6,900
From Gen. Fund Rest. - Homeless Housing Reform Rest. Acct, One-Time 2,500
From General Fund Restricted - Homeless Shelter Cities Mitigation Restricted Account 2,800
From General Fund Restricted - Homeless Shelter Cities Mitigation Restricted Account, One-Time 1,100
From Housing Opportunities for Low Income Households 3,400
From Housing Opportunities for Low Income Households, One-Time 1,000
From Navajo Revitalization Fund 500
From Navajo Revitalization Fund, One-Time 100
From Olene Walker Housing Loan Fund ... 3,400
From Olene Walker Housing Loan Fund, One-Time 1,000
From OWHT-Fed Home 3,400
From OWHT-Fed Home, One-Time 1,000
From OWHTF-Low Income Housing 3,400
From OWHTF-Low Income Housing, One-Time 1,000
From Permanent Community Impact Loan Fund 5,900
From Permanent Community Impact Loan Fund, One-Time 1,900
From Qualified Emergency Food Agencies Fund 200
From Qualified Emergency Food Agencies Fund, One-Time 100
From Revenue Transfers 1,600
From Revenue Transfers, One-Time 400
From Uintah Basin Revitalization Fund 200
From Uintah Basin Revitalization Fund, One-Time 100
Schedule of Programs:
Community Development 25,400
Community Development Administration 28,200
Community Services 4,100
HEAT 6,400
Homeless Committee 19,800
Housing Development 15,200
Weatherization Assistance 10,500

Item 84
To Department of Workforce Services - Operations and Policy
From General Fund 422,900
From General Fund, One-Time 149,500
From Federal Funds 824,500
From Federal Funds, One-Time 293,100
From Dedicated Credits Revenue 6,500
From Dedicated Credits Revenue, One-Time 2,000
From Expendable Receipts 8,200
From Expendable Receipts, One-Time 2,900
From Medicaid Expansion Fund 46,400
From Medicaid Expansion Fund, One-Time 16,100
From General Fund Restricted - School Readiness Account 72,300
From General Fund Restricted - School Readiness Account, One-Time ... 26,500
From Revenue Transfers 586,400
From Revenue Transfers, One-Time 204,200
Schedule of Programs:
Eligibility Services 1,552,300
Utah Data Research Center 18,300
Workforce Development 1,035,000
Workforce Research and Analysis 55,900

Item 85
To Department of Workforce Services - State Office of Rehabilitation
From General Fund 199,100
From General Fund, One-Time 56,200
From Federal Funds 423,600
From Federal Funds, One-Time 121,600
From Dedicated Credits Revenue 4,700

From Dedicated Credits Revenue, One-Time 1,400
From Expendable Receipts 2,900
From Expendable Receipts, One-Time 900
From Revenue Transfers 600
From Revenue Transfers, One-Time 100
Schedule of Programs:
Blind and Visually Impaired 70,900
Deaf and Hard of Hearing 64,300
Disability Determination 207,400
Executive Director 4,700
Rehabilitation Services 463,800

Item 86
To Department of Workforce Services - Unemployment Insurance
From General Fund 18,500
From General Fund, One-Time 5,900
From Federal Funds 395,900
From Federal Funds, One-Time 145,200
From Dedicated Credits Revenue 9,800
From Dedicated Credits Revenue, One-Time 3,700
From Expendable Receipts 700
From Expendable Receipts, One-Time 200
From Permanent Community Impact Loan Fund 200
From Permanent Community Impact Loan Fund, One-Time 100
From Revenue Transfers 2,600
From Revenue Transfers, One-Time 900
Schedule of Programs:
Adjudication 106,700
Unemployment Insurance Administration 477,000

HIGHER EDUCATION

UNIVERSITY OF UTAH

Item 87
To University of Utah - Education and General
From Education Fund 11,690,300
From Dedicated Credits Revenue 3,504,900
Schedule of Programs:
Education and General 14,019,800
Operations and Maintenance 1,175,400

Item 88
To University of Utah - Educationally Disadvantaged
From Education Fund 12,700
Schedule of Programs:
Educationally Disadvantaged 12,700

Item 89
To University of Utah - School of Medicine
From Education Fund 1,215,600
From Dedicated Credits Revenue 405,100
Schedule of Programs:
School of Medicine 1,620,700

Item 90
To University of Utah - University Hospital
From Education Fund 166,600
Schedule of Programs:
University Hospital 154,600
Miners' Hospital 12,000

Item 91
To University of Utah - School of Dentistry
From Education Fund 154,900
From Dedicated Credits Revenue 51,600
Schedule of Programs:
School of Dentistry 206,500

Item 92
To University of Utah - Public Service
From Education Fund 48,700
Schedule of Programs:
Seismograph Stations 19,700
Natural History Museum of Utah 25,100
State Arboretum 3,900

Item 93
To University of Utah - Statewide TV Administration
From Education Fund 73,100
Schedule of Programs:
Public Broadcasting 73,100

Item 94
To University of Utah - Poison Control Center
From Education Fund 85,500
Schedule of Programs:
Poison Control Center 85,500

Item 95
To University of Utah - Center on Aging
From Education Fund 3,400
Schedule of Programs:
Center on Aging 3,400

Item 96
To University of Utah - Rocky Mountain Center for Occupational and Environmental Health
From Education Fund 5,400
Schedule of Programs:
Center for Occupational and Environmental Health 5,400

UTAH STATE UNIVERSITY

Item 97
To Utah State University - Education and General
From Education Fund 5,613,000
From Dedicated Credits Revenue 1,689,900
Schedule of Programs:
Education and General 6,674,400
USU - School of Veterinary Medicine ... 85,800
Operations and Maintenance 542,700

Item 98
To Utah State University - USU - Eastern Education and General
From Education Fund 226,300
From Dedicated Credits Revenue 75,500
Schedule of Programs:
USU - Eastern Education and General 301,800

Item 99
To Utah State University - Educationally Disadvantaged
From Education Fund 300
Schedule of Programs:
Educationally Disadvantaged 300

Item 100
To Utah State University - USU - Eastern Educationally Disadvantaged

From Education Fund 400
Schedule of Programs:
USU – Eastern Educationally Disadvantaged 400

Item 101
To Utah State University – USU – Eastern Career and Technical Education
From Education Fund 144,100
Schedule of Programs:
USU – Eastern Career and Technical Education 144,100

Item 102
To Utah State University – Uintah Basin Regional Campus
From Education Fund 155,600
From Dedicated Credits Revenue 51,900
Schedule of Programs:
Uintah Basin Regional Campus 207,500

Item 103
To Utah State University – Regional Campuses
From Education Fund 142,000
Schedule of Programs:
Administration 142,000

Item 104
To Utah State University – Brigham City Regional Campus
From Education Fund 207,300
From Dedicated Credits Revenue 69,200
Schedule of Programs:
Brigham City Regional Campus 276,500

Item 105
To Utah State University – Tooele Regional Campus
From Education Fund 217,500
From Dedicated Credits Revenue 72,500
Schedule of Programs:
Tooele Regional Campus 290,000

Item 106
To Utah State University – Water Research Laboratory
From Education Fund 90,800
Schedule of Programs:
Water Research Laboratory 90,800

Item 107
To Utah State University – Agriculture Experiment Station
From Education Fund 401,300
Schedule of Programs:
Agriculture Experiment Station 401,300

Item 108
To Utah State University – Cooperative Extension
From Education Fund 564,900
Schedule of Programs:
Cooperative Extension 564,900

Item 109
To Utah State University – Prehistoric Museum
From Education Fund 14,100
Schedule of Programs:
Prehistoric Museum 14,100

Item 110
To Utah State University – Blanding Campus
From Education Fund 86,200
From Dedicated Credits Revenue 28,800
Schedule of Programs:
Blanding Campus 115,000

WEBER STATE UNIVERSITY

Item 111
To Weber State University – Education and General
From Education Fund 3,251,400
From Dedicated Credits Revenue 1,083,900
Schedule of Programs:
Education and General 4,048,000
Operations and Maintenance 287,300

Item 112
To Weber State University – Educationally Disadvantaged
From Education Fund 11,500
Schedule of Programs:
Educationally Disadvantaged 11,500

SOUTHERN UTAH UNIVERSITY

Item 113
To Southern Utah University – Education and General
From Education Fund 1,892,200
From Dedicated Credits Revenue 630,800
Schedule of Programs:
Education and General 2,348,400
Operations and Maintenance 174,600

Item 114
To Southern Utah University – Educationally Disadvantaged
From Education Fund 1,700
Schedule of Programs:
Educationally Disadvantaged 1,700

Item 115
To Southern Utah University – Rural Development
From Education Fund 3,200
Schedule of Programs:
Rural Development 3,200

UTAH VALLEY UNIVERSITY

Item 116
To Utah Valley University – Education and General
From Education Fund 5,249,700
From Dedicated Credits Revenue 1,750,100
Schedule of Programs:
Education and General 6,646,900
Operations and Maintenance 352,900

Item 117
To Utah Valley University – Educationally Disadvantaged
From Education Fund 5,700
Schedule of Programs:
Educationally Disadvantaged 5,700

Item 118
To Utah Valley University – Fire and Rescue Training
From Education Fund 56,100
From Dedicated Credits Revenue 18,800
Schedule of Programs:

Fire and Rescue Training 74,900

SNOW COLLEGE

Item 119
To Snow College - Education and General
From Education Fund 757,500
From Dedicated Credits Revenue 252,500
Schedule of Programs:
Education and General 908,800
Operations and Maintenance 101,200

Item 120
To Snow College - Career and Technical Education
From Education Fund 60,000
Schedule of Programs:
Career and Technical Education 60,000

DIXIE STATE UNIVERSITY

Item 121
To Dixie State University - Education and General
From Education Fund 1,548,600
From Dedicated Credits Revenue 474,900
Schedule of Programs:
Education and General 1,899,200
Operations and Maintenance 124,300

Item 122
To Dixie State University - Zion Park Amphitheater
From Education Fund 800
From Dedicated Credits Revenue 400
Schedule of Programs:
Zion Park Amphitheater 1,200

SALT LAKE COMMUNITY COLLEGE

Item 123
To Salt Lake Community College - Education and General
From Education Fund 3,830,100
From Dedicated Credits Revenue 1,276,800
Schedule of Programs:
Education and General 4,605,600
Operations and Maintenance 501,300

Item 124
To Salt Lake Community College - School of Applied Technology
From Education Fund 286,200
Schedule of Programs:
School of Applied Technology 286,200

UTAH BOARD OF HIGHER EDUCATION

Item 125
To Utah Board of Higher Education - Administration
From Education Fund 188,100
Schedule of Programs:
Administration 188,100

Item 126
To Utah Board of Higher Education - Student Assistance
From Education Fund 6,400
Schedule of Programs:
Regents' Scholarship 2,700
Talent Development Incentive Loan Program 3,700

Item 127
To Utah Board of Higher Education - Math Competency Initiative
From Education Fund 1,700
Schedule of Programs:
Math Competency Initiative 1,700

Item 128
To Utah Board of Higher Education - Medical Education Council
From Education Fund 19,400
Schedule of Programs:
Medical Education Council 19,400

UTAH SYSTEM OF TECHNICAL COLLEGES

Item 129
To Utah System of Technical Colleges - Bridgerland Technical College
From Education Fund 463,000
Schedule of Programs:
Bridgerland Technical College 463,000

Item 130
To Utah System of Technical Colleges - Davis Technical College
From Education Fund 549,200
Schedule of Programs:
Davis Technical College 549,200

Item 131
To Utah System of Technical Colleges - Dixie Technical College
From Education Fund 253,200
Schedule of Programs:
Dixie Technical College 253,200

Item 132
To Utah System of Technical Colleges - Mountainland Technical College
From Education Fund 439,200
Schedule of Programs:
Mountainland Technical College 439,200

Item 133
To Utah System of Technical Colleges - Ogden-Weber Technical College
From Education Fund 441,600
Schedule of Programs:
Ogden-Weber Technical College 441,600

Item 134
To Utah System of Technical Colleges - Southwest Technical College
From Education Fund 152,400
Schedule of Programs:
Southwest Technical College 152,400

Item 135
To Utah System of Technical Colleges - Tooele Technical College
From Education Fund 155,700
Schedule of Programs:
Tooele Technical College 155,700

Item 136
To Utah System of Technical Colleges - Uintah Basin Technical College
From Education Fund 257,600

Schedule of Programs:
Uintah Basin Technical College 257,600

NATURAL RESOURCES, AGRICULTURE, AND ENVIRONMENTAL QUALITY

DEPARTMENT OF AGRICULTURE AND FOOD

Item 137
To Department of Agriculture and Food – Administration
From General Fund 25,800
From General Fund, One-Time 5,300
From Federal Funds 2,100
From Federal Funds, One-Time 500
From Dedicated Credits Revenue 3,700
From Dedicated Credits Revenue, One-Time 800
From Revenue Transfers 800
From Revenue Transfers, One-Time 200
Schedule of Programs:
Chemistry Laboratory 3,200
General Administration 36,000

Item 138
To Department of Agriculture and Food – Animal Industry
From General Fund 32,500
From General Fund, One-Time 7,600
From Federal Funds 27,100
From Federal Funds, One-Time 6,700
From Dedicated Credits Revenue 800
From Dedicated Credits Revenue, One-Time 100
From General Fund Restricted – Livestock Brand 18,700
From General Fund Restricted – Livestock Brand, One-Time 4,800
Schedule of Programs:
Animal Health 18,200
Brand Inspection 32,200
Meat Inspection 47,900

Item 139
To Department of Agriculture and Food – Invasive Species Mitigation
From General Fund Restricted – Invasive Species Mitigation Account 3,600
From General Fund Restricted – Invasive Species Mitigation Account, One-Time 700
Schedule of Programs:
Invasive Species Mitigation 4,300

Item 140
To Department of Agriculture and Food – Marketing and Development
From General Fund 5,800
From General Fund, One-Time 1,100
From Federal Funds 2,400
From Federal Funds, One-Time 500
From Dedicated Credits Revenue 200
Schedule of Programs:
Marketing and Development 10,000

Item 141
To Department of Agriculture and Food – Plant Industry
From General Fund 10,400
From General Fund, One-Time 3,600
From Federal Funds 32,100
From Federal Funds, One-Time 7,700
From Dedicated Credits Revenue 38,500
From Dedicated Credits Revenue, One-Time 9,900
From Agriculture Resource Development Fund 800
From Agriculture Resource Development Fund, One-Time 200
From Revenue Transfers 1,300
From Revenue Transfers, One-Time 500
From Pass-through 2,300
From Pass-through, One-Time 600
Schedule of Programs:
Environmental Quality 1,800
Grain Inspection 6,200
Grazing Improvement Program 17,100
Insect Infestation 11,400
Plant Industry 71,400

Item 142
To Department of Agriculture and Food – Predatory Animal Control
From General Fund 10,100
From General Fund, One-Time 3,000
From Revenue Transfers 6,600
From Revenue Transfers, One-Time 1,900
From Gen. Fund Rest. – Agriculture and Wildlife Damage Prevention 6,100
From Gen. Fund Rest. – Agriculture and Wildlife Damage Prevention, One-Time 1,800
Schedule of Programs:
Predatory Animal Control 29,500

Item 143
To Department of Agriculture and Food – Rangeland Improvement
From Gen. Fund Rest. – Rangeland Improvement Account 2,800
From Gen. Fund Rest. – Rangeland Improvement Account, One-Time 600
Schedule of Programs:
Rangeland Improvement 3,400

Item 144
To Department of Agriculture and Food – Regulatory Services
From General Fund 34,800
From General Fund, One-Time 12,100
From Federal Funds 15,700
From Federal Funds, One-Time 5,500
From Dedicated Credits Revenue 38,700
From Dedicated Credits Revenue, One-Time 13,500
From Pass-through 1,000
From Pass-through, One-Time 300
Schedule of Programs:
Regulatory Services Administration ... 121,600

Item 145
To Department of Agriculture and Food – Resource Conservation
From General Fund 14,100
From General Fund, One-Time 3,600
From Federal Funds 8,500
From Federal Funds, One-Time 2,300
From Dedicated Credits Revenue 200
From Agriculture Resource Development Fund 10,000

From Agriculture Resource Development Fund, One-Time 2,400
From Revenue Transfers 4,200
From Revenue Transfers, One-Time 1,100
From Utah Rural Rehabilitation Loan State Fund 1,300
From Utah Rural Rehabilitation Loan State Fund, One-Time 200
Schedule of Programs:
Resource Conservation 41,400
Resource Conservation Administration .. 6,500

Item 146
To Department of Agriculture and Food - Medical Cannabis
From Qualified Production Enterprise Fund 15,300
From Qualified Production Enterprise Fund, One-Time 4,300
Schedule of Programs:
Medical Cannabis 19,600

Item 147
To Department of Agriculture and Food - Industrial Hemp
From Dedicated Credits Revenue 10,200
From Dedicated Credits Revenue, One-Time 2,300
Schedule of Programs:
Industrial Hemp 12,500

DEPARTMENT OF ENVIRONMENTAL QUALITY

Item 148
To Department of Environmental Quality - Drinking Water
From General Fund 24,600
From General Fund, One-Time 3,600
From Federal Funds 75,500
From Federal Funds, One-Time 11,100
From Dedicated Credits Revenue 18,600
From Dedicated Credits Revenue, One-Time 2,800
From Water Dev. Security Fund - Drinking Water Loan Prog. 18,600
From Water Dev. Security Fund - Drinking Water Loan Prog., One-Time 2,800
From Water Dev. Security Fund - Drinking Water Orig. Fee 4,100
From Water Dev. Security Fund - Drinking Water Orig. Fee, One-Time 600
Schedule of Programs:
Drinking Water Administration 162,300

Item 149
To Department of Environmental Quality - Environmental Response and Remediation
From General Fund 14,500
From General Fund, One-Time 2,500
From Federal Funds 82,800
From Federal Funds, One-Time 14,300
From Dedicated Credits Revenue 14,600
From Dedicated Credits Revenue, One-Time 2,500
From Expendable Receipts 300
From General Fund Restricted - Petroleum Storage Tank 900
From General Fund Restricted - Petroleum Storage Tank, One-Time 200
From Petroleum Storage Tank Cleanup Fund 10,000
From Petroleum Storage Tank Cleanup Fund, One-Time 1,700
From Petroleum Storage Tank Trust Fund 30,900
From Petroleum Storage Tank Trust Fund, One-Time 5,300
From General Fund Restricted - Voluntary Cleanup 11,600
From General Fund Restricted - Voluntary Cleanup, One-Time 2,000
Schedule of Programs:
Environmental Response and Remediation 194,100

Item 150
To Department of Environmental Quality - Executive Director's Office
From General Fund 32,200
From General Fund, One-Time 9,000
From Federal Funds 4,300
From Federal Funds, One-Time 1,200
From General Fund Restricted - Environmental Quality 12,000
From General Fund Restricted - Environmental Quality, One-Time 3,300
Schedule of Programs:
Executive Director Office Administration 62,000

Item 151
To Department of Environmental Quality - Waste Management and Radiation Control
From General Fund 13,000
From General Fund, One-Time 2,100
From Federal Funds 25,700
From Federal Funds, One-Time 4,200
From Dedicated Credits Revenue 45,100
From Dedicated Credits Revenue, One-Time 7,400
From Expendable Receipts 3,000
From Expendable Receipts, One-Time 500
From General Fund Restricted - Environmental Quality 110,400
From General Fund Restricted - Environmental Quality, One-Time 17,900
From Gen. Fund Rest. - Used Oil Collection Administration 15,300
From Gen. Fund Rest. - Used Oil Collection Administration, One-Time 2,500
From Waste Tire Recycling Fund 5,500
From Waste Tire Recycling Fund, One-Time 900
Schedule of Programs:
Waste Management and Radiation Control 253,500

Item 152
To Department of Environmental Quality - Water Quality
From General Fund 63,900
From General Fund, One-Time 10,700
From Federal Funds 98,100
From Federal Funds, One-Time 16,500
From Dedicated Credits Revenue 47,700
From Dedicated Credits Revenue, One-Time 8,000

From Revenue Transfers 6,200
From Revenue Transfers, One-Time 1,000
From Gen. Fund Rest. - Underground Wastewater System 1,600
From Gen. Fund Rest. - Underground Wastewater System, One-Time 300
From Water Dev. Security Fund - Utah Wastewater Loan Prog. 30,800
From Water Dev. Security Fund - Utah Wastewater Loan Prog., One-Time 5,200
From Water Dev. Security Fund - Water Quality Orig. Fee 2,100
From Water Dev. Security Fund - Water Quality Orig. Fee, One-Time 400
Schedule of Programs:
Water Quality Support 292,500

Item 153
To Department of Environmental Quality - Air Quality
From General Fund 112,200
From General Fund, One-Time 18,700
From Federal Funds 120,500
From Federal Funds, One-Time 20,000
From Dedicated Credits Revenue 104,600
From Dedicated Credits Revenue, One-Time 17,500
From Clean Fuel Conversion Fund 2,100
From Clean Fuel Conversion Fund, One-Time 400
Schedule of Programs:
Air Quality Administration 396,000

GOVERNOR'S OFFICE

Item 154
To Governor's Office - Office of Energy Development
From General Fund 15,300
From General Fund, One-Time 4,900
From Federal Funds 8,000
From Federal Funds, One-Time 2,500
From Dedicated Credits Revenue 500
From Dedicated Credits Revenue, One-Time 200
From Expendable Receipts 1,700
From Expendable Receipts, One-Time 500
From Ut. S. Energy Program Rev. Loan Fund (ARRA) 2,100
From Ut. S. Energy Program Rev. Loan Fund (ARRA), One-Time 700
Schedule of Programs:
Office of Energy Development 36,400

DEPARTMENT OF NATURAL RESOURCES

Item 155
To Department of Natural Resources - Administration
From General Fund 40,200
From General Fund, One-Time 12,800
From General Fund Restricted - Sovereign Lands Management 1,500
From General Fund Restricted - Sovereign Lands Management, One-Time 400
Schedule of Programs:
Administrative Services 24,700
Executive Director 18,400
Lake Commissions 3,000
Law Enforcement 3,700
Public Information Office 5,100

Item 156
To Department of Natural Resources - Contributed Research
From Dedicated Credits Revenue 1,400
Schedule of Programs:
Contributed Research 1,400

Item 157
To Department of Natural Resources - Cooperative Agreements
From Federal Funds 52,000
From Federal Funds, One-Time 9,900
From Dedicated Credits Revenue 3,200
From Dedicated Credits Revenue, One-Time 600
From Revenue Transfers 16,700
From Revenue Transfers, One-Time 3,200
Schedule of Programs:
Cooperative Agreements 85,600

Item 158
To Department of Natural Resources - Forestry, Fire and State Lands
From General Fund 14,500
From General Fund, One-Time 5,500
From Federal Funds 54,300
From Federal Funds, One-Time 20,800
From Dedicated Credits Revenue 97,000
From Dedicated Credits Revenue, One-Time 33,100
From General Fund Restricted - Sovereign Lands Management 73,600
From General Fund Restricted - Sovereign Lands Management, One-Time 29,300
Schedule of Programs:
Division Administration 27,100
Fire Management 20,400
Fire Suppression Emergencies 7,500
Forest Management 13,400
Lands Management 21,600
Lone Peak Center 85,800
Program Delivery 152,300

Item 159
To Department of Natural Resources - Oil, Gas and Mining
From General Fund 29,500
From General Fund, One-Time 11,500
From Federal Funds 48,900
From Federal Funds, One-Time 18,700
From Dedicated Credits Revenue 4,100
From Dedicated Credits Revenue, One-Time 1,600
From Gen. Fund Rest. - Oil & Gas Conservation Account 59,300
From Gen. Fund Rest. - Oil & Gas Conservation Account, One-Time 23,100
Schedule of Programs:
Abandoned Mine 25,900
Administration 47,700
Board ..... (200)
Coal Program 29,100
Minerals Reclamation 25,100
Oil and Gas Program 69,100

Item 160
To Department of Natural Resources – Parks and Recreation
From General Fund 30,500
From General Fund, One-Time 7,100
From Federal Funds 15,700
From Federal Funds, One-Time 4,600
From Dedicated Credits Revenue 10,800
From Dedicated Credits Revenue, One-Time 2,800
From General Fund Restricted – Boating 49,000
From General Fund Restricted – Boating, One-Time 11,700
From Gen. Fund Rest. – Off-highway Access and Education 300
From Gen. Fund Rest. – Off-highway Access and Education, One-Time 100
From General Fund Restricted – Off-highway Vehicle 65,100
From General Fund Restricted – Off-highway Vehicle, One-Time 15,500
From General Fund Restricted – State Park Fees 239,300
From General Fund Restricted – State Park Fees, One-Time 54,900
Schedule of Programs:
Executive Management 16,300
Park Operation Management 433,500
Planning and Design 2,400
Recreation Services 29,100
Support Services 26,100

Item 161
To Department of Natural Resources – Species Protection
From General Fund Restricted – Species Protection 6,500
From General Fund Restricted – Species Protection, One-Time 1,800
Schedule of Programs:
Species Protection 8,300

Item 162
To Department of Natural Resources – Utah Geological Survey
From General Fund 70,200
From General Fund, One-Time 25,700
From Federal Funds 10,600
From Federal Funds, One-Time 3,800
From Dedicated Credits Revenue 9,600
From Dedicated Credits Revenue, One-Time 3,600
From General Fund Restricted – Mineral Lease 18,700
From General Fund Restricted – Mineral Lease, One-Time 6,700
From Gen. Fund Rest. – Land Exchange Distribution Account 400
From Gen. Fund Rest. – Land Exchange Distribution Account, One-Time 200
From Revenue Transfers 6,200
From Revenue Transfers, One-Time 2,100
Schedule of Programs:
Administration 12,300
Energy and Minerals 32,100
Geologic Hazards 25,000
Geologic Information and Outreach 34,800
Geologic Mapping 28,000
Ground Water 25,600

Item 163
To Department of Natural Resources – Water Resources
From General Fund 42,800
From General Fund, One-Time 14,600
From Federal Funds 10,800
From Federal Funds, One-Time 3,600
From Dedicated Credits Revenue 100
From Water Resources Conservation and Development Fund 37,200
From Water Resources Conservation and Development Fund, One-Time 12,700
Schedule of Programs:
Administration 16,400
Construction 49,800
Interstate Streams 5,600
Planning 50,000

Item 164
To Department of Natural Resources – Water Rights
From General Fund 104,500
From General Fund, One-Time 32,100
From Federal Funds 1,700
From Federal Funds, One-Time 500
From Dedicated Credits Revenue 44,300
From Dedicated Credits Revenue, One-Time 13,900
Schedule of Programs:
Adjudication 29,400
Administration 15,400
Applications and Records 93,100
Dam Safety 19,900
Field Services 24,000
Technical Services 15,200

Item 165
To Department of Natural Resources – Watershed
From General Fund 1,700
From General Fund, One-Time 500
Schedule of Programs:
Watershed 2,200

Item 166
To Department of Natural Resources – Wildlife Resources
From General Fund 80,100
From General Fund, One-Time 21,600
From Federal Funds 247,000
From Federal Funds, One-Time 76,100
From Dedicated Credits Revenue 1,200
From Dedicated Credits Revenue, One-Time 300
From General Fund Restricted – Aquatic Invasive Species Interdiction Account 8,300
From General Fund Restricted – Aquatic Invasive Species Interdiction Account, One-Time 2,500
From General Fund Restricted – Boating 20,000
From General Fund Restricted – Boating, One-Time 4,700
From General Fund Restricted – Mule Deer Protection Account 3,600

From General Fund Restricted –
Mule Deer Protection Account,
One-Time 1,200
From General Fund Restricted –
Predator Control Account 5,600
From General Fund Restricted – Predator
Control Account, One-Time 1,800
From General Fund Restricted –
Support for State-owned
Shooting Ranges Restricted Account 300
From General Fund Restricted –
Support for State-owned Shooting
Ranges Restricted Account, One-Time 100
From Revenue Transfers 1,200
From Revenue Transfers, One-Time 300
From General Fund Restricted –
Wildlife Habitat 9,200
From General Fund Restricted –
Wildlife Habitat, One-Time 700
From General Fund Restricted –
Wildlife Resources 394,500
From General Fund Restricted –
Wildlife Resources, One-Time 111,100
Schedule of Programs:
Administrative Services 94,300
Aquatic Section 226,400
Conservation Outreach 86,700
Director's Office 36,700
Habitat Council 9,900
Habitat Section 134,800
Law Enforcement 226,400
Wildlife Section 176,200

PUBLIC LANDS POLICY COORDINATING OFFICE

Item 167
To Public Lands Policy Coordinating Office
From General Fund 20,300
From General Fund, One-Time 5,100
From General Fund Restricted –
Constitutional Defense 9,300
From General Fund Restricted –
Constitutional Defense, One-Time 2,300
Schedule of Programs:
Public Lands Policy Coordinating
Office 37,000

SCHOOL AND INSTITUTIONAL TRUST LANDS ADMINISTRATION

Item 168
To School and Institutional Trust
Lands Administration
From Land Grant Management Fund 135,600
From Land Grant Management
Fund, One-Time 38,400
Schedule of Programs:
Accounting 10,500
Administration 9,900
Auditing 5,600
Board 1,800
Development - Operating 22,100
Director 13,800
External Relations 2,800
Grazing and Forestry 12,000
Information Technology Group 23,500
Legal/Contracts 14,000
Mining 9,300
Oil and Gas 9,300
Surface 39,400

PUBLIC EDUCATION

STATE BOARD OF EDUCATION

Item 169
To State Board of Education - Child Nutrition
From Federal Funds 3,200
From Federal Funds, One-Time 11,400
From Dedicated Credit - Liquor Tax 900
From Dedicated Credit - Liquor Tax,
One-Time 2,900
Schedule of Programs:
Child Nutrition 18,400

Item 170
To State Board of Education - Educator
Licensing
From Education Fund 3,200
From Education Fund, One-Time 6,800
Schedule of Programs:
Educator Licensing 10,000

Item 171
To State Board of Education - Initiative
Programs
From General Fund 1,900
From General Fund, One-Time 900
From Education Fund 5,300
From Education Fund, One-Time 2,800
Schedule of Programs:
Carson Smith Scholarships 1,800
Early Intervention Reading Software 1,200
General Financial Literacy 1,700
Intergenerational Poverty
Interventions 1,000
Partnerships for Student Success 900
School Turnaround and Leadership
Development Act 3,400
UPSTART ..... (400)
ULEAD ..... (500)
Educational Improvement
Opportunities Outside of the
Regular School Day Grant Program 1,000
Special Needs Opportunity
Scholarship Administration 800

Item 172
To State Board of Education - MSP
Categorical Program Administration
From Education Fund 11,400
From Education Fund, One-Time 7,700
Schedule of Programs:
Adult Education 2,300
Beverley Taylor Sorenson Elem.
Arts Learning Program 300
CTE Comprehensive Guidance 800
Digital Teaching and Learning 2,400
Dual Immersion ..... (100)
Enhancement for At-Risk Students 4,900
Special Education State Programs 1,100
Youth-in-Custody 4,000
Early Literacy Program 1,400
State Safety and Support Program 1,000
Student Health and Counseling
Support Program 1,000

Item 173
To State Board of Education - State Administrative Office
From Education Fund 27,000
From Education Fund, One-Time 47,100
From Federal Funds 14,200
From Federal Funds, One-Time 23,700
From General Fund Restricted - Mineral Lease 600
From General Fund Restricted - Mineral Lease, One-Time 1,500
From General Fund Restricted - School Readiness Account 100
From General Fund Restricted - School Readiness Account, One-Time 200
From Revenue Transfers 5,900
From Revenue Transfers, One-Time 21,100
From Uniform School Fund Rest. - Trust Distribution Account 500
From Uniform School Fund Rest. - Trust Distribution Account, One-Time 600
From Education Fund Restricted - Underage Drinking Prevention Program Restricted Account 300
From Education Fund Restricted - Underage Drinking Prevention Program Restricted Account, One-Time ... 300
Schedule of Programs:
Board and Administration 10,400
Data and Statistics 4,600
Financial Operations 22,000
Indirect Cost Pool 29,000
Information Technology 21,400
Policy and Communication 7,100
School Trust 1,100
Special Education 22,000
Statewide Online Education Program 1,700
Student Support Services 23,800

Item 174
To State Board of Education - General System Support
From Education Fund 13,100
From Education Fund, One-Time 22,500
From Federal Funds 3,500
From Federal Funds, One-Time 6,400
From Dedicated Credits Revenue 300
From Dedicated Credits Revenue, One-Time 500
Schedule of Programs:
Teaching and Learning 18,400
Assessment and Accountability 13,300
Career and Technical Education 14,600

Item 175
To State Board of Education - State Charter School Board
From Education Fund 1,800
From Education Fund, One-Time 6,300
Schedule of Programs:
State Charter School Board 8,100

Item 176
To State Board of Education - Teaching and Learning
From Education Fund ..... (100)
From Education Fund, One-Time 600
Schedule of Programs:
Student Access to High Quality School Readiness Progs 500

Item 177
To State Board of Education - Utah Schools for the Deaf and the Blind
From Education Fund 2,054,300
From Education Fund, One-Time 91,900
From Federal Funds 2,200
From Federal Funds, One-Time 400
From Dedicated Credits Revenue 32,400
From Dedicated Credits Revenue, One-Time 4,200
From Revenue Transfers 90,100
From Revenue Transfers, One-Time 16,600
Schedule of Programs:
Administration 1,628,400
Transportation and Support Services 186,300
Utah State Instructional Materials Access Center 20,300
School for the Deaf 248,900
School for the Blind 208,200

SCHOOL AND INSTITUTIONAL TRUST FUND OFFICE

Item 178
To School and Institutional Trust Fund Office
From School and Institutional Trust Fund Management Acct. 15,100
From School and Institutional Trust Fund Management Acct., One-Time 2,700
Schedule of Programs:
School and Institutional Trust Fund Office 17,800

EXECUTIVE APPROPRIATIONS

CAPITOL PRESERVATION BOARD

Item 179
To Capitol Preservation Board
From General Fund 16,100
From General Fund, One-Time 5,600
Schedule of Programs:
Capitol Preservation Board 21,700

LEGISLATURE

Item 180
To Legislature - Senate
From General Fund 36,300
From General Fund, One-Time 5,600
Schedule of Programs:
Administration 41,900

Item 181
To Legislature - House of Representatives
From General Fund 58,000
From General Fund, One-Time 4,500
Schedule of Programs:
Administration 62,500

Item 182
To Legislature - Office of Legislative Research and General Counsel
From General Fund 120,800
From General Fund, One-Time 24,500
Schedule of Programs:

Administration 145,300

Item 183
To Legislature – Office of the Legislative Fiscal Analyst
From General Fund 45,800
From General Fund, One-Time 12,200
Schedule of Programs:
Administration and Research 58,000

Item 184
To Legislature – Office of the Legislative Auditor General
From General Fund 60,600
From General Fund, One-Time 15,800
Schedule of Programs:
Administration 76,400

Item 185
To Legislature – Legislative Services
From General Fund 54,300
From General Fund, One-Time 14,700
From Dedicated Credits Revenue 3,000
From Dedicated Credits Revenue, One-Time 800
Schedule of Programs:
Administration 18,900
Information Technology 53,900

UTAH NATIONAL GUARD

Item 186
To Utah National Guard
From General Fund 51,000
From General Fund, One-Time 9,300
From Federal Funds 328,200
From Federal Funds, One-Time 68,600
From Dedicated Credits Revenue 300
From Dedicated Credits Revenue, One-Time 100
Schedule of Programs:
Administration 26,300
Operations and Maintenance 431,200

DEPARTMENT OF VETERANS AND MILITARY AFFAIRS

Item 187
To Department of Veterans and Military Affairs – Veterans and Military Affairs
From General Fund 29,900
From General Fund, One-Time 7,700
From Federal Funds 7,400
From Federal Funds, One-Time 2,100
From Dedicated Credits Revenue 1,200
From Dedicated Credits Revenue, One-Time 200
Schedule of Programs:
Administration 11,400
Cemetery 10,200
Military Affairs 2,600
Outreach Services 19,900
State Approving Agency 4,400

Subsection 1(b). Expendable Funds and Accounts. The Legislature has reviewed the following expendable funds. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated. Outlays and expenditures from the funds or accounts to which the money is transferred may be made without further legislative action, in accordance with statutory provisions relating to the funds or accounts.

EXECUTIVE OFFICES AND CRIMINAL JUSTICE

DEPARTMENT OF PUBLIC SAFETY

Item 188
To Department of Public Safety – Alcoholic Beverage Control Act Enforcement Fund
From Dedicated Credits Revenue 63,100
From Dedicated Credits Revenue, One-Time 16,200
Schedule of Programs:
Alcoholic Beverage Control Act Enforcement Fund 79,300

INFRASTRUCTURE AND GENERAL GOVERNMENT

DEPARTMENT OF ADMINISTRATIVE SERVICES

Item 189
To Department of Administrative Services – State Debt Collection Fund
From Dedicated Credits Revenue 22,700
From Dedicated Credits Revenue, One-Time 7,100
Schedule of Programs:
State Debt Collection Fund 29,800

BUSINESS, ECONOMIC DEVELOPMENT, AND LABOR

DEPARTMENT OF COMMERCE

Item 190
To Department of Commerce – Cosmetologist/Barber, Esthetician, Electrologist Fund
From Licenses/Fees 1,600
From Licenses/Fees, One-Time 700
Schedule of Programs:
Cosmetologist/Barber, Esthetician, Electrologist Fund 2,300

Item 191
To Department of Commerce – Real Estate Education, Research, and Recovery Fund
From Dedicated Credits Revenue 4,300
From Dedicated Credits Revenue, One-Time 700
Schedule of Programs:
Real Estate Education, Research, and Recovery Fund 5,000

Item 192
To Department of Commerce – Residential Mortgage Loan Education, Research, and Recovery Fund
From Licenses/Fees 1,800
From Licenses/Fees, One-Time 600
From Interest Income 100
Schedule of Programs:
RMLERR Fund 2,500

Item 193
To Department of Commerce – Securities Investor Education/Training/Enforcement Fund
From Licenses/Fees 3,800
From Licenses/Fees, One–Time 700
Schedule of Programs:
Securities Investor Education/ Training/Enforcement Fund 4,500

GOVERNOR'S OFFICE OF ECONOMIC DEVELOPMENT

Item 194
To Governor's Office of Economic Development – Outdoor Recreation Infrastructure Account
From Dedicated Credits Revenue 4,200
From Dedicated Credits Revenue, One–Time 600
Schedule of Programs:
Outdoor Recreation Infrastructure Account 4,800

PUBLIC SERVICE COMMISSION

Item 195
To Public Service Commission – Universal Public Telecom Service
From Dedicated Credits Revenue 4,900
From Dedicated Credits Revenue, One–Time 700
Schedule of Programs:
Universal Public Telecommunications Service Support 5,600

NATURAL RESOURCES, AGRICULTURE, AND ENVIRONMENTAL QUALITY

DEPARTMENT OF AGRICULTURE AND FOOD

Item 196
To Department of Agriculture and Food – Salinity Offset Fund
From Revenue Transfers 1,400
From Revenue Transfers, One–Time 300
Schedule of Programs:
Salinity Offset Fund 1,700

EXECUTIVE APPROPRIATIONS

UTAH NATIONAL GUARD

Item 197
To Utah National Guard – National Guard MWR Fund
From Dedicated Credits Revenue 27,000
From Dedicated Credits Revenue, One–Time 1,400
Schedule of Programs:
National Guard MWR Fund 28,400

DEPARTMENT OF VETERANS AND MILITARY AFFAIRS

Item 198
To Department of Veterans and Military Affairs – Utah Veterans Nursing Home Fund
From Federal Funds 10,700
From Federal Funds, One–Time 3,400
Schedule of Programs:
Veterans Nursing Home Fund 14,100

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

EXECUTIVE OFFICES AND CRIMINAL JUSTICE

UTAH DEPARTMENT OF CORRECTIONS

Item 199
To Utah Department of Corrections – Utah Correctional Industries
From Dedicated Credits Revenue 141,100
From Dedicated Credits Revenue, One–Time 46,500
Schedule of Programs:
Utah Correctional Industries 187,600

SOCIAL SERVICES

DEPARTMENT OF HEALTH

Item 200
To Department of Health – Qualified Patient Enterprise Fund
From Dedicated Credits Revenue 14,100
From Dedicated Credits Revenue, One–Time 4,100
Schedule of Programs:
Qualified Patient Enterprise Fund 18,200

NATURAL RESOURCES, AGRICULTURE, AND ENVIRONMENTAL QUALITY

DEPARTMENT OF AGRICULTURE AND FOOD

Item 201
To Department of Agriculture and Food – Agriculture Loan Programs
From Agriculture Resource Development Fund 3,000
From Agriculture Resource Development Fund, One–Time 1,400
From Utah Rural Rehabilitation Loan State Fund 1,600
From Utah Rural Rehabilitation Loan State Fund, One–Time 700
Schedule of Programs:
Agriculture Loan Program 6,700

Subsection 1(d). Restricted Fund and Account Transfers. The Legislature authorizes the State Division of Finance to transfer the following amounts between the following funds or accounts as indicated.

Expenditures and outlays from the funds to which the money is transferred must be authorized by an appropriation.

EXECUTIVE OFFICES AND CRIMINAL JUSTICE

Item 202
To General Fund Restricted – Indigent Defense Resources Account
From General Fund 12,600
From General Fund, One-Time 3,400
From Revenue Transfers ..... (23,600)
From Revenue Transfers, One-Time .... (3,400)
Schedule of Programs:
General Fund Restricted – Indigent Defense Resources Account ..... (11,000)

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

BUSINESS, ECONOMIC DEVELOPMENT, AND LABOR

LABOR COMMISSION

Item 203
To Labor Commission – Uninsured Employers Fund
From Dedicated Credits Revenue 700
From Premium Tax Collections 200
Schedule of Programs:
Uninsured Employers Fund 900

Section 2. Effective Date.
This bill takes effect on July 1, 2021.

CHAPTER 6
S. B. 1
Passed January 28, 2021
Approved February 4, 2021
Effective February 4, 2021
(Exception clause in Section 8)

PUBLIC EDUCATION
BASE BUDGET AMENDMENTS

Chief Sponsor: Lincoln Fillmore
House Sponsor: Steve Eliason

LONG TITLE

General Description:

This bill supplements or reduces appropriations otherwise provided for the support and operation of public education for the fiscal year beginning July 1, 2020, and ending June 30, 2021, and appropriates funds for the support and operation of public education for the fiscal year beginning July 1, 2021, and ending June 30, 2022.

Highlighted Provisions:

This bill:

- provides appropriations for the use and support of school districts, charter schools, and state education agencies;
- sets the value of the weighted pupil unit (WPU) at $3,809 for fiscal year 2022;
- adjusts the number of weighted pupil units to reflect anticipated student enrollment in fall 2021;
- creates the Enrollment Growth Contingency Program;
- creates the Supplemental Educator COVID-19 Stipend;
- repeals a budgetary obligation related to increases in the value of the WPU, which this bill satisfies through increased funding;
- enacts repeal dates for the Enrollment Growth Contingency Program and the Supplemental Educator COVID-19 Stipend;
- makes technical changes;
- provides appropriations for other purposes as described;
- approves intent language;
- appropriates federal coronavirus relief funds for education to the State Board of Education State Administrative Office; and
- approves intent language for the allocation of state funds based on local and state use of federal coronavirus relief funds for education.

Monies Appropriated in this Bill:

This bill appropriates $580,393,800 in operating and capital budgets for fiscal year 2021, including:

- $142,500,000 from the Uniform School Fund;
- $5,299,500 from the Education Fund; and
- $432,594,300 from various sources as detailed in this bill. This bill appropriates $75,000 in expendable funds and accounts for fiscal year 2021. This bill appropriates ($23,400,000) in restricted fund and account transfers for fiscal year 2021. This bill appropriates $6,027,166,400 in operating and capital budgets for fiscal year 2022, including:
- $7,892,800 from the General Fund;
- $3,636,394,700 from the Uniform School Fund;
- $167,481,800 from the Education Fund; and
- $2,215,397,100 from various sources as detailed in this bill. This bill appropriates $3,327,000 in expendable funds and accounts for fiscal year 2022. This bill appropriates $292,568,200 in restricted fund and account transfers for fiscal year 2022, including:
- $314,218,200 from the Education Fund; and
- ($21,650,000) from various sources as detailed in this bill. This bill appropriates $122,600 in fiduciary funds for fiscal year 2022.

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

53F-2-301.5, as last amended by Laws of Utah 2020, Fifth Special Session, Chapter 14
53F-9-201.1, as last amended by Laws of Utah 2020, Fifth Special Session, Chapter 13
63I-2-253, as last amended by Laws of Utah 2020, Sixth Special Session, Chapter 13

ENACTS:

53F-2-302.1, Utah Code Annotated 1953
53F-2-418, Utah Code Annotated 1953

Uncodified Material Affected:

ENACTS UNCODIFIED MATERIAL

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

Section 1. Section 53F-2-301.5 is amended to read:

53F-2-301.5. Minimum basic tax rate for a fiscal year that begins on July 1, 2018, 2019, 2020, 2021, or 2022.

(1) The provisions of this section are in effect for a fiscal year that begins before July 1, 2023.

(2) As used in this section:

(a) "Basic levy increment rate" means a tax rate that will generate an amount of revenue equal to $75,000,000.

(b) "Combined basic rate" means a rate that is the sum of:

(i) the rate floor; and

(ii) the WPU value rate.

(c) "Commission" means the State Tax Commission.

(d) "Equity pupil tax rate" means the tax rate that is:

(i) calculated by subtracting the minimum basic tax rate from the rate floor; or

(ii) zero, if the rate calculated in accordance with Subsection (2)(d)(i) is zero or less.

(e) "Minimum basic local amount" means an amount that is:

(i) equal to the sum of:

(A) the school districts' contribution to the basic school program the previous fiscal year;

(B) the amount generated by the basic levy increment rate; and

(C) the eligible new growth, as defined in Section 59-2-924 and rules of the State Tax Commission multiplied by the minimum basic tax rate; and

(ii) set annually by the Legislature in Subsection (3)(a).

(f) "Minimum basic tax rate" means a tax rate certified by the commission that will generate an amount of revenue equal to the minimum basic local amount described in Subsection (3)(a).

(g) "Rate floor" means a rate that is the greater of:

(i) a .0016 tax rate; or

(ii) the minimum basic tax rate.

(h) "Weighted pupil unit value" or "WPU value" means the amount established each year in the enacted public education budget that is multiplied by the number of weighted pupil units to yield the funding level for the basic school program.

(i) "WPU value amount" means an amount that is:

(i) equal to the product of:

(A) the WPU value increase limit; and

(B) the percentage share of local revenue to the cost of the basic school program in the prior fiscal year; and

(ii) set annually by the Legislature in Subsection (4)(a).

(j) "WPU value increase limit" means the lesser of:

(i) the total cost to the basic school program to increase the WPU value over the WPU value in the prior fiscal year; or

(ii) the total cost to the basic school program to increase the WPU value by 4% over the WPU value in the prior fiscal year.

(k) "WPU value rate" means a tax rate certified by the commission that will generate an amount of revenue equal to the WPU value amount described in Subsection (4)(a).

(3) (a) The minimum basic local amount for the fiscal year that begins on July 1, [~~2020, is $547,951,600~~] 2021, is $575,931,800 in revenue statewide.

(b) The preliminary estimate for the minimum basic tax rate for the fiscal year that begins on July 1, [~~2020, is .001576~~] 2021, is .001554.

(4) (a) The WPU value amount for the fiscal year that begins on July 1, [~~2020, is $9,300,000~~] 2021, is $22,484,800 in revenue statewide.

(b) The preliminary estimate for the WPU value rate for the fiscal year that begins on July 1, [~~2020, is .000027~~] 2021, is .000063.

(5) (a) On or before June 22, the commission shall certify for the year:

(i) the minimum basic tax rate; and

(ii) the WPU value rate.

(b) The estimate of the minimum basic tax rate provided in Subsection (3)(b) and the estimate of the WPU value rate provided in Subsection (4)(b) is based on a forecast for property values for the next calendar year.

(c) The certified minimum basic tax rate described in Subsection (5)(a)(i) and the certified WPU value rate described in Subsection (5)(a)(ii) are based on property values as of January 1 of the current calendar year, except personal property, which is based on values from the previous calendar year.

(6) (a) To qualify for receipt of the state contribution toward the basic school program and as a school district's contribution toward the cost of the basic school program for the school district, a local school board shall impose the combined basic rate.

(b) (i) The state is not subject to the notice requirements of Section 59-2-926 before imposing the tax rates described in this Subsection (6).

(ii) The state is subject to the notice requirements of Section 59-2-926 if the state authorizes a tax rate that exceeds the tax rates described in this Subsection (6).

(7) (a) The state shall contribute to each school district toward the cost of the basic school program in the school district an amount of money that is the difference between the cost of the school district's basic school program and the sum of the revenue generated by the school district by the following:

(i) the minimum basic tax rate;

(ii) the basic levy increment rate;

(iii) the equity pupil tax rate; and

(iv) the WPU value rate.

(b) (i) If the difference described in Subsection (7)(a) equals or exceeds the cost of the basic school program in a school district, no state contribution shall be made to the basic school program for the school district.

(ii) The proceeds of the difference described in Subsection (7)(a) that exceed the cost of the basic school program shall be paid into the Uniform School Fund as provided by law and by the close of the fiscal year in which the proceeds were calculated.

(8) Upon appropriation by the Legislature, the Division of Finance shall deposit an amount equal to the proceeds generated statewide:

(a) by the basic levy increment rate into the Minimum Basic Growth Account created in Section 53F-9-302;

(b) by the equity pupil tax rate into the Local Levy Growth Account created in Section 53F-9-305; and

(c) by the WPU value rate into the Teacher and Student Success Account created in Section 53F-9-306.

Section 2. Section 53F-2-302.1 is enacted to read:

53F-2-302.1. Enrollment Growth Contingency Program.

(1) As used in this section:

(a) "Program funds" means money appropriated under the Enrollment Growth Contingency Program.

(b) "Student enrollment count" means the enrollment count on the first school day of October, as described in Subsection 53F-2-302(3).

(2) There is created the Enrollment Growth Contingency Program to mitigate funding impacts on an LEA resulting from student enrollment irregularities during fiscal years 2021 and 2022.

(3) Subject to legislative appropriations, the state board, in consultation with the Office of the Legislative Fiscal Analyst and the Governor's Office of Management and Budget, shall use program funds to:

(a) for fiscal years 2021 and 2022 and for an LEA that has declining enrollment, pay costs associated with Subsection 53F-2-302(3) to hold LEA funding distributions at the prior year's average daily membership; and

(b) for fiscal year 2022, fund ongoing impacts of student enrollment changes in the 2021-2022 academic year, including:

(i) assigning additional weighted pupil units to an LEA experiencing a net growth in weighted pupil units over the fiscal year 2022 base allocations associated with student enrollment increases following the student enrollment count;

(ii) at the request of an LEA that experienced a significant decline in student enrollment during the 2020-2021 academic year, pre-fund significantly higher anticipated student enrollment growth before the student enrollment count; and

(iii) with any remaining weighted pupil units, pay other weighted pupil unit related costs in accordance with Section 53F-2-205.

(4) If the state board pre-funds anticipated student enrollment growth under Subsection (3)(b)(ii), the state board shall:

(a) verify the LEA's enrollment after the student enrollment count; and

(b) balance funds as necessary based on the actual increase in student enrollment.

Section 3. Section 53F-2-418 is enacted to read:

53F-2-418. Supplemental Educator COVID-19 Stipend.

(1) As used in this section:

(a) (i) "Classified school-level employee" means an individual:

(A) whom an LEA or RESA employs and directly pays; and

(B) who is assigned to work in a school setting.

(ii) "Classified school-level employee" includes the following categories that an LEA reports to the state board:

(A) instructional paraprofessionals;

(B) library paraprofessionals;

(C) student support; and

(D) school and other support, including employees like janitors, bus drivers, and food service; and

(iii) "Classified school-level employee" also includes an individual in LEA or RESA administration or administration support if the individual works exclusively in a school setting supporting students.

(b) "COVID-19 pandemic" means the spread of COVID-19 that the World Health Organization declared a pandemic on March 11, 2020.

(c) "Employer-paid benefits" means a proportionate contribution toward retirement, workers' compensation, Social Security, and Medicare.

(d) (i) "Licensed school-level educator" means an individual:

(A) whom the state board licenses or who holds a license that the state board recognizes;

(B) whom an LEA or RESA employs and directly pays; and

(C) who is assigned to work in a school setting.

(ii) "Licensed school-level educator" includes the following categories that an LEA reports to the state board:

(A) teachers, including preschool, kindergarten, elementary, secondary, and special education teachers;

(B) support staff, including librarians, instructional leaders or specialists, counselors, and other support staff including employees like psychologists and social workers; and

(C) administrators, including principals, assistant principals, and directors.

(e) (i) "Qualifying employee" means a licensed school-level educator or a classified school-level employee who:

(A) was employed by an LEA or RESA as of December 1, 2020; and

(B) except for an employee whom an online-only charter school employs, is employed by an LEA that provides a broad-based in-person learning option for all students in kindergarten through grade 12 by February 8, 2021, or RESA that works with LEAs provides a broad-based in-person learning option

for all students in kindergarten through grade 12 by February 8, 2021.

(ii) "Qualifying employee" does not include:

(A) school district employees who are assigned to work in the central administration of the school district, including superintendents, deputy and assistant superintendents, area and regional directors, curriculum specialists, and support staff;

(B) individuals with whom an LEA contracts but does not directly pay the individual or report the individual to the state board in annual employment reports; or

(C) individuals with whom an LEA contracts using federal funding from the Coronavirus Relief Fund described in the Coronavirus Aid, Relief, and Economic Security Act, Pub. L. 116-136.

(f) "Regional education service agency" or "RESA" means the same as that term is defined in Section 53G-4-410.

(g) "Stipend" means the one-time Supplemental Educator COVID-19 Stipend.

(2) There is created a one-time Supplemental Educator COVID-19 Stipend in appreciation of work during the COVID-19 pandemic.

(3) (a) Subject to legislative appropriations, the state board shall allocate funds to a qualifying education entity by March 30, 2021, to provide the stipend to qualifying employees as follows:

(i) (A) for a licensed school-level educator, $1,500; or

(B) for a classified school-level employee, $1,000; and

(ii) employer paid benefits.

(b) The stipend shall be prorated for each employee based on full-time equivalent status.

(c) Notwithstanding Subsection (3)(a), in the event that an allocation to an LEA or RESA is insufficient to provide the full stipend to each qualifying employee whom the LEA or RESA employs, the LEA or RESA shall reduce the amount of the stipend on a prorated basis.

(4) An LEA or RESA that receives an allocation from the state board under Subsection (3) shall return any unexpended amounts to the state no later than June 30, 2021.

Section 4. Section 53F-9-201.1 is amended to read:

53F-9-201.1. Appropriations to the Minimum School Program from the Uniform School Fund.

(1) As used in this section:

(a) "Base budget" means the same as that term is defined in legislative rule.

(b) "Enrollment growth and inflation estimates" means the cost estimates regarding enrollment growth and inflation described in Section 53F-2-208.

(2) Except as provided in Subsection 53F-9-204(3), for a fiscal year beginning on or after July 1, 2021, when preparing the Public Education Base Budget, the Office of the Legislative Fiscal Analyst shall[~~: (a)~~] include appropriations to the Minimum School Program from the Uniform School Fund, and, subject to Subsection 53F-9-204(3), the Public Education Economic Stabilization Restricted Account, in an amount that is greater than or equal to the sum of:

[~~(i)~~] (a) the ongoing Education Fund and Uniform School Fund appropriations to the Minimum School Program in the current fiscal year; and

[~~(ii)~~] (b) subject to Subsection 53F-9-204(3)(b), enrollment growth and inflation estimates[~~; and~~].

[~~(b) except as provided in Subsection (4), an appropriation to increase the value of the weighted pupil unit that is greater than or equal to 10% of the difference between, as determined by the Office of the Legislative Fiscal Analyst:~~]

[~~(i) the estimated amount of ongoing Education Fund and Uniform School Fund revenue available for the Legislature to appropriate for the next fiscal year; and~~]

[~~(ii) the amount of ongoing appropriations from the Education Fund and Uniform School Fund in the current fiscal year.~~]

(3) The total annual amount deposited into the Uniform School Fund, including the deposits through the distributions described in Sections 59-7-532 and 59-10-544, for a given fiscal year may not exceed the amount appropriated from the Uniform School Fund for that fiscal year.

[~~(4) (a) If an appropriation to increase the value of the weighted pupil unit described in Subsection (2)(b) would cause the cumulative amount of increases to the value of the weighted pupil unit, beginning for fiscal year 2022, to exceed $140,500,000, the Office of the Legislative Fiscal Analyst:~~]

[~~(i) shall include in the Public Education Base Budget an appropriation to increase the value of the weighted pupil unit that would cause the cumulative amount of increases to equal $140,500,000; and~~]

[~~(ii) is exempt from future application of Subsection (2)(b).~~]

[~~(b) Nothing in this section limits the Legislature's ability to appropriate additional amounts to increase the value of the weighted pupil unit.~~]

Section 5. Section 63I-2-253 is amended to read:

63I-2-253. Repeal dates -- Titles 53 through 53G.

(1) (a) Section 53-2a-217, regarding procurement during an epidemic or pandemic emergency, is repealed on December 31, 2021.

(b) When repealing Section 53-2a-217, the Office of Legislative Research and General Counsel shall, in addition to the office's authority under Subsection 36-12-12(3), make necessary changes to subsection numbering and cross references.

(2) Section 53B-2a-103 is repealed July 1, 2021.

(3) Section 53B-2a-104 is repealed July 1, 2021.

(4) (a) Subsection 53B-2a-108(5), regarding exceptions to the composition of a technical college board of trustees, is repealed July 1, 2022.

(b) When repealing Subsection 53B-2a-108(5), the Office of Legislative Research and General Counsel shall, in addition to its authority under Subsection 36-12-12(3), make necessary changes to subsection numbering and cross references.

(5) Section 53B-6-105.7 is repealed July 1, 2024.

(6) (a) Subsection 53B-7-705(6)(b)(ii)(A), the language that states "Except as provided in Subsection (6)(b)(ii)(B)," is repealed July 1, 2021.

(b) Subsection 53B-7-705(6)(b)(ii)(B), regarding comparing a technical college's change in performance with the technical college's average performance, is repealed July 1, 2021.

(7) (a) Subsection 53B-7-707(3)(a)(ii), the language that states "Except as provided in Subsection (3)(b)," is repealed July 1, 2021.

(b) Subsection 53B-7-707(3)(b), regarding performance data of a technical college during a fiscal year before fiscal year 2020, is repealed July 1, 2021.

(8) Section 53B-8-114 is repealed July 1, 2024.

(9) (a) The following sections, regarding the Regents' scholarship program, are repealed on July 1, 2023:

(i) Section 53B-8-202;

(ii) Section 53B-8-203;

(iii) Section 53B-8-204; and

(iv) Section 53B-8-205.

(b) (i) Subsection 53B-8-201(2), regarding the Regents' scholarship program for students who graduate from high school before fiscal year 2019, is repealed on July 1, 2023.

(ii) When repealing Subsection 53B-8-201(2), the Office of Legislative Research and General Counsel shall, in addition to its authority under Subsection 36-12-12(3), make necessary changes to subsection numbering and cross references.

(10) Section 53B-10-101 is repealed on July 1, 2027.

(11) Title 53B, Chapter 18, Part 14, Uintah Basin Air Quality Research Project, is repealed July 1, 2023.

(12) Section 53E-3-519 regarding school counselor services is repealed July 1, 2020.

(13) Section 53E-3-520 is repealed July 1, 2021.

(14) Subsection 53E-5-306(3)(b)(ii)(B), related to improving school performance and continued funding relating to the School Recognition and Reward Program, is repealed July 1, 2020.

(15) Section 53E-5-307 is repealed July 1, 2020.

(16) Subsection 53E-10-309(7), related to the PRIME pilot program, is repealed July 1, 2024.

(17) In Subsections 53F-2-205(4) and (5), regarding the State Board of Education's duties if contributions from the minimum basic tax rate are overestimated or underestimated, the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

(18) Subsection 53F-2-301(1), relating to the years the section is not in effect, is repealed July 1, 2023.

(19) Section 53F-2-302.1, regarding the Enrollment Growth Contingency Program, is repealed July 1, 2023.

(20) Section 53F-2-418, regarding the Supplemental Educator COVID-19 Stipend, is repealed January 1, 2022.

[~~(19)~~] (21) In Subsection 53F-2-515(1), the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

[~~(20)~~] (22) Section 53F-4-207 is repealed July 1, 2022.

[~~(21)~~] (23) In Subsection 53F-9-302(3), the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

[~~(22)~~] (24) In Subsection 53F-9-305(3)(a), the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

[~~(23)~~] (25) In Subsection 53F-9-306(3)(a), the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

[~~(24)~~] (26) In Subsection 53G-3-304(1)(c)(i), the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

[~~(25)~~] (27) Subsections 53G-10-204(1)(c) through (e), and Subsection 53G-10-204(7), related to the civics engagement pilot program, are repealed on July 1, 2023.

[~~(26)~~] (28) On July 1, 2023, when making changes in this section, the Office of Legislative Research and General Counsel shall, in addition to the office's authority under Subsection 36-12-12(3), make corrections necessary to ensure that sections and subsections identified in this section are complete sentences and accurately reflect the office's perception of the Legislature's intent.

Section 6. Fiscal Year 2021 Appropriations.

The following sums of money are appropriated for the fiscal year beginning July 1, 2020, and ending June 30, 2021. These are additions to amounts otherwise appropriated for fiscal year 2021.

Subsection 6(a). Operating and Capital Budgets.

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

Public Education

State Board of Education - Minimum School Program

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

From Education Fund, One-Time	(88,300)
From Uniform School Fund, One-Time	21,500,000
From Beginning Nonlapsing Balances	4,092,600
From Closing Nonlapsing Balances	(17,809,700)
Schedule of Programs:	
Grades 1-12	(14,785,700)
Necessarily Existent Small Schools	473,700
Professional Staff	594,900
Administrative Costs	(88,300)
Enrollment Growth Contingency	21,500,000

The Legislature intends that the State Board of Education use up to $21,500,000 in one-time funds to hold LEA funding distributions at the prior year's average daily membership in accordance with Subsection 53F-2-302.1(3)(a).

Item 2 To State Board of Education - Minimum School Program -Related to Basic School Programs

From Education Fund, One-Time	5,327,800
From Uniform School Fund, One-Time	121,000,000
From Transfer for COVID-19 Response, One-Time	5,000,000
From Beginning Nonlapsing Balances	10,765,500
From Closing Nonlapsing Balances	(10,765,500)
Schedule of Programs:	
Educator Salary Adjustments	5,327,800
Early Intervention	5,000,000
Supplemental Educator COVID-19 Stipend	121,000,000

(1) The Legislature intends that the State Board of Education use up to $121,000,000 in one-time funds to provide the Supplemental Educator COVID-19 Stipend described in Section 53F-2-418.

(2) (a) Appropriations under the Minimum School Program are contingent upon the expenditure of Federal Coronavirus Relief for Public Education funds in Item 9, State Board of Education - State Administrative Office, to address learning loss related to COVID-19, including by providing:

(i) summer school programs;

(ii) after school programs;

(iii) temporary classroom aids;

(iv) temporary counseling;

(v) an extended school year;

(vi) an extended school day;

(vii) Saturday programs and tutoring;

(viii) individualized learning plans for students who are at risk of academic failure;

(ix) mentors and tutors;

(x) at-home visits to provide books and learning materials to students; or

(xi) COVID-19 mitigation supplies for individual use, not including facilities upgrades or renovations, that protect students and teachers, including hand sanitizer, sanitizing wipes, personal protective equipment, and masks.

(b) If a local education agency expends an expenditure of Federal Coronavirus Relief for Public Education funds for a purpose other than the purposes described in Subsection (2)(a), it is the intent of the Legislature that the State Board of Education reduce the local education agency's allocation under the Minimum School Program by one dollar for every one dollar of Federal Coronavirus Relief for Public Education funds expended for the other purpose.

State Board of Education

Item 3 To State Board of Education - Child Nutrition

From Federal Funds, One-Time	11,671,000
From Dedicated Credit - Liquor Tax, One-Time	10,605,300
From Beginning Nonlapsing Balances	325,300
From Closing Nonlapsing Balances	2,160,700
Schedule of Programs:	
Child Nutrition	24,762,300

Item 4 To State Board of Education - Educator Licensing

From Revenue Transfers, One-Time	135,100
From Beginning Nonlapsing Balances	1,492,500
From Closing Nonlapsing Balances	(161,400)
Schedule of Programs:	
Educator Licensing	103,000
STEM Endorsement Incentives	1,363,200

Item 5 To State Board of Education - Fine Arts Outreach

From Beginning Nonlapsing Balances	59,900
From Closing Nonlapsing Balances	(59,900)

Item 6 To State Board of Education - Initiative Programs

From Revenue Transfers, One-Time	(2,875,200)
From Transfer for COVID-19 Response, One-Time	4,000,000
From Beginning Nonlapsing Balances	15,021,600
From Closing Nonlapsing Balances	(3,244,600)
Schedule of Programs:	
Autism Awareness	(9,000)
Carson Smith Scholarships	(2,200)
Computer Science Initiatives	1,085,800
Contracts and Grants	2,763,500
Early Intervention Reading Software	328,300
Early Warning Pilot Program	75,000
Electronic Elementary Reading Tool	(345,800)
ELL Software Licenses	1,500,000
General Financial Literacy	400
Intergenerational Poverty Interventions	949,100
Interventions for Reading Difficulties	113,300
Kindergarten Supplement Enrichment Program	(1,580,700)
Paraeducator to Teacher Scholarships	9,900
Partnerships for Student Success	369,200
ProStart Culinary Arts Program	108,600
School Turnaround and Leadership Development Act	2,242,000
UPSTART	4,086,000
ULEAD	15,800
Competency-Based Education Grants	1,200,000
Special Needs Opportunity Scholarship Administration	(7,400)

Item 7 To State Board of Education - MSP Categorical ProgramAdministration

From Revenue Transfers, One-Time	31,800
From Beginning Nonlapsing Balances	2,347,600
From Closing Nonlapsing Balances	(439,800)
Schedule of Programs:	
Adult Education	(19,300)
Beverley Taylor Sorenson Elementary Arts Learning Program	(9,000)
CTE Comprehensive Guidance	153,800
Digital Teaching and Learning	546,500
Dual Immersion	82,400
Enhancement for At-Risk Students	42,600
Special Education State Programs	(5,200)
Youth-in-Custody	436,700
Early Literacy Program	153,300
CTE Online Assessments	39,500
CTE Student Organizations	385,000
State Safety and Support Program	195,700
Student Health and Counseling Support Program	(62,400)

Item 8 To State Board of Education - Science Outreach

From Beginning Nonlapsing Balances	74,700
From Closing Nonlapsing Balances	28,800
Schedule of Programs:	
Informal Science Education Enhancement	103,500

Item 9 To State Board of Education - State Administrative Office

From Education Fund, One-Time	60,000
From Federal Funds, One-Time	374,460,500
From Revenue Transfers, One-Time	707,500
From Transfer for COVID-19 Response, One-Time	22,900,000
From Beginning Nonlapsing Balances	14,534,600
From Closing Nonlapsing Balances	(30,442,300)
Schedule of Programs:	
Board and Administration	24,250,000
Data and Statistics	98,300
Financial Operations	498,700
Indirect Cost Pool	3,287,300
Information Technology	1,255,000
Math Teacher Training	(170,800)
Policy and Communication	12,400
School Trust	(2,100)
Special Education	53,844,800
Statewide Online Education Program	75,000

Student Support Services	25,000,000
Federal Coronavirus Relief for Public Education	274,071,700

(1) Appropriations to the State Board of Education are contingent upon the expenditure of Federal Coronavirus Relief for Public Education funds in this State Board of Education - State Administrative Office line item to address learning loss related to COVID-19, including by providing:

(a) summer school programs;

(b) after school programs;

(c) temporary classroom aids;

(d) temporary counseling;

(e) an extended school year;

(f) an extended school day;

(g) Saturday programs and tutoring;

(h) individualized learning plans for students who are at risk of academic failure;

(i) mentors and tutors;

(j) at-home visits to provide books and learning materials to students; or

(k) COVID-19 mitigation supplies for individual use, not including facilities upgrades or renovations, that protect students and teachers, including hand sanitizer, sanitizing wipes, personal protective equipment, and masks.

(2) If the State Board of Education expends or authorizes an expenditure of Federal Coronavirus Relief for Public Education funds for a purpose other than the purposes described in Subsection (1), it is the intent of the Legislature that the Division of Finance reduce the board's funding allocation by one dollar for every one dollar of Federal Coronavirus Relief for Public Education funds expended for the other purpose, up to an amount equal to the amount of Federal Coronavirus Relief for Public Education funds the State Board of Education retained for administrative costs and statewide activities.

Item 10 To State Board of Education - General System Support

From Federal Funds, One-Time	6,184,600
From Revenue Transfers, One-Time	82,400
From Beginning Nonlapsing Balances	8,836,000
From Closing Nonlapsing Balances	2,187,100
Schedule of Programs:	
Teaching and Learning	6,230,200
Assessment and Accountability	10,000,000
Career and Technical Education	1,073,000
Pilot Teacher Retention Grant Program	(13,100)

Item 11 To State Board of Education - State Charter School Board

From Beginning Nonlapsing Balances	1,711,700
From Closing Nonlapsing Balances	(1,711,700)

Item 12 To State Board of Education - Teaching and Learning

From Revenue Transfers, One-Time	(900)
From Beginning Nonlapsing Balances	7,800
From Closing Nonlapsing Balances	(18,100)
Schedule of Programs:	
Student Access to High Quality School Readiness Programs	(11,200)

Item 13 To State Board of Education - Utah Schools for the Deaf and the Blind

From Beginning Nonlapsing Balances	235,100
From Closing Nonlapsing Balances	463,700
Schedule of Programs:	
Administration	752,500
Utah State Instructional Materials Access Center	(53,700)

Subsection 6(b). Expendable Funds and Accounts.

The Legislature has reviewed the following expendable funds. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated. Outlays and expenditures from the funds or accounts to which the money is transferred may be made without further legislative action, in accordance with statutory provisions relating to the funds or accounts.

Public Education

State Board of Education

Item 14 To State Board of Education - Charter School Revolving Account

From Beginning Fund Balance	(1,500)
From Closing Fund Balance	1,500

Item 15 To State Board of Education - Hospitality and Tourism Management Education Account

From Beginning Fund Balance	174,000
From Closing Fund Balance	(99,000)
Schedule of Programs:	
Hospitality and Tourism Management Education Account	75,000

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

From Beginning Fund Balance	(33,200)
From Closing Fund Balance	33,200

Subsection 6(c). Restricted Fund and Account Transfers.

The Legislature authorizes the State Division of Finance to transfer the following amounts between the following funds or accounts as indicated. Expenditures and outlays from the funds to which the money is transferred must be authorized by an appropriation.

Public Education

Item 17 To Uniform School Fund Restricted - Public Education Economic Stabilization Restricted Account

From Beginning Fund Balance	400,000
From Closing Fund Balance	(23,800,000)
Schedule of Programs:	
Public Education Economic Stabilization Restricted Account	(23,400,000)

Item 18 To Local Levy Growth Account

From Beginning Fund Balance	(2,747,400)
From Closing Fund Balance	2,747,400

Subsection 6(d). Fiduciary Funds.

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

Public Education

State Board of Education

Item 19 To State Board of Education - Education Tax Check-off Lease Refunding

From Beginning Fund Balance	(6,100)
From Closing Fund Balance	6,100

Item 20 To State Board of Education - Schools for the Deaf and the Blind Donation Fund

From Beginning Fund Balance	33,400
From Closing Fund Balance	(33,400)

Section 7. Fiscal Year 2022 Appropriations.

(1) The following sums of money are appropriated for the fiscal year beginning July 1, 2021, and ending June 30, 2022. These are additions to amounts otherwise appropriated for fiscal year 2022.

(2) The value of the weighted pupil unit for fiscal year 2022 is $3,809.

Section 7(a). Operating and Capital Budgets.

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

Public Education

State Board of Education - Minimum School Program

Item 21 To State Board of Education - Minimum School Program -Basic School Program

From Uniform School Fund	2,774,089,200
From Uniform School Fund, One-Time	21,500,000
From Local Revenue	628,364,800
From Beginning Nonlapsing Balances	57,980,600
From Closing Nonlapsing Balances	(57,980,600)
Schedule of Programs:	
Kindergarten (26,446 WPUs)	100,732,800
Grades 1 - 12 (604,069 WPUs)	2,300,898,800
Foreign Exchange (328 WPUs)	1,249,400
Necessarily Existent Small Schools (10,577 WPUs)	40,287,800
Professional Staff (57,070 WPUs)	217,379,600
Special Education - Add-on (88,328 WPUs)	336,441,400
Special Education - Self-Contained (12,510 WPUs)	47,650,600
Special Education - Preschool (11,311 WPUs)	43,083,600
Special Education - Extended School Year (457 WPUs)	1,740,700
Special Education - Impact Aid (2,060 WPUs)	7,846,400
Special Education - Extended Year for Special Educators (909 WPUs)	3,462,400
Career and Technical Education - Add-on (29,100 WPUs)	110,841,900
Class Size Reduction (42,375 WPUs)	161,406,500
Enrollment Growth Contingency (7,727 WPUs)	50,932,100

(1) In accordance with Section 63J-1-201, the Legislature intends that the State Board of Education report performance measures for the Basic School Program line item. The State Board of Education shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021, the final status of performance measures established in fiscal year 2021 appropriations bills and the current status of the following performance measures for fiscal year 2022:

(a) school readiness, as measured by:

(i) the percentage of students who are ready for kindergarten (target = 64% in literacy and 76% in numeracy); and

(ii) the percentage of students who demonstrate proficiency on a kindergarten exit assessment (fiscal year 2021 will establish a baseline, no target determined);

(b) early indicator of academic success, as measured by the percentage of students who are proficient in English language arts and mathematics at the end of grade 3 (target = 67%);

(c) proficiency in core academic subjects, as measured by:

(i) proficiency on a statewide assessment, including:

(A) the percentage of students who are proficient in English language arts, on average, across grades 3 through 8 (target = 64%);

(B) the percentage of students who are proficient in mathematics, on average, across grades 3 through 8 (target = 66%); and

(C) the percentage of students who are proficient in science, on average, across grades 4 through 8 (target = 67%); and

(ii) proficiency on a nationally administered assessment, including:

(A) the percentage of grade 4 students who are proficient in English language arts (target = 41%);

(B) the percentage of grade 4 students who are proficient in mathematics (target = 46%);

(C) the percentage of grade 4 students who are proficient in science (target = 45%);

(D) the percentage of grade 8 students who are proficient in English language arts (target = 38%);

(E) the percentage of grade 8 students who are proficient in mathematics (target = 39%); and

(F) the percentage of grade 8 students who are proficient in science (target = 50%);

(d) post-secondary access, as measured by the percentage of students who score at least 18 on the ACT (target = 77%);

(e) high school completion, as measured by the percentage of students who graduate from high school in four years (target = 90%); and

(f) preparation for college, as measured by the percentage of students who have earned a concentration in or completed a certificate in career and technical education or have earned credit in an Advanced Placement, a concurrent enrollment, or an International Baccalaureate course (target = 87%).

(2) The Legislature further intends that the State Board of Education include in the report described in Subsection (1) any recommended changes to the performance measures.

(3) (a) The Legislature further intends that the State Board of Education use up to $21,500,000 in one-time funds to hold LEA funding distributions at the prior year's average daily membership in accordance with Subsection 53F-2-302.1(3)(a).

(b) The Legislature further intends that the State Board of Education use up to 7,727 weighted pupil units, or $29,432,100, to fund ongoing impacts of student enrollment changes in the 2021-2022 academic year in accordance with Subsection 53F-2-302.1(3)(b).

(c) The Legislature further intends that the State Board of Education report actions taken on the disbursement of Enrollment Growth Contingency funds to the Public Education Appropriations Subcommittee by January 31, 2022.

Item 22 To State Board of Education - Minimum School Program - Related to Basic School Programs

From Uniform School Fund	745,755,000
From Education Fund Restricted - Charter School Levy Account	29,837,600
From Teacher and Student Success Account	115,734,800
From Uniform School Fund Restricted - Trust Distribution Account	92,842,800
From Beginning Nonlapsing Balances	27,826,400
From Closing Nonlapsing Balances	(27,826,400)
Schedule of Programs:	
Pupil Transportation To and From School	108,606,500
Enhancement for At-Risk Students	52,646,800
Youth-in-Custody	27,821,200
Adult Education	15,635,900
Enhancement for Accelerated Students	6,048,300
Concurrent Enrollment	12,961,700
Title I Schools Paraeducators Program	300,000
School LAND Trust Program	92,842,800
Charter School Local Replacement	218,178,700
Early Literacy Program	14,550,000
Educator Salary Adjustments	187,954,200
Teacher Salary Supplement	22,228,600
School Library Books and Electronic Resources	765,000
Matching Fund for School Nurses	1,002,000
Dual Immersion	5,030,000
Teacher Supplies and Materials	5,500,000
Beverley Taylor Sorenson Elementary Arts Learning Program	10,880,000
Early Intervention	17,455,000
Digital Teaching and Learning Program	19,852,400
Effective Teachers in High Poverty Schools Incentive Program	250,000
Elementary School Counselor Program	2,100,000

Pupil Transportation Rural School Reimbursement	500,000
Pupil Transportation - Rural School Grants	1,000,000
Teacher and Student Success Program	130,734,800
Student Health and Counseling Support Program	25,480,000
Grants for Educators in High-need Schools	500,000
National Board Certified Teacher Program	246,300
Charter School Funding Base Program	3,100,000

(1) Appropriations under the Minimum School Program are contingent upon the expenditure of Federal Coronavirus Relief for Public Education funds in Item 9, State Board of Education - State Administrative Office, to address learning loss related to COVID-19, including by providing:

(a) summer school programs;

(b) after school programs;

(c) temporary classroom aids;

(d) temporary counseling;

(e) an extended school year;

(f) an extended school day;

(g) Saturday programs and tutoring;

(h) individualized learning plans for students who are at risk of academic failure;

(i) mentors and tutors;

(j) at-home visits to provide books and learning materials to students; or

(k) COVID-19 mitigation supplies for individual use, not including facilities upgrades or renovations, that protect students and teachers, including hand sanitizer, sanitizing wipes, personal protective equipment, and masks.

(2) If a local education agency expends an expenditure of Federal Coronavirus Relief for Public Education funds for a purpose other than the purposes described in Subsection (1), it is the intent of the Legislature that the State Board of Education reduce the local education agency's allocation under the Minimum School Program by one dollar for every one dollar of Federal Coronavirus Relief for Public Education funds expended for the other purpose.

Item 23 To State Board of Education - Minimum School Program -Voted and Board Local Levy Programs

From Uniform School Fund	95,050,500
From Local Levy Growth Account	100,083,400
From Local Revenue	667,843,000
From Education Fund Restricted - Minimum Basic Growth Account	56,250,000
Schedule of Programs:	
Voted Local Levy Program	575,502,500
Board Local Levy Program	328,724,400
Board Local Levy Program - Early Literacy Program	15,000,000

State Board of Education - School Building Programs

Item 24 To State Board of Education - School Building Programs -Capital Outlay Programs

From Education Fund	14,499,700
From Education Fund Restricted - Minimum Basic Growth Account	18,750,000
Schedule of Programs:	
Foundation Program	27,610,900
Enrollment Growth Program	5,638,800

State Board of Education

Item 25 To State Board of Education - Child Nutrition

From Education Fund	400
From Federal Funds	171,056,800
From Dedicated Credits Revenue	6,200
From Dedicated Credit - Liquor Tax	50,025,000
From Revenue Transfers	(395,900)
From Beginning Nonlapsing Balances	1,824,000
From Closing Nonlapsing Balances	(338,000)
Schedule of Programs:	
Child Nutrition	222,178,500

In accordance with Section 63J-1-201, the Legislature intends that the State Board of Education report performance measures for the Child Nutrition line item. The State Board of Education shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021, the final status of performance measures established in fiscal year 2021 appropriations bills and the current status of the following performance measures for fiscal year 2022:

(1) school districts and charter schools served (target = 100% districts and 50% charters);

(2) administrative reviews completed (target = 20% annually/100% over five-year cycle); and

(3) reimbursement claims paid within 30 days of claim submission for payment with an error rate of 1% or less (target = 100%).

Item 26 To State Board of Education - Child Nutrition - Federal Commodities

From Federal Funds	19,159,300

Schedule of Programs:

Child Nutrition – Federal Commodities	19,159,300

Item 27 To State Board of Education – Educator Licensing

From Education Fund	3,864,200
From Revenue Transfers	(240,000)
From Beginning Nonlapsing Balances	161,400
From Closing Nonlapsing Balances	(121,000)
Schedule of Programs:	
Educator Licensing	2,464,600
STEM Endorsement Incentives	1,200,000

In accordance with Section 63J-1-201, the Legislature intends that the State Board of Education report performance measures for the Educator Licensing line item. The State Board of Education shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021, the final status of performance measures established in fiscal year 2021 appropriations bills and the current status of the following performance measures for fiscal year 2022:

(1) background check response and notification of local education agency within 72 hours (target = 100%);

(2) teachers in a Utah local education agency who hold a standard level 1, 2, or 3 license (target = 95%); and

(3) teachers in a Utah local education agency who have demonstrated preparation in assigned subject area (target = 95%).

Item 28 To State Board of Education – Fine Arts Outreach

From Education Fund	4,960,000
From Beginning Nonlapsing Balances	188,600
From Closing Nonlapsing Balances	(188,600)
Schedule of Programs:	
Professional Outreach Programs in the Schools	4,906,000
Subsidy Program	54,000

In accordance with Section 63J-1-201, the Legislature intends that the State Board of Education report performance measures for the Fine Arts Outreach line item. The State Board of Education shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021, the final status of performance measures established in fiscal year 2021 appropriations bills and the current status of the following performance measures for fiscal year 2022:

(1) local education agencies served in a three-year period (target = 100% of districts and 90% of charters);

(2) number of students and educators receiving services (target = 500,000 students and 26,000 educators); and

(3) efficacy of education programming as determined by peer review (target = 90%).

Item 29 To State Board of Education – Initiative Programs

From General Fund	7,482,600
From Education Fund	46,054,100
From General Fund Restricted – Autism Awareness Account	50,700
From Revenue Transfers	(147,800)
From Beginning Nonlapsing Balances	15,775,500
From Closing Nonlapsing Balances	(13,340,700)
Schedule of Programs:	
Autism Awareness	41,700
Carson Smith Scholarships	7,752,300
Contracts and Grants	3,683,500
Early Intervention Reading Software	10,600,000
Early Warning Pilot Program	325,000
Electronic Elementary Reading Tool	2,100,000
General Financial Literacy	464,300
Intergenerational Poverty Interventions	1,050,900
Interventions for Reading Difficulties	350,000
IT Academy	500,000
Kindergarten Supplement Enrichment Program	25,100
Paraeducator to Teacher Scholarships	24,500
Partnerships for Student Success	3,030,400
ProStart Culinary Arts Program	201,500
School Turnaround and Leadership Development Act	4,028,500
UPSTART	15,286,800
ULEAD	571,900
Educational Improvement Opportunities Outside of the Regular School Day Grant Program	153,700
Competency-Based Education Grants	2,931,700
Special Needs Opportunity Scholarship Administration	52,600

Education Technology Management System	1,800,000
School Data Collection and Analysis	900,000

In accordance with Section 63J-1-201, the Legislature intends that the State Board of Education report performance measures for the Initiatives Program line item. The State Board of Education shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021, the final status of performance measures established in fiscal year 2021 appropriations bills and the current status of the following performance measures for fiscal year 2022:

(1) Carson Smith Scholarship annual compliance reporting (target = 100%);

(2) number of students served by UPSTART (target = 20,200);

(3) School Turnaround and Leadership Development Act schools meeting the exit criteria or qualifying for an extension (target = 100%);

(4) Partnerships for Student Success Program average number of partners forming a partnership with a lead grant applicant within a school feeder pattern (target = 15 partners);

(5) percentage of grade 3 students at Partnerships for Student Success schools who meet reading benchmark at year end (target = 55%);

(6) percentage of grade 8 students at Partnerships for Student Success schools proficient in mathematics (target = 24%);

(7) high school graduation rate for students at Partnerships for Student Success schools (target = 86%);

(8) Intergenerational Poverty Interventions Grant Program improvement in reading proficiency rates for regularly participating after-school students (target = 8 points);

(9) Intergenerational Poverty Interventions Grant Program improvement in mathematics proficiency rates for regularly participating after-school students (target = 7 points); and

(10) Intergenerational Poverty Interventions Grant Program improvement in science proficiency rates for regularly participating after-school students (target = 4 points).

Item 30 To State Board of Education - MSP Categorical Program Administration

From Education Fund	6,409,400
From Revenue Transfers	(365,000)
From Beginning Nonlapsing Balances	2,211,800
From Closing Nonlapsing Balances	(1,452,700)
Schedule of Programs:	
Adult Education	289,700
Beverley Taylor Sorenson Elementary Arts Learning Program	112,500
CTE Comprehensive Guidance	273,900
Digital Teaching and Learning	549,300
Dual Immersion	597,800
Enhancement for At-Risk Students	441,900
Special Education State Programs	259,500
Youth-in-Custody	1,274,700
Early Literacy Program	424,800
CTE Online Assessments	659,300
CTE Student Organizations	1,039,900
State Safety and Support Program	556,600
Student Health and Counseling Support Program	323,600

In accordance with Section 63J-1-201, the Legislature intends that the State Board of Education report performance measures for the MSP Categorical Program Administration line item. The State Board of Education shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021, the final status of performance measures established in fiscal year 2021 appropriations bills and the current status of the following performance measures for fiscal year 2022:

(1) number of schools engaged in Digital Teaching and Learning (target = 740 schools);

(2) professional learning for Dual Immersion educators (target = 1,800 educators);

(3) support for guest Dual Immersion educators (target = 150 educators);

(4) Beverley Taylor Sorenson Elementary Arts Learning Program fidelity of implementation (target = 50 site visits); and

(5) Beverley Taylor Sorenson Elementary Arts Learning Program survey completion for schools with intervention when responses show concern for implementation (target = 100%).

Item 31 To State Board of Education - Regional Education Service Agencies

From Education Fund	2,000,000
Schedule of Programs:	
Regional Education Service Agencies	2,000,000

In accordance with Section 63J-1-201, the Legislature intends that the State Board of Education report performance measures for the Regional Education Service Agencies line item. The State Board of Education shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021, the final status of performance measures established in fiscal year

2021 appropriations bills and the current status of the following performance measures for fiscal year 2022:

(1) professional learning services (target = 3,000 educator training hours and 20,000 participation hours);

(2) technical support services (target = 7,000 support hours); and

(3) higher education services (target = 1,500 graduate level credit hours).

Item 32 To State Board of Education - Science Outreach

From Education Fund	5,290,000
From Beginning Nonlapsing Balances	20,700
Schedule of Programs:	
Informal Science Education Enhancement	5,065,000
Provisional Program	245,700

In accordance with Section 63J-1-201, the Legislature intends that the State Board of Education report performance measures for the Science Outreach line item. The State Board of Education shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021, the final status of performance measures established in fiscal year 2021 appropriations bills and the current status of the following performance measures for fiscal year 2022:

(1) student science experiences (target = 380,000);

(2) student field trips (target = 375,000); and

(3) educator professional learning (target = 2,000 educators).

Item 33 To State Board of Education - State Administrative Office

From General Fund	410,100
From Education Fund	22,892,300
From Federal Funds	157,300,200
From Dedicated Credits Revenue	64,300
From General Fund Restricted - Electronic Cigarette Substance and Nicotine Product Tax Restricted Account	5,084,200
From General Fund Restricted - Mineral Lease	1,313,200
From Gen. Fund Restricted - Land Exchange Distribution Account	16,200
From General Fund Restricted - School Readiness Account	65,400
From Revenue Transfers	3,848,100
From Uniform School Fund Restricted - Trust Distribution Account	581,800
From Education Fund Restricted - Underage Drinking Prevention Program Restricted Account	1,751,000
From Beginning Nonlapsing Balances	46,203,800
From Closing Nonlapsing Balances	(9,218,800)
Schedule of Programs:	
Board and Administration	5,293,900
Data and Statistics	2,411,500
Financial Operations	3,685,700
Indirect Cost Pool	8,008,400
Information Technology	14,270,500
Math Teacher Training	110,700
Policy and Communication	2,228,000
School Trust	526,400
Special Education	81,807,900
Statewide Online Education Program	4,609,000
Student Support Services	107,359,800

(1) In accordance with Section 63J-1-201, the Legislature intends that the State Board of Education report performance measures for the State Administrative Office line item. The State Board of Education shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021, the final status of performance measures established in fiscal year 2021 appropriations bills and the current status of the following performance measures for fiscal year 2022:

(a) educators participating in trauma-informed practices training (target = 6,000); and

(b) local education agency Individuals with Disabilities Education Act noncompliance correction (target = 100%).

(2) (a) Appropriations to the State Board of Education are contingent upon the expenditure of Federal Coronavirus Relief for Public Education funds in Item 9, State Board of Education - State Administrative Office, to address learning loss related to COVID-19, including by providing:

(i) summer school programs;

(ii) after school programs;

(iii) temporary classroom aids;

(iv) temporary counseling;

(v) an extended school year;

(vi) an extended school day;

(vii) Saturday programs and tutoring;

(viii) individualized learning plans for students who are at risk of academic failure;

(ix) mentors and tutors;

(x) at-home visits to provide books and learning materials to students; or

(xi) COVID-19 mitigation supplies for individual use, not including facilities upgrades or renovations, that protect students and teachers, including hand sanitizer, sanitizing wipes, personal protective equipment, and masks.

(b) If the State Board of Education expends or authorizes an expenditure of Federal Coronavirus Relief for Public Education funds for a purpose other than the purposes described in Subsection (2)(a), it is the intent of the Legislature that the Division of Finance reduce the board's funding allocation by one dollar for every one dollar of Federal Coronavirus Relief for Public Education funds expended for the other purpose, up to an amount equal to the amount of Federal Coronavirus Relief for Public Education funds the State Board of Education retained for administrative costs and statewide activities.

Item 34 To State Board of Education - General System Support

From General Fund	100
From Education Fund	23,310,000
From Federal Funds	36,879,900
From Dedicated Credits Revenue	6,954,400
From Expendable Receipts	446,000
From General Fund Restricted - Mineral Lease	404,100
From Revenue Transfers	(1,458,300)
From Beginning Nonlapsing Balances	9,962,100
From Closing Nonlapsing Balances	(7,523,600)
Schedule of Programs:	
Teaching and Learning	30,887,900
Assessment and Accountability	20,434,000
Career and Technical Education	17,159,200
Pilot Teacher Retention Grant Program	493,600

In accordance with Section 63J-1-201, the Legislature intends that the State Board of Education report performance measures for the General System Support line item. The State Board of Education shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021, the final status of performance measures established in fiscal year 2021 appropriations bills and the current status of the following performance measures for fiscal year 2022:

(1) local education agencies served by Teaching and Learning (target = 100%);

(2) career and technical education professional development (target = 5,500 educators);

(3) Readiness Improvement Success Empowerment (RISE) summative assessments delivered to the field on schedule (target = March 16, 2021); and

(4) Utah Aspire Plus summative assessments delivered to the field on schedule (target = March 22, 2021).

Item 35 To State Board of Education - State Charter School Board

From Education Fund	3,855,700
From Revenue Transfers	(223,200)
From Beginning Nonlapsing Balances	4,842,100
From Closing Nonlapsing Balances	(4,330,100)
Schedule of Programs:	
State Charter School Board	4,144,500

In accordance with Section 63J-1-201, the Legislature intends that the State Board of Education report performance measures for the State Charter School Board line item. The State Board of Education shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021, the final status of performance measures established in fiscal year 2021 appropriations bills and the current status of the following performance measures for fiscal year 2022:

(1) one or more State Charter School Board members or staff members will have met with State Charter School Board schools (target = 100% by January 2022);

(2) State Charter School Board charter governing board members will receive training on expectations of governing board members and effective school governance (target = 50% by January 2022); and

(3) charter schools that the State Charter School Board authorized will have all the required policies publicly available and will have posted their meetings, minutes, and recordings as required by Title 52, Chapter 4, Open and Public Meetings Act, to avoid warning or probation (target = 100% by end of the 2023 school year).

Item 36 To State Board of Education - Teaching and Learning

From Education Fund	171,800
From Revenue Transfers	(22,000)
From Beginning Nonlapsing Balances	18,100
Schedule of Programs:	
Student Access to High Quality School Readiness Programs	167,900

In accordance with Section 63J-1-201, the Legislature intends that the State Board of Education report performance measures for the Teaching and Learning line item. The State Board of Education shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021, the final status of performance measures established in fiscal year 2021 appropriations bills and the current status of the following performance measures for fiscal year 2022:

(1) in literacy, the percentage of students who participate in High Quality School Readiness who are proficient (earn Proficiency Level 3) on the Kindergarten Entry and Exit Profile (KEEP) Entry compared to students who participate in non-High Quality School Readiness programs tracked by the state (target = 65%);

(2) in numeracy, the percentage of students who participate in High Quality School Readiness who are proficient (earn Proficiency Level 3) on the KEEP Entry compared to students who participate in non-High Quality School Readiness programs tracked by the state (target = 74%);

(3) significant differences in literacy and numeracy achievement as measured by the KEEP and grade 3 Readiness Improvement Success Empowerment (RISE) proficiency (target to be determined by the state board by September 30, 2021).

Item 37 To State Board of Education - Utah Charter School Finance Authority

From Education Fund Restricted - Charter School Reserve Account	50,000
Schedule of Programs:	
Utah Charter School Finance Authority	50,000

Item 38 To State Board of Education - Utah Schools for the Deaf andthe Blind

From Education Fund	34,174,200
From Federal Funds	105,300
From Dedicated Credits Revenue	1,677,400
From Revenue Transfers	6,039,200
From Beginning Nonlapsing Balances	2,207,600
From Closing Nonlapsing Balances	(2,661,200)
Schedule of Programs:	
Support Services	15,600
Administration	6,919,400
Transportation and Support Services	11,146,200
Utah State Instructional Materials Access Center	2,145,800
School for the Deaf	12,279,900
School for the Blind	9,035,600

(1) In accordance with Section 63J-1-201, the Legislature intends that the State Board of Education report performance measures for the Utah Schools for the Deaf and the Blind line item. The State Board of Education shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021, the final status of performance measures established in fiscal year 2021 appropriations bills and the current status of the following performance measures for fiscal year 2022:

(a) average growth on vocabulary assessments for the deaf and hard of hearing campus students (target = greater than 2 standard score points);

(b) outreach educational services - provide contracted outreach services (target = 100%);

(c) deaf-blind educational services - improve communication matrix scores (target = 2.5%); and

(d) average percentage of growth for blind and visually impaired students attending campus programs (target = 51%).

(2) The Legislature further intends that the Utah Schools for the Deaf and the Blind may purchase an audiology van and a small bus with non-state funds in fiscal year 2021 or fiscal year 2022.School and Institutional Trust Fund Office

Item 39 To School and Institutional Trust Fund Office

From School and Institutional Trust Fund Management Account	1,423,200
Schedule of Programs:	
School and Institutional Trust Fund Office	1,423,200

Section 7(b). Expendable Funds and Accounts.

The Legislature has reviewed the following expendable funds. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated. Outlays and expenditures from the funds or accounts to which the money is transferred may be made without further legislative action, in accordance with statutory provisions relating to the funds or accounts.

Public Education

State Board of Education

Item 40 To State Board of Education - Charter School Revolving Account

From Dedicated Credits Revenue	4,600
From Interest Income	132,200
From Repayments	1,511,400
From Beginning Fund Balance	7,163,500
From Closing Fund Balance	(7,300,300)
Schedule of Programs:	
Charter School Revolving Account	1,511,400

Item 41 To State Board of Education - Hospitality and TourismManagement Education Account

From Dedicated Credits Revenue	300,000
From Interest Income	5,200
From Beginning Fund Balance	314,600
From Closing Fund Balance	(269,800)
Schedule of Programs:	

Hospitality and Tourism Management Education Account 350,000

Item 42 To State Board of Education - School Building Revolving Account

From Dedicated Credits Revenue 500

From Interest Income 112,800

From Repayments 1,465,600

From Beginning Fund Balance 10,016,100

From Closing Fund Balance (10,129,400)

Schedule of Programs:

School Building Revolving Account 1,465,600

Section 7(c). Restricted Fund and Account Transfers.

The Legislature authorizes the State Division of Finance to transfer the following amounts between the following funds or accounts as indicated. Expenditures and outlays from the funds to which the money is transferred must be authorized by an appropriation.Public Education

Item 43 To Uniform School Fund Restricted - Public EducationEconomic Stabilization Restricted Account

From Education Fund 150,500,000

From Education Fund, One-Time (127,100,000)

From Beginning Fund Balance 23,800,000

From Closing Fund Balance (47,200,000)

Item 44 To Education Fund Restricted - Minimum Basic Growth Account

From Education Fund 75,000,000

Schedule of Programs:

Education Fund Restricted - Minimum Basic Growth Account 75,000,000

Item 45 To Underage Drinking Prevention Program Restricted Account

From Liquor Control Fund 1,750,000

Schedule of Programs:

Underage Drinking Prevention Program Restricted Account 1,750,000

Item 46 To Local Levy Growth Account

From Education Fund 100,083,400

Schedule of Programs:

Local Levy Growth Account 100,083,400

Item 47 To Teacher and Student Success Account

From Education Fund 115,734,800

Schedule of Programs:

Teacher and Student Success Account 115,734,800

Subsection 7(d). Fiduciary Funds.

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

Public Education

State Board of Education

Item 48 To State Board of Education - Education Tax Check-off Lease Refunding

From Beginning Fund Balance 39,800

From Closing Fund Balance (37,600)

Schedule of Programs:

Education Tax Check-off Lease Refunding 2,200

Item 49 To State Board of Education - Schools for the Deaf and the Blind Donation Fund

From Dedicated Credits Revenue 115,000

From Interest Income 5,400

From Beginning Fund Balance 1,255,100

From Closing Fund Balance (1,255,100)

Schedule of Programs:

Schools for the Deaf and the Blind Donation Fund 120,400

Section 8. Effective date.

(1) Except as provided in Subsections (2) and (3), if approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

(2) The following sections of this bill take effect on July 1, 2021:

(a) Section 53F-2-301.5;

(b) Section 7, Fiscal Year 2022 Appropriations;

(c) Subsection 7(a), Operating and Capital Budgets;

(d) Subsection 7(b), Expendable Funds and Accounts;

(e) Subsection 7(c), Restricted Fund and Account Transfers; and

(f) Subsection 7(d), Fiduciary Funds.

(3) Section 53F-9-201.1 in this bill takes effect on July 1, 2022.

CHAPTER 7
S. B. 5
Passed January 28, 2021
Approved February 4, 2021
Effective July 1, 2021

NATURAL RESOURCES, AGRICULTURE, AND ENVIRONMENTAL QUALITY BASE BUDGET

Chief Sponsor: David P. Hinkins
House Sponsor: Stewart E. Barlow

LONG TITLE

General Description:

This bill supplements or reduces appropriations otherwise provided for the support and operation of state government for the fiscal year beginning July 1, 2020 and ending June 30, 2021 and appropriates funds for the support and operation of state government for the fiscal year beginning July 1, 2021 and ending June 30, 2022.

Highlighted Provisions:

This bill:

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

Money Appropriated in this Bill:

This bill appropriates $1,736,300 in operating and capital budgets for fiscal year 2021, including:

- $4,800,000 from the General Fund; and
- ($3,063,700) from various sources as detailed in this bill.

This bill appropriates $51,781,400 in expendable funds and accounts for fiscal year 2021, including:

- $51,200,000 from the General Fund; and
- $581,400 from various sources as detailed in this bill.

This bill appropriates ($2,118,300) in business-like activities for fiscal year 2021.

This bill appropriates $469,451,900 in operating and capital budgets for fiscal year 2022, including:

- $91,033,800 from the General Fund; and
- $378,418,100 from various sources as detailed in this bill.

This bill appropriates $5,409,300 in expendable funds and accounts for fiscal year 2022.

This bill appropriates $71,938,200 in business-like activities for fiscal year 2022.

This bill appropriates $6,940,500 in restricted fund and account transfers for fiscal year 2022, including:

- $5,898,100 from the General Fund; and
- $1,042,400 from various sources as detailed in this bill.

Other Special Clauses:

Section 1 of this bill takes effect immediately. Section 2 of this bill takes effect on July 1, 2021.

Utah Code Sections Affected:

ENACTS UNCODIFIED MATERIAL

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

Section 1. FY 2021 Appropriations. The following sums of money are appropriated for the fiscal year beginning July 1, 2020 and ending June 30, 2021. These are additions to amounts otherwise appropriated for fiscal year 2021.

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

DEPARTMENT OF AGRICULTURE AND FOOD

Item 1

To Department of Agriculture and Food - Administration
From Beginning Nonlapsing Balances ..... (80,600)
From Closing Nonlapsing Balances .... (350,000)
Schedule of Programs:
General Administration ..... (430,600)

Under the terms of 63J-I-603 of the Utah Code, the Legislature intends that appropriations provided for Administration in Item 44, Chapter 3, Laws of Utah 2020, shall not lapse at the close of FY 2021. Expenditures from General Fund are limited to: Computer equipment/Software $100,000; Employee Training/Incentives $100,000; Equipment/Supplies $55,000; Furnishings/ Equipment $95,000.

Item 2

To Department of Agriculture and Food - Animal Industry
From General Fund Restricted - Livestock Brand, One-Time ..... (500,000)
From Beginning Nonlapsing Balances ... 193,200
From Closing Nonlapsing Balances 638,400
Schedule of Programs:
Animal Health 80,900
Brand Inspection 70,500
Meat Inspection 180,200

Under the terms of 63J-I-603 of the Utah Code, the Legislature intends that appropriations provided for the Division of Animal Industry in Item 45, Chapter 3, Laws of Utah 2020, shall not lapse at the close of FY 2021. Expenditures from General Fund are limited to: Computer Equipment/Software $150,000; Employee Training/Incentives $139,100; Special Projects/Studies $267,100.

Item 3

To Department of Agriculture and Food - Invasive Species Mitigation
From Beginning Nonlapsing Balances ..... (473,000)
From Closing Nonlapsing Balances .... (750,000)
Schedule of Programs:
Invasive Species Mitigation ..... (1,223,000)

Under the terms of 63J-I-603 of the Utah Code, the Legislature intends that

appropriations provided for Invasive Species Mitigation in Item 47, Chapter 3, Laws of Utah 2020, shall not lapse at the close of FY 2021. Expenditures of these funds are limited to $750,000 for Invasive Species Mitigation Projects.

Item 4
To Department of Agriculture and Food – Marketing and Development
From Beginning Nonlapsing Balances 29,000
From Closing Nonlapsing Balances ..... (30,000)
Schedule of Programs:
Marketing and Development ..... (1,000)

Under the terms of 63J-I-603 of the Utah Code, the Legislature intends that appropriations provided for the Division of Marketing and Economic Development in Item 48, Chapter 3, Laws of Utah 2020, shall not lapse at the close of FY 2021. Expenditures of General Fund are limited to: Employee Training/Incentives $13,500; Equipment/Supplies $16,500.

Item 5
To Department of Agriculture and Food – Plant Industry
From Beginning Nonlapsing Balances ... 646,200
From Closing Nonlapsing Balances ... (1,771,900)
Schedule of Programs:
Grazing Improvement Program ..... (400,000)
Plant Industry ..... (725,700)

Under the terms of 63J-I-603 of the Utah Code, the Legislature intends that appropriations provided for the Division of Plant Industry in Item 49, Chapter 3, Laws of Utah 2020, shall not lapse at the close of FY 2021. Expenditures of General Fund are limited to Capital Equipment or Improvements $305,800; Computer Equipment/Software $224,700; Employee Training/Incentives $63,300; Equipment/Supplies $105,500; Special Projects/Studies $172,600. Expenditures of Dedicated Credits are limited to $500,000 to purchase equipment necessary for inspectors and the chemistry laboratory, and special projects.

Under the terms of 63J-I-603 of the Utah Code, the Legislature intends that appropriations provided for Plant Industry in Item 166, Chapter 416, Laws of Utah 2020, shall not lapse at the close of FY 2021. Expenditures of General Fund are limited to previously obligated Watershed Restoration projects $400,000.

Item 6
To Department of Agriculture and Food – Predatory Animal Control
From Closing Nonlapsing Balances ..... (50,000)
Schedule of Programs:
Predatory Animal Control ..... (50,000)

Under the terms of 63J-I-603 of the Utah Code, the Legislature intends that appropriations provided for Predatory Animal Control in Item 50, Chapter 3, Laws of Utah 2020 shall not lapse at the close of FY 2021. Expenditures of these funds are limited to Supplies/Equipment $50,000.

Item 7
To Department of Agriculture and Food – Rangeland Improvement
From Beginning Nonlapsing Balances ..... (244,100)
From Closing Nonlapsing Balances .... (300,000)
Schedule of Programs:
Rangeland Improvement ..... (544,100)

Under the terms of 63J-I-603 of the Utah Code, the Legislature intends that appropriations provided for Rangeland Improvement in Item 51, Chapter 3, Laws of Utah 2020, shall not lapse at the close of FY 2021. Expenditures of these funds are limited to Rangeland Improvement Projects $300,000.

Item 8
To Department of Agriculture and Food – Regulatory Services
From Beginning Nonlapsing Balances ... 400,000
From Closing Nonlapsing Balances ... (1,242,100)
Schedule of Programs:
Regulatory Services
Administration ..... (842,100)

Under the terms of 63J-I-603 of the Utah Code, the Legislature intends that appropriations provided for the Division of Regulatory Services in Item 52, Chapter 3, Laws of Utah 2020, shall not lapse at the close of FY 2021. Expenditures of General Fund are limited to: Computer Equipment/Software $292,100; Employee Training/Incentives $51,700; Equipment/Supplies $162,600; Special Projects/Studies $235,700. Expenditures of Dedicated Credits are limited to: $500,000 for laboratory equipment for the fuel, metrology, and chemistry laboratories, as well as replacement and repair of a large scale truck.

Item 9
To Department of Agriculture and Food – Resource Conservation
From Closing Nonlapsing Balances .... (542,200)
Schedule of Programs:
Resource Conservation ..... (679,100)
Resource Conservation Administration 136,900

Under the terms of 63J-I-603 of the Utah Code, the Legislature intends that appropriations provided for the Division of Resource Conservation in Item 53, Chapter 3, Laws of Utah 2020, shall not lapse at the close of FY 2021. Expenditure of these funds are limited to: Resource Conservation projects $542,200.

Item 10
To Department of Agriculture and Food – Industrial Hemp
From Closing Nonlapsing Balances .... (400,000)
Schedule of Programs:
Industrial Hemp ..... (400,000)

Under the terms of 63J-I-603 of the Utah Code, the Legislature intends that

appropriations provided for the Industrial Hemp Program in Item 242, Chapter 3, Laws of Utah 2020, shall not lapse at the close of FY 2021. Expenditures of Dedicated Credits are limited to: $400,000 for Employee Training/Incentives, Equipment, and Laboratory Supplies.

DEPARTMENT OF ENVIRONMENTAL QUALITY

Item 11
To Department of Environmental Quality – Drinking Water
From Beginning Nonlapsing Balances . . . 130,300
From Closing Nonlapsing Balances . . . . (268,700)
Schedule of Programs:
Drinking Water Administration . . . . . (138,400)

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for Drinking Water in the Laws of Utah 2020, Chapter 3, Item 56 shall not lapse at the close of FY 2021. Expenditures of these funds are limited to DW Source Water Sizing Requirements $268,700.

Item 12
To Department of Environmental Quality – Environmental Response and Remediation
From Beginning Nonlapsing Balances 33,000
From Closing Nonlapsing Balances . . . . . (95,000)
Schedule of Programs:
Environmental Response and Remediation . . . . . (62,000)

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for Environmental Response and Remediation in the Laws of Utah 2020, Chapter 3, Item 57 shall not lapse at the close of FY 2021. Expenditures of these funds are limited to Underground Storage Tank (UST) Certification program $25,000; equipment and software upgrades $20,000; database upgrades and maintenance $50,000.

Item 13
To Department of Environmental Quality – Executive Director's Office
From Beginning Nonlapsing Balances . . . 367,400
From Closing Nonlapsing Balances . . . . (610,000)
Schedule of Programs:
Executive Director Office Administration . . . . . (242,600)

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for Executive Directors Office in the Laws of Utah 2020, Chapter 3, Item 58 shall not lapse at the close of FY 2021. Expenditures of these funds are limited to high level nuclear waste opposition $10,000; capital improvements/maintenance, DP Software, and equipment $450,000; administrative law judge $150,000.

Item 14
To Department of Environmental Quality – Waste Management and Radiation Control
From Beginning Nonlapsing Balances . . . 412,000
From Closing Nonlapsing Balances . . . . (650,000)
Schedule of Programs:
Waste Management and Radiation Control . . . . . (238,000)

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for Waste Management and Radiation Control in the Laws of Utah 2020, Chapter 3, Item 59 shall not lapse at the close of FY 2021. Expenditures of these funds are limited to community outreach and public education $25,000; research and creation of new programming/databases $600,000; Capital improvements/maintenance, DP software, and equipment $25,000.

Item 15
To Department of Environmental Quality – Water Quality
From Beginning Nonlapsing Balances . . . . . (65,200)
From Closing Nonlapsing Balances . . . . (227,200)
Schedule of Programs:
Water Quality Support . . . . . (292,400)

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for Division of Water Quality in the Laws of Utah 2020, Chapter 3, Item 60 shall not lapse at the close of FY 2021. Expenditures of these funds are limited to independent scientific review activities as outlined in R317-1-10 $97,200; DP Software and Consultant Services $80,000; equipment $50,000.

Item 16
To Department of Environmental Quality – Trip Reduction Program
From Closing Nonlapsing Balances . . . . (500,000)
Schedule of Programs:
Trip Reduction Program . . . . . (500,000)

Under terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for the Division of Air Quality in the Laws of Utah 2020, Chapter 3, Item 61 shall not lapse at the close of FY2021. Expenditures of non-lapsing funds are limited to $500,000 – Reduction of Trips – Fare Days.

Item 17
To Department of Environmental Quality – Air Quality
From Beginning Nonlapsing Balances . . . 367,200
From Closing Nonlapsing Balances . . . . . (11,592,000)
Schedule of Programs:
Air Quality Administration . . . . . (11,224,800)

Under terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for the Division of Air Quality in the Laws of Utah 2020, Chapter 3, Item 55 shall not lapse at the close

of FY2021. Expenditures of non-lapsing funds are limited to the following needs/activities: $380,000 - Air Quality Research Projects $12,000 - Mobile Monitoring Data Collection $4,100,000 - Electric Vehicle Charging Equipment $6,500,000 - Replace Wood-Fired Stoves and Fireplaces with Gas Appliances $500,000 - Air Monitoring Equipment $100,000 - Reducing Future Operating Permit Fees.

GOVERNOR'S OFFICE

Item 18
To Governor's Office - Office of Energy Development
From Beginning Nonlapsing Balances 1,369,300
From Closing Nonlapsing Balances ... (1,205,200)
From Lapsing Balance ..... (121,400)
Schedule of Programs:
Office of Energy Development 42,700

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for the Office of Energy Development, Laws of Utah 2020, Chapter 3, Items 17 and 62 shall not lapse at the close of FY 2021. Expenditures of these funds are limited to $178,500 for OED administration special projects, $26,700 for State Energy Program programs and projects, and $1,000,000 for the Isotopes Research Center.

DEPARTMENT OF NATURAL RESOURCES

Item 19
To Department of Natural Resources - Administration
From Closing Nonlapsing Balances .... (225,000)
Schedule of Programs:
Administrative Services ..... (143,600)
Executive Director ..... (81,400)

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for Natural Resources Administration in Item 94, Chapter 3, Laws of Utah 2020, shall not lapse at the close of FY 2021. Expenditures of these funds are limited to operating budget items: $225,000.

Item 20
To Department of Natural Resources - DNR Pass Through
From Beginning Nonlapsing Balances ..... (2,059,100)
From Closing Nonlapsing Balances ... (2,500,000)
Schedule of Programs:
DNR Pass Through ..... (4,559,100)

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for DNR Pass Through in Item 96, Chapter 3, Laws of Utah 2020, shall not lapse at the close of FY 2021. Expenditures of these funds are limited to projects that have been obligated by contract but unexpended at the end of FY 2021: $2,500,000.

Item 21
To Department of Natural Resources - Forestry, Fire and State Lands
From General Fund, One-Time 4,800,000
From Wildland Fire Suppression Fund, One-Time 30,000,000
From Beginning Nonlapsing Balances ..... (453,200)
From Closing Nonlapsing Balances ..... (10,400,000)
Schedule of Programs:
Division Administration 199,900
Fire Management 524,500
Fire Suppression Emergencies 29,425,300
Forest Management ..... (784,100)
Lands Management ..... (700)
Lone Peak Center ..... (504,300)
Program Delivery 608,000
Project Management ..... (5,521,800)

The Legislature intends that the $1.8 million one-time from the General Fund be used for human caused wildfire prevention campaign. The funding shall be expended over a three-year period and shall not lapse at the close of FY 2021.

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for the Division of Forestry, Fire, and State Lands in Item 97, Chapter 3, Laws of Utah 2020, shall not lapse at the close of FY 2021. Expenditures of these funds are limited to: Sovereign Lands Related Projects $5,109,200; Little Willow Water Line $17,800; Shared Stewardship $1,670,000; Aspen Regeneration $1,603,000; and Fire Mitigation $1,000,000.

Item 22
To Department of Natural Resources - Oil, Gas and Mining
From Beginning Nonlapsing Balances ... 391,600
From Closing Nonlapsing Balances ... (3,600,000)
Schedule of Programs:
Abandoned Mine 53,700
Administration 150,000
Coal Program ..... (191,200)
Minerals Reclamation 69,900
OGM Misc. Nonlapsing ..... (3,400,000)
Oil and Gas Program 109,200

Under the terms of 63J-1-603 of the Utah Code, the legislature intends that appropriations provided for the Division of Oil, Gas and Mining in Item 182, Chapter 416, Laws of Utah 2020, shall not lapse at the close of FY 2021. Expenditures of these funds are limited to: Mining Special Projects/Studies $250,000; Computer Equipment/Software $50,000; Employee Training/Incentives $50,000; and Equipment/Supplies $50,000.

Item 23
To Department of Natural Resources - Parks and Recreation
From Beginning Nonlapsing Balances ... 323,400
Schedule of Programs:

Park Management Contracts 82,800
Park Operation Management 240,600

The Legislature intends that the General Fund appropriation for the Parks and Recreation line item shall be used exclusively for the operations and maintenance of the division's heritage parks, museums, and This Is the Place Heritage Park. Upon request, the division shall provide detailed documentation as to how its General Fund appropriation was spent.

Item 24
To Department of Natural Resources – Parks and Recreation Capital Budget
From Beginning Nonlapsing Balances 19,219,200
Schedule of Programs:
Boat Access Grants 640,200
Donated Capital Projects 257,600
Land Acquisition 1,170,600
Major Renovation 327,600
Off-highway Vehicle Grants 2,587,200
Region Renovation 167,700
Renovation and Development 13,971,800
Trails Program 96,500

Item 25
To Department of Natural Resources – Species Protection
From Closing Nonlapsing Balances .... (200,000)
Schedule of Programs:
Species Protection ..... (200,000)

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for the Species Protection program in Item 100, Chapter 3, Laws of Utah 2020 shall not lapse at the close of FY 2021. Expenditures of these funds are limited to projects started in FY 2021: $200,000.

Item 26
To Department of Natural Resources – Utah Geological Survey
From General Fund Restricted – Mineral Lease, One-Time ..... (418,400)
From Beginning Nonlapsing Balances 1,000,000
From Closing Nonlapsing Balances ... (1,506,000)
Schedule of Programs:
Administration ..... (72,200)
Board 700
Energy and Minerals ..... (77,300)
Geologic Hazards ..... (103,400)
Geologic Information and Outreach ..... (171,200)
Geologic Mapping ..... (447,200)
Ground Water ..... (53,800)

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for the Utah Geological Survey in Item 101, Chapter 3, Laws of Utah 2020, shall not lapse at the close of FY 2021. Expenditures of these funds are limited to Operating Budget Items: $506,000.

Under terms of 63J-1-603 of the Utah Code, the Legislature intends that the $1,000,000 appropriation for the Bonneville Salt Flats Restoration Project shall not lapse at the close of FY 2021.

Item 27
To Department of Natural Resources – Water Resources
From Beginning Nonlapsing Balances ..... (2,688,000)
From Closing Nonlapsing Balances ... (5,425,000)
Schedule of Programs:
Administration ..... (623,200)
Construction ..... (3,939,800)
Planning ..... (2,950,000)
Funding Projects and Research ..... (600,000)

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for the Division of Water Resources in Item 102, Chapter 3, Laws of Utah 2020, shall not lapse at the close of FY 2021. Expenditures of these funds are limited to: Operating Budget Items $300,000; Water Conservation Funding $300,000; Water Banking $300,000; Dam Safety Construction Project $1,500,000; Water Infrastructure $425,000; Agricultural Water Optimization $600,000; and Transparent Water Billing $2,000,000.

Item 28
To Department of Natural Resources – Water Rights
From Closing Nonlapsing Balances .... (500,000)
Schedule of Programs:
Adjudication ..... (200,000)
Administration ..... (300,000)

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for the Division of Water Rights in Item 67, Chapter 3, Laws of Utah 2020, shall not lapse at the close of FY 2021. Expenditures of these funds are limited to Operating Budget Items: $500,000.

Item 29
To Department of Natural Resources – Watershed
From Beginning Nonlapsing Balances ..... (691,800)
From Closing Nonlapsing Balances ... (3,000,000)
Schedule of Programs:
Watershed ..... (3,691,800)

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for the Watershed program in Item 103, Chapter 3, Laws of Utah 2020 shall not lapse at the close of FY 2021. Expenditures of these funds are limited to projects started in FY 2021: $3,000,000.

Item 30
To Department of Natural Resources – Wildlife Resources
From Beginning Nonlapsing Balances ..... (500,000)
From Closing Nonlapsing Balances ... (1,100,000)
Schedule of Programs:
Wildlife Section ..... (1,600,000)

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for the Wildlife Resources Predator Control Program in Item 68, Chapter 3, Laws of Utah 2020, shall not lapse at the close of FY 2021. Expenditures of these funds are limited to: the Predator Control Program Plan $200,000, and the Mule Deer Protection Plan $200,000.

The Legislature intends that up to $700,000 of Wildlife Resources budget be used for big game depredation expenses and that these funds shall not lapse at the close of FY 2021. The Legislature further intends that half of the funds be from the General Fund Restricted - Wildlife Resources account and the other half from the General Fund.

The Legislature intends that the Division of Wildlife Resources shall use its appropriations from the General Fund as follows: $1,000,000 for the payment to the Utah School and Institutional Trust Lands Administration to preserve access to public land for hunters and wildlife dependent recreation; and up to $2,745,000 for the efforts to contain aquatic invasive species at Lake Powell and prevent them from spreading to other waters in Utah. Upon request, the division shall provide detailed report as to how its appropriation from the General Fund was spent.

Item 31
To Department of Natural Resources -
Wildlife Resources Capital Budget
From Beginning Nonlapsing
Balances ..... (649,400)
From Closing Nonlapsing Balances .... (599,400)
Schedule of Programs:
Fisheries ..... (1,248,800)

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for the Wildlife Resources Capital line item in Item 69, Chapter 3, Laws of Utah 2020, shall not lapse at the close of FY 2021. Expenditures of these funds are limited to operations and maintenance of the hatchery systems in the state: $649,400.

PUBLIC LANDS POLICY COORDINATING OFFICE

Item 32
To Public Lands Policy Coordinating Office
From Beginning Nonlapsing Balances ... 600,000
From Closing Nonlapsing Balances .... (600,000)

Under the terms of 63J-1-603 of the Utah Code, the legislature intends that General Fund appropriations provided for the Public Lands Policy Coordinating Office, in Item 70, Chapter 3, Laws of Utah 2020, shall not lapse at the close of FY 2021. Expenditure of these funds are limited to: activities and opportunities related to our Shared Stewardship Agreement with the Forest Service $500,000; RS2477 and other litigation $1,364,900; Wild Horse and Burro Management $325,000; and to offset future volatility of the Constitutional Defense Restricted Account $370,000.

The Legislature intends that $317,000 of the beginning nonlapsing balances in the Public Lands Policy Coordinating Office line Item be used for Wild Horse and Burro Management in Fiscal Year 2021.

Subsection 1(b). Expendable Funds and Accounts. The Legislature has reviewed the following expendable funds. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated. Outlays and expenditures from the funds or accounts to which the money is transferred may be made without further legislative action, in accordance with statutory provisions relating to the funds or accounts.

DEPARTMENT OF AGRICULTURE AND FOOD

Item 33
To Department of Agriculture and Food -
Salinity Offset Fund
From Beginning Fund Balance 316,800
From Closing Fund Balance ..... (1,045,600)
Schedule of Programs:
Salinity Offset Fund ..... (728,800)

DEPARTMENT OF ENVIRONMENTAL QUALITY

Item 34
To Department of Environmental Quality -
Hazardous Substance Mitigation Fund
From Dedicated Credits Revenue,
One-Time ..... (139,000)
From Interest Income, One-Time 139,000
From Beginning Fund Balance ..... (4,800)
From Closing Fund Balance 4,800

Item 35
To Department of Environmental Quality -
Waste Tire Recycling Fund
From Dedicated Credits Revenue,
One-Time 3,000
From Waste Tire Recycling Fund,
One-Time ..... (3,000)
From Beginning Fund Balance ..... (246,800)
From Closing Fund Balance 550,100
Schedule of Programs:
Waste Tire Recycling Fund 303,300

Item 36
To Department of Environmental Quality -
Conversion to Alternative Fuel
Grant Program Fund
From Dedicated Credits Revenue,
One-Time ..... (800)
From Interest Income, One-Time 800
From Beginning Fund Balance 2,700
From Closing Fund Balance ..... (2,700)

DEPARTMENT OF NATURAL RESOURCES

Item 37
To Department of Natural Resources – UGS Sample Library Fund
From Beginning Fund Balance ..... (2,800)
From Closing Fund Balance 2,800

Item 38
To Department of Natural Resources – Wildland Fire Suppression Fund
From General Fund, One-Time 51,200,000
From Beginning Fund Balance 808,300
Schedule of Programs:
Wildland Fire Suppression Fund ... 52,008,300

Item 39
To Department of Natural Resources – Wildland Fire Preparedness Grants Fund
From Beginning Fund Balance 198,600
Schedule of Programs:
Wildland Fire Preparedness Grants Fund 198,600

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

DEPARTMENT OF AGRICULTURE AND FOOD

Item 40
To Department of Agriculture and Food – Qualified Production Enterprise Fund
From Revenue Transfers, One-Time .. (950,000)
From Beginning Fund Balance ..... (741,900)
From Lapsing Balance ..... (426,400)
Schedule of Programs:
Qualified Production Enterprise Fund ..... (2,118,300)

DEPARTMENT OF ENVIRONMENTAL QUALITY

Item 41
To Department of Environmental Quality – Water Development Security Fund – Drinking Water
From Dedicated Credits Revenue, One-Time ..... (745,000)
From Interest Income, One-Time 745,000

Item 42
To Department of Environmental Quality – Water Development Security Fund – Water Quality
From Dedicated Credits Revenue, One-Time ..... (3,958,200)
From Interest Income, One-Time 3,958,200

Section 2. FY 2022 Appropriations. The following sums of money are appropriated for the fiscal year beginning July 1, 2021 and ending June 30, 2022.

Subsection 2(a). Operating and Capital Budgets. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

DEPARTMENT OF AGRICULTURE AND FOOD

Item 43
To Department of Agriculture and Food – Administration
From General Fund 2,712,800
From Federal Funds 213,000
From Dedicated Credits Revenue 395,100
From General Fund Restricted – Cat and Dog Community Spay and Neuter Program Restricted Account ..... (200)
From General Fund Restricted – Horse Racing 21,700
From Revenue Transfers 68,600
From Gen. Fund Rest. – Agriculture and Wildlife Damage Prevention 30,000
From Beginning Nonlapsing Balances ... 350,000
Schedule of Programs:
Chemistry Laboratory 352,100
General Administration 3,309,900
Sheep Promotion 30,000
Utah Horse Commission 99,000

Item 44
To Department of Agriculture and Food – Animal Industry
From General Fund 3,360,000
From Federal Funds 1,927,200
From Dedicated Credits Revenue 172,800
From General Fund Restricted – Livestock Brand 1,494,300
From Revenue Transfers 3,900
From Beginning Nonlapsing Balances ... 556,200
Schedule of Programs:
Animal Health 2,643,600
Auction Market Veterinarians 72,700
Brand Inspection 2,227,200
Meat Inspection 2,570,900

Item 45
To Department of Agriculture and Food – Building Operations
From General Fund 356,600
Schedule of Programs:
Building Operations 356,600

Item 46
To Department of Agriculture and Food – Invasive Species Mitigation
From General Fund Restricted – Invasive Species Mitigation Account 2,010,500
From Beginning Nonlapsing Balances ... 750,000
Schedule of Programs:
Invasive Species Mitigation 2,760,500

Item 47
To Department of Agriculture and Food – Marketing and Development
From General Fund 779,300

From Federal Funds 320,000
From Dedicated Credits Revenue 22,200
From Beginning Nonlapsing Balances 30,000
Schedule of Programs:
Marketing and Development 1,151,500

Item 48
To Department of Agriculture and Food – Plant Industry
From General Fund 2,923,600
From Federal Funds 3,955,800
From Dedicated Credits Revenue 3,645,900
From Agriculture Resource Development Fund 202,500
From Revenue Transfers 392,400
From Pass-through 181,900
From Beginning Nonlapsing Balances 1,771,900
Schedule of Programs:
Environmental Quality 1,554,900
Grain Inspection 489,600
Grazing Improvement Program 4,423,500
Insect Infestation 760,900
Plant Industry 5,845,100

Item 49
To Department of Agriculture and Food – Predatory Animal Control
From General Fund 1,126,700
From Revenue Transfers 734,600
From Gen. Fund Rest. - Agriculture and Wildlife Damage Prevention 685,400
From Beginning Nonlapsing Balances 50,000
Schedule of Programs:
Predatory Animal Control 2,596,700

Item 50
To Department of Agriculture and Food – Rangeland Improvement
From Gen. Fund Rest. - Rangeland Improvement Account 2,010,500
From Beginning Nonlapsing Balances ... 300,000
Schedule of Programs:
Rangeland Improvement 2,310,500

Item 51
To Department of Agriculture and Food – Regulatory Services
From General Fund 2,600,000
From Federal Funds 1,176,100
From Dedicated Credits Revenue 2,895,300
From Revenue Transfers 1,300
From Pass-through 60,500
From Beginning Nonlapsing Balances 1,242,100
Schedule of Programs:
Regulatory Services Administration 7,975,300

Item 52
To Department of Agriculture and Food – Resource Conservation
From General Fund 1,298,900
From Federal Funds 778,100
From Dedicated Credits Revenue 11,000
From Agriculture Resource Development Fund 928,600
From Revenue Transfers 373,400
From Utah Rural Rehabilitation Loan State Fund 138,600
From Beginning Nonlapsing Balances ... 542,200
Schedule of Programs:
Conservation Commission 14,800
Resource Conservation 3,458,300
Resource Conservation Administration 597,700

Item 53
To Department of Agriculture and Food – Utah State Fair Corporation
From Dedicated Credits Revenue 3,592,400
Schedule of Programs:
State Fair Corporation 3,592,400

Item 54
To Department of Agriculture and Food – Medical Cannabis
From Qualified Production Enterprise Fund 768,000
Schedule of Programs:
Medical Cannabis 768,000

Item 55
To Department of Agriculture and Food – Industrial Hemp
From Dedicated Credits Revenue 909,100
From Beginning Nonlapsing Balances ... 400,000
Schedule of Programs:
Industrial Hemp 1,309,100

DEPARTMENT OF ENVIRONMENTAL QUALITY

Item 56
To Department of Environmental Quality – Drinking Water
From General Fund 1,349,200
From Federal Funds 4,129,900
From Dedicated Credits Revenue 1,015,500
From Revenue Transfers ..... (316,800)
From Water Dev. Security Fund – Drinking Water Loan Prog. 1,015,400
From Water Dev. Security Fund – Drinking Water Orig. Fee 227,400
From Beginning Nonlapsing Balances ... 268,700
Schedule of Programs:
Drinking Water Administration 7,689,300

Item 57
To Department of Environmental Quality – Environmental Response and Remediation
From General Fund 889,800
From Federal Funds 5,116,900
From Dedicated Credits Revenue 900,400
From Expendable Receipts 15,000
From General Fund Restricted – Petroleum Storage Tank 53,200
From Petroleum Storage Tank Cleanup Fund 618,400
From Petroleum Storage Tank Trust Fund 1,912,500
From Revenue Transfers ..... (636,200)
From General Fund Restricted – Voluntary Cleanup 713,000
From Beginning Nonlapsing Balances 95,000
Schedule of Programs:
Environmental Response and Remediation 9,678,000

Item 58
To Department of Environmental Quality – Executive Director's Office
From General Fund 2,357,900
From Federal Funds 315,000
From General Fund Restricted – Environmental Quality 878,300
From Revenue Transfers 2,725,500
From Beginning Nonlapsing Balances ... 610,000
Schedule of Programs:
Executive Director Office Administration 6,886,700

Item 59
To Department of Environmental Quality – Waste Management and Radiation Control
From General Fund 713,500
From Federal Funds 1,420,400
From Dedicated Credits Revenue 2,489,800
From Expendable Receipts 162,600
From General Fund Restricted – Environmental Quality 6,093,600
From Revenue Transfers ..... (198,800)
From Gen. Fund Rest. – Used Oil Collection Administration 838,800
From Waste Tire Recycling Fund 302,800
From Beginning Nonlapsing Balances ... 650,000
Schedule of Programs:
Waste Management and Radiation Control 12,472,700

Item 60
To Department of Environmental Quality – Water Quality
From General Fund 3,356,300
From Federal Funds 5,158,100
From Dedicated Credits Revenue 2,505,100
From Revenue Transfers 328,900
From Gen. Fund Rest. – Underground Wastewater System 81,000
From Water Dev. Security Fund – Utah Wastewater Loan Prog. 1,625,800
From Water Dev. Security Fund – Water Quality Orig. Fee 106,400
From Beginning Nonlapsing Balances ... 227,200
Schedule of Programs:
Water Quality Support 13,388,800

Item 61
To Department of Environmental Quality – Trip Reduction Program
From Beginning Nonlapsing Balances ... 500,000
Schedule of Programs:
Trip Reduction Program 500,000

Item 62
To Department of Environmental Quality – Air Quality
From General Fund 6,716,800
From Federal Funds 7,212,400
From Dedicated Credits Revenue 6,264,700
From Clean Fuel Conversion Fund 120,300
From Revenue Transfers ..... (1,122,900)
From Beginning Nonlapsing Balances 11,592,000
Schedule of Programs:
Air Quality Administration 30,783,300

GOVERNOR'S OFFICE

Item 63
To Governor's Office – Office of Energy Development
From General Fund 1,610,800
From Federal Funds 834,100
From Dedicated Credits Revenue 51,100
From Expendable Receipts 178,600
From Ut. S. Energy Program Rev. Loan Fund (ARRA) 220,800
From Beginning Nonlapsing Balances 1,205,200
Schedule of Programs:
Office of Energy Development 4,100,600

DEPARTMENT OF NATURAL RESOURCES

Item 64
To Department of Natural Resources – Administration
From General Fund 4,793,300
From General Fund Restricted – Sovereign Lands Management 81,800
From Beginning Nonlapsing Balances ... 225,000
Schedule of Programs:
Administrative Services 1,320,100
Executive Director 3,161,500
Lake Commissions 127,100
Law Enforcement 238,900
Public Information Office 252,500

The Legislature intends that the Department of Natural Resources transfer the appropriated funding for the Bear Lake Commission only as a one-to-one match with funds from the State of Idaho.

Item 65
To Department of Natural Resources – Building Operations
From General Fund 1,445,900
Schedule of Programs:
Building Operations 1,445,900

Item 66
To Department of Natural Resources – Contributed Research
From Dedicated Credits Revenue 1,510,800
Schedule of Programs:
Contributed Research 1,510,800

Item 67
To Department of Natural Resources – Cooperative Agreements
From Federal Funds 17,810,300
From Dedicated Credits Revenue 1,121,700
From Revenue Transfers 5,692,000
Schedule of Programs:
Cooperative Agreements 24,624,000

Item 68
To Department of Natural Resources – DNR Pass Through
From General Fund 1,008,400
From Beginning Nonlapsing Balances 2,500,000
Schedule of Programs:
DNR Pass Through 3,508,400

Item 69
To Department of Natural Resources – Forestry, Fire and State Lands

From General Fund 3,173,100
From Federal Funds 6,694,000
From Dedicated Credits Revenue 6,818,200
From General Fund Restricted –
Sovereign Lands Management 8,069,300
From Wildland Fire Suppression
Fund, One–Time 23,000,000
From Beginning Nonlapsing
Balances 10,400,000
Schedule of Programs:
Division Administration 1,702,600
Fire Management 2,457,600
Fire Suppression Emergencies 25,188,500
Forest Management 2,396,600
Lands Management 1,080,400
Lone Peak Center 4,315,600
Program Delivery 8,751,700
Project Management 12,261,600

Item 70
To Department of Natural Resources –
Oil, Gas and Mining
From General Fund 2,274,000
From Federal Funds 7,812,500
From Dedicated Credits Revenue 255,200
From Gen. Fund Rest. – Oil &
Gas Conservation Account 4,311,500
From Beginning Nonlapsing
Balances 3,600,000
Schedule of Programs:
Abandoned Mine 5,271,900
Administration 2,320,100
Board 200,600
Coal Program 2,679,800
Minerals Reclamation 1,113,300
OGM Misc. Nonlapsing 3,086,800
Oil and Gas Program 3,580,700

Item 71
To Department of Natural Resources –
Parks and Recreation
From General Fund 4,375,700
From Federal Funds 1,582,300
From Dedicated Credits Revenue 1,077,500
From General Fund Restricted –
Boating 4,837,800
From Gen. Fund Rest. – Off–highway
Access and Education 18,700
From General Fund Restricted –
Off–highway Vehicle 6,362,400
From General Fund Restricted –
State Park Fees 23,449,600
From Revenue Transfers 36,600
From General Fund Restricted – Zion
National Park Support Programs 4,000
Schedule of Programs:
Executive Management 877,500
Park Management Contracts 1,036,800
Park Operation Management 34,789,900
Planning and Design 909,700
Recreation Services 2,125,500
Support Services 2,005,200

The Legislature intends that the General Fund appropriation for the Parks and Recreation line item shall be used exclusively for the operations and maintenance of the division's heritage parks, museums, and This Is the Place Heritage Park. Upon request, the division shall provide detailed documentation as to how its General Fund appropriation was spent.

Item 72
To Department of Natural Resources –
Parks and Recreation Capital Budget
From Federal Funds 3,119,700
From Dedicated Credits Revenue 175,000
From General Fund Restricted –
Boating 575,000
From General Fund Restricted –
Off–highway Vehicle 3,900,000
From General Fund Restricted –
State Park Fees 472,700
Schedule of Programs:
Boat Access Grants 350,000
Donated Capital Projects 175,000
Land and Water Conservation 447,600
Major Renovation 458,500
Off–highway Vehicle Grants 3,675,000
Region Renovation 100,000
Renovation and Development 546,700
Trails Program 2,489,600

Item 73
To Department of Natural Resources –
Species Protection
From Dedicated Credits Revenue 2,450,000
From General Fund Restricted –
Species Protection 820,200
From Beginning Nonlapsing Balances ... 200,000
Schedule of Programs:
Species Protection 3,470,200

Item 74
To Department of Natural Resources –
Utah Geological Survey
From General Fund 4,966,700
From Federal Funds 700,200
From Dedicated Credits Revenue 588,900
From General Fund Restricted –
Mineral Lease 700,000
From Gen. Fund Rest. – Land
Exchange Distribution Account 21,700
From Revenue Transfers 318,000
From Beginning Nonlapsing
Balances 1,506,000
Schedule of Programs:
Administration 905,700
Board 3,500
Energy and Minerals 1,361,500
Geologic Hazards 1,160,900
Geologic Information and
Outreach 1,851,800
Geologic Mapping 1,293,700
Ground Water 1,224,400
Technical Services 1,000,000

Item 75
To Department of Natural Resources –
Water Resources
From General Fund 4,381,900
From General Fund, One–Time 9,000,000
From Federal Funds 1,029,400
From Dedicated Credits Revenue 155,000
From General Fund Restricted –
Agricultural Water Optimization
Restricted Account 2,800

From Water Resources Conservation and Development Fund 3,841,600
From Beginning Nonlapsing Balances 5,425,000
Schedule of Programs:
Administration 1,650,600
Board 34,000
Cloudseeding 350,000
Construction 5,080,000
Interstate Streams 10,148,900
Planning 5,964,400
West Desert Operations 5,000
Funding Projects and Research 602,800

Item 76
To Department of Natural Resources – Water Rights
From General Fund 9,008,000
From Federal Funds 126,400
From Dedicated Credits Revenue 4,343,400
From Beginning Nonlapsing Balances ... 500,000
Schedule of Programs:
Adjudication 3,499,100
Administration 1,130,800
Applications and Records 4,717,200
Canal Safety 400
Dam Safety 1,134,400
Field Services 1,361,400
Technical Services 2,134,500

Item 77
To Department of Natural Resources – Watershed
From General Fund 3,612,000
From Dedicated Credits Revenue 500,000
From General Fund Restricted – Sovereign Lands Management 2,000,000
From Beginning Nonlapsing Balances 3,000,000
Schedule of Programs:
Watershed 9,112,000

Item 78
To Department of Natural Resources – Wildlife Resources
From General Fund 7,569,400
From Federal Funds 28,211,300
From Dedicated Credits Revenue 110,700
From General Fund Restricted – Aquatic Invasive Species Interdiction Account 1,006,000
From General Fund Restricted – Boating 1,148,900
From General Fund Restricted – Mule Deer Protection Account 513,300
From General Fund Restricted – Predator Control Account 825,000
From General Fund Restricted – Support for State-owned Shooting Ranges Restricted Account 25,900
From Revenue Transfers 112,400
From General Fund Restricted – Wildlife Conservation Easement Account 15,300
From General Fund Restricted – Wildlife Habitat 3,339,800
From General Fund Restricted – Wildlife Resources 40,618,100
From Beginning Nonlapsing Balances 1,100,000
Schedule of Programs:
Administrative Services 11,173,800
Aquatic Section 21,154,600
Conservation Outreach 5,949,500
Director's Office 2,610,500
Habitat Council 3,339,800
Habitat Section 9,348,900
Law Enforcement 10,563,000
Wildlife Section 20,456,000

The Legislature intends that the Division of Wildlife Resources spends up to $400,000 on livestock damage.

Item 79
To Department of Natural Resources – Wildlife Resources Capital Budget
From General Fund 599,400
From Federal Funds 2,200,000
From General Fund Restricted – State Fish Hatchery Maintenance ... 1,205,000
From Beginning Nonlapsing Balances ... 599,400
Schedule of Programs:
Fisheries 4,603,800

PUBLIC LANDS POLICY COORDINATING OFFICE

Item 80
To Public Lands Policy Coordinating Office
From General Fund 2,673,800
From General Fund Restricted – Constitutional Defense 1,222,000
From Beginning Nonlapsing Balances 2,559,900
From Closing Nonlapsing Balances ... (2,189,900)
Schedule of Programs:
Public Lands Policy Coordinating Office 4,265,800

SCHOOL AND INSTITUTIONAL TRUST LANDS ADMINISTRATION

Item 81
To School and Institutional Trust Lands Administration
From Land Grant Management Fund 11,582,400
Schedule of Programs:
Accounting 490,200
Administration 1,074,900
Auditing 420,700
Board 98,800
Development – Operating 1,468,300
Director 1,389,500
External Relations 177,300
Grazing and Forestry 707,900
Information Technology Group 1,375,800
Legal/Contracts 980,300
Mining 688,300
Oil and Gas 578,200
Surface 2,132,200

Item 82
To School and Institutional Trust Lands Administration – Land Stewardship and Restoration
From Land Grant Management Fund 852,400
Schedule of Programs:
Land Stewardship and Restoration 852,400

Item 83
To School and Institutional Trust Lands Administration - School and Institutional Trust Lands Administration Capital
From Land Grant Management Fund 5,000,000
Schedule of Programs:
Capital 5,000,000

Subsection 2(b). Expendable Funds and Accounts. The Legislature has reviewed the following expendable funds. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated. Outlays and expenditures from the funds or accounts to which the money is transferred may be made without further legislative action, in accordance with statutory provisions relating to the funds or accounts.

DEPARTMENT OF AGRICULTURE AND FOOD

Item 84
To Department of Agriculture and Food - Salinity Offset Fund
From Revenue Transfers 800
From Beginning Fund Balance 1,045,600
From Closing Fund Balance ..... (1,000,500)
Schedule of Programs:
Salinity Offset Fund 45,900

DEPARTMENT OF ENVIRONMENTAL QUALITY

Item 85
To Department of Environmental Quality - Hazardous Substance Mitigation Fund
From Dedicated Credits Revenue 6,000
From Interest Income 139,000
From General Fund Restricted - Environmental Quality 200,000
From Beginning Fund Balance 5,204,300
From Closing Fund Balance ..... (5,094,800)
Schedule of Programs:
Hazardous Substance Mitigation Fund 454,500

Item 86
To Department of Environmental Quality - Waste Tire Recycling Fund
From Dedicated Credits Revenue 3,589,700
From Beginning Fund Balance 4,358,900
From Closing Fund Balance ..... (4,280,800)
Schedule of Programs:
Waste Tire Recycling Fund 3,667,800

Item 87
To Department of Environmental Quality - Conversion to Alternative Fuel Grant Program Fund
From Interest Income 800
From Beginning Fund Balance 51,600
From Closing Fund Balance ..... (29,900)
Schedule of Programs:
Conversion to Alternative Fuel Grant Program Fund 22,500

DEPARTMENT OF NATURAL RESOURCES

Item 88
To Department of Natural Resources - UGS Sample Library Fund
From Dedicated Credits Revenue 2,800
From Beginning Fund Balance 83,100
From Closing Fund Balance ..... (85,900)

Item 89
To Department of Natural Resources - Wildland Fire Suppression Fund
From Interest Income 50,000
From General Fund Restricted - Mineral Bonus 1,069,300
Schedule of Programs:
Wildland Fire Suppression Fund 1,119,300

Item 90
To Department of Natural Resources - Wildland Fire Preparedness Grants Fund
From Wildland Fire Suppression Fund ... 99,300
Schedule of Programs:
Wildland Fire Preparedness Grants Fund 99,300

Subsection 2(c). Business-like Activities. The Legislature has reviewed the following proprietary funds. Under the terms and conditions of Utah Code 63J-1-410, for any included Internal Service Fund, the Legislature approves budgets, full-time permanent positions, and capital acquisition amounts as indicated, and appropriates to the funds, as indicated, estimated revenue from rates, fees, and other charges. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated.

DEPARTMENT OF AGRICULTURE AND FOOD

Item 91
To Department of Agriculture and Food - Agriculture Loan Programs
From Agriculture Resource Development Fund 295,000
From Utah Rural Rehabilitation Loan State Fund 158,800
Schedule of Programs:
Agriculture Loan Program 453,800

Item 92
To Department of Agriculture and Food - Qualified Production Enterprise Fund
From Dedicated Credits Revenue 1,311,600
From Revenue Transfers ..... (768,000)
From Lapsing Balance ..... (543,600)

DEPARTMENT OF ENVIRONMENTAL QUALITY

Item 93
To Department of Environmental Quality - Water Development Security Fund - Drinking Water
From Federal Funds 9,000,000
From Dedicated Credits Revenue 3,581,000
From Interest Income 745,000
From Designated Sales Tax 3,587,500
From Revenue Transfers 2,221,400

From Repayments 10,090,000
Schedule of Programs:
Drinking Water 29,224,900

Item 94
To Department of Environmental Quality – Water Development Security Fund – Water Quality
From Federal Funds 8,500,000
From Dedicated Credits Revenue 3,878,800
From Interest Income 3,958,200
From Designated Sales Tax 3,587,500
From Revenue Transfers 1,700,000
From Repayments 16,348,000
Schedule of Programs:
Water Quality 37,972,500

DEPARTMENT OF NATURAL RESOURCES

Item 95
To Department of Natural Resources – Internal Service Fund
From Dedicated Credits Revenue 487,000
Schedule of Programs:
ISF – DNR Warehouse 487,000
Budgeted FTE 2.0

Item 96
To Department of Natural Resources – Water Resources Revolving Construction Fund
From Water Resources Conservation and Development Fund 3,800,000
Schedule of Programs:
Construction Fund 3,800,000

Subsection 2(d). Restricted Fund and Account Transfers. The Legislature authorizes the State Division of Finance to transfer the following amounts between the following funds or accounts as indicated. Expenditures and outlays from the funds to which the money is transferred must be authorized by an appropriation.

Item 97
To General Fund Restricted – Agriculture and Wildlife Damage Prevention Account
From General Fund 250,000
Schedule of Programs:
General Fund Restricted – Agriculture and Wildlife Damage Prevention Account 250,000

Item 98
To General Fund Restricted – Invasive Species Mitigation Account
From General Fund 2,000,000
Schedule of Programs:
General Fund Restricted – Invasive Species Mitigation Account 2,000,000

Item 99
To General Fund Restricted – Rangeland Improvement Account
From General Fund 1,846,300
Schedule of Programs:
General Fund Restricted – Rangeland Improvement Account .. 1,846,300

Item 100
To General Fund Restricted – Environmental Quality
From General Fund 1,551,800
Schedule of Programs:
GFR – Environmental Quality 1,551,800

Item 101
To General Fund Restricted – Mule Deer Protection Account
From General Fund 250,000
Schedule of Programs:
General Fund Restricted – Mule Deer Protection 250,000

Item 102
To General Fund Restricted – Constitutional Defense Restricted Account
From Gen. Fund Rest. – Land Exchange Distribution Account 1,042,400
Schedule of Programs:
General Fund Restricted – Constitutional Defense Restricted Account 1,042,400

Item 103
To General Fund Restricted – Public Lands Litigation Restricted Account
From Beginning Fund Balance 4,500,000
From Closing Fund Balance ..... (4,500,000)

Section 3. Effective Date.
If approved by two-thirds of all the members elected to each house, Section 1 of this bill takes effect upon approval by the Governor, or the day following the constitutional time limit of Utah Constitution Article VII, Section 8 without the Governor's signature, or in the case of a veto, the date of override. Section 2 of this bill takes effect on July 1, 2021.

CHAPTER 8
S. B. 6
Passed January 28, 2021
Approved February 4, 2021
Effective July 1, 2021

EXECUTIVE OFFICES AND CRIMINAL JUSTICE BASE BUDGET

Chief Sponsor: Derrin R. Owens
House Sponsor: Craig Hall

LONG TITLE

General Description:

This bill supplements or reduces appropriations otherwise provided for the support and operation of state government for the fiscal year beginning July 1, 2020 and ending June 30, 2021 and appropriates funds for the support and operation of state government for the fiscal year beginning July 1, 2021 and ending June 30, 2022.

Highlighted Provisions:

This bill:

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

Money Appropriated in this Bill:

This bill appropriates $50,868,800 in operating and capital budgets for fiscal year 2021, including:

- ($73,600) from the General Fund; and
- $50,942,400 from various sources as detailed in this bill.

This bill appropriates $458,900 in expendable funds and accounts for fiscal year 2021.

This bill appropriates ($4,332,100) in business-like activities for fiscal year 2021.

This bill appropriates ($498,400) in restricted fund and account transfers for fiscal year 2021.

This bill appropriates $39,800 in transfers to unrestricted funds for fiscal year 2021.

This bill appropriates $308,800 in fiduciary funds for fiscal year 2021.

This bill appropriates $1,010,405,900 in operating and capital budgets for fiscal year 2022, including:

- $740,696,000 from the General Fund;
- $49,000 from the Education Fund; and
- $269,660,900 from various sources as detailed in this bill.

This bill appropriates $24,783,700 in expendable funds and accounts for fiscal year 2022, including:

- $4,275,900 from the General Fund; and
- $20,507,800 from various sources as detailed in this bill.

This bill appropriates $74,764,900 in business-like activities for fiscal year 2022, including:

- $227,200 from the General Fund; and
- $74,537,700 from various sources as detailed in this bill.

This bill appropriates $321,600 in restricted fund and account transfers for fiscal year 2022, including:

- $5,871,800 from the General Fund; and
- ($5,550,200) from various sources as detailed in this bill.

This bill appropriates $3,695,200 in fiduciary funds for fiscal year 2022.

Other Special Clauses:

Section 1 of this bill takes effect immediately. Section 2 of this bill takes effect on July 1, 2021.

Utah Code Sections Affected:

ENACTS UNCODIFIED MATERIAL

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

Section 1. FY 2021 Appropriations. The following sums of money are appropriated for the fiscal year beginning July 1, 2020 and ending June 30, 2021. These are additions to amounts otherwise appropriated for fiscal year 2021.

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

ATTORNEY GENERAL

Item 1
To Attorney General
From General Fund, One-Time 6,900
From Beginning Nonlapsing
Balances 1,106,700
Schedule of Programs:
Administration 557,200
Child Protection 69,400
Civil 386,100
Criminal Prosecution 100,900

Of the appropriations provided by this item, $6,900 is to implement the provisions of Financial Exploitation Prevention Act (House Bill 459, 2020 General Session).

Under Section 63-J-1-603 of the Utah Code, the Legislature intends that up to $3,000,000 in appropriations to the Attorney General's Office provided for in Item 47 of Chapter 4, Laws of Utah 2020 not lapse at the close of Fiscal Year 2021. The use of any unused funds is limited to purchase of computer hardware and software, specific program development/operation, pass-thru funds appropriated by the Legislature and other one-time operational and capital expenses.

Under Section 63-J-1-603 of the Utah Code, the Legislature intends that appropriations of up $400,000 to the Attorney Generals Office provided for in H.B. 2, "New Fiscal Year Supplemental Appropriations Act", Item 1 for Prosecution Review Amendments not lapse at the close of Fiscal Year 2021.

Under Section 63-J-1-603 of the Utah Code, the Legislature intends that appropriations of up $100,000 to the Attorney Generals Office provided for in H.B. 3,

"Appropriations Adjustments", Item 58 for Local Law Enforcement Crime Fighting Tools not lapse at the close of Fiscal Year 2021.

Item 2
To Attorney General – Children's Justice Centers
From Beginning Nonlapsing Balances ... 427,300
Schedule of Programs:
Children's Justice Centers 427,300

Under Section 63-J-1-603 of the Utah Code, the Legislature intends that up to $450,000 in appropriations to the Attorney General's Office – Children's Justice Centers provided for in Item 88 Chapter 4, Laws of Utah 2020 not lapse at the close of Fiscal Year 2021. The use of any unused funds is limited to costs passed-thru to operate the local CJC's or for one-time operational expenses.

In accordance with UCA 63J-1-201, the Legislature intends that the Attorney General's Office report performance measures for the Children's Justice Centers line item, whose mission is "to provide a comprehensive, multidisciplinary, intergovernmental response to child abuse victims in a facility known as a Children's Justice Center, to facilitate healing for children and caregivers, and to utilize the multidisciplinary approach to foster more collaborative and efficient case investigations." The Attorney General's Office shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measures for FY 2022: 1) Percentage of caregivers that strongly agreed that the CJC provided them with resources to support them and their children (Target = 88.7%); 2) Percentage of caregivers that strongly agreed that if they knew anyone else who was dealing with a situation like the one their family faced, they would tell that person about the CJC (Target = 90.9%); 3) Percentage of multidisciplinary team (MDT) members that strongly believe clients benefit from the collaborative approach of the MDT (Target = 89.1%).

Item 3
To Attorney General – Contract Attorneys

Under Section 63-J-1-603 of the Utah Code, the Legislature intends that up to $60,000 in appropriations provided to the Attorney General – Contract Attorneys in Item 48 Chapter 4 Laws of Utah 2020 not lapse at the close of Fiscal Year 2021. The use of any unused funds is limited to professional services for attorneys under contract with the Office of the Attorney General and other litigation expenses.

Item 4
To Attorney General – Prosecution Council
From Beginning Nonlapsing Balances 27,000
Schedule of Programs:
Prosecution Council 27,000

Under Section 63-J-1-603 of the Utah Code, the Legislature intends that appropriations provided for the Prosecution Council in Laws of Utah 2020 not lapse at the close of Fiscal Year 2021. The use of any unused funds is limited to expense associated with providing training and technical assistance to prosecutors. Funds set aside for training commitments and other agreements may cross fiscal years; thus, non-lapsing authority is requested to meet financial commitments.

Item 5
To Attorney General – State Settlement Agreements
From Beginning Nonlapsing Balances ..... (82,800)
Schedule of Programs:
State Settlement Agreements ..... (82,800)

BOARD OF PARDONS AND PAROLE

Item 6
To Board of Pardons and Parole
From Beginning Nonlapsing Balances ... 800,000
Schedule of Programs:
Board of Pardons and Parole 800,000

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations of up to $1,000,000 provided for the Board of Pardons and Parole in Item 90 of Chapter 4 Laws of Utah 2020 not lapse at the close of Fiscal Year 2021. The use of any non-lapsing funds shall be limited to capital improvements, computer equipment, electronic records development, employee training, or psychological evaluations of offenders.

UTAH DEPARTMENT OF CORRECTIONS

Item 7
To Utah Department of Corrections – Programs and Operations
From General Fund, One-Time 4,000
From Beginning Nonlapsing Balances 9,618,200
Schedule of Programs:
Adult Probation and Parole Administration 1,799,900
Adult Probation and Parole Programs ..... (8,355,000)
Department Administrative Services .. 941,700
Department Executive Director 9,460,800
Department Training ..... (48,600)
Prison Operations Administration ... 2,543,600
Prison Operations Central Utah/ Gunnison ..... (1,738,800)
Prison Operations Draper Facility ..... (877,800)
Prison Operations Inmate Placement ..... (623,200)
Programming Administration 253,400
Programming Education 67,600
Programming Skill Enhancement .... (59,300)
Programming Treatment 6,257,900

Of the appropriations provided by this item, $4,000 is to implement the provisions of Inmate Expenses Amendments (House Bill 110, 2020 General Session).

Under Section 63J-1-603 of the Utah Code, the Legislature intends that $10,000,000 of the appropriation for the Utah Department of Corrections - Programs and Operations in item 49 of chapter 4, Laws of Utah 2020 not lapse at the close of Fiscal Year 2021. Nonlapsing balances may be spent on the following types of items: stab and ballistic vests, uniforms, radio supplies and equipment, authorized vehicle purchases, inmate support and food costs, inmate programming/treatment, firearms and ammunition, computer equipment/software and support, equipment and supplies, employee training and development, building and office remodeling, furniture, and special projects.

Item 8
To Utah Department of Corrections - Department Medical Services
From Beginning Nonlapsing Balances 2,000,000
Schedule of Programs:
Medical Services 2,000,000

Under Section 63J-1-603 of the Utah Code, the Legislature intends that $2,500,000 of the appropriation for the Utah Department of Corrections - Medical Services in item 50 of chapter 4, Laws of Utah 2020 not lapse at the close of Fiscal Year 2021. Nonlapsing funds may be used to purchase pharmaceuticals, medical supplies and equipment, computer equipment/software, contractual medical services, and employee training and development.

Item 9
To Utah Department of Corrections - Jail Contracting
From Beginning Nonlapsing Balances 1,257,500
Schedule of Programs:
Jail Contracting 1,257,500

Under Section 63J-1-603 of the Utah Code, the Legislature intends that $5,000,000 of the appropriation for the Utah Department of Corrections - Jail Contracting in item 51 of chapter 4, Laws of Utah 2020 not lapse at the close of Fiscal Year 2021. Nonlapsing funds may be used for housing inmates, and treatment programming for inmates housed at the county jails.

JUDICIAL COUNCIL/ STATE COURT ADMINISTRATOR

Item 10
To Judicial Council/State Court Administrator - Administration
From General Fund, One-Time 5,400
From Beginning Nonlapsing Balances 3,580,100
Schedule of Programs:
Administrative Office 3,353,600
Court of Appeals ..... (2,200)
Data Processing ..... (12,200)
District Courts ..... (343,700)
Judicial Education 37,500
Juvenile Courts 523,100
Law Library 29,400

Of the appropriations provided by this item, $800 is to implement the provisions of Abuse, Neglect, and Dependency Proceedings Amendments (House Bill 33, 2020 General Session), $1,400 is to implement the provisions of DUI Liability Amendments (House Bill 139, 2020 General Session), $200 is to implement the provisions of Warning Labels Amendments (House Bill 243, 2020 General Session), and $3,000 is to implement the provisions of Prisoner Offense Amendments (Senate Bill 32, 2020 General Session).

Under Section 63J-1-603 of the Utah Code, the Legislature intends that any unspent funds donated or paid to the juvenile court by private sources for the purpose of compensatory service programs shall not lapse at the close of Fiscal Year 2021. Unused funds are to be used to benefit the community through juvenile community service programs such as graffiti removal and community service.

Under Sections 63J-1-603 and 63J-1-602.1(66) of the Utah Code, the Legislature intends that any unspent funds remaining in the Law Library (Budget Line BAAA, Appropriation Code BAB) shall not lapse at the close of Fiscal Year 2021.Unused funds are to be used to supplement the costs of the Courts Self-help Center.

Under Section 63J-1-603(3) of the Utah Code, the Legislature intends that appropriations of up to $2,500,000 provided to the Judicial Council/State Court Administrator - Administration in Laws of Utah 2020 Chapter 4, Item 91 shall not lapse at the close of Fiscal Year 2021. The use of any unused funds is limited to market comparability salary adjustments and career track advancement; employee retention, training, education assistance, and incentives; translation and interpreter services; IT programming and contracted support; computer equipment and software; courts security; special projects and studies; temporary employees (law clerks); trial court program support and senior judge assistance; grant match; furniture and repairs; and purchase of Utah code and rules for judges.

Item 11
To Judicial Council/State Court Administrator - Contracts and Leases
From Beginning Nonlapsing Balances ... 500,000
Schedule of Programs:
Contracts and Leases 500,000

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations of up to $500,000 provided to the Judicial

Council/State Court Administrator–Contracts and Leases in Laws of Utah 2020 Chapter 4, Item 53 shall not lapse at the close of Fiscal Year 2021. The use of any non–lapsing funds is limited to lease cost increases, contractual obligations and support.

Item 12
To Judicial Council/State Court Administrator – Grand Jury

Under Section 63J–1–603 of the Utah Code, the Legislature intends that the appropriations of up to $800 provided to the Judicial Council/State Court Administrator–Grand Jury in Laws of Utah 2020 Chapter 4, Item 54 shall not lapse at the close of Fiscal Year 2021. The use of any non–lapsing funds is limited to expenses related to the grand jury.

Item 13
To Judicial Council/State Court Administrator – Guardian ad Litem

Under Section 63J–1–603 of the Utah Code, the Legislature intends that appropriations of up to $500,000 provided to the Judicial Council/State Court Administrator–Guardian ad Litem in Laws of Utah 2020 Chapter 4, Item 55 shall not lapse at the close of Fiscal Year 2021. The use of any non–lapsing funds is limited to employee training, development, and incentives; computer equipment and software, special projects and studies, and temporary employees.

Item 14
To Judicial Council/State Court Administrator – Jury and Witness Fees
From Beginning Nonlapsing Balances . . . 723,300
Schedule of Programs:
Jury, Witness, and Interpreter 723,300

Under Section 63J–1–603 of the Utah Code, the Legislature intends that the appropriations of up to $2,000,000 provided to the Judicial Council/State Court Administrator–Juror, Witness, Interpreter in Laws of Utah 2020 Chapter 4, Item 92 shall not lapse at the close of Fiscal Year 2021. The use of any non–lapsing funds is limited to expenses for jury, witness fees and interpretation services.

GOVERNORS OFFICE

Item 15
To Governors Office – CCJJ – Factual Innocence Payments
From Beginning Nonlapsing Balances . . . 718,200
From Closing Nonlapsing Balances . . . . (623,900)
Schedule of Programs:
Factual Innocence Payments 94,300

Item 16
To Governors Office – CCJJ – Salt Lake County Jail Bed Housing
From Beginning Nonlapsing Balances . . . 500,000
From Closing Nonlapsing Balances . . . . (500,000)

Under section 63J–1–603 of the Utah Code, the Legislature intends that appropriations up to $700,000 provided for the Salt Lake County Jail Bed Housing in Item 57 of Chapter 4 Laws of Utah 2020 not lapse at the close of fiscal 2021. The use of any unused funds is limited to contracts between Salt Lake County and other counties to house inmates or for housing Salt Lake County inmates in Oxbow.

Item 17
To Governors Office – Commission on Criminal and Juvenile Justice
From Crime Victim Reparations Fund, One–Time 50,000
From Beginning Nonlapsing Balances 4,943,700
From Closing Nonlapsing Balances . . . (4,539,900)
Schedule of Programs:
CCJJ Commission 1,700
County Incentive Grant Program 94,600
Utah Office for Victims of Crime 357,500

Of the appropriations provided by this item, $50,000 is to implement the provisions of Warning Labels Amendments (House Bill 243, 2020 General Session).

Under section 63J–1–603 of the Utah Code, the Legislature intends that appropriations up to $1,700,000 provided for the Commission on Criminal and Juvenile Justice Commission in Items 58 and 95 of Chapter 4 Laws of Utah 2020 not lapse at the close of fiscal year 2021. The Legislature also intends that dedicated credits that have not been expended shall also not lapse at the close of fiscal year 2021. Nonlapsing may to employee incentives, one–time remodeling costs, equipment purchases, one–time DTS projects, research and development contract extradition costs, meeting and travel costs, state pass through grant programs, legal costs associated with deliberations required for judicial retention elections and voter outreach for judicial retention elections.

Item 18
To Governors Office – Constitutional Defense Council
From Beginning Nonlapsing Balances 13,300
Schedule of Programs:
Constitutional Defense Council 13,300

Under section 63J–1–603 of the Utah Code, the Legislature intends that appropriations of up to $14,000 provided for the Governor's Office – Constitutional Defense Council in Item 27 of Chapter 417 Laws of Utah 2012 not lapse at the close of Fiscal Year 2021. The use of any funds is limited to one–time expenditures authorized by the Constitutional Defense Council.

Item 19
To Governors Office – Emergency Fund
From Beginning Nonlapsing Balances . . . 100,100
Schedule of Programs:
Governor's Emergency Fund 100,100

Item 20
To Governors Office - Governor's Office
From General Fund, One-Time 13,800
From Beginning Nonlapsing Balances 3,311,900
From Closing Nonlapsing Balances .... (590,000)
Schedule of Programs:
Administration 509,100
Literacy Projects ..... (40,000)
Lt. Governor's Office 2,266,600

Of the appropriations provided by this item, $4,400 is to implement the provisions of Election Amendments (House Bill 36, 2020 General Session) and $9,400 is to implement the provisions of Public Document Signature Classification (Senate Bill 47, 2020 General Session).

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations of up to $2,000,000 provided for the Governor's Office in Item 60 of Chapter 4 Laws of Utah 2020 not lapse at the close of Fiscal Year 2021. The use of any unused funds is limited to one-time expenditures of the Governor and Lieutenant Governors Offices. Under section 63J-1-603 of the Utah Code, the Legislature intends that appropriations of up to $225,000 for the Governor's Office in Item 99 of Chapter 508 Laws of Utah 2019 not lapse at the close of Fiscal Year 2021. The use of any funds is limited to the same purposes as the original appropriations.

Item 21
To Governors Office - Office of Management and Budget
From Beginning Nonlapsing Balances ... 778,900
From Closing Nonlapsing Balances .... (500,000)
Schedule of Programs:
Administration 278,900

Under section 63J-1-603 of the Utah Code, the Legislature intends that appropriations of up to $2,000,000 provided for the Governor's Office - Governor's Office of Management and Budget in Item 61 of Chapter 4 Laws of Utah 2020 not lapse at the close of Fiscal Year 2021. The use of any funds is limited to one-time expenditures of the Governors Office of Management and Budget. Under section 63J-1-603 of the Utah Code, the Legislature intends that appropriations of up to $200,000 for the Governor's Office - Governor's Office of Management and Budget in Item 22 of Chapter 397 Laws of Utah 2018 not lapse at the close of Fiscal Year 2021. The use of any funds is limited to the same purposes as the original appropriations.

Item 22
To Governors Office - Indigent Defense Commission
From General Fund, One-Time 39,800
From Revenue Transfers, One-Time 128,900
From Beginning Nonlapsing Balances ... 988,700
From Closing Nonlapsing Balances ... (1,491,200)
Schedule of Programs:
Office of Indigent Defense Services ..... (373,600)
Child Welfare Parental Defense Program 39,800

Under section 63J-1-603 of the Utah Code, the Legislature intends that appropriations up to $75,000 provided for the Child Welfare Parental Defense in Item 93 of Chapter 4 Laws of Utah 2020 not lapse at the close of fiscal 2021. The Legislature also intends that dedicated credits that have not been expended shall also not lapse at the close of fiscal year 2021. The use of any unused funds is limited to child welfare parental defense expenses.

Item 23
To Governors Office - Quality Growth Commission - LeRay McAllister Program
From Beginning Nonlapsing Balances 3,400,900
Schedule of Programs:
LeRay McAllister Critical Land Conservation Program 3,400,900

Item 24
To Governors Office - Suicide Prevention
From Beginning Nonlapsing Balances ... 700,000
Schedule of Programs:
Suicide Prevention 700,000

Under section 63J-1-603 of the Utah Code, the Legislature intends that appropriations of up to $100,000 provided for the Governor's Office - Suicide Prevention in Item 4 of Chapter 303 Laws of Utah 2020 and up to $400,000 provided for the Governor's Office - Suicide Prevention in Item 6 of Chapter 447 Laws of Utah 2019 not lapse at the close of Fiscal Year 2021. The use of any funds is limited to the same purposes as the original appropriations.

DEPARTMENT OF HUMAN SERVICES - DIVISION OF JUVENILE JUSTICE SERVICES

Item 25
To Department of Human Services - Division of Juvenile Justice Services - Programs and Operations
From General Fund, One-Time ..... (150,800)
From Federal Funds, One-Time ..... (628,400)
From Dedicated Credits Revenue, One-Time ..... (573,200)
From Expendable Receipts, One-Time ..... (64,200)
From Revenue Transfers, One-Time ..... (244,900)
From Beginning Nonlapsing Balances 4,500,000
Schedule of Programs:
Administration 467,900
Community Programs ..... (1,475,200)
Correctional Facilities 7,343,800
Early Intervention Services 17,010,700
Rural Programs ..... (22,715,000)
Youth Parole Authority ..... (4,300)
Case Management 431,100

Community Provider
Administration ..... (3,105,000)
Community Provider Payments 4,884,500

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations of up to $4,500,000 provided for the Department of Human Services - Division of Juvenile Justice Services in Items 97 and 98 of Chapter 4, Laws of Utah 2020 not lapse at the close of Fiscal Year 2021. The use of any unused funds is limited to expenditures for data processing and technology-based expenditures; facility repairs, maintenance, and improvements; capital development; other charges and pass-through expenditures; and short-term projects and studies that promote efficiency and service improvement. The Department of Human Services - Division of Juvenile Services anticipates using the FY 2021 non-lapse funds as follows in FY 2022: Replacement of aging computers and license upgrades $200,000 Facility repairs, maintenance, development, and improvements $1,800,000 Other charges for pass-through expenditures $2,500,000.

OFFICE OF THE STATE AUDITOR

Item 26
To Office of the State Auditor - State Auditor
From Transfer for COVID-19
Response, One-Time 20,500
From Beginning Nonlapsing
Balances 23,500
Schedule of Programs:
State Auditor 44,000

Nonlapsing Intent Language for the Office of the State Auditor: Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations of up to $500,000 provided for the Office of the State Auditor in Item 64 of Chapter 4, Laws of Utah 2020 not lapse at the close of Fiscal Year 2021. The use of any unused funds is limited to the same purposes of the original appropriation including local government oversight, audit activities, and data analysis.

DEPARTMENT OF PUBLIC SAFETY

Item 27
To Department of Public Safety -
Division of Homeland Security -
Emergency and Disaster Management
From Beginning Nonlapsing
Balances ..... (1,025,400)
From Closing Nonlapsing
Balances 5,025,400
Schedule of Programs:
Emergency and Disaster
Management 4,000,000

Under section 63J-1-603 of the Utah Code, the Legislature intends that appropriations up to $5,000,000 provided for The Department of Public Safety - Emergency Management - Emergency and Disaster Management not lapse at the close of Fiscal Year 2021. Funding will be used for reimbursement for emergency costs and loans that qualify as determined in statute.

Item 28
To Department of Public Safety -
Driver License
From Department of Public Safety
Restricted Account, One-Time 48,100
From Beginning Nonlapsing
Balances 7,407,300
From Closing Nonlapsing
Balances ..... (3,453,300)
Schedule of Programs:
Driver License Administration 1,600,000
Driver Records 2,402,100

Of the appropriations provided by this item, $48,100 is to implement the provisions of DUI Liability Amendments (House Bill 139, 2020 General Session).

Under section 63J-1-603 of the Utah Code, the Legislature intends that appropriations up to $1,000,000 provided for The Department of Public Safety - Driver License for the Uninsured Motorist Program not lapse at the close of Fiscal Year 2021. This amount excludes any nonlapsing funds from accounts listed under section 63J-1-602.1 and 63J-1-602.2. Funding shall be used for one-time enhancements to the uninsured motorist program and other one-time operating expenses.

Item 29
To Department of Public Safety -
Emergency Management
From Beginning Nonlapsing
Balances 323,500
Schedule of Programs:
Emergency Management 323,500

Under section 63J-1-603 of the Utah Code, the Legislature intends that appropriations of up to $500,000 provided for The Department of Public Safety -Emergency Management not lapse at the close of Fiscal Year 2021. This amount excludes any nonlapsing funds from accounts listed under section 63J-1-602.1 and section 63J-1-602.2. Funding shall be used for equipment, technology, and emergencies or disasters.

Item 30
To Department of Public Safety - Highway Safety
From Beginning Nonlapsing
Balances 661,400
Schedule of Programs:
Highway Safety 661,400

Under section 63J-1-603 of the Utah Code, the Legislature intends that appropriations of up to $100,000 provided for The Department of Public Safety - Highway Safety not lapse at the close of Fiscal Year 2021. This amount excludes any nonlapsing funds from accounts listed under section 63J-1-602.1 and section 63J-1-602.2. Funding shall be used for equipment,

technology, and other one-time operating expenses.

Item 31
To Department of Public Safety - Peace Officers' Standards and Training
From Beginning Nonlapsing Balances ... 750,000
Schedule of Programs:
POST Administration 713,000
Regional/Inservice Training 37,000

Under section 63J-1-603 of the Utah Code, the Legislature intends that appropriations up to $1,000,000 provided for The Department of Public Safety - Peace Officers' Standards and Training not lapse at the close of Fiscal Year 2021. Funding shall be used for equipment, technology, and other one-time operating expenses.

Item 32
To Department of Public Safety - Programs & Operations
From General Fund, One-Time 7,300
From Federal Funds, One-Time ..... (1,200)
From Dedicated Credits Revenue, One-Time ..... (81,000)
From Beginning Nonlapsing Balances 13,241,700
From Closing Nonlapsing Balances ..... (1,484,300)
From Lapsing Balance ..... (1,100,000)
Schedule of Programs:
Aero Bureau ..... (81,000)
CITS Communications ..... (950,000)
CITS State Bureau of Investigation 460,000
CITS State Crime Labs ..... (1,100,000)
Department Commissioner's Office 9,380,700
Department Grants 278,100
Fire Marshal - Fire Operations ..... (279,300)
Highway Patrol - Field Operations 3,369,300
Highway Patrol - Safety Inspections 7,300
Information Management - Operations ..... (502,600)

Of the appropriations provided by this item, $7,300 is to implement the provisions of Safety Inspections for Cited Vehicles (Senate Bill 31, 2020 General Session).

Under section 63J-1-603 of the Utah Code, the Legislature intends that appropriations of up to $10,000,000 provided for The Department of Public Safety - Programs and Operations line item not lapse at the close of Fiscal Year 2021. This amount excludes any nonlapsing funds from accounts listed under section 63J-1-602.1 and section 63J-1-602.2. Funding shall be used for equipment, technology, emergencies, and other one-time operating expenses.

Item 33
To Department of Public Safety - Bureau of Criminal Identification

Under section 63J-1-603 of the Utah Code, the Legislature intends that appropriations up to $2,500,000 provided for The Department of Public Safety - Bureau of Criminal Identification not lapse at the close of Fiscal Year 2021. Funding shall be used for training, equipment purchases, and other one-time operating expenses.

STATE TREASURER

Item 34
To State Treasurer
From Beginning Nonlapsing Balances 250,000
Schedule of Programs:
Treasury and Investment 50,000
Unclaimed Property 200,000

Under Section 63-J-1-603 of the Utah Code, the Legislature intends that appropriations of up to $400,000 provided for the Office of the State Treasurer not lapse at the close of Fiscal Year 2021. The use of any unused funds is limited to Computer Equipment/Software, Equipment/Supplies, Special Projects and Unclaimed Property Outreach.

Subsection 1(b). Expendable Funds and Accounts. The Legislature has reviewed the following expendable funds. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated. Outlays and expenditures from the funds or accounts to which the money is transferred may be made without further legislative action, in accordance with statutory provisions relating to the funds or accounts.

ATTORNEY GENERAL

Item 35
To Attorney General - Crime and Violence Prevention Fund
From Dedicated Credits Revenue, One-Time 250,000
From Beginning Fund Balance 199,100
From Closing Fund Balance ..... (222,100)
Schedule of Programs:
Crime and Violence Prevention Fund 227,000

Item 36
To Attorney General - Litigation Fund
From Beginning Fund Balance 825,900
From Closing Fund Balance ..... (825,900)

GOVERNORS OFFICE

Item 37
To Governors Office - Crime Victim Reparations Fund
From Beginning Fund Balance 1,695,600
From Closing Fund Balance ..... (2,060,700)
Schedule of Programs:
Crime Victim Reparations Fund ..... (365,100)

Item 38
To Governors Office - Justice Assistance Grant Fund
From Federal Funds, One-Time ..... (52,000)
From Interest Income, One-Time 87,000

From Beginning Fund Balance 7,717,200
From Closing Fund Balance ..... (7,560,000)
Schedule of Programs:
Justice Assistance Grant Fund 192,200

Item 39
To Governors Office – State Elections Grant Fund
From Federal Funds – CARES
Act, One–Time ..... (157,100)
From Beginning Fund Balance 69,000
Schedule of Programs:
State Elections Grant Fund ..... (88,100)

Item 40
To Governors Office – Municipal Incorporation Expendable Special Revenue Fund
From Dedicated Credits Revenue,
One–Time 13,600
From Beginning Fund Balance 5,300
From Closing Fund Balance ..... (900)
Schedule of Programs:
Municipal Incorporation Expendable Special Revenue Fund 18,000

Item 41
To Governors Office – IDC – Child Welfare Parental Defense Fund
From Beginning Fund Balance 4,700
From Closing Fund Balance ..... (54,800)
Schedule of Programs:
Child Welfare Parental Defense Fund ..... (50,100)

Item 42
To Governors Office – Pretrial Release Programs Special Revenue Fund
From Dedicated Credits Revenue,
One–Time 225,000
Schedule of Programs:
Pretrial Release Programs Special Revenue Fund 225,000

DEPARTMENT OF PUBLIC SAFETY

Item 43
To Department of Public Safety – Alcoholic Beverage Control Act Enforcement Fund
From Beginning Fund Balance 447,600
From Closing Fund Balance ..... (147,600)
Schedule of Programs:
Alcoholic Beverage Control Act Enforcement Fund 300,000

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

ATTORNEY GENERAL

Item 44
To Attorney General – ISF – Attorney General
From Dedicated Credits Revenue,
One–Time 2,833,000
From Beginning Fund Balance 830,600
Schedule of Programs:
ISF – Attorney General 3,663,600
Budgeted FTE 0.2

UTAH DEPARTMENT OF CORRECTIONS

Item 45
To Utah Department of Corrections – Utah Correctional Industries
From Dedicated Credits Revenue,
One–Time ..... (609,300)
From Beginning Fund Balance ..... (1,185,700)
From Closing Fund Balance ..... (6,200,700)
Schedule of Programs:
Utah Correctional Industries ..... (7,995,700)

Under 63J–1–603 of the Utah Code, the Legislature intends that the appropriation for the Utah Department of Corrections – Utah Correctional Industries in item 80 of chapter 4, Laws of Utah 2020 not lapse at the close of Fiscal Year 2021. Nonlapsing retained earnings would be used in the ongoing operations of UCI.

DEPARTMENT OF PUBLIC SAFETY

Item 46
To Department of Public Safety – Local Government Emergency Response Loan Fund
From Beginning Fund Balance 4,000
From Closing Fund Balance ..... (4,000)

Subsection 1(d). Restricted Fund and Account Transfers. The Legislature authorizes the State Division of Finance to transfer the following amounts between the following funds or accounts as indicated. Expenditures and outlays from the funds to which the money is transferred must be authorized by an appropriation.

Item 47
To General Fund Restricted – Indigent Defense Resources Account
From Revenue Transfers, One–Time (498,400)
From Beginning Fund Balance 105,600
From Closing Fund Balance ..... (105,600)
Schedule of Programs:
General Fund Restricted – Indigent Defense Resources Account ..... (498,400)

Subsection 1(e). Transfers to Unrestricted Funds. The Legislature authorizes the State Division of Finance to transfer the following amounts to the unrestricted General Fund, Education Fund, or Uniform School Fund, as indicated, from the restricted funds or accounts indicated. Expenditures and outlays from the General Fund, Education Fund, or Uniform

School Fund must be authorized by an appropriation.

Item 48
To General Fund
From Nonlapsing Balances - Child Welfare Parental Defense 39,800
Schedule of Programs:
General Fund, One-time 39,800

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

ATTORNEY GENERAL

Item 49
To Attorney General - Financial Crimes Trust Fund
From Beginning Fund Balance 308,800
Schedule of Programs:
Financial Crimes Trust Fund 308,800

GOVERNORS OFFICE

Item 50
To Governors Office - Indigent Inmate Trust Fund
From Beginning Fund Balance 23,700
From Closing Fund Balance ..... (23,700)

STATE TREASURER

Item 51
To State Treasurer - Navajo Trust Fund
From Trust and Agency Funds, One-Time 4,042,200
From Other Financing Sources, One-Time ..... (3,318,800)
From Beginning Fund Balance 5,924,300
From Closing Fund Balance ..... (6,647,700)

Section 2. FY 2022 Appropriations. The following sums of money are appropriated for the fiscal year beginning July 1, 2021 and ending June 30, 2022.

Subsection 2(a). Operating and Capital Budgets. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ATTORNEY GENERAL

Item 52
To Attorney General
From General Fund 24,047,400
From Federal Funds 3,453,200
From Dedicated Credits Revenue 7,246,400
From Attorney General Crime & Violence Prevention Fund 17,000
From Attorney General Litigation Fund 8,800
From General Fund Restricted - Tobacco Settlement Account 66,000
From Revenue Transfers 974,300
Schedule of Programs:
Administration 6,324,000
Child Protection 556,900
Civil 4,055,700
Criminal Prosecution 24,876,500

Of the appropriations provided by this item, $6,900 is to implement the provisions of Financial Exploitation Prevention Act (House Bill 459, 2020 General Session).

In accordance with UCA 63J-1-201, the Legislature intends that the Attorney Generals Office report performance measures for the Attorney General line item, whose mission is "to uphold the constitutions of the United States and of the State of Utah, to enforce the law, and to protect the interests of the State of Utah and its people, environment, and resources." The Attorney Generals Office shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before the end of October 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measures for FY 2022: 1) Customer satisfaction score as measured by how likely client agencies would recommend the assigned assistant attorney generals to other agencies; and 2) Attorney and staff competence score as measured by managers assessment that attorneys and staff are meeting industry standards and expectations.

Item 53
To Attorney General - Children's Justice Centers
From General Fund 4,364,100
From Federal Funds 450,000
From Dedicated Credits Revenue 64,400
From Expendable Receipts 380,000
Schedule of Programs:
Children's Justice Centers 5,258,500

Item 54
To Attorney General - Contract Attorneys
From Dedicated Credits Revenue 1,500,000
Schedule of Programs:
Contract Attorneys 1,500,000

Item 55
To Attorney General - Prosecution Council
From General Fund 670,900
From Federal Funds 35,300
From Dedicated Credits Revenue 310,800
From Revenue Transfers 287,700
Schedule of Programs:
Prosecution Council 1,304,700

In accordance with UCA 63J-1-201, the Legislature intends that the Attorney Generals Office report performance measures for the Prosecution Council line item, whose mission is "to provide training and continuing legal education and provide assistance for state and local prosecutors." The Attorney Generals Office shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021, the final status of performance measures established

in FY 2021 appropriations bills and the current status of the following performance measures for FY 2022: 1) The percentage of prosecutors whose continuing legal education credits come solely from UPC conferences; 2) The percentage of prosecutors asked at conferences who respond they will use a trauma expert at trial as a result of this trauma-informed training; 3) The percentage of prosecutors asked at conferences which provide training on domestic violence and using all available evidence who respond they will proceed to trial without the participation of the victim by October 15, 2021, to the Executive Offices and Criminal Justice Appropriations Subcommittee.

Item 56

To Attorney General - State Settlement Agreements
From General Fund, One-Time 1,650,000
Schedule of Programs:
State Settlement Agreements 1,650,000

BOARD OF PARDONS AND PAROLE

Item 57

To Board of Pardons and Parole
From General Fund 5,980,400
From Dedicated Credits Revenue 2,300
Schedule of Programs:
Board of Pardons and Parole 5,982,700

In accordance with UCA 63J-1-201, the Legislature intends that the the Board of Pardons and Parole report performance measures for their line item, whose mission is "The mission of the Board is to provide fair and balanced release, supervision, and clemency decisions that address community safety, victim needs, offender accountability, risk reduction, and reintegration." The Board shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measures for FY 2022: (1) percent of decisions completed within 7 Days of the Hearing (Target 75%); (2) percent of results completed within 3 Days of decision (Target 90%); (3) percent of mandatory JRI (77-27-5.4) time cuts processed electronically (Target 90%).

UTAH DEPARTMENT OF CORRECTIONS

Item 58

To Utah Department of Corrections - Programs and Operations
From General Fund 267,326,400
From Education Fund 49,000
From Federal Funds 1,448,500
From Dedicated Credits Revenue 4,347,400
From G.F.R. - Interstate Compact for Adult Offender Supervision 29,600
From General Fund Restricted - Prison Telephone Surcharge Account 1,800,000
From Revenue Transfers 7,500
Schedule of Programs:
Adult Probation and Parole Administration 5,362,900
Adult Probation and Parole Programs 77,244,200
Department Administrative Services 28,093,100
Department Executive Director 7,409,700
Department Training 2,106,100
Prison Operations Administration ... 5,801,700
Prison Operations Central Utah/Gunnison 40,793,400
Prison Operations Draper Facility 79,126,100
Prison Operations Inmate Placement 3,202,500
Programming Administration 729,300
Programming Education 2,201,700
Programming Skill Enhancement 10,995,800
Programming Treatment 11,941,900

In accordance with UCA 63J-1-201, the Legislature intends that the Department of Corrections report performance measures for the Programs and Operations line item, whose mission is "Our dedicated team of professionals ensures public safety by effectively managing offenders while maintaining close collaboration with partner agencies and the community. Our team is devoted to providing maximum opportunities for offenders to make lasting changes through accountability, treatment, education, and positive reinforcement within a safe environment." The Department of Corrections shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measures for FY 2022: 1) AP&P: Percentage of all probationers and parolees ending supervision who earned early termination; and 2) DPO: Per capita rate of convictions for violent incidents inside the state prisons.

Item 59

To Utah Department of Corrections - Department Medical Services
From General Fund 33,410,700
From Dedicated Credits Revenue 629,300
Schedule of Programs:
Medical Services 34,040,000

In accordance with UCA 63J-1-201, the Legislature intends that the Department of Corrections report performance measures for the Department Medical Services line item, whose mission is "Our dedicated team of professionals ensures public safety by effectively managing offenders while maintaining close collaboration with partner agencies and the community. Our team is

devoted to providing maximum opportunities for offenders to make lasting changes through accountability, treatment, education, and positive reinforcement within a safe environment." The Department of Corrections shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measures for FY 2022: 1) Percentage of Health Care Requests closed out within 3 business days of submittal; 2) Percentage of Dental Requests closed out within 7 days of submittal; 3) Average number of days after intake for an inmate to be assigned a mental health level; 4) Percentage of missed medical, dental, or mental health appointments; and 5) Percentage of inmates receiving a physical evaluation at intake.

Item 60

To Utah Department of Corrections –
Jail Contracting
From General Fund 34,141,500
From Federal Funds 50,000
Schedule of Programs:
Jail Contracting 34,191,500

In accordance with UCA 63J-1-201, the Legislature intends that the Department of Corrections report performance measures for the Jail Contracting line item, whose mission is "Our dedicated team of professionals ensures public safety by effectively managing offenders while maintaining close collaboration with partner agencies and the community. Our team is devoted to providing maximum opportunities for offenders to make lasting changes through accountability, treatment, education, and positive reinforcement within a safe environment." The Department of Corrections shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measures for FY 2022: 1) Percentage of available county jail beds contracting at a higher state rate for programming/education.

JUDICIAL COUNCIL/ STATE COURT ADMINISTRATOR

Item 61

To Judicial Council/State Court Administrator –
Administration
From General Fund 115,491,600
From Federal Funds 691,200
From Dedicated Credits Revenue 3,357,300
From General Fund Restricted –
Children's Legal Defense 480,300
From General Fund Restricted –
Court Security Account 11,175,400
From General Fund Restricted –
Court Trust Interest 256,000
From General Fund Restricted –
Dispute Resolution Account 564,900
From General Fund Restricted –
DNA Specimen Account 269,600
From General Fund Rest. – Justice
Court Tech., Security & Training 1,219,100
From General Fund Restricted –
Nonjudicial Adjustment Account 1,055,800
From General Fund Restricted –
Online Court Assistance Account 237,300
From General Fund Restricted –
State Court Complex Account 322,000
From General Fund Restricted –
Tobacco Settlement Account 193,700
From Revenue Transfers 1,095,500
Schedule of Programs:
Administrative Office 5,629,700
Court of Appeals 4,608,400
Courts Security 11,175,400
Data Processing 7,566,100
District Courts 53,951,300
Grants Program 1,454,000
Judicial Education 780,700
Justice Courts 1,426,900
Juvenile Courts 45,222,100
Law Library 1,107,600
Supreme Court 3,487,500

Of the appropriations provided by this item, $800 is to implement the provisions of Abuse, Neglect, and Dependency Proceedings Amendments (House Bill 33, 2020 General Session), $1,400 is to implement the provisions of DUI Liability Amendments (House Bill 139, 2020 General Session), $200 is to implement the provisions of Warning Labels Amendments (House Bill 243, 2020 General Session), and $3,000 is to implement the provisions of Prisoner Offense Amendments (Senate Bill 32, 2020 General Session).

In accordance with UCA 63J-1-201, the Legislature intends that the Utah State Courts report performance measures for the Administration line item, whose mission is, "To provide the people an open, fair, efficient, and independent system for the advancement of justice under the law." The Utah State Courts shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measures for FY 2022: (1) Target the recommended time standards in District and Juvenile Courts for all case types; as per the published Utah State Courts Performance Measures; (2) Access and Fairness Survey re satisfaction with my experience in court question, as per the published Utah State Courts Performance Measures (Target 90%); and (3) Clearance rate in all courts, as per the published Utah State Courts Performance Measures (Target 100%).

Item 62
To Judicial Council/State Court Administrator – Contracts and Leases
From General Fund 16,406,400
From Dedicated Credits Revenue 254,700
From General Fund Restricted – State Court Complex Account 4,365,000
Schedule of Programs:
Contracts and Leases 21,026,100

In accordance with UCA 63J-1-201, the Legislature intends that the Utah State Courts report performance measures for the Contracts and Leases line item, whose mission is, "To provide the people an open, fair, efficient, and independent system for the advancement of justice under the law." The Utah State Courts shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measure for FY 2022: (1) Execute and administer required contracts within the terms of the contracts and appropriations (Target 100%).

Item 63
To Judicial Council/State Court Administrator – Grand Jury
From General Fund 800
Schedule of Programs:
Grand Jury 800

In accordance with UCA 63J-1-201, the Legislature intends that the Utah State Courts report performance measures for the Grand Jury line item, whose mission is, "To provide the people an open, fair, efficient, and independent system for the advancement of justice under the law." The Utah State Courts shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measure for FY 2022: (1) Administer called Grand Juries (Target 100%).

Item 64
To Judicial Council/State Court Administrator – Guardian ad Litem
From General Fund 8,186,300
From Dedicated Credits Revenue 68,900
From General Fund Restricted – Children's Legal Defense 516,400
From General Fund Restricted – Guardian Ad Litem Services 110,500
From Revenue Transfers 10,000
Schedule of Programs:
Guardian ad Litem 8,892,100

In accordance with UCA 63J-1-201, the Legislature intends that the Office of the Guardian ad Litem report performance measures for the Administration line item, whose mission is, "To provide the people an open, fair, efficient, and independent system for the advancement of justice under the law." The Office of the Guardian ad Litem shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measure for FY 2022: seven performance measures for the line item found in the Utah Office of Guardian ad Litem and CASA Annual Report.

Item 65
To Judicial Council/State Court Administrator – Jury and Witness Fees
From General Fund 2,526,000
From Dedicated Credits Revenue 10,000
Schedule of Programs:
Jury, Witness, and Interpreter 2,536,000

In accordance with UCA 63J-1-201, the Legislature intends that the Utah State Courts report performance measures for the Jury, Witness, and Interpreter line item, whose mission is, "To provide the people an open, fair, efficient, and independent system for the advancement of justice under the law." The Utah State Courts shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measure for FY 2022: (1) Timely pay all required jurors, witnesses and interpreters (Target 100%).

GOVERNORS OFFICE

Item 66
To Governors Office – CCJJ – Factual Innocence Payments
From Beginning Nonlapsing Balances 749,400
From Closing Nonlapsing Balances .... (609,400)
Schedule of Programs:
Factual Innocence Payments 140,000

Item 67
To Governors Office – CCJJ – Jail Reimbursement
From General Fund 12,725,100
Schedule of Programs:
Jail Reimbursement 12,725,100

In accordance with UCA 63J-1-201, the Legislature intends that the Commission on Criminal and Juvenile Justice report performance measures for the Jail Reimbursement line item, whose mission to "reimburse counties that incarcerate an inmate in county jails for (1) felony offenders placed on probation and given jail time as a condition of probation; and (2) and paroles on a 72 hour hold". The Commission on Criminal and Juvenile Justice shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of

performance measures established in FY 2021 appropriations bills and the current status of the following performance measure for FY 2022: 1) Percent of statutory rate reimbursed to counties (Target=100%).

Item 68
To Governors Office - CCJJ - Salt Lake County Jail Bed Housing
From Beginning Nonlapsing Balances 500,000
Schedule of Programs:
Salt Lake County Jail Bed Housing 500,000

Item 69
To Governors Office - Commission on Criminal and Juvenile Justice
From General Fund 8,191,300
From Federal Funds 32,697,500
From Dedicated Credits Revenue 107,400
From Crime Victim Reparations Fund 216,800
From General Fund Restricted - Criminal Forfeiture Restricted Account 2,097,300
From Beginning Nonlapsing Balances 4,539,900
Schedule of Programs:
CCJJ Commission 9,642,600
Extraditions 530,100
Judicial Performance Evaluation Commission 780,200
Law Enforcement Services Grants 477,600
Sentencing Commission 261,100
State Asset Forfeiture Grant Program 5,027,000
State Task Force Grants 1,947,200
Substance Use and Mental Health Advisory Council 168,900
Utah Office for Victims of Crime 29,015,500

In accordance with UCA 63J-1-201, the Legislature intends that the Commission on Criminal and Juvenile Justice report performance measures for the Commission on Criminal and Juvenile Justice line item whose mission is to "(a) promote broad philosophical agreement concerning the objectives of the criminal and juvenile justice system in Utah; (b) provide a mechanism for coordinating the functions of the various branches and levels of government concerned with criminal and juvenile justice to achieve those objectives; and coordinate statewide efforts to reduce crime and victimization in Utah". The Commission on Criminal and Juvenile Justice shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measure for FY 2022: 1) Percent of victim reparations claims processed within 30 days or less (Target=75%); 2) Number of grants monitored (Target =143 or 55%); 3) Website Visits to Judges.Utah.Gov (Target=100% improvement).

Item 70
To Governors Office - Emergency Fund
From General Fund Restricted - State Disaster Recovery Restr Acct 500,000
Schedule of Programs:
Governor's Emergency Fund 500,000

Item 71
To Governors Office - Governor's Office
From General Fund 6,104,400
From Dedicated Credits Revenue 1,545,400
From Expendable Receipts 15,000
From Beginning Nonlapsing Balances 590,000
Schedule of Programs:
Administration 4,336,900
Governor's Residence 346,300
Literacy Projects 133,800
Lt. Governor's Office 3,168,700
Washington Funding 269,100

Of the appropriations provided by this item, $3,300 is to implement the provisions of Public Document Signature Classification (Senate Bill 47, 2020 General Session).

In accordance with UCA 63J-1-201, the Legislature intends that the Governor's Office report performance measures for the Governor's Office line item. The Governor's Office shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measures for FY 2022: (1) Number of registered voters and the percentage that voted during the November 2020 general election (Target = increased turnout compared to the 2016 election); (2) Number of constituent affairs responses.

Item 72
To Governors Office - Office of Management and Budget
From General Fund 4,674,800
From Dedicated Credits Revenue 26,500
From Beginning Nonlapsing Balances ... 500,000
Schedule of Programs:
Administration 1,650,700
Operational Excellence 1,134,800
Planning and Budget Analysis 2,072,900
State and Local Planning 342,900

In accordance with UCA 63J-1-201, the Legislature intends that the Governor's Office report performance measures for the Governor's Office of Management and Budget line item, whose mission is "To create more value for every tax dollar invested". The Governor's Office shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measures

for FY 2022: (1) Increase the overall percentage of the budget with a defined performance measure (Target = establish a baseline for the percentage of the budget with a measure).

Item 73

To Governors Office – Indigent Defense Commission
From General Fund 95,200
From Dedicated Credits Revenue 45,000
From Expendable Receipts 300,000
From General Fund Restricted – Indigent Defense Resources 5,663,600
From Revenue Transfers 309,000
From Beginning Nonlapsing Balances 1,491,200
Schedule of Programs:
Office of Indigent Defense Services 7,254,800
Indigent Appellate Defense Division 500,000
Child Welfare Parental Defense Program 149,200

In accordance with UCA 63J-201, the Legislature intends that the Commission on Criminal and Juvenile Justice report performance measures for the Indigent Defense Commission line item whose mission is to "assist the state in meeting the state's obligations for the provision of indigent criminal defense services, consistent with the United States Constitution, the Utah Constitution, and state law.": The Commission on Criminal and Juvenile Justice shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measure for FY 2022: 1) Percentage of indigent defense systems using Indigent Defense Commission grant money for regionalization (Target=50%); 2) Percentage of total county indigent defense systems using Indigent Defense Commission resources to use separate indigent defense service providers (Target =30 %); and 3) Percentage of indigent defense systems using Indigent Defense Commission grants to operate independently-administered defense resources (Target=40%).

Item 74

To Governors Office – Suicide Prevention
From General Fund 100,000
Schedule of Programs:
Suicide Prevention 100,000

In accordance with UCA 63J-1-201, the Legislature intends that the Governors Office report performance measures for the Suicide Prevention line item. The Governors Office shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measures for FY 2022: (1) reduction in Utah suicide rates base on the two prior years of available data by October 15, 2021 to the Executive Offices and Criminal Justice Appropriations.

DEPARTMENT OF HUMAN SERVICES - DIVISION OF JUVENILE JUSTICE SERVICES

Item 75

To Department of Human Services – Division of Juvenile Justice Services – Programs and Operations
From General Fund 89,778,400
From Federal Funds 2,705,300
From Dedicated Credits Revenue 495,900
From General Fund Restricted – Juvenile Justice Reinvestment Account 4,913,200
From Revenue Transfers ..... (1,603,700)
Schedule of Programs:
Administration 4,857,700
Community Programs 5,116,400
Correctional Facilities 21,227,000
Early Intervention Services 36,146,200
Youth Parole Authority 373,500
Case Management 6,811,900
Community Provider Payments 21,756,400

In accordance with UCA 63J-1-201, the Legislature intends that the Division of Juvenile Justice Services report performance measures for the Administration line item, whose mission is "To be a leader in the field of juvenile justice by changing young lives, supporting families and keeping communities safe." The Division of Juvenile Justice Services shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measure for FY 2022: (1) Avoid new felony or misdemeanor charge while enrolled in the Youth Services program and within 90 days of release (Target = 100%); and (2) Reduce the risk of recidivism by 25% within 3 years (Target = 25%).

OFFICE OF THE STATE AUDITOR

Item 76

To Office of the State Auditor – State Auditor
From General Fund 3,500,100
From Dedicated Credits Revenue 3,452,100
Schedule of Programs:
State Auditor 6,952,200

In accordance with UCA 63J-1-201, the Legislature intends that the Office of the State Auditor report performance measures for the Office of the State Auditor line item, whose mission is "to provide Utah taxpayers and government officials with an independent assessment of financial

operation, statutory compliance, and performance management for state and local government" The Office of the State Auditor shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measures for FY 2022: (1) Annual financial statement audits completed in a timely manner (within six months) - excluding State CAFR) (Target = 65%); (2) State of Utah Comprehensive Annual Financial Report (CAFR) audit completed and released in a timely manner (within five months or 153 days) (Target = 153 days or less); (3) State of Utah Single Audit Report (Federal Compliance Report) completed and released in a timely manner (w/in six months or 184 days). Federal requirement is nine months. (Target = 184 days or less); (4) Monitoring of CPA firms performing local government financial audits. (Target = 100% over an ongoing three-year period)

DEPARTMENT OF PUBLIC SAFETY

Item 77

To Department of Public Safety - Division of Homeland Security - Emergency and Disaster Management
From Expendable Receipts 1,000,000
From Beginning Nonlapsing Balances 2,692,900
From Closing Nonlapsing Balances ..... (2,692,900)
Schedule of Programs:
Emergency and Disaster Management 1,000,000

In accordance with UCA 63J-1-201, the Legislature intends that the Department of Public Safety report performance measures for the Division of Homeland Security Emergency and Disaster Management line item. The Department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measure for FY 2022: (1) distribution of funds for appropriate and approved expenses (Target 100%).

Item 78

To Department of Public Safety - Driver License
From General Fund 2,200
From Federal Funds 199,800
From Dedicated Credits Revenue 26,400
From Department of Public Safety Restricted Account 31,753,000
From Public Safety Motorcycle Education Fund 339,200
From Uninsured Motorist Identification Restricted Account 2,500,000
From Pass-through 58,800
From Beginning Nonlapsing Balances 3,453,300
Schedule of Programs:
DL Federal Grants 199,800
Driver License Administration 4,145,700
Driver Records 10,595,400
Driver Services 20,397,100
Motorcycle Safety 353,500
Uninsured Motorist 2,641,200

In accordance with UCA 63J-1-201, the Legislature intends that the Department of Public Safety report performance measures for the Driver License Division line item. The Department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measure for FY 2022: (1) average customer wait time measured in 13 driver license field offices (Target=8 minutes), (2) average customer call wait time (Target=30 seconds), (3) percentage of driver license medical forms processed within 5 days divided by the operating expenses for the process (Target=25 percent improvement).

Item 79

To Department of Public Safety - Emergency Management
From General Fund 1,575,500
From Federal Funds 29,583,200
From Dedicated Credits Revenue 749,700
From General Fund Restricted - Post Disaster Recovery and Mitigation Rest Account 300,000
Schedule of Programs:
Emergency Management 32,208,400

In accordance with UCA 63J-1-201, the Legislature intends that the Department of Public Safety report performance measures for the Emergency Management line item, whose mission is, "To provide the people an open, fair, efficient, and independent system for the advancement of justice under the law." The Department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measure for FY 2022: (1) percentage compliance with standards and elements required to achieve and maintain National Emergency Management Program Accreditation (Target=100 percent); (2) percentage of personnel that have completed the required National Incident Management System training (Target=100 percent); and (3) percentage of 98 state agencies that have updated their Continuity of Operation Plans (Target=100 percent).

Item 80
To Department of Public Safety - Emergency Management - National Guard Response
From Beginning Nonlapsing Balances 150,000
From Closing Nonlapsing Balances ..... (150,000)

In accordance with UCA 63J-1-201, the Legislature intends that the Department of Public Safety report performance measures for the National Guard Response line item. The Department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measure for FY 2022: (1) distribution of funds as reimbursement to the National Guard of authorized and approved expenses (Target=100%).

Item 81
To Department of Public Safety - Highway Safety
From General Fund 100
From Federal Funds 6,391,900
From Dedicated Credits Revenue 16,200
From Department of Public Safety Restricted Account 1,323,800
From Public Safety Motorcycle Education Fund 57,800
Schedule of Programs:
Highway Safety 7,789,800

In accordance with UCA 63J-1-201, the Legislature intends that the Department of Public Safety report performance measures for the Highway Safety line item. The Department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measure for FY 2022: (1) distribution of funds as reimbursement to the National Guard of authorized and approved expenses (Target=100%).

Item 82
To Department of Public Safety - Peace Officers' Standards and Training
From General Fund 2,733,600
From Dedicated Credits Revenue 82,800
From Uninsured Motorist Identification Restricted Account 1,500,000
Schedule of Programs:
Basic Training 2,417,600
POST Administration 1,287,200
Regional/Inservice Training 611,600

In accordance with UCA 63J-1-201, the Legislature intends that the Department of Public Safety report performance measures for the POST line item. The Department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measure for FY 2022: (1) percentage of POST investigations completed within specified timeframes divided by the operating expenses for the process (Target=25 percent improvement), (2) percentage of presented cases of law enforcement personnel complaints or misconduct allegations ratified by POST Council (Target=95 percent), (3) percentage of law enforcement officers completing 40 hours of mandatory annual training (Target= 100 percent).

Item 83
To Department of Public Safety - Programs & Operations
From General Fund 93,134,400
From Transportation Fund 5,495,500
From Federal Funds 2,168,900
From Dedicated Credits Revenue 12,545,600
From General Fund Restricted - Canine Body Armor 25,000
From Department of Public Safety Restricted Account 3,889,100
From General Fund Restricted - DNA Specimen Account 1,533,200
From General Fund Restricted - Electronic Cigarette Substance and Nicotine Product Tax Restricted Account 1,180,000
From General Fund Restricted - Fire Academy Support 3,498,500
From General Fund Restricted - Firefighter Support Account 132,000
From Gen. Fund Rest. - Motor Vehicle Safety Impact Acct. 2,738,000
From General Fund Restricted - Public Safety Honoring Heroes Account 200,000
From General Fund Restricted - Reduced Cigarette Ignition Propensity & Firefighter Protection Account 80,800
From Revenue Transfers 1,038,600
From Gen. Fund Rest. - Utah Highway Patrol Aero Bureau 216,500
From General Fund Restricted - Utah Law Enforcement Memorial Support Restricted Account 17,500
From Pass-through 15,000
From Beginning Nonlapsing Balances 1,484,300
From Closing Nonlapsing Balances ..... (1,484,300)
From Lapsing Balance ..... (1,100,000)
Schedule of Programs:
Aero Bureau 946,400
CITS Administration 546,600
CITS Communications 10,722,100
CITS State Bureau of Investigation 4,893,900
CITS State Crime Labs 8,983,300
Department Commissioner's Office 5,202,200

Department Fleet Management 510,600
Department Grants 2,921,200
Department Intelligence Center 1,612,000
Fire Marshal – Fire Fighter Training 517,300
Fire Marshal – Fire Operations 3,534,300
Highway Patrol – Administration ... 1,412,200
Highway Patrol – Commercial Vehicle 4,197,500
Highway Patrol – Federal/State Projects 4,075,800
Highway Patrol – Field Operations 54,624,000
Highway Patrol – Protective Services 8,309,800
Highway Patrol – Safety Inspections ... 452,500
Highway Patrol – Special Enforcement 6,796,500
Highway Patrol – Special Services ... 4,059,600
Highway Patrol – Technology Services 1,646,900
Information Management – Operations 843,900

Of the appropriations provided by this item, $7,300 is to implement the provisions of Safety Inspections for Cited Vehicles (Senate Bill 31, 2020 General Session).

In accordance with UCA 63J-1-201, the Legislature intends that the Department of Public Safety report performance measures for their Programs and Operations line item. The Department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measure for FY 2022: (1) for the Utah Highway Patrol – percentage of DUI reports submitted for administrative action within specified timeframes divided by operating expenses for the process (Target=25 percent improvement); for the Bureau of Forensic Services (2) median DNA case turnaround time (Target=60 days)

Item 84
To Department of Public Safety – Bureau of Criminal Identification
From General Fund 2,850,300
From Dedicated Credits Revenue 5,090,400
From General Fund Restricted – Concealed Weapons Account 3,847,800
From Revenue Transfers 1,027,400
From Beginning Nonlapsing Balances 1,200,000
Schedule of Programs:
Law Enforcement/Criminal Justice Services 2,854,400
Non-Government/Other Services 11,161,500

In accordance with UCA 63J-1-201, the Legislature intends that the Department of Public Safety report performance measures for the Bureau of Criminal Identification line item. The Department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measure for FY 2022: (1) percentage of LiveScan fingerprint card data entered into the Utah Computerized Criminal History (UCCH) and Automated fingerprint identification System (AFIS) databases, or deleted from the queue (Target=5 working days).

STATE TREASURER

Item 85
To State Treasurer
From General Fund 1,028,100
From Dedicated Credits Revenue 1,024,100
From Land Trusts Protection and Advocacy Account 399,800
From Qualified Patient Enterprise Fund 2,000
From Unclaimed Property Trust 2,035,700
Schedule of Programs:
Advocacy Office 399,800
Money Management Council 111,700
Treasury and Investment 1,950,000
Unclaimed Property 2,028,200

In accordance with UCA 63J-1-201, the Legislature intends that the State Treasurer's Office report performance measures for the State Treasurer line item, whose mission is "To serve the people of Utah by safeguarding public funds, prudently managing and investing the States financial assets, borrowing from the capital markets at the lowest prudently available cost to taxpayers, and reuniting individuals and businesses with their unclaimed property." The State Treasurer's Office shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measures for FY 2022: 1) Spread Between PTIF Interest Rate and Benchmark Rate (Target = 0.30%), 2) Ratio of Claim Dollars Paid to Claim Dollars Collected (Target = 50%), and 3) Total Value of Unclaimed Property Claims Paid (Target = $20 Million)

UTAH COMMUNICATIONS AUTHORITY

Item 86
To Utah Communications Authority – Administrative Services Division
From Gen. Fund Rest. – Statewide Unified E-911 Emerg. Acct. 11,413,600
From General Fund Restricted – Utah Statewide Radio System Acct. 20,000,500
Schedule of Programs:
911 Division 11,413,600
Administrative Services Division ... 20,000,500

In accordance with UCA 63J-1-201, the Legislature intends that the Utah

Communications Authority (UCA) report performance measures for their line item, whose mission is to "provide administrative and financial support for statewide 911 emergency services." The UCA shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measure for FY 2022: (1) the UCA shall maintain the statewide public safety communications network in a manner that maximizes network availability for its users; (2) monitor best practices and other guidance for PSAPs across Utah; and (3) ensure compliance with applicable laws, policies, procedures, and other internal controls to ensure adequate administration of the organization.

Subsection 2(b). Expendable Funds and Accounts. The Legislature has reviewed the following expendable funds. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated. Outlays and expenditures from the funds or accounts to which the money is transferred may be made without further legislative action, in accordance with statutory provisions relating to the funds or accounts.

ATTORNEY GENERAL

Item 87
To Attorney General – Crime and Violence Prevention Fund
From Dedicated Credits Revenue 250,000
From Beginning Fund Balance 222,100
Schedule of Programs:
Crime and Violence Prevention Fund 472,100

Item 88
To Attorney General – Litigation Fund
From Dedicated Credits Revenue 2,000,000
From Beginning Fund Balance 825,900
From Closing Fund Balance ..... (163,100)
Schedule of Programs:
Litigation Fund 2,662,800

GOVERNORS OFFICE

Item 89
To Governors Office – Crime Victim Reparations Fund
From General Fund 3,769,400
From Federal Funds 2,500,000
From Dedicated Credits Revenue 2,731,900
From Interest Income 82,000
From Beginning Fund Balance 7,021,500
From Closing Fund Balance ..... (7,021,500)
Schedule of Programs:
Crime Victim Reparations Fund 9,083,300

Item 90
To Governors Office – Justice Assistance Grant Fund
From Interest Income 87,000
From Beginning Fund Balance 9,901,000
From Closing Fund Balance ..... (7,494,900)
Schedule of Programs:
Justice Assistance Grant Fund 2,493,100

Item 91
To Governors Office – State Elections Grant Fund
From General Fund 500,000
From Federal Funds 4,818,400
From Interest Income 5,500
Schedule of Programs:
State Elections Grant Fund 5,323,900

Item 92
To Governors Office – Municipal Incorporation Expendable Special Revenue Fund
From Dedicated Credits Revenue 18,000
From Beginning Fund Balance 900
From Closing Fund Balance ..... (900)
Schedule of Programs:
Municipal Incorporation Expendable Special Revenue Fund 18,000

Item 93
To Governors Office – IDC – Child Welfare Parental Defense Fund
From General Fund 6,500
From Interest Income 1,000
From Beginning Fund Balance 54,800
From Closing Fund Balance ..... (54,800)
Schedule of Programs:
Child Welfare Parental Defense Fund 7,500

Item 94
To Governors Office – Pretrial Release Programs Special Revenue Fund
From Dedicated Credits Revenue 300,000
Schedule of Programs:
Pretrial Release Programs Special Revenue Fund 300,000

DEPARTMENT OF PUBLIC SAFETY

Item 95
To Department of Public Safety – Alcoholic Beverage Control Act Enforcement Fund
From Dedicated Credits Revenue 3,442,600
From Beginning Fund Balance 5,209,800
From Closing Fund Balance ..... (4,229,400)
Schedule of Programs:
Alcoholic Beverage Control Act Enforcement Fund 4,423,000

In accordance with UCA 63J-1-201, the Legislature intends that the the Department of Public Safety report performance measures for the Alcoholic Beverage Control program line item. The Department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measure for FY 2022: (1) percentage of covert operations initiated by intelligence (Target =

80 percent), (2) percentage of licensees that did not sell to minors (Target = 90 percent), and (3) rate of alcohol-related crash fatalities per 100 million vehicle miles traveled (Target = 0.10).

Subsection 2(c). Business-like Activities. The Legislature has reviewed the following proprietary funds. Under the terms and conditions of Utah Code 63J-1-410, for any included Internal Service Fund, the Legislature approves budgets, full-time permanent positions, and capital acquisition amounts as indicated, and appropriates to the funds, as indicated, estimated revenue from rates, fees, and other charges. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated.

ATTORNEY GENERAL

Item 96
To Attorney General - ISF - Attorney General
From General Fund 227,200
From Dedicated Credits Revenue 47,323,700
Schedule of Programs:
ISF - Attorney General 47,550,900
Budgeted FTE 248.3

UTAH DEPARTMENT OF CORRECTIONS

Item 97
To Utah Department of Corrections - Utah Correctional Industries
From Dedicated Credits Revenue 28,000,000
From Beginning Fund Balance 6,200,700
From Closing Fund Balance ..... (6,986,700)
Schedule of Programs:
Utah Correctional Industries 27,214,000

In accordance with UCA 63J-1-201, the Legislature intends that the Department of Corrections report performance measures for the Utah Correctional Industries line item, whose mission is "Our dedicated team of professionals ensures public safety by effectively managing offenders while maintaining close collaboration with partner agencies and the community. Our team is devoted to providing maximum opportunities for offenders to make lasting changes through accountability, treatment, education, and positive reinforcement within a safe environment." The Department of Corrections shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measures for FY 2022: 1) Percent of work-eligible inmates employed by UCI in prison; and 2) Percent of workers leaving UCI who are successfully completing the program.

DEPARTMENT OF PUBLIC SAFETY

Item 98
To Department of Public Safety - Local Government Emergency Response Loan Fund
From Beginning Fund Balance 245,900
From Closing Fund Balance ..... (245,900)

Subsection 2(d). Restricted Fund and Account Transfers. The Legislature authorizes the State Division of Finance to transfer the following amounts between the following funds or accounts as indicated. Expenditures and outlays from the funds to which the money is transferred must be authorized by an appropriation.

Item 99
To General Fund Restricted - Indigent Defense Resources Account
From General Fund 5,655,800
From Revenue Transfers ..... (5,655,800)
From Beginning Fund Balance 105,600
Schedule of Programs:
General Fund Restricted - Indigent Defense Resources Account 105,600

Item 100
To General Fund Restricted - DNA Specimen Account
From General Fund 216,000
Schedule of Programs:
General Fund Restricted - DNA Specimen Account 216,000

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

ATTORNEY GENERAL

Item 101
To Attorney General - Financial Crimes Trust Fund
From Trust and Agency Funds 1,225,000
Schedule of Programs:
Financial Crimes Trust Fund 1,225,000

GOVERNORS OFFICE

Item 102
To Governors Office - Indigent Inmate Trust Fund
From Dedicated Credits Revenue 25,300
From Beginning Fund Balance 858,600
From Closing Fund Balance ..... (795,900)
Schedule of Programs:
Indigent Inmate Trust Fund 88,000

STATE TREASURER

Item 103
To State Treasurer - Navajo Trust Fund
From Trust and Agency Funds 4,724,800
From Beginning Fund Balance 86,206,400
From Closing Fund Balance ..... (88,549,000)
Schedule of Programs:
Navajo Trust Fund 2,382,200

Section 3. Effective Date.
If approved by two-thirds of all the members elected to each house, Section 1 of this bill takes

effect upon approval by the Governor, or the day following the constitutional time limit of Utah Constitution Article VII, Section 8 without the Governor's signature, or in the case of a veto, the date of override. Section 2 of this bill takes effect on July 1, 2021.

CHAPTER 9
S. B. 7
Passed January 28, 2021
Approved February 4, 2021
Effective July 1, 2021

SOCIAL SERVICES BASE BUDGET

Chief Sponsor: Jacob L. Anderegg
House Sponsor: Paul Ray

LONG TITLE

General Description:

This bill supplements or reduces appropriations otherwise provided for the support and operation of state government for the fiscal year beginning July 1, 2020 and ending June 30, 2021 and appropriates funds for the support and operation of state government for the fiscal year beginning July 1, 2021 and ending June 30, 2022.

Highlighted Provisions:

This bill:

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

Money Appropriated in this Bill:

This bill appropriates $819,337,700 in operating and capital budgets for fiscal year 2021, including:

- ($79,729,600) from the General Fund; and
- $899,067,300 from various sources as detailed in this bill.

This bill appropriates $16,507,000 in expendable funds and accounts for fiscal year 2021.

This bill appropriates ($361,089,000) in business-like activities for fiscal year 2021.

This bill appropriates $33,964,300 in restricted fund and account transfers for fiscal year 2021.

This bill appropriates $109,300 in fiduciary funds for fiscal year 2021.

This bill appropriates $7,292,593,200 in operating and capital budgets for fiscal year 2022, including:

- $1,162,137,000 from the General Fund; and
- $6,130,456,200 from various sources as detailed in this bill.

This bill appropriates $79,778,900 in expendable funds and accounts for fiscal year 2022, including:

- $2,542,900 from the General Fund; and
- $77,236,000 from various sources as detailed in this bill.

This bill appropriates $326,932,200 in business-like activities for fiscal year 2022.

This bill appropriates $236,707,000 in restricted fund and account transfers for fiscal year 2022, including:

- $21,220,200 from the General Fund; and
- $215,486,800 from various sources as detailed in this bill.

This bill appropriates $221,375,400 in fiduciary funds for fiscal year 2022.

Other Special Clauses:

Section 1 of this bill takes effect immediately. Section 2 of this bill takes effect on July 1, 2021.

Utah Code Sections Affected:

ENACTS UNCODIFIED MATERIAL

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

Section 1. FY 2021 Appropriations. The following sums of money are appropriated for the fiscal year beginning July 1, 2020 and ending June 30, 2021. These are additions to amounts otherwise appropriated for fiscal year 2021.

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

DEPARTMENT OF HEALTH

Item 1

To Department of Health - Children's Health Insurance Program
From General Fund, One-Time ..... (7,192,100)
From Federal Funds, One-Time ... (19,982,700)
From Federal Funds - Enhanced FMAP, One-Time 1,450,100
From Beginning Nonlapsing Balances ..... (735,900)
From Closing Nonlapsing Balances 735,900
Schedule of Programs:
Children's Health Insurance Program ..... (25,724,700)

Item 2

To Department of Health - Disease Control and Prevention
From General Fund, One-Time 9,500
From Federal Funds, One-Time 119,400,000
From Beginning Nonlapsing Balances 1,182,800
Schedule of Programs:
Epidemiology 119,425,000
General Administration 192,300
Health Promotion 600,000
Office of the Medical Examiner 375,000

Of the appropriations provided by this item, $9,500 is to implement the provisions of Rare Disease Advisory Council (House Bill 106, 2020 General Session).

Pursuant to Section 63J-1-603 of the Utah Code, the Legislature intends that under Item 56 of Chapter 5, laws of Utah 2020, up to $2,275,000 provided for the Department of Health's Disease Control and Prevention line item shall not lapse at the close of Fiscal Year 2021. The use of any nonlapsing funds is limited to: (1) $500,000 to alcohol, tobacco, and other drug prevention, reduction, cessation, and control programs or for emergent disease control and prevention needs; (2) $500,000 to maintenance or replacement of computer equipment and software, equipment, building improvements or other purchases or services that improve or expand services provided by the Office of the

Medical Examiner; (3) $500,000 to laboratory equipment, computer equipment, software, and building improvements for the Unified State Laboratory; (4) $250,000 to replacement, upgrading, maintenance, or purchase of laboratory or computer equipment and software for the Newborn Screening Program; (5) $175,000 to maintenance or replacement of computer equipment, software, or other purchases or services that improve or expand services provided by the Bureau of Epidemiology; (6) $75,000 for use of the Traumatic Brain Injury Fund; (7) $25,000 to local health departments expenses in responding to a local health emergency; and (8) $250,000 to support the Utah Produce Incentive Program.

Pursuant to Section 63J-1-603 of the Utah Code, the Legislature intends that under Item 181 of Chapter 440, Laws of Utah 2020, up to $13,800 General Fund provided for the Department of Health's Disease Control and Prevention line item shall not lapse at the close of Fiscal Year 2021. The use of any nonlapsing funds is limited to coordination of health care for older adults.

Item 3

To Department of Health - Executive Director's Operations
From Federal Funds, One-Time 1,268,600
From Beginning Nonlapsing Balances 823,000
Schedule of Programs:
Adoption Records Access 118,000
Center for Health Data and Informatics 250,000
Executive Director 5,000
Program Operations 1,718,600

Pursuant to Section 63J-1-603 of the Utah Code, the Legislature intends that under Item 112 of Chapter 5, Laws of Utah 2020, up to $2,350,000 provided for the Department of Health's Executive Director's Operations line item shall not lapse at the close of Fiscal Year 2021. The use of any nonlapsing funds is limited to (1) $1,800,000 for general operations of the Executive Director's Office due to a forecasted reduction in the federal indirect collections in FY 2022, (2) $300,000 in programming and information technology projects, replacement of computers and other information technology equipment, and a time-limited deputy to the Department of Technology Services director that helps coordinate information technology projects, (3) $200,000 ongoing development and maintenance of the vital records application portal, and (4) $50,000 ongoing maintenance and upgrades of the database in the Office of Medical Examiner and the Electronic Death Entry Network or replacement of personal computers and information technology equipment in the Center for Health Data and Information.

Pursuant to Section 63J-1-603 of the Utah Code, the Legislature intends that under Item 180 of Chapter 440, Laws of Utah 2020, up to $90,000 General Fund provided for the Department of Health's Executive Director's Operations line item shall not lapse at the close of Fiscal Year 2021. The use of any nonlapsing funds is limited to the implementation of S.B. 22, American Indian-alaska Native Related Amendments, from the 2020 General Session.

Item 4

To Department of Health - Family Health and Preparedness
From General Fund, One-Time 20,500
From Dedicated Credits Revenue, One-Time 9,000
From Beginning Nonlapsing Balances 1,040,900
From Closing Nonlapsing Balances ..... (294,000)
Schedule of Programs:
Emergency Medical Services and Preparedness 138,900
Health Facility Licensing and Certification 12,800
Maternal and Child Health 297,800
Primary Care 326,900

Of the appropriations provided by this item, $8,500 is to implement the provisions of Fetal Exposure Reporting and Treatment Amendments (House Bill 244, 2020 General Session), $8,400 is to implement the provisions of Disposition of Fetal Remains (Senate Bill 67, 2020 General Session), $1,400 is to implement the provisions of Delegation of Health Care Services Amendments (House Bill 274, 2020 General Session), $11,200 is to implement the provisions of Birthing Facility Licensure Amendments (House Bill 428, 2020 General Session).

Pursuant to Section 63J-1-603 of the Utah Code, the Legislature intends that under Item 57 of Chapter 5, of Utah Laws 2020, up to $1,275,000 provided for the Family Health and Preparedness line item shall not lapse at the close of Fiscal Year 2021. The use of any nonlapsing funds is limited to (1) $50,000 to the services of eligible clients in the Assistance for People with Bleeding Disorders Program, (2) $200,000 to testing, certifications, background screenings, replacement of testing equipment and supplies in the Emergency Medical Services program, (3) $210,000 to health facility plan review activities in Health Facility Licensing and Certification, (4) $150,000 to health facility licensure and certification activities in Health Facility Licensing and Certification, (5) $145,000 to Emergency Medical Services and Health Facility Licensing background screening for replacement of live scan machines, and enhancements and maintenance of the Direct Access Clearing System, and (6) $520,000 to evidence-based nurse home visiting services for at-risk individuals with a priority focus on first-time mothers.

Pursuant to Section 63J-1-603 of the Utah Code, the Legislature intends that under Item 57 of Chapter 5, Laws of Utah 2020, up to $500,000 provided for the Department of Health's Family Health and Preparedness line item shall not lapse at the close of Fiscal Year 2021. Civil money penalties collected in the Bureau of Licensing for Child Care Licensing and Health Facility Licensing programs. The use of any nonlapsing funds is limited to upgrades to databases, training for providers and staff, or assistance of individuals during a facility shutdown.

Pursuant to Section 63J-1-603 of the Utah Code, the Legislature intends that under Item 41 of Chapter 2, Laws of Utah 2021 Sixth Special Session, up to $10,000 General Fund provided for the Department of Health's Family Health and Preparedness line item shall not lapse at the close of Fiscal Year 2021. The use of any nonlapsing funds is limited to uses for Newborn Safe Haven.

Item 5
To Department of Health - Medicaid and Health Financing
From General Fund, One-Time 4,900
From Federal Funds, One-Time 14,000
From Medicaid Expansion Fund, One-Time 9,100
From Beginning Nonlapsing Balances 1,299,300
Schedule of Programs:
Director's Office 28,000
Financial Services 1,299,300

Of the appropriations provided by this item, $28,000 is to implement the provisions of Substance Use and Health Care Amendments (House Bill 38, 2020 General Session).

Pursuant to Section 63J-1-603 of the Utah Code, the Legislature intends that under Item 59 of Chapter 5, Laws of Utah 2020, up to $975,000 provided for the Department of Health's Medicaid and Health Financing line item shall not lapse at the close of Fiscal Year 2021. The use of any nonlapsing funds is limited to: (1) $500,000 for providing application level security and redundancy for core Medicaid applications and (2) $475,000 for compliance with unfunded mandates and the purchase of computer equipment and software.

Pursuant to Section 63J-1-603 of the Utah Code, the Legislature intends that under Item 59 of Chapter 5, Laws of Utah 2020, up to $1,299,300 provided for the Department of Health's Medicaid and Health Financing line item shall not lapse at the close of Fiscal Year 2021. The use of any nonlapsing funds is limited to the redesign and replacement of the Medicaid Management Information System.

Item 6
To Department of Health - Medicaid Services
From General Fund, One-Time .... (53,481,800)
From Federal Funds, One-Time 36,677,600
From Federal Funds - Enhanced FMAP, One-Time 43,909,300
From Beginning Nonlapsing Balances 2,141,400
Schedule of Programs:
Accountable Care Organizations ... 20,499,200
Intermediate Care Facilities for the Intellectually Disabled 6,605,900
Other Services 2,141,400

Pursuant to Section 63J-1-603 of the Utah Code, the Legislature intends under Item 61 of Chapter 5, Laws of Utah 2020, up to $6,000,000 provided for the Department of Health's Medicaid Services line item shall not lapse at the close of Fiscal Year 2021. The use of any nonlapsing funds is limited to (1) $500,000 for providing application level security and redundancy for core Medicaid applications and (2) $5,500,000 for the redesign and replacement of the Medicaid Management Information System.

Item 7
To Department of Health - Primary Care Workforce Financial Assistance
From Beginning Nonlapsing Balances 100,300
Schedule of Programs:
Primary Care Workforce Financial Assistance 100,300

Item 8
To Department of Health - Rural Physicians Loan Repayment Assistance
From Beginning Nonlapsing Balances 172,000
From Closing Nonlapsing Balances ..... (85,900)
Schedule of Programs:
Rural Physicians Loan Repayment Program 86,100

DEPARTMENT OF HUMAN SERVICES

Item 9
To Department of Human Services - Division of Aging and Adult Services
From General Fund, One-Time ..... (33,700)
From Revenue Transfers, One-Time ..... (46,400)
From Beginning Nonlapsing Balances 300,000
Schedule of Programs:
Administration - DAAS ..... (1,638,400)
Adult Protective Services 564,300
Aging Alternatives ..... (1,200)
Aging Waiver Services 466,300
Local Government Grants - Formula Funds 964,600
Non-Formula Funds ..... (135,700)

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to $200,000 of appropriations provided in Item 65, Chapter 5, Laws of Utah 2020 for the Department of Human Services - Division of Aging and Adult Services not lapse at the close of FY 2021. The use of any nonlapsing funds is limited to the purchase of computer equipment and software; capital equipment

or improvements; other equipment or supplies; special projects or studies; and client services for Adult Protective Services and the Aging Waiver consistent with the requirements found at UCA 63J-1-603(3).

Item 10

To Department of Human Services - Division of Child and Family Services
From General Fund, One-Time ..... (1,277,600)
From Federal Funds, One-Time 128,400
From Federal Funds - CARES Act, One-Time ..... (127,700)
From Federal Funds - Enhanced FMAP, One-Time 701,400
From Dedicated Credits Revenue, One-Time ..... (451,700)
From Revenue Transfers, One-Time ..... (1,697,700)
From Transfer for COVID-19 Response, One-Time 1,879,700
From Beginning Nonlapsing Balances 3,036,800
Schedule of Programs:
Administration - DCFS ..... (4,323,700)
Adoption Assistance 2,969,600
Child Welfare Management Information System ..... (399,300)
Domestic Violence 2,498,800
Facility-Based Services 926,400
In-Home Services 3,127,900
Minor Grants 3,016,600
Out-of-Home Care 108,800
Selected Programs 1,342,500
Service Delivery ..... (2,776,900)
Special Needs ..... (13,100)
Provider Payments ..... (4,286,000)

Of the appropriations provided by this item, $6,300 is to implement the provisions of Abuse, Neglect, and Dependency Proceedings Amendments (House Bill 33, 2020 General Session).

The Legislature intends the Department of Human Services - Division of Child and Family Services use nonlapsing state funds originally appropriated for Adoption Assistance non-Title-IV-E monthly subsidies for any children that were not initially Title IV-E eligible in foster care, but that now qualify for Title IV-E adoption assistance monthly subsidies under eligibility exception criteria specified in P.L. 112-34 [Social Security Act Section 473(e)]. These funds shall only be used for child welfare services allowable under Title IV-B or Title IV-E of the Social Security Act consistent with the requirements found at UCA 63J-1-603(3)(b).

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to $3,200,000 of appropriations provided in Item 66, Chapter 5, Laws of Utah 2020 for the Department of Human Services - Division of Child and Family Services not lapse at the close of FY 2021. The use of any nonlapsing funds is limited to facility repair, maintenance, and improvements; Adoption Assistance; Contracted Services; In-Home Services; Out of Home Care; Selected Services; Service Delivery; Special Needs; Domestic Violence programs; Utah County Domestic Violence Shelter; SAFE Management Information System development and operations consistent with the requirements found at UCA 63J-1-603(3)(b).

Item 11

To Department of Human Services - Executive Director Operations
From Federal Funds, One-Time 35,000
From Federal Funds - CARES Act, One-Time ..... (35,000)
From Beginning Nonlapsing Balances 23,300
Schedule of Programs:
Executive Director's Office 23,300
Fiscal Operations ..... (150,800)
Legal Affairs ..... (32,600)
Office of Licensing ..... (129,100)
Office of Quality and Design 284,400
Utah Developmental Disabilities Council 28,100

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to $75,000 of appropriations provided in Item 113, Chapter 5, Laws of Utah 2020 for the Department of Human Services - Executive Director Operations not lapse at the close of FY 2021. The use of any nonlapsing funds is limited to expenditures for data processing and technology based expenditures; facility repairs, maintenance, and improvements; and short-term projects and studies that promote efficiency and service improvement.

Item 12

To Department of Human Services - Office of Public Guardian
From Federal Funds, One-Time ..... (500)
From Revenue Transfers, One-Time ..... (500)
From Beginning Nonlapsing Balances 3,800
Schedule of Programs:
Office of Public Guardian 2,800

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to $25,000 of appropriations provided in Item 114, Chapter 5, Laws of Utah 2020 for the Department of Human Services - Office of Public Guardian not lapse at the close of FY 2021. The use of any nonlapsing funds is limited to the purchase of computer equipment and software; capital equipment or improvements; other equipment or supplies; and special projects or studies.

Item 13

To Department of Human Services - Office of Recovery Services
From Federal Funds, One-Time ..... (210,900)
From Dedicated Credits Revenue, One-Time ..... (3,793,200)
From Revenue Transfers, One-Time .. (141,100)
Schedule of Programs:
Administration - ORS ..... (5,300)

Attorney General Contract 151,900
Child Support Services ..... (5,292,900)
Children in Care Collections ..... (189,200)
Electronic Technology 1,218,600
Financial Services ..... (7,600)
Medical Collections ..... (20,700)

Item 14
To Department of Human Services - Division of Services for People with Disabilities
From General Fund, One-Time .... (16,961,200)
From Federal Funds, One-Time ..... (5,600)
From Dedicated Credits Revenue, One-Time ..... (165,000)
From Expendable Receipts, One-Time ..... (100,000)
From Revenue Transfers, One-Time ..... (9,130,000)
From Revenue Transfers - FMAP Enhancement, One-Time 12,487,400
From Beginning Nonlapsing Balances 12,064,700
Schedule of Programs:
Administration - DSPD 238,000
Community Supports Waiver ..... (4,100,800)
Non-waiver Services ..... (768,300)
Physical Disabilities Waiver ..... (1,500)
Service Delivery ..... (382,600)
Utah State Developmental Center ..... (143,300)
Community Transitions Waiver 3,348,800

Item 15
To Department of Human Services - Division of Substance Abuse and Mental Health
From General Fund, One-Time ..... (818,100)
From Federal Funds, One-Time 306,000
From Dedicated Credits Revenue, One-Time ..... (463,200)
From Expendable Receipts, One-Time ..... (100)
From Revenue Transfers - FMAP Enhancement, One-Time 818,100
From Beginning Nonlapsing Balances 254,300
Schedule of Programs:
Administration - DSAMH ..... (5,471,900)
Community Mental Health Services 3,761,500
Drug Courts ..... (558,100)
Local Substance Abuse Services 1,280,900
Mental Health Centers ..... (2,531,900)
Residential Mental Health Services ..... (600)
State Hospital ..... (634,600)
State Substance Abuse Services 4,251,700

Of the appropriations provided by this item, $306,000 is to implement the provisions of Fetal Exposure Reporting and Treatment Amendments (House Bill 244, 2020 General Session).

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to $3,000,000 of appropriations provided in Item 69, Chapter 5, Laws of Utah 2020 and subsequent FY 2021 appropriations for the Department of Human Services - Division of Substance Abuse and Mental Health not lapse at the close of FY 2021. The use of any nonlapsing funds is limited to expenditures for data processing and technology based expenditures; facility repairs, maintenance, and improvements; other charges and pass through expenditures; short-term projects and studies that promote efficiency and service improvement; appropriated one-time projects; and appropriated restricted fund purposes.

DEPARTMENT OF WORKFORCE SERVICES

Item 16
To Department of Workforce Services - Administration
From OWHT-Fed Home Income, One-Time ..... (7,000)
From OWHT-Low Income Housing-PI, One-Time ..... (6,700)
From Beginning Nonlapsing Balances 13,900
Schedule of Programs:
Administrative Support ..... (10,700)
Communications 13,200
Executive Director's Office ..... (1,000)
Human Resources ..... (900)
Internal Audit ..... (400)

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to $200,000 of General Fund appropriations provided in Item 115 of Chapter 5 Laws of Utah 2020, for the Department of Workforce Services' Administration line item, shall not lapse at the close of Fiscal Year 2021. The use of any nonlapsing funds is limited to the purchase of equipment and software, one-time studies, and one-time projects.

Item 17
To Department of Workforce Services - General Assistance
From Beginning Nonlapsing Balances 1,777,400
Schedule of Programs:
General Assistance 1,777,400

Item 18
To Department of Workforce Services - Housing and Community Development
From Federal Funds, One-Time 121,000,000
From Dedicated Credits Revenue, One-Time 51,400,000
From Gen. Fund Rest. - Special Admin. Expense Acct., One-Time 1,000,000
From Gen. Fund Rest. - Homeless Housing Reform Rest. Acct, One-Time 7,000,000
From Beginning Nonlapsing Balances 2,646,400
Schedule of Programs:
Community Development 223,300
Homeless Committee 9,307,600
Weatherization Assistance 115,500
Housing Development 173,400,000

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to $1,000,000 of Special Administrative Expense Account

appropriations provided for the Department of Workforce Services' Housing and Community Development line item shall not lapse at the close of Fiscal Year 2021. The use of any nonlapsing funds is limited to administrative costs associated with emergency rental assistance from the Consolidated Appropriations Act.

The Legislature intends that an amount equal to the lesser of the $7 million appropriation to the Homeless Committee or the amounts from the proceeds from the sale of the land located at 210 South Rio Grande Street, Salt Lake City, be used as follows: (a) 50% shall be used to assist a nonprofit entity that owns three or more homeless shelters in a county of the first class in paying off a loan taken out by the entity to build a homeless shelter located in a county of the first class as described in Subsection 35A-8-604(10); and (b) 50% may be used to provide funding for the ongoing operations of one or more homeless services resource centers and for overflow costs.

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to $1,500,000 of general fund appropriations provided in Item 1 of Chapter 414 Laws of Utah 2020, for the Department of Workforce Services' Housing and Community Development line item, shall not lapse at the close of Fiscal Year 2021. The use of any nonlapsing funds is limited to improvement of the electronic Homeless Management Information System as described in Senate Bill 244 of the Utah Legislature 2020 General Session.

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to $325,000 of dedicated credit revenue appropriations provided in Item 72 of Chapter 5 Laws of Utah 2020, for the Department of Workforce Services' Housing and Community Development line item, shall not lapse at the close of Fiscal Year 2021. The use of any nonlapsing funds is limited to one-time projects to develop a web-based application for the Private Activity Bond program.

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to $2,500,000 of general fund restricted appropriations provided in Item 72 of Chapter 5 Laws of Utah 2020, for the Department of Workforce Services' Housing and Community Development Division line item, shall not lapse at the close of Fiscal Year 2021. The use of any nonlapsing funds is limited to use by the Housing and Community Development Division and the State Homeless Coordinating Committee for designing, building, creating, renovating, or operating a facility.

Under Section 63J-1-603, the Legislature intends that appropriations provided under budget request entitled "Sale of Rio Grande Property" shall not lapse at the close of Fiscal Year 2021 and an amount equal to the lesser of the appropriation described in the request entitled "Sale of Rio Grande Property" or the amount of the proceeds from the sale of the land located at 210 South Rio Grande Street, Salt Lake City, be used as follows: (1) 50% shall be used to assist a nonprofit entity that owns three or more homeless shelters in a county of the first class in paying off a loan taken out by the entity to build a homeless shelter located in a county of the first class as described in Subsection 35A-5-604(1); and (2) 50% may be used to provide funding for the ongoing operations of one or more homeless services resource centers and for overflow costs.

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to $500,000 of expendable receipts appropriations provided in Item 72 of Chapter 5 Laws of Utah 2020, for the Department of Workforce Services' Housing and Community Development Division line item, shall not lapse at the close of Fiscal Year 2021. The use of any nonlapsing funds is limited to weatherization assistance projects, including the pass-through of utility rebates by the Department of Workforce Services for weatherization assistance projects completed by local governments.

Item 18A

To Department of Workforce Services -
  Nutrition Assistance - SNAP
From Federal Funds, One-Time 353,766,700
Schedule of Programs:
  Nutrition Assistance - SNAP 353,766,700

Item 19

To Department of Workforce Services -
  Operation Rio Grande
From Beginning Nonlapsing
  Balances 518,200
Schedule of Programs:
  Operation Rio Grande 518,200

Item 20

To Department of Workforce Services -
  Operations and Policy
From Federal Funds, One-Time 92,000,000
From Gen. Fund Rest. - Special Admin.
  Expense Acct., One-Time ..... (1,000,000)
From OWHT-Fed Home
  Income, One-Time ..... (13,600)
From OWHT-Low Income
  Housing-PI, One-Time ..... (13,100)
From Beginning Nonlapsing
  Balances 1,254,000
Schedule of Programs:
  Eligibility Services ..... (200)
  Facilities and Pass-Through ..... (8,700)
  Information Technology ..... (17,800)
  Workforce Development 254,000
  Child Care Assistance 92,000,000

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to $1,000,000 of Special Administrative Expense Account appropriations provided in Item 102 of Chapter 416 Laws of Utah 2020, for the Department of Workforce Services' Operations and Policy line item, shall not

lapse at the close of Fiscal Year 2021. The use of any nonlapsing funds is limited to programs that reinvest in the workforce and support employer initiatives and one-time studies.

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to $3,200,000 of General Fund appropriations provided in Item 74 of Chapter 5 Laws of Utah 2020, for the Department of Workforce Services' Operations and Policy line item, shall not lapse at the close of Fiscal Year 2021. The use of any nonlapsing funds is limited to the purchase of equipment and software, one-time studies, one-time projects, time-limited, temporary personnel or contractor costs, and one-time training.

Item 21
To Department of Workforce Services - State Office of Rehabilitation
From OWHT-Fed Home Income, One-Time ..... (500)
From OWHT-Low Income Housing-PI, One-Time ..... (500)
From Beginning Nonlapsing Balances 1,836,500
Schedule of Programs:
Blind and Visually Impaired 1,000
Deaf and Hard of Hearing ..... (1,000)
Executive Director 1,835,500

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to $10,500,000 of General Fund appropriations provided in Item 76 of Chapter 5 Laws of Utah 2020, for the Department of Workforce Services' State Office of Rehabilitation line item, shall not lapse at the close of Fiscal Year 2021. The use of any nonlapsing funds is limited to the purchase of equipment and software, including assistive technology devices and items for the low vision store; one-time studies; one-time projects associated with client services; and one-time projects to enhance or maintain State Office of Rehabilitation facilities and to facilitate co-location of personnel.

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to $10,000 of dedicated credit revenue appropriations provided in Item 76 of Chapter 5 Laws of Utah 2020, for the Department of Workforce Services' State Office of Rehabilitation line item, shall not lapse at the close of Fiscal Year 2021. The use of any nonlapsing funds is limited to the purchase of items and devices for the low vision store.

Item 22
To Department of Workforce Services - Unemployment Insurance
From Federal Funds, One-Time 61,091,900
From OWHT-Fed Home Income, One-Time ..... (700)
From OWHT-Low Income Housing-PI, One-Time ..... (700)
Schedule of Programs:
Adjudication ..... (700)
Unemployment Insurance Administration 61,091,200

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to $60,000 of General Fund appropriations provided in Item 116 of Chapter 5 Laws of Utah 2020, for the Department of Workforce Services' Unemployment Insurance line item, shall not lapse at the close of Fiscal Year 2021. The use of any nonlapsing funds is limited to the purchase of equipment and software and one-time projects associated with client services.

Subsection 1(b). Expendable Funds and Accounts. The Legislature has reviewed the following expendable funds. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated. Outlays and expenditures from the funds or accounts to which the money is transferred may be made without further legislative action, in accordance with statutory provisions relating to the funds or accounts.

DEPARTMENT OF HEALTH

Item 23
To Department of Health - Organ Donation Contribution Fund
From Beginning Fund Balance 97,600
From Closing Fund Balance ..... (97,600)

Item 24
To Department of Health - Spinal Cord and Brain Injury Rehabilitation Fund
From Beginning Fund Balance 74,500
From Closing Fund Balance ..... (22,000)
Schedule of Programs:
Spinal Cord and Brain Injury Rehabilitation Fund 52,500

Item 25
To Department of Health - Traumatic Brain Injury Fund
From Beginning Fund Balance ..... (18,300)
From Closing Fund Balance 18,300

Item 26
To Department of Health - Pediatric Neuro-Rehabilitation Fund
From Beginning Fund Balance 50,000
Schedule of Programs:
Pediatric Neuro-Rehabilitation Fund 50,000

DEPARTMENT OF HUMAN SERVICES

Item 27
To Department of Human Services - Out and About Homebound Transportation Assistance Fund
From Dedicated Credits Revenue, One-Time 1,300
From Interest Income, One-Time ..... (600)
From Beginning Fund Balance 86,500
From Closing Fund Balance ..... (47,200)
Schedule of Programs:
Out and About Homebound Transportation Assistance Fund 40,000

Item 28
To Department of Human Services –
Utah State Developmental Center
Long–Term Sustainability Fund
From Dedicated Credits Revenue,
One–Time 7,254,700
From Beginning Fund Balance 1,182,300
From Closing Fund Balance ..... (1,129,100)
Schedule of Programs:
Utah State Developmental Center
Long–Term Sustainability Fund ... 7,307,900

Item 29
To Department of Human Services –
Utah State Developmental Center
Miscellaneous Donation Fund
From Dedicated Credits
Revenue, One–Time 17,300
From Interest Income, One–Time ..... (5,600)
From Beginning Fund Balance 200
From Closing Fund Balance ..... (200)
Schedule of Programs:
Utah State Developmental Center
Miscellaneous Donation Fund 11,700

Item 30
To Department of Human Services –
Utah State Developmental
Center Workshop Fund
From Dedicated Credits Revenue,
One–Time 13,700
From Beginning Fund Balance ..... (1,500)
From Closing Fund Balance 1,500
Schedule of Programs:
Utah State Developmental
Center Workshop Fund 13,700

Item 31
To Department of Human Services –
Utah State Hospital Unit Fund
From Beginning Fund Balance ..... (3,600)
From Closing Fund Balance 3,600

DEPARTMENT OF WORKFORCE SERVICES

Item 32
To Department of Workforce Services – Individuals with Visual Impairment Fund
From Beginning Fund Balance ..... (3,700)
From Closing Fund Balance 4,000
Schedule of Programs:
Individuals with Visual Impairment
Fund 300

Item 33
To Department of Workforce Services –
Navajo Revitalization Fund
From Beginning Fund Balance 481,700
From Closing Fund Balance ..... (481,700)

Item 34
To Department of Workforce Services – Permanent Community Impact Bonus Fund
From Beginning Fund Balance 10,517,600
From Closing Fund Balance ..... (10,517,600)

Item 35
To Department of Workforce Services – Permanent Community Impact Fund
From Beginning Fund Balance ..... (22,673,400)
From Closing Fund Balance 30,888,900
Schedule of Programs:
Permanent Community Impact
Fund 8,215,500

Item 36
To Department of Workforce Services – Qualified Emergency Food Agencies Fund
From Beginning Fund Balance 18,500
Schedule of Programs:
Emergency Food Agencies Fund 18,500

Item 37
To Department of Workforce Services –
Uintah Basin Revitalization Fund
From Beginning Fund Balance 833,400
From Closing Fund Balance ..... (833,400)

Item 38
To Department of Workforce Services –
Utah Community Center for the Deaf Fund
From Beginning Fund Balance ..... (400)
From Closing Fund Balance 400

Item 39
To Department of Workforce Services – Olene Walker Low Income Housing
From Beginning Fund Balance ..... (2,583,700)
From Closing Fund Balance 3,380,600
Schedule of Programs:
Olene Walker Low Income
Housing 796,900

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

DEPARTMENT OF HEALTH

Item 40
To Department of Health – Qualified
Patient Enterprise Fund
From Closing Fund Balance 458,500
Schedule of Programs:
Qualified Patient Enterprise Fund 458,500

DEPARTMENT OF WORKFORCE SERVICES

Item 41
To Department of Workforce Services – Economic Revitalization and Investment Fund
From Beginning Fund Balance ..... (100,000)
From Closing Fund Balance 100,000

Item 42
To Department of Workforce Services – State Small Business Credit Initiative Program Fund
From Beginning Fund Balance 8,800
From Closing Fund Balance ..... (62,400)
Schedule of Programs:

State Small Business Credit
Initiative Program Fund ..... (53,600)

Item 43
To Department of Workforce Services –
Unemployment Compensation Fund
From Federal Funds, One-Time 364,804,500
From Beginning Fund Balance .... (286,450,700)
From Closing Fund Balance ..... (439,847,700)
Schedule of Programs:
Unemployment Compensation
Fund ..... (361,493,900)

Subsection 1(d). Restricted Fund and Account Transfers. The Legislature authorizes the State Division of Finance to transfer the following amounts between the following funds or accounts as indicated. Expenditures and outlays from the funds to which the money is transferred must be authorized by an appropriation.

Item 44
To Ambulance Service Provider
Assessment Expendable Revenue Fund
From Beginning Fund Balance 13,900
Schedule of Programs:
Ambulance Service Provider
Assessment Expendable
Revenue Fund 13,900

Item 45
To Medicaid Expansion Fund
From Beginning Fund Balance 48,459,400
From Closing Fund Balance ..... (52,010,800)
Schedule of Programs:
Medicaid Expansion Fund ..... (3,551,400)

Item 46
To General Fund Restricted – Children's
Hearing Aid Program Account
From Beginning Fund Balance 139,300
Schedule of Programs:
General Fund Restricted – Children's
Hearing Aid Account 139,300

Item 47
To General Fund Restricted – Medicaid
Restricted Account
From Beginning Fund Balance 18,010,000
Schedule of Programs:
Medicaid Restricted Account 18,010,000

Item 48
To Adult Autism Treatment Account
From Dedicated Credits Revenue,
One-Time ..... (500,000)
Schedule of Programs:
Adult Autism Treatment Account ... (500,000)

Item 49
To General Fund Restricted – Homeless Account
From Beginning Fund Balance 38,200
Schedule of Programs:
General Fund Restricted – Pamela
Atkinson Homeless Account 38,200

Item 50
To General Fund Restricted – Homeless to
Housing Reform Account
From Revenue Transfers,
One-Time 18,350,000
Schedule of Programs:
General Fund Restricted – Homeless
to Housing Reform Restricted
Account 18,350,000

Item 51
To General Fund Restricted –
School Readiness Account
From Beginning Fund Balance 6,633,300
From Closing Fund Balance ..... (5,169,000)
Schedule of Programs:
General Fund Restricted –
School Readiness Account 1,464,300

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

DEPARTMENT OF HUMAN SERVICES

Item 52
To Department of Human Services –
Human Services Client Trust Fund
From Beginning Fund Balance 216,700
From Closing Fund Balance ..... (216,700)

Item 53
To Department of Human Services –
Maurice N. Warshaw Trust Fund
From Beginning Fund Balance 3,300
From Closing Fund Balance ..... (3,300)

Item 54
To Department of Human Services – Utah
State Developmental Center Patient Account
From Interest Income, One-Time ..... (800)
From Trust and Agency Funds,
One-Time 87,600
From Beginning Fund Balance 280,900
From Closing Fund Balance ..... (280,900)
Schedule of Programs:
Utah State Developmental
Center Patient Account 86,800

Item 55
To Department of Human Services – Utah
State Hospital Patient Trust Fund
From Beginning Fund Balance ..... (21,700)
From Closing Fund Balance 21,700

DEPARTMENT OF WORKFORCE SERVICES

Item 56
To Department of Workforce Services – Individuals
with Visual Impairment Vendor Fund
From Beginning Fund Balance ..... (41,900)
From Closing Fund Balance 64,400
Schedule of Programs:
Individuals with Visual Disabilities
Vendor Fund 22,500

Section 2. FY 2022 Appropriations. The following sums of money are appropriated for the fiscal year beginning July 1, 2021 and ending June 30, 2022.

Subsection 2(a). Operating and Capital Budgets. Under the terms and conditions of

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

DEPARTMENT OF HEALTH

Item 57

To Department of Health - Children's Health Insurance Program
From General Fund 21,677,400
From Federal Funds 129,733,400
From Dedicated Credits Revenue 2,176,500
From Expendable Receipts - Rebates 5,301,900
From General Fund Restricted - Tobacco Settlement Account 10,452,900
From Revenue Transfers 233,900
Schedule of Programs:
Children's Health Insurance Program 169,576,000

In accordance with UCA 63J-1-201, the Legislature intends that the Department of Health report on the following performance measures for the Children's Health Insurance Program line item, whose mission is "Provide access to quality, cost-effective health care for eligible Utahans." The Department of Health shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measures for FY 2022: 1) percent of children less than 15 months old that received at least six or more well-child visits (Target = 70% or more); 2) Children (3-17 years of age) who had an outpatient visit with a primary care practitioner or obstetrics/gynecologist and who had evidence of Body Mass Index percentile documentation (Target = 70% or more); and 3) percent of adolescents who received one meningococcal vaccine and one TDAP (tetanus, diphtheria, and pertussis) between the members 10th and 13th birthdays (Target = 80%).

Item 58

To Department of Health - Disease Control and Prevention
From General Fund 16,791,400
From Federal Funds 40,539,600
From Federal Funds, One-Time 90,500,000
From Dedicated Credits Revenue 10,287,200
From Expendable Receipts 1,624,300
From Expendable Receipts - Rebates 5,408,400
From General Fund Restricted - Cancer Research Account 20,000
From General Fund Restricted - Children with Cancer Support Restricted Account 10,500
From General Fund Restricted - Children with Heart Disease Support Restr Acct 10,500
From General Fund Restricted - Cigarette Tax Restricted Account 3,150,000
From Department of Public Safety Restricted Account 323,800
From General Fund Restricted - Electronic Cigarette Substance and Nicotine Product Tax Restricted Account 9,000,000
From Gen. Fund Rest. - State Lab Drug Testing Account 732,600
From General Fund Restricted - Tobacco Settlement Account 3,277,100
From Revenue Transfers 1,751,300
Schedule of Programs:
Clinical and Environmental Lab Certification Programs 703,200
Epidemiology 119,233,200
General Administration 2,755,100
Health Promotion 39,524,200
Utah Public Health Laboratory 13,747,400
Office of the Medical Examiner 7,463,600

The Legislature intends that the Department of Health report to the Social Services Appropriations Subcommittee by October 1, 2021 on the results of recent initiatives to improve the accuracy of records in the Utah Statewide Immunization System for (1) youth for under reporting of Tdap (tetanus, diphtheria, and pertussis) and Td (tetanus and diphtheria) immunization, (2) adults over 65 years old for better links to death records, (3) identifying how many medical providers are not enrolled, and (4) recommendations for what would need to happen long term so that the USIIS database could be complete and accurate.

In accordance with UCA 63J-1-201, the Legislature intends that the Department of Health report on the following performance measures for the Disease Control and Prevention line item, whose mission is "prevent chronic disease and injury, rapidly detect and investigate communicable diseases and environmental health hazards, provide prevention-focused education, and institute control measures to reduce and prevent the impact of disease." The Department of Health shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measures for FY 2022: 1) gonorrhea cases per 100,000 population (Target = 89 people or less); 2) percentage of adults who are current smokers (Target = 7.5% or less); 3) complete forensic toxicology law enforcement and medical examiner testing within 45 days (Target = 95%); and 4) Utah youth use of electronic cigarettes in grades 8, 10, and 12 (Target = 11.1% or less).

Of the appropriations provided by this item, $9,500 is to implement the provisions of Rare Disease Advisory Council (House Bill 106, 2020 General Session).

Item 59
To Department of Health - Executive Director's Operations
From General Fund 7,476,200
From Federal Funds 6,241,200
From Federal Funds, One-Time 2,329,800
From Dedicated Credits Revenue 2,870,400
From General Fund Restricted - Children with Cancer Support Restricted Account 2,000
From General Fund Restricted - Children with Heart Disease Support Restr Acct 2,000
From Revenue Transfers 2,865,600
From Lapsing Balance ..... (4,000)
Schedule of Programs:
Adoption Records Access 59,800
Center for Health Data and Informatics 7,003,900
Executive Director 5,431,700
Office of Internal Audit 733,800
Program Operations 8,477,700
Center for Medical Cannabis 76,300

In accordance with UCA 63J-1-201, the Legislature intends that the Department of Health report on the following performance measures for the Executive Director's Operations line item, whose mission is "protect the public's health through preventing avoidable illness, injury, disability, and premature death; assuring access to affordable, quality health care; and promoting health lifestyles by providing services and oversight of services which are applicable throughout all divisions and bureaus of the Department." The Department of Health shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measures for FY 2022: 1) percent of known restricted applications/systems that have reviewed, planned for, or mitigated identified risks according to procedure (Goal 100%); 2) births occurring in a hospital are entered accurately by hospital staff into the electronic birth registration system within 10 calendar days (Target = 99%); 3) percentage of all deaths registered in the electronic death registration system within five calendar days (Target = 90% or more); and 4) number of requests for data products produced by the Office of Health Care Statistics (Target = 139).

Item 60
To Department of Health - Family Health and Preparedness
From General Fund 26,522,700
From Federal Funds 71,892,900
From Dedicated Credits Revenue 3,311,100
From Expendable Receipts 135,000
From Expendable Receipts - Rebates 8,900,000
From General Fund Restricted - Adult Autism Treatment Account 500,000
From Gen. Fund Rest. - Children's Hearing Aid Pilot Program Account 292,100
From Gen. Fund Rest. - K. Oscarson Children's Organ Transp. 106,800
From General Fund Restricted - Emergency Medical Services System Account 1,500,000
From Revenue Transfers 7,141,900
From Beginning Nonlapsing Balances 2,061,400
From Closing Nonlapsing Balances ..... (2,213,000)
Schedule of Programs:
Children with Special Health Care Needs 32,075,700
Director's Office 3,293,300
Emergency Medical Services and Preparedness 2,996,800
Health Facility Licensing and Certification 8,682,900
Maternal and Child Health 57,186,000
Primary Care 4,253,600
Public Health and Health Care Preparedness 9,366,400
Emergency Medical Services Grants 2,296,200

In accordance with UCA 63J-1-201, the Legislature intends that the Department of Health report on the following performance measures for the Family Health and Preparedness line item, whose mission is "We are engaged professionals improving the health, safety and well-being of Utahns." The Department of Health shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measures for FY 2022: 1) the percent of children who demonstrated improvement in social-emotional skills, including social relationships (Goal = 69% or more); 2) annually perform on-site survey inspections of health care facilities (Goal = 80%); and 3) the Bureau will identify five EMS agencies that are considered to be having financial issues for an audit. The Bureau will then review and resolve the audit findings with each agency (Goal = 80%).

Of the appropriations provided by this item, $8,500 is to implement the provisions of Fetal Exposure Reporting and Treatment Amendments (House Bill 244, 2020 General Session) and $200 is to implement the provisions of Disposition of Fetal Remains (Senate Bill 67, 2020 General Session).

Item 61
To Department of Health - Local Health Departments
From General Fund 2,137,500

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

In accordance with UCA 63J-1-201, the Legislature intends that the Department of Health report on the following performance measures for the Local Health Departments line item, whose mission is "To prevent sickness and death from infectious diseases and environmental hazards; to monitor diseases to reduce spread; and to monitor and respond to potential bioterrorism threats or events, communicable disease outbreaks, epidemics and other unusual occurrences of illness." The Department of Health shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measures for FY 2022: 1) number of local health departments that maintain a board of health that annually adopts a budget, appoints a local health officer, conducts an annual performance review for the local health officer, and reports to county commissioners on health issues (Target = 13 or 100%); 2) number of local health departments that provide communicable disease epidemiology and control services including disease reporting, response to outbreaks, and measures to control tuberculosis (Target = 13 or 100%); 3) number of local health departments that maintain a program of environmental sanitation which provides oversight of restaurants food safety, swimming pools, and the indoor clean air act (Target = 13 or 100%); 4) achieve and maintain an effective coverage rate for universally recommended vaccinations among young children up to 35 months of age (Target = 90%); 5) reduce the number of cases of pertussis among children under 1 year of age, and among adolescents aged 11 to 18 years (Target = 73 or less for infants and 322 cases or less for youth); and 6) local health departments will increase the number of health and safety related school buildings and premises inspections by 10% (from 80% to 90%).

Item 62
To Department of Health - Medicaid and Health Financing
From General Fund 5,125,200
From Federal Funds 107,448,700
From Dedicated Credits Revenue 5,000
From Expendable Receipts 12,692,000
From Medicaid Expansion Fund 2,869,100
From Nursing Care Facilities Provider Assessment Fund 1,133,500
From Revenue Transfers 36,487,300
Schedule of Programs:
Long-term Services and Supports 4,413,800
Contracts 1,589,800
Healthcare Policy and Authorization 3,877,100
Department of Workforce Services' Seeded Services 48,254,100
Director's Office 3,074,100
Eligibility Policy 3,255,200
Financial Services 27,551,700
Managed Health Care 8,254,400
Medicaid Operations 22,614,500
Other Seeded Services 42,876,100

In accordance with UCA 63J-1-201, the Legislature intends that the Department of Health report on the following performance measures for the Medicaid and Health Financing line item, whose mission is "Provide access to quality, cost-effective health care for eligible Utahans." The Department of Health shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measures for FY 2022: 1) average decision time on pharmacy prior authorizations (Target = 24 hours or less); 2) percent of clean claims adjudicated within 30 days of submission (Target = 98%); and 3) total count of Medicaid and Children's Health Insurance Program clients educated on proper benefit use and plan selection (Target = 150,000 or more).

Item 63
To Department of Health - Medicaid Sanctions
From Beginning Nonlapsing Balances 1,979,000
From Closing Nonlapsing Balances ..... (1,979,000)

In accordance with UCA 63J-1-201, the Legislature intends that the Department of Health report on how expenditures from the Medicaid Sanctions line item, whose mission is "Provide access to quality, cost-effective health care for eligible Utahans." The Department of Health shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measures for FY 2022: met federal requirements which constrain its use.

Item 64
To Department of Health - Medicaid Services
From General Fund 549,746,100
From General Fund, One-Time ..... (2,497,100)
From Federal Funds 3,246,826,200
From Federal Funds, One-Time ..... (5,195,500)
From Dedicated Credits Revenue 2,720,800
From Expendable Receipts 170,215,300
From Expendable Receipts - Rebates 183,576,500
From Ambulance Service Provider Assess Exp Rev Fund 4,420,100

From Hospital Provider Assessment Fund 56,045,500
From Medicaid Expansion Fund 112,685,300
From Nursing Care Facilities Provider Assessment Fund 37,605,200
From General Fund Restricted - Tobacco Settlement Account 570,000
From Revenue Transfers 157,885,000
From Pass-through 1,813,000
Schedule of Programs:
Accountable Care Organizations 1,249,231,600
Dental Services 87,490,400
Expenditure Offsets from Collections ..... (41,066,500)
Home and Community Based Waivers 378,690,500
Home Health and Hospice 23,963,400
Inpatient Hospital 244,240,200
Intermediate Care Facilities for the Intellectually Disabled 84,192,300
Medicaid Expansion 1,148,621,800
Medical Transportation 26,020,400
Medicare Buy-In 64,035,500
Medicare Part D Clawback Payments 43,512,400
Mental Health and Substance Abuse 224,736,300
Nursing Home 266,063,200
Other Services 214,766,500
Outpatient Hospital 75,043,500
Pharmacy 297,293,300
Physician and Osteopath 75,198,300
Provider Reimbursement Information System for Medicaid 20,123,700
School Based Skills Development ... 34,259,600

The Legislature intends that the Department of Health in coordination with the Utah Office of Inspector General of Medicaid Services report to the Office of the Legislative Fiscal Analyst by July 15, 2021 on the status of all recommendations from "A Performance Audit of Medicaid's Pharmacy Benefit Oversight" and include an estimate of savings for each recommendation where applicable.

In accordance with UCA 63J-1-201, the Legislature intends that the Department of Health report on the following performance measures for the Medicaid Services line item, whose mission is "Provide access to quality, cost-effective health care for eligible Utahans." The Department of Health shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measures for FY 2022: 1) percentage of children 3-17 years of age who had an outpatient visit with a primary care practitioner or obstetrics/gynecologist and who had evidence of Body Mass Index percentile documentation (Target = 70%); 2) the percentage of adults 18-85 years of age who had a diagnosis of hypertension and whose blood pressure was adequately controlled, (Target = 65%); and 3) annual state general funds saved through preferred drug list (Target = 16,000,000).

Item 65
To Department of Health - Primary Care Workforce Financial Assistance
From Federal Funds 205,000
Schedule of Programs:
Primary Care Workforce Financial Assistance 205,000

In accordance with UCA 63J-1-201, the Legislature intends that the Department of Health report on the following performance measures for the Primary Care Workforce Financial Assistance line item, whose mission is "As the lead state primary care organization, our mission is to elevate the quality of health care through assistance and coordination of health care interests, resources and activities which promote and increase quality healthcare for rural and underserved populations." The Department of Health shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measures for FY 2022: 1) percentage of available funding awarded (Target = 100%); 2) total individuals served (Target = 5,000); 3) total uninsured individuals served (Target = 1,250); and 4) total underserved individuals served (Target = 1,750).

Item 66
To Department of Health - Rural Physicians Loan Repayment Assistance
From General Fund 313,800
From Beginning Nonlapsing Balances 85,900
Schedule of Programs:
Rural Physicians Loan Repayment Program 399,700

In accordance with UCA 63J-1-201, the Legislature intends that the Department of Health report on the following performance measures for the Rural Physicians Loan Repayment Assistance line item, whose mission is "As the lead state primary care organization, our mission is to elevate the quality of health care through assistance and coordination of health care interests, resources and activities which promote and increase quality healthcare for rural and underserved populations." The Department of Health shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measures for FY 2022: 1) percentage of available funding awarded (Target = 100%); 2) total

individuals served (Target = 7,500); 3) total uninsured individuals served (Target = 1,000); and 4) total underserved individuals served (Target = 2,500).

Item 67
To Department of Health - Vaccine Commodities
From Federal Funds 27,277,100
Schedule of Programs:
Vaccine Commodities 27,277,100

In accordance with UCA 63J-1-201, the Legislature intends that the Department of Health report on the following performance measures for the Vaccine Commodities line item, whose mission is "The mission of the Utah Department of Health Immunization Program is to improve the health of Utah's citizens through vaccinations to reduce illness, disability, and death from vaccine-preventable infections. We seek to promote a healthy lifestyle that emphasizes immunizations across the lifespan by partnering with the 13 local health departments throughout the state and other community partners. From providing educational materials for the general public and healthcare providers to assessing clinic immunization records to collecting immunization data through online reporting systems, the Utah Immunization Program recognizes the importance of immunizations as part of a well-balanced healthcare approach." The Department of Health shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measures for FY 2022: 1) ensure that Utah children, adolescents and adults can receive vaccine in accordance with state and federal guidelines (Target = done); 2) validate that Vaccines for Children-enrolled providers comply with Vaccines for Children program requirements as defined by Centers for Disease Control Operations Guide (Target = 100%); and 3) continue to improve and sustain immunization coverage levels among children, adolescents and adults (Target = done).

DEPARTMENT OF HUMAN SERVICES

Item 68
To Department of Human Services -
Division of Aging and Adult Services
From General Fund 15,738,500
From Federal Funds 13,361,700
From Federal Funds - CARES Act 441,300
From Dedicated Credits Revenue 100
From Revenue Transfers ..... (1,208,300)
Schedule of Programs:
Administration - DAAS 1,682,600
Adult Protective Services 3,956,700
Aging Alternatives 4,312,000
Aging Waiver Services 1,267,700
Local Government Grants -
Formula Funds 16,063,200
Non-Formula Funds 1,051,100

In accordance with UCA 63J-1-201, the Legislature intends that the Department of Human Services report performance measures for the Aging and Adult Services line item, whose mission is "to provide leadership and advocacy in addressing issues that impact older Utahans, and serve elder and disabled adults needing protection from abuse, neglect or exploitation." The Department of Human Services shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measures for FY 2022: 1) Medicaid Aging Waiver: Average cost of client at 15% or less of nursing home cost (Target = 15%), 2) Adult Protective Services: Protective needs resolved positively (Target = 95%), and 3) Meals on Wheels: Total meals served (Target = 9,200).

Item 69
To Department of Human Services -
Division of Child and Family Services
From General Fund 129,901,600
From Federal Funds 66,891,300
From Dedicated Credits Revenue 1,533,900
From Expendable Receipts 268,900
From General Fund Restricted -
Children's Account 340,000
From General Fund Restricted - Choose
Life Adoption Support Account 100
From General Fund Restricted -
National Professional Men's Basketball
Team Support of Women and
Children Issues 100,000
From Revenue Transfers ..... (13,649,700)
Schedule of Programs:
Administration - DCFS 4,815,400
Adoption Assistance 21,037,600
Child Welfare Management
Information System 6,623,100
Children's Account 340,000
Domestic Violence 7,348,500
Facility-Based Services 4,445,700
In-Home Services 2,224,000
Minor Grants 7,924,200
Out-of-Home Care 6,241,500
Selected Programs 13,366,500
Service Delivery 85,478,700
Special Needs 2,129,000
Provider Payments 23,411,900

Of the appropriations provided by this item, $6,300 is to implement the provisions of Abuse, Neglect, and Dependency Proceedings Amendments (House Bill 33, 2020 General Session).

In accordance with UCA 63J-1-201, the Legislature intends that the Department of Human Services report performance measures for the Child and Family Services line item, whose mission is "to keep children

safe from abuse and neglect and provide domestic violence services by working with communities and strengthening families." The Department of Human Services shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measures for FY 2022: 1) Administrative performance: Percent satisfactory outcomes on Qualitative Case Reviews for Child Status and System Performance (Target = 85%/85%), 2) Child Protective Services: Absence of maltreatment recurrence within 6 months (Target = 94.6%), and 3) Out-of-home services: Percent of cases closed to permanency outcome/median months closed to permanency (Target = 90%/12 months).

Item 70

To Department of Human Services -
Executive Director Operations
From General Fund 11,214,200
From Federal Funds 8,254,300
From Dedicated Credits Revenue 1,169,400
From Revenue Transfers 3,333,400
Schedule of Programs:
Executive Director's Office 7,783,800
Fiscal Operations 2,400,300
Human Resources 34,400
Information Technology 1,638,400
Legal Affairs 1,248,100
Local Discretionary Pass-Through 1,140,700
Office of Licensing 4,699,300
Office of Quality and Design 4,096,700
Utah Developmental Disabilities Council 629,600
Utah Marriage Commission 300,000

In accordance with UCA 63J-1-201, the Legislature intends that the Department of Human Services report performance measures for the Executive Director Operations line item, whose mission is "to strengthen lives by providing children, youth, families and adults individualized services to thrive in their homes, schools and communities." The Department of Human Services shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measures for FY 2022: 1) Office of Quality and Design: Percent of contracted providers who meet or exceed the Department of Human Services quality standard (Target = 85%), 2) Office of Licensing: Initial foster care homes licensed within three months of application completion (Target = 96%), and 3) System of Care: Percent of children placed in residential treatment out of children at-risk for out-of-home placement (Target = 10%).

Item 71

To Department of Human Services -
Office of Public Guardian
From General Fund 696,300
From General Fund, One-Time ..... (23,200)
From Federal Funds 40,000
From Revenue Transfers 428,100
From Revenue Transfers, One-Time ..... (15,600)
Schedule of Programs:
Office of Public Guardian 1,125,600

In accordance with UCA 63J-1-201, the Legislature intends that the Department of Human Services report performance measures for the Office of Public Guardian line item, whose mission is "to ensure quality coordinated services in the least restrictive, most community-based environment to meet the safety and treatment needs of those we serve while maximizing independence and community and family involvement." The Department of Human Services shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measures for FY 2022: 1) Percent of cases transferred to a family member or associate (Target = 10%), 2) Annual cumulative score on quarterly case process reviews (Target = 85%), and 3) Percent reduction in the amount of time taken to process open referrals (Target = 25%).

Item 72

To Department of Human Services -
Office of Recovery Services
From General Fund 14,089,900
From Federal Funds 21,631,800
From Dedicated Credits Revenue 4,415,300
From Medicaid Expansion Fund 50,400
From Revenue Transfers 2,960,300
Schedule of Programs:
Administration - ORS ..... (819,100)
Attorney General Contract 4,712,700
Child Support Services 20,680,400
Children in Care Collections 664,900
Electronic Technology 11,926,300
Financial Services 2,618,400
Medical Collections 3,364,100

In accordance with UCA 63J-1-201, the Legislature intends that the Department of Human Services report performance measures for the Office of Recovery Services line item, whose mission is "to serve children and families by promoting independence by providing services on behalf of children and families in obtaining financial and medical support, through locating parents, establishing paternity and support obligations, and enforcing those obligations when necessary." The Department of Human Services shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of

performance measures established in FY 2021 appropriations bills and the current status of the following performance measures for FY 2022: 1) Statewide Paternity Establishment Percentage (PEP Score) (Target = 90%), 2) Child support services: Percent of support paid (Target = 70.3%), and 3) Ratio of collections to cost (Target = > $6.25 to $1).

Item 73

To Department of Human Services - Division of Services for People with Disabilities
From General Fund 140,252,900
From General Fund, One-Time ..... (1,674,200)
From Federal Funds 1,141,100
From Dedicated Credits Revenue 1,838,400
From Expendable Receipts 1,100,000
From Revenue Transfers 288,084,500
From Revenue Transfers, One-Time ..... (3,158,800)
Schedule of Programs:
Acquired Brain Injury Waiver 7,766,200
Administration - DSPD 5,397,500
Community Supports Waiver 339,126,100
Non-waiver Services 2,647,100
Physical Disabilities Waiver 2,757,400
Service Delivery 7,343,000
Utah State Developmental Center 43,248,700
Limited Supports Waiver 439,800
Community Transitions Waiver 18,858,100

In accordance with UCA 63J-1-201, the Legislature intends that the Department of Human Services report performance measures for the Services for People with Disabilities line item, whose mission is "to promote opportunities and provide supports for persons with disabilities to lead self-determined lives." The Department of Human Services shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measures for FY 2022: 1) Community-based services: Percent of providers meeting fiscal and non-fiscal requirements of contract (Target = 100%), 2) Community-based services: Percent of individuals who report that their supports and services help them lead a good life (National Core Indicators In-Person Survey) (Target=100%), and 3) Utah State Developmental Center: Percent of maladaptive behaviors reduced from time of admission to discharge (Target = 80%).

Under Subsection 62A-5-102(7)(a) of the Utah Code, the Legislature intends that the Division of Services for People with Disabilities (DSPD) use Fiscal Year 2022 beginning nonlapsing funds to provide services for individuals needing emergency services, individuals needing additional waiver services, individuals who turn 18 years old and leave state custody from the Divisions of Child and Family Services and Juvenile Justice Services, individuals court ordered into DSPD services, to provide increases to providers for direct care staff salaries, and for facility repairs, maintenance, and improvements. The Legislature further intends DSPD report to the Office of Legislative Fiscal Analyst by October 15, 2022 on the use of these nonlapsing funds.

Item 74

To Department of Human Services - Division of Substance Abuse and Mental Health
From General Fund 138,133,200
From Federal Funds 35,162,000
From Federal Funds - CARES Act 506,600
From Dedicated Credits Revenue 5,162,200
From Expendable Receipts 184,000
From General Fund Restricted - Electronic Cigarette Substance and Nicotine Product Tax Restricted Account 261,400
From General Fund Restricted - Psychiatric Consultation Program Account 275,000
From General Fund Restricted - Survivors of Suicide Loss Account 40,000
From General Fund Restricted - Tobacco Settlement Account 1,121,200
From Revenue Transfers 17,760,200
Schedule of Programs:
Administration - DSAMH 3,419,200
Community Mental Health Services 32,269,300
Driving Under the Influence (DUI) Fines 1,230,100
Drug Courts 3,192,000
Local Substance Abuse Services 27,808,100
Mental Health Centers 39,050,100
Residential Mental Health Services 679,400
State Hospital 75,989,800
State Substance Abuse Services 14,967,800

Of the appropriations provided by this item, $306,000 is to implement the provisions of Fetal Exposure Reporting and Treatment Amendments (House Bill 244, 2020 General Session).

In accordance with UCA 63J-1-201, the Legislature intends that the Department of Human Services report performance measures for the Substance Abuse and Mental Health line item, whose mission is "to promote hope, health and healing, by reducing the impact of substance abuse and mental illness to Utah citizens, families and communities." The Department of Human Services shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measures for FY 2022: 1) Local substance abuse

services: Percent of clients successfully completing treatment (Target = 60%), 2) Mental health centers: Percent of clients stable, improved, or in recovery while in current treatment (Adult and Youth Outcomes Questionnaire) (Target = 84%), and 3) Utah State Hospital: Percent of forensic patients found competent to proceed with trial (Target = 65%).

DEPARTMENT OF WORKFORCE SERVICES

Item 75

To Department of Workforce Services – Administration
From General Fund 4,040,500
From Federal Funds 9,085,100
From Dedicated Credits Revenue 140,000
From Expendable Receipts 71,200
From Gen. Fund Rest. – Homeless Housing Reform Rest. Acct 20,100
From Housing Opportunities for Low Income Households 5,000
From Navajo Revitalization Fund 10,300
From Olene Walker Housing Loan Fund 5,000
From OWHT-Fed Home 5,000
From OWHTF-Low Income Housing 5,000
From Permanent Community Impact Loan Fund 148,100
From Qualified Emergency Food Agencies Fund 4,000
From General Fund Restricted – School Readiness Account 16,800
From Revenue Transfers 2,428,100
From Uintah Basin Revitalization Fund 3,500
Schedule of Programs:
Administrative Support 10,453,700
Communications 1,390,600
Executive Director's Office 1,075,600
Human Resources 1,664,200
Internal Audit 1,403,600

In accordance with UCA 63J-1-201, the Legislature intends that the Department of Workforce Services report performance measures for the Administration line item, whose mission is to "be the best-managed State Agency in Utah." The Department of Workforce Services shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measures for FY 2022: (1) provide accurate and timely department-wide fiscal administration (Target: manage, account and reconcile all funds within State Finance close out time lines and with zero audit findings); (2) percent of DWS programs/systems that have reviewed, planned for, or mitigated identified risks (target: 100%); and (3) percent of DWS facilities for which an annual facilities risk assessment is completed using the Division of Risk Management guidelines and checklist (target: 98%).

Item 76

To Department of Workforce Services – Community Development Capital Budget
From Permanent Community Impact Loan Fund 93,060,000
Schedule of Programs:
Community Impact Board 93,060,000

Item 77

To Department of Workforce Services – General Assistance
From General Fund 4,758,100
From Revenue Transfers 251,200
Schedule of Programs:
General Assistance 5,009,300

In accordance with UCA 63J-1-201, the Legislature intends that the Department of Workforce Services report performance measures for the General Assistance line item, whose mission is to "provide temporary financial assistance to disabled adults without dependent children to support basic living needs as they seek longer term financial benefits through SSI/SSDI or employment." The Department of Workforce Services shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measures for FY 2022: (1) positive closure rate (SSI achievement or closed with earnings) (Target = 58%), (2) General Assistance average monthly customers served (Target = 730), and (3) internal review compliance accuracy (Target = 90%).

Item 78

To Department of Workforce Services – Housing and Community Development
From General Fund 3,126,200
From Federal Funds 44,201,600
From Federal Funds, One-Time 121,000,000
From Dedicated Credits Revenue 827,700
From Dedicated Credits Revenue, One-Time 51,400,000
From Expendable Receipts 1,027,700
From Gen. Fund Rest. – Pamela Atkinson Homeless Account 2,396,500
From Gen. Fund Rest. – Homeless Housing Reform Rest. Acct 12,790,500
From General Fund Restricted – Homeless Shelter Cities Mitigation Restricted Account 5,303,600
From Housing Opportunities for Low Income Households 501,900
From Navajo Revitalization Fund 60,600
From Olene Walker Housing Loan Fund 501,900
From OWHT-Fed Home 501,900
From OWHTF-Low Income Housing 501,900
From Permanent Community Impact Loan Fund 1,319,600

From Qualified Emergency Food Agencies Fund 37,000
From Revenue Transfers 553,600
From Uintah Basin Revitalization Fund 43,500
Schedule of Programs:
Community Development 6,869,400
Community Development Administration 1,149,200
Community Services 3,815,500
HEAT 21,125,900
Homeless Committee 27,072,800
Housing Development 176,494,400
Weatherization Assistance 9,568,500

In accordance with UCA 63J-1-201, the Legislature intends that the Department of Workforce Services report performance measures for the Housing and Community Development line item, whose mission is to "actively partner with other state agencies, local government, nonprofits, and the private sector to build local capacity, fund services and infrastructure, and to leverage federal and state resources for critical programs." The Department of Workforce Services shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measures for FY 2022: (1) utilities assistance for low-income households - number of eligible households assisted with home energy costs (Target = 28,000 households), (2) Weatherization Assistance - number of low income households assisted by installing permanent energy conservation measures in their homes (Target = 504 homes), and (3) Homelessness Programs - reduce the average length of stay in Emergency Shelters (Target 10%).

Item 79
To Department of Workforce Services - Nutrition Assistance - SNAP
From Federal Funds 250,000,000
Schedule of Programs:
Nutrition Assistance - SNAP 250,000,000

In accordance with UCA 63J-1-201, the Legislature intends that the Department of Workforce Services report performance measures for the Nutrition Assistance line item, whose mission is to "provide accurate and timely Supplemental Nutrition Assistance Program (SNAP) benefits to eligible low-income individuals and families." The Department of Workforce Services shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measures for FY 2022: (1) Federal SNAP Quality Control Accuracy - Actives (Target= 97%), (2) Food Stamps - Certification Timeliness (Target = 95%), and (3) Food Stamps - Certification Days to Decision (Target = 12 days).

Item 80
To Department of Workforce Services - Operations and Policy
From General Fund 51,717,800
From Federal Funds 249,240,200
From Federal Funds, One-Time 92,000,000
From Dedicated Credits Revenue 1,413,300
From Expendable Receipts 1,027,800
From Gen. Fund Rest. - Homeless Housing Reform Rest. Acct 38,400
From Housing Opportunities for Low Income Households 2,000
From Medicaid Expansion Fund 3,290,600
From Navajo Revitalization Fund 7,000
From Olene Walker Housing Loan Fund 2,000
From OWHT-Fed Home 2,000
From OWHTF-Low Income Housing 4,100
From Permanent Community Impact Loan Fund 253,100
From Qualified Emergency Food Agencies Fund 2,500
From General Fund Restricted - School Readiness Account 8,981,500
From Revenue Transfers 59,449,200
From Uintah Basin Revitalization Fund 2,800
Schedule of Programs:
Child Care Assistance 154,000,000
Eligibility Services 81,568,000
Facilities and Pass-Through 7,907,600
Information Technology 41,825,800
Nutrition Assistance 96,000
Other Assistance 294,600
Refugee Assistance 7,400,000
Temporary Assistance for Needy Families 70,088,100
Trade Adjustment Act Assistance 1,500,000
Utah Data Research Center 1,394,800
Workforce Development 94,092,200
Workforce Investment Act Assistance 4,530,000
Workforce Research and Analysis 2,737,200

In accordance with UCA 63J-1-201, the Legislature intends that the Department of Workforce Services report performance measures for the Operations and Policy line item, whose mission is to "meet the needs of our customers with responsive, respectful and accurate service." The Department of Workforce Services shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measures for FY 2022: (1) labor exchange - total job placements (Target = 30,000 placements per calendar quarter), (2) TANF recipients -

positive closure rate (Target = 72% per calendar month), (3) Eligibility Services – internal review compliance accuracy (Target = 95%), and (4) Utah Data Research Center– provision of statutory reports related to the center's research priorities for the year, research completed the previous year, and ongoing research priority list.

Item 81

To Department of Workforce Services – Special Service Districts
From General Fund Restricted – Mineral Lease 3,015,800
Schedule of Programs:
Special Service Districts 3,015,800

In accordance with UCA 63J–1–201, the Legislature intends that the Department of Workforce Services report performance measure for the Special Service Districts line item, whose mission is "aligned with the Housing and Community Development Division, which actively partners with other state agencies, local government, nonprofits, and the private sector to build local capacity, fund services and infrastructure, and to leverage federal and state resources for critical programs." The Department of Workforce Services shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measures for FY 2022: the total pass through of funds to qualifying special service districts in counties of the 5th, 6th and 7th class (that this is completed quarterly).

Item 82

To Department of Workforce Services – State Office of Rehabilitation
From General Fund 22,005,100
From Federal Funds 50,423,100
From Dedicated Credits Revenue 545,200
From Expendable Receipts 404,200
From Gen. Fund Rest. – Homeless Housing Reform Rest. Acct 500
From Housing Opportunities for Low Income Households 1,000
From Navajo Revitalization Fund 500
From Olene Walker Housing Loan Fund 1,000
From OWHT–Fed Home 1,000
From OWHTF–Low Income Housing 1,000
From Permanent Community Impact Loan Fund 2,300
From Qualified Emergency Food Agencies Fund 500
From General Fund Restricted – School Readiness Account 400
From Revenue Transfers 34,500
From Uintah Basin Revitalization Fund 500
From Beginning Nonlapsing Balances 7,000,000
From Closing Nonlapsing Balance .... (7,000,000)
Schedule of Programs:
Blind and Visually Impaired 3,814,500
Deaf and Hard of Hearing 3,127,500
Disability Determination 15,825,800
Executive Director 1,051,100
Rehabilitation Services 49,601,900

In accordance with UCA 63J–1–201, the Legislature intends that the Department of Workforce Services report performance measures for its Utah State Office of Rehabilitation line item, whose mission is to "empower clients and provide high quality services that promote independence and self–fulfillment through its programs." The Department of Workforce Services shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measures for FY 2022: (1) Vocational Rehabilitation – Percentage of all VR clients receiving services who are eligible or potentially eligible youth (ages 14–24) (Target >=39.8%), (2) Vocational Rehabilitation – maintain or increase a successful rehabilitation closure rate (Target = 55%), and (3) Deaf and Hard of Hearing – Increase in the number of individuals served by DSDHH programs (Target = 8,000).

Item 83

To Department of Workforce Services – Unemployment Insurance
From General Fund 866,900
From Federal Funds 19,954,500
From Federal Funds, One–Time 1,785,000
From Dedicated Credits Revenue 507,000
From Expendable Receipts 30,700
From Gen. Fund Rest. – Homeless Housing Reform Rest. Acct 1,000
From Housing Opportunities for Low Income Households 1,000
From Navajo Revitalization Fund 500
From Olene Walker Housing Loan Fund 1,000
From OWHT–Fed Home 1,000
From OWHTF–Low Income Housing 1,000
From Permanent Community Impact Loan Fund 7,200
From Qualified Emergency Food Agencies Fund 500
From General Fund Restricted – School Readiness Account 1,200
From Revenue Transfers 123,600
From Uintah Basin Revitalization Fund 500
Schedule of Programs:
Adjudication 3,790,600
Unemployment Insurance Administration 19,492,000

In accordance with UCA 63J–1–201, the Legislature intends that the Department of Workforce Services report performance

measures for the Unemployment Insurance line item, whose mission is to "accurately assess eligibility for unemployment benefits and liability for employers in a timely manner." The Department of Workforce Services shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measures for FY 2022: (1) percentage of new employer status determinations made within 90 days of the last day in the quarter in which the business became liable (Target => 95.5%), (2) percentage of Unemployment Insurance separation determinations with quality scores equal to or greater than 95 points, based on the evaluation results of quarterly samples selected from all determinations (Target => 90%), and (3) percentage of Unemployment Insurance benefits payments made within 14 days after the week ending date of the first compensable week in the benefit year (Target => 95%).

Subsection 2(b). Expendable Funds and Accounts. The Legislature has reviewed the following expendable funds. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated. Outlays and expenditures from the funds or accounts to which the money is transferred may be made without further legislative action, in accordance with statutory provisions relating to the funds or accounts.

DEPARTMENT OF HEALTH

Item 84
To Department of Health - Organ Donation Contribution Fund
From Dedicated Credits Revenue 112,300
From Interest Income 6,500
From Beginning Fund Balance 132,400
From Closing Fund Balance ..... (61,200)
Schedule of Programs:
Organ Donation Contribution Fund 190,000

In accordance with UCA 63J-1-201, the Legislature intends that the Department of Health report on the following performance measures for the Organ Donation Contribution Fund, whose mission is "Promote and support organ donation, assist in maintaining and operation a statewide organ donation registry, and provide donor awareness education." The Department of Health shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measures for FY 2022: 1) increase Division of Motor Vehicles/Drivers License Division donations from a base of $90,000 (Target = 3%); 2) increase donor registrants from a base of 1.5 million (Target = 2%); and 3) increase donor awareness education by obtaining one new audience (Target = 1).

Item 85
To Department of Health - Spinal Cord and Brain Injury Rehabilitation Fund
From Dedicated Credits Revenue 352,500
From Beginning Fund Balance 789,100
From Closing Fund Balance ..... (789,100)
Schedule of Programs:
Spinal Cord and Brain Injury Rehabilitation Fund 352,500

In accordance with UCA 63J-1-201, the Legislature intends that the Department of Health report on the following performance measures for the Spinal Cord and Brain Injury Rehabilitation Fund, whose mission is "The Violence and Injury Prevention Program is a trusted and comprehensive resource for data related to violence and injury. Through education, this information helps promote partnerships and programs to prevent injuries and improve public health." The Department of Health shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measures for FY 2022: 1) number of clients that received an intake assessment (Target = 101); 2) number of physical, speech or occupational therapy services provided (Target = 4,000); and 3) percent of clients that returned to work and/or school (Target = 50%).

Item 86
To Department of Health - Traumatic Brain Injury Fund
From General Fund 200,000
From Beginning Fund Balance 582,200
From Closing Fund Balance ..... (416,000)
Schedule of Programs:
Traumatic Brain Injury Fund 366,200

In accordance with UCA 63J-1-201, the Legislature intends that the Department of Health report on the following performance measures for the Traumatic Brain Injury Fund, whose mission is "The Violence and Injury Prevention Program is a trusted and comprehensive resource for data related to violence and injury. Through education, this information helps promote partnerships and programs to prevent injuries and improve public health." The Department of Health shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measures for FY 2022: 1) number of individuals with traumatic brain injury that received resource facilitation services through the Traumatic

Brain Injury Fund contractors (Target = 150); 2) number of Traumatic Brain Injury Fund clients referred for a neuro-psych exam or MRI (Magnetic Resonance Imaging) that receive an exam (Target = 40); and 3) number of community and professional education presentations and trainings (Target = 60).

Item 87
To Department of Health -
Pediatric Neuro-Rehabilitation Fund

In accordance with UCA 63J-1-201, the Legislature intends that the Department of Health report on the following performance measures for the Pediatric Neuro-Rehabilitation Fund, whose mission is "The Violence and Injury Prevention Program is a trusted and comprehensive resource for data related to violence and injury. Through education, this information helps promote partnerships and programs to prevent injuries and improve public health." The Department of Health shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measures for FY 2022: 1) Number of children that received an intake assessment (Target = 30); 2) Percentage of children that had an increase in activity (Target = 70%); and 3) Percentage of children that had an increase in body/function (Target = 70%).

DEPARTMENT OF HUMAN SERVICES

Item 88
To Department of Human Services - Out and About Homebound Transportation Assistance Fund
From Dedicated Credits Revenue 37,800
From Interest Income 2,200
From Beginning Fund Balance 144,100
From Closing Fund Balance ..... (144,100)
Schedule of Programs:
Out and About Homebound
Transportation Assistance Fund 40,000

In accordance with UCA 63J-1-201, the Legislature intends that the Department of Human Services report performance measures for the Out and About Homebound Transportation Assistance Fund. The Department of Human Services shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measures for FY 2022: 1) Number of internal reviews completed for compliance with statute, federal regulations, and other requirements (Target = 1).

Item 89
To Department of Human Services -
Utah State Developmental Center
Long-Term Sustainability Fund
From Dedicated Credits Revenue 7,637,000
From Interest Income 14,500
From Revenue Transfers 38,700
From Beginning Fund Balance 1,839,000
From Closing Fund Balance ..... (1,839,000)
Schedule of Programs:
Utah State Developmental Center
Long-Term Sustainability Fund ... 7,690,200

In accordance with UCA 63J-1-201, the Legislature intends that the Department of Human Services report performance measures for the State Developmental Center Long-Term Sustainability Fund. The Department of Human Services shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measures for FY 2022: 1) Number of internal reviews completed for compliance with statute, federal regulations, and other requirements (Target = 1).

Item 90
To Department of Human Services -
Utah State Developmental Center
Miscellaneous Donation Fund
From Dedicated Credits Revenue 120,000
From Interest Income 13,000
From Beginning Fund Balance 589,000
From Closing Fund Balance ..... (589,000)
Schedule of Programs:
Utah State Developmental Center
Miscellaneous Donation Fund 133,000

In accordance with UCA 63J-1-201, the Legislature intends that the Department of Human Services report performance measures for the State Developmental Center Miscellaneous Donation Fund. The Department of Human Services shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measures for FY 2022: 1) Number of internal reviews completed for compliance with statute, federal regulations, and other requirements (Target = 1).

Item 91
To Department of Human Services -
Utah State Developmental
Center Workshop Fund
From Dedicated Credits Revenue 137,000
From Beginning Fund Balance 17,700
From Closing Fund Balance ..... (17,700)
Schedule of Programs:
Utah State Developmental Center
Workshop Fund 137,000

In accordance with UCA 63J-1-201, the Legislature intends that the Department of Human Services report performance measures for the State Developmental Center Workshop Fund. The Department of Human Services shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measures for FY 2022: 1) Number of internal reviews completed for compliance with statute, federal regulations, and other requirements (Target = 1).

Item 92

To Department of Human Services - Utah State Hospital Unit Fund
From Dedicated Credits Revenue 63,200
From Interest Income 4,000
From Beginning Fund Balance 273,900
From Closing Fund Balance ..... (273,900)
Schedule of Programs:
Utah State Hospital Unit Fund 67,200

In accordance with UCA 63J-1-201, the Legislature intends that the Department of Human Services report performance measures for the State Hospital Unit Fund. The Department of Human Services shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measures for FY 2022: 1) Number of internal reviews completed for compliance with statute, federal regulations, and other requirements (Target = 1).

Item 93

To Department of Human Services - Mental Health Services Donation Fund
From General Fund 100,000
Schedule of Programs:
Mental Health Services Donation Fund 100,000

In accordance with UCA 63J-1-201, the Legislature intends that the Department of Human Services report performance measures for the Mental Health Services Donation Fund. The Department of Human Services shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measures for FY 2022: 1) Number of internal reviews completed for compliance with statute, federal regulations, and other requirements (Target = 1).

DEPARTMENT OF WORKFORCE SERVICES

Item 94

To Department of Workforce Services - Individuals with Visual Impairment Fund
From Dedicated Credits Revenue 45,700
From Interest Income 18,500
From Beginning Fund Balance 1,218,700
From Closing Fund Balance ..... (1,217,900)
Schedule of Programs:
Individuals with Visual Impairment Fund 65,000

In accordance with UCA 63J-1-201, the Legislature intends that the Department of Workforce Services report performance measures for the Individuals with Visual Impairment Fund, whose mission is to "assist blind and visually impaired individuals in achieving their highest level of independence, participation in society and employment consistent with individual interests, values, preferences and abilities." The Department of Workforce Services shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measures for FY 2022: (1) grantees will maintain or increase the number of individuals served (Target=>165), and (2) grantees will maintain or increase the number of services provided (Target =>906).

Item 95

To Department of Workforce Services - Intermountain Weatherization Training Fund
From Dedicated Credits Revenue 69,800
From Beginning Fund Balance 3,500
From Closing Fund Balance ..... (3,500)
Schedule of Programs:
Intermountain Weatherization Training Fund 69,800

In accordance with UCA 63J-1-201, the Legislature intends that the Department of Workforce Services report performance measures for the Intermountain Weatherization Training Fund, whose mission is "aligned with the Housing and Community Development Division, which actively partners with other state agencies, local government, nonprofits, and the private sector to build local capacity, fund services and infrastructure, and to leverage federal and state resources for critical programs." The Department of Workforce Services shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measures for FY 2022: number of individuals trained each year (Target => 6).

Item 96
To Department of Workforce Services – Navajo Revitalization Fund
From Dedicated Credits Revenue 115,800
From Interest Income 150,000
From Other Financing Sources 1,000,000
From Beginning Fund Balance 8,766,500
From Closing Fund Balance ..... (8,316,500)
Schedule of Programs:
Navajo Revitalization Fund 1,715,800

In accordance with UCA 63J-1-201, the Legislature intends that the Department of Workforce Services report performance measure for the Navajo Revitalization Fund, whose mission is "aligned with the Housing and Community Development Division, which actively partners with other state agencies, local government, nonprofits, and the private sector to build local capacity, fund services and infrastructure, and to leverage federal and state resources for critical programs." The Department of Workforce Services shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measures for FY 2022: provide support to Navajo Revitalization Board with resources and data to enable allocation of new and re-allocated funds to improve quality of life for those living on the Utah portion of the Navajo Reservation (Target = allocate annual allocation from tax revenues within one year).

Item 97
To Department of Workforce Services – Permanent Community Impact Bonus Fund
From Interest Income 8,802,100
From Gen. Fund Rest. – Land Exchange Distribution Account 100
From General Fund Restricted – Mineral Bonus 8,342,200
From Beginning Fund Balance 425,034,500
From Closing Fund Balance ..... (435,583,400)
Schedule of Programs:
Permanent Community Impact Bonus Fund 6,595,500

Item 98
To Department of Workforce Services – Permanent Community Impact Fund
From Dedicated Credits Revenue 1,200,000
From Interest Income 4,275,000
From General Fund Restricted – Mineral Lease 25,467,900
From Gen. Fund Rest. – Land Exchange Distribution Account 11,500
From Beginning Fund Balance 197,372,300
From Closing Fund Balance ..... (178,326,700)
Schedule of Programs:
Permanent Community Impact Fund 50,000,000

In accordance with UCA 63J-1-201, the Legislature intends that the Department of Workforce Services report performance measures for the Permanent Community Impact Fund, whose mission is "aligned with the Housing and Community Development Division, which actively partners with other state agencies, local government, nonprofits, and the private sector to build local capacity, fund services and infrastructure, and to leverage federal and state resources for critical programs." The Department of Workforce Services shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measures for FY 2022: (1) new receipts invested in communities annually (Target = 100%), (2) The Community Impact Board funds the Regional Planning Program and community development specialists, who provide technical assistance, prepare tools, guides, and resources to ensure communities meet compliance with land use planning regulations (Target = 24 communities assisted), and (3) Maintain a minimum ratio of loan-to-grant funding for CIB projects (Target: At least 45% of loans to 55% grants).

Item 99
To Department of Workforce Services – Qualified Emergency Food Agencies Fund
From Designated Sales Tax 540,000
From Revenue Transfers 375,000
Schedule of Programs:
Emergency Food Agencies Fund 915,000

In accordance with UCA 63J-1-201, the Legislature intends that the Department of Workforce Services report performance measures for the Qualified Emergency Food Agencies Fund, whose mission is "aligned with the Housing and Community Development Division, which actively partners with other state agencies, local government, nonprofits, and the private sector to build local capacity, fund services and infrastructure, and to leverage federal and state resources for critical programs." The Department of Workforce Services shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measures for FY 2022: (1) The number of households served by QEFAF agencies (Target: 50,000) and (2) Percent of QEFAF program funds obligated to QEFAF agencies (Target: 100% of funds obligated).

Item 100
To Department of Workforce Services – Uintah Basin Revitalization Fund
From Dedicated Credits Revenue 220,000
From Interest Income 200,000
From Other Financing Sources 7,000,000

From Beginning Fund Balance 14,762,200
From Closing Fund Balance ..... (14,562,200)
Schedule of Programs:
Uintah Basin Revitalization
Fund 7,620,000

In accordance with UCA 63J-1-201, the Legislature intends that the Department of Workforce Services report performance measure for the Uintah Basin Revitalization Fund, whose mission is "aligned with the Housing and Community Development Division, which actively partners with other state agencies, local government, nonprofits, and the private sector to build local capacity, fund services and infrastructure, and to leverage federal and state resources for critical programs." The Department of Workforce Services shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measures for FY 2022: provide Revitalization Board with support, resources and data to allocate new and re-allocated funds to improve the quality of life for those living in the Uintah Basin (Target = allocate annual allocation from tax revenues within one year).

Item 101
To Department of Workforce Services -
Utah Community Center for the Deaf Fund
From Dedicated Credits Revenue 5,000
From Interest Income 2,000
From Beginning Fund Balance 21,900
From Closing Fund Balance ..... (22,700)
Schedule of Programs:
Utah Community Center for
the Deaf Fund 6,200

In accordance with UCA 63J-1-201, the Legislature intends that the Department of Workforce Services report performance measures for the Utah Community Center for the Deaf Fund, whose mission is to "provide services in support of creating a safe place, with full communication where every Deaf, Hard of Hearing and Deafblind person is embraced by their community and supported to grow to their full potential." The Department of Workforce Services shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measures for FY 2022: (1) increase the number of individuals accessing interpreter certification exams in Southern Utah (Target: 25).

Item 102
To Department of Workforce Services -
Olene Walker Low Income Housing
From General Fund 2,242,900
From Federal Funds 6,000,000
From Dedicated Credits Revenue 20,000
From Interest Income 3,080,000
From Revenue Transfers ..... (800,000)
From Beginning Fund Balance 166,838,300
From Closing Fund Balance ..... (173,665,700)
Schedule of Programs:
Olene Walker Low Income
Housing 3,715,500

In accordance with UCA 63J-1-201, the Legislature intends that the Department of Workforce Services report performance measures for the Olene Walker Housing Loan Fund, whose mission is "aligned with the Housing and Community Development Division, which actively partners with other state agencies, local government, nonprofits, and the private sector to build local capacity, fund services and infrastructure, and to leverage federal and state resources for critical programs." The Department of Workforce Services shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measures for FY 2022: (1) housing units preserved or created (Target = 811), (2) construction jobs preserved or created (Target = 2,111), and (3) leveraging of other funds in each project to Olene Walker Housing Loan Fund monies (Target = 15:1).

Subsection 2(c). Business-like Activities. The Legislature has reviewed the following proprietary funds. Under the terms and conditions of Utah Code 63J-1-410, for any included Internal Service Fund, the Legislature approves budgets, full-time permanent positions, and capital acquisition amounts as indicated, and appropriates to the funds, as indicated, estimated revenue from rates, fees, and other charges. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated.

DEPARTMENT OF HEALTH

Item 103
To Department of Health - Qualified
Patient Enterprise Fund
From Dedicated Credits Revenue 2,067,400
From Revenue Transfers ..... (1,500,000)
From Beginning Fund Balance 2,015,600
From Closing Fund Balance ..... (1,515,000)
Schedule of Programs:
Qualified Patient Enterprise Fund .. 1,068,000

DEPARTMENT OF WORKFORCE SERVICES

Item 104
To Department of Workforce Services - Economic
Revitalization and Investment Fund
From Interest Income 100,000
From Beginning Fund Balance 2,161,000
From Closing Fund Balance ..... (2,261,000)

Item 105
To Department of Workforce Services - State Small Business Credit Initiative Program Fund
From Interest Income 123,600
From Beginning Fund Balance 4,203,300
From Closing Fund Balance ..... (4,326,900)

In accordance with UCA 63J-1-201, the Legislature intends that the Department of Workforce Services report performance measures for the State Small Business Credit Initiative Program Fund, whose mission is "aligned with the Housing and Community Development Division, which actively partners with other state agencies, local government, nonprofits, and the private sector to build local capacity, fund services and infrastructure, and to leverage federal and state resources for critical programs." The Department of Workforce Services shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measures for FY 2022: Minimize loan losses (Target <3%).

Item 106
To Department of Workforce Services - Unemployment Compensation Fund
From Federal Funds 1,269,500
From Dedicated Credits Revenue 18,557,800
From Trust and Agency Funds 205,579,400
From Beginning Fund Balance 1,727,388,700
From Closing Fund Balance ..... (1,626,931,200)
Schedule of Programs:
Unemployment Compensation Fund 325,864,200

In accordance with UCA 63J-1-201, the Legislature intends that the Department of Workforce Services report performance measures for the Unemployment Compensation Fund, whose mission is to "monitor the health of the Utah Unemployment Trust Fund within the context of statute and promote a fair and even playing field for employers." The Department of Workforce Services shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measures for FY 2022: (1) Unemployment Insurance Trust Fund balance is greater than the minimum adequate reserve amount and less than the maximum adequate reserve amount per the annual calculations defined in Utah Code, (2) the average high cost multiple is the Unemployment Insurance Trust Fund balance as a percentage of total Unemployment Insurance wages divided by the average high cost rate (Target => 1), and (3) contributory employers Unemployment Insurance contributions due paid timely (Target => 95%).

Subsection 2(d). Restricted Fund and Account Transfers. The Legislature authorizes the State Division of Finance to transfer the following amounts between the following funds or accounts as indicated. Expenditures and outlays from the funds to which the money is transferred must be authorized by an appropriation.

Item 107
To Ambulance Service Provider Assessment Expendable Revenue Fund
From Dedicated Credits Revenue 3,217,400
Schedule of Programs:
Ambulance Service Provider Assessment Expendable Revenue Fund 3,217,400

In accordance with UCA 63J-1-201, the Legislature intends that the Department of Health report on the following performance measures for the Ambulance Service Provider Assessment Fund, whose mission is "Provide access to quality, cost-effective health care for eligible Utahans." The Department of Health shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measures for FY 2022: 1) percentage of providers invoiced (Target = 100%); 2) percentage of providers who have paid by the due date (Target => 85%); and 3) percentage of providers who have paid within 30 days after the due date (Target => 95%).

Item 108
To Hospital Provider Assessment Fund
From Dedicated Credits Revenue 56,045,500
Schedule of Programs:
Hospital Provider Assessment Expendable Special Revenue Fund 56,045,500

In accordance with UCA 63J-1-201, the Legislature intends that the Department of Health report on the following performance measures for the Hospital Provider Assessment Expendable Revenue Fund, whose mission is "Provide access to quality, cost-effective health care for eligible Utahans." The Department of Health shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measures for FY 2022: 1) percentage of hospitals invoiced (Target = 100%); 2) percentage of hospitals who have paid by the due date (Target => 85%); and 3) percentage of hospitals who have paid within 30 days after the due date (Target => 95%).

Item 109
To Medicaid Expansion Fund
From General Fund 1,446,200
From Dedicated Credits Revenue ... 119,600,000
From Expendable Receipts 298,000
From Beginning Fund Balance 113,944,900
From Closing Fund Balance ..... (116,708,400)
Schedule of Programs:
Medicaid Expansion Fund 118,580,700

In accordance with UCA 63J-1-201, the Legislature intends that the Department of Health report on the following performance measures for the Medicaid Expansion Fund, whose mission is "Provide access to quality, cost-effective health care for eligible Utahans." The Department of Health shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measures for FY 2022: 1) percentage of hospitals invoiced (Target = 100%); 2) percentage of hospitals who have paid by the due date (Target => 85%); and 3) percentage of hospitals who have paid within 30 days after the due date (Target => 95%).

Item 110
To Nursing Care Facilities Provider Assessment Fund
From Dedicated Credits Revenue 37,225,100
Schedule of Programs:
Nursing Care Facilities Provider Assessment Fund 37,225,100

In accordance with UCA 63J-1-201, the Legislature intends that the Department of Health report on the following performance measures for the Nursing Care Facilities Provider Assessment Fund, whose mission is "Provide access to quality, cost-effective health care for eligible Utahans." The Department of Health shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measures for FY 2022: 1) percentage of nursing facilities reporting by the due date (Target = 80%); 2) percentage of nursing facilities who have paid by the due date (Target = 85%); and 3) percentage of nursing facilities who have paid within 30 days after the due date (Target = 95%).

Item 111
To General Fund Restricted - Children's Hearing Aid Program Account
From General Fund 291,600
Schedule of Programs:
General Fund Restricted - Children's Hearing Aid Account 291,600

Item 112
To Adult Autism Treatment Account
From Dedicated Credits Revenue 500,000
Schedule of Programs:
Adult Autism Treatment Account 500,000

Item 113
To Emergency Medical Services System Account
From General Fund 1,500,000
Schedule of Programs:
Emergency Medical Services System Account 1,500,000

Item 114
To Psychiatric Consultation Program Account
From General Fund 275,000
Schedule of Programs:
Psychiatric Consultation Program Account 275,000

Item 115
To Survivors of Suicide Loss Account
From General Fund 40,000
Schedule of Programs:
Survivors of Suicide Loss Account 40,000

Item 116
To General Fund Restricted - Homeless Account
From General Fund 1,817,400
From Beginning Fund Balance 636,300
From Closing Fund Balance ..... (636,300)
Schedule of Programs:
General Fund Restricted - Pamela Atkinson Homeless Account 1,817,400

Item 117
To General Fund Restricted - Homeless to Housing Reform Account
From General Fund 12,850,000
Schedule of Programs:
General Fund Restricted - Homeless to Housing Reform Restricted Account 12,850,000

Item 118
To General Fund Restricted - School Readiness Account
From General Fund 3,000,000
From Beginning Fund Balance 5,169,000
From Closing Fund Balance ..... (3,804,700)
Schedule of Programs:
General Fund Restricted - School Readiness Account 4,364,300

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

DEPARTMENT OF HUMAN SERVICES

Item 119
To Department of Human Services - Human Services Client Trust Fund
From Interest Income 47,000
From Trust and Agency Funds 4,906,900
From Beginning Fund Balance 2,150,800
From Closing Fund Balance ..... (2,150,800)
Schedule of Programs:
Human Services Client Trust Fund 4,953,900

In accordance with UCA 63J-1-201, the Legislature intends that the Department of Human Services report performance measures for the Human Services Client Trust Fund. The Department of Human Services shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measures for FY 2022: 1) Number of internal reviews completed for compliance with statute, federal regulations, and other requirements (Target = 1).

Item 120
To Department of Human Services -
Human Services ORS Support Collections
From Trust and Agency Funds 212,842,300
Schedule of Programs:
Human Services ORS
Support Collections 212,842,300

In accordance with UCA 63J-1-201, the Legislature intends that the Department of Human Services report performance measures for the Human Services Office of Recovery Services (ORS) Support Collections fund. The Department of Human Services shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measures for FY 2022: 1) Number of internal reviews completed for compliance with statute, federal regulations, and other requirements (Target = 1).

Item 121
To Department of Human Services -
Maurice N. Warshaw Trust Fund
From Interest Income 4,300
From Beginning Fund Balance 157,700
From Closing Fund Balance ..... (157,700)
Schedule of Programs:
Maurice N. Warshaw Trust Fund 4,300

In accordance with UCA 63J-1-201, the Legislature intends that the Department of Human Services report performance measures for the Maurice N. Warshaw Trust Fund. The Department of Human Services shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measures for FY 2022: 1) Number of internal reviews completed for compliance with statute, federal regulations, and other requirements (Target = 1).

Item 122
To Department of Human Services - Utah State Developmental Center Patient Account
From Interest Income 3,000
From Trust and Agency Funds 2,002,900
From Beginning Fund Balance 897,200
From Closing Fund Balance ..... (897,200)
Schedule of Programs:
Utah State Developmental
Center Patient Account 2,005,900

In accordance with UCA 63J-1-201, the Legislature intends that the Department of Human Services report performance measures for the State Developmental Center Patient Account. The Department of Human Services shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measures for FY 2022: 1) Number of internal reviews completed for compliance with statute, federal regulations, and other requirements (Target = 1).

Item 123
To Department of Human Services - Utah State Hospital Patient Trust Fund
From Trust and Agency Funds 1,410,800
From Beginning Fund Balance 163,000
From Closing Fund Balance ..... (163,000)
Schedule of Programs:
Utah State Hospital Patient
Trust Fund 1,410,800

In accordance with UCA 63J-1-201, the Legislature intends that the Department of Human Services report performance measures for the State Hospital Patient Trust Fund. The Department of Human Services shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measures for FY 2022: 1) Number of internal reviews completed for compliance with statute, federal regulations, and other requirements (Target = 1).

DEPARTMENT OF WORKFORCE SERVICES

Item 124
To Department of Workforce Services - Individuals with Visual Impairment Vendor Fund
From Trust and Agency Funds 163,800
From Beginning Fund Balance 136,000
From Closing Fund Balance ..... (141,600)
Schedule of Programs:
Individuals with Visual Disabilities
Vendor Fund 158,200

In accordance with UCA 63J-1-201, the Legislature intends that the Department of Workforce Services report performance

measures for the Individuals with Visual Impairment Vendor Fund, whose mission is to "provide employment opportunities for qualified persons who are legally blind to manage manual food services, automated vending locations and other BEP selected businesses on federal, state and other public properties throughout the state." The Department of Workforce Services shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measures for FY 2022: (1) Fund will be used to assist different business locations with purchasing upgraded equipment (Target = 12), (2) Fund will be used to assist different business locations with repairing and maintaining of equipment (Target = 32), and (3) Maintain or increase total yearly contributions to the Business Enterprise Program Owner Set Aside Fund (part of the Visual Impairment Vendor fund) (Target = $70,000 yearly contribution amount).

Section 3. Effective Date.

If approved by two-thirds of all the members elected to each house, Section 1 of this bill takes effect upon approval by the Governor, or the day following the constitutional time limit of Utah Constitution Article VII, Section 8 without the Governor's signature, or in the case of a veto, the date of override. Section 2 of this bill takes effect on July 1, 2021.

CHAPTER 10
S. B. 8
Passed January 28, 2021
Approved February 4, 2021
Effective July 1, 2021

STATE AGENCY FEES AND INTERNAL SERVICE FUND RATE AUTHORIZATION AND APPROPRIATIONS

Chief Sponsor: Don L. Ipson
House Sponsor: Jefferson Moss

LONG TITLE

General Description:

This bill supplements or reduces appropriations otherwise provided for the support and operation of state government for the fiscal year beginning July 1, 2021 and ending June 30, 2022.

Highlighted Provisions:

This bill:

- provides budget increases and decreases for the use and support of certain state agencies and institutions of higher education;
- authorizes certain state agency fees;
- authorizes internal service fund rates;
- adjusts funding for the impact of Internal Service Fund rate changes; and,
- provides budget increases and decreases for other purposes as described.

Money Appropriated in this Bill:

This bill appropriates $5,125,000 in operating and capital budgets for fiscal year 2022, including:

- $1,792,300 from the General Fund;
- $2,097,400 from the Education Fund; and
- $1,235,300 from various sources as detailed in this bill.

This bill appropriates ($40,200) in expendable funds and accounts for fiscal year 2022.

This bill appropriates $300 in business-like activities for fiscal year 2022.

This bill appropriates $0 in restricted fund and account transfers for fiscal year 2022, including:

- $400 from the General Fund; and
- ($400) from various sources as detailed in this bill.

Other Special Clauses:

This bill takes effect on July 1, 2021.

Utah Code Sections Affected:

ENACTS UNCODIFIED MATERIAL

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

Section 1. FY 2022 Appropriations. The following sums of money are appropriated for the fiscal year beginning July 1, 2021 and ending June 30, 2022.

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

EXECUTIVE OFFICES AND CRIMINAL JUSTICE

ATTORNEY GENERAL

Item 1
To Attorney General
From General Fund 87,400
From Federal Funds 1,000
From Dedicated Credits Revenue 4,100
From Revenue Transfers 400
Schedule of Programs:
Administration 83,500
Child Protection 1,800
Civil 200
Criminal Prosecution 7,400

Item 2
To Attorney General - Children's Justice Centers
From General Fund 100
Schedule of Programs:
Children's Justice Centers 100

Item 3
To Attorney General - Prosecution Council
From General Fund 100
From Dedicated Credits Revenue 100
From Revenue Transfers 100
Schedule of Programs:
Prosecution Council 300

BOARD OF PARDONS AND PAROLE

Item 4
To Board of Pardons and Parole
From General Fund ..... (15,000)
Schedule of Programs:
Board of Pardons and Parole ..... (15,000)

UTAH DEPARTMENT OF CORRECTIONS

Item 5
To Utah Department of Corrections - Programs and Operations
From General Fund 649,900
From Federal Funds 400
From Dedicated Credits Revenue 2,800
Schedule of Programs:
Adult Probation and Parole Administration 116,700
Adult Probation and Parole Programs ... 37,500
Department Administrative Services .. 390,000
Department Training 100
Prison Operations Administration ..... (700)
Prison Operations Central Utah/Gunnison 115,600
Prison Operations Draper Facility 500
Prison Operations Inmate Placement 200
Programming Skill Enhancement ..... (4,600)
Programming Treatment ..... (2,200)

Item 6
To Utah Department of Corrections - Department Medical Services
From General Fund 6,300
From Dedicated Credits Revenue 200
Schedule of Programs:

Medical Services 6,500

JUDICIAL COUNCIL/ STATE COURT ADMINISTRATOR

Item 7
To Judicial Council/State Court Administrator – Administration
From General Fund 53,100
From Dedicated Credits Revenue 2,300
From General Fund Restricted – Children's Legal Defense 500
From General Fund Restricted – Court Trust Interest 1,900
From General Fund Restricted – Dispute Resolution Account 100
From General Fund Rest. – Justice Court Tech., Security & Training 600
From General Fund Restricted – Nonjudicial Adjustment Account 100
Schedule of Programs:
Administrative Office 43,500
Court of Appeals 600
Data Processing 1,100
District Courts 6,200
Judicial Education 100
Juvenile Courts 6,500
Law Library 200
Supreme Court 400

Item 8
To Judicial Council/State Court Administrator – Contracts and Leases
From General Fund 266,200
From Dedicated Credits Revenue 4,100
From General Fund Restricted – State Court Complex Account 70,800
Schedule of Programs:
Contracts and Leases 341,100

Item 9
To Judicial Council/State Court Administrator – Guardian ad Litem
From General Fund 1,100
From General Fund Restricted – Children's Legal Defense 100
Schedule of Programs:
Guardian ad Litem 1,200

Item 10
To Judicial Council/State Court Administrator – Jury and Witness Fees
From General Fund 100
Schedule of Programs:
Jury, Witness, and Interpreter 100

GOVERNORS OFFICE

Item 11
To Governors Office – Commission on Criminal and Juvenile Justice
From General Fund ..... (25,200)
From Federal Funds ..... (157,400)
From Dedicated Credits Revenue ..... (300)
From Crime Victim Reparations Fund ... (1,000)
Schedule of Programs:
CCJJ Commission ..... (44,800)
Extraditions 500
Judicial Performance Evaluation Commission ..... (800)
Utah Office for Victims of Crime .... (138,800)

Item 12
To Governors Office – Governor's Office
From General Fund ..... (9,400)
From Dedicated Credits Revenue ..... (19,000)
Schedule of Programs:
Administration 7,100
Governor's Residence ..... (300)
Lt. Governor's Office ..... (35,300)
Washington Funding 100

Item 13
To Governors Office – Office of Management and Budget
From General Fund 200
Schedule of Programs:
Administration 2,000
Operational Excellence 200
Planning and Budget Analysis ..... (2,000)

Item 14
To Governors Office – Indigent Defense Commission
From General Fund Restricted – Indigent Defense Resources 400
Schedule of Programs:
Office of Indigent Defense Services 400

DEPARTMENT OF HUMAN SERVICES - DIVISION OF JUVENILE JUSTICE SERVICES

Item 15
To Department of Human Services – Division of Juvenile Justice Services – Programs and Operations
From General Fund 68,000
From Federal Funds 500
From Dedicated Credits Revenue 600
From Expendable Receipts 100
From Revenue Transfers 700
Schedule of Programs:
Administration ..... (9,900)
Community Programs 5,300
Correctional Facilities 18,900
Early Intervention Services 23,400
Rural Programs 24,300
Youth Parole Authority 300
Case Management 7,600

OFFICE OF THE STATE AUDITOR

Item 16
To Office of the State Auditor – State Auditor
From General Fund 1,300
From Dedicated Credits Revenue 1,300
Schedule of Programs:
State Auditor 2,600

DEPARTMENT OF PUBLIC SAFETY

Item 17
To Department of Public Safety – Driver License
From Federal Funds ..... (200)
From Department of Public Safety Restricted Account 41,300
From Public Safety Motorcycle Education Fund ..... (100)
Schedule of Programs:
DL Federal Grants ..... (200)

Driver License Administration ..... (700)
Driver Records 60,100
Driver Services ..... (18,100)
Motorcycle Safety ..... (100)

Item 18
To Department of Public Safety – Emergency Management
From General Fund 217,400
Schedule of Programs:
Emergency Management 217,400

Item 19
To Department of Public Safety – Highway Safety
From Federal Funds 5,300
Schedule of Programs:
Highway Safety 5,300

Item 20
To Department of Public Safety – Peace Officers' Standards and Training
From General Fund 13,600
From Dedicated Credits Revenue 100
Schedule of Programs:
Basic Training 900
POST Administration 3,800
Regional/Inservice Training 9,000

Item 21
To Department of Public Safety – Programs & Operations
From General Fund 378,900
From Federal Funds 1,400
From Dedicated Credits Revenue 22,600
From Department of Public Safety Restricted Account 23,000
From General Fund Restricted – Fire Academy Support 1,200
From Gen. Fund Rest. – Motor Vehicle Safety Impact Acct. 2,400
From Revenue Transfers 800
Schedule of Programs:
Aero Bureau 200
CITS Administration 6,600
CITS Communications 6,800
CITS State Bureau of Investigation 2,500
CITS State Crime Labs 13,800
Department Commissioner's Office 314,400
Department Grants 2,100
Department Intelligence Center 7,300
Fire Marshal – Fire Operations 1,400
Highway Patrol – Administration 1,000
Highway Patrol – Commercial Vehicle ... 1,800
Highway Patrol – Field Operations 42,700
Highway Patrol – Protective Services 1,900
Highway Patrol – Safety Inspections 100
Highway Patrol – Special Enforcement 200
Highway Patrol – Special Services 3,400
Highway Patrol – Technology Services 25,400
Information Management – Operations ..... (1,300)

Item 22
To Department of Public Safety – Bureau of Criminal Identification
From General Fund ..... (1,100)
From Dedicated Credits Revenue ..... (22,900)
From General Fund Restricted – Concealed Weapons Account ..... (13,400)
From Revenue Transfers ..... (100)
Schedule of Programs:
Non–Government/Other Services ..... (37,500)

STATE TREASURER

Item 23
To State Treasurer
From General Fund ..... (2,700)
From Dedicated Credits Revenue ..... (2,900)
From Unclaimed Property Trust 500
Schedule of Programs:
Treasury and Investment ..... (5,600)
Unclaimed Property 500

INFRASTRUCTURE AND GENERAL GOVERNMENT

DEPARTMENT OF ADMINISTRATIVE SERVICES

Item 24
To Department of Administrative Services – Administrative Rules
From General Fund 3,300
Schedule of Programs:
DAR Administration 3,300

Item 25
To Department of Administrative Services – DFCM Administration
From General Fund 182,600
From Education Fund 44,700
From Dedicated Credits Revenue 57,100
From Capital Projects Fund 228,000
Schedule of Programs:
DFCM Administration 512,100
Energy Program 300

Item 26
To Department of Administrative Services – Executive Director
From General Fund 362,500
From Dedicated Credits Revenue ..... (34,400)
Schedule of Programs:
Executive Director 328,100

Item 27
To Department of Administrative Services – Finance Administration
From General Fund 11,700
From Dedicated Credits Revenue ..... (3,300)
From Gen. Fund Rest. – Internal Service Fund Overhead ..... (17,900)
Schedule of Programs:
Finance Director's Office 100
Financial Information Systems ..... (47,000)
Financial Reporting 2,100
Payables/Disbursing 5,100
Payroll 20,800
Technical Services 9,400

Item 28
To Department of Administrative Services – Inspector General of Medicaid Services
From General Fund 1,000
From Revenue Transfers 1,900
Schedule of Programs:
Inspector General of Medicaid Services 2,900

Item 29
To Department of Administrative Services – Judicial Conduct Commission

From General Fund 400
Schedule of Programs:
Judicial Conduct Commission 400

Item 30
To Department of Administrative Services – Purchasing
From General Fund 500
Schedule of Programs:
Purchasing and General Services 500

Item 31
To Department of Administrative Services – State Archives
From General Fund 10,300
Schedule of Programs:
Archives Administration 10,100
Open Records 100
Patron Services 100
Records Analysis 100
Records Services ..... (100)

CAPITAL BUDGET

Item 32
To Capital Budget – Capital Improvements
From General Fund ..... (200)
From Education Fund ..... (200)
Schedule of Programs:
Capital Improvements ..... (400)

DEPARTMENT OF TECHNOLOGY SERVICES

Item 33
To Department of Technology Services – Chief Information Officer
From General Fund ..... (13,000)
Schedule of Programs:
Chief Information Officer ..... (13,000)

Item 34
To Department of Technology Services – Integrated Technology Division
From General Fund 2,400
From Federal Funds 1,600
From Dedicated Credits Revenue 2,400
From Gen. Fund Rest. – Statewide Unified E–911 Emerg. Acct. 600
Schedule of Programs:
Automated Geographic Reference Center 7,000

TRANSPORTATION

Item 35
To Transportation – Aeronautics
From Dedicated Credits Revenue 200
From Aeronautics Restricted Account ..... (700)
Schedule of Programs:
Administration ..... (800)
Airplane Operations 500
Civil Air Patrol ..... (200)

Item 36
To Transportation – Highway System Construction
From Transportation Fund ..... (100)
Schedule of Programs:
Federal Construction ..... (100)

Item 37
To Transportation – Engineering Services
From Federal Funds 1,400
From Dedicated Credits Revenue 100
Schedule of Programs:
Civil Rights ..... (200)
Construction Management ..... (300)
Engineer Development Pool 200
Engineering Services ..... (300)
Environmental 300
Highway Project Management Team 100
Planning and Investment 100
Materials Lab 300
Preconstruction Admin ..... (300)
Program Development 1,200
Research 100
Right–of–Way ..... (100)
Structures 400

Item 38
To Transportation – Operations/ Maintenance Management
From Transportation Fund 179,100
From Federal Funds 4,300
From Dedicated Credits Revenue 600
Schedule of Programs:
Field Crews 11,500
Maintenance Administration 69,500
Maintenance Planning ..... (300)
Region 1 700
Region 2 13,000
Region 3 300
Region 4 1,100
Seasonal Pools 500
Shops 86,300
Traffic Operations Center 1,800
Traffic Safety/Tramway ..... (400)

Item 39
To Transportation – Region Management
From Transportation Fund 24,500
From Federal Funds 3,800
From Dedicated Credits Revenue 1,600
Schedule of Programs:
Cedar City ..... (200)
Price 100
Region 1 ..... (1,200)
Region 2 ..... (3,200)
Region 3 36,100
Region 4 ..... (1,600)
Richfield ..... (100)

Item 40
To Transportation – Support Services
From Transportation Fund 158,100
From Federal Funds ..... (700)
Schedule of Programs:
Administrative Services ..... (300)
Comptroller ..... (1,000)
Data Processing ..... (11,500)
Human Resources Management ..... (200)
Ports of Entry ..... (2,000)
Procurement ..... (300)
Risk Management 172,700

BUSINESS, ECONOMIC DEVELOPMENT, AND LABOR

DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL

Item 41
To Department of Alcoholic Beverage Control – DABC Operations
From Liquor Control Fund 77,800
Schedule of Programs:
Administration 60,500
Executive Director ..... (700)
Operations 10,900
Stores and Agencies 2,500
Warehouse and Distribution 4,600

DEPARTMENT OF COMMERCE

Item 42
To Department of Commerce – Commerce General Regulation
From Federal Funds 100
From Dedicated Credits Revenue ..... (1,900)
From General Fund Restricted – Commerce Service Account 36,300
From General Fund Restricted – Factory Built Housing Fees ..... (200)
From General Fund Restricted – Pawnbroker Operations ..... (100)
From General Fund Restricted – Public Utility Restricted Acct. 300
From Revenue Transfers ..... (100)
From Pass–through ..... (100)
Schedule of Programs:
Administration ..... (25,100)
Building Operations and Maintenance 75,800
Consumer Protection ..... (1,000)
Corporations and Commercial Code .... (1,400)
Occupational and Professional Licensing ..... (11,700)
Office of Consumer Services ..... (500)
Public Utilities 900
Real Estate ..... (1,400)
Securities ..... (1,300)

GOVERNOR'S OFFICE OF ECONOMIC DEVELOPMENT

Item 43
To Governor's Office of Economic Development – Administration
From General Fund ..... (7,700)
Schedule of Programs:
Administration ..... (7,700)

Item 44
To Governor's Office of Economic Development – Business Development
From General Fund ..... (900)
From Federal Funds 100
Schedule of Programs:
Corporate Recruitment and Business Services 400
Outreach and International Trade ..... (1,200)

Item 45
To Governor's Office of Economic Development – Office of Tourism
From General Fund 29,600
From Dedicated Credits Revenue 4,300
From General Fund Rest. – Motion Picture Incentive Acct. 100
Schedule of Programs:
Administration 500
Film Commission 100
Operations and Fulfillment 33,400

Item 46
To Governor's Office of Economic Development – Talent Ready Utah Center
From General Fund ..... (600)
From Dedicated Credits Revenue ..... (100)
Schedule of Programs:
Talent Ready Utah Center ..... (700)

Item 47
To Governor's Office of Economic Development – Inland Port Authority
From General Fund ..... (600)
Schedule of Programs:
Inland Port Authority ..... (600)

Item 48
To Governor's Office of Economic Development – Point of the Mountain Authority
From General Fund 100
Schedule of Programs:
Point of the Mountain Authority 100

FINANCIAL INSTITUTIONS

Item 49
To Financial Institutions – Financial Institutions Administration
From General Fund Restricted – Financial Institutions 12,400
Schedule of Programs:
Administration 12,400

DEPARTMENT OF HERITAGE AND ARTS

Item 50
To Department of Heritage and Arts – Administration
From General Fund ..... (5,900)
From Dedicated Credits Revenue 100
Schedule of Programs:
Administrative Services ..... (200)
Executive Director's Office ..... (7,500)
Information Technology 1,900

Item 51
To Department of Heritage and Arts – Commission on Service and Volunteerism
From Federal Funds ..... (300)
Schedule of Programs:
Commission on Service and Volunteerism ..... (300)

Item 52
To Department of Heritage and Arts – Indian Affairs
From General Fund ..... (100)
Schedule of Programs:
Indian Affairs ..... (100)

Item 53
To Department of Heritage and Arts – State History

From General Fund 7,200
From Federal Funds ..... (200)
Schedule of Programs:
Administration 7,900
Historic Preservation and Antiquities .... (300)
Library and Collections ..... (500)
Public History, Communication and Information ..... (100)

Item 54
To Department of Heritage and Arts – State Library
From General Fund ..... (1,300)
From Federal Funds ..... (300)
From Dedicated Credits Revenue ..... (1,600)
Schedule of Programs:
Administration 6,700
Blind and Disabled ..... (10,100)
Bookmobile 500
Library Development ..... (100)
Library Resources ..... (200)

Item 55
To Department of Heritage and Arts – Stem Action Center
From General Fund 600
From Dedicated Credits Revenue 100
Schedule of Programs:
STEM Action Center 700

INSURANCE DEPARTMENT

Item 56
To Insurance Department – Insurance Department Administration
From General Fund 200
From Federal Funds 5,200
From General Fund Restricted – Captive Insurance 700
From General Fund Restricted – Insurance Department Acct. 164,900
From General Fund Rest. – Insurance Fraud Investigation Acct. ..... (1,900)
From General Fund Restricted – Technology Development ..... (3,600)
Schedule of Programs:
Administration 170,300
Captive Insurers 700
Electronic Commerce Fee ..... (3,600)
Insurance Fraud Program ..... (1,900)

LABOR COMMISSION

Item 57
To Labor Commission
From General Fund 30,300
From Federal Funds 1,400
From Dedicated Credits Revenue ..... (100)
From Employers' Reinsurance Fund ..... (100)
From General Fund Restricted – Industrial Accident Account 800
From General Fund Restricted – Workplace Safety Account 200
Schedule of Programs:
Adjudication 300
Administration ..... (13,700)
Boiler, Elevator and Coal Mine Safety Division 1,000
Building Operations and Maintenance 42,100
Industrial Accidents 500
Utah Occupational Safety and Health 2,300

PUBLIC SERVICE COMMISSION

Item 58
To Public Service Commission
From General Fund Restricted – Public Utility Restricted Acct. 9,600
Schedule of Programs:
Administration 2,000
Building Operations and Maintenance 7,600

UTAH STATE TAX COMMISSION

Item 59
To Utah State Tax Commission – Tax Administration
From General Fund ..... (50,300)
From Education Fund ..... (48,200)
From Federal Funds ..... (100)
From Dedicated Credits Revenue 2,400
From General Fund Restricted – Motor Vehicle Enforcement Division Temporary Permit Account 1,800
From General Fund Rest. – Sales and Use Tax Admin Fees ..... (17,000)
From Uninsured Motorist Identification Restricted Account 100
Schedule of Programs:
Administration Division 24,200
Auditing Division ..... (900)
Motor Vehicle Enforcement Division 1,800
Motor Vehicles 6,900
Property Tax Division ..... (300)
Tax Payer Services ..... (7,800)
Tax Processing Division ..... (1,900)
Technology Management ..... (133,300)

SOCIAL SERVICES

DEPARTMENT OF HEALTH

Item 60
To Department of Health – Children's Health Insurance Program
From General Fund ..... (800)
From Federal Funds ..... (2,700)
Schedule of Programs:
Children's Health Insurance Program .. (3,500)

Item 61
To Department of Health – Disease Control and Prevention
From General Fund ..... (3,400)
From Federal Funds ..... (24,700)
From Dedicated Credits Revenue ..... (2,000)
From Expendable Receipts ..... (1,400)
From Department of Public Safety Restricted Account 100
From General Fund Restricted – Electronic Cigarette Substance and Nicotine Product Tax Restricted Account ..... (2,600)
From Gen. Fund Rest. – State Lab Drug Testing Account ..... (200)
From General Fund Restricted – Tobacco Settlement Account ..... (900)

From Revenue Transfers ..... (1,200)
Schedule of Programs:
Clinical and Environmental Lab Certification Programs 100
Epidemiology ..... (23,600)
General Administration 500
Health Promotion ..... (10,700)
Utah Public Health Laboratory ..... (3,800)
Office of the Medical Examiner 1,200

Item 62
To Department of Health - Executive Director's Operations
From General Fund 4,600
From Federal Funds 6,900
From Dedicated Credits Revenue ..... (2,800)
From Revenue Transfers ..... (200)
Schedule of Programs:
Center for Health Data and Informatics ..... (7,000)
Executive Director 1,500
Program Operations 14,000

Item 63
To Department of Health - Family Health and Preparedness
From General Fund 200
From Federal Funds ..... (6,100)
From Dedicated Credits Revenue 100
From General Fund Restricted - Adult Autism Treatment Account ..... (100)
From General Fund Restricted - Emergency Medical Services System Account ..... (100)
From Revenue Transfers 500
Schedule of Programs:
Children with Special Health Care Needs ..... (1,200)
Director's Office ..... (100)
Health Facility Licensing and Certification 3,100
Maternal and Child Health ..... (7,200)
Public Health and Health Care Preparedness ..... (100)

Item 64
To Department of Health - Medicaid and Health Financing
From General Fund ..... (14,500)
From Federal Funds ..... (207,200)
From Expendable Receipts ..... (25,500)
From Medicaid Expansion Fund ..... (5,000)
From Nursing Care Facilities Provider Assessment Fund ..... (3,600)
From Revenue Transfers ..... (20,500)
Schedule of Programs:
Long-term Services and Supports ..... (600)
Contracts ..... (2,200)
Healthcare Policy and Authorization ..... (100)
Director's Office ..... (300)
Eligibility Policy ..... (400)
Financial Services ..... (230,000)
Managed Health Care ..... (1,600)
Medicaid Operations ..... (41,100)

Item 65
To Department of Health - Medicaid Services
From General Fund ..... (1,100)
From Federal Funds ..... (11,300)
From Expendable Receipts 200
From Expendable Receipts - Rebates ..... (100)
Schedule of Programs:
Home and Community Based Waivers ... (200)
Other Services 900
Pharmacy ..... (100)
Provider Reimbursement Information System for Medicaid ..... (12,900)

DEPARTMENT OF HUMAN SERVICES

Item 66
To Department of Human Services - Division of Aging and Adult Services
From General Fund 4,200
From Federal Funds 1,200
Schedule of Programs:
Administration - DAAS 1,200
Adult Protective Services 3,800
Aging Alternatives 100
Aging Waiver Services 300

Item 67
To Department of Human Services - Division of Child and Family Services
From General Fund 104,600
From Federal Funds 61,700
Schedule of Programs:
Administration - DCFS 4,200
Child Welfare Management Information System 45,800
Domestic Violence 500
Facility-Based Services 1,100
Minor Grants 1,400
Service Delivery 113,300

Item 68
To Department of Human Services - Executive Director Operations
From General Fund ..... (10,000)
From Federal Funds ..... (6,300)
From Dedicated Credits Revenue 1,100
From Revenue Transfers ..... (3,900)
Schedule of Programs:
Executive Director's Office 5,900
Fiscal Operations 2,000
Information Technology ..... (35,200)
Legal Affairs ..... (1,700)
Office of Licensing 5,500
Office of Quality and Design 3,800
Utah Developmental Disabilities Council 600

Item 69
To Department of Human Services - Office of Public Guardian
From General Fund 500
From Revenue Transfers 300
Schedule of Programs:
Office of Public Guardian 800

Item 70
To Department of Human Services - Office of Recovery Services
From General Fund ..... (18,800)
From Federal Funds ..... (25,100)
From Dedicated Credits Revenue 10,300
From Revenue Transfers ..... (4,600)
Schedule of Programs:
Administration - ORS 900

Attorney General Contract ..... (1,700)
Child Support Services 48,800
Children in Care Collections 700
Electronic Technology ..... (84,200)
Financial Services ..... (5,500)
Medical Collections 2,800

Item 71
To Department of Human Services – Division of Services for People with Disabilities
From General Fund 6,500
From Dedicated Credits Revenue 1,500
From Revenue Transfers 21,500
Schedule of Programs:
Administration – DSPD ..... (16,300)
Service Delivery 11,600
Utah State Developmental Center 34,200

Item 72
To Department of Human Services – Division of Substance Abuse and Mental Health
From General Fund 44,900
From Federal Funds 900
From Dedicated Credits Revenue 3,900
From Revenue Transfers 12,600
Schedule of Programs:
Administration – DSAMH 4,100
Community Mental Health Services ..... (300)
State Hospital 59,000
State Substance Abuse Services ..... (500)

DEPARTMENT OF WORKFORCE SERVICES

Item 73
To Department of Workforce Services – Administration
From General Fund ..... (4,900)
From Federal Funds ..... (9,000)
From Dedicated Credits Revenue ..... (100)
From Expendable Receipts ..... (100)
From Permanent Community Impact Loan Fund ..... (200)
From Revenue Transfers ..... (2,800)
Schedule of Programs:
Administrative Support ..... (17,200)
Communications 200
Executive Director's Office ..... (100)

Item 74
To Department of Workforce Services – General Assistance
From General Fund ..... (200)
Schedule of Programs:
General Assistance ..... (200)

Item 75
To Department of Workforce Services – Housing and Community Development
From General Fund ..... (100)
From Federal Funds ..... (7,000)
From Dedicated Credits Revenue ..... (100)
From Expendable Receipts ..... (100)
From Housing Opportunities for Low Income Households ..... (400)
From Olene Walker Housing Loan Fund ... (400)
From OWHT-Fed Home ..... (400)
From OWHTF-Low Income Housing ..... (400)
From Permanent Community Impact Loan Fund ..... (500)
Schedule of Programs:
Community Development ..... (200)
Community Development Administration ..... (3,200)
HEAT ..... (4,900)
Housing Development ..... (200)
Weatherization Assistance ..... (900)

Item 76
To Department of Workforce Services – Operations and Policy
From General Fund ..... (64,500)
From Federal Funds ..... (77,600)
From Dedicated Credits Revenue ..... (2,500)
From Expendable Receipts ..... (2,900)
From Gen. Fund Rest. – Homeless Housing Reform Rest. Acct ..... (200)
From Medicaid Expansion Fund ..... (11,300)
From Permanent Community Impact Loan Fund ..... (1,300)
From General Fund Restricted – School Readiness Account ..... (1,900)
From Revenue Transfers ..... (182,500)
Schedule of Programs:
Eligibility Services ..... (280,900)
Facilities and Pass-Through 183,200
Information Technology ..... (226,000)
Utah Data Research Center 100
Workforce Development ..... (20,500)
Workforce Research and Analysis ..... (600)

Item 77
To Department of Workforce Services – State Office of Rehabilitation
From General Fund ..... (3,800)
From Federal Funds ..... (4,300)
From Dedicated Credits Revenue ..... (100)
From Expendable Receipts ..... (100)
Schedule of Programs:
Blind and Visually Impaired ..... (800)
Deaf and Hard of Hearing ..... (400)
Disability Determination 1,800
Executive Director 200
Rehabilitation Services ..... (9,100)

Item 78
To Department of Workforce Services – Unemployment Insurance
From General Fund ..... (400)
From Federal Funds ..... (61,700)
From Dedicated Credits Revenue ..... (1,800)
From Revenue Transfers ..... (100)
Schedule of Programs:
Adjudication ..... (1,100)
Unemployment Insurance Administration ..... (62,900)

HIGHER EDUCATION

UNIVERSITY OF UTAH

Item 79
To University of Utah – Education and General
From Education Fund 1,553,800
From Dedicated Credits Revenue 518,000
Schedule of Programs:
Education and General 2,071,800

UTAH STATE UNIVERSITY

Item 80
To Utah State University – Education and General
From Education Fund 128,900
From Dedicated Credits Revenue 42,900
Schedule of Programs:
Education and General 171,800

Item 81
To Utah State University – USU – Eastern Education and General
From Education Fund . . . . . (88,300)
From Dedicated Credits Revenue . . . . . (29,500)
Schedule of Programs:
USU – Eastern Education and General . . . . . (117,800)

WEBER STATE UNIVERSITY

Item 82
To Weber State University – Education and General
From Education Fund 100,100
From Dedicated Credits Revenue 33,300
Schedule of Programs:
Education and General 133,400

SOUTHERN UTAH UNIVERSITY

Item 83
To Southern Utah University – Education and General
From Education Fund 20,100
From Dedicated Credits Revenue 6,700
Schedule of Programs:
Education and General 26,800

UTAH VALLEY UNIVERSITY

Item 84
To Utah Valley University – Education and General
From Education Fund 55,800
From Dedicated Credits Revenue 18,600
Schedule of Programs:
Education and General 74,400

SNOW COLLEGE

Item 85
To Snow College – Education and General
From Education Fund 28,400
From Dedicated Credits Revenue 9,400
Schedule of Programs:
Education and General 37,800

DIXIE STATE UNIVERSITY

Item 86
To Dixie State University – Education and General
From Education Fund 117,100
From Dedicated Credits Revenue 39,000
Schedule of Programs:
Education and General 156,100

SALT LAKE COMMUNITY COLLEGE

Item 87
To Salt Lake Community College – Education and General
From Education Fund 65,400
From Dedicated Credits Revenue 21,800
Schedule of Programs:
Education and General 87,200

UTAH BOARD OF HIGHER EDUCATION

Item 88
To Utah Board of Higher Education – Administration
From Education Fund 20,500
Schedule of Programs:
Administration 20,500

UTAH SYSTEM OF TECHNICAL COLLEGES

Item 89
To Utah System of Technical Colleges – Bridgerland Technical College
From Education Fund 19,800
Schedule of Programs:
Bridgerland Technical College 19,800

Item 90
To Utah System of Technical Colleges – Davis Technical College
From Education Fund 3,800
Schedule of Programs:
Davis Technical College 3,800

Item 91
To Utah System of Technical Colleges – Dixie Technical College
From Education Fund 14,100
Schedule of Programs:
Dixie Technical College 14,100

Item 92
To Utah System of Technical Colleges – Mountainland Technical College
From Education Fund 16,800
Schedule of Programs:
Mountainland Technical College 16,800

Item 93
To Utah System of Technical Colleges – Ogden–Weber Technical College
From Education Fund . . . . . (13,800)
Schedule of Programs:
Ogden–Weber Technical College . . . . . (13,800)

Item 94
To Utah System of Technical Colleges – Southwest Technical College
From Education Fund 7,500
Schedule of Programs:
Southwest Technical College 7,500

Item 95
To Utah System of Technical Colleges – Tooele Technical College
From Education Fund 5,700
Schedule of Programs:
Tooele Technical College 5,700

Item 96
To Utah System of Technical Colleges – Uintah Basin Technical College
From Education Fund 28,400
Schedule of Programs:
Uintah Basin Technical College 28,400

NATURAL RESOURCES, AGRICULTURE, AND ENVIRONMENTAL QUALITY

DEPARTMENT OF AGRICULTURE AND FOOD

Item 97
To Department of Agriculture and Food – Administration
From General Fund 51,600
From Federal Funds 4,600
From Dedicated Credits Revenue 6,100
From Revenue Transfers 1,400
Schedule of Programs:
Chemistry Laboratory ..... (800)
General Administration 64,500

Item 98
To Department of Agriculture and Food – Animal Industry
From General Fund 1,000
From Federal Funds 600
From General Fund Restricted – Livestock Brand 400
Schedule of Programs:
Animal Health 400
Brand Inspection 600
Meat Inspection 1,000

Item 99
To Department of Agriculture and Food – Building Operations
From General Fund 60,600
Schedule of Programs:
Building Operations 60,600

Item 100
To Department of Agriculture and Food – Invasive Species Mitigation
From General Fund Restricted – Invasive Species Mitigation Account 100
Schedule of Programs:
Invasive Species Mitigation 100

Item 101
To Department of Agriculture and Food – Marketing and Development
From General Fund ..... (100)
From Federal Funds ..... (100)
Schedule of Programs:
Marketing and Development ..... (200)

Item 102
To Department of Agriculture and Food – Plant Industry
From General Fund 300
From Federal Funds 400
From Dedicated Credits Revenue 400
Schedule of Programs:
Environmental Quality ..... (100)
Grain Inspection ..... (500)
Grazing Improvement Program 600
Insect Infestation 500
Plant Industry 600

Item 103
To Department of Agriculture and Food – Predatory Animal Control
From General Fund 1,100
From Revenue Transfers 700
From Gen. Fund Rest. – Agriculture and Wildlife Damage Prevention 700
Schedule of Programs:
Predatory Animal Control 2,500

Item 104
To Department of Agriculture and Food – Regulatory Services
From General Fund ..... (4,300)
From Federal Funds ..... (2,000)
From Dedicated Credits Revenue ..... (4,800)
From Pass-through ..... (100)
Schedule of Programs:
Regulatory Services Administration .. (11,200)

Item 105
To Department of Agriculture and Food – Resource Conservation
From General Fund 300
From Federal Funds 300
From Agriculture Resource Development Fund 100
Schedule of Programs:
Resource Conservation 700

Item 106
To Department of Agriculture and Food – Medical Cannabis
From Qualified Production Enterprise Fund 100
Schedule of Programs:
Medical Cannabis 100

Item 107
To Department of Agriculture and Food – Industrial Hemp
From Dedicated Credits Revenue 100
Schedule of Programs:
Industrial Hemp 100

DEPARTMENT OF ENVIRONMENTAL QUALITY

Item 108
To Department of Environmental Quality – Drinking Water
From General Fund 200
From Federal Funds 400
Schedule of Programs:
Drinking Water Administration 600

Item 109
To Department of Environmental Quality – Environmental Response and Remediation
From General Fund 300
From Federal Funds 1,500
From Dedicated Credits Revenue 300
From Petroleum Storage Tank Cleanup Fund 200
From Petroleum Storage Tank Trust Fund .. 500
From General Fund Restricted – Voluntary Cleanup 200
Schedule of Programs:
Environmental Response and Remediation 3,000

Item 110
To Department of Environmental Quality – Executive Director's Office
From General Fund 49,800
From Federal Funds 6,600

From General Fund Restricted –
Environmental Quality 18,600
Schedule of Programs:
Executive Director Office
Administration 75,000

Item 111
To Department of Environmental Quality –
Waste Management and Radiation Control
From General Fund 300
From Federal Funds 500
From Dedicated Credits Revenue 900
From Expendable Receipts 100
From General Fund Restricted –
Environmental Quality 2,200
From Gen. Fund Rest. – Used
Oil Collection Administration 300
From Waste Tire Recycling Fund 100
Schedule of Programs:
Waste Management and Radiation
Control 4,400

Item 112
To Department of Environmental Quality –
Water Quality
From General Fund 2,400
From Federal Funds 3,800
From Dedicated Credits Revenue 1,800
From Revenue Transfers 200
From Gen. Fund Rest. – Underground
Wastewater System 100
From Water Dev. Security Fund –
Utah Wastewater Loan Prog. 1,200
From Water Dev. Security Fund –
Water Quality Orig. Fee 100
Schedule of Programs:
Water Quality Support 9,600

Item 113
To Department of Environmental Quality –
Air Quality
From General Fund 7,900
From Federal Funds 8,400
From Dedicated Credits Revenue 7,300
From Clean Fuel Conversion Fund 100
Schedule of Programs:
Air Quality Administration 23,700

GOVERNOR'S OFFICE

Item 114
To Governor's Office – Office
of Energy Development
From General Fund 500
From Federal Funds 100
From Ut. S. Energy Program Rev.
Loan Fund (ARRA) 100
Schedule of Programs:
Office of Energy Development 700

DEPARTMENT OF NATURAL RESOURCES

Item 115
To Department of Natural Resources –
Administration
From General Fund 130,000
Schedule of Programs:
Administrative Services 129,700
Executive Director 300
Law Enforcement 100
Public Information Office ..... (100)

Item 116
To Department of Natural Resources –
Forestry, Fire and State Lands
From General Fund ..... (3,400)
From Federal Funds 3,700
From Dedicated Credits Revenue 7,600
From General Fund Restricted –
Sovereign Lands Management 4,800
Schedule of Programs:
Division Administration 200
Fire Management 200
Fire Suppression Emergencies ..... (4,200)
Forest Management 100
Lands Management 700
Lone Peak Center 5,500
Program Delivery 10,100
Project Management 100

Item 117
To Department of Natural Resources –
Oil, Gas and Mining
From General Fund ..... (1,000)
From Federal Funds 5,300
From Dedicated Credits Revenue 100
From Gen. Fund Rest. – Oil &
Gas Conservation Account 400
Schedule of Programs:
Abandoned Mine 200
Administration 20,800
Coal Program ..... (2,700)
Minerals Reclamation 200
Oil and Gas Program ..... (13,700)

Item 118
To Department of Natural Resources –
Parks and Recreation
From General Fund 10,000
From Federal Funds 800
From Dedicated Credits Revenue 9,500
From General Fund Restricted –
Boating 43,100
From General Fund Restricted –
Off-highway Vehicle 59,600
From General Fund Restricted –
State Park Fees 104,300
Schedule of Programs:
Executive Management 300
Park Operation Management 18,400
Planning and Design 100
Recreation Services 1,100
Support Services 207,400

Item 119
To Department of Natural Resources –
Species Protection
From General Fund Restricted –
Species Protection 300
Schedule of Programs:
Species Protection 300

Item 120
To Department of Natural Resources –
Utah Geological Survey
From General Fund 10,000
From Dedicated Credits Revenue 1,200
From General Fund Restricted –
Mineral Lease 1,100
Schedule of Programs:
Administration 1,100

Energy and Minerals 300
Geologic Hazards ..... (100)
Geologic Information and Outreach 10,700
Geologic Mapping 200
Ground Water 100

Item 121
To Department of Natural Resources – Water Resources
From General Fund 1,900
From Federal Funds 100
From Water Resources Conservation and Development Fund 800
Schedule of Programs:
Administration 800
Construction 500
Planning 1,500

Item 122
To Department of Natural Resources – Water Rights
From General Fund ..... (3,100)
From Dedicated Credits Revenue ..... (1,000)
Schedule of Programs:
Adjudication ..... (2,400)
Administration ..... (100)
Applications and Records 4,400
Dam Safety 100
Field Services ..... (6,800)
Technical Services 700

Item 123
To Department of Natural Resources – Watershed
From General Fund 100
Schedule of Programs:
Watershed 100

Item 124
To Department of Natural Resources – Wildlife Resources
From General Fund 7,000
From Federal Funds 11,400
From Dedicated Credits Revenue 700
From General Fund Restricted – Aquatic Invasive Species Interdiction Account 200
From General Fund Restricted – Boating ... 300
From General Fund Restricted – Mule Deer Protection Account 100
From General Fund Restricted – Predator Control Account 100
From Revenue Transfers 700
From General Fund Restricted – Wildlife Resources 78,700
Schedule of Programs:
Administrative Services 65,700
Aquatic Section 4,600
Conservation Outreach ..... (100)
Director's Office 16,600
Habitat Section 6,100
Law Enforcement 2,400
Wildlife Section 3,900

PUBLIC LANDS POLICY COORDINATING OFFICE

Item 125
To Public Lands Policy Coordinating Office
From General Fund ..... (9,000)
From General Fund Restricted – Constitutional Defense ..... (4,000)
Schedule of Programs:
Public Lands Policy Coordinating Office ..... (13,000)

SCHOOL AND INSTITUTIONAL TRUST LANDS ADMINISTRATION

Item 126
To School and Institutional Trust Lands Administration
From Land Grant Management Fund 5,000
Schedule of Programs:
Accounting ..... (200)
Administration 2,200
Auditing ..... (100)
Development – Operating ..... (600)
Grazing and Forestry 200
Information Technology Group 4,500
Legal/Contracts ..... (100)
Oil and Gas ..... (300)
Surface ..... (600)

PUBLIC EDUCATION

STATE BOARD OF EDUCATION

Item 127
To State Board of Education – Child Nutrition
From Federal Funds 500
From Dedicated Credit – Liquor Tax 100
Schedule of Programs:
Child Nutrition 600

Item 128
To State Board of Education – Educator Licensing
From Education Fund 300
Schedule of Programs:
Educator Licensing 300

Item 129
To State Board of Education – Initiative Programs
From Education Fund 100
Schedule of Programs:
ULEAD 100

Item 130
To State Board of Education – MSP Categorical Program Administration
From Education Fund 300
Schedule of Programs:
Digital Teaching and Learning 100
Enhancement for At-Risk Students 100
Youth-in-Custody 100

Item 131
To State Board of Education – State Administrative Office
From Education Fund ..... (4,900)
From Federal Funds 1,400
From General Fund Restricted – Mineral Lease 100
From Revenue Transfers ..... (96,300)
From Uniform School Fund Rest. – Trust Distribution Account 100
Schedule of Programs:
Board and Administration 200
Data and Statistics 200
Financial Operations 500
Indirect Cost Pool ..... (102,900)

Information Technology 800
Policy and Communication 300
School Trust 100
Special Education 700
Student Support Services 500

Item 132
To State Board of Education – General System Support
From Education Fund 500
From Federal Funds 800
From Dedicated Credits Revenue 200
Schedule of Programs:
Teaching and Learning 600
Assessment and Accountability 400
Career and Technical Education 500

Item 133
To State Board of Education – State Charter School Board
From Education Fund 200
Schedule of Programs:
State Charter School Board 200

Item 134
To State Board of Education – Utah Schools for the Deaf and the Blind
From Education Fund 20,500
From Dedicated Credits Revenue 300
From Revenue Transfers 1,000
Schedule of Programs:
Administration 15,800
Transportation and Support Services 1,800
Utah State Instructional Materials Access Center 300
School for the Deaf 2,200
School for the Blind 1,700

SCHOOL AND INSTITUTIONAL TRUST FUND OFFICE

Item 135
To School and Institutional Trust Fund Office
From School and Institutional Trust Fund Management Acct. 500
Schedule of Programs:
School and Institutional Trust Fund Office 500

EXECUTIVE APPROPRIATIONS

CAPITOL PRESERVATION BOARD

Item 136
To Capitol Preservation Board
From General Fund ..... (834,800)
Schedule of Programs:
Capitol Preservation Board ..... (834,800)

LEGISLATURE

Item 137
To Legislature – Senate
From General Fund 3,000
Schedule of Programs:
Administration 3,000

Item 138
To Legislature – House of Representatives
From General Fund ..... (1,200)
Schedule of Programs:
Administration ..... (1,200)

Item 139
To Legislature – Office of Legislative Research and General Counsel
From General Fund 5,300
Schedule of Programs:
Administration 5,300

Item 140
To Legislature – Office of the Legislative Fiscal Analyst
From General Fund 1,900
Schedule of Programs:
Administration and Research 1,900

Item 141
To Legislature – Office of the Legislative Auditor General
From General Fund 2,700
Schedule of Programs:
Administration 2,700

Item 142
To Legislature – Legislative Services
From General Fund ..... (4,300)
From Dedicated Credits Revenue ..... (1,100)
Schedule of Programs:
Administration ..... (5,400)

UTAH NATIONAL GUARD

Item 143
To Utah National Guard
From General Fund 13,200
From Dedicated Credits Revenue 100
Schedule of Programs:
Administration 1,000
Operations and Maintenance 12,300

DEPARTMENT OF VETERANS AND MILITARY AFFAIRS

Item 144
To Department of Veterans and Military Affairs – Veterans and Military Affairs
From General Fund ..... (3,300)
From Federal Funds ..... (600)
From Dedicated Credits Revenue ..... (100)
Schedule of Programs:
Administration ..... (4,000)
Cemetery ..... (900)
Military Affairs 100
Outreach Services 1,000
State Approving Agency ..... (200)

Subsection 1(b). Expendable Funds and Accounts. The Legislature has reviewed the following expendable funds. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated. Outlays and expenditures from the funds or accounts to which the money is transferred may be made without further

legislative action, in accordance with statutory provisions relating to the funds or accounts.

INFRASTRUCTURE AND GENERAL GOVERNMENT

DEPARTMENT OF ADMINISTRATIVE SERVICES

Item 145
To Department of Administrative Services – State Debt Collection Fund
From Dedicated Credits Revenue ..... (3,200)
Schedule of Programs:
State Debt Collection Fund ..... (3,200)

BUSINESS, ECONOMIC DEVELOPMENT, AND LABOR

DEPARTMENT OF COMMERCE

Item 146
To Department of Commerce – Consumer Protection Education and Training Fund
From Licenses/Fees 500
Schedule of Programs:
Consumer Protection Education and Training Fund 500

Item 147
To Department of Commerce – Securities Investor Education/Training/Enforcement Fund
From Licenses/Fees ..... (1,700)
Schedule of Programs:
Securities Investor Education/Training/ Enforcement Fund ..... (1,700)

GOVERNOR'S OFFICE OF ECONOMIC DEVELOPMENT

Item 148
To Governor's Office of Economic Development – Outdoor Recreation Infrastructure Account
From Dedicated Credits Revenue 100
Schedule of Programs:
Outdoor Recreation Infrastructure Account 100

EXECUTIVE APPROPRIATIONS

CAPITOL PRESERVATION BOARD

Item 149
To Capitol Preservation Board – State Capitol Fund
From Dedicated Credits Revenue ..... (154,000)
Schedule of Programs:
State Capitol Fund ..... (154,000)

UTAH NATIONAL GUARD

Item 150
To Utah National Guard – National Guard MWR Fund
From Dedicated Credits Revenue 100
Schedule of Programs:
National Guard MWR Fund 100

DEPARTMENT OF VETERANS AND MILITARY AFFAIRS

Item 151
To Department of Veterans and Military Affairs – Utah Veterans Nursing Home Fund
From Federal Funds 117,300
From Dedicated Credits Revenue 700
Schedule of Programs:
Veterans Nursing Home Fund 118,000

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

SOCIAL SERVICES

DEPARTMENT OF HEALTH

Item 152
To Department of Health – Qualified Patient Enterprise Fund
From Dedicated Credits Revenue 200
Schedule of Programs:
Qualified Patient Enterprise Fund 200

NATURAL RESOURCES, AGRICULTURE, AND ENVIRONMENTAL QUALITY

DEPARTMENT OF AGRICULTURE AND FOOD

Item 153
To Department of Agriculture and Food – Qualified Production Enterprise Fund
From Dedicated Credits Revenue 100
Schedule of Programs:
Qualified Production Enterprise Fund 100

Subsection 1(d). Restricted Fund and Account Transfers. The Legislature authorizes the State Division of Finance to transfer the following amounts between the following funds or accounts as indicated. Expenditures and outlays from the funds to which the money is transferred must be authorized by an appropriation.

EXECUTIVE OFFICES AND CRIMINAL JUSTICE

Item 154
To General Fund Restricted – Indigent Defense Resources Account
From General Fund 400
From Revenue Transfers ..... (400)

Section 2. Fees. Under the terms and conditions of Utah Code Title 63J Chapter 1 and other fee statutes as applicable, the following fees and rates are approved for the use and support of

the government of the State of Utah for the Fiscal Year beginning July 1, 2021 and ending June 30, 2022.

EXECUTIVE OFFICES AND CRIMINAL JUSTICE

ATTORNEY GENERAL

Administration
Government Records Access and Management Act
Document Certification 2.00
CD Duplication (per CD) 5.00
Plus actual staff costs
DVD Duplication (per DVD) 10.00
Plus actual staff costs
Photocopies
Non-color (per page) 0.25
Color (per page) 0.40
11 x 17 (per page) 1.00
Odd Size ..... Actual cost
Document Faxing (per page) 1.00
Long Distance Faxing for
Over 10 Pages 1.00
Record Preparation ..... Actual cost
Record Preparation 2.00
Plus actual postage costs
Other Media ..... Actual cost
Other Services ..... Actual cost

CHILDREN'S JUSTICE CENTERS

CJC Conference Registrations
(per Variable) ..... Varies by type
This represents the fee charged for the Children's Justice Center's annual conference. Conference Registration (per unit/day) - Varies by Type.

ISF - ATTORNEY GENERAL

Child Protection Attorney I-II -
Co-Located Rate 77.00
ISF rate for legal services
Child Protection Attorney I-II - Office
Rate 80.00
ISF rate for legal services
Child Protection Attorney III-IV -
Co-Located Rate 97.00
ISF rate for legal services
Child Protection Attorney III-IV -
Office Rate 100.00
ISF rate for legal services
Child Protection Attorney V - Co-located
Rate 121.00
ISF rate for legal services
Child Protection Attorney V -
Office Rate 125.00
ISF rate for legal services
Child Protection Paralegal - Co-
Located Rate 56.00
ISF rate for legal services
Child Protection Paralegal - Office Rate ... 58.00
ISF rate for legal services
Civil Attorney I - II - Co-Located Rate 82.00
ISF rate for legal services
Civil Attorney I - II - Office Rate 85.00
ISF rate for legal services
Civil Attorney III - IV - Co-
Located Rate 102.00
ISF rate for legal services
Civil Attorney III - IV - Office Rate 105.00
ISF Rate for Legal Services
Civil Attorney I-II - Litigation Rate 96.00
Current legislatively approved rate, per HB 6002, 2020 Sixth Special Session
Civil Attorney III-IV - Litigation Rate ... 115.00
ISF rate for legal services
Civil Attorney V - Co-Located Rate 126.00
ISF rate for legal services
Civil Attorney V - Litigation Rate 139.00
ISF rate for legal services
Civil Attorney V - Office Rate 130.00
ISF rate for legal services
Civil Paralegal - Co-Located Rate 61.00
ISF rate for legal services
Civil Paralegal - Litigation Rate 62.00
ISF rate for legal services
Civil Paralegal - Office Rate 63.00
ISF rate for legal services
Criminal Division Attorney I-II -
Co-Located 108.00
Criminal Division Attorney I-II -
Office Rate 112.00
Criminal Division Attorney III-IV -
Co-Located Rate 123.00
Criminal Division Attorney III-IV -
Office Rate 127.00
Criminal Division Attorney V -
Co-Located Rate 139.00
Criminal Division Attorney V -
Office Rate 144.00
Criminal Division Investigator -
Co-Located Rate 70.00
Criminal Division Investigator -
Office Rate 73.00
Criminal Division Paralegal -
Co-Located Rate 56.00
Criminal Division Paralegal -
Office Rate 58.00

PROSECUTION COUNCIL

UPC Training Registrations
Private Attorney 350.00
This fee covers expenses incurred by the Utah Prosecution Council for trainings provided throughout the year.
UPC Training Registrations Public
Attorneys 125.00
This fee covers expenses incurred by the Utah Prosecution Council for trainings provided many times per year.

BOARD OF PARDONS AND PAROLE

Digital Media 10.00

UTAH DEPARTMENT OF CORRECTIONS

PROGRAMS AND OPERATIONS

Department Executive Director
Government Records Access and Management Act (GRAMA) Fees (GRAMA fees apply to the entire Department of Corrections)

Odd Size Photocopies (per page) .... Actual cost
Fee entitled "Odd size photocopies" applies to the entire Department of Corrections.
Document Certification 2.00
Fee entitled "Document Certification" applies to the entire Department of Corrections.
Local Document Faxing (per page) 0.50
Fee entitled "Local Document Faxing" applies to the entire Department of Corrections.
Long Distance Document Faxing
(per page) 2.00
Fee entitled "Long Distance Document Faxing" applies to the entire Department Of Corrections.
Staff Time to Search, Compile, and
Otherwise Prepare Record ..... Actual cost
Fee entitled "Staff time to search, compile, and otherwise prepare record" applies to the entire Department of Corrections.
Mail and Ship Preparation, Plus
Actual Postage Costs ..... Actual cost
Fee entitled "Mail and ship preparation, plus actual postage costs" applies to the entire Department of Corrections.
CD Duplication (per CD) 5.00
Fee entitled "CD Duplication" applies to the entire Department of Corrections.
DVD Duplication (per DVD) 10.00
Fee entitled "DVD Duplication" applies to the entire Department of Corrections.
Other Media ..... Actual cost
Fee entitled "Other Media" applies to the entire Department of Corrections.
Other Services ..... Actual cost
Fee entitled "Other Services" applies to the entire Department of Corrections.
8.5 x 11 Photocopy (per page) 0.25
Fee entitled "8.5 x 11 photocopy" applies to the entire Department of Corrections.
Parole/Probation Supervision
OSDC Supervision Collection 30.00
Fee entitled "OSDC Supervision Collection" applies for the entire Department of Corrections.
Resident Support 6.00
Fee entitled "Resident Support" applies for the entire Department of Corrections.
Department Wide
Restitution for Prisoner Damages .. Actual cost
Fee entitled "Restitution for Prisoner Damages" applies for the entire Department of Corrections.
False Information
Fines ..... Range: $1 – $84,200
Fee entitled "False Information Fines" applies for the entire Department of Corrections.
Sale of Services ..... Actual cost
Fee entitled "Sale of Services" applies for the entire Department of Corrections.
Inmate Leases & Concessions 11.00
Fee entitled "Inmate Leases & Concessions" applies for the entire Department of Corrections.
Patient Social Security Benefits Collections
..... Amount Based on Actual Collected
Fee entitled "Patient Social Security Benefits Collections" applies for the entire Department of Corrections.
Sale of Goods and Materials ..... Actual cost
Fee entitled "Sale of Goods & Materials" applies for the entire Department of Corrections.
Buildings Rental ..... Contractual
Fee entitled "Building Rental" applies for the entire Department of Corrections.
Victim Rep Inmate
Withheld ..... Range: $1 – $50,000
Fee entitled "Victim Rep Inmate Withheld" applies for the entire Department of Corrections.
Sundry Revenue Collection ..... Miscellaneous collections
Fee entitled "Sundry Revenue Collection" applies for the entire Department of Corrections.
Offender Tuition
Offender Tuition Payments ..... Actual cost
Fee entitled "Offender Tuition Payments" applies to the entire Department of Corrections.

DEPARTMENT MEDICAL SERVICES

Medical Services
Medical
Prisoner Various Prostheses Co-pay ... 1/2 cost
Inmate Support Collections ..... Actual cost

UTAH CORRECTIONAL INDUSTRIES

UCI
Sale of Goods and Materials .. Cost plus profit
Sale of Services ..... Cost plus profit

JUDICIAL COUNCIL/
STATE COURT ADMINISTRATOR

ADMINISTRATION

Administrative Office
Email
Email Up to 10 pages 5.00
Email Up to 10 pages 5.00
Audio tape 10.00
Video tape 15.00
CD 10.00
Reporter Text (per half day) 25.00
Personnel time after 15 min
(per 15 minutes) ..... Cost of Employee Time
Electronic copy of Court
Proceeding (per half day) 10.00
Court Records Online
Subscription
Over 200 records (per search) 0.10
200 records (per month) 30.00
Online Services Setup 25.00
Fax
Up to 10 pages 5.00
After 10 pages (per page) 0.50

Mailings ..... Actual cost
Preprinted Forms ..... Cost based on number and size
State Court Administrator
Copies (per page) 0.25
Microfiche (per card) 1.00

GOVERNORS OFFICE

CCJJ - CHILD WELFARE PARENTAL DEFENSE

Child Welfare Parental Defense
Continuing Legal Education (CLE)
Fee (per CLE Hour) ..... CLE Fee
Parental Defense Fund – Parental
Defense Conference Fee (per Person) ... 150.00

COMMISSION ON CRIMINAL AND JUVENILE JUSTICE

Extraditions
Extraditions Services–Restitution Court Ordered
Utah Office for Victims of Crime
Utah Crime Victims Conference 150.00
Utah Victim Assistance Academy 500.00

GOVERNOR'S OFFICE

Administration
Government Records Access and Management Act (GRAMA) Fees for the Entire Governor's Office
Staff Time to Search, Compile, and Otherwise Prepare Record ..... Actual Cost
Mailing ..... Actual Cost
Paper (per side of sheet) 0.25
Audio Recording 5.00
Video Recording 15.00
Document Faxing (per page) 0.50
Long Distance Faxing over 10 Pages 1.00
Lt. Governor's Office
Lobbyist
Lobbyist Badge Replacement 10.00
Election Information
Copy of Election Results 35.00
Copy of Complete Voter Information Database 1,050.00
Notary
Notary Commission 95.00
Notary Test Retake Within 30 Days 40.00
Remote Notary Application 50.00
Certifications
Apostille 20.00
Apostille for Adoption 10.00
Certificate of Authentication 20.00
Certificate of Authentication for Adoption 10.00
Special Certificate 10.00
Photocopies (per page) 0.25
International Postage 10.00
Expedited Processing
Within Two Hours if Presented Before 3:00 p.m. 75.00
End of Next Business Day 35.00
Local Government and Limited Purpose Entity Registry
Local Government and Limited Purpose Entity New Registration 50.00
Local Government and Limited Purpose Entity Registration Renewal 25.00

OFFICE OF MANAGEMENT AND BUDGET

Operational Excellence
Conference Registration
(per unit / day) ..... Varies by Type

DEPARTMENT OF HUMAN SERVICES - DIVISION OF JUVENILE JUSTICE SERVICES

PROGRAMS AND OPERATIONS

Administration
Government Records Access and Management Act
Paper (per side of sheet) 0.25
Audio Tape (per tape) 5.00
Video Tape (per tape) 15.00
Mailing ..... Actual cost
Compiling and Reporting in Another Format (per hour) 25.00
Programmer/Analyst Assistance Required (per hour) 50.00
Correctional Facilities
Vocational Projects 5,000.00

OFFICE OF THE STATE AUDITOR

STATE AUDITOR

Training (per hour) 15.00
This fee is for an individual to take one hour of training provided either online or in person at the Office of the State Auditor.
Professional Services and Event Training ..... Actual Cost
This fee is to reimburse the State Auditor for the actual costs of audit services or actual costs of training services provided at a location other than online or in the Office of the State Auditor.
Record Access Fee ..... Actual Cost
This fee is to reimburse the Office of the State Auditor for the actual costs of providing records under the Government Records Access and Management Act (GRAMA).
Financial Transparency Database
Subscription Fee ..... Actual Cost
This fee is to reimburse the Office of the State Auditor for actual costs of accessing large amounts of transparency database information.

DEPARTMENT OF PUBLIC SAFETY

DRIVER LICENSE

Driver License Administration
Commercial Driver School
License
Original 100.00
Annual Renewal 100.00
Duplicate 10.00
Instructor 30.00
Annual Instructor Renewal 20.00

Duplicate Instructor 6.00
Branch Office Original 30.00
Branch Office Annual Renewal 30.00
Branch Office Reinstatement 75.00
Instructor/Operation Reinstatement 75.00
School Reinstatement 75.00
Commercial Driver License
Intra-state Medical Waiver 25.00
Certified Record
first 15 pages 10.75
Includes Motor Vehicle Record
16 to 30 pages 15.75
Includes Motor Vehicle Record
31 to 45 pages 20.75
Includes Motor Vehicle Record
46 or more pages 25.75
Includes Motor Vehicle Record
Copy of Full Driver History 7.00
Copies of any other record 5.00
Includes tape recording, letter, medical copy, arrests
Verification
Driver Address Record Verification 3.00
Validate Service 0.75
Pedestrian Vehicle Permit 13.00
Citation Monitoring Verification 0.06
Ignition Interlock System
License
Provider
Original 100.00
Annual Renewal 100.00
Duplicate 10.00
Provider Branch Office Inspection ... 30.00
Provider Branch Office Annual Inspection 30.00
Installer
Original 30.00
Annual Renewal 30.00
Duplicate 6.00
Provider
Reinstatement 75.00
Installer 75.00
Driver Records
Online services 3.00
Utah Interactive Convenience Fee
Driver Services
Commercial Driver License third party testing
License
Original Tester 100.00
Annual Tester Renewal 100.00
Duplicate Tester 10.00
Original Examiner 30.00
Annual Examiner Renewal 20.00
Duplicate Examiner 6.00
Examiner Reinstatement 75.00
Tester Reinstatement 75.00

EMERGENCY MANAGEMENT

Mobile Command Operator (per Hour) 40.00
Mobile Command Vehicle (per Hour) 65.00
PIO Conference Guest Fee 200.00
PIO Conference Late Registration Fee 250.00
PIO Conference Registration Fees 225.00
PIO Half Conference Registration Fee 100.00
Utah Certified Emergency
Manager (per Application) 100.00
Utah Expo Registration Fee 5.00

PEACE OFFICERS' STANDARDS AND TRAINING

Basic Training
Satellite Academy Technology Fee 25.00
Dorm Room 10.00
K-9 Training (out of state agencies) 2,175.00
Duplicate POST Certification 5.00
Duplicate Certificate, Wallet Card 5.00
Duplicate Radar or Intox Card 2.00
Law Enforcement Officials and
Judges Firearms Course 1,000.00
Cadet Application
Online Application Processing Fee 35.00
Rental
Pursuit Interventions Technique
Training Vehicles 100.00
Firing Range 300.00
Shoot House 150.00
Camp William Firing Range 200.00
Peace Officers' Standards and Training (POST)
Reactivation/Waiver 75.00
Supervisor Class 50.00

PROGRAMS & OPERATIONS

CITS State Crime Labs
Additional DNA Casework
per sample - full analysis 894.00
DNA Casework per sample -
Quantitation only 459.00
Drugs - controlled substances per
item of evidence 355.00
Fingerprints per item of evidence 345.00
Serology/Biology per item of evidence 335.00
Training Course Materials
Reimbursement (per Person) 250.00
Training Course Materials Reimbursement
Department Commissioner's Office
Fees Applicable to All Divisions In Department of Public Safety
Courier Delivery ..... Actual cost
Fax (per page) 1.00
Audio/Video/Photos (per CD) 25.00
Developed photo negatives (per photo) 1.00
Printed Digital Photos (per paper) 2.00
1, 2, or 4 photos per sheet (8x11) based on request
Miscellaneous Computer Processing
(per hour) ..... Cost of Employee Time
Bulk/E-Data Transaction (per Record) 0.10
Copies
Mailing ..... Actual cost
Color (per page) 1.00
Over 50 pages (per page) 0.50
1-10 pages 5.00
11-50 pages 25.00
Department Sponsored Conferences
Registration (per registrant) 275.00
Late Registration (per registrant) 300.00
Vendor Fee (per Vendor) 700.00
Fire Marshal - Fire Operations
Annual license for display operator,
special effects operator, or flame
effects operator (per License) 40.00

Fire and Life Safety Review
(per Square Foot) ..... Greater of $75/plan review or $.022/square ft.
Annual license for importer and wholesaler of pyrotechnic devices (per License) 250.00
Inspection For Fire Clearance
Re-Inspection Fee (per Re-Inspection) 250.00
Liquid Petroleum Gas
License
Class I 450.00
Class II 450.00
Class III 105.00
Class IV 150.00
Branch Office 338.00
Duplicate 30.00
Examination 30.00
Re-examination 30.00
Five Year Examination 30.00
Certificate 40.00
Dispenser Operator B 20.00
Plan Reviews
More than 5000 gallons 150.00
5000 water gallons or less 75.00
Special inspections (per hour) 50.00
Re-inspection 250.00
3rd inspection or more
Private Container Inspection
More than one container 150.00
One container 75.00
Portable Fire Extinguisher and Automatic Fire Suppression Systems
License 300.00
Combination 150.00
Branch Office License 150.00
Certificate of Registration 40.00
Duplicate Certificate of Registration 40.00
License Transfer 50.00
Application for exemption 150.00
Examination 30.00
Re-examination 30.00
Five year examination 30.00
Automatic Fire Sprinkler Inspection and Testing
Certificate of Registration 30.00
Examination 20.00
Re-examination 20.00
Three year extension 20.00
Fire Alarm Inspection and Testing
Certificate of Registration 40.00
Examination 30.00
Re-examination 30.00
Three year extension 30.00
Highway Patrol - Administration
Online Traffic Reports Utah Interactive Convenience Fee 2.50
UHP Conference Registration Fee 250.00
Photogramatry 100.00
Cessna (per hour) 155.00
Plus meals and lodging
Helicopter (per hour) 1,350.00
Plus meals and lodging
Court order requesting blood samples be sent to outside agency 40.00
Highway Patrol - Federal/State Projects
Transportation and Security Details (per hour) 100.00
Plus mileage
Highway Patrol - Safety Inspections
Safety Inspection Program
Safety Inspection Manual 5.50
Stickers (book of 25) 4.50
Sticker reports (book of 25) 3.00
Inspection certificates for passenger/light truck (book of 50) 3.00
Inspection certificates for ATV (book of 25) 3.00
Inspection Station
Permit application fee 100.00
Station physical address change 100.00
Replacement of lost permit 2.25
Inspector
Certificate application fee 7.00
Valid for 5 years
Certificate renewal fee 4.50
Replacement of lost certificate 1.00

BUREAU OF CRIMINAL IDENTIFICATION

Law Enforcement/Criminal Justice Services
TAC Conference Registration 100.00
Non-Government/Other Services
Replication Fee for Rap Back Enrollment (per Request) 10.00
Vacatur Expungement Order Processing Fee 65.00
Record Challenge Fee (per Request) 15.00
Paper Arrest (OTN) Fingerprint Card Packets (per card packet) 15.00
Right of Access (per Request) 15.00
AFIS Retain (per Request) 5.00
Applicant Fingerprint Card (WIN) (per Request) 15.00
Firearm Transaction (Brady Check) 7.50
Name/DOB Applicant Background Check 15.00
Concealed Firearm Permit Instructor Registration 35.00
Board of Pardons Expungement Processing 65.00
Fingerprint Services 15.00
Print Other State Agency Cards 5.00
State Agency ID set up 50.00
Child ID Kits 1.00
Extra Copies Rap Sheet 15.00
Extra Fingerprint Cards 5.00
Concealed weapons permit renewal Utah Interactive Convenience Fee 0.75
Photos 15.00
Application for Removal From White Collar Crime Registry 120.00
Private Investigator
Original agency license application and license 215.00
Renewal of an agency license 115.00
Original registrant or apprentice license application and license 115.00
Renewal of a registrant or apprentice license 65.00
Late Fee Renewal - Agency 65.00
Late Fee Renewal - Registrant/Apprentice 45.00
Reinstatement of any license 65.00
Duplicate identification card 25.00
Bail Enforcement
Original bail enforcement agent license application and license 250.00

Renewal of a bail enforcement agent or bail bond recovery agency license 150.00
Original bail recovery agent license application and license 150.00
Renewal of each bail recovery agent license 100.00
Original bail recovery apprentice license application and license 150.00
Renewal of each bail recovery apprentice license 100.00
Late Fee Renewal – Enforcement Agent/Recovery Agency 50.00
Late Fee Renewal – Recovery Agent 30.00
Late Fee Renewal – Recovery Apprentice 30.00
Reinstatement of a bail enforcement agent or bail bond recovery agency license 50.00
Duplicate identification card 10.00
Reinstatement of an identification card 10.00
Sex Offender Kidnap Registy
Application for removal from registry ... 168.00
Eligibility Certificate for removal from registry 25.00
Expungements
Special certificates of eligibility. 65.00
Application 65.00
Certificate of Eligibility 65.00

INFRASTRUCTURE AND GENERAL GOVERNMENT

DEPARTMENT OF HUMAN RESOURCE MANAGEMENT

HUMAN RESOURCE MANAGEMENT

Statewide Management Liability Training
Course Fee (per student) 750.00
Per Course
Other Training Fee (per hour) 25.00
$25 per training hour – materials not included.

HUMAN RESOURCES INTERNAL SERVICE FUND

ISF – Core HR Services
Core HR (per FTE) 12.00
ISF – Field Services
Consulting Services (Non–Customer) (per Hour) 50.00
Billing for DHRM consultation with agencies who do not use DHRM HR services.
HR Services (per FTE) 740.00
ISF – Payroll Field Services
Payroll Services (per FTE) 54.00
Per UCA 67–19–13.5, the following agencies are not required to use DHRM payroll services: State Treasurer's Office, State Auditor's Office, Dept. of Technology Services, Dept. of Public Safety, Dept. of Natural Resources, Dept. of Transportation, Utah Schools for the Deaf and the Blind.

DEPARTMENT OF ADMINISTRATIVE SERVICES

DFCM ADMINISTRATION

Program Management
Non–state Funded Project Fees
Projects <$99,999 (per Project) 3.5%
Projects >= $100K and <$499,999 (per Project) .. $3500 + 1.5% over $100,000
Projects >= $500K and <$2,499,999 (per Project) . $9500 + 0.75% over $500,000
Projects >= $2.5M and <$9,999,999 (per Project) $24,500 + 0.5% over $2,500,000
Projects >= $10M and <$49,999,999 (per Project) $62,000 + .15% over $10,000,000
Projects >= $50M (per Project)$122,000 + 0.1% over $50,000,000

EXECUTIVE DIRECTOR

Government Records Access and Management Act
Photocopies, black & white (per Copy) 0.10
Photocopies, color (per Copy) 0.25
Photocopy labor cost (per Utah Statute 63G–2–203(2)) (per page) ..... Actual Cost
Certified copy of a document (per certification) 4.00
Long distance fax within US (per fax number) 2.00
Electronic Documents on any physical media (per USB (GB)) ..... Actual Cost
Mail within US (per address) 2.00
Mail outside US (per address) 5.00
Research or services ..... Actual cost

FINANCE ADMINISTRATION

Financial Information Systems
FINET Interface Implementation – Large Project 5,600.00
FINET Interface Implementation – Medium Project 3,700.00
FINET Interface Implementation – Small Project 1,900.00
Custom Report and Dashboard Development and Maintenance ..... Actual Costs
FINET Interface Document Clean Up (per Hour) 46.00
Credit Card Payments ..... Variable
Contract rebates
Financial Reporting
Loan Servicing 125.00
ISF Accounting Services ..... Actual cost
Cash Mgt Improvement Act
Interest Calculation ..... Actual cost
Single Audit Billing to State Auditor's Office ..... Actual Cost
Payables/Disbursing
Disbursements
Collection Service 15.00
IRS Collection Service 25.00
Payroll
Out–of–State Employee Maintenance Fee 1,300.00
Out–of–State Employee Set Up Fee 2,200.00
Payroll Interface Document Cleanup 46.00

Tax Review Fee for Out-of-State
Payroll ..... Actual Cost

STATE ARCHIVES

Archives Administration
Data Base Download (plus Work
Setup Fee) (per Record) 0.10
Patron Services
Copy - Paper to PDF (copier
use by patron) 0.05
Digital Collection Setup Host fee 300.00
Local Commercial License 10.00
National Commercial License 50.00
Copy - Paper to PDF (copier use by staff) ... 0.25
General
Certified Copy of a Document 4.00
Photo Reproductions
Digital Imaging 300 dpi or higher 10.00
Mailing and Fax Charges
Within USA
Mailing in USA - 1 to 10 Pages 3.00
Mailing in USA - Microfilm 1
to 2 Reels 4.00
Mailing in USA - Each additional
Microfilm Reel 1.00
Mailing in USA - CD/DVD/USB 4.00
Mailing in USA - Add Postage for
each 10 pages 1.00
International
Mailing International - 1 to 10 pages ... 5.00
Mailing International - Each
additional 10 pages 1.00
Mailing International -
Microfilm 1 to 2 Reels 6.00
Mailing International - Each
additional Microfilm Reel 2.00
Mailing International -
CD/DVD/ USB 6.00
Copy Charges
Audio
Copy Charges - Audio Recordings 10.00
Price excludes cost of medium
Documents
Copy Charges - 11 x 14 and
11 x 17 by staff, limit 50 ..... 0.50
Copy Charges - 11 x 14 and
11 x 17 by patron 0.25
8.5x11
Copy - 8.5 x 11 by staff, limit 50 ..... 0.25
Copy - 8.5 x 11 by patron 0.10
Microfilm/Microfiche
Digital
Copy - Digital by staff, limit 25 ..... 1.00
Copy - Digital by patron 0.15
Paper
Copy Microfilm - Paper by staff,
limit 25 ..... 1.00
Copy Microfilm - Paper by patron 0.25
Video
Copy Video - Video Recording (excludes
cost of medium) 20.00
Price excludes cost of medium
Other
Archivist Handling fee (per hr.)
(per hour) ..... At Cost
Special Request ..... At Cost
Supplies
Supplies - USB Flash Drive
(per gigabyte) 5.00
Supplies - CD (per disk) 0.30
Supplies - DVD (per disk) 0.40
Electronic File on-line (per File) 2.50
Preservation Services
Work Setup Fee (WSF) 17.00
Microfiche production fee per
image plus (WSF) (per image) 0.045
General
16mm master film 13.00
Digital Copies of Electronic Rolls of
Microfilm plus medium cost 10.00
35mm master film 35.00
16mm silver duplicate copy 30.00
35mm silver duplicate copy 24.00
Books filmed (per Page) 0.15
Electronic image to microfilm
(per Reel) 45.00
Microfilm to CD/DVD/USB (per reel) 40.00
Microfilm Lab Processing Setup Fee 5.00
Microfilm to digital PDF conversion 5.00

STATE DEBT COLLECTION FUND

Office of State Debt Collection
Attorney / Legal fee
(per Hour) ..... $100 per hour
Corrections Tuition
Fee ..... 10% of tuition account balance
Collection Penalty 6.0%
Collection Interest ..... Prime + 2%
Post Judgment Interest ..... Variable
Labor Commission Wage Claims ..... Variable
10% of partial payments; 1/3 of claim or
$500, whichever is greater for full payments
Administrative Collection 15.5%
15.5% of amount collected (18.34% effective
rate)
Garnishment Request ..... Actual cost
Legal Document Service ..... Actual cost
Greater of $20 or Actual
Credit card processing fee charged
to collection vendors 1.75%
Court Filing, Deposition/
Transcript /Skip Tracing ..... Actual cost

DEPARTMENT OF ADMINISTRATIVE SERVICES

DIVISION OF FACILITIES CONSTRUCTION AND MANAGEMENT - FACILITIES MANAGEMENT

Taylorsville State Office Building .. 2,891,435.00
All services provided by the DFCM ISF are voluntary. This is based on Operations and maintenance agreements with each location managed by the DFCM. Without these services each state entity may either manage the sight themselves or contract out the services that will meet the States building board standards. The DFCM director annually reviews these requests and determines if the agency has the ability to provide the services to meet those standards. This location is an agreement with the DFCM

and Department of Administrative Services, Administrative Office of the Courts, Department of Human Services, Department of Insurance, Department of Technology Services, Department of Agriculture and Department of Public Safety/Emergency Management.

SLC VA home 40,667.90

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Garage–Groundskeeper I 25.00
New Provo Courts/Terrace 1,320,997.88
DEQ Building 62,788.63
Unified Lab #2 ..... 865,836.54
Cedar City DNR 77,790.16

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Ogden VA Nursing Home 52,945.37
Clearfield Warehouse C6 – Archives 152,535.84
Garage–Facilities Manager / Coord II 69.00
Garage–Grounds Manager 49.00
Spanish Fork Veterinary Lab 50,716.03
Utah Arts Collection 43,900.00
West Jordan Courts 557,835.00
Chase Home 17,428.00
Clearfield Warehouse C7 – DNR/DPS 102,837.00
Garage–Grounds Supervisor 45.00
Garage–Journey Plumber 60.00
Payson VA Nursing Home 189,105.70

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Utah State Office of Education 410,669.00
West Valley 3rd District Court 148,350.00
Calvin Rampton Complex 1,602,863.00
Garage–Journey Electrician 62.00
Utah State Developmental Center 2,648,357.00
Vernal DNR Regional 80,394.00
Vernal Drivers License 36,055.00

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Department of Public Safety
DPS Crime Lab 42,000.00
Cannon Health 860,515.00
Garage–Electronics Resource Group 53.00
Garage–Groundskeeper II 44.00
Garage–Journey HVAC 59.00
Lone Peak Forestry & Fire 45,820.65
N UT Fire Dispatch Center 30,438.66
DPS Drivers License 185,577.00
Alcoholic Beverage Control Stores 1,879,749.50
Garage–Journey Maintenance 54.00
Ivins VA Nursing Home 134,064.39

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Utah State Tax Commission 970,200.00
Vernal Juvenile Courts 40,256.00

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Veteran's Memorial Cemetery 24,464.00
Work Force Services
DWS/DHS – 1385 South State 408,430.70
Alcoholic Beverage Control Administration 805,415.00
Brigham City Regional Center 573,808.00
Garage–Maintenance Supervisor 55.00
Price Public Safety 90,897.00

Vernal 8th District Court 248,649.00
Wasatch Courts 11,518.56
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DWS Administration 685,930.00
Archive Building 121,335.00
Capitol Hill Complex 3,809,700.00
Department of Administrative
Services Surplus Property 59,747.00
Garage-Mechanic 46.00
Juab County Court 76,798.00
Ogden Juvenile Court 444,038.00
Department of Public Safety
DPS Farmington Public Safety 100,425.00
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Work Force Services
DWS Call Center 200,317.00
Agriculture 356,706.00
Brigham City Court 169,400.00
Cedar City Courts 155,520.00
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Dixie Drivers License 72,928.00
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Fairpark Driver's License Division 61,571.00
Garage-Administrative Staff 49.00
Garage-Journey Boiler Operator 61.00
Garage-Office Specialist 45.00
Rio Grande Depot 493,565.00
Human Services
DHS - Vernal 74,117.00
Work Force Services
DWS Cedar City 93,461.00
Adult Probation and Parole
Freemont Office Building 192,375.00
Cedar City Regional Center 92,008.00
DCFS - OREM 120,792.00
Division of Services for the Blind
and Visually Impaired
Training Housing 49,736.00
Driver License West Valley 98,880.00
Farmington 2nd District Courts 537,465.00
Garage-Apprentice Maintenance 49.00
Garage-Journey Carpenter 58.00
Garage-Temp Groundskeeper 22.00
Glendinning Fine Arts Center 45,000.00
Governor's Residence 177,156.00
Heber M. Wells 1,152,179.00
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Highland Regional Center 331,766.40
Layton Court 105,896.00
Logan 1st District Court 379,267.00
Moab Regional Center 142,533.00
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Murray Highway Patrol 141,738.00
Natural Resources 745,072.00
Natural Resources Price 124,323.00
Natural Resources Richfield
(Forestry) 104,508.14
Navajo Trust Fund Administration ... 157,640.00
Office of Rehabilitation Services 204,156.00
Ogden Court 562,740.00

Ogden Division of Motor Vehicles and Drivers License 91,964.00
Ogden Juvenile Probation 211,134.00
Ogden Radio Shop 16,434.00
Ogden Regional Center 751,511.27
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Orem Public Safety 105,640.00
Orem Region Three Department of Transportation 178,192.00
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Provo Juvenile Work Crew 74,164.77
All services provided by the DFCM ISF are voluntary. This is based on Operations and maintenance agreements with each location managed by the DFCM. Without these services each state entity may either manage the sight themselves or contract out the services that will meet the States building board standards. The DFCM director annually reviews these requests and determines if the agency has the ability to provide the services to meet those standards. This location is an agreement with the DFCM and Administrative Office of the Courts.
Provo Regional Center 839,011.00
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Public Safety Depot Ogden 34,822.00
Richfield Court 161,535.68
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Richfield Dept. of Technology Services Center 39,000.00
Richfield Regional Center 75,499.00
Salt Lake Court 1,868,160.00
Salt Lake Government Building #1 ... 972,934.00
Salt Lake Regional Center – 1950 West 250,492.00
St. George Courts 600,353.00
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St. George DPS 49,572.00
St. George Tax Commission 64,224.00
State Library 183,714.00
State Library State Mail 156,261.00
State Library Visually Impaired 124,027.00
Taylorsville BCI 185,250.00
Taylorsville Center for the Deaf 138,681.00
Tooele Courts 354,051.00
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Unified Lab 883,894.00
Vernal Division of Services for People with Disabilities 31,330.00
Human Services
DHS Clearfield East 127,306.00
DHS Ogden – Academy Square 299,834.00
Work Force Services

DWS Brigham City 62,804.00
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DWS Clearfield/Davis County 180,633.00
DWS Logan 140,088.00
DWS Metro Employment Center ... 252,776.00
DWS Midvale 135,640.00
DWS Ogden 203,748.00
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DWS Provo 195,970.00
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DWS Richfield 58,072.00
DWS South County Employment Center 176,196.00
DWS St. George 86,452.00
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DWS Vernal 73,702.00

DIVISION OF FINANCE

ISF – Purchasing Card
Purchasing Card ..... Variable
Contract rebates

DIVISION OF FLEET OPERATIONS

ISF – Fuel Network
State-Owned Sites Markup on Fuel (per gallon) 0.28
Retail Sites Markup on Fuel (per gallon) 0.17
Percentage of Transaction Value on Non-fuel Purchases 3.0%
Accounts receivable late fee
Past 30 days ..... 5% of balance
Past 60 days ..... 10% of balance
Past 90 days ..... 15% of balance
CNG Maintenance and Depreciation (per gallon) 1.15
ISF – Motor Pool
Telematics GPS tracking ..... Actual cost
Commercial Equipment Rental ..... Cost plus $12 Fee
Administrative Fee for Do-Not Replace Vehicles (per Month) 51.29
Service Fee (per 12) ..... $12 Service Fee
General MP Info Research Fee (per 12) ..... $12 Per Hour
Lost or damaged fuel/maint card replacement fee (per 2) ..... $2 Fee
Vehicle Complaint Processing Fee (per 20)$20 Fee
Operator negligence and vehicle abuse fees (per 0)
Varies (abuse or driver neglect cases only)
Lease Rate (per month, per vehicle) ..... See formula
Contract price less salvage value divided by current life cycle.
Mileage ..... See formula
Maintenance and repair costs for a particular vehicle/use type, divided by total miles for that vehicle/use type
Fuel Pass-through ..... Actual cost
Equipment rate for Public Safety vehicles ..... Actual cost
Additional Management
Daily Pool Rates – Actual Cost
From Vendor Contract – Actual Cost ..... Actual Cost
Administrative Fee for Overhead 42.00
Management Information System (per month) 3.00
Vehicle Feature and Miscellaneous Equipment Upgrade ..... Actual cost
Vehicle Class Differential Upgrade ..... Actual cost
Bad Odometer Research 50.00
Operator fault
Vehicle Detail Cleaning Service 40.00
Excessive Maintenance, Accessory Fee ..... Variable
Accounts receivable late fee
Past 30-days ..... 5% of balance
Past 60-days ..... 10% of balance

Past 90-days ..... 15% of balance
Accident deductible rate
charged (per accident) ..... Actual cost
Operator negligence and
vehicle abuse ..... Variable
Statutory Maintenance Non-Compliance
10 days late (per vehicle per month) .. 100.00
20 days late (per vehicle per month) .. 200.00
30+ days late (per vehicle
per month) 300.00
Seasonal Use Vehicle Lease 155.02
ISF - Travel Office
Car and/or Hotel Only 8.00
Travel
Travel Agency Service
Regular 27.00
Online 17.00
State Agent 22.00
Group
16-25 people 24.50
26-45 people 22.00
46+ people 19.50
School District Agent 17.00
Transactions Group
Transactions Rate (per hour) 46.00

DIVISION OF PURCHASING AND GENERAL SERVICES

ISF - Central Mailing
State Mail
Courier
Courier - Zone 1 ..... 2.26
Courier - Zone 2 ..... 3.88
Courier - Zone 3 ..... 8.04
Courier - Zone 4 ..... 9.70
Courier - Zone 5 ..... 14.35
Courier - Zone 6 ..... 17.79
Courier - Zone 7 ..... 21.73
Courier - Zone 8 ..... 26.42
Courier - Zone 9 ..... 28.49
Courier - Zone 10 ..... 33.22
Courier - Zone 11 ..... 36.02
Courier - Zone 12 ..... 39.87
Production
Incoming OCR Sort 0.103
Business Reply/Postage Due 0.54
Special Handling/Labor (per hour) 85.00
Auto Fold 0.024
Label Generate 0.155
Label Apply 0.15
Auto Tab 0.35
Meter/Seal 0.028
Optical Character Reader 0.028
Additional Insert 0.01
Accountable Mail 1.45
Intelligent Inserting 0.033
ISF - Cooperative Contracting
Cooperative Contracts Administrative Up to 1.0%
ISF - Federal Surplus Property
Surplus
Federal Shipping and handling
charges ..... See formula
Not to exceed 20% of federal acquisition cost
plus freight/shipping charges
Accounts receivable late fees
Past 30 days ..... 5% of balance
Past 60 days ..... 10% of balance
ISF - Print Services
Contract Management (per impression) 0.005
Self Service Copy Rates 0.004
Cost computed by: (Depreciation +
Maintenance + Supplies)/Impressions + copy
multiplied impressions results
ISF - State Surplus Property
Surplus
Surcharge for use of a Financial
Transaction Card ..... Up to 3%
Surcharge applies only to the amount
charged to a financial transaction card
Online Sales Non-
Vehicle ..... 50% of net proceeds
Miscellaneous Property Pick-up Process
State Agencies
Total Sales Proceeds ..... See formula
Less prorated rebate of retained earnings
Handheld Devices (PDAs and wireless phones)
Less than 1 year old ..... 75% of actual cost
$30 minimum
1 year and older .. 50% of cost - $30 minimum
Unique Property Processing .. Negotiated % of
sales price
Electronic/Hazardous Waste
Recycling ..... Actual cost
Vehicles and Heavy Equipment 6.5%
of Net Sale Price plus $100 per Vehicle
Default Auction Bids ..... 10% of sales price
Labor (per hour) 26.00
Half hour minimum
Copy Rates (per copy) 0.10
Semi Truck and Trailer Service
(per mile) 1.08
Two-ton Flat Bed Service (per mile) 0.61
Forklift Service (per hour) 23.00
4-6000 lbs
On-site sale away from Utah State Agency
Surplus Property yard ... 7% of net sale price
Storage
Building (per cubic foot per month) 0.43
Fenced lot (per square foot per month) 0.23
Accounts receivable late fees
Past 30 days ..... 5% of balance
Past 60 days ..... 10% of balance

RISK MANAGEMENT

ISF - Risk Management Administration
Specialized Lines of Coverage
These are specialized lines of insurance
outside of typical coverage lines. The aviation
fees are pass through costs direct from
insurance provider. Also shown are fees to
host (administer) the enterprise learning
management system (Saba).
Aviation Insurance Premiums (pass through)
SG-10305 Dept of Public Safety 99,928.00
SG-10269 Dept of Natural
Resources 21,273.00
SG-10151 Dept of Agriculture
& Food 11,904.00
SG-10350 Dept of Transportation ... 37,462.00
HE-10364 Utah State University ... 375,106.00
HE-10365 Utah Valley
University 194,550.00
Learning Management System

Learning Management System – Enterprise Rate (per Hour) 55.00
Learning Management System – Garage Rate (per Hour) 55.00
ISF – Workers' Compensation
Workers Compensation Premiums
State Workers ..... 0.61% per $100 wages
Road Construction Crews ..... 1.60% per $100 wages
Aviation Crews (per PILOT-YEAR) ..... 1.60% per $100 wages
Risk Management – Auto
Auto Property Damage (APD)
Premium Methodology
APD Premiums ..... See below
Exposure data (vehicles) and loss history are provided to an actuary, who proposes rates listed below.
Standard Deductible (per incident) ... 1,500.00
(Currently applying a $1,000.00 deductible)
APD Premiums: Charter Schools
CS-10155 American Leadership Academy 1,634.00
CS-10164 C S Lewis Academy Charter School 842.00
CS-10310 Canyon Grove Academy 941.00
CS-10178 City Academy 248.00
CS-10201 East Hollywood High School 347.00
CS-10209 Fast Forward Charter 297.00
CS-10117 Franklin Discovery Academy 248.00
CS-10225 Guadalupe Charter School 1,089.00
CS-10238 Itineris Early College High School 198.00
CS-10245 Karl G Maeser Preparatory Academy 941.00
CS-10459 Mana Academy Charter School 495.00
CS-10258 Merit College Preparatory Academy 842.00
CS-10287 Northern Utah Academy For Math Engr & Science 545.00
CS-10300 Pinnacle Canyon Academy 3,317.00
CS-10302 Providence Hall Charter School 1,733.00
CS-10134 Real Salt Lake Academy 743.00
CS-10321 Salt Lake School For The Performing Arts 990.00
CS-10328 Soldier Hollow Charter School 248.00
CS-10337 Success Academy – Iron County 396.00
CS-10355 Tuacahn High School For The Performing Arts 842.00
CS-10362 Utah County Academy Of Sciences 198.00
CS-10469 Utah Military Academy 2,624.00
CS-10437 Valley Academy 3,168.00
CS-10102 Vanguard Charter School 495.00
CS-10368 Vista At Entrada School For Performing Arts And Technology 594.00
CS-10369 Walden School Of Liberal Arts 99.00
APD Premiums: Higher Education
HE-10163 Bridgerland Technical College 7,439.00
HE-10192 Davis Technical College ... 2,711.00
HE-10197 Dixie State University ... 12,687.00
HE-10196 Dixie Technical College ... 4,002.00
HE-10292 Ogden-Weber Technical College 1,912.00
HE-10263 Mountainland Technical College 3,347.00
HE-10318 Salt Lake Community College 21,950.00
HE-10326 Snow College 7,663.00
HE-10333 Southern Utah University 19,019.00
HE-10334 Southwest Technical College 2,876.00
HE-10348 Tooele Technical College 1,433.00
HE-10356 Uintah Basin Technical College 5,140.00
HE-10364 Utah State University 84,330.00
HE-10428 Utah System of Technical Colleges 304.00
HE-10365 Utah Valley University ... 31,397.00
HE-10375 Weber State University 27,840.00
APD Premiums: Independent Agencies
OT-10228 Heber Valley Railroad 680.00
OT-10363 Utah State Fair Park 1,492.00
APD Premiums: School Districts
SD-10154 Alpine School District ... 157,228.00
SD-10159 Beaver School District 7,646.00
SD-10161 Box Elder School District 44,222.00
SD-10166 Cache School District 44,037.00
SD-10168 Canyons School District 64,041.00
SD-10170 Carbon School District ... 13,457.00
SD-10172 Central Utah Educational Services 77.00
SD-10190 Daggett School District 4,217.00
SD-10194 Davis County School District 127,546.00
SD-10199 Duchesne School District 22,822.00
SD-10204 Emery School District 12,772.00
SD-10212 Garfield School District 7,144.00
SD-10223 Grand School District 5,826.00
SD-10224 Granite School District .. 113,969.00
SD-10237 Iron School District 29,426.00
SD-10240 Jordan School District 95,505.00
SD-10241 Juab School District 8,008.00
SD-10244 Kane School District 7,848.00
SD-10255 Logan City School District 3,078.00
SD-10259 Millard School District ... 12,748.00
SD-10262 Morgan School District 9,057.00
SD-10265 Murray School District 8,897.00
SD-10280 Nebo School District 60,473.00
SD-10283 North Sanpete School District 9,079.00
SD-10285 North Summit School District 4,767.00
SD-10286 Northeastern Utah Education Services 395.00

SD-10290 Ogden City School District 6,230.00
SD-10298 Park City School District 8,649.00
SD-10301 Piute School District 4,419.00
SD-10303 Provo School District 21,112.00
SD-10315 Rich School District 4,272.00
SD-10319 Salt Lake School District 43,578.00
SD-10322 San Juan School District 26,599.00
SD-10325 Sevier School District 17,965.00
SD-10329 South Sanpete School District 9,598.00
SD-10330 South Summit School District 6,510.00
SD-10332 Southeastern Educational Center 77.00
SD-10335 Southwest Education Developmental Center 677.00
SD-10347 Tintic School District 2,054.00
SD-10349 Tooele School District 30,830.00
SD-10357 Uintah School District 21,769.00
SD-10371 Wasatch School District 16,635.00
SD-10372 Washington School District 54,572.00
SD-10373 Wayne School District 3,657.00
SD-10374 Weber School District 58,111.00
APD Premiums: State Agencies
SG-10189 Judicial Branch 27,939.00
SG-10353 State Treasurer 428.00
SG-10216 Governor's Office 510.00
SG-10217 Utah Commission on Criminal and Juvenile Justice 173.00
SG-10219 Governor's Office of Economic Development 3,022.00
SG-10156 Attorney General 11,633.00
SG-10157 Utah State Auditor 343.00
SG-10144 Dept of Administrative Services 520.00
SG-10145 DAS Facilities Management 23,455.00
SG-10147 DAS Fleet Services Motor Pool 24,260.00
SG-10149 DAS Purchasing and General Services Administration 249.00
SG-10150 DAS Risk Management Administration 862.00
SG-10341 Dept of Technology Services 4,919.00
SG-10340 Tax Commission 13,241.00
SG-10277 Navajo Trust Administration 1,828.00
SG-10305 Dept of Public Safety 441,490.00
SG-10307 DPS Emergency Services & Homeland Security 596.00
SG-10266 Utah National Guard 10,326.00
SG-10231 Dept of Human Services 520.00
SG-10233 Dept of Human Services Special Projects 100,937.00
SG-10227 Dept of Health 9,948.00
SG-10203 Utah State Board of Education 12,975.00
SG-10323 Utah State Board of Education DBS Adminstration 12,996.00
SG-10187 Dept of Corrections 55,150.00
SG-10186 DOC DPO Central Utah / Gunnison 8,275.00
SG-10188 DOC AP&P Administration 79,671.00
SG-10297 Board of Pardons & Parole 1,027.00
SG-10367 Dept of Veterans' & Military Affairs 3,943.00
SG-10207 Dept of Environmental Quality 5,242.00
SG-10354 School & Institutional Trust Lands Admin 3,476.00
SG-10269 Dept of Natural Resources 97,809.00
SG-10274 DNR Foresty Fire Services Division 548.00
SG-10271 DNR Oil, Gas and Mining 3,250.00
SG-10274 DNR Water Resources 520.00
SG-10276 DNR Wildlife Resources ... 5,235.00
SG-10272 DNR State Parks and Recreation 39,439.00
SG-10273 DNR Utah Geological Survey 520.00
SG-10151 Dept of Agriculture & Food 29,323.00
SG-10304 Public Lands Policy Coordination Office 704.00
SG-10376 Dept of Workforce Services 26,270.00
SG-10152 Dept of Alcoholic Beverage Control 1,961.00
SG-10246 Labor Commission 6,502.00
SG-10180 Dept of Commerce 4,714.00
SG-10235 Dept of Insurance 2,945.00
SG-10181 Dept of Heritage & Arts ... 1,957.00
SG-10184 DHA State Library 5,907.00
SG-10350 Dept of Transportation 162,742.00
OT-10361 Utah Communications Authority 7,759.00
Risk Management - Liability
Liability Premium Methodology
Liability Premiums 1.00
Exposure data and loss history are provided to an actuary, who proposes rates. Penalties shown be low may also apply.
Non-Compliance Penalty - Risk Reduction Form ..... 5% Penalty
Failure to submit Annual Risk Reduction Form - up to 5% Penalty.
Non-Compliance Penalty - Self Inspection Survey ..... 10% Penalty
Failure to complete Self-Inspection Survey - up to 10% Penalty.
Non-Compliance Penalty (K-12) Cheerleader Safety Training ..... 10% Penalty
Failure to attend annual cheer clinic - up to 3% Penalty. Non-compliance penalties in total not to exceed 15% per entity.
Liability Premiums: Charter Schools
CS-10140 Academy for Math, Engineering, & Science 8,243.00
CS-10155 American Leadership Academy 30,748.00
CS-10160 Beehive Science & Technology Academy 4,986.00
CS-10126 Bonneville Academy 10,346.00

CS-10164 C S Lewis Academy Charter School 5,800.00
CS-10310 Canyon Grove Academy .. 10,888.00
CS-10471 Career Path High 2,968.00
CS-10127 Center For Creativity, Innovation and Discovery 7,581.00
CS-10177 Channing Hall 10,515.00
CS-10178 City Academy 2,781.00
CS-10201 East Hollywood High School 5,597.00
CS-10208 Excelsior Academy Charter School 17,740.00
CS-10209 Fast Forward Charter 3,969.00
CS-10117 Franklin Discovery Academy 9,430.00
CS-10213 Gateway Preparatory Academy 11,414.00
CS-10225 Guadalupe Charter School 5,292.00
CS-10119 Ignite Entrepreneurship Academy 9,124.00
CS-10238 Itineris Early College High School 6,309.00
CS-10236 Intech Collegiate High School 2,510.00
CS-10239 John Hancock Charter School 2,663.00
CS-10245 Karl G Maeser Preparatory Academy 10,753.00
CS-10247 Lakeview Academy 17,180.00
CS-10459 Mana Academy Charter School 5,156.00
CS-10260 Moab Charter School 1,594.00
CS-10258 Merit College Preparatory Academy 7,276.00
CS-10294 Mountain Heights Academy 12,516.00
CS-10264 Mountainville Academy 11,244.00
CS-10278 Navigator Pointe Charter School 8,107.00
CS-10281 Noah Webster Academy ... 9,243.00
CS-10284 North Star Academy 9,091.00
CS-10287 Northern Utah Academy For Math Engr & Science 15,044.00
CS-10289 Odyssey Charter School ... 7,310.00
CS-10300 Pinnacle Canyon Academy 7,683.00
CS-10302 Providence Hall Charter School 35,582.00
CS-10311 Quest Academy Charter School 17,757.00
CS-10343 The Ranches Academy Charter School 6,275.00
CS-10312 Reagan Academy 11,550.00
CS-10134 Real Salt Lake Academy ... 4,545.00
CS-10314 Renaissance Academy 12,940.00
CS-10118 Saint George Academy 4,138.00
CS-10317 Salt Lake Arts Academy ... 6,801.00
CS-10466 Scholar Academy 10,176.00
CS-10328 Soldier Hollow Charter School 5,292.00
CS-10321 Salt Lake School For The Performing Arts 5,122.00
CS-10338 Success Academy – Washington 7,344.00
CS-10346 Timpanogos Academy Charter School 8,327.00
CS-10355 Tuacahn High School For The Performing Arts 6,445.00
CS-10362 Utah County Academy Of Sciences 8,870.00
CS-10447 Utah International Charter School 4,020.00
CS-10469 Utah Military Academy ... 17,265.00
CS-10437 Valley Academy 6,767.00
CS-10102 Vanguard Charter School 7,717.00
CS-10366 Venture Academy Charter 13,025.00
CS-10368 Vista At Entrada School For Performing Arts And Technology 15,315.00
CS-10369 Walden School Of Liberal Arts 7,225.00
CS-10116 Wallace Stegner Academy 10,583.00
CS-10370 Wasatch Peak Academy ... 7,344.00
CS-10472 WSU Kinder Charter Academy 678.00
CS-10465 Winter Sports School 1,933.00
Charter School Pre-opening Liability Coverage (per School) 1,000.00
Liability Premiums: Higher Education
HE-10163 Bridgerland Technical College 54,704.00
HE-10192 Davis Technical College 53,957.00
HE-10197 Dixie State University .. 425,355.00
HE-10196 Dixie Technical College .. 56,417.00
HE-10292 Ogden-Weber Technical College 59,045.00
HE-10263 Mountainland Technical College 52,280.00
HE-10318 Salt Lake Community College 518,166.00
HE-10333 Southern Utah University 298,541.00
HE-10334 Southwest Technical College 19,659.00
HE-10326 Snow College 154,192.00
HE-10348 Tooele Technical College 15,321.00
HE-10356 Uintah Basin Technical College 29,034.00
HE-10358 University of Utah 2,537,859.00
HE-10428 Utah System of Technical Colleges 39,039.00
HE-10365 Utah Valley University 760,144.00
HE-10364 Utah State University 1,417,529.00
HE-10375 Weber State University 519,301.00
Liability Premiums: Independent Agencies
OT-10228 Heber Valley Railroad 4,356.00
OT-10363 Utah State Fairpark 17,940.00
School Districts (per Group) 8,656,182.00
Liability Premiums: State Agencies
SG-10324 Senate 5,220.00
SG-10229 House of Representatives 6,286.00

SG-10252 Legislative Services 2,732.00
SG-10253 Legislative Research & General Counsel 23,503.00
SG-10251 Legislative Fiscal Analyst 7,677.00
SG-10250 Legislative Auditor General 9,812.00
SG-10189 Judicial Branch 294,274.00
SG-10169 Capitol Preservation Board 3,610.00
SG-10353 State Treasurer 9,445.00
SG-10216 Governor's Office 67,565.00
SG-10219 Governor's Office of Economic Development 86,726.00
SG-10220 Governor's Office of Management and Budget 26,334.00
SG-10217 Utah Commission on Criminal and Juvenile Justice 5,965.00
SG-10221 Utah Office for Victims of Crime 4,188.00
SG-10156 Attorney General 259,106.00
SG-10157 Utah State Auditor 16,469.00
SG-10242 Dept of Administrative Services 173,173.00
SG-10341 Dept of Technology Services 205,138.00
SG-10340 Tax Commission 186,736.00
SG-10171 Career Service Review Office 732.00
SG-10230 Dept of Human Resource Management 46,684.00
SG-10277 Navajo Trust Administration 6,496.00
SG-10305 Dept of Public Safety 894,656.00
SG-10266 Utah National Guard 89,905.00
SG-10231 Dept of Human Services 1,001,173.00
SG-10227 Dept of Health 265,277.00
SG-10203 Utah State Board of Education 231,923.00
SG-10186 Dept of Corrections ... 1,439,935.00
SG-10297 Board of Pardons & Parole 13,497.00
SG-10367 Dept of Veterans' & Military Affairs 11,439.00
SG-10207 Dept of Environmental Quality 124,665.00
SG-10313 State Board of Regents 100,000.00
SG-10323 SBE School for the Deaf and Blind 13,211.00
SG-10112 School & Institutional Trust Fund Office 1,987.00
SG-10354 School & Institutional Trust Lands Admin 22,364.00
SG-10269 Dept of Natural Resources 673,703.00
SG-10151 Dept of Agriculture & Food 101,718.00
SG-10304 Public Lands Policy Coordination Office 5,941.00
SG-10376 Dept of Workforce Services 470,482.00
SG-10152 Dept of Alcoholic Beverage Control 141,273.00
SG-10246 Labor Commission 39,051.00
SG-10180 Dept of Commerce 103,196.00
SG-10210 Dept of Financial Institutions 23,469.00
SG-10235 Dept of Insurance 30,775.00
SG-10309 Public Service Commission 5,840.00
SG-10181 Dept of Heritage & Arts 50,407.00
SG-10350 Dept of Transportation 3,790,000.00
SG-10361 Utah Communications Authority 39,885.00

Risk Management - Property

Property Coverage Premium Methodology

Premium for Existing Insured Building and Contents

The asset values from prior year are multiplied by the Marshall & Swift Valuation Service rates associated w/ Building Construction Class, Occupancy Type, Building Quality, & Fire Protection Code. Self-reported values may also be accepted. Exposure data (building values) and loss history are provided to an actuary, who proposes rates net of property discounts and surcharges listed below.

Premium for Newly Insured Buildings

Buildings valued in excess of $25 million reported to broker, who obtains rate from excess insurance carrier. Initial premium cost is passed through to covered entity.

Property Premium Discounts

Fire Suppression Sprinklers ... 15% discount
Smoke Alarm/Fire Detectors .... 5% discount
Flexible Water/Gas Connectors ..... 1% discount

Property Premium Surcharges

Lack of Compliance with Risk Mgt. Recommendations .... 10% surcharge
Building Built Prior to 1950 ..... 10% surcharge

Property Premium Penalties

Non-Compliance Penalty - Risk Reduction Form ..... 5% Penalty
Failure to submit Annual Risk Reduction Form - up to 5% Penalty.
Non-Compliance Penalty - Self Inspection Survey ..... 10% Penalty
Failure to complete Self-Inspection Survey - up to 10% Penalty .

Property Premiums: Charter Schools

CS-10140 Academy for Math, Engineering, & Science 596.00
CS-10155 American Leadership Academy 23,409.00
CS-10160 Beehive Science & Technology Academy 867.00
CS-10126 Bonneville Academy 6,945.00
CS-10164 C S Lewis Academy Charter School 4,285.00
CS-10310 Canyon Grove Academy ... 1,385.00
CS-10471 Career Path High 187.00
CS-10127 Center For Creativity, Innovation and Discovery 6,011.00
CS-10177 Channing Hall 7,212.00
CS-10178 City Academy 317.00
CS-10201 East Hollywood High School 6,963.00

CS-10208 Excelsior Academy Charter School 15,655.00
CS-10209 Fast Forward Charter 4,381.00
CS-10117 Franklin Discovery Academy 6,641.00
CS-10213 Gateway Preparatory Academy 7,183.00
CS-10225 Guadalupe Charter School ... 452.00
CS-10119 Ignite Entrepreneurship Academy 346.00
CS-10236 Intech Collegiate High School 476.00
CS-10238 Itineris Early College High School 6,213.00
CS-10239 John Hancock Charter School 2,598.00
CS-10245 Karl G Maeser Preparatory Academy 9,308.00
CS-10247 Lakeview Academy 13,769.00
CS-10459 Mana Academy Charter School 323.00
CS-10258 Merit College Preparatory Academy 5,804.00
CS-10260 Moab Charter School 1,057.00
CS-10264 Mountainville Academy ... 10,544.00
CS-10294 Mountain Heights Academy 358.00
CS-10278 Navigator Pointe Charter School 3,473.00
CS-10281 Noah Webster Academy ... 6,318.00
CS-10284 North Star Academy 4,807.00
CS-10287 Northern Utah Academy For Math Engr & Science 117.00
CS-10289 Odyssey Charter School ... 4,334.00
CS-10300 Pinnacle Canyon Academy 18,074.00
CS-10302 Providence Hall Charter School 23,916.00
CS-10311 Quest Academy Charter School 9,665.00
CS-10343 The Ranches Academy Charter School 3,990.00
CS-10312 Reagan Academy 6,890.00
CS-10134 Real Salt Lake Academy 492.00
CS-10314 Renaissance Academy 5,015.00
CS-10118 Saint George Academy 3,983.00
CS-10317 Salt Lake Arts Academy ... 4,648.00
CS-10321 Salt Lake School For The Performing Arts 436.00
CS-10466 Scholar Academy 6,985.00
CS-10328 Soldier Hollow Charter School 4,145.00
CS-10337 Success Academy – Iron County 145.00
CS-10338 Success Academy – Washington 113.00
CS-10346 Timpanogos Academy Charter School 4,356.00
CS-10355 Tuacahn High School For The Performing Arts 6,401.00
CS-10362 Utah County Academy Of Sciences 9,423.00
CS-10447 Utah International Charter School 238.00
CS-10469 Utah Military Academy 3,702.00
CS-10437 Valley Academy 4,239.00
CS-10366 Venture Academy Charter 7,270.00
CS-10102 Vanguard Charter School 408.00
CS-10368 Vista At Entrada School For Performing Arts And Technology 8,928.00
CS-10465 Winter Sports School 1,604.00
CS-10369 Walden School Of Liberal Arts 4,915.00
CS-10116 Wallace Stegner Academy 6,888.00
CS-10370 Wasatch Peak Academy ... 3,723.00
CS-10472 WSU Kinder Charter Academy 28.00
Property Premiums: Higher Education
HE-10163 Bridgerland Technical College 56,363.00
HE-10192 Davis Technical College 71,236.00
HE-10196 Dixie Technical College .. 38,991.00
HE-10197 Dixie State University .. 269,132.00
HE-10263 Mountainland Technical College 32,038.00
HE-10292 Ogden-Weber Technical College 63,270.00
HE-10318 Salt Lake Community College 430,234.00
HE-10326 Snow College 172,164.00
HE-10333 Southern Utah University 326,465.00
HE-10334 Southwest Technical College 21,678.00
HE-10348 Tooele Technical College 12,530.00
HE-10356 Uintah Basin Technical College 62,432.00
HE-10358 University of Utah 5,400,000.00
HE-10364 Utah State University 1,237,277.00
HE-10428 Utah System of Technical Colleges 129.00
HE-10365 Utah Valley University 540,592.00
HE-10375 Weber State University 589,351.00
Property Premiums: Independent Agencies
OT-10228 Heber Valley Railroad 4,876.00
OT-10363 Utah State Fairpark 41,297.00
Property Premiums: School Districts
SD-10154 Alpine School District ... 863,013.00
SD-10161 Box Elder School District 257,879.00
SD-10159 Beaver School District 54,036.00
SD-10166 Cache School District 222,710.00
SD-10168 Canyons School District 646,933.00
SD-10170 Carbon School District ... 99,956.00
SD-10190 Daggett School District ... 24,382.00
SD-10194 Davis School District 1,257,622.00
SD-10199 Duchesne School District 155,761.00
SD-10204 Emery School District 68,295.00
SD-10212 Garfield School District ... 39,063.00
SD-10223 Grand School District 37,493.00

SD-10224 Granite School District 615,825.00
SD-10237 Iron School District 152,790.00
SD-10240 Jordan School District ... 639,025.00
SD-10241 Juab School District 46,141.00
SD-10244 Kane School District 48,910.00
SD-10255 Logan City School District 108,106.00
SD-10262 Morgan School District ... 53,551.00
SD-10259 Millard School District ... 73,394.00
SD-10280 Nebo School District 348,809.00
SD-10283 North Sanpete School District 36,245.00
SD-10285 North Summit School District 29,310.00
SD-10265 Murray School District 106,893.00
SD-10286 Northeastern Utah Education Services 566.00
SD-10290 Ogden City School District 323,874.00
SD-10298 Park City School District 96,054.00
SD-10301 Piute School District 11,379.00
SD-10303 Provo School District 275,712.00
SD-10315 Rich School District 23,560.00
SD-10319 Salt Lake School District 947,955.00
SD-10322 San Juan School District 91,410.00
SD-10325 Sevier School District 85,808.00
SD-10329 South Sanpete School District 114,258.00
SD-10330 South Summit School District 78,715.00
SD-10335 Southwest Education Developmental Center 716.00
SD-10332 Southeastern Educational Center 812.00
SD-10349 Tooele School District ... 198,422.00
SD-10347 Tintic School District 32,048.00
SD-10357 Uintah School District ... 126,592.00
SD-10373 Wayne School District 12,743.00
SD-10371 Wasatch School District 99,655.00
SD-10372 Washington School District 441,026.00
SD-10374 Weber School District ... 405,513.00

Property Premiums: State Agencies

SG-10324 Senate 938.00
SG-10229 House of Representatives 1,916.00
SG-10252 Legislative Services 1,099.00
SG-10253 Legislative Research & General Counsel 1,006.00
SG-10251 Legislative Fiscal Analyst ... 253.00
SG-10250 Legislative Auditor General 585.00
SG-10189 Judicial Branch 44,499.00
SG-10169 Capitol Preservation Board 270,780.00
SG-10353 State Treasurer 798.00
SG-10216 Governor's Office 8,309.00
SG-10217 Utah Commission on Criminal and Juvenile Justice 1,210.00
SG-10219 Governor's Office of Economic Development 1,544.00
SG-10220 Governor's Office of Management and Budget 1,671.00
SG-10221 Utah Office for Victims of Crime 855.00
SG-10156 Attorney General 3,695.00
SG-10157 Utah State Auditor 941.00
SG-10144 Dept of Administrative Services 306.00
SG-10141 DAS Utah Office of Administrative Rules 122.00
SG-10146 DAS Division of Finance ... 5,194.00
SG-10242 Judicial Conduct Commission 52.00
SG-10142 DAS Division of Archives 33,179.00
SG-10145 DAS Facilities Management 964,850.00
SG-10150 DAS Risk Management Administration 392.00
SG-10149 DAS Purchasing and General Services Administration .. 12,199.00
SG-10147 DAS Fleet Services Motor Pool 394.00
SG-10143 DAS Office of State Debt Collection 197.00
SG-10341 Dept of Technology Services 111,357.00
SG-10340 Tax Commission 11,412.00
SG-10171 Career Service Review Office 51.00
SG-10230 Dept of Human Resource Management 562.00
SG-10277 Navajo Trust Administration 2,671.00
SG-10305 Dept of Public Safety 39,574.00
SG-10307 DPS Emergency Services & Homeland Security 13.00
SG-10308 DPS State Fire Marshall 447.00
SG-10306 DPS Driver License Division 7,431.00
SG-10266 Utah National Guard 314,948.00
SG-10227 Dept of Health 14,396.00
SG-10233 Dept of Human Services 38,234.00
SG-10234 DHS Developmental Center 55,969.00
SG-10232 DHS State Hospital 79,880.00
SG-10231 DHS Juvenile Justice Services 113,834.00
SG-10323 SBE School for the Deaf and Blind 48,616.00
SG-10187 Dept of Corrections 225,194.00
SG-10186 DOC DPO Central Utah / Gunnison 107,398.00
SG-10188 DOC AP&P Administration 42,315.00
SG-10297 Board of Pardons & Parole 1,129.00
SG-10367 Dept of Veterans' & Military Affairs 103,448.00
SG-10207 Dept of Environmental Quality 23,067.00
SG-10313 State Board of Regents ... 21,959.00
SG-10257 BOR Medical Education Council (UMEC) 46.00

SG-10112 School & Institutional Trust Fund Office 63.00
SG-10354 School & Institutional Trust Lands Admin 3,720.00
SG-10269 Dept of Natural Resources 7,899.00
SG-10271 DNR Oil, Gas and Mining 1,560.00
SG-10272 DNR State Parks and Recreation 375,673.00
SG-10270 DNR Forestry, Fire and State Lands 9,900.00
SG-10273 DNR Utah Geological Survey 1,860.00
SG-10274 DNR Water Resources 1,400.00
SG-10276 DNR Wildlife Resources 176,712.00
SG-10275 DNR Water Rights Administration 1,469.00
SG-10151 Dept of Agriculture & Food 6,328.00
SG-10304 Public Lands Policy Coordination Office 228.00
SG-10376 Dept of Workforce Services 35,262.00
SG-10152 Dept of Alcoholic Beverage Control 67,324.00
SG-10246 Labor Commission 2,897.00
SG-10180 Dept of Commerce 3,960.00
SG-10210 Dept of Financial Institutions 583.00
SG-10235 Dept of Insurance 987.00
SG-10309 Public Service Commission 1,275.00
SG-10181 Dept of Heritage & Arts 524.00
SG-10183 DHA Fine Arts Administration 14,101.00
SG-10185 DHA State History Museum 78,765.00
SG-10184 DHA State Library 12,938.00
SG-10350 Dept of Transportation 386,417.00
SG-10352 DOT Division of Aeronautics 2,874.00
SG-10351 DOT Equipment Management Division 7,000.00
OT-10361 Utah Communications Authority 100,022.00
Course of Construction Premiums
Rate per $100 of value 0.08
Charged once per project (unless scope changes)

DEPARTMENT OF TECHNOLOGY SERVICES

ENTERPRISE TECHNOLOGY DIVISION

ISF - Enterprise Technology Division
IT Tier Rate
Tier 1A (per Hour) 61.89
Tier 1B (per Hour) 72.02
Tier 2A (per Hour) 77.64
Tier 2B (per Hour) 87.44
Tier 3A (per Hour) 92.16
Tier 3B (per Hour) 99.77
Tier 4A (per Hour) 102.82
Tier 4B (per Hour) 113.63
Master Engineer/Consultant/ Specialized Skillset (per Hour) ..... Special Billing Agreement
Communication Services
Mobile Technician Labor (per Hour) 69.09
VoIP (per Line/Month) 30.05
Legacy Phone System ..... Special Billing Agreement
Long Distance (per Minute) 0.0602
1-800 Usage (per Minute) 0.0286
Persistent Chat (per User/Month) 5.96
Other Voice Services ..... Direct Cost + 10%
International Long Distance ..... Direct Cost + 10%
IP Contact Center (per Core License/Month) 20.50
Call Management Systems ..... Special Billing Agreement
Desktop Services
Desktop Support (per Device/Month) 66.54
Adobe Pro/Sign (per Device/Month) 1.50
Mobile Support ..... Special Billing Agreement
On-Call Support (per Hour) ..... Actual Cost
Google Enterprise (per Account/Month) 9.46
Software Resale ..... Direct Cost + 6%
DaaS (per Device/Month) ... Direct Cost + 10%
Hosting Services
Oracle Database Hosting Core Model (per Core/Month) 787.57
Oracle Database Hosting Shared Model (per GB/Month) 10.76
SQL Database Hosting Core Model (per Core/Month) 546.43
SQL Database Hosting Shared Model (per GB/Month) 10.84
Processing (CPU) (per CPU/Month) 38.58
Memory (per GB/Month) 5.78
Storage (per GB/Month) 0.0696
Back-up and Archive Storage (per GB/Month) 0.1102
File-Share (per GB/month) 0.0696
Object Storage (per GB/Month) 0.0168
Shared Application Hosting on Premises (per Instance/Month) 59.10
Cloud Hosting ..... Direct Cost + 25%
Other Hosting Services ..... Special Billing Agreement
Data Center Rack Space - Full Rack (per Rack/Month) 500.00
Data Center Rack Space - Rack U (per Rack U/Month) 16.67
Network Services
Network Services (per Device/Month) 55.51
Network IoT (per Connection/Month) 9.82
Network Services - 1 0 GB (per Connection/Month) 222.04
Network Services (Other State Agencies) (per Device/Month) 61.45
Other Network Services .... Direct Cost + 10%
Miscellaneous Data Circuits ..... Direct Cost + 10%
Security (per Device/Month) 28.99
Other Security Services ..... Special Billing Agreement

Security Assessment and Remediation (per Tier) ..... Table
Server Count: 0-5 $12,500; 6-38 $25,000; 39-84 $50,000; >= 85 $100,000
Print Services
High Speed Laser Print (per Image) 0.0322
Other Print Services ..... Direct Cost + 10%
Miscellaneous
DTS Consulting Charge (per Hour) ..... Table
Application Support Tiered Rate: Tier 1A 61.89, Tier 1B 72.02, Tier 2A 77.64, Tier 2B 87.44, Tier 3A 92.16, Tier 3B 99.77, Tier 4A 102.82, Tier 4B 113.63; Master Engineer/Consultant/Specialized Skillset: Special Billing Agreement
Saas/Cloud Hourly (per Hour) 96.78
Consultant Services (per Hour) ..... Direct Cost + 3%

DEPARTMENT OF TECHNOLOGY SERVICES

INTEGRATED TECHNOLOGY DIVISION

Automated Geographic Reference Center
AGRC Services
GPS Subscriptions (per Subscription/ Year) 600.00
AGRC Plots (per Linear Foot) 6.00
GIT Professional Labor (per Hour) ..... Table
Application Support Tiered Rate: Tier 1A 61.89, Tier 1B 72.02, Tier 2A 77.64, Tier 2B 87.44, Tier 3A 92.16, Tier 3B 99.77, Tier 4A 102.82, Tier 4B 113.63; Master Engineer/Consultant/Specialized Skillset: Special Billing Agreement

TRANSPORTATION

AERONAUTICS

Administration
Convenience Fee (for Credit or Debit Card Payment) 3%
Airplane Operations
Aircraft Rental
Cessna (per hour) 195.00
King Air C90B (per Hour) 935.00
King Air B200 (per Hour) 1,200.00

DOT NON-BUDGETARY

XYD DOT MISCELLANEOUS REVENUE
Event Coordination, Inspection and Monitoring (Regular Hours) (per Hour) 60.00
Event Coordination, Inspection and Monitoring (Non-regular Hours) (per Hour) 80.00
Special Event Application Review (Single Region) (per Event) 250.00
Special Event Application Review (Multi-region) (per Event) 500.00
Expedited Review Fee (per Event) 600.00
Outdoor Advertising
New Permit 950.00
Permit Renewal and Administrative Services Fee 90.00
Permit Renewal Late Fee (per Sign) 300.00
Sign Alteration Permit (per Sign) 950.00
Transfer of Ownership Permit 250.00
Retroactive Permit Fee Penalty (per Sign) 250.00
Impound and Storage Fees 25.00

OPERATIONS/ MAINTENANCE MANAGEMENT

Region 4
Lake Powell Ferry Rates
Foot Passengers 10.00
Motorcycles 15.00
Vehicles Under 20' 25.00
Vehicles Over 20' (per Additional Foot) 1.50
Traffic Safety/Tramway
Tramway Registration
Two-car or Multicar Aerial Passenger Tramway
Aerial Tramway - 101 Horse Power or Over 2,030.00
Aerial Tramway - 100 Horse Power or Under 1,010.00
Tramway Surcharge for Winter and Summer Use 15%
This is a surcharge to the registration fee for passenger ropeways that are operated year round. 15% will be added to the registration fee for those ropeways.
Chair Lift
Fixed Grip
2 Passenger 630.00
3 Passenger 750.00
4 Passenger 875.00
Conveyor, Rope Tow 260.00
Funicular - Single or Double Reversible 2,030.00
Rope Tow, J-bar, T-bar, or Platter Pull 260.00
Detachable Grip Chair or Gondola
3 Passenger 1,510.00
4 Passenger 1,625.00
6 Passenger 1,750.00
8 Passenger 1,880.00
Gondola - Cabin Capacity from 5 to 8 ..... 1,010.00
Gondola - Cabin Capacity greater than 8 ..... 2,030.00

SUPPORT SERVICES

Administrative Services
Express Lane - Administrative Fee 2.50
Non-sufficient Check Collection 20.00
Non-sufficient Check Service Charge 20.00
Tow Truck Driver Certification 200.00
Access Management Application
Type 1 ..... 75.00
Type 2 ..... 475.00
Type 3 ..... 1,000.00
Type 4 ..... 2,300.00
Access Violation Fine (per Day) 100.00
Encroachment Permits
Landscaping 30.00
Manhole Access 30.00
Inspection (per Hour) 60.00

Overtime Inspection (per Hour) 80.00
Utility Permits
Low Impact 30.00
Medium Impact 135.00
High Impact 300.00
Excess Impact 500.00

AMUSEMENT RIDE SAFETY

Citations – Denying Access to the Director 1st Offense 1,000.00
Citations – Denying Access to the Director 2nd Offense 1,500.00
Citations – Failure to Maintain Proper Records for an Amusement Ride 1st Offense 500.00
Citations – Failure to Maintain Proper Records for an Amusement Ride 2nd Offense 1,000.00
Citations – Failure to Notify Director of Intent to Operate within the State 1st Offense 500.00
Citations – Failure to Notify Director of Intent to Operate within the State 2nd Offense 1,000.00
Citations – Failure to Report a Reportable Injury to the Director within Eight Hours after the Owner-operator Learns of the Reportable Serious Injury 1st Offense (per Violation, per Ride, per Day) 1,000.00
Citations – Failure to Report a Reportable Injury to the Director within Eight Hours after the Owner-operator Learns of the Reportable Serious Injury 2nd Offense (per Violation, per Ride, per Day) 1,500.00
Citations – Failure to Report a Serious Physical Injury to Fair, Show, Landlord, or Owner of t he Property 1st Offense (per Violation, per Ride, per Day) 500.00
Citations – Failure to Report a Serious Physical Injury to Fair, Show, Landlord, or Owner of the Property 2nd Offense (per Violation, per Ride, per Day) 750.00
Citations – Failure to Update Locations of Operation with Director Prior to Operation 1st Offense (per Violation, per Ride, per Day) 250.00
Citations – Failure to Update Locations of Operation with Director Prior to Operation 2nd Offense (per Violation, per Ride, per Day) 500.00
Citations – Falsifying an Application to the Director 1st Offense 1,000.00
Citations – Falsifying an Application to the Director 2nd Offense 1,500.00
Citations – Operation of an Amusement Ride by an Unqualified Person 1st Offense (per Violation, per Ride, per Day) 500.00
Citations – Operation of an Amusement Ride by an Unqualified Person 2nd Offense (per Violation, per Ride, per Day) 1,000.00
Citations – Operation of an Amusement Ride in Violation of a Cease and Desist Order 1st Offense (per Violation, per Ride, per Day) 1,000.00
Citations – Operation of an Amusement Ride in Violation of a Cease and Desist Order 2nd Offense (per Violation, per Ride, per Day) 2,500.00
Citations – Operation of an Amusement Ride without a Current Permit 1st Offense (per Violation, per Ride, per Day) 500.00
Citations – Operation of an Amusement Ride without a Current Permit 2nd Offense (per Violation, per Ride, per Day) 1,000.00
Citations – Operation of an Amusement Ride without Current Safety Inspection Report 1st Offense (per Violation, per Ride, per Day) 500.00
Citations – Operation of an Amusement Ride without Current Safety Inspection Report 2nd Offense (per Violation, per Ride, per Day) 1,000.00
Citations – Operation of an Amusement Ride without Proper Liability Insurance 1st Offense (per Violation, per Ride, per Day) 500.00
Citations – Operation of an Amusement Ride without Proper Liability Insurance 2nd Offense (per Violation, per Ride, per Day) 1,000.00
Citations – Other Violations to the Statute or Rules not Listed 2nd Offense 250.00
Annual Amusement Ride Permit
Kiddie Ride 100.00
Non-kiddie Ride 100.00
Multi-ride Annual Amusement Ride Permit (for all amusement rides located at an amusement park that employs more than 1,000 individuals in a calendar year)
Permit Fee per Ride
Kiddie Ride 100.00
Non-kiddie Ride 100.00
Annual Inspector Registration
Application Fee 50.00
Renewal Fee (Every Two Years) 40.00

BUSINESS, ECONOMIC DEVELOPMENT, AND LABOR

DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL

DABC OPERATIONS

Administration
Customized Reports Produced by Request (per hour) 50.00
Stock Location Report 25.00
Photocopies 0.15
Returned Check Fee 20.00
Application to Relocate Alcoholic Beverages Due to Change or Residence .. 20.00
Research (per hour) 30.00
Video/DVD 25.00

Price Lists
Master Category 8.00
$96 Yearly
Alpha by Product 8.00
$96 Yearly
Numeric by Code 8.00
$96 Yearly
Military 8.00
$96 Yearly
Executive Director
Compliance Licensee Lists 10.00
Label Approval Fee 30.00
Licensee Rules 20.00
Training Fee 25.00
H.B. 442 passed in the 2017 General Session requires DABC to charge a fee for required manager and violation training that will be offered by the department starting in 2018. By statute, the fee is to cover the department's cost of providing the training program. 32B-5-405(3)(e). The new training program is meant to assist licensees to remain in compliance and in business as well as provide education to prevent any future violations.
Utah Code 30.00
Warehouse and Distribution
Missed Appointment with Less than 24 Hour Notice (per appointment) 500.00
Missed Appointment Without Notice (per appointment) 1,000.00
Non-Compliant Labeling (per case) 25.00
PO Revisions Not Sent to Purchasing in Advance (per line item) 250.00
Product Disposal (per pallet) 500.00
Re-configuring Pallets (per pallet) 250.00
Restacking Shifted/Collapsed Loads (per load) 250.00

DEPARTMENT OF COMMERCE

COMMERCE GENERAL REGULATION

Administration
Administration
All Divisions
Regulatory Sandbox Registration 500.00
Commerce Department
All Divisions
Administrative Expungement Application 200.00
Booklets ..... Actual Cost
Priority Processing 75.00
List of Licensees/Business Entities 25.00
Photocopies (per copy) 0.30
Verification of Licensure/Custodian of Record 20.00
Returned Check Charge 20.00
FBI Fingerprint File Search 10.00
BCI Fingerprint File Search 20.00
($25 With $5 Rapback included)
Fingerprint Processing for non-department 10.00
Government Records and Management Act
Staff time to search, compile and otherwise prepare record ..... Actual Amount
GRAMA Electronic Record ..... Actual Cost
Administration
Motor Vehicle Franchise Act
Application 83.00
Renewal 83.00
Powersport Vehicle Franchise Act
Application 83.00
Renewal 83.00
Application in addition to MVFA 27.00
Renewal in addition to MVFA 27.00
Administration Late Renewal 20.00
Employer Legal Status Voluntary Certification (Bi-annual) 3.00
Property Rights Ombudsman
Filing Request for Advisory Opinion 150.00
Land Use Seminar Continuing Education 25.00
Books
Citizens Guide to Land Use
Single copy 15.00
Six or more copies 9.00
Case of 22 books 132.00
Administration
Home Owner Associations
HOA Registration 37.00
Change in HOA Registration 10.00
Consumer Protection
Maintenance Funding Provider
Maintenance Funding Provider
Registrations New Application / Renewal 300.00
Miscellaneous
Residential vocational and life skills registration 500.00
Transcript / Diploma Request 30.00
Charitable Solicitation Act
Charity 75.00
Transportation Network Company
Transportation network Company
Registration 5,000.00
Transportation Network Company License Renewal 5,000.00
Immigration Consultants
Initial Registration Fee 200.00
License Renewal Fee 200.00
Pawnshop Registry
Pawnbroker Late Fee 50.00
Charitable Solicitation Act
Professional Fund Raiser 250.00
Telephone Solicitation
Telemarketing Registration 500.00
Health Spa
Health Spa 100.00
Credit Services Organization
Credit Services Organization 250.00
Debt Management Services Organizations 250.00
Business Opportunity Disclosure Register
Exempt 100.00
Approved 200.00
Pawnshop Registry
Out of State Pawnshop Database Request 900.00
Pawnshop/2nd hand store Registration 300.00
Law Enforcement Registration 3.00
Proprietary Schools
Initial Application 500.00
Renewal Application ..... 1% of gross revenue

Registration Review ..... 1% of gross revenue
Miscellaneous Fees
Late Renewal (per month) 25.00
Miscellaneous
Microcassette Copying
(per tape) ..... Actual Cost
Proprietary Schools Registration Application 1% of gross revenue
$500 min; $2,500 max
Proprietary Schools
Accredited Institution Certificate of Exemption Registration/Renewal ... 1% of gross revenue
Up to $2,500 or $1,500 min
Non-Profit Exemption
Certificate Registration/Renewal ... 1,500.00
Corporations and Commercial Code
Partnerships
Limited Liability Partnerships 27.00
Since renewal fees are charged the $5 single sign on portal fee currently this will make Registrations and renewals effectively the same price.
Single-Sign-On
Single Sign-On-Portal Fee 5.00
Surcharge on Business renewals for Single Sign-On Portal.
Articles of Incorporation
Domestic Profit 70.00
Partnerships
General Partnerships 27.00
5 year renewal
Other
Statement Authority 15.00
One time registration or as changes are needed
Partnerships
Limited Liability Partnership Articles of Incorporation 70.00
Previously under Limited Partnership, now LLP's Articles of Incorporation
Other
Pharmacy Benefit Manager 100.00
Articles of Incorporation
Domestic Nonprofit 30.00
Foreign Profit 70.00
Foreign Nonprofit 30.00
Reinstatement
Profit 70.00
Requalification/Reinstatement
Nonprofit 30.00
Changes of Corporate Status
Amend/Restate/Merge-Profit 37.00
Amend/Restate/Merge-Nonprofit 17.00
Amendment-Foreign 37.00
Pre-authorization of document 25.00
Statement of Correction 12.00
Conversion 37.00
Annual Report
Profit 15.00
Nonprofit 10.00
Limited Partnership 15.00
Limited Liability Company 15.00
On-line 15.00
Change Form 15.00
Certification
Corporate Standing 12.00
Corporate Standing-Long Form 20.00
Commercial Registered Agent
Registration 52.00
Changes 52.00
Terminations 52.00
Corporation Search
In House 10.00
Limited Partnership
Certificate/Qualification 70.00
Reinstate 70.00
Amend/Restate/Merge 37.00
Statement of Correction 12.00
Conversion 37.00
DBA
Registration 27.00
Renewals 22.00
Business/Real Estate Investment Trust 27.00
Trademark/Electronic Trademark
Initial Application and 1st Class Code ... 50.00
Each Additional Class Code 25.00
Renewals 50.00
Assignments 25.00
Unincorporated Cooperative Association
Articles of Incorporation/Qualification ... 22.00
Annual Report 7.00
Limited Liability Company
Articles of Organization/Qualification 70.00
Reinstate 70.00
Amend/Merge 37.00
Statement of Correction 12.00
Conversion 37.00
Other
Late Renewal 10.00
Out of State Motorist Summons 12.00
Collection Agency Bond 32.00
Unregistered Foreign Business 12.00
Foreign Name Registration 22.00
Statement of Certification 12.00
Name Reservation 22.00
Telecopier Transmittal 5.00
Telecopier Transmittal (per page) 1.00
Commercial Code Lien Filing
UCC I Filings (per page) 12.00
UCC Addendum (per page) 12.00
UCC III Assignment/Amendment 12.00
UCC III Continuation 12.00
UCC III Termination ..... No Charge
CFS-1 ..... 12.00
CFS Addendum 12.00
CFS-3 ..... 12.00
CFS-2 ..... 12.00
CFS Registrant 25.00
Master List 25.00
Lien Search
Search 12.00
Transactions Through Utah Interactive
Registered Principal Search 3.00
Business Entity Search Principals 1.00
Certificate of Good Standing 12.00
Subscription 75.00
UCC Searches 12.00
List Compilation
Customized ..... $5.00 + $0.03 per record
One Stop Business
Registration ..... $5.00 + $0.05 per record
Occupational and Professional Licensing
Commercial Interior Design
Commercial Interior Design Certification
New Application 70.00

Commercial Interior Design
Certification Renewal 47.00
Cosmetologist/Barber
Barber Renewal 52.00
Esthetician / Nail Technician
Apprentice Cosmetology
disciplines Registration / Renewal . . . 20.00
Deception Detection
Deception Detection Examiner
Administrator Application 50.00
Deception Detection Examiner
Administrator Renewal 32.00
Electrician
Contractor Surcharge Education
Fund (Electricians) 5.00
General Electrical Contractor
New Application Filing 175.00
General Electrical Contractor
Renewal 113.00
Residential Electrical Contractor
New Application Filing 175.00
Residential Electrical Contractor
Renewal 113.00
Hair Design
Hair Designer License Apprenticeship . . . 20.00
Hair Designer License Renewal 52.00
Hair Designer New Application Filing . . . 60.00
Instructor Certificate 60.00
School New Application Filing
and Renewal 110.00
Osteopathic Physician and Surgeon
Interstate Compact License New
Application Filing 200.00
Interstate Compact License Renewal . . . 193.00
Other
Pre–License Conviction Administrative
Review 50.00
Physical Therapy
Physical Therapy Assistant
Compact New / Renewal 47.00
Physical Therapy Compact
New / Renewal 47.00
Physician and Surgeon
Physician Compact Interstate
Commission service fee . . . . . Actual Cost
Qualified Medical Provider
Cannabis Fee 100.00
Restricted Associate Physician
New Application Filing 210.00
Restricted Associate Physician
Renewal 123.00
Plumber
Contractor Surcharge Education
Fund (Plumbers) 5.00
General Plumbing Contractor
New Application Filing 175.00
General Plumbing Contractor
Renewal 113.00
Residential Plumbing Contractor
New Application Filing 175.00
Residential Plumbing Contractor
Renewal 113.00
Speech Language Pathologist/Audiologist
Audiologist Compact New
Application Filing 70.00
Audiologist Compact Renewal 47.00
Speech Language Pathologist Compact
New Application Filing 70.00
Speech Language Pathologist Compact
Renewal 47.00
State Certified Veterinary Technician
State Certified Veterinary
Technician New Application 50.00
State Certified Veterinary
Technician Renewal 25.00
State Construction Registry
Online
State Construction Registry Final Lien Waiver
State Construction Registry
Intent To Finance 8.00
Acupuncturist
New Application Filing 110.00
Electrician
Apprentice Electrician tracking
per credit hour 0.24
Massage
Apprentice Renewal 20.00
Plumber
Plumber CE Course approval 40.00
Plumber CE Course Attendee
Tracking / per hour 1.00
Apprentice Plumber CE attendance
tracking/ per hour 0.24
Substance Use Disorder Counselor (Licensed)
Licensed Advanced New Application 85.00
Licensed Advanced Renewal 78.00
Substance Use Disorder Counselor (Certified)
Certified Advanced Counselor 70.00
Certified Advanced Counselor Intern 70.00
Pharmacy
Dispensing Medical Practitioner
New Application Filing 110.00
Dispensing Medical Practitioner
License Renewal 73.00
Dispensing Medical Practitioner
Clinic Pharmacy New Application 200.00
Dispensing Medical Practitioner
Clinic Pharmacy License Renewal 113.00
Pharmacy Technician Trainee New /
Renewal 50.00
Technician Trainee reduced to same $47 as
technician
Music Therapy
Certified Music Therapist New
Application 70.00
Certified Music Therapist Application
Renewal 47.00
Physical Therapy
Dry Needle Registration 50.00
Psychologist
Behavioral Analyst New Application
Filing 120.00
Behavioral Analyst License Renewal 93.00
Assistant Behavioral Analyst
New Application Filing 120.00
Assistant Behavioral Analyst
License Renewal 93.00
Behavioral Specialist License Renewal . . . 78.00
Assistant Behavioral Specialist
License Renewal 78.00
Physician and Surgeon
Physician and Surgeon Compact
Existing Licensee Fee 40.00
Interstate Compact New License
Application Filing 200.00
Interstate Compact License Renewal . . . 193.00

Acupuncturist
License Renewal 63.00
Alarm Company
Company Application Filing 330.00
Company License Renewal 203.00
Agent Application Filing 60.00
Agent License Renewal 42.00
Agent Temporary Permit 20.00
Architect
New Application Filing 110.00
License Renewals 63.00
Education and Enforcement Surcharge 10.00
Armored Car
Registration 330.00
Renewal 203.00
Security Officer Registration 60.00
Security Officer Renewal 42.00
Education Approval 300.00
Athletic Agents
New Application Filing 510.00
License Renewal 510.00
Athletic Trainer
New Application Filing 70.00
License Renewal 47.00
Building Inspector
New Application Filing 85.00
License Renewal 63.00
Certified Court Reporter
New Application Filing 45.00
License Renewal 42.00
Certified Dietician
New Application Filing 60.00
License Renewals 37.00
Certified Nurse Midwife
New Application Filing 100.00
License Renewal 73.00
Intern–New Application Filing 35.00
Certified Public Accountant
Individual CPA Application Filing 85.00
Individual License/Certificate Renewal 63.00
CPA Firm Application for Registration 90.00
CPA Firm Registration Renewal 52.00
Chiropractic Physician
New Application Filing 200.00
License Renewal 103.00
Contractor
New Application Filing 175.00
License Renewals 113.00
New / Change Qualifier 50.00
Corporation Conversion 35.00
Continuing Education Course Approval 40.00
Continuing Education (per credit hour tracking) 1.00
Controlled Substance
New Application Filing 100.00
License Renewal 78.00
Controlled Substance Handler
Facility New Application Filing 90.00
Facility License Renewal 68.00
Individual New Application Filing 90.00
Individual License Renewal 68.00
Controlled Substance Precursor
Distributor New Application Filing 210.00
License Renewal 113.00
Cosmetologist/Barber
New Application Filing 60.00
License Renewal 52.00
Instructor Certificate 60.00
School New Application Filing 110.00
School License Renewal 110.00
Barber New Application 60.00
School License Renewal 52.00
Barber Instructor Certificate 60.00
Deception Detection
Examiner New Application Filing 50.00
Examiner License Renewal 32.00
Intern New Application Filing 35.00
Intern License Renewal 32.00
Dentist
New Application Filing 110.00
License Renewals 73.00
Anesthesia Upgrade New Application 60.00
Dental Hygienist
New Application Filing 60.00
License Renewal 47.00
Anesthesia Upgrade New Application 35.00
Direct Entry Midwife
New Application Filing 100.00
License Renewal 73.00
Electrician
New Application Filing 110.00
License Renewal 63.00
Continuing Education Course Approval 40.00
Continuing Education (per credit hour tracking) 1.00
Electrologist
New Application Filing 50.00
License Renewals 32.00
Instructor Certificate 60.00
School New Application Filing 110.00
School License Renewal 110.00
Elevator Mechanic
New Application Filing 110.00
License Renewal 63.00
Continuing Education Course Approval 40.00
Continuing Education (per credit hour tracking) 1.00
Engineer, Professional
New Application Filing 110.00
Engineer License Renewal 63.00
Structural Engineer New Application Filing 110.00
Structural Engineer License Renewal 63.00
Engineer
Education and Enforcement Surcharge 10.00
Environmental Health Scientist
New Application Filing 60.00
License Renewal 37.00
New Application Filing 60.00
In training
Esthetician
New Application Filing 60.00
License Renewals 52.00
Instructor Certificate 60.00
Master Esthetician New Application Filing 85.00
Master Esthetician License Renewal 68.00
School New Application Filing 110.00
School License Renewal 110.00

Factory Built Housing
Dealer New Application Filing 30.00
Dealer License Renewal 30.00
On–site Plant Inspection (per hour) ..... $50 per hour plus expenses
Factory Built Housing Education and Enforcement 25.00
Funeral Services
Director New Application Filing 160.00
Director License Renewal 88.00
Intern New Application Filing 85.00
Establishment New Application Filing 250.00
Establishment License Renewal 250.00
Genetic Counselor
New Application Filing 150.00
License Renewal 138.00
Geologist
New Application Filing 150.00
License Renewal 123.00
Education and Enforcement Fund 15.00
Handyman Affirmation
Handyman Exemption Registration/ Renewal 35.00
Health Facility Administrator
New Application Filing 120.00
License Renewals 83.00
Hearing Instrument Specialist
New Application Filing 150.00
License Renewal 103.00
Intern New Application Filing 35.00
Hunting Guide
New Application Filing 75.00
License Renewal 50.00
Landscape Architect
New Application Filing 110.00
License Renewal 63.00
Examination Record 30.00
Education and Enforcement Fund 10.00
Land Surveyor
New Application Filing 110.00
License Renewals 63.00
Education and Enforcement Surcharge 10.00
Marriage and Family Therapist
Therapist New Application Filing 120.00
Therapist License Renewal 93.00
Associate New Application Filing 85.00
Externship New Application Filling 85.00
Massage
Therapist New Application Filing 60.00
Therapist License Renewal 52.00
Apprentice New Application Filing 35.00
Medical Language Interpreter
New Application Filing 50.00
Interpreter Renewal 25.00
Nail Technician
New Application Filing 60.00
License Renewal 52.00
Instructor Certificate 60.00
School New Application Filing 110.00
School License Renewal 110.00
Naturopathic Physician
New Application Filing 200.00
License Renewals 113.00
Nursing
Licensed Practical Nurse New Application Filing 60.00
Licensed Practical Nurse License Renewal 68.00
Registered Nurse New Application Filing 60.00
Registered Nurse License Renewal 68.00
Advanced Practice RN New Application Filing 100.00
Advanced Practice RN License Renewal 78.00
Advanced Practice RN–Intern New Application Filing 35.00
Certified Nurse Anesthetist New Application Filing 100.00
Certified Nurse Anesthetist License Renewal 78.00
Educational Program Approval–Initial Visit 500.00
Educational Program Approval–Follow–up 250.00
Medication Aide Certified New Application Filing 50.00
Medication Aide Certified License Renewal 42.00
Occupational Therapist
Occupational Therapist New Application Filing 70.00
Occupational Therapist License Renewal 47.00
Occupational Therapist Assistant New Application Filing 70.00
Occupational Therapist Assistants License Renewal 47.00
Online Contract Pharmacy
New Application 200.00
Renewal 103.00
Online Internet Facilitator
New Application 7,000.00
Renewal 7,000.00
Optometrist
New Application Filing 140.00
License Renewal 93.00
Osteopathic Physician Online Prescriber
New Application 200.00
License Renewal 193.00
Outfitter
New License Filing 150.00
Renewal License 50.00
Osteopathic Physician and Surgeon
New Application Filing 200.00
License Renewals 193.00
Pharmacy
Pharmacist New Application Filing 110.00
Pharmacist License Renewal 73.00
Pharmacy Intern New Application Filing 100.00
Pharmacy Technician New Application Filing 60.00
Pharmacy Technician License Renewal 57.00
Class A New Application Filing 200.00
Class A License Renewal 103.00
Class B New Application 200.00
Class B License Renewal 103.00
Class C New Application 200.00
Class C License Renewal 103.00
Class D New Application 200.00
Class D License Renewal 103.00
Class E New Application 200.00

Class E License Renewal 103.00
Physical Therapy
New Application Filing 70.00
License Renewal 47.00
Physical Therapy Assistant
New Application Filing 60.00
License Renewal 47.00
Physician/Surgeon
New Application Filing 200.00
License Renewal 193.00
Physician Assistant
New Application Filing 180.00
License Renewals 133.00
Physician Online Prescriber
New Application 200.00
License Renewal 193.00
Plumber
New Application Filing 110.00
License Renewals 63.00
Podiatric Physician
New Application Filing 200.00
License Renewal 113.00
Pre-Need Funeral Arrangement
Sales Agent New Application Filing 85.00
Sales Agent License Renewal 73.00
Private Probation Provider
New Application Filing 85.00
License Renewal 63.00
Clinical Mental Health Counselor
New Application Filing 120.00
License Renewals 93.00
Professional Counselor Associate
New Application Filing 85.00
Associate Clinical Mental Health
Extern New Application 85.00
Psychologist
New Application Filing 200.00
License Renewal 128.00
Certified Psychology Resident
New App Filing 85.00
Radiology
Radiology Technologist New
Application Filing 70.00
Radiology Technologist
License Renewal 47.00
Radiology Practical Technologist
New Application Filing 70.00
Radiology Practical Technologist
License Renewal 47.00
Recreation Therapy
Master Therapeutic Recreational
Specialist New Application Filing 70.00
Master Therapeutic Recreational
Specialist License Renewal 47.00
Therapeutic Recreational
Specialist New Application Filing 70.00
Therapeutic Recreational
Specialist License Renewal 47.00
Therapeutic Recreational Technical
New License Application 70.00
Therapeutic Recreational Technician
License Renewal 47.00
Residence Lien Recovery Fund
Registration Processing
Fee-Voluntary Registrants 25.00
Post-claim Laborer Assessment 20.00
Beneficiary Claim 120.00
Laborer Beneficiary Claim 15.00
Reinstatement of Lapsed Registration ... 50.00
Late 20.00
Certificate of Compliance 30.00
Respiratory Care Practitioner
New Application Filing 60.00
License Renewal 52.00
Security Services
Contract Security Company
Application Filing 330.00
Contract Security Company Renewal ... 203.00
Replace/Change Qualifier 50.00
Education Program Approval 300.00
Education Program Approval
Renewal 103.00
Armed Security Officer New
Application Filing 60.00
Armed Security Officer New
License Renewal 42.00
Unarmed Security Officer New
Application Filing 60.00
Unarmed Security Officer New
License Renewal 42.00
Social Worker
Clinical Social Worker New
Application Filing 120.00
Clinical Social Worker
License Renewal 93.00
Certified Social Worker New
Application Filing 120.00
Certified Social Worker
License Renewal 93.00
Certified Social Worker Intern New 85.00
Certified Social Worker Externship 85.00
Social Service Worker New
Application Filing 85.00
Social Service Worker
License Renewal 78.00
Speech Language Pathologist/Audiologist
Speech Language Pathologist
New Application Filing 70.00
Speech Language Pathologist
License Renewal 47.00
Audiologist New Application Filing 70.00
Audiologist License Renewal 47.00
Speech Language Pathologist / Audiologist
Speech Language Pathologist and Audiologist
New Application Filing 70.00
Speech Language Pathologist and Audiologist
License Renewal 47.00
Substance Use Disorder Counselor (Licensed)
New Application Filing 85.00
License Renewal 78.00
Substance Use Disorder Counselor (Certified)
Certified Substance Counselor 70.00
Certified Counselor Intern 70.00
Certified Substance Extern 70.00
Veterinarian
New Application Filing 150.00
License Renewal 83.00
Intern New Application Filing 35.00
Vocational Rehab Counselor
New Application Filing 70.00
License Renewal 47.00
Other
Inactive/Reactivation/Emeritus
License 50.00
Temporary License 50.00
Late Renewal 20.00

License/Registration Reinstatement 50.00
Duplicate License 10.00
Disciplinary File Search (per order document) 12.00
Change Qualifier 50.00
UBC Seminar ..... Actual Cost
surcharge of 1% of Building Permits in accordance w/ UCA-15a-1-209-5-a
UBC Building Permit surcharge ..... 1% of Building Cost
State Construction Registry
Online
Notice of Commencement 7.50
Appended Notice of Commencement online 7.50
Preliminary Notice 1.25
Notice of Completion 7.50
Required Notifications ..... Actual Cost
Requested Notifications
No Charge
Receipt Retrieval
Within 2 years 1.00
Beyond 2 years 5.00
Public Search 1.00
Annual account set up
Auto bill to credit card 60.00
Invoice 100.00
Notice of Construction Loan 8.00
Notice of Intent to Complete 8.00
Notice of Retention 1.25
Notice of Remaining to Complete 1.25
Offline
Notice of Commencement 15.00
Appended Notice of Commencement - On-line 15.00
Preliminary Notice 6.00
Notice of Completion 15.00
Required Notifications 6.00
Requested Notifications 25.00
Receipt Retrieval
Within 2 years 6.00
Beyond 2 years 12.50
Public Search ..... No Charge
Annual account set up
Auto bill to credit card 75.00
Invoice 125.00
Notice of Construction Loan 15.00
Notice of Intent to Complete 16.00
Notice of Retention 8.00
Notice of Remaining to Complete 6.00
Notice of Loan Default ..... No Charge
Building Permit ..... No Charge
Filed by city
Withdrawal of Preliminary Notice ..... No Charge
Construction Ownership
Ownership Status Report 20.00
Ownership Listing/Change 20.00
Physician Educator
Physician Educator I new application ... 200.00
Physician Educator I renewal 193.00
Physician Educator II new application 200.00
Physician Educator I renewal 193.00
Radiologist Assistant
New Application Filing 70.00
License Renewal 47.00
Real Estate
Appraisers
AMC National Registry Fee 25.00
Appraisal Education Special Event (per day) 150.00
Appraisal Education Special Event Provider Fee 250.00
Broker/Sales Agent
Property Management Sales Agent Designation 50.00
Timeshare and Camp Resort
Late Fee 100.00
Appraisers
Licensed and Certified Application 250.00
Mortgage Broker
Mortgage Loan Originator New Application 100.00
Mortgage Loan Originator Renewal 30.00
Sales Agent
New Application (2 year) 100.00
Renewal 48.00
Education
Real Estate Education Broker 18.00
Continuing Education Registration 10.00
Real Estate Education Agent 12.00
Appraisers
Licensed and Certified Renewal 350.00
National Register 80.00
Certifications
Real Estate Prelicense School Certification 100.00
Real Estate Prelicense Instructor Certification 75.00
Appraisers
Temporary Permit 100.00
Appraiser Trainee Registration 100.00
Real Estate Education
Real Estate Continuing Education Course Certification 75.00
Real Estate Continuing Education Instructor Certification 50.00
Appraisers
Appraiser expert witness 200.00
Appraiser Trainee Renewal 100.00
Certifications
Real Estate Branch Schools 100.00
Appraiser Prelicense Course Certification 70.00
Appraisers
Appraiser Pre-License School Application 100.00
Appraiser Pre-License Instructor Application 75.00
Certifications
Appraiser CE Instructor Application/Renewal 75.00
Appraisers
Appraiser CE Course Application/Renewal 75.00
Appraiser Temporary Permit Extension 100.00
One time only
Appraisal Management Company
Appraisal Management Company 350.00
Appraisal Management Company Renewal 350.00
Appraisal Management Company Late ... 50.00

Broker
New Application 100.00
2 year
Renewal 48.00
Broker/Sales Agent
Activation 15.00
New Company 200.00
Company Broker Change 50.00
Company Name Change 100.00
Verification (per copy) 20.00
General Division
Duplicate License 10.00
Certifications/Computer Histories 20.00
Late Renewal 50.00
Reinstatement 100.00
Branch Office 200.00
No Action Letter 120.00
Trust Account Seminar 5.00
Continuing Education
Instructor/Course Late 25.00
Mortgage Broker
Mortgage Lending Manager
Application 100.00
Renewal 30.00
Mortgage Lender Entities
Application 200.00
Renewal 200.00
Mortgage DBA 200.00
Activation 15.00
Subdivided Land
Exemption
HUD 100.00
Water Corporation 50.00
Temporary Permit 100.00
Application 500.00
Charge over 30 ..... 3.00
Inspection Deposit 300.00
Consolidation 200.00
Charge 3.00
Renewal Report 203.00
Timeshare and Camp Resort
Salesperson 100.00
New and renewal
Registration 500.00
Per unit charge over 100 ..... 3.00
Inspection Deposit 300.00
Consolidation 200.00
Per unit charge 3.00
Temporary Permit 100.00
Renewal Reports 203.00
Supplementary Filing
Supplementary Filing 200.00
Mortgage Education
Individual 36.00
Entity 50.00
Mortgage Prelicense School
Certification 100.00
Mortgage Prelicense
Instructor Certification/Renewal 75.00
Mortgage Branch Schools 100.00
Mortgage Continuing Education
Course Certification Application
Renewal 75.00
Mortgage Continuing Education
Instructor Certification 50.00
Mortgage Out of State Records
Inspection 500.00
Securities
Other
Title III Crowd Funding Notice
Filing Late Fee 500.00
Title III Crowd Funding Timely
Notice Filing 100.00
Securities Registration
Qualification Registration 300.00
Covered Securities Notice Filings
Regulation A timely Securities Filing ... 100.00
Late Fee Regulation A Filing 500.00
Securities Registration
Coordinated Registration 300.00
Transactional Exemptions
Transactional Exemptions 60.00
No–action and Interpretative
Opinions 120.00
Licensing
Agent 60.00
Broker/Dealer 200.00
Investment Advisor
New and renewal 100.00
Investment Advisor Representative
New and renewal 50.00
Certified Dealer
New and Renewal 500.00
Certified Adviser
New and Renewal 500.00
Covered Securities Notice Filings
Investment Companies 600.00
All Other Covered Securities 100.00
Late Fee Rule 506 Notice Filing 500.00
Less than 15 days after sale
Federal Covered Adviser
New and Renewal 100.00
Securities Exemptions
Securities Exemptions 60.00
Other
Late Renewal 20.00
Fairness Hearing 1,500.00
Statute Booklet ..... Actual Cost
Small Corp. Offering Registration
(SCOR) ..... Variable
Rules and form booklet ..... Actual Cost
Excluding SCOR
Postage and Handling ..... Actual Cost

GOVERNOR'S OFFICE OF ECONOMIC DEVELOPMENT

ADMINISTRATION

Government Records Access and Management Act (GRAMA) fees apply for the entire Department
Odd size photocopies (per Page) ... Actual Cost
GRAMA fees apply to the entire Department
8.5 x 11 photocopy (per page) 0.25
GRAMA fees apply to the entire Department
Document Certification 2.00
GRAMA fees apply to the entire Department
Local Document Faxing (per page) 0.50
GRAMA fees apply to the entire Department

Long Distance Document Faxing
(per page) 2.00
GRAMA fees apply to the entire Department
Staff time to search, compile and prepare records
(per Hour) ..... Actual Cost
GRAMA fees apply to the entire Department
Mail and ship preparation, plus actual postage
(per Hour) ..... Actual Cost
GRAMA fees apply to the entire Department
Media Storage Duplication (per Hour) ... 10.00
GRAMA fees apply to the entire Department
SPONSORSHIP - LEVEL 1
(per SPONSORSHIP) ..... $0 to $500
From $1 to $500 fee applies for the entire Department
SPONSORSHIP - LEVEL 2
(per SPONSORSHIP) ..... $501 to $1,000
From $501 to $1,000 fee applies for the entire Department
SPONSORSHIP - LEVEL 3 (per
SPONSORSHIP) ..... $1,001 to $5,000
From $1,001 to $5,000 fee applies for the entire Department
SPONSORSHIP - LEVEL 4 (per
SPONSORSHIP) ..... $5,001 to $10,000
From $5,001 to $10,000 fee applies for the entire Department
SPONSORSHIP - LEVEL 5 (per
SPONSORSHIP) ..... Over $10,000
Over $10,000 fee applies for the entire Department
GOED Participation Fees (per
Participant) ..... Up to $500 per participant

BUSINESS DEVELOPMENT

Corporate Recruitment and Business Services
PTAC Participation Fee (per
Participant) ..... Up to $60
Market Tax Credit Fee 100,000.00
Annual fee to certify a proposed equity investment or long-term debt security as a qualified equity investment.
Outreach and International Trade
Community Reinvestment Agency Database
Community Reinvestment Agency Database Fee
Actual Amount
Actual costs to administer the Community Reinvestment Agency Database.
Small Business Innovative Research (SBIR) / Small
Business Technology Transfer (STTR)
(SSAC) Search Fee (per User) 75.00
(SSAC) 4-8 hour seminar/workshop (
per User) 75.00
(SSAC) 4-8 hour seminar/workshop:
non-client (per User) 50.00
(SSAC) 4-8 hour seminar/workshop:
client (per User) 25.00
(SSAC) 2-4 hour seminar/workshop
(per User) 25.00
(SSAC) 1-4 hour seminar/workshop
(per User) 10.00
Seminar - Outside speakers: all
day event (per User) 225.00
Seminar - Outside speakers: all day
event (early bird) (per User) 150.00
Seminar - Outside speakers: all day
event (search client) (per User) 100.00
CommunityGrants App
CommunityGrants App User -
State of Utah Executive Branch
Agencies (per User) 72.00
CommunityGrants App User -
State of Utah Executive
Branch Agencies (per User)
CommunityGrants App User -
Tier 1 (per User) 480.00
CommunityGrants App User -
Tier 1 (per User)
CommunityGrants App User -
Tier 2 (per User) 420.00
CommunityGrants App User -
Tier 2 (per User)
CommunityGrants App User -
Tier 3 (per User) 360.00
CommunityGrants App User -
Tier 3 (per User)
CommunityGrants App User -
Tier 4 (per User) 300.00
CommunityGrants App User -
Tier 4 (per User)
CommunityGrants App User -
Tier 5 (per User) 240.00
CommunityGrants App User - Tier 5 (per User)
CommunityGrants Customer
Portal - 100 Members (per User) ... 3,000.00
CommunityGrants Customer Portal - 100 Members (per 100)
CommunityGrants Customer Community -
Min. 100 Members (per User) 900.00
CommunityGrants Customer Community - Minimum - 100 Members (per 100 Members)
CommunityGrants Customer Community -
Min. 500 Members (per User) 2,000.00
CommunityGrants Customer Community - Minimum - 500 Members (per 100)
CommunityGrants
Customer Community-Wholesale-
100 Members (per User) 1,200.00
CommunityGrants Customer Community - Wholesale - 100 Members (per 100)
CommunityGrants
Customer Community-Wholesale-
500 Members (per User) 2,400.00
CommunityGrants Customer Community - Wholesale - 500 Members (per 100)
CommunityGrants Customer
Community - Retail - 100 Members (
per User) 1,800.00
CommunityGrants Customer Community - Retail - 100 Members (per 100)
CommunityGrants Customer
Community - Retail - 500
Members (per User) 3,720.00
CommunityGrants Customer Community - Retail - 500 Members (per 100)

OFFICE OF TOURISM

Operations and Fulfillment
Tourism/Film Participation
Fees (per Event) ..... Actual cost up to $70,000
Gift Store Fee (per Net Revenue) ..... 3% of Net Revenue
Calendars
Calendar sales: Individual (purchases of less than 30) 10.00
Calendar sales: Bulk (non state agencies) 8.00
Calendar sales: Bulk (state agencies) 6.00
Calendar sales: Office of Tourism, Film, and Global Branding employees ... 5.00
These fees may apply to one or more programs within the Office of Tourism Line Item.
Calendar Envelopes 0.50
Posters
Posters: Framed wall posters 55.00
Posters: Non framed wall posters 2.99
Shirts
T-shirt sales (cost per shirt) 10.00
Commissions
Tourism promotional items re-seller commission 12%
UDOT Signage Commissions 54,000.00

PETE SUAZO UTAH ATHLETICS COMMISSION

Boxing Events
Boxing Event: <500 Seats 500.00
Boxing Event: 500 – 1,000 Seats 500.00
Boxing Event: 1,000 – 3,000 Seats 750.00
Boxing Event: 3,000 – 5,000 seats 1,500.00
Boxing Event: 5,000 – 10,000 Seats ... 1,500.00
Boxing Event: >10,000 Seats 1,500.00
Unarmed Combat Event
Unarmed Combat Event: <500 Seats ... 500.00
Unarmed Combat Event: 500 – 1,000 Seats 500.00
Unarmed Combat Event: 1,000 – 3,000 Seats 750.00
Unarmed Combat Event: 3,000 – 5,000 seats 1,500.00
Unarmed Combat Event: 5,000 – 10,000 Seats 1,500.00
Unarmed Combat Event: >10,000 Seats 1,500.00
Licenses and Badges
Promoter (per License) 250.00
Official, Manager, Matchmaker (per License) 50.00
Judge, Referee, Matchmaker, Contestant Manager Licenses
Contestant, Second (Corner) (per License) 40.00
Amateur, Professional, Second (Corner), Timekeeper Licenses
ID Badges (per Badge) 10.00
Drug Tests, Fight Fax, Contestant ID Badge
Additional Inspector 100.00
Health Testing 20.00
Health and safety testing required for participants
Event Registration 100.00
Fee to reserve a date on the Pete Suazo Utah Athletic Commission event calendar
Broadcast Revenue 3,000.00
3% of the first $500,000 and 1% of the next $1,000,000 of the total gross receipts from the sale, lease or other exploitation of internet, broadcasting, television, and motion picture rights for any contest or exhibition thereof without any deductions for commissions, brokerage fees, distribution fees, advertising, contestants' purses or charges, except in no case shall the fee be more than $25,000, nor less than $100.

FINANCIAL INSTITUTIONS

FINANCIAL INSTITUTIONS ADMINISTRATION

Administration
Photocopies 0.25

DEPARTMENT OF HERITAGE AND ARTS

ADMINISTRATION

Administrative Services
Conference Level 4 – Vendor/Display Table – registration not included (per Table) 300.00
Fee entitled "Conference" applies for the entire Department of Heritage and Arts.
Conference Level 5 – Vendor/Display Table – registration not included (per Table) 500.00
Fee entitled "Conference" applies for the entire Department of Heritage and Arts.
Department Merchandise
General Merchandise – Level 1 (per Item) 5.00
Fee entitled "General Merchandise" applies for the entire Department of Heritage and Arts.
General Merchandise – Level 2 (per Item) 10.00
Fee entitled "General Merchandise" applies for the entire Department of Heritage and Arts.
General Merchandise – Level 3 (per Item) 15.00
Fee entitled "General Merchandise" applies for the entire Department of Heritage and Arts.
General Merchandise – Level 4 (per Item) 20.00
Fee entitled "General Merchandise" applies for the entire Department of Heritage and Arts.
General Merchandise – Level 5 (per Item) 50.00
Fee entitled "General Merchandise" applies for the entire Department of Heritage and Arts.
General Merchandise – Level 6 (per Item) 100.00

Fee entitled "General Merchandise" applies for the entire Department of Heritage and Arts.

Department Conference

Conference Level 1 – Early Registration (per Person) 20.00
Fee entitled "Conference" applies for the entire Department of Heritage and Arts.

Conference Level 1 – Regular Registration (per Person) 25.00
Fee entitled "Conference" applies for the entire Department of Heritage and Arts.

Conference Level 1 – Late Registration (per Person) 30.00
Fee entitled "Conference" applies for the entire Department of Heritage and Arts.

Conference Level 1 – Vendor/Display Table – registration not included (per Table) 50.00
Fee entitled "Conference" applies for the entire Department of Heritage and Arts.

Conference Level 2 – Early Registration (per Person) 45.00
Fee entitled "Conference" applies for the entire Department of Heritage and Arts.

Conference Level 2 – Regular Registration (per Person) 50.00
Fee entitled "Conference" applies for the entire Department of Heritage and Arts.

Conference Level 2 – Late Registration (per Person) 55.00
Fee entitled "Conference" applies for the entire Department of Heritage and Arts.

Conference Level 2 – Vendor/Display Table – registration not included (per Table) 100.00
Fee entitled 'Conference" applies for the entire Department of Heritage and Arts.

Conference Level 3 – Student/Group/ Change Leader Registration (per Person) 70.00
Fee entitled "Conference" applies for the entire Department of Heritage and Arts.

Conference Level 3 – Early Registration (per Person) 80.00
Fee entitled "Conference" applies for the entire Department of Heritage and Arts.

Conference Level 3 – Regular Registration (per Person) 95.00
Fee entitled "Conference" applies for the entire Department of Heritage and Arts.

Conference Level 3 – Late Registration (per Person) 100.00
Fee entitled "Conference" applies for the entire Department of Heritage and Arts.

Conference Level 3 – Vendor/Display Table Fee – registration not included (per Table) 150.00
Fee entitled "Conference" applies for the entire Department of Heritage and Arts.

Conference Sponsorship

Conference Sponsorship Level 1 ..... 350.00
Fee entitled "Conference Sponsorship" applies for the entire Department of Heritage and Arts.

Conference Sponsorship Level 2 ..... 500.00
Fee entitled "Conference Sponsorship" applies for the entire Department of Heritage and Arts.

Conference Sponsorship Level 3 ..... 650.00
Fee entitled "Conference Sponsorship" applies for the entire Department of Heritage and Arts.

Conference Sponsorship Level 4 ..... 1,000.00
Fee entitled "Conference Sponsorship" applies for the entire Department of Heritage and Arts.

Conference Sponsorship Level 5 ..... 2,500.00
Fee entitled "Conference Sponsorship" applies for the entire Department of Heritage and Arts.

Conference Sponsorship Level 6 ..... 5,000.00
Fee entitled "Conference Sponsorship" applies for the entire Department of Heritage and Arts.

Conference Sponsorship Level 7 ..... 10,000.00
Fee entitled "Conference Sponsorship" applies for the entire Department of Heritage and Arts.

General Training and Workshop

General Training/Workshop Participation – Level 1 (per Person) 5.00
Fee entitled "General Training/Workshop" applies for the entire Department of Heritage and Arts.

General Training/Workshop Participation – Level 2 (per Person) 10.00
Fee entitled "General Training/Workshop" applies for the entire Department of Heritage and Arts.

General Training/Workshop Participation – Level 3 (per Person) 15.00
Fee entitled "General Training/Workshop" applies for the entire Department of Heritage and Arts.

General Training/Workshop Participation – Level 4 (per Person) 25.00
Fee entitled "General Training/Workshop" applies for the entire Department of Heritage and Arts.

General Training/Workshop Participation – Level 5 (per Person) 30.00
Fee entitled "General Training/Workshop" applies for the entire Department of Heritage and Arts.

General Training/Workshop Participation – Level 6 (per Person) 40.00
Fee entitled "General Training/Workshop" applies for the entire Department of Heritage and Arts.

General Training/Workshop Participation – Level 7 (per Person) 50.00
Fee entitled "General Training/Workshop" applies for the entire Department of Heritage and Arts.

General Training/Workshop Participation – Level 8 (per Person) 60.00
Fee entitled "General Training/Workshop" applies for the entire Department of Heritage and Arts.

General Training/Workshop Participation – Level 9 (per Person) 125.00
Fee entitled "General Training/Workshop" applies for the entire Department of Heritage and Arts.
General Training/Workshop Participation – Level 10 (per Person) 300.00
Fee entitled "General Training/Workshop" applies for the entire Department of Heritage and Arts.
General Training/Workshop Materials Fee (per Person) 15.00
Fee entitled "General Training/Workshop" applies for the entire Department of Heritage and Arts.
Government Records Access and Management Act
Photocopies (per page) 0.25
GRAMA fees apply for the entire Department of Heritage and Arts
Information Technology
Preservation Pro (per unit 1–20, depending on usage) 50.00

DIVISION OF ARTS AND MUSEUMS

Community Arts Outreach
Art Consultation Fee Level 1 (per Hour) ... 80.00
2 Hour Minimum – consultation, site visits, and curation
Art Consultation Fee Level 2 (per Hour) ... 60.00
2 Hour Minimum – condition inspection, reporting, documentation, and pulling from and returning to the vault at (this charge would also be incurred for yearly site inspections without change to loan)
Art Consultation Fee Level 3 (per Hour) ... 45.00
3 Hour Minimum – packing, shipping, and installation
Change Leader Conference 55.00
This is the fee that will be charged for the annual change leader conference.
Change Leader Institute Level 5 ..... 500.00
MWAC Registration Level 1 ..... 75.00
MWAC Registration Level 2 ..... 85.00
MWAC Registration Level 3 ..... 95.00
MWAC Registration Level 4 ..... 100.00
MWAC Registration Level 5 ..... 110.00
MWAC Registration Level 6 ..... 125.00
Community Outreach
Traveling Exhibit Fees 125.00
Traveling Exhibit Fees Title I Schools .. 100.00
Mountain West Arts Conference Registration
MWAC Governor's Leadership in the Arts Luncheon 60.00
MWAC Governor's Leadership in the Arts Luncheon Late Registrant 65.00
Community/State Partnership Change Leader Registration
Change Leader Institute Level 1 ..... 100.00
Change Leader Institute Level 2 ..... 200.00
Change Leader Institute Level 3 ..... 300.00
Change Leader Institute Level 4 ..... 400.00

DIVISION OF ARTS AND MUSEUMS - OFFICE OF MUSEUM SERVICES

Office of Museum Services
Museum Environmental Monitoring Kit Rental/Shipping (per Period) 40.00
Museum Environmental Monitoring Kit Deposit 150.00

HISTORICAL SOCIETY

State Historical Society
Business/Corporate 155.00
Utah State Historical Society Two Year Membership
Business/Corporate 80.00
Utah Historical Society Annual Membership
History Conference – Member 15.00
Annual History Conference Registration fee for Utah State Historical Society Members
History Conference – Non member 30.00
Annual History Conference Registration for non historical society members
History Conference – Vendor/Exhibitor Table 50.00
Annual History Conference
Individual 75.00
Utah State Historical Society Two Year Membership
Patron 140.00
Utah State Historical Society Two Year Membership
Sponsor 195.00
Utah State Historical Society Two Year Membership
Student/Adjunct/Senior 55.00
Utah State Historical Society Two Year Membership
Sustaining 95.00
Utah State Historical Society Two Year Membership
University of Illinois Press 9,600.00
Utah Historical Society Annual Membership UIP manages the institutional subscription agency memberships and sends the money to the State of Utah.
Utah Historical Society Annual Membership
Student/Adjunct/Senior 30.00
Individual 40.00
Sustaining 50.00
Patron 75.00
Sponsor 100.00
Lifetime 500.00
Utah Historical Quarterly (per issue) 13.00
Cost of a single issue of Utah Historical Quarterly (in addition to mailing costs, when applicable)
Publication Royalties 1.00

STATE HISTORY

Historic Preservation and Antiquities
Anthropological Remains Recovery (per Recovery or Analysis and reporting) 2,500.00
Fee is for recovery or analysis and reporting services.
Literature Search – Self Service w/ Scans (per 1/2 Hour) 25.00

Literature Search – Staff Performed w/ Scans (per 1/2 Hour) 50.00
GIS Search – Staff Performed (per 1/4 Hour) 15.00
Literature Search/GIS Search – no show fee (per incident) 60.00
GIS Data Cut and Transfer (per Section) . . . 15.00
Library and Collections
Surplus Photo 5x7 . . . . . 2.50
Surplus Photo 8x10 . . . . . 4.00
B/W Historic Photo
4x5 B/W Historic Photo 7.00
5x7 B/W Historic Photo 10.00
8x10 B/W Historic Photo 15.00
Self Serve Photo 0.50
Digital Image 300 dpl> 10.00
Historic Collection Use 10.00
Research Center
Self Copy 8.5x11 . . . . . 0.10
Self Copy 11x17 . . . . . 0.25
Staff Copy 8.5x11 . . . . . 0.25
Staff Copy 11x17 . . . . . 0.50
Digital Self Scan/Save (per Page) 0.05
Digital Staff Scan/Save (per Page) 0.25
Microfilm Self Copy (per page) 0.25
Microfilm Self Scan/Save (per Page) 0.15
Microfilm Staff Scan/Save or Copy (per page) 1.00
Audio Recording (per item) 10.00
Video Recording (per item) 20.00
Diazo print
16 mm diazo print (per roll) 12.00
35 mm diazo print (per roll) 14.00
Microfilm Digitization 40.00
Digital Format Conversion 5.00
Surplus Photo 4x5 . . . . . 1.00
Mailing Charges 1.00

STATE LIBRARY

Administration
Sale of Used Books/Materials 1.00
Disposal of discarded books.
Blind and Disabled
Full Library Services to States With Machines 150.00
Basic Braille Services to States 85.00
Full Library Services to States Without Machines 145.00
Braille and Audio Service to LDS Church . . . 2.50
Library of Congress Contract (MSCW) (per Annual) 999,600.00
Library Development
Bookmobile Services (per Annual) 684,300.00
Average fee of bookmobile services over the seven service areas.
Library Resources
Cataloging Services 7,000.00
Catalog Express Utilization 0.58
Catalog Express Overage 1.17

STEM ACTION CENTER

STEM Bus – Charitable (per Day) 500.00
STEM Bus – Private (per Day) 1,000.00

INSURANCE DEPARTMENT

BAIL BOND PROGRAM

Restricted Revenue
Bail Bond Agency
Resident initial or renewal license if renewed prior to renewal deadline 250.00
Annual license period
Reinstatement of lapsed license 300.00
Annual license period

HEALTH INSURANCE ACTUARY

Restricted Revenue
Health Insurance Actuarial Review Assessment
Assessment for Actuary 200,000.00

INDIVIDUAL & SMALL EMPLOYER RISK ADJUSTMENT ENTERPRISE FUND

Individual & Small Employer Risk Adjustment Enterprise
Risk Adjustment (per 0.96) 0.96

INSURANCE DEPARTMENT ADMINISTRATION

Administration
Continuing Care Provider – Annual Registration Renewal 6,900.00
Continuing Care Provider – Annual Renewal Disclosure Statement 600.00
Continuing Care Provider – Disclosure Statement 600.00
Continuing Care Provider – Initial registration application 6,900.00
Continuing Care Provider – Reinstatement Fee 6,950.00
Initial agency license (per 40.00) 800.00
Initial individual license (per 35.00) 2,800.00
Insurance removal of public access to administrative actions (per 185.00) 185.00
Non–electronic payment processing fee (per 25.00) 25.00
Reinstatement agency license (per 65.00) . . 65.00
Reinstatement individual license (per 60.00) 60.00
Renewal agency license (per 40.00) 40.00
Renewal individual license (per 35.00) 35.00
Global license fees for Admitted Insurers
Certificate of Authority
Independent Review – Initial Application 250.00
Initial License Application 1,000.00
Renewal 300.00
Late Renewal 350.00
Reinstatement 1,000.00
Amendment 250.00
Orderly Plan of Withdrawal 50,000.00
Form A Filing 2,000.00
Redomestication Filing 2,000.00
Organizational Permit for Mutual Insurer 1,000.00
Insurer Examinations 72.00

Agency cost
Global Service Fees for Admitted Insurers
Zero premium volume ..... Insurance Rule R590-102-5(4)(d)(i)
More than $0 to less than $1M premium volume 700.00
$1M to less than $3M premium volume 1,100.00
$3M to less than $6 M premium volume 1,550.00
$6M to less than $11M premium volume 2,100.00
$11M to less than $15M premium volume 2,750.00
$15M to less than $20M premium volume 3,500.00
$20M or more in premium volume 4,350.00
Global license fees for Surplus Lines Insurers, Accredited/Trusteed Reninsurer
Surplus Lines Insurers, Accredited/Trusteed Reinsurers, Employee Welfare Fund
Initial 1,000.00
Annual 500.00
Late Annual 550.00
Reinstatement 1,000.00
Global license fees for Other Organizations
Other Organizations
Initial License Application 250.00
Renewal 200.00
Late Renewal 250.00
Reinstatement 250.00
Annual Service 200.00
Life Settlement Provider
Initial license application 1,000.00
Renewal 300.00
Late Renewal 350.00
Reinstatement 1,000.00
Annual service 600.00
Global Individual License
Res/non-res full line producer license or renewal per two-year license period
Initial, or renewal if renewed prior to renewal deadline 70.00
Reinstatement of Lapsed License 120.00
Res/non-res limited line producer license or renewal per two-year licensing period
Initial or renewal if renewed prior to renewal deadline 45.00
Reinstatement of lapsed license 95.00
Res/non-res full line producer license or renewal per two-year license period
Dual Title License Form Filing 25.00
Addition of producer classification or line of authority to individual producer license 25.00
Global Full Line and Limited Line Agency License
Res/non-res initial or renewal license if renewed prior to renewal deadline ... 75.00
Reinstatement of lapsed license 125.00
Addition of agency class or line of authority to agency license 25.00
Resident Title initial or renewal license if renewed prior to renewal deadline 100.00
Resident Title Reinstatement of Lapsed License 150.00
Health Insurance Purchasing Alliance
Res/non-res initial or renewal license if renewed prior to renewal deadline 500.00
Per annual license period
Late Renewal 550.00
Reinstatement of lapsed license 550.00
Continuing Education
CE provider initial or renewal license prior to renewal deadline 250.00
CE provider reinstatement of lapsed license 300.00
CE provider post approval or $5 per hour, whichever is more 25.00
Other
Photocopy (per page) 0.50
Copy Complete Annual Statement 40.00
Accepting Service of legal process 10.00
Returned check charge 20.00
Workers' Comp schedule 5.00
Address Correction 35.00
Production of Lists
Printed (per page) 1.00
Information already in list format
Electronic
Base fee 50.00
1 CD and up to 30 minutes of staff time
Additional fee billed by invoice 50.00
For each additional 30 minutes or fraction thereof
Additional CD (per CD) 1.00
Restricted Special Revenue Fees
Title Insurance Recovery, Education, and Research Fund
Initial Title Agency License 1,000.00
Renewal Title Agency License
Band A-$0-$1 million premium volume 125.00
Band B->$1-$10 million premium volume 250.00
Band C->$10-$20 million premium volume 375.00
Band D->$20 million premium volume 500.00
Individual Title Licensee Initial or Renewal License 15.00
Professional Employers Organization
Standard - Initial/Renewal 2,000.00
Standard - Late Renewal or Reinstatement 2,050.00
Certified by an Assurance Organization - Initial 2,000.00
Certified by an Assurance Organization - Renewal 1,000.00
Certified Late Renewal or Reinstatement 1,050.00
Small Operator
Small Operator - Initial 2,000.00
Small Operator - Renewal 1,000.00
Small Operator - Late Renewal or Reinstatement 1,050.00
Captive Insurers
Captive Cell Dormancy Certificate
Annual Renewal fee (per 500.00) 500.00
Captive Cell Initial Application (per 200) 200.00
Captive Cell Initial License (per 1000) 1,000.00
Captive Cell Late Renewal (per 50) 50.00

Captive Cell License Renewal
(per 1000) 1,000.00
Captive Dormancy Certificate Annual
Renewal fee (per 2500.00) 2,500.00
Captive Insurer
Captive Initial license application 200.00
Initial license application
review ..... Captive – Actual cost
Captive Initial License Issuance 7,250.00
Captive Annual Renewal 7,250.00
Captive Late Renewal 5,050.00
Captive Reinstatement 7,300.00
Captive Insurer Examination
Reimbursements ..... Variable
Criminal Background Checks
Fingerprinting
Bureau of Criminal Investigation 15.00
Federal Bureau of Investigation 13.25
Electronic Commerce Fee
Electronic Commerce Restricted
E-commerce and internet technology services
Insurer: admitted, surplus lines 75.00
Captive Insurer 250.00
Other organization and life
settlement provider 50.00
CE Provider 20.00
Agency and Health Insurance
Purchasing Alliance 10.00
Individual 5.00
Access to rate and form filing database
Base 45.00
1 DVD and up to 30 minutes access and staff help
Additional requests 45.00
Each additional 30 minutes or fraction thereof
Additional DVD (per DVD) 2.00
Electronic Commerce Restricted
Database access 3.00
Paper filing process 5.00
Paper Application Processing 25.00
GAP Waiver Program
Restricted Revenue
Guaranteed Asset Protection Waiver
Registration/Annual 1,000.00
GAP Waiver Assessment 50.00
Insurance Fraud Program
Restricted Revenue
Fraud Investigation Division
Zero to $1M premium volume 200.00
>$1M to less than $2.5M premium
volume 450.00
$2.5M to less than $5M premium
volume 800.00
$5M to less than $10M premium
volume 1,600.00
$10M to less than $50M premium
volume 6,100.00
$50M or more in premium volume . 15,000.00
Fraud Division Investigative
Recovery ..... Variable
Fraud division assessment late fee 50.00
Relative Value Study
Restricted Revenue
Relative Value Study
Relative Value Study Book 10.00
Code Books 57.00
Cost to agency
Mailing fee for books 3.00

TITLE INSURANCE PROGRAM

Restricted Revenue
Title Insurance Regulation
Assessment 100,000.00

LABOR COMMISSION

Administration
Industrial Accidents Division
Workers Compensation
Coverage Waiver 50.00
Seminar Fee (alternate years)
(per registrant) ..... Not to exceed 500.00
Premium Assessment
Workplace Safety Fund
(per premium) 0.25%
Employers Reinsurance Fund
(per premium) 0%
Uninsured Employers Fund
(per premium) 0.5%
Industrial Accidents Restricted
Account (per premium) 0.50%
Certificate to Self-Insured
New Self-Insured Certificate 1,200.00
Self Insured Certificate Renewal 650.00
Boiler, Elevator and Coal Mine Safety Division
Boiler and Pressure Vessel Inspections
Owner
User Inspection Agency
Certification 250.00
Certificate of Competency
Original Exam 25.00
Renewal 20.00
Jacketed Kettles and Hot Water Supply
Consultation
Witness special inspection
(per hour) 60.00
Boilers
Existing
<250,000 BTU 30.00
> 250,000 BTU but <4,000,000
BTU 60.00
> 4,000,001 BTU but <20,000,000
BTU 150.00
> 20,000,000 BTU 300.00
New
<250,000 BTU 45.00
> 250,000 BTU but <4,000,000
BTU 90.00
> 4,000,001 BTU but <20,000,000
BTU 225.00
> 20,000,000 BTU 450.00
Pressure Vessel
Existing 30.00
New 45.00
Pressure Vessel Inspection by Owner-user
25 or less on single statement
(per vessel) 5.00
26 through 100 on single
statement (per statement) 100.00
101 through 500 on single
statement (per statement) 200.00

over 500 on single statement (per statement) 400.00
Elevator Inspections Existing Elevators
Hydraulic 85.00
Electric 85.00
Handicapped 85.00
Other Elevators 85.00
Elevator Inspections New Elevators
Hydraulic 300.00
Electric 700.00
Handicapped 200.00
Other Elevators 200.00
Consultation and Review (per hour) 60.00
Escalators/Moving Walks 700.00
Remodeled Electric 500.00
Roped Hydraulic 500.00
Coal Mine Certification
Mine Foreman 50.00
Temporary Mine Foreman 35.00
Fire Boss 50.00
Surface Foreman 50.00
Temporary Surface Foreman 35.00
Hoistman 50.00
Electrician
Underground 50.00
Surface 50.00
Certification Retest
Per section 20.00
Maximum fee charge 50.00
Hydrocarbon Mine Certifications
Hoistman 50.00
Certification Retest
Per section 20.00
Maximum fee charge 50.00
Gilsonite
Mine Examiner 50.00
Shot Firerer 50.00
Mine Foreman
Certificate 50.00
Temporary 35.00
Photocopies, Search, Printing
Black and White no special handling 0.25
Research, redacting, unstapling, restapling (per hour) 15.00
More than 1 hour (per hour) 20.00
Color Printing (per page) 0.50
Certified Copies (per certification) 2.00
Plus search fees if applicable
Electronic documents CD or DVD 2.00
Fax, plus telephone costs 0.50

UTAH STATE TAX COMMISSION

LICENSE PLATES PRODUCTION

License Plates Production
Decal Replacement 1.00
Reflectorized Plate ..... Up to $12
Plate Mailing Charge (per Plate Set) 4.00

TAX ADMINISTRATION

Administration Division
Administration
Liquor Profit Distribution 6.00
All Divisions
Certified Document 5.00
Faxed Document Processing (per page) 1.00
Record Research 6.50
Photocopies, over 10 copies (per page) ... 0.10
Research, special requests (per hour) ... 20.00
Motor Vehicle Enforcement Division
Temporary Permit Restricted Fund
Temporary Permit ..... Not to exceed 12.00
Sold to dealers in bulk, not to exceed approved fee amount
Temporary Sports Event Registration Certificate ..... Not to exceed 12.00
MV Business Regulation
Dismantler's Retitling Inspection 50.00
Salvage Vehicle Inspection 50.00
Electronic Payment
Temporary Permit Books (per book) ..... Not to exceed 4.00
Dealer Permit Penalties (per penalty) ..... Not to exceed 1.00
Salvage Buyer's License (per license) ..... Not to exceed 3.00
Licenses
Motor Vehicle Manufacturer License 102.00
Motor Vehicle Remanufacturer License 102.00
New Motor Vehicle Dealer 127.00
Transporter 51.00
Body Shop 112.00
Used Motor Vehicle Dealer 127.00
Dismantler 102.00
Salesperson 31.00
Salesperson's License Transfer Fee 31.00
Salesperson's License Reissue 5.00
Crusher 102.00
Used Motor Cycle, Off-Highway Vehicle, and Small Trailer Dealer 51.00
New Motor Cycle, Off-Highway Vehicle, and Small Trailer Dealer 51.00
Representative 26.00
Distributor or Factory Branch and Distributor Branch's 61.00
Additional place of business
Temporary 26.00
Permanent ..... Variable
Variable rate - same rate as the original license fee (based on license type)
License Plates
Purchase
Manufacturer 10.00
Dealer 12.00
Dismantler 10.00
Transporter 10.00
Renewal
Manufacturer 8.50
Dealer 10.50
Dismantler 8.50
Transporter 8.50
In-transit Permit 2.50
Motor Vehicles
Administration
All Divisions
Custom Programming (per hour) 85.00
Data Processing Set-Up 55.00
Sample License Plates 5.00
Parks and Recreation

Parks & Recreation Decal Replacement ... 4.00
Motor Vehicle
Motor Vehicle Information 3.00
Motor Vehicle Information Via Internet ... 1.00
Motor Vehicle Transaction
(per standard unit) 1.63
Motor Carrier
Cab Card 3.00
Duplicate Registration 3.00
Temporary Permit
Individual permit 6.00
Electronic Payment
Authorized Motor Vehicle
Registrations ..... Not to exceed 4.00
License Plates
Reflectorized Plate ..... Up to $12
Special Group Plate Programs
Inventory ordered before July 1, 2003
Extra Plate Costs 5.50
Plus standard plate fee
New Programs or inventory reorders after July 1, 2003
Start-up or significant program changes (per program) 3,900.00
Extra Plate Costs (per decal set ordered) 3.50
Plus standard plate fee
Extra Handling Cost (per decal set ordered) 2.40
Special Group Logo Decals ..... Variable
Special Group Slogan Decals ..... Variable
Tax Payer Services
Administration
Lien Subordination ..... Not to exceed 300.00
Tax Clearance 50.00
Motor and Special Fuel
International Fuel Tax Administration
Decal (per set) 4.00
Reinstatement 100.00
Tax Processing Division
Administration
All Divisions
Convenience Fee ..... Not to exceed 3%
Convenience fee for tax payments and other authorized transactions

SOCIAL SERVICES

DEPARTMENT OF HEALTH

CHILDREN'S HEALTH INSURANCE PROGRAM

Quarterly Premium
Plan B 30.00
138%-150% of Poverty Level
Plan C 75.00
150%-200% of Poverty Level
Late 15.00

DISEASE CONTROL AND PREVENTION

Clinical and Environmental Lab Certification Programs
Organic Wet Chemistry 200.00
Parameter Category Fees charge for each sample tested
Atomic Absorption/Atomic Emission 300.00
Radiological chemistry - Alpha spectrometry 300.00
Radiological chemistry - Beta 300.00
Calculation of Analytical Results 50.00
Organic Clean Up 200.00
Toxicity/Synthetic Extractions Characteristics Procedure 200.00
Radiological chemistry - Gamma 300.00
Gas Chromatography
Simple 300.00
Complex 600.00
Semivolatile 500.00
Volatile 500.00
Radiological chemistry - Gas Proportional Counter 300.00
Gravimetric 100.00
High Pressure Liquid Chromatography 300.00
Inductively Coupled Plasma Metals Analysis 400.00
Inductively Coupled Plasma Mass Spectrometry 500.00
Ion Chromatography 200.00
Ion Selective Electrode base methods ... 100.00
Radiological chemistry - Liquid Scintillation 300.00
Metals Digestion 100.00
Simple Microbiological Testing 100.00
Complex Microbiological Testing 300.00
Organic Extraction 200.00
Physical Properties 100.00
Titrimetric 100.00
Spectrometry 200.00
While Effluent Toxicity 600.00
Environmental Laboratory Certification
Certification Clarification
Note: Laboratories applying for certification are subject to the annual certification fee, plus the fee listed, for each category in which they are to be certified.
Annual certification fee (chemistry and/or microbiology)
Utah laboratories 1,000.00
Out-of-state laboratories 3,000.00
Plus reimbursement of all travel expenses
National Environmental Accreditation Program (NELAP) recognition 1,000.00
Certification change 250.00
Performance Based Method Review (per method fee) 250.00
Primary Method Addition for Recognition Laboratories 500.00
Epidemiology
Utah Statewide Immunization Information System
Non-Financial Contributing Partners
Match on Immunization Records in Database (per record) 12.00
File Format Conversion (per hour) 30.00
General Administration
These fees apply for the entire Division of Disease Control and Prevention
Laboratory General
Emergency Waiver
Under certain conditions of public health import (e.g., disease outbreak, terrorist

event, or environmental catastrophe) fees may be reduced or waived.
Handling
Total cost of shipping and testing of referral samples to be rebilled to customer. (per Referral lab's invoice)
Repeat Testing – normal fee will be charged if repeat testing is required due to poor quality sample. (per sample, each reanalysis)
Utah Public Health Laboratory
Mycoplasma Genitalium Detection by Nucleic Acid Testing 30.00
All
Laboratory Testing of Public Health Significance ..... Actual costs up to $200
The emergence of diseases and subsequent testing methods are unpredictable. This fee allows Utah Public Health Laboratory to offer a test that is vital to protecting the public as the need arises to help diagnosis and prevent illness.
Newborn Screening
Laboratory Testing and Follow–up Services 120.00
Out of State Screening 116.00
Chemistry
Admin
Chain of Custody Request Fee 20.00
Rush Fee 50.00
Metals
Standard Metals
Environmental Protection Agency 200.8 Copper and Lead 26.40
Standard Method 2330B Langelier Index 6.05
Environmental Protection Agency 353.2 Nitrite 17.60
Environmental Protection Agency 353.2 Nitrate 17.60
Environmental Protection Agency 200.8 – Magnesium 13.20
Environmental Protection Agency 200.8 – Iron 13.20
Environmental Protection Agency 200.8 – Potassium 13.20
Environmental Protection Agency 200.8 – Strontium 13.20
Environmental Protection Agency 200.8 Digestion 24.20
Environmental Protection Agency 200.8 Tin 13.20
Environmental Protection Agency 200.8 Cobalt 13.20
Environmental Protection Agency 200.8 Vanadium 13.20
Environmental Protection Agency Method 200.8 Zirconium ... 13.20
Mercury 245.1 ..... 27.50
may include a digestion fee
Selenium by Selenium Hydride – Atomic Absorption – Standard Method 3114C 35.20
may include a digestion fee
Environmental Protection Agency 200.8 Aluminum 13.20
Environmental Protection Agency 200.8 Antimony 13.20
Environmental Protection Agency 200.8 Arsenic 13.20
Environmental Protection Agency 200.8 Barium 13.20
Environmental Protection Agency 200.8 Beryllium 13.20
Environmental Protection Agency 200.8 Cadmium 13.20
Environmental Protection Agency 200.8 Chromium 13.20
Environmental Protection Agency 200.8 Copper 13.20
Environmental Protection Agency 200.8 Lead 13.20
Environmental Protection Agency 200.8 Manganese 13.20
Environmental Protection Agency 200.8 Molybdenum 13.20
Environmental Protection Agency 200.8 Nickel 13.20
Environmental Protection Agency 200.8 Selenium 13.20
Environmental Protection Agency 200.8 Silver 13.20
Environmental Protection Agency 200.8 Thallium 13.20
Environmental Protection Agency 200.8 Zinc 13.20
Environmental Protection Agency 200.8 Boron 13.20
Environmental Protection Agency 200.8 Calcium 13.20
Environmental Protection Agency Sodium 200.8 ..... 13.20
Hardness (Requires Calcium & Magnesium tests) 6.05
Organic Contaminants
Environmental Protection Agency 524.2 Trihalomethanes 89.93
Haloacetic Acids Method 6251B 179.30
Environmental Protection Agency 524.2 ..... 228.80
Trihalomethanes, Maximum Potential
Inorganics
Alkalinity (Total) Standard Method 2320B 8.80
Bromate Environmental Protection Agency 300.1 ..... 30.25
Chlorate Environmental Protection Agency 300.1 ..... 30.25
Chlorite Environmental Protection Agency 300.1 ..... 30.25
Chloride Environmental Protection Agency 300.0 ..... 19.31
Environmental Protection Agency 300.0 Fluoride 20.35
Environmental Protection Agency 300.1 Sulfate 17.88
Chromium (Hexavalent)
Environmental Protection Agency 218.7 ..... 60.50
Cyanide, Total 335.4 ..... 55.00
Environmental Protection Agency 353.2 Nitrate + Nitrite 11.28
Perchlorate 314.0 ..... 60.50

Environmental Protection Agency 537.1 – Per–and Polyfluoroalkyl Substances 290.00
pH (Test of acidity or alkalinity) 150.1 ..... 11.00
Environmental Protection Agency 375.2 Sulfate 13.75
Environmental Protection Agency 180.1 Turbidity 9.35
Odor, Environmental Protection Agency 140.1 ..... 30.25
Organic Constituents, Ultra Violet–Absorbing Standard Method 5910B 36.30
Carboxylic Acids (Oxalate, Formate, Acetate) 46.20
Nitrogen, Total Standard Method 4500–N (Lachat) 20.90
Organic Carbon, Total Standard Method 5310B 18.70
Environmental Protection Agency 300.1 Bromide 30.25
Organics
Anatoxin by Enzyme–Linked Immunosorbent Assay 98.55
Chlorophyll–A by High Performance Liquid Chromatography 110.61
Cyanotoxin Quantitative Polymerase Chain Reaction Method 33.00
Cylindrospermopsin by Enzyme–Linked Immunosorbent Assay 98.55
Periphyton 26.40
Water Bacteriology
Legionella Standard Methods 9260J ... 68.20 Liter of water
Solids, Total Dissolved Standard Method 2540C 14.03
Environmental Protection Agency 325.2 Chloride 7.70
Standard Method 5210B Carbonaceous Biochemical/ Soluble Oxygen Demand 36.30
Standard Method 2120B Color 13.20
Total Microcystins & Nodularins by Enzyme–Linked Immunosorbent Assay 98.55
Legiolert 37.22
Water Microbiology (Drinking Water and Surface Water)
Total Coliforms/Escherichia coli ..... 20.90 Colilert/Colisure
Heterotrophic Plate Count by 9215 B Pour Plate 14.30
Inorganic Surface Water (Lakes, Rivers, Streams) Tests
Ammonia Environmental Protection Agency 350.1 ..... 19.25
Biochemical Oxygen Demand 5 day test Standard Method 5210B .. 28.60
Chlorophyll A Standard Method 10200H – Chlorophyll–A 18.70
Phosphorus, Total 365.1 ..... 17.05
Silica 370.1 ..... 17.33
Solids, Total Volatile, Environmental Protection Agency 160.4 ..... 18.15
Solids, Total Suspended Standard Method 2540D 14.03
Specific Conductance 120.1 ..... 8.53
Environmental Protection Agency 376.2 Sulfide 48.40
Infectious Disease
Arbovirus
TrioPlex Polymerase Chain Reaction ... 65.00
Zika Immunoglobulin M 45.00
Next Generation Sequencing
Bacterial Sequencing 107.00
Bacterial Sequencing Analysis 40.00
Bacterial Sequencing and Identification 108.00
Bacterial Sequencing, Identification, Analysis 122.00
Microbial Source Tracking via shotgun metagenomics sequencing 194.00
Microbial Source Tracking via culture based 150.00
Immunology
Hepatitis
Anti–Hepatitis B Antibody 19.50
Anti–Hepatitis B Antigen 19.50
C (Anti–Hepatitis C Virus) Antibody 23.00
HIV (Human Immunodeficiency Virus) 1/2 and O, Antigen/Antibody Combo 27.00
Supplemental Testing (HIV–1/HIV–2 differentiation) 42.00
Hantavirus 40.00
Syphilis
Immunoglobulin G (IgG) Antibody (including reflex Rapid Plasma Reagin titer) 10.00
TP–PA (Treponema Pallidum – Particle Agglutination) Confirmation 22.00
QuantiFERON
QuantiFERON Gold 65.00
Virology
BioFire FilmArray Respiratory Panel 160.00
Hepatitis C Virus (HCV) detection by quantitative Nucleic Acid Amplification Test 75.00
Herpesvirus (Herpes Simplex Virus–1, Herpes Simplex Virus–2, Varicella Zoster Virus) Detection and Differentiation by Polymerase Chain Reaction 51.00
Rabies – Not epidemiological indicated or pre–authorized 180.00
Influenza PCR (Polymerase Chain Reaction) 150.00
Chlamydia trachomatis and Neisseria gonorrhoeae detection by nucleic acid testing 23.00
Bacteriology
BioFire FilmArray Gastrointestinal Panel 185.00
Mycobacteriology
Culture 81.00

Mycobacterium tuberculosis susceptibilities (send out) 175.00
Identification and Susceptibility by GeneXpert 126.00
Office of the Medical Examiner
Examinations of Non-jurisdictional Cases
Autopsy, full or partial 2,500.00
plus cost of body transportation
External Examination 500.00
plus cost of body transportation
Facilities
Use of Office of the Medical Examiner facilities by Non-Office of the Medical Examiner Pathologists
Use of facilities and staff for autopsy 500.00
Use of facilities only for autopsy or examination 400.00
Use of facilities and staff for external examinations 300.00
Use of Tissue Harvest Room for Acquisition
Skin Graft 133.00
Bone 266.00
Heart Valve 70.00
Saphenous vein 70.00
Eye 35.00
Reports
Copy of Autopsy and Toxicology Report
All requestors. 35.00
No charge for copies for (1) immediate relative or legal representative as outlined in UCA 26-4-17(2)(a)(i)-(ii) and (2) for law enforcement, physicians, attorneys and government entities as outlined in UCA 26-4-17(2)(a)(iii)-(iv), and 26-4-17(2)(b)(i)-(iv).
Copy of Miscellaneous Office of the Medical Examiner Case File Papers
Copies for immediate relative or legal representative as outlined in UCA 26-4-17(2)(a)(i)-(ii) 10.00
All other requestors. 35.00
No charge for copies for law enforcement, physicians, attorneys and government entities as outlined in UCA 26-4-17(2)(a)(iii)-(iv), and 26-4-17(2)(b)(i)-(iv).
Cremation Authorization
Review and authorize cremation permits. 150.00
$10.00 per permit payable to Vital Records for processing.
Expert Services - Forensic Pathologist Case Review, Consultation, and Testimony, Portal to Portal, up to 8 Hours/day
Criminal cases, out of state (per hour) 500.00
$4,000.00 max/day
Non-jurisdictional criminal and all civil cases (per hour) 500.00
$4,000.00 max/day
Consultation on non-Medical Examiner cases (per hour) 500.00
$4,000.00 max/day
Photographic, Slide, and Digital Services
Digital Photographic Images
Copies for immediate relative or legal representative as outlined in UCA 26-4-17(2)(a)(i)-(ii) (per image) 10.00
All other requestors. (per image) 35.00
No charge for copies for law enforcement, physicians, attorneys and government entities as outlined in UCA 26-4-17(2)(a)(iii)-(iv), and 26-4-17(2)(b)(i)-(iv).
Digital X-ray images from Digital Source (DICOM). 10.00
DICOM (radiographic) images.
Copied from color slide negatives. (per image) 5.00
Digital photographic images.
Body Storage
Daily charge for use of Medical Examiner Storage Facilities 30.00
Beginning 24 hours after notification that body is ready for release.
Biologic samples requests
Handling of requested samples for shipping to outside lab. 25.00
Processing of Office of the Medical Examiner samples for Non-Office of the Medical Examiner testing.
Handling and storage of requested samples by outside sources (per year) 25.00
Storage fee (outside normal Office of the Medical Examiner retention schedule)
Return request by immediate relative as defined in code UCA 26-4-2(3) 55.00
Sample return fee
Histology
Glass Slides (re-cuts, routine stains) per slide 20.00
Glass slides - Immunohistochemical stains per slide 50.00
Histochemical stains per slide 30.00

EXECUTIVE DIRECTOR'S OPERATIONS

Adoption Records Access
Specialized Services
Birth Parent Information Registration ... 25.00
Adoption Records Access Fee 25.00
Adoption Records Amendment Fee 10.00
Center for Health Data and Informatics
Data Access Base Fees
Behavioral Risk Factor Surveillance System
Standard Annual Limited Data Set ... 300.00
The following discounts apply: Local Health Department (100% for any standard annual data set); State Agency, Student or Not for Profit Entity (75% for any standard annual data set); Researcher (50% for any standard annual data set); For Profit Entities pay full amount. Note that entities that have paid to have questions included on the Behavioral Risk Factor Surveillance System are excluded from this fee as their payment includes receipt of data. Fee will be $300.00 for initial dataset. Each additional year dataset will be an additional $150.00 (50% discount).

Healthcare Facilities Data Series
Fee Discounts – Healthcare Facilities Data Series ..... Note
Note: (1) The Following Discounts Apply: Local Health Departments (100% for Standard Limited Use or Research Data Sets); Healthcare Facility with <5,000 discharges (80% for Standard Limited Use Data Set); Healthcare Facility with 5,000–35,000 discharges (50% for Standard Limited Use Data Set); Prior Years (50% for any data set)' Student (75% for and standard data set); Public University or Nor for Profit Entity (50% for any standard data series); Geographic Subset (discount proportioned to percent of records required from limited use data set); On–time Renewal (15% for any data series. (2) Pricing for client–based partnership: The per–client fee is to be negotiated with the partner based on the volume and level of data provided to each client, but may not exceed 70% of the actual cost of the data used. (3) Pricing for redistribution agreements: The distributor shall reimburse the state for 70% of the cost of the data covered by the agreement
Standard Annual Limited Use Data Set 3,600.00
Standard Annual Research Data set 6,000.00
Quarterly Preliminary Feeds 4,500.00
Federal Annual Database 4,500.00
Enhanced Annual Summary Report ... 500.00
All Payer Claims Data Standard Limited Use Data Series
Fee Discounts – All Payer Claims Data Standard Limited Use Data Series ..... Note
(1) The following discounts apply: Local Health Departments (100% for Standard Limited Use Data Sets); Contributing Carrier (50% for standard limited use data sets); Student (75% for any standard data set); Single Use and Single User License (50% for any standard limited use data set); Geographic Subset (discount proportional to percent of records required from limited use data set); On–time Renewal (15% for any data series). (2) Pricing for client–based partnership: The per–client fee is to be negotiated with the partner based on the volume and level of data provided to each client, but may not exceed 70% of the actual cost of the data used. (3) Pricing for redistribution agreements: The distributor shall reimburse the state for 70% of the cost of the data covered by the agreement.
Single Year 8,000.00
Two Years 12,000.00
Three Years 16,000.00
Additional Years 4,000.00
Sample File 2,000.00
Two–Year Public Use File 4,000.00
All Payer Claims Data Standard Research Data Series
Fee Discounts – All Payer Claims Data Standard Research Data Series ..... Note
(1) The following discounts apply: Local Health Departments (100% for any standard Research Data Set); Student (50% for any standard research data set); Single Use and Single User License (50% for any standard research data set); On–time Renewal (15% for any data series); (2) Pricing for redistribution agreements: The distributor shall reimburse the state for 70% of the cost of the data covered by the agreement.
Single Year 20,000.00
Two Years 30,000.00
Three Years 40,000.00
Additional Years 10,000.00
Special Purpose Series 4,000.00
Other Data Series and Licenses (Fee Discounts Apply)
Fee Discounts – Other Data Series and Licenses ..... Note
The following discounts apply: Non–Contributing Carrier (50% for CAHPS (Consumer Assessment of Healthcare Providers and Systems) Data Set); Contributing Carrier (75% for CAHPS Data Set); Prior Year (20% for HEDIS (Healthcare Effectiveness Data and Information Set) & CAHPS Data Set); Years before Current and Prior Year (35% for HEDIS & CAHPS Data Set); Student (75% for HEDIS & CAHPS Data Set or Survey Responses); Public University or Not for Profit Entity (35% for HEDIS & CAHPS Data Set or Survey Responses); On–time Renewal (15% for any data series).
Institutional License 150,000.00
HEDIS (Healthcare Effectiveness Data and Information Set) Data Set 1,575.00
CAHPS (Consumer Assessment of Healthcare Providers and Systems) Data Set 1,575.00
CAHPS (Consumer Assessment of Healthcare Providers and Systems) Survey Responses 2,000.00
Other Fees and Services
Custom data services (per hour) 100.66
This hourly fee applies to all custom work, including data extraction analytics; aggregate patient–risk profiles for clinics, payers or systems; data management reprocessing; data matching; and creation of samples or subsets.
Additional Fields to create a custom data set (per field added) 225.00
Individual Information Extract (per person) 100.00
Application Fee (non–refundable) 50.00
Application fees are non–refundable but may be credited towards a data fee if the application is approved.
Convenience Fee (for Credit or Debit Card payment) 3%
Birth Certificate
Initial Copy 22.00

Stillbirth Certificate Initial Copy 18.00
Book Copy of Birth Certificate – in addition to birth certificate fee 5.00
Adoption – in addition to birth certificate fee 40.00
Delayed Registration – in addition to birth certificate fee 40.00
Legitimation – in addition to birth certificate fee 40.00
Death Certificate
Initial Copy 30.00
The Legislature intends that for every initial copy of a Utah Death Certificate sold, $12 shall be remitted to the Office of the Medical Examiner.
Burial Transit Permit 7.00
Disinterment Permit 25.00
Reprint Fee 3.00
Specialized Services
Additional Copies 10.00
Amendment Fee – Affidavit, Court Order, Voluntary Declaration of Paternity – in addition to certificate fee 5.00
Paternity Search (one hour minimum) (per hour) 18.00
Marriage and Divorce Abstracts 18.00
Adoption Registry 25.00
Adoption Expedite Fee 25.00
Death Research (one hour minimum) (per hour) 20.00
Death Notification Subscription Fee (organization less than or equal to 100,000 lives) 500.00
Death Notification Subscription Fee (organizations greater than 100,000 lives) 1,000.00
Death Notification Fee (per matched death) 1.00
Court Order Paternity – in addition to birth certificate fee 40.00
Online Access to Computerized Vital Records (per month) 12.00
Ad-hoc Statistical Requests (per hour) ... 45.00
Online Convenience Fee 4.00
Online Identity Verification 1.39
Expedite Fee 15.00
Delay of File Fee (charged for every birth/death certificate registered 30 days or more after the event) 50.00
Executive Director
All the fees in this section apply for the entire Department of Health
Clinic Fees Tied to Medicaid Reimbursement Levels ..... variable
The Department of Health benchmarks many of its charges in its medical and dental clinics to Medicaid reimbursement rates. If the Legislature authorizes reimbursement increases during the General Session, then the Legislature authorizes a proportional increase in effected clinic fees.
Conference Registrations 100.00
Non-sufficient Check Collection Fee 20.00
Non-sufficient Check Service Charge 20.00
Specialized Services
Expedited Shipping Fee 15.00
Testimony
Expert Testimony Fee for those without a PhD (Doctor of Philosophy) or MD (Medical Doctor) (per hour) 78.75
Includes preparation, consultation, and appearance on criminal and civil cases. Portal to portal, including travel and waiting time. Plus travel costs.
Expert Testimony Fee for those with a PhD (Doctor of Philosophy) or MD (Medical Doctor) (per hour) .. 250.00
Includes preparation, consultation, and appearance on criminal and civil cases. Portal to portal, including travel and waiting time. Plus travel costs.
Government Records Access and Management Act (GRAMA)
Mailing or shipping cost ..... Actual cost up to a $100.00
Staff time for file search and/or information compilation
Department of Technology Services (per hour) 70.00
For Department of Technology Services or programmer/analyst staff time.
Department of Health (per hour) 35.00
For Department of Health staff time; first 15 minutes free, additional time.
Copy
11 x 8.5 Black and White (per page) ... 0.15
11x17 or color (per page) 0.40
Information on disk (per kilobyte) 0.02
Administrative Fee, 1–15 copies 25.00
Administrative Fee, each additional copy 1.00
Fax (per page) 0.50

FAMILY HEALTH AND PREPAREDNESS

Children with Special Health Care Needs
Psychology
96136 Psychological Test Administration and Scoring–two or more tests 68.00
96137 Psychological Test Administration and Scoring–two or more tests+each additional 30 minutes 68.00
96131 Psychological Testing–each additional hour 136.00
Children with Special Health Care Needs Service
Balance Charge after Insurance Payment
Household income less than or equal to 133% of Federal Poverty Level 1.00
Household income 134% to 150% of Federal Poverty Level 20%
Household income 151% to 185% of Federal Poverty Level 40%
Household income greater than 225% of Federal Poverty Level 100%
Evaluation of Speech
92521 Fluency 150.00
92522 Sound Production 121.00
92523 Sound Production w/ Evaluation of Language Comprehension 260.00
Special Otorhinolaryngologic Services
92524 Behavioral and Qualitative Analysis of Voice and Resonance 116.00
Physical Medicine and Rehabilitation Therapeutic Procedures

97116 Gait training 33.00
97112 Neuromuscular reeducation 38.00
97542 Wheelchair Assessment fitting/training 25.00
97542 Wheelchair Assessment fitting/training 25.00
Office Visit, New Patient
99201 Problem focused, straightforward 65.00
99202 Expanded problem, straightforward 110.00
99203 Detailed, Low Complexity 160.00
99204 Comprehensive, Moderate Complexity 245.00
99205 Comprehensive, High Complexity 315.00
Office Visit, Established Patient
99211 Minimal Service or non-Medical Doctor 30.00
99212 Problem focused, straightforward 65.00
99213 Expanded Problem, Low Complexity 108.00
99214 Detailed, Moderate Complexity .. 160.00
99215 Comprehensive, High Complexity 220.00
Office Consultation, New or Established Patient
99241 Problem focused, straightforward 50.00
99242 Expanded problem focused, straightforward 80.00
99243 Detailed Exam, Low Complexity 100.00
99244 Comprehensive, Moderate Complexity 140.00
99245 Comprehensive, High Complexity 426.00
95974 Cranial Neurostimulation evaluation 160.00
99354 Prolonged, face to face 73.00
First hour
99355 Prolonged, face to face 112.00
Additional 30 minutes
99358 Prolonged, non face to face 93.00
First hour
99359 Prolonged, non face to face 51.00
Additional 30 minutes
T1013 Sign Language oral interview 13.00
Nutrition
97802 Medical Assessment 22.00
97803 Reassessment 22.00
Psychology
96113 Developmental Testing: Each additional 30 minutes 80.00
For each additional 30 minutes of developmental testing.
96130 Psychological Testing 136.00
96103 Testing with computer 30.00
96110 Developmental Testing 136.00
96112 Extended Developmental Testing 136.00
90791 Psychiatric Diagnostic Evaluation 140.00
90792 Psychiatric Diagnostic Evaluation With Medical Services 157.00
90804 Psychotherapy, face to face, 20-30 minutes 90.00
90806 Psychotherapy, face to face, 50 minutes 130.00
90846 Family Medical Psychotherapy, 30 minutes 112.00
90847 Family Medical Psychotherapy, conjoint 30 minutes ... 116.00
90885 Evaluation of hospital records 55.00
90889 Preparation of reports 74.00
Physical and Occupational Therapy
97161 Physical Therapy Evaluation 90.00
97162 Physical Therapy Evaluation-Moderate Complexity 90.00
97163 Physical Therapy Evaluation-High Complexity 90.00
97164 Physical Therapy Re-evaluation 52.00
97165 Occupational Therapy Evaluation 90.00
97166 Occupational Therapy Evaluation-Moderate Complexity 90.00
97167 Occupational Therapy Evaluation-High Complexity 90.00
97168 Occupational Therapy Re-evaluation 52.00
97110 Therapeutic Physical Therapy 33.00
97530 Therapeutic Activity 44.00
97535 Self Care Management 37.00
97760 Orthotic Management 38.00
97762 Orthotic/prosthetic Use Management 38.00
G9012 Wheelchair Measurement/ Fitting 312.00
Audiology
92550 Tympanometry and Acoustic Reflex Threshold Testing 24.00
92551 Audiometry, Pure Tone Screen 13.00
92552 Audiometry, Pure Tone Threshold 20.00
92553 Audiometry, Air and Bone 40.00
92555 Speech Audiometry threshold testing 25.00
92556 Speech Audiometry threshold/speech recognition testing ... 40.00
92557 Basic Comprehension, Audiometry 36.00
92567 Tympanometry 12.00
92568 Acoustic reflex testing, threshold 17.00
92570 Tympanometry and Acoustic Reflex Threshold 33.00
Acoustic Reflex Decay Testing
92579 Visual reinforcement audiometry 42.00
92579-52 Visual reinforcement audiometry, limited 21.00
92582 Conditioning Play Audiometry 72.00
92585 Auditory Evoked Potentials testing 144.00
92587 Evoked Otoacoustic emissions testing 24.00
92590 Hearing Aid Exam 60.00
92591 Hearing Aid Exam, Binaural 75.00
92592-52 Hearing aid check, monaural 31.00
92593-52 Hearing aid check, binaural ... 44.00

92620 Evaluation of Central Auditory Function 90.00
92621 Evaluation of Central Auditory Function 22.00
Each additional 15 minutes
V5008 Hearing Check, Patient Under 3 Years Old 38.00
V5257 Hearing Aid, Digital Monaural 2,000.00
V5261 Hearing Aid, Digital Binaural 1,100.00
V5264 Ear Mold Insert 75.00
V5266 Hearing Aid battery . . From $10 – $200
Baby Watch Early Intervention
Monthly Participation Fee
Household income 101% to 186% of Federal Poverty Level 10.00
Household income 187% to 200% of Federal Poverty Level 20.00
Household income 201% to 250% of Federal Poverty Level 30.00
Household income 251% to 300% of Federal Poverty Level 40.00
Household income 301% to 400% of Federal Poverty Level 50.00
Household income 401% to 500% of Federal Poverty Level 60.00
Household income 501% to 600% of Federal Poverty Level 80.00
Household income 601% to 700% of Federal Poverty Level 100.00
Household income 701% to 800% of Federal Poverty Level 120.00
Household income 801% to 900% of Federal Poverty Level 140.00
Household income 901% to 1000% of Federal Poverty Level 160.00
Household income 1001% to 1100% of Federal Poverty Level 180.00
Household income above 1100% of Federal Poverty Level 200.00
Director's Office
These fees apply for the entire Department of Health
Background Screening Fee – Public Safety 33.25
This fee should be the same as that charged by the Department of Public Safety. If the Legislature changes the fee charged by Department of Public Safety, then the Legislature also approves the same change for the Department of Health. Fees collected by Family Health and Preparedness are passed through to Public Safety.
Background checks initial or annual renewal (not in Direct Access Clearance System) 18.00
This fee will be assessed at the Division level for background checks not completed through the Direct Access Clearance System. This fee will be assessed for initial or annual renewal.
Direct Access Clearance System
Facility Initial or Change of Ownership (per 100) 100.00
Initial Clearance 20.00
Facility Renewal 200.00
These fees apply for the entire Division of Family Health and Preparedness
Credit Card Fee (per transaction) . . . . . Not to exceed 3%
To determine the amount charged, a percentage will be calculated using the total of credit card fees incurred by the Division, divided by the total credit card revenues.
Online Processing Fee (per transaction) . . . 0.75
Convenience fee to cover cost of Utah Interactive processing fee.
Fingerprints 12.00
Emergency Medical Services and Preparedness Data
EMS License
EMS License Data Request 500.00
Registration and Licensure
License/License Renewal Fee
Instructor 6 Month Extension Fee 40.00
License Verification 10.00
Permit
Behavior Health Unit (per Vehicle) 100.00
Registration and Licensure
License/License Renewal Fee
Course Coordinator Extension Fee 40.00
Inspection
Dispatch 100.00
Quality Assurance and Designation Review
Stroke Center Designation/ Redesignation 150.00
Registration and Licensure
License/License Renewal Fee
Quality Assurance Review Fee
All Levels 30.00
Training Officer Extension Fee 40.00
Quality Assurance Designation Review
Air Ambulance Quality Assurance Review 5,000.00
Registration and Licensure
License Fee
Blood Draw Permit 35.00
Quality Assurance Review Fee for
All Levels Late Fee . . . . . Certification Fee
License/License Renewal Fee
Initial and Reciprocity Quality Assurance for All Levels 45.00
Decal for purchase for All Levels 2.00
Patches for purchase for All Levels 5.00
Course Audit Fee 40.00
Course Request Fee
Course for All Levels 300.00
Course for All Levels 300.00
Ground Ambulance – Emergency Medical Technician
Permit
Quality Assurance Review (per vehicle) 100.00
Advanced (per vehicle) 130.00
Interfacility Transfer Ambulance
Permit
Emergency Medical Technician
Quality Assurance Review (per vehicle) 100.00
Advanced (per vehicle) 130.00
Fleet Vehicles
Permit
Fleet fee (per fleet) 3,200.00
Agency with 20 or more vehicles
Paramedic
Permit

Rescue (per vehicle) 165.00
Tactical Response (per vehicle) 165.00
Ambulance (per vehicle) 170.00
Interfacility Transfer Service (per vehicle) 170.00
Quick Response Unit
Permit
Emergency Medical Technician Quality Assurance Review (per vehicle) 100.00
Advanced (per vehicle) 100.00
Air Ambulance
Permit
Advanced (per vehicle) 130.00
Specialized (per vehicle) 165.00
Out of State (per vehicle) 200.00
Quality Assurance Designation Review
Resource Hospital (per hospital) 150.00
Trauma Center Verification/Quality Assurance Review 5,000.00
Trauma Designation Consultation Quality Assurance Review 750.00
Focused Quality Assurance Review . . . 3,000.00
Emergency Patient Receiving Facility Re-designation 150.00
Emergency Patient Receiving Facility Initial Designation 500.00
Quality Assurance Application Reviews
Newspaper Publications
Original Air Ambulance License 850.00
Original Ground Ambulance/Paramedic License Non Contested 850.00
Original Ambulance/Paramedic License Contested . . . . . Variable up to actual cost
Original Designation 135.00
Renewal Ambulance/Paramedic/ Air License 135.00
Renewal Designation 135.00
Upgrade in Ambulance Service Level . . . 125.00
Change in ownership/operator
Upgrade in Ambulance Service Level 125.00
Contested . . . . . Up to actual cost
Change in geographic service area
Non-contested 850.00
Contested . . . . . Up to actual cost
Quality Assurance Course Review
Critical Care Endorsement 20.00
Requesting a change to the name. Remove Certification and replace with Endorsement.
Course Coordinator
Seminar Registration 50.00
Emergency Medical
Training and Testing Program Designation 135.00
Instructor Seminar
Registration 150.00
Training Application Late Fee 25.00
None
Conference Sponsor/Vendor 500.00
New Course Coordinator
Course Coordination Endorsement 75.00
Course Coordination Endorsement 75.00
New Instructor
Endorsement 150.00
Requesting a change to the name. Remove Course Certification and replace with New Instructor Endorsement.
New Training Officer
Endorsement 75.00
Requesting a change to the name. Remove Initial Certification and replace with New Training Officer Endorsement.
Pediatric
Advanced Life Support Course 170.00
Education for Prehospital Professionals Course 170.00
Training Officer
Seminar Registration 50.00
Training and Seminars
Additional Lunch 15.00
Emergency Vehicle Operations
Instructor Course 40.00
Medical Director's Course 50.00
Management/Leadership Seminar 150.00
Prehospital Trauma Life Support Course 175.00
Pediatric Advanced Life Support Course Renewal 85.00
Equipment Delivery
Strike Team BLU-MED Mobile Field Response Tent Support 6,000.00
Pediatric
Rental of course equipment to for-profit agency 150.00
Quality Assurance Course Review
Pediatric
Education for Prehospital Professionals Course Renewal 85.00
Data
Pre-hospital
Non-profits Users 800.00
Academic, non-profit, and other government users
For-profit Users 1,600.00
Trauma Registry
Non-profits Users 800.00
Academic, non-profit, and other government users
For-profit Users 1,600.00
Health Facility Licensing and Certification
Annual License
Abortion Clinics 1,800.00
Health Facilities base 260.00
A base fee for health facilities plus the appropriate fee as indicated below applies to any new or renewal license.
Direct Access Clearance System
Contractor Access 100.00
Two Year Licensing Base
Plus the appropriate fee as listed below to any new or renewal license
Health Care Facility 520.00
Every other year
Health Care Providers
Change Fee 130.00
Charged for making changes to existing licenses.
Hospitals
Hospital Licensed Bed 39.00

Nursing Care Facilities, and Small Health Care Facilities Licensed Bed ... 31.20
End Stage Renal Disease Centers Licensed Station 182.00
Freestanding Ambulatory Surgery Centers (per facility) 2,990.00
Birthing Centers (per licensed unit) 520.00
Hospice Agencies 1,495.00
Home Health Agencies 1,495.00
Personal Care Agencies 1,000.00
Mammography Screening Facilities 520.00
Assisted Living Facilities
Type I (per licensed bed) 26.00
Type II (per licensed bed) 26.00
The fee for each satellite and branch office of current licensed facility 260.00

Late Fee
Within 1 to 14 days after expiration of license ..... 50% of scheduled fee
Within 15 to 30 days after expiration of license ..... 75% of scheduled fee

New Provider/Change in Ownership
Applications for health care facilities ... 747.50
Assessed for services rendered providers seeking initial licensure to or change of ownership to cover the cost of processing the application, staff consultation, review of facility policies, initial inspection.
Assisted Living and Small Health Care Type–N (nursing focus)
Limited Capacity Applications: 325.00
Assessed for services rendered to providers seeking initial licensure or change of ownership to cover the cost of processing the application, staff consultation and initial inspection.

Application Termination or Delay
If a health care facility application is terminated or delayed during the application process, then a fee based on services rendered will be retained as follows:
On–site inspections ..... 90% of total fee

Plan Review and Inspection
Hospitals
Number of Beds
Up to 16 ..... 3,445.00
17 to 50 ..... 6,890.00
51 to 100 ..... 10,335.00
101 to 200 ..... 12,870.00
201 to 300 ..... 15,470.00
301 to 400 ..... 17,192.50
Over 400, base 17,192.50
Over 400, each additional bed 37.50
In the case of complex or unusual hospital plans, the Bureau will negotiate with the provider an appropriate plan review fee at the start of the review process based on the best estimate of the review time involved and the standard hourly review rate.
Nursing Care Facilities and Small Health Care Facilities
Number of Beds
Up to 5 ..... 1,118.00
6 to 16 ..... 1,716.00
17 to 50 ..... 3,900.00
51 to 100 ..... 6,890.00
101 to 200 ..... 8,580.00
Freestanding Ambulatory Surgical Facilities (per operating room) 1,722.50
Other Freestanding Ambulatory Facilities (per service unit) 442.00
Includes Birthing Centers, Abortion Clinics, and similar facilities.
End Stage Renal Disease Facilities (per service unit) 175.50
Assisted Living Type I and Type II
Number of Beds
Up to 5 ..... 598.00
6 to 16 ..... 1,196.00
17 to 50 ..... 2,762.50
51 to 100 ..... 5,167.50
101 to 200 ..... 7,247.50
Each additional inspection required (beyond the two covered by the fees listed above) or each additional inspection requested by the facility shall cost $559.00 plus mileage reimbursement at the approved state rate, for travel to and from the site by a Department representative.
Remodels of Licensed Facilities
Hospitals, Freestanding Surgery Facilities (per square foot) 0.29
All others excluding Home Health Agencies (per square foot) 0.25
Each additional required on–site inspection 559.00
Health Care Facility Licensing Rules ..... Actual cost
Plus mailing
Other Plan Review Fee Policies
Plan Review Onsite Inspection 559.00
If an existing facility has obtained an exemption from the requirement to submit preliminary and working drawings, or other info regarding compliance with applicable construction rules, then the Department may conduct a detailed on–site inspection in lieu of the plan review. The fee for this will be $559.00 per inspection, plus mileage reimbursement at the approved state rate.
Previously Reviewed or Approved Plan ..... 60% of scheduled fee
A facility that uses plans and specifications previously reviewed and approved by the Department. Cost: 60% of the scheduled plan review fee.
Special Equipment Facility Addition or Remodel (per square foot) 0.52
A facility making additions or remodels that house special equipment such as CAT (Computer Assisted Tomography) scanner or linear accelerator.
Terminated or Delayed Plan Review
Preliminary Drawing Review ..... 25% of scheduled fee
If a project is terminated or delayed less than 12 months during the plan review process, a fee based on services rendered will be retained as 25% of the total fee. If a project is delayed beyond 12 months from the date of the Department's last review, the applicant must re–submit plans and pay a new plan review fee in order to renew the review action.

Working Drawings and Specifications Review ..... 80% of scheduled fee
If a project is terminated or delayed less than 12 months during the plan review process, a fee based on services rendered will be retained as 80% of the total fee. If a project is delayed beyond 12 months from the date of the Department's last review, the applicant must re-submit plans and pay a new plan review fee in order to renew the review action.
Certificate of Authority
Working Drawings and Specifications Review ..... 80% of scheduled fee
If a project is terminated or delayed less than 12 months during the plan review process, a fee based on services rendered will be retained as 80% of the total fee. If a project is delayed beyond 12 months from the date of the Department's last review, the applicant must re-submit plans and pay a new plan review fee in order to renew the review action.
Conditional Monitoring Inspections
Center-based providers (per visit) 253.00
Charge per extra visit begins with the second additional visit required due to non-compliance.
Home-based providers (per visit) 245.00
Charge per extra visit begins with the second additional visit required due to non-compliance.
Annual License
Child Care Facility Base 62.00
Plus the appropriate fee as listed below to any new or renewal license
Change in license or certificate during the license period more than twice a year 31.00
Child Care Center Facilities (per child) ... 1.75
Late Fee ..... Variable
Within 1 - 30 days after expiration of license facility will be assessed 50% of scheduled fee. For centers, $31 plus $0.75 per child in the requested capacity. For homes, $31.
New Provider/Change in Ownership
Applications for Child Care center facilities 200.00
A fee will be assessed for services rendered to providers seeking initial licensure or change of ownership to cover the cost of processing the application, staff consultation, review of facility policies, initial inspection.
Other
Inspection fee for non-compliant facility follow-up inspection 25.00

MEDICAID AND HEALTH FINANCING

Contracts
Provider Enrollment
Medicaid application fee for prospective or re-enrolling rate set by federal government
This fee is set by the federal government (Centers for Medicare and Medicaid Services) and is effective on January 1 of each year.

MEDICAID SERVICES

Other Services
Health Clinics
Repair
90716 Varicella 166.00
90732 Pneumovax Shot 129.00
90734 Meningitis 136.00
90744 Hepatitis B/Newborn-18 Years 73.00
90746 Hepatitis B 19+ Years 88.00
Adult
Malignant
17260 Trunk/Arm/Leg 0.5 or Less 58.00
17280 Lesion Face 0.5 cm Less 76.00
17281 Lesion Face 0.6-1 ..... 109.00
Arthrocentesis
20520 Foreign Body Removal 120.00
Simple
20550 Injection for Trigger Point Tendon/Ligament/Ganglion 90.00
20552 Trigger Point Injection (TPI) 95.00
20600 Small Joint/Ganglion Fingers/Toes 50.00
20610 Major Joint/Bursa Shoulder/Knee 104.00
20605 Intermediate Joint/Bursa Ankle/Elbow 90.00
211 Community Service 52.00
30901 Cauterize (Limited) for Control Nasal Hemorrhage/Anterior/Simple 60.00
36415 Venipuncture 8.00
44641 Excision for Malignant Lesion 131.00
46083 Incision for Thrombosed Hemorrhoid, External 104.00
46600 Anoscope 23.00
52000 Cystoscopy 125.00
53670 Catheterization, Urinary, Simple 30.00
Colposcopy
57455 Cervix With Biopsy 156.00
57456 Cervix With Electrocautery conization 146.00
57421 Biopsy of Vagina/Cervix 156.00
57511 Cryocautery Cervix for Initial or Repeat 83.00
Culture
87060 Strep 17.00
Bacterial
87070 Culture - Throat 16.00
87077 Incision and Drainage 16.00
87081 Single Organism 14.00
87088 Bacterial Urine Identification and Quantification 12.00
87086 Bacterial Urine 12.00
92552 Audiometry 30.00
93000 Electrocardiogram 36.00
99386 New patient well exam 217.00
99409 Alcohol, substance screening; 30+ minute intervention 60.00
57160 Fitting and insertion of pessary or other intravaginal support device 85.00
99387 New patient well exam 200.00
93015 Cardiovascular Stress Test 130.00
Treadmill
Incision and Drainage

10060 Abscess Simple/Single 168.00
10061 Complicated or Multiple 125.00
10080 Pilonidal Cyst 73.00
Simple
99397 Medical Evaluation for 65
Years and Over 210.00
57150 Irrigation of vagina and/or
application of medicament for
treatment of bacterial, parasitic,
or fungoid disease 55.00
99402 Preventive Medicine
Counseling 30–44 Minutes 468.00
99432 Newborn Normal Care –
In Office 42.00
G0396 Alcohol, substance screening;
15–30 minute intervention 30.00
G0397 Alcohol, substance screening;
30+ minute intervention 58.00
G0402 Welcome to Medicare
Preventive Physical Exam 170.00
G0438 Annual Wellness Check
Medicare New Patient 180.00
G0439 Annual Wellness Check
Medicare Established Patient 120.00
A4460 Ace Wrap (per roll) 7.00
A4550 Surgical Tray 42.00
A4565 Sling 21.00
10120 Incision and Removal
Foreign Object–Simple 73.00
10140 Incision and Drainage of
Cyst, Hematoma or Seroma 130.00
10160 Puncture Aspiration
of Abscess, Hematoma 52.00
Debridement
11000 Infected Skin up to 10% 57.00
11040 Skin Partial Thickness 44.00
11041 Skin Full Thickness 52.00
11042 Skin and Subcutaneous
Tissue 110.00
11044 Skin, Tissue, Muscle, Bone 218.00
Avulsion
11740 Toenail 26.00
11730 Nail Plate Single 160.00
11731 Nail Second 42.00
11732 Nail Each Additional Nail 30.00
11750 Excision for Nail/Matrix
Permanent Removal 296.00
11765 Wedge Excision of Skin
of Nail Fold Ingrown 200.00
A4570 Splint 23.00
Complete Blood Count 5.00
Complete Metabolic Panel 6.00
Cornell Well Child Check Visits 36.00
99361 Medical Conference
by Physicians 52.00
Form 21 ..... 73.00
Disability Exam
Check
99381 New Patient Under 1 ..... 140.00
99382 New Patient Age 1–4 ..... 165.00
99383 New Patient Age 5–11 ..... 160.00
99384 Age 12–17 ..... 190.00
99385 Age 18–20 ..... 188.00
99391 Under 1 ..... 125.00
99392 Age 1–4 ..... 130.00
Family Dental Plan
99393 Age 5–11 ..... 130.00
Health Clinics
Check
99393 Age 5–11 ..... 130.00
99394 Age 12–17 ..... 166.00
99395 Age 18–20 ..... 150.00
Federal Aviation Administration
Exam 52.00
11100 Biopsy for Skin Lesion
Subcutaneous 165.00
11101 Biopsy for Skin Subcutaneous
Each Separate/Additional Lesion 32.00
11200 Removal Skin Tags 1–15 ..... 125.00
11201 Removal Skin tag any area,
Each Add 10 Lesion 14.00
11300 Shave Biopsy for Epidermal/
Dermal Lesion 1 Trunk–Neck 140.00
11305 Shave Excision and
Electrocautery 67.00
G0008 Flu Shot Administration
for Medicare 30.00
G0009 Injection Administration
for Pneumonia without Physician
for Medicare 17.00
G0010 Hepatitis B Vaccine
Administration 17.00
G0101 Papanicolaou (PAP) with
Breast Exam Cervical/Vaginal
Screen 42.00
Medicare
G0107 Hemoccult 10.00
G0179 Physician Re–certification
for Home Health 83.00
G0180 Physician Certification for
Home Health 83.00
11310 Surgery by Electrocautery 42.00
Excision
Benign
Trunk/Arm/Leg
11400 Lesion 0.5cm or Less 162.00
11402 Lesion 1.1–2.0 cm 237.00
11401 Lesion 0.6–1cm 210.00
11403 2.1–3.0 cm 142.00
11404 3.1–4.0 cm 160.00
11420 Scalp/Neck/Genital
0.5 or less 90.00
11421 Lesion 0.6–1.0 cm 125.00
11422 Subcutaneous/Neck/
Genital/Feet 1.1–2.0 cm 140.00
11423 Cyst 150.00
11440 Benign Face/Ear/Eyelid
0.5cm/less 100.00
11441 Benign Lesion
Face/Ear/Eye/Nose 0.6–1.0 cm 125.00
11602 Malignant Trunk/Arm/
Leg 1.1–2.0 cm 112.00
11604 3.1–4.0 cm 166.00
Malignant
11622 Lesion Scalp/Neck/Hand/Feet/Genital
1.1–2.0 cm 166.00
11641 Face/Nose/Ear 0.6–1.0 cm 131.00
11642 Face/Nose Ears 1.1–2.0 cm ... 172.00
J0170 Injection for Epinephrine 10.00
J0290 Injection for Ampicillin
Sodium 500 mg 8.00
J0540 Bicillin 1.2 million units 38.00
J0696 Rocephin 250 mg 47.00
J0702 Injection for Celestone 3 mg 12.00

J0704 Injection for Celestone 4 mg 12.00
J0780 Compazine up to 10 mg 16.00
J0810 Solu Medrol 150 mg 21.00
J1000 Estradiol 12.00
J1055 Depo–Provera 88.00
J1200 Benadryl up to 50 mg 10.00
J1390 Estrogen 31.00
J1470 Gamma Globulin 2 cc 21.00
J1820 Insulin up to 100 units 10.00
J2001 Lidocaine 30.00
J1885 Toradol 15 mg 21.00
11720 Debridement for Nails 1–5 ..... 27.00
11721 Debridement for Nails
6 or More 55.00
58110 Endometrial sampling in
conjunction with colposcopy 65.00
36416 Capillary Blood Collection 7.00
31505 Laryngoscopy 70.00
1000cc normal saline J7030 ..... 10.00
58100 Biopsy, Endometrial 130.00
76815 Ultrasound, pregnancy uterus,
with image limited 100.00
93926 Duplex Scan Limited Study 130.00
93965 Doppler of Extremity 132.00
99386 Exam age 40–64 ..... 238.00
99396 Medical Evaluation for
Adult 40–64 ..... 180.00
94200 Peak Flow 21.00
99387 New Patient Preventive
Medicine Services Age 65 and Older .. 200.00
94010 Spirometry 70.00
94060 Spirometry with
Bronchodilators 64.00
96360 IV Monitoring 1st half hour 60.00
85610 Prothrombin Time (sent out) 3.00
83036 Hemoglobin A1C (long–term
blood sugar test) sent out 7.00
83013 H–Pylori Breath Test 63.00
Arterial Studies
93923 ..... 182.00
93924 ..... 221.00
93922 ..... 120.00
A6403 Gauze, 16–48 square inch 2.00
J2000 Xylocaine 0–55 cc 5.00
J2550 Phenergan up to 50 mg 10.00
82947 Glucose sent out 7.00
82575 Creatinine Clearance 18.00
90670 Pneumovax 13 ..... 285.00
94640 Intermittent Pause Pressure
Breathing Device – Nebulizer
Breathing 42.00
94760 Pulse Oximetry –
Oxygen Saturation 10.00
95115 Injections for Allergy Only 1 ..... 15.00
96372 Injection administration 40.00
80305 Drug Screen Direct Observation ... 20.00
Consult With Another Physician
99241 History, Exam,
Straightforward 50.00
99242 Expanded History and
Exam Straightforward 80.00
99243 Detailed History, Exam 100.00
low complexity
99244 Comprehensive History,
Exam 140.00
moderate complexity
J3130 Testosterone 31.00
J3301 Kenalog–10 (per 10 mg) 31.00
Wood filler/paste A6261 ..... 40.00
Viscous Lidocaine J8499 ..... 5.00
Progesterone J2675 ..... 4.00
90772 Injection 18.00
Therapeutic, Diagnosis
95117 Injections for Allergy 2 or More ... 16.00
99188 App Topical Fluoride Varnish 20.00
95860 Electromyogram 1 ..... 81.00
99245 Office Consult for New or
Established Patient 426.00
90805 Psychiatric Diagnosis
Interview Follow–up Visit 92.00
J3401 Vistaril 25 mg 12.00
J3420 Injection B–12 ..... 10.00
J7300 Intrauterine copper
contraceptive 900.00
contraception
J7302 Levonorgestrel–releasing
intrauterine contraceptive 1,002.00
J7320 Hyalgan, Synvisc 281.00
Knee Injection
Y4600 Injection for Pediatric
Immunization Only 11.00
Y9051 Records Sent to Case Worker 16.00
J7620 Albuterol Per ml,
Inhalation Solution Durable
Medical Equipment 3.00
J7625 Albuterol Sulfate 0.5%/ml
Inhalation Solution Administration 4.00
Artificial Insemination 58321 ..... 250.00
Malignant lesion removal 0.5 cm
or less 11600 ..... 120.00
L3908 Wrist Splint 50.00
Liver Function Test 6.00
90691 Typhoid 75.00
96361 IV Monitoring each
additional hour 20.00
Lipid 17.00
Residual Functional Capacity
Questionnaire 52.00
Established Patient
99211 Brief 30.00
99211N Brief Night 30.00
99212 Limited 65.00
99212N Limited Night 65.00
99213 Intermediate 108.00
99213N Intermediate Night 108.00
99214 Extended 160.00
99214N Extended Night 160.00
99215 Comprehensive 220.00
99215N Comprehensive Night 220.00
84153 Prostate Specific Antigen Test 42.00
95861 Electromyogram 2 ..... 139.00
95900 Nerve Conduction
Velocity Motor 42.00
95904 Nerve Conduction
Velocity Sensory 35.00
97035 Ultrasound 16.00
97110 Therapy 24.00
97124 Massage 13.00
97260 Manipulate for Spinal 1 Area 16.00
99050 After Hours 24.00
99058 Emergency Visit 36.00
10007 No Show Fee, Established
Patient 35.00
99070 Eye Tray 19.00

10006 Same Day Cancellation, Established Patient 35.00
99080 Form 20 Disability Exam 88.00
10008 No Show Fee, Established Patient, Endodontist Appointment 75.00
99173 Visual Acuity Screening Test 10.00
10009 No Show Fee, Established Patient, Hospital Sedation 100.00
S0020 Marcaine up to 30 ml 18.00
76801 Ultrasound, pregnancy uterus, first trimester trans-abdominal approach 130.00
New Patient
99201 Brief 65.00
99201N Brief Night 65.00
99202 Limited 110.00
99202N Limited Night 110.00
99203 Intermediate 160.00
99203N Intermediate Night 160.00
99204 Extended 245.00
99204N Extended Night 245.00
99205 Comprehensive 315.00
99205N Comprehensive Night 315.00
76805 Ultrasound, pregnancy uterus, after first trimester trans-abdominal approach 150.00
90791 Psychiatric diagnosis evaluation w/o medical service (per 15 minutes) 40.00
99354 Prolonged Services for one Hour ... 73.00
International Normalized Ratio home testing review G0250 ..... 8.00
A6402 Gauze, less than 16 square inch ... 1.00
S9981 Medical Records Copying Fee, Administration 21.00
Supplemental Security Insurance Exam 113.00
10040 Acne Surgery 48.00

Family Dental Plan
D3430 Retrograde filling 189.00
99406 Smoking, Tobacco Cessation Counseling Visit 3-10 Minutes 14.00
99407 Smoking, Tobacco Cessation Counseling greater than 10 Minutes ... 26.00

Health Clinics
Repair
58300 Insertion of Intrauterine Device 160.00
58301 Removal of Intrauterine Device 163.00
87082 Presumptive, Pathogenic Organism Screen 16.00
Urine Analysis
82728 Ferritin 19.00
87102 Fungal 16.00
82948 Glucose for Blood, Regent Strip 5.00
87106 Yeast 8.00
82962 Glucose for Monitoring Device 6.00
87110 Chlamydia 16.00
83036 Hemoglobin A1C (long-term blood sugar test) 23.00
87220 Potassium Hydroxide for Wet Prep 10.00
84443 Thyroid Stimulating Hormone Labs 10.00
60001 Aspiration/Injection Thyroid Gland 81.00
84460 Alanine Amino Test 15.00
80048 Basic Metabolic Profile 3.00
85013 Hematocrit 5.00
80053 Metabolic Panel Labs 4.00
Comprehensive
85025 Complete Blood Count Labs 4.00
80061 Lipid Panel Labs 6.00
85610 Prothrombin Time 10.00
80061 Quick Lipid Panel 29.00
86580 Purified Protein Derivative/ Tuberculosis Test 13.00
80076 Hepatic Function Panel 4.00
85652 Sedimentation Rate 11.00
80100 Drug Screen for Multiple Drug Classes 26.00
85651 Erythrocyte Sedimentation Test 11.00
80101 Drug Screen for Single Drug Class 26.00
86308 Mononucleosis test 15.00
80176 Xylocaine 0-55 cc 29.00
86318 Helicobacter Pylori test 23.00
80176 Xylocaine 0-55 cc 29.00
86318 Quick Helicobacter Pylori test 23.00
Arthrocentesis
80176 Xylocaine 0-55 cc 29.00
Urine Analysis
86403 Monospot 18.00
88164 Cytopathology, Slides, Cervical or Vagina 26.00
99408 Alcohol, substance screening; 15-30 minute intervention 34.00
87880 Strep 26.00
Quick Test
Removal Foreign Body, External
57415 Removal of impacted vaginal foreign body 180.00
87880 Quick Strep for Test for Medicaid/Medicare 26.00
65025 Eye, Superficial 173.00
Destruction
17000 Any Method Benign First Lesion 100.00
Removal Foreign Body, External
65220 Eye, Corneal 215.00

Family Dental Plan
17000 Any Method Benign First Lesion 100.00

Health Clinics
Repair
Removal Foreign Body, External
69200 Auditory Canal without General Anesthesia 150.00
Destruction
17003 Add-on Benign/ Pre-malignant 110.00
Removal Foreign Body, External
69209 Cerumen Removal/One or Both Ears 78.00
Destruction
17004 Benign Lesion 15 or More 182.00
Simple
12001 Superficial Wound 2.5 cm or Less 192.00
Destruction

17110 Flat Wart for Up to 15 ..... 165.00
Simple
12002 Wound 2.6–7.5 cm 203.00
Destruction
17111 Flat Warts for 15 and More .. 150.00
Simple
12004 Wound 7.6–12.5 cm 133.00
88147 Papanicolaou (PAP) Smear
for Cervical or Vaginal 42.00
12005 Wound 12.6–20.0 cm 166.00
90620 Supplemental Security
Income Exam Initial Consult 133.00
12011 Face/Ear/Nose/Lip 2.5 cm
or Less 234.00
Immunization
Hepatitis
90632 Hep A for 18+ Years 90.00
Simple
12032 Layer Closure Scalp/Extremities/
Trunk 2.6–7.5 cm 151.00
Immunization
Hepatitis
90634 Hep A for Pediatric–
Adolescent 42.00
Simple
12035 Layer Closure Scalp/
Extremities/Trunk 12.6–20 cm 227.00
Immunization
Hepatitis
90636 Hep A and B Combination
Adult 95.00
Simple
13120 Complex Scalp/Arms/Legs 146.00
Immunization
Hepatitis
90645 Haemophilus Influenza B ... 47.00
Simple
16020 Burn Dress without
Anesthesia Office/Hospital Small .. 65.00
Immunization
Hepatitis
90649 Gardasil Human
Papillomavirus Vaccine 281.00
Simple
16025 Burn Dress without
Anesthesia Medical Face/
Extremities 120.00
87804 Influenza A 23.00
Quick Test
Immunization
Hepatitis
90658 Influenza Virus Vaccine 25.00
90669 Pneumococcal > 5 years
old Only 104.00
Urine Analysis
81000 with Microscope 10.00
90471 Immunization Administration
for One Vaccine 30.00
81002 Urinalysis, dipstick/reagent;
non–auto w/o microscope 10.00
90472 Immunization Administration
for Additional Vaccine 21.00
81003 Automated and without
Microscope 10.00
90701 Diphtheria Tetanus Pertussis ... 42.00
81025 Human Chorionic
Gonadotropin 22.00
Urine
90702 Diphtheria Tetanus 14.00
82043 Microalbumin 16.00
90703 Tetanus 26.00
82055 Alcohol Screen 21.00
90707 Measles Mumps Rubella 80.00
82270 Hemoccult 7.00
Feces Screening
90715 Adacel – Tetanus Diphtheria
Vaccine 75.00
82570 Creatinine 12.00

QUALIFIED PATIENT ENTERPRISE FUND

Medical Cannabis
Pharmacy and Medical Provider Fees
Pharmacy
Application (per Region) 2,500.00
License Urban (per Pharmacy
per year) 67,000.00
Home Delivery License Urban
(per Pharmacy per year) 69,500.00
License Rural (per Pharmacy
per year) 50,000.00
Home Delivery License Rural
(per Pharmacy per year) 52,500.00
Qualified Medical Provider
Registration (Initial)
(per Provider) 100.00
Qualified Medical Provider
Registration (Renewal)
(per Provider) 50.00
Renewal every 2 years
Pharmacy Medical Provider/
Pharmacist Registration Fee
(Initial) (per Provider) 150.00
Pharmacy Medical Provider/
Pharmacist Registration Fee (Renewal,
every 2 years) (per Provider) 50.00
Renewal every 2 years
Pharmacy Agent Registration (Initial
or >= 1 Year Expired) (per Agent) ... 100.00
Pharmacy Agent Registration
(Renewal) (per Agent) 50.00
Courier Application (per Courier) 125.00
Courier License (Initial)
(per Courier) 2,500.00
Courier License (Renewal)
(per Courier) 1,000.00
Annual fee after initial license
Courier Agent Registration (Initial
or >= 1 Year Expired) (per Agent) ... 100.00
Courier Agent Registration
(Renewal) (per Agent) 50.00
Patient Fees
Patient Card (Initial) (per Patient) 15.00
Patient Registration Renewal
(30 Days) (per Patient) 5.00
Patient Registration Renewal
(6 Month) (per Patient) 15.00
Guardian and Provisional Card
(Initial or >= 1 Year Expired)
(per Guardian/Patient) 68.25
Guardian and Provisional Card (30 Days)
(per Guardian/Patient) 5.00
Guardian and Provisional Card
(6 Month) (per Guardian/Patient) 24.00
Guardian (already background
screened as a Guardian) and

Provisional Card (Initial)
(per Guardian/Patient) 15.00
Guardian (already background screened as a Guardian) and Provisional Card (30 Days)
(per Guardian/patient) 5.00
Guardian (already background screened as a Guardian) and Provisional Card (6 Month)
(per Guardian/patient) 15.00
Caregiver Registration and Card (Initial or >= 1 Year Expired)
(per Caregiver) 68.25
Caregiver Registration and Card (Renewal) (per Caregiver) 14.00
Caregiver (already background screened as a Caregiver) Registration and Card (Initial) (per Caregiver) 15.00
Caregiver Registration (already background screened as a Caregiver) and Card (Renewal) (per Caregiver) . . . 5.00
Renewal date is dependent upon the renewal date of the related patient card. No fee for the first 30-day patient renewal.
Uniform Transaction Fee (per Transaction) 3.00

DEPARTMENT OF HUMAN SERVICES

DIVISION OF CHILD AND FAMILY SERVICES

Service Delivery
Live Scan Testing 10.00

EXECUTIVE DIRECTOR OPERATIONS

Executive Director's Office
Government Records Access and Management Act (GRAMA) Fees - these GRAMA fees apply for the entire Department of Human Services
Paper (per side of sheet) 0.25
Audio Tape (per tape) 5.00
Video Tape (per tape) 15.00
Mailing . . . . . Actual cost
Compiling and Reporting
In Another Format (per hour) 25.00
If Programmer/Analyst Assistance is Required (per hour) 50.00
Office of Licensing
Licensing
Online Background Check Application 9.00
Adult Day Care
Initial License Fee
0-50 Consumers per Program 900.00
More than 50 Consumers per Program 900.00
Renewal Fee
0-50 Consumers per Program 300.00
More than 50 Consumers per Program 600.00
Per Licensed Capacity 9.00
Child Placing Adoption
Initial License Fee 900.00
Renewal Fee 750.00
Child Placing Foster
Initial License Fee and Renewal Fee 250.00
Day Treatment
Initial License Fee 900.00
Renewal Fee 450.00
Intermediate Secure Treatment
Initial License Fee 900.00
Renewal Fee 750.00
Per Licensed Capacity 9.00
Life Safety Pre-inspection
Initial Fee to Verify Life and Fire Safety 600.00
Outdoor Youth Program
Initial License Fee and Renewal Fee 1,408.00
Outpatient Treatment
Initial License Fee 900.00
Renewal Fee 300.00
Recovery Residences
Initial License Fee 1,295.00
Renewal Fee 500.00
Residential Support
Initial License Fee 900.00
Renewal Fee 300.00
Social Detoxification
Initial license fee 900.00
Renewal Fee 600.00
Residential Treatment
Initial License Fee 900.00
Renewal Fee 600.00
Per Licensed Capacity 9.00
Therapeutic School Program
Initial License Fee 900.00
Renewal Fee 600.00
Per Licensed Capacity 9.00

OFFICE OF RECOVERY SERVICES

Child Support Services
Automated Credit Card Convenience 2.00
Fee for self-serve payments made online or through the automated phone system (IVR)
Collections Processing 12.00
6 percent of payment disbursed up to a maximum of $12 per month
Assisted Credit Card Convenience 6.00
Fee for phone payments made with the assistance of an accounting worker
Federal Offset 25.00
Annual Collection 35.00

DIVISION OF SERVICES FOR PEOPLE WITH DISABILITIES

Physical Disabilities Waiver
Graduated 630.00
Critical support services for people with disabilities who are non-Medicaid matched. The fee ranges between 1 percent and 3 percent of gross family income.
Utah State Developmental Center
USDC Theater Rental
Full Day (per day) 625.00
Theater Technician (per hour) 20.00
Hourly (per hour) 100.00
Half Day (per half day) 360.00
Equipment 250.00

DIVISION OF SUBSTANCE ABUSE AND MENTAL HEALTH

State Hospital
Use of USH Facilities
Photo Shoots (per 2 hours) 20.00
Groups Up To 50 People (per day) 75.00
Groups Over 50 People (per day) 150.00
State Substance Abuse Services
Alcoholic Beverage Server
On Premise and Off Premise Sales 3.50

DEPARTMENT OF WORKFORCE SERVICES

ADMINISTRATION

Executive Director's Office
Government Records Access and Management Act (GRAMA) Fees - these GRAMA fees apply for the entire Department of Workforce Services
Photocopies (for all copies after the first 10) 0.10
These GRAMA fees apply to the entire Department of Workforce Services.
Fax Pages Local, All Pages 2.00
These GRAMA fees apply to the entire Department of Workforce Services.
Fax Pages Long Distance, All Pages 2.00
These GRAMA fees apply to the entire Department of Workforce Services.
Research (per hour) 20.00
These GRAMA fees apply to the entire Department of Workforce Services.

HOUSING AND COMMUNITY DEVELOPMENT

Community Development
Private Activity Bond
Confirmation per million volume cap (per million of allocated volume cap) 300.00
Original application: under $3 million 1,500.00
Original application: $3-$5 million . . . 2,000.00
Original application: over $5 million 3,000.00
Private Activity Bond Re-application
Re-application: under $3 million 750.00
Re-application: $3 - $5 million 1,000.00
Re-application: over $5 million 1,500.00
Private Activity Bond Extension
Second 90 Day Extension 2,000.00
Third 90 Day Extension 4,000.00
Each Additional 90 Day Extension 4,000.00
Homeless Committee
State Community Services Office
Homeless Summit 35.00
Weatherization Assistance
Certification Training Exam (per Exam) . . . . . Actual Cost
Field Certification Test Proctor (per Field Exam) 400.00
Initial Certification Training (per Person) 2,200.00
Intermountain Weatherization Training Center Additional Instructor (per Instructor) 540.00
Intermountain Weatherization Training Center Facility Use 0-24 persons (per Day) 1,100.00
Intermountain Weatherization Training Center Facility Use 25-50 persons (per Day) 1,700.00
Intermountain Weatherization Training Center Training 0-24 persons (per Day) 2,220.00
Intermountain Weatherization Training Center Training 25-50 persons (per Day) 4,000.00
Recertification Refresher Training (per Hour) 105.00
Written Certification Test Proctor (per Written Exam) 300.00

OPERATIONS AND POLICY

Workforce Development
Career Ladder Course (per Course) 16.00

STATE OFFICE OF REHABILITATION

Blind and Visually Impaired
Low Vision Store . . . . . Actual Cost
Deaf and Hard of Hearing
Interpreter
Standard Late Fee (per Assessment) 80.00
Annual Maintenance/ Recognition (per Individual) 70.00
Interpreter Certification
Knowledge Exam (per Exam) 60.00
Novice Exam (per Exam) 150.00
Professional Exam (per Exam) 150.00
Temporary Permit (per Permit) 150.00
Student Permit (per Permit) 15.00
Out-of-State Interpreter Certification
Utah Novice Level Certificate 300.00
Utah Professional Level Certificate 300.00
Knowledge Exam 120.00

STATE SMALL BUSINESS CREDIT INITIATIVE PROGRAM FUND

Loan Origination Fee for Loan Participation Program (per 1.00) . . . . . Variable
This is a variable fee and the department may charge at a rate that is less than or equal to 4% of the loan amount based on participation & risk level.
Loan Origination Fee for Loan Guarantee Program (per 1.00) . . . . . Variable
This is a variable fee and the department may charge at a rate that is less than or equal to 4% of the loan amount based on participation & risk level.

UNEMPLOYMENT INSURANCE

Unemployment Insurance Administration
Debt Collection Information Disclosure Fee (per Report) 15.00
Fee for employment information research and report for creditors providing a court

order for employment information of a specific debtor.

REFUGEE SERVICES FUND

World Refugee Day Around the World Booth (per Booth) 25.00
World Refugee Day Food Vendor (per Booth) 75.00
World Refugee Day Full Partner Booth (per Full Booth) 100.00
World Refugee Day Global Market (per Booth) 40.00
World Refugee Day Shared Partner Booth (per Shared Booth) 50.00
World Refugee Day Soccer (per Team) 50.00

NATURAL RESOURCES, AGRICULTURE, AND ENVIRONMENTAL QUALITY

DEPARTMENT OF AGRICULTURE AND FOOD

ADMINISTRATION

Chemistry Laboratory
Chemistry Laboratory
Expedited (Rush) Testing – Any Test 50.00
General Administration
General Administration
Administrative Hearing Fee (per Hour) Variable
Hourly charge varies from $0 to $500 depending on type of hearing and staffing required.
Registered Farms Recording 10.00
All Agriculture Divisions
Citations, Maximum per Violation 500.00
Background Check Fee 51.50
Certified document 25.00
Copies of files
Per hour 10.00
Per copy 0.25
Duplicate 15.00
Internet Access 1.50
Late 25.00
Print License/Prod Certificate Fee 20.00
Returned check 20.00
Mileage ..... Variable
To be charged according to the current mileage rate of the State of Utah.
Utah Horse Commission
Utah Horse Commission (fees are not to exceed the amounts identified)
Owner/Trainer 125.00
Owner 100.00
Organization 100.00
Trainer 100.00
Assistant trainer 100.00
Jockey 100.00
Jockey Agent 100.00
Veterinarian 100.00
Racing Official 100.00
Racing Organization Manager or Official 100.00
Authorized Agent 100.00
Farrier 100.00
Assistant to the Racing Manager or Official 100.00
Video Operator 100.00
Photo Finish Operator 100.00
Valet 75.00
Jockey Room Attendant or Custodian 75.00
Colors Attendant 75.00
Paddock Attendant 75.00
Pony Rider 75.00
Groom 75.00
Security Guard 75.00
Stable Gate Man 75.00
Security Investigator 75.00
Concessionaire 75.00
Application Processing 50.00
Hair Test Fee 100.00

ANIMAL INDUSTRY

Animal Health
Animal Health
Inspection Service (per Hour) 60.00
Aerial Hunting License Fee 10.00
Commercial Aquaculture Facility 150.00
Commercial Fishing Facility 30.00
Aquaculture Inspection: Aquatic Invasive Species (AIS) 100.00
Aquaculture Inspection:
Sterility Testing 100.00
Aquaculture/Fee Fishing:
New Facility Inspection 100.00
Citation
Per violation 500.00
Per head 2.00
If not paid within 15 days, two times the citation fee; if not paid within 30 days, four times the citation fee.
Hatchery Operation (Poultry) 25.00
Poultry Dealer License (per dealer) 25.00
Health Certificate Book 50.00
Trichomoniasis Report Book 8.00
Trichomoniasis Ear Tags 2.00
Auction Veterinary
Cattle (per day) 200.00
Sheep (per day) 90.00
Service Fee for Veterinarians
Per day 600.00
Per mile ..... Variable
To be charged according to the current mileage rate of the State of Utah.
Brand Inspection
Brand Inspection
Brand Inspection
Verification of Ownership Licese 100.00
Online Production Sale License 50.00
Livestock Dealer (per dealer) 250.00
Livestock Auction Market (per Market) 100.00
Livestock Dealer/Agent (per Agent) 75.00
Auction Weigh Person (per Weigh Person) 25.00
Farm Custom Slaughter 100.00
Estray Animals ..... Variable
Actual amount of proceeds received for the sale of the estrayed animal.
Beef Promotion (per head) 1.50
Cattle only

Citation (per violation) 200.00
Citation (per head) 2.00
If not paid within 15 days, two times citation fee. If not paid within 30 days, four times citation fee.
Special Sales 250.00
Cattle (per head) 1.00
Horse (per head) 2.00
Sheep (per head) 0.05
Brand Book 25.00
Show and Seasonal Permits
Horse (per head) 25.00
Cattle (per head) 25.00
Horse Permit
Lifetime (per first horse) 55.00
Lifetime (per horses after first) 35.00
Duplicate Lifetime 10.00
Lifetime Transfer 10.00
Certified copy of Recording
(new brand card) 5.00
Minimum Charge (per inspection stop) ... 20.00
Brand Transfer 175.00
Brand Renewal and Registration 175.00
Brand registration is on a 5 year cycle.
Elk Farming
Elk Inspection New License 500.00
Brand Inspection (per elk) 5.00
Service Charge (per stop, per owner) ... 15.00
Elk Hunting Permit 100.00
Elk License
Renewal 300.00
Late 50.00
Meat Inspection
Meat Inspection
Inspection Service 60.00
Meat Packing
Meat Packing Plant 150.00
Custom Exempt 150.00
T/A (Talmage-Aiken) Official 150.00
Packing/Processing Official 150.00

MARKETING AND DEVELOPMENT

Marketing/Utah's Own
Utah's Own Supporter 1,000.00
Utah's Own Year One Membership 75.00
Utah's Own Annual Membership 60.00

PLANT INDUSTRY

Grain Inspection
Grain Inspection
Regular hourly rate (per hour) 28.00
Overtime hourly rate (per hour) 42.00
Official Inspection Services (includes sampling, except where indicated)
Railcar (per car) 20.50
Truck or trailer (per carrier) 10.50
Container Inspection 21.50
Submitted sample (per sample) 7.50
Re-inspection
Based on new sample (per truck) 10.50
Basis file sample 7.50
Based on new sample rail 20.50
Protein test
Original or file sample retest 8.00
Oil and starch 8.00
Basis new sample 5.50
Factor only determination (per factor) ... 3.00
Plus samplers hourly rate, if applicable
Stowage examination services (per certificate) 10.00
Extra copies of certificates (per copy) 1.00
Insect damaged kernel, determination (weevil, bore) 2.75
Sealing rail cars or containers upon request over 5 seals per rail car 5.00
Falling number inspection, per sample (per Sample) 12.00
Class X Weighing inspection (per Inspection) 6.00
Non-Official Services
Safflower Grading 13.00
Class II weighing (per carrier) 6.00
Grain grading instructions (per hour, per person) 20.00
Set of check Samples 25.00
Proteins-moisture, Set of 5
Other Requests (per hour) 48.00
Chemistry Laboratory
Density Analysis 15.00
Organic/Inorganic Content 20.00
Alcohol Content Testing 25.00
Fees for other State and Federal Agencies ..... Actual Cost
Surcharge for Expedited ELISA Cyanotoxin Testing 50.00
Anatoxin-a ELISA Test - First Sample 116.00
Anatoxin-a ELISA Test - Additional Samples 12.00
Microcystin ELISA Test - First Sample 113.00
Microcystin ELISA Test - Additional Samples 10.00
Cylindrospermopsin ELISA Test - First Sample 113.00
Cylindrospermopsin ELISA Test- Additional Samples 10.00
Seed, Feed, and Meat
Fat 35.00
Fiber, Crude 45.00
Proximate analysis (moisture, protein, fat, fiber, ash) 90.00
Proximate analysis (moisture, protein, fiber) 60.00
Protein 32.00
NPN (Non-Protein Nitrogen) 25.00
Ash 20.00
Salt 30.00
Fertilizer
Nitrogen 32.00
Available Phosphorous 35.00
Potash 30.00
Inorganics
Digested
Prep and First Analyte 38.00
Additional Analytes 25.00
pH 20.00
Water Test I 250.00
Al, As, B, Ba, Ca, Cd, Cl, Co, Cr, Cu, Fe, K, Mg, Mn, Mo, Na, Ni, P, Pb, S, Se, Zn
Herbicides - Water 185.00
Insecticides/Fungicides - Water 205.00

Herbicides – Soil/Plants 305.00
Insecticides – Soil/Plants 265.00
Pesticide
Water
Single Test 205.00
Multiresidue Test 275.00
Non–water
Single Test 305.00
Multiresidue Test 400.00
Formulation 305.00
Inorganics
Undigested
Prep and First Analyte 25.00
Additional Analytes 12.00
Agricultural Inspection
Agricultural Inspection: Inspection services performed (per Hour) 40.00
Agricultural Inspection: Overtime (per hour) 60.00
For inspectors' time over 40 hours per week and on Holidays, plus regular fees.
Good Agricultural Practices (GAP) Inspection (per hour) .... Federal rate
Agricultural Inspection Mileage ..... Variable
To be charged according to the current mileage rate of the State of Utah.
Organic Certification
Organic, Transitional, and Grass Fed Certification 300.00
Annual registration late fee (per Registration) 100.00
Fee for inspection (per hour) 65.00
Inspectors' time >40 hours per week (overtime) plus regular fees (per hour) 98.00
Major holidays and Sundays plus regular fees (per hour) 98.00
Gross Sales
$0 to $5,000 ..... Exempt
If an organic producer has gross sales of less than or equal to $5,000 for the previous calendar year, they are exempt from paying this fee.
$5,001 to $10,000 ..... 100.00
$10,001 to $15,000 ..... 180.00
$15,001 to $20,000 ..... 240.00
$20,001 to $25,000 ..... 300.00
$25,001 to $30,000 ..... 360.00
$30,001 to $35,000 ..... 420.00
$35,001 to $50,000 ..... 600.00
$50,001 to $75,000 ..... 900.00
$75,001 to $100,000 ..... 1,200.00
$100,001 to $150,000 ..... 1,800.00
$150,001 to $280,000 ..... 2,240.00
$280,001 to $375,000 ..... 3,000.00
$375,001 to $500,000 ..... 4,000.00
$500,001 and up 5,000.00
Shipping Point
Fruit
Bulk load (per hundredweight) 0.10
Vegetables
Potatoes (per hundredweight) 0.10
Onions (per hundredweight) 0.10
Cucurbita (per hundredweight) 0.10
Cucurbita family includes: watermelon, muskmelon, squash (summer, fall, and winter), pumpkin, gourd and others.
Phytosanitary Inspection (per inspection) 100.00
Phytosanitary Inspection with grade certification (per inspection) 50.00
Control Atmosphere 10.00
One commodity (per certificate) 30.00
Mixed loads (per commodity) 30.00
Export Compliance Agreements 50.00
Nursery
Gross Sales ($10.00 min) based on previous calendar year, applies to all Gross Sales Fees)
$0 to $5,000 ..... 40.00
$5,001 to $100,000 ..... 80.00
$100,001 to $250,000 ..... 120.00
$250,001 to $500,000 ..... 160.00
$500,001 and up 200.00
Nursery Agency 50.00
Feed
Commercial Feed 25.00
Processing 35.00
Custom Formula Permit 75.00
Pesticide
Commercial Applicator Certification
Pesticide Business License 110.00
Triennial (3 year) Certification and License 45.00
Replacement of lost or stolen certificate/license 15.00
Triennial (3 year) examination and educational materials 20.00
Product Registration 60.00
Processing Service 135.00
Dealer License
Triennial 100.00
Fertilizer
Blenders License 75.00
Assessment (per ton) 0.35
Minimum Semiannual Assessment (per Assessment) 20.00
Fertilizer Registration 25.00
Processing 35.00
Beekeepers
Insect Identification 10.00
Pest and Disease Lab Diagnostics – Licensed Beekeeper 20.00
Pest and Disease Lab Diagnostics – Non–Licensed Beekeepers 40.00
License
1 to 20 hives 10.00
21 to 100 hives 25.00
101 to 500 hives 50.00
Seed Purity
Flowers 24.00
Grains 16.00
Grasses 34.00
Legumes 16.00
Trees and Shrubs 25.00
Vegetables 16.00
Seed Germination
Flowers 24.00
Grains 16.00
Grasses 25.00
Legumes 16.00
Trees and Shrubs 25.00
Vegetables 16.00
Seed Tetrazolium Test
Flowers 44.00

Grains 28.00
Grasses 44.00
Legumes 34.00
Trees and Shrubs 44.00
Vegetables 28.00
Embryo Analysis (Loose Smut Test) 25.00
Cut Test 16.00
Mill Check (per hour) 40.00
Moisture Test 24.00
Canada Standards 20.00
Examination of Extra Quantity for Other Crop or Weed Seed (per hour) ... 40.00
Examination for Noxious Weeds Only (per hour) 40.00
Identification ..... No charge
Quick identification using microscope to determine seed type. There is no charge for this service.
Additional Copies of Analysis Reports 1.00
Emergency service for single component only (per sample) 42.00
Hay and Straw Weed Free Certification
Bulk loads of hay up to 10 loads 30.00
Charge for each hay tag 0.10
Citations, maximum per violation 500.00
Chemistry Laboratory
Aflatoxin (20 Sample Minimum) 45.00
Fumonisin (20 Sample Minimum) 45.00
DON (vomitoxin) (20 Sample Minimum) 45.00

REGULATORY SERVICES

Regulatory Services Administration
Chemistry Laboratory
Split Sample Shipping (Flat Rate) 35.00
E. coli Enumeration in Water 7.00
Section 6 Splits <5 Analysts 70.00
Section 6 Splits >=5 Analysts 140.00
Appendix N Splits <5 Analysts 70.00
Appendix N Splits >= 5 Analysts 140.00
Certification
Milk Laboratory Evaluation Program
Basic Lab 50.00
Number of Certified Analyst 30.00
Number of Approved Test 30.00
Total Yearly Assessed 90.00
Standard Plate Count 10.00
Coliform Count 15.00
Antibiotics Test 5.00
Phosphatase Test 15.00
Wisconsin Mastitis Test (WMT) Screening Test 5.00
Direct Microscopic Somatic Cell Count (DMSCC): Confirmation 10.00
Direct Somatic Cell Count (DSCC): Instrumentation 5.00
Coliform Confirmation 5.00
Container Rinse Test 10.00
H2O Coliform Confirmation Test 5.00
H2O Coliform Total Count 18.00
Butterfat % 10.00
Added H2O in Raw Milk 5.00
Reactivated Phosphatase Confirmation 15.00
Antibiotics Confirmation Test 10.00
Salmonella Screen 40.00
E. coli Screen (per Test) 40.00
E. coli confirmatory testing (per Test) 40.00
Salmonella confirmatory testing (per Test) 40.00
STEC confirmatory testing (per Test) 40.00
Listeria confirmatory testing (per Test) 40.00
Listeria Screen 30.00
All Other Services, per hour 40.00
Campylobacter Screen 40.00
Regulatory Services
Domestic Game Slaughter
Domestic Game Slaughter Permit 500.00
Domestic Game Slaughter Inspection (per Hour) 100.00
Domestic Game Slaughter Mileage ..... Variable
To be charged according to the current mileage rate of the State of Utah.
Kratom
Kratom Product Registration 200.00
Kratom Processing Fee 40.00
Kratom Alkaloid Testing 120.00
Bedding/Upholstered Furniture
Manufacturers of Bedding and/or Upholstered Furniture 65.00
Wholesale Dealer 65.00
Supply Dealer 65.00
Manufacturers of Quilted Clothing 65.00
Upholsterer with employees 50.00
Upholsterer without employees 25.00
Sterilization Fee 65.00
Processing /All Bedding Upholstery Licenses 40.00
Dairy
Test milk for payment 100.00
Make butter (per Operation) 100.00
Haul farm bulk milk (per Operation) 100.00
Make cheese (per Operation) 100.00
Operate a pasteurizer (per Operator) 100.00
Base Food Inspection
Cottage 75.00
Small 150.00
Less than 1,000 sq. ft. / 4 or fewer employees
Medium 300.00
1,000–5,000 sq. ft., with limited food processing
Large 500.00
Food processor over 1,000 sq. ft. / Grocery store 1,000–50,000 sq. ft. and two or fewer food processing areas / Warehouse 1,000–50,000 sq. ft.
Super 750.00
Food processor over 20,000 sq. ft. / Grocery store over 50,000 sq. ft. and more than two food processing areas / Warehouse over 50,000 sq. ft.
Plan Review
Follow Up 200.00
Alternative Follow Up 0.01
This fee will be on a sliding scale based on the establishment size as defined in Base

Establishment Type (Small, Medium, Large or Super).
Special Inspection
Food and Dairy Inspection
Per hour 30.00
Overtime rate 40.00
Weights and Measures
Weighing and measuring devices/ individual servicemen (per Serviceperson) 50.00
Metrology services (per hour) 50.00
Base Weights and Measures
Meter Inspection 50.00
Small Scale Inspection 50.00
Large Scale Inspection 200.00
Check Registers/Scanners 25.00
Special Scale Inspections
Large Capacity Truck (Man Hour) (per hour) 25.00
Large Capacity Truck (per mile) 2.00
Large Capacity Truck (Equipment Hour) (per hour) 25.00
Pickup Truck (per hour) 25.00
Pickup Truck (per mile) 1.00
Pickup Truck (per hour) 20.00
Equipment use
Overnight Trip (per day) . . . . . Variable
Includes the State's per diem rate plus the cost of lodging.
Certificate of Free Sale
Single Certificate 30.00
More than 3 pages 55.00
Citations, maximum per violation 500.00
Petroleum Refinery
Gasoline
Octane Rating 132.00
Benzene Level 88.00
Pensky–Martens Flash Point 22.00
Overtime charges (per hour) 33.00
Gravity 11.00
Distillation 28.00
Sulfur, X–ray 39.00
Reid Vapor Pressure (RVP) 28.00
Aromatics 55.00
Leads 22.00
Diesel
Gravity 28.00
Distillation 28.00
Sulfur, X–ray 22.00
Cloud Point 22.00
Conductivity 28.00
Cetane 22.00

MEDICAL CANNABIS

Chemistry Laboratory
Seed, Feed, and Meat
Moisture Content Testing 25.00
Water Activity 20.00
Medical Cannabis
Medical Cannabis Cultivation License Fee 100,000.00
Medical Cannabis Cultivation License Application Fee 2,500.00
Medical Cannabis Processor Tier 1 License Fee 100,000.00
Medical Cannabis Processor Tier 1 License Application Fee 1,250.00
Medical Cannabis Processor Tier 2 License Fee 35,000.00
Medical Cannabis Processor Tier 2 License Application Fee 1,250.00
Medical Cannabis Establishment Agent Regist. Fee – Background Check Needed 150.00
Medical Cannabis Establishment Agent Regist. Fee – No Background Check Needed 100.00
Medical Cannabis Laboratory License Fee 15,000.00
Medical Cannabis Laboratory License Application Fee 500.00
Medical Cannabis Research University License 2,500.00
Cannabis – Total THC and Total CBD Testing 65.00
Foreign Matter Testing 15.00

INDUSTRIAL HEMP

Industrial Hemp
Industrial Hemp Grower Licensing Fee 500.00
Industrial Hemp Inspection Hourly Rate 65.00
Industrial Hemp Processor Licensing Fee 2,000.00
Product Registration Fee for Cannabinoid Products 250.00
Cannabis Seed Product Registration Fee 125.00
For products containing Cannabis Seed, Cannabis Seed Oil or Solid Derivatives from Cannabis Seed.
Product Registration Service Fee for Cannabinoid Products 75.00
Late Fee for Product Registration for Cannabis or Cannabis Seed Products . . 50.00
Hemp Retail Establishment Permit 50.00
Hemp Cannabinoid Testing 70.00

DEPARTMENT OF ENVIRONMENTAL QUALITY

DRINKING WATER

Drinking Water Administration
Special Surveys . . . . . Actual cost
File Searches . . . . . Actual cost
Well Sealing Inspection (per hour) 110.00
Technical Assistance (per hour) 110.00
Operator Certification Program
Examination: online 120.00
Any level
Examination: paper 200.00
Any level
Renewal of certification 150.00
Every 3 years if applied for during designated period
Reinstatement of lapsed certificate 300.00
Certificate of reciprocity with another state 150.00
Cross Connection Control Program
Certification and Renewal
Program Administrator: paper testing 225.00

Program Administrator: renewal 125.00
Assembly Tester and Class III; initial certification and renewal 225.00
Certificate of reciprocity with another state 225.00
Replacement Certificate 25.00
Cost Recovery
After-the-Fact Review – Construction without Approval (per project) 1,000.00
After-the-Fact Review – Unapproved Facility in Use (per project) 1,000.00
Additional Follow up – Monitoring Compliance (per violation) 300.00
Additional Follow up – Reporting Compliance (per violation; reassessed every compliance period) 200.00
Additional Follow up – CCR Compliance (per violation; reassessed quarterly) 500.00
Additional Follow up – Public Notice Compliance (per violation; reassessed every compliance period) 500.00
Additional Follow up – Unresolved Significant Deficiencies (per citation; reassessed quarterly) 1,000.00
Additional Follow up – Compliance Inspections and Assessments (per inspection) 1,000.00
Preparation, Issuance and Oversight of Enforcement Orders
Administrative Orders (per order) .. 6,000.00
Stipulated Enforcement Orders (per order) 2,000.00
Other orders resulting from non-compliance or public health risks (per order) 1,000.00
Drinking Water Loan
Origination ..... 1.0% of Loan Amount

ENVIRONMENTAL RESPONSE AND REMEDIATION

Environmental Response and Remediation
Professional and Technical services or assistance (per hour) 110.00
Including but not limited to EPCRA Technical Assistance, PST Claim Preparation Assistance, Oversight for Tanks Failing to pay UST fee, UST Compliance follow-up Inspection, apportionment of Liability requested by responsible parties, prepare, administer or conduct administrative process, environmental covenants.
Voluntary Environmental Cleanup Program Application Fee 2,500.00
Review/Oversight/Participation in Voluntary Agreements (per hour) 110.00
Annual Underground Storage Tank
Tanks on Petroleum Storage Tank (PST) Fund 110.00
Tanks not on PST Fund 220.00
Tanks at Facilities significantly out of compliance with leak prevention or leak detection requirements 300.00
PST Fund Reapplication, Certification of Compliance Reapplication Fee, or both 300.00
Initial Approval of Alternate UST Financial Assurance Mechanisms 420.00
(Non-PST Participants)
Approval of alternate UST financial assurance mechanisms after initial year 240.00
(with no Mechanism changes)
Certification or Certification Renewal for UST Consultants
UST installers, removers, groundwater & soil samplers, & non-government UST inspectors & testers 225.00
Consultant Recertification Class 150.00
Clandestine Drug Lab Decontamination Specialist Certification
Certification and Recertification 225.00
Retest of Certification Exam 100.00
Enforceable Written Assurance Letters
Written letter 500.00
Flat fee to cover costs up to 8 hours of work.
Additional charge for any costs above $500 (per hour) 110.00
Environmental Response and Remediation Program Training .... Actual cost
UST Operators Registration 50.00
UST Red Tag Replacement 500.00
Applied only when a Red Tag is removed without authorization
UST Installation Base Fee 500.00
UST Tank Installation State Inspection Fee 200.00

EXECUTIVE DIRECTOR'S OFFICE

Executive Director Office Administration
All Divisions
Request for copies over 10 pages (per page) 0.25
Copies made by the requestor-over 10 pages (per page) 0.05
Compiling, tailoring, searching, etc., a record in another format. Actual cost after 1st 1/4 hour
Charged at rate of lowest paid staff employee who has necessary skill/training to perform the request.
Special computer data requests (per hour) 110.00
CDs (per disk) 10.00
DVDs (per disk) 8.00
Contract Services ..... Actual Cost
To be charged in order to efficiently utilize department resources, protect dept permitting processes, address extraordinary or unanticipated requests on the permitting processes, or make use of specialized expertise. In providing these services, department may not provide service in a manner that impairs any other person's service from the department.

WASTE MANAGEMENT AND RADIATION CONTROL

Waste Management and Radiation Control
Resource Conservation and Recovery Act (RCRA) Facility List 5.00

Solid and Hazardous Waste Program Administration (including Used Oil and Waste Tire Recycling Programs)
Professional (per hour) 110.00
This fee includes but is not limited to: Review of Site Investigation and Site Remediation Plans, Review of Permit Applications, Permit Modifications and Permit Renewals; Review and Oversight of Administrative Consent Orders and Consent Agreements, Judicial Orders; compliance activities; Review and Oversight of Construction Activities; Review and Oversight of Corrective Action Activities; and Review and Oversight of Vehicle Manufacturer Mercury Switch Removal and Collection Plans
Hazardous Waste Permit Filing
Hazardous Waste Operation
Plan Renewal 1,000.00
Solid Waste Permit Filing (does not apply to Municipalities, Counties, or Special Service Districts seeking review from the Division)
New Comm. Facility
Class V and Class VI Landfills 1,000.00
New Non-Commercial Facility 750.00
New Incinerator
Commercial 5,000.00
Industrial or Private 1,000.00
Plan Renewals and Plan Modifications 100.00
Variance Requests 500.00
Enforceable Written Assurance
Letters or Similar Letters
Flat fee for up to 8 hours to complete letter 500.00
Additional per hour charge if over the original 8 hours 110.00
Solid Waste Facility Fee
Treatment and Disposal facilities ... Greater of $125 or $0.21/ton Quarterly
Treatment (thermal, physical or chemical) and Disposal facilities including: Land Application, Land Treatment, Composting, Waste to Energy, Landfill, Incineration. Beginning January 1, 2019, in accordance with 19-6-119(6), facilities treating or disposing of nonhazardous solid waste subject to a permit or plan of operation shall pay the following fees quarterly. The fees shall be paid by the 15th of the month following the quarter in which the fees accrued using the form prescribed by the department.
Transfer facilities ..... Greater of $125 or $0.11/ton Quarterly
Beginning January 1, 2019, in accordance with 19-6-119(6), facilities transferring of nonhazardous solid waste subject to a permit or plan of operation shall pay the following fees quarterly. The fees shall be paid by the 15th of the month following the quarter in which the fees accrued using the form prescribed by the department.
Waste Tire Recycling
Registration
Recycler or Transporter (per year) 100.00
Fees for registration applications received during the year will be prorated at $8.30 per month over the number of months remaining in the year.
Used Oil
Do It Your Selfer and Used Oil Collection Center Registration ..... No charge
Permit filing fee for Transporter, Transfer Facility, Processor/ Re-refiner, and Off-Spec Burner, including Permit Modifications and Plan Reviews 100.00
Annual Registration for Transporter, Transfer Facility, Processor/ Re-refiner, Off-Spec Burner, & Land Application (per year) 100.00
Marketer
Permit Filing 50.00
Annual Registration Fee for Marketer (per year) 50.00
Vehicle Manufacturer Mercury Switch Removal and Collection Plan
Mercury Switch Removal and Collection Plan Filing 100.00
Non-Hazardous Solid Waste
Polychlorinated Biphenyl (PCBs) (per ton) 4.75
Or fraction of a ton
Hazardous Waste Flat Fee
(per year) 2,444,800.00
Provides for implementation of waste management programs and oversight of the Hazardous Waste Industry in accordance with UCA 19-6-118.
Machine-Generated Radiation
Annual Registration Fee
Per control unit including first tube, plus annual fee for each additional tube connected to the control unit
Hospital/Therapy, Medical, Chiropractic, Podiatry, Veterinary, Dental 35.00
Division Conducted Inspection, Per Tube
Hospital/Therapy, Medical, Chiropractic, Industrial Facility with High and/or Very High Radiation Areas Accessible to Individuals and Other Types, Annual or Biennial 105.00
Podiatry/Veterinary, Industrial Facility with Cabinet X-Ray Units or Units Designated for Other Purposes 75.00
Dental
First tube on a single control unit 45.00
Additional tubes on a control unit (per Tube) 12.50
Independent Qualified Experts Conducted Inspections or Registrants Using Qualified Experts
Inspection report (per Tube) 15.00
Radioactive Material
Special Nuclear Material
New License or Renewal License for:

Possession and use in sealed sources contained in devices used in industrial measuring systems, including X-ray fluorescence analyzers and neutron generators 440.00
Possession and use of less than 15 grams in unsealed form for research and development 730.00
Use as calibration and reference sources 180.00
All other licenses 1,150.00
Annual Fee
Possession and use in sealed sources contained in devices used in industrial measuring systems, including X-ray fluorescence analyzers and neutron generators, possession and use of less than 15 grams in unsealed form for research and development 740.00
Use as calibration and reference sources 240.00
All other licenses 1,600.00
Source Material
New License or License Renewal
Licenses for concentrations of uranium from other areas for the production of uranium yellow cake 5,510.00
Regulation of source and byproduct material at uranium mills or commercial waste facilities
Uranium mills or commercial sites disposing of or reprocessing byproduct material, including mills in standby status (per month) 10,760.00
Licenses for possession and use of source material for shielding ... 230.00
All other source material licenses 1,000.00
Annual Fee
Licenses for concentrations of uranium from other areas for the production of uranium yellow cake 4,810.00
Licenses for possession and use of source material for shielding 365.00
All other source material licenses 1,275.00
Radioactive Material other than Source Material and Special Nuclear Material
New License or License Renewal for possession and use of radioactive material for:
Broad scope for processing or manufacturing for commercial distribution 2,320.00
Others for processing or manufacturing for commercial distribution 1,670.00
Processing or manufacturing and distribution of radiopharmaceuticals, generators, reagent kits, or sources or devices containing radioactive material 2,320.00
The distribution or redistribution of radiopharmaceuticals, generators, reagent kits, or sources or devices not involving processing of radioactive material 860.00
Industrial radiography operations 1,670.00
Sealed sources for irradiation of materials in which the source is not removed for its shield (self-shielded units) 700.00
Less than 10,000 curies of radioactive material in sealed sources for irradiation of materials in which the source is exposed for irradiation purposes 1,670.00
10,000 curies or more of radioactive material in sealed sources for irradiation of materials in which the source is exposed for irradiation purposes 3,340.00
Broad scope for research and development that do not authorize commercial distribution 2,320.00
Research and development that do not authorize commercial distribution 700.00
All other radioactive material 440.00
New License or License Renewal for:
Licenses that Authorize Services for Other Licensees 320.00
Except licenses that authorize leak testing or waste disposal services subject to the fees specified for the listed services
Licenses that authorize services for leak testing only 150.00
New License or License Renewal to distribute items containing radioactive material:
New License or Renewal to Distribute Items Containing Radioactive Material 700.00
To persons exempt from licensing requirements of R313-19, except specific licenses authorizing redistribution of items authorized for distribution to persons exempt from the licensing requirements of R313-19, and to persons generally licensed under R313-21, except specific licenses authorizing redistribution of items authorized for distribution to persons generally licensed under R313-21.
Annual license fee for possession and use of radioactive material for:
Broad scope for processing or manufacturing for commercial distribution, processing or manufacturing and distribution of radio-pharmaceuticals, generators, reagent kits, sources or devices containing radioactive material 2,960.00
Or broad scope for research and development that do not authorize commercial distribution.
Others for processing or manufacturing for commercial distribution 2,040.00
The distribution or redistribution of radiopharmaceuticals, generators, reagent kits, or sources or devices not involving processing of radioactive material 1,000.00
Industrial radiography operations 2,560.00
Sealed sources for irradiation of materials in which the source is not removed from its shield (self-shielded units), or search and development that do not

authorize commercial distribution 940.00
Less than 10,000 curies of radioactive material in sealed sources for irradiation of materials in which the source is exposed for irradiation purposes 1,740.00
10,000 curies or more of radioactive material in sealed sources for irradiation of materials in which the source is exposed for irradiation purposes 3,480.00
All other radioactive material 520.00
Annual fee for:
Licenses that Authorize Services for Other Licensees 420.00
Except licenses that authorize leak testing or waste disposal services subject to the fees specified for the listed services
Licenses that authorize services for leak testing only 160.00
Annual fee to distribute items containing radioactive material:
Annual Fee to Distribute Items Containing Radioactive Material 580.00
To persons exempt from licensing requirements of R313-19, except specific licenses authorizing redistribution of items authorized for distribution to persons exempt from the licensing requirements of R313-19; or to persons generally licensed under R313-21, except specific licenses authorizing redistribution of items authorized for distribution to persons generally licensed under R313-21.
Radioactive Waste Disposal (licenses specifically authorizing the receipt of waste radioactive material from other persons for the purpose of commercial disposal by land by the licensee)
Annual 1,724,200.00
New Application
Siting application Actual costs up to $250,000
License application ..... Actual costs up to $1,000,000
Renewal ..... Actual costs up to $1,000,000
Pre-licensing, operations review, and consultation on commercial low-level radioactive waste facilities (per hour) 110.00
Review of Commercial Low-level Radioactive Waste Disposal and Uranium Recovery Special Projects ..... Actual cost
Applicable when the licensee and the Division agree that a review will be conducted by a contractor in support of the efforts of Division staff.
Generator Site Access Permits
Non-Broker Generators transferring radioactive waste (per year) 2,500.00
Brokers (waste collectors or processors) (per year) 7,500.00
Review of licensing or permit actions, amendments, environmental monitoring reports, and miscellaneous reports for uranium recovery facilities (per hour) 110.00
Licenses authorizing receipt of waste radioactive material from others for packaging/repackaging the material
The licensee will dispose of the materials by transfer to another person authorized to receive or dispose of the material
New License/Renewal 3,190.00
Annual 2,760.00
Licenses authorizing receipt of prepackaged waste radioactive material from others
The licensee will dispose of the materials by transfer to another person authorized to receive or dispose of the material
New License/Renewal 700.00
Annual 1,100.00
Licenses authorizing packing of radioactive waste for shipment to waste disposal site where licensee does not take possession of waste material
New License/Renewal 440.00
Annual 520.00
Well Logging, Well Surveys, and Tracer Studies Licenses
for the possession and use of radioactive material for well logging, well surveys and tracer studies other than field flooding tracer studies
New License/Renewal 1,670.00
Annual 2,100.00
Licenses for possession and use of radioactive material for field flooding tracer studies
New License/Renewal ..... Actual cost
Annual 4,000.00
Nuclear Laundries
Licenses for commercial collection and laundry of items contaminated with radioactive material
New License/Renewal 1,670.00
Annual 2,380.00
Human Use of Radioactive Material
License for human use of radioactive materials in sealed sources contained in gamma stereotactic radiosurgery or teletherapy devices
New License/Renewal 1,090.00
Annual 1,280.00
Licenses of broad scope issued to medical institutions or two or more physicians authorizing research and development
including human use of radioactive material, except for licenses for radioactive material in sealed sources contained in gamma stereotactic radiosurgery or teletherapy devices
New License/Renewal 2,320.00
Annual 2,960.00
Other licenses issued for human use of radioactive material
except for licenses for radioactive material in sealed sources contained in gamma stereotactic radiosurgery or teletherapy devices
New License/Renewal 700.00
Annual 1,100.00
Civil Defense
Licenses for possession and use of radioactive material for civil defense activities
New License/Renewal 700.00
Annual 380.00
Power Source
Licenses for the manufacture and distribution of encapsulated radioactive material wherein the

decay energy of the material is used as a source for power
New License/Renewal 5,510.00
Annual 2,520.00
Plan Reviews
Review of plans for decommissioning, decontamination, reclamation, waste disposal pursuant to R313-15-1002, or site restoration activities 400.00
Plus added cost above 8 hours (per hour) 110.00
Investigation of a misadministration by a third party as defined in R313-30-5 or in R313-32-2, as applicable ..... Actual cost
General License
Initial registration/renewal for first year
Measuring, gauging, and control devices as described in R313-21-22(4), ... 20.00 other than hydrogen-3 (tritium) devices and polonium-210 devices containing no more than 10 millicuries used for producing light or an ionized atmosphere, including In Vitro testing, Depleted Uranium. Reciprocity - Licensees who conduct activities under the reciprocity provisions of R313-19-30
Annual fee after initial license/renewal
Measuring, gauging, and control devices as described in R313-21-22(4) ..... 20.00 other than hydrogen-3 (tritium) and polonium-210 devices containing no more than other than 10 millicuries used for producing light or an ionized atmosphere, including In Vitro testing and Depleted Uranium
Reciprocity - Licensees who conduct activities under the reciprocity provisions of R313-19-30 (per type of license category) . Full annual fee
Publication costs for making public notice of required actions ..... Actual cost
Expedited application review (per hour) .. 110.00 Applicable when, by mutual consent of the applicant and staff, an application request is taken out of date order and processed by staff.
Management and oversight of impounded radioactive material .... Actual cost
License amendment, for greater than three applications in a calendar year 200.00
Analytical costs for monitoring samples from radioactive materials facilities ..... Actual cost

WATER QUALITY

Water Quality Support
Operator Certification
Certification Examination 100.00
Renewal of Certificate ..... 50.00 or New Certificate Change in Status
Renewal of Lapsed Certificate plus renewal (per month) ..... 50.00 $150 maximum
Duplicate Certificate 25.00
Certification by reciprocity with another state 100.00
Underground Wastewater Disposal Systems
New Systems Fee 40.00
Certificate Issuance 25.00
Annual Utah Pollutant Discharge Elimination System (UPDES) Permits, Surface Water
Cement Manufacturing
Major 871.00
Minor 218.00
Coal Mining and Preparation
General Permit 436.00
Individual Major 1,307.00
Individual Minor 871.00
Concentrated Animal Feeding Operations (CAFO) General Permit ... 110.00
Construction Dewatering/Hydrostatic Testing General Permit 150.00
Dairy Products
Major 871.00
Minor 436.00
Electric
Major 1,089.00
Minor 436.00
Fish Hatcheries General Permit 121.00
Food and Kindred Products
Major 1,089.00
Minor 436.00
Hazardous Waste Clean-up Sites 2,614.00
Geothermal
Major 871.00
Minor 436.00
Inorganic Chemicals
Major 1,307.00
Minor 653.00
Iron and Steel Manufacturing
Major 2,614.00
Minor 653.00
Leaking Underground Storage Tank (LUST) Cleanup
General Permit 436.00
LUST Cleanup Individual Permit 871.00
Meat Products
Major 1,307.00
Minor 436.00
Metal Finishing and Products
Major 1,307.00
Minor 653.00
Mineral Mining and Processing
Sand and Gravel 242.00
Salt Extraction 242.00
Other
Other Majors 871.00
Other Minors 436.00
Manufacturing
Major 1,742.00
Minor 653.00
Oil and Gas Extraction
flow rate 436.00
flow rate > 0.5 MGD 653.00
Ore Mining
Major 1,307.00
Minor 653.00
Major w/ concentration process 10,000.00
Organic Chemicals Manufacturing
Major 2,178.00
Minor 653.00
Petroleum Refining
Major 1,742.00
Minor 653.00
Pharmaceutical Preparations
Major 1,742.00

Minor 653.00
Rubber and Plastic Products
Major 1,089.00
Minor 653.00
Space Propulsion
Major 2,420.00
Minor 653.00
Steam and/or Power Electric Plants
Major 871.00
Minor 436.00
Water Treatment Plants (Except Political Subdivisions)
General Permit 121.00
Annual UPDES Publicly Owned Treatment Works (POTW)
Large >10 million gallons per day (mgd) flow design (per year) .. 8,800.00
Medium >3 mgd but <10 mgd flow design (peryear) 5,500.00
Small <3mgd but >1 mgd (per year) 1,100.00
Very Small <1 mgd (per year) 550.00
Annual UPDES Pesticide Applicator Fee
Small Applicator 200.00
Medium Applicator 500.00
Large Applicator 1,650.00
Groundwater Remediation Treatment Plant 5,500.00
Biosolids Annual Fee (Domestic Sludge)
Small Systems (per year) 385.00
1–4,000 connections
Medium Systems (per year) 1,117.00
4,001 to 15,000 connections
Large Systems (per year) 1,623.00
greater than 15,000 connections
Non–contact Cooling Water
Flow rate <= 10,000 gallons per day (gpd) (per year) 110.00
10,000 gpd < Flow rate 100,000 gpd (per year) 220.00
100,000 gpd < Flow rate <1.0 mpd (per year) 440.00
Flow Rate > 1.0 mgd (per year) 660.00
Stormwater Permits
General Multi–Sector Industrial Storm Water Permit (per year) 250.00
Industrial Stormwater No Exposure Certificate (per 5 years) 150.00
General Construction Storm Water Permit (per year) 150.00
Common Plan Storm Water Permit (per year) 150.00
Construction Stormwater Low Erosivity Waiver Fee (per project) 100.00
One–time project based fee.
Municipal Storm Water
0–5,000 Population (per year) 750.00
5,001 – 10,000 Population (per year) 1,250.00
10,001 – 50,000 Population (per year) 1,750.00
50,001 – 125,000 Population (per year) 3,000.00
> 125,000 Population (per year) 4,000.00
Registered Stormwater Inspection (RSI) Certifications
Certification Course and Examination (per year) 200.00
Certification Renewal (per year) 50.00
Renewal of Lapsed Certification (per year) 100.00
Post–marked no more than 90 days after expiration.
Registered SWPPP Writer RSI) Certification
Certification Course and Examination (per year) 300.00
Annual Ground Water Permit Administration Fee
Tailings/Evaporation/Process Ponds; Heaps (per Each) ..... Actual cost
0–1 Acre 385.00
>1–15 Acres 770.00
>15–50 Acres 1,540.00
>50–300 Acres 2,310.00
>300–500 Acres 6,140.00
>500 Acres 12,280.00
Annual Non–discharging municipal and commercial treatment facilities 350.00
Underground Injection Control Permit Application Fee
Class I Hazardous Waste Disposal ... 25,000.00
One time fee
Class I Non–Hazardous Waste Disposal 9,000.00
One time fee
Class III Solution Mining 7,200.00
One time fee
Class V Aquifer Storage and Recovery 5,400.00
One time fee
All Other Permits
UPDES, ground water, underground injection control, construction permits not listed above, and permit modifications (per hour) ... 110.00
Except projects of political subdivisions funded by the Division of Water Quality.
Complex facilities where the anticipated permit issuance costs will exceed the above categorical fees by 25% (per hour) 110.00
Permittee to be notified upon receipt of application
Water Quality Cleanup Activities
Corrective Action, Site Investigation/Remediation Oversight, Administration of Consent Orders and Agreements, and emergency response to spills and water pollution incidents (per hour) ... 110.00
Actual cost for sample analytical lab work actual cost
Technical Review of and assistance given (per hour) 110.00
401 Certification; permit appeals; and sales and use tax exemptions; waste–load analysis
Water Quality Loan Origination ... 1.0% of Loan Amount

AIR QUALITY

Air Quality Administration
Emission Inventory Workshop 15.00
Attendance

Air Emissions (per ton) 89.67
Major and Minor Source Compliance
Inspection (per hour) 110.00
Annual Aggregate Compliance
20 or less tons per year (per year) 180.00
21-79 tons per year (per year) 360.00
80-99 tons per year (per year) 900.00
100 or more tons per year (per year) .. 1,260.00
Asbestos and Lead-Based Paint (LBP)
Abatement
Course Accreditation Fee (per hour) 110.00
Asbestos Company/LBP Firm
Certification Application (per year) ... 275.00
LBP Renovation Firm Certification
Application (per year) 110.00
Asbestos Individual Certification
Application 137.50
Asbestos Individual Certification
Application Surcharge, (Non-Utah
Accredited Training Provider) 33.00
LBP Abatement Worker
Certification Application (per year) ... 110.00
LBP Inspector, Dust Sampling
Technician Certification Application
(per year) 137.50
LBP Risk Assessor, Supervisor,
Project Designer Certification
Application (per year) 220.00
LBP Renovator Certification
Application (per year) 110.00
Lost Certification Card Replacement 33.00
Annual Asbestos Notification 550.00
Asbestos/LBP Abatement Project
Notification Base Fee 165.00
Asbestos/LBP Abatement Project
Notification Base Fee - Owner
Occupied Residences 55.00
Abatement Unit Fee/100 units or any
fraction thereof up to 10,000 units 7.70
(square feet/linear feet/cubic feet) (times 3)
School Building Asbestos Hazard Emergency
Response Act (AHERA) abatement unit fees
will be waived
Abatement Unit Fee/100 units or
any fraction thereof more than
10,000 units 3.85
(square feet/linear feet/cubic feet) (times 3)
School Building AHERA abatement fees will
be waived
Demolition Notification Base 27.50
Demolition unit per 5,000 square feet
or any fraction thereof 55.00
Alternative Work Practice Review Application
<10 day training provider/Private
Residence Non-National
Emission Standards for Hazardous
Air Pollutants (NESHAP)
Requests 110.00
NESHAP Structures and Any
Other Requests 275.00
Permit Category
Filing Fees
Name Changes 100.00
Small Sources Exemptions and
Soil Remediation, Source
Determination Letter, PBR
Registration (Control
not Required) 250.00
New non-PSD sources, minor & major
modifications to existing sources,
Administrative Amendments,
PBR Registration
(Control Required) 500.00
Any unpermitted sources at an
existing facility 1,500.00
New major prevention
of significant deterioration
(PSD) sources 5,000.00
Monitoring plan review and site visit
Application Review Fees
New major source or modifications
to major source in nonattainment
area 49,500.00
Up to 450 hours, at $110/hour
New major source or modifications
to major source in attainment
area 33,000.00
Up to 300 hours, at $110/hour
New minor source or modifications
to minor source 2,200.00
Up to 20 hours, at $110/hour
Generic permit for minor
source or modifications of
minor sources 880.00
Up to 8 hours (sources for which
engineering review/BACT standardized)
Temporary Relocations 770.00
Up to 7 hours, at $110/hour
Minor sources (new or modified) with
<3 tpy uncontrolled emissions 550.00
Up to 5 hours, at $110/hour
Permitting cost for additional
hours (per hour) 110.00
Technical review of and assistance
given (per hour) 110.00
e.g. appeals, sales/use tax exemptions, soils
exemptions, soils remediations, name
change, small source exemptions,
experimental approvals, impact analyses,
etc.
Annual NSR Fee
Ten year review of non-expiring permits, rule
and process training, electronic permitting
tools
<20 tons annual emissions 150.00
20 to 49 tons annual emissions 300.00
50-99 tons annual emissions 600.00
100-250 tons annual emissions 1,000.00
>250 tons annual emissions 1,500.00
Air Quality Training ..... Actual Cost

GOVERNOR'S OFFICE

OFFICE OF ENERGY DEVELOPMENT

Alternative Energy Development
Tax Credit 150.00
C-PACE 3rd Party Administrator 3.0%
Fee is based on total amount financed on
each C-PACE project.

High Cost Infrastructure Tax Credit, private investment $10 million or less 150.00
High Cost Infrastructure Tax Credit, private investment more than $10 million 250.00
Renewable energy Systems Tax Credit and Qualifying Solar Projects Tax Credit 15.00
RESTC Production Tax Credit 150.00
Application fee for the Renewable Energy Systems PRODUCTION Tax Credit.
Well Recompletion or Workover 10.00
Application fee for the Well Recompletion or Workover Tax Credit certificate (59-5-102)

DEPARTMENT OF NATURAL RESOURCES

FORESTRY, FIRE AND STATE LANDS

Division Administration
Administrative
Application
Mineral Lease 40.00
Special Lease Agreement 40.00
Mineral Unit/Communitization Agreement 40.00
Special Use Lease Agreement (SULA) 300.00
Grazing Permit 50.00
Materials Permit 200.00
Easement 150.00
Right of Entry 50.00
Exchange of Land 1,000.00
Sovereign Land General Permit
Private 50.00
Public
Assignment
Mineral Lease
Total Assignment 50.00
Interest Assignment 50.00
Operating Right Assignment 50.00
Overriding Royalty Assignment 50.00
Partial Assignment 50.00
Collateral Assignment 50.00
Special Use Lease Agreement (SULA) ... 50.00
Grazing Permit per AUM (Animal Unit Month) 2.00
Grazing Sublease per AUM (Animal Unit Month) 2.00
Materials Permits 50.00
Easement 50.00
Right of Entry (ROE) 50.00
Sovereign Land General Permit 50.00
Grazing Non-use (per lease) 10%
Special Use Lease Agreement (SULA) non-use 10%
ROE, Easement, Grazing amendment 50.00
SULA, general permit, mineral lease, materials permit amendment 125.00
Reinstatement 150.00
Surface leases & permits per reinstatement/per lease or permit
Bioprospecting - Registration 50.00
Oral Auction Administration ..... Actual cost
Affidavit of Lost Document (per document) 25.00
Certified Document (per document) 10.00
Research on Leases or Title Records (per hour) 50.00
Reproduction of Records
Self service (per copy) 0.10
By staff (per copy) 0.40
Change on Name of Division Records (per occurrence) 20.00
Fax copy (per page) 1.00
Send only
Late Fee ..... 6% or $30
Returned check charge 30.00
Sovereign Lands
Rights of Entry
Seismic Survey Fees
Primacord (per mile) 200.00
Surface Vibrators (per mile) 200.00
Shothole >50 ft (per hole) 50.00
Shothole <50 ft (per mile) 200.00
Pattern Shotholes (per pattern) 200.00
Commercial 200.00
Commercial Recreation Event (per person over 150 people) 2.00
Minimum ROE of $200 plus per person royalty
Data Processing
Production Time (per hour) 55.00
Programming Time (per hour) 75.00
Geographic Information System
Processing Time (per hour) 55.00
Personnel Time (per hour) 50.00
Sovereign Lands
Easements
Minimum Easement 225.00
Canal
Existing
<=33' wide (per rod) 15.00
>33' but <=66' wide (per rod) 30.00
>66' but <=100' wide (per rod) 45.00
>100' wide (per rod) 60.00
New
<=33' wide (per rod) 30.00
>33' but <=66' wide (per rod) 45.00
>66' but <=100' wide (per rod) 60.00
>100' wide (per rod) 75.00
Roads
Existing
<=33' wide (per rod) 5.50
>33' but <=66' wide (per rod) 11.00
>66' but <=100' wide (per rod) 16.50
>100' wide (per rod) 22.00
New
<=33' wide (per rod) 8.50
>33' but <=66' wide (per rod) 17.00
>66' but <=100' wide (per rod) 25.50
>100' wide (per rod) 34.00
Power lines, Telephone Cables, Retaining walls and jetties
<=30' wide (per rod) 14.00
>30' but <=60' wide (per rod) 20.00
>60' but <= 100' wide (per rod) 26.00
>100' but <=200' wide (per rod) 32.00
>200' but <=300' wide (per rod) 42.00
>300' wide (per rod) 52.00
>60' but 52.00
Pipelines

<=2" (per rod) 7.00
>2" but <=13" (per rod) 14.00
>13" but <=25" (per rod) 20.00
>25" but <=337" (per rod) 26.00
>37" (per rod) (per rod) 52.00
Special Use Lease Agreements (SULA)
SULA Lease Rate 450.00
Minimum $450 or market rate per R652-30-400
Grazing Permits 3.00
Annual rate per AUM (Animal Unit Month)
Special Use Lease Agreements . . . . Market rate
General Permits
Mooring Buoys: 3 yr max term 50.00
Renewal - Mooring Buoys; 3 yr max term 50.00
Floating Dock, Wheeled Pier, Seasonal Use; 3 year max 250.00
Dock/pier, Single Upland Owner Use; 3 year max 350.00
Boat Ramp, Temporary, Metal; 3 year max 250.00
Boat Ramp, Concrete, Gravel; 10 year max 700.00
Irrigation Pump - Pump Head Only; 15 year max 50.00
Irrigation Pump - Structure; 15 year max 150.00
Storm Water Outfall, Drain; 10 year max 150.00
Other 450.00
Minimum $450 or market rate per R652-30-400
Mineral Lease
Rental Rate 1st ten years (per acre) 1.10
Rental Rate Renewals (per acre) 2.20

OIL, GAS AND MINING

Administration
New Coal Mine Permit Application 5.00
Copy
Staff Copy (per page) 0.25
Self Copy (per page) 0.10
Minerals Reclamation
Mineral Program
Exploration Permit 150.00
Annual Permit
Small Mining Operations 150.00
Large Mining Operations
20 to 50 acres 500.00
over 50 acres 1,000.00

PARKS AND RECREATION

Park Operation Management
Boat Dealer Number and Registration Fee 25.00
All fees for the Division of Parks and Recreation may not exceed, but may be less than, the amounts stated in the division's fee schedule.
Golf Course Fees RENTALS
Motorized cart, per 9 holes 16.00
Driving Range 9.00
Golf Course Fees GREENS FEES
9 holes 18.00
Reservation Fee 10.65
Camping Fees 40.00
Group Camping Fees 400.00
Boating Fees
Boat Mooring
In/Off Season with or without Utilities (per foot) 7.00
Boat and RV Storage 200.00
Promotional Pass 1,100.00
Entrance Fees
Motor Vehicles
Day Use Annual Pass 150.00
Group Site Day-Use Fees 250.00
Parking Fee 5.00
Entrance Fees 25.00
Application Fees 250.00
Easement, Grazing permit, Construction/Maintenance, Special Use Permit, Waiting List, Events
Assessment and Assignment Fees
Repository Fees
Curation (per storage unit) 700.00
Annual Repository Agreement, Annual Agreement Fee, Fee Collection, Return Checks, and Duplicate Document (per storage unit) 80.00
Staff or researcher time per hour 50.00
Equipment and building rental per hour 100.00
OHV and Boating Program Fees
OHV Program Fee
Statewide OHV Registration Fee 72.00
State-issued Permit to Non-resident OHV 30.00
OHV Education Fee
Division's Off-highway Vehicle Program and Personal Watercraft Safety Certificate, including replacement certificates 30.00
Boating Section Fees
Commercial Dealer Demo Pass 200.00
Statewide Boat Registration Fee 40.00
Carrying Passengers for Hire Fee 200.00
Boat Livery Registration Fee 100.00
Lodging Fees
Lodging 120.00

UTAH GEOLOGICAL SURVEY

Administration
Sample Library
Cutting Thin Section Blanks 10.00
Core Plug (1 inch per plug) 10.00
Core Plugs > 1 inch diameter 25.00
Layout-Cuttings, Core, Coal, Oil/Water (per box) 5.00
Binocular/Petrographic Microscopes (per day) 25.00
Workshop Fee - Building Use (per day) 250.00
Workshop - Saturday/ Sunday/Holiday Surcharge 320.00
Research Fee (per hour) 50.00
XRF High Resolution Scanning (per Hour) 15.00
XRF Analysis - Discreet Sample (per Sample) 10.00

Core Slabbing
1.8" Diameter or Smaller (per foot) 10.00
1.8"–3.5" Diameter (per foot) 14.00
Core Photographing
Box/Closeup 8x10 color/Thin Section (per Photo) 5.00
Paleontology
File Search Requests
Paleontology File Search Fee 30.00
Up to 30 minutes
Miscellaneous
Copies, Self-Serve (per copy) 0.10
Copies, Staff (per copy) 0.25
Research and Professional Services (per hour) 50.00

WATER RESOURCES

Administration
Water Banking Contract
Application Fee 200.00
Water Banking Statutory
Application Fee 300.00
Color Plots
Existing (per linear foot) 2.00
Custom Orders ..... Current staff rate
Plans and Specifications
Small Set 10.00
Average Size Set 25.00
Large Set 35.00
Cloud Seeding License ..... Variable
Copies, Staff (per hour) ..... Current staff rate

WATER RIGHTS

Administration
Applications
Appropriation ..... Variable see below
For any application that proposes to appropriate or recharge by both direct flow and storage, there shall be charged the fee for quantity, by cubic feet per second (cfs), or volume, by acre-feet (af), whichever is greater, but not both:
Flow – cubic feet per second (cfs)
More than 0, not to exceed 0.1 ..... 150.00
More than 0.1, not to exceed 0.5 ..... 200.00
More than 0.5, not to exceed 1.0 ..... 250.00
More than 1.0, not to exceed 2.0 ..... 300.00
More than 2.0, not to exceed 3.0 ..... 350.00
More than 3.0, not to exceed 4.0 ..... 400.00
More than 4.0, not to exceed 5.0 ..... 430.00
More than 5.0, not to exceed 6.0 ..... 460.00
More than 6.0, not to exceed 7.0 ..... 490.00
More than 7.0, not to exceed 8.0 ..... 520.00
More than 8.0, not to exceed 9.0 ..... 550.00
More than 9.0, not to exceed 10.0 ..... 580.00
More than 10.0, not to exceed 11.0 .... 610.00
More than 11.0, not to exceed 12.0 .... 640.00
More than 12.0, not to exceed 13.0 .... 670.00
More than 13.0, not to exceed 14.0 .... 700.00
More than 14.0, not to exceed 15.0 .... 730.00
More than 15.0, not to exceed 16.0 .... 760.00
More than 16.0, not to exceed 17.0 .... 790.00
More than 17.0, not to exceed 18.0 .... 820.00
More than 18.0, not to exceed 19.0 .... 850.00
More than 19.0, not to exceed 20.0 .... 880.00
More than 20.0, not to exceed 21.0 .... 910.00
More than 21.0, not to exceed 22.0 .... 940.00
More than 22.0, not to exceed 23.0 .... 970.00
More than 23.0 ..... 1,000.00
Volume – acre-feet (af)
More than 0, not to exceed 20 ..... 150.00
More than 20, not to exceed 100 ..... 200.00
More than 100, not to exceed 500 ..... 250.00
More than 500, not to exceed 1,000 ... 300.00
More than 1,000, not to exceed 1,500 ..... 350.00
More than 1,500, not to exceed 2,000 ..... 400.00
More than 2,000, not to exceed 2,500 ..... 430.00
More than 2,500, not to exceed 3,000 ..... 460.00
More than 3,000, not to exceed 3,500 ..... 490.00
More than 3,500, not to exceed 4,000 ..... 520.00
More than 4,000, not to exceed 4,500 ..... 550.00
More than 4,500, not to exceed 5,000 ..... 580.00
More than 5,000, not to exceed 5,500 ..... 610.00
More than 5,500, not to exceed 6,000 ..... 640.00
More than 6,000, not to exceed 6,500 ..... 670.00
More than 6,500, not to exceed 7,000 ..... 700.00
More than 7,000, not to exceed 7,500 ..... 730.00
More than 7,500, not to exceed 8,000 ..... 760.00
More than 8,000, not to exceed 8,500 ..... 790.00
More than 8,500, not to exceed 9,000 ..... 820.00
More than 9,000, not to exceed 9,500 ..... 850.00
More than 9,500, not to exceed 10,000 ..... 880.00
More than 10,000, not to exceed 10,500 ..... 910.00
More than 10,500, not to exceed 11,000 ..... 940.00
More than 11,000, not to exceed 11,500 ..... 970.00
More than 11,500 ..... 1,000.00
Extension Requests for Submitting a Proof of Appropriation
Less than 14 years after the date of approval of the application 50.00
14 years or more after the date of approval of the application 150.00
Fixed time periods 150.00
For each certification of copies 10.00
A reasonable charge for preparing copies of any and all documents ..... Variable
Application to segregate a water right ... 50.00
Groundwater Recovery Permit 2,500.00
Fee Changed from Recharge to Recovery

Notification for the use of sewage effluent or to change the point of discharge 750.00
Diligence claim investigation 500.00
Report of Water Right Conveyance Submission 40.00
Protest Filings 15.00
Livestock Watering Certificate 150.00
Well Driller
Permit
Initial 350.00
Renewal (Annual) (per year) 100.00
Late renewal (Annual) (per year) 50.00
Drill Rig Operator Registration
Initial 100.00
Renewal (Annual) (per year) 50.00
Late Renewal (Annual) (per year) 50.00
Pump Installer License
Initial 200.00
Renewal (Annual) (per year) 75.00
Late renewal (Annual) (per year) 50.00
Pump Rig Operator Registration
Initial 75.00
Renewal (Annual) (per year) 25.00
Late renewal (Annual) (per year) 25.00
Stream Alteration
Commercial 2,000.00
Government 500.00
Non-Commercial 100.00

WATERSHED

Sage Grouse Mitigation Agreement Fee (per Credit/Acre) 5.00
Sage Grouse Mitigation Application Fee .. 100.00
Sage Grouse Mitigation Credit Transfer Fee (per Credit/Acre) 5.00

WILDLIFE RESOURCES

Director's Office
Fishing Licenses
Resident
Youth Fishing (12-13) 5.00
Resident Youth Fishing Ages 14-17 (365 Day) 16.00
Resident Fishing Ages 18-64 (365 day) 34.00
Resident Multi Year License (Up to 5 years) for Ages 18-64 $33/year.
Age 65 Or Older (365 day) 25.00
Disabled Veteran (365 day) 12.00
Resident Fishing 3 day any age 16.00
7-Day (Any Age) 20.00
Resident Set Line Fishing License 20.00
Nonresident
Youth Fishing (12-13) 6.00
Nonresident Youth Fishing Ages 14-17 (365 day) 29.00
Nonresident Fishing age 18 Or Older (365 day) 85.00
Nonresident Multi Year (Up to 5 Years) for Ages 18 or Older $84/year (includes license extensions).
Nonresident Fishing 3 day any age 28.00
7-Day (Any Age) 46.00
Nonresident Set Line Fishing License 23.00
Season Fishing Licenses not Combinations ..... Up to 20% discount
Stamps
Wyoming Flaming Gorge 12.00
Arizona Lake Powell 9.00
Game Licenses
Introductory Hunting License 4.00
Upon successful completion of Hunter Education - add to registration fee
Resident Introductory Combination license (hunter's ed completion) 6.00
Nonresident Introductory Combination license (hunter's ed completion) 6.00
Resident
Hunting License (up to 13) 11.00
Resident Hunting License Ages 14-17 ..... 16.00
Resident Hunting License Ages 18-64 ..... 34.00
Resident Multi Year license (Up to 5 years) for Ages 18-64 $33/year
Resident Hunting License Ages 65 Or Older 25.00
Resident Hunting License Disabled Veteran (365 Day) 25.50
Resident Youth Combination License Ages 14-17 ..... 20.00
Resident Combination license Ages 18-64 ..... 38.00
Resident Multi Year License (Up to 5 Years) for ages 18-64 $37/year
Resident Combination Ages 65 or Older 29.00
Resident Combination License Disabled Veteran (365 Day) 28.50
Dedicated Hunter Certificate of Registration (COR)
1 yr. (12-17) 40.00
1 Yr. (18+) 65.00
3 Yr. (12-17) 120.00
3 Yr. (18+) 195.00
Lifetime License Dedicated Hunter Certificate of Registration (COR)
1 Yr. (12-17) 12.50
1 Yr. (18+) 25.00
3 Yr. (12-17) 37.50
3 Yr. (18+) 75.00
Nonresident
Nonresident Youth Hunting License Ages 17 and Under 29.00
Nonresident Hunting License Age 18 or Older (365 day) 72.00
Nonresident Multi Year Hunting License 71.00
(Up to 5 Years, including license extensions)
Nonresident Youth Combination license Ages 17 and under 33.00
Nonresident Combination license Ages 18 Or Older 98.00
Nonresident Multi Year License (Up to 5 Years, includes extensions) for Ages 18 or Older $97/year.
Nonresident Small Game - 3 Day 42.00
Falconry Meet 15.00
Dedicated Hunter Certificate of Registration (COR)

1 Yr. (14–17) 268.00
Includes season fishing license
1 Yr. (18+) 349.00
Includes season fishing license
3 Yr. (12–17) 814.00
Includes season fishing license
3 Yr. (18+) 1,047.00
Includes season fishing license
General Season Permits
Resident
Youth General Season Turkey 25.00
Turkey 35.00
General Season Deer 40.00
Antlerless Deer 30.00
Two Doe Antlerless 45.00
Depredation – Antlerless 30.00
Archery Bull Elk 50.00
General Bull Elk 50.00
Multi Season General Bull Elk 150.00
Antlerless Elk 50.00
Control Antlerless Elk 30.00
Resident Two Cow Elk permit 80.00
Resident Landowner Mitigation
Deer – Antlerless 30.00
Elk – Antlerless 30.00
Pronghorn – Doe 30.00
Nonresident
Turkey 115.00
General Season Deer 398.00
Includes season fishing license
Depredation – Antlerless 107.00
Antlerless Deer 107.00
Two Doe Antlerless 197.00
Archery Bull Elk 593.00
Includes season fishing license
General Bull 593.00
Includes season fishing license
Multi Season General Bull Elk 800.00
Antlerless Elk 251.00
Control Antlerless Elk 107.00
Nonresident Two Cow Elk permit 350.00
Nonresident Landowner Mitigation
Deer – Antlerless 107.00
Two Doe Antlerless Deer Mitigation .. 197.00
Elk – Antlerless 318.00
Pronghorn – Doe 107.00
Two doe Antlerless Pronghorn Mitigation 197.00
Limited Entry Game Permits
Deer
Resident
Limited Entry 80.00
Multi Season Limited Entry Buck ... 145.00
Premium Limited Entry 168.00
Multi Season Premium Limited Entry Buck 305.00
Co–Operative Wildlife Management Unit (CWMU)/Landowner
Buck 40.00
Limited Entry 80.00
Premium Limited Entry 168.00
Antlerless 30.00
Two Doe Antlerless 45.00
Nonresident
Limited Entry 650.00
Includes season fishing license
Multi Season Limited Entry Buck 1,100.00
Includes season fishing license
Premium Limited Entry 768.00
Includes season fishing license
Multi Season Premium Limited Entry Buck 1,330.00
Co–Operative Wildlife Management Unit (CWMU)/Landowner
Buck 398.00
Includes season fishing license
Limited Entry 568.00
Includes season fishing license. Includes CWMU Management buck deer permits.
Premium Limited Entry 768.00
Includes season fishing license
Antlerless 107.00
Two Doe Antlerless 197.00
Elk
Resident
Limited Entry Bull 285.00
Multi Season Limited Entry Bull ... 513.00
Depredation 50.00
Depredation – Bull Elk – With Current Year Unused Bull Permit 235.00
Depredation – Bull Elk – Without Current Year Unused Bull Permit . 285.00
Co–Operative Wildlife Management Unit (CWMU)/Landowner
Any Bull 285.00
Antlerless 50.00
Nonresident
Limited Entry Bull 1,000.00
Includes season fishing license
Multi Season Limited Entry Bull 1,805.00
Includes fishing license
Depredation – Antlerless 318.00
Co–Operative Wildlife Management Unit (CWMU)/Landowner
Any Bull 1,000.00
Includes fishing license
Antlerless 318.00
Pronghorn
Resident
Limited Buck 55.00
Limited Doe 30.00
Limited Two Doe 45.00
Co–Operative Wildlife Management Unit (CWMU)/Landowner
Buck 55.00
Doe 30.00
Depredation Doe 30.00
Archery Buck 55.00
Nonresident
Limited Buck 337.00
Includes season fishing license
Limited Doe 107.00
Limited Two Doe 197.00
Archery Buck 337.00
Includes season fishing license
Depredation Doe 107.00
Co–Operative Wildlife Management Unit (CWMU)/Landowner
Buck 337.00
Includes season fishing license

Doe 107.00
Moose
Resident
Bull 413.00
Antlerless 213.00
Co–Operative Wildlife Management Unit (CWMU)/Landowner
Bull 413.00
Antlerless 213.00
Nonresident
Bull 2,200.00
Includes season fishing license
Antlerless 1,000.00
Co–Operative Wildlife Management Unit (CWMU)/Landowner
Bull 2,200.00
Includes season fishing license
Antlerless 1,000.00
Bison
Resident 413.00
Resident Antelope Island 1,110.00
Nonresident 2,200.00
Includes season fishing license
Nonresident Antelope Island 2,615.00
Includes season fishing license
Bighorn Sheep
Resident
Desert 513.00
Rocky Mountain 513.00
Resident Rocky Mtn/Desert Bighorn Sheep Ewe permit 100.00
Nonresident
Desert 2,200.00
Includes season fishing license
Rocky Mountain 2,200.00
Includes season fishing license
Nonresident Rocky Mtn/Desert Bighorn Sheep Ewe permit 1,000.00
Goats
Resident Mountain 413.00
Nonresident Mountain 2,200.00
Includes season fishing license
Cougar/Bear
Resident
Cougar 58.00
Bear 83.00
Premium Bear 166.00
Bear Archery 83.00
Cougar Pursuit 30.00
Bear Pursuit 30.00
Nonresident
Cougar 297.00
Bear 354.00
Multi Season Bear 546.00
Cougar Pursuit 155.00
Bear Pursuit 155.00
Wolf
Resident 20.00
Nonresident 80.00
Cougar/Bear
Cougar or Bear Damage 30.00
Wild Turkey
Resident Limited Entry 35.00
Nonresident Limited Entry 115.00
Waterfowl
Swan
Resident 15.00
Nonresident 17.00
Sandhill Crane
Resident 15.00
Nonresident 17.00
Sportsman Permits
Resident
Bull Moose 413.00
Hunter's Choice Bison 413.00
Desert Bighorn Ram 513.00
Bull Elk 513.00
Buck Deer 168.00
Buck Pronghorn 55.00
Bear 83.00
Cougar 58.00
Mountain Goat 413.00
Rocky Mountain Sheep 513.00
Turkey 35.00
Other
Falconry Permits
Resident
Capture
Apprentice Class 30.00
General Class 50.00
Master Class 50.00
Nonresident
Capture
Apprentice Class 132.00
General Class 132.00
Master Class 132.00
Handling 10.00
Includes licenses, Certificate of Registration, and exchanges
Resident Drawing Application 10.00
Nonresident Draw Applications 15.00
Landowner Association Application 150.00
Nonrefundable
Resident/Nonresident Dedicated Hunter Hourly Labor Buyout Rate 20.00
Bird Bands 0.25
Furbearer/Trap Registration
Resident Furbearer 29.00
Any age
Nonresident Furbearer 177.00
Any age
Resident Bobcat Temporary Possession 15.00
Nonresident Bobcat Temporary Possession 52.00
Resident Trap Registration 10.00
Nonresident Trap Registration 10.00
Duplicate Licenses, Permits and Tags
Hunter Education cards 10.00
Furharvester Education cards 10.00
Duplicate Vouchers CWMU/ Conservation/Mitigation 25.00
Refund of Hunting Draw License 25.00
Application Amendment 25.00
Late Harvest Reporting 50.00
Exchange 10.00
Wildlife Management Area Access (without a valid license) 10.00
Division Programs Participation fee ..... Variable
Fees shall be determined by the division using the estimated costs of materials and supplies needed for participation in the event.
Wood Products on Division Land

Firewood (2 Cords) 10.00
Christmas Tree 5.00
Ornamentals
Conifers (per tree) 5.00
Maximum $60.00 per permit
Deciduous (per tree) 3.00
Maximum $60.00 per permit
Hunter Education
Hunter Education Training 6.00
Hunter Education Home Study 6.00
Furharvester Education Training 6.00
Bowhunter Education Class 6.00
Long Distance Verification 2.00
Becoming an Outdoors Woman 150.00
Special Needs Rates Available
Hunter Education Range
Adult 5.00
Market price up to $10.
Youth 2.00
Ages 15 and under. Market price up to $5.
Group for organized groups and not for special passes ..... 50% discount
Spotting Scope Rental 2.00
Trap, Skeet or Riverside Skeet (per round) 5.00
Market price up to $10
Five Stand - Multi-Station Birds 7.00
Market price up to $10
Ten Punch Pass
Ten Punch Pass Shooting Ranges Youth (Rifle/Archery/Handgun) ..... Up to $45
Market price up to $45.00
Ten Punch Pass Shooting Ranges (Shotgun) Up to $95
Market price up to $95.00
Ten Punch Pass Shooting Ranges Adult (Rifle/Archery/Handgun) ..... Up to $95
Market price up to $95.00
Sportsmen Club Meetings 20.00
Shooting Center RV
Camping ..... $10.00 to $50.00
Reproduction of Records
Self Service (per copy) 0.10
Staff Service (per copy) 0.25
Geographic Information System
Personnel Time (per hour) 50.00
Processing (per hour) 55.00
Data Processing
Programming Time (per hour) 75.00
Production (per hour) 55.00
License Agency
Application 20.00
Other Services to be reimbursed at actual time and materials
Postage ..... Current rate
Lost license paper by license agents (per page) 10.00
Return check charge 20.00
Hardware Ranch Sleigh Ride
Adult 5.00
Age 4-8 ..... 3.00
Age 0-3 ..... No charge
Education Groups (per person) 1.00
Easement and Leases Schedule
Application for Leases
Leases 250.00
Nonrefundable
Easements
Rights-of-way 750.00
Nonrefundable
Rights-of-entry 50.00
Nonrefundable
Easements Oil and Gas Pipelines ... 250.00
Amendment to lease, easement, right-of-way 400.00
Nonrefundable
Amendment to right of entry 50.00
Certified document 5.00
Nonrefundable
Research on leases or title records (per hour) 50.00
Rights-of-Way
Leases and Easements - Resulting in Long-Term Uses of Habitat .... Variable
Fees shall be determined on a case-by-case basis by the division, using the estimated fair market value of the property, or other legislatively established fees, whichever is greater, plus the cost of administering the lease, right-of-way, or easement. Fair market value shall be determined by customary market valuation practices.
Special Use Permits for non-depleting land uses of <1 year ..... Variable
A nonrefundable application of $50 shall be assessed for any commercial use. Fees for approved special uses will be based on the fair market value of the use, determined by customary practices which may include: an assessment of comparable values for similar properties, comparable fees for similar land uses, or fee schedules. If more than one fee determination applies, the highest fee will be selected.
Width of Easement
0' - 30' Initial 12.00
0' - 30' Renewal 8.00
31' - 60' Initial 18.00
31' - 60' Renewal 12.00
61' - 100' Initial 24.00
61' - 100' Renewal 16.00
101' - 200' Initial 30.00
101' - 200' Renewal 20.00
201' - 300' Initial 40.00
201' - 300' Renewal 28.00
>300' Initial 50.00
>300' Renewal 34.00
Outside Diameter of Pipe
<2.0" Initial 9.40
<2.0" Renewal 4.00
2.0" - 13" Initial 19.00
2.0" - 13" Renewal 8.00
13.1"-37" Initial 38.00
13.1" - 25" Renewal 12.00
25.1" - 37" Renewal 16.00
>37" Initial 75.00
>37" Renewal 32.00
Roads, Canals
Permanent loss of habitat plus high maintenance disturbance 18.00
1' - 33' New Construction
Permanent loss of habitat plus high maintenance disturbance 12.00
1' - 33' Existing

Permanent loss of habitat plus high maintenance disturbance 24.00
33.1' – 66' New Construction
Permanent loss of habitat plus high maintenance disturbance 18.00
33.1' – 66' Existing
Assignments: Easements, Grazing Permits, Right-of-entry, Special Use 250.00
Certificates of Registration
Initial – Personal Use 75.00
Initial – Commercial 150.00
TYPE I
Certificate of Registration (COR)
Fishing Contest
Small, Under 50 ..... 20.00
Medium, 50 to 100 ..... 100.00
Large, over 200 ..... 250.00
Amendment 10.00
Certificate of Registration (COR) Handling 10.00
Renewal 30.00
Late fee for failure to renew Certificates of Registration when due: greater of $10 or 20% of fee. ..... Variable
Required Inspections 100.00
Failure to Submit Required Annual Activity Report When Due 10.00
Request for Species Reclassification ... 200.00
Request for Variance 200.00
Commercial Fishing and Dealing Commercially in Aquatic Wildlife
Dealer in Live/Dead Bait 75.00
Helper Cards – Live/Dead Bait 15.00
Commercial Seiner 1,000.00
Helper Cards – Commercial Seiner 100.00
Commercial Brine Shrimper 15,000.00
Helper Cards – Commercial Brine Shrimper 1,500.00
Upland Game Cooperative Wildlife Management Units
New Application 250.00
Annual 150.00
Big Game Cooperative Wildlife Management Unit
New Application 250.00
Annual 150.00
Falconry
Three year 45.00
Five Year 75.00
Commercial Hunting Areas
New Application 150.00
Renewal Application 150.00

SCHOOL AND INSTITUTIONAL TRUST LANDS ADMINISTRATION

Administration
Name change on Administrative Records
Name Change on Admin. Records – Surface Document 15.00
Name Change on Admin. Records – Lease (per lease) 15.00
Affidavit of Lost Document (per document) 25.00
Surface
Easements
Amendment 400.00
Application 750.00
Assignment Fees 250.00
Collateral 250.00
Reinstatement 400.00
Exchange
Application 1,000.00
Grazing Permit
Amendment 75.00
Application 75.00
Assignment Fees 30.00
Collateral 50.00
Reinstatement 100.00
Non-Use 20.00
Modified
Amendment 50.00
Application 250.00
Assignment Fees 250.00
Collateral 50.00
Reinstatement 30.00
Letter of Intent
Application 100.00
Right of Entry
Amendment 50.00
Application 50.00
Assignment Fees 250.00
Extension of Time 100.00
Processing 50.00
Right of Entry Trailing Permit
Application plus AUM (Animal tUnit Month) fees 50.00
Sales/Certificates
Application 250.00
Assignment 250.00
Partial Conveyance 250.00
Patent Reissue 50.00
Processing 500.00
Special Use Agreements
Amendment 400.00
Application 250.00
Assignment Fees 250.00
Collateral 250.00
Processing 700.00
Reinstatement 400.00
Timber Agreement
Application (<6 months) ..... 100.00 6 months or less
Assignment (<6 month) ..... 250.00 6 months or less
Application (>6 months) ..... 500.00 longer than 6 months
Assignment (>6 months) ..... 250.00 longer than 6 months
Extension of Time ..... 250.00 longer than 6 months
Mineral / Oil & Gas
Application
Materials Permit (Sand and Gravel) 250.00
Mineral Materials Permit 100.00
Mineral Lease 30.00
Rockhounding Permit
Association 200.00
Individual/Family 25.00
Assignment
Collateral 75.00

Materials Permit (Sand & Gravel) - Assignment 200.00
Operating Rights 75.00
Overriding Royalty 50.00
Record Title 75.00
Segregation 150.00
Processing
Materials Permit (Sand/Gravel) 700.00
Transfer Active Oil and Gas Lease to Current Form 50.00
Utah Interactive / Echeck fee 3.00
Bank Charge / Credit Card fees (per incident) ..... 3 percent
Fee based on total transaction value.

PUBLIC EDUCATION

STATE BOARD OF EDUCATION

STATE ADMINISTRATIVE OFFICE

Board and Administration
Unauthorized parking fee 30.00
Indirect Cost Pool
Indirect Cost Pool
Restricted Funds
USBE percentage of personal service costs 13.3%
New negotiated restricted indirect cost rate with Department of Education.
Unrestricted Funds
USBE percentage of personal service costs 15.2%
New negotiated unrestricted ICP rate with the Department of Education.
Student Support Services
Conference or Professional
Development Registration (per Day) 50.00
These fees apply to the entire department.

UTAH SCHOOLS FOR THE DEAF AND THE BLIND

Administration
USDB Audiologist Fee (per Hour) 80.83
Study Abroad Fee 500.00
Support Services
Conference Attendance
Educator - Conference Attendance Fee 100.00
Parent - Conference Attendance Fee ... 25.00
Adult Lunch Tickets 2.25
Copy and Fax Machine
Copy Machine
Color 1.00
Black/White 0.10
Room Rental
Conference 100.00
School for the Deaf
Instruction
Teachers Aide 16.01
Educator 74.59
After-School Program 30.00
Pre-School Monthly Tuition 100.00
Out-of-State Tuition 50,600.00
Educational Interpreter 49.11
Support Services
Athletic (per sport) 100.00
Room Rental
Multipurpose 200.00
School for the Blind
Instruction
Student Education Services Aide 32.25
Support Services
Room Rental
Dormitory 50.00

EXECUTIVE APPROPRIATIONS

CAPITOL PRESERVATION BOARD

Capitol Hill Grounds
Commercial Production Grounds/per event (per day) 2,500.00
Commercial Production White Chapel/per event 1,000.00
Commercial filming/photography Capitol building-2 hour increments ... 500.00
Commercial filming/photography Capitol grounds-2 hour increments ... 250.00
A-South Lawn
A-South Lawn/per event 2,000.00
A-South Lawn/per hour 400.00
D-West Lawn
D-West Lawn/per event 500.00
D-West Lawn/per hour 150.00
South Steps
South Steps/per event (per event) 500.00
South Steps/per hour (per hour) 125.00
Capitol Hill - The State Capitol Preservation Board may establish the maximum amount of time a person may use a facility.
Parking Lot
Parking Space (per stall per day) 7.00
For events only
Rotunda
Commercial Production Rotunda/per event (per day) 5,000.00
Rotunda Rental Fee Monday-Thursday (per event) 2,000.00
Rotunda Rental Fee Friday-Sunday (per event) 2,300.00
Rotunda two hour block Mon-Fri during Leg Session and Interim days (7 a.m.-5:30 p.m.) ..... No charge
Hall of Governors
Hall of Governors/per event 1,300.00
Hall of Governors - Two hour block Monday - Friday during Leg Session and Interim days (7:00 a.m.-5:30 p.m.) ..... No charge
Plaza
Plaza/per event 1,300.00
Plaza/per hour 200.00
Room 105
Nonprofit, Gov't Nonofficial Business, K-12, & Higher Ed
Room #105/per hour 50.00
Room #105 Mon - Fri. 7:00 a.m.-5:30 p.m. during Leg Session and Interim days (no more than 8 hours/week) ..... No charge
Room 170
Nonprofit, Gov't Nonofficial Business, K-12, & Higher Ed
Room #170/per hour 50.00

Room #170 Mon – Fri, 7:00 a.m.–5:30 p.m. during Leg Session and Interim days (no more than 8 hours/week) ..... No charge
Room 210
Nonprofit, Gov't Nonofficial Business, K –12, & Higher Ed
Room #210/per hour 50.00
Room #210 Mon – Fri, 7:00 a.m.–5:30 p.m. during Leg Session and Interim days (no more than 8 hours/week) ..... No charge
State Room
State Room/per event 1,000.00
State Room/per hour 125.00
Board Room
General Public, Commercial, & Private Groups
Board Room/per hour 150.00
Nonprofit, Gov't Nonofficial Business, K –12, & Higher Ed
Board Room/per hour 75.00
Olmsted Room
Nonprofit, Gov't Nonofficial Business, K –12, & Higher Ed
Olmsted Room/per hour 50.00
Olmsted Room Mon – Fri, 7:00 a.m.–5:30 p.m. during Leg Session and Interim days (no more than 8 hours/week) ..... No charge
Kletting Room
Nonprofit, Gov't Nonofficial Business, K –12, & Higher Ed
Kletting Room/per hour 50.00
Kletting Room Mon – Fri, 7:00 a.m.–5:30 p.m. during Leg Session and Interim days (no more than 8 hours/week) ..... No charge
Elk Room
Nonprofit, Gov't Nonofficial Business, K–12, & Higher Ed
Elk Room/per hour 50.00
Elk Room Mon–Fri, 7:00 a.m.–5:30 p.m. during Leg Session and Interim days (no more than 8 hours/week) ..... No charge
Seagull Room
Nonprofit, Gov't Nonofficial Business, K –12, & Higher Ed
Seagull Room/per hour 50.00
Seagull Room Mon – Fri, 7:00 a.m.–5:30 p.m. during Leg Session and Interim days (no more than 8 hours/week) ..... No charge
Beehive Room
Nonprofit, Gov't Nonofficial Business, K –12, & Higher Ed
Beehive Room/per hour 50.00
Beehive Room Mon – Fri, 7:00 a.m.–5:30 p.m. during Leg Session and Interim days (no more than 8 hours/week) ..... No charge
Copper Room
Nonprofit, Gov't Nonofficial Business, K –12, & Higher Ed
Copper Room/per hour 50.00
Copper Room Mon – Fri, 7:00 a.m.–5:30 p.m. during Leg Session and Interim days (no more than 8 hours/week) ..... No charge
Aspen Room
Nonprofit, Gov't Nonofficial Business, K –12, & Higher Ed
Aspen Room/per hour 50.00
Aspen Room Mon – Fri, 7:00 a.m.–5:30 p.m. during Leg Session and Interim days (no more than 8 hours/week) ..... No charge
State Office Building – The State Capitol Preservation Board may establish the maximum amount of time a person may use a facility.
Auditorium
Nonprofit, Gov't Nonofficial Business, K –12, & Higher Ed
Auditorium/per hour 75.00
Auditorium Mon – Fri, 11 a.m.–1:30 p.m. during Leg Session and Interim days with the use of preferred caterer ..... No charge
Room 1112
Nonprofit, Gov't Nonofficial Business, K –12, & Higher Ed
Room #1112/per hour 50.00
Room #1112 Mon – Fri, 7:00 a.m.–5:30 p.m. during Leg Session and Interim days (no more than 8 hours/week) ..... No charge
Room B110
Nonprofit, Gov't Nonofficial Business, K –12, & Higher Ed
Room #B110/per hour 50.00
Room #B110 Mon – Fri, 7:00 a.m.–5:30 p.m. during Leg Session and Interim days (no more than 8 hours/week) ..... No charge
White Community Memorial Chapel
White Chapel per day of event 500.00
White Chapel noon–midnight rehearsal 250.00
Miscellaneous Other
Access Badges 25.00
Additional Labor (per person, per 1/2 hr) 25.00
Additional Personnel (per person, per 1/2 hr) 25.00
Adjustment (per person, per 1/2 hr) 25.00
Administrative Fee 10.00
Baby Grand Piano 200.00
Chairs (per chair) 1.50
Change in set–up fee (per person, per 1/2 hr) 25.00
Easel 10.00
Event/Dance Floor 30x30 ..... 1,000.00
Event/Dance Floor 21x21 ..... 600.00
Event/Dance Floor 15x15 ..... 450.00
Event/Dance Floor 12x12 ..... 250.00
Event/Dance Floor 6x6 ..... 125.00
Extension Cords 5.00
Flags ..... No charge
Free Speech Public Space Usage ... No charge
Garbage Can ..... No charge
Gold Formal Chair (per chair) 5.00
Insurance Coverage for Capitol Hill Facilities and Grounds ..... Coverage of $1,000,000.00

Locker Rentals (per year) 40.00
Podium
With Microphone 35.00
Without Microphone 25.00
POLYCOM Phone Rental 10.00
Projector Cart 25.00
Risers (per section) 25.00
Security (per officer, per hour) 50.00
Speaker (per speaker) 15.00
Stanchion 10.00
Standing Microphone 15.00
Table (per table) 7.00
Table Pedestal Round 42" (per table) 10.00
Upright Piano 50.00
Wood Folding Chair (per chair) 2.50

UTAH NATIONAL GUARD

Operations and Maintenance
Armory Rental
Armory Rental Fee (per hour) 25.00
Armory rental fee of $25/hour is charged to pay for the additional operations and maintenance costs to the National Guard when an armory is rented to a group outside of the National Guard.
Security Attendant (per hour) 15.00
Utah National Guard requires a security attendant to accompany an armory rental outside of business hours to ensure the security of facilities and equipment.
Refundable Cleaning Deposit 100.00
This refundable fee is required to mitigate the liability of damage or additional cleaning requirement for National Guard armories during or after rental.

DEPARTMENT OF VETERANS AND MILITARY AFFAIRS

VETERANS AND MILITARY AFFAIRS

Cemetery
Veterans' Burial 812.00
Spouse/Dependent Burial 812.00
Saturday Burial Surcharge 700.00
Chapel Rental 150.00
Fee for renting the on-site chapel for funerals, memorials or other events.
Lawn Vase 65.00
Niche Vase 25.00
Disinterment
Cremains Disinterment 150.00
Single Depth Disinterment 600.00
Double Depth Disinterment 900.00

Section 3. Effective Date.
This bill takes effect on July 1, 2021.

CHAPTER 11
H. B. 12
Passed February 5, 2021
Approved February 15, 2021
Effective May 5, 2021

DECEASED VOTER AMENDMENTS

Chief Sponsor: Mike Winder
Senate Sponsor: Michael K. McKell
Cosponsors: Craig Hall
Jeffrey D. Stenquist
Steve Waldrip

LONG TITLE

General Description:

This bill provides for removal of a voter's name from the official register of voters upon the voter's death.

Highlighted Provisions:

This bill:

- requires the state registrar to provide the lieutenant governor's office with certain information relating to deceased individuals to ensure that the individuals are removed from the official register of voters;
- requires the lieutenant governor to provide the information described in the preceding paragraph to the county clerks, who are required to remove deceased individuals from the official register of voters; and
- requires the lieutenant governor to take certain action to ensure that the county clerks have complied with the requirements of this bill.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

20A-2-306, as last amended by Laws of Utah 2020, Chapter 255
26-2-13, as last amended by Laws of Utah 2009, Chapters 66 and 68

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

Section 1. Section 20A-2-306 is amended to read:

20A-2-306. Removing names from the official register -- Determining and confirming change of residence.

(1) A county clerk may not remove a voter's name from the official register on the grounds that the voter has changed residence unless the voter:

(a) confirms in writing that the voter has changed residence to a place outside the county; or

(b) (i) has not voted in an election during the period beginning on the date of the notice required by Subsection (3), and ending on the day after the date of the second regular general election occurring after the date of the notice; and

(ii) has failed to respond to the notice required by Subsection (3).

(2) (a) When a county clerk obtains information that a voter's address has changed and it appears that the voter still resides within the same county, the county clerk shall:

(i) change the official register to show the voter's new address; and

(ii) send to the voter, by forwardable mail, the notice required by Subsection (3) printed on a postage prepaid, preaddressed return form.

(b) When a county clerk obtains information that a voter's address has changed and it appears that the voter now resides in a different county, the county clerk shall verify the changed residence by sending to the voter, by forwardable mail, the notice required by Subsection (3) printed on a postage prepaid, preaddressed return form.

(3) Each county clerk shall use substantially the following form to notify voters whose addresses have changed:

[“]VOTER REGISTRATION NOTICE

We have been notified that your residence has changed. Please read, complete, and return this form so that we can update our voter registration records. What is your current street address?

_____
Street City County State Zip

If you have not changed your residence or have moved but stayed within the same county, you must complete and return this form to the county clerk so that it is received by the county clerk before 5 p.m. no later than 30 days before the date of the election. If you fail to return this form within that time:

– you may be required to show evidence of your address to the poll worker before being allowed to vote in either of the next two regular general elections; or

– if you fail to vote at least once from the date this notice was mailed until the passing of two regular general elections, you will no longer be registered to vote. If you have changed your residence and have moved to a different county in Utah, you may register to vote by contacting the county clerk in your county.

_____
Signature of Voter

PRIVACY INFORMATION

Voter registration records contain some information that is available to the public, such as your name and address, some information that is available only to government entities, and some information that is available only to certain third parties in accordance with the requirements of law.

Your driver license number, identification card number, social security number, email address, and full date of birth are available only to government entities. Your year of birth is available to political parties, candidates for public office, certain third parties, and their contractors, employees, and volunteers, in accordance with the requirements of law.

You may request that all information on your voter registration records be withheld from all

persons other than government entities, political parties, candidates for public office, and their contractors, employees, and volunteers, by indicating here:

_____ Yes, I request that all information on my voter registration records be withheld from all persons other than government entities, political parties, candidates for public office, and their contractors, employees, and volunteers.

REQUEST FOR ADDITIONAL PRIVACY PROTECTION

In addition to the protections provided above, you may request that all information on your voter registration records be withheld from all political parties, candidates for public office, and their contractors, employees, and volunteers, by submitting a withholding request form, and any required verification, as described in the following paragraphs.

A person may request that all information on the person's voter registration records be withheld from all political parties, candidates for public office, and their contractors, employees, and volunteers, by submitting a withholding request form with this registration record, or to the lieutenant governor or a county clerk, if the person is or is likely to be, or resides with a person who is or is likely to be, a victim of domestic violence or dating violence.

A person may request that all information on the person's voter registration records be withheld from all political parties, candidates for public office, and their contractors, employees, and volunteers, by submitting a withholding request form and any required verification with this registration form, or to the lieutenant governor or a county clerk, if the person is, or resides with a person who is, a law enforcement officer, a member of the armed forces, a public figure, or protected by a protective order or a protection order.

(4) (a) Except as provided in Subsection (4)(b), the county clerk may not remove the names of any voters from the official register during the 90 days before a regular primary election and the 90 days before a regular general election.

(b) The county clerk may remove the names of voters from the official register during the 90 days before a regular primary election and the 90 days before a regular general election if:

(i) the voter requests, in writing, that the voter's name be removed; or

(ii) the voter has died.

(c) (i) After a county clerk mails a notice as required in this section, the county clerk may list that voter as inactive.

(ii) If a county clerk receives a returned voter identification card, determines that there was no clerical error causing the card to be returned, and has no further information to contact the voter, the county clerk may list that voter as inactive.

(iii) An inactive voter shall be allowed to vote, sign petitions, and have all other privileges of a registered voter.

(iv) A county is not required to send routine mailings to an inactive voter and is not required to count inactive voters when dividing precincts and preparing supplies.

(5) Beginning on or before January 1, 2022, the lieutenant governor shall make available to a county clerk United States Social Security Administration data received by the lieutenant governor regarding deceased individuals.

(6) A county clerk shall, within ten business days after the day on which the county clerk receives the information described in Subsection (5) or Subsections 26-2-13(11) and (12) relating to a decedent whose name appears on the official register, remove the decedent's name from the official register.

(7) Ninety days before a regular primary election and 90 days before a regular general election the lieutenant governor shall compare the information the lieutenant governor has received under Subsection 26-2-13(11) with the official register of voters to ensure that all deceased voters have been removed from the official register.

Section 2. Section 26-2-13 is amended to read:

26-2-13. Certificate of death -- Execution and registration requirements -- Information provided to lieutenant governor.

(1) (a) A certificate of death for each death that occurs in this state shall be filed with the local registrar of the district in which the death occurs, or as otherwise directed by the state registrar, within five days after death and prior to the decedent's interment, any other disposal, or removal from the registration district where the death occurred.

(b) A certificate of death shall be registered if the certificate of death is completed and filed in accordance with this chapter.

(2) (a) If the place of death is unknown but the dead body is found in this state:

(i) the certificate of death shall be completed and filed in accordance with this section; and

(ii) the place where the dead body is found shall be shown as the place of death.

(b) If the date of death is unknown, the date shall be determined by approximation.

(3) (a) When death occurs in a moving conveyance in the United States and the decedent is first removed from the conveyance in this state:

(i) the certificate of death shall be filed with:

(A) the local registrar of the district where the decedent is removed; or

(B) a person designated by the state registrar; and

(ii) the place where the decedent is removed shall be considered the place of death.

(b) When a death occurs on a moving conveyance outside the United States and the decedent is first removed from the conveyance in this state:

(i) the certificate of death shall be filed with:

(A) the local registrar of the district where the decedent is removed; or

(B) a person designated by the state registrar; and

(ii) the certificate of death shall show the actual place of death to the extent it can be determined.

(4) (a) Subject to Subsections (4)(d) and (10), a custodial funeral service director or, if a funeral service director is not retained, a dispositioner shall sign the certificate of death.

(b) The custodial funeral service director, an agent of the custodial funeral service director, or, if a funeral service director is not retained, a dispositioner shall:

(i) file the certificate of death prior to any disposition of a dead body or fetus; and

(ii) obtain the decedent's personal data from the next of kin or the best qualified person or source available, including the decedent's [~~Social Security~~] social security number, if known.

(c) The certificate of death may not include the decedent's [~~Social Security~~] social security number.

(d) A dispositioner may not sign a certificate of death, unless the signature is witnessed by the state registrar or a local registrar.

(5) (a) Except as provided in Section 26-2-14, fetal death certificates, the medical section of the certificate of death shall be completed, signed, and returned to the funeral service director, or, if a funeral service director is not retained, a dispositioner, within 72 hours after death by the health care professional who was in charge of the decedent's care for the illness or condition which resulted in death, except when inquiry is required by Title 26, Chapter 4, Utah Medical Examiner Act.

(b) In the absence of the health care professional or with the health care professional's approval, the certificate of death may be completed and signed by an associate physician, the chief medical officer of the institution in which death occurred, or a physician who performed an autopsy upon the decedent, if:

(i) the person has access to the medical history of the case;

(ii) the person views the decedent at or after death; and

(iii) the death is not due to causes required to be investigated by the medical examiner.

(6) When death occurs more than 30 days after the decedent was last treated by a health care professional, the case shall be referred to the medical examiner for investigation to determine and certify the cause, date, and place of death.

(7) When inquiry is required by Title 26, Chapter 4, Utah Medical Examiner Act, the medical examiner shall make an investigation and complete and sign the medical section of the certificate of death within 72 hours after taking charge of the case.

(8) If the cause of death cannot be determined within 72 hours after death:

(a) the medical section of the certificate of death shall be completed as provided by department rule;

(b) the attending health care professional or medical examiner shall give the funeral service director, or, if a funeral service director is not retained, a dispositioner, notice of the reason for the delay; and

(c) final disposition of the decedent may not be made until authorized by the attending health care professional or medical examiner.

(9) (a) When a death is presumed to have occurred within this state but the dead body cannot be located, a certificate of death may be prepared by the state registrar upon receipt of an order of a Utah district court.

(b) The order described in Subsection (9)(a) shall include a finding of fact stating the name of the decedent, the date of death, and the place of death.

(c) A certificate of death prepared under Subsection (9)(a) shall:

(i) show the date of registration; and

(ii) identify the court and the date of the order.

(10) It is unlawful for a dispositioner to charge for or accept any remuneration for:

(a) signing a certificate of death; or

(b) performing any other duty of a dispositioner, as described in this section.

(11) The state registrar shall, within five business days after the day on which the state registrar or local registrar registers a certificate of death for a Utah resident, inform the lieutenant governor of:

(a) the decedent's name, last known residential address, date of birth, and date of death; and

(b) any other information requested by the lieutenant governor to assist the county clerk in identifying the decedent for the purpose of removing the decedent from the official register of voters.

(12) The lieutenant governor shall, within one business day after the day on which the lieutenant governor receives the information described in Subsection (11), provide the information to the county clerks.

CHAPTER 12
H. B. 60
Passed February 8, 2021
Approved February 15, 2021
Effective May 5, 2021

CONCEAL CARRY FIREARMS AMENDMENTS

Chief Sponsor: Walt Brooks
Senate Sponsor: David P. Hinkins
Cosponsors: Nelson T. Abbott
Cheryl K. Acton
Carl R. Albrecht
Kera Birkeland
Jefferson S. Burton
Steve R. Christiansen
Kay J. Christofferson
Joel Ferry
Francis D. Gibson
Matthew H. Gwynn
Dan N. Johnson
Marsha Judkins
Bradley G. Last
Karianne Lisonbee
Phil Lyman
A. Cory Maloy
Jefferson Moss
Michael J. Petersen
Val L. Peterson
Candice B. Pierucci
Paul Ray
Adam Robertson
Mike Schultz
Travis M. Seegmiller
Rex P. Shipp
Casey Snider
V. Lowry Snow
Robert M. Spendlove
Jeffrey D. Stenquist
Keven J. Stratton
Mark A. Strong
Jordan D. Teuscher
Christine F. Watkins
Ryan D. Wilcox
Mike Winder

LONG TITLE

General Description:

This bill modifies provisions related to carrying a concealed firearm and suicide prevention.

Highlighted Provisions:

This bill:

- provides that an individual who is 21 years old or older, and may lawfully possess a firearm, may carry a concealed firearm in a public area without a permit;
- provides for the transfer of unused funds in the Concealed Weapons Account to the Division of Substance Abuse and Mental Health for suicide prevention efforts; and
- creates the Suicide Prevention and Education Fund within the division for suicide prevention efforts.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53-5-707, as last amended by Laws of Utah 2019, Chapter 440
76-10-504, as last amended by Laws of Utah 2015, Chapter 406
76-10-505, as last amended by Laws of Utah 2009, Chapter 362
76-10-523, as last amended by Laws of Utah 2019, Chapters 39, 375, and 458

ENACTS:

62A-15-1104, Utah Code Annotated 1953

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

Section 1. Section 53-5-707 is amended to read:

53-5-707. Concealed firearm permit -- Fees -- Concealed Weapons Account.

(1) (a) An applicant for a concealed firearm permit shall pay a fee of $25 at the time of filing an application.

(b) A nonresident applicant shall pay an additional $10 for the additional cost of processing a nonresident application.

(c) The bureau shall waive the initial fee for an applicant who is a law enforcement officer under Section 53-13-103.

(d) Concealed firearm permit renewal fees for active duty service members and the spouse of an active duty service member shall be waived.

(2) The renewal fee for the permit is $20. A nonresident shall pay an additional $5 for the additional cost of processing a nonresidential renewal.

(3) The replacement fee for the permit is $10.

(4) (a) The late fee for the renewal permit is $7.50.

(b) As used in this section, "late fee" means the fee charged by the bureau for a renewal submitted on a permit that has been expired for more than 30 days but less than one year.

(5) (a) There is created a restricted account within the General Fund known as the "Concealed Weapons Account."

(b) The account shall be funded from fees collected under this section and Section 53-5-707.5.

(c) Funds in the account may only be used to cover costs relating to:

(i) the issuance of concealed firearm permits under this part; or

(ii) the programs described in Subsections 62A-15-103(3) and 76-10-526(15) and Section 62A-15-1101.

(d) No later than 90 days after the end of the fiscal year 50% of the fund balance shall be transferred to the Suicide Prevention and Education Fund, created in Section 62A-15-1104.

(6) (a) The bureau may collect any fees charged by an outside agency for additional services required by statute as a prerequisite for issuance of a permit.

(b) The bureau shall promptly forward any fees collected under Subsection (6)(a) to the appropriate agency.

(7) The bureau shall make an annual report in writing to the Legislature's Law Enforcement and Criminal Justice Interim Committee on the amount and use of the fees collected under this section and Section 53-5-707.5.

Section 2. Section 62A-15-1104 is enacted to read:

62A-15-1104. Suicide Prevention and Education Fund.

(1) There is created an expendable special revenue fund known as the Suicide Prevention and Education Fund.

(2) The fund shall consist of funds transferred from the Concealed Weapons Account in accordance with Subsection 53-5-707(5)(d).

(3) Money in the fund shall be used for suicide prevention efforts that include a focus on firearm safety as related to suicide prevention.

(4) The division shall establish a process by rule in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for the expenditure of money from the fund.

(5) The division shall make an annual report to the Legislature regarding the status of the fund, including a report detailing amounts received, expenditures made, and programs and services funded.

Section 3. Section 76-10-504 is amended to read:

76-10-504. Carrying concealed firearm -- Penalties.

(1) Except as provided in [~~Section~~] Sections 76-10-503 and 76-10-523 and in Subsections (2), (3), and (4), a person who carries a concealed firearm, as defined in Section 76-10-501, including an unloaded firearm on his or her person or one that is readily accessible for immediate use which is not securely encased, as defined in this part, in or on a place other than the person's residence, property, a vehicle in the person's lawful possession, or a vehicle, with the consent of the individual who is lawfully in possession of the vehicle, or business under the person's control is guilty of a class B misdemeanor.

(2) A person who carries a concealed firearm that is a loaded firearm in violation of Subsection (1) is guilty of a class A misdemeanor.

(3) A person who carries concealed an unlawfully possessed short barreled shotgun or a short barreled rifle is guilty of a second degree felony.

(4) If the concealed firearm is used in the commission of a violent felony as defined in Section 76-3-203.5, and the person is a party to the offense, the person is guilty of a second degree felony.

(5) Nothing in Subsection (1) or (2) prohibits a person engaged in the lawful taking of protected or unprotected wildlife as defined in Title 23, Wildlife Resources Code of Utah, from carrying a concealed firearm as long as the taking of wildlife does not occur:

(a) within the limits of a municipality in violation of that municipality's ordinances; or

(b) upon the highways of the state as defined in Section 41-6a-102.

Section 4. Section 76-10-505 is amended to read:

76-10-505. Carrying loaded firearm in vehicle or on street.

(1) Unless otherwise authorized by law, a person may not carry a loaded firearm:

(a) in or on a vehicle, unless:

(i) the vehicle is in the person's lawful possession; or

(ii) the person is carrying the loaded firearm in a vehicle with the consent of the person lawfully in possession of the vehicle;

(b) on a public street; or

(c) in a posted prohibited area.

(2) Subsection (1)(a) does not apply to a minor under 18 years of age, since a minor under 18 years of age may not carry a loaded firearm in or on a vehicle.

(3) Notwithstanding [~~Subsection~~] Subsections (1)(a)(i) and (ii), and Subsection 76-10-523(5), a person may not possess a loaded rifle, shotgun, or muzzle-loading rifle in a vehicle.

(4) A violation of this section is a class B misdemeanor.

Section 5. Section 76-10-523 is amended to read:

76-10-523. Persons exempt from weapons laws.

(1) Except for Sections 76-10-506, 76-10-508, and 76-10-508.1, this part and Title 53, Chapter 5, Part 7, Concealed Firearm Act, do not apply to any of the following:

(a) a United States marshal;

(b) a federal official required to carry a firearm;

(c) a peace officer of this or any other jurisdiction;

(d) a law enforcement official as defined and qualified under Section 53-5-711;

(e) a judge as defined and qualified under Section 53-5-711;

(f) a court commissioner as defined and qualified under Section 53-5-711; or

(g) a common carrier while engaged in the regular and ordinary transport of firearms as merchandise.

(2) Notwithstanding Subsection (1), the provisions of Section 76-10-528 apply to any individual listed in Subsection (1) who is not employed by a state or federal agency or political subdivision that has adopted a policy or rule regarding the use of dangerous weapons.

(3) Subsections 76-10-504(1) and (2), and Section 76-10-505 do not apply to:

(a) an individual to whom a permit to carry a concealed firearm has been issued:

(i) pursuant to Section 53-5-704; or

(ii) by another state or county; or

(b) a person who is issued a protective order under Subsection 78B-7-603(1)(b) or 78B-7-404(1)(b), unless the person is a restricted person as described in Subsection 76-10-503(1), for a period of 120 days after the day on which the person is issued the protective order.

(4) Except for Sections 76-10-503, 76-10-506, 76-10-508, and 76-10-508.1, this part and Title 53, Chapter 5, Part 7, Concealed Firearm Act, do not apply to a nonresident traveling in or though the state, provided that any firearm is:

(a) unloaded; and

(b) securely encased as defined in Section 76-10-501.

(5) Subsections 76-10-504(1) and (2), and 76-10-505(1)(b) do not apply to a person 21 years old or older who may otherwise lawfully possess a firearm.

CHAPTER 13
S. B. 54
Passed February 8, 2021
Approved February 15, 2021
Effective May 5, 2021

KURT OSCARSON CHILDREN'S ORGAN TRANSPLANT COORDINATING COMMITTEE EXTENSION

Chief Sponsor: John D. Johnson
House Sponsor: Kelly B. Miles

LONG TITLE

General Description:

This bill extends the sunset date for the Kurt Oscarson Transplant Coordinating Committee.

Highlighted Provisions:

This bill:

- repeals the sunset date for the Kurt Oscarson Children's Organ Transplant Coordinating Committee.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63I-1-226, as last amended by Laws of Utah 2020, Chapters 19, 154, 172, 181, 221, 232, 303, 347, and 429

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

Section 1. Section 63I-1-226 is amended to read:

63I-1-226. Repeal dates, Title 26.

(1) Subsection 26-1-7(1)(f), related to the Residential Child Care Licensing Advisory Committee, is repealed July 1, 2024.

(2) Subsection 26-1-7(1)(h), related to the Primary Care Grant Committee, is repealed July 1, 2025.

(3) Section 26-1-7.5, which creates the Utah Health Advisory Council, is repealed July 1, 2025.

(4) Section 26-1-40 is repealed July 1, 2022.

(5) Section 26-1-41 is repealed July 1, 2026.

(6) Section 26-7-10 is repealed July 1, 2025.

(7) Subsection 26-7-11(5), regarding reports to the Legislature, is repealed July 1, 2028.

(8) Section 26-7-14 is repealed December 31, 2027.

(9) Title 26, Chapter 9f, Utah Digital Health Service Commission Act, is repealed July 1, 2025.

(10) Subsection 26-10-6(5), which creates the Newborn Hearing Screening Committee, is repealed July 1, 2026.

(11) Section 26-10-11 is repealed July 1, 2025.

(12) Section 26-10b-106, which creates the Primary Care Grant Committee, is repealed July 1, 2025.

(13) Title 26, Chapter 18, Part 2, Drug Utilization Review Board, is repealed July 1, 2027.

(14) Subsection 26-18-417(3) relating to a report to the Health and Human services Interim Committee is repealed July 1, 2020.

(15) Subsection 26-18-418(2), the language that states "and the Behavioral Health Crisis Response Commission created in Section 63C-18-202" is repealed July 1, 2023.

[~~(16) Title 26, Chapter 18a, Kurt Oscarson Children's Organ Transplant Coordinating Committee, is repealed July 1, 2021.~~]

[~~(17)~~] (16) Section 26-33a-117 is repealed on December 31, 2023.

[~~(18)~~] (17) Title 26, Chapter 33a, Utah Health Data Authority Act, is repealed July 1, 2024.

[~~(19)~~] (18) Title 26, Chapter 36b, Inpatient Hospital Assessment Act, is repealed July 1, 2024.

[~~(20)~~] (19) Title 26, Chapter 36c, Medicaid Expansion Hospital Assessment Act, is repealed July 1, 2024.

[~~(21)~~] (20) Title 26, Chapter 36d, Hospital Provider Assessment Act, is repealed July 1, 2024.

[~~(22)~~] (21) Section 26-39-201, which creates the Residential Child Care Licensing Advisory Committee, is repealed July 1, 2024.

[~~(23)~~] (22) Section 26-40-104, which creates the Utah Children's Health Insurance Program Advisory Council, is repealed July 1, 2025.

[~~(24)~~] (23) Section 26-50-202, which creates the Traumatic Brain Injury Advisory Committee, is repealed July 1, 2025.

[~~(25)~~] (24) Title 26, Chapter 54, Spinal Cord and Brain Injury Rehabilitation Fund and Pediatric Neuro-Rehabilitation Fund, is repealed January 1, 2025.

[~~(26)~~] (25) Title 26, Chapter 63, Nurse Home Visiting Pay-for-Success Program, is repealed July 1, 2026.

[~~(27)~~] (26) Title 26, Chapter 66, Early Childhood Utah Advisory Council, is repealed July 1, 2026.

CHAPTER 14
S. B. 55
Passed February 4, 2021
Approved February 15, 2021
Effective May 5, 2021

RURAL ONLINE INITIATIVE SUNSET AMENDMENTS

Chief Sponsor: Derrin R. Owens
House Sponsor: Carl R. Albrecht

LONG TITLE

General Description:

This bill modifies the rural online opportunities program (program) administered by Utah State University.

Highlighted Provisions:

This bill:

- defines terms;
- modifies the reporting requirements of the program;
- removes the sunset date of the program; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53B-18-1501, as enacted by Laws of Utah 2018, Chapter 385

63I-1-253, as last amended by Laws of Utah 2020, Chapters 154, 174, 214, 234, 242, 269, 335, and 354

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

Section 1. Section 53B-18-1501 is amended to read:

53B-18-1501. Remote online opportunities program -- Report to Legislature.

(1) As used in this section:

(a) "Association of governments" means an association of political subdivisions established pursuant to an interlocal agreement under Title 11, Chapter 13, Interlocal Cooperation Act.

(b) [~~"Pilot program"~~] "Program" means the [~~pilot~~] program administered by Utah State University in accordance with this section.

(c) "Remote online opportunity" means employment, including freelance employment, or the operation of an online business for which an individual:

(i) can complete duties primarily online; and

(ii) is not required to work from a specific geographic location.

(2) (a) Subject to legislative appropriations, Utah State University, through a county extension office, shall administer a [~~pilot~~] program that helps individuals who live in rural areas access remote online opportunities.

(b) In administering the [~~pilot~~] program, Utah State University shall consider input from a county located in a geographic area selected for the [~~pilot~~] program under Subsection (4).

(3) Utah State University shall, as part of the [~~pilot~~] program:

(a) provide training modules to adults and high school students;

(b) coordinate with rural high schools and postsecondary institutions;

(c) develop marketing materials;

(d) develop relationships with information technology companies that offer remote online opportunities;

(e) partner with websites that list freelance remote online opportunities;

(f) provide scholarships for individuals who live in rural areas to access online skill-based training for remote online opportunities;

(g) provide one-on-one coaching for an individual who pursues a remote online opportunity; and

(h) conduct other activities related to remote online opportunities as determined by Utah State University.

(4) (a) Utah State University shall administer the [~~pilot~~] program:

(i) in at least one geographic area in the state initially; and

(ii) in additional geographic areas if resources allow.

(b) In determining where to initially administer the [~~pilot~~] program, Utah State University shall consider whether counties in a geographic area:

(i) are primarily rural or have remote rural areas;

(ii) face high unemployment rates;

(iii) have access to high speed Internet;

(iv) have a large percentage of high school graduates leave the geographic area after graduating from high school; and

(v) are members of an association of governments that supports helping individuals who live in rural areas access remote online opportunities.

(5) On or before November 1, 2020, and on or before November 1 every third year thereafter, Utah State University shall report to the Economic Development and Workforce Services Interim Committee on:

(a) the number of individuals who receive training through the [~~pilot~~] program;

(b) the number and percentage of individuals who participate in the [~~pilot~~] program and access a remote online opportunity; and

(c) whether there is a reduction in the unemployment rate in a geographic area included in the [~~pilot~~] program.

Section 2. Section 63I-1-253 is amended to read:

63I-1-253. Repeal dates, Titles 53 through 53G.

(1) Section 53-2a-105, which creates the Emergency Management Administration Council, is repealed July 1, 2021.

(2) Sections 53-2a-1103 and 53-2a-1104, which create the Search and Rescue Advisory Board, are repealed July 1, 2022.

(3) Section 53-5-703, which creates the Concealed Firearm Review Board, is repealed July 1, 2023.

(4) Subsection 53-6-203(1)(b)(ii), regarding being 19 years old at certification, is repealed July 1, 2027.

(5) Subsection 53-13-104(6)(a), regarding being 19 years old at certification, is repealed July 1, 2027.

(6) Section 53B-6-105.5, which creates the Technology Initiative Advisory Board, is repealed July 1, 2024.

(7) Title 53B, Chapter 17, Part 11, USTAR Researchers, is repealed July 1, 2028.

(8) Section 53B-17-1203, which creates the SafeUT and School Safety Commission, is repealed January 1, 2025.

[~~(9) Section 53B-18-1501 is repealed July 1, 2021.~~]

[~~(10)~~] (9) Title 53B, Chapter 18, Part 16, USTAR Researchers, is repealed July 1, 2028.

[~~(11)~~] (10) Title 53B, Chapter 24, Part 4, Rural Residency Training Program, is repealed July 1, 2025.

[~~(12)~~] (11) Subsection 53C-3-203(4)(b)(vii), which provides for the distribution of money from the Land Exchange Distribution Account to the Geological Survey for test wells and other hydrologic studies in the West Desert, is repealed July 1, 2030.

[~~(13)~~] (12) Section 53E-3-515 is repealed January 1, 2023.

[~~(14)~~] (13) In relation to a standards review committee, on January 1, 2023:

(a) in Subsection 53E-4-202(8), the language "by a standards review committee and the recommendations of a standards review committee established under Section 53E-4-203" is repealed; and

(b) Section 53E-4-203 is repealed.

[~~(15)~~] (14) Subsections 53E-3-503(5) and (6), which create coordinating councils for youth in custody, are repealed July 1, 2027.

[~~(16)~~] (15) Section 53E-4-402, which creates the State Instructional Materials Commission, is repealed July 1, 2022.

[~~(17)~~] (16) Title 53E, Chapter 6, Part 5, Utah Professional Practices Advisory Commission, is repealed July 1, 2023.

[~~(18)~~] (17) Subsection 53E-8-204(4), which creates the advisory council for the Utah Schools for the Deaf and the Blind, is repealed July 1, 2021.

[~~(19)~~] (18) Section 53F-2-514 is repealed July 1, 2020.

[~~(20)~~] (19) Section 53F-5-203 is repealed July 1, 2024.

[~~(21)~~] (20) Section 53F-5-212 is repealed July 1, 2024.

[~~(22)~~] (21) Section 53F-5-213 is repealed July 1, 2023.

[~~(23)~~] (22) Section 53F-5-214, in relation to a grant for professional learning, is repealed July 1, 2025.

[~~(24)~~] (23) Section 53F-5-215, in relation to an elementary teacher preparation grant, is repealed July 1, 2025.

[~~(25)~~] (24) Subsection 53F-9-203(7), which creates the Charter School Revolving Account Committee, is repealed July 1, 2024.

[~~(26)~~] (25) Section 53F-9-501 is repealed January 1, 2023.

[~~(27)~~] (26) Subsections 53G-4-608(2)(b) and (4)(b), related to the Utah Seismic Safety Commission, are repealed January 1, 2025.

[~~(28)~~] (27) Subsection 53G-8-211(5), regarding referrals of a minor to court for a class C misdemeanor, is repealed July 1, 2022.

CHAPTER 15
H. B. 17
Passed February 12, 2021
Approved February 25, 2021
Effective February 25, 2021

UTILITY PERMITTING AMENDMENTS

Chief Sponsor: Stephen G. Handy
Senate Sponsor: David P. Hinkins

LONG TITLE

General Description:

This bill prohibits municipalities and counties from making certain restrictions on energy utility services.

Highlighted Provisions:

This bill:

- prohibits municipalities and counties from restricting the connection of certain energy utility services.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

ENACTS:
10-9a-530, Utah Code Annotated 1953
17-27a-526, Utah Code Annotated 1953

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

Section 1. Section 10-9a-530 is enacted to read:

10-9a-530. (Codified as 10-9a-531) Utility service connections.

(1) A municipality may not enact an ordinance, a resolution, or a policy that prohibits, or has the effect of prohibiting, the connection or reconnection of an energy utility service provided by a public utility as that term is defined in Section 54-2-1.

(2) Subsection (1) does not apply to:

(a) an incentive offered by a municipality; or

(b) a building owned by a municipality.

Section 2. Section 17-27a-526 is enacted to read:

17-27a-526. (Codified as 17-27a-527) Utility service connections.

(1) A county may not enact an ordinance, a resolution, or a policy that prohibits, or has the effect of prohibiting, the connection or reconnection of an energy utility service provided by a public utility as that term is defined in Section 54-2-1.

(2) Subsection (1) does not apply to:

(a) an incentive offered by a county; or

(b) a building owned by a county.

Section 3. Effective date.

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

CHAPTER 16
S. B. 36
Passed January 27, 2021
Approved February 25, 2021
Effective May 5, 2021

TAX COMMISSION BOND REQUIREMENT AMENDMENTS

Chief Sponsor: Curtis S. Bramble
House Sponsor: Steve Eliason

LONG TITLE

General Description:

This bill modifies provisions related to bond requirements for certain tax licensees.

Highlighted Provisions:

This bill:

- allows the State Tax Commission to waive the bond requirement for a person whose withholding tax license or sales and use tax license was revoked for a delinquency, if the person is in compliance with a payment agreement approved by the commission; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

59-10-405.5, as last amended by Laws of Utah 2008, Chapter 382
59-12-106, as last amended by Laws of Utah 2020, Chapter 284

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

Section 1. Section 59-10-405.5 is amended to read:

59-10-405.5. Definitions -- Withholding tax license requirements -- Penalty -- Application process and requirements -- Fee not required -- Bonds.

(1) As used in this section:

(a) "applicant" means a person that:

(i) is required by this section to obtain a license; and

(ii) submits an application:

(A) to the commission; and

(B) for a license under this section;

(b) "application" means an application for a license under this section;

(c) "fiduciary of the applicant" means a person that:

(i) is required to collect, truthfully account for, and pay over an amount under this part for an applicant; and

(ii) (A) is a corporate officer of the applicant described in Subsection (1)(c)(i);

(B) is a director of the applicant described in Subsection (1)(c)(i);

(C) is an employee of the applicant described in Subsection (1)(c)(i);

(D) is a partner of the applicant described in Subsection (1)(c)(i);

(E) is a trustee of the applicant described in Subsection (1)(c)(i); or

(F) has a relationship to the applicant described in Subsection (1)(c)(i) that is similar to a relationship described in Subsections (1)(c)(ii)(A) through (E) as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(d) "fiduciary of the licensee" means a person that:

(i) is required to collect, truthfully account for, and pay over an amount under this part for a licensee; and

(ii) (A) is a corporate officer of the licensee described in Subsection (1)(d)(i);

(B) is a director of the licensee described in Subsection (1)(d)(i);

(C) is an employee of the licensee described in Subsection (1)(d)(i);

(D) is a partner of the licensee described in Subsection (1)(d)(i);

(E) is a trustee of the licensee described in Subsection (1)(d)(i); or

(F) has a relationship to the licensee described in Subsection (1)(d)(i) that is similar to a relationship described in Subsections (1)(d)(ii)(A) through (E) as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(e) "license" means a license under this section; and

(f) "licensee" means a person that is licensed under this section by the commission.

(2) The following persons are guilty of a criminal violation as provided in Section 59-1-401:

(a) a person that:

(i) is required to withhold, report, or remit any amounts under this part; and

(ii) engages in business within the state before obtaining a license under this section; or

(b) a person that:

(i) pays wages under this part; and

(ii) engages in business within the state before obtaining a license under this section.

(3) The license described in Subsection (2):

(a) shall be granted and issued:

(i) by the commission in accordance with this section;

(ii) without a license fee; and

(iii) if:

(A) an applicant:

(I) states the applicant's name and address in the application; and

(II) provides other information in the application that the commission may require; and

(B) the person meets the requirements of this section to be granted a license as determined by the commission;

(b) may not be assigned to another person; and

(c) is valid:

(i) only for the person named on the license; and

(ii) until:

(A) the person described in Subsection (3)(c)(i):

(I) ceases to do business; or

(II) changes that person's business address; or

(B) the commission revokes the license.

(4) The commission shall review an application and determine whether:

(a) the applicant meets the requirements of this section to be issued a license; and

(b) a bond is required to be posted with the commission in accordance with Subsections (5) and (6) before the applicant may be issued a license.

(5) (a) [~~An~~] Except as provided in Subsection (5)(c), an applicant shall post a bond with the commission before the commission may issue the applicant a license if:

(i) a license under this section was revoked for a delinquency under this part for:

(A) the applicant;

(B) a fiduciary of the applicant; or

(C) a person for which the applicant or the fiduciary of the applicant is required to collect, truthfully account for, and pay over an amount under this part; or

(ii) there is a delinquency in withholding, reporting, or remitting any amount under this part for:

(A) an applicant;

(B) a fiduciary of the applicant; or

(C) a person for which the applicant or the fiduciary of the applicant is required to collect, truthfully account for, and pay over an amount under this part.

(b) If the commission determines it is necessary to ensure compliance with this part, the commission may require a licensee to:

(i) for a licensee that has not posted a bond under this section with the commission, post a bond with the commission in accordance with Subsection (6); or

(ii) for a licensee that has posted a bond under this section with the commission, increase the amount of the bond posted with the commission.

(c) The commission may waive the bond requirement described in Subsection (5)(a), if the applicant is in compliance with a payment agreement that:

(i) relates to the delinquency; and

(ii) is approved by the commission.

(6) (a) A bond required by Subsection (5) shall be:

(i) executed by:

(A) for an applicant, the applicant as principal, with a corporate surety; or

(B) for a licensee, the licensee as principal, with a corporate surety; and

(ii) payable to the commission conditioned upon the faithful performance of all of the requirements of this part including:

(A) the withholding or remitting of any amount under this part;

(B) the payment of any:

(I) penalty as provided in Section 59-1-401; or

(II) interest as provided in Section 59-1-402; or

(C) any other obligation of the:

(I) applicant under this part; or

(II) licensee under this part.

(b) Except as provided in Subsection (6)(d), the commission shall calculate the amount of a bond required by Subsection (5) on the basis of:

(i) commission estimates of:

(A) for an applicant, any amounts the applicant withholds, reports, or remits under this part; or

(B) for a licensee, any amounts the licensee withholds, reports, or remits under this part; and

(ii) any amount of a delinquency described in Subsection (6)(c).

(c) Except as provided in Subsection (6)(d), for purposes of Subsection (6)(b)(ii):

(i) for an applicant, the amount of the delinquency is the sum of:

(A) the amount of any delinquency that served as a basis for revoking the license under this section of:

(I) the applicant;

(II) a fiduciary of the applicant; or

(III) a person for which the applicant or the fiduciary of the applicant is required to collect, truthfully account for, and pay over an amount under this part; or

(B) the amount that any of the following owe under this part:

(I) the applicant;

(II) a fiduciary of the applicant; and

(III) a person for which the applicant or the fiduciary of the applicant is required to collect, truthfully account for, and pay over an amount under this part; or

(ii) for a licensee, the amount of the delinquency is the sum of:

(A) the amount of any delinquency that served as a basis for revoking the license under this section of:

(I) the licensee;

(II) a fiduciary of the licensee; or

(III) a person for which the licensee or the fiduciary of the licensee is required to collect, truthfully account for, and pay over an amount under this part; or

(B) the amount that any of the following owe under this part:

(I) the licensee;

(II) a fiduciary of the licensee; and

(III) a person for which the licensee or the fiduciary of the licensee is required to collect, truthfully account for, and pay over an amount under this part.

(d) Notwithstanding Subsection (6)(b) or (c), a bond required by Subsection (5) may not:

(i) be less than $25,000; or

(ii) exceed $500,000.

(7) (a) The commission shall revoke a license under this section if:

(i) a licensee violates any provision of this part; and

(ii) before the commission revokes the license the commission provides the licensee:

(A) reasonable notice; and

(B) a hearing.

(b) If the commission revokes a licensee's license in accordance with Subsection (7)(a), the commission may not issue another license to that licensee until that licensee complies with the requirements of this part, including:

(i) paying any:

(A) amounts due under this part;

(B) penalty as provided in Section 59-1-401; or

(C) interest as provided in Section 59-1-402; and

(ii) posting a bond in accordance with Subsections (5) and (6).

Section 2. Section 59-12-106 is amended to read:

59-12-106. Definitions -- Sales and use tax license requirements -- Penalty -- Application process and requirements -- No fee -- Bonds -- Presumption of taxability -- Exemption certificates -- Exemption certificate license number to accompany contract bids.

(1) As used in this section:

(a) "Applicant" means a person that:

(i) is required by this section to obtain a license; and

(ii) submits an application:

(A) to the commission; and

(B) for a license under this section.

(b) "Application" means an application for a license under this section.

(c) "Fiduciary of the applicant" means a person that:

(i) is required to collect, truthfully account for, and pay over a tax under this chapter for an applicant; and

(ii) (A) is a corporate officer of the applicant described in Subsection (1)(c)(i);

(B) is a director of the applicant described in Subsection (1)(c)(i);

(C) is an employee of the applicant described in Subsection (1)(c)(i);

(D) is a partner of the applicant described in Subsection (1)(c)(i);

(E) is a trustee of the applicant described in Subsection (1)(c)(i); or

(F) has a relationship to the applicant described in Subsection (1)(c)(i) that is similar to a relationship described in Subsections (1)(c)(ii)(A) through (E) as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(d) "Fiduciary of the licensee" means a person that:

(i) is required to collect, truthfully account for, and pay over a tax under this chapter for a licensee; and

(ii) (A) is a corporate officer of the licensee described in Subsection (1)(d)(i);

(B) is a director of the licensee described in Subsection (1)(d)(i);

(C) is an employee of the licensee described in Subsection (1)(d)(i);

(D) is a partner of the licensee described in Subsection (1)(d)(i);

(E) is a trustee of the licensee described in Subsection (1)(d)(i); or

(F) has a relationship to the licensee described in Subsection (1)(d)(i) that is similar to a relationship described in Subsections (1)(d)(ii)(A) through (E) as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(e) "License" means a license under this section.

(f) "Licensee" means a person that is licensed under this section by the commission.

(g) "Special event" means an event that lasts six months or less where taxable sales occur.

(2) (a) It is unlawful for any person required to collect a tax under this chapter to engage in business within the state without first having obtained a license to do so.

(b) The license described in Subsection (2)(a):

(i) shall be granted and issued by the commission;

(ii) is not assignable;

(iii) is valid only for the person in whose name the license is issued;

(iv) is valid until:

(A) the person described in Subsection (2)(b)(iii):

(I) ceases to do business; or

(II) changes that person's business address; or

(B) the license is revoked by the commission; and

(v) subject to Subsection (2)(d), shall be granted by the commission only upon an application that:

(A) states the name and address of the applicant; and

(B) provides other information the commission may require.

(c) At the time an applicant makes an application under Subsection (2)(b)(v), the commission shall notify the applicant of the responsibilities and liability of a business owner successor under Section 59-12-112.

(d) The commission shall review an application and determine whether the applicant:

(i) meets the requirements of this section to be issued a license; and

(ii) is required to post a bond with the commission in accordance with Subsections (2)(e) and (f) before the applicant may be issued a license.

(e) (i) [~~An~~] Except as provided in Subsection (2)(e)(iii), an applicant shall post a bond with the commission before the commission may issue the applicant a license if:

(A) a license under this section was revoked for a delinquency under this chapter for:

(I) the applicant;

(II) a fiduciary of the applicant; or

(III) a person for which the applicant or the fiduciary of the applicant is required to collect, truthfully account for, and pay over a tax under this chapter; or

(B) there is a delinquency in paying a tax under this chapter for:

(I) the applicant;

(II) a fiduciary of the applicant; or

(III) a person for which the applicant or the fiduciary of the applicant is required to collect, truthfully account for, and pay over a tax under this chapter.

(ii) If the commission determines it is necessary to ensure compliance with this chapter, the commission may require a licensee to:

(A) for a licensee that has not posted a bond under this section with the commission, post a bond with the commission in accordance with Subsection (2)(f); or

(B) for a licensee that has posted a bond under this section with the commission, increase the amount of the bond posted with the commission.

(iii) The commission may waive the bond requirement described in Subsection (2)(e)(i), if the applicant is in compliance with a payment agreement that:

(A) relates to the delinquency; and

(B) is approved by the commission.

(f) (i) A bond required by Subsection (2)(e) shall be:

(A) executed by:

(I) for an applicant, the applicant as principal, with a corporate surety; or

(II) for a licensee, the licensee as principal, with a corporate surety; and

(B) payable to the commission conditioned upon the faithful performance of all of the requirements of this chapter including:

(I) the payment of any tax under this chapter;

(II) the payment of any:

(Aa) penalty as provided in Section 59-1-401; or

(Bb) interest as provided in Section 59-1-402; or

(III) any other obligation of the:

(Aa) applicant under this chapter; or

(Bb) licensee under this chapter.

(ii) Except as provided in Subsection (2)(f)(iv), the commission shall calculate the amount of a bond required by Subsection (2)(e) on the basis of:

(A) commission estimates of:

(I) an applicant's tax liability under this chapter; or

(II) a licensee's tax liability under this chapter; and

(B) any amount of a delinquency described in Subsection (2)(f)(iii).

(iii) Except as provided in Subsection (2)(f)(iv), for purposes of Subsection (2)(f)(ii)(B):

(A) for an applicant, the amount of the delinquency is the sum of:

(I) the amount of any delinquency that served as a basis for revoking the license under this section of:

(Aa) the applicant;

(Bb) a fiduciary of the applicant; or

(Cc) a person for which the applicant or the fiduciary of the applicant is required to collect, truthfully account for, and pay over a tax under this chapter; or

(II) the amount of tax that any of the following owe under this chapter:

(Aa) the applicant;

(Bb) a fiduciary of the applicant; and

(Cc) a person for which the applicant or the fiduciary of the applicant is required to collect, truthfully account for, and pay over a tax under this chapter; or

(B) for a licensee, the amount of the delinquency is the sum of:

(I) the amount of any delinquency that served as a basis for revoking the license under this section of:

(Aa) the licensee;

(Bb) a fiduciary of the licensee; or

(Cc) a person for which the licensee or the fiduciary of the licensee is required to collect, truthfully account for, and pay over a tax under this chapter; or

(II) the amount of tax that any of the following owe under this chapter:

(Aa) the licensee;

(Bb) a fiduciary of the licensee; and

(Cc) a person for which the licensee or the fiduciary of the licensee is required to collect, truthfully account for, and pay over a tax under this chapter.

(iv) Notwithstanding Subsection (2)(f)(ii) or (2)(f)(iii), a bond required by Subsection (2)(e) may not:

(A) be less than $25,000; or

(B) exceed $500,000.

(g) Subject to Subsection (2)(h), if business is transacted at two or more separate places by one person, a separate license for each place of business is required.

(h) A license is not required for any person that is:

(i) engaged exclusively in the business of selling commodities that are exempt from taxation under this chapter; or

(ii) exempt from collecting sales and use tax under Section 59-12-104 and the place of business is a special event.

(i) (i) The commission shall, on a reasonable notice and after a hearing, revoke the license of any licensee violating any provisions of this chapter.

(ii) A license may not be issued to a licensee described in Subsection (2)(i)(i) until the licensee has complied with the requirements of this chapter, including:

(A) paying any:

(I) tax due under this chapter;

(II) penalty as provided in Section 59-1-401; or

(III) interest as provided in Section 59-1-402; and

(B) posting a bond in accordance with Subsections (2)(e) and (f).

(j) Any person required to collect a tax under this chapter within this state without having secured a license to do so is guilty of a criminal violation as provided in Section 59-1-401.

(k) A license shall be issued to the person by the commission without a license fee.

(l) (i) The commission shall include on an application for a temporary sales tax license and special event sales tax return the following statement:

"You are not required to complete or return this form or to collect sales and use tax if you are not regularly engaged in the business of selling the items you are offering at this event or all of the items that you are selling at this event are exempt from sales and use tax under Section 59-12-104."

(ii) The notice described in Subsection (2)(l)(i) shall be in bold font no smaller than the font of the main content and shall appear at the top of the application form.

(3) (a) For the purpose of the proper administration of this chapter and to prevent evasion of the tax and the duty to collect the tax, it shall be presumed that tangible personal property or any other taxable transaction under Subsection 59-12-103(1) sold by any person for delivery in this state is sold for storage, use, or other consumption in this state unless the person selling the property, item, or service has taken from the purchaser an exemption certificate:

(i) bearing the name and address of the purchaser; and

(ii) providing that the property, item, or service was exempted under Section 59-12-104.

(b) An exemption certificate described in Subsection (3)(a):

(i) shall contain information as prescribed by the commission; and

(ii) if a paper exemption certificate is used, shall be signed by the purchaser.

(c) (i) Subject to Subsection (3)(c)(ii), a seller or certified service provider is not liable to collect a tax under this chapter if the seller or certified service provider obtains within 90 days after a transaction is complete:

(A) an exemption certificate containing the information required by Subsections (3)(a) and (b); or

(B) the information required by Subsections (3)(a) and (b).

(ii) A seller or certified service provider that does not obtain the exemption certificate or information described in Subsection (3)(c)(i) with respect to a transaction is allowed 120 days after the commission requests the seller or certified service provider to substantiate the exemption to:

(A) establish that the transaction is not subject to taxation under this chapter by a means other than providing an exemption certificate containing the information required by Subsections (3)(a) and (b); or

(B) subject to Subsection (3)(c)(iii), obtain an exemption certificate containing the information required by Subsections (3)(a) and (b), taken in good faith.

(iii) For purposes of Subsection (3)(c)(ii)(B), an exemption certificate is taken in good faith if the exemption certificate claims an exemption that:

(A) was allowed by statute on the date of the transaction in the jurisdiction of the location of the transaction;

(B) could be applicable to that transaction; and

(C) is reasonable for the purchaser's type of business.

(d) Except as provided in Subsection (3)(e), a seller or certified service provider that takes an exemption certificate from a purchaser in accordance with this Subsection (3) with respect to a transaction is not liable to collect a tax under this chapter on that transaction.

(e) Subsection (3)(d) does not apply to a seller or certified service provider if the commission establishes through an audit that the seller or certified service provider:

(i) knew or had reason to know at the time the purchaser provided the seller or certified service provider the information described in Subsection (3)(a) or (b) that the information related to the exemption claimed was materially false; or

(ii) otherwise knowingly participated in activity intended to purposefully evade the tax due on the transaction.

(f) (i) Subject to Subsection (3)(f)(ii) and except as provided in Subsection (3)(f)(iii), if there is a recurring business relationship between a seller or certified service provider and a purchaser, the commission may not require the seller or certified service provider to:

(A) renew an exemption certificate;

(B) update an exemption certificate; or

(C) update a data element of an exemption certificate.

(ii) For purposes of Subsection (3)(f)(i), a recurring business relationship exists if no more than a 12-month period elapses between transactions between a seller or certified service provider and a purchaser.

(iii) If there is a recurring business relationship between a seller or certified service provider and a purchaser, the commission shall require an exemption certificate the seller or certified service provider takes from the purchaser to meet the requirements of Subsections (3)(a) and (b).

(4) A person filing a contract bid with the state or a political subdivision of the state for the sale of tangible personal property or any other taxable transaction under Subsection 59-12-103(1) shall include with the bid the number of the license issued to that person under Subsection (2).

CHAPTER 17
S. B. 81
Passed February 16, 2021
Approved February 25, 2021
Effective February 25, 2021

MEDICAL CANNABIS ELECTRONIC VERIFICATION SYSTEM DEADLINE AMENDMENTS

Chief Sponsor: Evan J. Vickers
House Sponsor: Francis D. Gibson

LONG TITLE

General Description:

This bill delays certain existing operational deadlines for the medical cannabis program's electronic verification system.

Highlighted Provisions:

This bill:

- delays the following existing operational deadlines for the medical cannabis program's electronic verification system:
  - allowing qualified medical provider employee access to the system on behalf of the provider;
  - allowing a prescribing provider access to information in the system regarding a patient the provider treats;
  - allowing a parent or legal guardian who does not qualify for a medical cannabis guardian card to designate caregivers in the system;
  - allowing for an individual from another state to register with the Utah Department of Health to purchase from a medical cannabis pharmacy on a limited basis; and
  - allowing a patient to designate an assisted living facility, nursing care facility, or general acute hospital as a caregiver for medical cannabis purposes; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

26-61a-103, as last amended by Laws of Utah 2020, Chapter 12
26-61a-201, as last amended by Laws of Utah 2020, Chapters 12 and 148
26-61a-202, as last amended by Laws of Utah 2020, Chapter 12

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

Section 1. Section 26-61a-103 is amended to read:

26-61a-103. Electronic verification system.

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

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

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

(c) select a third-party provider who:

(i) meets the requirements contained in the request for proposals issued under Subsection (1)(b); and

(ii) may not have any commercial or ownership interest in a cannabis production establishment or a medical cannabis pharmacy.

(2) The Department of Agriculture and Food, the department, the Department of Public Safety, and the Department of Technology Services shall ensure that, on or before March 1, 2020, the state electronic verification system described in Subsection (1):

(a) allows an individual to apply for a medical cannabis patient card or, if applicable, a medical cannabis guardian card, provided that the card may not become active until the relevant qualified medical provider completes the associated medical cannabis recommendation;

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

(c) allows a qualified medical provider, or an employee described in Subsection (3) acting on behalf of the qualified medical provider, to:

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

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

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

(ii) electronically recommend, after an initial face-to-face visit with a patient described in Subsection 26-61a-201(4)(b), treatment with cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form and optionally recommend dosing guidelines;

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

(A) using telehealth services, for the qualified medical provider who originally recommended a medical cannabis treatment during a face-to-face visit with the patient; or

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

(iv) notate a determination of physical difficulty or undue hardship, described in Subsection 26-61a-202(1), to qualify a patient to designate a caregiver;

(d) connects with:

(i) an inventory control system that a medical cannabis pharmacy uses to track in real time and archive purchases of any cannabis in a medicinal dosage form, cannabis product in a medicinal dosage form, or a medical cannabis device, including:

(A) the time and date of each purchase;

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

(C) any cannabis production establishment, any medical cannabis pharmacy, or any medical cannabis courier associated with the cannabis, cannabis product, or medical cannabis device; and

(D) the personally identifiable information of the medical cannabis cardholder who made the purchase; and

(ii) any commercially available inventory control system that a cannabis production establishment utilizes in accordance with Section 4-41a-103 to use data that the Department of Agriculture and Food requires by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, from the inventory tracking system that a licensee uses to track and confirm compliance;

(e) provides access to:

(i) the department to the extent necessary to carry out the department's functions and responsibilities under this chapter;

(ii) the Department of Agriculture and Food to the extent necessary to carry out the functions and responsibilities of the Department of Agriculture and Food under Title 4, Chapter 41a, Cannabis Production Establishments; and

(iii) the Division of Occupational and Professional Licensing to the extent necessary to carry out the functions and responsibilities related to the participation of the following in the recommendation and dispensing of medical cannabis:

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

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

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

(D) a physician assistant licensed under Title 58, Chapter 70a, Utah Physician Assistant Act;

(f) provides access to and interaction with the state central patient portal;

(g) provides access to state or local law enforcement:

(i) during a law enforcement encounter, without a warrant, using the individual's driver license or state ID, only for the purpose of determining if the individual subject to the law enforcement encounter has a valid medical cannabis card; or

(ii) after obtaining a warrant; and

(h) creates a record each time a person accesses the database that identifies the person who accesses the database and the individual whose records the person accesses.

(3) (a) Beginning on the earlier of [~~January~~] September 1, 2021, or the date on which the electronic verification system is functionally capable of allowing employee access under this Subsection (3), an employee of a qualified medical provider may access the electronic verification system for a purpose described in Subsection (2)(c) on behalf of the qualified medical provider if:

(i) the qualified medical provider has designated the employee as an individual authorized to access the electronic verification system on behalf of the qualified medical provider;

(ii) the qualified medical provider provides written notice to the department of the employee's identity and the designation described in Subsection (3)(a)(i); and

(iii) the department grants to the employee access to the electronic verification system.

(b) An employee of a business that employs a qualified medical provider may access the electronic verification system for a purpose described in Subsection (2)(c) on behalf of the qualified medical provider if:

(i) the qualified medical provider has designated the employee as an individual authorized to access the electronic verification system on behalf of the qualified medical provider;

(ii) the qualified medical provider and the employing business jointly provide written notice to the department of the employee's identity and the designation described in Subsection (3)(b)(i); and

(iii) the department grants to the employee access to the electronic verification system.

(4) (a) As used in this Subsection (4), "prescribing provider" means:

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

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

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

(b) Beginning on the earlier of [~~January~~] September 1, 2021, or the date on which the electronic verification system is functionally capable of allowing provider access under this Subsection (4), a prescribing provider may access

information in the electronic verification system regarding a patient the prescribing provider treats.

(5) The department may release limited data that the system collects for the purpose of:

(a) conducting medical and other department approved research;

(b) providing the report required by Section 26-61a-703; and

(c) other official department purposes.

(6) The department shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish:

(a) the limitations on access to the data in the state electronic verification system as described in this section; and

(b) standards and procedures to ensure accurate identification of an individual requesting information or receiving information in this section.

(7) (a) Any person who knowingly and intentionally releases any information in the state electronic verification system in violation of this section is guilty of a third degree felony.

(b) Any person who negligently or recklessly releases any information in the state electronic verification system in violation of this section is guilty of a class C misdemeanor.

(8) (a) Any person who obtains or attempts to obtain information from the state electronic verification system by misrepresentation or fraud is guilty of a third degree felony.

(b) Any person who obtains or attempts to obtain information from the state electronic verification system for a purpose other than a purpose this chapter authorizes is guilty of a third degree felony.

(9) (a) Except as provided in Subsection (9)(e), a person may not knowingly and intentionally use, release, publish, or otherwise make available to any other person information obtained from the state electronic verification system for any purpose other than a purpose specified in this section.

(b) Each separate violation of this Subsection (9) is:

(i) a third degree felony; and

(ii) subject to a civil penalty not to exceed $5,000.

(c) The department shall determine a civil violation of this Subsection (9) in accordance with Title 63G, Chapter 4, Administrative Procedures Act.

(d) Civil penalties assessed under this Subsection (9) shall be deposited into the General Fund.

(e) This Subsection (9) does not prohibit a person who obtains information from the state electronic verification system under Subsection (2)(a), (c), or (f) from:

(i) including the information in the person's medical chart or file for access by a person authorized to review the medical chart or file;

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

(iii) discussing or sharing that information about the patient with the patient.

Section 2. Section 26-61a-201 is amended to read:

26-61a-201. Medical cannabis patient card -- Medical cannabis guardian card application -- Fees -- Studies.

(1) On or before March 1, 2020, the department shall, within 15 days after the day on which an individual who satisfies the eligibility criteria in this section or Section 26-61a-202 submits an application in accordance with this section or Section 26-61a-202:

(a) issue a medical cannabis patient card to an individual described in Subsection (2)(a);

(b) issue a medical cannabis guardian card to an individual described in Subsection (2)(b);

(c) issue a provisional patient card to a minor described in Subsection (2)(c); and

(d) issue a medical cannabis caregiver card to an individual described in Subsection 26-61a-202(4).

(2) (a) An individual is eligible for a medical cannabis patient card if:

(i) (A) the individual is at least 21 years old; or

(B) the individual is 18, 19, or 20 years old, the individual petitions the Compassionate Use Board under Section 26-61a-105, and the Compassionate Use Board recommends department approval of the petition;

(ii) the individual is a Utah resident;

(iii) the individual's qualified medical provider recommends treatment with medical cannabis in accordance with Subsection (4);

(iv) the individual signs an acknowledgment stating that the individual received the information described in Subsection (8); and

(v) the individual pays to the department a fee in an amount that, subject to Subsection 26-61a-109(5), the department sets in accordance with Section 63J-1-504.

(b) (i) An individual is eligible for a medical cannabis guardian card if the individual:

(A) is at least 18 years old;

(B) is a Utah resident;

(C) is the parent or legal guardian of a minor for whom the minor's qualified medical provider recommends a medical cannabis treatment, the individual petitions the Compassionate Use Board under Section 26-61a-105, and the Compassionate

Use Board recommends department approval of the petition;

(D) the individual signs an acknowledgment stating that the individual received the information described in Subsection (8);

(E) pays to the department a fee in an amount that, subject to Subsection 26-61a-109(5), the department sets in accordance with Section 63J-1-504, plus the cost of the criminal background check described in Section 26-61a-203; and

(F) the individual has not been convicted of a misdemeanor or felony drug distribution offense under either state or federal law, unless the individual completed any imposed sentence six months or more before the day on which the individual applies for a medical cannabis guardian card.

(ii) The department shall notify the Department of Public Safety of each individual that the department registers for a medical cannabis guardian card.

(c) (i) A minor is eligible for a provisional patient card if:

(A) the minor has a qualifying condition;

(B) the minor's qualified medical provider recommends a medical cannabis treatment to address the minor's qualifying condition;

(C) the minor's parent or legal guardian petitions the Compassionate Use Board under Section 26-61a-105, and the Compassionate Use Board recommends department approval of the petition; and

(D) the minor's parent or legal guardian is eligible for a medical cannabis guardian card under Subsection (2)(b) or designates a caregiver under Subsection (2)(d) who is eligible for a medical cannabis caregiver card under Section 26-61a-202.

(ii) The department shall automatically issue a provisional patient card to the minor described in Subsection (2)(c)(i) at the same time the department issues a medical cannabis guardian card to the minor's parent or legal guardian.

(d) Beginning on the earlier of [~~January~~] September 1, 2021, or the date on which the electronic verification system is functionally capable of servicing the designation, if the parent or legal guardian of a minor described in Subsections (2)(c)(i)(A) through (C) does not qualify for a medical cannabis guardian card under Subsection (2)(b), the parent or legal guardian may designate up to two caregivers in accordance with Subsection 26-61a-202(1)(c) to ensure that the minor has adequate and safe access to the recommended medical cannabis treatment.

(3) (a) An individual who is eligible for a medical cannabis card described in Subsection (2)(a) or (b) shall submit an application for a medical cannabis card to the department:

(i) through an electronic application connected to the state electronic verification system;

(ii) with the recommending qualified medical provider; and

(iii) with information including:

(A) the applicant's name, gender, age, and address;

(B) the number of the applicant's valid form of photo identification;

(C) for a medical cannabis guardian card, the name, gender, and age of the minor receiving a medical cannabis treatment under the cardholder's medical cannabis guardian card; and

(D) for a provisional patient card, the name of the minor's parent or legal guardian who holds the associated medical cannabis guardian card.

(b) The department shall ensure that a medical cannabis card the department issues under this section contains the information described in Subsection (3)(a)(iii).

(c) (i) If a qualified medical provider determines that, because of age, illness, or disability, a medical cannabis patient cardholder requires assistance in administering the medical cannabis treatment that the qualified medical provider recommends, the qualified medical provider may indicate the cardholder's need in the state electronic verification system.

(ii) If a qualified medical provider makes the indication described in Subsection (3)(c)(i):

(A) the department shall add a label to the relevant medical cannabis patient card indicating the cardholder's need for assistance; [~~and~~]

(B) any adult who is 18 years old or older and who is physically present with the cardholder at the time the cardholder needs to use the recommended medical cannabis treatment may handle the medical cannabis treatment and any associated medical cannabis device as needed to assist the cardholder in administering the recommended medical cannabis treatment; and

(C) an individual of any age who is physically present with the cardholder in the event of an emergency medical condition, as that term is defined in Section 31A-22-627, may handle the medical cannabis treatment and any associated medical cannabis device as needed to assist the cardholder in administering the recommended medical cannabis treatment.

(iii) A non-cardholding individual acting under Subsection (3)(c)(ii)(B) or (C) may not:

(A) ingest or inhale medical cannabis;

(B) possess, transport, or handle medical cannabis or a medical cannabis device outside of the immediate area where the cardholder is present or with an intent other than to provide assistance to the cardholder; or

(C) possess, transport, or handle medical cannabis or a medical cannabis device when the

cardholder is not in the process of being dosed with medical cannabis.

(4) To recommend a medical cannabis treatment to a patient or to renew a recommendation, a qualified medical provider shall:

(a) before recommending cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form:

(i) verify the patient's and, for a minor patient, the minor patient's parent or legal guardian's valid form of identification described in Subsection (3)(a);

(ii) review any record related to the patient and, for a minor patient, the patient's parent or legal guardian in:

(A) the state electronic verification system; and

(B) the controlled substance database created in Section 58-37f-201; and

(iii) consider the recommendation in light of the patient's qualifying condition and history of medical cannabis and controlled substance use during an initial face-to-face visit with the patient; and

(b) state in the qualified medical provider's recommendation that the patient:

(i) suffers from a qualifying condition, including the type of qualifying condition; and

(ii) may benefit from treatment with cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form.

(5) (a) Except as provided in Subsection (5)(b), a medical cannabis card that the department issues under this section is valid for the lesser of:

(i) an amount of time that the qualified medical provider determines; or

(ii) (A) for the first issuance, 90 days;

(B) except as provided in Subsection (5)(a)(ii)(C), for a renewal, six months; or

(C) for a renewal, one year if, after at least one year following the issuance of the original medical cannabis card, the qualified medical provider determines that the patient has been stabilized on the medical cannabis treatment and a one-year renewal period is justified.

(b) (i) A medical cannabis card that the department issues in relation to a terminal illness described in Section 26-61a-104 does not expire.

(ii) The recommending qualified medical provider may revoke a recommendation that the provider made in relation to a terminal illness described in Section 26-61a-104 if the medical cannabis cardholder no longer has the terminal illness.

(6) (a) A medical cannabis patient card or a medical cannabis guardian card is renewable if:

(i) at the time of renewal, the cardholder meets the requirements of Subsection (2)(a) or (b); or

(ii) the cardholder received the medical cannabis card through the recommendation of the Compassionate Use Board under Section 26-61a-105.

(b) A cardholder described in Subsection (6)(a) may renew the cardholder's card:

(i) using the application process described in Subsection (3); or

(ii) through phone or video conference with the qualified medical provider who made the recommendation underlying the card, at the qualifying medical provider's discretion.

(c) A cardholder under Subsection (2)(a) or (b) who renews the cardholder's card shall pay to the department a renewal fee in an amount that:

(i) subject to Subsection 26-61a-109(5), the department sets in accordance with Section 63J-1-504; and

(ii) may not exceed the cost of the relatively lower administrative burden of renewal in comparison to the original application process.

(d) If a minor meets the requirements of Subsection (2)(c), the minor's provisional patient card renews automatically at the time the minor's parent or legal guardian renews the parent or legal guardian's associated medical cannabis guardian card.

(e) The department may revoke a medical cannabis guardian card if the cardholder under Subsection (2)(b) is convicted of a misdemeanor or felony drug distribution offense under either state or federal law.

(7) (a) A cardholder under this section shall carry the cardholder's valid medical cannabis card with the patient's name.

(b) (i) A medical cannabis patient cardholder or a provisional patient cardholder may purchase, in accordance with this chapter and the recommendation underlying the card, cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device.

(ii) A cardholder under this section may possess or transport, in accordance with this chapter and the recommendation underlying the card, cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device.

(iii) To address the qualifying condition underlying the medical cannabis treatment recommendation:

(A) a medical cannabis patient cardholder or a provisional patient cardholder may use cannabis in a medicinal dosage form, a medical cannabis product in a medicinal dosage form, or a medical cannabis device; and

(B) a medical cannabis guardian cardholder may assist the associated provisional patient cardholder with the use of cannabis in a medicinal dosage form, a medical cannabis product in a medicinal dosage form, or a medical cannabis device.

(c) If a licensed medical cannabis pharmacy is not operating within the state after January 1, 2021, a cardholder under this section:

(i) may possess:

(A) up to the legal dosage limit of unprocessed cannabis in a medicinal dosage form;

(B) up to the legal dosage limit of a cannabis product in a medicinal dosage form; and

(C) marijuana drug paraphernalia; and

(ii) is not subject to prosecution for the possession described in Subsection (7)(c)(i).

(8) The department shall establish by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, a process to provide information regarding the following to an individual receiving a medical cannabis card:

(a) risks associated with medical cannabis treatment;

(b) the fact that a condition's listing as a qualifying condition does not suggest that medical cannabis treatment is an effective treatment or cure for that condition, as described in Subsection 26-61a-104(1); and

(c) other relevant warnings and safety information that the department determines.

(9) The department may establish procedures by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement the application and issuance provisions of this section.

(10) (a) On or before [~~January~~] September 1, 2021, the department shall establish by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, a process to allow an individual from another state to register with the [~~Department of Health~~] department in order to purchase medical cannabis or a medical cannabis device from a medical cannabis pharmacy while the individual is visiting the state.

(b) The department may only provide the registration process described in Subsection (10)(a):

(i) to a nonresident patient; and

(ii) for no more than two visitation periods per calendar year of up to 21 calendar days per visitation period.

(11) (a) A person may submit to the department a request to conduct a research study using medical cannabis cardholder data that the state electronic verification system contains.

(b) The department shall review a request described in Subsection (11)(a) to determine whether an institutional review board, as that term is defined in Section 26-61-102, could approve the research study.

(c) At the time an individual applies for a medical cannabis card, the department shall notify the individual:

(i) of how the individual's information will be used as a cardholder;

(ii) that by applying for a medical cannabis card, unless the individual withdraws consent under Subsection (11)(d), the individual consents to the use of the individual's information for external research; and

(iii) that the individual may withdraw consent for the use of the individual's information for external research at any time, including at the time of application.

(d) An applicant may, through the medical cannabis card application, and a medical cannabis cardholder may, through the state central patient portal, withdraw the applicant's or cardholder's consent to participate in external research at any time.

(e) The department may release, for the purposes of a study described in this Subsection (11), information about a cardholder under this section who consents to participate under Subsection (11)(c).

(f) If an individual withdraws consent under Subsection (11)(d), the withdrawal of consent:

(i) applies to external research that is initiated after the withdrawal of consent; and

(ii) does not apply to research that was initiated before the withdrawal of consent.

(g) The department may establish standards for a medical research study's validity, by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Section 3. Section 26-61a-202 is amended to read:

26-61a-202. Medical cannabis caregiver card -- Registration -- Renewal -- Revocation.

(1) (a) A cardholder described in Section 26-61a-201 may designate, through the state central patient portal, up to two individuals, or an individual and a facility in accordance with Subsection (1)(b), to serve as a designated caregiver for the cardholder if a qualified medical provider notates in the electronic verification system that the provider determines that, due to physical difficulty or undue hardship, including concerns of distance to a medical cannabis pharmacy, the cardholder needs assistance to obtain the medical cannabis treatment that the qualified medical provider recommends.

(b) (i) Beginning on the earlier of [~~January~~] September 1, 2021, or the date on which the electronic verification system is functionally capable of servicing the designation, a cardholder described in Section 26-61a-201 who is a patient in one of the following types of facilities may designate the facility as one of the caregivers described in Subsection (1)(a):

(A) an assisted living facility, as that term is defined in Section 26-21-2;

(B) a nursing care facility, as that term is defined in Section 26-21-2; or

(C) a general acute hospital, as that term is defined in Section 26-21-2.

(ii) A facility may assign one or more employees to assist patients with medical cannabis treatment under the caregiver designation described in this Subsection (1)(b).

(iii) The department shall make rules to regulate the practice of facilities and facility employees serving as designated caregivers under this Subsection (1)(b).

(c) A parent or legal guardian described in Subsection 26-61a-201(2)(d), in consultation with the minor and the minor's qualified medical provider, may designate, through the state central patient portal, up to two individuals to serve as a designated caregiver for the minor, if the department determines that the parent or legal guardian is not eligible for a medical cannabis guardian card under Section 26-61a-201.

(2) An individual that the department registers as a designated caregiver under this section and a facility described in Subsection (1)(b):

(a) for an individual designated caregiver, may carry a valid medical cannabis caregiver card;

(b) in accordance with this chapter, may purchase, possess, transport, or assist the patient in the use of cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device on behalf of the designating medical cannabis cardholder;

(c) may not charge a fee to an individual to act as the individual's designated caregiver or for a service that the designated caregiver provides in relation to the role as a designated caregiver;

(d) may accept reimbursement from the designating medical cannabis cardholder for direct costs the designated caregiver incurs for assisting with the designating cardholder's medicinal use of cannabis; and

(e) if a licensed medical cannabis pharmacy is not operating within the state after January 1, 2021:

(i) may possess up to the legal dosage limit of:

(A) unprocessed medical cannabis in a medicinal dosage form;

(B) a cannabis product in a medicinal dosage form; and

(ii) may possess marijuana drug paraphernalia; and

(iii) is not subject to prosecution for the possession described in Subsection (2)(e)(i).

(3) (a) The department shall:

(i) within 15 days after the day on which an individual submits an application in compliance with this section, issue a medical cannabis card to the applicant if the applicant:

(A) is designated as a caregiver under Subsection (1);

(B) is eligible for a medical cannabis caregiver card under Subsection (4); and

(C) complies with this section; and

(ii) notify the Department of Public Safety of each individual that the department registers as a designated caregiver.

(b) The department shall ensure that a medical cannabis caregiver card contains the information described in Subsection (5)(b).

(4) An individual is eligible for a medical cannabis caregiver card if the individual:

(a) is at least 21 years old;

(b) is a Utah resident;

(c) pays to the department a fee in an amount that, subject to Subsection 26-61a-109(5), the department sets in accordance with Section 63J-1-504, plus the cost of the criminal background check described in Section 26-61a-203;

(d) signs an acknowledgment stating that the applicant received the information described in Subsection 26-61a-201(8); and

(e) has not been convicted of a misdemeanor or felony drug distribution offense that is a felony under either state or federal law, unless the individual completes any imposed sentence two or more years before the day on which the individual submits the application.

(5) An eligible applicant for a medical cannabis caregiver card shall:

(a) submit an application for a medical cannabis caregiver card to the department through an electronic application connected to the state electronic verification system; and

(b) submit the following information in the application described in Subsection (5)(a):

(i) the applicant's name, gender, age, and address;

(ii) the name, gender, age, and address of the cardholder described in Section 26-61a-201 who designated the applicant; and

(iii) if a medical cannabis guardian cardholder designated the caregiver, the name, gender, and age of the minor receiving a medical cannabis treatment in relation to the medical cannabis guardian cardholder.

(6) Except as provided in Subsection (6)(b), a medical cannabis caregiver card that the department issues under this section is valid for the lesser of:

(a) an amount of time that the cardholder described in Section 26-61a-201 who designated the caregiver determines; or

(b) the amount of time remaining before the card of the cardholder described in Section 26-61a-201 expires.

(7) (a) If a designated caregiver meets the requirements of Subsection (4), the designated caregiver's medical cannabis caregiver card renews automatically at the time the cardholder described in Section 26-61a-201 who designated the caregiver:

(i) renews the cardholder's card; and

(ii) renews the caregiver's designation, in accordance with Subsection (7)(b).

(b) The department shall provide a method in the card renewal process to allow a cardholder described in Section 26-61a-201 who has designated a caregiver to:

(i) signify that the cardholder renews the caregiver's designation;

(ii) remove a caregiver's designation; or

(iii) designate a new caregiver.

(8) The department may revoke a medical cannabis caregiver card if the designated caregiver:

(a) violates this chapter; or

(b) is convicted under state or federal law of:

(i) a felony; or

(ii) after December 3, 2018, a misdemeanor for drug distribution.

Section 4. Effective date.

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

CHAPTER 18
S. B. 124
Passed February 24, 2021
Approved February 25, 2021
Effective February 25, 2021

PAROLE AMENDMENTS

Chief Sponsor: Michael K. McKell
House Sponsor: Jefferson S. Burton

LONG TITLE

General Description:

This bill provides that an offender convicted of a homicide may not be released on parole if the offender has not cooperated in the recovery of the victim's remains.

Highlighted Provisions:

This bill:

- prevents an offender convicted of a homicide where the victim's remains have not been recovered from being paroled unless the offender has cooperated with efforts to locate the remains.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

77-27-9, as last amended by Laws of Utah 2019, Chapter 72

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

Section 1. Section 77-27-9 is amended to read:

77-27-9. Parole proceedings.

(1) (a) The Board of Pardons and Parole may parole any offender or terminate the sentence of any offender committed to a penal or correctional facility under the jurisdiction of the Department of Corrections except as provided in Subsection (2).

(b) The board may not release any offender before the minimum term has been served unless the board finds mitigating circumstances which justify the release and unless the board has granted a full hearing, in open session, after previous notice of the time and location of the hearing, and recorded the proceedings and decisions of the board.

(c) The board may not parole any offender or terminate the sentence of any offender unless the board has granted a full hearing, in open session, after previous notice of the time and location of the hearing, and recorded the proceedings and decisions of the board.

(d) The release of an offender shall be at the initiative of the board, which shall consider each case as the offender becomes eligible. However, a prisoner may submit the prisoner's own application, subject to the rules of the board promulgated in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(2) (a) An individual sentenced to prison prior to April 29, 1996, for a first degree felony involving child kidnapping, a violation of Section 76-5-301.1; aggravated kidnapping, a violation of Section 76-5-302; rape of a child, a violation of Section 76-5-402.1; object rape of a child, a violation of Section 76-5-402.3; sodomy upon a child, a violation of Section 76-5-403.1; aggravated sexual abuse of a child, a violation of Subsection 76-5-404.1(4); aggravated sexual assault, a violation of Section 76-5-405; or a prior offense as described in Section 76-3-407, may not be eligible for release on parole by the Board of Pardons and Parole until the offender has fully completed serving the minimum mandatory sentence imposed by the court. This Subsection (2)(a) supersedes any other provision of law.

(b) The board may not parole any offender or commute or terminate the sentence of any offender before the offender has served the minimum term for the offense, if the offender was sentenced prior to April 29, 1996, and if:

(i) the offender was convicted of forcible sexual abuse, forcible sodomy, rape, aggravated assault, kidnapping, aggravated kidnapping, or aggravated sexual assault as defined in Title 76, Chapter 5, Offenses Against the Person; and

(ii) the victim of the offense was under 18 years [~~of age~~] old at the time the offense was committed.

(c) For a crime committed on or after April 29, 1996, but before January 1, 2019, the board may parole any offender under Subsections (2)(b)(i) and (ii) for lifetime parole as provided in this section.

(d) The board may not pardon or parole any offender or commute or terminate the sentence of any offender who is sentenced to life in prison without parole except as provided in Subsection (7).

(e) On or after April 27, 1992, the board may commute a sentence of death only to a sentence of life in prison without parole.

(f) The restrictions imposed in Subsections (2)(d) and (e) apply to all cases that come before the Board of Pardons and Parole on or after April 27, 1992.

(g) The board may not parole any offender convicted of a homicide unless:

(i) the remains of the victim have been recovered; or

(ii) the offender can demonstrate by a preponderance of the evidence that the offender has cooperated in good faith in efforts to locate the remains.

(3) The board may rescind:

(a) an inmate's prison release date prior to the inmate being released from custody; or

(b) an offender's termination date from parole prior to the offender being terminated from parole.

(4) (a) The board may issue subpoenas to compel the attendance of witnesses and the production of evidence, to administer oaths, and to take testimony for the purpose of any investigation by

the board or any of [~~its~~] the board's members or by a designated hearing examiner in the performance of its duties.

(b) A person who willfully disobeys a properly served subpoena issued by the board is guilty of a class B misdemeanor.

(5) (a) The board may adopt rules consistent with law for [~~its~~] the board's government, meetings and hearings, the conduct of proceedings before [~~it~~] the board, the parole and pardon of offenders, the commutation and termination of sentences, and the general conditions under which parole may be granted and revoked.

(b) The rules shall ensure an adequate opportunity for victims to participate at hearings held under this chapter, as provided in Section 77-27-9.5.

(c) The rules may allow the board to establish reasonable and equitable time limits on the presentations by all participants in hearings held under this chapter.

(6) The board does not provide counseling or therapy for victims as a part of their participation in any hearing under this chapter.

(7) The board may parole a person sentenced to life in prison without parole if the board finds by clear and convincing evidence that the person is permanently incapable of being a threat to the safety of society.

Section 2. Effective date.

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

CHAPTER 19
S. B. 41
Passed February 12, 2021
Approved March 2, 2021
Effective March 2, 2021

MENTAL HEALTH ACCESS AMENDMENTS

Chief Sponsor: Luz Escamilla
House Sponsor: Stewart E. Barlow

LONG TITLE

General Description:

This bill modifies an insurer's responsibilities for mental health coverage.

Highlighted Provisions:

This bill:

- defines terms; and
- requires a health benefit plan to reimburse for telehealth services for a mental health condition if certain conditions are met.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

31A-22-649.5, as enacted by Laws of Utah 2020, Chapter 119

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

Section 1. Section 31A-22-649.5 is amended to read:

31A-22-649.5. Insurance parity for telemedicine services.

(1) As used in this section:

(a) "Mental health condition" means the same as that term is defined in Section 31A-22-625.

[~~(a)~~] (b) "Telehealth services" means the same as that term is defined in Section 26-60-102.

[~~(b)~~] (c) "Telemedicine services" means the same as that term is defined in Section 26-60-102.

(2) Notwithstanding the provisions of Section 31A-22-618.5, a health benefit plan offered in the individual market, the small group market, or the large group market [~~and entered into or renewed on or after January 1, 2021,~~] shall:

(a) provide coverage for telemedicine services that are covered by Medicare; [~~and~~]

(b) reimburse, at a commercially reasonable rate, a network provider that provides the telemedicine services described in Subsection (2)(a)[~~.~~]; and

(c) provide coverage for medically necessary treatment of a mental health condition through telehealth services if:

(i) the health benefit plan provides coverage for the treatment of the mental health condition through in person services; and

(ii) the insurer determines treatment of the mental health condition through telehealth services meets the appropriate standard of care.

(3) Notwithstanding Section 31A-45-303, a health benefit plan providing treatment under Subsection (2) may not impose originating site restrictions, geographic restrictions, or distance-based restrictions.

Section 2. Effective date.

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

CHAPTER 20
S. B. 92
Passed March 4, 2021
Approved March 5, 2021
Effective March 5, 2021

ELECTIONS AMENDMENTS

Chief Sponsor: Wayne A. Harper
House Sponsor: Norman K. Thurston

LONG TITLE

General Description:

This bill amends provisions relating to election law.

Highlighted Provisions:

This bill:

- defines terms;
- addresses the level of detail required for reports of contributions and expenditures;
- provides that a regulated officeholder is not required to file a conflict of interest disclosure at the time of filing for reelection to office if the regulated officeholder already filed a disclosure earlier the same year and indicates that the disclosure is accurate and up-to-date;
- amends provisions relating to permissible uses of campaign funds;
- amends contribution reporting requirements for certain reporting entities;
- amends provisions relating to an anonymous campaign donation;
- amends the definition of an expenditure under the Lobbyist Disclosure and Regulation Act; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

20A-9-201, as last amended by Laws of Utah 2020, Chapter 22
20A-11-101, as last amended by Laws of Utah 2020, Chapter 22
20A-11-101.3, as enacted by Laws of Utah 2014, Chapter 18
20A-11-104, as last amended by Laws of Utah 2019, Chapter 204
20A-11-201, as last amended by Laws of Utah 2019, Chapter 74
20A-11-204, as last amended by Laws of Utah 2019, Chapter 74
20A-11-206, as last amended by Laws of Utah 2020, Chapters 22 and 31
20A-11-301, as last amended by Laws of Utah 2019, Chapter 74
20A-11-303, as last amended by Laws of Utah 2019, Chapter 74
20A-11-305, as last amended by Laws of Utah 2020, Chapters 22 and 31
20A-11-403, as last amended by Laws of Utah 2020, Chapter 22
20A-11-705, as last amended by Laws of Utah 2018, Chapter 83
20A-11-801, as last amended by Laws of Utah 2020, Chapter 22
20A-11-1301, as last amended by Laws of Utah 2019, Chapter 74
20A-11-1303, as last amended by Laws of Utah 2019, Chapter 74
20A-11-1602, as last amended by Laws of Utah 2020, Chapter 344
20A-11-1602.5, as enacted by Laws of Utah 2019, Chapter 266
20A-11-1603, as last amended by Laws of Utah 2019, Chapter 266
20A-11-1604, as last amended by Laws of Utah 2019, Chapter 266
20A-11-1605, as last amended by Laws of Utah 2020, Chapter 22
20A-11-1706, as enacted by Laws of Utah 2014, Chapter 60
20A-12-303, as last amended by Laws of Utah 2018, Chapter 83
36-11-102, as last amended by Laws of Utah 2019, Chapter 363

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

Section 1. Section 20A-9-201 is amended to read:

20A-9-201. Declarations of candidacy -- Candidacy for more than one office or of more than one political party prohibited with exceptions -- General filing and form requirements -- Affidavit of impecuniosity.

(1) Before filing a declaration of candidacy for election to any office, an individual shall:

(a) be a United States citizen;

(b) meet the legal requirements of that office; and

(c) if seeking a registered political party's nomination as a candidate for elective office, state:

(i) the registered political party of which the individual is a member; or

(ii) that the individual is not a member of a registered political party.

(2) (a) Except as provided in Subsection (2)(b), an individual may not:

(i) file a declaration of candidacy for, or be a candidate for, more than one office in Utah during any election year;

(ii) appear on the ballot as the candidate of more than one political party; or

(iii) file a declaration of candidacy for a registered political party of which the individual is not a member, except to the extent that the registered political party permits otherwise in the registered political party's bylaws.

(b) (i) An individual may file a declaration of candidacy for, or be a candidate for, president or vice president of the United States and another office, if the individual resigns the individual's candidacy for the other office after the individual is officially nominated for president or vice president of the United States.

(ii) An individual may file a declaration of candidacy for, or be a candidate for, more than one justice court judge office.

(iii) An individual may file a declaration of candidacy for lieutenant governor even if the individual filed a declaration of candidacy for another office in the same election year if the individual withdraws as a candidate for the other office in accordance with Subsection 20A-9-202(6) before filing the declaration of candidacy for lieutenant governor.

(3) (a) Except for a candidate for president or vice president of the United States, before the filing officer may accept any declaration of candidacy, the filing officer shall:

(i) read to the individual the constitutional and statutory qualification requirements for the office that the individual is seeking;

(ii) require the individual to state whether the individual meets the requirements described in Subsection (3)(a)(i); [~~and~~]

(iii) if the declaration of candidacy is for a county office, inform the individual that an individual who holds a county elected office may not, at the same time, hold a municipal elected office[~~.~~]; and

(iv) if the declaration of candidacy is for a legislative office, inform the individual that Utah Constitution, Article VI, Section 6, prohibits a person who holds a public office of profit or trust, under authority of the United States or Utah, from being a member of the Legislature.

(b) Before accepting a declaration of candidacy for the office of county attorney, the county clerk shall ensure that the individual filing that declaration of candidacy is:

(i) a United States citizen;

(ii) an attorney licensed to practice law in the state who is an active member in good standing of the Utah State Bar;

(iii) a registered voter in the county in which the individual is seeking office; and

(iv) a current resident of the county in which the individual is seeking office and either has been a resident of that county for at least one year or was appointed and is currently serving as county attorney and became a resident of the county within 30 days after appointment to the office.

(c) Before accepting a declaration of candidacy for the office of district attorney, the county clerk shall ensure that, as of the date of the election, the individual filing that declaration of candidacy is:

(i) a United States citizen;

(ii) an attorney licensed to practice law in the state who is an active member in good standing of the Utah State Bar;

(iii) a registered voter in the prosecution district in which the individual is seeking office; and

(iv) a current resident of the prosecution district in which the individual is seeking office and either will have been a resident of that prosecution district for at least one year as of the date of the election or was appointed and is currently serving as district attorney and became a resident of the prosecution district within 30 days after receiving appointment to the office.

(d) Before accepting a declaration of candidacy for the office of county sheriff, the county clerk shall ensure that the individual filing the declaration:

(i) is a United States citizen;

(ii) is a registered voter in the county in which the individual seeks office;

(iii) (A) has successfully met the standards and training requirements established for law enforcement officers under Title 53, Chapter 6, Part 2, Peace Officer Training and Certification Act; or

(B) has met the waiver requirements in Section 53-6-206;

(iv) is qualified to be certified as a law enforcement officer, as defined in Section 53-13-103; and

(v) as of the date of the election, will have been a resident of the county in which the individual seeks office for at least one year.

(e) Before accepting a declaration of candidacy for the office of governor, lieutenant governor, state auditor, state treasurer, attorney general, state legislator, or State Board of Education member, the filing officer shall ensure[~~: (i)~~] that the individual filing the declaration of candidacy also makes the conflict of interest disclosure [~~required by~~] described in Section 20A-11-1603[~~; and~~].

[~~(ii) until January 1, 2020, if the filing officer is not the lieutenant governor, that the individual provides the conflict of interest disclosure form to the lieutenant governor in accordance with Section 20A-11-1603.~~]

(4) If an individual who files a declaration of candidacy does not meet the qualification requirements for the office the individual is seeking, the filing officer may not accept the individual's declaration of candidacy.

(5) If an individual who files a declaration of candidacy meets the requirements described in Subsection (3), the filing officer shall:

(a) inform the individual that:

(i) the individual's name will appear on the ballot as the individual's name is written on the individual's declaration of candidacy;

(ii) the individual may be required to comply with state or local campaign finance disclosure laws; and

(iii) the individual is required to file a financial statement before the individual's political convention under:

(A) Section 20A-11-204 for a candidate for constitutional office;

(B) Section 20A-11-303 for a candidate for the Legislature; or

(C) local campaign finance disclosure laws, if applicable;

(b) except for a presidential candidate, provide the individual with a copy of the current campaign financial disclosure laws for the office the individual is seeking and inform the individual that failure to comply will result in disqualification as a candidate and removal of the individual's name from the ballot;

(c) provide the individual with a copy of Section 20A-7-801 regarding the Statewide Electronic Voter Information Website Program and inform the individual of the submission deadline under Subsection 20A-7-801(4)(a);

(d) provide the candidate with a copy of the pledge of fair campaign practices described under Section 20A-9-206 and inform the candidate that:

(i) signing the pledge is voluntary; and

(ii) signed pledges shall be filed with the filing officer;

(e) accept the individual's declaration of candidacy; and

(f) if the individual has filed for a partisan office, provide a certified copy of the declaration of candidacy to the chair of the county or state political party of which the individual is a member.

(6) If the candidate elects to sign the pledge of fair campaign practices, the filing officer shall:

(a) accept the candidate's pledge; and

(b) if the candidate has filed for a partisan office, provide a certified copy of the candidate's pledge to the chair of the county or state political party of which the candidate is a member.

(7) (a) Except for a candidate for president or vice president of the United States, the form of the declaration of candidacy shall:

(i) be substantially as follows:

"State of Utah, County of ____

I, _____, declare my candidacy for the office of ____, seeking the nomination of the ____ party. I do solemnly swear that: I will meet the qualifications to hold the office, both legally and constitutionally, if selected; I reside at _____ in the City or Town of ____, Utah, Zip Code ____ Phone No. ____; I will not knowingly violate any law governing campaigns and elections; if filing via a designated agent, I will be out of the state of Utah during the entire candidate filing period; I will file all campaign financial disclosure reports as required by law; and I understand that failure to do so will result in my disqualification as a candidate for this office and removal of my name from the ballot. The mailing address that I designate for receiving official election notices is _____.

_____

Subscribed and sworn before me this _____(month\day\year).

Notary Public (or other officer qualified to administer oath)."; and

(ii) require the candidate to state, in the sworn statement described in Subsection (7)(a)(i):

(A) the registered political party of which the candidate is a member; or

(B) that the candidate is not a member of a registered political party.

(b) An agent designated under Subsection 20A-9-202(1)(c) to file a declaration of candidacy may not sign the form described in Subsection (7)(a) or Section 20A-9-408.5.

(8) (a) Except for a candidate for president or vice president of the United States, the fee for filing a declaration of candidacy is:

(i) $50 for candidates for the local school district board; and

(ii) $50 plus 1/8 of 1% of the total salary for the full term of office legally paid to the person holding the office for all other federal, state, and county offices.

(b) Except for presidential candidates, the filing officer shall refund the filing fee to any candidate:

(i) who is disqualified; or

(ii) who the filing officer determines has filed improperly.

(c) (i) The county clerk shall immediately pay to the county treasurer all fees received from candidates.

(ii) The lieutenant governor shall:

(A) apportion to and pay to the county treasurers of the various counties all fees received for filing of nomination certificates or acceptances; and

(B) ensure that each county receives that proportion of the total amount paid to the lieutenant governor from the congressional district that the total vote of that county for all candidates for representative in Congress bears to the total vote of all counties within the congressional district for all candidates for representative in Congress.

(d) (i) A person who is unable to pay the filing fee may file a declaration of candidacy without payment of the filing fee upon a prima facie showing of impecuniosity as evidenced by an affidavit of impecuniosity filed with the filing officer and, if requested by the filing officer, a financial statement filed at the time the affidavit is submitted.

(ii) A person who is able to pay the filing fee may not claim impecuniosity.

(iii) (A) False statements made on an affidavit of impecuniosity or a financial statement filed under this section shall be subject to the criminal penalties provided under Sections 76-8-503 and 76-8-504 and any other applicable criminal provision.

(B) Conviction of a criminal offense under Subsection (8)(d)(iii)(A) shall be considered an offense under this title for the purposes of assessing the penalties provided in Subsection 20A-1-609(2).

(iv) The filing officer shall ensure that the affidavit of impecuniosity is printed in substantially the following form:

"Affidavit of Impecuniosity

Individual Name _____

Address_____

Phone Number _____

I,_____(name), do solemnly [swear] [affirm], under penalty of law for false statements, that, owing to my poverty, I am unable to pay the filing fee required by law.

Date _____

Signature_____

Affiant

Subscribed and sworn to before me on _____ (month\day\year)

_____
(signature)

Name and Title of Officer Authorized to Administer Oath _____".

(v) The filing officer shall provide to a person who requests an affidavit of impecuniosity a statement printed in substantially the following form, which may be included on the affidavit of impecuniosity:

"Filing a false statement is a criminal offense. In accordance with Section 20A-1-609, a candidate who is found guilty of filing a false statement, in addition to being subject to criminal penalties, will be removed from the ballot."

(vi) The filing officer may request that a person who makes a claim of impecuniosity under this Subsection (8)(d) file a financial statement on a form prepared by the election official.

(9) An individual who fails to file a declaration of candidacy or certificate of nomination within the time provided in this chapter is ineligible for nomination to office.

(10) A declaration of candidacy filed under this section may not be amended or modified after the final date established for filing a declaration of candidacy.

Section 2. Section 20A-11-101 is amended to read:

20A-11-101. Definitions.

As used in this chapter:

(1) (a) "Address" means the number and street where an individual resides or where a reporting entity has its principal office.

(b) "Address" does not include a post office box.

(2) "Agent of a reporting entity" means:

(a) a person acting on behalf of a reporting entity at the direction of the reporting entity;

(b) a person employed by a reporting entity in the reporting entity's capacity as a reporting entity;

(c) the personal campaign committee of a candidate or officeholder;

(d) a member of the personal campaign committee of a candidate or officeholder in the member's capacity as a member of the personal campaign committee of the candidate or officeholder; or

(e) a political consultant of a reporting entity.

(3) "Ballot proposition" includes initiatives, referenda, proposed constitutional amendments, and any other ballot propositions submitted to the voters that are authorized by the Utah Code Annotated 1953.

(4) "Candidate" means any person who:

(a) files a declaration of candidacy for a public office; or

(b) receives contributions, makes expenditures, or gives consent for any other person to receive contributions or make expenditures to bring about the person's nomination or election to a public office.

(5) "Chief election officer" means:

(a) the lieutenant governor for state office candidates, legislative office candidates, officeholders, political parties, political action committees, corporations, political issues committees, state school board candidates, judges, and labor organizations, as defined in Section 20A-11-1501; and

(b) the county clerk for local school board candidates.

(6) (a) "Contribution" means any of the following when done for political purposes:

(i) a gift, subscription, donation, loan, advance, or deposit of money or anything of value given to the filing entity;

(ii) an express, legally enforceable contract, promise, or agreement to make a gift, subscription, donation, unpaid or partially unpaid loan, advance, or deposit of money or anything of value to the filing entity;

(iii) any transfer of funds from another reporting entity to the filing entity;

(iv) compensation paid by any person or reporting entity other than the filing entity for personal services provided without charge to the filing entity;

(v) remuneration from:

(A) any organization or its directly affiliated organization that has a registered lobbyist; or

(B) any agency or subdivision of the state, including school districts;

(vi) a loan made by a candidate deposited to the candidate's own campaign; and

(vii) in-kind contributions.

(b) "Contribution" does not include:

(i) services provided by individuals volunteering a portion or all of their time on behalf of the filing

entity if the services are provided without compensation by the filing entity or any other person;

(ii) money lent to the filing entity by a financial institution in the ordinary course of business; or

(iii) goods or services provided for the benefit of a political entity at less than fair market value that are not authorized by or coordinated with the political entity.

(7) "Coordinated with" means that goods or services provided for the benefit of a political entity are provided:

(a) with the political entity's prior knowledge, if the political entity does not object;

(b) by agreement with the political entity;

(c) in coordination with the political entity; or

(d) using official logos, slogans, and similar elements belonging to a political entity.

(8) (a) "Corporation" means a domestic or foreign, profit or nonprofit, business organization that is registered as a corporation or is authorized to do business in a state and makes any expenditure from corporate funds for:

(i) the purpose of expressly advocating for political purposes; or

(ii) the purpose of expressly advocating the approval or the defeat of any ballot proposition.

(b) "Corporation" does not mean:

(i) a business organization's political action committee or political issues committee; or

(ii) a business entity organized as a partnership or a sole proprietorship.

(9) "County political party" means, for each registered political party, all of the persons within a single county who, under definitions established by the political party, are members of the registered political party.

(10) "County political party officer" means a person whose name is required to be submitted by a county political party to the lieutenant governor in accordance with Section 20A-8-402.

(11) "Detailed listing" means:

(a) for each contribution or public service assistance:

(i) the name and address of the individual or source making the contribution or public service assistance, except to the extent that the name or address of the individual or source is unknown;

(ii) the amount or value of the contribution or public service assistance; and

(iii) the date the contribution or public service assistance was made; and

(b) for each expenditure:

(i) the amount of the expenditure;

[~~(ii) the person or entity to whom it was disbursed;~~]

[~~(iii)~~] (ii) the [~~specific purpose, item, or service~~] goods or services acquired by the expenditure; and

[~~(iv)~~] (iii) the date the expenditure was made.

(12) (a) "Donor" means a person that gives money, including a fee, due, or assessment for membership in the corporation, to a corporation without receiving full and adequate consideration for the money.

(b) "Donor" does not include a person that signs a statement that the corporation may not use the money for an expenditure or political issues expenditure.

(13) "Election" means each:

(a) regular general election;

(b) regular primary election; and

(c) special election at which candidates are eliminated and selected.

(14) "Electioneering communication" means a communication that:

(a) has at least a value of $10,000;

(b) clearly identifies a candidate or judge; and

(c) is disseminated through the Internet, newspaper, magazine, outdoor advertising facility, direct mailing, broadcast, cable, or satellite provider within 45 days of the clearly identified candidate's or judge's election date.

(15) (a) "Expenditure" means any of the following made by a reporting entity or an agent of a reporting entity on behalf of the reporting entity:

(i) any disbursement from contributions, receipts, or from the separate bank account required by this chapter;

(ii) a purchase, payment, donation, distribution, loan, advance, deposit, gift of money, or anything of value made for political purposes;

(iii) an express, legally enforceable contract, promise, or agreement to make any purchase, payment, donation, distribution, loan, advance, deposit, gift of money, or anything of value for political purposes;

(iv) compensation paid by a filing entity for personal services rendered by a person without charge to a reporting entity;

(v) a transfer of funds between the filing entity and a candidate's personal campaign committee; [~~or~~]

(vi) goods or services provided by the filing entity to or for the benefit of another reporting entity for political purposes at less than fair market value[~~.~~]; or

(vii) an independent expenditure, as defined in Section 20A-11-1702.

(b) "Expenditure" does not include:

(i) services provided without compensation by individuals volunteering a portion or all of their time on behalf of a reporting entity;

(ii) money lent to a reporting entity by a financial institution in the ordinary course of business; or

(iii) anything listed in Subsection (15)(a) that is given by a reporting entity to candidates for office or officeholders in states other than Utah.

(16) "Federal office" means the office of president of the United States, United States Senator, or United States Representative.

(17) "Filing entity" means the reporting entity that is required to file a financial statement required by this chapter or Chapter 12, Part 2, Judicial Retention Elections.

(18) "Financial statement" includes any summary report, interim report, verified financial statement, or other statement disclosing contributions, expenditures, receipts, donations, or disbursements that is required by this chapter or Chapter 12, Part 2, Judicial Retention Elections.

(19) "Governing board" means the individual or group of individuals that determine the candidates and committees that will receive expenditures from a political action committee, political party, or corporation.

(20) "Incorporation" means the process established by Title 10, Chapter 2a, Municipal Incorporation, by which a geographical area becomes legally recognized as a city, town, or metro township.

(21) "Incorporation election" means the election conducted under Section 10-2a-210 or 10-2a-404.

(22) "Incorporation petition" means a petition described in Section 10-2a-208.

(23) "Individual" means a natural person.

(24) "In-kind contribution" means anything of value, other than money, that is accepted by or coordinated with a filing entity.

(25) "Interim report" means a report identifying the contributions received and expenditures made since the last report.

(26) "Legislative office" means the office of state senator, state representative, speaker of the House of Representatives, president of the Senate, and the leader, whip, and assistant whip of any party caucus in either house of the Legislature.

(27) "Legislative office candidate" means a person who:

(a) files a declaration of candidacy for the office of state senator or state representative;

(b) declares oneself to be a candidate for, or actively campaigns for, the position of speaker of the House of Representatives, president of the Senate, or the leader, whip, and assistant whip of any party caucus in either house of the Legislature; or

(c) receives contributions, makes expenditures, or gives consent for any other person to receive contributions or make expenditures to bring about the person's nomination, election, or appointment to a legislative office.

(28) "Loan" means any of the following provided by a person that benefits a filing entity if the person expects repayment or reimbursement:

(a) an expenditure made using any form of payment;

(b) money or funds received by the filing entity;

(c) the provision of a good or service with an agreement or understanding that payment or reimbursement will be delayed; or

(d) use of any line of credit.

(29) "Major political party" means either of the two registered political parties that have the greatest number of members elected to the two houses of the Legislature.

(30) "Officeholder" means a person who holds a public office.

(31) "Party committee" means any committee organized by or authorized by the governing board of a registered political party.

(32) "Person" means both natural and legal persons, including individuals, business organizations, personal campaign committees, party committees, political action committees, political issues committees, and labor organizations, as defined in Section 20A-11-1501.

(33) "Personal campaign committee" means the committee appointed by a candidate to act for the candidate as provided in this chapter.

(34) "Personal use expenditure" has the same meaning as provided under Section 20A-11-104.

(35) (a) "Political action committee" means an entity, or any group of individuals or entities within or outside this state, a major purpose of which is to:

(i) solicit or receive contributions from any other person, group, or entity for political purposes; or

(ii) make expenditures to expressly advocate for any person to refrain from voting or to vote for or against any candidate or person seeking election to a municipal or county office.

(b) "Political action committee" includes groups affiliated with a registered political party but not authorized or organized by the governing board of the registered political party that receive contributions or makes expenditures for political purposes.

(c) "Political action committee" does not mean:

(i) a party committee;

(ii) any entity that provides goods or services to a candidate or committee in the regular course of its business at the same price that would be provided to the general public;

(iii) an individual;

(iv) individuals who are related and who make contributions from a joint checking account;

(v) a corporation, except a corporation a major purpose of which is to act as a political action committee; or

(vi) a personal campaign committee.

(36) (a) "Political consultant" means a person who is paid by a reporting entity, or paid by another person on behalf of and with the knowledge of the reporting entity, to provide political advice to the reporting entity.

(b) "Political consultant" includes a circumstance described in Subsection (36)(a), where the person:

(i) has already been paid, with money or other consideration;

(ii) expects to be paid in the future, with money or other consideration; or

(iii) understands that the person may, in the discretion of the reporting entity or another person on behalf of and with the knowledge of the reporting entity, be paid in the future, with money or other consideration.

(37) "Political convention" means a county or state political convention held by a registered political party to select candidates.

(38) "Political entity" means a candidate, a political party, a political action committee, or a political issues committee.

(39) (a) "Political issues committee" means an entity, or any group of individuals or entities within or outside this state, a major purpose of which is to:

(i) solicit or receive donations from any other person, group, or entity to assist in placing a ballot proposition on the ballot, assist in keeping a ballot proposition off the ballot, or to advocate that a voter refrain from voting or vote for or vote against any ballot proposition;

(ii) make expenditures to expressly advocate for any person to sign or refuse to sign a ballot proposition or incorporation petition or refrain from voting, vote for, or vote against any proposed ballot proposition or an incorporation in an incorporation election; or

(iii) make expenditures to assist in qualifying or placing a ballot proposition on the ballot or to assist in keeping a ballot proposition off the ballot.

(b) "Political issues committee" does not mean:

(i) a registered political party or a party committee;

(ii) any entity that provides goods or services to an individual or committee in the regular course of its business at the same price that would be provided to the general public;

(iii) an individual;

(iv) individuals who are related and who make contributions from a joint checking account;

(v) a corporation, except a corporation a major purpose of which is to act as a political issues committee; or

(vi) a group of individuals who:

(A) associate together for the purpose of challenging or supporting a single ballot proposition, ordinance, or other governmental action by a county, city, town, local district, special service district, or other local political subdivision of the state;

(B) have a common liberty, property, or financial interest that is directly impacted by the ballot proposition, ordinance, or other governmental action;

(C) do not associate together, for the purpose described in Subsection (39)(b)(vi)(A), via a legal entity;

(D) do not receive funds for challenging or supporting the ballot proposition, ordinance, or other governmental action from a person other than an individual in the group; and

(E) do not expend a total of more than $5,000 for the purpose described in Subsection (39)(b)(vi)(A).

(40) (a) "Political issues contribution" means any of the following:

(i) a gift, subscription, unpaid or partially unpaid loan, advance, or deposit of money or anything of value given to a political issues committee;

(ii) an express, legally enforceable contract, promise, or agreement to make a political issues donation to influence the approval or defeat of any ballot proposition;

(iii) any transfer of funds received by a political issues committee from a reporting entity;

(iv) compensation paid by another reporting entity for personal services rendered without charge to a political issues committee; and

(v) goods or services provided to or for the benefit of a political issues committee at less than fair market value.

(b) "Political issues contribution" does not include:

(i) services provided without compensation by individuals volunteering a portion or all of their time on behalf of a political issues committee; or

(ii) money lent to a political issues committee by a financial institution in the ordinary course of business.

(41) (a) "Political issues expenditure" means any of the following when made by a political issues committee or on behalf of a political issues committee by an agent of the reporting entity:

(i) any payment from political issues contributions made for the purpose of influencing the approval or the defeat of:

(A) a ballot proposition; or

(B) an incorporation petition or incorporation election;

(ii) a purchase, payment, distribution, loan, advance, deposit, or gift of money made for the express purpose of influencing the approval or the defeat of:

(A) a ballot proposition; or

(B) an incorporation petition or incorporation election;

(iii) an express, legally enforceable contract, promise, or agreement to make any political issues expenditure;

(iv) compensation paid by a reporting entity for personal services rendered by a person without charge to a political issues committee; or

(v) goods or services provided to or for the benefit of another reporting entity at less than fair market value.

(b) "Political issues expenditure" does not include:

(i) services provided without compensation by individuals volunteering a portion or all of their time on behalf of a political issues committee; or

(ii) money lent to a political issues committee by a financial institution in the ordinary course of business.

(42) "Political purposes" means an act done with the intent or in a way to influence or tend to influence, directly or indirectly, any person to refrain from voting or to vote for or against any:

(a) candidate or a person seeking a municipal or county office at any caucus, political convention, or election; or

(b) judge standing for retention at any election.

(43) (a) "Poll" means the survey of a person regarding the person's opinion or knowledge of an individual who has filed a declaration of candidacy for public office, or of a ballot proposition that has legally qualified for placement on the ballot, which is conducted in person or by telephone, facsimile, Internet, postal mail, or email.

(b) "Poll" does not include:

(i) a ballot; or

(ii) an interview of a focus group that is conducted, in person, by one individual, if:

(A) the focus group consists of more than three, and less than thirteen, individuals; and

(B) all individuals in the focus group are present during the interview.

(44) "Primary election" means any regular primary election held under the election laws.

(45) "Publicly identified class of individuals" means a group of 50 or more individuals sharing a common occupation, interest, or association that contribute to a political action committee or political issues committee and whose names can be obtained by contacting the political action committee or political issues committee upon whose financial statement the individuals are listed.

(46) "Public office" means the office of governor, lieutenant governor, state auditor, state treasurer, attorney general, state school board member, state senator, state representative, speaker of the House of Representatives, president of the Senate, and the leader, whip, and assistant whip of any party caucus in either house of the Legislature.

(47) (a) "Public service assistance" means the following when given or provided to an officeholder to defray the costs of functioning in a public office or aid the officeholder to communicate with the officeholder's constituents:

(i) a gift, subscription, donation, unpaid or partially unpaid loan, advance, or deposit of money or anything of value to an officeholder; or

(ii) goods or services provided at less than fair market value to or for the benefit of the officeholder.

(b) "Public service assistance" does not include:

(i) anything provided by the state;

(ii) services provided without compensation by individuals volunteering a portion or all of their time on behalf of an officeholder;

(iii) money lent to an officeholder by a financial institution in the ordinary course of business;

(iv) news coverage or any publication by the news media; or

(v) any article, story, or other coverage as part of any regular publication of any organization unless substantially all the publication is devoted to information about the officeholder.

(48) "Receipts" means contributions and public service assistance.

(49) "Registered lobbyist" means a person licensed under Title 36, Chapter 11, Lobbyist Disclosure and Regulation Act.

(50) "Registered political action committee" means any political action committee that is required by this chapter to file a statement of organization with the Office of the Lieutenant Governor.

(51) "Registered political issues committee" means any political issues committee that is required by this chapter to file a statement of organization with the Office of the Lieutenant Governor.

(52) "Registered political party" means an organization of voters that:

(a) participated in the last regular general election and polled a total vote equal to 2% or more of the total votes cast for all candidates for the United States House of Representatives for any of its candidates for any office; or

(b) has complied with the petition and organizing procedures of Chapter 8, Political Party Formation and Procedures.

(53) (a) "Remuneration" means a payment:

(i) made to a legislator for the period the Legislature is in session; and

(ii) that is approximately equivalent to an amount a legislator would have earned during the period the Legislature is in session in the legislator's ordinary course of business.

(b) "Remuneration" does not mean anything of economic value given to a legislator by:

(i) the legislator's primary employer in the ordinary course of business; or

(ii) a person or entity in the ordinary course of business:

(A) because of the legislator's ownership interest in the entity; or

(B) for services rendered by the legislator on behalf of the person or entity.

(54) "Reporting entity" means a candidate, a candidate's personal campaign committee, a judge, a judge's personal campaign committee, an officeholder, a party committee, a political action committee, a political issues committee, a corporation, or a labor organization, as defined in Section 20A-11-1501.

(55) "School board office" means the office of state school board.

(56) (a) "Source" means the person or entity that is the legal owner of the tangible or intangible asset that comprises the contribution.

(b) "Source" means, for political action committees and corporations, the political action committee and the corporation as entities, not the contributors to the political action committee or the owners or shareholders of the corporation.

(57) "State office" means the offices of governor, lieutenant governor, attorney general, state auditor, and state treasurer.

(58) "State office candidate" means a person who:

(a) files a declaration of candidacy for a state office; or

(b) receives contributions, makes expenditures, or gives consent for any other person to receive contributions or make expenditures to bring about the person's nomination, election, or appointment to a state office.

(59) "Summary report" means the year end report containing the summary of a reporting entity's contributions and expenditures.

(60) "Supervisory board" means the individual or group of individuals that allocate expenditures from a political issues committee.

Section 3. Section 20A-11-101.3 is amended to read:

20A-11-101.3. Detailed listing and report requirements -- Rulemaking authority.

(1) As used in this section:

(a) "Advertising" includes:

(i) website development and maintenance;

(ii) social media;

(iii) television, newspaper, or radio; or

(iv) a convention booth.

(b) "Association expense" means a membership fee for:

(i) a political association; or

(ii) an association related to an activity of a candidate or an officeholder.

(c) "Campaign Expense" includes:

(i) district mapping;

(ii) voter data;

(iii) a phone bank;

(iv) fund-raising expenses;

(v) campaign assistance or consulting;

(vi) campaign technology;

(vii) campaign management;

(viii) campaign interns; or

(ix) food, and related expenses, purchased:

(A) for a campaign event; or

(B) for consumption by a candidate or campaign staff while conducting work relating to a campaign.

(d) "Donations" includes giving to a charitable organization.

(e) "Loans" includes repaying loans.

(f) "Office expense" includes:

(i) an email server;

(ii) phones;

(iii) phone service;

(iv) computers;

(v) printers;

(vi) furniture;

(vii) tools and hardware; or

(viii) food, and related expenses, purchased for consumption during an officeholder activity.

(g) "Political support" includes contributions made to other candidates or political action committees.

(h) "Supplies" includes:

(i) signs;

(ii) sign holders;

(iii) parade supplies;

(iv) t-shirts;

(v) other campaign goods;

(vi) repair or replacement of clothing that is damaged while the candidate or officeholder is

engaged in an activity of a candidate or an officeholder;

(vii) printed materials; or

(viii) postage.

(i) "Travel expenses" includes:

(i) political conference registration;

(ii) airfare;

(iii) hotels;

(iv) food, and related expenses, purchased for consumption during travel;

(v) vehicle mileage reimbursement; or

(vi) incidental expenses while traveling.

(2) As it relates to an expenditure, a detailed listing includes identifying the expenditure as falling within one of the following categories:

(a) advertising;

(b) association expense;

(c) campaign expense;

(d) constituent services;

(e) donations;

(f) loans;

(g) office;

(h) political support;

(i) return of a contribution;

(j) signature gathering;

(k) supplies;

(l) travel expenses; or

(m) other expenditures that do not fall within a category described in Subsections (2)(a) through (l), followed by a description of the expenditure.

(3) The director of elections, within the Lieutenant Governor's Office, may make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, in relation to the form, type, and level of detail required in a detailed listing or a financial disclosure form.

Section 4. Section 20A-11-104 is amended to read:

20A-11-104. Personal use expenditure -- Authorized and prohibited uses of campaign funds -- Enforcement -- Penalties.

(1) (a) As used in this chapter, "personal use expenditure" means an expenditure that:

(i) (A) is not excluded from the definition of personal use expenditure by Subsection (2); and

(B) primarily furthers a personal interest of a candidate or officeholder or a candidate's or officeholder's family, which interest is not connected with the performance of an activity as a candidate or an activity or duty of an officeholder; or

(ii) would likely cause the candidate or officeholder to recognize the expenditure as taxable income under federal or state law.

(b) "Personal use expenditure" includes:

(i) a mortgage, rent, utility, or vehicle payment;

(ii) a household food item or supply;

[~~(iii) clothing, except for clothing:~~]

(iii) a clothing expense, except:

(A) clothing bearing the candidate's name or campaign slogan or logo[~~, and (B)~~] that is used in the candidate's campaign; or

(B) repair or replacement of clothing that is damaged while the candidate or officeholder is engaged in an activity of a candidate or officeholder;

(iv) an admission to a sporting, artistic, or recreational event or other form of entertainment;

(v) dues, fees, or gratuities at a country club, health club, or recreational facility;

(vi) a salary payment made to:

(A) a candidate or officeholder; or

(B) a person who has not provided a bona fide service to a candidate or officeholder;

(vii) a vacation;

(viii) a vehicle expense;

(ix) a meal expense;

(x) a travel expense;

(xi) a payment of an administrative, civil, or criminal penalty;

(xii) a satisfaction of a personal debt;

(xiii) a personal service, including the service of an attorney, accountant, physician, or other professional person;

(xiv) a membership fee for a professional or service organization; and

(xv) a payment in excess of the fair market value of the item or service purchased.

(2) As used in this chapter, "personal use expenditure" does not [~~mean~~] include an expenditure made:

(a) for a political purpose;

(b) for candidacy for public office;

(c) to fulfill a duty or activity of an officeholder;

(d) for a donation to a registered political party;

(e) for a contribution to another candidate's campaign account, including sponsorship of or attendance at an event, the primary purpose of which is to solicit a contribution for another candidate's campaign account;

(f) to return all or a portion of a contribution to a contributor;

(g) for the following items, if made in connection with the candidacy for public office or an activity or duty of an officeholder:

(i) (A) a mileage allowance at the rate established by the Division of Finance under Section 63A-3-107; or

(B) for motor fuel or special fuel, as defined in Section 59-13-102;

[~~(ii) a meal expense;~~]

[~~(iii) a travel expense, including an expense incurred for airfare or a rental vehicle;~~]

(ii) a food expense, including food or beverages:

(A) served at a campaign event;

(B) served at a charitable event;

(C) consumed, or provided to others, by a candidate while the candidate is engaged in campaigning;

(D) consumed, or provided to others, by an officeholder while the officeholder is acting in the capacity of an officeholder; or

(E) provided as a gift to an individual who works on a candidate's campaign or who assists an officeholder in the officeholder's capacity as an officeholder;

(iii) a travel expense of a candidate, if the primary purpose of the travel is related to the candidate's campaign, including airfare, car rental, other transportation, hotel, or other expenses incidental to the travel;

(iv) a travel expense of an individual assisting a candidate, if the primary purpose of the travel by the individual is to assist the candidate with the candidate's campaign, including an expense described in Subsection (2)(g)(iii);

(v) a travel expense of an officeholder, if the primary purpose of the travel is related to an activity or duty of the officeholder, including an expense described in Subsection (2)(g)(iii);

(vi) a travel expense of an individual assisting an officeholder, if the primary purpose of the travel by the individual is to assist the officeholder in an activity or duty of an officeholder, including an expense described in Subsection (2)(g)(iii);

[~~(iv)~~] (vii) a payment for a service provided by an attorney or accountant;

[~~(v)~~] (viii) a tuition payment or registration fee for participation in a meeting or conference;

[~~(vi)~~] (ix) a gift;

[~~(vii)~~] (x) a payment for the following items in connection with an office space:

(A) rent;

(B) utilities;

(C) a supply; or

(D) furnishing;

[~~(viii)~~] (xi) a booth at a meeting or event; [~~or~~]

[~~(ix)~~] (xii) educational material; or

(xiii) an item purchased for a purpose related to a campaign or to an activity or duty of an officeholder;

(h) to purchase or mail informational material, a survey, or a greeting card;

(i) for a donation to a charitable organization, as defined by Section 13-22-2, including admission to or sponsorship of an event, the primary purpose of which is charitable solicitation, as defined in Section 13-22-2;

(j) to repay a loan a candidate makes from the candidate's personal account to the candidate's campaign account;

(k) to pay membership dues to a national organization whose primary purpose is to address general public policy;

(l) for admission to or sponsorship of an event, the primary purpose of which is to promote the social, educational, or economic well-being of the state or the candidate's or officeholder's community;

(m) for one or more guests of an officeholder or candidate to attend an event, meeting, or conference described in this Subsection (2), including related travel expenses and other expenses, if attendance by the guest is for a primary purpose described in Subsection (2)(g)(iv) or (vi); or

(n) to pay childcare expenses of:

(i) a candidate while the candidate is engaging in campaign activity; or

(ii) an officeholder while the officeholder is engaging in the duties of an officeholder.

(3) (a) The lieutenant governor shall enforce this chapter prohibiting a personal use expenditure by:

(i) evaluating a financial statement to identify a personal use expenditure; and

(ii) commencing an informal adjudicative proceeding in accordance with Title 63G, Chapter 4, Administrative Procedures Act, if the lieutenant governor has probable cause to believe a candidate or officeholder has made a personal use expenditure.

(b) Following the proceeding, the lieutenant governor may issue a signed order requiring a candidate or officeholder who has made a personal use expenditure to:

(i) remit an administrative penalty of an amount equal to 50% of the personal use expenditure to the lieutenant governor; and

(ii) deposit the amount of the personal use expenditure in the campaign account from which the personal use expenditure was disbursed.

(c) The lieutenant governor shall deposit money received under Subsection (3)(b)(i) in the General Fund.

Section 5. Section 20A-11-201 is amended to read:

20A-11-201. State office -- Separate bank account for campaign funds -- No personal use -- State office candidate reporting deadline -- Report other accounts -- Anonymous contributions.

(1) (a) Each state office candidate or the candidate's personal campaign committee shall deposit each contribution received in one or more separate campaign accounts in a financial institution.

(b) A state office candidate or a candidate's personal campaign committee may not use money deposited in a campaign account for:

(i) a personal use expenditure; or

(ii) an expenditure prohibited by law.

(c) Each state officeholder or the state officeholder's personal campaign committee shall deposit each contribution and public service assistance received in one or more separate campaign accounts in a financial institution.

(d) A state officeholder or a state officeholder's personal campaign committee may not use money deposited in a campaign account for:

(i) a personal use expenditure; or

(ii) an expenditure prohibited by law.

(2) (a) A state office candidate or the candidate's personal campaign committee may not deposit or mingle any contributions received into a personal or business account.

(b) A state officeholder or the state officeholder's personal campaign committee may not deposit or mingle any contributions or public service assistance received into a personal or business account.

(3) If a person who is no longer a state office candidate chooses not to expend the money remaining in a campaign account, the person shall continue to file the year-end summary report required by Section 20A-11-203 until the statement of dissolution and final summary report required by Section 20A-11-205 are filed with the lieutenant governor.

(4) (a) Except as provided in Subsection (4)(b) and Section 20A-11-402, a person who is no longer a state office candidate may not expend or transfer the money in a campaign account in a manner that would cause the former state office candidate to recognize the money as taxable income under federal tax law.

(b) A person who is no longer a state office candidate may transfer the money in a campaign account in a manner that would cause the former state office candidate to recognize the money as taxable income under federal tax law if the transfer is made to a campaign account for federal office.

(5) (a) As used in this Subsection (5) [~~and Section 20A-11-204, "received" means:~~], "received" means the same as that term is defined in Subsection 20A-11-204(1)(b).

[~~(i) for a cash contribution, that the cash is given to a state office candidate or a member of the candidate's personal campaign committee;~~]

[~~(ii) for a contribution that is a negotiable instrument or check, that the negotiable instrument or check is negotiated; and~~]

[~~(iii) for any other type of contribution, that any portion of the contribution's benefit inures to the state office candidate.~~]

(b) Each state office candidate shall report to the lieutenant governor each contribution received by the state office candidate:

(i) except as provided in Subsection (5)(b)(ii), within 31 days after the day on which the contribution is received; or

(ii) within [~~three~~] seven business days after the day on which the contribution is received, if:

(A) the state office candidate is contested in a convention and the contribution is received within 30 days before the day on which the convention is held;

(B) the state office candidate is contested in a primary election and the contribution is received within 30 days before the day on which the primary election is held; or

(C) the state office candidate is contested in a general election and the contribution is received within 30 days before the day on which the general election is held.

(c) Except as provided in Subsection (5)(d), for each contribution that a state office candidate fails to report within the time period described in Subsection (5)(b), the lieutenant governor shall impose a fine against the state office candidate in an amount equal to:

(i) 10% of the amount of the contribution, if the state office candidate reports the contribution within 60 days after the day on which the time period described in Subsection (5)(b) ends; or

(ii) 20% of the amount of the contribution, if the state office candidate fails to report the contribution within 60 days after the day on which the time period described in Subsection (5)(b) ends.

(d) The lieutenant governor may waive the fine described in Subsection (5)(c) and issue a warning to the state office candidate if:

(i) the contribution that the state office candidate fails to report is paid by the state office candidate from the state office candidate's personal funds;

(ii) the state office candidate has not previously violated Subsection (5)(c) in relation to a contribution paid by the state office candidate from the state office candidate's personal funds; and

(iii) the lieutenant governor determines that the failure to timely report the contribution is due to the state office candidate not understanding that the reporting requirement includes a contribution paid

by a state office candidate from the state office candidate's personal funds.

(e) The lieutenant governor shall:

(i) deposit money received under Subsection (5)(c) into the General Fund; and

(ii) report on the lieutenant governor's website, in the location where reports relating to each state office candidate are available for public access:

(A) each fine imposed by the lieutenant governor against the state office candidate;

(B) the amount of the fine;

(C) the amount of the contribution to which the fine relates; and

(D) the date of the contribution.

(6) (a) As used in this Subsection (6), "account" means an account in a financial institution:

(i) that is not described in Subsection (1)(a); and

(ii) into which or from which a person who, as a candidate for an office, other than the state office for which the person files a declaration of candidacy or federal office, or as a holder of an office, other than a state office for which the person files a declaration of candidacy or federal office, deposits a contribution or makes an expenditure.

(b) A state office candidate shall include on any financial statement filed in accordance with this part:

(i) a contribution deposited in an account:

(A) since the last campaign finance statement was filed; or

(B) that has not been reported under a statute or ordinance that governs the account; or

(ii) an expenditure made from an account:

(A) since the last campaign finance statement was filed; or

(B) that has not been reported under a statute or ordinance that governs the account.

(7) Within 31 days after receiving a contribution that is cash or a negotiable instrument, exceeds $50, and is from an unknown source, a state office candidate shall disburse the amount of the contribution to[~~: (a) the treasurer of the state or a political subdivision for deposit into the state's or political subdivision's general fund; or (b)~~] an organization that is exempt from federal income taxation under Section 501(c)(3), Internal Revenue Code.

Section 6. Section 20A-11-204 is amended to read:

20A-11-204. State office candidate and state officeholder -- Financial reporting requirements -- Interim reports.

(1) As used in this section:

(a) "Campaign account" means a separate campaign account required under Subsection 20A-11-201(1)(a) or (c).

(b) "Received" means:

(i) for a cash contribution, that the cash is given to a state office candidate or a member of the state office candidate's personal campaign committee;

(ii) for a contribution that is a negotiable instrument or check, that the negotiable instrument or check is negotiated;

(iii) for a direct deposit made into a campaign account by a person not associated with the campaign, the earlier of:

(A) the day on which the state office candidate or a member of the state office candidate's personal campaign committee becomes aware of the deposit and the source of the deposit;

(B) the day on which the state office candidate or a member of the state office candidate's personal campaign committee receives notice of the deposit and the source of the deposit by mail, email, text, or similar means; or

(C) 31 days after the day on which the direct deposit occurs; or

(iv) for any other type of contribution, that any portion of the contribution's benefit inures to the state office candidate.

[~~(1)~~] (2) Except as provided in Subsection [~~(2)~~] (3), each state office candidate shall file an interim report at the following times in any year in which the candidate has filed a declaration of candidacy for a public office:

(a) (i) seven days before the candidate's political convention; or

(ii) for an unaffiliated candidate, the fourth Saturday in March;

(b) seven days before the regular primary election date;

(c) September 30; and

(d) seven days before the regular general election date.

[~~(2)~~] (3) If a state office candidate is a state office candidate seeking appointment for a midterm vacancy, the state office candidate:

(a) shall file an interim report:

(i) (A) no later than seven days before the day on which the political party of the party for which the state office candidate seeks nomination meets to declare a nominee for the governor to appoint in accordance with Section 20A-1-504; and

(B) two days before the day on which the political party of the party for which the state office candidate seeks nomination meets to declare a nominee for the governor to appoint in accordance with Subsection 20A-1-504(1)(b)(i); or

(ii) if a state office candidate decides to seek the appointment with less than seven days before the

party meets, or the political party schedules the meeting to declare a nominee less than seven days before the day of the meeting, no later than 5 p.m. on the last day of business before the day on which the party meets; and

(b) is not required to file an interim report at the times described in Subsection (1).

[~~(3) (a) As used in this Subsection (3), "campaign account" means a separate campaign account required under Subsection 20A-11-201(1)(a) or (c).~~]

[~~(b) Each state officeholder who has a campaign account that has not been dissolved under Section 20A-11-205 shall, in an even year, file an interim report at the following times, regardless of whether an election for the state officeholder's office is held that year:~~]

[~~(i) (A) seven days before the political convention for the political party of the state officeholder; or~~]

[~~(B) for an unaffiliated state officeholder, the fourth Saturday in March;~~]

[~~(ii) seven days before the regular primary election date;~~]

[~~(iii) September 30; and~~]

[~~(iv) seven days before the regular general election date.~~]

(4) Each interim report shall include the following information:

(a) the net balance of the last summary report, if any;

(b) a single figure equal to the total amount of receipts reported on all prior interim reports, if any, during the calendar year in which the interim report is due;

(c) a single figure equal to the total amount of expenditures reported on all prior interim reports, if any, filed during the calendar year in which the interim report is due;

(d) a detailed listing of:

(i) for a state office candidate, each contribution received since the last summary report that has not been reported in detail on a prior interim report; or

(ii) for a state officeholder, each contribution and public service assistance received since the last summary report that has not been reported in detail on a prior interim report;

(e) for each nonmonetary contribution:

(i) the fair market value of the contribution with that information provided by the contributor; and

(ii) a specific description of the contribution;

(f) a detailed listing of each expenditure made since the last summary report that has not been reported in detail on a prior interim report;

(g) for each nonmonetary expenditure, the fair market value of the expenditure;

(h) a net balance for the year consisting of the net balance from the last summary report, if any, plus all receipts since the last summary report minus all expenditures since the last summary report;

(i) a summary page in the form required by the lieutenant governor that identifies:

(i) beginning balance;

(ii) total contributions and public service assistance received during the period since the last statement;

(iii) total contributions and public service assistance received to date;

(iv) total expenditures during the period since the last statement; and

(v) total expenditures to date; and

(j) the name of a political action committee for which the state office candidate or state officeholder is designated as an officer who has primary decision-making authority under Section 20A-11-601.

(5) (a) In preparing each interim report, all receipts and expenditures shall be reported as of five days before the required filing date of the report.

(b) Any negotiable instrument or check received by a state office candidate or state officeholder more than five days before the required filing date of a report required by this section shall be included in the interim report.

Section 7. Section 20A-11-206 is amended to read:

20A-11-206. State office candidate -- Failure to file reports -- Penalties.

(1) A state office candidate who fails to file a financial statement before the deadline is subject to a fine imposed in accordance with Section 20A-11-1005.

(2) If a state office candidate fails to file an interim report described in Subsections 20A-11-204[~~(1)~~](2)(b) through (d), the lieutenant governor may send an electronic notice to the state office candidate and the political party of which the state office candidate is a member, if any, that states:

(a) that the state office candidate failed to timely file the report; and

(b) that, if the state office candidate fails to file the report within 24 hours after the deadline for filing the report, the state office candidate will be disqualified and the political party will not be permitted to replace the candidate.

(3) (a) The lieutenant governor shall disqualify a state office candidate and inform the county clerk and other appropriate election officials that the state office candidate is disqualified if the state office candidate fails to file an interim report described in Subsections 20A-11-204[~~(1)~~](2)(b) through (d) within 24 hours after the deadline for filing the report.

(b) The political party of a state office candidate who is disqualified under Subsection (3)(a) may not replace the state office candidate.

(4) (a) If a state office candidate is disqualified under Subsection (3)(a), the election official shall:

(i) remove the state office candidate's name from the ballot; or

(ii) if removing the state office candidate's name from the ballot is not practicable, inform the voters by any practicable method that the state office candidate has been disqualified and that votes cast for the state office candidate will not be counted.

(b) An election official may fulfill the requirement described in Subsection (4)(a) in relation to a mailed ballot, including a military or overseas ballot, by including with the ballot a written notice directing the voter to a public website that will inform the voter whether a candidate on the ballot is disqualified.

(5) A state office candidate is not disqualified if:

(a) the state office candidate timely files the reports described in Subsections 20A-11-204[~~(1)~~](2)(b) through (d) no later than 24 hours after the applicable deadlines for filing the reports;

(b) the reports are completed, detailing accurately and completely the information required by this part except for inadvertent omissions or insignificant errors or inaccuracies; and

(c) the omissions, errors, or inaccuracies described in Subsection (5)(b) are corrected in an amended report or the next scheduled report.

(6) (a) Within 60 days after a deadline for the filing of a summary report, the lieutenant governor shall review each filed summary report to ensure that:

(i) each state office candidate that is required to file a summary report has filed one; and

(ii) each summary report contains the information required by this part.

(b) If it appears that any state office candidate has failed to file the summary report required by law, if it appears that a filed summary report does not conform to the law, or if the lieutenant governor has received a written complaint alleging a violation of the law or the falsity of any summary report, the lieutenant governor shall, within five days of discovery of a violation or receipt of a written complaint, notify the state office candidate of the violation or written complaint and direct the state office candidate to file a summary report correcting the problem.

(c) (i) It is unlawful for a state office candidate to fail to file or amend a summary report within seven days after receiving notice from the lieutenant governor described in this Subsection (6).

(ii) Each state office candidate who violates Subsection (6)(c)(i) is guilty of a class B misdemeanor.

(iii) The lieutenant governor shall report all violations of Subsection (6)(c)(i) to the attorney general.

(iv) In addition to the criminal penalty described in Subsection (6)(c)(ii), the lieutenant governor shall impose a civil fine of $100 against a state office candidate who violates Subsection (6)(c)(i).

Section 8. Section 20A-11-301 is amended to read:

20A-11-301. Legislative office -- Campaign finance requirements -- Candidate as a political action committee officer -- No personal use -- Contribution reporting deadline -- Report other accounts -- Anonymous contributions.

(1) (a) (i) Each legislative office candidate shall deposit each contribution received in one or more separate accounts in a financial institution that are dedicated only to that purpose.

(ii) A legislative office candidate may:

(A) receive a contribution from a political action committee registered under Section 20A-11-601; and

(B) be designated by a political action committee as an officer who has primary decision-making authority as described in Section 20A-11-601.

(b) A legislative office candidate or the candidate's personal campaign committee may not use money deposited in an account described in Subsection (1)(a)(i) for:

(i) a personal use expenditure; or

(ii) an expenditure prohibited by law.

(c) (i) Each legislative officeholder shall deposit each contribution and public service assistance received in one or more separate accounts in a financial institution that are dedicated only to that purpose.

(ii) A legislative officeholder may:

(A) receive a contribution or public service assistance from a political action committee registered under Section 20A-11-601; and

(B) be designated by a political action committee as an officer who has primary decision-making authority as described in Section 20A-11-601.

(d) A legislative officeholder or the legislative officeholder's personal campaign committee may not use money deposited in an account described in Subsection (1)(c)(i) for:

(i) a personal use expenditure; or

(ii) an expenditure prohibited by law.

(2) (a) A legislative office candidate may not deposit or mingle any contributions received into a personal or business account.

(b) A legislative officeholder may not deposit or mingle any contributions or public service assistance received into a personal or business account.

(3) If a person who is no longer a legislative candidate chooses not to expend the money remaining in a campaign account, the person shall continue to file the year-end summary report required by Section 20A-11-302 until the statement of dissolution and final summary report required by Section 20A-11-304 are filed with the lieutenant governor.

(4) (a) Except as provided in Subsection (4)(b) and Section 20A-11-402, a person who is no longer a legislative office candidate may not expend or transfer the money in a campaign account in a manner that would cause the former legislative office candidate to recognize the money as taxable income under federal tax law.

(b) A person who is no longer a legislative office candidate may transfer the money in a campaign account in a manner that would cause the former legislative office candidate to recognize the money as taxable income under federal tax law if the transfer is made to a campaign account for federal office.

(5) (a) As used in this Subsection (5), [~~and Section 20A-11-303, "received" means:~~] "received" means the same as that term is defined in Subsection 20A-11-303(1)(b).

[~~(i) for a cash contribution, that the cash is given to a legislative office candidate or a member of the candidate's personal campaign committee;~~]

[~~(ii) for a contribution that is a negotiable instrument or check, that the negotiable instrument or check is negotiated; and~~]

[~~(iii) for any other type of contribution, that any portion of the contribution's benefit inures to the legislative office candidate.~~]

(b) Each legislative office candidate shall report to the lieutenant governor each contribution received by the legislative office candidate:

(i) except as provided in Subsection (5)(b)(ii), within 31 days after the day on which the contribution is received; or

(ii) within [~~three~~] seven business days after the day on which the contribution is received, if:

(A) the legislative office candidate is contested in a convention and the contribution is received within 30 days before the day on which the convention is held;

(B) the legislative office candidate is contested in a primary election and the contribution is received within 30 days before the day on which the primary election is held; or

(C) the legislative office candidate is contested in a general election and the contribution is received within 30 days before the day on which the general election is held.

(c) Except as provided in Subsection (5)(d), for each contribution that a legislative office candidate fails to report within the time period described in Subsection (5)(b), the lieutenant governor shall impose a fine against the legislative office candidate in an amount equal to:

(i) 10% of the amount of the contribution, if the legislative office candidate reports the contribution within 60 days after the day on which the time period described in Subsection (5)(b) ends; or

(ii) 20% of the amount of the contribution, if the legislative office candidate fails to report the contribution within 60 days after the day on which the time period described in Subsection (5)(b) ends.

(d) The lieutenant governor may waive the fine described in Subsection (5)(c) and issue a warning to the legislative office candidate if:

(i) the contribution that the legislative office candidate fails to report is paid by the legislative office candidate from the legislative office candidate's personal funds;

(ii) the legislative office candidate has not previously violated Subsection (5)(c) in relation to a contribution paid by the legislative office candidate from the legislative office candidate's personal funds; and

(iii) the lieutenant governor determines that the failure to timely report the contribution is due to the legislative office candidate not understanding that the reporting requirement includes a contribution paid by a legislative office candidate from the legislative office candidate's personal funds.

(e) The lieutenant governor shall:

(i) deposit money received under Subsection (5)(c) into the General Fund; and

(ii) report on the lieutenant governor's website, in the location where reports relating to each legislative office candidate are available for public access:

(A) each fine imposed by the lieutenant governor against the legislative office candidate;

(B) the amount of the fine;

(C) the amount of the contribution to which the fine relates; and

(D) the date of the contribution.

(6) Within 31 days after receiving a contribution that is cash or a negotiable instrument, exceeds $50, and is from an unknown source, a legislative office candidate shall disburse the amount of the contribution to[~~: (a) the treasurer of the state or a political subdivision for deposit into the state's or political subdivision's general fund; or (b)~~] an organization that is exempt from federal income taxation under Section 501(c)(3), Internal Revenue Code.

(7) (a) As used in this Subsection (7), "account" means an account in a financial institution:

(i) that is not described in Subsection (1)(a)(i); and

(ii) into which or from which a person who, as a candidate for an office, other than a legislative office for which the person files a declaration of candidacy or federal office, or as a holder of an office, other than a legislative office for which the person files a declaration of candidacy or federal office, deposits a contribution or makes an expenditure.

(b) A legislative office candidate shall include on any financial statement filed in accordance with this part:

(i) a contribution deposited in an account:

(A) since the last campaign finance statement was filed; or

(B) that has not been reported under a statute or ordinance that governs the account; or

(ii) an expenditure made from an account:

(A) since the last campaign finance statement was filed; or

(B) that has not been reported under a statute or ordinance that governs the account.

Section 9. Section 20A-11-303 is amended to read:

20A-11-303. Legislative office candidate and legislative officeholder -- Financial reporting requirements -- Interim reports.

[~~(1) (a) As used in this Subsection (1), "campaign~~]

(1) As used in this section:

(a) "Campaign account" means a separate campaign account required under Subsection 20A-11-301(1)(a)(i) or (c)(i).

(b) "Received" means:

(i) for a cash contribution, that the cash is given to a legislative office candidate or a member of the legislative office candidate's personal campaign committee;

(ii) for a contribution that is a negotiable instrument or check, that the negotiable instrument or check is negotiated;

(iii) for a direct deposit made into a campaign account by a person not associated with the campaign, the earlier of:

(A) the day on which the legislative office candidate or a member of the legislative office candidate's personal campaign committee becomes aware of the deposit and the source of the deposit;

(B) the day on which the legislative office candidate or a member of the legislative office candidate's personal campaign committee receives notice of the deposit and the source of the deposit by mail, email, text, or similar means; or

(C) 31 days after the day on which the direct deposit occurs; or

(iv) for any other type of contribution, that any portion of the contribution's benefit inures to the legislative office candidate.

[~~(b)~~] (2) Except as provided in Subsection [~~(2)~~] (3), each legislative office candidate shall file an interim report at the following times in any year in which the candidate has filed a declaration of candidacy for a public office:

[~~(i) (A)~~] (a) (i) seven days before the candidate's political convention; or

[~~(B)~~] (ii) for an unaffiliated candidate, the fourth Saturday in March;

[~~(ii)~~] (b) seven days before the regular primary election date;

[~~(iii)~~] (c) September 30; and

[~~(iv)~~] (d) seven days before the regular general election date.

[~~(c) Each legislative officeholder who has a campaign account that has not been dissolved under Section 20A-11-304 shall, in an even year, file an interim report at the following times, regardless of whether an election for the legislative officeholder's office is held that year:~~]

[~~(i) (A) seven days before the political convention for the political party of the legislative officeholder; or~~]

[~~(B) for an unaffiliated legislative officeholder, the fourth Saturday in March;~~]

[~~(ii) seven days before the regular primary election date for that year;~~]

[~~(iii) September 30; and~~]

[~~(iv) seven days before the regular general election date.~~]

[~~(2)~~] (3) If a legislative office candidate is a legislative office candidate seeking appointment for a midterm vacancy, the legislative office candidate:

(a) shall file an interim report:

(i) (A) seven days before the day on which the political party of the party for which the legislative office candidate seeks nomination meets to declare a nominee for the governor to appoint in accordance with Section 20A-1-503; and

(B) two days before the day on which the political party of the party for which the legislative office candidate seeks nomination meets to declare a nominee for the governor to appoint in accordance with Section 20A-1-503; or

(ii) if the legislative office candidate decides to seek the appointment with less than seven days before the party meets, or the political party schedules the meeting to declare a nominee less than seven days before the day of the meeting, two days before the day on which the party meets; and

(b) is not required to file an interim report at the times described in Subsection [~~(1)(b)~~] (2)(a).

[~~(3)~~] (4) Each interim report shall include the following information:

(a) the net balance of the last summary report, if any;

(b) a single figure equal to the total amount of receipts reported on all prior interim reports, if any,

during the calendar year in which the interim report is due;

(c) a single figure equal to the total amount of expenditures reported on all prior interim reports, if any, filed during the calendar year in which the interim report is due;

(d) a detailed listing of:

(i) for a legislative office candidate, each contribution received since the last summary report that has not been reported in detail on a prior interim report; or

(ii) for a legislative officeholder, each contribution and public service assistance received since the last summary report that has not been reported in detail on a prior interim report;

(e) for each nonmonetary contribution:

(i) the fair market value of the contribution with that information provided by the contributor; and

(ii) a specific description of the contribution;

(f) a detailed listing of each expenditure made since the last summary report that has not been reported in detail on a prior interim report;

(g) for each nonmonetary expenditure, the fair market value of the expenditure;

(h) a net balance for the year consisting of the net balance from the last summary report, if any, plus all receipts since the last summary report minus all expenditures since the last summary report;

(i) a summary page in the form required by the lieutenant governor that identifies:

(i) beginning balance;

(ii) total contributions and public service assistance received during the period since the last statement;

(iii) total contributions and public service assistance received to date;

(iv) total expenditures during the period since the last statement; and

(v) total expenditures to date; and

(j) the name of a political action committee for which the legislative office candidate or legislative officeholder is designated as an officer who has primary decision-making authority under Section 20A-11-601.

[~~(4)~~] (5) (a) In preparing each interim report, all receipts and expenditures shall be reported as of five days before the required filing date of the report.

(b) Any negotiable instrument or check received by a legislative office candidate or legislative officeholder more than five days before the required filing date of a report required by this section shall be included in the interim report.

Section 10. Section 20A-11-305 is amended to read:

20A-11-305. Legislative office candidate -- Failure to file report -- Penalties.

(1) A legislative office candidate who fails to file a financial statement before the deadline is subject to a fine imposed in accordance with Section 20A-11-1005.

(2) If a legislative office candidate fails to file an interim report described in Subsections 20A-11-303[~~(1)(b)(ii) through (iv)~~](2)(b) through (d), the lieutenant governor may send an electronic notice to the legislative office candidate and the political party of which the legislative office candidate is a member, if any, that states:

(a) that the legislative office candidate failed to timely file the report; and

(b) that, if the legislative office candidate fails to file the report within 24 hours after the deadline for filing the report, the legislative office candidate will be disqualified and the political party will not be permitted to replace the candidate.

(3) (a) The lieutenant governor shall disqualify a legislative office candidate and inform the county clerk and other appropriate election officials that the legislative office candidate is disqualified if the legislative office candidate fails to file an interim report described in Subsections 20A-11-303[~~(1)(b)(ii) through (iv)~~](2)(b) through (d) within 24 hours after the deadline for filing the report.

(b) The political party of a legislative office candidate who is disqualified under Subsection (3)(a) may not replace the legislative office candidate.

(4) (a) If a legislative office candidate is disqualified under Subsection (3)(a), the election officer shall:

(i) remove the legislative office candidate's name from the ballot; or

(ii) if removing the legislative office candidate's name from the ballot is not practicable, inform the voters by any practicable method that the legislative office candidate has been disqualified and that votes cast for the legislative office candidate will not be counted.

(b) An election official may fulfill the requirement described in Subsection (4)(a) in relation to a mailed ballot, including a military or overseas ballot, by including with the ballot a written notice directing the voter to a public website that will inform the voter whether a candidate on the ballot is disqualified.

(5) A legislative office candidate is not disqualified if:

(a) the legislative office candidate files the reports described in Subsections 20A-11-303[~~(1)(b)(ii) through (iv)~~](2)(b) through (d) no later than 24 hours after the applicable deadlines for filing the reports;

(b) the reports are completed, detailing accurately and completely the information required by this part except for inadvertent omissions or insignificant errors or inaccuracies; and

(c) the omissions, errors, or inaccuracies described in Subsection (5)(b) are corrected in an amended report or the next scheduled report.

(6) (a) Within 60 days after a deadline for the filing of a summary report, the lieutenant governor shall review each filed summary report to ensure that:

(i) each legislative office candidate that is required to file a summary report has filed one; and

(ii) each summary report contains the information required by this part.

(b) If it appears that any legislative office candidate has failed to file the summary report required by law, if it appears that a filed summary report does not conform to the law, or if the lieutenant governor has received a written complaint alleging a violation of the law or the falsity of any summary report, the lieutenant governor shall, within five days of discovery of a violation or receipt of a written complaint, notify the legislative office candidate of the violation or written complaint and direct the legislative office candidate to file a summary report correcting the problem.

(c) (i) It is unlawful for a legislative office candidate to fail to file or amend a summary report within seven days after receiving notice from the lieutenant governor described in this Subsection (6).

(ii) Each legislative office candidate who violates Subsection (6)(c)(i) is guilty of a class B misdemeanor.

(iii) The lieutenant governor shall report all violations of Subsection (6)(c)(i) to the attorney general.

(iv) In addition to the criminal penalty described in Subsection (6)(c)(ii), the lieutenant governor shall impose a civil fine of $100 against a legislative office candidate who violates Subsection (6)(c)(i).

Section 11. Section 20A-11-403 is amended to read:

20A-11-403. Failure to file -- Penalties.

(1) Within 60 days after a deadline for the filing of a summary report, the lieutenant governor shall review each filed summary report to ensure that:

(a) each officeholder that is required to file a summary report has filed one; and

(b) each summary report contains the information required by this part.

(2) If it appears that any officeholder has failed to file the summary report required by law, if it appears that a filed summary report does not conform to the law, or if the lieutenant governor has received a written complaint alleging a violation of the law or the falsity of any summary report, the lieutenant governor shall, if the lieutenant governor determines that a violation has occurred:

(a) impose a fine against the filing entity in accordance with Section 20A-11-1005; and

(b) within five days of discovery of a violation or receipt of a written complaint, notify the officeholder of the violation or written complaint and direct the officeholder to file a summary report correcting the problem.

(3) (a) It is unlawful for any officeholder to fail to file or amend a summary report within seven days after receiving notice from the lieutenant governor under this section.

(b) Each officeholder who violates Subsection (3)(a) is guilty of a class B misdemeanor.

(c) The lieutenant governor shall report all violations of Subsection (3)(a) to the attorney general.

(d) In addition to the criminal penalty described in Subsection (3)(b), the lieutenant governor shall impose a civil fine of $100 against an officeholder who violates Subsection (3)(a).

[~~(4) Within 60 days after a deadline for the filing of an interim report by an officeholder under Subsection 20A-11-204(2), 20A-11-303(1)(c), or 20A-11-1303(1)(d), the lieutenant governor shall review each filed interim report to ensure that each interim report contains the information required for the report.~~]

[~~(5) If it appears that any officeholder has failed to file an interim report required by law, if it appears that a filed interim report does not conform to the law, or if the lieutenant governor has received a written complaint alleging a violation of the law or the falsity of any interim report, the lieutenant governor shall, if the lieutenant governor determines that a violation has occurred:~~]

[~~(a) impose a fine against the filing entity in accordance with Section 20A-11-1005; and~~]

[~~(b) within five days after the day on which the violation is discovered or a written complaint is received, notify the officeholder of the violation or written complaint and direct the officeholder to file an interim report correcting the problem.~~]

[~~(6) (a) It is unlawful for any officeholder to fail to file or amend an interim report within seven days after the day on which the officeholder receives notice from the lieutenant governor under this section.~~]

[~~(b) Each officeholder who violates Subsection (6)(a) is guilty of a class B misdemeanor.~~]

[~~(c) The lieutenant governor shall report all violations of Subsection (6)(a) to the attorney general.~~]

[~~(d) In addition to the criminal penalty described in Subsection (6)(b), the lieutenant governor shall impose a civil fine of $100 against an officeholder who violates Subsection (6)(a).~~]

Section 12. Section 20A-11-705 is amended to read:

20A-11-705. Notice of in-kind contributions.

(1) A corporation that makes an in-kind contribution to a reporting entity shall, in accordance with Subsection (2), provide the reporting entity a written notice that includes:

(a) the name and address of the corporation;

(b) the date of the in-kind expenditure;

(c) a description of the in-kind expenditure; and

(d) the value, in dollars, of the in-kind expenditure.

(2) A corporation shall provide the written notice described in Subsection (1) to the reporting entity:

(a) except as provided in Subsection (2)(b), within 31 days after the day on which the corporation makes the in-kind contribution; or

(b) within [~~three~~] seven business days after the day on which the corporation makes the in-kind contribution, if:

(i) the in-kind contribution is to a candidate who is contested in a convention and the corporation makes the in-kind contribution within 30 days before the day on which the convention is held;

(ii) the in-kind contribution is to a candidate who is contested in a primary election and the corporation makes the in-kind contribution within 30 days before the day on which the primary election is held; or

(iii) the in-kind contribution is to a candidate who is contested in a general election and the corporation makes the in-kind contribution within 30 days before the day on which the general election is held.

(3) A corporation that provides, and a reporting entity that receives, the written notice described in Subsection (1) shall retain a copy of the notice for five years after the day on which the written notice is provided to the reporting entity.

(4) A corporation or reporting entity that fails to comply with the requirements of this section is guilty of a class B misdemeanor.

(5) A person that intentionally or knowingly provides, or conspires to provide, false information on a written notice described in this section is guilty of a class B misdemeanor.

Section 13. Section 20A-11-801 is amended to read:

20A-11-801. Political issues committees -- Registration -- Criminal penalty for providing false information or accepting unlawful contribution.

(1) (a) Unless the political issues committee has filed a notice of dissolution under Subsection (4), each political issues committee shall file a statement of organization with the lieutenant governor's office:

(i) before 5 p.m. on January 10 of each year; or

(ii) electronically, before midnight on January 10 of each year.

(b) If a political issues committee is organized after the filing deadline described in Subsection (1)(a), the political issues committee shall file an initial statement of organization no later than seven days after the day on which the political issues committee:

(i) receives political issues contributions totaling at least $750; or

(ii) distributes political issues expenditures totaling at least $750.

(c) Each political issues committee shall deposit each contribution received into one or more separate accounts in a financial institution that are dedicated only to that purpose.

(2) (a) Each political issues committee shall designate two officers that have primary decision-making authority for the political issues committee.

(b) An individual may not exercise primary decision-making authority for a political issues committee if the individual is not designated under Subsection (2)(a).

(3) The statement of organization shall include:

(a) the name and address of the political issues committee;

(b) the name, address, phone number, occupation, and title of the two primary officers designated under Subsection (2);

(c) the name, address, occupation, and title of all other officers of the political issues committee;

(d) the name and address of the organization, individual, corporation, association, unit of government, or union that the political issues committee represents, if any;

(e) the name and address of all affiliated or connected organizations and their relationships to the political issues committee;

(f) the name, residential address, business address, occupation, and phone number of the committee's treasurer or chief financial officer;

(g) the name, address, and occupation of each member of the supervisory and advisory boards, if any; and

(h) the ballot proposition whose outcome they wish to affect, and whether they support or oppose it.

(4) (a) A registered political issues committee that intends to permanently cease operations during a calendar year shall:

(i) dispose of all remaining funds by returning the funds to donors or donating the funds to an organization that is exempt from federal income taxation under Section 501(c)(3), Internal Revenue Code; and

(ii) after complying with Subsection (4)(a)(i), file a notice of dissolution with the lieutenant governor's office.

(b) A political issues committee may not donate money to a political action committee, but may

accept a contribution from a political action committee.

(c) Any notice of dissolution filed by a political issues committee does not exempt that political issues committee from complying with the financial reporting requirements of this chapter in relation to all contributions received, and all expenditures made, before, at, or after dissolution.

(d) A political issues committee shall report all money donated or expended under Subsection (4)(a) in a financial report to the lieutenant governor, in accordance with the financial reporting requirements described in this chapter.

(5) (a) Unless the political issues committee has filed a notice of dissolution under Subsection (4), a political issues committee shall file, with the lieutenant governor's office, notice of any change of an officer described in Subsection (2).

(b) A political issues committee shall:

(i) file a notice of a change of a primary officer described in Subsection (2)(a) before 5 p.m. within 10 days after the day on which the change occurs; and

(ii) include in the notice of change the name and title of the officer being replaced and the name, address, occupation, and title of the new officer.

(6) (a) A person is guilty of providing false information in relation to a political issues committee if the person intentionally or knowingly gives false or misleading material information in the statement of organization or the notice of change of primary officer.

(b) Each primary officer designated in Subsection (2)(a) or (5)(b) is guilty of accepting an unlawful contribution if the political issues committee knowingly or recklessly accepts a contribution from a corporation that:

(i) was organized less than 90 days before the date of the general election; and

(ii) at the time the political issues committee accepts the contribution, has failed to file a statement of organization with the lieutenant governor's office as required by Section 20A-11-704.

(c) A violation of this Subsection (6) is a third degree felony.

(7) (a) As used in this Subsection (7), "received" means:

(i) for a cash contribution, that the cash is given to a political issues committee;

(ii) for a contribution that is a negotiable instrument or check, that the negotiable instrument or check is negotiated; and

(iii) for any other type of contribution, that any portion of the contribution's benefit inures to the political issues committee.

(b) Each political issues committee shall report to the lieutenant governor each contribution received by the political issues committee within [~~three~~] seven business days after the day on which the contribution is received if the contribution is received within 30 days before the last day on which the sponsors of the initiative or referendum described in Subsection 20A-11-801(3)(h) may submit signatures to qualify the initiative or referendum for the ballot.

(c) For each contribution that a political issues committee fails to report within the period described in Subsection (7)(b), the lieutenant governor shall impose a fine against the political issues committee in an amount equal to:

(i) 10% of the amount of the contribution, if the political issues committee reports the contribution within 60 days after the last day on which the political issues committee should have reported the contribution under Subsection (7)(b); or

(ii) 20% of the amount of the contribution, if the political issues committee fails to report the contribution within 60 days after the last day on which the political issues committee should have reported the contribution under Subsection (7)(b).

(d) The lieutenant governor shall:

(i) deposit money received under Subsection (7)(c) into the General Fund; and

(ii) report on the lieutenant governor's website, in the location where reports relating to each political issues committee are available for public access:

(A) each fine imposed by the lieutenant governor against the political issues committee;

(B) the amount of the fine;

(C) the amount of the contribution to which the fine relates; and

(D) the date of the contribution.

Section 14. Section 20A-11-1301 is amended to read:

20A-11-1301. School board office -- Campaign finance requirements -- Candidate as a political action committee officer -- No personal use -- Contribution reporting deadline -- Report other accounts -- Anonymous contributions.

(1) (a) (i) Each school board office candidate shall deposit each contribution received in one or more separate accounts in a financial institution that are dedicated only to that purpose.

(ii) A school board office candidate may:

(A) receive a contribution from a political action committee registered under Section 20A-11-601; and

(B) be designated by a political action committee as an officer who has primary decision-making authority as described in Section 20A-11-601.

(b) A school board office candidate may not use money deposited in an account described in Subsection (1)(a)(i) for:

(i) a personal use expenditure; or

(ii) an expenditure prohibited by law.

(c) (i) Each school board officeholder shall deposit each contribution and public service assistance received in one or more separate accounts in a financial institution that are dedicated only to that purpose.

(ii) A school board officeholder may:

(A) receive a contribution or public service assistance from a political action committee registered under Section 20A-11-601; and

(B) be designated by a political action committee as an officer who has primary decision-making authority as described in Section 20A-11-601.

(d) A school board officeholder may not use money deposited in an account described in Subsection (1)(a)(i) or (1)(c)(i) for:

(i) a personal use expenditure; or

(ii) an expenditure prohibited by law.

(2) (a) A school board office candidate may not deposit or mingle any contributions received into a personal or business account.

(b) A school board officeholder may not deposit or mingle any contributions or public service assistance received into a personal or business account.

(3) A school board office candidate or school board officeholder may not make any political expenditures prohibited by law.

(4) If a person who is no longer a school board office candidate chooses not to expend the money remaining in a campaign account, the person shall continue to file the year-end summary report required by Section 20A-11-1302 until the statement of dissolution and final summary report required by Section 20A-11-1304 are filed with the lieutenant governor.

(5) (a) Except as provided in Subsection (5)(b) and Section 20A-11-402, a person who is no longer a school board office candidate may not expend or transfer the money in a campaign account in a manner that would cause the former school board office candidate to recognize the money as taxable income under federal tax law.

(b) A person who is no longer a school board office candidate may transfer the money in a campaign account in a manner that would cause the former school board office candidate to recognize the money as taxable income under federal tax law if the transfer is made to a campaign account for federal office.

(6) (a) As used in this Subsection (6), "received" means the same as that term is defined in Subsection 20A-11-1303(1)(a).

(b) Except as provided in Subsection (6)(d), each school board office candidate shall report to the chief election officer each contribution received by the school board office candidate:

(i) except as provided in Subsection (6)(b)(ii), within 31 days after the day on which the contribution is received; or

(ii) within [~~three~~] seven business days after the day on which the contribution is received, if:

(A) the school board office candidate is contested in a convention and the contribution is received within 30 days before the day on which the convention is held;

(B) the school board office candidate is contested in a primary election and the contribution is received within 30 days before the day on which the primary election is held; or

(C) the school board office candidate is contested in a general election and the contribution is received within 30 days before the day on which the general election is held.

(c) For each contribution that a school board office candidate fails to report within the time period described in Subsection (6)(b), the chief election officer shall impose a fine against the school board office candidate in an amount equal to:

(i) 10% of the amount of the contribution, if the school board office candidate reports the contribution within 60 days after the day on which the time period described in Subsection (6)(b) ends; or

(ii) 20% of the amount of the contribution, if the school board office candidate fails to report the contribution within 60 days after the day on which the time period described in Subsection (6)(b) ends.

(d) The lieutenant governor may waive the fine described in Subsection (6)(c) and issue a warning to the school board office candidate if:

(i) the contribution that the school board office candidate fails to report is paid by the school board office candidate from the school board office candidate's personal funds;

(ii) the school board office candidate has not previously violated Subsection (6)(c) in relation to a contribution paid by the school board office candidate from the school board office candidate's personal funds; and

(iii) the lieutenant governor determines that the failure to timely report the contribution is due to the school board office candidate not understanding that the reporting requirement includes a contribution paid by a school board office candidate from the school board office candidate's personal funds.

(e) The chief election officer shall:

(i) deposit money received under Subsection (6)(c) into the General Fund; and

(ii) report on the chief election officer's website, in the location where reports relating to each school board office candidate are available for public access:

(A) each fine imposed by the chief election officer against the school board office candidate;

(B) the amount of the fine;

(C) the amount of the contribution to which the fine relates; and

(D) the date of the contribution.

(7) Within 31 days after receiving a contribution that is cash or a negotiable instrument, exceeds $50, and is from an unknown source, a school board office candidate shall disburse the contribution to[~~: (a) the treasurer of the state or a political subdivision for deposit into the state's or political subdivision's general fund; or (b)~~] an organization that is exempt from federal income taxation under Section 501(c)(3), Internal Revenue Code.

(8) (a) As used in this Subsection (8), "account" means an account in a financial institution:

(i) that is not described in Subsection (1)(a)(i); and

(ii) into which or from which a person who, as a candidate for an office, other than a school board office for which the person files a declaration of candidacy or federal office, or as a holder of an office, other than a school board office for which the person files a declaration of candidacy or federal office, deposits a contribution or makes an expenditure.

(b) A school board office candidate shall include on any financial statement filed in accordance with this part:

(i) a contribution deposited in an account:

(A) since the last campaign finance statement was filed; or

(B) that has not been reported under a statute or ordinance that governs the account; or

(ii) an expenditure made from an account:

(A) since the last campaign finance statement was filed; or

(B) that has not been reported under a statute or ordinance that governs the account.

Section 15. Section 20A-11-1303 is amended to read:

20A-11-1303. School board office candidate and school board officeholder -- Financial reporting requirements -- Interim reports.

(1) (a) As used in this section, "received" means:

(i) for a cash contribution, that the cash is given to a school board office candidate or a member of the school board office candidate's personal campaign committee;

(ii) for a contribution that is a check or other negotiable instrument, that the check or other negotiable instrument is negotiated; [~~or~~]

(iii) for a direct deposit made into a campaign account by a person not associated with the campaign, the earlier of:

(A) the day on which the school board office candidate or a member of the school board office candidate's personal campaign committee becomes aware of the deposit and the source of the deposit;

(B) the day on which the school board office candidate or a member of the school board office candidate's personal campaign committee receives notice of the deposit and the source of the deposit by mail, email, text, or similar means; or

(C) 31 days after the day on which the direct deposit occurs; or

[~~(iii)~~] (iv) for any other type of contribution, that any portion of the contribution's benefit inures to the school board office candidate.

(b) As used in this Subsection (1), "campaign account" means a separate campaign account required under Subsection 20A-11-1301(1)(a)(i) or (c)(i).

(c) Each school board office candidate shall file an interim report at the following times in any year in which the candidate has filed a declaration of candidacy for a public office:

(i) May 15;

(ii) seven days before the regular primary election date;

(iii) September 30; and

(iv) seven days before the regular general election date.

[~~(d) Each school board officeholder who has a campaign account that has not been dissolved under Section 20A-11-1304 shall, in an even year, file an interim report at the following times, regardless of whether an election for the school board officeholder's office is held that year:~~]

[~~(i) May 15;~~]

[~~(ii) seven days before the regular primary election date for that year;~~]

[~~(iii) September 30; and~~]

[~~(iv) seven days before the regular general election date.~~]

(2) Each interim report shall include the following information:

(a) the net balance of the last summary report, if any;

(b) a single figure equal to the total amount of receipts reported on all prior interim reports, if any, during the calendar year in which the interim report is due;

(c) a single figure equal to the total amount of expenditures reported on all prior interim reports, if any, filed during the calendar year in which the interim report is due;

(d) a detailed listing of:

(i) for a school board office candidate, each contribution received since the last summary report that has not been reported in detail on a prior interim report; or

(ii) for a school board officeholder, each contribution and public service assistance received since the last summary report that has not been reported in detail on a prior interim report;

(e) for each nonmonetary contribution:

(i) the fair market value of the contribution with that information provided by the contributor; and

(ii) a specific description of the contribution;

(f) a detailed listing of each expenditure made since the last summary report that has not been reported in detail on a prior interim report;

(g) for each nonmonetary expenditure, the fair market value of the expenditure;

(h) a net balance for the year consisting of the net balance from the last summary report, if any, plus all receipts since the last summary report minus all expenditures since the last summary report;

(i) a summary page in the form required by the lieutenant governor that identifies:

(i) beginning balance;

(ii) total contributions during the period since the last statement;

(iii) total contributions to date;

(iv) total expenditures during the period since the last statement; and

(v) total expenditures to date; and

(j) the name of a political action committee for which the school board office candidate or school board officeholder is designated as an officer who has primary decision-making authority under Section 20A-11-601.

(3) (a) In preparing each interim report, all receipts and expenditures shall be reported as of five days before the required filing date of the report.

(b) Any negotiable instrument or check received by a school board office candidate or school board officeholder more than five days before the required filing date of a report required by this section shall be included in the interim report.

Section 16. Section 20A-11-1602 is amended to read:

20A-11-1602. Definitions.

As used in this part:

(1) "Conflict of interest" means an action that is taken by a regulated officeholder that the officeholder reasonably believes may cause direct financial benefit or detriment to the officeholder, a member of the officeholder's immediate family, or an individual or entity that the officeholder is required to disclose under the provisions of this section, if that benefit or detriment is distinguishable from the effects of that action on the public or on the officeholder's profession, occupation, or association generally.

(2) "Conflict of interest disclosure" means[~~: (a) before January 1, 2020, a conflict of interest disclosure form that includes all information required under Section 20A-11-1604; and (b) on or after January 1, 2020,~~] a disclosure, on the website, of all information required under Section 20A-11-1604.

(3) "Entity" means a corporation, a partnership, a limited liability company, a limited partnership, a sole proprietorship, an association, a cooperative, a trust, an organization, a joint venture, a governmental entity, an unincorporated organization, or any other legal entity, regardless of whether it is established primarily for the purpose of gain or economic profit.

(4) "Filing officer" means:

(a) the lieutenant governor, for the office of a state constitutional officer or State Board of Education member; or

(b) the lieutenant governor or the county clerk in the county of the candidate's residence, for a state legislative office.

(5) "Immediate family" means the regulated officeholder's spouse, a child living in the regulated officeholder's immediate household, or an individual claimed as a dependent for state or federal income tax purposes by the regulated officeholder.

(6) "Income" means earnings, compensation, or any other payment made to an individual for gain, regardless of source, whether denominated as wages, salary, commission, pay, bonus, severance pay, incentive pay, contract payment, interest, per diem, expenses, reimbursement, dividends, or otherwise.

(7) (a) "Owner or officer" means an individual who owns an ownership interest in an entity or holds a position where the person has authority to manage, direct, control, or make decisions for:

(i) the entity or a portion of the entity; or

(ii) an employee, agent, or independent contractor of the entity.

(b) "Owner or officer" includes:

(i) a member of a board of directors or other governing body of an entity; or

(ii) a partner in any type of partnership.

(8) "Preceding year" means the year immediately preceding the day on which the regulated officeholder makes a conflict of interest disclosure.

(9) "Regulated officeholder" means an individual who is required to make a conflict of interest disclosure under the provisions of this part.

(10) "State constitutional officer" means the governor, the lieutenant governor, the state auditor, the state treasurer, or the attorney general.

(11) "Website" means the Candidate and Officeholder Conflict of Interest Disclosure Website described in Section 20A-11-1602.5.

Section 17. Section 20A-11-1602.5 is amended to read:

20A-11-1602.5. Candidate and Officeholder Conflict of Interest Disclosure Website.

(1) The lieutenant governor shall, in cooperation with the county clerks, establish and administer a Candidate and Officeholder Conflict of Interest Disclosure Website.

(2) [~~Beginning no later than January 1, 2020, the~~] The website shall:

(a) permit a candidate or officeholder to securely access the website for the purpose of:

(i) complying with the conflict of interest disclosure requirements described in this part; and

(ii) editing conflict of interest disclosures;

(b) contain a record of all conflict of interest disclosures and edits made by the candidate or officeholder for at least the preceding four years; and

(c) permit any person to view a conflict of interest disclosure made by a candidate or officeholder.

[~~(3) No sooner than January 1, 2020, and before January 11, 2020, each individual who is required to make a conflict of interest disclosure under this part shall, regardless of whether the individual has already made a conflict of interest disclosure by a means other than the website, make a complete and updated conflict of interest disclosure on the website using the secure access described in Subsection (2)(a).~~]

Section 18. Section 20A-11-1603 is amended to read:

20A-11-1603. Conflict of interest disclosure -- Required when filing for candidacy -- Public availability.

[~~(1) Beginning on January 1, 2020~~]

(1) (a) Except as provided in Subsection (1)(b), candidates seeking the following offices shall make a complete conflict of interest disclosure on the website at the time of filing a declaration of candidacy:

[~~(a)~~] (i) state constitutional officer;

[~~(b)~~] (ii) state legislator; or

[~~(c)~~] (iii) State Board of Education member.

(b) A candidate is not required to comply with Subsection (1)(a) if the candidate:

(i) currently holds the office for which the candidate is seeking reelection;

(ii) already, that same year, filed the conflict of interest disclosure for the office described in Subsection (1)(b)(i), in accordance Section 20A-11-1604; and

(iii) at the time the candidate files the declaration of candidacy, indicates, in writing, that the conflict of interest disclosure described in Subsection (1)(b)(ii) is updated and accurate as of the date of filing the declaration of candidacy.

(2) [~~A~~] Except as provided in Subsection (1)(b), a filing officer may not accept a declaration of candidacy for an office listed in Subsection (1)(a) until the candidate makes a complete conflict of interest disclosure on the website.

(3) The conflict of interest disclosure described in Subsection (1)(a) shall contain the same requirements and shall be in the same format as the conflict of interest disclosure described in Section 20A-11-1604.

[~~(4) Until January 1, 2020, the filing officer shall:~~]

[~~(a) make each financial disclosure form that the filing officer receives available for public inspection at the filing officer's place of business; and~~]

[~~(b) if the filing officer is not the lieutenant governor, provide each financial disclosure form to the lieutenant governor within one business day after the day on which the candidate files the financial disclosure form.~~]

[~~(5) Until January 1, 2020, the lieutenant governor shall make each financial disclosure form that the lieutenant governor receives available to the public:~~]

[~~(a) at the Office of the Lieutenant Governor; and~~]

[~~(b) on the Statewide Electronic Voter Information Website administered by the lieutenant governor.~~]

[~~(6) Beginning on January 1, 2020, the~~]

(4) The lieutenant governor shall make the complete conflict of interest disclosure made by each candidate available for public inspection on the website.

Section 19. Section 20A-11-1604 is amended to read:

20A-11-1604. Failure to disclose conflict of interest -- Failure to comply with reporting requirements.

(1) (a) Before or during the execution of any order, settlement, declaration, contract, or any other official act of office in which a state constitutional officer has actual knowledge that the state constitutional officer has a conflict of interest that is not stated in the conflict of interest disclosure, the state constitutional officer shall publicly declare that the state constitutional officer may have a conflict of interest and what that conflict of interest is.

(b) Before or during any vote on legislation or any legislative matter in which a legislator has actual knowledge that the legislator has a conflict of interest that is not stated in the conflict of interest disclosure, the legislator shall orally declare to the committee or body before which the matter is pending that the legislator may have a conflict of interest and what that conflict is.

(c) Before or during any vote on any rule, resolution, order, or any other board matter in which a member of the State Board of Education has actual knowledge that the member has a conflict of interest that is not stated in the conflict of interest disclosure, the member shall orally declare to the board that the member may have a conflict of interest and what that conflict of interest is.

(2) Any public declaration of a conflict of interest that is made under Subsection (1) shall be noted:

(a) on the official record of the action taken, for a state constitutional officer;

(b) in the minutes of the committee meeting or in the Senate or House Journal, as applicable, for a legislator; or

(c) in the minutes of the meeting or on the official record of the action taken, for a member of the State Board of Education.

[~~(3) (a) Until January 1, 2020, a state constitutional officer shall file a financial disclosure form:~~]

[~~(i) (A) on January 10 each year, or the following business day if the due date falls on a weekend or holiday; or~~]

[~~(B) if the state constitutional officer takes office after January 10, within 10 days after the day on which the state constitutional officer takes office; and~~]

[~~(ii) each time the state constitutional officer changes employment.~~]

[~~(b) Beginning on January 1, 2020, a~~]

(3) A state constitutional officer shall make a complete conflict of interest disclosure on the website:

(a) (i) [~~(A)~~] no sooner than January 1 each year, and before January 11 each year; or

[~~(B)~~] (ii) if the state constitutional officer takes office after January 10, within 10 days after the day on which the state constitutional officer takes office; and

[~~(ii)~~] (b) each time the state constitutional officer changes employment.

[~~(c) Until January 1, 2020, a legislator shall file a financial disclosure form:~~]

[~~(i) (A) on the first day of each general session of the Legislature; or~~]

[~~(B) if the legislator takes office after the first day of the general session of the Legislature, within 10 days after the day on which the legislator takes office; and~~]

[~~(ii) each time the legislator changes employment.~~]

[~~(d) Beginning on January 1, 2020, a~~]

(4) A legislator shall make a complete conflict of interest disclosure on the website:

(a) (i) [~~(A)~~] no sooner than January 1 each year, and before January 11 each year; or

[~~(B)~~] (ii) if the legislator takes office after January 10, within 10 days after the day on which the legislator takes office; and

[~~(ii)~~] (b) each time the legislator changes employment.

[~~(e) Until January 1, 2020, a member of the State Board of Education shall file a financial disclosure form:~~]

[~~(i) (A) on January 10 of each year, or the following business day if the due date falls on a weekend or holiday; or~~]

[~~(B) if the member takes office after January 10, within 10 days after the day on which the member takes office; and~~]

[~~(ii) each time the member changes employment.~~]

[~~(f) Beginning on January 1, 2020, a~~]

(5) A member of the State Board of Education shall make a complete conflict of interest disclosure on the website:

(a) (i) [~~(A)~~] no sooner than January 1 each year, and before January 11 each year; or

[~~(B)~~] (ii) if the member takes office after January 10, within 10 days after the day on which the member takes office; and

[~~(ii)~~] (b) each time the member changes employment.

[~~(4) The~~]

(6) A conflict of interest disclosure described in Subsection (3), (4), or (5) shall include:

(a) the regulated officeholder's name;

(b) the name and address of each of the regulated officeholder's current employers and each of the regulated officeholder's employers during the preceding year;

(c) for each employer described in Subsection [~~(4)~~] (6)(b), a brief description of the employment, including the regulated officeholder's occupation and, as applicable, job title;

(d) for each entity in which the regulated officeholder is an owner or officer, or was an owner or officer during the preceding year:

(i) the name of the entity;

(ii) a brief description of the type of business or activity conducted by the entity; and

(iii) the regulated officeholder's position in the entity;

(e) in accordance with Subsection [~~(5)(b)~~] (7), for each individual from whom, or entity from which, the regulated officeholder has received $5,000 or more in income during the preceding year:

(i) the name of the individual or entity; and

(ii) a brief description of the type of business or activity conducted by the individual or entity;

(f) for each entity in which the regulated officeholder holds any stocks or bonds having a fair market value of $5,000 or more as of the date of the disclosure form or during the preceding year, but excluding funds that are managed by a third party, including blind trusts, managed investment accounts, and mutual funds:

(i) the name of the entity; and

(ii) a brief description of the type of business or activity conducted by the entity;

(g) for each entity not listed in Subsections [~~(4)~~] (6)(d) through (f) in which the regulated officeholder currently serves, or served in the preceding year, on the board of directors or in any other type of paid leadership capacity:

(i) the name of the entity or organization;

(ii) a brief description of the type of business or activity conducted by the entity; and

(iii) the type of advisory position held by the regulated officeholder;

(h) at the option of the regulated officeholder, a description of any real property in which the regulated officeholder holds an ownership or other financial interest that the regulated officeholder believes may constitute a conflict of interest, including a description of the type of interest held by the regulated officeholder in the property;

(i) the name of the regulated officeholder's spouse and any other adult residing in the regulated officeholder's household who is not related by blood or marriage, as applicable;

(j) for the regulated officeholder's spouse, the information that a regulated officeholder is required to provide under Subsection [~~(4)~~] (6)(b);

(k) a brief description of the employment and occupation of each adult who:

(i) resides in the regulated officeholder's household; and

(ii) is not related to the regulated officeholder by blood or marriage;

(l) at the option of the regulated officeholder, a description of any other matter or interest that the regulated officeholder believes may constitute a conflict of interest;

(m) the date the form was completed;

(n) a statement that the regulated officeholder believes that the form is true and accurate to the best of the regulated officeholder's knowledge; and

(o) the signature of the regulated officeholder.

[~~(5) (a) Before January 1, 2020, the regulated officeholder shall file the financial disclosure form with:~~]

[~~(i) the secretary of the Senate, if the regulated officeholder is a member of the Senate;~~]

[~~(ii) the chief clerk of the House of Representatives, if the regulated officeholder is a member of the House of Representatives; or~~]

[~~(iii) the lieutenant governor, if the regulated officeholder is a regulated officeholder other than a regulated officeholder described in Subsection (5)(a)(i) or (ii).~~]

[~~(b)~~] (7) In making the disclosure described in Subsection [~~(4)~~] (6)(e), a regulated officeholder who provides goods or services to multiple customers or clients as part of a business or a licensed profession is only required to provide the information described in Subsection [~~(4)~~] (6)(e) in relation to the entity or practice through which the regulated officeholder provides the goods or services and is not required to provide the information described in Subsection [~~(4)~~] (6)(e) in relation to the regulated officeholder's individual customers or clients.

[~~(6) Until January 1, 2020, the lieutenant governor, the secretary of the Senate, and the chief clerk of the House of Representatives shall ensure that blank conflict of interest disclosure forms are available on the Internet and at their offices.~~]

[~~(7) Until January 1, 2020, an individual described in Subsection (6) who receives a conflict of interest disclosure form or an amendment to a conflict of interest disclosure form under this section shall make each version of the form, and each amendment to the form, available to the public for the period of time described in Subsection (8), in the following manner:~~]

[~~(a) on the Internet; and~~]

[~~(b) at the office where the form or the amendment to the form was filed.~~]

[~~(8) The period of time that an individual described in Subsection (7) shall make each version of a conflict of interest disclosure form and each amendment to a conflict of interest disclosure form available to the public is:~~]

[~~(a) two years after the day on which the individual described in Subsection (7) receives the form, for a regulated officeholder in an office that has a normal term of two years or less; or~~]

[~~(b) four years after the day on which the individual described in Subsection (7) receives the form, for a regulated officeholder in an office that has a normal term of more than two years.~~]

[~~(9)~~] (8) The disclosure requirements described in this section do not prohibit a regulated officeholder from voting or acting on any matter.

[~~(10)~~] (9) A regulated officeholder may amend a conflict of interest disclosure described in this part at any time.

[~~(11)~~] (10) A regulated officeholder who violates the requirements of Subsection (1) is guilty of a class B misdemeanor.

[~~(12)~~] (11) (a) A regulated officeholder who intentionally or knowingly violates a provision of this section, other than Subsection (1), is guilty of a class B misdemeanor.

(b) In addition to the criminal penalty described in Subsection [~~(12)~~] (11)(a), the lieutenant governor shall impose a civil penalty of $100 against a regulated officeholder who violates a provision of this section, other than Subsection (1).

Section 20. Section 20A-11-1605 is amended to read:

20A-11-1605. Failure to file -- Penalties.

(1) Within 60 days after the day on which a regulated officeholder is required to file a conflict of interest disclosure under Subsection 20A-11-1604(3)[~~(a)(i), (b)(i), (c)(i), (d)(i), (e)(i), or (f)(i)~~], (4) or (5), the lieutenant governor shall review each filed conflict of interest disclosure to ensure that:

(a) each regulated officeholder who is required to file a conflict of interest disclosure has filed one; and

(b) each conflict of interest disclosure contains the information required under Section 20A-11-1604.

(2) The lieutenant governor shall take the action described in Subsection (3) if:

(a) a regulated officeholder has failed to timely file a conflict of interest disclosure;

(b) a filed conflict of interest disclosure does not comply with the requirements of Section 20A-11-1604; or

(c) the lieutenant governor receives a written complaint alleging a violation of Section 20A-11-1604, other than Subsection 20A-11-1604(1), and after receiving the complaint and giving the regulated officeholder notice and an opportunity to be heard, the lieutenant governor determines that a violation occurred.

(3) If a circumstance described in Subsection (2) occurs, the lieutenant governor shall, within five days after the day on which the lieutenant governor determines that a violation occurred, notify the regulated officeholder of the violation and direct the regulated officeholder to file an amended report correcting the problem.

(4) (a) It is unlawful for a regulated officeholder to fail to file or amend a conflict of interest disclosure within seven days after the day on which the regulated officeholder receives the notice described in Subsection (3).

(b) A regulated officeholder who violates Subsection (4)(a) is guilty of a class B misdemeanor.

(c) The lieutenant governor shall report all violations of Subsection (4)(a) to the attorney general.

(d) In addition to the criminal penalty described in Subsection (4)(b), the lieutenant governor shall impose a civil fine of $100 against a regulated officeholder who violates Subsection (4)(a).

(5) The lieutenant governor shall deposit a fine collected under this part into the General Fund as a dedicated credit to pay for the costs of administering the provisions of this part.

Section 21. Section 20A-11-1706 is amended to read:

20A-11-1706. Penalties.

(1) The chief election officer shall impose a $100 fine against an individual who fails to file an independent expenditure report, that includes the information required for the report, within the time period required by this part.

(2) The chief election officer shall impose a $1000 fine against a person who is not an individual who fails to file an independent expenditure report, that includes the information required for the report, within the time period required by this part.

(3) The chief election officer shall deposit fines collected under this chapter [~~in~~] into the General Fund.

Section 22. Section 20A-12-303 is amended to read:

20A-12-303. Separate account for campaign funds -- Reporting contributions.

(1) The judge or the judge's personal campaign committee shall deposit each contribution in one or more separate personal campaign accounts in a financial institution.

(2) The judge or the judge's personal campaign committee may not deposit or mingle any contributions received into a personal or business account.

(3) (a) As used in this Subsection (3) and Section 20A-12-305, "received" means:

(i) for a cash contribution, that the cash is given to a judge or the judge's personal campaign committee;

(ii) for a contribution that is a negotiable instrument or check, that the negotiable instrument or check is negotiated; and

(iii) for any other type of contribution, that any portion of the contribution's benefit inures to the judge.

(b) The judge or the judge's personal campaign committee shall report to the lieutenant governor each contribution received by the judge, within 31 days after the day on which the contribution is received.

(c) For each contribution that a judge fails to report within the time period described in Subsection (3)(b), the lieutenant governor shall impose a fine against the judge in an amount equal to:

(i) 10% of the amount of the contribution if the judge reports the contribution within 60 days after the day on which the time period described in Subsection (3)(b) ends; or

(ii) 20% of the amount of the contribution, if the judge fails to report the contribution within 60 days after the day on which the time period described in Subsection (3)(b) ends.

(d) The lieutenant governor shall:

(i) deposit money received under Subsection (3)(c) into the General Fund; and

(ii) report on the lieutenant governor's website, in the location where reports relating to each judge are available for public access:

(A) each fine imposed by the lieutenant governor against the judge;

(B) the amount of the fine;

(C) the amount of the contribution to which the fine relates; and

(D) the date of the contribution.

(4) Within 31 days after receiving a contribution that is cash or a negotiable instrument, exceeds $50, and is from an unknown source, a judge or the judge's personal campaign committee shall disburse the amount of the contribution to[~~: (a) the treasurer of the state or a political subdivision for deposit into the state's or political subdivision's general fund; or (b)~~] an organization that is exempt from federal income taxation under Section 501(c)(3), Internal Revenue Code.

Section 23. Section 36-11-102 is amended to read:

36-11-102. Definitions.

As used in this chapter:

(1) "Aggregate daily expenditures" means:

(a) for a single lobbyist, principal, or government officer, the total of all expenditures made within a calendar day by the lobbyist, principal, or government officer for the benefit of an individual public official;

(b) for an expenditure made by a member of a lobbyist group, the total of all expenditures made within a calendar day by every member of the lobbyist group for the benefit of an individual public official; or

(c) for a multiclient lobbyist, the total of all expenditures made by the multiclient lobbyist within a calendar day for the benefit of an individual public official, regardless of whether the expenditures were attributed to different clients.

(2) "Approved activity" means an event, a tour, or a meeting:

(a) (i) to which a legislator or another nonexecutive branch public official is invited; and

(ii) attendance at which is approved by:

(A) the speaker of the House of Representatives, if the public official is a member of the House of Representatives or another nonexecutive branch public official; or

(B) the president of the Senate, if the public official is a member of the Senate or another nonexecutive branch public official; or

(b) (i) to which a public official who holds a position in the executive branch of state government is invited; and

(ii) attendance at which is approved by the governor or the lieutenant governor.

(3) "Capitol hill complex" means the same as that term is defined in Section 63C-9-102.

(4) (a) "Compensation" means anything of economic value, however designated, that is paid, loaned, granted, given, donated, or transferred to an individual for the provision of services or ownership before any withholding required by federal or state law.

(b) "Compensation" includes:

(i) a salary or commission;

(ii) a bonus;

(iii) a benefit;

(iv) a contribution to a retirement program or account;

(v) a payment includable in gross income, as defined in Section 62, Internal Revenue Code, and subject to Social Security deductions, including a payment in excess of the maximum amount subject to deduction under Social Security law;

(vi) an amount that the individual authorizes to be deducted or reduced for salary deferral or other benefits authorized by federal law; or

(vii) income based on an individual's ownership interest.

(5) "Compensation payor" means a person who pays compensation to a public official in the ordinary course of business:

(a) because of the public official's ownership interest in the compensation payor; or

(b) for services rendered by the public official on behalf of the compensation payor.

(6) "Event" means entertainment, a performance, a contest, or a recreational activity that an individual participates in or is a spectator at, including a sporting event, an artistic event, a play, a movie, dancing, or singing.

(7) "Executive action" means:

(a) a nomination or appointment by the governor;

(b) the proposal, drafting, amendment, enactment, or defeat by a state agency of a rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(c) agency ratemaking proceedings; or

(d) an adjudicative proceeding of a state agency.

(8) (a) "Expenditure" means any of the items listed in this Subsection (8)(a) when given to or for the benefit of a public official unless consideration of equal or greater value is received:

(i) a purchase, payment, or distribution;

(ii) a loan, gift, or advance;

(iii) a deposit, subscription, or forbearance;

(iv) services or goods;

(v) money;

(vi) real property;

(vii) a ticket or admission to an event; or

(viii) a contract, promise, or agreement, whether or not legally enforceable, to provide any item listed in Subsections (8)(a)(i) through (vii).

(b) "Expenditure" does not mean:

(i) a commercially reasonable loan made in the ordinary course of business;

(ii) a campaign contribution reported in accordance with Title 20A, Chapter 11, Campaign and Financial Reporting Requirements;

(iii) printed informational material that is related to the performance of the recipient's official duties;

(iv) a devise or inheritance;

(v) any item listed in Subsection (8)(a) if:

(A) given by a relative;

(B) given by a compensation payor for a purpose solely unrelated to the public official's position as a public official;

(C) the item is food or beverage with a value that does not exceed the food reimbursement rate, and the aggregate daily expenditures for food and beverage do not exceed the food reimbursement rate; or

(D) the item is not food or beverage, has a value of less than $10, and the aggregate daily expenditures do not exceed $10;

(vi) food or beverage that is provided at an event, a tour, or a meeting to which the following are invited:

(A) all members of the Legislature;

(B) all members of a standing or interim committee;

(C) all members of an official legislative task force;

(D) all members of a party caucus; or

(E) all members of a group described in Subsections (8)(b)(vi)(A) through (D) who are attending a meeting of a national organization whose primary purpose is addressing general legislative policy;

(vii) food or beverage that is provided at an event, a tour, or a meeting to a public official who is:

(A) giving a speech at the event, tour, or meeting;

(B) participating in a panel discussion at the event, tour, or meeting; or

(C) presenting or receiving an award at the event, tour, or meeting;

(viii) a plaque, commendation, or award that:

(A) is presented in public;

(B) has the name of the individual receiving the plaque, commendation, or award inscribed, etched, printed, or otherwise permanently marked on the plaque, commendation, or award;

(ix) a gift that:

(A) is an item that is not consumable and not perishable;

(B) a public official accepts on behalf of the state;

(C) the public official promptly remits to the state;

(D) a property administrator does not reject under Section 63G-23-103;

(E) does not constitute a direct benefit to the public official before or after the public official remits the gift to the state; and

(F) after being remitted to the state, is not transferred, divided, distributed, or used to distribute a gift or benefit to one or more public officials in a manner that would otherwise qualify the gift as an expenditure if the gift were given directly to a public official;

(x) [~~a publication having a~~] any of the following with a cash value not exceeding $30[~~;~~]:

(A) a publication; or

(B) a commemorative item;

(xi) admission to or attendance at an event, a tour, or a meeting, the primary purpose of which is:

(A) to solicit contributions reportable under:

(I) Title 20A, Chapter 11, Campaign and Financial Reporting Requirements; or

(II) 2 U.S.C. Sec. 434; or

(B) charitable solicitation, as defined in Section 13-22-2;

(xii) travel to, lodging at, food or beverage served at, and admission to an approved activity;

(xiii) sponsorship of an approved activity;

(xiv) notwithstanding Subsection (8)(a)(vii), admission to, attendance at, or travel to or from an event, a tour, or a meeting:

(A) that is sponsored by a governmental entity; or

(B) that is widely attended and related to a governmental duty of a public official; or

(xv) travel to a widely attended tour or meeting related to a governmental duty of a public official if that travel results in a financial savings to the state.

(9) "Food reimbursement rate" means the total amount set by the director of the Division of Finance, by rule, under Section 63A-3-107, for in-state meal reimbursement, for an employee of the executive branch, for an entire day.

(10) (a) "Government officer" means:

(i) an individual elected to a position in state or local government, when acting within the government officer's official capacity; or

(ii) an individual appointed to or employed in a full-time position by state or local government, when acting within the scope of the individual's employment.

(b) "Government officer" does not mean a member of the legislative branch of state government.

(11) "Immediate family" means:

(a) a spouse;

(b) a child residing in the household; or

(c) an individual claimed as a dependent for tax purposes.

(12) "Legislative action" means:

(a) a bill, resolution, amendment, nomination, veto override, or other matter pending or proposed in either house of the Legislature or its committees or requested by a legislator; and

(b) the action of the governor in approving or vetoing legislation.

(13) "Lobbying" means communicating with a public official for the purpose of influencing the passage, defeat, amendment, or postponement of legislative or executive action.

(14) (a) "Lobbyist" means:

(i) an individual who is employed by a principal; or

(ii) an individual who contracts for economic consideration, other than reimbursement for reasonable travel expenses, with a principal to lobby a public official.

(b) "Lobbyist" does not include:

(i) a government officer;

(ii) a member or employee of the legislative branch of state government;

(iii) a person, including a principal, while appearing at, or providing written comments to, a hearing conducted in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act or Title 63G, Chapter 4, Administrative Procedures Act;

(iv) a person participating on or appearing before an advisory or study task force, commission, board, or committee, constituted by the Legislature or any agency or department of state government, except legislative standing, appropriation, or interim committees;

(v) a representative of a political party;

(vi) an individual representing a bona fide church solely for the purpose of protecting the right to practice the religious doctrines of the church, unless the individual or church makes an expenditure that confers a benefit on a public official;

(vii) a newspaper, television station or network, radio station or network, periodical of general circulation, or book publisher for the purpose of publishing news items, editorials, other comments, or paid advertisements that directly or indirectly urge legislative or executive action;

(viii) an individual who appears on the individual's own behalf before a committee of the Legislature or an agency of the executive branch of state government solely for the purpose of testifying in support of or in opposition to legislative or executive action; or

(ix) an individual representing a business, entity, or industry, who:

(A) interacts with a public official, in the public official's capacity as a public official, while accompanied by a registered lobbyist who is lobbying in relation to the subject of the interaction or while presenting at a legislative committee meeting at the same time that the registered lobbyist is attending another legislative committee meeting; and

(B) does not make an expenditure for, or on behalf of, a public official in relation to the interaction or during the period of interaction.

(15) "Lobbyist group" means two or more lobbyists, principals, government officers, or any combination of lobbyists, principals, and officers who each contribute a portion of an expenditure made to benefit a public official or member of the public official's immediate family.

(16) "Meeting" means a gathering of people to discuss an issue, receive instruction, or make a decision, including a conference, seminar, or summit.

(17) "Multiclient lobbyist" means a single lobbyist, principal, or government officer who represents two or more clients and divides the aggregate daily expenditure made to benefit a public official or member of the public official's immediate family between two or more of those clients.

(18) "Principal" means a person that employs an individual to perform lobbying, either as an employee or as an independent contractor.

(19) "Public official" means:

(a) (i) a member of the Legislature;

(ii) an individual elected to a position in the executive branch of state government; or

(iii) an individual appointed to or employed in a position in the executive or legislative branch of state government if that individual:

(A) occupies a policymaking position or makes purchasing or contracting decisions;

(B) drafts legislation or makes rules;

(C) determines rates or fees; or

(D) makes adjudicative decisions; or

(b) an immediate family member of a person described in Subsection (19)(a).

(20) "Public official type" means a notation to identify whether a public official is:

(a) (i) a member of the Legislature;

(ii) an individual elected to a position in the executive branch of state government;

(iii) an individual appointed to or employed in a position in the legislative branch of state government who meets the definition of public official under Subsection (19)(a)(iii); or

(iv) an individual appointed to or employed in a position in the executive branch of state

government who meets the definition of public official under Subsection (19)(a)(iii); or

(b) an immediate family member of a person described in Subsection (19)(a).

(21) "Quarterly reporting period" means the three-month period covered by each financial report required under Subsection 36-11-201(2)(a).

(22) "Related person" means a person, agent, or employee who knowingly and intentionally assists a lobbyist, principal, or government officer in lobbying.

(23) "Relative" means a spouse, child, parent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, first cousin, or spouse of any of these individuals.

(24) "Tour" means visiting a location, for a purpose relating to the duties of a public official, and not primarily for entertainment, including:

(a) viewing a facility;

(b) viewing the sight of a natural disaster; or

(c) assessing a circumstance in relation to which a public official may need to take action within the scope of the public official's duties.

Section 24. Effective date.

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

CHAPTER 21
H. B. 379
Passed March 5, 2021
Approved March 9, 2021
Effective March 9, 2021

BOARD OF PARDONS AMENDMENTS

Chief Sponsor: Paul Ray
Senate Sponsor: Daniel W. Thatcher

LONG TITLE

General Description:

This bill addresses proceedings and records of the Board of Pardons and Parole and restricts eligibility for parole for certain offenders.

Highlighted Provisions:

This bill:

- defines "deliberative process" for the Board of Pardons and Parole;
- exempts the deliberative process of the Board of Pardons and Parole from Open and Public Meetings Act requirements;
- addresses records of the Board of Pardons and Parole that are exempt from disclosure and discovery provisions; and
- prevents an offender convicted of a homicide where the victim's remains have not been recovered from being paroled unless the offender has cooperated with efforts to locate the remains.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

This bill provides a coordination clause.

Utah Code Sections Affected:

AMENDS:

77-27-1, as last amended by Laws of Utah 2015, Chapter 412
77-27-5, as last amended by Laws of Utah 2019, Chapter 148
77-27-9, as last amended by Laws of Utah 2019, Chapter 72

Utah Code Sections Affected by Coordination Clause:

77-27-9, as last amended by Laws of Utah 2019, Chapter 72

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

Section 1. Section 77-27-1 is amended to read:

77-27-1. Definitions.

As used in this chapter:

(1) "Appearance" means any opportunity to address the board, a board member, a panel, or hearing officer, including an interview.

(2) "Board" means the Board of Pardons and Parole.

(3) "Case action plan" means a document developed by the Department of Corrections that identifies the program priorities for the treatment of the offender, including the criminal risk factors as determined by a risk and needs assessment conducted by the department.

(4) "Commission" means the Commission on Criminal and Juvenile Justice.

(5) "Commutation" is the change from a greater to a lesser punishment after conviction.

(6) "Criminal risk factors" means a person's characteristics and behaviors that:

(a) affect that person's risk of engaging in criminal behavior; and

(b) are diminished when addressed by effective treatment, supervision, and other support resources resulting in reduced risk of criminal behavior.

(7) (a) "Deliberative process" means the board or any number of the board's individual members together engaging in discussions, whether written or verbal, regarding a parole, a pardon, a commutation, termination of sentence, or fines, fees, or restitution in an individual case.

(b) "Deliberative process" includes the votes, mental processes, written notes, and recommendations of individual board members and staff.

(c) "Deliberative process" does not include:

(i) a hearing where the offender is present;

(ii) any factual record the board is considering, including records of the offender's criminal convictions, records regarding the offender's current or previous incarceration and supervision, and records regarding the offender's physical or mental health;

(iii) recommendations regarding the offender's incarceration or supervision from any other individual, governmental entity, or agency;

(iv) testimony received by the board regarding the offender, whether written or verbal; or

(v) the board's decision or rationale for the decision.

[~~(7)~~] (8) "Department" means the Department of Corrections.

[~~(8)~~] (9) "Expiration" occurs when the maximum sentence has run.

[~~(9)~~] (10) "Family" means persons related to the victim as a spouse, child, sibling, parent, or grandparent, or the victim's legal guardian.

[~~(10)~~] (11) "Hearing" means an appearance before the board, a panel, a board member or hearing examiner, at which an offender or inmate is afforded an opportunity to be present and address the board, and encompasses the term "full hearing."

[~~(11)~~] (12) "Location," in reference to a hearing, means the physical location at which the board, a panel, a board member, or a hearing examiner is conducting the hearing, regardless of the location of any person participating by electronic means.

[~~(12)~~] (13) "Open session" means any hearing before the board, a panel, a board member, or a hearing examiner which is open to the public, regardless of the location of any person participating by electronic means.

[~~(13)~~] (14) "Panel" means members of the board assigned by the chairperson to a particular case.

[~~(14)~~] (15) "Pardon" is an act of grace that forgives a criminal conviction and restores the rights and privileges forfeited by or because of the criminal conviction. A pardon releases an offender from the entire punishment prescribed for a criminal offense and from disabilities that are a consequence of the criminal conviction. A pardon reinstates any civil rights lost as a consequence of conviction or punishment for a criminal offense.

[~~(15)~~] (16) "Parole" is a release from imprisonment on prescribed conditions which, if satisfactorily performed by the parolee, enables the parolee to obtain a termination of his sentence.

[~~(16)~~] (17) "Probation" is an act of grace by the court suspending the imposition or execution of a convicted offender's sentence upon prescribed conditions.

[~~(17)~~] (18) "Reprieve or respite" is the temporary suspension of the execution of the sentence.

[~~(18)~~] (19) "Termination" is the act of discharging from parole or concluding the sentence of imprisonment prior to the expiration of the sentence.

[~~(19)~~] (20) "Victim" means:

(a) a person against whom the defendant committed a felony or class A misdemeanor offense, and regarding which offense a hearing is held under this chapter; or

(b) the victim's family, if the victim is deceased as a result of the offense for which a hearing is held under this chapter.

Section 2. Section 77-27-5 is amended to read:

77-27-5. Board of Pardons and Parole authority.

(1) (a) The Board of Pardons and Parole shall determine by majority decision when and under what conditions any convictions, except for treason or impeachment, may be pardoned or commuted, subject to this chapter and other laws of the state.

(b) The Board of Pardons and Parole shall determine by majority decision when and under what conditions, subject to this chapter and other laws of the state, individuals committed to serve sentences at penal or correctional facilities that are under the jurisdiction of the Department of Corrections, except treason or impeachment convictions or as otherwise limited by law, may be released upon parole, ordered to pay restitution, or have their fines, forfeitures, or restitution remitted, or their sentences terminated.

(c) The board may sit together or in panels to conduct hearings. The chair shall appoint members to the panels in any combination and in accordance with rules made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, by the board. The chair may participate on any panel and when doing so is chair of the panel. The chair of the board may designate the chair for any other panel.

(d) No restitution may be ordered, no fine, forfeiture, or restitution remitted, no parole, pardon, or commutation granted or sentence terminated, except after a full hearing before the board or the board's appointed examiner in open session. Any action taken under this subsection other than by a majority of the board shall be affirmed by a majority of the board.

(e) A commutation or pardon may be granted only after a full hearing before the board.

(f) The board may determine restitution as provided in Section 77-27-6 and Subsection 77-38a-302(5)(d)(iii)(A).

(2) (a) In the case of any hearings, timely prior notice of the time and location of the hearing shall be given to the offender.

(b) The county or district attorney's office responsible for prosecution of the case, the sentencing court, and law enforcement officials responsible for the defendant's arrest and conviction shall be notified of any board hearings through the board's website.

(c) Whenever possible, the victim or the victim's representative, if designated, shall be notified of original hearings and any hearing after that if notification is requested and current contact information has been provided to the board.

(d) Notice to the victim or the victim's representative shall include information provided in Section 77-27-9.5, and any related rules made by the board under that section. This information shall be provided in terms that are reasonable for the lay person to understand.

(3) (a) Decisions of the board in cases involving paroles, pardons, commutations or terminations of sentence, restitution, or remission of fines or forfeitures are final and are not subject to judicial review.

(b) Deliberative processes are not public and the board is exempt from Title 52, Chapter 4, Open and Public Meetings Act, when the board is engaged in the board's deliberative process.

(c) Pursuant to Subsection 63G-2-103(22)(b)(xi), records of the deliberative process are exempt from Title 63G, Chapter 2, Government Records Access and Management Act.

(d) Unless it will interfere with a constitutional right, deliberative processes are not subject to disclosure, including discovery.

(e) Nothing in this section prevents the obtaining or enforcement of a civil judgment, including restitution as provided in Section 77-27-6.

(4) This chapter may not be construed as a denial of or limitation of the governor's power to grant respite or reprieves in all cases of convictions for offenses against the state, except treason or conviction on impeachment. However, respites or reprieves may not extend beyond the next session of the Board of Pardons and Parole and the board, at that session, shall continue or terminate the respite or reprieve, or it may commute the punishment, or pardon the offense as provided. In the case of conviction for treason, the governor may suspend execution of the sentence until the case is reported to the Legislature at its next session. The Legislature shall then either pardon or commute the sentence, or direct its execution.

(5) In determining when, where, and under what conditions an offender serving a sentence may be paroled, pardoned, have restitution ordered, or have the offender's fines or forfeitures remitted, or the offender's sentence commuted or terminated, the board shall:

(a) consider whether the offender has made or is prepared to make restitution as ascertained in accordance with the standards and procedures of Section 77-38a-302, as a condition of any parole, pardon, remission of fines or forfeitures, or commutation or termination of sentence; and

(b) develop and use a list of criteria for making determinations under this Subsection (5).

(6) In determining whether parole may be terminated, the board shall consider:

(a) the offense committed by the parolee; and

(b) the parole period as provided in Section 76-3-202, and in accordance with Section 77-27-13.

(7) For offenders placed on parole after December 31, 2018, the board shall terminate parole in accordance with the supervision length guidelines established by the Utah Sentencing Commission under Section 63M-7-404, to the extent the guidelines are consistent with the requirements of the law.

Section 3. Section 77-27-9 is amended to read:

77-27-9. Parole proceedings.

(1) (a) The Board of Pardons and Parole may parole any offender or terminate the sentence of any offender committed to a penal or correctional facility under the jurisdiction of the Department of Corrections except as provided in Subsection (2).

(b) The board may not release any offender before the minimum term has been served unless the board finds mitigating circumstances which justify the release and unless the board has granted a full hearing, in open session, after previous notice of the time and location of the hearing, and recorded the proceedings and decisions of the board.

(c) The board may not parole any offender or terminate the sentence of any offender unless the board has granted a full hearing, in open session, after previous notice of the time and location of the hearing, and recorded the proceedings and decisions of the board.

(d) The release of an offender shall be at the initiative of the board, which shall consider each case as the offender becomes eligible. However, a prisoner may submit the prisoner's own application, subject to the rules of the board promulgated in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(2) (a) An individual sentenced to prison prior to April 29, 1996, for a first degree felony involving child kidnapping, a violation of Section 76-5-301.1; aggravated kidnapping, a violation of Section 76-5-302; rape of a child, a violation of Section 76-5-402.1; object rape of a child, a violation of Section 76-5-402.3; sodomy upon a child, a violation of Section 76-5-403.1; aggravated sexual abuse of a child, a violation of Subsection 76-5-404.1(4); aggravated sexual assault, a violation of Section 76-5-405; or a prior offense as described in Section 76-3-407, may not be eligible for release on parole by the Board of Pardons and Parole until the offender has fully completed serving the minimum mandatory sentence imposed by the court. This Subsection (2)(a) supersedes any other provision of law.

(b) The board may not parole any offender or commute or terminate the sentence of any offender before the offender has served the minimum term for the offense, if the offender was sentenced prior to April 29, 1996, and if:

(i) the offender was convicted of forcible sexual abuse, forcible sodomy, rape, aggravated assault, kidnapping, aggravated kidnapping, or aggravated sexual assault as defined in Title 76, Chapter 5, Offenses Against the Person; and

(ii) the victim of the offense was under 18 years [~~of age~~] old at the time the offense was committed.

(c) For a crime committed on or after April 29, 1996, but before January 1, 2019, the board may parole any offender under Subsections (2)(b)(i) and (ii) for lifetime parole as provided in this section.

(d) The board may not pardon or parole any offender or commute or terminate the sentence of any offender who is sentenced to life in prison without parole except as provided in Subsection (7).

(e) On or after April 27, 1992, the board may commute a sentence of death only to a sentence of life in prison without parole.

(f) The restrictions imposed in Subsections (2)(d) and (e) apply to all cases that come before the Board of Pardons and Parole on or after April 27, 1992.

(g) The board may not parole any offender convicted of a homicide unless:

(i) the remains of the victim have been recovered; or

(ii) the offender can demonstrate by a preponderance of the evidence that the offender has cooperated in good faith in efforts to locate the remains.

(h) Subsection (2)(g) applies to any offender convicted of a homicide after February 25, 2021, or any offender who was incarcerated in a correctional facility on or after February 25, 2021, for a homicide offense.

(3) The board may rescind:

(a) an inmate's prison release date prior to the inmate being released from custody; or

(b) an offender's termination date from parole prior to the offender being terminated from parole.

(4) (a) The board may issue subpoenas to compel the attendance of witnesses and the production of evidence, to administer oaths, and to take testimony for the purpose of any investigation by the board or any of [~~its~~] the board's members or by a designated hearing examiner in the performance of [~~its~~] the board's duties.

(b) A person who willfully disobeys a properly served subpoena issued by the board is guilty of a class B misdemeanor.

(5) (a) The board may adopt rules consistent with law for [~~its~~] the board's government, meetings and hearings, the conduct of proceedings before [~~it~~] the board, the parole and pardon of offenders, the commutation and termination of sentences, and the general conditions under which parole may be granted and revoked.

(b) The rules shall ensure an adequate opportunity for victims to participate at hearings held under this chapter, as provided in Section 77-27-9.5.

(c) The rules may allow the board to establish reasonable and equitable time limits on the presentations by all participants in hearings held under this chapter.

(6) The board does not provide counseling or therapy for victims as a part of their participation in any hearing under this chapter.

(7) The board may parole a person sentenced to life in prison without parole if the board finds by clear and convincing evidence that the person is permanently incapable of being a threat to the safety of society.

Section 4. Effective date.

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

Section 5. Coordinating H.B. 379 with S.B. 124 -- Superseding technical and substantive amendments.

If this H.B. 379 and S.B. 124, Parole Amendments, both pass and become law, the Legislature intends that the amendments to Section 77-27-9 in this bill supersede the amendments to Section 77-27-9 in S.B. 124 when the Office of Legislative Research and General Counsel prepares the Utah Code database for publication.

CHAPTER 22
H. B. 11
Passed February 4, 2021
Approved March 11, 2021
Effective May 5, 2021

DEPARTMENT OF HUMAN SERVICES BUDGETARY PROCEDURES AMENDMENTS

Chief Sponsor: Norman K. Thurston
Senate Sponsor: Daniel W. Thatcher

LONG TITLE

General Description:

This bill modifies provisions relating to the funding of Department of Human Services programs.

Highlighted Provisions:

This bill:

- allows the executive director of the Department of Human Services to:
  - designate up to three priority programs within the department to receive funds from other department programs that the department determines have unexpended funds from the fiscal year in which the funds were appropriated; and
  - reallocate those unexpended funds to one or more of the designated priority programs;
- prohibits the department from allocating unexpended funds for personnel costs, with an exception; and
- requires the department to provide an annual report on the department's designation of priority programs to receive unexpended funds and on the department's use of reallocated unexpended funds.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

62A-1-111, as last amended by Laws of Utah 2020, Chapter 303

63J-1-206, as last amended by Laws of Utah 2020, Chapters 152, 231, 402 and last amended by Coordination Clause, Laws of Utah 2020, Chapter 231

ENACTS:

62A-1-111.6, Utah Code Annotated 1953

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

Section 1. Section 62A-1-111 is amended to read:

62A-1-111. Department authority.

The department may, in addition to all other authority and responsibility granted to the department by law:

(1) adopt rules, not inconsistent with law, as the department may consider necessary or desirable for providing social services to the people of this state;

(2) establish and manage client trust accounts in the department's institutions and community programs, at the request of the client or the client's legal guardian or representative, or in accordance with federal law;

(3) purchase, as authorized or required by law, services that the department is responsible to provide for legally eligible persons;

(4) conduct adjudicative proceedings for clients and providers in accordance with the procedures of Title 63G, Chapter 4, Administrative Procedures Act;

(5) establish eligibility standards for its programs, not inconsistent with state or federal law or regulations;

(6) take necessary steps, including legal action, to recover money or the monetary value of services provided to a recipient who was not eligible;

(7) set and collect fees for the department's services;

(8) license agencies, facilities, and programs, except as otherwise allowed, prohibited, or limited by law;

(9) acquire, manage, and dispose of any real or personal property needed or owned by the department, not inconsistent with state law;

(10) receive gifts, grants, devises, and donations; gifts, grants, devises, donations, or the proceeds thereof, may be credited to the program designated by the donor, and may be used for the purposes requested by the donor, as long as the request conforms to state and federal policy; all donated funds shall be considered private, nonlapsing funds and may be invested under guidelines established by the state treasurer;

(11) accept and employ volunteer labor or services; the department is authorized to reimburse volunteers for necessary expenses, when the department considers that reimbursement to be appropriate;

(12) carry out the responsibility assigned in the workforce services plan by the State Workforce Development Board;

(13) carry out the responsibility assigned by Section 35A-8-602 with respect to coordination of services for the homeless;

(14) carry out the responsibility assigned by Section 62A-5a-105 with respect to coordination of services for students with a disability;

(15) provide training and educational opportunities for the department's staff;

(16) collect child support payments and any other money due to the department;

(17) apply the provisions of Title 78B, Chapter 12, Utah Child Support Act, to parents whose child lives out of the home in a department licensed or certified setting;

(18) establish policy and procedures, within appropriations authorized by the Legislature, in

cases where the department is given custody of a minor by the juvenile court under Section 78A-6-117 or ordered to prepare an attainment plan for a minor found not competent to proceed under Section 78A-6-1301; any policy and procedures shall include:

(a) designation of interagency teams for each juvenile court district in the state;

(b) delineation of assessment criteria and procedures;

(c) minimum requirements, and timeframes, for the development and implementation of a collaborative service plan for each minor placed in department custody; and

(d) provisions for submittal of the plan and periodic progress reports to the court;

(19) carry out the responsibilities assigned to the department by statute;

(20) examine and audit the expenditures of any public funds provided to local substance abuse authorities, local mental health authorities, local area agencies on aging, and any person, agency, or organization that contracts with or receives funds from those authorities or agencies. Those local authorities, area agencies, and any person or entity that contracts with or receives funds from those authorities or area agencies, shall provide the department with any information the department considers necessary. The department is further authorized to issue directives resulting from any examination or audit to local authorities, area agencies, and persons or entities that contract with or receive funds from those authorities with regard to any public funds. If the department determines that it is necessary to withhold funds from a local mental health authority or local substance abuse authority based on failure to comply with state or federal law, policy, or contract provisions, it may take steps necessary to ensure continuity of services. For purposes of this Subsection (20) "public funds" means the same as that term is defined in Section 62A-15-102;

(21) pursuant to Subsection 62A-2-106(1)(d), accredit one or more agencies and persons to provide intercountry adoption services;

(22) within appropriations authorized by the Legislature, promote and develop a system of care and stabilization services:

(a) in compliance with Title 63G, Chapter 6a, Utah Procurement Code; and

(b) that encompasses the department, department contractors, and the divisions, offices, or institutions within the department, to:

(i) navigate services, funding resources, and relationships to the benefit of the children and families whom the department serves;

(ii) centralize department operations, including procurement and contracting;

(iii) develop policies that govern business operations and that facilitate a system of care approach to service delivery;

(iv) allocate resources that may be used for the children and families served by the department or the divisions, offices, or institutions within the department, subject to the restrictions in Section 63J-1-206;

(v) create performance-based measures for the provision of services; and

(vi) centralize other business operations, including data matching and sharing among the department's divisions, offices, and institutions; [~~and~~]

(23) ensure that any training or certification required of a public official or public employee, as those terms are defined in Section 63G-22-102, complies with Title 63G, Chapter 22, State Training and Certification Requirements, if the training or certification is required:

(a) under this title;

(b) by the department; or

(c) by an agency or division within the department[~~.~~]; and

(24) reallocate unexpended funds as provided in Section 62A-1-111.6.

Section 2. Section 62A-1-111.6 is enacted to read:

62A-1-111.6. Reallocating unexpended money to designated priority programs -- Reporting -- Limitation.

(1) (a) Beginning fiscal year 2022, the department may:

(i) designate up to three existing programs, as defined in Section 63J-1-102, within the department as priority programs to receive unrestricted General Fund money that is reallocated under Subsection (1)(a)(ii); and

(ii) reallocate unexpended, unrestricted General Fund money from a program in one line item within the department to one or more of the designated priority programs in another line item within the department.

(b) The department shall make any reallocation of unexpended money under Subsection (1)(a) before the end of the fiscal year in which the money was appropriated.

(c) The department may not make a reallocation under this section if the reallocation:

(i) results in the creation of a new program, benefit, or service;

(ii) results in a significant expansion of:

(A) a program; or

(B) the scope or type of benefit or service already provided; or

(iii) provides funding for a budget request that the Legislature previously declined.

(2) On or before December 1 of each year, the department shall report to the Social Services Appropriations Subcommittee:

(a) on the department's designation of priority programs to receive the unexpended money under Subsection (1)(a); and

(b) if applicable, on the department's use, during the prior fiscal year, of unexpended money reallocated under Subsection (1).

(3) Except in accordance with pay plans developed and adopted as described in Subsection 67-19-12(4)(a), the department may not allocate unexpended money under Subsection (1) for a priority program's personnel costs.

Section 3. Section 63J-1-206 is amended to read:

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

(1) (a) Except as provided in Subsections (1)(b) and (2)(e), or where expressly exempted in the appropriating act:

(i) all money appropriated by the Legislature is appropriated upon the terms and conditions set forth in this chapter; and

(ii) any department, agency, or institution that accepts money appropriated by the Legislature does so subject to the requirements of this chapter.

(b) This section does not apply to:

(i) the Legislature and its committees; and

(ii) the Investigation Account of the Water Resources Construction Fund, which is governed by Section 73-10-8.

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

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

(i) is a restriction or limitation upon the expenditure of the respective appropriation made;

(ii) does not itself appropriate any money; and

(iii) is not itself an item of appropriation.

(c) (i) An appropriation or any surplus of any appropriation may not be diverted from any department, agency, institution, division, or line item to any other department, agency, institution, division, or line item.

(ii) If the money appropriated to an agency to pay lease payments under the program established in Section 63A-5b-703 exceeds the amount required for the agency's lease payments to the Division of Facilities Construction and Management, the agency may:

(A) transfer money from the lease payments line item to other line items within the agency; and

(B) retain and use the excess money for other purposes.

(iii) The executive director of the Department of Human Services may transfer unrestricted General Fund money appropriated to the department between line items within the department in accordance with Section 62A-1-111.6.

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

(e) In order for a department, agency, or institution to transfer money appropriated to it from one program to another program [~~within a line item~~], the department, agency, or institution shall revise its budget execution plan as provided in Section 63J-1-209.

(f) (i) The procedures for transferring money between programs within a line item as provided by Subsection (2)(e) do not apply to money appropriated to the State Board of Education for the Minimum School Program or capital outlay programs created in Title 53F, Chapter 3, State Funding -- Capital Outlay Programs.

(ii) The state superintendent may transfer money appropriated for the programs specified in Subsection (2)(f)(i) only as provided by Section 53F-2-205.

(3) Notwithstanding Subsection (2)(c)(i):

(a) the state superintendent may transfer money appropriated for the Minimum School Program between line items in accordance with Section 53F-2-205;

(b) the Department of Administrative Services may transfer money appropriated for the purpose of paying the costs of paid employee postpartum recovery leave under Section 67-19-14.7 to another department, agency, institution, or division; and

(c) the Department of Administrative Services may transfer or divert money to another department, agency, institution, or division only for the purposes of coordinating and providing a state response to the coronavirus.

CHAPTER 23
H. B. 15
Passed February 8, 2021
Approved March 11, 2021
Effective May 5, 2021

CONTROLLED SUBSTANCE AMENDMENTS

Chief Sponsor: Raymond P. Ward
Senate Sponsor: Michael S. Kennedy

LONG TITLE

General Description:

This bill modifies the Utah Controlled Substances Act.

Highlighted Provisions:

This bill:

- removes an exception to the 7-day limit on prescriptions for certain controlled substances after a surgery; and
- requires a practitioner to check the controlled substance database and consult with other practitioners when issuing a long-term prescription for an opiate or a benzodiazepine under certain circumstances.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

58-37-6, as last amended by Laws of Utah 2020, Chapter 81

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

Section 1. Section 58-37-6 is amended to read:

58-37-6. License to manufacture, produce, distribute, dispense, administer, or conduct research -- Issuance by division -- Denial, suspension, or revocation -- Records required -- Prescriptions.

(1) (a) The division may adopt rules relating to the licensing and control of the manufacture, distribution, production, prescription, administration, dispensing, conducting of research with, and performing of laboratory analysis upon controlled substances within this state.

(b) The division may assess reasonable fees to defray the cost of issuing original and renewal licenses under this chapter pursuant to Section 63J-1-504.

(2) (a) (i) Every person who manufactures, produces, distributes, prescribes, dispenses, administers, conducts research with, or performs laboratory analysis upon any controlled substance in Schedules I through V within this state, or who proposes to engage in manufacturing, producing, distributing, prescribing, dispensing, administering, conducting research with, or performing laboratory analysis upon controlled substances included in Schedules I through V within this state shall obtain a license issued by the division.

(ii) The division shall issue each license under this chapter in accordance with a two-year renewal cycle established by rule. The division may by rule extend or shorten a renewal period by as much as one year to stagger the renewal cycles it administers.

(b) Persons licensed to manufacture, produce, distribute, prescribe, dispense, administer, conduct research with, or perform laboratory analysis upon controlled substances in Schedules I through V within this state may possess, manufacture, produce, distribute, prescribe, dispense, administer, conduct research with, or perform laboratory analysis upon those substances to the extent authorized by their license and in conformity with this chapter.

(c) The following persons are not required to obtain a license and may lawfully possess controlled substances included in Schedules II through V under this section:

(i) an agent or employee, except a sales representative, of any registered manufacturer, distributor, or dispenser of any controlled substance, if the agent or employee is acting in the usual course of the agent or employee's business or employment; however, nothing in this subsection shall be interpreted to permit an agent, employee, sales representative, or detail man to maintain an inventory of controlled substances separate from the location of the person's employer's registered and licensed place of business;

(ii) a motor carrier or warehouseman, or an employee of a motor carrier or warehouseman, who possesses a controlled substance in the usual course of the person's business or employment; and

(iii) an ultimate user, or a person who possesses any controlled substance pursuant to a lawful order of a practitioner.

(d) The division may enact rules waiving the license requirement for certain manufacturers, producers, distributors, prescribers, dispensers, administrators, research practitioners, or laboratories performing analysis if waiving the license requirement is consistent with public health and safety.

(e) A separate license is required at each principal place of business or professional practice where the applicant manufactures, produces, distributes, dispenses, conducts research with, or performs laboratory analysis upon controlled substances.

(f) The division may enact rules providing for the inspection of a licensee or applicant's establishment, and may inspect the establishment according to those rules.

(3) (a) (i) Upon proper application, the division shall license a qualified applicant to manufacture, produce, distribute, conduct research with, or perform laboratory analysis upon controlled substances included in Schedules I through V, unless it determines that issuance of a license is inconsistent with the public interest.

(ii) The division may not issue a license to any person to prescribe, dispense, or administer a Schedule I controlled substance except under Subsection (3)(a)(i).

(iii) In determining public interest under this Subsection (3)(a), the division shall consider whether the applicant has:

(A) maintained effective controls against diversion of controlled substances and any Schedule I or II substance compounded from any controlled substance into channels other than legitimate medical, scientific, or industrial channels;

(B) complied with applicable state and local law;

(C) been convicted under federal or state laws relating to the manufacture, distribution, or dispensing of substances;

(D) past experience in the manufacture of controlled dangerous substances;

(E) established effective controls against diversion; and

(F) complied with any other factors that the division establishes that promote the public health and safety.

(b) Licenses granted under Subsection (3)(a) do not entitle a licensee to manufacture, produce, distribute, conduct research with, or perform laboratory analysis upon controlled substances in Schedule I other than those specified in the license.

(c) (i) Practitioners shall be licensed to administer, dispense, or conduct research with substances in Schedules II through V if they are authorized to administer, dispense, or conduct research under the laws of this state.

(ii) The division need not require a separate license for practitioners engaging in research with nonnarcotic controlled substances in Schedules II through V where the licensee is already licensed under this chapter in another capacity.

(iii) With respect to research involving narcotic substances in Schedules II through V, or where the division by rule requires a separate license for research of nonnarcotic substances in Schedules II through V, a practitioner shall apply to the division prior to conducting research.

(iv) Licensing for purposes of bona fide research with controlled substances by a practitioner considered qualified may be denied only on a ground specified in Subsection (4), or upon evidence that the applicant will abuse or unlawfully transfer or fail to safeguard adequately the practitioner's supply of substances against diversion from medical or scientific use.

(v) Practitioners registered under federal law to conduct research in Schedule I substances may conduct research in Schedule I substances within this state upon providing the division with evidence of federal registration.

(d) Compliance by manufacturers, producers, and distributors with the provisions of federal law respecting registration, excluding fees, entitles them to be licensed under this chapter.

(e) The division shall initially license those persons who own or operate an establishment engaged in the manufacture, production, distribution, dispensation, or administration of controlled substances prior to April 3, 1980, and who are licensed by the state.

(4) (a) Any license issued pursuant to Subsection (2) or (3) may be denied, suspended, placed on probation, or revoked by the division upon finding that the applicant or licensee has:

(i) materially falsified any application filed or required pursuant to this chapter;

(ii) been convicted of an offense under this chapter or any law of the United States, or any state, relating to any substance defined as a controlled substance;

(iii) been convicted of a felony under any other law of the United States or any state within five years of the date of the issuance of the license;

(iv) had a federal registration or license denied, suspended, or revoked by competent federal authority and is no longer authorized to manufacture, distribute, prescribe, or dispense controlled substances;

(v) had the licensee's license suspended or revoked by competent authority of another state for violation of laws or regulations comparable to those of this state relating to the manufacture, distribution, or dispensing of controlled substances;

(vi) violated any division rule that reflects adversely on the licensee's reliability and integrity with respect to controlled substances;

(vii) refused inspection of records required to be maintained under this chapter by a person authorized to inspect them; or

(viii) prescribed, dispensed, administered, or injected an anabolic steroid for the purpose of manipulating human hormonal structure so as to:

(A) increase muscle mass, strength, or weight without medical necessity and without a written prescription by any practitioner in the course of the practitioner's professional practice; or

(B) improve performance in any form of human exercise, sport, or game.

(b) The division may limit revocation or suspension of a license to a particular controlled substance with respect to which grounds for revocation or suspension exist.

(c) (i) Proceedings to deny, revoke, or suspend a license shall be conducted pursuant to this section and in accordance with the procedures set forth in Title 58, Chapter 1, Division of Occupational and Professional Licensing Act, and conducted in conjunction with the appropriate representative committee designated by the director of the department.

(ii) Nothing in this Subsection (4)(c) gives the Division of Occupational and Professional Licensing exclusive authority in proceedings to deny, revoke, or suspend licenses, except where the division is designated by law to perform those functions, or, when not designated by law, is designated by the executive director of the Department of Commerce to conduct the proceedings.

(d) (i) The division may suspend any license simultaneously with the institution of proceedings under this section if it finds there is an imminent danger to the public health or safety.

(ii) Suspension shall continue in effect until the conclusion of proceedings, including judicial review, unless withdrawn by the division or dissolved by a court of competent jurisdiction.

(e) (i) If a license is suspended or revoked under this Subsection (4), all controlled substances owned or possessed by the licensee may be placed under seal in the discretion of the division.

(ii) Disposition may not be made of substances under seal until the time for taking an appeal has lapsed, or until all appeals have been concluded, unless a court, upon application, orders the sale of perishable substances and the proceeds deposited with the court.

(iii) If a revocation order becomes final, all controlled substances shall be forfeited.

(f) The division shall notify promptly the Drug Enforcement Administration of all orders suspending or revoking a license and all forfeitures of controlled substances.

(g) If an individual's Drug Enforcement Administration registration is denied, revoked, surrendered, or suspended, the division shall immediately suspend the individual's controlled substance license, which shall only be reinstated by the division upon reinstatement of the federal registration, unless the division has taken further administrative action under Subsection (4)(a)(iv), which would be grounds for the continued denial of the controlled substance license.

(5) (a) A person licensed under Subsection (2) or (3) shall maintain records and inventories in conformance with the record keeping and inventory requirements of federal and state law and any additional rules issued by the division.

(b) (i) A physician, dentist, naturopathic physician, veterinarian, practitioner, or other individual who is authorized to administer or professionally use a controlled substance shall keep a record of the drugs received by the individual and a record of all drugs administered, dispensed, or professionally used by the individual otherwise than by a prescription.

(ii) An individual using small quantities or solutions or other preparations of those drugs for local application has complied with this Subsection (5)(b) if the individual keeps a record of the quantity, character, and potency of those solutions or preparations purchased or prepared by the individual, and of the dates when purchased or prepared.

(6) Controlled substances in Schedules I through V may be distributed only by a licensee and pursuant to an order form prepared in compliance with division rules or a lawful order under the rules and regulations of the United States.

(7) (a) An individual may not write or authorize a prescription for a controlled substance unless the individual is:

(i) a practitioner authorized to prescribe drugs and medicine under the laws of this state or under the laws of another state having similar standards; and

(ii) licensed under this chapter or under the laws of another state having similar standards.

(b) An individual other than a pharmacist licensed under the laws of this state, or the pharmacist's licensed intern, as required by Sections 58-17b-303 and 58-17b-304, may not dispense a controlled substance.

(c) (i) A controlled substance may not be dispensed without the written prescription of a practitioner, if the written prescription is required by the federal Controlled Substances Act.

(ii) That written prescription shall be made in accordance with Subsection (7)(a) and in conformity with Subsection (7)(d).

(iii) In emergency situations, as defined by division rule, controlled substances may be dispensed upon oral prescription of a practitioner, if reduced promptly to writing on forms designated by the division and filed by the pharmacy.

(iv) Prescriptions reduced to writing by a pharmacist shall be in conformity with Subsection (7)(d).

(d) Except for emergency situations designated by the division, an individual may not issue, fill, compound, or dispense a prescription for a controlled substance unless the prescription is signed by the prescriber in ink or indelible pencil or is signed with an electronic signature of the prescriber as authorized by division rule, and contains the following information:

(i) the name, address, and registry number of the prescriber;

(ii) the name, address, and age of the person to whom or for whom the prescription is issued;

(iii) the date of issuance of the prescription; and

(iv) the name, quantity, and specific directions for use by the ultimate user of the controlled substance.

(e) A prescription may not be written, issued, filled, or dispensed for a Schedule I controlled substance unless:

(i) the individual who writes the prescription is licensed under Subsection (2); and

(ii) the prescribed controlled substance is to be used in research.

(f) Except when administered directly to an ultimate user by a licensed practitioner, controlled substances are subject to the restrictions of this Subsection (7)(f).

(i) A prescription for a Schedule II substance may not be refilled.

(ii) A Schedule II controlled substance may not be filled in a quantity to exceed a one-month's supply, as directed on the daily dosage rate of the prescriptions.

(iii) (A) [~~Except as provided in Subsection (7)(f)(iii)(B), a~~] A prescription for a Schedule II or Schedule III controlled substance that is an opiate and that is issued for an acute condition shall be completely or partially filled in a quantity not to exceed a seven-day supply as directed on the daily dosage rate of the prescription.

[~~(B) Subsection (7)(f)(iii)(A) does not apply to a prescription issued for a surgery when the practitioner determined that a quantity exceeding seven days is needed, in which case the practitioner may prescribe up to a 30-day supply, with a partial fill at the discretion of the practitioner.~~]

[~~(C)~~] (B) Subsection (7)(f)(iii)(A) does not apply to prescriptions issued for complex or chronic conditions which are documented as being complex or chronic in the medical record.

[~~(D)~~] (C) A pharmacist is not required to verify that a prescription is in compliance with Subsection (7)(f)(iii).

(iv) A Schedule III or IV controlled substance may be filled only within six months of issuance, and may not be refilled more than six months after the date of its original issuance or be refilled more than five times after the date of the prescription unless renewed by the practitioner.

(v) All other controlled substances in Schedule V may be refilled as the prescriber's prescription directs, but they may not be refilled one year after the date the prescription was issued unless renewed by the practitioner.

(vi) Any prescription for a Schedule II substance may not be dispensed if it is not presented to a pharmacist for dispensing by a pharmacist or a pharmacy intern within 30 days after the date the prescription was issued, or 30 days after the dispensing date, if that date is specified separately from the date of issue.

(vii) A practitioner may issue more than one prescription at the same time for the same Schedule II controlled substance, but only under the following conditions:

(A) no more than three prescriptions for the same Schedule II controlled substance may be issued at the same time;

(B) no one prescription may exceed a 30-day supply; and

(C) a second or third prescription shall include the date of issuance and the date for dispensing.

(g) (i) Beginning January 1, 2022, each prescription issued for a controlled substance shall be transmitted electronically as an electronic prescription unless the prescription is:

(A) for a patient residing in an assisted living facility as that term is defined in Section 26-21-2, a long-term care facility as that term is defined in Section 58-31b-102, or a correctional facility as that term is defined in Section 64-13-1;

(B) issued by a veterinarian licensed under Title 58, Chapter 28, Veterinary Practice Act;

(C) dispensed by a Department of Veterans Affairs pharmacy;

(D) issued during a temporary technical or electronic failure at the practitioner's or pharmacy's location; or

(E) issued in an emergency situation.

(ii) The division, in collaboration with the appropriate boards that govern the licensure of the licensees who are authorized by the division to prescribe or to dispense controlled substances, shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act to:

(A) require that controlled substances prescribed or dispensed under Subsection (7)(g)(i)(D) indicate on the prescription that the prescribing practitioner or the [~~pharamacy~~] pharmacy is experiencing a technical difficulty or an electronic failure;

(B) define an emergency situation for purposes of Subsection (7)(g)(i)(E);

(C) establish additional exemptions to the electronic prescription requirements established in this Subsection (7)(g);

(D) establish guidelines under which a prescribing practitioner or a pharmacy may obtain an extension of up to two additional years to comply with Subsection (7)(g)(i);

(E) establish a protocol to follow if the pharmacy that receives the electronic prescription is not able to fill the prescription; and

(F) establish requirements that comply with federal laws and regulations for software used to issue and dispense electronic prescriptions.

(h) An order for a controlled substance in Schedules II through V for use by an inpatient or an outpatient of a licensed hospital is exempt from all requirements of this Subsection (7) if the order is:

(i) issued or made by a prescribing practitioner who holds an unrestricted registration with the federal Drug Enforcement Administration, and an active Utah controlled substance license in good standing issued by the division under this section, or a medical resident who is exempted from licensure under Subsection 58-1-307(1)(c);

(ii) authorized by the prescribing practitioner treating the patient and the prescribing practitioner designates the quantity ordered;

(iii) entered upon the record of the patient, the record is signed by the prescriber affirming the

prescriber's authorization of the order within 48 hours after filling or administering the order, and the patient's record reflects the quantity actually administered; and

(iv) filled and dispensed by a pharmacist practicing the pharmacist's profession within the physical structure of the hospital, or the order is taken from a supply lawfully maintained by the hospital and the amount taken from the supply is administered directly to the patient authorized to receive it.

(i) A practitioner licensed under this chapter may not prescribe, administer, or dispense a controlled substance to a child, without first obtaining the consent required in Section 78B-3-406 of a parent, guardian, or person standing in loco parentis of the child except in cases of an emergency. For purposes of Subsection (7)(i), "child" has the same meaning as defined in Section 78A-6-105, and "emergency" means any physical condition requiring the administration of a controlled substance for immediate relief of pain or suffering.

(j) A practitioner licensed under this chapter may not prescribe or administer dosages of a controlled substance in excess of medically recognized quantities necessary to treat the ailment, malady, or condition of the ultimate user.

(k) A practitioner licensed under this chapter may not prescribe, administer, or dispense any controlled substance to another person knowing that the other person is using a false name, address, or other personal information for the purpose of securing the controlled substance.

(l) A person who is licensed under this chapter to manufacture, distribute, or dispense a controlled substance may not manufacture, distribute, or dispense a controlled substance to another licensee or any other authorized person not authorized by this license.

(m) A person licensed under this chapter may not omit, remove, alter, or obliterate a symbol required by this chapter or by a rule issued under this chapter.

(n) A person licensed under this chapter may not refuse or fail to make, keep, or furnish any record notification, order form, statement, invoice, or information required under this chapter.

(o) A person licensed under this chapter may not refuse entry into any premises for inspection as authorized by this chapter.

(p) A person licensed under this chapter may not furnish false or fraudulent material information in any application, report, or other document required to be kept by this chapter or willfully make any false statement in any prescription, order, report, or record required by this chapter.

(8) (a) (i) Any person licensed under this chapter who is found by the division to have violated any of the provisions of Subsections (7)(k) through (o) or Subsection (10) is subject to a penalty not to exceed $5,000. The division shall determine the procedure for adjudication of any violations in accordance with Sections 58-1-106 and 58-1-108.

(ii) The division shall deposit all penalties collected under Subsection (8)(a)(i) [~~in~~] into the General Fund as a dedicated credit to be used by the division under Subsection 58-37f-502(1).

(iii) The director may collect a penalty that is not paid by:

(A) referring the matter to a collection agency; or

(B) bringing an action in the district court of the county where the person against whom the penalty is imposed resides or in the county where the office of the director is located.

(iv) A county attorney or the attorney general of the state shall provide legal assistance and advice to the director in an action to collect a penalty.

(v) A court shall award reasonable attorney fees and costs to the prevailing party in an action brought by the division to collect a penalty.

(b) Any person who knowingly and intentionally violates Subsections (7)(h) through (j) or Subsection (10) is:

(i) upon first conviction, guilty of a class B misdemeanor;

(ii) upon second conviction, guilty of a class A misdemeanor; and

(iii) on third or subsequent conviction, guilty of a third degree felony.

(c) Any person who knowingly and intentionally violates Subsections (7)(k) through (o) shall upon conviction be guilty of a third degree felony.

(9) Any information communicated to any licensed practitioner in an attempt to unlawfully procure, or to procure the administration of, a controlled substance is not considered to be a privileged communication.

(10) A person holding a valid license under this chapter who is engaged in medical research may produce, possess, administer, prescribe, or dispense a controlled substance for research purposes as licensed under Subsection (2) but may not otherwise prescribe or dispense a controlled substance listed in Section 58-37-4.2.

(11) (a) As used in this Subsection (11):

(i) "High risk prescription" means a prescription for an opiate or a benzodiazepine that is written to continue for longer than 30 consecutive days.

(ii) "Database" means the controlled substance database created in Section 58-37f-201.

(b) A practitioner who issues a high risk prescription to a patient shall, before issuing the high risk prescription to the patient, verify in the database that the patient does not have a high risk prescription from a different practitioner that is currently active.

(c) If the database shows that the patient has received a high risk prescription that is currently

active from a different practitioner, the practitioner may not issue a high risk prescription to the patient unless the practitioner:

(i) contacts and consults with each practitioner who issued a high risk prescription that is currently active to the patient;

(ii) documents in the patient's medical record that the practitioner made contact with each practitioner in accordance with Subsection (11)(c)(i); and

(iii) documents in the patient's medical record the reason why the practitioner believes that the patient needs multiple high risk prescriptions from different practitioners.

(d) A practitioner shall satisfy the requirement described in Subsection (11)(c) in a timely manner, which may be after the practitioner issues the high risk prescription to the patient.

CHAPTER 24
H. B. 19
Passed February 5, 2021
Approved March 11, 2021
Effective May 5, 2021

COUNTY CLASSIFICATION AMENDMENTS

Chief Sponsor: Casey Snider
Senate Sponsor: Wayne A. Harper

LONG TITLE

General Description:

This bill amends provisions related to county classification.

Highlighted Provisions:

This bill:

- modifies the population requirements for the classification of certain counties.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

17-50-501, as last amended by Laws of Utah 2004, Chapter 269

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

Section 1. Section 17-50-501 is amended to read:

17-50-501. Classification of counties.

(1) Each county shall be classified according to its population.

(2) (a) A county with a population of [~~700,000~~] 1,000,000 or more is a county of the first class.

(b) A county with a population of [~~125,000~~] 175,000 or more but less than [~~700,000~~] 1,000,000 is a county of the second class.

(c) A county with a population of [~~31,000~~] 40,000 or more but less than [~~125,000~~] 175,000 is a county of the third class.

(d) A county with a population of 11,000 or more but less than [~~31,000~~] 40,000 is a county of the fourth class.

(e) A county with a population of 4,000 or more but less than 11,000 is a county of the fifth class.

(f) A county with a population less than 4,000 is a county of the sixth class.

CHAPTER 25
H. B. 22
Passed February 22, 2021
Approved March 11, 2021
Effective May 5, 2021

MEDICAL EXAMINER AMENDMENTS

Chief Sponsor: Merrill F. Nelson
Senate Sponsor: Daniel W. Thatcher

LONG TITLE

General Description:

This bill amends the Utah Medical Examiner Act.

Highlighted Provisions:

This bill:

- requires the chief medical examiner to investigate deaths resulting directly from actions of a law enforcement officer;
- prohibits providing false information to the chief medical examiner, establishing a criminal penalty; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

26-4-7, as last amended by Laws of Utah 2012, Chapter 183
26-4-10, as enacted by Laws of Utah 1981, Chapter 126

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

Section 1. Section 26-4-7 is amended to read:

26-4-7. Custody by medical examiner.

Upon notification under Section 26-4-8 or investigation by the medical examiner's office, the medical examiner shall assume custody of a deceased body if it appears that death [~~was~~]:

(1) was by violence, gunshot, suicide, or accident;

(2) was sudden death while in apparent good health;

(3) occurred unattended [~~deaths~~], except that an autopsy may only be performed in accordance with the provisions of Subsection 26-4-9(3);

(4) occurred under suspicious or unusual circumstances;

(5) [~~resulting~~] resulted from poisoning or overdose of drugs;

(6) [~~resulting from diseases~~] resulted from a disease that may constitute a threat to the public health;

(7) [~~resulting~~] resulted from disease, injury, toxic effect, or unusual exertion incurred within the scope of the decedent's employment;

(8) was due to sudden infant death syndrome;

(9) [~~resulting~~] occurred while the decedent was in prison, jail, police custody, the state hospital, or in a detention or medical facility operated for the treatment of persons with a mental illness, persons who are emotionally disturbed, or delinquent persons;

(10) resulted directly from the actions of a law enforcement officer, as defined in Section 53-13-103;

[~~(10)~~] (11) was associated with diagnostic or therapeutic procedures; or

[~~(11)~~] (12) was described in this section when request is made to assume custody by a county or district attorney or law enforcement agency in connection with a potential homicide investigation or prosecution.

Section 2. Section 26-4-10 is amended to read:

26-4-10. Certification of cause of death.

[~~The certification of the cause of death under any of the circumstances listed in Section 26-4-7 shall only be made by the medical examiner or his designated representative. Certification of the cause of death or signature on the certificate of death by any other person is a class B misdemeanor.~~]

(1) (a) For a death under any of the circumstances described in Section 26-4-7, only the medical examiner or the medical examiner's designee may certify the cause of death.

(b) An individual who knowingly certifies the cause of death in violation of Subsection (1)(a) is guilty of a class B misdemeanor.

(2) (a) For a death described in Section 26-4-7, an individual may not knowingly give false information, with the intent to mislead, to the medical examiner or the medical examiner's designee.

(b) A violation of Subsection (2)(a) is a class B misdemeanor.

CHAPTER 26
H. B. 28
Passed February 8, 2021
Approved March 11, 2021
Effective May 5, 2021

LAND USE AND EMINENT DOMAIN ADVISORY BOARD AMENDMENTS

Chief Sponsor: Stephen G. Handy
Senate Sponsor: Jacob L. Anderegg

LONG TITLE

General Description:

This bill addresses the Land Use and Eminent Domain Advisory Board.

Highlighted Provisions:

This bill:

- modifies the sunset date of the Land Use and Eminent Domain Advisory Board.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63I-1-213, as last amended by Laws of Utah 2020, Chapter 154

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

Section 1. Section 63I-1-213 is amended to read:

63I-1-213. Repeal dates, Title 13.

(1) Section 13-32a-112, which creates the Pawnshop and Secondhand Merchandise Advisory Board, is repealed July 1, 2027.

(2) Section 13-35-103, which creates the Powersport Motor Vehicle Franchise Advisory Board, is repealed July 1, 2022.

[~~(3) Section 13-43-202, which creates the Land Use and Eminent Domain Advisory Board, is repealed July 1, 2021.~~]

(3) Section 13-43-202, which creates the Land Use and Eminent Domain Advisory Board, is repealed July 1, 2026.

CHAPTER 27
H. B. 34
Passed February 17, 2021
Approved March 11, 2021
Effective May 5, 2021

MEDICAL RESPITE CARE PILOT PROGRAM

Chief Sponsor: James A. Dunnigan
Senate Sponsor: Evan J. Vickers

LONG TITLE

General Description:

This bill requires the Department of Health to apply for a Medicaid waiver or state plan amendment for medical respite care for homeless individuals.

Highlighted Provisions:

This bill:

- defines terms;
- requires the Department of Health to apply for a Medicaid waiver or state plan amendment to provide reimbursement to a facility that provides residential medical respite care to a homeless individual; and
- establishes a reporting requirement.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

26-18-424, Utah Code Annotated 1953

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

Section 1. Section 26-18-424 is enacted to read:

26-18-424. (Codified as 26-18-425) Medicaid waiver for respite care facility that provides services to homeless individuals.

(1) As used in this section:

(a) "Adult in the expansion population" means an adult:

(i) described in 42 U.S.C. Sec. 1396a(a)(10)(A)(i)(VIII); and

(ii) not otherwise eligible for Medicaid as a mandatory categorically needy individual.

(b) "Homeless" means the same as that term is defined in Section 26-18-411.

(c) "Medical respite care" means short-term housing with supportive medical services.

(d) "Medical respite facility" means a residential facility that provides medical respite care to homeless individuals.

(2) Before January 1, 2022, the department shall apply for a Medicaid waiver or state plan amendment with CMS to choose a single medical respite facility to reimburse for services provided to an individual who is:

(a) homeless; and

(b) an adult in the expansion population.

(3) The department shall choose a medical respite facility best able to serve homeless individuals who are adults in the expansion population.

(4) If the waiver or state plan amendment described in Subsection (2) is approved, while the waiver or state plan amendment is in effect, the department shall submit a report to the Health and Human Services Interim Committee each year before November 30 detailing:

(a) the number of homeless individuals served at the facility;

(b) the cost of the program; and

(c) the reduction of health care costs due to the program's implementation.

(5) Through administrative rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department shall further define and limit the services, described in this section, provided to a homeless individual.

CHAPTER 28
H. B. 35
Passed February 4, 2021
Approved March 11, 2021
Effective May 5, 2021

CHILD CARE ADVISORY COMMITTEE SUNSET EXTENSION

Chief Sponsor: Susan Pulsipher
Senate Sponsor: Karen Mayne

LONG TITLE

General Description:

This bill modifies sunset dates related to the Child Care Advisory Committee that is created within the Department of Workforce Services.

Highlighted Provisions:

This bill:

- modifies sunset dates related to the Child Care Advisory Committee; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63I-1-235, as last amended by Laws of Utah 2020, Chapters 154 and 417

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

Section 1. Section 63I-1-235 is amended to read:

63I-1-235. Repeal dates, Title 35A.

(1) Subsection 35A-1-109(4)(c), related to the Talent Ready Utah Board, is repealed January 1, 2023.

(2) Subsection 35A-1-202(2)(d), related to the Child Care Advisory Committee, is repealed July 1, [~~2021~~] 2026.

(3) Section 35A-3-205, which creates the Child Care Advisory Committee, is repealed July 1, [~~2021~~] 2026.

(4) Subsection 35A-4-312(5)(p), describing information that may be disclosed to the federal Wage and Hour Division, is repealed July 1, 2022.

(5) Subsection 35A-4-502(5), which creates the Employment Advisory Council, is repealed July 1, 2022.

(6) Title 35A, Chapter 8, Part 22, Commission on Housing Affordability, is repealed July 1, 2023.

(7) Section 35A-9-501 is repealed January 1, 2023.

(8) Title 35A, Chapter 11, Women in the Economy Commission Act, is repealed January 1, 2025.

(9) Sections 35A-13-301 and 35A-13-302, which create the Governor's Committee on Employment of People with Disabilities, are repealed July 1, 2023.

(10) Section 35A-13-303, which creates the State Rehabilitation Advisory Council, is repealed July 1, 2024.

(11) Section 35A-13-404, which creates the advisory council for the Division of Services for the Blind and Visually Impaired, is repealed July 1, 2025.

(12) Sections 35A-13-603 and 35A-13-604, which create the Interpreter Certification Board, are repealed July 1, 2026.

CHAPTER 29
H. B. 37
Passed February 23, 2021
Approved March 11, 2021
Effective May 5, 2021

CHILD PROTECTION UNIT AMENDMENTS

Chief Sponsor: Karianne Lisonbee
Senate Sponsor: Luz Escamilla

LONG TITLE

General Description:

This bill addresses child protection units and teams.

Highlighted Provisions:

This bill:

- repeals the Child Protection Unit Pilot Program;
- removes references to a "child protection unit";
- amends the membership of a child protection team;
- allows a sheriff or chief of police to select a representative of law enforcement to serve as a member of a child protection team;
- modifies when a child protection team may assemble for certain cases;
- allows a member of a child protection team to share case-specific information with other members of the child protection team; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

10-3-913, as last amended by Laws of Utah 2019, Chapter 472
17-22-2, as last amended by Laws of Utah 2019, Chapter 197
62A-4a-101, as last amended by Laws of Utah 2019, Chapters 259 and 335
62A-4a-202.3, as last amended by Laws of Utah 2017, Chapter 459
62A-4a-202.8, as last amended by Laws of Utah 2017, Chapter 459
62A-4a-409, as last amended by Laws of Utah 2020, Fifth Special Session, Chapter 20
62A-4a-412, as last amended by Laws of Utah 2020, Chapters 193 and 258
63I-1-262, as last amended by Laws of Utah 2020, Chapters 154, 303, 304, and 358
78A-6-322, as last amended by Laws of Utah 2017, Chapter 459

REPEALS:

62A-4a-202.9, as last amended by Laws of Utah 2020, Chapter 354

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

Section 1. Section 10-3-913 is amended to read:

10-3-913. Authority of chief of police -- Oversight.

(1) The chief of police has the same authority as the sheriff within the boundaries of the municipality of appointment. The chief has authority to:

(a) suppress riots, disturbances, and breaches of the peace;

(b) apprehend all persons violating state laws or city ordinances;

(c) diligently discharge his duties and enforce all ordinances of the city to preserve the peace, good order, and protection of the rights and property of all persons;

(d) attend the municipal justice court located within the city when required, provide security for the court, and obey its orders and directions; and

(e) [~~create a~~] select a representative of law enforcement to serve as a member of a child protection [~~unit~~] team, as defined in Section 62A-4a-101.

(2) This section is not a limitation of a police chief's statewide authority as otherwise provided by law.

(3) The chief of police shall adopt a written policy that prohibits the stopping, detention, or search of any person when the action is solely motivated by considerations of race, color, ethnicity, age, or gender.

(4) (a) Notwithstanding Sections 10-3-918 and 10-3-919, a municipality may not establish a board, committee, or other entity that:

(i) has authority independent of the chief of police; and

(ii) (A) has authority to overrule a hiring or appointment proposal of the chief of police;

(B) is required to review or approve a police department's rules, regulations, policies, or procedures in order for the rules, regulations, policies, or procedures to take effect;

(C) has authority to veto a new policy, or strike down an existing policy, established under the authority of the chief of police;

(D) is required to review or approve a police department's budget in order for the budget to take effect; or

(E) has authority to review or approve a contract the police department makes with a police union or other organization.

(b) Nothing in this Subsection (4):

(i) limits the authority the Utah Code provides over the chief of police;

(ii) prohibits the municipal council or chief executive officer from taking a lawful action described in Subsection (4)(a)(ii) that is allowed by law; or

(iii) limits the authority of a civil service commission established in accordance with Title 10, Chapter 3, Part 10, Civil Service Commission.

(5) Subject to Subsection (4), a municipality may establish a board, committee, or other entity that relates to the provision of law enforcement services and that has authority independent of the chief of police if the municipality:

(a) directly appoints the board, committee, or other entity's members; and

(b) provides direct oversight of the board, committee, or other entity.

Section 2. Section 17-22-2 is amended to read:

17-22-2. Sheriff -- General duties.

(1) The sheriff shall:

(a) preserve the peace;

(b) make all lawful arrests;

(c) attend in person or by deputy the Supreme Court and the Court of Appeals when required or when the court is held within his county, all courts of record, and court commissioner and referee sessions held within his county, obey their lawful orders and directions, and comply with the court security rule, Rule 3-414, of the Utah Code of Judicial Administration;

(d) upon request of the juvenile court, aid the court in maintaining order during hearings and transport a minor to and from youth corrections facilities, other institutions, or other designated places;

(e) attend county justice courts if the judge finds that the matter before the court requires the sheriff's attendance for security, transportation, and escort of jail prisoners in his custody, or for the custody of jurors;

(f) command the aid of as many inhabitants of his county as he considers necessary in the execution of these duties;

(g) take charge of and keep the county jail and the jail prisoners;

(h) receive and safely keep all persons committed to his custody, file and preserve the commitments of those persons, and record the name, age, place of birth, and description of each person committed;

(i) release on the record all attachments of real property when the attachment he receives has been released or discharged;

(j) endorse on all process and notices the year, month, day, hour, and minute of reception, and, upon payment of fees, issue a certificate to the person delivering process or notice showing the names of the parties, title of paper, and the time of receipt;

(k) serve all process and notices as prescribed by law;

(l) if he makes service of process or notice, certify on the process or notices the manner, time, and place of service, or, if he fails to make service, certify the reason upon the process or notice, and return them without delay;

(m) extinguish fires occurring in the undergrowth, trees, or wooded areas on the public land within his county;

(n) perform as required by any contracts between the county and private contractors for management, maintenance, operation, and construction of county jails entered into under the authority of Section 17-53-311;

(o) for the sheriff of a county of the second through sixth class that enters into an interlocal agreement for law enforcement service under Title 11, Chapter 13, Interlocal Cooperation Act, provide law enforcement service as provided in the interlocal agreement;

(p) manage search and rescue services in his county;

(q) obtain saliva DNA specimens as required under Section 53-10-404;

(r) on or before January 1, 2003, adopt a written policy that prohibits the stopping, detention, or search of any person when the action is solely motivated by considerations of race, color, ethnicity, age, or gender;

(s) [~~create a child protection unit, as defined in Section 62A-4a-101, if the sheriff determines that creation of a child protection unit is warranted~~] as applicable, select a representative of law enforcement to serve as a member of a child protection team, as defined in Section 62A-4a-101; and

(t) perform any other duties that are required by law.

(2) Violation of Subsection (1)(j) is a class C misdemeanor. Violation of any other subsection under Subsection (1) is a class A misdemeanor.

(3) (a) As used in this Subsection (3):

(i) "Police interlocal entity" has the same meaning as defined in Sections 17-30-3 and 17-30a-102.

(ii) "Police local district" has the same meaning as defined in Section 17-30-3.

(b) Except as provided in Subsections (3)(c) and 11-13-202(4), a sheriff in a county which includes within its boundary a police local district or police interlocal entity, or both:

(i) serves as the chief executive officer of each police local district and police interlocal entity within the county with respect to the provision of law enforcement service within the boundary of the police local district or police interlocal entity, respectively; and

(ii) is subject to the direction of the police local district board of trustees or police interlocal entity governing body, as the case may be, as and to the extent provided by agreement between the police local district or police interlocal entity, respectively, and the sheriff.

(c) Notwithstanding Subsection (3)(b), and except as provided in Subsection 11-13-202(4), if a police interlocal entity or police local district enters an interlocal agreement with a public agency, as defined in Section 11-13-103, for the provision of law enforcement service, the sheriff:

(i) does not serve as the chief executive officer of any interlocal entity created under that interlocal agreement, unless the agreement provides for the sheriff to serve as the chief executive officer; and

(ii) shall provide law enforcement service under that interlocal agreement as provided in the agreement.

Section 3. Section 62A-4a-101 is amended to read:

62A-4a-101. Definitions.

As used in this chapter:

(1) "Abuse" means the same as that term is defined in Section 78A-6-105.

(2) "Adoption services" means:

(a) placing children for adoption;

(b) subsidizing adoptions under Section 62A-4a-105;

(c) supervising adoption placements until the adoption is finalized by the court;

(d) conducting adoption studies;

(e) preparing adoption reports upon request of the court; and

(f) providing postadoptive placement services, upon request of a family, for the purpose of stabilizing a possible disruptive placement.

(3) "Child" means, except as provided in Part 7, Interstate Compact on Placement of Children, a person under 18 years of age.

(4) "Child protection team" means a team consisting of:

(a) the caseworker assigned to the case;

(b) if applicable, the caseworker who made the decision to remove the child;

(c) a representative of the school or school district where the child attends school;

(d) if applicable, the [~~peace officer~~] law enforcement officer who removed the child from the home;

(e) a representative of the appropriate Children's Justice Center, if one is established within the county where the child resides;

(f) if appropriate, and known to the division, a therapist or counselor who is familiar with the child's circumstances;

[~~(g) members of a child protection unit; and~~]

(g) if appropriate, a representative of law enforcement selected by the chief of police or sheriff in the city or county where the child resides; and

(h) any other individuals determined appropriate and necessary by the team coordinator and chair.

[~~(5) "Child protection unit" means any unit created by a chief of police or a sheriff of a city, town, metro township, or county that is composed of at least the following individuals who are trained in the prevention, identification, and treatment of abuse or neglect:~~]

[~~(a) a law enforcement officer, as defined in Section 53-13-103; and~~]

[~~(b) a child advocate selected by the chief of police or a sheriff.~~]

[~~(6)~~] (5) (a) "Chronic abuse" means repeated or patterned abuse.

(b) "Chronic abuse" does not mean an isolated incident of abuse.

[~~(7)~~] (6) (a) "Chronic neglect" means repeated or patterned neglect.

(b) "Chronic neglect" does not mean an isolated incident of neglect.

[~~(8)~~] (7) "Consult" means an interaction between two persons in which the initiating person:

(a) provides information to another person;

(b) provides the other person an opportunity to respond; and

(c) takes the other person's response, if any, into consideration.

[~~(9)~~] (8) "Consumer" means a person who receives services offered by the division in accordance with this chapter.

[~~(10)~~] (9) "Custody," with regard to the division, means the custody of a minor in the division as of the date of disposition.

[~~(11)~~] (10) "Day-care services" means care of a child for a portion of the day which is less than 24 hours:

(a) in the child's own home by a responsible person; or

(b) outside of the child's home in a:

(i) day-care center;

(ii) family group home; or

(iii) family child care home.

[~~(12)~~] (11) "Dependent child" or "dependency" means a child, or the condition of a child, who is homeless or without proper care through no fault of the child's parent, guardian, or custodian.

[~~(13)~~] (12) "Director" means the director of the Division of Child and Family Services.

[~~(14)~~] (13) "Division" means the Division of Child and Family Services.

[~~(15)~~] (14) "Domestic violence services" means:

(a) temporary shelter, treatment, and related services to:

(i) a person who is a victim of abuse, as defined in Section 78B-7-102; and

(ii) the dependent children of a person who is a victim of abuse, as defined in Section 78B-7-102; and

(b) treatment services for a person who is alleged to have committed, has been convicted of, or has pled guilty to, an act of domestic violence as defined in Section 77-36-1.

[~~(16)~~] (15) "Harm" means the same as that term is defined in Section 78A-6-105.

[~~(17)~~] (16) "Homemaking service" means the care of individuals in their domiciles, and help given to individual caretaker relatives to achieve improved household and family management through the services of a trained homemaker.

[~~(18)~~] (17) "Incest" means the same as that term is defined in Section 78A-6-105.

[~~(19)~~] (18) "Indian child" means the same as that term is defined in 25 U.S.C. Sec. 1903.

[~~(20)~~] (19) "Indian tribe" means the same as that term is defined in 25 U.S.C. Sec. 1903.

[~~(21)~~] (20) "Minor" means, except as provided in Part 7, Interstate Compact on Placement of Children:

(a) a child; or

(b) a person:

(i) who is at least 18 years [~~of age~~] old and younger than 21 years [~~of age~~] old; and

(ii) for whom the division has been specifically ordered by the juvenile court to provide services.

[~~(22)~~] (21) "Molestation" means the same as that term is defined in Section 78A-6-105.

[~~(23)~~] (22) "Mutual case" means a case that has been:

(a) opened by the division under the division's discretion and procedures;

(b) opened by the law enforcement agency with jurisdiction over the case; and

(c) accepted for investigation by [~~the child protection unit established by the chief of police or sheriff~~] a child protection team, as applicable.

[~~(24)~~] (23) "Natural parent" means a minor's biological or adoptive parent, and includes a minor's noncustodial parent.

[~~(25)~~] (24) "Neglect" means the same as that term is defined in Section 78A-6-105.

[~~(26)~~] (25) "Protective custody," with regard to the division, means the shelter of a child by the division from the time the child is removed from the child's home until the earlier of:

(a) the shelter hearing; or

(b) the child's return home.

[~~(27)~~] (26) "Protective services" means expedited services that are provided:

(a) in response to evidence of neglect, abuse, or dependency of a child;

(b) to a cohabitant who is neglecting or abusing a child, in order to:

(i) help the cohabitant develop recognition of the cohabitant's duty of care and of the causes of neglect or abuse; and

(ii) strengthen the cohabitant's ability to provide safe and acceptable care; and

(c) in cases where the child's welfare is endangered:

(i) to bring the situation to the attention of the appropriate juvenile court and law enforcement agency;

(ii) to cause a protective order to be issued for the protection of the child, when appropriate; and

(iii) to protect the child from the circumstances that endanger the child's welfare including, when appropriate:

(A) removal from the child's home;

(B) placement in substitute care; and

(C) petitioning the court for termination of parental rights.

[~~(28)~~] (27) "Severe abuse" means the same as that term is defined in Section 78A-6-105.

[~~(29)~~] (28) "Severe neglect" means the same as that term is defined in Section 78A-6-105.

[~~(30)~~] (29) "Sexual abuse" means the same as that term is defined in Section 78A-6-105.

[~~(31)~~] (30) "Sexual exploitation" means the same as that term is defined in Section 78A-6-105.

[~~(32)~~] (31) "Shelter care" means the temporary care of a minor in a nonsecure facility.

[~~(33)~~] (32) "Sibling" means a child who shares or has shared at least one parent in common either by blood or adoption.

[~~(34)~~] (33) "Sibling visitation" means services provided by the division to facilitate the interaction between a child in division custody with a sibling of that child.

[~~(35)~~] (34) "State" means:

(a) a state of the United States;

(b) the District of Columbia;

(c) the Commonwealth of Puerto Rico;

(d) the Virgin Islands;

(e) Guam;

(f) the Commonwealth of the Northern Mariana Islands; or

(g) a territory or possession administered by the United States.

[~~(36)~~] (35) "State plan" means the written description of the programs for children, youth, and family services administered by the division in accordance with federal law.

[~~(37)~~] (36) "Status offense" means a violation of the law that would not be a violation but for the age of the offender.

[~~(38)~~] (37) "Substance abuse" means the same as that term is defined in Section 78A-6-105.

[~~(39)~~] (38) "Substantiated" or "substantiation" means a judicial finding based on a preponderance of the evidence that abuse or neglect occurred. Each allegation made or identified in a given case shall be considered separately in determining whether there should be a finding of substantiated.

[~~(40)~~] (39) "Substitute care" means:

(a) the placement of a minor in a family home, group care facility, or other placement outside the minor's own home, either at the request of a parent or other responsible relative, or upon court order, when it is determined that continuation of care in the minor's own home would be contrary to the minor's welfare;

(b) services provided for a minor awaiting placement; and

(c) the licensing and supervision of a substitute care facility.

[~~(41)~~] (40) "Supported" means a finding by the division based on the evidence available at the completion of an investigation that there is a reasonable basis to conclude that abuse, neglect, or dependency occurred. Each allegation made or identified during the course of the investigation shall be considered separately in determining whether there should be a finding of supported.

[~~(42)~~] (41) "Temporary custody," with regard to the division, means the custody of a child in the division from the date of the shelter hearing until disposition.

[~~(43)~~] (42) "Threatened harm" means the same as that term is defined in Section 78A-6-105.

[~~(44)~~] (43) "Transportation services" means travel assistance given to an individual with escort service, if necessary, to and from community facilities and resources as part of a service plan.

[~~(45)~~] (44) "Unsubstantiated" means a judicial finding that there is insufficient evidence to conclude that abuse or neglect occurred.

[~~(46)~~] (45) "Unsupported" means a finding by the division at the completion of an investigation that there is insufficient evidence to conclude that abuse, neglect, or dependency occurred. However, a finding of unsupported means also that the division did not conclude that the allegation was without merit.

[~~(47)~~] (46) "Without merit" means a finding at the completion of an investigation by the division, or a judicial finding, that the alleged abuse, neglect, or dependency did not occur, or that the alleged perpetrator was not responsible for the abuse, neglect, or dependency.

Section 4. Section 62A-4a-202.3 is amended to read:

62A-4a-202.3. Investigation -- Supported or unsupported reports -- Child in protective custody.

(1) When a child is taken into protective custody in accordance with Section 62A-4a-202.1, 78A-6-106, or 78A-6-302, or when the division takes any other action that would require a shelter hearing under Subsection 78A-6-306(1), the division shall immediately initiate an investigation of the:

(a) circumstances of the child; and

(b) grounds upon which the decision to place the child into protective custody was made.

(2) The division's investigation shall conform to reasonable professional standards, and shall include:

(a) a search for and review of any records of past reports of abuse or neglect involving:

(i) the same child;

(ii) any sibling or other child residing in the same household as the child; and

(iii) the alleged perpetrator;

(b) with regard to a child who is five years of age or older, a personal interview with the child:

(i) outside of the presence of the alleged perpetrator; and

(ii) conducted in accordance with the requirements of Subsection (7);

(c) if a parent or guardian can be located, an interview with at least one of the child's parents or guardian;

(d) an interview with the person who reported the abuse, unless the report was made anonymously;

(e) where possible and appropriate, interviews with other third parties who have had direct contact with the child, including:

(i) school personnel; and

(ii) the child's health care provider;

(f) an unscheduled visit to the child's home, unless:

(i) there is a reasonable basis to believe that the reported abuse was committed by a person who:

(A) is not the child's parent; and

(B) does not:

(I) live in the child's home; or

(II) otherwise have access to the child in the child's home; or

(ii) an unscheduled visit is not necessary to obtain evidence for the investigation; and

(g) if appropriate and indicated in any case alleging physical injury, sexual abuse, or failure to meet the child's medical needs, a medical examination, obtained no later than 24 hours after the child is placed in protective custody.

(3) The division may rely on a written report of a prior interview rather than conducting an additional interview, if:

(a) law enforcement:

(i) previously conducted a timely and thorough investigation regarding the alleged abuse, neglect, or dependency; and

(ii) produced a written report;

(b) the investigation described in Subsection (3)(a)(i) included one or more of the interviews required by Subsection (2); and

(c) the division finds that an additional interview is not in the best interest of the child.

(4) (a) The division's determination of whether a report is supported or unsupported may be based on the child's statements alone.

(b) Inability to identify or locate the perpetrator may not be used by the division as a basis for:

(i) determining that a report is unsupported; or

(ii) closing the case.

(c) The division may not determine a case to be unsupported or identify a case as unsupported solely because the perpetrator was an out-of-home perpetrator.

(d) Decisions regarding whether a report is supported, unsupported, or without merit shall be based on the facts of the case at the time the report was made.

(5) The division should maintain protective custody of the child if it finds that one or more of the following conditions exist:

(a) the child does not have a natural parent, guardian, or responsible relative who is able and willing to provide safe and appropriate care for the child;

(b) (i) shelter of the child is a matter of necessity for the protection of the child; and

(ii) there are no reasonable means by which the child can be protected in:

(A) the child's home; or

(B) the home of a responsible relative;

(c) there is substantial evidence that the parent or guardian is likely to flee the jurisdiction of the court; or

(d) the child has left a previously court ordered placement.

(6) (a) Within 24 hours after receipt of a child into protective custody, excluding weekends and holidays, the division shall:

(i) convene a child protection team to review the circumstances regarding removal of the child from the child's home or school; and

(ii) prepare the testimony and evidence that will be required of the division at the shelter hearing, in accordance with Section 78A-6-306.

[~~(b) The child protection team may include members of a child protection unit.~~]

[~~(c)~~] (b) At the 24-hour meeting, the division shall have available for review and consideration the complete child protective services and foster care history of the child and the child's parents and siblings.

(7) (a) After receipt of a child into protective custody and prior to the adjudication hearing, all investigative interviews with the child that are initiated by the division shall be:

(i) except as provided in Subsection (7)(b), audio or video taped; and

(ii) except as provided in Subsection (7)(c), conducted with a support person of the child's choice present.

(b) (i) Subject to Subsection (7)(b)(ii), an interview described in Subsection (7)(a) may be conducted without being taped if the child:

(A) is at least nine years old;

(B) refuses to have the interview audio taped; and

(C) refuses to have the interview video taped.

(ii) If, pursuant to Subsection (7)(b)(i), an interview is conducted without being taped, the child's refusal shall be documented, as follows:

(A) the interviewer shall attempt to get the child's refusal on tape, including the reasons for the refusal; or

(B) if the child does not allow the refusal, or the reasons for the refusal, to be taped, the interviewer shall:

(I) state on the tape that the child is present, but has refused to have the interview, refusal, or the reasons for the refusal taped; or

(II) if complying with Subsection (7)(b)(ii)(B)(I) will result in the child, who would otherwise consent to be interviewed, to refuse to be interviewed, the interviewer shall document, in writing, that the child refused to allow the interview to be taped and the reasons for that refusal.

(iii) The division shall track the number of interviews under this Subsection (7) that are not taped, and the number of refusals that are not taped, for each interviewer, in order to determine whether a particular interviewer has a higher

incidence of refusals, or taped refusals, than other interviewers.

(c) (i) Notwithstanding Subsection (7)(a)(ii), the support person who is present for an interview of a child may not be an alleged perpetrator.

(ii) Subsection (7)(a)(ii) does not apply if the child refuses to have a support person present during the interview.

(iii) If a child described in Subsection (7)(c)(ii) refuses to have a support person present in the interview, the interviewer shall document, in writing, the refusal and the reasons for the refusal.

(iv) The division shall track the number of interviews under this Subsection (7) where a child refuses to have a support person present for each interviewer, in order to determine whether a particular interviewer has a higher incidence of refusals than other interviewers.

(8) The division shall cooperate with law enforcement investigations and with [~~a child protection unit~~] the members of a child protection team, if applicable, regarding the alleged perpetrator.

(9) The division may not close an investigation solely on the grounds that the division investigator is unable to locate the child until all reasonable efforts have been made to locate the child and family members including:

(a) visiting the home at times other than normal work hours;

(b) contacting local schools;

(c) contacting local, county, and state law enforcement agencies; and

(d) checking public assistance records.

Section 5. Section 62A-4a-202.8 is amended to read:

62A-4a-202.8. Child protection team meeting -- Timing.

(1) A child protection team may assemble for a particular case when:

(a) the case demonstrates:

(i) the likelihood of severe child abuse or neglect; or

(ii) a high risk of repetition as evidenced by previous involvements with law enforcement or the division; and

(b) the child protection team is assembled for the purpose of information sharing and identification of resources, services, or actions that support the child and the child's family.

[~~(1)~~] (2) Subject to Subsection [~~(2)~~] (3), if the division files a petition under Section 78A-6-304, the division shall convene a child protection team meeting to:

(a) review the circumstances of the filing of the petition; and

(b) develop or review implementation of a safety plan to protect the child from further abuse, neglect, or dependency.

[~~(2)~~] (3) The child protection team meeting required under Subsection [~~(1)~~] (2) shall be held within the shorter of:

(a) 14 days of the day on which the petition is filed under Section 78A-6-304 if the conditions of Subsection [~~(2)~~](3)(b) or (c) are not met;

(b) 24 hours of the filing of the petition under Section 78A-6-304, excluding weekends and holidays, if the child who is the subject of the petition will likely be taken into protective custody unless there is an expedited hearing and services ordered under the protective supervision of the court; or

(c) 24 hours after receipt of a child into protective custody, excluding weekends and holidays, if the child is taken into protective custody as provided in Section 62A-4a-202.3.

[~~(3) The child protection team may include members of a child protection unit.~~]

(4) At its meeting the child protection team shall review the complete child protective services and foster care history of the child and the child's parents and siblings.

Section 6. Section 62A-4a-409 is amended to read:

62A-4a-409. Investigation by division -- Temporary protective custody -- Preremoval interviews of children.

(1) (a) Except as provided in Subsection (1)(c), the division shall conduct a thorough preremoval investigation upon receiving either an oral or written report of alleged abuse or neglect, or an oral or written report under Subsection 62A-4a-404(2), when there is reasonable cause to suspect that a situation of abuse, neglect, or the circumstances described under Subsection 62A-4a-404(2) exist.

(b) The primary purpose of the investigation described in Subsection (1)(a) shall be protection of the child.

(c) The division is not required to conduct an investigation under Subsection (1)(a) if the division determines the person responsible for the child's care:

(i) is not the alleged perpetrator; and

(ii) is willing and able to ensure the alleged perpetrator does not have access to the child.

(2) The preremoval investigation described in Subsection (1)(a) shall include the same investigative requirements described in Section 62A-4a-202.3.

(3) The division shall make a written report of its investigation that shall include a determination regarding whether the alleged abuse or neglect is supported, unsupported, or without merit.

(4) (a) The division shall use an interdisciplinary approach when appropriate in dealing with reports made under this part.

(b) The division shall convene a child protection team to assist the division in the division's protective, diagnostic, assessment, treatment, and coordination services.

(c) The division may include members of a child protection [~~unit~~] team in the division's protective, diagnostic, assessment, treatment, and coordination services.

(d) A representative of the division shall serve as the team's coordinator and chair. Members of the team shall serve at the coordinator's invitation. Whenever possible, the team shall include representatives of:

(i) health, mental health, education, and law enforcement agencies;

(ii) the child;

(iii) parent and family support groups unless the parent is alleged to be the perpetrator; and

(iv) other appropriate agencies or individuals.

(5) If a report of neglect is based upon or includes an allegation of educational neglect, the division shall immediately consult with school authorities to verify the child's status in accordance with Sections 53G-6-201 through 53G-6-206.

(6) When the division completes the division's initial investigation under this part, the division shall give notice of that completion to the person who made the initial report.

(7) Division workers or other child protection team members have authority to enter upon public or private premises, using appropriate legal processes, to investigate reports of alleged abuse or neglect, upon notice to parents of their rights under the Child Abuse Prevention and Treatment Act, 42 U.S.C. Sec. 5106, or any successor thereof.

(8) With regard to any interview of a child prior to removal of that child from the child's home:

(a) except as provided in Subsection (8)(b) or (c), the division shall inform a parent of the child prior to the interview of:

(i) the specific allegations concerning the child; and

(ii) the time and place of the interview;

(b) if a child's parent or stepparent, or a parent's paramour has been identified as the alleged perpetrator, the division is not required to comply with Subsection (8)(a);

(c) if the perpetrator is unknown, or if the perpetrator's relationship to the child's family is unknown, the division may conduct a minimal interview or conversation, not to exceed 15 minutes, with the child prior to complying with Subsection (8)(a);

(d) in all cases described in Subsection (8)(b) or (c), a parent of the child shall be notified as soon as practicable after the child has been interviewed, but in no case later than 24 hours after the interview has taken place;

(e) a child's parents shall be notified of the time and place of all subsequent interviews with the child; and

(f) the child shall be allowed to have a support person of the child's choice present, who:

(i) may include:

(A) a school teacher;

(B) an administrator;

(C) a guidance counselor;

(D) a child care provider;

(E) a family member;

(F) a family advocate; or

(G) a member of the clergy; and

(ii) may not be an individual who is alleged to be, or potentially may be, the perpetrator.

(9) In accordance with the procedures and requirements of Sections 62A-4a-202.1 through 62A-4a-202.3, a division worker or child protection team member may take a child into protective custody and deliver the child to a law enforcement officer, or place the child in an emergency shelter facility approved by the juvenile court, at the earliest opportunity subsequent to the child's removal from the child's original environment. Control and jurisdiction over the child is determined by the provisions of Title 78A, Chapter 6, Juvenile Court Act, and as otherwise provided by law.

(10) With regard to cases in which law enforcement has or is conducting an investigation of alleged abuse or neglect of a child:

(a) the division shall coordinate with law enforcement to ensure that there is an adequate safety plan to protect the child from further abuse or neglect; and

(b) the division is not required to duplicate an aspect of the investigation that, in the division's determination, has been satisfactorily completed by law enforcement.

(11) With regard to a mutual case in which a child protection [~~unit~~] team was involved in the investigation of alleged abuse or neglect of a child, the division shall consult with the child protection [~~unit~~] team before closing the case.

Section 7. Section 62A-4a-412 is amended to read:

62A-4a-412. Reports, information, and referrals confidential -- Exceptions.

(1) Except as otherwise provided in this chapter, reports made under this part, as well as any other information in the possession of the division obtained as the result of a report are private,

protected, or controlled records under Title 63G, Chapter 2, Government Records Access and Management Act, and may only be made available to:

(a) a police or law enforcement agency investigating a report of known or suspected abuse or neglect, including members of a child protection [~~unit~~] team;

(b) a physician who reasonably believes that a child may be the subject of abuse or neglect;

(c) an agency that has responsibility or authority to care for, treat, or supervise a minor who is the subject of a report;

(d) a contract provider that has a written contract with the division to render services to a minor who is the subject of a report;

(e) except as provided in Subsection 63G-2-202(10), a subject of the report, the natural parents of the child, and the guardian ad litem;

(f) a court, upon a finding that access to the records may be necessary for the determination of an issue before the court, provided that in a divorce, custody, or related proceeding between private parties, the record alone is:

(i) limited to objective or undisputed facts that were verified at the time of the investigation; and

(ii) devoid of conclusions drawn by the division or any of the division's workers on the ultimate issue of whether or not a person's acts or omissions constituted any level of abuse or neglect of another person;

(g) an office of the public prosecutor or its deputies in performing an official duty;

(h) a person authorized by a Children's Justice Center, for the purposes described in Section 67-5b-102;

(i) a person engaged in bona fide research, when approved by the director of the division, if the information does not include names and addresses;

(j) the State Board of Education, acting on behalf of itself or on behalf of a local education agency, as defined in Section 63J-5-102, for the purpose of evaluating whether an individual should be permitted to obtain or retain a license as an educator or serve as an employee or volunteer in a school, limited to information with substantiated or supported findings involving an alleged sexual offense, an alleged felony or class A misdemeanor drug offense, or any alleged offense against the person under Title 76, Chapter 5, Offenses Against the Person, and with the understanding that the office must provide the subject of a report received under Subsection (1)(k) with an opportunity to respond to the report before making a decision concerning licensure or employment;

(k) any person identified in the report as a perpetrator or possible perpetrator of abuse or neglect, after being advised of the screening prohibition in Subsection (2);

(l) except as provided in Subsection 63G-2-202(10), a person filing a petition for a child protective order on behalf of a child who is the subject of the report;

(m) a licensed child-placing agency or person who is performing a preplacement adoptive evaluation in accordance with the requirements of Sections 78B-6-128 and 78B-6-130;

(n) an Indian tribe to:

(i) certify or license a foster home;

(ii) render services to a subject of a report; or

(iii) investigate an allegation of abuse, neglect, or dependency; or

(o) the Division of Substance Abuse and Mental Health, the Department of Health, or a local substance abuse authority, described in Section 17-43-201, for the purpose of providing substance abuse treatment to a pregnant woman, or the services described in Subsection 62A-15-103(2)(o).

(2) (a) A person, unless listed in Subsection (1), may not request another person to obtain or release a report or any other information in the possession of the division obtained as a result of the report that is available under Subsection (1)(k) to screen for potential perpetrators of abuse or neglect.

(b) A person who requests information knowing that the request is a violation of Subsection (2)(a) is subject to the criminal penalty in Subsection (4).

(3) (a) Except as provided in Section 62A-4a-1007 and Subsection (3)(b), the division and law enforcement officials shall ensure the anonymity of the person or persons making the initial report and any others involved in its subsequent investigation.

(b) Notwithstanding any other provision of law, excluding Section 78A-6-317, but including this chapter and Title 63G, Chapter 2, Government Records Access and Management Act, when the division makes a report or other information in the division's possession available under Subsection (1)(e) to a subject of the report or a parent of a child, the division shall remove from the report or other information only the names, addresses, and telephone numbers of individuals or specific information that could:

(i) identify the referent;

(ii) impede a criminal investigation; or

(iii) endanger a person's safety.

(4) Any person who [~~wilfully~~] willfully permits, or aides and abets the release of data or information obtained as a result of this part, in the possession of the division or contained on any part of the Management Information System, in violation of this part or Sections 62A-4a-1003 through 62A-4a-1007, is guilty of a class C misdemeanor.

(5) The physician-patient privilege is not a ground for excluding evidence regarding a child's injuries or the cause of those injuries, in any

proceeding resulting from a report made in good faith pursuant to this part.

(6) A child-placing agency or person who receives a report in connection with a preplacement adoptive evaluation pursuant to Sections 78B-6-128 and 78B-6-130:

(a) may provide this report to the person who is the subject of the report; and

(b) may provide this report to a person who is performing a preplacement adoptive evaluation in accordance with the requirement of Sections 78B-6-128 and 78B-6-130, or to a licensed child-placing agency or to an attorney seeking to facilitate an adoption.

(7) A member of a child protection team may, before the day on which the child is removed, share case-specific information obtained from the division under this section with other members of the child protection team.

Section 8. Section 63I-1-262 is amended to read:

63I-1-262. Repeal dates, Title 62A.

(1) Subsections 62A-1-120(8)(g), (h), and (i) relating to completion of premarital counseling or education under Section 30-1-34 are repealed July 1, 2023.

(2) Section 62A-3-209 is repealed July 1, 2023.

[~~(3) Section 62A-4a-202.9 is repealed December 31, 2021.~~]

[~~(4)~~] (3) Section 62A-4a-213 is repealed July 1, 2024.

[~~(5)~~] (4) Sections 62A-5a-101, 62A-5a-102, 62A-5a-103, and 62A-5a-104, which create the Coordinating Council for Persons with Disabilities, are repealed July 1, 2022.

[~~(6)~~] (5) Section 62A-15-114 is repealed December 31, 2021.

[~~(7)~~] (6) Subsections 62A-15-116(1) and [~~(4)~~] (5), the language that states "In consultation with the Behavioral Health Crisis Response Commission, established in Section 63C-18-202," is repealed January 1, 2023.

[~~(8)~~] (7) Section 62A-15-118 is repealed December 31, 2023.

[~~(9)~~] (8) Subsections 62A-15-605(3)(h) and (4) relating to the study of long-term needs for adult beds in the state hospital are repealed July 1, 2022.

[~~(10)~~] (9) Section 62A-15-605, which creates the Forensic Mental Health Coordinating Council, is repealed July 1, 2023.

[~~(11)~~] (10) Subsections 62A-15-1100(1) and 62A-15-1101(9), in relation to the Utah Substance Use and Mental Health Advisory Council, are repealed January 1, 2023.

[~~(12)~~] (11) In relation to the Behavioral Health Crisis Response Commission, on July 1, 2023:

(a) Subsections 62A-15-1301(2) and 62A-15-1401(1) are repealed;

(b) Subsection 62A-15-1302(1)(b), the language that states "and in consultation with the commission" is repealed;

(c) [~~Section~~] Subsection 62A-15-1303(1), the language that states "In consultation with the commission," is repealed;

(d) Subsection 62A-15-1402(2)(a), the language that states "With recommendations from the commission," is repealed; and

(e) Subsection 62A-15-1702(6) is repealed.

Section 9. Section 78A-6-322 is amended to read:

78A-6-322. Abuse, neglect, or dependency of child -- Coordination of proceedings.

(1) In each case where an information or indictment has been filed against a defendant concerning abuse, neglect, or dependency of a child, and a petition has been filed in juvenile court concerning the victim, the appropriate county attorney's or district attorney's office shall coordinate with the attorney general's office.

(2) Law enforcement personnel, Division of Child and Family Services personnel, the appointed guardian ad litem, pretrial services personnel, and corrections personnel shall make reasonable efforts to facilitate the coordination required by this section.

(3) Members of interdisciplinary child protection teams, established under Section 62A-4a-409, may participate in the coordination required by this section.

(4) [~~Members of a child protection unit, established under Section 10-3-913 or 17-22-2,~~] A member of a child protection team, as defined in Section 62A-4a-101, may coordinate with the attorney general's office, Division of Child and Family Services personnel, the appointed guardian ad litem, pretrial services personnel, and corrections personnel as appropriate.

Section 10. Repealer.

This bill repeals:

Section 62A-4a-202.9, Child protection unit pilot program.

CHAPTER 30
H. B. 43
Passed February 17, 2021
Approved March 11, 2021
Effective May 5, 2021

EMERGENCY PROCUREMENT DECLARATION MODIFICATIONS

Chief Sponsor: Candice B. Pierucci
Senate Sponsor: Daniel McCay
Cosponsors: Brady Brammer
Walt Brooks
Steve R. Christiansen
Jennifer Dailey-Provost
Joel Ferry
Francis D. Gibson
Craig Hall
Suzanne Harrison
Karianne Lisonbee
Phil Lyman
A. Cory Maloy
Michael J. Petersen
Adam Robertson
Andrew Stoddard
Mark A. Strong
Jordan D. Teuscher
Norman K. Thurston
Steve Waldrip
Christine F. Watkins

LONG TITLE

General Description:

This bill modifies provisions related to the public procurement of goods or services during an emergency.

Highlighted Provisions:

This bill:

- defines terms;
- modifies reporting requirements related to an emergency procurement;
- limits the term length of a contract entered into for an emergency procurement; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63G-6a-803, as last amended by Laws of Utah 2020, Chapter 365

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

Section 1. Section 63G-6a-803 is amended to read:

63G-6a-803. Emergency procurement.

(1) As used in this section, "natural disaster" means an event where:

(a) one or more of the following has caused widespread damage:

(i) an explosion;

(ii) fire;

(iii) a flood;

(iv) a storm;

(v) a tornado;

(vi) winds;

(vii) an earthquake;

(viii) lightning; or

(ix) other adverse weather event; and

(b) the president of the United States has declared an emergency or major disaster in the state, or the governor has declared a state of emergency under Title 53, Chapter 2a, Part 2, Disaster Response and Recovery Act.

[~~(1)~~] (2) Notwithstanding any other provision of this chapter and subject to Subsection (4), a procurement official may authorize a procurement unit to engage in an emergency procurement without using a standard procurement process if the procurement is necessary to:

(a) avoid a lapse in a critical government service;

(b) mitigate a circumstance that is likely to have a negative impact on public health, safety, welfare, or property, including a natural disaster; or

(c) protect the legal interests of a public entity.

[~~(2)~~] (3) A procurement unit conducting an emergency procurement under Subsection [~~(1)~~] (2) shall:

(a) ensure that the procurement is made with as much competition as reasonably practicable while:

(i) avoiding a lapse in a critical government service;

(ii) avoiding harm, or a risk of harm, to the public health, safety, welfare, or property; or

(iii) protecting the legal interests of a public entity; and

[~~(b) after the emergency has abated, prepare a written document explaining the emergency condition that necessitated the emergency procurement under Subsection (1).~~]

(b) make the following publicly available on the procurement unit's website within 14 days of the emergency procurement:

(i) a written document describing the specific emergency that necessitated the emergency procurement;

(ii) the name of the highest ranking government official that approved the emergency procurement; and

(iii) each written contract related to the emergency procurement.

(4) (a) Except as provided in Subsections (4)(b), (5), and (6), the term of a contract entered into for an emergency procurement under this section may be no longer than 30 days.

(b) The term of a contract entered into for an emergency procurement under this section related to a natural disaster may be no longer than 60 days.

(5) (a) Subject to Subsection (5)(b), the requirements described in Subsection (4) do not apply to an emergency procurement for legal services.

(b) A person hired through an emergency procurement to provide legal services may not, under the contract entered into through the emergency procurement, hire or otherwise provide remuneration to a consultant for services related to any topic that is not directly related to the legal services for which the person was hired.

(6) The requirements described in Subsection (4) do not apply to an emergency procurement by the Department of Human Services related to the:

(a) placement of a client with a residential service provider; or

(b) provision of medical services for a client.

CHAPTER 31
H. B. 48
Passed January 29, 2021
Approved March 11, 2021
Effective May 5, 2021

BOARD OF FINANCIAL INSTITUTIONS AMENDMENTS

Chief Sponsor: James A. Dunnigan
Senate Sponsor: Curtis S. Bramble

LONG TITLE

General Description:

This bill amends the repeal date of the Board of Financial Institutions.

Highlighted Provisions:

This bill:

- sunsets the Board of Financial Institutions in 2031.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63I-1-207, as enacted by Laws of Utah 2020, Chapter 154

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

Section 1. Section 63I-1-207 is amended to read:

63I-1-207. Repeal dates, Title 7.

(1) Section 7-1-203, which creates the Board of Financial Institutions, is repealed July 1, [~~2021~~] 2031.

(2) Section 7-3-40, which creates the Board of Bank Advisors, is repealed July 1, 2022.

(3) Section 7-9-43, which creates the Board of Credit Union Advisors, is repealed July 1, 2023.

CHAPTER 32
H. B. 49
Passed February 3, 2021
Approved March 11, 2021
Effective May 5, 2021

COMMERCIAL INTERIOR DESIGNERS ACT AMENDMENTS

Chief Sponsor: James A. Dunnigan
Senate Sponsor: Curtis S. Bramble

LONG TITLE

General Description:

This bill removes the repeal date of the State Certification of Commercial Interior Designers Act.

Highlighted Provisions:

This bill:

- removes the repeal date of the State Certification of Commercial Interior Designers Act.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63I-1-258, as last amended by Laws of Utah 2020, Sixth Special Session, Chapter 5

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

Section 1. Section 63I-1-258 is amended to read:

63I-1-258. Repeal dates, Title 58.

(1) Section 58-3a-201, which creates the Architects Licensing Board, is repealed July 1, 2026.

(2) Section 58-11a-302.5 is repealed July 1, 2022.

(3) Title 58, Chapter 13, Health Care Providers Immunity from Liability Act, is repealed July 1, 2026.

(4) Title 58, Chapter 15, Health Facility Administrator Act, is repealed July 1, 2025.

(5) Title 58, Chapter 20b, Environmental Health Scientist Act, is repealed July 1, 2028.

(6) Subsection 58-37-6(7)(f)(iii) is repealed July 1, 2022, and the Office of Legislative Research and General Counsel is authorized to renumber the remaining subsections accordingly.

(7) Title 58, Chapter 40, Recreational Therapy Practice Act, is repealed July 1, 2023.

(8) Title 58, Chapter 41, Speech-Language Pathology and Audiology Licensing Act, is repealed July 1, 2029.

(9) Title 58, Chapter 42a, Occupational Therapy Practice Act, is repealed July 1, 2025.

(10) Title 58, Chapter 46a, Hearing Instrument Specialist Licensing Act, is repealed July 1, 2023.

(11) Title 58, Chapter 47b, Massage Therapy Practice Act, is repealed July 1, 2024.

(12) Subsection 58-55-201(2), which creates the Alarm System and Security Licensing Advisory Board, is repealed July 1, 2027.

(13) Subsection 58-60-405(3), regarding certain educational qualifications for licensure and reporting, is repealed July 1, 2022.

(14) Title 58, Chapter 61, Part 7, Behavior Analyst Licensing Act, is repealed July 1, 2026.

(15) Title 58, Chapter 72, Acupuncture Licensing Act, is repealed July 1, 2027.

[~~(16) Title 58, Chapter 86, State Certification of Commercial Interior Designers Act, is repealed July 1, 2021.~~]

[~~(17)~~] (16) The following sections are repealed on July 1, 2022:

(a) Section 58-5a-502;

(b) Section 58-31b-502.5;

(c) Section 58-67-502.5;

(d) Section 58-68-502.5; and

(e) Section 58-69-502.5.

CHAPTER 33
H. B. 50
Passed February 8, 2021
Approved March 11, 2021
Effective May 5, 2021

GOVERNMENT INSURANCE AMENDMENTS

Chief Sponsor: James A. Dunnigan
Senate Sponsor: Curtis S. Bramble

LONG TITLE

General Description:

This bill makes changes to the Administrative Services Code, Independent Entities Code, and Independent State Entities relating to risk management.

Highlighted Provisions:

This bill:

- defines terms;
- authorizes the state risk manager to create one or more captive insurance companies;
- requires the risk manager to coordinate and cooperate with any covered entity having responsibility for risk control and safety of school districts and charter schools;
- authorizes school districts, charter schools, the Utah Communications Authority, and the Utah State Fair Corporation to participate in any captive insurance company created by the risk manager; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

31A-12-101, as last amended by Laws of Utah 1993, Chapter 212
51-7-2, as last amended by Laws of Utah 2018, Chapters 207 and 404
63A-4-102, as last amended by Laws of Utah 2009, Chapter 183
63A-4-103, as last amended by Laws of Utah 2020, Chapter 365
63A-4-201, as last amended by Laws of Utah 2011, Chapter 303
63A-4-202, as renumbered and amended by Laws of Utah 1993, Chapter 212
63A-4-204, as last amended by Laws of Utah 2018, Chapter 415
63A-4-204.5, as last amended by Laws of Utah 2018, Chapter 415
63A-4-205.5, as last amended by Laws of Utah 2015, Chapter 411
63E-1-304, as enacted by Laws of Utah 2013, Chapter 220
63G-7-605, as last amended by Laws of Utah 2018, Second Special Session, Chapter 9
63G-10-501, as enacted by Laws of Utah 2015, Chapter 355
63H-6-103, as last amended by Laws of Utah 2020, Chapter 152

ENACTS:

63A-4-101.1, Utah Code Annotated 1953
63A-4-208, Utah Code Annotated 1953

RENUMBERS AND AMENDS:

63A-4-101.5, (Renumbered from 63A-4-101, as last amended by Laws of Utah 2006, Chapter 275)

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

Section 1. Section 31A-12-101 is amended to read:

31A-12-101. Definitions.

As used in this chapter:

(1) "Risk Management Fund" means the fund created under Section 63A-4-201.

(2) "Risk manager" means the person appointed under Section [~~63A-4-101~~] 63A-4-101.5.

Section 2. Section 51-7-2 is amended to read:

51-7-2. Exemptions from chapter.

The following funds are exempt from this chapter:

(1) funds invested in accordance with the participating employees' designation or direction pursuant to a public employees' deferred compensation plan established and operated in compliance with Section 457 of the Internal Revenue Code of 1986, as amended;

(2) funds of the Utah State Retirement Board;

(3) funds of the Utah Housing Corporation;

(4) endowment funds of higher education institutions;

(5) permanent and other land grant trust funds established pursuant to the Utah Enabling Act and the Utah Constitution;

(6) the State Post-Retirement Benefits Trust Fund;

(7) the funds of the Utah Educational Savings Plan;

(8) funds of the permanent state trust fund created by and operated under Utah Constitution, Article XXII, Section 4;

(9) the funds in the Navajo Trust Fund;

(10) the funds in the Radioactive Waste Perpetual Care and Maintenance Account;

(11) the funds in the Employers' Reinsurance Fund;

(12) the funds in the Uninsured Employers' Fund; [~~and~~]

(13) the Utah State Developmental Center Long-Term Sustainability Fund, created in Section 62A-5-206.7[~~.~~]; and

(14) the funds in the Risk Management Fund created in Section 63A-4-201.

Section 3. Section 63A-4-101.1 is enacted to read:

63A-4-101.1. Definitions.

As used in this chapter:

(1) "Captive insurance company" means the same as that term is defined in Section 31A-37-102.

(2) "Covered entity" means a participating entity of:

(a) the Risk Management Fund; or

(b) any captive insurance company created by the risk manager.

Section 4. Section 63A-4-101.5, which is renumbered from Section 63A-4-101 is renumbered and amended to read:

[~~63A-4-101~~]. 63A-4-101.5. Risk manager -- Appointment -- Duties.

(1) The executive director shall appoint a risk manager, who shall be qualified by education and experience in the management of general property and casualty insurance.

(2) The risk manager shall:

(a) except as provided in Subsection (4), acquire and administer the following purchased by the state or any captive insurance company created by the risk manager:

[~~(i) all property, casualty insurance; and~~]

(i) all property and casualty insurance;

(ii) reinsurance of property and casualty insurance; and

[~~(ii)~~] (iii) subject to Section 34A-2-203, workers' compensation insurance;

(b) recommend that the executive director make rules:

(i) prescribing reasonable and objective underwriting and risk control standards for [~~state agencies;~~]:

(A) all covered entities of the Risk Management Fund; and

(B) any captive insurance company created by the risk manager;

(ii) prescribing the risks to be covered by the Risk Management Fund and the extent to which these risks will be covered;

(iii) prescribing the properties, risks, deductibles, and amount limits eligible for payment out of the [~~fund~~] Risk Management Fund;

(iv) prescribing procedures for making claims and proof of loss; and

(v) establishing procedures for the resolution of disputes relating to coverage or claims, which may include binding arbitration;

(c) implement a risk management and loss prevention program for [~~state agencies~~] covered entities for the purpose of reducing risks, accidents, and losses to assist [~~state officers and employees~~] covered entities in fulfilling their responsibilities for risk control and safety;

(d) coordinate and cooperate with any [~~state agency~~] covered entity having responsibility to manage and protect state properties, including:

(i) the state fire marshal;

(ii) the director of the Division of Facilities Construction and Management;

(iii) the Department of Public Safety; [~~and~~]

(iv) institutions of higher education;

(v) school districts; and

(vi) charter schools;

(e) maintain records necessary to fulfill the requirements of this section;

(f) manage the [~~fund~~] Risk Management Fund and any captive insurance company created by the risk manager in accordance with economically and actuarially sound principles to produce adequate reserves for the payment of contingencies, including unpaid and unreported claims, and may purchase any insurance or reinsurance considered necessary to accomplish this objective; and

(g) inform the [~~agency's~~] covered entity's governing body and the governor when any [~~agency~~] covered entity fails or refuses to comply with reasonable risk control recommendations made by the risk manager.

(3) Before the effective date of any rule, the risk manager shall provide a copy of the rule to each [~~agency~~] covered entity affected by it.

(4) The risk manager may not use a captive insurance company created by the risk manager to purchase:

(a) workers' compensation insurance;

(b) health insurance; or

(c) life insurance.

Section 5. Section 63A-4-102 is amended to read:

63A-4-102. Risk manager -- Powers.

(1) The risk manager may:

(a) enter into contracts;

(b) form one or more captive insurance companies authorized under Title 31A, Chapter 37, Captive Insurance Companies Act;

[~~(b)~~] (c) purchase insurance or reinsurance;

[~~(c)~~] (d) adjust, settle, and pay claims;

[~~(d)~~] (e) pay expenses and costs;

[~~(e)~~] (f) study the risks of all [~~state agencies~~] covered entities and properties;

[~~(f)~~] (g) issue certificates of coverage [~~to state agencies for~~] or insurance for covered entities with respect to any risks covered by the Risk Management Fund or any captive insurance company created by the risk manager;

[~~(g)~~] (h) make recommendations about risk management and risk reduction strategies to [~~state agencies~~] covered entities;

[~~(h)~~] (i) in consultation with the attorney general, prescribe insurance, indemnification, and liability provisions to be included in all state contracts;

[~~(i)~~] (j) review [~~agency~~] covered entity building construction, major remodeling plans, agency program plans, and make recommendations to the agency about needed changes to address risk considerations;

[~~(j)~~] (k) attend agency planning and management meetings when necessary;

[~~(k)~~] (l) review any proposed legislation and communicate with legislators and legislative committees about the liability or risk management issues connected with any legislation; and

[~~(l)~~] (m) solicit any needed information about agency plans, agency programs, or agency risks necessary to perform the risk manager's responsibilities under this part.

(2) (a) The risk manager may expend money from the Risk Management Fund to procure and provide coverage to all [~~state agencies~~] covered entities and their indemnified employees, except those [~~agencies~~] entities or employees specifically exempted by statute.

(b) The risk manager shall apportion the costs of that coverage according to the requirements of this part.

(3) Before charging a rate, fee, or other amount to an executive branch agency, or to a subscriber of services other than an executive branch agency, the director shall:

(a) submit the proposed rates, fees, or other amount and cost analysis to the Rate Committee established in Section 63A-1-114; and

(b) obtain the approval of the Legislature as required by Section 63J-1-410.

(4) The director shall conduct a market analysis by July 1, 2005, and periodically thereafter, of proposed rates and fees, which analysis shall include a comparison of the division's rates and fees with the fees of other public or private sector providers where comparable services and rates are reasonably available.

Section 6. Section 63A-4-103 is amended to read:

63A-4-103. Risk management -- Duties of covered entities.

(1) (a) Unless [~~specifically~~] expressly authorized by statute [~~to do so, a state agency~~], a covered entity may not:

(i) purchase insurance or self-fund any risk unless authorized by the risk manager; or

(ii) procure or provide liability insurance for the state.

(b) (i) Notwithstanding the provisions of Subsection (1)(a), the Utah Board of Higher Education may authorize higher education institutions to purchase insurance for, or self-fund, risks associated with their programs and activities that are not covered through the risk manager.

(ii) The Utah Board of Higher Education shall provide copies of those purchased policies to the risk manager.

(iii) The Utah Board of Higher Education shall ensure that the state is named as additional insured on any of those policies.

(2) Each [~~state agency~~] covered entity shall:

(a) comply with reasonable risk related recommendations made by the risk manager;

(b) participate in risk management training activities conducted or sponsored by the risk manager;

(c) include the insurance, indemnification, and liability provisions prescribed by the risk manager in all state contracts, together with a statement certifying to the other party to the contract that the insurance and liability provisions in the contract are those prescribed by the risk manager;

(d) [~~at each principal design stage,~~] upon request of the risk manager, provide written notice to the risk manager that construction and major remodeling plans relating to [~~agency~~] covered entity buildings and facilities to be covered by the [~~fund~~] Risk Management Fund are available for review at each principal design stage, for risk control purposes, and make them available to the risk manager for [~~his~~] review and to provide recommendations; and

(e) cooperate fully with requests from the risk manager for [~~agency~~] covered entity planning, program, or risk related information, and allow the risk manager to attend [~~agency~~] covered entity planning and management meetings.

(3) Failure to include in the contract the provisions required by Subsection (2)(c) does not make the contract unenforceable by the state.

Section 7. Section 63A-4-201 is amended to read:

63A-4-201. Risk Management Fund created -- Administration -- Use.

(1) (a) There is created the Risk Management Fund, which shall be administered by the risk manager.

(b) The fund shall cover property, liability, fidelity, and other risks as determined by the risk manager in consultation with the executive director.

(2) The risk manager may only use the [~~fund~~] Risk Management Fund to pay:

(a) insurance or reinsurance premiums;

(b) costs of administering the [~~fund~~] Risk Management Fund and any captive insurance companies created by the risk manager;

(c) loss adjustment expenses;

(d) risk control and related educational and training expenses; and

(e) loss costs which at the time of loss were eligible for payment under rules previously issued by the executive director under the authority of Section [~~63A-4-101~~] 63A-4-101.5.

(3) In addition to any money appropriated to the [~~fund~~] Risk Management Fund by the Legislature, the risk manager shall deposit with the state treasurer for credit to the [~~fund~~] Risk Management Fund:

(a) any insured loss or loss expenses paid by insurance or reinsurance companies;

(b) the gross amount of all premiums and surcharges received under Section 63A-4-202;

(c) the net refunds from cancelled insurance policies necessary to self-insure previously insured risks, with the balance of the proceeds to be refunded to the previously insured [~~agencies~~] entities;

(d) all refunds, returns, or dividends from insurance carriers not specifically covered in Subsections (3)(a), (b), and (c);

(e) savings from amounts otherwise appropriated for participation in the fund; and

(f) all net proceeds from sale of salvage and subrogation recoveries from adverse parties related to losses paid out of the fund.

[~~(4) (a) Pending disbursement, the risk manager shall provide surplus money in the fund to the state treasurer for investment as provided in Title 51, Chapter 7, State Money Management Act.~~]

[~~(b) The state treasurer shall deposit all interest earned on invested fund money into the fund.~~]

(4) The state treasurer shall invest the Risk Management Fund in accordance with Section 63A-4-208 and deposit all interest or other income earned from investments into the Risk Management Fund.

Section 8. Section 63A-4-202 is amended to read:

63A-4-202. Determination of insurance premiums -- Information furnished by covered entities -- Notice to covered entities.

(1) Each [~~agency~~] covered entity shall provide the risk manager with all reasonable information necessary to compute insurance premiums whenever [~~he~~] the risk manager requests that information [~~from them~~].

(2) (a) The risk manager shall charge to each [~~agency~~] entity that receives insurance coverage from the Risk Management Fund or any captive insurance company created by the risk manager its proportionate share of the cost incurred based upon actuarially sound rating techniques.

(b) [~~That premium~~] The risk manager shall include in the premium determined under this section all costs of operating the [~~fund~~] Risk Management Fund as stated in Section 63A-4-201 and operating any captive insurance company created by the risk manager.

(3) To enable each [~~participating agency~~] covered entity to meet its budgeting requirements, the risk manager shall provide each [~~participating agency~~] covered entity with projected insurance costs for the next two fiscal years within the time limits required.

Section 9. Section 63A-4-204 is amended to read:

63A-4-204. School district participation in Risk Management Fund.

(1) (a) For the purpose of this section, action by a public school district shall be taken upon resolution by a majority of the members of the school district's board of education.

(b) (i) Upon approval by the state risk manager and the board of education of the school district, a public school district may participate in the Risk Management Fund or any captive insurance company created by the risk manager, and may permit a foundation established under Section 53E-3-403 to participate in the Risk Management Fund or any captive insurance company created by the risk manager.

(ii) Upon approval by the state risk manager and the State Board of Education, a state public education foundation may participate in the Risk Management Fund or any captive insurance company created by the risk manager.

(c) Subject to any cancellation or other applicable coverage provisions, either the state risk manager or the public school district may terminate participation in the [~~fund~~] Risk Management Fund.

(2) The state risk manager shall contract for all insurance, reinsurance, legal, loss adjustment, consulting, loss control, safety, and other related services necessary to support the insurance [~~program~~] programs provided to a participating public school district, except that all supporting legal services are subject to the prior approval of the state attorney general.

[~~(3) (a) The state risk manager shall treat each participating public school district as a state agency when participating in the Risk Management Fund.~~]

[~~(b)~~] (3) Each public school district participating in the [~~fund~~] Risk Management Fund shall comply with [~~the provisions of this part that affect state agencies~~] Section 63A-4-103.

(4) (a) Each year, the risk manager shall prepare, in writing, the information required by Subsection (4)(b) regarding the coverage against legal liability provided a school district employee of this state:

(i) by the Risk Management Fund or any captive insurance company created by the risk manager;

(ii) under Title 63G, Chapter 7, Governmental Immunity Act of Utah; and

(iii) under Title 52, Chapter 6, Reimbursement of Legal Fees and Costs to Officers and Employees Act.

(b) (i) The information described in Subsection (4)(a) shall include:

(A) the eligibility requirements, if any, to receive the coverage;

(B) the basic nature of the coverage for a school district employee, including what is not covered; and

(C) whether the coverage is primary or in excess of any other coverage the risk manager knows is commonly available to a school district employee in this state.

(ii) The information described in Subsection (4)(a) may include:

(A) comparisons the risk manager considers beneficial to a school district employee between:

(I) the coverage described in Subsection (4)(a); and

(II) other coverage the risk manager knows is commonly available to a school district employee in this state; and

(B) any other information the risk manager considers appropriate.

(c) By no later than July 1 of each year, the risk manager shall provide the information prepared under this Subsection (4) to each school district that participates in the Risk Management Fund or any captive insurance company created by the risk manager.

(d) A school district that participates in the Risk Management Fund shall provide a copy of the information described in Subsection (4)(c) to each school district employee within the school district no later than the first day of each school year.

(e) If a school district hires an employee after the first day of the school year, no later than 10 days after the day on which the employee is hired, the school district shall provide the information described in Subsection (4)(c) to the employee.

Section 10. Section 63A-4-204.5 is amended to read:

63A-4-204.5. Charter school participation in Risk Management Fund.

(1) A charter school established under the authority of Title 53G, Chapter 5, Charter Schools, may participate in the Risk Management Fund or any captive insurance company created by the risk manager upon the approval of the state risk manager and the governing body of the charter school.

[~~(2) (a) For purposes of administration, the state risk manager shall treat each charter school participating in the fund as a state agency.~~]

[~~(b)~~] (2) Each charter school participating in the [~~fund~~] Risk Management Fund shall comply with [~~the provisions of this part that affect state agencies~~] Section 63A-4-103.

(3) (a) Each year, the risk manager shall prepare, in writing, the information required by Subsection (3)(b) regarding the coverage against legal liability provided a charter school employee of this state:

(i) by the Risk Management Fund or any captive insurance company created by the risk manager;

(ii) under Title 63G, Chapter 7, Governmental Immunity Act of Utah; and

(iii) under Title 52, Chapter 6, Reimbursement of Legal Fees and Costs to Officers and Employees Act.

(b) (i) The information described in Subsection (3)(a) shall include:

(A) the eligibility requirements, if any, to receive the coverage;

(B) the basic nature of the coverage for a charter school employee, including what is not covered; and

(C) whether the coverage is primary or in excess of any other coverage the risk manager knows is commonly available to a charter school employee in this state.

(ii) The information described in Subsection (3)(a) may include:

(A) comparisons the risk manager considers beneficial to a charter school employee between:

(I) the coverage described in Subsection (3)(a); and

(II) other coverage the risk manager knows is commonly available to a charter school employee in this state; and

(B) any other information the risk manager considers appropriate.

(c) By no later than July 1 of each year, the risk manager shall provide the information prepared under this Subsection (3) to each charter school that participates in the Risk Management Fund or any captive insurance company created by the risk manager.

(d) A charter school that participates in the Risk Management Fund or any captive insurance company created by the risk manager shall provide a copy of the information described in Subsection (3)(c) to each charter school employee within the charter school no later than the first day of each school year.

(e) If a charter school hires an employee after the first day of the school year, no later than 10 days after the day on which the employee is hired, the charter school shall provide the information described in Subsection (3)(c) to the employee.

Section 11. Section 63A-4-205.5 is amended to read:

63A-4-205.5. Risk management -- Coverage of the Utah Communications Authority.

The Utah Communications Authority established under authority of Title 63H, Chapter 7a, Utah Communications Authority Act, may participate in the Risk Management Fund or any captive insurance company created by the risk manager.

Section 12. Section 63A-4-208 is enacted to read:

63A-4-208. Investment of Risk Management Fund.

(1) The state treasurer shall invest the assets of the Risk Management Fund created under Section 63A-4-201 with the primary goal of providing for the stability, income, and growth of the principal.

(2) Nothing in this section requires a specific outcome in investing.

(3) The state treasurer may deduct any administrative costs incurred in managing fund assets from earnings before distributing the earnings.

(4) (a) The state treasurer may employ professional asset managers to assist in the investment of the assets of the funds.

(b) The treasurer may only provide compensation to asset managers from earnings generated by the funds' investments.

(5) (a) The state treasurer shall invest and manage the assets of the funds as a prudent investor would by:

(i) considering the purposes, terms, distribution requirements, and other circumstances of the funds; and

(ii) exercising reasonable care, skill, and caution in order to meet the standard of care of a prudent investor.

(b) In determining whether the state treasurer has met the standard of care of a prudent investor, the judge or finder of fact shall:

(i) consider the state treasurer's actions in light of the facts and circumstances existing at the time of the investment decision or action, and not by hindsight; and

(ii) evaluate the state treasurer's investment and management decisions respecting individual assets:

(A) not in isolation, but in the context of a fund portfolio as a whole; and

(B) as a part of an overall investment strategy that has risk and return objectives reasonably suited to the funds.

Section 13. Section 63E-1-304 is amended to read:

63E-1-304. Limitations on risk management coverage.

(1) Except as specifically modified in its authorizing statute, an independent entity is not eligible to receive coverage under the Risk Management Fund created by Section 63A-4-201 or any captive insurance company created by the risk manager.

(2) If an independent entity that receives coverage under the Risk Management Fund or any captive insurance company created by the risk manager is involved in a commercial activity, the state risk manager may require that the entity:

(a) procure commercial insurance coverage or provide proof of vendor's insurance coverage for the commercial activity; and

(b) comply with loss prevention measures specified by the state risk manager.

Section 14. Section 63G-7-605 is amended to read:

63G-7-605. Adjustments to limitation of judgment amounts.

(1) As used in this section:

(a) "Adjusted consumer price factor" means what the consumer price index would be without the medical care component and the medical services component.

(b) "Aggregate limit" means the limit on the aggregate amount of personal injury damages claims from a single occurrence, as provided in Subsection 63G-7-604(1)(d).

(c) "Applicable index" means:

(i) the consumer price index, for a calculation of the percentage change in the consumer price index;

(ii) the adjusted consumer price factor, for a calculation of the percentage change in the adjusted consumer price factor;

(iii) the medical care component, for a calculation of the percentage change in the medical care component; or

(iv) the medical services component, for a calculation of the percentage change in the medical services component.

(d) "Base applicable index" means an applicable index for the year that is three years before the year in which the legislative fiscal analyst calculates new limits under this section.

(e) "Consumer price index" means the annual index reported by the United States Bureau of Labor Statistics for consumer prices for all urban consumers, not seasonally adjusted.

(f) "Individual limit" means the limit on the amount of a judgment for damages for personal injury, as provided in Subsection 63G-7-604(1)(a).

(g) "Latest aggregate limit" means the aggregate limit, as last adjusted by the risk manager under this section.

(h) "Latest individual limit" means the individual limit, as last adjusted by the risk manager under this section.

(i) "Latest property damage limit" means the property damage limit, as last adjusted by the risk manager under this section.

(j) "Medical care component" means the medical care sub-index of the consumer price index.

(k) "Medical services component" means the medical care services sub-index of the consumer price index.

(l) "Percentage change" means the amount of change between the base applicable index and the applicable index for the year before the year in which the legislative fiscal analyst calculates new limits under this section, expressed as a percentage of the base applicable index.

(m) "Property damage limit" means the limit on the amount of a judgment for property damage, as provided in Subsection 63G-7-604(1)(c).

(n) "Risk manager" means the state risk manager appointed under Section [~~63A-4-101~~] 63A-4-101.5.

(2) Each even-numbered year, the legislative fiscal analyst shall, subject to Subsection (3):

(a) calculate a new individual limit by adding to the latest individual limit the sum of:

(i) 66.5% of the latest individual limit, multiplied by the percentage change in the adjusted consumer price factor;

(ii) 16.75% of the latest individual limit, multiplied by the percentage change in the medical care component; and

(iii) 16.75% of the latest individual limit, multiplied by the percentage change in the medical services component;

(b) calculate a new aggregate limit by adding to the latest aggregate limit the sum of:

(i) 66.5% of the latest aggregate limit, multiplied by the percentage change in the adjusted consumer price factor;

(ii) 16.75% of the latest aggregate limit, multiplied by the percentage change in the medical care component; and

(iii) 16.75% of the latest aggregate limit, multiplied by the percentage change in the medical services component;

(c) calculate a new property damage limit by adding to the latest property damage limit the amount of the latest property damage limit multiplied by the percentage change in the consumer price index;

(d) round up to the nearest $100 the individual limit, aggregate limit, and property damage limit calculated under Subsections (2)(a), (b), and (c); and

(e) no later than May 1, communicate the newly calculated limits under Subsections (2)(a), (b), and (c) to the risk manager.

(3) The newly calculated individual limit, aggregate limit, or property damage limit under Subsection (2) may not be less than the amount of the limit before the new calculation under Subsection (2).

(4) (a) Each even-numbered year, the risk manager shall make rules, to become effective no later than July 1 of that year, that establish a new individual limit, aggregate limit, and property damage limit, as calculated under Subsection (2).

(b) A newly calculated individual limit, aggregate limit, or property damage limit under this section has prospective effect only from the date the rules establishing the new limit take effect.

(c) An individual limit, aggregate limit, or property damage limit, as newly calculated under this section, applies only to a claim for injury or loss that occurs after the effective date of the rules that establish the newly calculated limit.

Section 15. Section 63G-10-501 is amended to read:

63G-10-501. Definitions.

As used in this part:

(1) "Executive director" means the individual appointed under Section 63A-1-105 as the executive director of the Department of Administrative Services, created in Section 63A-1-104.

(2) "Risk management fund" means the fund created in Section 63A-4-201.

(3) "Risk manager" means the state risk manager appointed under Section [~~63A-4-101~~] 63A-4-101.5.

Section 16. Section 63H-6-103 is amended to read:

63H-6-103. Utah State Fair Corporation -- Legal status -- Powers.

(1) There is created an independent public nonprofit corporation known as the "Utah State Fair Corporation."

(2) The board shall file articles of incorporation for the corporation with the Division of Corporations and Commercial Code.

(3) The corporation, subject to this chapter, has all powers and authority permitted nonprofit corporations by law.

(4) The corporation shall:

(a) manage, supervise, and control:

(i) all activities relating to the annual exhibition described in Subsection (4)(j); and

(ii) except as otherwise provided by statute, all state expositions, including setting the time, place, and purpose of any state exposition;

(b) for public entertainment, displays, and exhibits or similar events:

(i) provide, sponsor, or arrange the events;

(ii) publicize and promote the events; and

(iii) secure funds to cover the cost of the exhibits from:

(A) private contributions;

(B) public appropriations;

(C) admission charges; and

(D) other lawful means;

(c) acquire and designate exposition sites;

(d) use generally accepted accounting principles in accounting for the corporation's assets, liabilities, and operations;

(e) seek corporate sponsorships for the state fair park or for individual buildings or facilities within the fair park;

(f) work with county and municipal governments, the Salt Lake Convention and Visitor's Bureau, the Utah Travel Council, and other entities to develop and promote expositions and the use of the state fair park;

(g) develop and maintain a marketing program to promote expositions and the use of the state fair park;

(h) in accordance with provisions of this part, operate and maintain the state fair park, including the physical appearance and structural integrity of the state fair park and the buildings located at the state fair park;

(i) prepare an economic development plan for the state fair park;

(j) hold an annual exhibition that:

(i) is called the state fair or a similar name;

(ii) promotes and highlights agriculture throughout the state;

(iii) includes expositions of livestock, poultry, agricultural, domestic science, horticultural, floricultural, mineral and industrial products, manufactured articles, and domestic animals that, in the corporation's opinion will best stimulate agricultural, industrial, artistic, and educational pursuits and the sharing of talents among the people of Utah;

(iv) includes the award of premiums for the best specimens of the exhibited articles and animals;

(v) permits competition by livestock exhibited by citizens of other states and territories of the United States; and

(vi) is arranged according to plans approved by the board;

(k) fix the conditions of entry to the annual exhibition described in Subsection (4)(j); and

(l) publish a list of premiums that will be awarded at the annual exhibition described in Subsection (4)(j) for the best specimens of exhibited articles and animals.

(5) In addition to the annual exhibition described in Subsection (4)(j), the corporation may hold other exhibitions of livestock, poultry, agricultural, domestic science, horticultural, floricultural, mineral and industrial products, manufactured articles, and domestic animals that, in the corporation's opinion, will best stimulate agricultural, industrial, artistic, and educational pursuits and the sharing of talents among the people of Utah.

(6) The corporation may:

(a) employ advisers, consultants, and agents, including financial experts and independent legal counsel, and fix their compensation;

(b) (i) participate in the state's Risk Management Fund created under Section 63A-4-201 or any captive insurance company created by the risk manager; or

(ii) procure insurance against any loss in connection with the corporation's property and other assets, including mortgage loans;

(c) receive and accept aid or contributions of money, property, labor, or other things of value from any source, including any grants or appropriations from any department, agency, or instrumentality of the United States or Utah;

(d) hold, use, loan, grant, and apply that aid and those contributions to carry out the purposes of the corporation, subject to the conditions, if any, upon which the aid and contributions were made;

(e) enter into management agreements with any person or entity for the performance of the corporation's functions or powers;

(f) establish whatever accounts and procedures as necessary to budget, receive, and disburse, account for, and audit all funds received, appropriated, or generated;

(g) subject to Subsection (8), lease any of the facilities at the state fair park;

(h) sponsor events as approved by the board; and

(i) enter into one or more agreements to develop the state fair park.

(7) (a) Except as provided in Subsection (7)(c), as an independent agency of Utah, the corporation is exempt from:

(i) Title 51, Chapter 5, Funds Consolidation Act;

(ii) Title 51, Chapter 7, State Money Management Act;

(iii) Title 63A, Utah Administrative Services Code;

(iv) Title 63J, Chapter 1, Budgetary Procedures Act; and

(v) Title 67, Chapter 19, Utah State Personnel Management Act.

(b) The board shall adopt policies parallel to and consistent with:

(i) Title 51, Chapter 5, Funds Consolidation Act;

(ii) Title 51, Chapter 7, State Money Management Act;

(iii) Title 63A, Utah Administrative Services Code; and

(iv) Title 63J, Chapter 1, Budgetary Procedures Act.

(c) The corporation shall comply with:

(i) Title 52, Chapter 4, Open and Public Meetings Act;

(ii) Title 63G, Chapter 2, Government Records Access and Management Act;

(iii) the provisions of Title 63A, Chapter 1, Part 2, Utah Public Finance Website;

(iv) Title 63G, Chapter 6a, Utah Procurement Code, except for a procurement for:

(A) entertainment provided at the state fair park;

(B) judges for competitive exhibits; or

(C) sponsorship of an event at the state fair park; and

(v) the legislative approval requirements for new facilities established in Section 63A-5b-404.

(8) (a) Before the corporation executes a lease described in Subsection (6)(g) with a term of 10 or more years, the corporation shall:

(i) submit the proposed lease to the State Building Board for the State Building Board's approval or rejection; and

(ii) if the State Building Board approves the proposed lease, submit the proposed lease to the Executive Appropriations Committee for the Executive Appropriation Committee's review and recommendation in accordance with Subsection (8)(b).

(b) The Executive Appropriations Committee shall review a proposed lease submitted in accordance with Subsection (8)(a) and recommend to the corporation that the corporation:

(i) execute the proposed sublease; or

(ii) reject the proposed sublease.

CHAPTER 34
H. B. 53
Passed February 11, 2021
Approved March 11, 2021
Effective May 5, 2021

METEOROLOGICAL EVALUATION TOWER MARKING

Chief Sponsor: Steve R. Christiansen
Senate Sponsor: Wayne A. Harper

LONG TITLE

General Description:

This bill establishes requirements relating to the marking of meteorological evaluation towers.

Highlighted Provisions:

This bill:

- defines terms; and
- establishes marking requirements for meteorological evaluation towers.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

72-10-133, Utah Code Annotated 1953

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

Section 1. Section 72-10-133 is enacted to read:

72-10-133. Marking of meteorological evaluation towers.

(1) As used in this section:

(a) "Meteorological evaluation tower" means a permanent or temporary tower used for meteorological evaluation that:

(i) is supported by guy wires and ground anchors; and

(ii) has accessory facilities on which an antenna, sensor, camera, meteorological instrument, or other meteorological monitoring equipment is mounted.

(b) "Meteorological evaluation tower" does not include:

(i) a tower registered with the Federal Communications Commission; or

(ii) a tower that is primarily used to support telecommunications equipment, including:

(A) a microwave relay facility; and

(B) a tower erected for the purpose of providing commercial mobile radio service or commercial mobile data service, as those terms are defined in 47 C.F.R. Sec. 20.3.

(2) Except as required by federal law, rule, or regulation, a meteorological evaluation tower shall be marked as described in Subsection (3) if the tower is:

(a) over 50 feet in height;

(b) located outside of an incorporated city or town; and

(c) on land that is primarily rural, undeveloped, or used for agricultural purposes.

(3) (a) A meteorological evaluation tower shall:

(i) be painted in equal alternating bands of aviation orange and white, beginning with orange at the top and bottom of the tower, to be visible in clear air during daylight hours from a distance of at least two thousand feet;

(ii) have a high-visibility safety sleeve at least seven feet long on each guy wire, extending from the anchor point along each guy wire attached to the anchor point;

(iii) have a spherical marker attached to the top third of each of the highest guy wires; and

(iv) have a flashing light at the top of the tower that, when flashing, is visible during nighttime from a distance of at least two thousand feet.

(b) The owner of a meteorological evaluation tower shall replace the markings described in Subsection (3)(a) when they become inoperable, faded, or otherwise deteriorated.

(4) The owner of a meteorological evaluation tower erected before May 5, 2021, shall meet the requirements of this section before May 5, 2022.

CHAPTER 35
H. B. 63
Passed February 18, 2021
Approved March 11, 2021
Effective May 5, 2021

IMPACT FEES AMENDMENTS

Chief Sponsor: Candice B. Pierucci
Senate Sponsor: Lincoln Fillmore

LONG TITLE

General Description:

This bill amends provisions related to impact fees.

Highlighted Provisions:

This bill:

- defines terms;
- modifies provisions regarding the calculation of impact fees; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

10-9a-305, as last amended by Laws of Utah 2018, Chapter 415
10-9a-510, as last amended by Laws of Utah 2013, Chapter 200
11-36a-102, as last amended by Laws of Utah 2018, Chapters 196 and 415
11-36a-202, as last amended by Laws of Utah 2018, Chapter 415
11-36a-305, as enacted by Laws of Utah 2011, Chapter 47
11-36a-306, as last amended by Laws of Utah 2013, Chapter 278
17-27a-305, as last amended by Laws of Utah 2018, Chapter 415
17-27a-509, as last amended by Laws of Utah 2013, Chapter 200
17B-1-118, as last amended by Laws of Utah 2013, Chapter 200
17B-1-121, as last amended by Laws of Utah 2014, Chapter 189

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

Section 1. Section 10-9a-305 is amended to read:

10-9a-305. Other entities required to conform to municipality's land use ordinances -- Exceptions -- School districts and charter schools -- Submission of development plan and schedule.

(1) (a) Each county, municipality, school district, charter school, local district, special service district, and political subdivision of the state shall conform to any applicable land use ordinance of any municipality when installing, constructing, operating, or otherwise using any area, land, or building situated within that municipality.

(b) In addition to any other remedies provided by law, when a municipality's land use ordinance is violated or about to be violated by another political subdivision, that municipality may institute an injunction, mandamus, abatement, or other appropriate action or proceeding to prevent, enjoin, abate, or remove the improper installation, improvement, or use.

(2) (a) Except as provided in Subsection (3), a school district or charter school is subject to a municipality's land use ordinances.

(b) (i) Notwithstanding Subsection (3), a municipality may:

(A) subject a charter school to standards within each zone pertaining to setback, height, bulk and massing regulations, off-site parking, curb cut, traffic circulation, and construction staging; and

(B) impose regulations upon the location of a project that are necessary to avoid unreasonable risks to health or safety, as provided in Subsection (3)(f).

(ii) The standards to which a municipality may subject a charter school under Subsection (2)(b)(i) shall be objective standards only and may not be subjective.

(iii) Except as provided in Subsection (7)(d), the only basis upon which a municipality may deny or withhold approval of a charter school's land use application is the charter school's failure to comply with a standard imposed under Subsection (2)(b)(i).

(iv) Nothing in Subsection (2)(b)(iii) may be construed to relieve a charter school of an obligation to comply with a requirement of an applicable building or safety code to which it is otherwise obligated to comply.

(3) A municipality may not:

(a) impose requirements for landscaping, fencing, aesthetic considerations, construction methods or materials, additional building inspections, municipal building codes, building use for educational purposes, or the placement or use of temporary classroom facilities on school property;

(b) except as otherwise provided in this section, require a school district or charter school to participate in the cost of any roadway or sidewalk, or a study on the impact of a school on a roadway or sidewalk, that is not reasonably necessary for the safety of school children and not located on or contiguous to school property, unless the roadway or sidewalk is required to connect an otherwise isolated school site to an existing roadway;

(c) require a district or charter school to pay fees not authorized by this section;

(d) provide for inspection of school construction or assess a fee or other charges for inspection, unless the school district or charter school is unable to provide for inspection by an inspector, other than the project architect or contractor, who is qualified under criteria established by the state superintendent;

(e) require a school district or charter school to pay any impact fee for an improvement project

unless the impact fee is imposed as provided in Title 11, Chapter 36a, Impact Fees Act;

(f) impose regulations upon the location of an educational facility except as necessary to avoid unreasonable risks to health or safety; or

(g) for a land use or a structure owned or operated by a school district or charter school that is not an educational facility but is used in support of providing instruction to pupils, impose a regulation that:

(i) is not imposed on a similar land use or structure in the zone in which the land use or structure is approved; or

(ii) uses the tax exempt status of the school district or charter school as criteria for prohibiting or regulating the land use or location of the structure.

(4) Subject to Section 53E-3-710, a school district or charter school shall coordinate the siting of a new school with the municipality in which the school is to be located, to:

(a) avoid or mitigate existing and potential traffic hazards, including consideration of the impacts between the new school and future highways; and

(b) maximize school, student, and site safety.

(5) Notwithstanding Subsection (3)(d), a municipality may, at its discretion:

(a) provide a walk-through of school construction at no cost and at a time convenient to the district or charter school; and

(b) provide recommendations based upon the walk-through.

(6) (a) Notwithstanding Subsection (3)(d), a school district or charter school shall use:

(i) a municipal building inspector;

(ii) (A) for a school district, a school district building inspector from that school district; or

(B) for a charter school, a school district building inspector from the school district in which the charter school is located; or

(iii) an independent, certified building inspector who is:

(A) not an employee of the contractor;

(B) approved by:

(I) a municipal building inspector; or

(II) (Aa) for a school district, a school district building inspector from that school district; or

(Bb) for a charter school, a school district building inspector from the school district in which the charter school is located; and

(C) licensed to perform the inspection that the inspector is requested to perform.

(b) The approval under Subsection (6)(a)(iii)(B) may not be unreasonably withheld.

(c) If a school district or charter school uses a school district or independent building inspector under Subsection (6)(a)(ii) or (iii), the school district or charter school shall submit to the state superintendent of public instruction and municipal building official, on a monthly basis during construction of the school building, a copy of each inspection certificate regarding the school building.

(7) (a) A charter school shall be considered a permitted use in all zoning districts within a municipality.

(b) Each land use application for any approval required for a charter school, including an application for a building permit, shall be processed on a first priority basis.

(c) Parking requirements for a charter school may not exceed the minimum parking requirements for schools or other institutional public uses throughout the municipality.

(d) If a municipality has designated zones for a sexually oriented business, or a business which sells alcohol, a charter school may be prohibited from a location which would otherwise defeat the purpose for the zone unless the charter school provides a waiver.

(e) (i) A school district or a charter school may seek a certificate authorizing permanent occupancy of a school building from:

(A) the state superintendent of public instruction, as provided in Subsection 53E-3-706(3), if the school district or charter school used an independent building inspector for inspection of the school building; or

(B) a municipal official with authority to issue the certificate, if the school district or charter school used a municipal building inspector for inspection of the school building.

(ii) A school district may issue its own certificate authorizing permanent occupancy of a school building if it used its own building inspector for inspection of the school building, subject to the notification requirement of Subsection 53E-3-706(3)(a)(ii).

(iii) A charter school may seek a certificate authorizing permanent occupancy of a school building from a school district official with authority to issue the certificate, if the charter school used a school district building inspector for inspection of the school building.

(iv) A certificate authorizing permanent occupancy issued by the state superintendent of public instruction under Subsection 53E-3-706(3) or a school district official with authority to issue the certificate shall be considered to satisfy any municipal requirement for an inspection or a certificate of occupancy.

(8) (a) A specified public agency intending to develop its land shall submit to the land use authority a development plan and schedule:

(i) as early as practicable in the development process, but no later than the commencement of construction; and

(ii) with sufficient detail to enable the land use authority to assess:

(A) the specified public agency's compliance with applicable land use ordinances;

(B) the demand for public facilities listed in Subsections 11-36a-102[~~(16)~~](17)(a), (b), (c), (d), (e), and (g) caused by the development;

(C) the amount of any applicable fee described in Section 10-9a-510;

(D) any credit against an impact fee; and

(E) the potential for waiving an impact fee.

(b) The land use authority shall respond to a specified public agency's submission under Subsection (8)(a) with reasonable promptness in order to allow the specified public agency to consider information the municipality provides under Subsection (8)(a)(ii) in the process of preparing the budget for the development.

(9) Nothing in this section may be construed to:

(a) modify or supersede Section 10-9a-304; or

(b) authorize a municipality to enforce an ordinance in a way, or enact an ordinance, that fails to comply with Title 57, Chapter 21, Utah Fair Housing Act, the federal Fair Housing Amendments Act of 1988, 42 U.S.C. Sec. 3601 et seq., the Americans with Disabilities Act of 1990, 42 U.S.C. 12102, or any other provision of federal law.

Section 2. Section 10-9a-510 is amended to read:

10-9a-510. Limit on fees -- Requirement to itemize fees -- Appeal of fee -- Provider of culinary or secondary water.

(1) A municipality may not impose or collect a fee for reviewing or approving the plans for a commercial or residential building that exceeds the lesser of:

(a) the actual cost of performing the plan review; and

(b) 65% of the amount the municipality charges for a building permit fee for that building.

(2) Subject to Subsection (1), a municipality may impose and collect only a nominal fee for reviewing and approving identical floor plans.

(3) A municipality may not impose or collect a hookup fee that exceeds the reasonable cost of installing and inspecting the pipe, line, meter, and appurtenance to connect to the municipal water, sewer, storm water, power, or other utility system.

(4) A municipality may not impose or collect:

(a) a land use application fee that exceeds the reasonable cost of processing the application or issuing the permit; or

(b) an inspection, regulation, or review fee that exceeds the reasonable cost of performing the inspection, regulation, or review.

(5) (a) If requested by an applicant who is charged a fee or an owner of residential property upon which a fee is imposed, the municipality shall provide an itemized fee statement that shows the calculation method for each fee.

(b) If an applicant who is charged a fee or an owner of residential property upon which a fee is imposed submits a request for an itemized fee statement no later than 30 days after the day on which the applicant or owner pays the fee, the municipality shall no later than 10 days after the day on which the request is received provide or commit to provide within a specific time:

(i) for each fee, any studies, reports, or methods relied upon by the municipality to create the calculation method described in Subsection (5)(a);

(ii) an accounting of each fee paid;

(iii) how each fee will be distributed; and

(iv) information on filing a fee appeal through the process described in Subsection (5)(c).

(c) A municipality shall establish a fee appeal process subject to an appeal authority described in Part 7, Appeal Authority and Variances, and district court review in accordance with Part 8, District Court Review, to determine whether a fee reflects only the reasonable estimated cost of:

(i) regulation;

(ii) processing an application;

(iii) issuing a permit; or

(iv) delivering the service for which the applicant or owner paid the fee.

(6) A municipality may not impose on or collect from a public agency any fee associated with the public agency's development of its land other than:

(a) subject to Subsection (4), a fee for a development service that the public agency does not itself provide;

(b) subject to Subsection (3), a hookup fee; and

(c) an impact fee for a public facility listed in Subsection 11-36a-102[~~(16)~~](17)(a), (b), (c), (d), (e), or (g), subject to any applicable credit under Subsection 11-36a-402(2).

(7) A provider of culinary or secondary water that commits to provide a water service required by a land use application process is subject to the following as if it were a municipality:

(a) Subsections (5) and (6);

(b) Section 10-9a-508; and

(c) Section 10-9a-509.5.

Section 3. Section 11-36a-102 is amended to read:

11-36a-102. Definitions.

As used in this chapter:

(1) (a) "Affected entity" means each county, municipality, local district under Title 17B, Limited Purpose Local Government Entities - Local Districts, special service district under Title 17D, Chapter 1, Special Service District Act, school district, interlocal cooperation entity established under Chapter 13, Interlocal Cooperation Act, and specified public utility:

(i) whose services or facilities are likely to require expansion or significant modification because of the facilities proposed in the proposed impact fee facilities plan; or

(ii) that has filed with the local political subdivision or private entity a copy of the general or long-range plan of the county, municipality, local district, special service district, school district, interlocal cooperation entity, or specified public utility.

(b) "Affected entity" does not include the local political subdivision or private entity that is required under Section 11-36a-501 to provide notice.

(2) "Charter school" includes:

(a) an operating charter school;

(b) an applicant for a charter school whose application has been approved by a charter school authorizer as provided in Title 53G, Chapter 5, Part 6, Charter School Credit Enhancement Program; and

(c) an entity that is working on behalf of a charter school or approved charter applicant to develop or construct a charter school building.

(3) "Development activity" means any construction or expansion of a building, structure, or use, any change in use of a building or structure, or any changes in the use of land that creates additional demand and need for public facilities.

(4) "Development approval" means:

(a) except as provided in Subsection (4)(b), any written authorization from a local political subdivision that authorizes the commencement of development activity;

(b) development activity, for a public entity that may develop without written authorization from a local political subdivision;

(c) a written authorization from a public water supplier, as defined in Section 73-1-4, or a private water company:

(i) to reserve or provide:

(A) a water right;

(B) a system capacity; or

(C) a distribution facility; or

(ii) to deliver for a development activity:

(A) culinary water; or

(B) irrigation water; or

(d) a written authorization from a sanitary sewer authority, as defined in Section 10-9a-103:

(i) to reserve or provide:

(A) sewer collection capacity; or

(B) treatment capacity; or

(ii) to provide sewer service for a development activity.

(5) "Enactment" means:

(a) a municipal ordinance, for a municipality;

(b) a county ordinance, for a county; and

(c) a governing board resolution, for a local district, special service district, or private entity.

(6) "Encumber" means:

(a) a pledge to retire a debt; or

(b) an allocation to a current purchase order or contract.

(7) "Expense for overhead" means a cost that a local political subdivision or private entity:

(a) incurs in connection with:

(i) developing an impact fee facilities plan;

(ii) developing an impact fee analysis; or

(iii) imposing an impact fee, including any related overhead expenses; and

(b) calculates in accordance with a methodology that is consistent with generally accepted cost accounting practices.

[~~(7)~~] (8) "Hookup fee" means a fee for the installation and inspection of any pipe, line, meter, or appurtenance to connect to a gas, water, sewer, storm water, power, or other utility system of a municipality, county, local district, special service district, or private entity.

[~~(8)~~] (9) (a) "Impact fee" means a payment of money imposed upon new development activity as a condition of development approval to mitigate the impact of the new development on public infrastructure.

(b) "Impact fee" does not mean a tax, a special assessment, a building permit fee, a hookup fee, a fee for project improvements, or other reasonable permit or application fee.

[~~(9)~~] (10) "Impact fee analysis" means the written analysis of each impact fee required by Section 11-36a-303.

[~~(10)~~] (11) "Impact fee facilities plan" means the plan required by Section 11-36a-301.

[~~(11)~~] (12) "Level of service" means the defined performance standard or unit of demand for each capital component of a public facility within a service area.

[~~(12)~~] (13) (a) "Local political subdivision" means a county, a municipality, a local district under Title 17B, Limited Purpose Local Government Entities - Local Districts, or a special service district under Title 17D, Chapter 1, Special Service District Act.

(b) "Local political subdivision" does not mean a school district, whose impact fee activity is governed by Section 11-36a-206.

[~~(13)~~] (14) "Private entity" means an entity in private ownership with at least 100 individual shareholders, customers, or connections, that is located in a first, second, third, or fourth class county and provides water to an applicant for development approval who is required to obtain water from the private entity either as a:

(a) specific condition of development approval by a local political subdivision acting pursuant to a prior agreement, whether written or unwritten, with the private entity; or

(b) functional condition of development approval because the private entity:

(i) has no reasonably equivalent competition in the immediate market; and

(ii) is the only realistic source of water for the applicant's development.

[~~(14)~~] (15) (a) "Project improvements" means site improvements and facilities that are:

(i) planned and designed to provide service for development resulting from a development activity;

(ii) necessary for the use and convenience of the occupants or users of development resulting from a development activity; and

(iii) not identified or reimbursed as a system improvement.

(b) "Project improvements" does not mean system improvements.

[~~(15)~~] (16) "Proportionate share" means the cost of public facility improvements that are roughly proportionate and reasonably related to the service demands and needs of any development activity.

[~~(16)~~] (17) "Public facilities" means only the following impact fee facilities that have a life expectancy of 10 or more years and are owned or operated by or on behalf of a local political subdivision or private entity:

(a) water rights and water supply, treatment, storage, and distribution facilities;

(b) wastewater collection and treatment facilities;

(c) storm water, drainage, and flood control facilities;

(d) municipal power facilities;

(e) roadway facilities;

(f) parks, recreation facilities, open space, and trails;

(g) public safety facilities;

(h) environmental mitigation as provided in Section 11-36a-205; or

(i) municipal natural gas facilities.

[~~(17)~~] (18) (a) "Public safety facility" means:

(i) a building constructed or leased to house police, fire, or other public safety entities; or

(ii) a fire suppression vehicle costing in excess of $500,000.

(b) "Public safety facility" does not mean a jail, prison, or other place of involuntary incarceration.

[~~(18)~~] (19) (a) "Roadway facilities" means a street or road that has been designated on an officially adopted subdivision plat, roadway plan, or general plan of a political subdivision, together with all necessary appurtenances.

(b) "Roadway facilities" includes associated improvements to a federal or state roadway only when the associated improvements:

(i) are necessitated by the new development; and

(ii) are not funded by the state or federal government.

(c) "Roadway facilities" does not mean federal or state roadways.

[~~(19)~~] (20) (a) "Service area" means a geographic area designated by an entity that imposes an impact fee on the basis of sound planning or engineering principles in which a public facility, or a defined set of public facilities, provides service within the area.

(b) "Service area" may include the entire local political subdivision or an entire area served by a private entity.

[~~(20)~~] (21) "Specified public agency" means:

(a) the state;

(b) a school district; or

(c) a charter school.

[~~(21)~~] (22) (a) "System improvements" means:

(i) existing public facilities that are:

(A) identified in the impact fee analysis under Section 11-36a-304; and

(B) designed to provide services to service areas within the community at large; and

(ii) future public facilities identified in the impact fee analysis under Section 11-36a-304 that are intended to provide services to service areas within the community at large.

(b) "System improvements" does not mean project improvements.

Section 4. Section 11-36a-202 is amended to read:

11-36a-202. Prohibitions on impact fees.

(1) A local political subdivision or private entity may not:

(a) impose an impact fee to:

(i) cure deficiencies in a public facility serving existing development;

(ii) raise the established level of service of a public facility serving existing development; or

(iii) recoup more than the local political subdivision's or private entity's costs actually incurred for excess capacity in an existing system improvement; [~~or~~]

[~~(iv) include an expense for overhead, unless the expense is calculated pursuant to a methodology that is consistent with:~~]

[~~(A) generally accepted cost accounting practices; and~~]

[~~(B) the methodological standards set forth by the federal Office of Management and Budget for federal grant reimbursement;~~]

(b) delay the construction of a school or charter school because of a dispute with the school or charter school over impact fees; or

(c) impose or charge any other fees as a condition of development approval unless those fees are a reasonable charge for the service provided.

(2) (a) Notwithstanding any other provision of this chapter, a political subdivision or private entity may not impose an impact fee:

(i) on residential components of development to pay for a public safety facility that is a fire suppression vehicle;

(ii) on a school district or charter school for a park, recreation facility, open space, or trail;

(iii) on a school district or charter school unless:

(A) the development resulting from the school district's or charter school's development activity directly results in a need for additional system improvements for which the impact fee is imposed; and

(B) the impact fee is calculated to cover only the school district's or charter school's proportionate share of the cost of those additional system improvements;

(iv) to the extent that the impact fee includes a component for a law enforcement facility, on development activity for:

(A) the Utah National Guard;

(B) the Utah Highway Patrol; or

(C) a state institution of higher education that has its own police force; or

(v) on development activity on the state fair park, as defined in Section 63H-6-102.

(b) (i) Notwithstanding any other provision of this chapter, a political subdivision or private entity may not impose an impact fee on development activity that consists of the construction of a school, whether by a school district or a charter school, if:

(A) the school is intended to replace another school, whether on the same or a different parcel;

(B) the new school creates no greater demand or need for public facilities than the school or school facilities, including any portable or modular classrooms that are on the site of the replaced school at the time that the new school is proposed; and

(C) the new school and the school being replaced are both within the boundary of the local political subdivision or the jurisdiction of the private entity.

(ii) If the imposition of an impact fee on a new school is not prohibited under Subsection (2)(b)(i) because the new school creates a greater demand or need for public facilities than the school being replaced, the impact fee shall be based only on the demand or need that the new school creates for public facilities that exceeds the demand or need that the school being replaced creates for those public facilities.

(c) Notwithstanding any other provision of this chapter, a political subdivision or private entity may impose an impact fee for a road facility on the state only if and to the extent that:

(i) the state's development causes an impact on the road facility; and

(ii) the portion of the road facility related to an impact fee is not funded by the state or by the federal government.

(3) Notwithstanding any other provision of this chapter, a local political subdivision may impose and collect impact fees on behalf of a school district if authorized by Section 11-36a-206.

Section 5. Section 11-36a-305 is amended to read:

11-36a-305. Calculating impact fees.

(1) In calculating an impact fee, a local political subdivision or private entity may include:

(a) the construction contract price;

(b) the cost of acquiring land, improvements, materials, and fixtures;

(c) [~~the cost for planning, surveying, and engineering fees~~] for services provided for and directly related to the construction of the system improvements[~~; and~~], the cost for planning and surveying, and engineering fees;

(d) for a political subdivision, debt service charges, if the political subdivision might use impact fees as a revenue stream to pay the principal and interest on bonds, notes, or other obligations issued to finance the costs of the system improvements[~~.~~]; and

(e) one or more expenses for overhead.

(2) In calculating an impact fee, each local political subdivision or private entity shall base amounts calculated under Subsection (1) on realistic estimates, and the assumptions underlying those estimates shall be disclosed in the impact fee analysis.

Section 6. Section 11-36a-306 is amended to read:

11-36a-306. Certification of impact fee analysis.

(1) An impact fee facilities plan shall include a written certification from the person or entity that prepares the impact fee facilities plan that states the following:"I certify that the attached impact fee facilities plan:1. includes only the costs of public facilities that are:

a. allowed under the Impact Fees Act; and

b. actually incurred; or

c. projected to be incurred or encumbered within six years after the day on which each impact fee is paid;2. does not include:

a. costs of operation and maintenance of public facilities; or

b. costs for qualifying public facilities that will raise the level of service for the facilities, through impact fees, above the level of service that is supported by existing residents; [~~or~~] and

[~~c. an expense for overhead, unless the expense is calculated pursuant to a methodology that is consistent with generally accepted cost accounting practices and the methodological standards set forth by the federal Office of Management and Budget for federal grant reimbursement; and~~]3. complies in each and every relevant respect with the Impact Fees Act."

(2) An impact fee analysis shall include a written certification from the person or entity that prepares the impact fee analysis which states as follows:"I certify that the attached impact fee analysis:1. includes only the costs of public facilities that are:

a. allowed under the Impact Fees Act; and

b. actually incurred; or

c. projected to be incurred or encumbered within six years after the day on which each impact fee is paid;2. does not include:

a. costs of operation and maintenance of public facilities; or

b. costs for qualifying public facilities that will raise the level of service for the facilities, through impact fees, above the level of service that is supported by existing residents; [~~or~~]

[~~c. an expense for overhead, unless the expense is calculated pursuant to a methodology that is consistent with generally accepted cost accounting practices and the methodological standards set forth by the federal Office of Management and Budget for federal grant reimbursement;~~]3. offsets costs with grants or other alternate sources of payment; and4. complies in each and every relevant respect with the Impact Fees Act."

Section 7. Section 17-27a-305 is amended to read:

17-27a-305. Other entities required to conform to county's land use ordinances -- Exceptions -- School districts and charter schools -- Submission of development plan and schedule.

(1) (a) Each county, municipality, school district, charter school, local district, special service district, and political subdivision of the state shall conform to any applicable land use ordinance of any county when installing, constructing, operating, or otherwise using any area, land, or building situated within a mountainous planning district or the unincorporated portion of the county, as applicable.

(b) In addition to any other remedies provided by law, when a county's land use ordinance is violated or about to be violated by another political subdivision, that county may institute an injunction, mandamus, abatement, or other appropriate action or proceeding to prevent, enjoin, abate, or remove the improper installation, improvement, or use.

(2) (a) Except as provided in Subsection (3), a school district or charter school is subject to a county's land use ordinances.

(b) (i) Notwithstanding Subsection (3), a county may:

(A) subject a charter school to standards within each zone pertaining to setback, height, bulk and massing regulations, off-site parking, curb cut, traffic circulation, and construction staging; and

(B) impose regulations upon the location of a project that are necessary to avoid unreasonable risks to health or safety, as provided in Subsection (3)(f).

(ii) The standards to which a county may subject a charter school under Subsection (2)(b)(i) shall be objective standards only and may not be subjective.

(iii) Except as provided in Subsection (7)(d), the only basis upon which a county may deny or withhold approval of a charter school's land use application is the charter school's failure to comply with a standard imposed under Subsection (2)(b)(i).

(iv) Nothing in Subsection (2)(b)(iii) may be construed to relieve a charter school of an obligation to comply with a requirement of an applicable building or safety code to which it is otherwise obligated to comply.

(3) A county may not:

(a) impose requirements for landscaping, fencing, aesthetic considerations, construction methods or materials, additional building inspections, county building codes, building use for educational purposes, or the placement or use of temporary classroom facilities on school property;

(b) except as otherwise provided in this section, require a school district or charter school to participate in the cost of any roadway or sidewalk, or a study on the impact of a school on a roadway or sidewalk, that is not reasonably necessary for the safety of school children and not located on or contiguous to school property, unless the roadway or sidewalk is required to connect an otherwise isolated school site to an existing roadway;

(c) require a district or charter school to pay fees not authorized by this section;

(d) provide for inspection of school construction or assess a fee or other charges for inspection, unless the school district or charter school is unable to provide for inspection by an inspector, other than the project architect or contractor, who is qualified under criteria established by the state superintendent;

(e) require a school district or charter school to pay any impact fee for an improvement project unless the impact fee is imposed as provided in Title 11, Chapter 36a, Impact Fees Act;

(f) impose regulations upon the location of an educational facility except as necessary to avoid unreasonable risks to health or safety; or

(g) for a land use or a structure owned or operated by a school district or charter school that is not an educational facility but is used in support of providing instruction to pupils, impose a regulation that:

(i) is not imposed on a similar land use or structure in the zone in which the land use or structure is approved; or

(ii) uses the tax exempt status of the school district or charter school as criteria for prohibiting or regulating the land use or location of the structure.

(4) Subject to Section 53E-3-710, a school district or charter school shall coordinate the siting of a new school with the county in which the school is to be located, to:

(a) avoid or mitigate existing and potential traffic hazards, including consideration of the impacts between the new school and future highways; and

(b) maximize school, student, and site safety.

(5) Notwithstanding Subsection (3)(d), a county may, at its discretion:

(a) provide a walk-through of school construction at no cost and at a time convenient to the district or charter school; and

(b) provide recommendations based upon the walk-through.

(6) (a) Notwithstanding Subsection (3)(d), a school district or charter school shall use:

(i) a county building inspector;

(ii) (A) for a school district, a school district building inspector from that school district; or

(B) for a charter school, a school district building inspector from the school district in which the charter school is located; or

(iii) an independent, certified building inspector who is:

(A) not an employee of the contractor;

(B) approved by:

(I) a county building inspector; or

(II) (Aa) for a school district, a school district building inspector from that school district; or

(Bb) for a charter school, a school district building inspector from the school district in which the charter school is located; and

(C) licensed to perform the inspection that the inspector is requested to perform.

(b) The approval under Subsection (6)(a)(iii)(B) may not be unreasonably withheld.

(c) If a school district or charter school uses a school district or independent building inspector under Subsection (6)(a)(ii) or (iii), the school district or charter school shall submit to the state superintendent of public instruction and county building official, on a monthly basis during construction of the school building, a copy of each inspection certificate regarding the school building.

(7) (a) A charter school shall be considered a permitted use in all zoning districts within a county.

(b) Each land use application for any approval required for a charter school, including an application for a building permit, shall be processed on a first priority basis.

(c) Parking requirements for a charter school may not exceed the minimum parking requirements for schools or other institutional public uses throughout the county.

(d) If a county has designated zones for a sexually oriented business, or a business which sells alcohol, a charter school may be prohibited from a location which would otherwise defeat the purpose for the zone unless the charter school provides a waiver.

(e) (i) A school district or a charter school may seek a certificate authorizing permanent occupancy of a school building from:

(A) the state superintendent of public instruction, as provided in Subsection 53E-3-706(3), if the school district or charter school used an independent building inspector for inspection of the school building; or

(B) a county official with authority to issue the certificate, if the school district or charter school used a county building inspector for inspection of the school building.

(ii) A school district may issue its own certificate authorizing permanent occupancy of a school building if it used its own building inspector for inspection of the school building, subject to the notification requirement of Subsection 53E-3-706(3)(a)(ii).

(iii) A charter school may seek a certificate authorizing permanent occupancy of a school building from a school district official with authority to issue the certificate, if the charter school used a school district building inspector for inspection of the school building.

(iv) A certificate authorizing permanent occupancy issued by the state superintendent of public instruction under Subsection 53E-3-706(3)

or a school district official with authority to issue the certificate shall be considered to satisfy any county requirement for an inspection or a certificate of occupancy.

(8) (a) A specified public agency intending to develop its land shall submit to the land use authority a development plan and schedule:

(i) as early as practicable in the development process, but no later than the commencement of construction; and

(ii) with sufficient detail to enable the land use authority to assess:

(A) the specified public agency's compliance with applicable land use ordinances;

(B) the demand for public facilities listed in Subsections 11-36a-102[~~(16)~~](17)(a), (b), (c), (d), (e), and (g) caused by the development;

(C) the amount of any applicable fee described in Section 17-27a-509;

(D) any credit against an impact fee; and

(E) the potential for waiving an impact fee.

(b) The land use authority shall respond to a specified public agency's submission under Subsection (8)(a) with reasonable promptness in order to allow the specified public agency to consider information the municipality provides under Subsection (8)(a)(ii) in the process of preparing the budget for the development.

(9) Nothing in this section may be construed to:

(a) modify or supersede Section 17-27a-304; or

(b) authorize a county to enforce an ordinance in a way, or enact an ordinance, that fails to comply with Title 57, Chapter 21, Utah Fair Housing Act, the federal Fair Housing Amendments Act of 1988, 42 U.S.C. Sec. 3601 et seq., the Americans with Disabilities Act of 1990, 42 U.S.C. 12102, or any other provision of federal law.

Section 8. Section 17-27a-509 is amended to read:

17-27a-509. Limit on fees -- Requirement to itemize fees -- Appeal of fee -- Provider of culinary or secondary water.

(1) A county may not impose or collect a fee for reviewing or approving the plans for a commercial or residential building that exceeds the lesser of:

(a) the actual cost of performing the plan review; and

(b) 65% of the amount the county charges for a building permit fee for that building.

(2) Subject to Subsection (1), a county may impose and collect only a nominal fee for reviewing and approving identical floor plans.

(3) A county may not impose or collect a hookup fee that exceeds the reasonable cost of installing and inspecting the pipe, line, meter, or appurtenance to connect to the county water, sewer, storm water, power, or other utility system.

(4) A county may not impose or collect:

(a) a land use application fee that exceeds the reasonable cost of processing the application or issuing the permit; or

(b) an inspection, regulation, or review fee that exceeds the reasonable cost of performing the inspection, regulation, or review.

(5) (a) If requested by an applicant who is charged a fee or an owner of residential property upon which a fee is imposed, the county shall provide an itemized fee statement that shows the calculation method for each fee.

(b) If an applicant who is charged a fee or an owner of residential property upon which a fee is imposed submits a request for an itemized fee statement no later than 30 days after the day on which the applicant or owner pays the fee, the county shall no later than 10 days after the day on which the request is received provide or commit to provide within a specific time:

(i) for each fee, any studies, reports, or methods relied upon by the county to create the calculation method described in Subsection (5)(a);

(ii) an accounting of each fee paid;

(iii) how each fee will be distributed; and

(iv) information on filing a fee appeal through the process described in Subsection (5)(c).

(c) A county shall establish a fee appeal process subject to an appeal authority described in Part 7, Appeal Authority and Variances, and district court review in accordance with Part 8, District Court Review, to determine whether a fee reflects only the reasonable estimated cost of:

(i) regulation;

(ii) processing an application;

(iii) issuing a permit; or

(iv) delivering the service for which the applicant or owner paid the fee.

(6) A county may not impose on or collect from a public agency any fee associated with the public agency's development of its land other than:

(a) subject to Subsection (4), a fee for a development service that the public agency does not itself provide;

(b) subject to Subsection (3), a hookup fee; and

(c) an impact fee for a public facility listed in Subsection 11-36a-102[~~(16)~~](17)(a), (b), (c), (d), (e), or (g), subject to any applicable credit under Subsection 11-36a-402(2).

(7) A provider of culinary or secondary water that commits to provide a water service required by a land use application process is subject to the following as if it were a county:

(a) Subsections (5) and (6);

(b) Section 17-27a-507; and

(c) Section 17-27a-509.5.

Section 9. Section 17B-1-118 is amended to read:

17B-1-118. Local district hookup fee -- Preliminary design or site plan from a specified public agency.

(1) As used in this section:

(a) "Hookup fee" means a fee for the installation and inspection of any pipe, line, meter, or appurtenance to connect to a local district water, sewer, storm water, power, or other utility system.

(b) "Impact fee" has the same meaning as defined in Section 11-36a-102.

(c) "Specified public agency" means:

(i) the state;

(ii) a school district; or

(iii) a charter school.

(d) "State" includes any department, division, or agency of the state.

(2) A local district may not impose or collect a hookup fee that exceeds the reasonable cost of installing and inspecting the pipe, line, meter, or appurtenance to connect to the local district water, sewer, storm water, power, or other utility system.

(3) (a) A specified public agency intending to develop its land shall submit a development plan and schedule to each local district from which the specified public agency anticipates the development will receive service:

(i) as early as practicable in the development process, but no later than the commencement of construction; and

(ii) with sufficient detail to enable the local district to assess:

(A) the demand for public facilities listed in Subsections 11-36a-102[~~(16)~~](17)(a), (b), (c), (d), (e), and (g) caused by the development;

(B) the amount of any hookup fees, or impact fees or substantive equivalent;

(C) any credit against an impact fee; and

(D) the potential for waiving an impact fee.

(b) The local district shall respond to a specified public agency's submission under Subsection (3)(a) with reasonable promptness in order to allow the specified public agency to consider information the local district provides under Subsection (3)(a)(ii) in the process of preparing the budget for the development.

(4) Upon a specified public agency's submission of a development plan and schedule as required in Subsection (3) that complies with the requirements of that subsection, the specified public agency vests in the local district's hookup fees and impact fees in effect on the date of submission.

Section 10. Section 17B-1-121 is amended to read:

17B-1-121. Limit on fees -- Requirement to itemize and account for fees -- Appeals.

(1) A local district may not impose or collect:

(a) an application fee that exceeds the reasonable cost of processing the application; or

(b) an inspection or review fee that exceeds the reasonable cost of performing an inspection or review.

(2) (a) Upon request by a service applicant who is charged a fee or an owner of residential property upon which a fee is imposed, a local district shall provide a statement of each itemized fee and calculation method for each fee.

(b) If an applicant who is charged a fee or an owner of residential property upon which a fee is imposed submits a request for a statement of each itemized fee no later than 30 days after the day on which the applicant or owner pays the fee, the local district shall, no later than 10 days after the day on which the request is received, provide or commit to provide within a specific time:

(i) for each fee, any studies, reports, or methods relied upon by the local district to create the calculation method described in Subsection (2)(a);

(ii) an accounting of each fee paid;

(iii) how each fee will be distributed by the local district; and

(iv) information on filing a fee appeal through the process described in Subsection (2)(c).

(c) (i) A local district shall establish an impartial fee appeal process to determine whether a fee reflects only the reasonable estimated cost of delivering the service for which the fee was paid.

(ii) A party to a fee appeal described in Subsection (2)(c)(i) may petition for judicial review of the local district's final decision.

(3) A local district may not impose on or collect from a public agency a fee associated with the public agency's development of the public agency's land other than:

(a) subject to Subsection (1), a hookup fee; or

(b) an impact fee, as defined in Section 11-36a-102 and subject to Section 11-36a-402, for a public facility listed in Subsection 11-36a-102[~~(16)~~](17)(a), (b), (c), (d), (e), or (g).

CHAPTER 36
H. B. 64
Passed February 25, 2021
Approved March 11, 2021
Effective May 5, 2021

FACTUAL INNOCENCE PAYMENTS AMENDMENTS

Chief Sponsor: Mark A. Wheatley
Senate Sponsor: Luz Escamilla

LONG TITLE

General Description:

This bill amends provisions regarding payments for individuals who are found factually innocent by a court.

Highlighted Provisions:

This bill:

- allows the State Commission of Criminal and Juvenile Justice to pay an individual who is found factually innocent by a court in one lump payment; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

78B-9-402, as last amended by Laws of Utah 2013, Chapter 46
78B-9-405, as last amended by Laws of Utah 2012, Chapter 220

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

Section 1. Section 78B-9-402 is amended to read:

78B-9-402. Petition for determination of factual innocence -- Sufficient allegations -- Notification of victim -- Payment to surviving spouse.

(1) A person who has been convicted of a felony offense may petition the district court in the county in which the person was convicted for a hearing to establish that the person is factually innocent of the crime or crimes of which the person was convicted.

(2) (a) The petition shall contain an assertion of factual innocence under oath by the petitioner and shall aver, with supporting affidavits or other credible documents, that:

(i) newly discovered material evidence exists that, if credible, establishes that the petitioner is factually innocent;

(ii) the specific evidence identified by the petitioner in the petition establishes innocence;

(iii) the material evidence is not merely cumulative of evidence that was known;

(iv) the material evidence is not merely impeachment evidence; and

(v) viewed with all the other evidence, the newly discovered evidence demonstrates that the petitioner is factually innocent.

(b) The court shall review the petition in accordance with the procedures in Subsection (9)(b), and make a finding that the petition has satisfied the requirements of Subsection (2)(a). If the court finds the petition does not meet all the requirements of Subsection (2)(a), it shall dismiss the petition without prejudice and send notice of the dismissal to the petitioner and the attorney general.

(3) (a) The petition shall also contain an averment that:

(i) neither the petitioner nor the petitioner's counsel knew of the evidence at the time of trial or sentencing or in time to include the evidence in any previously filed post-trial motion or postconviction motion, and the evidence could not have been discovered by the petitioner or the petitioner's counsel through the exercise of reasonable diligence; or

(ii) a court has found ineffective assistance of counsel for failing to exercise reasonable diligence in uncovering the evidence.

(b) Upon entry of a finding that the petition is sufficient under Subsection (2)(a), the court shall then review the petition to determine if Subsection (3)(a) has been satisfied. If the court finds that the requirements of Subsection (3)(a) have not been satisfied, it may dismiss the petition without prejudice and give notice to the petitioner and the attorney general of the dismissal, or the court may waive the requirements of Subsection (3)(a) if the court finds the petition should proceed to hearing based upon the strength of the petition, and that there is other evidence that could have been discovered through the exercise of reasonable diligence by the petitioner or the petitioner's counsel at trial, and the other evidence:

(i) was not discovered by the petitioner or the petitioner's counsel;

(ii) is material upon the issue of factual innocence; and

(iii) has never been presented to a court.

(4) If the conviction for which the petitioner asserts factual innocence was based upon a plea of guilty, the petition shall contain the specific nature and content of the evidence that establishes factual innocence. The court shall review the evidence and may dismiss the petition at any time in the course of the proceedings, if the court finds that the evidence of factual innocence relies solely upon the recantation of testimony or prior statements made by a witness against the petitioner, and the recantation appears to the court to be equivocal or selfserving.

(5) A person who has already obtained postconviction relief that vacated or reversed the person's conviction or sentence may also file a petition under this part in the same manner and

form as described above, if no retrial or appeal regarding this offense is pending.

(6) If some or all of the evidence alleged to be exonerating is biological evidence subject to DNA testing, the petitioner shall seek DNA testing pursuant to Section 78B-9-301.

(7) Except as provided in Subsection (9), the petition and all subsequent proceedings shall be in compliance with and governed by Rule 65C, Utah Rules of Civil Procedure, and shall include the underlying criminal case number.

(8) After a petition is filed under this section, prosecutors, law enforcement officers, and crime laboratory personnel shall cooperate in preserving evidence and in determining the sufficiency of the chain of custody of the evidence which is the subject of the petition.

(9) (a) A person who files a petition under this section shall serve notice of the petition and a copy of the petition upon the office of the prosecutor who obtained the conviction and upon the Utah attorney general.

(b) The assigned judge shall conduct an initial review of the petition. If it is apparent to the court that the petitioner is either merely relitigating facts, issues, or evidence presented in previous proceedings or presenting issues that appear frivolous or speculative on their face, the court shall dismiss the petition, state the basis for the dismissal, and serve notice of dismissal upon the petitioner and the attorney general. If, upon completion of the initial review, the court does not dismiss the petition, it shall order the attorney general to file a response to the petition. The attorney general shall, within 30 days after receipt of the court's order, or within any additional period of time the court allows, answer or otherwise respond to all proceedings initiated under this part.

(c) After the time for response by the attorney general under Subsection (9)(b) has passed, the court shall order a hearing if it finds the petition meets the requirements of Subsections (2) and (3) and finds there is a bona fide and compelling issue of factual innocence regarding the charges of which the petitioner was convicted. No bona fide and compelling issue of factual innocence exists if the petitioner is merely relitigating facts, issues, or evidence presented in a previous proceeding or if the petitioner is unable to identify with sufficient specificity the nature and reliability of the newly discovered evidence that establishes the petitioner's factual innocence.

(d) If the parties stipulate that the evidence establishes that the petitioner is factually innocent, the court may find the petitioner is factually innocent without holding a hearing. If the state will not stipulate that the evidence establishes that the petitioner is factually innocent, no determination of factual innocence may be made by the court without first holding a hearing under this part.

(10) The court may not grant a petition for a hearing under this part during the period in which criminal proceedings in the matter are pending before any trial or appellate court, unless stipulated to by the parties.

(11) Any victim of a crime that is the subject of a petition under this part, and who has elected to receive notice under Section 77-38-3, shall be notified by the state's attorney of any hearing regarding the petition.

(12) A petition to determine factual innocence under this part, or Part 3, Postconviction Testing of DNA, shall be filed separately from any petition for postconviction relief under Part 1, General Provisions. Separate petitions may be filed simultaneously in the same court.

(13) The procedures governing the filing and adjudication of a petition to determine factual innocence apply to all petitions currently filed or pending in the district court and any new petitions filed on or after June 1, 2012.

(14) (a) As used in this Subsection (14) and in Subsection (15):

(i) "Married" means the legal marital relationship established between a man and a woman and as recognized by the laws of this state; and

(ii) "Spouse" means a person married to the petitioner at the time the petitioner was found guilty of the offense regarding which a petition is filed and who has since then been continuously married to the petitioner until the petitioner's death.

(b) A claim for determination of factual innocence under this part is not extinguished upon the death of the petitioner.

(c) (i) If any payments are already being made to the petitioner under this part at the time of the death of the petitioner, or if the finding of factual innocence occurs after the death of the petitioner, the payments due under Section 78B-9-405 shall be paid [~~according to the schedule under~~] in accordance with Section 78B-9-405 to the petitioner's surviving spouse.

(ii) Payments cease upon the death of the spouse.

(15) The spouse under Subsection (14) forfeits all rights to receive any payment under this part if the spouse is charged with a homicide established by a preponderance of the evidence that meets the elements of any felony homicide offense in Title 76, Chapter 5, Offenses Against the Person, except automobile homicide, applying the same principles of culpability and defenses as in Title 76, Utah Criminal Code, including Title 76, Chapter 2, Principles of Criminal Responsibility.

Section 2. Section 78B-9-405 is amended to read:

78B-9-405. Judgment and assistance payment.

(1) As used in this section:

(a) "Felony" means a criminal offense classified as a felony under Title 76, Chapter 3, Punishments, or conduct that would constitute a felony if committed in Utah.

(b) "Petitioner" means a United States citizen or an individual who was otherwise lawfully present in this country at the time of the incident that gave rise to the underlying conviction.

[~~(1) (a)~~] (2) (a) If a court finds a petitioner factually innocent under Part 3, Postconviction Testing of DNA, or under this part, and if the petitioner has served a period of incarceration, the court shall order that[~~, as provided in Subsection (2), the petitioner shall~~] the petitioner receive for each year or portion of a year the petitioner was incarcerated, up to a maximum of 15 years, the monetary equivalent of the average annual nonagricultural payroll wage in Utah, as determined by the data most recently published by the Department of Workforce Services at the time of the petitioner's release from prison.

[~~(b) As used in this Subsection (1), "petitioner" means a United States citizen or an individual who was otherwise lawfully present in this country at the time of the incident that gave rise to the underlying conviction.~~]

[~~(2) Payments pursuant to this section shall be made as follows:~~]

(b) The court's determination of the monetary equivalent of the average annual nonagricultural payroll wage shall be included in the order declaring that the petitioner is factually innocent.

(3) If a court orders that a petitioner is to receive payment under Subsection (2):

(a) [~~The~~] the Utah Office for Victims of Crime shall pay from the Crime Victim Reparations Fund to the petitioner within 45 days of the court order under Subsection [~~(1)~~] (2) an initial sum equal to either 20% of the total financial assistance payment as determined under Subsection [~~(1)~~] (2) or an amount equal to two years of incarceration, whichever is greater, but not to exceed the total amount owed[~~.~~];

(b) [~~The~~] the Legislature shall appropriate as nonlapsing funds from the General Fund, and no later than the next general session following the issuance of the court order under Subsection [~~(1)~~] (2):

(i) to the Crime Victim Reparations Fund, the amount that was paid out of the fund under Subsection [~~(2)(a)~~] (3)(a); and

(ii) to the State Commission on Criminal and Juvenile Justice, as a separate line item, the amount ordered by the court for payments under Subsection [~~(1)~~] (2), minus the amount reimbursed to the Crime Victim Reparations Fund under Subsection [~~(2)(b)(i).~~] (3)(b)(i); and

[~~(c) Payments to the petitioner under this section, other than the payment under Subsection (2)(a), shall be made by the Commission on Criminal and Juvenile Justice quarterly on or before the last day of the month next succeeding each calendar quarterly period.~~]

(c) the State Commission on Criminal and Juvenile Justice shall pay the amount ordered by the court under Subsection (2), minus the amount paid by the Utah Office for Victims of Crime under Subsection (3)(a), to the petitioner:

(i) quarterly on or before the last day of the month next succeeding each calendar quarterly period; or

(ii) in one lump sum payment no later than the next succeeding July 31 after the day on which the court ordered the payment.

(4) (a) For a payment under Subsection (3)(c):

(i) the petitioner shall choose, within 90 days after the day on which the payment under Subsection (3)(a) is made, whether the payment is disbursed under Subsection (3)(c)(i) or (ii); and

(ii) the State Commission on Criminal and Juvenile Justice shall disburse the payment in accordance with the petitioner's choice under Subsection (4)(a)(i).

(b) If the petitioner fails to make a choice under Subsection (4)(a)(i) within 90 days after the day on which the payment under Subsection (3)(a) is made, the State Commission on Criminal and Juvenile Justice shall pay the amount under Subsection (3)(c) in accordance with Subsection (3)(c)(i).

(c) (i) If a court ordered a petitioner to receive a payment under this section on or before May 5, 2021, the petitioner may request that the State Commission on Criminal and Juvenile Justice disburse the remaining balance of the payment owed to the petitioner under Subsection (3)(c) in one lump sum payment.

(ii) If a petitioner submits a request under Subsection (4)(c)(i), the State Commission on Criminal and Juvenile Justice shall disburse the remaining balance of the payment owed to the petitioner in one lump sum payment.

[~~(d)~~] (5) Payments under Subsection [~~(2)(c)~~] (3)(c)(i) shall:

[~~(i)~~] (a) commence no later than one year after the effective date of the appropriation for the payments;

[~~(ii)~~] (b) be made to the petitioner for the balance of the amount ordered by the court after the initial payment under Subsection [~~(2)(a)~~] (3)(a); and

[~~(iii)~~] (c) be allocated so that the entire amount due to the petitioner under this section has been paid no later than 10 years after the effective date of the appropriation made under Subsection [~~(2)(b)~~] (3)(b).

[~~(3)~~] (6) (a) Payments [~~pursuant to~~] under this section shall be reduced to the extent that the period of incarceration for which the petitioner seeks payment was attributable to a separate and lawful conviction.

(b) [~~(i)~~] Payments [~~pursuant to this section shall~~] under this section shall:

(i) be tolled upon the commencement of any period of incarceration due to the petitioner's subsequent conviction of a felony [~~and shall~~]; and

(ii) resume upon the conclusion of that period of incarceration.

[~~(ii) As used in this section, "felony" means a criminal offense classified as a felony under Title 76, Chapter 3, Punishments, or conduct that would constitute a felony if committed in Utah.~~]

(c) The reduction of payments [~~pursuant to~~] under Subsection [~~(3)~~] (6)(a) or the tolling of payments pursuant to Subsection [~~(3)~~] (6)(b) shall be determined by the same court that finds a petitioner to be factually innocent under Part 3, Postconviction Testing of DNA, or this part.

[~~(4)~~] (7) (a) [~~A person~~] An individual is ineligible for any payments under this part if the [~~person~~] individual was already serving a prison sentence in another jurisdiction at the time of the conviction of the crime for which that [~~person~~] individual has been found factually innocent [~~pursuant to~~] in accordance with Part 3, Postconviction Testing of DNA, or this part, and that [~~person~~] individual is to be returned to that other jurisdiction upon release for further incarceration on the prior conviction.

(b) Ineligibility for any payments [~~pursuant to this Subsection (4)~~] under this Subsection (7) shall be determined by the same court that finds [~~a person~~] an individual to be factually innocent under Part 3, Postconviction Testing of DNA, or this part.

[~~(5)~~] (8) Payments [~~pursuant to~~] under this section:

(a) are not subject to any Utah state taxes; and

(b) may not be offset by any expenses incurred by the state or any political subdivision of the state, including expenses incurred to secure the petitioner's custody, or to feed, clothe, or provide medical services for the petitioner.

[~~(6)~~] (9) If a court finds a petitioner to be factually innocent under Part 3, Postconviction Testing of DNA, or this part, the court shall also:

(a) issue an order of expungement of the petitioner's criminal record for all acts in the charging document upon which the payment under this part is based; and

(b) provide a letter to the petitioner explaining that the petitioner's conviction has been vacated on the grounds of factual innocence and indicating that the petitioner did not commit the crime or crimes for which the petitioner was convicted and was later found to be factually innocent under Part 3, Postconviction Testing of DNA, or this part.

[~~(7)~~] (10) A petitioner found to be factually innocent under Part 3, Postconviction Testing of DNA, or this part shall have access to the same services and programs available to Utah citizens generally as though the conviction for which the petitioner was found to be factually innocent had never occurred.

[~~(8)~~] (11) (a) Payments [~~pursuant to~~] under this part constitute a full and conclusive resolution of the petitioner's claims on the specific issue of factual innocence.

(b) Pre-judgment interest may not be awarded in addition to the payments provided under this part.

CHAPTER 37
H. B. 67
Passed February 18, 2021
Approved March 11, 2021
Effective May 5, 2021

JUVENILE SENTENCING AMENDMENTS

Chief Sponsor: Craig Hall
Senate Sponsor: Karen Mayne
Cosponsors: V. Lowry Snow
Mike Winder

LONG TITLE

General Description:

This bill addresses the sentencing of individuals who are committed to the custody of the Division of Juvenile Justice Services.

Highlighted Provisions:

This bill:

- defines terms;
- addresses the termination of certain juvenile dispositions when a defendant is convicted and sentenced by the court;
- allows a court to order a sentence to run consecutively or concurrently to certain juvenile dispositions;
- provides factors for the court to consider when determining whether a defendant's sentence runs concurrently or consecutively to certain juvenile dispositions;
- requires clarification by the court if the court fails to determine whether a sentence runs concurrently or consecutively to certain juvenile dispositions;
- if a court determines that a sentence for imprisonment in a secure correctional facility or a county jail runs concurrently to a juvenile disposition for secure confinement in a secure facility, requires a defendant to remain in the secure facility until the Youth Parole Authority terminates the juvenile disposition;
- upon termination of a defendant's juvenile disposition for secure confinement in a secure facility, requires the Division of Juvenile Justice Services to notify and facilitate the transfer or release of the defendant;
- requires the court and the Division of Juvenile Justice Services to notify the Board of Pardons and Parole when the defendant is sentenced to imprisonment in a secure correctional facility; and
- provides that the Board of Pardons and Parole has authority for certain purposes over a defendant whose sentence for imprisonment in a secure correctional facility runs concurrently with a juvenile disposition for secure confinement in a secure facility.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:
76-3-401.5, Utah Code Annotated 1953

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

Section 1. Section 76-3-401.5 is enacted to read:

76-3-401.5. Concurrent or consecutive sentence with a juvenile disposition.

(1) As used in this section:

(a) "Authority" means the Youth Parole Authority created in Section 62A-7-501.

(b) "Board" means the Board of Pardons and Parole created in Section 77-27-2.

(c) "Division" means the Division of Juvenile Justice Services created in Section 62A-7-102.

(d) (i) "Juvenile disposition" means an order for commitment to the custody of the division under Subsection 78A-6-117(2)(c).

(ii) "Juvenile disposition" includes an order for commitment to the custody of the division for secure confinement in a secure facility under Subsection 78A-6-117(2)(e).

(e) "Secure correctional facility" means the same as that term is defined in Section 64-13-1.

(f) "Secure facility" means the same as that term is defined in Section 78A-6-105.

(2) If a defendant who is 18 years old or older is serving a juvenile disposition, a court may not terminate the juvenile disposition for the defendant when:

(a) the defendant is convicted of an offense; and

(b) the court imposes a sentence under Section 76-3-201 for the offense.

(3) (a) If a defendant who is 18 years old or older is convicted and sentenced for an offense and the defendant is serving a juvenile disposition at the time of sentencing, the court shall determine whether the sentence is to run concurrently or consecutively to the juvenile disposition.

(b) The court shall state on the record and in the order of judgment and commitment whether the sentence imposed is to run concurrently or consecutively with the juvenile disposition.

(c) In determining whether a sentence is to run concurrently or consecutively with a juvenile disposition, the court shall consider:

(i) the gravity and circumstances of the offense for which the defendant is convicted;

(ii) the number of victims; and

(iii) the history, character, and rehabilitative needs of the defendant.

(d) If an order of judgment and commitment does not clearly state whether the sentence is to run consecutively or concurrently with the juvenile disposition, the division shall request clarification from the court.

(e) Upon receipt of the request under Subsection (3)(d), the court shall enter a clarified order of judgment and commitment stating whether the

sentence is to run concurrently or consecutively to the juvenile disposition.

(4) If a court orders a sentence for imprisonment to run concurrently with a juvenile disposition for secure confinement in a secure facility under Subsection 78A-6-117(2)(e), the defendant shall serve the sentence in the secure facility until the juvenile disposition is terminated by the authority in accordance with Section 62A-7-404.5.

(5) If a court orders a sentence for imprisonment in a county jail to run concurrently with a juvenile disposition for secure confinement in a secure facility under Subsection 78A-6-117(2)(e) and the disposition is terminated before the defendant's sentence for imprisonment in the county jail is terminated, the division shall:

(a) notify the county jail at least 14 days before the day on which the defendant's disposition is terminated or the defendant is released from the secure facility; and

(b) facilitate the transfer or release of the defendant in accordance with the order of judgment and commitment imposed by the court.

(6) (a) If a court orders a sentence for imprisonment in a secure correctional facility to run concurrently with a juvenile disposition for secure confinement in a secure facility under Subsection 78A-6-117(2)(e):

(i) the board has authority over the defendant for purposes of ordering parole, pardon, commutation, termination of sentence, remission of fines or forfeitures, restitution, and any other authority granted by law; and

(ii) the court and the division shall immediately notify the board that the defendant will remain in a secure facility as described in Subsection (4) for the board to schedule a hearing for the defendant in accordance with board procedures.

(b) If a court orders a sentence for imprisonment in a secure correctional facility to run concurrently with a juvenile disposition for secure confinement in a secure facility under Subsection 78A-6-117(2)(e) and the juvenile disposition is terminated before the defendant's sentence is terminated, the division shall:

(i) notify the board and the Department of Corrections at least 14 days before the day on which the defendant's disposition is terminated or the defendant is released from the secure facility; and

(ii) facilitate a release or transfer of the defendant in accordance with the order of judgment and commitment imposed by the court.

CHAPTER 38
H. B. 73
Passed February 26, 2021
Approved March 11, 2021
Effective May 5, 2021

DRUG TESTING AMENDMENTS

Chief Sponsor: Christine F. Watkins
Senate Sponsor: Wayne A. Harper

LONG TITLE

General Description:

This bill addresses drug testing for certain individuals.

Highlighted Provisions:

This bill:

- provides that an individual who is receiving services from the Division of Child and Family Services, or is a party to an abuse, neglect, or dependency proceeding, may not be ordered or referred for drug testing that is administered through a sample of hair or fingernails; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

62A-4a-105, as last amended by Laws of Utah 2020, Chapters 108 and 250
78A-6-115, as last amended by Laws of Utah 2020, Chapters 12, 132, 250, and 354
78A-6-312, as last amended by Laws of Utah 2020, Chapter 214

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

Section 1. Section 62A-4a-105 is amended to read:

62A-4a-105. Division responsibilities.

(1) The division shall:

(a) administer services to minors and families, including:

(i) child welfare services;

(ii) domestic violence services; and

(iii) all other responsibilities that the Legislature or the executive director may assign to the division;

(b) provide the following services:

(i) financial and other assistance to an individual adopting a child with special needs under Part 9, Adoption Assistance, not to exceed the amount the division would provide for the child as a legal ward of the state;

(ii) non-custodial and in-home services, including:

(A) services designed to prevent family break-up; and

(B) family preservation services;

(iii) reunification services to families whose children are in substitute care in accordance with the requirements of this chapter and Title 78A, Chapter 6, Juvenile Court Act;

(iv) protective supervision of a family, upon court order, in an effort to eliminate abuse or neglect of a child in that family;

(v) shelter care in accordance with the requirements of this chapter and Title 78A, Chapter 6, Juvenile Court Act;

(vi) domestic violence services, in accordance with the requirements of federal law;

(vii) protective services to victims of domestic violence, as defined in Section 77-36-1, and their children, in accordance with the provisions of this chapter and Title 78A, Chapter 6, Part 3, Abuse, Neglect, and Dependency Proceedings;

(viii) substitute care for dependent, abused, and neglected children;

(ix) services for minors who are victims of human trafficking or human smuggling as described in Sections 76-5-308 through 76-5-310 or who have engaged in prostitution or sexual solicitation as defined in Sections 76-10-1302 and 76-10-1313; and

(x) training for staff and providers involved in the administration and delivery of services offered by the division in accordance with this chapter;

(c) establish standards for all:

(i) contract providers of out-of-home care for minors and families;

(ii) facilities that provide substitute care for dependent, abused, and neglected children placed in the custody of the division; and

(iii) direct or contract providers of domestic violence services described in Subsection (1)(b)(vi);

(d) have authority to:

(i) contract with a private, nonprofit organization to recruit and train foster care families and child welfare volunteers in accordance with Section 62A-4a-107.5; and

(ii) approve facilities that meet the standards established under Subsection (1)(c) to provide substitute care for dependent, abused, and neglected children placed in the custody of the division;

(e) cooperate with the federal government in the administration of child welfare and domestic violence programs and other human service activities assigned by the department;

(f) if there is a privacy agreement with an Indian tribe to protect the confidentiality of division records to the same extent that the division is required to protect division records, cooperate with and share all appropriate information in the division's possession regarding an Indian child, the Indian child's parent or guardian, or a proposed placement for the Indian child with the Indian tribe that is affiliated with the Indian child;

(g) in accordance with Subsection (2)(a), promote and enforce state and federal laws enacted for the protection of abused, neglected, and dependent children, in accordance with the requirements of this chapter, unless administration is expressly vested in another division or department of the state;

(h) cooperate with the Workforce Development Division within the Department of Workforce Services in meeting the social and economic needs of an individual who is eligible for public assistance;

(i) compile relevant information, statistics, and reports on child and family service matters in the state;

(j) prepare and submit to the department, the governor, and the Legislature reports of the operation and administration of the division in accordance with the requirements of Sections 62A-4a-117 and 62A-4a-118;

(k) within appropriations from the Legislature, provide or contract for a variety of domestic violence services and treatment methods;

(l) ensure regular, periodic publication, including electronic publication, regarding the number of children in the custody of the division who:

(i) have a permanency goal of adoption; or

(ii) have a final plan of termination of parental rights, pursuant to Section 78A-6-314, and promote adoption of those children;

(m) subject to [~~Subsection (2)(b),~~] Subsections (2)(b) and (5), refer an individual receiving services from the division to the local substance abuse authority or other private or public resource for a court-ordered drug screening test;

(n) report before November 30, 2020, and every third year thereafter, to the Social Services Appropriations Subcommittee regarding:

(i) the daily reimbursement rate that is provided to licensed foster parents based on level of care;

(ii) the amount of money spent on daily reimbursements for licensed foster parents in the state during the previous fiscal year; and

(iii) any recommended changes to the division's budget to support the daily reimbursement rates described in Subsection (1)(n)(i); and

(o) perform other duties and functions required by law.

(2) (a) In carrying out the requirements of Subsection (1)(g), the division shall:

(i) cooperate with the juvenile courts, the Division of Juvenile Justice Services, and with all public and private licensed child welfare agencies and institutions to develop and administer a broad range of services and support;

(ii) take the initiative in all matters involving the protection of abused or neglected children, if adequate provisions have not been made or are not likely to be made; and

(iii) make expenditures necessary for the care and protection of the children described in this Subsection (2)(a), within the division's budget.

(b) When an individual is referred to a local substance abuse authority or other private or public resource for court-ordered drug screening under Subsection (1)(m), the court shall order the individual to pay all costs of the tests unless:

(i) the cost of the drug screening is specifically funded or provided for by other federal or state programs;

(ii) the individual is a participant in a drug court; or

(iii) the court finds that the individual is impecunious.

(3) Except to the extent provided by rule, the division is not responsible for investigating domestic violence in the presence of a child, as described in Section 76-5-109.1.

(4) The division may not require a parent who has a child in the custody of the division to pay for some or all of the cost of any drug testing the parent is required to undergo.

(5) The division may not refer an individual who is receiving services from the division for drug testing by means of a hair or fingernail test that is administered to detect the presence of drugs.

Section 2. Section 78A-6-115 is amended to read:

78A-6-115. Hearings -- Record -- County attorney or district attorney responsibilities -- Attorney general responsibilities -- Disclosure -- Admissibility of evidence -- Cannabis -- Drug testing.

(1) (a) A verbatim record of the proceedings shall be taken in all cases that might result in deprivation of custody as defined in this chapter. In all other cases a verbatim record shall also be made unless dispensed with by the court.

(b) (i) For purposes of this Subsection (1)(b):

(A) "Record of a proceeding" does not include documentary materials of any type submitted to the court as part of the proceeding, including items submitted under Subsection (4)(a).

(B) "Subjects of the record" includes the child's guardian ad litem, the child's legal guardian, the Division of Child and Family Services, and any other party to the proceeding.

(ii) Notwithstanding any other provision, including Title 63G, Chapter 2, Government Records Access and Management Act, the court shall release a record of a proceeding made under Subsection (1)(a) to any person upon a finding on the record for good cause.

(iii) Following a petition for a record of a proceeding made under Subsection (1)(a), the court shall:

(A) provide notice to all subjects of the record that a request for release of the record has been made; and

(B) allow sufficient time for the subjects of the record to respond before making a finding on the petition.

(iv) A record of a proceeding may not be released under this Subsection (1)(b) if the court's jurisdiction over the subjects of the proceeding ended more than 12 months before the day on which the request is made.

(2) (a) Except as provided in Subsection (2)(b), the county attorney or, if within a prosecution district, the district attorney shall represent the state in any proceeding in a minor's case.

(b) Subject to the attorney general's prosecutorial discretion in civil enforcement actions, the attorney general shall enforce all provisions of Title 62A, Chapter 4a, Child and Family Services, and this chapter, relating to:

(i) protection or custody of an abused, neglected, or dependent child; and

(ii) petitions for termination of parental rights.

(3) The board may adopt special rules of procedure to govern proceedings involving violations of traffic laws or ordinances, wildlife laws, and boating laws. However, proceedings involving offenses under Section 78A-6-606 are governed by that section regarding suspension of driving privileges.

(4) (a) For the purposes of determining proper disposition of the minor in dispositional hearings and establishing the fact of abuse, neglect, or dependency in adjudication hearings and in hearings upon petitions for termination of parental rights, written reports and other material relating to the minor's mental, physical, and social history and condition may be received in evidence and may be considered by the court along with other evidence. The court may require that the individual who wrote the report or prepared the material appear as a witness if the individual is reasonably available.

(b) For the purpose of determining proper disposition of a minor alleged to be or adjudicated as abused, neglected, or dependent, dispositional reports prepared by the division under Section 78A-6-315 may be received in evidence and may be considered by the court along with other evidence. The court may require any individual who participated in preparing the dispositional report to appear as a witness, if the individual is reasonably available.

(5) (a) Except as provided in Subsections (5)(c) through (e), in an abuse, neglect, or dependency proceeding occurring after the commencement of a shelter hearing under Section 78A-6-306 or the filing of a petition under Section 78A-6-304, each party to the proceeding shall provide in writing to the other parties or their counsel any information which the party:

(i) plans to report to the court at the proceeding; or

(ii) could reasonably expect would be requested of the party by the court at the proceeding.

(b) The disclosure required under Subsection (5)(a) shall be made:

(i) for dispositional hearings under Sections 78A-6-311 and 78A-6-312, no less than five days before the day on which the proceeding is held;

(ii) for proceedings under Chapter 6, Part 5, Termination of Parental Rights Act, in accordance with Utah Rules of Civil Procedure; and

(iii) for all other proceedings, no less than five days before the day on which the proceeding is held.

(c) The division is not required to provide a court report or a child and family plan to each party to the proceeding if:

(i) the information is electronically filed with the court; and

(ii) each party to the proceeding has access to the electronically filed information.

(d) If a party to a proceeding obtains information after the deadline in Subsection (5)(b), the information is exempt from the disclosure required under Subsection (5)(a) if the party certifies to the court that the information was obtained after the deadline.

(e) Subsection (5)(a) does not apply to:

(i) pretrial hearings; and

(ii) the frequent, periodic review hearings held in a dependency drug court case to assess and promote the parent's progress in substance use disorder treatment.

(6) For the purpose of establishing the fact of abuse, neglect, or dependency, the court may, in the court's discretion, consider evidence of statements made by a child under eight years of age to an individual in a trust relationship.

(7) (a) As used in this Subsection (7):

(i) "Cannabis" means the same as that term is defined in Section 26-61a-102.

(ii) "Cannabis product" means the same as that term is defined in Section 26-61a-102.

(iii) (A) "Chronic" means repeated or patterned.

(B) "Chronic" does not mean an isolated incident.

(iv) "Directions of use" means the same as that term is defined in Section 26-61a-102.

(v) "Dosing guidelines" means the same as that term is defined in Section 26-61a-102.

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

(vii) "Medical cannabis cardholder" means the same as that term is defined in Section 26-61a-102.

(viii) "Qualified medical provider" means the same as that term is defined in Section 26-61a-102.

(b) In any child welfare proceeding in which the court makes a finding, determination, or otherwise

considers an individual's possession or use of medical cannabis, a cannabis product, or a medical cannabis device, the court may not consider or treat the individual's possession or use any differently than the lawful possession or use of any prescribed controlled substance if:

(i) the individual's possession or use complies with Title 4, Chapter 41a, Cannabis Production Establishments;

(ii) the individual's possession or use complies with Subsection 58-37-3.7(2) or (3); or

(iii) (A) the individual's possession or use complies with Title 26, Chapter 61a, Utah Medical Cannabis Act; and

(B) the individual reasonably complies with the directions of use and dosing guidelines determined by the individual's qualified medical provider or through a consultation described in Subsection 26-61a-502(4) or (5).

(c) In a child welfare proceeding, a parent's or guardian's use of cannabis or a cannabis product is not abuse or neglect of a child under Section 78A-6-105 unless there is evidence showing that:

(i) the child is harmed because of the child's inhalation or ingestion of cannabis, or because of cannabis being introduced to the child's body in another manner; or

(ii) the child is at an unreasonable risk of harm because of chronic inhalation or ingestion of cannabis or chronic introduction of cannabis to the child's body in another manner.

(d) Unless there is harm or an unreasonable risk of harm to the child as described in Subsection (7)(c), in a child welfare proceeding a parent's or guardian's use of medical cannabis or a cannabis product is not contrary to the best interests of a child if:

(i) for a medical cannabis cardholder after January 1, 2021, the parent's or guardian's possession or use complies with Title 26, Chapter 61a, Utah Medical Cannabis Act, and there is no evidence that the parent's or guardian's use of medical cannabis unreasonably deviates from the directions of use and dosing guidelines determined by the parent's or guardian's qualified medical provider or through a consultation described in Subsection 26-61a-502(4) or (5); or

(ii) before January 1, 2021, the parent's or guardian's possession or use complies with Subsection 58-37-3.7(2) or (3).

(e) Subsection (7)(c) does not prohibit a finding of abuse or neglect of a child under Section 78A-6-105, and Subsection (7)(d) does not prohibit a finding that a parent's or guardian's use of medical cannabis or a cannabis product is contrary to the best interests of a child, if there is evidence showing a nexus between the parent's or guardian's use of cannabis or a cannabis product and behavior that would separately constitute abuse or neglect of the child.

(8) If an individual, who is party to a proceeding under Part 3, Abuse, Neglect, and Dependency Proceedings, is ordered by the juvenile court to submit to drug testing, or is referred by the division or a guardian ad litem for drug testing, the individual may not be ordered or referred for drug testing by means of a hair or fingernail test that is administered to detect the presence of drugs.

Section 3. Section 78A-6-312 is amended to read:

78A-6-312. Dispositional hearing -- Reunification services -- Exceptions.

(1) The court may:

(a) make any of the dispositions described in Section 78A-6-117;

(b) place the minor in the custody or guardianship of any:

(i) individual; or

(ii) public or private entity or agency; or

(c) order:

(i) protective supervision;

(ii) family preservation;

(iii) subject to Subsections (12)(b), 78A-6-105(40), and 78A-6-117(2) and Section 78A-6-301.5, medical or mental health treatment;

(iv) sibling visitation; or

(v) other services.

(2) Whenever the court orders continued removal at the dispositional hearing, and that the minor remain in the custody of the division, the court shall first:

(a) establish a primary permanency plan for the minor; and

(b) determine whether, in view of the primary permanency plan, reunification services are appropriate for the minor and the minor's family, pursuant to Subsections (21) through (23).

(3) Subject to Subsections (6) and (7), if the court determines that reunification services are appropriate for the minor and the minor's family, the court shall provide for reasonable parent-time with the parent or parents from whose custody the minor was removed, unless parent-time is not in the best interest of the minor.

(4) In cases where obvious sexual abuse, sexual exploitation, abandonment, severe abuse, or severe neglect are involved, neither the division nor the court has any duty to make "reasonable efforts" or to, in any other way, attempt to provide reunification services, or to attempt to rehabilitate the offending parent or parents.

(5) In all cases, the minor's health, safety, and welfare shall be the court's paramount concern in determining whether reasonable efforts to reunify should be made.

(6) For purposes of Subsection (3), parent-time is in the best interests of a minor unless the court

makes a finding that it is necessary to deny parent-time in order to:

(a) protect the physical safety of the minor;

(b) protect the life of the minor; or

(c) prevent the minor from being traumatized by contact with the parent due to the minor's fear of the parent in light of the nature of the alleged abuse or neglect.

(7) Notwithstanding Subsection (3), a court may not deny parent-time based solely on a parent's failure to:

(a) prove that the parent has not used legal or illegal substances; or

(b) comply with an aspect of the child and family plan that is ordered by the court.

(8) (a) In addition to the primary permanency plan, the court shall establish a concurrent permanency plan that shall include:

(i) a representative list of the conditions under which the primary permanency plan will be abandoned in favor of the concurrent permanency plan; and

(ii) an explanation of the effect of abandoning or modifying the primary permanency plan.

(b) In determining the primary permanency plan and concurrent permanency plan, the court shall consider:

(i) the preference for kinship placement over nonkinship placement;

(ii) the potential for a guardianship placement if the parent-child relationship is legally terminated and no appropriate adoption placement is available; and

(iii) the use of an individualized permanency plan, only as a last resort.

(9) A permanency hearing shall be conducted in accordance with Subsection 78A-6-314(1)(b) within 30 days after the day on which the dispositional hearing ends if something other than reunification is initially established as a minor's primary permanency plan.

(10) (a) The court may amend a minor's primary permanency plan before the establishment of a final permanency plan under Section 78A-6-314.

(b) The court is not limited to the terms of the concurrent permanency plan in the event that the primary permanency plan is abandoned.

(c) If, at any time, the court determines that reunification is no longer a minor's primary permanency plan, the court shall conduct a permanency hearing in accordance with Section 78A-6-314 on or before the earlier of:

(i) 30 days after the day on which the court makes the determination described in this Subsection (10)(c); or

(ii) the day on which the provision of reunification services, described in Section 78A-6-314, ends.

(11) (a) If the court determines that reunification services are appropriate, the court shall order that the division make reasonable efforts to provide services to the minor and the minor's parent for the purpose of facilitating reunification of the family, for a specified period of time.

(b) In providing the services described in Subsection (11)(a), the minor's health, safety, and welfare shall be the division's paramount concern, and the court shall so order.

(12) (a) The court shall:

(i) determine whether the services offered or provided by the division under the child and family plan constitute "reasonable efforts" on the part of the division;

(ii) determine and define the responsibilities of the parent under the child and family plan in accordance with Subsection 62A-4a-205(6)(e); and

(iii) identify verbally on the record, or in a written document provided to the parties, the responsibilities described in Subsection (12)(a)(ii), for the purpose of assisting in any future determination regarding the provision of reasonable efforts, in accordance with state and federal law.

(b) If the parent is in a substance use disorder treatment program, other than a certified drug court program:

(i) the court may order the parent to submit to supplementary drug or alcohol testing, in accordance with Subsection 78A-6-115(8), in addition to the testing recommended by the parent's substance use disorder program based on a finding of reasonable suspicion that the parent is abusing drugs or alcohol; and

(ii) the court may order the parent to provide the results of drug or alcohol testing recommended by the substance use disorder program to the court or division.

(13) (a) The time period for reunification services may not exceed 12 months from the date that the minor was initially removed from the minor's home, unless the time period is extended under Subsection 78A-6-314(7).

(b) Nothing in this section may be construed to entitle any parent to an entire 12 months of reunification services.

(14) (a) If reunification services are ordered, the court may terminate those services at any time.

(b) If, at any time, continuation of reasonable efforts to reunify a minor is determined to be inconsistent with the final permanency plan for the minor established pursuant to Section 78A-6-314, then measures shall be taken, in a timely manner, to:

(i) place the minor in accordance with the permanency plan; and

(ii) complete whatever steps are necessary to finalize the permanent placement of the minor.

(15) Any physical custody of the minor by the parent or a relative during the period described in Subsections (11) through (14) does not interrupt the running of the period.

(16) (a) If reunification services are ordered, a permanency hearing shall be conducted by the court in accordance with Section 78A-6-314 at the expiration of the time period for reunification services.

(b) The permanency hearing shall be held no later than 12 months after the original removal of the minor.

(c) If reunification services are not ordered, a permanency hearing shall be conducted within 30 days, in accordance with Section 78A-6-314.

(17) With regard to a minor in the custody of the division whose parent or parents are ordered to receive reunification services but who have abandoned that minor for a period of six months from the date that reunification services were ordered:

(a) the court shall terminate reunification services; and

(b) the division shall petition the court for termination of parental rights.

(18) When a court conducts a permanency hearing for a minor under Section 78A-6-314, the court shall attempt to keep the minor's sibling group together if keeping the sibling group together is:

(a) practicable; and

(b) in accordance with the best interest of the minor.

(19) When a child is under the custody of the division and has been separated from a sibling due to foster care or adoptive placement, a court may order sibling visitation, subject to the division obtaining consent from the sibling's legal guardian, according to the court's determination of the best interests of the child for whom the hearing is held.

(20) (a) Because of the state's interest in and responsibility to protect and provide permanency for minors who are abused, neglected, or dependent, the Legislature finds that a parent's interest in receiving reunification services is limited.

(b) The court may determine that:

(i) efforts to reunify a minor with the minor's family are not reasonable or appropriate, based on the individual circumstances; and

(ii) reunification services should not be provided.

(c) In determining "reasonable efforts" to be made with respect to a minor, and in making "reasonable efforts," the minor's health, safety, and welfare shall be the paramount concern.

(21) There is a presumption that reunification services should not be provided to a parent if the court finds, by clear and convincing evidence, that any of the following circumstances exist:

(a) the whereabouts of the parents are unknown, based upon a verified affidavit indicating that a reasonably diligent search has failed to locate the parent;

(b) subject to Subsection (22)(a), the parent is suffering from a mental illness of such magnitude that it renders the parent incapable of utilizing reunification services;

(c) the minor was previously adjudicated as an abused child due to physical abuse, sexual abuse, or sexual exploitation, and following the adjudication the minor:

(i) was removed from the custody of the minor's parent;

(ii) was subsequently returned to the custody of the parent; and

(iii) is being removed due to additional physical abuse, sexual abuse, or sexual exploitation;

(d) the parent:

(i) caused the death of another minor through abuse or neglect;

(ii) committed, aided, abetted, attempted, conspired, or solicited to commit:

(A) murder or manslaughter of a child; or

(B) child abuse homicide;

(iii) committed sexual abuse against the child;

(iv) is a registered sex offender or required to register as a sex offender; or

(v) (A) intentionally, knowingly, or recklessly causes the death of another parent of the child;

(B) is identified by a law enforcement agency as the primary suspect in an investigation for intentionally, knowingly, or recklessly causing the death of another parent of the child; or

(C) is being prosecuted for or has been convicted of intentionally, knowingly, or recklessly causing the death of another parent of the child;

(e) the minor suffered severe abuse by the parent or by any person known by the parent, if the parent knew or reasonably should have known that the person was abusing the minor;

(f) the minor is adjudicated an abused child as a result of severe abuse by the parent, and the court finds that it would not benefit the minor to pursue reunification services with the offending parent;

(g) the parent's rights are terminated with regard to any other minor;

(h) the minor was removed from the minor's home on at least two previous occasions and reunification services were offered or provided to the family at those times;

(i) the parent has abandoned the minor for a period of six months or longer;

(j) the parent permitted the child to reside, on a permanent or temporary basis, at a location where the parent knew or should have known that a clandestine laboratory operation was located;

(k) except as provided in Subsection (22)(b), with respect to a parent who is the child's birth mother, the child has fetal alcohol syndrome, fetal alcohol spectrum disorder, or was exposed to an illegal or prescription drug that was abused by the child's mother while the child was in utero, if the child was taken into division custody for that reason, unless the mother agrees to enroll in, is currently enrolled in, or has recently and successfully completed a substance use disorder treatment program approved by the department; or

(l) any other circumstance that the court determines should preclude reunification efforts or services.

(22) (a) The finding under Subsection (21)(b) shall be based on competent evidence from at least two medical or mental health professionals, who are not associates, establishing that, even with the provision of services, the parent is not likely to be capable of adequately caring for the minor within 12 months after the day on which the court finding is made.

(b) A judge may disregard the provisions of Subsection (21)(k) if the court finds, under the circumstances of the case, that the substance use disorder treatment described in Subsection (21)(k) is not warranted.

(23) In determining whether reunification services are appropriate, the court shall take into consideration:

(a) failure of the parent to respond to previous services or comply with a previous child and family plan;

(b) the fact that the minor was abused while the parent was under the influence of drugs or alcohol;

(c) any history of violent behavior directed at the child or an immediate family member;

(d) whether a parent continues to live with an individual who abused the minor;

(e) any patterns of the parent's behavior that have exposed the minor to repeated abuse;

(f) testimony by a competent professional that the parent's behavior is unlikely to be successful; and

(g) whether the parent has expressed an interest in reunification with the minor.

(24) (a) If reunification services are not ordered pursuant to Subsections (20) through (22), and the whereabouts of a parent become known within six months after the day on which the out-of-home placement of the minor is made, the court may order the division to provide reunification services.

(b) The time limits described in Subsections (2) through (18) are not tolled by the parent's absence.

(25) (a) If a parent is incarcerated or institutionalized, the court shall order reasonable services unless the court determines that those services would be detrimental to the minor.

(b) In making the determination described in Subsection (25)(a), the court shall consider:

(i) the age of the minor;

(ii) the degree of parent-child bonding;

(iii) the length of the sentence;

(iv) the nature of the treatment;

(v) the nature of the crime or illness;

(vi) the degree of detriment to the minor if services are not offered;

(vii) for a minor 10 years old or older, the minor's attitude toward the implementation of family reunification services; and

(viii) any other appropriate factors.

(c) Reunification services for an incarcerated parent are subject to the time limitations imposed in Subsections (2) through (18).

(d) Reunification services for an institutionalized parent are subject to the time limitations imposed in Subsections (2) through (18), unless the court determines that continued reunification services would be in the minor's best interest.

(26) If, pursuant to Subsections (21)(b) through (l), the court does not order reunification services, a permanency hearing shall be conducted within 30 days, in accordance with Section 78A-6-314.

CHAPTER 39
H. B. 79
Passed February 17, 2021
Approved March 11, 2021
Effective May 5, 2021

MINERAL AND ROCK AMENDMENTS

Chief Sponsor: Walt Brooks
Senate Sponsor: Don L. Ipson

LONG TITLE

General Description:

This bill modifies provisions related to minerals and rock.

Highlighted Provisions:

This bill:

- modifies definitions; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

17-41-101, as last amended by Laws of Utah 2020, Chapter 110
40-8-4, as last amended by Laws of Utah 2020, Chapters 110 and 369

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

Section 1. Section 17-41-101 is amended to read:

17-41-101. Definitions.

As used in this chapter:

(1) "Advisory board" means:

(a) for an agriculture protection area, the agriculture protection area advisory board created as provided in Section 17-41-201;

(b) for an industrial protection area, the industrial protection area advisory board created as provided in Section 17-41-201; and

(c) for a critical infrastructure materials protection area, the critical infrastructure materials protection area advisory board created as provided in Section 17-41-201.

(2) (a) "Agriculture production" means production for commercial purposes of crops, livestock, and livestock products.

(b) "Agriculture production" includes the processing or retail marketing of any crops, livestock, and livestock products when more than 50% of the processed or merchandised products are produced by the farm operator.

(3) "Agriculture protection area" means a geographic area created under the authority of this chapter that is granted the specific legal protections contained in this chapter.

(4) "Applicable legislative body" means:

(a) with respect to a proposed agriculture protection area, industrial protection area, or critical infrastructure materials protection area:

(i) the legislative body of the county in which the land proposed to be included in the relevant protection area is located, if the land is within the unincorporated part of the county; or

(ii) the legislative body of the city or town in which the land proposed to be included in the relevant protection area is located; and

(b) with respect to an existing agriculture protection area, industrial protection area, or critical infrastructure materials protection area:

(i) the legislative body of the county in which the relevant protection area is located, if the relevant protection area is within the unincorporated part of the county; or

(ii) the legislative body of the city or town in which the relevant protection area is located.

(5) "Board" means the Board of Oil, Gas, and Mining created in Section 40-6-4.

(6) "Critical infrastructure materials" means sand, gravel, or rock aggregate.

(7) "Critical infrastructure materials operations" means the extraction, excavation, processing, or reprocessing of critical infrastructure materials.

(8) "Critical infrastructure materials operator" means a natural person, corporation, association, partnership, receiver, trustee, executor, administrator, guardian, fiduciary, agent, or other organization or representative, either public or private, including a successor, assign, affiliate, subsidiary, and related parent company, that:

(a) owns, controls, or manages a critical infrastructure materials operation; and

(b) has produced commercial quantities of critical infrastructure materials from the critical infrastructure materials operations.

(9) "Critical infrastructure materials protection area" means a geographic area created under the authority of this chapter on or after May 14, 2019, that is granted the specific legal protections contained in this chapter.

(10) "Crops, livestock, and livestock products" includes:

(a) land devoted to the raising of useful plants and animals with a reasonable expectation of profit, including:

(i) forages and sod crops;

(ii) grains and feed crops;

(iii) livestock as defined in Section 59-2-102;

(iv) trees and fruits; or

(v) vegetables, nursery, floral, and ornamental stock; or

(b) land devoted to and meeting the requirements and qualifications for payments or other compensation under a crop-land retirement program with an agency of the state or federal government.

(11) "Division" means the Division of Oil, Gas, and Mining created in Section 40-6-15.

(12) "Industrial protection area" means a geographic area created under the authority of this chapter that is granted the specific legal protections contained in this chapter.

(13) "Mine operator" means a natural person, corporation, association, partnership, receiver, trustee, executor, administrator, guardian, fiduciary, agent, or other organization or representative, either public or private, including a successor, assign, affiliate, subsidiary, and related parent company, that, as of January 1, [~~2009~~] 2019:

(a) owns, controls, or manages a mining use under a large mine permit issued by the division or the board; and

(b) has produced commercial quantities of a mineral deposit from the mining use.

(14) "Mineral deposit" means the same as that term is defined in Section 40-8-4[~~, but excludes:~~].

[~~(a) building stone, decorative rock, and landscaping rock; and~~]

[~~(b) consolidated rock that:~~]

[~~(i) is not associated with another deposit of minerals;~~]

[~~(ii) is or may be extracted from land; and~~]

[~~(iii) is put to uses similar to the uses of sand, gravel, and other aggregates.~~]

(15) "Mining protection area" means land where a vested mining use occurs, including each surface or subsurface land or mineral estate that a mine operator with a vested mining use owns or controls.

(16) "Mining use":

(a) means:

(i) the full range of activities, from prospecting and exploration to reclamation and closure, associated with the exploitation of a mineral deposit; and

(ii) the use of the surface and subsurface and groundwater and surface water of an area in connection with the activities described in Subsection (16)(a)(i) that have been, are being, or will be conducted; and

(b) includes, whether conducted on-site or off-site:

(i) any sampling, staking, surveying, exploration, or development activity;

(ii) any drilling, blasting, excavating, or tunneling;

(iii) the removal, transport, treatment, deposition, and reclamation of overburden, development rock, tailings, and other waste material;

(iv) any removal, transportation, extraction, beneficiation, or processing of ore;

(v) any smelting, refining, autoclaving, or other primary or secondary processing operation;

(vi) the recovery of any mineral left in residue from a previous extraction or processing operation;

(vii) a mining activity that is identified in a work plan or permitting document;

(viii) the use, operation, maintenance, repair, replacement, or alteration of a building, structure, facility, equipment, machine, tool, or other material or property that results from or is used in a surface or subsurface mining operation or activity;

(ix) any accessory, incidental, or ancillary activity or use, both active and passive, including a utility, private way or road, pipeline, land excavation, working, embankment, pond, gravel excavation, mining waste, conveyor, power line, trackage, storage, reserve, passive use area, buffer zone, and power production facility;

(x) the construction of a storage, factory, processing, or maintenance facility; and

(xi) any activity described in Subsection 40-8-4(16)(a).

(17) (a) "Municipal" means of or relating to a city or town.

(b) "Municipality" means a city or town.

(18) "New land" means surface or subsurface land or mineral estate that a mine operator gains ownership or control of, whether that land or mineral estate is included in the mine operator's large mine permit.

(19) "Off-site" means the same as that term is defined in Section 40-8-4.

(20) "On-site" means the same as that term is defined in Section 40-8-4.

(21) "Planning commission" means:

(a) a countywide planning commission if the land proposed to be included in the agriculture protection area, industrial protection area, or critical infrastructure materials protection area is within the unincorporated part of the county and not within a planning advisory area;

(b) a planning advisory area planning commission if the land proposed to be included in the agriculture protection area, industrial protection area, or critical infrastructure materials protection area is within a planning advisory area; or

(c) a planning commission of a city or town if the land proposed to be included in the agriculture protection area, industrial protection area, or critical infrastructure materials protection area is within a city or town.

(22) "Political subdivision" means a county, city, town, school district, local district, or special service district.

(23) "Proposal sponsors" means the owners of land in agricultural production, industrial use, or critical infrastructure materials operations who are sponsoring the proposal for creating an agriculture protection area, industrial protection area, or critical infrastructure materials protection area.

(24) "State agency" means each department, commission, board, council, agency, institution, officer, corporation, fund, division, office, committee, authority, laboratory, library, unit, bureau, panel, or other administrative unit of the state.

(25) "Unincorporated" means not within a city or town.

(26) "Vested mining use" means a mining use:

(a) by a mine operator; and

(b) that existed or was conducted or otherwise engaged in before a political subdivision prohibits, restricts, or otherwise limits a mining use.

Section 2. Section 40-8-4 is amended to read:

40-8-4. Definitions.

As used in this chapter:

(1) "Adjudicative proceeding" means:

(a) a division or board action or proceeding determining the legal rights, duties, privileges, immunities, or other legal interests of one or more identifiable persons, including actions to grant, deny, revoke, suspend, modify, annul, withdraw, or amend an authority, right, permit, or license; or

(b) judicial review of a division or board action or proceeding specified in Subsection (1)(a).

(2) "Applicant" means a person who has filed a notice of intent to commence mining operations, or who has applied to the board for a review of a notice or order.

(3) (a) "Approved notice of intention" means a formally filed notice of intention to commence mining operations, including revisions to the notice of intention that is approved under Section 40-8-13.

(b) An approved notice of intention is not required for small mining operations.

(4) (a) "Basalt" means fine-grained[~~, dark-colored igneous rock associated with a lava flow or igneous intrusion composed primarily of plagioclase and pyroxene~~] mafic igneous rock formed in the tertiary or quaternary periods.

(b) A Utah Geological Survey published map or [~~the~~] a United States Geological Survey published [~~maps that classify~~] map that classifies material as "basalt" is prima facie evidence that the material meets the requirements of Subsection (4)(a). An unmapped area [~~can~~] may be classified by a Utah Geological Survey [~~Geologist~~] geologist or a [~~licensed~~] professional geologist licensed in the state.

(5) "Board" means the Board of Oil, Gas, and Mining.

(6) "Conference" means an informal adjudicative proceeding conducted by the division or board.

(7) (a) "Deposit" or "mineral deposit" means an accumulation of mineral matter in the form of consolidated rock, unconsolidated material, solutions, or occurring on the surface, beneath the surface, or in the waters of the land from which any product useful to man may be produced, extracted, or obtained or which is extracted by underground mining methods for underground storage.

(b) "Deposit" or "mineral deposit" excludes sand, gravel, rock aggregate, basalt, water, geothermal steam, and oil and gas as defined in Chapter 6, Board and Division of Oil, Gas, and Mining, but includes oil shale and bituminous sands extracted by mining operations.

(8) "Development" means the work performed in relation to a deposit following the deposit's discovery but before and in contemplation of production mining operations, aimed at[~~, but not limited to,~~] preparing the site for mining operations, defining further the ore deposit by drilling or other means, conducting pilot plant operations, constructing roads or ancillary facilities, and other related activities.

(9) "Division" means the Division of Oil, Gas, and Mining.

(10) "Emergency order" means an order issued by the board in accordance with Title 63G, Chapter 4, Administrative Procedures Act.

(11) (a) "Exploration" means surface-disturbing activities conducted for the purpose of:

(i) discovering a deposit or mineral deposit;

(ii) delineating the boundaries of a deposit or mineral deposit; and

(iii) identifying regions or specific areas in which deposits or mineral deposits are most likely to exist.

(b) "Exploration" includes:

(i) sinking shafts;

(ii) tunneling;

(iii) drilling holes and digging pits or cuts;

(iv) building of roads, and other access ways; and

(v) constructing and operating other facilities related to the activities described in this Subsection (11)(b).

(12) "Gravel" means a naturally occurring unconsolidated to moderately consolidated accumulation of rock and mineral particles, the dominant size range being between 4 millimeters and 75 millimeters, that has been deposited by sedimentary processes.

(13) "Hearing" means a formal adjudicative proceeding conducted by the board under the board's procedural rules.

(14) (a) "Imminent danger to the health and safety of the public" means the existence of a condition or practice, or a violation of a permit requirement or other requirement of this chapter in a mining operation, which condition, practice, or violation could reasonably be expected to cause substantial physical harm to persons outside the permit area before the condition, practice, or violation can be abated.

(b) A reasonable expectation of death or serious injury before abatement exists if a rational person, subjected to the same conditions or practices giving rise to the peril, would not expose the rational person to the danger during the time necessary for abatement.

(15) (a) "Land affected" means the surface and subsurface of an area within the state where mining operations are being or will be conducted, including:

(i) on-site private ways, roads, and railroads;

(ii) land excavations;

(iii) exploration sites;

(iv) drill sites or workings;

(v) refuse banks or spoil piles;

(vi) evaporation or settling ponds;

(vii) stockpiles;

(viii) leaching dumps;

(ix) placer areas;

(x) tailings ponds or dumps; and

(xi) work, parking, storage, or waste discharge areas, structures, and facilities.

(b) Lands are excluded from Subsection (15)(a) that would:

(i) be includable as land affected, but which have been reclaimed in accordance with an approved plan, as may be approved by the board; and

(ii) include lands in which mining operations have ceased before July 1, 1977.

(16) (a) "Mining operation" means activities conducted on the surface of the land for the exploration for, development of, or extraction of a mineral deposit, including surface mining and the surface effects of underground and in situ mining, on-site transportation, concentrating, milling, evaporation, and other primary processing.

(b) "Mining operation" does not include:

(i) the extraction of sand, gravel, and rock aggregate;

(ii) the extraction of basalt for an area not to exceed 50 acres under active surface mining;

(iii) the extraction of oil and gas as defined in Chapter 6, Board and Division of Oil, Gas, and Mining;

(iv) the extraction of geothermal steam;

(v) smelting or refining operations;

(vi) off-site operations and transportation;

(vii) reconnaissance activities; or

(viii) activities that will not cause significant surface resource disturbance or involve the use of mechanized earth-moving equipment, such as bulldozers or backhoes.

(17) "Notice" means:

(a) notice of intention, as defined in this chapter; or

(b) written information given to an operator by the division describing compliance conditions at a mining operation.

(18) "Notice of intention" means a notice to commence mining operations, including revisions to the notice.

(19) "Off-site" means the land areas that are outside of or beyond the on-site land.

(20) (a) "On-site" means the surface lands on or under which surface or underground mining operations are conducted.

(b) A series of related properties under the control of a single operator, but separated by small parcels of land controlled by others, are considered to be a single site unless an exception is made by the division.

(21) "Operator" means a natural person, corporation, association, partnership, receiver, trustee, executor, administrator, guardian, fiduciary, agent, or other organization or representative, either public or private, owning, controlling, or managing a mining operation or proposed mining operation.

(22) "Order" means written information provided by the division or board to an operator or other parties, describing the compliance status of a permit or mining operation.

(23) "Owner" means a natural person, corporation, association, partnership, receiver, trustee, executor, administrator, guardian, fiduciary, agent, or other organization or representative, either public or private, owning, controlling, or managing a mineral deposit or the surface of lands employed in mining operations.

(24) "Permit area" means the area of land indicated on the approved map submitted by the operator with the application or notice to conduct mining operations.

(25) "Permit" means a permit or notice to conduct mining operations issued by the division.

(26) "Permittee" means a person holding, or who is required by Utah law to hold, a valid permit or notice to conduct mining operations.

(27) "Person" means an individual, partnership, association, society, joint stock company, firm, company, corporation, or other governmental or business organization.

(28) "Reclamation" means actions performed during or after mining operations to shape, stabilize, revegetate, or treat the land affected in order to achieve a safe, stable ecological condition and use that is consistent with local environmental conditions.

(29) (a) "Rock aggregate" means those consolidated rock materials associated with a sand deposit, a gravel deposit, or a sand and gravel deposit that were created by alluvial sedimentary processes.

(b) "Rock aggregate" excludes any solid rock in the form of bedrock, other than basalt, that is exposed at the surface of the earth or overlain by unconsolidated material.

(30) "Sand" means a naturally occurring unconsolidated to moderately consolidated accumulation of rock and mineral particles, the dominant size range being between .004 millimeters to 4 millimeters, that has been deposited by sedimentary processes.

(31) "Small mining operations" means mining operations that disturb or will disturb 20 or less surface acres at any given time in an unincorporated area of a county or 10 or less surface acres at any given time in an incorporated area of a county.

(32) "Unwarranted failure to comply" means the failure of a permittee to prevent the occurrence of a violation of the permit or a requirement of this chapter due to indifference, lack of diligence, or lack of reasonable care, or the failure to abate a violation of the permit or this chapter due to indifference, lack of diligence, or lack of reasonable care.

CHAPTER 40
H. B. 80
Passed March 1, 2021
Approved March 11, 2021
Effective May 5, 2021

DATA SECURITY AMENDMENTS

Chief Sponsor: Walt Brooks
Senate Sponsor: Wayne A. Harper

LONG TITLE

General Description:

This bill creates affirmative defenses to certain causes of action arising out of a breach of system security.

Highlighted Provisions:

This bill:

- defines terms;
- creates affirmative defenses to causes of action arising out of a breach of system security;
- provides that a person may not claim an affirmative defense if the person had notice of a threat or hazard;
- establishes the requirements for asserting an affirmative defense for a breach of system security;
- provides that the creation of an affirmative defense does not create a cause of action for failure to comply with the requirements for asserting the affirmative defense;
- addresses a choice of law provision in an agreement; and
- provides a severability clause.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

78B-4-701, Utah Code Annotated 1953
78B-4-702, Utah Code Annotated 1953
78B-4-703, Utah Code Annotated 1953
78B-4-704, Utah Code Annotated 1953
78B-4-705, Utah Code Annotated 1953
78B-4-706, Utah Code Annotated 1953

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

Section 1. Section 78B-4-701 is enacted to read:

Part 7. Cybersecurity Affirmative Defense Act

78B-4-701. Definitions.

As used in this part:

(1) "Breach of system security" means the same as that term is defined in Section 13-44-102.

(2) "NIST" means the National Institute for Standards and Technology in the United States Department of Commerce.

(3) "PCI data security standard" means the Payment Card Industry Data Security Standard.

(4) (a) "Person" means:

(i) an individual;

(ii) an association;

(iii) a corporation;

(iv) a joint stock company;

(v) a partnership;

(vi) a business trust; or

(vii) any unincorporated organization.

(b) "Person" includes a financial institution organized, chartered, or holding a license authorizing operation under the laws of this state, another state, or another country.

(5) "Personal information" means the same as that term is defined in Section 13-44-102.

Section 2. Section 78B-4-702 is enacted to read:

78B-4-702. Affirmative defense for a breach of system security.

(1) A person that creates, maintains, and reasonably complies with a written cybersecurity program that meets the requirements of Subsection (4), and is in place at the time of a breach of system security of the person, has an affirmative defense to a claim that:

(a) is brought under the laws of this state or in the courts of this state; and

(b) alleges that the person failed to implement reasonable information security controls that resulted in the breach of system security.

(2) A person has an affirmative defense to a claim that the person failed to appropriately respond to a breach of system security if:

(a) the person creates, maintains, and reasonably complies with a written cybersecurity program that meets the requirements of Subsection (4) and is in place at the time of the breach of system security; and

(b) the written cybersecurity program had protocols at the time of the breach of system security for responding to a breach of system security that reasonably complied with the written cybersecurity program under Subsection (2)(a) and the person followed the protocols.

(3) A person has an affirmative defense to a claim that the person failed to appropriately notify an individual whose personal information was compromised in a breach of system security if:

(a) the person creates, maintains, and reasonably complies with a written cybersecurity program that meets the requirements of Subsection (4) and is in place at the time of the breach of system security; and

(b) the written cybersecurity program had protocols at the time of the breach of system security for notifying an individual about a breach of system security that reasonably complied with the requirements for a written cybersecurity program under Subsection (3)(a) and the person followed the protocols.

(4) A written cybersecurity program described in Subsections (1), (2), and (3) shall provide administrative, technical, and physical safeguards to protect personal information, including:

(a) being designed to:

(i) protect the security, confidentiality, and integrity of personal information;

(ii) protect against any anticipated threat or hazard to the security, confidentiality, or integrity of personal information; and

(iii) protect against a breach of system security;

(b) reasonably conforming to a recognized cybersecurity framework as described in Subsection 78B-4-703(1); and

(c) being of an appropriate scale and scope in light of the following factors:

(i) the size and complexity of the person;

(ii) the nature and scope of the activities of the person;

(iii) the sensitivity of the information to be protected;

(iv) the cost and availability of tools to improve information security and reduce vulnerability; and

(v) the resources available to the person.

(5) (a) Subject to Subsection (5)(b), a person may not claim an affirmative defense under Subsection (1), (2), or (3) if:

(i) the person had actual notice of a threat or hazard to the security, confidentiality, or integrity of personal information;

(ii) the person did not act in a reasonable amount of time to take known remedial efforts to protect the personal information against the threat or hazard; and

(iii) the threat or hazard resulted in the breach of system security.

(b) A risk assessment to improve the security, confidentiality, or integrity of personal information is not an actual notice of a threat or hazard to the security, confidentiality, or integrity of personal information.

Section 3. Section 78B-4-703 is enacted to read:

78B-4-703. Components of a cybersecurity program eligible for an affirmative defense.

(1) Subject to Subsection (3), a person's written cybersecurity program reasonably conforms to a recognized cybersecurity framework if the written cybersecurity program:

(a) is designed to protect the type of personal information obtained in the breach of system security; and

(b) (i) is a reasonable security program described in Subsection (2);

(ii) reasonably conforms to the current version of any of the following frameworks or publications, or any combination of the following frameworks or publications:

(A) NIST special publication 800-171;

(B) NIST special publications 800-53 and 800-53a;

(C) the Federal Risk and Authorization Management Program Security Assessment Framework;

(D) the Center for Internet Security Critical Security Controls for Effective Cyber Defense; or

(E) the International Organization for Standardization/International Electrotechnical Commission 27000 Family - Information security management systems;

(iii) for personal information obtained in the breach of the system security that is regulated by the federal government or state government, reasonably complies with the requirements of the regulation, including:

(A) the security requirements of the Health Insurance Portability and Accountability Act of 1996, as described in 45 C.F.R. Part 164, Subpart C;

(B) Title V of the Gramm-Leach-Bliley Act of 1999, Pub. L. No. 106-102, as amended;

(C) the Federal Information Security Modernization Act of 2014, Pub. L. No. 113-283;

(D) the Health Information Technology for Economic and Clinical Health Act, as provided in 45 C.F.R. Part 164;

(E) Title 13, Chapter 44, Protection of Personal Information Act; or

(F) any other applicable federal or state regulation; or

(iv) for personal information obtained in the breach of system security that is the type of information intended to be protected by the PCI data security standard, reasonably complies with the current version of the PCI data security standard.

(2) A written cybersecurity program is a reasonable security program under Subsection (1)(b)(i) if:

(a) the person coordinates, or designates an employee of the person to coordinate, a program that provides the administrative, technical, and physical safeguards described in Subsections 78B-4-702(4)(a) and (c);

(b) the program under Subsection (2)(a) has practices and procedures to detect, prevent, and respond to a breach of system security;

(c) the person, or an employee of the person, trains, and manages employees in the practices and procedures under Subsection (2)(b);

(d) the person, or an employee of the person, conducts risk assessments to test and monitor the

practice and procedures under Subsection (2)(b), including risk assessments on:

(i) the network and software design for the person;

(ii) information processing, transmission, and storage of personal information; and

(iii) the storage and disposal of personal information; and

(e) the person adjusts the practices and procedures under Subsection (2)(b) in light of changes or new circumstances needed to protect the security, confidentiality, and integrity of personal information.

(3) (a) If a recognized cybersecurity framework described in Subsection (1)(b)(ii) or (iv) is revised, a person with a written cybersecurity program that relies upon that recognized cybersecurity framework shall reasonably conform to the revised version of the framework no later than one year after the day in which the revised version of the framework is published.

(b) If a recognized cybersecurity framework described in Subsection (1)(b)(iii) is amended, a person with a written cybersecurity program that relies upon that recognized cybersecurity framework shall reasonably conform to the amended regulation of the framework in a reasonable amount of time, taking into consideration the urgency of the amendment in terms of:

(i) risks to the security of personal information;

(ii) the cost and effort of complying with the amended regulation; and

(iii) any other relevant factor.

Section 4. Section 78B-4-704 is enacted to read:

78B-4-704. No cause of action.

This part may not be construed to create a private cause of action, including a class action, if a person fails to comply with a provision of this part.

Section 5. Section 78B-4-705 is enacted to read:

78B-4-705. Choice of law.

A choice of law provision in an agreement that designates this state as the governing law shall apply this part, if applicable, to the fullest extent possible in a civil action brought against a person regardless of whether the civil action is brought in this state or another state.

Section 6. Section 78B-4-706 is enacted to read:

78B-4-706. Severability clause.

If any provision of this part, or the application of any provision of this part to any person or circumstance, is held invalid, the remainder of this part shall be given effect without the invalid provision or application.

CHAPTER 41
H. B. 83
Passed February 19, 2021
Approved March 11, 2021
Effective May 5, 2021

MIGRATORY BIRD PRODUCTION AREA AMENDMENTS

Chief Sponsor: Joel Ferry
Senate Sponsor: Scott D. Sandall

LONG TITLE

General Description:

This bill addresses migratory bird production areas.

Highlighted Provisions:

This bill:

- extends the time for creating a migratory bird production area;
- provides a process to add property to a migratory bird production area;
- provides for inclusion of easements;
- addresses limitations on local ordinances;
- addresses use by a guest of a migratory bird production area under provisions related to limiting landowner liability under certain circumstances;
- prohibits exercising eminent domain under certain circumstances; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

23-28-201, as enacted by Laws of Utah 2009, Chapter 273
23-28-202, as last amended by Laws of Utah 2010, Chapter 218
23-28-302, as enacted by Laws of Utah 2009, Chapter 273
57-14-202, as renumbered and amended by Laws of Utah 2013, Chapter 212
78B-6-501, as last amended by Laws of Utah 2020, Chapter 87

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

Section 1. Section 23-28-201 is amended to read:

23-28-201. Creation of a migratory bird production area.

(1) (a) On or before July 1, [~~2010~~] 2022, an owner or owners of at least 500 contiguous acres of land in an unincorporated area may dedicate the land as a migratory bird production area by filing a notice of dedication with the county recorder of the county in which the land is located.

(b) The notice of dedication shall contain:

(i) the legal description of the land included within the migratory bird production area;

(ii) the name of the owner or owners of the land included within the migratory bird production area; and

(iii) an affidavit signed by each landowner that all of the land, except as provided by Subsection (2), within the migratory bird production area is:

(A) actively managed for migratory bird:

(I) production;

(II) habitat; or

(III) hunting; and

(B) used for a purpose compatible with the purposes described in Subsection (1)(b)(iii)(A).

(c) A person who files a notice of dedication under this section shall give a copy of the notice of dedication within 10 days of its filing to the legislative body of the county in which the migratory bird production area is located.

(2) (a) The notice of dedication may designate land, the amount of which is less than 1% of the total acreage within a migratory bird production area, upon which the landowner may build a structure described in Subsection 23-28-302(1)[~~(b)~~](c).

(b) (i) An owner may build or maintain a road, dike, or water control structure within the migratory bird production area.

(ii) A road, dike, or water control structure is not considered a structure for purposes of Subsection (2)(a).

(3) (a) Within 30 days of the day on which the county legislative body receives a copy of the notice of dedication under Subsection (1)(c), the county legislative body may bring an action in district court to cancel or revise a migratory bird production area on the basis that an affidavit filed as part of the notice of dedication under Subsection (1)(b)(iii) is inaccurate.

(b) In bringing the action, the county legislative body shall specify the portion of the migratory bird production area and the affidavit subject to the action.

(c) In an action brought under this Subsection (3), the person who files an affidavit described in Subsection (3)(a) has the burden to prove by a preponderance of the evidence that the affidavit is accurate.

(d) If the court cancels or revises a migratory bird production area, the person who filed the original notice of dedication shall file a revision notice with the county recorder reflecting the court's order.

(4) In accordance with Section 23-28-202, a person may at any time add land to a migratory bird production area created under this section.

Section 2. Section 23-28-202 is amended to read:

23-28-202. Adding to or removing land from a migratory bird production area.

(1) [~~A~~] Subject to the other provisions of this section, a landowner may file a revision notice with

the county recorder of the county in which the migratory bird production area is located to add land to or remove land from a migratory bird production area.

(2) The revision notice shall contain:

(a) a legal description of the land added to or removed from the migratory bird production area; and

(b) the name of the owner or owners of the land added to or removed from the migratory bird production area.

(3) A person who files a revision notice under this section shall give a copy of the revision notice within 10 days of its filing to the legislative body of the county in which the migratory bird production area is located.

(4) If removing land from a migratory bird production area results in a migratory bird production area of less than 300 contiguous acres:

(a) the migratory bird production area ceases to exist; and

(b) the landowner shall:

(i) notify each landowner within the former migratory bird production area; and

(ii) file the revision notice required by this section for the entire migratory bird production area.

(5) A landowner may add land to a migratory bird production area only if:

(a) the land to be added is contiguous to the migratory bird production area; and

(b) all the landowners of the contiguous land to be added to the migratory bird production area consent to the contiguous land being added to the migratory bird production area.

(6) A landowner of a migratory bird production area may include an easement in the migratory bird production area if:

(a) the landowner owns the easement;

(b) the easement is on land that is contiguous to the migratory bird production area; and

(c) the owner of the land where the easement is located consents to the easement being included in the migratory bird production area.

Section 3. Section 23-28-302 is amended to read:

23-28-302. Limitations on local regulations.

(1) (a) A county within which a migratory bird production area is located shall encourage the continuity, development, and viability of the migratory bird production area.

(b) Except as otherwise specifically provided in this chapter, the purposes, uses, and activities of a migratory bird production area described in this chapter are afforded the highest priority of use status.

[~~(b)~~] (c) A structure [~~or~~], improvement, or activity historically or customarily used in conjunction with a migratory bird production area is considered a permitted use under the county's zoning law, ordinance, or regulation.

(2) A county within which a migratory bird production area is located may not:

(a) enact a law, ordinance, or regulation that unreasonably restricts an activity normally associated with the migratory bird production area;

(b) change the zoning designation of, or a zoning regulation applying to land within a migratory bird production area unless the county receives written approval for the change from all the landowners within the migratory bird production area; or

(c) enact a law, ordinance, or regulation concerning the use, operation, or discharge of a firearm [~~that is more restrictive than state law, except as provided by Subsection 23-14-1(3)(b).~~] on a migratory bird production area.

(3) For purposes of Subsection (2)(a), a law, ordinance, or regulation is unreasonable if it restricts or impairs the purposes, uses, and activities historically or customarily associated with a migratory bird production area.

Section 4. Section 57-14-202 is amended to read:

57-14-202. Use of private land without charge -- Effect.

(1) Except as provided in Subsection 57-14-204(1), an owner of land who either directly or indirectly invites or permits without charge, or for a nominal fee of no more than $1 per year, any person to use the owner's land for any recreational purpose, or an owner of a public access area open to public recreational access under Title 73, Chapter 29, Public Waters Access Act, does not:

[~~(1)~~] (a) make any representation or extend any assurance that the land is safe for any purpose;

[~~(2)~~] (b) confer upon the person the legal status of an invitee or licensee to whom a duty of care is owed;

[~~(3)~~] (c) assume responsibility for or incur liability for any injury to persons or property caused by an act or omission of the person or any other person who enters upon the land; or

[~~(4)~~] (d) owe any duty to curtail the owner's use of the land during its use for recreational purposes.

(2) The limitations of liability provided in this part apply to the owner of land designated as a migratory bird production area under Title 23, Chapter 28, Migratory Bird Production Area, that is owned and operated for any purpose allowed under Title 23, Chapter 28, Migratory Bird Production Area, if:

(a) the owner allows a guest of the owner or, if the owner has shareholders, members, or partners, a guest of a shareholder, member, or partner of the owner to engage in an activity with a recreational purpose on that land; and

(b) the guest is not charged.

Section 5. Section 78B-6-501 is amended to read:

78B-6-501. Eminent domain -- Uses for which right may be exercised -- Limitations on eminent domain.

(1) As used in this section, "century farm" means real property that is:

(a) assessed under Title 59, Chapter 2, Part 5, Farmland Assessment Act; and

(b) owned or held by the same family for a continuous period of 100 years or more.

(2) Except as provided in [~~Subsection~~] Subsections (3) and (4) and subject to the provisions of this part, the right of eminent domain may be exercised on behalf of the following public uses:

(a) all public uses authorized by the federal government;

(b) public buildings and grounds for the use of the state, and all other public uses authorized by the Legislature;

(c) (i) public buildings and grounds for the use of any county, city, town, or board of education;

(ii) reservoirs, canals, aqueducts, flumes, ditches, or pipes for conducting water or sewage, including to or from a development, for the use of the inhabitants of any county, city, or town, or for the draining of any county, city, or town;

(iii) the raising of the banks of streams, removing obstructions from streams, and widening, deepening, or straightening their channels;

(iv) bicycle paths and sidewalks adjacent to paved roads;

(v) roads, byroads, streets, and alleys for public vehicular use, including for access to a development; and

(vi) all other public uses for the benefit of any county, city, or town, or its inhabitants;

(d) wharves, docks, piers, chutes, booms, ferries, bridges, toll roads, byroads, plank and turnpike roads, roads for transportation by traction engines or road locomotives, roads for logging or lumbering purposes, and railroads and street railways for public transportation;

(e) reservoirs, dams, watergates, canals, ditches, flumes, tunnels, aqueducts and pipes for the supplying of persons, mines, mills, smelters or other works for the reduction of ores, with water for domestic or other uses, or for irrigation purposes, or for the draining and reclaiming of lands, or for solar evaporation ponds and other facilities for the recovery of minerals in solution;

(f) (i) roads, railroads, tramways, tunnels, ditches, flumes, pipes, and dumping places to access or facilitate the milling, smelting, or other reduction of ores, or the working of mines, quarries, coal mines, or mineral deposits including oil, gas, and minerals in solution;

(ii) outlets, natural or otherwise, for the deposit or conduct of tailings, refuse or water from mills, smelters or other works for the reduction of ores, or from mines, quarries, coal mines or mineral deposits including minerals in solution;

(iii) mill dams;

(iv) gas, oil or coal pipelines, tanks or reservoirs, including any subsurface stratum or formation in any land for the underground storage of natural gas, and in connection with that, any other interests in property which may be required to adequately examine, prepare, maintain, and operate underground natural gas storage facilities;

(v) solar evaporation ponds and other facilities for the recovery of minerals in solution; and

(vi) any occupancy in common by the owners or possessors of different mines, quarries, coal mines, mineral deposits, mills, smelters, or other places for the reduction of ores, or any place for the flow, deposit or conduct of tailings or refuse matter;

(g) byroads leading from a highway to:

(i) a residence; or

(ii) a farm;

(h) telecommunications, electric light and electric power lines, sites for electric light and power plants, or sites for the transmission of broadcast signals from a station licensed by the Federal Communications Commission in accordance with 47 C.F.R. Part 73 and that provides emergency broadcast services;

(i) sewage service for:

(i) a city, a town, or any settlement of not fewer than 10 families;

(ii) a public building belonging to the state; or

(iii) a college or university;

(j) canals, reservoirs, dams, ditches, flumes, aqueducts, and pipes for supplying and storing water for the operation of machinery for the purpose of generating and transmitting electricity for power, light or heat;

(k) cemeteries and public parks; and

(l) sites for mills, smelters or other works for the reduction of ores and necessary to their successful operation, including the right to take lands for the discharge and natural distribution of smoke, fumes, and dust, produced by the operation of works, provided that the powers granted by this section may not be exercised in any county where the population exceeds 20,000, or within one mile of the limits of any city or incorporated town nor unless the proposed condemner has the right to operate by purchase, option to purchase or easement, at least 75% in value of land acreage owned by persons or corporations situated within a radius of four miles from the mill, smelter or other works for the reduction of ores; nor beyond the limits of the four-mile radius; nor as to lands covered by contracts, easements, or agreements existing between the condemner and the owner of land

within the limit and providing for the operation of such mill, smelter, or other works for the reduction of ores; nor until an action shall have been commenced to restrain the operation of such mill, smelter, or other works for the reduction of ores.

(3) The right of eminent domain may not be exercised on behalf of the following uses:

(a) except as provided in Subsection (2)(c)(iv), trails, paths, or other ways for walking, hiking, bicycling, equestrian use, or other recreational uses, or whose primary purpose is as a foot path, equestrian trail, bicycle path, or walkway;

(b) (i) a public park whose primary purpose is:

(A) as a trail, path, or other way for walking, hiking, bicycling, or equestrian use; or

(B) to connect other trails, paths, or other ways for walking, hiking, bicycling, or equestrian use; or

(ii) a public park established on real property that is:

(A) a century farm; and

(B) located in a county of the first class.

(4) (a) The right of eminent domain may not be exercised within a migratory bird production area created on or before December 31, 2020, under Title 23, Chapter 28, Migratory Bird Production Area, except as follows:

(i) subject to Subsection (4)(b), an electric utility may condemn land within a migratory bird production area located in a county of the first class only for the purpose of installing buried power lines;

(ii) an electric utility may condemn land within a migratory bird production area in a county other than a county of the first class to install:

(A) buried power lines; or

(B) a new overhead transmission line that is parallel to and abutting an existing overhead transmission line or collocated within an existing overhead transmission line right of way; or

(iii) the Department of Transportation may exercise eminent domain for the purpose of the construction of the West Davis Highway.

(b) Before exercising the right of eminent domain under Subsection (4)(a)(i), the electric utility shall demonstrate that:

(i) the proposed condemnation would not have an unreasonable adverse effect on the preservation, use, and enhancement of the migratory bird production area; and

(ii) there is no reasonable alternative to constructing the power line within the boundaries of a migratory bird production area.

CHAPTER 42
H. B. 87
Passed February 22, 2021
Approved March 11, 2021
Effective May 5, 2021

ELECTRONIC INFORMATION AND DATA PRIVACY AMENDMENTS

Chief Sponsor: Craig Hall
Senate Sponsor: Todd D. Weiler

LONG TITLE

General Description:

This bill amends provisions related to the privacy of electronic data and information.

Highlighted Provisions:

This bill:

- requires, with certain exceptions, law enforcement agencies to obtain a warrant for electronic data or information transmitted through an electronic communication service;
- provides that law enforcement agencies are not required to obtain a warrant or subpoena to obtain or use data from the National Center for Missing and Exploited Children;
- requires law enforcement agencies to notify an owner within 90 days of a search warrant for an electronic device or electronic information or data;
- requires law enforcement agencies to notify an owner of an electronic device or electronic information or data that is the subject of a search warrant within three days after an investigation is concluded;
- repeals language related to an extension for a delayed notification;
- allows law enforcement agencies to delay notification of a search warrant to an owner of an electronic device or electronic information or data, which is the subject of the search warrant, if the purpose of the delayed notification is to apprehend a fugitive of justice;
- allows a law enforcement agency to obtain, use, copy, or disclose, without a subpoena, certain information about subscribers and customers; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

77-23c-102, as last amended by Laws of Utah 2019, Chapters 362, 479 and last amended by Coordination Clause, Laws of Utah 2019, Chapter 479
77-23c-103, as last amended by Laws of Utah 2019, Chapter 362
77-23c-104, as enacted by Laws of Utah 2019, Chapter 362

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

Section 1. Section 77-23c-102 is amended to read:

77-23c-102. Electronic information or data privacy -- Warrant required for disclosure.

(1) (a) Except as provided in Subsection (2), for a criminal investigation or prosecution, a law enforcement agency may not obtain, without a search warrant issued by a court upon probable cause:

(i) the location information, stored data, or transmitted data of an electronic device; or

(ii) electronic information or data transmitted by the owner of the electronic information or data:

(A) to a provider of a remote computing service [~~provider.~~]; or

(B) through a provider of an electronic communication service.

(b) Except as provided in Subsection (1)(c), a law enforcement agency may not use, copy, or disclose, for any purpose, the location information, stored data, or transmitted data of an electronic device, or electronic information or data provided by a provider of a remote computing service [~~provider~~] or an electronic communication service, that:

(i) is not the subject of the warrant; and

(ii) is collected as part of an effort to obtain the location information, stored data, or transmitted data of an electronic device, or electronic information or data provided by a provider of a remote computing service [~~provider~~] or an electronic communication service that is the subject of the warrant in Subsection (1)(a).

(c) A law enforcement agency may use, copy, or disclose the transmitted data of an electronic device used to communicate with the electronic device that is the subject of the warrant if the law enforcement agency reasonably believes that the transmitted data is necessary to achieve the objective of the warrant.

(d) The electronic information or data described in Subsection (1)(b) shall be destroyed in an unrecoverable manner by the law enforcement agency as soon as reasonably possible after the electronic information or data is collected.

(2) (a) A law enforcement agency may obtain location information without a warrant for an electronic device:

(i) in accordance with Section 53-10-104.5;

(ii) if the device is reported stolen by the owner;

(iii) with the informed, affirmative consent of the owner or user of the electronic device;

(iv) in accordance with a judicially recognized exception to warrant requirements;

(v) if the owner has voluntarily and publicly disclosed the location information; or

(vi) from [~~the~~] a provider of a remote computing service [~~provider if the remote computing service~~]

or an electronic communications service if the provider voluntarily discloses the location information:

(A) under a belief that an emergency exists involving an imminent risk to an individual of death, serious physical injury, sexual abuse, live-streamed sexual exploitation, kidnapping, or human trafficking; or

(B) that is inadvertently discovered by the [~~remote computing service~~] provider and appears to pertain to the commission of a felony, or of a misdemeanor involving physical violence, sexual abuse, or dishonesty.

(b) A law enforcement agency may obtain stored data or transmitted data from an electronic device[~~,~~] or electronic information or data transmitted by the owner of the electronic information or data to a provider of a remote computing service [~~provider~~] or through a provider of an electronic communication service, without a warrant:

(i) with the informed consent of the owner of the electronic device or electronic information or data;

(ii) in accordance with a judicially recognized exception to warrant requirements; or

[~~(iii) in connection with a report forwarded by the National Center for Missing and Exploited Children under 18 U.S.C. Sec. 2258A; or~~]

[~~(iv)~~] (iii) subject to Subsection 77-23c-10~~2(2)~~(a)(vi)(B), from a provider of a remote computing service [~~provider if the remote computing service~~] or an electronic communication service if the provider voluntarily discloses the stored or transmitted data as otherwise permitted under 18 U.S.C. Sec. 2702.

(c) A prosecutor may obtain a judicial order as described in Section 77-22-2.5 for the purposes [~~enumerated~~] described in Section 77-22-2.5.

(3) [~~An~~] A provider of an electronic communication service [~~provider~~] or a remote computing service [~~provider~~], the provider's officers, employees, or agents, or other specified persons may not be held liable for providing information, facilities, or assistance in good faith reliance on the terms of the warrant issued under this section or without a warrant in accordance with Subsection (2).

(4) Nothing in this chapter:

(a) limits or affects the disclosure of public records under Title 63G, Chapter 2, Government Records Access and Management Act[~~.~~];

[~~(5)~~] (b) [~~Nothing in this chapter~~] affects the rights of an employer under Subsection 34-48-202(1)(e) or an administrative rule adopted under Section 63F-1-206[~~.~~]; or

(c) limits the ability of a law enforcement agency to receive or use information, without a warrant or subpoena, from the National Center for Missing and Exploited Children under 18 U.S.C. Sec. 2258A.

Section 2. Section 77-23c-103 is amended to read:

77-23c-103. Notification required -- Delayed notification.

[~~(1) (a) Except as provided in Subsection (2), a law enforcement agency that executes a warrant pursuant to Subsection 77-23c-102(1)(a) or 77-23c-104(3) shall, within 14 days after the day on which the electronic information or data that is the subject of the warrant is obtained by the law enforcement agency, issue a notification to the owner of the electronic device or electronic information or data specified in the warrant that states:~~]

(1) (a) Except as provided in Subsection (2), if a law enforcement agency executes a warrant in accordance with Subsection 77-23c-102(1) or 77-23c-104(3), the law enforcement agency shall notify the owner of the electronic device or electronic information or data specified in the warrant within 90 days after the day on which the electronic device or the electronic data or information is obtained by the law enforcement agency but in no case shall the law enforcement agency notify the owner more than three days after the day on which the investigation is concluded.

(b) The notification described in Subsection (1)(a) shall state:

(i) that a warrant was applied for and granted;

(ii) the kind of warrant issued;

(iii) the period of time during which the collection of the electronic information or data was authorized;

(iv) the offense specified in the application for the warrant;

(v) the identity of the law enforcement agency that filed the application; and

(vi) the identity of the judge who issued the warrant.

[~~(b)~~] (c) [~~The notification requirement under Subsection (1)(a) is not triggered until~~] For the notification requirement described in Subsection (1)(a), the time period under Subsection (1)(a) begins on the day after the day on which the owner of the electronic device or electronic information or data specified in the warrant is known, or could be reasonably identified, by the law enforcement agency.

(2) A law enforcement agency seeking a warrant [~~pursuant to~~] in accordance with Subsection 77-23c-102(1)(a) or 77-23c-104(3) may submit a request, and the court may grant permission, to delay the notification required by Subsection (1) for a period not to exceed 30 days, if the court determines that there is reasonable cause to believe that the notification may:

(a) endanger the life or physical safety of an individual;

(b) cause a person to flee from prosecution;

(c) lead to the destruction of or tampering with evidence;

(d) intimidate a potential witness; or

(e) otherwise seriously jeopardize an investigation or unduly delay a trial.

(3) [~~(a)~~] When a delay of notification is granted under Subsection (2) and upon application by the law enforcement agency, the court may grant additional extensions of up to 30 days each.

[~~(b) Notwithstanding Subsection (3)(a), when a delay of notification is granted under Subsection (2), and upon application by a law enforcement agency, the court may grant an additional extension of up to 60 days if the court determines that a delayed notification is justified because the investigation involving the warrant:~~]

[~~(i) is interstate in nature and sufficiently complex; or~~]

[~~(ii) is likely to extend up to or beyond an additional 60 days.~~]

(4) (a) A law enforcement agency that seeks a warrant for an electronic device or electronic information or data in accordance with Subsection 77-23c-102(1)(a) or 77-23c-104(3) may submit a request to the court to delay a notification under Subsection (2) if the purpose of delaying the notification is to apprehend an individual:

(i) who is a fugitive from justice under Section 77-30-13; and

(ii) for whom an arrest warrant has been issued for a violent felony offense as defined in Section 76-3-203.5.

(b) The court may grant the request under Subsection (4)(a) to delay notification until the individual who is a fugitive from justice under Section 77-30-13 is apprehended by the law enforcement agency.

(c) A law enforcement agency shall issue a notification described in Subsection (5) to the owner of the electronic device or electronic information or data within 14 days after the day on which the law enforcement agency apprehends the individual described in Subsection (4)(a).

[~~(4)~~] (5) Upon expiration of the period of delayed notification granted under Subsection (2) or (3), or upon the apprehension of an individual described in Subsection (4)(a), the law enforcement agency shall serve upon or deliver by first-class mail, or by other means if delivery is impracticable, to the owner of the electronic device or electronic information or data a copy of the warrant together with notice that:

(a) states with reasonable specificity the nature of the law enforcement inquiry; and

(b) contains:

(i) the information described in [~~Subsections (1)(a)(i) through (vi)~~] Subsection (1)(b);

(ii) a statement that notification of the search was delayed;

(iii) the name of the court that authorized the delay of notification; and

(iv) a reference to the provision of this chapter that allowed the delay of notification.

[~~(5)~~] (6) A law enforcement agency is not required to notify the owner of the electronic device or electronic information or data if the owner is located outside of the United States.

Section 3. Section 77-23c-104 is amended to read:

77-23c-104. Third-party electronic information or data.

(1) As used in this section, "subscriber record" means a record or information of a provider of an electronic communication service or remote computing service that reveals the subscriber's or customer's:

(a) name;

(b) address;

(c) local and long distance telephone connection record, or record of session time and duration;

(d) length of service, including the start date;

(e) type of service used;

(f) telephone number, instrument number, or other subscriber or customer number or identification, including a temporarily assigned network address; and

(g) means and source of payment for the service, including a credit card or bank account number.

(2) Except as provided in Chapter 22, Subpoena Powers for Aid of Criminal Investigation and Grants of Immunity, a law enforcement agency may not obtain, use, copy, or disclose a subscriber record.

(3) A law enforcement agency may not obtain, use, copy, or disclose, for a criminal investigation or prosecution, any record or information, other than a subscriber record, of a provider of an electronic communication service or remote computing service related to a subscriber or customer without a warrant.

(4) Notwithstanding Subsections (2) and (3), a law enforcement agency may obtain, use, copy, or disclose a subscriber record, or other record or information related to a subscriber or customer, without [~~a~~] an investigative subpoena or a warrant:

(a) with the informed, affirmed consent of the subscriber or customer;

(b) in accordance with a judicially recognized exception to warrant requirements;

(c) if the subscriber or customer voluntarily discloses the record in a manner that is publicly accessible; or

(d) if the provider of an electronic communication service or remote computing service voluntarily discloses the record:

(i) under a belief that an emergency exists involving the imminent risk to an individual of:

(A) death;

(B) serious physical injury;

(C) sexual abuse;

(D) live-streamed sexual exploitation;

(E) kidnapping; or

(F) human trafficking;

(ii) that is inadvertently discovered by the provider, if the record appears to pertain to the commission of:

(A) a felony; or

(B) a misdemeanor involving physical violence, sexual abuse, or dishonesty; or

(iii) subject to Subsection 77-23c-104(4)(d)(ii), as otherwise permitted under 18 U.S.C. Sec. 2702.

(5) A provider of an electronic communication service or remote computing service, or the provider's officers, employees, agents, or other specified persons may not be held liable for providing information, facilities, or assistance in good faith reliance on the terms of a warrant issued under this section, or without a warrant in accordance with Subsection (3).

CHAPTER 43
H. B. 88
Passed February 25, 2021
Approved March 11, 2021
Effective May 5, 2021

DIVERSION FEES AMENDMENTS

Chief Sponsor: Andrew Stoddard
Senate Sponsor: Kathleen A. Riebe

LONG TITLE

General Description:

This bill allows a court to assess a diversion fee on a criminal defendant.

Highlighted Provisions:

This bill:

- allows a court to assess a diversion fee on a criminal defendant based on the defendant's ability to pay; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

77-2-5, as enacted by Laws of Utah 1980, Chapter 15

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

Section 1. Section 77-2-5 is amended to read:

77-2-5. Diversion agreement -- Negotiation -- Contents.

(1) At any time after the filing of an information or indictment and prior to conviction, the prosecuting attorney may, by written agreement with the defendant, filed with the court, and upon approval of the court, divert a defendant to a non-criminal diversion program.

(2) A defendant shall be represented by counsel during negotiations for diversion and at the time of execution of any diversion agreement unless [~~he shall have~~] the defendant has knowingly and intelligently waived [~~his~~] the defendant's right to counsel.

(3) The defendant has the right to be represented by counsel at any court hearing relating to a diversion program.

(4) [~~Any~~] (a) A diversion agreement entered into between the prosecution and the defense and approved by a magistrate shall contain a full, detailed statement of the requirements agreed to by the defendant and the reasons for diversion.

(b) A decision by a prosecuting attorney not to divert a defendant is not subject to judicial review.

[~~(5) Diversion programs longer than two years shall not be permitted.~~]

(5) A diversion agreement entered into between the prosecution and the defense and approved by a magistrate may contain an order that the defendant pay a nonrefundable diversion fee that:

(a) shall be allocated in the same manner as if paid as a fine for a criminal conviction under Section 78A-5-110 or Section 78A-7-120; and

(b) may not exceed the suggested fine listed in the Uniform Fine Schedule adopted by the Judicial Council.

(6) A diversion agreement [~~shall~~] may not be approved unless the defendant[~~, before a magistrate and in the agreement,~~] knowingly and intelligently waives [~~his~~] the defendant's constitutional right to a speedy trial before a magistrate and in the diversion agreement.

(7) (a) The court shall, on the defendant's request, consider the defendant's ability to pay a diversion fee before ordering the defendant to pay a diversion fee.

(b) The court may:

(i) consider any relevant evidence in determining the defendant's ability to pay a diversion fee; and

(ii) lower or waive the diversion fee based on that evidence.

(8) A diversion program longer than two years is not permitted.

CHAPTER 44
H. B. 95
Passed February 25, 2021
Approved March 11, 2021
Effective July 1, 2022

PRISON RAPE ELIMINATION ACT COMPLIANCE

Chief Sponsor: Angela Romero
Senate Sponsor: Luz Escamilla
Cosponsor: Travis M. Seegmiller

LONG TITLE

General Description:

This bill complies with national standards made under the federal Prison Rape Elimination Act of 2003 by mandating the implementation of policies and data collection relating to the sexual assault of inmates.

Highlighted Provisions:

This bill:

- requires the creation of policies to prevent, detect, and respond to inmate sexual assault;
- specifies requirements for investigations of inmate sexual assaults; and
- requires the collection and reporting of data regarding inmate sexual assaults.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

ENACTS:

64-13-47, Utah Code Annotated 1953

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

Section 1. Section 64-13-47 is enacted to read:

64-13-47. Prison Sexual Assault Prevention Program.

(1) The department shall, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules establishing policies and procedures regarding sexual assaults that occur in correctional facilities.

(2) The rules described in Subsection (1) shall:

(a) require education and training, including:

(i) providing to inmates, at intake and periodically, department-approved, easy-to-understand information developed by the department on sexual assault prevention, treatment, reporting, and counseling in consultation with community groups with expertise in sexual assault prevention, treatment, reporting, and counseling; and

(ii) providing sexual-assault-specific training to department mental health professionals and all employees who have direct contact with inmates regarding treatment and methods of prevention and investigation;

(b) require reporting of sexual assault, including:

(i) ensuring the confidentiality of inmate sexual assault complaints and the protection of inmates who make complaints of sexual assault; and

(ii) prohibiting retaliation and disincentives for reporting sexual assault;

(c) require safety and care for victims, including:

(i) providing, in situations in which there is reason to believe that a sexual assault has occurred, reasonable and appropriate measures to ensure the victim's safety by separating the victim from the assailant, if known;

(ii) providing acute trauma care for sexual assault victims, including treatment of injuries, HIV prophylaxis measures, and testing for sexually transmitted infections;

(iii) providing confidential mental health counseling for victims of sexual assault, including access to outside community groups or victim advocates that have expertise in sexual assault counseling, and enable confidential communication between inmates and those organizations and advocates; and

(iv) monitoring victims of sexual assault for suicidal impulses, post-traumatic stress disorder, depression, and other mental health consequences resulting from the sexual assault;

(d) require investigations and staff discipline, including:

(i) requiring all employees to report any knowledge, suspicion, or information regarding an incident of sexual assault to the executive director or designee, and require disciplinary action for employees who fail to report as required;

(ii) requiring investigations described in Subsection (3);

(iii) requiring corrections investigators to submit all completed sexual assault allegations to the executive director or the executive director's designee, who must then submit any substantiated findings that may constitute a crime under state law to the district attorney with jurisdiction over the facility in which the alleged sexual assault occurred; and

(iv) requiring employees to be subject to disciplinary sanctions up to and including termination for violating agency sexual assault policies, with termination the presumptive disciplinary sanction for employees who have engaged in sexual assault, consistent with constitutional due process protections and state personnel laws and rules; and

(e) require data collection and reporting, including as provided in Subsection (4).

(3) (a) An investigator trained in the investigation of sex crimes shall conduct the investigation of a sexual assault involving an inmate.

(b) The investigation shall include:

(i) using a forensic rape kit, if appropriate;

(ii) questioning suspects and witnesses; and

(iii) gathering and preserving relevant evidence.

(4) The department shall:

(a) collect and report data regarding all allegations of sexual assault from each correctional facility in accordance with the federal Prison Rape Elimination Act of 2003, Pub. L 108–79, as amended; and

(b) annually report the data described in Subsection (4)(a) to the Law Enforcement and Criminal Justice Interim Committee.

Section 2. Effective date.

This bill takes effect on July 1, 2022.

CHAPTER 45
H. B. 99
Passed February 5, 2021
Approved March 11, 2021
Effective May 5, 2021

PUBLIC EMPLOYEES HEALTH PROGRAM AMENDMENTS

Chief Sponsor: Suzanne Harrison
Senate Sponsor: Michael S. Kennedy
Cosponsors: Stewart E. Barlow
Joel K. Briscoe
Rosemary Lesser

LONG TITLE

General Description:

This bill amends provisions regarding the Public Employees' Health Program.

Highlighted Provisions:

This bill:

- authorizes the Public Employees' Health Program to establish an out-of-state provider network through requests for proposal;
- authorizes the Public Employees' Health Program to partner with public entities in other states under certain circumstances; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

49-20-401, as last amended by Laws of Utah 2019, Chapter 393

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

Section 1. Section 49-20-401 is amended to read:

49-20-401. Program -- Powers and duties.

(1) The program shall:

(a) act as a self-insurer of employee benefit plans and administer those plans;

(b) enter into contracts with private insurers or carriers to underwrite employee benefit plans as considered appropriate by the program;

(c) indemnify employee benefit plans or purchase commercial reinsurance as considered appropriate by the program;

(d) provide descriptions of all employee benefit plans under this chapter in cooperation with covered employers;

(e) process claims for all employee benefit plans under this chapter or enter into contracts, after competitive bids are taken, with other benefit administrators to provide for the administration of the claims process;

(f) obtain an annual actuarial review of all health and dental benefit plans and a periodic review of all other employee benefit plans;

(g) consult with the covered employers to evaluate employee benefit plans and develop recommendations for benefit changes;

(h) annually submit a budget and audited financial statements to the governor and Legislature which includes total projected benefit costs and administrative costs;

(i) maintain reserves sufficient to liquidate the unrevealed claims liability and other liabilities of the employee benefit plans as certified by the program's consulting actuary;

(j) submit, in advance, its recommended benefit adjustments for state employees to:

(i) the Legislature; and

(ii) the executive director of the state Department of Human Resource Management;

(k) determine benefits and rates, upon approval of the board, for multi-employer risk pools, retiree coverage, and conversion coverage;

(l) determine benefits and rates based on the total estimated costs and the employee premium share established by the Legislature, upon approval of the board, for state employees;

(m) administer benefits and rates, upon ratification of the board, for single-employer risk pools;

(n) request proposals for [~~provider networks or health and dental benefit plans administered by third-party carriers~~] one or more out-of-state provider networks and a dental health plan administered by a third-party carrier at least once every three years for the purposes of:

(i) stimulating competition for the benefit of covered individuals;

(ii) establishing better geographical [~~distribution~~] coverage of medical care services; and

(iii) providing coverage for both active and retired covered individuals;

(o) offer proposals which meet the criteria specified in a request for proposals and accepted by the program to active and retired state covered individuals and which may be offered to active and retired covered individuals of other covered employers at the option of the covered employer;

(p) perform the same functions established in Subsections (1)(a), (b), (e), and (h) for the Department of Health if the program provides program benefits to children enrolled in the Utah Children's Health Insurance Program created in Title 26, Chapter 40, Utah Children's Health Insurance Act;

(q) establish rules and procedures governing the admission of political subdivisions or educational institutions and their employees to the program;

(r) contract directly with medical providers to provide services for covered individuals at commercially competitive rates;

(s) take additional actions necessary or appropriate to carry out the purposes of this chapter;

(t) (i) require state employees and their dependents to participate in the electronic exchange of clinical health records in accordance with Section 26-1-37 unless the enrollee opts out of participation; and

(ii) prior to enrolling the state employee, each time the state employee logs onto the program's website, and each time the enrollee receives written enrollment information from the program, provide notice to the enrollee of the enrollee's participation in the electronic exchange of clinical health records and the option to opt out of participation at any time; and

(u) at the request of a procurement unit, as that term is defined in Section 63G-6a-103, that administers benefits to program recipients who are not covered by Title 26, Utah Health Code, provide services for:

(i) drugs;

(ii) medical devices; or

(iii) other types of medical care.

(2) (a) Funds budgeted and expended shall accrue from rates paid by the covered employers and covered individuals.

(b) Administrative costs shall be approved by the board and reported to the governor and the Legislature.

(3) The Department of Human Resource Management shall include the benefit adjustments described in Subsection (1)(j) in the total compensation plan recommended to the governor required under Subsection 67-19-12(5)(a).

(4) The program may establish a partnership with a public entity in a different state to purchase or share services related to the administration of medical benefits if:

(a) the program receives approval for the partnership from the board; and

(b) the partnership:

(i) creates cost savings for Utah;

(ii) does not commingle state funds with funds of the public entity in the other state; and

(iii) does not pose a greater actuarial risk to Utah than the program has already assumed.

CHAPTER 46
H. B. 100
Passed February 19, 2021
Approved March 11, 2021
Effective May 5, 2021

POSTCONVICTION REMEDIES ACT AMENDMENTS

Chief Sponsor: Brady Brammer
Senate Sponsor: Todd D. Weiler

LONG TITLE

General Description:

This bill amends the Postconviction Remedies Act.

Highlighted Provisions:

This bill:

- adds a lower standard for a petitioner to show prejudice when a prosecutor knowingly failed to correct false testimony;
- amends the grounds upon which a petitioner is not eligible for postconviction relief;
- provides that postconviction remedies petitions based on factual innocence or requesting DNA testing are not subject to procedural or time bars;
- modifies the factors that a judge may consider when determining whether to appoint pro bono counsel; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

78B-9-104, as last amended by Laws of Utah 2018, Chapter 221
78B-9-106, as last amended by Laws of Utah 2017, Chapter 447
78B-9-107, as last amended by Laws of Utah 2017, Chapter 447
78B-9-109, as last amended by Laws of Utah 2008, Chapter 288 and renumbered and amended by Laws of Utah 2008, Chapter 3
78B-9-301, as last amended by Laws of Utah 2018, Chapter 86
78B-9-402, as last amended by Laws of Utah 2013, Chapter 46

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

Section 1. Section 78B-9-104 is amended to read:

78B-9-104. Grounds for relief -- Retroactivity of rule.

(1) Unless precluded by Section 78B-9-106 or 78B-9-107, [~~a person~~] an individual who has been convicted and sentenced for a criminal offense may file an action in the district court of original jurisdiction for [~~post-conviction~~] postconviction relief to vacate or modify the conviction or sentence upon the following grounds:

(a) the conviction was obtained or the sentence was imposed in violation of the United States Constitution or Utah Constitution;

(b) the conviction was obtained or the sentence was imposed under a statute that is in violation of the United States Constitution or Utah Constitution, or the conduct for which the petitioner was prosecuted is constitutionally protected;

(c) the sentence was imposed or probation was revoked in violation of the controlling statutory provisions;

(d) the petitioner had ineffective assistance of counsel in violation of the United States Constitution or Utah Constitution;

(e) newly discovered material evidence exists that requires the court to vacate the conviction or sentence, because:

(i) neither the petitioner nor petitioner's counsel knew of the evidence at the time of trial or sentencing or in time to include the evidence in any previously filed post-trial motion or [~~post-conviction~~] postconviction proceeding, and the evidence could not have been discovered through the exercise of reasonable diligence;

(ii) the material evidence is not merely cumulative of evidence that was known;

(iii) the material evidence is not merely impeachment evidence; and

(iv) viewed with all the other evidence, the newly discovered material evidence demonstrates that no reasonable trier of fact could have found the petitioner guilty of the offense or subject to the sentence received; [~~or~~]

(f) the petitioner can prove entitlement to relief under a rule announced by the United States Supreme Court, the Utah Supreme Court, or the Utah Court of Appeals after conviction and sentence became final on direct appeal, and that:

(i) the rule was dictated by precedent existing at the time the petitioner's conviction or sentence became final; or

(ii) the rule decriminalizes the conduct that comprises the elements of the crime for which the petitioner was convicted; or

(g) the petitioner committed any of the following offenses while subject to force, fraud, or coercion, as defined in Section 76-5-308:

(i) Section 58-37-8, possession of a controlled substance;

(ii) Section 76-10-1304, aiding prostitution;

(iii) Section 76-6-206, criminal trespass;

(iv) Section 76-6-413, theft;

(v) Section 76-6-502, possession of forged writing or device for writing;

(vi) Sections 76-6-602 through 76-6-608, retail theft;

(vii) Subsection 76-6-1105(2)(a)(i)(A), unlawful possession of another's identification document;

(viii) Section 76-9-702, lewdness;

(ix) Section 76-10-1302, prostitution; or

(x) Section 76-10-1313, sexual solicitation.

(2) The court may not grant relief from a conviction or sentence unless in light of the facts proved in the postconviction proceeding, viewed with the evidence and facts introduced at trial or during sentencing:

(a) the petitioner establishes that there would be a reasonable likelihood of a more favorable outcome [~~in light of the facts proved in the post-conviction proceeding, viewed with the evidence and facts introduced at trial or during sentencing.~~]; or

(b) if the petitioner challenges the conviction or the sentence on grounds that the prosecutor knowingly failed to correct false testimony at trial or at sentencing, the petitioner establishes that the false testimony, in any reasonable likelihood, could have affected the judgment of the fact finder.

(3) (a) The court may not grant relief from a conviction based on a claim that the petitioner is innocent of the crime for which convicted except as provided in [~~Title 78B, Chapter 9,~~] Part 3, Postconviction Testing of DNA, or Part 4, Postconviction Determination of Factual Innocence.

(b) Claims under Part 3, Postconviction Testing of DNA, or Part 4, Postconviction Determination of Factual Innocence, of this chapter may not be filed as part of a petition under this part, but shall be filed separately and in conformity with the provisions of Part 3, Postconviction Testing of DNA, or Part 4, Postconviction Determination of Factual Innocence.

Section 2. Section 78B-9-106 is amended to read:

78B-9-106. Preclusion of relief -- Exception.

(1) A [~~person~~] petitioner is not eligible for relief under this chapter upon any ground that:

(a) may still be raised on direct appeal or by a post-trial motion;

(b) was raised or addressed in the trial court, at trial, or on appeal;

(c) could have been but was not raised in the trial court, at trial, or on appeal;

(d) was raised or addressed in any previous request for post-conviction relief or could have been, but was not, raised in a previous request for [~~post-conviction~~] postconviction relief; or

(e) is barred by the limitation period established in Section 78B-9-107.

(2) (a) The state may raise any of the procedural bars or time bar at any time, including during [~~the state's~~] an appeal from an order granting or denying [~~post-conviction~~] postconviction relief, unless the court determines that the state should have raised the time bar or procedural bar at an earlier time.

(b) Any court may raise a procedural bar or time bar on [~~its~~] the court's own motion, provided that [~~it~~] the court gives the parties notice and an opportunity to be heard.

(3) (a) Notwithstanding Subsection (1)(c), a [~~person~~] petitioner may be eligible for relief on a basis that the ground could have been but was not raised in the trial court, at trial, or on appeal, if the failure to raise that ground was due to ineffective assistance of counsel[~~; or~~].

(b) Notwithstanding Subsections (1)(c) and (1)(d), a [~~person~~] petitioner may be eligible for relief on a basis that the ground could have been but was not raised in the trial court, at trial, on appeal, or in a previous request for [~~post-conviction~~] postconviction relief, if the failure to raise that ground was due to force, fraud, or coercion as defined in Section 76-5-308.

(4) This section authorizes a merits review only to the extent required to address the exception set forth in Subsection (3).

(5) This section does not apply to a petition filed under Part 3, Postconviction Testing of DNA, or Part 4, Postconviction Determination of Factual Innocence.

Section 3. Section 78B-9-107 is amended to read:

78B-9-107. Statute of limitations for postconviction relief.

(1) A petitioner is entitled to relief only if the petition is filed within one year after the day on which the cause of action has accrued.

(2) For purposes of this section, the cause of action accrues on the [~~latest~~] later of the following dates:

(a) the last day for filing an appeal from the entry of the final judgment of conviction, if no appeal is taken;

(b) the entry of the decision of the appellate court [~~which~~] that has jurisdiction over the case, if an appeal is taken;

(c) the last day for filing a petition for writ of certiorari in the Utah Supreme Court or the United States Supreme Court, if no petition for writ of certiorari is filed;

(d) the entry of the denial of the petition for writ of certiorari or the entry of the decision on the petition for certiorari review, if a petition for writ of certiorari is filed;

(e) the date on which petitioner knew or should have known, in the exercise of reasonable diligence, of evidentiary facts on which the petition is based; or

(f) the date on which the new rule described in Subsection 78B-9-104(1)(f) is established.

(3) (a) The limitations period is tolled for any period during which the petitioner was prevented

from filing a petition due to state action in violation of the United States Constitution, due to physical or mental incapacity, or for claims arising under Subsection 78B-9-104(1)(g), due to force, fraud, or coercion as defined in Section 76-5-308.

(b) The petitioner has the burden of proving by a preponderance of the evidence that the petitioner is entitled to relief under this Subsection (3).

(4) The statute of limitations is tolled during the pendency of the outcome of a petition asserting:

(a) exoneration through DNA testing under Section 78B-9-303; or

(b) factual innocence under Section [~~78B-9-401~~] 78B-9-402.

(5) Sections 77-19-8, 78B-2-104, and 78B-2-111 do not extend the limitations period established in this section.

(6) This section does not apply to a petition filed under Part 3, Postconviction Testing of DNA, or Part 4, Postconviction Determination of Factual Innocence.

Section 4. Section 78B-9-109 is amended to read:

78B-9-109. Appointment of pro bono counsel.

(1) (a) If any portion of the petition is not summarily dismissed, the court may, upon the request of an indigent petitioner, appoint counsel on a pro bono basis to represent the petitioner in the [~~post-conviction~~] postconviction court or on [~~post-conviction~~] postconviction appeal.

(b) Counsel who represented the petitioner at trial or on the direct appeal may not be appointed to represent the petitioner under this section.

(2) In determining whether to appoint counsel, the court [~~shall consider the following factors~~] may consider:

[~~(a) whether the petition or the appeal contains factual allegations that will require an evidentiary hearing; and~~]

[~~(b) whether the petition involves complicated issues of law or fact that require the assistance of counsel for proper adjudication.~~]

(a) whether the petitioner is incarcerated;

(b) the likelihood that an evidentiary hearing will be necessary;

(c) the likelihood that an investigation will be necessary;

(d) the complexity of the factual and legal issues; and

(e) any other factor relevant to the particular case.

(3) An allegation that counsel appointed under this section was ineffective cannot be the basis for relief in any subsequent [~~post-conviction~~] postconviction petition.

Section 5. Section 78B-9-301 is amended to read:

78B-9-301. Postconviction testing of DNA -- Petition -- Sufficient allegations -- Notification of victim.

(1) As used in this part:

(a) "DNA" means deoxyribonucleic acid.

(b) "Factually innocent" means the same as that term is defined in Section [~~78B-9-402~~] 78B-9-401.5.

(2) [~~A person~~] An individual convicted of a felony offense may at any time file a petition for postconviction DNA testing in the trial court that entered the judgment of conviction if the [~~person~~] individual asserts factual innocence under oath and the petition alleges:

(a) evidence has been obtained regarding the [~~person's~~] individual's case that is still in existence and is in a condition that allows DNA testing to be conducted;

(b) the chain of custody is sufficient to establish that the evidence has not been altered in any material aspect;

(c) the [~~person~~] individual identifies the specific evidence to be tested and states a theory of defense, not inconsistent with theories previously asserted at trial, that the requested DNA testing would support;

(d) the evidence was not previously subjected to DNA testing, or if the evidence was tested previously, the evidence was not subjected to the testing that is now requested, and the new testing may resolve an issue not resolved by the prior testing;

(e) the proposed DNA testing is generally accepted as valid in the scientific field or is otherwise admissible under Utah law;

(f) the evidence that is the subject of the request for testing:

(i) has the potential to produce new, noncumulative evidence; and

(ii) there is a reasonable probability that the defendant would not have been convicted or would have received a lesser sentence if the evidence had been presented at the original trial; and

(g) the [~~person~~] individual is aware of the consequences of filing the petition, including:

(i) [~~those~~] the consequences specified in Sections 78B-9-302 and 78B-9-304; and

(ii) that the [~~person~~] individual is waiving any statute of limitations in all jurisdictions as to any felony offense the [~~person~~] individual has committed which is identified through DNA database comparison.

(3) The petition under Subsection (2) shall comply with [~~Rule 65C,~~] Utah Rules of Civil Procedure,

Rule 65C, including providing the underlying criminal case number.

(4) After a petition is filed under this section, prosecutors, law enforcement officers, and crime laboratory personnel have a duty to cooperate in preserving evidence and in determining the sufficiency of the chain of custody of the evidence which may be subject to DNA testing.

(5) (a) (i) [~~A person~~] An individual who files a petition under this section shall serve notice upon the office of the prosecutor who obtained the conviction, and upon the Utah attorney general.

(ii) The attorney general shall, within 30 days after receipt of service of a copy of the petition, or within any additional period of time the court allows, answer or otherwise respond to all proceedings initiated under this part.

(b) After the attorney general responds under Subsection (5)(a), the petitioner has the right to reply to the response of the attorney general.

(c) After the attorney general and the petitioner have filed a response and reply in compliance with Subsection (5)(b), the court shall order DNA testing if it finds by a preponderance of the evidence that all criteria of Subsection (2) have been met.

(6) (a) If the court grants the petition for testing, the DNA test shall be performed by the Utah State Crime Laboratory within the Criminal Investigations and Technical Services Division created in Section 53-10-103, unless the [~~person~~] individual establishes that the state crime laboratory has a conflict of interest or does not have the capability to perform the necessary testing.

(b) If the court orders that the testing be conducted by any laboratory other than the state crime laboratory, the court shall require that the testing be performed:

(i) under reasonable conditions designed to protect the state's interests in the integrity of the evidence; and

(ii) according to accepted scientific standards and procedures.

(7) (a) DNA testing under this section shall be paid for from funds appropriated to the Department of Public Safety under Subsection 53-10-407(4)(d)(ii) from the DNA Specimen Restricted Account created in Section 53-10-407 if:

(i) the court ordered the DNA testing under this section;

(ii) the Utah State Crime Laboratory within the Criminal Investigations and Technical Services Division has a conflict of interest or does not have the capability to perform the necessary testing; and

(iii) the petitioner who has filed for postconviction DNA testing under Section 78B-9-201 is serving a sentence of imprisonment and is indigent.

(b) Under this Subsection (7), costs of DNA testing include [~~those~~] costs that are necessary to transport the evidence, prepare samples for analysis, analyze the evidence, and prepare reports of findings.

(8) If the [~~person~~] individual is serving a sentence of imprisonment and is indigent, the state shall pay for the costs of the testing under this part, but if the result is not favorable to the [~~person~~] individual, the court may order the person to reimburse the state for the costs of the testing, [~~pursuant to~~] in accordance with Subsections 78B-9-302(4) and 78B-9-304(1)(b).

(9) Any victim of the crime regarding which the [~~person~~] individual petitions for DNA testing, who has elected to receive notice under Section 77-38-3 shall be notified by the state's attorney of any hearing regarding the petition and testing, even though the hearing is a civil proceeding.

Section 6. Section 78B-9-402 is amended to read:

78B-9-402. Petition for determination of factual innocence -- Sufficient allegations -- Notification of victim -- Payment to surviving spouse.

(1) A person who has been convicted of a felony offense may petition the district court in the county in which the person was convicted for a hearing to establish that the person is factually innocent of the crime or crimes of which the person was convicted.

(2) (a) The petition shall contain an assertion of factual innocence under oath by the petitioner and shall aver, with supporting affidavits or other credible documents, that:

(i) newly discovered material evidence exists that, if credible, establishes that the petitioner is factually innocent;

(ii) the specific evidence identified by the petitioner in the petition establishes innocence;

(iii) the material evidence is not merely cumulative of evidence that was known;

(iv) the material evidence is not merely impeachment evidence; and

(v) viewed with all the other evidence, the newly discovered evidence demonstrates that the petitioner is factually innocent.

(b) (i) The court shall review the petition in accordance with the procedures in Subsection (9)(b), and make a finding that the petition has satisfied the requirements of Subsection (2)(a).

(ii) If the court finds the petition does not meet all the requirements of Subsection (2)(a), [~~it~~] the court shall dismiss the petition without prejudice and send notice of the dismissal to the petitioner and the attorney general.

(3) (a) The petition shall also contain an averment that:

(i) neither the petitioner nor the petitioner's counsel knew of the evidence at the time of trial or sentencing or in time to include the evidence in any previously filed post-trial motion or postconviction motion, and the evidence could not have been

discovered by the petitioner or the petitioner's counsel through the exercise of reasonable diligence; or

(ii) a court has found ineffective assistance of counsel for failing to exercise reasonable diligence in uncovering the evidence.

(b) (i) Upon entry of a finding that the petition is sufficient under Subsection (2)(a), the court shall then review the petition to determine if Subsection (3)(a) has been satisfied.

(ii) If the court finds that the requirements of Subsection (3)(a) have not been satisfied, [~~it~~] the court may dismiss the petition without prejudice and give notice to the petitioner and the attorney general of the dismissal, or the court may waive the requirements of Subsection (3)(a) if the court finds the petition should proceed to hearing based upon the strength of the petition, and that there is other evidence that could have been discovered through the exercise of reasonable diligence by the petitioner or the petitioner's counsel at trial, and the other evidence:

[~~(i)~~] (A) was not discovered by the petitioner or the petitioner's counsel;

[~~(ii)~~] (B) is material upon the issue of factual innocence; and

[~~(iii)~~] (C) has never been presented to a court.

(4) (a) If the conviction for which the petitioner asserts factual innocence was based upon a plea of guilty, the petition shall contain the specific nature and content of the evidence that establishes factual innocence.

(b) The court shall review the evidence and may dismiss the petition at any time in the course of the proceedings, if the court finds that the evidence of factual innocence relies solely upon the recantation of testimony or prior statements made by a witness against the petitioner, and the recantation appears to the court to be equivocal or [~~selfserving~~] self serving.

(5) A person who has already obtained postconviction relief that vacated or reversed the person's conviction or sentence may also file a petition under this part in the same manner and form as described above, if no retrial or appeal regarding this offense is pending.

(6) If some or all of the evidence alleged to be exonerating is biological evidence subject to DNA testing, the petitioner shall seek DNA testing [~~pursuant to~~] in accordance with Section 78B-9-301.

(7) Except as provided in Subsection (9), the petition and all subsequent proceedings shall be in compliance with and governed by [~~Rule 65C,~~] Utah Rules of Civil Procedure, Rule 65C and shall include the underlying criminal case number.

(8) After a petition is filed under this section, prosecutors, law enforcement officers, and crime laboratory personnel shall cooperate in preserving evidence and in determining the sufficiency of the chain of custody of the evidence which is the subject of the petition.

(9) (a) A person who files a petition under this section shall serve notice of the petition and a copy of the petition upon the office of the prosecutor who obtained the conviction and upon the Utah attorney general.

(b) (i) The assigned judge shall conduct an initial review of the petition.

(ii) If it is apparent to the court that the petitioner is either merely relitigating facts, issues, or evidence presented in previous proceedings or presenting issues that appear frivolous or speculative on their face, the court shall dismiss the petition, state the basis for the dismissal, and serve notice of dismissal upon the petitioner and the attorney general.

(iii) If, upon completion of the initial review, the court does not dismiss the petition, [~~it~~] the court shall order the attorney general to file a response to the petition.

(iv) The attorney general shall, within 30 days after [~~receipt of~~] the day on which the attorney general receives the court's order, or within any additional period of time the court allows, answer or otherwise respond to all proceedings initiated under this part.

(c) (i) After the time for response by the attorney general under Subsection (9)(b) has passed, the court shall order a hearing if [~~it~~] the court finds the petition meets the requirements of Subsections (2) and (3) and finds there is a bona fide and compelling issue of factual innocence regarding the charges of which the petitioner was convicted.

(ii) No bona fide and compelling issue of factual innocence exists if the petitioner is merely relitigating facts, issues, or evidence presented in a previous proceeding or if the petitioner is unable to identify with sufficient specificity the nature and reliability of the newly discovered evidence that establishes the petitioner's factual innocence.

(d) (i) If the parties stipulate that the evidence establishes that the petitioner is factually innocent, the court may find the petitioner is factually innocent without holding a hearing.

(ii) If the state will not stipulate that the evidence establishes that the petitioner is factually innocent, no determination of factual innocence may be made by the court without first holding a hearing under this part.

(10) The court may not grant a petition for a hearing under this part during the period in which criminal proceedings in the matter are pending before any trial or appellate court, unless stipulated to by the parties.

(11) Any victim of a crime that is the subject of a petition under this part, and who has elected to receive notice under Section 77-38-3, shall be notified by the state's attorney of any hearing regarding the petition.

(12) (a) A petition to determine factual innocence under this part, or Part 3, Postconviction Testing of DNA, shall be filed separately from any petition for postconviction relief under Part 1, General Provisions.

(b) Separate petitions may be filed simultaneously in the same court.

(13) The procedures governing the filing and adjudication of a petition to determine factual innocence apply to all petitions currently filed or pending in the district court and any new petitions filed on or after June 1, 2012.

(14) (a) As used in this Subsection (14) and in Subsection (15):

(i) "Married" means the legal marital relationship established between [~~a man and a woman~~] two individuals and as recognized by the [~~laws of this state~~] law; and

(ii) "Spouse" means [~~a person~~] an individual married to the petitioner at the time the petitioner was found guilty of the offense regarding which a petition is filed and who has since then been continuously married to the petitioner until the petitioner's death.

(b) A claim for determination of factual innocence under this part is not extinguished upon the death of the petitioner.

(c) (i) If any payments are already being made to the petitioner under this part at the time of the death of the petitioner, or if the finding of factual innocence occurs after the death of the petitioner, the payments due under Section 78B-9-405 shall be paid according to the schedule under Section 78B-9-405 to the petitioner's surviving spouse.

(ii) Payments cease upon the death of the spouse.

(15) The spouse under Subsection (14) forfeits all rights to receive any payment under this part if the spouse is charged with a homicide established by a preponderance of the evidence that meets the elements of any felony homicide offense in Title 76, Chapter 5, Offenses Against the Person, except automobile homicide, applying the same principles of culpability and defenses as in Title 76, Utah Criminal Code, including Title 76, Chapter 2, Principles of Criminal Responsibility.

CHAPTER 47
H. B. 107
Passed February 25, 2021
Approved March 11, 2021
Effective May 5, 2021

SUBDIVISION PLAT AMENDMENTS

Chief Sponsor: Joel Ferry
Senate Sponsor: Derrin R. Owens

LONG TITLE

General Description:

This bill amends provisions applicable to the recording of a subdivision plat.

Highlighted Provisions:

This bill:

- defines terms;
- requires an owner of land seeking a municipality's or county's approval for the recording of a subdivision plat to describe certain water conveyance facilities located within the plat;
- modifies provisions related to:
  - a municipality's or county's notification to the owners of certain water conveyance facilities regarding a proposed subdivision; and
  - the comments provided to a municipality or county regarding a proposed subdivision;
- requires the surveyor making a subdivision plat to verify certain information regarding water conveyance facilities located within the plat, in addition to underground facilities and utility facilities; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

10-9a-603, as last amended by Laws of Utah 2020, Chapter 434
10-9a-604, as last amended by Laws of Utah 2020, Chapter 434
17-27a-603, as last amended by Laws of Utah 2020, Chapter 434
17-27a-604, as last amended by Laws of Utah 2020, Chapter 434

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

Section 1. Section 10-9a-603 is amended to read:

10-9a-603. Plat required when land is subdivided -- Approval of plat -- Owner acknowledgment, surveyor certification, and verification of plat -- Recording plat.

(1) As used in this section:

(a) (i) "Facility owner" means the same as that term is defined in Section 73-1-15.5.

(ii) "Facility owner" includes a canal owner or associated canal operator contact described in:

(A) Section 10-9a-211;

(B) Subsection 73-5-7(3); or

(C) Subsection (6)(c).

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

(c) "State engineer's inventory of canals" means the state engineer's inventory of water conveyance systems established in Section 73-5-7.

(d) "Underground facility" means the same as that term is defined in Section 54-8a-2.

(e) "Water conveyance facility" means the same as that term is defined in Section 73-1-15.5.

[~~(1)~~] (2) Unless exempt under Section 10-9a-605 or excluded from the definition of subdivision under Section 10-9a-103, whenever any land is laid out and platted, the owner of the land shall provide to the municipality in which the land is located an accurate plat that describes or specifies:

(a) a subdivision name that is distinct from any subdivision name on a plat recorded in the county recorder's office;

(b) the boundaries, course, and dimensions of all of the parcels of ground divided, by their boundaries, course, and extent, whether the owner proposes that any parcel of ground is intended to be used as a street or for any other public use, and whether any such area is reserved or proposed for dedication for a public purpose;

(c) the lot or unit reference, block or building reference, street or site address, street name or coordinate address, acreage or square footage for all parcels, units, or lots, and length and width of the blocks and lots intended for sale; [~~and~~]

(d) every existing right-of-way and recorded easement [~~grant of record for an underground facility, as defined in Section 54-8a-2, and for any other utility facility.~~] located within the plat for:

(i) an underground facility;

(ii) a water conveyance facility; or

(iii) any other utility facility; and

(e) any water conveyance facility located, entirely or partially, within the plat that:

(i) is not recorded; and

(ii) of which the owner of the land has actual or constructive knowledge, including from information made available to the owner of the land:

(A) in the state engineer's inventory of canals; or

(B) from a surveyor under Subsection (6)(c).

[~~(2)~~] (3) (a) Subject to Subsections [~~(3), (5), and (6)~~] (4), (6), and (7), if the plat conforms to the municipality's ordinances and this part and has been approved by the culinary water authority, the sanitary sewer authority, and the local health department, [~~as defined in Section 26A-1-102,~~] if the local health department and the municipality

consider the local health department's approval necessary, the municipality shall approve the plat.

(b) Municipalities are encouraged to receive a recommendation from the fire authority and the public safety answering point before approving a plat.

(c) A municipality may not require that a plat be approved or signed by a person or entity who:

(i) is not an employee or agent of the municipality; or

(ii) does not:

(A) have a legal or equitable interest in the property within the proposed subdivision;

(B) provide a utility or other service directly to a lot within the subdivision;

(C) own an easement or right-of-way adjacent to the proposed subdivision who signs for the purpose of confirming the accuracy of the location of the easement or right-of-way in relation to the plat; or

(D) provide culinary public water service whose source protection zone designated as provided in Section 19-4-113 is included, in whole or in part, within the proposed subdivision.

[~~(d) For a subdivision application that includes land located within a notification zone, as determined under Subsection (2)(f), the land use authority shall:~~]

[~~(i) within 20 days after the day on which a complete subdivision application is filed, provide written notice of the application to the canal owner or associated canal operator contact described in:~~]

[~~(A) Section 10-9a-211;~~]

[~~(B) Subsection 73-5-7(2); or~~]

[~~(C) Subsection (5)(e); and~~]

(d) A municipality shall:

(i) within 20 days after the day on which an owner of land submits to the municipality a complete subdivision plat land use application, mail written notice of the proposed subdivision to the facility owner of any water conveyance facility located, entirely or partially, within 100 feet of the subdivision plat, as determined using information made available to the municipality:

(A) from the facility owner under Section 10-9a-211, using mapping-grade global positioning satellite units or digitized data from the most recent aerial photo available to the facility owner;

(B) in the state engineer's inventory of canals; or

(C) from a surveyor under Subsection (6)(c); and

(ii) [~~wait to~~] not approve [~~or reject~~] the subdivision [~~application~~] plat for at least 20 days after the day on which the [~~land use authority~~] municipality mails to each facility owner the notice described in Subsection [~~(2)~~] (3)(d)(i), in order to receive [~~input from the canal owner or associated canal operator, including input~~] any comments from each facility owner regarding:

(A) access to the [~~canal~~] water conveyance facility;

(B) maintenance of the [~~canal~~] water conveyance facility;

[~~(C) canal protection; and~~]

[~~(D) canal safety.~~]

(C) protection of the water conveyance facility;

(D) safety of the water conveyance facility; or

(E) any other issue related to water conveyance facility operations.

(e) When applicable, the owner of the land seeking subdivision [~~applicant~~] plat approval shall comply with Section 73-1-15.5.

[~~(f) The land use authority shall provide the notice described in Subsection (2)(d) to a canal owner or associated canal operator if:~~]

[~~(i) the canal's centerline is located within 100 feet of a proposed subdivision; and~~]

[~~(ii) the centerline alignment is available to the land use authority:~~]

[~~(A) from information provided by the canal company under Section 10-9a-211, using mapping-grade global positioning satellite units or digitized data from the most recent aerial photo available to the canal owner or associated canal operator;~~]

[~~(B) using the state engineer's inventory of canals under Section 73-5-7; or~~]

[~~(C) from information provided by a surveyor under Subsection (5)(c).~~]

(f) A facility owner's failure to provide comments to a municipality in accordance with Subsection (3)(d)(ii) does not affect or impair the municipality's authority to approve the subdivision plat.

[~~(3)~~] (4) The municipality may withhold an otherwise valid plat approval until the owner of the land provides the legislative body with a tax clearance indicating that all taxes, interest, and penalties owing on the land have been paid.

[~~(4)~~] (5) (a) Within 30 days after approving a final plat under this section, a municipality shall submit to the Automated Geographic Reference Center, created in Section 63F-1-506, for inclusion in the unified statewide 911 emergency service database described in Subsection 63H-7a-304(4)(b):

(i) an electronic copy of the approved final plat; or

(ii) preliminary geospatial data that depict any new streets and situs addresses proposed for construction within the bounds of the approved plat.

(b) If requested by the Automated Geographic Reference Center, a municipality that approves a final plat under this section shall:

(i) coordinate with the Automated Geographic Reference Center to validate the information described in Subsection [~~(4)~~] (5)(a); and

(ii) assist the Automated Geographic Reference Center in creating electronic files that contain the information described in Subsection [~~(4)~~] (5)(a) for inclusion in the unified statewide 911 emergency service database.

[~~(5)~~] (6) (a) A county recorder may not record a plat unless:

(i) prior to recordation, the municipality has approved and signed the plat;

(ii) each owner of record of land described on the plat has signed the owner's dedication as shown on the plat; and

(iii) the signature of each owner described in Subsection [~~(5)~~] (6)(a)(ii) is acknowledged as provided by law.

(b) The surveyor making the plat shall certify that the surveyor:

(i) holds a license in accordance with Title 58, Chapter 22, Professional Engineers and Professional Land Surveyors Licensing Act;

(ii) has completed a survey of the property described on the plat in accordance with Section 17-23-17 and has verified all measurements; and

(iii) has placed monuments as represented on the plat.

(c) (i) To the extent possible, the surveyor shall consult with the owner or operator, or a representative designated by the owner or operator, of an existing [~~or proposed~~] water conveyance facility located within the proposed subdivision, or an existing or proposed underground facility or utility facility located within the proposed subdivision, [~~or a representative designated by the owner or operator,~~] to verify the accuracy of the surveyor's depiction of the:

(A) boundary, course, dimensions, and intended use of the public rights-of-way, a public or private easement, or grants of record;

(B) location of [~~an existing~~] the existing water conveyance facility, or the existing or proposed underground facility [~~and~~] or utility facility; and

(C) physical restrictions governing the location of the existing or proposed underground facility [~~and~~] or utility facility [~~within the subdivision~~].

(ii) The cooperation of an owner or operator of a water conveyance facility, underground facility, or utility facility under Subsection [~~(5)~~] (6)(c)(i):

(A) indicates only that the plat approximates the location of the existing [~~underground and utility~~] facilities but does not warrant or verify their precise location; and

(B) does not affect a right that the owner or operator has under Title 54, Chapter 8a, Damage to Underground Utility Facilities, a recorded easement or right-of-way, the law applicable to prescriptive rights, or any other provision of law.

[~~(6)~~] (7) (a) Except as provided in Subsection [~~(5)~~] (6)(c), after the plat has been acknowledged, certified, and approved, the [~~individual~~] owner of the land seeking to record the plat shall, within the time period and manner designated by ordinance, record the plat in the county recorder's office in the county in which the lands platted and laid out are situated.

(b) A failure to record a plat within the time period designated by ordinance renders the plat voidable by the [~~land use authority~~] municipality.

Section 2. Section 10-9a-604 is amended to read:

10-9a-604. Subdivision plat approval procedure -- Effect of not complying.

(1) A person may not submit a subdivision plat to the county recorder's office for recording unless:

(a) the person has complied with the requirements of Subsection 10-9a-603[~~(5)~~](6)(a);

(b) the plat has been approved by:

(i) the land use authority of the municipality in which the land described in the plat is located; and

(ii) other officers that the municipality designates in its ordinance;

(c) all approvals described in Subsection (1)(b) are entered in writing on the plat by the designated officers; and

(d) if the person submitting the plat intends the plat to be or if the plat is part of a community association subject to Title 57, Chapter 8a, Community Association Act, the plat includes language conveying to the association, as that term is defined in Section 57-8a-102, all common areas, as that term is defined in Section 57-8a-102.

(2) A subdivision plat recorded without the signatures required under this section is void.

(3) A transfer of land pursuant to a void plat is voidable by the land use authority.

Section 3. Section 17-27a-603 is amended to read:

17-27a-603. Plat required when land is subdivided -- Approval of plat -- Owner acknowledgment, surveyor certification, and verification of plat -- Recording plat.

(1) As used in this section:

(a) (i) "Facility owner" means the same as that term is defined in Section 73-1-15.5.

(ii) "Facility owner" includes a canal owner or associated canal operator contact described in:

(A) Section 17-27a-211;

(B) Subsection 73-5-7(3); or

(C) Subsection (6)(c).

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

(c) "State engineer's inventory of canals" means the state engineer's inventory of water conveyance systems established in Section 73-5-7.

(d) "Underground facility" means the same as that term is defined in Section 54-8a-2.

(e) "Water conveyance facility" means the same as that term is defined in Section 73-1-15.5.

[~~(1)~~] (2) Unless exempt under Section 17-27a-605 or excluded from the definition of subdivision under Section 17-27a-103, whenever any land is laid out and platted, the owner of the land shall provide to the county in which the land is located an accurate plat that describes or specifies:

(a) a subdivision name that is distinct from any subdivision name on a plat recorded in the county recorder's office;

(b) the boundaries, course, and dimensions of all of the parcels of ground divided, by their boundaries, course, and extent, whether the owner proposes that any parcel of ground is intended to be used as a street or for any other public use, and whether any such area is reserved or proposed for dedication for a public purpose;

(c) the lot or unit reference, block or building reference, street or site address, street name or coordinate address, acreage or square footage for all parcels, units, or lots, and length and width of the blocks and lots intended for sale; [~~and~~]

(d) every existing right-of-way and recorded easement [~~grant of record for an underground facility, as defined in Section 54-8a-2, and for any other utility facility.~~] located within the plat for:

(i) an underground facility;

(ii) a water conveyance facility; or

(iii) any other utility facility; and

(e) any water conveyance facility located, entirely or partially, within the plat that:

(i) is not recorded; and

(ii) of which the owner of the land has actual or constructive knowledge, including from information made available to the owner of the land:

(A) in the state engineer's inventory of canals; or

(B) from a surveyor under Subsection (6)(c).

[~~(2)~~] (3) (a) Subject to Subsections [~~(3), (5), and (6)~~] (4), (6), and (7), if the plat conforms to the county's ordinances and this part and has been approved by the culinary water authority, the sanitary sewer authority, and the local health department, [~~as defined in Section 26A-1-102,~~] if the local health department and the county consider the local health department's approval necessary, the county shall approve the plat.

(b) Counties are encouraged to receive a recommendation from the fire authority and the public safety answering point before approving a plat.

(c) A county may not require that a plat be approved or signed by a person or entity who:

(i) is not an employee or agent of the county; or

(ii) does not:

(A) have a legal or equitable interest in the property within the proposed subdivision;

(B) provide a utility or other service directly to a lot within the subdivision;

(C) own an easement or right-of-way adjacent to the proposed subdivision who signs for the purpose of confirming the accuracy of the location of the easement or right-of-way in relation to the plat; or

(D) provide culinary public water service whose source protection zone designated as provided in Section 19-4-113 is included, in whole or in part, within the proposed subdivision.

[~~(d) For a subdivision application that includes land located within a notification zone, as determined under Subsection (2)(f), the land use authority shall:~~]

[~~(i) within 20 days after the day on which a complete subdivision application is filed, provide written notice of the application to the canal owner or associated canal operator contact described in:~~]

[~~(A) Section 17-27a-211;~~]

[~~(B) Subsection 73-5-7(2); or~~]

[~~(C) Subsection (5)(c); and~~]

(d) A county shall:

(i) within 20 days after the day on which an owner of land submits to the county a complete subdivision plat land use application, mail written notice of the proposed subdivision to the facility owner of any water conveyance facility located, entirely or partially, within 100 feet of the subdivision plat, as determined using information made available to the county:

(A) from the facility owner under Section 10-9a-211, using mapping-grade global positioning satellite units or digitized data from the most recent aerial photo available to the facility owner;

(B) in the state engineer's inventory of canals; or

(C) from a surveyor under Subsection (6)(c); and

(ii) [~~wait to~~] not approve [~~or reject~~] the subdivision [~~application~~] plat for at least 20 days after the day on which the [~~land use authority~~] county mails to each facility owner the notice under Subsection [~~(2)~~] (3)(d)(i) in order to receive [~~input from the canal owner or associated canal operator, including input~~] any comments from each facility owner regarding:

(A) access to the [~~canal~~] water conveyance facility;

(B) maintenance of the [~~canal~~] water conveyance facility;

[~~(C) canal protection; and~~]

[~~(D) canal safety.~~]

(C) protection of the water conveyance facility integrity;

(D) safety of the water conveyance facility; or

(E) any other issue related to water conveyance facility operations.

(e) When applicable, the owner of the land seeking subdivision [~~applicant~~] plat approval shall comply with Section 73-1-15.5.

[~~(f) The land use authority shall provide the notice described in Subsection (2)(d) to a canal owner or associated canal operator if:~~]

[~~(i) the canal's centerline is located within 100 feet of a proposed subdivision; and~~]

[~~(ii) the centerline alignment is available to the land use authority:~~]

[~~(A) from information provided by the canal company under Section 17-27a-211 using mapping-grade global positioning satellite units or digitized data from the most recent aerial photo available to the canal owner or canal operator;~~]

[~~(B) using the state engineer's inventory of canals under Section 73-5-7; or~~]

[~~(C) from information provided by a surveyor under Subsection (5)(c).~~]

(f) A facility owner's failure to provide comments to a county in accordance with Subsection (3)(d)(ii) does not affect or impair the county's authority to approve the subdivision plat.

[~~(3)~~] (4) The county may withhold an otherwise valid plat approval until the owner of the land provides the legislative body with a tax clearance indicating that all taxes, interest, and penalties owing on the land have been paid.

[~~(4)~~] (5) (a) Within 30 days after approving a final plat under this section, a county shall submit to the Automated Geographic Reference Center, created in Section 63F-1-506, for inclusion in the unified statewide 911 emergency service database described in Subsection 63H-7a-304(4)(b):

(i) an electronic copy of the approved final plat; or

(ii) preliminary geospatial data that depict any new streets and situs addresses proposed for construction within the bounds of the approved plat.

(b) If requested by the Automated Geographic Reference Center, a county that approves a final plat under this section shall:

(i) coordinate with the Automated Geographic Reference Center to validate the information described in Subsection [~~(4)~~] (5)(a); and

(ii) assist the Automated Geographic Reference Center in creating electronic files that contain the information described in Subsection [~~(4)~~] (5)(a) for inclusion in the unified statewide 911 emergency service database.

[~~(5)~~] (6) (a) A county recorder may not record a plat unless, subject to Subsection 17-27a-604(1):

(i) prior to recordation, the county has approved and signed the plat;

(ii) each owner of record of land described on the plat has signed the owner's dedication as shown on the plat; and

(iii) the signature of each owner described in Subsection [~~(5)~~] (6)(a)(ii) is acknowledged as provided by law.

(b) The surveyor making the plat shall certify that the surveyor:

(i) holds a license in accordance with Title 58, Chapter 22, Professional Engineers and Professional Land Surveyors Licensing Act;

(ii) has completed a survey of the property described on the plat in accordance with Section 17-23-17 and has verified all measurements; and

(iii) has placed monuments as represented on the plat.

(c) (i) To the extent possible, the surveyor shall consult with the owner or operator, or a representative designated by the owner or operator, of an existing [~~or proposed~~] water conveyance facility located within the proposed subdivision, or an existing or proposed underground facility or utility facility located within the proposed subdivision, [~~or a representative designated by the owner or operator,~~] to verify the accuracy of the surveyor's depiction of the:

(A) boundary, course, dimensions, and intended use of the public rights-of-way, a public or private easement, or grants of record;

(B) location of [~~an~~] the existing water conveyance facility, or the existing or proposed underground facility [~~and~~] or utility facility; and

(C) physical restrictions governing the location of the existing or proposed underground facility [~~and~~] or utility facility [~~within the subdivision~~].

(ii) The cooperation of an owner or operator of a water conveyance facility, underground facility, or utility facility under Subsection [~~(5)~~] (6)(c)(i):

(A) indicates only that the plat approximates the location of the existing [~~underground and utility~~] facilities but does not warrant or verify their precise location; and

(B) does not affect a right that the owner or operator has under Title 54, Chapter 8a, Damage to Underground Utility Facilities, a recorded easement or right-of-way, the law applicable to prescriptive rights, or any other provision of law.

[~~(6)~~] (7) (a) Except as provided in Subsection [~~(5)~~] (6)(c), after the plat has been acknowledged, certified, and approved, the [~~individual~~] owner of the land seeking to record the plat shall, within the time period and manner designated by ordinance, record the plat in the county recorder's office in the county in which the lands platted and laid out are situated.

(b) A failure to record a plat within the time period designated by ordinance renders the plat voidable by the [~~land use authority~~] county.

Section 4. Section 17-27a-604 is amended to read:

17-27a-604. Subdivision plat approval procedure -- Effect of not complying.

(1) A person may not submit a subdivision plat to the county recorder's office for recording unless:

(a) the person has complied with the requirements of Subsection 17-27a-603[~~(5)~~](6)(a);

(b) the plat has been approved by:

(i) the land use authority of the:

(A) county in whose unincorporated area the land described in the plat is located; or

(B) mountainous planning district in whose area the land described in the plat is located; and

(ii) other officers that the county designates in its ordinance;

(c) all approvals described in Subsection (1)(b) are entered in writing on the plat by designated officers; and

(d) if the person submitting the plat intends the plat to be or if the plat is part of a community association subject to Title 57, Chapter 8a, Community Association Act, the plat includes language conveying to the association, as that term is defined in Section 57-8a-102, all common areas, as that term is defined in Section 57-8a-102.

(2) An owner of a platted lot is the owner of record sufficient to re-subdivide the lot if the owner's platted lot is not part of a community association subject to Title 57, Chapter 8a, Community Association Act.

(3) A plat recorded without the signatures required under this section is void.

(4) A transfer of land pursuant to a void plat is voidable by the land use authority.

CHAPTER 48
H. B. 108
Passed February 19, 2021
Approved March 11, 2021
Effective May 5, 2021

VITAL RECORDS AMENDMENTS

Chief Sponsor: Stephen G. Handy
Senate Sponsor: Todd D. Weiler

LONG TITLE

General Description:

This bill addresses the classification of certain documents as vital records.

Highlighted Provisions:

This bill:

- clarifies that a marriage license and a certificate of the individual officiating at the marriage are vital records; and
- permits inspection of a marriage license and a certificate of the individual officiating at the marriage only under certain circumstances.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

30-1-12, as last amended by Laws of Utah 2019, Chapter 317

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

Section 1. Section 30-1-12 is amended to read:

30-1-12. Clerk to file license and certificate -- Designation as vital record.

(1) The license, together with the certificate of the individual officiating at the marriage, shall be filed and preserved by the clerk, and shall be recorded by the clerk in a book kept for that purpose, or by electronic means. The record shall be properly indexed in the names of the parties so married.

(2) A transcript shall be promptly certified and transmitted by the clerk to the state registrar of vital statistics.

(3) The license and the certificate of the individual officiating at the marriage are vital records as defined in Section 26-2-2 and are subject to the inspection requirements described in Section 26-2-22.

CHAPTER 49
H. B. 110
Passed February 12, 2021
Approved March 11, 2021
Effective May 5, 2021

HEALTH CARE PAYMENT AMENDMENTS

Chief Sponsor: Mike Winder
Senate Sponsor: Luz Escamilla

LONG TITLE

General Description:

This bill amends the Accounts Receivable Collection part.

Highlighted Provisions:

This bill:

- provides that a governmental entity within the state that is a health care provider may not collect an overdue payment for a medical material or service from the debtor's income tax overpayment or refund if the debtor:
  - has made payment arrangements; and
  - is current on payments under the payment arrangements.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63A-3-302, as last amended by Laws of Utah 2020, Chapter 297

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

Section 1. Section 63A-3-302 is amended to read:

63A-3-302. Unpaid accounts receivable -- Political subdivision agreement with local agency.

(1) (a) ~~[If]~~ Except as provided in Subsection (1)(b), if any account receivable at any point has been unpaid for 90 days or more, any agency or other authority of the state, or any political subdivision responsible for collection of the account may proceed under this part to collect the delinquent amount.

(b) A governmental entity within the state that is a health care provider may not proceed under this part when the account receivable is for a medical material or service and the debtor:

(i) has made a payment arrangement with the health care provider; and

(ii) is current on payments under the payment arrangement.

(2) (a) A political subdivision may enter into an agreement with a local agency under which the local agency, for a reasonable fee that the political subdivision and local agency agree upon, prepares and submits the political subdivision's accounts receivable for collection as provided in this part.

(b) Notwithstanding an agreement under Subsection (2)(a), a participating political subdivision shall:

(i) establish an agreement with the division for submitting delinquent accounts receivable under this part; and

(ii) with respect to the accounts receivable that the participating political subdivision submits through a local agency for collection under this part:

(A) receive and respond to an administrative hearing requested under Section 63A-3-305; and

(B) administer an adjudicative proceeding required under Section 63A-3-306.

CHAPTER 50
H. B. 118
Passed February 19, 2021
Approved March 11, 2021
Effective May 5, 2021

CHILDREN'S HEARING AID PROGRAM AMENDMENTS

Chief Sponsor: Rex P. Shipp
Senate Sponsor: Luz Escamilla
Cosponsors: Travis M. Seegmiller
Norman K. Thurston

LONG TITLE

General Description:

This bill amends provisions relating to the Children's Hearing Aid Program.

Highlighted Provisions:

This bill:

- requires the Department of Health to keep a record of the cost of providing a hearing aid to each child under the Children's Hearing Aid Program;
- requires the department to send a letter to a family that participates in the Children's Hearing Aid Program informing the family of how it may donate to the program; and
- repeals a reporting requirement and sunset date.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

26-10-11, as last amended by Laws of Utah 2019, Chapter 349
63I-1-226, as last amended by Laws of Utah 2020, Chapters 19, 154, 172, 181, 221, 232, 303, 347, and 429

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

Section 1. Section 26-10-11 is amended to read:

26-10-11. Children's Hearing Aid Program -- Advisory Committee -- Restricted Account -- Rulemaking.

(1) The department shall offer a program to provide hearing aids to children who qualify under this section.

(2) The department shall provide hearing aids to a child who:

(a) is younger than six years old;

(b) is a resident of Utah;

(c) has been diagnosed with hearing loss by:

(i) an audiologist with pediatric expertise; and

(ii) a physician or physician assistant;

(d) provides documentation from an audiologist with pediatric expertise certifying that the child needs hearing aids;

(e) has obtained medical clearance by a medical provider for hearing aid fitting;

(f) does not qualify to receive a contribution that equals the full cost of a hearing aid from the state's Medicaid program or the Utah Children's Health Insurance Program; and

(g) meets the financial need qualification criteria established by the department by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for participation in the program.

(3) (a) There is established the Children's Hearing Aid Advisory Committee.

(b) The committee shall be composed of five members appointed by the executive director, and shall include:

(i) one audiologist with pediatric expertise;

(ii) one speech language pathologist;

(iii) one teacher, certified under Title 53E, Public Education System -- State Administration, as a teacher of the deaf or a listening and spoken language therapist;

(iv) one ear, nose, and throat specialist; and

(v) one parent whose child:

(A) is six years old or older; and

(B) has hearing loss.

(c) A majority of the members constitutes a quorum.

(d) A vote of the majority of the members, with a quorum present, constitutes an action of the committee.

(e) The committee shall elect a chair from its members.

(f) The committee shall:

(i) meet at least quarterly;

(ii) recommend to the department medical criteria and procedures for selecting children who may qualify for assistance from the account; and

(iii) review rules developed by the department.

(g) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with Sections 63A-3-106 and 63A-3-107 and rules made by the Division of Finance, pursuant to Sections 63A-3-106 and 63A-3-107.

(h) The department shall provide staff to the committee.

(4) (a) There is created within the General Fund a restricted account known as the "Children's Hearing Aid Program Restricted Account."

(b) The Children's Hearing Aid Program Restricted Account shall consist of:

(i) amounts appropriated to the account by the Legislature; and

(ii) gifts, grants, devises, donations, and bequests of real property, personal property, or services, from any source, or any other conveyance that may be made to the account from private sources.

(c) Upon appropriation, all actual and necessary operating expenses for the committee described in Subsection (3) shall be paid by the account.

(d) Upon appropriation, no more than 9% of the account money may be used for the department's expenses.

(e) If this account is repealed in accordance with Section 63I-1-226, any remaining assets in the account shall be deposited into the General Fund.

(5) (a) For each child who receives a hearing aid under Subsection (2), the department shall maintain a record of the cost of providing services to the child under this section.

(b) No more than six months after services are provided to a child under this section, the department shall send a letter to the family of the child who received services that includes information regarding:

(i) the total amount paid by the department to provide services to the child under this section; and

(ii) the process by which the family may donate all or part of the amount paid to provide services to the child to fund the Children's Hearing Aid Program.

(c) All donations made under Subsection (6)(c) shall be deposited into the Children's Hearing Aid Program Restricted Account created in Subsection (4)(a).

[~~(5)~~] (6) The department shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish procedures for:

(a) identifying the children who are financially eligible to receive services under the program; [~~and~~]

(b) reviewing and paying for services provided to a child under the program[~~.~~]; and

(c) an individual to donate to the program all or part of the cost of providing services to a child under this section, without regard to whether the donation is made in response to the letter described in Subsection (5)(b).

[~~(6) The department shall, before December 1 of each year, submit a report to the Health and Human Services Interim Committee that describes the operation and accomplishments of the program.~~]

Section 2. Section 63I-1-226 is amended to read:

63I-1-226. Repeal dates, Title 26.

(1) Subsection 26-1-7(1)(f), related to the Residential Child Care Licensing Advisory Committee, is repealed July 1, 2024.

(2) Subsection 26-1-7(1)(h), related to the Primary Care Grant Committee, is repealed July 1, 2025.

(3) Section 26-1-7.5, which creates the Utah Health Advisory Council, is repealed July 1, 2025.

(4) Section 26-1-40 is repealed July 1, 2022.

(5) Section 26-1-41 is repealed July 1, 2026.

(6) Section 26-7-10 is repealed July 1, 2025.

(7) Subsection 26-7-11(5), regarding reports to the Legislature, is repealed July 1, 2028.

(8) Section 26-7-14 is repealed December 31, 2027.

(9) Title 26, Chapter 9f, Utah Digital Health Service Commission Act, is repealed July 1, 2025.

(10) Subsection 26-10-6(5), which creates the Newborn Hearing Screening Committee, is repealed July 1, 2026.

[~~(11) Section 26-10-11 is repealed July 1, 2025.~~]

[~~(12)~~] (11) Section 26-10b-106, which creates the Primary Care Grant Committee, is repealed July 1, 2025.

[~~(13)~~] (12) Title 26, Chapter 18, Part 2, Drug Utilization Review Board, is repealed July 1, 2027.

[~~(14) Subsection 26-18-417(3) relating to a report to the Health and Human services Interim Committee is repealed July 1, 2020.~~]

[~~(15)~~] (13) Subsection 26-18-418(2), the language that states "and the Behavioral Health Crisis Response Commission created in Section 63C-18-202" is repealed July 1, 2023.

[~~(16)~~] (14) Title 26, Chapter 18a, Kurt Oscarson Children's Organ Transplant Coordinating Committee, is repealed July 1, 2021.

[~~(17)~~] (15) Section 26-33a-117 is repealed on December 31, 2023.

[~~(18)~~] (16) Title 26, Chapter 33a, Utah Health Data Authority Act, is repealed July 1, 2024.

[~~(19)~~] (17) Title 26, Chapter 36b, Inpatient Hospital Assessment Act, is repealed July 1, 2024.

[~~(20)~~] (18) Title 26, Chapter 36c, Medicaid Expansion Hospital Assessment Act, is repealed July 1, 2024.

[~~(21)~~] (19) Title 26, Chapter 36d, Hospital Provider Assessment Act, is repealed July 1, 2024.

[~~(22)~~] (20) Section 26-39-201, which creates the Residential Child Care Licensing Advisory Committee, is repealed July 1, 2024.

[~~(23)~~] (21) Section 26-40-104, which creates the Utah Children's Health Insurance Program Advisory Council, is repealed July 1, 2025.

[~~(24)~~] (22) Section 26-50-202, which creates the Traumatic Brain Injury Advisory Committee, is repealed July 1, 2025.

[~~(25)~~] (23) Title 26, Chapter 54, Spinal Cord and Brain Injury Rehabilitation Fund and Pediatric

Neuro-Rehabilitation Fund, is repealed January 1, 2025.

[~~(26)~~] (24) Title 26, Chapter 63, Nurse Home Visiting Pay-for-Success Program, is repealed July 1, 2026.

[~~(27)~~] (25) Title 26, Chapter 66, Early Childhood Utah Advisory Council, is repealed July 1, 2026.

CHAPTER 51
H. B. 121
Passed February 12, 2021
Approved March 11, 2021
Effective May 5, 2021

LOCAL DISTRICT AMENDMENTS

Chief Sponsor: Stephen G. Handy
Senate Sponsor: Derrin R. Owens

LONG TITLE

General Description:

This bill amends Title 17B, Limited Purpose Local Government Entities – Local Districts.

Highlighted Provisions:

This bill:

- modifies provisions related to the prohibition against local district employment of a board of trustees member.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

17B-1-311, as last amended by Laws of Utah 2019, Chapter 479

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

Section 1. Section 17B-1-311 is amended to read:

17B-1-311. Board member prohibited from district employment -- Exception.

(1) No elected or appointed member of the board of trustees of a local district may, while serving on the board, be employed by the district, whether as an employee or under a contract.

(2) No person employed by a local district, whether as an employee or under a contract, may serve on the board of that local district.

(3) A local district is not in violation of a prohibition described in Subsection (1) or (2) if the local district:

(a) treats a member of a board of trustees as an employee for income tax purposes; and

(b) complies with the compensation limits of Section 17B-1-307 for purposes of that member.

(4) This section does not apply to a local district if:

(a) fewer than 3,000 people in the state live within 40 miles of the local district's boundaries or primary place of employment, measured over all weather public roads; and

(b) with respect to the employment of a board of trustees member under Subsection (1):

(i) the job opening has had reasonable public notice; and

(ii) the person employed is the best qualified candidate for the position.

(5) This section does not apply to a board of trustees of a large public transit district as described in Chapter 2a, Part 8, Public Transit District Act.

CHAPTER 52
H. B. 128
Passed February 12, 2021
Approved March 11, 2021
Effective May 5, 2021

LOCAL ACCUMULATED FUND BALANCE AMENDMENTS

Chief Sponsor: Mike Winder
Senate Sponsor: Wayne A. Harper

LONG TITLE

General Description:

This bill amends provisions related to local accumulated fund balances.

Highlighted Provisions:

This bill:

- increases the maximum accumulated fund balance allowed in a political subdivision's general fund.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

10-5-113, as last amended by Laws of Utah 2014, Chapter 176
10-6-116, as last amended by Laws of Utah 2014, Chapter 176
11-13-512, as enacted by Laws of Utah 2015, Chapter 265
17-36-16, as last amended by Laws of Utah 2014, Chapter 176

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

Section 1. Section 10-5-113 is amended to read:

10-5-113. Accumulation of retained earnings or fund balance -- Limit as to general fund -- Reserve for capital improvements.

(1) A town may accumulate retained earnings or fund balances, as appropriate, in any fund.

(2) The accumulation of a fund balance in the town general fund may not exceed [~~75%~~] 100% of the total revenue of the town general fund for the current fiscal period.

(3) (a) The town council may, in a budget year, appropriate from estimated revenue or excess fund balance in the town general fund to a reserve for capital improvements:

(i) for the purpose of financing future specified capital improvements; and

(ii) in accordance with a formal long-range capital plan adopted by the governing body.

(b) The reserves described in Subsection (3)(a) may accumulate from year to year in a capital improvements fund until the accumulated total is sufficient to permit economical expenditure for the specified purposes.

Section 2. Section 10-6-116 is amended to read:

10-6-116. Accumulated fund balances -- Limitations -- Excess balances -- Unanticipated excess of revenues -- Reserves for capital improvements.

(1) (a) A city may accumulate retained earnings or fund balances, as appropriate, in any fund. With respect to the city general fund only, any accumulated fund balance is restricted to the following purposes:

(i) to provide working capital to finance expenditures from the beginning of the budget period until general property taxes, sales taxes, or other applicable revenues are collected, thereby reducing the amount the city must borrow during the period;

(ii) to provide a resource to meet emergency expenditures under Section 10-6-129; and

(iii) to cover a pending year-end excess of expenditures over revenues from an unavoidable shortfall in revenues.

(b) Notwithstanding Subsection (1)(a)(i), a city may not appropriate a fund balance for budgeting purposes except as provided in Subsection (4).

(c) Notwithstanding Subsection (1)(a)(iii), a city may not appropriate a fund balance to avoid an operating deficit during any budget period except as provided under Subsection (4), or for emergency purposes under Section 10-6-129.

(2) The accumulation of a fund balance in the city general fund may not exceed [~~25%~~] 35% of the total revenue of the city general fund for the current fiscal period.

(3) If the fund balance at the close of any fiscal period exceeds the amount permitted under Subsection (2), the excess shall be appropriated in the manner provided in Section 10-6-117.

(4) Any fund balance in excess of 5% of the total revenues of the city general fund may be utilized for budget purposes.

(5) (a) Within a capital improvements fund, the governing body may, in any budget period, appropriate from estimated revenue or fund balance to a reserve for capital improvements for the purpose of financing future specific capital improvements, under a formal long-range capital plan adopted by the governing body.

(b) The reserves described in Subsection (5)(a) may accumulate from fiscal period to fiscal period until the accumulated total is sufficient to permit economical expenditure for the specified purposes.

(c) Disbursements from reserves described in Subsection (5)(a) shall be made only by transfer to a revenue or transfer account within the capital improvements fund, under a budget appropriation in a budget for the fund adopted in the manner provided by this chapter.

(d) Expenditures from the above appropriation budget accounts shall conform to all requirements of this chapter relating to execution and control of budgets.

Section 3. Section 11-13-512 is amended to read:

11-13-512. Accumulated fund balances -- Limitations -- Excess balances -- Unanticipated excess of revenues -- Reserves for capital projects.

(1) (a) An interlocal entity may accumulate retained earnings or fund balances, as appropriate, in any fund.

(b) For the interlocal entity general fund only, an accumulated fund balance at the end of a budget year may be used only:

(i) to provide working capital to finance expenditures from the beginning of the budget year until general property taxes or other applicable revenues are collected, subject to Subsection (1)(c);

(ii) to provide a resource to meet emergency expenditures under Section 11-13-521; or

(iii) to cover a pending year-end excess of expenditures over revenues from an unavoidable shortfall in revenues, subject to Subsection (1)(d).

(c) Subsection (1)(b)(i) may not be construed to authorize an interlocal entity to appropriate a fund balance for budgeting purposes, except as provided in Subsection (4).

(d) Subsection (1)(b)(iii) may not be construed to authorize an interlocal entity to appropriate a fund balance to avoid an operating deficit during a budget year except:

(i) as provided under Subsection (4); or

(ii) for emergency purposes under Section 11-13-521.

(2) The accumulation of a fund balance in the interlocal entity general fund may not exceed the greater of:

(a) 100% of the current year's property tax collected by the interlocal entity; or

(b) (i) [~~25%~~] 35% of the total interlocal entity general fund revenues for an interlocal entity with an annual interlocal entity general fund budget greater than $100,000; or

(ii) [~~50%~~] 65% of the total interlocal entity general fund revenues for an interlocal entity with an annual interlocal entity general fund budget equal to or less than $100,000.

(3) If the interlocal entity general fund balance at the close of a fiscal year exceeds the amount permitted under Subsection (2), the interlocal entity shall appropriate the excess in the manner provided in Section 11-13-513.

(4) Any interlocal entity general fund balance in excess of 5% of the total revenues of the interlocal entity general fund may be utilized for budget purposes.

(5) (a) Within a capital projects fund the governing board may, in a budget year, appropriate from estimated revenue or a fund balance to a reserve account for capital projects for the purpose of financing future specific capital projects, including new construction, capital repairs, replacement, and maintenance, under a formal long-range capital plan adopted by the governing board.

(b) An interlocal entity may allow a reserve amount under Subsection (5)(a) to accumulate from year to year until the accumulated total is sufficient to permit economical expenditure for the specified purposes.

(c) An interlocal entity may disburse from a reserve account under Subsection (5)(a) only by a budget appropriation adopted in the manner provided by this part.

(d) Expenditures from a reserve account described in Subsection (5)(a) shall conform to all requirements of this part relating to execution and control of budgets.

Section 4. Section 17-36-16 is amended to read:

17-36-16. Retained earnings -- Accumulation -- Restrictions -- Disbursements.

(1) (a) A county may accumulate retained earnings in any enterprise or internal service fund or a fund balance in any other fund.

(b) Notwithstanding Subsection (1)(a), use of the county general fund shall be restricted to the following purposes:

(i) to provide cash to finance expenditures from the beginning of the budget period until general property taxes, sales taxes, or other revenues are collected;

(ii) to provide a fund or reserve to meet emergency expenditures; and

(iii) to cover unanticipated deficits for future years.

(2) (a) The maximum accumulated unappropriated surplus in the county general fund, as determined prior to adoption of the tentative budget, may not exceed an amount equal to the greater of:

(i) (A) for a county with a taxable value of $750,000,000 or more and a population of 100,000 or more, [~~20%~~] 25% of the total revenues of the county general fund for the current fiscal period; or

(B) for any other county, [~~50%~~] 65% of the total revenues of the county general fund for the current fiscal period; and

(ii) the estimated total revenues from property taxes for the current fiscal period.

(b) Any surplus balance in excess of the above computed maximum shall be included in the

estimated revenues of the county general fund budget for the next fiscal period.

(3) Any fund balance exceeding 5% of the total county general fund revenues may be used for budgetary purposes.

(4) (a) A county may appropriate funds from estimated revenue in any budget period to a reserve for capital improvements within any capital improvements fund which has been duly established by ordinance or resolution.

(b) Money in the reserves shall be allowed to accumulate from fiscal period to fiscal period until the accumulated total is sufficient to permit economical expenditure for the specified purposes.

(c) Disbursements from the reserves shall be made only by transfer to a revenue account within a capital improvements fund pursuant to an appropriation for the fund.

(d) Expenditures from the capital improvement budget accounts shall conform to all requirements of this act as it relates to the execution and control of budgets.

CHAPTER 53
H. B. 139
Passed February 17, 2021
Approved March 11, 2021
Effective May 5, 2021

GOVERNMENT EMPLOYEE AMENDMENTS

Chief Sponsor: Norman K. Thurston
Senate Sponsor: Daniel W. Thatcher
Cosponsor: Travis M. Seegmiller

LONG TITLE

General Description:

This bill amends provisions related to certain municipal employees and to hiring principles for certain state government employees.

Highlighted Provisions:

This bill:

- clarifies which municipal employees are subject to certain conditions of employment;
- precludes the Department of Human Resource Management from requiring a minimum educational requirement for employment, except where educational qualifications are legally required to perform the duties of the position;
- requires the Department of Human Resource Management to:
  - consider comparable experience or ability as equal to education when determining a candidate's satisfaction of minimum qualifications, with specific exceptions;
  - ensure that job descriptions and job postings are based on the skills and competencies required to perform each job; and
  - create supporting materials that may be used by a political subdivision that chooses to implement competency-based hiring principles; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

10-3-1105, as last amended by Laws of Utah 2012, Chapter 321
67-19-3.1, as last amended by Laws of Utah 2010, Chapter 249

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

Section 1. Section 10-3-1105 is amended to read:

10-3-1105. Municipal employees -- Duration and termination of employment -- Exceptions.

(1) (a) Except as provided in Subsection (1)(b) or (2), each employee of a municipality shall hold employment without limitation of time, being subject to discharge, suspension of over two days without pay, or involuntary transfer to a position with less remuneration only as provided in Section 10-3-1106.

(b) Subsection (1)(a) does not apply to an employee who is discharged or involuntarily transferred to a position with less remuneration if the discharge or involuntary transfer is the result of a layoff or reorganization.

(2) Subsection (1)(a) does not apply to:

(a) subject to Subsection (3), a person appointed by the mayor, city manager, or other person or body with the power to appoint in the municipality if:

(i) the appointment is made in writing;

(ii) the person's written job description identifies the person's position as exempt from the protections described in Subsection (1)(a); and

(iii) the position is described in an ordinance as exempt from the protections described in Subsection (1)(a);

(b) a member of the municipality's police department or fire department who is a member of the classified civil service in a first or second class city;

(c) a person who holds a position described in Subsections (2)(c)(i) through (xii) or an equivalent position designated in a municipal ordinance or personnel policy:

(i) a police chief of the municipality;

(ii) a deputy or assistant police chief of the municipality;

(iii) a fire chief of the municipality;

(iv) a deputy or assistant fire chief of the municipality;

(v) a head of a municipal department or division;

(vi) a deputy [~~of a~~] head of a municipal department or division;

(vii) a superintendent;

(viii) a probationary employee of the municipality;

(ix) a part-time employee of the municipality, including paid call firefighters;

(x) a seasonal or temporary employee of the municipality;

(xi) a person who works in the office of an elected official; or

(xii) a secretarial or administrative assistant support position that is specifically designated as a position to assist an elected official or the head or deputy head of a municipal department;

(d) an individual appointed to a position under Part 9, Appointed Officials and Their Duties, including:

(i) the city engineer;

(ii) the city recorder;

(iii) the city treasurer; or

(iv) the city attorney; or

(e) an employee who has:

(i) acknowledged in writing that the employee's employment status is appointed or at-will; or

(ii) voluntarily waived the procedures required by Section 10-3-1106.

(3) In addition to the persons described in Subsections (2)(b) through (e), a municipality may appoint up to 5% of the municipality's workforce in accordance with Subsection (2)(a).

(4) Nothing in this section or Section 10-3-1106 may be construed to limit a municipality's ability to define cause for an employee termination or reduction in force.

Section 2. Section 67-19-3.1 is amended to read:

67-19-3.1. Principles guiding interpretation of chapter and adoption of rules -- Merit principles.

(1) The department shall establish a career service system designed in a manner that will provide for the effective implementation of the following merit principles:

(a) recruiting, selecting, and advancing employees on the basis of their relative ability, knowledge, and skills, including open consideration of qualified applicants for initial appointment;

(b) providing for equitable and competitive compensation;

(c) training employees as needed to assure high-quality performance;

(d) retaining employees on the basis of the adequacy of their performance and separating employees whose inadequate performance cannot be corrected;

(e) fair treatment of applicants and employees in all aspects of human resource administration without regard to race, color, religion, sex, national origin, political affiliation, age, or disability, and with proper regard for their privacy and constitutional rights as citizens;

(f) providing information to employees regarding their political rights and the prohibited practices under the Hatch Act; and

(g) providing a formal procedure for advancing grievances of employees:

(i) without discrimination, coercion, restraint, or reprisal; and

(ii) in a manner that is fair, expeditious, and inexpensive for the employee and the agency.

(2) The career service system described in Subsection (1) may not prescribe a minimum educational requirement for employment, except when a minimum educational qualification is legally required to perform the duties of the position.

(3) As part of the career service system described in Subsection (1), the department shall:

(a) consider comparable experience or ability as equal to education in determining a candidate's satisfaction of minimum qualifications, except when a minimum educational qualification is legally required to perform the duties of the position; and

(b) ensure that position descriptions and job postings published by agencies for career service positions are based on the specific skills and competencies required to perform those jobs.

(4) Within existing resources, the department shall create supporting materials that may be used by a political subdivision that chooses to implement competency-based hiring principles that are the same as or similar to those principles described in Subsections (2) and (3).

[~~(2)~~] (5) The principles in [~~Subsection~~] Subsections (1) through (3) shall govern interpretation and implementation of this chapter.

CHAPTER 54
H. B. 141
Passed February 12, 2021
Approved March 11, 2021
Effective May 5, 2021

MUNICIPAL SERVICES AMENDMENTS

Chief Sponsor: Walt Brooks
Senate Sponsor: Ronald M. Winterton

LONG TITLE

General Description:

This bill amends provisions related to municipal electric service.

Highlighted Provisions:

This bill:

- modifies requirements for a municipality to furnish municipal electric service in an area being annexed by the municipality.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

10-2-421, as last amended by Laws of Utah 2020, Chapter 208

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

Section 1. Section 10-2-421 is amended to read:

10-2-421. Electric utility service in annexed area -- Reimbursement for value of facilities -- Liability -- Arbitration.

(1) As used in this section:

(a) "Commission" means the Public Service Commission established in Section 54-1-1.

(b) "Current replacement cost" means the cost the transferring party would incur to construct the facility at the time of transfer using the transferring party's:

(i) standard estimating rates and standard construction methodologies for the facility; and

(ii) standard estimating process.

(c) "Depreciation" means an amount calculated:

(i) based on:

(A) the life and depreciation mortality curve most recently set for the type of facility in the depreciation rates set by the commission or other governing regulatory authority for the electrical corporation; or

(B) a straight-line depreciation rate that represents the expended life if agreed to by the transferring and receiving parties; and

(ii) to include the gross salvage value of the type of facility based on the latest depreciation life approved by the commission or other governing regulatory authority for the electrical corporation, with a floor at the gross salvage value of the asset and in no case less than zero.

(d) "Electrical corporation" means:

(i) an entity as defined in Section 54-2-1; [~~and~~] or

(ii) an improvement district system described in Subsection 17B-2a-403(1)(a)(iv).

(e) "Facility" means electric equipment or infrastructure used to serve an electric customer, above ground or underground, including:

(i) a power line, transformer, switch gear, pole, wire, guy anchor, conductor, cable, or other related equipment; or

(ii) a right-of-way, easement, or any other real property interest or legal right or interest used to operate and maintain the electric equipment or infrastructure.

(f) "Facility transfer" means the transfer of a facility from a transferring party to a receiving party in accordance with Subsection (3).

(g) "Lost or stranded facility" means a facility that is currently used by a transferring party that will no longer be used, whether in whole or in part, as a result of a facility transfer.

(h) "Receiving party" means a municipality or electrical corporation to whom a facility is transferred.

(i) "Transferring party" means a municipality or electrical corporation that transfers a facility.

(2) (a) If an electric customer in an area being annexed by a municipality receives electric service from an electrical corporation that is not an improvement district system described in Subsection 17B-2a-403(1)(a)(iv), the municipality may not, without the agreement of the electrical corporation, furnish municipal electric service to [~~the~~] any electric customer in the annexed area until the municipality has reimbursed the electrical corporation for the value of each facility used to serve [~~each~~] any electric customer within the annexed area, including the value of any facility owned by a wholesale electric cooperative affiliated with the electrical corporation, dedicated to provide service to the annexed area.

(b) If an electric customer in an area being annexed by a municipality receives electric service from an electrical corporation that is an improvement district system described in Subsection 17B-2a-403(1)(a)(iv), the municipality may not, without the agreement of the electrical corporation, furnish municipal electric service to the electric customer until the municipality has reimbursed the electric corporation for the value of the facility used to serve the electric customer within the annexed area.

(3) The following procedures shall apply if a municipality transfers a facility to an electrical corporation in accordance with Section 10-8-14 or if an electrical corporation transfers a facility to a municipality in accordance with Subsection (2), Section 54-3-30, or 54-3-31:

(a) The transferring party shall provide a written estimate of the transferring party's cost of preparing the inventory required in Subsection (3)(c) to the receiving party no later than 60 days after the date of notice from the receiving party.

(b) (i) The receiving party shall pay the estimated cost of preparing the inventory to the transferring party no later than 60 days after the day that the receiving party receives the written estimate.

(ii) If the actual cost of preparing the inventory differs from the estimated cost, the transferring party shall include the difference between the actual cost and the estimated cost in the reimbursement described in Subsection (5).

(c) Except as provided in Subsection (3)(f), the transferring party shall prepare, in accordance with Subsection (4), and deliver the inventory to the receiving party no later than 180 days after the day that the transferring party receives the payment specified in Subsection (3)(b).

(d) (i) At any time, the parties may by agreement correct or update the inventory.

(ii) If the parties are unable to reach an agreement on an updated inventory, they shall:

(A) proceed with the facility transfer and reimbursement based on the inventory as submitted in accordance with Subsection (3)(c); and

(B) resolve their dispute as provided in Subsection (6).

(e) Except as provided in Subsection (3)(f), the parties shall complete each facility transfer and reimbursement contemplated by this Subsection (3) no later than 180 days after the date that the transferring party delivers the inventory to the receiving party in accordance with Subsection (3)(c).

(f) The periods specified in Subsections (3)(c) and (e) may be extended for up to an additional 90 days by agreement of the parties.

(4) (a) The inventory prepared by a transferring party in accordance with Subsection (3)(c) shall include an identification of each facility to be transferred and the amount of reimbursement as provided in Subsection (5).

(b) The transferring party may not include in the inventory a facility that the transferring party removed from service for at least 36 consecutive months prior to the date of the inventory, unless the facility was taken out of service as a result of an action by the receiving party.

(5) (a) Unless otherwise agreed by the parties, the reimbursement for the transfer of each facility shall include:

(i) the cost of preparing the inventory as provided in Subsection (3)(b);

(ii) subject to Subsection (5)(b)(i), the value of each transferred facility calculated by the current replacement cost of the facility less depreciation based on facility age;

(iii) the cost incurred by the transferring party for:

(A) the physical separation of each facility from its system, including the cost of any facility constructed or installed that is necessary for the transferring party to continue to provide reliable electric service to its remaining customers;

(B) administrative, engineering, and record keeping expenses incurred by the transferring party for the transfer of each facility to the receiving party, including any difference between the actual cost of preparing the inventory and the estimated cost of preparing the inventory; and

(C) reimbursement for any tax consequences to the transferring party resulting from each facility transfer;

(iv) the value of each lost or stranded facility of the transferring party based on the valuation formula described in Subsection (5)(a)(ii) or as otherwise agreed by the parties;

(v) the diminished value of each transferring party facility that will not be transferred based on the percentage of the facility that will no longer be used as a result of the facility transfer; and

(vi) the transferring party's book value of a right-of-way or easement transferred with each facility.

(b) (i) (A) The receiving party may review the estimation of the current replacement costs of each facility, including the wage rates, material costs, overhead assumptions, and other pricing used to establish the estimation of the current replacement costs of the facility.

(B) Prior to reviewing the estimation, the receiving party shall enter into a nondisclosure agreement acceptable to the transferring party.

(C) The nondisclosure agreement shall restrict the use of the information provided by the transferring party solely for the purpose of reviewing the estimation of the current replacement cost and preserve the confidentiality of the information to prevent any effect on a competitive bid received by either party.

(ii) (A) If the age of a facility may be readily determined by the transferring party, the transferring party shall use that age to determine the facility's depreciation.

(B) If the age of a facility cannot be readily determined, the transferring party shall estimate the age of the facility based on the average remaining life approved for the same type of facility in the most current depreciation rates set by the commission or other governing regulatory authority for the electrical corporation.

(c) (i) (A) A transferring party that transfers a facility in accordance with this section shall, upon delivery of a document conveying title to the receiving party, transfer the facility without any express or implied warranties.

(B) A receiving party that receives a facility in accordance with this section shall, upon receipt of a

document conveying title, accept the facility in its existing condition and assume any and all liability, fault, risk, or potential loss arising from or related to the facility.

(ii) Notwithstanding Subsection (5)(c)(i), if, within six months after the date that any oil filled equipment is transferred, the receiving party discovers that a transferred oil filled equipment contains polychlorinated biphenyl, the transferring party shall reimburse the receiving party for the cost of testing and disposal of that oil filled equipment.

(6) (a) If the parties cannot agree on each facility to be transferred or the respective reimbursement amount, the parties shall:

(i) proceed with the facility transfer and the reimbursement based on the inventory as submitted by the transferring party in accordance with Subsection (3)(c) and in accordance with the schedule provided in Subsection (3)(e); and

(ii) submit the dispute for mediation or arbitration.

(b) The parties shall share equally in the costs of mediation or arbitration.

(c) If the parties are unable to resolve the dispute through mediation or arbitration, either party may bring an action in the state court of jurisdiction.

(d) The arbitrator, or state court if the parties cannot agree on arbitration, shall determine each facility to be transferred and the amount to be reimbursed in accordance with Subsection (5).

(e) If the arbitrator or state court determines that:

(i) a transferring party transferred a facility that should not have been transferred, the receiving party shall return the facility;

(ii) a party did not transfer a facility that should have been transferred, the party that should have transferred the facility shall transfer the facility to the party to whom the facility should have been transferred;

(iii) the amount reimbursed by the receiving party is insufficient, the receiving party shall pay the difference to the transferring party; or

(iv) the amount reimbursed by the receiving party is more than the amount that should have been reimbursed, the transferring party shall pay the difference to the receiving party.

(7) Unless otherwise agreed upon in writing by the parties:

(a) a party shall transfer a facility to be transferred in accordance with Subsection (6)(e) no later than 60 days after the day that the arbitrator or court issues a determination unless the parties mutually agree to a longer time to complete the transfer; and

(b) a party shall:

(i) pay an amount required to be paid in accordance with Subsection (6)(e) no later than 30 days after the day that the arbitrator or court issues a determination; and

(ii) include interest in the payment at the overall rate of return on the rate base most recently authorized by the commission or other governing regulatory agency for the electrical corporation from the date the reimbursement was originally paid until the difference is paid.

(8) (a) Nothing in this section limits the availability of other damages under law arising by virtue of an agreement between the municipality and the electrical corporation.

(b) Notwithstanding Subsection (8)(a), a party described in this section is not entitled to an award for:

(i) damages that are indirect, incidental, punitive, exemplary, or consequential;

(ii) lost profits; or

(iii) other business interruption damages.

(9) Nothing in this section or Section 10-8-14, 54-3-30, or 54-3-31 applies to a transfer of facilities from an electrical corporation to a municipality in accordance with a decision by a municipality that did not previously provide electric service and seeks to commence providing electric service to a customer currently served by an electrical corporation within the municipal boundary.

(10) The provisions of this section apply to any annexation under this part.

CHAPTER 55
H. B. 147
Passed February 23, 2021
Approved March 11, 2021
Effective May 5, 2021

REVENGE PORN AMENDMENTS

Chief Sponsor: Craig Hall
Senate Sponsor: Todd D. Weiler

LONG TITLE

General Description:

This bill modifies the requirement of proving actual emotional distress or harm for the offense of distribution of intimate images.

Highlighted Provisions:

This bill:

- provides that actual emotional distress or harm to the subject of a distributed intimate image is not an element of the offense in certain circumstances; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

76-5b-203, as last amended by Laws of Utah 2019, Chapter 378

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

Section 1. Section 76-5b-203 is amended to read:

76-5b-203. Distribution of an intimate image -- Penalty.

(1) As used in this section:

(a) "Distribute" means selling, exhibiting, displaying, wholesaling, retailing, providing, giving, granting admission to, providing access to, or otherwise transferring or presenting an image to another individual, with or without consideration.

(b) "Intimate image" means any visual depiction, photograph, film, video, recording, picture, or computer or computer-generated image or picture, whether made or produced by electronic, mechanical, or other means, that depicts:

(i) exposed human male or female genitals or pubic area, with less than an opaque covering;

(ii) a female breast with less than an opaque covering, or any portion of the female breast below the top of the areola; or

(iii) the individual engaged in any sexually explicit conduct.

(c) "Sexually explicit conduct" means actual or simulated:

(i) sexual intercourse, including genital-genital, oral-genital, anal-genital, or oral-anal, whether between persons of the same or opposite sex;

(ii) masturbation;

(iii) bestiality;

(iv) sadistic or masochistic activities;

(v) exhibition of the genitals, pubic region, buttocks, or female breast of any individual;

(vi) visual depiction of nudity or partial nudity;

(vii) fondling or touching of the genitals, pubic region, buttocks, or female breast; or

(viii) explicit representation of the defecation or urination functions.

(d) "Simulated sexually explicit conduct" means a feigned or pretended act of sexually explicit conduct that duplicates, within the perception of an average person, the appearance of an actual act of sexually explicit conduct.

(2) (a) An actor commits the offense of distribution of an intimate [~~images~~] image if:

(i) the actor knowingly or intentionally distributes to [~~any~~] a third party [~~any~~] an intimate image of an individual who is 18 years [~~of age~~] old or older and knows or should know that the distribution would cause a reasonable person to suffer emotional distress or harm[~~, if:~~];

[~~(a)~~] (ii) the actor knows that the [~~depicted~~] individual depicted in the image has not given consent to the actor to distribute the intimate image;

[~~(b)~~] (iii) the intimate image was created by or provided to the actor under circumstances in which the individual depicted in the image has a reasonable expectation of privacy; and

[~~(c)~~] (iv) except as provided in Subsection (2)(b), actual emotional distress or harm is caused to the [~~person~~] individual depicted in the image as a result of the distribution [~~under this section~~].

(b) Subsection (2)(a)(iv) is not an element of the offense described in Subsection (2)(a) if:

(i) the individual depicted in the intimate image was the victim of a crime;

(ii) the intimate image was provided to law enforcement as part of an investigation or prosecution of a crime committed against the victim;

(iii) the intimate image was distributed without a legitimate law enforcement or investigative purpose by an individual who had access to the intimate image due to the individual's association with the investigation or prosecution described in Subsection (2)(b)(ii); and

(iv) the victim is incapacitated or deceased.

(3) This section does not apply to:

(a) (i) lawful practices of law enforcement agencies;

(ii) prosecutorial agency functions;

(iii) the reporting of a criminal offense;

(iv) court proceedings or any other judicial proceeding; or

(v) lawful and generally accepted medical practices and procedures;

(b) an intimate image if the individual portrayed in the image voluntarily allows public exposure of the image;

(c) an intimate image that is portrayed in a lawful commercial setting; or

(d) an intimate image that is related to a matter of public concern or interest.

(4) (a) This section does not apply to an Internet service provider or interactive computer service, as defined in 47 U.S.C. Sec. 230(f)(2), a provider of an electronic communications service as defined in 18 U.S.C. Sec. 2510, a telecommunications service, information service, or mobile service as defined in 47 U.S.C. Sec. 153, including a commercial mobile service as defined in 47 U.S.C. Sec. 332(d), or a cable operator as defined in 47 U.S.C. Sec. 522, if:

(i) the distribution of an intimate image by the Internet service provider occurs only incidentally through the provider's function of:

(A) transmitting or routing data from one person to another person; or

(B) providing a connection between one person and another person;

(ii) the provider does not intentionally aid or abet in the distribution of the intimate image; and

(iii) the provider does not knowingly receive from or through a person who distributes the intimate image a fee greater than the fee generally charged by the provider, as a specific condition for permitting the person to distribute the intimate image.

(b) This section does not apply to a hosting company, as defined in Section 76-10-1230, if:

(i) the distribution of an intimate image by the hosting company occurs only incidentally through the hosting company's function of providing data storage space or data caching to a person;

(ii) the hosting company does not intentionally engage, aid, or abet in the distribution of the intimate image; and

(iii) the hosting company does not knowingly receive from or through a person who distributes the intimate image a fee greater than the fee generally charged by the provider, as a specific condition for permitting the person to distribute, store, or cache the intimate image.

(c) A service provider, as defined in Section 76-10-1230, is not negligent under this section if it complies with Section 76-10-1231.

(5) (a) Distribution of an intimate image is a class A misdemeanor except under Subsection (5)(b).

(b) Distribution of an intimate image is a third degree felony on a second or subsequent conviction for an offense under this section that arises from a separate criminal episode as defined in Section 76-1-401.

CHAPTER 56
H. B. 162
Passed February 25, 2021
Approved March 11, 2021
Effective May 5, 2021

PEACE OFFICER TRAINING AMENDMENTS

Chief Sponsor: Angela Romero
Senate Sponsor: Luz Escamilla

LONG TITLE

General Description:

This bill requires a portion of a peace officer's annual training to include certain subjects.

Highlighted Provisions:

This bill:

- requires a peace officer's annual training to include training on:
  - mental health and other crisis intervention responses;
  - arrest control; and
  - de-escalation training;
- provides that each law enforcement agency or department shall set standards for training to be approved by the director or designee; and
- requires annual reporting of the hours to the division.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53-6-202, as last amended by Laws of Utah 2020, Fifth Special Session, Chapter 6

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

Section 1. Section 53-6-202 is amended to read:

53-6-202. Basic training course -- Completion required -- Annual training -- Prohibition from exercising powers -- Reinstatement.

(1) (a) The director shall:

(i) (A) suggest and prepare subject material; and

(B) schedule instructors for basic training courses; or

(ii) review the material and instructor choices submitted by a certified academy.

(b) The subject material, instructors, and schedules shall be approved or disapproved by a majority vote of the council.

(2) The materials shall be reviewed and approved by the council on or before July 1st of each year and may from time to time be changed or amended by majority vote of the council.

(3) The basic training in a certified academy:

(a) shall be appropriate for the basic training of peace officers in the techniques of law enforcement in the discretion of the director; and

(b) may not include the use of chokeholds, carotid restraints, or any act that impedes the breathing or circulation of blood likely to produce a loss of consciousness, as a valid method of restraint.

(4) (a) All peace officers must satisfactorily complete the basic training course or the waiver process provided for in this chapter as well as annual certified training of not less than 40 hours as the director, with the advice and consent of the council, directs.

(b) A peace officer who fails to satisfactorily complete the annual training shall automatically be prohibited from exercising peace officer powers until any deficiency is made up.

(c) (i) The annual training shall include no less than 16 hours of training focused on mental health and other crisis intervention responses, arrest control, and de-escalation training.

(ii) Standards for the training shall be determined by each law enforcement agency or department and approved by the director or designee.

(iii) Each law enforcement agency or department shall include a breakdown of the 16 hours within the annual audit submitted to the division.

CHAPTER 57
H. B. 166
Passed February 17, 2021
Approved March 11, 2021
Effective May 5, 2021

LIVESTOCK AMENDMENTS

Chief Sponsor: Casey Snider
Senate Sponsor: Scott D. Sandall

LONG TITLE

General Description:

This bill addresses the treatment and theft of livestock, including livestock guardian dogs, and livestock infrastructure.

Highlighted Provisions:

This bill:

- defines terms;
- provides that the Wildlife Board may not issue a reward license, permit, tag, or certificate of registration to a person who assists with prosecution for wanton destruction of livestock or a livestock guardian dog;
- allows a hearing officer to suspend a person's license or permit privileges for licenses and permits issued by the Division of Wildlife Resources if the person engages in certain criminal behavior;
- clarifies the definition of "property" for purposes of criminal offenses committed against animal enterprises;
- criminalizes the wanton destruction of a livestock guardian dog;
- addresses penalty provisions for the offense of wanton destruction of livestock or a livestock guardian dog;
- creates a presumption for ownership of a livestock guardian dog; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

23-14-18, as last amended by Laws of Utah 2009, Chapter 183
23-19-9, as last amended by Laws of Utah 2011, Chapter 297
76-6-110, as enacted by Laws of Utah 2001, Chapter 225
76-6-111, as last amended by Laws of Utah 2017, Chapter 345
76-6-401, as enacted by Laws of Utah 1973, Chapter 196
76-6-402, as last amended by Laws of Utah 1974, Chapter 32
76-6-412, as last amended by Laws of Utah 2019, Chapters 136, 189, and 309
76-9-301, as last amended by Laws of Utah 2015, Chapter 329

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

Section 1. Section 23-14-18 is amended to read:

23-14-18. Establishment of seasons, locations, limits, and regulations by the Wildlife Board.

(1) To provide an adequate and flexible system of protection, propagation, introduction, increase, control, harvest, management, and conservation of protected wildlife in this state and to provide for the use and development of protected wildlife for public recreation and food supply while maintaining a sustainable population of protected wildlife, the Wildlife Board shall determine the circumstances, time, location, means, and the amounts, and numbers of protected wildlife which may be taken.

(2) The Wildlife Board shall, except as otherwise specified in this code:

(a) fix seasons and shorten, extend, or close seasons on any species of protected wildlife in any locality, or in the entire state, if the board finds that the action is necessary to effectuate proper wildlife management and control;

(b) close or open areas to fishing, trapping, or hunting;

(c) establish refuges and preserves;

(d) regulate and prescribe the means by which protected wildlife may be taken;

(e) regulate the transportation and storage of protected wildlife, or their parts, within the boundaries of the state and the shipment or transportation out of the state;

(f) establish or change bag limits and possession limits;

(g) prescribe safety measures and establish other regulations as may be considered necessary in the interest of wildlife conservation and the safety and welfare of hunters, trappers, fishermen, landowners, and the public;

(h) (i) prescribe when licenses, permits, tags, and certificates of registration shall be required and procedures for their issuance and use; and

(ii) establish forms and fees for licenses, permits, tags, and certificates of registration; and

(i) prescribe rules and regulations as it may consider necessary to control the use and harvest of protected wildlife by private associations, clubs, partnerships, or corporations, provided the rules and regulations do not preclude the landowner from personally controlling trespass upon the owner's properties nor from charging a fee to trespass for purposes of hunting or fishing.

(3) The Wildlife Board may allow a season on protected wildlife to commence on any day of the week except Sunday.

(4) The Wildlife Board shall establish fees for licenses, permits, tags, and certificates of registration in accordance with Section 63J-1-504.

(5) The Wildlife Board may not issue a license, permit, tag, or certificate of registration as a reward

for an individual's assistance with a prosecution for violation of Section 76-6-111.

Section 2. Section 23-19-9 is amended to read:

23-19-9. Suspension of license or permit privileges -- Suspension of certificates of registration.

(1) As used in this section[~~, "license~~]:

(a) "License or permit privileges" means the privilege of applying for, purchasing, and exercising the benefits conferred by a license or permit issued by the division.

(b) "Livestock guardian dog" means the same as that term is defined in Section 76-6-111.

(2) A hearing officer, appointed by the division, may suspend a person's license or permit privileges if:

(a) in a court of law, the person:

(i) is convicted of:

(A) violating this title or a rule of the Wildlife Board;

(B) killing or injuring domestic livestock or a livestock guardian dog while engaged in an activity regulated under this title; [~~or~~]

(C) violating Section 76-6-111; or

[~~(C)~~] (D) violating Section 76-10-508 while engaged in an activity regulated under this title;

(ii) enters into a plea in abeyance agreement, in which the person pleads guilty or no contest to an offense listed in Subsection (2)(a)(i), and the plea is held in abeyance; or

(iii) is charged with committing an offense listed in Subsection (2)(a)(i), and the person enters into a diversion agreement which suspends the prosecution of the offense; and

(b) the hearing officer determines the person committed the offense intentionally, knowingly, or recklessly, as defined in Section 76-2-103.

(3) (a) The Wildlife Board shall make rules establishing guidelines that a hearing officer shall consider in determining:

(i) the type of license or permit privileges to suspend; and

(ii) the duration of the suspension.

(b) The Wildlife Board shall ensure that the guidelines established under Subsection (3)(a) are consistent with Subsections (4), (5), and (6).

(4) Except as provided in Subsections (5) and (6), a hearing officer may suspend a person's license or permit privileges according to Subsection (2) for a period of time not to exceed:

(a) seven years for:

(i) a felony conviction;

(ii) a plea of guilty or no contest to an offense punishable as a felony, which plea is held in abeyance pursuant to a plea in abeyance agreement; or

(iii) being charged with an offense punishable as a felony, the prosecution of which is suspended pursuant to a diversion agreement;

(b) five years for:

(i) a class A misdemeanor conviction;

(ii) a plea of guilty or no contest to an offense punishable as a class A misdemeanor, which plea is held in abeyance pursuant to a plea in abeyance agreement; or

(iii) being charged with an offense punishable as a class A misdemeanor, the prosecution of which is suspended pursuant to a diversion agreement;

(c) three years for:

(i) a class B misdemeanor conviction;

(ii) a plea of guilty or no contest to an offense punishable as a class B misdemeanor when the plea is held in abeyance according to a plea in abeyance agreement; or

(iii) being charged with an offense punishable as a class B misdemeanor, the prosecution of which is suspended pursuant to a diversion agreement; and

(d) one year for:

(i) a class C misdemeanor conviction;

(ii) a plea of guilty or no contest to an offense punishable as a class C misdemeanor, when the plea is held in abeyance according to a plea in abeyance agreement; or

(iii) being charged with an offense punishable as a class C misdemeanor, the prosecution of which is suspended according to a diversion agreement.

(5) The hearing officer may double a suspension period established in Subsection (4) for offenses:

(a) committed in violation of an existing suspension or revocation order issued by the courts, division, or Wildlife Board; or

(b) involving the unlawful taking of a trophy animal, as defined in Section 23-13-2.

(6) (a) A hearing officer may suspend, according to Subsection (2), a person's license or permit privileges for a particular license or permit only once for each single criminal episode, as defined in Section 76-1-401.

(b) If a hearing officer addresses two or more single criminal episodes in a hearing, the suspension periods of any license or permit privileges of the same type suspended, according to Subsection (2), may run consecutively.

(c) If a hearing officer suspends, according to Subsection (2), license or permit privileges of the type that have been previously suspended by a court, a hearing officer, or the Wildlife Board and the suspension period has not expired, the suspension periods may run consecutively.

(7) (a) A hearing officer, appointed by the division, may suspend a person's privilege of applying for, purchasing, and exercising the benefits conferred by a certificate of registration if:

(i) the hearing officer determines the person intentionally, knowingly, or recklessly, as defined in Section 76-2-103, violated:

(A) this title;

(B) a rule or order of the Wildlife Board;

(C) the terms of a certificate of registration; or

(D) the terms of a certificate of registration application or agreement; or

(ii) the person, in a court of law:

(A) is convicted of an offense that the hearing officer determines bears a reasonable relationship to the person's ability to safely and responsibly perform the activities authorized by the certificate of registration;

(B) pleads guilty or no contest to an offense that the hearing officer determines bears a reasonable relationship to the person's ability to safely and responsibly perform the activities authorized by the certificate of registration, and the plea is held in abeyance in accordance with a plea in abeyance agreement; or

(C) is charged with an offense that the hearing officer determines bears a reasonable relationship to the person's ability to safely and responsibly perform the activities authorized by the certificate of registration, and prosecution of the offense is suspended in accordance with a diversion agreement.

(b) All certificates of registration for the harvesting of brine shrimp eggs, as defined in Section 59-23-3, shall be suspended by a hearing officer, if the hearing officer determines the holder of the certificates of registration has violated Section 59-23-5.

(8) (a) The director shall appoint a qualified person as a hearing officer to perform the adjudicative functions provided in this section.

(b) The director may not appoint a division employee who investigates or enforces wildlife violations.

(9) (a) The courts may suspend, in criminal sentencing, a person's privilege to apply for, purchase, or exercise the benefits conferred by a license, permit, or certificate of registration.

(b) The courts shall promptly notify the division of any suspension orders or recommendations entered.

(c) The division, upon receiving notification of suspension from the courts, shall prohibit the person from applying for, purchasing, or exercising the benefits conferred by a license, permit, or certification of registration for the duration and of the type specified in the court order.

(d) The hearing officer shall consider any recommendation made by a sentencing court concerning suspension before issuing a suspension order.

(10) (a) A person may not apply for, purchase, possess, or attempt to exercise the benefits conferred by any permit, license, or certificate of registration specified in an order of suspension while that order is in effect.

(b) Any license possessed or obtained in violation of the order shall be considered invalid.

(c) A person who violates Subsection (10)(a) is guilty of a class B misdemeanor.

(11) Before suspension under this section, a person shall be:

(a) given written notice of any action the division intends to take; and

(b) provided with an opportunity for a hearing.

(12) (a) A person may file an appeal of a hearing officer's decision with the Wildlife Board.

(b) The Wildlife Board shall review the hearing officer's findings and conclusions and any written documentation submitted at the hearing.

(c) The Wildlife Board may:

(i) take no action;

(ii) vacate or remand the decision; or

(iii) amend the period or type of suspension.

(13) The division shall suspend and reinstate all hunting, fishing, trapping, and falconry privileges consistent with Title 23, Chapter 25, Wildlife Violator Compact.

(14) The Wildlife Board may make rules to implement this section in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Section 3. Section 76-6-110 is amended to read:

76-6-110. Offenses committed against animal enterprises -- Definitions -- Enhanced penalties.

(1) As used in this section:

(a) "Animal enterprise" means a commercial or academic enterprise that:

(i) uses animals for food or fiber production;

(ii) is an agricultural operation, including a facility for the production of crops or livestock, or livestock products;

(iii) operates a zoo, aquarium, circus, rodeo, or lawful competitive animal event; or

(iv) any fair or similar event intended to advance agricultural arts and sciences.

(b) "Livestock" means cattle, sheep, goats, swine, horses, mules, poultry, domesticated elk as defined in Section 4-39-102, or any other domestic animal or domestic furbearer raised or kept for profit.

(c) "Property" includes any buildings, vehicles, animals, data, [~~or~~] records[~~.~~], stables, livestock handling facilities, livestock watering troughs or other watering facilities, and fencing or other forms of enclosure.

(2) (a) A person who commits any criminal offense with the intent to halt, impede, obstruct, or interfere with the lawful operation of an animal enterprise or to damage, take, or cause the loss of any property owned by, used by, or in the possession of a lawful animal enterprise, is subject to an enhanced penalty under Subsection (3).

(b) Subsection (2)(a) does not apply to action protected by the National Labor Relations Act, 29 U.S.C. Section 151 et seq., or the Federal Railway Labor Act, 45 U.S.C. Section 151 et seq.

(c) The prosecuting attorney, or grand jury if an indictment is returned, shall cause to be subscribed upon the information or indictment notice that the defendant is subject to the enhanced penalties provided under this section.

(3) If the trier of fact finds beyond a reasonable doubt that the defendant committed any criminal offense with the intent to halt, impede, obstruct, or interfere with the lawful operation of an animal enterprise or to damage, take, or cause the loss of any property owned by, used by, or in the possession of a lawful animal enterprise, the penalties are enhanced as provided in this Subsection (3):

(a) a class C misdemeanor is a class B misdemeanor, with a mandatory fine of not less than $1,000, which is in addition to any term of imprisonment the court may impose;

(b) a class B misdemeanor is a class A misdemeanor, with a fine of not less than $2,500, which is in addition to any term of imprisonment the court may impose;

(c) a class A misdemeanor is a third degree felony, with a fine of not less than $5,000, which is in addition to any term of imprisonment the court may impose;

(d) a third degree felony is a second degree felony, with a fine of not less than $7,500, which is in addition to any term of imprisonment the court may impose; and

(e) a second degree felony is subject to a fine of not less than $10,000, which is in addition to any term of imprisonment the court may impose.

Section 4. Section 76-6-111 is amended to read:

76-6-111. Wanton destruction of livestock -- Penalties -- Restitution criteria -- Seizure and disposition of property.

(1) As used in this section:

(a) "Law enforcement officer" means the same as that term is defined in Section 53-13-103.

(b) "Livestock" means a domestic animal or fur bearer raised or kept for profit or as an asset, including:

(i) cattle;

(ii) sheep;

(iii) goats;

(iv) swine;

(v) horses;

(vi) mules;

(vii) poultry; [~~and~~]

(viii) domesticated elk as defined in Section 4-39-102[~~.~~]; and

(ix) livestock guardian dogs.

(c) "Livestock guardian dog" means a dog that is being used to live with and guard livestock, other than itself, from predators.

(2) Unless authorized by Section 4-25-201, 4-25-202, 4-25-401, 4-39-401, or 18-1-3, a person is guilty of wanton destruction of livestock if that person:

(a) injures, physically alters, releases, or causes the death of livestock; and

(b) does so:

(i) intentionally or knowingly; and

(ii) without the permission of the owner of the livestock.

(3) For purposes of this section, a livestock guardian dog is presumed to belong to an owner of the livestock with which the livestock guardian dog was living at the time of an alleged violation of Subsection (2).

[~~(3)~~] (4) Wanton destruction of livestock is punishable as a:

(a) class B misdemeanor if the aggregate value of the livestock is [~~$500~~] $250 or less;

(b) class A misdemeanor if the aggregate value of the livestock is more than [~~$500~~] $250, but does not exceed [~~$1,500~~] $750;

(c) third degree felony if the aggregate value of the livestock is more than [~~$1,500~~] $750, but does not exceed $5,000; and

(d) second degree felony if the aggregate value of the livestock is more than $5,000.

[~~(4)~~] (5) When a court orders a person who is convicted of wanton destruction of livestock to pay restitution under Title 77, Chapter 38a, Crime Victims Restitution Act, the court shall consider, in addition to the restitution criteria in Section 77-38a-302, the restitution guidelines in Subsection [~~(5)~~] (6) when setting the amount.

[~~(5)~~] (6) The minimum restitution value for cattle and sheep is the sum of the following, unless the court states on the record why it finds the sum to be inappropriate:

(a) the fair market value of the animal, using as a guide the market information obtained from the Department of Agriculture and Food created under Section 4-2-102; and

(b) 10 years times the average annual value of offspring, for which average annual value is determined using data obtained from the National Agricultural Statistics Service within the United States Department of Agriculture, for the most recent 10-year period available.

[~~(6)~~] (7) A material, device, or vehicle used in violation of Subsection (2) is subject to forfeiture under the procedures and substantive protections established in Title 24, Forfeiture and Disposition of Property Act.

[~~(7)~~] (8) A peace officer may seize a material, device, or vehicle used in violation of Subsection (2):

(a) upon notice and service of process issued by a court having jurisdiction over the property; or

(b) without notice and service of process if:

(i) the seizure is incident to an arrest under:

(A) a search warrant; or

(B) an inspection under an administrative inspection warrant;

(ii) the material, device, or vehicle has been the subject of a prior judgment in favor of the state in a criminal injunction or forfeiture proceeding under this section; or

(iii) the peace officer has probable cause to believe that the property has been used in violation of Subsection (2).

[~~(8)~~] (9) (a) A material, device, or vehicle seized under this section is not repleviable but is in custody of the law enforcement agency making the seizure, subject only to the orders and decrees of a court or official having jurisdiction.

(b) A peace officer who seizes a material, device, or vehicle under this section may:

(i) place the property under seal;

(ii) remove the property to a place designated by the warrant under which it was seized; or

(iii) take custody of the property and remove it to an appropriate location for disposition in accordance with law.

Section 5. Section 76-6-401 is amended to read:

76-6-401. Definitions.

[~~For the purposes of this part:~~]

[~~(1) "Property" means anything of value, including real estate, tangible and intangible personal property, captured or domestic animals and birds, written instruments or other writings representing or embodying rights concerning real or personal property, labor, services, or otherwise containing anything of value to the owner, commodities of a public utility nature such as telecommunications, gas, electricity, steam, or water, and trade secrets, meaning the whole or any portion of any scientific or technical information, design, process, procedure, formula or invention which the owner thereof intends to be available only to persons selected by him.~~]

As used in this part:

(1) "Deception" occurs when a person intentionally:

(a) creates or confirms by words or conduct an impression of law or fact that is false and that the actor does not believe to be true and that is likely to affect the judgment of another in the transaction;

(b) fails to correct a false impression of law or fact that the actor previously created or confirmed by words or conduct that is likely to affect the judgment of another and that the actor does not now believe to be true;

(c) prevents another person from acquiring information likely to affect the person's judgment in the transaction;

(d) sells or otherwise transfers or encumbers property without disclosing a lien, security interest, adverse claim, or other legal impediment to the enjoyment of the property, regardless of whether the lien, security interest, claim, or impediment is valid or is a matter of official record; or

(e) promises performance that is likely to affect the judgment of another in the transaction, which performance the actor does not intend to perform or knows will not be performed, except that failure to perform the promise in issue without other evidence of intent or knowledge is not sufficient proof that the actor did not intend to perform or knew the promise would not be performed.

(2) "Livestock guardian dog" means the same as that term is defined in Section 76-6-111.

[~~(2)~~] (3) "Obtain" means, in relation to property, to bring about a transfer of possession or of some other legally recognized interest in property, whether to the obtainer or another; in relation to labor or services, to secure performance thereof; and in relation to a trade secret, to make any facsimile, replica, photograph, or other reproduction.

(4) "Obtain or exercise unauthorized control" means conduct originally defined or known as common-law larceny by trespassory taking, larceny by conversion, larceny by bailee, or embezzlement.

(5) "Property" means anything of value, including real estate, tangible and intangible personal property, captured or domestic animals and birds, written instruments or other writings representing or embodying rights concerning real or personal property, labor, services, or otherwise containing anything of value to the owner, commodities of a public utility nature such as telecommunications, gas, electricity, steam, or water, and trade secrets, meaning the whole or any portion of any scientific or technical information, design, process, procedure, formula, or invention which the owner intends to be available only to persons selected by the owner.

[~~(3)~~] (6) "Purpose to deprive" means to have the conscious object:

(a) [~~To~~] to withhold property permanently or for so extended a period or to use under such circumstances that a substantial portion of its economic value, or of the use and benefit thereof, would be lost; [~~or~~]

(b) [~~To~~] to restore the property only upon payment of a reward or other compensation; or

(c) [~~To~~] to dispose of the property under circumstances that make it unlikely that the owner will recover it.

[~~(4) "Obtain or exercise unauthorized control" means, but is not necessarily limited to, conduct heretofore defined or known as common-law larceny by trespassory taking, larceny by conversion, larceny by bailee, and embezzlement.~~]

[~~(5) "Deception" occurs when a person intentionally:~~]

[~~(a) Creates or confirms by words or conduct an impression of law or fact that is false and that the actor does not believe to be true and that is likely to affect the judgment of another in the transaction; or~~]

[~~(b) Fails to correct a false impression of law or fact that the actor previously created or confirmed by words or conduct that is likely to affect the judgment of another and that the actor does not now believe to be true; or~~]

[~~(c) Prevents another from acquiring information likely to affect his judgment in the transaction; or~~]

[~~(d) Sells or otherwise transfers or encumbers property without disclosing a lien, security interest, adverse claim, or other legal impediment to the enjoyment of the property, whether the lien, security interest, claim, or impediment is or is not valid or is or is not a matter of official record; or~~]

[~~(e) Promises performance that is likely to affect the judgment of another in the transaction, which performance the actor does not intend to perform or knows will not be performed; provided, however, that failure to perform the promise in issue without other evidence of intent or knowledge is not sufficient proof that the actor did not intend to perform or knew the promise would not be performed.~~]

Section 6. Section 76-6-402 is amended to read:

76-6-402. Presumptions and defenses.

The following presumption shall be applicable to this part:

(1) Possession of property recently stolen, when no satisfactory explanation of such possession is made, shall be deemed prima facie evidence that the person in possession stole the property.

(2) It is no defense under this part that the actor has an interest in the property or service stolen if another person also has an interest that the actor is not entitled to infringe, provided an interest in property for purposes of this subsection shall not include a security interest for the repayment of a debt or obligation.

(3) It is a defense under this part that the actor:

(a) Acted under an honest claim of right to the property or service involved; or

(b) Acted in the honest belief that he had the right to obtain or exercise control over the property or service as he did; or

(c) Obtained or exercised control over the property or service honestly believing that the owner, if present, would have consented.

(4) A livestock guardian dog is presumed to belong to an owner of the livestock with which the livestock guardian dog was living at the time of an alleged violation of this part.

Section 7. Section 76-6-412 is amended to read:

76-6-412. Theft -- Classification of offenses -- Action for treble damages.

(1) Theft of property and services as provided in this chapter is punishable:

(a) as a second degree felony if the:

(i) value of the property or services is or exceeds $5,000;

(ii) property stolen is a firearm or an operable motor vehicle; or

(iii) property is stolen from the person of another;

(b) as a third degree felony if:

(i) the value of the property or services is or exceeds $1,500 but is less than $5,000;

(ii) the value of the property or services is or exceeds $500 and the actor has been twice before convicted of any of the following offenses, if each prior offense was committed within 10 years before the date of the current conviction or the date of the offense upon which the current conviction is based and at least one of those convictions is for a class A misdemeanor:

(A) any theft, any robbery, or any burglary with intent to commit theft;

(B) any offense under Title 76, Chapter 6, Part 5, Fraud; or

(C) any attempt to commit any offense under Subsection (1)(b)(ii)(A) or (B);

(iii) (A) the value of property or services is or exceeds $500 but is less than $1,500;

(B) the theft occurs on a property where the offender has committed any theft within the past five years; and

(C) the offender has received written notice from the merchant prohibiting the offender from entering the property pursuant to Subsection 78B-3-108(4); or

(iv) the actor has been previously convicted of a felony violation of any of the offenses listed in

Subsections (1)(b)(ii)(A) through (1)(b)(ii)(C), if the prior offense was committed within 10 years before the date of the current conviction or the date of the offense upon which the current conviction is based;

(c) as a class A misdemeanor if:

(i) the value of the property stolen is or exceeds $500 but is less than $1,500;

(ii) (A) the value of property or services is less than $500;

(B) the theft occurs on a property where the offender has committed any theft within the past five years; and

(C) the offender has received written notice from the merchant prohibiting the offender from entering the property pursuant to Subsection 78B-3-108(4); or

(iii) the actor has been twice before convicted of any of the offenses listed in Subsections (1)(b)(ii)(A) through (1)(b)(ii)(C), if each prior offense was committed within 10 years before the date of the current conviction or the date of the offense upon which the current conviction is based; or

(d) as a class B misdemeanor if the value of the property stolen is less than $500 and the theft is not an offense under Subsection (1)(c).

(2) Any individual who violates Subsection 76-6-408(2) or 76-6-413(1), or commits theft of a stallion, mare, colt, gelding, cow, heifer, steer, ox, bull, calf, sheep, goat, mule, jack, jenny, swine, poultry, or a fur-bearing animal raised for commercial purposes, or a livestock guardian dog, is civilly liable for three times the amount of actual damages, if any sustained by the plaintiff, and for costs of suit and reasonable attorney fees.

Section 8. Section 76-9-301 is amended to read:

76-9-301. Cruelty to animals.

(1) As used in this section:

(a) (i) "Abandon" means to intentionally deposit, leave, or drop off any live animal:

(A) without providing for the care of that animal, in accordance with accepted animal husbandry practices or customary farming practices; or

(B) in a situation where conditions present an immediate, direct, and serious threat to the life, safety, or health of the animal.

(ii) "Abandon" does not include returning wildlife to its natural habitat.

(b) (i) "Animal" means, except as provided in Subsection (1)(b)(ii), a live, nonhuman vertebrate creature.

(ii) "Animal" does not include:

(A) a live, nonhuman vertebrate creature, if:

(I) the conduct toward the creature, and the care provided to the creature, is in accordance with accepted animal husbandry practices; and

(II) the creature is:

(Aa) owned or kept by a zoological park that is accredited by, or a member of, the American Zoo and Aquarium Association;

(Bb) kept, owned, or used for the purpose of training hunting dogs or raptors; or

(Cc) temporarily in the state as part of a circus or traveling exhibitor licensed by the United States Department of Agriculture under 7 U.S.C. 2133;

(B) a live, nonhuman vertebrate creature that is owned, kept, or used for rodeo purposes, if the conduct toward the creature, and the care provided to the creature, is in accordance with accepted rodeo practices;

(C) livestock, if the conduct toward the creature, and the care provided to the creature, is in accordance with accepted animal husbandry practices or customary farming practices; or

(D) wildlife, as defined in Section 23-13-2, including protected and unprotected wildlife, if the conduct toward the wildlife is in accordance with lawful hunting, fishing, or trapping practices or other lawful practices.

(c) "Companion animal" means an animal that is a domestic dog or a domestic cat.

(d) "Custody" means ownership, possession, or control over an animal.

(e) "Legal privilege" means an act that:

(i) is authorized by state law, including Division of Wildlife Resources rules; and

(ii) is not in violation of a local ordinance.

(f) "Livestock" means:

(i) domesticated:

(A) cattle;

(B) sheep;

(C) goats;

(D) turkeys;

(E) swine;

(F) equines;

(G) camelidae;

(H) ratites; or

(I) bison;

(ii) domesticated elk, as defined in Section 4-39-102; [~~or~~]

(iii) a livestock guardian dog, as defined in Section 76-6-111; or

[~~(iii)~~] (iv) any domesticated nonhuman vertebrate creature, domestic furbearer, or domestic poultry, raised, kept, or used for agricultural purposes.

(g) "Necessary food, water, care, or shelter" means the following, taking into account the species, age, and physical condition of the animal:

(i) appropriate and essential food and water;

(ii) adequate protection, including appropriate shelter, against extreme weather conditions; and

(iii) other essential care.

(h) "Torture" means intentionally or knowingly causing or inflicting extreme physical pain to an animal in an especially heinous, atrocious, cruel, or exceptionally depraved manner.

(2) Except as provided in Subsection (4) or (6), a person is guilty of cruelty to an animal if the person, without legal privilege to do so, intentionally, knowingly, recklessly, or with criminal negligence:

(a) fails to provide necessary food, water, care, or shelter for an animal in the person's custody;

(b) abandons an animal in the person's custody;

(c) injures an animal;

(d) causes any animal, not including a dog or game fowl, to fight with another animal of like kind for amusement or gain; or

(e) causes any animal, including a dog or game fowl, to fight with a different kind of animal or creature for amusement or gain.

(3) Except as provided in Section 76-9-301.7, a violation of Subsection (2) is:

(a) a class B misdemeanor if committed intentionally or knowingly; and

(b) a class C misdemeanor if committed recklessly or with criminal negligence.

(4) A person is guilty of aggravated cruelty to an animal if the person:

(a) tortures an animal;

(b) administers, or causes to be administered, poison or a poisonous substance to an animal; or

(c) kills an animal or causes an animal to be killed without having a legal privilege to do so.

(5) Except as provided in Subsection (6) or Section 76-9-301.7, a violation of Subsection (4) is:

(a) a class A misdemeanor if committed intentionally or knowingly;

(b) a class B misdemeanor if committed recklessly; and

(c) a class C misdemeanor if committed with criminal negligence.

(6) A person is guilty of a third degree felony if the person intentionally or knowingly tortures a companion animal.

(7) It is a defense to prosecution under this section that the conduct of the actor towards the animal was:

(a) by a licensed veterinarian using accepted veterinary practice;

(b) directly related to bona fide experimentation for scientific research, provided that if the animal is to be destroyed, the manner employed will not be unnecessarily cruel unless directly necessary to the veterinary purpose or scientific research involved;

(c) permitted under Section 18-1-3;

(d) by a person who humanely destroys any animal found suffering past recovery for any useful purpose; or

(e) by a person who humanely destroys any apparently abandoned animal found on the person's property.

(8) For purposes of Subsection (7)(d), before destroying the suffering animal, the person who is not the owner of the animal shall obtain:

(a) the judgment of a veterinarian of the animal's nonrecoverable condition;

(b) the judgment of two other persons called by the person to view the unrecoverable condition of the animal in the person's presence;

(c) the consent from the owner of the animal to the destruction of the animal; or

(d) a reasonable conclusion that the animal's suffering is beyond recovery, through the person's own observation, if the person is in a location or circumstance where the person is unable to contact another person.

(9) This section does not affect or prohibit:

(a) the training, instruction, and grooming of animals, if the methods used are in accordance with accepted animal husbandry practices or customary farming practices;

(b) the use of an electronic locating or training collar by the owner of an animal for the purpose of lawful animal training, lawful hunting practices, or protecting against loss of that animal; or

(c) the lawful hunting of, fishing for, or trapping of, wildlife.

(10) County and municipal governments may not prohibit the use of an electronic locating or training collar.

(11) Upon conviction under this section, the court may in its discretion, in addition to other penalties:

(a) order the defendant to be evaluated to determine the need for psychiatric or psychological counseling, to receive counseling as the court determines to be appropriate, and to pay the costs of the evaluation and counseling;

(b) require the defendant to forfeit any rights the defendant has to the animal subjected to a violation of this section and to repay the reasonable costs incurred by any person or agency in caring for each animal subjected to violation of this section;

(c) order the defendant to no longer possess or retain custody of any animal, as specified by the court, during the period of the defendant's probation or parole or other period as designated by the court; and

(d) order the animal to be placed for the purpose of adoption or care in the custody of a county or municipal animal control agency or an animal welfare agency registered with the state to be sold at public auction or humanely destroyed.

(12) This section does not prohibit the use of animals in lawful training.

(13) A veterinarian who, acting in good faith, reports a violation of this section to law enforcement may not be held civilly liable for making the report.

CHAPTER 58
H. B. 167
Passed February 25, 2021
Approved March 11, 2021
Effective May 5, 2021

HIV TESTING AMENDMENTS

Chief Sponsor: Marsha Judkins
Senate Sponsor: Luz Escamilla

LONG TITLE

General Description:

This bill addresses the testing of alleged sexual offenders for HIV.

Highlighted Provisions:

This bill:

- specifies the entities that may process the test of an alleged sexual offender for HIV; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

76-5-502, as last amended by Laws of Utah 2011, Chapter 177

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

Section 1. Section 76-5-502 is amended to read:

76-5-502. Request for testing -- Mandatory testing -- Liability for costs.

(1) (a) An alleged victim of the sexual offense, the parent or guardian of an alleged victim who is a minor, or the guardian of an alleged victim who is a vulnerable adult as defined in Section 62A-3-301 may request that the alleged sexual offender against whom the indictment, information, or petition is filed or regarding whom the arrest has been made be tested to determine whether the alleged offender is an HIV positive individual.

(b) If the alleged victim under Subsection (1)(a) has requested that the alleged offender be tested, the alleged offender shall submit to being tested not later than 48 hours after an information or indictment is filed or an order requiring a test is signed.

(c) If the alleged victim under Subsection (1)(a) requests that the alleged offender be tested more than 48 hours after an information or indictment is filed, the offender shall submit to being tested not later than 24 hours after the request is made.

(d) As soon as practicable, the results of the test conducted pursuant to this section shall be provided to:

(i) the alleged victim who requested the test;

(ii) the parent or guardian of the alleged victim, if the alleged victim is a minor;

(iii) the legal guardian of the alleged victim if the victim is a vulnerable adult as defined in Section 62A-3-301;

(iv) the alleged offender; and

(v) the parent or legal guardian of the alleged offender, if the offender is a minor.

(e) If follow-up testing is medically indicated, the results of follow-up testing of the [~~defendant~~] alleged offender shall be sent as soon as practicable to:

(i) the alleged victim;

(ii) the parent or guardian of the alleged victim if the alleged victim is younger than 18 years of age;

(iii) the legal guardian of the alleged victim, if the victim is a vulnerable adult as defined in Section 62A-3-301;

(iv) the alleged offender; and

(v) the parent or legal guardian of the alleged offender, if the offender is a minor.

(2) If the mandatory test has not been conducted, and the alleged offender or alleged minor offender is already confined in a county jail, state prison, or a secure youth corrections facility, the alleged offender shall be tested while in confinement.

(3) (a) The secure youth corrections facility or county jail shall cause the blood specimen of the alleged offender under Subsection (1) confined in that facility to be taken and shall forward the specimen to [~~the Department of Health.~~]:

(i) the Department of Health; or

(ii) an alternate testing facility, as determined by the secure youth corrections facility or county jail, if testing under Subsection (3)(a)(i) is unavailable.

(b) The entity that receives the specimen under Subsection (3)(a) shall provide the result to the prosecutor as soon as practicable for release to the parties as described in Subsection (1)(d) or (e).

(4) The Department of Corrections shall cause the blood specimen of the alleged offender defined in Subsection (1) confined in any state prison to be taken and shall forward the specimen to the Department of Health as provided in Section 64-13-36.

(5) The alleged offender who is tested is responsible upon conviction for the costs of testing, unless the alleged offender is indigent. The costs will then be paid by the Department of Health from the General Fund.

CHAPTER 59
H. B. 170
Passed March 3, 2021
Approved March 11, 2021
Effective March 11, 2021

VEHICLE REGISTRATION RENEWAL NOTICE REQUIREMENTS

Chief Sponsor: Scott H. Chew
Senate Sponsor: Jani Iwamoto
Cosponsors: Cheryl K. Acton
Carl R. Albrecht
Melissa G. Ballard
Steve R. Christiansen
Clare Collard
James A. Dunnigan
Steve Eliason
Francis D. Gibson
Suzanne Harrison
Timothy D. Hawkes
Karen Kwan
Rosemary T. Lesser
Ashlee Matthews
Kelly B. Miles
Merrill F. Nelson
Travis M. Seegmiller
Robert M. Spendlove
Mark A. Wheatley

LONG TITLE

General Description:

This bill requires the Motor Vehicle Division to provide a vehicle owner the option to receive notification through mail or email to inform the owner of the expiration of a vehicle's registration.

Highlighted Provisions:

This bill:

- requires the Motor Vehicle Division to send notification through the mail of the expiration of a vehicle's registration unless the individual elects to receive notification by email;
- requires the Motor Vehicle Division to begin mailing registration expiration notifications as soon as practicable; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

41-1a-203, as last amended by Laws of Utah 2019, Chapter 479
41-1a-217, as last amended by Laws of Utah 2017, Chapter 406

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

Section 1. Section 41-1a-203 is amended to read:

41-1a-203. Prerequisites for registration, transfer of ownership, or registration renewal.

(1) (a) (i) Except as provided in Subsection (1)(b), the division shall mail a notification to the owner of a vehicle at least 30 days before the date the vehicle's registration is due to expire.

(ii) The division shall ensure that mailing of notifications described in Section (1)(a)(i) begins as soon as practicable.

(b) (i) The division shall provide a process for a vehicle owner to choose to receive electronic notification of the pending expiration of a vehicle's registration.

(ii) If a vehicle owner chooses electronic notification, the division shall notify by email the owner of a vehicle at least 30 days before the date the vehicle's registration is due to expire.

[~~(1)~~] (2) Except as otherwise provided, before registration of a vehicle, an owner shall:

(a) obtain an identification number inspection under Section 41-1a-204;

(b) obtain a certificate of emissions inspection, if required in the current year, as provided under Section 41-6a-1642;

(c) pay property taxes, the in lieu fee, or receive a property tax clearance under Section 41-1a-206 or 41-1a-207;

(d) pay the automobile driver education tax required by Section 41-1a-208;

(e) pay the applicable registration fee under Part 12, Fee and Tax Requirements;

(f) pay the uninsured motorist identification fee under Section 41-1a-1218, if applicable;

(g) pay the motor carrier fee under Section 41-1a-1219, if applicable;

(h) pay any applicable local emissions compliance fee under Section 41-1a-1223; and

(i) pay the taxes applicable under Title 59, Chapter 12, Sales and Use Tax Act.

[~~(2)~~] (3) In addition to the requirements in Subsection (1), an owner of a vehicle that has not been previously registered or that is currently registered under a previous owner's name shall apply for a valid certificate of title in the owner's name before registration.

[~~(3)~~] (4) The division may not issue a new registration, transfer of ownership, or registration renewal under Section 73-18-7 for a vessel or outboard motor that is subject to this chapter unless a certificate of title has been or is in the process of being issued in the same owner's name.

[~~(4)~~] (5) The division may not issue a new registration, transfer of ownership, or registration renewal under Section 41-22-3 for an off-highway vehicle that is subject to this chapter unless a certificate of title has been or is in the process of being issued in the same owner's name.

[~~(5)~~] (6) The division may not issue a registration renewal for a motor vehicle if the division has received a hold request for the motor vehicle for

which a registration renewal has been requested as described in:

(a) Section 72-1-213.1; or

(b) Section 72-6-118.

Section 2. Section 41-1a-217 is amended to read:

41-1a-217. Application for renewal of registration.

(1) An applicant may renew a vehicle registration by:

(a) filing an application for registration renewal; and

(b) paying the fees or taxes required under[~~Subsection 41-1a-203(1)~~] Section 41-1a-203.

(2) The applicant shall ensure that the application for registration renewal and the payment for applicable fees or taxes is accompanied by a certificate of emissions inspection if required under Section 41-6a-1642.

(3) The division shall issue a new registration card that contains:

(a) the identical information with respect to the owner and the vehicle description required by Section 41-1a-213; and

(b) the new expiration date.

Section 3. Effective date.

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

CHAPTER 60
H. B. 171
Passed February 12, 2021
Approved March 11, 2021
Effective May 5, 2021

AGRICULTURAL LAND USE REGULATION

Chief Sponsor: Scott H. Chew
Senate Sponsor: David P. Hinkins

LONG TITLE

General Description:

This bill modifies provisions related to land use regulation by local entities.

Highlighted Provisions:

This bill:

- prohibits a municipality or county from restricting the type of crop that may be grown in certain areas;
- prohibits regulation by a municipality or county of an industrial hemp producer licensee in conflict with specified statutes and jurisprudence; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

10-9a-501, as last amended by Laws of Utah 2019, Chapter 384
10-9a-528, as enacted by Laws of Utah 2019, First Special Session, Chapter 5
17-27a-501, as last amended by Laws of Utah 2019, Chapter 384
17-27a-525, as enacted by Laws of Utah 2019, First Special Session, Chapter 5

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

Section 1. Section 10-9a-501 is amended to read:

10-9a-501. Enactment of land use regulation, land use decision, or development agreement.

(1) Only a legislative body, as the body authorized to weigh policy considerations, may enact a land use regulation.

(2) (a) Except as provided in Subsection (2)(b), a legislative body may enact a land use regulation only by ordinance.

(b) A legislative body may, by ordinance or resolution, enact a land use regulation that imposes a fee.

(3) A legislative body shall ensure that a land use regulation is consistent with the purposes set forth in this chapter.

(4) (a) A legislative body shall adopt a land use regulation to:

(i) create or amend a zoning district under Subsection 10-9a-503(1)(a); and

(ii) designate general uses allowed in each zoning district.

(b) A land use authority may establish or modify other restrictions or requirements other than those described in Subsection (4)(a), including the configuration or modification of uses or density, through a land use decision that applies criteria or policy elements that a land use regulation establishes or describes.

(5) A municipality may not adopt a land use regulation, development agreement, or land use decision that restricts the type of crop that may be grown in an area that is:

(a) zoned agricultural; or

(b) assessed under Title 59, Chapter 2, Part 5, Farmland Assessment Act.

Section 2. Section 10-9a-528 is amended to read:

10-9a-528. Cannabis production establishments, medical cannabis pharmacies, and industrial hemp producer licensee.

(1) As used in this section:

(a) "Cannabis production establishment" means the same as that term is defined in Section 4-41a-102.

(b) "Industrial hemp producer licensee" means the same as the term "licensee" is defined in Section 4-41-102.

[~~(b)~~] (c) "Medical cannabis pharmacy" means the same as that term is defined in Section 26-61a-102.

(2) (a) (i) A municipality may not regulate a cannabis production establishment in conflict with:

(A) Title 4, Chapter 41a, Cannabis Production Establishments, and applicable jurisprudence; and

(B) this chapter.

(ii) A municipality may not regulate a medical cannabis pharmacy in conflict with:

(A) Title 26, Chapter 61a, Utah Medical Cannabis Act, and applicable jurisprudence; and

(B) this chapter.

(iii) A municipality may not regulate an industrial hemp producer licensee in conflict with:

(A) Title 4, Chapter 41, Hemp and Cannabinoid Act, and applicable jurisprudence; and

(B) this chapter.

(b) The Department of Agriculture and Food has plenary authority to license programs or entities that operate a cannabis production establishment.

(c) The Department of Health has plenary authority to license programs or entities that operate a medical cannabis pharmacy.

(3) (a) Within the time period described in Subsection (3)(b), a municipality shall prepare and adopt a land use regulation, development agreement, or land use decision in accordance with this title and:

(i) regarding a cannabis production establishment, Section 4-41a-406; or

(ii) regarding a medical cannabis pharmacy, Section 26-61a-507.

(b) A municipality shall take the action described in Subsection (3)(a):

(i) before January 1, 2021, within 45 days after the day on which the municipality receives a petition for the action; and

(ii) after January 1, 2021, in accordance with Subsection 10-9a-509.5(2).

Section 3. Section 17-27a-501 is amended to read:

17-27a-501. Enactment of land use regulation.

(1) Only a legislative body, as the body authorized to weigh policy considerations, may enact a land use regulation.

(2) (a) Except as provided in Subsection (2)(b), a legislative body may enact a land use regulation only by ordinance.

(b) A legislative body may, by ordinance or resolution, enact a land use regulation that imposes a fee.

(3) A land use regulation shall be consistent with the purposes set forth in this chapter.

(4) (a) A legislative body shall adopt a land use regulation to:

(i) create or amend a zoning district under Subsection 17-27a-503(1)(a); and

(ii) designate general uses allowed in each zoning district.

(b) A land use authority may establish or modify other restrictions or requirements other than those described in Subsection (4)(a), including the configuration or modification of uses or density, through a land use decision that applies criteria or policy elements that a land use regulation establishes or describes.

(5) A county may not adopt a land use regulation, development agreement, or land use decision that restricts the type of crop that may be grown in an area that is:

(a) zoned agricultural; or

(b) assessed under Title 59, Chapter 2, Part 5, Farmland Assessment Act.

Section 4. Section 17-27a-525 is amended to read:

17-27a-525. Cannabis production establishments and medical cannabis pharmacies.

(1) As used in this section:

(a) "Cannabis production establishment" means the same as that term is defined in Section 4-41a-102.

(b) "Industrial hemp producer licensee" means the same as the term "licensee" is defined in Section 4-41-102.

[~~(b)~~] (c) "Medical cannabis pharmacy" means the same as that term is defined in Section 26-61a-102.

(2) (a) (i) A county may not regulate a cannabis production establishment in conflict with:

(A) Title 4, Chapter 41a, Cannabis Production Establishments, and applicable jurisprudence; and

(B) this chapter.

(ii) A county may not regulate a medical cannabis pharmacy in conflict with:

(A) Title 26, Chapter 61a, Utah Medical Cannabis Act, and applicable jurisprudence; and

(B) this chapter.

(iii) A county may not regulate an industrial hemp producer licensee in conflict with:

(A) Title 4, Chapter 41, Hemp and Cannabinoid Act, and applicable jurisprudence; and

(B) this chapter.

(b) The Department of Agriculture and Food has plenary authority to license programs or entities that operate a cannabis production establishment.

(c) The Department of Health has plenary authority to license programs or entities that operate a medical cannabis pharmacy.

(3) (a) Within the time period described in Subsection (3)(b), a county shall prepare and adopt a land use regulation, development agreement, or land use decision in accordance with this title and:

(i) regarding a cannabis production establishment, Section 4-41a-406; or

(ii) regarding a medical cannabis pharmacy, Section 26-61a-507.

(b) A county shall take the action described in Subsection (3)(a):

(i) before January 1, 2021, within 45 days after the day on which the county receives a petition for the action; and

(ii) after January 1, 2021, in accordance with Subsection [~~10-9a-509.5(2)~~] 17-27a-509.5(2).

CHAPTER 61
H. B. 172
Passed February 18, 2021
Approved March 11, 2021
Effective May 5, 2021

FACILITY OF PAYMENT TO MINOR AMENDMENTS

Chief Sponsor: Steve Waldrip
Senate Sponsor: Michael K. McKell

LONG TITLE

General Description:

This bill amends provisions related to payments to a minor.

Highlighted Provisions:

This bill:

- increases the statutory threshold for a person who has a duty to pay or deliver money or personal property to a minor from $10,000 per annum to $15,000 per annum;
- clarifies that, when the money or personal property owed originates from a personal injury claim or a wrongful death claim, the threshold of $15,000 per annum is the amount paid after other expenses;
- provides that money from a personal injury claim or a wrongful death claim shall be held for the minor in a trust until the minor reaches 18 years old;
- allows a parent or guardian of the minor to petition the court to request disbursement of the money in the trust before the minor is 18 years old; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

75-5-102, as last amended by Laws of Utah 2004, Chapter 198

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

Section 1. Section 75-5-102 is amended to read:

75-5-102. Facility of payment or delivery.

(1) Any person under a duty to pay or deliver money or personal property to a minor may perform [~~this duty~~] the duty to pay or deliver money or personal property, in amounts not exceeding [~~$10,000~~] $15,000 per annum, by paying or delivering the money or personal property to:

(a) the minor[~~, if he~~] if:

(i) the minor is married; or [~~if~~]

(ii) payment to the minor is expressly authorized by statute;

(b) any person having the care and custody of the minor with whom the minor resides; or

(c) a guardian of the minor.

(2) This section does not apply if the person making payment or delivery has actual knowledge that a conservator has been appointed or proceedings for appointment of a conservator of the estate of the minor are pending.

[~~(3) The persons~~]

(3) (a) Any person, other than the minor, receiving money or property for a minor [~~are~~]:

(i) is obligated to apply the money to the support and education of the minor; and

(ii) may not pay [~~themselves~~] oneself except by way of reimbursement for out-of-pocket expenses for goods and services necessary for the minor's support.

(b) Any excess sums of money under Subsection (3)(a) shall be preserved for future support of the minor.

(c) Any balance [~~not so~~] of money that is not used and any property received for the minor must be turned over to the minor when [~~he~~] the minor attains [~~majority~~] the age of 18.

(4) (a) If any money under Subsection (1) is the result of a personal injury claim or wrongful death claim, the threshold amount of $15,000 per annum described in Subsection (1) shall be the amount payable to the minor after the payment of medical bills, attorney fees, and costs of litigation that were incurred by the claim.

(b) Any person, other than the minor, receiving money under Subsection (4)(a) for a minor shall hold the money in a trust for the sole benefit of the minor.

(c) Any money that is held in a trust for a minor under Subsection (4)(b) shall be turned over to the minor when the minor attains the age of 18.

(d) Notwithstanding Subsection (4)(c), a parent or guardian of the minor may petition the court to request the disbursement of the money held in the trust for the minor under Subsection (4)(b) at any time before the minor is 18 years old.

[~~(4) Persons~~]

(5) Any person receiving money under this section on behalf of a minor shall have the power to settle and release in whole or in part the claims belonging to the minor giving rise to the duty to pay money to the minor.

[~~(5) Persons who pay or deliver~~]

(6) Any person who pays or delivers in accordance with provisions of this section [~~are~~] is not responsible for the proper application thereof.

CHAPTER 62
H. B. 173
Passed February 26, 2021
Approved March 11, 2021
Effective May 5, 2021

VOTE REPORTING REQUIREMENTS

Chief Sponsor: Craig Hall
Senate Sponsor: Daniel W. Thatcher

LONG TITLE

General Description:

This bill addresses the information to be reported by election officials when tabulating election results.

Highlighted Provisions:

This bill:

- in certain circumstances, requires an election officer to report an estimate of the total number of ballots in the election official's custody that remain to be counted; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

20A-3a-402, as renumbered and amended by Laws of Utah 2020, Chapter 31
20A-4-104, as last amended by Laws of Utah 2020, Chapter 31

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

Section 1. Section 20A-3a-402 is amended to read:

20A-3a-402. Custody of ballots voted at a polling place -- Disposition -- Counting -- Release of number of ballots cast.

(1) This section governs ballots voted at a polling place.

(2) (a) The election officer shall deliver all return envelopes containing valid ballots and valid provisional ballots that are in the election officer's custody to the counting center before noon on the day of the official canvass following the election.

(b) Valid ballots, including valid provisional ballots, may be processed and counted:

(i) by the election officer, or poll workers acting under the supervision of the election officer, before the date of the canvass; and

(ii) at the canvass, by the election officer or poll workers, acting under the supervision of the official canvassers of the election.

(c) When processing ballots, the election officer and poll workers shall comply with the procedures and requirements of Section 20A-3a-401 in opening envelopes, verifying signatures, confirming eligibility of the ballots, and depositing ballots in preparation for counting.

(3) (a) After all valid ballots, including valid provisional ballots have been deposited, the ballots shall be counted in the usual manner.

(b) After the polls close on the date of the election, the election officer shall publicly release the results of those ballots, including provisional ballots, that have been counted on or before the date of the election.

(c) Except as provided in Subsection (3)(d), on each day, beginning on the day after the date of the election and ending on the day before the date of the canvass, the election officer shall publicly release:

(i) the results of all ballots, including provisional ballots, counted on that day[.]; and

(ii) an estimate of the total number of voted ballots in the custody of the election officer that have not yet been counted.

(d) (i) If complying with Subsection (3)(c) on a particular day will likely result in disclosing a vote cast by an individual voter, the election officer shall request permission from the lieutenant governor to delay compliance for the minimum number of days necessary to protect against disclosure of the voter's vote.

(ii) The lieutenant governor shall grant a request made under Subsection (3)(d)(i) if the lieutenant governor finds that the delay is necessary to protect against disclosure of a voter's vote.

(e) On the date of the canvass, the election officer shall provide a tally of all ballots, including provisional ballots, counted, and the resulting tally shall be added to the official canvass of the election.

(4) (a) On the day after the date of the election, the election officer shall determine the number of ballots received by the election officer at that time and shall make that number available to the public.

(b) The election officer may elect to publicly release updated totals for the number of ballots received by the election officer up through the date of the canvass.

Section 2. Section 20A-4-104 is amended to read:

20A-4-104. Counting ballots electronically.

(1) (a) Before beginning to count ballots using automatic tabulating equipment, the election officer shall test the automatic tabulating equipment to ensure that it will accurately count the votes cast for all offices and all measures.

(b) The election officer shall publish public notice of the time and place of the test:

(i) (A) at least 48 hours before the test in one or more daily or weekly newspapers of general circulation in the county, municipality, or jurisdiction where the equipment is used;

(B) if there is no daily or weekly newspaper of general circulation in the county, municipality, or jurisdiction where the equipment is used, at least 10 days before the day of the test, by posting one notice, and at least one additional notice per 2,000

population of the county, municipality, or jurisdiction, in places within the county, municipality, or jurisdiction that are most likely to give notice to the voters in the county, municipality, or jurisdiction; or

(C) at least 10 days before the day of the test, by mailing notice to each registered voter in the county, municipality, or jurisdiction where the equipment is used;

(ii) on the Utah Public Notice Website created in Section 63F-1-701, for four weeks before the day of the test;

(iii) in accordance with Section 45-1-101, for at least 10 days before the day of the test; and

(iv) if the county, municipality, or jurisdiction has a website, on the website for four weeks before the day of the test.

(c) The election officer shall conduct the test by processing a preaudited group of ballots.

(d) The election officer shall ensure that:

(i) a predetermined number of valid votes for each candidate and measure are recorded on the ballots;

(ii) for each office, one or more ballots have votes in excess of the number allowed by law in order to test the ability of the automatic tabulating equipment to reject those votes; and

(iii) a different number of valid votes are assigned to each candidate for an office, and for and against each measure.

(e) If any error is detected, the election officer shall determine the cause of the error and correct it.

(f) The election officer shall ensure that:

(i) the automatic tabulating equipment produces an errorless count before beginning the actual counting; and

(ii) the automatic tabulating equipment passes the same test at the end of the count before the election returns are approved as official.

(2) (a) The election officer or the election officer's designee shall supervise and direct all proceedings at the counting center.

(b) (i) Proceedings at the counting center are public and may be observed by interested persons.

(ii) Only those persons authorized to participate in the count may touch any ballot or return.

(c) The election officer shall deputize and administer an oath or affirmation to all persons who are engaged in processing and counting the ballots that they will faithfully perform their assigned duties.

(3) If any ballot is damaged or defective so that it cannot properly be counted by the automatic tabulating equipment, the election officer shall ensure that two counting judges jointly:

(a) make a true replication of the ballot with an identifying serial number;

(b) substitute the replicated ballot for the damaged or defective ballot;

(c) label the replicated ballot "replicated"; and

(d) record the replicated ballot's serial number on the damaged or defective ballot.

(4) The election officer may:

(a) conduct an unofficial count before conducting the official count in order to provide early unofficial returns to the public;

(b) release unofficial returns from time to time after the polls close; and

(c) report the progress of the count for each candidate during the actual counting of ballots.

(5) Beginning on the day after the date of the election, if an election officer releases early unofficial returns or reports the progress of the count for each candidate under Subsection (4), the election officer shall, with each release or report, disclose an estimate of the total number of voted ballots in the election officer's custody that have not yet been counted.

[~~(5)~~] (6) The election officer shall review and evaluate the provisional ballot envelopes and prepare any valid provisional ballots for counting as provided in Section 20A-4-107.

[~~(6)~~] (7) (a) The election officer or the election officer's designee shall:

(i) separate, count, and tabulate any ballots containing valid write-in votes; and

(ii) complete the standard form provided by the clerk for recording valid write-in votes.

(b) In counting the write-in votes, if, by casting a valid write-in vote, a voter has cast more votes for an office than that voter is entitled to vote for that office, the poll workers shall count the valid write-in vote as being the obvious intent of the voter.

[~~(7)~~] (8) (a) The election officer shall certify the return printed by the automatic tabulating equipment, to which have been added write-in and absentee votes, as the official return of each voting precinct.

(b) Upon completion of the count, the election officer shall make official returns open to the public.

[~~(8)~~] (9) If for any reason it becomes impracticable to count all or a part of the ballots with tabulating equipment, the election officer may direct that they be counted manually according to the procedures and requirements of this part.

[~~(9)~~] (10) After the count is completed, the election officer shall seal and retain the programs, test materials, and ballots as provided in Section 20A-4-202.

CHAPTER 63
H. B. 175
Passed February 19, 2021
Approved March 11, 2021
Effective May 5, 2021

RISK MANAGEMENT SETTLEMENT AUTHORITY AMENDMENTS

Chief Sponsor: Brady Brammer
Senate Sponsor: Todd D. Weiler

LONG TITLE

General Description:

This bill modifies provisions relating to the authority of the state's risk manager.

Highlighted Provisions:

This bill:

- modifies language relating to the claims that the state's risk manager may compromise and settle;
- modifies the dollar amount limits relating to the authority of the risk manager to compromise and settle claims and relating to the settlement of claims requiring the approval of the attorney general and the executive director of the Department of Administrative Services or of the governor; and
- requires the risk manager to communicate to the legislative general counsel regarding settlement negotiations.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63G-10-503, as enacted by Laws of Utah 2015, Chapter 355

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

Section 1. Section 63G-10-503 is amended to read:

63G-10-503. Risk manager's authority to settle a claim -- Additional approvals required.

(1) The risk manager may compromise and settle any claim [~~against the state~~] for which the risk management fund may be liable:

[~~(1)~~] (a) on the risk manager's own authority, if the settlement amount is [~~$50,000~~] $100,000 or less;

[~~(2)~~] (b) upon the approval of the attorney general, or the attorney general's representative, and the executive director, if the settlement amount is more than [~~$50,000~~] $100,000 but not more than [~~$200,000~~] $250,000;

[~~(3)~~] (c) upon the governor's approval, if the settlement amount is more than [~~$200,000~~] $250,000 but not more than $500,000;

[~~(4)~~] (d) upon the Legislative Management Committee's approval, if the settlement amount is more than $500,000 but not more than $1,000,000; and

[~~(5)~~] (e) upon the Legislature's approval, if the settlement amount is more than $1,000,000.

(2) (a) The risk manager shall:

(i) as soon as reasonably possible after negotiations begin, notify legislative general counsel of negotiations that the risk manager reasonably believes to have the potential to lead to a settlement requiring approval under Subsection (1)(d) or (e); and

(ii) continue to keep legislative general counsel informed of material developments in the negotiation process.

(b) The information that the risk manager shall provide to legislative general counsel under Subsection (2)(a) includes:

(i) the nature of the claim that is the subject of the settlement negotiations;

(ii) the known facts that support the claim and the known facts that controvert the claim; and

(iii) the risk manager's assessment of the potential liability under the claim.

(c) A document, paper, electronic data, communication, or other material that the risk manager provides to legislative general counsel in the discharge of the risk manager's responsibility under Subsection (2) may not be considered to be a record, as defined in Section 63G-2-103.

(d) Information provided by the risk manager to legislative general counsel under Subsection (2)(a) and a communication between the risk manager and legislative general counsel under Subsection (2)(a) shall be considered to be evidence that is subject to Rule 408 of the Utah Rules of Evidence to the fullest extent possible.

(e) Subsections (2)(c) and (d) apply regardless of whether:

(i) the risk manager acts personally under this section or through counsel or another individual acting under the risk manager's direction; or

(ii) other individuals under the direction of legislative general counsel are involved in the process described in this section.

CHAPTER 64
H. B. 176
Passed February 12, 2021
Approved March 11, 2021
Effective May 5, 2021

REVISOR'S TECHNICAL CORRECTIONS TO UTAH CODE

Chief Sponsor: Francis D. Gibson
Senate Sponsor: Evan J. Vickers
Cosponsor: Travis M. Seegmiller

LONG TITLE

General Description:

This bill modifies parts of the Utah Code to make technical corrections.

Highlighted Provisions:

This bill:

- modifies parts of the Utah Code to make technical corrections, including eliminating references to repealed provisions, eliminating redundant or obsolete language, making minor wording changes, updating cross-references, and correcting numbering and other errors.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

9-1-209, as enacted by Laws of Utah 2020, Chapter 318
9-6-903, as enacted by Laws of Utah 2020, Fifth Special Session, Chapter 12
10-9a-401, as last amended by Laws of Utah 2019, Chapters 136 and 327
10-9a-404, as last amended by Laws of Utah 2020, Chapter 434
10-9a-408, as last amended by Laws of Utah 2020, Chapter 434
16-10a-1008.7, as last amended by Laws of Utah 2013, Chapter 412
17B-2a-1205, as last amended by Laws of Utah 2020, Chapters 282 and 397
19-6-119, as last amended by Laws of Utah 2018, Chapter 241
20A-2-206, as last amended by Laws of Utah 2020, Chapters 31, 95 and last amended by Coordination Clause, Laws of Utah 2020, Chapter 95
26-21-3, as last amended by Laws of Utah 2020, Chapters 154, 352, 373 and last amended by Coordination Clause, Laws of Utah 2020, Chapter 154
26-60-103, as last amended by Laws of Utah 2020, Chapter 119
31A-35-103, as last amended by Laws of Utah 2017, Chapters 168 and 363
34A-2-407, as last amended by Laws of Utah 2019, Chapter 136
34A-3-108, as last amended by Laws of Utah 2019, Chapter 136
49-11-406, as last amended by Laws of Utah 2020, Chapter 24
49-13-203, as last amended by Laws of Utah 2020, Chapters 24 and 365
49-20-418, as enacted by Laws of Utah 2018, Chapter 357
49-22-205, as last amended by Laws of Utah 2020, Chapter 24
53E-1-201, as last amended by Laws of Utah 2020, Chapters 51, 174, 254, 274, 321, 354, 365 and last amended by Coordination Clause, Laws of Utah 2020, Chapters 254, 274, and 321
59-10-1034, as last amended by Laws of Utah 2016, Third Special Session, Chapter 1
59-12-102, as last amended by Laws of Utah 2020, Chapters 354, 365, and 438
62A-15-103.5, as enacted by Laws of Utah 2019, Chapter 110
63B-1-306, as last amended by Laws of Utah 2017, Chapter 436
63C-4a-102, as last amended by Laws of Utah 2019, Chapter 246
63G-2-204, as last amended by Laws of Utah 2019, Chapter 334
63G-6a-1204, as last amended by Laws of Utah 2014, Chapter 196
63I-1-226, as last amended by Laws of Utah 2020, Chapters 19, 154, 172, 181, 221, 232, 303, 347, and 429
63I-1-251, as last amended by Laws of Utah 2020, Chapter 232
63I-1-253, as last amended by Laws of Utah 2020, Chapters 154, 174, 214, 234, 242, 269, 335, and 354
63I-1-259, as last amended by Laws of Utah 2020, Chapter 332
63I-2-217, as last amended by Laws of Utah 2020, Chapters 47, 114, and 434
63I-2-219, as last amended by Laws of Utah 2019, Chapter 246
63I-2-249, as last amended by Laws of Utah 2020, Chapter 187
63I-2-253, as last amended by Laws of Utah 2020, Sixth Special Session, Chapter 13
63I-2-263, as last amended by Laws of Utah 2020, Fifth Special Session, Chapter 12
63J-3-402, as last amended by Laws of Utah 2017, Chapter 436
63M-4-503, as last amended by Laws of Utah 2018, Chapter 149
63M-7-204, as last amended by Laws of Utah 2020, Chapters 200, 230, and 395
63N-15-501, as enacted by Laws of Utah 2020, Sixth Special Session, Chapter 19
67-22-2, as last amended by Laws of Utah 2018, Chapter 39
76-9-802, as last amended by Laws of Utah 2020, Chapter 394

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

Section 1. Section 9-1-209 is amended to read:

9-1-209. Heritage and Arts Foundation Fund.

(1) As used in this section, "fund" means the Heritage and Arts Foundation Fund created in this section.

(2) There is created an expendable special revenue fund known as the "Heritage and Arts Foundation Fund."

(3) The executive director shall administer the fund.

(4) Money may be deposited into the fund from a variety of sources, including transfers, grants, private foundations, individual donors, gifts, bequests, legislative appropriations, and money made available from any other source.

(5) Money collected by the Heritage and Arts Foundation described in Subsections [~~9-22-104~~] 9-1-201(3)(b) and (5) shall be deposited into the fund.

(6) Any portion of the fund may be treated as an endowment fund such that the principal of that portion of the fund is held in perpetuity on behalf of the department.

(7) The state treasurer shall invest the money in the fund according to the procedures and requirements of Title 51, Chapter 7, State Money Management Act, except that all interest or other earnings derived from those investments shall be deposited into the fund.

(8) The executive director may expend money from the fund for any of the purposes described in this title.

Section 2. Section 9-6-903 is amended to read:

9-6-903. Duties of the division.

(1) As soon as is practicable but on or before July 31, 2020, the division shall:

(a) establish an application process by which a qualified organization may apply for a grant under this part, which application shall include:

(i) a declaration, signed under penalty of perjury, that the application is complete, true, and correct and any estimates about the net costs to provide the cultural, artistic, botanical, recreational, or zoological activity are made in good faith;

(ii) an acknowledgment that the qualified organization is subject to audit; and

(iii) a plan for providing the activity described in Subsection 9-6-902(2)(a);

(b) establish a method for the office, in consultation with the Governor's Office of Economic Development for recreational applicants, to determine which applicants are eligible to receive a grant;

(c) establish a formula to award grant funds; and

(d) report the information described in Subsections (1)(a) through (c) to the director of the Division of Finance.

(2) The division shall:

(a) participate in the presentation that the director of the Division of Finance provides to the legislative committee under Section 63A-3-111; and

(b) consider any recommendations for adjustments to the grant program from the legislative committee.

(3) Subject to appropriation, beginning on August 5, 2020, the division shall:

(a) collect applications for grant funds from qualified organizations;

(b) determine, in consultation with the Governor's Office of Economic Development for recreational applicants, which applicants meet the eligibility requirements for receiving a grant; and

(c) award the grant funds:

(i) (A) after an initial application period that ends on or before August 31, 2020; and

(B) if funds remain after the initial application period, on a rolling basis until the earlier of funds being exhausted or December 30, 2020; and

(ii) in accordance with the process established under Subsection (1) [~~and the limit described in Subsection 9-6-902(3)~~].

(4) The division shall encourage any qualified organization that receives grant funds to commit to following best practices to protect the health and safety of the qualified organization's employees and customers.

(5) (a) The division may audit a qualified organization's reported net cost to provide a cultural, artistic, botanical, recreational, or zoological activity.

(b) The division may recapture grant funds if, after audit, the division determines that:

(i) if a qualified organization made representations about the qualified organization's actual net cost to provide the cultural, artistic, botanical, recreational, or zoological activity, the representations are not complete, true, and correct; or

(ii) if a qualified organization made representations about the qualified organization's estimated net cost to provide the cultural, artistic, botanical, recreational, or zoological activity, the representations are not made in good faith.

(c) (i) A qualified organization that is subject to recapture shall pay to the Division of Finance a penalty equal to the amount of the grant recaptured multiplied by the applicable income tax rate in Section 59-7-104 or 59-10-104.

(ii) The Division of Finance shall deposit the penalty into the Education Fund.

(6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division may make rules to administer the grant program.

Section 3. Section 10-9a-401 is amended to read:

10-9a-401. General plan required -- Content.

(1) In order to accomplish the purposes of this chapter, each municipality shall prepare and adopt a comprehensive, long-range general plan for:

(a) present and future needs of the municipality; and

(b) growth and development of all or any part of the land within the municipality.

(2) The general plan may provide for:

(a) health, general welfare, safety, energy conservation, transportation, prosperity, civic activities, aesthetics, and recreational, educational, and cultural opportunities;

(b) the reduction of the waste of physical, financial, or human resources that result from either excessive congestion or excessive scattering of population;

(c) the efficient and economical use, conservation, and production of the supply of:

(i) food and water; and

(ii) drainage, sanitary, and other facilities and resources;

(d) the use of energy conservation and solar and renewable energy resources;

(e) the protection of urban development;

(f) if the municipality is a town, the protection or promotion of moderate income housing;

(g) the protection and promotion of air quality;

(h) historic preservation;

(i) identifying future uses of land that are likely to require an expansion or significant modification of services or facilities provided by each affected entity; and

(j) an official map.

(3) (a) The general plan of a municipality, other than a town, shall plan for moderate income housing growth.

(b) On or before December 1, 2019, each of the following that have a general plan that does not comply with Subsection (3)(a) shall amend the general plan to comply with Subsection (3)(a):

(i) a city of the first, second, third, or fourth class;

(ii) a city of the fifth class with a population of 5,000 or more, if the city is located within a county of the first, second, or third class; and

(iii) a metro township with a population of 5,000 or more.

(c) The population figures described in Subsections (3)(b)(ii) and (iii) shall be derived from:

(i) the most recent official census or census estimate of the United States Census Bureau; or

(ii) if a population figure is not available under Subsection (3)(c)(i), an estimate of the Utah Population Committee.

(4) Subject to Subsection 10-9a-403[~~(2)~~](3), the municipality may determine the comprehensiveness, extent, and format of the general plan.

Section 4. Section 10-9a-404 is amended to read:

10-9a-404. Public hearing by planning commission on proposed general plan or amendment -- Notice -- Revisions to general plan or amendment -- Adoption or rejection by legislative body.

(1) (a) After completing its recommendation for a proposed general plan, or proposal to amend the general plan, the planning commission shall schedule and hold a public hearing on the proposed plan or amendment.

(b) The planning commission shall provide notice of the public hearing, as required by Section 10-9a-204.

(c) After the public hearing, the planning commission may modify the proposed general plan or amendment.

(2) The planning commission shall forward the proposed general plan or amendment to the legislative body.

(3) (a) The legislative body may adopt, reject, or make any revisions to the proposed general plan or amendment that it considers appropriate.

(b) If the municipal legislative body rejects the proposed general plan or amendment, it may provide suggestions to the planning commission for the planning commission's review and recommendation.

(4) The legislative body shall adopt:

(a) a land use element as provided in Subsection 10-9a-403[~~(2)~~](3)(a)(i);

(b) a transportation and traffic circulation element as provided in Subsection 10-9a-403[~~(2)~~](3)(a)(ii); and

(c) for a municipality, other than a town, after considering the factors included in Subsection 10-9a-403[~~(2)~~](3)(b)(ii), a plan to provide a realistic opportunity to meet the need for additional moderate income housing within the next five years.

Section 5. Section 10-9a-408 is amended to read:

10-9a-408. Reporting requirements and civil action regarding moderate income housing element of general plan.

(1) The legislative body of a municipality described in Subsection 10-9a-401(3)(b) shall annually:

(a) review the moderate income housing plan element of the municipality's general plan and implementation of that element of the general plan;

(b) prepare a report on the findings of the review described in Subsection (1)(a); and

(c) post the report described in Subsection (1)(b) on the municipality's website.

(2) The report described in Subsection (1) shall include:

(a) a revised estimate of the need for moderate income housing in the municipality for the next five years;

(b) a description of progress made within the municipality to provide moderate income housing, demonstrated by analyzing and publishing data on the number of housing units in the municipality that are at or below:

(i) 80% of the adjusted median family income;

(ii) 50% of the adjusted median family income; and

(iii) 30% of the adjusted median family income;

(c) a description of any efforts made by the municipality to utilize a moderate income housing set-aside from a community reinvestment agency, redevelopment agency, or community development and renewal agency; and

(d) a description of how the municipality has implemented any of the recommendations related to moderate income housing described in Subsection 10-9a-403[~~(2)~~](3)(b)(iii).

(3) The legislative body of each municipality described in Subsection (1) shall send a copy of the report under Subsection (1) to the Department of Workforce Services, the association of governments in which the municipality is located, and, if located within the boundaries of a metropolitan planning organization, the appropriate metropolitan planning organization.

(4) In a civil action seeking enforcement or claiming a violation of this section or of Subsection 10-9a-404(4)(c), a plaintiff may not recover damages but may be awarded only injunctive or other equitable relief.

Section 6. Section 16-10a-1008.7 is amended to read:

16-10a-1008.7. Conversion to or from a domestic limited liability company.

(1) (a) A corporation may convert to a domestic limited liability company subject to [~~Title 48, Chapter 2c, Utah Revised Limited Liability Company Act, or~~] Title 48, Chapter 3a, Utah Revised Uniform Limited Liability Company Act, as appropriate pursuant to Section 48-3a-1405 by complying with:

(i) this Subsection (1); and

(ii) Section [~~48-2c-1401 or~~] 48-3a-1041.

(b) If a corporation converts to a domestic limited liability company in accordance with this Subsection (1), the articles of conversion shall:

(i) comply with [~~Section 48-2c-1402 or~~] Sections 48-3a-1045 and 48-3a-1046; and

(ii) if the corporation has issued shares, provide for:

(A) the cancellation of any issued share; or

(B) the conversion of any issued share to a membership interest in the domestic limited liability company.

(c) Before [~~articles of conversion, in accordance with Section 48-2c-1404, or~~] a statement of conversion, in accordance with Section 48-3a-1045, may be filed with the division, the conversion shall be approved:

(i) in the manner provided for the articles of incorporation or bylaws of the corporation; or

(ii) if the articles of incorporation or bylaws of the corporation do not provide the method for approval:

(A) if the corporation has issued shares, by all of the outstanding shares of all classes of shares of the corporation regardless of limitations or restrictions on the voting rights of the shares; or

(B) if the corporation has not issued shares, by a majority of:

(I) the directors in office at the time that the conversion is approved by the board of directors; or

(II) if directors have not been appointed or elected, the incorporators.

(2) A domestic limited liability company may convert to a corporation subject to this chapter by:

(a) filing articles of incorporation in accordance with this chapter; and

(b) complying with Section [~~48-2c-1406 or~~] 48-3a-1041, as appropriate pursuant to Section 48-3a-1405.

Section 7. Section 17B-2a-1205 is amended to read:

17B-2a-1205. Public infrastructure district board -- Governing document.

(1) The legislative body or board of the creating entity shall appoint the members of the board, in accordance with the governing document.

(2) (a) Unless otherwise limited in the governing document and except as provided in Subsection (2)(b), the initial term of each member of the board is four years.

(b) Notwithstanding Subsection (2)(a), approximately half of the members of the initial board shall serve a six-year term so that, after the expiration of the initial term, the term of approximately half the board members expires every two years.

(c) A board may elect that a majority of the board serve an initial term of six years.

(d) After the initial term, the term of each member of the board is four years.

(3) (a) Notwithstanding Subsection 17B-1-302(1)(b), a board member is not required to be a resident within the boundaries of the public infrastructure district if:

(i) all of the surface property owners consent to the waiver of the residency requirement;

(ii) there are no residents within the boundaries of the public infrastructure district;

(iii) no qualified candidate timely files to be considered for appointment to the board; or

(iv) no qualified individual files a declaration of candidacy for a board position in accordance with Subsection [~~17B-1-306(4)~~] 17B-1-306(5).

(b) Except under the circumstances described in Subsection (3)(a)(iii) or (iv), the residency requirement in Subsection 17B-1-302(1)(b) is applicable to any board member elected for a division or board position that has transitioned from an appointed to an elected board member in accordance with this section.

(c) An individual who is not a resident within the boundaries of the public infrastructure district may not serve as a board member unless the individual is:

(i) an owner of land or an agent or officer of the owner of land within the boundaries of the public infrastructure district; and

(ii) a registered voter at the individual's primary residence.

(4) (a) A governing document may provide for a transition from legislative body appointment under Subsection (1) to a method of election by registered voters based upon milestones or events that the governing document identifies, including a milestone for each division or individual board position providing that when the milestone is reached:

(i) for a division, the registered voters of the division elect a member of the board in place of an appointed member at the next municipal general election for the board position; or

(ii) for an at large board position established in the governing document, the registered voters of the public infrastructure district elect a member of the board in place of an appointed member at the next municipal general election for the board position.

(b) Regardless of whether a board member is elected under Subsection (4)(a), the position of each remaining board member shall continue to be appointed under Subsection (1) until the member's respective division or board position surpasses the density milestone described in the governing document.

(5) (a) Subject to Subsection (5)(c), the board may, in the board's discretion but no more frequently than every four years, reestablish the boundaries of each division so that each division that has reached a milestone specified in the governing document, as described in Subsection (4)(a), has, as nearly as possible, the same number of eligible voters.

(b) In reestablishing division boundaries under Subsection (5)(a), the board shall consider existing or potential developments within the divisions which, when completed, would increase or decrease the number of eligible voters within the division.

(c) The governing document may prohibit the board from reestablishing, without the consent of the creating entity, the division boundaries as described in Subsection (5)(a).

(6) The public infrastructure district may not compensate a board member for the member's service on the board under Section 17B-1-307 unless the board member is a resident within the boundaries of the public infrastructure district.

(7) The governing document shall:

(a) include a boundary description and a map of the public infrastructure district;

(b) state the number of board members;

(c) describe any divisions of the public infrastructure district;

(d) establish any applicable property tax levy rate limit for the public infrastructure district;

(e) establish any applicable limitation on the principal amount of indebtedness for the public infrastructure district; and

(f) include other information that the public infrastructure district or the creating entity determines to be necessary or advisable.

(8) (a) Except as provided in Subsection (8)(b), the board and the governing body of the creating entity may amend a governing document by each adopting a resolution that approves the amended governing document.

(b) Notwithstanding Subsection (8)(a), any amendment to a property tax levy rate limitation requires the consent of:

(i) 100% of surface property owners within the boundaries of the public infrastructure district; and

(ii) 100% of the registered voters, if any, within the boundaries of the public infrastructure district.

(9) A board member is not in violation of Section 67-16-9 if the board member:

(a) discloses a business relationship in accordance with Sections 67-16-7 and 67-16-8 and files the disclosure with the creating entity:

(i) before any appointment or election; and

(ii) upon any significant change in the business relationship; and

(b) conducts the affairs of the public infrastructure district in accordance with this title and any parameters described in the governing document.

(10) Notwithstanding any other provision of this section, the governing document governs the number, appointment, and terms of board members of a public infrastructure district created by the development authority.

Section 8. Section 19-6-119 is amended to read:

19-6-119. Nonhazardous solid waste disposal fees.

(1) (a) Through December 31, 2018, and except as provided in Subsection (4), the owner or operator of a commercial nonhazardous solid waste disposal facility or incinerator shall pay the following fees for waste received for treatment or disposal at the facility if the facility or incinerator is required to have operation plan approval under Section 19-6-108 and primarily receives waste generated by off-site sources not owned, controlled, or operated by the facility or site owner or operator:

(i) 13 cents per ton on all municipal waste and municipal incinerator ash;

(ii) 50 cents per ton on the following wastes if the facility disposes of one or more of the following wastes in a cell exclusively designated for the waste being disposed:

(A) construction waste or demolition waste;

(B) yard waste, including vegetative matter resulting from landscaping, land maintenance, and land clearing operations;

(C) dead animals;

(D) waste tires and materials derived from waste tires disposed of in accordance with Title 19, Chapter 6, Part 8, Waste Tire Recycling Act; and

(E) petroleum contaminated soils that are approved by the director; and

(iii) $2.50 per ton on:

(A) all nonhazardous solid waste not described in Subsections (1)(a)(i) and (ii); and

(B) (I) fly ash waste;

(II) bottom ash waste;

(III) slag waste;

(IV) flue gas emission control waste generated primarily from the combustion of coal or other fossil fuels;

(V) waste from the extraction, beneficiation, and processing of ores and minerals; and

(VI) cement kiln dust wastes.

(b) A commercial nonhazardous solid waste disposal facility or incinerator subject to the fees under Subsection (1)(a)(i) or (ii) is not subject to the fee under Subsection (1)(a)(iii) for those wastes described in Subsections (1)(a)(i) and (ii).

(c) The owner or operator of a facility described in Subsection 19-6-102(3)(b)(iii) shall pay a fee of 13 cents per ton on all municipal waste received for disposal at the facility.

(2) (a) Through December 31, 2018, and except as provided in Subsections (2)(c) and (4), a waste facility that is owned by a political subdivision shall pay the following annual facility fee to the department by January 15 of each year:

(i) $800 if the facility receives 5,000 or more but fewer than 10,000 tons of municipal waste each year;

(ii) $1,450 if the facility receives 10,000 or more but fewer than 20,000 tons of municipal waste each year;

(iii) $3,850 if the facility receives 20,000 or more but fewer than 50,000 tons of municipal waste each year;

(iv) $12,250 if the facility receives 50,000 or more but fewer than 100,000 tons of municipal waste each year;

(v) $14,700 if the facility receives 100,000 or more but fewer than 200,000 tons of municipal waste each year;

(vi) $33,000 if the facility receives 200,000 or more but fewer than 500,000 tons of municipal waste each year; and

(vii) $66,000 if the facility receives 500,000 or more tons of municipal waste each year.

(b) The fee identified in Subsection (2)(a) for 2018 shall be paid by January 15, 2019.

(c) Through December 31, 2018, and except as provided in Subsection (4), a waste facility that is owned by a political subdivision shall pay $2.50 per ton for:

(i) nonhazardous solid waste that is not a waste described in Subsection (1)(a)(i) or (ii) received for disposal if the waste is:

(A) generated outside the boundaries of the political subdivision; and

(B) received from a single generator and exceeds 500 tons in a calendar year; and

(ii) waste described in Subsection (1)(a)(iii)(B) received for disposal if the waste is:

(A) generated outside the boundaries of the political subdivision; and

(B) received from a single generator and exceeds 500 tons in a calendar year.

(d) Waste received at a facility owned by a political subdivision under Subsection (2)(c) may not be counted as part of the total tonnage received by the facility under Subsection (2)(a).

(3) (a) As used in this Subsection (3):

(i) "Recycling center" means a facility that extracts valuable materials from a waste stream or transforms or remanufactures the material into a usable form that has demonstrated or potential market value.

(ii) "Transfer station" means a permanent, fixed, supplemental collection and transportation facility that is used to deposit collected solid waste from off-site into a transfer vehicle for transport to a solid waste handling or disposal facility.

(b) Through December 31, 2018, and except as provided in Subsection (4), the owner or operator of a transfer station or recycling center shall pay to the department the following fees on waste sent for disposal to a nonhazardous solid waste disposal or treatment facility that is not subject to a fee under this section:

(i) $1.25 per ton on:

(A) all nonhazardous solid waste; and

(B) waste described in Subsection (1)(a)(iii)(B);

(ii) 10 cents per ton on all construction and demolition waste; and

(iii) 5 cents per ton on all municipal waste or municipal incinerator ash.

(c) Wastes subject to fees under Subsection (3)(b)(ii) or (iii) are not subject to the fee required under Subsection (3)(b)(i).

(4) The owner or operator of a waste disposal facility that receives nonhazardous solid waste described in Subsection (1)(a)(iii)(B) is not required to pay any fee on those nonhazardous solid wastes if received solely for the purpose of recycling, reuse, or reprocessing.

(5) Through December 31, 2018, and except as provided in Subsection (2)(a), a facility required to pay fees under this section shall:

(a) calculate the fees by multiplying the total tonnage of nonhazardous solid waste received during the calendar month, computed to the first decimal place, by the required fee rate;

(b) pay the fees imposed by this section to the department by the 15th day of the month following the month in which the fees accrued; and

(c) with the fees required under Subsection (6)(b), submit to the department, on a form prescribed by the department, information that verifies the amount of nonhazardous solid waste received and the fees that the owner or operator is required to pay.

(6) (a) In accordance with Section 63J-1-504, on or before July 1, 2018, and each fiscal year thereafter, the department shall establish a fee schedule for the treatment, transfer, and disposal of all nonhazardous solid waste.

(b) The department shall, before establishing the annual fee schedule described in Subsection (6)(a), consult with industry and local government and complete a review of program costs and indirect costs of regulating nonhazardous solid waste in the state and use the findings of the review to create the fee schedule.

(c) The fee schedule described in Subsection (6)(a) shall:

(i) create an equitable and fair, though not necessarily equal or uniform, fee to be paid by all persons whose treatment, transfer, or disposal of nonhazardous solid waste creates a regulatory burden to the department, based on the actual cost [~~as described in Section 19-6-126~~], and taking into consideration whether the owner or operator of a facility elects to self-inspect under Section 19-6-109, except as provided in Subsection (6)(d);

(ii) cover the fully burdened costs of the program and provide for reasonable and timely oversight by the department;

(iii) adequately meet the needs of industry, local government, and the department, including enabling the department to employ the appropriate number of qualified personnel to appropriately oversee industry and local government regulation;

(iv) provide stable funding for the Environmental Quality Restricted Account created in Section 19-1-108; and

(v) for solid waste managed at a transfer facility, be no greater than the cost of regulatory services provided to the transfer facility.

(d) Any person who treats, transfers, stores, or disposes of solid waste from the extraction, beneficiation, and processing of ores and minerals on a site owned, controlled, or operated by that person may not be charged a fee under this section for the treatment, transfer, storage, or disposal of solid waste from the extraction, beneficiation, and processing of ores and minerals that are generated:

(i) on-site by the person; or

(ii) by off-site sources owned, controlled, or operated by the person.

(e) The fees in the fee schedule established by Subsection (6)(a) shall take effect on January 1, 2019.

(7) On and after January 1, 2019, a facility required to pay fees under this section shall:

(a) pay the fees imposed by this section to the department by the 15th day of the month following the quarter in which the fees accrued; and

(b) with the fees required under Subsection (7)(a), submit to the department, on a form prescribed by the department, information that verifies the amount of nonhazardous solid waste received and the fees that the owner or operator is required to pay.

(8) In setting the fee schedule described in Subsection (6)(a), the department shall ensure that a party is not charged multiple fees for the same solid waste, except the department may charge a separate fee for a transfer station.

(9) The department shall:

(a) deposit all fees received under this section into the Environmental Quality Restricted Account created in Section 19-1-108; and

(b) in preparing its budget for the governor and the Legislature, separately indicate the amount of the department's budget necessary to administer the solid and hazardous waste program established by this part.

(10) The department may contract or agree with a county to assist in performing nonhazardous solid waste management activities, including agreements for:

(a) the development of a solid waste management plan required under Section 17-15-23; and

(b) pass-through of available funding.

(11) This section does not exempt any facility from applicable regulation under the Atomic

Energy Act, 42 U.S.C. Sec. 2014 and 2021 through 2114.

(12) The department shall report to the Natural Resources, Agriculture, and Environment Interim Committee by November 30, 2017, on the fee schedule described in Subsection (6)(a).

Section 9. Section 20A-2-206 is amended to read:

20A-2-206. Electronic registration.

(1) The lieutenant governor shall create and maintain an electronic system that is publicly available on the Internet for an individual to apply for voter registration or preregistration.

(2) An electronic system for voter registration or preregistration shall require:

(a) that an applicant have a valid driver license or identification card, issued under Title 53, Chapter 3, Uniform Driver License Act, that reflects the applicant's current principal place of residence;

(b) that the applicant provide the information required by Section 20A-2-104, except that the applicant's signature may be obtained in the manner described in Subsections (2)(d) and (4);

(c) that the applicant attest to the truth of the information provided; and

(d) that the applicant authorize the lieutenant governor's and county clerk's use of the applicant's:

(i) driver license or identification card signature, obtained under Title 53, Chapter 3, Uniform Driver License Act, for voter registration purposes; or

(ii) signature on file in the lieutenant governor's statewide voter registration database developed under Section 20A-2-109.

(3) Notwithstanding Section 20A-2-104, an applicant using the electronic system for voter registration or preregistration created under this section is not required to complete a printed registration form.

(4) A system created and maintained under this section shall provide the notices concerning a voter's presentation of identification contained in Subsection 20A-2-104(1).

(5) The lieutenant governor shall:

(a) obtain a digital copy of the applicant's driver license or identification card signature from the Driver License Division; or

(b) ensure that the applicant's signature is already on file in the lieutenant governor's statewide voter registration database developed under Section 20A-2-109.

(6) The lieutenant governor shall send the information to the county clerk for the county in which the applicant's principal place of residence is found for further action as required by Section 20A-2-304 after:

(a) receiving all information from an applicant; and

(b) (i) receiving all information from the Driver License Division; or

(ii) ensuring that the applicant's signature is already on file in the lieutenant governor's statewide voter registration database developed under Section 20A-2-109.

(7) The lieutenant governor may use additional security measures to ensure the accuracy and integrity of an electronically submitted voter registration.

(8) If an individual applies to register under this section no later than 11 calendar days before the date of an election, the county clerk shall:

(a) accept and process the voter registration form;

(b) unless the individual named in the form is preregistering to vote:

(i) enter the applicant's name on the list of registered voters for the voting precinct in which the applicant resides; and

(ii) notify the individual that the individual is registered to vote in the upcoming election; and

(c) if the individual named in the form is preregistering to vote, comply with Section 20A-2-101.1.

(9) If an individual applies to register under this section after the deadline described in Subsection (8), the county clerk shall, unless the individual is preregistering to vote:

(a) accept the application for registration; and

(b) except as provided in Subsection 20A-2-207(6), if possible, promptly inform the individual that the individual will not be registered to vote in the pending election, unless the individual registers to vote by provisional ballot during the early voting period, if applicable, or on election day, in accordance with Section 20A-2-207.

(10) The lieutenant governor shall provide a means by which a registered voter shall sign the application form [~~as provided in Section 20A-3-304~~].

Section 10. Section 26-21-3 is amended to read:

26-21-3. Health Facility Committee -- Members -- Terms -- Organization -- Meetings.

(1) (a) The Health Facility Committee created by Section 26-1-7 consists of [~~11~~] 12 members appointed by the governor in consultation with the executive director.

(b) The appointed members shall be knowledgeable about health care facilities and issues.

(2) The membership of the committee is:

(a) one physician, licensed to practice medicine and surgery under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act, who is a graduate of a regularly chartered medical school;

(b) one hospital administrator;

(c) one hospital trustee;

(d) one representative of a freestanding ambulatory surgical facility;

(e) one representative of an ambulatory surgical facility that is affiliated with a hospital;

(f) one representative of the nursing care facility industry;

(g) one registered nurse, licensed to practice under Title 58, Chapter 31b, Nurse Practice Act;

(h) one licensed architect or engineer with expertise in health care facilities;

(i) one representative of assisted living facilities licensed under this chapter;

(j) two consumers, one of whom has an interest in or expertise in geriatric care; and

(k) one representative from either a home health care provider or a hospice provider.

(3) (a) Except as required by Subsection (3)(b), members shall be appointed for a term of four years.

(b) Notwithstanding the requirements of Subsection (3)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of committee members are staggered so that approximately half of the committee is appointed every two years.

(c) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term by the governor, giving consideration to recommendations made by the committee, with the consent of the Senate.

(d) A member may not serve more than two consecutive full terms or 10 consecutive years, whichever is less. However, a member may continue to serve as a member until the member is replaced.

(e) The committee shall annually elect from its membership a chair and vice chair.

(f) The committee shall meet at least quarterly, or more frequently as determined by the chair or five members of the committee.

(g) Six members constitute a quorum. A vote of the majority of the members present constitutes action of the committee.

Section 11. Section 26-60-103 is amended to read:

26-60-103. Scope of telehealth practice.

(1) A provider offering telehealth services shall:

(a) at all times:

(i) act within the scope of the provider's license under Title 58, Occupations and Professions, in accordance with the provisions of this chapter and all other applicable laws and rules; and

(ii) be held to the same standards of practice as those applicable in traditional health care settings;

(b) if the provider does not already have a provider-patient relationship with the patient, establish a provider-patient relationship during the patient encounter in a manner consistent with the standards of practice, determined by the Division of Professional Licensing in rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, including providing the provider's licensure and credentials to the patient;

(c) [~~in accordance with Title 58, Chapter 82, Electronic Prescribing Act,~~] before providing treatment or prescribing a prescription drug, establish a diagnosis and identify underlying conditions and contraindications to a recommended treatment after:

(i) obtaining from the patient or another provider the patient's relevant clinical history; and

(ii) documenting the patient's relevant clinical history and current symptoms;

(d) be available to a patient who receives telehealth services from the provider for subsequent care related to the initial telemedicine services, in accordance with community standards of practice;

(e) be familiar with available medical resources, including emergency resources near the originating site, in order to make appropriate patient referrals when medically indicated;

(f) in accordance with any applicable state and federal laws, rules, and regulations, generate, maintain, and make available to each patient receiving telehealth services the patient's medical records; and

(g) if the patient has a designated health care provider who is not the telemedicine provider:

(i) consult with the patient regarding whether to provide the patient's designated health care provider a medical record or other report containing an explanation of the treatment provided to the patient and the telemedicine provider's evaluation, analysis, or diagnosis of the patient's condition;

(ii) collect from the patient the contact information of the patient's designated health care provider; and

(iii) within two weeks after the day on which the telemedicine provider provides services to the patient, and to the extent allowed under HIPAA as that term is defined in Section 26-18-17, provide the medical record or report to the patient's designated health care provider, unless the patient indicates that the patient does not want the telemedicine provider to send the medical record or report to the patient's designated health care provider.

(2) Subsection (1)(g) does not apply to prescriptions for eyeglasses or contacts.

(3) Except as specifically provided in Title 58, Chapter 83, Online Prescribing, Dispensing, and

Facilitation Licensing Act, and unless a provider has established a provider-patient relationship with a patient, a provider offering telemedicine services may not diagnose a patient, provide treatment, or prescribe a prescription drug based solely on one of the following:

(a) an online questionnaire;

(b) an email message; or

(c) a patient-generated medical history.

(4) A provider may not offer telehealth services if:

(a) the provider is not in compliance with applicable laws, rules, and regulations regarding the provider's licensed practice; or

(b) the provider's license under Title 58, Occupations and Professions, is not active and in good standing.

Section 12. Section 31A-35-103 is amended to read:

31A-35-103. Exemption from other provisions of this title.

Bail bond agencies are exempted from:

(1) Chapter 3, Department Funding, Fees, and Taxes, except Section 31A-3-103;

(2) Chapter 4, Insurers in General, except Sections 31A-4-102, 31A-4-103, 31A-4-104, and 31A-4-107;

(3) Chapter 5, Domestic Stock and Mutual Insurance Corporations, except Section 31A-5-103;

(4) Chapter 6a, Service Contracts;

(5) Chapter 6b, Guaranteed Asset Protection Waiver Act;

(6) Chapter 7, Nonprofit Health Service Insurance Corporations;

(7) Chapter 8, Health Maintenance Organizations and Limited Health Plans;

(8) Chapter 8a, Health Discount Program Consumer Protection Act;

(9) Chapter 9, Insurance Fraternals;

(10) Chapter 10, Annuities;

(11) Chapter 11, Motor Clubs;

(12) Chapter 12, State Risk Management Fund;

(13) Chapter 14, Foreign Insurers;

(14) Chapter 15, Unauthorized Insurers, Surplus Lines, and Risk Retention Groups;

(15) Chapter 16, Insurance Holding Companies;

(16) Chapter 17, Determination of Financial Condition;

(17) Chapter 18, Investments;

(18) Chapter 19a, Utah Rate Regulation Act;

(19) Chapter 20, Underwriting Restrictions;

(20) Chapter 23b, Navigator License Act;

(21) Chapter 25, Third Party Administrators;

(22) Chapter 26, Insurance Adjusters;

(23) Chapter 27, Delinquency Administrative Action Provisions;

(24) Chapter 27a, Insurer Receivership Act;

(25) Chapter 28, Guaranty Associations;

(26) Chapter 30, Individual, Small Employer, and Group Health Insurance Act;

(27) Chapter 31, Insurance Fraud Act;

(28) Chapter 32a, Medical Care Savings Account Act;

(29) Chapter 36, Life Settlements Act;

(30) Chapter 37, Captive Insurance Companies Act;

(31) Chapter 37a, Special Purpose Financial Captive Insurance Company Act;

(32) Chapter 38, Federal Health Care Tax Credit Program Act;

(33) Chapter 39, Interstate Insurance Product Regulation Compact;

(34) Chapter 40, Professional Employer Organization Licensing Act;

(35) Chapter 41, Title Insurance Recovery, Education, and Research Fund Act; and

[~~(36) Chapter 42, Defined Contribution Risk Adjuster Act; and~~]

[~~(37)~~] (36) Chapter 43, Small Employer Stop-Loss Insurance Act.

Section 13. Section 34A-2-407 is amended to read:

34A-2-407. Reporting of industrial injuries -- Regulation of health care providers.

(1) As used in this section, "physician" is as defined in Section 34A-2-111.

(2) (a) An employee sustaining an injury arising out of and in the course of employment shall provide notification to the employee's employer promptly of the injury.

(b) If the employee is unable to provide the notification required by Subsection (2)(a), the following may provide notification of the injury to the employee's employer:

(i) the employee's next of kin; or

(ii) the employee's attorney.

(c) An employee claiming benefits under this chapter or Chapter 3, Utah Occupational Disease Act, shall comply with rules adopted by the commission regarding disclosure of medical records of the employee medically relevant to the industrial accident or occupational disease claim.

(3) (a) An employee is barred for any claim of benefits arising from an injury if the employee fails

to notify within the time period described in Subsection (3)(b):

(i) the employee's employer in accordance with Subsection (2); or

(ii) the division.

(b) The notice required by Subsection (3)(a) shall be made within:

(i) 180 days of the day on which the injury occurs; or

(ii) in the case of an occupational hearing loss, the time period specified in Section 34A-2-506.

(4) The following constitute notification of injury required by Subsection (2):

(a) an employer's report filed with:

(i) the division; or

(ii) the employer's workers' compensation insurance carrier;

(b) a physician's injury report filed with:

(i) the division;

(ii) the employer; or

(iii) the employer's workers' compensation insurance carrier;

(c) a workers' compensation insurance carrier's report filed with the division; or

(d) the payment of any medical or disability benefits by:

(i) the employer; or

(ii) the employer's workers' compensation insurance carrier.

(5) (a) An employer and the employer's workers' compensation insurance carrier, if any, shall file a report in accordance with the rules made under Subsection (5)(b) of a:

(i) work-related fatality; or

(ii) work-related injury resulting in:

(A) medical treatment;

(B) loss of consciousness;

(C) loss of work;

(D) restriction of work; or

(E) transfer to another job.

(b) An employer or the employer's workers' compensation insurance carrier, if any, shall file a report required by Subsection (5)(a), and any subsequent reports of a previously reported injury as may be required by the commission, within the time limits and in the manner established by rule by the commission made after consultation with the workers' compensation advisory council and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act. A rule made under this Subsection (5)(b) shall:

(i) be reasonable; and

(ii) take into consideration the practicality and cost of complying with the rule.

(c) A report is not required to be filed under this Subsection (5) for a minor injury, such as a cut or scratch that requires first aid treatment only, unless:

(i) a treating physician files a report with the division in accordance with Subsection (9); or

(ii) a treating physician is required to file a report with the division in accordance with Subsection (9).

(6) An employer and its workers' compensation insurance carrier, if any, required to file a report under Subsection (5) shall provide the employee with:

(a) a copy of the report submitted to the division; and

(b) a statement, as prepared by the division, of the employee's rights and responsibilities related to the industrial injury.

(7) An employer shall maintain a record in a manner prescribed by the commission by rule of all:

(a) work-related fatalities; or

(b) work-related injuries resulting in:

(i) medical treatment;

(ii) loss of consciousness;

(iii) loss of work;

(iv) restriction of work; or

(v) transfer to another job.

(8) (a) Except as provided in Subsection (8)(b), an employer or a workers' compensation insurance carrier who refuses or neglects to make a report, maintain a record, or file a report as required by this section is subject to a civil assessment:

(i) imposed by the division, subject to the requirements of Title 63G, Chapter 4, Administrative Procedures Act; and

(ii) that may not exceed $500.

(b) An employer or workers' compensation insurance carrier is not subject to the civil assessment under this Subsection (8) if:

(i) the employer or workers' compensation insurance carrier submits a report later than required by this section; and

(ii) the division finds that the employer or workers' compensation insurance carrier has shown good cause for submitting a report later than required by this section.

(c) (i) A civil assessment collected under this Subsection (8) shall be deposited into the Uninsured Employers' Fund created in Section 34A-2-704 to be used for a purpose specified in Section 34A-2-704.

(ii) The administrator of the Uninsured Employers' Fund shall collect money required to be

deposited into the Uninsured Employers' Fund under this Subsection (8)(c) in accordance with Section 34A-2-704.

(9) (a) A physician attending an injured employee shall comply with rules established by the commission regarding:

(i) fees for physician's services;

(ii) disclosure of medical records of the employee medically relevant to the employee's industrial accident or occupational disease claim;

(iii) reports to the division regarding:

(A) the condition and treatment of an injured employee; or

(B) any other matter concerning industrial cases that the physician is treating; and

(iv) rules made under Section 34A-2-407.5.

(b) A physician who is associated with, employed by, or bills through a hospital is subject to Subsection (9)(a).

(c) A hospital providing services for an injured employee is not subject to the requirements of Subsection (9)(a) except for rules made by the commission that are described in Subsection (9)(a)(ii) or (iii) or Section 34A-2-407.5.

(d) The commission's schedule of fees may reasonably differentiate remuneration to be paid to providers of health services based on:

(i) the severity of the employee's condition;

(ii) the nature of the treatment necessary; and

(iii) the facilities or equipment specially required to deliver that treatment.

(e) This Subsection (9) does not prohibit a contract with a provider of health services relating to the pricing of goods and services.

(10) A copy of the initial report filed under Subsection (9)(a)(iii) shall be furnished to:

(a) the division;

(b) the employee; and

(c) (i) the employer; or

(ii) the employer's workers' compensation insurance carrier.

(11) (a) As used in this Subsection (11):

(i) "Balance billing" means charging a person, on whose behalf a workers' compensation insurance carrier or self-insured employer is obligated to pay medical benefits under this chapter or Chapter 3, Utah Occupational Disease Act, for the difference between what the workers' compensation insurance carrier or self-insured employer reimburses the hospital for covered medical services and what the hospital charges for those covered medical services.

(ii) "Covered medical services" means medical services provided by a hospital that are covered by workers' compensation medical benefits under this chapter or Chapter 3, Utah Occupational Disease Act.

[~~(iii) "Health benefit plan" means the same as that term is defined in Section 31A-22-619.6.~~]

[~~(iv)~~] (iii) "Self-insured employer" means the same as that term is defined in Section 34A-2-201.5.

(b) Subject to Subsection (11)(d), a workers' compensation insurance carrier or self-insured employer may contract, either in writing or by mutual oral agreement, with a hospital to establish reimbursement rates.

(c) Subject to Subsection (11)(d), for the time period beginning on May 8, 2018, and ending on July 1, 2021, a workers' compensation insurance carrier or self-insured employer that is reimbursing a hospital for covered medical services shall reimburse the hospital:

(i) in accordance with a contract described in Subsection (11)(b); or

(ii) (A) if the hospital is located in a county of the first, second, or third class, as classified in Section 17-50-501, at 75% of the billed hospital fees for the covered medical services; or

(B) if the hospital is located in a county of the fourth, fifth, or sixth class, as classified in Section 17-50-501, at 85% of the billed hospital fees for the covered medical services.

(d) A hospital may not engage in balance billing.

[~~(e) Covered services paid under a health benefit plan are subject to coordination of benefits in accordance with Section 31A-22-619.6.~~]

(12) (a) Subject to appellate review under Section 34A-1-303, the commission has exclusive jurisdiction to hear and determine:

(i) whether goods provided to or services rendered to an employee are compensable pursuant to this chapter or Chapter 3, Utah Occupational Disease Act, including:

(A) medical, nurse, or hospital services;

(B) medicines; and

(C) artificial means, appliances, or prosthesis;

(ii) except for amounts charged or paid under Subsection (11), the reasonableness of the amounts charged or paid for a good or service described in Subsection (12)(a)(i); and

(iii) collection issues related to a good or service described in Subsection (12)(a)(i).

(b) Except as provided in Subsection (12)(a), Subsection 34A-2-211(6), or Section 34A-2-212, a person may not maintain a cause of action in any forum within this state other than the commission for collection or payment for goods or services described in Subsection (12)(a) that are compensable under this chapter or Chapter 3, Utah Occupational Disease Act.

Section 14. Section 34A-3-108 is amended to read:

34A-3-108. Reporting of occupational diseases -- Regulation of health care providers.

(1) An employee sustaining an occupational disease, as defined in this chapter, arising out of and in the course of employment shall provide notification to the employee's employer promptly of the occupational disease. If the employee is unable to provide notification, the employee's next of kin or attorney may provide notification of the occupational disease to the employee's employer.

(2) (a) An employee who fails to notify the employee's employer or the division within 180 days after the cause of action arises is barred from a claim of benefits arising from the occupational disease.

(b) The cause of action is considered to arise on the date the employee first:

(i) suffers disability from the occupational disease; and

(ii) knows, or in the exercise of reasonable diligence should have known, that the occupational disease is caused by employment.

(3) The following constitute notification of an occupational disease:

(a) an employer's report filed with the:

(i) division; or

(ii) workers' compensation insurance carrier;

(b) a physician's injury report filed with the:

(i) division;

(ii) employer; or

(iii) workers' compensation insurance carrier;

(c) a workers' compensation insurance carrier's report to the division; or

(d) the payment of any medical or disability benefit by the employer or the employer's workers' compensation insurance carrier.

(4) (a) An employer and the employer's workers' compensation insurance carrier, if any, shall file a report in accordance with the rules described in Subsection (4)(b) of any occupational disease resulting in:

(i) medical treatment;

(ii) loss of consciousness;

(iii) loss of work;

(iv) restriction of work; or

(v) transfer to another job.

(b) An employer or the employer's workers' compensation insurance carrier, if any, shall file a report required under Subsection (4)(a) and any subsequent reports of a previously reported occupational disease as may be required by the commission within the time limits and in the manner established by rule by the commission made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, under Subsection 34A-2-407(5).

(c) A report is not required:

(i) for a minor injury that requires first aid treatment only, unless a treating physician files, or is required to file, the Physician's Initial Report of Work Injury or Occupational Disease with the division;

(ii) for occupational diseases that manifest after the employee is no longer employed by the employer with which the exposure occurred; or

(iii) when the employer is not aware of an exposure occasioned by the employment that results in an occupational disease as defined by Section 34A-3-103.

(5) An employer or its workers' compensation insurance carrier, if any, shall provide the employee with:

(a) a copy of the report submitted to the division; and

(b) a statement, as prepared by the division, of the employee's rights and responsibilities related to the occupational disease.

(6) An employer shall maintain a record in a manner prescribed by the division of occupational diseases resulting in:

(a) medical treatment;

(b) loss of consciousness;

(c) loss of work;

(d) restriction of work; or

(e) transfer to another job.

(7) An employer or a workers' compensation insurance carrier who refuses or neglects to make a report, maintain a record, or file a report with the division as required by this section is subject to citation and civil assessment in accordance with Subsection 34A-2-407(8).

(8) (a) Except as provided in Subsection (8)(c), a physician, surgeon, or other health care provider attending an occupationally diseased employee shall:

(i) comply with the rules, including the schedule of fees, for services as adopted by the commission;

(ii) make reports to the division at any and all times as required as to the condition and treatment of an occupationally diseased employee or as to any other matter concerning industrial cases being treated; and

(iii) comply with rules made under Section 34A-2-407.5.

(b) A physician, as defined in Section 34A-2-111, who is associated with, employed by, or bills through a hospital is subject to Subsection (8)(a).

(c) A hospital is not subject to the requirements of Subsection (8)(a) except a hospital is subject to rules

made by the commission under Subsections 34A-2-407(9)(a)(ii) and (iii) and Section 34A-2-407.5.

(d) The commission's schedule of fees may reasonably differentiate remuneration to be paid to providers of health services based on:

(i) the severity of the employee's condition;

(ii) the nature of the treatment necessary; and

(iii) the facilities or equipment specially required to deliver that treatment.

(e) This Subsection (8) does not prohibit a contract with a provider of health services relating to the pricing of goods and services.

(9) A copy of the physician's initial report shall be furnished to the:

(a) division;

(b) employee; and

(c) employer or its workers' compensation insurance carrier.

(10) A person subject to reporting under Subsection (8)(a)(ii) or Subsection 34A-2-407(9)(a)(iii) who refuses or neglects to make a report or comply with this section is subject to a civil assessment in accordance with Subsection 34A-2-407(8).

(11) (a) As used in this Subsection (11):

(i) "Balance billing" means charging a person, on whose behalf a workers' compensation insurance carrier or self-insured employer is obligated to pay medical benefits under this chapter or Chapter 2, Workers' Compensation Act, for the difference between what the workers' compensation insurance carrier or self-insured employer reimburses the hospital for covered medical services and what the hospital charges for those covered medical services.

(ii) "Covered medical services" means medical services provided by a hospital that are covered by workers' compensation medical benefits under this chapter or Chapter 2, Workers' Compensation Act.

[~~(iii) "Health benefit plan" means the same as that term is defined in Section 31A-22-619.6.~~]

[~~(iv)~~] (iii) "Self-insured employer" means the same as that term is defined in Section 34A-2-201.5.

(b) Subject to Subsection (11)(d), a workers' compensation insurance carrier or self-insured employer may contract, either in writing or by mutual oral agreement, with a hospital to establish reimbursement rates.

(c) Subject to Subsection (11)(d), for the time period beginning on May 10, 2016, and ending on July 1, 2018, a workers' compensation insurance carrier or self-insured employer that is reimbursing a hospital that has not entered into a contract described in Subsection (11)(b), shall reimburse the hospital for covered medical services at 85% of the billed hospital fees for the covered medical services.

(d) A hospital may not engage in balance billing.

[~~(e) Covered services paid under a health benefit plan are subject to coordination of benefits in accordance with Section 31A-22-619.6.~~]

(12) (a) An application for a hearing to resolve a dispute regarding an occupational disease claim shall be filed with the Division of Adjudication.

(b) After the filing, a copy shall be forwarded by mail to:

(i) (A) the employer; or

(B) the employer's workers' compensation insurance carrier;

(ii) the applicant; and

(iii) the attorneys for the parties.

(13) (a) Subject to appellate review under Section 34A-1-303, the commission has exclusive jurisdiction to hear and determine:

(i) whether goods provided to or services rendered to an employee is compensable pursuant to this chapter and Chapter 2, Workers' Compensation Act, including the following:

(A) medical, nurse, or hospital services;

(B) medicines; and

(C) artificial means, appliances, or prosthesis;

(ii) except for amounts charged or paid under Subsection (11), the reasonableness of the amounts charged or paid for a good or service described in Subsection (13)(a)(i); and

(iii) collection issues related to a good or service described in Subsection (13)(a)(i).

(b) Except as provided in Subsection (13)(a), Subsection 34A-2-211(6), or Section 34A-2-212, a person may not maintain a cause of action in any forum within this state other than the commission for collection or payment of goods or services described in Subsection (13)(a) that are compensable under this chapter or Chapter 2, Workers' Compensation Act.

Section 15. Section 49-11-406 is amended to read:

49-11-406. Governor's appointed executives and senior staff -- Appointed legislative employees -- Transfer of value of accrued defined benefit -- Procedures.

(1) As used in this section:

(a) "Defined benefit balance" means the total amount of the contributions made on behalf of a member to a defined benefit system plus refund interest.

(b) "Senior staff" means an at-will employee who reports directly to an elected official, executive director, or director and includes a deputy director and other similar, at-will employee positions designated by the governor, the speaker of the

House, or the president of the Senate and filed with the Department of Human Resource Management and the Utah State Retirement Office.

(2) In accordance with this section and subject to requirements under federal law and rules made by the board, a member who has service credit from a system may elect to be exempt from coverage under a defined benefit system and to have the member's defined benefit balance transferred from the defined benefit system or plan to a defined contribution plan in the member's own name if the member is:

(a) the state auditor;

(b) the state treasurer;

(c) an appointed executive under Subsection 67-22-2(1)(a);

(d) an employee in the Governor's Office;

(e) senior staff in the Governor's Office of Management and Budget;

(f) senior staff in the Governor's Office of Economic Development;

(g) senior staff in the Commission on Criminal and Juvenile Justice;

(h) a legislative employee appointed under Subsection 36-12-7(3)(a); or

(i) a legislative employee appointed by the speaker of the House of Representatives, the House of Representatives minority leader, the president of the Senate, or the Senate minority leader[~~; or~~].

[~~(j) senior staff of the Utah Science Technology and Research Initiative created under Title 63M, Chapter 2, Utah Science Technology and Research Governing Authority Act.~~]

(3) An election made under Subsection (2):

(a) is final, and no right exists to make any further election;

(b) is considered a request to be exempt from coverage under a defined benefits system; and

(c) shall be made on forms provided by the office.

(4) The board shall adopt rules to implement and administer this section.

Section 16. Section 49-13-203 is amended to read:

49-13-203. Exclusions from membership in system.

(1) The following employees are not eligible for service credit in this system:

(a) subject to the requirements of Subsection (2), an employee whose employment status is temporary in nature due to the nature or the type of work to be performed;

(b) except as provided under Subsection (3)(a), an employee of an institution of higher education who participates in a retirement system with a public or private retirement system, organization, or company designated by the Utah Board of Higher Education, or the technical college board of trustees for an employee of each technical college, during any period in which required contributions based on compensation have been paid on behalf of the employee by the employer;

(c) an employee serving as an exchange employee from outside the state for an employer who has not elected to make all of the employer's exchange employees eligible for service credit in this system;

(d) an executive department head of the state or a legislative director, senior executive employed by the governor's office, a member of the State Tax Commission, a member of the Public Service Commission, and a member of a full-time or part-time board or commission who files a formal request for exemption;

(e) an employee of the Department of Workforce Services who is covered under another retirement system allowed under Title 35A, Chapter 4, Employment Security Act;

(f) an employee who is employed with an employer that has elected to be excluded from participation in this system under Subsection 49-13-202(5), effective on or after the date of the employer's election under Subsection 49-13-202(5);

(g) an employee who is employed with a withdrawing entity that has elected under Section 49-11-623, prior to January 1, 2017, to exclude:

(i) new employees from participation in this system under Subsection 49-11-623(3)(a); or

(ii) all employees from participation in this system under Subsection 49-11-623(3)(b); or

(h) an employee described in Subsection (1)(h)(i) or (ii) who is employed with a withdrawing entity that has elected under Section 49-11-624, before January 1, 2018, to exclude:

(i) new employees from participation in this system under Subsection 49-11-624(3)(a); or

(ii) all employees from participation in this system under Subsection 49-11-624(3)(b).

(2) If an employee whose status is temporary in nature due to the nature of type of work to be performed:

(a) is employed for a term that exceeds six months and the employee otherwise qualifies for service credit in this system, the participating employer shall report and certify to the office that the employee is a regular full-time employee effective the beginning of the seventh month of employment; or

(b) was previously terminated prior to being eligible for service credit in this system and is reemployed within three months of termination by the same participating employer, the participating employer shall report and certify that the member is a regular full-time employee when the total of the periods of employment equals six months and the

employee otherwise qualifies for service credits in this system.

(3) (a) Upon cessation of the participating employer contributions, an employee under Subsection (1)(b) is eligible for service credit in this system.

(b) Notwithstanding the provisions of Subsection (1)(f), any eligibility for service credit earned by an employee under this chapter before the date of the election under Subsection 49-13-202(5) is not affected under Subsection (1)(f).

(4) Upon filing a written request for exemption with the office, the following employees shall be exempt from coverage under this system:

(a) a full-time student or the spouse of a full-time student and individuals employed in a trainee relationship;

(b) an elected official;

(c) an executive department head of the state, a member of the State Tax Commission, a member of the Public Service Commission, and a member of a full-time or part-time board or commission;

(d) an employee of the Governor's Office of Management and Budget;

(e) an employee of the Governor's Office of Economic Development;

(f) an employee of the Commission on Criminal and Juvenile Justice;

(g) an employee of the Governor's Office;

(h) an employee of the State Auditor's Office;

(i) an employee of the State Treasurer's Office;

(j) any other member who is permitted to make an election under Section 49-11-406;

(k) a person appointed as a city manager or chief city administrator or another person employed by a municipality, county, or other political subdivision, who is an at-will employee;

(l) an employee of an interlocal cooperative agency created under Title 11, Chapter 13, Interlocal Cooperation Act, who is engaged in a specialized trade customarily provided through membership in a labor organization that provides retirement benefits to its members; and

[~~(m) an employee of the Utah Science Technology and Research Initiative created under Title 63M, Chapter 2, Utah Science Technology and Research Governing Authority Act; and~~]

[~~(n)~~] (m) an employee serving as an exchange employee from outside the state for an employer who has elected to make all of the employer's exchange employees eligible for service credit in this system.

(5) (a) Each participating employer shall prepare and maintain a list designating those positions eligible for exemption under Subsection (4).

(b) An employee may not be exempted unless the employee is employed in a position designated by the participating employer.

(6) (a) In accordance with this section, Section 49-12-203, and Section 49-22-205, a municipality, county, or political subdivision may not exempt a total of more than 50 positions or a number equal to 10% of the eligible employees of the municipality, county, or political subdivision, whichever is less.

(b) A municipality, county, or political subdivision may exempt at least one regular full-time employee.

(7) Each participating employer shall:

(a) maintain a list of employee exemptions; and

(b) update the employee exemptions in the event of any change.

(8) The office may make rules to implement this section.

(9) An employee's exclusion, exemption, participation, or election described in this section:

(a) shall be made in accordance with this section; and

(b) is subject to requirements under federal law and rules made by the board.

Section 17. Section 49-20-418 is amended to read:

49-20-418. Expanded infertility treatment coverage pilot program.

(1) As used in this section:

(a) "Assisted reproductive technology" means the same as the term is defined in [~~42 U.S. Code Sec. 26-3a-7a~~] 42 U.S.C. Sec. 263a-7.

(b) "Physician" means the same as the term is defined in Section 58-67-102.

(c) "Pilot program" means the expanded infertility treatment coverage pilot program described in Subsection (2).

(d) "Qualified individual" means a covered individual who is eligible for maternity benefits under the program.

(2) (a) Beginning plan year 2018-19, and ending plan year 2020-21, the program shall offer a 3-year pilot program within the state risk pool that provides coverage to a qualified individual for the use of an assisted reproductive technology.

(b) The pilot program shall offer a one-time, lifetime maximum benefit of $4,000 toward the costs of using an assisted reproductive technology for each qualified individual.

(c) The benefit described in Subsection (2)(b) is subject to the same cost sharing requirements as the covered individual's plan.

(3) Coverage offered under the pilot program applies if:

(a) the patient who will use the assisted reproductive technology is a qualified individual;

(b) (i) the patient's physician verifies that the patient or the patient's spouse has a demonstrated condition recognized by a physician as a cause of infertility; or

(ii) the patient attests that the patient is unable to conceive a pregnancy or carry a pregnancy to a live birth after a year or more of regular sexual relations without contraception;

(c) the patient attests that the patient has been unable to attain a successful pregnancy through any less-costly, potentially effective infertility treatments for which coverage is available under the health benefit plan; and

(d) the use of the assisted reproductive technology procedure is performed at a medical facility that conforms to the minimal standards for programs of assisted reproductive technology procedures adopted by the American Society for Reproductive Medicine.

(4) Coverage offered under the pilot program:

(a) may not exceed $4,000 over the lifetime of each qualified individual;

(b) shall satisfy, in accordance with Subsection 31A-22-610.1(1)(c)(ii), the requirement to provide an adoption indemnity benefit to a qualified individual under Section 31A-22-610.1; and

(c) does not apply to a qualified individual if the qualified individual has received the adoption indemnity benefit required under Section 31A-22-610.1.

(5) (a) The purpose of the pilot program is to study the efficacy of providing coverage for the use of an assisted reproductive technology and is not a mandate for coverage of an assisted reproductive technology within all health plans offered by the program.

(b) Before November 30, 2021, the program shall report to the Social Services Appropriations Subcommittee regarding the costs and benefits of the pilot program.

(6) Under Section 63J-1-603, the Legislature intends that the cost of the pilot program will be paid from money above the minimum recommended level in the public employees' state risk pool reserve.

Section 18. Section 49-22-205 is amended to read:

49-22-205. Exemptions from participation in system.

(1) Upon filing a written request for exemption with the office, the following employees are exempt from participation in the system as provided in this section:

(a) an executive department head of the state;

(b) a member of the State Tax Commission;

(c) a member of the Public Service Commission;

(d) a member of a full-time or part-time board or commission;

(e) an employee of the Governor's Office of Management and Budget;

(f) an employee of the Governor's Office of Economic Development;

(g) an employee of the Commission on Criminal and Juvenile Justice;

(h) an employee of the Governor's Office;

(i) an employee of the State Auditor's Office;

(j) an employee of the State Treasurer's Office;

(k) any other member who is permitted to make an election under Section 49-11-406;

(l) a person appointed as a city manager or appointed as a city administrator or another at-will employee of a municipality, county, or other political subdivision;

(m) an employee of an interlocal cooperative agency created under Title 11, Chapter 13, Interlocal Cooperation Act, who is engaged in a specialized trade customarily provided through membership in a labor organization that provides retirement benefits to its members; and

[~~(n) an employee of the Utah Science Technology and Research Initiative created under Title 63M, Chapter 2, Utah Science Technology and Research Governing Authority Act; and~~]

[~~(o)~~] (n) an employee serving as an exchange employee from outside the state for an employer who has elected to make all of the employer's exchange employees eligible for service credit in this system.

(2) (a) A participating employer shall prepare and maintain a list designating those positions eligible for exemption under Subsection (1).

(b) An employee may not be exempted unless the employee is employed in a position designated by the participating employer under Subsection (1).

(3) (a) In accordance with this section, Section 49-12-203, and Section 49-13-203, a municipality, county, or political subdivision may not exempt a total of more than 50 positions or a number equal to 10% of the eligible employees of the municipality, county, or political subdivision, whichever is less.

(b) A municipality, county, or political subdivision may exempt at least one regular full-time employee.

(4) Each participating employer shall:

(a) maintain a list of employee exemptions; and

(b) update an employee exemption in the event of any change.

(5) Beginning on the effective date of the exemption for an employee who elects to be exempt in accordance with Subsection (1):

(a) for a member of the Tier II defined contribution plan:

(i) the participating employer shall contribute the nonelective contribution and the amortization rate described in Section 49-22-401, except that the nonelective contribution is exempt from the vesting requirements of Subsection 49-22-401(3)(a); and

(ii) the member may make voluntary deferrals as provided in Section 49-22-401; and

(b) for a member of the Tier II hybrid retirement system:

(i) the participating employer shall contribute the nonelective contribution and the amortization rate described in Section 49-22-401, except that the contribution is exempt from the vesting requirements of Subsection 49-22-401(3)(a);

(ii) the member may make voluntary deferrals as provided in Section 49-22-401; and

(iii) the member is not eligible for additional service credit in the system.

(6) If an employee who is a member of the Tier II hybrid retirement system subsequently revokes the election of exemption made under Subsection (1), the provisions described in Subsection (5)(b) shall no longer be applicable and the coverage for the employee shall be effective prospectively as provided in Part 3, Tier II Hybrid Retirement System.

(7) (a) All employer contributions made on behalf of an employee shall be invested in accordance with Subsection 49-22-303(3)(a) or 49-22-401(4)(a) until the one-year election period under Subsection 49-22-201(2)(c) is expired if the employee:

(i) elects to be exempt in accordance with Subsection (1); and

(ii) continues employment with the participating employer through the one-year election period under Subsection 49-22-201(2)(c).

(b) An employee is entitled to receive a distribution of the employer contributions made on behalf of the employee and all associated investment gains and losses if the employee:

(i) elects to be exempt in accordance with Subsection (1); and

(ii) terminates employment prior to the one-year election period under Subsection 49-22-201(2)(c).

(8) (a) The office shall make rules to implement this section.

(b) The rules made under this Subsection (8) shall include provisions to allow the exemption provided under Subsection (1) to apply to all contributions made beginning on or after July 1, 2011, on behalf of an exempted employee who began the employment before May 8, 2012.

(9) An employee's exemption, participation, or election described in this section:

(a) shall be made in accordance with this section; and

(b) is subject to requirements under federal law and rules made by the board.

Section 19. Section 53E-1-201 is amended to read:

53E-1-201. Reports to and action required of the Education Interim Committee.

(1) In accordance with applicable provisions and Section 68-3-14, the following recurring reports are due to the Education Interim Committee:

(a) the report described in Section 9-22-109 by the STEM Action Center Board, including the information described in Section 9-22-113 on the status of the computer science initiative and Section 9-22-114 on the Computing Partnerships Grants Program;

(b) the prioritized list of data research described in Section 35A-14-302 and the report on research described in Section 35A-14-304 by the Utah Data Research Center;

(c) the report described in Section 35A-15-303 by the State Board of Education on preschool programs;

(d) the report described in Section 53B-1-402 by the Utah Board of Higher Education on career and technical education issues and addressing workforce needs;

(e) the annual report of the Utah Board of Higher Education described in Section 53B-1-402;

(f) the reports described in Section 53B-28-401 by the Utah Board of Higher Education regarding activities related to campus safety;

(g) the State Superintendent's Annual Report by the state board described in Section 53E-1-203;

(h) the annual report described in Section 53E-2-202 by the state board on the strategic plan to improve student outcomes;

(i) the report described in Section 53E-8-204 by the state board on the Utah Schools for the Deaf and the Blind;

(j) the report described in Section 53E-10-703 by the Utah Leading through Effective, Actionable, and Dynamic Education director on research and other activities;

(k) the report described in Section 53F-4-203 by the state board and the independent evaluator on an evaluation of early interactive reading software;

(l) the report described in Section 53F-4-407 by the state board on UPSTART;

(m) the reports described in Sections 53F-5-214 and 53F-5-215 by the state board related to grants for professional learning and grants for an elementary teacher preparation assessment; and

(n) the report described in Section 53F-5-405 by the State Board of Education regarding an evaluation of a partnership that receives a grant to improve educational outcomes for students who are low income.

(2) In accordance with applicable provisions and Section 68-3-14, the following occasional reports are due to the Education Interim Committee:

(a) the report described in Section 35A-15-303 by the School Readiness Board by November 30, 2020, on benchmarks for certain preschool programs;

(b) the report described in Section 53B-28-402 by the Utah Board of Higher Education on or before the Education Interim Committee's November 2021 meeting;

[~~(c) the report described in Section 53E-3-519 by the state board regarding counseling services in schools;~~]

[~~(d)~~] (c) the reports described in Section 53E-3-520 by the state board regarding cost centers and implementing activity based costing;

[~~(e)~~] (d) if required, the report described in Section 53E-4-309 by the state board explaining the reasons for changing the grade level specification for the administration of specific assessments;

[~~(f)~~] (e) if required, the report described in Section 53E-5-210 by the state board of an adjustment to the minimum level that demonstrates proficiency for each statewide assessment;

[~~(g)~~] (f) in 2022 and in 2023, on or before November 30, the report described in Subsection 53E-10-309(7) related to the PRIME pilot program;

[~~(h)~~] (g) the report described in Section 53E-10-702 by Utah Leading through Effective, Actionable, and Dynamic Education;

[~~(i)~~] (h) the report described in Section 53F-2-502 by the state board on the program evaluation of the dual language immersion program;

[~~(j)~~] (i) if required, the report described in Section 53F-2-513 by the state board evaluating the effects of salary bonuses on the recruitment and retention of effective teachers in high poverty schools;

[~~(k)~~] (j) upon request, the report described in Section 53F-5-207 by the state board on the Intergenerational Poverty Intervention Grants Program;

[~~(l)~~] (k) the report described in Section 53F-5-210 by the state board on the Educational Improvement Opportunities Outside of the Regular School Day Grant Program;

[~~(m)~~] (l) the report described in Section 53G-7-503 by the state board regarding fees that LEAs charge during the 2020-2021 school year;

[~~(n)~~] (m) the reports described in Section 53G-11-304 by the state board regarding proposed rules and results related to educator exit surveys;

[~~(o)~~] (n) upon request, the report described in Section 53G-11-505 by the state board on progress in implementing employee evaluations;

[~~(p)~~] (o) the report described in Section 62A-15-117 by the Division of Substance Abuse and Mental Health, the State Board of Education, and the Department of Health regarding recommendations related to Medicaid reimbursement for school-based health services; and

[~~(q)~~] (p) the reports described in Section 63C-19-202 by the Higher Education Strategic Planning Commission.

(3) In accordance with Section 53B-7-705, the Education Interim Committee shall complete the review of the implementation of performance funding.

Section 20. Section 59-10-1034 is amended to read:

59-10-1034. Nonrefundable high cost infrastructure development tax credit.

(1) As used in this section:

(a) "High cost infrastructure project" means the same as that term is defined in Section 63M-4-602.

(b) "Infrastructure cost-burdened entity" means the same as that term is defined in Section 63M-4-602.

(c) "Infrastructure-related revenue" means the same as that term is defined in Section 63M-4-602.

(d) "Office" means the Office of Energy Development created in Section 63M-4-401.

(2) Subject to the other provisions of this section, a claimant, estate, or trust that is an infrastructure cost-burdened entity may claim a nonrefundable tax credit for development of a high cost infrastructure project as provided in this section.

(3) The tax credit under this section is the amount listed as the tax credit amount on a tax credit certificate that the office issues under Title 63M, Chapter 4, Part 6, High Cost Infrastructure Development Tax Credit Act, to the infrastructure cost-burdened entity for the taxable year.

(4) An infrastructure cost-burdened entity may carry forward a tax credit under this section for a period that does not exceed the next seven taxable years if:

(a) the infrastructure cost-burdened entity is allowed to claim a tax credit under this section for a taxable year; and

(b) the amount of the tax credit exceeds the infrastructure cost-burdened entity's tax liability under this chapter for that taxable year.

(5) (a) In accordance with Section 59-10-137, the Revenue and Taxation Interim Committee shall study the tax credit allowed by this section and make recommendations concerning whether the tax credit should be continued, modified, or repealed.

(b) (i) Except as provided in Subsection (5)(b)(ii), for purposes of the study required by this Subsection (5), the office shall provide the following information, if available to the office, to the Office of the Legislative Fiscal Analyst:

(A) the amount of tax credit that the office grants to each infrastructure cost-burdened entity for each taxable year;

(B) the infrastructure-related revenue generated by each high cost infrastructure project;

(C) the information contained in the office's latest report under Section [~~63M-4-505~~] 63M-4-605; and

(D) any other information that the Office of the Legislative Fiscal Analyst requests.

(ii) (A) In providing the information described in Subsection (5)(b)(i), the office shall redact information that identifies a recipient of a tax credit under this section.

(B) If, notwithstanding the redactions made under Subsection (5)(b)(ii)(A), reporting the information described in Subsection (5)(b)(i) might disclose the identity of a recipient of a tax credit, the office may file a request with the Revenue and Taxation Interim Committee to provide the information described in Subsection (5)(b)(i) in the aggregate for all infrastructure cost-burdened entities that receive the tax credit under this section.

(c) As part of the study required by this Subsection (5), the Office of the Legislative Fiscal Analyst shall report to the Revenue and Taxation Interim Committee a summary and analysis of the information provided to the Office of the Legislative Fiscal Analyst by the office under Subsection (5)(b).

(d) The Revenue and Taxation Interim Committee shall ensure that the recommendations described in Subsection (5)(a) include an evaluation of:

(i) the cost of the tax credit to the state;

(ii) the purpose and effectiveness of the tax credit; and

(iii) the extent to which the state benefits from the tax credit.

Section 21. Section 59-12-102 is amended to read:

59-12-102. Definitions.

As used in this chapter:

(1) "800 service" means a telecommunications service that:

(a) allows a caller to dial a toll-free number without incurring a charge for the call; and

(b) is typically marketed:

(i) under the name 800 toll-free calling;

(ii) under the name 855 toll-free calling;

(iii) under the name 866 toll-free calling;

(iv) under the name 877 toll-free calling;

(v) under the name 888 toll-free calling; or

(vi) under a name similar to Subsections (1)(b)(i) through (v) as designated by the Federal Communications Commission.

(2) (a) "900 service" means an inbound toll telecommunications service that:

(i) a subscriber purchases;

(ii) allows a customer of the subscriber described in Subsection (2)(a)(i) to call in to the subscriber's:

(A) prerecorded announcement; or

(B) live service; and

(iii) is typically marketed:

(A) under the name 900 service; or

(B) under a name similar to Subsection (2)(a)(iii)(A) as designated by the Federal Communications Commission.

(b) "900 service" does not include a charge for:

(i) a collection service a seller of a telecommunications service provides to a subscriber; or

(ii) the following a subscriber sells to the subscriber's customer:

(A) a product; or

(B) a service.

(3) (a) "Admission or user fees" includes season passes.

(b) "Admission or user fees" does not include:

(i) annual membership dues to private organizations; or

(ii) a lesson, including a lesson that involves as part of the lesson equipment or a facility listed in Subsection 59-12-103(1)(f).

(4) "Affiliate" or "affiliated person" means a person that, with respect to another person:

(a) has an ownership interest of more than 5%, whether direct or indirect, in that other person; or

(b) is related to the other person because a third person, or a group of third persons who are affiliated persons with respect to each other, holds an ownership interest of more than 5%, whether direct or indirect, in the related persons.

(5) "Agreement" means the Streamlined Sales and Use Tax Agreement adopted on November 12, 2002, including amendments made to the Streamlined Sales and Use Tax Agreement after November 12, 2002.

(6) "Agreement combined tax rate" means the sum of the tax rates:

(a) listed under Subsection (7); and

(b) that are imposed within a local taxing jurisdiction.

(7) "Agreement sales and use tax" means a tax imposed under:

(a) Subsection 59-12-103(2)(a)(i)(A);

(b) Subsection 59-12-103(2)(b)(i);

(c) Subsection 59-12-103(2)(c)(i);

(d) Subsection 59-12-103(2)(d)(i)(A)(I);

(e) Section 59-12-204;

(f) Section 59-12-401;

(g) Section 59-12-402;

(h) Section 59-12-402.1;

(i) Section 59-12-703;

(j) Section 59-12-802;

(k) Section 59-12-804;

(l) Section 59-12-1102;

(m) Section 59-12-1302;

(n) Section 59-12-1402;

(o) Section 59-12-1802;

(p) Section 59-12-2003;

(q) Section 59-12-2103;

(r) Section 59-12-2213;

(s) Section 59-12-2214;

(t) Section 59-12-2215;

(u) Section 59-12-2216;

(v) Section 59-12-2217;

(w) Section 59-12-2218;

(x) Section 59-12-2219; or

(y) Section 59-12-2220.

(8) "Aircraft" means the same as that term is defined in Section 72-10-102.

(9) "Aircraft maintenance, repair, and overhaul provider" means a business entity:

(a) except for:

(i) an airline as defined in Section 59-2-102; or

(ii) an affiliated group, as defined in Section 59-7-101, except that "affiliated group" includes a corporation that is qualified to do business but is not otherwise doing business in the state, of an airline; and

(b) that has the workers, expertise, and facilities to perform the following, regardless of whether the business entity performs the following in this state:

(i) check, diagnose, overhaul, and repair:

(A) an onboard system of a fixed wing turbine powered aircraft; and

(B) the parts that comprise an onboard system of a fixed wing turbine powered aircraft;

(ii) assemble, change, dismantle, inspect, and test a fixed wing turbine powered aircraft engine;

(iii) perform at least the following maintenance on a fixed wing turbine powered aircraft:

(A) an inspection;

(B) a repair, including a structural repair or modification;

(C) changing landing gear; and

(D) addressing issues related to an aging fixed wing turbine powered aircraft;

(iv) completely remove the existing paint of a fixed wing turbine powered aircraft and completely apply new paint to the fixed wing turbine powered aircraft; and

(v) refurbish the interior of a fixed wing turbine powered aircraft in a manner that results in a change in the fixed wing turbine powered aircraft's certification requirements by the authority that certifies the fixed wing turbine powered aircraft.

(10) "Alcoholic beverage" means a beverage that:

(a) is suitable for human consumption; and

(b) contains .5% or more alcohol by volume.

(11) "Alternative energy" means:

(a) biomass energy;

(b) geothermal energy;

(c) hydroelectric energy;

(d) solar energy;

(e) wind energy; or

(f) energy that is derived from:

(i) coal-to-liquids;

(ii) nuclear fuel;

(iii) oil-impregnated diatomaceous earth;

(iv) oil sands;

(v) oil shale;

(vi) petroleum coke; or

(vii) waste heat from:

(A) an industrial facility; or

(B) a power station in which an electric generator is driven through a process in which water is heated, turns into steam, and spins a steam turbine.

(12) (a) Subject to Subsection (12)(b), "alternative energy electricity production facility" means a facility that:

(i) uses alternative energy to produce electricity; and

(ii) has a production capacity of two megawatts or greater.

(b) A facility is an alternative energy electricity production facility regardless of whether the facility is:

(i) connected to an electric grid; or

(ii) located on the premises of an electricity consumer.

(13) (a) "Ancillary service" means a service associated with, or incidental to, the provision of telecommunications service.

(b) "Ancillary service" includes:

(i) a conference bridging service;

(ii) a detailed communications billing service;

(iii) directory assistance;

(iv) a vertical service; or

(v) a voice mail service.

(14) "Area agency on aging" means the same as that term is defined in Section 62A-3-101.

(15) "Assisted amusement device" means an amusement device, skill device, or ride device that is started and stopped by an individual:

(a) who is not the purchaser or renter of the right to use or operate the amusement device, skill device, or ride device; and

(b) at the direction of the seller of the right to use the amusement device, skill device, or ride device.

(16) "Assisted cleaning or washing of tangible personal property" means cleaning or washing of tangible personal property if the cleaning or washing labor is primarily performed by an individual:

(a) who is not the purchaser of the cleaning or washing of the tangible personal property; and

(b) at the direction of the seller of the cleaning or washing of the tangible personal property.

(17) "Authorized carrier" means:

(a) in the case of vehicles operated over public highways, the holder of credentials indicating that the vehicle is or will be operated pursuant to both the International Registration Plan and the International Fuel Tax Agreement;

(b) in the case of aircraft, the holder of a Federal Aviation Administration operating certificate or air carrier's operating certificate; or

(c) in the case of locomotives, freight cars, railroad work equipment, or other rolling stock, a person who uses locomotives, freight cars, railroad work equipment, or other rolling stock in more than one state.

(18) (a) Except as provided in Subsection (18)(b), "biomass energy" means any of the following that is used as the primary source of energy to produce fuel or electricity:

(i) material from a plant or tree; or

(ii) other organic matter that is available on a renewable basis, including:

(A) slash and brush from forests and woodlands;

(B) animal waste;

(C) waste vegetable oil;

(D) methane or synthetic gas produced at a landfill, as a byproduct of the treatment of wastewater residuals, or through the conversion of a waste material through a nonincineration, thermal conversion process;

(E) aquatic plants; and

(F) agricultural products.

(b) "Biomass energy" does not include:

(i) black liquor; or

(ii) treated woods.

(19) (a) "Bundled transaction" means the sale of two or more items of tangible personal property, products, or services if the tangible personal property, products, or services are:

(i) distinct and identifiable; and

(ii) sold for one nonitemized price.

(b) "Bundled transaction" does not include:

(i) the sale of tangible personal property if the sales price varies, or is negotiable, on the basis of the selection by the purchaser of the items of tangible personal property included in the transaction;

(ii) the sale of real property;

(iii) the sale of services to real property;

(iv) the retail sale of tangible personal property and a service if:

(A) the tangible personal property:

(I) is essential to the use of the service; and

(II) is provided exclusively in connection with the service; and

(B) the service is the true object of the transaction;

(v) the retail sale of two services if:

(A) one service is provided that is essential to the use or receipt of a second service;

(B) the first service is provided exclusively in connection with the second service; and

(C) the second service is the true object of the transaction;

(vi) a transaction that includes tangible personal property or a product subject to taxation under this chapter and tangible personal property or a product that is not subject to taxation under this chapter if the:

(A) seller's purchase price of the tangible personal property or product subject to taxation under this chapter is de minimis; or

(B) seller's sales price of the tangible personal property or product subject to taxation under this chapter is de minimis; and

(vii) the retail sale of tangible personal property that is not subject to taxation under this chapter and tangible personal property that is subject to taxation under this chapter if:

(A) that retail sale includes:

(I) food and food ingredients;

(II) a drug;

(III) durable medical equipment;

(IV) mobility enhancing equipment;

(V) an over-the-counter drug;

(VI) a prosthetic device; or

(VII) a medical supply; and

(B) subject to Subsection (19)(f):

(I) the seller's purchase price of the tangible personal property subject to taxation under this chapter is 50% or less of the seller's total purchase price of that retail sale; or

(II) the seller's sales price of the tangible personal property subject to taxation under this chapter is 50% or less of the seller's total sales price of that retail sale.

(c) (i) For purposes of Subsection (19)(a)(i), tangible personal property, a product, or a service that is distinct and identifiable does not include:

(A) packaging that:

(I) accompanies the sale of the tangible personal property, product, or service; and

(II) is incidental or immaterial to the sale of the tangible personal property, product, or service;

(B) tangible personal property, a product, or a service provided free of charge with the purchase of another item of tangible personal property, a product, or a service; or

(C) an item of tangible personal property, a product, or a service included in the definition of "purchase price."

(ii) For purposes of Subsection (19)(c)(i)(B), an item of tangible personal property, a product, or a service is provided free of charge with the purchase of another item of tangible personal property, a product, or a service if the sales price of the purchased item of tangible personal property, product, or service does not vary depending on the inclusion of the tangible personal property, product, or service provided free of charge.

(d) (i) For purposes of Subsection (19)(a)(ii), property sold for one nonitemized price does not include a price that is separately identified by tangible personal property, product, or service on the following, regardless of whether the following is in paper format or electronic format:

(A) a binding sales document; or

(B) another supporting sales-related document that is available to a purchaser.

(ii) For purposes of Subsection (19)(d)(i), a binding sales document or another supporting sales-related document that is available to a purchaser includes:

(A) a bill of sale;

(B) a contract;

(C) an invoice;

(D) a lease agreement;

(E) a periodic notice of rates and services;

(F) a price list;

(G) a rate card;

(H) a receipt; or

(I) a service agreement.

(e) (i) For purposes of Subsection (19)(b)(vi), the sales price of tangible personal property or a product subject to taxation under this chapter is de minimis if:

(A) the seller's purchase price of the tangible personal property or product is 10% or less of the seller's total purchase price of the bundled transaction; or

(B) the seller's sales price of the tangible personal property or product is 10% or less of the seller's total sales price of the bundled transaction.

(ii) For purposes of Subsection (19)(b)(vi), a seller:

(A) shall use the seller's purchase price or the seller's sales price to determine if the purchase price or sales price of the tangible personal property or product subject to taxation under this chapter is de minimis; and

(B) may not use a combination of the seller's purchase price and the seller's sales price to determine if the purchase price or sales price of the tangible personal property or product subject to taxation under this chapter is de minimis.

(iii) For purposes of Subsection (19)(b)(vi), a seller shall use the full term of a service contract to determine if the sales price of tangible personal property or a product is de minimis.

(f) For purposes of Subsection (19)(b)(vii)(B), a seller may not use a combination of the seller's purchase price and the seller's sales price to determine if tangible personal property subject to taxation under this chapter is 50% or less of the seller's total purchase price or sales price of that retail sale.

(20) "Certified automated system" means software certified by the governing board of the agreement that:

(a) calculates the agreement sales and use tax imposed within a local taxing jurisdiction:

(i) on a transaction; and

(ii) in the states that are members of the agreement;

(b) determines the amount of agreement sales and use tax to remit to a state that is a member of the agreement; and

(c) maintains a record of the transaction described in Subsection (20)(a)(i).

(21) "Certified service provider" means an agent certified:

(a) by the governing board of the agreement; and

(b) to perform a seller's sales and use tax functions for an agreement sales and use tax, as outlined in the contract between the governing

board of the agreement and the certified service provider, other than the seller's obligation under Section 59-12-124 to remit a tax on the seller's own purchases.

(22) (a) Subject to Subsection (22)(b), "clothing" means all human wearing apparel suitable for general use.

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

(i) listing the items that constitute "clothing"; and

(ii) that are consistent with the list of items that constitute "clothing" under the agreement.

(23) "Coal-to-liquid" means the process of converting coal into a liquid synthetic fuel.

(24) "Commercial use" means the use of gas, electricity, heat, coal, fuel oil, or other fuels that does not constitute industrial use under Subsection (57) or residential use under Subsection (112).

(25) (a) "Common carrier" means a person engaged in or transacting the business of transporting passengers, freight, merchandise, or other property for hire within this state.

(b) (i) "Common carrier" does not include a person that, at the time the person is traveling to or from that person's place of employment, transports a passenger to or from the passenger's place of employment.

(ii) For purposes of Subsection (25)(b)(i), in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules defining what constitutes a person's place of employment.

(c) "Common carrier" does not include a person that provides transportation network services, as defined in Section 13-51-102.

(26) "Component part" includes:

(a) poultry, dairy, and other livestock feed, and their components;

(b) baling ties and twine used in the baling of hay and straw;

(c) fuel used for providing temperature control of orchards and commercial greenhouses doing a majority of their business in wholesale sales, and for providing power for off-highway type farm machinery; and

(d) feed, seeds, and seedlings.

(27) "Computer" means an electronic device that accepts information:

(a) (i) in digital form; or

(ii) in a form similar to digital form; and

(b) manipulates that information for a result based on a sequence of instructions.

(28) "Computer software" means a set of coded instructions designed to cause:

(a) a computer to perform a task; or

(b) automatic data processing equipment to perform a task.

(29) "Computer software maintenance contract" means a contract that obligates a seller of computer software to provide a customer with:

(a) future updates or upgrades to computer software;

(b) support services with respect to computer software; or

(c) a combination of Subsections (29)(a) and (b).

(30) (a) "Conference bridging service" means an ancillary service that links two or more participants of an audio conference call or video conference call.

(b) "Conference bridging service" may include providing a telephone number as part of the ancillary service described in Subsection (30)(a).

(c) "Conference bridging service" does not include a telecommunications service used to reach the ancillary service described in Subsection (30)(a).

(31) "Construction materials" means any tangible personal property that will be converted into real property.

(32) "Delivered electronically" means delivered to a purchaser by means other than tangible storage media.

(33) (a) "Delivery charge" means a charge:

(i) by a seller of:

(A) tangible personal property;

(B) a product transferred electronically; or

(C) a service; and

(ii) for preparation and delivery of the tangible personal property, product transferred electronically, or services described in Subsection (33)(a)(i) to a location designated by the purchaser.

(b) "Delivery charge" includes a charge for the following:

(i) transportation;

(ii) shipping;

(iii) postage;

(iv) handling;

(v) crating; or

(vi) packing.

(34) "Detailed telecommunications billing service" means an ancillary service of separately stating information pertaining to individual calls on a customer's billing statement.

(35) "Dietary supplement" means a product, other than tobacco, that:

(a) is intended to supplement the diet;

(b) contains one or more of the following dietary ingredients:

(i) a vitamin;

(ii) a mineral;

(iii) an herb or other botanical;

(iv) an amino acid;

(v) a dietary substance for use by humans to supplement the diet by increasing the total dietary intake; or

(vi) a concentrate, metabolite, constituent, extract, or combination of any ingredient described in Subsections (35)(b)(i) through (v);

(c) (i) except as provided in Subsection (35)(c)(ii), is intended for ingestion in:

(A) tablet form;

(B) capsule form;

(C) powder form;

(D) softgel form;

(E) gelcap form; or

(F) liquid form; or

(ii) if the product is not intended for ingestion in a form described in Subsections (35)(c)(i)(A) through (F), is not represented:

(A) as conventional food; and

(B) for use as a sole item of:

(I) a meal; or

(II) the diet; and

(d) is required to be labeled as a dietary supplement:

(i) identifiable by the "Supplemental Facts" box found on the label; and

(ii) as required by 21 C.F.R. Sec. 101.36.

(36) (a) "Digital audio work" means a work that results from the fixation of a series of musical, spoken, or other sounds.

(b) "Digital audio work" includes a ringtone.

(37) "Digital audio-visual work" means a series of related images which, when shown in succession, imparts an impression of motion, together with accompanying sounds, if any.

(38) "Digital book" means a work that is generally recognized in the ordinary and usual sense as a book.

(39) (a) "Direct mail" means printed material delivered or distributed by United States mail or other delivery service:

(i) to:

(A) a mass audience; or

(B) addressees on a mailing list provided:

(I) by a purchaser of the mailing list; or

(II) at the discretion of the purchaser of the mailing list; and

(ii) if the cost of the printed material is not billed directly to the recipients.

(b) "Direct mail" includes tangible personal property supplied directly or indirectly by a purchaser to a seller of direct mail for inclusion in a package containing the printed material.

(c) "Direct mail" does not include multiple items of printed material delivered to a single address.

(40) "Directory assistance" means an ancillary service of providing:

(a) address information; or

(b) telephone number information.

(41) (a) "Disposable home medical equipment or supplies" means medical equipment or supplies that:

(i) cannot withstand repeated use; and

(ii) are purchased by, for, or on behalf of a person other than:

(A) a health care facility as defined in Section 26-21-2;

(B) a health care provider as defined in Section 78B-3-403;

(C) an office of a health care provider described in Subsection (41)(a)(ii)(B); or

(D) a person similar to a person described in Subsections (41)(a)(ii)(A) through (C).

(b) "Disposable home medical equipment or supplies" does not include:

(i) a drug;

(ii) durable medical equipment;

(iii) a hearing aid;

(iv) a hearing aid accessory;

(v) mobility enhancing equipment; or

(vi) tangible personal property used to correct impaired vision, including:

(A) eyeglasses; or

(B) contact lenses.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes medical equipment or supplies.

(42) "Drilling equipment manufacturer" means a facility:

(a) located in the state;

(b) with respect to which 51% or more of the manufacturing activities of the facility consist of manufacturing component parts of drilling equipment;

(c) that uses pressure of 800,000 or more pounds per square inch as part of the manufacturing process; and

(d) that uses a temperature of 2,000 or more degrees Fahrenheit as part of the manufacturing process.

(43) (a) "Drug" means a compound, substance, or preparation, or a component of a compound, substance, or preparation that is:

(i) recognized in:

(A) the official United States Pharmacopoeia;

(B) the official Homeopathic Pharmacopoeia of the United States;

(C) the official National Formulary; or

(D) a supplement to a publication listed in Subsections (43)(a)(i)(A) through (C);

(ii) intended for use in the:

(A) diagnosis of disease;

(B) cure of disease;

(C) mitigation of disease;

(D) treatment of disease; or

(E) prevention of disease; or

(iii) intended to affect:

(A) the structure of the body; or

(B) any function of the body.

(b) "Drug" does not include:

(i) food and food ingredients;

(ii) a dietary supplement;

(iii) an alcoholic beverage; or

(iv) a prosthetic device.

(44) (a) Except as provided in Subsection (44)(c), "durable medical equipment" means equipment that:

(i) can withstand repeated use;

(ii) is primarily and customarily used to serve a medical purpose;

(iii) generally is not useful to a person in the absence of illness or injury; and

(iv) is not worn in or on the body.

(b) "Durable medical equipment" includes parts used in the repair or replacement of the equipment described in Subsection (44)(a).

(c) "Durable medical equipment" does not include mobility enhancing equipment.

(45) "Electronic" means:

(a) relating to technology; and

(b) having:

(i) electrical capabilities;

(ii) digital capabilities;

(iii) magnetic capabilities;

(iv) wireless capabilities;

(v) optical capabilities;

(vi) electromagnetic capabilities; or

(vii) capabilities similar to Subsections (45)(b)(i) through (vi).

(46) "Electronic financial payment service" means an establishment:

(a) within NAICS Code 522320, Financial Transactions Processing, Reserve, and Clearinghouse Activities, of the 2012 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget; and

(b) that performs electronic financial payment services.

(47) "Employee" means the same as that term is defined in Section 59-10-401.

(48) "Fixed guideway" means a public transit facility that uses and occupies:

(a) rail for the use of public transit; or

(b) a separate right-of-way for the use of public transit.

(49) "Fixed wing turbine powered aircraft" means an aircraft that:

(a) is powered by turbine engines;

(b) operates on jet fuel; and

(c) has wings that are permanently attached to the fuselage of the aircraft.

(50) "Fixed wireless service" means a telecommunications service that provides radio communication between fixed points.

(51) (a) "Food and food ingredients" means substances:

(i) regardless of whether the substances are in:

(A) liquid form;

(B) concentrated form;

(C) solid form;

(D) frozen form;

(E) dried form; or

(F) dehydrated form; and

(ii) that are:

(A) sold for:

(I) ingestion by humans; or

(II) chewing by humans; and

(B) consumed for the substance's:

(I) taste; or

(II) nutritional value.

(b) "Food and food ingredients" includes an item described in Subsection (96)(b)(iii).

(c) "Food and food ingredients" does not include:

(i) an alcoholic beverage;

(ii) tobacco; or

(iii) prepared food.

(52) (a) "Fundraising sales" means sales:

(i) (A) made by a school; or

(B) made by a school student;

(ii) that are for the purpose of raising funds for the school to purchase equipment, materials, or provide transportation; and

(iii) that are part of an officially sanctioned school activity.

(b) For purposes of Subsection (52)(a)(iii), "officially sanctioned school activity" means a school activity:

(i) that is conducted in accordance with a formal policy adopted by the school or school district governing the authorization and supervision of fundraising activities;

(ii) that does not directly or indirectly compensate an individual teacher or other educational personnel by direct payment, commissions, or payment in kind; and

(iii) the net or gross revenues from which are deposited in a dedicated account controlled by the school or school district.

(53) "Geothermal energy" means energy contained in heat that continuously flows outward from the earth that is used as the sole source of energy to produce electricity.

(54) "Governing board of the agreement" means the governing board of the agreement that is:

(a) authorized to administer the agreement; and

(b) established in accordance with the agreement.

(55) (a) For purposes of Subsection 59-12-104(41), "governmental entity" means:

(i) the executive branch of the state, including all departments, institutions, boards, divisions, bureaus, offices, commissions, and committees;

(ii) the judicial branch of the state, including the courts, the Judicial Council, the Administrative Office of the Courts, and similar administrative units in the judicial branch;

(iii) the legislative branch of the state, including the House of Representatives, the Senate, the Legislative Printing Office, the Office of Legislative Research and General Counsel, the Office of the Legislative Auditor General, and the Office of the Legislative Fiscal Analyst;

(iv) the National Guard;

(v) an independent entity as defined in Section 63E-1-102; or

(vi) a political subdivision as defined in Section 17B-1-102.

(b) "Governmental entity" does not include the state systems of public and higher education, including:

(i) a school;

(ii) the State Board of Education;

(iii) the Utah Board of Higher Education; or

(iv) an institution of higher education described in Section 53B-1-102.

(56) "Hydroelectric energy" means water used as the sole source of energy to produce electricity.

(57) "Industrial use" means the use of natural gas, electricity, heat, coal, fuel oil, or other fuels:

(a) in mining or extraction of minerals;

(b) in agricultural operations to produce an agricultural product up to the time of harvest or placing the agricultural product into a storage facility, including:

(i) commercial greenhouses;

(ii) irrigation pumps;

(iii) farm machinery;

(iv) implements of husbandry as defined in Section 41-1a-102 that are not registered under Title 41, Chapter 1a, Part 2, Registration; and

(v) other farming activities;

(c) in manufacturing tangible personal property at an establishment described in:

(i) SIC Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of the President, Office of Management and Budget; or

(ii) a NAICS code within NAICS Sector 31-33, Manufacturing, of the 2017 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget;

(d) by a scrap recycler if:

(i) from a fixed location, the scrap recycler utilizes machinery or equipment to process one or more of the following items into prepared grades of processed materials for use in new products:

(A) iron;

(B) steel;

(C) nonferrous metal;

(D) paper;

(E) glass;

(F) plastic;

(G) textile; or

(H) rubber; and

(ii) the new products under Subsection (57)(d)(i) would otherwise be made with nonrecycled materials; or

(e) in producing a form of energy or steam described in Subsection 54-2-1(3)(a) by a cogeneration facility as defined in Section 54-2-1.

(58) (a) Except as provided in Subsection (58)(b), "installation charge" means a charge for installing:

(i) tangible personal property; or

(ii) a product transferred electronically.

(b) "Installation charge" does not include a charge for:

(i) repairs or renovations of:

(A) tangible personal property; or

(B) a product transferred electronically; or

(ii) attaching tangible personal property or a product transferred electronically:

(A) to other tangible personal property; and

(B) as part of a manufacturing or fabrication process.

(59) "Institution of higher education" means an institution of higher education listed in Section 53B-2-101.

(60) (a) "Lease" or "rental" means a transfer of possession or control of tangible personal property or a product transferred electronically for:

(i) (A) a fixed term; or

(B) an indeterminate term; and

(ii) consideration.

(b) "Lease" or "rental" includes an agreement covering a motor vehicle and trailer if the amount of consideration may be increased or decreased by reference to the amount realized upon sale or disposition of the property as defined in Section 7701(h)(1), Internal Revenue Code.

(c) "Lease" or "rental" does not include:

(i) a transfer of possession or control of property under a security agreement or deferred payment plan that requires the transfer of title upon completion of the required payments;

(ii) a transfer of possession or control of property under an agreement that requires the transfer of title:

(A) upon completion of required payments; and

(B) if the payment of an option price does not exceed the greater of:

(I) $100; or

(II) 1% of the total required payments; or

(iii) providing tangible personal property along with an operator for a fixed period of time or an indeterminate period of time if the operator is necessary for equipment to perform as designed.

(d) For purposes of Subsection (60)(c)(iii), an operator is necessary for equipment to perform as designed if the operator's duties exceed the:

(i) set-up of tangible personal property;

(ii) maintenance of tangible personal property; or

(iii) inspection of tangible personal property.

(61) "Lesson" means a fixed period of time for the duration of which a trained instructor:

(a) is present with a student in person or by video; and

(b) actively instructs the student, including by providing observation or feedback.

(62) "Life science establishment" means an establishment in this state that is classified under the following NAICS codes of the 2007 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget:

(a) NAICS Code 33911, Medical Equipment and Supplies Manufacturing;

(b) NAICS Code 334510, Electromedical and Electrotherapeutic Apparatus Manufacturing; or

(c) NAICS Code 334517, Irradiation Apparatus Manufacturing.

(63) "Life science research and development facility" means a facility owned, leased, or rented by a life science establishment if research and development is performed in 51% or more of the total area of the facility.

(64) "Load and leave" means delivery to a purchaser by use of a tangible storage media if the tangible storage media is not physically transferred to the purchaser.

(65) "Local taxing jurisdiction" means a:

(a) county that is authorized to impose an agreement sales and use tax;

(b) city that is authorized to impose an agreement sales and use tax; or

(c) town that is authorized to impose an agreement sales and use tax.

(66) "Manufactured home" means the same as that term is defined in Section 15A-1-302.

(67) "Manufacturing facility" means:

(a) an establishment described in:

(i) SIC Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of the President, Office of Management and Budget; or

(ii) a NAICS code within NAICS Sector 31-33, Manufacturing, of the 2017 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget;

(b) a scrap recycler if:

(i) from a fixed location, the scrap recycler utilizes machinery or equipment to process one or more of

the following items into prepared grades of processed materials for use in new products:

(A) iron;

(B) steel;

(C) nonferrous metal;

(D) paper;

(E) glass;

(F) plastic;

(G) textile; or

(H) rubber; and

(ii) the new products under Subsection (67)(b)(i) would otherwise be made with nonrecycled materials; or

(c) a cogeneration facility as defined in Section 54-2-1 if the cogeneration facility is placed in service on or after May 1, 2006.

(68) (a) "Marketplace" means a physical or electronic place, platform, or forum where tangible personal property, a product transferred electronically, or a service is offered for sale.

(b) "Marketplace" includes a store, a booth, an Internet website, a catalog, or a dedicated sales software application.

(69) (a) "Marketplace facilitator" means a person, including an affiliate of the person, that enters into a contract, an agreement, or otherwise with sellers, for consideration, to facilitate the sale of a seller's product through a marketplace that the person owns, operates, or controls and that directly or indirectly:

(i) does any of the following:

(A) lists, makes available, or advertises tangible personal property, a product transferred electronically, or a service for sale by a marketplace seller on a marketplace that the person owns, operates, or controls;

(B) facilitates the sale of a marketplace seller's tangible personal property, product transferred electronically, or service by transmitting or otherwise communicating an offer or acceptance of a retail sale between the marketplace seller and a purchaser using the marketplace;

(C) owns, rents, licenses, makes available, or operates any electronic or physical infrastructure or any property, process, method, copyright, trademark, or patent that connects a marketplace seller to a purchaser for the purpose of making a retail sale of tangible personal property, a product transferred electronically, or a service;

(D) provides a marketplace for making, or otherwise facilitates, a retail sale of tangible personal property, a product transferred electronically, or a service, regardless of ownership or control of the tangible personal property, the product transferred electronically, or the service that is the subject of the retail sale;

(E) provides software development or research and development activities related to any activity described in this Subsection (69)(a)(i), if the software development or research and development activity is directly related to the person's marketplace;

(F) provides or offers fulfillment or storage services for a marketplace seller;

(G) sets prices for the sale of tangible personal property, a product transferred electronically, or a service by a marketplace seller;

(H) provides or offers customer service to a marketplace seller or a marketplace seller's purchaser or accepts or assists with taking orders, returns, or exchanges of tangible personal property, a product transferred electronically, or a service sold by a marketplace seller on the person's marketplace; or

(I) brands or otherwise identifies sales as those of the person; and

(ii) does any of the following:

(A) collects the sales price or purchase price of a retail sale of tangible personal property, a product transferred electronically, or a service;

(B) provides payment processing services for a retail sale of tangible personal property, a product transferred electronically, or a service;

(C) charges, collects, or otherwise receives a selling fee, listing fee, referral fee, closing fee, a fee for inserting or making available tangible personal property, a product transferred electronically, or a service on the person's marketplace, or other consideration for the facilitation of a retail sale of tangible personal property, a product transferred electronically, or a service, regardless of ownership or control of the tangible personal property, the product transferred electronically, or the service that is the subject of the retail sale;

(D) through terms and conditions, an agreement, or another arrangement with a third person, collects payment from a purchase for a retail sale of tangible personal property, a product transferred electronically, or a service and transmits that payment to the marketplace seller, regardless of whether the third person receives compensation or other consideration in exchange for the service; or

(E) provides a virtual currency for a purchaser to use to purchase tangible personal property, a product transferred electronically, or service offered for sale.

(b) "Marketplace facilitator" does not include:

(i) a person that only provides payment processing services; or

(ii) a person described in Subsection (69)(a) to the extent the person is facilitating a sale for a seller that is a restaurant as defined in Section 59-12-602.

(70) "Marketplace seller" means a seller that makes one or more retail sales through a marketplace that a marketplace facilitator owns,

operates, or controls, regardless of whether the seller is required to be registered to collect and remit the tax under this part.

(71) "Member of the immediate family of the producer" means a person who is related to a producer described in Subsection 59-12-104(20)(a) as a:

(a) child or stepchild, regardless of whether the child or stepchild is:

(i) an adopted child or adopted stepchild; or

(ii) a foster child or foster stepchild;

(b) grandchild or stepgrandchild;

(c) grandparent or stepgrandparent;

(d) nephew or stepnephew;

(e) niece or stepniece;

(f) parent or stepparent;

(g) sibling or stepsibling;

(h) spouse;

(i) person who is the spouse of a person described in Subsections (71)(a) through (g); or

(j) person similar to a person described in Subsections (71)(a) through (i) as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(72) "Mobile home" means the same as that term is defined in Section 15A-1-302.

(73) "Mobile telecommunications service" means the same as that term is defined in the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

(74) (a) "Mobile wireless service" means a telecommunications service, regardless of the technology used, if:

(i) the origination point of the conveyance, routing, or transmission is not fixed;

(ii) the termination point of the conveyance, routing, or transmission is not fixed; or

(iii) the origination point described in Subsection (74)(a)(i) and the termination point described in Subsection (74)(a)(ii) are not fixed.

(b) "Mobile wireless service" includes a telecommunications service that is provided by a commercial mobile radio service provider.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define "commercial mobile radio service provider."

(75) (a) Except as provided in Subsection (75)(c), "mobility enhancing equipment" means equipment that is:

(i) primarily and customarily used to provide or increase the ability to move from one place to another;

(ii) appropriate for use in a:

(A) home; or

(B) motor vehicle; and

(iii) not generally used by persons with normal mobility.

(b) "Mobility enhancing equipment" includes parts used in the repair or replacement of the equipment described in Subsection (75)(a).

(c) "Mobility enhancing equipment" does not include:

(i) a motor vehicle;

(ii) equipment on a motor vehicle if that equipment is normally provided by the motor vehicle manufacturer;

(iii) durable medical equipment; or

(iv) a prosthetic device.

(76) "Model 1 seller" means a seller registered under the agreement that has selected a certified service provider as the seller's agent to perform the seller's sales and use tax functions for agreement sales and use taxes, as outlined in the contract between the governing board of the agreement and the certified service provider, other than the seller's obligation under Section 59-12-124 to remit a tax on the seller's own purchases.

(77) "Model 2 seller" means a seller registered under the agreement that:

(a) except as provided in Subsection (77)(b), has selected a certified automated system to perform the seller's sales tax functions for agreement sales and use taxes; and

(b) retains responsibility for remitting all of the sales tax:

(i) collected by the seller; and

(ii) to the appropriate local taxing jurisdiction.

(78) (a) Subject to Subsection (78)(b), "model 3 seller" means a seller registered under the agreement that has:

(i) sales in at least five states that are members of the agreement;

(ii) total annual sales revenues of at least $500,000,000;

(iii) a proprietary system that calculates the amount of tax:

(A) for an agreement sales and use tax; and

(B) due to each local taxing jurisdiction; and

(iv) entered into a performance agreement with the governing board of the agreement.

(b) For purposes of Subsection (78)(a), "model 3 seller" includes an affiliated group of sellers using the same proprietary system.

(79) "Model 4 seller" means a seller that is registered under the agreement and is not a model 1 seller, model 2 seller, or model 3 seller.

(80) "Modular home" means a modular unit as defined in Section 15A-1-302.

(81) "Motor vehicle" means the same as that term is defined in Section 41-1a-102.

(82) "Oil sands" means impregnated bituminous sands that:

(a) contain a heavy, thick form of petroleum that is released when heated, mixed with other hydrocarbons, or otherwise treated;

(b) yield mixtures of liquid hydrocarbon; and

(c) require further processing other than mechanical blending before becoming finished petroleum products.

(83) "Oil shale" means a group of fine black to dark brown shales containing kerogen material that yields petroleum upon heating and distillation.

(84) "Optional computer software maintenance contract" means a computer software maintenance contract that a customer is not obligated to purchase as a condition to the retail sale of computer software.

(85) (a) "Other fuels" means products that burn independently to produce heat or energy.

(b) "Other fuels" includes oxygen when it is used in the manufacturing of tangible personal property.

(86) (a) "Paging service" means a telecommunications service that provides transmission of a coded radio signal for the purpose of activating a specific pager.

(b) For purposes of Subsection (86)(a), the transmission of a coded radio signal includes a transmission by message or sound.

(87) "Pawn transaction" means the same as that term is defined in Section 13-32a-102.

[~~(87)~~] (88) "Pawnbroker" means the same as that term is defined in Section 13-32a-102.

[~~(88) "Pawn transaction" means the same as that term is defined in Section 13-32a-102.~~]

(89) (a) "Permanently attached to real property" means that for tangible personal property attached to real property:

(i) the attachment of the tangible personal property to the real property:

(A) is essential to the use of the tangible personal property; and

(B) suggests that the tangible personal property will remain attached to the real property in the same place over the useful life of the tangible personal property; or

(ii) if the tangible personal property is detached from the real property, the detachment would:

(A) cause substantial damage to the tangible personal property; or

(B) require substantial alteration or repair of the real property to which the tangible personal property is attached.

(b) "Permanently attached to real property" includes:

(i) the attachment of an accessory to the tangible personal property if the accessory is:

(A) essential to the operation of the tangible personal property; and

(B) attached only to facilitate the operation of the tangible personal property;

(ii) a temporary detachment of tangible personal property from real property for a repair or renovation if the repair or renovation is performed where the tangible personal property and real property are located; or

(iii) property attached to oil, gas, or water pipelines, except for the property listed in Subsection (89)(c)(iii) or (iv).

(c) "Permanently attached to real property" does not include:

(i) the attachment of portable or movable tangible personal property to real property if that portable or movable tangible personal property is attached to real property only for:

(A) convenience;

(B) stability; or

(C) for an obvious temporary purpose;

(ii) the detachment of tangible personal property from real property except for the detachment described in Subsection (89)(b)(ii);

(iii) an attachment of the following tangible personal property to real property if the attachment to real property is only through a line that supplies water, electricity, gas, telecommunications, cable, or supplies a similar item as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(A) a computer;

(B) a telephone;

(C) a television; or

(D) tangible personal property similar to Subsections (89)(c)(iii)(A) through (C) as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or

(iv) an item listed in Subsection (130)(c).

(90) "Person" includes any individual, firm, partnership, joint venture, association, corporation, estate, trust, business trust, receiver, syndicate, this state, any county, city, municipality, district, or other local governmental entity of the state, or any group or combination acting as a unit.

(91) "Place of primary use":

(a) for telecommunications service other than mobile telecommunications service, means the street address representative of where the customer's use of the telecommunications service primarily occurs, which shall be:

(i) the residential street address of the customer; or

(ii) the primary business street address of the customer; or

(b) for mobile telecommunications service, means the same as that term is defined in the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

(92) (a) "Postpaid calling service" means a telecommunications service a person obtains by making a payment on a call-by-call basis:

(i) through the use of a:

(A) bank card;

(B) credit card;

(C) debit card; or

(D) travel card; or

(ii) by a charge made to a telephone number that is not associated with the origination or termination of the telecommunications service.

(b) "Postpaid calling service" includes a service, except for a prepaid wireless calling service, that would be a prepaid wireless calling service if the service were exclusively a telecommunications service.

(93) "Postproduction" means an activity related to the finishing or duplication of a medium described in Subsection 59-12-104(54)(a).

(94) "Prepaid calling service" means a telecommunications service:

(a) that allows a purchaser access to telecommunications service that is exclusively telecommunications service;

(b) that:

(i) is paid for in advance; and

(ii) enables the origination of a call using an:

(A) access number; or

(B) authorization code;

(c) that is dialed:

(i) manually; or

(ii) electronically; and

(d) sold in predetermined units or dollars that decline:

(i) by a known amount; and

(ii) with use.

(95) "Prepaid wireless calling service" means a telecommunications service:

(a) that provides the right to utilize:

(i) mobile wireless service; and

(ii) other service that is not a telecommunications service, including:

(A) the download of a product transferred electronically;

(B) a content service; or

(C) an ancillary service;

(b) that:

(i) is paid for in advance; and

(ii) enables the origination of a call using an:

(A) access number; or

(B) authorization code;

(c) that is dialed:

(i) manually; or

(ii) electronically; and

(d) sold in predetermined units or dollars that decline:

(i) by a known amount; and

(ii) with use.

(96) (a) "Prepared food" means:

(i) food:

(A) sold in a heated state; or

(B) heated by a seller;

(ii) two or more food ingredients mixed or combined by the seller for sale as a single item; or

(iii) except as provided in Subsection (96)(c), food sold with an eating utensil provided by the seller, including a:

(A) plate;

(B) knife;

(C) fork;

(D) spoon;

(E) glass;

(F) cup;

(G) napkin; or

(H) straw.

(b) "Prepared food" does not include:

(i) food that a seller only:

(A) cuts;

(B) repackages; or

(C) pasteurizes; or

(ii) (A) the following:

(I) raw egg;

(II) raw fish;

(III) raw meat;

(IV) raw poultry; or

(V) a food containing an item described in Subsections (96)(b)(ii)(A)(I) through (IV); and

(B) if the Food and Drug Administration recommends in Chapter 3, Part 401.11 of the Food and Drug Administration's Food Code that a consumer cook the items described in Subsection (96)(b)(ii)(A) to prevent food borne illness; or

(iii) the following if sold without eating utensils provided by the seller:

(A) food and food ingredients sold by a seller if the seller's proper primary classification under the 2002 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget, is manufacturing in Sector 311, Food Manufacturing, except for Subsector 3118, Bakeries and Tortilla Manufacturing;

(B) food and food ingredients sold in an unheated state:

(I) by weight or volume; and

(II) as a single item; or

(C) a bakery item, including:

(I) a bagel;

(II) a bar;

(III) a biscuit;

(IV) bread;

(V) a bun;

(VI) a cake;

(VII) a cookie;

(VIII) a croissant;

(IX) a danish;

(X) a donut;

(XI) a muffin;

(XII) a pastry;

(XIII) a pie;

(XIV) a roll;

(XV) a tart;

(XVI) a torte; or

(XVII) a tortilla.

(c) An eating utensil provided by the seller does not include the following used to transport the food:

(i) a container; or

(ii) packaging.

(97) "Prescription" means an order, formula, or recipe that is issued:

(a) (i) orally;

(ii) in writing;

(iii) electronically; or

(iv) by any other manner of transmission; and

(b) by a licensed practitioner authorized by the laws of a state.

(98) (a) Except as provided in Subsection (98)(b)(ii) or (iii), "prewritten computer software" means computer software that is not designed and developed:

(i) by the author or other creator of the computer software; and

(ii) to the specifications of a specific purchaser.

(b) "Prewritten computer software" includes:

(i) a prewritten upgrade to computer software if the prewritten upgrade to the computer software is not designed and developed:

(A) by the author or other creator of the computer software; and

(B) to the specifications of a specific purchaser;

(ii) computer software designed and developed by the author or other creator of the computer software to the specifications of a specific purchaser if the computer software is sold to a person other than the purchaser; or

(iii) except as provided in Subsection (98)(c), prewritten computer software or a prewritten portion of prewritten computer software:

(A) that is modified or enhanced to any degree; and

(B) if the modification or enhancement described in Subsection (98)(b)(iii)(A) is designed and developed to the specifications of a specific purchaser.

(c) "Prewritten computer software" does not include a modification or enhancement described in Subsection (98)(b)(iii) if the charges for the modification or enhancement are:

(i) reasonable; and

(ii) subject to Subsections 59-12-103(2)(e)(ii) and (2)(f)(i), separately stated on the invoice or other statement of price provided to the purchaser at the time of sale or later, as demonstrated by:

(A) the books and records the seller keeps at the time of the transaction in the regular course of business, including books and records the seller keeps at the time of the transaction in the regular course of business for nontax purposes;

(B) a preponderance of the facts and circumstances at the time of the transaction; and

(C) the understanding of all of the parties to the transaction.

(99) (a) "Private communications service" means a telecommunications service:

(i) that entitles a customer to exclusive or priority use of one or more communications channels between or among termination points; and

(ii) regardless of the manner in which the one or more communications channels are connected.

(b) "Private communications service" includes the following provided in connection with the use of one or more communications channels:

(i) an extension line;

(ii) a station;

(iii) switching capacity; or

(iv) another associated service that is provided in connection with the use of one or more communications channels as defined in Section 59-12-215.

(100) (a) Except as provided in Subsection (100)(b), "product transferred electronically" means a product transferred electronically that would be subject to a tax under this chapter if that product was transferred in a manner other than electronically.

(b) "Product transferred electronically" does not include:

(i) an ancillary service;

(ii) computer software; or

(iii) a telecommunications service.

(101) (a) "Prosthetic device" means a device that is worn on or in the body to:

(i) artificially replace a missing portion of the body;

(ii) prevent or correct a physical deformity or physical malfunction; or

(iii) support a weak or deformed portion of the body.

(b) "Prosthetic device" includes:

(i) parts used in the repairs or renovation of a prosthetic device;

(ii) replacement parts for a prosthetic device;

(iii) a dental prosthesis; or

(iv) a hearing aid.

(c) "Prosthetic device" does not include:

(i) corrective eyeglasses; or

(ii) contact lenses.

(102) (a) "Protective equipment" means an item:

(i) for human wear; and

(ii) that is:

(A) designed as protection:

(I) to the wearer against injury or disease; or

(II) against damage or injury of other persons or property; and

(B) not suitable for general use.

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

(i) listing the items that constitute "protective equipment"; and

(ii) that are consistent with the list of items that constitute "protective equipment" under the agreement.

(103) (a) For purposes of Subsection 59-12-104(41), "publication" means any written or printed matter, other than a photocopy:

(i) regardless of:

(A) characteristics;

(B) copyright;

(C) form;

(D) format;

(E) method of reproduction; or

(F) source; and

(ii) made available in printed or electronic format.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "photocopy."

(104) (a) "Purchase price" and "sales price" mean the total amount of consideration:

(i) valued in money; and

(ii) for which tangible personal property, a product transferred electronically, or services are:

(A) sold;

(B) leased; or

(C) rented.

(b) "Purchase price" and "sales price" include:

(i) the seller's cost of the tangible personal property, a product transferred electronically, or services sold;

(ii) expenses of the seller, including:

(A) the cost of materials used;

(B) a labor cost;

(C) a service cost;

(D) interest;

(E) a loss;

(F) the cost of transportation to the seller; or

(G) a tax imposed on the seller;

(iii) a charge by the seller for any service necessary to complete the sale; or

(iv) consideration a seller receives from a person other than the purchaser if:

(A) (I) the seller actually receives consideration from a person other than the purchaser; and

(II) the consideration described in Subsection (104)(b)(iv)(A)(I) is directly related to a price reduction or discount on the sale;

(B) the seller has an obligation to pass the price reduction or discount through to the purchaser;

(C) the amount of the consideration attributable to the sale is fixed and determinable by the seller at the time of the sale to the purchaser; and

(D) (I) (Aa) the purchaser presents a certificate, coupon, or other documentation to the seller to claim a price reduction or discount; and

(Bb) a person other than the seller authorizes, distributes, or grants the certificate, coupon, or other documentation with the understanding that the person other than the seller will reimburse any seller to whom the certificate, coupon, or other documentation is presented;

(II) the purchaser identifies that purchaser to the seller as a member of a group or organization allowed a price reduction or discount, except that a preferred customer card that is available to any patron of a seller does not constitute membership in a group or organization allowed a price reduction or discount; or

(III) the price reduction or discount is identified as a third party price reduction or discount on the:

(Aa) invoice the purchaser receives; or

(Bb) certificate, coupon, or other documentation the purchaser presents.

(c) "Purchase price" and "sales price" do not include:

(i) a discount:

(A) in a form including:

(I) cash;

(II) term; or

(III) coupon;

(B) that is allowed by a seller;

(C) taken by a purchaser on a sale; and

(D) that is not reimbursed by a third party; or

(ii) subject to Subsections 59-12-103(2)(e)(ii) and (2)(f)(i), the following if separately stated on an invoice, bill of sale, or similar document provided to the purchaser at the time of sale or later, as demonstrated by the books and records the seller keeps at the time of the transaction in the regular course of business, including books and records the seller keeps at the time of the transaction in the regular course of business for nontax purposes, by a preponderance of the facts and circumstances at the time of the transaction, and by the understanding of all of the parties to the transaction:

(A) the following from credit extended on the sale of tangible personal property or services:

(I) a carrying charge;

(II) a financing charge; or

(III) an interest charge;

(B) a delivery charge;

(C) an installation charge;

(D) a manufacturer rebate on a motor vehicle; or

(E) a tax or fee legally imposed directly on the consumer.

(105) "Purchaser" means a person to whom:

(a) a sale of tangible personal property is made;

(b) a product is transferred electronically; or

(c) a service is furnished.

(106) "Qualifying data center" means a data center facility that:

(a) houses a group of networked server computers in one physical location in order to disseminate, manage, and store data and information;

(b) is located in the state;

(c) is a new operation constructed on or after July 1, 2016;

(d) consists of one or more buildings that total 150,000 or more square feet;

(e) is owned or leased by:

(i) the operator of the data center facility; or

(ii) a person under common ownership, as defined in Section 59-7-101, of the operator of the data center facility; and

(f) is located on one or more parcels of land that are owned or leased by:

(i) the operator of the data center facility; or

(ii) a person under common ownership, as defined in Section 59-7-101, of the operator of the data center facility.

(107) "Regularly rented" means:

(a) rented to a guest for value three or more times during a calendar year; or

(b) advertised or held out to the public as a place that is regularly rented to guests for value.

(108) "Rental" means the same as that term is defined in Subsection (60).

(109) (a) Except as provided in Subsection (109)(b), "repairs or renovations of tangible personal property" means:

(i) a repair or renovation of tangible personal property that is not permanently attached to real property; or

(ii) attaching tangible personal property or a product transferred electronically to other tangible personal property or detaching tangible personal property or a product transferred electronically from other tangible personal property if:

(A) the other tangible personal property to which the tangible personal property or product transferred electronically is attached or from which

the tangible personal property or product transferred electronically is detached is not permanently attached to real property; and

(B) the attachment of tangible personal property or a product transferred electronically to other tangible personal property or detachment of tangible personal property or a product transferred electronically from other tangible personal property is made in conjunction with a repair or replacement of tangible personal property or a product transferred electronically.

(b) "Repairs or renovations of tangible personal property" does not include:

(i) attaching prewritten computer software to other tangible personal property if the other tangible personal property to which the prewritten computer software is attached is not permanently attached to real property; or

(ii) detaching prewritten computer software from other tangible personal property if the other tangible personal property from which the prewritten computer software is detached is not permanently attached to real property.

(110) "Research and development" means the process of inquiry or experimentation aimed at the discovery of facts, devices, technologies, or applications and the process of preparing those devices, technologies, or applications for marketing.

(111) (a) "Residential telecommunications services" means a telecommunications service or an ancillary service that is provided to an individual for personal use:

(i) at a residential address; or

(ii) at an institution, including a nursing home or a school, if the telecommunications service or ancillary service is provided to and paid for by the individual residing at the institution rather than the institution.

(b) For purposes of Subsection (111)(a)(i), a residential address includes an:

(i) apartment; or

(ii) other individual dwelling unit.

(112) "Residential use" means the use in or around a home, apartment building, sleeping quarters, and similar facilities or accommodations.

(113) "Retail sale" or "sale at retail" means a sale, lease, or rental for a purpose other than:

(a) resale;

(b) sublease; or

(c) subrent.

(114) (a) "Retailer" means any person, unless prohibited by the Constitution of the United States or federal law, that is engaged in a regularly organized business in tangible personal property or any other taxable transaction under Subsection 59-12-103(1), and who is selling to the user or consumer and not for resale.

(b) "Retailer" includes commission merchants, auctioneers, and any person regularly engaged in the business of selling to users or consumers within the state.

(115) (a) "Sale" means any transfer of title, exchange, or barter, conditional or otherwise, in any manner, of tangible personal property or any other taxable transaction under Subsection 59-12-103(1), for consideration.

(b) "Sale" includes:

(i) installment and credit sales;

(ii) any closed transaction constituting a sale;

(iii) any sale of electrical energy, gas, services, or entertainment taxable under this chapter;

(iv) any transaction if the possession of property is transferred but the seller retains the title as security for the payment of the price; and

(v) any transaction under which right to possession, operation, or use of any article of tangible personal property is granted under a lease or contract and the transfer of possession would be taxable if an outright sale were made.

(116) "Sale at retail" means the same as that term is defined in Subsection (113).

(117) "Sale-leaseback transaction" means a transaction by which title to tangible personal property or a product transferred electronically that is subject to a tax under this chapter is transferred:

(a) by a purchaser-lessee;

(b) to a lessor;

(c) for consideration; and

(d) if:

(i) the purchaser-lessee paid sales and use tax on the purchaser-lessee's initial purchase of the tangible personal property or product transferred electronically;

(ii) the sale of the tangible personal property or product transferred electronically to the lessor is intended as a form of financing:

(A) for the tangible personal property or product transferred electronically; and

(B) to the purchaser-lessee; and

(iii) in accordance with generally accepted accounting principles, the purchaser-lessee is required to:

(A) capitalize the tangible personal property or product transferred electronically for financial reporting purposes; and

(B) account for the lease payments as payments made under a financing arrangement.

(118) "Sales price" means the same as that term is defined in Subsection (104).

(119) (a) "Sales relating to schools" means the following sales by, amounts paid to, or amounts charged by a school:

(i) sales that are directly related to the school's educational functions or activities including:

(A) the sale of:

(I) textbooks;

(II) textbook fees;

(III) laboratory fees;

(IV) laboratory supplies; or

(V) safety equipment;

(B) the sale of a uniform, protective equipment, or sports or recreational equipment that:

(I) a student is specifically required to wear as a condition of participation in a school-related event or school-related activity; and

(II) is not readily adaptable to general or continued usage to the extent that it takes the place of ordinary clothing;

(C) sales of the following if the net or gross revenues generated by the sales are deposited into a school district fund or school fund dedicated to school meals:

(I) food and food ingredients; or

(II) prepared food; or

(D) transportation charges for official school activities; or

(ii) amounts paid to or amounts charged by a school for admission to a school-related event or school-related activity.

(b) "Sales relating to schools" does not include:

(i) bookstore sales of items that are not educational materials or supplies;

(ii) except as provided in Subsection (119)(a)(i)(B):

(A) clothing;

(B) clothing accessories or equipment;

(C) protective equipment; or

(D) sports or recreational equipment; or

(iii) amounts paid to or amounts charged by a school for admission to a school-related event or school-related activity if the amounts paid or charged are passed through to a person:

(A) other than a:

(I) school;

(II) nonprofit organization authorized by a school board or a governing body of a private school to organize and direct a competitive secondary school activity; or

(III) nonprofit association authorized by a school board or a governing body of a private school to organize and direct a competitive secondary school activity; and

(B) that is required to collect sales and use taxes under this chapter.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules defining the term "passed through."

(120) For purposes of this section and Section 59-12-104, "school" means:

(a) an elementary school or a secondary school that:

(i) is a:

(A) public school; or

(B) private school; and

(ii) provides instruction for one or more grades kindergarten through 12; or

(b) a public school district.

(121) (a) "Seller" means a person that makes a sale, lease, or rental of:

(i) tangible personal property;

(ii) a product transferred electronically; or

(iii) a service.

(b) "Seller" includes a marketplace facilitator.

(122) (a) "Semiconductor fabricating, processing, research, or development materials" means tangible personal property or a product transferred electronically if the tangible personal property or product transferred electronically is:

(i) used primarily in the process of:

(A) (I) manufacturing a semiconductor;

(II) fabricating a semiconductor; or

(III) research or development of a:

(Aa) semiconductor; or

(Bb) semiconductor manufacturing process; or

(B) maintaining an environment suitable for a semiconductor; or

(ii) consumed primarily in the process of:

(A) (I) manufacturing a semiconductor;

(II) fabricating a semiconductor; or

(III) research or development of a:

(Aa) semiconductor; or

(Bb) semiconductor manufacturing process; or

(B) maintaining an environment suitable for a semiconductor.

(b) "Semiconductor fabricating, processing, research, or development materials" includes:

(i) parts used in the repairs or renovations of tangible personal property or a product transferred electronically described in Subsection (122)(a); or

(ii) a chemical, catalyst, or other material used to:

(A) produce or induce in a semiconductor a:

(I) chemical change; or

(II) physical change;

(B) remove impurities from a semiconductor; or

(C) improve the marketable condition of a semiconductor.

(123) "Senior citizen center" means a facility having the primary purpose of providing services to the aged as defined in Section 62A-3-101.

(124) (a) Subject to Subsections (124)(b) and (c), "short-term lodging consumable" means tangible personal property that:

(i) a business that provides accommodations and services described in Subsection 59-12-103(1)(i) purchases as part of a transaction to provide the accommodations and services to a purchaser;

(ii) is intended to be consumed by the purchaser; and

(iii) is:

(A) included in the purchase price of the accommodations and services; and

(B) not separately stated on an invoice, bill of sale, or other similar document provided to the purchaser.

(b) "Short-term lodging consumable" includes:

(i) a beverage;

(ii) a brush or comb;

(iii) a cosmetic;

(iv) a hair care product;

(v) lotion;

(vi) a magazine;

(vii) makeup;

(viii) a meal;

(ix) mouthwash;

(x) nail polish remover;

(xi) a newspaper;

(xii) a notepad;

(xiii) a pen;

(xiv) a pencil;

(xv) a razor;

(xvi) saline solution;

(xvii) a sewing kit;

(xviii) shaving cream;

(xix) a shoe shine kit;

(xx) a shower cap;

(xxi) a snack item;

(xxii) soap;

(xxiii) toilet paper;

(xxiv) a toothbrush;

(xxv) toothpaste; or

(xxvi) an item similar to Subsections (124)(b)(i) through (xxv) as the commission may provide by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(c) "Short-term lodging consumable" does not include:

(i) tangible personal property that is cleaned or washed to allow the tangible personal property to be reused; or

(ii) a product transferred electronically.

(125) "Simplified electronic return" means the electronic return:

(a) described in Section 318(C) of the agreement; and

(b) approved by the governing board of the agreement.

(126) "Solar energy" means the sun used as the sole source of energy for producing electricity.

(127) (a) "Sports or recreational equipment" means an item:

(i) designed for human use; and

(ii) that is:

(A) worn in conjunction with:

(I) an athletic activity; or

(II) a recreational activity; and

(B) not suitable for general use.

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

(i) listing the items that constitute "sports or recreational equipment"; and

(ii) that are consistent with the list of items that constitute "sports or recreational equipment" under the agreement.

(128) "State" means the state of Utah, its departments, and agencies.

(129) "Storage" means any keeping or retention of tangible personal property or any other taxable transaction under Subsection 59-12-103(1), in this state for any purpose except sale in the regular course of business.

(130) (a) Except as provided in Subsection (130)(d) or (e), "tangible personal property" means personal property that:

(i) may be:

(A) seen;

(B) weighed;

(C) measured;

(D) felt; or

(E) touched; or

(ii) is in any manner perceptible to the senses.

(b) "Tangible personal property" includes:

(i) electricity;

(ii) water;

(iii) gas;

(iv) steam; or

(v) prewritten computer software, regardless of the manner in which the prewritten computer software is transferred.

(c) "Tangible personal property" includes the following regardless of whether the item is attached to real property:

(i) a dishwasher;

(ii) a dryer;

(iii) a freezer;

(iv) a microwave;

(v) a refrigerator;

(vi) a stove;

(vii) a washer; or

(viii) an item similar to Subsections (130)(c)(i) through (vii) as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(d) "Tangible personal property" does not include a product that is transferred electronically.

(e) "Tangible personal property" does not include the following if attached to real property, regardless of whether the attachment to real property is only through a line that supplies water, electricity, gas, telephone, cable, or supplies a similar item as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(i) a hot water heater;

(ii) a water filtration system; or

(iii) a water softener system.

(131) (a) "Telecommunications enabling or facilitating equipment, machinery, or software" means an item listed in Subsection (131)(b) if that item is purchased or leased primarily to enable or facilitate one or more of the following to function:

(i) telecommunications switching or routing equipment, machinery, or software; or

(ii) telecommunications transmission equipment, machinery, or software.

(b) The following apply to Subsection (131)(a):

(i) a pole;

(ii) software;

(iii) a supplementary power supply;

(iv) temperature or environmental equipment or machinery;

(v) test equipment;

(vi) a tower; or

(vii) equipment, machinery, or software that functions similarly to an item listed in Subsections (131)(b)(i) through (vi) as determined by the commission by rule made in accordance with Subsection (131)(c).

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes equipment, machinery, or software that functions similarly to an item listed in Subsections (131)(b)(i) through (vi).

(132) "Telecommunications equipment, machinery, or software required for 911 service" means equipment, machinery, or software that is required to comply with 47 C.F.R. Sec. 20.18.

(133) "Telecommunications maintenance or repair equipment, machinery, or software" means equipment, machinery, or software purchased or leased primarily to maintain or repair one or more of the following, regardless of whether the equipment, machinery, or software is purchased or leased as a spare part or as an upgrade or modification to one or more of the following:

(a) telecommunications enabling or facilitating equipment, machinery, or software;

(b) telecommunications switching or routing equipment, machinery, or software; or

(c) telecommunications transmission equipment, machinery, or software.

(134) (a) "Telecommunications service" means the electronic conveyance, routing, or transmission of audio, data, video, voice, or any other information or signal to a point, or among or between points.

(b) "Telecommunications service" includes:

(i) an electronic conveyance, routing, or transmission with respect to which a computer processing application is used to act:

(A) on the code, form, or protocol of the content;

(B) for the purpose of electronic conveyance, routing, or transmission; and

(C) regardless of whether the service:

(I) is referred to as voice over Internet protocol service; or

(II) is classified by the Federal Communications Commission as enhanced or value added;

(ii) an 800 service;

(iii) a 900 service;

(iv) a fixed wireless service;

(v) a mobile wireless service;

(vi) a postpaid calling service;

(vii) a prepaid calling service;

(viii) a prepaid wireless calling service; or

(ix) a private communications service.

(c) "Telecommunications service" does not include:

(i) advertising, including directory advertising;

(ii) an ancillary service;

(iii) a billing and collection service provided to a third party;

(iv) a data processing and information service if:

(A) the data processing and information service allows data to be:

(I) (Aa) acquired;

(Bb) generated;

(Cc) processed;

(Dd) retrieved; or

(Ee) stored; and

(II) delivered by an electronic transmission to a purchaser; and

(B) the purchaser's primary purpose for the underlying transaction is the processed data or information;

(v) installation or maintenance of the following on a customer's premises:

(A) equipment; or

(B) wiring;

(vi) Internet access service;

(vii) a paging service;

(viii) a product transferred electronically, including:

(A) music;

(B) reading material;

(C) a ring tone;

(D) software; or

(E) video;

(ix) a radio and television audio and video programming service:

(A) regardless of the medium; and

(B) including:

(I) furnishing conveyance, routing, or transmission of a television audio and video programming service by a programming service provider;

(II) cable service as defined in 47 U.S.C. Sec. 522(6); or

(III) audio and video programming services delivered by a commercial mobile radio service provider as defined in 47 C.F.R. Sec. 20.3;

(x) a value-added nonvoice data service; or

(xi) tangible personal property.

(135) (a) "Telecommunications service provider" means a person that:

(i) owns, controls, operates, or manages a telecommunications service; and

(ii) engages in an activity described in Subsection (135)(a)(i) for the shared use with or resale to any person of the telecommunications service.

(b) A person described in Subsection (135)(a) is a telecommunications service provider whether or not the Public Service Commission of Utah regulates:

(i) that person; or

(ii) the telecommunications service that the person owns, controls, operates, or manages.

(136) (a) "Telecommunications switching or routing equipment, machinery, or software" means an item listed in Subsection (136)(b) if that item is purchased or leased primarily for switching or routing:

(i) an ancillary service;

(ii) data communications;

(iii) voice communications; or

(iv) telecommunications service.

(b) The following apply to Subsection (136)(a):

(i) a bridge;

(ii) a computer;

(iii) a cross connect;

(iv) a modem;

(v) a multiplexer;

(vi) plug in circuitry;

(vii) a router;

(viii) software;

(ix) a switch; or

(x) equipment, machinery, or software that functions similarly to an item listed in Subsections (136)(b)(i) through (ix) as determined by the commission by rule made in accordance with Subsection (136)(c).

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes equipment, machinery, or software that functions similarly to

an item listed in Subsections (136)(b)(i) through (ix).

(137) (a) "Telecommunications transmission equipment, machinery, or software" means an item listed in Subsection (137)(b) if that item is purchased or leased primarily for sending, receiving, or transporting:

(i) an ancillary service;

(ii) data communications;

(iii) voice communications; or

(iv) telecommunications service.

(b) The following apply to Subsection (137)(a):

(i) an amplifier;

(ii) a cable;

(iii) a closure;

(iv) a conduit;

(v) a controller;

(vi) a duplexer;

(vii) a filter;

(viii) an input device;

(ix) an input/output device;

(x) an insulator;

(xi) microwave machinery or equipment;

(xii) an oscillator;

(xiii) an output device;

(xiv) a pedestal;

(xv) a power converter;

(xvi) a power supply;

(xvii) a radio channel;

(xviii) a radio receiver;

(xix) a radio transmitter;

(xx) a repeater;

(xxi) software;

(xxii) a terminal;

(xxiii) a timing unit;

(xxiv) a transformer;

(xxv) a wire; or

(xxvi) equipment, machinery, or software that functions similarly to an item listed in Subsections (137)(b)(i) through (xxv) as determined by the commission by rule made in accordance with Subsection (137)(c).

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes equipment, machinery, or software that functions similarly to an item listed in Subsections (137)(b)(i) through (xxv).

(138) (a) "Textbook for a higher education course" means a textbook or other printed material that is required for a course:

(i) offered by an institution of higher education; and

(ii) that the purchaser of the textbook or other printed material attends or will attend.

(b) "Textbook for a higher education course" includes a textbook in electronic format.

(139) "Tobacco" means:

(a) a cigarette;

(b) a cigar;

(c) chewing tobacco;

(d) pipe tobacco; or

(e) any other item that contains tobacco.

(140) "Unassisted amusement device" means an amusement device, skill device, or ride device that is started and stopped by the purchaser or renter of the right to use or operate the amusement device, skill device, or ride device.

(141) (a) "Use" means the exercise of any right or power over tangible personal property, a product transferred electronically, or a service under Subsection 59-12-103(1), incident to the ownership or the leasing of that tangible personal property, product transferred electronically, or service.

(b) "Use" does not include the sale, display, demonstration, or trial of tangible personal property, a product transferred electronically, or a service in the regular course of business and held for resale.

(142) "Value-added nonvoice data service" means a service:

(a) that otherwise meets the definition of a telecommunications service except that a computer processing application is used to act primarily for a purpose other than conveyance, routing, or transmission; and

(b) with respect to which a computer processing application is used to act on data or information:

(i) code;

(ii) content;

(iii) form; or

(iv) protocol.

(143) (a) Subject to Subsection (143)(b), "vehicle" means the following that are required to be titled, registered, or titled and registered:

(i) an aircraft as defined in Section 72-10-102;

(ii) a vehicle as defined in Section 41-1a-102;

(iii) an off-highway vehicle as defined in Section 41-22-2; or

(iv) a vessel as defined in Section 41-1a-102.

(b) For purposes of Subsection 59-12-104(33) only, "vehicle" includes:

(i) a vehicle described in Subsection (143)(a); or

(ii) (A) a locomotive;

(B) a freight car;

(C) railroad work equipment; or

(D) other railroad rolling stock.

(144) "Vehicle dealer" means a person engaged in the business of buying, selling, or exchanging a vehicle as defined in Subsection (143).

(145) (a) "Vertical service" means an ancillary service that:

(i) is offered in connection with one or more telecommunications services; and

(ii) offers an advanced calling feature that allows a customer to:

(A) identify a caller; and

(B) manage multiple calls and call connections.

(b) "Vertical service" includes an ancillary service that allows a customer to manage a conference bridging service.

(146) (a) "Voice mail service" means an ancillary service that enables a customer to receive, send, or store a recorded message.

(b) "Voice mail service" does not include a vertical service that a customer is required to have in order to utilize a voice mail service.

(147) (a) Except as provided in Subsection (147)(b), "waste energy facility" means a facility that generates electricity:

(i) using as the primary source of energy waste materials that would be placed in a landfill or refuse pit if it were not used to generate electricity, including:

(A) tires;

(B) waste coal;

(C) oil shale; or

(D) municipal solid waste; and

(ii) in amounts greater than actually required for the operation of the facility.

(b) "Waste energy facility" does not include a facility that incinerates:

(i) hospital waste as defined in 40 C.F.R. 60.51c; or

(ii) medical/infectious waste as defined in 40 C.F.R. 60.51c.

(148) "Watercraft" means a vessel as defined in Section 73-18-2.

(149) "Wind energy" means wind used as the sole source of energy to produce electricity.

(150) "ZIP Code" means a Zoning Improvement Plan Code assigned to a geographic location by the United States Postal Service.

Section 22. Section 62A-15-103.5 is amended to read:

62A-15-103.5. Provider certification.

The division may not require a licensed mental health therapist, as defined in Section 58-60-102, to also be licensed by the Office of Licensing, [~~with the Department of Human Services,~~] within the department, in order to certify the licensed mental health therapist to provide mental health or substance use disorder screening, assessment, treatment, or recovery support services to an individual who is incarcerated or who is required to participate in treatment by a court or by the Board of Pardons and Parole.

Section 23. Section 63B-1-306 is amended to read:

63B-1-306. Obligations issued by authority -- Limitation of liability on obligations -- Limitation on amount of obligations issued.

(1) (a) All obligations issued by the authority under this part shall be limited obligations of the authority and may not constitute, nor give rise to, a general obligation or liability of, nor a charge against the general credit or taxing power of, this state or any of its political subdivisions.

(b) This limitation shall be plainly stated upon all obligations.

(2) (a) No authority obligations incurred under this section may be issued in an amount exceeding the difference between the total indebtedness of the state and an amount equal to 1-1/2% of the value of the taxable property of the state.

(b) Debt issued under authority of the following parts or sections may not be included as part of the total indebtedness of the state of Utah in determining the debt limit established by this Subsection (2):

(i) Title 63B, Chapter 6, Part 2, 1997 Highway General Obligation Bond Authorization;

(ii) Title 63B, Chapter 6, Part 3, 1997 Highway Bond Anticipation Note Authorization;

(iii) Title 63B, Chapter 7, Part 2, 1998 Highway General Obligation Bond Authorization;

(iv) Title 63B, Chapter 7, Part 3, 1998 Highway Bond Anticipation Note Authorization;

(v) Title 63B, Chapter 8, Part 2, 1999 Highway General Obligation Bond Authorization;

(vi) Title 63B, Chapter 8, Part 3, 1999 Highway Bond Anticipation Note Authorization;

[~~(vii) Title 63B, Chapter 9, Part 2, 2000 Highway General Obligation Bond;~~]

[~~(viii)~~] (vii) Title 63B, Chapter 10, Part 1, 2001 Highway General Obligation Bonds;

[~~(ix)~~] (viii) Title 63B, Chapter 10, Part 2, 2001 Highway General Obligation Bond Anticipation Notes Authorization;

[~~(x)~~] (ix) Title 63B, Chapter 11, Part 5, 2002 Highway General Obligation Bonds for Salt Lake County;

[~~(xi)~~] (x) Title 63B, Chapter 11, Part 6, 2002 Highway General Obligation Bond Anticipation Notes for Salt Lake County;

[~~(xii)~~] (xi) Section 63B-13-102;

[~~(xiii)~~] (xii) Section 63B-16-101;

[~~(xiv)~~] (xiii) Section 63B-16-102;

[~~(xv)~~] (xiv) Section 63B-18-401;

[~~(xvi)~~] (xv) Section 63B-18-402; and

[~~(xvii)~~] (xvi) Title 63B, Chapter 27, Part 1, 2017 Highway General Obligation Bonds.

(c) Debt issued under authority of Section 63B-7-503 may not be included as part of the total indebtedness of the state in determining the debt limit established by this Subsection (2).

(3) The obligations shall be authorized by resolution of the authority, following approval of the Legislature, and may:

(a) be executed and delivered at any time, and from time to time, as the authority may determine;

(b) be sold at public or private sale in the manner and at the prices, either at, in excess of, or below their face value and at the times that the authority determines;

(c) be in the form and denominations that the authority determines;

(d) be of the tenor that the authority determines;

(e) be in registered or bearer form either as to principal or interest or both;

(f) be payable in those installments and at the times that the authority determines;

(g) be payable at the places, either within or without this state, that the authority determines;

(h) bear interest at the rate or rates, payable at the place or places, and evidenced in the manner, that the authority determines;

(i) be redeemable before maturity, with or without premium;

(j) contain any other provisions not inconsistent with this part that are considered to be for the best interests of the authority and provided for in the proceedings of the authority under which the bonds are authorized to be issued; and

(k) bear facsimile signatures and seals.

(4) The authority may pay any expenses, premiums, or commissions, that it considers necessary or advantageous in connection with the authorization, sale, and issuance of these obligations, from the proceeds of the sale of the obligations or from the revenues of the projects involved.

Section 24. Section 63C-4a-102 is amended to read:

63C-4a-102. Definitions.

As used in this chapter:

(1) "Account" means the Constitutional Defense Restricted Account, created in Section 63C-4a-402.

(2) "Commission" means the Federalism Commission, created in Section 63C-4a-302.

(3) "Constitutional defense plan" means a plan that outlines actions and expenditures to fulfill the duties of the commission and the council.

(4) "Council" means the Constitutional Defense Council, created in Section 63C-4a-202.

(5) "Federal governmental entity" means:

(a) the president of the United States;

(b) the United States Congress;

(c) a United States agency; or

(d) an employee or official appointed by the president of the United States.

(6) "Federal issue" means a matter relating to the federal government's dealings with the state[~~, including a matter described in Section 63C-4a-309~~].

(7) "Federal law" means:

(a) an executive order by the president of the United States;

(b) a statute passed by the United States Congress;

(c) a regulation adopted by a United States agency; or

(d) a policy statement, order, guidance, or action by:

(i) a United States agency; or

(ii) an employee or official appointed by the president of the United States.

(8) "R.S. 2477" means Revised Statute 2477, codified as 43 U.S.C. Section 932.

(9) "R.S. 2477 plan" means a guiding document that:

(a) is developed jointly by the Utah Association of Counties and the state;

(b) is approved by the council; and

(c) presents the broad framework of a proposed working relationship between the state and participating counties collectively for the purpose of asserting, defending, or litigating state and local government rights under R.S. 2477.

(10) "United States agency" means a department, agency, authority, commission, council, board, office, bureau, or other administrative unit of the executive branch of the United States government.

Section 25. Section 63G-2-204 is amended to read:

63G-2-204. Record request -- Response -- Time for responding.

(1) (a) A person making a request for a record shall submit to the governmental entity that retains the record a written request containing:

(i) the person's:

(A) name;

(B) mailing address;

(C) email address, if the person has an email address and is willing to accept communications by email relating to the person's records request; and

(D) daytime telephone number; and

(ii) a description of the record requested that identifies the record with reasonable specificity.

(b) (i) A single record request may not be submitted to multiple governmental entities.

(ii) Subsection (1)(b)(i) may not be construed to prevent a person from submitting a separate record request to each of multiple governmental entities, even if each of the separate requests seeks access to the same record.

(2) (a) In response to a request for a record, a governmental entity may not provide a record that it has received under Section 63G-2-206 as a shared record.

(b) If a governmental entity is prohibited from providing a record under Subsection (2)(a), the governmental entity shall:

(i) deny the records request; and

(ii) inform the person making the request of the identity of the governmental entity from which the shared record was received.

(3) A governmental entity may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, specifying where and to whom requests for access shall be directed.

(4) After receiving a request for a record, a governmental entity shall:

(a) review each request that seeks an expedited response and notify, within five business days after receiving the request, each requester that has not demonstrated that their record request benefits the public rather than the person that their response will not be expedited; and

(b) as soon as reasonably possible, but no later than 10 business days after receiving a written request, or five business days after receiving a written request if the requester demonstrates that expedited response to the record request benefits the public rather than the person:

(i) approve the request and provide a copy of the record;

(ii) deny the request in accordance with the procedures and requirements of Section 63G-2-205;

(iii) notify the requester that it does not maintain the record requested and provide, if known, the name and address of the governmental entity that does maintain the record; or

(iv) notify the requester that because of one of the extraordinary circumstances listed in Subsection (6), it cannot immediately approve or deny the request, and include with the notice:

(A) a description of the circumstances that constitute the extraordinary circumstances; and

(B) the date when the records will be available, consistent with the requirements of Subsection (7).

(5) Any person who requests a record to obtain information for a story or report for publication or broadcast to the general public is presumed to be acting to benefit the public rather than a person.

(6) The following circumstances constitute "extraordinary circumstances" that allow a governmental entity to delay approval or denial by an additional period of time as specified in Subsection (7) if the governmental entity determines that due to the extraordinary circumstances it cannot respond within the time limits provided in Subsection (4):

(a) another governmental entity is using the record, in which case the originating governmental entity shall promptly request that the governmental entity currently in possession return the record;

(b) another governmental entity is using the record as part of an audit, and returning the record before the completion of the audit would impair the conduct of the audit;

(c) (i) the request is for a voluminous quantity of records or a record series containing a substantial number of records; or

(ii) the requester seeks a substantial number of records or records series in requests filed within five working days of each other;

(d) the governmental entity is currently processing a large number of records requests;

(e) the request requires the governmental entity to review a large number of records to locate the records requested;

(f) the decision to release a record involves legal issues that require the governmental entity to seek legal counsel for the analysis of statutes, rules, ordinances, regulations, or case law;

(g) segregating information that the requester is entitled to inspect from information that the requester is not entitled to inspect requires extensive editing; or

(h) segregating information that the requester is entitled to inspect from information that the requester is not entitled to inspect requires computer programming.

(7) If one of the extraordinary circumstances listed in Subsection (6) precludes approval or denial within the time specified in Subsection (4), the following time limits apply to the extraordinary circumstances:

(a) for claims under Subsection (6)(a), the governmental entity currently in possession of the record shall return the record to the originating entity within five business days of the request for the return unless returning the record would impair the holder's work;

(b) for claims under Subsection (6)(b), the originating governmental entity shall notify the requester when the record is available for inspection and copying;

(c) for claims under Subsections (6)(c), (d), and (e), the governmental entity shall:

(i) disclose the records that it has located which the requester is entitled to inspect;

(ii) provide the requester with an estimate of the amount of time it will take to finish the work required to respond to the request;

(iii) complete the work and disclose those records that the requester is entitled to inspect as soon as reasonably possible; and

(iv) for any person that does not establish a right to an expedited response as authorized by Subsection (4), a governmental entity may choose to:

(A) require the person to provide for copying of the records as provided in Subsection 63G-2-201[~~(10)~~](11); or

(B) treat a request for multiple records as separate record requests, and respond sequentially to each request;

(d) for claims under Subsection (6)(f), the governmental entity shall either approve or deny the request within five business days after the response time specified for the original request has expired;

(e) for claims under Subsection (6)(g), the governmental entity shall fulfill the request within 15 business days from the date of the original request; or

(f) for claims under Subsection (6)(h), the governmental entity shall complete its programming and disclose the requested records as soon as reasonably possible.

(8) (a) If a request for access is submitted to an office of a governmental entity other than that specified by rule in accordance with Subsection (3), the office shall promptly forward the request to the appropriate office.

(b) If the request is forwarded promptly, the time limit for response begins when the request is received by the office specified by rule.

(9) If the governmental entity fails to provide the requested records or issue a denial within the specified time period, that failure is considered the equivalent of a determination denying access to the record.

Section 26. Section 63G-6a-1204 is amended to read:

63G-6a-1204. Multiyear contracts.

(1) Except as provided in Subsection (7), a procurement unit may enter into a multiyear contract resulting from an invitation for bids or a request for proposals, if:

(a) the procurement [~~officer~~] official determines, in the discretion of the procurement [~~officer~~] official, that entering into a multiyear contract is in the best interest of the procurement unit; and

(b) the invitation for bids or request for proposals:

(i) states the term of the contract, including all possible renewals of the contract;

(ii) states the conditions for renewal of the contract; and

(iii) includes the provisions of Subsections (3) through (5) that are applicable to the contract.

(2) In making the determination described in Subsection (1)(a), the procurement [~~officer~~] official shall consider whether entering into a multiyear contract will:

(a) result in significant savings to the procurement unit, including:

(i) reduction of the administrative burden in procuring, negotiating, or administering contracts;

(ii) continuity in operations of the procurement unit; or

(iii) the ability to obtain a volume or term discount;

(b) encourage participation by a person who might not otherwise be willing or able to compete for a shorter term contract; or

(c) provide an incentive for a bidder or offeror to improve productivity through capital investment or better technology.

(3) (a) The determination described in Subsection (1)(a) is discretionary and is not required to be in writing or otherwise recorded.

(b) Except as provided in Subsections (4) and (5), notwithstanding any provision of an invitation for bids, a request for proposals, or a contract to the contrary, a multiyear contract, including a contract that was awarded outside of an invitation for bids or request for proposals process, may not continue or be renewed for any year after the first year of the multiyear contract if adequate funds are not appropriated or otherwise available to continue or renew the contract.

(4) A multiyear contract that is funded solely by federal funds may be continued or renewed for any year after the first year of the multiyear contract if:

(a) adequate funds to continue or renew the contract have not been, but are expected to be appropriated by, and received from, the federal government;

(b) continuation or renewal of the contract before the money is appropriated or received is permitted by the federal government; and

(c) the contract states that it may be cancelled or suspended, without penalty, if the anticipated federal funds are not appropriated or received.

(5) A multiyear contract that is funded in part by federal funds may be continued or renewed for any year after the first year of the multiyear contract if:

(a) the portion of the contract that is to be funded by funds of a public entity are appropriated;

(b) adequate federal funds to continue or renew the contract have not been, but are expected to be, appropriated by, and received from, the federal government;

(c) continuation or renewal of the contract before the federal money is appropriated or received is permitted by the federal government; and

(d) the contract states that it may be cancelled or suspended, without penalty, if the anticipated federal funds are not appropriated or received.

(6) A procurement unit may not continue or renew a multiyear contract after the end of the multiyear contract term or the renewal periods described in the contract, unless the procurement unit engages in a new standard procurement process or complies with an exception, described in this chapter, to using a standard procurement process.

(7) A multiyear contract, including any renewal periods, may not exceed a period of five years, unless:

(a) the procurement [~~officer~~] official determines, in writing, that:

(i) a longer period is necessary in order to obtain the procurement item;

(ii) a longer period is customary for industry standards; or

(iii) a longer period is in the best interest of the procurement unit; and

(b) the written determination described in Subsection (7)(a) is included in the file relating to the procurement.

(8) This section does not apply to a contract for the design or construction of a facility, a road, a public transit project, or a contract for the financing of equipment.

Section 27. Section 63I-1-226 is amended to read:

63I-1-226. Repeal dates, Title 26.

(1) Subsection 26-1-7(1)(f), related to the Residential Child Care Licensing Advisory Committee, is repealed July 1, 2024.

(2) Subsection 26-1-7(1)(h), related to the Primary Care Grant Committee, is repealed July 1, 2025.

(3) Section 26-1-7.5, which creates the Utah Health Advisory Council, is repealed July 1, 2025.

(4) Section 26-1-40 is repealed July 1, 2022.

(5) Section 26-1-41 is repealed July 1, 2026.

(6) Section 26-7-10 is repealed July 1, 2025.

(7) Subsection 26-7-11(5), regarding reports to the Legislature, is repealed July 1, 2028.

(8) Section 26-7-14 is repealed December 31, 2027.

(9) Title 26, Chapter 9f, Utah Digital Health Service Commission Act, is repealed July 1, 2025.

(10) Subsection 26-10-6(5), which creates the Newborn Hearing Screening Committee, is repealed July 1, 2026.

(11) Section 26-10-11 is repealed July 1, 2025.

(12) Section 26-10b-106, which creates the Primary Care Grant Committee, is repealed July 1, 2025.

(13) Title 26, Chapter 18, Part 2, Drug Utilization Review Board, is repealed July 1, 2027.

[~~(14) Subsection 26-18-417(3) relating to a report to the Health and Human services Interim Committee is repealed July 1, 2020.~~]

[~~(15)~~] (14) Subsection 26-18-418(2), the language that states "and the Behavioral Health Crisis Response Commission created in Section 63C-18-202" is repealed July 1, 2023.

[~~(16)~~] (15) Title 26, Chapter 18a, Kurt Oscarson Children's Organ Transplant Coordinating Committee, is repealed July 1, 2021.

[~~(17)~~] (16) Section 26-33a-117 is repealed on December 31, 2023.

[~~(18)~~] (17) Title 26, Chapter 33a, Utah Health Data Authority Act, is repealed July 1, 2024.

[~~(19)~~] (18) Title 26, Chapter 36b, Inpatient Hospital Assessment Act, is repealed July 1, 2024.

[~~(20)~~] (19) Title 26, Chapter 36c, Medicaid Expansion Hospital Assessment Act, is repealed July 1, 2024.

[~~(21)~~] (20) Title 26, Chapter 36d, Hospital Provider Assessment Act, is repealed July 1, 2024.

[~~(22)~~] (21) Section 26-39-201, which creates the Residential Child Care Licensing Advisory Committee, is repealed July 1, 2024.

[~~(23)~~] (22) Section 26-40-104, which creates the Utah Children's Health Insurance Program Advisory Council, is repealed July 1, 2025.

[~~(24)~~] (23) Section 26-50-202, which creates the Traumatic Brain Injury Advisory Committee, is repealed July 1, 2025.

[~~(25)~~] (24) Title 26, Chapter 54, Spinal Cord and Brain Injury Rehabilitation Fund and Pediatric Neuro-Rehabilitation Fund, is repealed January 1, 2025.

[~~(26)~~] (25) Title 26, Chapter 63, Nurse Home Visiting Pay-for-Success Program, is repealed July 1, 2026.

[~~(27)~~] (26) Title 26, Chapter 66, Early Childhood Utah Advisory Council, is repealed July 1, 2026.

Section 28. Section 63I-1-251 is amended to read:

63I-1-251. Repeal dates, Title 51.

[~~Subsection 51-2a-202(3) is repealed on June 30, 2020.~~]

Section 29. Section 63I-1-253 is amended to read:

63I-1-253. Repeal dates, Titles 53 through 53G.

(1) Section 53-2a-105, which creates the Emergency Management Administration Council, is repealed July 1, 2021.

(2) Sections 53-2a-1103 and 53-2a-1104, which create the Search and Rescue Advisory Board, are repealed July 1, 2022.

(3) Section 53-5-703, which creates the Concealed Firearm Review Board, is repealed July 1, 2023.

(4) Subsection 53-6-203(1)(b)(ii), regarding being 19 years old at certification, is repealed July 1, 2027.

(5) Subsection 53-13-104(6)(a), regarding being 19 years old at certification, is repealed July 1, 2027.

(6) Section 53B-6-105.5, which creates the Technology Initiative Advisory Board, is repealed July 1, 2024.

(7) Title 53B, Chapter 17, Part 11, USTAR Researchers, is repealed July 1, 2028.

(8) Section 53B-17-1203, which creates the SafeUT and School Safety Commission, is repealed January 1, 2025.

(9) Section 53B-18-1501 is repealed July 1, 2021.

(10) Title 53B, Chapter 18, Part 16, USTAR Researchers, is repealed July 1, 2028.

(11) Title 53B, Chapter 24, Part 4, Rural Residency Training Program, is repealed July 1, 2025.

(12) Subsection 53C-3-203(4)(b)(vii), which provides for the distribution of money from the Land Exchange Distribution Account to the Geological Survey for test wells and other hydrologic studies in the West Desert, is repealed July 1, 2030.

(13) Section 53E-3-515 is repealed January 1, 2023.

(14) In relation to a standards review committee, on January 1, 2023:

(a) in Subsection 53E-4-202(8), the language "by a standards review committee and the recommendations of a standards review committee established under Section 53E-4-203" is repealed; and

(b) Section 53E-4-203 is repealed.

(15) Subsections 53E-3-503(5) and (6), which create coordinating councils for youth in custody, are repealed July 1, 2027.

(16) Section 53E-4-402, which creates the State Instructional Materials Commission, is repealed July 1, 2022.

(17) Title 53E, Chapter 6, Part 5, Utah Professional Practices Advisory Commission, is repealed July 1, 2023.

(18) Subsection 53E-8-204(4), which creates the advisory council for the Utah Schools for the Deaf and the Blind, is repealed July 1, 2021.

[~~(19) Section 53F-2-514 is repealed July 1, 2020.~~]

[~~(20)~~] (19) Section 53F-5-203 is repealed July 1, 2024.

[~~(21)~~] (20) Section 53F-5-212 is repealed July 1, 2024.

[~~(22)~~] (21) Section 53F-5-213 is repealed July 1, 2023.

[~~(23)~~] (22) Section 53F-5-214, in relation to a grant for professional learning, is repealed July 1, 2025.

[~~(24)~~] (23) Section 53F-5-215, in relation to an elementary teacher preparation grant is repealed July 1, 2025.

[~~(25)~~] (24) Subsection 53F-9-203(7), which creates the Charter School Revolving Account Committee, is repealed July 1, 2024.

[~~(26)~~] (25) Section 53F-9-501 is repealed January 1, 2023.

[~~(27)~~] (26) Subsections 53G-4-608(2)(b) and (4)(b), related to the Utah Seismic Safety Commission, are repealed January 1, 2025.

[~~(28)~~] (27) Subsection 53G-8-211(5), regarding referrals of a minor to court for a class C misdemeanor, is repealed July 1, 2022.

Section 30. Section 63I-1-259 is amended to read:

63I-1-259. Repeal dates, Title 59.

(1) Section 59-1-213.1 is repealed on May 9, 2024.

(2) Section 59-1-213.2 is repealed on May 9, 2024.

(3) Subsection 59-1-405(1)(g) is repealed on May 9, 2024.

(4) Subsection 59-1-405(2)(b) is repealed on May 9, 2024.

[~~(5) Section 59-7-618 is repealed July 1, 2020.~~]

[~~(6)~~] (5) Section 59-9-102.5 is repealed December 31, 2030.

[~~(7) Section 59-10-1033 is repealed July 1, 2020.~~]

[~~(8) Subsection 59-12-2219(13), which addresses new revenue supplanting existing allocations, is repealed on June 30, 2020.~~]

[~~(9)~~] (6) Title 59, Chapter 28, State Transient Room Tax Act, is repealed on January 1, 2023.

Section 31. Section 63I-2-217 is amended to read:

63I-2-217. Repeal dates -- Title 17.

[~~(1) Section 17-22-32.2, regarding restitution reporting, is repealed January 1, 2021.~~]

[~~(2) Section 17-22-32.3, regarding the Jail Incarceration and Transportation Costs Study Council, is repealed January 1, 2021.~~]

[~~(3)~~] (1) Subsection 17-27a-102(1)(b), the language that states "or a designated mountainous planning district" is repealed June 1, 2021.

[~~(4)~~] (2) (a) Subsection 17-27a-103[~~(18)~~](19)(b), regarding a mountainous planning district, is repealed June 1, 2021.

(b) Subsection 17-27a-103[~~(42)~~](43), regarding a mountainous planning district, is repealed June 1, 2021.

[~~(5)~~] (3) Subsection 17-27a-210(2)(a), the language that states "or the mountainous planning district area" is repealed June 1, 2021.

[~~(6)~~] (4) (a) Subsection 17-27a-301(1)(b)(iii), regarding a mountainous planning district, is repealed June 1, 2021.

(b) Subsection 17-27a-301(1)(c), regarding a mountainous planning district, is repealed June 1, 2021.

(c) Subsection 17-27a-301(3)(a), the language that states " or (c)" is repealed June 1, 2021.

[~~(7)~~] (5) Section 17-27a-302, the language that states ", or mountainous planning district" and "or the mountainous planning district," is repealed June 1, 2021.

[~~(8)~~] (6) Subsection 17-27a-305(1)(a), the language that states "a mountainous planning district or" and ", as applicable" is repealed June 1, 2021.

[~~(9)~~] (7) (a) Subsection 17-27a-401(1)(b)(ii), regarding a mountainous planning district, is repealed June 1, 2021.

(b) Subsection 17-27a-401(7), regarding a mountainous planning district, is repealed June 1, 2021.

[~~(10)~~] (8) (a) Subsection 17-27a-403(1)(b)(ii), regarding a mountainous planning district, is repealed June 1, 2021.

(b) Subsection 17-27a-403(1)(c)(iii), regarding a mountainous planning district, is repealed June 1, 2021.

(c) Subsection 17-27a-403(2)(a)(iii), the language that states "or the mountainous planning district" is repealed June 1, 2021.

(d) Subsection 17-27a-403(2)(c)(i), the language that states "or mountainous planning district" is repealed June 1, 2021.

[~~(11)~~] (9) Subsection 17-27a-502(1)(d)(i)(B), regarding a mountainous planning district, is repealed June 1, 2021.

[~~(12)~~] (10) Subsection 17-27a-505.5(2)(a)(iii), regarding a mountainous planning district, is repealed June 1, 2021.

[~~(13)~~] (11) Subsection 17-27a-602(1)(b), the language that states "or, in the case of a mountainous planning district, the mountainous planning district" is repealed June 1, 2021.

[~~(14)~~] (12) Subsection 17-27a-604(1)(b)(i)(B), regarding a mountainous planning district, is repealed June 1, 2021.

[~~(15)~~] (13) Subsection 17-27a-605(1)(a), the language that states "or mountainous planning district land" is repealed June 1, 2021.

[~~(16)~~] (14) Title 17, Chapter 27a, Part 9, Mountainous Planning District, is repealed June 1, 2021.

[~~(17)~~] (15) On June 1, 2021, when making the changes in this section, the Office of Legislative Research and General Counsel shall:

(a) in addition to its authority under Subsection 36-12-12(3):

(i) make corrections necessary to ensure that sections and subsections identified in this section are complete sentences and accurately reflect the office's understanding of the Legislature's intent; and

(ii) make necessary changes to subsection numbering and cross references; and

(b) identify the text of the affected sections and subsections based upon the section and subsection numbers used in Laws of Utah 2017, Chapter 448.

[~~(18)~~] (16) Subsection 17-34-1(5)(d), regarding county funding of certain municipal services in a designated recreation area, is repealed June 1, 2021.

[~~(19)~~] (17) Title 17, Chapter 35b, Consolidation of Local Government Units, is repealed January 1, 2022.

[~~(20) On June 1, 2022:~~]

[~~(a) Section 17-52a-104 is repealed;~~]

[~~(b) in Subsection 17-52a-301(3)(a), the language that states "or under a provision described in Subsection 17-52a-104(1)(b) or (2)(b)," is repealed; and~~]

[~~(c) Subsection 17-52a-301(3)(a)(iv), regarding the first initiated process, is repealed.~~]

[~~(21)~~] (18) On January 1, 2028, Subsection 17-52a-103(3), requiring certain counties to initiate a change of form of government process by July 1, 2018, is repealed.

(19) On June 1, 2022:

(a) Section 17-52a-104 is repealed;

(b) in Subsection 17-52a-301(3)(a), the language that states "or under a provision described in

Subsection 17-52a-104(1)(b) or (2)(b)," is repealed; and

(c) Subsection 17-52a-301(3)(a)(iv), regarding the first initiated process, is repealed.

Section 32. Section 63I-2-219 is amended to read:

63I-2-219. Repeal dates -- Title 19.

[~~(1) (a) Subsection 19-1-108(3)(a) is repealed on June 30, 2019.~~]

[~~(b) When repealing Subsection 19-1-108(3)(a), the Office of Legislative Research and General Counsel shall, in addition to its authority under Subsection 36-12-12(3), make necessary changes to subsection numbering and cross references.~~]

[~~(2)~~] Subsections 19-2-109.2(2) through (10), related to the Compliance Advisory Panel, are repealed July 1, 2021.

[~~(3) Section 19-6-126 is repealed on January 1, 2020.~~]

Section 33. Section 63I-2-249 is amended to read:

63I-2-249. Repeal dates -- Title 49.

[~~(1) Section 49-20-106 is repealed January 1, 2021.~~]

[~~(2) Subsection 49-20-417(5)(b) is repealed January 1, 2020.~~]

[~~(3)~~] Subsection 49-20-420(3), regarding a requirement to report to the Legislature, is repealed January 1, 2030.

Section 34. Section 63I-2-253 is amended to read:

63I-2-253. Repeal dates -- Titles 53 through 53G.

(1) (a) Section 53-2a-217, regarding procurement during an epidemic or pandemic emergency, is repealed on December 31, 2021.

(b) When repealing Section 53-2a-217, the Office of Legislative Research and General Counsel shall, in addition to the office's authority under Subsection 36-12-12(3), make necessary changes to subsection numbering and cross references.

(2) Section 53B-2a-103 is repealed July 1, 2021.

(3) Section 53B-2a-104 is repealed July 1, 2021.

(4) (a) Subsection 53B-2a-108(5), regarding exceptions to the composition of a technical college board of trustees, is repealed July 1, 2022.

(b) When repealing Subsection 53B-2a-108(5), the Office of Legislative Research and General Counsel shall, in addition to its authority under Subsection 36-12-12(3), make necessary changes to subsection numbering and cross references.

(5) Section 53B-6-105.7 is repealed July 1, 2024.

(6) (a) Subsection 53B-7-705(6)(b)(ii)(A), the language that states "Except as provided in Subsection (6)(b)(ii)(B)," is repealed July 1, 2021.

(b) Subsection 53B-7-705(6)(b)(ii)(B), regarding comparing a technical college's change in performance with the technical college's average performance, is repealed July 1, 2021.

(7) (a) Subsection 53B-7-707(3)(a)(ii), the language that states "Except as provided in Subsection (3)(b)," is repealed July 1, 2021.

(b) Subsection 53B-7-707(3)(b), regarding performance data of a technical college during a fiscal year before fiscal year 2020, is repealed July 1, 2021.

(8) Section 53B-8-114 is repealed July 1, 2024.

(9) (a) The following sections, regarding the Regents' scholarship program, are repealed on July 1, 2023:

(i) Section 53B-8-202;

(ii) Section 53B-8-203;

(iii) Section 53B-8-204; and

(iv) Section 53B-8-205.

(b) (i) Subsection 53B-8-201(2), regarding the Regents' scholarship program for students who graduate from high school before fiscal year 2019, is repealed on July 1, 2023.

(ii) When repealing Subsection 53B-8-201(2), the Office of Legislative Research and General Counsel shall, in addition to its authority under Subsection 36-12-12(3), make necessary changes to subsection numbering and cross references.

(10) Section 53B-10-101 is repealed on July 1, 2027.

(11) Title 53B, Chapter 18, Part 14, Uintah Basin Air Quality Research Project, is repealed July 1, 2023.

[~~(12) Section 53E-3-519 regarding school counselor services is repealed July 1, 2020.~~]

[~~(13)~~] (12) Section 53E-3-520 is repealed July 1, 2021.

[~~(14) Subsection 53E-5-306(3)(b)(ii)(B), related to improving school performance and continued funding relating to the School Recognition and Reward Program, is repealed July 1, 2020.~~]

[~~(15) Section 53E-5-307 is repealed July 1, 2020.~~]

[~~(16)~~] (13) Subsection 53E-10-309(7), related to the PRIME pilot program, is repealed July 1, 2024.

[~~(17)~~] (14) In Subsections 53F-2-205(4) and (5), regarding the State Board of Education's duties if contributions from the minimum basic tax rate are overestimated or underestimated, the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

[~~(18)~~] (15) Subsection 53F-2-301(1), relating to the years the section is not in effect, is repealed July 1, 2023.

[~~(19)~~] (16) In Subsection 53F-2-515(1), the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

[~~(20)~~] (17) Section 53F-4-207 is repealed July 1, 2022.

[~~(21)~~] (18) In Subsection 53F-9-302(3), the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

[~~(22)~~] (19) In Subsection 53F-9-305(3)(a), the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

[~~(23)~~] (20) In Subsection 53F-9-306(3)(a), the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

[~~(24)~~] (21) In Subsection 53G-3-304(1)(c)(i), the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

[~~(25)~~] (22) Subsections 53G-10-204(1)(c) through (e), and Subsection 53G-10-204(7), related to the civics engagement pilot program, are repealed on July 1, 2023.

[~~(26)~~] (23) On July 1, 2023, when making changes in this section, the Office of Legislative Research and General Counsel shall, in addition to the office's authority under Subsection 36-12-12(3), make corrections necessary to ensure that sections and subsections identified in this section are complete sentences and accurately reflect the office's perception of the Legislature's intent.

Section 35. Section 63I-2-263 is amended to read:

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

[~~(1) On July 1, 2020:~~]

[~~(a) Subsection 63A-1-203(5)(a)(i) is repealed; and~~]

[~~(b) in Subsection 63A-1-203(5)(a)(ii), the language that states "appointed on or after May 8, 2018," is repealed.~~]

[~~(2)~~] (1) Section 63A-3-111 is repealed June 30, 2021.

[~~(3)~~] (2) Title 63C, Chapter 19, Higher Education Strategic Planning Commission is repealed July 1, 2021.

[~~(4)~~] (3) Title 63C, Chapter 22, Digital Wellness, Citizenship, and Safe Technology Commission is repealed July 1, 2023.

[~~(5)~~] (4) The following sections regarding the World War II Memorial Commission are repealed on July 1, 2022:

(a) Section 63G-1-801;

(b) Section 63G-1-802;

(c) Section 63G-1-803; and

(d) Section 63G-1-804.

[~~(6) Subsections 63G-6a-802(1)(d) and 63G-6a-802(3)(b)(iii), regarding a procurement relating to a vice presidential debate, are repealed January 1, 2021.~~]

[~~(7) In relation to the State Fair Park Committee, on January 1, 2021:~~]

[~~(a) Section 63H-6-104.5 is repealed; and~~]

[~~(b) Subsections 63H-6-104(8) and (9) are repealed.~~]

[~~(8)~~] (5) Section 63H-7a-303 is repealed July 1, 2024.

[~~(9)~~] (6) Subsection 63J-1-206(3)(c), relating to coronavirus, is repealed July 1, 2021.

[~~(10)~~] (7) In relation to the Employability to Careers Program Board, on July 1, 2022:

(a) Subsection 63J-1-602.1(57) is repealed;

(b) Subsection 63J-4-301(1)(h), related to the review of data and metrics, is repealed; and

(c) Title 63J, Chapter 4, Part 7, Employability to Careers Program, is repealed.

[~~(11)~~] (8) Title 63M, Chapter 4, Part 8, Voluntary Home Energy Information Pilot Program Act, is repealed January 1, 2022.

[~~(12)~~] (9) Sections 63M-7-213 and 63M-7-213.5 are repealed on January 1, 2023.

[~~(13)~~] (10) Subsection 63N-12-508(3) is repealed December 31, 2021.

[~~(14)~~] (11) Title 63N, Chapter 13, Part 3, Facilitating [~~Public-Private~~] Public-private Partnerships Act, is repealed January 1, 2024.

[~~(15)~~] (12) Title 63N, Chapter 15, COVID-19 Economic Recovery Programs, is repealed December 31, 2021.

Section 36. Section 63J-3-402 is amended to read:

63J-3-402. Debt limitation -- Vote requirement needed to exceed limitation -- Exceptions.

(1) (a) Except as provided in Subsection (1)(b), the outstanding general obligation debt of the state may not exceed 45% of the maximum allowable appropriations limit unless approved by more than a two-thirds vote of both houses of the Legislature.

(b) Notwithstanding the limitation contained in Subsection (1)(a), debt issued under the authority of the following parts or sections is not subject to the debt limitation established by this section:

(i) Title 63B, Chapter 6, Part 2, 1997 Highway General Obligation Bond Authorization;

(ii) Title 63B, Chapter 6, Part 3, 1997 Highway Bond Anticipation Note Authorization;

(iii) Title 63B, Chapter 7, Part 2, 1998 Highway General Obligation Bond Authorization;

(iv) Title 63B, Chapter 7, Part 3, 1998 Highway Bond Anticipation Note Authorization;

(v) Title 63B, Chapter 8, Part 2, 1999 Highway General Obligation Bond Authorization;

(vi) Title 63B, Chapter 8, Part 3, 1999 Highway Bond Anticipation Note Authorization;

[~~(vii) Title 63B, Chapter 9, Part 2, 2000 Highway General Obligation Bond;~~]

[~~(viii)~~] (vii) Title 63B, Chapter 10, Part 1, 2001 Highway General Obligation Bonds;

[~~(ix)~~] (viii) Title 63B, Chapter 10, Part 2, 2001 Highway General Obligation Bond Anticipation Notes Authorization;

[~~(x)~~] (ix) Title 63B, Chapter 11, Part 5, 2002 Highway General Obligation Bonds for Salt Lake County;

[~~(xi)~~] (x) Title 63B, Chapter 11, Part 6, 2002 Highway General Obligation Bond Anticipation Notes for Salt Lake County;

[~~(xii)~~] (xi) Section 63B-13-102;

[~~(xiii)~~] (xii) Section 63B-16-101;

[~~(xiv)~~] (xiii) Section 63B-16-102;

[~~(xv)~~] (xiv) Section 63B-18-401;

[~~(xvi)~~] (xv) Section 63B-18-402; and

[~~(xvii)~~] (xvi) Title 63B, Chapter 27, Part 1, 2017 Highway General Obligation Bonds.

(2) This section does not apply if contractual rights will be impaired.

Section 37. Section 63M-4-503 is amended to read:

63M-4-503. Tax credits.

(1) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office shall make rules establishing standards an alternative energy entity shall meet to qualify for a tax credit.

(b) Before the office enters into an agreement described in Subsection (2) with an alternative energy entity, the office, in consultation with other state agencies as necessary, shall certify:

(i) that the alternative energy entity plans to produce in the state at least:

(A) two megawatts of electricity;

(B) 1,000 barrels per day if the alternative energy project is a crude oil equivalent production; or

(C) 250 barrels per day if the alternative energy project is a biomass energy fuel production;

(ii) that the alternative energy project will generate new state revenues;

(iii) the economic life of the alternative energy project produced by the alternative energy entity;

(iv) that the alternative energy entity meets the requirements of Section 63M-4-504; and

(v) that the alternative energy entity has received a certificate of existence from the Division of Corporations and Commercial Code.

(2) If an alternative energy entity meets the requirements of this part to receive a tax credit, the office shall enter into an agreement with the alternative energy entity to authorize the tax credit in accordance with Subsection (3).

(3) (a) Subject to Subsection (3)(b), if the office expects that the time from the commencement of construction until the end of the economic life of the alternative energy project is 20 years or more:

(i) the office shall grant a tax credit for the lesser of:

(A) the economic life of the alternative energy project; or

(B) 20 years; and

(ii) the tax credit is equal to 75% of new state revenues generated by the alternative energy project.

(b) For a taxable year, a tax credit under this section may not exceed the new state revenues generated by an alternative energy project during that taxable year.

(4) An alternative energy entity that seeks to receive a tax credit or has entered into an agreement described in Subsection (2) with the office shall:

(a) annually file a report with the office showing the new state revenues generated by the alternative energy project during the taxable year for which the alternative energy entity seeks to receive a tax credit under Section 59-7-614.7 or 59-10-1029;

(b) subject to Subsection (5), annually file a report with the office prepared by an independent certified public accountant verifying the new state [~~revenue~~] revenues described in Subsection (4)(a);

(c) subject to Subsection (5), file a report with the office at least every four years prepared by an independent auditor auditing the new state [~~revenue~~] revenues described in Subsection (4)(a);

(d) provide the office with information required by the office to certify the economic life of the alternative energy project produced by the alternative energy entity, which may include a power purchase agreement, a lease, or a permit; and

(e) retain records supporting a claim for a tax credit for at least four years after the alternative energy entity claims a tax credit under Section 59-7-614.7 or 59-10-1029.

(5) An alternative energy entity for which a report is prepared under Subsection (4)(b) or (c) shall pay the costs of preparing the report.

(6) The office shall annually certify the new state revenues generated by an alternative energy project for a taxable year for which an alternative energy entity seeks to receive a tax credit under Section 59-7-614.7 or 59-10-1029.

Section 38. Section 63M-7-204 is amended to read:

63M-7-204. Duties of commission.

(1) The State Commission on Criminal and Juvenile Justice administration shall:

(a) promote the commission's purposes as enumerated in Section 63M-7-201;

(b) promote the communication and coordination of all criminal and juvenile justice agencies;

(c) study, evaluate, and report on the status of crime in the state and on the effectiveness of criminal justice policies, procedures, and programs that are directed toward the reduction of crime in the state;

(d) study, evaluate, and report on programs initiated by state and local agencies to address reducing recidivism, including changes in penalties and sentencing guidelines intended to reduce recidivism, costs savings associated with the reduction in the number of inmates, and evaluation of expenses and resources needed to meet goals regarding the use of treatment as an alternative to incarceration, as resources allow;

(e) study, evaluate, and report on policies, procedures, and programs of other jurisdictions which have effectively reduced crime;

(f) identify and promote the implementation of specific policies and programs the commission determines will significantly reduce crime in Utah;

(g) provide analysis and recommendations on all criminal and juvenile justice legislation, state budget, and facility requests, including program and fiscal impact on all components of the criminal and juvenile justice system;

(h) provide analysis, accountability, recommendations, and supervision for state and federal criminal justice grant money;

(i) provide public information on the criminal and juvenile justice system and give technical assistance to agencies or local units of government on methods to promote public awareness;

(j) promote research and program evaluation as an integral part of the criminal and juvenile justice system;

(k) provide a comprehensive criminal justice plan annually;

(l) review agency forecasts regarding future demands on the criminal and juvenile justice systems, including specific projections for secure bed space;

(m) promote the development of criminal and juvenile justice information systems that are consistent with common standards for data storage and are capable of appropriately sharing information with other criminal justice information systems by:

(i) developing and maintaining common data standards for use by all state criminal justice agencies;

(ii) annually performing audits of criminal history record information maintained by state criminal justice agencies to assess their accuracy, completeness, and adherence to standards;

(iii) defining and developing state and local programs and projects associated with the improvement of information management for law enforcement and the administration of justice; and

(iv) establishing general policies concerning criminal and juvenile justice information systems and making rules as necessary to carry out the duties under Subsection (1)(k) and this Subsection (1)(m);

(n) allocate and administer grants, from money made available, for approved education programs to help prevent the sexual exploitation of children;

(o) allocate and administer grants for law enforcement operations and programs related to reducing illegal drug activity and related criminal activity;

(p) request, receive, and evaluate data and recommendations collected and reported by agencies and contractors related to policies recommended by the commission regarding recidivism reduction;

(q) establish and administer a performance incentive grant program that allocates funds appropriated by the Legislature to programs and practices implemented by counties that reduce recidivism and reduce the number of offenders per capita who are incarcerated;

(r) oversee or designate an entity to oversee the implementation of juvenile justice reforms;

(s) make rules and administer the juvenile holding room standards and juvenile jail standards to align with the Juvenile Justice and Delinquency Prevention Act requirements pursuant to 42 U.S.C. Sec. 5633;

(t) allocate and administer grants, from money made available, for pilot qualifying education programs;

(u) oversee the trauma-informed justice program described in Section 63M-7-209; and

(v) request, receive, and evaluate the aggregate data collected from prosecutorial agencies[~~, jails,~~] and the Administrative Office of the Courts, in accordance with Sections [~~17-22-32.4,~~] 63M-7-216[~~,~~] and 78A-2-109.5.

(2) If the commission designates an entity under Subsection (1)(r), the commission shall ensure that the membership of the entity includes representation from the three branches of government and, as determined by the commission, representation from relevant stakeholder groups across all parts of the juvenile justice system, including county representation.

Section 39. Section 63N-15-501 is amended to read:

63N-15-501. COVID-19 Oil, Gas, and Mining Grant Program.

(1) There is established a grant program known as the COVID-19 Oil, Gas, and Mining Grant Program that is administered by the office in accordance with this part.

(2) To be eligible to apply for a grant under this part, an oil, gas, or mining business entity that operates in the state:

(a) shall have experienced a revenue decline in this state due to the public health emergency related to COVID-19; and

(b) shall describe to the office how receipt of grant funds will benefit the state economy.

(3) The amount of a grant that the office awards to an oil, gas, or mining business entity under this part may not exceed the amount of the business entity's revenue decline.

Section 40. Section 67-22-2 is amended to read:

67-22-2. Compensation -- Other state officers.

(1) As used in this section:

(a) "Appointed executive" means the:

(i) commissioner of the Department of Agriculture and Food;

(ii) commissioner of the Insurance Department;

(iii) commissioner of the Labor Commission;

(iv) director, Department of Alcoholic Beverage Control;

(v) commissioner of the Department of Financial Institutions;

(vi) executive director, Department of Commerce;

(vii) executive director, Commission on Criminal and Juvenile Justice;

(viii) adjutant general;

(ix) executive director, Department of Heritage and Arts;

(x) executive director, Department of Corrections;

(xi) commissioner, Department of Public Safety;

(xii) executive director, Department of Natural Resources;

(xiii) executive director, Governor's Office of Management and Budget;

(xiv) executive director, Department of Administrative Services;

(xv) executive director, Department of Human Resource Management;

(xvi) executive director, Department of Environmental Quality;

(xvii) director, Governor's Office of Economic Development;

[~~(xviii) executive director, Utah Science Technology and Research Governing Authority;~~]

[~~(xix)~~] (xviii) executive director, Department of Workforce Services;

[~~(xx)~~] (xix) executive director, Department of Health, Nonphysician;

[~~(xxi)~~] (xx) executive director, Department of Human Services;

[~~(xxii)~~] (xxi) executive director, Department of Transportation;

[~~(xxiii)~~] (xxii) executive director, Department of Technology Services; and

[~~(xxiv)~~] (xxiii) executive director, Department of Veterans and Military Affairs.

(b) "Board or commission executive" means:

(i) members, Board of Pardons and Parole;

(ii) chair, State Tax Commission;

(iii) commissioners, State Tax Commission;

(iv) executive director, State Tax Commission;

(v) chair, Public Service Commission; and

(vi) commissioners, Public Service Commission.

(c) "Deputy" means the person who acts as the appointed executive's second in command as determined by the Department of Human Resource Management.

(2) (a) The executive director of the Department of Human Resource Management shall:

(i) before October 31 of each year, recommend to the governor a compensation plan for the appointed executives and the board or commission executives; and

(ii) base those recommendations on market salary studies conducted by the Department of Human Resource Management.

(b) (i) The Department of Human Resource Management shall determine the salary range for the appointed executives by:

(A) identifying the salary range assigned to the appointed executive's deputy;

(B) designating the lowest minimum salary from those deputies' salary ranges as the minimum salary for the appointed executives' salary range; and

(C) designating 105% of the highest maximum salary range from those deputies' salary ranges as the maximum salary for the appointed executives' salary range.

(ii) If the deputy is a medical doctor, the Department of Human Resource Management may not consider that deputy's salary range in

designating the salary range for appointed executives.

(c) (i) Except as provided in Subsection (2)(c)(ii), in establishing the salary ranges for board or commission executives, the Department of Human Resource Management shall set the maximum salary in the salary range for each of those positions at 90% of the salary for district judges as established in the annual appropriation act under Section 67-8-2.

(ii) In establishing the salary ranges for an individual described in Subsection (1)(b)(ii) or (iii), the Department of Human Resource Management shall set the maximum salary in the salary range for each of those positions at 100% of the salary for district judges as established in the annual appropriation act under Section 67-8-2.

(3) (a) (i) Except as provided in Subsection (3)(a)(ii), the governor shall establish a specific salary for each appointed executive within the range established under Subsection (2)(b).

(ii) If the executive director of the Department of Health is a physician, the governor shall establish a salary within the highest physician salary range established by the Department of Human Resource Management.

(iii) The governor may provide salary increases for appointed executives within the range established by Subsection (2)(b) and identified in Subsection (3)(a)(ii).

(b) The governor shall apply the same overtime regulations applicable to other FLSA exempt positions.

(c) The governor may develop standards and criteria for reviewing the appointed executives.

(4) Salaries for other Schedule A employees, as defined in Section 67-19-15, that are not provided for in this chapter, or in Title 67, Chapter 8, Utah Elected Official and Judicial Salary Act, shall be established as provided in Section 67-19-15.

(5) (a) The Legislature fixes benefits for the appointed executives and the board or commission executives as follows:

(i) the option of participating in a state retirement system established by Title 49, Utah State Retirement and Insurance Benefit Act, or in a deferred compensation plan administered by the State Retirement Office in accordance with the Internal Revenue Code and its accompanying rules and regulations;

(ii) health insurance;

(iii) dental insurance;

(iv) basic life insurance;

(v) unemployment compensation;

(vi) workers' compensation;

(vii) required employer contribution to Social Security;

(viii) long-term disability income insurance;

(ix) the same additional state-paid life insurance available to other noncareer service employees;

(x) the same severance pay available to other noncareer service employees;

(xi) the same leave, holidays, and allowances granted to Schedule B state employees as follows:

(A) sick leave;

(B) converted sick leave if accrued prior to January 1, 2014;

(C) educational allowances;

(D) holidays; and

(E) annual leave except that annual leave shall be accrued at the maximum rate provided to Schedule B state employees;

(xii) the option to convert accumulated sick leave to cash or insurance benefits as provided by law or rule upon resignation or retirement according to the same criteria and procedures applied to Schedule B state employees;

(xiii) the option to purchase additional life insurance at group insurance rates according to the same criteria and procedures applied to Schedule B state employees; and

(xiv) professional memberships if being a member of the professional organization is a requirement of the position.

(b) Each department shall pay the cost of additional state-paid life insurance for its executive director from its existing budget.

(6) The Legislature fixes the following additional benefits:

(a) for the executive director of the State Tax Commission a vehicle for official and personal use;

(b) for the executive director of the Department of Transportation a vehicle for official and personal use;

(c) for the executive director of the Department of Natural Resources a vehicle for commute and official use;

(d) for the commissioner of Public Safety:

(i) an accidental death insurance policy if POST certified; and

(ii) a public safety vehicle for official and personal use;

(e) for the executive director of the Department of Corrections:

(i) an accidental death insurance policy if POST certified; and

(ii) a public safety vehicle for official and personal use;

(f) for the adjutant general a vehicle for official and personal use; and

(g) for each member of the Board of Pardons and Parole a vehicle for commute and official use.

Section 41. Section 76-9-802 is amended to read:

76-9-802. Definitions.

As used in this part:

(1) "Criminal street gang" means an organization, association in fact, or group of three or more persons, whether operated formally or informally:

(a) that is currently in operation;

(b) that has as one of its primary activities the commission of one or more predicate gang crimes;

(c) that has, as a group, an identifying name or identifying sign or symbol, or both; and

(d) whose members, acting individually or in concert with other members, engage in or have engaged in a pattern of criminal gang activity.

(2) "Intimidate" means the use of force, duress, violence, coercion, menace, or threat of harm for the purpose of causing an individual to act or refrain from acting.

(3) "Minor" means a person younger than 18 years [~~of age~~] old.

(4) "Pattern of criminal gang activity" means:

(a) committing, attempting to commit, conspiring to commit, or soliciting the commission of two or more predicate gang crimes within five years;

(b) the predicate gang crimes are:

(i) committed by two or more persons; or

(ii) committed by an individual at the direction of, or in association with a criminal street gang; and

(c) the criminal activity was committed with the specific intent to promote, further, or assist in any criminal conduct by members of the criminal street gang.

(5) (a) "Predicate gang crime" means any of the following offenses:

(i) Title 41, Chapter 1a, Motor Vehicle Act:

(A) Section 41-1a-1313, regarding possession of a motor vehicle without an identification number;

(B) Section 41-1a-1315, regarding false evidence of title and registration;

(C) Section 41-1a-1316, regarding receiving or transferring stolen vehicles;

(D) Section 41-1a-1317, regarding selling or buying a motor vehicle without an identification number; or

(E) Section 41-1a-1318, regarding the fraudulent alteration of an identification number;

(ii) any criminal violation of the following provisions:

(A) Title 58, Chapter 37, Utah Controlled Substances Act;

(B) Title 58, Chapter 37a, Utah Drug Paraphernalia Act;

(C) Title 58, Chapter 37b, Imitation Controlled Substances Act; or

(D) Title 58, Chapter 37c, Utah Controlled Substance Precursor Act;

(iii) Sections 76-5-102 through 76-5-103.5, which address assault offenses;

(iv) Title 76, Chapter 5, Part 2, Criminal Homicide;

(v) Sections 76-5-301 through 76-5-304, which address kidnapping and related offenses;

(vi) any felony offense under Title 76, Chapter 5, Part 4, Sexual Offenses;

(vii) Title 76, Chapter 6, Part 1, Property Destruction;

(viii) Title 76, Chapter 6, Part 2, Burglary and Criminal Trespass;

(ix) Title 76, Chapter 6, Part 3, Robbery;

(x) any felony offense under Title 76, Chapter 6, Part 4, Theft, or under Title 76, Chapter 6, Part 6, Retail Theft, except Sections 76-6-404.5, 76-6-405, 76-6-407, 76-6-408, 76-6-409, 76-6-409.1, 76-6-409.3, 76-6-409.6, 76-6-409.7, 76-6-409.8, 76-6-409.9, 76-6-410, and 76-6-410.5;

(xi) Title 76, Chapter 6, Part 5, Fraud, except Sections 76-6-504, 76-6-505, 76-6-507, 76-6-508, 76-6-509, 76-6-510, 76-6-511, 76-6-512, 76-6-513, 76-6-514, 76-6-516, 76-6-517, 76-6-518, and 76-6-520;

(xii) Title 76, Chapter 6, Part 11, Identity Fraud Act;

(xiii) Title 76, Chapter 8, Part 3, Obstructing Governmental Operations, except Sections 76-8-302, 76-8-303, [~~76-8-304,~~] 76-8-307, 76-8-308, and 76-8-312;

(xiv) Section 76-8-508, which includes tampering with a witness;

(xv) Section 76-8-508.3, which includes retaliation against a witness or victim;

(xvi) Section 76-8-509, which includes extortion or bribery to dismiss a criminal proceeding;

(xvii) a misdemeanor violation of Section 76-9-102, if the violation occurs at an official meeting;

(xviii) Title 76, Chapter 10, Part 3, Explosives;

(xix) Title 76, Chapter 10, Part 5, Weapons;

(xx) Title 76, Chapter 10, Part 15, Bus Passenger Safety Act;

(xxi) Title 76, Chapter 10, Part 16, Pattern of Unlawful Activity Act;

(xxii) Section 76-10-1801, which addresses communications fraud;

(xxiii) Title 76, Chapter 10, Part 19, Money Laundering and Currency Transaction Reporting Act; or

(xxiv) Section 76-10-2002, which addresses burglary of a research facility.

(b) "Predicate gang crime" also includes:

(i) any state or federal criminal offense that by its nature involves a substantial risk that physical force may be used against another in the course of committing the offense; and

(ii) any felony violation of a criminal statute of any other state, the United States, or any district, possession, or territory of the United States which would constitute a violation of any offense in Subsection (4)(a) if committed in this state.

CHAPTER 65
H. B. 191
Passed February 26, 2021
Approved March 11, 2021
Effective May 5, 2021

ADOPTION AMENDMENTS

Chief Sponsor: Merrill F. Nelson
Senate Sponsor: Todd D. Weiler

LONG TITLE

General Description:

This bill amends and enacts provisions relating to adoption.

Highlighted Provisions:

This bill:

- clarifies that a new birth certificate may be issued after the adoption of an adult;
- allows an attorney in the adoption or the child-placing agency to be provided the adoption report;
- allows the attorney in the adoption or the child-placing agency to take the adoption report to the state registrar;
- clarifies that a new birth certificate may be issued for a foreign-born individual who is adopted as an adult;
- allows the spouse of a preexisting parent to adopt a child after the child's death;
- if a child-placing agency placed a child for adoption, provides that the child-placing agency file an affidavit regarding fees and expenses with the Office of Licensing within the Department of Human Services; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

26-2-10, as last amended by Laws of Utah 2015, Chapter 137
26-2-25, as last amended by Laws of Utah 1995, Chapter 202
26-2-28, as last amended by Laws of Utah 2008, Chapter 3
78B-6-115, as last amended by Laws of Utah 2015, Chapter 137
78B-6-120.1, as enacted by Laws of Utah 2013, Chapter 458
78B-6-136.5, as last amended by Laws of Utah 2012, Chapter 340
78B-6-140, as last amended by Laws of Utah 2012, Chapter 340

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

Section 1. Section 26-2-10 is amended to read:

26-2-10. Supplementary certificate of birth.

[~~(1) Any person born in this state who is legitimized by the subsequent marriage of the person's natural parents, or whose parentage has been determined by any U.S. state court or Canadian provincial court having jurisdiction, or who has been legally adopted under the law of this or any other state or any province of Canada, may request the state registrar to register a supplementary birth certificate on the basis of that status.~~]

(1) An individual born in this state may request the state registrar to register a supplementary birth certificate for the individual if:

(a) the individual is legally recognized as a child of the individual's natural parents when the individual's natural parents are subsequently married;

(b) the individual's parentage has been determined by a state court of the United States or a Canadian provincial court with jurisdiction; or

(c) the individual has been legally adopted, as a child or as an adult, under the law of this state, any other state, or any province of Canada.

(2) The application for registration of a supplementary birth certificate may be made by:

(a) the [~~person~~] individual requesting registration[~~,~~] under Subsection (1) if the [~~person~~] individual is of legal age[~~, by~~];

(b) a legal representative[~~, or by~~]; or

(c) any agency authorized to receive children for placement or adoption under the laws of this or any other state.

(3) (a) The state registrar shall require that an applicant submit identification and proof according to department rules.

(b) In the case of an adopted [~~person~~] individual, that proof may be established by order of the court in which the adoption proceedings were held.

(4) (a) After the supplementary birth certificate is registered, any information disclosed from the record shall be from the supplementary birth certificate.

(b) Access to the original birth certificate and to the evidence submitted in support of the supplementary birth certificate are not open to inspection except upon the order of a Utah district court or [~~as provided under~~] as described in Section 78B-6-141 or Section 78B-6-144.

Section 2. Section 26-2-25 is amended to read:

26-2-25. Divorce or adoption -- Duty of court clerk to file certificates or reports.

(1) [~~(a)~~] For each adoption, annulment of adoption, divorce, and annulment of marriage ordered or decreed in this state, the clerk of the court shall prepare a divorce certificate or report of adoption on a form furnished by the state registrar.

(2) The petitioner shall provide the information necessary to prepare the certificate or report [~~when he files the petition with the clerk~~] under Subsection (1).

[~~(b)~~] (3) The clerk shall:

(a) prepare the certificate or report [~~and, immediately after the decree or order becomes final, shall~~] under Subsection (1); and

(b) complete the remaining entries for the certificate or report immediately after the decree or order becomes final.

(4) On or before the 15th day of each month, the clerk shall forward the divorce certificates and reports of adoption under Subsection (1) completed by [~~him~~] the clerk during the preceding month to the state registrar.

[~~(2) If there is filed with the clerk of the court in an adoption proceeding a written consent to adoption by an agency licensed under the laws of the state to receive children for placement or adoption, the agency by its authorized representative shall prepare and complete the report of adoption and forward it to the state registrar immediately after entry of the decree of adoption.~~]

(5) (a) A report of adoption under Subsection (1) may be provided to the attorney who is providing representation of a party to the adoption or the child-placing agency, as defined in Section 78B-6-103, that is placing the child.

(b) If a report of adoption is provided to the attorney or the child-placing agency, as defined in Section 78B-6-103, the attorney or the child-placing agency shall immediately provide the report of adoption to the state registrar.

Section 3. Section 26-2-28 is amended to read:

26-2-28. Birth certificate for foreign adoptees.

Upon presentation of a court order of adoption and an order establishing the fact, time, and place of birth under Section 26-2-15, the department shall prepare a birth certificate for [~~any person~~] an individual who:

(1) was adopted under the laws of this state; and

(2) was at the time of adoption, as a child or as an adult, considered an alien child or adult for whom the court received documentary evidence of [~~legal residence~~] lawful admission under Section 78B-6-108.

Section 4. Section 78B-6-115 is amended to read:

78B-6-115. Who may adopt -- Adoption of minor -- Adoption of adult.

(1) [~~For purposes of~~] As used in this section, "vulnerable adult" means:

(a) [~~a person 65 years of age~~] an individual who is 65 years old or older; or

(b) an adult[~~, 18 years of age~~] who is 18 years old or older, and who has a mental or physical impairment [~~which~~] that substantially affects that [~~person's~~] adult's ability to:

(i) provide personal protection;

(ii) provide necessities such as food, shelter, clothing, or medical or other health care;

(iii) obtain services necessary for health, safety, or welfare;

(iv) carry out the activities of daily living;

(v) manage the adult's own resources; or

(vi) comprehend the nature and consequences of remaining in a situation of abuse, neglect, or exploitation.

(2) Subject to this section and Section 78B-6-117, any adult may be adopted by another adult.

(3) The following provisions of this part apply to the adoption of an adult just as though the [~~person~~] individual being adopted were a minor:

(a) (i) Section 78B-6-108;

(ii) Section 78B-6-114;

(iii) Section 78B-6-116;

(iv) Section 78B-6-118;

(v) Section 78B-6-124;

(vi) Section 78B-6-136;

(vii) Section 78B-6-137;

(viii) Section 78B-6-138;

(ix) Section 78B-6-139;

(x) Section 78B-6-141; and

(xi) Section 78B-6-142;

(b) Subsections [~~78B-6-105(1)(a), (1)(b)(i), (1)(b)(ii), (2), and (7)~~] 78B-6-105(1)(a), (1)(b)(i), (1)(b)(ii), (2), and (7), except that the juvenile court does not have jurisdiction over a proceeding for adoption of an adult, unless the adoption arises from a case where the juvenile court has continuing jurisdiction over the mature adoptee; and

(c) if the mature adoptee is a vulnerable adult, Sections 78B-6-128 through 78B-6-131, regardless of whether the mature adoptee resides, or will reside, with the [~~adoptors~~] adopters, unless the court, based on a finding of good cause, waives the requirements of those sections.

(4) Before a court enters a final decree of adoption of a mature adoptee, the mature adoptee and the prospective adoptive parent or parents shall appear before the court presiding over the adoption [~~proceedings~~] proceeding and execute consent to the adoption.

(5) No provision of this part, other than those listed or described in this section or Section 78B-6-117, apply to the adoption of an adult.

Section 5. Section 78B-6-120.1 is amended to read:

78B-6-120.1. Implied consent.

(1) [~~(a)~~] As used in this section[~~, "abandonment"~~]:

(a) "Abandonment" means failure of a father, with reasonable knowledge of the pregnancy, to

offer and provide financial and emotional support to the birth mother for a period of six months before the day on which the adoptee is born.

(b) "Emotional support" means a pattern of statements or actions that indicate to a reasonable person that a father intends to provide for the physical and emotional well-being of an unborn child.

[~~(b)~~] (2) (a) A court may not determine that a father abandoned the birth mother if the father failed to provide financial or emotional support because the birth mother refused to accept support.

[~~(2) (a) As used in this section, "emotional support" means a pattern of statements or actions that indicate to a reasonable person that a father intends to provide for the physical and emotional well-being of an unborn child.~~]

(b) A court may not find that a father failed to provide emotional support if the father's failure was due to impossibility of performance.

(3) Consent or relinquishment, as required by Subsection 78B-6-120(1), may be implied by any of the following acts:

(a) abandonment;

(b) leaving the adoptee with a third party, without providing the third party with the parent's identification, for 30 consecutive days;

(c) knowingly leaving the adoptee with another person, without providing for support, communicating, or otherwise maintaining a substantial relationship with the adoptee, for six consecutive months; or

(d) receiving notification of a pending adoption proceeding under Subsection 78B-6-110(6) or of a termination proceeding under Section 78B-6-112 and failing to respond as required.

(4) Implied consent under Subsection (3)[~~(a)~~] may not be withdrawn.

(5) Nothing in this section negates the requirements of Section 78B-6-121 or 78B-6-122 for an unmarried biological father.

Section 6. Section 78B-6-136.5 is amended to read:

78B-6-136.5. Timing of entry of final decree of adoption -- Posthumous adoption.

(1) Except as provided in Subsection (2), a final decree of adoption may not be entered until the earlier of:

(a) when the child has lived in the home of the prospective adoptive parent for six months; or

(b) when the child has been placed for adoption with the prospective adoptive parent for six months.

(2) (a) If the prospective adoptive parent is the spouse of the [~~pre-existing~~] preexisting parent, a final decree of adoption may not be entered until the child has lived in the home of that prospective adoptive parent for one year, unless, based on a finding of good cause, the court orders that the final decree of adoption may be entered at an earlier time.

(b) The court may, based on a finding of good cause, order that the final decree of adoption be entered at an earlier time than described in Subsection (1).

(3) [~~If the child dies during the time that the child is placed in the home of a prospective adoptive parent or parents for the purpose of adoption, the~~] The court has authority to enter a final decree of adoption after [~~the~~] a child's death upon the request of the prospective adoptive parent or parents[~~.~~] of the child if:

(a) the child dies during the time that the child is placed in the home of a prospective adoptive parent or parents for the purpose of adoption; or

(b) the prospective adoptive parent is the spouse of a preexisting parent of the child and the child lived with the prospective adoptive parent before the child's death.

[~~(4) The court may enter a final decree of adoption declaring that a child is adopted by both a deceased and a surviving adoptive parent if, after the child is placed in the home of the child's prospective adoptive parents:~~]

[~~(a) one of the prospective adoptive parents dies;~~]

[~~(b) the surviving prospective adoptive parent requests that the court enter the decree; and~~]

[~~(c) the decree is entered after the child has lived in the home of the surviving prospective adoptive parent for at least six months.~~]

(4) The court may enter a final decree of adoption declaring that a child is adopted by:

(a) both a deceased and a surviving adoptive parent if after the child is placed in the home of the child's prospective adoptive parents:

(i) one of the prospective adoptive parents dies;

(ii) the surviving prospective adoptive parent requests that the court enter the decree; and

(iii) the decree is entered after the child has lived in the home of the surviving prospective adoptive parent for at least six months; or

(b) a spouse of a preexisting parent if after the child has lived with the spouse of the preexisting parent:

(i) the preexisting parent, or the spouse of the preexisting parent, dies;

(ii) the preexisting parent, or the spouse of the preexisting parent, requests that the court enter the decree; and

(iii) the child has lived in the same home as the spouse of the preexisting parent for at least one year.

(5) Upon request of a surviving [~~pre-existing~~] preexisting parent, or a surviving parent for whom

adoption of a child has been finalized, the court may enter a final decree of adoption declaring that a child is adopted by a deceased adoptive parent who was the spouse of the surviving parent at the time of the prospective adoptive parent's death.

(6) The court may enter a final decree of adoption declaring that a child is adopted by both deceased prospective adoptive parents if:

(a) both of the prospective adoptive parents die after the child is placed in the prospective adoptive parents' home; and

(b) it is in the best interests of the child to enter the decree.

(7) Nothing in this section shall be construed to grant any rights to the [~~pre-existing~~] preexisting parents of a child to assert any interest in the child during the six-month or one-year periods described in this section.

Section 7. Section 78B-6-140 is amended to read:

78B-6-140. Itemization of fees and expenses.

(1) Except as provided in Subsection (4), [~~prior to~~] before the date that a final decree of adoption is entered, an affidavit regarding fees and expenses, signed by the prospective adoptive parent or parents and the person or agency placing the child, shall be filed with the court.

(2) The affidavit described in Subsection (1) shall itemize the following items in connection with the adoption:

(a) all legal expenses, maternity expenses, medical or hospital expenses, and living expenses that have been or will be paid to or on behalf of the [~~pre-existing~~] preexisting parents of the child, including the source of payment;

(b) fees paid by the prospective adoptive parent or parents in connection with the adoption;

(c) all gifts, property, or other items that have been or will be provided to the [~~pre-existing~~] preexisting parents, including the source of the gifts, property, or other items;

(d) all public funds used for any medical or hospital costs in connection with the:

(i) pregnancy;

(ii) delivery of the child; or

(iii) care of the child;

(e) the state of residence of the:

(i) birth mother or the [~~pre-existing~~] preexisting parents; and

(ii) prospective adoptive parent or parents;

(f) a description of services provided to the prospective adoptive parents or [~~pre-existing~~] preexisting parents in connection with the adoption; and

(g) that Section 76-7-203 has not been violated.

(3) [~~A~~] If a child-placing agency, that is licensed by this state, placed the child, a copy of the affidavit described in Subsection (1) shall be provided to the Office of Licensing within the Department of Human Services.

(4) This section does not apply if the prospective adoptive parent is the legal spouse of a [~~pre-existing~~] preexisting parent.

CHAPTER 66
H. B. 199
Passed February 17, 2021
Approved March 11, 2021
Effective May 5, 2021

PAWNSHOP AND SECONDHAND MERCHANDISE TRANSACTION INFORMATION ACT AMENDMENTS

Chief Sponsor: James A. Dunnigan
Senate Sponsor: Curtis S. Bramble

LONG TITLE

General Description:

This bill addresses pawnshop and secondhand merchandise businesses.

Highlighted Provisions:

This bill:

- defines and modifies terms;
- addresses tickets and information related to the central database;
- imposes requirements related to an automated recycling kiosk;
- grants rulemaking authority related to fingerprints;
- modifies penalty provision;
- repeals provision related to complying with criminal provisions and the chapter; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

13-32a-102, as last amended by Laws of Utah 2019, Chapter 309
13-32a-104, as last amended by Laws of Utah 2020, Chapter 354
13-32a-104.5, as last amended by Laws of Utah 2019, Chapter 309
13-32a-106, as last amended by Laws of Utah 2019, Chapter 309
13-32a-109, as last amended by Laws of Utah 2019, Chapter 309
13-32a-110, as last amended by Laws of Utah 2020, Chapter 354

ENACTS:

13-32a-104.6, Utah Code Annotated 1953

REPEALS:

13-32a-103, as last amended by Laws of Utah 2019, Chapter 309

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

Section 1. Section 13-32a-102 is amended to read:

13-32a-102. Definitions.

As used in this chapter:

(1) "Account" means the Pawnbroker and Secondhand Merchandise Operations Restricted Account created in Section 13-32a-113.

(2) "Antique item" means an item:

(a) that is generally older than 25 years;

(b) whose value is based on age, rarity, condition, craftsmanship, or collectability;

(c) that is furniture or other decorative objects produced in a previous time period, as distinguished from new items of a similar nature; and

(d) obtained from auctions, estate sales, other antique shops, and individuals.

(3) "Antique shop" means a business operating at an established location that deals primarily in the purchase, exchange, or sale of antique items.

(4) "Automated recycling kiosk" means an interactive machine that:

(a) is installed inside a commercial site used for the selling of goods and services to consumers;

(b) is monitored remotely by a live representative during the hours of operation;

(c) only engages in secondhand merchandise transactions involving wireless communication devices; and

(d) has the following technological functions:

(i) verifies the seller's identity by a live representative using the individual's identification;

(ii) generates a ticket; and

(iii) electronically transmits the secondhand merchandise transaction information to the central database.

(5) "Automated recycling kiosk operator" means a person whose sole business activity is the operation of one or more automated recycling kiosks.

[~~(4)~~] (6) "Board" means the Pawnshop and Secondhand Merchandise Advisory Board created by this chapter.

[~~(5)~~] (7) "Central database" or "database" means the electronic database created and operated under Section 13-32a-105.

[~~(6)~~] (8) "Children's product" means a used item that is for the exclusive use of children, or for the care of children, including clothing and toys.

[~~(7)~~] (9) "Children's product resale business" means a business operating at a commercial location and primarily selling children's products.

[~~(8)~~] (10) "Coin" means a piece of currency, usually metallic and usually in the shape of a disc that is:

(a) stamped metal, and issued by a government as monetary currency; or

(b) (i) worth more than its current value as currency; and

(ii) worth more than its metal content value.

[~~(9)~~] (11) "Coin dealer" means a person whose sole business activity is the selling and purchasing of numismatic items and precious metals.

[~~(10)~~] (12) "Collectible paper money" means paper currency that is no longer in circulation and is sold and purchased for the paper currency's collectible value.

[~~(11)~~] (13) (a) "Commercial grade precious metals" or "precious metals" means ingots, monetized bullion, art bars, medallions, medals, tokens, and currency that are marked by the refiner or fabricator indicating their fineness and include:

(i) .99 fine or finer ingots of gold, silver, platinum, palladium, or other precious metals; or

(ii) .925 fine sterling silver ingots, art bars, and medallions.

(b) "Commercial grade precious metals" or "precious metals" does not include jewelry.

[~~(12)~~] (14) "Consignment shop" means a business, operating at an established location:

(a) that deals primarily in the offering for sale property owned by a third party; and

(b) where the owner of the property only receives consideration upon the sale of the property by the business.

[~~(13)~~] (15) "Division" means the Division of Consumer Protection created in Chapter 1, Department of Commerce.

[~~(14)~~] (16) "Exonumia" means a privately issued token for trade that is sold and purchased for the token's collectible value.

[~~(15)~~] (17) "Gift card" means a record that:

(a) is usable at:

(i) a single merchant; or

(ii) a specified group of merchants;

(b) is prefunded before the record is used; and

(c) can be used for the purchase of goods or services.

[~~(16)~~] (18) "Identification" means any of the following non-expired forms of identification issued by a state government, the United States government, or a federally recognized Indian tribe, if the identification includes a unique number, photograph of the bearer, and date of birth:

(a) a United States Passport or United States Passport Card;

(b) a state-issued driver license;

(c) a state-issued identification card;

(d) a state-issued concealed carry permit;

(e) a United States military identification;

(f) a United States resident alien card;

(g) an identification of a federally recognized Indian tribe; or

(h) notwithstanding Section 53-3-207, a Utah driving privilege card.

(19) "IMEI number" means an International Mobile Equipment Identity number.

[~~(17)~~] (20) "Indicia of being new" means property that:

(a) is represented by the individual pawning or selling the property as new;

(b) is unopened in the original packaging; or

(c) possesses other distinguishing characteristics that indicate the property is new.

[~~(18)~~] (21) "Local law enforcement agency" means the law enforcement agency that has direct responsibility for ensuring compliance with central database reporting requirements for the jurisdiction where the pawn or secondhand business is located.

[~~(19)~~] (22) "Numismatic item" means a coin, collectible paper money, or exonumia.

[~~(20)~~] (23) "Original victim" means a victim who is not a party to the pawn or sale transaction and includes:

(a) an authorized representative designated in writing by the original victim; and

(b) an insurer who has indemnified the original victim for the loss of the described property.

[~~(21)~~] (24) "Pawn or secondhand business" means a business operated by a pawnbroker or secondhand merchandise dealer, or the owner or operator of the business.

[~~(22)~~] (25) "Pawn transaction" means:

(a) an extension of credit in which an individual delivers property to a pawnbroker for an advance of money and retains the right to redeem the property for the redemption price within a fixed period of time;

(b) a loan of money on one or more deposits of personal property;

(c) the purchase, exchange, or possession of personal property on condition of selling the same property back again to the pledgor or depositor; or

(d) a loan or advance of money on personal property by the pawnbroker taking chattel mortgage security on the personal property, taking or receiving the personal property into the pawnbroker's possession, and selling the unredeemed pledges.

[~~(23)~~] (26) "Pawnbroker" means a person whose business:

(a) engages in a pawn transaction; or

(b) holds itself out as being in the business of a pawnbroker or pawnshop, regardless of whether the person or business enters into pawn transactions or secondhand merchandise transactions.

[~~(24)~~] (27) "Pawnshop" means the physical location or premises where a pawnbroker conducts business.

[~~(25)~~] (28) "Pledgor" means an individual who conducts a pawn transaction with a pawnshop.

[~~(26)~~] (29) "Property" means an article of tangible personal property, numismatic item, precious metal, gift card, transaction card, or other physical or digital card or certificate evidencing store credit, and includes a wireless communication device.

[~~(27)~~] (30) "Retail media item" means recorded music, a movie, or a video game that is produced and distributed in hard copy format for retail sale.

[~~(28)~~] (31) "Scrap jewelry" means [~~any~~] an item purchased solely:

(a) for its gold, silver, or platinum content; and

(b) for the purpose of reuse of the metal content.

[~~(29)~~] (32) (a) "Secondhand merchandise dealer" means a person whose business:

(i) engages in a secondhand merchandise transaction; and

(ii) does not engage in a pawn transaction.

(b) "Secondhand merchandise dealer" includes a coin dealer and an automated recycling kiosk operator.

(c) "Secondhand merchandise dealer" does not include:

(i) an antique shop when dealing in antique items;

(ii) a person who operates an auction house, flea market, or vehicle, vessel, and outboard motor dealers as defined in Section 41-1a-102;

(iii) the sale of secondhand goods at events commonly known as "garage sales," "yard sales," "estate sales," "storage unit sales," or "storage unit auctions";

(iv) the sale or receipt of secondhand books, magazines, post cards, or nonelectronic:

(A) card games;

(B) table-top games; or

(C) magic tricks;

(v) the sale or receipt of used merchandise donated to recognized nonprofit, religious, or charitable organizations or any school-sponsored association, and for which no compensation is paid;

(vi) the sale or receipt of secondhand clothing, shoes, furniture, or appliances;

(vii) [~~any~~] a person offering the person's own personal property for sale, purchase, consignment, or trade via the Internet;

(viii) [~~any~~] a person offering the personal property of others for sale, purchase, consignment, or trade via the Internet, when that person does not have, and is not required to have, a local business or occupational license or other authorization for this activity;

(ix) [~~any~~] an owner or operator of a retail business that:

(A) receives used merchandise as a trade-in for similar new merchandise; or

(B) receives used retail media items as a trade-in for similar new or used retail media items;

(x) an owner or operator of a business that contracts with other persons to offer those persons' secondhand goods for sale, purchase, consignment, or trade via the Internet;

(xi) any dealer as defined in Section 76-6-1402, [~~which~~] that concerns scrap metal and secondary metals;

(xii) the purchase of items in bulk that are:

(A) sold at wholesale in bulk packaging;

(B) sold by a person licensed to conduct business in Utah; and

(C) regularly sold in bulk quantities as a recognized form of sale;

(xiii) the owner or operator of a children's product resale business; or

(xiv) a consignment shop when dealing in consigned property.

[~~(30)~~] (33) "Secondhand merchandise transaction" means the purchase or exchange of used or secondhand property.

[~~(31)~~] (34) "Ticket" means a document upon which information is entered when a pawn transaction or secondhand merchandise transaction is made.

[~~(32)~~] (35) "Transaction card" means a card, code, or other means of access to a value with the retail business issued to a person that allows the person to obtain, purchase, or receive any of the following:

(a) goods;

(b) services;

(c) money; or

(d) anything else of value.

(36) "Wireless communication device" means a cellular telephone or a portable electronic device designed to receive and transmit a text message, email, video, or voice communication.

Section 2. Section 13-32a-104 is amended to read:

13-32a-104. Tickets required to be maintained -- Contents -- Identification of items -- Prohibition against pawning or selling certain property.

(1) A pawn or secondhand business shall keep a ticket for property a person pawns or sells to the pawn or secondhand business. A pawn or secondhand business shall document on the ticket the following information regarding the property:

(a) the date and time of the transaction;

(b) whether the transaction is a pawn or purchase;

(c) the ticket number;

(d) the date by which the property must be redeemed, if the property is pawned;

(e) the following information regarding the individual who pawns or sells the property:

(i) the individual's full name and date of birth as they appear on the individual's identification and the individual's residence address and telephone number;

(ii) the unique number and type of identification presented to the pawn or secondhand business;

(iii) the individual's signature; and

(iv) (A) subject to any rule made under Subsection [~~(6), a~~] (7), an electronic or tangible legible fingerprint of the individual's right index finger, or if the right index finger cannot be fingerprinted, a legible fingerprint of the individual with a notation identifying the fingerprint and the reason why the right index fingerprint was unavailable; and

(B) notwithstanding the other provisions of this Subsection (1), an electronic legible fingerprint is not required to be documented on the ticket;

(f) the amount loaned on, paid for, or value for trade-in of each article of property;

(g) the full name of the individual conducting the pawn transaction or secondhand merchandise transaction on behalf of the pawn or secondhand business or the initials or a unique identifying number of the individual, if the pawn or secondhand business maintains a record of the initials or unique identifying number of the individual; and

(h) an accurate description of each article of property, with available identifying marks, including:

(i) (A) names, brand names, numbers, serial numbers, model numbers, IMEI numbers, color, manufacturers' names, and size;

[~~(ii)~~] (B) metallic composition, and any jewels, stones, or glass;

[~~(iii)~~] (C) any other marks of identification or indicia of ownership on the property;

[~~(iv)~~] (D) the weight of the property, if the payment is based on weight;

[~~(v)~~] (E) any other unique identifying feature; and

[~~(vi)~~] (F) gold content, if indicated; or

[~~(vii)~~] (ii) if multiple articles of property of a similar nature are delivered together in one transaction and the articles of property do not bear serial or model numbers and do not include precious metals or gemstones, such as musical or video recordings, books, or hand tools, the description of the articles is adequate if it includes the quantity of the articles and a description of the type of articles delivered.

(2) (a) A pawn or secondhand business may not accept property if, upon inspection, it is apparent that:

(i) a serial number or another form of indicia of ownership has been removed, altered, defaced, or obliterated;

(ii) the property is not a numismatic item and has indicia of being new, but is not accompanied by a written receipt or other satisfactory proof of ownership other than the seller's own statement; or

(iii) except as provided in Subsection 13-32a-103.1(3), the property is a gift card, transaction card, or other physical or digital card or certificate evidencing store credit.

(b) A pawn or secondhand business is not subject to Subsection (2)(a)(ii) if the pawn or secondhand business is the original seller of the property and is accepting a return of the property as provided by the pawn or secondhand business' established return policy.

(c) Property is presumed to have had indicia of being new at the time of a transaction if the property is subsequently advertised by the pawn or secondhand business as being new.

(3) (a) An individual may not pawn or sell any property to a business regulated under this chapter if the property is subject to being turned over to a law enforcement agency in accordance with Title 77, Chapter 24a, Lost or Mislaid Personal Property.

(b) If an individual attempts to sell or pawn property to a business regulated under this chapter and the employee or owner of the business knows or has reason to know that the property is subject to Title 77, Chapter 24a, Lost or Mislaid Personal Property, the employee or owner shall advise the individual of the requirements of Title 77, Chapter 24a, Lost or Mislaid Personal Property, and may not receive the property in pawn or sale.

(4) A coin dealer is subject to Section 13-32a-104.5 and not subject to this section.

(5) An automated recyling kiosk operator is subject to Section 13-32a-104.6 and is not subject to this section.

[~~(5)~~] (6) A violation of this section is a class B misdemeanor and is also subject to civil penalties under Section 13-32a-110.

[~~(6) (a) On and after January 1, 2020:~~]

[~~(i) a pawn or secondhand business shall obtain an electronic legible fingerprint of the individual's right index finger that can be submitted to the central database at the same time the other information is submitted under this section, or if the right index finger cannot be fingerprinted, an electronic legible fingerprint of the individual with a notation on the ticket identifying the fingerprint and the reason why a right index fingerprint is unavailable; and~~]

[~~(ii) the electronic fingerprint is not required on the ticket.~~]

[~~(b) On and after January 1, 2020, a pawn or secondhand business shall submit an electronic legible fingerprint obtained under Subsection (6)(a) to the central database.~~]

(7) The division shall establish standards and criteria for fingerprint legibility by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

[~~(7)~~] (8) (a) As used in this Subsection [~~(7)~~] (8), "jewelry" means:

(i) any jewelry purchased by the pawn or secondhand business, including scrap jewelry and watches; or

(ii) any jewelry [~~that the pawn or secondhand business is allowed to sell under Subsection 13-32a-109(1)~~] pawned to a pawnbroker and the contract period between the pawnbroker and the pledgor has expired, including scrap jewelry and watches.

(b) On and after January 1, 2020, a pawn or secondhand business shall obtain:

(i) a color digital photograph clearly and accurately depicting:

(A) each item of jewelry; and

(B) if an item of jewelry has one or more engravings, an additional color digital photograph specifically depicting any engraving; and

(ii) a color digital photograph of an item that bears an identifying mark, including:

(A) a serial number, engraving, owner label, or similar identifying mark; and

(B) an additional photograph that clearly depicts the identifying mark described in Subsection [~~(7)~~] (8)(b)(ii)(A).

Section 3. Section 13-32a-104.5 is amended to read:

13-32a-104.5. Database information from coin dealers -- New and prior customers.

(1) A coin dealer shall maintain a ticket under this section for each secondhand merchandise transaction of a numismatic item or precious metal with an individual with whom the coin dealer has not previously conducted a secondhand merchandise transaction.

(2) For a secondhand merchandise transaction under Subsection (1), the coin dealer or the coin dealer's employee shall document the following information on the ticket regarding every numismatic item or precious metal transaction:

(a) the date and time of the transaction;

(b) the ticket number;

(c) the following information regarding the individual who sells the numismatic item or precious metal:

(i) the individual's full name and date of birth as they appear on the individual's identification and the individual's residence address and telephone number;

(ii) the unique number and type of identification presented to the coin dealer;

(iii) the individual's signature; and

(iv) (A) subject to any rule made under Subsection (6), [~~a~~] an electronic or tangible legible fingerprint of the individual's right index finger, or if the right index finger cannot be fingerprinted, a legible fingerprint of the individual with a notation identifying the fingerprint and the reason why a right index fingerprint is unavailable; and

(B) notwithstanding the other provisions of this Subsection (2), an electronic legible fingerprint is not required to be documented on the ticket;

(d) the amount paid for or trade-in value of each numismatic item or precious metal;

(e) the full name of the individual conducting the transaction on behalf of the pawn or secondhand business or the initials or unique identifying number, if the coin dealer maintains a record of the initials or unique identifying number of the individual; and

(f) an accurate description of each numismatic item or precious metal, with available identifying marks, including:

(i) type and name of numismatic item or type and content of precious metal;

(ii) metallic composition, and any jewels, stones, or glass;

(iii) any other marks of identification or indicia of ownership on the article;

(iv) the weight of the article, if the payment is based on weight;

(v) any other unique identifying feature; and

(vi) metallic content.

(3) (a) If multiple numismatic items or precious metals of the same type in an amount that would make reporting of each item unreasonably difficult are part of a single sale transaction, a coin dealer shall document the property as a grouping.

(b) The description for a grouping described in Subsection (3)(a) must be an accurate description, with available identifying marks, including:

(i) type and name of numismatic items or type and content of precious metal;

(ii) metallic composition, and any jewels, stones, or glass;

(iii) any other marks of identification or indicia of ownership on the article;

(iv) the weight of the articles, if the payment is based on the weight;

(v) any other unique identifying features; and

(vi) metallic content.

(4) If the individual selling a numismatic item or precious metal to the coin dealer has an established previous transaction history with the coin dealer, the coin dealer or the coin dealer's employee shall document the following information on the ticket:

(a) the date and time of the transaction and the ticket number;

(b) indication that the coin dealer has conducted business with the seller previously;

(c) the full name of the individual conducting the transaction on behalf of the pawn or secondhand business or the initials or unique identifying number, if the coin dealer maintains a record of the initials or unique identifying number of the individual;

(d) the initials of the seller's legal name, including any middle name;

(e) form of identification presented by the seller at the time of sale;

(f) the last four digits of the unique identifying number on the form of identification;

(g) the individual's signature;

(h) the amount paid for or trade-in value of each numismatic item or precious metal; and

(i) the identifying information under Subsection (2)(f) and under Subsection (3) as applicable.

(5) A coin dealer may not accept any numismatic item or precious metal if, upon inspection, it is apparent that serial numbers or identifying characteristics have been intentionally defaced on that numismatic item or precious metal.

[~~(6) (a) On and after January 1, 2020:~~]

[~~(i) for a secondhand merchandise transaction described in Subsection (1), a coin dealer shall obtain an electronic legible fingerprint of the individual's right index finger that can be submitted to the central database at the same time the other information is submitted under this section, or if the right index finger cannot be fingerprinted, an electronic legible fingerprint of the individual with a notation on the ticket identifying the fingerprint and the reason why a right index fingerprint is unavailable; and~~]

[~~(ii) the electronic fingerprint is not required on the ticket.~~]

[~~(b) On and after January 1, 2020, a pawn or secondhand business shall submit an electronic legible fingerprint obtained under Subsection (6)(a) to the central database.~~]

(6) The division shall establish standards and criteria for fingerprint legibility by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Section 4. Section 13-32a-104.6 is enacted to read:

13-32a-104.6. Database information from automated recycling kiosk operators.

(1) An automated recycling kiosk operator shall generate a ticket under this section for each secondhand merchandise transaction in which the automated recycling kiosk operator engages. An automated recycling kiosk operator shall document on the ticket the following information:

(a) the date and time of the transaction;

(b) the ticket number;

(c) a color digital photograph of the front and back of each wireless communication device;

(d) the following information regarding the individual who sells the wireless communication device:

(i) the individual's full name and date of birth as they appear on the individual's identification and the individual's residence address and telephone number;

(ii) the unique number and type of identification presented to the automated recycling kiosk;

(iii) the individual's signature;

(iv) a color digital photograph of the individual; and

(v) (A) subject to rules made under Subsection (3), an electronic or tangible legible fingerprint of the individual's right index finger, or if the right index finger cannot be fingerprinted, a legible fingerprint of the individual with a notation identifying the fingerprint and the reason why the right index fingerprint was unavailable; and

(B) notwithstanding the other provisions of this Subsection (1), an electronic legible fingerprint is not required to be documented on the ticket;

(e) the full name of the individual conducting the secondhand merchandise transaction on behalf of the automated recycling kiosk operator or the initials or a unique identifying number of the individual, if the automated recycling kiosk maintains a record of the initials or unique identifying number of the individual;

(f) the amount paid for each wireless communication device; and

(g) subject to Subsection (4), an accurate description of each wireless communication device, including any:

(i) names, brand names, numbers, serial numbers, IMEI numbers, model numbers, color, manufacturers' names, and size;

(ii) other marks of identification or indicia of ownership on the wireless communication device; and

(iii) other unique identifying characteristics.

(2) A violation of this section is a class B misdemeanor and is also subject to civil penalties under Section 13-32a-110.

(3) The division shall establish standards and criteria for fingerprint legibility by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(4) If an automated recycling kiosk cannot electronically extract a wireless communication device's serial number or IMEI number from the wireless communication device at the time of the transaction:

(a) the automated recycling kiosk operator may not pay the seller more than $25 for the wireless communication device;

(b) the automated recycling kiosk operator shall engage in and document reasonable efforts to obtain and upload to the central database the wireless communication device's serial number and IMEI number within 15 calendar days of the date of the transaction; and

(c) the central database information for the wireless communication device may not be considered submitted for purposes of Subsection 13-32a-109(1)(b) until the earlier of when:

(i) the wireless communication device's serial number and IMEI number have both been uploaded to the central database; or

(ii) more than 45 calendar days have passed since the date of the transaction.

(5) An automated recycling kiosk operator may not purchase more than 10 wireless communication devices with serial numbers or IMEI numbers that cannot be electronically extracted by an automated recycling kiosk at the time of the transaction from the same individual during the same calendar year.

(6) An automated recycling kiosk operator may only purchase a wireless communication device with serial numbers or IMEI numbers that cannot be electronically extracted by an automated recycling kiosk at the time of the transaction in a single-item transaction.

Section 5. Section 13-32a-106 is amended to read:

13-32a-106. Transaction information provided to the central database -- Protected information.

(1) (a) [~~A~~] Except as provided in Subsection 13-32a-104.6(4), a pawn or secondhand business shall transmit electronically in a compatible format information required to be recorded under Sections 13-32a-103, 13-32a-104, [~~and~~] 13-32a-104.5, and 13-32a-104.6 that is capable of being transmitted electronically to the central database within 24 hours after entering into the transaction.

(b) The division may specify by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the information capable of being transmitted electronically under Subsection (1)(a).

(2) A pawn or secondhand business shall maintain tickets generated by the pawn or secondhand business and shall maintain the tickets in a manner so that the tickets are available to local law enforcement agencies as required by this chapter and as requested by any law enforcement agency as part of an investigation or reasonable random inspection conducted pursuant to this chapter.

(3) (a) If a pawn or secondhand business experiences a computer or electronic malfunction that affects its ability to report transactions as required in Subsection (1), the pawn or secondhand business shall immediately notify the division and the local law enforcement agency of the malfunction.

(b) The pawn or secondhand business shall solve the malfunction within three business days or notify the division and the local law enforcement agency under Subsection (4).

(4) If the computer or electronic malfunction under Subsection (3) cannot be solved within three business days, the pawn or secondhand business shall notify the division and the local law enforcement agency of the reasons for the delay and provide documentation from a reputable computer maintenance company of the reasons why the computer or electronic malfunction cannot be solved within three business days.

(5) A computer or electronic malfunction does not suspend the pawn or secondhand business' obligation to comply with all other provisions of this chapter.

(6) During the malfunction under Subsections (3) and (4), the pawn or secondhand business shall:

(a) arrange with the local law enforcement agency a mutually acceptable alternative method by which the pawn or secondhand business provides the required information to the local law enforcement agency; and

(b) a pawn or secondhand business shall maintain the tickets and other related information required under this chapter in a written form.

(7) A pawn or secondhand business that violates the electronic transaction reporting requirement of this section is subject to an administrative fine of $50 per day if:

(a) the pawn or secondhand business is unable to submit the information electronically due to a computer or electronic malfunction;

(b) the three business day period under Subsection (3) has expired; and

(c) the pawn or secondhand business has not provided documentation regarding its inability to solve the malfunction as required under Subsection (4).

(8) A pawn or secondhand business is not responsible for a delay in transmission of information that results from a malfunction in the central database.

(9) A violation of this section is a Class B misdemeanor and is also subject to civil penalties under Section 13-32a-110.

Section 6. Section 13-32a-109 is amended to read:

13-32a-109. Holding period for property -- Return of property -- Penalty.

(1) (a) A pawnbroker may sell property pawned to the pawnbroker if:

(i) 15 calendar days have passed after the day on which the pawnbroker submits the information and any required photograph to the central database;

(ii) the contract period between the pawnbroker and the pledgor expires; and

(iii) the pawnbroker has complied with Sections 13-32a-103, 13-32a-104, and 13-32a-106.

(b) If property, including scrap jewelry, is purchased by a pawn or secondhand business, the pawn or secondhand business may sell the property if the pawn or secondhand business has held the property for 15 calendar days after the day on which the pawn or secondhand business submits the information to the central database, and complied with Sections 13-32a-103, 13-32a-104, 13-32a-104.6, and 13-32a-106, except that the pawn or secondhand business is not required to hold precious metals or numismatic items under this Subsection (1)(b).

(c) (i) This Subsection (1) does not preclude a law enforcement agency from requiring a pawn or secondhand business to hold property if necessary in the course of an investigation.

(ii) If the property is pawned, the law enforcement agency may require the property be held beyond the terms of the contract between the pledgor and the pawnbroker.

(iii) If the property is sold to the pawn or secondhand business, the law enforcement agency may require the property be held if the pawn or secondhand business has not sold the article.

(d) If the law enforcement agency requesting a hold on property under this Subsection (1) is not the local law enforcement agency, the requesting law enforcement agency shall notify the local law enforcement agency of the request and also the pawn or secondhand business.

(2) If a law enforcement agency requires the pawn or secondhand business to hold property as part of an investigation, the law enforcement agency shall provide to the pawn or secondhand business a hold form issued by the law enforcement agency, that:

(a) states the active case number;

(b) confirms the date of the hold request and the property to be held; and

(c) facilitates the ability of the pawn or secondhand business to track the property when the prosecution takes over the case.

(3) If property is not seized by a law enforcement agency that has placed a hold on the property, the property shall remain in the custody of the pawn or secondhand business until further disposition by the law enforcement agency, and as consistent with this chapter.

(4) The initial hold by a law enforcement agency is for a period of 90 days. If the property is not seized by the law enforcement agency, the property shall remain in the custody of the pawn or secondhand business and is subject to the hold unless exigent circumstances require the property to be seized by the law enforcement agency.

(5) (a) A law enforcement agency may extend any hold for up to an additional 90 days if circumstances require the extension.

(b) If there is an extension of a hold under Subsection (5)(a), the requesting law enforcement agency shall notify the pawn or secondhand business that is subject to the hold prior to the expiration of the initial 90 days.

(c) A law enforcement agency may not hold an item for more than the 180 days allowed under Subsections (5)(a) and (b) without obtaining a court order authorizing the hold.

(6) A hold on property under Subsection (2) takes precedence over any request to claim or purchase the property subject to the hold.

(7) If an original victim who has complied with Section 13-32a-115 has not been identified and the hold or seizure of the property is terminated, the law enforcement agency requiring the hold or seizure shall within 15 business days after the termination:

(a) notify the pawn or secondhand business in writing that the hold or seizure has been terminated;

(b) return the property subject to the seizure to the pawn or secondhand business; or

(c) if the property is not returned to the pawn or secondhand business, advise the pawn or secondhand business either in writing or electronically of the specific alternative disposition of the property.

(8) (a) If the original victim who has complied with Section 13-32a-115 has been identified and the hold or seizure of property is terminated, the law enforcement agency requiring the hold or seizure shall:

(i) document the original victim who has positively identified the property; and

(ii) provide the documented information concerning the original victim to the prosecuting agency to determine whether continued possession of the property is necessary for purposes of prosecution, as provided in Section 24-3-103.

(b) If the prosecuting agency determines that continued possession of the property is not necessary for purposes of prosecution, as provided in Section 24-3-103, the prosecuting agency shall provide a written or electronic notification to the law enforcement agency that authorizes the return of the property to an original victim who has complied with Section 13-32a-115.

(c) (i) A law enforcement agency shall promptly provide notice to the pawn or secondhand business of the authorized return of the property under this Subsection (8).

(ii) The notice shall identify the original victim, advise the pawn or secondhand business that the original victim has identified the property, and direct the pawn or secondhand business to release the property to the original victim at no cost to the original victim.

(iii) If the property was seized, the notice shall advise that the property will be returned to the original victim within 15 days after the day on which the pawn or secondhand business receives

the notice, except as provided under Subsection (8)(d).

(d) The pawn or secondhand business shall release property under Subsection (8)(c) unless within 15 days of receiving the notice the pawn or secondhand business complies with Section 13-32a-116.5.

(9) If the law enforcement agency does not notify the pawn or secondhand business that a hold on the property has expired, the pawn or secondhand business shall send a letter by registered or certified mail to the law enforcement agency that ordered the hold and inform the agency that the holding period has expired. The law enforcement agency shall respond within 30 days by:

(a) confirming that the hold period has expired and that the pawn or secondhand business may manage the property as if acquired in the ordinary course of business; or

(b) providing written notice to the pawn or secondhand business that a court order has continued the period of time for which the item shall be held.

(10) The written notice under Subsection (9)(b) is considered provided when:

(a) personally delivered to the pawn or secondhand business with a signed receipt of delivery;

(b) delivered to the pawn or secondhand business by registered or certified mail; or

(c) delivered by any other means with the mutual assent of the law enforcement agency and the pawn or secondhand business.

(11) If the law enforcement agency does not respond within 30 days under Subsection (9), the pawn or secondhand business may manage the property as if acquired in the ordinary course of business.

(12) A violation of this section is a class B misdemeanor and is also subject to civil penalties under Section 13-32a-110.

Section 7. Section 13-32a-110 is amended to read:

13-32a-110. Administrative or civil penalties -- Criminal prosecution.

(1) A violation of any of the following sections is subject to an administrative or civil penalty of not more than $500:

(a) Section 13-32a-104, ticket required to be maintained;

(b) Section 13-32a-104.5, ticket by coin dealer to be maintained;

(c) Section 13-32a-104.6, ticket by automated recycling kiosk operator to be maintained;

[~~(c)~~] (d) Section 13-32a-106, transaction information provided to law enforcement;

[~~(d)~~] (e) Section 13-32a-108, retention of records;

[~~(e)~~] (f) Section 13-32a-109, holding period for pawned or purchased property;

[~~(f)~~] (g) Section 13-32a-110.5, transactions with certain individuals prohibited;

[~~(g)~~] (h) Section 13-32a-111, payment of fees as required; or

[~~(h)~~] (i) Section 13-32a-112.1, training requirements for pawn or secondhand business employees and officers of participating law enforcement agencies.

(2) This section does not prohibit civil action by a governmental entity regarding the pawn or secondhand business' operation or licenses.

(3) The imposition of civil penalties under this section does not prohibit criminal prosecution by a governmental entity for criminal violations of this chapter.

Section 8. Repealer.

This bill repeals:

Section 13-32a-103, Compliance with criminal code and this chapter.

CHAPTER 67
H. B. 201
Passed February 12, 2021
Approved March 11, 2021
Effective May 5, 2021

TOLLING AMENDMENTS

Chief Sponsor: Nelson T. Abbott
Senate Sponsor: Todd D. Weiler

LONG TITLE

General Description:

This bill addresses the tolling of time limitations for certain individuals.

Highlighted Provisions:

This bill:

- provides that a cause of action that is tolled, because the individual is under 18 years old or mentally incompetent, includes any claim for general or special damages or any claim for which the individual's parent or guardian may be financially responsible for the general or special damages; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

78B-2-108, as renumbered and amended by Laws of Utah 2008, Chapter 3

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

Section 1. Section 78B-2-108 is amended to read:

78B-2-108. Effect of disability -- Minority or mental incompetence -- Damages.

[~~A person may not bring an action while under the age of majority or~~]

(1) An individual may not bring a cause of action while the individual is:

(a) under 18 years old; or

(b) mentally incompetent without a legal guardian.

(2) During the time [~~the person~~] that an individual is underage or mentally incompetent, the statute of limitations for a cause of action other than for the recovery of real property may not run.

(3) A cause of action under this section includes any claim:

(a) for general or special damages; or

(b) for which a parent or legal guardian of an individual described in Subsection (1) may be financially responsible for the payment of general or special damages.

CHAPTER 68
S. B. 11
Passed March 2, 2021
Approved March 11, 2021
Effective May 5, 2021
(Retrospective operation to January 1, 2021)

MILITARY RETIREMENT INCOME TAX AMENDMENTS

Chief Sponsor: Wayne A. Harper
House Sponsor: Candice B. Pierucci

LONG TITLE

General Description:

This bill creates a nonrefundable income tax credit for military retirement pay.

Highlighted Provisions:

This bill:

- defines terms;
- creates a nonrefundable income tax credit for military retirement pay;
- provides that an individual who claims the tax credit for military retirement pay may not also claim the retirement tax credit; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides retrospective operation.

Utah Code Sections Affected:

AMENDS:

59-10-1002.2, as last amended by Laws of Utah 2016, Chapter 263
59-10-1019, as renumbered and amended by Laws of Utah 2008, Chapter 389

ENACTS:

59-10-1042, Utah Code Annotated 1953

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

Section 1. Section 59-10-1002.2 is amended to read:

59-10-1002.2. Apportionment of tax credits.

(1) A nonresident individual or a part-year resident individual that claims a tax credit in accordance with Section 59-10-1017, 59-10-1018, 59-10-1019, 59-10-1022, 59-10-1023, 59-10-1024, [~~or~~] 59-10-1028, or 59-10-1042 may only claim an apportioned amount of the tax credit equal to:

(a) for a nonresident individual, the product of:

(i) the state income tax percentage for the nonresident individual; and

(ii) the amount of the tax credit that the nonresident individual would have been allowed to claim but for the apportionment requirements of this section; or

(b) for a part-year resident individual, the product of:

(i) the state income tax percentage for the part-year resident individual; and

(ii) the amount of the tax credit that the part-year resident individual would have been allowed to claim but for the apportionment requirements of this section.

(2) A nonresident estate or trust that claims a tax credit in accordance with Section 59-10-1017, 59-10-1020, 59-10-1022, 59-10-1024, or 59-10-1028 may only claim an apportioned amount of the tax credit equal to the product of:

(a) the state income tax percentage for the nonresident estate or trust; and

(b) the amount of the tax credit that the nonresident estate or trust would have been allowed to claim but for the apportionment requirements of this section.

Section 2. Section 59-10-1019 is amended to read:

59-10-1019. Definitions -- Nonrefundable retirement tax credits.

(1) As used in this section:

(a) "Eligible [~~age 65 or older retiree~~] claimant" means a claimant, regardless of whether that claimant is retired, who[~~:~~] was born on or before December 31, 1952.

[~~(i) is 65 years of age or older; and~~]

[~~(ii) was born on or before December 31, 1952.~~]

[~~(b) (i) "Eligible retirement income" means income received by an eligible under age 65 retiree as a pension or annuity if that pension or annuity is:~~]

[~~(A) paid to the eligible under age 65 retiree or the surviving spouse of an eligible under age 65 retiree; and~~]

[~~(B) (I) paid from an annuity contract purchased by an employer under a plan that meets the requirements of Section 404(a)(2), Internal Revenue Code;~~]

[~~(II) purchased by an employee under a plan that meets the requirements of Section 408, Internal Revenue Code; or~~]

[~~(III) paid by:~~]

[~~(Aa) the United States;~~]

[~~(Bb) a state or a political subdivision of a state; or~~]

[~~(Cc) the District of Columbia.~~]

[~~(ii) "Eligible retirement income" does not include amounts received by the spouse of a living eligible under age 65 retiree because of the eligible under age 65 retiree's having been employed in a community property state.~~]

[~~(c) "Eligible under age 65 retiree" means a claimant, regardless of whether that claimant is retired, who:~~]

[~~(i) is younger than 65 years of age;~~]

[~~(ii) was born on or before December 31, 1952; and~~]

[~~(iii) has eligible retirement income for the taxable year for which a tax credit is claimed under this section.~~]

[~~(d)~~] (b) "Head of household filing status" [~~is as~~] means the same as that term is defined in Section 59-10-1018.

[~~(e)~~] (c) "Joint filing status" [~~is as~~] means the same as that term is defined in Section 59-10-1018.

[~~(f)~~] (d) "Married filing separately status" means a married individual who:

(i) does not file a single federal individual income tax return jointly with that married individual's spouse for the taxable year; and

(ii) files a single federal individual income tax return for the taxable year.

[~~(g)~~] (e) "Modified adjusted gross income" means the sum of an eligible [~~age 65 or older retiree's or eligible under age 65 retiree's~~] claimant's:

(i) adjusted gross income for the taxable year for which a tax credit is claimed under this section;

(ii) [~~any~~] interest income that is not included in adjusted gross income for the taxable year described in Subsection (1)[~~(g)~~](e)(i); and

(iii) [~~any~~] addition to adjusted gross income required by Section 59-10-114 for the taxable year described in Subsection (1)[~~(g)~~](e)(i).

[~~(h)~~] (f) "Single filing status" means a single individual who files a single federal individual income tax return for the taxable year.

(2) Except as provided in Section 59-10-1002.2 and [~~subject to Subsections (3) through (5): (a)~~] Subsections (3) and (4), each eligible [~~age 65 or older retiree~~] claimant may claim a nonrefundable tax credit of $450 against taxes otherwise due under this part[~~; or~~].

[~~(b) each eligible under age 65 retiree may claim a nonrefundable tax credit against taxes otherwise due under this part in an amount equal to the lesser of:~~]

[~~(i) $288; or~~]

[~~(ii) the product of:~~]

[~~(A) the eligible under age 65 retiree's eligible retirement income for the taxable year for which the eligible under age 65 retiree claims a tax credit under this section; and~~]

[~~(B) 6%.~~]

[~~(3) A tax credit under this section may not be carried forward or carried back.~~]

(3) (a) An eligible claimant may not:

(i) carry forward or carry back the amount of a tax credit under this section that exceeds the eligible claimant's tax liability for the taxable year; or

(ii) claim a tax credit under this section and a tax credit under Section 59-10-1042.

(b) An eligible claimant who qualifies for a tax credit under this section and a tax credit under Section 59-10-1042 may elect whether to claim a tax credit under this section or a tax credit under Section 59-10-1042.

(4) The [~~sum of the tax credits~~] tax credit allowed by Subsection (2) claimed on [~~one~~] a return filed under this part shall be reduced by $.025 for each dollar by which modified adjusted gross income for purposes of the return exceeds:

(a) for a federal individual income tax return that is allowed a married filing separately status, $16,000;

(b) for a federal individual income tax return that is allowed a single filing status, $25,000;

(c) for a federal individual income tax return that is allowed a head of household filing status, $32,000; or

(d) for a return under this chapter that is allowed a joint filing status, $32,000.

[~~(5) For purposes of determining the ownership of items of retirement income under this section, common law doctrine shall be applied in all cases even though some items of retirement income may have originated from service or investments in a community property state.~~]

Section 3. Section 59-10-1042 is enacted to read:

59-10-1042. (Codified as 59-10-1043) Nonrefundable tax credit for military retirement.

(1) As used in this section:

(a) (i) "Military retirement pay" means retirement pay, including survivor benefits, that relates to service in the armed forces, including service in the Reserves or the National Guard.

(ii) "Military retirement pay" does not include:

(A) Social Security income;

(B) 401(k) or IRA distributions; or

(C) income from other sources.

(b) "Survivor benefits" means the retired pay portion of the benefits described in 10 U.S.C. Secs. 1447 through 1455.

(2) Except as provided in Section 59-10-1002.2, a claimant who receives military retirement pay may claim a nonrefundable tax credit against taxes equal to the product of:

(a) the percentage listed in Subsection 59-10-104(2); and

(b) the amount of military retirement pay that is included in adjusted gross income on the claimant's federal income tax return for the taxable year.

(3) (a) A claimant may not:

(i) carry forward or carry back the amount of a tax credit that exceeds the claimant's tax liability for the taxable year; or

(ii) claim a tax credit under this section and a tax credit under Section 59-10-1019 for the same taxable year.

(b) A claimant that qualifies for a tax credit under this section and a tax credit under Section 59-10-1019 may elect whether to claim a tax credit under this section or a tax credit under Section 59-10-1019.

Section 4. Retrospective operation.

This bill has retrospective operation for a taxable year beginning on or after January 1, 2021.

CHAPTER 69
S. B. 20
Passed February 4, 2021
Approved March 11, 2021
Effective May 5, 2021

AIR QUALITY POLICY ADVISORY BOARD

Chief Sponsor: Jani Iwamoto
House Sponsor: Christine F. Watkins

LONG TITLE

General Description:

This bill addresses the operation of the Air Quality Policy Advisory Board.

Highlighted Provisions:

This bill:

- modifies provisions related to the Air Quality Policy Advisory Board; and
- extends the sunset date of the Air Quality Policy Advisory Board.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

19-2a-102, as renumbered and amended by Laws of Utah 2018, Chapter 120

63I-1-219, as last amended by Laws of Utah 2020, Chapters 27 and 235

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

Section 1. Section 19-2a-102 is amended to read:

19-2a-102. Air Quality Policy Advisory Board created -- Composition -- Responsibility -- Terms of office -- Compensation.

(1) There is created the Air Quality Policy Advisory Board consisting of the following [~~10~~] 12 voting members:

(a) two members of the Senate, appointed by the president of the Senate;

(b) three members of the House of Representatives, appointed by the speaker of the House of Representatives;

(c) the director;

(d) one representative of industry interests, appointed by the president of the Senate;

(e) one representative of business or economic development interests, appointed by the speaker of the House of Representatives, who has expertise in air quality matters;

(f) one representative of the academic community who has expertise in air quality matters, appointed by the president of the Senate;

(g) two representatives of the academic community, appointed by the governor, who [~~has~~] have expertise in air quality matters; and

[~~(g)~~] (h) one representative of a nongovernmental organization, appointed by the governor, who:

(i) represents community interests;

(ii) does not represent industry or business interests; and

(iii) has expertise in air quality matters.

(2) The Air Quality Policy Advisory Board shall:

(a) seek the best available science to identify legislative actions to improve air quality;

(b) identify and prioritize potential legislation and funding that will improve air quality; and

(c) make recommendations to the Legislature on how to improve air quality in the state.

(3) (a) Except as required by Subsection (3)(b), members appointed under Subsections (1)(d)[~~, (e), (f), and (g)~~] through (h) are appointed to serve four-year terms.

(b) Notwithstanding the requirements of Subsection (3)(a), the governor, president of the Senate, and speaker of the House of Representatives shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of members are staggered so that approximately half of the advisory board is appointed every two years.

(c) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.

(4) The advisory board shall elect one member to serve as chair of the advisory board for a term of one year.

(5) (a) Six members of the advisory board constitutes a quorum of the advisory board.

(b) The action of the majority of the advisory board when a quorum is present is the action of the advisory board.

[~~(5)~~] (6) Compensation for a member of the advisory board who is a legislator shall be paid in accordance with Section 36-2-2 and Legislative Joint Rules, Title 5, Chapter 3, Legislator Compensation.

[~~(6)~~] (7) A member of the advisory board who is not a legislator may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

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

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

[~~(7)~~] (8) The department shall provide staff support for the advisory board.

Section 2. Section 63I-1-219 is amended to read:

63I-1-219. Repeal dates, Title 19.

(1) Title 19, Chapter 2, Air Conservation Act, is repealed July 1, 2029.

(2) Section 19-2a-102 is repealed July 1, [~~2021~~] 2026.

(3) Section 19-2a-104 is repealed July 1, 2022.

(4) Title 19, Chapter 4, Safe Drinking Water Act, is repealed July 1, 2024.

(5) Title 19, Chapter 5, Water Quality Act, is repealed July 1, 2029.

(6) Title 19, Chapter 6, Part 1, Solid and Hazardous Waste Act, is repealed July 1, 2029.

(7) Title 19, Chapter 6, Part 3, Hazardous Substances Mitigation Act, is repealed July 1, 2030.

(8) Title 19, Chapter 6, Part 4, Underground Storage Tank Act, is repealed July 1, 2028.

(9) Title 19, Chapter 6, Part 6, Lead Acid Battery Disposal, is repealed July 1, 2026.

(10) Title 19, Chapter 6, Part 7, Used Oil Management Act, is repealed July 1, 2029.

(11) Title 19, Chapter 6, Part 8, Waste Tire Recycling Act, is repealed July 1, 2030.

(12) Title 19, Chapter 6, Part 10, Mercury Switch Removal Act, is repealed July 1, 2027.

CHAPTER 70
S. B. 21
Passed February 3, 2021
Approved March 11, 2021
Effective May 5, 2021

FEDERAL LAND APPLICATION ADVISORY COMMITTEE SUNSET EXTENSION

Chief Sponsor: David P. Hinkins
House Sponsor: Keven J. Stratton

LONG TITLE

General Description:

This bill addresses an advisory committee that provides advice and recommendations to the public lands policy coordinator and the Public Lands Policy Coordinating Office.

Highlighted Provisions:

This bill:

- extends the sunset date for the advisory committee; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63I-1-263, as last amended by Laws of Utah 2020, Chapters 82, 152, 154, 199, 230, 303, 322, 336, 354, 360, 375, 405 and last amended by Coordination Clause, Laws of Utah 2020, Chapter 360

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

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

63I-1-263. Repeal dates, Titles 63A to 63N.

(1) In relation to the Utah Transparency Advisory Board, on January 1, 2025:

(a) Subsection 63A-1-201(1) is repealed;

(b) Subsection 63A-1-202(2)(c), the language "using criteria established by the board" is repealed;

(c) Section 63A-1-203 is repealed;

(d) Subsections 63A-1-204(1) and (2), the language "After consultation with the board, and" is repealed; and

(e) Subsection 63A-1-204(1)(b), the language "using the standards provided in Subsection 63A-1-203(3)(c)" is repealed.

(2) Subsection 63A-5b-405(5), relating to prioritizing and allocating capital improvement funding, is repealed July 1, 2024.

(3) Section 63A-5b-1003, State Facility Energy Efficiency Fund, is repealed July 1, 2023.

(4) Sections 63A-9-301 and 63A-9-302, related to the Motor Vehicle Review Committee, are repealed July 1, 2023.

(5) Title 63C, Chapter 4a, Constitutional and Federalism Defense Act, is repealed July 1, 2028.

(6) Title 63C, Chapter 6, Utah Seismic Safety Commission, is repealed January 1, 2025.

(7) Title 63C, Chapter 12, Snake Valley Aquifer Advisory Council, is repealed July 1, 2024.

(8) Title 63C, Chapter 17, Point of the Mountain Development Commission Act, is repealed July 1, 2021.

(9) Title 63C, Chapter 18, Behavioral Health Crisis Response Commission, is repealed July 1, 2023.

(10) Title 63C, Chapter 21, Outdoor Adventure Commission, is repealed July 1, 2025.

(11) Title 63F, Chapter 2, Data Security Management Council, is repealed July 1, 2025.

(12) Section 63G-6a-805, which creates the Purchasing from Persons with Disabilities Advisory Board, is repealed July 1, 2026.

(13) Title 63G, Chapter 21, Agreements to Provide State Services, is repealed July 1, 2025.

(14) Title 63H, Chapter 4, Heber Valley Historic Railroad Authority, is repealed July 1, 2024.

(15) Title 63H, Chapter 8, Utah Housing Corporation Act, is repealed July 1, 2026.

(16) Subsection 63J-1-602.1[~~(14)~~](13), Nurse Home Visiting Restricted Account is repealed July 1, 2026.

(17) (a) Subsection 63J-1-602.1(58), relating to the Utah Statewide Radio System Restricted Account, is repealed July 1, 2022.

(b) When repealing Subsection 63J-1-602.1(58), the Office of Legislative Research and General Counsel shall, in addition to the office's authority under Subsection 36-12-12(3), make necessary changes to subsection numbering and cross references.

(18) Subsection 63J-1-602.2[~~(4)~~](5), referring to dedicated credits to the Utah Marriage Commission, is repealed July 1, 2023.

(19) Subsection 63J-1-602.2[~~(5)~~](6), referring to the Trip Reduction Program, is repealed July 1, 2022.

(20) Subsection 63J-1-602.2(25), related to the Utah Seismic Safety Commission, is repealed January 1, 2025.

(21) Title 63J, Chapter 4, Part 5, Resource Development Coordinating Committee, is repealed July 1, 2027.

(22) [~~Subsection 63J-4-608(3), which creates the Federal Land Application Advisory Committee, is repealed~~] In relation to the advisory committee created in Subsection 63J-4-608(3), on July 1, [~~2021.~~] 2022:

(a) Subsection 63J-4-608(1)(a), which defines "advisory committee," is repealed; and

(b) Subsection 63J-4-608(3), which creates the advisory committee, is repealed.

(23) In relation to the Utah Substance Use and Mental Health Advisory Council, on January 1, 2023:

(a) Sections 63M-7-301, 63M-7-302, 63M-7-303, 63M-7-304, and 63M-7-306 are repealed;

(b) Section 63M-7-305, the language that states "council" is replaced with "commission";

(c) Subsection 63M-7-305(1) is repealed and replaced with:

"(1) "Commission" means the Commission on Criminal and Juvenile Justice."; and

(d) Subsection 63M-7-305(2) is repealed and replaced with:

"(2) The commission shall:

(a) provide ongoing oversight of the implementation, functions, and evaluation of the Drug-Related Offenses Reform Act; and

(b) coordinate the implementation of Section 77-18-1.1 and related provisions in Subsections 77-18-1(5)(b)(iii) and (iv).".

(24) The Crime Victim Reparations and Assistance Board, created in Section 63M-7-504, is repealed July 1, 2027.

(25) Title 63M, Chapter 7, Part 6, Utah Council on Victims of Crime, is repealed July 1, 2022.

(26) Title 63M, Chapter 11, Utah Commission on Aging, is repealed July 1, 2021.

(27) Subsection 63N-1-301(4)(c), related to the Talent Ready Utah Board, is repealed January 1, 2023.

(28) Title 63N, Chapter 1, Part 5, Governor's Economic Development Coordinating Council, is repealed July 1, 2024.

(29) Title 63N, Chapter 2, Part 2, Enterprise Zone Act, is repealed July 1, 2028.

(30) Section 63N-2-512 is repealed July 1, 2021.

(31) (a) Title 63N, Chapter 2, Part 6, Utah Small Business Jobs Act, is repealed January 1, 2021.

(b) Section 59-9-107 regarding tax credits against premium taxes is repealed for calendar years beginning on or after January 1, 2021.

(c) Notwithstanding Subsection (31)(b), an entity may carry forward a tax credit in accordance with Section 59-9-107 if:

(i) the person is entitled to a tax credit under Section 59-9-107 on or before December 31, 2020; and

(ii) the qualified equity investment that is the basis of the tax credit is certified under Section 63N-2-603 on or before December 31, 2023.

(32) Subsections 63N-3-109(2)(e) and 63N-3-109(2)(f)(i) are repealed July 1, 2023.

(33) Title 63N, Chapter 4, Part 4, Rural Employment Expansion Program, is repealed July 1, 2023.

(34) Title 63N, Chapter 7, Part 1, Board of Tourism Development, is repealed July 1, 2025.

(35) Title 63N, Chapter 9, Part 2, Outdoor Recreational Infrastructure Grant Program, is repealed January 1, 2023.

(36) Title 63N, Chapter 12, Part 5, Talent Ready Utah Center, is repealed January 1, 2023.

CHAPTER 71
S. B. 22
Passed February 1, 2021
Approved March 11, 2021
Effective May 5, 2021

COMPLIANCE ADVISORY PANEL REPEAL DATE

Chief Sponsor: Scott D. Sandall
House Sponsor: Phil Lyman

LONG TITLE

General Description:

This bill addresses the Compliance Advisory Panel related to the small businesses program for compliance with state and federal air pollution laws.

Highlighted Provisions:

This bill:

- extends the repeal date for the Compliance Advisory Panel; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63I-2-219, as last amended by Laws of Utah 2019, Chapter 246

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

Section 1. Section 63I-2-219 is amended to read:

63I-2-219. Repeal dates -- Title 19.

[~~(1) (a) Subsection 19-1-108(3)(a) is repealed on June 30, 2019.~~]

[~~(b) When repealing Subsection 19-1-108(3)(a), the Office of Legislative Research and General Counsel shall, in addition to its authority under Subsection 36-12-12(3), make necessary changes to subsection numbering and cross references.~~]

[~~(2)~~] Subsections 19-2-109.2(2) through (10), related to the Compliance Advisory Panel, are repealed July 1, [~~2021~~] 2023.

[~~(3) Section 19-6-126 is repealed on January 1, 2020.~~]

CHAPTER 72
S. B. 29
Passed February 3, 2021
Approved March 11, 2021
Effective May 5, 2021

HOTEL IMPACT MITIGATION FUND SUNSET EXTENSION

Sponsor: Daniel McCay
House Sponsor: Mike Winder

LONG TITLE

General Description:

This bill modifies the sunset date of the Hotel Impact Mitigation Fund.

Highlighted Provisions:

This bill:

- modifies the sunset date of the Hotel Impact Mitigation Fund, which is part of the New Convention Facility Development Incentives overseen by the Governor's Office of Economic Development.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63I-1-263, as last amended by Laws of Utah 2020, Chapters 82, 152, 154, 199, 230, 303, 322, 336, 354, 360, 375, 405 and last amended by Coordination Clause, Laws of Utah 2020, Chapter 360

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

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

63I-1-263. Repeal dates, Titles 63A to 63N.

(1) In relation to the Utah Transparency Advisory Board, on January 1, 2025:

(a) Subsection 63A-1-201(1) is repealed;

(b) Subsection 63A-1-202(2)(c), the language "using criteria established by the board" is repealed;

(c) Section 63A-1-203 is repealed;

(d) Subsections 63A-1-204(1) and (2), the language "After consultation with the board, and" is repealed; and

(e) Subsection 63A-1-204(1)(b), the language "using the standards provided in Subsection 63A-1-203(3)(c)" is repealed.

(2) Subsection 63A-5b-405(5), relating to prioritizing and allocating capital improvement funding, is repealed July 1, 2024.

(3) Section 63A-5b-1003, State Facility Energy Efficiency Fund, is repealed July 1, 2023.

(4) Sections 63A-9-301 and 63A-9-302, related to the Motor Vehicle Review Committee, are repealed July 1, 2023.

(5) Title 63C, Chapter 4a, Constitutional and Federalism Defense Act, is repealed July 1, 2028.

(6) Title 63C, Chapter 6, Utah Seismic Safety Commission, is repealed January 1, 2025.

(7) Title 63C, Chapter 12, Snake Valley Aquifer Advisory Council, is repealed July 1, 2024.

(8) Title 63C, Chapter 17, Point of the Mountain Development Commission Act, is repealed July 1, 2021.

(9) Title 63C, Chapter 18, Behavioral Health Crisis Response Commission, is repealed July 1, 2023.

(10) Title 63C, Chapter 21, Outdoor Adventure Commission, is repealed July 1, 2025.

(11) Title 63F, Chapter 2, Data Security Management Council, is repealed July 1, 2025.

(12) Section 63G-6a-805, which creates the Purchasing from Persons with Disabilities Advisory Board, is repealed July 1, 2026.

(13) Title 63G, Chapter 21, Agreements to Provide State Services, is repealed July 1, 2025.

(14) Title 63H, Chapter 4, Heber Valley Historic Railroad Authority, is repealed July 1, 2024.

(15) Title 63H, Chapter 8, Utah Housing Corporation Act, is repealed July 1, 2026.

(16) Subsection 63J-1-602.1(14), Nurse Home Visiting Restricted Account is repealed July 1, 2026.

(17) (a) Subsection 63J-1-602.1(58), relating to the Utah Statewide Radio System Restricted Account, is repealed July 1, 2022.

(b) When repealing Subsection 63J-1-602.1(58), the Office of Legislative Research and General Counsel shall, in addition to the office's authority under Subsection 36-12-12(3), make necessary changes to subsection numbering and cross references.

(18) Subsection 63J-1-602.2(4), referring to dedicated credits to the Utah Marriage Commission, is repealed July 1, 2023.

(19) Subsection 63J-1-602.2(5), referring to the Trip Reduction Program, is repealed July 1, 2022.

(20) Subsection 63J-1-602.2(25), related to the Utah Seismic Safety Commission, is repealed January 1, 2025.

(21) Title 63J, Chapter 4, Part 5, Resource Development Coordinating Committee, is repealed July 1, 2027.

(22) Subsection 63J-4-608(3), which creates the Federal Land Application Advisory Committee, is repealed on July 1, 2021.

(23) In relation to the Utah Substance Use and Mental Health Advisory Council, on January 1, 2023:

(a) Sections 63M-7-301, 63M-7-302, 63M-7-303, 63M-7-304, and 63M-7-306 are repealed;

(b) Section 63M-7-305, the language that states "council" is replaced with "commission";

(c) Subsection 63M-7-305(1) is repealed and replaced with:

"(1) "Commission" means the Commission on Criminal and Juvenile Justice."; and

(d) Subsection 63M-7-305(2) is repealed and replaced with:

"(2) The commission shall:

(a) provide ongoing oversight of the implementation, functions, and evaluation of the Drug-Related Offenses Reform Act; and

(b) coordinate the implementation of Section 77-18-1.1 and related provisions in Subsections 77-18-1(5)(b)(iii) and (iv).".

(24) The Crime Victim Reparations and Assistance Board, created in Section 63M-7-504, is repealed July 1, 2027.

(25) Title 63M, Chapter 7, Part 6, Utah Council on Victims of Crime, is repealed July 1, 2022.

(26) Title 63M, Chapter 11, Utah Commission on Aging, is repealed July 1, 2021.

(27) Subsection 63N-1-301(4)(c), related to the Talent Ready Utah Board, is repealed January 1, 2023.

(28) Title 63N, Chapter 1, Part 5, Governor's Economic Development Coordinating Council, is repealed July 1, 2024.

(29) Title 63N, Chapter 2, Part 2, Enterprise Zone Act, is repealed July 1, 2028.

(30) Section 63N-2-512, related to the Hotel Impact Mitigation Fund, is repealed July 1, [~~2021~~] 2028.

(31) (a) Title 63N, Chapter 2, Part 6, Utah Small Business Jobs Act, is repealed January 1, 2021.

(b) Section 59-9-107 regarding tax credits against premium taxes is repealed for calendar years beginning on or after January 1, 2021.

(c) Notwithstanding Subsection (31)(b), an entity may carry forward a tax credit in accordance with Section 59-9-107 if:

(i) the person is entitled to a tax credit under Section 59-9-107 on or before December 31, 2020; and

(ii) the qualified equity investment that is the basis of the tax credit is certified under Section 63N-2-603 on or before December 31, 2023.

(32) Subsections 63N-3-109(2)(e) and 63N-3-109(2)(f)(i) are repealed July 1, 2023.

(33) Title 63N, Chapter 4, Part 4, Rural Employment Expansion Program, is repealed July 1, 2023.

(34) Title 63N, Chapter 7, Part 1, Board of Tourism Development, is repealed July 1, 2025.

(35) Title 63N, Chapter 9, Part 2, Outdoor Recreational Infrastructure Grant Program, is repealed January 1, 2023.

(36) Title 63N, Chapter 12, Part 5, Talent Ready Utah Center, is repealed January 1, 2023.

CHAPTER 73
S. B. 43
Passed February 3, 2021
Approved March 11, 2021
Effective May 5, 2021

RESIDENTIAL MORTGAGE REGULATORY COMMISSION AMENDMENTS

Chief Sponsor: Curtis S. Bramble
House Sponsor: James A. Dunnigan

LONG TITLE

General Description:

This bill amends the repeal date of the Residential Mortgage Regulatory Commission.

Highlighted Provisions:

This bill:

- sunsets the Residential Mortgage Regulatory Commission in 2031.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63I-1-261, as last amended by Laws of Utah 2020, Chapter 154

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

Section 1. Section 63I-1-261 is amended to read:

63I-1-261. Repeal dates, Title 61.

Section 61-2c-104, which creates the Residential Mortgage Regulatory Commission, is repealed July 1, [~~2021~~] 2031.

CHAPTER 74
S. B. 56
Passed February 1, 2021
Approved March 11, 2021
Effective May 5, 2021

STATE WEED COMMITTEE SUNSET EXTENSION

Chief Sponsor: Scott D. Sandall
House Sponsor: Michael L. Kohler

LONG TITLE

General Description:

This bill addresses the State Weed Committee.

Highlighted Provisions:

This bill:

- extends the sunset date for the State Weed Committee.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63I-1-204, as last amended by Laws of Utah 2020, Chapters 154 and 232

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

Section 1. Section 63I-1-204 is amended to read:

63I-1-204. Repeal dates, Title 4.

(1) Section 4-2-108, which creates the Agricultural Advisory Board, is repealed July 1, 2023.

(2) Section 4-17-104, which creates the State Weed Committee, is repealed July 1, [~~2021~~] 2026.

(3) Section 4-20-103, which creates the State Grazing Advisory Board, is repealed July 1, 2022.

(4) Sections 4-23-104 and 4-23-105, which create the Agricultural and Wildlife Damage Prevention Board, are repealed July 1, 2024.

(5) Section 4-24-104, which creates the Livestock Brand Board, is repealed July 1, 2025.

(6) Section 4-35-103, which creates the Decision and Action Committee, is repealed July 1, 2026.

(7) Section 4-39-104, which creates the Domesticated Elk Act Advisory Council, is repealed July 1, 2027.

CHAPTER 75
S. B. 153
Passed March 1, 2021
Approved March 11, 2021
Effective May 5, 2021
(Retrospective operation to January 1, 2021)

UTAH PERSONAL EXEMPTION AMENDMENTS

Chief Sponsor: Lincoln Fillmore
House Sponsor: Jefferson Moss

LONG TITLE

General Description:

This bill modifies provisions relating to the taxpayer tax credit.

Highlighted Provisions:

This bill:

- increases the value of the Utah personal exemption for purposes of the taxpayer tax credit; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides retrospective operation.

Utah Code Sections Affected:

AMENDS:

59-10-1018, as last amended by Laws of Utah 2018, Second Special Session, Chapter 3

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

Section 1. Section 59-10-1018 is amended to read:

59-10-1018. Definitions -- Nonrefundable taxpayer tax credits.

(1) As used in this section:

(a) "Head of household filing status" means a head of household, as defined in Section 2(b), Internal Revenue Code, who files a single federal individual income tax return for the taxable year.

(b) "Joint filing status" means:

(i) spouses who file a single return jointly under this chapter for a taxable year; or

(ii) a surviving spouse, as defined in Section 2(a), Internal Revenue Code, who files a single federal individual income tax return for the taxable year.

(c) "Qualifying dependent" means an individual with respect to whom the claimant is allowed to claim a tax credit under Section 24, Internal Revenue Code, on the claimant's federal individual income tax return for the taxable year.

(d) "Single filing status" means:

(i) a single individual who files a single federal individual income tax return for the taxable year; or

(ii) a married individual who:

(A) does not file a single federal individual income tax return jointly with that married individual's spouse for the taxable year; and

(B) files a single federal individual income tax return for the taxable year.

(e) "State or local income tax" means the lesser of:

(i) the amount of state or local income tax that the claimant:

(A) pays for the taxable year; and

(B) reports on the claimant's federal individual income tax return for the taxable year, regardless of whether the claimant is allowed an itemized deduction on the claimant's federal individual income tax return for the taxable year for the full amount of state or local income tax paid; and

(ii) $10,000.

(f) (i) "Utah itemized deduction" means the amount the claimant deducts as allowed as an itemized deduction on the claimant's federal individual income tax return for that taxable year minus any amount of state or local income tax for the taxable year.

(ii) "Utah itemized deduction" does not include any amount of qualified business income that the claimant subtracts as allowed by Section 199A, Internal Revenue Code, on the claimant's federal income tax return for that taxable year.

(g) "Utah personal exemption" means, subject to Subsection (6), [~~$565~~] $1,750 multiplied by the number of the claimant's qualifying dependents.

(2) Except as provided in Section 59-10-1002.2, and subject to Subsections (3) through (5), a claimant may claim a nonrefundable tax credit against taxes otherwise due under this part equal to the sum of:

(a) (i) for a claimant that deducts the standard deduction on the claimant's federal individual income tax return for the taxable year, 6% of the amount the claimant deducts as allowed as the standard deduction on the claimant's federal individual income tax return for that taxable year; or

(ii) for a claimant that itemizes deductions on the claimant's federal individual income tax return for the taxable year, 6% of the amount of the claimant's Utah itemized deduction; and

(b) 6% of the claimant's Utah personal exemption.

(3) A claimant may not carry forward or carry back a tax credit under this section.

(4) The tax credit allowed by Subsection (2) shall be reduced by $.013 for each dollar by which a claimant's state taxable income exceeds:

(a) for a claimant who has a single filing status, [~~$12,000~~] $15,095;

(b) for a claimant who has a head of household filing status, [~~$18,000~~] $22,643; or

(c) for a claimant who has a joint filing status, [~~$24,000~~] $30,190.

(5) (a) For a taxable year beginning on or after January 1, [~~2009~~] 2022, the commission shall increase or decrease annually the following dollar amounts by a percentage equal to the percentage difference between the consumer price index for the preceding calendar year and the consumer price index for calendar year [~~2007~~] 2020:

(i) the dollar amount listed in Subsection (4)(a); and

(ii) the dollar amount listed in Subsection (4)(b).

(b) After the commission increases or decreases the dollar amounts listed in Subsection (5)(a), the commission shall round those dollar amounts listed in Subsection (5)(a) to the nearest whole dollar.

(c) After the commission rounds the dollar amounts as required by Subsection (5)(b), the commission shall increase or decrease the dollar amount listed in Subsection (4)(c) so that the dollar amount listed in Subsection (4)(c) is equal to the product of:

(i) the dollar amount listed in Subsection (4)(a); and

(ii) two.

(d) For purposes of Subsection (5)(a), the commission shall calculate the consumer price index as provided in Sections 1(f)(4) and 1(f)(5), Internal Revenue Code.

(6) (a) For a taxable year beginning on or after January 1, [~~2019~~] 2022, the commission shall increase annually the Utah personal exemption amount listed in Subsection (1)(g) by a percentage equal to the percentage by which the consumer price index for the preceding calendar year exceeds the consumer price index for calendar year [~~2017~~] 2020.

(b) After the commission increases the Utah personal exemption amount as described in Subsection (6)(a), the commission shall round the Utah personal exemption amount to the nearest whole dollar.

(c) For purposes of Subsection (6)(a), the commission shall calculate the consumer price index as provided in Sections 1(f)(4) and 1(f)(5), Internal Revenue Code.

Section 2. Retrospective operation.

This bill has retrospective operation for a taxable year beginning on or after January 1, 2021.

CHAPTER 76
S. B. 155
Passed March 4, 2021
Approved March 11, 2021
Effective March 11, 2021

988 MENTAL HEALTH CRISIS ASSISTANCE

Chief Sponsor: Daniel W. Thatcher
House Sponsor: Steve Eliason

LONG TITLE

General Description:

This bill creates the Statewide Behavioral Health Crisis Response Account and amends provisions related to the membership and duties of the Behavioral Health Crisis Response Commission.

Highlighted Provisions:

This bill:

- creates the Statewide Behavioral Health Crisis Response Account;
- describes the purposes for which the Statewide Behavioral Health Crisis Response Account may be used;
- amends the membership of the Behavioral Health Crisis Response Commission; and
- amends the duties of the Behavioral Health Crisis Response Commission.

Monies Appropriated in this Bill:

This bill appropriates in fiscal year 2021:

- to the Legislature – Senate, as a one-time appropriation:
  - from the General Fund, $1,600;
- to the Legislature – House of Representatives, as a one-time appropriation:
  - from the General Fund, $1,600;
- to the Attorney General – Attorney General, as a one-time appropriation:
  - from the General Fund, $1,000;
- to Department of Human Services – Division of Substance Abuse and Mental Health, as a one-time appropriation:
  - from the General Fund, $2,451,800; and
- to University of Utah – School of Medicine, as a one-time appropriation:
  - from Education Fund, ($600,000).

This bill appropriates in fiscal year 2022:

- to the Legislature – Senate, as a one-time appropriation:
  - from the General Fund, $6,400;
- to the Legislature – House of Representatives, as a one-time appropriation:
  - from the General Fund, $6,400;
- to the Attorney General – Attorney General, as a one-time appropriation:
  - from the General Fund, $3,000; and
- to Department of Human Services – Division of Substance Abuse and Mental Health, as an ongoing appropriation:
  - from the General Fund, $1,851,800.

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

63C-18-202, as last amended by Laws of Utah 2020, Chapter 303
63C-18-203, as last amended by Laws of Utah 2020, Chapter 303

ENACTS:

26-18-424, Utah Code Annotated 1953
62A-15-120, Utah Code Annotated 1953

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

Section 1. Section 26-18-424 is enacted to read:

26-18-424. Crisis services -- Reimbursement.

The Department shall submit a waiver or state plan amendment to allow for reimbursement for 988 services provided to an individual who is eligible and enrolled in Medicaid at the time this service is provided.

Section 2. Section 62A-15-120 is enacted to read:

62A-15-120. (Codified as 62A-15-123) Statewide Behavioral Health Crisis Response Account -- Creation -- Administration -- Permitted uses.

(1) There is created a restricted account within the General Fund known as the "Statewide Behavioral Health Crisis Response Account," consisting of:

(a) money appropriated or otherwise made available by the Legislature; and

(b) contributions of money, property, or equipment from federal agencies, political subdivisions of the state, or other persons.

(2) (a) Subject to appropriations by the Legislature and any contributions to the account described in Subsection (1)(b), the division shall disburse funds in the account only for the purpose of support or implementation of services or enhancements of those services in order to rapidly, efficiently, and effectively deliver 988 services in the state.

(b) Funds distributed from the account to county local mental health and substance abuse authorities for the provision of crisis services are not subject to the 20% county match described in Sections 17-43-201 and 17-43-301.

(c) The division shall prioritize expending funds from the account as follows:

(i) the Statewide Mental Health Crisis Line, as defined in Section 62A-15-1301, including coordination with 911 emergency service, as defined in Section 69-2-102, and coordination with local substance abuse authorities as described in Section 17-43-201, and local mental health authorities, described in Section 17-43-301;

(ii) mitigation of any negative impacts on 911 emergency service from 988 services;

(iii) mobile crisis outreach teams as defined in Section 62A-15-1401, distributed in accordance

with rules made by the division in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(iv) behavioral health receiving centers as defined in Section 62A-15-118;

(v) stabilization services as described in Section 62A-1-104; and

(vi) mental health crisis services provided by local substance abuse authorities as described in Section 17-43-201 and local mental health authorities described in Section 17-43-301 to provide prolonged mental health services for up to 90 days after the day on which an individual experiences a mental health crisis.

(3) Subject to appropriations by the Legislature and any contributions to the account described in Subsection (1)(b), the division may expend funds in the account for administrative costs that the division incurs related to administering the account.

(4) The division director shall submit and make available to the public a report before December of each year to the Behavioral Health Crisis Response Commission as defined in Section 63C-18-202, the Social Services Appropriations Subcommittee, and the Legislative Management Committee that includes:

(a) the amount of each disbursement from the restricted account described in Section 62A-15-120;

(b) the recipient of each disbursement, the goods and services received, and a description of the project funded by the disbursement;

(c) any conditions placed by the division on the disbursements from the restricted account;

(d) the anticipated expenditures from the restricted account described in this chapter for the next fiscal year;

(e) the amount of any unexpended funds carried forward;

(f) the number of Statewide Mental Health Crisis Line calls received;

(g) the progress towards accomplishing the goals of providing statewide mental health crisis service; and

(h) other relevant justification for ongoing support from the restricted account.

Section 3. Section 63C-18-202 is amended to read:

63C-18-202. Commission established -- Members.

(1) There is created the Behavioral Health Crisis Response Commission, composed of the following [~~16~~] members:

(a) the executive director of the University Neuropsychiatric Institute;

(b) the governor or the governor's designee;

(c) the director of the Division of Substance Abuse and Mental Health;

(d) one representative of the Office of the Attorney General, appointed by the attorney general;

(e) one member of the public, appointed by the chair of the commission and approved by the commission;

(f) two individuals who are mental or behavioral health clinicians licensed to practice in the state, appointed by the chair of the commission and approved by the commission, at least one of whom is an individual who:

(i) is licensed as a physician under:

(A) Title 58, Chapter 67, Utah Medical Practice Act;

(B) Title 58, Chapter 67b, Interstate Medical Licensure Compact; or

(C) Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; and

(ii) is board eligible for a psychiatry specialization recognized by the American Board of Medical Specialists or the American Osteopathic Association's Bureau of Osteopathic Specialists;

(g) one individual who represents a county of the first or second class, appointed by the Utah Association of Counties;

(h) one individual who represents a county of the third, fourth, or fifth class, appointed by the Utah Association of Counties;

(i) one individual who represents the Utah Hospital Association, appointed by the chair of the commission;

(j) one individual who represents law enforcement, appointed by the chair of the commission;

(k) one individual who has lived with a mental health disorder, appointed by the chair of the commission;

(l) one individual who represents an integrated health care system that:

(i) is not affiliated with the chair of the commission; and

(ii) provides inpatient behavioral health services and emergency room services to individuals in the state;

(m) one individual who represents an accountable care organization, as defined in Section 26-18-423, with a statewide membership base;

(n) [~~one member~~] three members of the House of Representatives, appointed by the speaker of the House of Representatives, no more than two of whom may be from the same political party; [~~and~~]

(o) [~~one member~~] three members of the Senate, appointed by the president of the Senate[~~.~~], no more than two of whom may be from the same political party;

(p) one individual who represents 911 call centers and public safety answering points, appointed by the chair of the commission;

(q) one individual who represents Emergency Medical Services, appointed by the chair of the commission;

(r) one individual who represents the mobile wireless service provider industry, appointed by the chair of the commission;

(s) one individual who represents rural telecommunications providers, appointed by the chair of the commission;

(t) one individual who represents voice over internet protocol and land line providers, appointed by the chair of the commission; and

(u) one individual who represents the Utah League of Cities and Towns, appointed by the chair of the commission.

(2) On December 31, 2022:

(a) the number of members described in Subsection (1)(n) and the number of members described in Subsection (1)(o) is reduced to one, with no restriction relating to party membership; and

(b) the members described in Subsections (1)(p) through (u) are removed from the commission.

[~~(2)~~] (3) (a) The executive director of the University Neuropsychiatric Institute is the chair of the commission.

(b) The chair of the commission shall appoint a member of the commission to serve as the vice chair of the commission, with the approval of the commission.

(c) The chair of the commission shall set the agenda for each commission meeting.

[~~(3)~~] (4) (a) A majority of the members of the commission constitutes a quorum.

(b) The action of a majority of a quorum constitutes the action of the commission.

[~~(4)~~] (5) (a) Except as provided in Subsection [~~(4)~~] (5)(b), a member may not receive compensation, benefits, per diem, or travel expenses for the member's service on the commission.

(b) Compensation and expenses of a member who is a legislator are governed by Section 36-2-2 and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.

[~~(5)~~] (6) The Office of the Attorney General shall provide staff support to the commission.

Section 4. Section 63C-18-203 is amended to read:

63C-18-203. Commission duties -- Reporting requirements.

(1) The commission shall:

(a) identify a method to integrate existing local mental health crisis lines to ensure each individual who accesses a local mental health crisis line is connected to a qualified mental or behavioral health professional, regardless of the time, date, or number of individuals trying to simultaneously access the local mental health crisis line;

(b) study how to establish and implement a statewide mental health crisis line and a statewide warm line, including identifying:

(i) a statewide phone number or other means for an individual to easily access the statewide mental health crisis line, including a short code for text messaging and a three-digit number for calls;

(ii) a statewide phone number or other means for an individual to easily access the statewide warm line, including a short code for text messaging and a three-digit number for calls;

(iii) a supply of:

(A) qualified mental or behavioral health professionals to staff the statewide mental health crisis line; and

(B) qualified mental or behavioral health professionals or certified peer support specialists to staff the statewide warm line; and

(iv) a funding mechanism to operate and maintain the statewide mental health crisis line and the statewide warm line;

(c) coordinate with local mental health authorities in fulfilling the commission's duties described in Subsections (1)(a) and (b); and

(d) recommend standards for the certifications described in Section 62A-15-1302.

(2) In preparation for the implementation of the statewide 988 hotline, the commission shall study and make recommendations regarding:

(a) crisis line practices and needs, including:

(i) quality and timeliness of service;

(ii) service volume projections;

(iii) a statewide assessment of crisis line staffing needs, including required certifications; and

(iv) a statewide assessment of technology needs;

(b) primary duties performed by crisis line workers;

(c) coordination or redistribution of secondary duties performed by crisis line workers, including responding to non-emergency calls;

(d) establishing a statewide 988 hotline:

(i) in accordance with federal law;

(ii) that ensures the efficient and effective routing of calls to an appropriate crisis center; and

(iii) that includes directly responding to calls with trained personnel and the provision of acute mental health, crisis outreach, and stabilization services;

(e) opportunities to increase operational and technological efficiencies and effectiveness between 988 and 911, utilizing current technology;

(f) needs for interoperability partnerships and policies related to 911 call transfers and public safety responses;

(g) standards for statewide mobile crisis outreach teams, including:

(i) current models and projected needs;

(ii) quality and timeliness of service;

(iii) hospital and jail diversions; and

(iv) staffing and certification;

(h) resource centers, including:

(i) current models and projected needs; and

(ii) quality and timeliness of service;

(i) policy considerations related to whether the state should:

(i) manage, operate, and pay for a complete behavioral health system; or

(ii) create partnerships with private industry; and

(j) sustainable funding source alternatives, including:

(i) charging a 988 fee, including a recommendation on the fee amount;

(ii) General Fund appropriations;

(iii) other government funding options;

(iv) private funding sources;

(v) grants;

(vi) insurance partnerships, including coverage for support and treatment after initial call and triage; and

(vii) other funding resources.

(3) The commission shall:

(a) before December 31, 2021, present an initial report on the matters described in Subsection (2), including any proposed legislation, to the Executive Appropriations Committee; and

(b) before December 31, 2022, present a final report on the items described in Subsection (2), including any proposed legislation, to the Executive Appropriations Committee.

(4) The duties described in Subsection (2) are removed on December 31, 2022.

[~~(2)~~] (5) The commission may conduct other business related to the commission's duties described in [~~Subsection (1)~~] this section.

[~~(3)~~] (6) The commission shall consult with the Division of Substance Abuse and Mental Health regarding the standards and operation of the statewide mental health crisis line and the statewide warm line, in accordance with Title 62A, Chapter 15, Part 13, Statewide Mental Health Crisis Line and Statewide Warm Line.

Section 5. Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2020, and ending June 30, 2021. These are additions to amounts previously appropriated for fiscal year 2021. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 1 To Legislature - Senate

From General Fund, One-time	$1,600
Schedule of Programs:	
Administration	$1,600

ITEM 2 To Legislature - House of Representatives

From General Fund, One-time	$1,600
Schedule of Programs:	
Administration	$1,600

ITEM 3 To Attorney General - Attorney General

From General Fund, One-time	$1,000
Schedule of Programs:	
Administration	$1,000

ITEM 4 To Department of Human Services - Division of Substance Abuse and Mental Health

From General Fund, One-time	$2,451,800
Schedule of Programs:	
Community Mental Health Services	$2,451,800

ITEM 5 To University of Utah - School of Medicine

From Education Fund, One-time	($600,000)
Schedule of Programs:	
School of Medicine	($600,000)

(1) The Legislature intends that appropriations in Items 1, 2, and 3 be used for expenses relating to the Behavioral Health Crisis Response Commission created in Section 63C-18-202.

(2) The Legislature intends that the appropriations in Item 4 be used for expenses related to:

(a) the statewide behavioral health crisis line and warm line, described in Title 62A, Chapter 15, Part 13, Statewide Mental Health Crisis Line and Statewide Warm Line; and

(b) SafeUT, described in Title 53B, Chapter 17, Part 12, SafeUT Crisis Line.

(3) Under Section 63J-1-603, the Legislature intends that the above appropriations not lapse at the close of fiscal year 2021. The use of any nonlapsing funds is limited to the purposes described in Subsections (1) and (2).

The following sums of money are appropriated for the fiscal year beginning July 1, 2021, and ending June 30, 2022. These are additions to amounts previously appropriated for fiscal year 2022. Under

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

ITEM 6 To Legislature - Senate
From General Fund, One-time $6,400
Schedule of Programs:
Administration $6,400

ITEM 7 To Legislature - House of Representatives
From General Fund, One-time $6,400
Schedule of Programs:
Administration $6,400

ITEM 8 To Attorney General - Attorney General
From General Fund, One-time $3,000
Schedule of Programs:
Administration $3,000

ITEM 9 To Department of Human Services - Division of Substance Abuse and Mental Health
From General Fund $1,851,800
Schedule of Programs:
Community Mental Health Services $1,851,800

(1) The Legislature intends that the appropriations in Items 6, 7, and 8 be used for expenses relating to the Behavioral Health Crisis Response Commission created in Section 63C-18-202.

(2) The Legislature intends that the appropriations in Item 9 be used for expenses related to:

(a) the statewide behavioral health crisis line and warm line, described in Title 62A, Chapter 15, Part 13, Statewide Mental Health Crisis Line and Statewide Warm Line; and

(b) SafeUT, described in Title 53B, Chapter 17, Part 12, SafeUT Crisis Line.

(3) Under Section 63J-1-603, the Legislature intends that the above appropriations not lapse at the close of fiscal year 2022. The use of any nonlapsing funds is limited to the purposes described in Subsections (1) and (2).

Section 6. Effective date.

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

CHAPTER 77
H. B. 14
Passed February 4, 2021
Approved March 16, 2021
Effective May 5, 2021

WATER CONSERVANCY DISTRICT AMENDMENTS

Chief Sponsor: Stephen G. Handy
Senate Sponsor: Todd D. Weiler

LONG TITLE

General Description:

This bill amends provisions of the Election Code to provide for filling a vacancy on the board of a water conservancy district located in more than one county.

Highlighted Provisions:

This bill:

- establishes a process for filling a vacancy on the board of a water conservancy district located in more than one county, including providing notice, nominating candidates, and appointing an individual to fill the vacancy.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

20A-1-512, as last amended by Laws of Utah 2019, Chapter 40

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

Section 1. Section 20A-1-512 is amended to read:

20A-1-512. Midterm vacancies on local district boards.

(1) (a) [~~Whenever~~] When a vacancy occurs on any local district board for any reason, the following shall appoint a replacement to serve out the unexpired term in accordance with this section:

(i) the local district board, if the person vacating the position was elected; or

(ii) the appointing authority, as that term is defined in Section 17B-1-102, if the appointing authority appointed the person vacating the position.

(b) Except as provided in Subsection (1)(c) or (d), before acting to fill the vacancy, the local district board or appointing authority shall:

(i) give public notice of the vacancy at least two weeks before the local district board or appointing authority meets to fill the vacancy by:

(A) if there is a newspaper of general circulation, as that term is defined in Section 45-1-201, within the district, publishing the notice in the newspaper of general circulation;

(B) posting the notice in three public places within the local district; and

(C) posting on the Utah Public Notice Website created under Section 63F-1-701; and

(ii) identify, in the notice:

(A) the date, time, and place of the meeting where the vacancy will be filled;

(B) the individual to whom an individual who is interested in an appointment to fill the vacancy may submit the individual's name for consideration; and

(C) any submission deadline.

(c) An appointing authority is not subject to Subsection (1)(b) if:

(i) the appointing authority appoints one of the appointing authority's own members; and

(ii) that member meets all applicable statutory board member qualifications.

(d) When a vacancy occurs on the board of a water conservancy district located in more than one county:

(i) the board shall give notice of the vacancy to the county legislative bodies that nominated the vacating trustee as provided in Section 17B-2a-1005;

(ii) the county legislative bodies described in Subsection (1)(d)(i) shall collectively compile a list of three nominees to fill the vacancy; and

(iii) the governor shall, with the advice and consent of the Senate, appoint an individual to fill the vacancy from nominees submitted as provided in Subsection 17B-2a-1005(2)(c).

(2) If the local district board fails to appoint an individual to complete an elected board member's term within 90 days, the legislative body of the county or municipality that created the local district shall fill the vacancy in accordance with the procedure for a local district described in Subsection (1)(b).

CHAPTER 78
H. B. 16
Passed March 3, 2021
Approved March 16, 2021
Effective May 5, 2021

VETERANS AND MILITARY AFFAIRS COMMISSION AMENDMENTS

Chief Sponsor: Paul Ray
Senate Sponsor: Todd D. Weiler

LONG TITLE

General Description:

This bill amends provisions related to the Veterans and Military Affairs Commission.

Highlighted Provisions:

This bill:

- allows for members of the commission who are legislators to be paid salaries and expenses.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

36-28-102, as last amended by Laws of Utah 2020, Chapter 365

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

Section 1. Section 36-28-102 is amended to read:

36-28-102. Veterans and Military Affairs Commission -- Creation -- Membership -- Chairs -- Terms -- Per diem and expenses.

(1) There is created the Veterans and Military Affairs Commission.

(2) The commission membership is composed of 19 permanent members, but may not exceed 24 members, and is as follows:

(a) five legislative members to be appointed as follows:

(i) three members from the House of Representatives, appointed by the speaker of the House of Representatives, no more than two of whom may be from the same political party; and

(ii) two members from the Senate, appointed by the president of the Senate, no more than one of whom may be from the same political party;

(b) the executive director of the Department of Veterans and Military Affairs or the director's designee;

(c) the chair of the Utah Veterans Advisory Council;

(d) the executive director of the Department of Workforce Services or the director's designee;

(e) the executive director of the Department of Health or the director's designee;

(f) the executive director of the Department of Human Services or the director's designee;

(g) the adjutant general of the Utah National Guard or the adjutant general's designee;

(h) the Guard and Reserve Transition Assistance Advisor;

(i) a member of the Utah Board of Higher Education or that member's designee;

(j) three representatives of veteran service organizations recommended by the Veterans Advisory Council and confirmed by the commission;

(k) one member of the Executive Committee of the Utah Defense Alliance;

(l) one military affairs representative from a chamber of commerce member, appointed by the Utah State Chamber of Commerce; and

(m) a representative from the Veterans Health Administration.

(3) The commission may appoint by majority vote of the entire commission up to five pro tempore members, representing:

(a) state or local government agencies;

(b) interest groups concerned with veterans issues; or

(c) the general public.

(4) (a) The president of the Senate shall designate a member of the Senate appointed under Subsection (2)(a) as a cochair of the commission.

(b) The speaker of the House of Representatives shall designate a member of the House of Representatives appointed under Subsection (2)(a) as a cochair of the commission.

(5) A majority of the members of the commission shall constitute a quorum. The action of a majority of a quorum constitutes the action of the commission.

(6) The term for each pro tempore member appointed in accordance with Subsection (3) shall be two years from July 1 of the year of appointment. A pro tempore member may not serve more than three terms.

(7) If a member leaves office or is unable to serve, the vacancy shall be filled as it was originally appointed. A person appointed to fill a vacancy under Subsection (6) serves the remaining unexpired term of the member being replaced. If the remaining unexpired term is less than six months, the newly appointed member shall be reappointed on July 1. The time served until July 1 is not counted in the restriction set forth in Subsection (6).

(8) A member may not receive compensation or benefits for the member's service but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

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

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

(9) Salaries and expenses of the members of the commission who are legislators shall be paid in accordance with Section 36-2-2 and Legislative Joint Rules, Title 5, Chapter 3, Legislator Compensation.

CHAPTER 79
H. B. 20
Passed February 12, 2021
Approved March 16, 2021
Effective May 5, 2021

DRIVING UNDER THE INFLUENCE SENTENCING AMENDMENTS

Chief Sponsor: Steve Eliason
Senate Sponsor: Curtis S. Bramble
Cosponsor: Matthew H. Gwynn

LONG TITLE

General Description:

This bill amends provisions related to penalties for driving under the influence and related offenses.

Highlighted Provisions:

This bill:

- prohibits sentencing reductions for driving under the influence related offenses in certain circumstances;
- requires reinstatement of certain sentences if an individual fails to complete certain requirements of an approved 24/7 sobriety program;
- creates a separate offense for each person in a vehicle that is under 16 years old when the driver is operating the vehicle while under the influence of drugs or alcohol;
- prohibits an impaired driving reduction if:
  - the person had a blood alcohol level of .16 or higher;
  - the person had a blood alcohol level of .05 or higher in addition to any measurable controlled substance in the person's body; or
  - the person had a combination of two or more controlled substances in the person's body that were not appropriately prescribed or recommended;
- provides additional sentencing options for certain individuals convicted of driving under the influence;
- for purposes of sentencing, excludes from the definition of "controlled substance" an inactive metabolite of the controlled substance;
- prohibits a plea in abeyance for certain offenses related to driving under the influence; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

41-6a-501, as last amended by Laws of Utah 2020, Chapter 177
41-6a-502.5, as last amended by Laws of Utah 2015, Chapter 438
41-6a-503, as last amended by Laws of Utah 2020, Chapter 177
41-6a-505, as last amended by Laws of Utah 2019, Chapter 136
41-6a-512, as last amended by Laws of Utah 2015, Chapter 438
77-2a-3, as last amended by Laws of Utah 2008, Chapters 3, 339, and 382

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

Section 1. Section 41-6a-501 is amended to read:

41-6a-501. Definitions.

(1) As used in this part:

(a) "Actual physical control" is determined by a consideration of the totality of the circumstances, but does not include a circumstance in which:

(i) the person is asleep inside the vehicle;

(ii) the person is not in the driver's seat of the vehicle;

(iii) the engine of the vehicle is not running;

(iv) the vehicle is lawfully parked; and

(v) under the facts presented, it is evident that the person did not drive the vehicle to the location while under the influence of alcohol, a drug, or the combined influence of alcohol and any drug.

(b) "Assessment" means an in-depth clinical interview with a licensed mental health therapist:

(i) used to determine if a person is in need of:

(A) substance abuse treatment that is obtained at a substance abuse program;

(B) an educational series; or

(C) a combination of Subsections (1)(b)(i)(A) and (B); and

(ii) that is approved by the Division of Substance Abuse and Mental Health in accordance with Section 62A-15-105.

(c) "Driving under the influence court" means a court that is approved as a driving under the influence court by the Utah Judicial Council according to standards established by the Judicial Council.

(d) "Drug" or "drugs" means:

(i) a controlled substance as defined in Section 58-37-2;

(ii) a drug as defined in Section 58-17b-102; or

(iii) any substance that, when knowingly, intentionally, or recklessly taken into the human body, can impair the ability of a person to safely operate a motor vehicle.

(e) "Educational series" means an educational series obtained at a substance abuse program that is approved by the Division of Substance Abuse and Mental Health in accordance with Section 62A-15-105.

(f) "Negligence" means simple negligence, the failure to exercise that degree of care that an ordinarily reasonable and prudent person exercises under like or similar circumstances.

(g) "Novice learner driver" means an individual who:

(i) has applied for a Utah driver license;

(ii) has not previously held a driver license in this state or another state; and

(iii) has not completed the requirements for issuance of a Utah driver license.

(h) "Screening" means a preliminary appraisal of a person:

(i) used to determine if the person is in need of:

(A) an assessment; or

(B) an educational series; and

(ii) that is approved by the Division of Substance Abuse and Mental Health in accordance with Section 62A-15-105.

(i) "Serious bodily injury" means bodily injury that creates or causes:

(i) serious permanent disfigurement;

(ii) protracted loss or impairment of the function of any bodily member or organ; or

(iii) a substantial risk of death.

(j) "Substance abuse treatment" means treatment obtained at a substance abuse program that is approved by the Division of Substance Abuse and Mental Health in accordance with Section 62A-15-105.

(k) "Substance abuse treatment program" means a state licensed substance abuse program.

(l) (i) "Vehicle" or "motor vehicle" means a vehicle or motor vehicle as defined in Section 41-6a-102; and

(ii) "Vehicle" or "motor vehicle" includes:

(A) an off-highway vehicle as defined under Section 41-22-2; and

(B) a motorboat as defined in Section 73-18-2.

(2) As used in Section 41-6a-503:

(a) "Conviction" means any conviction arising from a separate episode of driving for a violation of:

(i) driving under the influence under Section 41-6a-502;

(ii) (A) for an offense committed before July 1, 2008, alcohol, any drug, or a combination of both-related reckless driving under:

(I) Section 41-6a-512; and

(II) Section 41-6a-528; or

(B) for an offense committed on or after July 1, 2008, impaired driving under Section 41-6a-502.5;

(iii) driving with any measurable controlled substance that is taken illegally in the body under Section 41-6a-517;

(iv) local ordinances similar to Section 41-6a-502, alcohol, any drug, or a combination of both-related reckless driving, or impaired driving under Section 41-6a-502.5 adopted in compliance with Section 41-6a-510;

(v) automobile homicide under Section 76-5-207;

(vi) Subsection 58-37-8(2)(g);

(vii) a violation described in Subsections (2)(a)(i) through (vi), which judgment of conviction is reduced under Section 76-3-402;

(viii) refusal of a chemical test under Subsection 41-6a-520(7); or

(ix) statutes or ordinances previously in effect in this state or in effect in any other state, the United States, or any district, possession, or territory of the United States which would constitute a violation of Section 41-6a-502 or alcohol, any drug, or a combination of both-related reckless driving if committed in this state, including punishments administered under 10 U.S.C. Sec. 815.

(b) A plea of guilty or no contest to a violation described in Subsections (2)(a)(i) through (ix) which plea was held in abeyance under Title 77, Chapter 2a, Pleas in Abeyance, prior to July 1, 2008, is the equivalent of a conviction, even if the charge has been subsequently reduced or dismissed in accordance with the plea in abeyance agreement, for purposes of:

(i) enhancement of penalties under:

(A) this Chapter 6a, Part 5, Driving Under the Influence and Reckless Driving; and

(B) automobile homicide under Section 76-5-207; and

(ii) expungement under Title 77, Chapter 40, Utah Expungement Act.

(c) An admission to a violation of Section 41-6a-502 in juvenile court is the equivalent of a conviction even if the charge has been subsequently dismissed in accordance with the Utah Rules of Juvenile Procedure for the purposes of enhancement of penalties under:

(i) this part; and

(ii) automobile homicide under Section 76-5-207.

(3) As used in Section 41-6a-505, "controlled substance" does not include an inactive metabolite of a controlled substance.

Section 2. Section 41-6a-502.5 is amended to read:

41-6a-502.5. Impaired driving -- Penalty -- Reporting of convictions -- Sentencing requirements.

(1) With the agreement of the prosecutor, a plea to a class B misdemeanor violation of Section 41-6a-502 committed on or after July 1, 2008, may be entered as a conviction of impaired driving under this section if:

(a) the defendant completes court ordered probation requirements; or

(b) (i) the prosecutor agrees as part of a negotiated plea; and

(ii) the court finds the plea to be in the interest of justice.

(2) A conviction entered under this section is a class B misdemeanor.

(3) (a) (i) If the entry of an impaired driving plea is based on successful completion of probation under Subsection (1)(a), the court shall enter the conviction at the time of the plea.

(ii) If the defendant fails to appear before the court and establish successful completion of the court ordered probation requirements under Subsection (1)(a), the court shall enter an amended conviction of Section 41-6a-502.

(iii) The date of entry of the amended order under Subsection (3)(a)(ii) is the date of conviction.

(b) The court may enter a conviction of impaired driving immediately under Subsection (1)(b).

(4) For purposes of Section 76-3-402, the entry of a plea to a class B misdemeanor violation of Section 41-6a-502 as impaired driving under this section is a reduction of one degree.

(5) (a) The court shall notify the Driver License Division of each conviction entered under this section.

(b) Beginning on July 1, 2012, a court shall, monthly, send to the Division of Occupational and Professional Licensing, created in Section 58-1-103, a report containing the name, case number, and, if known, the date of birth of each person convicted during the preceding month of a violation of this section for whom there is evidence that the person was driving while impaired, in whole or in part, by a prescribed controlled substance.

(6) (a) The provisions in Subsections [~~41-6a-505(1), (2), and (4)~~] 41-6a-505(1), (3), (5), and (7) that require a sentencing court to order a convicted person to participate in a screening, an assessment, or an educational series, or obtain substance abuse treatment or do a combination of those things, apply to a conviction entered under this section.

(b) The court shall render the same order regarding screening, assessment, an educational series, or substance abuse treatment in connection with a first, second, or subsequent conviction under this section as the court would render in connection with applying respectively, the first, second, or subsequent conviction requirements of [~~Subsection~~] Subsections [~~41-6a-505(1), (2), or (4)~~] 41-6a-505(1), (3), (5), and (7).

(7) (a) Except as provided in Subsection (7)(b), a report authorized by Section 53-3-104 may not contain any evidence of a conviction for impaired driving in this state if the reporting court notifies the Driver License Division that the defendant is participating in or has successfully completed the program of a driving under the influence court.

(b) The provisions of Subsection (7)(a) do not apply to a report concerning:

(i) a CDL license holder; or

(ii) a violation that occurred in a commercial motor vehicle.

(8) The provisions of this section are not available:

(a) to a person who has a prior conviction as that term is defined in Subsection 41-6a-501(2)[~~.~~]; or

(b) where there is admissible evidence that the individual:

(i) had a blood alcohol level of .16 or higher;

(ii) had a blood alcohol level of .05 or higher in addition to any measurable controlled substance; or

(iii) had a combination of two or more controlled substances in the person's body that were not:

(A) prescribed by a licensed physician; or

(B) recommended in accordance with Title 26, Chapter 61a, Utah Medical Cannabis Act.

Section 3. Section 41-6a-503 is amended to read:

41-6a-503. Penalties for driving under the influence violations.

(1) A person who violates for the first or second time Section 41-6a-502 is guilty of a:

(a) class B misdemeanor; or

(b) class A misdemeanor if the person:

(i) has also inflicted bodily injury upon another as a proximate result of having operated the vehicle in a negligent manner;

(ii) had a passenger under 16 years of age in the vehicle at the time of the offense;

(iii) was 21 years of age or older and had a passenger under 18 years of age in the vehicle at the time of the offense; or

(iv) at the time of the violation of Section 41-6a-502, also violated Section 41-6a-712 or 41-6a-714.

(2) A person who violates Section 41-6a-502 is guilty of a third degree felony if:

(a) the person has also inflicted serious bodily injury upon another as a proximate result of having operated the vehicle in a negligent manner;

(b) the person has two or more prior convictions as defined in Subsection 41-6a-501(2), each of which is within 10 years of:

(i) the current conviction under Section 41-6a-502; or

(ii) the commission of the offense upon which the current conviction is based; or

(c) the conviction under Section 41-6a-502 is at any time after a conviction of:

(i) automobile homicide under Section 76-5-207 that is committed after July 1, 2001;

(ii) a felony violation of Section 41-6a-502 or a statute previously in effect in this state that would constitute a violation of Section 41-6a-502 that is committed after July 1, 2001; or

(iii) any conviction described in Subsection (2)(c)(i) or (ii) which judgment of conviction is reduced under Section 76-3-402.

(3) A person is guilty of a separate offense for each victim suffering bodily injury or serious bodily injury as a result of the person's violation of Section 41-6a-502 or death as a result of the person's violation of Section 76-5-207 whether or not the injuries arise from the same episode of driving.

(4) A person is guilty of a separate offense under Subsection (1)(b)(ii) for each passenger in the vehicle at the time of the offense that is under 16 years old.

Section 4. Section 41-6a-505 is amended to read:

41-6a-505. Sentencing requirements for driving under the influence of alcohol, drugs, or a combination of both violations.

(1) As part of any sentence for a first conviction of Section 41-6a-502 where there is admissible evidence that the individual had a blood alcohol level of .16 or higher, had a blood alcohol level of .05 or higher in addition to any measurable controlled substance, or had a combination of two or more controlled substances in the individual's body that were not recommended in accordance with Title 26, Chapter 61a, Utah Medical Cannabis Act or prescribed:

(a) the court shall:

(i) (A) impose a jail sentence of not less than [~~48 consecutive hours~~] five days; or

(B) [~~require the individual to work in a compensatory-service work program for not less than 48 hours;~~] impose a jail sentence of not less than two days in addition to home confinement of not fewer than 30 consecutive days through the use of electronic monitoring that includes a substance abuse testing instrument in accordance with Section 41-6a-506;

(ii) order the individual to participate in a screening;

(iii) order the individual to participate in an assessment, if it is found appropriate by a screening under Subsection (1)(a)(ii);

(iv) order the individual to participate in an educational series if the court does not order substance abuse treatment as described under Subsection (1)(b);

(v) impose a fine of not less than $700;

(vi) order probation for the individual in accordance with Section 41-6a-507[~~, if there is admissible evidence that the individual had a blood alcohol level of .16 or higher~~];

(vii) (A) order the individual to pay the administrative impound fee described in Section 41-6a-1406; or

(B) if the administrative impound fee was paid by a party described in Subsection 41-6a-1406(5)(a), other than the individual sentenced, order the individual sentenced to reimburse the party; or

(viii) (A) order the individual to pay the towing and storage fees described in Section 72-9-603; or

(B) if the towing and storage fees were paid by a party described in Subsection 41-6a-1406(5)(a), other than the individual sentenced, order the individual sentenced to reimburse the party; and

(b) the court may:

(i) order the individual to obtain substance abuse treatment if the substance abuse treatment program determines that substance abuse treatment is appropriate;

(ii) order probation for the individual in accordance with Section 41-6a-507;

(iii) order the individual to participate in a [~~24-7~~] 24/7 sobriety program as defined in Section 41-6a-515.5 if the individual is 21 years [~~of age~~] old or older; or

(iv) order a combination of Subsections (1)(b)(i) through (iii).

(2) (a) If an individual described in Subsection (1) is participating in a 24/7 sobriety program as defined in Section 41-6a-515.5, the court may suspend the jail sentence imposed under Subsection (1)(a).

(b) If an individual described in Subsection (1) fails to successfully complete all of the requirements of the 24/7 sobriety program, the court shall impose the suspended jail sentence described in Subsection (2)(a).

(3) As part of any sentence for any first conviction of Section 41-6a-502 not described in Subsection (1):

(a) the court shall:

(i) (A) impose a jail sentence of not less than 2 days; or

(B) require the individual to work in a compensatory-service work program for not less than 48 hours;

(ii) order the individual to participate in a screening;

(iii) order the individual to participate in an assessment, if it is found appropriate by a screening under Subsection (3)(a)(ii);

(iv) order the individual to participate in an educational series if the court does not order substance abuse treatment as described under Subsection (3)(b);

(v) impose a fine of not less than $700;

(vi) (A) order the individual to pay the administrative impound fee described in Section 41-6a-1406; or

(B) if the administrative impound fee was paid by a party described in Subsection 41-6a-1406(5)(a), other than the individual sentenced, order the individual sentenced to reimburse the party; or

(vii) (A) order the individual to pay the towing and storage fees described in Section 72-9-603; or

(B) if the towing and storage fees were paid by a party described in Subsection 41-6a-1406(5)(a), other than the individual sentenced, order the individual sentenced to reimburse the party; and

(b) the court may:

(i) order the individual to obtain substance abuse treatment if the substance abuse treatment program determines that substance abuse treatment is appropriate;

(ii) order probation for the individual in accordance with Section 41-6a-507;

(iii) order the individual to participate in a 24/7 sobriety program as defined in Section 41-6a-515.5 if the individual is 21 years old or older; or

(iv) order a combination of Subsections (3)(b)(i) through (iii).

(4) (a) If an individual described in Subsection (3) is participating in a 24/7 sobriety program as defined in Section 41-6a-515.5, the court may suspend the jail sentence imposed under Subsection (3)(a).

(b) If an individual described in Subsection (4)(a) fails to successfully complete all of the requirements of the 24/7 sobriety program, the court shall impose the suspended jail sentence described in Subsection (4)(a).

[~~(2)~~] (5) If an individual has a prior conviction as defined in Subsection 41-6a-501(2) that is within 10 years of the current conviction under Section 41-6a-502 or the commission of the offense upon which the current conviction is based and where there is admissible evidence that the individual had a blood alcohol level of .16 or higher, had a blood alcohol level of .05 or higher in addition to any measurable controlled substance, or had a combination of two or more controlled substances in the individual's body that were not recommended in accordance with Title 26, Chapter 61a, Utah Medical Cannabis Act or prescribed:

(a) the court shall:

(i) (A) impose a jail sentence of not less than [~~240 hours~~] 20 days; [~~or~~]

(B) impose a jail sentence of not less than [~~120 hours~~] 10 days in addition to home confinement of not fewer than [~~720 consecutive hours~~] 60 consecutive days through the use of electronic monitoring that includes a substance abuse testing instrument in accordance with Section 41-6a-506; or

(C) impose a jail sentence of not less than 10 days in addition to ordering the individual to obtain substance abuse treatment, if the court finds that substance abuse treatment is more likely to reduce recidivism and is in the interests of public safety;

(ii) order the individual to participate in a screening;

(iii) order the individual to participate in an assessment, if it is found appropriate by a screening under Subsection [~~(2)~~] (5)(a)(ii);

(iv) order the individual to participate in an educational series if the court does not order substance abuse treatment as described under Subsection [~~(2)~~] (5)(b);

(v) impose a fine of not less than $800;

(vi) order probation for the individual in accordance with Section 41-6a-507;

(vii) (A) order the individual to pay the administrative impound fee described in Section 41-6a-1406; or

(B) if the administrative impound fee was paid by a party described in Subsection 41-6a-1406(5)(a), other than the individual sentenced, order the individual sentenced to reimburse the party; or

(viii) (A) order the individual to pay the towing and storage fees described in Section 72-9-603; or

(B) if the towing and storage fees were paid by a party described in Subsection 41-6a-1406(5)(a), other than the individual sentenced, order the individual sentenced to reimburse the party; and

(b) the court may:

(i) order the individual to obtain substance abuse treatment if the substance abuse treatment program determines that substance abuse treatment is appropriate;

(ii) order the individual to participate in a [~~24-7~~] 24/7 sobriety program as defined in Section 41-6a-515.5 if the individual is 21 years [~~of age~~] old or older; or

(iii) order a combination of Subsections [~~(2)~~] (5)(b)(i) and (ii).

(6) (a) If an individual described in Subsection (5) is participating in a 24/7 sobriety program as defined in Section 41-6a-515.5, the court may suspend the jail sentence imposed under Subsection (5)(a) after the individual has served a minimum of:

(i) five days of the jail sentence for a second offense; or

(ii) 10 days of the jail sentence for a third or subsequent offense.

(b) If an individual described in Subsection (6)(a) fails to successfully complete all of the requirements of the 24/7 sobriety program, the court shall impose the suspended jail sentence described in Subsection (6)(a).

(7) If an individual has a prior conviction as defined in Subsection 41-6a-501(2) that is within 10 years of the current conviction under Section 41-6a-502 or the commission of the offense upon

which the current conviction is based and that does not qualify under Subsection (5):

(a) the court shall:

(i) (A) impose a jail sentence of not less than 10 days; or

(B) impose a jail sentence of not less than 5 days in addition to home confinement of not fewer than 30 consecutive days through the use of electronic monitoring that includes a substance abuse testing instrument in accordance with Section 41-6a-506;

(ii) order the individual to participate in a screening;

(iii) order the individual to participate in an assessment, if it is found appropriate by a screening under Subsection (7)(a)(ii);

(iv) order the individual to participate in an educational series if the court does not order substance abuse treatment as described under Subsection (7)(b);

(v) impose a fine of not less than $800;

(vi) order probation for the individual in accordance with Section 41-6a-507;

(vii) (A) order the individual to pay the administrative impound fee described in Section 41-6a-1406; or

(B) if the administrative impound fee was paid by a party described in Subsection 41-6a-1406(5)(a), other than the individual sentenced, order the individual sentenced to reimburse the party; or

(viii) (A) order the individual to pay the towing and storage fees described in Section 72-9-603; or

(B) if the towing and storage fees were paid by a party described in Subsection 41-6a-1406(5)(a), other than the individual sentenced, order the individual sentenced to reimburse the party; and

(b) the court may:

(i) order the individual to obtain substance abuse treatment if the substance abuse treatment program determines that substance abuse treatment is appropriate;

(ii) order the individual to participate in a 24/7 sobriety program as defined in Section 41-6a-515.5 if the individual is 21 years old or older; or

(iii) order a combination of Subsections (7)(b)(i) and (ii).

(8) (a) If an individual described in Subsection (7) is participating in a 24/7 sobriety program as defined in Section 41-6a-515.5, the court may suspend the jail sentence imposed under Subsection (7)(a) after the individual has served a minimum of:

(i) five days of the jail sentence for a second offense; or

(ii) 10 days of the jail sentence for a third or subsequent offense.

(b) If an individual described in Subsection (8)(a) fails to successfully complete all of the requirements of the 24/7 sobriety program, the court shall impose the suspended jail sentence described in Subsection (8)(a).

[~~(3)~~] (9) Under Subsection 41-6a-503(2), if the court suspends the execution of a prison sentence and places the defendant on probation where there is admissible evidence that the individual had a blood alcohol level of .16 or higher, had a blood alcohol level of .05 in addition to any measurable controlled substance, or had a combination of two or more controlled substances in the person's body that were not recommended in accordance with Title 26, Chapter 61a, Utah Medical Cannabis Act or prescribed, the court shall impose:

(a) a fine of not less than $1,500;

(b) a jail sentence of not less than [~~1,500 hours~~] 120 days; [~~and~~]

(c) home confinement of not fewer than 120 consecutive days through the use of electronic monitoring that includes a substance abuse testing instrument in accordance with Section 41-6a-506; and

[~~(c)~~] (d) supervised probation.

[~~(4)~~] (10) (a) For Subsection [~~(3)~~] (9) or Subsection 41-6a-503(2)(b), the court:

[~~(a)~~] (i) shall impose an order requiring the individual to obtain a screening and assessment for alcohol and substance abuse, and treatment as appropriate; and

[~~(b)~~] (ii) may impose an order requiring the individual to participate in a [~~24-7~~] 24/7 sobriety program as defined in Section 41-6a-515.5 if the individual is 21 years [~~of age~~] old or older.

(b) If an individual described in Subsection (10)(a)(ii) fails to successfully complete all of the requirements of the 24/7 sobriety program, the court shall impose the suspended prison sentence described in Subsection (9).

[~~(5) The requirements of Subsections (1)(a), (2)(a), (3), and (4) may not be suspended.~~]

(11) Under Subsection 41-6a-503(2), if the court suspends the execution of a prison sentence and places the defendant on probation with a sentence not described in Subsection (9), the court shall impose:

(a) a fine of not less than $1,500;

(b) a jail sentence of not less than 60 days;

(c) home confinement of not fewer than 60 consecutive days through the use of electronic monitoring that includes a substance abuse testing instrument in accordance with Section 41-6a-506; and

(d) supervised probation.

(12) (a) (i) Except as described in Subsection (12)(a)(ii), a court may not suspend the requirements of this section.

(ii) A court may suspend requirements as described in Subsection (2), (4), (6), (8), (10)(b), or (11).

(b) A court, with stipulation of both parties and approval from the judge, may convert a jail sentence required in this section to electronic home confinement.

(c) A court may order a jail sentence imposed as a condition of misdemeanor probation under this section to be served in multiple two-day increments at weekly intervals if the court determines that separate jail increments are necessary to ensure the defendant can serve the statutorily required jail term and maintain employment.

[~~(6)~~] (13) If an individual is convicted of a violation of Section 41-6a-502 and there is admissible evidence that the individual had a blood alcohol level of .16 or higher, the court shall order the following, or describe on record why the order or orders are not appropriate:

(a) treatment as described under Subsection (1)(b), [~~(2)(b), or (4)~~] (3)(b), (5)(b), or (7)(b); and

(b) one or more of the following:

(i) the installation of an ignition interlock system as a condition of probation for the individual in accordance with Section 41-6a-518;

(ii) the imposition of an ankle attached continuous transdermal alcohol monitoring device as a condition of probation for the individual; or

(iii) the imposition of home confinement through the use of electronic monitoring in accordance with Section 41-6a-506.

Section 5. Section 41-6a-512 is amended to read:

41-6a-512. Factual basis for alcohol or drug-related reckless driving plea.

(1) (a) The prosecution shall state for the record a factual basis for a plea, including whether or not there had been consumption of alcohol, drugs, or a combination of both, by the defendant in connection with the violation when the prosecution agrees to a plea of guilty or no contest to a charge of a violation of the following in satisfaction of, or as a substitute for, an original charge of a violation of Section 41-6a-502 for an offense committed before July 1, 2008:

(i) reckless driving under Section 41-6a-528; or

(ii) an ordinance enacted under Section 41-6a-510.

(b) The statement under Subsection (1)(a) is an offer of proof of the facts that shows whether there was consumption of alcohol, drugs, or a combination of both, by the defendant, in connection with the violation.

(2) The court shall advise the defendant before accepting the plea offered under this section of the consequences of a violation of Section 41-6a-528.

(3) The court shall notify the Driver License Division of each conviction of Section 41-6a-528 entered under this section.

(4) (a) The provisions in Subsections [~~41-6a-505(1), (2), and (4)~~] 41-6a-505(1), (3), (5), and (7) that require a sentencing court to order a convicted person to participate in a screening, an assessment, or an educational series or obtain substance abuse treatment or do a combination of those things, apply to a conviction for a violation of Section 41-6a-528 under Subsection (1).

(b) The court shall render the same order regarding screening, assessment, an educational series, or substance abuse treatment in connection with a first, second, or subsequent conviction under Section 41-6a-528 under Subsection (1), as the court would render in connection with applying respectively, the first, second, or subsequent conviction requirements of Subsections [~~41-6a-505(1), (2), and (4)~~] 41-6a-505(1), (3), (5), and (7).

Section 6. Section 77-2a-3 is amended to read:

77-2a-3. Manner of entry of plea -- Powers of court.

(1) (a) Acceptance of any plea in anticipation of a plea in abeyance agreement shall be done in full compliance with the provisions of Rule 11, Utah Rules of Criminal Procedure.

(b) In cases charging offenses for which bail may be forfeited, a plea in abeyance agreement may be entered into without a personal appearance before a magistrate.

(2) A plea in abeyance agreement may provide that the court may, upon finding that the defendant has successfully completed the terms of the agreement:

(a) reduce the degree of the offense and enter judgment of conviction and impose sentence for a lower degree of offense; or

(b) allow withdrawal of defendant's plea and order the dismissal of the case.

(3) Upon finding that a defendant has successfully completed the terms of a plea in abeyance agreement, the court may reduce the degree of the offense or dismiss the case only as provided in the plea in abeyance agreement or as agreed to by all parties. Upon sentencing a defendant for any lesser offense pursuant to a plea in abeyance agreement, the court may not invoke Section 76-3-402 to further reduce the degree of the offense.

(4) The court may require the Department of Corrections to assist in the administration of the plea in abeyance agreement as if the defendant were on probation to the court under Section 77-18-1.

(5) The terms of a plea in abeyance agreement may include:

(a) an order that the defendant pay a nonrefundable plea in abeyance fee, with a

surcharge based on the amount of the plea in abeyance fee, both of which shall be allocated in the same manner as if paid as a fine for a criminal conviction under Section 78A-5-110 and a surcharge under Title 51, Chapter 9, Part 4, Criminal Conviction Surcharge Allocation, and which may not exceed in amount the maximum fine and surcharge which could have been imposed upon conviction and sentencing for the same offense;

(b) an order that the defendant pay restitution to the victims of the defendant's actions as provided in Title 77, Chapter 38a, Crime Victims Restitution Act;

(c) an order that the defendant pay the costs of any remedial or rehabilitative program required by the terms of the agreement; and

(d) an order that the defendant comply with any other conditions which could have been imposed as conditions of probation upon conviction and sentencing for the same offense.

(6) A court may not hold a plea in abeyance without the consent of both the prosecuting attorney and the defendant. A decision by a prosecuting attorney not to agree to a plea in abeyance is final.

(7) No plea may be held in abeyance in any case involving a sexual offense against a victim who is under the age of 14.

(8) [~~Beginning on July 1, 2008, no~~] No plea may be held in abeyance in any case involving a driving under the influence violation under Section 41-6a-502, 41-6a-502.5, 41-6a-517, or 41-6a-520.

CHAPTER 80
H. B. 23
Passed February 22, 2021
Approved March 16, 2021
Effective May 5, 2021

VOTER REFERENDUM AMENDMENTS

Chief Sponsor: Merrill F. Nelson
Senate Sponsor: Scott D. Sandall

LONG TITLE

General Description:

This bill addresses local referenda.

Highlighted Provisions:

This bill:

- modifies the definition of a land use law; and
- modifies the elections at which a referendum relating to legislative action taken after April 15 may appear on the ballot.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

20A-7-101, as last amended by Laws of Utah 2019, Chapters 136, 203, and 210
20A-7-607, as last amended by Laws of Utah 2020, Chapter 31

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

Section 1. Section 20A-7-101 is amended to read:

20A-7-101. Definitions.

As used in this chapter:

(1) "Budget officer" means:

(a) for a county, the person designated as budget officer in Section 17-19a-203;

(b) for a city, the person designated as budget officer in Subsection 10-6-106(4);

(c) for a town, the town council; or

(d) for a metro township, the person described in Subsection (1)(a) for the county in which the metro township is located.

(2) "Certified" means that the county clerk has acknowledged a signature as being the signature of a registered voter.

(3) "Circulation" means the process of submitting an initiative or referendum petition to legal voters for their signature.

(4) "Eligible voter" means a legal voter who resides in the jurisdiction of the county, city, or town that is holding an election on a ballot proposition.

(5) "Final fiscal impact statement" means a financial statement prepared after voters approve an initiative that contains the information required by Subsection 20A-7-202.5(2) or 20A-7-502.5(2).

(6) "Initial fiscal impact estimate" means:

(a) a financial statement prepared under Section 20A-7-202.5 after the filing of an application for an initiative petition; or

(b) a financial and legal statement prepared under Section 20A-7-502.5 or 20A-7-602.5 for an initiative or referendum petition.

(7) "Initiative" means a new law proposed for adoption by the public as provided in this chapter.

(8) "Initiative packet" means a copy of the initiative petition, a copy of the proposed law, and the signature sheets, all of which have been bound together as a unit.

(9) (a) "Land use law" means a law of general applicability, enacted based on the weighing of broad, competing policy considerations, that relates to the use of land, including land use regulation, a general plan, a land use development code, an annexation ordinance, the rezoning of a single property or multiple properties, or a comprehensive zoning ordinance or resolution.

(b) "Land use law" does not include a land use decision, as defined in Section 10-9a-103 or 17-27a-103.

(10) "Legal signatures" means the number of signatures of legal voters that:

(a) meet the numerical requirements of this chapter; and

(b) have been obtained, certified, and verified as provided in this chapter.

(11) "Legal voter" means a person who:

(a) is registered to vote; or

(b) becomes registered to vote before the county clerk certifies the signatures on an initiative or referendum petition.

(12) "Legally referable to voters" means:

(a) for a proposed local initiative, that the proposed local initiative is legally referable to voters under Section 20A-7-502.7; or

(b) for a proposed local referendum, that the proposed local referendum is legally referable to voters under Section 20A-7-602.7.

(13) "Local attorney" means the county attorney, city attorney, or town attorney in whose jurisdiction a local initiative or referendum petition is circulated.

(14) "Local clerk" means the county clerk, city recorder, or town clerk in whose jurisdiction a local initiative or referendum petition is circulated.

(15) (a) "Local law" includes:

(i) an ordinance;

(ii) a resolution;

(iii) a land use law; [~~or~~]

(iv) a land use regulation, as defined in Section 10-9a-103; or

[~~(iv)~~] (v) other legislative action of a local legislative body.

(b) "Local law" does not include [~~an individual property zoning decision~~] a land use decision, as defined in Section 10-9a-103.

(16) "Local legislative body" means the legislative body of a county, city, town, or metro township.

(17) "Local obligation law" means a local law passed by the local legislative body regarding a bond that was approved by a majority of qualified voters in an election.

(18) "Local tax law" means a law, passed by a political subdivision with an annual or biannual calendar fiscal year, that increases a tax or imposes a new tax.

(19) "Measure" means a proposed constitutional amendment, an initiative, or referendum.

(20) "Referendum" means a process by which a law passed by the Legislature or by a local legislative body is submitted or referred to the voters for their approval or rejection.

(21) "Referendum packet" means a copy of the referendum petition, a copy of the law being submitted or referred to the voters for their approval or rejection, and the signature sheets, all of which have been bound together as a unit.

(22) (a) "Signature" means a holographic signature.

(b) "Signature" does not mean an electronic signature.

(23) "Signature sheets" means sheets in the form required by this chapter that are used to collect signatures in support of an initiative or referendum.

(24) "Special local ballot proposition" means a local ballot proposition that is not a standard local ballot proposition.

(25) "Sponsors" means the legal voters who support the initiative or referendum and who sign the application for petition copies.

(26) (a) "Standard local ballot proposition" means a local ballot proposition for an initiative or a referendum.

(b) "Standard local ballot proposition" does not include a property tax referendum described in Section 20A-7-613.

(27) "Tax percentage difference" means the difference between the tax rate proposed by an initiative or an initiative petition and the current tax rate.

(28) "Tax percentage increase" means a number calculated by dividing the tax percentage difference by the current tax rate and rounding the result to the nearest thousandth.

(29) "Verified" means acknowledged by the person circulating the petition as required in Sections 20A-7-205 and 20A-7-305.

Section 2. Section 20A-7-607 is amended to read:

20A-7-607. Evaluation by the local clerk -- Determination of election for vote on referendum.

(1) When each referendum packet is received from a county clerk, the local clerk shall check off from the local clerk's record the number of each referendum packet filed.

(2) Within two days after the day on which the local clerk receives each referendum packet from a county clerk, the local clerk shall:

(a) count the number of the names certified by the county clerks that appear on each verified signature sheet;

(b) if the total number of certified names from each verified signature sheet equals or exceeds the number of names required by Section 20A-7-601 and the requirements of this part are met, mark upon the front of the petition the word "sufficient";

(c) if the total number of certified names from each verified signature sheet does not equal or exceed the number of names required by Section 20A-7-601 or a requirement of this part is not met, mark upon the front of the petition the word "insufficient"; and

(d) notify any one of the sponsors of the local clerk's finding.

(3) If the local clerk finds the total number of certified signatures from each verified signature sheet to be insufficient, any sponsor may file a written demand with the local clerk for a recount of the signatures appearing on the referendum petition in the presence of any sponsor.

(4) (a) If the local clerk refuses to accept and file any referendum petition, any voter may apply to a court for an extraordinary writ to compel the local clerk to do so within 10 days after the refusal.

(b) If a court determines that the referendum petition is legally sufficient, the local clerk shall file the petition, with a verified copy of the judgment attached to the petition, as of the date on which it was originally offered for filing in the local clerk's office.

(c) If a court determines that any petition filed is not legally sufficient, the court may enjoin the local clerk and all other officers from:

(i) certifying or printing the ballot title and numbers of that measure on the official ballot for the next election; or

(ii) as it relates to a local tax law that is conducted entirely by mail, certifying, printing, or mailing the ballot title and numbers of that measure under Section 20A-7-609.5.

(5) A petition determined to be sufficient in accordance with this section is qualified for the ballot.

(6) (a) [~~If~~] Except as provided in Subsection (6)(b) or (c), if a referendum relates to legislative action taken after April 15, the election officer may not place the referendum on an election ballot until a primary election, a general election, or a special election the following year.

(b) The election officer may place a referendum described in Subsection (6)(a) on the ballot for a special, primary, or general election held during the year that the legislative action was taken if the following agree, in writing, on a timeline to place the referendum on that ballot:

(i) the local clerk;

(ii) the county clerk; and

(iii) the attorney for the county or municipality that took the legislative action.

[~~(b)~~] (c) For a referendum on a land use law, if, before August 30, the local clerk or a court determines that the total number of certified names equals or exceeds the number of signatures required in Section 20A-7-601, the election officer shall place the referendum on the election ballot for:

(i) the next general election[~~.~~]; or

(ii) another election, if the following agree, in writing, on a timeline to place the referendum on that ballot:

(A) the affected owners, as defined in Subsection 10-9a-103 or 17-27a-103, as applicable;

(B) the local clerk;

(C) the county clerk; and

(D) the attorney for the county or municipality that took the legislative action.

CHAPTER 81
H. B. 24
Passed February 4, 2021
Approved March 16, 2021
Effective May 5, 2021

STATE ENGINEER
ELECTRONIC COMMUNICATIONS

Chief Sponsor: Joel Ferry
Senate Sponsor: David P. Hinkins

LONG TITLE

General Description:

This bill addresses actions taken by the state engineer.

Highlighted Provisions:

This bill:

- permits the state engineer to send electronic communications under certain circumstances; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

73-3-5.6, as last amended by Laws of Utah 2020, Chapter 58
73-3-10, as last amended by Laws of Utah 2013, Chapter 429
73-3-16, as last amended by Laws of Utah 2020, Chapters 278 and 421
73-3-18, as last amended by Laws of Utah 2017, Chapter 75
73-3b-203, as last amended by Laws of Utah 2010, Chapter 107
73-3b-206, as last amended by Laws of Utah 2010, Chapter 107

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

Section 1. Section 73-3-5.6 is amended to read:

73-3-5.6. Applications to appropriate or permanently change a small amount of water -- Proof of appropriation or change.

(1) As used in this section:

(a) "Application" means an application to:

(i) appropriate a small amount of water; or

(ii) permanently change a small amount of water.

(b) "Livestock water right" means a right for:

(i) livestock to consume water:

(A) directly from the water source; or

(B) from an impoundment into which the water is diverted; and

(ii) associated uses of water related to the raising and care of livestock.

(c) "Proof" means proof of:

(i) appropriation; or

(ii) permanent change.

(d) "Small amount of water" means the amount of water necessary to meet the requirements of:

(i) one residence;

(ii) 1/4 acre of irrigable land; and

(iii) a livestock watering right for:

(A) 10 cattle; or

(B) the equivalent amount of water of Subsection (1)(d)(iii)(A) for livestock other than cattle.

(2) The state engineer may approve an application if:

(a) the state engineer undertakes a thorough investigation of the application;

(b) notice is provided in accordance with Subsection (3);

(c) the application complies with the state engineer's regional policies and restrictions and Section 73-3-3 or 73-3-8, as applicable; and

(d) the application does not conflict with a political subdivision's ordinance:

(i) for planning, zoning, or subdivision regulation; or

(ii) under Section 10-8-15.

(3) (a) Advertising of an application specified in Subsection (2) is at the discretion of the state engineer.

(b) If the state engineer finds that the uses proposed by the application may impair other rights, before approving the application, the state engineer shall give notice of the application according to Section 73-3-6.

(4) An applicant receiving approval under this section is responsible for the time limit for construction and submitting proof as required by Subsection (6).

(5) Sixty days before the end of the time limit for construction, the state engineer shall notify the applicant by mail, or send notice electronically if receipt is verifiable, when proof is due.

(6) (a) Notwithstanding Section 73-3-16, the state engineer shall issue a certificate under Section 73-3-17 if, as proof, the applicant files an affidavit:

(i) on a form provided by the state engineer;

(ii) that specifies the amount of:

(A) irrigated land; and

(B) livestock watered; and

(iii) that declares the residence is constructed and occupied.

(b) The form provided by the state engineer under Subsection (6)(a) may require the information the

state engineer determines is necessary to maintain accurate records regarding the point of diversion and place of use.

(7) If an applicant does not file the proof required by Subsection (6) by the day on which the time limit for construction ends, the application lapses under Section 73-3-18.

(8) (a) Except as provided in Subsections (9) and (10), an applicant whose application lapses may file a request with the state engineer to reinstate the application, if the applicant demonstrates that the applicant or the applicant's predecessor in interest:

(i) constructed and occupied a residence within the time limit for construction; and

(ii) beneficially uses the water.

(b) Except as provided in Subsection (10), if an applicant meets the requirements of Subsection (8)(a) and submits an affidavit as provided by Subsection (6), the state engineer shall issue a certificate for the beneficial uses the applicant attests to in an affidavit described in Subsection (6).

(9) For an application related to the use of water located within an area where general determination proceedings under Title 73, Chapter 4, Determination of Water Rights, are pending or concluded, an applicant whose application lapses may not file a request for reinstatement with the state engineer if:

(a) the application lapsed before the state engineer issued notice of the time to file a statement of water users claim under Section 73-4-3; and

(b) the applicant failed to timely submit a statement of claim as described in Subsection (10)(c)(ii).

(10) For an application related to the use of water located within an area where general determination proceedings under Title 73, Chapter 4, Determination of Water Rights, are pending, the state engineer shall allow a reinstatement request under Subsection (8)(a) and, instead of issuing a certificate, evaluate the reinstatement request and statement of claim as part of the general adjudication for the area, if:

(a) the application lapsed before the state engineer issued notice of the time to file a statement of water users claim under Section 73-4-3;

(b) the applicant files the request for reinstatement no more than 90 days after the day on which the state engineer issues the notice of the time to file statements of claim in accordance with Section 73-4-3; and

(c) the applicant files:

(i) an affidavit described in Subsection (6); and

(ii) a timely statement of claim under Section 73-4-5.

(11) If an applicant fulfills the requirements in Subsection (10), the state engineer may issue a certificate before evaluating the claim in the general adjudication.

(12) The priority date for an application reinstated under this section is the day on which the applicant files the request for reinstatement of the application.

Section 2. Section 73-3-10 is amended to read:

73-3-10. Approval or rejection of application.

(1) When the state engineer approves or rejects an application, the state engineer shall record the approval decision or rejection decision in the state engineer's office.

(2) On the same day on which the state engineer makes an approval decision or rejection decision described in Subsection (1), the state engineer shall mail, or send electronically if receipt is verifiable, the decision to the applicant.

(3) If an application is approved, the applicant may, upon receipt of the approval decision:

(a) proceed with the construction of the necessary works;

(b) take any steps required to apply the water to the use described in the application; and

(c) perfect the proposed application.

(4) If the application is rejected, the applicant may not take steps toward the prosecution of:

(a) the work proposed in the application; or

(b) the proposed diversion and use of the public water in the application.

(5) In a decision approving an application, other than an application for a fixed time period, the state engineer shall state the time within which:

(a) the construction work must be completed; and

(b) the water must be applied to beneficial use.

Section 3. Section 73-3-16 is amended to read:

73-3-16. Proof of appropriation or permanent change -- Notice -- Manner of proof -- Statements -- Maps, profiles, and drawings -- Verification -- Waiver of filing -- Statement in lieu of proof of appropriation or change.

(1) Sixty days before the date set for the proof of appropriation or proof of change to be made, the state engineer shall notify the applicant by mail, or send notice electronically if receipt is verifiable, when proof of completion of the works and application of the water to a beneficial use is due.

(2) (a) On or before the date set for completing the proof in accordance with the approved application, the applicant shall file proof with the state engineer on forms furnished by the state engineer.

(b) The filing of a proof in accordance with this section is a request for agency action under Title

63G, Chapter 4, Administrative Procedures Act, only between the applicant and the state engineer.

(3) Except as provided in Subsection (4), the applicant shall submit the following information:

(a) a description of the works constructed;

(b) the quantity of water in acre-feet or the flow in second-feet diverted, or both;

(c) the method of applying the water to beneficial use; and

(d) (i) detailed measurements of water put to beneficial use;

(ii) the date the measurements were made; and

(iii) the name of the person making the measurements.

(4) (a) (i) On applications filed for appropriation or permanent change of use of water to provide a water supply for state projects constructed pursuant to Chapter 10, Board of Water Resources - Division of Water Resources, or for federal projects constructed by the United States Bureau of Reclamation for the use and benefit of the state, any of its agencies, its political subdivisions, public and quasi-municipal corporations, or water users' associations of which the state, its agencies, political subdivisions, or public and quasi-municipal corporations are stockholders, the proof shall include:

(A) a statement indicating construction of the project works has been completed;

(B) a description of the major features with appropriate maps, profiles, drawings, and reservoir area-capacity curves;

(C) a description of the point or points of diversion and rediversion;

(D) project operation data;

(E) a map showing the place of use of water and a statement of the purpose and method of use;

(F) the project plan for beneficial use of water under the applications and the quantity of water required; and

(G) a statement indicating what type of measuring devices have been installed.

(ii) The director of the Division of Water Resources shall sign proofs for the state projects and an authorized official of the Bureau of Reclamation shall sign proofs for the federal projects specified in Subsection (4)(a)(i).

(b) Proof on an application for appropriation or permanent change for a surface storage facility in excess of 1,000 acre-feet constructed by a public water supplier to provide a water supply for the reasonable requirements of the public shall include:

(i) a description of the completed water storage facility;

(ii) a description of the major project features and appropriate maps, profiles, drawings, and reservoir area-capacity curves as required by the state engineer;

(iii) the quantity of water stored in acre-feet;

(iv) a description of the water distribution facility for the delivery of the water; and

(v) the project plan for beneficial use of water including any existing contracts for water delivery.

(5) The proof on an application shall be sworn to by the applicant or the applicant's appointed representative.

(6) (a) Except as provided in Subsection (6)(b), when filing proof, the applicant shall submit maps, profiles, and drawings made by a Utah licensed land surveyor or Utah licensed professional engineer that show:

(i) the location of the completed works;

(ii) the nature and extent of the completed works;

(iii) the natural stream or source from which and the point where the water is diverted and, in the case of a nonconsumptive use, the point where the water is returned; and

(iv) the place of use.

(b) The state engineer may waive the filing of maps, profiles, and drawings if in the state engineer's opinion the written proof adequately describes the works and the nature and extent of beneficial use.

(7) In those areas in which general determination proceedings are pending, or have been concluded, under Chapter 4, Determination of Water Rights, the state engineer may petition the district court for permission to:

(a) waive the requirements of this section and Section 73-3-17; and

(b) permit each owner of an application to file a verified statement to the effect that the applicant has completed the appropriation or change and elects to file a statement of water users claim in the proposed determination of water rights or any supplement to it in accordance with Chapter 4, Determination of Water Rights, in lieu of proof of appropriation or proof of change.

(8) This section does not apply to a fixed time or temporary change application.

Section 4. Section 73-3-18 is amended to read:

73-3-18. Lapse of application -- Notice -- Reinstatement -- Priorities -- Assignment of application -- Filing and recording -- Constructive notice -- Effect of failure to record.

(1) If an application lapses for failure of the applicant to comply with a provision of this title or an order of the state engineer, the state engineer shall promptly give notice of the lapse to the applicant by regular mail, or send notice electronically if receipt is verifiable.

(2) Within 60 days after notice of a lapse described in Subsection (1), the state engineer may,

upon a showing of reasonable cause, reinstate the application with the date of priority changed to the date of reinstatement.

(3) The original priority date of a lapsed application may not be reinstated, except upon a showing of fraud or mistake of the state engineer.

(4) Except as provided in Section 73-3-5.6, Section 73-3-12, Section 73-3-20, or Subsection (2), the priority of an application is determined by the day on which the state engineer's office receives the written application.

(5) Before the state engineer issues a certificate of appropriation, a right claimed under an application for the appropriation of water may be assigned by a written instrument, including by use of a form provided by the state engineer's office.

(6) (a) An instrument assigning a right described in Subsection (5) shall be recorded in the office of the applicable county recorder to provide notice of the instrument's contents.

(b) Beginning July 1, 2017, the state engineer shall consider an assignment using the state engineer's form described in Subsection (5) that is recorded and forwarded to the state engineer as a submitted report of water right conveyance for purposes of fulfilling Subsection 73-1-10(3)(a).

(7) An instrument described in Subsection (5) that is not recorded as described in Subsection (6) is void against any subsequent assignee in good faith and for valuable consideration of the same application or any portion of the same application, if the subsequent assignee's own assignment is recorded as described in Subsection (6) first.

Section 5. Section 73-3b-203 is amended to read:

73-3b-203. Proof of completion, certification, or lapse of recharge permit.

(1) Sixty days before the date on which the recharge permit will lapse under Subsection (3), the state engineer shall notify the applicant by mail, or send notice electronically if receipt is verifiable, when proof of completion is due.

(2) (a) Before the date on which the recharge permit will lapse under Subsection (3), the applicant shall file proof of completion with the state engineer on a form furnished by the state engineer, which shall include:

(i) the location and description of the recharge works constructed;

(ii) the water source for the water artificially recharged and where the water is delivered for artificial recharge;

(iii) the quantity of water, in acre-feet, the flow in second-feet, or both, diverted from the water source described in Subsection (2)(a)(ii);

(iv) the method of artificially recharging the water; and

(v) any other information the state engineer requires.

(b) The state engineer may waive the filing of a map, a profile, or drawing if in the state engineer's opinion the written proof of completion adequately describes the construction and the nature and extent of the recharge project.

(c) The completed proof shall conform to a rule established by the state engineer.

(3) A recharge permit will lapse if the proof of completion of the recharge project's construction is not submitted to the state engineer within five years from the date of the permit application's approval, unless:

(a) the applicant requests an extension of time to complete the recharge project's construction; and

(b) the state engineer approves the extension of time.

(4) (a) The state engineer shall issue a recharge certificate if the recharge permittee has demonstrated to the state engineer's satisfaction that:

(i) a recharge project is perfected in accordance with the recharge permit; and

(ii) the water is being artificially recharged.

(b) The recharge certificate shall include:

(i) the name and post office address of the recharge permittee;

(ii) the maximum quantity of water, in acre-feet or the flow in second-feet, that may be recharged;

(iii) the name of the water source from which the water to be artificially recharged is diverted; and

(iv) other information that defines the extent and conditions of the recharge permit.

(c) A recharge certificate issued for a recharge permit need show no more than the facts shown in the proof of completion.

(d) (i) The state engineer shall:

(A) retain and file one copy of the recharge certificate; and

(B) deliver one copy of the recharge certificate to the recharge permittee.

(ii) A recharge permittee shall file the recharge certificate with the county recorder of the county in which the water is recharged.

(e) The recharge certificate issued and filed under this section is prima facie evidence of the permittee's right to the artificially recharged water for the purpose, at the place, and during the time specified in the recharge certificate.

Section 6. Section 73-3b-206 is amended to read:

73-3b-206. Proof of completion, certification, or lapse of recovery permit.

(1) Sixty days before the date on which the recovery permit will lapse under Subsection (3), the state engineer shall notify the applicant by mail, or send notice electronically if receipt is verifiable, when proof of completion is due.

(2) (a) Before the date on which the recovery permit will lapse under Subsection (3), the applicant shall file proof of completion with the state engineer on a form furnished by the state engineer, which shall include documentation and a map prepared by a Utah licensed land surveyor or Utah licensed professional engineer that shows:

(i) the location and description of the recovery works constructed;

(ii) the method of recovering the artificially recharged water;

(iii) the facilities in place to recover and deliver the recovered water; and

(iv) the purpose and place of use of the recovered water.

(b) The state engineer may waive the filing of a map, profile, or drawing, if in the state engineer's opinion the written proof of completion adequately describes the works and the nature and extent of the recovery project.

(c) The completed proof shall conform to a rule established by the state engineer.

(3) A recovery permit will lapse if the recovery project is not completed within five years from the date of the recovery permit application's approval unless:

(a) the applicant requests an extension of time to complete the recovery project; and

(b) the state engineer approves the extension of time.

(4) (a) The state engineer shall issue a recovery certificate if the recovery permittee has demonstrated to the state engineer's satisfaction that:

(i) the recovery project is perfected in accordance with the recovery permit; and

(ii) water is being recovered.

(b) The recovery certificate shall include:

(i) the name and post office address of the recovery permittee;

(ii) the works used to recover and deliver recovered water; and

(iii) other information that defines the extent and conditions of the recovery permit.

(c) A recovery certificate issued for a recovery permit need show no more than the facts shown in the proof of completion.

(d) A recovery certificate issued under this section does not extend the rights described in the recovery permit.

(e) (i) The state engineer shall:

(A) retain and file one copy of the recovery certificate; and

(B) deliver one copy of the recovery certificate to the recovery permittee.

(ii) A recovery permittee shall file the recovery certificate with the county recorder of the county in which the water is recovered.

(f) The recovery certificate issued and filed under this section is prima facie evidence of the recovery permittee's right to the recovered water for the purpose, at the place, and during the time specified in the recovery certificate.

CHAPTER 82
H. B. 25
Passed February 18, 2021
Approved March 16, 2021
Effective May 5, 2021

MENTAL HEALTH PROTECTIONS FOR FIRST RESPONDERS

Chief Sponsor: Karen Kwan
Senate Sponsor: Karen Mayne

LONG TITLE

General Description:

This bill extends the Mental Health Protections for First Responders Workgroup for five years.

Highlighted Provisions:

This bill:

- extends the Mental Health Protections for First Responders Workgroup until 2025.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63I-2-234, as last amended by Laws of Utah 2019, Chapter 121

ENACTS:

34A-2-107.3, Utah Code Annotated 1953

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

Section 1. Section 34A-2-107.3 is enacted to read:

34A-2-107.3. Mental Health Protections for First Responders Workgroup.

(1) There is created the Mental Health Protections for First Responders Workgroup within the commission consisting of the following members:

(a) the commissioner or the commissioner's designee;

(b) one member of the Senate, appointed by the president of the Senate, and one member of the House of Representatives, appointed by the speaker of the House of Representatives;

(c) three representatives of the workers' compensation insurance industry appointed by the chair, one of whom is a voting member of the employer side of the Workers' Compensation Advisory Council, as follows:

(i) one member representing the insurance carrier designated to write coverage for the residual market;

(ii) one member representing an insurance carrier other than the carrier described in Subsection (1)(c)(i); and

(iii) one member representing self-insured employers;

(d) one member representing the Division of Risk Management;

(e) four representatives of first responders appointed by the chair, one of whom is a voting member of the employee side of the Workers' Compensation Advisory Council;

(f) one representative from the Utah League of Cities and Towns;

(g) one representative from the Utah Association of Counties;

(h) one representative from the Utah Association of Special Districts;

(i) the director of the Division of Substance Abuse and Mental Health, or the director's designee; and

(j) as appointed by the chair, one or more individuals with expertise in mental stress or occupational medicine to serve as ex officio, nonvoting members of the workgroup.

(2) The commissioner or the commissioner's designee is the chair of the workgroup.

(3) (a) A majority of the members of the workgroup constitutes a quorum.

(b) The action of a majority of a quorum constitutes the action of the workgroup.

(4) (a) The salary and expenses of each member of the workgroup who is a legislator shall be paid in accordance with Section 36-2-2 and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.

(b) A member of the workgroup who is not a legislator may not receive compensation, benefits, per diem, or travel expenses for the member's service on the workgroup.

(5) The commission shall provide staff support to the workgroup.

(6) The workgroup shall review and make recommendations on the following issues:

(a) the alleviation of barriers, including financial barriers, to mental health treatment for first responders inside and outside of the workers' compensation system;

(b) statutory requirements for compensability of mental stress claims from first responders under Chapter 2, Workers' Compensation Act, and Chapter 3, Utah Occupational Disease Act;

(c) improving a first responder's accessibility to mental health treatment; and

(d) any additional issue that the workgroup:

(i) determines is an important issue related to workers' compensation for first responders; and

(ii) decides to review.

(7) The workgroup shall present a final report on the items described in Subsection (6), including any legislative recommendations, to the Business and Labor Interim Committee on or before September 30, 2025.

Section 2. Section 63I-2-234 is amended to read:

63I-2-234. Repeal dates -- Title 34A.

[~~Section 34A-2-107.2 is repealed January 1, 2021.~~]

Section 34A-2-107.3 is repealed May 15, 2025.

CHAPTER 83
H. B. 26
Passed March 3, 2021
Approved March 16, 2021
Effective May 5, 2021

24-7 SOBRIETY PROGRAM EXPANSION

Chief Sponsor: Stephanie Pitcher
Senate Sponsor: Jerry W. Stevenson

LONG TITLE

General Description:

This bill expands the 24-7 sobriety program statewide.

Highlighted Provisions:

This bill:

- removes language limiting the 24-7 sobriety program to a pilot program;
- allows an individual participating in a drug court to avoid suspension of the individual's driver license;
- allows expansion of the program statewide; and
- makes technical corrections.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a Coordination Clause.

Utah Code Sections Affected:

AMENDS:

41-6a-505, as last amended by Laws of Utah 2019, Chapter 136
41-6a-509, as last amended by Laws of Utah 2020, Chapter 177
41-6a-515.5, as last amended by Laws of Utah 2018, Chapter 135
41-6a-517, as last amended by Laws of Utah 2020, Chapter 12
41-6a-518, as last amended by Laws of Utah 2018, Chapter 41
53-3-220, as last amended by Laws of Utah 2020, Chapter 177
53-3-223, as last amended by Laws of Utah 2020, Chapter 177

Utah Code Sections Affected by Coordination Clause:

41-6a-509, as last amended by Laws of Utah 2020, Chapter 177
41-6a-517, as last amended by Laws of Utah 2020, Chapter 12
53-3-221, as last amended by Laws of Utah 2015, Chapter 52

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

Section 1. Section 41-6a-505 is amended to read:

41-6a-505. Sentencing requirements for driving under the influence of alcohol, drugs, or a combination of both violations.

(1) As part of any sentence for a first conviction of Section 41-6a-502:

(a) the court shall:

(i) (A) impose a jail sentence of not less than 48 consecutive hours; or

(B) require the individual to work in a compensatory-service work program for not less than 48 hours;

(ii) order the individual to participate in a screening;

(iii) order the individual to participate in an assessment, if it is found appropriate by a screening under Subsection (1)(a)(ii);

(iv) order the individual to participate in an educational series if the court does not order substance abuse treatment as described under Subsection (1)(b);

(v) impose a fine of not less than $700;

(vi) order probation for the individual in accordance with Section 41-6a-507, if there is admissible evidence that the individual had a blood alcohol level of .16 or higher;

(vii) (A) order the individual to pay the administrative impound fee described in Section 41-6a-1406; or

(B) if the administrative impound fee was paid by a party described in Subsection 41-6a-1406(5)(a), other than the individual sentenced, order the individual sentenced to reimburse the party; [~~or~~]

(viii) (A) order the individual to pay the towing and storage fees described in Section 72-9-603; or

(B) if the towing and storage fees were paid by a party described in Subsection 41-6a-1406(5)(a), other than the individual sentenced, order the individual sentenced to reimburse the party; [~~and~~] or

(ix) unless the court determines and states on the record that an ignition interlock system is not necessary for the safety of the community and in the best interest of justice, order the installation of an ignition interlock system as described in Section 41-6a-518; and

(b) the court may:

(i) order the individual to obtain substance abuse treatment if the substance abuse treatment program determines that substance abuse treatment is appropriate;

(ii) order probation for the individual in accordance with Section 41-6a-507;

(iii) order the individual to participate in a 24-7 sobriety program as defined in Section 41-6a-515.5 if the individual is 21 years of age or older; or

(iv) order a combination of Subsections (1)(b)(i) through (iii).

(2) If an individual has a prior conviction as defined in Subsection 41-6a-501(2) that is within 10 years of the current conviction under Section 41-6a-502 or the commission of the offense upon which the current conviction is based:

(a) the court shall:

(i) (A) impose a jail sentence of not less than 240 hours; or

(B) impose a jail sentence of not less than 120 hours in addition to home confinement of not fewer than 720 consecutive hours through the use of electronic monitoring that includes a substance abuse testing instrument in accordance with Section 41-6a-506;

(ii) order the individual to participate in a screening;

(iii) order the individual to participate in an assessment, if it is found appropriate by a screening under Subsection (2)(a)(ii);

(iv) order the individual to participate in an educational series if the court does not order substance abuse treatment as described under Subsection (2)(b);

(v) impose a fine of not less than $800;

(vi) order probation for the individual in accordance with Section 41-6a-507;

(vii) order the installation of an ignition interlock system as described in Section 41-6a-518;

[~~(vii)~~] (viii) (A) order the individual to pay the administrative impound fee described in Section 41-6a-1406; or

(B) if the administrative impound fee was paid by a party described in Subsection 41-6a-1406(5)(a), other than the individual sentenced, order the individual sentenced to reimburse the party; or

[~~(viii)~~] (ix) (A) order the individual to pay the towing and storage fees described in Section 72-9-603; or

(B) if the towing and storage fees were paid by a party described in Subsection 41-6a-1406(5)(a), other than the individual sentenced, order the individual sentenced to reimburse the party; and

(b) the court may:

(i) order the individual to obtain substance abuse treatment if the substance abuse treatment program determines that substance abuse treatment is appropriate;

(ii) order the individual to participate in a 24-7 sobriety program as defined in Section 41-6a-515.5 if the individual is 21 years of age or older; or

(iii) order a combination of Subsections (2)(b)(i) and (ii).

(3) Under Subsection 41-6a-503(2), if the court suspends the execution of a prison sentence and places the defendant on probation, the court shall impose:

(a) a fine of not less than $1,500;

(b) a jail sentence of not less than 1,500 hours; and

(c) supervised probation.

(4) For Subsection (3) or Subsection 41-6a-503(2)(b), the court:

(a) shall impose an order requiring the individual to obtain a screening and assessment for alcohol and substance abuse, and treatment as appropriate; and

(b) may impose an order requiring the individual to participate in a 24-7 sobriety program as defined in Section 41-6a-515.5 if the individual is 21 years [~~of age~~] old or older.

(5) The requirements of Subsections (1)(a), (2)(a), (3), and (4) may not be suspended.

(6) If an individual is convicted of a violation of Section 41-6a-502 and there is admissible evidence that the individual had a blood alcohol level of .16 or higher, the court shall order the following, or describe on record why the order or orders are not appropriate:

(a) treatment as described under Subsection (1)(b), (2)(b), or (4); and

(b) one or more of the following:

(i) the installation of an ignition interlock system as a condition of probation for the individual in accordance with Section 41-6a-518;

(ii) the imposition of an ankle attached continuous transdermal alcohol monitoring device or remote alcohol monitor as a condition of probation for the individual; or

(iii) the imposition of home confinement through the use of electronic monitoring in accordance with Section 41-6a-506.

Section 2. Section 41-6a-509 is amended to read:

41-6a-509. Driver license suspension or revocation for a driving under the influence violation.

(1) The Driver License Division shall, if the person is 21 years of age or older at the time of arrest:

(a) suspend for a period of 120 days the operator's license of a person convicted for the first time under Section 41-6a-502; or

(b) revoke for a period of two years the license of a person if:

(i) the person has a prior conviction as defined under Subsection 41-6a-501(2); and

(ii) the current violation under Section 41-6a-502 is committed within a period of 10 years from the date of the prior violation.

(2) The Driver License Division shall, if the person is 19 years of age or older but under 21 years of age at the time of arrest:

(a) suspend the person's driver license until the person is 21 years of age or for a period of one year, whichever is longer, if the person is convicted for the first time of a violation under Section 41-6a-502 of an offense that was committed on or after July 1, 2011;

(b) deny the person's application for a license or learner's permit until the person is 21 years of age

or for a period of one year, whichever is longer, if the person:

(i) is convicted for the first time of a violation under Section 41-6a-502 of an offense committed on or after July 1, 2011; and

(ii) has not been issued an operator license;

(c) revoke the person's driver license until the person is 21 years of age or for a period of two years, whichever is longer, if:

(i) the person has a prior conviction as defined under Subsection 41-6a-501(2); and

(ii) the current violation under Section 41-6a-502 is committed within a period of 10 years from the date of the prior violation; or

(d) deny the person's application for a license or learner's permit until the person is 21 years of age or for a period of two years, whichever is longer, if:

(i) the person has a prior conviction as defined under Subsection 41-6a-501(2);

(ii) the current violation under Section 41-6a-502 is committed within a period of 10 years from the date of the prior violation; and

(iii) the person has not been issued an operator license.

(3) The Driver License Division shall, if the person is under 19 years of age at the time of arrest:

(a) suspend the person's driver license until the person is 21 years of age if the person is convicted for the first time of a violation under Section 41-6a-502;

(b) deny the person's application for a license or learner's permit until the person is 21 years of age if the person:

(i) is convicted for the first time of a violation under Section 41-6a-502; and

(ii) has not been issued an operator license;

(c) revoke the person's driver license until the person is 21 years of age if:

(i) the person has a prior conviction as defined under Subsection 41-6a-501(2); and

(ii) the current violation under Section 41-6a-502 is committed within a period of 10 years from the date of the prior violation; or

(d) deny the person's application for a license or learner's permit until the person is 21 years of age if:

(i) the person has a prior conviction as defined under Subsection 41-6a-501(2);

(ii) the current violation under Section 41-6a-502 is committed within a period of 10 years from the date of the prior violation; and

(iii) the person has not been issued an operator license.

(4) The Driver License Division shall suspend or revoke the license of a person as ordered by the court under Subsection (9).

(5) The Driver License Division shall subtract from any suspension or revocation period the number of days for which a license was previously suspended under Section 53-3-223 or 53-3-231, if the previous suspension was based on the same occurrence upon which the record of conviction is based.

(6) If a conviction recorded as impaired driving is amended to a driving under the influence conviction under Section 41-6a-502 in accordance with Subsection 41-6a-502.5(3)(a)(ii), the Driver License Division:

(a) may not subtract from any suspension or revocation any time for which a license was previously suspended or revoked under Section 53-3-223 or 53-3-231; and

(b) shall start the suspension or revocation time under Subsection (1) on the date of the amended conviction.

(7) A court that reported a conviction of a violation of Section 41-6a-502 for a violation that occurred on or after July 1, 2009, to the Driver License Division may shorten the suspension period imposed under Subsection (2)(a) or (b) or Subsection (3)(a) or (b) prior to completion of the suspension period if the person:

(a) completes at least six months of the license suspension;

(b) completes a screening;

(c) completes an assessment, if it is found appropriate by a screening under Subsection (7)(b);

(d) completes substance abuse treatment if it is found appropriate by the assessment under Subsection (7)(c);

(e) completes an educational series if substance abuse treatment is not required by an assessment under Subsection (7)(c) or the court does not order substance abuse treatment;

(f) has not been convicted of a violation of any motor vehicle law in which the person was involved as the operator of the vehicle during the suspension period imposed under Subsection (2)(a) or (b) or Subsection (3)(a) or (b);

(g) has complied with all the terms of the person's probation or all orders of the court if not ordered to probation; and

(h) (i) is 18 years of age or older and provides a sworn statement to the court that the person has not unlawfully consumed alcohol during the suspension period imposed under Subsection (2)(a) or (b) or Subsection (3)(a) or (b); or

(ii) is under 18 years of age and has the person's parent or legal guardian provide an affidavit or sworn statement to the court certifying that to the parent or legal guardian's knowledge the person has not unlawfully consumed alcohol during the

suspension period imposed under Subsection (2)(a) or (b) or Subsection (3)(a) or (b).

(8) If the court shortens a person's license suspension period in accordance with the requirements of Subsection (7), the court shall forward the order shortening the person's suspension period to the Driver License Division in a manner specified by the division prior to the completion of the suspension period imposed under Subsection (2)(a) or (b) or Subsection (3)(a) or (b) [~~to the Driver License Division~~].

(9) (a) (i) In addition to any other penalties provided in this section, a court may order the operator's license of a person who is convicted of a violation of Section 41-6a-502 to be suspended or revoked for an additional period of 90 days, 120 days, 180 days, one year, or two years to remove from the highways those persons who have shown they are safety hazards.

(ii) The additional suspension or revocation period provided in this Subsection (9) shall begin the date on which the individual would be eligible to reinstate the individual's driving privilege for a violation of Section 41-6a-502.

(b) If the court suspends or revokes the person's license under this Subsection (9), the court shall prepare and send to the Driver License Division an order to suspend or revoke that person's driving privileges for a specified period of time.

(10) (a) The court shall notify the Driver License Division if a person fails to:

(i) complete all court ordered:

(A) screening;

(B) assessment;

(C) educational series;

(D) substance abuse treatment; and

(E) hours of work in a compensatory-service work program; or

(ii) pay all fines and fees, including fees for restitution and treatment costs.

(b) Upon receiving the notification described in Subsection (10)(a), the division shall suspend the person's driving privilege in accordance with Subsections 53-3-221(2) and (3).

(11) (a) A court that reported a conviction of a violation of Section 41-6a-502 to the Driver License Division may shorten the suspension period imposed under Subsection (1) before completion of the suspension period if the person is participating in or has successfully completed a 24-7 sobriety program as defined in Section 41-6a-515.5.

(b) If the court shortens a person's license suspension period in accordance with the requirements of this Subsection (11), the court shall forward [~~to the Driver License Division~~] the order shortening the person's suspension period to the Driver License Division in a manner specified by the division.

(c) The court shall notify the Driver License Division, in a manner specified by the Driver License Division, if a person fails to complete all requirements of a 24-7 sobriety program.

(d) (i) (A) Upon receiving the notification described in Subsection (11)(c), for a first offense, the division shall suspend the person's driving privilege [~~in accordance with Subsections 53-3-221(2) and (3).~~] for a period of 120 days from the date of notice.

(B) For a suspension described under Subsection (11)(d)(i)(A), no days shall be subtracted from the 120-day suspension period for which a driving privilege was previously suspended under this section or Section 53-3-223, if the previous suspension was based on the same occurrence upon which the conviction under Section 41-6a-502 is based.

(ii) (A) Upon receiving the notification described in Subsection (11)(c), for a second or subsequent offense, the division shall revoke the person's driving privilege for a period of two years from the date of notice.

(B) For a license revocation described in Subsection (11)(d)(ii)(A), no days shall be subtracted from the two-year revocation period for which a driving privilege was previously revoked under this section or Section 53-3-223, if the previous revocation was based on the same occurrence upon which the conviction under Section 41-6a-502 is based.

Section 3. Section 41-6a-515.5 is amended to read:

41-6a-515.5. Sobriety program for DUI.

(1) As used in this section:

(a) "24-7 sobriety program" means a 24 hours a day, seven days a week sobriety and drug monitoring program that:

(i) requires an individual to abstain from alcohol or drugs for a period of time;

(ii) requires an individual to submit to random drug testing; and

(iii) requires the individual to be subject to testing to determine the presence of alcohol:

(A) twice a day at a central location where timely sanctions may be applied;

(B) by continuous remote sensing or transdermal alcohol monitoring by means of an electronic monitoring device that allows timely sanctions to be applied; or

(C) by an alternate method that is approved by the National Highway Traffic Safety Administration.

(b) (i) "Testing" means a procedure for determining the presence and level of alcohol or a drug in an individual's breath or body fluid, including blood, urine, saliva, or perspiration.

(ii) "Testing" includes any combination of the use of:

(A) remote and in-person breath testing;

(B) drug patch testing;

(C) urinalysis testing;

(D) saliva testing;

(E) continuous remote sensing;

(F) transdermal alcohol monitoring; or

(G) alternate body fluids approved for testing by the commissioner of the department.

[~~(2) (a) The department shall establish and administer a 24-7 sobriety program as a pilot program.~~]

[~~(b)~~] (2) The department [~~shall establish one pilot~~] may establish a 24-7 sobriety program with a law enforcement agency that is able to meet the 24-7 sobriety program qualifications and requirements under this section.

(3) (a) The 24-7 sobriety program shall include use of multiple testing methodologies for the presence of alcohol or drugs that:

(i) best facilitates the ability to apply timely sanctions for noncompliance;

(ii) is available at an affordable cost; and

(iii) provides for positive, behavioral reinforcement for program compliance.

(b) The commissioner shall consider the following factors to determine which testing methodologies are best suited for each participant:

(i) whether a device is available;

(ii) whether the participant is capable of paying the fees and costs associated with each testing methodology;

(iii) travel requirements based on each testing methodology and the participant's circumstances;

(iv) the substance or substances for which testing will be required; and

(v) other factors the commissioner considers relevant.

(4) (a) The 24-7 sobriety program shall be supported by evidence of effectiveness and satisfy at least two of the following categories:

(i) the program is included in the federal registry of evidence-based programs and practices;

(ii) the program has been reported in a peer-reviewed journal as having positive effects on the primary targeted outcome; or

(iii) the program has been documented as effective by informed experts and other sources.

(b) If a law enforcement agency participates in a 24-7 sobriety program, the department shall assist in the creation and administration of the program in the manner provided in this section.

(c) A 24-7 sobriety program shall have at least one testing location and two daily testing times approximately 12 hours apart.

(d) A person who is ordered by a judge to participate in the 24-7 sobriety program for a first conviction as defined in Subsection 41-6a-501(2) shall be required to participate in a 24-7 sobriety program for at least 30 days.

[~~(d)~~] (e) If a person who is ordered by a judge to participate in the 24-7 sobriety program has a prior conviction as defined in Subsection 41-6a-501(2) that is within 10 years of the current conviction under Section 41-6a-502 or the commission of the offense upon which the current conviction is based, the person shall be required to participate in a 24-7 sobriety program for at least one year.

(5) (a) If a law enforcement agency participates in a 24-7 sobriety program, the law enforcement agency may designate an entity to provide the testing services or to take any other action required or authorized to be provided by the law enforcement agency pursuant to this section, except that the law enforcement agency's designee may not determine whether an individual is required to participate in the 24-7 sobriety program.

(b) Subject to the requirement in Subsection (4)(c), the law enforcement agency shall establish the testing locations and times for the county.

(6) (a) The commissioner of the department shall establish a data management technology plan for data collection on 24-7 sobriety program participants.

(b) All required data related to participants in the 24-7 sobriety program shall be received into the data management technology plan.

(c) The data collected under this Subsection (6) is owned by the state.

(7) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department shall make rules to implement this section.

(b) The rules under Subsection (7)(a) shall:

(i) provide for the nature and manner of testing and the procedures and apparatus to be used for testing;

(ii) establish reasonable participation and testing fees for the program, including the collection of fees to pay the cost of installation, monitoring, and deactivation of any testing device;

(iii) require and provide for the approval of a 24-7 sobriety program data management technology plan that shall be used by the department and participating law enforcement agencies to manage testing, data access, fees and fee payments, and any required reports; and

(iv) establish a model sanctioning schedule for program noncompliance[~~; and~~].

[~~(v) establish a process for piloting alternate components of the 24-7 sobriety program.~~]

Section 4. Section 41-6a-517 is amended to read:

41-6a-517. Definitions -- Driving with any measurable controlled substance in the body -- Penalties -- Arrest without warrant.

(1) As used in this section:

(a) "Controlled substance" means the same as that term is defined in Section 58-37-2.

(b) "Practitioner" means the same as that term is defined in Section 58-37-2.

(c) "Prescribe" means the same as that term is defined in Section 58-37-2.

(d) "Prescription" means the same as that term is defined in Section 58-37-2.

(2) (a) Except as provided in Subsection (2)(b), in cases not amounting to a violation of Section 41-6a-502, a person may not operate or be in actual physical control of a motor vehicle within this state if the person has any measurable controlled substance or metabolite of a controlled substance in the person's body.

(b) Subsection (2)(a) does not apply to a person that has 11-nor-9-carboxy-tetrahydrocannabinol as the only controlled substance present in the person's body.

(3) It is an affirmative defense to prosecution under this section that the controlled substance was:

(a) involuntarily ingested by the accused;

(b) prescribed by a practitioner for use by the accused;

(c) cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form that the accused ingested in accordance with Title 26, Chapter 61a, Utah Medical Cannabis Act; or

(d) otherwise legally ingested.

(4) (a) A person convicted of a violation of Subsection (2) is guilty of a class B misdemeanor.

(b) A person who violates this section is subject to conviction and sentencing under both this section and any applicable offense under Section 58-37-8.

(5) A peace officer may, without a warrant, arrest a person for a violation of this section when the officer has probable cause to believe the violation has occurred, although not in the officer's presence, and if the officer has probable cause to believe that the violation was committed by the person.

(6) The Driver License Division shall, if the person is 21 years of age or older on the date of arrest:

(a) suspend, for a period of 120 days, the driver license of a person convicted under Subsection (2) of an offense committed on or after July 1, 2009; or

(b) revoke, for a period of two years, the driver license of a person if:

(i) the person has a prior conviction as defined under Subsection 41-6a-501(2); and

(ii) the current violation under Subsection (2) is committed on or after July 1, 2009, and within a period of 10 years after the date of the prior violation.

(7) The Driver License Division shall, if the person is 19 years of age or older but under 21 years of age on the date of arrest:

(a) suspend, until the person is 21 years of age or for a period of one year, whichever is longer, the driver license of a person convicted under Subsection (2) of an offense committed on or after July 1, 2011; or

(b) revoke, until the person is 21 years of age or for a period of two years, whichever is longer, the driver license of a person if:

(i) the person has a prior conviction as defined under Subsection 41-6a-501(2); and

(ii) the current violation under Subsection (2) is committed on or after July 1, 2009, and within a period of 10 years after the date of the prior violation.

(8) The Driver License Division shall, if the person is under 19 years of age on the date of arrest:

(a) suspend, until the person is 21 years of age, the driver license of a person convicted under Subsection (2) of an offense committed on or after July 1, 2009; or

(b) revoke, until the person is 21 years of age, the driver license of a person if:

(i) the person has a prior conviction as defined under Subsection 41-6a-501(2); and

(ii) the current violation under Subsection (2) is committed on or after July 1, 2009, and within a period of 10 years after the date of the prior violation.

(9) The Driver License Division shall subtract from any suspension or revocation period the number of days for which a license was previously suspended under Section 53-3-223 or 53-3-231, if the previous suspension was based on the same occurrence upon which the record of conviction is based.

(10) The Driver License Division shall:

(a) deny, suspend, or revoke a person's license for the denial and suspension periods in effect prior to July 1, 2009, for a conviction of a violation under Subsection (2) that was committed prior to July 1, 2009; or

(b) deny, suspend, or revoke the operator's license of a person for the denial, suspension, or revocation periods in effect from July 1, 2009, through June 30, 2011, if:

(i) the person was 20 years of age or older but under 21 years of age at the time of arrest; and

(ii) the conviction under Subsection (2) is for an offense that was committed on or after July 1, 2009, and prior to July 1, 2011.

(11) A court that reported a conviction of a violation of this section for a violation that occurred on or after July 1, 2009, to the Driver License Division may shorten the suspension period imposed under Subsection (7)(a) or (8)(a) prior to completion of the suspension period if the person:

(a) completes at least six months of the license suspension;

(b) completes a screening;

(c) completes an assessment, if it is found appropriate by a screening under Subsection (11)(b);

(d) completes substance abuse treatment if it is found appropriate by the assessment under Subsection (11)(c);

(e) completes an educational series if substance abuse treatment is not required by the assessment under Subsection (11)(c) or the court does not order substance abuse treatment;

(f) has not been convicted of a violation of any motor vehicle law in which the person was involved as the operator of the vehicle during the suspension period imposed under Subsection (7)(a) or (8)(a);

(g) has complied with all the terms of the person's probation or all orders of the court if not ordered to probation; and

(h) (i) is 18 years of age or older and provides a sworn statement to the court that the person has not consumed a controlled substance not prescribed by a practitioner for use by the person or unlawfully consumed alcohol during the suspension period imposed under Subsection (7)(a) or (8)(a); or

(ii) is under 18 years of age and has the person's parent or legal guardian provide an affidavit or other sworn statement to the court certifying that to the parent or legal guardian's knowledge the person has not consumed a controlled substance not prescribed by a practitioner for use by the person or unlawfully consumed alcohol during the suspension period imposed under Subsection (7)(a) or (8)(a).

(12) If the court shortens a person's license suspension period in accordance with the requirements of Subsection (11), the court shall forward the order shortening the person's license suspension period to the Driver License Division in a manner specified by the division prior to the completion of the suspension period imposed under Subsection (7)(a) or (8)(a) [~~to the Driver License Division~~].

(13) (a) The court shall notify the Driver License Division if a person fails to:

(i) complete all court ordered screening and assessment, educational series, and substance abuse treatment; or

(ii) pay all fines and fees, including fees for restitution and treatment costs.

(b) Upon receiving the notification, the division shall suspend the person's driving privilege in accordance with Subsections 53-3-221(2) and (3).

(14) The court:

(a) shall order supervised probation in accordance with Section 41-6a-507 for a person convicted under Subsection (2); and

(b) may order a person convicted under Subsection (2) to participate in a 24-7 sobriety program as defined in Section 41-6a-515.5 if the person is 21 years of age or older.

(15) (a) A court that reported a conviction of a violation of this section to the Driver License Division may shorten the suspension period imposed under Subsection (6) before completion of the suspension period if the person is participating in or has successfully completed a 24-7 sobriety program as defined in Section 41-6a-515.5.

(b) If the court shortens a person's license suspension period in accordance with the requirements of this Subsection (15), the court shall forward to the Driver License Division, in a manner specified by the division, the order shortening the person's suspension period.

(c) The court shall notify the Driver License Division, in a manner specified by the division, if a person fails to complete all requirements of a 24-7 sobriety program.

[~~(d) Upon receiving the notification described in Subsection (15)(c), the division shall suspend the person's driving privilege in accordance with Subsections 53-3-221(2) and (3).~~]

(d) (i) (A) Upon receiving the notification described in Subsection (15)(c), for a first offense, the division shall suspend the person's driving privilege for a period of 120 days from the date of notice.

(B) For a suspension described in Subsection (15)(d)(i)(A), no days shall be subtracted from the 120-day suspension period for which a driving privilege was suspended under this section or under Section 53-3-223, if the previous suspension was based on the same occurrence upon which the conviction under this section is based.

(ii) (A) Upon receiving the notification described in Subsection (15)(c), for a second or subsequent offense, the division shall revoke the person's driving privilege for a period of two years from the date of notice.

(B) For a revocation described in Subsection (15)(d)(ii)(A), no days shall be subtracted from the two-year revocation period for which a driving privilege was previously revoked under this section or under Section 53-3-223, if the previous revocation was based on the same occurrence upon which the conviction under this section is based.

Section 5. Section 41-6a-518 is amended to read:

41-6a-518. Ignition interlock devices -- Use -- Probationer to pay cost -- Impecuniosity -- Fee.

(1) As used in this section:

(a) "Commissioner" means the commissioner of the Department of Public Safety.

(b) "Employer verification" means written verification from the employer that:

(i) the employer is aware that the employee is an interlock restricted driver;

(ii) the vehicle the employee is operating for employment purposes is not made available to the employee for personal use;

(iii) the business entity that employs the employee is not entirely or partly owned or controlled by the employee;

(iv) the employer's auto insurance company is aware that the employee is an interlock restricted driver; and

(v) the employee has been added to the employer's auto insurance policy as an operator of the vehicle.

(c) "Ignition interlock system" or "system" means a constant monitoring device or any similar device certified by the commissioner that prevents a motor vehicle from being started or continuously operated without first determining the driver's breath alcohol concentration.

(d) "Probation provider" means the supervisor and monitor of the ignition interlock system required as a condition of probation who contracts with the court in accordance with Subsections 41-6a-507(2) and (3).

(2) (a) In addition to any other penalties imposed under Sections 41-6a-503 and 41-6a-505, and in addition to any requirements imposed as a condition of probation, unless the court determines and states on the record that an ignition interlock system is not necessary for the safety of the community and in the best interest of justice, the court [~~may~~] shall require that any person who is convicted of violating Section 41-6a-502 and who is granted probation may not operate a motor vehicle during the period of probation unless that motor vehicle is equipped with a functioning, certified ignition interlock system installed and calibrated so that the motor vehicle will not start or continuously operate if the operator's blood alcohol concentration exceeds [~~a level ordered by the court~~] .02 grams or greater.

(b) If a person convicted of violating Section 41-6a-502 was under the age of 21 when the violation occurred, the court shall order the installation of the ignition interlock system as a condition of probation.

(c) (i) If a person is convicted of a violation of Section 41-6a-502 within 10 years of a prior conviction as defined in Subsection 41-6a-501(2), the court shall order the installation of the interlock ignition system, at the person's expense, for all motor vehicles registered to that person and all motor vehicles operated by that person.

(ii) A person who operates a motor vehicle without an ignition interlock device as required under this Subsection (2)(c) is in violation of Section 41-6a-518.2.

(d) The division shall post the ignition interlock restriction on the electronic record available to law enforcement.

(e) This section does not apply to a person convicted of a violation of Section 41-6a-502 whose violation does not involve alcohol.

(3) If the court imposes the use of an ignition interlock system as a condition of probation, the court shall:

(a) stipulate on the record the requirement for and the period of the use of an ignition interlock system;

(b) order that an ignition interlock system be installed on each motor vehicle owned or operated by the probationer, at the probationer's expense;

(c) immediately notify the Driver License Division and the person's probation provider of the order; and

(d) require the probationer to provide proof of compliance with the court's order to the probation provider within 30 days of the order.

(4) (a) The probationer shall provide timely proof of installation within 30 days of an order imposing the use of a system or show cause why the order was not complied with to the court or to the probationer's probation provider.

(b) The probation provider shall notify the court of failure to comply under Subsection (4)(a).

(c) For failure to comply under Subsection (4)(a) or upon receiving the notification under Subsection (4)(b), the court shall order the Driver License Division to suspend the probationer's driving privileges for the remaining period during which the compliance was imposed.

(d) Cause for failure to comply means any reason the court finds sufficiently justifiable to excuse the probationer's failure to comply with the court's order.

(5) (a) Any probationer required to install an ignition interlock system shall have the system monitored by the manufacturer or dealer of the system for proper use and accuracy at least semiannually and more frequently as the court may order.

(b) (i) A report of the monitoring shall be issued by the manufacturer or dealer to the court or the person's probation provider.

(ii) The report shall be issued within 14 days following each monitoring.

(6) (a) If an ignition interlock system is ordered installed, the probationer shall pay the reasonable costs of leasing or buying and installing and maintaining the system.

(b) A probationer may not be excluded from this section for inability to pay the costs, unless:

(i) the probationer files an affidavit of impecuniosity; and

(ii) the court enters a finding that the probationer is impecunious.

(c) In lieu of waiver of the entire amount of the cost, the court may direct the probationer to make partial or installment payments of costs when appropriate.

(d) The ignition interlock provider shall cover the costs of waivers by the court under this Subsection (6).

(7) (a) If a probationer is required in the course and scope of employment to operate a motor vehicle owned by the probationer's employer, the probationer may operate that motor vehicle without installation of an ignition interlock system only if:

(i) the motor vehicle is used in the course and scope of employment;

(ii) the employer has been notified that the employee is restricted; and

(iii) the employee has employer verification in the employee's possession while operating the employer's motor vehicle.

(b) (i) To the extent that an employer-owned motor vehicle is made available to a probationer subject to this section for personal use, no exemption under this section shall apply.

(ii) A probationer intending to operate an employer-owned motor vehicle for personal use and who is restricted to the operation of a motor vehicle equipped with an ignition interlock system shall notify the employer and obtain consent in writing from the employer to install a system in the employer-owned motor vehicle.

(c) A motor vehicle owned by a business entity that is all or partly owned or controlled by a probationer subject to this section is not a motor vehicle owned by the employer and does not qualify for an exemption under this Subsection (7).

(8) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commissioner shall make rules setting standards for the certification of ignition interlock systems.

(b) The standards under Subsection (8)(a) shall require that the system:

(i) not impede the safe operation of the motor vehicle;

(ii) have features that make circumventing difficult and that do not interfere with the normal use of the motor vehicle;

(iii) require a deep lung breath sample as a measure of breath alcohol concentration;

(iv) prevent the motor vehicle from being started if the driver's breath alcohol concentration exceeds [~~a specified level~~] .02 grams or greater;

(v) work accurately and reliably in an unsupervised environment;

(vi) resist tampering and give evidence if tampering is attempted;

(vii) operate reliably over the range of motor vehicle environments; and

(viii) be manufactured by a party who will provide liability insurance.

(c) The commissioner may adopt in whole or in part, the guidelines, rules, studies, or independent laboratory tests relied upon in certification of ignition interlock systems by other states.

(d) A list of certified systems shall be published by the commissioner and the cost of certification shall be borne by the manufacturers or dealers of ignition interlock systems seeking to sell, offer for sale, or lease the systems.

(e) (i) In accordance with Section 63J-1-504, the commissioner may establish an annual dollar assessment against the manufacturers of ignition interlock systems distributed in the state for the costs incurred in certifying.

(ii) The assessment under Subsection (8)(e)(i) shall be apportioned among the manufacturers on a fair and reasonable basis.

(f) The commissioner shall require a provider of an ignition interlock system certified in accordance with this section to comply with the requirements of Title 53, Chapter 3, Part 10, Ignition Interlock System Program Act.

(9) A violation of this section is a class C misdemeanor.

(10) There shall be no liability on the part of, and no cause of action of any nature shall arise against, the state or its employees in connection with the installation, use, operation, maintenance, or supervision of an interlock ignition system as required under this section.

Section 6. Section 53-3-220 is amended to read:

53-3-220. Offenses requiring mandatory revocation, denial, suspension, or disqualification of license -- Offense requiring an extension of period -- Hearing -- Limited driving privileges.

(1) (a) The division shall immediately revoke or, when this chapter, Title 41, Chapter 6a, Traffic Code, or Section 76-5-303, specifically provides for denial, suspension, or disqualification, the division shall deny, suspend, or disqualify the license of a person upon receiving a record of the person's conviction for:

(i) manslaughter or negligent homicide resulting from driving a motor vehicle, or automobile homicide under Section 76-5-207 or 76-5-207.5;

(ii) driving or being in actual physical control of a motor vehicle while under the influence of alcohol, any drug, or combination of them to a degree that renders the person incapable of safely driving a motor vehicle as prohibited in Section 41-6a-502 or as prohibited in an ordinance that complies with the requirements of Subsection 41-6a-510(1);

(iii) driving or being in actual physical control of a motor vehicle while having a blood or breath alcohol content as prohibited in Section 41-6a-502 or as prohibited in an ordinance that complies with the requirements of Subsection 41-6a-510(1);

(iv) perjury or the making of a false affidavit to the division under this chapter, Title 41, Motor Vehicles, or any other law of this state requiring the registration of motor vehicles or regulating driving on highways;

(v) any felony under the motor vehicle laws of this state;

(vi) any other felony in which a motor vehicle is used to facilitate the offense;

(vii) failure to stop and render aid as required under the laws of this state if a motor vehicle accident results in the death or personal injury of another;

(viii) two charges of reckless driving, impaired driving, or any combination of reckless driving and impaired driving committed within a period of 12 months; but if upon a first conviction of reckless driving or impaired driving the judge or justice recommends suspension of the convicted person's license, the division may after a hearing suspend the license for a period of three months;

(ix) failure to bring a motor vehicle to a stop at the command of a law enforcement officer as required in Section 41-6a-210;

(x) any offense specified in Part 4, Uniform Commercial Driver License Act, that requires disqualification;

(xi) a felony violation of Section 76-10-508 or 76-10-508.1 involving discharging or allowing the discharge of a firearm from a vehicle;

(xii) using, allowing the use of, or causing to be used any explosive, chemical, or incendiary device from a vehicle in violation of Subsection 76-10-306(4)(b);

(xiii) operating or being in actual physical control of a motor vehicle while having any measurable controlled substance or metabolite of a controlled substance in the person's body in violation of Section 41-6a-517;

(xiv) operating or being in actual physical control of a motor vehicle while having any measurable or detectable amount of alcohol in the person's body in violation of Section 41-6a-530;

(xv) engaging in a motor vehicle speed contest or exhibition of speed on a highway in violation of Section 41-6a-606;

(xvi) operating or being in actual physical control of a motor vehicle in this state without an ignition interlock system in violation of Section 41-6a-518.2;

(xvii) custodial interference, under:

(A) Subsection 76-5-303(3), which suspension shall be for a period of 30 days, unless the court provides the division with an order of suspension for a shorter period of time;

(B) Subsection 76-5-303(4), which suspension shall be for a period of 90 days, unless the court provides the division with an order of suspension for a shorter period of time; or

(C) Subsection 76-5-303(5), which suspension shall be for a period of 180 days, unless the court provides the division with an order of suspension for a shorter period of time; or

(xviii) refusal of a chemical test under Subsection 41-6a-520(7).

(b) The division shall immediately revoke the license of a person upon receiving a record of an adjudication under Title 78A, Chapter 6, Juvenile Court Act, for:

(i) a felony violation of Section 76-10-508 or 76-10-508.1 involving discharging or allowing the discharge of a firearm from a vehicle; or

(ii) using, allowing the use of, or causing to be used any explosive, chemical, or incendiary device from a vehicle in violation of Subsection 76-10-306(4)(b).

(c) Except when action is taken under Section 53-3-219 for the same offense, upon receiving a record of conviction, the division shall immediately suspend for six months the license of the convicted person if the person was convicted of one of the following offenses while the person was an operator of a motor vehicle:

(i) any violation of:

(A) Title 58, Chapter 37, Utah Controlled Substances Act;

(B) Title 58, Chapter 37a, Utah Drug Paraphernalia Act;

(C) Title 58, Chapter 37b, Imitation Controlled Substances Act;

(D) Title 58, Chapter 37c, Utah Controlled Substance Precursor Act; or

(E) Title 58, Chapter 37d, Clandestine Drug Lab Act; or

(ii) any criminal offense that prohibits:

(A) possession, distribution, manufacture, cultivation, sale, or transfer of any substance that is prohibited under the acts described in Subsection (1)(c)(i); or

(B) the attempt or conspiracy to possess, distribute, manufacture, cultivate, sell, or transfer any substance that is prohibited under the acts described in Subsection (1)(c)(i).

(iii) Notwithstanding the provisions in this Subsection (1)(c), the division shall reinstate a person's driving privilege before completion of the suspension period imposed under this Subsection (1)(c) if the reporting court notifies the Driver License Division, in a manner specified by the division, that the defendant is participating in or

has successfully completed a drug court program as defined in Section 78A-5-201.

(iv) If a person's driving privilege is reinstated under Subsection (1)(c)(iii), the person is required to pay the license reinstatement fees under Subsection 53-3-105(26).

(v) The court shall notify the division, in a manner specified by the division, if a person fails to complete all requirements of the drug court program.

(vi) Upon receiving the notification described in Subsection (1)(c)(v), the division shall suspend the person's driving privilege for a period of six months from the date of the notice, and no days shall be subtracted from the six-month suspension period for which a driving privilege was previously suspended under this Subsection (1)(c).

(d) (i) The division shall immediately suspend a person's driver license for conviction of the offense of theft of motor vehicle fuel under Section 76-6-404.7 if the division receives:

(A) an order from the sentencing court requiring that the person's driver license be suspended; and

(B) a record of the conviction.

(ii) An order of suspension under this section is at the discretion of the sentencing court, and may not be for more than 90 days for each offense.

(e) (i) The division shall immediately suspend for one year the license of a person upon receiving a record of:

(A) conviction for the first time for a violation under Section 32B-4-411; or

(B) an adjudication under Title 78A, Chapter 6, Juvenile Court Act, for a violation under Section 32B-4-411.

(ii) The division shall immediately suspend for a period of two years the license of a person upon receiving a record of:

(A) (I) conviction for a second or subsequent violation under Section 32B-4-411; and

(II) the violation described in Subsection (1)(e)(ii)(A)(I) is within 10 years of a prior conviction for a violation under Section 32B-4-411; or

(B) (I) a second or subsequent adjudication under Title 78A, Chapter 6, Juvenile Court Act of 1996, for a violation under Section 32B-4-411; and

(II) the adjudication described in Subsection (1)(e)(ii)(B)(I) is within 10 years of a prior adjudication under Title 78A, Chapter 6, Juvenile Court Act of 1996, for a violation under Section 32B-4-411.

(iii) Upon receipt of a record under Subsection (1)(e)(i) or (ii), the division shall:

(A) for a conviction or adjudication described in Subsection (1)(e)(i):

(I) impose a suspension for one year beginning on the date of conviction; or

(II) if the person is under the age of eligibility for a driver license, impose a suspension that begins on the date of conviction and continues for one year beginning on the date of eligibility for a driver license; or

(B) for a conviction or adjudication described in Subsection (1)(e)(ii):

(I) impose a suspension for a period of two years; or

(II) if the person is under the age of eligibility for a driver license, impose a suspension that begins on the date of conviction and continues for two years beginning on the date of eligibility for a driver license.

(iv) Upon receipt of the first order suspending a person's driving privileges under Section 32B-4-411, the division shall reduce the suspension period under Subsection (1)(e)(i) if ordered by the court in accordance with Subsection 32B-4-411(3)(a).

(v) Upon receipt of the second or subsequent order suspending a person's driving privileges under Section 32B-4-411, the division shall reduce the suspension period under Subsection (1)(e)(ii) if ordered by the court in accordance with Subsection 32B-4-411(3)(b).

(2) The division shall extend the period of the first denial, suspension, revocation, or disqualification for an additional like period, to a maximum of one year for each subsequent occurrence, upon receiving:

(a) a record of the conviction of any person on a charge of driving a motor vehicle while the person's license is denied, suspended, revoked, or disqualified;

(b) a record of a conviction of the person for any violation of the motor vehicle law in which the person was involved as a driver;

(c) a report of an arrest of the person for any violation of the motor vehicle law in which the person was involved as a driver; or

(d) a report of an accident in which the person was involved as a driver.

(3) When the division receives a report under Subsection (2)(c) or (d) that a person is driving while the person's license is denied, suspended, disqualified, or revoked, the person is entitled to a hearing regarding the extension of the time of denial, suspension, disqualification, or revocation originally imposed under Section 53-3-221.

(4) (a) The division may extend to a person the limited privilege of driving a motor vehicle to and from the person's place of employment or within other specified limits on recommendation of the judge in any case where a person is convicted of any of the offenses referred to in Subsections (1) and (2) except:

(i) automobile homicide under Subsection (1)(a)(i);

(ii) those offenses referred to in Subsections (1)(a)(ii), (iii), (xi), (xii), (xiii), (1)(b), and (1)(c); and

(iii) those offenses referred to in Subsection (2) when the original denial, suspension, revocation, or disqualification was imposed because of a violation of Section 41-6a-502, 41-6a-517, a local ordinance which complies with the requirements of Subsection 41-6a-510(1), Section 41-6a-520, or Section 76-5-207, or a criminal prohibition that the person was charged with violating as a result of a plea bargain after having been originally charged with violating one or more of these sections or ordinances, unless:

(A) the person has had the period of the first denial, suspension, revocation, or disqualification extended for a period of at least three years;

(B) the division receives written verification from the person's primary care physician that:

(I) to the physician's knowledge the person has not used any narcotic drug or other controlled substance except as prescribed by a licensed medical practitioner within the last three years; and

(II) the physician is not aware of any physical, emotional, or mental impairment that would affect the person's ability to operate a motor vehicle safely; and

(C) for a period of one year prior to the date of the request for a limited driving privilege:

(I) the person has not been convicted of a violation of any motor vehicle law in which the person was involved as the operator of the vehicle;

(II) the division has not received a report of an arrest for a violation of any motor vehicle law in which the person was involved as the operator of the vehicle; and

(III) the division has not received a report of an accident in which the person was involved as an operator of a vehicle.

(b) (i) Except as provided in Subsection (4)(b)(ii), the discretionary privilege authorized in this Subsection (4):

(A) is limited to when undue hardship would result from a failure to grant the privilege; and

(B) may be granted only once to any person during any single period of denial, suspension, revocation, or disqualification, or extension of that denial, suspension, revocation, or disqualification.

(ii) The discretionary privilege authorized in Subsection (4)(a)(iii):

(A) is limited to when the limited privilege is necessary for the person to commute to school or work; and

(B) may be granted only once to any person during any single period of denial, suspension, revocation, or disqualification, or extension of that denial, suspension, revocation, or disqualification.

(c) A limited CDL may not be granted to a person disqualified under Part 4, Uniform Commercial Driver License Act, or whose license has been revoked, suspended, cancelled, or denied under this chapter.

Section 7. Section 53-3-223 is amended to read:

53-3-223. Chemical test for driving under the influence -- Temporary license -- Hearing and decision -- Suspension and fee -- Judicial review.

(1) (a) If a peace officer has reasonable grounds to believe that a person may be violating or has violated Section 41-6a-502, prohibiting the operation of a vehicle with a certain blood or breath alcohol concentration and driving under the influence of any drug, alcohol, or combination of a drug and alcohol or while having any measurable controlled substance or metabolite of a controlled substance in the person's body in violation of Section 41-6a-517, the peace officer may, in connection with arresting the person, request that the person submit to a chemical test or tests to be administered in compliance with the standards under Section 41-6a-520.

(b) In this section, a reference to Section 41-6a-502 includes any similar local ordinance adopted in compliance with Subsection 41-6a-510(1).

(2) The peace officer shall advise a person prior to the person's submission to a chemical test that a test result indicating a violation of Section 41-6a-502 or 41-6a-517 shall, and the existence of a blood alcohol content sufficient to render the person incapable of safely driving a motor vehicle may, result in suspension or revocation of the person's license to drive a motor vehicle.

(3) If the person submits to a chemical test and the test results indicate a blood or breath alcohol content in violation of Section 41-6a-502 or 41-6a-517, or if a peace officer makes a determination, based on reasonable grounds, that the person is otherwise in violation of Section 41-6a-502, a peace officer shall, on behalf of the division and within 24 hours of arrest, give notice of the division's intention to suspend the person's license to drive a motor vehicle.

(4) When a peace officer gives notice on behalf of the division, the peace officer shall supply to the driver, in a manner specified by the division, basic information regarding how to obtain a prompt hearing before the division.

(5) As a matter of procedure, a peace officer shall send to the division within 10 calendar days after the day on which notice is provided:

(a) a copy of the citation issued for the offense;

(b) a signed report in a manner specified by the division indicating the chemical test results, if any; and

(c) any other basis for the peace officer's determination that the person has violated Section 41-6a-502 or 41-6a-517.

(6) (a) Upon request in a manner specified by the division, the division shall grant to the person an

opportunity to be heard within 29 days after the date of arrest. The request to be heard shall be made within 10 calendar days of the day on which notice is provided under Subsection (5).

(b) (i) Except as provided in Subsection (6)(b)(ii), a hearing, if held, shall be before the division in:

(A) the county in which the arrest occurred; or

(B) a county that is adjacent to the county in which the arrest occurred.

(ii) The division may hold a hearing in some other county if the division and the person both agree.

(c) The hearing shall be documented and shall cover the issues of:

(i) whether a peace officer had reasonable grounds to believe the person was driving a motor vehicle in violation of Section 41-6a-502 or 41-6a-517;

(ii) whether the person refused to submit to the test; and

(iii) the test results, if any.

(d) (i) In connection with a hearing the division or its authorized agent:

(A) may administer oaths and may issue subpoenas for the attendance of witnesses and the production of relevant books and papers; or

(B) may issue subpoenas for the attendance of necessary peace officers.

(ii) The division shall pay witness fees and mileage from the Transportation Fund in accordance with the rates established in Section 78B-1-119.

(e) The division may designate one or more employees to conduct the hearing.

(f) Any decision made after a hearing before any designated employee is as valid as if made by the division.

(7) (a) If, after a hearing, the division determines that a peace officer had reasonable grounds to believe that the person was driving a motor vehicle in violation of Section 41-6a-502 or 41-6a-517, if the person failed to appear before the division as required in the notice, or if a hearing is not requested under this section, the division shall:

(i) if the person is 21 years of age or older at the time of arrest, suspend the person's license or permit to operate a motor vehicle for a period of:

(A) 120 days beginning on the 45th day after the date of arrest for a first suspension; or

(B) two years beginning on the 45th day after the date of arrest for a second or subsequent suspension for an offense that occurred within the previous 10 years; or

(ii) if the person is under 21 years of age at the time of arrest:

(A) suspend the person's license or permit to operate a motor vehicle:

(I) for a period of six months, beginning on the 45th day after the date of arrest for a first suspension; or

(II) until the person is 21 years of age or for a period of two years, whichever is longer, beginning on the 45th day after the date of arrest for a second or subsequent suspension for an offense that occurred within the previous 10 years; or

(B) deny the person's application for a license or learner's permit:

(I) for a period of six months beginning on the 45th day after the date of the arrest for a first suspension, if the person has not been issued an operator license; or

(II) until the person is 21 years of age or for a period of two years, whichever is longer, beginning on the 45th day after the date of arrest for a second or subsequent suspension for an offense that occurred within the previous 10 years.

(b) (i) Notwithstanding the provisions in Subsection (7)(a)(i)(A), the division shall reinstate a person's license prior to completion of the 120 day suspension period imposed under Subsection (7)(a)(i)(A):

(A) immediately upon receiving written verification of the person's dismissal of a charge for a violation of Section 41-6a-502 or 41-6a-517, if the written verification is received prior to completion of the suspension period; or

(B) no sooner than 60 days beginning on the 45th day after the date of arrest upon receiving written verification of the person's reduction of a charge for a violation of Section 41-6a-502 or 41-6a-517, if the written verification is received prior to completion of the suspension period.

(ii) Notwithstanding the provisions in Subsection (7)(a)(i)(A), the division shall reinstate a person's license prior to completion of the 120-day suspension period imposed under Subsection (7)(a)(i)(A) immediately upon receiving written verification of the person's conviction of impaired driving under Section 41-6a-502.5 if:

(A) the written verification is received prior to completion of the suspension period; and

(B) the reporting court notifies the Driver License Division that the defendant is participating in or has successfully completed the program of a driving under the influence court as defined in Section 41-6a-501.

(iii) If a person's license is reinstated under this Subsection (7)(b), the person is required to pay the license reinstatement application fees under Subsections 53-3-105[~~(24)~~](26) and [~~(25)~~] (27).

(iv) The driver license reinstatements authorized under this Subsection (7)(b) only apply to a 120 day suspension period imposed under Subsection (7)(a)(i)(A).

(8) (a) The division shall assess against a person, in addition to any fee imposed under Subsection

53-3-205(12) for driving under the influence, a fee under Section 53-3-105 to cover administrative costs, which shall be paid before the person's driving privilege is reinstated. This fee shall be cancelled if the person obtains an unappealed division hearing or court decision that the suspension was not proper.

(b) A person whose license has been suspended by the division under this section following an administrative hearing may file a petition within 30 days after the suspension for a hearing on the matter which, if held, is governed by Section 53-3-224.

(9) (a) Notwithstanding the provisions in Subsection (7)(a)(i) or (ii), the division shall reinstate a person's license before completion of the suspension period imposed under Subsection (7)(a)(i) or (ii) if the reporting court notifies the Driver License Division that the defendant is participating in or has successfully completed a 24-7 sobriety program as defined in Section 41-6a-515.5.

(b) If a person's license is reinstated under Subsection (9)(a), the person is required to pay the license reinstatement application fees under Subsections 53-3-105[~~(24)~~](26) and [~~(25)~~] (27).

(10) (a) If the division suspends a person's license for an alcohol related offense under Subsection (7)(a)(i)(A), the person may petition the division and elect to become an ignition interlock restricted driver if the person:

(i) has a valid driving privilege, with the exception of the suspension under Subsection (7)(a)(i)(A);

(ii) completes a risk assessment approved by the division that:

(A) is completed after the date of the arrest for which the person is suspended under Subsection (7)(a)(i)(A); and

(B) identifies the person as a low risk offender;

(iii) installs an ignition interlock device in any vehicle owned or driven by the person in accordance with Section 53-3-1007; and

(iv) pays the license reinstatement application fees described in Subsections 53-3-105(26) and (27).

(b) The person shall remain an ignition interlock restricted driver for a period of 120 days from the original effective date of the suspension under Subsection (7)(a)(i)(A). If the person removes an ignition interlock device from a vehicle owned or driven by the person prior to the expiration of the 120 day ignition interlock restriction period:

(i) the person's driver license shall be suspended under Subsection (7)(a)(i)(A) for the remainder of the 120 day ignition interlock restriction period;

(ii) the person is required to pay the license reinstatement application fee under Subsection 53-3-105(26); and

(iii) the person may not elect to become an ignition interlock restricted driver under this section.

(c) If a person elects to become an ignition interlock restricted driver under Subsection (10)(a), the provisions under Subsection (7)(b) do not apply.

Section 8. Coordinating H.B. 26 with H.B. 143 -- Substantive amendments.

If this H.B. 26 and H.B. 143, Driver License Suspension Amendments, both pass and become law, the Legislature intends that the Office of Legislative Research and General Counsel prepare the Utah Code database for publication by making the following changes:

(1) Subsection 41-6a-509(11)(d) in H.B. 26 supersedes Subsection 41-6a-509(11)(d) in H.B. 143.

(2) Subsection 41-6a-517(15)(d) in H.B. 26 supersedes Subsection 41-6a-517(15)(d) in H.B. 143.

(3) Subsection 53-3-221(2)(a)(i)(B) in H.B. 143 shall be deleted, the word "or" inserted at the end of Subsection 53-3-221(2)(a)(i)(A), and the remaining subsections renumbered.

CHAPTER 84
H. B. 27
Passed February 8, 2021
Approved March 16, 2021
Effective May 5, 2021

PUBLIC INFORMATION WEBSITE MODIFICATIONS

Chief Sponsor: Candice B. Pierucci
Senate Sponsor: John D. Johnson

LONG TITLE

General Description:

This bill amends provisions related to certain public information websites.

Highlighted Provisions:

This bill:

- requires the Division of Archives and Records Service to create and maintain the Utah Open Records Portal Website to serve as a point of access for Government Records Access and Management Act requests;
- renumbers and modifies provisions applicable to the Utah Public Notice Website, administered by the Division of Archives and Records Service;
- clarifies provisions relating to the membership and duties of the Utah Transparency Advisory Board;
- requires the Department of Technology Services to create and maintain the Utah Open Data Portal Website to serve as a point of access for public information;
- renumbers and modifies provisions applicable to the Utah Public Finance Website, administered by the state auditor;
- imposes a reporting requirement on the state auditor; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

4-21-106, as last amended by Laws of Utah 2019, Chapters 370 and 456
4-22-107, as last amended by Laws of Utah 2019, Chapters 370 and 456
4-30-106, as last amended by Laws of Utah 2020, Chapter 154
7-1-706, as last amended by Laws of Utah 2010, Chapter 90
10-2-406, as last amended by Laws of Utah 2019, Chapter 255
10-2-407, as last amended by Laws of Utah 2019, Chapter 255
10-2-415, as last amended by Laws of Utah 2020, Chapter 22
10-2-418, as last amended by Laws of Utah 2020, Sixth Special Session, Chapter 7
10-2-419, as last amended by Laws of Utah 2019, Chapter 255
10-2-501, as last amended by Laws of Utah 2019, Chapter 255
10-2-502.5, as last amended by Laws of Utah 2019, Chapter 255
10-2-607, as last amended by Laws of Utah 2019, Chapter 255
10-2-703, as last amended by Laws of Utah 2019, Chapter 255
10-2-708, as last amended by Laws of Utah 2020, Chapter 22
10-2a-207, as last amended by Laws of Utah 2019, Chapters 165, 255 and last amended by Coordination Clause, Laws of Utah 2019, Chapter 165
10-2a-210, as last amended by Laws of Utah 2020, Chapter 22
10-2a-213, as last amended by Laws of Utah 2020, Chapter 22
10-2a-214, as last amended by Laws of Utah 2020, Chapter 22
10-2a-215, as last amended by Laws of Utah 2020, Chapter 22
10-2a-405, as last amended by Laws of Utah 2016, Chapter 176
10-3-301, as last amended by Laws of Utah 2020, Chapter 95
10-3-818, as last amended by Laws of Utah 2010, Chapter 90
10-5-107.5, as enacted by Laws of Utah 2017, Chapter 71
10-5-108, as last amended by Laws of Utah 2017, Chapter 193
10-6-113, as last amended by Laws of Utah 2017, Chapter 193
10-6-135.5, as enacted by Laws of Utah 2017, Chapter 71
10-7-19, as last amended by Laws of Utah 2019, Chapter 255
10-8-2, as last amended by Laws of Utah 2019, Chapter 376
10-8-15, as last amended by Laws of Utah 2019, Chapter 413
10-9a-203, as last amended by Laws of Utah 2015, Chapter 202
10-9a-204, as last amended by Laws of Utah 2010, Chapter 90
10-9a-205, as last amended by Laws of Utah 2017, Chapter 84
10-9a-208, as last amended by Laws of Utah 2020, Fifth Special Session, Chapter 4
10-18-203, as last amended by Laws of Utah 2010, Chapter 90
10-18-302, as last amended by Laws of Utah 2014, Chapter 176
11-13-204, as last amended by Laws of Utah 2015, Chapter 265
11-13-509, as enacted by Laws of Utah 2015, Chapter 265
11-13-531, as enacted by Laws of Utah 2015, Chapter 265
11-13-603, as last amended by Laws of Utah 2019, Chapter 370
11-14-202, as last amended by Laws of Utah 2020, Chapter 31
11-14-318, as last amended by Laws of Utah 2009, First Special Session, Chapter 5
11-36a-501, as enacted by Laws of Utah 2011, Chapter 47

11-36a-503, as enacted by Laws of Utah 2011, Chapter 47
11-36a-504, as last amended by Laws of Utah 2017, Chapter 84
11-42-202, as last amended by Laws of Utah 2020, Chapter 282
11-42-402, as last amended by Laws of Utah 2015, Chapter 396
11-58-502, as last amended by Laws of Utah 2019, Chapter 399
11-58-801, as last amended by Laws of Utah 2018, Second Special Session, Chapter 1
11-59-401, as enacted by Laws of Utah 2018, Chapter 388
17-27a-203, as last amended by Laws of Utah 2009, Chapter 188
17-27a-204, as last amended by Laws of Utah 2010, Chapter 90
17-27a-205, as last amended by Laws of Utah 2017, Chapter 84
17-27a-208, as last amended by Laws of Utah 2019, Chapter 384
17-27a-306, as last amended by Laws of Utah 2015, Chapter 352
17-27a-404, as last amended by Laws of Utah 2020, Chapter 434
17-36-12, as last amended by Laws of Utah 2017, Chapter 193
17-36-26, as last amended by Laws of Utah 2017, Chapter 193
17-41-304, as last amended by Laws of Utah 2019, Chapter 227
17-41-405, as last amended by Laws of Utah 2019, Chapter 227
17-50-303, as last amended by Laws of Utah 2019, Chapter 376
17B-1-106, as last amended by Laws of Utah 2013, Chapter 445
17B-1-211, as last amended by Laws of Utah 2013, Chapter 265
17B-1-303, as last amended by Laws of Utah 2019, Chapters 40 and 255
17B-1-306, as last amended by Laws of Utah 2020, Chapter 31
17B-1-413, as last amended by Laws of Utah 2010, Chapter 90
17B-1-417, as last amended by Laws of Utah 2010, Chapter 90
17B-1-505.5, as enacted by Laws of Utah 2017, Chapter 404
17B-1-609, as last amended by Laws of Utah 2015, Chapter 436
17B-1-643, as last amended by Laws of Utah 2016, Chapter 273
17B-1-1204, as last amended by Laws of Utah 2010, Chapter 90
17B-1-1307, as last amended by Laws of Utah 2010, Chapter 90
17B-2a-705, as last amended by Laws of Utah 2019, Chapter 255
17B-2a-1110, as last amended by Laws of Utah 2016, Chapter 176
17C-1-207, as last amended by Laws of Utah 2019, Chapter 376
17C-1-601.5, as last amended by Laws of Utah 2018, Chapter 101
17C-1-804, as last amended by Laws of Utah 2019, Chapter 376
17C-1-806, as last amended by Laws of Utah 2018, Chapter 364
17C-2-108, as last amended by Laws of Utah 2016, Chapter 350
17C-3-107, as last amended by Laws of Utah 2016, Chapter 350
17C-4-109, as last amended by Laws of Utah 2016, Chapter 350
17C-4-202, as last amended by Laws of Utah 2016, Chapter 350
17C-5-110, as enacted by Laws of Utah 2016, Chapter 350
17C-5-113, as enacted by Laws of Utah 2016, Chapter 350
17C-5-205, as last amended by Laws of Utah 2019, Chapter 376
17D-3-107, as last amended by Laws of Utah 2019, Chapter 370
17D-3-305, as last amended by Laws of Utah 2020, Chapter 311
19-2-109, as last amended by Laws of Utah 2012, Chapter 360
20A-1-512, as last amended by Laws of Utah 2019, Chapter 40
20A-3a-604, as renumbered and amended by Laws of Utah 2020, Chapter 31
20A-4-104, as last amended by Laws of Utah 2020, Chapter 31
20A-4-304, as last amended by Laws of Utah 2019, Chapters 255 and 433
20A-5-101, as last amended by Laws of Utah 2019, Chapter 255
20A-5-403.5, as enacted by Laws of Utah 2020, Chapter 31
20A-5-405, as last amended by Laws of Utah 2020, Chapter 31
20A-7-204.1, as last amended by Laws of Utah 2020, Fifth Special Session, Chapter 20
20A-7-401.5, as enacted by Laws of Utah 2019, Chapter 203
20A-7-402, as last amended by Laws of Utah 2020, Chapters 22 and 354
20A-9-203, as last amended by Laws of Utah 2020, Chapter 22
26-61a-303, as last amended by Laws of Utah 2020, Chapter 12
32B-8a-302, as last amended by Laws of Utah 2020, Chapter 219
45-1-101, as last amended by Laws of Utah 2019, Chapter 274
49-11-1102, as enacted by Laws of Utah 2016, Chapter 281
52-4-202, as last amended by Laws of Utah 2020, Fifth Special Session, Chapter 1
52-4-203, as last amended by Laws of Utah 2018, Chapter 425
53-13-114, as last amended by Laws of Utah 2012, Chapter 196
53B-7-101.5, as last amended by Laws of Utah 2010, Chapter 90
53B-8a-103, as last amended by Laws of Utah 2019, Chapters 370 and 456
53D-1-103, as last amended by Laws of Utah 2019, Chapters 370 and 456
53E-3-705, as last amended by Laws of Utah 2019, Chapters 186 and 370

53E-4-202, as last amended by Laws of Utah 2019, Chapters 186 and 324
53G-3-204, as renumbered and amended by Laws of Utah 2018, Chapter 3
53G-4-204, as last amended by Laws of Utah 2019, Chapter 293
53G-4-402, as last amended by Laws of Utah 2020, Chapter 347
53G-5-504, as last amended by Laws of Utah 2020, Chapters 192 and 408
53G-7-1105, as last amended by Laws of Utah 2019, Chapter 293
54-8-10, as last amended by Laws of Utah 2010, Chapter 90
54-8-16, as last amended by Laws of Utah 2010, Chapter 90
57-11-11, as last amended by Laws of Utah 2011, Chapter 340
59-2-919, as last amended by Laws of Utah 2020, Chapter 354
59-2-919.2, as last amended by Laws of Utah 2010, Chapter 90
59-12-1102, as last amended by Laws of Utah 2016, Chapter 364
63A-3-103, as last amended by Laws of Utah 2020, Chapter 365
63A-5b-905, as renumbered and amended by Laws of Utah 2020, Chapter 152
63A-12-100, as last amended by Laws of Utah 2010, Chapter 258
63A-12-101, as last amended by Laws of Utah 2019, Chapter 254
63E-2-109, as last amended by Laws of Utah 2019, Chapter 370
63G-4-107, as enacted by Laws of Utah 2016, Chapter 312
63G-9-303, as last amended by Laws of Utah 2016, Chapter 118
63H-1-701, as last amended by Laws of Utah 2018, Chapter 101
63H-2-502, as last amended by Laws of Utah 2018, Chapter 101
63H-4-108, as last amended by Laws of Utah 2019, Chapters 370 and 456
63H-5-108, as last amended by Laws of Utah 2019, Chapters 370 and 456
63H-6-103, as last amended by Laws of Utah 2020, Chapter 152
63H-7a-104, as enacted by Laws of Utah 2019, Chapter 456
63H-7a-803, as last amended by Laws of Utah 2019, Chapters 370 and 509
63H-8-204, as last amended by Laws of Utah 2019, Chapter 370
63I-1-263, as last amended by Laws of Utah 2020, Chapters 82, 152, 154, 199, 230, 303, 322, 336, 354, 360, 375, 405 and last amended by Coordination Clause, Laws of Utah 2020, Chapter 360
63I-2-263, as last amended by Laws of Utah 2020, Fifth Special Session, Chapter 12
63M-4-402, as enacted by Laws of Utah 2014, Chapter 294
67-1-2.5, as last amended by Laws of Utah 2020, Chapters 154, 352, and 373
67-3-1, as last amended by Laws of Utah 2018, Chapters 200 and 256
72-3-108, as last amended by Laws of Utah 2010, Chapter 90
72-5-105, as last amended by Laws of Utah 2017, First Special Session, Chapter 2
73-1-16, as last amended by Laws of Utah 2010, Chapter 90
73-5-14, as last amended by Laws of Utah 2010, Chapter 90
75-1-401, as last amended by Laws of Utah 2010, Chapter 90

ENACTS:
63A-12-114, Utah Code Annotated 1953
63A-16-101, Utah Code Annotated 1953
63A-16-102, Utah Code Annotated 1953
63A-16-202, Utah Code Annotated 1953
63F-1-108, Utah Code Annotated 1953

RENUMBERS AND AMENDS:
63A-12-201, (Renumbered from 63F-1-701, as last amended by Laws of Utah 2020, Chapter 154)
63A-12-202, (Renumbered from 63F-1-702, as enacted by Laws of Utah 2007, Chapter 249)
63A-16-201, (Renumbered from 63A-1-203, as renumbered and amended by Laws of Utah 2019, Chapter 370)
67-3-12, (Renumbered from 63A-1-202, as last amended by Laws of Utah 2019, Chapter 214 and renumbered and amended by Laws of Utah 2019, Chapter 370)

REPEALS:
63A-1-201, as renumbered and amended by Laws of Utah 2019, Chapter 370
63A-1-204, as renumbered and amended by Laws of Utah 2019, Chapter 370
63A-1-205, as renumbered and amended by Laws of Utah 2019, Chapter 370
63A-1-206, as renumbered and amended by Laws of Utah 2019, Chapter 370

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

Section 1. Section 4-21-106 is amended to read:

4-21-106. Exemption from certain operational requirements.

(1) The council is exempt from:

(a) Title 51, Chapter 5, Funds Consolidation Act;

(b) Title 63A, Utah Administrative Services Code[~~, except as provided in Subsection (2)(c)~~];

(c) Title 63G, Chapter 6a, Utah Procurement Code, but the council shall adopt procedures to ensure that the council makes purchases:

(i) in a manner that provides for fair competition between providers; and

(ii) at competitive prices;

(d) Title 63J, Chapter 1, Budgetary Procedures Act; and

(e) Title 67, Chapter 19, Utah State Personnel Management Act.

(2) The council is subject to:

(a) Title 51, Chapter 7, State Money Management Act;

(b) Title 52, Chapter 4, Open and Public Meetings Act;

(c) [~~Title 63A, Chapter 1, Part 2, Utah Public Finance Website~~] Section 67-3-12;

(d) Title 63G, Chapter 2, Government Records Access and Management Act;

(e) other Utah Code provisions not specifically exempted under Subsection 4-21-106(1); and

(f) audit by the state auditor pursuant to Title 67, Chapter 3, Auditor, and by the legislative auditor pursuant to Section 36-12-15.

Section 2. Section 4-22-107 is amended to read:

4-22-107. Exemption from certain operational requirements.

(1) The commission is exempt from:

(a) Title 51, Chapter 5, Funds Consolidation Act;

(b) Title 51, Chapter 7, State Money Management Act;

(c) [~~except as provided in Subsection (2)(b),~~] Title 63A, Utah Administrative Services Code;

(d) Title 63G, Chapter 6a, Utah Procurement Code, but the commission shall adopt procedures to ensure that the commission makes purchases:

(i) in a manner that provides for fair competition between providers; and

(ii) at competitive prices;

(e) Title 63J, Chapter 1, Budgetary Procedures Act; and

(f) Title 67, Chapter 19, Utah State Personnel Management Act.

(2) The commission is subject to:

(a) Title 52, Chapter 4, Open and Public Meetings Act;

(b) [~~Title 63A, Chapter 1, Part 2, Utah Public Finance Website~~] Section 67-3-12; and

(c) Title 63G, Chapter 2, Government Records Access and Management Act.

Section 3. Section 4-30-106 is amended to read:

4-30-106. Hearing on license application -- Notice of hearing.

(1) Upon the filing of an application, the department shall set a time for hearing on the application in the city or town nearest the proposed site of the livestock market and cause notice of the time and place of the hearing together with a copy of the application to be forwarded by mail, not less than 15 days before the hearing date, to the following:

(a) each licensed livestock market operator within the state; and

(b) each livestock or other interested association or group of persons in the state that has filed written notice with the department requesting receipt of notice of such hearings.

(2) Notice of the hearing shall be published 14 days before the scheduled hearing date:

(a) in a daily or weekly newspaper of general circulation within the city or town where the hearing is scheduled; and

(b) on the Utah Public Notice Website created in Section [~~63F-1-701~~] 63A-12-201.

Section 4. Section 7-1-706 is amended to read:

7-1-706. Application to commissioner to exercise power -- Procedure.

(1) Except as provided in Sections 7-1-704 and 7-1-705, by filing a request for agency action with the commissioner, any person may request the commissioner to:

(a) issue any rule or order;

(b) exercise any powers granted to the commissioner under this title; or

(c) act on any matter that is subject to the approval of the commissioner.

(2) Within 10 days of receipt of the request, the commissioner shall, at the applicant's expense, cause a supervisor to make a careful investigation of the facts relevant or material to the request.

(3) (a) The supervisor shall submit written findings and recommendations to the commissioner.

(b) The application, any additional information furnished by the applicant, and the findings and recommendations of the supervisor may be inspected by any person at the office of the commissioner, except those portions of the application or report that the commissioner designates as confidential to prevent a clearly unwarranted invasion of privacy.

(4) (a) If a hearing is held concerning the request, the commissioner shall publish notice of the hearing at the applicant's expense:

(i) in a newspaper of general circulation within the county where the applicant is located at least once a week for three successive weeks before the date of the hearing; and

(ii) on the Utah Public Notice Website created in Section [~~63F-1-701~~] 63A-12-201, for three weeks before the date of the hearing.

(b) The notice required by Subsection (4)(a) shall include the information required by the department's rules.

(c) The commissioner shall act upon the request within 30 days after the close of the hearing, based on the record before the commissioner.

(5) (a) If no hearing is held, the commissioner shall approve or disapprove the request within 90 days of receipt of the request based on:

(i) the application;

(ii) additional information filed with the commissioner; and

(iii) the findings and recommendations of the supervisor.

(b) The commissioner shall act on the request by issuing findings of fact, conclusions, and an order, and shall mail a copy of each to:

(i) the applicant;

(ii) all persons who have filed protests to the granting of the application; and

(iii) other persons that the commissioner considers should receive copies.

(6) The commissioner may impose any conditions or limitations on the approval or disapproval of a request that the commissioner considers proper to:

(a) protect the interest of creditors, depositors, and other customers of an institution;

(b) protect its shareholders or members; and

(c) carry out the purposes of this title.

Section 5. Section 10-2-406 is amended to read:

10-2-406. Notice of certification -- Publishing and providing notice of petition.

(1) After receipt of the notice of certification from the city recorder or town clerk under Subsection 10-2-405(2)(c)(i), the municipal legislative body shall publish notice:

(a) (i) at least once a week for three successive weeks, beginning no later than 10 days after the day on which the municipal legislative body receives the notice of certification, in a newspaper of general circulation within:

(A) the area proposed for annexation; and

(B) the unincorporated area within 1/2 mile of the area proposed for annexation;

(ii) if there is no newspaper of general circulation in the combined area described in Subsections (1)(a)(i)(A) and (B), no later than 10 days after the day on which the municipal legislative body receives the notice of certification, by posting one notice, and at least one additional notice per 2,000 population within the combined area, in places within the combined area that are most likely to give notice to the residents within, and the owners of real property located within, the combined area; or

(iii) no later than 10 days after the day on which the municipal legislative body receives the notice of certification, by mailing the notice to each residence within, and to each owner of real property located within, the combined area described in Subsections (1)(a)(i)(A) and (B);

(b) in accordance with Section 45-1-101, for three weeks, beginning no later than 10 days after the day on which the municipal legislative body receives the notice of certification;

(c) on the Utah Public Notice Website created in Section ~~[63F-1-701]~~ 63A-12-201, for three weeks, beginning no later than 10 days after the day on which the municipal legislative body receives the notice of certification;

(d) within 20 days after the day on which the municipal legislative body receives the notice of certification, by mailing written notice to each affected entity; and

(e) if the municipality has a website, on the municipality's website for the period of time described in Subsection (1)(c).

(2) The notice described in Subsection (1) shall:

(a) state that a petition has been filed with the municipality proposing the annexation of an area to the municipality;

(b) state the date of the municipal legislative body's receipt of the notice of certification under Subsection 10-2-405(2)(c)(i);

(c) describe the area proposed for annexation in the annexation petition;

(d) state that the complete annexation petition is available for inspection and copying at the office of the city recorder or town clerk;

(e) state in conspicuous and plain terms that the municipality may grant the petition and annex the area described in the petition unless, within the time required under Subsection 10-2-407(2)(a)(i), a written protest to the annexation petition is filed with the commission and a copy of the protest delivered to the city recorder or town clerk of the proposed annexing municipality;

(f) state the address of the commission or, if a commission has not yet been created in the county, the county clerk, where a protest to the annexation petition may be filed;

(g) state that the area proposed for annexation to the municipality will also automatically be annexed to a local district providing fire protection, paramedic, and emergency services or a local district providing law enforcement service, as the case may be, as provided in Section 17B-1-416, if:

(i) the proposed annexing municipality is entirely within the boundaries of a local district:

(A) that provides fire protection, paramedic, and emergency services or law enforcement service, respectively; and

(B) in the creation of which an election was not required because of Subsection 17B-1-214(3)(c); and

(ii) the area proposed to be annexed to the municipality is not already within the boundaries of the local district; and

(h) state that the area proposed for annexation to the municipality will be automatically withdrawn from a local district providing fire protection, paramedic, and emergency services or a local district providing law enforcement service, as the case may be, as provided in Subsection 17B-1-502(2), if:

(i) the petition proposes the annexation of an area that is within the boundaries of a local district:

(A) that provides fire protection, paramedic, and emergency services or law enforcement service, respectively; and

(B) in the creation of which an election was not required because of Subsection 17B-1-214(3)(c); and

(ii) the proposed annexing municipality is not within the boundaries of the local district.

(3) (a) The statement required by Subsection (2)(e) shall state the deadline for filing a written protest in terms of the actual date rather than by reference to the statutory citation.

(b) In addition to the requirements under Subsection (2), a notice under Subsection (1) for a proposed annexation of an area within a county of the first class shall include a statement that a protest to the annexation petition may be filed with the commission by property owners if it contains the signatures of the owners of private real property that:

(i) is located in the unincorporated area within 1/2 mile of the area proposed for annexation;

(ii) covers at least 25% of the private land area located in the unincorporated area within 1/2 mile of the area proposed for annexation; and

(iii) is equal in value to at least 15% of all real property located in the unincorporated area within 1/2 mile of the area proposed for annexation.

Section 6. Section 10-2-407 is amended to read:

10-2-407. Protest to annexation petition -- Planning advisory area planning commission recommendation -- Petition requirements -- Disposition of petition if no protest filed.

(1) A protest to an annexation petition under Section 10-2-403 may be filed by:

(a) the legislative body or governing board of an affected entity;

(b) the owner of rural real property as defined in Section 17B-2a-1107; or

(c) for a proposed annexation of an area within a county of the first class, the owners of private real property that:

(i) is located in the unincorporated area within 1/2 mile of the area proposed for annexation;

(ii) covers at least 25% of the private land area located in the unincorporated area within 1/2 mile of the area proposed for annexation; and

(iii) is equal in value to at least 15% of all real property located in the unincorporated area within 1/2 mile of the area proposed for annexation.

(2) Each protest under Subsection (1) shall:

(a) be filed:

(i) no later than 30 days after the municipal legislative body's receipt of the notice of certification under Subsection 10-2-405(2)(c)(i); and

(ii) (A) in a county that has already created a commission under Section 10-2-409, with the commission; or

(B) in a county that has not yet created a commission under Section 10-2-409, with the clerk of the county in which the area proposed for annexation is located;

(b) state each reason for the protest of the annexation petition and, if the area proposed to be annexed is located in a specified county, justification for the protest under the standards established in this chapter;

(c) if the area proposed to be annexed is located in a specified county, contain other information that the commission by rule requires or that the party filing the protest considers pertinent; and

(d) contain the name and address of a contact person who is to receive notices sent by the commission with respect to the protest proceedings.

(3) The party filing a protest under this section shall on the same date deliver or mail a copy of the protest to the city recorder or town clerk of the proposed annexing municipality.

(4) Each clerk who receives a protest under Subsection (2)(a)(ii)(B) shall:

(a) immediately notify the county legislative body of the protest; and

(b) deliver the protest to the boundary commission within five days after:

(i) receipt of the protest, if the boundary commission has previously been created; or

(ii) creation of the boundary commission under Subsection 10-2-409(1)(b), if the boundary commission has not previously been created.

(5) (a) If a protest is filed under this section:

(i) the municipal legislative body may, at its next regular meeting after expiration of the deadline under Subsection (2)(a)(i), deny the annexation petition; or

(ii) if the municipal legislative body does not deny the annexation petition under Subsection (5)(a)(i), the municipal legislative body may take no further action on the annexation petition until after receipt of the commission's notice of its decision on the protest under Section 10-2-416.

(b) If a municipal legislative body denies an annexation petition under Subsection (5)(a)(i), the municipal legislative body shall, within five days after the denial, send notice of the denial in writing to:

(i) the contact sponsor of the annexation petition;

(ii) the commission; and

(iii) each entity that filed a protest.

(6) If no timely protest is filed under this section, the municipal legislative body may, subject to Subsection (7), approve the petition.

(7) Before approving an annexation petition under Subsection (6), the municipal legislative body shall hold a public hearing and publish notice of the public hearing:

(a) (i) at least seven days before the day of the public hearing in a newspaper of general circulation within the municipality and the area proposed for annexation;

(ii) if there is no newspaper of general circulation in the combined area described in Subsection (7)(a)(i), at least seven days before the day of the public hearing, by posting one notice, and at least one additional notice per 2,000 population within the combined area, in places within the combined area that are most likely to give notice to the residents within, and the owners of real property located within, the combined area; or

(iii) at least 10 days before the day of the public hearing by mailing the notice to each residence within, and to each owner of real property located within, the combined area described in Subsection (7)(a)(i);

(b) on the Utah Public Notice Website created in Section [~~63F-1-701~~] 63A-12-201, for seven days before the day of the public hearing;

(c) in accordance with Section 45-1-101, for seven days before the day of the public hearing; and

(d) if the municipality has a website, on the municipality's website for seven days before the day of the public hearing.

Section 7. Section 10-2-415 is amended to read:

10-2-415. Public hearing -- Notice.

(1) (a) If the results of the feasibility study or supplemental feasibility study meet the requirements of Subsection 10-2-416(3) with respect to a proposed annexation of an area located in a county of the first class, the commission shall hold a public hearing within 30 days after the day on which the commission receives the feasibility study or supplemental feasibility study results.

(b) At the public hearing described in Subsection (1)(a), the commission shall:

(i) require the feasibility consultant to present the results of the feasibility study and, if applicable, the supplemental feasibility study;

(ii) allow those present to ask questions of the feasibility consultant regarding the study results; and

(iii) allow those present to speak to the issue of annexation.

(2) The commission shall publish notice of the public hearing described in Subsection (1)(a):

(a) (i) at least once a week for two successive weeks before the public hearing in a newspaper of general circulation within the area proposed for annexation, the surrounding 1/2 mile of unincorporated area, and the proposed annexing municipality;

(ii) if there is no newspaper of general circulation within the combined area described in Subsection (2)(a)(i), at least two weeks before the day of the public hearing, by posting one notice, and at least one additional notice per 2,000 population within the combined area, in places within the combined area that are most likely to give notice of the public hearing to the residents within, and the owners of real property located within, the combined area; or

(iii) by mailing notice to each residence within, and to each owner of real property located within, the combined area described in Subsection (2)(a)(i);

(b) on the Utah Public Notice Website created in Section [~~63F-1-701~~] 63A-12-201, for two weeks before the day of the public hearing;

(c) in accordance with Section 45-1-101, for two weeks before the day of the public hearing;

(d) by sending written notice of the public hearing to the municipal legislative body of the proposed annexing municipality, the contact sponsor on the annexation petition, each entity that filed a protest, and, if a protest was filed under Subsection 10-2-407(1)(c), the contact person;

(e) if the municipality has a website, on the municipality's website for two weeks before the day of the public hearing; and

(f) on the county's website for two weeks before the day of the public hearing.

(3) The notice described in Subsection (2) shall:

(a) be entitled, "notice of annexation hearing";

(b) state the name of the annexing municipality;

(c) describe the area proposed for annexation; and

(d) specify the following sources where an individual may obtain a copy of the feasibility study conducted in relation to the proposed annexation:

(i) if the municipality has a website, the municipality's website;

(ii) a municipality's physical address; and

(iii) a mailing address and telephone number.

(4) Within 30 days after the time under Subsection 10-2-407(2) for filing a protest has expired with respect to a proposed annexation of an area located in a specified county, the boundary commission shall hold a hearing on all protests that were filed with respect to the proposed annexation.

(5) At least 14 days before the date of a hearing described in Subsection (4), the commission chair shall publish notice of the hearing:

(a) (i) in a newspaper of general circulation within the area proposed for annexation;

(ii) if there is no newspaper of general circulation within the area proposed for annexation, by posting one notice, and at least one additional notice per 2,000 population within the area in places within the area that are most likely to give notice of the hearing to the residents within, and the owners of real property located within, the area; or

(iii) mailing notice to each resident within, and each owner of real property located within, the area proposed for annexation;

(b) on the Utah Public Notice Website created in Section [~~63F-1-701~~] 63A-12-201, for 14 days before the day of the hearing;

(c) in accordance with Section 45-1-101, for 14 days before the day of the hearing;

(d) if the municipality has a website, on the municipality's website for two weeks before the day of the public hearing; and

(e) on the county's website for two weeks before the day of the public hearing.

(6) Each notice described in Subsection (5) shall:

(a) state the date, time, and place of the hearing;

[~~(a)~~] (b) briefly summarize the nature of the protest; and

[~~(b)~~] (c) state that a copy of the protest is on file at the commission's office.

(7) The commission may continue a hearing under Subsection (4) from time to time, but no continued hearing may be held later than 60 days after the original hearing date.

(8) In considering protests, the commission shall consider whether the proposed annexation:

(a) complies with the requirements of Sections 10-2-402 and 10-2-403 and the annexation policy plan of the proposed annexing municipality;

(b) conflicts with the annexation policy plan of another municipality; and

(c) if the proposed annexation includes urban development, will have an adverse tax consequence on the remaining unincorporated area of the county.

(9) (a) The commission shall record each hearing under this section by electronic means.

(b) A transcription of the recording under Subsection (9)(a), the feasibility study, if applicable, information received at the hearing, and the written decision of the commission shall constitute the record of the hearing.

Section 8. Section 10-2-418 is amended to read:

10-2-418. Annexation of an island or peninsula without a petition -- Notice -- Hearing.

(1) As used in Subsection (2)(b)(ii), for purposes of an annexation conducted in accordance with this section of an area located within a county of the first class, "municipal-type services" does not include a service provided by a municipality pursuant to a contract that the municipality has with another political subdivision as "political subdivision" is defined in Section 17B-1-102.

(2) Notwithstanding Subsection 10-2-402(2), a municipality may annex an unincorporated area under this section without an annexation petition if:

(a) for an unincorporated area within the expansion area of more than one municipality, each municipality agrees to the annexation; and

(b) (i) (A) the area to be annexed consists of one or more unincorporated islands within or unincorporated peninsulas contiguous to the municipality;

(B) the majority of each island or peninsula consists of residential or commercial development;

(C) the area proposed for annexation requires the delivery of municipal-type services; and

(D) the municipality has provided most or all of the municipal-type services to the area for more than one year;

(ii) (A) the area to be annexed consists of one or more unincorporated islands within or unincorporated peninsulas contiguous to the municipality, each of which has fewer than 800 residents; and

(B) the municipality has provided one or more municipal-type services to the area for at least one year;

(iii) the area consists of:

(A) an unincorporated island within or an unincorporated peninsula contiguous to the municipality; and

(B) for an area outside of the county of the first class proposed for annexation, no more than 50 acres; or

(iv) (A) the area to be annexed consists only of one or more unincorporated islands in a county of the second class;

(B) the area to be annexed is located in the expansion area of a municipality; and

(C) the county legislative body in which the municipality is located provides notice to each property owner within the area to be annexed that the county legislative body will hold a public hearing, no less than 15 days after the day on which the county legislative body provides the notice, and may make a recommendation of annexation to the

municipality whose expansion area includes the area to be annexed after the public hearing.

(3) Notwithstanding Subsection 10-2-402(1)(b)(iii), a municipality may annex a portion of an unincorporated island or unincorporated peninsula under this section, leaving unincorporated the remainder of the unincorporated island or unincorporated peninsula, if:

(a) in adopting the resolution under Subsection (5)(a) the municipal legislative body determines that not annexing the entire unincorporated island or unincorporated peninsula is in the municipality's best interest; and

(b) for an annexation of one or more unincorporated islands under Subsection (2)(b), the entire island of unincorporated area, of which a portion is being annexed, complies with the requirement of Subsection (2)(b)(ii) relating to the number of residents.

(4) (a) This subsection applies only to an annexation within a county of the first class.

(b) A county of the first class shall agree to an annexation if the majority of private property owners within the area to be annexed give written consent to the annexation, in accordance with Subsection (4)(d), to the recorder of the annexing municipality.

(c) For purposes of Subsection (4)(b), the majority of private property owners is property owners who own:

(i) the majority of the total private land area within the area proposed for annexation; and

(ii) private real property equal to at least 1/2 the value of private real property within the area proposed for annexation.

(d) A property owner consenting to annexation shall indicate the property owner's consent on a form which includes language in substantially the following form:

"Notice: If this written consent is used to proceed with an annexation of your property in accordance with Utah Code Section 10-2-418, no public election is required by law to approve the annexation. If you sign this consent and later decide you do not want to support the annexation of your property, you may withdraw your signature by submitting a signed, written withdrawal with the recorder or clerk of [name of annexing municipality]. If you choose to withdraw your signature, you must do so no later than the close of the public hearing on the annexation conducted in accordance with Utah Code Subsection 10-2-418(4)(d).".

(e) A private property owner may withdraw the property owner's signature indicating consent by submitting a signed, written withdrawal with the recorder or clerk no later than the close of the public hearing held in accordance with Subsection (5)(b).

(5) The legislative body of each municipality intending to annex an area under this section shall:

(a) adopt a resolution indicating the municipal legislative body's intent to annex the area, describing the area proposed to be annexed; and

(b) hold a public hearing on the proposed annexation no earlier than 30 days after the adoption of the resolution described in Subsection (5)(a).

(6) A legislative body described in Subsection (5) shall publish notice of a public hearing described in Subsection (5)(b):

(a) (i) at least once a week for three successive weeks before the public hearing in a newspaper of general circulation within the municipality and the area proposed for annexation;

(ii) if there is no newspaper of general circulation in the combined area described in Subsection (6)(a)(i), at least three weeks before the day of the public hearing, by posting one notice, and at least one additional notice per 2,000 population in the combined area, in places within the combined area that are most likely to give notice to the residents within, and the owners of real property located within, the combined area; or

(iii) at least three weeks before the day of the public hearing, by mailing notice to each residence within, and each owner of real property located within, the combined area described in Subsection (6)(a)(i);

(b) on the Utah Public Notice Website created in Section [~~63F-1-701~~] 63A-12-201, for three weeks before the day of the public hearing;

(c) in accordance with Section 45-1-101, for three weeks before the day of the public hearing;

(d) by sending written notice to:

(i) the board of each local district and special service district whose boundaries contain some or all of the area proposed for annexation; and

(ii) the legislative body of the county in which the area proposed for annexation is located; and

(e) if the municipality has a website, on the municipality's website for three weeks before the day of the public hearing.

(7) The legislative body of the annexing municipality shall ensure that:

(a) each notice described in Subsection (6):

(i) states that the municipal legislative body has adopted a resolution indicating the municipality's intent to annex the area proposed for annexation;

(ii) states the date, time, and place of the public hearing described in Subsection (5)(b);

(iii) describes the area proposed for annexation; and

(iv) except for an annexation that meets the requirements of Subsection (8)(b) or (c), states in conspicuous and plain terms that the municipal

legislative body will annex the area unless, at or before the public hearing described in Subsection (5)(b), written protests to the annexation are filed by the owners of private real property that:

(A) is located within the area proposed for annexation;

(B) covers a majority of the total private land area within the entire area proposed for annexation; and

(C) is equal in value to at least 1/2 the value of all private real property within the entire area proposed for annexation; and

(b) the first publication of the notice described in Subsection (6)(a) occurs within 14 days after the day on which the municipal legislative body adopts a resolution under Subsection (5)(a).

(8) (a) Except as provided in Subsections (8)(b)(i) and (8)(c)(i), upon conclusion of the public hearing described in Subsection (5)(b), the municipal legislative body may adopt an ordinance approving the annexation of the area proposed for annexation under this section unless, at or before the hearing, written protests to the annexation have been filed with the recorder or clerk of the municipality by the owners of private real property that:

(i) is located within the area proposed for annexation;

(ii) covers a majority of the total private land area within the entire area proposed for annexation; and

(iii) is equal in value to at least 1/2 the value of all private real property within the entire area proposed for annexation.

(b) (i) Notwithstanding Subsection (8)(a), upon conclusion of the public hearing described in Subsection (5)(b), a municipality may adopt an ordinance approving the annexation of the area proposed for annexation under this section without allowing or considering protests under Subsection (8)(a) if the owners of at least 75% of the total private land area within the entire area proposed for annexation, representing at least 75% of the value of the private real property within the entire area proposed for annexation, have consented in writing to the annexation.

(ii) Upon the effective date under Section 10-2-425 of an annexation approved by an ordinance adopted under Subsection (8)(b)(i), the area annexed is conclusively presumed to be validly annexed.

(c) (i) Notwithstanding Subsection (8)(a), upon conclusion of the public hearing described in Subsection (5)(b), a municipality may adopt an ordinance approving the annexation of an area that the county legislative body proposes for annexation under this section without allowing or considering protests under Subsection (8)(a) if the county legislative body has formally recommended annexation to the annexing municipality and has made a formal finding that:

(A) the area to be annexed can be more efficiently served by the municipality than by the county;

(B) the area to be annexed is not likely to be naturally annexed by the municipality in the future as the result of urban development;

(C) annexation of the area is likely to facilitate the consolidation of overlapping functions of local government; and

(D) annexation of the area is likely to result in an equitable distribution of community resources and obligations.

(ii) The county legislative body may base the finding required in Subsection (8)(c)(i)(B) on:

(A) existing development in the area;

(B) natural or other conditions that may limit the future development of the area; or

(C) other factors that the county legislative body considers relevant.

(iii) A county legislative body may make the recommendation for annexation required in Subsection (8)(c)(i) for only a portion of an unincorporated island if, as a result of information provided at the public hearing, the county legislative body makes a formal finding that it would be equitable to leave a portion of the island unincorporated.

(iv) If a county legislative body has made a recommendation of annexation under Subsection (8)(c)(i):

(A) the relevant municipality is not required to proceed with the recommended annexation; and

(B) if the relevant municipality proceeds with annexation, the municipality shall annex the entire area that the county legislative body recommended for annexation.

(v) Upon the effective date under Section 10-2-425 of an annexation approved by an ordinance adopted under Subsection (8)(c)(i), the area annexed is conclusively presumed to be validly annexed.

(9) (a) Except as provided in Subsections (8)(b)(i) and (8)(c)(i), if protests are timely filed under Subsection (8)(a), the municipal legislative body may not adopt an ordinance approving the annexation of the area proposed for annexation, and the annexation proceedings under this section shall be considered terminated.

(b) Subsection (9)(a) does not prohibit the municipal legislative body from excluding from a proposed annexation under Subsection (2)(b) the property within an unincorporated island regarding which protests have been filed and proceeding under Subsection (3) to annex some or all of the remaining portion of the unincorporated island.

Section 9. Section 10-2-419 is amended to read:

10-2-419. Boundary adjustment -- Notice and hearing -- Protest.

(1) The legislative bodies of two or more municipalities having common boundaries may adjust their common boundaries as provided in this section.

(2) The legislative body of each municipality intending to adjust a boundary that is common with another municipality shall:

(a) adopt a resolution indicating the intent of the municipal legislative body to adjust a common boundary; and

(b) hold a public hearing on the proposed adjustment no less than 60 days after the adoption of the resolution under Subsection (2)(a).

(3) A legislative body described in Subsection (2) shall publish notice of a public hearing described in Subsection (2)(b):

(a) (i) at least once a week for three successive weeks before the public hearing in a newspaper of general circulation within the municipality;

(ii) if there is no newspaper of general circulation within the municipality, at least three weeks before the day of the public hearing, by posting one notice, and at least one additional notice per 2,000 population of the municipality, in places within the municipality that are most likely to give notice to residents of the municipality; or

(iii) at least three weeks before the day of the public hearing, by mailing notice to each residence in the municipality;

(b) on the Utah Public Notice Website created in Section [~~63F-1-701~~] 63A-12-201, for three weeks before the day of the public hearing;

(c) in accordance with Section 45-1-101, for three weeks before the day of the public hearing;

(d) if the proposed boundary adjustment may cause any part of real property owned by the state to be within the geographic boundary of a different local governmental entity than before the adjustment, by providing written notice, at least 50 days before the day of the public hearing, to:

(i) the title holder of any state-owned real property described in this Subsection (3)(d); and

(ii) the Utah State Developmental Center Board, created under Section 62A-5-202, if any state-owned real property described in this Subsection (3)(d) is associated with the Utah State Developmental Center; and

(e) if the municipality has a website, on the municipality's website for three weeks before the day of the public hearing.

(4) The notice described in Subsection (3) shall:

(a) state that the municipal legislative body has adopted a resolution indicating the municipal legislative body's intent to adjust a boundary that the municipality has in common with another municipality;

(b) describe the area proposed to be adjusted;

(c) state the date, time, and place of the public hearing described in Subsection (2)(b);

(d) state in conspicuous and plain terms that the municipal legislative body will adjust the boundaries unless, at or before the public hearing described in Subsection (2)(b), a written protest to the adjustment is filed by:

(i) an owner of private real property that:

(A) is located within the area proposed for adjustment;

(B) covers at least 25% of the total private land area within the area proposed for adjustment; and

(C) is equal in value to at least 15% of the value of all private real property within the area proposed for adjustment; or

(ii) a title holder of state-owned real property described in Subsection (3)(d);

(e) state that the area that is the subject of the boundary adjustment will, because of the boundary adjustment, be automatically annexed to a local district providing fire protection, paramedic, and emergency services or a local district providing law enforcement service, as the case may be, as provided in Section 17B-1-416, if:

(i) the municipality to which the area is being added because of the boundary adjustment is entirely within the boundaries of a local district:

(A) that provides fire protection, paramedic, and emergency services or law enforcement service, respectively; and

(B) in the creation of which an election was not required because of Subsection 17B-1-214(3)(c); and

(ii) the municipality from which the area is being taken because of the boundary adjustment is not within the boundaries of the local district; and

(f) state that the area proposed for annexation to the municipality will be automatically withdrawn from a local district providing fire protection, paramedic, and emergency services, as provided in Subsection 17B-1-502(2), if:

(i) the municipality to which the area is being added because of the boundary adjustment is not within the boundaries of a local district:

(A) that provides fire protection, paramedic, and emergency services; and

(B) in the creation of which an election was not required because of Subsection 17B-1-214(3)(c); and

(ii) the municipality from which the area is being taken because of the boundary adjustment is entirely within the boundaries of the local district.

(5) The first publication of the notice described in Subsection (3)(a)(i) shall be within 14 days after the day on which the municipal legislative body adopts a resolution under Subsection (2)(a).

(6) Upon conclusion of the public hearing described in Subsection (2)(b), the municipal

legislative body may adopt an ordinance approving the adjustment of the common boundary unless, at or before the hearing described in Subsection (2)(b), a written protest to the adjustment is filed with the city recorder or town clerk by a person described in Subsection (3)(d)(i) or (ii).

(7) The municipal legislative body shall comply with the requirements of Section 10-2-425 as if the boundary adjustment were an annexation.

(8) (a) An ordinance adopted under Subsection (6) becomes effective when each municipality involved in the boundary adjustment has adopted an ordinance under Subsection (6).

(b) The effective date of a boundary adjustment under this section is governed by Section 10-2-425.

Section 10. Section 10-2-501 is amended to read:

10-2-501. Municipal disconnection -- Definitions -- Request for disconnection -- Requirements upon filing request.

(1) As used in this part "petitioner" means:

(a) one or more persons who:

(i) own title to real property within the area proposed for disconnection; and

(ii) sign a request for disconnection proposing to disconnect the area proposed for disconnection from the municipality; or

(b) the mayor of the municipality within which the area proposed for disconnection is located who signs a request for disconnection proposing to disconnect the area proposed for disconnection from the municipality.

(2) (a) A petitioner proposing to disconnect an area within and lying on the borders of a municipality shall file with that municipality's legislative body a request for disconnection.

(b) Each request for disconnection shall:

(i) contain the names, addresses, and signatures of the owners of more than 50% of any private real property in the area proposed for disconnection;

(ii) give the reasons for the proposed disconnection;

(iii) include a map or plat of the territory proposed for disconnection; and

(iv) designate between one and five persons with authority to act on the petitioner's behalf in the proceedings.

(3) Upon filing the request for disconnection, the petitioner shall publish notice of the request:

(a) (i) once a week for three consecutive weeks before the public hearing described in Section 10-2-502.5 in a newspaper of general circulation within the municipality;

(ii) if there is no newspaper of general circulation in the municipality, at least three weeks before the day of the public hearing described in Section 10-2-502.5, by posting one notice, and at least one additional notice per 2,000 population of the municipality, in places within the municipality that are most likely to give notice to the residents within, and the owners of real property located within, the municipality, including the residents who live in the area proposed for disconnection; or

(iii) at least three weeks before the day of the public hearing described in Section 10-2-502.5, by mailing notice to each residence within, and each owner of real property located within, the municipality;

(b) on the Utah Public Notice Website created in Section [~~63F-1-701~~] 63A-12-201, for three weeks before the day of the public hearing described in Section 10-2-502.5;

(c) in accordance with Section 45-1-101, for three weeks before the day of the public hearing described in Section 10-2-502.5;

(d) by mailing notice to each owner of real property located within the area proposed to be disconnected;

(e) by delivering a copy of the request to the legislative body of the county in which the area proposed for disconnection is located; and

(f) if the municipality has a website, on the municipality's website for three weeks before the day of the public hearing.

Section 11. Section 10-2-502.5 is amended to read:

10-2-502.5. Hearing on request for disconnection -- Determination by municipal legislative body -- Petition in district court.

(1) No sooner than seven calendar days after, and no later than 30 calendar days after, the last day on which the petitioner publishes the notice required under Subsection 10-2-501(3)(a), the legislative body of the municipality in which the area proposed for disconnection is located shall hold a public hearing.

(2) The municipal legislative body shall provide notice of the public hearing:

(a) at least seven days before the hearing date, in writing to the petitioner and to the legislative body of the county in which the area proposed for disconnection is located;

(b) (i) at least seven days before the hearing date, by publishing notice in a newspaper of general circulation within the municipality;

(ii) if there is no newspaper of general circulation within the municipality, at least seven days before the hearing date, by posting one notice, and at least one additional notice per 2,000 population of the municipality, in places within the municipality that are most likely to give notice to residents within, and the owners of real property located within, the municipality; or

(iii) at least 10 days before the hearing date, by mailing notice to each residence within, and each

owner of real property located within, the municipality;

(c) on the Utah Public Notice Website created in Section [~~63F-1-701~~] 63A-12-201, for seven days before the hearing date;

(d) in accordance with Section 45-1-101, for seven days before the hearing date; and

(e) if the municipality has a website, on the municipality's website for seven days before the hearing date.

(3) In the public hearing, any person may speak and submit documents regarding the disconnection proposal.

(4) Within 45 calendar days of the hearing, the municipal legislative body shall:

(a) determine whether to grant the request for disconnection; and

(b) if the municipality determines to grant the request, adopt an ordinance approving disconnection of the area from the municipality.

(5) (a) A petition against the municipality challenging the municipal legislative body's determination under Subsection (4) may be filed in district court by:

(i) the petitioner; or

(ii) the county in which the area proposed for disconnection is located.

(b) Each petition under Subsection (5)(a) shall include a copy of the request for disconnection.

Section 12. Section 10-2-607 is amended to read:

10-2-607. Notice of election.

If the county legislative bodies find that the resolution or petition for consolidation and their attachments substantially conform with the requirements of this part, the county legislative bodies shall publish notice of the election for consolidation to the voters of each municipality that would become part of the consolidated municipality:

(1) (a) in a newspaper of general circulation within the boundaries of the municipality at least once a week for four consecutive weeks before the election;

(b) if there is no newspaper of general circulation in the municipality, at least four weeks before the day of the election, by posting one notice, and at least one additional notice per 2,000 population of the municipality, in places within the municipality that are most likely to give notice to the voters in the municipality; or

(c) at least four weeks before the day of the election, by mailing notice to each registered voter in the municipality;

(2) on the Utah Public Notice Website created in Section [~~63F-1-701~~] 63A-12-201, for at least four weeks before the day of the election;

(3) in accordance with Section 45-1-101, for at least four weeks before the day of the election; and

(4) if the municipality has a website, on the municipality's website for at least four weeks before the day of the election.

Section 13. Section 10-2-703 is amended to read:

10-2-703. Publication of notice of election.

(1) Immediately after setting the date for the election, the court shall order for publication notice of the:

(a) petition; and

(b) date the election is to be held to determine the question of dissolution.

(2) The notice described in Subsection (1) shall be published:

(a) (i) for at least once a week for a period of four weeks before the election in a newspaper of general circulation in the municipality;

(ii) if there is no newspaper of general circulation in the municipality, at least four weeks before the day of the election, by posting one notice, and at least one additional notice per 2,000 population of the municipality, in places within the municipality that are most likely to give notice to the voters in the municipality; or

(iii) at least one month before the day of the election, by mailing notice to each registered voter in the municipality;

(b) on the Utah Public Notice Website created in Section [~~63F-1-701~~] 63A-12-201, for four weeks before the day of the election;

(c) in accordance with Section 45-1-101, for four weeks before the day of the election; and

(d) if the municipality has a website, on the municipality's website for four weeks before the day of the election.

Section 14. Section 10-2-708 is amended to read:

10-2-708. Notice of disincorporation -- Publication and filing.

When a municipality has been dissolved, the clerk of the court shall publish notice of the dissolution:

(1) (a) in a newspaper of general circulation in the county in which the municipality is located at least once a week for four consecutive weeks;

(b) if there is no newspaper of general circulation in the county in which the municipality is located, by posting one notice, and at least one additional notice per 2,000 population of the county in places within the county that are most likely to give notice to the residents within, and the owners of real property located within, the county, including the

residents and owners within the municipality that is dissolved; or

(c) by mailing notice to each residence within, and each owner of real property located within, the county;

(2) on the Utah Public Notice Website created in Section [~~63F-1-701~~] 63A-12-201, for four weeks;

(3) in accordance with Section 45-1-101, for four weeks;

(4) if the municipality has a website, on the municipality's website for four weeks; and

(5) on the county's website for four weeks.

Section 15. Section 10-2a-207 is amended to read:

10-2a-207. Public hearings on feasibility study results -- Notice of hearings.

(1) If the results of the feasibility study or supplemental feasibility study comply with Subsection 10-2a-205(6)(a), the lieutenant governor shall, after receipt of the results of the feasibility study or supplemental feasibility study, conduct at least two public hearings:

(a) within 60 days after the day on which the lieutenant governor receives the results;

(b) at least seven days apart;

(c) except in a proposed municipality that will be a city of the fifth class or a town, in geographically diverse locations;

(d) within or near the proposed municipality;

(e) to allow the feasibility consultant to present the results of the feasibility study; and

(f) to inform the public about the results of the feasibility study.

(2) At each public hearing described in Subsection (1), the lieutenant governor shall:

(a) provide a map or plat of the boundary of the proposed municipality;

(b) provide a copy of the feasibility study for public review;

(c) allow members of the public to express views about the proposed incorporation, including views about the proposed boundaries; and

(d) allow the public to ask the feasibility consultant questions about the feasibility study.

(3) The lieutenant governor shall publish notice of the public hearings described in Subsection (1):

(a) (i) at least once a week for three consecutive weeks before the first public hearing in a newspaper of general circulation within the proposed municipality;

(ii) if there is no newspaper of general circulation in the proposed municipality, at least three weeks before the day of the first public hearing, by posting one notice, and at least one additional notice per 2,000 population of the proposed municipality, in places within the proposed municipality that are most likely to give notice to the residents within, and the owners of real property located within, the proposed municipality; or

(iii) at least three weeks before the first public hearing, by mailing notice to each residence within, and each owner of real property located within, the proposed municipality;

(b) on the Utah Public Notice Website created in Section [~~63F-1-701~~] 63A-12-201, for three weeks before the day of the first public hearing;

(c) in accordance with Section 45-1-101, for three weeks before the day of the first public hearing; and

(d) on the lieutenant governor's website for three weeks before the day of the first public hearing.

(4) The last notice required to be published under Subsection (3)(a)(i) shall be at least three days before the first public hearing required under Subsection (1).

(5) (a) Except as provided in Subsection (5)(b), the notice described in Subsection (3) shall include the feasibility study summary described in Subsection 10-2a-205(3)(c) and shall indicate that a full copy of the study is available on the lieutenant governor's website and for inspection at the Office of the Lieutenant Governor.

(b) Instead of publishing the feasability summary under Subsection (5)(a), the lieutenant governor may publish a statement that specifies the following sources where a resident within, or the owner of real property located within, the proposed municipality, may view or obtain a copy of the feasability study:

(i) the lieutenant governor's website;

(ii) the physical address of the Office of the Lieutenant Governor; and

(iii) a mailing address and telephone number.

Section 16. Section 10-2a-210 is amended to read:

10-2a-210. Incorporation election.

(1) (a) If the lieutenant governor certifies a petition under Subsection 10-2a-209(1)(b), the lieutenant governor shall schedule an incorporation election for the proposed municipality described in the petition to be held on the date of the next regular general election described in Section 20A-1-201, or the next municipal general election described in Section 20A-1-202, that is at least 65 days after the day on which the lieutenant governor certifies the petition.

(b) (i) The lieutenant governor shall direct the county legislative body of the county in which the proposed municipality is located to hold the election on the date that the lieutenant governor schedules under Subsection (1)(a).

(ii) The county shall hold the election as directed by the lieutenant governor under Subsection (1)(b)(i).

(2) The county clerk shall publish notice of the election:

(a) (i) in a newspaper of general circulation within the area proposed to be incorporated at least once a week for three successive weeks before the election;

(ii) if there is no newspaper of general circulation in the area proposed to be incorporated, at least three weeks before the day of the election, by posting one notice, and at least one additional notice per 2,000 population of the area proposed to be incorporated, in places within the area proposed to be incorporated that are most likely to give notice to the voters within the area proposed to be incorporated; or

(iii) at least three weeks before the day of the election, by mailing notice to each registered voter in the area proposed to be incorporated;

(b) on the Utah Public Notice Website created in Section [~~63F-1-701~~] 63A-12-201, for three weeks before the day of the election;

(c) in accordance with Section 45-1-101, for three weeks before the day of the election;

(d) if the proposed municipality has a website, on the proposed municipality's website for three weeks before the day of the election; and

(e) on the county's website for three weeks before the day of the election.

(3) (a) The notice required by Subsection (2) shall contain:

(i) a statement of the contents of the petition;

(ii) a description of the area proposed to be incorporated as a municipality;

(iii) a statement of the date and time of the election and the location of polling places; and

(iv) except as provided in Subsection (3)(c), the feasibility study summary described in Subsection 10-2a-205(3)(c) and a statement that a full copy of the study is available on the lieutenant governor's website and for inspection at the Office of the Lieutenant Governor.

(b) The last notice required to be published under Subsection (2)(a)(i) shall be published at least one day, but no more than seven days, before the day of the election.

(c) Instead of publishing the feasibility summary under Subsection (3)(a)(iv), the notice may include a statement that specifies the following sources where a registered voter in area proposed to be incorporated may view or obtain a copy the feasibility study:

(i) the lieutenant governor's website;

(ii) the physical address of the Office of the Lieutenant Governor; and

(iii) a mailing address and telephone number.

(4) An individual may not vote in an incorporation election under this section unless the individual is a registered voter who resides, as defined in Section 20A-1-102, within the boundaries of the proposed municipality.

(5) If a majority of those who vote in an incorporation election held under this section cast votes in favor of incorporation, the area shall incorporate.

Section 17. Section 10-2a-213 is amended to read:

10-2a-213. Determination of number of council members -- Determination of election districts -- Hearings and notice.

(1) If the incorporation proposal passes, the petition sponsors shall, within 60 days after the day on which the county conducts the canvass of the election under Section 10-2a-212:

(a) for the incorporation of a city:

(i) if the voters at the incorporation election choose the council-mayor form of government, determine the number of council members that will constitute the city council of the city; and

(ii) if the voters at the incorporation election vote to elect council members by district, determine the number of council members to be elected by district and draw the boundaries of those districts, which shall be substantially equal in population; and

(b) for the incorporation of any municipality:

(i) determine the initial terms of the mayor and members of the municipal council so that:

(A) the mayor and approximately half the members of the municipal council are elected to serve an initial term, of no less than one year, that allows the mayor's and members' successors to serve a full four-year term that coincides with the schedule established in Subsection 10-3-205(1); and

(B) the remaining members of the municipal council are elected to serve an initial term, of no less than one year, that allows the members' successors to serve a full four-year term that coincides with the schedule established in Subsection 10-3-205(2); and

(ii) submit in writing to the county legislative body the results of the determinations made by the sponsors under Subsections (1)(a) and (b)(i).

(2) A newly incorporated town shall operate under the five-member council form of government as defined in Section 10-3b-102.

(3) Before making a determination under Subsection (1)(a) or (b)(i), the petition sponsors shall hold a public hearing within the future municipality on the applicable issues described in Subsections (1)(a) and (b)(i).

(4) The petition sponsors shall publish notice of the public hearing described in Subsection (3):

(a) (i) in a newspaper of general circulation within the future municipality at least once a week for two successive weeks before the public hearing;

(ii) if there is no newspaper of general circulation in the future municipality, at least two weeks before

the day of the public hearing, by posting one notice, and at least one additional notice per 2,000 population of the future municipality, in places within the future municipality that are most likely to give notice to the residents within, and the owners of real property located within, the future municipality; or

(iii) at least two weeks before the day of the public hearing, by mailing notice to each residence within, and each owner of real property located within, the future municipality;

(b) on the Utah Public Notice Website created in Section [~~63F-1-701~~] 63A-12-201, for two weeks before the day of the public hearing;

(c) in accordance with Section 45-1-101, for at least two weeks before the day of the public hearing;

(d) if the future municipality has a website, for two weeks before the day of the public hearing; and

(e) on the county's website for two weeks before the day of the public hearing.

(5) The last notice required to be published under Subsection (4)(a)(i) shall be published at least three days before the day of the public hearing described in Subsection (3).

Section 18. Section 10-2a-214 is amended to read:

10-2a-214. Notice of number of commission or council members to be elected and of district boundaries -- Declaration of candidacy for municipal office.

(1) Within 20 days after the day on which a county legislative body receives the petition sponsors' determination under Subsection 10-2a-213(1)(b)(ii), the county clerk shall publish, in accordance with Subsection (2), notice containing:

(a) the number of municipal council members to be elected for the new municipality;

(b) except as provided in Subsection (3), if some or all of the municipal council members are to be elected by district, a description of the boundaries of those districts;

(c) information about the deadline for an individual to file a declaration of candidacy to become a candidate for mayor or municipal council; and

(d) information about the length of the initial term of each of the municipal officers.

(2) The county clerk shall publish the notice described in Subsection (1):

(a) (i) in a newspaper of general circulation within the future municipality at least once a week for two consecutive weeks;

(ii) if there is no newspaper of general circulation in the future municipality, by posting one notice, and at least one additional notice per 2,000 population of the future municipality, in places within the future municipality that are most likely to give notice to the residents in the future municipality; or

(iii) by mailing notice to each residence in the future municipality;

(b) on the Utah Public Notice Website created in Section [~~63F-1-701~~] 63A-12-201, for two weeks;

(c) in accordance with Section 45-1-101, for two weeks;

(d) if the future municipality has a website, on the future municipality's website for two weeks; and

(e) on the county's website for two weeks.

(3) Instead of publishing the district boundaries described in Subsection (1)(b), the notice may include a statement that specifies the following sources where a resident of the future municipality may view or obtain a copy the district:

(a) the county website;

(b) the physical address of the county offices; and

(c) a mailing address and telephone number.

(4) Notwithstanding Subsection 20A-9-203(3)(a), each individual seeking to become a candidate for mayor or municipal council of a municipality incorporating under this part shall file a declaration of candidacy with the clerk of the county in which the future municipality is located and in accordance with:

(a) for an incorporation held on the date of a regular general election, the deadlines for filing a declaration of candidacy under Section 20A-9-202; or

(b) for an incorporation held on the date of a municipal general election, the deadlines for filing a declaration of candidacy under Section 20A-9-203.

Section 19. Section 10-2a-215 is amended to read:

10-2a-215. Election of officers of new municipality -- Primary and final election dates -- County clerk duties -- Candidate duties -- Occupation of office.

(1) For the election of municipal officers, the county legislative body shall:

(a) unless a primary election is prohibited under Subsection 20A-9-404(2), hold a primary election; and

(b) unless the election may be cancelled in accordance with Section 20A-1-206, hold a final election.

(2) Each election described in Subsection (1) shall be held:

(a) consistent with the petition sponsors' determination of the length of each council member's initial term; and

(b) for the incorporation of a city:

(i) appropriate to the form of government chosen by the voters at the incorporation election;

(ii) consistent with the voters' decision about whether to elect city council members by district

and, if applicable, consistent with the boundaries of those districts as determined by the petition sponsors; and

(iii) consistent with the sponsors' determination of the number of city council members to be elected.

(3) (a) Subject to Subsection (3)(b), and notwithstanding Subsection 20A-1-201.5(2), the primary election described in Subsection (1)(a) shall be held at the earliest of the next:

(i) regular primary election described in Subsection 20A-1-201.5(1); or

(ii) municipal primary election described in Section 20A-9-404.

(b) The county shall hold the primary election, if necessary, on the next election date described in Subsection (3)(a) that is after the incorporation election conducted under Section 10-2a-210.

(4) (a) Subject to Subsection (4)(b), the county shall hold the final election described in Subsection (1)(b):

(i) on the following election date that next follows the date of the incorporation election held under Subsection 10-2a-210(1)(a);

(ii) a regular general election described in Section 20A-1-201; or

(iii) a regular municipal general election under Section 20A-1-202.

(b) The county shall hold the final election on the earliest of the next election date that is listed in Subsection (4)(a)(i), (ii), or (iii):

(i) that is after a primary election; or

(ii) if there is no primary election, that is at least:

(A) 75 days after the incorporation election under Section 10-2a-210; and

(B) 65 days after the candidate filing period.

(5) The county clerk shall publish notice of an election under this section:

(a) (i) in accordance with Subsection (6), at least once a week for two consecutive weeks before the election in a newspaper of general circulation within the future municipality;

(ii) if there is no newspaper of general circulation in the future municipality, at least two weeks before the day of the election, by posting one notice, and at least one additional notice per 2,000 population of the future municipality, in places within the future municipality that are most likely to give notice to the voters within the future municipality; or

(iii) at least two weeks before the day of the election, by mailing notice to each registered voter within the future municipality;

(b) on the Utah Public Notice Website created in Section [~~63F-1-701~~] 63A-12-201, for two weeks before the day of the election;

(c) in accordance with Section 45-1-101, for two weeks before the day of the election;

(d) if the future municipality has a website, on the future municipality's website for two weeks before the day of the election; and

(e) on the county's website for two weeks before the day of the election.

(6) The last notice required to be published under Subsection (5)(a)(i) shall be published at least one day but no more than seven days before the day of the election.

(7) Until the municipality is incorporated, the county clerk:

(a) is the election officer for all purposes related to the election of municipal officers;

(b) may, as necessary, determine appropriate deadlines, procedures, and instructions related to the election of municipal officers for a new municipality that are not otherwise contrary to law;

(c) shall require and determine deadlines for municipal office candidates to file campaign financial disclosures in accordance with Section 10-3-208; and

(d) shall ensure that the ballot for the election includes each office that is required to be included in the election for officers of the newly incorporated municipality, including the term of each office.

(8) An individual who has filed as a candidate for an office described in this section shall comply with:

(a) the campaign finance disclosure requirements described in Section 10-3-208; and

(b) the requirements and deadlines established by the county clerk under this section.

(9) Notwithstanding Section 10-3-201, the officers elected at a final election described in Subsection (4)(a) shall take office:

(a) after taking the oath of office; and

(b) at noon on the first Monday following the day on which the election official transmits a certificate of nomination or election under the officer's seal to each elected candidate in accordance with Subsection 20A-4-304(4)(b).

Section 20. Section 10-2a-405 is amended to read:

10-2a-405. Duties of county legislative body -- Public hearing -- Notice -- Other election and incorporation issues -- Rural real property excluded.

(1) The legislative body of a county of the first class shall before an election described in Section 10-2a-404:

(a) in accordance with Subsection (3), publish notice of the public hearing described in Subsection (1)(b);

(b) hold a public hearing; and

(c) at the public hearing, adopt a resolution:

(i) identifying, including a map prepared by the county surveyor, all unincorporated islands within the county;

(ii) identifying each eligible city that will annex each unincorporated island, including whether the unincorporated island may be annexed by one eligible city or divided and annexed by multiple eligible cities, if approved by the residents at an election under Section 10-2a-404; and

(iii) identifying, including a map prepared by the county surveyor, the planning townships within the county and any changes to the boundaries of a planning township that the county legislative body proposes under Subsection (5).

(2) The county legislative body shall exclude from a resolution adopted under Subsection (1)(c) rural real property unless the owner of the rural real property provides written consent to include the property in accordance with Subsection (7).

(3) (a) The county clerk shall publish notice of the public hearing described in Subsection (1)(b):

(i) by mailing notice to each owner of real property located in an unincorporated island or planning township no later than 15 days before the day of the public hearing;

(ii) at least once a week for three successive weeks in a newspaper of general circulation within each unincorporated island, each eligible city, and each planning township; and

(iii) on the Utah Public Notice Website created in Section [~~63F-1-701~~] 63A-12-201, for three weeks before the day of the public hearing.

(b) The last publication of notice required under Subsection (3)(a)(ii) shall be at least three days before the first public hearing required under Subsection (1)(b).

(c) (i) If, under Subsection (3)(a)(ii), there is no newspaper of general circulation within an unincorporated island, an eligible city, or a planning township, the county clerk shall post at least one notice of the hearing per 1,000 population in conspicuous places within the selected unincorporated island, eligible city, or planning township, as applicable, that are most likely to give notice of the hearing to the residents of the unincorporated island, eligible city, or planning township.

(ii) The clerk shall post the notices under Subsection (3)(c)(i) at least seven days before the hearing under Subsection (1)(b).

(d) The notice under Subsection (3)(a) or (c) shall include:

(i) (A) for a resident of an unincorporated island, a statement that the property in the unincorporated island may be, if approved at an election under Section 10-2a-404, annexed by an eligible city, including divided and annexed by multiple cities if applicable, and the name of the eligible city or cities; or

(B) for residents of a planning township, a statement that the property in the planning township shall be, pending the results of the election held under Section 10-2a-404, incorporated as a city, town, or metro township;

(ii) the location and time of the public hearing; and

(iii) the county website where a map may be accessed showing:

(A) how the unincorporated island boundaries will change if annexed by an eligible city; or

(B) how the planning township area boundaries will change, if applicable under Subsection (5), when the planning township incorporates as a metro township or as a city or town.

(e) The county clerk shall publish a map described in Subsection (3)(d)(iii) on the county website.

(4) The county legislative body may, by ordinance or resolution adopted at a public meeting and in accordance with applicable law, resolve an issue that arises with an election held in accordance with this part or the incorporation and establishment of a metro township in accordance with this part.

(5) (a) The county legislative body may, by ordinance or resolution adopted at a public meeting, change the boundaries of a planning township.

(b) A change to a planning township boundary under this Subsection (5) is effective only upon the vote of the residents of the planning township at an election under Section 10-2a-404 to incorporate as a metro township or as a city or town and does not affect the boundaries of the planning township before the election.

(c) The county legislative body:

(i) may alter a planning township boundary under Subsection (5)(a) only if the alteration:

(A) affects less than 5% of the residents residing within the planning advisory area; and

(B) does not increase the area located within the planning township's boundaries; and

(ii) may not alter the boundaries of a planning township whose boundaries are entirely surrounded by one or more municipalities.

(6) After November 2, 2015, and before January 1, 2017, a person may not initiate an annexation or an incorporation process that, if approved, would change the boundaries of a planning township.

(7) (a) As used in this Subsection (7), "rural real property" means an area:

(i) zoned primarily for manufacturing, commercial, or agricultural purposes; and

(ii) that does not include residential units with a density greater than one unit per acre.

(b) Unless an owner of rural real property gives written consent to a county legislative body, rural real property described in Subsection (7)(c) may not be:

(i) included in a planning township identified under Subsection (1)(c); or

(ii) incorporated as part of a metro township, city, or town, in accordance with this part.

(c) The following rural real property is subject to an owner's written consent under Subsection (7)(b):

(i) rural real property that consists of 1,500 or more contiguous acres of real property consisting of one or more tax parcels;

(ii) rural real property that is not contiguous to, but used in connection with, rural real property that consists of 1,500 or more contiguous acres of real property consisting of one or more tax parcels;

(iii) rural real property that is owned, managed, or controlled by a person, company, or association, including a parent, subsidiary, or affiliate related to the owner of 1,500 or more contiguous acres of rural real property consisting of one or more tax parcels; or

(iv) rural real property that is located in whole or in part in one of the following as defined in Section 17-41-101:

(A) an agricultural protection area;

(B) an industrial protection area; or

(C) a mining protection area.

Section 21. Section 10-3-301 is amended to read:

10-3-301. Notice -- Eligibility and residency requirements for elected municipal office -- Mayor and recorder limitations.

(1) As used in this section:

(a) "Absent" means that an elected municipal officer fails to perform official duties, including the officer's failure to attend each regularly scheduled meeting that the officer is required to attend.

(b) "Principal place of residence" means the same as that term is defined in Section 20A-2-105.

(c) "Secondary residence" means a place where an individual resides other than the individual's principal place of residence.

(2) (a) On or before May 1 in a year in which there is a municipal general election, the municipal clerk shall publish a notice that identifies:

(i) the municipal offices to be voted on in the municipal general election; and

(ii) the dates for filing a declaration of candidacy for the offices identified under Subsection (2)(a)(i).

(b) The municipal clerk shall publish the notice described in Subsection (2)(a):

(i) on the Utah Public Notice Website established by Section [~~63F-1-701~~] 63A-12-201; and

(ii) in at least one of the following ways:

(A) at the principal office of the municipality;

(B) in a newspaper of general circulation within the municipality at least once a week for two successive weeks in accordance with Section 45-1-101;

(C) in a newsletter produced by the municipality;

(D) on a website operated by the municipality; or

(E) with a utility enterprise fund customer's bill.

(3) (a) An individual who files a declaration of candidacy for a municipal office shall comply with the requirements described in Section 20A-9-203.

(b) (i) Except as provided in Subsection (3)(b)(ii), the city recorder or town clerk of each municipality shall maintain office hours 8 a.m. to 5 p.m. on the dates described in Subsections 20A-9-203(3)(a)(i) and (c)(i) unless the date occurs on a:

(A) Saturday or Sunday; or

(B) state holiday as listed in Section 63G-1-301.

(ii) If on a regular basis a city recorder or town clerk maintains an office schedule that is less than 40 hours per week, the city recorder or town clerk may comply with Subsection (3)(b)(i) without maintaining office hours by:

(A) posting the recorder's or clerk's contact information, including a phone number and email address, on the recorder's or clerk's office door, the main door to the municipal offices, and, if available, on the municipal website; and

(B) being available from 8 a.m. to 5 p.m. on the dates described in Subsection (3)(b)(i), via the contact information described in Subsection (3)(b)(ii)(A).

(4) An individual elected to municipal office shall be a registered voter in the municipality in which the individual is elected.

(5) (a) Each elected officer of a municipality shall maintain a principal place of residence within the municipality, and within the district that the elected officer represents, during the officer's term of office.

(b) Except as provided in Subsection (6), an elected municipal office is automatically vacant if the officer elected to the municipal office, during the officer's term of office:

(i) establishes a principal place of residence outside the district that the elected officer represents;

(ii) resides at a secondary residence outside the district that the elected officer represents for a continuous period of more than 60 days while still maintaining a principal place of residence within the district;

(iii) is absent from the district that the elected officer represents for a continuous period of more than 60 days; or

(iv) fails to respond to a request, within 30 days after the day on which the elected officer receives the request, from the county clerk or the lieutenant governor seeking information to determine the officer's residency.

(6) (a) Notwithstanding Subsection (5), if an elected municipal officer obtains the consent of the municipal legislative body in accordance with Subsection (6)(b) before the expiration of the 60-day period described in Subsection (5)(b)(ii) or (iii), the officer may:

(i) reside at a secondary residence outside the district that the elected officer represents while still maintaining a principal place of residence within the district for a continuous period of up to one year during the officer's term of office; or

(ii) be absent from the district that the elected officer represents for a continuous period of up to one year during the officer's term of office.

(b) At a public meeting, the municipal legislative body may give the consent described in Subsection (6)(a) by majority vote after taking public comment regarding:

(i) whether the legislative body should give the consent; and

(ii) the length of time to which the legislative body should consent.

(7) (a) The mayor of a municipality may not also serve as the municipal recorder or treasurer.

(b) The recorder of a municipality may not also serve as the municipal treasurer.

(c) An individual who holds a county elected office may not, at the same time, hold a municipal elected office.

(d) The restriction described in Subsection (7)(c) applies regardless of whether the individual is elected to the office or appointed to fill a vacancy in the office.

Section 22. Section 10-3-818 is amended to read:

10-3-818. Salaries in municipalities.

(1) The elective and statutory officers of municipalities shall receive such compensation for their services as the governing body may fix by ordinance adopting compensation or compensation schedules enacted after public hearing.

(2) Upon its own motion the governing body may review or consider the compensation of any officer or officers of the municipality or a salary schedule applicable to any officer or officers of the city for the purpose of determining whether or not it should be adopted, changed, or amended. In the event that the governing body decides that the compensation or compensation schedules should be adopted, changed, or amended, it shall set a time and place for a public hearing at which all interested persons shall be given an opportunity to be heard.

(3) (a) Notice of the time, place, and purpose of the meeting shall be published at least seven days before the meeting by publication:

(i) at least once in a newspaper published in the county within which the municipality is situated and generally circulated in the municipality; and

(ii) on the Utah Public Notice Website created in Section [~~63F-1-701~~] 63A-12-201.

(b) If there is not a newspaper as described in Subsection (3)(a)(i), then notice shall be given by posting this notice in three public places in the municipality.

(4) After the conclusion of the public hearing, the governing body may enact an ordinance fixing, changing, or amending the compensation of any elective or appointive officer of the municipality or adopting a compensation schedule applicable to any officer or officers.

(5) Any ordinance enacted before Laws of Utah 1977, Chapter 48, by a municipality establishing a salary or compensation schedule for its elective or appointive officers and any salary fixed prior to Laws of Utah 1977, Chapter 48, shall remain effective until the municipality has enacted an ordinance pursuant to the provisions of this chapter.

(6) The compensation of all municipal officers shall be paid at least monthly out of the municipal treasury provided that municipalities having 1,000 or fewer population may by ordinance provide for the payment of its statutory officers less frequently. None of the provisions of this chapter shall be considered as limiting or restricting the authority to any municipality that has adopted or does adopt a charter pursuant to Utah Constitution, Article XI, Section 5, to determine the salaries of its elective and appointive officers or employees.

Section 23. Section 10-5-107.5 is amended to read:

10-5-107.5. Transfer of enterprise fund money to another fund.

(1) As used in this section:

(a) "Budget hearing" means a public hearing required under Section 10-5-108.

(b) "Enterprise fund accounting data" means a detailed overview of the various enterprise funds of the town that includes:

(i) a cost accounting breakdown of how money in the enterprise fund is being used to cover, as applicable:

(A) administrative and overhead costs of the town attributable to the operation of the enterprise for which the enterprise fund was created; and

(B) other costs not associated with the enterprise for which the enterprise fund was created; and

(ii) specific enterprise fund information.

(c) "Enterprise fund hearing" means the public hearing required under Subsection (3)(d).

(d) "Specific enterprise fund information" means:

(i) the dollar amount of transfers from an enterprise fund to another fund; and

(ii) the percentage of the total enterprise fund expenditures represented by each transfer to another fund.

(2) Subject to the requirements of this section, a town may transfer money in an enterprise fund to another fund to pay for a good, service, project, venture, or other purpose that is not directly related to the goods or services provided by the enterprise for which the enterprise fund was created.

(3) The governing body of a town that intends to transfer money in an enterprise fund to another fund shall:

(a) provide notice of the intended transfer as required under Subsection (4);

(b) clearly identify in a separate section or document accompanying the town's tentative budget or, if an amendment to the town's budget includes or is based on an intended transfer, in a separate section or document accompanying the amendment to the town's budget:

(i) the enterprise fund from which money is intended to be transferred; and

(ii) the specific enterprise fund information for that enterprise fund;

(c) provide notice of an enterprise fund hearing, as required in Subsection (4); and

(d) hold an enterprise fund hearing before the adoption of the town's budget or, if applicable, the amendment to the budget.

(4) (a) At least seven days before holding an enterprise fund hearing, a governing body shall:

(i) provide the notice described in Subsection (4)(b) by:

(A) mailing a copy of the notice to users of the goods or services provided by the enterprise for which the enterprise fund was created, if the town regularly mails users a periodic billing for the goods or services;

(B) emailing a copy of the notice to users of the goods or services provided by the enterprise for which the enterprise fund was created, if the town regularly emails users a periodic billing for the goods or services;

(C) posting the notice on the Utah Public Notice Website created in Section [~~63F-1-701~~] 63A-12-201; and

(D) if the town has a website, prominently posting the notice on the town's website until the enterprise fund hearing is concluded; and

(ii) if the town communicates with the public through a social media platform, publish notice of the date, time, place, and purpose of the enterprise fund hearing using the social media platform.

(b) The notice required under Subsection (4)(a)(i) shall:

(i) explain the intended transfer of enterprise fund money to another fund;

(ii) include specific enterprise fund information for each enterprise fund from which money is intended to be transferred;

(iii) provide the date, time, and place of the enterprise fund hearing; and

(iv) explain the purpose of the enterprise fund hearing.

(5) (a) An enterprise fund hearing shall be separate and independent from a budget hearing and any other public hearing.

(b) At an enterprise fund hearing, the governing body shall:

(i) explain the intended transfer of enterprise fund money to another fund;

(ii) provide enterprise fund accounting data to the public; and

(iii) allow members of the public in attendance at the hearing to comment on:

(A) the intended transfer of enterprise fund money to another fund; and

(B) the enterprise fund accounting data.

(6) (a) If a governing body adopts a budget or a budget amendment that includes or is based on a transfer of money from an enterprise fund to another fund, the governing body shall:

(i) within 60 days after adopting the budget or budget amendment:

(A) mail a notice to users of the goods or services provided by the enterprise for which the enterprise fund was created, if the town regularly mails users a periodic billing for the goods or services; and

(B) email a notice to users of the goods or services provided by the enterprise for which the enterprise fund was created, if the town regularly emails users a periodic billing for the goods or services;

(ii) within seven days after adopting the budget or budget amendment:

(A) post enterprise fund accounting data on the town's website, if the town has a website;

(B) using the town's social media platform, publish notice of the adoption of a budget or budget amendment that includes or is based on a transfer of money from an enterprise fund to another fund, if the town communicates with the public through a social media platform; and

(iii) within 30 days after adopting the budget, submit to the state auditor the specific enterprise fund information for each enterprise fund from which money will be transferred.

(b) A notice required under Subsection (6)(a)(i) shall:

(i) announce the adoption of a budget or budget amendment that includes or is based on a transfer of money from an enterprise fund to another fund; and

(ii) include the specific enterprise fund information.

(c) The governing body shall maintain the website posting required under Subsection

(6)(a)(ii)(A) continuously until another posting is required under Subsection (4)(a)(i)(C).

Section 24. Section 10-5-108 is amended to read:

10-5-108. Budget hearing -- Notice -- Adjustments.

(1) Prior to the adoption of the final budget or an amendment to a budget, a town council shall hold a public hearing to receive public comment.

(2) The town council shall provide notice of the place, purpose, and time of the public hearing by publishing notice at least seven days before the hearing:

(a) (i) at least once in a newspaper of general circulation in the town; or

(ii) if there is no newspaper of general circulation, then by posting the notice in three public places at least 48 hours before the hearing;

(b) on the Utah Public Notice Website created in Section [~~63F-1-701~~] 63A-12-201; and

(c) on the home page of the website, either in full or as a link, of the town or metro township, if the town or metro township has a publicly viewable website, until the hearing takes place.

(3) After the hearing, the town council, subject to Section 10-5-110, may adjust expenditures and revenues in conformity with this chapter.

Section 25. Section 10-6-113 is amended to read:

10-6-113. Budget -- Notice of hearing to consider adoption.

At the meeting at which each tentative budget is adopted, the governing body shall establish the time and place of a public hearing to consider its adoption and shall order that notice of the public hearing be published at least seven days prior to the hearing:

(1) (a) in at least one issue of a newspaper of general circulation published in the county in which the city is located; or

(b) if there is not a newspaper as described in Subsection (1)(a), in three public places within the city;

(2) on the Utah Public Notice Website created in Section [~~63F-1-701~~] 63A-12-201; and

(3) on the home page of the website, either in full or as a link, of the city or metro township, if the city or metro township has a publicly viewable website, until the hearing takes place.

Section 26. Section 10-6-135.5 is amended to read:

10-6-135.5. Transfer of enterprise fund money to another fund.

(1) As used in this section:

(a) "Budget hearing" means a public hearing required under Section 10-6-114.

(b) "Enterprise fund accounting data" means a detailed overview of the various enterprise funds of the city that includes:

(i) a cost accounting breakdown of how money in the enterprise fund is being used to cover, as applicable:

(A) administrative and overhead costs of the city attributable to the operation of the enterprise for which the enterprise fund was created; and

(B) other costs not associated with the enterprise for which the enterprise fund was created; and

(ii) specific enterprise fund information.

(c) "Enterprise fund hearing" means the public hearing required under Subsection (3)(d).

(d) "Specific enterprise fund information" means:

(i) the dollar amount of transfers from an enterprise fund to another fund; and

(ii) the percentage of the total enterprise fund expenditures represented by each transfer to another fund.

(2) Subject to the requirements of this section, a city may transfer money in an enterprise fund to another fund to pay for a good, service, project, venture, or other purpose that is not directly related to the goods or services provided by the enterprise for which the enterprise fund was created.

(3) The governing body of a city that intends to transfer money in an enterprise fund to another fund shall:

(a) provide notice of the intended transfer as required under Subsection (4);

(b) clearly identify in a separate section or document accompanying the city's tentative budget or, if an amendment to the city's budget includes or is based on an intended transfer, in a separate section or document accompanying the amendment to the city's budget:

(i) the enterprise fund from which money is intended to be transferred; and

(ii) the specific enterprise fund information for that enterprise fund;

(c) provide notice of an enterprise fund hearing, as required in Subsection (4); and

(d) hold an enterprise fund hearing before the adoption of the city's budget or, if applicable, the amendment to the budget.

(4) (a) At least seven days before holding an enterprise fund hearing, a governing body shall:

(i) provide the notice described in Subsection (4)(b) by:

(A) mailing a copy of the notice to users of the goods or services provided by the enterprise for which the enterprise fund was created, if the city regularly mails users a periodic billing for the goods or services;

(B) emailing a copy of the notice to users of the goods or services provided by the enterprise for

which the enterprise fund was created, if the city regularly emails users a periodic billing for the goods or services;

(C) posting the notice on the Utah Public Notice Website created in Section [~~63F-1-701~~] 63A-12-201; and

(D) if the city has a website, prominently posting the notice on the city's website until the enterprise fund hearing is concluded; and

(ii) if the city communicates with the public through a social media platform, publish notice of the date, time, place, and purpose of the enterprise fund hearing using the social media platform.

(b) The notice required under Subsection (4)(a)(i) shall:

(i) explain the intended transfer of enterprise fund money to another fund;

(ii) include specific enterprise fund information for each enterprise fund from which money is intended to be transferred;

(iii) provide the date, time, and place of the enterprise fund hearing; and

(iv) explain the purpose of the enterprise fund hearing.

(5) (a) An enterprise fund hearing shall be separate and independent from a budget hearing and any other public hearing.

(b) At an enterprise fund hearing, the governing body shall:

(i) explain the intended transfer of enterprise fund money to another fund;

(ii) provide enterprise fund accounting data to the public; and

(iii) allow members of the public in attendance at the hearing to comment on:

(A) the intended transfer of enterprise fund money to another fund; and

(B) the enterprise fund accounting data.

(6) (a) If a governing body adopts a budget or a budget amendment that includes or is based on a transfer of money from an enterprise fund to another fund, the governing body shall:

(i) within 60 days after adopting the budget or budget amendment:

(A) mail a notice to users of the goods or services provided by the enterprise for which the enterprise fund was created, if the city regularly mails users a periodic billing for the goods or services; and

(B) email a notice to users of the goods or services provided by the enterprise for which the enterprise fund was created, if the city regularly emails users a periodic billing for the goods or services;

(ii) within seven days after adopting the budget or budget amendment:

(A) post enterprise fund accounting data on the city's website, if the city has a website;

(B) using the city's social media platform, publish notice of the adoption of a budget or budget amendment that includes or is based on a transfer of money from an enterprise fund to another fund, if the city communicates with the public through a social media platform; and

(iii) within 30 days after adopting the budget, submit to the state auditor the specific enterprise fund information for each enterprise fund from which money will be transferred.

(b) A notice required under Subsection (6)(a)(i) shall:

(i) announce the adoption of a budget or budget amendment that includes or is based on a transfer of money from an enterprise fund to another fund; and

(ii) include the specific enterprise fund information.

(c) The governing body shall maintain the website posting required under Subsection (6)(a)(ii)(A) continuously until another posting is required under Subsection (4)(a)(i)(C).

Section 27. Section 10-7-19 is amended to read:

10-7-19. Election to authorize -- Notice -- Ballots.

(1) Subject to Subsection (2), the board of commissioners or city council of any city, or the board of trustees of any incorporated town, may aid and encourage the building of railroads by granting to any railroad company, for depot or other railroad purposes, real property of the city or incorporated town, not necessary for municipal or public purposes, upon the limitations and conditions established by the board of commissioners, city council, or board of trustees.

(2) A board of commissioners, city council, or board of trustees may not grant real property under Subsection (1) unless the grant is approved by the eligible voters of the city or town at the next municipal election, or at a special election called for that purpose by the board of commissioners, city council, or board of trustees.

(3) If the question is submitted at a special election, the election shall be held as nearly as practicable in conformity with the general election laws of the state.

(4) The board of commissioners, city council, or board of trustees shall publish notice of an election described in Subsections (2) and (3):

(a) (i) in a newspaper of general circulation in the city or town once a week for four weeks before the election;

(ii) if there is no newspaper of general circulation in the city or town, at least four weeks before the day of the election, by posting one notice, and at least one additional notice per 2,000 population of the city or town, in places within the city or town that

are most likely to give notice to the voters in the city or town; or

(iii) at least four weeks before the day of the election, by mailing notice to each registered voter in the city or town;

(b) on the Utah Public Notice Website created in Section [~~63F-1-701~~] 63A-12-201, for four weeks before the day of the election;

(c) in accordance with Section 45-1-101, for four weeks before the day of the election; and

(d) if the municipality has a website, on the municipality's website for at least four weeks before the day of the election.

(5) The board of commissioners, city council, or board of trustees shall cause ballots to be printed and provided to the eligible voters, which shall read: "For the proposed grant for depot or other railroad purposes: Yes. No."

(6) If a majority of the votes are cast in favor of the grant, the board of commissioners, city council, or board of trustees shall convey the real property to the railroad company.

Section 28. Section 10-8-2 is amended to read:

10-8-2. Appropriations -- Acquisition and disposal of property -- Municipal authority -- Corporate purpose -- Procedure -- Notice of intent to acquire real property.

(1) (a) A municipal legislative body may:

(i) appropriate money for corporate purposes only;

(ii) provide for payment of debts and expenses of the corporation;

(iii) subject to Subsections (4) and (5), purchase, receive, hold, sell, lease, convey, and dispose of real and personal property for the benefit of the municipality, whether the property is within or without the municipality's corporate boundaries, if the action is in the public interest and complies with other law;

(iv) improve, protect, and do any other thing in relation to this property that an individual could do; and

(v) subject to Subsection (2) and after first holding a public hearing, authorize municipal services or other nonmonetary assistance to be provided to or waive fees required to be paid by a nonprofit entity, whether or not the municipality receives consideration in return.

(b) A municipality may:

(i) furnish all necessary local public services within the municipality;

(ii) purchase, hire, construct, own, maintain and operate, or lease public utilities located and operating within and operated by the municipality; and

(iii) subject to Subsection (1)(c), acquire by eminent domain, or otherwise, property located inside or outside the corporate limits of the municipality and necessary for any of the purposes stated in Subsections (1)(b)(i) and (ii), subject to restrictions imposed by Title 78B, Chapter 6, Part 5, Eminent Domain, and general law for the protection of other communities.

(c) Each municipality that intends to acquire property by eminent domain under Subsection (1)(b) shall comply with the requirements of Section 78B-6-505.

(d) Subsection (1)(b) may not be construed to diminish any other authority a municipality may claim to have under the law to acquire by eminent domain property located inside or outside the municipality.

(2) (a) Services or assistance provided pursuant to Subsection (1)(a)(v) is not subject to the provisions of Subsection (3).

(b) The total amount of services or other nonmonetary assistance provided or fees waived under Subsection (1)(a)(v) in any given fiscal year may not exceed 1% of the municipality's budget for that fiscal year.

(3) It is considered a corporate purpose to appropriate money for any purpose that, in the judgment of the municipal legislative body, provides for the safety, health, prosperity, moral well-being, peace, order, comfort, or convenience of the inhabitants of the municipality subject to this Subsection (3).

(a) The net value received for any money appropriated shall be measured on a project-by-project basis over the life of the project.

(b) (i) A municipal legislative body shall establish the criteria for a determination under this Subsection (3).

(ii) A municipal legislative body's determination of value received is presumed valid unless a person can show that the determination was arbitrary, capricious, or illegal.

(c) The municipality may consider intangible benefits received by the municipality in determining net value received.

(d) (i) Before the municipal legislative body makes any decision to appropriate any funds for a corporate purpose under this section, the municipal legislative body shall hold a public hearing.

(ii) The municipal legislative body shall publish a notice of the hearing described in Subsection (3)(d)(i):

(A) in a newspaper of general circulation at least 14 days before the date of the hearing or, if there is no newspaper of general circulation, by posting notice in at least three conspicuous places within the municipality for the same time period; and

(B) on the Utah Public Notice Website created in Section [~~63F-1-701~~] 63A-12-201, at least 14 days before the date of the hearing.

(e) (i) Before a municipality provides notice as described in Subsection (3)(d)(ii), the municipality shall perform a study that analyzes and demonstrates the purpose for an appropriation described in this Subsection (3) in accordance with Subsection (3)(e)(iii).

(ii) A municipality shall make the study described in Subsection (3)(e)(i) available at the municipality for review by interested parties at least 14 days immediately before the public hearing described in Subsection (3)(d)(i).

(iii) A municipality shall consider the following factors when conducting the study described in Subsection (3)(e)(i):

(A) what identified benefit the municipality will receive in return for any money or resources appropriated;

(B) the municipality's purpose for the appropriation, including an analysis of the way the appropriation will be used to enhance the safety, health, prosperity, moral well-being, peace, order, comfort, or convenience of the inhabitants of the municipality; and

(C) whether the appropriation is necessary and appropriate to accomplish the reasonable goals and objectives of the municipality in the area of economic development, job creation, affordable housing, elimination of a development impediment, job preservation, the preservation of historic structures and property, and any other public purpose.

(f) (i) An appeal may be taken from a final decision of the municipal legislative body, to make an appropriation.

(ii) A person shall file an appeal as described in Subsection (3)(f)(i) with the district court within 30 days after the day on which the municipal legislative body makes a decision.

(iii) Any appeal shall be based on the record of the proceedings before the legislative body.

(iv) A decision of the municipal legislative body shall be presumed to be valid unless the appealing party shows that the decision was arbitrary, capricious, or illegal.

(g) The provisions of this Subsection (3) apply only to those appropriations made after May 6, 2002.

(h) This section applies only to appropriations not otherwise approved pursuant to Title 10, Chapter 5, Uniform Fiscal Procedures Act for Utah Towns, or Title 10, Chapter 6, Uniform Fiscal Procedures Act for Utah Cities.

(4) (a) Before a municipality may dispose of a significant parcel of real property, the municipality shall:

(i) provide reasonable notice of the proposed disposition at least 14 days before the opportunity for public comment under Subsection (4)(a)(ii); and

(ii) allow an opportunity for public comment on the proposed disposition.

(b) Each municipality shall, by ordinance, define what constitutes:

(i) a significant parcel of real property for purposes of Subsection (4)(a); and

(ii) reasonable notice for purposes of Subsection (4)(a)(i).

(5) (a) Except as provided in Subsection (5)(d), each municipality intending to acquire real property for the purpose of expanding the municipality's infrastructure or other facilities used for providing services that the municipality offers or intends to offer shall provide written notice, as provided in this Subsection (5), of its intent to acquire the property if:

(i) the property is located:

(A) outside the boundaries of the municipality; and

(B) in a county of the first or second class; and

(ii) the intended use of the property is contrary to:

(A) the anticipated use of the property under the general plan of the county in whose unincorporated area or the municipality in whose boundaries the property is located; or

(B) the property's current zoning designation.

(b) Each notice under Subsection (5)(a) shall:

(i) indicate that the municipality intends to acquire real property;

(ii) identify the real property; and

(iii) be sent to:

(A) each county in whose unincorporated area and each municipality in whose boundaries the property is located; and

(B) each affected entity.

(c) A notice under this Subsection (5) is a protected record as provided in Subsection 63G-2-305(8).

(d) (i) The notice requirement of Subsection (5)(a) does not apply if the municipality previously provided notice under Section 10-9a-203 identifying the general location within the municipality or unincorporated part of the county where the property to be acquired is located.

(ii) If a municipality is not required to comply with the notice requirement of Subsection (5)(a) because of application of Subsection (5)(d)(i), the municipality shall provide the notice specified in Subsection (5)(a) as soon as practicable after its acquisition of the real property.

Section 29. Section 10-8-15 is amended to read:

10-8-15. Waterworks -- Construction -- Extraterritorial jurisdiction.

(1) As used in this section, "affected entity" means a:

(a) county that has land use authority over land subject to an ordinance or regulation described in this section;

(b) local health department, as that term is defined in Section 26A-1-102, that has jurisdiction pursuant to Section 26A-1-108 over land subject to an ordinance or regulation described in this section;

(c) municipality that has enacted or has the right to enact an ordinance or regulation described in this section over the land subject to an ordinance or regulation described in this section; and

(d) municipality that has land use authority over land subject to an ordinance or regulation described in this section.

(2) A municipality may construct or authorize the construction of waterworks within or without the municipal limits, and for the purpose of maintaining and protecting the same from injury and the water from pollution the municipality's jurisdiction shall extend over the territory occupied by such works, and over all reservoirs, streams, canals, ditches, pipes and drains used in and necessary for the construction, maintenance and operation of the same, and over the stream or other source from which the water is taken, for 15 miles above the point from which it is taken and for a distance of 300 feet on each side of such stream and over highways along such stream or watercourse within said 15 miles and said 300 feet.

(3) The jurisdiction of a city of the first class shall additionally be over the entire watershed within the county of origin of the city of the first class and subject to Subsection (6) provided that livestock shall be permitted to graze beyond 1,000 feet from any such stream or source; and provided further, that the city of the first class shall provide a highway in and through the city's corporate limits, and so far as the city's jurisdiction extends, which may not be closed to cattle, horses, sheep, hogs, or goats driven through the city, or through any territory adjacent thereto over which the city has jurisdiction, but the board of commissioners of the city may enact ordinances placing under police regulations the manner of driving such cattle, sheep, horses, hogs, and goats through the city, or any territory adjacent thereto over which the city has jurisdiction.

(4) A municipality may enact all ordinances and regulations necessary to carry the power herein conferred into effect, and is authorized and empowered to enact ordinances preventing pollution or contamination of the streams or watercourses from which the municipality derives the municipality's water supply, in whole or in part, for domestic and culinary purposes, and may enact ordinances prohibiting or regulating the construction or maintenance of any closet, privy, outhouse or urinal within the area over which the municipality has jurisdiction, and provide for permits for the construction and maintenance of the same.

(5) In granting a permit described in Subsection (4), a municipality may annex thereto such reasonable conditions and requirements for the protection of the public health as the municipality determines proper, and may, if determined advisable, require that all closets, privies and urinals along such streams shall be provided with effective septic tanks or other germ-destroying instrumentalities.

(6) A city of the first class may only exercise extraterritorial jurisdiction outside of the city's county of origin, as described in Subsection (3), pursuant to a written agreement with all municipalities and counties that have jurisdiction over the area where the watershed is located.

(7) (a) After July 1, 2019, a municipal legislative body that seeks to adopt an ordinance or regulation under the authority of this section shall:

(i) hold a public hearing on the proposed ordinance or regulation; and

(ii) give notice of the date, place, and time of the hearing, as described in Subsection (7)(b).

(b) At least ten days before the day on which the public hearing described in Subsection (7)(a)(i) is to be held, the notice described in Subsection (7)(a)(ii) shall be:

(i) mailed to:

(A) each affected entity;

(B) the director of the Division of Drinking Water; and

(C) the director of the Division of Water Quality; and

(ii) published:

(A) in a newspaper of general circulation in the county in which the land subject to the proposed ordinance or regulation is located; and

(B) on the Utah Public Notice Website created in Section [~~63F-1-701~~] 63A-12-201.

(c) An ordinance or regulation adopted under the authority of this section may not conflict with:

(i) existing federal or state statutes; or

(ii) a rule created pursuant to a federal or state statute governing drinking water or water quality.

(d) A municipality that enacts an ordinance or regulation under the authority of this section shall:

(i) provide a copy of the ordinance or regulation to each affected entity; and

(ii) include a copy of the ordinance or regulation in the municipality's drinking water source protection plan.

Section 30. Section 10-9a-203 is amended to read:

10-9a-203. Notice of intent to prepare a general plan or comprehensive general plan amendments in certain municipalities.

(1) Before preparing a proposed general plan or a comprehensive general plan amendment, each

municipality within a county of the first or second class shall provide 10 calendar days notice of its intent to prepare a proposed general plan or a comprehensive general plan amendment:

(a) to each affected entity;

(b) to the Automated Geographic Reference Center created in Section 63F-1-506;

(c) to the association of governments, established pursuant to an interlocal agreement under Title 11, Chapter 13, Interlocal Cooperation Act, of which the municipality is a member; and

(d) on the Utah Public Notice Website created under Section [~~63F-1-701~~] 63A-12-201.

(2) Each notice under Subsection (1) shall:

(a) indicate that the municipality intends to prepare a general plan or a comprehensive general plan amendment, as the case may be;

(b) describe or provide a map of the geographic area that will be affected by the general plan or amendment;

(c) be sent by mail, e-mail, or other effective means;

(d) invite the affected entities to provide information for the municipality to consider in the process of preparing, adopting, and implementing a general plan or amendment concerning:

(i) impacts that the use of land proposed in the proposed general plan or amendment may have; and

(ii) uses of land within the municipality that the affected entity is considering that may conflict with the proposed general plan or amendment; and

(e) include the address of an Internet website, if the municipality has one, and the name and telephone number of a person where more information can be obtained concerning the municipality's proposed general plan or amendment.

Section 31. Section 10-9a-204 is amended to read:

10-9a-204. Notice of public hearings and public meetings to consider general plan or modifications.

(1) Each municipality shall provide:

(a) notice of the date, time, and place of the first public hearing to consider the original adoption or any modification of all or any portion of a general plan; and

(b) notice of each public meeting on the subject.

(2) Each notice of a public hearing under Subsection (1)(a) shall be at least 10 calendar days before the public hearing and shall be:

(a) (i) published in a newspaper of general circulation in the area; and

(ii) published on the Utah Public Notice Website created in Section [~~63F-1-701~~] 63A-12-201;

(b) mailed to each affected entity; and

(c) posted:

(i) in at least three public locations within the municipality; or

(ii) on the municipality's official website.

(3) Each notice of a public meeting under Subsection (1)(b) shall be at least 24 hours before the meeting and shall be:

(a) (i) submitted to a newspaper of general circulation in the area; and

(ii) published on the Utah Public Notice Website created in Section [~~63F-1-701~~] 63A-12-201; and

(b) posted:

(i) in at least three public locations within the municipality; or

(ii) on the municipality's official website.

Section 32. Section 10-9a-205 is amended to read:

10-9a-205. Notice of public hearings and public meetings on adoption or modification of land use regulation.

(1) Each municipality shall give:

(a) notice of the date, time, and place of the first public hearing to consider the adoption or any modification of a land use regulation; and

(b) notice of each public meeting on the subject.

(2) Each notice of a public hearing under Subsection (1)(a) shall be:

(a) mailed to each affected entity at least 10 calendar days before the public hearing;

(b) posted:

(i) in at least three public locations within the municipality; or

(ii) on the municipality's official website; and

(c) (i) (A) published in a newspaper of general circulation in the area at least 10 calendar days before the public hearing; and

(B) published on the Utah Public Notice Website created in Section [~~63F-1-701~~] 63A-12-201, at least 10 calendar days before the public hearing; or

(ii) mailed at least 10 days before the public hearing to:

(A) each property owner whose land is directly affected by the land use ordinance change; and

(B) each adjacent property owner within the parameters specified by municipal ordinance.

(3) Each notice of a public meeting under Subsection (1)(b) shall be at least 24 hours before the meeting and shall be posted:

(a) in at least three public locations within the municipality; or

(b) on the municipality's official website.

(4) (a) A municipality shall send a courtesy notice to each owner of private real property whose property is located entirely or partially within a proposed zoning map enactment or amendment at least 10 days before the scheduled day of the public hearing.

(b) The notice shall:

(i) identify with specificity each owner of record of real property that will be affected by the proposed zoning map or map amendments;

(ii) state the current zone in which the real property is located;

(iii) state the proposed new zone for the real property;

(iv) provide information regarding or a reference to the proposed regulations, prohibitions, and permitted uses that the property will be subject to if the zoning map or map amendment is adopted;

(v) state that the owner of real property may no later than 10 days after the day of the first public hearing file a written objection to the inclusion of the owner's property in the proposed zoning map or map amendment;

(vi) state the address where the property owner should file the protest;

(vii) notify the property owner that each written objection filed with the municipality will be provided to the municipal legislative body; and

(viii) state the location, date, and time of the public hearing described in Section 10-9a-502.

(c) If a municipality mails notice to a property owner in accordance with Subsection (2)(c)(ii) for a public hearing on a zoning map or map amendment, the notice required in this Subsection (4) may be included in or part of the notice described in Subsection (2)(c)(ii) rather than sent separately.

Section 33. Section 10-9a-208 is amended to read:

10-9a-208. Hearing and notice for petition to vacate a public street.

(1) For any petition to vacate some or all of a public street or municipal utility easement the legislative body shall:

(a) hold a public hearing; and

(b) give notice of the date, place, and time of the hearing, as provided in Subsection (2).

(2) At least 10 days before the public hearing under Subsection (1)(a), the legislative body shall ensure that the notice required under Subsection (1)(b) is:

(a) mailed to the record owner of each parcel that is accessed by the public street or municipal utility easement;

(b) mailed to each affected entity;

(c) posted on or near the public street or municipal utility easement in a manner that is calculated to alert the public; and

(d) (i) published on the website of the municipality in which the land subject to the petition is located until the public hearing concludes; and

(ii) published on the Utah Public Notice Website created in Section [~~63F-1-701~~] 63A-12-201.

Section 34. Section 10-18-203 is amended to read:

10-18-203. Feasibility study on providing cable television or public telecommunications services -- Public hearings.

(1) If a feasibility consultant is hired under Section 10-18-202, the legislative body of the municipality shall require the feasibility consultant to:

(a) complete the feasibility study in accordance with this section;

(b) submit to the legislative body by no later than 180 days from the date the feasibility consultant is hired to conduct the feasibility study:

(i) the full written results of the feasibility study; and

(ii) a summary of the results that is no longer than one page in length; and

(c) attend the public hearings described in Subsection (4) to:

(i) present the feasibility study results; and

(ii) respond to questions from the public.

(2) The feasibility study described in Subsection (1) shall at a minimum consider:

(a) (i) if the municipality is proposing to provide cable television services to subscribers, whether the municipality providing cable television services in the manner proposed by the municipality will hinder or advance competition for cable television services in the municipality; or

(ii) if the municipality is proposing to provide public telecommunications services to subscribers, whether the municipality providing public telecommunications services in the manner proposed by the municipality will hinder or advance competition for public telecommunications services in the municipality;

(b) whether but for the municipality any person would provide the proposed:

(i) cable television services; or

(ii) public telecommunications services;

(c) the fiscal impact on the municipality of:

(i) the capital investment in facilities that will be used to provide the proposed:

(A) cable television services; or

(B) public telecommunications services; and

(ii) the expenditure of funds for labor, financing, and administering the proposed:

(A) cable television services; or

(B) public telecommunications services;

(d) the projected growth in demand in the municipality for the proposed:

(i) cable television services; or

(ii) public telecommunications services;

(e) the projections at the time of the feasibility study and for the next five years, of a full-cost accounting for a municipality to purchase, lease, construct, maintain, or operate the facilities necessary to provide the proposed:

(i) cable television services; or

(ii) public telecommunications services; and

(f) the projections at the time of the feasibility study and for the next five years of the revenues to be generated from the proposed:

(i) cable television services; or

(ii) public telecommunications services.

(3) For purposes of the financial projections required under Subsections (2)(e) and (f), the feasibility consultant shall assume that the municipality will price the proposed cable television services or public telecommunications services consistent with Subsection 10-18-303(5).

(4) If the results of the feasibility study satisfy the revenue requirement of Subsection 10-18-202(3), the legislative body, at the next regular meeting after the legislative body receives the results of the feasibility study, shall schedule at least two public hearings to be held:

(a) within 60 days of the meeting at which the public hearings are scheduled;

(b) at least seven days apart; and

(c) for the purpose of allowing:

(i) the feasibility consultant to present the results of the feasibility study; and

(ii) the public to:

(A) become informed about the feasibility study results; and

(B) ask questions of the feasibility consultant about the results of the feasibility study.

(5) (a) Except as provided in Subsection (5)(b), the municipality shall publish notice of the public hearings required under Subsection (4):

(i) at least once a week for three consecutive weeks in a newspaper of general circulation in the municipality and at least three days before the first public hearing required under Subsection (4); and

(ii) on the Utah Public Notice Website created in Section [~~63F-1-701~~] 63A-12-201, for three weeks, at least three days before the first public hearing required under Subsection (4).

(b) (i) In accordance with Subsection (5)(a)(i), if there is no newspaper of general circulation in the municipality, for each 1,000 residents, the municipality shall post at least one notice of the hearings in a conspicuous place within the municipality that is likely to give notice of the hearings to the greatest number of residents of the municipality.

(ii) The municipality shall post the notices at least seven days before the first public hearing required under Subsection (4) is held.

Section 35. Section 10-18-302 is amended to read:

10-18-302. Bonding authority.

(1) In accordance with Title 11, Chapter 14, Local Government Bonding Act, the legislative body of a municipality may by resolution determine to issue one or more revenue bonds or general obligation bonds to finance the capital costs for facilities necessary to provide to subscribers:

(a) a cable television service; or

(b) a public telecommunications service.

(2) The resolution described in Subsection (1) shall:

(a) describe the purpose for which the indebtedness is to be created; and

(b) specify the dollar amount of the one or more bonds proposed to be issued.

(3) (a) A revenue bond issued under this section shall be secured and paid for:

(i) from the revenues generated by the municipality from providing:

(A) cable television services with respect to revenue bonds issued to finance facilities for the municipality's cable television services; and

(B) public telecommunications services with respect to revenue bonds issued to finance facilities for the municipality's public telecommunications services; and

(ii) notwithstanding Subsection (3)(b) and Subsection 10-18-303(3)(a), from revenues generated under Title 59, Chapter 12, Sales and Use Tax Act, if:

(A) notwithstanding Subsection 11-14-201(3) and except as provided in Subsections (4) and (5), the revenue bond is approved by the registered voters in an election held:

(I) except as provided in Subsection (3)(a)(ii)(A)(II), pursuant to the provisions of Title 11, Chapter 14, Local Government Bonding Act, that govern bond elections; and

(II) notwithstanding Subsection 11-14-203(2), at a regular general election;

(B) the revenues described in this Subsection (3)(a)(ii) are pledged as security for the revenue bond; and

(C) the municipality or municipalities annually appropriate the revenues described in this

Subsection (3)(a)(ii) to secure and pay the revenue bond issued under this section.

(b) Except as provided in Subsection (3)(a)(ii), a municipality may not pay the origination, financing, or other carrying costs associated with the one or more revenue bonds issued under this section from the town or city, respectively, general funds or other enterprise funds of the municipality.

(4) (a) As used in this Subsection (4), "municipal entity" means an entity created pursuant to an agreement:

(i) under Title 11, Chapter 13, Interlocal Cooperation Act; and

(ii) to which a municipality is a party.

(b) The requirements of Subsection (3)(a)(ii)(A) do not apply to a municipality or municipal entity that issues revenue bonds, or to a municipality that is a member of a municipal entity that issues revenue bonds, if:

(i) on or before March 2, 2004, the municipality that is issuing revenue bonds or that is a member of a municipal entity that is issuing revenue bonds has published the first notice described in Subsection (4)(b)(iii);

(ii) on or before April 15, 2004, the municipality that is issuing revenue bonds or that is a member of a municipal entity that is issuing revenue bonds makes the decision to pledge the revenues described in Subsection (3)(a)(ii) as security for the revenue bonds described in this Subsection (4)(b)(ii);

(iii) the municipality that is issuing the revenue bonds or the municipality that is a member of the municipal entity that is issuing the revenue bonds has:

(A) held a public hearing for which public notice was given by publication of the notice:

(I) in a newspaper published in the municipality or in a newspaper of general circulation within the municipality for two consecutive weeks, with the first publication being not less than 14 days before the public hearing; and

(II) on the Utah Public Notice Website created in Section [~~63F-1-701~~] 63A-12-201, for two weeks before the public hearing; and

(B) the notice identifies:

(I) that the notice is given pursuant to Title 11, Chapter 14, Local Government Bonding Act;

(II) the purpose for the bonds to be issued;

(III) the maximum amount of the revenues described in Subsection (3)(a)(ii) that will be pledged in any fiscal year;

(IV) the maximum number of years that the pledge will be in effect; and

(V) the time, place, and location for the public hearing;

(iv) the municipal entity that issues revenue bonds:

(A) adopts a final financing plan; and

(B) in accordance with Title 63G, Chapter 2, Government Records Access and Management Act, makes available to the public at the time the municipal entity adopts the final financing plan:

(I) the final financing plan; and

(II) all contracts entered into by the municipal entity, except as protected by Title 63G, Chapter 2, Government Records Access and Management Act;

(v) any municipality that is a member of a municipal entity described in Subsection (4)(b)(iv):

(A) not less than 30 calendar days after the municipal entity complies with Subsection (4)(b)(iv)(B), holds a final public hearing;

(B) provides notice, at the time the municipality schedules the final public hearing, to any person who has provided to the municipality a written request for notice; and

(C) makes all reasonable efforts to provide fair opportunity for oral testimony by all interested parties; and

(vi) except with respect to a municipality that issued bonds prior to March 1, 2004, not more than 50% of the average annual debt service of all revenue bonds described in this section to provide service throughout the municipality or municipal entity may be paid from the revenues described in Subsection (3)(a)(ii).

(5) On or after July 1, 2007, the requirements of Subsection (3)(a)(ii)(A) do not apply to a municipality that issues revenue bonds if:

(a) the municipality that is issuing the revenue bonds has:

(i) held a public hearing for which public notice was given by publication of the notice:

(A) in a newspaper published in the municipality or in a newspaper of general circulation within the municipality for two consecutive weeks, with the first publication being not less than 14 days before the public hearing; and

(B) on the Utah Public Notice Website created in Section [~~63F-1-701~~] 63A-12-201, for 14 days before the public hearing; and

(ii) the notice identifies:

(A) that the notice is given pursuant to Title 11, Chapter 14, Local Government Bonding Act;

(B) the purpose for the bonds to be issued;

(C) the maximum amount of the revenues described in Subsection (3)(a)(ii) that will be pledged in any fiscal year;

(D) the maximum number of years that the pledge will be in effect; and

(E) the time, place, and location for the public hearing; and

(b) except with respect to a municipality that issued bonds prior to March 1, 2004, not more than 50% of the average annual debt service of all revenue bonds described in this section to provide service throughout the municipality or municipal entity may be paid from the revenues described in Subsection (3)(a)(ii).

(6) A municipality that issues bonds pursuant to this section may not make or grant any undue or unreasonable preference or advantage to itself or to any private provider of:

(a) cable television services; or

(b) public telecommunications services.

Section 36. Section 11-13-204 is amended to read:

11-13-204. Powers and duties of interlocal entities -- Additional powers of energy services interlocal entities -- Length of term of agreement and interlocal entity -- Notice to lieutenant governor -- Recording requirements -- Public Service Commission.

(1) (a) An interlocal entity:

(i) shall adopt bylaws, policies, and procedures for the regulation of its affairs and the conduct of its business;

(ii) may:

(A) amend or repeal a bylaw, policy, or procedure;

(B) sue and be sued;

(C) have an official seal and alter that seal at will;

(D) make and execute contracts and other instruments necessary or convenient for the performance of its duties and the exercise of its powers and functions;

(E) acquire real or personal property, or an undivided, fractional, or other interest in real or personal property, necessary or convenient for the purposes contemplated in the agreement creating the interlocal entity and sell, lease, or otherwise dispose of that property;

(F) directly or by contract with another:

(I) own and acquire facilities and improvements or an undivided, fractional, or other interest in facilities and improvements;

(II) construct, operate, maintain, and repair facilities and improvements; and

(III) provide the services contemplated in the agreement creating the interlocal entity and establish, impose, and collect rates, fees, and charges for the services provided by the interlocal entity;

(G) borrow money, incur indebtedness, and issue revenue bonds, notes, or other obligations and secure their payment by an assignment, pledge, or other conveyance of all or any part of the revenues and receipts from the facilities, improvements, or services that the interlocal entity provides;

(H) offer, issue, and sell warrants, options, or other rights related to the bonds, notes, or other obligations issued by the interlocal entity;

(I) sell or contract for the sale of the services, output, product, or other benefits provided by the interlocal entity to:

(I) public agencies inside or outside the state; and

(II) with respect to any excess services, output, product, or benefits, any person on terms that the interlocal entity considers to be in the best interest of the public agencies that are parties to the agreement creating the interlocal entity; and

(J) create a local disaster recovery fund in the same manner and to the same extent as authorized for a local government in accordance with Section 53-2a-605; and

(iii) may not levy, assess, or collect ad valorem property taxes.

(b) An assignment, pledge, or other conveyance under Subsection (1)(a)(ii)(G) may, to the extent provided by the documents under which the assignment, pledge, or other conveyance is made, rank prior in right to any other obligation except taxes or payments in lieu of taxes payable to the state or its political subdivisions.

(2) An energy services interlocal entity:

(a) except with respect to any ownership interest it has in facilities providing additional project capacity, is not subject to:

(i) Part 3, Project Entity Provisions; or

(ii) Title 59, Chapter 8, Gross Receipts Tax on Certain Corporations Not Required to Pay Corporate Franchise or Income Tax Act; and

(b) may:

(i) own, acquire, and, by itself or by contract with another, construct, operate, and maintain a facility or improvement for the generation, transmission, and transportation of electric energy or related fuel supplies;

(ii) enter into a contract to obtain a supply of electric power and energy and ancillary services, transmission, and transportation services, and supplies of natural gas and fuels necessary for the operation of generation facilities;

(iii) enter into a contract with public agencies, investor-owned or cooperative utilities, and others, whether located in or out of the state, for the sale of wholesale services provided by the energy services interlocal entity; and

(iv) adopt and implement risk management policies and strategies and enter into transactions and agreements to manage the risks associated with the purchase and sale of energy, including forward purchase and sale contracts, hedging, tolling and swap agreements, and other instruments.

(3) Notwithstanding Section 11-13-216, an agreement creating an interlocal entity or an amendment to that agreement may provide that the

agreement may continue and the interlocal entity may remain in existence until the latest to occur of:

(a) 50 years after the date of the agreement or amendment;

(b) five years after the interlocal entity has fully paid or otherwise discharged all of its indebtedness;

(c) five years after the interlocal entity has abandoned, decommissioned, or conveyed or transferred all of its interest in its facilities and improvements; or

(d) five years after the facilities and improvements of the interlocal entity are no longer useful in providing the service, output, product, or other benefit of the facilities and improvements, as determined under the agreement governing the sale of the service, output, product, or other benefit.

(4) (a) Upon execution of an agreement to approve the creation of an interlocal entity, including an electric interlocal entity and an energy services interlocal entity, the governing body of a member of the interlocal entity under Section 11-13-203 shall:

(i) within 30 days after the date of the agreement, jointly file with the lieutenant governor:

(A) a copy of a notice of an impending boundary action, as defined in Section 67-1a-6.5, that meets the requirements of Subsection 67-1a-6.5(3); and

(B) if less than all of the territory of any Utah public agency that is a party to the agreement is included within the interlocal entity, a copy of an approved final local entity plat, as defined in Section 67-1a-6.5; and

(ii) upon the lieutenant governor's issuance of a certificate of creation under Section 67-1a-6.5:

(A) if the interlocal entity is located within the boundary of a single county, submit to the recorder of that county:

(I) the original:

(Aa) notice of an impending boundary action;

(Bb) certificate of creation; and

(Cc) approved final local entity plat, if an approved final local entity plat was required to be filed with the lieutenant governor under Subsection (4)(a)(i)(B); and

(II) a certified copy of the agreement approving the creation of the interlocal entity; or

(B) if the interlocal entity is located within the boundaries of more than a single county:

(I) submit to the recorder of one of those counties:

(Aa) the original of the documents listed in Subsections (4)(a)(ii)(A)(I)(Aa), (Bb), and (Cc); and

(Bb) a certified copy of the agreement approving the creation of the interlocal entity; and

(II) submit to the recorder of each other county:

(Aa) a certified copy of the documents listed in Subsections (4)(a)(ii)(A)(I)(Aa), (Bb), and (Cc); and

(Bb) a certified copy of the agreement approving the creation of the interlocal entity.

(b) Upon the lieutenant governor's issuance of a certificate of creation under Section 67-1a-6.5, the interlocal entity is created.

(c) Until the documents listed in Subsection (4)(a)(ii) are recorded in the office of the recorder of each county in which the property is located, a newly created interlocal entity may not charge or collect a fee for service provided to property within the interlocal entity.

(5) Nothing in this section may be construed as expanding the rights of any municipality or interlocal entity to sell or provide retail service.

(6) Except as provided in Subsection (7):

(a) nothing in this section may be construed to expand or limit the rights of a municipality to sell or provide retail electric service; and

(b) an energy services interlocal entity may not provide retail electric service to customers located outside the municipal boundaries of its members.

(7) (a) An energy services interlocal entity created before July 1, 2003, that is comprised solely of Utah municipalities and that, for a minimum of 50 years before July 1, 2010, provided retail electric service to customers outside the municipal boundaries of its members, may provide retail electric service outside the municipal boundaries of its members if:

(i) the energy services interlocal entity:

(A) enters into a written agreement with each public utility holding a certificate of public convenience and necessity issued by the Public Service Commission to provide service within an agreed upon geographic area for the energy services interlocal entity to be responsible to provide electric service in the agreed upon geographic area outside the municipal boundaries of the members of the energy services interlocal entity; and

(B) obtains a franchise agreement, with the legislative body of the county or other governmental entity for the geographic area in which the energy services interlocal entity provides service outside the municipal boundaries of its members; and

(ii) each public utility described in Subsection (7)(a)(i)(A) applies for and obtains from the Public Service Commission approval of the agreement specified in Subsection (7)(a)(i)(A).

(b) (i) The Public Service Commission shall, after a public hearing held in accordance with Title 52, Chapter 4, Open and Public Meetings Act, approve an agreement described in Subsection (7)(a)(ii) if it determines that the agreement is in the public interest in that it incorporates the customer protections described in Subsection (7)(c) and the franchise agreement described in Subsection (7)(a)(i)(B) provides a reasonable mechanism using a neutral arbiter or ombudsman for resolving potential future complaints by customers of the energy services interlocal entity.

(ii) In approving an agreement, the Public Service Commission shall also amend the certificate of

public convenience and necessity of any public utility described in Subsection (7)(a)(i) to delete from the geographic area specified in the certificate or certificates of the public utility the geographic area that the energy services interlocal entity has agreed to serve.

(c) In providing retail electric service to customers outside of the municipal boundaries of its members, but not within the municipal boundaries of another municipality that grants a franchise agreement in accordance with Subsection (7)(a)(i)(B), an energy services interlocal entity shall comply with the following:

(i) the rates and conditions of service for customers outside the municipal boundaries of the members shall be at least as favorable as the rates and conditions of service for similarly situated customers within the municipal boundaries of the members;

(ii) the energy services interlocal entity shall operate as a single entity providing service both inside and outside of the municipal boundaries of its members;

(iii) a general rebate, refund, or other payment made to customers located within the municipal boundaries of the members shall also be provided to similarly situated customers located outside the municipal boundaries of the members;

(iv) a schedule of rates and conditions of service, or any change to the rates and conditions of service, shall be approved by the governing board of the energy services interlocal entity;

(v) before implementation of any rate increase, the governing board of the energy services interlocal entity shall first hold a public meeting to take public comment on the proposed increase, after providing at least 20 days and not more than 60 days' advance written notice to its customers on the ordinary billing and on the Utah Public Notice Website, created by Section [~~63F-1-701~~] 63A-12-201; and

(vi) the energy services interlocal entity shall file with the Public Service Commission its current schedule of rates and conditions of service.

(d) The Public Service Commission shall make the schedule of rates and conditions of service of the energy services interlocal entity available for public inspection.

(e) Nothing in this section:

(i) gives the Public Service Commission jurisdiction over the provision of retail electric service by an energy services interlocal entity within the municipal boundaries of its members; or

(ii) makes an energy services interlocal entity a public utility under Title 54, Public Utilities.

(f) Nothing in this section expands or diminishes the jurisdiction of the Public Service Commission over a municipality or an association of municipalities organized under Title 11, Chapter 13, Interlocal Cooperation Act, except as specifically authorized by this section's language.

(g) (i) An energy services interlocal entity described in Subsection (7)(a) retains its authority to provide electric service to the extent authorized by Sections 11-13-202 and 11-13-203 and Subsections 11-13-204(1) through (5).

(ii) Notwithstanding Subsection (7)(g)(i), if the Public Service Commission approves the agreement described in Subsection (7)(a)(i), the energy services interlocal entity may not provide retail electric service to customers located outside the municipal boundaries of its members, except for customers located within the geographic area described in the agreement.

Section 37. Section 11-13-509 is amended to read:

11-13-509. Hearing to consider adoption -- Notice.

(1) At the meeting at which the tentative budget is adopted, the governing board shall:

(a) establish the time and place of a public hearing to consider its adoption; and

(b) except as provided in Subsection (2) or (5), order that notice of the hearing:

(i) be published, at least seven days before the day of the hearing, in at least one issue of a newspaper of general circulation in a county in which the interlocal entity provides service to the public or in which its members are located, if such a newspaper is generally circulated in the county or counties; and

(ii) be published at least seven days before the day of the hearing on the Utah Public Notice Website created in Section [~~63F-1-701~~] 63A-12-201.

(2) If the budget hearing is held in conjunction with a tax increase hearing, the notice required in Subsection (1)(b):

(a) may be combined with the notice required under Section 59-2-919; and

(b) shall be published in accordance with the advertisement provisions of Section 59-2-919.

(3) Proof that notice was given in accordance with Subsection (1)(b), (2), or (5) is prima facie evidence that notice was properly given.

(4) If a notice required under Subsection (1)(b), (2), or (5) is not challenged within 30 days after the day on which the hearing is held, the notice is adequate and proper.

(5) A governing board of an interlocal entity with an annual operating budget of less than $250,000 may satisfy the notice requirements in Subsection (1)(b) by:

(a) mailing a written notice, postage prepaid, to each voter in an interlocal entity; and

(b) posting the notice in three public places within the interlocal entity's service area.

Section 38. Section 11-13-531 is amended to read:

11-13-531. Imposing or increasing a fee for service provided by interlocal entity.

(1) The governing board shall fix the rate for a service or commodity provided by the interlocal entity.

(2) (a) Before imposing a new fee or increasing an existing fee for a service provided by an interlocal entity, an interlocal entity governing board shall first hold a public hearing at which interested persons may speak for or against the proposal to impose a fee or to increase an existing fee.

(b) Each public hearing under Subsection (2)(a) shall be held on a weekday in the evening beginning no earlier than 6 p.m.

(c) A public hearing required under this Subsection (2) may be combined with a public hearing on a tentative budget required under Section 11-13-510.

(d) Except to the extent that this section imposes more stringent notice requirements, the governing board shall comply with Title 52, Chapter 4, Open and Public Meetings Act, in holding the public hearing under Subsection (2)(a).

(3) (a) An interlocal entity board shall give notice of a hearing under Subsection (2)(a):

(i) as provided in Subsection (3)(b)(i) or (c); and

(ii) for at least 20 days before the day of the hearing on the Utah Public Notice Website, created by Section [~~63F-1-701~~] 63A-12-201.

(b) (i) Except as provided by Subsection (3)(c)(i), the notice required under Subsection (2)(a) shall be published:

(A) in a newspaper or combination of newspapers of general circulation in the interlocal entity, if there is a newspaper or combination of newspapers of general circulation in the interlocal entity; or

(B) if there is no newspaper or combination of newspapers of general circulation in the interlocal entity, the interlocal entity board shall post at least one notice per 1,000 population within the interlocal entity, at places within the interlocal entity that are most likely to provide actual notice to residents within the interlocal entity.

(ii) The notice described in Subsection (3)(b)(i)(A):

(A) shall be no less than 1/4 page in size and the type used shall be no smaller than 18 point, and surrounded by a 1/4-inch border;

(B) may not be placed in that portion of the newspaper where legal notices and classified advertisements appear;

(C) whenever possible, shall appear in a newspaper that is published at least one day per week;

(D) shall be in a newspaper or combination of newspapers of general interest and readership in the interlocal entity, and not of limited subject matter; and

(E) shall be run once each week for the two weeks preceding the hearing.

(iii) The notice described in Subsections (3)(a)(ii) and (3)(b)(i) shall state that the interlocal entity board intends to impose or increase a fee for a service provided by the interlocal entity and will hold a public hearing on a certain day, time, and place fixed in the notice, which shall be not less than seven days after the day the first notice is published, for the purpose of hearing comments regarding the proposed imposition or increase of a fee and to explain the reasons for the proposed imposition or increase.

(c) (i) In lieu of providing notice under Subsection (3)(b)(i), the interlocal entity governing board may give the notice required under Subsection (2)(a) by mailing the notice to a person within the interlocal entity's service area who:

(A) will be charged the fee for an interlocal entity's service, if the fee is being imposed for the first time; or

(B) is being charged a fee, if the fee is proposed to be increased.

(ii) Each notice under Subsection (3)(c)(i) shall comply with Subsection (3)(b)(iii).

(iii) A notice under Subsection (3)(c)(i) may accompany an interlocal entity bill for an existing fee.

(d) If the hearing required under this section is combined with the public hearing required under Section 11-13-510, the notice requirements under this Subsection (3) are satisfied if a notice that meets the requirements of Subsection (3)(b)(iii) is combined with the notice required under Section 11-13-509.

(e) Proof that notice was given as provided in Subsection (3)(b) or (c) is prima facie evidence that notice was properly given.

(f) If no challenge is made to the notice given of a public hearing required by Subsection (2) within 30 days after the date of the hearing, the notice is considered adequate and proper.

(4) After holding a public hearing under Subsection (2)(a), a governing board may:

(a) impose the new fee or increase the existing fee as proposed;

(b) adjust the amount of the proposed new fee or the increase of the existing fee and then impose the new fee or increase the existing fee as adjusted; or

(c) decline to impose the new fee or increase the existing fee.

(5) This section applies to each new fee imposed and each increase of an existing fee that occurs on or after May 12, 2015.

(6) An interlocal entity that accepts an electronic payment may charge an electronic payment fee.

Section 39. Section 11-13-603 is amended to read:

11-13-603. Taxed interlocal entity.

(1) Notwithstanding any other provision of law:

(a) the use of an asset by a taxed interlocal entity does not constitute the use of a public asset;

(b) a taxed interlocal entity's use of an asset that was a public asset before the taxed interlocal entity's use of the asset does not constitute a taxed interlocal entity's use of a public asset;

(c) an official of a project entity is not a public treasurer; and

(d) a taxed interlocal entity's governing board shall determine and direct the use of an asset by the taxed interlocal entity.

(2) A taxed interlocal entity is not subject to the provisions of Title 63G, Chapter 6a, Utah Procurement Code.

(3) (a) A taxed interlocal entity is not a participating local entity as defined in Section [~~63A-1-201~~] 67-3-12.

(b) For each fiscal year of a taxed interlocal entity, the taxed interlocal entity shall provide:

(i) the taxed interlocal entity's financial statements for and as of the end of the fiscal year and the prior fiscal year, including:

(A) the taxed interlocal entity's statement of net position as of the end of the fiscal year and the prior fiscal year, and the related statements of revenues and expenses and of cash flows for the fiscal year; or

(B) financial statements that are equivalent to the financial statements described in Subsection (3)(b)(i)(A) and, at the time the financial statements were created, were in compliance with generally accepted accounting principles that are applicable to taxed interlocal entities; and

(ii) the accompanying auditor's report and management's discussion and analysis with respect to the taxed interlocal entity's financial statements for and as of the end of the fiscal year.

(c) The taxed interlocal entity shall provide the information described in Subsection (3)(b)[~~: (i) in a manner described in Subsection 63A-1-205(3); and (ii)~~] within a reasonable time after the taxed interlocal entity's independent auditor delivers to the taxed interlocal entity's governing board the auditor's report with respect to the financial statements for and as of the end of the fiscal year.

(d) Notwithstanding Subsections (3)(b) and (c) or a taxed interlocal entity's compliance with one or more of the requirements of Title 63A, Chapter 3, Division of Finance:

(i) the taxed interlocal entity is not subject to Title 63A, Chapter 3, Division of Finance; and

(ii) the information described in Subsection (3)(b)(i) or (ii) does not constitute public financial information as defined in Section [~~63A-1-201~~] 67-3-12.

(4) (a) A taxed interlocal entity's governing board is not a governing board as defined in Section 51-2a-102.

(b) A taxed interlocal entity is not subject to the provisions of Title 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal Organizations, and Other Local Entities Act.

(5) Notwithstanding any other provision of law, a taxed interlocal entity is not subject to the following provisions:

(a) Part 4, Governance;

(b) Part 5, Fiscal Procedures for Interlocal Entities;

(c) Subsection 11-13-204(1)(a)(i) or (ii)(J);

(d) Subsection 11-13-206(1)(f);

(e) Subsection 11-13-218(5)(a);

(f) Section 11-13-225;

(g) Section 11-13-226; or

(h) Section 53-2a-605.

(6) (a) In addition to having the powers described in Subsection 11-13-204(1)(a)(ii), a taxed interlocal entity may, for the regulation of the entity's affairs and conduct of its business, adopt, amend, or repeal bylaws, policies, or procedures.

(b) Nothing in Part 4, Governance, or Part 5, Fiscal Procedures for Interlocal Entities, may be construed to limit the power or authority of a taxed interlocal entity.

(7) (a) A governmental law enacted after May 12, 2015, is not applicable to, is not binding upon, and does not have effect on a taxed interlocal entity unless the governmental law expressly states the section of governmental law to be applicable to and binding upon the taxed interlocal entity with the following words: "[Applicable section or subsection number] constitutes an exception to Subsection 11-13-603(7)(a) and is applicable to and binding upon a taxed interlocal entity."

(b) Sections 11-13-601 through 11-13-608 constitute an exception to Subsection (7)(a) and are applicable to and binding upon a taxed interlocal entity.

Section 40. Section 11-14-202 is amended to read:

11-14-202. Notice of election -- Contents -- Publication -- Mailing.

(1) The governing body shall publish notice of the election:

(a) (i) once per week for three consecutive weeks before the election in a newspaper of general circulation in the local political subdivision, in accordance with Section 11-14-316, the first publication occurring not less than 21, nor more than 35, days before the day of the election;

(ii) if there is no newspaper of general circulation in the local political subdivision, at least 21 days before the day of the election, by posting one notice, and at least one additional notice per 2,000 population of the local political subdivision, in places within the local political subdivision that are

most likely to give notice to the voters in the local political subdivision; or

(iii) at least three weeks before the day of the election, by mailing notice to each registered voter in the local political subdivision;

(b) on the Utah Public Notice Website created in Section [~~63F-1-701~~] 63A-12-201, for three weeks before the day of the election;

(c) in accordance with Section 45-1-101, for three weeks before the day of the election; and

(d) if the local political subdivision has a website, on the local political subdivision's website for at least three weeks before the day of the election.

(2) When the debt service on the bonds to be issued will increase the property tax imposed upon the average value of a residence by an amount that is greater than or equal to $15 per year, the governing body shall prepare and mail either a voter information pamphlet or a notification described in Subsection (8):

(a) at least 15 days, but not more than 45 days, before the bond election;

(b) to each household containing a registered voter who is eligible to vote on the bonds; and

(c) that includes the information required by Subsections (4) and (5).

(3) The election officer may change the location of, or establish an additional:

(a) voting precinct polling place, in accordance with Subsection (6);

(b) early voting polling place, in accordance with Subsection 20A-3a-603(2); or

(c) election day voting center, in accordance with Subsection 20A-3a-703(2).

(4) The notice described in Subsection (1) and the voter information pamphlet described in Subsection (2):

(a) shall include, in the following order:

(i) the date of the election;

(ii) the hours during which the polls will be open;

(iii) the address of the Statewide Electronic Voter Information Website and, if available, the address of the election officer's website, with a statement indicating that the election officer will post on the website the location of each polling place for each voting precinct, each early voting polling place, and each election day voting center, including any changes to the location of a polling place and the location of an additional polling place;

(iv) a phone number that a voter may call to obtain information regarding the location of a polling place; and

(v) the title and text of the ballot proposition, including the property tax cost of the bond described in Subsection 11-14-206(2)(a); and

(b) may include the location of each polling place.

(5) The voter information pamphlet required by this section shall include:

(a) the information required under Subsection (4); and

(b) an explanation of the property tax impact, if any, of the issuance of the bonds, which may be based on information the governing body determines to be useful, including:

(i) expected debt service on the bonds to be issued;

(ii) a description of the purpose, remaining principal balance, and maturity date of any outstanding general obligation bonds of the issuer;

(iii) funds other than property taxes available to pay debt service on general obligation bonds;

(iv) timing of expenditures of bond proceeds;

(v) property values; and

(vi) any additional information that the governing body determines may be useful to explain the property tax impact of issuance of the bonds.

(6) (a) Except as provided in Section 20A-1-308, the election officer may, after the deadlines described in Subsections (1) and (2):

(i) if necessary, change the location of a voting precinct polling place; or

(ii) if the election officer determines that the number of voting precinct polling places is insufficient due to the number of registered voters who are voting, designate additional voting precinct polling places.

(b) Except as provided in Section 20A-1-308, if an election officer changes the location of a voting precinct polling place or designates an additional voting precinct polling place, the election officer shall, as soon as is reasonably possible, give notice of the dates, times, and location of a changed voting precinct polling place or an additional voting precinct polling place:

(i) to the lieutenant governor, for posting on the Statewide Electronic Voter Information Website;

(ii) by posting the information on the website of the election officer, if available; and

(iii) by posting notice:

(A) of a change in the location of a voting precinct polling place, at the new location and, if possible, the old location; and

(B) of an additional voting precinct polling place, at the additional voting precinct polling place.

(7) The governing body shall pay the costs associated with the notice required by this section.

(8) (a) The governing body may mail a notice printed on a postage prepaid, preaddressed return form that a person may use to request delivery of a voter information pamphlet by mail.

(b) The notice described in Subsection (8)(a) shall include:

(i) the website upon which the voter information pamphlet is available; and

(ii) the phone number a voter may call to request delivery of a voter information pamphlet by mail.

(9) A local school board shall comply with the voter information pamphlet requirements described in Section 53G-4-603.

Section 41. Section 11-14-318 is amended to read:

11-14-318. Public hearing required.

(1) Before issuing bonds authorized under this chapter, a local political subdivision shall:

(a) in accordance with Subsection (2), provide public notice of the local political subdivision's intent to issue bonds; and

(b) hold a public hearing:

(i) if an election is required under this chapter:

(A) no sooner than 30 days before the day on which the notice of election is published under Section 11-14-202; and

(B) no later than five business days before the day on which the notice of election is published under Section 11-14-202; and

(ii) to receive input from the public with respect to:

(A) the issuance of the bonds; and

(B) the potential economic impact that the improvement, facility, or property for which the bonds pay all or part of the cost will have on the private sector.

(2) A local political subdivision shall:

(a) publish the notice required by Subsection (1)(a):

(i) once each week for two consecutive weeks in the official newspaper described in Section 11-14-316 with the first publication being not less than 14 days before the public hearing required by Subsection (1)(b); and

(ii) on the Utah Public Notice Website, created under Section ~~[63F-1-701]~~ 63A-12-201, no less than 14 days before the public hearing required by Subsection (1)(b); and

(b) ensure that the notice:

(i) identifies:

(A) the purpose for the issuance of the bonds;

(B) the maximum principal amount of the bonds to be issued;

(C) the taxes, if any, proposed to be pledged for repayment of the bonds; and

(D) the time, place, and location of the public hearing; and

(ii) informs the public that the public hearing will be held for the purposes described in Subsection (1)(b)(ii).

Section 42. Section 11-36a-501 is amended to read:

11-36a-501. Notice of intent to prepare an impact fee facilities plan.

(1) Before preparing or amending an impact fee facilities plan, a local political subdivision or private entity shall provide written notice of its intent to prepare or amend an impact fee facilities plan.

(2) A notice required under Subsection (1) shall:

(a) indicate that the local political subdivision or private entity intends to prepare or amend an impact fee facilities plan;

(b) describe or provide a map of the geographic area where the proposed impact fee facilities will be located; and

(c) subject to Subsection (3), be posted on the Utah Public Notice Website created under Section ~~[63F-1-701]~~ 63A-12-201.

(3) For a private entity required to post notice on the Utah Public Notice Website under Subsection (2)(c):

(a) the private entity shall give notice to the general purpose local government in which the private entity's private business office is located; and

(b) the general purpose local government described in Subsection (3)(a) shall post the notice on the Utah Public Notice Website.

Section 43. Section 11-36a-503 is amended to read:

11-36a-503. Notice of preparation of an impact fee analysis.

(1) Before preparing or contracting to prepare an impact fee analysis, each local political subdivision or, subject to Subsection (2), private entity shall post a public notice on the Utah Public Notice Website created under Section ~~[63F-1-701]~~ 63A-12-201.

(2) For a private entity required to post notice on the Utah Public Notice Website under Subsection (1):

(a) the private entity shall give notice to the general purpose local government in which the private entity's primary business is located; and

(b) the general purpose local government described in Subsection (2)(a) shall post the notice on the Utah Public Notice Website.

Section 44. Section 11-36a-504 is amended to read:

11-36a-504. Notice of intent to adopt impact fee enactment -- Hearing -- Protections.

(1) Before adopting an impact fee enactment:

(a) a municipality legislative body shall:

(i) comply with the notice requirements of Section 10-9a-205 as if the impact fee enactment were a land use regulation;

(ii) hold a hearing in accordance with Section 10-9a-502 as if the impact fee enactment were a land use regulation; and

(iii) except as provided in Subsection 11-36a-701(3)(b)(ii), receive the protections of Section 10-9a-801 as if the impact fee were a land use regulation;

(b) a county legislative body shall:

(i) comply with the notice requirements of Section 17-27a-205 as if the impact fee enactment were a land use regulation;

(ii) hold a hearing in accordance with Section 17-27a-502 as if the impact fee enactment were a land use regulation; and

(iii) except as provided in Subsection 11-36a-701(3)(b)(ii), receive the protections of Section 17-27a-801 as if the impact fee were a land use regulation;

(c) a local district or special service district shall:

(i) comply with the notice and hearing requirements of Section 17B-1-111; and

(ii) receive the protections of Section 17B-1-111;

(d) a local political subdivision shall at least 10 days before the day on which a public hearing is scheduled in accordance with this section:

(i) make a copy of the impact fee enactment available to the public; and

(ii) post notice of the local political subdivision's intent to enact or modify the impact fee, specifying the type of impact fee being enacted or modified, on the Utah Public Notice Website created under Section [~~63F-1-701~~] 63A-12-201; and

(e) a local political subdivision shall submit a copy of the impact fee analysis and a copy of the summary of the impact fee analysis prepared in accordance with Section 11-36a-303 on its website or to each public library within the local political subdivision.

(2) Subsection (1)(a) or (b) may not be construed to require involvement by a planning commission in the impact fee enactment process.

Section 45. Section 11-42-202 is amended to read:

11-42-202. Requirements applicable to a notice of a proposed assessment area designation.

(1) Each notice required under Subsection 11-42-201(2)(a) shall:

(a) state that the local entity proposes to:

(i) designate one or more areas within the local entity's jurisdictional boundaries as an assessment area;

(ii) provide an improvement to property within the proposed assessment area; and

(iii) finance some or all of the cost of improvements by an assessment on benefitted property within the assessment area;

(b) describe the proposed assessment area by any reasonable method that allows an owner of property in the proposed assessment area to determine that the owner's property is within the proposed assessment area;

(c) describe, in a general and reasonably accurate way, the improvements to be provided to the assessment area, including:

(i) the nature of the improvements; and

(ii) the location of the improvements, by reference to streets or portions or extensions of streets or by any other means that the governing body chooses that reasonably describes the general location of the improvements;

(d) state the estimated cost of the improvements as determined by a project engineer;

(e) for the version of notice mailed in accordance with Subsection (4)(b), state the estimated total assessment specific to the benefitted property for which the notice is mailed;

(f) state that the local entity proposes to levy an assessment on benefitted property within the assessment area to pay some or all of the cost of the improvements according to the estimated benefits to the property from the improvements;

(g) if applicable, state that an unassessed benefitted government property will receive improvements for which the cost will be allocated proportionately to the remaining benefitted properties within the proposed assessment area and that a description of each unassessed benefitted government property is available for public review at the location or website described in Subsection (6);

(h) state the assessment method by which the governing body proposes to calculate the proposed assessment, including, if the local entity is a municipality or county, whether the assessment will be collected:

(i) by directly billing a property owner; or

(ii) by inclusion on a property tax notice issued in accordance with Section 59-2-1317 and in compliance with Section 11-42-401;

(i) state:

(i) the date described in Section 11-42-203 and the location at which protests against designation of the proposed assessment area or of the proposed improvements are required to be filed;

(ii) the method by which the governing body will determine the number of protests required to defeat the designation of the proposed assessment area or acquisition or construction of the proposed improvements; and

(iii) in large, boldface, and conspicuous type that a property owner must protest the designation of

the assessment area in writing if the owner objects to the area designation or being assessed for the proposed improvements, operation and maintenance costs, or economic promotion activities;

(j) state the date, time, and place of the public hearing required in Section 11-42-204;

(k) if the governing body elects to create and fund a reserve fund under Section 11-42-702, include a description of:

(i) how the reserve fund will be funded and replenished; and

(ii) how remaining money in the reserve fund is to be disbursed upon full payment of the bonds;

(l) if the governing body intends to designate a voluntary assessment area, include a property owner consent form that:

(i) estimates the total assessment to be levied against the particular parcel of property;

(ii) describes any additional benefits that the governing body expects the assessed property to receive from the improvements;

(iii) designates the date and time by which the fully executed consent form is required to be submitted to the governing body; and

(iv) if the governing body intends to enforce an assessment lien on the property in accordance with Subsection 11-42-502.1(2)(a)(ii)(C):

(A) appoints a trustee that satisfies the requirements described in Section 57-1-21;

(B) gives the trustee the power of sale;

(C) is binding on the property owner and all successors; and

(D) explains that if an assessment or an installment of an assessment is not paid when due, the local entity may sell the property owner's property to satisfy the amount due plus interest, penalties, and costs, in the manner described in Title 57, Chapter 1, Conveyances;

(m) if the local entity intends to levy an assessment to pay operation and maintenance costs or for economic promotion activities, include:

(i) a description of the operation and maintenance costs or economic promotion activities to be paid by assessments and the initial estimated annual assessment to be levied;

(ii) a description of how the estimated assessment will be determined;

(iii) a description of how and when the governing body will adjust the assessment to reflect the costs of:

(A) in accordance with Section 11-42-406, current economic promotion activities; or

(B) current operation and maintenance costs;

(iv) a description of the method of assessment if different from the method of assessment to be used for financing any improvement; and

(v) a statement of the maximum number of years over which the assessment will be levied for:

(A) operation and maintenance costs; or

(B) economic promotion activities;

(n) if the governing body intends to divide the proposed assessment area into classifications under Subsection 11-42-201(1)(b), include a description of the proposed classifications;

(o) if applicable, state the portion and value of the improvement that will be increased in size or capacity to serve property outside of the assessment area and how the increases will be financed; and

(p) state whether the improvements will be financed with a bond and, if so, the currently estimated interest rate and term of financing, subject to Subsection (2), for which the benefitted properties within the assessment area may be obligated.

(2) The estimated interest rate and term of financing in Subsection (1)(p) may not be interpreted as a limitation to the actual interest rate incurred or the actual term of financing as subject to the market rate at the time of the issuance of the bond.

(3) A notice required under Subsection 11-42-201(2)(a) may contain other information that the governing body considers to be appropriate, including:

(a) the amount or proportion of the cost of the improvement to be paid by the local entity or from sources other than an assessment;

(b) the estimated total amount of each type of assessment for the various improvements to be financed according to the method of assessment that the governing body chooses; and

(c) provisions for any improvements described in Subsection 11-42-102(24)(a)(ii).

(4) Each notice required under Subsection 11-42-201(2)(a) shall:

(a) (i) (A) be published in a newspaper of general circulation within the local entity's jurisdictional boundaries, once a week for four consecutive weeks, with the last publication at least five but not more than 20 days before the day of the hearing required in Section 11-42-204; or

(B) if there is no newspaper of general circulation within the local entity's jurisdictional boundaries, be posted in at least three public places within the local entity's jurisdictional boundaries at least 20 but not more than 35 days before the day of the hearing required in Section 11-42-204; and

(ii) be published on the Utah Public Notice Website described in Section [~~63F-1-701~~] 63A-12-201 for four weeks before the deadline for filing protests specified in the notice under Subsection (1)(i); and

(b) be mailed, postage prepaid, within 10 days after the first publication or posting of the notice under Subsection (4)(a) to each owner of property to be assessed within the proposed assessment area at the property owner's mailing address.

(5) (a) The local entity may record the version of the notice that is published or posted in accordance with Subsection (4)(a) with the office of the county recorder, by legal description and tax identification number as identified in county records, against the property proposed to be assessed.

(b) The notice recorded under Subsection (5)(a) expires and is no longer valid one year after the day on which the local entity records the notice if the local entity has failed to adopt the designation ordinance or resolution under Section 11-42-201 designating the assessment area for which the notice was recorded.

(6) A local entity shall make available on the local entity's website, or, if no website is available, at the local entity's place of business, the address and type of use of each unassessed benefitted government property described in Subsection (1)(g).

(7) If a governing body fails to provide actual or constructive notice under this section, the local entity may not assess a levy against a benefitted property omitted from the notice unless:

(a) the property owner gives written consent;

(b) the property owner received notice under Subsection 11-42-401(2)(a)(iii) and did not object to the levy of the assessment before the final hearing of the board of equalization; or

(c) the benefitted property is conveyed to a subsequent purchaser and, before the date of conveyance, the requirements of Subsections 11-42-206(3)(a)(i) and (ii), or, if applicable, Subsection 11-42-207(1)(d)(i) are met.

Section 46. Section 11-42-402 is amended to read:

11-42-402. Notice of assessment and board of equalization hearing.

Each notice required under Subsection 11-42-401(2)(a)(iii) shall:

(1) state:

(a) that an assessment list is completed and available for examination at the offices of the local entity;

(b) the total estimated or actual cost of the improvements;

(c) the amount of the total estimated or actual cost of the proposed improvements to be paid by the local entity;

(d) the amount of the assessment to be levied against benefitted property within the assessment area;

(e) the assessment method used to calculate the proposed assessment;

(f) the unit cost used to calculate the assessments shown on the assessment list, based on the assessment method used to calculate the proposed assessment; and

(g) the dates, times, and place of the board of equalization hearings under Subsection 11-42-401(2)(b)(i);

(2) (a) beginning at least 20 but not more than 35 days before the day on which the first hearing of the board of equalization is held:

(i) be published at least once in a newspaper of general circulation within the local entity's jurisdictional boundaries; or

(ii) if there is no newspaper of general circulation within the local entity's jurisdictional boundaries, be posted in at least three public places within the local entity's jurisdictional boundaries; and

(b) be published on the Utah Public Notice Website created in Section [~~63F-1-701~~] 63A-12-201 for 35 days immediately before the day on which the first hearing of the board of equalization is held; and

(3) be mailed, postage prepaid, within 10 days after the first publication or posting of the notice under Subsection (2) to each owner of property to be assessed within the proposed assessment area at the property owner's mailing address.

Section 47. Section 11-58-502 is amended to read:

11-58-502. Public meeting to consider and discuss draft project area plan -- Notice -- Adoption of plan.

(1) The board shall hold at least one public meeting to consider and discuss a draft project area plan.

(2) At least 10 days before holding a public meeting under Subsection (1), the board shall give notice of the public meeting:

(a) to each taxing entity;

(b) to a municipality in which the proposed project area is located or that is located within one-half mile of the proposed project area; and

(c) on the Utah Public Notice Website created in Section [~~63F-1-701~~] 63A-12-201.

(3) Following consideration and discussion of the draft project area plan, and any modification of the project area plan under Subsection 11-58-501(2)(d), the board may adopt the draft project area plan or modified draft project area plan as the project area plan.

Section 48. Section 11-58-801 is amended to read:

11-58-801. Annual port authority budget -- Fiscal year -- Public hearing required -- Auditor forms -- Requirement to file annual budget.

(1) The authority shall prepare and its board adopt an annual budget of revenues and expenditures for the authority for each fiscal year.

(2) Each annual authority budget shall be adopted before June 22, except that the authority's initial budget shall be adopted as soon as reasonably practicable after the organization of the board and the beginning of authority operations.

(3) The authority's fiscal year shall be the period from July 1 to the following June 30.

(4) (a) Before adopting an annual budget, the board shall hold a public hearing on the annual budget.

(b) The authority shall provide notice of the public hearing on the annual budget by publishing notice:

(i) at least once in a newspaper of general circulation within the state, one week before the public hearing; and

(ii) on the Utah Public Notice Website created in Section [~~63F-1-701~~] 63A-12-201, for at least one week immediately before the public hearing.

(c) The authority shall make the annual budget available for public inspection at least three days before the date of the public hearing.

(5) The state auditor shall prescribe the budget forms and the categories to be contained in each authority budget, including:

(a) revenues and expenditures for the budget year;

(b) legal fees; and

(c) administrative costs, including rent, supplies, and other materials, and salaries of authority personnel.

(6) (a) Within 30 days after adopting an annual budget, the board shall file a copy of the annual budget with the auditor of each county in which the authority jurisdictional land is located, the State Tax Commission, the state auditor, the State Board of Education, and each taxing entity that levies a tax on property from which the authority collects property tax differential.

(b) The requirement of Subsection (6)(a) to file a copy of the annual budget with the state as a taxing entity is met if the authority files a copy with the State Tax Commission and the state auditor.

Section 49. Section 11-59-401 is amended to read:

11-59-401. Annual authority budget -- Fiscal year -- Public hearing and notice required -- Auditor forms.

(1) The authority shall prepare and its board adopt an annual budget of revenues and expenditures for the authority for each fiscal year.

(2) Each annual authority budget shall be adopted before June 22.

(3) The authority's fiscal year shall be the period from July 1 to the following June 30.

(4) (a) Before adopting an annual budget, the authority board shall hold a public hearing on the annual budget.

(b) The authority shall provide notice of the public hearing on the annual budget by publishing notice:

(i) at least once in a newspaper of general circulation within the state, one week before the public hearing; and

(ii) on the Utah Public Notice Website created in Section [~~63F-1-701~~] 63A-12-201, for at least one week immediately before the public hearing.

(c) The authority shall make the annual budget available for public inspection at least three days before the date of the public hearing.

(5) The state auditor shall prescribe the budget forms and the categories to be contained in each authority budget, including:

(a) revenues and expenditures for the budget year;

(b) legal fees; and

(c) administrative costs, including rent, supplies, and other materials, and salaries of authority personnel.

Section 50. Section 17-27a-203 is amended to read:

17-27a-203. Notice of intent to prepare a general plan or comprehensive general plan amendments in certain counties.

(1) Before preparing a proposed general plan or a comprehensive general plan amendment, each county of the first or second class shall provide 10 calendar days notice of its intent to prepare a proposed general plan or a comprehensive general plan amendment:

(a) to each affected entity;

(b) to the Automated Geographic Reference Center created in Section 63F-1-506;

(c) to the association of governments, established pursuant to an interlocal agreement under Title 11, Chapter 13, Interlocal Cooperation Act, of which the county is a member; and

(d) on the Utah Public Notice Website created under Section [~~63F-1-701~~] 63A-12-201.

(2) Each notice under Subsection (1) shall:

(a) indicate that the county intends to prepare a general plan or a comprehensive general plan amendment, as the case may be;

(b) describe or provide a map of the geographic area that will be affected by the general plan or amendment;

(c) be sent by mail, e-mail, or other effective means;

(d) invite the affected entities to provide information for the county to consider in the process of preparing, adopting, and implementing a general plan or amendment concerning:

(i) impacts that the use of land proposed in the proposed general plan or amendment may have; and

(ii) uses of land within the county that the affected entity is considering that may conflict with the proposed general plan or amendment; and

(e) include the address of an Internet website, if the county has one, and the name and telephone number of a person where more information can be obtained concerning the county's proposed general plan or amendment.

Section 51. Section 17-27a-204 is amended to read:

17-27a-204. Notice of public hearings and public meetings to consider general plan or modifications.

(1) A county shall provide:

(a) notice of the date, time, and place of the first public hearing to consider the original adoption or any modification of all or any portion of a general plan; and

(b) notice of each public meeting on the subject.

(2) Each notice of a public hearing under Subsection (1)(a) shall be at least 10 calendar days before the public hearing and shall be:

(a) (i) published in a newspaper of general circulation in the area; and

(ii) published on the Utah Public Notice Website created in Section [~~63F-1-701~~] 63A-12-201;

(b) mailed to each affected entity; and

(c) posted:

(i) in at least three public locations within the county; or

(ii) on the county's official website.

(3) Each notice of a public meeting under Subsection (1)(b) shall be at least 24 hours before the meeting and shall be:

(a) (i) submitted to a newspaper of general circulation in the area; and

(ii) published on the Utah Public Notice Website created in Section [~~63F-1-701~~] 63A-12-201; and

(b) posted:

(i) in at least three public locations within the county; or

(ii) on the county's official website.

Section 52. Section 17-27a-205 is amended to read:

17-27a-205. Notice of public hearings and public meetings on adoption or modification of land use regulation.

(1) Each county shall give:

(a) notice of the date, time, and place of the first public hearing to consider the adoption or modification of a land use regulation; and

(b) notice of each public meeting on the subject.

(2) Each notice of a public hearing under Subsection (1)(a) shall be:

(a) mailed to each affected entity at least 10 calendar days before the public hearing;

(b) posted:

(i) in at least three public locations within the county; or

(ii) on the county's official website; and

(c) (i) published:

(A) in a newspaper of general circulation in the area at least 10 calendar days before the public hearing; and

(B) on the Utah Public Notice Website created in Section [~~63F-1-701~~] 63A-12-201, at least 10 calendar days before the public hearing; or

(ii) mailed at least 10 days before the public hearing to:

(A) each property owner whose land is directly affected by the land use ordinance change; and

(B) each adjacent property owner within the parameters specified by county ordinance.

(3) Each notice of a public meeting under Subsection (1)(b) shall be at least 24 hours before the hearing and shall be posted:

(a) in at least three public locations within the county; or

(b) on the county's official website.

(4) (a) A county shall send a courtesy notice to each owner of private real property whose property is located entirely or partially within the proposed zoning map enactment or amendment at least 10 days before the scheduled day of the public hearing.

(b) The notice shall:

(i) identify with specificity each owner of record of real property that will be affected by the proposed zoning map or map amendments;

(ii) state the current zone in which the real property is located;

(iii) state the proposed new zone for the real property;

(iv) provide information regarding or a reference to the proposed regulations, prohibitions, and permitted uses that the property will be subject to if the zoning map or map amendment is adopted;

(v) state that the owner of real property may no later than 10 days after the day of the first public hearing file a written objection to the inclusion of the owner's property in the proposed zoning map or map amendment;

(vi) state the address where the property owner should file the protest;

(vii) notify the property owner that each written objection filed with the county will be provided to the county legislative body; and

(viii) state the location, date, and time of the public hearing described in Section 17-27a-502.

(c) If a county mails notice to a property owner in accordance with Subsection (2)(c)(ii) for a public hearing on a zoning map or map amendment, the notice required in this Subsection (4) may be included in or part of the notice described in Subsection (2)(c)(ii) rather than sent separately.

Section 53. Section 17-27a-208 is amended to read:

17-27a-208. Hearing and notice for petition to vacate a public street.

(1) For any petition to vacate some or all of a public street or county utility easement, the legislative body shall:

(a) hold a public hearing; and

(b) give notice of the date, place, and time of the hearing, as provided in Subsection (2).

(2) At least 10 days before the public hearing under Subsection (1)(a), the legislative body shall ensure that the notice required under Subsection (1)(b) is:

(a) mailed to the record owner of each parcel that is accessed by the public street or county utility easement;

(b) mailed to each affected entity;

(c) posted on or near the public street or county utility easement in a manner that is calculated to alert the public; and

(d) (i) published on the website of the county in which the land subject to the petition is located until the public hearing concludes; and

(ii) published on the Utah Public Notice Website created in Section [~~63F-1-701~~] 63A-12-201.

Section 54. Section 17-27a-306 is amended to read:

17-27a-306. Planning advisory areas.

(1) (a) A planning advisory area may be established as provided in this Subsection (1).

(b) A planning advisory area may not be established unless the area to be included within the proposed planning advisory area:

(i) is unincorporated;

(ii) is contiguous; and

(iii) (A) contains:

(I) at least 20% but not more than 80% of:

(Aa) the total private land area in the unincorporated county; or

(Bb) the total value of locally assessed taxable property in the unincorporated county; or

(II) (Aa) in a county of the second or third class, at least 5% of the total population of the unincorporated county, but not less than 300 residents; or

(Bb) in a county of the fourth, fifth, or sixth class, at least 25% of the total population of the unincorporated county; or

(B) has been declared by the United States Census Bureau as a census designated place.

(c) (i) The process to establish a planning advisory area is initiated by the filing of a petition with the clerk of the county in which the proposed planning advisory area is located.

(ii) A petition to establish a planning advisory area may not be filed if it proposes the establishment of a planning advisory area that includes an area within a proposed planning advisory area in a petition that has previously been certified under Subsection (1)(g), until after the canvass of an election on the proposed planning advisory area under Subsection (1)(j).

(d) A petition under Subsection (1)(c) to establish a planning advisory area shall:

(i) be signed by the owners of private real property that:

(A) is located within the proposed planning advisory area;

(B) covers at least 10% of the total private land area within the proposed planning advisory area; and

(C) is equal in value to at least 10% of the value of all private real property within the proposed planning advisory area;

(ii) be accompanied by an accurate plat or map showing the boundary of the contiguous area proposed to be established as a planning advisory area;

(iii) indicate the typed or printed name and current residence address of each owner signing the petition;

(iv) designate up to five signers of the petition as petition sponsors, one of whom shall be designated as the contact sponsor, with the mailing address and telephone number of each petition sponsor;

(v) authorize the petition sponsor or sponsors to act on behalf of all owners signing the petition for purposes of the petition; and

(vi) request the county legislative body to provide notice of the petition and of a public hearing, hold a public hearing, and conduct an election on the proposal to establish a planning advisory area.

(e) Subsection 10-2a-102(3) applies to a petition to establish a planning advisory area to the same extent as if it were an incorporation petition under Title 10, Chapter 2a, Municipal Incorporation.

(f) (i) Within seven days after the filing of a petition under Subsection (1)(c) proposing the establishment of a planning advisory area in a county of the second class, the county clerk shall provide notice of the filing of the petition to:

(A) each owner of real property owning more than 1% of the assessed value of all real property within the proposed planning advisory area; and

(B) each owner of real property owning more than 850 acres of real property within the proposed planning advisory area.

(ii) A property owner may exclude all or part of the property owner's property from a proposed planning advisory area in a county of the second class:

(A) if:

(I) (Aa) (Ii) the property owner owns more than 1% of the assessed value of all property within the proposed planning advisory area;

(IIii) the property is nonurban; and

(IIIiii) the property does not or will not require municipal provision of municipal-type services; or

(Bb) the property owner owns more than 850 acres of real property within the proposed planning advisory area; and

(II) exclusion of the property will not leave within the planning advisory area an island of property that is not part of the planning advisory area; and

(B) by filing a notice of exclusion within 10 days after receiving the clerk's notice under Subsection (1)(f)(i).

(iii) (A) The county legislative body shall exclude from the proposed planning advisory area the property identified in a notice of exclusion timely filed under Subsection (1)(f)(ii)(B) if the property meets the applicable requirements of Subsection (1)(f)(ii)(A).

(B) If the county legislative body excludes property from a proposed planning advisory area under Subsection (1)(f)(iii), the county legislative body shall, within five days after the exclusion, send written notice of its action to the contact sponsor.

(g) (i) Within 45 days after the filing of a petition under Subsection (1)(c), the county clerk shall:

(A) with the assistance of other county officers from whom the clerk requests assistance, determine whether the petition complies with the requirements of Subsection (1)(d); and

(B) (I) if the clerk determines that the petition complies with the requirements of Subsection (1)(d):

(Aa) certify the petition and deliver the certified petition to the county legislative body; and

(Bb) mail or deliver written notification of the certification to the contact sponsor; or

(II) if the clerk determines that the petition fails to comply with any of the requirements of Subsection (1)(d), reject the petition and notify the contact sponsor in writing of the rejection and the reasons for the rejection.

(ii) If the county clerk rejects a petition under Subsection (1)(g)(i)(B)(II), the petition may be amended to correct the deficiencies for which it was rejected and then refiled with the county clerk.

(h) (i) Within 90 days after a petition to establish a planning advisory area is certified, the county legislative body shall hold a public hearing on the proposal to establish a planning advisory area.

(ii) A public hearing under Subsection (1)(h)(i) shall be:

(A) within the boundary of the proposed planning advisory area; or

(B) if holding a public hearing in that area is not practicable, as close to that area as practicable.

(iii) At least one week before holding a public hearing under Subsection (1)(h)(i), the county legislative body shall publish notice of the petition and the time, date, and place of the public hearing:

(A) at least once in a newspaper of general circulation in the county; and

(B) on the Utah Public Notice Website created in Section [~~63F-1-701~~] 63A-12-201.

(i) Following the public hearing under Subsection (1)(h)(i), the county legislative body shall arrange for the proposal to establish a planning advisory area to be submitted to voters residing within the proposed planning advisory area at the next regular general election that is more than 90 days after the public hearing.

(j) A planning advisory area is established at the time of the canvass of the results of an election under Subsection (1)(i) if the canvass indicates that a majority of voters voting on the proposal to establish a planning advisory area voted in favor of the proposal.

(k) An area that is an established township before May 12, 2015:

(i) is, as of May 12, 2015, a planning advisory area; and

(ii) (A) shall change its name, if applicable, to no longer include the word "township"; and

(B) may use the word "planning advisory area" in its name.

(2) The county legislative body may:

(a) assign to the countywide planning commission the duties established in this part that would have been assumed by a planning advisory area planning commission designated under Subsection (2)(b); or

(b) designate and appoint a planning commission for the planning advisory area.

(3) (a) An area within the boundary of a planning advisory area may be withdrawn from the planning advisory area as provided in this Subsection (3) or in accordance with Subsection (5)(a).

(b) The process to withdraw an area from a planning advisory area is initiated by the filing of a

petition with the clerk of the county in which the planning advisory area is located.

(c) A petition under Subsection (3)(b) shall:

(i) be signed by the owners of private real property that:

(A) is located within the area proposed to be withdrawn from the planning advisory area;

(B) covers at least 50% of the total private land area within the area proposed to be withdrawn from the planning advisory area; and

(C) is equal in value to at least 33% of the value of all private real property within the area proposed to be withdrawn from the planning advisory area;

(ii) state the reason or reasons for the proposed withdrawal;

(iii) be accompanied by an accurate plat or map showing the boundary of the contiguous area proposed to be withdrawn from the planning advisory area;

(iv) indicate the typed or printed name and current residence address of each owner signing the petition;

(v) designate up to five signers of the petition as petition sponsors, one of whom shall be designated as the contact sponsor, with the mailing address and telephone number of each petition sponsor;

(vi) authorize the petition sponsor or sponsors to act on behalf of all owners signing the petition for purposes of the petition; and

(vii) request the county legislative body to withdraw the area from the planning advisory area.

(d) Subsection 10-2a-102(3) applies to a petition to withdraw an area from a planning advisory area to the same extent as if it were an incorporation petition under Title 10, Chapter 2a, Municipal Incorporation.

(e) (i) Within 45 days after the filing of a petition under Subsection (3)(b), the county clerk shall:

(A) with the assistance of other county officers from whom the clerk requests assistance, determine whether the petition complies with the requirements of Subsection (3)(c); and

(B) (I) if the clerk determines that the petition complies with the requirements of Subsection (3)(c):

(Aa) certify the petition and deliver the certified petition to the county legislative body; and

(Bb) mail or deliver written notification of the certification to the contact sponsor; or

(II) if the clerk determines that the petition fails to comply with any of the requirements of Subsection (3)(c), reject the petition and notify the contact sponsor in writing of the rejection and the reasons for the rejection.

(ii) If the county clerk rejects a petition under Subsection (3)(e)(i)(B)(II), the petition may be amended to correct the deficiencies for which it was rejected and then refiled with the county clerk.

(f) (i) Within 60 days after a petition to withdraw an area from a planning advisory area is certified, the county legislative body shall hold a public hearing on the proposal to withdraw the area from the planning advisory area.

(ii) A public hearing under Subsection (3)(f)(i) shall be held:

(A) within the area proposed to be withdrawn from the planning advisory area; or

(B) if holding a public hearing in that area is not practicable, as close to that area as practicable.

(iii) Before holding a public hearing under Subsection (3)(f)(i), the county legislative body shall:

(A) publish notice of the petition and the time, date, and place of the public hearing:

(I) at least once a week for three consecutive weeks in a newspaper of general circulation in the planning advisory area; and

(II) on the Utah Public Notice Website created in Section [~~63F-1-701~~] 63A-12-201, for three consecutive weeks; and

(B) mail a notice of the petition and the time, date, and place of the public hearing to each owner of private real property within the area proposed to be withdrawn.

(g) (i) Within 45 days after the public hearing under Subsection (3)(f)(i), the county legislative body shall make a written decision on the proposal to withdraw the area from the planning advisory area.

(ii) In making its decision as to whether to withdraw the area from the planning advisory area, the county legislative body shall consider:

(A) whether the withdrawal would leave the remaining planning advisory area in a situation where the future incorporation of an area within the planning advisory area or the annexation of an area within the planning advisory area to an adjoining municipality would be economically or practically not feasible;

(B) if the withdrawal is a precursor to the incorporation or annexation of the withdrawn area:

(I) whether the proposed subsequent incorporation or withdrawal:

(Aa) will leave or create an unincorporated island or peninsula; or

(Bb) will leave the county with an area within its unincorporated area for which the cost, requirements, or other burdens of providing municipal services would materially increase over previous years; and

(II) whether the municipality to be created or the municipality into which the withdrawn area is expected to annex would be or is capable, in a cost effective manner, of providing service to the

withdrawn area that the county will no longer provide due to the incorporation or annexation;

(C) the effects of a withdrawal on adjoining property owners, existing or projected county streets or other public improvements, law enforcement, and zoning and other municipal services provided by the county; and

(D) whether justice and equity favor the withdrawal.

(h) Upon the written decision of the county legislative body approving the withdrawal of an area from a planning advisory area, the area is withdrawn from the planning advisory area and the planning advisory area continues as a planning advisory area with a boundary that excludes the withdrawn area.

(4) (a) A planning advisory area may be dissolved as provided in this Subsection (4).

(b) The process to dissolve a planning advisory area is initiated by the filing of a petition with the clerk of the county in which the planning advisory area is located.

(c) A petition under Subsection (4)(b) shall:

(i) be signed by registered voters within the planning advisory area equal in number to at least 25% of all votes cast by voters within the planning advisory area at the last congressional election;

(ii) state the reason or reasons for the proposed dissolution;

(iii) indicate the typed or printed name and current residence address of each person signing the petition;

(iv) designate up to five signers of the petition as petition sponsors, one of whom shall be designated as the contact sponsor, with the mailing address and telephone number of each petition sponsor;

(v) authorize the petition sponsors to act on behalf of all persons signing the petition for purposes of the petition; and

(vi) request the county legislative body to provide notice of the petition and of a public hearing, hold a public hearing, and conduct an election on the proposal to dissolve the planning advisory area.

(d) (i) Within 45 days after the filing of a petition under Subsection (4)(b), the county clerk shall:

(A) with the assistance of other county officers from whom the clerk requests assistance, determine whether the petition complies with the requirements of Subsection (4)(c); and

(B) (I) if the clerk determines that the petition complies with the requirements of Subsection (4)(c):

(Aa) certify the petition and deliver the certified petition to the county legislative body; and

(Bb) mail or deliver written notification of the certification to the contact sponsor; or

(II) if the clerk determines that the petition fails to comply with any of the requirements of Subsection (4)(c), reject the petition and notify the contact sponsor in writing of the rejection and the reasons for the rejection.

(ii) If the county clerk rejects a petition under Subsection (4)(d)(i)(B)(II), the petition may be amended to correct the deficiencies for which it was rejected and then refiled with the county clerk.

(e) (i) Within 60 days after a petition to dissolve the planning advisory area is certified, the county legislative body shall hold a public hearing on the proposal to dissolve the planning advisory area.

(ii) A public hearing under Subsection (4)(e)(i) shall be held:

(A) within the boundary of the planning advisory area; or

(B) if holding a public hearing in that area is not practicable, as close to that area as practicable.

(iii) Before holding a public hearing under Subsection (4)(e)(i), the county legislative body shall publish notice of the petition and the time, date, and place of the public hearing:

(A) at least once a week for three consecutive weeks in a newspaper of general circulation in the planning advisory area; and

(B) on the Utah Public Notice Website created in Section [~~63F-1-701~~] 63A-12-201, for three consecutive weeks immediately before the public hearing.

(f) Following the public hearing under Subsection (4)(e)(i), the county legislative body shall arrange for the proposal to dissolve the planning advisory area to be submitted to voters residing within the planning advisory area at the next regular general election that is more than 90 days after the public hearing.

(g) A planning advisory area is dissolved at the time of the canvass of the results of an election under Subsection (4)(f) if the canvass indicates that a majority of voters voting on the proposal to dissolve the planning advisory area voted in favor of the proposal.

(5) (a) If a portion of an area located within a planning advisory area is annexed by a municipality or incorporates, that portion is withdrawn from the planning advisory area.

(b) If a planning advisory area in whole is annexed by a municipality or incorporates, the planning advisory area is dissolved.

Section 55. Section 17-27a-404 is amended to read:

17-27a-404. Public hearing by planning commission on proposed general plan or amendment -- Notice -- Revisions to general plan or amendment -- Adoption or rejection by legislative body.

(1) (a) After completing its recommendation for a proposed general plan, or proposal to amend the general plan, the planning commission shall schedule and hold a public hearing on the proposed plan or amendment.

(b) The planning commission shall provide notice of the public hearing, as required by Section 17-27a-204.

(c) After the public hearing, the planning commission may modify the proposed general plan or amendment.

(2) The planning commission shall forward the proposed general plan or amendment to the legislative body.

(3) (a) As provided by local ordinance and by Section 17-27a-204, the legislative body shall provide notice of its intent to consider the general plan proposal.

(b) (i) In addition to the requirements of Subsections (1), (2), and (3)(a), the legislative body shall hold a public hearing in Salt Lake City on provisions of the proposed county plan regarding Subsection 17-27a-401(4). The hearing procedure shall comply with this Subsection (3)(b).

(ii) The hearing format shall allow adequate time for public comment at the actual public hearing, and shall also allow for public comment in writing to be submitted to the legislative body for not fewer than 90 days after the date of the public hearing.

(c) (i) The legislative body shall give notice of the hearing in accordance with this Subsection (3) when the proposed plan provisions required by Subsection 17-27a-401(4) are complete.

(ii) Direct notice of the hearing shall be given, in writing, to the governor, members of the state Legislature, executive director of the Department of Environmental Quality, the state planning coordinator, the Resource Development Coordinating Committee, and any other citizens or entities who specifically request notice in writing.

(iii) Public notice shall be given by publication:

(A) in at least one major Utah newspaper having broad general circulation in the state;

(B) in at least one Utah newspaper having a general circulation focused mainly on the county where the proposed high-level nuclear waste or greater than class C radioactive waste site is to be located; and

(C) on the Utah Public Notice Website created in Section [~~63F-1-701~~] 63A-12-201.

(iv) The notice shall be published to allow reasonable time for interested parties and the state to evaluate the information regarding the provisions of Subsection 17-27a-401(4), including:

(A) in a newspaper described in Subsection (3)(c)(iii)(A), no less than 180 days before the date of the hearing to be held under this Subsection (3); and

(B) publication described in Subsection (3)(c)(iii)(B) or (C) for 180 days before the date of the hearing to be held under this Subsection (3).

(4) (a) After the public hearing required under this section, the legislative body may adopt, reject, or make any revisions to the proposed general plan that it considers appropriate.

(b) The legislative body shall respond in writing and in a substantive manner to all those providing comments as a result of the hearing required by Subsection (3).

(c) If the county legislative body rejects the proposed general plan or amendment, it may provide suggestions to the planning commission for the planning commission's review and recommendation.

(5) The legislative body shall adopt:

(a) a land use element as provided in Subsection 17-27a-403(2)(a)(i);

(b) a transportation and traffic circulation element as provided in Subsection 17-27a-403(2)(a)(ii);

(c) after considering the factors included in Subsection 17-27a-403(2)(b), a plan to provide a realistic opportunity to meet the need for additional moderate income housing; and

(d) before August 1, 2017, a resource management plan as provided by Subsection 17-27a-403(2)(a)(iv).

Section 56. Section 17-36-12 is amended to read:

17-36-12. Notice of budget hearing.

(1) The governing body shall determine the time and place for the public hearing on the adoption of the budget.

(2) Notice of such hearing shall be published:

(a) (i) at least seven days before the hearing in at least one newspaper of general circulation within the county, if there is such a paper; or

(ii) if there is no newspaper as described in Subsection (2)(a)(i), by posting notice in three conspicuous places within the county seven days before the hearing;

(b) on the Utah Public Notice Website created in Section [~~63F-1-701~~] 63A-12-201, for seven days before the hearing; and

(c) on the home page of the county's website, either in full or as a link, if the county has a publicly viewable website, beginning at least seven days before the hearing and until the hearing takes place.

Section 57. Section 17-36-26 is amended to read:

17-36-26. Increase in budgetary fund or county general fund -- Public hearing.

(1) Before the governing body may, by resolution, increase a budget appropriation of any budgetary fund, increase the budget of the county general fund, or make an amendment to a budgetary fund or the county general fund, the governing body shall hold a public hearing giving all interested parties an opportunity to be heard.

(2) Notice of the public hearing described in Subsection (1) shall be published at least five days before the day of the hearing:

(a) (i) in at least one issue of a newspaper generally circulated in the county; or

(ii) if there is not a newspaper generally circulated in the county, the hearing may be published by posting notice in three conspicuous places within the county;

(b) on the Utah Public Notice Website created under Section [~~63F-1-701~~] 63A-12-201; and

(c) on the home page of the county's website, either in full or as a link, if the county has a publicly viewable website, until the hearing takes place.

Section 58. Section 17-41-304 is amended to read:

17-41-304. Public hearing -- Review and action on proposal.

(1) After receipt of the written reports from the advisory committee and planning commission, or after the 45 days have expired, whichever is earlier, the county or municipal legislative body shall:

(a) schedule a public hearing;

(b) provide notice of the public hearing by:

(i) publishing notice:

(A) in a newspaper having general circulation within:

(I) the same county as the land proposed for inclusion within the agriculture protection area, industrial protection area, or critical infrastructure materials protection area, if the land is within the unincorporated part of the county; or

(II) the same city or town as the land proposed for inclusion within an agriculture protection area, industrial protection area, or critical infrastructure materials protection area, if the land is within a city or town; and

(B) on the Utah Public Notice Website created in Section [~~63F-1-701~~] 63A-12-201;

(ii) posting notice at five public places, designated by the applicable legislative body, within or near the proposed agriculture protection area, industrial protection area, or critical infrastructure materials protection area; and

(iii) mailing written notice to each owner of land within 1,000 feet of the land proposed for inclusion within an agriculture protection area, industrial protection area, or critical infrastructure materials protection area; and

(c) ensure that the notice includes:

(i) the time, date, and place of the public hearing on the proposal;

(ii) a description of the proposed agriculture protection area, industrial protection area, or critical infrastructure materials protection area;

(iii) any proposed modifications to the proposed agriculture protection area, industrial protection area, or critical infrastructure materials protection area;

(iv) a summary of the recommendations of the advisory committee and planning commission; and

(v) a statement that interested persons may appear at the public hearing and speak in favor of or against the proposal, any proposed modifications to the proposal, or the recommendations of the advisory committee and planning commission.

(2) The applicable legislative body shall:

(a) convene the public hearing at the time, date, and place specified in the notice; and

(b) take oral or written testimony from interested persons.

(3) (a) Within 120 days of the submission of the proposal, the applicable legislative body shall approve, modify and approve, or reject the proposal.

(b) The creation of an agriculture protection area, industrial protection area, or critical infrastructure materials protection area is effective at the earlier of:

(i) the applicable legislative body's approval of a proposal or modified proposal; or

(ii) 120 days after submission of a proposal complying with Subsection 17-41-301(2) if the applicable legislative body has failed to approve or reject the proposal within that time.

(c) Notwithstanding Subsection (3)(b), a critical infrastructure materials protection area is effective only if the applicable legislative body, at its discretion, approves a proposal or modified proposal.

(4) (a) To give constructive notice of the existence of the agriculture protection area, industrial protection area, or critical infrastructure materials protection area to all persons who have, may acquire, or may seek to acquire an interest in land in or adjacent to the relevant protection area within 10 days of the creation of the relevant protection area, the applicable legislative body shall file an executed document containing a legal description of the relevant protection area with:

(i) the county recorder of deeds; and

(ii) the affected planning commission.

(b) If the legal description of the property to be included in the relevant protection area is available through the county recorder's office, the applicable legislative body shall use that legal description in its executed document required in Subsection (4)(a).

(5) Within 10 days of the recording of the agriculture protection area, the applicable legislative body shall:

(a) send written notification to the commissioner of agriculture and food that the agriculture protection area has been created; and

(b) include in the notification:

(i) the number of landowners owning land within the agriculture protection area;

(ii) the total acreage of the area;

(iii) the date of approval of the area; and

(iv) the date of recording.

(6) The applicable legislative body's failure to record the notice required under Subsection (4) or to send the written notification under Subsection (5) does not invalidate the creation of an agriculture protection area.

(7) The applicable legislative body may consider the cost of recording notice under Subsection (4) and the cost of sending notification under Subsection (5) in establishing a fee under Subsection 17-41-301(4)(b).

Section 59. Section 17-41-405 is amended to read:

17-41-405. Eminent domain restrictions.

(1) A political subdivision having or exercising eminent domain powers may not condemn for any purpose any land within an agriculture protection area that is being used for agricultural production, land within an industrial protection area that is being put to an industrial use, or land within a critical infrastructure materials protection area, unless the political subdivision obtains approval, according to the procedures and requirements of this section, from the applicable legislative body and the advisory board.

(2) Any condemnor wishing to condemn property within an agriculture protection area, industrial protection area, or critical infrastructure materials protection area shall file a notice of condemnation with the applicable legislative body and the relevant protection area's advisory board at least 30 days before filing an eminent domain complaint.

(3) The applicable legislative body and the advisory board shall:

(a) hold a joint public hearing on the proposed condemnation at a location within the county in which the relevant protection area is located;

(b) publish notice of the time, date, place, and purpose of the public hearing:

(i) in a newspaper of general circulation within the relevant protection area; and

(ii) on the Utah Public Notice Website created in Section [~~63F-1-701~~] 63A-12-201; and

(c) post notice of the time, date, place, and purpose of the public hearing in five conspicuous public places, designated by the applicable legislative body, within or near the relevant protection area.

(4) (a) If the condemnation is for highway purposes or for the disposal of solid or liquid waste materials, the applicable legislative body and the advisory board may approve the condemnation only if there is no reasonable and prudent alternative to the use of the land within the agriculture protection area, industrial protection area, or critical infrastructure materials protection area for the project.

(b) If the condemnation is for any other purpose, the applicable legislative body and the advisory board may approve the condemnation only if:

(i) the proposed condemnation would not have an unreasonably adverse effect upon the preservation and enhancement of:

(A) agriculture within the agriculture protection area;

(B) the industrial use within the industrial protection area; or

(C) critical infrastructure materials operations within the critical infrastructure materials protection area; or

(ii) there is no reasonable and prudent alternative to the use of the land within [~~the~~] the relevant protection area for the project.

(5) (a) Within 60 days after receipt of the notice of condemnation, the applicable legislative body and the advisory board shall approve or reject the proposed condemnation.

(b) If the applicable legislative body and the advisory board fail to act within the 60 days or such further time as the applicable legislative body establishes, the condemnation shall be considered rejected.

(6) The applicable legislative body or the advisory board may request the county or municipal attorney to bring an action to enjoin any condemnor from violating any provisions of this section.

Section 60. Section 17-50-303 is amended to read:

17-50-303. County may not give or lend credit -- County may borrow in anticipation of revenues -- Assistance to nonprofit and private entities.

(1) A county may not give or lend its credit to or in aid of any person or corporation, or, except as provided in Subsection (3), appropriate money in aid of any private enterprise.

(2) (a) A county may borrow money in anticipation of the collection of taxes and other county revenues in the manner and subject to the conditions of Title 11, Chapter 14, Local Government Bonding Act.

(b) A county may incur indebtedness under Subsection (2)(a) for any purpose for which funds of the county may be expended.

(3) (a) A county may appropriate money to or provide nonmonetary assistance to a nonprofit entity, or waive fees required to be paid by a nonprofit entity, if, in the judgment of the county legislative body, the assistance contributes to the safety, health, prosperity, moral well-being, peace, order, comfort, or convenience of county residents.

(b) A county may appropriate money to a nonprofit entity from the county's own funds or from funds the county receives from the state or any other source.

(4) (a) As used in this Subsection (4):

(i) "Private enterprise" means a person that engages in an activity for profit.

(ii) "Project" means an activity engaged in by a private enterprise.

(b) A county may appropriate money in aid of a private enterprise project if:

(i) subject to Subsection (4)(c), the county receives value in return for the money appropriated; and

(ii) in the judgment of the county legislative body, the private enterprise project provides for the safety, health, prosperity, moral well-being, peace, order, comfort, or convenience of the county residents.

(c) The county shall measure the net value received by the county for money appropriated by the county to a private entity on a project-by-project basis over the life of the project.

(d) (i) Before a county legislative body may appropriate funds in aid of a private enterprise project under this Subsection (4), the county legislative body shall:

(A) adopt by ordinance criteria to determine what value, if any, the county will receive in return for money appropriated under this Subsection (4);

(B) conduct a study as described in Subsection (4)(e) on the proposed appropriation and private enterprise project; and

(C) post notice, subject to Subsection (4)(f), and hold a public hearing on the proposed appropriation and the private enterprise project.

(ii) The county legislative body may consider an intangible benefit as a value received by the county.

(e) (i) Before publishing or posting notice in accordance with Subsection (4)(f), the county shall study:

(A) any value the county will receive in return for money or resources appropriated to a private entity;

(B) the county's purpose for the appropriation, including an analysis of the way the appropriation will be used to enhance the safety, health, prosperity, moral well-being, peace, order, comfort, or convenience of the county residents; and

(C) whether the appropriation is necessary and appropriate to accomplish the reasonable goals and objectives of the county in the area of economic development, job creation, affordable housing, elimination of a development impediment, as defined in Section 17C-1-102, job preservation, the preservation of historic structures, analyzing and improving county government structure or property, or any other public purpose.

(ii) The county shall:

(A) prepare a written report of the results of the study; and

(B) make the report available to the public at least 14 days immediately prior to the scheduled day of the public hearing described in Subsection (4)(d)(i)(C).

(f) The county shall publish notice of the public hearing required in Subsection (4)(d)(i)(C):

(i) in a newspaper of general circulation at least 14 days before the date of the hearing or, if there is no newspaper of general circulation, by posting notice in at least three conspicuous places within the county for the same time period; and

(ii) on the Utah Public Notice Website created in Section [~~63F-1-701~~] 63A-12-201, at least 14 days before the date of the hearing.

(g) (i) A person may appeal the decision of the county legislative body to appropriate funds under this Subsection (4).

(ii) A person shall file an appeal with the district court within 30 days after the day on which the legislative body adopts an ordinance or approves a budget to appropriate the funds.

(iii) A court shall:

(A) presume that an ordinance adopted or appropriation made under this Subsection (4) is valid; and

(B) determine only whether the ordinance or appropriation is arbitrary, capricious, or illegal.

(iv) A determination of illegality requires a determination that the decision or ordinance violates a law, statute, or ordinance in effect at the time the decision was made or the ordinance was adopted.

(v) The district court's review is limited to:

(A) a review of the criteria adopted by the county legislative body under Subsection (4)(d)(i)(A);

(B) the record created by the county legislative body at the public hearing described in Subsection (4)(d)(i)(C); and

(C) the record created by the county in preparation of the study and the study itself as described in Subsection (4)(e).

(vi) If there is no record, the court may call witnesses and take evidence.

(h) This section applies only to an appropriation not otherwise approved in accordance with Title 17, Chapter 36, Uniform Fiscal Procedures Act for Counties.

Section 61. Section 17B-1-106 is amended to read:

17B-1-106. Notice before preparing or amending a long-range plan or acquiring certain property.

(1) As used in this section:

(a) (i) "Affected entity" means each county, municipality, local district under this title, special service district, school district, interlocal cooperation entity established under Title 11, Chapter 13, Interlocal Cooperation Act, and specified public utility:

(A) whose services or facilities are likely to require expansion or significant modification because of an intended use of land; or

(B) that has filed with the local district a copy of the general or long-range plan of the county, municipality, local district, school district, interlocal cooperation entity, or specified public utility.

(ii) "Affected entity" does not include the local district that is required under this section to provide notice.

(b) "Specified public utility" means an electrical corporation, gas corporation, or telephone corporation, as those terms are defined in Section 54-2-1.

(2) (a) If a local district under this title located in a county of the first or second class prepares a long-range plan regarding its facilities proposed for the future or amends an already existing long-range plan, the local district shall, before preparing a long-range plan or amendments to an existing long-range plan, provide written notice, as provided in this section, of its intent to prepare a long-range plan or to amend an existing long-range plan.

(b) Each notice under Subsection (2)(a) shall:

(i) indicate that the local district intends to prepare a long-range plan or to amend a long-range plan, as the case may be;

(ii) describe or provide a map of the geographic area that will be affected by the long-range plan or amendments to a long-range plan;

(iii) be:

(A) sent to each county in whose unincorporated area and each municipality in whose boundaries is located the land on which the proposed long-range plan or amendments to a long-range plan are expected to indicate that the proposed facilities will be located;

(B) sent to each affected entity;

(C) sent to the Automated Geographic Reference Center created in Section 63F-1-506;

(D) sent to each association of governments, established pursuant to an interlocal agreement under Title 11, Chapter 13, Interlocal Cooperation Act, of which a county or municipality described in Subsection (2)(b)(iii)(A) is a member; and

(E) (I) placed on the Utah Public Notice Website created under Section ~~[63F-1-701]~~ 63A-12-201, if the local district:

(Aa) is required under Subsection 52-4-203(3) to use that website to provide public notice of a meeting; or

(Bb) voluntarily chooses to place notice on that website despite not being required to do so under Subsection (2)(b)(iii)(E)(I)(Aa); or

(II) the state planning coordinator appointed under Section 63J-4-202, if the local district does not provide notice on the Utah Public Notice Website under Subsection (2)(b)(iii)(E)(I);

(iv) with respect to the notice to counties and municipalities described in Subsection (2)(b)(iii)(A) and affected entities, invite them to provide information for the local district to consider in the process of preparing, adopting, and implementing the long-range plan or amendments to a long-range plan concerning:

(A) impacts that the use of land proposed in the proposed long-range plan or amendments to a long-range plan may have on the county, municipality, or affected entity; and

(B) uses of land that the county, municipality, or affected entity is planning or considering that may conflict with the proposed long-range plan or amendments to a long-range plan; and

(v) include the address of an Internet website, if the local district has one, and the name and telephone number of a person where more information can be obtained concerning the local district's proposed long-range plan or amendments to a long-range plan.

(3) (a) Except as provided in Subsection (3)(d), each local district intending to acquire real property in a county of the first or second class for the purpose of expanding the district's infrastructure or other facilities used for providing the services that the district is authorized to provide shall provide written notice, as provided in this Subsection (3), of its intent to acquire the property if the intended use of the property is contrary to:

(i) the anticipated use of the property under the county or municipality's general plan; or

(ii) the property's current zoning designation.

(b) Each notice under Subsection (3)(a) shall:

(i) indicate that the local district intends to acquire real property;

(ii) identify the real property; and

(iii) be sent to:

(A) each county in whose unincorporated area and each municipality in whose boundaries the property is located; and

(B) each affected entity.

(c) A notice under this Subsection (3) is a protected record as provided in Subsection 63G-2-305(8).

(d) (i) The notice requirement of Subsection (3)(a) does not apply if the local district previously

provided notice under Subsection (2) identifying the general location within the municipality or unincorporated part of the county where the property to be acquired is located.

(ii) If a local district is not required to comply with the notice requirement of Subsection (3)(a) because of application of Subsection (3)(d)(i), the local district shall provide the notice specified in Subsection (3)(a) as soon as practicable after its acquisition of the real property.

Section 62. Section 17B-1-211 is amended to read:

17B-1-211. Notice of public hearings -- Publication of resolution.

(1) Before holding a public hearing or set of public hearings under Section 17B-1-210, the legislative body of each county or municipality with which a request is filed or that adopts a resolution under Subsection 17B-1-203(1)(d) and the board of trustees of each local district that adopts a resolution under Subsection 17B-1-203(1)(e) shall:

(a) (i) (A) except as provided in Subsections (1)(a)(i)(B) and (1)(a)(ii), publish notice in a newspaper or combination of newspapers of general circulation within the applicable area in accordance with Subsection (2); or

(B) if there is no newspaper or combination of newspapers of general circulation within the applicable area, post notice in accordance with Subsection (2) at least one notice per 1,000 population of that area and at places within the area that are most likely to provide actual notice to residents of the area; and

(ii) publish notice on the Utah Public Notice Website created in Section [~~63F-1-701~~] 63A-12-201, for two weeks before the hearing or the first of the set of hearings; or

(b) mail a notice to each registered voter residing within and each owner of real property located within the proposed local district.

(2) Each published notice under Subsection (1)(a)(i)(A) shall:

(a) be no less than 1/4 page in size, use type no smaller than 18 point, and be surrounded by a 1/4-inch border;

(b) if possible, appear in a newspaper that is published at least one day per week;

(c) if possible, appear in a newspaper of general interest and readership in the area and not of limited subject matter;

(d) be placed in a portion of the newspaper other than where legal notices and classified advertisements appear; and

(e) be published once each week for four consecutive weeks, with the final publication being no fewer than five and no more than 20 days before the hearing or the first of the set of hearings.

(3) Each notice required under Subsection (1) shall:

(a) if the hearing or set of hearings is concerning a resolution:

(i) contain the entire text or an accurate summary of the resolution; and

(ii) state the deadline for filing a protest against the creation of the proposed local district;

(b) clearly identify each governing body involved in the hearing or set of hearings;

(c) state the date, time, and place for the hearing or set of hearings and the purposes for the hearing or set of hearings; and

(d) describe or include a map of the entire proposed local district.

(4) County or municipal legislative bodies may jointly provide the notice required under this section if all the requirements of this section are met as to each notice.

Section 63. Section 17B-1-303 is amended to read:

17B-1-303. Term of board of trustees members -- Oath of office -- Bond -- Notice of board member contact information.

(1) (a) Except as provided in Subsections (1)(b), (c), (d), and (e), the term of each member of a board of trustees begins at noon on the January 1 following the member's election or appointment.

(b) The term of each member of the initial board of trustees of a newly created local district begins:

(i) upon appointment, for an appointed member; and

(ii) upon the member taking the oath of office after the canvass of the election at which the member is elected, for an elected member.

(c) The term of each water conservancy district board member whom the governor appoints in accordance with Subsection 17B-2a-1005(2)(c):

(i) begins on the later of the following:

(A) the date on which the Senate consents to the appointment; or

(B) the expiration date of the prior term; and

(ii) ends on the February 1 that is approximately four years after the date described in Subsection (1)(c)(i)(A) or (B).

(d) The term of a member of a board of trustees whom an appointing authority appoints in accordance with Subsection (5)(b) begins upon the member taking the oath of office.

(e) If the member of the board of trustees fails to assume or qualify for office on January 1 for any reason, the term begins on the date the member assumes or qualifies for office.

(2) (a) (i) Except as provided in Subsection (8), and subject to Subsections (2)(a)(ii) and (iii), the term of each member of a board of trustees is four years, except that approximately half the members of the

initial board of trustees, chosen by lot, shall serve a two-year term so that the term of approximately half the board members expires every two years.

(ii) If the terms of members of the initial board of trustees of a newly created local district do not begin on January 1 because of application of Subsection (1)(b), the terms of those members shall be adjusted as necessary, subject to Subsection (2)(a)(iii), to result in the terms of their successors complying with:

(A) the requirement under Subsection (1)(a) for a term to begin on January 1 following a member's election or appointment; and

(B) the requirement under Subsection (2)(a)(i) that terms be four years.

(iii) If the term of a member of a board of trustees does not begin on January 1 because of the application of Subsection (1)(e), the term is shortened as necessary to result in the term complying with the requirement under Subsection (1)(a) that the successor member's term, regardless of whether the incumbant is the successor, begins at noon on January 1 following the successor member's election or appointment.

(iv) An adjustment under Subsection (2)(a)(ii) may not add more than a year to or subtract more than a year from a member's term.

(b) Each board of trustees member shall serve until a successor is duly elected or appointed and qualified, unless the member earlier is removed from office or resigns or otherwise leaves office.

(c) If a member of a board of trustees no longer meets the qualifications of Subsection 17B-1-302(1), (2), or (3), or if the member's term expires without a duly elected or appointed successor:

(i) the member's position is considered vacant, subject to Subsection (2)(c)(ii); and

(ii) the member may continue to serve until a successor is duly elected or appointed and qualified.

(3) (a) (i) Before entering upon the duties of office, each member of a board of trustees shall take the oath of office specified in Utah Constitution, Article IV, Section 10.

(ii) A judge, county clerk, notary public, or the local district clerk may administer an oath of office.

(b) The member of the board of trustees taking the oath of office shall file the oath of office with the clerk of the local district.

(c) The failure of a board of trustees member to take the oath under Subsection (3)(a) does not invalidate any official act of that member.

(4) A board of trustees member may serve any number of terms.

(5) (a) Except as provided in Subsection (6), each midterm vacancy in a board of trustees position is filled in accordance with Section 20A-1-512.

(b) When the number of members of a board of trustees increases in accordance with Subsection 17B-1-302(6), the appointing authority may appoint an individual to fill a new board of trustees position in accordance with Section 17B-1-304 or 20A-1-512.

(6) (a) For purposes of this Subsection (6):

(i) "Appointed official" means a person who:

(A) is appointed as a member of a local district board of trustees by a county or municipality that is entitled to appoint a member to the board; and

(B) holds an elected position with the appointing county or municipality.

(ii) "Appointing entity" means the county or municipality that appointed the appointed official to the board of trustees.

(b) The board of trustees shall declare a midterm vacancy for the board position held by an appointed official if:

(i) during the appointed official's term on the board of trustees, the appointed official ceases to hold the elected position with the appointing entity; and

(ii) the appointing entity submits a written request to the board to declare the vacancy.

(c) Upon the board's declaring a midterm vacancy under Subsection (6)(b), the appointing entity shall appoint another person to fill the remaining unexpired term on the board of trustees.

(7) (a) Each member of a board of trustees shall give a bond for the faithful performance of the member's duties, in the amount and with the sureties that the board of trustees prescribes.

(b) The local district shall pay the cost of each bond required under Subsection (7)(a).

(8) (a) The lieutenant governor may extend the term of an elected district board member by one year in order to compensate for a change in the election year under Subsection 17B-1-306(14).

(b) When the number of members of a board of trustees increases in accordance with Subsection 17B-1-302(6), to ensure that the term of approximately half of the board members expires every two years in accordance with Subsection (2)(a):

(i) the board shall set shorter terms for approximately half of the new board members, chosen by lot; and

(ii) the initial term of a new board member position may be less than two or four years.

(9) (a) A local district shall:

(i) post on the Utah Public Notice Website created in Section [~~63F-1-701~~] 63A-12-201 the name, phone number, and email address of each member of the local district's board of trustees;

(ii) update the information described in Subsection (9)(a)(i) when:

(A) the membership of the board of trustees changes; or

(B) a member of the board of trustees' phone number or email address changes; and

(iii) post any update required under Subsection (9)(a)(ii) within 30 days after the date on which the change requiring the update occurs.

(b) This Subsection (9) applies regardless of whether the county or municipal legislative body also serves as the board of trustees of the local district.

Section 64. Section 17B-1-306 is amended to read:

17B-1-306. Local district board -- Election procedures.

(1) Except as provided in Subsection (12), each elected board member shall be selected as provided in this section.

(2) (a) Each election of a local district board member shall be held:

(i) at the same time as the municipal general election or the regular general election, as applicable; and

(ii) at polling places designated by the local district board in consultation with the county clerk for each county in which the local district is located, which polling places shall coincide with municipal general election or regular general election polling places, as applicable, whenever feasible.

(b) The local district board, in consultation with the county clerk, may consolidate two or more polling places to enable voters from more than one district to vote at one consolidated polling place.

(c) (i) Subject to Subsections (5)(h) and (i), the number of polling places under Subsection (2)(a)(ii) in an election of board members of an irrigation district shall be one polling place per division of the district, designated by the district board.

(ii) Each polling place designated by an irrigation district board under Subsection (2)(c)(i) shall coincide with a polling place designated by the county clerk under Subsection (2)(a)(ii).

(3) The clerk of each local district with a board member position to be filled at the next municipal general election or regular general election, as applicable, shall provide notice of:

(a) each elective position of the local district to be filled at the next municipal general election or regular general election, as applicable;

(b) the constitutional and statutory qualifications for each position; and

(c) the dates and times for filing a declaration of candidacy.

(4) The clerk of the local district shall publish the notice described in Subsection (3):

(a) by posting the notice on the Utah Public Notice Website created in Section [~~63F-1-701~~] 63A-12-201, for 10 days before the first day for filing a declaration of candidacy; and

(b) (i) by posting the notice in at least five public places within the local district at least 10 days before the first day for filing a declaration of candidacy; or

(ii) publishing the notice:

(A) in a newspaper of general circulation within the local district at least three but no more than 10 days before the first day for filing a declaration of candidacy;

(B) in accordance with Section 45-1-101, for 10 days before the first day for filing a declaration of candidacy; and

(c) if the local district has a website, on the local district's website for 10 days before the first day for filing a declaration of candidacy.

(5) (a) Except as provided in Subsection (5)(c), to become a candidate for an elective local district board position, an individual shall file a declaration of candidacy in person with an official designated by the local district, during office hours, within the candidate filing period for the applicable election year in which the election for the local district board is held.

(b) When the candidate filing deadline falls on a Saturday, Sunday, or holiday, the filing time shall be extended until the close of normal office hours on the following regular business day.

(c) Subject to Subsection (5)(f), an individual may designate an agent to file a declaration of candidacy with the official designated by the local district if:

(i) the individual is located outside of the state during the entire filing period;

(ii) the designated agent appears in person before the official designated by the local district; and

(iii) the individual communicates with the official designated by the local district using an electronic device that allows the individual and official to see and hear each other.

(d) (i) Before the filing officer may accept any declaration of candidacy from an individual, the filing officer shall:

(A) read to the individual the constitutional and statutory qualification requirements for the office that the individual is seeking; and

(B) require the individual to state whether the individual meets those requirements.

(ii) If the individual does not meet the qualification requirements for the office, the filing officer may not accept the individual's declaration of candidacy.

(iii) If it appears that the individual meets the requirements of candidacy, the filing officer shall accept the individual's declaration of candidacy.

(e) The declaration of candidacy shall be in substantially the following form:

"I, (print name) _____, being first duly sworn, say that I reside at (Street) _____,

City of _____, County of _____, state of Utah, (Zip Code) _____, (Telephone Number, if any)_____; that I meet the qualifications for the office of board of trustees member for _____ (state the name of the local district); that I am a candidate for that office to be voted upon at the next election; and that, if filing via a designated agent, I will be out of the state of Utah during the entire candidate filing period, and I hereby request that my name be printed upon the official ballot for that election.

(Signed)

_____

Subscribed and sworn to (or affirmed) before me by _____ on this _____ day of _____, ____.

(Signed) _____

(Clerk or Notary Public)"

(f) An agent designated under Subsection (5)(c) may not sign the form described in Subsection (5)(e).

(g) Each individual wishing to become a valid write-in candidate for an elective local district board position is governed by Section 20A-9-601.

(h) If at least one individual does not file a declaration of candidacy as required by this section, an individual shall be appointed to fill that board position in accordance with the appointment provisions of Section 20A-1-512.

(i) If only one candidate files a declaration of candidacy and there is no write-in candidate who complies with Section 20A-9-601, the board, in accordance with Section 20A-1-206, may:

(i) consider the candidate to be elected to the position; and

(ii) cancel the election.

(6) (a) A primary election may be held if:

(i) the election is authorized by the local district board; and

(ii) the number of candidates for a particular local board position or office exceeds twice the number of persons needed to fill that position or office.

(b) The primary election shall be conducted:

(i) on the same date as the municipal primary election or the regular primary election, as applicable; and

(ii) according to the procedures for primary elections provided under Title 20A, Election Code.

(7) (a) Except as provided in Subsection (7)(c), within one business day after the deadline for filing a declaration of candidacy, the local district clerk shall certify the candidate names to the clerk of each county in which the local district is located.

(b) (i) Except as provided in Subsection (7)(c) and in accordance with Section 20A-6-305, the clerk of each county in which the local district is located and the local district clerk shall coordinate the placement of the name of each candidate for local district office in the nonpartisan section of the ballot with the appropriate election officer.

(ii) If consolidation of the local district election ballot with the municipal general election ballot or the regular general election ballot, as applicable, is not feasible, the local district board of trustees, in consultation with the county clerk, shall provide for a separate local district election ballot to be administered by poll workers at polling locations designated under Subsection (2).

(c) (i) Subsections (7)(a) and (b) do not apply to an election of a member of the board of an irrigation district established under Chapter 2a, Part 5, Irrigation District Act.

(ii) (A) Subject to Subsection (7)(c)(ii)(B), the board of each irrigation district shall prescribe the form of the ballot for each board member election.

(B) Each ballot for an election of an irrigation district board member shall be in a nonpartisan format.

(C) The name of each candidate shall be placed on the ballot in the order specified under Section 20A-6-305.

(8) (a) Each voter at an election for a board of trustees member of a local district shall:

(i) be a registered voter within the district, except for an election of:

(A) an irrigation district board of trustees member; or

(B) a basic local district board of trustees member who is elected by property owners; and

(ii) meet the requirements to vote established by the district.

(b) Each voter may vote for as many candidates as there are offices to be filled.

(c) The candidates who receive the highest number of votes are elected.

(9) Except as otherwise provided by this section, the election of local district board members is governed by Title 20A, Election Code.

(10) (a) Except as provided in Subsection 17B-1-303(8), a person elected to serve on a local district board shall serve a four-year term, beginning at noon on the January 1 after the person's election.

(b) A person elected shall be sworn in as soon as practical after January 1.

(11) (a) Except as provided in Subsection (11)(b), each local district shall reimburse the county or municipality holding an election under this section for the costs of the election attributable to that local district.

(b) Each irrigation district shall bear its own costs of each election it holds under this section.

(12) This section does not apply to an improvement district that provides electric or gas service.

(13) Except as provided in Subsection 20A-3a-605(1)(b), the provisions of Title 20A, Chapter 3a, Part 6, Early Voting, do not apply to an election under this section.

(14) (a) As used in this Subsection (14), "board" means:

(i) a local district board; or

(ii) the administrative control board of a special service district that has elected members on the board.

(b) A board may hold elections for membership on the board at a regular general election instead of a municipal general election if the board submits an application to the lieutenant governor that:

(i) requests permission to hold elections for membership on the board at a regular general election instead of a municipal general election; and

(ii) indicates that holding elections at the time of the regular general election is beneficial, based on potential cost savings, a potential increase in voter turnout, or another material reason.

(c) Upon receipt of an application described in Subsection (14)(b), the lieutenant governor may approve the application if the lieutenant governor concludes that holding the elections at the regular general election is beneficial based on the criteria described in Subsection (14)(b)(ii).

(d) If the lieutenant governor approves a board's application described in this section:

(i) all future elections for membership on the board shall be held at the time of the regular general election; and

(ii) the board may not hold elections at the time of a municipal general election unless the board receives permission from the lieutenant governor to hold all future elections for membership on the board at a municipal general election instead of a regular general election, under the same procedure, and by applying the same criteria, described in this Subsection (14).

Section 65. Section 17B-1-413 is amended to read:

17B-1-413. Hearing, notice, and protest provisions do not apply for certain petitions.

(1) Section 17B-1-412 does not apply, and, except as provided in Subsection (2)(a), Sections 17B-1-409 and 17B-1-410 do not apply:

(a) if the process to annex an area to a local district was initiated by:

(i) a petition under Subsection 17B-1-403(1)(a)(i);

(ii) a petition under Subsection 17B-1-403(1)(a)(ii)(A) that was signed by the owners of private real property that:

(A) is located within the area proposed to be annexed;

(B) covers at least 75% of the total private land area within the entire area proposed to be annexed and within each applicable area; and

(C) is equal in assessed value to at least 75% of the assessed value of all private real property within the entire area proposed to be annexed and within each applicable area; or

(iii) a petition under Subsection 17B-1-403(1)(a)(ii)(B) that was signed by registered voters residing within the entire area proposed to be annexed and within each applicable area equal in number to at least 75% of the number of votes cast within the entire area proposed to be annexed and within each applicable area, respectively, for the office of governor at the last regular general election before the filing of the petition;

(b) to an annexation under Section 17B-1-415; or

(c) to a boundary adjustment under Section 17B-1-417.

(2) (a) If a petition that meets the requirements of Subsection (1)(a) is certified under Section 17B-1-405, the local district board:

(i) shall provide notice of the proposed annexation as provided in Subsection (2)(b); and

(ii) (A) may, in the board's discretion, hold a public hearing as provided in Section 17B-1-409 after giving notice of the public hearing as provided in Subsection (2)(b); and

(B) shall, after giving notice of the public hearing as provided in Subsection (2)(b), hold a public hearing as provided in Section 17B-1-409 if a written request to do so is submitted, within 20 days after the local district provides notice under Subsection (2)(a)(i), to the local district board by an owner of property that is located within or a registered voter residing within the area proposed to be annexed who did not sign the annexation petition.

(b) The notice required under Subsections (2)(a)(i) and (ii) shall:

(i) be given:

(A) (I) for a notice under Subsection (2)(a)(i), within 30 days after petition certification; or

(II) for a notice of a public hearing under Subsection (2)(a)(ii), at least 10 but not more than 30 days before the public hearing; and

(B) by:

(I) posting written notice at the local district's principal office and in one or more other locations within or proximate to the area proposed to be annexed as are reasonable under the circumstances, considering the number of parcels

included in that area, the size of the area, the population of the area, and the contiguousness of the area; and

(II) providing written notice:

(Aa) to at least one newspaper of general circulation, if there is one, within the area proposed to be annexed or to a local media correspondent; and

(Bb) on the Utah Public Notice Website created in Section [~~63F-1-701~~] 63A-12-201; and

(ii) contain a brief explanation of the proposed annexation and include the name of the local district, the service provided by the local district, a description or map of the area proposed to be annexed, a local district telephone number where additional information about the proposed annexation may be obtained, and, for a notice under Subsection (2)(a)(i), an explanation of the right of a property owner or registered voter to request a public hearing as provided in Subsection (2)(a)(ii)(B).

(c) A notice under Subsection (2)(a)(i) may be combined with the notice that is required for a public hearing under Subsection (2)(a)(ii)(A).

Section 66. Section 17B-1-417 is amended to read:

17B-1-417. Boundary adjustment -- Notice and hearing -- Protest -- Resolution adjusting boundaries -- Filing of notice and plat with the lieutenant governor -- Recording requirements -- Effective date.

(1) As used in this section, "affected area" means the area located within the boundaries of one local district that will be removed from that local district and included within the boundaries of another local district because of a boundary adjustment under this section.

(2) The boards of trustees of two or more local districts having a common boundary and providing the same service on the same wholesale or retail basis may adjust their common boundary as provided in this section.

(3) (a) The board of trustees of each local district intending to adjust a boundary that is common with another local district shall:

(i) adopt a resolution indicating the board's intent to adjust a common boundary;

(ii) hold a public hearing on the proposed boundary adjustment no less than 60 days after the adoption of the resolution under Subsection (3)(a)(i); and

(iii) (A) publish notice:

(I) (Aa) once a week for two successive weeks in a newspaper of general circulation within the local district; or

(Bb) if there is no newspaper of general circulation within the local district, post notice in at least four conspicuous places within the local district; and

(II) on the Utah Public Notice Website created in Section [~~63F-1-701~~] 63A-12-201, for two weeks; or

(B) mail a notice to each owner of property located within the affected area and to each registered voter residing within the affected area.

(b) The notice required under Subsection (3)(a)(iii) shall:

(i) state that the board of trustees of the local district has adopted a resolution indicating the board's intent to adjust a boundary that the local district has in common with another local district that provides the same service as the local district;

(ii) describe the affected area;

(iii) state the date, time, and location of the public hearing required under Subsection (3)(a)(ii);

(iv) provide a local district telephone number where additional information about the proposed boundary adjustment may be obtained;

(v) explain the financial and service impacts of the boundary adjustment on property owners or residents within the affected area; and

(vi) state in conspicuous and plain terms that the board of trustees may approve the adjustment of the boundaries unless, at or before the public hearing under Subsection (3)(a)(ii), written protests to the adjustment are filed with the board by:

(A) the owners of private real property that:

(I) is located within the affected area;

(II) covers at least 50% of the total private land area within the affected area; and

(III) is equal in assessed value to at least 50% of the assessed value of all private real property within the affected area; or

(B) registered voters residing within the affected area equal in number to at least 50% of the votes cast in the affected area for the office of governor at the last regular general election before the filing of the protests.

(c) The first publication of the notice required under Subsection (3)(a)(iii)(A) shall be within 14 days after the board's adoption of a resolution under Subsection (3)(a)(i).

(d) The boards of trustees of the local districts whose boundaries are being adjusted may jointly:

(i) publish, post, or mail the notice required under Subsection (3)(a)(iii); and

(ii) hold the public hearing required under Subsection (3)(a)(ii).

(4) After the public hearing required under Subsection (3)(a)(ii), the board of trustees may adopt a resolution approving the adjustment of the common boundary unless, at or before the public hearing, written protests to the boundary adjustment have been filed with the board by:

(a) the owners of private real property that:

(i) is located within the affected area;

(ii) covers at least 50% of the total private land area within the affected area; and

(iii) is equal in assessed value to at least 50% of the assessed value of all private real property within the affected area; or

(b) registered voters residing within the affected area equal in number to at least 50% of the votes cast in the affected area for the office of governor at the last regular general election before the filing of the protests.

(5) A resolution adopted under Subsection (4) does not take effect until the board of each local district whose boundaries are being adjusted has adopted a resolution under Subsection (4).

(6) The board of the local district whose boundaries are being adjusted to include the affected area shall:

(a) within 30 days after the resolutions take effect under Subsection (5), file with the lieutenant governor:

(i) a copy of a notice of an impending boundary action, as defined in Section 67-1a-6.5, that meets the requirements of Subsection 67-1a-6.5(3); and

(ii) a copy of an approved final local entity plat, as defined in Section 67-1a-6.5; and

(b) upon the lieutenant governor's issuance of a certificate of boundary adjustment under Section 67-1a-6.5:

(i) if the affected area is located within the boundary of a single county, submit to the recorder of that county:

(A) the original:

(I) notice of an impending boundary action;

(II) certificate of boundary adjustment; and

(III) approved final local entity plat; and

(B) a certified copy of each resolution adopted under Subsection (4); or

(ii) if the affected area is located within the boundaries of more than a single county:

(A) submit to the recorder of one of those counties:

(I) the original of the documents listed in Subsections (6)(b)(i)(A)(I), (II), and (III); and

(II) a certified copy of each resolution adopted under Subsection (4); and

(B) submit to the recorder of each other county:

(I) a certified copy of the documents listed in Subsections (6)(b)(i)(A)(I), (II), and (III); and

(II) a certified copy of each resolution adopted under Subsection (4).

(7) (a) Upon the lieutenant governor's issuance of a certificate of boundary adjustment under Section 67-1a-6.5, the affected area is annexed to the local district whose boundaries are being adjusted to include the affected area, and the affected area is withdrawn from the local district whose boundaries are being adjusted to exclude the affected area.

(b) (i) The effective date of a boundary adjustment under this section for purposes of assessing property within the affected area is governed by Section 59-2-305.5.

(ii) Until the documents listed in Subsection (6)(b) are recorded in the office of the recorder of the county in which the property is located, a local district in whose boundary an affected area is included because of a boundary adjustment under this section may not:

(A) levy or collect a property tax on property within the affected area;

(B) levy or collect an assessment on property within the affected area; or

(C) charge or collect a fee for service provided to property within the affected area.

(iii) Subsection (7)(b)(ii)(C):

(A) may not be construed to limit a local district's ability before a boundary adjustment to charge and collect a fee for service provided to property that is outside the local district's boundary; and

(B) does not apply until 60 days after the effective date, under Subsection (7)(a), of the local district's boundary adjustment, with respect to a fee that the local district was charging for service provided to property within the area affected by the boundary adjustment immediately before the boundary adjustment.

Section 67. Section 17B-1-505.5 is amended to read:

17B-1-505.5. Feasibility study for a municipality's withdrawal from a local district providing fire protection, paramedic, and emergency services or law enforcement service.

(1) As used in this section:

(a) "Feasibility consultant" means a person with expertise in:

(i) the processes and economics of local government; and

(ii) the economics of providing fire protection, paramedic, and emergency services or law enforcement service.

(b) "Feasibility study" means a study to determine the functional and financial feasibility of a municipality's withdrawal from a first responder local district.

(c) "First responder district" means a local district, other than a municipal services district, that provides:

(i) fire protection, paramedic, and emergency services; or

(ii) law enforcement service.

(d) "Withdrawing municipality" means a municipality whose legislative body has adopted a

resolution under Subsection 17B-1-505(3)(a) to initiate the process of the municipality's withdrawal from a first responder district.

(2) This section applies and a feasibility study shall be conducted, as provided in this section, if:

(a) the legislative body of a municipality has adopted a resolution under Subsection 17B-1-505(3)(a) to initiate the process of the municipality's withdrawal from a first responder district;

(b) the municipality and first responder district have not agreed in writing to the withdrawal; and

(c) a feasibility study is a condition under Subsection 17B-1-505(6)(a) for an election to be held approving the withdrawal.

(3) (a) As provided in this Subsection (3), the withdrawing municipality and first responder district shall choose and engage a feasibility consultant to conduct a feasibility study.

(b) The withdrawing municipality and first responder district shall jointly choose and engage a feasibility consultant according to applicable municipal or local district procurement procedures.

(c) (i) If the withdrawing municipality and first responder district cannot agree on and have not engaged a feasibility consultant under Subsection (3)(b) within 45 days after the legislative body of the withdrawing municipality submits written notice to the first responder district under Subsection 17B-1-505(3)(c), the withdrawing municipality and first responder district shall, as provided in this Subsection (3)(c), choose a feasibility consultant from a list of at least eight feasibility consultants provided by the Utah Association of Certified Public Accountants.

(ii) A list of feasibility consultants under Subsection (3)(c)(i) may not include a feasibility consultant that has had a contract to provide services to the withdrawing municipality or first responder district at any time during the two-year period immediately preceding the date the list is provided under Subsection (3)(c)(i).

(iii) (A) Beginning with the first responder district, the first responder district and withdrawing municipality shall alternately eliminate one feasibility consultant each from the list of feasibility consultants until one feasibility consultant remains.

(B) Within five days after receiving the list of consultants from the Utah Association of Certified Public Accountants, the first responder district shall make the first elimination of a feasibility consultant from the list and notify the withdrawing municipality in writing of the elimination.

(C) After the first elimination of a feasibility consultant from the list, the withdrawing municipality and first responder district shall each, within three days after receiving the written notification of the preceding elimination, notify the other in writing of the elimination of a feasibility consultant from the list.

(d) If a withdrawing municipality and first responder district do not engage a feasibility consultant under Subsection (3)(b), the withdrawing municipality and first responder district shall engage the feasibility consultant that has not been eliminated from the list at the completion of the process described in Subsection (3)(c).

(4) A feasibility consultant that conducts a feasibility study under this section shall be independent of and unaffiliated with the withdrawing municipality and first responder district.

(5) In conducting a feasibility study under this section, the feasibility consultant shall consider:

(a) population and population density within the withdrawing municipality;

(b) current and five-year projections of demographics and economic base in the withdrawing municipality, including household size and income, commercial and industrial development, and public facilities;

(c) projected growth in the withdrawing municipality during the next five years;

(d) subject to Subsection (6)(a), the present and five-year projections of the cost, including overhead, of providing the same service in the withdrawing municipality as is provided by the first responder district, including:

(i) the estimated cost if the first responder district continues to provide service; and

(ii) the estimated cost if the withdrawing municipality provides service;

(e) subject to Subsection (6)(a), the present and five-year projections of the cost, including overhead, of the first responder district providing service with:

(i) the municipality included in the first responder district's service area; and

(ii) the withdrawing municipality excluded from the first responder district's service area;

(f) a projection of any new taxes per household that may be levied within the withdrawing municipality within five years after the withdrawal;

(g) the fiscal impact that the withdrawing municipality's withdrawal has on other municipalities and unincorporated areas served by the first responder district, including any rate increase that may become necessary to maintain required coverage ratios for the first responder district's debt;

(h) the physical and other assets that will be required by the withdrawing municipality to provide, without interruption or diminution of service, the same service that is being provided by the first responder district;

(i) the physical and other assets that will no longer be required by the first responder district to continue to provide the current level of service to the remainder of the first responder district, excluding the withdrawing municipality, and could be transferred to the withdrawing municipality;

(j) subject to Subsection (6)(b), a fair and equitable allocation of the first responder district's assets between the first responder district and the withdrawing municipality, effective upon the withdrawal of the withdrawing municipality from the first responder district;

(k) a fair and equitable allocation of the debts, liabilities, and obligations of the first responder district and any local building authority of the first responder district, between the withdrawing municipality and the remaining first responder district, taking into consideration:

(i) any requirement to maintain the excludability of interest from the income of the holder of the debt, liability, or obligation for federal income tax purposes; and

(ii) any first responder district assets that have been purchased with the proceeds of bonds issued by the first responder district that the first responder district will retain and any of those assets that will be transferred to the withdrawing municipality;

(l) the number and classification of first responder district employees who will no longer be required to serve the remaining portions of the first responder district after the withdrawing municipality withdraws from the first responder district, including the dollar amount of the wages, salaries, and benefits attributable to the employees and the estimated cost associated with termination of the employees if the withdrawing municipality does not employ the employees;

(m) maintaining as a base, for a period of three years after withdrawal, the existing schedule of pay and benefits for first responder district employees who are transferred to the employment of the withdrawing municipality; and

(n) any other factor that the feasibility consultant considers relevant to the question of the withdrawing municipality's withdrawal from the first responder district.

(6) (a) For purposes of Subsections (5)(d) and (e):

(i) the feasibility consultant shall assume a level and quality of service to be provided in the future to the withdrawing municipality that fairly and reasonably approximates the level and quality of service that the first responder district provides to the withdrawing municipality at the time of the feasibility study;

(ii) in determining the present value cost of a service that the first responder district provides, the feasibility consultant shall consider:

(A) the cost to the withdrawing municipality of providing the service for the first five years after the withdrawal; and

(B) the first responder district's present and five-year projected cost of providing the same service within the withdrawing municipality; and

(iii) the feasibility consultant shall consider inflation and anticipated growth in calculating the cost of providing service.

(b) The feasibility consultant may not consider an allocation of first responder district assets or a transfer of first responder district employees to the extent that the allocation or transfer would impair the first responder district's ability to continue to provide the current level of service to the remainder of the first responder district without the withdrawing municipality, unless the first responder district consents to the allocation or transfer.

(7) A feasibility consultant may retain an architect, engineer, or other professional, as the feasibility consultant considers prudent and as provided in the agreement with the withdrawing municipality and first responder district, to assist the feasibility consultant to conduct a feasibility study.

(8) The withdrawing municipality and first responder district shall require the feasibility consultant to:

(a) complete the feasibility study within a time established by the withdrawing municipality and first responder district;

(b) prepare and submit a written report communicating the results of the feasibility study, including a one-page summary of the results; and

(c) attend all public hearings relating to the feasibility study under Subsection (14).

(9) A written report of the results of a feasibility study under this section shall:

(a) contain a recommendation concerning whether a withdrawing municipality's withdrawal from a first responder district is functionally and financially feasible for both the first responder district and the withdrawing municipality; and

(b) include any conditions the feasibility consultant determines need to be satisfied in order to make the withdrawal functionally and financially feasible, including:

(i) first responder district assets and liabilities to be allocated to the withdrawing municipality; and

(ii) (A) first responder district employees to become employees of the withdrawing municipality; and

(B) sick leave, vacation, and other accrued benefits and obligations relating to the first responder district employees that the withdrawing municipality needs to assume.

(10) The withdrawing municipality and first responder district shall equally share the feasibility consultant's fees and costs, as specified in the agreement between the withdrawing municipality and first responder district and the feasibility consultant.

(11) (a) Upon completion of the feasibility study and preparation of a written report, the feasibility consultant shall deliver a copy of the report to the withdrawing municipality and first responder district.

(b) (i) A withdrawing municipality or first responder district that disagrees with any aspect of a feasibility study report may, within 20 business days after receiving a copy of the report under Subsection (11)(a), submit to the feasibility consultant a written objection detailing the disagreement.

(ii) (A) A withdrawing municipality that submits a written objection under Subsection (11)(b)(i) shall simultaneously deliver a copy of the objection to the first responder district.

(B) A first responder district that submits a written objection under Subsection (11)(b)(i) shall simultaneously deliver a copy of the objection to the withdrawing municipality.

(iii) A withdrawing municipality or first responder district may, within 10 business days after receiving an objection under Subsection (11)(b)(ii), submit to the feasibility consultant a written response to the objection.

(iv) (A) A withdrawing municipality that submits a response under Subsection (11)(b)(iii) shall simultaneously deliver a copy of the response to the first responder district.

(B) A first responder district that submits a response under Subsection (11)(b)(iii) shall simultaneously deliver a copy of the response to the withdrawing municipality.

(v) If an objection is filed under Subsection (11)(b)(i), the feasibility consultant shall, within 20 business days after the expiration of the deadline under Subsection (11)(b)(iii) for submitting a response to an objection:

(A) modify the feasibility study report or explain in writing why the feasibility consultant is not modifying the feasibility study report; and

(B) deliver the modified feasibility study report or written explanation to the withdrawing municipality and first responder local district.

(12) Within seven days after the expiration of the deadline under Subsection (11)(b)(i) for submitting an objection or, if an objection is submitted, within seven days after receiving a modified feasibility study report or written explanation under Subsection (11)(b)(v), but at least 30 days before a public hearing under Subsection (14), the withdrawing municipality shall:

(a) make a copy of the report available to the public at the primary office of the withdrawing municipality; and

(b) if the withdrawing municipality has a website, post a copy of the report on the municipality's website.

(13) A feasibility study report or, if a feasibility study report is modified under Subsection (11), a modified feasibility study report may not be challenged unless the basis of the challenge is that the report results from collusion or fraud.

(14) (a) Following the expiration of the deadline under Subsection (11)(b)(i) for submitting an objection, or, if an objection is submitted under Subsection (11)(b)(i), following the withdrawing municipality's receipt of the modified feasibility study report or written explanation under Subsection (11)(b)(v), the legislative body of the withdrawing municipality shall, at the legislative body's next regular meeting, schedule at least one public hearing to be held:

(i) within the following 60 days; and

(ii) for the purpose of allowing:

(A) the feasibility consultant to present the results of the feasibility study; and

(B) the public to become informed about the feasibility study results, to ask the feasibility consultant questions about the feasibility study, and to express the public's views about the proposed withdrawal.

(b) At a public hearing under Subsection (14)(a), the legislative body of the withdrawing municipality shall:

(i) provide a copy of the feasibility study for public review; and

(ii) allow the public to:

(A) ask the feasibility consultant questions about the feasibility study; and

(B) express the public's views about the withdrawing municipality's proposed withdrawal from the first responder district.

(15) (a) The clerk or recorder of the withdrawing municipality shall publish notice of a hearing under Subsection (14):

(i) at least once a week for three successive weeks in a newspaper of general circulation within the withdrawing municipality, with the last publication occurring no less than three days before the first public hearing held under Subsection (14); and

(ii) on the Utah Public Notice Website created in Section [~~63F-1-701~~] 63A-12-201, for three consecutive weeks immediately before the public hearing.

(b) A notice under Subsection (15)(a) shall state:

(i) the date, time, and location of the public hearing; and

(ii) that a copy of the feasibility study report may be obtained, free of charge, at the office of the withdrawing municipality or on the withdrawing municipality's website.

(16) Unless the withdrawing municipality and first responder district agree otherwise, conditions that a feasibility study report indicates are necessary to be met for a withdrawal to be functionally and financially feasible for the

withdrawing municipality and first responder district are binding on the withdrawing municipality and first responder district if the withdrawal occurs.

Section 68. Section 17B-1-609 is amended to read:

17B-1-609. Hearing to consider adoption -- Notice.

(1) At the meeting at which the tentative budget is adopted, the board of trustees shall:

(a) establish the time and place of a public hearing to consider its adoption; and

(b) except as provided in Subsection (6), order that notice of the hearing:

(i) (A) be published at least seven days before the hearing in at least one issue of a newspaper of general circulation in the county or counties in which the district is located; or

(B) if no newspaper is circulated generally in the county or counties, be posted in three public places within the district; and

(ii) be published at least seven days before the hearing on the Utah Public Notice Website created in Section [~~63F-1-701~~] 63A-12-201.

(2) If the budget hearing is held in conjunction with a tax increase hearing, the notice required in Subsection (1)(b):

(a) may be combined with the notice required under Section 59-2-919; and

(b) shall be published in accordance with the advertisement provisions of Section 59-2-919.

(3) If the budget hearing is to be held in conjunction with a fee increase hearing, the notice required in Subsection (1)(b):

(a) may be combined with the notice required under Section 17B-1-643; and

(b) shall be published or mailed in accordance with the notice provisions of Section 17B-1-643.

(4) Proof that notice was given in accordance with Subsection (1)(b), (2), (3), or (6) is prima facie evidence that notice was properly given.

(5) If a notice required under Subsection (1)(b), (2), (3), or (6) is not challenged within 30 days after the day on which the hearing is held, the notice is adequate and proper.

(6) A board of trustees of a local district with an annual operating budget of less than $250,000 may satisfy the notice requirements in Subsection (1)(b) by:

(a) mailing a written notice, postage prepaid, to each voter in the local district; and

(b) posting the notice in three public places within the district.

Section 69. Section 17B-1-643 is amended to read:

17B-1-643. Imposing or increasing a fee for service provided by local district.

(1) (a) Before imposing a new fee or increasing an existing fee for a service provided by a local district, each local district board of trustees shall first hold a public hearing at which:

(i) the local district shall demonstrate its need to impose or increase the fee; and

(ii) any interested person may speak for or against the proposal to impose a fee or to increase an existing fee.

(b) Each public hearing under Subsection (1)(a) shall be held in the evening beginning no earlier than 6 p.m.

(c) A public hearing required under this Subsection (1) may be combined with a public hearing on a tentative budget required under Section 17B-1-610.

(d) Except to the extent that this section imposes more stringent notice requirements, the local district board shall comply with Title 52, Chapter 4, Open and Public Meetings Act, in holding the public hearing under Subsection (1)(a).

(2) (a) Each local district board shall give notice of a hearing under Subsection (1) as provided in Subsections (2)(b) and (c) or Subsection (2)(d).

(b) The notice required under Subsection (2)(a) shall be published:

(i) on the Utah Public Notice Website established in Section [~~63F-1-701~~] 63A-12-201; and

(ii) (A) in a newspaper or combination of newspapers of general circulation in the local district, if there is a newspaper or combination of newspapers of general circulation in the local district; or

(B) if there is no newspaper or combination of newspapers of general circulation in the local district, the local district board shall post at least one notice per 1,000 population within the local district, at places within the local district that are most likely to provide actual notice to residents within the local district.

(c) (i) The notice described in Subsection (2)(b)(ii)(A):

(A) shall be no less than 1/4 page in size and the type used shall be no smaller than 18 point, and surrounded by a 1/4-inch border;

(B) may not be placed in that portion of the newspaper where legal notices and classified advertisements appear;

(C) whenever possible, shall appear in a newspaper that is published at least one day per week;

(D) shall be in a newspaper or combination of newspapers of general interest and readership in the local district, and not of limited subject matter; and

(E) shall be run once each week for the two weeks preceding the hearing.

(ii) The notice described in Subsection (2)(b) shall state that the local district board intends to impose or increase a fee for a service provided by the local district and will hold a public hearing on a certain day, time, and place fixed in the notice, which shall be not less than seven days after the day the first notice is published, for the purpose of hearing comments regarding the proposed imposition or increase of a fee and to explain the reasons for the proposed imposition or increase.

(d) (i) In lieu of providing notice under Subsection (2)(b), the local district board of trustees may give the notice required under Subsection (2)(a) by mailing the notice to those within the district who:

(A) will be charged the fee for a district service, if the fee is being imposed for the first time; or

(B) are being charged a fee, if the fee is proposed to be increased.

(ii) Each notice under Subsection (2)(d)(i) shall comply with Subsection (2)(c)(ii).

(iii) A notice under Subsection (2)(d)(i) may accompany a district bill for an existing fee.

(e) If the hearing required under this section is combined with the public hearing required under Section 17B-1-610, the notice required under this Subsection (2):

(i) may be combined with the notice required under Section 17B-1-609; and

(ii) shall be published, posted, or mailed in accordance with the notice provisions of this section.

(f) Proof that notice was given as provided in Subsection (2)(b) or (d) is prima facie evidence that notice was properly given.

(g) If no challenge is made to the notice given of a hearing required by Subsection (1) within 30 days after the date of the hearing, the notice is considered adequate and proper.

(3) After holding a public hearing under Subsection (1), a local district board may:

(a) impose the new fee or increase the existing fee as proposed;

(b) adjust the amount of the proposed new fee or the increase of the existing fee and then impose the new fee or increase the existing fee as adjusted; or

(c) decline to impose the new fee or increase the existing fee.

(4) This section applies to each new fee imposed and each increase of an existing fee that occurs on or after July 1, 1998.

(5) (a) This section does not apply to an impact fee.

(b) The imposition or increase of an impact fee is governed by Title 11, Chapter 36a, Impact Fees Act.

Section 70. Section 17B-1-1204 is amended to read:

17B-1-1204. Notice of the hearing on a validation petition -- Amended or supplemented validation petition.

(1) Upon the entry of an order under Section 17B-1-1203 setting a hearing on a validation petition, the local district that filed the petition shall:

(a) publish notice:

(i) at least once a week for three consecutive weeks in a newspaper of general circulation in the county in which the principal office of the district is located; and

(ii) on the Utah Public Notice Website created in Section [~~63F-1-701~~] 63A-12-201, for three weeks immediately before the hearing; and

(b) post notice in its principal office at least 21 days before the date set for the hearing.

(2) Each notice under Subsection (1) shall:

(a) state the date, time, and place of the hearing on the validation petition;

(b) include a general description of the contents of the validation petition; and

(c) if applicable, state the location where a complete copy of a contract that is the subject of the validation petition may be examined.

(3) If a district amends or supplements a validation petition under Subsection 17B-1-1202(3) after publishing and posting notice as required under Subsection (1), the district is not required to publish or post notice again unless required by the court.

Section 71. Section 17B-1-1307 is amended to read:

17B-1-1307. Notice of public hearing and of dissolution.

(1) Before holding a public hearing required under Section 17B-1-1306, the administrative body shall:

(a) (i) publish notice of the public hearing and of the proposed dissolution:

(A) in a newspaper of general circulation within the local district proposed to be dissolved; and

(B) on the Utah Public Notice Website created in Section [~~63F-1-701~~] 63A-12-201, for 30 days before the public hearing; and

(ii) post notice of the public hearing and of the proposed dissolution in at least four conspicuous places within the local district proposed to be dissolved, no less than five and no more than 30 days before the public hearing; or

(b) mail a notice to each owner of property located within the local district and to each registered voter residing within the local district.

(2) Each notice required under Subsection (1) shall:

(a) identify the local district proposed to be dissolved and the service it was created to provide; and

(b) state the date, time, and location of the public hearing.

Section 72. Section 17B-2a-705 is amended to read:

17B-2a-705. Taxation -- Additional levy -- Election.

(1) If a mosquito abatement district board of trustees determines that the funds required during the next ensuing fiscal year will exceed the maximum amount that the district is authorized to levy under Subsection 17B-1-103(2)(g), the board of trustees may call an election on a date specified in Section 20A-1-204 and submit to district voters the question of whether the district should be authorized to impose an additional tax to raise the necessary additional funds.

(2) The board shall publish notice of the election:

(a) (i) in a newspaper of general circulation within the district at least once, no later than four weeks before the day of the election;

(ii) if there is no newspaper of general circulation in the district, at least four weeks before the day of the election, by posting one notice, and at least one additional notice per 2,000 population of the district, in places within the district that are most likely to give notice to the voters in the district; or

(iii) at least four weeks before the day of the election, by mailing notice to each registered voter in the district;

(b) on the Utah Public Notice Website created in Section [~~63F-1-701~~] 63A-12-201, for four weeks before the day of the election;

(c) in accordance with Section 45-1-101, for four weeks before the day of the election; and

(d) if the district has a website, on the district's website for four weeks before the day of the election.

(3) No particular form of ballot is required, and no informalities in conducting the election may invalidate the election, if it is otherwise fairly conducted.

(4) At the election each ballot shall contain the words, "Shall the district be authorized to impose an additional tax to raise the additional sum of $____?"

(5) The board of trustees shall canvass the votes cast at the election, and, if a majority of the votes cast are in favor of the imposition of the tax, the district is authorized to impose an additional levy to raise the additional amount of money required.

Section 73. Section 17B-2a-1110 is amended to read:

17B-2a-1110. Withdrawal from a municipal services district upon incorporation -- Feasibility study required for city or town withdrawal -- Public hearing -- Revenues transferred to municipal services district.

(1) (a) A municipality may withdraw from a municipal services district in accordance with Section 17B-1-502 or 17B-1-505, as applicable, and the requirements of this section.

(b) If a municipality engages a feasibility consultant to conduct a feasibility study under Subsection (2)(a), the 180 days described in Subsection 17B-1-502(3)(a)(iii)(B) is tolled from the day that the municipality engages the feasibility consultant to the day on which the municipality holds the final public hearing under Subsection (5).

(2) (a) If a municipality decides to withdraw from a municipal services district, the municipal legislative body shall, before adopting a resolution under Section 17B-1-502 or 17B-1-505, as applicable, engage a feasibility consultant to conduct a feasibility study.

(b) The feasibility consultant shall be chosen:

(i) by the municipal legislative body; and

(ii) in accordance with applicable municipal procurement procedures.

(3) The municipal legislative body shall require the feasibility consultant to:

(a) complete the feasibility study and submit the written results to the municipal legislative body before the council adopts a resolution under Section 17B-1-502;

(b) submit with the full written results of the feasibility study a summary of the results no longer than one page in length; and

(c) attend the public hearings under Subsection (5).

(4) (a) The feasibility study shall consider:

(i) population and population density within the withdrawing municipality;

(ii) current and five-year projections of demographics and economic base in the withdrawing municipality, including household size and income, commercial and industrial development, and public facilities;

(iii) projected growth in the withdrawing municipality during the next five years;

(iv) subject to Subsection (4)(b), the present and five-year projections of the cost, including overhead, of municipal services in the withdrawing municipality;

(v) assuming the same tax categories and tax rates as currently imposed by the municipal services district and all other current service providers, the present and five-year projected revenue for the withdrawing municipality;

(vi) a projection of any new taxes per household that may be levied within the withdrawing municipality within five years of the withdrawal; and

(vii) the fiscal impact on other municipalities serviced by the municipal services district.

(b) (i) For purposes of Subsection (4)(a)(iv), the feasibility consultant shall assume a level and quality of municipal services to be provided to the withdrawing municipality in the future that fairly and reasonably approximates the level and quality of municipal services being provided to the withdrawing municipality at the time of the feasibility study.

(ii) In determining the present cost of a municipal service, the feasibility consultant shall consider:

(A) the amount it would cost the withdrawing municipality to provide municipal services for the first five years after withdrawing; and

(B) the municipal services district's present and five-year projected cost of providing municipal services.

(iii) The costs calculated under Subsection (4)(a)(iv) shall take into account inflation and anticipated growth.

(5) If the results of the feasibility study meet the requirements of Subsection (4), the municipal legislative body shall, at its next regular meeting after receipt of the results of the feasibility study, schedule at least one public hearing to be held:

(a) within the following 60 days; and

(b) for the purpose of allowing:

(i) the feasibility consultant to present the results of the study; and

(ii) the public to become informed about the feasibility study results, including the requirement that if the municipality withdraws from the municipal services district, the municipality must comply with Subsection (9), and to ask questions about those results of the feasibility consultant.

(6) At a public hearing described in Subsection (5), the municipal legislative body shall:

(a) provide a copy of the feasibility study for public review; and

(b) allow the public to express its views about the proposed withdrawal from the municipal services district.

(7) (a) (i) The municipal clerk or recorder shall publish notice of the public hearings required under Subsection (5):

(A) at least once a week for three successive weeks in a newspaper of general circulation within the municipality; and

(B) on the Utah Public Notice Website created in Section [~~63F-1-701~~] 63A-12-201, for three weeks.

(ii) The municipal clerk or recorder shall publish the last publication of notice required under Subsection (7)(a)(i)(A) at least three days before the first public hearing required under Subsection (5).

(b) (i) If, under Subsection (7)(a)(i)(A), there is no newspaper of general circulation within the proposed municipality, the municipal clerk or recorder shall post at least one notice of the hearings per 1,000 population in conspicuous places within the municipality that are most likely to give notice of the hearings to the residents.

(ii) The municipal clerk or recorder shall post the notices under Subsection (7)(b)(i) at least seven days before the first hearing under Subsection (5).

(c) The notice under Subsections (7)(a) and (b) shall include the feasibility study summary and shall indicate that a full copy of the study is available for inspection and copying at the office of the municipal clerk or recorder.

(8) At a public meeting held after the public hearing required under Subsection (5), the municipal legislative body may adopt a resolution under Section 17B-1-502 or 17B-1-505, as applicable, if the municipality is in compliance with the other requirements of that section.

(9) The municipality shall pay revenues in excess of 5% to the municipal services district for 10 years beginning on the next fiscal year immediately following the municipal legislative body adoption of a resolution or an ordinance to withdraw under Section 17B-1-502 or 17B-1-505 if the results of the feasibility study show that the average annual amount of revenue under Subsection (4)(a)(v) exceed the average annual amount of cost under Subsection (4)(a)(iv) by more than 5%.

Section 74. Section 17C-1-207 is amended to read:

17C-1-207. Public entities may assist with project area development.

(1) In order to assist and cooperate in the planning, undertaking, construction, or operation of project area development within an area in which the public entity is authorized to act, a public entity may:

(a) (i) provide or cause to be furnished:

(A) parks, playgrounds, or other recreational facilities;

(B) community, educational, water, sewer, or drainage facilities; or

(C) any other works which the public entity is otherwise empowered to undertake;

(ii) provide, furnish, dedicate, close, vacate, pave, install, grade, regrade, plan, or replan streets, roads, roadways, alleys, sidewalks, or other places;

(iii) in any part of the project area:

(A) (I) plan or replan any property within the project area;

(II) plat or replat any property within the project area;

(III) vacate a plat;

(IV) amend a plat; or

(V) zone or rezone any property within the project area; and

(B) make any legal exceptions from building regulations and ordinances;

(iv) purchase or legally invest in any of the bonds of an agency and exercise all of the rights of any holder of the bonds;

(v) notwithstanding any law to the contrary, enter into an agreement for a period of time with another public entity concerning action to be taken pursuant to any of the powers granted in this title;

(vi) do anything necessary to aid or cooperate in the planning or implementation of the project area development;

(vii) in connection with the project area plan, become obligated to the extent authorized and funds have been made available to make required improvements or construct required structures; and

(viii) lend, grant, or contribute funds to an agency for project area development or proposed project area development, including assigning revenue or taxes in support of an agency bond or obligation; and

(b) for less than fair market value or for no consideration, and subject to Subsection (3):

(i) purchase or otherwise acquire property from an agency;

(ii) lease property from an agency;

(iii) sell, grant, convey, donate, or otherwise dispose of the public entity's property to an agency; or

(iv) lease the public entity's property to an agency.

(2) The following are not subject to Section 10-8-2, 17-50-312, or 17-50-303:

(a) project area development assistance that a public entity provides under this section; or

(b) a transfer of funds or property from an agency to a public entity.

(3) A public entity may provide assistance described in Subsection (1)(b) no sooner than 15 days after the day on which the public entity posts notice of the assistance on:

(a) the Utah Public Notice Website described in Section [~~63F-1-701~~] 63A-12-201; and

(b) the public entity's public website.

Section 75. Section 17C-1-601.5 is amended to read:

17C-1-601.5. Annual agency budget -- Fiscal year -- Public hearing required -- Auditor forms -- Requirement to file form.

(1) Each agency shall prepare an annual budget of the agency's revenues and expenditures for each fiscal year.

(2) The board shall adopt each agency budget:

(a) for an agency created by a municipality, before June 30; or

(b) for an agency created by a county, before December 15.

(3) The agency's fiscal year shall be the same as the fiscal year of the community that created the agency.

(4) (a) Before adopting an annual budget, each board shall hold a public hearing on the annual budget.

(b) Each agency shall provide notice of the public hearing on the annual budget by:

(i) (A) publishing at least one notice in a newspaper of general circulation within the agency boundaries, one week before the public hearing; or

(B) if there is no newspaper of general circulation within the agency boundaries, posting a notice of the public hearing in at least three public places within the agency boundaries; and

(ii) publishing notice on the Utah Public Notice Website created in Section [~~63F-1-701~~] 63A-12-201, at least one week before the public hearing.

(c) Each agency shall make the annual budget available for public inspection at least three days before the date of the public hearing.

(5) The state auditor shall prescribe the budget forms and the categories to be contained in each annual budget, including:

(a) revenues and expenditures for the budget year;

(b) legal fees; and

(c) administrative costs, including rent, supplies, and other materials, and salaries of agency personnel.

(6) (a) Within 90 days after adopting an annual budget, each board shall file a copy of the annual budget with the auditor of the county in which the agency is located, the State Tax Commission, the state auditor, the State Board of Education, and each taxing entity from which the agency receives project area funds.

(b) The requirement of Subsection (6)(a) to file a copy of the annual budget with the state as a taxing entity is met if the agency files a copy with the State Tax Commission and the state auditor.

Section 76. Section 17C-1-804 is amended to read:

17C-1-804. Notice required for continued hearing.

The board shall give notice of a hearing continued under Section 17C-1-803 by announcing at the hearing:

(1) the date, time, and place the hearing will be resumed; or

(2) (a) that the hearing is being continued to a later time; and

(b) that the board will cause a notice of the continued hearing to be published on the Utah Public Notice Website created in Section [~~63F-1-701~~] 63A-12-201, at least seven days before the day on which the hearing is scheduled to resume.

Section 77. Section 17C-1-806 is amended to read:

17C-1-806. Requirements for notice provided by agency.

(1) The notice required by Section 17C-1-805 shall be given by:

(a) (i) publishing one notice, excluding the map referred to in Subsection (3)(b), in a newspaper of general circulation within the county in which the project area or proposed project area is located, at least 14 days before the hearing;

(ii) if there is no newspaper of general circulation, posting notice at least 14 days before the day of the hearing in at least three conspicuous places within the county in which the project area or proposed project area is located; or

(iii) posting notice, excluding the map described in Subsection (3)(b), at least 14 days before the day on which the hearing is held on:

(A) the Utah Public Notice Website described in Section [~~63F-1-701~~] 63A-12-201; and

(B) the public website of a community located within the boundaries of the project area; and

(b) at least 30 days before the hearing, mailing notice to:

(i) each record owner of property located within the project area or proposed project area;

(ii) the State Tax Commission;

(iii) the assessor and auditor of the county in which the project area or proposed project area is located; and

(iv) (A) if a project area is subject to a taxing entity committee, each member of the taxing entity committee and the State Board of Education; or

(B) if a project area is not subject to a taxing entity committee, the legislative body or governing board of each taxing entity within the boundaries of the project area or proposed project area.

(2) The mailing of the notice to record property owners required under Subsection (1)(b)(i) shall be conclusively considered to have been properly completed if:

(a) the agency mails the notice to the property owners as shown in the records, including an electronic database, of the county recorder's office and at the addresses shown in those records; and

(b) the county recorder's office records used by the agency in identifying owners to whom the notice is mailed and their addresses were obtained or accessed from the county recorder's office no earlier than 30 days before the mailing.

(3) The agency shall include in each notice required under Section 17C-1-805:

(a) (i) a boundary description of the project area or proposed project area; or

(ii) (A) a mailing address or telephone number where a person may request that a copy of the boundary description be sent at no cost to the person by mail, email, or facsimile transmission; and

(B) if the agency or community has an Internet website, an Internet address where a person may gain access to an electronic, printable copy of the boundary description and other related information;

(b) a map of the boundaries of the project area or proposed project area;

(c) an explanation of the purpose of the hearing; and

(d) a statement of the date, time, and location of the hearing.

(4) The agency shall include in each notice under Subsection (1)(b):

(a) a statement that property tax revenue resulting from an increase in valuation of property within the project area or proposed project area will be paid to the agency for project area development rather than to the taxing entity to which the tax revenue would otherwise have been paid if:

(i) (A) the taxing entity committee consents to the project area budget; or

(B) one or more taxing entities agree to share property tax revenue under an interlocal agreement; and

(ii) the project area plan provides for the agency to receive tax increment; and

(b) an invitation to the recipient of the notice to submit to the agency comments concerning the subject matter of the hearing before the date of the hearing.

(5) An agency may include in a notice under Subsection (1) any other information the agency considers necessary or advisable, including the public purpose achieved by the project area development and any future tax benefits expected to result from the project area development.

Section 78. Section 17C-2-108 is amended to read:

17C-2-108. Notice of urban renewal project area plan adoption -- Effective date of plan -- Contesting the formation of the plan.

(1) (a) Upon the community legislative body's adoption of an urban renewal project area plan, or an amendment to a project area plan under Section 17C-2-110, the community legislative body shall provide notice as provided in Subsection (1)(b) by:

(i) (A) publishing or causing to be published a notice in a newspaper of general circulation within the agency's boundaries; or

(B) if there is no newspaper of general circulation within the agency's boundaries, causing a notice to be posted in at least three public places within the agency's boundaries; and

(ii) posting a notice on the Utah Public Notice Website described in Section [~~63F-1-701~~] 63A-12-201.

(b) Each notice under Subsection (1)(a) shall:

(i) set forth the community legislative body's ordinance adopting the project area plan or a summary of the ordinance; and

(ii) include a statement that the project area plan is available for general public inspection and the hours for inspection.

(2) The project area plan shall become effective on the date of:

(a) if notice was published under Subsection (1)(a), publication of the notice; or

(b) if notice was posted under Subsection (1)(a), posting of the notice.

(3) (a) For a period of 30 days after the effective date of the project area plan under Subsection (2), any person may contest the project area plan or the procedure used to adopt the project area plan if the plan or procedure fails to comply with applicable statutory requirements.

(b) After the 30-day period under Subsection (3)(a) expires, a person may not contest the project area plan or procedure used to adopt the project area plan for any cause.

(4) Upon adoption of the project area plan by the community legislative body, the agency may carry out the project area plan.

(5) Each agency shall make the project area plan available to the general public at the agency's office during normal business hours.

Section 79. Section 17C-3-107 is amended to read:

17C-3-107. Notice of economic development project area plan adoption -- Effective date of plan -- Contesting the formation of the plan.

(1) (a) Upon the community legislative body's adoption of an economic development project area plan, or an amendment to the project area plan under Section 17C-3-109 that requires notice, the legislative body shall provide notice as provided in Subsection (1)(b) by:

(i) publishing or causing to be published a notice:

(A) in a newspaper of general circulation within the agency's boundaries; or

(B) if there is no newspaper of general circulation within the agency's boundaries, causing a notice to be posted in at least three public places within the agency's boundaries; and

(ii) on the Utah Public Notice Website described in Section [~~63F-1-701~~] 63A-12-201.

(b) Each notice under Subsection (1)(a) shall:

(i) set forth the community legislative body's ordinance adopting the project area plan or a summary of the ordinance; and

(ii) include a statement that the project area plan is available for public inspection and the hours for inspection.

(2) The project area plan shall become effective on the date of:

(a) if notice was published under Subsection (1)(a), publication of the notice; or

(b) if notice was posted under Subsection (1)(a), posting of the notice.

(3) (a) For a period of 30 days after the effective date of the project area plan under Subsection (2), any person may contest the project area plan or the procedure used to adopt the project area plan if the plan or procedure fails to comply with applicable statutory requirements.

(b) After the 30-day period under Subsection (3)(a) expires, a person may not contest the project area plan or procedure used to adopt the project area plan for any cause.

(4) Upon adoption of the economic development project area plan by the community legislative body, the agency may implement the project area plan.

(5) Each agency shall make the economic development project area plan available to the general public at the agency's office during normal business hours.

Section 80. Section 17C-4-109 is amended to read:

17C-4-109. Expedited community development project area plan.

(1) As used in this section, "tax increment incentive" means the portion of tax increment awarded to an industry or business.

(2) A community development project area plan may be adopted or amended without complying with the notice and public hearing requirements of this part and Chapter 1, Part 8, Hearing and Notice Requirements, if the following requirements are met:

(a) the agency determines by resolution adopted in an open and public meeting the need to create or amend a project area plan on an expedited basis, which resolution shall include a description of why expedited action is needed;

(b) a public hearing on the amendment or adoption of the project area plan is held by the agency;

(c) notice of the public hearing is published at least 14 days before the public hearing on:

(i) the website of the community that created the agency; and

(ii) the Utah Public Notice Website created in Section [~~63F-1-701~~] 63A-12-201;

(d) written consent to the amendment or adoption of the project area plan is given by all record property owners within the existing or proposed project area;

(e) each taxing entity that will be affected by the tax increment incentive enters into or amends an interlocal agreement in accordance with Title 11, Chapter 13, Interlocal Cooperation Act, and Sections 17C-4-201, 17C-4-203, and 17C-4-204;

(f) the primary market for the goods or services that will be created by the industry or business entity that will receive a tax increment incentive from the amendment or adoption of the project area plan is outside of the state;

(g) the industry or business entity that will receive a tax increment incentive from the amendment or adoption of the project area plan is not primarily engaged in retail trade; and

(h) a tax increment incentive is only provided to an industry or business entity:

(i) on a postperformance basis as described in Subsection (3); and

(ii) on an annual basis after the tax increment is received by the agency.

(3) An industry or business entity may only receive a tax increment incentive under this section after entering into an agreement with the agency that sets postperformance targets that shall be met before the industry or business entity may receive the tax increment incentive, including annual targets for:

(a) capital investment in the project area;

(b) the increase in the taxable value of the project area;

(c) the number of new jobs created in the project area;

(d) the average wages of the jobs created, which shall be at least 110% of the prevailing wage of the county where the project area is located; and

(e) the amount of local vendor opportunity generated by the industry or business entity.

Section 81. Section 17C-4-202 is amended to read:

17C-4-202. Resolution or interlocal agreement to provide project area funds for the community development project area plan -- Notice -- Effective date of resolution or interlocal agreement -- Time to contest resolution or interlocal agreement -- Availability of resolution or interlocal agreement.

(1) The approval and adoption of each resolution or interlocal agreement under Subsection 17C-4-201(2) shall be in an open and public meeting.

(2) (a) Upon the adoption of a resolution or interlocal agreement under Section 17C-4-201, the agency shall provide notice as provided in Subsection (2)(b) by:

(i) (A) publishing or causing to be published a notice in a newspaper of general circulation within the agency's boundaries; or

(B) if there is no newspaper of general circulation within the agency's boundaries, causing a notice to be posted in at least three public places within the agency's boundaries; and

(ii) publishing or causing to be published a notice on the Utah Public Notice Website created in Section [~~63F-1-701~~] 63A-12-201.

(b) Each notice under Subsection (2)(a) shall:

(i) set forth a summary of the resolution or interlocal agreement; and

(ii) include a statement that the resolution or interlocal agreement is available for public inspection and the hours of inspection.

(3) The resolution or interlocal agreement shall become effective on the date of:

(a) if notice was published under Subsection (2)(a)(i)(A) or (2)(a)(ii), publication of the notice; or

(b) if notice was posted under Subsection (2)(a)(i)(B), posting of the notice.

(4) (a) For a period of 30 days after the effective date of the resolution or interlocal agreement under Subsection (3), any person may contest the resolution or interlocal agreement or the procedure used to adopt the resolution or interlocal agreement if the resolution or interlocal agreement or procedure fails to comply with applicable statutory requirements.

(b) After the 30-day period under Subsection (4)(a) expires, a person may not contest:

(i) the resolution or interlocal agreement;

(ii) a distribution of tax increment to the agency under the resolution or interlocal agreement; or

(iii) the agency's use of project area funds under the resolution or interlocal agreement.

(5) Each agency that is to receive project area funds under a resolution or interlocal agreement under Section 17C-4-201 and each taxing entity that approves a resolution or enters into an interlocal agreement under Section 17C-4-201 shall make the resolution or interlocal agreement, as the case may be, available at the taxing entity's offices to the public for inspection and copying during normal business hours.

Section 82. Section 17C-5-110 is amended to read:

17C-5-110. Notice of community reinvestment project area plan adoption -- Effective date of plan -- Contesting the formation of the plan.

(1) (a) Upon a community legislative body's adoption of a community reinvestment project area plan in accordance with Section 17C-5-109, or an amendment to a community reinvestment project

area plan in accordance with Section 17C-5-112, the community legislative body shall provide notice of the adoption or amendment in accordance with Subsection (1)(b) by:

(i) (A) causing a notice to be published in a newspaper of general circulation within the community; or

(B) if there is no newspaper of general circulation within the community, causing a notice to be posted in at least three public places within the community; and

(ii) posting a notice on the Utah Public Notice Website described in Section [~~63F-1-701~~] 63A-12-201.

(b) A notice described in Subsection (1)(a) shall include:

(i) a copy of the community legislative body's ordinance, or a summary of the ordinance, that adopts the community reinvestment project area plan; and

(ii) a statement that the community reinvestment project area plan is available for public inspection and the hours for inspection.

(2) A community reinvestment project area plan is effective on the day on which notice of adoption is published or posted in accordance with Subsection (1)(a).

(3) A community reinvestment project area is considered created the day on which the community reinvestment project area plan becomes effective as described in Subsection (2).

(4) (a) Within 30 days after the day on which a community reinvestment project area plan is effective, a person may contest the community reinvestment project area plan or the procedure used to adopt the community reinvestment project area plan if the community reinvestment project area plan or the procedure fails to comply with a provision of this title.

(b) After the 30-day period described in Subsection (4)(a) expires, a person may not contest the community reinvestment project area plan or the procedure used to adopt the community reinvestment project area plan.

(5) Upon adoption of a community reinvestment project area plan by the community legislative body, the agency may implement the community reinvestment project area plan.

(6) The agency shall make the community reinvestment project area plan available to the public at the agency's office during normal business hours.

Section 83. Section 17C-5-113 is amended to read:

17C-5-113. Expedited community reinvestment project area plan.

(1) As used in this section:

(a) "Qualified business entity" means a business entity that:

(i) has a primary market for the qualified business entity's goods or services outside of the state; and

(ii) is not primarily engaged in retail sales.

(b) "Tax increment incentive" means the portion of an agency's tax increment that is paid to a qualified business entity for the purpose of implementing a community reinvestment project area plan.

(2) An agency and a qualified business entity may, in accordance with Subsection (3), enter into an agreement that allows the qualified business entity to receive a tax increment incentive.

(3) An agreement described in Subsection (2) shall set annual postperformance targets for:

(a) capital investment within the community reinvestment project area;

(b) the number of new jobs created within the community reinvestment project area;

(c) the average wage of the jobs described in Subsection (3)(b) that is at least 110% of the prevailing wage of the county within which the community reinvestment project area is located; and

(d) the amount of local vendor opportunity generated by the qualified business entity.

(4) A qualified business entity may only receive a tax increment incentive:

(a) if the qualified business entity complies with the agreement described in Subsection (3);

(b) on a postperformance basis; and

(c) on an annual basis after the agency receives tax increment from a taxing entity.

(5) An agency may create or amend a community reinvestment project area plan for the purpose of providing a tax increment incentive without complying with the requirements described in Chapter 1, Part 8, Hearing and Notice Requirements, if:

(a) the agency:

(i) holds a public hearing to consider the need to create or amend a community reinvestment project area plan on an expedited basis;

(ii) posts notice at least 14 days before the day on which the public hearing described in Subsection (5)(a)(i) is held on:

(A) the community's website; and

(B) the Utah Public Notice Website as described in Section [~~63F-1-701~~] 63A-12-201; and

(iii) at the hearing described in Subsection (5)(a)(i), adopts a resolution to create or amend the community reinvestment project area plan on an expedited basis;

(b) all record property owners within the existing or proposed community reinvestment project area plan give written consent; and

(c) each taxing entity affected by the tax increment incentive consents and enters into an interlocal agreement with the agency authorizing the agency to pay a tax increment incentive to the qualified business entity.

Section 84. Section 17C-5-205 is amended to read:

17C-5-205. Interlocal agreement to provide project area funds for the community reinvestment project area subject to interlocal agreement -- Notice -- Effective date of interlocal agreement -- Time to contest interlocal agreement -- Availability of interlocal agreement.

(1) An agency shall:

(a) approve and adopt an interlocal agreement described in Section 17C-5-204 at an open and public meeting; and

(b) provide a notice of the meeting titled "Diversion of Property Tax for a Community Reinvestment Project Area."

(2) (a) Upon the execution of an interlocal agreement described in Section 17C-5-204, the agency shall provide notice of the execution by:

(i) (A) publishing or causing to be published a notice in a newspaper of general circulation within the agency's boundaries; or

(B) if there is no newspaper of general circulation within the agency's boundaries, causing the notice to be posted in at least three public places within the agency's boundaries; and

(ii) publishing or causing the notice to be published on the Utah Public Notice Website created in Section [~~63F-1-701~~] 63A-12-201.

(b) A notice described in Subsection (2)(a) shall include:

(i) a summary of the interlocal agreement; and

(ii) a statement that the interlocal agreement:

(A) is available for public inspection and the hours for inspection; and

(B) authorizes the agency to receive all or a portion of a taxing entity's tax increment or sales and use tax revenue.

(3) An interlocal agreement described in Section 17C-5-204 is effective the day on which the notice described in Subsection (2) is published or posted in accordance with Subsection (2)(a).

(4) (a) Within 30 days after the day on which the interlocal agreement is effective, a person may contest the interlocal agreement or the procedure used to adopt the interlocal agreement if the interlocal agreement or procedure fails to comply with a provision of this title.

(b) After the 30-day period described in Subsection (4)(a) expires, a person may not contest:

(i) the interlocal agreement;

(ii) a distribution of tax increment to the agency under the interlocal agreement; or

(iii) the agency's use of project area funds under the interlocal agreement.

(5) A taxing entity that enters into an interlocal agreement under Section 17C-5-204 shall make a copy of the interlocal agreement available to the public at the taxing entity's office for inspection and copying during normal business hours.

Section 85. Section 17D-3-107 is amended to read:

17D-3-107. Annual budget and financial reports requirements.

(1) Upon agreement with the commission, the state auditor may modify:

(a) for filing a budget, a requirement in Subsection 17B-1-614(2) or 17B-1-629(3)(d); or

(b) for filing a financial report, a requirement in Section 17B-1-639.

(2) Beginning on July 1, 2019, a conservation district is a participating local entity, as that term is defined in Section [~~63A-1-201, and subject to Title 63A, Chapter 1, Part 2, Utah Public Finance Website~~] 67-3-12, and is subject to Section 67-3-12.

Section 86. Section 17D-3-305 is amended to read:

17D-3-305. Setting the date of nomination of the board of supervisors -- Notice requirements.

(1) The commission shall set the date of the nomination of members of the board of supervisors of a conservation district.

(2) The commission shall publish notice of the nomination day described in Subsection (1):

(a) (i) in a newspaper of general circulation within the conservation district at least once, no later than four weeks before the day of the nomination; or

(ii) if there is no newspaper of general circulation in the conservation district, at least four weeks before the nomination day, by posting one notice, and at least one additional notice per 2,000 population of the conservation district, in places within the conservation district that are most likely to give notice to the residents in the conservation district;

(b) on the Utah Public Notice Website created in Section [~~63F-1-701~~] 63A-12-201, for four weeks before the day of the nomination;

(c) in accordance with Section 45-1-101, for four weeks before the day of the nomination; and

(d) if the conservation district has a website, on the conservation district's website for four weeks before the day of the nomination.

(3) The commissioner shall appoint the board of members by no later than six weeks after the date set by the commission for the close of nominations.

(4) The notice required under Subsection (2) shall state:

(a) the nomination date; and

(b) the number of open board member positions for the conservation district.

Section 87. Section 19-2-109 is amended to read:

19-2-109. Air quality standards -- Hearings on adoption -- Orders of director -- Adoption of emission control requirements.

(1) (a) The board, in adopting standards of quality for ambient air, shall conduct public hearings.

(b) Notice of any public hearing for the consideration, adoption, or amendment of air quality standards shall specify the locations to which the proposed standards apply and the time, date, and place of the hearing.

(c) The notice shall be:

(i) (A) published at least twice in any newspaper of general circulation in the area affected; and

(B) published on the Utah Public Notice Website created in Section [~~63F-1-701~~] 63A-12-201, at least 20 days before the public hearing; and

(ii) mailed at least 20 days before the public hearing to the chief executive of each political subdivision of the area affected and to other persons the director has reason to believe will be affected by the standards.

(d) The adoption of air quality standards or any modification or changes to air quality standards shall be by order of the director following formal action of the board with respect to the standards.

(e) The order shall be published:

(i) in a newspaper of general circulation in the area affected; and

(ii) as required in Section 45-1-101.

(2) (a) The board may establish emission control requirements by rule that in its judgment may be necessary to prevent, abate, or control air pollution that may be statewide or may vary from area to area, taking into account varying local conditions.

(b) In adopting these requirements, the board shall give notice and conduct public hearings in accordance with the requirements in Subsection (1).

Section 88. Section 20A-1-512 is amended to read:

20A-1-512. Midterm vacancies on local district boards.

(1) (a) Whenever a vacancy occurs on any local district board for any reason, the following shall appoint a replacement to serve out the unexpired term in accordance with this section:

(i) the local district board, if the person vacating the position was elected; or

(ii) the appointing authority, as that term is defined in Section 17B-1-102, if the appointing authority appointed the person vacating the position.

(b) Except as provided in Subsection (1)(c), before acting to fill the vacancy, the local district board or appointing authority shall:

(i) give public notice of the vacancy at least two weeks before the local district board or appointing authority meets to fill the vacancy by:

(A) if there is a newspaper of general circulation, as that term is defined in Section 45-1-201, within the district, publishing the notice in the newspaper of general circulation;

(B) posting the notice in three public places within the local district; and

(C) posting on the Utah Public Notice Website created under Section [~~63F-1-701~~] 63A-12-201; and

(ii) identify, in the notice:

(A) the date, time, and place of the meeting where the vacancy will be filled;

(B) the individual to whom an individual who is interested in an appointment to fill the vacancy may submit the individual's name for consideration; and

(C) any submission deadline.

(c) An appointing authority is not subject to Subsection (1)(b) if:

(i) the appointing authority appoints one of the appointing authority's own members; and

(ii) that member meets all applicable statutory board member qualifications.

(2) If the local district board fails to appoint an individual to complete an elected board member's term within 90 days, the legislative body of the county or municipality that created the local district shall fill the vacancy in accordance with the procedure for a local district described in Subsection (1)(b).

Section 89. Section 20A-3a-604 is amended to read:

20A-3a-604. Notice of time and place of early voting.

(1) Except as provided in Section 20A-1-308 or Subsection 20A-3a-603(2), the election officer shall, at least 19 days before the date of the election, publish notice of the dates, times, and locations of early voting:

(a) (i) in one issue of a newspaper of general circulation in the county;

(ii) if there is no newspaper of general circulation in the county, in addition to posting the notice

described in Subsection (1)(b), by posting one notice, and at least one additional notice per 2,000 population of the county, in places within the county that are most likely to give notice to the residents in the county; or

(iii) by mailing notice to each registered voter in the county;

(b) by posting the notice at each early voting polling place;

(c) on the Utah Public Notice Website created in Section [~~63F-1-701~~] 63A-12-201, for 19 days before the day of the election;

(d) in accordance with Section 45-1-101, for 19 days before the date of the election; and

(e) on the county's website for 19 days before the day of the election.

(2) Instead of publishing all dates, times, and locations of early voting under Subsection (1), the election officer may publish a statement that specifies the following sources where a voter may view or obtain a copy of all dates, times, and locations of early voting:

(a) the county's website;

(b) the physical address of the county's offices; and

(c) a mailing address and telephone number.

(3) The election officer shall include in the notice described in Subsection (1):

(a) the address of the Statewide Electronic Voter Information Website and, if available, the address of the election officer's website, with a statement indicating that the election officer will post on the website the location of each early voting polling place, including any changes to the location of an early voting polling place and the location of additional early voting polling places; and

(b) a phone number that a voter may call to obtain information regarding the location of an early voting polling place.

Section 90. Section 20A-4-104 is amended to read:

20A-4-104. Counting ballots electronically.

(1) (a) Before beginning to count ballots using automatic tabulating equipment, the election officer shall test the automatic tabulating equipment to ensure that it will accurately count the votes cast for all offices and all measures.

(b) The election officer shall publish public notice of the time and place of the test:

(i) (A) at least 48 hours before the test in one or more daily or weekly newspapers of general circulation in the county, municipality, or jurisdiction where the equipment is used;

(B) if there is no daily or weekly newspaper of general circulation in the county, municipality, or jurisdiction where the equipment is used, at least 10 days before the day of the test, by posting one notice, and at least one additional notice per 2,000 population of the county, municipality, or jurisdiction, in places within the county, municipality, or jurisdiction that are most likely to give notice to the voters in the county, municipality, or jurisdiction; or

(C) at least 10 days before the day of the test, by mailing notice to each registered voter in the county, municipality, or jurisdiction where the equipment is used;

(ii) on the Utah Public Notice Website created in Section [~~63F-1-701~~] 63A-12-201, for four weeks before the day of the test;

(iii) in accordance with Section 45-1-101, for at least 10 days before the day of the test; and

(iv) if the county, municipality, or jurisdiction has a website, on the website for four weeks before the day of the test.

(c) The election officer shall conduct the test by processing a preaudited group of ballots.

(d) The election officer shall ensure that:

(i) a predetermined number of valid votes for each candidate and measure are recorded on the ballots;

(ii) for each office, one or more ballots have votes in excess of the number allowed by law in order to test the ability of the automatic tabulating equipment to reject those votes; and

(iii) a different number of valid votes are assigned to each candidate for an office, and for and against each measure.

(e) If any error is detected, the election officer shall determine the cause of the error and correct it.

(f) The election officer shall ensure that:

(i) the automatic tabulating equipment produces an errorless count before beginning the actual counting; and

(ii) the automatic tabulating equipment passes the same test at the end of the count before the election returns are approved as official.

(2) (a) The election officer or the election officer's designee shall supervise and direct all proceedings at the counting center.

(b) (i) Proceedings at the counting center are public and may be observed by interested persons.

(ii) Only those persons authorized to participate in the count may touch any ballot or return.

(c) The election officer shall deputize and administer an oath or affirmation to all persons who are engaged in processing and counting the ballots that they will faithfully perform their assigned duties.

(3) If any ballot is damaged or defective so that it cannot properly be counted by the automatic tabulating equipment, the election officer shall ensure that two counting judges jointly:

(a) make a true replication of the ballot with an identifying serial number;

(b) substitute the replicated ballot for the damaged or defective ballot;

(c) label the replicated ballot "replicated"; and

(d) record the replicated ballot's serial number on the damaged or defective ballot.

(4) The election officer may:

(a) conduct an unofficial count before conducting the official count in order to provide early unofficial returns to the public;

(b) release unofficial returns from time to time after the polls close; and

(c) report the progress of the count for each candidate during the actual counting of ballots.

(5) The election officer shall review and evaluate the provisional ballot envelopes and prepare any valid provisional ballots for counting as provided in Section 20A-4-107.

(6) (a) The election officer or the election officer's designee shall:

(i) separate, count, and tabulate any ballots containing valid write-in votes; and

(ii) complete the standard form provided by the clerk for recording valid write-in votes.

(b) In counting the write-in votes, if, by casting a valid write-in vote, a voter has cast more votes for an office than that voter is entitled to vote for that office, the poll workers shall count the valid write-in vote as being the obvious intent of the voter.

(7) (a) The election officer shall certify the return printed by the automatic tabulating equipment, to which have been added write-in and absentee votes, as the official return of each voting precinct.

(b) Upon completion of the count, the election officer shall make official returns open to the public.

(8) If for any reason it becomes impracticable to count all or a part of the ballots with tabulating equipment, the election officer may direct that they be counted manually according to the procedures and requirements of this part.

(9) After the count is completed, the election officer shall seal and retain the programs, test materials, and ballots as provided in Section 20A-4-202.

Section 91. Section 20A-4-304 is amended to read:

20A-4-304. Declaration of results -- Canvassers' report.

(1) Each board of canvassers shall:

(a) except as provided in Part 6, Municipal Alternate Voting Methods Pilot Project, declare "elected" or "nominated" those persons who:

(i) had the highest number of votes; and

(ii) sought election or nomination to an office completely within the board's jurisdiction;

(b) declare:

(i) "approved" those ballot propositions that:

(A) had more "yes" votes than "no" votes; and

(B) were submitted only to the voters within the board's jurisdiction;

(ii) "rejected" those ballot propositions that:

(A) had more "no" votes than "yes" votes or an equal number of "no" votes and "yes" votes; and

(B) were submitted only to the voters within the board's jurisdiction;

(c) certify the vote totals for persons and for and against ballot propositions that were submitted to voters within and beyond the board's jurisdiction and transmit those vote totals to the lieutenant governor; and

(d) if applicable, certify the results of each local district election to the local district clerk.

(2) As soon as the result is declared, the election officer shall prepare a report of the result, which shall contain:

(a) the total number of votes cast in the board's jurisdiction;

(b) the names of each candidate whose name appeared on the ballot;

(c) the title of each ballot proposition that appeared on the ballot;

(d) each office that appeared on the ballot;

(e) from each voting precinct:

(i) the number of votes for each candidate;

(ii) for each race conducted by instant runoff voting under Part 6, Municipal Alternate Voting Methods Pilot Project, the number of valid votes cast for each candidate for each potential ballot-counting phase and the name of the candidate excluded in each canvassing phase; and

(iii) the number of votes for and against each ballot proposition;

(f) the total number of votes given in the board's jurisdiction to each candidate, and for and against each ballot proposition;

(g) the number of ballots that were rejected; and

(h) a statement certifying that the information contained in the report is accurate.

(3) The election officer and the board of canvassers shall:

(a) review the report to ensure that it is correct; and

(b) sign the report.

(4) The election officer shall:

(a) record or file the certified report in a book kept for that purpose;

(b) prepare and transmit a certificate of nomination or election under the officer's seal to each nominated or elected candidate;

(c) publish a copy of the certified report in accordance with Subsection (5); and

(d) file a copy of the certified report with the lieutenant governor.

(5) Except as provided in Subsection (6), the election officer shall, no later than seven days after the day on which the board of canvassers declares the election results, publish the certified report described in Subsection (2):

(a) (i) at least once in a newspaper of general circulation within the jurisdiction;

(ii) if there is no newspaper of general circulation within the jurisdiction, by posting one notice, and at least one additional notice per 2,000 population of the jurisdiction, in places within the jurisdiction that are most likely to give notice to the residents of the jurisdiction; or

(iii) by mailing notice to each residence within the jurisdiction;

(b) on the Utah Public Notice Website created in Section [~~63F-1-701~~] 63A-12-201, for one week;

(c) in accordance with Section 45-1-101, for one week; and

(d) if the jurisdiction has a website, on the jurisdiction's website for one week.

(6) Instead of publishing the entire certified report under Subsection (5), the election officer may publish a statement that:

(a) includes the following: "The Board of Canvassers for [indicate name of jurisdiction] has prepared a report of the election results for the [indicate type and date of election]."; and

(b) specifies the following sources where an individual may view or obtain a copy of the entire certified report:

(i) if the jurisdiction has a website, the jurisdiction's website;

(ii) the physical address for the jurisdiction; and

(iii) a mailing address and telephone number.

(7) When there has been a regular general or a statewide special election for statewide officers, for officers that appear on the ballot in more than one county, or for a statewide or two or more county ballot proposition, each board of canvassers shall:

(a) prepare a separate report detailing the number of votes for each candidate and the number of votes for and against each ballot proposition; and

(b) transmit the separate report by registered mail to the lieutenant governor.

(8) In each county election, municipal election, school election, local district election, and local special election, the election officer shall transmit the reports to the lieutenant governor within 14 days after the date of the election.

(9) In a regular primary election and in a presidential primary election, the board shall transmit to the lieutenant governor:

(a) the county totals for multi-county races, to be telephoned or faxed to the lieutenant governor not later than the second Tuesday after the election; and

(b) a complete tabulation showing voting totals for all primary races, precinct by precinct, to be mailed to the lieutenant governor on or before the third Friday following the primary election.

Section 92. Section 20A-5-101 is amended to read:

20A-5-101. Notice of election.

(1) On or before November 15 in the year before each regular general election year, the lieutenant governor shall prepare and transmit a written notice to each county clerk that:

(a) designates the offices to be filled at the next year's regular general election;

(b) identifies the dates for filing a declaration of candidacy, and for submitting and certifying nomination petition signatures, as applicable, under Sections 20A-9-403, 20A-9-407, and 20A-9-408 for those offices; and

(c) contains a description of any ballot propositions to be decided by the voters that have qualified for the ballot as of that date.

(2) No later than seven business days after the day on which the lieutenant governor transmits the written notice described in Subsection (1), each county clerk shall publish notice, in accordance with Subsection (3):

(a) (i) in a conspicuous place most likely to give notice of the election to the voters in each voting precinct within the county; and

(ii) prepare an affidavit of the posting, showing a copy of the notice and the places where the notice was posted;

(b) (i) in a newspaper of general circulation in the county;

(ii) if there is no newspaper of general circulation within the county, in addition to the notice described in Subsection (2)(a), by posting one notice, and at least one additional notice per 2,000 population of the county, in places within the county that are most likely to give notice of the election to the voters in the county; or

(iii) by mailing notice to each registered voter in the county;

(c) on the Utah Public Notice Website created in Section [~~63F-1-701~~] 63A-12-201, for seven days before the day of the election;

(d) in accordance with Section 45-1-101, for seven days before the day of the election; and

(e) on the county's website for seven days before the day of the election.

(3) The notice described in Subsection (2) shall:

(a) designate the offices to be voted on in that election; and

(b) identify the dates for filing a declaration of candidacy for those offices.

(4) Except as provided in Subsection (6), before each election, the election officer shall give printed notice of the following information:

(a) the date of election;

(b) the hours during which the polls will be open;

(c) the polling places for each voting precinct, early voting polling place, and election day voting center;

(d) the address of the Statewide Electronic Voter Information Website and, if available, the address of the election officer's website, with a statement indicating that the election officer will post on the website any changes to the location of a polling place and the location of any additional polling place;

(e) a phone number that a voter may call to obtain information regarding the location of a polling place; and

(f) the qualifications for persons to vote in the election.

(5) To provide the printed notice described in Subsection (4), the election officer shall publish the notice:

(a) (i) in a newspaper of general circulation in the jurisdiction to which the election pertains at least two days before the day of the election;

(ii) if there is no newspaper of general circulation in the jurisdiction to which the election pertains, at least two days before the day of the election, by posting one notice, and at least one additional notice per 2,000 population of the jurisdiction, in places within the jurisdiction that are most likely to give notice of the election to the voters in the jurisdiction; or

(iii) by mailing the notice to each registered voter who resides in the jurisdiction to which the election pertains at least five days before the day of the election;

(b) on the Utah Public Notice Website created in Section [~~63F-1-701~~] 63A-12-201, for two days before the day of the election;

(c) in accordance with Section 45-1-101, for two days before the day of the election; and

(d) if the jurisdiction has a website, on the jurisdiction's website for two days before the day of the election.

(6) Instead of including the information described in Subsection (4) in the notice, the election officer may give printed notice that:

(a) is entitled "Notice of Election";

(b) includes the following: "A [indicate election type] will be held in [indicate the jurisdiction] on [indicate date of election]. Information relating to the election, including polling places, polling place hours, and qualifications of voters may be obtained from the following sources:"; and

(c) specifies the following sources where an individual may view or obtain the information described in Subsection (4):

(i) if the jurisdiction has a website, the jurisdiction's website;

(ii) the physical address of the jurisdiction offices; and

(iii) a mailing address and telephone number.

Section 93. Section 20A-5-403.5 is amended to read:

20A-5-403.5. Ballot drop boxes.

(1) An election officer:

(a) may designate ballot drop boxes for the election officer's jurisdiction; and

(b) shall clearly mark each ballot drop box as an official ballot drop box for the election officer's jurisdiction.

(2) Except as provided in Section 20A-1-308 or Subsection (5), the election officer shall, at least 19 days before the date of the election, publish notice of the location of each ballot drop box designated under Subsection (1):

(a) (i) in one issue of a newspaper of general circulation in the jurisdiction holding the election;

(ii) if there is no newspaper of general circulation in the jurisdiction holding the election, by posting one notice, and at least one additional notice per 2,000 population of the jurisdiction holding the election, in places within the jurisdiction that are most likely to give notice to the residents in the jurisdiction; or

(iii) by mailing notice to each registered voter in the jurisdiction holding the election;

(b) on the Utah Public Notice Website created in Section [~~63F-1-701~~] 63A-12-201, for 19 days before the day of the election;

(c) in accordance with Section 45-1-101, for 19 days before the date of the election; and

(d) on the jurisdiction's website for 19 days before the day of the election.

(3) Instead of publishing the location of ballot drop boxes under Subsection (2), the election officer may publish a statement that specifies the following sources where a voter may view or obtain a copy of all ballot drop box locations:

(a) the jurisdiction's website;

(b) the physical address of the jurisdiction's offices; and

(c) a mailing address and telephone number.

(4) The election officer shall include in the notice described in Subsection (2):

(a) the address of the Statewide Electronic Voter Information Website and, if available, the address of the election officer's website, with a statement indicating that the election officer will post on the website the location of each ballot drop box, including any changes to the location of a ballot drop box and the location of additional ballot drop boxes; and

(b) a phone number that a voter may call to obtain information regarding the location of a ballot drop box.

(5) (a) Except as provided in Section 20A-1-308, the election officer may, after the deadline described in Subsection (2):

(i) if necessary, change the location of a ballot drop box; or

(ii) if the election officer determines that the number of ballot drop boxes is insufficient due to the number of registered voters who are voting, designate additional ballot drop boxes.

(b) Except as provided in Section 20A-1-308, if an election officer changes the location of a ballot box or designates an additional ballot drop box location, the election officer shall, as soon as is reasonably possible, give notice of the changed ballot drop box location or the additional ballot drop box location:

(i) to the lieutenant governor, for posting on the Statewide Voter Information Website;

(ii) by posting the information on the website of the election officer, if available; and

(iii) by posting notice:

(A) for a change in the location of a ballot drop box, at the new location and, if possible, the old location; and

(B) for an additional ballot drop box location, at the additional ballot drop box location.

(6) An election officer may, at any time, authorize two or more poll workers to remove a ballot drop box from a location, or to remove ballots from a ballot drop box for processing.

Section 94. Section 20A-5-405 is amended to read:

20A-5-405. Election officer to provide ballots.

(1) An election officer shall:

(a) provide ballots for every election of public officers in which the voters, or any of the voters, within the election officer's jurisdiction participate;

(b) cause the name of every candidate whose nomination has been certified to or filed with the election officer in the manner provided by law to be included on each ballot;

(c) cause any ballot proposition that has qualified for the ballot as provided by law to be included on each ballot;

(d) ensure that the ballots are prepared and in the possession of the election officer before commencement of voting;

(e) allow candidates and their agents and the sponsors of ballot propositions that have qualified for the official ballot to inspect the ballots;

(f) cause sample ballots to be printed that are in the same form as official ballots and that contain the same information as official ballots but that are printed on different colored paper than official ballots or are identified by a watermark;

(g) ensure that the sample ballots are printed and in the possession of the election officer at least seven days before commencement of voting;

(h) make the sample ballots available for public inspection by:

(i) posting a copy of the sample ballot in the election officer's office at least seven days before commencement of voting;

(ii) mailing a copy of the sample ballot to:

(A) each candidate listed on the ballot; and

(B) the lieutenant governor;

(iii) publishing a copy of the sample ballot:

(A) except as provided in Subsection (2), at least seven days before the day of the election in a newspaper of general circulation in the jurisdiction holding the election;

(B) if there is no newspaper of general circulation in the jurisdiction holding the election, at least seven days before the day of the election, by posting one copy of the sample ballot, and at least one additional copy of the sample ballot per 2,000 population of the jurisdiction, in places within the jurisdiction that are most likely to give notice to the voters in the jurisdiction; or

(C) at least 10 days before the day of the election, by mailing a copy of the sample ballot to each registered voter who resides in the jurisdiction holding the election;

(iv) publishing a copy of the sample ballot on the Utah Public Notice Website created in Section [~~63F-1-701~~] 63A-12-201, for seven days before the day of the election;

(v) in accordance with Section 45-1-101, publishing a copy of the sample ballot for at least seven days before the day of the election; and

(vi) if the jurisdiction has a website, publishing a copy of the sample ballot for at least seven days before the day of the election;

(i) deliver at least five copies of the sample ballot to poll workers for each polling place and direct

them to post the sample ballots as required by Section 20A-5-102; and

(j) print and deliver, at the expense of the jurisdiction conducting the election, enough ballots, sample ballots, and instructions to meet the voting demands of the qualified voters in each voting precinct.

(2) Instead of publishing the entire sample ballot under Subsection (1)(h)(iii)(A), the election officer may publish a statement that:

(a) is entitled, "sample ballot";

(b) includes the following: "A sample ballot for [indicate name of jurisdiction] for the upcoming [indicate type and date of election] may be obtained from the following sources:"; and

(c) specifies the following sources where an individual may view or obtain a copy of the sample ballot:

(i) if the jurisdiction has a website, the jurisdiction's website;

(ii) the physical address of the jurisdiction's offices; and

(iii) a mailing address and telephone number.

(3) (a) Each election officer shall, without delay, correct any error discovered in any ballot, if the correction can be made without interfering with the timely distribution of the ballots.

(b) (i) If the election officer discovers an error or omission in a manual ballot, and it is not possible to correct the error or omission, the election officer shall direct the poll workers to make the necessary corrections on the manual ballots before the ballots are distributed.

(ii) If the election officer discovers an error or omission in an electronic ballot and it is not possible to correct the error or omission by revising the electronic ballot, the election officer shall direct the poll workers to post notice of each error or omission with instructions on how to correct each error or omission in a prominent position at each polling booth.

(c) (i) If the election officer refuses or fails to correct an error or omission in a ballot, a candidate or a candidate's agent may file a verified petition with the district court asserting that:

(A) an error or omission has occurred in:

(I) the publication of the name or description of a candidate;

(II) the preparation or display of an electronic ballot; or

(III) in the printing of sample or official manual ballots; and

(B) the election officer has failed to correct or provide for the correction of the error or omission.

(ii) The district court shall issue an order requiring correction of any error in a ballot or an order to show cause why the error should not be corrected if it appears to the court that the error or omission has occurred and the election officer has failed to correct or provide for the correction of the error or ommission.

(iii) A party aggrieved by the district court's decision may appeal the matter to the Utah Supreme Court within five days after the day on which the district court enters the decision.

Section 95. Section 20A-7-204.1 is amended to read:

20A-7-204.1. Public hearings to be held before initiative petitions are circulated -- Changes to an initiative and initial fiscal impact estimate.

(1) (a) After issuance of the initial fiscal impact estimate by the Office of the Legislative Fiscal Analyst and before circulating initiative petitions for signature statewide, sponsors of the initiative petition shall hold at least seven public hearings throughout Utah as follows:

(i) one in the Bear River region -- Box Elder, Cache, or Rich County;

(ii) one in the Southwest region -- Beaver, Garfield, Iron, Kane, or Washington County;

(iii) one in the Mountain region -- Summit, Utah, or Wasatch County;

(iv) one in the Central region -- Juab, Millard, Piute, Sanpete, Sevier, or Wayne County;

(v) one in the Southeast region -- Carbon, Emery, Grand, or San Juan County;

(vi) one in the Uintah Basin region -- Daggett, Duchesne, or Uintah County; and

(vii) one in the Wasatch Front region -- Davis, Morgan, Salt Lake, Tooele, or Weber County.

(b) Of the seven public hearings, the sponsors of the initiative shall hold at least two of the public hearings in a first or second class county, but not in the same county.

(c) The sponsors may not hold a public hearing described in this section until the later of:

(i) one day after the day on which a sponsor receives a copy of the initial fiscal impact estimate under Subsection 20A-7-202.5(3)(b); or

(ii) if three or more sponsors file a petition challenging the accuracy of the initial fiscal impact statement under Section 20A-7-202.5, the day after the day on which the action is final.

(2) The sponsors shall:

(a) before 5 p.m. at least three calendar days before the date of the public hearing, provide written notice of the public hearing to:

(i) the lieutenant governor for posting on the state's website; and

(ii) each state senator, state representative, and county commission or county council member who

is elected in whole or in part from the region where the public hearing will be held; and

(b) publish written notice of the public hearing, including the time, date, and location of the public hearing, in each county in the region where the public hearing will be held:

(i) (A) at least three calendar days before the day of the public hearing, in a newspaper of general circulation in the county;

(B) if there is no newspaper of general circulation in the county, at least three calendar days before the day of the public hearing, by posting one copy of the notice, and at least one additional copy of the notice per 2,000 population of the county, in places within the county that are most likely to give notice to the residents of the county; or

(C) at least seven days before the day of the public hearing, by mailing notice to each residence in the county;

(ii) on the Utah Public Notice Website created in Section [~~63F-1-701~~] 63A-12-201, for at least three calendar days before the day of the public hearing;

(iii) in accordance with Section 45-1-101, for at least three calendar days before the day of the public hearing; and

(iv) on the county's website for at least three calendar days before the day of the public hearing.

(3) If the initiative petition proposes a tax increase, the written notice described in Subsection (2) shall include the following statement, in bold, in the same font and point size as the largest font and point size appearing in the notice:

"This initiative petition seeks to increase the current (insert name of tax) rate by (insert the tax percentage difference) percent, resulting in a(n) (insert the tax percentage increase) percent increase in the current tax rate."

(4) (a) During the public hearing, the sponsors shall either:

(i) video tape or audio tape the public hearing and, when the hearing is complete, deposit the complete audio or video tape of the meeting with the lieutenant governor; or

(ii) take comprehensive minutes of the public hearing, detailing the names and titles of each speaker and summarizing each speaker's comments.

(b) The lieutenant governor shall make copies of the tapes or minutes available to the public.

(c) For each public hearing, the sponsors shall:

(i) during the entire time that the public hearing is held, post a copy of the initial fiscal impact statement in a conspicuous location at the entrance to the room where the sponsors hold the public hearing; and

(ii) place at least 50 copies of the initial fiscal impact statement, for distribution to public hearing attendees, in a conspicuous location at the entrance to the room where the sponsors hold the public hearing.

(5) (a) Before 5 p.m. within 14 days after the day on which the sponsors conduct the seventh public hearing described in Subsection (1)(a), and before circulating an initiative petition for signatures, the sponsors of the initiative petition may change the text of the proposed law if:

(i) a change to the text is:

(A) germane to the text of the proposed law filed with the lieutenant governor under Section 20A-7-202; and

(B) consistent with the requirements of Subsection 20A-7-202(5); and

(ii) each sponsor signs, attested to by a notary public, an application addendum to change the text of the proposed law.

(b) (i) Within three working days after the day on which the lieutenant governor receives an application addendum to change the text of the proposed law in an initiative petition, the lieutenant governor shall submit a copy of the application addendum to the Office of the Legislative Fiscal Analyst.

(ii) The Office of the Legislative Fiscal Analyst shall update the initial fiscal impact estimate by following the procedures and requirements of Section 20A-7-202.5 to reflect a change to the text of the proposed law.

Section 96. Section 20A-7-401.5 is amended to read:

20A-7-401.5. Proposition information pamphlet.

(1) (a) (i) Within 15 days after the day on which an eligible voter files an application to circulate an initiative petition under Section 20A-7-502 or an application to circulate a referendum petition under Section 20A-7-602:

(A) the sponsors of the proposed initiative or referendum may submit a written argument in favor of the proposed initiative or referendum to the election officer of the county or municipality to which the petition relates; and

(B) the county or municipality to which the application relates may submit a written argument in favor of, or against, the proposed initiative or referendum to the county's or municipality's election officer.

(ii) If a county or municipality submits more than one written argument under Subsection (1)(a)(i)(B), the election officer shall select one of the written arguments, giving preference to a written argument submitted by a member of a local legislative body if a majority of the local legislative body supports the written argument.

(b) Within one business day after the day on which an election officer receives an argument under Subsection (1)(a)(i)(A), the election officer shall provide a copy of the argument to the county or municipality described in Subsection (1)(a)(i)(B) or (1)(a)(ii), as applicable.

(c) Within one business day after the date on which an election officer receives an argument under Subsection (1)(a)(i)(B), the election officer shall provide a copy of the argument to the first three sponsors of the proposed initiative or referendum described in Subsection (1)(a)(i)(A).

(d) The sponsors of the proposed initiative or referendum may submit a revised version of the written argument described in Subsection (1)(a)(i)(A) to the election officer of the county or municipality to which the petition relates within 20 days after the day on which the eligible voter files an application to circulate an initiative petition under Section 20A-7-502 or an application to circulate a referendum petition under Section 20A-7-602.

(e) The author of a written argument described in Subsection (1)(a)(i)(B) submitted by a county or municipality may submit a revised version of the written argument to the county's or municipality's election officer within 20 days after the day on which the eligible voter files an application to circulate an initiative petition under Section 20A-7-502 or an application to circulate a referendum petition under Section 20A-7-602.

(2) (a) A written argument described in Subsection (1) may not exceed 500 words.

(b) Except as provided in Subsection (2)(c), a person may not modify a written argument described in Subsection (1)(d) or (e) after the written argument is submitted to the election officer.

(c) The election officer and the person that submits the written argument described in Subsection (1)(d) or (e) may jointly agree to modify the written argument to:

(i) correct factual, grammatical, or spelling errors; or

(ii) reduce the number of words to come into compliance with Subsection (2)(a).

(d) An election officer shall refuse to include a written argument in the proposition information pamphlet described in this section if the person who submits the argument:

(i) fails to negotiate, in good faith, to modify the argument in accordance with Subsection (2)(c); or

(ii) does not timely submit the written argument to the election officer.

(e) An election officer shall make a good faith effort to negotiate a modification described in Subsection (2)(c) in an expedited manner.

(3) An election officer who receives a written argument described in Subsection (1) shall prepare a proposition information pamphlet for publication that includes:

(a) a copy of the application for the proposed initiative or referendum;

(b) except as provided in Subsection (2)(d), immediately after the copy described in Subsection (3)(a), the argument prepared by the sponsors of the proposed initiative or referendum, if any;

(c) except as provided in Subsection (2)(d), immediately after the argument described in Subsection (3)(b), the argument prepared by the county or municipality, if any; and

(d) a copy of the initial fiscal impact statement and legal impact statement described in Section 20A-7-502.5 or 20A-7-602.5.

(4) (a) A proposition information pamphlet is a draft for purposes of Title 63G, Chapter 2, Government Records Access and Management Act, until the earlier of when the election officer:

(i) complies with Subsection (4)(b); or

(ii) publishes the proposition information pamphlet under Subsection (5) or (6).

(b) Within 21 days after the day on which the eligible voter files an application to circulate an initiative petition under Section 20A-7-502, or an application to circulate a referendum petition under Section 20A-7-602, the election officer shall provide a copy of the proposition information pamphlet to the sponsors of the initiative or referendum and each individual who submitted an argument included in the proposition information pamphlet.

(5) An election officer for a municipality shall publish the proposition information pamphlet as follows:

(a) within the later of 10 days after the day on which the municipality or a court determines that the proposed initiative or referendum is legally referable to voters, or, if the election officer modifies an argument under Subsection (2)(c), three days after the day on which the election officer and the person that submitted the argument agree on the modification:

(i) by sending the proposition information pamphlet electronically to each individual in the municipality for whom the municipality has an email address, unless the individual has indicated that the municipality is prohibited from using the individual's email address for that purpose; and

(ii) by posting the proposition information pamphlet on the Utah Public Notice Website, created in Section [~~63F-1-701~~] 63A-12-201, and the home page of the municipality's website, if the municipality has a website, until:

(A) if the sponsors of the proposed initiative or referendum do not timely deliver any verified initiative packets under Section 20A-7-506 or any verified referendum packets under Section 20A-7-606, the day after the date of the deadline for delivery of the verified initiative packets or verified referendum packets;

(B) the local clerk determines, under Section 20A-7-507 or 20A-7-607, that the number of signatures necessary to qualify the proposed initiative or referendum for placement on the ballot is insufficient and the determination is not timely appealed or is upheld after appeal; or

(C) the day after the date of the election at which the proposed initiative or referendum appears on the ballot; and

(b) if the municipality regularly mails a newsletter, utility bill, or other material to the municipality's residents, including an Internet address, where a resident may view the proposition information pamphlet, in the next mailing, for which the municipality has not begun preparation, that falls on or after the later of:

(i) 10 days after the day on which the municipality or a court determines that the proposed initiative or referendum is legally referable to voters; or

(ii) if the election officer modifies an argument under Subsection (2)(c), three days after the day on which the election officer and the person that submitted the argument agree on the modification.

(6) An election officer for a county shall, within the later of 10 days after the day on which the county or a court determines that the proposed initiative or referendum is legally referable to voters, or, if the election officer modifies an argument under Subsection (2)(c), three days after the day on which the election officer and the person that submitted the argument agree on the modification, publish the proposition information pamphlet as follows:

(a) by sending the proposition information pamphlet electronically to each individual in the county for whom the county has an email address obtained via voter registration; and

(b) by posting the proposition information pamphlet on the Utah Public Notice Website, created in Section [~~63F-1-701~~] 63A-12-201, and the home page of the county's website, until:

(i) if the sponsors of the proposed initiative or referendum do not timely deliver any verified initiative packets under Section 20A-7-506 or any verified referendum packets under Section 20A-7-606, the day after the date of the deadline for delivery of the verified initiative packets or verified referendum packets;

(ii) the local clerk determines, under Section 20A-7-507 or 20A-7-607, that the number of signatures necessary to qualify the proposed initiative or referendum for placement on the ballot is insufficient and the determination is not timely appealed or is upheld after appeal; or

(iii) the day after the date of the election at which the proposed initiative or referendum appears on the ballot.

Section 97. Section 20A-7-402 is amended to read:

20A-7-402. Local voter information pamphlet -- Contents -- Limitations -- Preparation -- Statement on front cover.

(1) The county or municipality that is subject to a ballot proposition shall prepare a local voter information pamphlet that complies with the requirements of this part.

(2) (a) Within the time requirements described in Subsection (2)(c)(i), a municipality that is subject to a special local ballot proposition shall provide a notice that complies with the requirements of Subsection (2)(c)(ii) to the municipality's residents by:

(i) if the municipality regularly mails a newsletter, utility bill, or other material to the municipality's residents, including the notice with a newsletter, utility bill, or other material;

(ii) posting the notice, until after the deadline described in Subsection (2)(d) has passed, on:

(A) the Utah Public Notice Website created in Section [~~63F-1-701~~] 63A-12-201; and

(B) the home page of the municipality's website, if the municipality has a website; and

(iii) sending the notice electronically to each individual in the municipality for whom the municipality has an email address.

(b) A county that is subject to a special local ballot proposition shall:

(i) send an electronic notice that complies with the requirements of Subsection (2)(c)(ii) to each individual in the county for whom the county has an email address; or

(ii) until after the deadline described in Subsection (2)(d) has passed, post a notice that complies with the requirements of Subsection (2)(c)(ii) on:

(A) the Utah Public Notice Website created in Section [~~63F-1-701~~] 63A-12-201; and

(B) the home page of the county's website.

(c) A municipality or county that mails, sends, or posts a notice under Subsection (2)(a) or (b) shall:

(i) mail, send, or post the notice:

(A) not less than 90 days before the date of the election at which a special local ballot proposition will be voted upon; or

(B) if the requirements of Subsection (2)(c)(i)(A) cannot be met, as soon as practicable after the special local ballot proposition is approved to be voted upon in an election; and

(ii) ensure that the notice contains:

(A) the ballot title for the special local ballot proposition;

(B) instructions on how to file a request under Subsection (2)(d); and

(C) the deadline described in Subsection (2)(d).

(d) To prepare a written argument for or against a special local ballot proposition, an eligible voter shall file a request with the election officer before 5 p.m. no later than 64 days before the day of the election at which the special local ballot proposition is to be voted on.

(e) If more than one eligible voter requests the opportunity to prepare a written argument for or against a special local ballot proposition, the election officer shall make the final designation in accordance with the following order of priority:

(i) sponsors have priority in preparing an argument regarding a special local ballot proposition; and

(ii) members of the local legislative body have priority over others if a majority of the local legislative body supports the written argument.

(f) The election officer shall grant a request described in Subsection (2)(d) or (e) no later than 60 days before the day of the election at which the ballot proposition is to be voted on.

(g) (i) A sponsor of a special local ballot proposition may prepare a written argument in favor of the special local ballot proposition.

(ii) Subject to Subsection (2)(e), an eligible voter opposed to the special local ballot proposition who submits a request under Subsection (2)(d) may prepare a written argument against the special local ballot proposition.

(h) An eligible voter who submits a written argument under this section in relation to a special local ballot proposition shall:

(i) ensure that the written argument does not exceed 500 words in length, not counting the information described in Subsection (2)(h)(ii) or (iv);

(ii) list, at the end of the argument, at least one, but no more than five, names as sponsors;

(iii) submit the written argument to the election officer before 5 p.m. no later than 55 days before the election day on which the ballot proposition will be submitted to the voters;

(iv) list in the argument, immediately after the eligible voter's name, the eligible voter's residential address; and

(v) submit with the written argument the eligible voter's name, residential address, postal address, email address if available, and phone number.

(i) An election officer shall refuse to accept and publish an argument submitted after the deadline described in Subsection (2)(h)(iii).

(3) (a) An election officer who timely receives the written arguments in favor of and against a special local ballot proposition shall, within one business day after the day on which the election office receives both written arguments, send, via mail or email:

(i) a copy of the written argument in favor of the special local ballot proposition to the eligible voter who submitted the written argument against the special local ballot proposition; and

(ii) a copy of the written argument against the special local ballot proposition to the eligible voter who submitted the written argument in favor of the special local ballot proposition.

(b) The eligible voter who submitted a timely written argument in favor of the special local ballot proposition:

(i) may submit to the election officer a written rebuttal argument of the written argument against the special local ballot proposition;

(ii) shall ensure that the written rebuttal argument does not exceed 250 words in length, not counting the information described in Subsection (2)(h)(ii) or (iv); and

(iii) shall submit the written rebuttal argument before 5 p.m. no later than 45 days before the election day on which the special local ballot proposition will be submitted to the voters.

(c) The eligible voter who submitted a timely written argument against the special local ballot proposition:

(i) may submit to the election officer a written rebuttal argument of the written argument in favor of the special local ballot proposition;

(ii) shall ensure that the written rebuttal argument does not exceed 250 words in length, not counting the information described in Subsection (2)(h)(ii) or (iv); and

(iii) shall submit the written rebuttal argument before 5 p.m. no later than 45 days before the election day on which the special local ballot proposition will be submitted to the voters.

(d) An election officer shall refuse to accept and publish a written rebuttal argument in relation to a special local ballot proposition that is submitted after the deadline described in Subsection (3)(b)(iii) or (3)(c)(iii).

(4) (a) Except as provided in Subsection (4)(b), in relation to a special local ballot proposition:

(i) an eligible voter may not modify a written argument or a written rebuttal argument after the eligible voter submits the written argument or written rebuttal argument to the election officer; and

(ii) a person other than the eligible voter described in Subsection (4)(a)(i) may not modify a written argument or a written rebuttal argument.

(b) The election officer, and the eligible voter who submits a written argument or written rebuttal argument in relation to a special local ballot proposition, may jointly agree to modify a written argument or written rebuttal argument in order to:

(i) correct factual, grammatical, or spelling errors; and

(ii) reduce the number of words to come into compliance with the requirements of this section.

(c) An election officer shall refuse to accept and publish a written argument or written rebuttal argument in relation to a special local ballot proposition if the eligible voter who submits the written argument or written rebuttal argument fails to negotiate, in good faith, to modify the written argument or written rebuttal argument in accordance with Subsection (4)(b).

(5) In relation to a special local ballot proposition, an election officer may designate another eligible voter to take the place of an eligible voter described in this section if the original eligible voter is, due to injury, illness, death, or another circumstance, unable to continue to fulfill the duties of an eligible voter described in this section.

(6) Sponsors whose written argument in favor of a standard local ballot proposition is included in a proposition information pamphlet under Section 20A-7-401.5:

(a) may, if a written argument against the standard local ballot proposition is included in the proposition information pamphlet, submit a written rebuttal argument to the election officer;

(b) shall ensure that the written rebuttal argument does not exceed 250 words in length; and

(c) shall submit the written rebuttal argument no later than 45 days before the election day on which the standard local ballot proposition will be submitted to the voters.

(7) (a) A county or municipality that submitted a written argument against a standard local ballot proposition that is included in a proposition information pamphlet under Section 20A-7-401.5:

(i) may, if a written argument in favor of the standard local ballot proposition is included in the proposition information pamphlet, submit a written rebuttal argument to the election officer;

(ii) shall ensure that the written rebuttal argument does not exceed 250 words in length; and

(iii) shall submit the written rebuttal argument no later than 45 days before the election day on which the ballot proposition will be submitted to the voters.

(b) If a county or municipality submits more than one written rebuttal argument under Subsection (7)(a)(i), the election officer shall select one of the written rebuttal arguments, giving preference to a written rebuttal argument submitted by a member of a local legislative body.

(8) (a) An election officer shall refuse to accept and publish a written rebuttal argument that is submitted after the deadline described in Subsection (6)(c) or (7)(a)(iii).

(b) Before an election officer publishes a local voter information pamphlet under this section, a written rebuttal argument is a draft for purposes of Title 63G, Chapter 2, Government Records Access and Management Act.

(c) An election officer who receives a written rebuttal argument described in this section may not, before publishing the local voter information pamphlet described in this section, disclose the written rebuttal argument, or any information contained in the written rebuttal argument, to any person who may in any way be involved in preparing an opposing rebuttal argument.

(9) (a) Except as provided in Subsection (9)(b), a person may not modify a written rebuttal argument after the written rebuttal argument is submitted to the election officer.

(b) The election officer, and the person who submits a written rebuttal argument, may jointly agree to modify a written rebuttal argument in order to:

(i) correct factual, grammatical, or spelling errors; or

(ii) reduce the number of words to come into compliance with the requirements of this section.

(c) An election officer shall refuse to accept and publish a written rebuttal argument if the person who submits the written rebuttal argument:

(i) fails to negotiate, in good faith, to modify the written rebuttal argument in accordance with Subsection (9)(b); or

(ii) does not timely submit the written rebuttal argument to the election officer.

(d) An election officer shall make a good faith effort to negotiate a modification described in Subsection (9)(b) in an expedited manner.

(10) An election officer may designate another person to take the place of a person who submits a written rebuttal argument in relation to a standard local ballot proposition if the person is, due to injury, illness, death, or another circumstance, unable to continue to fulfill the person's duties.

(11) (a) The local voter information pamphlet shall include a copy of the initial fiscal impact estimate and the legal impact statement prepared for each initiative under Section 20A-7-502.5.

(b) If the initiative proposes a tax increase, the local voter information pamphlet shall include the following statement in bold type:

"This initiative seeks to increase the current (insert name of tax) rate by (insert the tax percentage difference) percent, resulting in a(n) (insert the tax percentage increase) percent increase in the current tax rate."

(12) (a) In preparing the local voter information pamphlet, the election officer shall:

(i) ensure that the written arguments are printed on the same sheet of paper upon which the ballot proposition is also printed;

(ii) ensure that the following statement is printed on the front cover or the heading of the first page of the printed written arguments:

"The arguments for or against a ballot proposition are the opinions of the authors.";

(iii) pay for the printing and binding of the local voter information pamphlet; and

(iv) not less than 15 days before, but not more than 45 days before, the election at which the ballot proposition will be voted on, distribute, by mail or carrier, to each registered voter entitled to vote on the ballot proposition:

(A) a voter information pamphlet; or

(B) the notice described in Subsection (12)(c).

(b) (i) If the language of the ballot proposition exceeds 500 words in length, the election officer may summarize the ballot proposition in 500 words or less.

(ii) The summary shall state where a complete copy of the ballot proposition is available for public review.

(c) (i) The election officer may distribute a notice printed on a postage prepaid, preaddressed return form that a person may use to request delivery of a voter information pamphlet by mail.

(ii) The notice described in Subsection (12)(c)(i) shall include:

(A) the address of the Statewide Electronic Voter Information Website authorized by Section 20A-7-801; and

(B) the phone number a voter may call to request delivery of a voter information pamphlet by mail or carrier.

Section 98. Section 20A-9-203 is amended to read:

20A-9-203. Declarations of candidacy -- Municipal general elections.

(1) An individual may become a candidate for any municipal office if:

(a) the individual is a registered voter; and

(b) (i) the individual has resided within the municipality in which the individual seeks to hold elective office for the 12 consecutive months immediately before the date of the election; or

(ii) the territory in which the individual resides was annexed into the municipality, the individual has resided within the annexed territory or the municipality the 12 consecutive months immediately before the date of the election.

(2) (a) For purposes of determining whether an individual meets the residency requirement of Subsection (1)(b)(i) in a municipality that was incorporated less than 12 months before the election, the municipality is considered to have been incorporated 12 months before the date of the election.

(b) In addition to the requirements of Subsection (1), each candidate for a municipal council position shall, if elected from a district, be a resident of the council district from which the candidate is elected.

(c) In accordance with Utah Constitution, Article IV, Section 6, a mentally incompetent individual, an individual convicted of a felony, or an individual convicted of treason or a crime against the elective franchise may not hold office in this state until the right to hold elective office is restored under Section 20A-2-101.3 or 20A-2-101.5.

(3) (a) An individual seeking to become a candidate for a municipal office shall, regardless of the nomination method by which the individual is seeking to become a candidate:

(i) except as provided in Subsection (3)(b) or Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project, and subject to Subsection 20A-9-404(3)(e), file a declaration of candidacy, in person with the city recorder or town clerk, during the office hours described in Section 10-3-301 and not later than the close of those office hours, between June 1 and June 7 of any odd-numbered year; and

(ii) pay the filing fee, if one is required by municipal ordinance.

(b) Subject to Subsection (5)(b), an individual may designate an agent to file a declaration of candidacy with the city recorder or town clerk if:

(i) the individual is located outside of the state during the entire filing period;

(ii) the designated agent appears in person before the city recorder or town clerk;

(iii) the individual communicates with the city recorder or town clerk using an electronic device that allows the individual and city recorder or town clerk to see and hear each other; and

(iv) the individual provides the city recorder or town clerk with an email address to which the city recorder or town clerk may send the individual the copies described in Subsection (4).

(c) Any resident of a municipality may nominate a candidate for a municipal office by:

(i) except as provided in Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project, filing a nomination petition with the city recorder or town clerk during the office hours described in Section 10-3-301 and not later than the close of those office hours, between June 1 and June 7 of any odd-numbered year that includes signatures in support of the nomination petition of the lesser of at least:

(A) 25 registered voters who reside in the municipality; or

(B) 20% of the registered voters who reside in the municipality; and

(ii) paying the filing fee, if one is required by municipal ordinance.

(4) (a) Before the filing officer may accept any declaration of candidacy or nomination petition, the filing officer shall:

(i) read to the prospective candidate or individual filing the petition the constitutional and statutory qualification requirements for the office that the candidate is seeking;

(ii) require the candidate or individual filing the petition to state whether the candidate meets the requirements described in Subsection (4)(a)(i); and

(iii) inform the candidate or the individual filing the petition that an individual who holds a municipal elected office may not, at the same time, hold a county elected office.

(b) If the prospective candidate does not meet the qualification requirements for the office, the filing officer may not accept the declaration of candidacy or nomination petition.

(c) If it appears that the prospective candidate meets the requirements of candidacy, the filing officer shall:

(i) inform the candidate that the candidate's name will appear on the ballot as it is written on the declaration of candidacy;

(ii) provide the candidate with a copy of the current campaign financial disclosure laws for the office the candidate is seeking and inform the candidate that failure to comply will result in disqualification as a candidate and removal of the candidate's name from the ballot;

(iii) provide the candidate with a copy of Section 20A-7-801 regarding the Statewide Electronic Voter Information Website Program and inform the candidate of the submission deadline under Subsection 20A-7-801(4)(a);

(iv) provide the candidate with a copy of the pledge of fair campaign practices described under Section 20A-9-206 and inform the candidate that:

(A) signing the pledge is voluntary; and

(B) signed pledges shall be filed with the filing officer; and

(v) accept the declaration of candidacy or nomination petition.

(d) If the candidate elects to sign the pledge of fair campaign practices, the filing officer shall:

(i) accept the candidate's pledge; and

(ii) if the candidate has filed for a partisan office, provide a certified copy of the candidate's pledge to the chair of the county or state political party of which the candidate is a member.

(5) (a) The declaration of candidacy shall be in substantially the following form:

"I, (print name) ____, being first sworn, say that I reside at ____ Street, City of ____, County of ____, state of Utah, Zip Code ____, Telephone Number (if any) ____; that I am a registered voter; and that I am a candidate for the office of ____ (stating the term). I will meet the legal qualifications required of candidates for this office. If filing via a designated agent, I attest that I will be out of the state of Utah during the entire candidate filing period. I will file all campaign financial disclosure reports as required by law and I understand that failure to do so will result in my disqualification as a candidate for this office and removal of my name from the ballot. I request that my name be printed upon the applicable official ballots.
(Signed) _____

Subscribed and sworn to (or affirmed) before me by ____ on this _____(month\day\year).

(Signed) _____
(Clerk or other officer qualified to administer oath)".

(b) An agent designated under Subsection (3)(b) to file a declaration of candidacy may not sign the form described in Subsection (5)(a).

(c) (i) A nomination petition shall be in substantially the following form:

"NOMINATION PETITION

The undersigned residents of (name of municipality), being registered voters, nominate (name of nominee) for the office of (name of office) for the (length of term of office)."

(ii) The remainder of the petition shall contain lines and columns for the signatures of individuals signing the petition and each individual's address and phone number.

(6) If the declaration of candidacy or nomination petition fails to state whether the nomination is for the two-year or four-year term, the clerk shall consider the nomination to be for the four-year term.

(7) (a) The clerk shall verify with the county clerk that all candidates are registered voters.

(b) Any candidate who is not registered to vote is disqualified and the clerk may not print the candidate's name on the ballot.

(8) Immediately after expiration of the period for filing a declaration of candidacy, the clerk shall:

(a) publish a list of the names of the candidates as they will appear on the ballot:

(i) (A) in at least two successive publications of a newspaper of general circulation in the municipality;

(B) if there is no newspaper of general circulation in the municipality, by posting one copy of the list, and at least one additional copy of the list per 2,000 population of the municipality, in places within the municipality that are most likely to give notice to the voters in the municipality; or

(C) by mailing notice to each registered voter in the municipality;

(ii) on the Utah Public Notice Website created in Section [~~63F-1-701~~] 63A-12-201, for seven days;

(iii) in accordance with Section 45-1-101, for seven days; and

(iv) if the municipality has a website, on the municipality's website for seven days; and

(b) notify the lieutenant governor of the names of the candidates as they will appear on the ballot.

(9) Except as provided in Subsection (10)(c), an individual may not amend a declaration of candidacy or nomination petition filed under this section after the candidate filing period ends.

(10) (a) A declaration of candidacy or nomination petition that an individual files under this section is valid unless a person files a written objection with

the clerk before 5 p.m. within five days after the last day for filing.

(b) If a person files an objection, the clerk shall:

(i) mail or personally deliver notice of the objection to the affected candidate immediately; and

(ii) decide any objection within 48 hours after the objection is filed.

(c) If the clerk sustains the objection, the candidate may, before 5 p.m. within three days after the day on which the clerk sustains the objection, correct the problem for which the objection is sustained by amending the candidate's declaration of candidacy or nomination petition, or by filing a new declaration of candidacy.

(d) (i) The clerk's decision upon objections to form is final.

(ii) The clerk's decision upon substantive matters is reviewable by a district court if prompt application is made to the district court.

(iii) The decision of the district court is final unless the Supreme Court, in the exercise of its discretion, agrees to review the lower court decision.

(11) A candidate who qualifies for the ballot under this section may withdraw as a candidate by filing a written affidavit with the municipal clerk.

Section 99. Section 26-61a-303 is amended to read:

26-61a-303. Renewal.

(1) The department shall renew a license under this part every year if, at the time of renewal:

(a) the licensee meets the requirements of Section 26-61a-301;

(b) the licensee pays the department a license renewal fee in an amount that, subject to Subsection 26-61a-109(5), the department sets in accordance with Section 63J-1-504; and

(c) if the medical cannabis pharmacy changes the operating plan described in Section 26-61a-304 that the department approved under Subsection 26-61a-301(2)(b)(iv), the department approves the new operating plan.

(2) (a) If a licensed medical cannabis pharmacy abandons the medical cannabis pharmacy's license, the department shall publish notice of an available license:

(i) in a newspaper of general circulation for the geographic area in which the medical cannabis pharmacy license is available; or

(ii) on the Utah Public Notice Website established in Section [~~63F-1-701~~] 63A-12-201.

(b) The department may establish criteria, in collaboration with the Division of Occupational and Professional Licensing and the Board of Pharmacy and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to identify the medical cannabis pharmacy actions that constitute abandonment of a medical cannabis pharmacy license.

Section 100. Section 32B-8a-302 is amended to read:

32B-8a-302. Application -- Approval process.

(1) To obtain the transfer of an alcohol license from an alcohol licensee, the transferee shall file a transfer application with the department that includes:

(a) an application in the form provided by the department;

(b) a statement as to whether the consideration, if any, to be paid to the transferor includes payment for transfer of the alcohol license;

(c) a statement executed under penalty of perjury that the consideration as set forth in the escrow agreement required by Section 32B-8a-401 is deposited with the escrow holder; and

(d) (i) an application fee of $300; and

(ii) a transfer fee determined in accordance with Section 32B-8a-303.

(2) If the intended transfer of an alcohol license involves consideration, at least 10 days before the commission may approve the transfer, the department shall post a notice of the intended transfer on the Utah Public Notice Website created in Section [~~63F-1-701~~] 63A-12-201 that states the following:

(a) the name of the transferor;

(b) the name and address of the business currently associated with the alcohol license;

(c) instructions for filing a claim with the escrow holder; and

(d) the projected date that the commission may consider the transfer application.

(3) (a) (i) Before the commission may approve the transfer of an alcohol license, the department shall conduct an investigation and may hold public hearings to gather information and make recommendations to the commission as to whether the transfer of the alcohol license should be approved.

(ii) The department shall forward the information and recommendations described in this Subsection (3)(a) to the commission to aid in the commission's determination.

(b) Before approving a transfer, the commission shall:

(i) determine that the transferee filed a complete application;

(ii) determine that the transferee is eligible to hold the type of alcohol license that is to be transferred at the premises to which the alcohol license would be transferred;

(iii) determine that the transferee is not delinquent in the payment of an amount described in Subsection 32B-8a-201(3);

(iv) determine that the transferee is not disqualified under Section 32B-1-304;

(v) consider the locality within which the proposed licensed premises is located, including:

(A) the factors listed in Section 32B-5-203 for the issuance of a retail license;

(B) the factors listed in Section 32B-7-404 for the issuance of an off-premise beer retailer state license;

(C) the factors listed in Section 32B-11-206 for the issuance of a manufacturing license; and

(D) the factors listed in Section 32B-10-204 for the issuance of a special use permit that is an industrial and manufacturing use permit;

(vi) consider the transferee's ability to manage and operate the retail license to be transferred, including:

(A) the factors listed in Section 32B-5-203 for the issuance of a retail license;

(B) the factors listed in Section 32B-7-404 for the issuance of an off-premise beer retailer state license;

(C) the factors listed in Section 32B-11-206 for the issuance of a manufacturing license; and

(D) the factors listed in Section 32B-10-204 for the issuance of a special use permit that is an industrial and manufacturing use permit;

(vii) consider the nature or type of alcohol licensee operation of the transferee, including:

(A) the factors listed in Section 32B-5-203 for the issuance of a retail license;

(B) the factors listed in Section 32B-7-404 for the issuance of an off-premise beer retailer state license;

(C) the factors listed in Section 32B-11-206 for the issuance of a manufacturing license; and

(D) the factors listed in Section 32B-10-204 for the issuance of a special use permit that is an industrial and manufacturing use permit;

(viii) if the transfer involves consideration, determine that the transferee and transferor have complied with Part 4, Protection of Creditors; and

(ix) consider any other factor the commission considers necessary.

(4) Except as otherwise provided in Section 32B-1-202, the commission may not approve the transfer of an alcohol license to premises that do not meet the proximity requirements of Subsection 32B-1-202(2), Section 32B-7-201, or Section 32B-11-210, as applicable.

Section 101. Section 45-1-101 is amended to read:

45-1-101. Legal notice publication requirements.

(1) As used in this section:

(a) "Average advertisement rate" means:

(i) in determining a rate for publication on the public legal notice website or in a newspaper that primarily distributes publications in a county of the third, fourth, fifth, or sixth class, a newspaper's gross advertising revenue for the preceding calendar quarter divided by the gross column-inch space used in the newspaper for advertising for the previous calendar quarter; or

(ii) in determining a rate for publication in a newspaper that primarily distributes publications in a county of the first or second class, a newspaper's average rate for all qualifying advertising segments for the preceding calendar quarter for an advertisement:

(A) published in the same section of the newspaper as the legal notice; and

(B) of the same column-inch space as the legal notice.

(b) "Column-inch space" means a unit of space that is one standard column wide by one inch high.

(c) "Gross advertising revenue" means the total revenue obtained by a newspaper from all of its qualifying advertising segments.

(d) (i) "Legal notice" means:

(A) a communication required to be made public by a state statute or state agency rule; or

(B) a notice required for judicial proceedings or by judicial decision.

(ii) "Legal notice" does not include:

(A) a public notice published by a public body in accordance with the provisions of Sections 52-4-202 and [~~63F-1-701~~] 63A-12-201; or

(B) a notice of delinquency in the payment of property taxes described in Section 59-2-1332.5.

(e) "Local district" is as defined in Section 17B-1-102.

(f) "Public legal notice website" means the website described in Subsection (2)(b) for the purpose of publishing a legal notice online.

(g) (i) "Qualifying advertising segment" means, except as provided in Subsection (1)(g)(ii), a category of print advertising sold by a newspaper, including classified advertising, line advertising, and display advertising.

(ii) "Qualifying advertising segment" does not include legal notice advertising.

(h) "Special service district" is as defined in Section 17D-1-102.

(2) Except as provided in Subsections (8) and (9), notwithstanding any other legal notice provision established by law, a person required by law to publish legal notice shall publish the notice:

(a) (i) as required by the statute establishing the legal notice requirement; or

(ii) by serving legal notice, by certified mail or in person, directly on all parties for whom the statute

establishing the legal notice requirement requires legal notice, if:

(A) the direct service of legal notice does not replace publication in a newspaper that primarily distributes publications in a county of the third, fourth, fifth, or sixth class;

(B) the statute clearly identifies the parties;

(C) the person can prove that the person has identified all parties for whom notice is required; and

(D) the person keeps a record of the service for at least two years; and

(b) on a public legal notice website established by the combined efforts of Utah's newspapers that collectively distribute newspapers to the majority of newspaper subscribers in the state.

(3) The public legal notice website shall:

(a) be available for viewing and searching by the general public, free of charge; and

(b) accept legal notice posting from any newspaper in the state.

(4) A person that publishes legal notice as required under Subsection (2) is not relieved from complying with an otherwise applicable requirement under Title 52, Chapter 4, Open and Public Meetings Act.

(5) If legal notice is required by law and one option for complying with the requirement is publication in a newspaper, or if a local district or a special service district publishes legal notice in a newspaper, the newspaper:

(a) may not charge more for publication than the newspaper's average advertisement rate; and

(b) shall publish the legal notice on the public legal notice website at no additional cost.

(6) If legal notice is not required by law, if legal notice is required by law and the person providing legal notice, in accordance with the requirements of law, chooses not to publish the legal notice in a newspaper, or if a local district or a special service district with an annual operating budget of less than $250,000 chooses to publish a legal notice on the public notice website without publishing the complete notice in the newspaper, a newspaper:

(a) may not charge more than an amount equal to 15% of the newspaper's average advertisement rate for publishing five column lines in the newspaper to publish legal notice on the public legal notice website;

(b) may not require that the legal notice be published in the newspaper; and

(c) at the request of the person publishing on the legal notice website, shall publish in the newspaper up to five column lines, at no additional charge, that briefly describe the legal notice and provide the web address where the full public legal notice can be found.

(7) If a newspaper offers to publish the type of legal notice described in Subsection (5), it may not refuse to publish the type of legal notice described in Subsection (6).

(8) Notwithstanding the requirements of a statute that requires the publication of legal notice, if legal notice is required by law to be published by a local district or a special service district with an annual operating budget of $250,000 or more, the local district or special service district shall satisfy its legal notice publishing requirements by:

(a) mailing a written notice, postage prepaid:

(i) to each voter in the local district or special service district; and

(ii) that contains the information required by the statute that requires the publication of legal notice; or

(b) publishing the legal notice in a newspaper and on the legal public notice website as described in Subsection (5).

(9) Notwithstanding the requirements of a statute that requires the publication of legal notice, if legal notice is required by law to be published by a local district or a special service district with an annual operating budget of less than $250,000, the local district or special service district shall satisfy its legal notice publishing requirements by:

(a) mailing a written notice, postage prepaid:

(i) to each voter in the local district or special service district; and

(ii) that contains the information required by the statute that requires the publication of legal notice; or

(b) publishing the legal notice in a newspaper and on the public legal notice website as described in Subsection (5); or

(c) publishing the legal notice on the public legal notice website as described in Subsection (6).

Section 102. Section 49-11-1102 is amended to read:

49-11-1102. Public notice of administrative board meetings -- Posting on Utah Public Notice Website.

(1) The office shall provide advance public notice of meetings and agendas on the Utah Public Notice Website established in Section [~~63F-1-701~~] 63A-12-201 for administrative board meetings.

(2) The office may post other public materials, as directed by the board, on the Utah Public Notice Website.

Section 103. Section 52-4-202 is amended to read:

52-4-202. Public notice of meetings -- Emergency meetings.

(1) (a) (i) A public body shall give not less than 24 hours' public notice of each meeting.

(ii) A specified body shall give not less than 24 hours' public notice of each meeting that the specified body holds on the capitol hill complex.

(b) The public notice required under Subsection (1)(a) shall include the meeting:

(i) agenda;

(ii) date;

(iii) time; and

(iv) place.

(2) (a) In addition to the requirements under Subsection (1), a public body which holds regular meetings that are scheduled in advance over the course of a year shall give public notice at least once each year of its annual meeting schedule as provided in this section.

(b) The public notice under Subsection (2)(a) shall specify the date, time, and place of the scheduled meetings.

(3) (a) A public body or specified body satisfies a requirement for public notice by:

(i) posting written notice:

(A) except for an electronic meeting held without an anchor location under Subsection 52-4-207(4), at the principal office of the public body or specified body, or if no principal office exists, at the building where the meeting is to be held; and

(B) on the Utah Public Notice Website created under Section ~~[63F-1-701]~~ 63A-12-201; and

(ii) providing notice to:

(A) at least one newspaper of general circulation within the geographic jurisdiction of the public body; or

(B) a local media correspondent.

(b) A public body or specified body is in compliance with the provisions of Subsection (3)(a)(ii) by providing notice to a newspaper or local media correspondent under the provisions of Subsection ~~[63F-1-701]~~ 63A-12-201(4)(d).

(c) A public body whose limited resources make compliance with Subsection (3)(a)(i)(B) difficult may request the Division of Archives and Records Service, created in Section 63A-12-101, to provide technical assistance to help the public body in its effort to comply.

(4) A public body and a specified body are encouraged to develop and use additional electronic means to provide notice of their meetings under Subsection (3).

(5) (a) The notice requirement of Subsection (1) may be disregarded if:

(i) because of unforeseen circumstances it is necessary for a public body or specified body to hold an emergency meeting to consider matters of an emergency or urgent nature; and

(ii) the public body or specified body gives the best notice practicable of:

(A) the time and place of the emergency meeting; and

(B) the topics to be considered at the emergency meeting.

(b) An emergency meeting of a public body may not be held unless:

(i) an attempt has been made to notify all the members of the public body; and

(ii) a majority of the members of the public body approve the meeting.

(6) (a) A public notice that is required to include an agenda under Subsection (1) shall provide reasonable specificity to notify the public as to the topics to be considered at the meeting. Each topic shall be listed under an agenda item on the meeting agenda.

(b) Subject to the provisions of Subsection (6)(c), and at the discretion of the presiding member of the public body, a topic raised by the public may be discussed during an open meeting, even if the topic raised by the public was not included in the agenda or advance public notice for the meeting.

(c) Except as provided in Subsection (5), relating to emergency meetings, a public body may not take final action on a topic in an open meeting unless the topic is:

(i) listed under an agenda item as required by Subsection (6)(a); and

(ii) included with the advance public notice required by this section.

(7) Except as provided in this section, this chapter does not apply to a specified body.

Section 104. Section 52-4-203 is amended to read:

52-4-203. Written minutes of open meetings -- Public records -- Recording of meetings.

(1) Except as provided under Subsection (7), written minutes and a recording shall be kept of all open meetings.

(2) (a) Written minutes of an open meeting shall include:

(i) the date, time, and place of the meeting;

(ii) the names of members present and absent;

(iii) the substance of all matters proposed, discussed, or decided by the public body which may include a summary of comments made by members of the public body;

(iv) a record, by individual member, of each vote taken by the public body;

(v) the name of each person who:

(A) is not a member of the public body; and

(B) after being recognized by the presiding member of the public body, provided testimony or comments to the public body;

(vi) the substance, in brief, of the testimony or comments provided by the public under Subsection (2)(a)(v); and

(vii) any other information that is a record of the proceedings of the meeting that any member requests be entered in the minutes or recording.

(b) A public body may satisfy the requirement under Subsection (2)(a)(iii) or (vi) that minutes include the substance of matters proposed, discussed, or decided or the substance of testimony or comments by maintaining a publicly available online version of the minutes that provides a link to the meeting recording at the place in the recording where the matter is proposed, discussed, or decided or the testimony or comments provided.

(3) A recording of an open meeting shall:

(a) be a complete and unedited record of all open portions of the meeting from the commencement of the meeting through adjournment of the meeting; and

(b) be properly labeled or identified with the date, time, and place of the meeting.

(4) (a) As used in this Subsection (4):

(i) "Approved minutes" means written minutes:

(A) of an open meeting; and

(B) that have been approved by the public body that held the open meeting.

(ii) "Electronic information" means information presented or provided in an electronic format.

(iii) "Pending minutes" means written minutes:

(A) of an open meeting; and

(B) that have been prepared in draft form and are subject to change before being approved by the public body that held the open meeting.

(iv) "Specified local public body" means a legislative body of a county, city, town, or metro township.

(v) "State public body" means a public body that is an administrative, advisory, executive, or legislative body of the state.

(vi) "State website" means the Utah Public Notice Website created under Section [~~63F-1-701~~] 63A-12-201.

(b) Pending minutes, approved minutes, and a recording of a public meeting are public records under Title 63G, Chapter 2, Government Records Access and Management Act.

(c) Pending minutes shall contain a clear indication that the public body has not yet approved the minutes or that the minutes are subject to change until the public body approves them.

(d) A state public body and a specified local public body shall require an individual who, at an open meeting of the public body, publicly presents or provides electronic information, relating to an item on the public body's meeting agenda, to provide the public body, at the time of the meeting, an electronic or hard copy of the electronic information for inclusion in the public record.

(e) A state public body shall:

(i) make pending minutes available to the public within 30 days after holding the open meeting that is the subject of the pending minutes;

(ii) within three business days after approving written minutes of an open meeting:

(A) post to the state website a copy of the approved minutes and any public materials distributed at the meeting;

(B) make the approved minutes and public materials available to the public at the public body's primary office; and

(C) if the public body provides online minutes under Subsection (2)(b), post approved minutes that comply with Subsection (2)(b) and the public materials on the public body's website; and

(iii) within three business days after holding an open meeting, post on the state website an audio recording of the open meeting, or a link to the recording.

(f) A specified local public body shall:

(i) make pending minutes available to the public within 30 days after holding the open meeting that is the subject of the pending minutes;

(ii) within three business days after approving written minutes of an open meeting, post and make available a copy of the approved minutes and any public materials distributed at the meeting, as provided in Subsection (4)(e)(ii); and

(iii) within three business days after holding an open meeting, make an audio recording of the open meeting available to the public for listening.

(g) A public body that is not a state public body or a specified local public body shall:

(i) make pending minutes available to the public within a reasonable time after holding the open meeting that is the subject of the pending minutes;

(ii) within three business days after approving written minutes, make the approved minutes available to the public; and

(iii) within three business days after holding an open meeting, make an audio recording of the open meeting available to the public for listening.

(h) A public body shall establish and implement procedures for the public body's approval of the written minutes of each meeting.

(i) Approved minutes of an open meeting are the official record of the meeting.

(5) All or any part of an open meeting may be independently recorded by any person in attendance if the recording does not interfere with the conduct of the meeting.

(6) The written minutes or recording of an open meeting that are required to be retained permanently shall be maintained in or converted to a format that meets long-term records storage requirements.

(7) Notwithstanding Subsection (1), a recording is not required to be kept of:

(a) an open meeting that is a site visit or a traveling tour, if no vote or action is taken by the public body; or

(b) an open meeting of a local district under Title 17B, Limited Purpose Local Government Entities - Local Districts, or special service district under Title 17D, Chapter 1, Special Service District Act, if the district's annual budgeted expenditures for all funds, excluding capital expenditures and debt service, are $50,000 or less.

Section 105. Section 53-13-114 is amended to read:

53-13-114. Off-duty peace officer working as a security officer.

A peace officer may engage in off-duty employment as a security officer under Section 58-63-304 only if:

(1) the law enforcement agency employing the peace officer:

(a) has a written policy regarding peace officer employees working while off-duty as security officers; and

(b) the policy under Subsection (1)(a) is:

(i) posted and publicly available on the appropriate city, county, or state website; or

(ii) posted on the Utah Public Notice Website created in Section [~~63F-1-701~~] 63A-12-201 if the law enforcement agency does not have access to a website under Subsection (1)(b)(i).

(2) the agency's chief administrative officer, or that officer's designee, provides written authorization for an off-duty peace officer to work as a security officer; and

(3) the business or entity employing the off-duty peace officer to work as a security officer complies with state and federal income reporting and withholding requirements regarding the off-duty officer's wages.

Section 106. Section 53B-7-101.5 is amended to read:

53B-7-101.5. Proposed tuition increases -- Notice -- Hearings.

(1) If an institution within the State System of Higher Education listed in Section 53B-1-102 considers increasing tuition rates for undergraduate students in the process of preparing or implementing its budget, it shall hold a meeting to receive public input and response on the issue.

(2) The institution shall advertise the hearing required under Subsection (1) using the following procedure:

(a) The institution shall advertise its intent to consider an increase in student tuition rates:

(i) in the institution's student newspaper twice during a period of 10 days prior to the meeting; and

(ii) on the Utah Public Notice Website created in Section [~~63F-1-701~~] 63A-12-201, for 10 days immediately before the meeting.

(b) The advertisement shall state that the institution will meet on a certain day, time, and place fixed in the advertisement, which shall not be less than seven days after the day the second advertisement is published, for the purpose of hearing comments regarding the proposed increase and to explain the reasons for the proposed increase.

(3) The form and content of the notice shall be substantially as follows:

"NOTICE OF PROPOSED TUITION INCREASE

The (name of the higher education institution) is proposing to increase student tuition rates. This would be an increase of _____ %, which is an increase of $_____ per semester for a full-time resident undergraduate student. All concerned students and citizens are invited to a public hearing on the proposed increase to be held at (meeting place) on (date) at (time)."

(4) (a) The institution shall provide the following information to those in attendance at the meeting required under Subsection (1):

(i) the current year's student enrollment for:

(A) the State System of Higher Education, if a systemwide increase is being considered; or

(B) the institution, if an increase is being considered for just a single institution;

(ii) total tuition revenues for the current school year;

(iii) projected student enrollment growth for the next school year and projected tuition revenue increases from that anticipated growth; and

(iv) a detailed accounting of how and where the increased tuition revenues would be spent.

(b) The enrollment and revenue data required under Subsection (4)(a) shall be broken down into majors or departments if the proposed tuition increases are department or major specific.

(5) If the institution does not make a final decision on the proposed tuition increase at the meeting, it shall announce the date, time, and place of the meeting where that determination shall be made.

Section 107. Section 53B-8a-103 is amended to read:

53B-8a-103. Creation of Utah Educational Savings Plan -- Powers and duties of plan -- Certain exemptions.

(1) There is created the Utah Educational Savings Plan, which may also be known and do business as:

(a) the Utah Educational Savings Plan Trust; or

(b) another related name.

(2) The plan:

(a) is a non-profit, self-supporting agency that administers a public trust;

(b) shall administer the various programs, funds, trusts, plans, functions, duties, and obligations assigned to the plan:

(i) consistent with sound fiduciary principles; and

(ii) subject to review of the board; and

(c) shall be known as and managed as a qualified tuition program in compliance with Section 529, Internal Revenue Code, that is sponsored by the state.

(3) The plan may:

(a) make and enter into contracts necessary for the administration of the plan payable from plan money, including:

(i) contracts for goods and services; and

(ii) contracts to engage personnel, with demonstrated ability or expertise, including consultants, actuaries, managers, counsel, and auditors for the purpose of rendering professional, managerial, and technical assistance and advice;

(b) adopt a corporate seal and change and amend the corporate seal;

(c) invest money within the program, administrative, and endowment funds in accordance with the provisions under Section 53B-8a-107;

(d) enter into agreements with account owners, any institution of higher education, any federal or state agency, or other entity as required to implement this chapter;

(e) solicit and accept any grants, gifts, legislative appropriations, and other money from the state, any unit of federal, state, or local government, or any other person, firm, partnership, or corporation for deposit to the administrative fund, endowment fund, or the program fund;

(f) make provision for the payment of costs of administration and operation of the plan;

(g) carry out studies and projections to advise account owners regarding:

(i) present and estimated future higher education costs; and

(ii) levels of financial participation in the plan required to enable account owners to achieve their educational funding objective;

(h) participate in federal, state, local governmental, or private programs;

(i) create public and private partnerships, including investment or management relationships with other 529 plans or entities;

(j) promulgate, impose, and collect administrative fees and charges in connection with transactions of the plan, and provide for reasonable service charges;

(k) procure insurance:

(i) against any loss in connection with the property, assets, or activities of the plan; and

(ii) indemnifying any member of the board from personal loss or accountability arising from liability resulting from a member's action or inaction as a member of the plan's board;

(l) administer outreach efforts to:

(i) market and publicize the plan and the plan's products to existing and prospective account owners; and

(ii) encourage economically challenged populations to save for post-secondary education;

(m) adopt, trademark, and copyright names and materials for use in marketing and publicizing the plan and the plan's products;

(n) administer the funds of the plan;

(o) sue and be sued in the plan's own name;

(p) own institutional accounts in the plan to establish and administer:

(i) scholarship programs; or

(ii) other college savings incentive programs, including programs designed to enhance the savings of low income account owners investing in the plan; and

(q) have and exercise any other powers or duties that are necessary or appropriate to carry out and effectuate the purposes of this chapter.

(4) (a) Except as provided in Subsection (4)(b), the plan is exempt from the provisions of Title 63G, Chapter 2, Government Records Access and Management Act.

(b) (i) The annual audited financial statements of the plan described in Section 53B-8a-111 are public records.

(ii) Financial information that is provided by the plan to the [~~Division of Finance and posted on the Utah Public Finance Website in accordance with Section 63A-1-202~~] state auditor and posted on the public finance website established by the state auditor in accordance with Section 67-3-12 is a public record.

(5) The plan is subject to:

(a) Title 52, Chapter 4, Open and Public Meetings Act; and

(b) Title 63G, Chapter 6a, Utah Procurement Code.

Section 108. Section 53D-1-103 is amended to read:

53D-1-103. Application of other law.

(1) The office, board, and nominating committee are subject to:

(a) Title 52, Chapter 4, Open and Public Meetings Act; and

(b) [~~Title 63A, Chapter 1, Part 2, Utah Public Finance Website~~] Section 67-3-12.

(2) Subject to Subsection 63E-1-304(2), the office may participate in coverage under the Risk Management Fund, created in Section 63A-4-201.

(3) The office and board are subject to:

(a) Title 63G, Chapter 2, Government Records Access and Management Act, except for records relating to investment activities; and

(b) Title 63G, Chapter 6a, Utah Procurement Code.

(4) (a) In making rules under this chapter, the director is subject to and shall comply with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, except as provided in Subsection (4)(b).

(b) Subsections 63G-3-301(6) and (7) and Section 63G-3-601 do not apply to the director's making of rules under this chapter.

(5) Title 63G, Chapter 7, Governmental Immunity Act of Utah, applies to a board member to the same extent as it applies to an employee, as defined in Section 63G-7-102.

(6) (a) A board member, the director, and an office employee or agent are subject to:

(i) Title 67, Chapter 16, Utah Public Officers' and Employees' Ethics Act; and

(ii) other requirements that the board establishes.

(b) In addition to any restrictions or requirements imposed under Subsection (6)(a), a board member, the director, and an office employee or agent may not directly or indirectly acquire an interest in the trust fund or receive any direct benefit from any transaction dealing with trust fund money.

(7) (a) Except as provided in Subsection (7)(b), the office shall comply with Title 67, Chapter 19, Utah State Personnel Management Act.

(b) (i) Upon a recommendation from the director after the director's consultation with the executive director of the Department of Human Resource Management, the board may provide that specified positions in the office are exempt from Section 67-19-12 and the career service provisions of Title 67, Chapter 19, Utah State Personnel Management Act, as provided in Subsection 67-19-15(1), if the board determines that exemption is required for the office to fulfill efficiently its responsibilities under this chapter.

(ii) The director position is exempt from Section 67-19-12 and the career service provisions of Title 67, Chapter 19, Utah State Personnel Management Act, as provided in Subsection 67-19-15(1).

(iii) (A) After consultation with the executive director of the Department of Human Resource Management, the director shall set salaries for positions that are exempted under Subsection (7)(b)(i), within ranges that the board approves.

(B) In approving salary ranges for positions that are exempted under Subsection (7)(b)(i), the board shall consider salaries for similar positions in private enterprise and other public employment.

(8) The office is subject to legislative appropriation, to executive branch budgetary review and recommendation, and to legislative and executive branch review.

Section 109. Section 53E-3-705 is amended to read:

53E-3-705. School plant capital outlay report.

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

(2) A school district or charter school shall prepare and submit an annual school plant capital outlay report [~~in accordance with Section 63A-1-202~~] to the state auditor on or before a date designated by the state auditor.

Section 110. Section 53E-4-202 is amended to read:

53E-4-202. Core standards for Utah public schools.

(1) (a) In establishing minimum standards related to curriculum and instruction requirements under Section 53E-3-501, the state board shall, in consultation with local school boards, school superintendents, teachers, employers, and parents implement core standards for Utah public schools that will enable students to, among other objectives:

(i) communicate effectively, both verbally and through written communication;

(ii) apply mathematics; and

(iii) access, analyze, and apply information.

(b) Except as provided in this public education code, the state board may recommend but may not require a local school board or charter school governing board to use:

(i) a particular curriculum or instructional material; or

(ii) a model curriculum or instructional material.

(2) The state board shall, in establishing the core standards for Utah public schools:

(a) identify the basic knowledge, skills, and competencies each student is expected to acquire or master as the student advances through the public education system; and

(b) align with each other the core standards for Utah public schools and the assessments described in Section 53E-4-303.

(3) The basic knowledge, skills, and competencies identified pursuant to Subsection (2)(a) shall increase in depth and complexity from year to year and focus on consistent and continual progress

within and between grade levels and courses in the basic academic areas of:

(a) English, including explicit phonics, spelling, grammar, reading, writing, vocabulary, speech, and listening; and

(b) mathematics, including basic computational skills.

(4) Before adopting core standards for Utah public schools, the state board shall:

(a) publicize draft core standards for Utah public schools on the state board's website and the Utah Public Notice website created under Section [~~63F-1-701~~] 63A-12-201;

(b) invite public comment on the draft core standards for Utah public schools for a period of not less than 90 days; and

(c) conduct three public hearings that are held in different regions of the state on the draft core standards for Utah public schools.

(5) LEA governing boards shall design their school programs, that are supported by generally accepted scientific standards of evidence, to focus on the core standards for Utah public schools with the expectation that each program will enhance or help achieve mastery of the core standards for Utah public schools.

(6) Except as provided in Section 53G-10-402, each school may select instructional materials and methods of teaching, that are supported by generally accepted scientific standards of evidence, that the school considers most appropriate to meet the core standards for Utah public schools.

(7) The state may exit any agreement, contract, memorandum of understanding, or consortium that cedes control of the core standards for Utah public schools to any other entity, including a federal agency or consortium, for any reason, including:

(a) the cost of developing or implementing the core standards for Utah public schools;

(b) the proposed core standards for Utah public schools are inconsistent with community values; or

(c) the agreement, contract, memorandum of understanding, or consortium:

(i) was entered into in violation of Chapter 3, Part 8, Implementing Federal or National Education Programs, or Title 63J, Chapter 5, Federal Funds Procedures Act;

(ii) conflicts with Utah law;

(iii) requires Utah student data to be included in a national or multi-state database;

(iv) requires records of teacher performance to be included in a national or multi-state database; or

(v) imposes curriculum, assessment, or data tracking requirements on home school or private school students.

(8) The state board shall submit a report in accordance with Section 53E-1-203 on the development and implementation of the core standards for Utah public schools, including the time line established for the review of the core standards for Utah public schools by a standards review committee and the recommendations of a standards review committee established under Section 53E-4-203.

Section 111. Section 53G-3-204 is amended to read:

53G-3-204. Notice before preparing or amending a long-range plan or acquiring certain property.

(1) As used in this section:

(a) "Affected entity" means each county, municipality, local district under Title 17B, Limited Purpose Local Government Entities - Local Districts, special service district under Title 17D, Chapter 1, Special Service District Act, interlocal cooperation entity established under Title 11, Chapter 13, Interlocal Cooperation Act, and specified public utility:

(i) whose services or facilities are likely to require expansion or significant modification because of an intended use of land; or

(ii) that has filed with the school district a copy of the general or long-range plan of the county, municipality, local district, special service district, school district, interlocal cooperation entity, or specified public utility.

(b) "Specified public utility" means an electrical corporation, gas corporation, or telephone corporation, as those terms are defined in Section 54-2-1.

(2) (a) If a school district located in a county of the first or second class prepares a long-range plan regarding its facilities proposed for the future or amends an already existing long-range plan, the school district shall, before preparing a long-range plan or amendments to an existing long-range plan, provide written notice, as provided in this section, of its intent to prepare a long-range plan or to amend an existing long-range plan.

(b) Each notice under Subsection (2)(a) shall:

(i) indicate that the school district intends to prepare a long-range plan or to amend a long-range plan, as the case may be;

(ii) describe or provide a map of the geographic area that will be affected by the long-range plan or amendments to a long-range plan;

(iii) be:

(A) sent to each county in whose unincorporated area and each municipality in whose boundaries is located the land on which the proposed long-range plan or amendments to a long-range plan are expected to indicate that the proposed facilities will be located;

(B) sent to each affected entity;

(C) sent to the Automated Geographic Reference Center created in Section 63F-1-506;

(D) sent to each association of governments, established pursuant to an interlocal agreement under Title 11, Chapter 13, Interlocal Cooperation Act, of which a county or municipality described in Subsection (2)(b)(iii)(A) is a member; and

(E) placed on the Utah Public Notice Website created under Section [~~63F-1-701~~] 63A-12-201;

(iv) with respect to the notice to counties and municipalities described in Subsection (2)(b)(iii)(A) and affected entities, invite them to provide information for the school district to consider in the process of preparing, adopting, and implementing the long-range plan or amendments to a long-range plan concerning:

(A) impacts that the use of land proposed in the proposed long-range plan or amendments to a long-range plan may have on the county, municipality, or affected entity; and

(B) uses of land that the county, municipality, or affected entity is planning or considering that may conflict with the proposed long-range plan or amendments to a long-range plan; and

(v) include the address of an Internet website, if the school district has one, and the name and telephone number of a person where more information can be obtained concerning the school district's proposed long-range plan or amendments to a long-range plan.

(3) (a) Except as provided in Subsection (3)(d), each school district intending to acquire real property in a county of the first or second class for the purpose of expanding the district's infrastructure or other facilities shall provide written notice, as provided in this Subsection (3), of its intent to acquire the property if the intended use of the property is contrary to:

(i) the anticipated use of the property under the county or municipality's general plan; or

(ii) the property's current zoning designation.

(b) Each notice under Subsection (3)(a) shall:

(i) indicate that the school district intends to acquire real property;

(ii) identify the real property; and

(iii) be sent to:

(A) each county in whose unincorporated area and each municipality in whose boundaries the property is located; and

(B) each affected entity.

(c) A notice under this Subsection (3) is a protected record as provided in Subsection 63G-2-305(8).

(d) (i) The notice requirement of Subsection (3)(a) does not apply if the school district previously provided notice under Subsection (2) identifying the general location within the municipality or unincorporated part of the county where the property to be acquired is located.

(ii) If a school district is not required to comply with the notice requirement of Subsection (3)(a) because of application of Subsection (3)(d)(i), the school district shall provide the notice specified in Subsection (3)(a) as soon as practicable after its acquisition of the real property.

Section 112. Section 53G-4-204 is amended to read:

53G-4-204. Compensation for services -- Additional per diem -- Approval of expenses.

(1) Each member of a local school board, except the student member, shall receive compensation for services and for necessary expenses in accordance with compensation schedules adopted by the local school board in accordance with the provisions of this section.

(2) Beginning on July 1, 2007, if a local school board decides to adopt or amend its compensation schedules, the local school board shall set a time and place for a public hearing at which all interested persons shall be given an opportunity to be heard.

(3) Notice of the time, place, and purpose of the meeting shall be provided at least seven days prior to the meeting by:

(a) (i) publication at least once in a newspaper published in the county where the school district is situated and generally circulated within the school district; and

(ii) publication on the Utah Public Notice Website created in Section [~~63F-1-701~~] 63A-12-201; and

(b) posting a notice:

(i) at each school within the school district;

(ii) in at least three other public places within the school district; and

(iii) on the Internet in a manner that is easily accessible to citizens that use the Internet.

(4) After the conclusion of the public hearing, the local school board may adopt or amend its compensation schedules.

(5) Each member shall submit an itemized account of necessary travel expenses for local school board approval.

(6) A local school board may, without following the procedures described in Subsections (2) and (3), continue to use the compensation schedule that was in effect prior to July 1, 2007, until, at the discretion of the local school board, the compensation schedule is amended or a new compensation schedule is adopted.

Section 113. Section 53G-4-402 is amended to read:

53G-4-402. Powers and duties generally.

(1) A local school board shall:

(a) implement the core standards for Utah public schools using instructional materials that best correlate to the core standards for Utah public schools and graduation requirements;

(b) administer tests, required by the state board, which measure the progress of each student, and coordinate with the state superintendent and state board to assess results and create plans to improve the student's progress, which shall be submitted to the state board for approval;

(c) use progress-based assessments as part of a plan to identify schools, teachers, and students that need remediation and determine the type and amount of federal, state, and local resources to implement remediation;

(d) develop early warning systems for students or classes failing to make progress;

(e) work with the state board to establish a library of documented best practices, consistent with state and federal regulations, for use by the local districts;

(f) implement training programs for school administrators, including basic management training, best practices in instructional methods, budget training, staff management, managing for learning results and continuous improvement, and how to help every child achieve optimal learning in basic academic subjects; and

(g) ensure that the local school board meets the data collection and reporting standards described in Section 53E-3-501.

(2) Local school boards shall spend Minimum School Program funds for programs and activities for which the state board has established minimum standards or rules under Section 53E-3-501.

(3) (a) A local school board may purchase, sell, and make improvements on school sites, buildings, and equipment and construct, erect, and furnish school buildings.

(b) School sites or buildings may only be conveyed or sold on local school board resolution affirmed by at least two-thirds of the members.

(4) (a) A local school board may participate in the joint construction or operation of a school attended by children residing within the district and children residing in other districts either within or outside the state.

(b) Any agreement for the joint operation or construction of a school shall:

(i) be signed by the president of the local school board of each participating district;

(ii) include a mutually agreed upon pro rata cost; and

(iii) be filed with the state board.

(5) A local school board may establish, locate, and maintain elementary, secondary, and applied technology schools.

(6) Except as provided in Section 53E-3-905, a local school board may enroll children in school who are at least five years of age before September 2 of the year in which admission is sought.

(7) A local school board may establish and support school libraries.

(8) A local school board may collect damages for the loss, injury, or destruction of school property.

(9) A local school board may authorize guidance and counseling services for children and their parents before, during, or following enrollment of the children in schools.

(10) (a) A local school board shall administer and implement federal educational programs in accordance with Title 53E, Chapter 3, Part 8, Implementing Federal or National Education Programs.

(b) Federal funds are not considered funds within the school district budget under Chapter 7, Part 3, Budgets.

(11) (a) A local school board may organize school safety patrols and adopt policies under which the patrols promote student safety.

(b) A student appointed to a safety patrol shall be at least 10 years old and have written parental consent for the appointment.

(c) Safety patrol members may not direct vehicular traffic or be stationed in a portion of a highway intended for vehicular traffic use.

(d) Liability may not attach to a school district, its employees, officers, or agents or to a safety patrol member, a parent of a safety patrol member, or an authorized volunteer assisting the program by virtue of the organization, maintenance, or operation of a school safety patrol.

(12) (a) A local school board may on its own behalf, or on behalf of an educational institution for which the local school board is the direct governing body, accept private grants, loans, gifts, endowments, devises, or bequests that are made for educational purposes.

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

(13) (a) A local school board may appoint and fix the compensation of a compliance officer to issue citations for violations of Subsection 76-10-105(2)(b).

(b) A person may not be appointed to serve as a compliance officer without the person's consent.

(c) A teacher or student may not be appointed as a compliance officer.

(14) A local school board shall adopt bylaws and policies for the local school board's own procedures.

(15) (a) A local school board shall make and enforce policies necessary for the control and management of the district schools.

(b) Local school board policies shall be in writing, filed, and referenced for public access.

(16) A local school board may hold school on legal holidays other than Sundays.

(17) (a) A local school board shall establish for each school year a school traffic safety committee to implement this Subsection (17).

(b) The committee shall be composed of one representative of:

(i) the schools within the district;

(ii) the Parent Teachers' Association of the schools within the district;

(iii) the municipality or county;

(iv) state or local law enforcement; and

(v) state or local traffic safety engineering.

(c) The committee shall:

(i) receive suggestions from school community councils, parents, teachers, and others and recommend school traffic safety improvements, boundary changes to enhance safety, and school traffic safety program measures;

(ii) review and submit annually to the Department of Transportation and affected municipalities and counties a child access routing plan for each elementary, middle, and junior high school within the district;

(iii) consult the Utah Safety Council and the Division of Family Health Services and provide training to all school children in kindergarten through grade 6, within the district, on school crossing safety and use; and

(iv) help ensure the district's compliance with rules made by the Department of Transportation under Section 41-6a-303.

(d) The committee may establish subcommittees as needed to assist in accomplishing its duties under Subsection (17)(c).

(18) (a) A local school board shall adopt and implement a comprehensive emergency response plan to prevent and combat violence in the local school board's public schools, on school grounds, on its school vehicles, and in connection with school-related activities or events.

(b) The plan shall:

(i) include prevention, intervention, and response components;

(ii) be consistent with the student conduct and discipline policies required for school districts under Chapter 11, Part 2, Miscellaneous Requirements;

(iii) require professional learning for all district and school building staff on what their roles are in the emergency response plan;

(iv) provide for coordination with local law enforcement and other public safety representatives in preventing, intervening, and responding to violence in the areas and activities referred to in Subsection (18)(a); and

(v) include procedures to notify a student, to the extent practicable, who is off campus at the time of a school violence emergency because the student is:

(A) participating in a school-related activity; or

(B) excused from school for a period of time during the regular school day to participate in religious instruction at the request of the student's parent.

(c) The state board, through the state superintendent, shall develop comprehensive emergency response plan models that local school boards may use, where appropriate, to comply with Subsection (18)(a).

(d) A local school board shall, by July 1 of each year, certify to the state board that its plan has been practiced at the school level and presented to and reviewed by its teachers, administrators, students, and their parents and local law enforcement and public safety representatives.

(19) (a) A local school board may adopt an emergency response plan for the treatment of sports-related injuries that occur during school sports practices and events.

(b) The plan may be implemented by each secondary school in the district that has a sports program for students.

(c) The plan may:

(i) include emergency personnel, emergency communication, and emergency equipment components;

(ii) require professional learning on the emergency response plan for school personnel who are involved in sports programs in the district's secondary schools; and

(iii) provide for coordination with individuals and agency representatives who:

(A) are not employees of the school district; and

(B) would be involved in providing emergency services to students injured while participating in sports events.

(d) The local school board, in collaboration with the schools referred to in Subsection (19)(b), may review the plan each year and make revisions when required to improve or enhance the plan.

(e) The state board, through the state superintendent, shall provide local school boards with an emergency plan response model that local school boards may use to comply with the requirements of this Subsection (19).

(20) A local school board shall do all other things necessary for the maintenance, prosperity, and success of the schools and the promotion of education.

(21) (a) Before closing a school or changing the boundaries of a school, a local school board shall:

(i) at least 120 days before approving the school closure or school boundary change, provide notice to

the following that the local school board is considering the closure or boundary change:

(A) parents of students enrolled in the school, using the same form of communication the local school board regularly uses to communicate with parents;

(B) parents of students enrolled in other schools within the school district that may be affected by the closure or boundary change, using the same form of communication the local school board regularly uses to communicate with parents; and

(C) the governing council and the mayor of the municipality in which the school is located;

(ii) provide an opportunity for public comment on the proposed school closure or school boundary change during at least two public local school board meetings; and

(iii) hold a public hearing as defined in Section 10-9a-103 and provide public notice of the public hearing as described in Subsection (21)(b).

(b) The notice of a public hearing required under Subsection (21)(a)(iii) shall:

(i) indicate the:

(A) school or schools under consideration for closure or boundary change; and

(B) the date, time, and location of the public hearing;

(ii) at least 10 days before the public hearing, be:

(A) published:

(I) in a newspaper of general circulation in the area; and

(II) on the Utah Public Notice Website created in Section [~~63F-1-701~~] 63A-12-201; and

(B) posted in at least three public locations within the municipality in which the school is located on the school district's official website, and prominently at the school; and

(iii) at least 30 days before the public hearing described in Subsection (21)(a)(iii), be provided as described in Subsections (21)(a)(i)(A), (B), and (C).

(22) A local school board may implement a facility energy efficiency program established under Title 11, Chapter 44, Performance Efficiency Act.

(23) A local school board may establish or partner with a certified youth court program, in accordance with Section 78A-6-1203, or establish or partner with a comparable restorative justice program, in coordination with schools in that district. A school may refer a student to youth court or a comparable restorative justice program in accordance with Section 53G-8-211.

Section 114. Section 53G-5-504 is amended to read:

53G-5-504. Charter school closure.

(1) As used in this section, "receiving charter school" means a charter school that an authorizer permits under Subsection (13)(a), to accept enrollment applications from students of a closing charter school.

(2) If a charter school is closed for any reason, including the termination of a charter agreement in accordance with Section 53G-5-503 or the conversion of a charter school to a private school, the provisions of this section apply.

(3) A decision to close a charter school is made:

(a) when a charter school authorizer approves a motion to terminate described in Subsection 53G-5-503(2)(c);

(b) when the state board takes final action described in Subsection 53G-5-503(2)(d)(ii); or

(c) when a charter school provides notice to the charter school's authorizer that the charter school is relinquishing the charter school's charter.

(4) (a) No later than 10 days after the day on which a decision to close a charter school is made, the charter school shall:

(i) provide notice to the following, in writing, of the decision:

(A) if the charter school made the decision to close, the charter school's authorizer;

(B) the State Charter School Board;

(C) if the state board did not make the decision to close, the state board;

(D) parents of students enrolled at the charter school;

(E) the charter school's creditors;

(F) the charter school's lease holders;

(G) the charter school's bond issuers;

(H) other entities that may have a claim to the charter school's assets;

(I) the school district in which the charter school is located and other charter schools located in that school district; and

(J) any other person that the charter school determines to be appropriate; and

(ii) post notice of the decision on the Utah Public Notice Website, created in Section [~~63F-1-701~~] 63A-12-201.

(b) The notice described in Subsection (4)(a) shall include:

(i) the proposed date of the charter school closure;

(ii) the charter school's plans to help students identify and transition into a new school; and

(iii) contact information for the charter school during the transition.

(5) No later than 10 days after the day on which a decision to close a charter school is made, the closing charter school shall:

(a) designate a custodian for the protection of student files and school business records;

(b) designate a base of operation that will be maintained throughout the charter school closing, including:

(i) an office;

(ii) hours of operation;

(iii) operational telephone service with voice messaging stating the hours of operation; and

(iv) a designated individual to respond to questions or requests during the hours of operation;

(c) assure that the charter school will maintain private insurance coverage or risk management coverage for covered claims that arise before closure, throughout the transition to closure and for a period following closure of the charter school as specified by the charter school's authorizer;

(d) assure that the charter school will complete by the set deadlines for all fiscal years in which funds are received or expended by the charter school a financial audit and any other procedure required by state board rule;

(e) inventory all assets of the charter school; and

(f) list all creditors of the charter school and specifically identify secured creditors and assets that are security interests.

(6) The closing charter school's authorizer shall oversee the closing charter school's compliance with Subsection (5).

(7) (a) A closing charter school shall return any assets remaining, after all liabilities and obligations of the closing charter school are paid or discharged, to the closing charter school's authorizer.

(b) The closing charter school's authorizer shall liquidate assets at fair market value or assign the assets to another public school.

(8) The closing charter school's authorizer shall oversee liquidation of assets and payment of debt in accordance with state board rule.

(9) The closing charter school shall:

(a) comply with all state and federal reporting requirements; and

(b) submit all documentation and complete all state and federal reports required by the closing charter school's authorizer or the state board, including documents to verify the closing charter school's compliance with procedural requirements and satisfaction of all financial issues.

(10) When the closing charter school's financial affairs are closed out and dissolution is complete, the authorizer shall ensure that a final audit of the charter school is completed.

(11) On or before January 1, 2017, the state board shall, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and after considering suggestions from charter school authorizers, make rules that:

(a) provide additional closure procedures for charter schools; and

(b) establish a charter school closure process.

(12) (a) Upon termination of the charter school's charter agreement:

(i) notwithstanding provisions to the contrary in Title 16, Chapter 6a, Part 14, Dissolution, the nonprofit corporation under which the charter school is organized and managed may be unilaterally dissolved by the authorizer; and

(ii) the net assets of the charter school shall revert to the authorizer as described in Subsection (7).

(b) The charter school and the authorizer shall mutually agree in writing on the effective date and time of the dissolution described in Subsection (12)(a).

(c) The effective date and time of dissolution described in Subsection (12)(b) may not exceed five years after the date of the termination of the charter agreement.

(13) Notwithstanding the provisions of Chapter 6, Part 5, Charter School Enrollment:

(a) an authorizer may permit a specified number of students from a closing charter school to be enrolled in another charter school, if the receiving charter school:

(i) (A) is authorized by the same authorizer as the closing charter school; or

(B) is authorized by a different authorizer and the authorizer of the receiving charter school approves the increase in enrollment; and

(ii) agrees to accept enrollment applications from students of the closing charter school;

(b) a receiving charter school shall give new enrollment preference to applications from students of the closing charter school in the first school year in which the closing charter school is not operational; and

(c) a receiving charter school's enrollment capacity is increased by the number of students enrolled in the receiving charter school from the closing charter school under this Subsection (13).

(14) A member of the governing board or staff of the receiving charter school that is also a member of the governing board of the receiving charter school's authorizer, shall recuse himself or herself from a decision regarding the enrollment of students from a closing charter school as described in Subsection (13).

Section 115. Section 53G-7-1105 is amended to read:

53G-7-1105. Association budgets.

(1) An association shall:

(a) adopt a budget in accordance with this section; and

(b) use uniform budgeting, accounting, and auditing procedures and forms, which shall be in accordance with generally accepted accounting principles or auditing standards.

(2) An association budget officer or executive director shall annually prepare a tentative budget, with supporting documentation, to be submitted to the governing body.

(3) The tentative budget and supporting documents shall include the following items:

(a) the revenues and expenditures of the preceding fiscal year;

(b) the estimated revenues and expenditures of the current fiscal year;

(c) a detailed estimate of the essential expenditures for all purposes for the next succeeding fiscal year; and

(d) the estimated financial condition of the association by funds at the close of the current fiscal year.

(4) The tentative budget shall be filed with the governing body 15 days, or earlier, before the date of the tentative budget's proposed adoption by the governing body.

(5) The governing body shall adopt a budget.

(6) Before the adoption or amendment of a budget, the governing body shall hold a public hearing on the proposed budget or budget amendment.

(7) (a) In addition to complying with Title 52, Chapter 4, Open and Public Meetings Act, in regards to the public hearing described in Subsection (6), at least 10 days before the public hearing, a governing body shall:

(i) publish a notice of the public hearing electronically in accordance with Section [~~63F-1-701~~] 63A-12-201; and

(ii) post the proposed budget on the association's Internet website.

(b) A notice of a public hearing on an association's proposed budget shall include information on how the public may access the proposed budget as provided in Subsection (7)(a).

(8) No later than September 30 of each year, the governing body shall file a copy of the adopted budget with the state auditor and the state board.

Section 116. Section 54-8-10 is amended to read:

54-8-10. Public hearing -- Notice -- Publication.

(1) Such notice shall be:

(a) (i) published:

(A) in full one time in a newspaper of general circulation in the district; or

(B) if there be no such newspaper, in a newspaper of general circulation in the county, city, or town in which the district is located; and

(ii) published on the Utah Public Notice Website created in Section [~~63F-1-701~~] 63A-12-201; and

(b) posted in not less than three public places in the district.

(2) A copy of the notice shall be mailed by certified mail to the last known address of each owner of land within the proposed district whose property will be assessed for the cost of the improvement.

(3) The address to be used for that purpose shall be that last appearing on the real property assessment rolls of the county in which the property is located.

(4) In addition, a copy of the notice shall be addressed to "Owner" and shall be so mailed addressed to the street number of each piece of improved property to be affected by the assessment.

(5) Mailed notices and the published notice shall state where a copy of the resolution creating the district will be available for inspection by any interested parties.

Section 117. Section 54-8-16 is amended to read:

54-8-16. Notice of assessment -- Publication.

(1) After the preparation of a resolution under Section 54-8-14, notice of a public hearing on the proposed assessments shall be given.

(2) The notice described in Subsection (1) shall be:

(a) published:

(i) one time in a newspaper in which the first notice of hearing was published at least 20 days before the date fixed for the hearing; and

(ii) on the Utah Public Notice Website created in Section [~~63F-1-701~~] 63A-12-201, for at least 20 days before the date fixed for the hearing; and

(b) mailed by certified mail not less than 15 days prior to the date fixed for such hearing to each owner of real property whose property will be assessed for part of the cost of the improvement at the last known address of such owner using for such purpose the names and addresses appearing on the last completed real property assessment rolls of the county wherein said affected property is located.

(3) In addition, a copy of such notice shall be addressed to "Owner" and shall be so mailed addressed to the street number of each piece of improved property to be affected by such assessment.

(4) Each notice shall state that at the specified time and place, the governing body will hold a public hearing upon the proposed assessments and shall state that any owner of any property to be assessed pursuant to the resolution will be heard on the question of whether his property will be benefited by the proposed improvement to the amount of the proposed assessment against his property and

whether the amount assessed against his property constitutes more than his proper proportional share of the total cost of the improvement.

(5) The notice shall further state where a copy of the resolution proposed to be adopted levying the assessments against all real property in the district will be on file for public inspection, and that subject to such changes and corrections therein as may be made by the governing body, it is proposed to adopt the resolution at the conclusion of the hearing.

(6) A published notice shall describe the boundaries or area of the district with sufficient particularity to permit each owner of real property therein to ascertain that his property lies in the district.

(7) The mailed notice may refer to the district by name and date of creation and shall state the amount of the assessment proposed to be levied against the real property of the person to whom the notice is mailed.

Section 118. Section 57-11-11 is amended to read:

57-11-11. Rules of division -- Filing advertising material -- Injunctions -- Intervention by division in suits -- General powers of division.

(1) (a) The division shall prescribe reasonable rules which shall be adopted, amended, or repealed only after a public hearing.

(b) The division shall:

(i) publish notice of the public hearing described in Subsection (1)(a):

(A) once in a newspaper or newspapers with statewide circulation and at least 20 days before the hearing; and

(B) on the Utah Public Notice Website created in Section [~~63F-1-701~~] 63A-12-201, for at least 20 days before the hearing; and

(ii) send a notice to a nonprofit organization which files a written request for notice with the division at least 20 days prior to the hearing.

(2) The rules shall include but need not be limited to:

(a) provisions for advertising standards to assure full and fair disclosure; and

(b) provisions for escrow or trust agreements, performance bonds, or other means reasonably necessary to assure that all improvements referred to in the application for registration and advertising will be completed and that purchasers will receive the interest in land contracted for.

(3) These provisions, however, shall not be required if the city or county in which the subdivision is located requires similar means of assurance of a nature and in an amount no less adequate than is required under said rules:

(a) provisions for operating procedures;

(b) provisions for a shortened form of registration in cases where the division determines that the purposes of this act do not require a subdivision to be registered pursuant to an application containing all the information required by Section 57-11-6 or do not require that the public offering statement contain all the information required by Section 57-11-7; and

(c) other rules necessary and proper to accomplish the purpose of this chapter.

(4) The division by rule or order, after reasonable notice, may require the filing of advertising material relating to subdivided lands prior to its distribution, provided that the division must approve or reject any advertising material within 15 days from the receipt thereof or the material shall be considered approved.

(5) If it appears that a person has engaged or is about to engage in an act or practice constituting a violation of a provision of this chapter or a rule or order hereunder, the agency, with or without prior administrative proceedings, may bring an action in the district court of the district where said person maintains his residence or a place of business or where said act or practice has occurred or is about to occur, to enjoin the acts or practices and to enforce compliance with this chapter or any rule or order hereunder. Upon proper showing, injunctive relief or temporary restraining orders shall be granted, and a receiver or conservator may be appointed. The division shall not be required to post a bond in any court proceedings.

(6) The division shall be allowed to intervene in a suit involving subdivided lands, either as a party or as an amicus curiae, where it appears that the interpretation or constitutionality of any provision of law will be called into question. In any suit by or against a subdivider involving subdivided lands, the subdivider promptly shall furnish the agency notice of the suit and copies of all pleadings. Failure to do so may, in the discretion of the division, constitute grounds for the division withholding any approval required by this chapter.

(7) The division may:

(a) accept registrations filed in other states or with the federal government;

(b) contract with public agencies or qualified private persons in this state or other jurisdictions to perform investigative functions; and

(c) accept grants-in-aid from any source.

(8) The division shall cooperate with similar agencies in other jurisdictions to establish uniform filing procedures and forms, uniform public offering statements, advertising standards, rules, and common administrative practices.

Section 119. Section 59-2-919 is amended to read:

59-2-919. Notice and public hearing requirements for certain tax increases -- Exceptions.

(1) As used in this section:

(a) "Additional ad valorem tax revenue" means ad valorem property tax revenue generated by the portion of the tax rate that exceeds the taxing entity's certified tax rate.

(b) "Ad valorem tax revenue" means ad valorem property tax revenue not including revenue from:

(i) eligible new growth as defined in Section 59-2-924; or

(ii) personal property that is:

(A) assessed by a county assessor in accordance with Part 3, County Assessment; and

(B) semiconductor manufacturing equipment.

(c) "Calendar year taxing entity" means a taxing entity that operates under a fiscal year that begins on January 1 and ends on December 31.

(d) "County executive calendar year taxing entity" means a calendar year taxing entity that operates under the county executive-council form of government described in Section 17-52a-203.

(e) "Current calendar year" means the calendar year immediately preceding the calendar year for which a calendar year taxing entity seeks to levy a tax rate that exceeds the calendar year taxing entity's certified tax rate.

(f) "Fiscal year taxing entity" means a taxing entity that operates under a fiscal year that begins on July 1 and ends on June 30.

(g) "Last year's property tax budgeted revenue" does not include revenue received by a taxing entity from a debt service levy voted on by the public.

(2) A taxing entity may not levy a tax rate that exceeds the taxing entity's certified tax rate unless the taxing entity meets:

(a) the requirements of this section that apply to the taxing entity; and

(b) all other requirements as may be required by law.

(3) (a) Subject to Subsection (3)(b) and except as provided in Subsection (5), a calendar year taxing entity may levy a tax rate that exceeds the calendar year taxing entity's certified tax rate if the calendar year taxing entity:

(i) 14 or more days before the date of the regular general election or municipal general election held in the current calendar year, states at a public meeting:

(A) that the calendar year taxing entity intends to levy a tax rate that exceeds the calendar year taxing entity's certified tax rate;

(B) the dollar amount of and purpose for additional ad valorem tax revenue that would be generated by the proposed increase in the certified tax rate; and

(C) the approximate percentage increase in ad valorem tax revenue for the taxing entity based on the proposed increase described in Subsection (3)(a)(i)(B);

(ii) provides notice for the public meeting described in Subsection (3)(a)(i) in accordance with Title 52, Chapter 4, Open and Public Meetings Act, including providing a separate item on the meeting agenda that notifies the public that the calendar year taxing entity intends to make the statement described in Subsection (3)(a)(i);

(iii) meets the advertisement requirements of Subsections (6) and (7) before the calendar year taxing entity conducts the public hearing required by Subsection (3)(a)(v);

(iv) provides notice by mail:

(A) seven or more days before the regular general election or municipal general election held in the current calendar year; and

(B) as provided in Subsection (3)(c); and

(v) conducts a public hearing that is held:

(A) in accordance with Subsections (8) and (9); and

(B) in conjunction with the public hearing required by Section 17-36-13 or 17B-1-610.

(b) (i) For a county executive calendar year taxing entity, the statement described in Subsection (3)(a)(i) shall be made by the:

(A) county council;

(B) county executive; or

(C) both the county council and county executive.

(ii) If the county council makes the statement described in Subsection (3)(a)(i) or the county council states a dollar amount of additional ad valorem tax revenue that is greater than the amount of additional ad valorem tax revenue previously stated by the county executive in accordance with Subsection (3)(a)(i), the county executive calendar year taxing entity shall:

(A) make the statement described in Subsection (3)(a)(i) 14 or more days before the county executive calendar year taxing entity conducts the public hearing under Subsection (3)(a)(v); and

(B) provide the notice required by Subsection (3)(a)(iv) 14 or more days before the county executive calendar year taxing entity conducts the public hearing required by Subsection (3)(a)(v).

(c) The notice described in Subsection (3)(a)(iv):

(i) shall be mailed to each owner of property:

(A) within the calendar year taxing entity; and

(B) listed on the assessment roll;

(ii) shall be printed on a separate form that:

(A) is developed by the commission;

(B) states at the top of the form, in bold upper-case type no smaller than 18 point "NOTICE OF PROPOSED TAX INCREASE"; and

(C) may be mailed with the notice required by Section 59-2-1317;

(iii) shall contain for each property described in Subsection (3)(c)(i):

(A) the value of the property for the current calendar year;

(B) the tax on the property for the current calendar year; and

(C) subject to Subsection (3)(d), for the calendar year for which the calendar year taxing entity seeks to levy a tax rate that exceeds the calendar year taxing entity's certified tax rate, the estimated tax on the property;

(iv) shall contain the following statement:

"[Insert name of taxing entity] is proposing a tax increase for [insert applicable calendar year]. This notice contains estimates of the tax on your property and the proposed tax increase on your property as a result of this tax increase. These estimates are calculated on the basis of [insert previous applicable calendar year] data. The actual tax on your property and proposed tax increase on your property may vary from this estimate.";

(v) shall state the date, time, and place of the public hearing described in Subsection (3)(a)(v); and

(vi) may contain other property tax information approved by the commission.

(d) For purposes of Subsection (3)(c)(iii)(C), a calendar year taxing entity shall calculate the estimated tax on property on the basis of:

(i) data for the current calendar year; and

(ii) the amount of additional ad valorem tax revenue stated in accordance with this section.

(4) Except as provided in Subsection (5), a fiscal year taxing entity may levy a tax rate that exceeds the fiscal year taxing entity's certified tax rate if the fiscal year taxing entity:

(a) provides notice by meeting the advertisement requirements of Subsections (6) and (7) before the fiscal year taxing entity conducts the public meeting at which the fiscal year taxing entity's annual budget is adopted; and

(b) conducts a public hearing in accordance with Subsections (8) and (9) before the fiscal year taxing entity's annual budget is adopted.

(5) (a) A taxing entity is not required to meet the notice or public hearing requirements of Subsection (3) or (4) if the taxing entity is expressly exempted by law from complying with the requirements of this section.

(b) A taxing entity is not required to meet the notice requirements of Subsection (3) or (4) if:

(i) Section 53F-8-301 allows the taxing entity to levy a tax rate that exceeds that certified tax rate without having to comply with the notice provisions of this section; or

(ii) the taxing entity:

(A) budgeted less than $20,000 in ad valorem tax revenue for the previous fiscal year; and

(B) sets a budget during the current fiscal year of less than $20,000 of ad valorem tax revenue.

(6) (a) Subject to Subsections (6)(d) and (7)(b), the advertisement described in this section shall be published:

(i) subject to Section 45-1-101, in a newspaper or combination of newspapers of general circulation in the taxing entity;

(ii) electronically in accordance with Section 45-1-101; and

(iii) on the Utah Public Notice Website created in Section [~~63F-1-701~~] 63A-12-201.

(b) The advertisement described in Subsection (6)(a)(i) shall:

(i) be no less than 1/4 page in size;

(ii) use type no smaller than 18 point; and

(iii) be surrounded by a 1/4-inch border.

(c) The advertisement described in Subsection (6)(a)(i) may not be placed in that portion of the newspaper where legal notices and classified advertisements appear.

(d) It is the intent of the Legislature that:

(i) whenever possible, the advertisement described in Subsection (6)(a)(i) appear in a newspaper that is published at least one day per week; and

(ii) the newspaper or combination of newspapers selected:

(A) be of general interest and readership in the taxing entity; and

(B) not be of limited subject matter.

(e) (i) The advertisement described in Subsection (6)(a)(i) shall:

(A) except as provided in Subsection (6)(f), be run once each week for the two weeks before a taxing entity conducts a public hearing described under Subsection (3)(a)(v) or (4)(b); and

(B) state that the taxing entity will meet on a certain day, time, and place fixed in the advertisement, which shall be seven or more days after the day the first advertisement is published, for the purpose of hearing comments regarding any proposed increase and to explain the reasons for the proposed increase.

(ii) The advertisement described in Subsection (6)(a)(ii) shall:

(A) be published two weeks before a taxing entity conducts a public hearing described in Subsection (3)(a)(v) or (4)(b); and

(B) state that the taxing entity will meet on a certain day, time, and place fixed in the advertisement, which shall be seven or more days

after the day the first advertisement is published, for the purpose of hearing comments regarding any proposed increase and to explain the reasons for the proposed increase.

(f) If a fiscal year taxing entity's public hearing information is published by the county auditor in accordance with Section 59-2-919.2, the fiscal year taxing entity is not subject to the requirement to run the advertisement twice, as required by Subsection (6)(e)(i), but shall run the advertisement once during the week before the fiscal year taxing entity conducts a public hearing at which the taxing entity's annual budget is discussed.

(g) For purposes of Subsection (3)(a)(iii) or (4)(a), the form and content of an advertisement shall be substantially as follows:

"NOTICE OF PROPOSED TAX INCREASE

(NAME OF TAXING ENTITY)

The (name of the taxing entity) is proposing to increase its property tax revenue.

The (name of the taxing entity) tax on a (insert the average value of a residence in the taxing entity rounded to the nearest thousand dollars) residence would increase from $_____ to $_____, which is $_____ per year.

The (name of the taxing entity) tax on a (insert the value of a business having the same value as the average value of a residence in the taxing entity) business would increase from $_____ to $_____, which is $_____ per year.

If the proposed budget is approved, (name of the taxing entity) would increase its property tax budgeted revenue by ___% above last year's property tax budgeted revenue excluding eligible new growth.

All concerned citizens are invited to a public hearing on the tax increase.

PUBLIC HEARING

Date/Time: (date) (time)

Location: (name of meeting place and address of meeting place)

To obtain more information regarding the tax increase, citizens may contact the (name of the taxing entity) at (phone number of taxing entity)."

(7) The commission:

(a) shall adopt rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, governing the joint use of one advertisement described in Subsection (6) by two or more taxing entities; and

(b) subject to Section 45-1-101, may authorize:

(i) the use of a weekly newspaper:

(A) in a county having both daily and weekly newspapers if the weekly newspaper would provide equal or greater notice to the taxpayer; and

(B) if the county petitions the commission for the use of the weekly newspaper; or

(ii) the use by a taxing entity of a commission approved direct notice to each taxpayer if:

(A) the cost of the advertisement would cause undue hardship;

(B) the direct notice is different and separate from that provided for in Section 59-2-919.1; and

(C) the taxing entity petitions the commission for the use of a commission approved direct notice.

(8) (a) (i) (A) A fiscal year taxing entity shall, on or before March 1, notify the county legislative body in which the fiscal year taxing entity is located of the date, time, and place of the first public hearing at which the fiscal year taxing entity's annual budget will be discussed.

(B) A county that receives notice from a fiscal year taxing entity under Subsection (8)(a)(i)(A) shall include on the notice required by Section 59-2-919.1 the date, time, and place of the public hearing described in Subsection (8)(a)(i)(A).

(ii) A calendar year taxing entity shall, on or before October 1 of the current calendar year, notify the county legislative body in which the calendar year taxing entity is located of the date, time, and place of the first public hearing at which the calendar year taxing entity's annual budget will be discussed.

(b) (i) A public hearing described in Subsection (3)(a)(v) or (4)(b) shall be:

(A) open to the public; and

(B) held at a meeting of the taxing entity with no items on the agenda other than discussion and action on the taxing entity's intent to levy a tax rate that exceeds the taxing entity's certified tax rate, the taxing entity's budget, a local district's or special service district's fee implementation or increase, or a combination of these items.

(ii) The governing body of a taxing entity conducting a public hearing described in Subsection (3)(a)(v) or (4)(b) shall provide an interested party desiring to be heard an opportunity to present oral testimony:

(A) within reasonable time limits; and

(B) without unreasonable restriction on the number of individuals allowed to make public comment.

(c) (i) Except as provided in Subsection (8)(c)(ii), a taxing entity may not schedule a public hearing described in Subsection (3)(a)(v) or (4)(b) at the same time as the public hearing of another overlapping taxing entity in the same county.

(ii) The taxing entities in which the power to set tax levies is vested in the same governing board or authority may consolidate the public hearings described in Subsection (3)(a)(v) or (4)(b) into one public hearing.

(d) A county legislative body shall resolve any conflict in public hearing dates and times after consultation with each affected taxing entity.

(e) (i) A taxing entity shall hold a public hearing described in Subsection (3)(a)(v) or (4)(b) beginning at or after 6 p.m.

(ii) If a taxing entity holds a public meeting for the purpose of addressing general business of the taxing entity on the same date as a public hearing described in Subsection (3)(a)(v) or (4)(b), the public meeting addressing general business items shall conclude before the beginning of the public hearing described in Subsection (3)(a)(v) or (4)(b).

(f) (i) Except as provided in Subsection (8)(f)(ii), a taxing entity may not hold the public hearing described in Subsection (3)(a)(v) or (4)(b) on the same date as another public hearing of the taxing entity.

(ii) A taxing entity may hold the following hearings on the same date as a public hearing described in Subsection (3)(a)(v) or (4)(b):

(A) a budget hearing;

(B) if the taxing entity is a local district or a special service district, a fee hearing described in Section 17B-1-643;

(C) if the taxing entity is a town, an enterprise fund hearing described in Section 10-5-107.5; or

(D) if the taxing entity is a city, an enterprise fund hearing described in Section 10-6-135.5.

(9) (a) If a taxing entity does not make a final decision on budgeting additional ad valorem tax revenue at a public hearing described in Subsection (3)(a)(v) or (4)(b), the taxing entity shall:

(i) announce at that public hearing the scheduled time and place of the next public meeting at which the taxing entity will consider budgeting the additional ad valorem tax revenue; and

(ii) if the taxing entity is a fiscal year taxing entity, hold the public meeting described in Subsection (9)(a)(i) before September 1.

(b) A calendar year taxing entity may not adopt a final budget that budgets an amount of additional ad valorem tax revenue that exceeds the largest amount of additional ad valorem tax revenue stated at a public meeting under Subsection (3)(a)(i).

(c) A public hearing on levying a tax rate that exceeds a fiscal year taxing entity's certified tax rate may coincide with a public hearing on the fiscal year taxing entity's proposed annual budget.

Section 120. Section 59-2-919.2 is amended to read:

59-2-919.2. Consolidated advertisement of public hearings.

(1) (a) Except as provided in Subsection (1)(b), on the same day on which a taxing entity provides the notice to the county required under Subsection 59-2-919(8)(a)(i), the taxing entity shall provide to the county auditor the information required by Subsection 59-2-919(8)(a)(i).

(b) A taxing entity is not required to notify the county auditor of the taxing entity's public hearing in accordance with Subsection (1)(a) if the taxing entity is exempt from the notice requirements of Section 59-2-919.

(2) If as of July 22, two or more taxing entities notify the county auditor under Subsection (1), the county auditor shall by no later than July 22 of each year:

(a) compile a list of the taxing entities that notify the county auditor under Subsection (1);

(b) include on the list described in Subsection (2)(a), the following information for each taxing entity on the list:

(i) the name of the taxing entity;

(ii) the date, time, and location of the public hearing described in Subsection 59-2-919(8)(a)(i);

(iii) the average dollar increase on a residence in the taxing entity that the proposed tax increase would generate; and

(iv) the average dollar increase on a business in the taxing entity that the proposed tax increase would generate;

(c) provide a copy of the list described in Subsection (2)(a) to each taxing entity that notifies the county auditor under Subsection (1); and

(d) in addition to the requirements of Subsection (3), if the county has a webpage, publish a copy of the list described in Subsection (2)(a) on the county's webpage until December 31.

(3) (a) At least two weeks before any public hearing included in the list under Subsection (2) is held, the county auditor shall publish:

(i) the list compiled under Subsection (2); and

(ii) a statement that:

(A) the list is for informational purposes only;

(B) the list should not be relied on to determine a person's tax liability under this chapter; and

(C) for specific information related to the tax liability of a taxpayer, the taxpayer should review the taxpayer's tax notice received under Section 59-2-919.1.

(b) Except as provided in Subsection (3)(d)(ii), the information described in Subsection (3)(a) shall be published:

(i) in no less than 1/4 page in size;

(ii) in type no smaller than 18 point; and

(iii) surrounded by a 1/4-inch border.

(c) The published information described in Subsection (3)(a) and published in accordance with Subsection (3)(d)(i) may not be placed in the portion of a newspaper where a legal notice or classified advertisement appears.

(d) A county auditor shall publish the information described in Subsection (3)(a):

(i) (A) in a newspaper or combination of newspapers that are:

(I) published at least one day per week;

(II) of general interest and readership in the county; and

(III) not of limited subject matter; and

(B) once each week for the two weeks preceding the first hearing included in the list compiled under Subsection (2); and

(ii) for two weeks preceding the first hearing included in the list compiled under Subsection (2):

(A) as required in Section 45-1-101; and

(B) on the Utah Public Notice Website created in Section [~~63F-1-701~~] 63A-12-201.

(4) A taxing entity that notifies the county auditor under Subsection (1) shall provide the list described in Subsection (2)(c) to a person:

(a) who attends the public hearing described in Subsection 59-2-919(8)(a)(i) of the taxing entity; or

(b) who requests a copy of the list.

(5) (a) A county auditor shall by no later than 30 days from the day on which the last publication of the information required by Subsection (3)(a) is made:

(i) determine the costs of compiling and publishing the list; and

(ii) charge each taxing entity included on the list an amount calculated by dividing the amount determined under Subsection (5)(a) by the number of taxing entities on the list.

(b) A taxing entity shall pay the county auditor the amount charged under Subsection (5)(a).

(6) The publication of the list under this section does not remove or change the notice requirements of Section 59-2-919 for a taxing entity.

(7) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules:

(a) relating to the publication of a consolidated advertisement which includes the information described in Subsection (2) for a taxing entity that overlaps two or more counties;

(b) relating to the payment required in Subsection (5)(b); and

(c) to oversee the administration of this section and provide for uniform implementation.

Section 121. Section 59-12-1102 is amended to read:

59-12-1102. Base -- Rate -- Imposition of tax -- Distribution of revenue -- Administration -- Administrative charge -- Commission requirement to retain an amount to be deposited into the Qualified Emergency Food Agencies Fund -- Enactment or repeal of tax -- Effective date -- Notice requirements.

(1) (a) (i) Subject to Subsections (2) through (6), and in addition to any other tax authorized by this chapter, a county may impose by ordinance a county option sales and use tax of .25% upon the transactions described in Subsection 59-12-103(1).

(ii) Notwithstanding Subsection (1)(a)(i), a county may not impose a tax under this section on the sales and uses described in Section 59-12-104 to the extent the sales and uses are exempt from taxation under Section 59-12-104.

(b) For purposes of this Subsection (1), the location of a transaction shall be determined in accordance with Sections 59-12-211 through 59-12-215.

(c) The county option sales and use tax under this section shall be imposed:

(i) upon transactions that are located within the county, including transactions that are located within municipalities in the county; and

(ii) except as provided in Subsection (1)(d) or (5), beginning on the first day of January:

(A) of the next calendar year after adoption of the ordinance imposing the tax if the ordinance is adopted on or before May 25; or

(B) of the second calendar year after adoption of the ordinance imposing the tax if the ordinance is adopted after May 25.

(d) The county option sales and use tax under this section shall be imposed:

(i) beginning January 1, 1998, if an ordinance adopting the tax imposed on or before September 4, 1997; or

(ii) beginning January 1, 1999, if an ordinance adopting the tax is imposed during 1997 but after September 4, 1997.

(2) (a) Before imposing a county option sales and use tax under Subsection (1), a county shall hold two public hearings on separate days in geographically diverse locations in the county.

(b) (i) At least one of the hearings required by Subsection (2)(a) shall have a starting time of no earlier than 6 p.m.

(ii) The earlier of the hearings required by Subsection (2)(a) shall be no less than seven days after the day the first advertisement required by Subsection (2)(c) is published.

(c) (i) Before holding the public hearings required by Subsection (2)(a), the county shall advertise:

(A) its intent to adopt a county option sales and use tax;

(B) the date, time, and location of each public hearing; and

(C) a statement that the purpose of each public hearing is to obtain public comments regarding the proposed tax.

(ii) The advertisement shall be published:

(A) in a newspaper of general circulation in the county once each week for the two weeks preceding the earlier of the two public hearings; and

(B) on the Utah Public Notice Website created in Section [~~63F-1-701~~] 63A-12-201, for two weeks preceding the earlier of the two public hearings.

(iii) The advertisement described in Subsection (2)(c)(ii)(A) shall be no less than 1/8 page in size, and the type used shall be no smaller than 18 point and surrounded by a 1/4-inch border.

(iv) The advertisement described in Subsection (2)(c)(ii)(A) may not be placed in that portion of the newspaper where legal notices and classified advertisements appear.

(v) In accordance with Subsection (2)(c)(ii)(A), whenever possible:

(A) the advertisement shall appear in a newspaper that is published at least five days a week, unless the only newspaper in the county is published less than five days a week; and

(B) the newspaper selected shall be one of general interest and readership in the community, and not one of limited subject matter.

(d) The adoption of an ordinance imposing a county option sales and use tax is subject to a local referendum election and shall be conducted as provided in Title 20A, Chapter 7, Part 6, Local Referenda - Procedures.

(3) (a) Subject to Subsection (5), if the aggregate population of the counties imposing a county option sales and use tax under Subsection (1) is less than 75% of the state population, the tax levied under Subsection (1) shall be distributed to the county in which the tax was collected.

(b) Subject to Subsection (5), if the aggregate population of the counties imposing a county option sales and use tax under Subsection (1) is greater than or equal to 75% of the state population:

(i) 50% of the tax collected under Subsection (1) in each county shall be distributed to the county in which the tax was collected; and

(ii) except as provided in Subsection (3)(c), 50% of the tax collected under Subsection (1) in each county shall be distributed proportionately among all counties imposing the tax, based on the total population of each county.

(c) Except as provided in Subsection (5), the amount to be distributed annually to a county under Subsection (3)(b)(ii), when combined with the amount distributed to the county under Subsection (3)(b)(i), does not equal at least $75,000, then:

(i) the amount to be distributed annually to that county under Subsection (3)(b)(ii) shall be increased so that, when combined with the amount distributed to the county under Subsection (3)(b)(i), the amount distributed annually to the county is $75,000; and

(ii) the amount to be distributed annually to all other counties under Subsection (3)(b)(ii) shall be reduced proportionately to offset the additional amount distributed under Subsection (3)(c)(i).

(d) The commission shall establish rules to implement the distribution of the tax under Subsections (3)(a), (b), and (c).

(4) (a) Except as provided in Subsection (4)(b) or (c), a tax authorized under this part shall be administered, collected, and enforced in accordance with:

(i) the same procedures used to administer, collect, and enforce the tax under:

(A) Part 1, Tax Collection; or

(B) Part 2, Local Sales and Use Tax Act; and

(ii) Chapter 1, General Taxation Policies.

(b) A tax under this part is not subject to Subsections 59-12-205(2) through (6).

(c) (i) Subject to Subsection (4)(c)(ii), the commission shall retain and deposit an administrative charge in accordance with Section 59-1-306 from the revenue the commission collects from a tax under this part.

(ii) Notwithstanding Section 59-1-306, the administrative charge described in Subsection (4)(c)(i) shall be calculated by taking a percentage described in Section 59-1-306 of the distribution amounts resulting after:

(A) the applicable distribution calculations under Subsection (3) have been made; and

(B) the commission retains the amount required by Subsection (5).

(5) (a) Beginning on July 1, 2009, the commission shall calculate and retain a portion of the sales and use tax collected under this part as provided in this Subsection (5).

(b) For a county that imposes a tax under this part, the commission shall calculate a percentage each month by dividing the sales and use tax collected under this part for that month within the boundaries of that county by the total sales and use tax collected under this part for that month within the boundaries of all of the counties that impose a tax under this part.

(c) For a county that imposes a tax under this part, the commission shall retain each month an amount equal to the product of:

(i) the percentage the commission determines for the month under Subsection (5)(b) for the county; and

(ii) $6,354.

(d) The commission shall deposit an amount the commission retains in accordance with this Subsection (5) into the Qualified Emergency Food Agencies Fund created by Section 35A-8-1009.

(e) An amount the commission deposits into the Qualified Emergency Food Agencies Fund shall be expended as provided in Section 35A-8-1009.

(6) (a) For purposes of this Subsection (6):

(i) "Annexation" means an annexation to a county under Title 17, Chapter 2, County Consolidations and Annexations.

(ii) "Annexing area" means an area that is annexed into a county.

(b) (i) Except as provided in Subsection (6)(c) or (d), if, on or after July 1, 2004, a county enacts or repeals a tax under this part:

(A) (I) the enactment shall take effect as provided in Subsection (1)(c); or

(II) the repeal shall take effect on the first day of a calendar quarter; and

(B) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (6)(b)(ii) from the county.

(ii) The notice described in Subsection (6)(b)(i)(B) shall state:

(A) that the county will enact or repeal a tax under this part;

(B) the statutory authority for the tax described in Subsection (6)(b)(ii)(A);

(C) the effective date of the tax described in Subsection (6)(b)(ii)(A); and

(D) if the county enacts the tax described in Subsection (6)(b)(ii)(A), the rate of the tax.

(c) (i) If the billing period for a transaction begins before the effective date of the enactment of the tax under Subsection (1), the enactment of the tax takes effect on the first day of the first billing period that begins on or after the effective date of the enactment of the tax.

(ii) The repeal of a tax applies to a billing period if the billing statement for the billing period is produced on or after the effective date of the repeal of the tax imposed under Subsection (1).

(d) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an enactment or repeal of a tax described in Subsection (6)(b)(i) takes effect:

(A) on the first day of a calendar quarter; and

(B) beginning 60 days after the effective date of the enactment or repeal under Subsection (6)(b)(i).

(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

(e) (i) Except as provided in Subsection (6)(f) or (g), if, for an annexation that occurs on or after July 1, 2004, the annexation will result in the enactment or repeal of a tax under this part for an annexing area, the enactment or repeal shall take effect:

(A) on the first day of a calendar quarter; and

(B) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (6)(e)(ii) from the county that annexes the annexing area.

(ii) The notice described in Subsection (6)(e)(i)(B) shall state:

(A) that the annexation described in Subsection (6)(e)(i) will result in an enactment or repeal of a tax under this part for the annexing area;

(B) the statutory authority for the tax described in Subsection (6)(e)(ii)(A);

(C) the effective date of the tax described in Subsection (6)(e)(ii)(A); and

(D) the rate of the tax described in Subsection (6)(e)(ii)(A).

(f) (i) If the billing period for a transaction begins before the effective date of the enactment of the tax under Subsection (1), the enactment of the tax takes effect on the first day of the first billing period that begins on or after the effective date of the enactment of the tax.

(ii) The repeal of a tax applies to a billing period if the billing statement for the billing period is produced on or after the effective date of the repeal of the tax imposed under Subsection (1).

(g) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an enactment or repeal of a tax described in Subsection (6)(e)(i) takes effect:

(A) on the first day of a calendar quarter; and

(B) beginning 60 days after the effective date of the enactment or repeal under Subsection (6)(e)(i).

(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

Section 122. Section 63A-3-103 is amended to read:

63A-3-103. Duties of director of division -- Application to institutions of higher education.

(1) The director of the Division of Finance shall:

(a) define fiscal procedures relating to approval and allocation of funds;

(b) provide for the accounting control of funds;

(c) promulgate rules that:

(i) establish procedures for maintaining detailed records of all types of leases;

(ii) account for all types of leases in accordance with generally accepted accounting principles;

(iii) require the performance of a lease with an option to purchase study by state agencies prior to any lease with an option to purchase acquisition of capital equipment; and

(iv) require that the completed lease with an option to purchase study be approved by the director of the Division of Finance;

(d) if the department operates the Division of Finance as an internal service fund agency in

accordance with Section 63A-1-109.5, submit to the Rate Committee established in Section 63A-1-114:

(i) the proposed rate and fee schedule as required by Section 63A-1-114; and

(ii) other information or analysis requested by the Rate Committee;

(e) oversee the Office of State Debt Collection;

(f) publish the state's current constitutional debt limit on the [~~Utah Public Finance Website, created in Section 63A-1-202~~] public finance website established by the state auditor in accordance with Section 67-3-12; and

(g) prescribe other fiscal functions required by law or under the constitutional authority of the governor to transact all executive business for the state.

(2) (a) Institutions of higher education are subject to the provisions of Title 63A, Chapter 3, Part 1, General Provisions, and Title 63A, Chapter 3, Part 2, Accounting System, only to the extent expressly authorized or required by the Utah Board of Higher Education under Title 53B, State System of Higher Education.

(b) Institutions of higher education shall submit financial data for the past fiscal year conforming to generally accepted accounting principles to the director of the Division of Finance.

(3) The Division of Finance shall prepare financial statements and other reports in accordance with legal requirements and generally accepted accounting principles for the state auditor's examination and certification:

(a) not later than 60 days after a request from the state auditor; and

(b) at the end of each fiscal year.

Section 123. Section 63A-5b-905 is amended to read:

63A-5b-905. Notice required before division may convey division-owned property.

(1) Before the division may convey vacant division-owned property, the division shall give notice as provided in Subsection (2).

(2) A notice required under Subsection (1) shall:

(a) identify and describe the vacant division-owned property;

(b) indicate the availability of the vacant division-owned property;

(c) invite persons interested in the vacant division-owned property to submit a written proposal to the division;

(d) indicate the deadline for submitting a written proposal;

(e) be posted on the division's website for at least 60 consecutive days before the deadline for submitting a written proposal, in a location specifically designated for notices dealing with vacant division-owned property;

(f) be posted on the Utah Public Notice Website created in Section [~~63F-1-701~~] 63A-12-201 for at least 60 consecutive days before the deadline for submitting a written proposal; and

(g) be sent by email to each person who has previously submitted to the division a written request to receive notices under this section.

Section 124. Section 63A-12-100 is amended to read:

CHAPTER 12. DIVISION OF ARCHIVES AND RECORDS SERVICE

Part 1. General Provisions

63A-12-100. Title.

This chapter is known as the[~~ "Public Records Management Act."~~] "Division of Archives and Records Service."

Section 125. Section 63A-12-101 is amended to read:

63A-12-101. Division of Archives and Records Service created -- Duties.

(1) There is created the Division of Archives and Records Service within the Department of Administrative Services.

(2) The state archives shall:

(a) administer the state's archives and records management programs, including storage of records, central microphotography programs, and quality control;

(b) apply fair, efficient, and economical management methods to the collection, creation, use, maintenance, retention, preservation, disclosure, and disposal of records and documents;

(c) establish standards, procedures, and techniques for the effective management and physical care of records;

(d) conduct surveys of office operations and recommend improvements in current records management practices, including the use of space, equipment, automation, and supplies used in creating, maintaining, storing, and servicing records;

(e) establish standards for the preparation of schedules providing for the retention of records of continuing value and for the prompt and orderly disposal of state records no longer possessing sufficient administrative, historical, legal, or fiscal value to warrant further retention;

(f) establish, maintain, and operate centralized microphotography lab facilities and quality control for the state;

(g) provide staff and support services to the Records Management Committee created in Section 63A-12-112 and the State Records Committee created in Section 63G-2-501;

(h) develop training programs to assist records officers and other interested officers and employees of governmental entities to administer this chapter and Title 63G, Chapter 2, Government Records Access and Management Act;

(i) provide access to public records deposited in the archives;

(j) administer and maintain the Utah Public Notice Website established under Section [~~63F-1-701~~] 63A-12-201;

(k) provide assistance to any governmental entity in administering this chapter and Title 63G, Chapter 2, Government Records Access and Management Act;

(l) prepare forms for use by all governmental entities for a person requesting access to a record; and

(m) if the department operates the Division of Archives and Records Service as an internal service fund agency in accordance with Section 63A-1-109.5, submit to the Rate Committee established in Section 63A-1-114:

(i) the proposed rate and fee schedule as required by Section 63A-1-114; and

(ii) other information or analysis requested by the Rate Committee.

(3) The state archives may:

(a) establish a report and directives management program; and

(b) establish a forms management program.

(4) The executive director of the Department of Administrative Services may direct the state archives to administer other functions or services consistent with this chapter and Title 63G, Chapter 2, Government Records Access and Management Act.

Section 126. Section 63A-12-114 is enacted to read:

63A-12-114. Utah Open Records Portal Website.

(1) As used in this section:

(a) "Governmental entity" means the same as that term is defined in Section 63G-2-103.

(b) "Website" means the Utah Open Records Portal Website created in this section.

(2) There is created the Utah Open Records Portal Website to be administered by the division.

(3) Unless otherwise provided by a governmental entity, the website shall serve as an additional point of access for requests for records under Title 63G, Chapter 2, Government Records Access and Management Act.

(4) The division is responsible for:

(a) establishing and maintaining the website, with the technical assistance of the Department of Technology Services, including the provision of equipment, resources, and personnel as necessary;

(b) providing a mechanism for governmental entities to gain access to the website for the purpose of posting, modifying, and maintaining records; and

(c) maintaining an archive of all records posted to the website.

(5) The timing for posting and the content of records posted to the website is the responsibility of the governmental entity posting the record.

Section 127. Section 63A-12-201, which is renumbered from Section 63F-1-701 is renumbered and amended to read:

[~~63F-1-701~~]. 63A-12-201. Utah Public Notice Website -- Establishment and administration.

(1) As used in this part:

(a) "Division" means the Division of Archives and Records Service of the Department of Administrative Services.

(b) "Executive board" means the same as that term is defined in Section 67-1-2.5.

(c) "Public body" means the same as that term is defined in Section 52-4-103.

(d) "Public information" means a public body's public notices, minutes, audio recordings, and other materials that are required to be posted to the website under Title 52, Chapter 4, Open and Public Meetings Act, or other statute or state agency rule.

(e) "Website" means the Utah Public Notice Website created under this section.

(2) There is created the Utah Public Notice Website to be administered by the [~~Division of Archives and Records Service~~] division.

(3) The website shall consist of an Internet website provided to assist the public to find posted public information.

(4) The division, with the technical assistance of the Department of Technology Services, shall create the website that shall:

(a) allow a public body, or other certified entity, to easily post any public information, including the contact information required under Subsections 17B-1-303(9) and 17D-1-106(1)(b)(ii);

(b) allow the public to easily search the public information by:

(i) public body name;

(ii) date of posting of the notice;

(iii) date of any meeting or deadline included as part of the public information; and

(iv) any other criteria approved by the division;

(c) allow the public to easily search and view past, archived public information;

(d) allow an individual to subscribe to receive updates and notices associated with a public body or a particular type of public information;

[~~(e) be easily accessible by the public from the State of Utah home page;~~]

[~~(f)~~] (e) have a unique and simplified website address;

[~~(g)~~] (f) be directly accessible via a link from the main page of the official state website; [~~and~~]

[~~(h)~~] (g) include other links, features, or functionality that will assist the public in obtaining and reviewing public information posted on the website, as may be approved by the division[~~.~~]; and

(h) be guided by the principles described in Subsection 63A-16-202(2).

(5) (a) Subject to Subsection (5)(b), the division and the governor's office shall coordinate to ensure that the website, the database described in Section 67-1-2.5, and the website described in Section 67-1-2.5 automatically share appropriate information in order to ensure that:

(i) an individual who subscribes to receive information under Subsection (4)(d) for an executive board automatically receives notifications of vacancies on the executive board that will be publicly filled, including a link to information regarding how an individual may apply to fill the vacancy; and

(ii) an individual who accesses an executive board's information on the website has access to the following through the website:

(A) the executive board's information in the database, except an individual's physical address, e-mail address, or phone number; and

(B) the portal described in Section 67-1-2.5 through which an individual may provide input on an appointee to, or member of, the executive board.

(b) The division and the governor's office shall comply with Subsection (5)(a) as soon as reasonably possible within existing funds appropriated to the division and the governor's office.

(6) Before August 1 of each year, the division shall:

(a) identify each executive board that is a public body that did not submit to the website a notice of a public meeting during the previous fiscal year; and

(b) report the name of each identified executive board to the governor's boards and commissions administrator.

(7) The division is responsible for:

(a) establishing and maintaining the website, including the provision of equipment, resources, and personnel as is necessary;

(b) providing a mechanism for public bodies or other certified entities to have access to the website for the purpose of posting and modifying public information; and

(c) maintaining an archive of all public information posted to the website.

(8) A public body is responsible for the content the public body is required to post to the website and the timing of posting of that information.

Section 128. Section 63A-12-202, which is renumbered from Section 63F-1-702 is renumbered and amended to read:

[~~63F-1-702~~]. 63A-12-202. Notice and training by the Division of Archives and Records Service.

(1) The division shall provide notice of the provisions and requirements of this chapter to all public bodies that are subject to the provision of Subsection 52-4-202(3)(a)(ii).

(2) The division shall, as necessary, provide periodic training on the use of the [~~Utah Public Notice Website~~] website to public bodies that are authorized to post notice on the website.

Section 129. Section 63A-16-101 is enacted to read:

CHAPTER 16. (Codified as CHAPTER 18) UTAH TRANSPARENCY ADVISORY BOARD

Part 1. General Provisions

63A-16-101. (Codified as 63A-18-101) Title.

This chapter is known as the "Utah Transparency Advisory Board."

Section 130. Section 63A-16-102 is enacted to read:

63A-16-102. (Codified as 63A-18-102) Definitions.

As used in this chapter:

(1) "Board" means the Utah Transparency Advisory Board created in Section 63A-16-201.

(2) "Public information" means the same as that term is defined in Section 63F-1-108.

(3) "Public information website" means:

(a) the website established by the State Board of Education in accordance with Subsection 53E-5-211(1);

(b) the Utah Open Records Portal Website created in Section 63A-12-114;

(c) the Utah Public Notice Website created in Section 63A-12-201;

(d) the Utah Open Data Portal Website created in Section 63F-1-108; or

(e) the public finance website established by the state auditor in accordance with Section 67-3-12.

Section 131. Section 63A-16-201, which is renumbered from Section 63A-1-203 is renumbered and amended to read:

Part 2. Creation and Duties

[~~63A-1-203~~]. 63A-16-201. (Codified as 63A-18-201) Utah Transparency Advisory Board -- Creation -- Membership -- Duties.

(1) There is created within the department the Utah Transparency Advisory Board comprised of

members knowledgeable about public finance or providing public access to public information.

(2) The board consists of:

(a) the state auditor or the state auditor's designee;

(b) an individual appointed by the executive director of the department;

(c) an individual appointed by the executive director of the Governor's Office of Management and Budget;

[~~(d) an individual appointed by the governor on advice from the Legislative Fiscal Analyst;~~]

[~~(e) one member of the Senate, appointed by the governor on advice from the president of the Senate;~~]

[~~(f) one member of the House of Representatives, appointed by the governor on advice from the speaker of the House of Representatives;~~]

[~~(g) an individual appointed by the director of the Department of Technology Services;~~]

[~~(h) the director of the Division of Archives and Records Service created in Section 63A-12-101 or the director's designee;~~]

[~~(i) an individual who is a member of the State Records Committee created in Section 63G-2-501, appointed by the governor;~~]

[~~(j) an individual representing counties, appointed by the governor;~~]

[~~(k) an individual representing municipalities, appointed by the governor;~~]

[~~(l) an individual representing special districts, appointed by the governor;~~]

[~~(m) an individual representing the State Board of Education, appointed by the State Board of Education; and~~]

[~~(n) one individual who is a member of the public and who has knowledge, expertise, or experience in matters relating to the board's duties under Subsection (10), appointed by the board members identified in Subsections (2)(a) through (m).~~]

[~~(3) The board shall:~~]

[~~(a) advise the state auditor and the department on matters related to the implementation and administration of this part;~~]

[~~(b) develop plans, make recommendations, and assist in implementing the provisions of this part;~~]

[~~(c) determine what public financial information shall be provided by a participating state entity, independent entity, and participating local entity, if the public financial information:~~]

[~~(i) only includes records that:~~]

[~~(A) are classified as public under Title 63G, Chapter 2, Government Records Access and Management Act, or, subject to any specific limitations and requirements regarding the provision of financial information from the entity described in Section 63A-1-202, if an entity is exempt from Title 63G, Chapter 2, Government Records Access and Management Act, records that would normally be classified as public if the entity were not exempt from Title 63G, Chapter 2, Government Records Access and Management Act;~~]

[~~(B) are an accounting of money, funds, accounts, bonds, loans, expenditures, or revenues, regardless of the source; and~~]

[~~(C) are owned, held, or administered by the participating state entity, independent entity, or participating local entity that is required to provide the record; and~~]

[~~(ii) is of the type or nature that should be accessible to the public via a website based on considerations of:~~]

[~~(A) the cost effectiveness of providing the information;~~]

[~~(B) the value of providing the information to the public; and~~]

[~~(C) privacy and security considerations;~~]

[~~(d) evaluate the cost effectiveness of implementing specific information resources and features on the website;~~]

[~~(e) require participating local entities to provide public financial information in accordance with the requirements of this part, with a specified content, reporting frequency, and form;~~]

[~~(f) require an independent entity's website or a participating local entity's website to be accessible by link or other direct route from the Utah Public Finance Website if the independent entity or participating local entity does not use the Utah Public Finance Website;~~]

[~~(g) determine the search methods and the search criteria that shall be made available to the public as part of a website used by an independent entity or a participating local entity under the requirements of this part, which criteria may include:~~]

[~~(i) fiscal year;~~]

[~~(ii) expenditure type;~~]

[~~(iii) name of the agency;~~]

[~~(iv) payee;~~]

[~~(v) date; and~~]

[~~(vi) amount; and~~]

[~~(h) analyze ways to improve the information on the Utah Public Finance Website so the information is more relevant to citizens, including through the use of:~~]

[~~(i) infographics that provide more context to the data; and~~]

[~~(ii) geolocation services, if possible.~~]

(d) an individual appointed by the executive director of the Department of Technology Services;

(e) the director of the Division of Archives and Records Service created in Section 63A-12-101 or the director's designee;

(f) an individual representing the State Board of Education, appointed by the State Board of Education;

(g) the following individuals appointed by the governor:

(i) an individual recommended by the Office of the Legislative Fiscal Analyst;

(ii) one member of the Senate, recommended by the president of the Senate;

(iii) one member of the House of Representatives, recommended by the speaker of the House of Representatives;

(iv) an individual who is a member of the State Records Committee created in Section 63G-2-501;

(v) an individual representing counties;

(vi) an individual representing municipalities; and

(vii) an individual representing special districts; and

(h) one individual who is a member of the public and who has knowledge, expertise, or experience in matters relating to the board's duties under Section 63A-16-202, appointed by the board members identified in Subsections (2)(a) through (g).

[~~(4)~~] (3) Every two years, the board shall elect a chair and a vice chair from its members.

[~~(5)~~] (4) (a) Each member shall serve a four-year term.

(b) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for a four-year term.

[~~(6)~~] (5) To accomplish its duties, the board shall meet as it determines necessary.

[~~(7)~~] (6) Reasonable notice shall be given to each member of the board before any meeting.

[~~(8)~~] (7) A majority of the board constitutes a quorum for the transaction of business.

[~~(9)~~] (8) (a) A member who is not a legislator may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses as allowed in:

(i) Section 63A-3-106;

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

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

(b) Compensation and expenses of a member who is a legislator are governed by Section 36-2-2 and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.

[~~(10) (a) As used in Subsections (10) and (11):~~]

[~~(i) "Information website" means a single Internet website containing public information or links to public information.~~]

[~~(ii) "Public information" means records of state government, local government, or an independent entity that are classified as public under Title 63G, Chapter 2, Government Records Access and Management Act, or, subject to any specific limitations and requirements regarding the provision of financial information from the entity described in Section 63A-1-202, if an entity is exempt from Title 63G, Chapter 2, Government Records Access and Management Act, records that would normally be classified as public if the entity were not exempt from Title 63G, Chapter 2, Government Records Access and Management Act.~~]

[~~(b) The board shall:~~]

[~~(i) study the establishment of an information website and develop recommendations for its establishment;~~]

[~~(ii) develop recommendations about how to make public information more readily available to the public through the information website;~~]

[~~(iii) develop standards to make uniform the format and accessibility of public information posted to the information website; and~~]

[~~(iv) identify and prioritize public information in the possession of a state agency or political subdivision that may be appropriate for publication on the information website.~~]

[~~(c) In fulfilling its duties under Subsection (10)(b), the board shall be guided by principles that encourage:~~]

[~~(i) (A) the establishment of a standardized format of public information that makes the information more easily accessible by the public;~~]

[~~(B) the removal of restrictions on the reuse of public information;~~]

[~~(C) minimizing limitations on the disclosure of public information while appropriately safeguarding sensitive information; and~~]

[~~(D) balancing factors in favor of excluding public information from an information website against the public interest in having the information accessible on an information website;~~]

[~~(ii) (A) permanent, lasting, open access to public information; and~~]

[~~(B) the publication of bulk public information;~~]

[~~(iii) the implementation of well-designed public information systems that ensure data quality, create a public, comprehensive list or index of public information, and define a process for continuous publication of and updates to public information;~~]

[~~(iv) the identification of public information not currently made available online and the implementation of a process, including a timeline and benchmarks, for making that public information available online; and~~]

[~~(v) accountability on the part of those who create, maintain, manage, or store public information or post it to an information website.~~]

[~~(d) The department shall implement the board's recommendations, including the establishment of an information website, to the extent that implementation:~~]

[~~(i) is approved by the Legislative Management Committee;~~]

[~~(ii) does not require further legislative appropriation; and~~]

[~~(iii) is within the department's existing statutory authority.~~]

[~~(11) The department shall, in consultation with the board and as funding allows, modify the information website described in Subsection (10) to:~~]

[~~(a) by January 1, 2015, serve as a point of access for Government Records Access and Management requests for executive agencies;~~]

[~~(b) by January 1, 2016, serve as a point of access for Government Records Access and Management requests for:~~]

[~~(i) school districts;~~]

[~~(ii) charter schools;~~]

[~~(iii) public transit districts created under Title 17B, Chapter 2a, Part 8, Public Transit District Act;~~]

[~~(iv) counties; and~~]

[~~(v) municipalities;~~]

[~~(c) by January 1, 2017, serve as a point of access for Government Records Access and Management requests for:~~]

[~~(i) local districts under Title 17B, Limited Purpose Local Government Entities - Local Districts; and~~]

[~~(ii) special service districts under Title 17D, Chapter 1, Special Service District Act;~~]

[~~(d) except as provided in Subsection (12)(a), provide link capabilities to other existing repositories of public information, including maps, photograph collections, legislatively required reports, election data, statute, rules, regulations, and local ordinances that exist on other agency and political subdivision websites;~~]

[~~(e) provide multiple download options in different formats, including nonproprietary, open formats where possible;~~]

[~~(f) provide any other public information that the board, under Subsection (10), identifies as appropriate for publication on the information website; and~~]

[~~(g) incorporate technical elements the board identifies as useful to a citizen using the information website.~~]

[~~(12) (a) The department, in consultation with the board, shall establish by rule any restrictions on the inclusion of maps and photographs, as described in Subsection (11)(d), on the website described in Subsection (10) if the inclusion would pose a potential security concern.~~]

[~~(b) The website described in Subsection (10) may not publish any record that is classified as private, protected, or controlled under Title 63G, Chapter 2, Government Records Access and Management Act.~~]

(9) The department shall provide staff support for the board.

Section 132. Section 63A-16-202 is enacted to read:

63A-16-202. (Codified as 63A-18-202) Utah Transparency Advisory Board -- Duties.

(1) (a) The board shall advise and assist:

(i) the state auditor regarding the Public Finance Website established by the state auditor in accordance with Section 67-3-12;

(ii) the Department of Technology Services regarding the Utah Open Data Portal Website created in Section 63F-1-108;

(iii) the Division of Archives and Records Service regarding:

(A) the Utah Open Records Portal Website created in Section 63A-12-114; and

(B) the Utah Public Notice Website created in Section 63A-12-201; and

(iv) the State Board of Education regarding the website required under Subsection 53E-5-211(1).

(b) In providing advice and assistance under Subsection (1)(a), the board may:

(i) develop recommendations on how to make public information more readily available to the public through a public information website;

(ii) develop standards to make uniform the format and accessibility of public information posted to a public information website; and

(iii) identify and prioritize public information that may be appropriate for publication on a public information website.

(2) In fulfilling the board's duties under Subsection (1), the board shall follow principles that encourage:

(a) the establishment of a standardized format of public information that makes the information posted to a public information website more easily accessible by the public;

(b) the removal of restrictions on the reuse of public information;

(c) balancing the following:

(i) factors in favor of excluding public information from a public information website; and

(ii) the public interest in having the public information accessible through a public information website;

(d) permanent, lasting, open access to public information;

(e) the bulk publication of public information;

(f) the implementation of well-designed public information systems that:

(i) ensure data quality;

(ii) create a public, comprehensive list or index of public information; and

(iii) define a process for continuous publication of public information, including updates to available public information;

(g) the identification of public information not currently available on a public information website and the implementation of a process, including a timeline and benchmarks, for making that public information available; and

(h) accountability on the part of the persons who create, maintain, manage, or store public information or post public information to a public information website.

Section 133. Section 63E-2-109 is amended to read:

63E-2-109. State statutes.

(1) Except as specifically modified in its authorizing statute, each independent corporation shall be exempt from the statutes governing state agencies, including:

(a) Title 51, Chapter 5, Funds Consolidation Act;

(b) Title 51, Chapter 7, State Money Management Act;

(c) [~~except as provided in Subsection (2),~~] Title 63A, Utah Administrative Services Code;

(d) Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(e) Title 63G, Chapter 4, Administrative Procedures Act;

(f) Title 63G, Chapter 6a, Utah Procurement Code;

(g) Title 63J, Chapter 1, Budgetary Procedures Act;

(h) Title 63J, Chapter 2, Revenue Procedures and Control Act; and

(i) Title 67, Chapter 19, Utah State Personnel Management Act.

(2) Except as specifically modified in its authorizing statute, each independent corporation shall be subject to:

(a) Title 52, Chapter 4, Open and Public Meetings Act;

(b) [~~Title 63A, Chapter 1, Part 2, Utah Public Finance Website~~] Section 67-3-12; and

(c) Title 63G, Chapter 2, Government Records Access and Management Act.

(3) Each independent corporation board may adopt its own policies and procedures governing its:

(a) funds management;

(b) audits; and

(c) personnel.

Section 134. Section 63F-1-108 is enacted to read:

63F-1-108. (Codified as 63A-16-107) Utah Open Data Portal Website.

(1) As used in this section:

(a) "Governmental entity" means the same as that term is defined in Section 63G-2-103.

(b) "Public information" means:

(i) a record of a state governmental entity, a local governmental entity, or an independent entity that is classified as public under Title 63G, Chapter 2, Government Records Access and Management Act; or

(ii) subject to any specific limitations and requirements regarding the provision of financial information from the entity under Section 67-3-12, for an entity that is exempt from Title 63G, Chapter 2, Government Records Access and Management Act, records that would normally be classified as public if the entity were not exempt from Title 63G, Chapter 2, Government Records Access and Management Act.

(c) "Private, controlled, or protected information" means information classified as private, controlled, or protected under Title 63G, Chapter 2, Government Records Access and Management Act.

(d) "Website" means the Utah Open Data Portal Website created in this section.

(2) There is created the Utah Open Data Portal Website to be administered by the department.

(3) The website shall serve as a point of access for public information.

(4) The department shall:

(a) establish and maintain the website, guided by the principles described in Subsection 63A-16-202(2);

(b) provide equipment, resources, and personnel as needed to establish and maintain the website;

(c) provide a mechanism for a governmental entity to gain access to the website for the purpose of posting and modifying public information; and

(d) maintain an archive of all public information posted to the website.

(5) The timing for posting and the content of the public information posted to the website is the responsibility of the governmental entity posting the public information.

(6) A governmental entity may not post private, controlled, or protected information to the website.

(7) A person who negligently discloses private, controlled, or protected information is not criminally or civilly liable for improper disclosure of the information if the information is disclosed solely

as a result of the preparation or publication of the website.

Section 135. Section 63G-4-107 is amended to read:

63G-4-107. Petition to remove agency action from public access.

(1) An individual may petition the agency that maintains, on a state-controlled website available to the public, a record of administrative disciplinary action, to remove the record of administrative disciplinary action from public access on the state-controlled website, if:

(a) (i) five years have passed since:

(A) the date the final order was issued; or

(B) if no final order was issued, the date the administrative disciplinary action was commenced; or

(ii) the individual has obtained a criminal expungement order under Title 77, Chapter 40, Utah Expungement Act, for the individual's criminal records related to the same incident or conviction upon which the administrative disciplinary action was based;

(b) the individual has successfully completed all action required by the agency relating to the administrative disciplinary action within the time frame set forth in the final order, or if no time frame is specified in the final order, within the time frame set forth in Title 63G, Chapter 4, Administrative Procedures Act;

(c) from the time that the original administrative disciplinary action was filed, the individual has not violated the same statutory provisions or administrative rules related to those statutory provisions that resulted in the original administrative disciplinary action; and

(d) the individual pays an application fee determined by the agency in accordance with Section 63J-1-504.

(2) The individual petitioning the agency under Subsection (1) shall provide the agency with a written request containing the following information:

(a) the petitioner's full name, address, telephone number, and date of birth;

(b) the information the petitioner seeks to remove from public access; and

(c) an affidavit certifying that the petitioner is in compliance with the provisions of Subsection (1).

(3) Within 30 days of receiving the documents and information described in Subsection (2):

(a) the agency shall review the petition and all documents submitted with the petition to determine whether the petitioner has met the requirements of Subsections (1) and (2); and

(b) if the agency determines that the petitioner has met the requirements of Subsections (1) and (2), the agency shall immediately remove the record of administrative disciplinary action from public access on the state-controlled website.

(4) Notwithstanding the provisions of Subsection (3), an agency is not required to remove a recording, written minutes, or other electronic information from the Utah Public Notice Website, created under Section [~~63F-1-701~~] 63A-12-201, if the recording, written minutes, or other electronic information is required to be available to the public on the Utah Public Notice Website under the provisions of Title 52, Chapter 4, Open and Public Meetings Act.

Section 136. Section 63G-9-303 is amended to read:

63G-9-303. Meeting to examine claims -- Notice of meeting.

(1) At least 60 days preceding the annual general session of the Legislature, the board shall hold a session for the purpose of examining the claims referred to in Section 63G-9-302, and may adjourn from time to time until the work is completed.

(2) The board shall cause notice of such meeting or meetings to be published on the Utah Public Notice Website created in Section [~~63F-1-701~~] 63A-12-201.

Section 137. Section 63H-1-701 is amended to read:

63H-1-701. Annual authority budget -- Fiscal year -- Public hearing required -- Auditor forms -- Requirement to file form.

(1) The authority shall prepare and its board adopt an annual budget of revenues and expenditures for the authority for each fiscal year.

(2) Each annual authority budget shall be adopted before June 30.

(3) The authority's fiscal year shall be the period from July 1 to the following June 30.

(4) (a) Before adopting an annual budget, the authority board shall hold a public hearing on the annual budget.

(b) The authority shall provide notice of the public hearing on the annual budget by publishing notice:

(i) at least once in a newspaper of general circulation within the state, one week before the public hearing; and

(ii) on the Utah Public Notice Website created in Section [~~63F-1-701~~] 63A-12-201, for at least one week immediately before the public hearing.

(c) The authority shall make the annual budget available for public inspection at least three days before the date of the public hearing.

(5) The state auditor shall prescribe the budget forms and the categories to be contained in each authority budget, including:

(a) revenues and expenditures for the budget year;

(b) legal fees; and

(c) administrative costs, including rent, supplies, and other materials, and salaries of authority personnel.

(6) (a) Within 30 days after adopting an annual budget, the authority board shall file a copy of the annual budget with the auditor of each county in which a project area of the authority is located, the State Tax Commission, the state auditor, the State Board of Education, and each taxing entity that levies a tax on property from which the authority collects property tax allocation.

(b) The requirement of Subsection (6)(a) to file a copy of the annual budget with the state as a taxing entity is met if the authority files a copy with the State Tax Commission and the state auditor.

Section 138. Section 63H-2-502 is amended to read:

63H-2-502. Annual authority budget -- Auditor forms -- Requirement to file form.

(1) (a) The authority shall prepare an annual budget of revenues and expenditures for the authority for each fiscal year.

(b) Before June 30 of each year and subject to the other provisions of this section, the board shall adopt an annual budget of revenues and expenditures of the authority for the immediately following fiscal year.

(2) (a) Before adopting an annual budget, the board shall hold a public hearing on the annual budget.

(b) Before holding the public hearing required by this Subsection (2), the board shall post notice of the public hearing on the Utah Public Notice Website created under Section [~~63F-1-701~~] 63A-12-201 no less than 14 days before the day on which the public hearing is to be held.

(3) The state auditor shall prescribe the budget forms and the categories to be contained in each annual budget of the authority, including:

(a) revenues and expenditures for the budget year;

(b) the outstanding bonds and related expenses;

(c) legal fees; and

(d) administrative costs, including:

(i) rent;

(ii) supplies;

(iii) other materials; and

(iv) salaries of authority personnel.

(4) Within 30 days after adopting an annual budget, the board shall file a copy of the annual budget with:

(a) the State Tax Commission; and

(b) the state auditor.

(5) (a) Subject to Subsection (5)(b), the board may by resolution amend an annual budget of the authority.

(b) The board may make an amendment of an annual budget that would increase total expenditures of the authority only after:

(i) holding a public hearing; and

(ii) before holding the public hearing required by this Subsection (5)(b), posting notice of the public hearing on the Utah Public Notice Website created under Section [~~63F-1-701~~] 63A-12-201 no less than 14 days before the day on which the public hearing is to be held.

(6) The authority may not make expenditures in excess of the total expenditures established in the annual budget as it is adopted or amended.

Section 139. Section 63H-4-108 is amended to read:

63H-4-108. Relation to certain acts -- Participation in Risk Management Fund.

(1) The authority is exempt from:

(a) Title 51, Chapter 5, Funds Consolidation Act;

(b) [~~except as provided in Subsection (2)(b),~~] Title 63A, Utah Administrative Services Code;

(c) Title 63J, Chapter 1, Budgetary Procedures Act; and

(d) Title 67, Chapter 19, Utah State Personnel Management Act.

(2) The authority is subject to:

(a) Title 52, Chapter 4, Open and Public Meetings Act;

(b) [~~Title 63A, Chapter 1, Part 2, Utah Public Finance Website~~] Section 67-3-12;

(c) Title 63G, Chapter 2, Government Records Access and Management Act; and

(d) Title 63G, Chapter 6a, Utah Procurement Code.

(3) The authority is subject to audit by the state auditor pursuant to Title 67, Chapter 3, Auditor, and by the legislative auditor general pursuant to Section 36-12-15.

(4) Subject to the requirements of Subsection 63E-1-304(2), the authority may participate in coverage under the Risk Management Fund created by Section 63A-4-201.

Section 140. Section 63H-5-108 is amended to read:

63H-5-108. Relation to certain acts.

(1) The authority is exempt from:

(a) Title 51, Chapter 5, Funds Consolidation Act;

(b) [~~except as provided in Subsection (2)(b),~~] Title 63A, Utah Administrative Services Code;

(c) Title 63J, Chapter 1, Budgetary Procedures Act; and

(d) Title 67, Chapter 19, Utah State Personnel Management Act.

(2) The authority is subject to:

(a) Title 52, Chapter 4, Open and Public Meetings Act;

(b) [~~Title 63A, Chapter 1, Part 2, Utah Public Finance Website~~] Section 67-3-12;

(c) Title 63G, Chapter 2, Government Records Access and Management Act;

(d) Title 63G, Chapter 6a, Utah Procurement Code; and

(e) audit by the state auditor pursuant to Title 67, Chapter 3, Auditor, and by the legislative auditor general pursuant to Section 36-12-15.

Section 141. Section 63H-6-103 is amended to read:

63H-6-103. Utah State Fair Corporation -- Legal status -- Powers.

(1) There is created an independent public nonprofit corporation known as the "Utah State Fair Corporation."

(2) The board shall file articles of incorporation for the corporation with the Division of Corporations and Commercial Code.

(3) The corporation, subject to this chapter, has all powers and authority permitted nonprofit corporations by law.

(4) The corporation shall:

(a) manage, supervise, and control:

(i) all activities relating to the annual exhibition described in Subsection (4)(j); and

(ii) except as otherwise provided by statute, all state expositions, including setting the time, place, and purpose of any state exposition;

(b) for public entertainment, displays, and exhibits or similar events:

(i) provide, sponsor, or arrange the events;

(ii) publicize and promote the events; and

(iii) secure funds to cover the cost of the exhibits from:

(A) private contributions;

(B) public appropriations;

(C) admission charges; and

(D) other lawful means;

(c) acquire and designate exposition sites;

(d) use generally accepted accounting principles in accounting for the corporation's assets, liabilities, and operations;

(e) seek corporate sponsorships for the state fair park or for individual buildings or facilities within the fair park;

(f) work with county and municipal governments, the Salt Lake Convention and Visitor's Bureau, the Utah Travel Council, and other entities to develop and promote expositions and the use of the state fair park;

(g) develop and maintain a marketing program to promote expositions and the use of the state fair park;

(h) in accordance with provisions of this part, operate and maintain the state fair park, including the physical appearance and structural integrity of the state fair park and the buildings located at the state fair park;

(i) prepare an economic development plan for the state fair park;

(j) hold an annual exhibition that:

(i) is called the state fair or a similar name;

(ii) promotes and highlights agriculture throughout the state;

(iii) includes expositions of livestock, poultry, agricultural, domestic science, horticultural, floricultural, mineral and industrial products, manufactured articles, and domestic animals that, in the corporation's opinion will best stimulate agricultural, industrial, artistic, and educational pursuits and the sharing of talents among the people of Utah;

(iv) includes the award of premiums for the best specimens of the exhibited articles and animals;

(v) permits competition by livestock exhibited by citizens of other states and territories of the United States; and

(vi) is arranged according to plans approved by the board;

(k) fix the conditions of entry to the annual exhibition described in Subsection (4)(j); and

(l) publish a list of premiums that will be awarded at the annual exhibition described in Subsection (4)(j) for the best specimens of exhibited articles and animals.

(5) In addition to the annual exhibition described in Subsection (4)(j), the corporation may hold other exhibitions of livestock, poultry, agricultural, domestic science, horticultural, floricultural, mineral and industrial products, manufactured articles, and domestic animals that, in the corporation's opinion, will best stimulate agricultural, industrial, artistic, and educational pursuits and the sharing of talents among the people of Utah.

(6) The corporation may:

(a) employ advisers, consultants, and agents, including financial experts and independent legal counsel, and fix their compensation;

(b) (i) participate in the state's Risk Management Fund created under Section 63A-4-201; or

(ii) procure insurance against any loss in connection with the corporation's property and other assets, including mortgage loans;

(c) receive and accept aid or contributions of money, property, labor, or other things of value from any source, including any grants or appropriations from any department, agency, or instrumentality of the United States or Utah;

(d) hold, use, loan, grant, and apply that aid and those contributions to carry out the purposes of the corporation, subject to the conditions, if any, upon which the aid and contributions were made;

(e) enter into management agreements with any person or entity for the performance of the corporation's functions or powers;

(f) establish whatever accounts and procedures as necessary to budget, receive, and disburse, account for, and audit all funds received, appropriated, or generated;

(g) subject to Subsection (8), lease any of the facilities at the state fair park;

(h) sponsor events as approved by the board; and

(i) enter into one or more agreements to develop the state fair park.

(7) (a) Except as provided in Subsection (7)(c), as an independent agency of Utah, the corporation is exempt from:

(i) Title 51, Chapter 5, Funds Consolidation Act;

(ii) Title 51, Chapter 7, State Money Management Act;

(iii) Title 63A, Utah Administrative Services Code;

(iv) Title 63J, Chapter 1, Budgetary Procedures Act; and

(v) Title 67, Chapter 19, Utah State Personnel Management Act.

(b) The board shall adopt policies parallel to and consistent with:

(i) Title 51, Chapter 5, Funds Consolidation Act;

(ii) Title 51, Chapter 7, State Money Management Act;

(iii) Title 63A, Utah Administrative Services Code; and

(iv) Title 63J, Chapter 1, Budgetary Procedures Act.

(c) The corporation shall comply with:

(i) Title 52, Chapter 4, Open and Public Meetings Act;

(ii) Title 63G, Chapter 2, Government Records Access and Management Act;

(iii) the provisions of [~~Title 63A, Chapter 1, Part 2, Utah Public Finance Website~~] Section 67-3-12;

(iv) Title 63G, Chapter 6a, Utah Procurement Code, except for a procurement for:

(A) entertainment provided at the state fair park;

(B) judges for competitive exhibits; or

(C) sponsorship of an event at the state fair park; and

(v) the legislative approval requirements for new facilities established in Section 63A-5b-404.

(8) (a) Before the corporation executes a lease described in Subsection (6)(g) with a term of 10 or more years, the corporation shall:

(i) submit the proposed lease to the State Building Board for the State Building Board's approval or rejection; and

(ii) if the State Building Board approves the proposed lease, submit the proposed lease to the Executive Appropriations Committee for the Executive Appropriation Committee's review and recommendation in accordance with Subsection (8)(b).

(b) The Executive Appropriations Committee shall review a proposed lease submitted in accordance with Subsection (8)(a) and recommend to the corporation that the corporation:

(i) execute the proposed sublease; or

(ii) reject the proposed sublease.

Section 142. Section 63H-7a-104 is amended to read:

63H-7a-104. Relation to certain acts.

(1) The authority is exempt from:

(a) Title 51, Chapter 5, Funds Consolidation Act;

(b) [~~except as provided in Subsection (2)(b),~~] Title 63A, Utah Administrative Services Code;

(c) Title 63J, Chapter 1, Budgetary Procedures Act; and

(d) Title 67, Chapter 19, Utah State Personnel Management Act.

(2) The authority is subject to:

(a) Title 52, Chapter 4, Open and Public Meetings Act;

(b) [~~Title 63A, Chapter 1, Part 2, Utah Public Finance Website~~] Section 67-3-12;

(c) Title 63G, Chapter 2, Government Records Access and Management Act; and

(d) Title 63G, Chapter 6a, Utah Procurement Code.

Section 143. Section 63H-7a-803 is amended to read:

63H-7a-803. Relation to certain acts -- Participation in Risk Management Fund.

(1) The Utah Communications Authority is exempt from:

(a) except as provided in Subsection (3), Title 63A, Utah Administrative Services Code;

(b) Title 63G, Chapter 4, Administrative Procedures Act; and

(c) Title 67, Chapter 19, Utah State Personnel Management Act.

(2) (a) The board shall adopt budgetary procedures, accounting, and personnel and human resource policies substantially similar to those from which they have been exempted in Subsection (1).

(b) The authority, the board, and the committee members are subject to Title 67, Chapter 16, Utah Public Officers' and Employees' Ethics Act.

(c) The authority is subject to Title 52, Chapter 4, Open and Public Meetings Act.

(d) The authority is subject to Title 63G, Chapter 6a, Utah Procurement Code.

(e) The authority is subject to Title 63J, Chapter 1, Budgetary Procedures Act, only with respect to money appropriated to the authority by the Legislature.

(3) (a) Subject to the requirements of Subsection 63E-1-304(2), the administration may participate in coverage under the Risk Management Fund created by Section 63A-4-201.

(b) The authority is subject to [~~Title 63A, Chapter 1, Part 2, Utah Public Finance Website~~] Section 67-3-12.

Section 144. Section 63H-8-204 is amended to read:

63H-8-204. Relation to certain acts.

(1) The corporation is exempt from:

(a) Title 51, Chapter 5, Funds Consolidation Act;

(b) Title 51, Chapter 7, State Money Management Act;

(c) [~~except as provided in Subsection (2),~~] Title 63A, Utah Administrative Services Code;

(d) Title 63G, Chapter 6a, Utah Procurement Code;

(e) Title 63J, Chapter 1, Budgetary Procedures Act;

(f) Title 63J, Chapter 2, Revenue Procedures and Control Act; and

(g) Title 67, Chapter 19, Utah State Personnel Management Act.

(2) The corporation shall comply with:

(a) Title 52, Chapter 4, Open and Public Meetings Act;

(b) [~~Title 63A, Chapter 1, Part 2, Utah Public Finance Website~~] Section 67-3-12; and

(c) Title 63G, Chapter 2, Government Records Access and Management Act.

Section 145. Section 63I-1-263 is amended to read:

63I-1-263. Repeal dates, Titles 63A to 63N.

(1) In relation to the Utah Transparency Advisory Board, on January 1, 2025:

[~~(a) Subsection 63A-1-201(1) is repealed;~~]

[~~(b) Subsection 63A-1-202(2)(c), the language "using criteria established by the board" is repealed;~~]

[~~(c) Section 63A-1-203 is repealed;~~]

[~~(d) Subsections 63A-1-204(1) and (2), the language "After consultation with the board, and" is repealed; and~~]

[~~(e) Subsection 63A-1-204(1)(b), the language "using the standards provided in Subsection 63A-1-203(3)(c)" is repealed.~~]

(a) Section 63A-16-102 is repealed;

(b) Section 63A-16-201 is repealed; and

(c) Section 63A-16-202 is repealed.

(2) Subsection 63A-5b-405(5), relating to prioritizing and allocating capital improvement funding, is repealed July 1, 2024.

(3) Section 63A-5b-1003, State Facility Energy Efficiency Fund, is repealed July 1, 2023.

(4) Sections 63A-9-301 and 63A-9-302, related to the Motor Vehicle Review Committee, are repealed July 1, 2023.

(5) Title 63C, Chapter 4a, Constitutional and Federalism Defense Act, is repealed July 1, 2028.

(6) Title 63C, Chapter 6, Utah Seismic Safety Commission, is repealed January 1, 2025.

(7) Title 63C, Chapter 12, Snake Valley Aquifer Advisory Council, is repealed July 1, 2024.

(8) Title 63C, Chapter 17, Point of the Mountain Development Commission Act, is repealed July 1, 2021.

(9) Title 63C, Chapter 18, Behavioral Health Crisis Response Commission, is repealed July 1, 2023.

(10) Title 63C, Chapter 21, Outdoor Adventure Commission, is repealed July 1, 2025.

(11) Title 63F, Chapter 2, Data Security Management Council, is repealed July 1, 2025.

(12) Section 63G-6a-805, which creates the Purchasing from Persons with Disabilities Advisory Board, is repealed July 1, 2026.

(13) Title 63G, Chapter 21, Agreements to Provide State Services, is repealed July 1, 2025.

(14) Title 63H, Chapter 4, Heber Valley Historic Railroad Authority, is repealed July 1, 2024.

(15) Title 63H, Chapter 8, Utah Housing Corporation Act, is repealed July 1, 2026.

(16) Subsection 63J-1-602.1(14), Nurse Home Visiting Restricted Account is repealed July 1, 2026.

(17) (a) Subsection 63J-1-602.1(58), relating to the Utah Statewide Radio System Restricted Account, is repealed July 1, 2022.

(b) When repealing Subsection 63J-1-602.1(58), the Office of Legislative Research and General

Counsel shall, in addition to the office's authority under Subsection 36-12-12(3), make necessary changes to subsection numbering and cross references.

(18) Subsection 63J-1-602.2(4), referring to dedicated credits to the Utah Marriage Commission, is repealed July 1, 2023.

(19) Subsection 63J-1-602.2(5), referring to the Trip Reduction Program, is repealed July 1, 2022.

(20) Subsection 63J-1-602.2(25), related to the Utah Seismic Safety Commission, is repealed January 1, 2025.

(21) Title 63J, Chapter 4, Part 5, Resource Development Coordinating Committee, is repealed July 1, 2027.

(22) Subsection 63J-4-608(3), which creates the Federal Land Application Advisory Committee, is repealed on July 1, 2021.

(23) In relation to the Utah Substance Use and Mental Health Advisory Council, on January 1, 2023:

(a) Sections 63M-7-301, 63M-7-302, 63M-7-303, 63M-7-304, and 63M-7-306 are repealed;

(b) Section 63M-7-305, the language that states "council" is replaced with "commission";

(c) Subsection 63M-7-305(1) is repealed and replaced with:

"(1) "Commission" means the Commission on Criminal and Juvenile Justice."; and

(d) Subsection 63M-7-305(2) is repealed and replaced with:

"(2) The commission shall:

(a) provide ongoing oversight of the implementation, functions, and evaluation of the Drug-Related Offenses Reform Act; and

(b) coordinate the implementation of Section 77-18-1.1 and related provisions in Subsections 77-18-1(5)(b)(iii) and (iv).".

(24) The Crime Victim Reparations and Assistance Board, created in Section 63M-7-504, is repealed July 1, 2027.

(25) Title 63M, Chapter 7, Part 6, Utah Council on Victims of Crime, is repealed July 1, 2022.

(26) Title 63M, Chapter 11, Utah Commission on Aging, is repealed July 1, 2021.

(27) Subsection 63N-1-301(4)(c), related to the Talent Ready Utah Board, is repealed January 1, 2023.

(28) Title 63N, Chapter 1, Part 5, Governor's Economic Development Coordinating Council, is repealed July 1, 2024.

(29) Title 63N, Chapter 2, Part 2, Enterprise Zone Act, is repealed July 1, 2028.

(30) Section 63N-2-512 is repealed July 1, 2021.

(31) (a) Title 63N, Chapter 2, Part 6, Utah Small Business Jobs Act, is repealed January 1, 2021.

(b) Section 59-9-107 regarding tax credits against premium taxes is repealed for calendar years beginning on or after January 1, 2021.

(c) Notwithstanding Subsection (31)(b), an entity may carry forward a tax credit in accordance with Section 59-9-107 if:

(i) the person is entitled to a tax credit under Section 59-9-107 on or before December 31, 2020; and

(ii) the qualified equity investment that is the basis of the tax credit is certified under Section 63N-2-603 on or before December 31, 2023.

(32) Subsections 63N-3-109(2)(e) and 63N-3-109(2)(f)(i) are repealed July 1, 2023.

(33) Title 63N, Chapter 4, Part 4, Rural Employment Expansion Program, is repealed July 1, 2023.

(34) Title 63N, Chapter 7, Part 1, Board of Tourism Development, is repealed July 1, 2025.

(35) Title 63N, Chapter 9, Part 2, Outdoor Recreational Infrastructure Grant Program, is repealed January 1, 2023.

(36) Title 63N, Chapter 12, Part 5, Talent Ready Utah Center, is repealed January 1, 2023.

Section 146. Section 63I-2-263 is amended to read:

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

[~~(1) On July 1, 2020:~~]

[~~(a) Subsection 63A-1-203(5)(a)(i) is repealed; and~~]

[~~(b) in Subsection 63A-1-203(5)(a)(ii), the language that states "appointed on or after May 8, 2018," is repealed.~~]

[~~(2)~~] (1) Section 63A-3-111 is repealed June 30, 2021.

[~~(3)~~] (2) Title 63C, Chapter 19, Higher Education Strategic Planning Commission is repealed July 1, 2021.

[~~(4)~~] (3) Title 63C, Chapter 22, Digital Wellness, Citizenship, and Safe Technology Commission is repealed July 1, 2023.

[~~(5)~~] (4) The following sections regarding the World War II Memorial Commission are repealed on July 1, 2022:

(a) Section 63G-1-801;

(b) Section 63G-1-802;

(c) Section 63G-1-803; and

(d) Section 63G-1-804.

[~~(6)~~] (5) Subsections 63G-6a-802(1)(d) and 63G-6a-802(3)(b)(iii), regarding a procurement relating to a vice presidential debate, are repealed January 1, 2021.

[~~(7)~~] (6) In relation to the State Fair Park Committee, on January 1, 2021:

(a) Section 63H-6-104.5 is repealed; and

(b) Subsections 63H-6-104(8) and (9) are repealed.

[~~(8)~~] (7) Section 63H-7a-303 is repealed July 1, 2024.

[~~(9)~~] (8) Subsection 63J-1-206(3)(c), relating to coronavirus, is repealed July 1, 2021.

[~~(10)~~] (9) In relation to the Employability to Careers Program Board, on July 1, 2022:

(a) Subsection 63J-1-602.1(57) is repealed;

(b) Subsection 63J-4-301(1)(h), related to the review of data and metrics, is repealed; and

(c) Title 63J, Chapter 4, Part 7, Employability to Careers Program, is repealed.

[~~(11)~~] (10) Title 63M, Chapter 4, Part 8, Voluntary Home Energy Information Pilot Program Act, is repealed January 1, 2022.

[~~(12)~~] (11) Sections 63M-7-213 and 63M-7-213.5 are repealed on January 1, 2023.

[~~(13)~~] (12) Subsection 63N-12-508(3) is repealed December 31, 2021.

[~~(14)~~] (13) Title 63N, Chapter 13, Part 3, Facilitating Public-Private Partnerships Act, is repealed January 1, 2024.

[~~(15)~~] (14) Title 63N, Chapter 15, COVID-19 Economic Recovery Programs, is repealed December 31, 2021.

Section 147. Section 63M-4-402 is amended to read:

63M-4-402. In-state generator need -- Merchant electric transmission line.

(1) As used in this section:

(a) "Capacity allocation process" means the process outlined by the Federal Energy Regulatory Commission in its final policy statement dated January 17, 2013, "Allocation of Capacity on New Merchant Transmission Projects and New Cost-Based, Participant-Funded Transmission Projects, Priority Rights to New Participant-Funded Transmission," 142 F.E.R.C. P61,038 (2013).

(b) "Certificate of in-state need" means a certificate issued by the office in accordance with this section identifying an in-state generator that meets the requirements and qualifications of this section.

(c) "Expression of need" means a document prepared and submitted to the office by an in-state merchant generator that describes or otherwise documents the transmission needs of the in-state merchant generator in conformance with the requirements of this section.

(d) "In-state merchant generator" means an electric power provider that generates power in Utah and does not provide service to retail customers within the boundaries of Utah.

(e) "Merchant electric transmission line" means a transmission line that does not provide electricity to retail customers within the boundaries of Utah.

(f) "Office" means the Office of Energy Development established in Section 63M-4-401.

(g) "Open solicitation notice" means a document prepared and submitted to the office by a merchant electric transmission line regarding the commencement of the line's open solicitation in compliance with 142 F.E.R.C. P61,038 (2013).

(2) As part of the capacity allocation process, a merchant electric transmission line shall file an open solicitation notice with the office containing a description of the merchant electric transmission line, including:

(a) the proposed capacity;

(b) the location of potential interconnection for in-state merchant generators;

(c) the planned date for commencement of construction; and

(d) the planned commercial operations date.

(3) Upon receipt of the open solicitation notice, the office shall:

(a) publish the notice on the Utah Public Notice Website created under Section [~~63F-1-701~~] 63A-12-201;

(b) include in the notice contact information; and

(c) provide the deadline date for submission of an expression of need.

(4) (a) In response to the open solicitation notice published by the office, and no later than 30 days after publication of the notice, an in-state merchant generator may submit an expression of need to the office.

(b) An expression of need submitted under Subsection (4)(a) shall include:

(i) a description of the in-state merchant generator; and

(ii) a schedule of transmission capacity requirement provided in megawatts, by point of receipt and point of delivery and by operating year.

(5) No later than 60 days after notice is published under Subsection (3), the office shall prepare a certificate of in-state need identifying the in-state merchant generators.

(6) Within five days of preparing the certificate of in-state need, the office shall:

(a) publish the certificate on the Utah Public Notice Website created under Section [~~63F-1-701~~] 63A-12-201; and

(b) provide the certificate to the merchant electric transmission line for consideration in the capacity allocation process.

(7) The merchant electric transmission line shall:

(a) provide the Federal Energy Regulatory Commission with a copy of the certificate of in-state need; and

(b) certify that the certificate is being provided to the Federal Energy Regulatory Commission in accordance with the requirements of this section, including a citation to this section.

(8) At the conclusion of the capacity allocation process, and unless prohibited by a contractual obligation of confidentiality, the merchant electric transmission line shall report to the office whether a merchant in-state generator reflected on the certificate of in-state need has entered into a transmission service agreement with the merchant electric transmission line.

(9) This section may not be interpreted to:

(a) create an obligation of a merchant electric transmission line to pay for, or construct any portion of, the transmission line on behalf of an in-state merchant generator; or

(b) preempt, supersede, or otherwise conflict with Federal Energy Regulatory Commission rules and regulations applicable to a commercial transmission agreement, including agreements, or terms of agreements, as to cost, terms, transmission capacity, or key rates.

(10) Subsections (2) through (9) do not apply to a project entity as defined in Section 11-13-103.

Section 148. Section 67-1-2.5 is amended to read:

67-1-2.5. Executive boards -- Database -- Governor's review of new boards.

(1) As used in this section:

(a) "Administrator" means the boards and commissions administrator designated under Subsection (3).

(b) "Executive board" means an executive branch board, commission, council, committee, working group, task force, study group, advisory group, or other body:

(i) with a defined limited membership;

(ii) that is created by the constitution, by statute, by executive order, by the governor, lieutenant governor, attorney general, state auditor, or state treasurer or by the head of a department, division, or other administrative subunit of the executive branch of state government; and

(iii) that is created to operate for more than six months.

(2) (a) Except as provided in Subsection (2)(c), before August 1 of the calendar year following the year in which a new executive board is created in statute, the governor shall:

(i) review the executive board to evaluate:

(A) whether the executive board accomplishes a substantial governmental interest; and

(B) whether it is necessary for the executive board to remain in statute;

(ii) in the governor's review described in Subsection (2)(a)(i), consider:

(A) the funding required for the executive board;

(B) the staffing resources required for the executive board;

(C) the time members of the executive board are required to commit to serve on the executive board; and

(D) whether the responsibilities of the executive board could reasonably be accomplished through an existing entity or without statutory direction; and

(iii) submit a report to the Government Operations Interim Committee recommending that the Legislature:

(A) repeal the executive board;

(B) add a sunset provision or future repeal date to the executive board;

(C) make other changes to make the executive board more efficient; or

(D) make no changes to the executive board.

(b) In conducting the evaluation described in Subsection (2)(a), the governor shall give deference to:

(i) reducing the size of government; and

(ii) making governmental programs more efficient and effective.

(c) The governor is not required to conduct the review or submit the report described in Subsection (2)(a) for an executive board that is scheduled for repeal under Title 63I, Chapter 1, Legislative Oversight and Sunset Act, or Title 63I, Chapter 2, Repeal Dates by Title Act.

(3) (a) The governor shall designate a board and commissions administrator from the governor's staff to maintain a computerized database containing information about all executive boards.

(b) The administrator shall ensure that the database contains:

(i) the name of each executive board;

(ii) the current statutory or constitutional authority for the creation of the executive board;

(iii) the sunset date on which each executive board's statutory authority expires;

(iv) the state officer or department and division of state government under whose jurisdiction the executive board operates or with which the executive board is affiliated, if any;

(v) the name, address, gender, telephone number, and county of each individual currently serving on the executive board, along with a notation of all vacant or unfilled positions;

(vi) the title of the position held by the person who appointed each member of the executive board;

(vii) the length of the term to which each member of the executive board was appointed and the month and year that each executive board member's term expires;

(viii) whether members appointed to the executive board require the advice and consent of the Senate;

(ix) the organization, interest group, profession, local government entity, or geographic area that an individual appointed to an executive board represents, if any;

(x) the party affiliation of an individual appointed to an executive board, if the statute or executive order creating the position requires representation from political parties;

(xi) whether each executive board is a policy board or an advisory board;

(xii) whether the executive board has or exercises rulemaking authority, or is a rulemaking board as defined in Section 63G-24-102; and

(xiii) any compensation and expense reimbursement that members of the executive board are authorized to receive.

(4) The administrator shall ensure the governor's website includes:

(a) the information contained in the database, except for an individual's:

(i) physical address;

(ii) email address; and

(iii) telephone number;

(b) a portal, accessible on each executive board's web page within the governor's website, through which a member of the public may provide input on:

(i) an individual appointed to serve on the executive board; or

(ii) a sitting member of the executive board;

(c) each report the administrator receives under Subsection (5); and

(d) the summary report described in Subsection (6).

(5) (a) Before August 1, once every five years, beginning in calendar year 2024, each executive board shall prepare and submit to the administrator a report that includes:

(i) the name of the executive board;

(ii) a description of the executive board's official function and purpose;

(iii) a description of the actions taken by the executive board since the last report the executive board submitted to the administrator under this Subsection (5);

(iv) recommendations on whether any statutory, rule, or other changes are needed to make the executive board more effective; and

(v) an indication of whether the executive board should continue to exist.

(b) The administrator shall compile and post the reports described in Subsection (5)(a) to the governor's website before September 1 of a calendar year in which the administrator receives a report described in Subsection (5)(a).

(6) (a) Before September 1 of a calendar year in which the administrator receives a report described in Subsection (5)(a), the administrator shall prepare a report that includes:

(i) as of July 1 of that year, the total number of executive boards that exist;

(ii) a summary of the reports submitted to the administrator under Subsection (5), including:

(A) a list of each executive board that submitted a report under Subsection (5);

(B) a list of each executive board that did not submit a report under Subsection (5);

(C) an indication of any recommendations made under Subsection (5)(a)(iv); and

(D) a list of any executive boards that indicated under Subsection (5)(a)(v) that the executive board should no longer exist; and

(iii) a list of each executive board, identified and reported by the Division of Archives and Record Services under Section [~~63F-1-701~~] 63A-12-201, that did not post a notice of a public meeting on the [~~public notice website~~] Utah Public Notice Website during the previous fiscal year.

(b) On or before September 1 of a calendar year in which the administrator prepares a report described in Subsection (6)(a), in accordance with Section 68-3-14, the administrator shall submit the report to:

(i) the president of the Senate;

(ii) the speaker of the House of Representatives; and

(iii) the Government Operations Interim Committee.

Section 149. Section 67-3-1 is amended to read:

67-3-1. Functions and duties.

(1) (a) The state auditor is the auditor of public accounts and is independent of any executive or administrative officers of the state.

(b) The state auditor is not limited in the selection of personnel or in the determination of the reasonable and necessary expenses of the state auditor's office.

(2) The state auditor shall examine and certify annually in respect to each fiscal year, financial statements showing:

(a) the condition of the state's finances;

(b) the revenues received or accrued;

(c) expenditures paid or accrued;

(d) the amount of unexpended or unencumbered balances of the appropriations to the agencies, departments, divisions, commissions, and institutions; and

(e) the cash balances of the funds in the custody of the state treasurer.

(3) (a) The state auditor shall:

(i) audit each permanent fund, each special fund, the General Fund, and the accounts of any department of state government or any independent agency or public corporation as the law requires, as the auditor determines is necessary, or upon request of the governor or the Legislature;

(ii) perform the audits in accordance with generally accepted auditing standards and other auditing procedures as promulgated by recognized authoritative bodies;

(iii) as the auditor determines is necessary, conduct the audits to determine:

(A) honesty and integrity in fiscal affairs;

(B) accuracy and reliability of financial statements;

(C) effectiveness and adequacy of financial controls; and

(D) compliance with the law.

(b) If any state entity receives federal funding, the state auditor shall ensure that the audit is performed in accordance with federal audit requirements.

(c) (i) The costs of the federal compliance portion of the audit may be paid from an appropriation to the state auditor from the General Fund.

(ii) If an appropriation is not provided, or if the federal government does not specifically provide for payment of audit costs, the costs of the federal compliance portions of the audit shall be allocated on the basis of the percentage that each state entity's federal funding bears to the total federal funds received by the state.

(iii) The allocation shall be adjusted to reflect any reduced audit time required to audit funds passed through the state to local governments and to reflect any reduction in audit time obtained through the use of internal auditors working under the direction of the state auditor.

(4) (a) Except as provided in Subsection (4)(b), the state auditor shall, in addition to financial audits, and as the auditor determines is necessary, conduct performance and special purpose audits, examinations, and reviews of any entity that receives public funds, including a determination of any or all of the following:

(i) the honesty and integrity of all its fiscal affairs;

(ii) whether [~~or not its~~] the entity's administrators have faithfully complied with legislative intent;

(iii) whether [~~or not its~~] the entity's operations have been conducted in an efficient, effective, and cost-efficient manner;

(iv) whether [~~or not its~~] the entity's programs have been effective in accomplishing the intended objectives; and

(v) whether [~~or not its~~] the entity's management, control, and information systems are adequate, effective, and secure.

(b) The auditor may not conduct performance and special purpose audits, examinations, and reviews of any entity that receives public funds if the entity:

(i) has an elected auditor; and

(ii) has, within the entity's last budget year, had [~~its~~] the entity's financial statements or performance formally reviewed by another outside auditor.

(5) The state auditor shall administer any oath or affirmation necessary to the performance of the duties of the auditor's office, and may subpoena witnesses and documents, whether electronic or otherwise, and examine into any matter that the auditor considers necessary.

(6) The state auditor may require all persons who have had the disposition or management of any property of this state or its political subdivisions to submit statements regarding it at the time and in the form that the auditor requires.

(7) The state auditor shall:

(a) except where otherwise provided by law, institute suits in Salt Lake County in relation to the assessment, collection, and payment of its revenues against:

(i) persons who by any means have become entrusted with public money or property and have failed to pay over or deliver the money or property; and

(ii) all debtors of the state;

(b) collect and pay into the state treasury all fees received by the state auditor;

(c) perform the duties of a member of all boards of which the state auditor is a member by the constitution or laws of the state, and any other duties that are prescribed by the constitution and by law;

(d) stop the payment of the salary of any state official or state employee who:

(i) refuses to settle accounts or provide required statements about the custody and disposition of public funds or other state property;

(ii) refuses, neglects, or ignores the instruction of the state auditor or any controlling board or department head with respect to the manner of keeping prescribed accounts or funds; or

(iii) fails to correct any delinquencies, improper procedures, and errors brought to the official's or employee's attention;

(e) establish accounting systems, methods, and forms for public accounts in all taxing or

fee-assessing units of the state in the interest of uniformity, efficiency, and economy;

(f) superintend the contractual auditing of all state accounts;

(g) subject to Subsection (8)(a), withhold state allocated funds or the disbursement of property taxes from a state or local taxing or fee-assessing unit, if necessary, to ensure that officials and employees in those taxing units comply with state laws and procedures in the budgeting, expenditures, and financial reporting of public funds;

(h) subject to Subsection (9), withhold the disbursement of tax money from any county, if necessary, to ensure that officials and employees in the county comply with Section 59-2-303.1; and

(i) withhold state allocated funds or the disbursement of property taxes from a local government entity or a limited purpose entity, as those terms are defined in Section 67-1a-15 if the state auditor finds the withholding necessary to ensure that the entity registers and maintains the entity's registration with the lieutenant governor, in accordance with Section 67-1a-15.

(8) (a) Except as otherwise provided by law, the state auditor may not withhold funds under Subsection (7)(g) until a state or local taxing or fee-assessing unit has received formal written notice of noncompliance from the auditor and has been given 60 days to make the specified corrections.

(b) If, after receiving notice under Subsection (8)(a), a state or independent local fee-assessing unit that exclusively assesses fees has not made corrections to comply with state laws and procedures in the budgeting, expenditures, and financial reporting of public funds, the state auditor:

(i) shall provide a recommended timeline for corrective actions; [~~and~~]

(ii) may prohibit the state or local fee-assessing unit from accessing money held by the state; and

(iii) may prohibit a state or local fee-assessing unit from accessing money held in an account of a financial institution by filing an action in district court requesting an order of the court to prohibit a financial institution from providing the fee-assessing unit access to an account.

(c) The state auditor shall remove a limitation on accessing funds under Subsection (8)(b) upon compliance with state laws and procedures in the budgeting, expenditures, and financial reporting of public funds.

(d) If a local taxing or fee-assessing unit has not adopted a budget in compliance with state law, the state auditor:

(i) shall provide notice to the taxing or fee-assessing unit of the unit's failure to comply;

(ii) may prohibit the taxing or fee-assessing unit from accessing money held by the state; and

(iii) may prohibit a taxing or fee-assessing unit from accessing money held in an account of a financial institution by:

(A) contacting the taxing or fee-assessing unit's financial institution and requesting that the institution prohibit access to the account; or

(B) filing an action in district court requesting an order of the court to prohibit a financial institution from providing the taxing or fee-assessing unit access to an account.

(e) If the local taxing or fee-assessing unit adopts a budget in compliance with state law, the state auditor shall eliminate a limitation on accessing funds described in Subsection (8)(d).

(9) The state auditor may not withhold funds under Subsection (7)(h) until a county has received formal written notice of noncompliance from the auditor and has been given 60 days to make the specified corrections.

(10) (a) The state auditor may not withhold funds under Subsection (7)(i) until the state auditor receives a notice of non-registration, as that term is defined in Section 67-1a-15.

(b) If the state auditor receives a notice of non-registration, the state auditor may prohibit the local government entity or limited purpose entity, as those terms are defined in Section 67-1a-15, from accessing:

(i) money held by the state; and

(ii) money held in an account of a financial institution by:

(A) contacting the entity's financial institution and requesting that the institution prohibit access to the account; or

(B) filing an action in district court requesting an order of the court to prohibit a financial institution from providing the entity access to an account.

(c) The state auditor shall remove the prohibition on accessing funds described in Subsection (10)(b) if the state auditor received a notice of registration, as that term is defined in Section 67-1a-15, from the lieutenant governor.

(11) Notwithstanding Subsection (7)(g), (7)(h), (7)(i), (8)(b), (8)(d), or (10)(b), the state auditor:

(a) shall authorize a disbursement by a local government entity or limited purpose entity, as those terms are defined in Section 67-1a-15, or a state or local taxing or fee-assessing unit if the disbursement is necessary to:

(i) avoid a major disruption in the operations of the local government entity, limited purpose entity, or state or local taxing or fee-assessing unit; or

(ii) meet debt service obligations; and

(b) may authorize a disbursement by a local government entity, limited purpose entity, or state or local taxing or fee-assessing unit as the state auditor determines is appropriate.

(12) (a) The state auditor may seek relief under the Utah Rules of Civil Procedure to take temporary

custody of public funds if an action is necessary to protect public funds from being improperly diverted from their intended public purpose.

(b) If the state auditor seeks relief under Subsection (12)(a):

(i) the state auditor is not required to exhaust the procedures in Subsection (7) or (8); and

(ii) the state treasurer may hold the public funds in accordance with Section 67-4-1 if a court orders the public funds to be protected from improper diversion from their public purpose.

(13) The state auditor shall:

(a) establish audit guidelines and procedures for audits of local mental health and substance abuse authorities and their contract providers, conducted pursuant to Title 17, Chapter 43, Part 2, Local Substance Abuse Authorities, Title 17, Chapter 43, Part 3, Local Mental Health Authorities, Title 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal Organizations, and Other Local Entities Act, and Title 62A, Chapter 15, Substance Abuse and Mental Health Act; and

(b) ensure that those guidelines and procedures provide assurances to the state that:

(i) state and federal funds appropriated to local mental health authorities are used for mental health purposes;

(ii) a private provider under an annual or otherwise ongoing contract to provide comprehensive mental health programs or services for a local mental health authority is in compliance with state and local contract requirements, and state and federal law;

(iii) state and federal funds appropriated to local substance abuse authorities are used for substance abuse programs and services; and

(iv) a private provider under an annual or otherwise ongoing contract to provide comprehensive substance abuse programs or services for a local substance abuse authority is in compliance with state and local contract requirements, and state and federal law.

(14) The state auditor may, in accordance with the auditor's responsibilities for political subdivisions of the state as provided in Title 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal Organizations, and Other Local Entities Act, initiate audits or investigations of any political subdivision that are necessary to determine honesty and integrity in fiscal affairs, accuracy and reliability of financial statements, effectiveness, and adequacy of financial controls and compliance with the law.

(15) (a) The state auditor may not audit work that the state auditor performed before becoming state auditor.

(b) If the state auditor has previously been a responsible official in state government whose work has not yet been audited, the Legislature shall:

(i) designate how that work shall be audited; and

(ii) provide additional funding for those audits, if necessary.

(16) The state auditor shall:

(a) with the assistance, advice, and recommendations of an advisory committee appointed by the state auditor from among local district boards of trustees, officers, and employees and special service district boards, officers, and employees:

(i) prepare a Uniform Accounting Manual for Local Districts that:

(A) prescribes a uniform system of accounting and uniform budgeting and reporting procedures for local districts under Title 17B, Limited Purpose Local Government Entities - Local Districts, and special service districts under Title 17D, Chapter 1, Special Service District Act;

(B) conforms with generally accepted accounting principles; and

(C) prescribes reasonable exceptions and modifications for smaller districts to the uniform system of accounting, budgeting, and reporting;

(ii) maintain the manual under this Subsection (16)(a) so that it continues to reflect generally accepted accounting principles;

(iii) conduct a continuing review and modification of procedures in order to improve them;

(iv) prepare and supply each district with suitable budget and reporting forms; and

(v) (A) prepare instructional materials, conduct training programs, and render other services considered necessary to assist local districts and special service districts in implementing the uniform accounting, budgeting, and reporting procedures; and

(B) ensure that any training described in Subsection (16)(a)(v)(A) complies with Title 63G, Chapter 22, State Training and Certification Requirements; and

(b) continually analyze and evaluate the accounting, budgeting, and reporting practices and experiences of specific local districts and special service districts selected by the state auditor and make the information available to all districts.

(17) (a) The following records in the custody or control of the state auditor are protected records under Title 63G, Chapter 2, Government Records Access and Management Act:

(i) records that would disclose information relating to allegations of personal misconduct, gross mismanagement, or illegal activity of a past or present governmental employee if the information or allegation cannot be corroborated by the state auditor through other documents or evidence, and the records relating to the allegation are not relied upon by the state auditor in preparing a final audit report;

(ii) records and audit workpapers to the extent they would disclose the identity of a person who

during the course of an audit, communicated the existence of any waste of public funds, property, or manpower, or a violation or suspected violation of a law, rule, or regulation adopted under the laws of this state, a political subdivision of the state, or any recognized entity of the United States, if the information was disclosed on the condition that the identity of the person be protected;

(iii) before an audit is completed and the final audit report is released, records or drafts circulated to a person who is not an employee or head of a governmental entity for their response or information;

(iv) records that would disclose an outline or part of any audit survey plans or audit program; and

(v) requests for audits, if disclosure would risk circumvention of an audit.

(b) The provisions of Subsections (17)(a)(i), (ii), and (iii) do not prohibit the disclosure of records or information that relate to a violation of the law by a governmental entity or employee to a government prosecutor or peace officer.

(c) The provisions of this Subsection (17) do not limit the authority otherwise given to the state auditor to classify a document as public, private, controlled, or protected under Title 63G, Chapter 2, Government Records Access and Management Act.

(d) (i) As used in this Subsection (17)(d), "record dispute" means a dispute between the state auditor and the subject of an audit performed by the state auditor as to whether the state auditor may release a record, as defined in Section 63G-2-103, to the public that the state auditor gained access to in the course of the state auditor's audit but which the subject of the audit claims is not subject to disclosure under Title 63G, Chapter 2, Government Records Access and Management Act.

(ii) The state auditor may submit a record dispute to the State Records Committee, created in Section 63G-2-501, for a determination of whether the state auditor may, in conjunction with the state auditor's release of an audit report, release to the public the record that is the subject of the record dispute.

(iii) The state auditor or the subject of the audit may seek judicial review of a State Records Committee determination under Subsection (17)(d)(ii), as provided in Section 63G-2-404.

(18) If the state auditor conducts an audit of an entity that the state auditor has previously audited and finds that the entity has not implemented a recommendation made by the state auditor in a previous audit, the state auditor shall notify the Legislative Management Committee through its audit subcommittee that the entity has not implemented that recommendation.

(19) The state auditor shall report, or ensure that another government entity reports, on the financial, operational, and performance metrics for the state system of higher education and the state system of public education, including metrics in relation to students, programs, and schools within those systems.

Section 150. Section 67-3-12, which is renumbered from Section 63A-1-202 is renumbered and amended to read:

[~~63A-1-202~~]. 67-3-12. Utah Public Finance Website -- Establishment and administration -- Records disclosure -- Exceptions.

[~~(1) There is created the Utah Public Finance Website to be administered by the state auditor.~~]

(1) As used in this section:

(a) (i) Subject to Subsections (1)(a)(ii) and (iii), "independent entity" means the same as that term is defined in Section 63E-1-102.

(ii) "Independent entity" includes an entity that is part of an independent entity described in Subsection (1)(a)(i), if the entity is considered a component unit of the independent entity under the governmental accounting standards issued by the Governmental Accounting Standards Board.

(iii) "Independent entity" does not include the Utah State Retirement Office created in Section 49-11-201.

(b) "Local education agency" means a school district or charter school.

(c) "Participating local entity" means:

(i) a county;

(ii) a municipality;

(iii) a local district under Title 17B, Limited Purpose Local Government Entities - Local Districts;

(iv) a special service district under Title 17D, Chapter 1, Special Service District Act;

(v) a housing authority under Title 35A, Chapter 8, Part 4, Housing Authorities;

(vi) a public transit district under Title 17B, Chapter 2a, Part 8, Public Transit District Act;

(vii) except for a taxed interlocal entity as defined in Section 11-13-602:

(A) an interlocal entity as defined in Section 11-13-103;

(B) a joint or cooperative undertaking as defined in Section 11-13-103; or

(C) any project, program, or undertaking entered into by interlocal agreement in accordance with Title 11, Chapter 13, Interlocal Cooperation Act;

(viii) except for a taxed interlocal entity as defined in Section 11-13-602, an entity that is part of an entity described in Subsections (1)(c)(i) through (vii), if the entity is considered a component unit of the entity described in Subsections (1)(c)(i) through (vii) under the governmental accounting standards issued by the Governmental Accounting Standards Board; or

(ix) a conservation district under Title 17D, Chapter 3, Conservation District Act.

(d) (i) "Participating state entity" means the state of Utah, including its executive, legislative, and judicial branches, its departments, divisions, agencies, boards, commissions, councils, committees, and institutions.

(ii) "Participating state entity" includes an entity that is part of an entity described in Subsection (1)(d)(i), if the entity is considered a component unit of the entity described in Subsection (1)(d)(i) under the governmental accounting standards issued by the Governmental Accounting Standards Board.

(e) "Public finance website" or "website" means the website established by the state auditor in accordance with this section.

(f) "Public financial information" means each record that is required under this section or by rule made by the Office of the State Auditor under Subsection (8) to be made available on the public finance website, a participating local entity's website, or an independent entity's website.

(g) "Qualifying entity" means:

(i) an independent entity;

(ii) a participating local entity;

(iii) a participating state entity;

(iv) a local education agency;

(v) a state institution of higher education as defined in Section 53B-3-102;

(vi) the Utah Educational Savings Plan created in Section 58B-8a-103;

(vii) the Utah Housing Corporation created in Section 63H-8-201;

(viii) the School and Institutional Trust Lands Administration created in Section 53C-1-201; or

(ix) the Utah Capital Investment Corporation created in Section 63N-6-301.

(2) The state auditor shall establish and maintain a public finance website in accordance with this section.

[~~(2)~~] (3) The [~~Utah Public Finance Website~~] website shall:

(a) permit Utah taxpayers to:

(i) view, understand, and track the use of taxpayer dollars by making public financial information available on the Internet for participating state entities, independent entities, and participating local entities, using the [~~Utah Public Finance Website~~] website; and

(ii) link to websites administered by participating local entities or independent entities that do not use the [Utah Public Finance Website] website for the purpose of providing participating local entities' or independent entities' public financial information as required by this part and by rule made under [~~Section 63A-1-204~~] Subsection (8);

(b) allow a person who has Internet access to use the website without paying a fee;

(c) allow the public to search public financial information on the [~~Utah Public Finance Website using criteria established by the board~~] website;

(d) provide access to financial reports, financial audits, budgets, or other financial documents that are used to allocate, appropriate, spend, and account for government funds, as may be established by rule made under [~~Section 63A-1-204~~] Subsection (8);

(e) have a unique and simplified website address;

(f) be [~~directly accessible via a link from the main page of the official state website~~] guided by the principles described in Subsection 63A-16-202(2);

(g) include other links, features, or functionality that will assist the public in obtaining and reviewing public financial information, as may be established by rule made under [~~Section 63A-1-204~~] Subsection (8); and

(h) include a link to school report cards published on the State Board of Education's website under Section 53E-5-211.

[~~(3) (a)~~] (4) The state auditor shall:

[~~(i)~~] (a) establish and maintain the website, including the provision of equipment, resources, and personnel as necessary;

[~~(ii)~~] (b) maintain an archive of all information posted to the website;

[~~(iii)~~] (c) coordinate and process the receipt and posting of public financial information from participating state entities; and

[~~(iv)~~] (d) coordinate and regulate the posting of public financial information by participating local entities and independent entities.

[~~(b) The department shall provide staff support for the advisory committee.~~]

[~~(4) (a) A participating state entity and each independent entity shall permit the public to view the entity's public financial information via the website, beginning with information that is generated not later than the fiscal year that begins July 1, 2008, except that public financial information for an:~~]

[~~(i) institution of higher education shall be provided beginning with information generated for the fiscal year beginning July 1, 2009; and~~]

[~~(ii) independent entity shall be provided beginning with information generated for the entity's fiscal year beginning in 2014.~~]

[~~(b) No later than May 15, 2009, the website shall:~~]

[~~(i) be operational; and~~]

[~~(ii) permit public access to participating state entities' public financial information, except as provided in Subsections (4)(c) and (d).~~]

[~~(c) An institution of higher education that is a participating state entity shall submit the entity's~~

~~public financial information at a time allowing for inclusion on the website no later than May 15, 2010.~~]

[~~(d) No later than the first full quarter after July 1, 2014, an independent entity shall submit the entity's public financial information for inclusion on the Utah Public Finance Website or via a link to its own website on the Utah Public Finance Website.~~]

[~~(5) (a) The Utah Educational Savings Plan, created in Section 53B-8a-103, shall provide the following financial information to the state auditor for posting on the Utah Public Finance Website:~~]

[~~(i) administrative fund expense transactions from its general ledger accounting system; and~~]

[~~(ii) employee compensation information.~~]

[~~(b) The plan is not required to submit other financial information to the state auditor, including:~~]

[~~(i) revenue transactions;~~]

[~~(ii) account owner transactions; and~~]

[~~(iii) fiduciary or commercial information, as defined in Section 53B-12-102.~~]

[~~(6) (a) The following independent entities shall each provide administrative expense transactions from its general ledger accounting system and employee compensation information to the state auditor for posting on the Utah Public Finance Website or via a link to a website administered by the independent entity:~~]

[~~(i) the Utah Housing Corporation, created in Section 63H-8-201; and~~]

[~~(ii) the School and Institutional Trust Lands Administration, created in Section 53C-1-201.~~]

[~~(b) The Utah Capital Investment Corporation, an independent entity created in Section 63N-6-301, shall provide the following information to the division for posting on the Utah Public Finance Website or via a link to a website administered by the independent entity for each fiscal year ending on or after June 30, 2015:~~]

[~~(i) aggregate compensation information for full-time and part-time employees, including benefit information;~~]

[~~(ii) aggregate business travel expenses;~~]

[~~(iii) aggregate expenses related to the Utah Capital Investment Corporation's allocation manager; and~~]

[~~(iv) aggregate administrative, operating, and finance costs.~~]

[~~(c) For purposes of this part, an independent entity described in Subsection (6)(a) or (b) is not required to submit to the state auditor, or provide a link to, other financial information, including:~~]

[~~(i) revenue transactions of a fund or account created in its enabling statute;~~]

[~~(ii) fiduciary or commercial information related to any subject if the disclosure of the information:~~]

[~~(A) would conflict with fiduciary obligations; or~~]

[~~(B) is prohibited by insider trading provisions;~~]

[~~(iii) information of a commercial nature, including information related to:~~]

[~~(A) account owners, borrowers, and dependents;~~]

[~~(B) demographic data;~~]

[~~(C) contracts and related payments;~~]

[~~(D) negotiations;~~]

[~~(E) proposals or bids;~~]

[~~(F) investments;~~]

[~~(G) the investment and management of funds;~~]

[~~(H) fees and charges;~~]

[~~(I) plan and program design;~~]

[~~(J) investment options and underlying investments offered to account owners;~~]

[~~(K) marketing and outreach efforts;~~]

[~~(L) lending criteria;~~]

[~~(M) the structure and terms of bonding; and~~]

[~~(N) financial plans or strategies; and~~]

[~~(iv) information protected from public disclosure by federal law.~~]

[~~(7) (a) As used in this Subsection (7):~~]

[~~(i) "Local education agency" means a school district or a charter school.~~]

[~~(ii) "New school building project" means:~~]

[~~(A) the construction of a school or school facility that did not previously exist in a local education agency; or~~]

[~~(B) the lease or purchase of an existing building, by a local education agency, to be used as a school or school facility.~~]

[~~(iii) "School facility" means a facility, including a pool, theater, stadium, or maintenance building, that is built, leased, acquired, or remodeled by a local education agency regardless of whether the facility is open to the public.~~]

[~~(iv) "Significant school remodel" means a construction project undertaken by a local education agency with a project cost equal to or greater than $2,000,000, including:~~]

[~~(A) the upgrading, changing, alteration, refurbishment, modification, or complete substitution of an existing school or school facility in a local education agency; or~~]

[~~(B) the addition of a school facility.~~]

[~~(b) For each new school building project or significant school remodel, the local education agency shall:~~]

[~~(i) prepare an annual school plant capital outlay report; and~~]

[~~(ii) submit the report:~~]

[~~(A) to the state auditor for publication on the Utah Public Finance Website; and~~]

[~~(B) in a format, including any raw data or electronic formatting, prescribed by applicable policy established by the state auditor.~~]

[~~(c) The local education agency shall include in the capital outlay report described in Subsection (7)(b)(i) the following information as applicable to each new school building project or significant school remodel:~~]

[~~(i) the name and location of the new school building project or significant school remodel;~~]

[~~(ii) construction and design costs, including:~~]

[~~(A) the purchase price or lease terms of any real property acquired or leased for the project or remodel;~~]

[~~(B) facility construction;~~]

[~~(C) facility and landscape design;~~]

[~~(D) applicable impact fees; and~~]

[~~(E) furnishings and equipment;~~]

[~~(iii) the gross square footage of the project or remodel;~~]

[~~(iv) the year construction was completed; and~~]

[~~(v) the final student capacity of the new school building project or, for a significant school remodel, the increase or decrease in student capacity created by the remodel.~~]

[~~(d) (i) For a cost, fee, or other expense required to be reported under Subsection (7)(c), the local education agency shall report the actual cost, fee, or other expense.~~]

[~~(ii) The state auditor may require that a local education agency provide further itemized data on information listed in Subsection (7)(c).~~]

[~~(e) (i) No later than May 15, 2015, a local education agency shall provide the state auditor a school plant capital outlay report for each new school building project and significant school remodel completed on or after July 1, 2004, and before May 13, 2014.~~]

[~~(ii) For a new school building project or significant school remodel completed after May 13, 2014, the local education agency shall provide the school plant capital outlay report described in this Subsection (7) to the state auditor annually by a date designated by the state auditor.~~]

(5) A qualifying entity shall permit the public to view the qualifying entity's public financial information by posting the public financial information to the public finance website in accordance with rules made under Subsection (8).

(6) The content of the public financial information posted to the public finance website is the responsibility of the qualifying entity posting the public financial information.

[~~(8)~~] (7) (a) A qualifying entity may not post financial information that is classified as private, controlled, or protected under Title 63G, Chapter 2, Government Records Access and Management Act, to the public finance website.

(b) A person who negligently discloses [~~a record~~] financial information that is classified as private, protected, or controlled by Title 63G, Chapter 2, Government Records Access and Management Act, is not criminally or civilly liable for an improper disclosure of the [~~record~~] financial information if the [~~record~~] financial information is disclosed solely as a result of the preparation or publication of the [~~Utah Public Finance Website~~] website.

(8) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the Office of the State Auditor:

(a) shall make rules to:

(i) establish which records a qualifying entity is required to post to the public finance website; and

(ii) establish procedures for obtaining, submitting, reporting, storing, and posting public financial information on the public finance website; and

(b) may make rules governing when a qualifying entity is required to disclose an expenditure made by a person under contract with the qualifying entity, including the form and content of the disclosure.

Section 151. Section 72-3-108 is amended to read:

72-3-108. County roads -- Vacation and narrowing.

(1) A county may, by ordinance, vacate, narrow, or change the name of a county road without petition or after petition by a property owner.

(2) A county may not vacate a county road unless notice of the hearing is:

(a) published:

(i) in a newspaper of general circulation in the county once a week for four consecutive weeks before the hearing; and

(ii) on the Utah Public Notice Website created in Section [~~63F-1-701~~] 63A-12-201, for four weeks before the hearing; and

(b) posted in three public places for four consecutive weeks prior to the hearing; and

(c) mailed to the department and all owners of property abutting the county road.

(3) The right-of-way and easements, if any, of a property owner and the franchise rights of any public utility may not be impaired by vacating or narrowing a county road.

(4) Except as provided in Section 72-5-305, if a county vacates a county road, the state's

right-of-way interest in the county road is also vacated.

Section 152. Section 72-5-105 is amended to read:

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

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

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

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

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

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

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

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

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

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

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

(A) accepted by the highway authority; and

(B) formalized by a federal permit or a written agreement between the federal authority or other person and the highway authority;

(ii) when a state or local highway authority determines that correction or mitigation of injury to private or public land resources is necessary on or near a class B or D road or portion of a class B or D road; or

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

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

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

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

(f) A temporary closure authorized under Subsection (3)(c)(ii) shall:

(i) be authorized annually; and

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

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

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

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

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

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

(i) publishing the notice:

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

(B) on the Utah Public Notice Website created in Section [~~63F-1-701~~] 63A-12-201, for four weeks before the hearing; or

(ii) posting the notice in three public places for at least four consecutive weeks before the hearing.

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

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

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

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

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

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

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

Section 153. Section 73-1-16 is amended to read:

73-1-16. Petition for hearing to determine validity -- Notice -- Service -- Pleading -- Costs -- Review.

Where any water users' association, irrigation company, canal company, ditch company, reservoir company, or other corporation of like character or purpose, organized under the laws of this state has entered into or proposes to enter into a contract with the United States for the payment by such association or company of the construction and other charges of a federal reclamation project constructed, under construction, or to be constructed within this state, and where funds for the payment of such charges are to be obtained from assessments levied upon the stock of such association or company, or where a lien is created or will be created against any of the land, property, canals, water rights or other assets of such association or company or against the land, property, canals, water rights or other assets of any stockholder of such association or company to secure the payment of construction or other charges of a reclamation project, the water users' association, irrigation company, canal company, ditch company, reservoir company or other corporation of like character or purpose may file in the district court of the county wherein is situated the office of such association or company a petition entitled "..... Water Users' Association" or "..... Company," as the case may be, "against the stockholders of said association or company and the owners and mortgagees of land within the ..... Federal Reclamation Project." No other or more specific description of the defendants shall be required. In the petition it may be stated that the water users' association, irrigation company, canal company, ditch company, reservoir company or other corporation of like character and purpose has entered into or proposes to enter into a contract with the United States, to be set out in full in said petition, with a prayer that the court find said contract to be valid, and a modification of any individual contracts between the United States and the stockholders of such association or company, or between the association or company, and its stockholders, so far as such individual contracts are at variance with the contract or proposed contract between the association or company and the United States.

Thereupon a notice in the nature of a summons shall issue under the hand and seal of the clerk of said court, stating in brief outline the contents of said petition, and showing where a full copy of said contract or proposed contract may be examined, such notice to be directed to the said defendants under the same general designations, which shall be considered sufficient to give the court jurisdiction of all matters involved and parties interested. Service shall be obtained (a) by publication of such notice once a week for three consecutive weeks (three times) in a newspaper published in each county where the irrigable land of such federal reclamation project is situated, (b) as required in Section 45-1-101 for three weeks, (c) by publishing the notice on the Utah Public Notice Website created in Section [~~63F-1-701~~] 63A-12-201, for three weeks prior to the date of the hearing, and (d) by the posting at least three weeks prior to the date of the hearing on said petition of the notice and a complete copy of the said contract or proposed contract in the office of the plaintiff association or company, and at three other public places within the boundaries of such federal reclamation project. Any stockholder in the plaintiff association or company, or owner, or mortgagee of land within said federal reclamation project affected by the contract proposed to be made by such association or company, may demur to or answer said petition before the date set for such hearing or within such further time as may be allowed therefor by the court. The failure of any persons affected by the said contract to answer or demur shall be construed, so far as such persons are concerned as an acknowledgment of the validity of said contract and as a consent to the modification of said individual contracts if any with such association or company or with the United States, to the extent that such modification is required to cause the said individual contracts if any to conform to the terms of the contract or proposed contract between the plaintiff and the United States. All persons filing demurrers or answers shall be entered as defendants in said cause and their defense consolidated for hearing or trial. Upon hearing the court shall examine all matters and things in controversy and shall enter judgment and decree as the case warrants, showing how and to what extent, if any, the said individual contracts of the defendants or under which they claim are

modified by the plaintiff's contract or proposed contract with the United States. In reaching his conclusion in such causes, the court shall follow a liberal interpretation of the laws, and shall disregard informalities or omissions not affecting the substantial rights of the parties, unless it is affirmatively shown that such informalities or omissions led to a different result than would have been obtained otherwise. The Code of Civil Procedure shall govern matters of pleading and practice as nearly as may be. Costs may be assessed or apportioned among contesting parties in the discretion of the trial court. Review of the judgment of the district court by the Supreme Court may be had as in other civil causes.

Section 154. Section 73-5-14 is amended to read:

73-5-14. Determination by the state engineer of watershed to which particular source is tributary -- Publications of notice and result -- Hearing -- Judicial review.

(1) The state engineer may determine for administrative and distribution purposes the watershed to which any particular stream or source of water is tributary.

(2) A determination under Subsection (1) may be made only after publication of notice to the water users.

(3) Publication of notice under Subsection (2) shall be made:

(a) in a newspaper or newspapers having general circulation in every county in the state in which any rights might be affected, once each week for five consecutive weeks;

(b) in accordance with Section 45-1-101 for five weeks; and

(c) on the Utah Public Notice Website created in Section [~~63F-1-701~~] 63A-12-201, for five weeks.

(4) The state engineer shall fix the date and place of hearing and at the hearing any water user shall be given an opportunity to appear and adduce evidence material to the determination of the question involved.

(5) (a) The state engineer shall publish the result of the determination as provided in Subsections (3)(a) and (b), and the notice of the decision of the state engineer shall notify the public that any person aggrieved by the decision may appeal the decision as provided by Section 73-3-14.

(b) The notice under Subsection (5)(a) shall be considered to have been given so as to start the time for appeal upon completion of the publication of notice.

Section 155. Section 75-1-401 is amended to read:

75-1-401. Notice -- Method and time of giving.

(1) If notice of a hearing on any petition is required and except for specific notice requirements as otherwise provided, the petitioner shall cause notice of the time and place of hearing of any petition to be given to any interested person or the person's attorney if the person has appeared by attorney or requested that notice be sent to the person's attorney. Notice shall be given by the clerk posting a copy of the notice for the 10 consecutive days immediately preceding the time set for the hearing in at least three public places in the county, one of which must be at the courthouse of the county and:

(a) (i) by the clerk mailing a copy thereof at least 10 days before the time set for the hearing by certified, registered, or ordinary first class mail addressed to the person being notified at the post-office address given in the demand for notice, if any, or at the person's office or place of residence, if known; or

(ii) by delivering a copy thereof to the person being notified personally at least 10 days before the time set for the hearing; and

(b) if the address, or identity of any person is not known and cannot be ascertained with reasonable diligence, by publishing:

(i) at least once a week for three consecutive weeks a copy thereof in a newspaper having general circulation in the county where the hearing is to be held, the last publication of which is to be at least 10 days before the time set for the hearing; and

(ii) on the Utah Public Notice Website created in Section [~~63F-1-701~~] 63A-12-201, for three weeks.

(2) The court for good cause shown may provide for a different method or time of giving notice for any hearing.

(3) Proof of the giving of notice shall be made on or before the hearing and filed in the proceeding.

Section 156. Repealer.

This bill repeals:

Section 63A-1-201, Definitions.

Section 63A-1-204, Rulemaking authority.

Section 63A-1-205, Participation by local entities.

Section 63A-1-206, Submission of public financial information by a school district or charter school.

CHAPTER 85
H. B. 33
Passed February 12, 2021
Approved March 16, 2021
Effective May 5, 2021

COMMUNITY CORRECTIONAL CENTER AMENDMENTS

Chief Sponsor: Calvin R. Musselman
Senate Sponsor: David G. Buxton
Cosponsors: Matthew H. Gwynn
Kelly B. Miles
Mike Schultz
Steve Waldrip
Ryan D. Wilcox

LONG TITLE

General Description:

This bill addresses the use of community correctional centers.

Highlighted Provisions:

This bill:

- defines terms;
- provides for the calculation of the community supervision percentage;
- exempts behavioral health transition facilities from community correctional centers;
- makes conforming amendments related to a cap; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

64-13-1, as last amended by Laws of Utah 2016, Chapter 243
64-13f-102, as enacted by Laws of Utah 2018, Chapter 194
64-13f-103, as enacted by Laws of Utah 2018, Chapter 194

ENACTS:

64-13f-102.5, Utah Code Annotated 1953

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

Section 1. Section 64-13-1 is amended to read:

64-13-1. Definitions.

As used in this chapter:

(1) "Behavioral health transition facility" means a nonsecure correctional facility operated by the department for the purpose of providing a therapeutic environment for offenders receiving mental health services.

[~~(1)~~] (2) "Case action plan" means a document developed by the Department of Corrections that identifies the program priorities for the treatment of the offender, including the criminal risk factors as determined by a risk and needs assessment conducted by the department.

[~~(2)~~] (3) "Community correctional center" means a nonsecure correctional facility operated by the department, but does not include a behavioral health transition facility for the purposes of Section 64-13f-103.

[~~(3)~~] (4) "Correctional facility" means any facility operated to house offenders, either in a secure or nonsecure setting:

(a) by the department; or

(b) under a contract with the department.

[~~(4)~~] (5) "Criminal risk factors" means a person's characteristics and behaviors that:

(a) affect that person's risk of engaging in criminal behavior; and

(b) are diminished when addressed by effective treatment, supervision, and other support resources, resulting in a reduced risk of criminal behavior.

[~~(5)~~] (6) "Department" means the Department of Corrections.

[~~(6)~~] (7) "Emergency" means any riot, disturbance, homicide, inmate violence occurring in any correctional facility, or any situation that presents immediate danger to the safety, security, and control of the department.

[~~(7)~~] (8) "Executive director" means the executive director of the Department of Corrections.

[~~(8)~~] (9) "Inmate" means any person who is committed to the custody of the department and who is housed at a correctional facility or at a county jail at the request of the department.

[~~(9)~~] (10) "Offender" means any person who has been convicted of a crime for which he may be committed to the custody of the department and is at least one of the following:

(a) committed to the custody of the department;

(b) on probation; or

(c) on parole.

[~~(10)~~] (11) "Risk and needs assessment" means an actuarial tool validated on criminal offenders that determines:

(a) an individual's risk of reoffending; and

(b) the criminal risk factors that, when addressed, reduce the individual's risk of reoffending.

[~~(11)~~] (12) "Secure correctional facility" means any prison, penitentiary, or other institution operated by the department or under contract for the confinement of offenders, where force may be used to restrain them if they attempt to leave the institution without authorization.

Section 2. Section 64-13f-102 is amended to read:

64-13f-102. Definitions.

As used in this chapter:

[~~(1) "Base percentage" means the population of a county or county zone as a percentage of the state~~

~~population on June 30, 2023, and June 30 of every fifth subsequent year, determined using:~~]

[~~(a) the most recent United States decennial or special census; or~~]

[~~(b) another method used by the United States or state governments.~~]

[~~(2)~~] (1) "Cap" means [~~the base~~] no more than 20% above the community supervision percentage multiplied by the [~~total number of offenders housed in community correctional centers throughout the state on June 30, 2023, and June 30 of every fifth subsequent year~~] community correctional center projection.

[~~(3)~~] (2) "Community correctional center" means the same as that term is defined in Subsection 64-13-1[~~(2)~~](3).

(3) "Community correctional center projection" means the daily average number of offenders projected to be supervised in the community by the department in the next fiscal year multiplied by the percentage of offenders supervised in the community that are also housed in a community correctional center on June 30 of the previous fiscal year.

(4) "Community supervision percentage" means the percentage calculated by dividing the total number of offenders supervised in the community by the department in each county or county zone by the total number of offenders supervised in the community by the department on June 30, 2024, and on June 30 of every fifth subsequent year.

[~~(4)~~] (5) "County zone" means the eastern zone, northern zone, or western zone.

[~~(5)~~] (6) "Department" means the Department of Corrections.

[~~(6)~~] (7) (a) "Eastern zone" means, except as provided in Subsection [~~(6)~~] (7)(b), Carbon, Daggett, Duchesne, Emery, Grand, San Juan, and Uintah counties.

(b) A county with a population of 150,000 or more on the date the [~~base~~] community supervision percentage is determined is not part of the eastern zone.

[~~(7)~~] (8) (a) "Northern zone" means, except as provided in Subsection [~~(7)~~] (8)(b), Box Elder, Cache, Morgan, Rich, Summit, and Wasatch counties.

(b) A county with a population of 150,000 or more on the date the [~~base~~] community supervision percentage is determined is not part of the northern zone.

[~~(8)~~] (9) "Offender" means the same as that term is defined in Subsection 64-13-1[~~(9)~~](10).

[~~(9)~~] (10) (a) "Western zone" means, except as provided in Subsection [~~(9)~~] (10)(b), Beaver, Garfield, Tooele, Iron, Juab, Kane, Millard, Piute, Sanpete, Sevier, and Wayne counties.

(b) A county with a population of 150,000 or more on the date the [~~base~~] community supervision percentage is determined is not part of the western zone.

Section 3. Section 64-13f-102.5 is enacted to read:

64-13f-102.5. Calculation of the community supervision percentage.

In calculating the community supervision percentage, the department shall:

(1) determine the county or county zone in which an offender is supervised by identifying the location of the offender's primary offense;

(2) have sole discretion in identifying the offender's primary offense under Subsection (1), taking into account the severity of the crimes for which the offender has been convicted and sentenced; and

(3) only include an offender on probation or parole supervision with the department in the community supervision percentage calculation.

Section 4. Section 64-13f-103 is amended to read:

64-13f-103. Establishment of community correctional centers -- Cap -- Rulemaking.

(1) Subject to appropriation by the Legislature, the department may:

(a) establish community correctional centers throughout the state in accordance with this section;

(b) project the number of offenders that may be released to community correctional centers throughout the state by September 1, 2023, and September 1 of every fifth subsequent year; and

(c) establish, by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, a procedure to allocate offenders to community correctional centers consistent with Subsections (2) and (3) and based on the number of offenders projected by the department to be released to community correctional centers under Subsection (1)(b).

(2) Except as provided in Subsection (3), after June 30, 2023, the total number of offenders housed in one or more community correctional centers within a county or county zone may not exceed the county or county zone's cap by more than 20%.

(3) (a) A county or county zone that exceeds the cap described in Subsection (2) on July 1, 2023, may continue to exceed the cap until the day on which the county or county zone first comes into compliance with the cap.

(b) A county or county zone described in Subsection (3)(a) may not exceed the cap after the day on which the county or county zone first comes into compliance with the cap [~~described in Subsection (2)~~].

(c) The department shall transfer offenders from a community correctional center in a county or

county zone described in Subsection (3)(a) to a community correctional center in another county or county zone that does not meet or exceed the cap [~~described in Subsection (2)~~] until the county or county zone described in Subsection (3)(a) comes into compliance with the cap.

CHAPTER 86
H. B. 38
Passed March 5, 2021
Approved March 16, 2021
Effective May 5, 2021

SCHOOL TECHNOLOGY AMENDMENTS

Chief Sponsor: Travis M. Seegmiller
Senate Sponsor: Todd D. Weiler

LONG TITLE

General Description:

This bill requires digital resources, provided by UETN to Utah's public schools, to block obscene or pornographic material.

Highlighted Provisions:

This bill:

- defines terms;
- requires a digital resource provider to ensure that the digital resource provider's products used in public schools block "obscene or pornographic material";
- provides that a digital resource provider's failure to comply with this bill after receiving notice is a breach of contract;
- requires UETN to enter into contracts with digital resource providers that comply with the provisions of this bill; and
- imposes a reporting requirement.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53B-17-101.5, as enacted by Laws of Utah 2014, Chapter 63

ENACTS:

53B-17-109, Utah Code Annotated 1953

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

Section 1. Section 53B-17-101.5 is amended to read:

53B-17-101.5. Definitions.

As used in this part:

(1) "Board" means the Utah Education and Telehealth Network Board.

(2) "Education Advisory Council" means the Utah Education Network Advisory Council created in Section 53B-17-107.

(3) "Digital resource" means a digital or online library resource, including a database.

(4) "Digital resource provider" means an entity that offers a digital resource to customers for license or sale.

(5) "Obscene or pornographic material" means material that:

(a) an average person, applying contemporary community standards, finds that, taken as a whole, appeals to prurient interest in sex;

(b) is patently offensive in the description or depiction of nudity, sexual conduct, sexual excitement, sadomasochistic abuse, or excretion; and

(c) taken as a whole does not have serious literary, artistic, political, or scientific value.

[~~(3)~~] (6) "Telehealth" means the electronic transfer, exchange, or management of related data for diagnosis, treatment, and consultation, and educational, public health, or other related purposes.

[~~(4)~~] (7) "Telehealth Advisory Council" means the Utah Telehealth Advisory Council created in Section 53B-17-106.

[~~(5)~~] (8) "Utah Education and Telehealth Network," or "UETN," means a consortium and partnership between public and higher education, the Utah Department of Health, and health care providers, that is created in Section 53B-17-105.

Section 2. Section 53B-17-109 is enacted to read:

53B-17-109. Digital resource standards.

(1) A digital resource purchased or licensed by UETN and offered to students in public schools must have safety policies and technology protection measures that:

(a) prohibit and prevent a public school student using the resource from sending, receiving, viewing, or downloading obscene or pornographic material; and

(b) filter or block access to obscene or pornographic material.

(2) (a) Regardless of any contract provision to the contrary, if UETN discovers a digital resource does not meet the requirements described in Subsection (1), UETN:

(i) shall notify the digital resource provider; and

(ii) may withhold future payments pending the digital resource provider's compliance with Subsection (1).

(b) A digital resource provider is in breach of contract if the digital resource provider fails to verify compliance with Subsection (1) within 90 days after the day on which UETN provides the notice described in Subsection (2)(a)(i).

(c) Beginning June 1, 2021, a contract UETN enters into for a digital resource shall contain provisions that comply with this section.

(3) Before November 30 of each year, UETN shall submit a report to the Education Interim Committee detailing all instances of a digital resource provider's failure to comply with the provisions of this section.

CHAPTER 87
H. B. 45
Passed March 5, 2021
Approved March 16, 2021
Effective May 5, 2021

RADON STUDY

Chief Sponsor: Keven J. Stratton
Senate Sponsor: Scott D. Sandall

LONG TITLE

General Description:

This bill requires the Department of Natural Resources to study and make recommendations regarding radon gas.

Highlighted Provisions:

This bill:

- defines terms; and
- requires the Department of Natural Resources to study and make recommendations to the Natural Resources, Agriculture, and Environment Interim Committee on:
  - ways to increase public awareness about the risks of radon gas; and
  - ways to mitigate Utah residents' exposure to radon.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

79-2-405, Utah Code Annotated 1953

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

Section 1. Section 79-2-405 is enacted to read:

79-2-405. Radon study.

(1) As used in this section:

(a) "Committee" means the Natural Resources, Agriculture, and Environment Interim Committee.

(b) "Department" means the Department of Natural Resources.

(2) The department shall study and make recommendations to the committee on:

(a) ways to increase public education and outreach regarding the risks of radon gas, consistent with best available science and taking into account divergent scientific views; and

(b) ways to mitigate Utah residents' exposure to radon based on a scientifically sound cost benefit analysis.

(3) The department may recommend legislation to the committee.

(4) As part of the study described in Subsection (2), the department shall consult with public and private individuals and entities that may be necessary or helpful to accomplishing the goals described in Subsection (2), which may include:

(a) the Utah Department of Environmental Quality;

(b) the Utah Department of Health;

(c) an individual or entity that possesses expertise in the field of radon testing and mitigation;

(d) an individual or entity that represents the real estate field;

(e) an individual or entity that represents the construction industry;

(f) an individual or entity that represents a local health department;

(g) the state geologist or another individual or entity that possesses expertise in geology; or

(h) a non-profit entity that is engaged in radon gas education or mitigation efforts.

(5) (a) The department shall provide a report on the status of the department's study during or before the November interim meeting in 2021.

(b) The department shall provide a final report of the department's study and recommendations, including any recommended legislation, during or before the first interim meeting in 2022.

CHAPTER 88
H. B. 47
Passed February 17, 2021
Approved March 16, 2021
Effective May 5, 2021

DUI REVISIONS

Chief Sponsor: Steve Eliason
Senate Sponsor: Jerry W. Stevenson
Cosponsors: Melissa G. Ballard
Matthew H. Gwynn
Marsha Judkins
Karianne Lisonbee
Paul Ray
Jeffrey D. Stenquist
Andrew Stoddard
Christine F. Watkins
Brad R. Wilson
Mike Winder

LONG TITLE

General Description:

This bill makes changes to bail provisions for DUI offenses.

Highlighted Provisions:

This bill:

- creates a presumption of pretrial detention for individuals charged with certain DUI offenses.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

77-20-1, as last amended by Laws of Utah 2020, Chapters 142 and 185

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

Section 1. Section 77-20-1 is amended to read:

77-20-1. Right to bail -- Pretrial status order -- Denial of bail -- Detention hearing -- Motion to modify.

(1) As used in this chapter:

(a) "Bail bond agency" means the same as that term is defined in Section 31A-35-102.

(b) "Financial condition" or "monetary bail" means any monetary condition that may be imposed under Section 77-20-4 to secure an individual's pretrial release.

(c) "Pretrial release" or "bail" means release of an individual charged with or arrested for a criminal offense from law enforcement or judicial custody during the time the individual awaits trial or other resolution of the criminal charges.

(d) "Pretrial status order" means an order issued by the court exercising jurisdiction over an individual charged with a criminal offense that sets the terms and conditions of the individual's pretrial release or denies pretrial release and orders that the individual be detained pending resolution of the criminal charges.

(e) "Surety" and "sureties" mean a surety insurer or a bail bond agency.

(f) "Surety insurer" means the same as that term is defined in Section 31A-35-102.

(2) An individual charged with or arrested for a criminal offense shall be admitted to bail as a matter of right, except if the individual is charged with [~~a~~]:

(a) a capital felony, when the court finds there is substantial evidence to support the charge;

(b) a felony committed while on probation or parole, or while free on bail awaiting trial on a previous felony charge, when the court finds there is substantial evidence to support the current felony charge;

(c) a felony when there is substantial evidence to support the charge and the court finds by clear and convincing evidence that the individual would constitute a substantial danger to any other individual or to the community, or is likely to flee the jurisdiction of the court, if released on bail;

(d) a felony when the court finds there is substantial evidence to support the charge and the court finds by clear and convincing evidence that the individual violated a material condition of release while previously on bail; [~~or~~]

(e) a domestic violence offense if the court finds:

(i) that there is substantial evidence to support the charge; and

(ii) by clear and convincing evidence, that the individual would constitute a substantial danger to an alleged victim of domestic violence if released on bail[~~.~~]; or

(f) the offense of driving under the influence or driving with a measurable controlled substance in the body if:

(i) the offense results in death or serious bodily injury to an individual; and

(ii) the court finds:

(A) that there is substantial evidence to support the charge; and

(B) by clear and convincing evidence that the person would constitute a substantial danger to the community if released on bail.

(3) (a) A court exercising jurisdiction over an individual charged with or arrested for a criminal offense shall issue a pretrial status order designating the conditions to be imposed upon the individual's release or ordering that the individual be detained under this section during the time the individual awaits trial or other resolution of the criminal charges.

(b) A court granting pretrial release shall impose the least restrictive reasonably available conditions of release on the individual who is the subject of the pretrial status order that the court determines will reasonably ensure:

(i) the individual's appearance in court when required;

(ii) the safety of any witnesses or victims of the offense allegedly committed by the individual;

(iii) the safety and welfare of the public; and

(iv) that the individual will not obstruct or attempt to obstruct the criminal justice process.

(c) (i) The court shall issue the pretrial status order without unnecessary delay.

(ii) If a prosecutor files a motion for detention under Subsection (6), the court may delay issuing the pretrial status order until after hearing the motion to detain if the court finds:

(A) the prosecutor's motion states a reasonable case for detention; and

(B) detaining the defendant until after the motion is heard is in the interests of justice and public safety.

(d) Victim testimony is not required at a hearing on a motion to detain if an appearance by the victim would present an undue burden upon the victim.

(e) Notwithstanding any other provisions of this section, there is a rebuttable presumption that an individual is a substantial danger to the community:

(i) as long as the individual has a blood or breath alcohol concentration of .05 grams or greater if the individual is arrested for or charged with the offense of driving under the influence and the offense resulted in death or serious bodily injury to an individual; or

(ii) if the individual has a measurable amount of controlled substance in the individual's body, the individual is arrested for or charged with the offense of driving with a measurable controlled substance in the body, and the offense resulted in death or serious bodily injury to an individual.

(4) (a) Except as otherwise provided in this section or Section 78B-7-802, the court shall order that an individual charged with a criminal offense be released on the individual's own recognizance, on condition that the individual appear at all required court proceedings, if the court finds that additional conditions are not necessary to reasonably ensure compliance with Subsection (3)(b).

(b) The court shall impose additional release conditions if the court finds that additional release conditions are necessary to reasonably ensure compliance with Subsection (3)(b). The conditions imposed may include that the individual:

(i) not commit a federal, state, or local offense during the period of release;

(ii) avoid contact with a victim or victims of the alleged offense;

(iii) avoid contact with a witness or witnesses who may testify concerning the alleged offense that are named in the pretrial status order;

(iv) not use or consume alcohol, or any narcotic drug or other controlled substance except as prescribed by a licensed medical practitioner;

(v) submit to drug or alcohol testing;

(vi) complete a substance abuse evaluation and comply with any recommended treatment or release program;

(vii) submit to electronic monitoring or location device tracking;

(viii) participate in inpatient or outpatient medical, behavioral, psychological, or psychiatric treatment;

(ix) maintain employment, or if unemployed, actively seek employment;

(x) maintain or commence an education program;

(xi) comply with limitations on where the individual is allowed to be located or the times the individual shall be or may not be at a specified location;

(xii) comply with specified restrictions on personal associations, place of residence, or travel;

(xiii) report to a law enforcement agency, pretrial services program, or other designated agency at a specified frequency or on specified dates;

(xiv) comply with a specified curfew;

(xv) forfeit or refrain from possession of a firearm or other dangerous weapon;

(xvi) if the individual is charged with an offense against a child, is limited or denied access to any location or occupation where children are, including any residence where children are on the premises, activities including organized activities in which children are involved, locations where children congregate, or where a reasonable person should know that children congregate;

(xvii) comply with requirements for house arrest;

(xviii) return to custody for a specified period of time following release for employment, schooling, or other limited purposes;

(xix) remain in the custody of one or more designated individuals who agree to supervise and report on the behavior and activities of the individual charged and to encourage compliance with all court orders and attendance at all required court proceedings;

(xx) comply with a financial condition; or

(xxi) comply with any other condition that is necessary to reasonably ensure compliance with Subsection (3)(b).

(c) If the court determines a financial condition, other than an unsecured bond, is necessary to impose on an individual as part of the individual's pretrial release, the court shall consider the individual's ability to pay when determining the amount of the financial condition.

(5) In making a determination under Subsection (3), the court may rely on the following:

(a) any form of pretrial services assessment;

(b) the nature and circumstances of the offense or offenses charged, including whether the charges include a violent offense and the vulnerability of witnesses or alleged victims;

(c) the nature and circumstances of the individual, including the individual's character, physical and mental health, family and community ties, employment status and history, financial resources, past criminal conduct, history of drug or alcohol abuse, and history of timely appearances at required court proceedings;

(d) the potential danger to another individual or individuals posed by the release of the individual;

(e) if the individual was on probation, parole, or release pending an upcoming court proceeding at the time the individual allegedly committed the offense;

(f) the availability of other individuals who agree to assist the individual in attending court when required or other evidence relevant to the individual's opportunities for supervision in the individual's community;

(g) the eligibility and willingness of the individual to participate in various treatment programs, including drug treatment; or

(h) other evidence relevant to the individual's likelihood of fleeing or violating the law if released.

(6) (a) If the criminal charges filed against the individual include one or more offenses eligible for detention under Subsection (2) or Utah Constitution, Article I, Section 8, the prosecution may file a motion for pretrial detention.

(b) Upon receiving a motion under Subsection (6)(a), the court shall set a hearing on the matter as soon as practicable.

(c) The individual who is the subject of the detention hearing has the right to be represented by counsel at the pretrial detention hearing and, if a court finds the individual is indigent under Section 78B-22-202, the court shall appoint counsel to represent the individual in accordance with Section 78B-22-203.

(d) The court shall give both parties the opportunity to make arguments and to present relevant evidence at the detention hearing.

(7) After hearing evidence on a motion for pretrial detention, the court may detain the individual if:

(a) the individual is accused of committing an offense that qualifies the individual for detention under Subsection (2) or Utah Constitution, Article I, Section 8;

(b) the prosecution demonstrates substantial evidence to support the charge, and meets all additional evidentiary burdens required under Subsection (2) or Utah Constitution, Article I, Section 8; and

(c) the court finds that no conditions that may be imposed upon granting the individual pretrial release will reasonably ensure compliance with Subsection (3)(b).

(8) (a) If an individual is charged with a criminal offense described in Subsection (8)(b), there is a rebuttable presumption that the individual be detained.

(b) Criminal charges that create a rebuttable presumption of detention under Subsection (8)(a) include:

(i) criminal homicide as defined in Section 75-5-201; and

(ii) any offense for which the term of imprisonment may include life.

(c) The individual may rebut the presumption of detention by demonstrating, by a preponderance of the evidence, that specified conditions of release will reasonably ensure compliance with Subsection (3)(b).

(9) Except as otherwise provided, the court issuing a pretrial warrant of arrest shall issue the initial pretrial status order.

(10) (a) An individual arrested for a violation of a jail release agreement or jail release court order issued in accordance with Section 78B-7-802:

(i) may be denied pretrial release by the court under Subsection (2); and

(ii) if denied pretrial release, may not be released before the individual's initial appearance before the court.

(b) Nothing in this section precludes or nullifies a jail release agreement or jail release order required under Section 78B-7-802.

(11) (a) A motion to modify the initial pretrial status order may be made by a party at any time upon notice to the opposing party sufficient to permit the opposing party to prepare for hearing and to permit each alleged victim to be notified and be present.

(b) Hearing on a motion to modify a pretrial status order may be held in conjunction with a preliminary hearing or any other pretrial hearing.

(c) The court may rely on information as provided in Subsection (5) and may base its ruling on evidence provided at the hearing so long as each party is provided an opportunity to present additional evidence or information relevant to bail.

(12) Subsequent motions to modify a pretrial status order may be made only upon a showing that there has been a material change in circumstances.

(13) An appeal may be taken from an order of a court denying bail to the Utah Court of Appeals pursuant to the Utah Rules of Appellate Procedure, which shall review the determination under Subsection (7).

(14) For purposes of this section, any arrest or charge for a violation of Section 76-5-202, Aggravated murder, is a capital felony unless:

(a) the prosecutor files a notice of intent to not seek the death penalty; or

(b) the time for filing a notice to seek the death penalty has expired and the prosecutor has not filed a notice to seek the death penalty.

CHAPTER 89
H. B. 51
Passed February 4, 2021
Approved March 16, 2021
Effective May 5, 2021

NATIONAL GUARD AMENDMENTS

Chief Sponsor: Val L. Peterson
Senate Sponsor: Ann Millner

LONG TITLE

General Description:

This bill makes changes to the State Armory Board and the West Traverse Sentinel Landscape Fund.

Highlighted Provisions:

This bill:

- adds landscape monitoring, community outreach and education, and administrative costs approved by the Utah National Guard as purposes for the fund; and
- makes technical corrections to the State Armory Board responsibilities.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

39-2-2, as last amended by Laws of Utah 2016, Chapter 254
39-10-105, as enacted by Laws of Utah 2018, Chapter 216

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

Section 1. Section 39-2-2 is amended to read:

39-2-2. Powers of State Armory Board.

(1) The board shall supervise and control the armories and arsenals, and all real property held or acquired for the military purposes of the state.

(2) The board may:

(a) provide suitable armories and arsenals for the different organizations of the National Guard;

(b) lease buildings for armory and arsenal purposes throughout the state wherever necessary for the use of organizations of the National Guard and for the storage of state and government property at a rental that the board considers reasonable;

(c) erect armories and arsenals at places within the state that it considers necessary upon lands to which it has acquired the legal title;

(d) expend military funds to acquire legal title to lands and to construct armories and arsenals;

(e) lease [~~land that it~~] property that the board holds under Subsection (1) [~~to Department of Defense agencies for military purposes~~] for purposes consistent with the mission of the Utah National Guard; and

(f) conduct meetings and take official action in person or as necessary via electronic means, including telephone or video teleconferencing, or a combination of these methods.

(3) (a) Subject to Subsection (3)(b), the board may take options for the purchase of any premises under lease to the state for armory and arsenal purposes:

(i) at any time during the life of the lease; and

(ii) when the purchase is in the state's interest.

(b) An option is not binding upon the board until it is approved by the Legislature.

(4) (a) Before legally binding the state to sell or lease any armory, army premises, or other real property owned by the National Guard, the board shall submit a description of the proposed sale to the Legislative Management Committee for its review and recommendations.

(b) Before legally binding the state to purchase any interest in real property, the board shall submit a description of the proposed sale to the Legislative Management Committee for its review and recommendations.

(c) The Legislative Management Committee shall review each proposal and may:

(i) recommend that the board complete the purchase or sale; or

(ii) recommend that the board not complete the purchase or sale.

(5) The proceeds from the sales and leases of armories and army [~~premises~~] property authorized by this section shall be appropriated to the State Armory Board to be applied toward the acquisition and sale of real property, and the construction of new armories.

Section 2. Section 39-10-105 is amended to read:

39-10-105. West Traverse Sentinel Landscape Fund.

(1) As used in this section:

(a) "Committee" means the West Traverse Sentinel Landscape Coordinating Committee created in Section 39-10-103.

(b) "Fund" means the West Traverse Sentinel Landscape Fund.

(2) There is created a restricted account within the General Fund known as the West Traverse Sentinel Landscape Fund.

(3) The fund shall consist of:

(a) appropriations from the Legislature; and

(b) grants or donations from other public or private sources.

(4) The fund shall be administered by the Utah National Guard and the committee.

(5) The purpose of the fund shall be to provide:

(a) matching funds for established federal funding programs concerning sentinel landscapes;

(b) matching funds for local and private funding programs that assist with sentinel landscape designations; [~~and~~]

(c) incentives for landowners who voluntarily participate in land management practices that are consistent with Camp Williams's military missions[~~.~~];

(d) sentinel landscape monitoring, community outreach, and education;

(e) costs associated with due diligence and administration of purchasing land and easements; and

(f) administrative costs as approved by the Utah National Guard and the committee.

(6) The committee may make an appropriation request through the Utah National Guard to the Legislature for necessary funds to carry out the committee's purpose.

(7) Upon appropriation, funds may only be used for landscapes that qualify under:

(a) the Army Compatible Use Buffer Program guidelines or similar regulations as a federal program whose purpose is to secure landscapes that serve to buffer military installations;

(b) Internal Revenue Code guidelines in 26 U.S.C. Sec. 170(h); or

(c) local municipal or county guidelines established through the committee and consistent with Camp Williams's military mission.

[~~(8) Funds used for projects with matching federal funding may not exceed a 25% match with federal funds.~~]

CHAPTER 90
H. B. 52
Passed March 3, 2021
Approved March 16, 2021
Effective May 5, 2021

POINT OF THE MOUNTAIN DEVELOPMENT COMMISSION ACT MODIFICATIONS

Chief Sponsor: V. Lowry Snow
Senate Sponsor: Jerry W. Stevenson

LONG TITLE

General Description:

This bill revises the role of the Point of the Mountain Development Commission and extends the repeal date of the Point of the Mountain Development Commission Act.

Highlighted Provisions:

This bill:

- revises the Commission's role; and
- extends the sunset date for the Point of the Mountain Development Commission Act from July 1, 2021, to July 1, 2023.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63C-17-104, as enacted by Laws of Utah 2016, Chapter 156

63I-1-263, as last amended by Laws of Utah 2020, Chapters 82, 152, 154, 199, 230, 303, 322, 336, 354, 360, 375, 405 and last amended by Coordination Clause, Laws of Utah 2020, Chapter 360

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

Section 1. Section 63C-17-104 is amended to read:

63C-17-104. Commission duties.

(1) The commission shall evaluate, study, prepare one or more reports, and make recommendations concerning the future planning and development of the project area. The study shall focus on the three key areas described in Subsections (2), (3), and (4).

(2) The commission shall study and develop strategies to engage the public and collaborate with stakeholders, including:

(a) facilitating cooperation and transportation planning between:

(i) local governments;

(ii) the Wasatch Front Regional Council;

(iii) the Mountainland Association of Governments;

(iv) the Utah Department of Transportation; and

(v) the Utah Transit Authority;

[~~(a)~~] (b) providing a public forum to gather insight from citizens; and

[~~(b)~~] (c) evaluating the costs and benefits of growth, land use, and economic development strategies in the project area and the impacts of those strategies on residents of the project area and the state.

(3) (a) The commission shall study and make recommendations regarding future transportation and infrastructure needs within the project area, including:

(i) evaluation of projected population, housing, and employment growth;

(ii) identification of transportation infrastructure needs, including:

(A) development, construction, operation, and maintenance of highways and streets, on both the local and state jurisdictional levels;

(B) development, construction, operation, and maintenance of public transit; and

(C) development, construction, operation, and maintenance of active transportation facilities, including trails; and

(iii) evaluation of projected costs related to transportation and other infrastructure needs.

(b) In performing the study described in Subsection (3)(a), the commission shall coordinate with transportation agencies, including:

(i) the Wasatch Front Regional Council;

(ii) the Mountainland Association of Governments;

(iii) the Utah Department of Transportation; and

(iv) the Utah Transit Authority.

(4) The commission shall study and make recommendations regarding financing economic development of, and the infrastructure investment in, the project area, including:

(a) evaluation of economic growth projections; [~~and~~]

(b) evaluation of financing tools to encourage and facilitate economic growth in the project area, including:

(i) property tax increment financing, with the requirement that the property tax increment remain within the jurisdiction in which the property tax increment is created;

(ii) assessment districts;

(iii) bonding;

(iv) partnerships between public and private entities;

(v) excise taxes, including transient room taxes and taxes on community resorts;

(vi) redevelopment agency funds;

(vii) federal funding;

(viii) private capital;

(ix) investment strategies used by other governmental entities for purposes of economic development; and

(x) other innovative financing strategies[.]; and

(c) exploring and recommending alternative methods for funding infrastructure needs in the project area.

(5) The commission may hire or direct the hiring of one or more consultants, or enter into agreements and otherwise collaborate with governmental entities and other stakeholders, with experience or expertise in a subject under consideration by the commission, to assist the commission in fulfilling the commission's duties under this part.

(6) In carrying out the study, the commission shall consider the following objectives for the project area and the state as a whole:

(a) maximizing job creation;

(b) ensuring a high quality of life for residents in and surrounding the project area;

(c) strategic residential and commercial growth;

(d) preservation of natural lands and expansion of recreational opportunities;

(e) provision of a variety of community and housing types that match workforce needs; and

(f) planning for future transportation infrastructure and other investments to enhance mobility and protect the environment.

(7) The commission shall report the commission's interim findings and recommendations to the Transportation Interim Committee, the Economic Development and Workforce Services Interim Committee, the Revenue and Taxation Interim Committee, the Executive Appropriations Committee, and the governor before December 1, 2016.

(8) The commission's recommendations under this section are advisory only.

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

63I-1-263. Repeal dates, Titles 63A to 63N.

(1) In relation to the Utah Transparency Advisory Board, on January 1, 2025:

(a) Subsection 63A-1-201(1) is repealed;

(b) Subsection 63A-1-202(2)(c), the language "using criteria established by the board" is repealed;

(c) Section 63A-1-203 is repealed;

(d) Subsections 63A-1-204(1) and (2), the language "After consultation with the board, and" is repealed; and

(e) Subsection 63A-1-204(1)(b), the language "using the standards provided in Subsection 63A-1-203(3)(c)" is repealed.

(2) Subsection 63A-5b-405(5), relating to prioritizing and allocating capital improvement funding, is repealed July 1, 2024.

(3) Section 63A-5b-1003, State Facility Energy Efficiency Fund, is repealed July 1, 2023.

(4) Sections 63A-9-301 and 63A-9-302, related to the Motor Vehicle Review Committee, are repealed July 1, 2023.

(5) Title 63C, Chapter 4a, Constitutional and Federalism Defense Act, is repealed July 1, 2028.

(6) Title 63C, Chapter 6, Utah Seismic Safety Commission, is repealed January 1, 2025.

(7) Title 63C, Chapter 12, Snake Valley Aquifer Advisory Council, is repealed July 1, 2024.

(8) Title 63C, Chapter 17, Point of the Mountain Development Commission Act, is repealed July 1, [~~2021~~] 2023.

(9) Title 63C, Chapter 18, Behavioral Health Crisis Response Commission, is repealed July 1, 2023.

(10) Title 63C, Chapter 21, Outdoor Adventure Commission, is repealed July 1, 2025.

(11) Title 63F, Chapter 2, Data Security Management Council, is repealed July 1, 2025.

(12) Section 63G-6a-805, which creates the Purchasing from Persons with Disabilities Advisory Board, is repealed July 1, 2026.

(13) Title 63G, Chapter 21, Agreements to Provide State Services, is repealed July 1, 2025.

(14) Title 63H, Chapter 4, Heber Valley Historic Railroad Authority, is repealed July 1, 2024.

(15) Title 63H, Chapter 8, Utah Housing Corporation Act, is repealed July 1, 2026.

(16) Subsection 63J-1-602.1(14), Nurse Home Visiting Restricted Account is repealed July 1, 2026.

(17) (a) Subsection 63J-1-602.1(58), relating to the Utah Statewide Radio System Restricted Account, is repealed July 1, 2022.

(b) When repealing Subsection 63J-1-602.1(58), the Office of Legislative Research and General Counsel shall, in addition to the office's authority under Subsection 36-12-12(3), make necessary changes to subsection numbering and cross references.

(18) Subsection 63J-1-602.2(4), referring to dedicated credits to the Utah Marriage Commission, is repealed July 1, 2023.

(19) Subsection 63J-1-602.2(5), referring to the Trip Reduction Program, is repealed July 1, 2022.

(20) Subsection 63J-1-602.2(25), related to the Utah Seismic Safety Commission, is repealed January 1, 2025.

(21) Title 63J, Chapter 4, Part 5, Resource Development Coordinating Committee, is repealed July 1, 2027.

(22) Subsection 63J-4-608(3), which creates the Federal Land Application Advisory Committee, is repealed on July 1, 2021.

(23) In relation to the Utah Substance Use and Mental Health Advisory Council, on January 1, 2023:

(a) Sections 63M-7-301, 63M-7-302, 63M-7-303, 63M-7-304, and 63M-7-306 are repealed;

(b) Section 63M-7-305, the language that states "council" is replaced with "commission";

(c) Subsection 63M-7-305(1) is repealed and replaced with:

"(1) "Commission" means the Commission on Criminal and Juvenile Justice."; and

(d) Subsection 63M-7-305(2) is repealed and replaced with:

"(2) The commission shall:

(a) provide ongoing oversight of the implementation, functions, and evaluation of the Drug-Related Offenses Reform Act; and

(b) coordinate the implementation of Section 77-18-1.1 and related provisions in Subsections 77-18-1(5)(b)(iii) and (iv).".

(24) The Crime Victim Reparations and Assistance Board, created in Section 63M-7-504, is repealed July 1, 2027.

(25) Title 63M, Chapter 7, Part 6, Utah Council on Victims of Crime, is repealed July 1, 2022.

(26) Title 63M, Chapter 11, Utah Commission on Aging, is repealed July 1, 2021.

(27) Subsection 63N-1-301(4)(c), related to the Talent Ready Utah Board, is repealed January 1, 2023.

(28) Title 63N, Chapter 1, Part 5, Governor's Economic Development Coordinating Council, is repealed July 1, 2024.

(29) Title 63N, Chapter 2, Part 2, Enterprise Zone Act, is repealed July 1, 2028.

(30) Section 63N-2-512 is repealed July 1, 2021.

(31) (a) Title 63N, Chapter 2, Part 6, Utah Small Business Jobs Act, is repealed January 1, 2021.

(b) Section 59-9-107 regarding tax credits against premium taxes is repealed for calendar years beginning on or after January 1, 2021.

(c) Notwithstanding Subsection (31)(b), an entity may carry forward a tax credit in accordance with Section 59-9-107 if:

(i) the person is entitled to a tax credit under Section 59-9-107 on or before December 31, 2020; and

(ii) the qualified equity investment that is the basis of the tax credit is certified under Section 63N-2-603 on or before December 31, 2023.

(32) Subsections 63N-3-109(2)(e) and 63N-3-109(2)(f)(i) are repealed July 1, 2023.

(33) Title 63N, Chapter 4, Part 4, Rural Employment Expansion Program, is repealed July 1, 2023.

(34) Title 63N, Chapter 7, Part 1, Board of Tourism Development, is repealed July 1, 2025.

(35) Title 63N, Chapter 9, Part 2, Outdoor Recreational Infrastructure Grant Program, is repealed January 1, 2023.

(36) Title 63N, Chapter 12, Part 5, Talent Ready Utah Center, is repealed January 1, 2023.

CHAPTER 91
H. B. 55
Passed February 25, 2021
Approved March 16, 2021
Effective May 5, 2021

MARRIAGE COMMISSION AMENDMENTS

Chief Sponsor: Melissa G. Ballard
Senate Sponsor: Todd D. Weiler
Cosponsors: Dan N. Johnson
Merrill F. Nelson
Paul Ray

LONG TITLE

General Description:

This bill makes changes pertaining to the Utah Marriage Commission.

Highlighted Provisions:

This bill:

- defines terms;
- moves oversight responsibility of the Utah Marriage Commission from the Department of Human Services to Utah State University;
- changes the membership of the Utah Marriage Commission;
- modifies provisions relating to appointment, reappointment, and removal of commission members;
- repeals the sunset date for the marriage license fee, replacing it with a reporting requirement; and
- repeals sunset date provisions related to pre-marriage counseling and education.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:
17-16-21, as last amended by Laws of Utah 2018, Chapter 347
30-1-34, as last amended by Laws of Utah 2018, Chapter 347
63I-1-217, as last amended by Laws of Utah 2020, Sixth Special Session, Chapter 18
63I-1-230, as last amended by Laws of Utah 2020, Chapter 354
63I-1-262, as last amended by Laws of Utah 2020, Chapters 154, 303, 304, and 358

ENACTS:
63M-14-101, Utah Code Annotated 1953
63M-14-102, Utah Code Annotated 1953
63M-14-201, Utah Code Annotated 1953
63M-14-202, Utah Code Annotated 1953
63M-14-203, Utah Code Annotated 1953
63M-14-204, Utah Code Annotated 1953
63M-14-205, Utah Code Annotated 1953
63M-14-206, Utah Code Annotated 1953

REPEALS:
62A-1-120, as last amended by Laws of Utah 2018, Chapter 347

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

Section 1. Section 17-16-21 is amended to read:

17-16-21. Fees of county officers.

(1) As used in this section, "county officer" means a county officer enumerated in Section 17-53-101 except a county recorder, a county constable, or a county sheriff.

(2) (a) A county officer shall collect, in advance, for exclusive county use and benefit:

(i) a fee established by the county legislative body under Section 17-53-211; and

(ii) any other fee authorized or required by law.

(b) As long as the Children's Legal Defense Account is authorized by Section 51-9-408, the county clerk shall:

(i) assess $10 in addition to whatever fee for a marriage license is established under authority of this section; and

(ii) transmit $10 from each marriage license fee to the Division of Finance for deposit in the Children's Legal Defense Account.

(c) (i) As long as the Division of Child and Family Services, created in Section 62A-4a-103, has the responsibility under Section 62A-4a-105 to provide services, including temporary shelter, for victims of domestic violence, the county clerk shall:

(A) collect $10 in addition to whatever fee for a marriage license is established under authority of this section and in addition to the amount described in Subsection (2)(b), if an applicant chooses, as provided in Subsection (2)(c)(ii), to pay the additional $10; and

(B) to the extent actually paid, transmit $10 from each marriage license fee to the Division of Finance for distribution to the Division of Child and Family Services for the operation of shelters for victims of domestic violence.

(ii) (A) The county clerk shall provide a method for an applicant for a marriage license to choose to pay the additional $10 referred to in Subsection (2)(c)(i).

(B) An applicant for a marriage license may choose not to pay the additional $10 referred to in Subsection (2)(c)(i) without affecting the applicant's ability to be issued a marriage license.

(d) If a county operates an online marriage application system, the county clerk of that county:

(i) may assess $20 in addition to the other fees for a marriage license established under this section;

(ii) except as provided in Subsection (2)(d)(iii), shall transmit $20 from the marriage license fee to the state treasurer for deposit annually as follows:

(A) the first $400,000 shall accrue to the Utah Marriage Commission, created in [~~Section 62A-1-120~~] Title 63M, Chapter 14, Utah Marriage Commission, as dedicated credits for the operation of the Utah Marriage Commission; and

(B) proceeds in excess of $400,000 shall be deposited into the General Fund; and

(iii) may not transmit $20 from the marriage license fee to the state treasurer under this Subsection (2)(d) if both individuals seeking the marriage license certify that they have completed premarital counseling or education in accordance with Section 30-1-34.

(3) This section does not apply to a fee currently being assessed by the state but collected by a county officer.

Section 2. Section 30-1-34 is amended to read:

30-1-34. Completion of counseling or education.

(1) The county clerk of a county that operates an online marriage application system and issues a marriage license to applicants who certify completion of premarital counseling or education in accordance with Subsection (2) shall reduce the marriage license fee by $20.

(2) (a) To qualify for the reduced fee under Subsection (1), the applicants shall certify completion of premarital counseling or education in accordance with this Subsection (2).

(b) To complete premarital counseling or education, the applicants:

(i) shall obtain the premarital counseling or education from:

(A) a licensed or ordained minister or the minister's designee who is trained by the minister or denomination to conduct premarital counseling or education;

(B) an individual licensed under Title 58, Chapter 60, Mental Health Professional Practice Act;

(C) an individual certified by a national organization recognized by the Utah Marriage Commission, created in [~~Section 62A-1-120~~] Title 63M, Chapter 14, Utah Marriage Commission, as a family life educator;

(D) a family and consumer sciences educator;

(E) an individual who is an instructor approved by a premarital education curriculum that meets the requirements of Subsection (2)(b)(ii); or

(F) an online course approved by the Utah Marriage Commission;

(ii) shall receive premarital counseling or education that includes information on important factors associated with strong and healthy marriages, including:

(A) commitment in marriage; and

(B) effective communication and problem-solving skills, including avoiding violence and abuse in the relationship;

(iii) shall complete at least three hours of premarital counseling or six hours of premarital education meeting the requirements of this Subsection (2); and

(iv) shall complete the premarital counseling or education meeting the requirements of this Subsection (2) not more than one year before but at least 14 days before the day on which the marriage license is issued.

(c) Although applicants are encouraged to take the premarital counseling or education together, each applicant may comply with the requirements of this Subsection (2) separately.

(3) A provider of premarital counseling or education under this section is encouraged to use research-based relationship inventories.

Section 3. Section 63I-1-217 is amended to read:

63I-1-217. Repeal dates, Title 17.

[~~(1) Subsection 17-16-21(2)(d) is repealed July 1, 2023.~~]

[~~(2)~~] Title 17, Chapter 21a, Part 3, Administration and Standards, which creates the Utah Electronic Recording Commission, is repealed July 1, 2022.

Section 4. Section 63I-1-230 is amended to read:

63I-1-230. Repeal dates, Title 30.

[~~Sections 30-1-34 and 30-1-36 are repealed July 1, 2023.~~]

Section 5. Section 63I-1-262 is amended to read:

63I-1-262. Repeal dates, Title 62A.

[~~(1) Subsections 62A-1-120(8)(g), (h), and (i) relating to completion of premarital counseling or education under Section 30-1-34 are repealed July 1, 2023.~~]

[~~(2)~~] (1) Section 62A-3-209 is repealed July 1, 2023.

[~~(3)~~] (2) Section 62A-4a-202.9 is repealed December 31, 2021.

[~~(4)~~] (3) Section 62A-4a-213 is repealed July 1, 2024.

[~~(5)~~] (4) Sections 62A-5a-101, 62A-5a-102, 62A-5a-103, and 62A-5a-104, which create the Coordinating Council for Persons with Disabilities, are repealed July 1, 2022.

[~~(6)~~] (5) Section 62A-15-114 is repealed December 31, 2021.

[~~(7)~~] (6) Subsections 62A-15-116(1) and (4), the language that states "In consultation with the Behavioral Health Crisis Response Commission, established in Section 63C-18-202," is repealed January 1, 2023.

[~~(8)~~] (7) Section 62A-15-118 is repealed December 31, 2023.

[~~(9)~~] (8) Subsections 62A-15-605(3)(h) and (4) relating to the study of long-term needs for adult beds in the state hospital are repealed July 1, 2022.

[~~(10)~~] (9) Section 62A-15-605, which creates the Forensic Mental Health Coordinating Council, is repealed July 1, 2023.

[~~(11)~~] (10) Subsections 62A-15-1100(1) and 62A-15-1101(9), in relation to the Utah Substance Use and Mental Health Advisory Council, are repealed January 1, 2023.

[~~(12)~~] (11) In relation to the Behavioral Health Crisis Response Commission, on July 1, 2023:

(a) Subsections 62A-15-1301(2) and 62A-15-1401(1) are repealed;

(b) Subsection 62A-15-1302(1)(b), the language that states "and in consultation with the commission" is repealed;

(c) Section 62A-15-1303, the language that states "In consultation with the commission," is repealed;

(d) Subsection 62A-15-1402(2)(a), the language that states "With recommendations from the commission," is repealed; and

(e) Subsection 62A-15-1702(6) is repealed.

Section 6. Section 63M-14-101 is enacted to read:

CHAPTER 14. (Codified as Chapter 15) UTAH MARRIAGE COMMISSION

Part 1. General Provisions

63M-14-101. (Codified as 63M-15-101) Title.

This chapter is known as the "Utah Marriage Commission."

Section 7. Section 63M-14-102 is enacted to read:

63M-14-102. (Codified as 63M-15-102) Definitions.

As used in this chapter:

(1) "Commission" means the Utah Marriage Commission created by this chapter.

(2) "Commission leadership" means the commission's elected chair, elected vice chair, and coordinator.

(3) "Coordinator" means an employee from Utah State University described in Section 63M-14-206.

Section 8. Section 63M-14-201 is enacted to read:

Part 2. Commission

63M-14-201. (Codified as 63M-15-201) Composition--Appointments--Terms--Removal.

(1) There is created within the governor's office the "Utah Marriage Commission."

(2) The commission comprises at least 10 members but no more than 30 members, appointed as follows:

(a) the president of the Senate shall appoint two members of the Senate;

(b) the speaker of the House of Representatives shall appoint two members of the House of Representatives;

(c) the governor, or commission leadership under Section 63M-14-202, shall appoint up to 28 members that:

(i) may come from the following groups:

(A) non-profit organizations or governmental agencies;

(B) social workers who are, or have been, licensed under Title 58, Chapter 60, Part 2, Social Worker Licensing Act;

(C) psychologists who are, or have been, licensed under Title 58, Chapter 61, Psychologist Licensing Act;

(D) physicians who are, or have been, board certified in psychiatry and are, or have been, licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act;

(E) marriage and family therapists who are, or have been, licensed under Title 58, Chapter 60, Part 3, Marriage and Family Therapist Licensing Act;

(F) representatives of faith communities;

(G) public health professionals;

(H) representatives of domestic violence prevention organizations;

(I) academics from marriage and family studies departments, social or behavioral sciences departments, health sciences departments, colleges of law, or other related and supporting departments at institutions of higher education in this state;

(J) the general public;

(K) individuals with marketing or public relations experience; and

(L) legal professionals; or

(ii) have skills or expertise the commission requires to fulfill the commission's duties described in Section 63M-14-204.

(3) (a) An individual appointed under Subsection (2)(c) shall serve for a term of four years.

(b) If approved by the commission, an individual may be appointed for subsequent terms.

(c) When a vacancy occurs in the membership for any reason, the replacement shall be appointed by the applicable appointing authority for the remainder of the unexpired term of the original appointment.

(d) Upon majority vote within commission leadership, commission leadership may remove a member of the commission if the member is unable to serve.

(e) Commission leadership may appoint as many non-voting members as necessary if the individuals appointed have skills or expertise related to the commission's duties, described in Section 63M-14-204.

Section 9. Section 63M-14-202 is enacted to read:

63M-14-202. (Codified as 63M-15-202) Appointee replacement.

If a member appointed under Subsection 63M-14-201(2)(c) resigns from the commission, is removed from the commission under Subsection 63M-14-201(2)(d), or the member's term expires, the governor or commission leadership shall appoint a replacement member within 90 days after the day on which the governor receives notice of the member's resignation, removal, or term expiration.

Section 10. Section 63M-14-203 is enacted to read:

63M-14-203. (Codified as 63M-15-203) Commission meetings.

(1) The commission shall annually elect a chair and vice chair from the commission's membership.

(2) The commission shall hold meetings as needed to fulfill the commission's duties.

(3) A meeting may be held on the call of the chair or a majority of the commission members.

(4) A majority of the voting members of the commission constitute a quorum and, if a quorum exists, the action of a majority of commission members present constitutes the action of the commission.

Section 11. Section 63M-14-204 is enacted to read:

63M-14-204. (Codified as 63M-15-204) Commission duties.

The commission shall:

(1) promote coalitions and collaborative efforts to uphold and encourage a strong and healthy culture of strong and lasting marriages and stable families;

(2) contribute to greater awareness of the importance of marriage in an effort to reduce divorce and unwed parenthood in the state;

(3) promote public policies that support marriage;

(4) promote programs and activities that educate individuals and couples on how to achieve strong, successful, and lasting marriages, including promoting and assisting in the offering of:

(a) events;

(b) classes and services, including those designed to promote strong, healthy, and lasting marriages and prevent domestic violence;

(c) marriage and relationship education conferences for the public and professionals; and

(d) enrichment seminars;

(5) actively promote measures designed to maintain and strengthen marriage, family, and the relationships between spouses and parents and children;

(6) support volunteerism and private financial contributions and grants in partnership with the commission and in support of the commission's purposes and activities for the benefit of the state as provided in this section;

(7) regularly publicize information on premarital counseling and education services available in the state that comply with Section 30-1-34;

(8) approve an online course meeting the requirements of Section 30-1-34; and

(9) for purposes of Section 30-1-34, recognize one or more national organizations that certify family life educators.

Section 12. Section 63M-14-205 is enacted to read:

63M-14-205. (Codified as 63M-15-205) Member pay -- Reimbursement.

(1) A commission member who is not a legislator may not receive compensation or benefits for the commission member's service, but may receive per diem and travel expenses as allowed in:

(a) Section 63A-3-106;

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

(c) rules made by the Division of Finance in accordance with Sections 63A-3-106 and 63A-3-107.

(2) Compensation and expenses of a commission member who is a legislator are governed by Section 36-2-2 and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.

Section 13. Section 63M-14-206 is enacted to read:

63M-14-206. (Codified as 63M-15-206) Oversight -- Staff support -- Funding.

(1) Utah State University shall:

(a) working in consultation with the commission, hire a coordinator to manage the day-to-day operations of the commission;

(b) pay the salary of the coordinator and review the coordinator's performance;

(c) provide other staff support for the commission; and

(d) provide office space, furnishings, and supplies to the commission, the coordinator, and support staff.

(2) Funding for the commission shall be dedicated credits from the $20 marriage license fee described in Section 17-16-21 and added funding sought by the commission from private contributions and grants that support the duties of the commission described in Section 63M-14-204.

(3) Before November 1, 2024, and before November 1 of each third year after 2024, the commission shall provide a written report to the Health and Human Services Interim Committee regarding the commission's:

(a) initiatives and whether the initiatives could be accomplished by a private organization; and

(b) funding sources, including the effectiveness and necessity of the marriage license fee, described in Section 17-16-21, in providing commission funding.

Section 14. Repealer.

This bill repeals:

Section 62A-1-120, Utah Marriage Commission.

CHAPTER 92
H. B. 56
Passed March 5, 2021
Approved March 16, 2021
Effective May 5, 2021

INTERGENERATIONAL POVERTY MITIGATION ACT AMENDMENTS

Chief Sponsor: Mike Winder
Senate Sponsor: Derek L. Kitchen
Cosponsors: Cheryl K. Acton
Sandra Hollins

LONG TITLE

General Description:

This bill amends the Intergenerational Poverty Mitigation Act.

Highlighted Provisions:

This bill:

- amends the membership of the Utah Intergenerational Welfare Reform Commission; and
- amends the membership of the Intergenerational Poverty Advisory Committee.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

35A-9-301, as last amended by Laws of Utah 2016, Chapter 296
35A-9-304, as enacted by Laws of Utah 2013, Chapter 59

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

Section 1. Section 35A-9-301 is amended to read:

35A-9-301. Creation of the Utah Intergenerational Welfare Reform Commission.

There is created the Utah Intergenerational Welfare Reform Commission composed of the following [~~seven~~] eight members:

(1) the lieutenant governor;

(2) the executive director of the Department of Workforce Services or the deputy director if designated by the executive director;

(3) the executive director of the Department of Health or the deputy director if designated by the executive director;

(4) the executive director of the Department of Human Services or the deputy director if designated by the executive director;

(5) the state superintendent of public education or the deputy state superintendent if designated by the superintendent;

(6) the state juvenile court administrator; [~~and~~]

(7) the director of the Division of Multicultural Affairs within the Department of Heritage and Arts; and

[~~(7)~~] (8) the chair of the Intergenerational Poverty Advisory Committee created in Section 35A-9-304.

Section 2. Section 35A-9-304 is amended to read:

35A-9-304. Intergenerational Poverty Advisory Committee -- Creation -- Duties.

(1) To assist the commission, there is created the Intergenerational Poverty Advisory Committee.

(2) The advisory committee shall be composed of no more than [~~11~~] 12 members.

(3) Members of the advisory committee shall be appointed by the chair of the commission, with the approval of the commission, and shall include at least one member from each of the following groups:

(a) advocacy groups that focus on childhood poverty issues;

(b) advocacy groups that focus on education issues;

(c) academic experts in childhood poverty or education issues;

(d) faith-based organizations that address childhood poverty or education issues; [~~and~~]

(e) local government representatives that address childhood poverty or education issues[~~.~~]; and

(f) representatives of minority communities where children are disproportionately impacted by intergenerational poverty.

(4) Subject to Subsection (5), each member of the advisory committee shall be appointed for a four-year term unless a member is appointed to complete an unexpired term.

(5) The commission chair may adjust the length of term at the time of appointment or reappointment so that approximately half of the advisory committee is appointed every two years.

(6) The commission chair may remove an advisory committee member:

(a) if the member is unable or unwilling to carry out the member's assigned responsibilities; or

(b) for good cause.

(7) If a vacancy occurs in the advisory committee membership for any reason, a replacement may be appointed for the unexpired term.

(8) The commission chair shall select a chair of the advisory committee on an annual basis.

(9) A majority of the advisory committee constitutes a quorum of the advisory committee at any meeting and the action of the majority of members present are the action of the advisory committee.

(10) The advisory committee shall:

(a) meet at least twice a year at the request of the commission chair or the chair of the advisory committee;

(b) make recommendations to the commission on how the commission and the state can effectively address the needs of children affected by intergenerational poverty and achieve the purposes and duties of the commission as described in Section 35A-9-303; and

(c) ensure that the advisory committee's recommendations to the commission are supported by verifiable data.

(11) The Department of Workforce Services shall provide staff support to the advisory committee.

CHAPTER 93
H. B. 57
Passed February 12, 2021
Approved March 16, 2021
Effective May 5, 2021
(Retrospective operation to January 1, 2021)

ARMED FORCES AMENDMENTS

Chief Sponsor: Jefferson S. Burton
Senate Sponsor: Kirk A. Cullimore

LONG TITLE

General Description:

This bill adds Space Force to the definition of armed forces.

Highlighted Provisions:

This bill:

- adds Space Force to the definition of armed forces; and
- makes conforming and technical corrections.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a retrospective operation.

Utah Code Sections Affected:

AMENDS:

20A-1-513, as last amended by Laws of Utah 2020, Chapter 140
20A-16-102, as enacted by Laws of Utah 2011, Chapter 327
59-10-1027, as enacted by Laws of Utah 2011, Chapter 254
63G-1-401, as last amended by Laws of Utah 2020, Chapter 354
68-3-12.5, as last amended by Laws of Utah 2019, Chapter 24
78A-5-302, as enacted by Laws of Utah 2020, Chapter 62

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

Section 1. Section 20A-1-513 is amended to read:

20A-1-513. Temporary absence in elected office of a political subdivision for military service.

(1) As used in this section:

(a) "Armed forces" means the same as that term is defined in Section 68-3-12.5, and includes:

[~~(i) the Army of the United States;~~]

[~~(ii) the United States Navy;~~]

[~~(iii) the United States Air Force;~~]

[~~(iv) the Marine Corps;~~]

[~~(v) the Coast Guard;~~]

[~~(vi)~~] (i) the National Guard; [~~or~~] and

[~~(vii) a reserve or auxiliary of an entity listed in Subsections (1)(a)(i) through (vi).~~]

(ii) the national guard and armed forces reserves.

(b) (i) "Elected official" is a person who holds an office of a political subdivision that is required by law to be filled by an election.

(ii) "Elected official" includes a person who is appointed to fill a vacancy in an office described in Subsection (1)(b)(i).

(c) (i) "Military leave" means the temporary absence from an office:

(A) by an elected official called to active, full-time duty in the armed forces; and

(B) for a period of time that exceeds 30 days and does not exceed 400 days.

(ii) "Military leave" includes the time a person on leave, as described in Subsection (1)(c)(i), spends for:

(A) out processing;

(B) an administrative delay;

(C) accrued leave; and

(D) on rest and recuperation leave program of the armed forces.

(d) "Political subdivision's governing body" means:

(i) for a county, city, or town, the legislative body of the county, city, or town;

(ii) for a local district, the board of trustees of the local district;

(iii) for a local school district, the local school board;

(iv) for a special service district:

(A) the legislative body of the county, city, or town that established the special service district, if no administrative control board has been appointed under Section 17D-1-301; or

(B) the administrative control board of the special service district, if an administrative control board has been appointed under Section 17D-1-301; and

(v) for a political subdivision not listed in Subsections (1)(d)(i) through (iv), the body that governs the affairs of the political subdivision.

(e) "Temporary replacement" means the person appointed by the political subdivision's governing body in accordance with this section to exercise the powers and duties of the office of the elected official who takes military leave.

(2) An elected official creates a vacancy in the elected official's office if the elected official is called to active, full-time duty in the armed forces in accordance with Title 10, U.S.C.A. unless the elected official takes military leave as provided by this section.

(3) (a) An elected official who is called to active, full-time duty in the armed forces in a status other than in accordance with Title 10, U.S.C.A. shall notify the political subdivision's governing body of

the elected official's orders not later than five days after receipt of orders.

(b) The elected official described in Subsection (3)(a) may:

(i) continue to carry out the official's duties if possible while on active, full-time duty; or

(ii) take military leave if the elected official submits to the political subdivision's governing body written notice of the intent to take military leave and the expected duration of the military leave.

(4) (a) An elected official who chooses to continue to carry out the official's duties while on active, full-time duty shall, within 10 days after arrival at the official's place of deployment, confirm in writing to the political subdivision's governing body that the official has the ability to carry out the official's duties.

(b) If no confirmation is received by the political subdivision within the time period described in Subsection (4)(a), the elected official shall be placed in a military leave status and a temporary replacement appointed in accordance with Subsection (6).

(5) An elected official's military leave:

(a) begins the later of:

(i) the day after the day on which the elected official notifies the political subdivision's governing body of the intent to take military leave;

(ii) day 11 after the elected official's deployment if no confirmation is received in accordance with Subsection (4)(a); or

(iii) the day on which the elected official begins active, full-time duty in the armed forces; and

(b) ends the sooner of:

(i) the expiration of the elected official's term of office; or

(ii) the day on which the elected official ends active, full-time duty in the armed forces.

(6) A temporary replacement shall:

(a) meet the qualifications required to hold the office; and

(b) be appointed:

(i) in the same manner as provided by this part for a midterm vacancy if a registered political party nominated the elected official who takes military leave as a candidate for the office; or

(ii) by the political subdivision's governing body after submitting an application in accordance with Subsection (8)(b) if a registered political party did not nominate the elected official who takes military leave as a candidate for office.

(7) (a) A temporary replacement shall exercise the powers and duties of the office for which the temporary replacement is appointed for the duration of the elected official's military leave.

(b) An elected official may not exercise the powers or duties of the office while on military leave.

(c) If a temporary replacement is not appointed as required by Subsection (6)(b), no person may exercise the powers and duties of the elected official's office during the elected official's military leave.

(8) The political subdivision's governing body shall establish:

(a) the distribution of the emoluments of the office between the elected official and the temporary replacement; and

(b) an application form and the date and time before which a person shall submit the application to be considered by the political subdivision's governing body for appointment as a temporary replacement.

Section 2. Section 20A-16-102 is amended to read:

20A-16-102. Definitions.

As used in this chapter:

(1) "Covered voter" means:

(a) a uniformed-service voter or an overseas voter who is registered to vote in the state; or

(b) a uniformed-service voter whose voting residence is in the state and who otherwise satisfies the state's voter eligibility requirements.

(2) "Dependent" means an individual recognized as a dependent by a uniformed service.

(3) "Federal postcard application" means the application prescribed under the Uniformed and Overseas Citizens Absentee Voting Act, Sec. 101(b)(2), 42 U.S.C. Sec. 1973ff(b)(2).

(4) "Federal write-in absentee ballot" means the ballot described in the Uniformed and Overseas Citizens Absentee Voting Act, Sec. 103, 42 U.S.C. Sec. 1973ff-2.

(5) "Military-overseas ballot" means:

(a) a federal write-in absentee ballot;

(b) a ballot specifically prepared or distributed for use by a covered voter in accordance with this chapter; or

(c) a ballot cast by a covered voter in accordance with this chapter.

(6) "Overseas voter" means a United States citizen who is outside the United States.

(7) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

(8) "Uniformed service" means:

(a) active and reserve components of the [~~Army, Navy, Air Force, Marine Corps, or Coast Guard of the United States~~] armed forces as defined in Section 68-3-12.5;

(b) the Merchant Marine, the commissioned corps of the Public Health Service, or the commissioned corps of the National Oceanic and Atmospheric Administration of the United States; or

(c) the National Guard.

(9) "Uniformed-service voter" means an individual who is qualified to vote and is:

(a) a member of the active or reserve components of the [~~Army, Navy, Air Force, Marine Corps, or Coast Guard of the United States~~] armed forces who is on active duty;

(b) a member of the Merchant Marine, the commissioned corps of the Public Health Service, or the commissioned corps of the National Oceanic and Atmospheric Administration of the United States;

(c) a member on activated status of the National Guard; or

(d) a spouse or dependent of a member referred to in Subsections (9)(a) through (c).

(10) "United States" means the several states, the District of Columbia, Puerto Rico, the United States Virgin Islands, and any territory or insular possession subject to the jurisdiction of the United States.

Section 3. Section 59-10-1027 is amended to read:

59-10-1027. Nonrefundable tax credit for combat related death.

(1) As used in this section:

(a) "Active component of the United States Armed Forces" means active duty service in the United States Army, United States Navy, United States Air Force, United States Marine Corps, United States Space Force, or United States Coast Guard.

(b) "Combat related death" means an individual who dies:

(i) on or after January 1, 2010; and

(ii) (A) while in military service in a combat zone; or

(B) as a result of a wound, disease, or injury the individual incurs while in military service in a combat zone.

(c) "Combat zone" means an area that the President of the United States designates by Executive Order as an area in which an active component of the United States Armed Forces or a reserve component of the United States Armed Forces are or have engaged in combat.

(d) "Military service in a combat zone" means service:

(i) in an active component of the United States Armed Forces or reserve component of the United States Armed Forces; and

(ii) performed:

(A) on or after the date the President of the United States designates by Executive Order as the date combatant activities begin in a combat zone; and

(B) on or before the date the President of the United States designates by Executive Order as the date combatant activities terminate in a combat zone.

(e) "Reserve component of the United States Armed Forces" means service in a reserve component of the armed forces listed in 10 U.S.C. Sec. 101(c) or 10 U.S.C. Sec. 10101.

(2) A claimant, estate, or trust that files a return on behalf of an individual who dies a combat related death may claim a nonrefundable tax credit against that individual's tax liability under this chapter as provided in this section.

(3) For purposes of Subsection (2), the tax credit is equal to the tax liability of the individual who dies a combat related death for the taxable year during which the individual dies.

Section 4. Section 63G-1-401 is amended to read:

63G-1-401. Commemorative periods.

(1) The following days shall be commemorated annually:

(a) Utah History Day at the Capitol, on the Friday immediately following the fourth Monday in January, to encourage citizens of the state, including students, to participate in activities that recognize Utah's history;

(b) Utah State Flag Day, on March 9;

(c) Vietnam Veterans Recognition Day, on March 29;

(d) Utah Railroad Workers Day, on May 10;

(e) Dandy-Walker Syndrome Awareness Day, on May 11;

(f) [~~Yellow Ribbon~~] Armed Forces Day, on the third [~~Monday~~] Saturday in May, in honor of men and women who are serving or have served in the United States Armed Forces around the world in defense of freedom;

(g) Juneteenth Freedom Day, on the third Saturday in June, in honor of Union General Gordon Granger proclaiming the freedom of all slaves on June 19, 1865, in Galveston, Texas;

(h) Arthrogryposis Multiplex Congenita Awareness Day, on June 30;

(i) Navajo Code Talker Day, on August 14;

(j) Rachael Runyan/Missing and Exploited Children's Day, on August 26, the anniversary of the day three-year-old Rachael Runyan was kidnaped from a playground in Sunset, Utah, to:

(i) encourage individuals to make child safety a priority;

(ii) remember the importance of continued efforts to reunite missing children with their families; and

(iii) honor Rachael Runyan and all Utah children who have been abducted or exploited;

(k) Constitution Day, on September 17;

(l) POW/MIA Recognition Day, on the third Friday in September;

(m) Victims of Communism Memorial Day, on November 7;

(n) Indigenous People Day, on the Monday immediately preceding Thanksgiving; and

(o) Bill of Rights Day, on December 15.

(2) The Department of Veterans and Military Affairs shall coordinate activities, special programs, and promotional information to heighten public awareness and involvement relating to Subsections (1)(f) and (l).

(3) The month of April shall be commemorated annually as Clean Out the Medicine Cabinet Month to:

(a) recognize the urgent need to make Utah homes and neighborhoods safe from prescription medication abuse and poisonings by the proper home storage and disposal of prescription and over-the-counter medications; and

(b) educate citizens about the permanent medication disposal sites in Utah listed on useonlyasdirected.org that allow disposal throughout the year.

(4) The second full week of April shall be commemorated annually as Animal Care and Control Appreciation Week to recognize and increase awareness within the community of the services that animal care and control professionals provide.

(5) The first full week of May shall be commemorated annually as State Water Week to recognize the importance of water conservation, quality, and supply in the state.

(6) The third full week of June shall be commemorated annually as Workplace Safety Week to heighten public awareness regarding the importance of safety in the workplace.

(7) The second Friday and Saturday in August shall be commemorated annually as Utah Fallen Heroes Days to:

(a) honor fallen heroes who, during service in the military or public safety, have sacrificed their lives to protect the country and the citizens of the state; and

(b) encourage political subdivisions to acknowledge and honor fallen heroes.

(8) The third full week in August shall be commemorated annually as Drowsy Driving Awareness Week to:

(a) educate the public about the relationship between fatigue and driving performance; and

(b) encourage the Department of Public Safety and the Department of Transportation to recognize and promote educational efforts on the dangers of drowsy driving.

(9) The third full week of September shall be commemorated annually as Gang Prevention Awareness Week.

(10) The month of October shall be commemorated annually as Italian-American Heritage Month.

(11) The month of November shall be commemorated annually as American Indian Heritage Month.

(12) The first full week of December shall be commemorated annually as Avalanche Awareness Week to:

(a) educate the public about avalanche awareness and safety;

(b) encourage collaborative efforts to decrease annual avalanche accidents and fatalities; and

(c) honor Utah residents who have lost their lives in avalanches, including those who lost their lives working to prevent avalanches.

Section 5. Section 68-3-12.5 is amended to read:

68-3-12.5. Definitions for Utah Code.

(1) The definitions listed in this section apply to the Utah Code, unless:

(a) the definition is inconsistent with the manifest intent of the Legislature or repugnant to the context of the statute; or

(b) a different definition is expressly provided for the respective title, chapter, part, section, or subsection.

(2) "Adjudicative proceeding" means:

(a) an action by a board, commission, department, officer, or other administrative unit of the state that determines the legal rights, duties, privileges, immunities, or other legal interests of one or more identifiable persons, including an action to grant, deny, revoke, suspend, modify, annul, withdraw, or amend an authority, right, or license; and

(b) judicial review of an action described in Subsection (2)(a).

(3) "Administrator" includes "executor" when the subject matter justifies the use.

(4) "Advisory board," "advisory commission," and "advisory council" mean a board, commission, committee, or council that:

(a) is created by, and whose duties are provided by, statute or executive order;

(b) performs its duties only under the supervision of another person as provided by statute; and

(c) provides advice and makes recommendations to another person that makes policy for the benefit of the general public.

(5) "Armed forces" means the United States Army, Navy, Air Force, Marine Corps, Space Force, and Coast Guard.

(6) "City" includes, depending on population, a metro township as defined in Section 10-3c-102.

(7) "County executive" means:

(a) the county commission, in the county commission or expanded county commission form of government established under Title 17, Chapter 52a, Changing Forms of County Government;

(b) the county executive, in the county executive-council optional form of government authorized by Section 17-52a-203; or

(c) the county manager, in the council-manager optional form of government authorized by Section 17-52a-204.

(8) "County legislative body" means:

(a) the county commission, in the county commission or expanded county commission form of government established under Title 17, Chapter 52a, Changing Forms of County Government;

(b) the county council, in the county executive-council optional form of government authorized by Section 17-52a-203; and

(c) the county council, in the council-manager optional form of government authorized by Section 17-52a-204.

(9) "Depose" means to make a written statement made under oath or affirmation.

(10) "Executor" includes "administrator" when the subject matter justifies the use.

(11) "Guardian" includes a person who:

(a) qualifies as a guardian of a minor or incapacitated person pursuant to testamentary or court appointment; or

(b) is appointed by a court to manage the estate of a minor or incapacitated person.

(12) "Highway" includes:

(a) a public bridge;

(b) a county way;

(c) a county road;

(d) a common road; and

(e) a state road.

(13) "Intellectual disability" means a significant, subaverage general intellectual functioning that:

(a) exists concurrently with deficits in adaptive behavior; and

(b) is manifested during the developmental period as defined in the current edition of the Diagnostic and Statistical Manual of Mental Disorders, published by the American Psychiatric Association.

(14) "Intermediate care facility for people with an intellectual disability" means an intermediate care facility for the mentally retarded, as defined in Title XIX of the Social Security Act.

(15) "Land" includes:

(a) land;

(b) a tenement;

(c) a hereditament;

(d) a water right;

(e) a possessory right; and

(f) a claim.

(16) "Month" means a calendar month, unless otherwise expressed.

(17) "Oath" includes "affirmation."

(18) "Person" means:

(a) an individual;

(b) an association;

(c) an institution;

(d) a corporation;

(e) a company;

(f) a trust;

(g) a limited liability company;

(h) a partnership;

(i) a political subdivision;

(j) a government office, department, division, bureau, or other body of government; and

(k) any other organization or entity.

(19) "Personal property" includes:

(a) money;

(b) goods;

(c) chattels;

(d) effects;

(e) evidences of a right in action;

(f) a written instrument by which a pecuniary obligation, right, or title to property is created, acknowledged, transferred, increased, defeated, discharged, or diminished; and

(g) a right or interest in an item described in Subsections (19)(a) through (f).

(20) "Personal representative," "executor," and "administrator" include:

(a) an executor;

(b) an administrator;

(c) a successor personal representative;

(d) a special administrator; and

(e) a person who performs substantially the same function as a person described in Subsections

(20)(a) through (d) under the law governing the person's status.

(21) "Policy board," "policy commission," or "policy council" means a board, commission, or council that:

(a) is authorized to make policy for the benefit of the general public;

(b) is created by, and whose duties are provided by, the constitution or statute; and

(c) performs its duties according to its own rules without supervision other than under the general control of another person as provided by statute.

(22) "Population" is shown by the most recent state or national census, unless expressly provided otherwise.

(23) "Process" means a writ or summons issued in the course of a judicial proceeding.

(24) "Property" includes both real and personal property.

(25) "Real estate" or "real property" includes:

(a) land;

(b) a tenement;

(c) a hereditament;

(d) a water right;

(e) a possessory right; and

(f) a claim.

(26) "Review board," "review commission," and "review council" mean a board, commission, committee, or council that:

(a) is authorized to approve policy made for the benefit of the general public by another body or person;

(b) is created by, and whose duties are provided by, statute; and

(c) performs its duties according to its own rules without supervision other than under the general control of another person as provided by statute.

(27) "Road" includes:

(a) a public bridge;

(b) a county way;

(c) a county road;

(d) a common road; and

(e) a state road.

(28) "Signature" includes a name, mark, or sign written with the intent to authenticate an instrument or writing.

(29) "State," when applied to the different parts of the United States, includes a state, district, or territory of the United States.

(30) "Swear" includes "affirm."

(31) "Testify" means to make an oral statement under oath or affirmation.

(32) "Town" includes, depending on population, a metro township as defined in Section 10-3c-102.

(33) "Uniformed services" means:

(a) the armed forces;

(b) the commissioned corps of the National Oceanic and Atmospheric Administration; and

(c) the commissioned corps of the United States Public Health Service.

(34) "United States" includes each state, district, and territory of the United States of America.

(35) "Utah Code" means the 1953 recodification of the Utah Code, as amended, unless the text expressly references a portion of the 1953 recodification of the Utah Code as it existed:

(a) on the day on which the 1953 recodification of the Utah Code was enacted; or

(b) (i) after the day described in Subsection (35)(a); and

(ii) before the most recent amendment to the referenced portion of the 1953 recodification of the Utah Code.

(36) "Vessel," when used with reference to shipping, includes a steamboat, canal boat, and every structure adapted to be navigated from place to place.

(37) (a) "Veteran" means an individual who:

(i) has served in the United States Armed Forces for at least 180 days:

(A) on active duty; or

(B) in a reserve component, to include the National Guard; or

(ii) has incurred an actual service-related injury or disability while in the United States Armed Forces regardless of whether the individual completed 180 days; and

(iii) was separated or retired under conditions characterized as honorable or general.

(b) This definition is not intended to confer eligibility for benefits.

(38) "Will" includes a codicil.

(39) "Writ" means an order or precept in writing, issued in the name of:

(a) the state;

(b) a court; or

(c) a judicial officer.

(40) "Writing" includes:

(a) printing;

(b) handwriting; and

(c) information stored in an electronic or other medium if the information is retrievable in a perceivable format.

Section 6. Section 78A-5-302 is amended to read:

78A-5-302. Definitions.

As used in this part:

(1) "Defendant" means a veteran charged with a criminal offense.

(2) "Domestic violence" means the same as that term is defined in Section 77-36-1.

(3) (a) "Participant agreement" means the record, required by Subsection 78A-5-304(1), of the policies and procedures of a veterans treatment court and any specific terms and conditions applicable to the defendant.

(b) "Participant agreement" includes a modification under Section 78A-5-310.

(4) "Record," except as otherwise provided in Subsection 78A-5-307(1)(c), means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(5) "Servicemember" means:

(a) a member of the active or reserve components of the [~~Army, Navy, Air Force, Marine Corps, or Coast Guard, of the United States~~] armed forces as defined in Section 68-3-12.5; or

(b) a member of the National Guard of the United States.

(6) (a) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

(b) "State" includes a federally recognized Indian tribe.

(7) "Veteran" means a former servicemember who qualifies for health care benefits from the Veterans Administration.

(8) "Veterans treatment court" means a veterans treatment court program administered under this part by a court of this state.

Section 7. Retrospective operation.

Section 59-10-1027 has retrospective operation for a taxable year beginning on or after January 1, 2021.

CHAPTER 94
H. B. 58
Passed February 26, 2021
Approved March 16, 2021
Effective May 5, 2021

RIOT AMENDMENTS

Chief Sponsor: Ryan D. Wilcox
Senate Sponsor: Don L. Ipson

LONG TITLE

General Description:

This bill adds specific sanctions for individuals arrested and convicted of rioting.

Highlighted Provisions:

This bill:

- provides that a person arrested for rioting must appear before a magistrate before being released;
- requires the court to order restitution upon a conviction for rioting; and
- makes technical corrections.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

76-9-101, as last amended by Laws of Utah 1997, Chapter 289
77-20-1, as last amended by Laws of Utah 2020, Chapters 142 and 185

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

Section 1. Section 76-9-101 is amended to read:

76-9-101. Riot -- Penalties.

(1) [~~A person~~] An individual is guilty of riot if the individual:

(a) simultaneously with two or more other [~~persons he~~] individuals engages in [~~tumultuous or~~] violent conduct [~~and thereby~~], knowingly or recklessly [~~creates~~] creating a substantial risk of causing public alarm; [~~or~~]

(b) [~~he~~] assembles with two or more other [~~persons~~] individuals with the purpose of engaging, soon thereafter, in [~~tumultuous or~~] violent conduct, knowing, that two or more other [~~persons~~] individuals in the assembly have the same purpose; or

(c) [~~he~~] assembles with two or more other [~~persons~~] individuals with the purpose of committing an offense against a person, or the property of another person who [~~he~~] the individual supposes to be guilty of a violation of law, believing that two or more other [~~persons~~] individuals in the assembly have the same purpose.

(2) [~~Any person~~] Any individual who refuses to comply with a lawful order to withdraw [~~given to him immediately~~] prior to, during, or immediately following a violation of Subsection (1) is guilty of riot. It is no defense to a prosecution under this Subsection (2) that withdrawal must take place over private property; provided, however, that [~~no persons so withdrawing shall~~] an individual who withdraws in compliance with an order to withdraw may not incur criminal or civil liability by virtue of acts reasonably necessary to accomplish the withdrawal.

[~~(3) Riot is a felony of the third degree if, in the course of and as a result of the conduct, any person suffers bodily injury, or substantial property damage, arson occurs or the defendant was armed with a dangerous weapon, as defined in Section 76-1-601; otherwise it is a class B misdemeanor.~~]

(3) Except as provided in Subsection (4), riot is a class B misdemeanor.

(4) Riot is a third degree felony if, in the course of the conduct:

(a) the individual causes substantial or serious bodily injury;

(b) the individual causes substantial property damage or commits arson; or

(c) the individual was in possession of a dangerous weapon as defined in Section 76-1-601.

(5) An individual arrested for a violation of Subsection (4) may not be released from custody before the individual appears before a magistrate or a judge.

(6) The court shall order a defendant convicted under Subsection (4) to pay restitution as calculated in accordance with Section 77-38a-302.

Section 2. Section 77-20-1 is amended to read:

77-20-1. Right to bail -- Pretrial status order -- Denial of bail -- Detention hearing -- Motion to modify.

(1) As used in this chapter:

(a) "Bail bond agency" means the same as that term is defined in Section 31A-35-102.

(b) "Financial condition" or "monetary bail" means any monetary condition that may be imposed under Section 77-20-4 to secure an individual's pretrial release.

(c) "Pretrial release" or "bail" means release of an individual charged with or arrested for a criminal offense from law enforcement or judicial custody during the time the individual awaits trial or other resolution of the criminal charges.

(d) "Pretrial status order" means an order issued by the court exercising jurisdiction over an individual charged with a criminal offense that sets the terms and conditions of the individual's pretrial release or denies pretrial release and orders that the individual be detained pending resolution of the criminal charges.

(e) "Surety" and "sureties" mean a surety insurer or a bail bond agency.

(f) "Surety insurer" means the same as that term is defined in Section 31A-35-102.

(2) An individual charged with or arrested for a criminal offense shall be admitted to bail as a matter of right, except if the individual is charged with [~~a~~]:

(a) capital felony, when the court finds there is substantial evidence to support the charge;

(b) felony committed while on probation or parole, or while free on bail awaiting trial on a previous felony charge, when the court finds there is substantial evidence to support the current felony charge;

(c) felony when there is substantial evidence to support the charge and the court finds by clear and convincing evidence that the individual would constitute a substantial danger to any other individual or to the community, or is likely to flee the jurisdiction of the court, if released on bail;

(d) felony when the court finds there is substantial evidence to support the charge and the court finds by clear and convincing evidence that the individual violated a material condition of release while previously on bail; [~~or~~]

(e) domestic violence offense if the court finds:

(i) that there is substantial evidence to support the charge; and

(ii) by clear and convincing evidence, that the individual would constitute a substantial danger to an alleged victim of domestic violence if released on bail; or

(f) a felony violation of Section 76-9-101 if there is substantial evidence to support the charge and the court finds by clear and convincing evidence that the individual is not likely to appear for a subsequent court appearance.

(3) (a) A court exercising jurisdiction over an individual charged with or arrested for a criminal offense shall issue a pretrial status order designating the conditions to be imposed upon the individual's release or ordering that the individual be detained under this section during the time the individual awaits trial or other resolution of the criminal charges.

(b) A court granting pretrial release shall impose the least restrictive reasonably available conditions of release on the individual who is the subject of the pretrial status order that the court determines will reasonably ensure:

(i) the individual's appearance in court when required;

(ii) the safety of any witnesses or victims of the offense allegedly committed by the individual;

(iii) the safety and welfare of the public; and

(iv) that the individual will not obstruct or attempt to obstruct the criminal justice process.

(c) (i) The court shall issue the pretrial status order without unnecessary delay.

(ii) If a prosecutor files a motion for detention under Subsection (6), the court may delay issuing the pretrial status order until after hearing the motion to detain if the court finds:

(A) the prosecutor's motion states a reasonable case for detention; and

(B) detaining the defendant until after the motion is heard is in the interests of justice and public safety.

(4) (a) Except as otherwise provided in this section, Section 76-9-101, or Section 78B-7-802, the court shall order that an individual charged with a criminal offense be released on the individual's own recognizance, on condition that the individual appear at all required court proceedings, if the court finds that additional conditions are not necessary to reasonably ensure compliance with Subsection (3)(b).

(b) The court shall impose additional release conditions if the court finds that additional release conditions are necessary to reasonably ensure compliance with Subsection (3)(b). The conditions imposed may include that the individual:

(i) not commit a federal, state, or local offense during the period of release;

(ii) avoid contact with a victim or victims of the alleged offense;

(iii) avoid contact with a witness or witnesses who may testify concerning the alleged offense that are named in the pretrial status order;

(iv) not use or consume alcohol, or any narcotic drug or other controlled substance except as prescribed by a licensed medical practitioner;

(v) submit to drug or alcohol testing;

(vi) complete a substance abuse evaluation and comply with any recommended treatment or release program;

(vii) submit to electronic monitoring or location device tracking;

(viii) participate in inpatient or outpatient medical, behavioral, psychological, or psychiatric treatment;

(ix) maintain employment, or if unemployed, actively seek employment;

(x) maintain or commence an education program;

(xi) comply with limitations on where the individual is allowed to be located or the times the individual shall be or may not be at a specified location;

(xii) comply with specified restrictions on personal associations, place of residence, or travel;

(xiii) report to a law enforcement agency, pretrial services program, or other designated agency at a specified frequency or on specified dates;

(xiv) comply with a specified curfew;

(xv) forfeit or refrain from possession of a firearm or other dangerous weapon;

(xvi) if the individual is charged with an offense against a child, is limited or denied access to any location or occupation where children are, including any residence where children are on the premises, activities including organized activities in which children are involved, locations where children congregate, or where a reasonable person should know that children congregate;

(xvii) comply with requirements for house arrest;

(xviii) return to custody for a specified period of time following release for employment, schooling, or other limited purposes;

(xix) remain in the custody of one or more designated individuals who agree to supervise and report on the behavior and activities of the individual charged and to encourage compliance with all court orders and attendance at all required court proceedings;

(xx) comply with a financial condition; or

(xxi) comply with any other condition that is necessary to reasonably ensure compliance with Subsection (3)(b).

(c) If the court determines a financial condition, other than an unsecured bond, is necessary to impose on an individual as part of the individual's pretrial release, the court shall consider the individual's ability to pay when determining the amount of the financial condition.

(5) In making a determination under Subsection (3), the court may rely on the following:

(a) any form of pretrial services assessment;

(b) the nature and circumstances of the offense or offenses charged, including whether the charges include a violent offense and the vulnerability of witnesses or alleged victims;

(c) the nature and circumstances of the individual, including the individual's character, physical and mental health, family and community ties, employment status and history, financial resources, past criminal conduct, history of drug or alcohol abuse, and history of timely appearances at required court proceedings;

(d) the potential danger to another individual or individuals posed by the release of the individual;

(e) if the individual was on probation, parole, or release pending an upcoming court proceeding at the time the individual allegedly committed the offense;

(f) the availability of other individuals who agree to assist the individual in attending court when required or other evidence relevant to the individual's opportunities for supervision in the individual's community;

(g) the eligibility and willingness of the individual to participate in various treatment programs, including drug treatment; or

(h) other evidence relevant to the individual's likelihood of fleeing or violating the law if released.

(6) (a) If the criminal charges filed against the individual include one or more offenses eligible for detention under Subsection (2) or Utah Constitution, Article I, Section 8, the prosecution may file a motion for pretrial detention.

(b) Upon receiving a motion under Subsection (6)(a), the court shall set a hearing on the matter as soon as practicable.

(c) The individual who is the subject of the detention hearing has the right to be represented by counsel at the pretrial detention hearing and, if a court finds the individual is indigent under Section 78B-22-202, the court shall appoint counsel to represent the individual in accordance with Section 78B-22-203.

(d) The court shall give both parties the opportunity to make arguments and to present relevant evidence at the detention hearing.

(7) After hearing evidence on a motion for pretrial detention, the court may detain the individual if:

(a) the individual is accused of committing an offense that qualifies the individual for detention under Subsection (2) or Utah Constitution, Article I, Section 8;

(b) the prosecution demonstrates substantial evidence to support the charge, and meets all additional evidentiary burdens required under Subsection (2) or Utah Constitution, Article I, Section 8; and

(c) the court finds that no conditions that may be imposed upon granting the individual pretrial release will reasonably ensure compliance with Subsection (3)(b).

(8) (a) If an individual is charged with a criminal offense described in Subsection (8)(b), there is a rebuttable presumption that the individual be detained.

(b) Criminal charges that create a rebuttable presumption of detention under Subsection (8)(a) include:

(i) criminal homicide as defined in Section 75-5-201; and

(ii) any offense for which the term of imprisonment may include life.

(c) The individual may rebut the presumption of detention by demonstrating, by a preponderance of the evidence, that specified conditions of release will reasonably ensure compliance with Subsection (3)(b).

(9) Except as otherwise provided, the court issuing a pretrial warrant of arrest shall issue the initial pretrial status order.

(10) (a) An individual arrested for a violation of a jail release agreement or jail release court order issued in accordance with Section 78B-7-802:

(i) may be denied pretrial release by the court under Subsection (2); and

(ii) if denied pretrial release, may not be released before the individual's initial appearance before the court.

(b) Nothing in this section precludes or nullifies a jail release agreement or jail release order required under Section 78B-7-802.

(11) (a) A motion to modify the initial pretrial status order may be made by a party at any time upon notice to the opposing party sufficient to permit the opposing party to prepare for hearing and to permit each alleged victim to be notified and be present.

(b) Hearing on a motion to modify a pretrial status order may be held in conjunction with a preliminary hearing or any other pretrial hearing.

(c) The court may rely on information as provided in Subsection (5) and may base its ruling on evidence provided at the hearing so long as each party is provided an opportunity to present additional evidence or information relevant to bail.

(12) Subsequent motions to modify a pretrial status order may be made only upon a showing that there has been a material change in circumstances.

(13) An appeal may be taken from an order of a court denying bail to the Utah Court of Appeals pursuant to the Utah Rules of Appellate Procedure, which shall review the determination under Subsection (7).

(14) For purposes of this section, any arrest or charge for a violation of Section 76-5-202, Aggravated murder, is a capital felony unless:

(a) the prosecutor files a notice of intent to not seek the death penalty; or

(b) the time for filing a notice to seek the death penalty has expired and the prosecutor has not filed a notice to seek the death penalty.

CHAPTER 95
H. B. 59
Passed March 5, 2021
Approved March 16, 2021
Effective May 5, 2021

INTIMATE IMAGE DISTRIBUTION PROHIBITION REVISIONS

Chief Sponsor: Andrew Stoddard
Senate Sponsor: Jani Iwamoto

LONG TITLE

General Description:

This bill provides criminal penalties for the misuse of evidence in certain types of criminal actions.

Highlighted Provisions:

This bill:

- defines terms; and
- provides criminal penalties for any individual to duplicate, share, copy, or display an intimate image during a criminal action.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

76-5b-203, as last amended by Laws of Utah 2019, Chapter 378

ENACTS:

76-5b-203.5, Utah Code Annotated 1953

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

Section 1. Section 76-5b-203 is amended to read:

76-5b-203. Distribution of an intimate image -- Penalty.

(1) As used in this section:

(a) "Distribute" means selling, exhibiting, displaying, wholesaling, retailing, providing, giving, granting admission to, providing access to, or otherwise transferring or presenting an image to another individual, with or without consideration.

(b) "Intimate image" means any visual depiction, photograph, film, video, recording, picture, or computer or computer-generated image or picture, whether made or produced by electronic, mechanical, or other means, that depicts:

(i) exposed human male or female genitals or pubic area, with less than an opaque covering;

(ii) a female breast with less than an opaque covering, or any portion of the female breast below the top of the areola; or

(iii) the individual engaged in any sexually explicit conduct.

(c) "Sexually explicit conduct" means actual or simulated:

(i) sexual intercourse, including genital-genital, oral-genital, anal-genital, or oral-anal, whether between persons of the same or opposite sex;

(ii) masturbation;

(iii) bestiality;

(iv) sadistic or masochistic activities;

(v) exhibition of the genitals, pubic region, buttocks, or female breast of any individual;

(vi) visual depiction of nudity or partial nudity;

(vii) fondling or touching of the genitals, pubic region, buttocks, or female breast; or

(viii) explicit representation of the defecation or urination functions.

(d) "Simulated sexually explicit conduct" means a feigned or pretended act of sexually explicit conduct that duplicates, within the perception of an average person, the appearance of an actual act of sexually explicit conduct.

(2) An actor commits the offense of distribution of intimate images if the actor knowingly or intentionally distributes to any third party, or knowingly duplicates or copies, any intimate image of an individual who is 18 years of age or older and knows or should know that the distribution, duplication or copying would cause a reasonable person to suffer emotional distress or harm, if:

(a) the actor [~~knows that~~] has not received consent from the depicted individual [~~has not given consent to the actor~~] to distribute the intimate image;

(b) the intimate image was created by or provided to the actor under circumstances in which the individual has a reasonable expectation of privacy; and

(c) actual emotional distress or harm is caused to the person as a result of the distribution under this section.

(3) This section does not apply to:

(a) except as provided in Section 76-5b-203.5:

(i) lawful practices of law enforcement agencies;

(ii) prosecutorial agency functions;

(iii) the reporting of a criminal offense;

(iv) court proceedings or any other judicial proceeding; or

(v) lawful and generally accepted medical practices and procedures;

(b) an intimate image if the individual portrayed in the image voluntarily allows public exposure of the image;

(c) an intimate image that is portrayed in a lawful commercial setting; or

(d) an intimate image that is related to a matter of public concern or interest.

(4) (a) This section does not apply to an Internet service provider or interactive computer service, as

defined in 47 U.S.C. Sec. 230(f)(2), a provider of an electronic communications service as defined in 18 U.S.C. Sec. 2510, a telecommunications service, information service, or mobile service as defined in 47 U.S.C. Sec. 153, including a commercial mobile service as defined in 47 U.S.C. Sec. 332(d), or a cable operator as defined in 47 U.S.C. Sec. 522, if:

(i) the distribution of an intimate image by the Internet service provider occurs only incidentally through the provider's function of:

(A) transmitting or routing data from one person to another person; or

(B) providing a connection between one person and another person;

(ii) the provider does not intentionally aid or abet in the distribution of the intimate image; and

(iii) the provider does not knowingly receive from or through a person who distributes the intimate image a fee greater than the fee generally charged by the provider, as a specific condition for permitting the person to distribute the intimate image.

(b) This section does not apply to a hosting company, as defined in Section 76-10-1230, if:

(i) the distribution of an intimate image by the hosting company occurs only incidentally through the hosting company's function of providing data storage space or data caching to a person;

(ii) the hosting company does not intentionally engage, aid, or abet in the distribution of the intimate image; and

(iii) the hosting company does not knowingly receive from or through a person who distributes the intimate image a fee greater than the fee generally charged by the provider, as a specific condition for permitting the person to distribute, store, or cache the intimate image.

(c) A service provider, as defined in Section 76-10-1230, is not negligent under this section if it complies with Section 76-10-1231.

(5) (a) Distribution of an intimate image is a class A misdemeanor except under Subsection (5)(b).

(b) Distribution of an intimate image is a third degree felony on a second or subsequent conviction for an offense under this section that arises from a separate criminal episode as defined in Section 76-1-401.

Section 2. Section 76-5b-203.5 is enacted to read:

76-5b-203.5. Misuse of intimate image during a criminal action.

(1) As used in this section, "intimate image" has the same meaning as in Section 76-5b-203.

(2) Any actor who obtains access to an intimate image in the course of a criminal action as defined in Subsection 77-1-3(1) may not intentionally display, duplicate, copy, or share the intimate image, unless:

(a) displaying, duplicating, copying, or sharing the intimate image is done solely for the purpose of the adjudication, defense, prosecution or investigation of a criminal matter involving the intimate image;

(b) each individual who is the subject of the intimate image gives written permission to display, duplicate, copy, or share the intimate image; or

(c) the intimate image was not created by or provided to the actor under circumstances in which the depicted individual has a reasonable expectation of privacy.

(3) An actor who violates Subsection (2) is guilty of:

(a) a class A misdemeanor for a first offense; or

(b) a third degree felony for each subsequent offense.

(4) Nothing in this section precludes an agency that employs an individual who is involved in a criminal action from establishing internal policies for an individual's violation of this section.

CHAPTER 96
H. B. 62
Passed March 5, 2021
Approved March 16, 2021
Effective May 5, 2021

POST CERTIFICATION AMENDMENTS

Chief Sponsor: Andrew Stoddard
Senate Sponsor: Luz Escamilla

LONG TITLE

General Description:

This bill adds additional grounds for taking action in relation to peace officer misconduct.

Highlighted Provisions:

This bill:

- adds the following grounds to the council's authority to issue a Letter of Caution or suspend or revoke the certification of a peace officer:
  - conduct involving dishonesty or deception; or
  - the officer is found by a court or by a law enforcement agency to have knowingly engaged in certain biased or prejudicial conduct; and
- modifies when separations from an employer must be reported to the division.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53-6-211, as last amended by Laws of Utah 2020, Chapter 35

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

Section 1. Section 53-6-211 is amended to read:

53-6-211. Suspension or revocation of certification -- Right to a hearing -- Grounds -- Notice to employer -- Reporting -- Judicial appeal.

(1) The council has the authority to issue a Letter of Caution, or suspend or revoke the certification of a peace officer, if the peace officer:

(a) willfully falsifies any information to obtain certification;

(b) has any physical or mental disability affecting the peace officer's ability to perform duties;

(c) is addicted to alcohol or any controlled substance, unless the peace officer reports the addiction to the employer and to the director as part of a departmental early intervention process;

(d) engages in conduct constituting a state or federal criminal offense, but not including a traffic offense that is a class C misdemeanor or infraction;

(e) refuses to respond, or fails to respond truthfully, to questions after having been issued a warning issued based on Garrity v. New Jersey, 385 U.S. 493 (1967);

(f) engages in sexual conduct while on duty; [~~or~~]

(g) is certified as a law enforcement peace officer, as defined in Section 53-13-102, and is unable to possess a firearm under state or federal law[~~.~~];

(h) is found by a court or by a law enforcement agency to have knowingly engaged in conduct that involves dishonesty or deception in violation of a policy of the peace officer's employer or in violation of a state or federal law; or

(i) is found by a court or by a law enforcement agency to have knowingly engaged in biased or prejudicial conduct against one or more individuals based on the individual's race, color, sex, pregnancy, age, religion, national origin, disability, sexual orientation, or gender identity.

(2) The council may not issue a Letter of Caution[~~,~~] or suspend or revoke the certification of a peace officer for a violation of state or federal law or a violation of a law enforcement agency's policies, general orders, or guidelines of operation that do not amount to a cause of action under Subsection (1).

(3) (a) The division is responsible for investigating officers who are alleged to have engaged in conduct in violation of Subsection (1).

(b) The division shall initiate all adjudicative proceedings under this section by providing to the peace officer involved notice and an opportunity for a hearing before an administrative law judge.

(c) All adjudicative proceedings under this section are civil actions, notwithstanding whether the issue in the adjudicative proceeding is a violation of statute that may be prosecuted criminally.

(d) (i) The burden of proof on the division in an adjudicative proceeding under this section is by clear and convincing evidence.

(ii) If a peace officer asserts an affirmative defense, the peace officer has the burden of proof to establish the affirmative defense by a preponderance of the evidence.

(e) If the administrative law judge issues findings of fact and conclusions of law stating there is sufficient evidence to demonstrate that the officer engaged in conduct that is in violation of Subsection (1), the division shall present the finding and conclusions issued by the administrative law judge to the council.

(f) The division shall notify the chief, sheriff, or administrative officer of the police agency which employs the involved peace officer of the investigation and shall provide any information or comments concerning the peace officer received from that agency regarding the peace officer to the council before a Letter of Caution is issued, or a peace officer's certification may be suspended or revoked.

(g) If the administrative law judge finds that there is insufficient evidence to demonstrate that the officer is in violation of Subsection (1), the administrative law judge shall dismiss the adjudicative proceeding.

(4) (a) The council shall:

(i) accept the administrative law judge's findings of fact and conclusions of law, and the information concerning the peace officer provided by the officer's employing agency; and

(ii) choose whether to issue a Letter of Caution[,] or suspend or revoke the officer's certification.

(b) Before making a decision, the council may consider aggravating and mitigating circumstances.

(c) A member of the council shall recuse him or herself from consideration of an issue that is before the council if the council member:

(i) has a personal bias for or against the officer;

(ii) has a substantial pecuniary interest in the outcome of the proceeding and may gain or lose some benefit from the outcome; or

(iii) employs, supervises, or works for the same law enforcement agency as the officer whose case is before the council.

(5) (a) Termination of a peace officer, whether voluntary or involuntary, does not preclude suspension or revocation of a peace officer's certification by the council if the peace officer was terminated for any of the reasons under Subsection (1).

(b) Employment by another agency, or reinstatement of a peace officer by the original employing agency after termination by that agency, whether the termination was voluntary or involuntary, does not preclude suspension or revocation of a peace officer's certification by the council if the peace officer was terminated for any of the reasons under Subsection (1).

(6) (a) A chief, sheriff, or administrative officer of a law enforcement agency who is made aware of an allegation against a peace officer employed by that agency that involves conduct in violation of Subsection (1) shall investigate the allegation and report to the division if the allegation is found to be true.

(b) If a peace officer who is the subject of an internal or administrative investigation into allegations that include any of the conditions or circumstances outlined in Subsection (1) resigns, retires, or otherwise separates from the investigating law enforcement agency before the conclusion of the investigation, the chief, sheriff, or administrative officer of that law enforcement agency shall report the allegations and any investigation results to the division.

(7) The council's issuance of a Letter of Caution[,] or suspension or revocation of an officer's certification under Subsection (4) may be appealed under Title 63G, Chapter 4, Part 4, Judicial Review.

CHAPTER 97
H. B. 65
Passed February 19, 2021
Approved March 16, 2021
Effective May 5, 2021

WILDLAND FIRE AMENDMENTS

Chief Sponsor: Casey Snider
Senate Sponsor: Evan J. Vickers

LONG TITLE

General Description:

This bill addresses state management of wildland fires.

Highlighted Provisions:

This bill:

- authorizes use of the Sovereign Lands Management Account for salary increases;
- requires the division to develop and maintain a wildfire risk assessment mapping tool;
- requires reporting;
- addresses the Wildland Fire Suppression Fund including granting rulemaking authority;
- addresses employment of fire wardens;
- provides for a study of wildland fire related pay plans; and
- make technical changes.

Monies Appropriated in this Bill:

This bill appropriates in fiscal year 2022:

- to Department of Natural Resources -- Division of Forestry, Fire, and State Lands, as an ongoing appropriation:
  - From Sovereign Lands Management Account, $200,000;
- to Department of Natural Resources -- Division of Forestry, Fire, and State Lands, as a one-time appropriation:
  - From Sovereign Lands Management Account, One-time, $200,000;
- to Department of Natural Resources -- Division of Forestry, Fire, and State Lands, as an ongoing appropriation:
  - from Sovereign Lands Management Account, $35,000.

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

65A-5-1, as last amended by Laws of Utah 2018, Chapter 413
65A-8-203, as last amended by Laws of Utah 2016, Chapter 174
65A-8-204, as last amended by Laws of Utah 2019, Chapter 118
65A-8-209.1, as enacted by Laws of Utah 2016, Chapter 174

ENACTS:

67-19-12.6, Utah Code Annotated 1953

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

Section 1. Section 65A-5-1 is amended to read:

65A-5-1. Sovereign Lands Management Account.

(1) There is created within the General Fund a restricted account known as the "Sovereign Lands Management Account."

(2) The account shall consist of the following:

(a) [~~all~~] the revenues derived from sovereign lands;

(b) that portion of [~~all~~] the revenues derived from mineral leases on other lands managed by the division necessary to recover management costs;

(c) any fees deposited by the division; and

(d) amounts deposited into the account in accordance with Section 59-23-4.

(3) [~~All~~] The expenditures of the division relating directly to the management of state lands shall be funded by appropriation by the Legislature from the Sovereign Lands Management Account or other sources.

(4) The Legislature may appropriate [~~funds~~] money in the account to reimburse one or more state government entities for money spent on the operation of national parks, national monuments, national forests, and national recreation areas in the state during a fiscal emergency, as defined in Section 79-4-1102.

(5) The division shall use the amount deposited into the account under Subsection (2)(d) for the Great Salt Lake as described in Section 65A-10-8 as directed by the Great Salt Lake Advisory Council created in Section 73-30-201.

(6) After the expenditures under Subsections (3) through (5), the division shall use money appropriated from the Sovereign Lands Management Account to provide for salary increases to state personnel employed by the division to perform wildland fire management with the division prioritizing salary increases for county fire wardens and assistant wardens.

Section 2. Section 65A-8-203 is amended to read:

65A-8-203. Cooperative fire protection agreements with counties, cities, towns, or special service districts.

(1) As used in this section:

(a) "Eligible entity" means:

(i) a county, a municipality, or a special service district, local district, or service area with:

(A) wildland fire suppression responsibility as described in Section 11-7-1; and

(B) wildland fire suppression cost responsibility and taxing authority for a specific geographic jurisdiction; or

(ii) upon approval by the director, a political subdivision established by a county, municipality,

special service district, local district, or service area that is responsible for:

(A) providing wildland fire suppression services; and

(B) paying for the cost of wildland fire suppression services.

(b) "Fire service provider" means a public or private entity that fulfills the duties of Subsection 11-7-1(1).

(2) (a) The governing body of any eligible entity may enter into a cooperative agreement with the division to receive financial and wildfire management cooperation and assistance from the division, as described in this [~~Title 65A, Chapter 8, Part 2, Fire Control~~] part.

(b) A cooperative agreement shall last for a term of no more than five years and be renewable if the eligible entity continues to meet the requirements of this chapter.

(3) (a) An eligible entity may not receive financial cooperation or financial assistance under Subsection (2)(a) until a cooperative agreement is executed by the eligible entity and the division.

(b) The state shall assume an eligible entity's cost of suppressing catastrophic wildfire as defined in the cooperative agreement if the eligible entity has entered into, and is in full compliance with, a cooperative agreement with the division, as described in this section.

(c) A county or municipality that is not covered by a cooperative agreement with the division, as described in this section, shall be responsible for wildland fire costs within the county or municipality's jurisdiction, as described in Section 65A-8-203.2.

(4) In order to enter into a cooperative agreement with the division, the eligible entity shall:

(a) if the eligible entity is a county, adopt and enforce on unincorporated land a wildland fire ordinance based upon minimum standards established by the division or Uniform Building Code Commission;

(b) require that the fire department or equivalent fire service provider under contract with, or delegated by, the eligible entity on unincorporated land meet minimum standards for wildland fire training, certification, and suppression equipment based upon nationally accepted standards as specified by the division;

(c) invest in prevention, preparedness, and mitigation efforts, as agreed to with the division, that will reduce the eligible entity's risk of catastrophic wildfire;

(d) file with the division an annual accounting of wildfire prevention, preparedness, mitigation actions, and associated costs;

(e) return the financial statement described in Subsection (6), signed by the chief executive of the eligible entity, to the division on or before the date set by the division; and

(f) if the eligible entity is a county, have a designated fire warden as described in Section 65A-8-209.1.

(5) (a) The state forester may execute a cooperative agreement with the eligible entity.

(b) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, governing the:

(i) cooperative agreements described in this section;

(ii) manner in which an eligible entity shall provide proof of compliance with Subsection (4);

(iii) manner by which the division may revoke a cooperative agreement if an eligible entity ceases to meet the requirements described in this section;

(iv) accounting system for determining suppression costs;

(v) manner in which the division shall determine the eligible entity's participation commitment; and

(vi) manner in which an eligible entity may appeal a division determination.

(6) (a) The division shall send a financial statement to each eligible entity participating in a cooperative agreement that details the eligible entity's participation commitment for the coming fiscal year, including the prevention, preparedness, and mitigation actions agreed to under Subsection (4)(c).

(b) Each eligible entity participating in a cooperative agreement shall:

(i) have the chief executive of the eligible entity sign the financial statement, or the legislative body of the eligible entity approve the financial statement by resolution, confirming the eligible entity's participation for the upcoming year; and

(ii) return the financial statement to the division, on or before a date set by the division.

(c) A financial statement shall be effective for one calendar year, beginning on the date set by the division, as described in Subsection (6)(b).

(7) (a) An eligible entity may revoke a cooperative agreement before the end of the cooperative agreement's term by:

(i) informing the division, in writing, of the eligible entity's intention to revoke the cooperative agreement; or

(ii) failing to sign and return its annual financial statement, as described in Subsection (6)(b), unless the director grants an extension.

(b) An eligible entity may not revoke a cooperative agreement before the end of the term of a signed annual financial statement, as described in Subsection (6)(c).

(8) The division shall develop and maintain a wildfire risk assessment mapping tool that is online and publicly accessible.

(9) By no later than the 2021 November interim meeting of the Natural Resources, Agriculture, and Environment Interim Committee, the division shall report on the eligible entities' adherence to and implementation of their participation commitment under this chapter.

Section 3. Section 65A-8-204 is amended to read:

65A-8-204. Wildland Fire Suppression Fund created.

(1) There is created an expendable special revenue fund known as the "Wildland Fire Suppression Fund."

(2) The fund shall be administered by the division to pay wildfire suppression costs on eligible lands, as wildfire suppression costs are defined by the division by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, including for an eligible entity that has entered into a cooperative agreement, as described in Section 65A-8-203.

(3) Subject to Section 65A-8-213, the contents of the fund shall include:

(a) interest and earnings from the investment of fund money;

(b) money appropriated by the Legislature;

(c) costs recovered from successful investigations;

(d) federal funds received by the division for wildfire management costs;

(e) suppression costs billed to an eligible entity that does not participate in a cooperative agreement;

(f) suppression costs paid to the division by another state agency;

(g) costs recovered from settlements and civil actions related to wildfire suppression;

(h) restitution payments ordered by a court following a criminal adjudication;

(i) the balance of the fund as of July 1, 2016;

(j) money deposited by the Division of Finance, pursuant to Section 59-21-2; and

(k) money transferred by the Division of Finance, pursuant to Section 63J-1-314.

(4) Fund money shall be invested by the state treasurer with the earnings and interest accruing to the fund.

Section 4. Section 65A-8-209.1 is amended to read:

65A-8-209.1. County fire warden.

(1) (a) [~~Each~~] A county that participates in a cooperative agreement with the division, as described in Section 65A-8-203, shall be represented by a county fire warden [~~at a minimum during the closed fire season, as described in Section 65A-8-211,~~] who is employed by the division as a county fire warden full-time and year round, except as provided in Subsections (1)(b) and (c).

(b) A county of the fifth class that, as of January 1, 2016, is cost-sharing a county fire warden with an adjacent county may continue to do so with the approval of the state forester.

(c) A county of the sixth class may cost-share a county fire warden with an adjacent county, with the approval of the state forester.

(2) The salary and benefits paid to a county fire warden shall be:

(a) divided by the division and the county; or

(b) paid partly by the division with the remainder shared by agreement between [~~all~~] the counties the county fire warden represents.

(3) (a) The division shall employ [~~all~~] the county fire wardens.

(b) An individual who is employed by a county as a county fire warden on or before January 1, 2016, is not subject to the requirement to be employed by the division.

Section 5. Section 67-19-12.6 is enacted to read:

67-19-12.6. (Codified as 63A-17-109) Study of wildland fire related pay plans.

By no later than June 30, 2021, the department shall complete a comprehensive comparison of federal, state, and municipal wildland fire agencies or departments to recommend whether salary ranges should be adjusted for state employed wildland firefighters.

Section 6. Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2021, and ending June 30, 2022. These are additions to amounts previously appropriated for fiscal year 2022. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 1

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

From Sovereign Lands Management Account	$200,000
Schedule of Programs:	
Program Delivery	$200,000

The Legislature intends that the appropriations under this item be used to provide for salary increases under Subsection 65A-5-1(6).

ITEM 2

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

From Sovereign Lands Management Account, one-time	$200,000
Schedule of Programs:	

Program Management $200,000

The Legislature intends that the appropriations under this item be used to develop a wildfire risk assessment mapping tool that is online and publicly accessible under Subsection 65A-8-203(8).

ITEM 3

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

From Sovereign Lands Management Account $35,000

Schedule of Programs:

Program Management $35,000

The Legislature intends that the appropriations under this item be used to maintain a wildfire risk assessment mapping tool that is online and publicly accessible under Subsection 65A-8-203(8).

CHAPTER 98
H. B. 68
Passed March 5, 2021
Approved March 16, 2021
Effective May 5, 2021

RENTAL EXPENSES DISCLOSURE REQUIREMENTS

Chief Sponsor: Marsha Judkins
Senate Sponsor: Todd D. Weiler
Cosponsors: Cheryl K. Acton
Joel K. Briscoe
Clare Collard
Jennifer Dailey-Provost
Craig Hall
Suzanne Harrison
Dan N. Johnson
Brian S. King
Rosemary T. Lesser
Michael J. Petersen
Andrew Stoddard
Norman K. Thurston
Steve Waldrip
Raymond P. Ward
Elizabeth Weight
Mark A. Wheatley
Mike Winder

LONG TITLE

General Description:

This bill amends an owner's duties under the Utah Fit Premises Act.

Highlighted Provisions:

This bill:

- requires an owner of a residential rental unit to make certain disclosures to a potential renter before accepting an application fee or any other payment;
- prohibits an owner from charging a renter under a rental agreement a fee, tax, assessment, interest, or other cost:
  - that is not disclosed in the rental agreement, except under certain conditions; or
  - in an amount greater than agreed to in the rental agreement;
- permits a prospective renter to seek reimbursement from an owner under certain conditions;
- prohibits an owner from charging a late fee that exceeds a certain amount; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:
57-22-4, as last amended by Laws of Utah 2017, Chapter 19

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

Section 1. Section 57-22-4 is amended to read:

57-22-4. Owner's duties.

(1) To protect the physical health and safety of the ordinary renter, an owner:

(a) may not rent the premises unless they are safe, sanitary, and fit for human occupancy; and

(b) shall:

(i) maintain common areas of the residential rental unit in a sanitary and safe condition;

(ii) maintain electrical systems, plumbing, heating, and hot and cold water;

(iii) maintain any air conditioning system in an operable condition;

(iv) maintain other appliances and facilities as specifically contracted in the rental agreement; and

(v) for buildings containing more than two residential rental units, provide and maintain appropriate receptacles for garbage and other waste and arrange for its removal, except to the extent that the renter and owner otherwise agree.

(2) Except as otherwise provided in the rental agreement, an owner shall provide the renter at least 24 hours prior notice of the owner's entry into the renter's residential rental unit.

(3) (a) Before an owner accepts an application fee or any other payment from a prospective renter, the owner shall disclose in writing to the prospective renter:

(i) a good faith estimate of:

(A) the rent amount; and

(B) the amount of each fixed, non-rent expense that is part of the rental agreement;

(ii) the type of each use-based, non-rent expense that is part of the rental agreement;

(iii) the day on which the residential rental unit is scheduled to be available;

(iv) the criteria that the owner will consider in determining the prospective renter's eligibility as a renter in the residential rental unit, including criteria related to the prospective renter's criminal history, credit, income, employment, or rental history; and

(v) the requirements and process for the prospective renter to recover money the prospective renter pays in relation to the residential rental unit, as described in Subsection (4).

(b) An owner may satisfy the written disclosure requirement described in Subsection (3)(a)(i) through a rental application, deposit agreement, or written summary.

(4) (a) A prospective renter may make a written demand to the owner of a residential rental unit requesting the return of money the prospective renter paid in relation to the rental of the residential rental unit, if:

(i) (A) an amount the owner provides in the good-faith estimate described in Subsection (3) is different than the amount in the rental agreement; or

(B) the rental agreement includes a type of use-based, non-rent expense that was not disclosed under Subsection (3); and

(ii) the prospective renter:

(A) makes the written demand within five business days after the day on which the prospective renter receives the rental agreement; and

(B) at the time the prospective renter makes the written demand, has not signed the rental agreement or taken possession of the residential rental unit.

(b) If a prospective renter makes a written demand in accordance with Subsection (4)(a), the owner shall return all money the prospective renter paid the owner within five business days after the day on which the owner receives the written demand.

(5) An owner may not charge a renter:

(a) a late fee that exceeds the greater of:

(i) 10% of the rent agreed to in the rental agreement; or

(ii) $75; or

(b) a fee, fine, assessment, interest, or other cost:

(i) in an amount greater than the amount agreed to in the rental agreement; or

(ii) that is not included in the rental agreement, unless:

(A) the rental agreement is on a month-to-month basis; and

(B) the owner provides the renter a 15-day notice of the charge.

(6) Before an owner and a prospective renter enter into a rental agreement, the owner shall:

(a) provide the prospective renter a written inventory of the condition of the residential rental unit, excluding ordinary wear and tear;

(b) furnish the renter a form to document the condition of the residential rental unit and then allow the resident a reasonable time after the renter's occupancy of the residential rental unit to complete and return the form; or

(c) provide the prospective renter an opportunity to conduct a walkthrough inspection of the residential rental unit.

[~~(4)~~] (7) At or before the commencement of the rental term under a rental agreement, an owner shall:

(a) disclose in writing to the renter:

(i) the owner's name, address, and telephone number; or

(ii) (A) the name, address, and telephone number of any person authorized to manage the residential rental unit; or

(B) the name, address, and telephone number of any person authorized to act for and on behalf of the owner for purposes of receiving notice under this chapter or performing the owner's duties under this chapter or under the rental agreement, if the person authorized to manage the residential rental unit does not have authority to receive notice under this chapter; and

(b) provide the renter:

(i) an executed copy of the rental agreement, if the rental agreement is a written agreement; and

(ii) a copy of any rules and regulations applicable to the residential rental unit.

[~~(5) (a) An owner shall disclose in writing to an applicant for a residential rental unit:~~]

[~~(i) if there is an anticipated availability in the residential rental unit; and~~]

[~~(ii) the criteria that the owner will review as a condition of accepting the applicant as a tenant in the residential rental unit, including criteria related to the applicant's criminal history, credit, income, employment, or rental history.~~]

[~~(b) An owner may not accept a rental application from an applicant, or charge an applicant a rental application fee, before the owner complies with the disclosure requirement in Subsection (5)(a).~~]

(8) Nothing in this section prohibits any fee, fine, assessment, interest, or cost that is allowed by law or stated in the rental agreement.

[~~(6) An~~]

(9) A renter may not use an owner's failure to comply with a requirement of Subsection (2), (3), (4), [~~or (5) may not: (a) be used by the renter~~] (5), (6), or (7) as a basis:

(a) to excuse the renter's compliance with a rental agreement; or

[~~(b) give rise to any~~]

(b) to bring a cause of action against the owner.

CHAPTER 99
H. B. 69
Passed February 12, 2021
Approved March 16, 2021
Effective May 5, 2021

TRAFFIC CODE AMENDMENTS

Chief Sponsor: Calvin R. Musselman
Senate Sponsor: Chris H. Wilson

LONG TITLE

General Description:

This bill amends the Traffic Code to clarify the law with regard to a turn signal and objects that might obstruct a driver's view.

Highlighted Provisions:

This bill:

- amends the Traffic Code to:
  - clarify that a driver is required to use a turn signal to merge to another lane from a lane that is ending; and
  - prohibits a driver from operating a vehicle when the driver's view is obstructed by certain objects; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

41-6a-804, as last amended by Laws of Utah 2015, Chapter 412
41-6a-1635, as last amended by Laws of Utah 2015, Chapter 412

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

Section 1. Section 41-6a-804 is amended to read:

41-6a-804. Turning or changing lanes -- Safety -- Signals -- Stopping or sudden decrease in speed -- Signal flashing -- Where prohibited.

(1) (a) A person may not turn a vehicle, merge into a continuing lane from a lane of travel that is ending, or otherwise move right or left on a roadway or change lanes until:

(i) the movement can be made with reasonable safety; and

(ii) an appropriate signal has been given as provided under this section.

(b) A signal of intention to turn right or left or to change lanes shall be given continuously for at least the last two seconds preceding the beginning of the movement.

(2) A person may not stop or suddenly decrease the speed of a vehicle without first giving an appropriate signal to the operator of any vehicle immediately to the rear when there is opportunity to give a signal.

(3) (a) A stop or turn signal when required shall be given either by the hand and arm or by signal lamps.

(b) If hand and arm signals are used, a person operating a vehicle shall give the required hand and arm signals from the left side of the vehicle as follows:

(i) left turn: hand and arm extended horizontally;

(ii) right turn: hand and arm extended upward; and

(iii) stop or decrease speed: hand and arm extended downward.

(c) (i) A person operating a bicycle or device propelled by human power may give the required hand and arm signals for a right turn by extending the right hand and arm horizontally to the right.

(ii) This Subsection (3)(c) is an exception to the provision of Subsection (3)(b)(ii).

(4) A person required to make a signal under this section may not flash a signal:

(a) on one side only on a disabled vehicle;

(b) as a courtesy or "do pass" to operators of other vehicles approaching from the rear; or

(c) on one side only of a parked vehicle.

(5) A violation of this section is an infraction.

Section 2. Section 41-6a-1635 is amended to read:

41-6a-1635. Windshields and windows -- Tinting -- Obstructions reducing visibility -- Wipers -- Prohibitions.

(1) Except as provided in Subsections (2) [~~and~~], (3), and (4) a person may not operate a motor vehicle with:

(a) a windshield that allows less than 70% light transmittance;

(b) a front side window that allows less than 43% light transmittance;

(c) any windshield or window that is composed of, covered by, or treated with any material or component that presents a metallic or mirrored appearance; [~~or~~]

(d) any sign, poster, or other nontransparent material on the windshield or side windows of the motor vehicle except:

(i) a certificate or other paper required to be so displayed by law; or

(ii) the vehicle's identification number displayed or etched in accordance with rules made by the department under Section 41-6a-1601[~~.~~]; or

(e) any debris, frost, or other substance that materially obstructs the operator's view.

(2) (a) A person may not operate a motor vehicle with an object or device hanging or mounted in a

manner that materially obstructs the operator's view.

(b) A person shall ensure that an object or device hanging or mounted in compliance with Subsection (2)(a) is used in accordance with this chapter.

[~~(2)~~] (3) Nontransparent materials may be used:

(a) along the top edge of the windshield if the materials do not extend downward more than four inches from the top edge of the windshield or beyond the AS-1 line whichever is lowest;

(b) in the lower left-hand corner of the windshield provided they do not extend more than three inches to the right of the left edge or more than four inches above the bottom edge of the windshield; or

(c) on the rear windows including rear side windows located behind the vehicle operator.

[~~(3)~~] (4) A windshield or other window is considered to comply with the requirements of Subsection (1) if the windshield or other window meets the federal statutes and regulations for motor vehicle window composition, covering, light transmittance, and treatment.

[~~(4)~~] (5) Except for material used on the windshield in compliance with Subsections [~~(2)~~] (3)(a) and (b), a motor vehicle with tinting or nontransparent material on any window shall be equipped with rear-view mirrors mounted on the left side and on the right side of the motor vehicle to reflect to the driver a view of the highway to the rear of the motor vehicle.

[~~(5)~~] (6) (a) (i) The windshield on a motor vehicle shall be equipped with a device for cleaning rain, snow, or other moisture from the windshield.

(ii) The device shall be constructed to be operated by the operator of the motor vehicle.

(b) A windshield wiper on a motor vehicle shall be maintained in good working order.

[~~(6)~~] (7) A person may not have for sale, sell, offer for sale, install, cover, or treat a windshield or window in violation of this section.

[~~(7)~~] (8) Notwithstanding this section, any person subject to the federal Motor Vehicle Safety Standards, including motor vehicle manufacturers, distributors, dealers, importers, and repair businesses, shall comply with the federal standards on motor vehicle window tinting.

[~~(8)~~] (9) A violation of this section is an infraction.

CHAPTER 100
H. B. 70
Passed March 3, 2021
Approved March 16, 2021
Effective May 5, 2021

BALLOT TRACKING AMENDMENTS

Chief Sponsor: Dan N. Johnson
Senate Sponsor: Scott D. Sandall
Cosponsors: Melissa G. Ballard
Joel Ferry
Craig Hall
Suzanne Harrison
Steven J. Lund
Michael J. Petersen
Paul Ray
Douglas V. Sagers
Steve Waldrip

LONG TITLE

General Description:

This bill makes changes to the Election Code regarding the tracking of certain ballots.

Highlighted Provisions:

This bill:

- defines terms;
- requires the lieutenant governor to create a system that:
  - tracks all ballots that are mailed or deposited in ballot drop boxes; and
  - allows a voter to choose to receive text message or email notifications regarding the status of the voter's trackable ballot;
- requires the lieutenant governor to maintain a website by which a voter may confirm the status of the voter's trackable ballot; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

20A-2-104, as last amended by Laws of Utah 2020, Chapter 255
20A-2-108, as last amended by Laws of Utah 2020, Chapters 31 and 255
20A-2-304, as last amended by Laws of Utah 2020, Chapter 31
20A-2-306, as last amended by Laws of Utah 2020, Chapter 255
20A-3a-202, as last amended by Laws of Utah 2020, Chapter 354 and renumbered and amended by Laws of Utah 2020, Chapter 31
20A-6-105, as last amended by Laws of Utah 2020, Chapters 31 and 255
20A-7-801, as last amended by Laws of Utah 2020, Chapters 31 and 401
20A-16-501, as enacted by Laws of Utah 2011, Chapter 327
63G-2-302, as last amended by Laws of Utah 2020, Fifth Special Session, Chapter 4

ENACTS:

20A-3a-401.5, Utah Code Annotated 1953

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

Section 1. Section 20A-2-104 is amended to read:

20A-2-104. Voter registration form -- Registered voter lists -- Fees for copies.

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

(i) "Candidate for public office" means an individual:

(A) who files a declaration of candidacy for a public office;

(B) who files a notice of intent to gather signatures under Section 20A-9-408; or

(C) employed by, under contract with, or a volunteer of, an individual described in Subsection (1)(a)(i)(A) or (B) for political campaign purposes.

(ii) "Dating violence" means the same as that term is defined in Section 78B-7-402 and the federal Violence Against Women Act of 1994, as amended.

(iii) "Domestic violence" means the same as that term is defined in Section 77-36-1 and the federal Violence Against Women Act of 1994, as amended.

(b) An individual applying for voter registration, or an individual preregistering to vote, shall complete a voter registration form in substantially the following form:

UTAH ELECTION REGISTRATION FORM

Are you a citizen of the United States of America?
Yes No

If you checked "no" to the above question, do not complete this form.

Will you be 18 years of age on or before election day? Yes No

If you checked "no" to the above question, are you 16 or 17 years of age and preregistering to vote?
Yes No

If you checked "no" to both of the prior two questions, do not complete this form.

Name of Voter

First Middle Last

Utah Driver License or Utah Identification Card Number_____

Date of Birth _____

Street Address of Principal Place of Residence_____
City County State Zip Code

Telephone Number (optional) _____

Email Address (optional) _____

Last four digits of Social Security Number _____

Last former address at which I was registered to vote
(if known)_____
City County State Zip Code

Political Party

(a listing of each registered political party, as defined in Section 20A-8-101 and maintained by the lieutenant governor under Section 67-1a-2, with each party's name preceded by a checkbox)
☐ Unaffiliated (no political party preference)
☐ Other (Please specify)_____

I do swear (or affirm), subject to penalty of law for false statements, that the information contained in this form is true, and that I am a citizen of the United States and a resident of the state of Utah, residing at the above address. Unless I have indicated above that I am preregistering to vote in a later election, I will be at least 18 years of age and will have resided in Utah for 30 days immediately before the next election. I am not a convicted felon currently incarcerated for commission of a felony.

Signed and sworn

_____
Voter's Signature
_____(month/day/year).

PRIVACY INFORMATION

Voter registration records contain some information that is available to the public, such as your name and address, some information that is available only to government entities, and some information that is available only to certain third parties in accordance with the requirements of law.

Your driver license number, identification card number, social security number, email address, [~~and~~] full date of birth, and phone number are available only to government entities. Your year of birth is available to political parties, candidates for public office, certain third parties, and their contractors, employees, and volunteers, in accordance with the requirements of law.

You may request that all information on your voter registration records be withheld from all persons other than government entities, political parties, candidates for public office, and their contractors, employees, and volunteers, by indicating here:

_____ Yes, I request that all information on my voter registration records be withheld from all persons other than government entities, political parties, candidates for public office, and their contractors, employees, and volunteers.

REQUEST FOR ADDITIONAL PRIVACY PROTECTION

In addition to the protections provided above, you may request that all information on your voter registration records be withheld from all political parties, candidates for public office, and their contractors, employees, and volunteers, by submitting a withholding request form, and any required verification, as described in the following paragraphs.

A person may request that all information on the person's voter registration records be withheld from all political parties, candidates for public office, and their contractors, employees, and volunteers, by submitting a withholding request form with this registration record, or to the lieutenant governor or a county clerk, if the person is or is likely to be, or resides with a person who is or is likely to be, a victim of domestic violence or dating violence.

A person may request that all information on the person's voter registration records be withheld from all political parties, candidates for public office, and their contractors, employees, and volunteers, by submitting a withholding request form and any required verification with this registration form, or to the lieutenant governor or a county clerk, if the person is, or resides with a person who is, a law enforcement officer, a member of the armed forces, a public figure, or protected by a protective order or a protection order.

CITIZENSHIP AFFIDAVIT

Name:

Name at birth, if different:

Place of birth:

Date of birth:

Date and place of naturalization (if applicable):

I hereby swear and affirm, under penalties for voting fraud set forth below, that I am a citizen and that to the best of my knowledge and belief the information above is true and correct.

_____
Signature of Applicant

In accordance with Section 20A-2-401, the penalty for willfully causing, procuring, or allowing yourself to be registered or preregistered to vote if you know you are not entitled to register or preregister to vote is up to one year in jail and a fine of up to $2,500.

NOTICE: IN ORDER TO BE ALLOWED TO VOTE, YOU MUST PRESENT VALID VOTER IDENTIFICATION TO THE POLL WORKER BEFORE VOTING, WHICH MUST BE A VALID FORM OF PHOTO IDENTIFICATION THAT SHOWS YOUR NAME AND PHOTOGRAPH; ORTWO DIFFERENT FORMS OF IDENTIFICATION THAT SHOW YOUR NAME AND CURRENT ADDRESS.

FOR OFFICIAL USE ONLY
Type of I.D. _____
Voting Precinct _____
Voting I.D. Number _____

(c) Beginning May 1, 2022, the voter registration form described in Subsection (1)(b) shall include a section in substantially the following form:

BALLOT NOTIFICATIONS

If you have provided a phone number or email address, you can receive notifications by text message or email regarding the status of a ballot

that is mailed to you or a ballot that you deposit in the mail or in a ballot drop box, by indicating here:

_____ Yes, I would like to receive electronic notifications regarding the status of my ballot.

---

(2) (a) Except as provided under Subsection (2)(b), the county clerk shall retain a copy of each voter registration form in a permanent countywide alphabetical file, which may be electronic or some other recognized system.

(b) The county clerk may transfer a superseded voter registration form to the Division of Archives and Records Service created under Section 63A-12-101.

(3) (a) Each county clerk shall retain lists of currently registered voters.

(b) The lieutenant governor shall maintain a list of registered voters in electronic form.

(c) If there are any discrepancies between the two lists, the county clerk's list is the official list.

(d) The lieutenant governor and the county clerks may charge the fees established under the authority of Subsection 63G-2-203(10) to individuals who wish to obtain a copy of the list of registered voters.

(4) (a) As used in this Subsection (4), "qualified person" means:

(i) a government official or government employee acting in the government official's or government employee's capacity as a government official or a government employee;

(ii) a health care provider, as defined in Section 26-33a-102, or an agent, employee, or independent contractor of a health care provider;

(iii) an insurance company, as defined in Section 67-4a-102, or an agent, employee, or independent contractor of an insurance company;

(iv) a financial institution, as defined in Section 7-1-103, or an agent, employee, or independent contractor of a financial institution;

(v) a political party, or an agent, employee, or independent contractor of a political party;

(vi) a candidate for public office, or an employee, independent contractor, or volunteer of a candidate for public office; or

(vii) a person, or an agent, employee, or independent contractor of the person, who:

(A) provides the year of birth of a registered voter that is obtained from the list of registered voters only to a person who is a qualified person;

(B) verifies that a person, described in Subsection (4)(a)(vii)(A), to whom a year of birth that is obtained from the list of registered voters is provided, is a qualified person;

(C) ensures, using industry standard security measures, that the year of birth of a registered voter that is obtained from the list of registered voters may not be accessed by a person other than a qualified person;

(D) verifies that each qualified person, other than a qualified person described in Subsection (4)(a)(i), (v), or (vi), to whom the person provides the year of birth of a registered voter that is obtained from the list of registered voters, will only use the year of birth to verify the accuracy of personal information submitted by an individual or to confirm the identity of a person in order to prevent fraud, waste, or abuse;

(E) verifies that each qualified person described in Subsection (4)(a)(i), to whom the person provides the year of birth of a registered voter that is obtained from the list of registered voters, will only use the year of birth in the qualified person's capacity as a government official or government employee; and

(F) verifies that each qualified person described in Subsection (4)(a)(v) or (vi), to whom the person provides the year of birth of a registered voter that is obtained from the list of registered voters, will only use the year of birth for a political purpose of the political party or candidate for public office.

(b) Notwithstanding Subsection 63G-2-302(1)(j)(iv), and except as provided in Subsection 63G-2-302(1)(k) or (l), the lieutenant governor or a county clerk shall, when providing the list of registered voters to a qualified person under this section, include, with the list, the years of birth of the registered voters, if:

(i) the lieutenant governor or a county clerk verifies the identity of the person and that the person is a qualified person; and

(ii) the qualified person signs a document that includes the following:

(A) the name, address, and telephone number of the person requesting the list of registered voters;

(B) an indication of the type of qualified person that the person requesting the list claims to be;

(C) a statement regarding the purpose for which the person desires to obtain the years of birth;

(D) a list of the purposes for which the qualified person may use the year of birth of a registered voter that is obtained from the list of registered voters;

(E) a statement that the year of birth of a registered voter that is obtained from the list of registered voters may not be provided or used for a purpose other than a purpose described under Subsection (4)(b)(ii)(D);

(F) a statement that if the person obtains the year of birth of a registered voter from the list of registered voters under false pretenses, or provides or uses the year of birth of a registered voter that is obtained from the list of registered voters in a manner that is prohibited by law, is guilty of a class A misdemeanor and is subject to a civil fine;

(G) an assertion from the person that the person will not provide or use the year of birth of a registered voter that is obtained from the list of registered voters in a manner that is prohibited by law; and

(H) notice that if the person makes a false statement in the document, the person is punishable by law under Section 76-8-504.

(c) The lieutenant governor or a county clerk may not disclose the year of birth of a registered voter to a person that the lieutenant governor or county clerk reasonably believes:

(i) is not a qualified person or a person described in Subsection (4)(l); or

(ii) will provide or use the year of birth in a manner prohibited by law.

(d) The lieutenant governor or a county clerk may not disclose the voter registration form of a person, or information included in the person's voter registration form, whose voter registration form is classified as private under Subsection (4)(h) to a person other than:

(i) a government official or government employee acting in the government official's or government employee's capacity as a government official or government employee; or

(ii) except as provided in Subsection (7) and subject to Subsection (4)(e), a person described in Subsection (4)(a)(v) or (vi) for a political purpose.

(e) When disclosing a record or information under Subsection (4)(d)(ii), the lieutenant governor or county clerk shall exclude the information described in Subsection 63G-2-302(1)(j), other than the year of birth.

(f) The lieutenant governor or a county clerk may not disclose a withholding request form, described in Subsections (7) and (8), submitted by an individual, or information obtained from that form, to a person other than a government official or government employee acting in the government official's or government employee's capacity as a government official or government employee.

(g) A person is guilty of a class A misdemeanor if the person:

(i) obtains the year of birth of a registered voter from the list of registered voters under false pretenses;

(ii) uses or provides the year of birth of a registered voter that is obtained from the list of registered voters in a manner that is not permitted by law;

(iii) obtains a voter registration record described in Subsection 63G-2-302(1)(k) under false pretenses;

(iv) uses or provides information obtained from a voter registration record described in Subsection 63G-2-302(1)(k) in a manner that is not permitted by law;

(v) unlawfully discloses or obtains a voter registration record withheld under Subsection (7) or a withholding request form described in Subsections (7) and (8); or

(vi) unlawfully discloses or obtains information from a voter registration record withheld under Subsection (7) or a withholding request form described in Subsections (7) and (8).

(h) The lieutenant governor or a county clerk shall classify the voter registration record of a voter as a private record if the voter:

(i) submits a written application, created by the lieutenant governor, requesting that the voter's voter registration record be classified as private;

(ii) requests on the voter's voter registration form that the voter's voter registration record be classified as a private record; or

(iii) submits a withholding request form described in Subsection (7) and any required verification.

(i) The lieutenant governor or a county clerk may not disclose to a person described in Subsection (4)(a)(v) or (vi) a voter registration record, or information obtained from a voter registration record, if the record is withheld under Subsection (7).

(j) In addition to any criminal penalty that may be imposed under this section, the lieutenant governor may impose a civil fine against a person who violates a provision of this section, in an amount equal to the greater of:

(i) the product of 30 and the square root of the total number of:

(A) records obtained, provided, or used unlawfully, rounded to the nearest whole dollar; or

(B) records from which information is obtained, provided, or used unlawfully, rounded to the nearest whole dollar; or

(ii) $200.

(k) A qualified person may not obtain, provide, or use the year of birth of a registered voter, if the year of birth is obtained from the list of registered voters or from a voter registration record, unless the person:

(i) is a government official or government employee who obtains, provides, or uses the year of birth in the government official's or government employee's capacity as a government official or government employee;

(ii) is a qualified person described in Subsection (4)(a)(ii), (iii), or (iv) and obtains or uses the year of birth only to verify the accuracy of personal information submitted by an individual or to confirm the identity of a person in order to prevent fraud, waste, or abuse;

(iii) is a qualified person described in Subsection (4)(a)(v) or (vi) and obtains, provides, or uses the year of birth for a political purpose of the political party or candidate for public office; or

(iv) is a qualified person described in Subsection (4)(a)(vii) and obtains, provides, or uses the year of birth to provide the year of birth to another qualified person to verify the accuracy of personal information submitted by an individual or to confirm the identity of a person in order to prevent fraud, waste, or abuse.

(l) The lieutenant governor or a county clerk may provide a year of birth to a member of the media, in relation to an individual designated by the member of the media, in order for the member of the media to verify the identity of the individual.

(m) A person described in Subsection (4)(a)(v) or (vi) may not use or disclose information from a voter registration record for a purpose other than a political purpose.

(5) When political parties not listed on the voter registration form qualify as registered political parties under Title 20A, Chapter 8, Political Party Formation and Procedures, the lieutenant governor shall inform the county clerks of the name of the new political party and direct the county clerks to ensure that the voter registration form is modified to include that political party.

(6) Upon receipt of a voter registration form from an applicant, the county clerk or the clerk's designee shall:

(a) review each voter registration form for completeness and accuracy; and

(b) if the county clerk believes, based upon a review of the form, that an individual may be seeking to register or preregister to vote who is not legally entitled to register or preregister to vote, refer the form to the county attorney for investigation and possible prosecution.

(7) The lieutenant governor or a county clerk shall withhold from a person, other than a person described in Subsection (4)(a)(i), the voter registration record, and information obtained from the voter registration record, of an individual:

(a) who submits a withholding request form, with the voter registration record or to the lieutenant governor or a county clerk, if:

(i) the individual indicates on the form that the individual, or an individual who resides with the individual, is a victim of domestic violence or dating violence or is likely to be a victim of domestic violence or dating violence; or

(ii) the individual indicates on the form and provides verification that the individual, or an individual who resides with the individual, is:

(A) a law enforcement officer;

(B) a member of the armed forces, as defined in Section 20A-1-513;

(C) a public figure; or

(D) protected by a protective order or protection order; or

(b) whose voter registration record was classified as a private record at the request of the individual before May 12, 2020.

(8) (a) The lieutenant governor shall design and distribute the withholding request form described in Subsection (7) to each election officer and to each agency that provides a voter registration form.

(b) An individual described in Subsection (7)(a)(i) is not required to provide verification, other than the individual's attestation and signature on the withholding request form, that the individual, or an individual who resides with the individual, is a victim of domestic violence or dating violence or is likely to be a victim of domestic violence or dating violence.

(c) The director of elections within the Office of the Lieutenant Governor shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establishing requirements for providing the verification described in Subsection (7)(a)(ii).

(9) An election officer or an employee of an election officer may not encourage an individual to submit, or discourage an individual from submitting, a withholding request form.

Section 2. Section 20A-2-108 is amended to read:

20A-2-108. Driver license or state identification card registration form -- Transmittal of information.

(1) As used in this section, "qualifying form" means:

(a) a driver license application form; or

(b) a state identification card application form.

(2) The lieutenant governor and the Driver License Division shall design each qualifying form to include:

(a) the following question, which an applicant is required to answer: "Do you authorize the use of information in this form for voter registration purposes? YES____ NO____"; [~~and~~]

(b) the following statement:

"PRIVACY INFORMATION

Voter registration records contain some information that is available to the public, such as your name and address, some information that is available only to government entities, and some information that is available only to certain third parties in accordance with the requirements of law.

Your driver license number, identification card number, social security number, email address, [~~and~~] full date of birth, and phone number are available only to government entities. Your year of birth is available to political parties, candidates for public office, certain third parties, and their contractors, employees, and volunteers, in accordance with the requirements of law.

You may request that all information on your voter registration records be withheld from all

persons other than government entities, political parties, candidates for public office, and their contractors, employees, and volunteers, by indicating here:

_____ Yes, I request that all information on my voter registration records be withheld from all persons other than government entities, political parties, candidates for public office, and their contractors, employees, and volunteers.

REQUEST FOR ADDITIONAL PRIVACY PROTECTION

In addition to the protections provided above, you may request that all information on your voter registration records be withheld from all political parties, candidates for public office, and their contractors, employees, and volunteers, by submitting a withholding request form, and any required verification, as described in the following paragraphs.

A person may request that all information on the person's voter registration records be withheld from all political parties, candidates for public office, and their contractors, employees, and volunteers, by submitting a withholding request form with this registration record, or to the lieutenant governor or a county clerk, if the person is or is likely to be, or resides with a person who is or is likely to be, a victim of domestic violence or dating violence.

A person may request that all information on the person's voter registration records be withheld from all political parties, candidates for public office, and their contractors, employees, and volunteers, by submitting a withholding request form and any required verification with this registration form, or to the lieutenant governor or a county clerk, if the person is, or resides with a person who is, a law enforcement officer, a member of the armed forces, a public figure, or protected by a protective order or a protection order."; and

(c) beginning May 1, 2022, a section in substantially the following form:

BALLOT NOTIFICATIONS

If you have provided a phone number or email address, you can receive notifications by text message or email regarding the status of a ballot that is mailed to you or a ballot that you deposit in the mail or in a ballot drop box, by indicating here:

_____ Yes, I would like to receive electronic notifications regarding the status of my ballot.

---

(3) The lieutenant governor and the Driver License Division shall ensure that a qualifying form contains:

(a) a place for an individual to affirm the individual's citizenship, voting eligibility, and Utah residency, and that the information provided in the form is true;

(b) a records disclosure that is similar to the records disclosure on a voter registration form described in Section 20A-2-104;

(c) a statement that if an applicant declines to register or preregister to vote, the fact that the applicant has declined to register or preregister will remain confidential and will be used only for voter registration purposes;

(d) a statement that if an applicant does register or preregister to vote, the office at which the applicant submits a voter registration application will remain confidential and will be used only for voter registration purposes; and

(e) if the applicant answers "yes" to the question described in Subsection (2)(a), a space where an individual may, if desired:

(i) indicate the individual's desired political affiliation from a listing of each registered political party, as defined in Section 20A-8-101;

(ii) specify a political party that is not listed under Subsection (3)(e)(i) with which the individual desires to affiliate; or

(iii) indicate that the individual does not wish to affiliate with a political party.

Section 3. Section 20A-2-304 is amended to read:

20A-2-304. County clerk's responsibilities -- Notice of disposition.

Each county clerk shall:

(1) register to vote each individual who meets the requirements for registration and who:

(a) submits a completed voter registration form to the county clerk;

(b) submits a completed voter registration form, as defined in Section 20A-2-204, to the Driver License Division;

(c) submits a completed voter registration form to a public assistance agency or a discretionary voter registration agency; or

(d) mails a completed voter registration form to the county clerk; and

(2) within 30 days after the day on which the county clerk processes a voter registration form, send a notice to the individual who submits the form that:

(a) (i) informs the individual that the individual's voter registration form has been accepted and that the individual is registered to vote;

(ii) informs the individual of the procedure for designating or changing the individual's political affiliation; [~~and~~]

(iii) informs the individual of the procedure to cancel a voter registration; and

(iv) after May 1, 2022:

(A) confirms that the individual has chosen to receive electronic ballot status notifications if the individual opted to receive electronic ballot status notifications on the voter registration form; or

(B) notifies the individual how to receive electronic ballot status notifications if the

individual did not opt to receive electronic ballot status notifications on the voter registration form;

(b) informs the individual that the individual's voter registration form has been rejected and the reason for the rejection; or

(c) (i) informs the individual that the individual's voter registration form is being returned to the individual for further action because the form is incomplete; and

(ii) gives instructions to the individual on how to properly complete the form.

Section 4. Section 20A-2-306 is amended to read:

20A-2-306. Removing names from the official register -- Determining and confirming change of residence.

(1) A county clerk may not remove a voter's name from the official register on the grounds that the voter has changed residence unless the voter:

(a) confirms in writing that the voter has changed residence to a place outside the county; or

(b) (i) has not voted in an election during the period beginning on the date of the notice required by Subsection (3), and ending on the day after the date of the second regular general election occurring after the date of the notice; and

(ii) has failed to respond to the notice required by Subsection (3).

(2) (a) When a county clerk obtains information that a voter's address has changed and it appears that the voter still resides within the same county, the county clerk shall:

(i) change the official register to show the voter's new address; and

(ii) send to the voter, by forwardable mail, the notice required by Subsection (3) printed on a postage prepaid, preaddressed return form.

(b) When a county clerk obtains information that a voter's address has changed and it appears that the voter now resides in a different county, the county clerk shall verify the changed residence by sending to the voter, by forwardable mail, the notice required by Subsection (3) printed on a postage prepaid, preaddressed return form.

(3) (a) Each county clerk shall use substantially the following form to notify voters whose addresses have changed:

"VOTER REGISTRATION NOTICE

We have been notified that your residence has changed. Please read, complete, and return this form so that we can update our voter registration records. What is your current street address?_____

Street City County State Zip

What is your current phone number (optional)?_____

What is your current email address (optional)?_____

If you have not changed your residence or have moved but stayed within the same county, you must complete and return this form to the county clerk so that it is received by the county clerk before 5 p.m. no later than 30 days before the date of the election. If you fail to return this form within that time:

– you may be required to show evidence of your address to the poll worker before being allowed to vote in either of the next two regular general elections; or

– if you fail to vote at least once from the date this notice was mailed until the passing of two regular general elections, you will no longer be registered to vote. If you have changed your residence and have moved to a different county in Utah, you may register to vote by contacting the county clerk in your county.

_____

Signature of Voter

PRIVACY INFORMATION

Voter registration records contain some information that is available to the public, such as your name and address, some information that is available only to government entities, and some information that is available only to certain third parties in accordance with the requirements of law.

Your driver license number, identification card number, social security number, email address, [~~and~~] full date of birth, and phone number are available only to government entities. Your year of birth is available to political parties, candidates for public office, certain third parties, and their contractors, employees, and volunteers, in accordance with the requirements of law.

You may request that all information on your voter registration records be withheld from all persons other than government entities, political parties, candidates for public office, and their contractors, employees, and volunteers, by indicating here:

_____ Yes, I request that all information on my voter registration records be withheld from all persons other than government entities, political parties, candidates for public office, and their contractors, employees, and volunteers.

REQUEST FOR ADDITIONAL PRIVACY PROTECTION

In addition to the protections provided above, you may request that all information on your voter registration records be withheld from all political parties, candidates for public office, and their contractors, employees, and volunteers, by submitting a withholding request form, and any required verification, as described in the following paragraphs.

A person may request that all information on the person's voter registration records be withheld from all political parties, candidates for public office, and their contractors, employees, and volunteers, by submitting a withholding request form with this registration record, or to the lieutenant governor or

a county clerk, if the person is or is likely to be, or resides with a person who is or is likely to be, a victim of domestic violence or dating violence.

A person may request that all information on the person's voter registration records be withheld from all political parties, candidates for public office, and their contractors, employees, and volunteers, by submitting a withholding request form and any required verification with this registration form, or to the lieutenant governor or a county clerk, if the person is, or resides with a person who is, a law enforcement officer, a member of the armed forces, a public figure, or protected by a protective order or a protection order."

(b) Beginning May 1, 2022, the form described in Subsection (3)(a) shall also include a section in substantially the following form:

BALLOT NOTIFICATIONS

If you have provided a phone number or email address, you can receive notifications by text message or email regarding the status of a ballot that is mailed to you or a ballot that you deposit in the mail or in a ballot drop box, by indicating here:

_____ Yes, I would like to receive electronic notifications regarding the status of my ballot.

---

(4) (a) Except as provided in Subsection (4)(b), the county clerk may not remove the names of any voters from the official register during the 90 days before a regular primary election and the 90 days before a regular general election.

(b) The county clerk may remove the names of voters from the official register during the 90 days before a regular primary election and the 90 days before a regular general election if:

(i) the voter requests, in writing, that the voter's name be removed; or

(ii) the voter has died.

(c) (i) After a county clerk mails a notice as required in this section, the county clerk may list that voter as inactive.

(ii) If a county clerk receives a returned voter identification card, determines that there was no clerical error causing the card to be returned, and has no further information to contact the voter, the county clerk may list that voter as inactive.

(iii) An inactive voter shall be allowed to vote, sign petitions, and have all other privileges of a registered voter.

(iv) A county is not required to send routine mailings to an inactive voter and is not required to count inactive voters when dividing precincts and preparing supplies.

Section 5. Section 20A-3a-202 is amended to read:

20A-3a-202. Conducting election by mail.

(1) Except as otherwise provided for an election conducted entirely by mail under Section 20A-7-609.5, an election officer shall administer an election primarily by mail, in accordance with this section.

(2) An election officer who administers an election:

(a) shall in accordance with Subsection (3), no sooner than 21 days before election day and no later than seven days before election day, mail to each active voter within a voting precinct:

(i) a manual ballot;

(ii) a return envelope;

(iii) instructions for returning the ballot that include an express notice about any relevant deadlines that the voter must meet in order for the voter's vote to be counted;

(iv) for an election administered by a county clerk, information regarding the location and hours of operation of any election day voting center at which the voter may vote or a website address where the voter may view this information; [~~and~~]

(v) for an election administered by an election officer other than a county clerk, if the election officer does not operate a polling location or an election day voting center, a warning, on a separate page of colored paper in bold face print, indicating that if the voter fails to follow the instructions included with the ballot, the voter will be unable to vote in that election because there will be no polling place for the voting precinct on the day of the election; and

(vi) after May 1, 2022, instructions on how a voter may sign up to receive electronic ballot status notifications via the ballot tracking system described in Section 20A-3a-401.5; and

(b) may not mail a ballot under this section to:

(i) an inactive voter, unless the inactive voter requests a manual ballot; or

(ii) a voter whom the election officer is prohibited from sending a ballot under Subsection (10)(c)(ii).

(3) (a) An election officer who mails a manual ballot under Subsection (2) shall mail the manual ballot to the address:

(i) provided at the time of registration; or

(ii) if, at or after the time of registration, the voter files an alternate address request form described in Subsection (3)(b), the alternate address indicated on the form.

(b) The lieutenant governor shall make available to voters an alternate address request form that permits a voter to request that the election officer mail the voter's ballot to a location other than the voter's residence.

(c) A voter shall provide the completed alternate address request form to the election officer no later than 11 days before the day of the election.

(4) The return envelope shall include:

(a) the name, official title, and post office address of the election officer on the front of the envelope;

(b) a space where a voter may write an email address and phone number by which the election officer may contact the voter if the voter's ballot is rejected;

(c) a printed affidavit in substantially the following form:

"County of ____State of ____

I, ____, solemnly swear that: I am a qualified resident voter of the ____ voting precinct in ____ County, Utah and that I am entitled to vote in this election. I am not a convicted felon currently incarcerated for commission of a felony.

_____

Signature of Voter"; and

(d) a warning that the affidavit must be signed by the individual to whom the ballot was sent and that the ballot will not be counted if the signature on the affidavit does not match the signature on file with the election officer of the individual to whom the ballot was sent.

(5) If the election officer determines that the voter is required to show valid voter identification, the election officer may:

(a) mail a ballot to the voter; and

(b) instruct the voter to include a copy of the voter's valid voter identification with the return ballot.

(6) An election officer who administers an election shall:

(a) (i) before the election, obtain the signatures of each voter qualified to vote in the election; or

(ii) obtain the signature of each voter within the voting precinct from the county clerk; and

(b) maintain the signatures on file in the election officer's office.

(7) Upon receipt of a returned ballot, the election officer shall review and process the ballot under Section 20A-3a-401.

(8) A county that administers an election:

(a) shall provide at least one election day voting center in accordance with Chapter 3a, Part 7, Election Day Voting Center, and at least one additional election day voting center for every 5,000 active voters in the county who have requested to not receive a ballot by mail;

(b) shall ensure that each election day voting center operated by the county has at least one voting device that is accessible, in accordance with the Help America Vote Act of 2002, Pub. L. No. 107-252, for individuals with disabilities;

(c) may reduce the early voting period described in Section 20A-3a-601, if:

(i) the county clerk conducts early voting on at least four days;

(ii) the early voting days are within the period beginning on the date that is 14 days before the date of the election and ending on the day before the election; and

(iii) the county clerk provides notice of the reduced early voting period in accordance with Section 20A-3a-604;

(d) is not required to pay return postage for a ballot; and

(e) is subject to an audit conducted under Subsection (9).

(9) (a) The lieutenant governor shall:

(i) develop procedures for conducting an audit of affidavit signatures on ballots cast in an election conducted under this section; and

(ii) after each primary, general, or special election conducted under this section, select a number of ballots, in varying jurisdictions, to audit in accordance with the procedures developed under Subsection (9)(a)(i).

(b) The lieutenant governor shall post the results of an audit conducted under this Subsection (9) on the lieutenant governor's website.

(10) (a) An individual may request that the election officer not send the individual a ballot by mail in the next and subsequent elections by submitting a written request to the election officer.

(b) An individual shall submit the request described in Subsection (10)(a) to the election officer before 5 p.m. no later than 60 days before an election if the individual does not wish to receive a ballot by mail in that election.

(c) An election officer who receives a request from an individual under Subsection (10)(a):

(i) shall remove the individual's name from the list of voters who will receive a ballot by mail; and

(ii) may not send the individual a ballot by mail for:

(A) the next election, if the individual submits the request described in Subsection (10)(a) before the deadline described in Subsection (10)(b); or

(B) an election after the election described in Subsection (10)(c)(ii)(A).

(d) An individual who submits a request under Subsection (10)(a) may resume the individual's receipt of a ballot by mail by submitting a written request to the election officer.

Section 6. Section 20A-3a-401.5 is enacted to read:

20A-3a-401.5. Ballot tracking system.

(1) As used in this section:

(a) "Ballot tracking system" means the system described in this section to track and confirm the status of trackable ballots.

(b) "Change in the status" includes:

(i) when a trackable ballot is mailed to a voter;

(ii) when an election official receives a voted trackable ballot; and

(iii) when a voted trackable ballot is counted.

(c) "Trackable ballot" means a manual ballot that is:

(i) mailed to a voter in accordance with Section 20A-3a-202;

(ii) deposited in the mail by a voter in accordance with Section 20A-3a-204; or

(iii) deposited in a ballot drop box by a voter in accordance with Section 20A-3a-204.

(d) "Voter registration database" means the statewide voter registration database described in Section 20A-2-109.

(2) (a) The lieutenant governor shall develop and maintain a statewide or locally based system to track and confirm when there is a change in the status of a trackable ballot.

(b) The ballot tracking system shall be operational on or before May 1, 2022.

(3) Beginning on May 1, 2022, if a voter elects to receive electronic notifications regarding the status of the voter's trackable ballot, the ballot tracking system shall, when there is a change in the status of the voter's trackable ballot:

(a) send a text message notification to the voter if the voter's information in the voter registration database includes a mobile telephone number;

(b) send an email notification to the voter if the voter's information in the voter registration database includes an email address; and

(c) send a notification by another electronic means directed by the lieutenant governor.

(4) The lieutenant governor shall ensure that the ballot tracking system and the state-provided website described in Section 20A-7-801 automatically share appropriate information to ensure that a voter is able to confirm the status of the voter's trackable ballot via the state-provided website free of charge.

(5) The ballot tracking system shall include a toll-free telephone number or other offline method by which a voter can confirm the status of the voter's trackable ballot.

(6) The lieutenant governor shall ensure that the ballot tracking system:

(a) is secure from unauthorized use by employing data encryption or other security measures; and

(b) is only used for the purposes described in this section.

Section 7. Section 20A-6-105 is amended to read:

20A-6-105. Provisional ballot envelopes.

(1) Each election officer shall ensure that provisional ballot envelopes are printed in substantially the following form:

"AFFIRMATION

Are you a citizen of the United States of America? Yes No

Will you be 18 years old on or before election day? Yes No

If you checked "no" in response to either of the two above questions, do not complete this form.

Name of Voter _____
First Middle Last

Driver License or Identification Card Number _____

State of Issuance of Driver License or Identification Card Number _____

Date of Birth _____

Street Address of Principal Place of Residence

_____
City County State Zip Code

Telephone Number (optional) _____

Email Address (optional)_____

Last four digits of Social Security Number _____

Last former address at which I was registered to vote (if known)

_____
City County State Zip Code

Voting Precinct (if known) _____

I, (please print your full name)_____do solemnly swear or affirm:

That I am eligible to vote in this election; that I have not voted in this election in any other precinct; that I am eligible to vote in this precinct; and that I request that I be permitted to vote in this precinct; and

Subject to penalty of law for false statements, that the information contained in this form is true, and that I am a citizen of the United States and a resident of Utah, residing at the above address; and that I am at least 18 years old and have resided in Utah for the 30 days immediately before this election.

Signed _____

Dated _____

In accordance with Section 20A-3a-506, wilfully providing false information above is a class B misdemeanor under Utah law and is punishable by imprisonment and by fine.

PRIVACY INFORMATION

Voter registration records contain some information that is available to the public, such as your name and address, some information that is

available only to government entities, and some information that is available only to certain third parties in accordance with the requirements of law.

Your driver license number, identification card number, social security number, email address, [~~and~~] full date of birth, and phone number are available only to government entities. Your year of birth is available to political parties, candidates for public office, certain third parties, and their contractors, employees, and volunteers, in accordance with the requirements of law.

You may request that all information on your voter registration records be withheld from all persons other than government entities, political parties, candidates for public office, and their contractors, employees, and volunteers, by indicating here:

_____ Yes, I request that all information on my voter registration records be withheld from all persons other than government entities, political parties, candidates for public office, and their contractors, employees, and volunteers.

REQUEST FOR ADDITIONAL PRIVACY PROTECTION

In addition to the protections provided above, you may request that all information on your voter registration records be withheld from all political parties, candidates for public office, and their contractors, employees, and volunteers, by submitting a withholding request form, and any required verification, as described in the following paragraphs.

A person may request that all information on the person's voter registration records be withheld from all political parties, candidates for public office, and their contractors, employees, and volunteers, by submitting a withholding request form with this registration record, or to the lieutenant governor or a county clerk, if the person is or is likely to be, or resides with a person who is or is likely to be, a victim of domestic violence or dating violence.

A person may request that all information on the person's voter registration records be withheld from all political parties, candidates for public office, and their contractors, employees, and volunteers, by submitting a withholding request form and any required verification with this registration form, or to the lieutenant governor or a county clerk, if the person is, or resides with a person who is, a law enforcement officer, a member of the armed forces, a public figure, or protected by a protective order or a protection order.

CITIZENSHIP AFFIDAVIT

Name:

Name at birth, if different:

Place of birth:

Date of birth:

Date and place of naturalization (if applicable):

I hereby swear and affirm, under penalties for voting fraud set forth below, that I am a citizen and that to the best of my knowledge and belief the information above is true and correct.

_____

Signature of Applicant

In accordance with Section 20A-2-401, the penalty for willfully causing, procuring, or allowing yourself to be registered to vote if you know you are not entitled to register to vote is up to one year in jail and a fine of up to $2,500."

(2) The provisional ballot envelope shall include:

(a) a unique number;

(b) a detachable part that includes the unique number; [~~and~~]

(c) a telephone number, internet address, or other indicator of a means, in accordance with Section 20A-6-105.5, where the voter can find out if the provisional ballot was counted[~~.~~]; and

(d) beginning May 1, 2022, an insert containing written instructions on how a voter may sign up to receive ballot status notifications via the ballot tracking system described in Section 20A-3a-401.5.

Section 8. Section 20A-7-801 is amended to read:

20A-7-801. Statewide Electronic Voter Information Website Program -- Duties of the lieutenant governor -- Content -- Duties of local election officials -- Deadlines -- Frequently asked voter questions -- Other elections.

(1) There is established the Statewide Electronic Voter Information Website Program administered by the lieutenant governor in cooperation with the county clerks for general elections and municipal authorities for municipal elections.

(2) In accordance with this section, and as resources become available, the lieutenant governor, in cooperation with county clerks, shall develop, establish, and maintain a state-provided Internet website designed to help inform the voters of the state of:

(a) the offices and candidates up for election; [~~and~~]

(b) the content, effect, operation, fiscal impact, and supporting and opposing arguments of ballot propositions submitted to the voters[~~.~~]; and

(c) the status of a voter's trackable ballot, in accordance with Section 20A-3a-401.5, accessible only by the voter.

(3) Except as provided under Subsection (6), the website shall include:

(a) all information currently provided in the Utah voter information pamphlet under Chapter 7, Part 7, Voter Information Pamphlet, including a section prepared, analyzed, and submitted by the Judicial Performance Evaluation Commission describing the judicial selection and retention process;

(b) on the homepage of the website, a link to the Judicial Performance Evaluation Commission's website, judges.utah.gov;

(c) a link to the retention recommendation made by the Judicial Performance Evaluation Commission in accordance with Title 78A, Chapter 12, Part 2, Judicial Performance Evaluation, for each judicial appointee to a court that is subject to a retention election, in accordance with Section 20A-12-201, for the upcoming general election;

(d) all information submitted by election officers under Subsection (4) on local office races, local office candidates, and local ballot propositions;

(e) a list that contains the name of a political subdivision that operates an election day voting center under Section 20A-3a-703 and the location of the election day voting center;

(f) other information determined appropriate by the lieutenant governor that is currently being provided by law, rule, or ordinance in relation to candidates and ballot questions; [~~and~~]

(g) any differences in voting method, time, or location designated by the lieutenant governor under Subsection 20A-1-308(2)[~~.~~]; and

(h) an online ballot tracking system by which a voter can view the status of the voter's trackable ballot, in accordance with Section 20A-3a-401.5, including:

(i) when a ballot has been mailed to the voter;

(ii) when an election official has received the voter's ballot; and

(iii) when the voter's ballot has been counted.

(4) (a) An election official shall submit the following information for each ballot under the election official's direct responsibility under this title:

(i) a list of all candidates for each office;

(ii) if submitted by the candidate to the election official's office before 5 p.m. no later than 45 days before the primary election or before 5 p.m. no later than 60 days before the general election:

(A) a statement of qualifications, not exceeding 200 words in length, for each candidate;

(B) the following current biographical information if desired by the candidate, current:

(I) age;

(II) occupation;

(III) city of residence;

(IV) years of residence in current city; and

(V) email address; and

(C) a single web address where voters may access more information about the candidate and the candidate's views; and

(iii) factual information pertaining to all ballot propositions submitted to the voters, including:

(A) a copy of the number and ballot title of each ballot proposition;

(B) the final vote cast for each ballot proposition, if any, by a legislative body if the vote was required to place the ballot proposition on the ballot;

(C) a complete copy of the text of each ballot proposition, with all new language underlined and all deleted language placed within brackets; and

(D) other factual information determined helpful by the election official.

(b) The information under Subsection (4)(a) shall be submitted to the lieutenant governor no later than one business day after the deadline under Subsection (4)(a) for each general election year and each municipal election year.

(c) The lieutenant governor shall:

(i) review the information submitted under this section, to determine compliance under this section, prior to placing it on the website;

(ii) refuse to post information submitted under this section on the website if it is not in compliance with the provisions of this section; and

(iii) organize, format, and arrange the information submitted under this section for the website.

(d) The lieutenant governor may refuse to include information the lieutenant governor determines is not in keeping with:

(i) Utah voter needs;

(ii) public decency; or

(iii) the purposes, organization, or uniformity of the website.

(e) A refusal under Subsection (4)(d) is subject to appeal in accordance with Subsection (5).

(5) (a) A person whose information is refused under Subsection (4), and who is aggrieved by the determination, may appeal by submitting a written notice of appeal to the lieutenant governor before 5 p.m. within 10 business days after the date of the determination. A notice of appeal submitted under this Subsection (5)(a) shall contain:

(i) a listing of each objection to the lieutenant governor's determination; and

(ii) the basis for each objection.

(b) The lieutenant governor shall review the notice of appeal and shall issue a written response within 10 business days after the day on which the notice of appeal is submitted.

(c) An appeal of the response of the lieutenant governor shall be made to the district court, which shall review the matter de novo.

(6) (a) The lieutenant governor shall ensure that each voter will be able to conveniently enter the voter's address information on the website to retrieve information on which offices, candidates, and ballot propositions will be on the voter's ballot at the next general election or municipal election.

(b) The information on the website will anticipate and answer frequent voter questions including the following:

(i) what offices are up in the current year for which the voter may cast a vote;

(ii) who is running for what office and who is the incumbent, if any;

(iii) what address each candidate may be reached at and how the candidate may be contacted;

(iv) for partisan races only, what, if any, is each candidate's party affiliation;

(v) what qualifications have been submitted by each candidate;

(vi) where additional information on each candidate may be obtained;

(vii) what ballot propositions will be on the ballot; and

(viii) what judges are up for retention election.

(7) The lieutenant governor shall ensure that each voter may conveniently enter the voter's name, date of birth, and address information on the website to retrieve information on the status of the voter's ballot if the voter's ballot is trackable under Section 20A-3a-401.5.

[~~(7)~~] (8) As resources are made available and in cooperation with the county clerks, the lieutenant governor may expand the electronic voter information website program to include the same information as provided under this section for special elections and primary elections.

Section 9. Section 20A-16-501 is amended to read:

20A-16-501. Use of voter's email address.

(1) An election officer shall request an email address from each covered voter who registers to vote after January 1, 2012.

(2) An email address provided by a covered voter:

(a) is a private record under Section 63G-2-302; and

(b) may be used only for official communication with the covered voter about the voting process, including transmitting military-overseas ballots and election materials if the voter has requested electronic transmission, [~~and~~] verifying the voter's mailing address and physical location, and informing the voter of the status of the voter's ballot in accordance with Section 20A-3a-401.5.

(3) The request for an email address shall:

(a) describe the purposes for which the email address may be used; [~~and~~]

(b) include a statement that any other use or disclosure of the email address is prohibited[~~.~~]; and

(c) describe how a voter may sign up to receive ballot status notifications via the ballot tracking system described in Section 20A-3a-401.5.

(4) (a) A covered voter who provides an email address may request that the covered voter's application for a military-overseas ballot be considered a standing request for electronic delivery of a ballot for all elections held through December 31 of the year following the calendar year of the date of the application or another shorter period the covered voter specifies.

(b) An election official shall provide a military-overseas ballot to a covered voter who makes a standing request for each election to which the request is applicable.

(c) A covered voter who is entitled to receive a military-overseas ballot for a primary election under this Subsection (4) is entitled to receive a military-overseas ballot for the general election.

Section 10. Section 63G-2-302 is amended to read:

63G-2-302. Private records.

(1) The following records are private:

(a) records concerning an individual's eligibility for unemployment insurance benefits, social services, welfare benefits, or the determination of benefit levels;

(b) records containing data on individuals describing medical history, diagnosis, condition, treatment, evaluation, or similar medical data;

(c) records of publicly funded libraries that when examined alone or with other records identify a patron;

(d) records received by or generated by or for:

(i) the Independent Legislative Ethics Commission, except for:

(A) the commission's summary data report that is required under legislative rule; and

(B) any other document that is classified as public under legislative rule; or

(ii) a Senate or House Ethics Committee in relation to the review of ethics complaints, unless the record is classified as public under legislative rule;

(e) records received by, or generated by or for, the Independent Executive Branch Ethics Commission, except as otherwise expressly provided in Title 63A, Chapter 14, Review of Executive Branch Ethics Complaints;

(f) records received or generated for a Senate confirmation committee concerning character, professional competence, or physical or mental health of an individual:

(i) if, prior to the meeting, the chair of the committee determines release of the records:

(A) reasonably could be expected to interfere with the investigation undertaken by the committee; or

(B) would create a danger of depriving a person of a right to a fair proceeding or impartial hearing; and

(ii) after the meeting, if the meeting was closed to the public;

(g) employment records concerning a current or former employee of, or applicant for employment

with, a governmental entity that would disclose that individual's home address, home telephone number, social security number, insurance coverage, marital status, or payroll deductions;

(h) records or parts of records under Section 63G-2-303 that a current or former employee identifies as private according to the requirements of that section;

(i) that part of a record indicating a person's social security number or federal employer identification number if provided under Section 31A-23a-104, 31A-25-202, 31A-26-202, 58-1-301, 58-55-302, 61-1-4, or 61-2f-203;

(j) that part of a voter registration record identifying a voter's:

(i) driver license or identification card number;

(ii) social security number, or last four digits of the social security number;

(iii) email address; [~~or~~]

(iv) date of birth; or

(v) phone number;

(k) a voter registration record that is classified as a private record by the lieutenant governor or a county clerk under Subsection 20A-2-101.1(5)(a), 20A-2-104(4)(h), or 20A-2-204(4)(b);

(l) a voter registration record that is withheld under Subsection 20A-2-104(7);

(m) a withholding request form described in Subsections 20A-2-104(7) and (8) and any verification submitted in support of the form;

(n) a record that:

(i) contains information about an individual;

(ii) is voluntarily provided by the individual; and

(iii) goes into an electronic database that:

(A) is designated by and administered under the authority of the Chief Information Officer; and

(B) acts as a repository of information about the individual that can be electronically retrieved and used to facilitate the individual's online interaction with a state agency;

(o) information provided to the Commissioner of Insurance under:

(i) Subsection 31A-23a-115(3)(a);

(ii) Subsection 31A-23a-302(4); or

(iii) Subsection 31A-26-210(4);

(p) information obtained through a criminal background check under Title 11, Chapter 40, Criminal Background Checks by Political Subdivisions Operating Water Systems;

(q) information provided by an offender that is:

(i) required by the registration requirements of Title 77, Chapter 41, Sex and Kidnap Offender Registry or Title 77, Chapter 43, Child Abuse Offender Registry; and

(ii) not required to be made available to the public under Subsection 77-41-110(4) or 77-43-108(4);

(r) a statement and any supporting documentation filed with the attorney general in accordance with Section 34-45-107, if the federal law or action supporting the filing involves homeland security;

(s) electronic toll collection customer account information received or collected under Section 72-6-118 and customer information described in Section 17B-2a-815 received or collected by a public transit district, including contact and payment information and customer travel data;

(t) an email address provided by a military or overseas voter under Section 20A-16-501;

(u) a completed military-overseas ballot that is electronically transmitted under Title 20A, Chapter 16, Uniform Military and Overseas Voters Act;

(v) records received by or generated by or for the Political Subdivisions Ethics Review Commission established in Section 63A-15-201, except for:

(i) the commission's summary data report that is required in Section 63A-15-202; and

(ii) any other document that is classified as public in accordance with Title 63A, Chapter 15, Political Subdivisions Ethics Review Commission;

(w) a record described in Section 53G-9-604 that verifies that a parent was notified of an incident or threat;

(x) a criminal background check or credit history report conducted in accordance with Section 63A-3-201;

(y) a record described in Subsection 53-5a-104(7);

(z) the following portions of a record maintained by a county for the purpose of administering property taxes, an individual's:

(i) email address;

(ii) phone number; or

(iii) personal financial information related to a person's payment method; and

(aa) a record concerning an individual's eligibility for an exemption, deferral, abatement, or relief under:

(i) Title 59, Chapter 2, Part 11, Exemptions, Deferrals, and Abatements;

(ii) Title 59, Chapter 2, Part 12, Property Tax Relief;

(iii) Title 59, Chapter 2, Part 18, Tax Deferral and Tax Abatement; or

(iv) Title 59, Chapter 2, Part 19, Armed Forces Exemptions.

(2) The following records are private if properly classified by a governmental entity:

(a) records concerning a current or former employee of, or applicant for employment with a governmental entity, including performance evaluations and personal status information such as race, religion, or disabilities, but not including records that are public under Subsection 63G-2-301(2)(b) or 63G-2-301(3)(o) or private under Subsection (1)(b);

(b) records describing an individual's finances, except that the following are public:

(i) records described in Subsection 63G-2-301(2);

(ii) information provided to the governmental entity for the purpose of complying with a financial assurance requirement; or

(iii) records that must be disclosed in accordance with another statute;

(c) records of independent state agencies if the disclosure of those records would conflict with the fiduciary obligations of the agency;

(d) other records containing data on individuals the disclosure of which constitutes a clearly unwarranted invasion of personal privacy;

(e) records provided by the United States or by a government entity outside the state that are given with the requirement that the records be managed as private records, if the providing entity states in writing that the record would not be subject to public disclosure if retained by it;

(f) any portion of a record in the custody of the Division of Aging and Adult Services, created in Section 62A-3-102, that may disclose, or lead to the discovery of, the identity of a person who made a report of alleged abuse, neglect, or exploitation of a vulnerable adult; and

(g) audio and video recordings created by a body-worn camera, as defined in Section 77-7a-103, that record sound or images inside a home or residence except for recordings that:

(i) depict the commission of an alleged crime;

(ii) record any encounter between a law enforcement officer and a person that results in death or bodily injury, or includes an instance when an officer fires a weapon;

(iii) record any encounter that is the subject of a complaint or a legal proceeding against a law enforcement officer or law enforcement agency;

(iv) contain an officer involved critical incident as defined in Subsection 76-2-408(1)(f); or

(v) have been requested for reclassification as a public record by a subject or authorized agent of a subject featured in the recording.

(3) (a) As used in this Subsection (3), "medical records" means medical reports, records, statements, history, diagnosis, condition, treatment, and evaluation.

(b) Medical records in the possession of the University of Utah Hospital, its clinics, doctors, or affiliated entities are not private records or controlled records under Section 63G-2-304 when the records are sought:

(i) in connection with any legal or administrative proceeding in which the patient's physical, mental, or emotional condition is an element of any claim or defense; or

(ii) after a patient's death, in any legal or administrative proceeding in which any party relies upon the condition as an element of the claim or defense.

(c) Medical records are subject to production in a legal or administrative proceeding according to state or federal statutes or rules of procedure and evidence as if the medical records were in the possession of a nongovernmental medical care provider.

CHAPTER 101
H. B. 75
Passed March 5, 2021
Approved March 16, 2021
Effective March 16, 2021

MUNICIPAL ALTERNATIVE VOTING METHODS PILOT PROJECT AMENDMENTS

Chief Sponsor: Jeffrey D. Stenquist
Senate Sponsor: Curtis S. Bramble
Cosponsors: Jennifer Dailey-Provost
Mike Winder

LONG TITLE

General Description:

This bill amends provisions relating to the Municipal Alternative Voting Methods Pilot Project.

Highlighted Provisions:

This bill:

- provides that the legislative body of a municipality makes the determination to participate in the pilot project;
- removes the sunset date for a provision relating to a municipality entering into a contract with a county to conduct an election; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

20A-4-602, as last amended by Laws of Utah 2019, Chapter 305
20A-5-400.1, as last amended by Laws of Utah 2019, Chapter 305
63I-2-220, as last amended by Laws of Utah 2020, Sixth Special Session, Chapter 17

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

Section 1. Section 20A-4-602 is amended to read:

20A-4-602. Municipal Alternate Voting Methods Pilot Project -- Creation -- Participation.

(1) There is created the Municipal Alternate Voting Methods Pilot Project.

(2) The pilot project begins on January 1, 2019, and ends on January 1, 2026.

(3) (a) A municipality may participate in the pilot project, in accordance with the requirements of this section and all other applicable provisions of law, during any odd-numbered year that the pilot project is in effect, if, before [~~April 15~~] the second Monday in May of the odd-numbered year, the legislative body of the municipality:

(i) votes to participate; and

(ii) provides written notice to the lieutenant governor[~~: (i)~~] and the county clerk stating that the municipality intends to participate in the pilot project for the year specified in the notice[~~; and~~].

[~~(ii) that includes a document, signed by the election officer of the municipality, stating that the municipality has the resources and capability necessary to participate in the pilot project.~~]

(b) [~~A~~] The legislative body of a municipality that provides the notice of intent described in Subsection (3)(a) may withdraw the notice of intent, and not participate in the pilot project, if the legislative body of the municipality provides written notice of withdrawal to the lieutenant governor and the county clerk before [~~April 15~~] the second Monday in May.

(4) The lieutenant governor shall maintain, in a prominent place on the lieutenant governor's website, a current list of the municipalities that are participating in the pilot project.

(5) (a) An election officer of a participating municipality shall, in accordance with the provisions of this part, conduct a multi-candidate race during the municipal general election using instant runoff voting.

(b) Except as provided in Subsection 20A-4-603(9), an election officer of a participating municipality that will conduct a multi-candidate race under Subsection (5)(a) may not conduct a municipal primary election relating to that race.

(c) A municipality that has in effect an ordinance described in Subsection 20A-9-404(3) or (4) may not participate in the pilot project.

(6) Except for an election described in Subsection 20A-4-603(9), an individual who files a declaration of candidacy or a nomination petition, for a candidate who will run in an election described in this part, shall file the declaration of candidacy or nomination petition during the office hours described in Section 10-3-301 and not later than the close of those office hours, no sooner than the second Tuesday in August and no later than the third Tuesday in August of an odd-numbered year.

Section 2. Section 20A-5-400.1 is amended to read:

20A-5-400.1. Contracting with an election officer to conduct elections -- Fees -- Contracts and interlocal agreements -- Private providers.

(1) (a) In accordance with this section, a local political subdivision may enter into a contract or interlocal agreement as provided in Title 11, Chapter 13, Interlocal Cooperation Act, with a provider election officer to conduct an election.

(b) If the boundaries of a local political subdivision holding the election extend beyond a single local political subdivision, the local political subdivision may have more than one provider election officer conduct an election.

(c) [~~Subject to Subsection (1)(d), and upon~~] Upon approval by the lieutenant governor, a municipality

may enter into a contract or agreement under Subsection (1)(a) with any local political subdivision in the state, regardless of whether the municipality is located in, next to, or near, the local political subdivision, to conduct an election during which the municipality is participating in the Municipal Alternate Voting Methods Pilot Project.

[~~(d) (i) Subsection (1)(c) only applies to an election held in 2019.~~]

[~~(ii)~~] (d) If a municipality enters into a contract or agreement, under Subsection (1)(c), with a local political subdivision other than a county within which the municipality exists, the municipality, the local political subdivision, and the county within which the municipality exists shall enter into a cooperative agreement to ensure the proper functioning of the election.

(2) A provider election officer shall conduct an election:

(a) under the direction of the contracting election officer; and

(b) in accordance with a contract or interlocal agreement.

(3) A provider election officer shall establish fees for conducting an election for a contracting election officer that:

(a) are consistent with the contract or interlocal agreement; and

(b) do not exceed the actual costs incurred by the provider election officer.

(4) The contract or interlocal agreement under this section may specify that a contracting election officer request, within a specified number of days before the election, that the provider election officer conduct the election to allow adequate preparations by the provider election officer.

(5) An election officer conducting an election may appoint or employ an agent or professional service to assist in conducting the election.

Section 3. Section 63I-2-220 is amended to read:

63I-2-220. Repeal dates -- Title 20A.

(1) On January 1, 2021:

(a) Subsection 20A-1-201.5(1), the language that states "Except as provided in Subsection (4)," is repealed.

(b) Subsection 20A-1-201.5(4) is repealed.

(c) Subsections 20A-1-204(1)(a)(i) through (iii) are repealed and replaced with the following:

"(i) the fourth Tuesday in June; or

(ii) the first Tuesday after the first Monday in November.".

(d) In Subsections 20A-1-503(4)(c), 20A-9-202(3)(a), 20A-9-403(3)(d)(ii), 20A-9-407(5) and (6)(a), and 20A-9-408(5), immediately following the reference to Subsection 20A-9-202(1)(b), the language that states "(i) or (ii)" is repealed.

(e) Subsection 20A-9-202(1)(b) is repealed and replaced with the following:

"(b) Unless expressly provided otherwise in this title, for a registered political party that is not a qualified political party, the deadline for filing a declaration of candidacy for an elective office that is to be filled at the next regular general election is 5 p.m. on the first Monday after the third Saturday in April."[~~;~~].

(f) Subsection 20A-9-409(4)(c) is repealed and replaced with the following:

"(c) The deadline described in Subsection (4)(b) is 5 p.m. on the first Wednesday after the third Saturday in April.".

(2) Subsection 20A-5-803(8) is repealed July 1, 2023.

(3) Section 20A-5-804 is repealed July 1, 2023.

[~~(4) On January 1, 2026:~~]

[~~(a) In Subsection 20A-1-102(18)(a), the language that states "or Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project" is repealed.~~]

[~~(b) In Subsections 20A-1-303(1)(a) and (b), the language that states "Except as provided in Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project," is repealed.~~]

[~~(c) In Section 20A-1-304, the language that states "Except for a race conducted by instant runoff voting under Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project," is repealed.~~]

[~~(d) In Subsection 20A-3a-204(1)(a), (c), or (d), the language that states "except as provided in Subsection (6)," is repealed.~~]

[~~(e) Subsection 20A-3a-204 (5)(b), the language that states "subject to Subsection (6)," is repealed.~~]

[~~(f) Subsection 20A-3a-204(6) is repealed and the remaining subsections in Section 20A-3a-204 are renumbered accordingly.~~]

[~~(g) In Subsection 20A-4-101(2)(c), the language that states "Except as provided in Subsection (2)(f)," is repealed.~~]

[~~(h) Subsection 20A-4-101(2)(f) is repealed.~~]

[~~(i) Subsection 20A-4-101(3) is repealed and replaced with the following:~~]

[~~"(3) To resolve questions that arise during the counting of ballots, a counting judge shall apply the standards and requirements of Section 20A-4-105.".~~]

[~~(j) In Subsection 20A-4-102(1)(b), the language that states "or a rule made under Subsection 20A-4-101(2)(f)(i)" is repealed.~~]

[~~(k) Subsection 20A-4-102(1)(c) is repealed and replaced with the following:~~]

[~~"(b) To resolve questions that arise during the counting of ballots, a counting judge shall apply the~~

~~standards and requirements of Section 20A-4-105.".~~]

[~~(l) In Subsection 20A-4-102(6)(a), the language that states ", except as provided in Part 6, Municipal Alternate Voting Methods Pilot Project, or a rule made under Subsection 20A-4-101(2)(f)(i)" is repealed.~~]

[~~(m) In Subsection 20A-4-105(1)(a), the language that states ", except as otherwise provided in Part 6, Municipal Alternate Voting Methods Pilot Project," is repealed.~~]

[~~(n) In Subsection 20A-4-105(2), the language that states "Subsection 20A-3a-204(6), or Part 6, Municipal Alternate Voting Methods Pilot Project," is repealed.~~]

[~~(o) In Subsections 20A-4-105(3), (4), and (11), the language that states "Except as otherwise provided in Part 6, Municipal Alternate Voting Methods Pilot Project," is repealed.~~]

[~~(p) In Subsection 20A-4-106(2), the language that states "or Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project" is repealed.~~]

[~~(q) In Subsection 20A-4-304(1)(a), the language that states "except as provided in Part 6, Municipal Alternate Voting Methods Pilot Project," is repealed.~~]

[~~(r) Subsection 20A-4-304(2)(e) is repealed and replaced with the following:~~]

[~~"(v) from each voting precinct:~~]

[~~(A) the number of votes for each candidate; and~~]

[~~(B) the number of votes for and against each ballot proposition;".~~]

[~~(s) Subsection 20A-4-401(1)(a) is repealed, the remaining subsections in Subsection (1) are renumbered accordingly, and the cross-references to those subsections are renumbered accordingly.~~]

[~~(t) Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project, is repealed.~~]

[~~(u) Subsections 20A-5-400.1(1)(c) and (d), relating to contracting with a local political subdivision to conduct an election, is repealed.~~]

[~~(v) In Section 20A-5-802, relating to the certification of voting equipment:~~]

[~~(i) delete "Except as provided in Subsection (2)(b)(ii):" from the beginning of Subsection (2); and~~]

[~~(ii) Subsection (2)(b)(ii) is repealed, and the remaining subsections are renumbered accordingly.~~]

[~~(w) Section 20A-6-203.5 is repealed.~~]

[~~(x) In Subsections 20A-6-402(1) and (2), the language that states "Except as otherwise required for a race conducted by instant runoff voting under Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project," is repealed.~~]

[~~(y) In Subsection 20A-9-203(3)(a)(i), the language that states "or Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project" is repealed.~~]

[~~(z) In Subsection 20A-9-203(3)(c)(i), the language that states "except as provided in Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project," is repealed.~~]

[~~(aa) In Subsection 20A-9-404(1)(a), the language that states "or Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project" is repealed.~~]

[~~(bb) In Subsection 20A-9-404(2), the language that states "Except as otherwise provided in Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project," is repealed.~~]

(4) Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project, is repealed January 1, 2026.

(5) Section 20A-7-407 is repealed January 1, 2021.

(6) Section 20A-1-310 is repealed January 1, 2021.

Section 4. Effective date.

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

CHAPTER 102
H. B. 82
Passed March 4, 2021
Approved March 16, 2021
Effective May 5, 2021
(Exception clause in Section 16)

SINGLE-FAMILY HOUSING MODIFICATIONS

Chief Sponsor: Raymond P. Ward
Senate Sponsor: Jacob L. Anderegg

LONG TITLE

General Description:

This bill modifies provisions related to single-family housing.

Highlighted Provisions:

This bill:

- modifies and defines terms applicable to municipal and county land use development and management;
- allows a municipality or county to punish an individual who lists or offers a certain licensed or permitted accessory dwelling unit as a short-term rental;
- allows municipalities and counties to require specified physical changes to certain accessory dwelling units;
- in any single-family residential land use zone:
  - requires municipalities and counties to classify certain accessory dwelling units as a permitted land use; and
  - prohibits municipalities and counties from establishing restrictions or requirements for certain accessory dwelling units with limited exceptions;
- allows a municipality or county to hold a lien against real property containing certain accessory dwelling units in certain circumstances;
- provides for statewide amendments to the International Residential Code related to accessory dwelling units;
- requires the executive director of the Olene Walker Housing Loan Fund to establish a two-year pilot program to provide loan guarantees for certain loans related to accessory dwelling units;
- prevents a homeowners association from prohibiting the construction or rental of certain accessory dwelling units; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

10-8-85.4, as enacted by Laws of Utah 2017, Chapter 335
10-9a-505.5, as last amended by Laws of Utah 2012, Chapter 172
10-9a-511.5, as enacted by Laws of Utah 2015, Chapter 205
15A-3-202, as last amended by Laws of Utah 2020, Chapter 441
15A-3-204, as last amended by Laws of Utah 2016, Chapter 249
15A-3-206, as last amended by Laws of Utah 2018, Chapter 186
17-27a-505.5, as last amended by Laws of Utah 2015, Chapter 465
17-27a-510.5, as enacted by Laws of Utah 2015, Chapter 205
17-50-338, as enacted by Laws of Utah 2017, Chapter 335
35A-8-505, as last amended by Laws of Utah 2020, Chapter 241
57-8a-209, as last amended by Laws of Utah 2018, Chapter 395
57-8a-218, as last amended by Laws of Utah 2017, Chapter 131

ENACTS:

10-9a-530, Utah Code Annotated 1953
17-27a-526, Utah Code Annotated 1953
35A-8-504.5, Utah Code Annotated 1953

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

Section 1. Section 10-8-85.4 is amended to read:

10-8-85.4. Ordinances regarding short-term rentals -- Prohibition on ordinances restricting speech on short-term rental websites.

(1) As used in this section:

(a) "Internal accessory dwelling unit" means the same as that term is defined in Section 10-9a-511.5.

[~~(a)~~] (b) "Residential unit" means a residential structure or any portion of a residential structure that is occupied as a residence.

[~~(b)~~] (c) "Short-term rental" means a residential unit or any portion of a residential unit that the owner of record or the lessee of the residential unit offers for occupancy for fewer than 30 consecutive days.

[~~(c)~~] (d) "Short-term rental website" means a website that:

(i) allows a person to offer a short-term rental to one or more prospective renters; and

(ii) facilitates the renting of, and payment for, a short-term rental.

(2) Notwithstanding Section 10-9a-501 or Subsection 10-9a-503(1), a legislative body may not:

(a) enact or enforce an ordinance that prohibits an individual from listing or offering a short-term rental on a short-term rental website; or

(b) use an ordinance that prohibits the act of renting a short-term rental to fine, charge, prosecute, or otherwise punish an individual solely for the act of listing or offering a short-term rental on a short-term rental website.

(3) Subsection (2) does not apply to an individual who lists or offers an internal accessory dwelling

unit as a short-term rental on a short-term rental website if the municipality records a notice for the internal accessory dwelling unit under Subsection 10-9a-530(6).

Section 2. Section 10-9a-505.5 is amended to read:

10-9a-505.5. Limit on single family designation.

(1) As used in this section, "single-family limit" means the number of [~~unrelated~~] individuals allowed to occupy each residential unit that is recognized by a land use authority in a zone permitting occupancy by a single family.

(2) A municipality may not adopt a single-family limit that is less than:

(a) three, if the municipality has within its boundary:

(i) a state university; or

(ii) a private university with a student population of at least 20,000; or

(b) four, for each other municipality.

Section 3. Section 10-9a-511.5 is amended to read:

10-9a-511.5. Changes to dwellings -- Egress windows.

(1) [~~For purposes of~~] As used in this section[~~, "rental~~]:

(a) "Internal accessory dwelling unit" means an accessory dwelling unit created:

(i) within a primary dwelling;

(ii) within the footprint of the primary dwelling described in Subsection (1)(a)(i) at the time the internal accessory dwelling unit is created; and

(iii) for the purpose of offering a long-term rental of 30 consecutive days or longer.

(b) "Primary dwelling" means a single-family dwelling that:

(i) is detached; and

(ii) is occupied as the primary residence of the owner of record.

(c) "Rental dwelling" means the same as that term is defined in Section 10-8-85.5.

(2) A municipal ordinance adopted under Section 10-1-203.5 may not:

(a) require physical changes in a structure with a legal nonconforming rental dwelling use unless the change is for:

(i) the reasonable installation of:

(A) a smoke detector that is plugged in or battery operated;

(B) a ground fault circuit interrupter protected outlet on existing wiring;

(C) street addressing;

(D) except as provided in Subsection (3), an egress bedroom window if the existing bedroom window is smaller than that required by current State Construction Code;

(E) an electrical system or a plumbing system, if the existing system is not functioning or is unsafe as determined by an independent electrical or plumbing professional who is licensed in accordance with Title 58, Occupations and Professions;

(F) hand or guard rails; or

(G) occupancy separation doors as required by the International Residential Code; or

(ii) the abatement of a structure; or

(b) be enforced to terminate a legal nonconforming rental dwelling use.

(3) (a) A municipality may not require physical changes to install an egress or emergency escape window in an existing bedroom that complied with the State Construction Code in effect at the time the bedroom was finished if:

[~~(a)~~] (i) the dwelling is an owner-occupied dwelling or a rental dwelling that is:

[~~(i)~~] (A) a detached one-, two-, three-, or four-family dwelling; or

[~~(ii)~~] (B) a town home that is not more than three stories above grade with a separate means of egress; and

[~~(b) (i)~~] (ii) (A) the window in the existing bedroom is smaller than that required by current State Construction Code; and

[~~(ii)~~] (B) the change would compromise the structural integrity of the structure or could not be completed in accordance with current State Construction Code, including set-back and window well requirements.

(b) Subsection (3)(a) does not apply to an internal accessory dwelling unit.

(4) Nothing in this section prohibits a municipality from:

(a) regulating the style of window that is required or allowed in a bedroom;

(b) requiring that a window in an existing bedroom be fully openable if the openable area is less than required by current State Construction Code; or

(c) requiring that an existing window not be reduced in size if the openable area is smaller than required by current State Construction Code.

Section 4. Section 10-9a-530 is enacted to read:

10-9a-530. Internal accessory dwelling units.

(1) As used in this section:

(a) "Internal accessory dwelling unit" means an accessory dwelling unit created:

(i) within a primary dwelling;

(ii) within the footprint of the primary dwelling described in Subsection (1)(a)(i) at the time the internal accessory dwelling unit is created; and

(iii) for the purpose of offering a long-term rental of 30 consecutive days or longer.

(b) "Primary dwelling" means a single-family dwelling that:

(i) is detached; and

(ii) is occupied as the primary residence of the owner of record.

(2) In any area zoned primarily for residential use:

(a) the use of an internal accessory dwelling unit is a permitted use; and

(b) except as provided in Subsections (3) and (4), a municipality may not establish any restrictions or requirements for the construction or use of one internal accessory dwelling unit within a primary dwelling, including a restriction or requirement governing:

(i) the size of the internal accessory dwelling unit in relation to the primary dwelling;

(ii) total lot size; or

(iii) street frontage.

(3) An internal accessory dwelling unit shall comply with all applicable building, health, and fire codes.

(4) A municipality may:

(a) prohibit the installation of a separate utility meter for an internal accessory dwelling unit;

(b) require that an internal accessory dwelling unit be designed in a manner that does not change the appearance of the primary dwelling as a single-family dwelling;

(c) require a primary dwelling:

(i) to include one additional on-site parking space for an internal accessory dwelling unit, regardless of whether the primary dwelling is existing or new construction; and

(ii) to replace any parking spaces contained within a garage or carport if an internal accessory dwelling unit is created within the garage or carport;

(d) prohibit the creation of an internal accessory dwelling unit within a mobile home as defined in Section 57-16-3;

(e) require the owner of a primary dwelling to obtain a permit or license for renting an internal accessory dwelling unit;

(f) prohibit the creation of an internal accessory dwelling unit within a zoning district covering an area that is equivalent to:

(i) 25% or less of the total area in the municipality that is zoned primarily for residential use; or

(ii) 67% or less of the total area in the municipality that is zoned primarily for residential use, if the main campus of a state or private university with a student population of 10,000 or more is located within the municipality;

(g) prohibit the creation of an internal accessory dwelling unit if the primary dwelling is served by a failing septic tank;

(h) prohibit the creation of an internal accessory dwelling unit if the lot containing the primary dwelling is 6,000 square feet or less in size;

(i) prohibit the rental or offering the rental of an internal accessory dwelling unit for a period of less than 30 consecutive days;

(j) prohibit the rental of an internal accessory dwelling unit if the internal accessory dwelling unit is located in a dwelling that is not occupied as the owner's primary residence;

(k) hold a lien against a property that contains an internal accessory dwelling unit in accordance with Subsection (5); and

(l) record a notice for an internal accessory dwelling unit in accordance with Subsection (6).

(5) (a) In addition to any other legal or equitable remedies available to a municipality, a municipality may hold a lien against a property that contains an internal accessory dwelling unit if:

(i) the owner of the property violates any of the provisions of this section or any ordinance adopted under Subsection (4);

(ii) the municipality provides a written notice of violation in accordance with Subsection (5)(b);

(iii) the municipality holds a hearing and determines that the violation has occurred in accordance with Subsection (5)(d), if the owner files a written objection in accordance with Subsection (5)(b)(iv);

(iv) the owner fails to cure the violation within the time period prescribed in the written notice of violation under Subsection (5)(b);

(v) the municipality provides a written notice of lien in accordance with Subsection (5)(c); and

(vi) the municipality records a copy of the written notice of lien described in Subsection (5)(a)(iv) with the county recorder of the county in which the property is located.

(b) The written notice of violation shall:

(i) describe the specific violation;

(ii) provide the owner of the internal accessory dwelling unit a reasonable opportunity to cure the violation that is:

(A) no less than 14 days after the day on which the municipality sends the written notice of violation, if

the violation results from the owner renting or offering to rent the internal accessory dwelling unit for a period of less than 30 consecutive days; or

(B) no less than 30 days after the day on which the municipality sends the written notice of violation, for any other violation;

(iii) state that if the owner of the property fails to cure the violation within the time period described in Subsection (5)(b)(ii), the municipality may hold a lien against the property in an amount of up to $100 for each day of violation after the day on which the opportunity to cure the violation expires;

(iv) notify the owner of the property:

(A) that the owner may file a written objection to the violation within 14 days after the day on which the written notice of violation is post-marked or posted on the property; and

(B) of the name and address of the municipal office where the owner may file the written objection;

(v) be mailed to:

(A) the property's owner of record; and

(B) any other individual designated to receive notice in the owner's license or permit records; and

(vi) be posted on the property.

(c) The written notice of lien shall:

(i) comply with the requirements of Section 38-12-102;

(ii) state that the property is subject to a lien;

(iii) specify the lien amount, in an amount of up to $100 for each day of violation after the day on which the opportunity to cure the violation expires;

(iv) be mailed to:

(A) the property's owner of record; and

(B) any other individual designated to receive notice in the owner's license or permit records; and

(v) be posted on the property.

(d) (i) If an owner of property files a written objection in accordance with Subsection (5)(b)(iv), the municipality shall:

(A) hold a hearing in accordance with Title 52, Chapter 4, Open and Public Meetings Act, to conduct a review and determine whether the specific violation described in the written notice of violation under Subsection (5)(b) has occurred; and

(B) notify the owner in writing of the date, time, and location of the hearing described in Subsection (5)(d)(i)(A) no less than 14 days before the day on which the hearing is held.

(ii) If an owner of property files a written objection under Subsection (5)(b)(iv), a municipality may not record a lien under this Subsection (5) until the municipality holds a hearing and determines that the specific violation has occurred.

(iii) If the municipality determines at the hearing that the specific violation has occurred, the municipality may impose a lien in an amount of up to $100 for each day of violation after the day on which the opportunity to cure the violation expires, regardless of whether the hearing is held after the day on which the opportunity to cure the violation has expired.

(e) If an owner cures a violation within the time period prescribed in the written notice of violation under Subsection (5)(b), the municipality may not hold a lien against the property, or impose any penalty or fee on the owner, in relation to the specific violation described in the written notice of violation under Subsection (5)(b).

(6) (a) A municipality that issues, on or after October 1, 2021, a permit or license to an owner of a primary dwelling to rent an internal accessory dwelling unit, or a building permit to an owner of a primary dwelling to create an internal accessory dwelling unit, may record a notice in the office of the recorder of the county in which the primary dwelling is located.

(b) The notice described in Subsection (6)(a) shall include:

(i) a description of the primary dwelling;

(ii) a statement that the primary dwelling contains an internal accessory dwelling unit; and

(iii) a statement that the internal accessory dwelling unit may only be used in accordance with the municipality's land use regulations.

(c) The municipality shall, upon recording the notice described in Subsection (6)(a), deliver a copy of the notice to the owner of the internal accessory dwelling unit.

Section 5. Section 15A-3-202 is amended to read:

15A-3-202. Amendments to Chapters 1 through 5 of IRC.

(1) In IRC, Section R102, a new Section R102.7.2 is added as follows: "R102.7.2 Physical change for bedroom window egress. A structure whose egress window in an existing bedroom is smaller than required by this code, and that complied with the construction code in effect at the time that the bedroom was finished, is not required to undergo a physical change to conform to this code if the change would compromise the structural integrity of the structure or could not be completed in accordance with other applicable requirements of this code, including setback and window well requirements."

(2) In IRC, Section R108.3, the following sentence is added at the end of the section: "The building official shall not request proprietary information."

(3) In IRC, Section 109:

(a) A new IRC, Section 109.1.5, is added as follows: "R109.1.5 Weather-resistant exterior wall envelope inspections. An inspection shall be made of the weather-resistant exterior wall envelope as required by Section R703.1 and flashings as required by Section R703.8 to prevent water from entering the weather-resistive barrier."

(b) The remaining sections are renumbered as follows: R109.1.6 Other inspections; R109.1.6.1 Fire- and smoke-resistance-rated construction inspection; R109.1.6.2 Reinforced masonry, insulating concrete form (ICF) and conventionally formed concrete wall inspection; and R109.1.7 Final inspection.

(4) IRC, Section R114.1, is deleted and replaced with the following: "R114.1 Notice to owner. Upon notice from the building official that work on any building or structure is being prosecuted contrary to the provisions of this code or other pertinent laws or ordinances or in an unsafe and dangerous manner, such work shall be immediately stopped. The stop work order shall be in writing and shall be given to the owner of the property involved, or to the owner's agent or to the person doing the work; and shall state the conditions under which work will be permitted to resume."

(5) In IRC, Section R202, the following definition is added: "ACCESSORY DWELLING UNIT: A habitable living unit created within the existing footprint of a primary owner-occupied single-family dwelling."

[~~(5)~~] (6) In IRC, Section R202, the following definition is added: "CERTIFIED BACKFLOW PREVENTER ASSEMBLY TESTER: A person who has shown competence to test Backflow prevention assemblies to the satisfaction of the authority having jurisdiction under Utah Code, Subsection 19-4-104(4)."

[~~(6)~~] (7) In IRC, Section R202, the definition of "Cross Connection" is deleted and replaced with the following: "CROSS CONNECTION. Any physical connection or potential connection or arrangement between two otherwise separate piping systems, one of which contains potable water and the other either water of unknown or questionable safety or steam, gas, or chemical, whereby there exists the possibility for flow from one system to the other, with the direction of flow depending on the pressure differential between the two systems (see "Backflow, Water Distribution")."

[~~(7)~~] (8) In IRC, Section 202, in the definition for gray water a comma is inserted after the word "washers"; the word "and" is deleted; and the following is added to the end: "and clear water wastes which have a pH of 6.0 to 9.0; are non-flammable; non-combustible; without objectionable odors; non-highly pigmented; and will not interfere with the operation of the sewer treatment facility."

[~~(8)~~] (9) In IRC, Section R202, the definition of "Potable Water" is deleted and replaced with the following: "POTABLE WATER. Water free from impurities present in amounts sufficient to cause disease or harmful physiological effects and conforming to the Utah Code, Title 19, Chapter 4, Safe Drinking Water Act, and Title 19, Chapter 5, Water Quality Act, and the regulations of the public health authority having jurisdiction."

[~~(9)~~] (10) IRC, Figure R301.2(5), is deleted and replaced with R301.2(5) as follows:

"TABLE NO. R301.2(5)
GROUND SNOW LOADS FOR SELECTED LOCATIONS IN UTAH

City/Town	County	Ground Snow Load (lb.ft2)	Elevation (ft)
Beaver	Beaver	35	5886
Brigham City	Box Elder	42	4423
Castle Dale	Emery	32	5669
Coalville	Summit	57	5581
Duchesne	Duchesne	39	5508
Farmington	Davis	35	4318
Fillmore	Millard	30	5138
Heber City	Wasatch	60	5604
Junction	Piute	27	6030
Kanab	Kane	25	4964
Loa	Wayne	37	7060
Logan	Cache	43	4531
Manila	Daggett	26	6368
Manti	Sanpete	37	5620
Moab	Grand	21	4029
Monticello	San Juan	67	7064
Morgan	Morgan	52	5062
Nephi	Juab	39	5131
Ogden	Weber	37	4334
Panguitch	Garfield	41	6630
Parowan	Iron	32	6007
Price	Carbon	31	5558
Provo	Utah	31	4541
Randolph	Rich	50	6286
Richfield	Sevier	27	5338
St. George	Washington	21	2585
Salt Lake City	Salt Lake	28	4239
Tooele	Tooele	35	5029
Vernal	Uintah	39	5384

Note: To convert lb/ft^2 to kN/m^2, multiply by 0.0479. To convert feet to meters, multiply by 0.3048.

1. Statutory requirements of the Authority Having Jurisdiction are not included in this state ground snow load table.

2. For locations where there is substantial change in altitude over the city/town, the load applies at and below the cited elevation, with a tolerance of 100 ft (30 m).

3. For other locations in Utah, see Bean, B., Maguire, M., Sun, Y. (2018), "The Utah Snow Load Study," Utah State University Civil and Environmental Engineering Faculty Publications, Paper 3589, http://utah-snowload.usu.edu/, for ground snow load values.

[~~(10)~~] (11) IRC, Section R301.6, is deleted and replaced with the following: "R301.6 Utah Snow Loads. The snow loads specified in Table R301.2(5b) shall be used for the jurisdictions identified in that table. Otherwise, for other locations in Utah, see Bean, B., Maguire, M., Sun, Y. (2018), "The Utah Snow Load Study," Utah State University Civil and Environmental Engineering Faculty Publications, Paper 3589, http://utahsnowload.usu.edu/, for ground snow load values."

[~~(11)~~] (12) In IRC, Section R302.2, the following sentence is added after the second sentence: "When an access/maintenance agreement or easement is in place, plumbing, mechanical ducting, schedule 40 steel gas pipe, and electric service conductors including feeders, are permitted to penetrate the common wall at grade, above grade, or below grade."

(13) In IRC, Section R302.3, a new exception 3 is added as follows: "3. Accessory dwelling units separated by walls or floor assemblies protected by not less than 1/2-inch (12.7 mm) gypsum board or equivalent on each side of the wall or bottom of the floor assembly are exempt from the requirements of this section."

[~~(12)~~] (14) In IRC, Section R302.5.1, the words "self-closing device" are deleted and replaced with "self-latching hardware."

[~~(13)~~] (15) IRC, Section R302.13, is deleted.

[~~(14)~~] (16) In IRC, Section R303.4, the number "5" is changed to "3" in the first sentence.

(17) In IRC, Section R310.6, in the exception, the words "or accessory dwelling units" are added after the words "sleeping rooms".

[~~(15)~~] (18) IRC, Sections R311.7.4 through R311.7.5.3, are deleted and replaced with the following: "R311.7.4 Stair treads and risers. R311.7.5.1 Riser height. The maximum riser height shall be 8 inches (203 mm). The riser shall be measured vertically between leading edges of the adjacent treads. The greatest riser height within any flight of stairs shall not exceed the smallest by more than 3/8 inch (9.5 mm).R311.7.5.2 Tread depth. The minimum tread depth shall be 9 inches (228 mm). The tread depth shall be measured horizontally between the vertical planes of the foremost projection of adjacent treads and at a right angle to the tread's leading edge. The greatest tread depth within any flight of stairs shall not exceed the smallest by more than 3/8 inch (9.5 mm). Winder treads shall have a minimum tread depth of 10 inches (254 mm) measured as above at a point 12 inches (305 mm) from the side where the treads are narrower. Winder treads shall have a minimum tread depth of 6 inches (152 mm) at any point. Within any flight of stairs, the greatest winder tread depth at the 12-inch (305 mm) walk line shall not exceed the smallest by more than 3/8 inch (9.5 mm).R311.7.5.3 Profile. The radius of curvature at the leading edge of the tread shall be no greater than 9/16 inch (14.3 mm). A nosing not less than 3/4 inch (19 mm) but not more than 1 1/4 inches (32 mm) shall be provided on stairways with solid risers. The greatest nosing projection shall not exceed the smallest nosing projection by more than 3/8 inch (9.5 mm) between two stories, including the nosing at the level of floors and landings. Beveling of nosing shall not exceed 1/2 inch (12.7 mm). Risers shall be vertical or sloped from the underside of the leading edge of the tread above at an angle not more than 30 degrees (0.51 rad) from the vertical. Open risers are permitted, provided that the opening between treads does not permit the passage of a 4-inch diameter (102 mm) sphere. Exceptions. 1. A nosing is not required where the tread depth is a minimum of 10 inches (254 mm).2. The opening between adjacent treads is not limited on stairs with a total rise of 30 inches (762 mm) or less."

[~~(16)~~] (19) IRC, Section R312.2, is deleted.

[~~(17)~~] (20) IRC, Sections R313.1 through R313.2.1, are deleted and replaced with the following: "R313.1 Design and installation. When installed, automatic residential fire sprinkler systems for townhouses or one- and two-family dwellings shall be designed and installed in accordance with Section P2904 or NFPA 13D."

(21) In IRC, Section R314.2.2, the words "or accessory dwelling units" are added after the words "sleeping rooms".

(22) In IRC, Section R315.2.2, the words "or accessory dwelling units" are added after the words "sleeping rooms".

[~~(18)~~] (23) In IRC, Section 315.3, the following words are added to the first sentence after the word "installed": "on each level of the dwelling unit and."

[~~(19)~~] (24) In IRC, Section R315.5, a new exception, 3, is added as follows:"3. Hard wiring of carbon monoxide alarms in existing areas shall not be required where the alterations or repairs do not result in the removal of interior wall or ceiling finishes exposing the structure, unless there is an attic, crawl space or basement available which could provide access for hard wiring, without the removal of interior finishes."

[~~(20)~~] (25) A new IRC, Section R315.7, is added as follows: "R315.7 Interconnection. Where more than one carbon monoxide alarm is required to be installed within an individual dwelling unit in accordance with Section R315.1, the alarm devices shall be interconnected in such a manner that the actuation of one alarm will activate all of the alarms in the individual unit. Physical interconnection of smoke alarms shall not be required where listed wireless alarms are installed and all alarms sound upon activation of one alarm. Exception: Interconnection of carbon monoxide alarms in existing areas shall not be required where alterations or repairs do not result in removal of interior wall or ceiling finishes exposing the structure, unless there is an attic, crawl space or basement available which could provide access for interconnection without the removal of interior finishes."

[~~(21)~~] (26) In IRC, Section R317.1.5, the period is deleted and the following language is added to the end of the paragraph: "or treated with a moisture resistant coating."

[~~(22)~~] (27) In IRC, Section 326.1, the words "residential provisions of the" are added after the words "pools and spas shall comply with".

[~~(23)~~] (28) In IRC, Section R403.1.6, a new Exception 3 is added as follows: "3. When anchor bolt spacing does not exceed 32 inches (813 mm) apart, anchor bolts may be placed with a minimum of two bolts per plate section located not less than 4 inches (102 mm) from each end of each plate section at interior bearing walls, interior braced wall lines, and at all exterior walls."

[~~(24)~~] (29) In IRC, Section R403.1.6.1, a new exception is added at the end of Item 2 and Item 3 as follows: "Exception: When anchor bolt spacing does not exceed 32 inches (816 mm) apart, anchor bolts may be placed with a minimum of two bolts per plate section located not less than 4 inches (102 mm) from each end of each plate section at interior bearing walls, interior braced wall lines, and at all exterior walls."

[~~(25)~~] (30) In IRC, Section R404.1, a new exception is added as follows: "Exception: As an alternative to complying with Sections R404.1 through R404.1.5.3, concrete and masonry foundation walls may be designed in accordance with IBC Sections 1807.1.5 and 1807.1.6 as amended in Section 1807.1.6.4 and Table 1807.1.6.4 under these rules."

[~~(26)~~] (31) In IRC, Section R405.1, a new exception is added as follows: "Exception: When a geotechnical report has been provided for the property, a drainage system is not required unless the drainage system is required as a condition of the geotechnical report. The geological report shall make a recommendation regarding a drainage system."

Section 6. Section 15A-3-204 is amended to read:

15A-3-204. Amendments to Chapters 16 through 25 of IRC.

(1) In IRC, Section M1602.2, a new exception is added at the end of Item 6 as follows: "Exception: The discharge of return air from an accessory dwelling unit into another dwelling unit, or into an accessory dwelling unit from another dwelling unit, is not prohibited."

(2) A new IRC, Section G2401.2, is added as follows: "G2401.2 Meter Protection. Fuel gas services shall be in an approved location and/or provided with structures designed to protect the fuel gas meter and surrounding piping from physical damage, including falling, moving, or migrating ice and snow. If an added structure is used, it must provide access for service and comply with the IBC or the IRC."

Section 7. Section 15A-3-206 is amended to read:

15A-3-206. Amendments to Chapters 36 through 44 and Appendix F of IRC.

(1) In IRC, Section E3601.6.2, a new exception is added as follows: "Exception: An occupant of an accessory dwelling unit is not required to have access to the disconnect serving the dwelling unit in which they reside."

[~~(1)~~] (2) In IRC, Section E3705.4.5, the following words are added after the word "assemblies": "with ungrounded conductors 10 AWG and smaller".

[~~(2)~~] (3) In IRC, Section E3901.9, the following exception is added:"Exception: Receptacles or other outlets adjacent to the exterior walls of the garage, outlets adjacent to an exterior wall of the garage, or outlets in a storage room with entry from the garage may be connected to the garage branch circuit."

[~~(3)~~] (4) IRC, Section E3902.16 is deleted.

[~~(4)~~] (5) In Section E3902.17:

(a) following the word "Exception" the number "1." is added; and

(b) at the end of the section, the following sentences are added:"2. This section does not apply for a simple move or an extension of a branch circuit or an outlet which does not significantly increase the existing electrical load. This exception does not include changes involving remodeling or additions to a residence."

[~~(5)~~] (6) IRC, Chapter 44, is amended by adding the following reference standard:

"Standard reference number	Title	Referenced in code section number
USC-FCCCHR 10th Edition Manual of Cross Connection Control	Foundation for Cross-Connection Control and Hydraulic Research University of Southern California Kaprielian Hall 300 Los Angeles CA90089-2531	Table P2902.3"

[~~(6)~~] (7) (a) When passive radon controls or portions thereof are voluntarily installed, the voluntary installation shall comply with Appendix F of the IRC.

(b) An additional inspection of a voluntary installation described in Subsection [~~(6)~~] (7)(a) is not required.

Section 8. Section 17-27a-505.5 is amended to read:

17-27a-505.5. Limit on single family designation.

(1) As used in this section, "single-family limit" means the number of [~~unrelated~~] individuals allowed to occupy each residential unit that is recognized by a land use authority in a zone permitting occupancy by a single family.

(2) A county may not adopt a single-family limit that is less than:

(a) three, if the county has within its unincorporated area:

(i) a state university;

(ii) a private university with a student population of at least 20,000; or

(iii) a mountainous planning district; or

(b) four, for each other county.

Section 9. Section 17-27a-510.5 is amended to read:

17-27a-510.5. Changes to dwellings -- Egress windows.

(1) [~~For purposes of~~] As used in this section[~~, "rental"~~]:

(a) "Internal accessory dwelling unit" means an accessory dwelling unit created:

(i) within a primary dwelling;

(ii) within the footprint of the primary dwelling described in Subsection (1)(a)(i) at the time the internal accessory dwelling unit is created; and

(iii) for the purpose of offering a long-term rental of 30 consecutive days or longer.

(b) "Primary dwelling" means a single-family dwelling that:

(i) is detached; and

(ii) is occupied as the primary residence of the owner of record.

(c) "Rental dwelling" means the same as that term is defined in Section 10-8-85.5.

(2) A county ordinance adopted under Section 10-1-203.5 may not:

(a) require physical changes in a structure with a legal nonconforming rental dwelling use unless the change is for:

(i) the reasonable installation of:

(A) a smoke detector that is plugged in or battery operated;

(B) a ground fault circuit interrupter protected outlet on existing wiring;

(C) street addressing;

(D) except as provided in Subsection (3), an egress bedroom window if the existing bedroom window is smaller than that required by current State Construction Code;

(E) an electrical system or a plumbing system, if the existing system is not functioning or is unsafe as determined by an independent electrical or plumbing professional who is licensed in accordance with Title 58, Occupations and Professions;

(F) hand or guard rails; or

(G) occupancy separation doors as required by the International Residential Code; or

(ii) the abatement of a structure; or

(b) be enforced to terminate a legal nonconforming rental dwelling use.

(3) (a) A county may not require physical changes to install an egress or emergency escape window in an existing bedroom that complied with the State Construction Code in effect at the time the bedroom was finished if:

[~~(a)~~] (i) the dwelling is an owner-occupied dwelling or a rental dwelling that is:

[~~(i)~~] (A) a detached one-, two-, three-, or four-family dwelling; or

[~~(ii)~~] (B) a town home that is not more than three stories above grade with a separate means of egress; and

[~~(b) (i)~~] (ii) (A) the window in the existing bedroom is smaller than that required by current State Construction Code; and

[~~(ii)~~] (B) the change would compromise the structural integrity of the structure or could not be completed in accordance with current State Construction Code, including set-back and window well requirements.

(b) Subsection (3)(a) does not apply to an internal accessory dwelling unit.

(4) Nothing in this section prohibits a county from:

(a) regulating the style of window that is required or allowed in a bedroom;

(b) requiring that a window in an existing bedroom be fully openable if the openable area is less than required by current State Construction Code; or

(c) requiring that an existing window not be reduced in size if the openable area is smaller than required by current State Construction Code.

Section 10. Section 17-27a-526 is enacted to read:

17-27a-526. Internal accessory dwelling units.

(1) As used in this section:

(a) "Internal accessory dwelling unit" means an accessory dwelling unit created:

(i) within a primary dwelling;

(ii) within the footprint of the primary dwelling described in Subsection (1)(a)(i) at the time the internal accessory dwelling unit is created; and

(iii) for the purpose of offering a long-term rental of 30 consecutive days or longer.

(b) "Primary dwelling" means a single-family dwelling that:

(i) is detached; and

(ii) is occupied as the primary residence of the owner of record.

(2) In any area zoned primarily for residential use:

(a) the use of an internal accessory dwelling unit is a permitted use; and

(b) except as provided in Subsections (3) and (4), a county may not establish any restrictions or requirements for the construction or use of one internal accessory dwelling unit within a primary dwelling, including a restriction or requirement governing:

(i) the size of the internal accessory dwelling unit in relation to the primary dwelling;

(ii) total lot size; or

(iii) street frontage.

(3) An internal accessory dwelling unit shall comply with all applicable building, health, and fire codes.

(4) A county may:

(a) prohibit the installation of a separate utility meter for an internal accessory dwelling unit;

(b) require that an internal accessory dwelling unit be designed in a manner that does not change the appearance of the primary dwelling as a single-family dwelling;

(c) require a primary dwelling:

(i) to include one additional on-site parking space for an internal accessory dwelling unit, regardless of whether the primary dwelling is existing or new construction; and

(ii) to replace any parking spaces contained within a garage or carport if an internal accessory dwelling unit is created within the garage or carport;

(d) prohibit the creation of an internal accessory dwelling unit within a mobile home as defined in Section 57-16-3;

(e) require the owner of a primary dwelling to obtain a permit or license for renting an internal accessory dwelling unit;

(f) prohibit the creation of an internal accessory dwelling unit within a zoning district covering an area that is equivalent to 25% or less of the total unincorporated area in the county that is zoned primarily for residential use;

(g) prohibit the creation of an internal accessory dwelling unit if the primary dwelling is served by a failing septic tank;

(h) prohibit the creation of an internal accessory dwelling unit if the lot containing the primary dwelling is 6,000 square feet or less in size;

(i) prohibit the rental or offering the rental of an internal accessory dwelling unit for a period of less than 30 consecutive days;

(j) prohibit the rental of an internal accessory dwelling unit if the internal accessory dwelling unit is located in a dwelling that is not occupied as the owner's primary residence;

(k) hold a lien against a property that contains an internal accessory dwelling unit in accordance with Subsection (5); and

(l) record a notice for an internal accessory dwelling unit in accordance with Subsection (6).

(5) (a) In addition to any other legal or equitable remedies available to a county, a county may hold a lien against a property that contains an internal accessory dwelling unit if:

(i) the owner of the property violates any of the provisions of this section or any ordinance adopted under Subsection (4);

(ii) the county provides a written notice of violation in accordance with Subsection (5)(b);

(iii) the county holds a hearing and determines that the violation has occurred in accordance with Subsection (5)(d), if the owner files a written objection in accordance with Subsection (5)(b)(iv);

(iv) the owner fails to cure the violation within the time period prescribed in the written notice of violation under Subsection (5)(b);

(v) the county provides a written notice of lien in accordance with Subsection (5)(c); and

(vi) the county records a copy of the written notice of lien described in Subsection (5)(a)(iv) with the county recorder of the county in which the property is located.

(b) The written notice of violation shall:

(i) describe the specific violation;

(ii) provide the owner of the internal accessory dwelling unit a reasonable opportunity to cure the violation that is:

(A) no less than 14 days after the day on which the county sends the written notice of violation, if the violation results from the owner renting or offering to rent the internal accessory dwelling unit for a period of less than 30 consecutive days; or

(B) no less than 30 days after the day on which the county sends the written notice of violation, for any other violation; and

(iii) state that if the owner of the property fails to cure the violation within the time period described in Subsection (5)(b)(ii), the county may hold a lien against the property in an amount of up to $100 for each day of violation after the day on which the opportunity to cure the violation expires;

(iv) notify the owner of the property:

(A) that the owner may file a written objection to the violation within 14 days after the day on which the written notice of violation is post-marked or posted on the property; and

(B) of the name and address of the county office where the owner may file the written objection;

(v) be mailed to:

(A) the property's owner of record; and

(B) any other individual designated to receive notice in the owner's license or permit records; and

(vi) be posted on the property.

(c) The written notice of lien shall:

(i) comply with the requirements of Section 38-12-102;

(ii) describe the specific violation;

(iii) specify the lien amount, in an amount of up to $100 for each day of violation after the day on which the opportunity to cure the violation expires;

(iv) be mailed to:

(A) the property's owner of record; and

(B) any other individual designated to receive notice in the owner's license or permit records; and

(v) be posted on the property.

(d) (i) If an owner of property files a written objection in accordance with Subsection (5)(b)(iv), the county shall:

(A) hold a hearing in accordance with Title 52, Chapter 4, Open and Public Meetings Act, to conduct a review and determine whether the specific violation described in the written notice of violation under Subsection (5)(b) has occurred; and

(B) notify the owner in writing of the date, time, and location of the hearing described in Subsection (5)(d)(i)(A) no less than 14 days before the day on which the hearing is held.

(ii) If an owner of property files a written objection under Subsection (5)(b)(iv), a county may not record a lien under this Subsection (5) until the county holds a hearing and determines that the specific violation has occurred.

(iii) If the county determines at the hearing that the specific violation has occurred, the county may impose a lien in an amount of up to $100 for each day of violation after the day on which the opportunity to cure the violation expires, regardless of whether the hearing is held after the day on which the opportunity to cure the violation has expired.

(e) If an owner cures a violation within the time period prescribed in the written notice of violation under Subsection (5)(b), the county may not hold a lien against the property, or impose any penalty or fee on the owner, in relation to the specific violation described in the written notice of violation under Subsection (5)(b).

(6) (a) A county that issues, on or after October 1, 2021, a permit or license to an owner of a primary dwelling to rent an internal accessory dwelling unit, or a building permit to an owner of a primary dwelling to create an internal accessory dwelling unit, may record a notice in the office of the recorder of the county in which the primary dwelling is located.

(b) The notice described in Subsection (6)(a) shall include:

(i) a description of the primary dwelling;

(ii) a statement that the primary dwelling contains an internal accessory dwelling unit; and

(iii) a statement that the internal accessory dwelling unit may only be used in accordance with the county's land use regulations.

(c) The county shall, upon recording the notice described in Subsection (6)(a), deliver a copy of the notice to the owner of the internal accessory dwelling unit.

Section 11. Section 17-50-338 is amended to read:

17-50-338. Ordinances regarding short-term rentals -- Prohibition on ordinances restricting speech on short-term rental websites.

(1) As used in this section:

(a) "Internal accessory dwelling unit" means the same as that term is defined in Section 10-9a-511.5.

[~~(a)~~] (b) "Residential unit" means a residential structure or any portion of a residential structure that is occupied as a residence.

[~~(b)~~] (c) "Short-term rental" means a residential unit or any portion of a residential unit that the owner of record or the lessee of the residential unit offers for occupancy for fewer than 30 consecutive days.

[~~(c)~~] (d) "Short-term rental website" means a website that:

(i) allows a person to offer a short-term rental to one or more prospective renters; and

(ii) facilitates the renting of, and payment for, a short-term rental.

(2) Notwithstanding Section 17-27a-501 or Subsection 17-27a-503(1), a legislative body may not:

(a) enact or enforce an ordinance that prohibits an individual from listing or offering a short-term rental on a short-term rental website; or

(b) use an ordinance that prohibits the act of renting a short-term rental to fine, charge, prosecute, or otherwise punish an individual solely for the act of listing or offering a short-term rental on a short-term rental website.

(3) Subsection (2) does not apply to an individual who lists or offers an internal accessory dwelling unit as a short-term rental on a short-term rental website if the county records a notice for the internal accessory dwelling unit under Subsection 17-27a-526(6).

Section 12. Section 35A-8-504.5 is enacted to read:

35A-8-504.5. Low-income ADU loan guarantee pilot program.

(1) As used in this section:

(a) "Accessory dwelling unit" means the same as that term is defined in Section 10-9a-103.

(b) "Borrower" means a residential property owner who receives a low-income ADU loan from a lender.

(c) "Lender" means a trust company, savings bank, savings and loan association, bank, credit union, or any other entity that provides low-income ADU loans directly to borrowers.

(d) "Low-income ADU loan" means a loan made by a lender to a borrower for the purpose of financing the construction of an accessory dwelling unit that is:

(i) located on the borrower's residential property; and

(ii) rented to a low-income individual.

(e) "Low-income individual" means an individual whose household income is less than 80% of the area median income.

(f) "Pilot program" means the two-year pilot program created in this section.

(2) The executive director shall establish a two-year pilot program to provide loan guarantees on behalf of borrowers for the purpose of insuring the repayment of low-income ADU loans.

(3) The executive director may not provide a loan guarantee for a low-income ADU loan under the pilot program unless:

(a) the lender:

(i) agrees in writing to participate in the pilot program;

(ii) makes available to prospective borrowers the option of receiving a low-income ADU loan that:

(A) has a term of 15 years; and

(B) charges interest at a fixed rate;

(iii) monitors the activities of the borrower on a yearly basis during the term of the loan to ensure the borrower's compliance with:

(A) Subsection (3)(c); and

(B) any other term or condition of the loan; and

(iv) promptly notifies the executive director in writing if the borrower fails to comply with:

(A) Subsection (3)(c); or

(B) any other term or condition of the loan;

(b) the loan terms of the low-income ADU loan:

(i) are consistent with the loan terms described in Subsection (3)(a)(ii); or

(ii) if different from the loan terms described in Subsection (3)(a)(ii), are mutually agreed upon by the lender and the borrower; and

(c) the borrower:

(i) agrees in writing to participate in the pilot program;

(ii) constructs an accessory dwelling unit on the borrower's residential property within one year after the day on which the borrower receives the loan;

(iii) occupies the primary residence to which the accessory dwelling unit is associated:

(A) after the accessory dwelling unit is completed; and

(B) for the remainder of the term of the loan; and

(iv) rents the accessory dwelling unit to a low-income individual:

(A) after the accessory dwelling unit is completed; and

(B) for the remainder of the term of the loan.

(4) At the direction of the board, the executive director shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish:

(a) the minimum criteria for lenders and borrowers to participate in the pilot program;

(b) the terms and conditions for loan guarantees provided under the pilot program, consistent with Subsection (3); and

(c) procedures for the pilot program's loan guarantee process.

(5) The executive director shall submit a report on the pilot program to the Business and Labor Interim Committee on or before November 30, 2023.

Section 13. Section 35A-8-505 is amended to read:

35A-8-505. Activities authorized to receive fund money -- Powers of the executive director.

At the direction of the board, the executive director may:

(1) provide fund money to any of the following activities:

(a) the acquisition, rehabilitation, or new construction of low-income housing units;

(b) matching funds for social services projects directly related to providing housing for special-need renters in assisted projects;

(c) the development and construction of accessible housing designed for low-income persons;

(d) the construction or improvement of a shelter or transitional housing facility that provides services intended to prevent or minimize homelessness among members of a specific homeless subpopulation;

(e) the purchase of an existing facility to provide temporary or transitional housing for the homeless in an area that does not require rezoning before providing such temporary or transitional housing;

(f) the purchase of land that will be used as the site of low-income housing units;

(g) the preservation of existing affordable housing units for low-income persons; [~~and~~]

(h) providing loan guarantees under the two-year pilot program established in Section 35A-8-504.5; and

[~~(h)~~] (i) other activities that will assist in minimizing homelessness or improving the availability or quality of housing in the state for low-income persons; and

(2) do any act necessary or convenient to the exercise of the powers granted by this part or reasonably implied from those granted powers, including:

(a) making or executing contracts and other instruments necessary or convenient for the performance of the executive director and board's duties and the exercise of the executive director and board's powers and functions under this part, including contracts or agreements for the servicing and originating of mortgage loans;

(b) procuring insurance against a loss in connection with property or other assets held by the fund, including mortgage loans, in amounts and from insurers it considers desirable;

(c) entering into agreements with a department, agency, or instrumentality of the United States or this state and with mortgagors and mortgage lenders for the purpose of planning and regulating and providing for the financing and refinancing, purchase, construction, reconstruction, rehabilitation, leasing, management, maintenance, operation, sale, or other disposition of residential housing undertaken with the assistance of the department under this part;

(d) proceeding with a foreclosure action, to own, lease, clear, reconstruct, rehabilitate, repair, maintain, manage, operate, assign, encumber, sell, or otherwise dispose of real or personal property obtained by the fund due to the default on a mortgage loan held by the fund in preparation for disposition of the property, taking assignments of leases and rentals, proceeding with foreclosure actions, and taking other actions necessary or incidental to the performance of its duties; and

(e) selling, at a public or private sale, with public bidding, a mortgage or other obligation held by the fund.

Section 14. Section 57-8a-209 is amended to read:

57-8a-209. Rental restrictions.

(1) (a) Subject to Subsections (1)(b), (5), [~~and~~] (6), and (10), an association may:

(i) create restrictions on the number and term of rentals in an association; or

(ii) prohibit rentals in the association.

(b) An association that creates a rental restriction or prohibition in accordance with Subsection (1)(a) shall create the rental restriction or prohibition in a recorded declaration of covenants, conditions, and restrictions, or by amending the recorded declaration of covenants, conditions, and restrictions.

(2) If an association prohibits or imposes restrictions on the number and term of rentals, the restrictions shall include:

(a) a provision that requires the association to exempt from the rental restrictions the following lot owner and the lot owner's lot:

(i) a lot owner in the military for the period of the lot owner's deployment;

(ii) a lot occupied by a lot owner's parent, child, or sibling;

(iii) a lot owner whose employer has relocated the lot owner for two years or less;

(iv) a lot owned by an entity that is occupied by an individual who:

(A) has voting rights under the entity's organizing documents; and

(B) has a 25% or greater share of ownership, control, and right to profits and losses of the entity; or

(v) a lot owned by a trust or other entity created for estate planning purposes if the trust or other estate planning entity was created for:

(A) the estate of a current resident of the lot; or

(B) the parent, child, or sibling of the current resident of the lot;

(b) a provision that allows a lot owner who has a rental in the association before the time the rental restriction described in Subsection (1)(a) is recorded with the county recorder of the county in which the association is located to continue renting until:

(i) the lot owner occupies the lot;

(ii) an officer, owner, member, trustee, beneficiary, director, or person holding a similar position of ownership or control of an entity or trust that holds an ownership interest in the lot, occupies the lot; or

(iii) the lot is transferred; and

(c) a requirement that the association create, by rule or resolution, procedures to:

(i) determine and track the number of rentals and lots in the association subject to the provisions described in Subsections (2)(a) and (b); and

(ii) ensure consistent administration and enforcement of the rental restrictions.

(3) For purposes of Subsection (2)(b)(iii), a transfer occurs when one or more of the following occur:

(a) the conveyance, sale, or other transfer of a lot by deed;

(b) the granting of a life estate in the lot; or

(c) if the lot is owned by a limited liability company, corporation, partnership, or other business entity, the sale or transfer of more than 75% of the business entity's share, stock, membership interests, or partnership interests in a 12-month period.

(4) This section does not limit or affect residency age requirements for an association that complies

with the requirements of the Housing for Older Persons Act, 42 U.S.C. Sec. 3607.

(5) A declaration of covenants, conditions, and restrictions or amendments to the declaration of covenants, conditions, and restrictions recorded before the transfer of the first lot from the initial declarant may prohibit or restrict rentals without providing for the exceptions, provisions, and procedures required under Subsection (2).

(6) (a) Subsections (1) through (5) do not apply to:

(i) an association that contains a time period unit as defined in Section 57-8-3;

(ii) any other form of timeshare interest as defined in Section 57-19-2; or

(iii) subject to Subsection (6)(b), an association that is formed before May 12, 2009, unless, on or after May 12, 2015, the association:

(A) adopts a rental restriction or prohibition; or

(B) amends an existing rental restriction or prohibition.

(b) An association that adopts a rental restriction or amends an existing rental restriction or prohibition before May 9, 2017, is not required to include the exemption described in Subsection (2)(a)(iv).

(7) Notwithstanding this section, an association may restrict or prohibit rentals without an exception described in Subsection (2) if:

(a) the restriction or prohibition receives unanimous approval by all lot owners; and

(b) when the restriction or prohibition requires an amendment to the association's recorded declaration of covenants, conditions, and restrictions, the association fulfills all other requirements for amending the recorded declaration of covenants, conditions, and restrictions described in the association's governing documents.

(8) Except as provided in Subsection (9), an association may not require a lot owner who owns a rental lot to:

(a) obtain the association's approval of a prospective renter;

(b) give the association:

(i) a copy of a rental application;

(ii) a copy of a renter's or prospective renter's credit information or credit report;

(iii) a copy of a renter's or prospective renter's background check; or

(iv) documentation to verify the renter's age; or

(c) pay an additional assessment, fine, or fee because the lot is a rental lot.

(9) (a) A lot owner who owns a rental lot shall give an association the documents described in Subsection (8)(b) if the lot owner is required to provide the documents by court order or as part of discovery under the Utah Rules of Civil Procedure.

(b) If an association's declaration of covenants, conditions, and restrictions lawfully prohibits or restricts occupancy of the lots by a certain class of individuals, the association may require a lot owner who owns a rental lot to give the association the information described in Subsection (8)(b), if:

(i) the information helps the association determine whether the renter's occupancy of the lot complies with the association's declaration of covenants, conditions, and restrictions; and

(ii) the association uses the information to determine whether the renter's occupancy of the lot complies with the association's declaration of covenants, conditions, and restrictions.

(10) Notwithstanding Subsection (1)(a), an association may not restrict or prohibit the rental of an internal accessory dwelling unit, as defined in Section 10-9a-530, constructed within a lot owner's residential lot, if the internal accessory dwelling unit complies with all applicable:

(a) land use ordinances;

(b) building codes;

(c) health codes; and

(d) fire codes.

[~~(10)~~] (11) The provisions of Subsections (8) [~~and (9)~~] through (10) apply to an association regardless of when the association is created.

Section 15. Section 57-8a-218 is amended to read:

57-8a-218. Equal treatment by rules required -- Limits on association rules and design criteria.

(1) (a) Except as provided in Subsection (1)(b), a rule shall treat similarly situated lot owners similarly.

(b) Notwithstanding Subsection (1)(a), a rule may:

(i) vary according to the level and type of service that the association provides to lot owners;

(ii) differ between residential and nonresidential uses; and

(iii) for a lot that an owner leases for a term of less than 30 days, impose a reasonable limit on the number of individuals who may use the common areas and facilities as guests of the lot tenant or lot owner.

(2) (a) If a lot owner owns a rental lot and is in compliance with the association's governing documents and any rule that the association adopts under Subsection (4), a rule may not treat the lot owner differently because the lot owner owns a rental lot.

(b) Notwithstanding Subsection (2)(a), a rule may:

(i) limit or prohibit a rental lot owner from using the common areas for purposes other than attending an association meeting or managing the rental lot;

(ii) if the rental lot owner retains the right to use the association's common areas, even occasionally:

(A) charge a rental lot owner a fee to use the common areas; or

(B) for a lot that an owner leases for a term of less than 30 days, impose a reasonable limit on the number of individuals who may use the common areas and facilities as guests of the lot tenant or lot owner; or

(iii) include a provision in the association's governing documents that:

(A) requires each tenant of a rental lot to abide by the terms of the governing documents; and

(B) holds the tenant and the rental lot owner jointly and severally liable for a violation of a provision of the governing documents.

(3) (a) A rule criterion may not abridge the rights of a lot owner to display religious and holiday signs, symbols, and decorations inside a dwelling on a lot.

(b) Notwithstanding Subsection (3)(a), the association may adopt time, place, and manner restrictions with respect to displays visible from outside the dwelling or lot.

(4) (a) A rule may not regulate the content of political signs.

(b) Notwithstanding Subsection (4)(a):

(i) a rule may regulate the time, place, and manner of posting a political sign; and

(ii) an association design provision may establish design criteria for political signs.

(5) (a) A rule may not interfere with the freedom of a lot owner to determine the composition of the lot owner's household.

(b) Notwithstanding Subsection (5)(a), an association may:

(i) require that all occupants of a dwelling be members of a single housekeeping unit; or

(ii) limit the total number of occupants permitted in each residential dwelling on the basis of the residential dwelling's:

(A) size and facilities; and

(B) fair use of the common areas.

(6) (a) A rule may not interfere with an activity of a lot owner within the confines of a dwelling or lot, to the extent that the activity is in compliance with local laws and ordinances.

(b) Notwithstanding Subsection (6)(a), a rule may prohibit an activity within a dwelling on an owner's lot if the activity:

(i) is not normally associated with a project restricted to residential use; or

(ii) (A) creates monetary costs for the association or other lot owners;

(B) creates a danger to the health or safety of occupants of other lots;

(C) generates excessive noise or traffic;

(D) creates unsightly conditions visible from outside the dwelling;

(E) creates an unreasonable source of annoyance to persons outside the lot; or

(F) if there are attached dwellings, creates the potential for smoke to enter another lot owner's dwelling, the common areas, or limited common areas.

(c) If permitted by law, an association may adopt rules described in Subsection (6)(b) that affect the use of or behavior inside the dwelling.

(7) (a) A rule may not, to the detriment of a lot owner and over the lot owner's written objection to the board, alter the allocation of financial burdens among the various lots.

(b) Notwithstanding Subsection (7)(a), an association may:

(i) change the common areas available to a lot owner;

(ii) adopt generally applicable rules for the use of common areas; or

(iii) deny use privileges to a lot owner who:

(A) is delinquent in paying assessments;

(B) abuses the common areas; or

(C) violates the governing documents.

(c) This Subsection (7) does not permit a rule that:

(i) alters the method of levying assessments; or

(ii) increases the amount of assessments as provided in the declaration.

(8) (a) Subject to Subsection (8)(b), a rule may not:

(i) prohibit the transfer of a lot; or

(ii) require the consent of the association or board to transfer a lot.

(b) Unless contrary to a declaration, a rule may require a minimum lease term.

(9) (a) A rule may not require a lot owner to dispose of personal property that was in or on a lot before the adoption of the rule or design criteria if the personal property was in compliance with all rules and other governing documents previously in force.

(b) The exemption in Subsection (9)(a):

(i) applies during the period of the lot owner's ownership of the lot; and

(ii) does not apply to a subsequent lot owner who takes title to the lot after adoption of the rule described in Subsection (9)(a).

(10) A rule or action by the association or action by the board may not unreasonably impede a

declarant's ability to satisfy existing development financing for community improvements and right to develop:

(a) the project; or

(b) other properties in the vicinity of the project.

(11) A rule or association or board action may not interfere with:

(a) the use or operation of an amenity that the association does not own or control; or

(b) the exercise of a right associated with an easement.

(12) A rule may not divest a lot owner of the right to proceed in accordance with a completed application for design review, or to proceed in accordance with another approval process, under the terms of the governing documents in existence at the time the completed application was submitted by the owner for review.

(13) Unless otherwise provided in the declaration, an association may by rule:

(a) regulate the use, maintenance, repair, replacement, and modification of common areas;

(b) impose and receive any payment, fee, or charge for:

(i) the use, rental, or operation of the common areas, except limited common areas; and

(ii) a service provided to a lot owner;

(c) impose a charge for a late payment of an assessment; or

(d) provide for the indemnification of the association's officers and board consistent with Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act.

(14) (a) Except as provided in Subsection (14)(b), a rule may not prohibit the owner of a residential lot from constructing an internal accessory dwelling unit, as defined in Section 10-9a-530, within the owner's residential lot.

(b) Subsection (14)(a) does not apply if the construction would violate:

(i) a local land use ordinance;

(ii) a building code;

(iii) a health code; or

(iv) a fire code.

[~~(14)~~] (15) A rule shall be reasonable.

[~~(15)~~] (16) A declaration, or an amendment to a declaration, may vary any of the requirements of Subsections (1) through (13), except Subsection (1)(b)(ii).

[~~(16)~~] (17) A rule may not be inconsistent with a provision of the association's declaration, bylaws, or articles of incorporation.

[~~(17)~~] (18) This section applies to an association regardless of when the association is created.

Section 16. Effective date.

(1) Except as provided in Subsection (2), this bill takes effect on May 5, 2021.

(2) The actions affecting the following sections take effect on October 1, 2021:

(a) Section 10-8-85.4;

(b) Section 10-9a-530;

(c) Section 17-27a-526;

(d) Section 17-50-338;

(e) Section 57-8a-209; and

(f) Section 57-8a-218.

CHAPTER 103
H. B. 84
Passed March 5, 2021
Approved March 16, 2021
Effective May 5, 2021

USE OF FORCE REPORTING REQUIREMENTS

Chief Sponsor: Angela Romero
Senate Sponsor: Jacob L. Anderegg

LONG TITLE

General Description:

This bill requires local law enforcement agencies to collect and submit data on the use of force to the Bureau of Criminal Identification.

Highlighted Provisions:

This bill:

- adds the use of force to the data required to be sent to the Bureau of Criminal Identification;
- specifies that the information shall be submitted in accordance with Federal Bureau of Investigation standards; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53-10-202, as last amended by Laws of Utah 2018, Chapter 415
53-10-205, as last amended by Laws of Utah 2018, Chapter 161

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

Section 1. Section 53-10-202 is amended to read:

53-10-202. Criminal identification -- Duties of bureau.

The bureau shall:

(1) procure and file information relating to identification and activities of persons who:

(a) are fugitives from justice;

(b) are wanted or missing;

(c) have been arrested for or convicted of a crime under the laws of any state or nation; and

(d) are believed to be involved in racketeering, organized crime, or a dangerous offense;

(2) establish a statewide uniform crime reporting system that shall include:

(a) statistics concerning general categories of criminal activities;

(b) statistics concerning crimes that exhibit evidence of prejudice based on race, religion, ancestry, national origin, ethnicity, or other categories that the division finds appropriate; [~~and~~]

(c) statistics concerning the use of force by law enforcement officers in accordance with the Federal Bureau of Investigation's standards; and

[~~(c)~~] (d) other statistics [~~as~~] required by the Federal Bureau of Investigation;

(3) make a complete and systematic record and index of the information obtained under this part;

(4) subject to the restrictions in this part, establish policy concerning the use and dissemination of data obtained under this part;

(5) publish an annual report concerning the extent, fluctuation, distribution, and nature of crime in Utah;

(6) establish a statewide central register for the identification and location of missing persons, which may include:

(a) identifying data including fingerprints of each missing person;

(b) identifying data of any missing person who is reported as missing to a law enforcement agency having jurisdiction;

(c) dates and circumstances of any persons requesting or receiving information from the register; and

(d) any other information, including blood types and photographs found necessary in furthering the purposes of this part;

(7) publish a quarterly directory of missing persons for distribution to persons or entities likely to be instrumental in the identification and location of missing persons;

(8) list the name of every missing person with the appropriate nationally maintained missing persons lists;

(9) establish and operate a 24-hour communication network for reports of missing persons and reports of sightings of missing persons;

(10) coordinate with the National Center for Missing and Exploited Children and other agencies to facilitate the identification and location of missing persons and the identification of unidentified persons and bodies;

(11) receive information regarding missing persons as provided in Sections 26-2-27 and 53G-6-602, and stolen vehicles, vessels, and outboard motors, as provided in Section 41-1a-1401;

(12) adopt systems of identification, including the fingerprint system, to be used by the division to facilitate law enforcement;

(13) assign a distinguishing number or mark of identification to any pistol or revolver, as provided in Section 76-10-520;

(14) check certain criminal records databases for information regarding motor vehicle salesperson applicants, maintain a separate file of fingerprints for motor vehicle salespersons, and inform the Motor Vehicle Enforcement Division when new

entries are made for certain criminal offenses for motor vehicle salespersons in accordance with the requirements of Section 41-3-205.5;

(15) check certain criminal records databases for information regarding driving privilege card applicants or cardholders and maintain a separate file of fingerprints for driving privilege applicants and cardholders and inform the federal Immigration and Customs Enforcement Agency of the United States Department of Homeland Security when new entries are made in accordance with the requirements of Section 53-3-205.5[~~.~~];

(16) review and approve or disapprove applications for license renewal that meet the requirements for renewal; and

(17) forward to the board those applications for renewal under Subsection (16) that do not meet the requirements for renewal.

Section 2. Section 53-10-205 is amended to read:

53-10-205. Uniform crime reporting system -- Reporting timelines and use of data.

(1) The data acquired under the statewide uniform crime reporting system shall be used only for research or statistical purposes and may not contain any information that may reveal the identity of an individual victim of a crime or law enforcement officer.

(2) A law enforcement agency shall, for the jurisdiction of the law enforcement agency, submit crime reporting and use of force data requested or required [~~for~~] by the statewide uniform crime reporting system described in Section 53-10-202:

(a) to the bureau before the 16th day of the month after the month in which a reported crime occurs; and

(b) in a manner prescribed by the bureau and in compliance with the requirements of the Federal Bureau of Investigation's uniform crime reporting standards.

(3) Upon request of the bureau, a law enforcement agency shall review and verify crime reporting data within 10 business days after the day on which the law enforcement agency receives the request.

CHAPTER 104
H. B. 85
Passed February 12, 2021
Approved March 16, 2021
Effective May 5, 2021

CONTROLLED SUBSTANCE DATABASE ACCESS AMENDMENTS

Chief Sponsor: Craig Hall
Senate Sponsor: Evan J. Vickers

LONG TITLE

General Description:

This bill amends the Controlled Substance Database Act.

Highlighted Provisions:

This bill:

- authorizes the Division of Occupational and Professional Licensing to provide information to a managed care organization under certain circumstances;
- creates an exception to certain restrictions on access to the controlled substance database; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

58-37f-301, as last amended by Laws of Utah 2020, Chapters 107, 147, and 339
58-37f-302, as last amended by Laws of Utah 2020, Chapter 339

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

Section 1. Section 58-37f-301 is amended to read:

58-37f-301. Access to database.

(1) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:

(a) effectively enforce the limitations on access to the database as described in this part; and

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

(2) The division shall make information in the database and information obtained from other state or federal prescription monitoring programs by means of the database available only to the following individuals, in accordance with the requirements of this chapter and division rules:

(a) (i) personnel of the division specifically assigned to conduct investigations related to controlled substance laws under the jurisdiction of the division; and

(ii) the following law enforcement officers, but the division may only provide nonidentifying information, limited to gender, year of birth, and postal ZIP code, regarding individuals for whom a controlled substance has been prescribed or to whom a controlled substance has been dispensed:

(A) a law enforcement agency officer who is engaged in a joint investigation with the division; and

(B) a law enforcement agency officer to whom the division has referred a suspected criminal violation of controlled substance laws;

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

(c) a board member if:

(i) the board member is assigned to monitor a licensee on probation; and

(ii) the board member is limited to obtaining information from the database regarding the specific licensee on probation;

(d) a person the division authorizes to obtain that information on behalf of the Utah Professionals Health Program established in Subsection 58-4a-103(1) if:

(i) the person the division authorizes is limited to obtaining information from the database regarding the person whose conduct is the subject of the division's consideration; and

(ii) the conduct that is the subject of the division's consideration includes a violation or a potential violation of Chapter 37, Utah Controlled Substances Act, or another relevant violation or potential violation under this title;

(e) in accordance with a written agreement entered into with the department, employees of the Department of Health:

(i) whom the director of the Department of Health assigns to conduct scientific studies regarding the use or abuse of controlled substances, if the identity of the individuals and pharmacies in the database are confidential and are not disclosed in any manner to any individual who is not directly involved in the scientific studies;

(ii) when the information is requested by the Department of Health in relation to a person or provider whom the Department of Health suspects may be improperly obtaining or providing a controlled substance; or

(iii) in the medical examiner's office;

(f) in accordance with a written agreement entered into with the department, a designee of the director of the Department of Health, who is not an employee of the Department of Health, whom the director of the Department of Health assigns to conduct scientific studies regarding the use or abuse of controlled substances pursuant to an application process established in rule by the Department of Health, if:

(i) the designee provides explicit information to the Department of Health regarding the purpose of the scientific studies;

(ii) the scientific studies to be conducted by the designee:

(A) fit within the responsibilities of the Department of Health for health and welfare;

(B) are reviewed and approved by an Institutional Review Board that is approved for human subject research by the United States Department of Health and Human Services;

(C) are not conducted for profit or commercial gain; and

(D) are conducted in a research facility, as defined by division rule, that is associated with a university or college accredited by one or more regional or national accrediting agencies recognized by the United States Department of Education;

(iii) the designee protects the information as a business associate of the Department of Health; and

(iv) the identity of the prescribers, patients, and pharmacies in the database are de-identified, confidential, and not disclosed in any manner to the designee or to any individual who is not directly involved in the scientific studies;

(g) in accordance with [~~the~~] a written agreement entered into with the department and the Department of Health, authorized employees of a managed care organization, as defined in 42 C.F.R. Sec. 438, if:

(i) the managed care organization contracts with the Department of Health under the provisions of Section 26-18-405 and the contract includes provisions that:

(A) require a managed care organization employee who will have access to information from the database to submit to a criminal background check; and

(B) limit the authorized employee of the managed care organization to requesting either the division or the Department of Health to conduct a search of the database regarding a specific Medicaid enrollee and to report the results of the search to the authorized employee; and

(ii) the information is requested by an authorized employee of the managed care organization in relation to a person who is enrolled in the Medicaid program with the managed care organization, and the managed care organization suspects the person may be improperly obtaining or providing a controlled substance;

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

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

(B) is provided to or sought by the practitioner for the purpose of:

(I) prescribing or considering prescribing any controlled substance to the current or prospective patient;

(II) diagnosing the current or prospective patient;

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

(IV) determining whether the current or prospective patient:

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

(Bb) has fraudulently obtained, or attempted to fraudulently obtain, a controlled substance from the practitioner;

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

(B) is provided to or sought by the practitioner for the purpose of determining whether the former patient has fraudulently obtained, or has attempted to fraudulently obtain, a controlled substance from the practitioner;

(iii) relates specifically to an individual who has access to the practitioner's Drug Enforcement Administration identification number, and the practitioner suspects that the individual may have used the practitioner's Drug Enforcement Administration identification number to fraudulently acquire or prescribe a controlled substance;

(iv) relates to the practitioner's own prescribing practices, except when specifically prohibited by the division by administrative rule;

(v) relates to the use of the controlled substance database by an employee of the practitioner, described in Subsection (2)(i); or

(vi) relates to any use of the practitioner's Drug Enforcement Administration identification number to obtain, attempt to obtain, prescribe, or attempt to prescribe, a controlled substance;

(i) in accordance with Subsection (3)(a), an employee of a practitioner described in Subsection (2)(h), for a purpose described in Subsection (2)(h)(i) or (ii), if:

(i) the employee is designated by the practitioner as an individual authorized to access the information on behalf of the practitioner;

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

(iii) the division:

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

(B) provides the employee with a password that is unique to that employee to access the database in order to permit the division to comply with the requirements of Subsection 58-37f-203[~~(5)~~](7) with respect to the employee;

(j) an employee of the same business that employs a licensed practitioner under Subsection (2)(h) if:

(i) the employee is designated by the practitioner as an individual authorized to access the information on behalf of the practitioner;

(ii) the practitioner and the employing business provide written notice to the division of the identity of the designated employee; and

(iii) the division:

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

(B) provides the employee with a password that is unique to that employee to access the database in order to permit the division to comply with the requirements of Subsection 58-37f-203[~~(5)~~](7) with respect to the employee;

(k) a licensed pharmacist having authority to dispense a controlled substance, or a licensed pharmacy intern or pharmacy technician working under the general supervision of a licensed pharmacist, to the extent the information is provided or sought for the purpose of:

(i) dispensing or considering dispensing any controlled substance;

(ii) determining whether a person:

(A) is attempting to fraudulently obtain a controlled substance from the pharmacy, practitioner, or health care facility; or

(B) has fraudulently obtained, or attempted to fraudulently obtain, a controlled substance from the pharmacy, practitioner, or health care facility;

(iii) reporting to the controlled substance database; or

(iv) verifying the accuracy of the data submitted to the controlled substance database on behalf of a pharmacy where the licensed pharmacist, pharmacy intern, or pharmacy technician is employed;

(l) pursuant to a valid search warrant, federal, state, and local law enforcement officers and state and local prosecutors who are engaged in an investigation related to:

(i) one or more controlled substances; and

(ii) a specific person who is a subject of the investigation;

(m) subject to Subsection (7), a probation or parole officer, employed by the Department of Corrections or by a political subdivision, to gain access to database information necessary for the officer's supervision of a specific probationer or parolee who is under the officer's direct supervision;

(n) employees of the Office of Internal Audit and Program Integrity within the Department of Health who are engaged in their specified duty of ensuring Medicaid program integrity under Section 26-18-2.3;

(o) a mental health therapist, if:

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

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

(B) receiving treatment from, or under the direction of, the mental health therapist as part of the patient's participation in the licensed substance abuse treatment program described in Subsection (2)(o)(i)(A);

(ii) the information is sought for the purpose of determining whether the patient is using a controlled substance while the patient is enrolled in the licensed substance abuse treatment program described in Subsection (2)(o)(i)(A); and

(iii) the licensed substance abuse treatment program described in Subsection (2)(o)(i)(A) is associated with a practitioner who:

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

(B) is available to consult with the mental health therapist regarding the information obtained by the mental health therapist, under this Subsection (2)(o), from the database;

(p) an individual who is the recipient of a controlled substance prescription entered into the database, upon providing evidence satisfactory to the division that the individual requesting the information is in fact the individual about whom the data entry was made;

(q) an individual under Subsection (2)(p) for the purpose of obtaining a list of the persons and entities that have requested or received any information from the database regarding the individual, except if the individual's record is subject to a pending or current investigation as authorized under this Subsection (2);

(r) the inspector general, or a designee of the inspector general, of the Office of Inspector General of Medicaid Services, for the purpose of fulfilling the duties described in Title 63A, Chapter 13, Part 2, Office and Powers;

(s) the following licensed physicians for the purpose of reviewing and offering an opinion on an individual's request for workers' compensation benefits under Title 34A, Chapter 2, Workers' Compensation Act, or Title 34A, Chapter 3, Utah Occupational Disease Act:

(i) a member of the medical panel described in Section 34A-2-601;

(ii) a physician employed as medical director for a licensed workers' compensation insurer or an approved self-insured employer; or

(iii) a physician offering a second opinion regarding treatment; [~~and~~]

(t) members of Utah's Opioid Fatality Review Committee, for the purpose of reviewing a specific fatality due to opioid use and recommending

policies to reduce the frequency of opioid use fatalities[.]; and

(u) a licensed pharmacist who is authorized by a managed care organization as defined in Section 31A-1-301 to access the information on behalf of the managed care organization, if:

(i) the managed care organization believes that an enrollee of the managed care organization has obtained or provided a controlled substance in violation of a medication management program contract between the enrollee and the managed care organization; and

(ii) the managed care organization included a description of the medication management program in the enrollee's outline of coverage described in Subsection 31A-22-605(7).

(3) (a) A practitioner described in Subsection (2)(h) may designate one or more employees to access information from the database under Subsection (2)(i), (2)(j), or (4)(c).

(b) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:

(i) establish background check procedures to determine whether an employee designated under Subsection (2)(i), (2)(j), or (4)(c) should be granted access to the database;

(ii) establish the information to be provided by an emergency department employee under Subsection (4); and

(iii) facilitate providing controlled substance prescription information to a third party under Subsection (5).

(c) The division shall grant an employee designated under Subsection (2)(i), (2)(j), or (4)(c) access to the database, unless the division determines, based on a background check, that the employee poses a security risk to the information contained in the database.

(4) (a) An individual who is employed in the emergency department of a hospital may exercise access to the database under this Subsection (4) on behalf of a licensed practitioner if the individual is designated under Subsection (4)(c) and the licensed practitioner:

(i) is employed or privileged to work in the emergency department;

(ii) is treating an emergency department patient for an emergency medical condition; and

(iii) requests that an individual employed in the emergency department and designated under Subsection (4)(c) obtain information regarding the patient from the database as needed in the course of treatment.

(b) The emergency department employee obtaining information from the database shall, when gaining access to the database, provide to the database the name and any additional identifiers regarding the requesting practitioner as required by division administrative rule established under Subsection (3)(b).

(c) An individual employed in the emergency department under this Subsection (4) may obtain information from the database as provided in Subsection (4)(a) if:

(i) the employee is designated by the hospital as an individual authorized to access the information on behalf of the emergency department practitioner;

(ii) the hospital operating the emergency department provide written notice to the division of the identity of the designated employee; and

(iii) the division:

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

(B) provides the employee with a password that is unique to that employee to access the database.

(d) The division may impose a fee, in accordance with Section 63J-1-504, on a practitioner who designates an employee under Subsection (2)(i), (2)(j), or (4)(c) to pay for the costs incurred by the division to conduct the background check and make the determination described in Subsection (3)(b).

(5) (a) (i) An individual may request that the division provide the information under Subsection (5)(b) to a third party who is designated by the individual each time a controlled substance prescription for the individual is dispensed.

(ii) The division shall upon receipt of the request under this Subsection (5)(a) advise the individual in writing that the individual may direct the division to discontinue providing the information to a third party and that notice of the individual's direction to discontinue will be provided to the third party.

(b) The information the division shall provide under Subsection (5)(a) is:

(i) the fact a controlled substance has been dispensed to the individual, but without identifying the controlled substance; and

(ii) the date the controlled substance was dispensed.

(c) (i) An individual who has made a request under Subsection (5)(a) may direct that the division discontinue providing information to the third party.

(ii) The division shall:

(A) notify the third party that the individual has directed the division to no longer provide information to the third party; and

(B) discontinue providing information to the third party.

(6) (a) An individual who is granted access to the database based on the fact that the individual is a licensed practitioner or a mental health therapist shall be denied access to the database when the individual is no longer licensed.

(b) An individual who is granted access to the database based on the fact that the individual is a

designated employee of a licensed practitioner shall be denied access to the database when the practitioner is no longer licensed.

(7) A probation or parole officer is not required to obtain a search warrant to access the database in accordance with Subsection (2)(m).

(8) The division shall review and adjust the database programming which automatically logs off an individual who is granted access to the database under Subsections (2)(h), (2)(i), (2)(j), and (4)(c) to maximize the following objectives:

(a) to protect patient privacy;

(b) to reduce inappropriate access; and

(c) to make the database more useful and helpful to a person accessing the database under Subsections (2)(h), (2)(i), (2)(j), and (4)(c), especially in high usage locations such as an emergency department.

Section 2. Section 58-37f-302 is amended to read:

58-37f-302. Other restrictions on access to database.

(1) A person who is a relative of a deceased individual is not entitled to access information from the database relating to the deceased individual based on the fact or claim that the person is:

(a) related to the deceased individual; or

(b) subrogated to the rights of the deceased individual.

(2) Except as provided in Subsections (3) and (4), data provided to, maintained in, or accessed from the database that may be identified to, or with, a particular person is not subject to discovery, subpoena, or similar compulsory process in [~~any~~] a civil, judicial, administrative, or legislative proceeding, nor shall [~~any~~] an individual or organization with lawful access to the data be compelled to testify with regard to the data.

(3) The restrictions described in Subsection (2) do not apply to a civil, judicial, or administrative action brought:

(a) to enforce the provisions of this chapter[~~.~~]; or

(b) against a managed care organization, as defined in 42 C.F.R. Sec. 438.2, if:

(i) the action is related to Medicaid coverage;

(ii) the managed care organization has entered into a written agreement with the Department of Health as described in Subsection 58-37f-301(2)(g); and

(iii) the division and the Department of Health agree in writing not to apply the restrictions described in Subsection (2).

(4) (a) Subject to the requirements of this Subsection (4), in a state criminal proceeding a court may:

(i) order the release of information contained in the database if the court determines good cause has been shown in accordance with Rule 16, Utah Rules of Criminal Procedure; and

(ii) at any time order that information released under this Subsection (4) be restricted, limited, or restrained from further dissemination as the court determines is appropriate.

(b) Upon the motion of a defendant, a court may only issue an order compelling the production of database information under this Subsection (4) that pertains to a victim if the court finds upon notice as provided in Subsection (4)(c), and after a hearing, that the defendant is entitled to production of the information under applicable state and federal law.

(c) A motion by a defendant for database information pertaining to a victim shall be served by the defendant on:

(i) the prosecutor and on counsel for the victim or victim's representative; or

(ii) the prosecutor if the victim is unrepresented by counsel.

(d) Upon a defendant's motion for database information pertaining to a victim, if the court determines that good cause exists to order release of database information pertaining to the victim, the court shall conduct an in camera review of the database information and may only disclose to the defense and prosecution those portions of database information that are relevant to the state criminal proceeding.

CHAPTER 105
H. B. 93
Passed March 2, 2021
Approved March 16, 2021
Effective May 5, 2021

YOUTH SUICIDE PREVENTION PROGRAMS AMENDMENTS

Chief Sponsor: Brian S. King
Senate Sponsor: Curtis S. Bramble
Cosponsors: Cheryl K. Acton
Gay Lynn Bennion
Joel K. Briscoe
Clare Collard
Jennifer Dailey-Provost
Steve Eliason
Stephen G. Handy
Sandra Hollins
Karen Kwan
Rosemary T. Lesser
Ashlee Matthews
Carol Spackman Moss
Doug Owens
Stephanie Pitcher
Angela Romero
Andrew Stoddard
Steve Waldrip
Raymond P. Ward
Elizabeth Weight
Douglas R. Welton
Mark A. Wheatley

LONG TITLE

General Description:

This bill amends provisions related to the purposes for youth suicide prevention programs.

Highlighted Provisions:

This bill:

- amends provisions related to the purposes for youth suicide prevention programs;
- divides elements of the youth suicide prevention programs between elementary grades and secondary grades;
- requires communication between the school district or charter school and certain parents or guardians;
- requires school districts and charter schools to ensure coordination between youth suicide prevention programs and certain other prevention programs;
- repeals a separate program to consolidate funding and effort into one comprehensive suicide prevention program; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53G-9-702, as last amended by Laws of Utah 2019, Chapters 293, 324, and 447

REPEALS:

53F-5-206, as last amended by Laws of Utah 2018, Chapter 414 and renumbered and amended by Laws of Utah 2018, Chapter 2

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

Section 1. Section 53G-9-702 is amended to read:

53G-9-702. Youth suicide prevention programs -- State board to develop model programs.

(1) As used in the section:

(a) "Elementary grades" means:

(i) kindergarten through grade 5; and

(ii) if the associated middle or junior high school does not include grade 6, grade 6.

[~~(a)~~] (b) "Intervention" means an effort to prevent a student from attempting suicide.

[~~(b)~~] (c) "Postvention" means mental health intervention after a suicide attempt or death to prevent or contain contagion.

[~~(c)~~] (d) "Program" means a youth suicide prevention program described in Subsection (2).

[~~(d)~~] (e) "Public education suicide prevention coordinator" means an individual designated by the state board as described in Subsection [~~(3)~~] (4).

[~~(e)~~] (f) "Secondary grades" means:

(i) [~~means~~] grades 7 through 12; and

(ii) if a middle or junior high school includes grade 6, [~~includes~~] grade 6.

[~~(f)~~] (g) "State suicide prevention coordinator" means the state suicide prevention coordinator described in Section 62A-15-1101.

(2) In collaboration with the public education suicide prevention coordinator, a school district or charter school[~~, in the secondary grades of the school district or charter school,~~] shall implement a youth suicide prevention program, which, in collaboration with the training, programs, and initiatives described in Section 53G-9-607, shall include programs and training to address:

[~~(a) bullying and cyberbullying, as those terms are defined in Section 53G-9-601;~~]

(a) for elementary grades and secondary grades:

(i) life-affirming education, including on the concepts of resiliency, healthy habits, self-care, problem solving, and conflict resolution;

(ii) methods of strengthening the family; and

(iii) methods of strengthening a youth's relationships in the school and community; and

(b) for secondary grades:

[~~(b)~~] (i) prevention of youth suicide;

[~~(c) increased~~] (ii) decreasing the risk of suicide among youth who are:

(A) not accepted by family for any reason, including lesbian, gay, bisexual, transgender, or questioning youth; or

(B) suffer from bullying;

[~~(d)~~] (iii) youth suicide intervention; and

[~~(e)~~] (iv) postvention for family, students, and faculty[~~;~~].

[~~(f) underage drinking of alcohol;~~]

[~~(g) methods of strengthening the family; and~~]

[~~(h) methods of strengthening a youth's relationships in the school and community.~~]

(3) Each school district and charter school shall ensure that the youth suicide prevention program described in Subsection (2):

(a) considers appropriate coordination with the following prevention programs:

(i) the prevention of bullying and cyber-bullying, as those terms are defined in Section 53G-9-601; and

(ii) the prevention of underage drinking of alcohol and substance abuse under Section 53G-10-406; and

(b) includes provisions to ensure that the school district or charter school promptly communicates with the parent or guardian of a student in accordance with Section 53G-9-604.

[~~(3)~~] (4) The state board shall:

(a) designate a public education suicide prevention coordinator; and

(b) in collaboration with the Department of [~~Heath~~] Health and the state suicide prevention coordinator, develop model programs to provide to school districts and charter schools:

(i) program training; and

(ii) resources regarding the required components described in [~~Subsection (2)(b)~~] Subsections (2)(a) and (b).

[~~(4)~~] (5) The public education suicide prevention coordinator shall:

(a) oversee the youth suicide prevention programs of school districts and charter schools; and

(b) coordinate prevention and postvention programs, services, and efforts with the state suicide prevention coordinator[~~; and~~].

[~~(c) award grants in accordance with Section 53F-5-206.~~]

[~~(5)~~] (6) A public school suicide prevention program may allow school personnel to ask a student questions related to youth suicide prevention, intervention, or postvention.

[~~(6)~~] (7) (a) Subject to legislative appropriation, the state board may distribute money to a school district or charter school to be used to implement evidence-based practices and programs, or emerging best practices and programs, for preventing suicide in the school district or charter school.

(b) The state board shall [~~distribute~~] ensure that an LEA's allocation of funds from the board's distribution of money under Subsection [~~(6)~~] (7)(a) [~~so that each school that enrolls students in grade 7 or a higher grade receives an allocation of~~] provides an amount equal to at least $1,000 per school.

(c) (i) A school shall use money allocated to the school under Subsection [~~(6)~~] (7)(b) to implement evidence-based practices and programs, or emerging best practices and programs, for preventing suicide.

(ii) Each school may select the evidence-based practices and programs, or emerging best practices and programs, for preventing suicide that the school implements.

(8) An LEA may not charge indirect costs to the program.

Section 2. Repealer.

This bill repeals:

Section 53F-5-206, Grant awards for elementary suicide prevention programs.

CHAPTER 106
H. B. 96
Passed March 3, 2021
Approved March 16, 2021
Effective May 5, 2021

EMERGENCY MANAGEMENT AMENDMENTS

Chief Sponsor: Suzanne Harrison
Senate Sponsor: Michael K. McKell
Cosponsor: Phil Lyman

LONG TITLE

General Description:

This bill amends provisions of the Emergency Management Act related to emergency preparedness and response, and other duties of the Division of Emergency Management.

Highlighted Provisions:

This bill:

- amends definitions and defines terms;
- requires political subdivisions to designate an emergency manager and create an emergency operations plan;
- requires state agencies to coordinate with the Division of Emergency Management before construction of a state building in a flood plain;
- extends the sunset of the Emergency Management Administration Council;
- amends appointment of membership of the Utah Seismic Safety Commission; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53-2a-102, as last amended by Laws of Utah 2020, Chapter 85
53-2a-104, as last amended by Laws of Utah 2020, Chapter 85
53-2a-807, as last amended by Laws of Utah 2020, Chapter 85
63C-6-101, as last amended by Laws of Utah 2020, Chapter 154
63I-1-253, as last amended by Laws of Utah 2020, Chapters 154, 174, 214, 234, 242, 269, 335, and 354

ENACTS:

53-2a-106, Utah Code Annotated 1953
53-2a-1401, Utah Code Annotated 1953
53-2a-1402, Utah Code Annotated 1953
53-2a-1403, Utah Code Annotated 1953

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

Section 1. Section 53-2a-102 is amended to read:

53-2a-102. Definitions.

As used in this chapter:

(1) "Alerting authority" means a political subdivision that has received access to send alerts through the Integrated Public Alert and Warning System.

(2) "Attack" means a nuclear, cyber, conventional, biological, act of terrorism, or chemical warfare action against the United States of America or this state.

(3) "Commissioner" means the commissioner of the Department of Public Safety or the commissioner's designee.

(4) "Director" means the division director appointed under Section 53-2a-103 or the director's designee.

(5) "Disaster" means an event that:

(a) causes, or threatens to cause, loss of life, human suffering, public or private property damage, or economic or social disruption resulting from attack, internal disturbance, natural phenomena, or technological hazard; and

(b) requires resources that are beyond the scope of local agencies in routine responses to emergencies and accidents and may be of a magnitude or involve unusual circumstances that require response by government, not-for-profit, or private entities.

(6) "Division" means the Division of Emergency Management created in Section 53-2a-103.

(7) "Emergency manager" means an individual designated as the emergency manager for a political subdivision as described in Section 53-2a-1402.

[~~(7)~~] (8) "Energy" includes the energy resources defined in this chapter.

[~~(8)~~] (9) "Expenses" means actual labor costs of government and volunteer personnel, and materials.

[~~(9)~~] (10) "Hazardous materials emergency" means a sudden and unexpected release of any substance that because of its quantity, concentration, or physical, chemical, or infectious characteristics presents a direct and immediate threat to public safety or the environment and requires immediate action to mitigate the threat.

[~~(10)~~] (11) "Internal disturbance" means a riot, prison break, terrorism, or strike.

[~~(11)~~] (12) "IPAWS" means the Integrated Public Alert and Warning System administered by the Federal Emergency Management Agency.

[~~(12)~~] (13) "Municipality" means the same as that term is defined in Section 10-1-104.

[~~(13)~~] (14) "Natural phenomena" means any earthquake, tornado, storm, flood, landslide, avalanche, forest or range fire, drought, or epidemic.

(15) "Officer" means a person who is elected or appointed to an office or position within a political subdivision.

(16) "Political subdivision" means the same as that term is defined in Section 11-61-102.

[~~(14)~~] (17) "State of emergency" means a condition in any part of this state that requires state

government emergency assistance to supplement the local efforts of the affected political subdivision to save lives and to protect property, public health, welfare, or safety in the event of a disaster, or to avoid or reduce the threat of a disaster.

[~~(15)~~] (18) "Technological hazard" means any hazardous materials accident, mine accident, train derailment, air crash, radiation incident, pollution, structural fire, or explosion.

[~~(16)~~] (19) "Terrorism" means activities or the threat of activities that:

(a) involve acts dangerous to human life;

(b) are a violation of the criminal laws of the United States or of this state; and

(c) to a reasonable person, would appear to be intended to:

(i) intimidate or coerce a civilian population;

(ii) influence the policy of a government by intimidation or coercion; or

(iii) affect the conduct of a government by mass destruction, assassination, or kidnapping.

[~~(17)~~] (20) "Urban search and rescue" means the location, extrication, and initial medical stabilization of victims trapped in a confined space as the result of a structural collapse, transportation accident, mining accident, or collapsed trench.

Section 2. Section 53-2a-104 is amended to read:

53-2a-104. Division duties -- Powers.

(1) The division shall:

(a) respond to the policies of the governor and the Legislature;

(b) perform functions relating to emergency management as directed by the governor or by the commissioner, including:

(i) coordinating with state agencies and local governments the use of personnel and other resources of these governmental entities as agents of the state during an interstate disaster in accordance with the Emergency Management Assistance Compact described in Section 53-2a-402;

(ii) coordinating the requesting, activating, and allocating of state resources during an intrastate disaster or a local state of emergency;

(iii) receiving and disbursing federal resources provided to the state in a declared disaster;

(iv) appointing a state coordinating officer who is the governor's representative and who shall work with a federal coordinating officer during a federally declared disaster; and

(v) appointing a state recovery officer who is the governor's representative and who shall work with a federal recovery officer during a federally declared disaster;

(c) prepare, implement, and maintain programs and plans to provide for:

(i) prevention and minimization of injury and damage caused by disasters;

(ii) prompt and effective response to and recovery from disasters;

(iii) identification of areas particularly vulnerable to disasters;

(iv) coordination of hazard mitigation and other preventive and preparedness measures designed to eliminate or reduce disasters;

(v) assistance to local officials, state agencies, and the business and public sectors, in developing emergency action plans;

(vi) coordination of federal, state, and local emergency activities;

(vii) coordination of emergency operations plans with emergency plans of the federal government;

(viii) coordination of urban search and rescue activities;

(ix) coordination of rapid and efficient communications in times of emergency; and

(x) other measures necessary, incidental, or appropriate to this part;

(d) coordinate with local officials, state agencies, and the business and public sectors in developing, implementing, and maintaining a state energy emergency plan in accordance with Section 53-2a-902;

(e) coordinate with state agencies regarding development and construction of state buildings within a flood plain to ensure compliance with minimum standards of the National Flood Insurance Program, 42 U.S.C. Chapter 50, Subchapter I, as described in Section 53-2a-106;

[~~(e)~~] (f) administer Part 6, Disaster Recovery Funding Act, in accordance with that part;

[~~(f)~~] (g) conduct outreach annually to agencies and officials who have access to IPAWS; and

[~~(g)~~] (h) coordinate with counties to ensure every county has the access and ability to send, or a plan to send, IPAWS messages, including Wireless Emergency Alerts and Emergency Alert System messages.

(2) Every three years, organizations that have the ability to send IPAWS messages, including emergency service agencies, public safety answering points, and emergency managers shall send verification of Federal Emergency Management Agency training to the Division.

(3) (a) The Department of Public Safety shall designate state geographical regions and allow the political subdivisions within each region to:

(i) coordinate planning with other political subdivisions, tribal governments, and as appropriate, other entities within that region and with state agencies as appropriate, or as designated by the division;

(ii) coordinate grant management and resource purchases; and

(iii) organize joint emergency response training and exercises.

(b) The political subdivisions within a region designated in Subsection (3)(a) may not establish the region as a new government entity in the emergency disaster declaration process under Section 53-2a-208.

(4) The division may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:

(a) establish protocol for prevention, mitigation, preparedness, response, recovery, and the activities described in Subsection (3);

(b) coordinate federal, state, and local resources in a declared disaster or local emergency; and

(c) implement provisions of the Emergency Management Assistance Compact as provided in Section 53-2a-402 and Title 53, Chapter 2a, Part 3, Statewide Mutual Aid Act.

(5) The division may consult with the Legislative Management Committee, the Judicial Council, and legislative and judicial staff offices to assist the division in preparing emergency succession plans and procedures under Title 53, Chapter 2a, Part 8, Emergency Interim Succession Act.

(6) The division shall report annually in writing not later than October 31 to the Law Enforcement and Criminal Justice, and Political Subdivisions Interim Committees regarding the status of the emergency alert system in the state. The report shall include:

(a) a status summary of the number of alerting authorities in Utah;

(b) any changes in that number;

(c) administrative actions taken; and

(d) any other information considered necessary by the division.

Section 3. Section 53-2a-106 is enacted to read:

53-2a-106. Coordination for state development in a flood plain.

Any state agency that plans to develop or construct a building within a flood plain shall consult and coordinate with the division to ensure compliance with minimum standards of the National Flood Insurance Program, 42 U.S.C. Chapter 50, Subchapter I.

Section 4. Section 53-2a-807 is amended to read:

53-2a-807. Emergency interim successors for local officers.

(1) By July 1 of each year, each political subdivision shall:

(a) for each officer and the emergency manager described in Part 14, Local Emergency Management Act, designate three emergency interim successors and specify their order of succession;

(b) identify the political subdivision's alerting authority and any individuals authorized to send emergency alerts;

(c) provide a list of those designated successors and individuals to the division; and

(d) have an emergency alert plan in place and provide a copy of the plan to the division.

(2) In the event that a political subdivision does not designate emergency interim successors as required under Subsection (1), the order of succession shall be as follows:

(a) the chief executive officer of the political subdivision;

(b) the chief deputy executive officer of the political subdivision;

(c) the chair of the legislative body of the political subdivision; and

(d) the chief law enforcement officer of the political subdivision.

(3) (a) Notwithstanding any other provision of law:

(i) if any political subdivision officer or the political subdivision officer's legal deputy, if any, is unavailable, a designated emergency interim successor shall exercise the powers and duties of the office according to the order of succession specified by the political subdivision officer; or

(ii) counties may provide by ordinance that one member of the county legislative body may act as the county legislative body if the other members are absent.

(b) An emergency interim successor shall exercise the powers and duties of the office only until:

(i) the vacancy is filled in accordance with the constitution or statutes; or

(ii) the political subdivision officer, the political subdivision officer's deputy, or an emergency interim successor earlier in the order of succession becomes available to exercise the powers and duties of the office.

(4) The legislative bodies of each political subdivision may enact resolutions or ordinances consistent with this part and also provide for emergency interim successors to officers of the political subdivision not governed by this section.

Section 5. Section 53-2a-1401 is enacted to read:

Part 14. Local Emergency Management Act

53-2a-1401. Title.

This part is known as the "Local Emergency Management Act."

Section 6. Section 53-2a-1402 is enacted to read:

53-2a-1402. Designation and duties of emergency managers.

(1) Each political subdivision of the state of Utah shall designate an emergency manager.

(2) A political subdivision may designate an officer of the political subdivision to serve as the emergency manager.

(3) An emergency manager shall:

(a) create a plan to coordinate emergency preparedness, response, mitigation, coordination, and other recovery activities; and

(b) coordinate with other emergency managers and officials to ensure efficient, appropriate, and coordinated emergency preparedness, response, mitigation, and recovery.

(4) Each political subdivision shall provide for emergency interim succession of the emergency manager as described in Part 8, Emergency Interim Succession Act.

Section 7. Section 53-2a-1403 is enacted to read:

53-2a-1403. Emergency operations plan.

(1) Each county shall create and maintain an emergency operations plan.

(2) Each city, town, and metro township shall:

(a) create and maintain an emergency operations plan; or

(b) adopt the emergency operations plan created by the county in which the city, town, or metro township is located.

Section 8. Section 63C-6-101 is amended to read:

63C-6-101. Creation of commission -- Membership -- Appointment -- Vacancies.

(1) There is created the Utah Seismic Safety Commission consisting of 15 members, designated as follows:

(a) the director of the Division of Emergency Management or the director's designee;

(b) the director of the Utah Geological Survey or the director's designee;

(c) the director of the University of Utah Seismograph Stations or the director's designee;

(d) the executive director of the Utah League of Cities and Towns or the executive director's designee;

(e) a representative from the Structural Engineers Association of Utah biannually selected by its membership;

(f) the director of the Division of Facilities Construction and Management or the director's designee;

(g) the executive director of the Department of Transportation or the director's designee;

(h) the State Planning Coordinator or the coordinator's designee;

(i) a representative from the American Institute of Architects, Utah Section;

(j) a representative from the American Society of Civil Engineers, Utah Section;

(k) [~~two~~] three individuals, appointed by the director of the Division of Emergency Management, from earthquake-related organizations that have an interest in reducing earthquake-related loss in the state, with consideration given to recommendations of the Utah Seismic Safety Commission;

(l) the commissioner of the Department of Insurance or the commissioner's designee; and

[~~(m) a representative from the Association of Contingency Planners, Utah Chapter, biannually selected by its membership; and~~]

[~~(n)~~] (m) a representative from the American Public Works Association, Utah Chapter, biannually selected by its membership.

(2) The commission shall annually select one of its members to serve as chair of the commission.

(3) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.

Section 9. Section 63I-1-253 is amended to read:

63I-1-253. Repeal dates, Titles 53 through 53G.

(1) Section 53-2a-105, which creates the Emergency Management Administration Council, is repealed July 1, [~~2021~~] 2022.

(2) Sections 53-2a-1103 and 53-2a-1104, which create the Search and Rescue Advisory Board, are repealed July 1, 2022.

(3) Section 53-5-703, which creates the Concealed Firearm Review Board, is repealed July 1, 2023.

(4) Subsection 53-6-203(1)(b)(ii), regarding being 19 years old at certification, is repealed July 1, 2027.

(5) Subsection 53-13-104(6)(a), regarding being 19 years old at certification, is repealed July 1, 2027.

(6) Section 53B-6-105.5, which creates the Technology Initiative Advisory Board, is repealed July 1, 2024.

(7) Title 53B, Chapter 17, Part 11, USTAR Researchers, is repealed July 1, 2028.

(8) Section 53B-17-1203, which creates the SafeUT and School Safety Commission, is repealed January 1, 2025.

(9) Section 53B-18-1501 is repealed July 1, 2021.

(10) Title 53B, Chapter 18, Part 16, USTAR Researchers, is repealed July 1, 2028.

(11) Title 53B, Chapter 24, Part 4, Rural Residency Training Program, is repealed July 1, 2025.

(12) Subsection 53C-3-203(4)(b)(vii), which provides for the distribution of money from the Land Exchange Distribution Account to the Geological Survey for test wells and other hydrologic studies in the West Desert, is repealed July 1, 2030.

(13) Section 53E-3-515 is repealed January 1, 2023.

(14) In relation to a standards review committee, on January 1, 2023:

(a) in Subsection 53E-4-202(8), the language "by a standards review committee and the recommendations of a standards review committee established under Section 53E-4-203" is repealed; and

(b) Section 53E-4-203 is repealed.

(15) Subsections 53E-3-503(5) and (6), which create coordinating councils for youth in custody, are repealed July 1, 2027.

(16) Section 53E-4-402, which creates the State Instructional Materials Commission, is repealed July 1, 2022.

(17) Title 53E, Chapter 6, Part 5, Utah Professional Practices Advisory Commission, is repealed July 1, 2023.

(18) Subsection 53E-8-204(4), which creates the advisory council for the Utah Schools for the Deaf and the Blind, is repealed July 1, 2021.

(19) Section 53F-2-514 is repealed July 1, 2020.

(20) Section 53F-5-203 is repealed July 1, 2024.

(21) Section 53F-5-212 is repealed July 1, 2024.

(22) Section 53F-5-213 is repealed July 1, 2023.

(23) Section 53F-5-214, in relation to a grant for professional learning, is repealed July 1, 2025.

(24) Section 53F-5-215, in relation to an elementary teacher preparation grant is repealed July 1, 2025.

(25) Subsection 53F-9-203(7), which creates the Charter School Revolving Account Committee, is repealed July 1, 2024.

(26) Section 53F-9-501 is repealed January 1, 2023.

(27) Subsections 53G-4-608(2)(b) and (4)(b), related to the Utah Seismic Safety Commission, are repealed January 1, 2025.

(28) Subsection 53G-8-211(5), regarding referrals of a minor to court for a class C misdemeanor, is repealed July 1, 2022.

CHAPTER 107
H. B. 101
Passed March 5, 2021
Approved March 16, 2021
Effective May 5, 2021

PROHIBITED PERSONS AMENDMENTS

Chief Sponsor: Andrew Stoddard
Senate Sponsor: Todd D. Weiler
Cosponsors: Gay Lynn Bennion
Suzanne Harrison
Karianne Lisonbee
Paul Ray
Jeffrey D. Stenquist

LONG TITLE

General Description:

This bill provides notification requirements for an individual who may not possess a firearm as a result of a criminal conviction.

Highlighted Provisions:

This bill:

- defines terms; and
- provides notification requirements to an individual accused or convicted of a criminal charge that would prevent the individual from lawfully owning or possessing a firearm.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

76-10-503.1, Utah Code Annotated 1953

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

Section 1. Section 76-10-503.1 is enacted to read:

76-10-503.1. Firearm restriction notification requirement.

(1) As used in this section:

(a) "Restricted person" means an individual who is restricted from possessing, purchasing, transferring, or owning a firearm under Section 76-10-503.

(b) "Possess" or "possession" means actual physical possession, actual or purported ownership, or exercising control of an item.

(2) A defendant intending to plead guilty or no contest to a criminal charge that will, upon conviction, cause the defendant to become a restricted person shall, before entering a plea before a court, sign an acknowledgment that states:

(a) the defendant's attorney or the prosecuting attorney has informed the defendant:

(i) that conviction of the charge will classify the defendant as a restricted person;

(ii) that a restricted person may not possess a firearm; and

(iii) of the criminal penalties associated with possession of a firearm by a restricted person of the same category the defendant will become upon entering a plea for the criminal charge; and

(b) the defendant acknowledges and understands that, by pleading guilty or no contest to the criminal charge, the defendant:

(i) will be a restricted person;

(ii) upon conviction, shall forfeit possession of each firearm currently possessed by the defendant; and

(iii) will be in violation of federal and state law if the defendant possesses a firearm.

(3) The prosecuting attorney or the defendant's attorney shall provide the acknowledgment described in Subsection (2) to the court before the defendant's entry of a plea, if the defendant pleads guilty or no contest.

(4) A defendant who is convicted by trial of a criminal charge resulting in the defendant becoming a restricted person shall, at the time of sentencing:

(a) be verbally informed by the court, prosecuting attorney, or defendant's attorney:

(i) that the defendant is a restricted person;

(ii) that, as a restricted person, the defendant may not possess a firearm; and

(iii) of the criminal penalties associated with possession of a firearm by a restricted person of the defendant's category; and

(b) sign an acknowledgment in the presence of the court attesting that the defendant acknowledges and understands that the defendant:

(i) is a restricted person;

(ii) shall forfeit possession of each firearm; and

(iii) will be in violation of federal and state law if the defendant possesses a firearm.

(5) The prosecuting attorney and the defendant's attorney shall inform the court at the preliminary hearing if a charge filed against the defendant would qualify the defendant as a restricted person if the defendant is convicted of the charge.

(6) The failure to inform or obtain a signed acknowledgment from the defendant may not render the plea invalid, form the basis for withdrawal of the plea, or create a basis to challenge a conviction or sentence.

CHAPTER 108
H. B. 102
Passed March 4, 2021
Approved March 16, 2021
Effective May 5, 2021

CONTRACEPTION FOR INMATES

Chief Sponsor: Jennifer Dailey-Provost
Senate Sponsor: Luz Escamilla
Cosponsors: Gay Lynn Bennion
Joel K. Briscoe
Sandra Hollins
Brian S. King
Karen Kwan
Rosemary T. Lesser
Ashlee Matthews
Carol Spackman Moss
Doug Owens
Stephanie Pitcher
Angela Romero
Andrew Stoddard
Elizabeth Weight
Mark A. Wheatley

LONG TITLE

General Description:

This bill modifies provisions related to the care of prisoners.

Highlighted Provisions:

This bill:

- requires a jail to provide a prisoner with the option of continuing certain medically prescribed methods of contraception;
- provides a sunset date; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

17-22-8, as last amended by Laws of Utah 2019, Chapter 385
63I-2-217, as last amended by Laws of Utah 2020, Chapters 47, 114, and 434

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

Section 1. Section 17-22-8 is amended to read:

17-22-8. Care of prisoners -- Funding of services -- Private contractor.

(1) Except as provided in Subsection [~~(4), the~~] (5), a sheriff shall:

(a) receive [~~all persons~~] each individual committed to jail by competent authority;

(b) provide [~~them~~] each prisoner with necessary food, clothing, and bedding in the manner prescribed by the county legislative body; [~~and~~]

(c) provide each prisoner medical care when:

(i) the [~~person's~~] prisoner's symptoms evidence a serious disease or injury;

(ii) the [~~person's~~] prisoner's disease or injury is curable or may be substantially alleviated; and

(iii) the potential for harm to the person by reason of delay or the denial of medical care would be substantial[~~.~~]; and

(d) provide each prisoner, as part of the intake process, with the option of continuing any of the following medically prescribed methods of contraception:

(i) an oral contraceptive;

(ii) an injectable contraceptive; or

(iii) an intrauterine device, if the prisoner was prescribed the intrauterine device because the prisoner experiences serious and persistent adverse effects when using the methods of contraception described in Subsections (1)(d)(i) and (ii).

(2) A sheriff may provide the generic form of a contraceptive described in Subsection (1)(d)(i) or (ii).

[~~(2) The~~] (3) A sheriff shall follow the provisions of Section 64-13-46 if a prisoner is pregnant and gives birth, including the reporting requirements in Subsection 64-13-45(2)(c).

[~~(3) The~~] (4) (a) Except as provided in Subsection (4)(b), the expense incurred in providing [~~these~~] the services required by this section to prisoners shall be paid from the county treasury, except as provided in Section 17-22-10.

(b) The expense incurred in providing the services described in Subsection (1)(d) to prisoners shall be paid by the Department of Health.

[~~(4)~~] (5) If the county executive contracts with a private contractor to provide the services required by this section, the sheriff shall provide only those services required of [~~him~~] the sheriff by the contract between the county and the private contractor.

Section 2. Section 63I-2-217 is amended to read:

63I-2-217. Repeal dates -- Title 17.

(1) (a) Subsections 17-22-8(1)(d) and (2) regarding contraceptives for inmates, is repealed June 30, 2022.

(b) Subsection 17-22-8(4)(a), the language "Except as provided in Subsection (4)(b)" is repealed June 30, 2022.

(c) Subsection 17-22-8(4)(b) regarding the Department of Health is repealed June 30, 2022.

(d) On July 1, 2022, when making the changes in this section, the Office of Legislative Research and General Counsel shall in addition to its authority under Subsection 36-12-12(3):

(i) make corrections necessary to ensure that sections and subsections identified in this section are complete sentences and accurately reflect the

office's understanding of the Legislature's intent; and

(ii) make necessary changes to subsection numbering and cross references.

[~~(1)~~] (2) Section 17-22-32.2, regarding restitution reporting, is repealed January 1, 2021.

[~~(2)~~] (3) Section 17-22-32.3, regarding the Jail Incarceration and Transportation Costs Study Council, is repealed January 1, 2021.

[~~(3)~~] (4) Subsection 17-27a-102(1)(b), the language that states "or a designated mountainous planning district" is repealed June 1, 2021.

[~~(4)~~] (5) (a) Subsection 17-27a-103(18)(b), regarding a mountainous planning district, is repealed June 1, 2021.

(b) Subsection 17-27a-103(42), regarding a mountainous planning district, is repealed June 1, 2021.

[~~(5)~~] (6) Subsection 17-27a-210(2)(a), the language that states "or the mountainous planning district area" is repealed June 1, 2021.

[~~(6)~~] (7) (a) Subsection 17-27a-301(1)(b)(iii), regarding a mountainous planning district, is repealed June 1, 2021.

(b) Subsection 17-27a-301(1)(c), regarding a mountainous planning district, is repealed June 1, 2021.

(c) Subsection 17-27a-301(3)(a), the language that states " or (c)" is repealed June 1, 2021.

[~~(7)~~] (8) Section 17-27a-302, the language that states ", or mountainous planning district" and "or the mountainous planning district," is repealed June 1, 2021.

[~~(8)~~] (9) Subsection 17-27a-305(1)(a), the language that states "a mountainous planning district or" and ", as applicable" is repealed June 1, 2021.

[~~(9)~~] (10) (a) Subsection 17-27a-401(1)(b)(ii), regarding a mountainous planning district, is repealed June 1, 2021.

(b) Subsection 17-27a-401(7), regarding a mountainous planning district, is repealed June 1, 2021.

[~~(10)~~] (11) (a) Subsection 17-27a-403(1)(b)(ii), regarding a mountainous planning district, is repealed June 1, 2021.

(b) Subsection 17-27a-403(1)(c)(iii), regarding a mountainous planning district, is repealed June 1, 2021.

(c) Subsection 17-27a-403(2)(a)(iii), the language that states "or the mountainous planning district" is repealed June 1, 2021.

(d) Subsection 17-27a-403(2)(c)(i), the language that states "or mountainous planning district" is repealed June 1, 2021.

[~~(11)~~] (12) Subsection 17-27a-502(1)(d)(i)(B), regarding a mountainous planning district, is repealed June 1, 2021.

[~~(12)~~] (13) Subsection 17-27a-505.5(2)(a)(iii), regarding a mountainous planning district, is repealed June 1, 2021.

[~~(13)~~] (14) Subsection 17-27a-602(1)(b), the language that states "or, in the case of a mountainous planning district, the mountainous planning district" is repealed June 1, 2021.

[~~(14)~~] (15) Subsection 17-27a-604(1)(b)(i)(B), regarding a mountainous planning district, is repealed June 1, 2021.

[~~(15)~~] (16) Subsection 17-27a-605(1)(a), the language that states "or mountainous planning district land" is repealed June 1, 2021.

[~~(16)~~] (17) Title 17, Chapter 27a, Part 9, Mountainous Planning District, is repealed June 1, 2021.

[~~(17)~~] (18) On June 1, 2021, when making the changes in this section, the Office of Legislative Research and General Counsel shall:

(a) in addition to its authority under Subsection 36-12-12(3):

(i) make corrections necessary to ensure that sections and subsections identified in this section are complete sentences and accurately reflect the office's understanding of the Legislature's intent; and

(ii) make necessary changes to subsection numbering and cross references; and

(b) identify the text of the affected sections and subsections based upon the section and subsection numbers used in Laws of Utah 2017, Chapter 448.

[~~(18)~~] (19) Subsection 17-34-1(5)(d), regarding county funding of certain municipal services in a designated recreation area, is repealed June 1, 2021.

[~~(19)~~] (20) Title 17, Chapter 35b, Consolidation of Local Government Units, is repealed January 1, 2022.

[~~(20)~~] (21) On June 1, 2022:

(a) Section 17-52a-104 is repealed;

(b) in Subsection 17-52a-301(3)(a), the language that states "or under a provision described in Subsection 17-52a-104(1)(b) or (2)(b)," is repealed; and

(c) Subsection 17-52a-301(3)(a)(iv), regarding the first initiated process, is repealed.

[~~(21)~~] (22) On January 1, 2028, Subsection 17-52a-103(3), requiring certain counties to initiate a change of form of government process by July 1, 2018, is repealed.

CHAPTER 109
H. B. 109
Passed February 19, 2021
Approved March 16, 2021
Effective May 5, 2021

WILDLIFE AMENDMENTS

Chief Sponsor: Phil Lyman
Senate Sponsor: Todd D. Weiler

LONG TITLE

General Description:

This bill addresses the taking of wildlife.

Highlighted Provisions:

This bill:

- imposes notice requirements unless certain circumstances exist; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

23-13-6, as last amended by Laws of Utah 1995, Chapter 56

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

Section 1. Section 23-13-6 is amended to read:

23-13-6. Taking of wildlife by division.

[~~The Division of Wildlife resources~~]

(1) Subject to the other provisions of this section, the division may take wildlife of any kind from any place and in any manner for purposes [~~deemed~~] considered by the director of the division to be in the interest of wildlife conservation.

(2) The division shall deliver notice to an affected landowner or an agent of an affected landowner, either in writing or orally, before the taking of wildlife on privately owned land under this section. The division may take the wildlife immediately after or at a time reasonably required for the taking after delivering notice.

(3) The notice requirements in Subsection (2) do not apply in a situation when there is a threat to public safety or exigent circumstances exist.

CHAPTER 110
H. B. 111
Passed February 12, 2021
Approved March 16, 2021
Effective May 5, 2021

OFF-HIGHWAY VEHICLE AMENDMENTS

Chief Sponsor: Carl R. Albrecht
Senate Sponsor: Derrin R. Owens
Cosponsor: Travis M. Seegmiller

LONG TITLE

General Description:

This bill amends provisions related to the operation of off-highway vehicles.

Highlighted Provisions:

This bill:

- allows an individual under 18 years old to operate an off-highway vehicle under certain conditions; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

41-22-30, as last amended by Laws of Utah 2017, Chapter 38

REPEALS:

41-22-29, as last amended by Laws of Utah 2017, Chapter 38

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

Section 1. Section 41-22-30 is amended to read:

41-22-30. Supervision, safety certificate, or driver license required -- Penalty.

(1) As used in this section, "direct supervision" means oversight at a distance:

(a) of no more than 300 feet; and

(b) within which:

(i) visual contact is maintained; and

(ii) advice and assistance can be given and received.

(2) A person may not operate and an owner may not give that person permission to operate an off-highway vehicle on any public land, trail, street, or highway of this state unless the person:

(a) is able to reach and operate each control necessary to safely operate the off-highway vehicle;

[~~(a)~~] (b) (i) is under the direct supervision of an off-highway vehicle safety instructor during a scheduled safety training course approved by the board [~~pursuant to~~] in accordance with Section 41-22-32;

[~~(b) (i) has in the person's possession the appropriate~~]

(ii) possesses a safety certificate issued or approved by the division[~~; and~~] in accordance with Section 41-22-31; or

(iii) possesses a valid license to operate a motor vehicle issued in accordance with Title 53, Chapter 3, Uniform Driver License Act; and

[~~(ii)~~] (c) [~~if under 18 years of age,~~] is under the direct supervision of a person who is at least 18 years [~~of age~~] old if the person operating the off-highway vehicle:

(i) is under 18 years old;

(ii) does not possess a valid license to operate a motor vehicle issued in accordance with Title 53, Chapter 3, Uniform Driver License Act; and

(iii) is operating the off-highway vehicle on a public highway that is:

(A) open to motor vehicles; and

(B) not exclusively reserved for off-highway vehicle use[~~; or~~].

[~~(c) has in the person's immediate possession a valid motor vehicle operator's license, as provided in Title 53, Chapter 3, Uniform Driver License Act.~~]

(3) (a) A person convicted of a violation of this section is guilty of an infraction and shall be fined not more than $100 per offense.

(b) It is a defense to a charge under this section, if the person charged:

(i) produces in court a license or [~~an appropriate~~] safety certificate described in Subsection (2)(b) that was:

(A) valid at the time of the citation or arrest; and

(B) issued to the person operating the off-highway vehicle; and

(ii) can show that the direct supervision requirement under Subsection (2)(b) was not violated at the time of citation or arrest.

(4) The requirements of this section do not apply to an operator of an off-highway implement of husbandry.

(5) Nothing in this section allows an individual without a valid driver license issued in accordance with Title 53, Chapter 3, Uniform Driver License Act, to operate a street-legal all-terrain vehicle on a roadway.

Section 2. Repealer.

This bill repeals:

Section 41-22-29, Operation by persons under eight years of age prohibited -- Definitions -- Exception -- Penalty.

CHAPTER 111
H. B. 113
Passed February 22, 2021
Approved March 16, 2021
Effective May 5, 2021

SHARED MEDICAL COSTS

Chief Sponsor: Brady Brammer
Senate Sponsor: Daniel McCay
Cosponsor: Cheryl K. Acton

LONG TITLE

General Description:

This bill amends the Utah Child Support Act in relation to medical costs of pregnancy.

Highlighted Provisions:

This bill:

- defines terms; and
- requires a biological father to pay 50% of a mother's:
  - insurance premiums while she is pregnant; and
  - pregnancy-related medical costs, including the hospital birth of the child, that are not paid by another person.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

78B-12-102, as last amended by Laws of Utah 2018, Chapter 96

ENACTS:

78B-12-105.1, Utah Code Annotated 1953
78B-12-212.1, Utah Code Annotated 1953

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

Section 1. Section 78B-12-102 is amended to read:

78B-12-102. Definitions.

As used in this chapter:

(1) "Adjusted gross income" means income calculated under Subsection 78B-12-204(1).

(2) "Administrative agency" means the Office of Recovery Services or the Department of Human Services.

(3) "Administrative order" means an order that has been issued by the Office of Recovery Services, the Department of Human Services, or an administrative agency of another state or other comparable jurisdiction with similar authority to that of the office.

(4) "Base child support award" means the award that may be ordered and is calculated using the guidelines before additions for medical expenses and work-related child care costs.

(5) "Base combined child support obligation table," "child support table," "base child support obligation table," "low income table," or "table" means the appropriate table in Part 3, Tables.

(6) "Cash medical support" means an obligation to equally share all reasonable and necessary medical and dental expenses of children.

(7) "Child" means:

(a) a son or daughter under the age of 18 years who is not otherwise emancipated, self-supporting, married, or a member of the armed forces of the United States;

(b) a son or daughter over the age of 18 years, while enrolled in high school during the normal and expected year of graduation and not otherwise emancipated, self-supporting, married, or a member of the armed forces of the United States; or

(c) a son or daughter of any age who is incapacitated from earning a living and, if able to provide some financial resources to the family, is not able to support self by own means.

(8) "Child support" means a base child support award, or a monthly financial award for uninsured medical expenses, ordered by a tribunal for the support of a child, including current periodic payments, arrearages that accrue under an order for current periodic payments, and sum certain judgments awarded for arrearages, medical expenses, and child care costs.

(9) "Child support order" or "support order" means a judgment, decree, or order of a tribunal whether interlocutory or final, whether or not prospectively or retroactively modifiable, whether incidental to a proceeding for divorce, judicial or legal separation, separate maintenance, paternity, guardianship, civil protection, or otherwise that:

(a) establishes or modifies child support;

(b) reduces child support arrearages to judgment; or

(c) establishes child support or registers a child support order under Chapter 14, Utah Uniform Interstate Family Support Act.

(10) "Child support services" or "IV-D child support services" means services provided pursuant to Part D of Title IV of the Social Security Act, 42 U.S.C. Sec. 651 et seq.

(11) "Court" means the district court or juvenile court.

(12) "Guidelines" means the directions for the calculation and application of child support in Part 2, Calculation and Adjustment.

(13) "Health care coverage" means coverage under which medical services are provided to a dependent child through:

(a) fee for service;

(b) a health maintenance organization;

(c) a preferred provider organization;

(d) any other type of private health insurance; or

(e) public health care coverage.

(14) (a) "Income" means earnings, compensation, or other payment due to an individual, regardless of source, whether denominated as wages, salary, commission, bonus, pay, allowances, contract payment, or otherwise, including severance pay, sick pay, and incentive pay.

(b) "Income" includes:

(i) all gain derived from capital assets, labor, or both, including profit gained through sale or conversion of capital assets;

(ii) interest and dividends;

(iii) periodic payments made under pension or retirement programs or insurance policies of any type;

(iv) unemployment compensation benefits;

(v) workers' compensation benefits; and

(vi) disability benefits.

(15) "Joint physical custody" means the child stays with each parent overnight for more than 30% of the year, and both parents contribute to the expenses of the child in addition to paying child support.

(16) "Medical expenses" means health and dental expenses and related insurance costs.

(17) "Obligee" means an individual, this state, another state, or another comparable jurisdiction to whom child support is owed or who is entitled to reimbursement of child support or public assistance.

(18) "Obligor" means a person owing a duty of support.

(19) "Office" means the Office of Recovery Services within the Department of Human Services.

(20) "Parent" includes a natural parent, or an adoptive parent.

(21) "Pregnancy expenses" means an amount equal to:

(a) the sum of a pregnant mother's:

(i) health insurance premiums while pregnant that are not paid by an employer or government program; and

(ii) medical costs related to the pregnancy, incurred after the date of conception and before the pregnancy ends; minus

(b) any portion of the amount described in Subsection (21)(a) that a court determines is equitable based on the totality of the circumstances, not including any amount paid by the mother or father of the child.

[~~(21)~~] (22) "Split custody" means that each parent has physical custody of at least one of the children.

[~~(22)~~] (23) "State" includes a state, territory, possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Native American Tribe, or other comparable domestic or foreign jurisdiction.

[~~(23)~~] (24) "Temporary" means a period of time that is projected to be less than 12 months in duration.

[~~(24)~~] (25) "Third party" means an agency or a person other than the biological or adoptive parent or a child who provides care, maintenance, and support to a child.

[~~(25)~~] (26) "Tribunal" means the district court, the Department of Human Services, Office of Recovery Services, or court or administrative agency of a state, territory, possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Native American Tribe, or other comparable domestic or foreign jurisdiction.

[~~(26)~~] (27) "Work-related child care costs" means reasonable child care costs for up to a full-time work week or training schedule as necessitated by the employment or training of a parent under Section 78B-12-215.

[~~(27)~~] (28) "Worksheets" means the forms used to aid in calculating the base child support award.

Section 2. Section 78B-12-105.1 is enacted to read:

78B-12-105.1. Duty of biological father to share pregnancy expenses.

(1) Except as otherwise provided in this section, a biological father of a child has a duty to pay 50% of the mother's pregnancy expenses.

(2) (a) If paternity is disputed, a biological father owes no duty under this section until the biological father's paternity is established.

(b) Once paternity is established, the biological father is subject to Subsection (1).

(3) (a) Any portion of a mother's pregnancy expenses paid by the mother or the biological father reduces that parent's 50% share under Subsection (1), not the total amount of pregnancy expenses.

(b) Subsection (3)(a) applies regardless of when the mother or biological father pays the pregnancy expense.

(4) If a mother receives an abortion, as defined in Section 76-7-301, without the biological father's consent, the biological father owes no duty under this section, unless:

(a) the abortion is necessary to avert the death of the mother; or

(b) the mother was pregnant as a result of:

(i) rape, as described in Section 76-5-402;

(ii) rape of a child, as described in Section 76-5-402.1; or

(iii) incest, as described in Subsection 76-5-406(2)(j) or Section 76-7-102.

(5) Subsection (1) does not apply if a court apportions pregnancy expenses under Section 30-3-5.

(6) A person may seek payment under Subsection (1) in accordance with Section 78B-12-113.

(7) Nothing in this section or Section 78B-12-212.1 requires a person to separately bill a biological father for pregnancy expenses.

Section 3. Section 78B-12-212.1 is enacted to read:

78B-12-212.1. Pregnancy expenses.

If a person seeks payment under Section 78B-12-105.1 by providing documentation of payments, medical expenses, and insurance premiums, the district court shall, after review, order the payment of the expenses.

CHAPTER 112
H. B. 115
Passed March 4, 2021
Approved March 16, 2021
Effective March 16, 2021

MUNICIPAL BOUNDARY MODIFICATIONS

Chief Sponsor: Steve Waldrip
Senate Sponsor: Daniel McCay

LONG TITLE

General Description:

This bill amends provisions related to municipal boundaries.

Highlighted Provisions:

This bill:

- defines terms;
- prohibits a municipality from annexing an area proposed for incorporation after a certain period of time;
- establishes a procedure for filing an annexation petition proposing a cross-county annexation;
- extends certain notice requirements and signatory rights applicable to annexation to all other counties;
- allows an owner of private real property located in a mining protection area to file a protest to an annexation petition;
- requires a municipal legislative body to exclude private real property located in a mining protection area from an annexation petition unless the property owner consents;
- prohibits an incorporation from excluding part of a parcel of real property unless the property owner consents;
- modifies certain landowner notification requirements for incorporation;
- allows an owner of real property located in a mining protection area to exclude the owner's property from a proposed incorporation;
- extends the time period for certain property owners to exclude property from a proposed incorporation after receiving notice of the proposed incorporation;
- establishes a second opportunity for certain property owners to exclude property from a proposed incorporation under certain circumstances;
- allows for a feasibility study to be modified if property is subsequently annexed or excluded from the proposed incorporation;
- modifies provisions relating to the public hearings required for incorporation;
- requires a county clerk to prepare a voter information pamphlet before an incorporation election is held; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

10-2-401, as last amended by Laws of Utah 2015, Chapter 352
10-2-401.5, as last amended by Laws of Utah 2020, Fifth Special Session, Chapter 15
10-2-402, as last amended by Laws of Utah 2020, Sixth Special Session, Chapter 7
10-2-403, as last amended by Laws of Utah 2020, Fifth Special Session, Chapter 15
10-2-405, as last amended by Laws of Utah 2015, Chapter 352
10-2-407, as last amended by Laws of Utah 2019, Chapter 255
10-2-408, as last amended by Laws of Utah 2015, Chapter 352
10-2-414, as last amended by Laws of Utah 2015, Chapter 352
10-2a-201.5, as enacted by Laws of Utah 2019, Chapter 165
10-2a-203, as last amended by Laws of Utah 2019, Chapter 165
10-2a-206, as last amended by Laws of Utah 2019, Chapter 165
10-2a-207, as last amended by Laws of Utah 2019, Chapters 165, 255 and last amended by Coordination Clause, Laws of Utah 2019, Chapter 165
10-2a-210, as last amended by Laws of Utah 2020, Chapter 22

ENACTS:

10-2-402.5, Utah Code Annotated 1953

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

Section 1. Section 10-2-401 is amended to read:

10-2-401. Definitions -- Property owner provisions.

(1) As used in this part:

(a) "Affected entity" means:

(i) a county of the first or second class in whose unincorporated area the area proposed for annexation is located;

(ii) a county of the third, fourth, fifth, or sixth class in whose unincorporated area the area proposed for annexation is located, if the area includes residents or commercial or industrial development;

(iii) a local district under Title 17B, Limited Purpose Local Government Entities - Local Districts, or special service district under Title 17D, Chapter 1, Special Service District Act, whose boundary includes any part of an area proposed for annexation;

(iv) a school district whose boundary includes any part of an area proposed for annexation, if the boundary is proposed to be adjusted as a result of the annexation; and

(v) a municipality whose boundaries are within 1/2 mile of an area proposed for annexation.

(b) "Annexation petition" means a petition under Section 10-2-403 proposing the annexation to a

municipality of a contiguous, unincorporated area that is contiguous to the municipality.

(c) "Commission" means a boundary commission established under Section 10-2-409 for the county in which the property that is proposed for annexation is located.

(d) "Expansion area" means the unincorporated area that is identified in an annexation policy plan under Section 10-2-401.5 as the area that the municipality anticipates annexing in the future.

(e) "Feasibility consultant" means a person or firm with expertise in the processes and economics of local government.

(f) "Mining protection area" means the same as that term is defined in Section 17-41-101.

[~~(f)~~] (g) "Municipal selection committee" means a committee in each county composed of the mayor of each municipality within that county.

[~~(g)~~] (h) "Planning advisory area" means the same as that term is defined in Section 17-27a-306.

[~~(h)~~] (i) "Private," with respect to real property, means not owned by the United States or any agency of the federal government, the state, a county, a municipality, a school district, a local district under Title 17B, Limited Purpose Local Government Entities - Local Districts, a special service district under Title 17D, Chapter 1, Special Service District Act, or any other political subdivision or governmental entity of the state.

(j) "Rural real property" means the same as that term is defined in Section 17B-2a-1107.

[~~(i)~~] (k) "Specified county" means a county of the second, third, fourth, fifth, or sixth class.

[~~(j)~~] (l) "Unincorporated peninsula" means an unincorporated area:

(i) that is part of a larger unincorporated area;

(ii) that extends from the rest of the unincorporated area of which it is a part;

(iii) that is surrounded by land that is within a municipality, except where the area connects to and extends from the rest of the unincorporated area of which it is a part; and

(iv) whose width, at any point where a straight line may be drawn from a place where it borders a municipality to another place where it borders a municipality, is no more than 25% of the boundary of the area where it borders a municipality.

[~~(k)~~] (m) "Urban development" means:

(i) a housing development with more than 15 residential units and an average density greater than one residential unit per acre; or

(ii) a commercial or industrial development for which cost projections exceed $750,000 for all phases.

(2) For purposes of this part:

(a) the owner of real property shall be:

(i) except as provided in Subsection (2)(a)(ii), the record title owner according to the records of the county recorder on the date of the filing of the petition or protest; or

(ii) the lessee of military land, as defined in Section 63H-1-102, if the area proposed for annexation includes military land that is within a project area described in a project area plan adopted by the military installation development authority under Title 63H, Chapter 1, Military Installation Development Authority Act; and

(b) the value of private real property shall be determined according to the last assessment roll for county taxes before the filing of the petition or protest.

(3) For purposes of each provision of this part that requires the owners of private real property covering a percentage or majority of the total private land area within an area to sign a petition or protest:

(a) a parcel of real property may not be included in the calculation of the required percentage or majority unless the petition or protest is signed by:

(i) except as provided in Subsection (3)(a)(ii), owners representing a majority ownership interest in that parcel; or

(ii) if the parcel is owned by joint tenants or tenants by the entirety, 50% of the number of owners of that parcel;

(b) the signature of a person signing a petition or protest in a representative capacity on behalf of an owner is invalid unless:

(i) the person's representative capacity and the name of the owner the person represents are indicated on the petition or protest with the person's signature; and

(ii) the person provides documentation accompanying the petition or protest that substantiates the person's representative capacity; and

(c) subject to Subsection (3)(b), a duly appointed personal representative may sign a petition or protest on behalf of a deceased owner.

Section 2. Section 10-2-401.5 is amended to read:

10-2-401.5. Annexation policy plan.

(1) [~~After December 31, 2002, no~~] No municipality may annex an unincorporated area located within a specified county unless the municipality has adopted an annexation policy plan as provided in this section.

(2) To adopt an annexation policy plan:

(a) the planning commission shall:

(i) prepare a proposed annexation policy plan that complies with Subsection (3);

(ii) hold a public meeting to allow affected entities to examine the proposed annexation policy plan and to provide input on it;

(iii) provide notice of the public meeting under Subsection (2)(a)(ii) to each affected entity at least 14 days before the meeting;

(iv) accept and consider any additional written comments from affected entities until 10 days after the public meeting under Subsection (2)(a)(ii);

(v) before holding the public hearing required under Subsection (2)(a)(vi), make any modifications to the proposed annexation policy plan the planning commission considers appropriate, based on input provided at or within 10 days after the public meeting under Subsection (2)(a)(ii);

(vi) hold a public hearing on the proposed annexation policy plan;

(vii) provide reasonable public notice, including notice to each affected entity, of the public hearing required under Subsection (2)(a)(vi) at least 14 days before the date of the hearing;

(viii) make any modifications to the proposed annexation policy plan the planning commission considers appropriate, based on public input provided at the public hearing; and

(ix) submit [~~its~~] the planning commission's recommended annexation policy plan to the municipal legislative body; and

(b) the municipal legislative body shall:

(i) hold a public hearing on the annexation policy plan recommended by the planning commission;

(ii) provide reasonable notice, including notice to each affected entity, of the public hearing at least 14 days before the date of the hearing;

(iii) after the public hearing under Subsection (2)(b)(ii), make any modifications to the recommended annexation policy plan that the legislative body considers appropriate; and

(iv) adopt the recommended annexation policy plan, with or without modifications.

(3) Each annexation policy plan shall include:

(a) a map of the expansion area which may include territory located outside the county in which the municipality is located;

(b) a statement of the specific criteria that will guide the municipality's decision whether or not to grant future annexation petitions, addressing matters relevant to those criteria including:

(i) the character of the community;

(ii) the need for municipal services in developed and undeveloped unincorporated areas;

(iii) the municipality's plans for extension of municipal services;

(iv) how the services will be financed;

(v) an estimate of the tax consequences to residents both currently within the municipal boundaries and in the expansion area; and

(vi) the interests of all affected entities;

(c) justification for excluding from the expansion area any area containing urban development within 1/2 mile of the municipality's boundary; and

(d) a statement addressing any comments made by affected entities at or within 10 days after the public meeting under Subsection (2)(a)(ii).

(4) In developing, considering, and adopting an annexation policy plan, the planning commission and municipal legislative body shall:

(a) attempt to avoid gaps between or overlaps with the expansion areas of other municipalities;

(b) consider population growth projections for the municipality and adjoining areas for the next 20 years;

(c) consider current and projected costs of infrastructure, urban services, and public facilities necessary:

(i) to facilitate full development of the area within the municipality; and

(ii) to expand the infrastructure, services, and facilities into the area being considered for inclusion in the expansion area;

(d) consider, in conjunction with the municipality's general plan, the need over the next 20 years for additional land suitable for residential, commercial, and industrial development;

(e) consider the reasons for including agricultural lands, forests, recreational areas, and wildlife management areas in the municipality; and

(f) be guided by the principles set forth in Subsection 10-2-403[~~(6)~~](5).

(5) Within 30 days after adopting an annexation policy plan, the municipal legislative body shall submit a copy of the plan to the legislative body of each county in which any of the municipality's expansion area is located.

(6) Nothing in this chapter may be construed to prohibit or restrict two or more municipalities in specified counties from negotiating and cooperating with respect to defining each municipality's expansion area under an annexation policy plan.

Section 3. Section 10-2-402 is amended to read:

10-2-402. Annexation -- Limitations.

(1) (a) A contiguous, unincorporated area that is contiguous to a municipality may be annexed to the municipality as provided in this part.

(b) Except as provided in Subsection (1)(c), an unincorporated area may not be annexed to a municipality unless:

(i) [~~it~~] the unincorporated area is a contiguous area;

(ii) [~~it~~] the unincorporated area is contiguous to the municipality;

(iii) annexation will not leave or create an unincorporated island or unincorporated peninsula:

(A) except as provided in Subsection 10-2-418(3); or

(B) unless the county and municipality have otherwise agreed; and

(iv) for an area located in a specified county [~~with respect to an annexation that occurs after December 31, 2002~~], the area is within the proposed annexing municipality's expansion area.

(c) A municipality may annex an unincorporated area within a specified county that does not meet the requirements of Subsection (1)(b), leaving or creating an unincorporated island or unincorporated peninsula, if:

(i) the area is within the annexing municipality's expansion area;

(ii) the specified county in which the area is located and the annexing municipality agree to the annexation;

(iii) the area is not within the area of another municipality's annexation policy plan, unless the other municipality agrees to the annexation; and

(iv) the annexation is for the purpose of providing municipal services to the area.

(2) Except as provided in Section 10-2-418, a municipality may not annex an unincorporated area unless a petition under Section 10-2-403 is filed requesting annexation.

(3) (a) An annexation under this part may not include part of a parcel of real property and exclude part of that same parcel unless the owner of that parcel has signed the annexation petition under Section 10-2-403.

(b) A piece of real property that has more than one parcel number is considered to be a single parcel for purposes of Subsection (3)(a) if owned by the same owner.

(4) A municipality may not annex an unincorporated area in a specified county for the sole purpose of acquiring municipal revenue or to retard the capacity of another municipality to annex the same or a related area unless the municipality has the ability and intent to benefit the annexed area by providing municipal services to the annexed area.

(5) (a) As used in this subsection, "expansion area urban development" means:

(i) for a specified county, urban development within a city or town's expansion area; or

(ii) for a county of the first class, urban development within a city or town's expansion area that:

(A) consists of 50 or more acres;

(B) requires the county to change the zoning designation of the land on which the urban development is located; and

(C) does not include commercial or industrial development that is located within a mining protection area as defined in Section 17-41-101, regardless of whether the commercial or industrial development is for a mining use as defined in Section 17-41-101.

(b) A county legislative body may not approve expansion area urban development unless:

(i) the county notifies the city or town of the proposed development; and

(ii) (A) the city or town consents in writing to the development;

(B) within 90 days after the county's notification of the proposed development, the city or town submits to the county a written objection to the county's approval of the proposed development and the county responds in writing to the city or town's objection; or

(C) the city or town fails to respond to the county's notification of the proposed development within 90 days after the day on which the county provides the notice.

[~~(6) (a) An annexation petition may not be filed under this part proposing the annexation of an area located in a county that is not the county in which the proposed annexing municipality is located unless the legislative body of the county in which the area is located has adopted a resolution approving the proposed annexation.~~]

[~~(b) Each county legislative body that declines to adopt a resolution approving a proposed annexation described in Subsection (6)(a) shall provide a written explanation of its reasons for declining to approve the proposed annexation.~~]

[~~(7)~~] (6) (a) As used in this Subsection [~~(7)~~] (6), "airport" means an area that the Federal Aviation Administration has, by a record of decision, approved for the construction or operation of a Class I, II, or III commercial service airport, as designated by the Federal Aviation Administration in 14 C.F.R. Part 139.

(b) A municipality may not annex an unincorporated area within 5,000 feet of the center line of any runway of an airport operated or to be constructed and operated by another municipality unless the legislative body of the other municipality adopts a resolution consenting to the annexation.

(c) A municipality that operates or intends to construct and operate an airport and does not adopt a resolution consenting to the annexation of an area described in Subsection [~~(7)~~] (6)(b) may not deny an annexation petition proposing the annexation of that same area to that municipality.

[~~(8)~~] (7) (a) As used in this [~~subsection~~] Subsection (7), "project area" means a project area as defined in Section 63H-1-102 that is in a project area plan as defined in Section 63H-1-102 adopted by the Military Installation Development Authority under Title 63H, Chapter 1, Military Installation Development Authority Act.

(b) A municipality may not annex an unincorporated area located within a project area without the authority's approval.

(c) (i) Except as provided in Subsection [~~(8)~~] (7)(c)(ii), the Military Installation Development Authority may petition for annexation of the following areas to a municipality as if [~~it~~] the Military Installation Development Authority was the sole private property owner within the area:

(A) an area within a project area;

(B) an area that is contiguous to a project area and within the boundaries of a military installation;

(C) an area owned by the Military Installation Development Authority; and

(D) an area that is contiguous to an area owned by the Military Installation Development Authority that the Military Installation Development Authority plans to add to an existing project area.

(ii) If any portion of an area annexed under a petition for annexation filed by the Military Installation Development Authority is located in a specified county:

(A) the annexation process shall follow the requirements for a specified county; and

(B) the provisions of [~~Subsection 10-2-402(6)~~] Section 10-2-402.5 do not apply.

(8) A municipality may not annex an unincorporated area if:

(a) the area is proposed for incorporation in:

(i) a feasibility study conducted under Section 10-2a-205; or

(ii) a supplemental feasibility study conducted under Section 10-2a-206;

(b) the lieutenant governor completes the first public hearing on the proposed incorporation under Subsection 10-2a-207(4); and

(c) the time period for a specified landowner, as defined in Section 10-2a-203, to request that the lieutenant governor exclude the specified landowner's property from the proposed incorporation under Subsection 10-2a-207(5)(a) has expired.

Section 4. Section 10-2-402.5 is enacted to read:

10-2-402.5. Cross-county annexation -- Requirements.

(1) As used in this section:

(a) "Affected county" means the county in which an area proposed for cross-county annexation is located.

(b) "Affected municipality" means a municipality:

(i) located in an affected county; and

(ii) whose expansion area includes the area proposed for cross-county annexation.

(c) "Applicant" means a person intending to file an annexation petition proposing a cross-county annexation.

(d) "Cross-county annexation" means the annexation of an area located in a county that is not the county in which the proposed annexing municipality is located.

(e) "Specified public utility" means the same as that term is defined in Section 10-9a-103.

(2) An applicant may not file a petition under Section 10-2-403 proposing a cross- county annexation unless:

(a) the applicant sends a written notice of intent to file a petition proposing a cross-county annexation to the legislative body of each affected municipality describing:

(i) the area proposed for cross-county annexation; and

(ii) the proposed annexing municipality;

(b) the proposed annexing municipality adopts or amends the municipality's annexation policy plan under Section 10-2-401.5 to include the area proposed for cross-county annexation within the proposed annexing municipality's expansion area;

(c) the applicant files a request to approve the proposed cross-county annexation with the legislative body of the affected county:

(i) no sooner than 90 days after the day on which the applicant sends the written notice described in Subsection (2)(a) to each affected municipality; and

(ii) no later than 180 days after the day on which the applicant sends the written notice described in Subsection (2)(a) to each affected municipality;

(d) a feasibility consultant conducts a feasibility study in accordance with Subsection (3), unless the feasibility study is waived under Subsection (3)(b); and

(e) the legislative body of the affected county:

(i) holds a public hearing in accordance with Subsection (4); and

(ii) adopts the resolution described in Subsection (4)(a)(iii)(A).

(3) (a) Within 60 days after the day on which a legislative body of an affected county receives the request described in Subsection (2)(c), or within a time period longer than 60 days if agreed to by the legislative body of the affected county and the applicant, the legislative body of the affected county and the applicant shall jointly select and engage a feasibility consultant to:

(i) conduct a feasibility study on the proposed cross-county annexation; and

(ii) submit written results of the feasibility study to the legislative body of the affected county and the applicant no later than 90 days after the day on which the feasibility consultant is engaged to conduct the feasibility study.

(b) The legislative body of the affected county may waive the requirement for a feasibility study under Subsection (3)(a).

(c) The feasibility study under Subsection (3)(a) shall determine:

(i) whether the proposed cross-county annexation eliminates, leaves, or creates an unincorporated island or unincorporated peninsula;

(ii) the fiscal impact of the proposed cross-county annexation on:

(A) the affected county;

(B) affected municipalities;

(C) specified public utilities that serve the area proposed for cross-county annexation; and

(D) affected entities;

(iii) the estimated cost that the proposed annexing municipality would incur to provide governmental services in the area proposed for cross-county annexation during the current fiscal year;

(iv) the estimated revenue that the proposed annexing municipality would receive from the area proposed for cross-county annexation during the current fiscal year; and

(v) (A) each entity that has provided municipal-type services in the area proposed for cross-county annexation;

(B) the methods under which each entity described in Subsection (3)(c)(v)(A) has provided municipal-type services in the area proposed for cross-county annexation; and

(C) the feasibility of the proposed annexing municipality providing municipal-type services in the area proposed for cross-county annexation.

(d) For purposes of Subsection (3)(c)(iv), the feasibility consultant shall assume that the ad valorem property tax rate on property within the area proposed for cross-county annexation is the same property tax rate that the proposed annexing municipality currently imposes on property within the municipality.

(e) The applicant and the affected county shall share equally the feasibility consultant fees and expenses.

(4) (a) A legislative body of an affected county shall hold, within 30 days after the day on which the legislative body receives the written results of the feasibility study under Subsection (3)(a) or waives the requirement for a feasibility study under Subsection (3)(b), a public hearing to:

(i) determine whether the requirements described in Subsections (2)(a) and (b) have been met;

(ii) consider the results of the feasibility study under Subsection (3)(a), unless the feasibility study is waived under Subsection (3)(b); and

(iii) (A) adopt a resolution approving the proposed cross-county annexation; or

(B) adopt a resolution rejecting the proposed cross-county annexation.

(b) The legislative body of the affected county shall send, at least 15 days before the day on which the public hearing described in Subsection (4)(a) occurs, written notice of the public hearing to:

(i) the applicant;

(ii) each residence within, and to each owner of real property located within:

(A) the area proposed for cross-county annexation; and

(B) 300 feet of the area proposed for cross-county annexation;

(iii) the legislative body of:

(A) the proposed annexing municipality; and

(B) the county in which the proposed annexing municipality is located;

(iv) each specified public utility that serves the area proposed for cross-county annexation;

(v) each affected municipality; and

(vi) each affected entity.

(c) At the public hearing described in Subsection (4)(a), the legislative body of the affected county shall allow the individuals present to speak to the proposed cross-county annexation.

(d) A legislative body of an affected county may not adopt a resolution rejecting a proposed cross-county annexation under this section unless the legislative body determines that:

(i) the requirements described in Subsections (2)(a) and (b) have not been met; or

(ii) the results of the feasibility study under Subsection (3)(a) show that:

(A) the proposed cross-county annexation would impose a substantial burden on the affected county;

(B) the estimated revenue under Subsection (3)(c)(iv) exceeds the estimated cost to provide governmental services under Subsection (3)(c)(iii) by more than 5%; or

(C) it would not be feasible for the proposed annexing municipality to provide municipal-type services in the area proposed for cross-county annexation.

(e) A legislative body of an affected county that adopts a resolution rejecting a proposed cross-county annexation under this section shall provide to the applicant a written explanation of the legislative body's decision.

(f) A legislative body of an affected county may adopt a resolution approving a proposed cross-county annexation under this section regardless of the results of a feasibility study under Subsection (3)(a).

(5) (a) A party adversely affected by a legislative body of an affected county's decision under Subsection (4)(a) may, within 30 days after the day on which the legislative body issues the legislative body's decision, file a petition for review of the

decision in the district court with jurisdiction in the affected county.

(b) The district court shall defer to the legislative body of the affected county's decision under Subsection (4)(a) unless the court determines that the decision is arbitrary, capricious, or unlawful.

(6) Section 10-2-418 does not apply to a cross-county annexation.

Section 5. Section 10-2-403 is amended to read:

10-2-403. Annexation petition -- Requirements -- Notice required before filing.

(1) Except as provided in Section 10-2-418, the process to annex an unincorporated area to a municipality is initiated by a petition as provided in this section.

(2) (a) (i) Before filing a petition under Subsection (1) [~~with respect to the proposed annexation of an area located in a county of the first class~~], the person or persons intending to file a petition shall:

(A) file with the city recorder or town clerk of the proposed annexing municipality a notice of intent to file a petition; and

(B) send a copy of the notice of intent to each affected entity.

(ii) Each notice of intent under Subsection (2)(a)(i) shall include an accurate map of the area that is proposed to be annexed.

(b) (i) Subject to Subsection (2)(b)(ii), the county in which the area proposed to be annexed is located shall:

(A) mail the notice described in Subsection (2)(b)(iii) to:

(I) each owner of real property located within the area proposed to be annexed; and

(II) each owner of real property located within 300 feet of the area proposed to be annexed; and

(B) send to the proposed annexing municipality a copy of the notice and a certificate indicating that the notice has been mailed as required under Subsection (2)(b)(i)(A).

(ii) The county shall mail the notice required under Subsection (2)(b)(i)(A) within 20 days after receiving from the person or persons who filed the notice of intent:

(A) a written request to mail the required notice; and

(B) payment of an amount equal to the county's expected actual cost of mailing the notice.

(iii) Each notice required under Subsection (2)(b)(i)(A) shall:

(A) be in writing;

(B) state, in bold and conspicuous terms, substantially the following:

"Attention: Your property may be affected by a proposed annexation.

Records show that you own property within an area that is intended to be included in a proposed annexation to (state the name of the proposed annexing municipality) or that is within 300 feet of that area. If your property is within the area proposed for annexation, you may be asked to sign a petition supporting the annexation. You may choose whether to sign the petition. By signing the petition, you indicate your support of the proposed annexation. If you sign the petition but later change your mind about supporting the annexation, you may withdraw your signature by submitting a signed, written withdrawal with the recorder or clerk of (state the name of the proposed annexing municipality) within 30 days after (state the name of the proposed annexing municipality) receives notice that the petition has been certified.

There will be no public election on the proposed annexation because Utah law does not provide for an annexation to be approved by voters at a public election. Signing or not signing the annexation petition is the method under Utah law for the owners of property within the area proposed for annexation to demonstrate their support of or opposition to the proposed annexation.

You may obtain more information on the proposed annexation by contacting (state the name, mailing address, telephone number, and email address of the official or employee of the proposed annexing municipality designated to respond to questions about the proposed annexation), (state the name, mailing address, telephone number, and email address of the county official or employee designated to respond to questions about the proposed annexation), or (state the name, mailing address, telephone number, and email address of the person who filed the notice of intent under Subsection (2)(a)(i)(A), or, if more than one person filed the notice of intent, one of those persons). Once filed, the annexation petition will be available for inspection and copying at the office of (state the name of the proposed annexing municipality) located at (state the address of the municipal offices of the proposed annexing municipality)."; and

(C) be accompanied by an accurate map identifying the area proposed for annexation.

(iv) A county may not mail with the notice required under Subsection (2)(b)(i)(A) any other information or materials related or unrelated to the proposed annexation.

(c) (i) After receiving the certificate from the county as provided in Subsection (2)(b)(i)(B), the proposed annexing municipality shall, upon request from the person or persons who filed the notice of intent under Subsection (2)(a)(i)(A), provide an annexation petition for the annexation proposed in the notice of intent.

(ii) An annexation petition provided by the proposed annexing municipality may be duplicated for circulation for signatures.

(3) Each petition under Subsection (1) shall:

(a) be filed with the applicable city recorder or town clerk of the proposed annexing municipality;

(b) contain the signatures of, if all the real property within the area proposed for annexation is owned by a public entity other than the federal government, the owners of all the publicly owned real property, or the owners of private real property that:

(i) is located within the area proposed for annexation;

(ii) (A) subject to Subsection (3)(b)(ii)(C), covers a majority of the private land area within the area proposed for annexation;

(B) covers 100% of rural real property [~~as that term is defined in Section 17B-2a-1107~~] within the area proposed for annexation; and

(C) covers 100% of the private land area within the area proposed for annexation, if the area is within an agriculture protection area created under Title 17, Chapter 41, Agriculture, Industrial, or Critical Infrastructure Materials Protection Areas, or a migratory bird production area created under Title 23, Chapter 28, Migratory Bird Production Area; and

(iii) is equal in value to at least 1/3 of the value of all private real property within the area proposed for annexation;

(c) be accompanied by:

(i) an accurate and recordable map, prepared by a licensed surveyor in accordance with Section 17-23-20, of the area proposed for annexation; and

(ii) a copy of the notice sent to affected entities as required under Subsection (2)(a)(i)(B) and a list of the affected entities to which notice was sent;

(d) [~~if the area proposed to be annexed is located in a county of the first class,~~] contain on each signature page a notice in bold and conspicuous terms that states substantially the following:

"Notice:

• There will be no public election on the annexation proposed by this petition because Utah law does not provide for an annexation to be approved by voters at a public election.

• If you sign this petition and later decide that you do not support the petition, you may withdraw your signature by submitting a signed, written withdrawal with the recorder or clerk of (state the name of the proposed annexing municipality). If you choose to withdraw your signature, you shall do so no later than 30 days after (state the name of the proposed annexing municipality) receives notice that the petition has been certified.";

(e) if the petition proposes [~~the annexation of an area located in a county that is not the county in which the proposed annexing municipality is located~~] a cross-county annexation, as defined in Section 10-2-402.5, be accompanied by a copy of the resolution[~~, required under Subsection 10-2-402(6), of the legislative body of the county in which the area is located~~] described in Subsection 10-2-402.5(4)(a)(iii)(A); and

(f) designate up to five of the signers of the petition as sponsors, one of whom shall be designated as the contact sponsor, and indicate the mailing address of each sponsor.

(4) A petition under Subsection (1) may not propose the annexation of all or part of an area proposed for annexation to a municipality in a previously filed petition that has not been denied, rejected, or granted.

[~~(5) (a) Except as provided in Subsection (5)(b), an annexation petition under Subsection (1) may not propose the annexation of an area that includes some or all of an area proposed to be incorporated in a request for a feasibility study under Section 10-2a-202 if:~~]

[~~(i) the request was filed before the filing of the annexation petition; and~~]

[~~(ii) the request, or a petition under Section 10-2a-208 based on that request, is still pending on the date the annexation petition is filed.~~]

[~~(b) Subsection (5)(a) does not apply to an annexation petition if:~~]

[~~(i) the annexation petition proposes the annexation of an area included in a notice of intent described in Subsection (5)(c); or~~]

[~~(ii) the annexation petition:~~]

[~~(A) is filed on or after November 15, 2020; and~~]

[~~(B) proposes the annexation of an area located in a county other than the first class.~~]

[~~(c) (i) A person intending to file a petition for annexation of an area located in a county other than a first class county may, on or before August 5, 2020, file with the city recorder or town clerk of the proposed annexing municipality a notice of intent to file a petition for annexation.~~]

[~~(ii) The notice of intent described in Subsection (5)(c)(i) shall include an accurate map of the area that is proposed to be annexed.~~]

[~~(6)~~] (5) If practicable and feasible, the boundaries of an area proposed for annexation shall be drawn:

(a) along the boundaries of existing local districts and special service districts for sewer, water, and other services, along the boundaries of school districts whose boundaries follow city boundaries or school districts adjacent to school districts whose boundaries follow city boundaries, and along the boundaries of other taxing entities;

(b) to eliminate islands and peninsulas of territory that is not receiving municipal-type services;

(c) to facilitate the consolidation of overlapping functions of local government;

(d) to promote the efficient delivery of services; and

(e) to encourage the equitable distribution of community resources and obligations.

[~~(7)~~] (6) On the date of filing, the petition sponsors shall deliver or mail a copy of the petition to the clerk of the county in which the area proposed for annexation is located.

[~~(8)~~] (7) A property owner who signs an annexation petition [~~proposing to annex an area located in a county of the first class~~] may withdraw the owner's signature by filing a written withdrawal, signed by the property owner, with the city recorder or town clerk no later than 30 days after the municipal legislative body's receipt of the notice of certification under Subsection 10-2-405(2)(c)(i).

Section 6. Section 10-2-405 is amended to read:

10-2-405. Acceptance or denial of an annexation petition -- Petition certification process -- Modified petition.

(1) (a) (i) A municipal legislative body may:

(A) subject to Subsection (1)(a)(ii), deny a petition filed under Section 10-2-403; or

(B) accept the petition for further consideration under this part.

(ii) A petition shall be considered to have been accepted for further consideration under this part if a municipal legislative body fails to act to deny or accept the petition under Subsection (1)(a)(i):

(A) in the case of a city of the first or second class, within 14 days after the filing of the petition; or

(B) in the case of a city of the third, fourth, or fifth class, a town, or a metro township, at the next regularly scheduled meeting of the municipal legislative body that is at least 14 days after the date the petition was filed.

(b) If a municipal legislative body denies a petition under Subsection (1)(a)(i), it shall, within five days after the denial, mail written notice of the denial to:

(i) the contact sponsor; and

(ii) the clerk of the county in which the area proposed for annexation is located.

(2) If the municipal legislative body accepts a petition under Subsection (1)(a)(i) or is considered to have accepted the petition under Subsection (1)(a)(ii), the city recorder or town clerk, as the case may be, shall, within 30 days after that acceptance:

(a) obtain from the assessor, clerk, surveyor, and recorder of the county in which the area proposed for annexation is located the records the city recorder or town clerk needs to determine whether the petition meets the requirements of Subsections 10-2-403(3)[~~,~~] and (4)[~~, and (5)~~];

(b) with the assistance of the municipal attorney, determine whether the petition meets the requirements of Subsections 10-2-403(3)[~~,~~] and (4)[~~, and (5)~~]; and

(c) (i) if the city recorder or town clerk determines that the petition meets those requirements, certify the petition and mail or deliver written notification of the certification to the municipal legislative body, the contact sponsor, and the county legislative body; or

(ii) if the city recorder or town clerk determines that the petition fails to meet any of those requirements, reject the petition and mail or deliver written notification of the rejection and the reasons for the rejection to the municipal legislative body, the contact sponsor, and the county legislative body.

(3) (a) (i) If the city recorder or town clerk rejects a petition under Subsection (2)(c)(ii), the petition may be modified to correct the deficiencies for which it was rejected and then refiled with the city recorder or town clerk, as the case may be.

(ii) A signature on an annexation petition filed under Section 10-2-403 may be used toward fulfilling the signature requirement of Subsection 10-2-403(2)(b) for the petition as modified under Subsection (3)(a)(i).

(b) If a petition is refiled under Subsection (3)(a) after having been rejected by the city recorder or town clerk under Subsection (2)(c)(ii), the refiled petition shall be treated as a newly filed petition under Subsection 10-2-403(1).

(4) Each county assessor, clerk, surveyor, and recorder shall provide copies of records that a city recorder or town clerk requests under Subsection (2)(a).

Section 7. Section 10-2-407 is amended to read:

10-2-407. Protest to annexation petition -- Planning advisory area planning commission recommendation -- Petition requirements -- Disposition of petition if no protest filed.

(1) A protest to an annexation petition under Section 10-2-403 may be filed by:

(a) the legislative body or governing board of an affected entity;

(b) [~~the~~] an owner of rural real property [~~as defined in Section 17B-2a-1107; or~~];

(c) for a proposed annexation of an area within a county of the first class, [~~the owners~~] an owner of private real property that:

(i) is located in the unincorporated area within 1/2 mile of the area proposed for annexation;

(ii) covers at least 25% of the private land area located in the unincorporated area within 1/2 mile of the area proposed for annexation; and

(iii) is equal in value to at least 15% of all real property located in the unincorporated area within 1/2 mile of the area proposed for annexation[~~.~~]; or

(d) an owner of private real property located in a mining protection area.

(2) Each protest under Subsection (1) shall:

(a) be filed:

(i) no later than 30 days after the municipal legislative body's receipt of the notice of certification under Subsection 10-2-405(2)(c)(i); and

(ii) (A) in a county that has already created a commission under Section 10-2-409, with the commission; or

(B) in a county that has not yet created a commission under Section 10-2-409, with the clerk of the county in which the area proposed for annexation is located;

(b) state each reason for the protest of the annexation petition and, if the area proposed to be annexed is located in a specified county, justification for the protest under the standards established in this chapter;

(c) if the area proposed to be annexed is located in a specified county, contain other information that the commission by rule requires or that the party filing the protest considers pertinent; and

(d) contain the name and address of a contact person who is to receive notices sent by the commission with respect to the protest proceedings.

(3) The party filing a protest under this section shall on the same date deliver or mail a copy of the protest to the city recorder or town clerk of the proposed annexing municipality.

(4) Each clerk who receives a protest under Subsection (2)(a)(ii)(B) shall:

(a) immediately notify the county legislative body of the protest; and

(b) deliver the protest to the boundary commission within five days after:

(i) receipt of the protest, if the boundary commission has previously been created; or

(ii) creation of the boundary commission under Subsection 10-2-409(1)(b), if the boundary commission has not previously been created.

(5) (a) If a protest is filed under this section:

(i) the municipal legislative body may, at its next regular meeting after expiration of the deadline under Subsection (2)(a)(i), deny the annexation petition; or

(ii) if the municipal legislative body does not deny the annexation petition under Subsection (5)(a)(i), the municipal legislative body may take no further action on the annexation petition until after receipt of the commission's notice of its decision on the protest under Section 10-2-416.

(b) If a municipal legislative body denies an annexation petition under Subsection (5)(a)(i), the municipal legislative body shall, within five days after the denial, send notice of the denial in writing to:

(i) the contact sponsor of the annexation petition;

(ii) the commission; and

(iii) each entity that filed a protest.

(6) If no timely protest is filed under this section, the municipal legislative body may, subject to Subsection (7), approve the petition.

(7) Before approving an annexation petition under Subsection (6), the municipal legislative body shall hold a public hearing and publish notice of the public hearing:

(a) (i) at least seven days before the day of the public hearing in a newspaper of general circulation within the municipality and the area proposed for annexation;

(ii) if there is no newspaper of general circulation in the combined area described in Subsection (7)(a)(i), at least seven days before the day of the public hearing, by posting one notice, and at least one additional notice per 2,000 population within the combined area, in places within the combined area that are most likely to give notice to the residents within, and the owners of real property located within, the combined area; or

(iii) at least 10 days before the day of the public hearing by mailing the notice to each residence within, and to each owner of real property located within, the combined area described in Subsection (7)(a)(i);

(b) on the Utah Public Notice Website created in Section 63F-1-701, for seven days before the day of the public hearing;

(c) in accordance with Section 45-1-101, for seven days before the day of the public hearing; and

(d) if the municipality has a website, on the municipality's website for seven days before the day of the public hearing.

Section 8. Section 10-2-408 is amended to read:

10-2-408. Denying or approving the annexation petition -- Notice of approval.

(1) After receipt of the commission's decision on a protest under Subsection 10-2-416(2), a municipal legislative body may:

(a) deny the annexation petition; or

(b) subject to Subsection (2), if the commission approves the annexation, approve the annexation petition consistent with the commission's decision.

(2) A municipal legislative body shall exclude:

(a) rural real property, [~~as that term is defined in Section 17B-2a-1107,~~] unless the owner of the rural real property gives written consent to include the rural real property[~~.~~]; and

(b) private real property located in a mining protection area, unless the owner of the private real property gives written consent to include the private real property.

Section 9. Section 10-2-414 is amended to read:

10-2-414. Modified annexation petition -- Supplemental feasibility study.

(1) (a) (i) If the results of the feasibility study with respect to a proposed annexation of an area located in a county of the first class do not meet the requirements of Subsection 10-2-416(3), the sponsors of the annexation petition may, within 45 days of the feasibility consultant's submission of the results of the study, file with the city recorder or town clerk of the proposed annexing municipality a modified annexation petition altering the boundaries of the proposed annexation.

(ii) On the date of filing a modified annexation petition under Subsection (1)(a)(i), the sponsors of the annexation petition shall deliver or mail a copy of the modified annexation petition to the clerk of the county in which the area proposed for annexation is located.

(b) Each modified annexation petition under Subsection (1)(a) shall comply with the requirements of Subsections 10-2-403(3)[~~,~~] and (4)[~~, and (5)~~].

(2) (a) Within 20 days of the city recorder or town clerk's receipt of the modified annexation petition, the city recorder or town clerk, as the case may be, shall follow the same procedure for the modified annexation petition as provided under Subsections 10-2-405(2) and (3)(a) for an original annexation petition.

(b) If the city recorder or town clerk certifies the modified annexation petition under Subsection 10-2-405(2)(c)(i), the city recorder or town clerk, as the case may be, shall send written notice of the certification to:

(i) the commission;

(ii) each entity that filed a protest to the annexation petition; and

(iii) if a protest was filed under Subsection 10-2-407(1)(c), the contact person.

(c) (i) If the modified annexation petition proposes the annexation of an area that includes part or all of a local district, special service district, or school district that was not included in the area proposed for annexation in the original petition, the city recorder or town clerk, as the case may be, shall also send notice of the certification of the modified annexation petition to the board of the local district, special service district, or school district.

(ii) If the area proposed for annexation in the modified annexation petition is within 1/2 mile of the boundaries of a municipality whose boundaries were not within 1/2 mile of the area proposed for annexation in the original annexation petition, the city recorder or town clerk, as the case may be, shall also send notice of the certification of the modified annexation petition to the legislative body of that municipality.

(3) Within 10 days of the commission's receipt of the notice under Subsection (2)(b), the commission shall engage the feasibility consultant that conducted the feasibility study to supplement the feasibility study to take into account the information in the modified annexation petition that was not included in the original annexation petition.

(4) The commission shall require the feasibility consultant to complete the supplemental feasibility study and to submit written results of the supplemental study to the commission no later than 30 days after the feasibility consultant is engaged to conduct the supplemental feasibility study.

Section 10. Section 10-2a-201.5 is amended to read:

10-2a-201.5. Qualifications for incorporation.

(1) (a) An area may incorporate as a town in accordance with this part if the area:

(i) subject to Subsection (1)(c), is contiguous;

(ii) has a population of at least 100 people, but fewer than 1,000 people; and

(iii) is not already part of a municipality.

(b) An area may incorporate as a city in accordance with this part if the area:

(i) subject to Subsection (1)(c), is contiguous;

(ii) has a population of 1,000 people or more; and

(iii) is not already part of a municipality.

(c) An area is not contiguous for purposes of Subsection (1)(a)(i) or (b)(i) if:

(i) the area includes a strip of land that connects geographically separate areas; and

(ii) the distance between the geographically separate areas is greater than the average width of the strip of land connecting the geographically separate areas.

(2) (a) An area may not incorporate under this part if:

(i) the area has a population of fewer than 100 people; or

(ii) except as provided in Subsection (2)(b), the area has an average population density of fewer than seven people per square mile.

(b) Subject to Subsection (1)(c), an area that does not comply with Subsection (2)(a)(ii) may incorporate under this part if the noncompliance is necessary to connect separate areas that share a demonstrable community interest.

(3) Subject to Subsection (1)(c), an area incorporating under this part may not include land owned by the United States federal government unless:

(a) incorporating the land is necessary to connect separate areas that share a demonstrable community interest; or

(b) excluding the land from the incorporating area would create an unincorporated island within the proposed municipality.

(4) (a) Except as provided in Subsection (4)(b), an area incorporating under this part may not include some or all of an area proposed for annexation in an annexation petition under Section 10-2-403 that:

(i) was filed before the filing of the request for a feasibility study, described in Section 10-2a-202, relating to the incorporating area; and

(ii) is still pending on the date the request for the feasibility study described in Subsection (4)(a)(i) is filed.

(b) A request for a feasibility study may propose for incorporation an area that includes some or all of an area proposed for annexation in an annexation petition described in Subsection (4)(a) if:

(i) the proposed annexation area that is part of the area proposed for incorporation does not exceed 20% of the area proposed for incorporation;

(ii) the request complies with Subsections 10-2a-202(1) and (2) with respect to excluding the proposed annexation area from the area proposed for incorporation; and

(iii) excluding the area proposed for annexation from the area proposed for incorporation would not cause the area proposed for incorporation to not be contiguous under Subsection (1)(c).

(c) Except as provided in Section 10-2a-206, the lieutenant governor shall consider each request to which Subsection (4)(b) applies as not proposing the incorporation of an area proposed for annexation.

(5) (a) An area incorporating under this part may not include part of a parcel of real property and exclude part of that same parcel unless the owner of the parcel gives written consent to exclude part of the parcel.

(b) A piece of real property that has more than one parcel number is considered to be a single parcel for purposes of Subsection (5)(a) if owned by the same owner.

Section 11. Section 10-2a-203 is amended to read:

10-2a-203. Notice to owner of property -- Exclusion of property from proposed municipality.

(1) As used in this section:

(a) "Assessed value" with respect to property means the value at which the property would be assessed without regard to a valuation for agricultural use under Section 59-2-503.

(b) "Owner" means a person having an interest in real property, including an affiliate, subsidiary, or parent company.

[~~(2) Within seven calendar days after the day on which an individual files a request under Section 10-2a-202, the lieutenant governor shall send written notice of the proposed incorporation to each record owner of real property owning more than:~~]

[~~(a) 1% of the assessed value of all property in the proposed incorporation boundaries; or~~]

[~~(b) 10% of the total private land area within the proposed incorporation boundaries.~~]

[~~(3) If an owner owns, controls, or manages more than 1% of the assessed value of all property in the proposed incorporation boundaries, or owns, controls, or manages 10% or more of the total private land area in the proposed incorporation boundaries, the owner may request that the lieutenant governor exclude all or part of the property owned, controlled, or managed by the owner from the proposed boundaries by filing a notice of exclusion with the Office of the Lieutenant Governor:~~]

[~~(a) that describes the property for which the owner requests exclusion; and~~]

[~~(b) within 15 calendar days after the day on which the owner receives the notice described in Subsection (2).~~]

(c) "Specified landowner" means a record owner of real property:

(i) who owns more than:

(A) 1% of the assessed value of all property within the boundaries of a proposed incorporation; or

(B) 10% of the total private land area within the boundaries of a proposed incorporation; or

(ii) located in a mining protection area as defined in Section 17-41-101.

(2) Within seven calendar days after the day on which an individual files a request for a feasibility study under Section 10-2a-202, the lieutenant governor shall mail written notice of the proposed incorporation to each residence within, and each owner of real property located within:

(a) the proposed incorporation boundaries; and

(b) 300 feet of the proposed incorporation boundaries.

(3) A specified landowner may, within 30 calendar days after the day on which the specified landowner receives notice under Subsection (2), request that the lieutenant governor exclude all or part of the property owned by the specified landowner from the proposed incorporation by filing a notice of exclusion with the Office of the Lieutenant Governor that describes the property for which the specified landowner requests exclusion.

(4) The lieutenant governor shall exclude the property identified by [~~an owner~~] a specified landowner under Subsection (3) from the proposed incorporation boundaries unless the lieutenant governor finds by clear and convincing evidence that:

(a) the exclusion will leave an unincorporated island within the proposed municipality; and

(b) the property receives from the county a majority of currently provided municipal services.

(5) (a) Within five days after the day on which the lieutenant governor makes a determination on whether to include or exclude a property under Subsection (4), the lieutenant governor shall mail or transmit [~~to the owner that requested the property's exclusion and to the contact sponsor~~] written notice of whether the property is included or excluded from the proposed incorporation boundaries[~~.~~] to:

(i) the specified landowner that requested the property's exclusion; and

(ii) the contact sponsor.

(b) If the lieutenant governor makes a determination to include a property under Subsection (4), the lieutenant governor shall include, in the written notice described in Subsection (5)(a), a detailed explanation of the lieutenant governor's determination.

Section 12. Section 10-2a-206 is amended to read:

10-2a-206. Modified request for feasibility study -- Supplemental feasibility study.

(1) (a) The sponsors of a feasibility study request may modify the request to alter the boundaries of the proposed municipality and refile the modified request with the lieutenant governor if:

(i) the results of the feasibility study do not comply with Subsection 10-2a-205(6)(a); [~~or~~]

(ii) (A) the request complies with Subsection 10-2a-201.5(4)(b);

(B) the annexation petition that proposed the annexation of an area that is part of the area proposed for incorporation has been denied; and

(C) an incorporation petition based on the request has not been filed[~~.~~];

(iii) (A) the lieutenant governor completes the first public hearing described in Subsection 10-2a-207(4); and

(B) property is excluded from the proposed municipality in accordance with Subsection 10-2a-207(5)(b); or

(iv) before the time period for a specified landowner, as defined in Section 10-2a-203, to request that the lieutenant governor exclude the specified landowner's property from the proposed incorporation under Subsection 10-2a-207(5)(a) has expired, a municipal legislative body:

(A) approves an annexation petition proposing the annexation of an area that is part of the area proposed for incorporation under Section 10-2-407 or 10-2-408; or

(B) adopts an ordinance approving the annexation of an area that is part of the area proposed for incorporation under Section 10-2-418.

(b) (i) The sponsors of a feasibility study request may not file a modified request under Subsection (1)(a)(i) more than 90 days after the day on which the feasibility consultant submits the final results of the feasibility study under Subsection 10-2a-205(3)(c).

(ii) The sponsors of a request may not file a modified request under Subsection (1)(a)(ii) more than 18 months after filing the original request under Section 10-2a-202.

(iii) The sponsors of a request may not file a modified request under Subsection (1)(a)(iii) more than 90 days after the day on which the lieutenant governor mails or transmits written notice under Subsection 10-2a-207(4)(c).

(iv) The sponsors of a request may not file a modified request under Subsection (1)(a)(iv) more than 90 days after the day on which the municipal legislative body:

(A) approves the annexation petition under Section 10-2-407 or 10-2-408; or

(B) adopts the ordinance approving the annexation under Section 10-2-418.

(c) (i) Subject to Subsection (1)(c)(ii), each modified request under Subsection (1)(a) shall comply with Subsections 10-2a-202(1) and (2) and Subsection 10-2a-201.5(4).

(ii) Notwithstanding Subsection (1)(c)(i), a signature on a request filed under Section 10-2a-202 may be used toward fulfilling the signature requirement of Subsection 10-2a-202(1)(a) for the request as modified under Subsection (1)(a), unless the modified request proposes the incorporation of an area that is more than 20% larger or smaller than the area described by the original request in terms of:

(A) private land area; or

(B) value of private real property.

(2) Within 20 days after the lieutenant governor's receipt of the modified request, the lieutenant governor shall follow the same procedure under Subsection 10-2a-204(1) for the modified request as for an original request.

(3) The timely filing of a modified request under Subsection (1) gives the modified request the same processing priority under Subsection 10-2a-204(3) as the original request.

(4) Within 10 days after the day on which the lieutenant governor receives a modified request under Subsection (1)(a) that relates to a request for which a feasibility study has already been completed, the lieutenant governor shall commission the feasibility consultant who conducted the feasibility study to conduct a supplemental feasibility study that accounts for the modified request.

(5) The lieutenant governor shall require the feasibility consultant to:

(a) submit a draft of the supplemental feasibility study to each applicable person with whom the feasibility consultant is required to consult under Subsection 10-2a-205(4)(c) within 30 days after the

day on which the feasibility consultant is engaged to conduct the supplemental study;

(b) allow each person to whom the consultant provided a draft under Subsection (5)(a) to review and provide comment on the draft; and

(c) submit a completed supplemental feasibility study, to the following within 45 days after the day on which the feasibility consultant is engaged to conduct the study:

(i) the lieutenant governor;

(ii) the county legislative body of the county in which the incorporation is proposed;

(iii) the contact sponsor; and

(iv) each person to whom the consultant provided a draft under Subsection (5)(a).

(6) (a) Subject to Subsection (6)(b), if the results of the supplemental feasibility study do not comply with Subsection 10-2a-205(6)(a), the sponsors may further modify the request in accordance with Subsection (1).

(b) Subsections (2), (4), and (5) apply to a modified request described in Subsection (6)(a).

(c) The lieutenant governor shall consider a modified request described in Subsection (6)(a) as an original request for a feasibility study for purposes of determining the modified request's processing priority under Subsection 10-2a-204(3).

Section 13. Section 10-2a-207 is amended to read:

10-2a-207. Public hearings on feasibility study results -- Exclusions of property from proposed municipality -- Notice of hearings.

(1) As used in this section, "specified landowner" means the same as that term is defined in Section 10-2a-203.

[~~(1)~~] (2) If the results of the feasibility study or supplemental feasibility study comply with Subsection 10-2a-205(6)(a), the lieutenant governor shall, after receipt of the results of the feasibility study or supplemental feasibility study, conduct [~~at least~~] two public hearings[~~:~~] in accordance with this section.

(3) (a) If an area proposed for incorporation is approved for annexation after the feasibility study or supplemental feasibility study is conducted but before the lieutenant governor conducts the first public hearing under Subsection (4), the lieutenant governor may not conduct the first public hearing under Subsection (4) unless:

(i) the sponsors of the feasibility study file a modified request for a feasibility study in accordance with Section 10-2a-206; and

(ii) the results of the supplemental feasibility study comply with Subsection 10-2a-205(6)(a).

(b) For purposes of Subsection (3)(a), an area is approved for annexation if a condition described in Subsection 10-2a-206(1)(a)(iv) occurs.

(4) The lieutenant governor shall conduct the first public hearing:

(a) within 60 days after the day on which the lieutenant governor receives the results under Subsection (2) or (3)(a)(ii);

[~~(b) at least seven days apart;~~]

[~~(c) except in a proposed municipality that will be a city of the fifth class or a town, in geographically diverse locations;~~]

[~~(d)~~] (b) within or near the proposed municipality;

[~~(e)~~] (c) to allow the feasibility consultant to present the results of the feasibility study; and

[~~(f)~~] (d) to inform the public about the results of the feasibility study.

(5) (a) Within 30 calendar days after the day on which the lieutenant governor completes the first public hearing under Subsection (4), a specified landowner may request that the lieutenant governor exclude all or part of the property owned by the specified landowner from the proposed incorporation by filing a notice of exclusion with the Office of the Lieutenant Governor that describes the property for which the specified landowner requests exclusion.

(b) The lieutenant governor shall exclude the property identified by a specified landowner under Subsection (5)(a) from the proposed incorporation boundaries unless the lieutenant governor finds by clear and convincing evidence that:

(i) the exclusion will leave an unincorporated island within the proposed municipality; and

(ii) the property receives from the county a majority of currently provided municipal services.

(c) (i) Within five days after the day on which the lieutenant governor determines whether to exclude property under Subsection (5)(b), the lieutenant governor shall mail or transmit written notice of whether the property is included or excluded from the proposed municipality to:

(A) the specified landowner that requested the property's exclusion; and

(B) the contact sponsor.

(ii) If the lieutenant governor makes a determination to include a property under Subsection (5)(b), the lieutenant governor shall include, in the written notice described in Subsection (5)(c)(i), a detailed explanation of the lieutenant governor's determination.

(d) (i) If the lieutenant governor excludes property from the proposed municipality under Subsection (5)(b), or if an area proposed for incorporation is approved for annexation within the time period for a specified landowner to request an exclusion under Subsection (5)(a), the lieutenant governor may not conduct the second public hearing under Subsection (6), unless:

(A) the sponsors of the feasibility study file a modified request for a feasibility study in accordance with Section 10-2a-206; and

(B) the results of the supplemental feasibility study comply with Subsection 10-2a-205(6)(a).

(ii) For purposes of Subsection (5)(d)(i), an area is approved for annexation if a condition described in Subsection 10-2a-206(1)(a)(iv) occurs.

(6) The lieutenant governor shall conduct the second public hearing:

(a) (i) within 30 days after the day on which the time period described in Subsection (5)(a) expires, if Subsection (5)(d) does not apply; or

(ii) within 30 days after the day on which the lieutenant governor receives the results of the supplemental feasibility study described in Subsection (5)(d)(i)(B), if Subsection (5)(d) applies;

(b) within or near the proposed municipality; and

(c) to allow the feasibility consultant to present the results of and inform the public about:

(i) the feasibility study presented to the public in the first public hearing under Subsection (4), if Subsection (5)(d) does not apply; or

(ii) the supplemental feasibility study described in Subsection (5)(d)(i)(B), if Subsection (5)(d) applies.

[~~(2)~~] (7) At each public hearing [~~described in Subsection (1)~~] required under this section, the lieutenant governor shall:

(a) provide a map or plat of the boundary of the proposed municipality;

(b) provide a copy of the applicable feasibility study for public review;

(c) allow members of the public to express views about the proposed incorporation, including views about the proposed boundaries; and

(d) allow the public to ask the feasibility consultant questions about the applicable feasibility study.

[~~(3)~~] (8) The lieutenant governor shall publish notice of [~~the public hearings described in Subsection (1)~~] each public hearing required under this section:

(a) (i) at least once a week for three consecutive weeks before the [~~first~~] public hearing in a newspaper of general circulation within the proposed municipality;

(ii) if there is no newspaper of general circulation in the proposed municipality, at least three weeks before the day of the [~~first~~] public hearing, by posting one notice, and at least one additional notice per 2,000 population of the proposed municipality, in places within the proposed municipality that are most likely to give notice to the residents within, and the owners of real property located within, the proposed municipality; or

(iii) at least three weeks before the [~~first~~] public hearing, by mailing notice to each residence within, and each owner of real property located within, the proposed municipality;

(b) on the Utah Public Notice Website created in Section 63F-1-701, for three weeks before the day of the [~~first~~] public hearing;

(c) in accordance with Section 45-1-101, for three weeks before the day of the [~~first~~] public hearing; and

(d) on the lieutenant governor's website for three weeks before the day of the [~~first~~] public hearing.

[~~(4)~~] (9) The last notice required to be published under Subsection [~~(3)~~] (8)(a)(i) shall be at least three days before the [~~first~~] public hearing [~~required under Subsection (1)~~].

[~~(5)~~] (10) (a) Except as provided in Subsection [~~(5)~~] (10)(b), the notice described in Subsection [~~(3)~~] (8) shall:

(i) include the feasibility study summary described in Subsection 10-2a-205(3)(c) [~~and shall~~];

(ii) indicate that a full copy of the study is available on the lieutenant governor's website and for inspection at the Office of the Lieutenant Governor[~~.~~]; and

(iii) indicate that under no circumstances may property be excluded or annexed from the proposed incorporation after the time period specified in Subsection (5)(a) has expired, if the notice is for the first public hearing under Subsection (4).

(b) Instead of publishing the [~~feasability~~] feasibility summary under Subsection [~~(5)~~] (10)(a)(i), the lieutenant governor may publish a statement that specifies the following sources where a resident within, or the owner of real property located within, the proposed municipality, may view or obtain a copy of the [~~feasability~~] feasibility study:

(i) the lieutenant governor's website;

(ii) the physical address of the Office of the Lieutenant Governor; and

(iii) a mailing address and telephone number.

Section 14. Section 10-2a-210 is amended to read:

10-2a-210. Incorporation election -- Notice of election -- Voter information pamphlet.

(1) (a) If the lieutenant governor certifies a petition under Subsection 10-2a-209(1)(b), the lieutenant governor shall schedule an incorporation election for the proposed municipality described in the petition to be held on the date of the next regular general election described in Section 20A-1-201, or the next municipal general election described in Section 20A-1-202, that is at least 65 days after the day on which the lieutenant governor certifies the petition.

(b) (i) The lieutenant governor shall direct the county legislative body of the county in which the

proposed municipality is located to hold the election on the date that the lieutenant governor schedules under Subsection (1)(a).

(ii) The county shall hold the election as directed by the lieutenant governor under Subsection (1)(b)(i).

(2) The county clerk shall publish notice of the election:

(a) (i) in a newspaper of general circulation within the area proposed to be incorporated at least once a week for three successive weeks before the election;

(ii) if there is no newspaper of general circulation in the area proposed to be incorporated, at least three weeks before the day of the election, by posting one notice, and at least one additional notice per 2,000 population of the area proposed to be incorporated, in places within the area proposed to be incorporated that are most likely to give notice to the voters within the area proposed to be incorporated; or

(iii) at least three weeks before the day of the election, by mailing notice to each registered voter in the area proposed to be incorporated;

(b) on the Utah Public Notice Website created in Section 63F-1-701, for three weeks before the day of the election;

(c) in accordance with Section 45-1-101, for three weeks before the day of the election;

(d) if the proposed municipality has a website, on the proposed municipality's website for three weeks before the day of the election; and

(e) on the county's website for three weeks before the day of the election.

(3) (a) The notice required by Subsection (2) shall contain:

(i) a statement of the contents of the petition;

(ii) a description of the area proposed to be incorporated as a municipality;

(iii) a statement of the date and time of the election and the location of polling places; and

(iv) except as provided in Subsection (3)(c), the feasibility study summary described in Subsection 10-2a-205(3)(c) and a statement that a full copy of the study is available on the lieutenant governor's website and for inspection at the Office of the Lieutenant Governor.

(b) The last notice required to be published under Subsection (2)(a)(i) shall be published at least one day, but no more than seven days, before the day of the election.

(c) Instead of publishing the feasibility summary under Subsection (3)(a)(iv), the notice may include a statement that specifies the following sources where a registered voter in area proposed to be incorporated may view or obtain a copy the feasibility study:

(i) the lieutenant governor's website;

(ii) the physical address of the Office of the Lieutenant Governor; and

(iii) a mailing address and telephone number.

(4) (a) In addition to the notice required under Subsection (2), the county clerk shall publish and distribute, before the incorporation election is held, a voter information pamphlet:

(i) in accordance with the procedures and requirements of Section 20A- 7-402;

(ii) in consultation with the lieutenant governor; and

(iii) in a manner that the county clerk determines is adequate, subject to Subsections (4)(a)(i) and (ii).

(b) The voter information pamphlet described in Subsection (4)(a):

(i) shall inform the public of the proposed incorporation; and

(ii) may include written statements, printed in the same font style and point size, from proponents and opponents of the proposed incorporation.

[~~(4)~~] (5) An individual may not vote in an incorporation election under this section unless the individual is a registered voter who resides, as defined in Section 20A-1-102, within the boundaries of the proposed municipality.

[~~(5)~~] (6) If a majority of those who vote in an incorporation election held under this section cast votes in favor of incorporation, the area shall incorporate.

Section 15. Effective date.

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

CHAPTER 113
H. B. 116
Passed February 18, 2021
Approved March 16, 2021
Effective May 5, 2021

STUDENT ATTENDANCE AMENDMENTS

Chief Sponsor: Adam Robertson
Senate Sponsor: Lincoln Fillmore
Cosponsors: Kera Birkeland
Dan N. Johnson
Karianne Lisonbee
Jefferson Moss
Susan Pulsipher
Mark A. Strong
Jordan D. Teuscher
Elizabeth Weight

LONG TITLE

General Description:

This bill addresses school absences for mental or physical illness.

Highlighted Provisions:

This bill:

- defines terms;
- prohibits requiring documentation from a medical professional for an absence due to mental or physical illness; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53G-6-201, as last amended by Laws of Utah 2020, Chapter 20
53G-6-205, as last amended by Laws of Utah 2020, Chapter 20

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

Section 1. Section 53G-6-201 is amended to read:

53G-6-201. Definitions.

As used in this part:

(1) (a) "Absence" or "absent" means the failure of a school-age child assigned to a class or class period to attend a class or class period.

(b) "Absence" or "absent" does not mean multiple tardies used to calculate an absence for the sake of a truancy.

(2) "Minor" means a person under the age of 18 years.

(3) "Parent" includes:

(a) a custodial parent of the minor;

(b) a legally appointed guardian of a minor; or

(c) any other person purporting to exercise any authority over the minor which could be exercised by a person described in Subsection (3)(a) or (b).

(4) "School day" means the portion of a day that school is in session in which a school-age child is required to be in school for purposes of receiving instruction.

(5) "School year" means the period of time designated by a local school board or charter school governing board as the school year for the school where the school-age child:

(a) is enrolled; or

(b) should be enrolled, if the school-age child is not enrolled in school.

(6) "School-age child" means a minor who:

(a) is at least six years old but younger than 18 years old; and

(b) is not emancipated.

(7) (a) "Truant" means a condition in which a school-age child, without a valid excuse, and subject to Subsection (7)(b), is absent for at least:

(i) half of the school day; or

(ii) if the school-age child is enrolled in a learner verified program, as that term is defined by the state board, the relevant amount of time under the LEA's policy regarding the LEA's continuing enrollment measure as it relates to truancy.

(b) A school-age child may not be considered truant under this part more than one time during one day.

(8) "Truant minor" means a school-age child who:

(a) is subject to the requirements of Section 53G-6-202 or 53G-6-203; and

(b) is truant.

(9) (a) "Valid excuse" means:

(i) an illness, which may be either mental or physical, regardless of whether the school-age child or parent provides documentation from a medical professional;

(ii) a family death;

(iii) an approved school activity;

(iv) an absence permitted by a school-age child's:

(A) individualized education program; or

(B) Section 504 accommodation plan;

(v) an absence permitted in accordance with Subsection 53G-6-803(5); or

(vi) any other excuse established as valid by a local school board, charter school governing board, or school district.

(b) "Valid excuse" does not mean a parent acknowledgment of an absence for a reason other than a reason described in Subsections (9)(a)(i) through (vi), unless specifically permitted by the local school board, charter school governing board, or school district under Subsection (9)(a)(vi).

Section 2. Section 53G-6-205 is amended to read:

53G-6-205. Approval absences.

(1) In determining whether to preapprove an extended absence of a school-age child as a valid excuse, a local school board, charter school governing board, or school district shall approve the absence if the local school board, charter school governing board, or school district determines that the extended absence will not adversely impact the school-age child's education.

(2) A local school board, charter school governing board, or school district may not require documentation from a medical professional to substantiate a valid excuse that is a mental or physical illness.

CHAPTER 114
H. B. 124
Passed March 5, 2021
Approved March 16, 2021
Effective May 5, 2021

CIVICS EDUCATION AMENDMENTS

Chief Sponsor: Dan N. Johnson
Senate Sponsor: Chris H. Wilson

LONG TITLE

General Description:

This bill makes technical changes to provisions related to civics education graduation requirements.

Highlighted Provisions:

This bill:

- makes a technical change to the definition of basic civics test to reflect changes to the test form used by the United States Citizenship and Immigration Services.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53E-4-205, as last amended by Laws of Utah 2020, Chapter 408

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

Section 1. Section 53E-4-205 is amended to read:

53E-4-205. American civics education initiative.

(1) As used in this section:

(a) "Adult education program" means an organized educational program below the postsecondary level, other than a regular full-time K-12 secondary education program, provided by an LEA or nonprofit organization that provides the opportunity for an adult to further the adult's high school level education.

(b) "Basic civics test" means a test that includes 50 of the [~~100~~] questions on the civics test form used by the United States Citizenship and Immigration Services:

(i) to determine that an individual applying for United States citizenship meets the basic citizenship skills specified in 8 U.S.C. Sec. 1423; and

(ii) in accordance with 8 C.F.R. Sec. 312.2.

(2) (a) Except as provided in Subsection (2)(b), the state board shall require:

(i) a public school student who graduates on or after January 1, 2016, to pass a basic civics test as a condition for receiving a high school diploma; and

(ii) a student enrolled in an adult education program to pass a basic civics test as a condition for receiving an adult education secondary diploma.

(b) The state board may require a public school student to pass an alternate assessment instead of a basic civics test if the student qualifies for an alternate assessment, as defined in state board rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(3) An individual who correctly answers a minimum of 35 out of the 50 questions on a basic civics test passes the test and an individual who correctly answers fewer than 35 out of 50 questions on a basic civics test does not pass the test.

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

(a) require an LEA that serves secondary students to administer a basic civics test or alternate assessment to a public school student enrolled in the LEA;

(b) require an adult education program provider to administer a basic civics test to an individual who intends to receive an adult education secondary diploma;

(c) allow an individual to take a basic civics test as many times as needed in order to pass the test; and

(d) for the alternate assessment described in Subsection (2)(b), describe:

(i) the content of an alternate assessment;

(ii) how a public school student qualifies for an alternate assessment; and

(iii) how an LEA determines if a student passes an alternate assessment.

CHAPTER 115
H. B. 126
Passed March 4, 2021
Approved March 16, 2021
Effective May 5, 2021

LICENSING AMENDMENTS

Chief Sponsor: Brady Brammer
Senate Sponsor: Curtis S. Bramble

LONG TITLE

General Description:

This bill modifies provisions of the Cosmetology and Associated Professions Licensing Act (the act).

Highlighted Provisions:

This bill:

- modifies the definition of "hair braiding" in the act to include the use of wefts if applied without the use of glue or tape; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

58-11a-102, as last amended by Laws of Utah 2020, Chapter 339

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

Section 1. Section 58-11a-102 is amended to read:

58-11a-102. Definitions.

As used in this chapter:

(1) "Approved barber or cosmetologist/barber apprenticeship" means an apprenticeship that meets the requirements of Subsection 58-11a-306(1) for barbers or Subsection 58-11a-306(2) for cosmetologist/barbers and the requirements established by rule by the division in collaboration with the board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(2) "Approved esthetician apprenticeship" means an apprenticeship that meets the requirements of Subsection 58-11a-306(4) and the requirements established by rule by the division in collaboration with the board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(3) "Approved hair designer apprenticeship" means an apprenticeship that meets the requirements of Subsection 58-11a-306(3) and the requirements established by rule by the division in collaboration with the board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(4) "Approved master esthetician apprenticeship" means an apprenticeship that meets the requirements of Subsection 58-11a-306(5) and the requirements established by rule by the division in collaboration with the board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(5) "Approved nail technician apprenticeship" means an apprenticeship that meets the requirements of Subsection 58-11a-306(6) and the requirements established by rule by the division in collaboration with the board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(6) "Barber" means a person who is licensed under this chapter to engage in the practice of barbering.

(7) "Barber instructor" means a barber who is licensed under this chapter to engage in the practice of barbering instruction.

(8) "Board" means the Cosmetology and Associated Professions Licensing Board created in Section 58-11a-201.

(9) "Cosmetic laser procedure" includes a nonablative procedure as defined in Section 58-67-102.

(10) "Cosmetic supervisor" means a supervisor as defined in Section 58-1-505.

(11) "Cosmetologist/barber" means a person who is licensed under this chapter to engage in the practice of cosmetology/barbering.

(12) "Cosmetologist/barber instructor" means a cosmetologist/barber who is licensed under this chapter to engage in the practice of cosmetology/barbering instruction.

(13) "Direct supervision" means that the supervisor of an apprentice or the instructor of a student is immediately available for consultation, advice, instruction, and evaluation.

(14) "Electrologist" means a person who is licensed under this chapter to engage in the practice of electrology.

(15) "Electrologist instructor" means an electrologist who is licensed under this chapter to engage in the practice of electrology instruction.

(16) "Esthetician" means a person who is licensed under this chapter to engage in the practice of esthetics.

(17) "Esthetician instructor" means a master esthetician who is licensed under this chapter to engage in the practice of esthetics instruction.

(18) "Fund" means the Cosmetology and Associated Professions Education and Enforcement Fund created in Section 58-11a-103.

(19) (a) "Hair braiding" means the twisting, weaving, or interweaving of a person's natural human hair.

(b) "Hair braiding" includes the following methods or styles:

(i) African-style braiding;

(ii) box braids;

(iii) cornrows;

(iv) dreadlocks;

(v) french braids;

(vi) invisible braids;

(vii) micro braids;

(viii) single braids;

(ix) single plaits;

(x) twists;

(xi) visible braids;

(xii) the use of lock braids; [~~and~~]

(xiii) the use of decorative beads, accessories, and [~~nonhair~~] extensions[~~.~~]; and

(xiv) the use of wefts if applied without the use of glue or tape.

(c) "Hair braiding" does not include:

(i) the use of:

(A) wefts if applied with the use of glue or tape;

(B) synthetic tape;

(C) synthetic glue;

(D) keratin bonds;

(E) fusion bonds; or

(F) heat tools;

(ii) the cutting of human hair; or

(iii) the application of heat, dye, a reactive chemical, or other preparation to:

(A) alter the color of the hair; or

(B) straighten, curl, or alter the structure of the hair.

(20) "Hair designer" means a person who is licensed under this chapter to engage in the practice of hair design.

(21) "Hair designer instructor" means a hair designer who is licensed under this chapter to engage in the practice of hair design instruction.

(22) "Licensed barber or cosmetology/barber school" means a barber or cosmetology/barber school licensed under this chapter.

(23) "Licensed electrology school" means an electrology school licensed under this chapter.

(24) "Licensed esthetics school" means an esthetics school licensed under this chapter.

(25) "Licensed hair design school" means a hair design school licensed under this chapter.

(26) "Licensed nail technology school" means a nail technology school licensed under this chapter.

(27) "Master esthetician" means an individual who is licensed under this chapter to engage in the practice of master-level esthetics.

(28) "Nail technician" means an individual who is licensed under this chapter to engage in the practice of nail technology.

(29) "Nail technician instructor" means a nail technician licensed under this chapter to engage in the practice of nail technology instruction.

(30) "Practice of barbering" means:

(a) cutting, clipping, or trimming the hair of the head of any person by the use of scissors, shears, clippers, or other appliances;

(b) draping, shampooing, scalp treatments, basic wet styling, and blow drying;

(c) removing hair from the face or neck of a person by the use of shaving equipment; and

(d) when providing other services described in this Subsection (30), gently massaging the head, back of the neck, and shoulders by manual or mechanical means.

(31) "Practice of barbering instruction" means teaching the practice of barbering at a licensed barber school, at a licensed cosmetology/barber school, or for an approved barber apprenticeship.

(32) "Practice of basic esthetics" means any one of the following skin care procedures done on the body for cosmetic purposes and not for the treatment of medical, physical, or mental ailments:

(a) cleansing, stimulating, manipulating, exercising, applying oils, antiseptics, clays, or masks, manual extraction, including a comedone extractor, depilatories, waxes, tweezing, the application of eyelash or eyebrow extensions, natural nail manicures or pedicures, or callous removal by buffing or filing;

(b) limited chemical exfoliation as defined by rule;

(c) removing superfluous hair by means other than electrolysis, except that an individual is not required to be licensed as an esthetician to engage in the practice of threading;

(d) other esthetic preparations or procedures with the use of the hands, a high-frequency or galvanic electrical apparatus, or a heat lamp for cosmetic purposes and not for the treatment of medical, physical, or mental ailments;

(e) arching eyebrows, tinting eyebrows or eyelashes, perming eyelashes, or applying eyelash or eyebrow extensions; or

(f) except as provided in Subsection (32)(f)(i), cosmetic laser procedures under the direct cosmetic medical procedure supervision of a cosmetic supervisor limited to the following:

(i) superfluous hair removal which shall be under indirect supervision;

(ii) anti-aging resurfacing enhancements;

(iii) photo rejuvenation; or

(iv) tattoo removal.

(33) (a) "Practice of cosmetology/barbering" means:

(i) styling, arranging, dressing, curling, waving, permanent waving, cleansing, singeing, bleaching, dyeing, tinting, coloring, or similarly treating the hair of the head of a person;

(ii) cutting, clipping, or trimming the hair by the use of scissors, shears, clippers, or other appliances;

(iii) arching eyebrows, tinting eyebrows or eyelashes, perming eyelashes, applying eyelash or eyebrow extensions;

(iv) removing hair from the body of a person by the use of depilatories, waxing, or shaving equipment;

(v) cutting, curling, styling, fitting, measuring, or forming caps for wigs or hairpieces or both on the human head; or

(vi) practicing hair weaving or hair fusing or servicing previously medically implanted hair.

(b) The term "practice of cosmetology/barbering" includes:

(i) the practice of barbering;

(ii) the practice of basic esthetics; and

(iii) the practice of nail technology.

(c) An individual is not required to be licensed as a cosmetologist/barber to engage in the practice of threading.

(34) "Practice of cosmetology/barbering instruction" means teaching the practice of cosmetology/barbering:

(a) at a licensed cosmetology/barber school, a licensed barber school, or a licensed nail technology school; or

(b) for an approved cosmetologist/barber apprenticeship.

(35) "Practice of electrology" means:

(a) the removal of superfluous hair from the body of a person by the use of electricity, waxing, shaving, or tweezing; or

(b) cosmetic laser procedures under the supervision of a cosmetic supervisor limited to superfluous hair removal.

(36) "Practice of electrology instruction" means teaching the practice of electrology at a licensed electrology school.

(37) "Practice of esthetics instruction" means teaching the practice of basic esthetics or the practice of master-level esthetics:

(a) at a licensed esthetics school or a licensed cosmetology/barber school; or

(b) for an approved esthetician apprenticeship or an approved master esthetician apprenticeship.

(38) "Practice of hair design" means:

(a) styling, arranging, dressing, curling, waving, permanent waving, cleansing, singeing, bleaching, dyeing, tinting, coloring, or similarly treating the hair of the head of a person;

(b) barbering, cutting, clipping, shaving, or trimming the hair by the use of scissors, shears, clippers, or other appliances;

(c) cutting, curling, styling, fitting, measuring, or forming caps for wigs, hairpieces, or both on the human head; or

(d) practicing hair weaving, hair fusing, or servicing previously medically implanted hair.

(39) "Practice of hair design instruction" means teaching the practice of hair design at a licensed cosmetology/barber school, a licensed hair design school, or a licensed barber school.

(40) (a) "Practice of master-level esthetics" means:

(i) any of the following when done for cosmetic purposes on the body and not for the treatment of medical, physical, or mental ailments:

(A) body wraps as defined by rule;

(B) hydrotherapy as defined by rule;

(C) chemical exfoliation as defined by rule;

(D) advanced pedicures as defined by rule;

(E) sanding, including microdermabrasion;

(F) advanced extraction;

(G) other esthetic preparations or procedures with the use of:

(I) the hands; or

(II) a mechanical or electrical apparatus which is approved for use by division rule for beautifying or similar work performed on the body for cosmetic purposes and not for the treatment of a medical, physical, or mental ailment; or

(H) cosmetic laser procedures under the supervision of a cosmetic supervisor with a physician's evaluation before the procedure, as needed, unless specifically required under Section 58-1-506, and limited to the following:

(I) superfluous hair removal;

(II) anti-aging resurfacing enhancements;

(III) photo rejuvenation; or

(IV) tattoo removal with a physician's, advanced practice nurse's, or physician assistant's evaluation before the tattoo removal procedure, as required by Subsection 58-1-506(3)(a); and

(ii) lymphatic massage by manual or other means as defined by rule.

(b) Notwithstanding the provisions of Subsection (40)(a), a master-level esthetician may perform procedures listed in Subsection (40)(a)(i)(H) if done under the supervision of a cosmetic supervisor acting within the scope of the cosmetic supervisor license.

(c) The term "practice of master-level esthetics" includes the practice of esthetics, but an individual

is not required to be licensed as an esthetician or master-level esthetician to engage in the practice of threading.

(41) "Practice of nail technology" means to trim, cut, clean, manicure, shape, massage, or enhance the appearance of the hands, feet, and nails of an individual by the use of hands, mechanical, or electrical preparation, antiseptic, lotions, or creams, including the application and removal of sculptured or artificial nails.

(42) "Practice of nail technology instruction" means teaching the practice of nail technology at a licensed nail technician school, at a licensed cosmetology/barber school, or for an approved nail technician apprenticeship.

(43) "Recognized barber school" means a barber school located in a state other than Utah, whose students, upon graduation, are recognized as having completed the educational requirements for licensure in that state.

(44) "Recognized cosmetology/barber school" means a cosmetology/barber school located in a state other than Utah, whose students, upon graduation, are recognized as having completed the educational requirements for licensure in that state.

(45) "Recognized electrology school" means an electrology school located in a state other than Utah, whose students, upon graduation, are recognized as having completed the educational requirements for licensure in that state.

(46) "Recognized esthetics school" means an esthetics school located in a state other than Utah, whose students, upon graduation, are recognized as having completed the educational requirements for licensure in that state.

(47) "Recognized hair design school" means a hair design school located in a state other than Utah, whose students, upon graduation, are recognized as having completed the educational requirements for licensure in that state.

(48) "Recognized nail technology school" means a nail technology school located in a state other than Utah, whose students, upon graduation, are recognized as having completed the educational requirements for licensure in that state.

(49) "Salon" means a place, shop, or establishment in which cosmetology/barbering, esthetics, electrology, or nail technology is practiced.

(50) "Unlawful conduct" is as defined in Sections 58-1-501 and 58-11a-502.

(51) "Unprofessional conduct" is as defined in Sections 58-1-501 and 58-11a-501 and as may be further defined by rule by the division in collaboration with the board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

CHAPTER 116
H. B. 131
Passed February 5, 2021
Approved March 16, 2021
Effective May 5, 2021

STATE FACILITY ENERGY EFFICIENCY AMENDMENTS

Chief Sponsor: Stephen G. Handy
Senate Sponsor: Todd D. Weiler
Cosponsor: Travis M. Seegmiller

LONG TITLE

General Description:

This bill requires state facilities to provide utility information to the Division of Facilities Construction and Management.

Highlighted Provisions:

This bill:

- describes the utility information required and the division's uses of that information;
- sets a deadline for providing the utility information to the division; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63A-5b-1002, as renumbered and amended by Laws of Utah 2020, Chapter 152

ENACTS:

63A-5b-1004, Utah Code Annotated 1953

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

Section 1. Section 63A-5b-1002 is amended to read:

63A-5b-1002. State Building Energy Efficiency Program.

(1) The division shall:

(a) develop and administer the energy efficiency program, which shall include guidelines and procedures to improve energy efficiency in the maintenance and management of state facilities;

(b) provide information and assistance to agencies in [~~their~~] the agencies' efforts to improve energy efficiency in state facilities;

(c) analyze energy consumption by agencies to identify opportunities for improved energy efficiency;

(d) establish an advisory group composed of representatives of agencies to provide information and assistance in the development and implementation of the energy efficiency program; and

(e) submit to the governor and to the Infrastructure and General Government Appropriations Subcommittee of the Legislature an annual report that:

(i) identifies strategies for long-term improvement in energy efficiency;

(ii) identifies goals for energy conservation for the upcoming year; and

(iii) details energy management programs and strategies that were undertaken in the previous year to improve the energy efficiency of agencies and the energy savings achieved.

(2) Each agency shall:

(a) designate a staff member that is responsible for coordinating energy efficiency efforts within the agency with assistance from the division;

(b) provide energy consumption and costs information to the division;

(c) develop strategies for improving energy efficiency and reducing energy costs; and

(d) provide the division with information regarding the agency's energy efficiency and reduction strategies.

(3) (a) An agency may enter into a performance efficiency agreement for a term of up to 20 years.

(b) Before entering into a performance efficiency agreement, the agency shall:

(i) utilize the division to oversee the project unless the project is exempt from the division's oversight or the oversight is delegated to the agency under the provisions of Section 63A-5b-701;

(ii) obtain the prior approval of the governor or the governor's designee; and

(iii) provide the Office of the Legislative Fiscal Analyst with a copy of the proposed agreement before the agency enters into the agreement.

(4) An agency may consult with the energy efficiency program manager within the division regarding:

(a) the cost effectiveness of energy efficiency measures; and

(b) ways to measure energy savings that take into account fluctuations in energy costs and temperature.

(5) (a) Except as provided under Subsection (5)[~~(b)~~](c) and subject to future budget constraints, the Legislature may not remove energy savings from an agency's appropriation.

(b) An agency shall use energy savings to:

(i) fund the cost of the energy efficiency measures; and

(ii) if funds are available after meeting the requirements of Subsection (5)(b)(i), fund and implement new energy efficiency measures.

(c) The Legislature may remove energy savings if:

(i) an agency has complied with Subsection (5)(b)(i); and

(ii) no new cost-effective energy efficiency measure is available for implementation.

Section 2. Section 63A-5b-1004 is enacted to read:

63A-5b-1004. State facility energy efficiency data.

(1) On or before July 1, 2022, each state facility shall submit to the division, or verify that the division already collects, the utility information for the state facility's utilities for each month, beginning with May 2021 and ending with May 2022.

(2) A state facility shall submit the utility information described in Subsection (1):

(a) in a format approved by the division;

(b) for each location that the state facility uses; and

(c) for each of the following utilities that the state facility uses:

(i) water;

(ii) electric; and

(iii) natural gas.

(3) The division shall use the information received in accordance with this section to identify opportunities for increased energy efficiency at each state facility.

(4) Once the division has identified an energy efficiency project for a state facility, the staff of the state facility shall assist the division in completing the identified project.

CHAPTER 117
H. B. 135
Passed February 19, 2021
Approved March 16, 2021
Effective May 5, 2021

CONGREGATE CARE PROGRAM AMENDMENTS

Chief Sponsor: Marsha Judkins
Senate Sponsor: Michael K. McKell

LONG TITLE

General Description:

This bill regulates congregate care programs.

Highlighted Provisions:

This bill:

- defines terms;
- requires a congregate care program to maintain certain information for a child whose parent or guardian:
  - does not live in the state; and
  - contracts with the congregate care program;
- requires a congregate care program to assist the state in locating and returning a child who leaves the program;
- establishes a penalty for a congregate care program that fails to comply with the provisions of this bill; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

62A-2-101, as last amended by Laws of Utah 2019, Chapters 136, 193 and last amended by Coordination Clause, Laws of Utah 2019, Chapter 193
62A-2-112, as last amended by Laws of Utah 2018, Chapter 203
62A-2-120, as last amended by Laws of Utah 2020, Chapters 176, 225, 250 and last amended by Coordination Clause, Laws of Utah 2020, Chapter 225

ENACTS:

62A-2-123, Utah Code Annotated 1953

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

Section 1. Section 62A-2-101 is amended to read:

62A-2-101. Definitions.

As used in this chapter:

(1) "Adult day care" means nonresidential care and supervision:

(a) for three or more adults for at least four but less than 24 hours a day; and

(b) that meets the needs of functionally impaired adults through a comprehensive program that provides a variety of health, social, recreational, and related support services in a protective setting.

(2) "Applicant" means a person who applies for an initial license or a license renewal under this chapter.

(3) (a) "Associated with the licensee" means that an individual is:

(i) affiliated with a licensee as an owner, director, member of the governing body, employee, agent, provider of care, department contractor, or volunteer; or

(ii) applying to become affiliated with a licensee in a capacity described in Subsection (3)(a)(i).

(b) "Associated with the licensee" does not include:

(i) service on the following bodies, unless that service includes direct access to a child or a vulnerable adult:

(A) a local mental health authority described in Section 17-43-301;

(B) a local substance abuse authority described in Section 17-43-201; or

(C) a board of an organization operating under a contract to provide mental health or substance abuse programs, or services for the local mental health authority or substance abuse authority; or

(ii) a guest or visitor whose access to a child or a vulnerable adult is directly supervised at all times.

(4) (a) "Boarding school" means a private school that:

(i) uses a regionally accredited education program;

(ii) provides a residence to the school's students:

(A) for the purpose of enabling the school's students to attend classes at the school; and

(B) as an ancillary service to educating the students at the school;

(iii) has the primary purpose of providing the school's students with an education, as defined in Subsection (4)(b)(i); and

(iv) (A) does not provide the treatment or services described in Subsection [~~(33)(a)~~] (37)(a); or

(B) provides the treatment or services described in Subsection [~~(33)(a)~~] (37)(a) on a limited basis, as described in Subsection (4)(b)(ii).

(b) (i) For purposes of Subsection (4)(a)(iii), "education" means a course of study for one or more of grades kindergarten through 12th grade.

(ii) For purposes of Subsection (4)(a)(iv)(B), a private school provides the treatment or services described in Subsection [~~(33)(a)~~] (37)(a) on a limited basis if:

(A) the treatment or services described in Subsection [~~(33)(a)~~] (37)(a) are provided only as an incidental service to a student; and

(B) the school does not:

(I) specifically solicit a student for the purpose of providing the treatment or services described in Subsection [~~(33)(a)~~] (37)(a); or

(II) have a primary purpose of providing the treatment or services described in Subsection [~~(33)(a)~~] (37)(a).

(c) "Boarding school" does not include a therapeutic school.

(5) "Child" means [~~a person~~] an individual under 18 years [~~of age~~] old.

(6) "Child placing" means receiving, accepting, or providing custody or care for any child, temporarily or permanently, for the purpose of:

(a) finding a person to adopt the child;

(b) placing the child in a home for adoption; or

(c) foster home placement.

(7) "Child-placing agency" means a person that engages in child placing.

(8) "Client" means an individual who receives or has received services from a licensee.

(9) "Congregate care program" means any of the following that provide services to a child:

(a) an outdoor youth program;

(b) a residential support program;

(c) a residential treatment program; or

(d) a therapeutic school.

[~~(9)~~] (10) "Day treatment" means specialized treatment that is provided to:

(a) a client less than 24 hours a day; and

(b) four or more persons who:

(i) are unrelated to the owner or provider; and

(ii) have emotional, psychological, developmental, physical, or behavioral dysfunctions, impairments, or chemical dependencies.

[~~(10)~~] (11) "Department" means the Department of Human Services.

[~~(11)~~] (12) "Department contractor" means an individual who:

(a) provides services under a contract with the department; and

(b) due to the contract with the department, has or will likely have direct access to a child or vulnerable adult.

[~~(12)~~] (13) "Direct access" means that an individual has, or likely will have:

(a) contact with or access to a child or vulnerable adult that provides the individual with an opportunity for personal communication or touch; or

(b) an opportunity to view medical, financial, or other confidential personal identifying information of the child, the child's parents or legal guardians, or the vulnerable adult.

[~~(13)~~] (14) "Directly supervised" means that an individual is being supervised under the uninterrupted visual and auditory surveillance of another individual who has a current background screening approval issued by the office.

[~~(14)~~] (15) "Director" means the director of the Office of Licensing.

[~~(15)~~] (16) "Domestic violence" means the same as that term is defined in Section 77-36-1.

[~~(16)~~] (17) "Domestic violence treatment program" means a nonresidential program designed to provide psychological treatment and educational services to perpetrators and victims of domestic violence.

[~~(17)~~] (18) "Elder adult" means a person 65 years [~~of age~~] old or older.

[~~(18)~~] (19) "Executive director" means the executive director of the department.

[~~(19)~~] (20) "Foster home" means a residence that is licensed or certified by the Office of Licensing for the full-time substitute care of a child.

[~~(20)~~] (21) "Health benefit plan" means the same as that term is defined in Section 31A-1-301.

[~~(21)~~] (22) "Health care provider" means the same as that term is defined in Section 78B-3-403.

[~~(22)~~] (23) "Health insurer" means the same as that term is defined in Section 31A-22-615.5.

[~~(23)~~] (24) (a) "Human services program" means [~~a~~]:

(i) a foster home;

(ii) a therapeutic school;

(iii) a youth program;

(iv) an outdoor youth program;

(v) a residential treatment program;

(vi) a residential support program;

[~~(iv)~~] (vii) a resource family home;

[~~(v)~~] (viii) a recovery residence; or

[~~(vi)~~] (ix) a facility or program that provides:

[~~(A) secure treatment;~~]

[~~(B) inpatient treatment;~~]

[~~(C) residential treatment;~~]

[~~(D) residential support;~~]

[~~(E)~~] (A) adult day care;

[~~(F)~~] (B) day treatment;

[~~(G)~~] (C) outpatient treatment;

[~~(H)~~] (D) domestic violence treatment;

[~~(I)~~] (E) child-placing services;

[~~(J)~~] (F) social detoxification; or

[~~(K)~~] (G) any other human services that are required by contract with the department to be licensed with the department.

(b) "Human services program" does not include:

(i) a boarding school; or

(ii) a residential, vocational and life skills program, as defined in Section 13-53-102.

[~~(24)~~] (25) "Indian child" means the same as that term is defined in 25 U.S.C. Sec. 1903.

[~~(25)~~] (26) "Indian country" means the same as that term is defined in 18 U.S.C. Sec. 1151.

[~~(26)~~] (27) "Indian tribe" means the same as that term is defined in 25 U.S.C. Sec. 1903.

(28) "Intermediate secure treatment" means 24-hour specialized residential treatment or care for an individual who:

(a) cannot live independently or in a less restrictive environment; and

(b) requires, without the individual's consent or control, the use of locked doors to care for the individual.

[~~(27)~~] (29) "Licensee" means an individual or a human services program licensed by the office.

[~~(28)~~] (30) "Local government" means a city, town, metro township, or county.

[~~(29)~~] (31) "Minor" has the same meaning as "child."

[~~(30)~~] (32) "Office" means the Office of Licensing within the Department of Human Services.

(33) "Outdoor youth program" means a program that provides:

(a) services to a child that has:

(i) a chemical dependency; or

(ii) a dysfunction or impairment that is emotional, psychological, developmental, physical, or behavioral;

(b) a 24-hour outdoor group living environment; and

(c) regular therapy, including group, individual, or supportive family therapy.

[~~(31)~~] (34) "Outpatient treatment" means individual, family, or group therapy or counseling designed to improve and enhance social or psychological functioning for those whose physical and emotional status allows them to continue functioning in their usual living environment.

[~~(32)~~] (35) "Practice group" or "group practice" means two or more health care providers legally organized as a partnership, professional corporation, or similar association, for which:

(a) substantially all of the services of the health care providers who are members of the group are provided through the group and are billed in the name of the group and amounts received are treated as receipts of the group; and

(b) the overhead expenses of and the income from the practice are distributed in accordance with methods previously determined by members of the group.

(36) "Private-placement child" means a child whose parent or guardian enters into a contract with a congregate care program for the child to receive services.

[~~(33)~~] (37) (a) "Recovery residence" means a home, residence, or facility that meets at least two of the following requirements:

(i) provides a supervised living environment for individuals recovering from a substance use disorder;

(ii) provides a living environment in which more than half of the individuals in the residence are recovering from a substance use disorder;

(iii) provides or arranges for residents to receive services related to their recovery from a substance use disorder, either on or off site;

(iv) is held out as a living environment in which individuals recovering from substance abuse disorders live together to encourage continued sobriety; or

(v) (A) receives public funding; or

(B) is run as a business venture, either for-profit or not-for-profit.

(b) "Recovery residence" does not mean:

(i) a residential treatment program;

(ii) residential support program; or

(iii) a home, residence, or facility, in which:

(A) residents, by their majority vote, establish, implement, and enforce policies governing the living environment, including the manner in which applications for residence are approved and the manner in which residents are expelled;

(B) residents equitably share rent and housing-related expenses; and

(C) a landlord, owner, or operator does not receive compensation, other than fair market rental income, for establishing, implementing, or enforcing policies governing the living environment.

[~~(34)~~] (38) "Regular business hours" means:

(a) the hours during which services of any kind are provided to a client; or

(b) the hours during which a client is present at the facility of a licensee.

[~~(35)~~] (39) (a) "Residential support program" means [~~arranging for or providing~~] a program that arranges for or provides the necessities of life as a

protective service to individuals or families who have a disability or who are experiencing a dislocation or emergency that prevents them from providing these services for themselves or their families.

(b) "Residential support program" includes [~~providing~~] a program that provides a supervised living environment for [~~persons~~] individuals with dysfunctions or impairments that are:

(i) emotional;

(ii) psychological;

(iii) developmental; or

(iv) behavioral.

(c) Treatment is not a necessary component of a residential support program.

(d) "Residential support program" does not include:

(i) a recovery residence; or

(ii) residential services that are performed:

(A) exclusively under contract with the Division of Services for People with Disabilities; or

(B) in a facility that serves fewer than four individuals.

[~~(36)~~] (40) (a) "Residential treatment" means a 24-hour group living environment for four or more individuals unrelated to the owner or provider that offers room or board and specialized treatment, behavior modification, rehabilitation, discipline, emotional growth, or habilitation services for persons with emotional, psychological, developmental, or behavioral dysfunctions, impairments, or chemical dependencies.

(b) "Residential treatment" does not include a:

(i) boarding school;

(ii) foster home; or

(iii) recovery residence.

[~~(37)~~] (41) "Residential treatment program" means a [~~human services program~~] program or facility that provides:

(a) residential treatment; or

(b) intermediate secure treatment.

[~~(38) (a) "Secure treatment" means 24-hour specialized residential treatment or care for persons whose current functioning is such that they cannot live independently or in a less restrictive environment.~~]

[~~(b) "Secure treatment" differs from residential treatment to the extent that it requires intensive supervision, locked doors, and other security measures that are imposed on residents with neither their consent nor control.~~]

[~~(39)~~] (42) "Social detoxification" means short-term residential services for persons who are experiencing or have recently experienced drug or alcohol intoxication, that are provided outside of a health care facility licensed under Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act, and that include:

(a) room and board for persons who are unrelated to the owner or manager of the facility;

(b) specialized rehabilitation to acquire sobriety; and

(c) aftercare services.

[~~(40)~~] (43) "Substance abuse disorder" or "substance use disorder" mean the same as "substance use disorder" is defined in Section 62A-15-1202.

[~~(41)~~] (44) "Substance abuse treatment program" or "substance use disorder treatment program" means a program:

(a) designed to provide:

(i) specialized drug or alcohol treatment;

(ii) rehabilitation; or

(iii) habilitation services; and

(b) that provides the treatment or services described in Subsection [~~(41)(a)~~] (44)(a) to persons with:

(i) a diagnosed substance use disorder; or

(ii) chemical dependency disorder.

[~~(42)~~] (45) "Therapeutic school" means a residential group living facility:

(a) for four or more individuals that are not related to:

(i) the owner of the facility; or

(ii) the primary service provider of the facility;

(b) that serves students who have a history of failing to function:

(i) at home;

(ii) in a public school; or

(iii) in a nonresidential private school; and

(c) that offers:

(i) room and board; and

(ii) an academic education integrated with:

(A) specialized structure and supervision; or

(B) services or treatment related to:

(I) a disability;

(II) emotional development;

(III) behavioral development;

(IV) familial development; or

(V) social development.

[~~(43)~~] (46) "Unrelated persons" means persons other than parents, legal guardians, grandparents, brothers, sisters, uncles, or aunts.

[~~(44)~~] (47) "Vulnerable adult" means an elder adult or an adult who has a temporary or permanent mental or physical impairment that substantially affects the person's ability to:

(a) provide personal protection;

(b) provide necessities such as food, shelter, clothing, or mental or other health care;

(c) obtain services necessary for health, safety, or welfare;

(d) carry out the activities of daily living;

(e) manage the adult's own resources; or

(f) comprehend the nature and consequences of remaining in a situation of abuse, neglect, or exploitation.

[~~(45)~~] (48) (a) "Youth program" means a nonresidential program designed to provide behavioral, substance abuse, or mental health services to minors that:

(i) serves adjudicated or nonadjudicated youth;

(ii) charges a fee for its services;

(iii) may [~~or may not~~] provide host homes or other arrangements for overnight accommodation of the youth;

(iv) may [~~or may not~~] provide all or part of its services in the outdoors;

(v) may [~~or may not~~] limit or censor access to parents or guardians; and

(vi) prohibits or restricts a minor's ability to leave the program at any time of the minor's own free will.

(b) "Youth program" does not include recreational programs such as Boy Scouts, Girl Scouts, 4-H, and other such organizations.

Section 2. Section 62A-2-112 is amended to read:

62A-2-112. Violations -- Penalties.

(1) As used in this section, "health care provider" means a person licensed to provide health care services under this chapter.

(2) The office may deny, place conditions on, suspend, or revoke a human services license, if it finds, related to the human services program:

(a) that there has been a failure to comply with the rules established under this chapter;

(b) evidence of aiding, abetting, or permitting the commission of any illegal act; or

(c) evidence of conduct adverse to the standards required to provide services and promote public trust, including aiding, abetting, or permitting the commission of abuse, neglect, exploitation, harm, mistreatment, or fraud.

(3) The office may restrict or prohibit new admissions to a human services program, if it finds:

(a) that there has been a failure to comply with rules established under this chapter;

(b) evidence of aiding, abetting, or permitting the commission of any illegal act; or

(c) evidence of conduct adverse to the standards required to provide services and promote public trust, including aiding, abetting, or permitting the commission of abuse, neglect, exploitation, harm, mistreatment, or fraud.

(4) (a) The office may assess a fine of up to $500 per violation against a health care provider that violates Section 31A-26-313.

(b) The office shall waive the fine described in Subsection (4)(a) if:

(i) the health care provider demonstrates to the office that the health care provider mitigated and reversed any damage to the insured caused by the health care provider or third party's violation; or

(ii) the insured does not pay the full amount due on the bill that is the subject of the violation, including any interest, fees, costs, and expenses, within 120 days after the day on which the health care provider or third party makes a report to a credit bureau or takes an action in violation of Section 31A-26-313.

(5) If a congregate care program knowingly fails to comply with the provisions of Section 62A-2-123, the office may impose a penalty on the congregate care program that is less than or equal to the cost of care incurred by the state for a private-placement child described in Subsection 62A-2-123(3).

(6) The office shall make rules for calculating the cost of care described in Subsection (5) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Section 3. Section 62A-2-120 is amended to read:

62A-2-120. Background check -- Direct access to children or vulnerable adults.

(1) As used in this section:

(a) (i) "Applicant" means:

(A) the same as that term is defined in Section 62A-2-101;

(B) an individual who is associated with a licensee and has or will likely have direct access to a child or a vulnerable adult;

(C) an individual who provides respite care to a foster parent or an adoptive parent on more than one occasion;

(D) a department contractor;

(E) a guardian submitting an application on behalf of an individual, other than the child or vulnerable adult who is receiving the service, if the individual is 12 years [~~of age~~] old or older and resides in a home, that is licensed or certified by the office, with the child or vulnerable adult who is receiving services; or

(F) a guardian submitting an application on behalf of an individual, other than the child or vulnerable adult who is receiving the service, if the

individual is 12 years [~~of age~~] old or older and is a person described in Subsection (1)(a)(i)(A), (B), (C), or (D).

(ii) "Applicant" does not mean an individual, including an adult, who is in the custody of the Division of Child and Family Services or the Division of Juvenile Justice Services.

(b) "Application" means a background screening application to the office.

(c) "Bureau" means the Bureau of Criminal Identification within the Department of Public Safety, created in Section 53-10-201.

(d) "Incidental care" means occasional care, not in excess of five hours per week and never overnight, for a foster child.

(e) "Personal identifying information" means:

(i) current name, former names, nicknames, and aliases;

(ii) date of birth;

(iii) physical address and email address;

(iv) telephone number;

(v) driver license or other government-issued identification;

(vi) social security number;

(vii) only for applicants who are 18 years of age or older, fingerprints, in a form specified by the office; and

(viii) other information specified by the office by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(2) (a) Except as provided in Subsection (13), an applicant or a representative shall submit the following to the office:

(i) personal identifying information;

(ii) a fee established by the office under Section 63J-1-504; and

(iii) a disclosure form, specified by the office, for consent for:

(A) an initial background check upon submission of the information described under this Subsection (2)(a);

(B) ongoing monitoring of fingerprints and registries until no longer associated with a licensee for 90 days;

(C) a background check when the office determines that reasonable cause exists; and

(D) retention of personal identifying information, including fingerprints, for monitoring and notification as described in Subsections (3)(d) and (4).

(b) In addition to the requirements described in Subsection (2)(a), if an applicant resided outside of the United States and its territories during the five years immediately preceding the day on which the information described in Subsection (2)(a) is submitted to the office, the office may require the applicant to submit documentation establishing whether the applicant was convicted of a crime during the time that the applicant resided outside of the United States or its territories.

(3) The office:

(a) shall perform the following duties as part of a background check of an applicant:

(i) check state and regional criminal background databases for the applicant's criminal history by:

(A) submitting personal identifying information to the bureau for a search; or

(B) using the applicant's personal identifying information to search state and regional criminal background databases as authorized under Section 53-10-108;

(ii) submit the applicant's personal identifying information and fingerprints to the bureau for a criminal history search of applicable national criminal background databases;

(iii) search the Department of Human Services, Division of Child and Family Services' Licensing Information System described in Section 62A-4a-1006;

(iv) search the Department of Human Services, Division of Aging and Adult Services' vulnerable adult abuse, neglect, or exploitation database described in Section 62A-3-311.1;

(v) search the juvenile court records for substantiated findings of severe child abuse or neglect described in Section 78A-6-323; and

(vi) search the juvenile court arrest, adjudication, and disposition records, as provided under Section 78A-6-209;

(b) shall conduct a background check of an applicant for an initial background check upon submission of the information described under Subsection (2)(a);

(c) may conduct all or portions of a background check of an applicant, as provided by rule, made by the office in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(i) for an annual renewal; or

(ii) when the office determines that reasonable cause exists;

(d) may submit an applicant's personal identifying information, including fingerprints, to the bureau for checking, retaining, and monitoring of state and national criminal background databases and for notifying the office of new criminal activity associated with the applicant;

(e) shall track the status of an approved applicant under this section to ensure that an approved applicant is not required to duplicate the submission of the applicant's fingerprints if the applicant applies for:

(i) more than one license;

(ii) direct access to a child or a vulnerable adult in more than one human services program; or

(iii) direct access to a child or a vulnerable adult under a contract with the department;

(f) shall track the status of each license and each individual with direct access to a child or a vulnerable adult and notify the bureau within 90 days after the day on which the license expires or the individual's direct access to a child or a vulnerable adult ceases;

(g) shall adopt measures to strictly limit access to personal identifying information solely to the individuals responsible for processing and entering the applications for background checks and to protect the security of the personal identifying information the office reviews under this Subsection (3);

(h) as necessary to comply with the federal requirement to check a state's child abuse and neglect registry regarding any individual working in a congregate care [~~setting that serves children~~] program, shall:

(i) search the Department of Human Services, Division of Child and Family Services' Licensing Information System described in Section 62A-4a-1006; and

(ii) require the child abuse and neglect registry be checked in each state where an applicant resided at any time during the five years immediately preceding the day on which the applicant submits the information described in Subsection (2)(a) to the office; and

(i) shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement the provisions of this Subsection (3) relating to background checks.

(4) (a) With the personal identifying information the office submits to the bureau under Subsection (3), the bureau shall check against state and regional criminal background databases for the applicant's criminal history.

(b) With the personal identifying information and fingerprints the office submits to the bureau under Subsection (3), the bureau shall check against national criminal background databases for the applicant's criminal history.

(c) Upon direction from the office, and with the personal identifying information and fingerprints the office submits to the bureau under Subsection (3)(d), the bureau shall:

(i) maintain a separate file of the fingerprints for search by future submissions to the local and regional criminal records databases, including latent prints; and

(ii) monitor state and regional criminal background databases and identify criminal activity associated with the applicant.

(d) The bureau is authorized to submit the fingerprints to the Federal Bureau of Investigation Next Generation Identification System, to be retained in the Federal Bureau of Investigation Next Generation Identification System for the purpose of:

(i) being searched by future submissions to the national criminal records databases, including the Federal Bureau of Investigation Next Generation Identification System and latent prints; and

(ii) monitoring national criminal background databases and identifying criminal activity associated with the applicant.

(e) The Bureau shall notify and release to the office all information of criminal activity associated with the applicant.

(f) Upon notice from the office that a license has expired or an individual's direct access to a child or a vulnerable adult has ceased for 90 days, the bureau shall:

(i) discard and destroy any retained fingerprints; and

(ii) notify the Federal Bureau of Investigation when the license has expired or an individual's direct access to a child or a vulnerable adult has ceased, so that the Federal Bureau of Investigation will discard and destroy the retained fingerprints from the Federal Bureau of Investigation Next Generation Identification System.

(5) (a) After conducting the background check described in Subsections (3) and (4), the office shall deny an application to an applicant who, within three years before the day on which the applicant submits information to the office under Subsection (2) for a background check, has been convicted of any of the following, regardless of whether the offense is a felony, a misdemeanor, or an infraction:

(i) an offense identified as domestic violence, lewdness, voyeurism, battery, cruelty to animals, or bestiality;

(ii) a violation of any pornography law, including sexual exploitation of a minor;

(iii) prostitution;

(iv) an offense included in:

(A) Title 76, Chapter 5, Offenses Against the Person;

(B) Section 76-5b-201, Sexual Exploitation of a Minor; or

(C) Title 76, Chapter 7, Offenses Against the Family;

(v) aggravated arson, as described in Section 76-6-103;

(vi) aggravated burglary, as described in Section 76-6-203;

(vii) aggravated robbery, as described in Section 76-6-302;

(viii) identity fraud crime, as described in Section 76-6-1102; or

(ix) a felony or misdemeanor offense committed outside of the state that, if committed in the state, would constitute a violation of an offense described in Subsections (5)(a)(i) through (viii).

(b) If the office denies an application to an applicant based on a conviction described in Subsection (5)(a), the applicant is not entitled to a comprehensive review described in Subsection (6).

(c) If the applicant will be working in a program serving only adults whose only impairment is a mental health diagnosis, including that of a serious mental health disorder, with or without co-occurring substance use disorder, the denial provisions of Subsection (5)(a) do not apply, and the office shall conduct a comprehensive review as described in Subsection (6).

(6) (a) The office shall conduct a comprehensive review of an applicant's background check if the applicant:

(i) has an open court case or a conviction for any felony offense, not described in Subsection (5)(a), with a date of conviction that is no more than 10 years before the date on which the applicant submits the application;

(ii) has an open court case or a conviction for a misdemeanor offense, not described in Subsection (5)(a), and designated by the office, by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, if the conviction is within three years before the day on which the applicant submits information to the office under Subsection (2) for a background check;

(iii) has a conviction for any offense described in Subsection (5)(a) that occurred more than three years before the day on which the applicant submitted information under Subsection (2)(a);

(iv) is currently subject to a plea in abeyance or diversion agreement for any offense described in Subsection (5)(a);

(v) has a listing in the Department of Human Services, Division of Child and Family Services' Licensing Information System described in Section 62A-4a-1006;

(vi) has a listing in the Department of Human Services, Division of Aging and Adult Services' vulnerable adult abuse, neglect, or exploitation database described in Section 62A-3-311.1;

(vii) has a record in the juvenile court of a substantiated finding of severe child abuse or neglect described in Section 78A-6-323;

(viii) has a record of an adjudication in juvenile court for an act that, if committed by an adult, would be a felony or misdemeanor, if the applicant is:

(A) under 28 years [~~of age~~] old; or

(B) 28 years [~~of age~~] old or older and has been convicted of, has pleaded no contest to, or is currently subject to a plea in abeyance or diversion agreement for a felony or a misdemeanor offense described in Subsection (5)(a);

(ix) has a pending charge for an offense described in Subsection (5)(a); or

(x) is an applicant described in Subsection (5)(c).

(b) The comprehensive review described in Subsection (6)(a) shall include an examination of:

(i) the date of the offense or incident;

(ii) the nature and seriousness of the offense or incident;

(iii) the circumstances under which the offense or incident occurred;

(iv) the age of the perpetrator when the offense or incident occurred;

(v) whether the offense or incident was an isolated or repeated incident;

(vi) whether the offense or incident directly relates to abuse of a child or vulnerable adult, including:

(A) actual or threatened, nonaccidental physical, mental, or financial harm;

(B) sexual abuse;

(C) sexual exploitation; or

(D) negligent treatment;

(vii) any evidence provided by the applicant of rehabilitation, counseling, psychiatric treatment received, or additional academic or vocational schooling completed;

(viii) the applicant's risk of harm to clientele in the program or in the capacity for which the applicant is applying; and

(ix) any other pertinent information presented to or publicly available to the committee members.

(c) At the conclusion of the comprehensive review described in Subsection (6)(a), the office shall deny an application to an applicant if the office finds that approval would likely create a risk of harm to a child or a vulnerable adult.

(d) At the conclusion of the comprehensive review described in Subsection (6)(a), the office may not deny an application to an applicant solely because the applicant was convicted of an offense that occurred 10 or more years before the day on which the applicant submitted the information required under Subsection (2)(a) if:

(i) the applicant has not committed another misdemeanor or felony offense after the day on which the conviction occurred; and

(ii) the applicant has never been convicted of an offense described in Subsection (14)(c).

(e) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office may make rules, consistent with this chapter, to establish procedures for the comprehensive review described in this Subsection (6).

(7) Subject to Subsection (10), the office shall approve an application to an applicant who is not denied under Subsection (5), (6), or [~~(13)~~] (14).

(8) (a) The office may conditionally approve an application of an applicant, for a maximum of 60 days after the day on which the office sends written notice to the applicant under Subsection (12), without requiring that the applicant be directly supervised, if the office:

(i) is awaiting the results of the criminal history search of national criminal background databases; and

(ii) would otherwise approve an application of the applicant under Subsection (7).

(b) The office may conditionally approve an application of an applicant, for a maximum of one year after the day on which the office sends written notice to the applicant under Subsection (12), without requiring that the applicant be directly supervised if the office:

(i) is awaiting the results of an out-of-state registry for providers other than foster and adoptive parents; and

(ii) would otherwise approve an application of the applicant under Subsection (7).

(c) Upon receiving the results of the criminal history search of a national criminal background database, the office shall approve or deny the application of the applicant in accordance with Subsections (5) through (7).

(9) A licensee or department contractor may not permit an individual to have direct access to a child or a vulnerable adult unless, subject to Subsection (10):

(a) the individual is associated with the licensee or department contractor and:

(i) the individual's application is approved by the office under this section;

(ii) the individual's application is conditionally approved by the office under Subsection (8); or

(iii) (A) the individual has submitted the background check information described in Subsection (2) to the office;

(B) the office has not determined whether to approve the applicant's application; and

(C) the individual is directly supervised by an individual who has a current background screening approval issued by the office under this section and is associated with the licensee or department contractor;

(b) (i) the individual is associated with the licensee or department contractor;

(ii) the individual has a current background screening approval issued by the office under this section;

(iii) one of the following circumstances, that the office has not yet reviewed under Subsection (6), applies to the individual:

(A) the individual was charged with an offense described in Subsection (5)(a);

(B) the individual is listed in the Licensing Information System, described in Section 62A-4a-1006;

(C) the individual is listed in the vulnerable adult abuse, neglect, or exploitation database, described in Section 62A-3-311.1;

(D) the individual has a record in the juvenile court of a substantiated finding of severe child abuse or neglect, described in Section 78A-6-323; or

(E) the individual has a record of an adjudication in juvenile court for an act that, if committed by an adult, would be a felony or a misdemeanor as described in Subsection (5)(a) or (6); and

(iv) the individual is directly supervised by an individual who:

(A) has a current background screening approval issued by the office under this section; and

(B) is associated with the licensee or department contractor;

(c) the individual:

(i) is not associated with the licensee or department contractor; and

(ii) is directly supervised by an individual who:

(A) has a current background screening approval issued by the office under this section; and

(B) is associated with the licensee or department contractor;

(d) the individual is the parent or guardian of the child, or the guardian of the vulnerable adult;

(e) the individual is approved by the parent or guardian of the child, or the guardian of the vulnerable adult, to have direct access to the child or the vulnerable adult;

(f) the individual is only permitted to have direct access to a vulnerable adult who voluntarily invites the individual to visit; or

(g) the individual only provides incidental care for a foster child on behalf of a foster parent who has used reasonable and prudent judgment to select the individual to provide the incidental care for the foster child.

(10) An individual may not have direct access to a child or a vulnerable adult if the individual is prohibited by court order from having that access.

(11) Notwithstanding any other provision of this section, an individual for whom the office denies an application may not have direct access to a child or vulnerable adult unless the office approves a subsequent application by the individual.

(12) (a) Within 30 days after the day on which the office receives the background check information

for an applicant, the office shall give notice of the clearance status to:

(i) the applicant, and the licensee or department contractor, of the office's decision regarding the background check and findings; and

(ii) the applicant of any convictions and potentially disqualifying charges and adjudications found in the search.

(b) With the notice described in Subsection (12)(a), the office shall also give the applicant the details of any comprehensive review conducted under Subsection (6).

(c) If the notice under Subsection (12)(a) states that the applicant's application is denied, the notice shall further advise the applicant that the applicant may, under Subsection 62A-2-111(2), request a hearing in the department's Office of Administrative Hearings, to challenge the office's decision.

(d) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office shall make rules, consistent with this chapter:

(i) defining procedures for the challenge of the office's background check decision described in Subsection (12)(c); and

(ii) expediting the process for renewal of a license under the requirements of this section and other applicable sections.

(13) An individual or a department contractor who provides services in an adults only substance use disorder program, as defined by rule, is exempt from this section. This exemption does not extend to a program director or a member, as defined by Section 62A-2-108, of the program.

(14) (a) Except as provided in Subsection (14)(b), in addition to the other requirements of this section, if the background check of an applicant is being conducted for the purpose of giving clearance status to an applicant seeking a position in a congregate care [~~facility~~] program, an applicant for a one-time adoption, an applicant seeking to provide a prospective foster home, or an applicant seeking to provide a prospective adoptive home, the office shall:

(i) check the child abuse and neglect registry in each state where each applicant resided in the five years immediately preceding the day on which the applicant applied to be a foster parent or adoptive parent, to determine whether the prospective foster parent or prospective adoptive parent is listed in the registry as having a substantiated or supported finding of child abuse or neglect; and

(ii) check the child abuse and neglect registry in each state where each adult living in the home of the applicant described in Subsection (14)(a)(i) resided in the five years immediately preceding the day on which the applicant applied to be a foster parent or adoptive parent, to determine whether the adult is listed in the registry as having a substantiated or supported finding of child abuse or neglect.

(b) The requirements described in Subsection (14)(a) do not apply to the extent that:

(i) federal law or rule permits otherwise; or

(ii) the requirements would prohibit the Division of Child and Family Services or a court from placing a child with:

(A) a noncustodial parent under Section 62A-4a-209, 78A-6-307, or 78A-6-307.5; or

(B) a relative, other than a noncustodial parent, under Section 62A-4a-209, 78A-6-307, or 78A-6-307.5, pending completion of the background check described in Subsection (5).

(c) Notwithstanding Subsections (5) through (9), the office shall deny a clearance to an applicant seeking a position in a congregate care [~~facility~~] program, an applicant for a one-time adoption, an applicant to become a prospective foster parent, or an applicant to become a prospective adoptive parent if the applicant has been convicted of:

(i) a felony involving conduct that constitutes any of the following:

(A) child abuse, as described in Section 76-5-109;

(B) commission of domestic violence in the presence of a child, as described in Section 76-5-109.1;

(C) abuse or neglect of a child with a disability, as described in Section 76-5-110;

(D) endangerment of a child or vulnerable adult, as described in Section 76-5-112.5;

(E) aggravated murder, as described in Section 76-5-202;

(F) murder, as described in Section 76-5-203;

(G) manslaughter, as described in Section 76-5-205;

(H) child abuse homicide, as described in Section 76-5-208;

(I) homicide by assault, as described in Section 76-5-209;

(J) kidnapping, as described in Section 76-5-301;

(K) child kidnapping, as described in Section 76-5-301.1;

(L) aggravated kidnapping, as described in Section 76-5-302;

(M) human trafficking of a child, as described in Section 76-5-308.5;

(N) an offense described in Title 76, Chapter 5, Part 4, Sexual Offenses;

(O) sexual exploitation of a minor, as described in Section 76-5b-201;

(P) aggravated arson, as described in Section 76-6-103;

(Q) aggravated burglary, as described in Section 76-6-203;

(R) aggravated robbery, as described in Section 76-6-302; or

(S) domestic violence, as described in Section 77-36-1; or

(ii) an offense committed outside the state that, if committed in the state, would constitute a violation of an offense described in Subsection (14)(c)(i).

(d) Notwithstanding Subsections (5) through (9), the office shall deny a license or license renewal to a prospective foster parent or a prospective adoptive parent if, within the five years immediately preceding the day on which the individual's application or license would otherwise be approved, the applicant was convicted of a felony involving conduct that constitutes a violation of any of the following:

(i) aggravated assault, as described in Section 76-5-103;

(ii) aggravated assault by a prisoner, as described in Section 76-5-103.5;

(iii) mayhem, as described in Section 76-5-105;

(iv) an offense described in Title 58, Chapter 37, Utah Controlled Substances Act;

(v) an offense described in Title 58, Chapter 37a, Utah Drug Paraphernalia Act;

(vi) an offense described in Title 58, Chapter 37b, Imitation Controlled Substances Act;

(vii) an offense described in Title 58, Chapter 37c, Utah Controlled Substance Precursor Act; or

(viii) an offense described in Title 58, Chapter 37d, Clandestine Drug Lab Act.

(e) In addition to the circumstances described in Subsection (6)(a), the office shall conduct the comprehensive review of an applicant's background check pursuant to this section if the registry check described in Subsection (14)(a) indicates that the individual is listed in a child abuse and neglect registry of another state as having a substantiated or supported finding of a severe type of child abuse or neglect as defined in Section 62A-4a-1002.

Section 4. Section 62A-2-123 is enacted to read:

62A-2-123. (Codified as 62A-2-125) Congregate care program requirements.

(1) As used in this section, "disruption plan" means a child specific plan used:

(a) when the private-placement child stops receiving services from a congregate care program; and

(b) for transporting a private-placement child to a parent or guardian or to another congregate care program.

(2) A congregate care program shall keep the following for a private-placement child whose parent or guardian lives outside the state:

(a) regularly updated contact information for the parent or guardian that lives outside the state; and

(b) a disruption plan.

(3) If a private-placement child whose parent or guardian resides outside the state leaves a congregate care program without following the child's disruption plan, the congregate care program shall:

(a) notify the parent or guardian, office, and local law enforcement authorities;

(b) assist the state in locating the private-placement child; and

(c) after the child is located, transport the private-placement child:

(i) to a parent or guardian;

(ii) back to the congregate care program; or

(iii) to another congregate care program.

(4) This section does not apply to a guardian that is a state or agency.

(5) The office shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, describing:

(a) additional mandatory provisions for a disruption plan; and

(b) how a congregate care program shall notify the office when a private-placement child begins receiving services.

CHAPTER 118
H. B. 137
Passed February 26, 2021
Approved March 16, 2021
Effective May 5, 2021

INTRASTATE COMMERCIAL VEHICLE AMENDMENTS

Chief Sponsor: Kay J. Christofferson
Senate Sponsor: Michael K. McKell

LONG TITLE

General Description:

This bill amends the definition of an intrastate commercial vehicle as it pertains to gross vehicle weight ratings and passenger occupancy of certain vehicles.

Highlighted Provisions:

This bill:

- amends the definition of an intrastate commercial vehicle by:
  - increasing the gross vehicle weight rating from 10,001 or more pounds to 26,000 or more pounds if the vehicle is operated by an individual 18 years old or older;
  - increasing the gross vehicle weight rating from 10,001 or more pounds to 16,001 or more pounds if the vehicle is operated by an individual under 18 years old; and
  - including in the definition a vehicle with the gross vehicle weight rating of 13,000 or more pounds for a vehicle designed to transport 12 or more passengers for commercial purposes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

72-9-102, as last amended by Laws of Utah 2019, Chapter 373

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

Section 1. Section 72-9-102 is amended to read:

72-9-102. Definitions.

As used in this chapter:

(1) (a) "Commercial vehicle" includes:

(i) an interstate commercial vehicle; and

(ii) an intrastate commercial vehicle.

(b) "Commercial vehicle" does not include the following vehicles for purposes of this chapter:

(i) equipment owned and operated by the United States Department of Defense when driven by any active duty military personnel and members of the reserves and national guard on active duty including personnel on full-time national guard duty, personnel on part-time training, and national guard military technicians and civilians who are required to wear military uniforms and are subject to the code of military justice;

(ii) firefighting and emergency vehicles, operated by emergency personnel, not including commercial tow trucks;

(iii) recreational vehicles that are driven solely as family or personal conveyances for noncommercial purposes; or

(iv) vehicles owned by the state or a local government.

(2) "Interstate commercial vehicle" means a self-propelled or towed motor vehicle used on a highway in interstate commerce to transport passengers or property if the vehicle:

(a) has a gross vehicle weight rating or gross combination weight rating of 10,001 or more pounds;

(b) is designed or used to transport more than eight passengers, including the driver, for compensation;

(c) is designed or used to transport more than 15 passengers, including the driver, and is not used to transport passengers for compensation; or

(d) (i) is used to transport materials designated as hazardous in accordance with 49 U.S.C. Sec. 5103; and

(ii) is required to be placarded in accordance with regulations under 49 C.F.R., Subtitle B, Chapter I, Subchapter C.

(3) "Intrastate commercial vehicle" means a motor vehicle, vehicle, trailer, or semitrailer used or maintained for business, compensation, or profit to transport passengers or property on a highway only within the boundaries of this state if the commercial vehicle:

(a) (i) has a manufacturer's gross vehicle weight rating or gross combination weight rating of [~~10,001~~] 26,000 or more pounds[~~;~~] and is operated by an individual who is 18 years old or older; or

(ii) has a manufacturer's gross vehicle weight rating or gross combination weight rating of 16,001 or more pounds and is operated by an individual who is under 18 years old;

(b) (i) is designed to transport more than 15 passengers, including the driver; or

(ii) is designed to transport more than 12 passengers, including the driver, and has a manufacturer's gross vehicle weight rating or gross combination weight rating of 13,000 or more pounds; or

(c) is used in the transportation of hazardous materials and is required to be placarded in accordance with 49 C.F.R. Part 172, Subpart F.

(4) "Motor carrier" means a person engaged in or transacting the business of transporting passengers, freight, merchandise, or other property by a commercial vehicle on a highway within this state and includes a tow truck business.

(5) "Owner" as pertaining to a vehicle, vessel, or outboard motor, means the same as that term is defined in Section 41-1a-102.

(6) "Property owner" means the owner or lessee of real property.

(7) "State impound yard" means the same as that term is defined in Section 41-1a-102.

(8) "Tow truck" means a motor vehicle constructed, designed, altered, or equipped primarily for the purpose of towing or removing damaged, disabled, abandoned, seized, or impounded vehicles from a highway or other place by means of a crane, hoist, tow bar, tow line, dolly, tilt bed, or other means.

(9) "Tow truck motor carrier" means a motor carrier that is engaged in or transacting business for tow truck services.

(10) "Tow truck operator" means an individual that performs operations related to a tow truck service as an employee or as an independent contractor on behalf of a tow truck motor carrier.

(11) "Tow truck service" means the functions and any ancillary operations associated with recovering, removing, and towing a vehicle and its load from a highway or other place by means of a tow truck.

(12) "Transportation" means the actual movement of property or passengers by motor vehicle, including loading, unloading, and any ancillary service provided by the motor carrier in connection with movement by motor vehicle, which is performed by or on behalf of the motor carrier, its employees or agents, or under the authority of the motor carrier, its employees or agents, or under the apparent authority and with the knowledge of the motor carrier.

CHAPTER 119
H. B. 142
Passed March 5, 2021
Approved March 16, 2021
Effective May 5, 2021

CYCLIST TRAFFIC AMENDMENTS

Chief Sponsor: Carol Spackman Moss
Senate Sponsor: Curtis S. Bramble

LONG TITLE

General Description:

This bill amends traffic code provisions relating to operating a bicycle on the roadway.

Highlighted Provisions:

This bill:

- allows an individual operating a bicycle to yield at stop signs under certain circumstances; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

41-6a-902, as last amended by Laws of Utah 2015, Chapter 412
41-6a-1105, as renumbered and amended by Laws of Utah 2005, Chapter 2

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

Section 1. Section 41-6a-902 is amended to read:

41-6a-902. Right-of-way -- Stop or yield signals -- Yield -- Collisions at intersections or junctions of roadways -- Evidence.

(1) Preferential right-of-way may be indicated by stop signs or yield signs under Section 41-6a-906.

(2) (a) Except as provided in Section 41-6a-1105, or when directed to proceed by a peace officer, every operator of a vehicle approaching a stop sign shall stop:

(i) at a clearly marked stop line;

(ii) before entering the crosswalk on the near side of the intersection if there is not a clearly marked stop line; or

(iii) at a point nearest the intersecting roadway where the operator has a view of approaching traffic on the intersecting roadway before entering it if there is not a clearly marked stop line or a crosswalk.

(b) After having stopped at a stop sign, the operator of a vehicle shall yield the right-of-way to any vehicle in the intersection or approaching on another roadway so closely as to constitute an immediate hazard.

(c) The operator of a vehicle approaching a stop sign shall yield the right-of-way to pedestrians within an adjacent crosswalk.

(3) (a) The operator of a vehicle approaching a yield sign shall:

(i) slow down to a speed reasonable for the existing conditions; and

(ii) if required for safety, stop as provided under Subsection (2).

(b) (i) After slowing or stopping at a yield sign, the operator of a vehicle shall yield the right-of-way to any vehicle in the intersection or approaching on another roadway so closely as to constitute an immediate hazard during the time the operator is moving across or within the intersection or junction of roadways.

(ii) The operator of a vehicle approaching a yield sign shall yield to pedestrians within an adjacent crosswalk.

(4) (a) A collision is prima facie evidence of an operator's failure to yield the right-of-way after passing a yield sign without stopping if the operator is involved in a collision:

(i) with a vehicle in the intersection or junction of roadways; or

(ii) with a pedestrian at an adjacent crosswalk.

(b) A collision under Subsection (4)(a) is not considered negligence per se in determining liability for the accident.

(5) A violation of Subsection (2) or (3) is an infraction.

Section 2. Section 41-6a-1105 is amended to read:

41-6a-1105. Operation of bicycle or moped on and use of roadway -- Duties, prohibitions.

(1) A person operating a bicycle or a moped on a roadway at less than the normal speed of traffic at the time and place and under the conditions then existing shall ride as near as practicable to the right-hand edge of the roadway except when:

(a) overtaking and passing another bicycle or vehicle proceeding in the same direction;

(b) preparing to make a left turn at an intersection or into a private road or driveway;

(c) traveling straight through an intersection that has a right-turn only lane that is in conflict with the straight through movement; or

(d) reasonably necessary to avoid conditions that make it unsafe to continue along the right-hand edge of the roadway including:

(i) fixed or moving objects;

(ii) parked or moving vehicles;

(iii) bicycles;

(iv) pedestrians;

(v) animals;

(vi) surface hazards; or

(vii) a lane that is too narrow for a bicycle and a vehicle to travel safely side by side within the lane.

(2) A person operating a bicycle or moped on a highway shall operate in the designated direction of traffic.

(3) (a) A person riding a bicycle or moped on a roadway may not ride more than two abreast with another person except on paths or parts of roadways set aside for the exclusive use of bicycles.

(b) If allowed under Subsection (3)(a), a person riding two abreast with another person may not impede the normal and reasonable movement of traffic and shall ride within a single lane.

(4) If a usable path for bicycles has been provided adjacent to a roadway, a bicycle rider may be directed by a traffic-control device to use the path and not the roadway.

(5) (a) As used in this Subsection (5), "immediate hazard" means a vehicle approaching an intersection at a proximity and rate of speed sufficient to indicate to a reasonable person that there is a danger of collision or accident.

(b) Except as provided in Subsection (6), an individual operating a bicycle approaching a stop sign may proceed through the intersection without stopping at the stop sign if:

(i) the individual slows to a reasonable speed; and

(ii) yields the right-of-way to:

(A) any pedestrian within the intersection or an adjacent crosswalk;

(B) other traffic within the intersection; and

(C) oncoming traffic that poses an immediate hazard during the time the individual is traveling through the intersection.

(6) Subsection (5)(b) does not apply to an intersection with an active railroad grade crossing as defined in Section 41-6a-1005.

CHAPTER 120
H. B. 143
Passed February 25, 2021
Approved March 16, 2021
Effective May 5, 2021

DRIVER LICENSE SUSPENSION AMENDMENTS

Chief Sponsor: A. Cory Maloy
Senate Sponsor: Michael S. Kennedy

LONG TITLE

General Description:

This bill amends provisions related to suspension of an individual's driver license.

Highlighted Provisions:

This bill:

- defines a term;
- prohibits the suspension of an individual's driver license by the Driver License Division based solely on the individual's failure to pay certain fines;
- prohibits a court from ordering a driver license suspension or revocation under certain circumstances; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

41-6a-509, as last amended by Laws of Utah 2020, Chapter 177
41-6a-517, as last amended by Laws of Utah 2020, Chapter 12
41-6a-1715, as last amended by Laws of Utah 2014, Chapter 416
53-3-102, as last amended by Laws of Utah 2019, Chapters 426 and 459
53-3-218, as last amended by Laws of Utah 2018, Chapter 121
53-3-221, as last amended by Laws of Utah 2015, Chapter 52

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

Section 1. Section 41-6a-509 is amended to read:

41-6a-509. Driver license suspension or revocation for a driving under the influence violation.

(1) The Driver License Division shall, if the person is 21 years of age or older at the time of arrest:

(a) suspend for a period of 120 days the operator's license of a person convicted for the first time under Section 41-6a-502; or

(b) revoke for a period of two years the license of a person if:

(i) the person has a prior conviction as defined under Subsection 41-6a-501(2); and

(ii) the current violation under Section 41-6a-502 is committed within a period of 10 years from the date of the prior violation.

(2) The Driver License Division shall, if the person is 19 years of age or older but under 21 years of age at the time of arrest:

(a) suspend the person's driver license until the person is 21 years of age or for a period of one year, whichever is longer, if the person is convicted for the first time of a violation under Section 41-6a-502 of an offense that was committed on or after July 1, 2011;

(b) deny the person's application for a license or learner's permit until the person is 21 years of age or for a period of one year, whichever is longer, if the person:

(i) is convicted for the first time of a violation under Section 41-6a-502 of an offense committed on or after July 1, 2011; and

(ii) has not been issued an operator license;

(c) revoke the person's driver license until the person is 21 years of age or for a period of two years, whichever is longer, if:

(i) the person has a prior conviction as defined under Subsection 41-6a-501(2); and

(ii) the current violation under Section 41-6a-502 is committed within a period of 10 years from the date of the prior violation; or

(d) deny the person's application for a license or learner's permit until the person is 21 years of age or for a period of two years, whichever is longer, if:

(i) the person has a prior conviction as defined under Subsection 41-6a-501(2);

(ii) the current violation under Section 41-6a-502 is committed within a period of 10 years from the date of the prior violation; and

(iii) the person has not been issued an operator license.

(3) The Driver License Division shall, if the person is under 19 years of age at the time of arrest:

(a) suspend the person's driver license until the person is 21 years of age if the person is convicted for the first time of a violation under Section 41-6a-502;

(b) deny the person's application for a license or learner's permit until the person is 21 years of age if the person:

(i) is convicted for the first time of a violation under Section 41-6a-502; and

(ii) has not been issued an operator license;

(c) revoke the person's driver license until the person is 21 years of age if:

(i) the person has a prior conviction as defined under Subsection 41-6a-501(2); and

(ii) the current violation under Section 41-6a-502 is committed within a period of 10 years from the date of the prior violation; or

(d) deny the person's application for a license or learner's permit until the person is 21 years of age if:

(i) the person has a prior conviction as defined under Subsection 41-6a-501(2);

(ii) the current violation under Section 41-6a-502 is committed within a period of 10 years from the date of the prior violation; and

(iii) the person has not been issued an operator license.

(4) The Driver License Division shall suspend or revoke the license of a person as ordered by the court under Subsection (9).

(5) The Driver License Division shall subtract from any suspension or revocation period the number of days for which a license was previously suspended under Section 53-3-223 or 53-3-231, if the previous suspension was based on the same occurrence upon which the record of conviction is based.

(6) If a conviction recorded as impaired driving is amended to a driving under the influence conviction under Section 41-6a-502 in accordance with Subsection 41-6a-502.5(3)(a)(ii), the Driver License Division:

(a) may not subtract from any suspension or revocation any time for which a license was previously suspended or revoked under Section 53-3-223 or 53-3-231; and

(b) shall start the suspension or revocation time under Subsection (1) on the date of the amended conviction.

(7) A court that reported a conviction of a violation of Section 41-6a-502 for a violation that occurred on or after July 1, 2009, to the Driver License Division may shorten the suspension period imposed under Subsection (2)(a) or (b) or Subsection (3)(a) or (b) prior to completion of the suspension period if the person:

(a) completes at least six months of the license suspension;

(b) completes a screening;

(c) completes an assessment, if it is found appropriate by a screening under Subsection (7)(b);

(d) completes substance abuse treatment if it is found appropriate by the assessment under Subsection (7)(c);

(e) completes an educational series if substance abuse treatment is not required by an assessment under Subsection (7)(c) or the court does not order substance abuse treatment;

(f) has not been convicted of a violation of any motor vehicle law in which the person was involved as the operator of the vehicle during the suspension period imposed under Subsection (2)(a) or (b) or Subsection (3)(a) or (b);

(g) has complied with all the terms of the person's probation or all orders of the court if not ordered to probation; and

(h) (i) is 18 years of age or older and provides a sworn statement to the court that the person has not unlawfully consumed alcohol during the suspension period imposed under Subsection (2)(a) or (b) or Subsection (3)(a) or (b); or

(ii) is under 18 years of age and has the person's parent or legal guardian provide an affidavit or sworn statement to the court certifying that to the parent or legal guardian's knowledge the person has not unlawfully consumed alcohol during the suspension period imposed under Subsection (2)(a) or (b) or Subsection (3)(a) or (b).

(8) If the court shortens a person's license suspension period in accordance with the requirements of Subsection (7), the court shall forward the order shortening the person's suspension period prior to the completion of the suspension period imposed under Subsection (2)(a) or (b) or Subsection (3)(a) or (b) to the Driver License Division.

(9) (a) (i) In addition to any other penalties provided in this section, a court may order the operator's license of a person who is convicted of a violation of Section 41-6a-502 to be suspended or revoked for an additional period of 90 days, 120 days, 180 days, one year, or two years to remove from the highways those persons who have shown they are safety hazards.

(ii) The additional suspension or revocation period provided in this Subsection (9) shall begin the date on which the individual would be eligible to reinstate the individual's driving privilege for a violation of Section 41-6a-502.

(b) If the court suspends or revokes the person's license under this Subsection (9), the court shall prepare and send to the Driver License Division an order to suspend or revoke that person's driving privileges for a specified period of time.

(10) (a) The court shall notify the Driver License Division if a person fails to[~~: (i)~~] complete all court ordered:

[~~(A) screening;~~]

[~~(B) assessment;~~]

(i) screenings;

(ii) assessments;

[~~(C)~~] (iii) educational series;

[~~(D)~~] (iv) substance abuse treatment; and

[~~(E)~~] (v) hours of work in a compensatory-service work program[~~; or~~].

[~~(ii) pay all fines and fees, including fees for restitution and treatment costs.~~]

(b) [~~Upon~~] Subject to Subsection 53-3-218(3), upon receiving the notification described in

Subsection (10)(a), the division shall suspend the person's driving privilege in accordance with [~~Subsections 53-3-221(2) and (3)~~] Subsection 53-3-221(2).

(11) (a) A court that reported a conviction of a violation of Section 41-6a-502 to the Driver License Division may shorten the suspension period imposed under Subsection (1) before completion of the suspension period if the person is participating in or has successfully completed a 24-7 sobriety program as defined in Section 41-6a-515.5.

(b) If the court shortens a person's license suspension period in accordance with the requirements of this Subsection (11), the court shall forward to the Driver License Division the order shortening the person's suspension period.

(c) The court shall notify the Driver License Division if a person fails to complete all requirements of a 24-7 sobriety program.

(d) [~~Upon~~] Subject to Subsection 53-3-218(3), upon receiving the notification described in Subsection (11)(c), the division shall suspend the person's driving privilege in accordance with [~~Subsections 53-3-221(2) and (3)~~] Subsection 53-3-221(2).

Section 2. Section 41-6a-517 is amended to read:

41-6a-517. Definitions -- Driving with any measurable controlled substance in the body -- Penalties -- Arrest without warrant.

(1) As used in this section:

(a) "Controlled substance" means the same as that term is defined in Section 58-37-2.

(b) "Practitioner" means the same as that term is defined in Section 58-37-2.

(c) "Prescribe" means the same as that term is defined in Section 58-37-2.

(d) "Prescription" means the same as that term is defined in Section 58-37-2.

(2) (a) Except as provided in Subsection (2)(b), in cases not amounting to a violation of Section 41-6a-502, a person may not operate or be in actual physical control of a motor vehicle within this state if the person has any measurable controlled substance or metabolite of a controlled substance in the person's body.

(b) Subsection (2)(a) does not apply to a person that has 11-nor-9-carboxy-tetrahydrocannabinol as the only controlled substance present in the person's body.

(3) It is an affirmative defense to prosecution under this section that the controlled substance was:

(a) involuntarily ingested by the accused;

(b) prescribed by a practitioner for use by the accused;

(c) cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form that the accused ingested in accordance with Title 26, Chapter 61a, Utah Medical Cannabis Act; or

(d) otherwise legally ingested.

(4) (a) A person convicted of a violation of Subsection (2) is guilty of a class B misdemeanor.

(b) A person who violates this section is subject to conviction and sentencing under both this section and any applicable offense under Section 58-37-8.

(5) A peace officer may, without a warrant, arrest a person for a violation of this section when the officer has probable cause to believe the violation has occurred, although not in the officer's presence, and if the officer has probable cause to believe that the violation was committed by the person.

(6) The Driver License Division shall, if the person is 21 years of age or older on the date of arrest:

(a) suspend, for a period of 120 days, the driver license of a person convicted under Subsection (2) of an offense committed on or after July 1, 2009; or

(b) revoke, for a period of two years, the driver license of a person if:

(i) the person has a prior conviction as defined under Subsection 41-6a-501(2); and

(ii) the current violation under Subsection (2) is committed on or after July 1, 2009, and within a period of 10 years after the date of the prior violation.

(7) The Driver License Division shall, if the person is 19 years of age or older but under 21 years of age on the date of arrest:

(a) suspend, until the person is 21 years of age or for a period of one year, whichever is longer, the driver license of a person convicted under Subsection (2) of an offense committed on or after July 1, 2011; or

(b) revoke, until the person is 21 years of age or for a period of two years, whichever is longer, the driver license of a person if:

(i) the person has a prior conviction as defined under Subsection 41-6a-501(2); and

(ii) the current violation under Subsection (2) is committed on or after July 1, 2009, and within a period of 10 years after the date of the prior violation.

(8) The Driver License Division shall, if the person is under 19 years of age on the date of arrest:

(a) suspend, until the person is 21 years of age, the driver license of a person convicted under Subsection (2) of an offense committed on or after July 1, 2009; or

(b) revoke, until the person is 21 years of age, the driver license of a person if:

(i) the person has a prior conviction as defined under Subsection 41-6a-501(2); and

(ii) the current violation under Subsection (2) is committed on or after July 1, 2009, and within a period of 10 years after the date of the prior violation.

(9) The Driver License Division shall subtract from any suspension or revocation period the number of days for which a license was previously suspended under Section 53-3-223 or 53-3-231, if the previous suspension was based on the same occurrence upon which the record of conviction is based.

(10) The Driver License Division shall:

(a) deny, suspend, or revoke a person's license for the denial and suspension periods in effect prior to July 1, 2009, for a conviction of a violation under Subsection (2) that was committed prior to July 1, 2009; or

(b) deny, suspend, or revoke the operator's license of a person for the denial, suspension, or revocation periods in effect from July 1, 2009, through June 30, 2011, if:

(i) the person was 20 years of age or older but under 21 years of age at the time of arrest; and

(ii) the conviction under Subsection (2) is for an offense that was committed on or after July 1, 2009, and prior to July 1, 2011.

(11) A court that reported a conviction of a violation of this section for a violation that occurred on or after July 1, 2009, to the Driver License Division may shorten the suspension period imposed under Subsection (7)(a) or (8)(a) prior to completion of the suspension period if the person:

(a) completes at least six months of the license suspension;

(b) completes a screening;

(c) completes an assessment, if it is found appropriate by a screening under Subsection (11)(b);

(d) completes substance abuse treatment if it is found appropriate by the assessment under Subsection (11)(c);

(e) completes an educational series if substance abuse treatment is not required by the assessment under Subsection (11)(c) or the court does not order substance abuse treatment;

(f) has not been convicted of a violation of any motor vehicle law in which the person was involved as the operator of the vehicle during the suspension period imposed under Subsection (7)(a) or (8)(a);

(g) has complied with all the terms of the person's probation or all orders of the court if not ordered to probation; and

(h) (i) is 18 years of age or older and provides a sworn statement to the court that the person has not consumed a controlled substance not prescribed by a practitioner for use by the person or unlawfully consumed alcohol during the suspension period imposed under Subsection (7)(a) or (8)(a); or

(ii) is under 18 years of age and has the person's parent or legal guardian provide an affidavit or other sworn statement to the court certifying that to the parent or legal guardian's knowledge the person has not consumed a controlled substance not prescribed by a practitioner for use by the person or unlawfully consumed alcohol during the suspension period imposed under Subsection (7)(a) or (8)(a).

(12) If the court shortens a person's license suspension period in accordance with the requirements of Subsection (11), the court shall forward the order shortening the person's license suspension period prior to the completion of the suspension period imposed under Subsection (7)(a) or (8)(a) to the Driver License Division.

(13) (a) The court shall notify the Driver License Division if a person fails to[~~: (i)~~] complete all court ordered screening and assessment, educational series, and substance abuse treatment[~~; or~~].

[~~(ii) pay all fines and fees, including fees for restitution and treatment costs.~~]

(b) [~~Upon~~] Subject to Subsection 53-3-218(3), upon receiving the notification, the division shall suspend the person's driving privilege in accordance with [~~Subsections 53-3-221(2) and (3)~~] Subsection 53-3-221(2).

(14) The court:

(a) shall order supervised probation in accordance with Section 41-6a-507 for a person convicted under Subsection (2); and

(b) may order a person convicted under Subsection (2) to participate in a 24-7 sobriety program as defined in Section 41-6a-515.5 if the person is 21 years of age or older.

(15) (a) A court that reported a conviction of a violation of this section to the Driver License Division may shorten the suspension period imposed under Subsection (6) before completion of the suspension period if the person is participating in or has successfully completed a 24-7 sobriety program as defined in Section 41-6a-515.5.

(b) If the court shortens a person's license suspension period in accordance with the requirements of this Subsection (15), the court shall forward to the Driver License Division the order shortening the person's suspension period.

(c) The court shall notify the Driver License Division if a person fails to complete all requirements of a 24-7 sobriety program.

(d) [~~Upon~~] Subject to Subsection 53-3-218(3), upon receiving the notification described in Subsection (15)(c), the division shall suspend the person's driving privilege in accordance with [~~Subsections 53-3-221(2) and (3)~~] Subsection 53-3-221(2).

Section 3. Section 41-6a-1715 is amended to read:

41-6a-1715. Careless driving defined and prohibited.

(1) A person operating a motor vehicle is guilty of careless driving if the person:

(a) commits two or more moving traffic violations under this chapter in a series of acts within a single continuous period of driving covering three miles or less in total distance; or

(b) commits a moving traffic violation under this chapter other than a moving traffic violation under Part 6, Speed Restrictions, while being distracted by one or more activities taking place within the vehicle that are not related to the operation of a motor vehicle, including:

(i) searching for an item in the vehicle; or

(ii) attending to personal hygiene or grooming.

(2) A violation of this section is a class C misdemeanor.

(3) In addition to the penalty provided under this section or any other section, a judge may order the revocation of the convicted person's driver license if the violation causes or results in the death of another person in accordance with Subsection [~~53-3-218(6)~~] 53-3-218(7).

Section 4. Section 53-3-102 is amended to read:

53-3-102. Definitions.

As used in this chapter:

(1) "Autocycle" means a motor vehicle that:

(a) is designed to travel with three or fewer wheels in contact with the ground;

(b) is equipped with a steering wheel; and

(c) is equipped with seating that does not require the operator to straddle or sit astride the vehicle.

(2) "Cancellation" means the termination by the division of a license issued through error or fraud or for which consent under Section 53-3-211 has been withdrawn.

(3) "Class D license" means the class of license issued to drive motor vehicles not defined as commercial motor vehicles or motorcycles under this chapter.

(4) "Commercial driver instruction permit" or "CDIP" means a commercial learner permit:

(a) issued under Section 53-3-408; or

(b) issued by a state or other jurisdiction of domicile in compliance with the standards contained in 49 C.F.R. Part 383.

(5) "Commercial driver license" or "CDL" means a license:

(a) issued substantially in accordance with the requirements of Title XII, Pub. L. 99-570, the Commercial Motor Vehicle Safety Act of 1986, and in accordance with Part 4, Uniform Commercial Driver License Act, which authorizes the holder to drive a class of commercial motor vehicle; and

(b) that was obtained by providing evidence of lawful presence in the United States with one of the document requirements described in Subsection 53-3-410(1)(i)(i).

(6) (a) "Commercial driver license motor vehicle record" or "CDL MVR" means a driving record that:

(i) applies to a person who holds or is required to hold a commercial driver instruction permit or a CDL license; and

(ii) contains the following:

(A) information contained in the driver history, including convictions, pleas held in abeyance, disqualifications, and other licensing actions for violations of any state or local law relating to motor vehicle traffic control, committed in any type of vehicle;

(B) driver self-certification status information under Section 53-3-410.1; and

(C) information from medical certification record keeping in accordance with 49 C.F.R. Sec. 383.73(o).

(b) "Commercial driver license motor vehicle record" or "CDL MVR" does not mean a motor vehicle record described in Subsection (30).

(7) (a) "Commercial motor vehicle" means a motor vehicle or combination of motor vehicles designed or used to transport passengers or property if the motor vehicle:

(i) has a gross vehicle weight rating of 26,001 or more pounds or a lesser rating as determined by federal regulation;

(ii) is designed to transport 16 or more passengers, including the driver; or

(iii) is transporting hazardous materials and is required to be placarded in accordance with 49 C.F.R. Part 172, Subpart F.

(b) The following vehicles are not considered a commercial motor vehicle for purposes of Part 4, Uniform Commercial Driver License Act:

(i) equipment owned and operated by the United States Department of Defense when driven by any active duty military personnel and members of the reserves and national guard on active duty including personnel on full-time national guard duty, personnel on part-time training, and national guard military technicians and civilians who are required to wear military uniforms and are subject to the code of military justice;

(ii) vehicles controlled and driven by a farmer to transport agricultural products, farm machinery, or farm supplies to or from a farm within 150 miles of his farm but not in operation as a motor carrier for hire;

(iii) firefighting and emergency vehicles;

(iv) recreational vehicles that are not used in commerce and are driven solely as family or personal conveyances for recreational purposes; and

(v) vehicles used to provide transportation network services, as defined in Section 13-51-102.

(8) "Conviction" means any of the following:

(a) an unvacated adjudication of guilt or a determination that a person has violated or failed to comply with the law in a court of original jurisdiction or an administrative proceeding;

(b) an unvacated forfeiture of bail or collateral deposited to secure a person's appearance in court;

(c) a plea of guilty or nolo contendere accepted by the court;

(d) the payment of a fine or court costs; or

(e) violation of a condition of release without bail, regardless of whether the penalty is rebated, suspended, or probated.

(9) "Denial" or "denied" means the withdrawal of a driving privilege by the division to which the provisions of Title 41, Chapter 12a, Part 4, Proof of Owner's or Operator's Security, do not apply.

(10) "Director" means the division director appointed under Section 53-3-103.

(11) "Disqualification" means either:

(a) the suspension, revocation, cancellation, denial, or any other withdrawal by a state of a person's privileges to drive a commercial motor vehicle;

(b) a determination by the Federal Highway Administration, under 49 C.F.R. Part 386, that a person is no longer qualified to drive a commercial motor vehicle under 49 C.F.R. Part 391; or

(c) the loss of qualification that automatically follows conviction of an offense listed in 49 C.F.R. Part 383.51.

(12) "Division" means the Driver License Division of the department created in Section 53-3-103.

(13) "Downgrade" means to obtain a lower license class than what was originally issued during an existing license cycle.

(14) "Drive" means:

(a) to operate or be in physical control of a motor vehicle upon a highway; and

(b) in Subsections 53-3-414(1) through (3), Subsection 53-3-414(5), and Sections 53-3-417 and 53-3-418, the operation or physical control of a motor vehicle at any place within the state.

(15) (a) "Driver" means an individual who drives, or is in actual physical control of a motor vehicle in any location open to the general public for purposes of vehicular traffic.

(b) In Part 4, Uniform Commercial Driver License Act, "driver" includes any person who is required to hold a CDL under Part 4, Uniform Commercial Driver License Act, or federal law.

(16) "Driving privilege card" means the evidence of the privilege granted and issued under this chapter to drive a motor vehicle to a person whose privilege was obtained without providing evidence of lawful presence in the United States.

(17) "Electronic license certificate" means the evidence, in an electronic format as described in Section 53-3-235, of a privilege granted under this chapter to drive a motor vehicle.

(18) "Extension" means a renewal completed in a manner specified by the division.

(19) "Farm tractor" means every motor vehicle designed and used primarily as a farm implement for drawing plows, mowing machines, and other implements of husbandry.

(20) "Highway" means the entire width between property lines of every way or place of any nature when any part of it is open to the use of the public, as a matter of right, for traffic.

(21) "Human driver" means the same as that term is defined in Section 41-26-102.1.

(22) "Identification card" means a card issued under Part 8, Identification Card Act, to a person for identification purposes.

(23) "Indigent" means that a person's income falls below the federal poverty guideline issued annually by the U.S. Department of Health and Human Services in the Federal Register.

(24) "License" means the privilege to drive a motor vehicle.

(25) (a) "License certificate" means the evidence of the privilege issued under this chapter to drive a motor vehicle.

(b) "License certificate" evidence includes:

(i) a regular license certificate;

(ii) a limited-term license certificate;

(iii) a driving privilege card;

(iv) a CDL license certificate;

(v) a limited-term CDL license certificate;

(vi) a temporary regular license certificate;

(vii) a temporary limited-term license certificate; and

(viii) an electronic license certificate created in Section 53-3-235.

(26) "Limited-term commercial driver license" or "limited-term CDL" means a license:

(a) issued substantially in accordance with the requirements of Title XII, Pub. L. No. 99-570, the Commercial Motor Vehicle Safety Act of 1986, and in accordance with Part 4, Uniform Commercial Driver License Act, which authorizes the holder to drive a class of commercial motor vehicle; and

(b) that was obtained by providing evidence of lawful presence in the United States with one of the document requirements described in Subsection 53-3-410(1)(i)(ii).

(27) "Limited-term identification card" means an identification card issued under this chapter to a person whose card was obtained by providing evidence of lawful presence in the United States with one of the document requirements described in Subsection 53-3-804(2)(i)(ii).

(28) "Limited-term license certificate" means the evidence of the privilege granted and issued under this chapter to drive a motor vehicle to a person whose privilege was obtained providing evidence of lawful presence in the United States with one of the document requirements described in Subsection 53-3-205(8)(a)(ii)(B).

(29) "Motor vehicle" means the same as that term is defined in Section 41-1a-102.

(30) "Motor vehicle record" or "MVR" means a driving record under Subsection 53-3-109(6)(a).

(31) "Motorboat" means the same as that term is defined in Section 73-18-2.

(32) "Motorcycle" means every motor vehicle, other than a tractor, having a seat or saddle for the use of the rider and designed to travel with not more than three wheels in contact with the ground.

(33) "Office of Recovery Services" means the Office of Recovery Services, created in Section 62A-11-102.

(34) "Operate" means the same as that term is defined in Section 41-1a-102.

(35) (a) "Owner" means a person other than a lien holder having an interest in the property or title to a vehicle.

(b) "Owner" includes a person entitled to the use and possession of a vehicle subject to a security interest in another person but excludes a lessee under a lease not intended as security.

(36) "Penalty accounts receivable" means a fine, restitution, forfeiture, fee, surcharge, or other financial penalty imposed on an individual by a court or other government entity.

[~~(36)~~] (37) (a) "Private passenger carrier" means any motor vehicle for hire that is:

(i) designed to transport 15 or fewer passengers, including the driver; and

(ii) operated to transport an employee of the person that hires the motor vehicle.

(b) "Private passenger carrier" does not include:

(i) a taxicab;

(ii) a motor vehicle driven by a transportation network driver as defined in Section 13-51-102;

(iii) a motor vehicle driven for transportation network services as defined in Section 13-51-102; and

(iv) a motor vehicle driven for a transportation network company as defined in Section 13-51-102 and registered with the Division of Consumer Protection as described in Section 13-51-104.

[~~(37)~~] (38) "Regular identification card" means an identification card issued under this chapter to a person whose card was obtained by providing evidence of lawful presence in the United States with one of the document requirements described in Subsection 53-3-804(2)(i)(i).

[~~(38)~~] (39) "Regular license certificate" means the evidence of the privilege issued under this chapter to drive a motor vehicle whose privilege was obtained by providing evidence of lawful presence in the United States with one of the document requirements described in Subsection 53-3-205(8)(a)(ii)(A).

[~~(39)~~] (40) "Renewal" means to validate a license certificate so that it expires at a later date.

[~~(40)~~] (41) "Reportable violation" means an offense required to be reported to the division as determined by the division and includes those offenses against which points are assessed under Section 53-3-221.

[~~(41)~~] (42) (a) "Resident" means an individual who:

(i) has established a domicile in this state, as defined in Section 41-1a-202, or regardless of domicile, remains in this state for an aggregate period of six months or more during any calendar year;

(ii) engages in a trade, profession, or occupation in this state, or who accepts employment in other than seasonal work in this state, and who does not commute into the state;

(iii) declares himself to be a resident of this state by obtaining a valid Utah driver license certificate or motor vehicle registration; or

(iv) declares himself a resident of this state to obtain privileges not ordinarily extended to nonresidents, including going to school, or placing children in school without paying nonresident tuition or fees.

(b) "Resident" does not include any of the following:

(i) a member of the military, temporarily stationed in this state;

(ii) an out-of-state student, as classified by an institution of higher education, regardless of whether the student engages in any type of employment in this state;

(iii) a person domiciled in another state or country, who is temporarily assigned in this state, assigned by or representing an employer, religious or private organization, or a governmental entity; or

(iv) an immediate family member who resides with or a household member of a person listed in Subsections [~~(41)~~] (42)(b)(i) through (iii).

[~~(42)~~] (43) "Revocation" means the termination by action of the division of a licensee's privilege to drive a motor vehicle.

[~~(43)~~] (44) (a) "School bus" means a commercial motor vehicle used to transport pre-primary, primary, or secondary school students to and from home and school, or to and from school sponsored events.

(b) "School bus" does not include a bus used as a common carrier as defined in Section 59-12-102.

[~~(44)~~] (45) "Suspension" means the temporary withdrawal by action of the division of a licensee's privilege to drive a motor vehicle.

[~~(45)~~] (46) "Taxicab" means any class D motor vehicle transporting any number of passengers for hire and that is subject to state or federal regulation as a taxi.

Section 5. Section 53-3-218 is amended to read:

53-3-218. Court to report convictions and may recommend suspension of license -- Severity of speeding violation defined.

(1) As used in this section, "conviction" means conviction by the court of first impression or final administrative determination in an administrative traffic proceeding.

(2) (a) Except as provided in Subsection (2)(c), a court having jurisdiction over offenses committed under this chapter or any other law of this state, or under any municipal ordinance regulating driving motor vehicles on highways or driving motorboats on the water, shall forward to the division within five days, an abstract of the court record of the conviction or plea held in abeyance of any person in the court for a reportable traffic or motorboating violation of any laws or ordinances, and may recommend the suspension of the license of the person convicted.

(b) When the division receives a court record of a conviction or plea in abeyance for a motorboat violation, the division may only take action against a person's driver license if the motorboat violation is for a violation of Title 41, Chapter 6a, Part 5, Driving Under the Influence and Reckless Driving.

(c) A court may not forward to the division an abstract of a court record of a conviction for a violation described in Subsection 53-3-220(1)(c)(i) or (ii), unless the court found that the person convicted of the violation was an operator of a motor vehicle at the time of the violation.

(3) (a) A court may not order the division to suspend a person's driver license based solely on the person's failure to pay a penalty accounts receivable.

(b) The court may notify the division, and the division may, prior to sentencing, suspend the driver license of a person who fails to appear if the person is charged with:

(i) an offense of any level that is a moving traffic violation;

(ii) an offense described in Title 41, Chapter 12a, Part 3, Owner's or Operator's Security Requirement; or

(iii) an offense described in Subsection 53-3-220(1)(a) or (b).

[~~(3)~~] (4) The abstract shall be made in the form prescribed by the division and shall include:

(a) the name, date of birth, and address of the party charged;

(b) the license certificate number of the party charged, if any;

(c) the registration number of the motor vehicle or motorboat involved;

(d) whether the motor vehicle was a commercial motor vehicle;

(e) whether the motor vehicle carried hazardous materials;

(f) whether the motor vehicle carried 16 or more occupants;

(g) whether the driver presented a commercial driver license;

(h) the nature of the offense;

(i) whether the offense involved an accident;

(j) the driver's blood alcohol content, if applicable;

(k) if the offense involved a speeding violation:

(i) the posted speed limit;

(ii) the actual speed; and

(iii) whether the speeding violation occurred on a highway that is part of the interstate system as defined in Section 72-1-102;

(l) the date of the hearing;

(m) the plea;

(n) the judgment or whether bail was forfeited; and

(o) the severity of the violation, which shall be graded by the court as "minimum," "intermediate," or "maximum" as established in accordance with Subsection 53-3-221(4).

[~~(4)~~] (5) When a convicted person secures a judgment of acquittal or reversal in any appellate court after conviction in the court of first impression, the division shall reinstate the convicted person's license immediately upon receipt of a certified copy of the judgment of acquittal or reversal.

[~~(5)~~] (6) Upon a conviction for a violation of the prohibition on using a handheld wireless communication device for text messaging or electronic mail communication while operating a moving motor vehicle under Section 41-6a-1716, a judge may order a suspension of the convicted person's license for a period of three months.

[~~(6)~~] (7) Upon a conviction for a violation of careless driving under Section 41-6a-1715 that causes or results in the death of another person, a judge may order a revocation of the convicted person's license for a period of one year.

Section 6. Section 53-3-221 is amended to read:

53-3-221. Offenses that may result in denial, suspension, disqualification, or revocation of license -- Additional grounds for suspension -- Point system for traffic violations -- Notice and hearing -- Reporting of traffic violation procedures.

(1) By following the procedures in Title 63G, Chapter 4, Administrative Procedures Act, the division may deny, suspend, disqualify, or revoke the license or permit of any person without receiving a record of the person's conviction of crime when the division has been notified or has reason to believe the person:

(a) has committed any offenses for which mandatory suspension or revocation of a license is required upon conviction under Section 53-3-220;

(b) has, by reckless or unlawful driving of a motor vehicle, caused or contributed to an accident resulting in death or injury to any other person, or serious property damage;

(c) is incompetent to drive a motor vehicle or mobility vehicle or has a mental or physical disability rendering it unsafe for the person to drive a motor vehicle or mobility vehicle upon the highways;

(d) has committed a serious violation of the motor vehicle laws of this state;

(e) has knowingly committed a violation of Section 53-3-229; or

(f) has been convicted of serious offenses against traffic laws governing the movement of motor vehicles with a frequency that indicates a disrespect for traffic laws and a disregard for the safety of other persons on the highways.

[~~(2) (a) The division may suspend the license of a person under Subsection (1) when the person has failed to comply with the terms stated on a traffic citation issued in this state, except this Subsection (2) does not apply to highway weight limit violations or violations of law governing the transportation of hazardous materials.~~]

[~~(b) This Subsection (2) applies to parking and standing violations only if a court has issued a warrant for the arrest of a person for failure to post bail, appear, or otherwise satisfy the terms of the citation.~~]

(2) (a) (i) Except as provided in Subsection 53-3-218(3), and subject to Subsection (2)(a)(ii), the division may suspend a license of a person under Subsection (1):

(A) when the person has failed to comply with the terms stated on a traffic citation issued in this state;

(B) when the person has failed to successfully complete a 24-7 sobriety program as defined in Section 41-6a-515.5; or

(C) if the division receives a notification from a court as described in Subsection 41-6a-509(11)(d) or 41-6a-517(13)(b).

(ii) This Subsection (2) does not apply to highway weight limit violations or violations of law governing the transportation of hazardous materials.

[~~(c)~~] (b) (i) This Subsection (2) may not be exercised unless notice of the pending suspension of the driving privilege has been sent at least [~~10~~] 30 days previously to the person at the address provided to the division.

(ii) After clearance by the division, a report authorized by Section 53-3-104 may not contain any evidence of a suspension that occurred as a result of failure to comply with the terms stated on a traffic citation.

[~~(3) (a) The division may suspend the license of a person under Subsection (1) when the division has been notified by a court that the person has an outstanding unpaid fine, an outstanding incomplete restitution requirement, or an outstanding warrant levied by order of a court.~~]

[~~(b) The suspension remains in effect until the division is notified by the court that the order has been satisfied.~~]

[~~(c) After clearance by the division, a report authorized by Section 53-3-104 may not contain any evidence of the suspension.~~]

[~~(d) The provisions of Subsection (3)(c) do not apply to:~~]

[~~(i) a CDIP or CDL license holder; or~~]

[~~(ii) a violation that occurred in a commercial motor vehicle.~~]

(3) Except as provided in Subsection 53-3-218(3), the division may not revoke, deny, suspend, or disqualify an individual's driver license based solely on:

(a) the individual's failure to appear;

(b) the individual's failure to pay an outstanding penalty accounts receivable; or

(c) the issuance of a bench warrant as a result of an event described in Subsection (3)(a) or (b).

(4) (a) The division shall make rules establishing a point system as provided for in this Subsection (4).

(b) (i) The division shall assign a number of points to each type of moving traffic violation as a measure of its seriousness.

(ii) The points shall be based upon actual relationships between types of traffic violations and motor vehicle traffic accidents.

(iii) Except as provided in Subsection (4)(b)(iv), the division may not assess points against a person's driving record for a conviction of a traffic violation:

(A) that occurred in another state; and

(B) that was committed on or after July 1, 2011.

(iv) The provisions of Subsection (4)(b)(iii) do not apply to:

(A) a reckless or impaired driving violation or a speeding violation for exceeding the posted speed limit by 21 or more miles per hour; or

(B) an offense committed in another state which, if committed within Utah, would result in the mandatory suspension or revocation of a license upon conviction under Section 53-3-220.

(c) Every person convicted of a traffic violation shall have assessed against the person's driving record the number of points that the division has assigned to the type of violation of which the person has been convicted, except that the number of points assessed shall be decreased by 10% if on the abstract of the court record of the conviction the court has graded the severity of violation as minimum, and shall be increased by 10% if on the abstract the court has graded the severity of violation as maximum.

(d) (i) A separate procedure for assessing points for speeding offenses shall be established by the division based upon the severity of the offense.

(ii) The severity of a speeding violation shall be graded as:

(A) "minimum" for exceeding the posted speed limit by up to 10 miles per hour;

(B) "intermediate" for exceeding the posted speed limit by from 11 to 20 miles per hour; and

(C) "maximum" for exceeding the posted speed limit by 21 or more miles per hour.

(iii) Consideration shall be made for assessment of no points on minimum speeding violations, except for speeding violations in school zones.

(e) (i) Points assessed against a person's driving record shall be deleted for violations occurring before a time limit set by the division.

(ii) The time limit may not exceed three years.

(iii) The division may also delete points to reward violation-free driving for periods of time set by the division.

(f) (i) By publication in two newspapers having general circulation throughout the state, the division shall give notice of the number of points it has assigned to each type of traffic violation, the time limit set by the division for the deletion of points, and the point level at which the division will generally take action to deny or suspend under this section.

(ii) The division may not change any of the information provided above regarding points without first giving new notice in the same manner.

(5) (a) (i) If the division finds that the license of a person should be denied, suspended, disqualified, or revoked under this section, the division shall immediately notify the licensee in a manner specified by the division and afford the person an opportunity for a hearing in the county where the licensee resides.

(ii) The hearing shall be documented, and the division or its authorized agent may administer oaths, may issue subpoenas for the attendance of witnesses and the production of relevant books and papers, and may require a reexamination of the licensee.

(iii) One or more members of the division may conduct the hearing, and any decision made after a hearing before any number of the members of the division is as valid as if made after a hearing before the full membership of the division.

(iv) After the hearing the division shall either rescind or affirm its decision to deny, suspend, disqualify, or revoke the license.

(b) The denial, suspension, disqualification, or revocation of the license remains in effect pending qualifications determined by the division regarding a person:

(i) whose license has been denied or suspended following reexamination;

(ii) who is incompetent to drive a motor vehicle;

(iii) who is afflicted with mental or physical infirmities that might make him dangerous on the highways; or

(iv) who may not have the necessary knowledge or skill to drive a motor vehicle safely.

(6) (a) Subject to Subsection (6)(d), the division shall suspend a person's license when the division receives notice from the Office of Recovery Services that the Office of Recovery Services has ordered the suspension of the person's license.

(b) A suspension under Subsection (6)(a) shall remain in effect until the division receives notice from the Office of Recovery Services that the Office of Recovery Services has rescinded the order of suspension.

(c) After an order of suspension is rescinded under Subsection (6)(b), a report authorized by Section 53-3-104 may not contain any evidence of the suspension.

(d) (i) If the division suspends a person's license under this Subsection (6), the division shall, upon application, issue a temporary limited driver license to the person if that person needs a driver license for employment, education, or child visitation.

(ii) The temporary limited driver license described in this section:

(A) shall provide that the person may operate a motor vehicle only for the purpose of driving to or from the person's place of employment, education, or child visitation;

(B) shall prohibit the person from driving a motor vehicle for any purpose other than a purpose described in Subsection (6)(d)(ii)(A); and

(C) shall expire 90 days after the day on which the temporary limited driver license is issued.

(iii) (A) During the period beginning on the day on which a temporary limited driver license is issued under this Subsection (6), and ending on the day that the temporary limited driver license expires, the suspension described in this Subsection (6) only applies if the person who is suspended operates a motor vehicle for a purpose other than employment, education, or child visitation.

(B) Upon expiration of a temporary limited driver license described in this Subsection (6)(d):

(I) a suspension described in Subsection (6)(a) shall be in full effect until the division receives notice, under Subsection (6)(b), that the order of suspension is rescinded; and

(II) a person suspended under Subsection (6)(a) may not drive a motor vehicle for any reason.

(iv) The division is not required to issue a limited driver license to a person under this Subsection (6)(d) if there are other legal grounds for the suspension of the person's driver license.

(v) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement the provisions of this part.

(7) (a) The division may suspend or revoke the license of any resident of this state upon receiving notice of the conviction of that person in another state of an offense committed there that, if committed in this state, would be grounds for the suspension or revocation of a license.

(b) The division may, upon receiving a record of the conviction in this state of a nonresident driver of a motor vehicle or motorboat of any offense under the motor vehicle laws of this state, forward a certified copy of the record to the motor vehicle administrator in the state where the person convicted is a resident.

(8) (a) The division may suspend or revoke the license of any nonresident to drive a motor vehicle in this state for any cause for which the license of a resident driver may be suspended or revoked.

(b) Any nonresident who drives a motor vehicle upon a highway when the person's license has been suspended or revoked by the division is guilty of a class C misdemeanor.

(9) (a) The division may not deny or suspend the license of any person for a period of more than one year except:

(i) for failure to comply with the terms of a traffic citation under Subsection (2);

(ii) upon receipt of a second or subsequent order suspending juvenile driving privileges under Section 53-3-219;

(iii) when extending a denial or suspension upon receiving certain records or reports under Subsection 53-3-220(2);

(iv) for failure to give and maintain owner's or operator's security under Section 41-12a-411;

(v) when the division suspends the license under Subsection (6); or

(vi) when the division denies the license under Subsection (14).

(b) The division may suspend the license of a person under Subsection (2) until the person shows satisfactory evidence of compliance with the terms of the traffic citation.

(10) (a) By following the procedures in Title 63G, Chapter 4, Administrative Procedures Act, the division may suspend the license of any person without receiving a record of the person's conviction for a crime when the division has reason to believe that the person's license was granted by the division through error or fraud or that the necessary consent for the license has been withdrawn or is terminated.

(b) The procedure upon suspension is the same as under Subsection (5), except that after the hearing the division shall either rescind its order of suspension or cancel the license.

(11) (a) The division, having good cause to believe that a licensed driver is incompetent or otherwise not qualified to be licensed, may upon notice in a manner specified by the division of at least five days to the licensee require him to submit to an examination.

(b) Upon the conclusion of the examination the division may suspend or revoke the person's license, permit him to retain the license, or grant a license subject to a restriction imposed in accordance with Section 53-3-208.

(c) Refusal or neglect of the licensee to submit to an examination is grounds for suspension or revocation of the licensee's license.

(12) (a) Except as provided in Subsection (12)(b), a report authorized by Section 53-3-104 may not contain any evidence of a conviction for speeding on an interstate system in this state if the conviction was for a speed of 10 miles per hour or less, above the posted speed limit and did not result in an accident, unless authorized in a manner specified by the division by the individual whose report is being requested.

(b) The provisions of Subsection (12)(a) do not apply for:

(i) a CDIP or CDL license holder; or

(ii) a violation that occurred in a commercial motor vehicle.

(13) (a) By following the procedures in Title 63G, Chapter 4, Administrative Procedures Act, the division may suspend the license of a person if it has reason to believe that the person is the owner of a motor vehicle for which security is required under Title 41, Chapter 12a, Financial Responsibility of Motor Vehicle Owners and Operators Act, and has driven the motor vehicle or permitted it to be driven within this state without the security being in effect.

(b) The division may suspend a driving privilege card holder's driving privilege card if the division receives notification from the Motor Vehicle Division that:

(i) the driving privilege card holder is the registered owner of a vehicle; and

(ii) the driving privilege card holder's vehicle registration has been revoked under Subsection 41-1a-110(2)(a)(ii)(A).

(c) Section 41-12a-411 regarding the requirement of proof of owner's or operator's

security applies to persons whose driving privileges are suspended under this Subsection (13).

(14) The division may deny an individual's license if the person fails to comply with the requirement to downgrade the person's CDL to a class D license under Section 53-3-410.1.

(15) The division may deny a person's class A, B, C, or D license if the person fails to comply with the requirement to have a K restriction removed from the person's license.

(16) Any suspension or revocation of a person's license under this section also disqualifies any license issued to that person under Part 4, Uniform Commercial Driver License Act.

CHAPTER 121
H. B. 151
Passed March 5, 2021
Approved March 16, 2021
Effective May 5, 2021

STATE INFRASTRUCTURE BANK AMENDMENTS

Chief Sponsor: Brady Brammer
Senate Sponsor: Kirk A. Cullimore

LONG TITLE

General Description:

This bill amends provisions of the Transportation Code pertaining to the use of State Infrastructure Bank revenue for transportation or publicly owned infrastructure projects.

Highlighted Provisions:

This bill:

- defines the term "publicly owned infrastructure project" as it pertains to the use of State Infrastructure Bank funds;
- amends provisions related to the use of State Infrastructure Bank funds for transportation and publicly owned infrastructure projects; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

72-2-201, as last amended by Laws of Utah 2020, Chapter 366
72-2-202, as last amended by Laws of Utah 2019, Chapter 479
72-2-204, as last amended by Laws of Utah 2020, Chapter 366
72-2-206, as renumbered and amended by Laws of Utah 1998, Chapter 270

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

Section 1. Section 72-2-201 is amended to read:

72-2-201. Definitions.

As used in this part:

(1) "Fund" means the State Infrastructure Bank Fund created under Section 72-2-202.

(2) "Infrastructure assistance" means any use of fund money, except an infrastructure loan, to provide financial assistance for transportation projects or publicly owned infrastructure projects, including:

(a) capital reserves and other security for bond or debt instrument financing; or

(b) any letters of credit, lines of credit, bond insurance, or loan guarantees obtained by a public entity to finance transportation projects.

(3) "Infrastructure loan" means a loan of fund money to finance a transportation project or publicly owned infrastructure project.

(4) "Public entity" means a state agency, county, municipality, local district, special service district, an intergovernmental entity organized under state law, or the military installation development authority created in Section 63H-1-201.

(5) "Publicly owned infrastructure project" means a project to improve sewer or water infrastructure that is owned by a public entity.

[~~(5)~~] (6) "Transportation project":

(a) means a project:

(i) to improve a state or local highway;

(ii) to improve a public transportation facility or nonmotorized transportation facility;

(iii) to construct or improve parking facilities; or

(iv) that is subject to a transportation reinvestment zone agreement pursuant to Section 11-13-227 if the state is party to the agreement;

(b) includes the costs of acquisition, construction, reconstruction, rehabilitation, equipping, and fixturing; and

(c) may only include a project if the project is part of:

(i) the statewide long range plan;

(ii) a regional transportation plan of the area metropolitan planning organization if a metropolitan planning organization exists for the area; or

(iii) a local government general plan or economic development initiative.

Section 2. Section 72-2-202 is amended to read:

72-2-202. State Infrastructure Bank Fund -- Creation -- Use of money.

(1) There is created a revolving loan fund entitled the State Infrastructure Bank Fund.

(2) (a) The fund consists of money generated from the following revenue sources:

(i) appropriations made to the fund by the Legislature;

(ii) federal money and grants that are deposited in the fund;

(iii) money transferred to the fund by the commission from other money available to the department;

(iv) state grants that are deposited in the fund;

(v) contributions or grants from any other private or public sources for deposit into the fund; and

(vi) subject to Subsection (2)(b), all money collected from repayments of fund money used for infrastructure loans or infrastructure assistance.

(b) When a loan from the fund is repaid, the department may request and the Legislature may

transfer from the fund to the source from which the money originated an amount equal to the repaid loan.

(3) (a) The fund shall earn interest.

(b) All interest earned on fund money shall be deposited into the fund.

(4) Money in the fund shall be used by the department, as prioritized by the commission, only to:

(a) provide infrastructure loans or infrastructure assistance; and

(b) pay the department for the costs of administering the fund, providing infrastructure loans or infrastructure assistance, monitoring transportation projects and publicly owned infrastructure projects, and obtaining repayments of infrastructure loans or infrastructure assistance.

(5) (a) The department may establish separate accounts in the fund for infrastructure loans, infrastructure assistance, administrative and operating expenses, or any other purpose to implement this part.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department may make rules governing how the fund and its accounts may be held by an escrow agent.

(6) Fund money shall be invested by the state treasurer as provided in Title 51, Chapter 7, State Money Management Act, and the earnings from the investments shall be credited to the fund.

Section 3. Section 72-2-204 is amended to read:

72-2-204. Loan program procedures -- Repayment.

(1) A public entity may obtain an infrastructure loan from the department, upon approval by the commission, by entering into a loan contract with the department secured by legally issued bonds, notes, or other evidence of indebtedness validly issued under state law, including pledging all or any portion of a revenue source controlled by the public entity to the repayment of the loan.

(2) A loan or assistance from the fund shall bear interest at a rate not to exceed .5% above bond market interest rates available to the state.

(3) A loan shall be repaid no later than 15 years from the date the department issues the loan to the borrower, with repayment commencing no later than:

(a) when the project is completed; or

(b) in the case of a highway project, when the facility has opened to traffic.

(4) The public entity shall repay the infrastructure loan in accordance with the loan contract from any of the following sources:

(a) transportation project or publicly owned infrastructure project revenues, including special assessment revenues;

(b) general funds of the public entity;

(c) money withheld under Subsection (7); or

(d) any other legally available revenues.

(5) An infrastructure loan contract with a public entity may provide that a portion of the proceeds of the loan may be applied to fund a reserve fund to secure the repayment of the loan.

(6) Before obtaining an infrastructure loan, a county or municipality shall:

(a) publish its intention to obtain an infrastructure loan at least once in accordance with the publication of notice requirements under Section 11-14-316; and

(b) adopt an ordinance or resolution authorizing the infrastructure loan.

(7) (a) If a public entity fails to comply with the terms of its infrastructure loan contract, the department may seek any legal or equitable remedy to obtain compliance or payment of damages.

(b) If a public entity fails to make infrastructure loan payments when due, the state shall, at the request of the department, withhold an amount of money due to the public entity and deposit the withheld money in the fund to pay the amounts due under the contract.

(c) The department may elect when to request the withholding of money under this Subsection (7).

(8) All loan contracts, bonds, notes, or other evidence of indebtedness securing the loan contracts shall be held, collected, and accounted for in accordance with Section 63B-1b-202.

Section 4. Section 72-2-206 is amended to read:

72-2-206. Department authority to contract.

The department may, upon approval of the commission:

(1) make all contracts, execute all instruments, and do all things necessary or convenient to provide financial assistance for transportation projects or publicly owned infrastructure projects in accordance with this chapter; and

(2) enter into and perform the contracts and agreements with entities concerning the planning, construction, lease, or other acquisition, installation, or financing of transportation projects or publicly owned infrastructure projects.

CHAPTER 122
H. B. 155
Passed February 25, 2021
Approved March 16, 2021
Effective May 5, 2021

CIVIL COMMITMENT AMENDMENTS

Chief Sponsor: Nelson T. Abbott
Senate Sponsor: Luz Escamilla

LONG TITLE

General Description:

This bill makes changes concerning involuntary commitment and assisted outpatient treatment.

Highlighted Provisions:

This bill:

- allows a patient to provide an informed waiver to a court regarding the patient's appearance at a hearing;
- sets requirements for when a court may involuntarily commit a person originally ordered to assisted outpatient treatment; and
- makes technical and conforming amendments.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

62A-15-602, as last amended by Laws of Utah 2019, Chapters 189 and 256
62A-15-630.5, as enacted by Laws of Utah 2019, Chapter 256
62A-15-631, as last amended by Laws of Utah 2019, Chapters 256 and 419

REPEALS AND REENACTS:

62A-15-632, as last amended by Laws of Utah 2019, Chapter 419

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

Section 1. Section 62A-15-602 is amended to read:

62A-15-602. Definitions.

As used in this part, Part 7, Commitment of Persons Under Age 18 to Division of Substance Abuse and Mental Health, Part 8, Interstate Compact on Mental Health, Part 9, Utah Forensic Mental Health Facility, Part 10, Declaration for Mental Health Treatment, and Part 12, Essential Treatment and Intervention Act:

(1) "Adult" means an individual 18 years of age or older.

(2) "Approved treatment facility or program" means a treatment provider that meets the standards described in Subsection 62A-15-103(2)(a)(v).

(3) "Assisted outpatient treatment" means involuntary outpatient mental health treatment ordered under Section 62A-15-630.5.

(4) "Commitment to the custody of a local mental health authority" means that an adult is committed to the custody of the local mental health authority that governs the mental health catchment area where the adult resides or is found.

(5) "Community mental health center" means an entity that provides treatment and services to a resident of a designated geographical area, that operates by or under contract with a local mental health authority, and that complies with state standards for community mental health centers.

(6) "Designated examiner" means:

(a) a licensed physician, preferably a psychiatrist, who is designated by the division as specially qualified by training or experience in the diagnosis of mental or related illness; or

(b) a licensed mental health professional designated by the division as specially qualified by training and who has at least five years' continual experience in the treatment of mental illness.

(7) "Designee" means a physician who has responsibility for medical functions including admission and discharge, an employee of a local mental health authority, or an employee of a person that has contracted with a local mental health authority to provide mental health services under Section 17-43-304.

(8) "Essential treatment" and "essential treatment and intervention" mean court-ordered treatment at a local substance abuse authority or an approved treatment facility or program for the treatment of an adult's substance use disorder.

(9) "Harmful sexual conduct" means the following conduct upon an individual without the individual's consent, including the nonconsensual circumstances described in Subsections 76-5-406(2)(a) through (l):

(a) sexual intercourse;

(b) penetration, however slight, of the genital or anal opening of the individual;

(c) any sexual act involving the genitals or anus of the actor or the individual and the mouth or anus of either individual, regardless of the gender of either participant; or

(d) any sexual act causing substantial emotional injury or bodily pain.

(10) "Informed waiver" means the patient was informed of a right and, after being informed of that right and the patient's right to waive the right, expressly communicated his or her intention to waive that right.

[~~(10)~~] (11) "Institution" means a hospital or a health facility licensed under Section 26-21-8.

[~~(11)~~] (12) "Local substance abuse authority" means the same as that term is defined in Section 62A-15-102 and described in Section 17-43-201.

[~~(12)~~] (13) "Mental health facility" means the Utah State Hospital or other facility that provides mental health services under contract with the

division, a local mental health authority, a person that contracts with a local mental health authority, or a person that provides acute inpatient psychiatric services to a patient.

[~~(13)~~] (14) "Mental health officer" means an individual who is designated by a local mental health authority as qualified by training and experience in the recognition and identification of mental illness, to:

(a) apply for and provide certification for a temporary commitment; or

(b) assist in the arrangement of transportation to a designated mental health facility.

[~~(14)~~] (15) "Mental illness" means:

(a) a psychiatric disorder that substantially impairs an individual's mental, emotional, behavioral, or related functioning; or

(b) the same as that term is defined in:

(i) the current edition of the Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association; or

(ii) the current edition of the International Statistical Classification of Diseases and Related Health Problems.

[~~(15)~~] (16) "Patient" means an individual who is:

(a) under commitment to the custody or to the treatment services of a local mental health authority; or

(b) undergoing essential treatment and intervention.

[~~(16)~~] (17) "Physician" means an individual who is:

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

(b) licensed as a physician under Title 58, Chapter 68, Utah Osteopathic Medical Practice Act.

[~~(17)~~] (18) "Serious bodily injury" means bodily injury that involves a substantial risk of death, unconsciousness, extreme physical pain, protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member, organ, or mental faculty.

[~~(18)~~] (19) "Substantial danger" means that due to mental illness, an individual is at serious risk of:

(a) suicide;

(b) serious bodily self-injury;

(c) serious bodily injury because the individual is incapable of providing the basic necessities of life, including food, clothing, or shelter;

(d) causing or attempting to cause serious bodily injury to another individual; or

(e) engaging in harmful sexual conduct.

[~~(19)~~] (20) "Treatment" means psychotherapy, medication, including the administration of psychotropic medication, or other medical treatments that are generally accepted medical or psychosocial interventions for the purpose of restoring the patient to an optimal level of functioning in the least restrictive environment.

Section 2. Section 62A-15-630.5 is amended to read:

62A-15-630.5. Assisted outpatient treatment proceedings.

(1) A responsible individual who has credible knowledge of an adult's mental illness and the condition or circumstances that have led to the adult's need for assisted outpatient treatment may file, in the district court in the county where the proposed patient resides or is found, a written application that includes:

(a) unless the court finds that the information is not reasonably available, the proposed patient's:

(i) name;

(ii) date of birth; and

(iii) social security number; and

(b) (i) a certificate of a licensed physician or a designated examiner stating that within the seven-day period immediately preceding the certification, the physician or designated examiner examined the proposed patient and is of the opinion that the proposed patient has a mental illness and should be involuntarily committed; or

(ii) a written statement by the applicant that:

(A) the proposed patient has been requested to, but has refused to, submit to an examination of mental condition by a licensed physician or designated examiner;

(B) is sworn to under oath; and

(C) states the facts upon which the application is based.

(2) (a) Subject to Subsection (2)(b), before issuing a judicial order, the court may require the applicant to consult with the appropriate local mental health authority, and the court may direct a mental health professional from that local mental health authority to interview the applicant and the proposed patient to determine the existing facts and report them to the court.

(b) The consultation described in Subsection (2)(a):

(i) may take place at or before the hearing; and

(ii) is required if the local mental health authority appears at the hearing.

(3) If the proposed patient refuses to submit to an interview described in Subsection (2)(a) or an examination described in Subsection (8), the court may issue an order, directed to a mental health officer or peace officer, to immediately place the proposed patient into the custody of a local mental health authority or in a temporary emergency facility, as provided in Section 62A-15-634, to be detained for the purpose of examination.

(4) Notice of commencement of proceedings for assisted outpatient treatment, setting forth the allegations of the application and any reported facts, together with a copy of any official order of detention, shall:

(a) be provided by the court to a proposed patient before, or upon, placement into the custody of a local mental health authority or, with respect to any proposed patient presently in the custody of a local mental health authority;

(b) be maintained at the proposed patient's place of detention, if any;

(c) be provided by the court as soon as practicable to the applicant, any legal guardian, any immediate adult family members, legal counsel for the parties involved, the local mental health authority or its designee, and any other person whom the proposed patient or the court shall designate; and

(d) advise that a hearing may be held within the time provided by law.

(5) The district court may, in its discretion, transfer the case to any other district court within this state, provided that the transfer will not be adverse to the interest of the proposed patient.

(6) Within 24 hours, excluding Saturdays, Sundays, and legal holidays, of the issuance of a judicial order, or after commitment of a proposed patient to a local mental health authority or its designee under court order for detention in order to complete an examination, the court shall appoint two designated examiners:

(a) who did not sign the assisted outpatient treatment application nor the certification described in Subsection (1);

(b) one of whom is a licensed physician; and

(c) one of whom may be designated by the proposed patient or the proposed patient's counsel, if that designated examiner is reasonably available.

(7) The court shall schedule a hearing to be held within 10 calendar days of the day on which the designated examiners are appointed.

(8) The designated examiners shall:

(a) conduct their examinations separately;

(b) conduct the examinations at the home of the proposed patient, at a hospital or other medical facility, or at any other suitable place that is not likely to have a harmful effect on the proposed patient's health;

(c) inform the proposed patient, if not represented by an attorney:

(i) that the proposed patient does not have to say anything;

(ii) of the nature and reasons for the examination;

(iii) that the examination was ordered by the court;

(iv) that any information volunteered could form part of the basis for the proposed patient to be ordered to receive assisted outpatient treatment; and

(v) that findings resulting from the examination will be made available to the court; and

(d) within 24 hours of examining the proposed patient, report to the court, orally or in writing, whether the proposed patient is mentally ill. If the designated examiner reports orally, the designated examiner shall immediately send a written report to the clerk of the court.

(9) If a designated examiner is unable to complete an examination on the first attempt because the proposed patient refuses to submit to the examination, the court shall fix a reasonable compensation to be paid to the examiner.

(10) If the local mental health authority, its designee, or a medical examiner determines before the court hearing that the conditions justifying the findings leading to an assisted outpatient treatment hearing no longer exist, the local mental health authority, its designee, or the medical examiner shall immediately report that determination to the court.

(11) The court may terminate the proceedings and dismiss the application at any time, including prior to the hearing, if the designated examiners or the local mental health authority or its designee informs the court that the proposed patient [~~is not mentally ill~~] does not meet the criteria in Subsection (14).

(12) Before the hearing, an opportunity to be represented by counsel shall be afforded to the proposed patient, and if neither the proposed patient nor others provide counsel, the court shall appoint counsel and allow counsel sufficient time to consult with the proposed patient before the hearing. In the case of an indigent proposed patient, the payment of reasonable attorney fees for counsel, as determined by the court, shall be made by the county in which the proposed patient resides or is found.

(13) (a) All persons to whom notice is required to be given shall be afforded an opportunity to appear at the hearing, to testify, and to present and cross-examine witnesses. The court may, in its discretion, receive the testimony of any other individual. The court may allow a waiver of the proposed patient's right to appear [~~only~~] for good cause [~~shown, and that cause shall be made a matter of court record~~], which cause shall be set forth in the record, or an informed waiver by the patient, which shall be included in the record.

(b) The court is authorized to exclude all individuals not necessary for the conduct of the proceedings and may, upon motion of counsel, require the testimony of each examiner to be given out of the presence of any other examiners.

(c) The hearing shall be conducted in as informal a manner as may be consistent with orderly procedure, and in a physical setting that is not likely to have a harmful effect on the mental health of the proposed patient.

(d) The court shall consider all relevant historical and material information that is offered, subject to

the rules of evidence, including reliable hearsay under Rule 1102, Utah Rules of Evidence.

(e) (i) A local mental health authority or its designee, or the physician in charge of the proposed patient's care shall, at the time of the hearing, provide the court with the following information:

(A) the detention order, if any;

(B) admission notes, if any;

(C) the diagnosis, if any;

(D) doctor's orders, if any;

(E) progress notes, if any;

(F) nursing notes, if any; and

(G) medication records, if any.

(ii) The information described in Subsection (13)(e)(i) shall also be provided to the proposed patient's counsel:

(A) at the time of the hearing; and

(B) at any time prior to the hearing, upon request.

(14) The court shall order a proposed patient to assisted outpatient treatment if, upon completion of the hearing and consideration of the information presented, the court finds by clear and convincing evidence that:

(a) the proposed patient has a mental illness;

(b) there is no appropriate less-restrictive alternative to a court order for assisted outpatient treatment; and

(c) (i) the proposed patient lacks the ability to engage in a rational decision-making process regarding the acceptance of mental health treatment, as demonstrated by evidence of inability to weigh the possible risks of accepting or rejecting treatment; or

(ii) the proposed patient needs assisted outpatient treatment in order to prevent relapse or deterioration that is likely to result in the proposed patient posing a substantial danger to self or others.

(15) The court may order the applicant or a close relative of the patient to be the patient's personal representative, as described in 45 C.F.R. Sec. 164.502(g), for purposes of the patient's mental health treatment.

(16) In the absence of the findings described in Subsection (14), the court, after the hearing, shall dismiss the proceedings.

(17) (a) The assisted outpatient treatment order shall designate the period for which the patient shall be treated, which may not exceed [~~six~~] 12 months without a review hearing.

[~~(b) An individual identified under Subsection (4) may request a review hearing at any time while the assisted outpatient treatment order is in effect.~~]

[~~(c)~~] (b) At a review hearing, the court may extend the duration of an assisted outpatient treatment order by up to [~~six~~] 12 months, if:

(i) the court finds by clear and convincing evidence that the patient meets the conditions described in Subsection (14); or

(ii) (A) the patient does not appear at the review hearing; [~~and~~]

(B) notice of the review hearing was provided to the patient's last known address by the applicant described in Subsection (1) or by a local mental health authority[~~.~~]; and

(C) the patient has appeared in court or signed an informed waiver within the previous 18 months.

[~~(d)~~] (c) The court shall maintain a current list of all patients under its order of assisted outpatient treatment.

[~~(e)~~] (d) At least two weeks prior to the expiration of the designated period of any assisted outpatient treatment order still in effect, the court that entered the original order shall inform the appropriate local mental health authority or its designee.

(18) Costs of all proceedings under this section shall be paid by the county in which the proposed patient resides or is found.

(19) A court may not hold an individual in contempt for failure to comply with an assisted outpatient treatment order.

(20) As provided in Section 31A-22-651, a health insurance provider may not deny an insured the benefits of the insured's policy solely because the health care that the insured receives is provided under a court order for assisted outpatient treatment.

Section 3. Section 62A-15-631 is amended to read:

62A-15-631. Involuntary commitment under court order -- Examination -- Hearing -- Power of court -- Findings required -- Costs.

(1) A responsible individual who has credible knowledge of an adult's mental illness and the condition or circumstances that have led to the adult's need to be involuntarily committed may initiate an involuntary commitment court proceeding by filing, in the district court in the county where the proposed patient resides or is found, a written application that includes:

(a) unless the court finds that the information is not reasonably available, the proposed patient's:

(i) name;

(ii) date of birth; and

(iii) social security number;

(b) (i) a certificate of a licensed physician or a designated examiner stating that within the seven-day period immediately preceding the certification, the physician or designated examiner examined the proposed patient and is of the opinion that the proposed patient has a mental illness and should be involuntarily committed; or

(ii) a written statement by the applicant that:

(A) the proposed patient has been requested to, but has refused to, submit to an examination of mental condition by a licensed physician or designated examiner;

(B) is sworn to under oath; and

(C) states the facts upon which the application is based; and

(c) a statement whether the proposed patient has previously been under an assisted outpatient treatment order, if known by the applicant.

(2) (a) Subject to Subsection (2)(b), before issuing a judicial order, the court may require the applicant to consult with the appropriate local mental health authority, and the court may direct a mental health professional from that local mental health authority to interview the applicant and the proposed patient to determine the existing facts and report them to the court.

(b) The consultation described in Subsection (2)(a):

(i) may take place at or before the hearing; and

(ii) is required if the local mental health authority appears at the hearing.

(3) If the court finds from the application, from any other statements under oath, or from any reports from a mental health professional that there is a reasonable basis to believe that the proposed patient has a mental illness that poses a substantial danger to self or others requiring involuntary commitment pending examination and hearing; or, if the proposed patient has refused to submit to an interview with a mental health professional as directed by the court or to go to a treatment facility voluntarily, the court may issue an order, directed to a mental health officer or peace officer, to immediately place the proposed patient in the custody of a local mental health authority or in a temporary emergency facility as provided in Section 62A-15-634 to be detained for the purpose of examination.

(4) Notice of commencement of proceedings for involuntary commitment, setting forth the allegations of the application and any reported facts, together with a copy of any official order of detention, shall be provided by the court to a proposed patient before, or upon, placement in the custody of a local mental health authority or, with respect to any proposed patient presently in the custody of a local mental health authority whose status is being changed from voluntary to involuntary, upon the filing of an application for that purpose with the court. A copy of that order of detention shall be maintained at the place of detention.

(5) Notice of commencement of those proceedings shall be provided by the court as soon as practicable to the applicant, any legal guardian, any immediate adult family members, legal counsel for the parties involved, the local mental health authority or its designee, and any other persons whom the proposed patient or the court shall designate. That notice shall advise those persons that a hearing may be held within the time provided by law. If the proposed patient has refused to permit release of information necessary for provisions of notice under this subsection, the extent of notice shall be determined by the court.

(6) Proceedings for commitment of an individual under the age of 18 years to a local mental health authority may be commenced in accordance with Part 7, Commitment of Persons Under Age 18 to Division of Substance Abuse and Mental Health.

(7) The district court may, in its discretion, transfer the case to any other district court within this state, provided that the transfer will not be adverse to the interest of the proposed patient.

(8) Within 24 hours, excluding Saturdays, Sundays, and legal holidays, of the issuance of a judicial order, or after commitment of a proposed patient to a local mental health authority or its designee under court order for detention or examination, the court shall appoint two designated examiners:

(a) who did not sign the civil commitment application nor the civil commitment certification under Subsection (1);

(b) one of whom is a licensed physician; and

(c) one of whom may be designated by the proposed patient or the proposed patient's counsel, if that designated examiner is reasonably available.

(9) The court shall schedule a hearing to be held within 10 calendar days of the day on which the designated examiners are appointed.

(10) The designated examiners shall:

(a) conduct their examinations separately;

(b) conduct the examinations at the home of the proposed patient, at a hospital or other medical facility, or at any other suitable place that is not likely to have a harmful effect on the proposed patient's health;

(c) inform the proposed patient, if not represented by an attorney:

(i) that the proposed patient does not have to say anything;

(ii) of the nature and reasons for the examination;

(iii) that the examination was ordered by the court;

(iv) that any information volunteered could form part of the basis for the proposed patient's involuntary commitment;

(v) that findings resulting from the examination will be made available to the court; and

(vi) that the designated examiner may, under court order, obtain the proposed patient's mental health records; and

(d) within 24 hours of examining the proposed patient, report to the court, orally or in writing, whether the proposed patient is mentally ill, has

agreed to voluntary commitment, as described in Section 62A-15-625, or has acceptable programs available to the proposed patient without court proceedings. If the designated examiner reports orally, the designated examiner shall immediately send a written report to the clerk of the court.

(11) If a designated examiner is unable to complete an examination on the first attempt because the proposed patient refuses to submit to the examination, the court shall fix a reasonable compensation to be paid to the examiner.

(12) If the local mental health authority, its designee, or a medical examiner determines before the court hearing that the conditions justifying the findings leading to a commitment hearing no longer exist, the local mental health authority, its designee, or the medical examiner shall immediately report that determination to the court.

(13) The court may terminate the proceedings and dismiss the application at any time, including prior to the hearing, if the designated examiners or the local mental health authority or its designee informs the court that the proposed patient:

(a) [~~is not mentally ill~~] does not meet the criteria in Subsection (16);

(b) has agreed to voluntary commitment, as described in Section 62A-15-625; or

(c) has acceptable options for treatment programs that are available without court proceedings.

(14) Before the hearing, an opportunity to be represented by counsel shall be afforded to the proposed patient, and if neither the proposed patient nor others provide counsel, the court shall appoint counsel and allow counsel sufficient time to consult with the proposed patient before the hearing. In the case of an indigent proposed patient, the payment of reasonable attorney fees for counsel, as determined by the court, shall be made by the county in which the proposed patient resides or is found.

(15) (a) The proposed patient, the applicant, and all other persons to whom notice is required to be given shall be afforded an opportunity to appear at the hearing, to testify, and to present and cross-examine witnesses. The court may, in its discretion, receive the testimony of any other person. The court may allow a waiver of the proposed patient's right to appear [~~only~~] for good cause [~~shown, and that cause shall be made a matter of court record~~], which cause shall be set forth in the record, or an informed waiver by the patient, which shall be included in the record.

(b) The court is authorized to exclude all persons not necessary for the conduct of the proceedings and may, upon motion of counsel, require the testimony of each examiner to be given out of the presence of any other examiners.

(c) The hearing shall be conducted in as informal a manner as may be consistent with orderly procedure, and in a physical setting that is not likely to have a harmful effect on the mental health of the proposed patient, while preserving the due process rights of the proposed patient.

(d) The court shall consider all relevant historical and material information that is offered, subject to the rules of evidence, including reliable hearsay under Rule 1102, Utah Rules of Evidence.

(e) (i) A local mental health authority or its designee or the physician in charge of the proposed patient's care shall, at the time of the hearing, provide the court with the following information:

(A) the detention order;

(B) admission notes;

(C) the diagnosis;

(D) any doctors' orders;

(E) progress notes;

(F) nursing notes;

(G) medication records pertaining to the current commitment; and

(H) whether the proposed patient has previously been civilly committed or under an order for assisted outpatient treatment.

(ii) That information shall also be supplied to the proposed patient's counsel at the time of the hearing, and at any time prior to the hearing upon request.

(16) The court shall order commitment of a proposed patient who is 18 years of age or older to a local mental health authority if, upon completion of the hearing and consideration of the information presented, the court finds by clear and convincing evidence that:

(a) the proposed patient has a mental illness;

(b) because of the proposed patient's mental illness the proposed patient poses a substantial danger to self or others;

(c) the proposed patient lacks the ability to engage in a rational decision-making process regarding the acceptance of mental treatment as demonstrated by evidence of inability to weigh the possible risks of accepting or rejecting treatment;

(d) there is no appropriate less-restrictive alternative to a court order of commitment; and

(e) the local mental health authority can provide the proposed patient with treatment that is adequate and appropriate to the proposed patient's conditions and needs. In the absence of the required findings of the court after the hearing, the court shall dismiss the proceedings.

(17) (a) The order of commitment shall designate the period for which the patient shall be treated. When the patient is not under an order of commitment at the time of the hearing, that period may not exceed six months without benefit of a review hearing. Upon such a review hearing, to be commenced prior to the expiration of the previous order, an order for commitment may be for an

indeterminate period, if the court finds by clear and convincing evidence that the required conditions in Subsection (16) will last for an indeterminate period.

(b) The court shall maintain a current list of all patients under its order of commitment. That list shall be reviewed to determine those patients who have been under an order of commitment for the designated period. At least two weeks prior to the expiration of the designated period of any order of commitment still in effect, the court that entered the original order shall inform the appropriate local mental health authority or its designee. The local mental health authority or its designee shall immediately reexamine the reasons upon which the order of commitment was based. If the local mental health authority or its designee determines that the conditions justifying that commitment no longer exist, it shall discharge the patient from involuntary commitment and immediately report the discharge to the court. Otherwise, the court shall immediately appoint two designated examiners and proceed under Subsections (8) through (14).

(c) The local mental health authority or its designee responsible for the care of a patient under an order of commitment for an indeterminate period shall, at six-month intervals, reexamine the reasons upon which the order of indeterminate commitment was based. If the local mental health authority or its designee determines that the conditions justifying that commitment no longer exist, that local mental health authority or its designee shall discharge the patient from its custody and immediately report the discharge to the court. If the local mental health authority or its designee determines that the conditions justifying that commitment continue to exist, the local mental health authority or its designee shall send a written report of those findings to the court. The patient and the patient's counsel of record shall be notified in writing that the involuntary commitment will be continued, the reasons for that decision, and that the patient has the right to a review hearing by making a request to the court. Upon receiving the request, the court shall immediately appoint two designated examiners and proceed under Subsections (8) through (14).

(18) Any patient committed as a result of an original hearing or a patient's legally designated representative who is aggrieved by the findings, conclusions, and order of the court entered in the original hearing has the right to a new hearing upon a petition filed with the court within 30 days of the entry of the court order. The petition must allege error or mistake in the findings, in which case the court shall appoint three impartial designated examiners previously unrelated to the case to conduct an additional examination of the patient. The new hearing shall, in all other respects, be conducted in the manner otherwise permitted.

(19) Costs of all proceedings under this section shall be paid by the county in which the proposed patient resides or is found.

Section 4. Section 62A-15-632 is repealed and reenacted to read:

62A-15-632. Circumstances under which conditions justifying initial involuntary commitment shall be considered to continue to exist.

(1) When an individual is involuntarily committed to the custody of a local mental health authority under Subsection 62A-15-631(16), the conditions justifying commitment under that Subsection shall be considered to continue to exist for purposes of continued treatment under Subsection 62A-15-631(17) or conditional release under Section 62A-15-637 if the court finds that:

(a) the patient is still mentally ill;

(b) there is no appropriate less restrictive alternative to a court order of involuntary commitment; and

(c) absent an order of involuntary commitment, the patient will likely pose a substantial danger to self or others.

(2) When an individual has been ordered to assisted outpatient treatment under Subsection 62A-15-630.5(14), the individual may be involuntarily committed to the custody of a local mental health authority under Subsection 62A-15-631(16) for purposes of continued treatment under Subsection 62A-15-631(17) or conditional release under Section 62A-15-637, if the court finds that:

(a) the patient is still mentally ill;

(b) there is no appropriate less-restrictive alternative to a court order of involuntary commitment; and

(c) based upon the patient's conduct and statements during the preceding six months, or the patient's failure to comply with treatment recommendations during the preceding six months, the court finds that absent an order of involuntary commitment, the patient is likely to pose a substantial danger to self or others.

(3) A patient whose treatment is continued or who is conditionally released under the terms of this section shall be maintained in the least restrictive environment available that can provide the patient with treatment that is adequate and appropriate.

CHAPTER 123
H. B. 156
Passed February 17, 2021
Approved March 16, 2021
Effective May 5, 2021

NATIONAL GUARD PAY AND BENEFITS AMENDMENTS

Chief Sponsor: Jefferson S. Burton
Senate Sponsor: Michael K. McKell
Cosponsor: Val L. Peterson

LONG TITLE

General Description:

This bill addresses National Guard pay and allowances while on state active duty.

Highlighted Provisions:

This bill:

- provides a minimum for pay and allowances for state activated National Guard members.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

39-1-51, as last amended by Laws of Utah 2008, Chapter 85

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

Section 1. Section 39-1-51 is amended to read:

39-1-51. Pay and benefits of National Guard members.

(1) When called into the service of the state and not in the service of the United States, the members of the National Guard shall:

(a) receive at least the same pay and allowance as members of the regular army or regular air force of like rank and length of service;

(b) elect to:

(i) receive medical, dental, disability, or death benefits equal to those received by full-time, permanent state employees; or

(ii) maintain any medical, dental, disability, or death benefits already in place; and

(c) receive one ration per day.

(2) The state may not make payments to members of the National Guard for service for which the United States government makes payment.

CHAPTER 124
H. B. 158
Passed February 25, 2021
Approved March 16, 2021
Effective May 5, 2021

JUVENILE INTERROGATION AMENDMENTS

Chief Sponsor: Marsha Judkins
Senate Sponsor: Daniel W. Thatcher
Cosponsors: Cheryl K. Acton
Clare Collard
Jennifer Dailey-Provost
Craig Hall
Dan N. Johnson
Rosemary T. Lesser
Michael J. Petersen
Travis M. Seegmiller
V. Lowry Snow
Andrew Stoddard
Raymond P. Ward

LONG TITLE

General Description:

This bill addresses the interrogation of minors who are in custody for an offense.

Highlighted Provisions:

This bill:

- defines "friendly adult";
- addresses the right of a child to have a parent, a legal guardian, or a friendly adult present when the child is in custody and subject to interrogation;
- provides the requirements and exceptions to interrogating a child who is in custody and subject to interrogation;
- addresses the interrogation of a minor in a detention facility, a secure facility, or a correctional facility;
- clarifies a minor's waiver to the right to counsel for court proceedings; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

78B-22-204, as enacted by Laws of Utah 2019, Chapter 326

ENACTS:

78A-6-112.5, Utah Code Annotated 1953

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

Section 1. Section 78A-6-112.5 is enacted to read:

78A-6-112.5. Interview of a child -- Presence of a parent, legal guardian, or other adult -- Interview of minor in a facility.

(1) As used in this section:

(a) (i) "Friendly adult" means an adult:

(A) that has an established relationship with the child to the extent that the adult can provide meaningful advice and concerned help to the child should the need arise; and

(B) who is not hostile or adverse to the child's interest.

(ii) "Friendly adult" does not include a parent or legal guardian of the child.

(b) (i) "Interrogation" means any express questioning or any words or actions that are reasonably likely to elicit an incriminating response.

(ii) "Interrogation" does not include words or actions normally attendant to arrest and custody.

(2) If a child is in custody and subject to interrogation for an offense, the child has the right:

(a) to have the child's parent or legal guardian present during an interrogation of the child; or

(b) to have a friendly adult present during an interrogation of the child if:

(i) there is reason to believe that the child's parent or legal guardian has abused or threatened the child; or

(ii) the child's parent's or legal guardian's interest is adverse to the child's interest, including that the parent or legal guardian is a victim or a codefendant of the offense alleged to have been committed by the child.

(3) If a child is in custody and subject to interrogation of an offense, the child may not be interrogated unless:

(a) the child has been advised of the child's constitutional rights and the child's right to have a parent or legal guardian, or a friendly adult if applicable under Subsection (2)(b), present during the interrogation;

(b) the child has waived the child's constitutional rights;

(c) except as provided in Subsection (4), the child's parent or legal guardian, or the friendly adult if applicable under Subsection (2)(b), was present during the child's waiver under Subsection (3)(b) and has given permission for the child to be interrogated; and

(d) if the child is in the custody of the Division of Child and Family Services and a guardian ad litem has been appointed for the child, the child's guardian ad litem has given consent to an interview of the child as described in Section 62A-4a-415.

(4) A child's parent or legal guardian, or a friendly adult if applicable under Subsection (2)(b), is not required to be present during the child's waiver under Subsection (3) or to give permission to the interrogation of the child if:

(a) the child is emancipated as described in Section 78A-6-805;

(b) the child has misrepresented the child's age as being 18 years old or older and a peace officer has relied on that misrepresentation in good faith; or

(c) a peace officer or a law enforcement agency:

(i) has made reasonable efforts to contact the child's parent or legal guardian, or a friendly adult if applicable under Subsection (2)(b); and

(ii) has been unable to make contact within one hour after the time in which the child is in custody.

(5) (a) If a minor is admitted to a detention facility under Section 78A-6-112, or the minor is committed to a secure facility or a correctional facility as defined in Section 62A-7-101, and is subject to interrogation for an offense, the minor may not be interrogated unless:

(i) the minor has had a meaningful opportunity to consult with the minor's appointed or retained attorney;

(ii) the minor waives the minor's constitutional rights after consultation with the minor's appointed or retained attorney; and

(iii) the minor's appointed or retained attorney is present for the interrogation.

(b) Subsection (5)(a) does not apply to a juvenile probation officer, or a staff member of a detention facility, unless the juvenile probation officer or the staff member is interrogating the minor on behalf of a peace officer or a law enforcement agency.

(6) A minor may only waive the minor's right to be represented by counsel at all stages of court proceedings as described in Section 78B-22-204.

Section 2. Section 78B-22-204 is amended to read:

78B-22-204. Waiver by a minor.

A minor may not waive the right to [~~counsel before~~] be represented by counsel at all stages of court proceedings unless:

(1) the minor has consulted with counsel; and

(2) the court is satisfied that in light of the minor's unique circumstances and attributes:

(a) the minor's waiver is knowing and voluntary; and

(b) the minor understands the consequences of the waiver.

CHAPTER 125
H. B. 159
Passed February 25, 2021
Approved March 16, 2021
Effective May 5, 2021

HIGHER EDUCATION SPEECH

Chief Sponsor: Jordan D. Teuscher
Senate Sponsor: Todd D. Weiler
Cosponsors: Cheryl K. Acton
Steve R. Christiansen
Timothy D. Hawkes
Marsha Judkins
Phil Lyman
A. Cory Maloy
Candice B. Pierucci
Travis M. Seegmiller
Mark A. Strong
Norman K. Thurston
Ryan D. Wilcox

LONG TITLE

General Description:

This bill enacts provisions related to discriminatory harassment and expression at an institution of higher education.

Highlighted Provisions:

This bill:

- defines terms;
- enacts provisions related to discriminatory harassment at an institution of higher education, including provisions that:
  - prohibit an institution from sanctioning or disciplining certain acts of speech that do not constitute discriminatory harassment; and
  - create a cause of action for the attorney general related to discriminatory harassment at an institution of higher education; and
- enacts provisions related to the free expression of policies of an institution of higher education.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:
53B-27-401, Utah Code Annotated 1953
53B-27-402, Utah Code Annotated 1953
53B-27-403, Utah Code Annotated 1953
53B-27-404, Utah Code Annotated 1953
53B-27-501, Utah Code Annotated 1953

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

Section 1. Section 53B-27-401 is enacted to read:

Part 4. Campus Anti-Harassment

53B-27-401. Definitions.

As used in this part:

(1) "Discriminatory harassment" means student-on-student speech that:

(a) is unwelcome;

(b) discriminates on the basis of a classification protected under federal or state law; and

(c) is so severe, pervasive, and objectively offensive, and that so undermines and distracts from a student's educational experience, that the student is effectively denied access to an institution's resource or opportunity.

(2) "Student" means an individual enrolled at an institution.

(3) (a) "Student-on-student speech" means verbal, written, or other communication that is:

(i) communicated by a student; and

(ii) directed at another student.

(b) "Student-on-student speech" does not include an act of physical contact between a student and another student.

Section 2. Section 53B-27-402 is enacted to read:

53B-27-402. Institution duties.

(1) An institution is in violation of this part if the institution:

(a) gains actual knowledge of discriminatory harassment in the institution's program or activity; and

(b) acts with deliberate indifference to the discriminatory harassment.

(2) (a) An institution may not sanction or discipline, as discriminatory harassment, student-on-student speech that does not constitute discriminatory harassment.

(b) An institution is not liable under this part for failing to sanction or discipline a student who communicates student-on-student speech that is not discriminatory harassment.

(3) Nothing in this part prevents an institution from sanctioning or disciplining student-on-student speech that is otherwise not protected under the First Amendment to the United States Constitution.

(4) Nothing in this part prevents an institution from responding to student-on-student speech that is not discriminatory harassment by taking nonpunitive actions designed to promote a welcoming, inclusive environment.

(5) Nothing in this part prevents an institution from maintaining policies prohibiting stalking or other criminal activity.

Section 3. Section 53B-27-403 is enacted to read:

53B-27-403. Cause of action.

The attorney general may bring an action to enjoin a violation of this part, in a state court of competent jurisdiction, against an institution or an institution's agent acting in the agent's official capacity.

Section 4. Section 53B-27-404 is enacted to read:

53B-27-404. Statute of limitations.

(1) Except as provided in Subsection (3)(b), the attorney general may not bring an action under this part later than one year after the day on which the cause of action accrues.

(2) For an action alleging a violation of Subsection 53B-27-402(2)(a), the cause of action accrues on the day on which the student receives final notice, from the institution, of sanction or discipline that violates Subsection 53B-27-402(2)(a).

(3) (a) For an action alleging a violation of Subsection 53B-27-402(1), the cause of action accrues on the day on which the institution gains knowledge of the discriminatory harassment.

(b) For an action described in Subsection (3)(a), the limitation described in Subsection (1) extends to one year after the day on which the most recent known act of discriminatory harassment, involving the same parties as a prior known act of discriminatory harassment, occurs.

Section 5. Section 53B-27-501 is enacted to read:

Part 5. Free Expression Policies

53B-27-501. Free expression policies.

(1) As used in this section, "free expression policy" means an institution's policy, regulation, or other expectation related to student expression.

(2) An institution shall:

(a) publish the institution's free expression policies:

(i) in the institution's student handbook; and

(ii) on the institution's website;

(b) include information about the institution's free expression policies in an orientation program for students enrolled in the institution; and

(c) develop a program, procedures, and materials to ensure that an individual who has responsibility for the discipline or education of a student at the institution understands the institution's free expression policies.

(3) An individual described in Subsection (2)(c) includes an institution:

(a) administrator;

(b) campus police officer;

(c) residence life official; and

(d) faculty member.

(4) An institution shall ensure that a free expression policy is consistent with the provisions of this chapter.

CHAPTER 126
H. B. 163
Passed February 11, 2021
Approved March 16, 2021
Effective May 5, 2021

AGRICULTURAL ADVISORY BOARD AMENDMENTS

Chief Sponsor: Casey Snider
Senate Sponsor: Scott D. Sandall

LONG TITLE

General Description:

This bill modifies provisions related to the Agricultural Advisory Board.

Highlighted Provisions:

This bill:

- addresses membership of the Agricultural Advisory Board;
- changes frequency of meetings of the Agricultural Advisory Board;
- modifies the duties of the Agricultural Advisory Board;
- creates an executive committee of the Agricultural Advisory Board, including addressing membership, terms, quorum, chair, and duties;
- transfers certain duties of the Agricultural Advisory Board to the executive committee; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

4-2-108, as last amended by Laws of Utah 2018, Chapter 132
4-2-502, as last amended by Laws of Utah 2017, Chapter 345
4-2-503, as last amended by Laws of Utah 2017, Chapter 345
4-2-504, as last amended by Laws of Utah 2017, Chapter 345
4-17-104, as renumbered and amended by Laws of Utah 2017, Chapter 345
4-19-104, as renumbered and amended by Laws of Utah 2017, Chapter 345
73-20-2, as last amended by Laws of Utah 2017, Chapter 345
73-20-4, as enacted by Laws of Utah 1977, First Special Session, Chapter 6
73-20-5, as enacted by Laws of Utah 1977, First Special Session, Chapter 6

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

Section 1. Section 4-2-108 is amended to read:

4-2-108. Agricultural Advisory Board created -- Composition -- Responsibility -- Terms of office -- Compensation -- Executive committee.

[~~(1) There is created the Agricultural Advisory Board composed of 21 members, with each member representing one of the following:~~]

[~~(a) Utah Farm Bureau Federation;~~]

[~~(b) Utah Farmers Union;~~]

[~~(c) Utah Cattlemen's Association;~~]

[~~(d) Utah Wool Growers Association;~~]

[~~(e) Utah Dairymen's Association;~~]

[~~(f) Utah Pork Producers Association;~~]

[~~(g) egg and poultry producers;~~]

[~~(h) Utah Veterinary Medical Association;~~]

[~~(i) Livestock Auction Marketing Association;~~]

[~~(j) Utah Association of Conservation Districts;~~]

[~~(k) the Utah horse industry;~~]

[~~(l) the food processing industry;~~]

[~~(m) the fruit and vegetable industry;~~]

[~~(n) the turkey industry;~~]

[~~(o) manufacturers of food supplements;~~]

[~~(p) a consumer affairs group;~~]

[~~(q) dean of the College of Agriculture and Applied Science and vice president of extension from Utah State University;~~]

[~~(r) urban and small farmers;~~]

[~~(s) Utah Elk Breeders Association;~~]

[~~(t) Utah Beekeepers Association; and~~]

[~~(u) Utah Fur Breeders Association.~~]

(1) There is created the Agricultural Advisory Board composed of the following 21 members:

(a) the dean of the College of Agriculture and Applied Science from Utah State University; and

(b) the following appointed by commissioner:

(i) two representatives of associations representing interests of farmers, selected from a list of nominees submitted by at least two associations representing farmers;

(ii) a representative of an association representing cattlemen, selected from a list of nominees submitted by at least one association representing cattlemen;

(iii) one representative of an association representing wool growers, selected from a list of nominees submitted by at least one association representing wool growers;

(iv) one representative of an association representing dairies, selected from a list of nominees submitted by at least one association representing dairies;

(v) one representative of an association representing pork producers, selected from a list of nominees submitted by at least one association representing pork producers;

(vi) one representative of egg and poultry producers;

(vii) one representative of an association representing veterinarians, selected from a list of nominees submitted by at least one association representing veterinarians;

(viii) one representative of an association representing livestock auctions, selected from a list of nominees submitted by at least one association representing livestock auctions;

(ix) one representative of an association representing conservation districts, selected from a list of nominees submitted by at least one association representing conservation districts;

(x) one representative of the Utah horse industry;

(xi) one representative of the food processing industry;

(xii) one representative of the fruit and vegetable industry;

(xiii) one representative of the turkey industry;

(xiv) one representative of manufacturers of food supplements;

(xv) one representative of a consumer affairs group;

(xvi) one representative of urban and small farmers;

(xvii) one representative of an association representing elk breeders, selected from a list of nominees submitted by at least one association representing elk breeders;

(xviii) one representative of an association representing beekeepers, selected from a list of nominees submitted by at least one association representing beekeepers; and

(xix) one representative of fur breeders, selected from a list of nominees submitted by at least one association representing fur breeders.

(2) The Agricultural Advisory Board shall:

(a) advise the commissioner regarding:

(i) the planning, implementation, and administration of the department's programs; and

(ii) the establishment of standards governing the care of livestock and poultry, including consideration of:

(A) food safety;

(B) local availability and affordability of food; and

(C) acceptable practices for livestock and farm management; and

[~~(b) fulfill the duties described in Title 4, Chapter 2, Part 5, Horse Tripping Awareness; and~~]

[~~(c)~~] (b) adopt best management practices for sheep, swine, cattle, and poultry industries in the state.

(3) The Agricultural Advisory Board may adopt best management practices for domesticated elk, mink, apiaries, and other agricultural industries in the state.

(4) For purposes of this section, "best management practices" means practices used by agriculture in the production of food and fiber that are commonly accepted practices, or that are at least as effective as commonly accepted practices, and that:

(a) protect the environment;

(b) protect human health; and

(c) promote the financial viability of agricultural production.

(5) (a) Except as required by Subsection (1)(a) or (5)[~~(c)~~](b), members of the Agricultural Advisory Board are appointed by the commissioner to four-year terms of office.

[~~(b) The commissioner shall appoint representatives of the organizations cited in Subsections (1)(a) through (h) to the Agricultural Advisory Board from a list of nominees submitted by each organization.~~]

[~~(c)~~] (b) Notwithstanding the requirements of Subsection (5)(a), the commissioner shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of board members are staggered so that approximately half of the board is appointed every two years.

[~~(d) Members~~] (c) A member may be removed at the discretion of the commissioner upon the request of the group [~~they represent~~] the member represents.

[~~(e)~~] (d) When a vacancy occurs in the membership for any reason, the [~~replacement shall be appointed~~] commissioner shall appoint a replacement for the unexpired term.

(6) The [~~board~~] Agricultural Advisory Board shall elect one member to serve as chair of the Agricultural Advisory Board for a term of one year.

(7) (a) The [~~board~~] Agricultural Advisory Board shall meet [~~four times annually~~] twice a year, but may meet more often at the discretion of the chair.

(b) Attendance of 11 members at a duly called meeting of the Agricultural Advisory Board constitutes a quorum for the transaction of official business.

(8) A member of the Agricultural Advisory Board may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

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

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

(9) (a) There is created an executive committee of the Agricultural Advisory Board consisting of the

following seven members selected from members of the Agricultural Advisory Board:

(i) the two representatives appointed under Subsection (1)(b)(i);

(ii) the representative appointed under Subsection (1)(b)(ix); and

(iii) four members selected from the Agricultural Advisory Board as follows:

(A) for the initial members of the executive committee, by the commissioner; and

(B) after the initial members of the executive committee are selected, by the executive committee.

(b) (i) A member of the executive committee shall serve a term of four years on the executive committee.

(ii) A member of the executive committee may serve for more than one term on the executive committee.

(iii) When a vacancy occurs in the membership of the executive committee for any reason, the replacement shall be selected in the same manner as under Subsection (9)(a) and for the unexpired term.

(c) Four members of the executive committee constitute a quorum and an action of the majority present when a quorum is present is action by the executive committee.

(d) The executive committee shall annually select a chair of the executive committee.

(e) The executive committee shall meet at least quarterly, except that the chair of the executive committee may call the executive committee for additional meetings.

(f) The executive committee shall:

(i) recommend to the department fees to be imposed under this title;

(ii) accept public comment received under this title; and

(iii) carry out the responsibilities assigned to the executive committee by statute.

Section 2. Section 4-2-502 is amended to read:

4-2-502. Definitions.

As used in this part:

(1) "Board executive committee" means the executive committee of the Agricultural Advisory Board created in Section 4-2-108.

(2) "Horse event" means an event in which horses are roped or tripped for the purpose of a specific event or contest.

(3) (a) "Horse tripping" means the lassoing or roping of the legs of an equine, or otherwise tripping or causing an equine to fall by any means, for the purpose of entertainment, sport, or contest, or practice for entertainment, sport, or contest.

(b) "Horse tripping" does not include accepted animal husbandry practices, customary farming practices, or commonly accepted practices occurring in conjunction with a sanctioned rodeo, animal race, or pulling contest.

Section 3. Section 4-2-503 is amended to read:

4-2-503. Event reporting requirements.

(1) The owner of a venue holding a horse event shall:

(a) at least 30 days before the day on which the horse event is to be held, notify the board executive committee of the date, time, and name of the horse event; and

(b) no later than 30 days after the day on which the horse event is held, notify the board executive committee of:

(i) the number and type of competitions held at the horse event;

(ii) the number of horses used;

(iii) whether horse tripping occurred, and if so how many horses were used in horse tripping and how many times each horse was tripped; and

(iv) whether a veterinarian was called during the horse event, and if so:

(A) the name and contact information of the veterinarian;

(B) the outcome of the veterinarian's examination of a horse; and

(C) [~~all~~] the veterinarian charges incurred.

(2) (a) The department shall compile [~~all~~] the reports received pursuant to Subsection (1) and provide the information to the board executive committee.

(b) The board executive committee shall, at a meeting described in Subsection 4-2-108[~~(5)(a)~~](9):

(i) review the information described in Subsection (2)(a); and

(ii) if necessary, make recommendations for rules or legislation designed to prohibit horse tripping.

(3) The department shall fine the owner of a venue that fails to fulfill the duties described in Subsection (1) $500 per violation.

(4) The department, in consultation with the board executive committee, shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, as necessary to enforce this part.

Section 4. Section 4-2-504 is amended to read:

4-2-504. Horse tripping education -- Reporting requirements.

The department, in conjunction with the board executive committee, shall:

(1) send a letter, annually, to venues that host horse events:

(a) outlining the reporting requirements of Section 4-2-503; and

(b) providing educational information on the negative effects of horse tripping; and

(2) promote, as funding allows, policies regarding the safety and welfare of horses involved in horse events, such as horse roping and horse tripping.

Section 5. Section 4-17-104 is amended to read:

4-17-104. Creation of State Weed Committee -- Membership -- Powers and duties -- Expenses.

(1) There is created a State Weed Committee composed of eight members, with each member representing one of the following:

(a) the Department of Agriculture and Food;

(b) the Department of Natural Resources;

(c) the Utah State University Agricultural Experiment Station;

(d) the Utah State University Extension Service;

(e) the Utah Association of Counties;

(f) private agricultural industry;

(g) the Utah Weed Control Association; and

(h) the Utah Weed Supervisors Association.

(2) The commissioner shall select the members of the committee from those nominated by each of the respective groups or agencies following approval by the executive committee of the Agricultural Advisory Board.

(3) (a) Except as required by Subsection (3)(b), as terms of current committee members expire, the commissioner shall appoint each new member or reappointed member to a four-year term.

(b) Notwithstanding the requirements of Subsection (3)(a), the commissioner shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of committee members are staggered so that approximately half of the committee is appointed every two years.

(4) (a) Members may be removed by the commissioner for cause.

(b) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.

(5) The State Weed Committee shall:

(a) confer and advise on matters pertaining to the planning, implementation, and administration of the state noxious weed program;

(b) recommend names for membership on the committee; and

(c) serve as members of the executive committee of the Utah Weed Control Association.

(6) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

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

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

Section 6. Section 4-19-104 is amended to read:

4-19-104. Loans -- Not to exceed period of 10 years -- Agricultural Advisory Board executive committee to approve loans and renewals, methods of payments, and interest rates -- Guidelines in fixing interest rates declared.

(1) The department may not make a loan authorized under this chapter for a period to exceed 10 years, but the loan is renewable.

(2) Except as provided in Subsection (5), the Agricultural Advisory Board executive committee created in Section 4-2-108 shall approve:

(a) [~~all~~] loans and renewals;

(b) the methods of repayment; and

(c) the interest rates charged.

(3) In fixing interest rates, the Agricultural Advisory Board executive committee shall consider:

(a) the current applicable interest rate or rates being charged by the USDA Farm Service Agency on similar loans;

(b) the current prime rate charged by leading lending institutions; and

(c) any other pertinent economic data.

(4) The interest rates established shall be compatible with guidelines stated in this section.

(5) The Agricultural Advisory Board executive committee may create a subcommittee from the [~~board's~~] Agricultural Advisory Board membership to approve a loan or renewal under this section.

Section 7. Section 73-20-2 is amended to read:

73-20-2. Definitions.

As used in this chapter:

(1) "Advisory board executive committee" means the executive committee of the Agricultural Advisory Board created by Section 4-2-108.

(2) "Basic livestock" means a herd of cattle, sheep, or swine kept and maintained primarily for breeding purposes.

(3) "Board" means the Board of Water Resources created by Section 73-10-1.5.

(4) "Commercial farm" means a tract or tracts of land with or without improvements recognized as a

farm or ranch in this state which is owned and operated or leased and operated by the applicant, and used in the production and raising of basic livestock.

(5) "Farmer" means any person who owns and operates or leases and operates a commercial farm in this state, and includes individuals, partnerships and corporations.

Section 8. Section 73-20-4 is amended to read:

73-20-4. Qualification for financial assistance.

To qualify for financial assistance under this act the farmer shall:

(1) make written original application to the advisory board executive committee and to the board on forms prescribed by the board in conjunction with the advisory board executive committee;

(2) own or hold under lease a commercial farm which contributed more than one-half of the farmer's or rancher's gross income from all income sources for the taxable year 1976; and

(3) comply with any condition imposed by the board for financial assistance pursuant to authority granted the board under Section 73-20-3.

Section 9. Section 73-20-5 is amended to read:

73-20-5. Consultation with the executive committee of the Agricultural Advisory Board.

The board, before making any expenditure of emergency funds appropriated under this [~~act~~] chapter, shall consult with and receive the advice of the advisory board executive committee with respect to the demonstrated need for financial assistance in the form of the development of a water resource.

CHAPTER 127
H. B. 178
Passed February 25, 2021
Approved March 16, 2021
Effective May 5, 2021

PHARMACY PRACTICE MODIFICATIONS

Chief Sponsor: Norman K. Thurston
Senate Sponsor: Curtis S. Bramble

LONG TITLE

General Description:

This bill amends the Pharmacy Practice Act.

Highlighted Provisions:

This bill:

- amends the definition of the practice of pharmacy to include issuing a prescription for certain prescription drugs and devices;
- defines the types of prescription drugs and devices that may be prescribed by a pharmacist; and
- authorizes the Division of Occupational and Professional Licensing to make rules to implement the provisions of this bill.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

58-17b-102, as last amended by Laws of Utah 2019, Chapter 343

ENACTS:

58-17b-627, Utah Code Annotated 1953

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

Section 1. Section 58-17b-102 is amended to read:

58-17b-102. Definitions.

In addition to the definitions in Section 58-1-102, as used in this chapter:

(1) "Administering" means:

(a) the direct application of a prescription drug or device, whether by injection, inhalation, ingestion, or by any other means, to the body of a human patient or research subject by another person; or

(b) the placement by a veterinarian with the owner or caretaker of an animal or group of animals of a prescription drug for the purpose of injection, inhalation, ingestion, or any other means directed to the body of the animal by the owner or caretaker in accordance with written or verbal directions of the veterinarian.

(2) "Adulterated drug or device" means a drug or device considered adulterated under 21 U.S.C. Sec. 351 (2003).

(3) (a) "Analytical laboratory" means a facility in possession of prescription drugs for the purpose of analysis.

(b) "Analytical laboratory" does not include a laboratory possessing prescription drugs used as standards and controls in performing drug monitoring or drug screening analysis if the prescription drugs are prediluted in a human or animal body fluid, human or animal body fluid components, organic solvents, or inorganic buffers at a concentration not exceeding one milligram per milliliter when labeled or otherwise designated as being for in vitro diagnostic use.

(4) "Animal euthanasia agency" means an agency performing euthanasia on animals by the use of prescription drugs.

(5) "Automated pharmacy systems" includes mechanical systems which perform operations or activities, other than compounding or administration, relative to the storage, packaging, dispensing, or distribution of medications, and which collect, control, and maintain all transaction information.

(6) "Beyond use date" means the date determined by a pharmacist and placed on a prescription label at the time of dispensing that indicates to the patient or caregiver a time beyond which the contents of the prescription are not recommended to be used.

(7) "Board of pharmacy" or "board" means the Utah State Board of Pharmacy created in Section 58-17b-201.

(8) "Branch pharmacy" means a pharmacy or other facility in a rural or medically underserved area, used for the storage and dispensing of prescription drugs, which is dependent upon, stocked by, and supervised by a pharmacist in another licensed pharmacy designated and approved by the division as the parent pharmacy.

(9) "Centralized prescription processing" means the processing by a pharmacy of a request from another pharmacy to fill or refill a prescription drug order or to perform processing functions such as dispensing, drug utilization review, claims adjudication, refill authorizations, and therapeutic interventions.

(10) "Class A pharmacy" means a pharmacy located in Utah that is authorized as a retail pharmacy to compound or dispense a drug or dispense a device to the public under a prescription order.

(11) "Class B pharmacy":

(a) means a pharmacy located in Utah:

(i) that is authorized to provide pharmaceutical care for patients in an institutional setting; and

(ii) whose primary purpose is to provide a physical environment for patients to obtain health care services; and

(b) (i) includes closed-door, hospital, clinic, nuclear, and branch pharmacies; and

(ii) pharmaceutical administration and sterile product preparation facilities.

(12) "Class C pharmacy" means a pharmacy that engages in the manufacture, production, wholesale, or distribution of drugs or devices in Utah.

(13) "Class D pharmacy" means a nonresident pharmacy.

(14) "Class E pharmacy" means all other pharmacies.

(15) (a) "Closed-door pharmacy" means a pharmacy that:

(i) provides pharmaceutical care to a defined and exclusive group of patients who have access to the services of the pharmacy because they are treated by or have an affiliation with a specific entity, including a health maintenance organization or an infusion company; or

(ii) engages exclusively in the practice of telepharmacy and does not serve walk-in retail customers.

(b) "Closed-door pharmacy" does not include a hospital pharmacy, a retailer of goods to the general public, or the office of a practitioner.

(16) "Collaborative pharmacy practice" means a practice of pharmacy whereby one or more pharmacists have jointly agreed, on a voluntary basis, to work in conjunction with one or more practitioners under protocol whereby the pharmacist may perform certain pharmaceutical care functions authorized by the practitioner or practitioners under certain specified conditions or limitations.

(17) "Collaborative pharmacy practice agreement" means a written and signed agreement between one or more pharmacists and one or more practitioners that provides for collaborative pharmacy practice for the purpose of drug therapy management of patients and prevention of disease of human subjects.

(18) (a) "Compounding" means the preparation, mixing, assembling, packaging, or labeling of a limited quantity drug, sterile product, or device:

(i) as the result of a practitioner's prescription order or initiative based on the practitioner, patient, or pharmacist relationship in the course of professional practice;

(ii) for the purpose of, or as an incident to, research, teaching, or chemical analysis and not for sale or dispensing; or

(iii) in anticipation of prescription drug orders based on routine, regularly observed prescribing patterns.

(b) "Compounding" does not include:

(i) the preparation of prescription drugs by a pharmacist or pharmacy intern for sale to another pharmacist or pharmaceutical facility;

(ii) the preparation by a pharmacist or pharmacy intern of any prescription drug in a dosage form which is regularly and commonly available from a manufacturer in quantities and strengths prescribed by a practitioner; or

(iii) the preparation of a prescription drug, sterile product, or device which has been withdrawn from the market for safety reasons.

(19) "Confidential information" has the same meaning as "protected health information" under the Standards for Privacy of Individually Identifiable Health Information, 45 C.F.R. Parts 160 and 164.

(20) "Controlled substance" means the same as that term is defined in Section 58-37-2.

(21) "Dietary supplement" has the same meaning as Public Law Title 103, Chapter 417, Sec. 3a(ff) which is incorporated by reference.

(22) "Dispense" means the interpretation, evaluation, and implementation of a prescription drug order or device or nonprescription drug or device under a lawful order of a practitioner in a suitable container appropriately labeled for subsequent administration to or use by a patient, research subject, or an animal.

(23) "Dispensing medical practitioner" means an individual who is:

(a) currently licensed as:

(i) a physician and surgeon under Chapter 67, Utah Medical Practice Act;

(ii) an osteopathic physician and surgeon under Chapter 68, Utah Osteopathic Medical Practice Act;

(iii) a physician assistant under Chapter 70a, Utah Physician Assistant Act;

(iv) a nurse practitioner under Chapter 31b, Nurse Practice Act; or

(v) an optometrist under Chapter 16a, Utah Optometry Practice Act, if the optometrist is acting within the scope of practice for an optometrist; and

(b) licensed by the division under the Pharmacy Practice Act to engage in the practice of a dispensing medical practitioner.

(24) "Dispensing medical practitioner clinic pharmacy" means a closed-door pharmacy located within a licensed dispensing medical practitioner's place of practice.

(25) "Distribute" means to deliver a drug or device other than by administering or dispensing.

(26) (a) "Drug" means:

(i) a substance recognized in the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, or official National Formulary, or any supplement to any of them, intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in humans or animals;

(ii) a substance that is required by any applicable federal or state law or rule to be dispensed by prescription only or is restricted to administration by practitioners only;

(iii) a substance other than food intended to affect the structure or any function of the body of humans or other animals; and

(iv) substances intended for use as a component of any substance specified in Subsections (26)(a)(i), (ii), (iii), and (iv).

(b) "Drug" does not include dietary supplements.

(27) "Drug regimen review" includes the following activities:

(a) evaluation of the prescription drug order and patient record for:

(i) known allergies;

(ii) rational therapy-contraindications;

(iii) reasonable dose and route of administration; and

(iv) reasonable directions for use;

(b) evaluation of the prescription drug order and patient record for duplication of therapy;

(c) evaluation of the prescription drug order and patient record for the following interactions:

(i) drug-drug;

(ii) drug-food;

(iii) drug-disease; and

(iv) adverse drug reactions; and

(d) evaluation of the prescription drug order and patient record for proper utilization, including over- or under-utilization, and optimum therapeutic outcomes.

(28) "Drug sample" means a prescription drug packaged in small quantities consistent with limited dosage therapy of the particular drug, which is marked "sample", is not intended to be sold, and is intended to be provided to practitioners for the immediate needs of patients for trial purposes or to provide the drug to the patient until a prescription can be filled by the patient.

(29) "Electronic signature" means a trusted, verifiable, and secure electronic sound, symbol, or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record.

(30) "Electronic transmission" means transmission of information in electronic form or the transmission of the exact visual image of a document by way of electronic equipment.

(31) "Hospital pharmacy" means a pharmacy providing pharmaceutical care to inpatients of a general acute hospital or specialty hospital licensed by the Department of Health under Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act.

(32) "Legend drug" has the same meaning as prescription drug.

(33) "Licensed pharmacy technician" means an individual licensed with the division, that may, under the supervision of a pharmacist, perform the activities involved in the technician practice of pharmacy.

(34) "Manufacturer" means a person or business physically located in Utah licensed to be engaged in the manufacturing of drugs or devices.

(35) (a) "Manufacturing" means:

(i) the production, preparation, propagation, conversion, or processing of a drug or device, either directly or indirectly, by extraction from substances of natural origin or independently by means of chemical or biological synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container; and

(ii) the promotion and marketing of such drugs or devices.

(b) "Manufacturing" includes the preparation and promotion of commercially available products from bulk compounds for resale by pharmacies, practitioners, or other persons.

(c) "Manufacturing" does not include the preparation or compounding of a drug by a pharmacist, pharmacy intern, or practitioner for that individual's own use or the preparation, compounding, packaging, labeling of a drug, or incident to research, teaching, or chemical analysis.

(36) "Medical order" means a lawful order of a practitioner which may include a prescription drug order.

(37) "Medication profile" or "profile" means a record system maintained as to drugs or devices prescribed for a pharmacy patient to enable a pharmacist or pharmacy intern to analyze the profile to provide pharmaceutical care.

(38) "Misbranded drug or device" means a drug or device considered misbranded under 21 U.S.C. Sec. 352 (2003).

(39) (a) "Nonprescription drug" means a drug which:

(i) may be sold without a prescription; and

(ii) is labeled for use by the consumer in accordance with federal law.

(b) "Nonprescription drug" includes homeopathic remedies.

(40) "Nonresident pharmacy" means a pharmacy located outside of Utah that sells to a person in Utah.

(41) "Nuclear pharmacy" means a pharmacy providing radio-pharmaceutical service.

(42) "Out-of-state mail service pharmacy" means a pharmaceutical facility located outside the state that is licensed and in good standing in another state, that:

(a) ships, mails, or delivers by any lawful means a dispensed legend drug to a patient in this state pursuant to a lawfully issued prescription;

(b) provides information to a patient in this state on drugs or devices which may include, but is not limited to, advice relating to therapeutic values, potential hazards, and uses; or

(c) counsels pharmacy patients residing in this state concerning adverse and therapeutic effects of drugs.

(43) "Patient counseling" means the written and oral communication by the pharmacist or pharmacy intern of information, to the patient or caregiver, in order to ensure proper use of drugs, devices, and dietary supplements.

(44) "Pharmaceutical administration facility" means a facility, agency, or institution in which:

(a) prescription drugs or devices are held, stored, or are otherwise under the control of the facility or agency for administration to patients of that facility or agency;

(b) prescription drugs are dispensed to the facility or agency by a licensed pharmacist or pharmacy intern with whom the facility has established a prescription drug supervising relationship under which the pharmacist or pharmacy intern provides counseling to the facility or agency staff as required, and oversees drug control, accounting, and destruction; and

(c) prescription drugs are professionally administered in accordance with the order of a practitioner by an employee or agent of the facility or agency.

(45) (a) "Pharmaceutical care" means carrying out the following in collaboration with a prescribing practitioner, and in accordance with division rule:

(i) designing, implementing, and monitoring a therapeutic drug plan intended to achieve favorable outcomes related to a specific patient for the purpose of curing or preventing the patient's disease;

(ii) eliminating or reducing a patient's symptoms; or

(iii) arresting or slowing a disease process.

(b) "Pharmaceutical care" does not include prescribing of drugs without consent of a prescribing practitioner.

(46) "Pharmaceutical facility" means a business engaged in the dispensing, delivering, distributing, manufacturing, or wholesaling of prescription drugs or devices within or into this state.

(47) (a) "Pharmaceutical wholesaler or distributor" means a pharmaceutical facility engaged in the business of wholesale vending or selling of a prescription drug or device to other than a consumer or user of the prescription drug or device that the pharmaceutical facility has not produced, manufactured, compounded, or dispensed.

(b) "Pharmaceutical wholesaler or distributor" does not include a pharmaceutical facility carrying out the following business activities:

(i) intracompany sales;

(ii) the sale, purchase, or trade of a prescription drug or device, or an offer to sell, purchase, or trade a prescription drug or device, if the activity is carried out between one or more of the following entities under common ownership or common administrative control, as defined by division rule:

(A) hospitals;

(B) pharmacies;

(C) chain pharmacy warehouses, as defined by division rule; or

(D) other health care entities, as defined by division rule;

(iii) the sale, purchase, or trade of a prescription drug or device, or an offer to sell, purchase, or trade a prescription drug or device, for emergency medical reasons, including supplying another pharmaceutical facility with a limited quantity of a drug, if:

(A) the facility is unable to obtain the drug through a normal distribution channel in sufficient time to eliminate the risk of harm to a patient that would result from a delay in obtaining the drug; and

(B) the quantity of the drug does not exceed an amount reasonably required for immediate dispensing to eliminate the risk of harm;

(iv) the distribution of a prescription drug or device as a sample by representatives of a manufacturer; and

(v) the distribution of prescription drugs, if:

(A) the facility's total distribution-related sales of prescription drugs does not exceed 5% of the facility's total prescription drug sales; and

(B) the distribution otherwise complies with 21 C.F.R. Sec. 1307.11.

(48) "Pharmacist" means an individual licensed by this state to engage in the practice of pharmacy.

(49) "Pharmacist-in-charge" means a pharmacist currently licensed in good standing who accepts responsibility for the operation of a pharmacy in conformance with all laws and rules pertinent to the practice of pharmacy and the distribution of drugs, and who is personally in full and actual charge of the pharmacy and all personnel.

(50) "Pharmacist preceptor" means a licensed pharmacist in good standing with one or more years of licensed experience. The preceptor serves as a teacher, example of professional conduct, and supervisor of interns in the professional practice of pharmacy.

(51) "Pharmacy" means any place where:

(a) drugs are dispensed;

(b) pharmaceutical care is provided;

(c) drugs are processed or handled for eventual use by a patient; or

(d) drugs are used for the purpose of analysis or research.

(52) "Pharmacy benefits manager or coordinator" means a person or entity that provides a pharmacy

benefits management service as defined in Section 49-20-502 on behalf of a self-insured employer, insurance company, health maintenance organization, or other plan sponsor, as defined by rule.

(53) "Pharmacy intern" means an individual licensed by this state to engage in practice as a pharmacy intern.

(54) "Pharmacy technician training program" means an approved technician training program providing education for pharmacy technicians.

(55) (a) "Practice as a dispensing medical practitioner" means the practice of pharmacy, specifically relating to the dispensing of a prescription drug in accordance with Part 8, Dispensing Medical Practitioner and Dispensing Medical Practitioner Clinic Pharmacy, and division rule adopted after consultation with the Board of pharmacy and the governing boards of the practitioners described in Subsection (23)(a).

(b) "Practice as a dispensing medical practitioner" does not include:

(i) using a vending type of dispenser as defined by the division by administrative rule; or

(ii) except as permitted by Section 58-17b-805, dispensing of a controlled substance as defined in Section 58-37-2.

(56) "Practice as a licensed pharmacy technician" means engaging in practice as a pharmacy technician under the general supervision of a licensed pharmacist and in accordance with a scope of practice defined by division rule made in collaboration with the board.

(57) "Practice of pharmacy" includes the following:

(a) providing pharmaceutical care;

(b) collaborative pharmacy practice in accordance with a collaborative pharmacy practice agreement;

(c) compounding, packaging, labeling, dispensing, administering, and the coincident distribution of prescription drugs or devices, provided that the administration of a prescription drug or device is:

(i) pursuant to a lawful order of a practitioner when one is required by law; and

(ii) in accordance with written guidelines or protocols:

(A) established by the licensed facility in which the prescription drug or device is to be administered on an inpatient basis; or

(B) approved by the division, in collaboration with the board and the Physicians Licensing Board, created in Section 58-67-201, if the prescription drug or device is to be administered on an outpatient basis solely by a licensed pharmacist;

(d) participating in drug utilization review;

(e) ensuring proper and safe storage of drugs and devices;

(f) maintaining records of drugs and devices in accordance with state and federal law and the standards and ethics of the profession;

(g) providing information on drugs or devices, which may include advice relating to therapeutic values, potential hazards, and uses;

(h) providing drug product equivalents;

(i) supervising pharmacist's supportive personnel, pharmacy interns, and pharmacy technicians;

(j) providing patient counseling, including adverse and therapeutic effects of drugs;

(k) providing emergency refills as defined by rule;

(l) telepharmacy;

(m) formulary management intervention; [~~and~~]

(n) prescribing and dispensing a self-administered hormonal contraceptive in accordance with Title 26, Chapter 64, Family Planning Access Act[~~.~~]; and

(o) issuing a prescription in accordance with Section 58-17b-627.

(58) "Practice of telepharmacy" means the practice of pharmacy through the use of telecommunications and information technologies.

(59) "Practice of telepharmacy across state lines" means the practice of pharmacy through the use of telecommunications and information technologies that occurs when the patient is physically located within one jurisdiction and the pharmacist is located in another jurisdiction.

(60) "Practitioner" means an individual currently licensed, registered, or otherwise authorized by the appropriate jurisdiction to prescribe and administer drugs in the course of professional practice.

(61) "Prescribe" means to issue a prescription:

(a) orally or in writing; or

(b) by telephone, facsimile transmission, computer, or other electronic means of communication as defined by division rule.

(62) "Prescription" means an order issued:

(a) by a licensed practitioner in the course of that practitioner's professional practice or by collaborative pharmacy practice agreement; and

(b) for a controlled substance or other prescription drug or device for use by a patient or an animal.

(63) "Prescription device" means an instrument, apparatus, implement, machine, contrivance, implant, in vitro reagent, or other similar or related article, and any component part or accessory, which is required under federal or state law to be prescribed by a practitioner and dispensed by or through a person or entity licensed under this

chapter or exempt from licensure under this chapter.

(64) "Prescription drug" means a drug that is required by federal or state law or rule to be dispensed only by prescription or is restricted to administration only by practitioners.

(65) "Repackage":

(a) means changing the container, wrapper, or labeling to further the distribution of a prescription drug; and

(b) does not include:

(i) Subsection (65)(a) when completed by the pharmacist responsible for dispensing the product to a patient; or

(ii) changing or altering a label as necessary for a dispensing practitioner under Part 8, Dispensing Medical Practitioner and Dispensing Medical Practitioner Clinic Pharmacy, for dispensing a product to a patient.

(66) "Research using pharmaceuticals" means research:

(a) conducted in a research facility, as defined by division rule, that is associated with a university or college in the state accredited by the Northwest Commission on Colleges and Universities;

(b) requiring the use of a controlled substance, prescription drug, or prescription device;

(c) that uses the controlled substance, prescription drug, or prescription device in accordance with standard research protocols and techniques, including, if required, those approved by an institutional review committee; and

(d) that includes any documentation required for the conduct of the research and the handling of the controlled substance, prescription drug, or prescription device.

(67) "Retail pharmacy" means a pharmaceutical facility dispensing prescription drugs and devices to the general public.

(68) (a) "Self-administered hormonal contraceptive" means a self-administered hormonal contraceptive that is approved by the United States Food and Drug Administration to prevent pregnancy.

(b) "Self-administered hormonal contraceptive" includes an oral hormonal contraceptive, a hormonal vaginal ring, and a hormonal contraceptive patch.

(c) "Self-administered hormonal contraceptive" does not include any drug intended to induce an abortion, as that term is defined in Section 76-7-301.

(69) "Self-audit" means an internal evaluation of a pharmacy to determine compliance with this chapter.

(70) "Supervising pharmacist" means a pharmacist who is overseeing the operation of the pharmacy during a given day or shift.

(71) "Supportive personnel" means unlicensed individuals who:

(a) may assist a pharmacist, pharmacist preceptor, pharmacy intern, or licensed pharmacy technician in nonjudgmental duties not included in the definition of the practice of pharmacy, practice of a pharmacy intern, or practice of a licensed pharmacy technician, and as those duties may be further defined by division rule adopted in collaboration with the board; and

(b) are supervised by a pharmacist in accordance with rules adopted by the division in collaboration with the board.

(72) "Unlawful conduct" means the same as that term is defined in Sections 58-1-501 and 58-17b-501.

(73) "Unprofessional conduct" means the same as that term is defined in Sections 58-1-501 and 58-17b-502 and may be further defined by rule.

(74) "Veterinary pharmaceutical facility" means a pharmaceutical facility that dispenses drugs intended for use by animals or for sale to veterinarians for the administration for animals.

Section 2. Section 58-17b-627 is enacted to read:

58-17b-627. Prescription of drugs or devices by a pharmacist.

(1) Beginning January 1, 2022, a pharmacist may prescribe a prescription drug or device if:

(a) prescribing the prescription drug or device is within the scope of the pharmacist's training and experience;

(b) the prescription drug or device is designated by the division by rule under Subsection (3)(a); and

(c) the prescription drug or device is not a controlled substance that is included in Schedules I, II, III, or IV of:

(i) Section 58-37-4; or

(ii) the federal Controlled Substances Act, Title II, P.L. 91-513.

(2) Nothing in this section requires a pharmacist to issue a prescription for a prescription drug or device.

(3) The division shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:

(a) designate the prescription drugs or devices that may be prescribed by a pharmacist under this section, beginning with prescription drugs or devices that address a public health concern that is designated by the Department of Health, including:

(i) post-exposure HIV prophylaxis;

(ii) pre-exposure HIV prophylaxis;

(iii) self-administered hormonal contraceptives;

(iv) smoking cessation; and

(v) naloxone;

(b) create guidelines that a pharmacist must follow when prescribing a prescription drug or device, including guidelines:

(i) for notifying the patient's primary care or other health care provider about the prescription; and

(ii) to prevent the over-prescription of drugs or devices including but not limited to antibiotics;

(c) address when a pharmacist should refer the patient to an appropriate health care provider or otherwise encourage the patient to seek further medical care; and

(d) implement the provisions of this section.

(4) The division shall make rules under Subsection (3) in collaboration with:

(a) individuals representing pharmacies and pharmacists;

(b) individuals representing physicians and advanced practice clinicians; and

(c) (i) if the executive director of the Department of Health is a physician, the executive director of the Department of Health;

(ii) if the executive director of the Department of Health is not a physician, a deputy director who is a physician in accordance with Subsection 26-1-9(4); or

(iii) a designee of the individual described in Subsection (4)(c)(i) or (ii).

(5) Before November 1 of each year, the division, in consultation with the individuals described in Subsection (4), shall:

(a) develop recommendations for statutory changes to improve patient access to prescribed drugs in the state; and

(b) report the recommendations developed under Subsection (5)(a) to the Health and Human Services Interim Committee.

CHAPTER 128
H. B. 179
Passed March 5, 2021
Approved March 16, 2021
Effective May 5, 2021

PRIVATE CAUSE OF ACTION FOR UNDISCLOSED REFERRAL FEES

Chief Sponsor: Nelson T. Abbott
Senate Sponsor: Daniel McCay

LONG TITLE

General Description:

This bill creates a cause of action that may be brought against an attorney or a law firm for failure to provide notice of a referral fee.

Highlighted Provisions:

This bill:

- defines terms;
- creates a cause of action that may be brought against an attorney or a law firm to recover a referral fee that is paid to a person that is not an attorney if the attorney or the law firm pays the referral fee for a client and fails to provide notice of the referral fee to the client;
- provides exceptions for payments for profit-sharing plans, marketing services, and debt collection; and
- addresses joint and several liability.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

78B-3-111, Utah Code Annotated 1953

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

Section 1. Section 78B-3-111 is enacted to read:

78B-3-111. Cause of action against attorney or law firm for referral fee -- Exceptions.

(1) As used in this section:

(a) "Attorney" means an individual who is authorized to provide legal services in any state or territory of the United States.

(b) "Client" means an individual who is provided legal services by an attorney or a law firm.

(c) "Client referral fee" means any amount paid by an attorney or a law firm to a person that is not an attorney for the purpose of referring the client to receive legal services from the attorney.

(d) "Law firm" means a person that employs an attorney.

(e) "Legal services" means any form of legal advice or legal representation that is subject to the laws of this state.

(2) A client may bring a cause of action against an attorney or a law firm to recover a client referral fee if:

(a) the attorney or the law firm pays a client referral fee; and

(b) the client referral fee was not disclosed to the client before the client paid for, or was obligated to pay for, legal services from the attorney or the law firm.

(3) A client may not bring a cause of action under this section if the client referral fee was paid:

(a) as part of a profit-sharing plan that complies with the requirements of Section 401, Internal Revenue Code;

(b) to a person that provides marketing services, including pay-per-click advertising, for the attorney or the law firm, and the client referral fee was not contingent on whether the attorney or the law firm retains a client; or

(c) to a third party debt collection agency, as that term is defined in Section 12-1-11, for the purpose of recovering money owed to the attorney by the client.

(4) Any attorney or law firm that provides legal services to the client in the matter for which the client referral fee was paid shall be jointly and severally liable in a cause of action under Subsection (2).

(5) This section applies to a cause of action described in Subsection (2) that arises on or after May 5, 2021.

CHAPTER 129
H. B. 181
Passed February 4, 2021
Approved March 16, 2021
Effective May 5, 2021

PERSONALIZED COMPETENCY-BASED LEARNING

Chief Sponsor: Dan N. Johnson
Senate Sponsor: Chris H. Wilson

LONG TITLE

General Description:

This bill amends provisions related to personalized, competency-based learning and related programs.

Highlighted Provisions:

This bill:

- defines terms and replaces "competency-based education" with "personalized, competency-based learning";
- renames the Competency-Based Education Grants Program to the Personalized Competency-Based Learning Grants Program;
- renames the Reimbursement Program for Early Graduation From Competency-Based Education to Reimbursement Program for Early Graduation From Personalized, Competency-Based Learning; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53E-1-203, as last amended by Laws of Utah 2020, Chapters 365 and 388
53E-4-303, as last amended by Laws of Utah 2019, Chapters 186 and 202
53F-2-511, as last amended by Laws of Utah 2020, Chapter 408
53F-5-501, as last amended by Laws of Utah 2019, Chapter 186
53F-5-502, as last amended by Laws of Utah 2020, Chapter 408
53F-5-507, as last amended by Laws of Utah 2019, Chapter 267
53G-7-215, as last amended by Laws of Utah 2019, Chapter 293

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

Section 1. Section 53E-1-203 is amended to read:

53E-1-203. State Superintendent's Annual Report.

(1) The state board shall prepare and submit to the governor, the Education Interim Committee, and the Public Education Appropriations Subcommittee, by January 15 of each year, an annual written report known as the State Superintendent's Annual Report that includes:

(a) the operations, activities, programs, and services of the state board;

(b) subject to Subsection (4)(b), all reports listed in Subsection (4)(a); and

(c) data on the general condition of the schools with recommendations considered desirable for specific programs, including:

(i) a complete statement of fund balances;

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

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

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

(v) a statement that includes data on:

(A) fall enrollments;

(B) average membership;

(C) high school graduates;

(D) licensed and classified employees, including data reported by school districts on educator ratings described in Section 53G-11-511;

(E) pupil-teacher ratios;

(F) average class sizes;

(G) average salaries;

(H) applicable private school data; and

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

(vi) statistical information regarding incidents of delinquent activity in the schools or at school-related activities; and

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

(2) (a) For the purposes of Subsection (1)(c)(v):

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

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

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

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

(b) The report shall:

(i) include the pupil-teacher ratio for:

(A) each school district;

(B) the charter schools aggregated; and

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

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

(3) For each operation, activity, program, or service provided by the state board, the annual report shall include:

(a) a description of the operation, activity, program, or service;

(b) data and metrics:

(i) selected and used by the state board to measure progress, performance, effectiveness, and scope of the operation, activity, program, or service, including summary data; and

(ii) that are consistent and comparable for each state operation, activity, program, or service;

(c) budget data, including the amount and source of funding, expenses, and allocation of full-time employees for the operation, activity, program, or service;

(d) historical data from previous years for comparison with data reported under Subsections (3)(b) and (c);

(e) goals, challenges, and achievements related to the operation, activity, program, or service;

(f) relevant federal and state statutory references and requirements;

(g) contact information of officials knowledgeable and responsible for each operation, activity, program, or service; and

(h) other information determined by the state board that:

(i) may be needed, useful, or of historical significance; or

(ii) promotes accountability and transparency for each operation, activity, program, or service with the public and elected officials.

(4) (a) Except as provided in Subsection (4)(b), the annual report shall also include:

(i) the report described in Section 53E-3-507 by the state board on career and technical education needs and program access;

(ii) through October 1, 2022, the report described in Section 53E-3-515 by the state board on the Hospitality and Tourism Management Career and Technical Education Pilot Program;

(iii) beginning on July 1, 2023, the report described in Section 53E-3-516 by the state board on certain incidents that occur on school grounds;

(iv) the report described in Section 53E-4-202 by the state board on the development and implementation of the core standards for Utah public schools;

(v) the report described in Section 53E-5-310 by the state board on school turnaround and leadership development;

(vi) the report described in Section 53E-10-308 by the state board and Utah Board of Higher Education on student participation in the concurrent enrollment program;

(vii) the report described in Section 53F-2-503 by the state board on early literacy;

(viii) the report described in Section 53F-5-506 by the state board on information related to personalized, competency-based [~~education~~] learning;

(ix) the report described in Section 53G-9-802 by the state board on dropout prevention and recovery services; and

(x) the report described in Section 53G-10-204 by the state board on methods used, and the results being achieved, to instruct and prepare students to become informed and responsible citizens.

(b) The Education Interim Committee or the Public Education Appropriations Subcommittee may request a report described in Subsection (4)(a) to be reported separately from the State Superintendent's Annual Report.

(5) The annual report shall be designed to provide clear, accurate, and accessible information to the public, the governor, and the Legislature.

(6) The state board shall:

(a) submit the annual report in accordance with Section 68-3-14; and

(b) make the annual report, and previous annual reports, accessible to the public by placing a link to the reports on the state board's website.

(7) (a) Upon request of the Education Interim Committee or Public Education Appropriations Subcommittee, the state board shall present the State Superintendent's Annual Report to either committee.

(b) After submitting the State Superintendent's Annual Report in accordance with this section, the state board may supplement the report at a later time with updated data, information, or other materials as necessary or upon request by the governor, the Education Interim Committee, or the Public Education Appropriations Subcommittee.

Section 2. Section 53E-4-303 is amended to read:

53E-4-303. Utah standards assessments -- Administration -- Review committee.

(1) As used in this section, "computer adaptive assessment" means an assessment that measures the range of a student's ability by adapting to the student's responses, selecting more difficult or less difficult questions based on the student's responses.

(2) The state board shall:

(a) adopt a standards assessment that:

(i) measures a student's proficiency in:

(A) mathematics for students in each of grades 3 through 8;

(B) English language arts for students in each of grades 3 through 8;

(C) science for students in each of grades 4 through 8; and

(D) writing for students in at least grades 5 and 8; and

(ii) except for the writing measurement described in Subsection (2)(a)(i)(D), is a computer adaptive assessment; and

(b) ensure that an assessment described in Subsection (2)(a) is:

(i) a criterion referenced assessment;

(ii) administered online;

(iii) aligned with the core standards for Utah public schools; and

(iv) adaptable to personalized, competency-based [~~education as~~] learning, as that term is defined in Section 53F-5-501.

(3) A school district or charter school shall annually administer the standards assessment adopted by the state board under Subsection (2) to all students in the subjects and grade levels described in Subsection (2).

(4) (a) Except as provided in Subsection (4)(b), a student's score on the standards assessment adopted under Subsection (2) may not be considered in determining:

(i) the student's academic grade for a course; or

(ii) whether the student may advance to the next grade level.

(b) A teacher may use a student's score on the standards assessment adopted under Subsection (2) to improve the student's academic grade for or demonstrate the student's competency within a relevant course.

(5) (a) The state board shall establish a committee consisting of 15 parents of Utah public education students to review all standards assessment questions.

(b) The committee established in Subsection (5)(a) shall include the following parent members:

(i) five members appointed by the chair of the state board;

(ii) five members appointed by the speaker of the House of Representatives or the speaker's designee; and

(iii) five members appointed by the president of the Senate or the president's designee.

(c) The state board shall provide staff support to the parent committee.

(d) The term of office of each member appointed in Subsection (5)(b) is four years.

(e) The chair of the state board, the speaker of the House of Representatives, and the president of the Senate shall adjust the length of terms to stagger the terms of committee members so that approximately half of the committee members are appointed every two years.

(f) No member may receive compensation or benefits for the member's service on the committee.

Section 3. Section 53F-2-511 is amended to read:

53F-2-511. Reimbursement Program for Early Graduation From Personalized, Competency-Based Learning.

(1) As used in this section:

(a) "Cohort" means a group of students, defined by the year in which the group enters grade 9.

(b) "Eligible LEA" means an LEA that has demonstrated to the state board that the LEA or, for a school district, a school within the LEA, provides and facilitates personalized, competency-based [~~education~~] learning that:

(i) is based on the [~~core~~] principles described in Section [~~53F-5-502~~] 53F-5-501; and

(ii) meets other criteria established by the state board in rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(c) "Eligible student" means an individual who:

(i) attended an eligible LEA and graduated by completing graduation requirements, as described in Section 53E-4-204, earlier than that individual's cohort completed graduation requirements because of the individual's participation in the eligible LEA's personalized, competency-based [~~education~~] learning;

(ii) no longer attends the eligible LEA; and

(iii) is not included in the LEA's average daily membership under this chapter.

(d) "Partial pupil" means if an eligible student attends less than a full year of membership, the number of days the student was in membership compared to a full membership year.

(e) "Program" means the Reimbursement Program for Early Graduation From Personalized, Competency-Based [~~Education~~] Learning established in this section.

(2) (a) There is established the Reimbursement Program for Early Graduation From Personalized, Competency-Based [~~Education~~] Learning.

(b) Subject to future budget constraints, the Legislature may annually appropriate money to the Reimbursement Program for Early Graduation From Personalized, Competency-Based [~~Education~~] Learning.

(3) An LEA may apply to the state board to receive a reimbursement, as described in Subsection (5), for an eligible student.

(4) The state board shall approve a reimbursement to an LEA after the LEA demonstrates:

(a) that the LEA is an eligible LEA; and

(b) that the individual for whom the eligible LEA requests reimbursement is an eligible student.

(5) (a) For each eligible student, the state board shall only reimburse an eligible LEA:

(i) if the eligible student attended the eligible LEA for less than a full school year before the eligible student's cohort graduated, up to the value of one weighted pupil unit pro rated based on the difference between:

(A) the number of days of partial pupil in average daily membership earned by the eligible LEA while the eligible student was still in attendance; and

(B) a full pupil in average daily membership; and

(ii) the value of one weighted pupil unit for each full school year the eligible student graduated ahead of the eligible student's cohort.

(b) The state board shall:

(i) use data from the prior year average daily membership to determine the number of eligible students; and

(ii) reimburse the eligible LEA in the current school year.

(6) The state board shall, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, adopt rules to administer the provisions of this section.

Section 4. Section 53F-5-501 is amended to read:

Part 5. Personalized, Competency-Based Learning Grants Program

53F-5-501. Definitions.

As used in this part:

(1) "Blended learning" means a formal education program in which a student learns:

(a) at least in part, through online learning with some element of student control over time, place, path, and pace;

(b) at least in part, in a supervised brick-and-mortar location away from home; and

(c) in a program in which the modalities along each student's learning path within a course or subject are connected to provide an integrated learning experience.

[~~(2) "Competency-Based education" means a system where a student advances to higher levels of learning when the student demonstrates competency of concepts and skills regardless of time, place, or pace.~~]

[~~(3)~~] (2) "Extended learning" means learning opportunities outside of a traditional school structure, including:

(a) online learning available anywhere, anytime;

(b) career-based experiences, including internships and job shadowing;

(c) community-based projects; and

(d) off-site postsecondary learning.

[~~(4)~~] (3) "Grant program" means the Personalized, Competency-Based [~~Education~~] Learning Grants Program created in this part.

[~~(5)~~] (4) "Institution of higher education" means an institution listed in Section 53B-1-102.

(5) "Personalized, competency-based learning" means a system of learning in which the following principles influence the daily actions of the educational community:

(a) students are empowered daily to make important decisions about the students' learning experiences, how the students will create and apply knowledge, and how students will demonstrate the students' learning;

(b) assessment is a meaningful, positive, and empowering learning experience for students that yields timely, relevant, and actionable evidence;

(c) students receive timely, differentiated support based on the students' individual learning needs;

(d) students progress based on evidence of mastery rather than by hours of attendance;

(e) students learn actively using different pathways and varied pacing;

(f) strategies to ensure equity for all students are embedded in the culture, structure, and pedagogy of schools and education systems; and

(g) rigorous, common expectations for learning, including knowledge, skills, and dispositions, are explicit, transparent, measurable, and transferable.

(6) "Review committee" means the committee established under Section 53F-5-502.

(7) "STEM" means science, technology, engineering, and mathematics.

Section 5. Section 53F-5-502 is amended to read:

53F-5-502. Personalized Competency-Based Learning Grants Program -- State board duties -- Review committee -- Technical assistance training.

(1) There is created the Personalized Competency-Based [~~Education~~] Learning Grants Program consisting of the grants created in this part to improve educational outcomes in public schools [~~by advancing student mastery of concepts and skills through the following core principles:~~] through personalized, competency-based learning.

[~~(a) student advancement upon mastery of a concept or skill;~~]

[~~(b) competencies that include explicit, measurable, and transferable learning objectives that empower a student;~~]

[~~(c) assessment that is meaningful and provides a positive learning experience for a student;~~]

[~~(d) timely, differentiated support based on a student's individual learning needs; and~~]

[~~(e) learning outcomes that emphasize competencies that include application and creation of knowledge along with the development of important skills and dispositions.~~]

(2) The grant program shall incentivize an LEA to establish personalized, competency-based [~~education~~] learning within the LEA through the use of:

(a) personalized learning;

(b) blended learning;

(c) extended learning;

(d) educator professional learning in personalized, competency-based [~~education~~] learning; or

(e) any other method that emphasizes [~~the core principles described in Subsection (1)~~] personalized, competency-based learning.

(3) The state board shall:

(a) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, adopt rules:

(i) for the administration of the grant program and awarding of grants; and

(ii) to define outcome-based measures appropriate to the type of grant for an LEA that is awarded a grant under this part to use to measure the performance of the LEA's plan or program;

(b) establish a grant application process;

(c) in accordance with Subsection (4), establish a review committee to make recommendations to the state board for:

(i) metrics to analyze the quality of a grant application; and

(ii) approval of a grant application; and

(d) with input from the review committee, adopt metrics to analyze the quality of a grant application.

(4) (a) The review committee shall consist of STEM and blended learning experts, current and former school administrators, current and former teachers, and at least one former school district superintendent, in addition to other staff designated by the state board.

(b) The review committee shall:

(i) review a grant application submitted by an LEA;

(ii) make recommendations to the LEA to modify the application, if necessary; and

(iii) make recommendations to the state board regarding the final disposition of an application.

(5) (a) The state board shall provide technical assistance training to assist an LEA with a grant application under this part.

(b) An LEA may not apply for a grant under this part unless:

(i) a representative of the LEA attends the technical assistance training before the LEA submits a grant application; and

(ii) the representative is a superintendent, principal, or a person in a leadership position within the LEA.

(c) The technical assistance training shall include:

(i) instructions on completing a grant application, including grant application requirements;

(ii) information on the scoring metrics used to review a grant application; and

(iii) information on personalized, competency-based [~~education~~] learning.

(6) The state board may use up to 5% of an appropriation provided to fund this part for administration of the grant program.

Section 6. Section 53F-5-507 is amended to read:

53F-5-507. Cooperation of institutions of higher education -- Transferring students not to be penalized.

(1) An institution of higher education:

(a) shall, for purposes of admission, scholarships, and other financial aid consideration, recognize and accept on equal footing as a traditional high school diploma a high school diploma awarded to a student who successfully completes an educational program that uses, in whole or in part, personalized, competency-based [~~education~~] learning; and

(b) cooperate with an LEA:

(i) as applicable, to facilitate the advancement of a student who attends a personalized, competency-based [~~education~~] learning program; and

(ii) as requested, in the development of an LEA plan or program under this part.

(2) If a student attending an LEA that establishes personalized, competency-based [~~education~~] learning within the LEA transfers to another school within the LEA or to another LEA entirely that does not have a personalized, competency-based [~~education~~] learning program, the student may not be penalized by being required to repeat course work that the student has successfully completed, changing the student's grade, or receive any other penalty related to the student's previous attendance in the personalized, competency-based [~~education~~] learning program.

Section 7. Section 53G-7-215 is amended to read:

53G-7-215. Personalized, competency-based learning -- Recommendations -- Coordination.

(1) As used in this section, "personalized, competency-based [~~education~~] learning" means the same as that term is defined in Section 53F-5-501.

(2) A local school board or a charter school governing board may establish a personalized, competency-based [~~education~~] learning program.

(3) A local school board or charter school governing board that establishes a personalized, competency-based [~~education~~] learning program shall:

(a) establish assessments to accurately measure competency;

(b) provide the assessments to an enrolled student at no cost to the student;

(c) award credit to a student who demonstrates competency and subject mastery;

(d) submit the competency-based standards to the state board for review; and

(e) publish the competency-based standards on its website or by other electronic means readily accessible to the public.

(4) A local school board or charter school governing board may:

(a) on a random lottery-based basis, limit enrollment to courses that have been designated as competency-based courses;

(b) waive or adapt traditional attendance requirements;

(c) adjust class sizes to maximize the value of course instructors or course mentors;

(d) enroll students from any geographic location within the state; and

(e) provide proctored online competency-based assessments.

CHAPTER 130
H. B. 182
Passed March 5, 2021
Approved March 16, 2021
Effective May 5, 2021

EDUCATOR HEARINGS AMENDMENTS

Chief Sponsor: Craig Hall
Senate Sponsor: Evan J. Vickers

LONG TITLE

General Description:

This bill amends requirements related to hearings held before a local school board or the State Board of Education.

Highlighted Provisions:

This bill:

- provides that a final order or decree from a hearing regarding the dismissal of a school district employee may be appealed to the Court of Appeals for review;
- provides that a notice of an appeal from a hearing regarding the dismissal of a school district employee be filed in accordance with the Utah Rules of Appellate Procedure;
- provides that review by the Court of Appeals is limited to the record of the local school board or the State Board of Education;
- provides that a review by the Court of Appeals is to determine whether the local school board, or the State Board of Education, exceeded the board's discretion or exceeded the board's authority;
- amends the jurisdiction of the Court of Appeals; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53G-11-515, as renumbered and amended by Laws of Utah 2018, Chapter 3
78A-4-103, as last amended by Laws of Utah 2015, Chapter 441

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

Section 1. Section 53G-11-515 is amended to read:

53G-11-515. Hearings before district board or hearing officers -- Rights of the board and the employee -- Subpoenas -- Appeals.

(1) (a) Hearings are held under this part before the school board or before hearing officers selected by the school board to conduct the hearings and make recommendations concerning findings.

(b) The school board shall establish procedures to appoint hearing officers.

(c) The school board may delegate [~~its~~] the school board's authority to a hearing officer to make decisions relating to the employment of an employee [~~which~~] that are binding upon both the employee and the school board.

[~~(d) This Subsection (1) does not limit the right of the board or the employee to appeal to an appropriate court of law.~~]

(2) At the hearings, an employee has the right to counsel, to produce witnesses, to hear testimony against the employee, to cross-examine witnesses, and to examine documentary evidence.

(3) Subpoenas may be issued and oaths administered as provided under Section 53E-6-606.

(4) All hearings shall be recorded at the school board's expense.

(5) (a) Any final action or order of the school board may be appealed to the Court of Appeals for review.

(b) A notice of appeal shall be filed in accordance with the Utah Rules of Appellate Procedure, Rule 4.

(c) A review by the Court of Appeals:

(i) is limited to the record of the school board; and

(ii) shall be for the purpose of determining whether the school board exceeded the school board's discretion, or the school board exceeded the school board's authority.

Section 2. Section 78A-4-103 is amended to read:

78A-4-103. Court of Appeals jurisdiction.

(1) The Court of Appeals has jurisdiction to issue all extraordinary writs and to issue all writs and process necessary:

(a) to carry into effect its judgments, orders, and decrees; or

(b) in aid of its jurisdiction.

(2) The Court of Appeals has appellate jurisdiction, including jurisdiction of interlocutory appeals, over:

(a) (i) a final order or decree resulting from:

(A) a formal adjudicative proceeding of a state agency; [~~or~~]

(B) a special adjudicative proceeding, as described in Section 19-1-301.5; or

(C) a hearing before a local school board or the State Board of Education as described in Section 53G-11-515; or

(ii) an appeal from the district court review of an informal adjudicative proceeding of an agency other than the following:

(A) the Public Service Commission;

(B) the State Tax Commission;

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

(D) the Division of Forestry, Fire, and State Lands, for an action reviewed by the executive director of the Department of Natural Resources;

(E) the Board of Oil, Gas, and Mining; or

(F) the state engineer;

(b) appeals from the district court review of:

(i) adjudicative proceedings of agencies of political subdivisions of the state or other local agencies; and

(ii) a challenge to agency action under Section 63G-3-602;

(c) appeals from the juvenile courts;

(d) interlocutory appeals from any court of record in criminal cases, except those involving a charge of a first degree or capital felony;

(e) appeals from a court of record in criminal cases, except those involving a conviction or charge of a first degree felony or capital felony;

(f) appeals from orders on petitions for extraordinary writs sought by persons who are incarcerated or serving any other criminal sentence, except petitions constituting a challenge to a conviction of or the sentence for a first degree or capital felony;

(g) appeals from the orders on petitions for extraordinary writs challenging the decisions of the Board of Pardons and Parole except in cases involving a first degree or capital felony;

(h) appeals from district court involving domestic relations cases, including, but not limited to, divorce, annulment, property division, child custody, support, parent-time, visitation, adoption, and paternity;

(i) appeals from the Utah Military Court; and

(j) cases transferred to the Court of Appeals from the Supreme Court.

(3) The Court of Appeals upon its own motion only and by the vote of four judges of the court may certify to the Supreme Court for original appellate review and determination any matter over which the Court of Appeals has original appellate jurisdiction.

(4) The Court of Appeals shall comply with the requirements of Title 63G, Chapter 4, Administrative Procedures Act, in its review of agency adjudicative proceedings.

CHAPTER 131
H. B. 185
Passed March 4, 2021
Approved March 16, 2021
Effective July 1, 2021

LABORATORY EQUIPMENT AMENDMENTS

Chief Sponsor: Steven J. Lund
Senate Sponsor: David P. Hinkins

LONG TITLE

General Description:

This bill addresses funding related to laboratory equipment in the Department of Agriculture and Food.

Highlighted Provisions:

This bill:

- creates the Department of Agriculture and Food Laboratory Equipment Fund;
- outlines the source of money in the fund;
- addresses restrictions on the use of the fund; and
- imposes a cap on money in the fund.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

ENACTS:

4-2-203, Utah Code Annotated 1953

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

Section 1. Section 4-2-203 is enacted to read:

4-2-203. Department of Agriculture and Food Laboratory Equipment Fund.

(1) There is created an expendable special revenue fund known as the "Department of Agriculture and Food Laboratory Equipment Fund," which is referred to in this section as the "fund."

(2) The fund consists of:

(a) collections the Division of Laboratories within the department receives under this title that are not expended during the previous fiscal year;

(b) appropriations from the Legislature; and

(c) interest and earnings on the fund.

(3) The state treasurer shall invest the money in the fund according to Title 51, Chapter 7, State Money Management Act, except that interest or other earnings derived from those investments shall be deposited into the fund.

(4) (a) The department may use money in the fund only to pay for the repair, replacement, or upgrade of laboratory equipment in accordance with this section.

(5) The state chemist or the commissioner shall approve expenditures from the fund for laboratory equipment repair, replacement, or upgrade as follows:

(a) the state chemist may approve using money in the fund to repair, replace, or upgrade laboratory equipment if the amount to be expended is less than $10,000; and

(b) the state chemist shall obtain the approval of the commissioner for using money in the fund to repair, replace, or upgrade laboratory equipment if the amount to be expended equals or exceeds $10,000.

(6) (a) Subject to the other provisions of this Subsection (6), the Division of Finance shall deposit into the fund the collections that the Division of Laboratories receives under this title that are not expended during a fiscal year.

(b) The fund may not exceed $500,000 at the end of a fiscal year.

(c) If the fund exceeds $500,000 at the end of the fiscal year, the Division of Finance shall deposit into the General Fund the money in excess of the amount necessary to maintain the fund balance at $500,000.

Section 2. Effective date.

This bill takes effect on July 1, 2021.

CHAPTER 132
H. B. 186
Passed February 25, 2021
Approved March 16, 2021
Effective May 5, 2021

CRIMINAL NONSUPPORT AMENDMENTS

Chief Sponsor: Keven J. Stratton
Senate Sponsor: Michael S. Kennedy

LONG TITLE

General Description:

This bill requires the Office of Recovery Services to report overdue support over $10,000 in certain circumstances.

Highlighted Provisions:

This bill:

- allows the attorney general and certain county and district attorneys to request information from the Office of Recovery Services concerning overdue support over $10,000.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

62A-11-334, Utah Code Annotated 1953

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

Section 1. Section 62A-11-334 is enacted to read:

62A-11-334. Reporting past-due support for criminal prosecution.

(1) (a) Upon request from an official described in Subsection (1)(b), the office shall report the name of an obligor who is over $10,000 delinquent in the payment of support and the amount of overdue support owed by the obligor to an obligee.

(b) The following officials may request the information described in Subsection (1)(a):

(i) the attorney general;

(ii) a county attorney in whose jurisdiction the obligor's obligee resides; or

(iii) a district attorney in whose jurisdiction the obligor's obligee resides.

(2) The office shall make the report described in Subsection (1) no later than 30 days after the day on which the office receives the request for information.

CHAPTER 133
H. B. 192
Passed March 3, 2021
Approved March 16, 2021
Effective May 5, 2021

FERTILITY TREATMENT AMENDMENTS

Chief Sponsor: Raymond P. Ward
Senate Sponsor: Curtis S. Bramble
Cosponsor: Rosemary T. Lesser

LONG TITLE

General Description:

This bill expands Medicaid coverage for fertility preservation and criminalizes improper conduct related to fertility treatment.

Highlighted Provisions:

This bill:

- defines terms;
- requires the department to apply for a Medicaid waiver or state plan amendment with the Centers for Medicare and Medicaid Services to provide coverage for fertility preservation treatments for an individual diagnosed with cancer or other disease;
- imposes a reporting requirement; and
- establishes a criminal penalty for a health care provider that:
  - provides "assisted reproductive treatment" to a patient; and
  - uses the health care provider's own gamete without the written consent of the patient.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

26-18-420.1, Utah Code Annotated 1953
76-07-401, Utah Code Annotated 1953
76-07-402, Utah Code Annotated 1953

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

Section 1. Section 26-18-420.1 is enacted to read:

26-18-420.1. Medicaid waiver for fertility preservation services.

(1) As used in this section:

(a) "Iatrogenic infertility" means an impairment of fertility or reproductive functioning caused by surgery, chemotherapy, radiation, or other medical treatment.

(b) "Physician" means an individual licensed to practice under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act.

(c) "Qualified enrollee" means an individual who:

(i) is enrolled in the Medicaid program;

(ii) has been diagnosed with a form of cancer by a physician; and

(iii) needs treatment for that cancer that may cause a substantial risk of sterility or iatrogenic infertility, including surgery, radiation, or chemotherapy.

(d) "Standard fertility preservation service" means a fertility preservation procedure and service that:

(i) is not considered experimental or investigational by the American Society for Reproductive Medicine or the American Society of Clinical Oncology; and

(ii) is consistent with established medical practices or professional guidelines published by the American Society for Reproductive Medicine or the American Society of Clinical Oncology, including:

(A) sperm banking;

(B) oocyte banking;

(C) embryo banking;

(D) banking of reproductive tissues; and

(E) storage of reproductive cells and tissues.

(2) Before January 1, 2022, the department shall apply for a Medicaid waiver or a state plan amendment with CMS to implement the coverage described in Subsection (3).

(3) If the waiver or state plan amendment described in Subsection (2) is approved, the Medicaid program shall provide coverage to a qualified enrollee for standard fertility preservation services.

(4) The Medicaid program may not provide the coverage described in Subsection (3)

before the later of:

(a) the day on which the waiver described in Subsection (2) is approved; and

(b) January 1, 2023.

(5) Before November 1, 2023, and before November 1 of each third year after 2023,

the department shall:

(a) calculate the change in state spending attributable to the coverage described in this section; and

(b) report the amount described in Subsection (5)(a) to the Health and Human Services Interim Committee and the Social Services Appropriations Subcommittee.

Section 2. Section 76-07-401 is enacted to read:

Part 4. Genetic Material Misuse

76-07-401. Definitions.

As used in this part:

(1) "Assisted reproductive treatment" means a method of causing pregnancy by any means other than through sexual intercourse, including:

(a) intrauterine or intracervical insemination;

(b) donation of eggs or sperm;

(c) donation of embryos;

(d) in vitro fertilization and embryo transfer; and

(e) intracytoplasmic sperm injection.

(2) "Gamete" means a cell containing a haploid complement of DNA that has the potential to form an embryo when combined with another gamete, including:

(a) a sperm;

(b) an egg; or

(c) nuclear DNA from one individual combined with the:

(i) cytoplasm of another individual; or

(ii) cytoplasmic DNA of another individual.

(3) "Health care provider" means an individual listed in Subsection 78B-3-403(12).

Section 3. Section 76-07-402 is enacted to read:

76-07-402. Genetic material misuse.

(1) A health care provider may not knowingly use the health care provider's own gamete, when providing assisted reproductive treatment to a patient, without the patient's written consent.

(2) A health care provider who violates Subsection (1) is guilty of a third degree felony.

CHAPTER 134
H. B. 193
Passed March 5, 2021
Approved March 16, 2021
Effective May 5, 2021

INTIMATE IMAGE DISTRIBUTION PROHIBITION

Chief Sponsor: Karen Kwan
Senate Sponsor: Todd D. Weiler
Cosponsors: Clare Collard
Jennifer Dailey-Provost
James A. Dunnigan
Sandra Hollins
Brian S. King
Ashlee Matthews
Merrill F. Nelson
Stephanie Pitcher
Adam Robertson
Angela Romero
Travis M. Seegmiller
Andrew Stoddard
Mark A. Wheatley

LONG TITLE

General Description:

This bill creates the offense of the unlawful distribution of a counterfeit intimate image.

Highlighted Provisions:

This bill:

- defines terms;
- creates the offense of unlawful distribution of a counterfeit intimate image;
- creates the offense of aggravated unlawful distribution of a counterfeit intimate image; and
- imposes penalties.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

77-36-1, as last amended by Laws of Utah 2020, Chapter 142

ENACTS:

76-5b-205, Utah Code Annotated 1953

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

Section 1. Section 76-5b-205 is enacted to read:

76-5b-205. Unlawful distribution of a counterfeit intimate image -- Penalty.

(1) As used in this section:

(a) "Child" means an individual under the age of 18.

(b) "Counterfeit intimate image" means any visual depiction, photograph, film, video, recording, picture, or computer or computer-generated image or picture, whether made or produced by electronic, mechanical, or other means, that has been edited, manipulated, or altered to depict the likeness of an identifiable individual and purports to, or is made to appear to, depict that individual's:

(i) exposed human male or female genitals or pubic area, with less than an opaque covering;

(ii) a female breast with less than an opaque covering, or any portion of the female breast below the top of the areola; or

(iii) the individual engaged in any sexually explicit conduct or simulated sexually explicit conduct.

(c) "Distribute" means the same as that term is defined in Section 76-5b-203.

(d) "Sexually explicit conduct" means the same as that term is defined in Section 76-5b-203.

(e) "Simulated sexually explicit conduct" means the same as that term is defined in Section 76-5b-203.

(2) An actor commits the offense of unlawful distribution of a counterfeit intimate image if the actor knowingly or intentionally distributes a counterfeit intimate image that the actor knows or should reasonably know would cause a reasonable person to suffer emotional or physical distress or harm, if:

(a) the actor has not received consent from the depicted individual to distribute the counterfeit intimate image; and

(b) the counterfeit intimate image was created or provided by the actor without the knowledge and consent of the depicted individual.

(3) An individual commits aggravated unlawful distribution of a counterfeit intimate image if, in committing the offense described in Subsection (2), the individual depicted in the counterfeit intimate image is a child.

(4) This section does not apply to:

(a) (i) lawful practices of law enforcement agencies;

(ii) prosecutorial agency functions;

(iii) the reporting of a criminal offense;

(iv) court proceedings or any other judicial proceeding; or

(v) lawful and generally accepted medical practices and procedures;

(b) a counterfeit intimate image if the individual portrayed in the image voluntarily allows public exposure of the image;

(c) a counterfeit intimate image that is portrayed in a lawful commercial setting; or

(d) a counterfeit intimate image that is related to a matter of public concern or interest or protected by the First Amendment to the United States Constitution or Article I, Sections 1 and 15 of the Utah Constitution.

(5) (a) This section does not apply to an Internet service provider or interactive computer service, as

defined in 47 U.S.C. Sec. 230(f)(2), a provider of an electronic communications service as defined in 18 U.S.C. Sec. 2510, a telecommunications service, information service, or mobile service as defined in 47 U.S.C. Sec. 153, including a commercial mobile service as defined in 47 U.S.C. Sec. 332(d), or a cable operator as defined in 47 U.S.C. Sec. 522, if:

(i) the distribution of a counterfeit intimate image by the Internet service provider occurs only incidentally through the provider's function of:

(A) transmitting or routing data from one person to another person; or

(B) providing a connection between one person and another person;

(ii) the provider does not intentionally aid or abet in the distribution of the counterfeit intimate image; and

(iii) the provider does not knowingly receive from or through a person who distributes the counterfeit intimate image a fee greater than the fee generally charged by the provider, as a specific condition for permitting the person to distribute the counterfeit intimate image.

(b) This section does not apply to a hosting company, as defined in Section 76-10-1230, if:

(i) the distribution of a counterfeit intimate image by the hosting company occurs only incidentally through the hosting company's function of providing data storage space or data caching to a person;

(ii) the hosting company does not intentionally engage, aid, or abet in the distribution of the counterfeit intimate image;

(iii) the hosting company does not knowingly receive from or through a person who distributes the counterfeit intimate image a fee greater than the fee generally charged by the provider, as a specific condition for permitting the person to distribute, store, or cache the counterfeit intimate image; and

(iv) the hosting company immediately removes the counterfeit intimate image upon notice from a law enforcement agency, prosecutorial agency, or the individual purportedly depicted in the counterfeit intimate image.

(c) A service provider, as defined in Section 76-10-1230, is not negligent under this section if it complies with Section 76-10-1231.

(6) This section does not apply to an actor who engages in conduct that constitutes a violation of this section to the extent that the actor is chargeable, for the same conduct, under Section 76-5b-201, sexual exploitation of a minor.

(7) (a) Except as provided in Subsection (7)(b), knowing or intentional unlawful distribution of a counterfeit intimate image is a class A misdemeanor.

(b) Knowing or intentional unlawful distribution of a counterfeit intimate image is a third degree felony on a second or subsequent conviction for an offense under this section that arises from a separate criminal episode as defined in Section 76-1-401.

(c) Except as provided in Subsection (7)(d), knowing or intentional aggravated unlawful distribution of a counterfeit intimate image is a third degree felony.

(d) Knowing or intentional aggravated unlawful distribution of a counterfeit intimate image is a second degree felony on a second or subsequent conviction for an offense under this section that arises from a separate criminal episode as defined in Section 76-1-401.

Section 2. Section 77-36-1 is amended to read:

77-36-1. Definitions.

As used in this chapter:

(1) "Cohabitant" means the same as that term is defined in Section 78B-7-102.

(2) "Department" means the Department of Public Safety.

(3) "Divorced" means an individual who has obtained a divorce under Title 30, Chapter 3, Divorce.

(4) "Domestic violence" or "domestic violence offense" means any criminal offense involving violence or physical harm or threat of violence or physical harm, or any attempt, conspiracy, or solicitation to commit a criminal offense involving violence or physical harm, when committed by one cohabitant against another. "Domestic violence" or "domestic violence offense" includes commission or attempt to commit, any of the following offenses by one cohabitant against another:

(a) aggravated assault, as described in Section 76-5-103;

(b) aggravated cruelty to an animal, as described in Subsection 76-9-301(4), with the intent to harass or threaten the other cohabitant;

(c) assault, as described in Section 76-5-102;

(d) criminal homicide, as described in Section 76-5-201;

(e) harassment, as described in Section 76-5-106;

(f) electronic communication harassment, as described in Section 76-9-201;

(g) kidnapping, child kidnapping, or aggravated kidnapping, as described in Sections 76-5-301, 76-5-301.1, and 76-5-302;

(h) mayhem, as described in Section 76-5-105;

(i) sexual offenses, as described in Title 76, Chapter 5, Part 4, Sexual Offenses, and Section 76-5b-201, Sexual exploitation of a minor -- Offenses;

(j) stalking, as described in Section 76-5-106.5;

(k) unlawful detention or unlawful detention of a minor, as described in Section 76-5-304;

(l) violation of a protective order or ex parte protective order, as described in Section 76-5-108;

(m) any offense against property described in Title 76, Chapter 6, Part 1, Property Destruction, Title 76, Chapter 6, Part 2, Burglary and Criminal Trespass, or Title 76, Chapter 6, Part 3, Robbery;

(n) possession of a deadly weapon with criminal intent, as described in Section 76-10-507;

(o) discharge of a firearm from a vehicle, near a highway, or in the direction of any person, building, or vehicle, as described in Section 76-10-508;

(p) disorderly conduct, as defined in Section 76-9-102, if a conviction of disorderly conduct is the result of a plea agreement in which the defendant was originally charged with a domestic violence offense otherwise described in this Subsection (4), except that a conviction of disorderly conduct as a domestic violence offense, in the manner described in this Subsection (4)(p), does not constitute a misdemeanor crime of domestic violence under 18 U.S.C. Sec. 921, and is exempt from the federal Firearms Act, 18 U.S.C. Sec. 921 et seq.;

(q) child abuse, as described in Section 76-5-109.1;

(r) threatening use of a dangerous weapon, as described in Section 76-10-506;

(s) threatening violence, as described in Section 76-5-107;

(t) tampering with a witness, as described in Section 76-8-508;

(u) retaliation against a witness or victim, as described in Section 76-8-508.3;

(v) unlawful distribution of an intimate image, as described in Section 76-5b-203, or unlawful distribution of a counterfeit intimate image, as described in Section 76-5b-205;

(w) sexual battery, as described in Section 76-9-702.1;

(x) voyeurism, as described in Section 76-9-702.7;

(y) damage to or interruption of a communication device, as described in Section 76-6-108; or

(z) an offense described in Subsection 78B-7-806(1).

(5) "Jail release agreement" means the same as that term is defined in Section 78B-7-801.

(6) "Jail release court order" means the same as that term is defined in Section 78B-7-801.

(7) "Marital status" means married and living together, divorced, separated, or not married.

(8) "Married and living together" means a couple whose marriage was solemnized under Section 30-1-4 or 30-1-6 and who are living in the same residence.

(9) "Not married" means any living arrangement other than married and living together, divorced, or separated.

(10) "Protective order" includes an order issued under Subsection 78B-7-804(3).

(11) "Pretrial protective order" means a written order:

(a) specifying and limiting the contact a person who has been charged with a domestic violence offense may have with an alleged victim or other specified individuals; and

(b) specifying other conditions of release under Sections 78B-7-802 or 78B-7-803, pending trial in the criminal case.

(12) "Sentencing protective order" means a written order of the court as part of sentencing in a domestic violence case that limits the contact a person who has been convicted of a domestic violence offense may have with a victim or other specified individuals under Section 78B-7-804.

(13) "Separated" means a couple who have had their marriage solemnized under Section 30-1-4 or 30-1-6 and who are not living in the same residence.

(14) "Victim" means a cohabitant who has been subjected to domestic violence.

CHAPTER 135
H. B. 195
Passed March 5, 2021
Approved March 16, 2021
Effective January 1, 2022

VEHICLE, BOAT, AND TRAILER REGISTRATION AMENDMENTS

Chief Sponsor: Adam Robertson
Senate Sponsor: Kathleen A. Riebe
Cosponsor: Travis M. Seegmiller

LONG TITLE

General Description:

This bill amends provisions related to vehicle registration renewal and decals.

Highlighted Provisions:

This bill:

- requires certain agencies to establish procedures for an individual to request automatic renewal of registration on a vehicle or boat;
- allows an individual to request automatic registration renewal;
- allows special, permanent registration decals for certain rental or fleet vehicles; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

41-1a-209, as last amended by Laws of Utah 2005, Chapter 47
41-1a-216, as last amended by Laws of Utah 2018, Chapter 20
41-1a-217, as last amended by Laws of Utah 2017, Chapter 406
41-1a-232, as enacted by Laws of Utah 2013, Chapter 391
41-22-3, as last amended by Laws of Utah 2015, Chapter 412
73-18-7, as last amended by Laws of Utah 2016, Chapter 303

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

Section 1. Section 41-1a-209 is amended to read:

41-1a-209. Application for registration -- Contents.

(1) An owner of a vehicle subject to registration under this part shall apply to the division for registration on forms furnished by the division.

(2) The application for registration shall include:

(a) the signature of an owner of the vehicle to be registered;

(b) the name, bona fide residence and mailing address of the owner, or business address of the owner if the owner is a firm, association, or corporation;

(c) a description of the vehicle including the make, model, type of body, the model year as specified by the manufacturer, the number of cylinders, and the identification number of the vehicle; [~~and~~]

(d) other information required by the division to enable it to determine whether the owner is lawfully entitled to register the vehicle[~~.~~]; and

(e) an indication if the applicant is applying for automatic registration renewal as described in Section 41-1a-216.

Section 2. Section 41-1a-216 is amended to read:

41-1a-216. Renewal of registration.

(1) The division may receive applications for registration renewal and issue new registration cards at any time prior to the expiration of the registration, subject to the availability of renewal materials.

(2) (a) Except as provided in Subsections (2)(c) and (3), the new registration shall retain the same expiration month as recorded on the original registration even if the registration has expired.

(b) Except as provided in Subsection (2)(c), the year of registration expiration shall be changed to reflect the renewed registration period.

(c) If the application for renewal of registration is for a six-month registration period under Section 41-1a-215.5, the new registration shall be for a six-month registration period that begins with the first day of the calendar month following the last day of the expiration month of the previous registration period as recorded on the original registration even if the registration has expired.

(3) Subsection (2) does not apply if the owner can verify to the satisfaction of the division that the vehicle registration was not renewed prior to its expiration due to the fact that the vehicle was in storage, inoperable, or otherwise out of service.

(4) If the registration renewal application is an application generated by the division through its automated system, the owner need not surrender the last registration card or duplicate.

(5) A vehicle with an "EX" or "UHP" license plate, owned by an entity described in Section 41-1a-407, is exempt from registration renewal requirements.

(6) The division shall establish a process by which an individual may request automatic renewal of registration.

(7) An individual may request automatic renewal of registration as provided by the division.

(8) If the vehicle is subject to an emissions inspection as described in Section 41-6a-1642 for the year for which a vehicle automatic registration is requested, the automatic renewal is not effective until the vehicle has passed an emissions inspection as required in Section 41-6a-1642.

(9) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission

may make rules establishing procedures for an individual to apply for and the division to administer automatic renewal of registration and automatic payment of fees as required in this chapter and relevant taxes.

Section 3. Section 41-1a-217 is amended to read:

41-1a-217. Application for renewal of registration.

(1) (a) An applicant may renew a vehicle registration by:

[~~(a)~~] (i) filing an application for registration renewal; and

[~~(b)~~] (ii) paying the fees or taxes required under Subsection 41-1a-203(1).

(b) If an applicant is applying for automatic registration renewal as described in Section 41-1a-216, the applicant shall provide payment information and other required information as described in Section 41-1a-216 and relevant administrative rules made in accordance with Subsection 41-1a-216(9).

(2) The applicant shall ensure that the application for registration renewal and the payment for applicable fees or taxes is accompanied by a certificate of emissions inspection if required under Section 41-6a-1642.

(3) The division shall issue a new registration card that contains:

(a) the identical information with respect to the owner and the vehicle description required by Section 41-1a-213; and

(b) the new expiration date.

Section 4. Section 41-1a-232 is amended to read:

41-1a-232. Special fleet registration decals and license plates.

(1) As used in this section:

(a) "Rental agreement" has the same meaning as defined in Section 31A-22-311.

(b) "Rental company" has the same meaning as defined in Section 31A-22-311.

(c) "Rental fleet" means more than 25 motor vehicles that are:

(i) owned by a rental company;

(ii) offered for rental without a hired driver through a rental agreement; and

(iii) designated by the registered owner of the motor vehicle as a rental fleet vehicle at the time of registration.

(2) (a) [~~Beginning on the date that the division has implemented the division's GenTax system, an~~] An owner that registers a motor vehicle under Section 41-1a-215 or 41-1a-215.5 may obtain an alternative special registration card and registration decals for the license plates if the motor vehicle is:

(i) (A) owned by a rental company; and

[~~(ii)~~] (B) maintained in the rental company's rental fleet[.]; or

(ii) owned or leased as part of a commercial fleet and is not owned or leased by a rental company.

(b) The registration card and registration decals for the license plates issued under Subsection (2)(a) are valid for the life of the motor vehicle while the motor vehicle is maintained in the rental fleet or is part of a commercial fleet.

(3) (a) An owner that receives the alternative special registration card and registration decals for the license plates issued under this section shall:

(i) renew the registration in accordance with Section 41-1a-216; and

(ii) comply with all the prerequisites for registration or registration renewal under Section 41-1a-203.

(b) Notwithstanding the registration renewals requirement under Subsection 41-1a-216(2)(b), the alternative special registration card and registration decals issued under this section do not expire and are valid for the life of the motor vehicle while the motor vehicle is maintained in the rental fleet or is part of a commercial fleet.

(4) If the registration renewal requirements under Subsection (3)(a) are not complied with, the registration is suspended or revoked.

Section 5. Section 41-22-3 is amended to read:

41-22-3. Registration of vehicles -- Application -- Issuance of sticker and card -- Proof of property tax payment -- Records.

(1) (a) Unless exempted under Section 41-22-9, a person may not operate or transport and an owner may not give another person permission to operate or transport any off-highway vehicle on any public land, trail, street, or highway in this state unless the off-highway vehicle is registered under this chapter for the current year.

(b) Unless exempted under Section 41-22-9, a dealer may not sell an off-highway vehicle which can be used or transported on any public land, trail, street, or highway in this state, unless the off-highway vehicle is registered or is in the process of being registered under this chapter for the current year.

(2) (a) The owner of an off-highway vehicle subject to registration under this chapter shall apply to the Motor Vehicle Division for registration on forms approved by the Motor Vehicle Division.

(b) An owner of an off-highway vehicle may apply for automatic registration renewal as described in Section 41-1a-216.

(3) Each application for registration of an off-highway vehicle shall be accompanied by:

(a) evidence of ownership, a title, or a manufacturer's certificate of origin, and a bill of sale showing ownership, make, model, horsepower or displacement, and serial number;

(b) the past registration card; or

(c) the fee for a duplicate.

(4) (a) Upon each annual registration, the Motor Vehicle Division shall issue a registration sticker and a registration card for each off-highway vehicle registered.

(b) The registration sticker shall:

(i) contain a unique number using numbers, letters, or combination of numbers and letters to identify the off-highway vehicle for which it is issued;

(ii) be affixed to the off-highway vehicle for which it is issued in a plainly visible position as prescribed by rule of the board under Section 41-22-5.1; and

(iii) be maintained free of foreign materials and in a condition to be clearly legible.

(c) At all times, a registration card shall be kept with the off-highway vehicle and shall be available for inspection by a law enforcement officer.

(5) (a) Except as provided by Subsection (5)(c), an applicant for a registration card and registration sticker shall provide the Motor Vehicle Division a certificate, described under Subsection (5)(b), from the county assessor of the county in which the off-highway vehicle has situs for taxation.

(b) The certificate required under Subsection (5)(a) shall state one of the following:

(i) the property tax on the off-highway vehicle for the current year has been paid;

(ii) in the county assessor's opinion, the tax is a lien on real property sufficient to secure the payment of the tax; or

(iii) the off-highway vehicle is exempt by law from payment of property tax for the current year.

(c) An off-highway vehicle for which an off-highway implement of husbandry sticker has been issued in accordance with Section 41-22-5.5 is exempt from the requirement under this Subsection (5).

(6) (a) All records of the division made or kept under this section shall be classified by the Motor Vehicle Division in the same manner as motor vehicle records are classified under Section 41-1a-116.

(b) Division records are available for inspection in the same manner as motor vehicle records under Section 41-1a-116.

(7) A violation of this section is an infraction.

Section 6. Section 73-18-7 is amended to read:

73-18-7. Registration requirements -- Exemptions -- Fee -- Agents -- Records -- Period of registration and renewal -- Expiration -- Notice of transfer of interest or change of address -- Duplicate registration card -- Invalid registration -- Powers of board.

(1) (a) Except as provided by Section 73-18-9, the owner of each motorboat and sailboat on the waters of this state shall register it with the division as provided in this chapter.

(b) A person may not place, give permission for the placement of, operate, or give permission for the operation of a motorboat or sailboat on the waters of this state, unless the motorboat or sailboat is registered as provided in this chapter.

(2) (a) The owner of a motorboat or sailboat required to be registered shall file an application for registration with the division on forms approved by the division.

(b) The owner of the motorboat or sailboat shall sign the application and pay the fee set by the board in accordance with Section 63J-1-504.

(c) Before receiving a registration card and registration decals, the applicant shall provide the division with a certificate from the county assessor of the county in which the motorboat or sailboat has situs for taxation, stating that:

(i) the property tax on the motorboat or sailboat for the current year has been paid;

(ii) in the county assessor's opinion, the property tax is a lien on real property sufficient to secure the payment of the property tax; or

(iii) the motorboat or sailboat is exempt by law from payment of property tax for the current year.

(d) If the board modifies the fee under Subsection (2)(b), the modification shall take effect on the first day of the calendar quarter after 90 days from the day on which the board provides the State Tax Commission:

(i) notice from the board stating that the board will modify the fee; and

(ii) a copy of the fee modification.

(e) (i) The division may enter into an agreement with the Motor Vehicle Division created in Section 41-1a-106 to administer the registration requirements described in this chapter.

(ii) An individual may request automatic registration renewal as described in Section 41-1a-216.

(3) (a) Upon receipt of the application in the approved form, the division shall record the receipt and issue to the applicant registration decals and a registration card that state the number assigned to the motorboat or sailboat and the name and address of the owner.

(b) The registration card shall be available for inspection on the motorboat or sailboat for which it was issued, whenever that motorboat or sailboat is in operation.

(4) The assigned number shall:

(a) be painted or permanently attached to each side of the forward half of the motorboat or sailboat;

(b) consist of plain vertical block characters not less than three inches in height;

(c) contrast with the color of the background and be distinctly visible and legible;

(d) have spaces or hyphens equal to the width of a letter between the letter and numeral groupings; and

(e) read from left to right.

(5) A motorboat or sailboat with a valid marine document issued by the United States Coast Guard is exempt from the number display requirements of Subsection (4).

(6) The nonresident owner of any motorboat or sailboat already covered by a valid number that has been assigned to it according to federal law or a federally approved numbering system of the owner's resident state is exempt from registration while operating the motorboat or sailboat on the waters of this state unless the owner is operating in excess of the reciprocity period provided for in Subsection 73-18-9(1).

(7) (a) If the ownership of a motorboat or sailboat changes, the new owner shall file a new application form and fee with the division, and the division shall issue a new registration card and registration decals in the same manner as provided for in Subsections (2) and (3).

(b) The division shall reassign the current number assigned to the motorboat or sailboat to the new owner to display on the motorboat or sailboat.

(8) If the United States Coast Guard has in force an overall system of identification numbering for motorboats or sailboats within the United States, the numbering system employed under this chapter by the board shall conform with that system.

(9) (a) The division may authorize any person to act as its agent for the registration of motorboats and sailboats.

(b) A number assigned, a registration card, and registration decals issued by an agent of the division in conformity with this chapter and rules of the board are valid.

(10) (a) The Motor Vehicle Division shall classify all records of the division made or kept according to this section in the same manner that motor vehicle records are classified under Section 41-1a-116.

(b) Division records are available for inspection in the same manner as motor vehicle records pursuant to Section 41-1a-116.

(11) (a) (i) Each registration, registration card, and decal issued under this chapter shall continue in effect for 12 months, beginning with the first day of the calendar month of registration.

(ii) A registration may be renewed by the owner in the same manner provided for in the initial application.

(iii) The division shall reassign the current number assigned to the motorboat or sailboat when the registration is renewed.

(b) Each registration, registration card, and registration decal expires the last day of the month in the year following the calendar month of registration.

(c) If the last day of the registration period falls on a day in which the appropriate state or county offices are not open for business, the registration of the motorboat or sailboat is extended to 12 midnight of the next business day.

(d) The division may receive applications for registration renewal and issue new registration cards at any time before the expiration of the registration, subject to the availability of renewal materials.

(e) The new registration shall retain the same expiration month as recorded on the original registration even if the registration has expired.

(f) The year of registration shall be changed to reflect the renewed registration period.

(g) If the registration renewal application is an application generated by the division through its automated system, the owner is not required to surrender the last registration card or duplicate.

(12) (a) An owner shall notify the division of:

(i) the transfer of all or any part of the owner's interest, other than creation of a security interest, in a motorboat or sailboat registered in this state under Subsections (2) and (3); and

(ii) the destruction or abandonment of the owner's motorboat or sailboat.

(b) Notification must take place within 15 days of the transfer, destruction, or abandonment.

(c) (i) The transfer, destruction, or abandonment of a motorboat or sailboat terminates its registration.

(ii) Notwithstanding Subsection (12)(c)(i), a transfer of a part interest that does not affect the owner's right to operate a motorboat or sailboat does not terminate the registration.

(13) (a) A registered owner shall notify the division within 15 days if the owner's address changes from the address appearing on the registration card and shall, as a part of this notification, furnish the division with the owner's new address.

(b) The board may provide in its rules for:

(i) the surrender of the registration card bearing the former address; and

(ii) (A) the replacement of the card with a new registration card bearing the new address; or

(B) the alteration of an existing registration card to show the owner's new address.

(14) (a) If a registration card is lost or stolen, the division may collect a fee of $4 for the issuance of a duplicate card.

(b) If a registration decal is lost or stolen, the division may collect a fee of $3 for the issuance of a duplicate decal.

(15) A number other than the number assigned to a motorboat or sailboat or a number for a motorboat or sailboat granted reciprocity under this chapter may not be painted, attached, or otherwise displayed on either side of the bow of a motorboat or sailboat.

(16) A motorboat or sailboat registration and number are invalid if obtained by knowingly falsifying an application for registration.

(17) The board may designate the suffix to assigned numbers, and by following the procedures and requirements of Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules for:

(a) the display of registration decals;

(b) the issuance and display of dealer numbers and registrations; and

(c) the issuance and display of temporary registrations.

(18) A violation of this section is an infraction.

Section 7. Effective date.

This bill takes effect on January 1, 2022.

CHAPTER 136
H. B. 196
Passed February 19, 2021
Approved March 16, 2021
Effective May 5, 2021

BALLOT AMENDMENTS

Chief Sponsor: Merrill F. Nelson
Senate Sponsor: Daniel W. Thatcher

LONG TITLE

General Description:

This bill addresses general election ballot requirements.

Highlighted Provisions:

This bill:

- clarifies the requirement to include a reference to the Judicial Performance Evaluation Commission's website address on the judicial retention portion of a general election ballot.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

20A-6-301, as last amended by Laws of Utah 2020, Chapters 31, 49, and 344

20A-6-304, as last amended by Laws of Utah 2020, Chapter 31

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

Section 1. Section 20A-6-301 is amended to read:

20A-6-301. Manual ballots -- Regular general election.

(1) Each election officer shall ensure that:

(a) all manual ballots furnished for use at the regular general election contain:

(i) no captions or other endorsements except as provided in this section;

(ii) no symbols, markings, or other descriptions of a political party or group, except for a registered political party that has chosen to nominate its candidates in accordance with Section 20A-9-403; and

(iii) no indication that a candidate for elective office has been nominated by, or has been endorsed by, or is in any way affiliated with a political party or group, unless the candidate has been nominated by a registered political party in accordance with Subsection 20A-9-202(4) or Subsection 20A-9-403(5);

(b) at the top of the ballot, the following endorsements are printed in 18 point bold type:

(i) "Official Ballot for ____ County, Utah";

(ii) the date of the election; and

(iii) the words "certified by the Clerk of _____ County" or, as applicable, the name of a combined office that includes the duties of a county clerk;

(c) unaffiliated candidates, candidates not affiliated with a registered political party, and all other candidates for elective office who were not nominated by a registered political party in accordance with Subsection 20A-9-202(4) or Subsection 20A-9-403(5), are listed with the other candidates for the same office in accordance with Section 20A-6-305, without a party name or title;

(d) each ticket containing the lists of candidates, including the party name and device, are separated by heavy parallel lines;

(e) the offices to be filled are plainly printed immediately above the names of the candidates for those offices;

(f) the names of candidates are printed in capital letters, not less than one-eighth nor more than one-fourth of an inch high in heavy-faced type not smaller than 10 point, between lines or rules three-eighths of an inch apart; and

(g) on a ticket for a race in which a voter is authorized to cast a write-in vote and in which a write-in candidate is qualified under Section 20A-9-601:

(i) the ballot includes a space for a write-in candidate immediately following the last candidate listed on that ticket; or

(ii) for the offices of president and vice president and governor and lieutenant governor, the ballot includes two spaces for write-in candidates immediately following the last candidates on that ticket, one placed above the other, to enable the entry of two valid write-in candidates.

(2) An election officer shall ensure that:

(a) each individual nominated by any registered political party under Subsection 20A-9-202(4) or Subsection 20A-9-403(5), and no other individual, is placed on the ballot:

(i) under the registered political party's name, if any; or

(ii) under the title of the registered political party as designated by them in their certificates of nomination or petition, or, if none is designated, then under some suitable title;

(b) the names of all unaffiliated candidates that qualify as required in Chapter 9, Part 5, Candidates not Affiliated with a Party, are placed on the ballot;

(c) the names of the candidates for president and vice president are used on the ballot instead of the names of the presidential electors; and

(d) the ballots contain no other names.

(3) When the ballot contains a nonpartisan section, the election officer shall ensure that:

(a) the designation of the office to be filled in the election and the number of candidates to be elected are printed in type not smaller than eight point;

(b) the words designating the office are printed flush with the left-hand margin;

(c) the words, "Vote for one" or "Vote for up to _____ (the number of candidates for which the voter may vote)" extend to the extreme right of the column;

(d) the nonpartisan candidates are grouped according to the office for which they are candidates;

(e) the names in each group are placed in the order specified under Section 20A-6-305 with the surnames last; and

(f) each group is preceded by the designation of the office for which the candidates seek election, and the words, "Vote for one" or "Vote for up to _____ (the number of candidates for which the voter may vote)," according to the number to be elected.

(4) Each election officer shall ensure that:

(a) proposed amendments to the Utah Constitution are listed on the ballot in accordance with Section 20A-6-107;

(b) ballot propositions submitted to the voters are listed on the ballot in accordance with Section 20A-6-107; [~~and~~]

(c) bond propositions that have qualified for the ballot are listed on the ballot under the title assigned to each bond proposition under Section 11-14-206[~~.~~]; and

(d) the judicial retention section of the ballot includes a statement at the beginning directing voters to the Judicial Performance Evaluation Commission's website in accordance with Subsection 20A-12-201(4).

Section 2. Section 20A-6-304 is amended to read:

20A-6-304. Regular general election -- Mechanical ballots.

(1) Each election officer shall ensure that:

(a) the format and content of a mechanical ballot is arranged in approximately the same order as manual ballots;

(b) the titles of offices and the names of candidates are displayed in vertical columns or in a series of separate displays;

(c) the mechanical ballot is of sufficient length to include, after the list of candidates:

(i) the names of candidates for judicial offices and any other nonpartisan offices; and

(ii) any ballot propositions submitted to the voters for their approval or rejection;

(d) the office titles are displayed above or at the side of the names of candidates so as to indicate clearly the candidates for each office and the number to be elected;

(e) the party designation of each candidate who has been nominated by a registered political party under Subsection 20A-9-202(4) or Subsection 20A-9-403(5) is displayed adjacent to the candidate's name; and

(f) if possible, all candidates for one office are grouped in one column or upon one display screen.

(2) Each election officer shall ensure that:

(a) proposed amendments to the Utah Constitution are displayed in accordance with Section 20A-6-107;

(b) ballot propositions submitted to the voters are displayed in accordance with Section 20A-6-107; [~~and~~]

(c) bond propositions that have qualified for the ballot are displayed under the title assigned to each bond proposition under Section 11-14-206[~~.~~]; and

(d) the judicial retention section of the ballot includes a statement at the beginning directing voters to the Judicial Performance Evaluation Commission's website in accordance with Subsection 20A-12-201(4).

CHAPTER 137
H. B. 200
Passed March 5, 2021
Approved March 16, 2021
Effective May 5, 2021

FIREARM SAFE HARBOR AMENDMENTS

Chief Sponsor: A. Cory Maloy
Senate Sponsor: Jacob L. Anderegg

LONG TITLE

General Description:

This bill amends the safe harbor provisions for firearms.

Highlighted Provisions:

This bill:

- defines terms;
- clarifies that a cohabitant or an owner cohabitant may surrender a firearm to law enforcement;
- allows law enforcement officers to receive firearms;
- requires a law enforcement agency to return a firearm to the owner upon request; and
- makes technical and conforming corrections.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53-5c-201, as last amended by Laws of Utah 2019, Chapters 136 and 369
53-5c-202, as last amended by Laws of Utah 2017, Chapter 334

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

Section 1. Section 53-5c-201 is amended to read:

53-5c-201. Voluntary commitment of a firearm by cohabitant -- Law enforcement to hold firearm.

(1) As used in this section[~~, "cohabitant"~~]:

(a) "Cohabitant" means any individual 18 years [~~of age~~] old or older residing in the home who:

[~~(a)~~] (i) is living as if a spouse of the owner cohabitant;

[~~(b)~~] (ii) is related by blood or marriage to the owner cohabitant;

[~~(c)~~] (iii) has one or more children in common with the owner cohabitant; or

[~~(d)~~] (iv) has an interest in the safety and [~~wellbeing~~] well-being of the owner cohabitant.

(b) "Owner cohabitant" means an individual:

(i) in relation to a cohabitant as described in Subsection (1)(a); and

(ii) who owns a firearm.

(2) (a) A cohabitant or owner cohabitant may voluntarily commit a firearm to a law enforcement agency or request that a law enforcement officer receive a firearm for safekeeping if the owner cohabitant or cohabitant believes that the owner cohabitant or another cohabitant with access to the firearm is an immediate threat to:

(i) himself or herself;

(ii) the owner cohabitant; or

(iii) any other person.

(b) [~~A~~] If the owner of a firearm requests return of the firearm in person at the law enforcement agency's office, the law enforcement agency:

(i) may not hold [~~a~~] the firearm under this section [~~if the law enforcement agency obtains the firearm in a manner other than the owner cohabitant voluntarily presenting, of the owner cohabitant's own free will, the firearm to the law enforcement agency at the agency's office.~~]; and

(ii) shall return the firearm to the owner.

(3) Unless a firearm is an illegal firearm subject to Section 53-5c-202, a law enforcement agency that receives a firearm in accordance with this chapter shall:

(a) record:

(i) the owner cohabitant's name, address, and phone number;

(ii) the firearm serial number and the make and model of each firearm committed; and

(iii) the date that the firearm was voluntarily committed;

(b) require the cohabitant to sign a document attesting that the cohabitant resides in the home;

(c) hold the firearm in safe custody for 60 days after the day on which the firearm is voluntarily committed; and

(d) upon proof of identification, return the firearm to:

(i) (A) the owner cohabitant after the expiration of the 60-day period [~~or,~~]; or

(B) if the owner cohabitant requests return of the firearm before the expiration of the 60-day period, at the time of the request; or

(ii) an owner other than the owner cohabitant in accordance with Section 53-5c-202.

(4) The law enforcement agency shall hold the firearm for an additional 60 days:

(a) if the initial 60-day period expires; and

(b) the cohabitant or owner cohabitant requests that the law enforcement agency hold the firearm for an additional 60 days.

(5) A law enforcement agency may not request or require that the owner cohabitant provide the name or other information of the cohabitant who poses an immediate threat or any other cohabitant.

(6) Notwithstanding an ordinance or policy to the contrary adopted in accordance with Section 63G-2-701, a law enforcement agency shall destroy a record created under Subsection (3), Subsection 53-5c-202(3)(b)(iii), or any other record created in the application of this chapter immediately, if practicable, but no later than five days after immediately upon the:

(a) return of a firearm in accordance with Subsection (3)(d); or

(b) disposal of the firearm in accordance with Section 53-5c-202.

(7) Unless otherwise provided, the provisions of Title 77, Chapter 24a, Lost or Mislaid Personal Property, do not apply to a firearm received by a law enforcement agency in accordance with this chapter.

(8) A law enforcement agency shall adopt a policy for the safekeeping of a firearm held in accordance with this chapter.

Section 2. Section 53-5c-202 is amended to read:

53-5c-202. Illegal firearms confiscated -- Disposition of unclaimed firearm.

(1) If a law enforcement agency receives a firearm in accordance with Section 53-5c-201, and the firearm is an illegal firearm, the law enforcement agency shall:

(a) notify the owner cohabitant attempting to voluntarily commit the firearm that the firearm is an illegal firearm; and

(b) confiscate the firearm and dispose of the firearm in accordance with Section 24-3-103.5.

(2) (a) If a law enforcement agency cannot, after a reasonable attempt, locate an owner cohabitant to return a firearm in accordance with Section 53-5c-201, the law enforcement agency shall dispose of the firearm in accordance with Section 24-3-103.5.

(b) A law enforcement agency may not dispose of a firearm under Subsection (2)(a) before one year after the day on which the [~~owner~~] cohabitant initially voluntarily [~~commits~~] committed the firearm in accordance with Section 53-5c-201.

(3) (a) If a person other than an owner cohabitant [~~who voluntarily commits a firearm in accordance with Section 53-5c-201~~] claims ownership of the firearm, the person may:

(i) request that the law enforcement agency return the firearm in accordance with Subsection (3)(b); or

(ii) petition the court for the firearm's return in accordance with Subsection (3)(c).

(b) Except as provided in Section 53-5c-201, the law enforcement agency shall return a firearm to a person other than an owner cohabitant who claims ownership of the firearm if:

(i) the 60-day period described in Section 53-5c-201 has expired;

(ii) the person provides identification; and

(iii) the person signs a document attesting that the person has an ownership interest in the firearm.

(c) After sufficient notice is given to the prosecutor, the court may order that the firearm be:

(i) returned to the rightful owner as determined by the court; or

(ii) disposed of in accordance with Section 24-3-103.5.

(d) A law enforcement agency shall return a firearm ordered returned to the rightful owner as expeditiously as possible after a court determination.

CHAPTER 138
H. B. 202
Passed February 12, 2021
Approved March 16, 2021
Effective May 5, 2021

HEALTH CARE CONSUMER PROTECTION ACT

Chief Sponsor: Norman K. Thurston
Senate Sponsor: Kirk A. Cullimore

LONG TITLE

General Description:

This bill enacts the Health Care Consumer Protection Act.

Highlighted Provisions:

This bill:

- defines terms;
- prohibits a health care provider from misrepresenting that the provider is a contracted provider under a health benefit plan; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

13-11-4, as last amended by Laws of Utah 2013, Chapter 124

ENACTS:

13-58-101, Utah Code Annotated 1953
13-58-102, Utah Code Annotated 1953
13-58-201, Utah Code Annotated 1953

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

Section 1. Section 13-11-4 is amended to read:

13-11-4. Deceptive act or practice by supplier.

(1) A deceptive act or practice by a supplier in connection with a consumer transaction violates this chapter whether it occurs before, during, or after the transaction.

(2) Without limiting the scope of Subsection (1), a supplier commits a deceptive act or practice if the supplier knowingly or intentionally:

(a) indicates that the subject of a consumer transaction has sponsorship, approval, performance characteristics, accessories, uses, or benefits, if it has not;

(b) indicates that the subject of a consumer transaction is of a particular standard, quality, grade, style, or model, if it is not;

(c) indicates that the subject of a consumer transaction is new, or unused, if it is not, or has been used to an extent that is materially different from the fact;

(d) indicates that the subject of a consumer transaction is available to the consumer for a reason that does not exist, including any of the following reasons falsely used in an advertisement:

(i) "going out of business";

(ii) "bankruptcy sale";

(iii) "lost our lease";

(iv) "building coming down";

(v) "forced out of business";

(vi) "final days";

(vii) "liquidation sale";

(viii) "fire sale";

(ix) "quitting business"; or

(x) an expression similar to any of the expressions in Subsections (2)(d)(i) through (ix);

(e) indicates that the subject of a consumer transaction has been supplied in accordance with a previous representation, if it has not;

(f) indicates that the subject of a consumer transaction will be supplied in greater quantity than the supplier intends;

(g) indicates that replacement or repair is needed, if it is not;

(h) indicates that a specific price advantage exists, if it does not;

(i) indicates that the supplier has a sponsorship, approval, or affiliation the supplier does not have;

(j) (i) indicates that a consumer transaction involves or does not involve a warranty, a disclaimer of warranties, particular warranty terms, or other rights, remedies, or obligations, if the representation is false; or

(ii) fails to honor a warranty or a particular warranty term;

(k) indicates that the consumer will receive a rebate, discount, or other benefit as an inducement for entering into a consumer transaction in return for giving the supplier the names of prospective consumers or otherwise helping the supplier to enter into other consumer transactions, if receipt of the benefit is contingent on an event occurring after the consumer enters into the transaction;

(l) after receipt of payment for goods or services, fails to ship the goods or furnish the services within the time advertised or otherwise represented or, if no specific time is advertised or represented, fails to ship the goods or furnish the services within 30 days, unless within the applicable time period the supplier provides the buyer with the option to:

(i) cancel the sales agreement and receive a refund of all previous payments to the supplier if the refund is mailed or delivered to the buyer within 10 business days after the day on which the seller receives written notification from the buyer of the buyer's intent to cancel the sales agreement and receive the refund; or

(ii) extend the shipping date to a specific date proposed by the supplier;

(m) except as provided in Subsection (3)(b), fails to furnish a notice meeting the requirements of Subsection (3)(a) of the purchaser's right to cancel a direct solicitation sale within three business days of the time of purchase if:

(i) the sale is made other than at the supplier's established place of business pursuant to the supplier's personal contact, whether through mail, electronic mail, facsimile transmission, telephone, or any other form of direct solicitation; and

(ii) the sale price exceeds $25;

(n) promotes, offers, or grants participation in a pyramid scheme as defined under Title 76, Chapter 6a, Pyramid Scheme Act;

(o) represents that the funds or property conveyed in response to a charitable solicitation will be donated or used for a particular purpose or will be donated to or used by a particular organization, if the representation is false;

(p) if a consumer indicates the consumer's intention of making a claim for a motor vehicle repair against the consumer's motor vehicle insurance policy:

(i) commences the repair without first giving the consumer oral and written notice of:

(A) the total estimated cost of the repair; and

(B) the total dollar amount the consumer is responsible to pay for the repair, which dollar amount may not exceed the applicable deductible or other copay arrangement in the consumer's insurance policy; or

(ii) requests or collects from a consumer an amount that exceeds the dollar amount a consumer was initially told the consumer was responsible to pay as an insurance deductible or other copay arrangement for a motor vehicle repair under Subsection (2)(p)(i), even if that amount is less than the full amount the motor vehicle insurance policy requires the insured to pay as a deductible or other copay arrangement, unless:

(A) the consumer's insurance company denies that coverage exists for the repair, in which case, the full amount of the repair may be charged and collected from the consumer; or

(B) the consumer misstates, before the repair is commenced, the amount of money the insurance policy requires the consumer to pay as a deductible or other copay arrangement, in which case, the supplier may charge and collect from the consumer an amount that does not exceed the amount the insurance policy requires the consumer to pay as a deductible or other copay arrangement;

(q) includes in any contract, receipt, or other written documentation of a consumer transaction, or any addendum to any contract, receipt, or other written documentation of a consumer transaction, any confession of judgment or any waiver of any of the rights to which a consumer is entitled under this chapter;

(r) charges a consumer for a consumer transaction or a portion of a consumer transaction that has not previously been agreed to by the consumer;

(s) solicits or enters into a consumer transaction with a person who lacks the mental ability to comprehend the nature and consequences of:

(i) the consumer transaction; or

(ii) the person's ability to benefit from the consumer transaction;

(t) solicits for the sale of a product or service by providing a consumer with an unsolicited check or negotiable instrument the presentment or negotiation of which obligates the consumer to purchase a product or service, unless the supplier is:

(i) a depository institution under Section 7-1-103;

(ii) an affiliate of a depository institution; or

(iii) an entity regulated under Title 7, Financial Institutions Act;

(u) sends an unsolicited mailing to a person that appears to be a billing, statement, or request for payment for a product or service the person has not ordered or used, or that implies that the mailing requests payment for an ongoing product or service the person has not received or requested;

(v) issues a gift certificate, instrument, or other record in exchange for payment to provide the bearer, upon presentation, goods or services in a specified amount without printing in a readable manner on the gift certificate, instrument, packaging, or record any expiration date or information concerning a fee to be charged and deducted from the balance of the gift certificate, instrument, or other record;

(w) misrepresents the geographical origin or location of the supplier's business; [~~or~~]

(x) fails to comply with the restrictions of Section 15-10-201 on automatic renewal provisions[~~.~~]; or

(y) violates Section 13-58-201.

(3) (a) The notice required by Subsection (2)(m) shall:

(i) be a conspicuous statement written in dark bold with at least 12-point type on the first page of the purchase documentation; and

(ii) read as follows: "YOU, THE BUYER, MAY CANCEL THIS CONTRACT AT ANY TIME PRIOR TO MIDNIGHT OF THE THIRD BUSINESS DAY (or time period reflecting the supplier's cancellation policy but not less than three business days) AFTER THE DATE OF THE TRANSACTION OR RECEIPT OF THE PRODUCT, WHICHEVER IS LATER."

(b) A supplier is exempt from the requirements of Subsection (2)(m) if the supplier's cancellation policy:

(i) is communicated to the buyer; and

(ii) offers greater rights to the buyer than Subsection (2)(m).

(4) (a) A gift certificate, instrument, or other record that does not print an expiration date in accordance with Subsection (2)(v) does not expire.

(b) A gift certificate, instrument, or other record that does not include printed information concerning a fee to be charged and deducted from the balance of the gift certificate, instrument, or other record is not subject to the charging and deduction of the fee.

(c) Subsections (2)(v) and (4)(b) do not apply to a gift certificate, instrument, or other record useable at multiple, unaffiliated sellers of goods or services if an expiration date is printed on the gift certificate, instrument, or other record.

Section 2. Section 13-58-101 is enacted to read:

CHAPTER 58. (Codified as Chapter 59) HEALTH CARE CONSUMER PROTECTION ACT

Part 1. General Provisions

13-58-101. (Codified as 13-59-101) Title.

This chapter is known as the "Health Care Consumer Protection Act."

Section 3. Section 13-58-102 is enacted to read:

13-58-102. (Codified as 13-59-102) Definitions.

As used in this chapter:

(1) "Enrollee" means the same as that term is defined in Section 31A-1-301.

(2) "Health benefit plan" means the same as that term is defined in Section 31A-1-301.

(3) "Health care provider" means a person licensed to provide health care under:

(a) Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act; or

(b) Title 58, Occupations and Professions.

Section 4. Section 13-58-201 is enacted to read:

Part 2. Consumer Protection Violations

13-58-201. (Codified as 13-59-201) Misrepresentation of health insurance coverage.

(1) A health care provider or a health care provider's representative may not represent to an enrollee that the health care provider is a contracted provider under the enrollee's health benefit plan if the health care provider is not a contracted provider under the enrollee's health benefit plan.

(2) A knowing or intentional violation of Subsection (1) is a deceptive act or practice under Section 13-11-4.

CHAPTER 139
H. B. 208
Passed February 25, 2021
Approved March 16, 2021
Effective May 5, 2021

WATER QUALITY ACT AMENDMENTS

Chief Sponsor: Paul Ray
Senate Sponsor: Jacob L. Anderegg

LONG TITLE

General Description:

This bill addresses enforcement of water quality provisions.

Highlighted Provisions:

This bill:

- attributes to an organization the actions of an individual acting wholly within the individual's employment with the organization;
- provides that an individual acting wholly within the individual's employment with an organization is not subject to certain legal actions; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

19-5-115, as last amended by Laws of Utah 2013, Chapter 237

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

Section 1. Section 19-5-115 is amended to read:

19-5-115. Violations -- Penalties -- Civil actions by director -- Ordinances and rules of political subdivisions -- Acts of individuals.

[~~(1) The terms "knowingly," "willfully," and "criminal negligence" are as defined in Section 76-2-103.~~]

(1) As used in this section:

(a) "Criminal negligence" means the same as that term is defined in Section 76-2-103.

(b) "Knowingly" means the same as that term is defined in Section 76-2-103.

(c) "Organization" means a legal entity, other than a government, established or organized for any purpose, and includes a corporation, company, association, firm, partnership, joint stock company, foundation, institution, trust, society, union, or any other association of persons.

(d) "Serious bodily injury" means bodily injury that involves a substantial risk of death, unconsciousness, extreme physical pain, protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member, organ, or mental faculty.

(e) "Willfully" means the same as that term is defined in Section 76-2-103.

(2) [~~Any~~] A person who violates this chapter, or any permit, rule, or order adopted under [~~it~~] this chapter, upon a showing that the violation occurred, is subject in a civil proceeding to a civil penalty not to exceed $10,000 per day of violation.

(3) (a) A person is guilty of a class A misdemeanor and is subject to imprisonment under Section 76-3-204 and a fine not exceeding $25,000 per day who, with criminal negligence:

(i) discharges pollutants in violation of Subsection 19-5-107(1) or in violation of any condition or limitation included in a permit issued under Subsection 19-5-107(3);

(ii) violates Section 19-5-113;

(iii) violates a pretreatment standard or toxic effluent standard for publicly owned treatment works; or

(iv) manages sewage sludge in violation of this chapter or rules adopted under [~~it~~] this chapter.

(b) A person is guilty of a third degree felony and is subject to imprisonment under Section 76-3-203 and a fine not to exceed $50,000 per day of violation who knowingly:

(i) discharges pollutants in violation of Subsection 19-5-107(1) or in violation of any condition or limitation included in a permit issued under Subsection 19-5-107(3);

(ii) violates Section 19-5-113;

(iii) violates a pretreatment standard or toxic effluent standard for publicly owned treatment works; or

(iv) manages sewage sludge in violation of this chapter or rules adopted under [~~it~~] this chapter.

(4) A person is guilty of a third degree felony and subject to imprisonment under Section 76-3-203 and shall be punished by a fine not exceeding $10,000 per day of violation if that person knowingly:

(a) makes a false material statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained under this chapter, or by any permit, rule, or order issued under [~~it~~] this chapter; or

(b) falsifies, tampers with, or knowingly renders inaccurate [~~any~~] a monitoring device or method required to be maintained under this chapter.

[~~(5) (a) As used in this section:~~]

[~~(i) "Organization" means a legal entity, other than a government, established or organized for any purpose, and includes a corporation, company, association, firm, partnership, joint stock company, foundation, institution, trust, society, union, or any other association of persons.~~]

[~~(ii) "Serious bodily injury" means bodily injury which involves a substantial risk of death, unconsciousness, extreme physical pain, protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member, organ, or mental faculty.~~]

[~~(b)~~] (5) (a) A person is guilty of a second degree felony and, upon conviction, is subject to imprisonment under Section 76-3-203 and a fine of not more than $250,000 if that person:

(i) knowingly violates this chapter, or any permit, rule, or order adopted under [~~it~~] this chapter; and

(ii) knows at that time that the person is placing another person in imminent danger of death or serious bodily injury.

[~~(c)~~] (b) If a person is an organization, [~~it~~] the organization shall, upon conviction of violating Subsection (5)[~~(b)~~](a), be subject to a fine of not more than $1,000,000.

[~~(d)~~] (c) (i) A defendant who is an individual is considered to have acted knowingly if:

(A) the defendant's conduct placed another person in imminent danger of death or serious bodily injury; and

(B) the defendant was aware of or believed that there was an imminent danger of death or serious bodily injury to another person.

(ii) Knowledge possessed by a person other than the defendant may not be attributed to the defendant.

(iii) Circumstantial evidence may be used to prove that the defendant possessed actual knowledge, including evidence that the defendant took affirmative steps to be shielded from receiving relevant information.

[~~(e)~~] (d) (i) It is an affirmative defense to prosecution under this Subsection (5) that the conduct charged was consented to by the person endangered and that the danger and conduct charged were reasonably foreseeable hazards of:

(A) an occupation, a business, or a profession; or

(B) medical treatment or medical or scientific experimentation conducted by professionally approved methods and the other person was aware of the risks involved [~~prior to~~] before giving consent.

(ii) The defendant has the burden of proof to establish [~~any~~] an affirmative defense under this Subsection (5)[~~(e)~~](d) and shall prove that defense by a preponderance of the evidence.

(6) For purposes of Subsections [~~19-5-115~~] (3) through (5), a single operational upset that leads to simultaneous violations of more than one pollutant parameter shall be treated as a single violation.

(7) (a) The director may begin a civil action for appropriate relief, including a permanent or temporary injunction, for any violation or threatened violation for which [~~it~~] the director is authorized to issue a compliance order under Section 19-5-111.

(b) [~~Actions shall be brought~~] The director shall bring a civil action in the district court where the violation or threatened violation occurs.

(8) (a) The attorney general is the legal advisor for the board and the director and shall defend [~~them in all actions or proceedings~~] the board or director in an action or proceeding brought against [~~them~~] the board or director.

(b) The county attorney or district attorney, as appropriate under Section 17-18a-202 or 17-18a-203, in the county in which a cause of action arises, shall bring [~~any~~] an action, civil or criminal, requested by the director, to abate a condition that exists in violation of, or to prosecute for the violation of, or to enforce, the laws or the standards, orders, and rules of the board or the director issued under this chapter.

(c) The director may initiate [~~any~~] an action under this section and be represented by the attorney general.

(9) If [~~any~~] a person fails to comply with a cease and desist order that is not subject to a stay pending administrative or judicial review, the director may initiate an action for and be entitled to injunctive relief to prevent any further or continued violation of the order.

(10) [~~Any~~] A political subdivision of the state may enact and enforce ordinances or rules for the implementation of this chapter that are not inconsistent with this chapter.

(11) (a) Except as provided in Subsection (11)(b), [~~all~~] penalties assessed and collected under the authority of this section shall be deposited [~~in~~] into the General Fund.

(b) The department may reimburse itself and local governments from money collected from civil penalties for extraordinary expenses incurred in environmental enforcement activities.

(c) The department shall regulate reimbursements by making rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

(i) define qualifying environmental enforcement activities; and

(ii) define qualifying extraordinary expenses.

(12) (a) For purposes of this section or an ordinance or rule enacted by a political subdivision under Subsection (10), an act performed by an individual wholly within the scope of the individual's employment with an organization, is attributed to the organization.

(b) Notwithstanding the other provisions of this section, an action may not be brought against an individual acting wholly within the scope of the individual's employment with an organization if the action is brought under:

(i) this section;

(ii) an ordinance or rule issued by a political subdivision under Subsection (10); or

(iii) any local law or ordinance governing discharge.

CHAPTER 140
H. B. 211
Passed March 1, 2021
Approved March 16, 2021
Effective May 5, 2021

INITIATIVES AND REFERENDA AMENDMENTS

Chief Sponsor: Norman K. Thurston
Senate Sponsor: John D. Johnson

LONG TITLE

General Description:

This bill amends provisions relating to statewide and local initiatives and referenda.

Highlighted Provisions:

This bill:

- modifies petition filing requirements for an initiative or referendum;
- provides more standardization to forms, requirements, and procedures for state and local initiatives and referenda, including procedures for posting and removing signatures for a petition;
- clarifies actions that may be taken by a petition sponsor or an agent of a petition sponsor;
- modifies signature packet preparation requirements;
- modifies timelines and deadlines for initiatives and referenda;
- modifies provisions for challenging an action, relating to initiatives or referenda, in a court proceeding;
- addresses the verification of signatures;
- addresses a temporary stay of a law challenged by referendum and the effective date of the law;
- for a statewide referendum, changes the requirement relating to a certain percentage of signatures in at least 15 counties to a certain percentage of signatures in at least 15 Senate districts; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

10-9a-103, as last amended by Laws of Utah 2020, Chapter 434
10-9a-509, as last amended by Laws of Utah 2020, Chapter 434
11-14-301, as last amended by Laws of Utah 2019, Chapter 203
17-27a-103, as last amended by Laws of Utah 2020, Chapter 434
17-27a-508, as last amended by Laws of Utah 2019, Chapter 384 and last amended by Coordination Clause, Laws of Utah 2019, Chapter 384
20A-1-609, as last amended by Laws of Utah 2020, Chapter 31
20A-7-202, as last amended by Laws of Utah 2019, Chapters 217 and 275
20A-7-203, as last amended by Laws of Utah 2020, Fifth Special Session, Chapter 20
20A-7-204, as last amended by Laws of Utah 2017, Chapter 291
20A-7-205, as last amended by Laws of Utah 2019, Chapters 210, 217, 255 and last amended by Coordination Clause, Laws of Utah 2019, Chapters 210, and 217
20A-7-206, as last amended by Laws of Utah 2020, Chapters 166 and 349
20A-7-207, as last amended by Laws of Utah 2019, Chapters 210, 217 and last amended by Coordination Clause, Laws of Utah 2019, Chapter 210
20A-7-209, as last amended by Laws of Utah 2019, Chapter 275
20A-7-301, as last amended by Laws of Utah 2019, Chapter 217
20A-7-302, as last amended by Laws of Utah 2020, Chapter 166
20A-7-303, as last amended by Laws of Utah 2019, Chapter 210
20A-7-304, as last amended by Laws of Utah 1995, Chapter 153
20A-7-305, as last amended by Laws of Utah 2020, Chapter 166
20A-7-306, as last amended by Laws of Utah 2020, Chapter 166
20A-7-306.3, as last amended by Laws of Utah 2011, Chapter 17
20A-7-307, as last amended by Laws of Utah 2020, Chapter 166
20A-7-308, as last amended by Laws of Utah 2020, Fifth Special Session, Chapter 4
20A-7-309, as last amended by Laws of Utah 2010, Chapter 294
20A-7-311, as last amended by Laws of Utah 2020, Chapter 166
20A-7-401.5, as enacted by Laws of Utah 2019, Chapter 203
20A-7-502, as last amended by Laws of Utah 2019, Chapter 203
20A-7-503, as last amended by Laws of Utah 2017, Chapter 291
20A-7-504, as last amended by Laws of Utah 2019, Chapter 203
20A-7-505, as last amended by Laws of Utah 2019, Chapter 203
20A-7-506, as last amended by Laws of Utah 2019, Chapters 203 and 255
20A-7-506.3, as last amended by Laws of Utah 2019, Chapter 203
20A-7-507, as last amended by Laws of Utah 2019, Chapter 203
20A-7-508, as last amended by Laws of Utah 2019, Chapter 203
20A-7-510, as last amended by Laws of Utah 2019, Chapter 203
20A-7-601, as last amended by Laws of Utah 2019, Chapters 203 and 255
20A-7-602, as last amended by Laws of Utah 2019, Chapter 203
20A-7-603, as last amended by Laws of Utah 2019, Chapter 203
20A-7-604, as last amended by Laws of Utah 2019, Chapter 203

20A-7-605, as last amended by Laws of Utah 2020, Fifth Special Session, Chapter 4
20A-7-606, as last amended by Laws of Utah 2019, Chapter 255
20A-7-606.3, as last amended by Laws of Utah 2019, Chapter 203
20A-7-607, as last amended by Laws of Utah 2020, Chapter 31
20A-7-608, as last amended by Laws of Utah 2019, Chapter 203
20A-7-610, as last amended by Laws of Utah 2019, Chapter 203
20A-7-611, as enacted by Laws of Utah 1994, Chapter 272
20A-7-613, as last amended by Laws of Utah 2020, Chapter 31

ENACTS:
20A-7-206.1, Utah Code Annotated 1953

REPEALS:
20A-7-205.5, as last amended by Laws of Utah 2008, Chapter 237

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

Section 1. Section 10-9a-103 is amended to read:

10-9a-103. Definitions.

As used in this chapter:

(1) "Accessory dwelling unit" means a habitable living unit added to, created within, or detached from a primary single-family dwelling and contained on one lot.

(2) "Adversely affected party" means a person other than a land use applicant who:

(a) owns real property adjoining the property that is the subject of a land use application or land use decision; or

(b) will suffer a damage different in kind than, or an injury distinct from, that of the general community as a result of the land use decision.

(3) "Affected entity" means a county, municipality, local district, special service district under Title 17D, Chapter 1, Special Service District Act, school district, interlocal cooperation entity established under Title 11, Chapter 13, Interlocal Cooperation Act, specified public utility, property owner, property owners association, or the Utah Department of Transportation, if:

(a) the entity's services or facilities are likely to require expansion or significant modification because of an intended use of land;

(b) the entity has filed with the municipality a copy of the entity's general or long-range plan; or

(c) the entity has filed with the municipality a request for notice during the same calendar year and before the municipality provides notice to an affected entity in compliance with a requirement imposed under this chapter.

(4) "Affected owner" means the owner of real property that is:

(a) a single project;

(b) the subject of a land use approval that sponsors of a referendum timely challenged in accordance with Subsection 20A-7-601(5)[~~(a)~~]; and

(c) determined to be legally referable under Section 20A-7-602.8.

(5) "Appeal authority" means the person, board, commission, agency, or other body designated by ordinance to decide an appeal of a decision of a land use application or a variance.

(6) "Billboard" means a freestanding ground sign located on industrial, commercial, or residential property if the sign is designed or intended to direct attention to a business, product, or service that is not sold, offered, or existing on the property where the sign is located.

(7) (a) "Charter school" means:

(i) an operating charter school;

(ii) a charter school applicant that has its application approved by a charter school authorizer in accordance with Title 53G, Chapter 5, Part 3, Charter School Authorization; or

(iii) an entity that is working on behalf of a charter school or approved charter applicant to develop or construct a charter school building.

(b) "Charter school" does not include a therapeutic school.

(8) "Conditional use" means a land use that, because of its unique characteristics or potential impact on the municipality, surrounding neighbors, or adjacent land uses, may not be compatible in some areas or may be compatible only if certain conditions are required that mitigate or eliminate the detrimental impacts.

(9) "Constitutional taking" means a governmental action that results in a taking of private property so that compensation to the owner of the property is required by the:

(a) Fifth or Fourteenth Amendment of the Constitution of the United States; or

(b) Utah Constitution Article I, Section 22.

(10) "Culinary water authority" means the department, agency, or public entity with responsibility to review and approve the feasibility of the culinary water system and sources for the subject property.

(11) "Development activity" means:

(a) any construction or expansion of a building, structure, or use that creates additional demand and need for public facilities;

(b) any change in use of a building or structure that creates additional demand and need for public facilities; or

(c) any change in the use of land that creates additional demand and need for public facilities.

(12) (a) "Disability" means a physical or mental impairment that substantially limits one or more of

a person's major life activities, including a person having a record of such an impairment or being regarded as having such an impairment.

(b) "Disability" does not include current illegal use of, or addiction to, any federally controlled substance, as defined in Section 102 of the Controlled Substances Act, 21 U.S.C. 802.

(13) "Educational facility":

(a) means:

(i) a school district's building at which pupils assemble to receive instruction in a program for any combination of grades from preschool through grade 12, including kindergarten and a program for children with disabilities;

(ii) a structure or facility:

(A) located on the same property as a building described in Subsection (13)(a)(i); and

(B) used in support of the use of that building; and

(iii) a building to provide office and related space to a school district's administrative personnel; and

(b) does not include:

(i) land or a structure, including land or a structure for inventory storage, equipment storage, food processing or preparing, vehicle storage or maintenance, or similar use that is:

(A) not located on the same property as a building described in Subsection (13)(a)(i); and

(B) used in support of the purposes of a building described in Subsection (13)(a)(i); or

(ii) a therapeutic school.

(14) "Fire authority" means the department, agency, or public entity with responsibility to review and approve the feasibility of fire protection and suppression services for the subject property.

(15) "Flood plain" means land that:

(a) is within the 100-year flood plain designated by the Federal Emergency Management Agency; or

(b) has not been studied or designated by the Federal Emergency Management Agency but presents a likelihood of experiencing chronic flooding or a catastrophic flood event because the land has characteristics that are similar to those of a 100-year flood plain designated by the Federal Emergency Management Agency.

(16) "General plan" means a document that a municipality adopts that sets forth general guidelines for proposed future development of the land within the municipality.

(17) "Geologic hazard" means:

(a) a surface fault rupture;

(b) shallow groundwater;

(c) liquefaction;

(d) a landslide;

(e) a debris flow;

(f) unstable soil;

(g) a rock fall; or

(h) any other geologic condition that presents a risk:

(i) to life;

(ii) of substantial loss of real property; or

(iii) of substantial damage to real property.

(18) "Historic preservation authority" means a person, board, commission, or other body designated by a legislative body to:

(a) recommend land use regulations to preserve local historic districts or areas; and

(b) administer local historic preservation land use regulations within a local historic district or area.

(19) "Hookup fee" means a fee for the installation and inspection of any pipe, line, meter, or appurtenance that connects to a municipal water, sewer, storm water, power, or other utility system.

(20) "Identical plans" means building plans submitted to a municipality that:

(a) are clearly marked as "identical plans";

(b) are substantially identical to building plans that were previously submitted to and reviewed and approved by the municipality; and

(c) describe a building that:

(i) is located on land zoned the same as the land on which the building described in the previously approved plans is located;

(ii) is subject to the same geological and meteorological conditions and the same law as the building described in the previously approved plans;

(iii) has a floor plan identical to the building plan previously submitted to and reviewed and approved by the municipality; and

(iv) does not require any additional engineering or analysis.

(21) "Impact fee" means a payment of money imposed under Title 11, Chapter 36a, Impact Fees Act.

(22) "Improvement completion assurance" means a surety bond, letter of credit, financial institution bond, cash, assignment of rights, lien, or other equivalent security required by a municipality to guaranty the proper completion of landscaping or an infrastructure improvement required as a condition precedent to:

(a) recording a subdivision plat; or

(b) development of a commercial, industrial, mixed use, or multifamily project.

(23) "Improvement warranty" means an applicant's unconditional warranty that the

applicant's installed and accepted landscaping or infrastructure improvement:

(a) complies with the municipality's written standards for design, materials, and workmanship; and

(b) will not fail in any material respect, as a result of poor workmanship or materials, within the improvement warranty period.

(24) "Improvement warranty period" means a period:

(a) no later than one year after a municipality's acceptance of required landscaping; or

(b) no later than one year after a municipality's acceptance of required infrastructure, unless the municipality:

(i) determines for good cause that a one-year period would be inadequate to protect the public health, safety, and welfare; and

(ii) has substantial evidence, on record:

(A) of prior poor performance by the applicant; or

(B) that the area upon which the infrastructure will be constructed contains suspect soil and the municipality has not otherwise required the applicant to mitigate the suspect soil.

(25) "Infrastructure improvement" means permanent infrastructure that is essential for the public health and safety or that:(a) is required for human occupation; and

(b) an applicant must install:

(i) in accordance with published installation and inspection specifications for public improvements; and

(ii) whether the improvement is public or private, as a condition of:

(A) recording a subdivision plat;

(B) obtaining a building permit; or

(C) development of a commercial, industrial, mixed use, condominium, or multifamily project.

(26) "Internal lot restriction" means a platted note, platted demarcation, or platted designation that:

(a) runs with the land; and

(b) (i) creates a restriction that is enclosed within the perimeter of a lot described on the plat; or

(ii) designates a development condition that is enclosed within the perimeter of a lot described on the plat.

(27) "Land use applicant" means a property owner, or the property owner's designee, who submits a land use application regarding the property owner's land.

(28) "Land use application":

(a) means an application that is:

(i) required by a municipality; and

(ii) submitted by a land use applicant to obtain a land use decision; and

(b) does not mean an application to enact, amend, or repeal a land use regulation.

(29) "Land use authority" means:

(a) a person, board, commission, agency, or body, including the local legislative body, designated by the local legislative body to act upon a land use application; or

(b) if the local legislative body has not designated a person, board, commission, agency, or body, the local legislative body.

(30) "Land use decision" means an administrative decision of a land use authority or appeal authority regarding:

(a) a land use permit;

(b) a land use application; or

(c) the enforcement of a land use regulation, land use permit, or development agreement.

(31) "Land use permit" means a permit issued by a land use authority.

(32) "Land use regulation":

(a) means a legislative decision enacted by ordinance, law, code, map, resolution, specification, fee, or rule that governs the use or development of land;

(b) includes the adoption or amendment of a zoning map or the text of the zoning code; and

(c) does not include:

(i) a land use decision of the legislative body acting as the land use authority, even if the decision is expressed in a resolution or ordinance; or

(ii) a temporary revision to an engineering specification that does not materially:

(A) increase a land use applicant's cost of development compared to the existing specification; or

(B) impact a land use applicant's use of land.

(33) "Legislative body" means the municipal council.

(34) "Local district" means an entity under Title 17B, Limited Purpose Local Government Entities - Local Districts, and any other governmental or quasi-governmental entity that is not a county, municipality, school district, or the state.

(35) "Local historic district or area" means a geographically definable area that:

(a) contains any combination of buildings, structures, sites, objects, landscape features, archeological sites, or works of art that contribute to the historic preservation goals of a legislative body; and

(b) is subject to land use regulations to preserve the historic significance of the local historic district or area.

(36) "Lot" means a tract of land, regardless of any label, that is created by and shown on a subdivision plat that has been recorded in the office of the county recorder.

(37) (a) "Lot line adjustment" means a relocation of a lot line boundary between adjoining lots or parcels, whether or not the lots are located in the same subdivision, in accordance with Section 10-9a-608, with the consent of the owners of record.

(b) "Lot line adjustment" does not mean a new boundary line that:

(i) creates an additional lot; or

(ii) constitutes a subdivision.

(38) "Major transit investment corridor" means public transit service that uses or occupies:

(a) public transit rail right-of-way;

(b) dedicated road right-of-way for the use of public transit, such as bus rapid transit; or

(c) fixed-route bus corridors subject to an interlocal agreement or contract between a municipality or county and:

(i) a public transit district as defined in Section 17B-2a-802; or

(ii) an eligible political subdivision as defined in Section 59-12-2219.

(39) "Moderate income housing" means housing occupied or reserved for occupancy by households with a gross household income equal to or less than 80% of the median gross income for households of the same size in the county in which the city is located.

(40) "Municipal utility easement" means an easement that:

(a) is created or depicted on a plat recorded in a county recorder's office and is described as a municipal utility easement granted for public use;

(b) is not a protected utility easement or a public utility easement as defined in Section 54-3-27;

(c) the municipality or the municipality's affiliated governmental entity uses and occupies to provide a utility service, including sanitary sewer, culinary water, electrical, storm water, or communications or data lines;

(d) is used or occupied with the consent of the municipality in accordance with an authorized franchise or other agreement;

(e) (i) is used or occupied by a specified public utility in accordance with an authorized franchise or other agreement; and

(ii) is located in a utility easement granted for public use; or

(f) is described in Section 10-9a-529 and is used by a specified public utility.

(41) "Nominal fee" means a fee that reasonably reimburses a municipality only for time spent and expenses incurred in:

(a) verifying that building plans are identical plans; and

(b) reviewing and approving those minor aspects of identical plans that differ from the previously reviewed and approved building plans.

(42) "Noncomplying structure" means a structure that:

(a) legally existed before its current land use designation; and

(b) because of one or more subsequent land use ordinance changes, does not conform to the setback, height restrictions, or other regulations, excluding those regulations, which govern the use of land.

(43) "Nonconforming use" means a use of land that:

(a) legally existed before its current land use designation;

(b) has been maintained continuously since the time the land use ordinance governing the land changed; and

(c) because of one or more subsequent land use ordinance changes, does not conform to the regulations that now govern the use of the land.

(44) "Official map" means a map drawn by municipal authorities and recorded in a county recorder's office that:

(a) shows actual and proposed rights-of-way, centerline alignments, and setbacks for highways and other transportation facilities;

(b) provides a basis for restricting development in designated rights-of-way or between designated setbacks to allow the government authorities time to purchase or otherwise reserve the land; and

(c) has been adopted as an element of the municipality's general plan.

(45) "Parcel" means any real property that is not a lot created by and shown on a subdivision plat recorded in the office of the county recorder.

(46) (a) "Parcel boundary adjustment" means a recorded agreement between owners of adjoining parcels adjusting the mutual boundary, either by deed or by a boundary line agreement in accordance with Section 57-1-45, if no additional parcel is created and:

(i) none of the property identified in the agreement is subdivided land; or

(ii) the adjustment is to the boundaries of a single person's parcels.

(b) "Parcel boundary adjustment" does not mean an adjustment of a parcel boundary line that:

(i) creates an additional parcel; or

(ii) constitutes a subdivision.

(47) "Person" means an individual, corporation, partnership, organization, association, trust, governmental agency, or any other legal entity.

(48) "Plan for moderate income housing" means a written document adopted by a municipality's legislative body that includes:

(a) an estimate of the existing supply of moderate income housing located within the municipality;

(b) an estimate of the need for moderate income housing in the municipality for the next five years;

(c) a survey of total residential land use;

(d) an evaluation of how existing land uses and zones affect opportunities for moderate income housing; and

(e) a description of the municipality's program to encourage an adequate supply of moderate income housing.

(49) "Plat" means a map or other graphical representation of lands that a licensed professional land surveyor makes and prepares in accordance with Section 10-9a-603 or 57-8-13.

(50) "Potential geologic hazard area" means an area that:

(a) is designated by a Utah Geological Survey map, county geologist map, or other relevant map or report as needing further study to determine the area's potential for geologic hazard; or

(b) has not been studied by the Utah Geological Survey or a county geologist but presents the potential of geologic hazard because the area has characteristics similar to those of a designated geologic hazard area.

(51) "Public agency" means:

(a) the federal government;

(b) the state;

(c) a county, municipality, school district, local district, special service district, or other political subdivision of the state; or

(d) a charter school.

(52) "Public hearing" means a hearing at which members of the public are provided a reasonable opportunity to comment on the subject of the hearing.

(53) "Public meeting" means a meeting that is required to be open to the public under Title 52, Chapter 4, Open and Public Meetings Act.

(54) "Public street" means a public right-of-way, including a public highway, public avenue, public boulevard, public parkway, public road, public lane, public alley, public viaduct, public subway, public tunnel, public bridge, public byway, other public transportation easement, or other public way.

(55) "Receiving zone" means an area of a municipality that the municipality designates, by ordinance, as an area in which an owner of land may receive a transferable development right.

(56) "Record of survey map" means a map of a survey of land prepared in accordance with Section 10-9a-603, 17-23-17, 17-27a-603, or 57-8-13.

(57) "Residential facility for persons with a disability" means a residence:

(a) in which more than one person with a disability resides; and

(b) (i) which is licensed or certified by the Department of Human Services under Title 62A, Chapter 2, Licensure of Programs and Facilities; or

(ii) which is licensed or certified by the Department of Health under Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act.

(58) "Rules of order and procedure" means a set of rules that govern and prescribe in a public meeting:

(a) parliamentary order and procedure;

(b) ethical behavior; and

(c) civil discourse.

(59) "Sanitary sewer authority" means the department, agency, or public entity with responsibility to review and approve the feasibility of sanitary sewer services or onsite wastewater systems.

(60) "Sending zone" means an area of a municipality that the municipality designates, by ordinance, as an area from which an owner of land may transfer a transferable development right.

(61) "Specified public agency" means:

(a) the state;

(b) a school district; or

(c) a charter school.

(62) "Specified public utility" means an electrical corporation, gas corporation, or telephone corporation, as those terms are defined in Section 54-2-1.

(63) "State" includes any department, division, or agency of the state.

(64) "Subdivided land" means the land, tract, or lot described in a recorded subdivision plat.

(65) (a) "Subdivision" means any land that is divided, resubdivided, or proposed to be divided into two or more lots or other division of land for the purpose, whether immediate or future, for offer, sale, lease, or development either on the installment plan or upon any and all other plans, terms, and conditions.

(b) "Subdivision" includes:

(i) the division or development of land whether by deed, metes and bounds description, devise and testacy, map, plat, or other recorded instrument, regardless of whether the division includes all or a portion of a parcel or lot; and

(ii) except as provided in Subsection (65)(c), divisions of land for residential and nonresidential uses, including land used or to be used for commercial, agricultural, and industrial purposes.

(c) "Subdivision" does not include:

(i) a bona fide division or partition of agricultural land for the purpose of joining one of the resulting separate parcels to a contiguous parcel of unsubdivided agricultural land, if neither the resulting combined parcel nor the parcel remaining from the division or partition violates an applicable land use ordinance;

(ii) an agreement recorded with the county recorder's office between owners of adjoining unsubdivided properties adjusting the mutual boundary by a boundary line agreement in accordance with Section 57-1-45 if:

(A) no new lot is created; and

(B) the adjustment does not violate applicable land use ordinances;

(iii) a recorded document, executed by the owner of record:

(A) revising the legal description of more than one contiguous parcel of property that is not subdivided land into one legal description encompassing all such parcels of property; or

(B) joining a subdivided parcel of property to another parcel of property that has not been subdivided, if the joinder does not violate applicable land use ordinances;

(iv) an agreement between owners of adjoining subdivided properties adjusting the mutual lot line boundary in accordance with Section 10-9a-603 if:

(A) no new dwelling lot or housing unit will result from the adjustment; and

(B) the adjustment will not violate any applicable land use ordinance;

(v) a bona fide division or partition of land by deed or other instrument where the land use authority expressly approves in writing the division in anticipation of further land use approvals on the parcel or parcels;

(vi) a parcel boundary adjustment;

(vii) a lot line adjustment;

(viii) a road, street, or highway dedication plat; or

(ix) a deed or easement for a road, street, or highway purpose.

(d) The joining of a subdivided parcel of property to another parcel of property that has not been subdivided does not constitute a subdivision under this Subsection (65) as to the unsubdivided parcel of property or subject the unsubdivided parcel to the municipality's subdivision ordinance.

(66) "Subdivision amendment" means an amendment to a recorded subdivision in accordance with Section 10-9a-608 that:

(a) vacates all or a portion of the subdivision;

(b) alters the outside boundary of the subdivision;

(c) changes the number of lots within the subdivision;

(d) alters a public right-of-way, a public easement, or public infrastructure within the subdivision; or

(e) alters a common area or other common amenity within the subdivision.

(67) "Suspect soil" means soil that has:

(a) a high susceptibility for volumetric change, typically clay rich, having more than a 3% swell potential;

(b) bedrock units with high shrink or swell susceptibility; or

(c) gypsiferous silt and clay, gypsum, or bedrock units containing abundant gypsum commonly associated with dissolution and collapse features.

(68) "Therapeutic school" means a residential group living facility:

(a) for four or more individuals who are not related to:

(i) the owner of the facility; or

(ii) the primary service provider of the facility;

(b) that serves students who have a history of failing to function:

(i) at home;

(ii) in a public school; or

(iii) in a nonresidential private school; and

(c) that offers:

(i) room and board; and

(ii) an academic education integrated with:

(A) specialized structure and supervision; or

(B) services or treatment related to a disability, an emotional development, a behavioral development, a familial development, or a social development.

(69) "Transferable development right" means a right to develop and use land that originates by an ordinance that authorizes a land owner in a designated sending zone to transfer land use rights from a designated sending zone to a designated receiving zone.

(70) "Unincorporated" means the area outside of the incorporated area of a city or town.

(71) "Water interest" means any right to the beneficial use of water, including:

(a) each of the rights listed in Section 73-1-11; and

(b) an ownership interest in the right to the beneficial use of water represented by:

(i) a contract; or

(ii) a share in a water company, as defined in Section 73-3-3.5.

(72) "Zoning map" means a map, adopted as part of a land use ordinance, that depicts land use zones, overlays, or districts.

Section 2. Section 10-9a-509 is amended to read:

10-9a-509. Applicant's entitlement to land use application approval -- Municipality's requirements and limitations -- Vesting upon submission of development plan and schedule.

(1) (a) (i) An applicant who has submitted a complete land use application as described in Subsection (1)(c), including the payment of all application fees, is entitled to substantive review of the application under the land use regulations:

(A) in effect on the date that the application is complete; and

(B) applicable to the application or to the information shown on the application.

(ii) An applicant is entitled to approval of a land use application if the application conforms to the requirements of the applicable land use regulations, land use decisions, and development standards in effect when the applicant submits a complete application and pays application fees, unless:

(A) the land use authority, on the record, formally finds that a compelling, countervailing public interest would be jeopardized by approving the application and specifies the compelling, countervailing public interest in writing; or

(B) in the manner provided by local ordinance and before the applicant submits the application, the municipality formally initiates proceedings to amend the municipality's land use regulations in a manner that would prohibit approval of the application as submitted.

(b) The municipality shall process an application without regard to proceedings the municipality initiated to amend the municipality's ordinances as described in Subsection (1)(a)(ii)(B) if:

(i) 180 days have passed since the municipality initiated the proceedings; and

(ii) the proceedings have not resulted in an enactment that prohibits approval of the application as submitted.

(c) A land use application is considered submitted and complete when the applicant provides the application in a form that complies with the requirements of applicable ordinances and pays all applicable fees.

(d) A subsequent incorporation of a municipality or a petition that proposes the incorporation of a municipality does not affect a land use application approved by a county in accordance with Section 17-27a-508.

(e) The continuing validity of an approval of a land use application is conditioned upon the applicant proceeding after approval to implement the approval with reasonable diligence.

(f) A municipality may not impose on an applicant who has submitted a complete application a requirement that is not expressed in:

(i) this chapter;

(ii) a municipal ordinance; or

(iii) a municipal specification for public improvements applicable to a subdivision or development that is in effect on the date that the applicant submits an application.

(g) A municipality may not impose on a holder of an issued land use permit or a final, unexpired subdivision plat a requirement that is not expressed:

(i) in a land use permit;

(ii) on the subdivision plat;

(iii) in a document on which the land use permit or subdivision plat is based;

(iv) in the written record evidencing approval of the land use permit or subdivision plat;

(v) in this chapter; or

(vi) in a municipal ordinance.

(h) Except as provided in Subsection (1)(i), a municipality may not withhold issuance of a certificate of occupancy or acceptance of subdivision improvements because of an applicant's failure to comply with a requirement that is not expressed:

(i) in the building permit or subdivision plat, documents on which the building permit or subdivision plat is based, or the written record evidencing approval of the land use permit or subdivision plat; or

(ii) in this chapter or the municipality's ordinances.

(i) A municipality may not unreasonably withhold issuance of a certificate of occupancy where an applicant has met all requirements essential for the public health, public safety, and general welfare of the occupants, in accordance with this chapter, unless:

(i) the applicant and the municipality have agreed in a written document to the withholding of a certificate of occupancy; or

(ii) the applicant has not provided a financial assurance for required and uncompleted landscaping or infrastructure improvements in accordance with an applicable ordinance that the legislative body adopts under this chapter.

(2) A municipality is bound by the terms and standards of applicable land use regulations and shall comply with mandatory provisions of those regulations.

(3) A municipality may not, as a condition of land use application approval, require a person filing a land use application to obtain documentation regarding a school district's willingness, capacity,

or ability to serve the development proposed in the land use application.

(4) Upon a specified public agency's submission of a development plan and schedule as required in Subsection 10-9a-305(8) that complies with the requirements of that subsection, the specified public agency vests in the municipality's applicable land use maps, zoning map, hookup fees, impact fees, other applicable development fees, and land use regulations in effect on the date of submission.

(5) (a) If sponsors of a referendum timely challenge a project in accordance with Subsection 20A-7-601(5)[~~(a)~~], the project's affected owner may rescind the project's land use approval by delivering a written notice:

(i) to the local clerk as defined in Section 20A-7-101; and

(ii) no later than seven days after the day on which a petition for a referendum is determined sufficient under [~~Section~~] Subsection 20A-7-607[~~(5)~~](4).

(b) Upon delivery of a written notice described in Subsection (5)(a) the following are rescinded and are of no further force or effect:

(i) the relevant land use approval; and

(ii) any land use regulation enacted specifically in relation to the land use approval.

Section 3. Section 11-14-301 is amended to read:

11-14-301. Issuance of bonds by governing body -- Computation of indebtedness under constitutional and statutory limitations.

(1) If the governing body has declared the bond proposition to have carried and no contest has been filed, or if a contest has been filed and favorably terminated, the governing body may proceed to issue the bonds voted at the election.

(2) (a) It is not necessary that all of the bonds be issued at one time, but, except as otherwise provided in this Subsection (2), bonds approved by the voters may not be issued more than 10 years after the day on which the election is held.

(b) The 10-year period described in Subsection (2)(a) is tolled if, at any time during the 10-year period:

(i) an application for a referendum petition is filed with a local clerk, in accordance with Section 20A-7-602, with respect to the local obligation law relating to the bonds; or

(ii) the bonds are challenged in a court of law or an administrative proceeding in relation to:

(A) the legality or validity of the bonds, or the election or proceedings authorizing the bonds;

(B) the authority of the local political subdivision to issue the bonds;

(C) the provisions made for the security or payment of the bonds; or

(D) any other issue that materially and adversely affects the marketability of the bonds, as determined by the individual or body that holds the executive powers of the local political subdivision.

(c) For a bond described in this section that is approved by voters on or after May 8, 2002, but before May 14, 2019, a tolling period described in Subsection (2)(b)(i) ends on the later of the day on which:

(i) the local clerk determines that the petition is insufficient, in accordance with Subsection 20A-7-607(2)[~~(c)~~](e), unless an application, described in Subsection 20A-7-607[~~(4)~~](3)(a), is made to a court;

(ii) a court determines, under Subsection 20A-7-607[~~(4)~~](3)(c), that the petition for the referendum is not legally sufficient; or

(iii) for a referendum petition that is sufficient, the governing body declares, as provided by law, the results of the referendum election on the local obligation law.

(d) For a bond described in this section that was approved by voters on or after May 14, 2019, a tolling period described in Subsection (2)(b)(i) ends:

(i) if a county, city, town, metro township, or court determines, under Section 20A-7-602.7, that the proposed referendum is not legally referable to voters, the later of:

(A) the day on which the county, city, town, or metro township provides the notice described in Subsection 20A-7-602.7(1)(b)(ii); or

(B) if a sponsor appeals, under Subsection 20A-7-602.7(4), the day on which a court decision that the proposed referendum is not legally referable to voters becomes final; or

(ii) if a county, city, town, metro township, or court determines, under Section 20A-7-602.7, that the proposed referendum is legally referable to voters, the later of:

(A) the day on which the local clerk determines, under Section 20A-7-607, that the number of certified names is insufficient for the proposed referendum to appear on the ballot; or

(B) if the local clerk determines, under Section 20A-7-607, that the number of certified names is sufficient for the proposed referendum to appear on the ballot, the day on which the governing body declares, as provided by law, the results of the referendum election on the local obligation law.

(e) A tolling period described in Subsection (2)(b)(ii) ends after:

(i) there is a final settlement, a final adjudication, or another type of final resolution of all challenges described in Subsection (2)(b)(ii); and

(ii) the individual or body that holds the executive powers of the local political subdivision issues a document indicating that all challenges described in Subsection (2)(b)(ii) are resolved and final.

(f) If the 10-year period described in Subsection (2)(a) is tolled under this Subsection (2) and, when the tolling ends and after giving effect to the tolling, the period of time remaining to issue the bonds is less than one year, the period of time remaining to issue the bonds shall be extended to one year.

(g) The tolling provisions described in this Subsection (2) apply to all bonds described in this section that were approved by voters on or after May 8, 2002.

(3) (a) Bonds approved by the voters may not be issued to an amount that will cause the indebtedness of the local political subdivision to exceed that permitted by the Utah Constitution or statutes.

(b) In computing the amount of indebtedness that may be incurred pursuant to constitutional and statutory limitations, the constitutionally or statutorily permitted percentage, as the case may be, shall be applied to the fair market value, as defined under Section 59-2-102, of the taxable property in the local political subdivision, as computed from the last applicable equalized assessment roll before the incurring of the additional indebtedness.

(c) In determining the fair market value of the taxable property in the local political subdivision as provided in this section, the value of all tax equivalent property, as defined in Section 59-3-102, shall be included as a part of the total fair market value of taxable property in the local political subdivision, as provided in Title 59, Chapter 3, Tax Equivalent Property Act.

(4) Bonds of improvement districts issued in a manner that they are payable solely from the revenues to be derived from the operation of the facilities of the district may not be included as bonded indebtedness for the purposes of the computation.

(5) Where bonds are issued by a city, town, or county payable solely from revenues derived from the operation of revenue-producing facilities of the city, town, or county, or payable solely from a special fund into which are deposited excise taxes levied and collected by the city, town, or county, or excise taxes levied by the state and rebated pursuant to law to the city, town, or county, or any combination of those excise taxes, the bonds shall be included as bonded indebtedness of the city, town, or county only to the extent required by the Utah Constitution, and any bonds not so required to be included as bonded indebtedness of the city, town, or county need not be authorized at an election, except as otherwise provided by the Utah Constitution, the bonds being hereby expressly excluded from the election requirement of Section 11-14-201.

(6) A bond election is not void when the amount of bonds authorized at the election exceeded the limitation applicable to the local political subdivision at the time of holding the election, but the bonds may be issued from time to time in an amount within the applicable limitation at the time the bonds are issued.

(7) (a) A local political subdivision may not receive, from the issuance of bonds approved by the voters at an election, an aggregate amount that exceeds by more than 2% the maximum principal amount stated in the bond proposition.

(b) The provision in Subsection (7)(a) applies to bonds issued pursuant to an election held after January 1, 2019.

Section 4. Section 17-27a-103 is amended to read:

17-27a-103. Definitions.

As used in this chapter:

(1) "Accessory dwelling unit" means a habitable living unit added to, created within, or detached from a primary single-family dwelling and contained on one lot.

(2) "Adversely affected party" means a person other than a land use applicant who:

(a) owns real property adjoining the property that is the subject of a land use application or land use decision; or

(b) will suffer a damage different in kind than, or an injury distinct from, that of the general community as a result of the land use decision.

(3) "Affected entity" means a county, municipality, local district, special service district under Title 17D, Chapter 1, Special Service District Act, school district, interlocal cooperation entity established under Title 11, Chapter 13, Interlocal Cooperation Act, specified property owner, property owners association, public utility, or the Utah Department of Transportation, if:

(a) the entity's services or facilities are likely to require expansion or significant modification because of an intended use of land;

(b) the entity has filed with the county a copy of the entity's general or long-range plan; or

(c) the entity has filed with the county a request for notice during the same calendar year and before the county provides notice to an affected entity in compliance with a requirement imposed under this chapter.

(4) "Affected owner" means the owner of real property that is:

(a) a single project;

(b) the subject of a land use approval that sponsors of a referendum timely challenged in accordance with Subsection 20A-7-601(5)[~~(a)~~]; and

(c) determined to be legally referable under Section 20A-7-602.8.

(5) "Appeal authority" means the person, board, commission, agency, or other body designated by ordinance to decide an appeal of a decision of a land use application or a variance.

(6) "Billboard" means a freestanding ground sign located on industrial, commercial, or residential

property if the sign is designed or intended to direct attention to a business, product, or service that is not sold, offered, or existing on the property where the sign is located.

(7) (a) "Charter school" means:

(i) an operating charter school;

(ii) a charter school applicant that has its application approved by a charter school authorizer in accordance with Title 53G, Chapter 5, Part 3, Charter School Authorization; or

(iii) an entity that is working on behalf of a charter school or approved charter applicant to develop or construct a charter school building.

(b) "Charter school" does not include a therapeutic school.

(8) "Chief executive officer" means the person or body that exercises the executive powers of the county.

(9) "Conditional use" means a land use that, because of its unique characteristics or potential impact on the county, surrounding neighbors, or adjacent land uses, may not be compatible in some areas or may be compatible only if certain conditions are required that mitigate or eliminate the detrimental impacts.

(10) "Constitutional taking" means a governmental action that results in a taking of private property so that compensation to the owner of the property is required by the:

(a) Fifth or Fourteenth Amendment of the Constitution of the United States; or

(b) Utah Constitution, Article I, Section 22.

(11) "County utility easement" means an easement that:

(a) a plat recorded in a county recorder's office described as a county utility easement or otherwise as a utility easement;

(b) is not a protected utility easement or a public utility easement as defined in Section 54-3-27;

(c) the county or the county's affiliated governmental entity owns or creates; and

(d) (i) either:

(A) no person uses or occupies; or

(B) the county or the county's affiliated governmental entity uses and occupies to provide a utility service, including sanitary sewer, culinary water, electrical, storm water, or communications or data lines; or

(ii) a person uses or occupies with or without an authorized franchise or other agreement with the county.

(12) "Culinary water authority" means the department, agency, or public entity with responsibility to review and approve the feasibility of the culinary water system and sources for the subject property.

(13) "Development activity" means:

(a) any construction or expansion of a building, structure, or use that creates additional demand and need for public facilities;

(b) any change in use of a building or structure that creates additional demand and need for public facilities; or

(c) any change in the use of land that creates additional demand and need for public facilities.

(14) (a) "Disability" means a physical or mental impairment that substantially limits one or more of a person's major life activities, including a person having a record of such an impairment or being regarded as having such an impairment.

(b) "Disability" does not include current illegal use of, or addiction to, any federally controlled substance, as defined in Section 102 of the Controlled Substances Act, 21 U.S.C. Sec. 802.

(15) "Educational facility":

(a) means:

(i) a school district's building at which pupils assemble to receive instruction in a program for any combination of grades from preschool through grade 12, including kindergarten and a program for children with disabilities;

(ii) a structure or facility:

(A) located on the same property as a building described in Subsection (15)(a)(i); and

(B) used in support of the use of that building; and

(iii) a building to provide office and related space to a school district's administrative personnel; and

(b) does not include:

(i) land or a structure, including land or a structure for inventory storage, equipment storage, food processing or preparing, vehicle storage or maintenance, or similar use that is:

(A) not located on the same property as a building described in Subsection (15)(a)(i); and

(B) used in support of the purposes of a building described in Subsection (15)(a)(i); or

(ii) a therapeutic school.

(16) "Fire authority" means the department, agency, or public entity with responsibility to review and approve the feasibility of fire protection and suppression services for the subject property.

(17) "Flood plain" means land that:

(a) is within the 100-year flood plain designated by the Federal Emergency Management Agency; or

(b) has not been studied or designated by the Federal Emergency Management Agency but presents a likelihood of experiencing chronic flooding or a catastrophic flood event because the

land has characteristics that are similar to those of a 100-year flood plain designated by the Federal Emergency Management Agency.

(18) "Gas corporation" has the same meaning as defined in Section 54-2-1.

(19) "General plan" means a document that a county adopts that sets forth general guidelines for proposed future development of:

(a) the unincorporated land within the county; or

(b) for a mountainous planning district, the land within the mountainous planning district.

(20) "Geologic hazard" means:

(a) a surface fault rupture;

(b) shallow groundwater;

(c) liquefaction;

(d) a landslide;

(e) a debris flow;

(f) unstable soil;

(g) a rock fall; or

(h) any other geologic condition that presents a risk:

(i) to life;

(ii) of substantial loss of real property; or

(iii) of substantial damage to real property.

(21) "Hookup fee" means a fee for the installation and inspection of any pipe, line, meter, or appurtenance to connect to a county water, sewer, storm water, power, or other utility system.

(22) "Identical plans" means building plans submitted to a county that:

(a) are clearly marked as "identical plans";

(b) are substantially identical building plans that were previously submitted to and reviewed and approved by the county; and

(c) describe a building that:

(i) is located on land zoned the same as the land on which the building described in the previously approved plans is located;

(ii) is subject to the same geological and meteorological conditions and the same law as the building described in the previously approved plans;

(iii) has a floor plan identical to the building plan previously submitted to and reviewed and approved by the county; and

(iv) does not require any additional engineering or analysis.

(23) "Impact fee" means a payment of money imposed under Title 11, Chapter 36a, Impact Fees Act.

(24) "Improvement completion assurance" means a surety bond, letter of credit, financial institution bond, cash, assignment of rights, lien, or other equivalent security required by a county to guaranty the proper completion of landscaping or an infrastructure improvement required as a condition precedent to:

(a) recording a subdivision plat; or

(b) development of a commercial, industrial, mixed use, or multifamily project.

(25) "Improvement warranty" means an applicant's unconditional warranty that the applicant's installed and accepted landscaping or infrastructure improvement:

(a) complies with the county's written standards for design, materials, and workmanship; and

(b) will not fail in any material respect, as a result of poor workmanship or materials, within the improvement warranty period.

(26) "Improvement warranty period" means a period:

(a) no later than one year after a county's acceptance of required landscaping; or

(b) no later than one year after a county's acceptance of required infrastructure, unless the county:

(i) determines for good cause that a one-year period would be inadequate to protect the public health, safety, and welfare; and

(ii) has substantial evidence, on record:

(A) of prior poor performance by the applicant; or

(B) that the area upon which the infrastructure will be constructed contains suspect soil and the county has not otherwise required the applicant to mitigate the suspect soil.

(27) "Infrastructure improvement" means permanent infrastructure that is essential for the public health and safety or that:

(a) is required for human consumption; and

(b) an applicant must install:

(i) in accordance with published installation and inspection specifications for public improvements; and

(ii) as a condition of:

(A) recording a subdivision plat;

(B) obtaining a building permit; or

(C) developing a commercial, industrial, mixed use, condominium, or multifamily project.

(28) "Internal lot restriction" means a platted note, platted demarcation, or platted designation that:

(a) runs with the land; and

(b) (i) creates a restriction that is enclosed within the perimeter of a lot described on the plat; or

(ii) designates a development condition that is enclosed within the perimeter of a lot described on the plat.

(29) "Interstate pipeline company" means a person or entity engaged in natural gas transportation subject to the jurisdiction of the Federal Energy Regulatory Commission under the Natural Gas Act, 15 U.S.C. Sec. 717 et seq.

(30) "Intrastate pipeline company" means a person or entity engaged in natural gas transportation that is not subject to the jurisdiction of the Federal Energy Regulatory Commission under the Natural Gas Act, 15 U.S.C. Sec. 717 et seq.

(31) "Land use applicant" means a property owner, or the property owner's designee, who submits a land use application regarding the property owner's land.

(32) "Land use application":

(a) means an application that is:

(i) required by a county; and

(ii) submitted by a land use applicant to obtain a land use decision; and

(b) does not mean an application to enact, amend, or repeal a land use regulation.

(33) "Land use authority" means:

(a) a person, board, commission, agency, or body, including the local legislative body, designated by the local legislative body to act upon a land use application; or

(b) if the local legislative body has not designated a person, board, commission, agency, or body, the local legislative body.

(34) "Land use decision" means an administrative decision of a land use authority or appeal authority regarding:

(a) a land use permit;

(b) a land use application; or

(c) the enforcement of a land use regulation, land use permit, or development agreement.

(35) "Land use permit" means a permit issued by a land use authority.

(36) "Land use regulation":

(a) means a legislative decision enacted by ordinance, law, code, map, resolution, specification, fee, or rule that governs the use or development of land;

(b) includes the adoption or amendment of a zoning map or the text of the zoning code; and

(c) does not include:

(i) a land use decision of the legislative body acting as the land use authority, even if the decision is expressed in a resolution or ordinance; or

(ii) a temporary revision to an engineering specification that does not materially:

(A) increase a land use applicant's cost of development compared to the existing specification; or

(B) impact a land use applicant's use of land.

(37) "Legislative body" means the county legislative body, or for a county that has adopted an alternative form of government, the body exercising legislative powers.

(38) "Local district" means any entity under Title 17B, Limited Purpose Local Government Entities - Local Districts, and any other governmental or quasi-governmental entity that is not a county, municipality, school district, or the state.

(39) "Lot" means a tract of land, regardless of any label, that is created by and shown on a subdivision plat that has been recorded in the office of the county recorder.

(40) (a) "Lot line adjustment" means a relocation of a lot line boundary between adjoining lots or parcels, whether or not the lots are located in the same subdivision, in accordance with Section 17-27a-608, with the consent of the owners of record.

(b) "Lot line adjustment" does not mean a new boundary line that:

(i) creates an additional lot; or

(ii) constitutes a subdivision.

(41) "Major transit investment corridor" means public transit service that uses or occupies:

(a) public transit rail right-of-way;

(b) dedicated road right-of-way for the use of public transit, such as bus rapid transit; or

(c) fixed-route bus corridors subject to an interlocal agreement or contract between a municipality or county and:

(i) a public transit district as defined in Section 17B-2a-802; or

(ii) an eligible political subdivision as defined in Section 59-12-2219.

(42) "Moderate income housing" means housing occupied or reserved for occupancy by households with a gross household income equal to or less than 80% of the median gross income for households of the same size in the county in which the housing is located.

(43) "Mountainous planning district" means an area:

(a) designated by a county legislative body in accordance with Section 17-27a-901; and

(b) that is not otherwise exempt under Section 10-9a-304.

(44) "Nominal fee" means a fee that reasonably reimburses a county only for time spent and expenses incurred in:

(a) verifying that building plans are identical plans; and

(b) reviewing and approving those minor aspects of identical plans that differ from the previously reviewed and approved building plans.

(45) "Noncomplying structure" means a structure that:

(a) legally existed before its current land use designation; and

(b) because of one or more subsequent land use ordinance changes, does not conform to the setback, height restrictions, or other regulations, excluding those regulations that govern the use of land.

(46) "Nonconforming use" means a use of land that:

(a) legally existed before its current land use designation;

(b) has been maintained continuously since the time the land use ordinance regulation governing the land changed; and

(c) because of one or more subsequent land use ordinance changes, does not conform to the regulations that now govern the use of the land.

(47) "Official map" means a map drawn by county authorities and recorded in the county recorder's office that:

(a) shows actual and proposed rights-of-way, centerline alignments, and setbacks for highways and other transportation facilities;

(b) provides a basis for restricting development in designated rights-of-way or between designated setbacks to allow the government authorities time to purchase or otherwise reserve the land; and

(c) has been adopted as an element of the county's general plan.

(48) "Parcel" means any real property that is not a lot created by and shown on a subdivision plat recorded in the office of the county recorder.

(49) (a) "Parcel boundary adjustment" means a recorded agreement between owners of adjoining parcels adjusting the mutual boundary, either by deed or by a boundary line agreement in accordance with Section 57-1-45, if no additional parcel is created and:

(i) none of the property identified in the agreement is subdivided land; or

(ii) the adjustment is to the boundaries of a single person's parcels.

(b) "Parcel boundary adjustment" does not mean an adjustment of a parcel boundary line that:

(i) creates an additional parcel; or

(ii) constitutes a subdivision.

(50) "Person" means an individual, corporation, partnership, organization, association, trust, governmental agency, or any other legal entity.

(51) "Plan for moderate income housing" means a written document adopted by a county legislative body that includes:

(a) an estimate of the existing supply of moderate income housing located within the county;

(b) an estimate of the need for moderate income housing in the county for the next five years;

(c) a survey of total residential land use;

(d) an evaluation of how existing land uses and zones affect opportunities for moderate income housing; and

(e) a description of the county's program to encourage an adequate supply of moderate income housing.

(52) "Planning advisory area" means a contiguous, geographically defined portion of the unincorporated area of a county established under this part with planning and zoning functions as exercised through the planning advisory area planning commission, as provided in this chapter, but with no legal or political identity separate from the county and no taxing authority.

(53) "Plat" means a map or other graphical representation of lands that a licensed professional land surveyor makes and prepares in accordance with Section 17-27a-603 or 57-8-13.

(54) "Potential geologic hazard area" means an area that:

(a) is designated by a Utah Geological Survey map, county geologist map, or other relevant map or report as needing further study to determine the area's potential for geologic hazard; or

(b) has not been studied by the Utah Geological Survey or a county geologist but presents the potential of geologic hazard because the area has characteristics similar to those of a designated geologic hazard area.

(55) "Public agency" means:

(a) the federal government;

(b) the state;

(c) a county, municipality, school district, local district, special service district, or other political subdivision of the state; or

(d) a charter school.

(56) "Public hearing" means a hearing at which members of the public are provided a reasonable opportunity to comment on the subject of the hearing.

(57) "Public meeting" means a meeting that is required to be open to the public under Title 52, Chapter 4, Open and Public Meetings Act.

(58) "Public street" means a public right-of-way, including a public highway, public avenue, public boulevard, public parkway, public road, public lane, public alley, public viaduct, public subway, public tunnel, public bridge, public byway, other public transportation easement, or other public way.

(59) "Receiving zone" means an unincorporated area of a county that the county designates, by ordinance, as an area in which an owner of land may receive a transferable development right.

(60) "Record of survey map" means a map of a survey of land prepared in accordance with Section 10-9a-603, 17-23-17, 17-27a-603, or 57-8-13.

(61) "Residential facility for persons with a disability" means a residence:

(a) in which more than one person with a disability resides; and

(b) (i) which is licensed or certified by the Department of Human Services under Title 62A, Chapter 2, Licensure of Programs and Facilities; or

(ii) which is licensed or certified by the Department of Health under Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act.

(62) "Rules of order and procedure" means a set of rules that govern and prescribe in a public meeting:

(a) parliamentary order and procedure;

(b) ethical behavior; and

(c) civil discourse.

(63) "Sanitary sewer authority" means the department, agency, or public entity with responsibility to review and approve the feasibility of sanitary sewer services or onsite wastewater systems.

(64) "Sending zone" means an unincorporated area of a county that the county designates, by ordinance, as an area from which an owner of land may transfer a transferable development right.

(65) "Site plan" means a document or map that may be required by a county during a preliminary review preceding the issuance of a building permit to demonstrate that an owner's or developer's proposed development activity meets a land use requirement.

(66) "Specified public agency" means:

(a) the state;

(b) a school district; or

(c) a charter school.

(67) "Specified public utility" means an electrical corporation, gas corporation, or telephone corporation, as those terms are defined in Section 54-2-1.

(68) "State" includes any department, division, or agency of the state.

(69) "Subdivided land" means the land, tract, or lot described in a recorded subdivision plat.

(70) (a) "Subdivision" means any land that is divided, resubdivided, or proposed to be divided into two or more lots or other division of land for the purpose, whether immediate or future, for offer, sale, lease, or development either on the installment plan or upon any and all other plans, terms, and conditions.

(b) "Subdivision" includes:

(i) the division or development of land whether by deed, metes and bounds description, devise and testacy, map, plat, or other recorded instrument, regardless of whether the division includes all or a portion of a parcel or lot; and

(ii) except as provided in Subsection (70)(c), divisions of land for residential and nonresidential uses, including land used or to be used for commercial, agricultural, and industrial purposes.

(c) "Subdivision" does not include:

(i) a bona fide division or partition of agricultural land for agricultural purposes;

(ii) an agreement recorded with the county recorder's office between owners of adjoining properties adjusting the mutual boundary by a boundary line agreement in accordance with Section 57-1-45 if:

(A) no new lot is created; and

(B) the adjustment does not violate applicable land use ordinances;

(iii) a recorded document, executed by the owner of record:

(A) revising the legal description of more than one contiguous parcel of property that is not subdivided land into one legal description encompassing all such parcels of property; or

(B) joining a subdivided parcel of property to another parcel of property that has not been subdivided, if the joinder does not violate applicable land use ordinances;

(iv) a bona fide division or partition of land in a county other than a first class county for the purpose of siting, on one or more of the resulting separate parcels:

(A) an electrical transmission line or a substation;

(B) a natural gas pipeline or a regulation station; or

(C) an unmanned telecommunications, microwave, fiber optic, electrical, or other utility service regeneration, transformation, retransmission, or amplification facility;

(v) an agreement between owners of adjoining subdivided properties adjusting the mutual lot line boundary in accordance with Section 10-9a-603 if:

(A) no new dwelling lot or housing unit will result from the adjustment; and

(B) the adjustment will not violate any applicable land use ordinance;

(vi) a bona fide division or partition of land by deed or other instrument where the land use authority expressly approves in writing the division in anticipation of further land use approvals on the parcel or parcels;

(vii) a parcel boundary adjustment;

(viii) a lot line adjustment;

(ix) a road, street, or highway dedication plat; or

(x) a deed or easement for a road, street, or highway purpose.

(d) The joining of a subdivided parcel of property to another parcel of property that has not been subdivided does not constitute a subdivision under this Subsection (70) as to the unsubdivided parcel of property or subject the unsubdivided parcel to the county's subdivision ordinance.

(71) "Subdivision amendment" means an amendment to a recorded subdivision in accordance with Section 17-27a-608 that:

(a) vacates all or a portion of the subdivision;

(b) alters the outside boundary of the subdivision;

(c) changes the number of lots within the subdivision;

(d) alters a public right-of-way, a public easement, or public infrastructure within the subdivision; or

(e) alters a common area or other common amenity within the subdivision.

(72) "Suspect soil" means soil that has:

(a) a high susceptibility for volumetric change, typically clay rich, having more than a 3% swell potential;

(b) bedrock units with high shrink or swell susceptibility; or

(c) gypsiferous silt and clay, gypsum, or bedrock units containing abundant gypsum commonly associated with dissolution and collapse features.

(73) "Therapeutic school" means a residential group living facility:

(a) for four or more individuals who are not related to:

(i) the owner of the facility; or

(ii) the primary service provider of the facility;

(b) that serves students who have a history of failing to function:

(i) at home;

(ii) in a public school; or

(iii) in a nonresidential private school; and

(c) that offers:

(i) room and board; and

(ii) an academic education integrated with:

(A) specialized structure and supervision; or

(B) services or treatment related to a disability, an emotional development, a behavioral development, a familial development, or a social development.

(74) "Transferable development right" means a right to develop and use land that originates by an ordinance that authorizes a land owner in a designated sending zone to transfer land use rights from a designated sending zone to a designated receiving zone.

(75) "Unincorporated" means the area outside of the incorporated area of a municipality.

(76) "Water interest" means any right to the beneficial use of water, including:

(a) each of the rights listed in Section 73-1-11; and

(b) an ownership interest in the right to the beneficial use of water represented by:

(i) a contract; or

(ii) a share in a water company, as defined in Section 73-3-3.5.

(77) "Zoning map" means a map, adopted as part of a land use ordinance, that depicts land use zones, overlays, or districts.

Section 5. Section 17-27a-508 is amended to read:

17-27a-508. Applicant's entitlement to land use application approval -- Application relating to land in a high priority transportation corridor -- County's requirements and limitations -- Vesting upon submission of development plan and schedule.

(1) (a) (i) An applicant who has submitted a complete land use application, including the payment of all application fees, is entitled to substantive review of the application under the land use regulations:

(A) in effect on the date that the application is complete; and

(B) applicable to the application or to the information shown on the submitted application.

(ii) An applicant is entitled to approval of a land use application if the application conforms to the requirements of the applicable land use regulations, land use decisions, and development standards in effect when the applicant submits a complete application and pays all application fees, unless:

(A) the land use authority, on the record, formally finds that a compelling, countervailing public interest would be jeopardized by approving the application and specifies the compelling, countervailing public interest in writing; or

(B) in the manner provided by local ordinance and before the applicant submits the application, the county formally initiates proceedings to amend the county's land use regulations in a manner that would prohibit approval of the application as submitted.

(b) The county shall process an application without regard to proceedings the county initiated to amend the county's ordinances as described in Subsection (1)(a)(ii)(B) if:

(i) 180 days have passed since the county initiated the proceedings; and

(ii) the proceedings have not resulted in an enactment that prohibits approval of the application as submitted.

(c) A land use application is considered submitted and complete when the applicant provides the application in a form that complies with the requirements of applicable ordinances and pays all applicable fees.

(d) The continuing validity of an approval of a land use application is conditioned upon the applicant proceeding after approval to implement the approval with reasonable diligence.

(e) A county may not impose on an applicant who has submitted a complete application a requirement that is not expressed:

(i) in this chapter;

(ii) in a county ordinance; or

(iii) in a county specification for public improvements applicable to a subdivision or development that is in effect on the date that the applicant submits an application.

(f) A county may not impose on a holder of an issued land use permit or a final, unexpired subdivision plat a requirement that is not expressed:

(i) in a land use permit;

(ii) on the subdivision plat;

(iii) in a document on which the land use permit or subdivision plat is based;

(iv) in the written record evidencing approval of the land use permit or subdivision plat;

(v) in this chapter; or

(vi) in a county ordinance.

(g) Except as provided in Subsection (1)(h), a county may not withhold issuance of a certificate of occupancy or acceptance of subdivision improvements because of an applicant's failure to comply with a requirement that is not expressed:

(i) in the building permit or subdivision plat, documents on which the building permit or subdivision plat is based, or the written record evidencing approval of the building permit or subdivision plat; or

(ii) in this chapter or the county's ordinances.

(h) A county may not unreasonably withhold issuance of a certificate of occupancy where an applicant has met all requirements essential for the public health, public safety, and general welfare of the occupants, in accordance with this chapter, unless:

(i) the applicant and the county have agreed in a written document to the withholding of a certificate of occupancy; or

(ii) the applicant has not provided a financial assurance for required and uncompleted landscaping or infrastructure improvements in accordance with an applicable ordinance that the legislative body adopts under this chapter.

(2) A county is bound by the terms and standards of applicable land use regulations and shall comply with mandatory provisions of those regulations.

(3) A county may not, as a condition of land use application approval, require a person filing a land use application to obtain documentation regarding a school district's willingness, capacity, or ability to serve the development proposed in the land use application.

(4) Upon a specified public agency's submission of a development plan and schedule as required in Subsection 17-27a-305(8) that complies with the requirements of that subsection, the specified public agency vests in the county's applicable land use maps, zoning map, hookup fees, impact fees, other applicable development fees, and land use regulations in effect on the date of submission.

(5) (a) If sponsors of a referendum timely challenge a project in accordance with Subsection 20A-7-601(5)[~~(a)~~], the project's affected owner may rescind the project's land use approval by delivering a written notice:

(i) to the local clerk as defined in Section 20A-7-101; and

(ii) no later than seven days after the day on which a petition for a referendum is determined sufficient under [~~Section~~] Subsection 20A-7-607[~~(5)~~](4).

(b) Upon delivery of a written notice described in Subsection (5)(a) the following are rescinded and are of no further force or effect:

(i) the relevant land use approval; and

(ii) any land use regulation enacted specifically in relation to the land use approval.

Section 6. Section 20A-1-609 is amended to read:

20A-1-609. Omnibus penalties.

(1) (a) Except as provided in Subsection (1)(b), a person who violates any provision of this title is guilty of a class B misdemeanor.

(b) Subsection (1)(a) does not apply to a provision of this title for which another penalty is expressly stated.

(c) An individual is not guilty of a crime for, by signing a petition for an initiative or referendum, falsely making the statement described in Subsection 20A-7-203(2)[~~(e)~~](h)(ii), 20A-7-303(2)(h)(ii), 20A-7-503(2)[~~(e)~~](h)(ii), or 20A-7-603(2)(h).

(2) Except as provided by Section 20A-2-101.3 or 20A-2-101.5, an individual convicted of any offense under this title may not:

(a) file a declaration of candidacy for any office or appear on the ballot as a candidate for any office

during the election cycle in which the violation occurred;

(b) take or hold the office to which the individual was elected; and

(c) receive the emoluments of the office to which the individual was elected.

(3) (a) Any individual convicted of any offense under this title forfeits the right to vote at any election unless the right to vote is restored as provided in Section 20A-2-101.3 or 20A-2-101.5.

(b) Any person may challenge the right to vote of a person described in Subsection (3)(a) by following the procedures and requirements of Section 20A-3a-803.

Section 7. Section 20A-7-202 is amended to read:

20A-7-202. Statewide initiative process -- Application procedures -- Time to gather signatures -- Grounds for rejection.

(1) [~~Persons~~] Individuals wishing to circulate an initiative petition shall file an application with the lieutenant governor.

(2) The application shall contain:

(a) the name and residence address of at least five sponsors of the initiative petition;

(b) a statement indicating that each of the sponsors[~~: (i) is a resident of Utah; and~~] is registered to vote in Utah;

[~~(ii) has voted in a regular general election in Utah within the last three years;~~]

(c) the signature of each of the sponsors, attested to by a notary public;

(d) a copy of the proposed law that includes, in the following order:

(i) the title of the proposed law, that clearly expresses the subject of the law;

(ii) a description of all proposed sources of funding for the costs associated with the proposed law, including the proposed percentage of total funding from each source; and

(iii) the text of the proposed law;

(e) if the initiative petition proposes a tax increase, the following statement, "This initiative petition seeks to increase the current (insert name of tax) rate by (insert the tax percentage difference) percent, resulting in a(n) (insert the tax percentage increase) percent increase in the current tax rate."; and

(f) a statement indicating whether persons gathering signatures for the petition may be paid for [~~doing so~~] gathering signatures.

(3) (a) An individual's status as a resident, under Subsection (2), is determined in accordance with Section 20A-2-105.

(b) The application and the application's contents are public when filed with the lieutenant governor.

(4) If the petition fails to qualify for the ballot of the election described in Subsection 20A-7-201(2)(b), the sponsors shall:

(a) submit a new application;

(b) obtain new signature sheets; and

(c) collect signatures again.

(5) The lieutenant governor shall reject the application or application addendum filed under Subsection 20A-7-204.1(5) and not issue circulation sheets if:

(a) the law proposed by the initiative is patently unconstitutional;

(b) the law proposed by the initiative is nonsensical;

(c) the proposed law could not become law if passed;

(d) the proposed law contains more than one subject as evaluated in accordance with Subsection (6);

(e) the subject of the proposed law is not clearly expressed in the law's title; or

(f) the law proposed by the initiative is identical or substantially similar to a law proposed by an initiative for which signatures were submitted to the county clerks and lieutenant governor for certification within two years preceding the date on which the application for the new initiative is filed.

(6) To evaluate whether the proposed law contains more than one subject under Subsection (5)(d), the lieutenant governor shall apply the same standard provided in Utah Constitution, Article VI, Section 22, which prohibits a bill from passing that contains more than one subject.

Section 8. Section 20A-7-203 is amended to read:

20A-7-203. Form of initiative petition and signature sheets.

(1) (a) Each proposed initiative petition shall be printed in substantially the following form:

"INITIATIVE PETITION To the Honorable ____, Lieutenant Governor:

We, the undersigned citizens of Utah, respectfully demand that the following proposed law be submitted to the legal voters/Legislature of Utah for their/its approval or rejection at the regular general election/session to be held/ beginning on _____(month\day\year);

Each signer says:

I have personally signed this petition;

The date next to my signature correctly reflects the date that I actually signed the petition;

I have personally reviewed the entire statement included with this packet;

I am registered to vote in Utah or intend to become registered to vote in Utah before the certification of the petition names by the county clerk; and

My residence and post office address are written correctly after my name.

NOTICE TO SIGNERS:

Public hearings to discuss this petition were held at: (list dates and locations of public hearings.)".

(b) If the initiative petition proposes a tax increase, the following statement shall appear, in at least 14-point, bold type, immediately following the information described in Subsection (1)(a):

"This initiative petition seeks to increase the current (insert name of tax) rate by (insert the tax percentage difference) percent, resulting in a(n) (insert the tax percentage increase) percent increase in the current tax rate.".

(c) The sponsors of an initiative or an agent of the sponsors shall attach a copy of the proposed law to each initiative petition.

(2) Each signature sheet shall:

(a) be printed on sheets of paper 8-1/2 inches long and 11 inches wide;

(b) be ruled with a horizontal line three-fourths inch from the top, with the space above that line blank for the purpose of binding;

(c) contain the title of the initiative printed below the horizontal line, in at least 14-point, bold type;

(d) contain the word "Warning" printed or typed at the top of each signature sheet under the title of the initiative;

(e) contain, to the right of the word "Warning," the following statement printed or typed in not less than eight-point type:

"It is a class A misdemeanor for an individual to sign an initiative petition with a name other than the individual's own name, or to knowingly sign the individual's name more than once for the same measure, or to sign an initiative petition when the individual knows that the individual is not a registered voter and knows that the individual does not intend to become registered to vote before the certification of the petition names by the county clerk.";

(f) contain horizontally ruled lines, three-eighths inch apart, under the warning statement described in Subsection (2)(e); and

[~~(d)~~] (g) be vertically divided into columns as follows:

(i) the edge of the first column shall appear .5 inch from the extreme left of the sheet, be .25 inch wide, and be headed, together with the second column, "For Office Use Only";

(ii) the second column shall be .25 inch wide;

(iii) the third column shall be 2.5 inches wide, headed "Registered Voter's Printed Name (must be legible to be counted)";

(iv) the fourth column shall be 2.5 inches wide, headed "Signature of Registered Voter";

(v) the fifth column shall be .75 inch wide, headed "Date Signed";

(vi) the sixth column shall be three inches wide, headed "Street Address, City, Zip Code"; and

(vii) the seventh column shall be .75 inch wide, headed "Birth Date or Age (Optional)";

[~~(e)~~] (h) be horizontally divided into rows as follows:

(i) the top of the first row, for the purpose of entering the information described in Subsection (2)[~~(d)~~](g), shall be .5 inch high;

(ii) the second row shall be .15 inch high and contain the following statement printed or typed in not less than 12-point type:

"By signing this petition, you are stating that you have read and understand the law proposed by this petition."; and

(iii) the first and second rows shall be repeated, in order, leaving sufficient room at the bottom of the sheet for the information described in Subsection (2)[~~(f)~~](i); and

[~~(f)~~] (i) at the bottom of the sheet, contain in the following order:

[~~(i) the title of the initiative, in at least 14-point, bold type;~~]

[~~(ii)~~] (i) except as provided in Subsection (4), the initial fiscal impact estimate's summary statement issued by the Office of the Legislative Fiscal Analyst in accordance with Subsection 20A-7-202.5(2)(a), including any update in accordance with Subsection 20A-7-204.1(5), in not less than 12-point, bold type;

[~~(iii) the word "Warning," followed by the following statement in not less than eight-point type:~~]

[~~"It is a class A misdemeanor for an individual to sign an initiative petition with a name other than the individual's own name, or to knowingly sign the individual's name more than once for the same measure, or to sign an initiative petition when the individual knows that the individual is not a registered voter and knows that the individual does not intend to become registered to vote before the certification of the petition names by the county clerk.";~~]

[~~(iv)~~] (ii) the following statement: "Birth date or age information is not required, but it may be used to verify your identity with voter registration records. If you choose not to provide it, your signature may not be verified as a valid signature if you change your address before petition signatures are verified or if the information you provide does not match your voter registration records."; and

[~~(v)~~] (iii) if the initiative petition proposes a tax increase, spanning the bottom of the sheet,

horizontally, in not less than 14-point, bold type, the following statement:

"This initiative petition seeks to increase the current (insert name of tax) rate by (insert the tax percentage difference) percent, resulting in a(n) (insert the tax percentage increase) percent increase in the current tax rate.".

(3) The final page of each initiative packet shall contain the following printed or typed statement:

"Verification

State of Utah, County of ____

I, _____, of ____, hereby state, under penalty of perjury, that:

I am a resident of Utah and am at least 18 years old;

All the names that appear in this packet were signed by individuals who professed to be the individuals whose names appear in it, and each of the individuals signed the individual's name on it in my presence;

I did not knowingly make a misrepresentation of fact concerning the law proposed by the initiative;

I believe that each individual has printed and signed the individual's name and written the individual's post office address and residence correctly, that each signer has read and understands the law proposed by the initiative, and that each signer is registered to vote in Utah or intends to become registered to vote before the certification of the petition names by the county clerk.

Each individual who signed the packet wrote the correct date of signature next to the individual's name.

I have not paid or given anything of value to any individual who signed this petition to encourage that individual to sign it.

_____

(Name) (Residence Address) (Date)".

(4) If the initial fiscal impact estimate described in Subsection (2)[~~(f)~~](i), as updated in accordance with Subsection 20A-7-204.1(5), exceeds 200 words, the Office of the Legislative Fiscal Analyst shall prepare a shorter summary statement, for the purpose of inclusion on a signature sheet, that does not exceed 200 words.

(5) If the forms described in this section are substantially followed, the initiative petitions are sufficient, notwithstanding clerical and merely technical errors.

(6) An individual's status as a resident, under Subsection (3), is determined in accordance with Section 20A-2-105.

Section 9. Section 20A-7-204 is amended to read:

20A-7-204. Circulation requirements -- Lieutenant governor to provide sponsors with materials.

(1) In order to obtain the necessary number of signatures required by this part, the sponsors or an agent of the sponsors shall, after the sponsors receive the documents described in Subsection (2), circulate initiative packets that meet the form requirements of this part.

(2) The lieutenant governor shall furnish to the sponsors:

(a) a copy of the initiative petition, with any change submitted under Subsection 20A-7-204.1(5); and

(b) [~~one~~] a signature sheet.

(3) The sponsors of the petition shall:

(a) arrange and pay for the printing of all additional copies of the petition and signature sheets; and

(b) ensure that the copies of the petition and signature sheets meet the form requirements of this section.

(4) (a) The sponsors or an agent of the sponsors may prepare the initiative for circulation by creating multiple initiative packets.

(b) The sponsors or an agent of the sponsors shall create [~~those~~] the initiative packets by binding a copy of the initiative petition, a copy of the proposed law, and no more than 50 signature sheets together at the top in [~~such a way~~] a manner that the packets may be conveniently opened for signing.

(c) [~~The sponsors need not attach~~] An initiative packet is not required to have a uniform number of signature sheets [~~to each initiative packet~~].

[~~(5) (a) After the sponsors have prepared sufficient initiative packets, they shall return them to the lieutenant governor.~~]

(5) (a) The sponsors or an agent of the sponsors shall, before gathering signatures:

(i) contact the lieutenant governor's office to receive a range of numbers that the sponsors may use to number signature packets; and

(ii) number each signature packet, sequentially, within the range of numbers provided by the lieutenant governor's office, starting with the lowest number in the range.

(b) The sponsors or an agent of the sponsors may not:

(i) number a signature packet in a manner not directed by the lieutenant governor's office; or

(ii) circulate or submit a signature packet that is not numbered in the manner directed by the lieutenant governor's office.

[~~(b)~~] (c) The lieutenant governor shall[:] keep a record of the number range provided under Subsection (5)(a).

[~~(i) number each of the initiative packets and return them to the sponsors within five working days; and~~]

[~~(ii) keep a record of the numbers assigned to each packet.~~]

Section 10. Section 20A-7-205 is amended to read:

20A-7-205. Obtaining signatures -- Verification -- Removal of signature.

(1) A Utah voter may sign an initiative petition if the voter is a legal voter.

(2) (a) The sponsors shall ensure that the individual in whose presence each signature sheet was signed:

(i) is at least 18 years old and meets the residency requirements of Section 20A-2-105;

(ii) verifies each signature sheet by completing the verification printed on the last page of each initiative packet; and

(iii) is informed that each signer is required to read and understand the law proposed by the initiative.

(b) [~~A person~~] An individual may not sign the verification printed on the last page of the initiative packet if the person signed a signature sheet in the initiative packet.

(3) (a) A voter who has signed an initiative petition may have the voter's signature removed from the petition by submitting to the county clerk a statement requesting that the voter's signature be removed before 5 p.m. no later than the earlier of:

(i) for an initiative packet received by the county clerk before December 1:

(A) 30 days after the day on which the voter signs the signature removal statement; or

(B) 90 days after the day on which the [~~county clerk~~] lieutenant governor posts the voter's name under Subsection [~~20A-7-206(2)(c)~~] 20A-7-207(2)(a); or

(ii) for an initiative packet received by the county clerk on or after December 1:

(A) 30 days after the day on which the voter signs the signature removal statement; or

(B) 45 days after the day on which the [~~county clerk~~] lieutenant governor posts the voter's name under Subsection [~~20A-7-206(3)(c);~~] 20A-7-207(2)(a).

(b) (i) The statement shall include:

(A) the name of the voter;

(B) the resident address at which the voter is registered to vote;

(C) the signature of the voter; and

(D) the date of the signature described in Subsection (3)(b)(i)(C).

(ii) To increase the likelihood of the voter's signature being identified and removed, the statement may include the voter's birth date or age.

(c) A voter may not submit a statement by email or other electronic means.

(d) In order for the signature to be removed, the county clerk must receive the statement before 5 p.m. no later than the applicable deadline described in Subsection (3)(a).

[~~(d)~~] (e) A person may only remove a signature from an initiative petition in accordance with this Subsection (3).

[~~(e)~~] (f) A county clerk shall analyze a signature, for purposes of removing a signature from an initiative petition, in accordance with Section 20A-7-206.3.

Section 11. Section 20A-7-206 is amended to read:

20A-7-206. Submitting the initiative petition -- Certification of signatures by the county clerks -- Transfer to lieutenant governor.

(1) (a) [~~In order to qualify an initiative petition for placement on the regular general election ballot, the~~] The sponsors or an agent of the sponsors shall [~~deliver~~] submit a signed and verified initiative packet to the county clerk of the county in which the packet was circulated before 5 p.m. no later than the earlier of:

(i) 30 days after the day on which the first individual signs the initiative packet;

(ii) 316 days after the day on which the application for the initiative petition is filed; or

(iii) the February 15 immediately before the next regular general election immediately after the application is filed under Section 20A-7-202.

(b) A [~~sponsor~~] person may not submit an initiative packet after the deadline described in Subsection (1)(a).

(2) [~~For an initiative packet received by the county clerk before December 1, the~~] The county clerk shall, within [~~30~~] 21 days after the day on which the county clerk receives the packet:

(a) determine whether each signer is a registered voter according to the requirements of Section 20A-7-206.3;

(b) certify on the petition whether each name is that of a registered voter;

(c) except as provided in Subsection (3), post the name and voter identification number of each registered voter certified under Subsection (2)(b) [~~in a conspicuous location on the county's website for at least 90 days~~] on the lieutenant governor's website, in a conspicuous location designated by the lieutenant governor; and

(d) deliver the verified initiative packet to the lieutenant governor.

[~~(3) For an initiative packet received by the county clerk on or after December 1, the county~~

~~clerk shall, within 21 days after the day on which the county clerk receives the packet:~~]

[~~(a) determine whether each signer is a registered voter according to the requirements of Section 20A-7-206.3;~~]

[~~(b) certify on the petition whether each name is that of a registered voter;~~]

[~~(c) post the name and voter identification number of each registered voter certified under Subsection (2)(b) in a conspicuous location on the county's website for at least 45 days; and~~]

[~~(d) deliver the verified initiative packet to the lieutenant governor.~~]

[~~(4) Within seven days after timely receipt of a statement described in Subsection 20A-7-205(3), the county clerk shall:~~]

[~~(a) remove the voter's name and voter identification number from the posting described in Subsection (2)(c) or (3)(c); and~~]

[~~(b) (i) remove the voter's signature from the signature packet totals; and~~]

[~~(ii) inform the lieutenant governor of the removal.~~]

(3) (a) If the county clerk timely receives a statement requesting signature removal under Subsection 20A-7-205(3), the county clerk shall:

(i) ensure that the voter's name and voter identification number are not included in the posting described in Subsection (2)(c); and

(ii) remove the voter's signature from the signature packets and signature packet totals.

(b) The county clerk shall comply with Subsection (3)(a) before the later of:

(i) the deadline described in Subsection (2); or

(ii) two business days after the day on which the county clerk receives a statement requesting signature removal under Subsection 20A-7-205(3).

[~~(5)~~] (4) The county clerk may not certify a signature under Subsection (2) [~~or (3)~~]:

(a) on an initiative packet that is not verified in accordance with Section 20A-7-205; or

(b) that does not have a date of signature next to the signature.

[~~(6) In order to qualify an initiative petition for submission to the Legislature, the sponsors shall deliver each signed and verified initiative packet to the county clerk of the county in which the packet was circulated before 5 p.m. no later than the November 15 before the next annual general session of the Legislature immediately after the application is filed under Section 20A-7-202.~~]

[~~(7) The county clerk may not certify a signature under Subsection (8) on an initiative packet that is not verified in accordance with Section 20A-7-205.~~]

[~~(8) No later than December 15 before the annual general session of the Legislature, the county clerk shall, for an initiative described in Subsection (6):~~]

[~~(a) determine whether each signer is a registered voter according to the requirements of Section 20A-7-206.3;~~]

[~~(b) certify on the petition whether each name is that of a registered voter; and~~]

[~~(c) deliver all of the verified initiative packets to the lieutenant governor.~~]

[~~(9) The sponsor or a sponsor's representative may not retrieve an initiative packet from a county clerk after the initiative packet is submitted to the county clerk.~~]

(5) A person may not retrieve an initiative packet from a county clerk, or make any alterations or corrections to an initiative packet, after the initiative packet is submitted to the county clerk.

Section 12. Section 20A-7-206.1 is enacted to read:

20A-7-206.1. Provisions relating only to process for submitting an initiative to the Legislature for approval or rejection.

(1) This section relates only to the process, described in Subsection 20A-7-201(1), for submitting an initiative to the Legislature for approval or rejection.

(2) Notwithstanding Section 20A-7-205, in order to qualify an initiative petition for submission to the Legislature, the sponsors, or an agent of the sponsors, shall deliver each signed and verified initiative packet to the county clerk of the county in which the packet was circulated before 5 p.m. no later than November 15 before the next annual general session of the Legislature immediately after the application is filed under Section 20A-7-202.

(3) Notwithstanding Section 20A-7-205, no later than December 15 before the annual general session of the Legislature, the county clerk shall, for an initiative for submission to the Legislature:

(a) determine whether each signer is a registered voter according to the requirements of Section 20A-7-206.3;

(b) certify on the petition whether each name is that of a registered voter; and

(c) deliver the verified packets to the lieutenant governor.

(4) The county clerk may not certify a signature under Subsection (3) on an initiative packet that is not verified in accordance with Section 20A-7-205.

(5) A person may not retrieve an initiative packet from a county clerk, or make any alterations or corrections to an initiative packet, after the initiative packet is submitted to the county clerk.

Section 13. Section 20A-7-207 is amended to read:

20A-7-207. Evaluation by the lieutenant governor.

(1) When the lieutenant governor receives an initiative packet [~~is received~~] from a county clerk, the lieutenant governor shall [~~check off from the~~] record the number of the initiative packet received.

[~~(2) (a) The lieutenant governor shall, within 14 days after the day on which the lieutenant governor receives an initiative packet from a county clerk:~~]

(2) (a) The county clerk shall:

(i) post the names and voter identification numbers described in Subsection 20A-7-206(2)(c) on the lieutenant governor's website, in a conspicuous location designated by the lieutenant governor:

(A) for an initiative packet received by the county clerk before December 1, for at least 90 days; or

(B) for an initiative packet received by the county clerk on or after December 1, for at least 45 days; and

[~~(i) count the number of the names certified by the county clerks on each verified signature sheet; and~~]

(ii) update on the lieutenant governor's website the number of signatures certified as of the date of the update.

(b) The lieutenant governor:

(i) shall, except as provided in Subsection (2)(b)(ii), declare the petition to be sufficient or insufficient on [~~or before~~] April 30 before the regular general election described in Subsection 20A-7-201(2)(b)[~~.~~]; or

(ii) may declare the petition to be insufficient before the day described in Subsection (2)(b)(i) if:

(A) the total of all valid signatures on timely and lawfully submitted signature packets that have been certified by the county clerks, plus the number of signatures on timely and lawfully submitted signature packets that have not yet been evaluated for certification, is less than the number of names required under Section 20A-7-201; or

(B) a requirement of this part has not been met.

(c) If the total number of names certified under this Subsection (2) equals or exceeds the number of names required under Section 20A-7-201, and the requirements of this part are met, the lieutenant governor shall mark upon the front of the petition the word "sufficient."

(d) If the total number of names certified under this Subsection (2) does not equal or exceed the number of names required under Section 20A-7-201 or a requirement of this part is not met, the lieutenant governor shall mark upon the front of the petition the word "insufficient."

(e) The lieutenant governor shall immediately notify any one of the sponsors of the lieutenant governor's finding.

(3) After a petition is declared insufficient, [~~the sponsors~~] a person may not submit additional signatures to qualify the petition for the ballot.

(4) (a) If the lieutenant governor refuses to accept and file an initiative petition that a [~~sponsor~~] voter believes is legally sufficient, [~~any~~] the voter may, [~~not~~] no later than May 15, apply to the appropriate court for an extraordinary writ to compel the lieutenant governor to accept and file the initiative petition.

(b) If the court [~~certifies~~] determines that the initiative petition is legally sufficient, the lieutenant governor shall file the [~~initiative~~] petition, with a verified copy of the judgment attached to the [~~initiative~~] petition, as of the date on which the [~~initiative~~] petition was originally offered for filing in the lieutenant governor's office.

(c) If the court determines that a petition filed is not legally sufficient, the court may enjoin the lieutenant governor and all other officers from certifying or printing the ballot title and numbers of that measure on the official ballot.

(5) A petition determined to be sufficient in accordance with this section is qualified for the ballot.

Section 14. Section 20A-7-209 is amended to read:

20A-7-209. Ballot title -- Duties of lieutenant governor and Office of Legislative Research and General Counsel.

(1) On or before June 5 before the regular general election, the lieutenant governor shall deliver a copy of all of the proposed laws that have qualified for the ballot to the Office of Legislative Research and General Counsel.

(2) (a) The Office of Legislative Research and General Counsel shall:

(i) entitle each state initiative that has qualified for the ballot "Proposition Number __" and give it a number as assigned under Section 20A-6-107;

(ii) prepare an impartial ballot title for each initiative summarizing the contents of the measure; and

(iii) return each petition and ballot title to the lieutenant governor [~~by~~] on or before June 26.

(b) The ballot title may be distinct from the title of the proposed law attached to the initiative petition, and [~~shall be not more than~~] may not exceed 100 words.

(c) If the initiative proposes a tax increase, the Office of Legislative Research and General Counsel shall include the following statement, in bold, in the ballot title:

"This initiative seeks to increase the current (insert name of tax) rate by (insert the tax percentage difference) percent, resulting in a(n) (insert the tax percentage increase) percent increase in the current tax rate.".

(d) For each state initiative, the official ballot shall show, in the following order:

(i) the number of the initiative [~~as determined by the Office of Legislative Research and General~~

~~Counsel~~], determined in accordance with Section 20A-6-107;

(ii) the initial fiscal impact estimate prepared under Section 20A-7-202.5, as updated under Section 20A-7-204.1; and

(iii) the ballot title [~~as determined by the Office of Legislative Research and General Counsel~~] described in this section.

(3) On or before June 27, the lieutenant governor shall mail a copy of the ballot title to any sponsor of the petition.

(4) (a) (i) At least three of the sponsors of the petition may, on or before July 6, challenge the wording of the ballot title prepared by the Office of Legislative Research and General Counsel to the appropriate court.

(ii) After receipt of the challenge, the court shall direct the lieutenant governor to send notice of the challenge to:

(A) any person or group that has filed an argument for or against the measure that is the subject of the challenge; or

(B) any political issues committee established under Section 20A-11-801 that has filed written or electronic notice with the lieutenant governor that identifies the name, mailing or email address, and telephone number of the [~~person~~] individual designated to receive notice about any issues relating to the initiative.

(b) (i) There is a presumption that the ballot title prepared by the Office of Legislative Research and General Counsel is an impartial summary of the contents of the initiative.

(ii) The court may not revise the wording of the ballot title unless the plaintiffs rebut the presumption by clearly and convincingly establishing that the ballot title is patently false or biased.

(c) The court shall:

(i) examine the ballot title;

(ii) hear arguments; and

(iii) certify to the lieutenant governor a ballot title for the measure that meets the requirements of this section.

(d) The lieutenant governor shall certify the title verified by the court to the county clerks to be printed on the official ballot.

Section 15. Section 20A-7-301 is amended to read:

20A-7-301. Referendum -- Signature requirements -- Submission to voters.

(1) (a) A person seeking to have a law passed by the Legislature submitted to a vote of the people shall obtain:

(i) legal signatures equal to 8% of the number of active voters in the state on January 1 immediately following the last regular general election; and

(ii) from at least 15 [~~counties~~] Senate districts, legal signatures equal to 8% of the number of active voters in that [~~county~~] Senate district on January 1 immediately following the last regular general election.

(b) When the lieutenant governor declares a referendum petition sufficient under this part, the governor shall issue an executive order that:

(i) directs that the referendum be submitted to the voters at the next regular general election; or

(ii) calls a special election according to the requirements of Section 20A-1-203 and directs that the referendum be submitted to the voters at that special election.

(2) When a referendum petition has been declared sufficient, the law that is the subject of the petition does not take effect unless and until it is approved by a vote of the people at a regular general election or a statewide special election.

(3) The lieutenant governor shall provide the following information to any interested person:

(a) the number of active voters in the state on January 1 immediately following the last regular general election; and

(b) for each county, the number of active voters in that [~~county~~] Senate district on January 1 immediately following the last regular general election.

Section 16. Section 20A-7-302 is amended to read:

20A-7-302. Referendum process -- Application procedures.

(1) [~~Persons~~] Individuals wishing to circulate a referendum petition shall file an application with the lieutenant governor before 5 p.m. within five calendar days after the day on which the legislative session at which the law passed ends.

(2) The application shall contain:

(a) the name and residence address of at least five sponsors of the referendum petition;

(b) a [~~certification~~] statement indicating that each of the sponsors[~~:~~] is registered to vote in Utah;

[~~(i) is a voter; and~~]

[~~(ii) has voted in a regular general election in Utah within the last three years;~~]

(c) a statement indicating whether persons gathering signatures for the petition may be paid for gathering signatures;

[~~(c)~~] (d) the signature of each of the sponsors, attested to by a notary public; and

[~~(d)~~] (e) a copy of the law.

Section 17. Section 20A-7-303 is amended to read:

20A-7-303. Form of referendum petition and signature sheets.

(1) (a) Each proposed referendum petition shall be printed in substantially the following form:

"REFERENDUM PETITION To the Honorable ____, Lieutenant Governor:

We, the undersigned citizens of Utah, respectfully order that Senate (or House) Bill No. ____, entitled (title of act, and, if the petition is against less than the whole act, set forth here the part or parts on which the referendum is sought), passed by [~~the ____ Session of~~] the Legislature of the state of Utah during the ____ Session, be referred to the people of Utah for their approval or rejection at a regular general election or a statewide special election;

Each signer says:

I have personally signed this petition;

The date next to my signature correctly reflects the date that I actually signed the petition;

I have personally reviewed the entire statement included with this packet;

I am registered to vote in Utah or intend to become registered to vote in Utah before the certification of the petition names by the county clerk; and

My residence and post office address are written correctly after my name.".

(b) The sponsors of a referendum or an agent of the sponsors shall attach a copy of the law that is the subject of the referendum to each referendum petition.

(2) Each signature sheet shall:

(a) be printed on sheets of paper 8-1/2 inches long and 11 inches wide;

(b) be ruled with a horizontal line three-fourths inch from the top, with the space above that line blank for the purpose of binding;

(c) contain the title of the referendum printed below the horizontal line, in at least 14-point, bold type;

(d) contain the word "Warning" printed or typed at the top of each signature sheet under the title of the referendum;

(e) contain, to the right of the word "Warning," the following statement printed or typed in not less than eight-point[~~, single-leaded~~] type:

"It is a class A misdemeanor for an individual to sign a referendum petition with any other name than the individual's own name, or knowingly to sign the individual's name more than once for the same measure, or to sign a referendum petition when the individual knows that the individual is not a registered voter and knows that the individual does not intend to become registered to vote before the certification of the petition names by the county clerk.";

(f) contain horizontally ruled lines, three-eighths inch apart under the[~~ "Warning"~~] warning statement [~~required by this section~~] described in Subsection (2)(e); and

(g) be vertically divided into columns as follows:

(i) the edge of the first column shall appear .5 inch from the extreme left of the sheet, be .25 inch wide, and be headed, together with the second column, "For Office Use Only";

(ii) the second column shall be .25 inch wide;

(iii) the third column shall be 2.5 inches wide, headed "Registered Voter's Printed Name (must be legible to be counted)";

(iv) the fourth column shall be 2.5 inches wide, headed "Signature of Registered Voter";

(v) the fifth column shall be .75 inch wide, headed "Date Signed";

(vi) the sixth column shall be three inches wide, headed "Street Address, City, Zip Code"; and

(vii) the seventh column shall be .75 inch wide, headed "Birth Date or Age (Optional)";

(h) be horizontally divided into rows as follows:

(i) the top of the first row, for the purpose of entering the information described in Subsection (2)(g), shall be .5 inch high;

(ii) the second row shall be .15 inch high and contain the following statement printed or typed in not less than 12-point type:

"By signing this petition, you are stating that you have read and understand the law this petition seeks to overturn."; and

(iii) the first and second rows shall be repeated, in order, leaving sufficient room at the bottom of the sheet for the information described in Subsection (2)(i); and

(i) at the bottom of the sheet, contain the following statement: "Birth date or age information is not required, but it may be used to verify your identity with voter registration records. If you choose not to provide it, your signature may not be verified as a valid signature if you change your address before petition signatures are verified or if the information you provide does not match your voter registration records.".

(3) The final page of each referendum packet shall contain the following printed or typed statement:

"Verification

State of Utah, County of ____

I, _____, of ____, hereby state, under penalty of perjury, that:

I am a Utah resident and am at least 18 years old;

All the names that appear in this packet were signed by individuals who professed to be the individuals whose names appear in it, and each of the individuals signed the individual's name on it in my presence;

I did not knowingly make a misrepresentation of fact concerning the law this petition seeks to overturn;

I believe that each individual has printed and signed the individual's name and written the

individual's post office address and residence correctly, that each signer has read and understands the law that the referendum seeks to overturn, and that each signer is registered to vote in Utah or intends to become registered to vote before the certification of the petition names by the county clerk.

Each individual who signed the packet wrote the correct date of signature next to the individual's name.

I have not paid or given anything of value to any individual who signed this petition to encourage that individual to sign it.

_____

(Name) (Residence Address) (Date)".

(4) If the forms described in this section are substantially followed, the referendum petitions are sufficient, notwithstanding clerical and merely technical errors.

(5) An individual's status as a resident, under Subsection (3), is determined in accordance with Section 20A-2-105.

Section 18. Section 20A-7-304 is amended to read:

20A-7-304. Circulation requirements -- Lieutenant governor to provide sponsors with materials.

(1) In order to obtain the necessary number of signatures required by this part, the sponsors [~~shall~~] or an agent of the sponsors shall, after the sponsors receive the documents described in Subsection (2), circulate referendum packets that meet the form requirements of this part.

(2) The lieutenant governor shall furnish to the sponsors:

(a) a copy of the referendum petition; and

(b) a signature sheet.

(3) The sponsors of the petition shall:

(a) arrange and pay for the printing of all additional copies of the petition and signature sheets; and

(b) ensure that the copies of the petition and signature sheets meet the form requirements of this section.

(4) (a) The sponsors or an agent of the sponsors may prepare the referendum for circulation by creating multiple referendum packets.

(b) The sponsors or an agent of the sponsors shall create [~~those~~] referendum packets by binding a copy of the referendum petition, a copy of the law that is the subject of the referendum, and no more than 50 signature sheets together at the top in [~~such a way~~] a manner that the packets may be conveniently opened for signing.

(c) [~~The sponsors need not attach~~] A referendum packet is not required to have a uniform number of signature sheets [~~to each referendum packet~~].

[~~(5) (a) After the sponsors have prepared sufficient referendum packets, they shall return them to the lieutenant governor.~~]

(5) (a) The sponsors or an agent of the sponsors shall, before gathering signatures:

(i) contact the lieutenant governor's office to receive a range of numbers that the sponsors may use to number signature packets; and

(ii) number each signature packet, sequentially, within the range of numbers provided by the lieutenant governor's office, starting with the lowest number in the range.

(b) The sponsors or an agent of the sponsors may not:

(i) number a signature packet in a manner not directed by the lieutenant governor's office; or

(ii) circulate or submit a signature packet that is not numbered in the manner directed by the lieutenant governor's office.

[~~(b)~~] (c) The lieutenant governor shall[~~:~~] keep a record of the number range provided under Subsection (5)(a).

[~~(i) number each of the referendum packets and return them to the sponsors within five working days; and~~]

[~~(ii) keep a record of the numbers assigned to each packet.~~]

Section 19. Section 20A-7-305 is amended to read:

20A-7-305. Obtaining signatures -- Verification -- Removal of signature.

(1) A Utah voter may sign a referendum petition if the voter is a legal voter.

(2) (a) The sponsors shall ensure that the individual in whose presence each signature sheet was signed:

(i) is at least 18 years old and meets the residency requirements of Section 20A-2-105;

(ii) verifies each signature sheet by completing the verification printed on the last page of each referendum packet; and

(iii) is informed that each signer is required to read and understand the law that the referendum seeks to overturn.

(b) [~~A person~~] An individual may not sign the verification printed on the last page of the referendum packet if the person signed a signature sheet in the referendum packet.

(3) (a) A voter who has signed a referendum petition may have the voter's signature removed from the petition by submitting to the county clerk a statement requesting that the voter's signature be removed before 5 p.m. no later than the earlier of:

(i) [~~14~~] 30 days after the day on which the voter signs the statement requesting removal; or

(ii) 45 days after the day on which the [~~county clerk~~] lieutenant governor posts the voter's name

under Subsection [~~20A-7-306(3)(c)~~] 20A-7-307(2)(a).

(b) (i) The statement shall include:

(A) the name of the voter;

(B) the resident address at which the voter is registered to vote;

(C) the signature of the voter; and

(D) the date of the signature described in Subsection (3)(b)(i)(C).

(ii) To increase the likelihood of the voter's signature being identified and removed, the statement may include the voter's birth date or age.

(c) A voter may not submit a statement by email or other electronic means.

(d) In order for the signature to be removed, the county clerk must receive the statement before 5 p.m. no later than 45 days after the day on which the [~~county clerk~~] lieutenant governor posts the voter's name under Subsection [~~20A-7-306(3)(c)~~] 20A-7-307(2)(a).

(e) A person may only remove a signature from a referendum petition in accordance with this Subsection (3).

(f) A county clerk shall analyze a signature, for purposes of removing a signature from a referendum petition, in accordance with Section 20A-7-206.3.

Section 20. Section 20A-7-306 is amended to read:

20A-7-306. Submitting the referendum petition -- Certification of signatures by the county clerks -- Transfer to lieutenant governor.

(1) (a) The sponsors or an agent of the sponsor shall [~~deliver~~] submit a signed and verified referendum packet to the county clerk of the county in which the packet was circulated before 5 p.m. no later than the earlier of:

(i) [~~14~~] 30 days after the day on which the first individual signs the referendum packet; or

(ii) 40 days after the day on which the legislative session at which the law passed ends.

(b) A [~~sponsor~~] person may not submit a referendum packet after the deadline described in Subsection (1)(a).

[~~(2) (a) No later than 14 days after the day on which the county clerk receives a verified referendum packet, the county clerk shall:~~]

[~~(i) check the name of each individual who completes the verification on the last page of each referendum packet to determine whether the individual is a resident of Utah and is at least 18 years old; and~~]

[~~(ii) submit the name of each individual who is not a Utah resident or who is not at least 18 years old to the attorney general and county attorney.~~]

[~~(b) The county clerk may not certify a signature under Subsection (3):~~]

[~~(i) on a referendum packet that is not verified in accordance with Section 20A-7-305; or~~]

[~~(ii) that does not have a date of signature next to the signature.~~]

[~~(3)~~] (2) No later than [~~14~~] 21 days after the day on which the county clerk receives a verified referendum packet, the county clerk shall:

(a) determine whether each signer is a registered voter according to the requirements of Section 20A-7-306.3;

(b) certify on the [~~referendum~~] petition whether each name is that of a registered voter;

(c) except as provided in Subsection (3), post the name and voter identification number of each registered voter certified under Subsection [~~(3)~~] (2)(b) [~~in a conspicuous location on the county's website for at least 45 days~~] on the lieutenant governor's website, in a conspicuous location designated by the lieutenant governor; and

(d) deliver the verified [~~referendum~~] packet to the lieutenant governor.

[~~(4) The county clerk shall, after timely receipt of a statement requesting signature removal under Subsection 20A-7-305(3), remove the voter's name and voter identification number from the posting described in Subsection (3)(c), and notify the lieutenant governor's office of the removal, the earlier of:~~]

[~~(a) within two business days after the day on which the the county clerk timely receives the statement; or~~]

[~~(b) 99 days after the day on which the legislative session at which the law passed ends.~~]

(3) (a) If the county clerk timely receives a statement requesting signature removal under Subsection 20A-7-305(3), the county clerk shall:

(i) ensure that the voter's name and voter identification number are not included in the posting described in Subsection (2)(c); and

(ii) remove the voter's signature from the signature packets and signature packet totals.

(b) The county clerk shall comply with Subsection (3)(a) before the later of:

(i) the deadline described in Subsection (2); or

(ii) two business days after the day on which the county clerk receives a statement requesting signature removal under Subsection 20A-7-305(3).

(4) The county clerk may not certify a signature under Subsection (2):

(a) on an initiative packet that is not verified in accordance with Section 20A-7-305; or

(b) that does not have a date of signature next to the signature.

[~~(5) The sponsor or a sponsor's representative~~]

(5) A person may not retrieve a referendum packet from a county clerk, or make any alterations or corrections to a referendum packet, after the referendum packet is submitted to the county clerk.

Section 21. Section 20A-7-306.3 is amended to read:

20A-7-306.3. Verification of petition signatures.

(1) As used in this section:

(a) [~~For the purposes of this section, "substantially~~] "Substantially similar name" means:

(i) the given name and surname shown on the petition, or both, contain only minor spelling differences when compared to the given name and surname shown on the official register;

(ii) the surname shown on the petition exactly matches the surname shown on the official register, and the given names differ only because one of the given names shown is a commonly used abbreviation or variation of the other;

(iii) the surname shown on the petition exactly matches the surname shown on the official register, and the given names differ only because one of the given names shown is accompanied by a first or middle initial or a middle name which is not shown on the other record; or

(iv) the surname shown on the petition exactly matches the surname shown on the official register, and the given names differ only because one of the given names shown is an alphabetically corresponding initial that has been provided in the place of a given name shown on the other record.

(b) [~~For the purposes of this section, "substantially~~] "Substantially similar name" does not [~~mean~~] include a name having an initial or a middle name shown on the petition that does not match a different initial or middle name shown on the official register.

(2) The county clerk shall use the following procedures in determining whether [~~or not~~] a signer is a registered voter:

(a) When a signer's name and address shown on the petition exactly match a name and address shown on the official register and the signer's signature appears substantially similar to the signature on the statewide voter registration database, the county clerk shall declare the signature valid.

(b) When there is no exact match of an address and a name, the county clerk shall declare the signature valid if:

(i) the address on the petition matches the address of a person on the official register with a substantially similar name; and

(ii) the signer's signature appears substantially similar to the signature on the statewide voter registration database of the person described in Subsection (2)(b)(i).

(c) When there is no match of an address and a substantially similar name, the county clerk shall declare the signature valid if:

(i) the birth date or age on the petition matches the birth date or age of a person on the official register with a substantially similar name; and

(ii) the signer's signature appears substantially similar to the signature on the statewide voter registration database of the person described in Subsection (2)(c)(i).

(d) If a signature is not declared valid under Subsection (2)(a), (b), or (c), the county clerk shall declare the signature to be invalid.

(3) The county clerk shall use the following procedures in determining whether to remove a signature from a petition after receiving a timely, valid statement requesting removal of the signature:

(a) if a signer's name and address shown on the statement and the petition exactly match a name and address shown on the official register and the signer's signature on both the statement and the petition appears substantially similar to the signature on the statewide voter registration database, the county clerk shall remove the signature from the petition;

(b) if there is no exact match of an address and a name, the county clerk shall remove the signature from the petition if:

(i) the address on the statement and the petition matches the address of an individual on the official register with a substantially similar name; and

(ii) the signer's signature on both the statement and the petition appears substantially similar to the signature on the statewide voter registration database of the individual described in Subsection (3)(b)(i);

(c) if there is no match of an address and a substantially similar name, the county clerk shall remove the signature from the petition if:

(i) the birth date or age on the statement and petition match the birth date or age of an individual on the official register with a substantially similar name; and

(ii) the signer's signature on both the statement and the petition appears substantially similar to the signature on the statewide voter registration database of the individual described in Subsection (3)(c)(i); and

(d) if a signature does not qualify for removal under Subsection (3)(a), (b), or (c), the county clerk may not remove the signature from the petition.

Section 22. Section 20A-7-307 is amended to read:

20A-7-307. Evaluation by the lieutenant governor.

(1) When the lieutenant governor receives a referendum packet [~~is received~~] from a county clerk, the lieutenant governor shall [~~check off from the~~]

record the number of the referendum packet received.

[~~(2) (a) The lieutenant governor shall, within seven days after the day on which the lieutenant governor receives a referendum packet from a county clerk:~~]

[~~(i) count the number of the names certified by the county clerks on each verified signature sheet; and~~]

(2) (a) The county clerk shall:

(i) post the names and voter identification numbers described in Subsection 20A-7-306(3)(c) on the lieutenant governor's website, in a conspicuous location designated by the lieutenant governor, for at least 45 days; and

(ii) update on the lieutenant governor's website the number of signatures certified as of the date of the update.

[~~(b) The lieutenant governor shall subtract the number of signatures removed from the number of signatures certified and update the number on the lieutenant governor's website accordingly no later than the earlier of:~~]

[~~(i) one business day after the day on which the county clerk provides the notification described in Subsection 20A-7-306(4); or~~]

[~~(ii) 54 days after the day on which the legislative session at which the law passed ends.~~]

[~~(c)~~] (b) The lieutenant governor:

(i) shall, except as provided in Subsection (2)[~~(c)~~](b)(ii), declare the petition to be sufficient or insufficient [~~99~~] 106 days after the end of the legislative session at which the law passed; or

[~~(ii) may declare the petition to be insufficient before the day described in Subsection (2)(c)(i) if, after the county clerks have finished certifying all valid signatures on the timely and lawfully submitted signature packets, the lieutenant governor makes the determination described in Subsection (2)(c).~~]

(ii) may declare the petition to be insufficient before the day described in Subsection (2)(b)(i) if:

(A) the total of all valid signatures on timely and lawfully submitted signature packets that have been certified by the county clerks, plus the number of signatures on timely and lawfully submitted signature packets that have not yet been evaluated for certification, is less than the number of names required under Section 20A-7-301; or

(B) a requirement of this part has not been met.

[~~(d)~~] (c) If the total number of names certified under this Subsection (2) equals or exceeds the number of names required under Section 20A-7-301, and the requirements of this part are met, the lieutenant governor shall mark upon the front of the petition the word "sufficient."

[~~(e)~~] (d) If the total number of names certified under this Subsection (2) does not equal or exceed the number of names required under Section 20A-7-301 or a requirement of this part is not met, the lieutenant governor shall mark upon the front of the petition the word "insufficient."

[~~(f)~~] (e) The lieutenant governor shall immediately notify any one of the sponsors of the lieutenant governor's finding.

[~~(g)~~] (f) After a petition is declared insufficient, [~~the sponsors~~] a person may not submit additional signatures to qualify the petition for the ballot.

(3) (a) If the lieutenant governor refuses to accept and file a referendum [~~petition, any voter may, not~~] that a voter believes is legally sufficient, the voter may, no later than 10 days after the day on which the lieutenant governor declares the petition insufficient, apply to the appropriate court for an extraordinary writ to compel the lieutenant governor to accept and file the referendum petition.

(b) If the court determines that the referendum petition is legally sufficient, the lieutenant governor shall file the [~~referendum~~] petition, with a verified copy of the judgment attached to the referendum petition, as of the date on which the [~~referendum~~] petition was originally offered for filing in the lieutenant governor's office.

(c) If the court determines that a petition filed is not legally sufficient, the court may enjoin the lieutenant governor and all other officers from certifying or printing the ballot title and numbers of that measure on the official ballot.

(4) A petition determined to be sufficient in accordance with this section is qualified for the ballot.

Section 23. Section 20A-7-308 is amended to read:

20A-7-308. Ballot title -- Duties of lieutenant governor and Office of Legislative Research and General Counsel.

(1) Whenever a referendum petition is declared sufficient for submission to a vote of the people, the lieutenant governor shall deliver a copy of the petition and the proposed law to the Office of Legislative Research and General Counsel.

(2) (a) The Office of Legislative Research and General Counsel shall:

(i) entitle each state referendum that [~~has qualified~~] qualifies for the ballot "Proposition Number __" and [~~give it a number as assigned under~~] assign a number to the referendum in accordance with Section 20A-6-107;

(ii) prepare an impartial ballot title for the referendum summarizing the contents of the measure; and

(iii) [~~return the petition and~~] submit the ballot title to the lieutenant governor within 15 days after [~~its receipt~~] the day on which the Office of Legislative Research and General Counsel receives the petition under Subsection (1).

(b) The ballot title may be distinct from the title of the law that is the subject of the petition, and [~~shall be not more than~~] may not exceed 100 words.

[~~(c) The ballot title and the number of the measure as determined by the Office of Legislative Research and General Counsel shall be printed on the official ballot.~~]

(c) For each state referendum, the official ballot shall show, in the following order:

(i) the number of the referendum, determined in accordance with Section 20A-6-107; and

(ii) the ballot title described in this section.

(3) Immediately after the Office of Legislative Research and General Counsel [~~files a copy of~~] submits the ballot title [~~with~~] to the lieutenant governor, the lieutenant governor shall mail or email a copy of the ballot title to any of the sponsors of the petition.

(4) (a) (i) At least three of the sponsors of the petition may, within 15 days [~~of the date~~] after the day on which the lieutenant governor mails the ballot title, challenge the wording of the ballot title prepared by the Office of Legislative Research and General Counsel to the [~~Supreme Court~~] appropriate court.

(ii) After receipt of the appeal, the [~~Supreme Court~~] court shall direct the lieutenant governor to send notice of the appeal to:

(A) any person or group that has filed an argument for or against the measure that is the subject of the challenge; [~~or~~] and

(B) any political issues committee established under Section 20A-11-801 that has filed written or electronic notice with the lieutenant governor that identifies the name, mailing or email address, and telephone number of the person designated to receive notice about any issues relating to the referendum.

(b) (i) There is a presumption that the ballot title prepared by the Office of Legislative Research and General Counsel is an impartial summary of the contents of the referendum.

(ii) The [~~Supreme Court~~] court may not revise the wording of the ballot title unless the plaintiffs rebut the presumption by clearly and convincingly establishing that the ballot title is patently false or biased.

(c) The [~~Supreme Court~~] court shall:

(i) examine the ballot title;

(ii) hear arguments; and

(iii) [~~certify to the lieutenant governor a ballot title for the measure that meets~~] enter an order consistent with the requirements of this section.

(d) The lieutenant governor shall, in accordance with the court's order, certify the ballot title [~~verified by the Supreme Court~~] to the county clerks to be printed on the official ballot.

Section 24. Section 20A-7-309 is amended to read:

20A-7-309. Form of ballot -- Manner of voting.

(1) [~~The county clerks~~] A county clerk shall ensure that the number and ballot title [~~verified to them~~] certified by the lieutenant governor are presented upon the official ballot with, immediately adjacent to [~~them~~] the number and ballot title, the words "For" and "Against," each word presented with an adjacent square in which [~~the elector~~] a voter may indicate the [~~elector's~~] voter's vote.

(2) (a) (i) A voter desiring to vote in favor of the law that is the subject of the referendum shall mark the square adjacent to the word "For."

(ii) The law that is the subject of the referendum takes effect if a majority of voters mark "For."

(b) (i) A voter desiring to vote against the law that is the subject of the referendum petition shall mark the square adjacent to the word "Against."

(ii) The law that is the subject of the referendum does not take effect if a majority of voters mark "Against."

Section 25. Section 20A-7-311 is amended to read:

20A-7-311. Temporary stay -- Effective date -- Effect of repeal by Legislature.

(1) If, at the time during the counting period described in [~~Subsection~~] Section 20A-7-307[~~(2)~~], the lieutenant governor determines that, at that point in time, an adequate number of signatures are certified to comply with the signature requirements, the lieutenant governor shall:

(a) issue an order temporarily staying the law from going into effect; and

(b) continue the process of certifying signatures and removing signatures as required by this part.

(2) The temporary stay described in Subsection (1) remains in effect, regardless of whether a future count falls below the signature threshold, until the day on which:

(a) if the lieutenant governor declares the petition insufficient, five days after the day on which the lieutenant governor declares the petition insufficient; or

(b) if the lieutenant governor declares the petition sufficient, the day on which governor issues the proclamation described in Section 20A-7-310.

(3) A proposed law submitted to the people by referendum petition that is approved by the voters at an election takes effect the later of:

(a) five days after the date of the official proclamation of the vote by the governor; or

(b) the effective date specified in the proposed law.

(4) If, after the lieutenant governor issues a temporary stay order under Subsection (1)(a), the

lieutenant governor declares the petition insufficient, the proposed law takes effect the later of:

(a) five days after the day on which the lieutenant governor declares the petition insufficient; or

(b) the effective date specified in the proposed law.

(5) (a) The governor may not veto a law adopted by the people.

(b) The Legislature may amend any laws approved by the people at any legislative session after the people approve the law.

(6) If the Legislature repeals a law challenged by referendum petition under this part, the referendum petition is void and no further action on the referendum petition is required.

Section 26. Section 20A-7-401.5 is amended to read:

20A-7-401.5. Proposition information pamphlet.

(1) (a) (i) Within 15 days after the day on which an eligible voter files an application to circulate an initiative petition under Section 20A-7-502 or an application to circulate a referendum petition under Section 20A-7-602:

(A) the sponsors of the proposed initiative or referendum may submit a written argument in favor of the proposed initiative or referendum to the election officer of the county or municipality to which the petition relates; and

(B) the county or municipality to which the application relates may submit a written argument in favor of, or against, the proposed initiative or referendum to the county's or municipality's election officer.

(ii) If a county or municipality submits more than one written argument under Subsection (1)(a)(i)(B), the election officer shall select one of the written arguments, giving preference to a written argument submitted by a member of a local legislative body if a majority of the local legislative body supports the written argument.

(b) Within one business day after the day on which an election officer receives an argument under Subsection (1)(a)(i)(A), the election officer shall provide a copy of the argument to the county or municipality described in Subsection (1)(a)(i)(B) or (1)(a)(ii), as applicable.

(c) Within one business day after the date on which an election officer receives an argument under Subsection (1)(a)(i)(B), the election officer shall provide a copy of the argument to the first three sponsors of the proposed initiative or referendum described in Subsection (1)(a)(i)(A).

(d) The sponsors of the proposed initiative or referendum may submit a revised version of the written argument described in Subsection (1)(a)(i)(A) to the election officer of the county or municipality to which the petition relates within 20 days after the day on which the eligible voter files an application to circulate an initiative petition under Section 20A-7-502 or an application to circulate a referendum petition under Section 20A-7-602.

(e) The author of a written argument described in Subsection (1)(a)(i)(B) submitted by a county or municipality may submit a revised version of the written argument to the county's or municipality's election officer within 20 days after the day on which the eligible voter files an application to circulate an initiative petition under Section 20A-7-502 or an application to circulate a referendum petition under Section 20A-7-602.

(2) (a) A written argument described in Subsection (1) may not exceed 500 words.

(b) Except as provided in Subsection (2)(c), a person may not modify a written argument described in Subsection (1)(d) or (e) after the written argument is submitted to the election officer.

(c) The election officer and the person that submits the written argument described in Subsection (1)(d) or (e) may jointly agree to modify the written argument to:

(i) correct factual, grammatical, or spelling errors; or

(ii) reduce the number of words to come into compliance with Subsection (2)(a).

(d) An election officer shall refuse to include a written argument in the proposition information pamphlet described in this section if the person who submits the argument:

(i) fails to negotiate, in good faith, to modify the argument in accordance with Subsection (2)(c); or

(ii) does not timely submit the written argument to the election officer.

(e) An election officer shall make a good faith effort to negotiate a modification described in Subsection (2)(c) in an expedited manner.

(3) An election officer who receives a written argument described in Subsection (1) shall prepare a proposition information pamphlet for publication that includes:

(a) a copy of the application for the proposed initiative or referendum;

(b) except as provided in Subsection (2)(d), immediately after the copy described in Subsection (3)(a), the argument prepared by the sponsors of the proposed initiative or referendum, if any;

(c) except as provided in Subsection (2)(d), immediately after the argument described in Subsection (3)(b), the argument prepared by the county or municipality, if any; and

(d) a copy of the initial fiscal impact statement and legal impact statement described in Section 20A-7-502.5 or 20A-7-602.5.

(4) (a) A proposition information pamphlet is a draft for purposes of Title 63G, Chapter 2, Government Records Access and Management Act, until the earlier of when the election officer:

(i) complies with Subsection (4)(b); or

(ii) publishes the proposition information pamphlet under Subsection (5) or (6).

(b) Within 21 days after the day on which the eligible voter files an application to circulate an initiative petition under Section 20A-7-502, or an application to circulate a referendum petition under Section 20A-7-602, the election officer shall provide a copy of the proposition information pamphlet to the sponsors of the initiative or referendum and each individual who submitted an argument included in the proposition information pamphlet.

(5) An election officer for a municipality shall publish the proposition information pamphlet as follows:

(a) within the later of 10 days after the day on which the municipality or a court determines that the proposed initiative or referendum is legally referable to voters, or, if the election officer modifies an argument under Subsection (2)(c), three days after the day on which the election officer and the person that submitted the argument agree on the modification:

(i) by sending the proposition information pamphlet electronically to each individual in the municipality for whom the municipality has an email address, unless the individual has indicated that the municipality is prohibited from using the individual's email address for that purpose; and

(ii) by posting the proposition information pamphlet on the Utah Public Notice Website, created in Section 63F-1-701, and the home page of the municipality's website, if the municipality has a website, until:

(A) if the sponsors of the proposed initiative or referendum or an agent of the sponsors do not timely deliver any verified initiative packets under Section 20A-7-506 or any verified referendum packets under Section 20A-7-606, the day after the date of the deadline for delivery of the verified initiative packets or verified referendum packets;

(B) the local clerk determines, under Section 20A-7-507 or 20A-7-607, that the number of signatures necessary to qualify the proposed initiative or referendum for placement on the ballot is insufficient and the determination is not timely appealed or is upheld after appeal; or

(C) the day after the date of the election at which the proposed initiative or referendum appears on the ballot; and

(b) if the municipality regularly mails a newsletter, utility bill, or other material to the municipality's residents, including an Internet address, where a resident may view the proposition information pamphlet, in the next mailing, for which the municipality has not begun preparation, that falls on or after the later of:

(i) 10 days after the day on which the municipality or a court determines that the proposed initiative or referendum is legally referable to voters; or

(ii) if the election officer modifies an argument under Subsection (2)(c), three days after the day on which the election officer and the person that submitted the argument agree on the modification.

(6) An election officer for a county shall, within the later of 10 days after the day on which the county or a court determines that the proposed initiative or referendum is legally referable to voters, or, if the election officer modifies an argument under Subsection (2)(c), three days after the day on which the election officer and the person that submitted the argument agree on the modification, publish the proposition information pamphlet as follows:

(a) by sending the proposition information pamphlet electronically to each individual in the county for whom the county has an email address obtained via voter registration; and

(b) by posting the proposition information pamphlet on the Utah Public Notice Website, created in Section 63F-1-701, and the home page of the county's website, until:

(i) if the sponsors of the proposed initiative or referendum or an agent of the sponsors do not timely deliver any verified initiative packets under Section 20A-7-506 or any verified referendum packets under Section 20A-7-606, the day after the date of the deadline for delivery of the verified initiative packets or verified referendum packets;

(ii) the local clerk determines, under Section 20A-7-507 or 20A-7-607, that the number of signatures necessary to qualify the proposed initiative or referendum for placement on the ballot is insufficient and the determination is not timely appealed or is upheld after appeal; or

(iii) the day after the date of the election at which the proposed initiative or referendum appears on the ballot.

Section 27. Section 20A-7-502 is amended to read:

20A-7-502. Local initiative process -- Application procedures.

(1) [~~An eligible voter~~] Individuals wishing to circulate an initiative petition shall file an application with the local clerk.

(2) The application shall contain:

(a) the name and residence address of at least five sponsors of the initiative petition;

[~~(b) a statement indicating that each of the sponsors is a registered voter;~~]

[~~(c)~~] (b) a statement indicating that each of the sponsors [~~has voted in an election in Utah in the last three years;~~] is registered to vote in Utah;

[~~(d)~~] (c) the signature of each of the sponsors, acknowledged by a notary public;

[~~(e)~~] (d) a copy of the proposed law that includes:

(i) the title of the proposed law[~~, which~~] that clearly expresses the subject of the law; [~~and~~]

(ii) a description of all proposed sources of funding for the costs associated with the proposed law, including the proposed percentage of total funding from each source; and

[~~(ii)~~] (iii) the text of the proposed law; [~~and~~]

[~~(f)~~] (e) if the initiative petition proposes a tax increase, the following statement, "This initiative petition seeks to increase the current (insert name of tax) rate by (insert the tax percentage difference) percent, resulting in a(n) (insert the tax percentage increase) percent increase in the current tax rate."; and

(f) a statement indicating whether persons gathering signatures for the petition may be paid for gathering signatures.

(3) A proposed law submitted under this section may not contain more than one subject to the same extent a bill may not pass containing more than one subject as provided in Utah Constitution, Article VI, Section 22.

Section 28. Section 20A-7-503 is amended to read:

20A-7-503. Form of initiative petitions and signature sheets.

(1) (a) Each proposed initiative petition shall be printed in substantially the following form:

"INITIATIVE PETITION To the Honorable ____, County Clerk/City Recorder/Town Clerk:

We, the undersigned citizens of Utah, respectfully demand that the following proposed law be submitted to: the legislative body for its approval or rejection at its next meeting; and the legal voters of the county/city/town, if the legislative body rejects the proposed law or takes no action on it.

Each signer says:

I have personally signed this petition;

The date next to my signature correctly reflects the date that I actually signed the petition;

I have personally reviewed the entire statement included with this packet;

I am registered to vote in Utah or intend to become registered to vote in Utah before the certification of the petition names by the county clerk; and

My residence and post office address are written correctly after my name.".

(b) If the initiative petition proposes a tax increase, the following statement shall appear, in at least 14-point, bold type, immediately following the information described in Subsection (1)(a):

"This initiative petition seeks to increase the current (insert name of tax) rate by (insert the tax percentage difference) percent, resulting in a(n) (insert the tax percentage increase) percent increase in the current tax rate.".

(c) The sponsors of an initiative or an agent of the sponsors shall attach a copy of the proposed law to each initiative petition.

(2) Each signature sheet shall:

(a) be printed on sheets of paper 8-1/2 inches long and 11 inches wide;

(b) be ruled with a horizontal line three-fourths inch from the top, with the space above that line blank for the purpose of binding;

(c) contain the title of the initiative printed below the horizontal line, in at least 14-point, bold type;

(d) contain the word "Warning" printed or typed at the top of each signature sheet under the title of the initiative;

(e) contain, to the right of the word "Warning," the following statement printed or typed in not less than eight-point type:

"It is a class A misdemeanor for an individual to sign an initiative petition with a name other than the individual's own name, or to knowingly sign the individual's name more than once for the same measure, or to sign an initiative petition when the individual knows that the individual is not a registered voter and knows that the individual does not intend to become registered to vote before the certification of the petition names by the county clerk.";

(f) contain horizontally ruled lines, three-eighths inch apart under the warning statement described in Subsection (2)(e); and

[~~(d)~~] (g) be vertically divided into columns as follows:

[~~(i) the first column shall appear at the extreme left of the sheet, be five-eighths inch wide, be headed with "For Office Use Only", and be subdivided with a light vertical line down the middle with the left subdivision entitled "Registered" and the right subdivision left untitled;~~]

[~~(ii) the next column shall be 2-1/2 inches wide, headed "Registered Voter's Printed Name (must be legible to be counted)";~~]

[~~(iii) the next column shall be 2-1/2 inches wide, headed "Signature of Registered Voter";~~]

[~~(iv) the next column shall be one inch wide, headed "Birth Date or Age (Optional)"; and~~]

[~~(v) the final column shall be 4-3/8 inches wide, headed "Street Address, City, Zip Code";~~]

[~~(e) spanning the sheet horizontally beneath each row on which a registered voter may submit the information described in Subsection (2)(d), contain the following statement printed or typed in not less than eight-point type:~~]

(i) the edge of the first column shall appear .5 inch from the extreme left of the sheet, be .25 inch wide,

and be headed, together with the second column, "For Office Use Only";

(ii) the second column shall be .25 inch wide;

(iii) the third column shall be 2.5 inches wide, headed "Registered Voter's Printed Name (must be legible to be counted)";

(iv) the fourth column shall be 2.5 inches wide, headed "Signature of Registered Voter";

(v) the fifth column shall be .75 inch wide, headed "Date Signed";

(vi) the sixth column shall be three inches wide, headed "Street Address, City, Zip Code"; and

(vii) the seventh column shall be .75 inch wide, headed "Birth Date or Age (Optional)";

(h) be horizontally divided into rows as follows:

(i) the top of the first row, for the purpose of entering the information described in Subsection (2)(g), shall be .5 inch high;

(ii) the second row shall be .15 inch high and contain the following statement printed or typed in not less than 12-point type:

"By signing this petition, you are stating that you have read and understand the law proposed by this petition."; and

(iii) the first and second rows shall be repeated, in order, leaving sufficient room at the bottom of the sheet for the information described in Subsection (2)(i); and

[~~(f)~~] (i) at the bottom of the sheet, contain in the following order:

[~~(i) the title of the initiative, in at least 14-point, bold type;~~]

[~~(ii)~~] (i) the initial fiscal impact estimate's summary statement issued by the budget officer in accordance with Subsection 20A-7-502.5(2)(b) and the cost estimate for printing and distributing information related to the initiative petition in accordance with Subsection 20A-7-502.5(3), in not less than 12-point, bold type;

[~~(iii) the word "Warning," followed by the following statement in not less than eight-point type:~~]

[~~"It is a class A misdemeanor for an individual to sign an initiative petition with a name other than the individual's own name, or to knowingly sign the individual's name more than once for the same measure, or to sign an initiative petition when the individual knows that the individual is not a registered voter and knows that the individual does not intend to become registered to vote before the certification of the petition names by the county clerk.";~~]

[~~(iv)~~] (ii) the following statement: "Birth date or age information is not required, but it may be used to verify your identity with voter registration records. If you choose not to provide it, your signature may not be verified as a valid signature if you change your address before petition signatures are verified or if the information you provide does not match your voter registration records."; and

[~~(v)~~] (iii) if the initiative petition proposes a tax increase, spanning the bottom of the sheet, horizontally, in not less than 14-point, bold type, the following statement:

"This initiative petition seeks to increase the current (insert name of tax) rate by (insert the tax percentage difference) percent, resulting in a(n) (insert the tax percentage increase) percent increase in the current tax rate.".

(3) The final page of each initiative packet shall contain the following printed or typed statement:

"Verification

State of Utah, County of ____

I, _____, of ____, hereby state, under penalty of perjury, that:

I am a resident of Utah and am at least 18 years old;

All the names that appear in this [~~initiative~~] packet were signed by [~~the~~] individuals who professed to be the individuals whose names appear in it, and each of the individuals signed the individual's name on it in my presence;

I did not knowingly make a misrepresentation of fact concerning the law proposed by the initiative;

I believe that each individual has printed and signed the individual's name and written the individual's post office address and residence correctly, that each signer has read and understands the law proposed by the initiative, and that each signer is registered to vote in Utah or intends to become registered to vote before the certification of the petition names by the county clerk.

[_____"]

[~~(4) The forms prescribed in this section are not mandatory, and, if~~]

Each individual who signed the packet wrote the correct date of signature next to the individual's name.

I have not paid or given anything of value to any individual who signed this petition to encourage that individual to sign it.

_____

(Name) (Residence Address) (Date)".

(4) If the forms described in this section are substantially followed, the initiative petitions are sufficient, notwithstanding clerical and merely technical errors.

(5) An individual's status as a resident, under Subsection (3), is determined in accordance with Section 20A-2-105.

Section 29. Section 20A-7-504 is amended to read:

20A-7-504. Circulation requirements -- Local clerk to provide sponsors with materials.

(1) In order to obtain the necessary number of signatures required by this part, the sponsors or an agent of the sponsors shall, after the sponsors receive the documents described in Subsections (2)[~~(a) and (b)~~] and [~~Subsection~~] 20A-7-401.5(4)(b), circulate initiative packets that meet the form requirements of this part.

(2) Within five days after the day on which a county, city, town, metro township, or court determines, in accordance with Section 20A-7-502.7, that a law proposed in an initiative petition is legally referable to voters, the local clerk shall furnish to the sponsors:

(a) [~~one~~] a copy of the initiative petition; and

(b) [~~one~~] a signature sheet.

(3) The sponsors of the petition shall:

(a) arrange and pay for the printing of all additional copies of the petition and signature sheets; and

(b) ensure that the copies of the petition and signature sheets meet the form requirements of this section.

(4) (a) The sponsors or an agent of the sponsors may prepare the initiative for circulation by creating multiple initiative packets.

(b) The sponsors or an agent of the sponsors shall create [~~those~~] initiative packets by binding a copy of the initiative petition, a copy of the proposed law, and no more than 50 signature sheets together at the top in [~~such a way~~] a manner that the packets may be conveniently opened for signing.

(c) [~~The sponsors need not attach~~] An initiative packet is not required to have a uniform number of signature sheets [~~to each initiative packet~~].

(d) The sponsors or an agent of the sponsors shall include, with each packet, a copy of the proposition information pamphlet provided to the sponsors under Subsection 20A-7-401.5(4)(b).

(5) (a) The sponsors or an agent of the sponsors shall, before gathering signatures:

(i) contact the county clerk to receive a range of numbers that the sponsors may use to number signature packets; and

(ii) number each signature packet, sequentially, within the range of numbers provided by the county clerk, starting with the lowest number in the range.

(b) The sponsors or an agent of the sponsors may not:

(i) number a signature packet in a manner not directed by the county clerk; or

(ii) circulate or submit a signature packet that is not numbered in the manner directed by the county clerk.

(c) The county clerk shall keep a record of the number range provided under Subsection (5)(a).

Section 30. Section 20A-7-505 is amended to read:

20A-7-505. Obtaining signatures -- Verification -- Removal of signature.

(1) [~~Any~~] A Utah voter may sign a local initiative petition if the voter is a legal voter and resides in the local jurisdiction.

(2) (a) The sponsors shall ensure that the individual in whose presence each signature sheet was signed:

(i) is at least 18 years old and meets the residency requirements of Section 20A-2-105; [~~and~~]

(ii) verifies each signature sheet by completing the verification printed on the last page of each initiative packet[~~.~~]; and

(iii) is informed that each signer is required to read and understand the law proposed by the initiative.

(b) An individual may not sign the verification printed on the last page of the initiative packet if the individual signed a signature sheet in the initiative packet.

[~~(3) (a) (i) Any voter who has signed an initiative petition may have the voter's signature removed from the petition by submitting a notarized statement to that effect to the county clerk.~~]

[~~(ii) In order for the signature to be removed, the statement must be received by the county clerk no later than seven days after the day on which the sponsors submit the last signature packet to the county clerk.~~]

[~~(b) Upon timely receipt of the statement, the county clerk shall remove the signature of the individual submitting the statement from the initiative petition.~~]

(3) (a) A voter who has signed an initiative petition may have the voter's signature removed from the petition by submitting a statement requesting that the voter's signature be removed before 5 p.m. no later than the earlier of:

(i) 30 days after the day on which the voter signs the signature removal statement;

(ii) 90 days after the day on which the local clerk posts the voter's name under Subsection 20A-7-507(2)(a);

(iii) 316 days after the day on which the application is filed; or

(iv) (A) for a county initiative, April 15 immediately before the next regular general election immediately after the application is filed under Section 20A-7-502; or

(B) for a municipal initiative, April 15 immediately before the next municipal general

election immediately after the application is filed under Section 20A-7-502.

(b) (i) The statement shall include:

(A) the name of the voter;

(B) the resident address at which the voter is registered to vote;

(C) the signature of the voter; and

(D) the date of the signature described in Subsection (3)(b)(i)(C).

(ii) To increase the likelihood of the voter's signature being identified and removed, the statement may include the voter's birth date or age.

(c) A voter may not submit a statement by email or other electronic means.

(d) In order for the signature to be removed, the county clerk must receive the statement before 5 p.m. no later than the applicable deadline described in Subsection (3)(a).

(e) A person may only remove a signature from an initiative petition in accordance with this Subsection (3).

(f) A county clerk shall analyze a signature, for purposes of removing a signature from an initiative petition, in accordance with Section 20A-7-506.3.

Section 31. Section 20A-7-506 is amended to read:

20A-7-506. Submitting the initiative petition -- Certification of signatures by the county clerks -- Transfer to local clerk.

(1) (a) The sponsors or an agent of the sponsors shall [~~deliver each~~] submit a signed and verified initiative packet to the county clerk of the county in which the packet was circulated before 5 p.m. no later than the earlier of:

[~~(i) for county initiatives:~~]

(i) 30 days after the day on which the first individual signs the initiative packet;

[~~(A)~~] (ii) 316 days after the day on which the application is filed; or

[~~(B) the~~] (iii) (A) for a county initiative, April 15 immediately before the next regular general election immediately after the application is filed under Section 20A-7-502; or

[~~(ii) for municipal initiatives:~~]

[~~(A) 316 days after the day on which the application is filed; or~~]

(B) [~~the~~] for a municipal initiative, April 15 immediately before the next municipal general election immediately after the application is filed under Section 20A-7-502.

(b) A [~~sponsor~~] person may not submit an initiative packet after the deadline established in [~~this~~] Subsection (1)(a).

(2) The county clerk shall, within 21 days after the day on which the county clerk receives the packet:

(a) determine whether each signer is a registered voter according to the requirements of Section 20A-7-506.3;

(b) certify on the petition whether each name is that of a registered voter;

(c) except as provided in Subsection (3), post the name and voter identification number of each registered voter certified under Subsection (2)(b) on the lieutenant governor's website, in a conspicuous location designated by the lieutenant governor; and

(d) deliver the verified initiative packet to the local clerk.

(3) (a) If the county clerk timely receives a statement requesting signature removal under Subsection 20A-7-505(3), the county clerk shall:

(i) ensure that the voter's name and voter identification number are not included in the posting described in Subsection (2)(c); and

(ii) remove the voter's signature from the signature packets and signature packet totals.

(b) The county clerk shall comply with Subsection (3)(a) before the later of:

(i) the deadline described in Subsection (2); or

(ii) two business days after the day on which the county clerk receives a statement requesting signature removal under Subsection 20A-7-505(3).

(c) The local clerk shall post a link in a conspicuous location on the local government's website to the posting described in Subsection (2)(c) during the period of time described in Subsection 20A-7-507(2)(a)(i).

[~~(2)~~] (4) The county clerk may not certify a signature under Subsection [~~(3)~~] (2) on an initiative packet that is not verified in accordance with Section 20A-7-505.

[~~(3) No later than May 15, the county clerk shall:~~]

[~~(a) determine whether or not each signer is a voter according to the requirements of Section 20A-7-506.3;~~]

[~~(b) certify on the petition whether or not each name is that of a voter; and~~]

[~~(c) deliver all of the verified packets to the local clerk.~~]

(5) A person may not retrieve an initiative packet from a county clerk, or make any alterations or corrections to an initiative packet, after the initiative packet is submitted to the county clerk.

Section 32. Section 20A-7-506.3 is amended to read:

20A-7-506.3. Verification of petition signatures.

(1) As used in this section:

(a) [~~For the purposes of this section, "substantially~~] "Substantially similar name" means:

(i) the given name and surname shown on the petition, or both, contain only minor spelling differences when compared to the given name and surname shown on the official register;

(ii) the surname shown on the petition exactly matches the surname shown on the official register, and the given names differ only because one of the given names shown is a commonly used abbreviation or variation of the other;

(iii) the surname shown on the petition exactly matches the surname shown on the official register, and the given names differ only because one of the given names shown is accompanied by a first or middle initial or a middle name which is not shown on the other record; or

(iv) the surname shown on the petition exactly matches the surname shown on the official register, and the given names differ only because one of the given names shown is an alphabetically corresponding initial that has been provided in the place of a given name shown on the other record.

(b) [~~For the purposes of this section, "substantially~~] "Substantially similar name" does not mean a name having an initial or a middle name shown on the petition that does not match a different initial or middle name shown on the official register.

(2) The county clerk shall use the following procedures in determining whether [~~or not~~] a signer is a registered voter:

(a) When a signer's name and address shown on the petition exactly match a name and address shown on the official register and the signer's signature appears substantially similar to the signature on the statewide voter registration database, the county clerk shall declare the signature valid.

(b) When there is no exact match of an address and a name, the county clerk shall declare the signature valid if:

(i) the address on the petition matches the address of an individual on the official register with a substantially similar name; and

(ii) the signer's signature appears substantially similar to the signature on the statewide voter registration database of the individual described in Subsection (2)(b)(i).

(c) When there is no match of an address and a substantially similar name, the county clerk shall declare the signature valid if:

(i) the birth date or age on the petition matches the birth date or age of an individual on the official register with a substantially similar name; and

(ii) the signer's signature appears substantially similar to the signature on the statewide voter registration database of the individual described in Subsection (2)(c)(i).

(d) If a signature is not declared valid under Subsection (2)(a), (2)(b), or (2)(c), the county clerk shall declare the signature to be invalid.

(3) The county clerk shall use the following procedures in determining whether to remove a signature from a petition after receiving a timely, valid statement requesting removal of the signature:

(a) if a signer's name and address shown on the statement and the petition exactly match a name and address shown on the official register and the signer's signature on both the statement and the petition appears substantially similar to the signature on the statewide voter registration database, the county clerk shall remove the signature from the petition;

(b) if there is no exact match of an address and a name, the county clerk shall remove the signature from the petition if:

(i) the address on the statement and the petition matches the address of an individual on the official register with a substantially similar name; and

(ii) the signer's signature on both the statement and the petition appears substantially similar to the signature on the statewide voter registration database of the individual described in Subsection (3)(b)(i);

(c) if there is no match of an address and a substantially similar name, the county clerk shall remove the signature from the petition if:

(i) the birth date or age on the statement and petition match the birth date or age of an individual on the official register with a substantially similar name; and

(ii) the signer's signature on both the statement and the petition appears substantially similar to the signature on the statewide voter registration database of the individual described in Subsection (3)(c)(i); and

(d) if a signature does not qualify for removal under Subsection (3)(a), (b), or (c), the county clerk may not remove the signature from the petition.

Section 33. Section 20A-7-507 is amended to read:

20A-7-507. Evaluation by the local clerk.

(1) When [~~each~~] a local clerk receives an initiative packet [~~is received~~] from a county clerk, the local clerk shall [~~check off from the local clerk's~~] record the number of [~~each~~] the initiative packet [~~filed~~] received.

[~~(2) (a) After all of the initiative packets have been received by the local clerk, the local clerk shall count the number of the names certified by the county clerk that appear on each verified signature sheet.~~]

(2) (a) The county clerk shall:

(i) post the names and voter identification numbers described in Subsection 20A-7-506(2)(c) on the lieutenant governor's website, in a

conspicuous location designated by the lieutenant governor, for at least 90 days; and

(ii) update on the local government's website the number of signatures certified as of the date of the update.

(b) The local clerk:

(i) shall, except as provided in Subsection (2)(b)(ii), declare the petition to be sufficient or insufficient no later than 21 days after the day of the applicable deadline described in Subsection 20A-7-506(1)(a); or

(ii) may declare the petition to be insufficient before the day described in Subsection (2)(b)(i) if:

(A) the total of all valid signatures on timely and lawfully submitted signature packets that have been certified by the county clerks, plus the number of signatures on timely and lawfully submitted signature packets that have not yet been evaluated for certification, is less than the number of names required under Section 20A-7-501; or

(B) a requirement of this part has not been met.

[~~(b)~~] (c) If the total number of certified names from each verified signature sheet equals or exceeds the number of names required by Section 20A-7-501 and the requirements of this part are met, the local clerk shall mark upon the front of the petition the word "sufficient."

[~~(c)~~] (d) If the total number of certified names from each verified signature sheet does not equal or exceed the number of names required by Section 20A-7-501 or a requirement of this part is not met, the local clerk shall mark upon the front of the petition the word "insufficient."

[~~(d)~~] (e) The local clerk shall immediately notify any one of the sponsors of the local clerk's finding.

(f) After a petition is declared insufficient, a person may not submit additional signatures to qualify the petition for the ballot.

(3) If the local clerk finds the total number of certified signatures from each verified signature sheet to be insufficient, any sponsor may file a written demand with the local clerk for a recount of the signatures appearing on the initiative petition in the presence of any sponsor.

[~~(4) Once a petition is declared insufficient, the sponsors may not submit additional signatures to qualify the petition for the ballot.~~]

[~~(5)~~] (4) A petition determined to be sufficient in accordance with this section is qualified for the ballot.

Section 34. Section 20A-7-508 is amended to read:

20A-7-508. Ballot title -- Duties of local clerk and local attorney.

(1) Upon receipt of an initiative petition, the local clerk shall deliver a copy of the petition and the proposed law to the local attorney.

(2) The local attorney shall:

(a) entitle each county or municipal initiative that has qualified for the ballot "Proposition Number __" and give it a number as assigned under Section 20A-6-107;

(b) prepare a proposed ballot title for the initiative;

(c) file the proposed ballot title and the numbered initiative titles with the local clerk within 20 days after the day on which an eligible voter submits the initiative petition to the local clerk; and

(d) promptly provide notice of the filing of the proposed ballot title to:

(i) the sponsors of the petition; and

(ii) the local legislative body for the jurisdiction where the initiative petition was circulated.

(3) (a) The ballot title may be distinct from the title of the proposed law attached to the initiative petition, and shall express, in not exceeding 100 words, the purpose of the measure.

(b) In preparing a ballot title, the local attorney shall, to the best of the local attorney's ability, give a true and impartial statement of the purpose of the measure.

(c) The ballot title may not intentionally be an argument, or likely to create prejudice, for or against the measure.

(d) If the initiative proposes a tax increase, the local attorney shall include the following statement, in bold, in the ballot title:

"This initiative seeks to increase the current (insert name of tax) rate by (insert the tax percentage difference) percent, resulting in a(n) (insert the tax percentage increase) percent increase in the current tax rate.".

(4) (a) Within five calendar days after the date the local attorney files a proposed ballot title under Subsection (2)(c), the local legislative body for the jurisdiction where the initiative petition was circulated and the sponsors of the petition may file written comments in response to the proposed ballot title with the local clerk.

(b) Within five calendar days after the last date to submit written comments under Subsection (4)(a), the local attorney shall:

(i) review any written comments filed in accordance with Subsection (4)(a);

(ii) prepare a final ballot title that meets the requirements of Subsection (3); and

(iii) return the petition and file the ballot title with the local clerk.

(c) Subject to Subsection (6), the ballot title, as determined by the local attorney, shall be printed on the official ballot.

(5) Immediately after the local attorney files a copy of the ballot title with the local clerk, the local clerk shall serve a copy of the ballot title by mail

upon the sponsors of the petition and the local legislative body for the jurisdiction where the initiative petition was circulated.

(6) (a) If the ballot title furnished by the local attorney is unsatisfactory or does not comply with the requirements of this section, the decision of the local attorney may be appealed to the [~~district court, or, if the Supreme Court has original jurisdiction, to the Supreme Court, brought~~] appropriate court by:

(i) at least three sponsors of the initiative petition; or

(ii) a majority of the local legislative body for the jurisdiction where the initiative petition was circulated.

(b) The court:

(i) shall examine the measures and consider arguments; and

(ii) may certify to the local clerk a ballot title for the measure that fulfills the intent of this section.

(c) The local clerk shall print the title certified by the court on the official ballot.

Section 35. Section 20A-7-510 is amended to read:

20A-7-510. Return and canvass -- Conflicting measures -- Law effective on proclamation.

(1) The votes on the law proposed by the initiative petition shall be counted, canvassed, and delivered as provided in Title 20A, Chapter 4, Part 3, Canvassing Returns.

(2) After the local board of canvassers completes [~~its~~] the canvass, the local clerk shall certify to the local legislative body the vote for and against the law proposed by the initiative petition.

(3) (a) The local legislative body shall immediately issue a proclamation that:

(i) gives the total number of votes cast in the local jurisdiction for and against each law proposed by an initiative petition; and

(ii) declares those laws proposed by an initiative petition that were approved by majority vote to be in full force and effect as the law of the local jurisdiction.

(b) When the local legislative body determines that two proposed laws, or that parts of two proposed laws approved by the people at the same election are entirely in conflict, [~~they~~] the local legislative body shall proclaim that measure to be law that [~~has~~] received the greatest number of affirmative votes, regardless of the difference in the majorities which those measures have received.

(c) (i) Within 10 days after the day on which the local legislative [~~body's~~] body issues the proclamation, any qualified voter who signed the initiative petition proposing the law that is declared by the local legislative body to be superseded by another measure approved at the same election may bring an action in [~~district court, or, if the Supreme Court has original jurisdiction, the Supreme Court~~] the appropriate court to review the decision.

(ii) The court shall:

(A) consider the matter and decide whether the proposed laws are entirely in conflict; and

(B) issue an order, consistent with the court's decision, to the local legislative body.

(4) Within 10 days after the day on which the court [~~certifies the decision~~] enters an order under Subsection (3)(c)(ii), the local legislative body shall:

(a) proclaim as law all measures approved by the people that the court determines are not in conflict; and

(b) for the measures approved by the people as law that the court determines to be in conflict, proclaim as law the measure that received the greatest number of affirmative votes, regardless of the difference in majorities.

Section 36. Section 20A-7-601 is amended to read:

20A-7-601. Referenda -- General signature requirements -- Signature requirements for land use laws and subjurisdictional laws -- Time requirements.

(1) As used in this section:

(a) "Number of active voters" means the number of active voters in the county, city, or town on the immediately preceding January 1.

(b) "Subjurisdiction" means an area comprised of all precincts and subprecincts in the jurisdiction of a county, city, or town that are subject to a subjurisdictional law.

(c) (i) "Subjurisdictional law" means a local law or local obligation law passed by a local legislative body that imposes a tax or other payment obligation on property in an area that does not include all precincts and subprecincts under the jurisdiction of the county, city, town, or metro township.

(ii) "Subjurisdictional law" does not include a land use law.

(d) "Voter participation area" means an area described in Subsection 20A-7-401.3(1)(a) or (2)(b).

(2) Except as provided in Subsection (3) or (4), an eligible voter seeking to have a local law passed by the local legislative body submitted to a vote of the people shall obtain legal signatures equal to:

(a) for a county of the first class:

(i) 7.75% of the number of active voters in the county; and

(ii) beginning on January 1, 2020, 7.75% of the number of active voters in at least 75% of the county's voter participation areas;

(b) for a metro township with a population of 100,000 or more, or a city of the first class:

(i) 7.5% of the number of active voters in the metro township or city; and

(ii) beginning on January 1, 2020, 7.5% of the number of active voters in at least 75% of the metro township's or city's voter participation areas;

(c) for a county of the second class:

(i) 8% of the number of active voters in the county; and

(ii) beginning on January 1, 2020, 8% of the number of active voters in at least 75% of the county's voter participation areas;

(d) for a metro township with a population of 65,000 or more but less than 100,000, or a city of the second class:

(i) 8.25% of the number of active voters in the metro township or city; and

(ii) beginning on January 1, 2020, 8.25% of the number of active voters in at least 75% of the metro township's or city's voter participation areas;

(e) for a county of the third class:

(i) 9.5% of the number of active voters in the county; and

(ii) beginning on January 1, 2020, 9.5% of the number of active voters in at least 75% of the county's voter participation areas;

(f) for a metro township with a population of 30,000 or more but less than 65,000, or a city of the third class:

(i) 10% of the number of active voters in the metro township or city; and

(ii) beginning on January 1, 2020, 10% of the number of active voters in at least 75% of the metro township's or city's voter participation areas;

(g) for a county of the fourth class:

(i) 11.5% of the number of active voters in the county; and

(ii) beginning on January 1, 2020, 11.5% of the number of active voters in at least 75% of the county's voter participation areas;

(h) for a metro township with a population of 10,000 or more but less than 30,000, or a city of the fourth class:

(i) 11.5% of the number of active voters in the metro township or city; and

(ii) beginning on January 1, 2020, 11.5% of the number of active voters in at least 75% of the metro township's or city's voter participation areas;

(i) for a metro township with a population of 1,000 or more but less than 10,000, a city of the fifth class, or a county of the fifth class, 25% of the number of active voters in the metro township, city, or county; or

(j) for a metro township with a population of less than 1,000, a town, or a county of the sixth class, 35% of the number of active voters in the metro township, town, or county.

(3) Except as provided in Subsection (4), an eligible voter seeking to have a land use law or local obligation law passed by the local legislative body submitted to a vote of the people shall obtain legal signatures equal to:

(a) for a county of the first, second, third, or fourth class:

(i) 16% of the number of active voters in the county; and

(ii) beginning on January 1, 2020, 16% of the number of active voters in at least 75% of the county's voter participation areas;

(b) for a county of the fifth or sixth class:

(i) 16% of the number of active voters in the county; and

(ii) beginning on January 1, 2020, 16% of the number of active voters in at least 75% of the county's voter participation areas;

(c) for a metro township with a population of 100,000 or more, or a city of the first class:

(i) 15% of the number of active voters in the metro township or city; and

(ii) beginning on January 1, 2020, 15% of the number of active voters in at least 75% of the metro township's or city's voter participation areas;

(d) for a metro township with a population of 65,000 or more but less than 100,000, or a city of the second class:

(i) 16% of the number of active voters in the metro township or city; and

(ii) beginning on January 1, 2020, 16% of the number of active voters in at least 75% of the metro township's or city's voter participation areas;

(e) for a metro township with a population of 30,000 or more but less than 65,000, or a city of the third class:

(i) 27.5% of the number of active voters in the metro township or city; and

(ii) beginning on January 1, 2020, 27.5% of the number of active voters in at least 75% of the metro township's or city's voter participation areas;

(f) for a metro township with a population of 10,000 or more but less than 30,000, or a city of the fourth class:

(i) 29% of the number of active voters in the metro township or city; and

(ii) beginning on January 1, 2020, 29% of the number of active voters in at least 75% of the metro township's or city's voter participation areas;

(g) for a metro township with a population of 1,000 or more but less than 10,000, or a city of the fifth class, 35% of the number of active voters in the metro township or city; or

(h) for a metro township with a population of less than 1,000 or a town, 40% of the number of active voters in the metro township or town.

(4) A person seeking to have a subjurisdictional law passed by the local legislative body submitted to a vote of the people shall obtain legal signatures of the residents in the subjurisdiction equal to:

(a) 10% of the number of active voters in the subjurisdiction if the number of active voters exceeds 25,000;

(b) 12-1/2% of the number of active voters in the subjurisdiction if the number of active voters does not exceed 25,000 but is more than 10,000;

(c) 15% of the number of active voters in the subjurisdiction if the number of active voters does not exceed 10,000 but is more than 2,500;

(d) 20% of the number of active voters in the subjurisdiction if the number of active voters does not exceed 2,500 but is more than 500;

(e) 25% of the number of active voters in the subjurisdiction if the number of active voters does not exceed 500 but is more than 250; and

(f) 30% of the number of active voters in the subjurisdiction if the number of active voters does not exceed 250.

(5) [~~(a)~~] Sponsors of any referendum petition challenging, under Subsection (2), (3), or (4), any local law passed by a local legislative body shall file the application before 5 p.m. within seven days after the day on which the local law was passed.

[~~(b) Except as provided in Subsection (5)(c), when a referendum petition has been declared sufficient, the local law that is the subject of the petition does not take effect unless and until the local law is approved by a vote of the people.~~]

[~~(c) When a referendum petition challenging a subjurisdictional law has been declared sufficient, the subjurisdictional law that is the subject of the petition does not take effect unless and until the subjurisdictional law is approved by a vote of the people who reside in the subjurisdiction.~~]

[~~(6) If the referendum passes, the local law that was challenged by the referendum is repealed as of the date of the election.~~]

[~~(7)~~] (6) Nothing in this section authorizes a local legislative body to impose a tax or other payment obligation on a subjurisdiction in order to benefit an area outside of the subjurisdiction.

Section 37. Section 20A-7-602 is amended to read:

20A-7-602. Local referendum process -- Application procedures.

(1) [~~An eligible voter~~] Individuals wishing to circulate a referendum petition shall file an application with the local clerk.

(2) The application shall contain:

(a) the name and residence address of at least five sponsors of the referendum petition;

[~~(b) a certification indicating that each of the sponsors is a resident of Utah;~~]

[~~(c)~~] (b) a statement indicating that each of the sponsors [~~has voted in an election in Utah in the last three years;~~] is registered to vote in Utah;

(c) a statement indicating whether persons gathering signatures for the petition may be paid for gathering signatures;

(d) the signature of each of the sponsors, acknowledged by a notary public; and

(e) (i) if the referendum challenges an ordinance or resolution, one copy of the law; or

(ii) if the referendum challenges a local law that is not an ordinance or resolution, a written description of the local law, including the result of the vote on the local law.

Section 38. Section 20A-7-603 is amended to read:

20A-7-603. Form of referendum petition and signature sheets.

(1) (a) Each proposed referendum petition shall be printed in substantially the following form:

"REFERENDUM PETITION To the Honorable ____, County Clerk/City Recorder/Town Clerk:

We, the undersigned citizens of Utah, respectfully order that (description of local law or portion of local law being challenged), passed by the ____ be referred to the voters for their approval or rejection at the regular/municipal general election to be held on _____(month\day\year);

Each signer says:

I have personally signed this petition;

The date next to my signature correctly reflects the date that I actually signed the petition;

I have personally reviewed the entire statement included with this packet;

I am registered to vote in Utah or intend to become registered to vote in Utah before the certification of the petition names by the county clerk; and

My residence and post office address are written correctly after my name.".

(b) The sponsors of a referendum or an agent of the sponsors shall attach a copy of the law that is the subject of the referendum to each referendum petition.

(2) Each signature sheet shall:

(a) be printed on sheets of paper 8-1/2 inches long and 11 inches wide;

(b) be ruled with a horizontal line three-fourths inch from the top, with the space above that line blank for the purpose of binding;

(c) contain the title of the referendum printed below the horizontal line, in at least 14-point bold type;

(d) contain the word "Warning" printed or typed at the top of each signature sheet under the title of the referendum;

(e) contain, to the right of the word "Warning," the following statement printed or typed in not less than eight-point[~~, single-leaded~~] type:

"It is a class A misdemeanor for an individual to sign a referendum petition with any other name than the individual's own name, or to knowingly sign the individual's name more than once for the same measure, or to sign a referendum petition when the individual knows that the individual is not a registered voter and knows that the individual does not intend to become registered to vote before the certification of the petition names by the county clerk.";

(f) contain horizontally ruled lines three-eighths inch apart under the[~~"Warning"~~] warning statement [~~required by this section~~] described in Subsection (2)(e);

(g) be vertically divided into columns as follows:

(i) the edge of the first column shall appear .5 inch from the extreme left of the sheet, be .25 inch wide, and be headed, together with the second column, "For Office Use Only";

(ii) the second column shall be .25 inch wide;

(iii) the third column shall be 2.5 inches wide, headed "Registered Voter's Printed Name (must be legible to be counted)";

(iv) the fourth column shall be 2.5 inches wide, headed "Signature of Registered Voter";

(v) the fifth column shall be .75 inch wide, headed "Date Signed";

(vi) the sixth column shall be three inches wide, headed "Street Address, City, Zip Code"; and

(vii) the seventh column shall be .75 inch wide, headed "Birth Date or Age (Optional)";

(h) be horizontally divided into rows as follows:

(i) the top of the first row, for the purpose of entering the information described in Subsection (2)(g), shall be .5 inch high;

(ii) the second row shall be .15 inch high and contain the following statement printed or typed in not less than [~~eight-point, single-leaded~~] 12-point type: "By signing this petition, you are stating that you have read and understand the law this petition seeks to overturn."; and

(iii) the first and second rows shall be repeated, in order, leaving sufficient room at the bottom of the sheet for the information described in Subsection (2)(i); and

(i) at the bottom of the sheet, contain the following statement: "Birth date or age information is not required, but it may be used to verify your identity with voter registration records. If you choose not to provide it, your signature may not be verified as a valid signature if you change your address before petition signatures are verified or if the information you provide does not match your voter registration records.".

(3) The final page of each referendum packet shall contain the following printed or typed statement:

"Verification

State of Utah, County of ____

I, _____, of ____, hereby state, under penalty of perjury, that:

I am a resident of Utah and am at least 18 years old;

All the names that appear in this [~~referendum~~] packet were signed by individuals who professed to be the individuals whose names appear in it, and each of the individuals signed the individual's name on it in my presence;

I did not knowingly make a misrepresentation of fact concerning the law this petition seeks to overturn;

I believe that each individual has printed and signed the individual's name and written the individual's post office address and residence correctly, that each signer has read and understands the law that the referendum seeks to overturn, and that each signer is registered to vote in Utah or intends to become registered to vote before the certification of the petition names by the county clerk.

[_____"]

[~~(4) The forms prescribed in this section are not mandatory, and, if~~]

Each individual who signed the packet wrote the correct date of signature next to the individual's name.

I have not paid or given anything of value to any individual who signed this petition to encourage that individual to sign it.

_____

(Name) (Residence Address) (Date)".

(4) If the forms described in this section are substantially followed, the referendum petitions are sufficient, notwithstanding clerical and merely technical errors.

(5) An individual's status as a resident, under Subsection (3), is determined in accordance with Section 20A-2-105.

Section 39. Section 20A-7-604 is amended to read:

20A-7-604. Circulation requirements -- Local clerk to provide sponsors with materials.

(1) In order to obtain the necessary number of signatures required by this part, the sponsors or an agent of the sponsors shall, after the sponsors receive the documents described in [~~Subsection~~] Subsections (2) and [~~Subsection~~]

20A-7-401.5(4)(b), circulate referendum packets that meet the form requirements of this part.

(2) Within five days after the day on which a county, city, town, metro township, or court determines, in accordance with Section 20A-7-602.7, that a proposed referendum is legally referable to voters, the local clerk shall furnish to the sponsors:

(a) a copy of the referendum petition; and

(b) a signature sheet.

(3) The sponsors of the petition shall:

(a) arrange and pay for the printing of all additional copies of the petition and signature sheets; and

(b) ensure that the copies of the petition and signature sheets meet the form requirements of this section.

(4) (a) The sponsors or an agent of the sponsors may prepare the referendum for circulation by creating multiple referendum packets.

(b) The sponsors or an agent of the sponsors shall create [~~those~~] referendum packets by binding a copy of the referendum petition, a copy of the law that is the subject of the referendum, and no more than 50 signature sheets together at the top in [~~such a way~~] a manner that the packets may be conveniently opened for signing.

(c) [~~The sponsors need not attach~~] A referendum packet is not required to have a uniform number of signature sheets [~~to each referendum packet~~].

(d) The sponsors or an agent of the sponsors shall include, with each packet, a copy of the proposition information pamphlet provided to the sponsors under Subsection 20A-7-401.5(4)(b).

(5) (a) The sponsors or an agent of the sponsors shall, before gathering signatures:

(i) contact the county clerk to receive a range of numbers that the sponsors may use to number signature packets; and

(ii) number each signature packet, sequentially, within the range of numbers provided by the county clerk, starting with the lowest number in the range.

(b) The sponsors or an agent of the sponsors may not:

(i) number a signature packet in a manner not directed by the county clerk; or

(ii) circulate or submit a signature packet that is not numbered in the manner directed by the county clerk.

(c) The county clerk shall keep a record of the number range provided under Subsection (5)(a).

Section 40. Section 20A-7-605 is amended to read:

20A-7-605. Obtaining signatures -- Verification -- Removal of signature.

(1) [~~Any~~] A Utah voter may sign a local referendum petition if the voter is a legal voter and resides in the local jurisdiction.

(2) (a) The sponsors shall ensure that the individual in whose presence each signature sheet was signed:

(i) is at least 18 years old and meets the residency requirements of Section 20A-2-105; [~~and~~]

(ii) verifies each signature sheet by completing the verification printed on the last page of each referendum packet[~~.~~]; and

(iii) is informed that each signer is required to read and understand the law that the referendum seeks to overturn.

(b) An individual may not sign the verification printed on the last page of the referendum packet if the individual signed a signature sheet in the referendum packet.

[~~(3) (a) Any voter who has signed a referendum petition may have the voter's signature removed from the petition by submitting a statement to that effect to the county clerk.~~]

[~~(b) Except as provided in Subsection (3)(c), upon receipt of the statement, the county clerk shall remove the signature of the individual submitting the statement from the referendum petition.~~]

[~~(c) A county clerk may not remove signatures from a referendum petition later than seven days after the day on which the sponsors timely submit the last signature packet to the county clerk.~~]

[~~(4) The sponsors of a referendum petition:~~]

[~~(a) shall, for each signature packet:~~]

[~~(i) within seven days after the day on which the first individual signs the signature packet, provide a clear, legible image of all signatures on the signature packet to the county clerk via email or other electronic means; and~~]

[~~(ii) immediately send a new image if the county clerk informs the sponsors that the image is not clear and legible;~~]

[~~(b) may not permit additional signatures on a signature packet of which the sponsors have sent an image under Subsection (4)(a); and~~]

[~~(c) may not submit a signature packet to the county clerk unless the sponsors timely comply with the requirements of Subsection (4)(a) in relation to the signature packet.~~]

[~~(5) Each person who gathers a signature removal statement described in Subsection (3):~~]

[~~(a) shall, within seven days after the day on which the individual signs the signature removal statement, provide a clear, legible image of the statement to the county clerk via email or other electronic means; and~~]

[~~(b) shall, immediately send a new image if the local clerk informs the sender that the image is not clear and legible; and~~]

[~~(c) may not submit a signature removal statement to the county clerk, unless the sender timely complies with the requirements of Subsections (5)(a) and (b) in relation to the signature removal statement.~~]

[~~(6) (a) The county clerk shall provide to an individual, upon request, a document or electronic list containing the name and voter identification number of each individual who signed the referendum packet.~~]

[~~(b) Subject to Subsection 20A-7-606.3(3), the local clerk may begin certifying, removing, and tallying signatures upon receipt of an image described in Subsection (4) or (5).~~]

(3) (a) A voter who has signed a referendum petition may have the voter's signature removed from the petition by submitting to the county clerk a statement requesting that the voter's signature be removed no later than the earlier of:

(i) 30 days after the day on which the voter signs the statement requesting removal; or

(ii) 45 days after the day on which the local clerk posts the voter's name under Subsection 20A-7-607(2)(a).

(b) (i) The statement shall include:

(A) the name of the voter;

(B) the resident address at which the voter is registered to vote;

(C) the signature of the voter; and

(D) the date of the signature described in Subsection (3)(b)(i)(C).

(ii) To increase the likelihood of the voter's signature being identified and removed, the statement may include the voter's birth date or age.

(c) A voter may not submit a statement by email or other electronic means.

(d) In order for the signature to be removed, the county clerk must receive the statement before 5 p.m. no later than 45 days after the day on which the local clerk posts the voter's name under Subsection 20A-7-607(2)(a).

(e) A person may only remove a signature from a referendum petition in accordance with this Subsection (3).

(f) A county clerk shall analyze a signature, for purposes of removing a signature from a referendum petition, in accordance with Section 20A-7-606.3.

Section 41. Section 20A-7-606 is amended to read:

20A-7-606. Submitting the referendum petition -- Certification of signatures by the county clerks -- Transfer to local clerk.

(1) (a) The sponsors or an agent of the sponsors shall [~~deliver each~~] submit a signed and verified referendum packet to the county clerk of the county in which the packet was circulated before 5 p.m. no later than the earlier of:

(i) 30 days after the day on which the first individual signs the referendum packet; or

(ii) 45 days after the day on which the sponsors receive the items described in Subsection 20A-7-604(2) from the local clerk.

(b) A [~~sponsor~~] person may not submit a referendum packet after the deadline [~~established in this~~] described in Subsection (1)(a).

[~~(2) (a) No later than 15 days after the day on which a county clerk receives a referendum packet under Subsection (1)(a), the county clerk shall:~~]

[~~(i) check the names of all persons completing the verification on the last page of each referendum packet to determine whether those persons are Utah residents and are at least 18 years old; and~~]

[~~(ii) submit the name of each of those persons who is not a Utah resident or who is not at least 18 years old to the attorney general and county attorney.~~]

[~~(b) The county clerk may not certify a signature under Subsection (3) on a referendum packet that is not verified in accordance with Section 20A-7-605.~~]

[~~(3)~~] (2) No later than [~~30~~] 21 days after the day on which a county clerk receives a verified referendum packet under Subsection (1)(a), the county clerk shall:

(a) determine whether each signer is a registered voter according to the requirements of Section 20A-7-606.3;

(b) certify on the [~~referendum~~] petition whether each name is that of a registered voter; [~~and~~]

(c) provide the name and voter identification number of each registered voter certified under Subsection (2)(b); and

[~~(c)~~] (d) deliver [~~all of~~] the verified [~~referendum packets~~] packet to the local clerk.

(3) (a) If the county clerk timely receives a statement requesting signature removal under Subsection 20A-7-605(3), the county clerk shall:

(i) ensure that the voter's name and voter identification number are not included in the posting described in Subsection 20A-7-607(2)(a); and

(ii) remove the voter's signature from the signature packets and signature packet totals.

(b) The county clerk shall comply with Subsection (3)(a) before the later of:

(i) the deadline described in Subsection (2); or

(ii) two business days after the day on which the county clerk receives a statement requesting signature removal under Subsection 20A-7-605(3).

(c) The local clerk shall post a link in a conspicuous location on the local government's website to the posting described in Subsection

20A-7-607(2)(a) during the period of time described in Subsection 20A-7-607(2)(a)(i).

(4) The county clerk may not certify a signature under Subsection (2):

(a) on a referendum packet that is not verified in accordance with Section 20A-7-605; or

(b) that does not have a date of signature next to the signature.

(5) A person may not retrieve a referendum packet from a county clerk, or make any alterations or corrections to a referendum packet, after the referendum packet is submitted to the county clerk.

Section 42. Section 20A-7-606.3 is amended to read:

20A-7-606.3. Verification of petition signatures.

(1) As used in this section:

(a) [~~For the purposes of this section, "substantially~~] "Substantially similar name" means:

(i) the given name and surname shown on the petition, or both, contain only minor spelling differences when compared to the given name and surname shown on the official register;

(ii) the surname shown on the petition exactly matches the surname shown on the official register, and the given names differ only because one of the given names shown is a commonly used abbreviation or variation of the other;

(iii) the surname shown on the petition exactly matches the surname shown on the official register, and the given names differ only because one of the given names shown is accompanied by a first or middle initial or a middle name which is not shown on the other record; or

(iv) the surname shown on the petition exactly matches the surname shown on the official register, and the given names differ only because one of the given names shown is an alphabetically corresponding initial that has been provided in the place of a given name shown on the other record.

(b) [~~For the purposes of this section, "substantially~~] "Substantially similar name" does not mean a name having an initial or a middle name shown on the petition that does not match a different initial or middle name shown on the official register.

(2) The county clerk shall use the following procedures in determining whether [~~or not~~] a signer is a registered voter:

(a) When a signer's name and address shown on the petition exactly match a name and address shown on the official register and the signer's signature appears substantially similar to the signature on the statewide voter registration database, the county clerk shall declare the signature valid.

(b) When there is no exact match of an address and a name, the county clerk shall declare the signature valid if:

(i) the address on the petition matches the address of an individual on the official register with a substantially similar name; and

(ii) the signer's signature appears substantially similar to the signature on the statewide voter registration database of the individual described in Subsection (2)(b)(i).

(c) When there is no match of an address and a substantially similar name, the county clerk shall declare the signature valid if:

(i) the birth date or age on the petition matches the birth date or age of an individual on the official register with a substantially similar name; and

(ii) the signer's signature appears substantially similar to the signature on the statewide voter registration database of the individual described in Subsection (2)(c)(i).

(d) If a signature is not declared valid under Subsection (2)(a), (b), or (c), the county clerk shall declare the signature to be invalid.

[~~(3) The county clerk may not provide a final verification of the signature packets submitted for a proposed referendum until eight days after the day on which a sponsor submits the final, timely signature packet to the county clerk to be certified.~~]

(3) The county clerk shall use the following procedures in determining whether to remove a signature from a petition after receiving a timely, valid statement requesting removal of the signature:

(a) if a signer's name and address shown on the statement and the petition exactly match a name and address shown on the official register and the signer's signature on both the statement and the petition appears substantially similar to the signature on the statewide voter registration database, the county clerk shall remove the signature from the petition;

(b) if there is no exact match of an address and a name, the county clerk shall remove the signature from the petition if:

(i) the address on the statement and the petition matches the address of an individual on the official register with a substantially similar name; and

(ii) the signer's signature on both the statement and the petition appears substantially similar to the signature on the statewide voter registration database of the individual described in Subsection (3)(b)(i);

(c) if there is no match of an address and a substantially similar name, the county clerk shall remove the signature from the petition if:

(i) the birth date or age on the statement and petition match the birth date or age of an individual on the official register with a substantially similar name; and

(ii) the signer's signature on both the statement and the petition appears substantially similar to the signature on the statewide voter registration database of the individual described in Subsection (3)(c)(i); and

(d) if a signature does not qualify for removal under Subsection (3)(a), (b), or (c), the county clerk may not remove the signature from the petition.

Section 43. Section 20A-7-607 is amended to read:

20A-7-607. Evaluation by the local clerk -- Determination of election for vote on referendum.

(1) When [~~each~~] the local clerk receives a referendum packet [~~is received~~] from a county clerk, the local clerk shall [~~check off from the local clerk's~~] record the number of [~~each~~] the referendum packet [~~filed~~] received.

[~~(2) Within two days after the day on which the local clerk receives each referendum packet from a county clerk, the local clerk shall:~~]

[~~(a) count the number of the names certified by the county clerks that appear on each verified signature sheet;~~]

(2) (a) The county clerk shall:

(i) post the names and voter identification numbers described in Subsection 20A-7-606(3)(c) on the lieutenant governor's website, in a conspicuous location designated by the lieutenant governor, for at least 45 days; and

(ii) update on the local clerk's website the number of signatures certified as of the date of the update.

(b) The local clerk:

(i) shall, except as provided in Subsection (2)(b)(ii), declare the petition to be sufficient or insufficient no later than 111 days after the day of the deadline, described in Subsection 20A-7-606(1), to submit a referendum packet to the county clerk; or

(ii) may declare the petition to be insufficient before the day described in Subsection (2)(b)(i) if:

(A) the total of all valid signatures on timely and lawfully submitted signature packets that have been certified by the county clerk, plus the number of signatures on timely and lawfully submitted signature packets that have not yet been evaluated for certification, is less than the number of names required under Section 20A-7-601; or

(B) a requirement of this part has not been met.

[~~(b)~~] (c) [~~if~~] If the total number of [~~certified names from each verified signature sheet~~] names certified under this Subsection (2) equals or exceeds the number of names required [~~by~~] under Section 20A-7-601, and the requirements of this part are met, the local clerk shall mark upon the front of the petition the word "sufficient";

[~~(c)~~] (d) [~~if~~] If the total number of [~~certified names from each verified signature sheet~~] names certified under this Subsection (2) does not equal or exceed the number of names required [~~by~~] under Section 20A-7-601 or a requirement of this part is not met, the local clerk shall mark upon the front of the petition the word "insufficient."[~~; and~~]

[~~(d)~~] (e) The local clerk shall immediately notify any one of the sponsors of the local clerk's finding.

(f) After a petition is declared insufficient, a person may not submit additional signatures to qualify the petition for the ballot.

[~~(3) If the local clerk finds the total number of certified signatures from each verified signature sheet to be insufficient, any sponsor may file a written demand with the local clerk for a recount of the signatures appearing on the referendum petition in the presence of any sponsor.~~]

[~~(4)~~] (3) (a) If the local clerk refuses to accept and file any referendum petition, any voter may apply to a court for an extraordinary writ to compel the local clerk to do so within 10 days after the refusal.

(b) If [~~a~~] the court determines that the referendum petition is legally sufficient, the local clerk shall file the petition, with a verified copy of the judgment attached to the petition, as of the date on which [~~it~~] the petition was originally offered for filing in the local clerk's office.

(c) If [~~a~~] the court determines that any petition filed is not legally sufficient, the court may enjoin the local clerk and all other officers from:

(i) certifying or printing the ballot title and numbers of that measure on the official ballot for the next election; or

(ii) as it relates to a local tax law that is conducted entirely by mail, certifying, printing, or mailing the ballot title and numbers of that measure under Section 20A-7-609.5.

[~~(5)~~] (4) A petition determined to be sufficient in accordance with this section is qualified for the ballot.

[~~(6)~~] (5) (a) If a referendum relates to legislative action taken after April 15, the election officer may not place the referendum on an election ballot until a primary election, a general election, or a special election the following year.

(b) For a referendum on a land use law, if, before August 30, the local clerk or a court determines that the total number of certified names equals or exceeds the number of signatures required in Section 20A-7-601, the election officer shall place the referendum on the election ballot for the next general election.

Section 44. Section 20A-7-608 is amended to read:

20A-7-608. Ballot title -- Duties of local clerk and local attorney.

(1) Upon receipt of a referendum petition, the local clerk shall deliver a copy of the petition and the proposed law to the local attorney.

(2) The local attorney shall:

(a) entitle each county or municipal referendum that [~~has qualified~~] qualifies for the ballot "Proposition Number __" and give [~~it~~] the referendum a number [~~as~~] assigned [~~under~~] in accordance with Section 20A-6-107;

(b) prepare a proposed ballot title for the referendum;

(c) file the proposed ballot title and the numbered referendum [~~titles~~] title with the local clerk within 20 days after the day on which an eligible voter submits the referendum petition to the local clerk; and

(d) promptly provide notice of the filing of the proposed ballot title to:

(i) the sponsors of the petition; and

(ii) the local legislative body for the jurisdiction where the referendum petition was circulated.

(3) (a) The ballot title may be distinct from the title of the law that is the subject of the petition, and shall express, in not exceeding 100 words, the purpose of the measure.

(b) In preparing a ballot title, the local attorney shall, to the best of the local attorney's ability, give a true and impartial statement of the purpose of the measure.

(c) The ballot title may not intentionally be an argument, or likely to create prejudice, for or against the measure.

(4) (a) Within five calendar days after the [~~date~~] day on which the local attorney files a proposed ballot title under Subsection (2)(c), the local legislative body for the jurisdiction where the referendum petition was circulated and the sponsors of the petition may file written comments in response to the proposed ballot title with the local clerk.

(b) Within five calendar days after the last date to submit written comments under Subsection (4)(a), the local attorney shall:

(i) review any written comments filed in accordance with Subsection (4)(a);

(ii) prepare a final ballot title that meets the requirements of Subsection (3); and

(iii) return the petition and file the ballot title with the local clerk.

(c) Subject to Subsection (6), the ballot title, as determined by the local attorney, shall be printed on the official ballot.

(5) Immediately after the local attorney files a copy of the ballot title with the local clerk, the local clerk shall serve a copy of the ballot title by mail upon the sponsors of the petition and the local legislative body for the jurisdiction where the referendum petition was circulated.

(6) (a) If the ballot title furnished by the local attorney is unsatisfactory or does not comply with the requirements of this section, the decision of the local attorney may be appealed to the [~~district court, or, if the Supreme Court has original jurisdiction, to the Supreme Court, brought~~] appropriate court by:

(i) at least three sponsors of the referendum petition; or

(ii) a majority of the local legislative body for the jurisdiction where the referendum petition was circulated.

(b) The court:

(i) shall examine the measures and consider the arguments; and

(ii) may issue an order to the local clerk that includes a ballot title for the measure that fulfills the intent of this section.

(c) The local clerk shall print the title [~~certified~~], as directed by the court, on the official ballot.

Section 45. Section 20A-7-610 is amended to read:

20A-7-610. Return and canvass -- Conflicting measures -- Law effective on proclamation.

(1) The votes on the proposed law that is the subject of the referendum petition shall be counted, canvassed, and delivered as provided in Title 20A, Chapter 4, Part 3, Canvassing Returns.

(2) After the local board of canvassers completes the canvass, the local clerk shall certify to the local legislative body the vote for and against the proposed law that is the subject of the referendum petition.

(3) (a) The local legislative body shall immediately issue a proclamation that:

(i) gives the total number of votes cast in the local jurisdiction for and against each proposed law that is the subject of a referendum petition; and

(ii) in accordance with Section 20A-7-611, declares those laws that are the subject of a referendum petition that were approved by majority vote to be in full force and effect as the law of the local jurisdiction.

(b) When the local legislative body determines that two proposed laws, or that parts of two proposed laws approved by the people at the same election are entirely in conflict, [~~they~~] the local legislative body shall proclaim that measure to be law that [~~has~~] received the greatest number of affirmative votes, regardless of the difference in the majorities which those measures have received.

(4) (a) Within 10 days after the day on which the local legislative [~~body's~~] body issues the proclamation, any qualified voter residing in the jurisdiction for a law that is declared by the local legislative body to be superseded by another measure approved at the same election may bring an action in [~~a district court, or, if the Supreme Court has original jurisdiction, the Supreme Court~~] the appropriate court to review the decision.

(b) The court shall:

(i) consider the matter and decide whether the proposed laws are entirely in conflict; and

(ii) issue an order, consistent with the court's decision, to the local legislative body.

(5) Within 10 days after the day on which the court [~~certifies the decision~~] enters an order under Subsection (4)(b)(ii), the local legislative body shall:

(a) proclaim as law all measures approved by the people that the court determines are not in conflict; and

(b) for the measures approved by the people as law that the court determines to be in conflict, proclaim as law the measure that received the greatest number of affirmative votes, regardless of the difference in majorities.

Section 46. Section 20A-7-611 is amended to read:

20A-7-611. Temporary stay -- Effective date -- Effect of repeal by local legislative body.

(1) Any proposed law submitted to the people by referendum petition that is rejected by the voters at any election is repealed as of the date of the election.

(2) If, at the time during the process described in Subsection 20A-7-307(2), the local clerk determines that, at that point in time, an adequate number of signatures are certified to comply with the signature requirements, the local clerk shall:

(a) issue an order temporarily staying the law from going into effect; and

(b) continue the process of certifying signatures and removing signatures as required by this part.

(3) The temporary stay described in Subsection (2) remains in effect, regardless of whether a future count falls below the signature threshold, until the day on which:

(a) if the local clerk declares the petition insufficient, five days after the day on which the local clerk declares the petition insufficient; or

(b) if the local clerk declares the petition sufficient, the day on which the local legislative body issues the proclamation described in Section 20A-7-610.

(4) A proposed law submitted to the people by referendum petition that is approved by the voters at an election takes effect the later of:

(a) five days after the date of the official proclamation of the vote by the local legislative body; or

(b) the effective date specified in the proposed law.

(5) If, after the local clerk issues a temporary stay order under Subsection (2)(a), the local clerk declares the petition insufficient, the proposed law takes effect the later of:

(a) five days after the day on which the local clerk declares the petition insufficient; or

(b) the effective date specified in the proposed law.

(6) (a) A law adopted by the people under this part is not subject to veto.

(b) The local legislative body may amend any laws approved by the people under this part after the people approve the law.

(7) If the local legislative body repeals a law challenged by referendum petition under this part, the referendum petition is void and no further action on the referendum petition is required.

Section 47. Section 20A-7-613 is amended to read:

20A-7-613. Property tax referendum petition.

(1) As used in this section, "certified tax rate" means the same as that term is defined in Section 59-2-924.

(2) Except as provided in this section, the requirements of this part apply to a referendum petition challenging a taxing entity's legislative body's vote to impose a tax rate that exceeds the certified tax rate.

(3) Notwithstanding Subsection 20A-7-606(1), the sponsors or an agent of the sponsors shall deliver [~~each~~] a signed and verified referendum packet to the county clerk of the county in which the packet was circulated before 5 p.m. no later than the earlier of:

(a) 30 days after the day on which the first individual signs the packet; or

(b) 40 days after the day on which the local clerk complies with Subsection 20A-7-604(2).

(4) Notwithstanding Subsections 20A-7-606(2) and (3), the county clerk shall take the actions required in Subsections 20A-7-606(2) and (3) within 10 working days after the day on which the county clerk receives the signed and verified referendum packet as described in Subsection (3).

(5) The local clerk shall take the actions required by Section 20A-7-607 within two working days after the day on which the local clerk receives the referendum packets from the county clerk.

(6) Notwithstanding Subsection 20A-7-608(2), the local attorney shall prepare the ballot title within two working days after the day on which the referendum petition is declared sufficient for submission to a vote of the people.

(7) Notwithstanding Subsection 20A-7-609(2)(c), a referendum that qualifies for the ballot under this section shall appear on the ballot for the earlier of the next regular general election or the next municipal general election unless a special election is called.

(8) The election officer shall mail manual ballots on a referendum under this section the later of:

(a) the time provided in Section 20A-3a-202 or 20A-16-403; or

(b) the time that ballots are prepared for mailing under this section.

(9) Section 20A-7-402 does not apply to a referendum described in this section.

(10) (a) If a majority of voters does not vote against imposing the tax at a rate calculated to generate the increased revenue budgeted, adopted, and approved by the taxing entity's legislative body:

(i) the certified tax rate for the fiscal year during which the referendum petition is filed is its most recent certified tax rate; and

(ii) the proposed increased revenues for purposes of establishing the certified tax rate for the fiscal year after the fiscal year described in Subsection (10)(a)(i) are the proposed increased revenues budgeted, adopted, and approved by the taxing entity's legislative body before the filing of the referendum petition.

(b) If a majority of voters votes against imposing a tax at the rate established by the vote of the taxing entity's legislative body, the certified tax rate for the taxing entity is the taxing entity's most recent certified tax rate.

(c) If the tax rate is set in accordance with Subsection (10)(a)(ii), a taxing entity is not required to comply with the notice and public hearing requirements of Section 59-2-919 if the taxing entity complies with those notice and public hearing requirements before the referendum petition is filed.

(11) The ballot title shall, at a minimum, include in substantially this form the following: "Shall the [name of the taxing entity] be authorized to levy a tax rate in the amount sufficient to generate an increased property tax revenue of [amount] for fiscal year [year] as budgeted, adopted, and approved by the [name of the taxing entity].".

(12) A taxing entity shall pay the county the costs incurred by the county that are directly related to meeting the requirements of this section and that the county would not have incurred but for compliance with this section.

(13) (a) An election officer shall include on a ballot a referendum that has not yet qualified for placement on the ballot, if:

(i) sponsors file an application for a referendum described in this section;

(ii) the ballot will be used for the election for which the sponsors are attempting to qualify the referendum; and

(iii) the deadline for qualifying the referendum for placement on the ballot occurs after the day on which the ballot will be printed.

(b) If an election officer includes on a ballot a referendum described in Subsection (13)(a), the ballot title shall comply with Subsection (11).

(c) If an election officer includes on a ballot a referendum described in Subsection (13)(a) that does not qualify for placement on the ballot, the election officer shall inform the voters by any practicable method that the referendum has not qualified for the ballot and that votes cast in relation to the referendum will not be counted.

Section 48. Repealer.

This bill repeals:

Section 20A-7-205.5, Initial disclosures -- Paid circulators.

CHAPTER 141
H. B. 216
Passed March 4, 2021
Approved March 16, 2021
Effective May 5, 2021

FIREARMS AMENDMENTS

Chief Sponsor: Karianne Lisonbee
Senate Sponsor: David P. Hinkins

LONG TITLE

General Description:

This bill concerns applications for and the carrying of concealed weapons by provisional permit holders.

Highlighted Provisions:

This bill:

- provides that a provisional concealed carry permit holder may, before age 21, apply for a concealed carry permit that becomes valid at age 21;
- clarifies requirements for renewal permits;
- clarifies the law regarding the ability of provisional permit holders to carry concealed weapons on certain school premises; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53-5-704, as last amended by Laws of Utah 2013, Chapter 280
53-5-710, as last amended by Laws of Utah 2017, Chapter 286
76-10-505.5, as last amended by Laws of Utah 2013, Chapter 301

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

Section 1. Section 53-5-704 is amended to read:

53-5-704. Bureau duties -- Permit to carry concealed firearm -- Certification for concealed firearms instructor -- Requirements for issuance -- Violation -- Denial, suspension, or revocation -- Appeal procedure.

(1) (a) [~~The~~] Except as provided in Subsection (1)(b), the bureau shall issue a permit to carry a concealed firearm for lawful self defense to an applicant who is 21 years [~~of age~~] old or older within 60 days after receiving an application, unless the bureau finds proof that the applicant [~~does not meet the qualifications set forth in~~] is not qualified to hold a permit under Subsection (2) or (3).

(b) (i) Within 90 days before the day on which a provisional permit holder under Section 53-5-704.5 reaches 21 years old, the provisional permit holder may apply under this section for a permit to carry a concealed firearm for lawful self defense.

(ii) The bureau shall issue a permit for an applicant under Subsection (1)(b)(i) within 60 days after receiving an application, unless the bureau finds proof that the applicant is not qualified to hold a permit under Subsection (2) or (3).

(iii) A permit issued under this Subsection (1)(b):

(A) is not valid until an applicant is 21 years old; and

(B) requires a $10 application fee.

(iv) A person who applies for a permit under this Subsection (1)(b) is not required to retake the firearms training described in Subsection 53-5-704(8).

[~~(b)~~] (c) The permit is valid throughout the state for five years, without restriction, except as otherwise provided by Section 53-5-710.

[~~(c)~~] (d) The provisions of Subsections 76-10-504(1) and (2), and Section 76-10-505 do not apply to [~~a person~~] an individual issued a permit under Subsection (1)(a) or (b).

[~~(d)~~] (e) Subsection (4)(a) does not apply to a nonresident:

(i) active duty service member, who [~~present~~] presents to the bureau orders requiring the active duty service member to report for duty in this state; or

(ii) [~~an~~] active duty service member's spouse, stationed with the active duty service member, who presents to the bureau the active duty service member's orders requiring the service member to report for duty in this state.

(2) (a) The bureau may deny, suspend, or revoke a concealed firearm permit if the applicant or permit holder:

(i) has been or is convicted of a felony;

(ii) has been or is convicted of a crime of violence;

(iii) has been or is convicted of an offense involving the use of alcohol;

(iv) has been or is convicted of an offense involving the unlawful use of narcotics or other controlled substances;

(v) has been or is convicted of an offense involving moral turpitude;

(vi) has been or is convicted of an offense involving domestic violence;

(vii) has been or is adjudicated by a state or federal court as mentally incompetent, unless the adjudication has been withdrawn or reversed; and

(viii) is not qualified to purchase and possess a firearm pursuant to Section 76-10-503 and federal law.

(b) In determining whether an applicant or permit holder [~~meets the qualifications set forth in~~] is qualified to hold a permit under Subsection (2)(a), the bureau shall consider mitigating circumstances.

(3) (a) The bureau may deny, suspend, or revoke a concealed firearm permit if it has reasonable cause

to believe that the applicant or permit holder has been or is a danger to self or others as demonstrated by evidence, including:

(i) past pattern of behavior involving unlawful violence or threats of unlawful violence;

(ii) past participation in incidents involving unlawful violence or threats of unlawful violence; or

(iii) conviction of an offense in violation of Title 76, Chapter 10, Part 5, Weapons.

(b) The bureau may not deny, suspend, or revoke a concealed firearm permit solely for a single conviction of an infraction violation of Title 76, Chapter 10, Part 5, Weapons.

(c) In determining whether the applicant or permit holder has been or is a danger to self or others, the bureau may inspect:

(i) expunged records of arrests and convictions of adults as provided in Section 77-40-109; and

(ii) juvenile court records as provided in Section 78A-6-209.

(4) (a) In addition to meeting the other qualifications for the issuance of a concealed firearm permit under this section, a nonresident applicant who resides in a state that recognizes the validity of the Utah permit or has reciprocity with Utah's concealed firearm permit law shall:

(i) hold a current concealed firearm or concealed weapon permit issued by the appropriate permitting authority of the nonresident applicant's state of residency; and

(ii) submit a photocopy or electronic copy of the nonresident applicant's current concealed firearm or concealed weapon permit referred to in Subsection (4)(a)(i).

(b) A nonresident applicant who knowingly and willfully provides false information to the bureau under Subsection (4)(a) is prohibited from holding a Utah concealed firearm permit for a period of 10 years.

(c) Subsection (4)(a) applies to all applications for the issuance of a concealed firearm permit that are received by the bureau after May 10, 2011.

(d) Beginning January 1, 2012, Subsection (4)(a) also applies to an application for renewal of a concealed firearm permit by a nonresident.

(5) The bureau shall issue a concealed firearm permit to a former peace officer who departs full-time employment as a peace officer, in an honorable manner, within five years of that departure if the officer meets the requirements of this section.

(6) Except as provided in Subsection (7), the bureau shall also require the applicant to provide:

(a) the address of the applicant's permanent residence;

(b) one recent dated photograph;

(c) one set of fingerprints; and

(d) evidence of general familiarity with the types of firearms to be concealed as defined in Subsection (8).

(7) An applicant who is a law enforcement officer under Section 53-13-103 may provide a letter of good standing from the officer's commanding officer in place of the evidence required by Subsection (6)(d).

(8) (a) General familiarity with the types of firearms to be concealed includes training in:

(i) the safe loading, unloading, storage, and carrying of the types of firearms to be concealed; and

(ii) current laws defining lawful use of a firearm by a private citizen, including lawful self-defense, use of force by a private citizen, including use of deadly force, transportation, and concealment.

(b) An applicant may satisfy the general familiarity requirement of Subsection (8)(a) by one of the following:

(i) completion of a course of instruction conducted by a national, state, or local firearms training organization approved by the bureau;

(ii) certification of general familiarity by [~~a person~~] an individual who has been certified by the bureau, which may include a law enforcement officer, military or civilian firearms instructor, or hunter safety instructor; or

(iii) equivalent experience with a firearm through participation in an organized shooting competition, law enforcement, or military service.

(c) Instruction taken by a student under Subsection (8) shall be in person and not through electronic means.

(d) A person applying for a renewal permit is not required to retake the firearms training described in this Subsection 53-5-704(8) if the person:

(i) has an unexpired permit; or

(ii) has a permit that expired less than one year before the date on which the renewal application was submitted.

(9) (a) An applicant for certification as a Utah concealed firearms instructor shall:

(i) be at least 21 years of age;

(ii) be currently eligible to possess a firearm under Section 76-10-503;

(iii) have:

(A) completed a firearm instruction training course from the National Rifle Association or the Department of Public Safety, Division of Peace Officer Safety Standards and Training; or

(B) received training equivalent to one of the courses referred to in Subsection (9)(a)(iii)(A) as determined by the bureau;

(iv) have taken a course of instruction and passed a certification test as described in Subsection (9)(c); and

(v) possess a Utah concealed firearm permit.

(b) An instructor's certification is valid for three years from the date of issuance, unless revoked by the bureau.

(c) (i) In order to obtain initial certification or renew a certification, an instructor shall attend an instructional course and pass a test under the direction of the bureau.

(ii) (A) The bureau shall provide or contract to provide the course referred to in Subsection (9)(c)(i) twice every year.

(B) The course shall include instruction on current Utah law related to firearms, including concealed carry statutes and rules, and the use of deadly force by private citizens.

(d) (i) Each applicant for certification under this Subsection (9) shall pay a fee of $50.00 at the time of application for initial certification.

(ii) The renewal fee for the certificate is $25.

(iii) The bureau may use a fee paid under Subsections (9)(d)(i) and (ii) as a dedicated credit to cover the cost incurred in maintaining and improving the instruction program required for concealed firearm instructors under this Subsection (9).

(10) A certified concealed firearms instructor shall provide each of the instructor's students with the required course of instruction outline approved by the bureau.

(11) (a) (i) A concealed firearms instructor shall provide a signed certificate to [~~a person~~] an individual successfully completing the offered course of instruction.

(ii) The instructor shall sign the certificate with the exact name indicated on the instructor's certification issued by the bureau under Subsection (9).

(iii) (A) The certificate shall also have affixed to it the instructor's official seal, which is the exclusive property of the instructor and may not be used by any other [~~person~~] individual.

(B) The instructor shall destroy the seal upon revocation or expiration of the instructor's certification under Subsection (9).

(C) The bureau shall determine the design and content of the seal to include at least the following:

(I) the instructor's name as it appears on the instructor's certification;

(II) the words "Utah Certified Concealed Firearms Instructor," "state of Utah," and "my certification expires on (the instructor's certification expiration date)"; and

(III) the instructor's business or residence address.

(D) The seal shall be affixed to each student certificate issued by the instructor in a manner that does not obscure or render illegible any information or signatures contained in the document.

(b) The applicant shall provide the certificate to the bureau in compliance with Subsection (6)(d).

(12) The bureau may deny, suspend, or revoke the certification of an applicant or a concealed firearms instructor if it has reason to believe the applicant or the instructor has:

(a) become ineligible to possess a firearm under Section 76-10-503 or federal law; or

(b) knowingly and willfully provided false information to the bureau.

(13) An applicant for certification or a concealed firearms instructor has the same appeal rights as [~~set forth~~] described in Subsection (16).

(14) In providing instruction and issuing a permit under this part, the concealed firearms instructor and the bureau are not vicariously liable for damages caused by the permit holder.

(15) An individual who knowingly and willfully provides false information on an application filed under this part is guilty of a class B misdemeanor, and the application may be denied, or the permit may be suspended or revoked.

(16) (a) In the event of a denial, suspension, or revocation of a permit, the applicant or permit holder may file a petition for review with the board within 60 days from the date the denial, suspension, or revocation is received by the applicant or permit holder by certified mail, return receipt requested.

(b) The bureau's denial of a permit shall be in writing and shall include the general reasons for the action.

(c) If an applicant or permit holder appeals the denial to the review board, the applicant or permit holder may have access to the evidence upon which the denial is based in accordance with Title 63G, Chapter 2, Government Records Access and Management Act.

(d) On appeal to the board, the bureau has the burden of proof by a preponderance of the evidence.

(e) (i) Upon a ruling by the board on the appeal of a denial, the board shall issue a final order within 30 days stating the board's decision.

(ii) The final order shall be in the form prescribed by Subsection 63G-4-203(1)(i).

(iii) The final order is final bureau action for purposes of judicial review under Section 63G-4-402.

(17) The commissioner may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, necessary to administer this chapter.

Section 2. Section 53-5-710 is amended to read:

53-5-710. Cross-references to concealed firearm permit restrictions.

(1) A person with a permit of any kind to carry a concealed firearm may not carry a concealed firearm in the following locations:

(a) any secure area prescribed in Section 76-10-523.5 in which firearms are prohibited and notice of the prohibition posted;

(b) any airport secure area as provided in Section 76-10-529; or

(c) any house of worship or in any private residence where dangerous weapons are prohibited as provided in Section 76-10-530.

(2) Notwithstanding Subsection 76-10-505.5[~~(2)~~](4), a person under the age of 21 with a permit of any kind to carry a concealed firearm may not carry a concealed firearm on or about school premises, as defined in Subsection 76-10-505.5(1)(a).

Section 3. Section 76-10-505.5 is amended to read:

76-10-505.5. Possession of a dangerous weapon, firearm, or short barreled shotgun on or about school premises -- Penalties.

(1) As used in this section, "on or about school premises" means:

(a) (i) in a public or private elementary or secondary school; or

(ii) on the grounds of any of those schools;

(b) (i) in a public or private institution of higher education; or

(ii) on the grounds of a public or private institution of higher education; and

(iii) (A) inside the building where a preschool or child care is being held, if the entire building is being used for the operation of the preschool or child care; or

(B) if only a portion of a building is being used to operate a preschool or child care, in that room or rooms where the preschool or child care operation is being held.

(2) A person may not possess any dangerous weapon, firearm, or short barreled shotgun, as those terms are defined in Section 76-10-501, at a place that the person knows, or has reasonable cause to believe, is on or about school premises as defined in this section.

(3) (a) Possession of a dangerous weapon on or about school premises is a class B misdemeanor.

(b) Possession of a firearm or short barreled shotgun on or about school premises is a class A misdemeanor.

(4) This section does not apply if:

(a) the person is authorized to possess a firearm as provided under Section 53-5-704, 53-5-705, 76-10-511, or 76-10-523, or as otherwise authorized by law;

(b) the person is authorized to possess a firearm as provided under Section 53-5-704.5, unless the person is in a location where the person is prohibited from carrying a firearm under Subsection 53-5-710(2);

[~~(b)~~] (c) the possession is approved by the responsible school administrator;

[~~(c)~~] (d) the item is present or to be used in connection with a lawful, approved activity and is in the possession or under the control of the person responsible for its possession or use; or

[~~(d)~~] (e) the possession is:

(i) at the person's place of residence or on the person's property; or

(ii) in any vehicle lawfully under the person's control, other than a vehicle owned by the school or used by the school to transport students.

(5) This section does not prohibit prosecution of a more serious weapons offense that may occur on or about school premises.

CHAPTER 142
H. B. 219
Passed March 4, 2021
Approved March 16, 2021
Effective July 1, 2022

INMATE PHONE PROVIDER AMENDMENTS

Chief Sponsor: Cheryl K. Acton
Senate Sponsor: Derek L. Kitchen

LONG TITLE

General Description:

This bill creates requirements related to inmate phone services.

Highlighted Provisions:

This bill:

- defines terms;
- requires the civil counsel for a county to review for approval each contract between a telephone service provider and a correctional facility that seeks to provide telephone access to inmates;
- provides guidance to the civil counsel for a county in determining whether to approve a contract; and
- sets limits on the rate an inmate may be charged for telephone use.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

ENACTS:

17-18a-506, Utah Code Annotated 1953

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

Section 1. Section 17-18a-506 is enacted to read:

17-18a-506. Correctional facility telephone service contracts -- Approval by civil counsel -- Required rates.

(1) As used in this section:

(a) "Civil counsel" means the attorney, as that term is defined in Section 17-18a-102, who is exercising the attorney's civil duties for the county.

(b) "Correctional facility" means the same as that term is defined in Section 77-16b-102.

(c) "Correctional facility telephone service" means a public telecommunications service provided to a correctional facility for inmate use.

(d) "Inmate" means an individual who is committed to the custody of or housed in a correctional facility.

(e) "Inmate telephone rate" means any amount a correctional facility or a service provider charges an inmate for use of a correctional facility telephone service, including each per-minute rate or surcharge for:

(i) a collect call, a prepaid phone card, or any other method by which a correctional facility allows an inmate to access a correctional facility telephone service; or

(ii) a local or a long-distance phone call.

(f) "Service provider" means a public entity or a private entity that provides a correctional facility telephone service.

(2) (a) A correctional facility shall consider the importance of inmate access to telephones in preserving family connections and reducing recidivism when proposing an inmate telephone rate in a new or renewed contract for correctional facility telephone service.

(b) A correctional facility or other state entity may not enter into or renew a contract for a correctional facility telephone service, unless the contract is approved by the civil counsel.

(c) To obtain approval of a contract described in Subsection (2)(b), a correctional facility or other state entity shall submit to the civil counsel:

(i) the proposed contract;

(ii) documentation that the correctional facility or other state entity has confirmed that:

(A) the provisions of the contract, other than the rates described in Subsection (3)(a), are consistent with correctional facility telephone service contracts throughout the state; and

(B) the contract provides for adequate services that meet the needs of the correctional facility; and

(iii) any additional information the civil counsel requires to analyze the contract.

(3) (a) The civil counsel shall review a contract and any additional information described in Subsection (2)(b) to determine whether:

(i) each inmate telephone rate for interstate calls provided in the contract exceeds the corresponding inmate telephone service monetary cap per-use rate established and published by the Federal Communications Commission; and

(ii) each inmate telephone rate for intrastate calls provided in the contract exceeds the greater of:

(A) 25% higher than the corresponding inmate telephone service monetary cap per-use rate established and published by the Federal Communications Commission; or

(B) the corresponding inmate telephone system rate established and published by the Utah Department of Corrections.

(b) (i) After receiving and reviewing the proposed contract and additional information, the civil counsel shall approve the contract if the proposed contract meets the requirements described in Subsection (3)(a).

(ii) The civil counsel shall inform the correctional facility or other state entity of the civil counsel's determination.

Section 2. Effective date.

This bill takes effect on July 1, 2022.

CHAPTER 143
H. B. 221
Passed February 10, 2021
Approved March 16, 2021
Effective May 5, 2021

PROPERTY TAX RECORDS

Chief Sponsor: Joel Ferry
Senate Sponsor: Kirk A. Cullimore
Cosponsor: Travis M. Seegmiller

LONG TITLE

General Description:

This bill modifies provisions relating to the classification of certain property tax records.

Highlighted Provisions:

This bill:

- modifies a provision relating to the private classification of certain records relating to a taxpayer's eligibility for a property tax exemption, deferral, abatement, or relief; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63G-2-302, as last amended by Laws of Utah 2020, Fifth Special Session, Chapter 4

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

Section 1. Section 63G-2-302 is amended to read:

63G-2-302. Private records.

(1) The following records are private:

(a) records concerning an individual's eligibility for unemployment insurance benefits, social services, welfare benefits, or the determination of benefit levels;

(b) records containing data on individuals describing medical history, diagnosis, condition, treatment, evaluation, or similar medical data;

(c) records of publicly funded libraries that when examined alone or with other records identify a patron;

(d) records received by or generated by or for:

(i) the Independent Legislative Ethics Commission, except for:

(A) the commission's summary data report that is required under legislative rule; and

(B) any other document that is classified as public under legislative rule; or

(ii) a Senate or House Ethics Committee in relation to the review of ethics complaints, unless the record is classified as public under legislative rule;

(e) records received by, or generated by or for, the Independent Executive Branch Ethics Commission, except as otherwise expressly provided in Title 63A, Chapter 14, Review of Executive Branch Ethics Complaints;

(f) records received or generated for a Senate confirmation committee concerning character, professional competence, or physical or mental health of an individual:

(i) if, prior to the meeting, the chair of the committee determines release of the records:

(A) reasonably could be expected to interfere with the investigation undertaken by the committee; or

(B) would create a danger of depriving a person of a right to a fair proceeding or impartial hearing; and

(ii) after the meeting, if the meeting was closed to the public;

(g) employment records concerning a current or former employee of, or applicant for employment with, a governmental entity that would disclose that individual's home address, home telephone number, social security number, insurance coverage, marital status, or payroll deductions;

(h) records or parts of records under Section 63G-2-303 that a current or former employee identifies as private according to the requirements of that section;

(i) that part of a record indicating a person's social security number or federal employer identification number if provided under Section 31A-23a-104, 31A-25-202, 31A-26-202, 58-1-301, 58-55-302, 61-1-4, or 61-2f-203;

(j) that part of a voter registration record identifying a voter's:

(i) driver license or identification card number;

(ii) social security number, or last four digits of the social security number;

(iii) email address; or

(iv) date of birth;

(k) a voter registration record that is classified as a private record by the lieutenant governor or a county clerk under Subsection 20A-2-101.1(5)(a), 20A-2-104(4)(h), or 20A-2-204(4)(b);

(l) a voter registration record that is withheld under Subsection 20A-2-104(7);

(m) a withholding request form described in Subsections 20A-2-104(7) and (8) and any verification submitted in support of the form;

(n) a record that:

(i) contains information about an individual;

(ii) is voluntarily provided by the individual; and

(iii) goes into an electronic database that:

(A) is designated by and administered under the authority of the Chief Information Officer; and

(B) acts as a repository of information about the individual that can be electronically retrieved and used to facilitate the individual's online interaction with a state agency;

(o) information provided to the Commissioner of Insurance under:

(i) Subsection 31A-23a-115(3)(a);

(ii) Subsection 31A-23a-302(4); or

(iii) Subsection 31A-26-210(4);

(p) information obtained through a criminal background check under Title 11, Chapter 40, Criminal Background Checks by Political Subdivisions Operating Water Systems;

(q) information provided by an offender that is:

(i) required by the registration requirements of Title 77, Chapter 41, Sex and Kidnap Offender Registry or Title 77, Chapter 43, Child Abuse Offender Registry; and

(ii) not required to be made available to the public under Subsection 77-41-110(4) or 77-43-108(4);

(r) a statement and any supporting documentation filed with the attorney general in accordance with Section 34-45-107, if the federal law or action supporting the filing involves homeland security;

(s) electronic toll collection customer account information received or collected under Section 72-6-118 and customer information described in Section 17B-2a-815 received or collected by a public transit district, including contact and payment information and customer travel data;

(t) an email address provided by a military or overseas voter under Section 20A-16-501;

(u) a completed military-overseas ballot that is electronically transmitted under Title 20A, Chapter 16, Uniform Military and Overseas Voters Act;

(v) records received by or generated by or for the Political Subdivisions Ethics Review Commission established in Section 63A-15-201, except for:

(i) the commission's summary data report that is required in Section 63A-15-202; and

(ii) any other document that is classified as public in accordance with Title 63A, Chapter 15, Political Subdivisions Ethics Review Commission;

(w) a record described in Section 53G-9-604 that verifies that a parent was notified of an incident or threat;

(x) a criminal background check or credit history report conducted in accordance with Section 63A-3-201;

(y) a record described in Subsection 53-5a-104(7);

(z) [~~the following portions of~~] on a record maintained by a county for the purpose of administering property taxes, an individual's:

(i) email address;

(ii) phone number; or

(iii) personal financial information related to a person's payment method; and

(aa) a record [~~concerning an individual's~~] submitted by a taxpayer to establish the taxpayer's eligibility for an exemption, deferral, abatement, or relief under:

(i) Title 59, Chapter 2, Part 11, Exemptions, Deferrals, and Abatements;

(ii) Title 59, Chapter 2, Part 12, Property Tax Relief;

(iii) Title 59, Chapter 2, Part 18, Tax Deferral and Tax Abatement; or

(iv) Title 59, Chapter 2, Part 19, Armed Forces Exemptions.

(2) The following records are private if properly classified by a governmental entity:

(a) records concerning a current or former employee of, or applicant for employment with a governmental entity, including performance evaluations and personal status information such as race, religion, or disabilities, but not including records that are public under Subsection 63G-2-301(2)(b) or 63G-2-301(3)(o) or private under Subsection (1)(b);

(b) records describing an individual's finances, except that the following are public:

(i) records described in Subsection 63G-2-301(2);

(ii) information provided to the governmental entity for the purpose of complying with a financial assurance requirement; or

(iii) records that must be disclosed in accordance with another statute;

(c) records of independent state agencies if the disclosure of those records would conflict with the fiduciary obligations of the agency;

(d) other records containing data on individuals the disclosure of which constitutes a clearly unwarranted invasion of personal privacy;

(e) records provided by the United States or by a government entity outside the state that are given with the requirement that the records be managed as private records, if the providing entity states in writing that the record would not be subject to public disclosure if retained by it;

(f) any portion of a record in the custody of the Division of Aging and Adult Services, created in Section 62A-3-102, that may disclose, or lead to the discovery of, the identity of a person who made a report of alleged abuse, neglect, or exploitation of a vulnerable adult; and

(g) audio and video recordings created by a body-worn camera, as defined in Section 77-7a-103, that record sound or images inside a home or residence except for recordings that:

(i) depict the commission of an alleged crime;

(ii) record any encounter between a law enforcement officer and a person that results in death or bodily injury, or includes an instance when an officer fires a weapon;

(iii) record any encounter that is the subject of a complaint or a legal proceeding against a law enforcement officer or law enforcement agency;

(iv) contain an officer involved critical incident as defined in Subsection 76-2-408(1)(f); or

(v) have been requested for reclassification as a public record by a subject or authorized agent of a subject featured in the recording.

(3) (a) As used in this Subsection (3), "medical records" means medical reports, records, statements, history, diagnosis, condition, treatment, and evaluation.

(b) Medical records in the possession of the University of Utah Hospital, its clinics, doctors, or affiliated entities are not private records or controlled records under Section 63G-2-304 when the records are sought:

(i) in connection with any legal or administrative proceeding in which the patient's physical, mental, or emotional condition is an element of any claim or defense; or

(ii) after a patient's death, in any legal or administrative proceeding in which any party relies upon the condition as an element of the claim or defense.

(c) Medical records are subject to production in a legal or administrative proceeding according to state or federal statutes or rules of procedure and evidence as if the medical records were in the possession of a nongovernmental medical care provider.

CHAPTER 144
H. B. 222
Passed February 18, 2021
Approved March 16, 2021
Effective May 5, 2021

SCHOOL LAND TRUST PROGRAM AMENDMENTS

Chief Sponsor: Jefferson Moss
Senate Sponsor: Ann Millner

LONG TITLE

General Description:

This bill amends provisions related to reporting and the administration of the School Learning and Nurturing Development Trust Program.

Highlighted Provisions:

This bill:

- repeals a requirement for a principal to post certain information on the school's website regarding school community councils;
- amends the date by which a local education agency ("LEA") completes an annual report;
- removes the deadlines and changes the method by which an LEA reports certain expenditures;
- amends a training requirement to clarify that the Utah State Board of Education is responsible for certain training related to the School Learning and Nurturing Development Trust Program; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53G-7-1203, as last amended by Laws of Utah 2019, Chapters 293 and 505

53G-7-1206, as last amended by Laws of Utah 2020, Chapter 408

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

Section 1. Section 53G-7-1203 is amended to read:

53G-7-1203. School community councils -- Open and public meeting requirements.

(1) As used in this section:

(a) (i) "Charter trust land council" means a council established by a charter school governing board under Section 53G-7-1205.

(ii) "Charter trust land council" does not include a charter school governing board acting as a charter trust land council.

(b) "Council" means a school community council or a charter trust land council.

(c) "School community council" means a council established at a school within a school district under Section 53G-7-1202.

(d) "Teacher and student success plan" means the same as that term is defined in Section 53G-7-1301.

(2) A school community council or a charter trust land council:

(a) shall conduct deliberations and take action openly as provided in this section; and

(b) is exempt from Title 52, Chapter 4, Open and Public Meetings Act.

(3) (a) As required by Section 53G-7-1202, a local school board shall provide training for the members of a school community council on this section.

(b) A charter school governing board shall provide training for the members of a charter trust land council on this section.

(4) (a) A meeting of a council is open to the public.

(b) A council may not close any portion of a meeting.

(5) A council shall, at least one week prior to a meeting, post the following information on the school's website:

(a) a notice of the meeting, time, and place;

(b) an agenda for the meeting; and

(c) the minutes of the previous meeting.

[~~(6) (a) On or before October 20, a principal shall post the following information on the school website and in the school office:~~]

[~~(i) the proposed council meeting schedule for the year;~~]

[~~(ii) a telephone number or email address, or both, where each council member can be reached directly; and~~]

[~~(iii) a summary of the annual report required under Section 53G-7-1206 on how the school's School LAND Trust Program money was used to enhance or improve academic excellence at the school and implement a component of the school's teacher and student success plan.~~]

[~~(b) (i) A council shall identify and use methods of providing the information listed in Subsection (6)(a) to a parent who does not have Internet access.~~]

[~~(ii) Money allocated to a school under the School LAND Trust Program under Section 53F-2-404 may not be used to provide information as required by Subsection (6)(b)(i).~~]

[~~(7)~~] (6) (a) The notice requirement of Subsection (5) may be disregarded if:

(i) because of unforeseen circumstances it is necessary for a council to hold an emergency meeting to consider matters of an emergency or urgent nature; and

(ii) the council gives the best notice practicable of:

(A) the time and place of the emergency meeting; and

(B) the topics to be considered at the emergency meeting.

(b) An emergency meeting of a council may not be held unless:

(i) an attempt has been made to notify all the members of the council; and

(ii) a majority of the members of the council approve the meeting.

[~~(8)~~] (7) (a) An agenda required under Subsection (5)(b) shall provide reasonable specificity to notify the public as to the topics to be considered at the meeting.

(b) Each topic described in Subsection [~~(8)~~] (7)(a) shall be listed under an agenda item on the meeting agenda.

(c) A council may not take final action on a topic in a meeting unless the topic is:

(i) listed under an agenda item as required by Subsection [~~(8)~~] (7)(b); and

(ii) included with the advance public notice required by Subsection (5).

[~~(9)~~] (8) (a) Written minutes shall be kept of a council meeting.

(b) Written minutes of a council meeting shall include:

(i) the date, time, and place of the meeting;

(ii) the names of members present and absent;

(iii) a brief statement of the matters proposed, discussed, or decided;

(iv) a record, by individual member, of each vote taken;

(v) the name of each person who:

(A) is not a member of the council; and

(B) after being recognized by the chair, provided testimony or comments to the council;

(vi) the substance, in brief, of the testimony or comments provided by the public under Subsection [~~(9)~~] (8)(b)(v); and

(vii) any other information that is a record of the proceedings of the meeting that any member requests be entered in the minutes.

(c) The written minutes of a council meeting:

(i) are a public record under Title 63G, Chapter 2, Government Records Access and Management Act; and

(ii) shall be retained for three years.

[~~(10)~~] (9) (a) As used in this Subsection [~~(10)~~] (9), "rules of order and procedure" means a set of policies that govern and prescribe in a public meeting:

(i) parliamentary order and procedure;

(ii) ethical behavior; and

(iii) civil discourse.

(b) A council shall:

(i) adopt rules of order and procedure to govern a public meeting of the council;

(ii) conduct a public meeting in accordance with the rules of order and procedure described in Subsection [~~(10)~~] (9)(b)(i); and

(iii) make the rules of order and procedure described in Subsection [~~(10)~~] (9)(b)(i) available to the public:

(A) at each public meeting of the council; and

(B) on the school's website.

Section 2. Section 53G-7-1206 is amended to read:

53G-7-1206. School LAND Trust Program.

(1) As used in this section:

(a) "Charter school authorizer" means the same as that term is defined in Section 53G-5-102.

(b) "Charter trust land council" means a council established by a charter school governing board under Section 53G-7-1205.

(c) "Council" means a school community council or a charter trust land council.

(d) "LAND trust plan" means a school's plan to use School LAND Trust Program money to implement a component of the school's success plan.

(e) "School community council" means a council established at a district school in accordance with Section 53G-7-1202.

(f) "Teacher and student success plan" or "success plan" means the same as that term is defined in Section 53G-7-1301.

(2) There is established the School LAND (Learning And Nurturing Development) Trust Program under the state board to:

(a) provide financial resources to public schools to enhance or improve student academic achievement and implement a component of a district school or charter school's teacher and student success plan; and

(b) involve parents of a school's students in decision making regarding the expenditure of School LAND Trust Program money allocated to the school.

(3) To receive an allocation under Section 53F-2-404:

(a) a district school shall have established a school community council in accordance with Section 53G-7-1202;

(b) a charter school shall have established a charter trust land council in accordance with Section 53G-7-1205; and

(c) the school's principal shall provide a signed, written assurance that the school is in compliance with Subsection (3)(a) or (b).

(4) (a) A council shall create a program to use the school's allocation distributed under Section 53F-2-404 to implement a component of the school's success plan, including:

(i) the school's identified most critical academic needs;

(ii) a recommended course of action to meet the identified academic needs;

(iii) a specific listing of any programs, practices, materials, or equipment that the school will need to implement a component of the school's success plan to have a direct impact on the instruction of students and result in measurable increased student performance; and

(iv) how the school intends to spend the school's allocation of funds under this section to enhance or improve academic excellence at the school.

(b) (i) A council shall create and vote to adopt a LAND trust plan in a meeting of the council at which a quorum is present.

(ii) If a majority of the quorum votes to adopt a LAND trust plan, the LAND trust plan is adopted.

(c) A council shall:

(i) post a LAND trust plan that is adopted in accordance with Subsection (4)(b) on the School LAND Trust Program website; and

(ii) include with the LAND trust plan a report noting the number of council members who voted for or against the approval of the LAND trust plan and the number of council members who were absent for the vote.

(d) (i) The local school board of a district school shall approve or disapprove a LAND trust plan.

(ii) If a local school board disapproves a LAND trust plan:

(A) the local school board shall provide a written explanation of why the LAND trust plan was disapproved and request the school community council who submitted the LAND trust plan to revise the LAND trust plan; and

(B) the school community council shall submit a revised LAND trust plan in response to a local school board's request under Subsection (4)(d)(ii)(A).

(iii) Once a LAND trust plan has been approved by a local school board, a school community council may amend the LAND trust plan, subject to a majority vote of the school community council and local school board approval.

(e) A charter trust land council's LAND trust plan is subject to approval by the:

(i) charter school governing board; and

(ii) charter school's charter school authorizer.

(5) (a) A district school or charter school shall:

(i) implement the program as approved;

(ii) provide ongoing support for the council's program; and

(iii) meet state board reporting requirements regarding financial and performance accountability of the program.

(b) (i) A district school or charter school shall prepare and post an annual report of the program on the School LAND Trust Program website [~~each fall~~] before the council submits a plan for the following year.

(ii) The report shall detail the use of program funds received by the school under this section and an assessment of the results obtained from the use of the funds.

(iii) A summary of the report shall be provided to parents of students attending the school.

(6) [~~On or before October 1 of each year, a school district shall record the amount of the program funds distributed to each school under Section 53F-2-404 on the School LAND Trust Program website~~] An LEA shall record the LEA's expenditures of School LAND Trust Program funds through a financial reporting system that the board identifies to assist schools in developing the annual report described in Subsection (5)(b).

(7) The president or chair of a local school board or charter school governing board shall ensure that the members of the local school board or charter school governing board are provided with annual training on the requirements of this section.

(8) (a) The [~~School LAND Trust Program~~] state board shall provide training to the entities described in Subsection (8)(b) on:

(i) the School LAND Trust Program; and

(ii) (A) a school community council; or

(B) a charter trust land council.

(b) The [~~School LAND Trust Program~~] state board shall provide the training to:

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

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

(iii) a school community council.

(9) The [~~School LAND Trust Program~~] state board shall annually review each school's compliance with applicable law, including rules adopted by the state board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, by:

(a) reading each LAND trust plan submitted; and

(b) reviewing expenditures made from School LAND Trust Program money.

(10) The state board shall designate a staff member who administers the School LAND Trust Program:

(a) to serve as a member of the Land Trusts Protection and Advocacy Committee created under Section 53D-2-202; and

(b) who may coordinate with the Land Trusts Protection and Advocacy Office director, appointed

under Section 53D-2-203, to attend meetings or events within the School and Institutional Trust System, as defined in Section 53D-2-102, that relate to the School LAND Trust Program.

CHAPTER 145
H. B. 225
Passed March 4, 2021
Approved March 16, 2021
Effective May 5, 2021

ADMINISTRATIVE GARNISHMENT ORDER AMENDMENTS

Chief Sponsor: Kelly B. Miles
Senate Sponsor: Ann Millner

LONG TITLE

General Description:

This bill modifies the Utah Administrative Services Code by amending provisions relating to administrative garnishment orders.

Highlighted Provisions:

This bill:

- authorizes the Office of State Debt Collection to determine the dollar amount that a garnishee is to withhold from earnings and deliver to the office in a continuing administrative garnishment order in certain circumstances;
- specifies requirements for determining the dollar amount that a garnishee is to withhold from earnings in a continuing administrative garnishment;
- modifies provisions relating to administrative garnishment orders;
- authorizes the office to submit a motion for an order to show cause against a garnishee under certain circumstances;
- excuses a garnishee from providing withholdings information if the information was provided in the garnishee's initial response to an interrogatory requesting the information;
- authorizes a garnishee fee and establishes limits on the fee; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:
63A-3-507, as last amended by Laws of Utah 2019, Chapter 269

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

Section 1. Section 63A-3-507 is amended to read:

63A-3-507. Administrative garnishment order.

(1) If a judgment is entered against a debtor, the office may, subject to Subsection (2), issue an administrative garnishment order against the debtor's personal property, including wages, in the possession of a party other than the debtor in the same manner and with the same effect as if the order was a writ of garnishment issued by a court with jurisdiction.

(2) The office may issue the administrative garnishment order if [~~the order is~~]:

(a) the order is signed by the director or the director's designee; and

(b) the underlying debt is for:

(i) nonpayment of a criminal judgment accounts receivable as defined in Section 77-32a-101; or

(ii) nonpayment of a judgment, or abstract of judgment or award filed with a court, based on an administrative order for payment issued by an agency of the state.

(3) An administrative garnishment order issued in accordance with this section is subject to the procedures and due process protections provided by Rule 64D, Utah Rules of Civil Procedure, except as provided by Section 70C-7-103.

(4) An administrative garnishment order issued by the office shall:

(a) contain a statement that includes:

(i) if known:

(A) the nature, location, account number, and estimated value of the property; and

(B) the name, address, and phone number of the person holding the property;

(ii) whether any of the property consists of earnings;

(iii) the amount of the judgment and the amount due on the judgment; and

(iv) the name, address, and phone number of any person known to the plaintiff to claim an interest in the property; [~~and~~]

[~~(v) that the plaintiff has attached or will serve the garnishee fee established in Section 78A-2-216;~~]

(b) identify the defendant, including[~~: (i)~~] the defendant's name and last known address; [~~and~~]

[~~(ii) if known:~~]

[~~(A) the last four digits of the defendant's Social Security number;~~]

[~~(B) the last four digits of the defendant's driver license; and~~]

[~~(C) the state in which the driver license was issued;~~]

[~~(c) include one or more interrogatories inquiring:~~]

[~~(i) whether the garnishee is indebted to the defendant and, if so, the nature of the indebtedness;~~]

[~~(ii) whether the garnishee possesses or controls any property of the defendant, and, if so, the nature, location, and estimated value of the property;~~]

[~~(iii)(A) whether the garnishee knows of any property of the defendant in the possession or under the control of another; and~~]

[~~(B) the nature, location, and estimated value of the defendant's property in possession or under the control of another, and the name, address, and phone number of the person with possession or control;~~]

[~~(iv) whether the garnishee is deducting a liquidated amount in satisfaction of a claim against the plaintiff or the defendant, a designation as to whom the claim relates, and the amount deducted;~~]

[~~(v) the date and manner of the garnishee's service of papers upon the defendant and any third party;~~]

[~~(vi) the dates on which previously served writs of continuing garnishment were served, if any; and~~]

[~~(vii) any other relevant information the office may request, including the defendant's position, rate, and method of compensation, pay period, or computation of the amount of the defendant's disposable earnings;~~]

[~~(d)~~] (c) notify the defendant of the defendant's right to reply to answers and request a hearing as provided by Rule 64D, Utah Rules of Civil Procedure; and

[~~(e)~~] (d) state where the garnishee may deliver property.

(5) The office may, in the office's discretion, include in an administrative garnishment order:

(a) the last four digits of the defendant's Social Security number;

(b) the last four digits of the defendant's driver license number;

(c) the state in which the defendant's driver license was issued;

(d) one or more interrogatories inquiring:

(i) whether the garnishee is indebted to the defendant and, if so, the nature of the indebtedness;

(ii) whether the garnishee possesses or controls any property of the defendant and, if so, the nature, location, and estimated value of the property;

(iii) whether the garnishee knows of any property of the defendant in the possession or under the control of another and, if so:

(A) the nature, location, and estimated value of the property; and

(B) the name, address, and telephone number of the person who has possession or control of the property;

(iv) whether the garnishee is deducting a liquidated amount in satisfaction of a claim against the plaintiff or the defendant, whether the claim is against the plaintiff or the defendant, and the amount deducted;

(v) the date and manner of the garnishee's service of papers upon the defendant and any third party;

(vi) the dates on which any previously served writs of continuing garnishment were served; and

(vii) any other relevant information, including the defendant's position, rate of pay, method of compensation, pay period, and computation of the amount of the defendant's disposable earnings.

[~~(5)~~] (6) (a) A garnishee who acts in accordance with this section and the administrative garnishment issued by the office is released from liability unless an answer to an interrogatory is successfully controverted.

(b) Except as provided in Subsection [~~(5)~~] (6)(c), if the garnishee fails to comply with an administrative garnishment issued by the office without a court or final administrative order directing otherwise, the garnishee is liable to the office for an amount [~~ordered~~] determined by the court[~~, including:~~].

(c) The amount for which a garnishee is liable under Subsection (6)(b) includes:

[~~(i) the value of the property or the value of the judgment, whichever is less;~~]

(i) (A) the value of the judgment; or

(B) the value of the property, if the garnishee shows that the value of the property is less than the value of the judgment;

(ii) reasonable costs; and

(iii) attorney fees incurred by the parties as a result of the garnishee's failure.

[~~(c)~~] (d) If the garnishee shows that the steps taken to secure the property were reasonable, the court may excuse the garnishee's liability in whole or in part.

(7) (a) If the office has reason to believe that a garnishee has failed to comply with the requirements of this section in the garnishee's response to a garnishment order issued under this section, the office may submit a motion to the court requesting the court to issue an order against the garnishee requiring the garnishee to appear and show cause why the garnishee should not be held liable under this section.

[~~(6) A creditor who files a motion for an order to show cause under this section~~] (b) The office shall attach to [~~the~~] a motion under Subsection (7)(a) a statement that the [~~creditor~~] office has in good faith conferred or attempted to confer with the garnishee in an effort to settle the issue without court action.

[~~(7)~~] (8) A person is not liable as a garnishee for drawing, accepting, making, or endorsing a negotiable instrument if the instrument is not in the possession or control of the garnishee at the time of service of the administrative garnishment order.

[~~(8)~~] (9) (a) A person indebted to the defendant may pay to the office the amount of the debt or an amount to satisfy the administrative garnishment.

(b) The office's receipt of an amount described in Subsection [~~(8)~~] (9)(a) discharges the debtor for the amount paid.

[~~(9)~~] (10) A garnishee may deduct from the property any liquidated claim against the defendant.

[~~(10)~~] (11) (a) If a debt to the garnishee is secured by property, the office:

(i) is not required to apply the property to the debt when the office issues the administrative garnishment order; and

(ii) may obtain a court order authorizing the office to buy the debt and requiring the garnishee to deliver the property.

(b) Notwithstanding Subsection [~~(10)~~] (11)(a)(i):

(i) the administrative garnishment order remains in effect; and

(ii) the office may apply the property to the debt.

(c) The office or a third party may perform an obligation of the defendant and require the garnishee to deliver the property upon completion of performance or, if performance is refused, upon tender of performance if:

(i) the obligation is secured by property; and

(ii) (A) the obligation does not require the personal performance of the defendant; and

(B) a third party may perform the obligation.

[~~(11)~~] (12) (a) The office may issue a continuing garnishment order against a nonexempt periodic payment.

(b) This section is subject to the Utah Exemptions Act.

(c) A continuing garnishment order issued in accordance with this section applies to payments to the defendant from the date of service upon the garnishee until the [~~earlier~~] earliest of the following:

(i) the last periodic payment;

(ii) the judgment upon which the administrative garnishment order is issued is stayed, vacated, or satisfied in full; or

(iii) the office releases the order.

(d) No later than seven days after the last day of each payment period, the garnishee shall with respect to that period:

(i) answer each interrogatory;

(ii) serve an answer to each interrogatory on the office, the defendant, and any other person who has a recorded interest in the property; and

(iii) deliver the property to the office.

(e) If the office issues a continuing garnishment order during the term of a writ of continuing garnishment issued by the district court, the order issued by the office:

(i) is tolled when a writ of garnishment or other income withholding is already in effect and is withholding greater than or equal to the maximum portion of disposable earnings described in Subsection [~~(12)~~] (13);

(ii) is collected in the amount of the difference between the maximum portion of disposable earnings described in Subsection [~~(12)~~] (13) and the amount being garnished by an existing writ of continuing garnishment if the maximum portion of disposable earnings exceed the existing writ of garnishment or other income withholding; and

(iii) shall take priority upon the termination of the current term of existing writs.

[~~(12)~~] (13) The maximum portion of disposable earnings of an individual subject to seizure in accordance with this section is the lesser of:

(a) 25% of the defendant's disposable earnings for any other judgment; or

(b) the amount by which the defendant's disposable earnings for a pay period exceeds the number of weeks in that pay period multiplied by 30 times the federal minimum wage as provided in 29 U.S.C. Sec. 201 et seq., Fair Labor Standards Act of 1938.

(14) (a) In accordance with the requirements of this Subsection (14), the office may, at its discretion, determine a dollar amount that a garnishee is to withhold from earnings and deliver to the office in a continuing administrative garnishment order issued under this section.

(b) The office may determine the dollar amount that a garnishee is to withhold from earnings under Subsection (14)(a) if the dollar amount determined by the office:

(i) does not exceed the maximum amount allowed under Subsection (13); and

(ii) is based on:

(A) earnings information received by the office directly from the Utah Department of Workforce Services; or

(B) previous garnishments issued to the garnishee by the office where payments were received at a consistent dollar amount.

(c) The earnings information or previous garnishments relied on by the office under Subsection (14)(b)(ii) to calculate a dollar amount under this Subsection (14) shall be:

(i) for one debtor;

(ii) from the same employer;

(iii) for two or more consecutive quarters; and

(iv) received within the last six months.

(15) (a) A garnishee who provides the calculation for withholdings on a defendant's wages in the garnishee's initial response to an interrogatory in an administrative garnishment order under this section is not required to provide the calculation for withholdings after the garnishee's initial response if:

(i) the garnishee's accounting system automates the amount of defendant's wages to be paid under the garnishment; and

(ii) the defendant's wages do not vary by more than five percent from the amount disclosed in the garnishee's initial response.

(b) Notwithstanding Subsection (15)(a), upon request by the office or the defendant, a garnishee shall provide, for the last pay period or other pay period specified by the office or defendant, a calculation of the defendant's wages and withholdings and the amount garnished.

(16) (a) A garnishee under an administrative garnishment order under this section is entitled to receive a garnishee fee, as provided in this Subsection (16), in the amount of:

(i) $10 per garnishment order, for a noncontinuing garnishment order; and

(ii) $25, as a one-time fee, for a continuing garnishment order.

(b) A garnishee may deduct the amount of the garnishee fee from the amount to be remitted to the office under the administrative garnishment order, if the amount to be remitted exceeds the amount of the fee.

(c) If the amount to be remitted to the office under an administrative garnishment order does not exceed the amount of the garnishee fee:

(i) the garnishee shall notify the office that the amount to be remitted does not exceed the amount of the garnishee fee; and

(ii) (A) the garnishee under a noncontinuing garnishment order shall return the administrative garnishment order to the office, and the office shall pay the garnishee the garnishee fee; or

(B) the garnishee under a continuing garnishment order shall delay remitting to the office until the amount to be remitted exceeds the garnishee fee.

(d) If, upon receiving the administrative garnishment order, the garnishee does not possess or control any property, including money or wages, in which the defendant has an interest:

(i) the garnishee under a continuing or noncontinuing garnishment order shall, except as provided in Subsection (16)(d)(ii), return the administrative garnishment order to the office, and the office shall pay the garnishee the applicable garnishee fee; or

(ii) if the garnishee under a continuing garnishment order believes that the garnishee will, within 90 days after issuance of the continuing garnishment order, come into possession or control of property in which the defendant owns an interest, the garnishee may retain the garnishment order and deduct the garnishee fee for a continuing garnishment once the amount to be remitted exceeds the garnishee fee.

(17) Section 78A-2-216 does not apply to an administrative garnishment order issued under this section.

[~~(13) The~~] (18) An administrative garnishment instituted in accordance with this section shall continue to operate and require that a person withhold the nonexempt portion of earnings at each succeeding earning disbursement interval until the total amount due in the garnishment is withheld or the garnishment is released in writing by the court or office.

CHAPTER 146
H. B. 226
Passed February 26, 2021
Approved March 16, 2021
Effective May 5, 2021

LONG-TERM CARE PATIENT AND CONSUMER RIGHTS PROTECTION

Chief Sponsor: Melissa G. Ballard
Senate Sponsor: Wayne A. Harper

LONG TITLE

General Description:

This bill regulates assisted living and nursing home facilities.

Highlighted Provisions:

This bill:

- defines terms;
- requires a facility to make disclosures; and
- creates a penalty.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

26-21-35, Utah Code Annotated 1953

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

Section 1. Section 26-21-35 is enacted to read:

26-21-35. Resident consumer protection.

(1) As used in this section:

(a) "Eligible requester" means:

(i) a resident;

(ii) a prospective resident;

(iii) a legal representative of a resident or prospective resident; or

(iv) the department.

(b) "Facility" means an assisted living facility or nursing care facility.

(c) "Facility's leadership" means a facility's:

(i) owner;

(ii) administrator;

(iii) director; or

(iv) employee that is in a position to determine which providers have access to the facility.

(d) "Personal care agency" means a person that provides assistance with activities of daily living.

(e) "Provider" means a home health agency, hospice provider, medical provider, or personal care agency.

(f) "Resident" means an individual who resides in a facility.

(2) Subject to other state or federal laws, a facility may limit which providers have access to the facility if the facility complies with Subsection (3).

(3) (a) A facility that prohibits a provider from accessing the facility shall:

(i) before or at the time a prospective resident or prospective resident's legal representative signs an admission contract, inform the prospective resident or prospective resident's legal representative that the facility prohibits one or more providers from accessing the facility;

(ii) if an eligible requester requests to know which providers have access to the facility, refer the eligible requester to a member of the facility's leadership; and

(iii) if a provider requests to know whether the provider has access to the facility, refer the provider to a member of the facility's leadership.

(b) If a facility refers an eligible requester to a member of the facility's leadership under Subsection (3)(a)(ii), the member of the facility's leadership shall inform the eligible requester:

(i) which providers the facility:

(A) allows to access the facility; or

(B) prohibits from accessing the facility;

(ii) that a provider's access to the facility may change at any time; and

(iii) whether a person in the facility's leadership has a legal or financial interest in a provider that is allowed to access the facility.

(c) If a facility refers a provider to a member of the facility's leadership under Subsection (3)(a)(iii), the member of the facility's leadership:

(i) shall disclose whether the provider has access to the facility; and

(ii) may disclose any other information described in Subsection (3)(b).

(d) If a resident is being served by a provider that is later prohibited from accessing the facility, the facility shall:

(i) allow the provider access to the facility to finish the resident's current episode of care; or

(ii) provide to the resident a written explanation of why the provider no longer has access to the facility.

(4) This section does not apply to a facility operated by a government unit.

(5) The department may issue a notice of deficiency if a facility that denies a provider access under Subsection (2) does not comply with Subsection (3) at the time of the denial.

CHAPTER 147
H. B. 227
Passed March 4, 2021
Approved March 16, 2021
Effective May 5, 2021

SELF DEFENSE AMENDMENTS

Chief Sponsor: Karianne Lisonbee
Senate Sponsor: David P. Hinkins
Cosponsor: Travis M. Seegmiller

LONG TITLE

General Description:

This bill addresses the justifiable use or threatened use of force.

Highlighted Provisions:

This bill:

- defines the defense of justifiable use or threatened use of force; and
- establishes procedures for determining the applicability of the defense.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

77-18a-1, as last amended by Laws of Utah 2020, Chapter 185

ENACTS:

76-2-309, Utah Code Annotated 1953

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

Section 1. Section 76-2-309 is enacted to read:

76-2-309. Justified use of force.

(1) An individual who uses or threatens to use force as permitted in Section 76-2-402, 76-2-404, 76-2-405, 76-2-406, 76-2-407, or 76-2-408 is justified in that conduct.

(2) The pretrial justification hearing process described in Subsections (3)(a) and (b) does not apply if:

(a) (i) the individual against whom force was used or threatened is a law enforcement officer, as defined in Section 53-13-103;

(ii) the officer was acting lawfully in the performance of the officer's official duties; and

(iii) (A) the officer was identified as an officer by the officer in accordance with applicable law; or

(B) the individual using or threatening to use force knew or reasonably should have known that the officer was a law enforcement officer; or

(b) the charge filed against the defendant for which the defendant seeks a pretrial justification hearing is an infraction, a class B or C misdemeanor, or a domestic violence offense as defined in Section 77-36-1.

(3) (a) Upon motion of the defendant filed in accordance with Rule 12 of the Utah Rules of Criminal Procedure, the court shall hear evidence on the issue of justification under this section and shall determine as a matter of fact and law whether the defendant was justified in the use or threatened use of force.

(b) At the pretrial justification hearing, after the defendant makes a prima facie claim of justification, the state has the burden to prove by clear and convincing evidence that the defendant's use or threatened use of force was not justified.

(c) (i) If the court determines that the state has not met the state's burden described in Subsection (3)(b), the court shall dismiss the charge with prejudice.

(ii) The state may appeal a court's order dismissing a charge under Subsection (3)(c)(i) in accordance with Section 77-18a-1.

(iii) If a court determines after the pretrial justification hearing that the state has met the state's burden described in Subsection (3)(b), the issue of justification may be raised by the defendant to the jury at trial and, if raised by the defendant, the state shall have the burden to prove beyond a reasonable doubt that the defendant's use or threatened use of force was not justified.

(iv) At trial, a court's determination that the state met the state's burden under Subsection (3)(c)(iii) is not admissible and may not be referenced by the prosecution.

Section 2. Section 77-18a-1 is amended to read:

77-18a-1. Appeals -- When proper.

(1) A defendant may, as a matter of right, appeal from:

(a) a final judgment of conviction, whether by verdict or plea;

(b) an order made after judgment that affects the substantial rights of the defendant;

(c) an order adjudicating the defendant's competency to proceed further in a pending prosecution; or

(d) an order denying bail, as provided in Section 77-20-1.

(2) In addition to any appeal permitted by Subsection (1), a defendant may seek discretionary appellate review of any interlocutory order.

(3) The prosecution may, as a matter of right, appeal from:

(a) a final judgment of dismissal, including a dismissal of a felony information following a refusal to bind the defendant over for trial;

(b) a pretrial order dismissing a charge on the ground that the court's suppression of evidence has substantially impaired the prosecution's case;

(c) an order granting a motion to withdraw a plea of guilty or no contest;

(d) an order arresting judgment or granting a motion for merger;

(e) an order terminating the prosecution because of a finding of double jeopardy or denial of a speedy trial;

(f) an order granting a new trial;

(g) an order holding a statute or any part of it invalid;

(h) an order adjudicating the defendant's competency to proceed further in a pending prosecution;

(i) an order finding, pursuant to Title 77, Chapter 19, Part 2, Competency for Execution, that an inmate sentenced to death is incompetent to be executed;

(j) an order reducing the degree of offense pursuant to Section 76-3-402; [~~or~~]

(k) an illegal sentence[~~.~~]; or

(l) an order dismissing a charge pursuant to Subsection 76-2-309(3).

(4) In addition to any appeal permitted by Subsection (3), the prosecution may seek discretionary appellate review of any interlocutory order entered before jeopardy attaches.

CHAPTER 148
H. B. 228
Passed February 25, 2021
Approved March 16, 2021
Effective May 5, 2021

JAIL PHOTO DISTRIBUTION PROHIBITION

Chief Sponsor: Keven J. Stratton
Senate Sponsor: Michael S. Kennedy
Cosponsors: Francis D. Gibson
Brian S. King
Karianne Lisonbee
Stephanie Pitcher
Angela Romero
Mike Schultz

LONG TITLE

General Description:

This bill amends provisions relating to the disclosure of an image taken during the process of booking an individual into jail.

Highlighted Provisions:

This bill:

- subject to certain exceptions, classifies as a protected record an image taken of an individual during the process of booking the individual into jail; and
- prohibits a sheriff from disclosing a protected record described in this bill.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

17-22-30, as last amended by Laws of Utah 2019, Chapter 93
63G-2-305, as last amended by Laws of Utah 2020, Chapters 112, 198, 339, 349, 382, and 393

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

Section 1. Section 17-22-30 is amended to read:

17-22-30. Prohibition on providing copy of booking photograph -- Statement required -- Criminal liability for false statement -- Remedy for failure to remove or delete.

(1) As used in this section:

(a) "Booking photograph" means a photograph or image of an individual that is generated:

(i) for identification purposes; and

(ii) when the individual is booked into a county jail.

(b) "Publish-for-pay publication" or "publish-for-pay website" means a publication or website that requires the payment of a fee or other consideration in order to remove or delete a booking photograph from the publication or website.

(2) A sheriff may not provide a copy of a booking photograph in any format to a person requesting a copy of the booking photograph if:

(a) the booking photograph will be placed in a publish-for-pay publication or posted to a publish-for-pay website[.]; or

(b) the booking photograph is a protected record under Subsection 63G-2-305(82).

(3) (a) A person who requests a copy of a booking photograph from a sheriff shall, at the time of making the request, submit a statement signed by the person affirming that the booking photograph will not be placed in a publish-for-pay publication or posted to a publish-for-pay website.

(b) A person who submits a false statement under Subsection (3)(a) is subject to criminal liability as provided in Section 76-8-504.

(4) (a) Except as provided in Subsection (5), a publish-for-pay publication or a publish-for-pay website shall remove and destroy a booking photograph of an individual who submits a request for removal and destruction within 30 calendar days after the day on which the individual makes the request.

(b) A publish-for-pay publication or publish-for-pay website described in Subsection (4)(a) may not condition removal or destruction of the booking photograph on the payment of a fee in an amount greater than $50.

(c) If the publish-for-pay publication or publish-for-pay website described in Subsection (4)(a) does not remove and destroy the booking photograph in accordance with Subsection (4)(a), the publish-for-pay publication or publish-for-pay website is liable for:

(i) all costs, including reasonable attorney fees, resulting from any legal action the individual brings in relation to the failure of the publish-for-pay publication or publish-for-pay website to remove and destroy the booking photograph; and

(ii) a civil penalty of $50 per day for each day after the 30-day deadline described in Subsection (4)(a) on which the booking photograph is visible or publicly accessible in the publish-for-pay publication or on the publish-for-pay website.

(5) (a) A publish-for-pay publication or a publish-for-pay website shall remove and destroy a booking photograph of an individual who submits a request for removal and destruction within seven calendar days after the day on which the individual makes the request if:

(i) the booking photograph relates to a criminal charge:

(A) on which the individual was acquitted or not prosecuted; or

(B) that was expunged, vacated, or pardoned; and

(ii) the individual submits, in relation to the request, evidence of a disposition described in Subsection (5)(a)(i).

(b) If the publish-for-pay publication or publish-for-pay website described in Subsection (5)(a) does not remove and destroy the booking photograph in accordance with Subsection (5)(a), the publish-for-pay publication or publish-for-pay website is liable for:

(i) all costs, including reasonable attorney fees, resulting from any legal action that the individual brings in relation to the failure of the publish-for-pay publication or publish-for-pay website to remove and destroy the booking photograph; and

(ii) a civil penalty of $100 per day for each day after the seven-day deadline described in Subsection (5)(a) on which the booking photograph is visible or publicly accessible in the publish-for-pay publication or on the publish-for-pay website.

(c) An act of a publish-for-pay publication or publish-for-pay website described in Subsection (5)(a) that seeks to condition removal or destruction of the booking photograph on the payment of any fee or amount constitutes theft by extortion under Section 76-6-406.

Section 2. Section 63G-2-305 is amended to read:

63G-2-305. Protected records.

The following records are protected if properly classified by a governmental entity:

(1) trade secrets as defined in Section 13-24-2 if the person submitting the trade secret has provided the governmental entity with the information specified in Section 63G-2-309;

(2) commercial information or nonindividual financial information obtained from a person if:

(a) disclosure of the information could reasonably be expected to result in unfair competitive injury to the person submitting the information or would impair the ability of the governmental entity to obtain necessary information in the future;

(b) the person submitting the information has a greater interest in prohibiting access than the public in obtaining access; and

(c) the person submitting the information has provided the governmental entity with the information specified in Section 63G-2-309;

(3) commercial or financial information acquired or prepared by a governmental entity to the extent that disclosure would lead to financial speculations in currencies, securities, or commodities that will interfere with a planned transaction by the governmental entity or cause substantial financial injury to the governmental entity or state economy;

(4) records, the disclosure of which could cause commercial injury to, or confer a competitive advantage upon a potential or actual competitor of, a commercial project entity as defined in Subsection 11-13-103(4);

(5) test questions and answers to be used in future license, certification, registration, employment, or academic examinations;

(6) records, the disclosure of which would impair governmental procurement proceedings or give an unfair advantage to any person proposing to enter into a contract or agreement with a governmental entity, except, subject to Subsections (1) and (2), that this Subsection (6) does not restrict the right of a person to have access to, after the contract or grant has been awarded and signed by all parties:

(a) a bid, proposal, application, or other information submitted to or by a governmental entity in response to:

(i) an invitation for bids;

(ii) a request for proposals;

(iii) a request for quotes;

(iv) a grant; or

(v) other similar document; or

(b) an unsolicited proposal, as defined in Section 63G-6a-712;

(7) information submitted to or by a governmental entity in response to a request for information, except, subject to Subsections (1) and (2), that this Subsection (7) does not restrict the right of a person to have access to the information, after:

(a) a contract directly relating to the subject of the request for information has been awarded and signed by all parties; or

(b) (i) a final determination is made not to enter into a contract that relates to the subject of the request for information; and

(ii) at least two years have passed after the day on which the request for information is issued;

(8) records that would identify real property or the appraisal or estimated value of real or personal property, including intellectual property, under consideration for public acquisition before any rights to the property are acquired unless:

(a) public interest in obtaining access to the information is greater than or equal to the governmental entity's need to acquire the property on the best terms possible;

(b) the information has already been disclosed to persons not employed by or under a duty of confidentiality to the entity;

(c) in the case of records that would identify property, potential sellers of the described property have already learned of the governmental entity's plans to acquire the property;

(d) in the case of records that would identify the appraisal or estimated value of property, the potential sellers have already learned of the governmental entity's estimated value of the property; or

(e) the property under consideration for public acquisition is a single family residence and the

governmental entity seeking to acquire the property has initiated negotiations to acquire the property as required under Section 78B-6-505;

(9) records prepared in contemplation of sale, exchange, lease, rental, or other compensated transaction of real or personal property including intellectual property, which, if disclosed prior to completion of the transaction, would reveal the appraisal or estimated value of the subject property, unless:

(a) the public interest in access is greater than or equal to the interests in restricting access, including the governmental entity's interest in maximizing the financial benefit of the transaction; or

(b) when prepared by or on behalf of a governmental entity, appraisals or estimates of the value of the subject property have already been disclosed to persons not employed by or under a duty of confidentiality to the entity;

(10) records created or maintained for civil, criminal, or administrative enforcement purposes or audit purposes, or for discipline, licensing, certification, or registration purposes, if release of the records:

(a) reasonably could be expected to interfere with investigations undertaken for enforcement, discipline, licensing, certification, or registration purposes;

(b) reasonably could be expected to interfere with audits, disciplinary, or enforcement proceedings;

(c) would create a danger of depriving a person of a right to a fair trial or impartial hearing;

(d) reasonably could be expected to disclose the identity of a source who is not generally known outside of government and, in the case of a record compiled in the course of an investigation, disclose information furnished by a source not generally known outside of government if disclosure would compromise the source; or

(e) reasonably could be expected to disclose investigative or audit techniques, procedures, policies, or orders not generally known outside of government if disclosure would interfere with enforcement or audit efforts;

(11) records the disclosure of which would jeopardize the life or safety of an individual;

(12) records the disclosure of which would jeopardize the security of governmental property, governmental programs, or governmental recordkeeping systems from damage, theft, or other appropriation or use contrary to law or public policy;

(13) records that, if disclosed, would jeopardize the security or safety of a correctional facility, or records relating to incarceration, treatment, probation, or parole, that would interfere with the control and supervision of an offender's incarceration, treatment, probation, or parole;

(14) records that, if disclosed, would reveal recommendations made to the Board of Pardons and Parole by an employee of or contractor for the Department of Corrections, the Board of Pardons and Parole, or the Department of Human Services that are based on the employee's or contractor's supervision, diagnosis, or treatment of any person within the board's jurisdiction;

(15) records and audit workpapers that identify audit, collection, and operational procedures and methods used by the State Tax Commission, if disclosure would interfere with audits or collections;

(16) records of a governmental audit agency relating to an ongoing or planned audit until the final audit is released;

(17) records that are subject to the attorney client privilege;

(18) records prepared for or by an attorney, consultant, surety, indemnitor, insurer, employee, or agent of a governmental entity for, or in anticipation of, litigation or a judicial, quasi-judicial, or administrative proceeding;

(19) (a) (i) personal files of a state legislator, including personal correspondence to or from a member of the Legislature; and

(ii) notwithstanding Subsection (19)(a)(i), correspondence that gives notice of legislative action or policy may not be classified as protected under this section; and

(b) (i) an internal communication that is part of the deliberative process in connection with the preparation of legislation between:

(A) members of a legislative body;

(B) a member of a legislative body and a member of the legislative body's staff; or

(C) members of a legislative body's staff; and

(ii) notwithstanding Subsection (19)(b)(i), a communication that gives notice of legislative action or policy may not be classified as protected under this section;

(20) (a) records in the custody or control of the Office of Legislative Research and General Counsel, that, if disclosed, would reveal a particular legislator's contemplated legislation or contemplated course of action before the legislator has elected to support the legislation or course of action, or made the legislation or course of action public; and

(b) notwithstanding Subsection (20)(a), the form to request legislation submitted to the Office of Legislative Research and General Counsel is a public document unless a legislator asks that the records requesting the legislation be maintained as protected records until such time as the legislator elects to make the legislation or course of action public;

(21) research requests from legislators to the Office of Legislative Research and General Counsel or the Office of the Legislative Fiscal Analyst and

research findings prepared in response to these requests;

(22) drafts, unless otherwise classified as public;

(23) records concerning a governmental entity's strategy about:

(a) collective bargaining; or

(b) imminent or pending litigation;

(24) records of investigations of loss occurrences and analyses of loss occurrences that may be covered by the Risk Management Fund, the Employers' Reinsurance Fund, the Uninsured Employers' Fund, or similar divisions in other governmental entities;

(25) records, other than personnel evaluations, that contain a personal recommendation concerning an individual if disclosure would constitute a clearly unwarranted invasion of personal privacy, or disclosure is not in the public interest;

(26) records that reveal the location of historic, prehistoric, paleontological, or biological resources that if known would jeopardize the security of those resources or of valuable historic, scientific, educational, or cultural information;

(27) records of independent state agencies if the disclosure of the records would conflict with the fiduciary obligations of the agency;

(28) records of an institution within the state system of higher education defined in Section 53B-1-102 regarding tenure evaluations, appointments, applications for admissions, retention decisions, and promotions, which could be properly discussed in a meeting closed in accordance with Title 52, Chapter 4, Open and Public Meetings Act, provided that records of the final decisions about tenure, appointments, retention, promotions, or those students admitted, may not be classified as protected under this section;

(29) records of the governor's office, including budget recommendations, legislative proposals, and policy statements, that if disclosed would reveal the governor's contemplated policies or contemplated courses of action before the governor has implemented or rejected those policies or courses of action or made them public;

(30) records of the Office of the Legislative Fiscal Analyst relating to budget analysis, revenue estimates, and fiscal notes of proposed legislation before issuance of the final recommendations in these areas;

(31) records provided by the United States or by a government entity outside the state that are given to the governmental entity with a requirement that they be managed as protected records if the providing entity certifies that the record would not be subject to public disclosure if retained by it;

(32) transcripts, minutes, recordings, or reports of the closed portion of a meeting of a public body except as provided in Section 52-4-206;

(33) records that would reveal the contents of settlement negotiations but not including final settlements or empirical data to the extent that they are not otherwise exempt from disclosure;

(34) memoranda prepared by staff and used in the decision-making process by an administrative law judge, a member of the Board of Pardons and Parole, or a member of any other body charged by law with performing a quasi-judicial function;

(35) records that would reveal negotiations regarding assistance or incentives offered by or requested from a governmental entity for the purpose of encouraging a person to expand or locate a business in Utah, but only if disclosure would result in actual economic harm to the person or place the governmental entity at a competitive disadvantage, but this section may not be used to restrict access to a record evidencing a final contract;

(36) materials to which access must be limited for purposes of securing or maintaining the governmental entity's proprietary protection of intellectual property rights including patents, copyrights, and trade secrets;

(37) the name of a donor or a prospective donor to a governmental entity, including an institution within the state system of higher education defined in Section 53B-1-102, and other information concerning the donation that could reasonably be expected to reveal the identity of the donor, provided that:

(a) the donor requests anonymity in writing;

(b) any terms, conditions, restrictions, or privileges relating to the donation may not be classified protected by the governmental entity under this Subsection (37); and

(c) except for an institution within the state system of higher education defined in Section 53B-1-102, the governmental unit to which the donation is made is primarily engaged in educational, charitable, or artistic endeavors, and has no regulatory or legislative authority over the donor, a member of the donor's immediate family, or any entity owned or controlled by the donor or the donor's immediate family;

(38) accident reports, except as provided in Sections 41-6a-404, 41-12a-202, and 73-18-13;

(39) a notification of workers' compensation insurance coverage described in Section 34A-2-205;

(40) (a) the following records of an institution within the state system of higher education defined in Section 53B-1-102, which have been developed, discovered, disclosed to, or received by or on behalf of faculty, staff, employees, or students of the institution:

(i) unpublished lecture notes;

(ii) unpublished notes, data, and information:

(A) relating to research; and

(B) of:

(I) the institution within the state system of higher education defined in Section 53B-1-102; or

(II) a sponsor of sponsored research;

(iii) unpublished manuscripts;

(iv) creative works in process;

(v) scholarly correspondence; and

(vi) confidential information contained in research proposals;

(b) Subsection (40)(a) may not be construed to prohibit disclosure of public information required pursuant to Subsection 53B-16-302(2)(a) or (b); and

(c) Subsection (40)(a) may not be construed to affect the ownership of a record;

(41) (a) records in the custody or control of the Office of Legislative Auditor General that would reveal the name of a particular legislator who requests a legislative audit prior to the date that audit is completed and made public; and

(b) notwithstanding Subsection (41)(a), a request for a legislative audit submitted to the Office of the Legislative Auditor General is a public document unless the legislator asks that the records in the custody or control of the Office of Legislative Auditor General that would reveal the name of a particular legislator who requests a legislative audit be maintained as protected records until the audit is completed and made public;

(42) records that provide detail as to the location of an explosive, including a map or other document that indicates the location of:

(a) a production facility; or

(b) a magazine;

(43) information:

(a) contained in the statewide database of the Division of Aging and Adult Services created by Section 62A-3-311.1; or

(b) received or maintained in relation to the Identity Theft Reporting Information System (IRIS) established under Section 67-5-22;

(44) information contained in the Management Information System and Licensing Information System described in Title 62A, Chapter 4a, Child and Family Services;

(45) information regarding National Guard operations or activities in support of the National Guard's federal mission;

(46) records provided by any pawn or secondhand business to a law enforcement agency or to the central database in compliance with Title 13, Chapter 32a, Pawnshop and Secondhand Merchandise Transaction Information Act;

(47) information regarding food security, risk, and vulnerability assessments performed by the Department of Agriculture and Food;

(48) except to the extent that the record is exempt from this chapter pursuant to Section 63G-2-106, records related to an emergency plan or program, a copy of which is provided to or prepared or maintained by the Division of Emergency Management, and the disclosure of which would jeopardize:

(a) the safety of the general public; or

(b) the security of:

(i) governmental property;

(ii) governmental programs; or

(iii) the property of a private person who provides the Division of Emergency Management information;

(49) records of the Department of Agriculture and Food that provides for the identification, tracing, or control of livestock diseases, including any program established under Title 4, Chapter 24, Utah Livestock Brand and Anti-Theft Act, or Title 4, Chapter 31, Control of Animal Disease;

(50) as provided in Section 26-39-501:

(a) information or records held by the Department of Health related to a complaint regarding a child care program or residential child care which the department is unable to substantiate; and

(b) information or records related to a complaint received by the Department of Health from an anonymous complainant regarding a child care program or residential child care;

(51) unless otherwise classified as public under Section 63G-2-301 and except as provided under Section 41-1a-116, an individual's home address, home telephone number, or personal mobile phone number, if:

(a) the individual is required to provide the information in order to comply with a law, ordinance, rule, or order of a government entity; and

(b) the subject of the record has a reasonable expectation that this information will be kept confidential due to:

(i) the nature of the law, ordinance, rule, or order; and

(ii) the individual complying with the law, ordinance, rule, or order;

(52) the portion of the following documents that contains a candidate's residential or mailing address, if the candidate provides to the filing officer another address or phone number where the candidate may be contacted:

(a) a declaration of candidacy, a nomination petition, or a certificate of nomination, described in Section 20A-9-201, 20A-9-202, 20A-9-203, 20A-9-404, 20A-9-405, 20A-9-408, 20A-9-408.5, 20A-9-502, or 20A-9-601;

(b) an affidavit of impecuniosity, described in Section 20A-9-201; or

(c) a notice of intent to gather signatures for candidacy, described in Section 20A-9-408;

(53) the name, home address, work addresses, and telephone numbers of an individual that is engaged in, or that provides goods or services for, medical or scientific research that is:

(a) conducted within the state system of higher education, as defined in Section 53B-1-102; and

(b) conducted using animals;

(54) in accordance with Section 78A-12-203, any record of the Judicial Performance Evaluation Commission concerning an individual commissioner's vote on whether or not to recommend that the voters retain a judge including information disclosed under Subsection 78A-12-203(5)(e);

(55) information collected and a report prepared by the Judicial Performance Evaluation Commission concerning a judge, unless Section 20A-7-702 or Title 78A, Chapter 12, Judicial Performance Evaluation Commission Act, requires disclosure of, or makes public, the information or report;

(56) records contained in the Management Information System created in Section 62A-4a-1003;

(57) records provided or received by the Public Lands Policy Coordinating Office in furtherance of any contract or other agreement made in accordance with Section 63J-4-603;

(58) information requested by and provided to the 911 Division under Section 63H-7a-302;

(59) in accordance with Section 73-10-33:

(a) a management plan for a water conveyance facility in the possession of the Division of Water Resources or the Board of Water Resources; or

(b) an outline of an emergency response plan in possession of the state or a county or municipality;

(60) the following records in the custody or control of the Office of Inspector General of Medicaid Services, created in Section 63A-13-201:

(a) records that would disclose information relating to allegations of personal misconduct, gross mismanagement, or illegal activity of a person if the information or allegation cannot be corroborated by the Office of Inspector General of Medicaid Services through other documents or evidence, and the records relating to the allegation are not relied upon by the Office of Inspector General of Medicaid Services in preparing a final investigation report or final audit report;

(b) records and audit workpapers to the extent they would disclose the identity of a person who, during the course of an investigation or audit, communicated the existence of any Medicaid fraud, waste, or abuse, or a violation or suspected violation of a law, rule, or regulation adopted under the laws of this state, a political subdivision of the state, or any recognized entity of the United States, if the information was disclosed on the condition that the identity of the person be protected;

(c) before the time that an investigation or audit is completed and the final investigation or final audit report is released, records or drafts circulated to a person who is not an employee or head of a governmental entity for the person's response or information;

(d) records that would disclose an outline or part of any investigation, audit survey plan, or audit program; or

(e) requests for an investigation or audit, if disclosure would risk circumvention of an investigation or audit;

(61) records that reveal methods used by the Office of Inspector General of Medicaid Services, the fraud unit, or the Department of Health, to discover Medicaid fraud, waste, or abuse;

(62) information provided to the Department of Health or the Division of Occupational and Professional Licensing under Subsections 58-67-304(3) and (4) and Subsections 58-68-304(3) and (4);

(63) a record described in Section 63G-12-210;

(64) captured plate data that is obtained through an automatic license plate reader system used by a governmental entity as authorized in Section 41-6a-2003;

(65) any record in the custody of the Utah Office for Victims of Crime relating to a victim, including:

(a) a victim's application or request for benefits;

(b) a victim's receipt or denial of benefits; and

(c) any administrative notes or records made or created for the purpose of, or used to, evaluate or communicate a victim's eligibility for or denial of benefits from the Crime Victim Reparations Fund;

(66) an audio or video recording created by a body-worn camera, as that term is defined in Section 77-7a-103, that records sound or images inside a hospital or health care facility as those terms are defined in Section 78B-3-403, inside a clinic of a health care provider, as that term is defined in Section 78B-3-403, or inside a human service program as that term is defined in Section 62A-2-101, except for recordings that:

(a) depict the commission of an alleged crime;

(b) record any encounter between a law enforcement officer and a person that results in death or bodily injury, or includes an instance when an officer fires a weapon;

(c) record any encounter that is the subject of a complaint or a legal proceeding against a law enforcement officer or law enforcement agency;

(d) contain an officer involved critical incident as defined in Subsection 76-2-408(1)(f); or

(e) have been requested for reclassification as a public record by a subject or authorized agent of a subject featured in the recording;

(67) a record pertaining to the search process for a president of an institution of higher education described in Section 53B-2-102, except for application materials for a publicly announced finalist;

(68) an audio recording that is:

(a) produced by an audio recording device that is used in conjunction with a device or piece of equipment designed or intended for resuscitating an individual or for treating an individual with a life-threatening condition;

(b) produced during an emergency event when an individual employed to provide law enforcement, fire protection, paramedic, emergency medical, or other first responder service:

(i) is responding to an individual needing resuscitation or with a life-threatening condition; and

(ii) uses a device or piece of equipment designed or intended for resuscitating an individual or for treating an individual with a life-threatening condition; and

(c) intended and used for purposes of training emergency responders how to improve their response to an emergency situation;

(69) records submitted by or prepared in relation to an applicant seeking a recommendation by the Research and General Counsel Subcommittee, the Budget Subcommittee, or the Audit Subcommittee, established under Section 36-12-8, for an employment position with the Legislature;

(70) work papers as defined in Section 31A-2-204;

(71) a record made available to Adult Protective Services or a law enforcement agency under Section 61-1-206;

(72) a record submitted to the Insurance Department in accordance with Section 31A-37-201 or 31A-22-653;

(73) a record described in Section 31A-37-503[~~.~~];

(74) any record created by the Division of Occupational and Professional Licensing as a result of Subsection 58-37f-304(5) or 58-37f-702(2)(a)(ii);

(75) a record described in Section 72-16-306 that relates to the reporting of an injury involving an amusement ride;

(76) except as provided in Subsection 63G-2-305.5(1), the signature of an individual on a political petition, or on a request to withdraw a signature from a political petition, including a petition or request described in the following titles:

(a) Title 10, Utah Municipal Code;

(b) Title 17, Counties;

(c) Title 17B, Limited Purpose Local Government Entities - Local Districts;

(d) Title 17D, Limited Purpose Local Government Entities - Other Entities; and

(e) Title 20A, Election Code;

(77) except as provided in Subsection 63G-2-305.5(2), the signature of an individual in a voter registration record;

(78) except as provided in Subsection 63G-2-305.5(3), any signature, other than a signature described in Subsection (76) or (77), in the custody of the lieutenant governor or a local political subdivision collected or held under, or in relation to, Title 20A, Election Code;

(79) a Form I-918 Supplement B certification as described in Title 77, Chapter 38, Part 5, Victims Guidelines for Prosecutors Act;

(80) a record submitted to the Insurance Department under Subsection [~~31A-47-103~~] 31A-48-103(1)(b); [~~and~~]

(81) personal information, as defined in Section 63G-26-102, to the extent disclosure is prohibited under Section 63G-26-103[~~.~~]; and

(82) (a) an image taken of an individual during the process of booking the individual into jail, unless:

(i) the individual is convicted of a criminal offense based upon the conduct for which the individual was incarcerated at the time the image was taken;

(ii) a law enforcement agency releases or disseminates the image after determining that:

(A) the individual is a fugitive or an imminent threat to an individual or to public safety; and

(B) releasing or disseminating the image will assist in apprehending the individual or reducing or eliminating the threat; or

(iii) a judge orders the release or dissemination of the image based on a finding that the release or dissemination is in furtherance of a legitimate law enforcement interest.

CHAPTER 149
H. B. 236
Passed March 4, 2021
Approved March 16, 2021
Effective May 5, 2021

WASTE TIRE RECYCLING AMENDMENTS

Chief Sponsor: Stephen G. Handy
Senate Sponsor: Todd D. Weiler

LONG TITLE

General Description:

This bill modifies provisions related to waste tire recycling.

Highlighted Provisions:

This bill:

- modifies definition provisions;
- changes the process and limitations on the funding for management of certain landfill or abandoned waste tire piles;
- addresses criminal penalties; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

19-6-803, as last amended by Laws of Utah 2020, Chapter 27
19-6-811, as last amended by Laws of Utah 2019, Chapter 70
19-6-822, as repealed and reenacted by Laws of Utah 2012, Chapter 263

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

Section 1. Section 19-6-803 is amended to read:

19-6-803. Definitions.

As used in this part:

(1) "Abandoned waste tire pile" means a waste tire pile regarding which the local department of health has not been able to:

(a) locate the persons responsible for the tire pile; or

(b) cause the persons responsible for the tire pile to remove the tire pile.

(2) (a) "Beneficial use" means the use of chipped tires in a manner that is not recycling, storage, or disposal, but that serves as a replacement for another product or material for specific purposes.

(b) "Beneficial use" includes the use of chipped tires:

(i) as daily landfill cover;

(ii) for civil engineering purposes;

(iii) as low-density, light-weight aggregate fill; or

(iv) for septic or drain field construction.

(c) "Beneficial use" does not include the use of waste tires or material derived from waste tires:

(i) in the construction of fences; or

(ii) as fill, other than low-density, light-weight aggregate fill.

(3) "Board" means the Waste Management and Radiation Control Board created under Section 19-1-106.

(4) "Chip" or "chipped tire" means a two inch square or smaller piece of a waste tire.

(5) "Commission" means the Utah State Tax Commission.

(6) (a) "Consumer" means a person who purchases a new tire to satisfy a direct need, rather than for resale.

(b) "Consumer" includes a person who purchases a new tire for a motor vehicle to be rented or leased.

(7) "Crumb rubber" means waste tires that have been ground, shredded, or otherwise reduced in size such that the particles are less than or equal to 3/4 inch in diameter and are 98% wire free by weight.

(8) "Director" means the director of the Division of Waste Management and Radiation Control.

(9) "Disposal" means the deposit, dumping, or permanent placement of waste tire in or on land or in water in the state.

(10) "Dispose of" means to deposit, dump, or permanently place waste tire in or on land or in water in the state.

(11) "Division" means the Division of Waste Management and Radiation Control created in Section 19-1-105.

(12) "Fund" means the Waste Tire Recycling Fund created in Section 19-6-807.

(13) "Landfill waste tire pile" means a waste tire pile:

(a) located within the permitted boundary of a landfill or transfer station operated by a governmental entity; and

(b) consisting solely of waste tires brought to a landfill or transfer station for disposal and diverted from the landfill or transfer station waste stream to the waste tire pile.

(14) "Local health department" means the local health department, as defined in Section 26A-1-102, with jurisdiction over the recycler.

(15) "Materials derived from waste tires" means tire sections, tire chips, tire shreddings, rubber, steel, fabric, or other similar materials derived from waste tires.

(16) "Mobile facility" means a mobile facility capable of cutting waste tires on site so the waste tires may be effectively disposed of by burial, such as in a landfill.

(17) "New motor vehicle" means a motor vehicle that has never been titled or registered.

(18) "Passenger tire equivalent" means a measure of mixed sizes of tires where each 25 pounds of whole tires or material derived from waste tires is equal to one waste tire.

(19) "Proceeds of the fee" means the money collected by the commission from payment of the recycling fee including interest and penalties on delinquent payments.

(20) "Recycler" means a person who:

(a) annually uses, or can reasonably be expected within the next year to use, a minimum of 100,000 waste tires generated in the state or 1,000 tons of waste tires generated in the state to recover energy or produce energy, crumb rubber, chipped tires, or an ultimate product; and

(b) is registered as a recycler in accordance with Section 19-6-806.

(21) "Recycling fee" means the fee provided for in Section 19-6-805.

(22) "Shredded waste tires" means waste tires or material derived from waste tires that has been reduced to a six inch square or smaller.

(23) (a) "Storage" means the placement of waste tires in a manner that does not constitute disposal of the waste tires.

(b) "Storage" does not include:

(i) the use of waste tires as ballast to maintain covers on agricultural materials or to maintain covers at a construction site;

(ii) the storage for five or fewer days of waste tires or material derived from waste tires that are to be recycled or applied to a beneficial use; or

(iii) the storage of a waste tire before the tire is:

(A) resold wholesale or retail; or

(B) recapped.

(24) (a) "Store" means to place waste tires in a manner that does not constitute disposal of the waste tires.

(b) "Store" does not include:

(i) to use waste tires as ballast to maintain covers on agricultural materials or to maintain covers at a construction site; or

(ii) to store for five or fewer days waste tires or material derived from waste tires that are to be recycled or applied to a beneficial use.

(25) "Tire" means a pneumatic rubber covering designed to encircle the wheel of a vehicle in which a person or property is or may be transported or drawn upon a highway.

(26) "Tire retailer" means a person engaged in the business of selling new tires either as replacement tires or as part of a new vehicle sale.

(27) "Transfer station" is defined by rule made by the board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

[~~(27)~~] (28) (a) "Ultimate product" means a product that has as a component materials derived from waste tires and that the director finds has a demonstrated market.

(b) "Ultimate product" includes pyrolized materials derived from:

(i) waste tires; or

(ii) chipped tires.

(c) "Ultimate product" does not include a product regarding which a waste tire remains after the product is disposed of or disassembled.

[~~(28)~~] (29) "Waste tire" means:

(a) a tire that is no longer suitable for the tire's original intended purpose because of wear, damage, or defect; or

(b) a tire that a tire retailer removes from a vehicle for replacement with a new or used tire.

[~~(29)~~] (30) "Waste tire pile" means a pile of 200 or more waste tires at one location.

[~~(30)~~] (31) (a) "Waste tire transporter" means a person engaged in picking up or transporting at one time more than 10 whole waste tires, or the equivalent amount of material derived from waste tires, generated in Utah for the purpose of storage, processing, or disposal.

(b) "Waste tire transporter" includes a person engaged in the business of collecting, hauling, or transporting waste tires or who performs these functions for another person, except as provided in Subsection [~~(30)~~] (31)(c).

(c) "Waste tire transporter" does not include:

(i) a person transporting waste tires generated solely by:

(A) that person's personal vehicles;

(B) a commercial vehicle fleet owned or operated by that person or that person's employer;

(C) vehicles sold, leased, or purchased by a motor vehicle dealership owned or operated by that person or that person's employer; or

(D) a retail tire business owned or operated by that person or that person's employer;

(ii) a solid waste collector operating under a license issued by a unit of local government as defined in Section 63M-5-103, or a local health department;

(iii) a recycler of waste tires;

(iv) a person transporting tires by rail as a common carrier subject to federal regulation; or

(v) a person transporting processed or chipped tires.

Section 2. Section 19-6-811 is amended to read:

19-6-811. Funding for management of certain waste tire piles -- Limitations.

(1) (a) A county or municipality may apply to the director for payment from the fund for costs of a

waste tire transporter or recycler to remove waste tires from an abandoned waste tire pile [~~or a landfill waste tire pile operated by a state or local governmental entity~~] located within that county or municipality and deliver the waste tires to a recycler.

(b) (i) Subject to Subsection (1)(b)(iii), an operator of a state or local government landfill or of a transfer station may apply to the director for payment from the fund for costs to remove waste tires from a waste tire pile located at that landfill or transfer station and deliver the waste tires to a recycler.

(ii) If the removal and delivery of waste tires is to be conducted by a registered third-party waste tire transporter or recycler, the operator of a state or local government landfill or transfer station is subject to the competitive bidding process of Subsections (3) through (5).

(iii) For a state or local government landfill or a transfer station located in a county of the first or second class, the division:

(A) shall reimburse under Subsection (1)(b)(i) an operator of the state or local government landfill or of a transfer station in the order that the operator submits a completed request for reimbursement under Subsection (1)(b)(i); and

(B) may not reimburse an operator of a state or local government landfill or a transfer station located in a county of the first or second class if, at the time the operator submits the operator's request for reimbursement, the aggregate of the reimbursements to state or local government landfills or transfer stations located in a county of the first or second class made under Subsection (1)(b)(i) in a fiscal year equals $80,000.

(iv) Subsection (1)(b)(iii) does not apply to a state or local government landfill or transfer station that is located in a county of the third through sixth class.

[~~(b)~~] (c) (i) The director may authorize [~~a maximum~~] reimbursement of[~~: (i) subject to Subsection (1)(d), 100% of~~] a waste tire transporter's or recycler's costs, subject to Subsections (1)(e) and (f) and as allowed under Subsection (2), to remove waste tires from an abandoned waste tire pile located in a municipality or county or a state or local government landfill waste tire pile and deliver the waste tires to a recycler[~~, if:~~].

[~~(A) waste tires have been added to the abandoned waste tire pile or landfill waste tire pile on or after July 1, 2001; and~~]

[~~(B) the county is a county of the third, fourth, fifth, or sixth class, or the municipality is located in a county of the third, fourth, fifth, or sixth class;~~]

[~~(ii) subject to Subsection (1)(d), 60% of a waste tire transporter's or recycler's costs allowed under Subsection (2) to remove waste tires from an abandoned waste tire pile or landfill waste tire pile and deliver the waste tires to a recycler, if:~~]

[~~(A) waste tires have been added to the abandoned waste tire pile or landfill waste tire pile on or after July 1, 2001; and~~]

[~~(B) the county is a county of the first or second class, or the municipality is in a county of the first or second class; or~~]

[~~(iii) subject to Subsection (1)(d), 60% of waste tire transporter's or recycler's costs allowed under Subsection (2) to remove waste tires from an abandoned waste tire pile or landfill waste tire pile and deliver the waste tires to a recycler if the waste tires have been added to the abandoned waste tire pile and landfill waste tire pile on or after July 1, 2001, and the reimbursement is for:~~]

[~~(A) an interlocal cooperative agency;~~]

[~~(B) a special district; or~~]

[~~(C) a waste transfer station.~~]

(ii) The cost of transporting waste tires from a transfer station to a landfill operated by a governmental entity is not eligible for reimbursement.

[~~(c)~~] (d) The director may deny an application for payment of waste tire pile removal and delivery costs, if the director determines that payment of the costs will result in there not being sufficient money in the fund to pay expected reimbursements for recycling or beneficial use under Section 19-6-809 during the next quarter.

[~~(d)~~] (e) [~~In order to~~] To be eligible for reimbursement under [~~Subsections (1)(a) and (b)~~] Subsection (1)(b)(ii), a county or municipality shall receive a minimum of two eligible bids for transportation or recycling, unless it is impossible to receive two eligible bids due to a transporter or recycler:

(i) declining to offer a bid for the project; or

(ii) not being in compliance with state statute or rules made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(f) To be eligible for reimbursement under Subsection (1)(b), an operator of a state or local government landfill or transfer station shall submit to the director:

(i) a statement:

(A) confirming that the waste tires were received at the landfill or transfer station;

(B) confirming that the landfill waste tire pile consists solely of waste tires diverted from the landfill or transfer station waste stream; and

(C) describing the size and location of the landfill waste tire pile; and

(ii) landfill or transfer station waste receipt records indicating the origin of the waste tires.

(2) (a) The maximum number of miles for which the director may reimburse for transportation costs incurred by a waste tire transporter under this section is the number of miles, one way, between the location of the waste tire pile and the [~~State Capitol~~

~~Building, in Salt Lake City, Utah, or to the recycler, whichever is less~~] recycler.

(b) This maximum number of miles available for reimbursement applies regardless of the location of the recycler to which the waste tires are transported under this section.

(c) The director shall, upon request, advise any person preparing a bid under this section of the maximum number of miles available for reimbursement under this Subsection (2).

(d) The cost under this Subsection (2) shall be calculated based on the cost to transport one ton of waste tires one mile.

(3) (a) [~~The~~] When waste tire piles are removed or transported by a third-party waste tire transporter or recycler, the county or municipality shall through a competitive bidding process make a good faith attempt to obtain a bid for the removal of the [~~landfill or~~] abandoned waste tire pile and transport to a recycler.

(b) The county or municipality shall submit to the director:

[~~(i) (A) (I) a statement from the local health department stating the landfill waste tire pile is operated by a state or local governmental entity and consists solely of waste tires diverted from the landfill waste stream;~~]

[~~(II) a description of the size and location of the landfill waste tire pile; and~~]

[~~(III) landfill records showing the origin of the waste tires; or~~]

[~~(B)~~] (i) a statement from the local health department that the waste tire pile is abandoned; and

(ii) (A) the bid selected by the county or municipality; or

(B) if no bids were received, a statement to that fact.

(4) (a) If a bid is submitted, the director shall determine if the bid is reasonable, taking into consideration:

(i) the location and size of the [~~landfill or~~] abandoned waste tire pile;

(ii) the number and size of any other [~~landfill or~~] abandoned waste tire piles in the area; and

(iii) the current market for waste tires of the type in the [~~landfill or~~] abandoned waste tire pile.

(b) The director shall advise the county or municipality within 30 days of receipt of the bid whether or not the bid is determined to be reasonable.

(5) (a) If the bid is found to be reasonable, the county or municipality may proceed to have the [~~landfill or~~] abandoned waste tire pile removed pursuant to the bid.

(b) The county or municipality shall advise the director that the [~~landfill or~~] abandoned waste tire pile has been removed.

(6) The recycler or waste tire transporter that removed the [~~landfill or~~] abandoned waste tires pursuant to the bid shall submit to the director a copy of the manifest, which shall state:

(a) the number or tons of waste tires transported;

(b) the location from which they were removed;

(c) the recycler to which the waste tires were delivered; and

(d) the amount charged by the transporter or recycler.

(7) An operator of a state or local government landfill or transfer station shall submit to the director a statement providing:

(a) the number or tons of waste tires removed from the landfill or transfer station;

(b) the location from which the waste tires were removed;

(c) the recycler to which the waste tires were delivered; and

(d) if applicable, the amount charged by a third-party waste tire transporter or recycler to transport the waste tires to the recycler.

[~~(7)~~] (8) Upon receipt of the information required under Subsection (6) or (7), and determination that the information is complete, the director shall, within 30 days after receipt authorize the Division of Finance to reimburse the waste tire transporter or recycler the amount established under this section.

(9) A person reimbursed under this section may not be reimbursed under Section 19-6-809, 19-6-812, or 19-6-813 for the same activities that underlay eligibility for reimbursement under this section.

Section 3. Section 19-6-822 is amended to read:

19-6-822. Criminal penalties.

A person is guilty of a third degree felony if the person knowingly or intentionally provides or submits false information under the following provisions:

(1) Subsection 19-6-809(1)(a);

(2) Subsection 19-6-809(1)(c);

(3) Subsection 19-6-809(4);

(4) Subsection 19-6-810(1)(c);

(5) Subsection 19-6-810(2)(d);

(6) Subsection 19-6-811(3)(b);

(7) Subsection 19-6-811(6);

(8) Subsection 19-6-811(7);

[~~(8)~~] (9) Subsection 19-6-812(2); or

[~~(9)~~] (10) Subsection 19-6-813(1).

CHAPTER 150
H. B. 237
Passed March 5, 2021
Approved March 16, 2021
Effective May 5, 2021

LETHAL FORCE AMENDMENTS

Chief Sponsor: Jennifer Dailey-Provost
Senate Sponsor: Evan J. Vickers

LONG TITLE

General Description:

This bill addresses when a peace officer may use deadly force.

Highlighted Provisions:

This bill:

- defines terms;
- describes when an officer may use deadly force; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

76-2-404, as last amended by Laws of Utah 2015, Chapter 47
76-2-408, as last amended by Laws of Utah 2019, Chapter 395

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

Section 1. Section 76-2-404 is amended to read:

76-2-404. Law enforcement officer use of deadly force.

[~~(1) A peace officer, or any person acting by the officer's command in providing aid and assistance, is justified in using deadly force when:~~]

(1) As used in this section:

(a) "Deadly force" means force that creates or is likely to create, or that the individual using the force intends to create, a substantial likelihood of death or serious bodily injury to an individual.

(b) "Officer" means an officer described in Section 53-13-102.

(c) "Serious bodily injury" means the same as that term is defined in Section 76-1-601.

(2) The defense of justification applies to the use of deadly force by an officer, or an individual acting by the officer's command in providing aid and assistance, when:

(a) the officer is acting in obedience to and in accordance with the judgment of a competent court in executing a penalty of death under Subsection 77-18-5.5(2), (3), or (4);

(b) effecting an arrest or preventing an escape from custody following an arrest, [~~where~~] if:

(i) the officer reasonably believes that deadly force is necessary to prevent the arrest from being defeated by escape; and

[~~(i)~~] (ii) (A) the officer has probable cause to believe that the suspect has committed a felony offense involving the infliction or threatened infliction of death or serious bodily injury; or

[~~(ii)~~] (B) the officer has probable cause to believe the suspect poses a threat of death or serious bodily injury to the officer or to [~~others~~] an individual other than the suspect if apprehension is delayed; or

(c) the officer reasonably believes that the use of deadly force is necessary to prevent death or serious bodily injury to the officer or [~~another person~~] an individual other than the suspect.

[~~(2)~~] (3) If feasible, a verbal warning should be given by the officer prior to any use of deadly force under Subsection [~~(1)~~] (2)(b) or [~~(1)~~] (2)(c).

Section 2. Section 76-2-408 is amended to read:

76-2-408. Officer use of force -- Investigations.

(1) As used in this section:

(a) "Dangerous weapon" means a firearm or an object that in the manner of its use or intended use is capable of causing death or serious bodily injury to a person.

(b) "Deadly force" means a force that creates or is likely to create, or that the person using the force intends to create, a substantial likelihood of death or serious bodily injury to a person.

(c) "In custody" means in the legal custody of a state prison, county jail, or other correctional facility, including custody that results from:

(i) a detention to secure attendance as a witness in a criminal case;

(ii) an arrest for or charging with a crime and committing for trial;

(iii) committing for contempt, upon civil process, or by other authority of law; or

(iv) sentencing to imprisonment on conviction of a crime.

(d) "Investigating agency" means a law enforcement agency, the county or district attorney's office, or an interagency task force composed of officers from multiple law enforcement agencies.

(e) "Officer" means [~~the same as the term "law enforcement officer" as that term is defined in Section 53-13-103~~] an officer described in Section 53-13-102.

(f) "Officer-involved critical incident" means any of the following:

(i) an officer's use of deadly force;

(ii) an officer's use of a dangerous weapon against a person [~~that~~] who causes injury to any person;

(iii) death or serious bodily injury to any person, other than the officer, resulting from an officer's:

(A) use of a motor vehicle while the officer is on duty; or

(B) use of a government vehicle while the officer is off duty;

(iv) the death of a person who is in custody, but excluding a death that is the result of disease, natural causes, or conditions that have been medically diagnosed prior to the person's death; or

(v) the death of or serious bodily injury to a person not in custody, other than an officer, resulting from an officer's attempt to prevent a person's escape from custody, to make an arrest, or otherwise to gain physical control of a person.

(g) "Serious bodily injury" means the same as that term is defined in Section 76-1-601.

(2) When an officer-involved critical incident occurs:

(a) upon receiving notice of the officer-involved critical incident, the law enforcement agency having jurisdiction where the incident occurred shall, as soon as practical, notify the county or district attorney having jurisdiction where the incident occurred; and

(b) the chief executive of the law enforcement agency and the county or district attorney having jurisdiction where the incident occurred shall:

(i) jointly designate an investigating agency for the officer-involved critical incident; and

(ii) designate which agency is the lead investigative agency if the officer-involved critical incident involves multiple investigations.

(3) The investigating agency under Subsection (2) may not be the law enforcement agency employing the officer who is alleged to have caused or contributed to the officer-involved critical incident.

(4) This section does not preclude the law enforcement agency employing an officer alleged to have caused or contributed to the officer-involved critical incident from conducting an internal administrative investigation.

(5) Each law enforcement agency that is part of or administered by the state or any of [~~its~~] the state's political subdivisions shall[~~, by December 31, 2015,~~] adopt and post on [~~its~~] the agency's publicly accessible website:

(a) the policies and procedures the agency has adopted to select the investigating agency if an officer-involved critical incident occurs in [~~its~~] the agency's jurisdiction and one of [~~its~~] the agency's officers is alleged to have caused or contributed to the officer-involved incident; and

(b) the protocols the agency has adopted to ensure that any investigation of officer-involved incidents occurring in [~~its~~] the agency's jurisdiction are conducted professionally, thoroughly, and impartially.

CHAPTER 151
H. B. 238
Passed February 19, 2021
Approved March 16, 2021
Effective May 5, 2021

MARRIAGE AMENDMENTS

Chief Sponsor: Craig Hall
Senate Sponsor: Daniel McCay

LONG TITLE

General Description:
This bill changes who may solemnize a marriage.

Highlighted Provisions:
This bill:
- provides that all senators and representatives of the Utah Legislature may solemnize a marriage; and
- makes technical changes.

Monies Appropriated in this Bill:
None

Other Special Clauses:
None

Utah Code Sections Affected:

AMENDS:
30-1-6, as last amended by Laws of Utah 2019, Chapter 317

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

Section 1. Section 30-1-6 is amended to read:

30-1-6. Who may solemnize marriages -- Certificate.

(1) As used in this section:

(a) "Judge or magistrate of the United States" means:

(i) a justice of the United States Supreme Court;

(ii) a judge of a court of appeals;

(iii) a judge of a district court;

(iv) a judge of any court created by an act of Congress, the judges of which are entitled to hold office during good behavior;

(v) a judge of a bankruptcy court;

(vi) a judge of a tax court; or

(vii) a United States magistrate.

(b) (i) "Native American spiritual advisor" means an individual who:

(A) leads, instructs, or facilitates a Native American religious ceremony or service or provides religious counseling; and

(B) is recognized as a spiritual advisor by a federally recognized Native American tribe.

(ii) "Native American spiritual advisor" includes a sweat lodge leader, medicine person, traditional religious practitioner, or holy man or woman.

[~~(1) Except for a county clerk, or a county clerk's designee, as provided below, the~~]

(2) The following individuals may solemnize a marriage [~~at that individual's discretion~~]:

(a) an individual 18 years old or older who is authorized by a religious denomination to solemnize a marriage;

(b) a Native American spiritual [~~advisors~~] advisor;

(c) the governor;

(d) the lieutenant governor;

(e) [~~mayors of municipalities or county executives~~] a mayor of a municipality or county executive;

(f) a justice, judge, or commissioner of a court of record;

(g) a judge of a court not of record of the state;

(h) [~~judges or magistrates~~] a judge or magistrate of the United States;

(i) the county clerk of any county in the state or the county clerk's designee as authorized by Section 17-20-4;

[~~(j) the president of the Senate;~~]

[~~(k) the speaker of the House of Representatives; or~~]

(j) a senator or representative of the Utah Legislature; or

[~~(l)~~] (k) a judge or magistrate who holds office in Utah when retired, under rules set by the Supreme Court.

[~~(2)~~] (3) An individual authorized under Subsection [~~(1)~~] (2) who solemnizes a marriage shall give to the couple married a certificate of marriage that shows the:

(a) name of the county from which the license is issued; and

(b) date of the license's issuance.

[~~(3) As used in this section:~~]

[~~(a) "Judge or magistrate of the United States" means:~~]

[~~(i) a justice of the United States Supreme Court;~~]

[~~(ii) a judge of a court of appeals;~~]

[~~(iii) a judge of a district court;~~]

[~~(iv) a judge of any court created by an act of Congress the judges of which are entitled to hold office during good behavior;~~]

[~~(v) a judge of a bankruptcy court;~~]

[~~(vi) a judge of a tax court; or~~]

[~~(vii) a United States magistrate.~~]

[~~(b) (i) "Native American spiritual advisor" means a person who:~~]

[~~(A) leads, instructs, or facilitates a Native American religious ceremony or service or provides religious counseling; and~~]

[~~(B) is recognized as a spiritual advisor by a federally recognized Native American tribe.~~]

[~~(ii) "Native American spiritual advisor" includes a sweat lodge leader, medicine person, traditional religious practitioner, or holy man or woman.~~]

(4) Except for an individual described in Subsection (2)(i), an individual described in Subsection (2) has discretion to solemnize a marriage.

[~~(4)~~] (5) Except as provided in Section 17-20-4 and Subsection (2)(i), and notwithstanding any other provision in law, no individual authorized under Subsection [~~(1)~~] (2) to solemnize a marriage may delegate or deputize another individual to perform the function of solemnizing a marriage.

CHAPTER 152
H. B. 239
Passed February 25, 2021
Approved March 16, 2021
Effective May 5, 2021

ONLINE IMPERSONATION PROHIBITION

Chief Sponsor: Karianne Lisonbee
Senate Sponsor: Michael K. McKell
Cosponsor: Travis M. Seegmiller

LONG TITLE

General Description:

This bill enacts and modifies provisions in the Utah Criminal Code related to electronic communication harassment and online impersonation.

Highlighted Provisions:

This bill:

- defines terms;
- modifies the actions that constitute electronic communication harassment and the associated penalties; and
- makes it a criminal offense, under certain circumstances, to impersonate an individual online with the intent to harm, defraud, intimidate, or threaten any individual.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

76-9-201, as last amended by Laws of Utah 2019, Chapter 420

ENACTS:

76-9-203, Utah Code Annotated 1953

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

Section 1. Section 76-9-201 is amended to read:

Part 2. Electronic Communication and Telephone Abuse

76-9-201. Electronic communication harassment -- Definitions -- Penalties.

(1) As used in this section:

(a) "Adult" means an individual 18 years of age or older.

(b) "Electronic communication" means a communication by electronic, electro-mechanical, or electro-optical communication device for the transmission and reception of audio, image, or text but does not include broadcast transmissions or similar communications that are not targeted at a specific individual.

(c) "Electronic communication device" includes a telephone, a facsimile machine, electronic mail, a pager, a computer, or another device or medium that can be used to communicate electronically.

(d) "Minor" means an individual who is younger than 18 years of age.

(e) "Personal identifying information" means the same as that term is defined in Section 76-6-1102.

(2) [~~A~~] Except to the extent the person's conduct constitutes an offense under Section 76-9-203, a person is guilty of electronic communication harassment and subject to prosecution in the jurisdiction where the communication originated or was received if with intent to intimidate, abuse, threaten, harass, frighten, or disrupt the electronic communications of another, the person:

(a) (i) makes repeated contact by means of electronic communications, regardless of whether a conversation ensues; or

(ii) after the recipient has requested or informed the person not to contact the recipient, and the person repeatedly or continuously:

(A) contacts the electronic communication device of the recipient; or

(B) causes an electronic communication device of the recipient to ring or to receive other notification of attempted contact by means of electronic communication;

(b) makes contact by means of electronic communication and insults, taunts, or challenges the recipient of the communication or any person at the receiving location in a manner likely to provoke a violent or disorderly response;

(c) makes contact by means of electronic communication and threatens to inflict injury, physical harm, or damage to any person or the property of any person; or

(d) causes disruption, jamming, or overload of an electronic communication system through excessive message traffic or other means utilizing an electronic communication device.

(3) A person [~~who~~] is guilty of electronic communication harassment if the person:

(a) electronically publishes, posts, or otherwise discloses personal identifying information of another individual in a public online site or forum with the intent to abuse, threaten, or disrupt the other individual's electronic communication and without the other individual's permission [~~is guilty of electronic communication harassment.~~]; or

(b) sends a communication by electronic mail, instant message, or other similar means, if:

(i) the communication references personal identifying information of another individual; and

(ii) the person sends the communication:

(A) without the individual's consent; and

(B) with the intent to cause a recipient of the communication to reasonably believe that the individual authorized or sent the communication; and

(iii) with the intent to:

(A) cause an individual physical, emotional, or economic injury or damage; or

(B) defraud an individual.

[~~(4) (a) (i) Electronic communication harassment committed against an adult is a class B misdemeanor, except under Subsection (4)(a)(ii).~~]

[~~(ii) A second or subsequent offense under Subsection (4)(a)(i) is:~~]

[~~(A) a class A misdemeanor if all prior violations of this section were committed against adults; and~~]

[~~(B) a third degree felony if a prior violation of this section was committed against a minor.~~]

[~~(b) (i) Electronic communication harassment committed against a minor is a class A misdemeanor, except as provided under Subsection (4)(b)(ii).~~]

[~~(ii) A second or subsequent offense under Subsection (4)(b)(i) is a third degree felony, regardless of whether a prior violation of this section was committed against a minor or an adult.~~]

(4) (a) Electronic communication harassment is a class B misdemeanor.

(b) A second or subsequent offense of electronic communication harassment is a class A misdemeanor.

(5) (a) Except as provided under Subsection (5)(b), criminal prosecution under this section does not affect an individual's right to bring a civil action for damages suffered as a result of the commission of an offense under this section.

(b) This section does not create a civil cause of action based on electronic communications made for legitimate business purposes.

Section 2. Section 76-9-203 is enacted to read:

76-9-203. Penalty for online impersonation.

(1) As used in this section:

(a) "Commercial social networking website" means a person who operates a website that allows a person to register as a user for the purpose of:

(i) establishing a personal relationship with one or more other users through direct or real time communication with the other user; or

(ii) the creation of web pages or profiles available to the public or to other users.

(b) "Commercial social networking website" does not include an electronic mail program or a message board program.

(2) It is a criminal offense for a person to use the name or persona of an individual:

(a) without the individual's consent;

(b) (i) to create a web page on a commercial social networking website or other website; or

(ii) to post or send a message on or through a commercial social networking website or other website, other than on or through an electronic mail program or message board program;

(c) with the intent to cause an individual to reasonably believe that the individual whose name or persona is used authorized or performed the applicable action described in Subsection (2)(b); and

(d) with the intent to harm, defraud, intimidate, or threaten any individual.

(3) (a) An offense under this section is a class A misdemeanor.

(b) A second or subsequent offense under this section is a third degree felony.

(4) It is a defense to prosecution under this section that the person is one of the following entities or that the person's conduct consisted solely of action taken as an employee of one of the following entities:

(a) a commercial social networking website;

(b) an Internet service provider;

(c) an interactive computer service, as defined in 47 U.S.C. Sec. 230;

(d) a telecommunications provider, as defined in Section 10-1-402;

(e) a cable television service;

(f) an entity that provides cable television service, as defined in Section 10-18-102; or

(g) a law enforcement agency engaged in lawful practices.

CHAPTER 153
H. B. 241
Passed March 1, 2021
Approved March 16, 2021
Effective May 5, 2021

UTAH SEEDS AMENDMENTS

Chief Sponsor: Steven J. Lund
Senate Sponsor: Derrin R. Owens

LONG TITLE

General Description:

This bill addresses regulation of seeds.

Highlighted Provisions:

This bill:

- modifies a definition provision;
- addresses labeling requirements; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

4-16-102, as last amended by Laws of Utah 2018, Chapter 355
4-16-201, as last amended by Laws of Utah 2018, Chapter 355

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

Section 1. Section 4-16-102 is amended to read:

4-16-102. Definitions.

As used in this chapter:

(1) "Advertisement" means any representation made relative to seeds, plants, bulbs, or ground stock other than those on the label of a seed container, disseminated in any manner.

(2) "Agricultural seed" includes:

(a) grass, forage, cereal, oil, fiber, and other kinds of crop seed commonly recognized within this state as agricultural seed;

(b) lawn seed;

(c) combinations of the seed described in Subsections (2)(a) and (2)(b); and

(d) noxious weed seed, if the department determines by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that a noxious weed seed is being used as agricultural seed.

(3) "Blend" means seed consisting of more than one variety of a kind, each in excess of 5% by weight of the whole.

(4) "Brand" means a word, name, symbol, number, or design used to:

(a) identify the seed of one person; and

(b) distinguish the seed of one person from the seed of another person.

(5) "Certifying agency" means:

(a) an agency authorized under the laws of a state, territory, or possession to officially certify seed and that has standards and procedures approved by the United States Secretary of Agriculture to assure the genetic purity and identity of the seed certified; or

(b) an agency of a foreign country determined by the United States Secretary of Agriculture to adhere to procedures and standards for seed certification.

(6) (a) "Complete record" means all information that relates to the:

(i) origin, treatment, germination, purity, kind, and variety of each lot of agricultural seed sold in this state; or

(ii) treatment, germination, kind, and variety of each lot of vegetable or flower seed sold in this state.

(b) "Complete record" includes seed samples and records of declarations, labels, purchases, sales, conditioning, bulking, treatment, handling, storage, analyses, tests, and examinations.

(7) "Conditioning" means drying, cleaning, scarifying, and other operations that:

(a) could change the purity or germination of a seed; and

(b) require a seed lot to be retested to determine the label information.

(8) "Controlling the pollination" means to use a method of hybridization that will produce pure seed that is at least 75% hybrid seed.

[~~(8)~~] (9) "Dormant" means viable seed, excluding hard seed, that fail to germinate when provided the specified germination conditions for the kind of seed in question.

[~~(9)~~] (10) "Flower seed" includes the seed of herbaceous plants that are:

(a) grown for their blooms, ornamental foliage, or other ornamental parts; and

(b) commonly known and sold under the name of flower or wildflower seed in this state.

[~~(10)~~] (11) "Foundation seed," "registered seed," or "certified seed" means seed that is produced and labeled in accordance with procedures officially recognized by a seed certifying agency approved and accredited in this state.

[~~(11)~~] (12) "Germination" means the emergence and development from the seed embryo of those essential structures that are, for the kind of seed in question, indicative of the ability to produce a normal plant under favorable conditions expressed in whole numbers.

[~~(12)~~] (13) "Hard seed" means seed that remains hard at the end of the prescribed germination test period because the seed has not absorbed water due to an impermeable seed coat.

[~~(13) (a) "Hybrid" means the first generation seed of a cross produced by controlling pollination and by combining:~~]

[~~(i) two or more inbred lines;~~]

[~~(ii) one inbred or a single cross with an open-pollinated variety; or~~]

[~~(iii) two varieties or species, except open-pollinated varieties of corn, Zea mays.~~]

[~~(b) "Hybrid" does not mean the second generation or subsequent generations from the crosses referred to in Subsection (13)(a).~~]

(14) (a) "Hybrid" applied to kinds or varieties of seed, means the first generation seed of a cross produced by controlling the pollination and by combining:

(i) two or more inbred lines;

(ii) one inbred or a single cross with an open pollinated variety; or

(iii) two selected clones, seed lines, varieties, or species.

(b) The department shall treat hybrid designations as variety names.

[~~(14)~~] (15) "Inert matter" means all matter that is not seed, including broken seeds, sterile florets, chaff, fungus bodies, and stones, as determined by methods defined by rule.

(16) "Inoculant" means a commercial preparation containing nitrogen-fixing bacteria applied to seed.

[~~(15)~~] (17) "Kind" means one or more related species or subspecies of seed that singly or collectively are known by one common name, for example, corn, oats, alfalfa, and timothy.

[~~(16)~~] (18) (a) "Label" means any written, printed, or graphic representation accompanying and pertaining to any seeds, plants, bulbs, or ground stock whether in bulk or in containers.

(b) "Label" includes a representation on an invoice, bill, or letterhead.

[~~(17)~~] (19) "Labeling" includes a tag or other device attached to, written, stamped, or printed on a container or accompanying a lot of bulk seeds that:

(a) claims to specify the information required on the seed label by this chapter; and

(b) may include other information related to the labeled seed.

[~~(18)~~] (20) "Lot" means a definite quantity of seed identified by a number or other mark, every portion or bag of which is uniform within recognized tolerances for the factors that appear in the labeling.

[~~(19)~~] (21) "Mixture" or "mix" or "mixed" means seed consisting of more than one kind, each in excess of 5% by weight of the whole.

[~~(20)~~] (22) "Mulch" means a protective covering of a suitable substance placed with seed that:

(a) acts to retain sufficient moisture to support seed germination and sustain early seedling growth;

(b) aids in the prevention of the evaporation of soil moisture;

(c) aids in the control of weeds; and

(d) aids in the prevention of erosion.

[~~(21) "Noxious weed seed" means weed seed declared noxious by the commissioner in accordance with Section 4-17-103.~~]

(23) "Noxious weed seeds" means:

(a) prohibited noxious weed seeds; or

(b) restricted noxious weed seeds.

[~~(22)~~] (24) (a) "Off-type" means a seed or plant not part of the variety because the seed or plant deviates in one or more characteristics from the variety.

(b) "Off-type" may include a seed or plant that:

(i) is of another variety;

(ii) is not necessarily any variety;

(iii) results from cross-pollination by another kind or variety; or

(iv) results from uncontrolled self-pollination during production of hybrid seeds.

[~~(23)~~] (25) "Origin" means:

(a) for an indigenous stand of trees, the area on which the trees are growing; and

(b) for a nonindigenous stand of trees, the place from which the seeds or plants originated.

[~~(24)~~] (26) "Other crop seed" means the seed of plants grown as crops other than the kind or variety included in the pure seed, as determined by methods defined by rule.

[~~(25)~~] (27) "Person" means an individual, partnership, corporation, company, association, receiver, trustee, or agent.

(28) (a) "Prohibited noxious weed seeds" means those weed seeds determined by the commissioner that are prohibited from being present in agricultural, vegetable, flower, tree, or shrub seed.

(b) "Prohibited noxious weed seeds" include the seeds of weeds that are highly destructive and difficult to control by good cultural practices and the use of herbicides.

[~~(26)~~] (29) "Pure seed" means seed exclusive of inert matter and all other seed not of the seed being considered as determined by methods defined by rule.

(30) "Restricted noxious weed seeds" means those weed seeds determined by the commissioner that:

(a) are objectionable in agricultural crops, lawns, and gardens of this state; and

(b) can be controlled by good cultural practices or the use of herbicides.

[~~(27)~~] (31) "Seed for sprouting" means seed sold for sprouting for salad or culinary purposes.

[~~(28)~~] (32) "Sowing" means the placement of agricultural seed, vegetable seed, flower seed, tree and shrub seed, or seed for sprouting in a selected environment for the purpose of obtaining plant growth.

[~~(29)~~] (33) "Tetrazolium test (TZ)" means a biochemical seed viability test using the compound 2, 3, 5 triphenyl tetrazolium chloride (TTC), as specified in Part II, Tetrazolium Testing Handbook, Contribution Number 29, to the handbook on Seed Testing, prepared by the Tetrazolium subcommittee of the Association of Official Seed Analysts, 2008 Edition.

[~~(30)~~] (34) "Total viable" is:

(a) equal to the sum of percentage germination, percentage dormant seed, and percentage hard seed; or

(b) determined by a tetrazolium test for species identified in the rules for testing or for species for which there are no rules for testing.

[~~(31)~~] (35) "Treated" means that a seed has received an application of a substance or been subjected to a process about which a claim is made.

[~~(32)~~] (36) "Tree and shrub seed" includes seed of woody plants commonly known and sold as tree and shrub seeds in this state.

[~~(33)~~] (37) "Type" means a group of varieties so nearly similar that the individual varieties cannot be clearly differentiated except under special conditions.

[~~(34)~~] (38) (a) "Variant" means a seed or plant that:

(i) is distinct within the variety but occurs naturally in the variety;

(ii) is stable and predictable with a degree of reliability comparable to other varieties of the same kind, within recognized tolerances, when the variety is reproduced or reconstituted; and

(iii) was originally a part of the variety as released.

(b) "Variant" does not include an off-type.

[~~(35)~~] (39) "Variety" means a subdivision of a kind that is:

(a) distinct, meaning a variety can be differentiated by one or more identifiable morphological, physiological, or other characteristics from all other varieties of public knowledge;

(b) uniform, meaning that variations in essential and distinctive characteristics are describable; and

(c) stable, meaning a variety's essential and distinctive characteristics and uniformity will remain unchanged when reproduced or reconstituted as required by the category of variety.

[~~(36)~~] (40) "Vegetable seed" includes the seed of those crops that are:

(a) grown in gardens or on truck farms; and

(b) generally known and sold under the name of vegetable or herb seed in this state.

[~~(37)~~] (41) "Weed seed" means the seed of all plants generally recognized as weeds within this state, as determined by methods defined by rule.

(42) "Weight" means the net weight of the commodity.

Section 2. Section 4-16-201 is amended to read:

4-16-201. Labeling requirements.

(1) [~~Each~~] A container of seed that is transported, sold, offered, or exposed for sale within this state shall bear [~~thereon~~] on the container or have attached [~~thereto~~] to the container a printed label that:

(a) is in a conspicuous place;

(b) is plainly written in the English language;

(c) is in type no smaller than eight point;

[~~(c)~~] (d) specifies the information required by this chapter; and

[~~(d)~~] (e) does not modify or deny the information required by this chapter in the labeling or on another label attached to the container.

(2) [~~Each~~] A container of agricultural seed offered or exposed for sale or transported for sowing into this state shall be labeled with the following information:

(a) name of the kind and variety for each seed component in excess of 5% of the whole and the percentage by weight of each component in the order of its predominance in columnar form, provided that:

(i) the label shall specify the name of the variety or state "Variety Not Stated" or "VNS," for any component that is required by rule of the department to be labeled as a variety;

(ii) a hybrid shall be labeled as a hybrid;

(iii) the word "mix," " mixture," or "blend" shall appear, if more than one component is required to be named; and

(iv) the total of the percentages described in Subsections (2)(a), (2)(d), [~~2(c)~~] (2)(e), and (2)(f) shall equal 100%;

(b) name and address of the person who labeled the seed, or the person who sells, offers, or exposes the seed for sale in this state;

(c) lot number or other lot identification;

(d) percentage by weight of all weed seeds;

(e) percentage by weight of agricultural or crop seeds other than those named on the label pursuant to Subsection (2)(a);

(f) percentage by weight of inert matter;

(g) name and rate of occurrence per pound of each kind of restricted noxious weed seed present for which tolerance is permitted;

(h) origin, if known, of alfalfa, red clover, white clover, or field corn seed, except hybrid corn, and, if the origin is unknown, that fact shall be stated;

(i) month and year seed tests were conducted for each named agricultural seed, specifying:

(i) percentage of germination, exclusive of hard or dormant seed; and

(ii) percentage of hard or dormant seed, if present; and

(j) net weight.

[~~(3) Coated seed shall be labeled with the:~~]

[~~(a) information required by Subsections 4-16-201(2)(a) through (2)(e) and (2)(g);~~]

[~~(b) percentage by weight of pure seed exclusive of coating material;~~]

[~~(c) percentage by weight of coating material;~~]

[~~(d) percentage by weight of inert material exclusive of coating material; and~~]

[~~(e) percentage of germination, determined on 400 pellets with or without seed.~~]

[~~(4) Each~~] (3) A container of lawn and turf seed or lawn and turf seed mixture offered or exposed for sale or transported for sowing into this state shall be labeled with the following information:

(a) name of the kind and variety for each lawn and turf seed component in excess of 5% of the whole, and the percentage by weight of each component in the order of its predominance in columnar form, provided that:

(i) the label shall specify the name of the variety or state "Variety Not Stated" or "VNS," for any component that is required by rule of the department to be labeled as a variety;

(ii) a hybrid shall be labeled as a hybrid; and

(iii) the total of the percentages described in Subsections [~~(4)(a), (4)(d), (4)(e), and (4)(f)~~] (3)(a), (3)(d), (3)(e), and (3)(f) shall equal 100%;

(b) name and address of the person who labeled the seed, or the person who sells, offers, or exposes the seed for sale in this state;

(c) lot number or other lot identification;

(d) percentage by weight of all weed seeds;

(e) percentage by weight of agricultural or crop seeds other than those named on the label pursuant to Subsection [~~(4)~~] (3)(a);

(f) percentage by weight of inert matter;

(g) name and rate of occurrence per pound of each kind of restricted noxious weed seed present for which tolerance is permitted;

(h) month and year seed tests were conducted for each named lawn and turf seed, specifying:

(i) percentage of germination, exclusive of hard or dormant seed; and

(ii) percentage of hard or dormant seed, if present;

(i) the word "mix," "mixture," or "blend," if more than one component is required to be named; and

(j) net weight.

[~~(5)~~] (4) Vegetable seed in packets of one pound or less prepared for home gardens or household plantings or vegetable seed preplanted in containers, mats, tapes, or other planting devices shall be labeled with the following information:

(a) name of the kind and variety of seed, provided that a hybrid shall be labeled as a hybrid;

(b) name and address of the person who labeled the seed, or the person who sells, offers, or exposes the seed for sale in this state;

(c) (i) calendar month and year the germination test was completed and sell by date, which may not be more than 12 months past the date of the germination test exclusive of the month of test;

(ii) year for which the seed was packaged for sale, stated as "Packed for yy," [~~and~~] or year of the seed sell by date, stated as "Sell by yy"; or

(iii) calendar month and year the germination test was completed and the percentage germination, provided that the germination test was completed within the previous 12 months exclusive of the month of test;

(d) seed with germination less than the germination standard last established for the seed by the department shall specify the:

(i) percentage of germination, exclusive of hard or dormant seed;

(ii) percentage of hard or dormant seed, if present; and

(iii) words "Below Standard" in not less than eight-point type;

(e) statement to indicate the minimum number of seeds in the container, if the seed are placed in a germination medium, mat, tape, or other device that makes it difficult to determine the quantity of the seed without removing the seed;

(f) lot number or other lot identification; [~~and~~]

(g) the word "mix," "mixture," or "blend," if more than one component is required to be named[~~.~~]; and

(h) net weight.

[~~(6)~~] (5) Vegetable seed not described in Subsection [~~(5)~~] (4) shall be labeled with the following information:

(a) name of each kind and variety present in excess of 5% of the whole and the percentage by weight of each in order of its predominance in columnar form, provided that a hybrid shall be labeled as a hybrid;

(b) name and address of the person who labeled the seed, or the person who sells, offers, or exposes the seed for sale in this state;

(c) lot number or other lot identification;

(d) month and year seed tests were conducted, for each named vegetable seed, specifying the:

(i) percentage of germination, exclusive of hard or dormant seed; and

(ii) percentage of hard or dormant seed, if present;

(e) name and rate of occurrence per pound of each kind of restricted noxious-weed seed for which tolerance is permitted; [~~and~~]

(f) the word "mix," "mixture," or "blend," if more than one component is required to be named[~~.~~]; and

(g) net weight.

[~~(7) Each packet of flower seed~~] (6) A flower seed packet of one pound or less prepared for use in home flower gardens or household plantings or flower seed in preplanted containers, mats, tapes, or other planting devices shall be labeled with the following information:

(a) name of the kind and variety or a statement of type and performance characteristics of the seed as prescribed by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, provided that:

(i) a hybrid shall be labeled as a hybrid; and

(ii) the word "mix," "mixture," or "blend" shall appear, if more than one component is required to be named;

(b) name and address of the person who labeled the seed, or the person who sells, offers, or exposes the seed for sale in this state;

(c) (i) calendar month and year the germination test was completed and the sell by date, which may not be more than 12 months past the date of the germination test exclusive of the month of the test;

(ii) year for which the seed was packed for sale, stated as "Packed for yy," [~~and~~] or year of the seed sell by date, stated as "Sell by yy"; or

(iii) calendar month and year the germination test was completed and percentage germination, provided that the germination test was completed within the previous 12 months exclusive of the month of the test;

(d) seed with germination less than the germination standard last established by the department shall specify the:

(i) percentage of germination, exclusive of hard or dormant seed;

(ii) percentage of hard or dormant seed, if present; and

(iii) words "Below Standard" in not less than eight-point type; and

(e) statement to indicate the minimum number of seeds or net weight in the container, if the seeds are placed in a germination medium, mat, tape, or other device that makes it difficult to determine the quantity of seed without removing the seed.

[~~(8)~~] (7) Flower seed not described in Subsection [~~(7)~~] (6) offered or exposed for sale in this state shall be labeled with the following information:

(a) name of the kind and variety or statement of the type and performance characteristics of the seed as prescribed by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, provided that:

(i) a hybrid shall be labeled as a hybrid; and

(ii) the word "mix," "mixture," or "blend" shall appear, if more than one component is required to be named;

(b) genus and species of wildflower and the subspecies, if appropriate, of wildflower;

(c) name and address of the person who labeled the seed, or the person who sells, offers, or exposes the seed for sale in this state;

(d) lot number or other lot identification;

(e) percentage of germination, exclusive of hard or dormant seed;

(f) percentage of hard or dormant seed, if present;

(g) calendar month and year that testing was completed to determine percentages described in Subsections [~~(8)(e) and (8)(f)~~] (7)(e) and (7)(f); [~~and~~]

(h) net weight; and

[~~(h)~~] (i) wildflower seed with a pure seed percentage of less than 90% shall specify the percentage by weight of:

(i) each component listed in order of predominance;

(ii) weed seed if present; and

(iii) inert matter.

[~~(9) Each~~] (8) A container of tree and shrub seed that is sold, offered, or exposed for sale or transported for sowing into this state shall:

(a) bear a label as required by Subsection [~~4-16-201~~](1), unless:

(i) each bag or other container is clearly identified by a lot number stenciled on the container or the seed is in bulk; and

(ii) under a contractual agreement the seed may bear a label by invoice accompanying the shipment or an analysis tag attached to the invoice; and

(b) bear on the label the following information:

(i) name of the seed and name of the subspecies, if appropriate;

(ii) scientific name of the genus and species and scientific name of the subspecies, if appropriate;

(iii) name and address of the person who labeled the seed, or the person who sells, offers, or exposes the seed for sale in this state;

(iv) lot number or other lot identification;

(v) information as to origin as follows:

(A) seed collected from a predominantly indigenous stand shall specify the area of collection given by latitude and longitude, geographic description, or political subdivision such as state or county; and

(B) seed collected from other than a predominantly indigenous stand shall specify identity of the area of collection and the origin of the stand or state "origin not indigenous";

(vi) elevation or the upper and lower limits of elevation within which the seed was collected;

(vii) purity as a percentage of pure seed by weight;

(viii) percentage of germination, exclusive of hard or dormant seed;

(ix) percentage of hard or dormant seed, if present; [~~and~~]

(x) calendar month and year the germination test was completed to determine percentages described in Subsections [~~(9)~~] (8)(b)(viii) and [~~(9)~~] (8)(b)(ix)[~~.~~];

(xi) the word "mix," "mixture," or "blend" shall appear, if more than one component is required to be named; and

(xii) net weight.

[~~(10) Each~~] (9) A container of seed for sprouting that is offered or exposed for sale or transported for sowing into this state shall be labeled with the following information:

(a) name and address of the person who labeled the seed, or the person who sells, offers, or exposes the seed for sale in this state;

(b) name of the kind or kinds in order of predominance;

(c) lot number or other identification;

(d) percentage by weight of each pure seed component in excess of 5% of the whole, other crop seeds, inert matter, and weed seeds, if any;

(e) percentage of germination of each pure seed component, exclusive of hard or dormant seed;

(f) percentage of hard or dormant seed, if present;

(g) calendar month and year the test was completed to determine percentages described in Subsections [~~(10)~~] (9)(d) through [~~(10)~~] (9)(f) or the year for which the seed was packaged; [~~and~~]

(h) the word "mix," "mixture," or "blend," if more than one component is required to be named[~~.~~]; and

(i) net weight.

[~~(11)~~] (10) A combination mulch, seed, and fertilizer product shall:

(a) contain a minimum of 70% mulch;

(b) bear a label with the word "combination" followed by the words "mulch – seed – fertilizer" on the upper 30% of the principal display panel, provided that the:

(i) word "combination" shall be the largest and most conspicuous type on the container and equal to or larger than the product name; and

(ii) words "mulch – seed – fertilizer" shall be no smaller than one-half the size of the word "combination" and in close proximity to the word "combination"; and

(c) bear an analysis label[~~, for agricultural and lawn and turf~~] for seed placed in a germination medium, mat, tape, or other device or mixed with mulch, specifying the following information:

(i) name of each kind and variety;

(ii) product name;

(iii) lot number;

(iv) percentage by weight of pure seed of each kind and variety named, including those less than 5% of the whole, provided that the total of the percentages described in Subsections [~~(11)~~] (10)(c)(iv) through [~~(11)~~] (10)(c)(vii) shall equal 100%;

(v) percentage by weight of other crop seed;

(vi) percentage by weight of inert matter, which may not be less than 70%;

(vii) percentage by weight of weed seed;

(viii) name and number of noxious weed seed per pound, if present;

(ix) percentage of germination of each kind or kind and variety named;

(x) percentage hard or dormant seed, if appropriate;

(xi) date of germination test; [~~and~~]

(xii) name and address of tagger[~~.~~]; and

(xiii) net weight.

[~~(12)~~] (11) A product containing a combination of seed and granular fertilizer shall be labeled with the following information:

(a) the word "combination" followed by the words "seed-fertilizer" on the upper 30% of the principal display panel provided that:

(i) the word "combination" must be the largest and most conspicuous type on the container and equal to or larger than the product name; and

(ii) the words "seed-fertilizer" shall be no smaller than one-half the size of the word "combination" and in close proximity to the word "combination"; and

(b) an analysis label specifying the information listed in Subsection [~~(11)~~] (10)(c) and the percentage by weight of the fertilizer, listed on a separate line as a component of the inert matter.

(12) Coated seed shall be labeled with the:

(a) information required by Subsections (2)(a) through (2)(e) and (2)(g);

(b) percentage by weight of pure seed exclusive of coating material;

(c) percentage by weight of coating material;

(d) percentage by weight of inert material exclusive of coating material; and

(e) percentage of germination, determined on 400 pellets with or without seed.

CHAPTER 154
H. B. 242
Passed March 5, 2021
Approved March 16, 2021
Effective May 5, 2021

TICKET RESELLER AMENDMENTS

Chief Sponsor: V. Lowry Snow
Senate Sponsor: Kirk A. Cullimore

LONG TITLE

General Description:

This bill amends the Ticket Website Sales Act and the Utah Consumer Sales Practice Act.

Highlighted Provisions:

This bill:

- amends prohibited practices under the Ticket Website Sales Act; and
- establishes application of the Utah Consumer Sales Practices Act to certain violations of the Ticket Website Sales Act.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

13-11-4, as last amended by Laws of Utah 2013, Chapter 124
13-54-202, as enacted by Laws of Utah 2019, Chapter 115

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

Section 1. Section 13-11-4 is amended to read:

13-11-4. Deceptive act or practice by supplier.

(1) A deceptive act or practice by a supplier in connection with a consumer transaction violates this chapter whether it occurs before, during, or after the transaction.

(2) Without limiting the scope of Subsection (1), a supplier commits a deceptive act or practice if the supplier knowingly or intentionally:

(a) indicates that the subject of a consumer transaction has sponsorship, approval, performance characteristics, accessories, uses, or benefits, if it has not;

(b) indicates that the subject of a consumer transaction is of a particular standard, quality, grade, style, or model, if it is not;

(c) indicates that the subject of a consumer transaction is new, or unused, if it is not, or has been used to an extent that is materially different from the fact;

(d) indicates that the subject of a consumer transaction is available to the consumer for a reason that does not exist, including any of the following reasons falsely used in an advertisement:

(i) "going out of business";

(ii) "bankruptcy sale";

(iii) "lost our lease";

(iv) "building coming down";

(v) "forced out of business";

(vi) "final days";

(vii) "liquidation sale";

(viii) "fire sale";

(ix) "quitting business"; or

(x) an expression similar to any of the expressions in Subsections (2)(d)(i) through (ix);

(e) indicates that the subject of a consumer transaction has been supplied in accordance with a previous representation, if it has not;

(f) indicates that the subject of a consumer transaction will be supplied in greater quantity than the supplier intends;

(g) indicates that replacement or repair is needed, if it is not;

(h) indicates that a specific price advantage exists, if it does not;

(i) indicates that the supplier has a sponsorship, approval, or affiliation the supplier does not have;

(j) (i) indicates that a consumer transaction involves or does not involve a warranty, a disclaimer of warranties, particular warranty terms, or other rights, remedies, or obligations, if the representation is false; or

(ii) fails to honor a warranty or a particular warranty term;

(k) indicates that the consumer will receive a rebate, discount, or other benefit as an inducement for entering into a consumer transaction in return for giving the supplier the names of prospective consumers or otherwise helping the supplier to enter into other consumer transactions, if receipt of the benefit is contingent on an event occurring after the consumer enters into the transaction;

(l) after receipt of payment for goods or services, fails to ship the goods or furnish the services within the time advertised or otherwise represented or, if no specific time is advertised or represented, fails to ship the goods or furnish the services within 30 days, unless within the applicable time period the supplier provides the buyer with the option to:

(i) cancel the sales agreement and receive a refund of all previous payments to the supplier if the refund is mailed or delivered to the buyer within 10 business days after the day on which the seller receives written notification from the buyer of the buyer's intent to cancel the sales agreement and receive the refund; or

(ii) extend the shipping date to a specific date proposed by the supplier;

(m) except as provided in Subsection (3)(b), fails to furnish a notice meeting the requirements of

Subsection (3)(a) of the purchaser's right to cancel a direct solicitation sale within three business days of the time of purchase if:

(i) the sale is made other than at the supplier's established place of business pursuant to the supplier's personal contact, whether through mail, electronic mail, facsimile transmission, telephone, or any other form of direct solicitation; and

(ii) the sale price exceeds $25;

(n) promotes, offers, or grants participation in a pyramid scheme as defined under Title 76, Chapter 6a, Pyramid Scheme Act;

(o) represents that the funds or property conveyed in response to a charitable solicitation will be donated or used for a particular purpose or will be donated to or used by a particular organization, if the representation is false;

(p) if a consumer indicates the consumer's intention of making a claim for a motor vehicle repair against the consumer's motor vehicle insurance policy:

(i) commences the repair without first giving the consumer oral and written notice of:

(A) the total estimated cost of the repair; and

(B) the total dollar amount the consumer is responsible to pay for the repair, which dollar amount may not exceed the applicable deductible or other copay arrangement in the consumer's insurance policy; or

(ii) requests or collects from a consumer an amount that exceeds the dollar amount a consumer was initially told the consumer was responsible to pay as an insurance deductible or other copay arrangement for a motor vehicle repair under Subsection (2)(p)(i), even if that amount is less than the full amount the motor vehicle insurance policy requires the insured to pay as a deductible or other copay arrangement, unless:

(A) the consumer's insurance company denies that coverage exists for the repair, in which case, the full amount of the repair may be charged and collected from the consumer; or

(B) the consumer misstates, before the repair is commenced, the amount of money the insurance policy requires the consumer to pay as a deductible or other copay arrangement, in which case, the supplier may charge and collect from the consumer an amount that does not exceed the amount the insurance policy requires the consumer to pay as a deductible or other copay arrangement;

(q) includes in any contract, receipt, or other written documentation of a consumer transaction, or any addendum to any contract, receipt, or other written documentation of a consumer transaction, any confession of judgment or any waiver of any of the rights to which a consumer is entitled under this chapter;

(r) charges a consumer for a consumer transaction or a portion of a consumer transaction that has not previously been agreed to by the consumer;

(s) solicits or enters into a consumer transaction with a person who lacks the mental ability to comprehend the nature and consequences of:

(i) the consumer transaction; or

(ii) the person's ability to benefit from the consumer transaction;

(t) solicits for the sale of a product or service by providing a consumer with an unsolicited check or negotiable instrument the presentment or negotiation of which obligates the consumer to purchase a product or service, unless the supplier is:

(i) a depository institution under Section 7-1-103;

(ii) an affiliate of a depository institution; or

(iii) an entity regulated under Title 7, Financial Institutions Act;

(u) sends an unsolicited mailing to a person that appears to be a billing, statement, or request for payment for a product or service the person has not ordered or used, or that implies that the mailing requests payment for an ongoing product or service the person has not received or requested;

(v) issues a gift certificate, instrument, or other record in exchange for payment to provide the bearer, upon presentation, goods or services in a specified amount without printing in a readable manner on the gift certificate, instrument, packaging, or record any expiration date or information concerning a fee to be charged and deducted from the balance of the gift certificate, instrument, or other record;

(w) misrepresents the geographical origin or location of the supplier's business; [~~or~~]

(x) fails to comply with the restrictions of Section 15-10-201 on automatic renewal provisions[.]; or

(y) fails to comply with the restrictions of Subsection 13-54-202(2).

(3) (a) The notice required by Subsection (2)(m) shall:

(i) be a conspicuous statement written in dark bold with at least 12-point type on the first page of the purchase documentation; and

(ii) read as follows: "YOU, THE BUYER, MAY CANCEL THIS CONTRACT AT ANY TIME PRIOR TO MIDNIGHT OF THE THIRD BUSINESS DAY (or time period reflecting the supplier's cancellation policy but not less than three business days) AFTER THE DATE OF THE TRANSACTION OR RECEIPT OF THE PRODUCT, WHICHEVER IS LATER."

(b) A supplier is exempt from the requirements of Subsection (2)(m) if the supplier's cancellation policy:

(i) is communicated to the buyer; and

(ii) offers greater rights to the buyer than Subsection (2)(m).

(4) (a) A gift certificate, instrument, or other record that does not print an expiration date in accordance with Subsection (2)(v) does not expire.

(b) A gift certificate, instrument, or other record that does not include printed information concerning a fee to be charged and deducted from the balance of the gift certificate, instrument, or other record is not subject to the charging and deduction of the fee.

(c) Subsections (2)(v) and (4)(b) do not apply to a gift certificate, instrument, or other record useable at multiple, unaffiliated sellers of goods or services if an expiration date is printed on the gift certificate, instrument, or other record.

Section 2. Section 13-54-202 is amended to read:

13-54-202. Prohibited practices.

(1) (a) It is unlawful for any person who is not a primary ticket seller to represent, directly or indirectly, that the person is a primary ticket seller.

(b) If a presiding officer or court determines appropriate after considering other relevant factors, the following actions by a person who is not a primary ticket seller establish a presumption that the person is representing that the person is a primary ticket seller in violation of Subsection (1)(a):

(i) using the name of an event in the domain of the person's ticket website, unless the person has written authorization from an agent of the event;

(ii) using the name of an event participant in the domain of the person's ticket website, unless the person has written authorization from the event participant or an agent of the event participant; or

(iii) using, in paid search results, the name of an event or event participant in a manner described in Subsection (1)(b)(i) or (ii).

(2) It is unlawful for a person who lists or offers a ticket for sale to:

(a) accept payment for the ticket; and

(b) fail to deliver to the consumer who purchases the ticket a ticket that reflects the transaction to which the parties agreed.

[~~(2)~~] (3) It is unlawful for a person to fail to comply with a provision of Section 13-54-201.

[~~(3)~~] (4) Nothing in this section prohibits a person from including the name of an event or an event participant in a URL after the top-level domain.

CHAPTER 155
H. B. 243
Passed March 4, 2021
Approved March 16, 2021
Effective May 5, 2021

PRIVACY PROTECTION AMENDMENTS

Chief Sponsor: Francis D. Gibson
Senate Sponsor: Kirk A. Cullimore
Cosponsors: Suzanne Harrison
Brian S. King
Val L. Peterson
Ryan D. Wilcox

LONG TITLE

General Description:

This bill creates positions to oversee privacy practices in state government.

Highlighted Provisions:

This bill:

- creates the government operations privacy officer, who will be appointed by the governor;
- authorizes the government operations privacy officer to review the data practices of state agencies;
- creates the Personal Privacy Oversight Commission, whose membership is appointed by the governor, the state auditor, and the attorney general;
- directs the Personal Privacy Oversight Commission to establish guidelines and best practices with respect to certain government technology uses related to personal privacy and policies related to data security;
- authorizes the Personal Privacy Oversight Commission to review government technology uses related to personal privacy and policies related to data security;
- directs the state auditor to appoint and oversee the state privacy officer;
- authorizes the state privacy officer to review the data practices of certain government entities; and
- creates a reporting requirement for the operations privacy officer, the Personal Privacy Oversight Committee, and the data privacy officer.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

67-3-1, as last amended by Laws of Utah 2018, Chapters 200 and 256

ENACTS:

63C-23-101, Utah Code Annotated 1953
63C-23-102, Utah Code Annotated 1953
63C-23-201, Utah Code Annotated 1953
63C-23-202, Utah Code Annotated 1953
67-1-17, Utah Code Annotated 1953
67-3-12, Utah Code Annotated 1953

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

Section 1. Section 63C-23-101 is enacted to read:

CHAPTER 23. (Codified as Chapter 24) PERSONAL PRIVACY OVERSIGHT COMMISSION

Part 1. General Provisions

63C-23-101. (Codified as 63C-24-101) Title.

This chapter is known as the "Personal Privacy Oversight Commission."

Section 2. Section 63C-23-102 is enacted to read:

63C-23-102. (Codified as 63C-24-102) Definitions.

As used in this chapter:

(1) "Commission" means the Personal Privacy Oversight Commission created in Section 63C-23-201.

(2) (a) "Government entity" means the state, a county, a municipality, a higher education institution, a local district, a special service district, a school district, an independent entity, or any other political subdivision of the state or an administrative subunit of any political subdivision, including a law enforcement entity.

(b) "Government entity" includes an agent of an entity described in Subsection (2)(a).

(3) "Independent entity" means the same as that term is defined in Section 63E-1-102.

(4) (a) "Personal data" means any information relating to an identified or identifiable individual.

(b) "Personal data" includes personally identifying information.

(5) (a) "Privacy practice" means the acquisition, use, storage, or disposal of personal data.

(b) "Privacy practice" includes:

(i) a technology use related to personal data; and

(ii) policies related to the protection, storage, sharing, and retention of personal data.

Section 3. Section 63C-23-201 is enacted to read:

Part 2. Personal Privacy Oversight Commission

63C-23-201. (Codified as 63C-24-201) Personal Privacy Oversight Commission created.

(1) There is created the Personal Privacy Oversight Commission.

(2) (a) The commission shall be composed of 12 members.

(b) The governor shall appoint:

(i) one member who, at the time of appointment provides internet technology services for a county or a municipality;

(ii) one member with experience in cybersecurity;

(iii) one member representing private industry in technology;

(iv) one member representing law enforcement; and

(v) one member with experience in data privacy law.

(c) The state auditor shall appoint:

(i) one member with experience in internet technology services;

(ii) one member with experience in cybersecurity;

(iii) one member representing private industry in technology;

(iv) one member with experience in data privacy law; and

(v) one member with experience in civil liberties law or policy and with specific experience in identifying the disparate impacts of the use of a technology or a policy on different populations.

(d) The attorney general shall appoint:

(i) one member with experience as a prosecutor or appellate attorney and with experience in civil liberties law; and

(ii) one member representing law enforcement.

(3) (a) Except as provided in Subsection (3)(b), a member is appointed for a term of four years.

(b) The initial appointments of members described in Subsections (2)(b)(i) through (b)(iii), (2)(c)(iv) through (c)(v), and (2)(d)(ii) shall be for two-year terms.

(c) When the term of a current member expires, a member shall be reappointed or a new member shall be appointed in accordance with Subsection (2).

(4) (a) When a vacancy occurs in the membership for any reason, a replacement shall be appointed in accordance with Subsection (2) for the unexpired term.

(b) A member whose term has expired may continue to serve until a replacement is appointed.

(5) The commission shall select officers from the commission's members as the commission finds necessary.

(6) (a) A majority of the members of the commission is a quorum.

(b) The action of a majority of a quorum constitutes an action of the commission.

(7) A member may not receive compensation or benefits for the member's service but may receive per diem and travel expenses incurred as a member of the commission at the rates established by the Division of Finance under:

(a) Sections 63A-3-106 and 63A-3-107; and

(b) rules made by the Division of Finance in accordance with Sections 63A-3-106 and 63A-3-107.

(8) A member shall refrain from participating in a review of:

(a) an entity of which the member is an employee; or

(b) a technology in which the member has a financial interest.

(9) The state auditor shall provide staff and support to the commission.

(10) The commission shall meet up to seven times a year to accomplish the duties described in Section 63C-23-202.

Section 4. Section 63C-23-202 is enacted to read:

63C-23-202. (Codified as 63C-24-202) Commission duties.

(1) The commission shall:

(a) develop guiding standards and best practices with respect to government privacy practices;

(b) develop educational and training materials that include information about:

(i) the privacy implications and civil liberties concerns of the privacy practices of government entities;

(ii) best practices for government collection and retention policies regarding personal data; and

(iii) best practices for government personal data security standards; and

(c) review the privacy implications and civil liberties concerns of government privacy practices.

(2) The commission may:

(a) review specific government privacy practices as referred to the commission by the government operations privacy officer described in Section 67-1-17 or the state privacy officer described in Section 67-3-12; and

(b) develop recommendations for legislation regarding the guiding standards and best practices the commission has developed in accordance with Subsection (1)(a).

(3) Annually, on or before October 1, the commission shall report to the Judiciary Interim Committee:

(a) the results of any reviews the commission has conducted;

(b) the guiding standards and best practices described in Subsection (1)(a); and

(c) any recommendations for legislation the commission has developed in accordance with Subsection (2)(b).

Section 5. Section 67-1-17 is enacted to read:

67-1-17. Government operations privacy officer.

(1) As used in this section:

(a) "Independent entity" means the same as that term is defined in Section 63E-1-102.

(b) (i) "Personal data" means any information relating to an identified or identifiable individual.

(ii) "Personal data" includes personally identifying information.

(c) (i) "Privacy practice" means the acquisition, use, storage, or disposal of personal data.

(ii) "Privacy practice" includes:

(A) a technology use related to personal data; and

(B) policies related to the protection, storage, sharing, and retention of personal data.

(d) (i) "State agency" means the following entities that are under the direct supervision and control of the governor or the lieutenant governor:

(A) a department;

(B) a commission;

(C) a board;

(D) a council;

(E) an institution;

(F) an officer;

(G) a corporation;

(H) a fund;

(I) a division;

(J) an office;

(K) a committee;

(L) an authority;

(M) a laboratory;

(N) a library;

(O) a bureau;

(P) a panel;

(Q) another administrative unit of the state; or

(R) an agent of an entity described in Subsections (A) through (Q).

(ii) "State agency" does not include:

(A) the legislative branch;

(B) the judicial branch;

(C) an executive branch agency within the Office of the Attorney General, the state auditor, the state treasurer, or the State Board of Education; or

(D) an independent entity.

(2) The governor may, with the advice and consent of the Senate, appoint a government operations privacy officer.

(3) The government operations privacy officer shall:

(a) compile information about the privacy practices of state agencies;

(b) make public and maintain information about the privacy practices of state agencies on the governor's website;

(c) provide state agencies with educational and training materials developed by the Personal Privacy Oversight Commission established in Section 63C-23-201 that include the information described in Subsection 63C-23-202(1)(b);

(d) implement a process to analyze and respond to requests from individuals for the government operations privacy officer to review a state agency's privacy practice;

(e) identify annually which state agencies' privacy practices pose the greatest risk to individual privacy and prioritize those privacy practices for review;

(f) review each year, in as timely a manner as possible, the privacy practices that the government operations privacy officer identifies under Subsection (3)(d) or (e) as posing the greatest risk to individuals' privacy;

(g) when reviewing a state agency's privacy practice under Subsection (3)(f), analyze:

(i) details about the privacy practice;

(ii) information about the type of data being used;

(iii) information about how the data is obtained, shared, secured, stored, and disposed;

(iv) information about with which persons the state agency shares the information;

(v) information about whether an individual can or should be able to opt out of the retention and sharing of the individual's data;

(vi) information about how the state agency de-identifies or anonymizes data;

(vii) a determination about the existence of alternative technology or improved practices to protect privacy; and

(viii) a finding of whether the state agency's current privacy practice adequately protects individual privacy; and

(h) after completing a review described in Subsections (3)(f) and (g), determine:

(i) each state agency's use of personal data, including the state agency's practices regarding data:

(A) acquisition;

(B) storage;

(C) disposal;

(D) protection; and

(E) sharing;

(ii) the adequacy of the state agency's practices in each of the areas described in Subsection (3)(h)(i); and

(iii) for each of the areas described in Subsection (3)(h)(i) that the government operations privacy officer determines require reform, provide recommendations to the state agency for reform.

(4) The government operations privacy officer shall:

(a) quarterly report, to the Personal Privacy Oversight Commission:

(i) recommendations for privacy practices for the commission to review; and

(ii) the information described in Subsection (3)(h); and

(b) annually, on or before October 1, report to the Judiciary Interim Committee:

(i) the results of any reviews described in Subsection (3)(g), if any reviews have been completed;

(ii) reforms, to the extent that the government operations privacy officer is aware of any reforms, that the state agency made in response to any reviews described in Subsection (3)(g);

(iii) the information described in Subsection (3)(h); and

(iv) recommendations for legislation based on the results of any reviews described in Subsection (3)(g).

Section 6. Section 67-3-1 is amended to read:

67-3-1. Functions and duties.

(1) (a) The state auditor is the auditor of public accounts and is independent of any executive or administrative officers of the state.

(b) The state auditor is not limited in the selection of personnel or in the determination of the reasonable and necessary expenses of the state auditor's office.

(2) The state auditor shall examine and certify annually in respect to each fiscal year, financial statements showing:

(a) the condition of the state's finances;

(b) the revenues received or accrued;

(c) expenditures paid or accrued;

(d) the amount of unexpended or unencumbered balances of the appropriations to the agencies, departments, divisions, commissions, and institutions; and

(e) the cash balances of the funds in the custody of the state treasurer.

(3) (a) The state auditor shall:

(i) audit each permanent fund, each special fund, the General Fund, and the accounts of any department of state government or any independent agency or public corporation as the law requires, as the auditor determines is necessary, or upon request of the governor or the Legislature;

(ii) perform the audits in accordance with generally accepted auditing standards and other auditing procedures as promulgated by recognized authoritative bodies;

(iii) as the auditor determines is necessary, conduct the audits to determine:

(A) honesty and integrity in fiscal affairs;

(B) accuracy and reliability of financial statements;

(C) effectiveness and adequacy of financial controls; and

(D) compliance with the law.

(b) If any state entity receives federal funding, the state auditor shall ensure that the audit is performed in accordance with federal audit requirements.

(c) (i) The costs of the federal compliance portion of the audit may be paid from an appropriation to the state auditor from the General Fund.

(ii) If an appropriation is not provided, or if the federal government does not specifically provide for payment of audit costs, the costs of the federal compliance portions of the audit shall be allocated on the basis of the percentage that each state entity's federal funding bears to the total federal funds received by the state.

(iii) The allocation shall be adjusted to reflect any reduced audit time required to audit funds passed through the state to local governments and to reflect any reduction in audit time obtained through the use of internal auditors working under the direction of the state auditor.

(4) (a) Except as provided in Subsection (4)(b), the state auditor shall, in addition to financial audits, and as the auditor determines is necessary, conduct performance and special purpose audits, examinations, and reviews of any entity that receives public funds, including a determination of any or all of the following:

(i) the honesty and integrity of all [~~its~~] the entity's fiscal affairs;

(ii) whether or not [~~its~~] the entity's administrators have faithfully complied with legislative intent;

(iii) whether or not [~~its~~] the entity's operations have been conducted in an efficient, effective, and cost-efficient manner;

(iv) whether or not [~~its~~] the entity's programs have been effective in accomplishing the intended objectives; and

(v) whether or not [~~its~~] the entity's management, control, and information systems are adequate, effective, and secure.

(b) The auditor may not conduct performance and special purpose audits, examinations, and reviews of any entity that receives public funds if the entity:

(i) has an elected auditor; and

(ii) has, within the entity's last budget year, had [~~its~~] the entity's financial statements or performance formally reviewed by another outside auditor.

(5) The state auditor:

(a) shall administer any oath or affirmation necessary to the performance of the duties of the auditor's office[~~,~~]; and

(b) may:

(i) subpoena witnesses and documents, whether electronic or otherwise[~~,~~]; and

(ii) examine into any matter that the auditor considers necessary.

(6) The state auditor may require all persons who have had the disposition or management of any property of this state or its political subdivisions to submit statements regarding [~~it~~] the property at the time and in the form that the auditor requires.

(7) The state auditor shall:

(a) except where otherwise provided by law, institute suits in Salt Lake County in relation to the assessment, collection, and payment of [~~its~~] revenues against:

(i) persons who by any means have become entrusted with public money or property and have failed to pay over or deliver the money or property; and

(ii) all debtors of the state;

(b) collect and pay into the state treasury all fees received by the state auditor;

(c) perform the duties of a member of all boards of which the state auditor is a member by the constitution or laws of the state, and any other duties that are prescribed by the constitution and by law;

(d) stop the payment of the salary of any state official or state employee who:

(i) refuses to settle accounts or provide required statements about the custody and disposition of public funds or other state property;

(ii) refuses, neglects, or ignores the instruction of the state auditor or any controlling board or department head with respect to the manner of keeping prescribed accounts or funds; or

(iii) fails to correct any delinquencies, improper procedures, and errors brought to the official's or employee's attention;

(e) establish accounting systems, methods, and forms for public accounts in all taxing or fee-assessing units of the state in the interest of uniformity, efficiency, and economy;

(f) superintend the contractual auditing of all state accounts;

(g) subject to Subsection (8)(a), withhold state allocated funds or the disbursement of property taxes from a state or local taxing or fee-assessing unit, if necessary, to ensure that officials and employees in those taxing units comply with state laws and procedures in the budgeting, expenditures, and financial reporting of public funds;

(h) subject to Subsection (9), withhold the disbursement of tax money from any county, if necessary, to ensure that officials and employees in the county comply with Section 59-2-303.1; and

(i) withhold state allocated funds or the disbursement of property taxes from a local government entity or a limited purpose entity, as those terms are defined in Section 67-1a-15 if the state auditor finds the withholding necessary to ensure that the entity registers and maintains the entity's registration with the lieutenant governor, in accordance with Section 67-1a-15.

(8) (a) Except as otherwise provided by law, the state auditor may not withhold funds under Subsection (7)(g) until a state or local taxing or fee-assessing unit has received formal written notice of noncompliance from the auditor and has been given 60 days to make the specified corrections.

(b) If, after receiving notice under Subsection (8)(a), a state or independent local fee-assessing unit that exclusively assesses fees has not made corrections to comply with state laws and procedures in the budgeting, expenditures, and financial reporting of public funds, the state auditor:

(i) shall provide a recommended timeline for corrective actions; [~~and~~]

(ii) may prohibit the state or local fee-assessing unit from accessing money held by the state; and

(iii) may prohibit a state or local fee-assessing unit from accessing money held in an account of a financial institution by filing an action in district court requesting an order of the court to prohibit a financial institution from providing the fee-assessing unit access to an account.

(c) The state auditor shall remove a limitation on accessing funds under Subsection (8)(b) upon compliance with state laws and procedures in the budgeting, expenditures, and financial reporting of public funds.

(d) If a local taxing or fee-assessing unit has not adopted a budget in compliance with state law, the state auditor:

(i) shall provide notice to the taxing or fee-assessing unit of the unit's failure to comply;

(ii) may prohibit the taxing or fee-assessing unit from accessing money held by the state; and

(iii) may prohibit a taxing or fee-assessing unit from accessing money held in an account of a financial institution by:

(A) contacting the taxing or fee-assessing unit's financial institution and requesting that the institution prohibit access to the account; or

(B) filing an action in district court requesting an order of the court to prohibit a financial institution from providing the taxing or fee-assessing unit access to an account.

(e) If the local taxing or fee-assessing unit adopts a budget in compliance with state law, the state auditor shall eliminate a limitation on accessing funds described in Subsection (8)(d).

(9) The state auditor may not withhold funds under Subsection (7)(h) until a county has received formal written notice of noncompliance from the auditor and has been given 60 days to make the specified corrections.

(10) (a) The state auditor may not withhold funds under Subsection (7)(i) until the state auditor receives a notice of non-registration, as that term is defined in Section 67-1a-15.

(b) If the state auditor receives a notice of non-registration, the state auditor may prohibit the local government entity or limited purpose entity, as those terms are defined in Section 67-1a-15, from accessing:

(i) money held by the state; and

(ii) money held in an account of a financial institution by:

(A) contacting the entity's financial institution and requesting that the institution prohibit access to the account; or

(B) filing an action in district court requesting an order of the court to prohibit a financial institution from providing the entity access to an account.

(c) The state auditor shall remove the prohibition on accessing funds described in Subsection (10)(b) if the state auditor received a notice of registration, as that term is defined in Section 67-1a-15, from the lieutenant governor.

(11) Notwithstanding Subsection (7)(g), (7)(h), (7)(i), (8)(b), (8)(d), or (10)(b), the state auditor:

(a) shall authorize a disbursement by a local government entity or limited purpose entity, as those terms are defined in Section 67-1a-15, or a state or local taxing or fee-assessing unit if the disbursement is necessary to:

(i) avoid a major disruption in the operations of the local government entity, limited purpose entity, or state or local taxing or fee-assessing unit; or

(ii) meet debt service obligations; and

(b) may authorize a disbursement by a local government entity, limited purpose entity, or state or local taxing or fee-assessing unit as the state auditor determines is appropriate.

(12) (a) The state auditor may seek relief under the Utah Rules of Civil Procedure to take temporary custody of public funds if an action is necessary to protect public funds from being improperly diverted from their intended public purpose.

(b) If the state auditor seeks relief under Subsection (12)(a):

(i) the state auditor is not required to exhaust the procedures in Subsection (7) or (8); and

(ii) the state treasurer may hold the public funds in accordance with Section 67-4-1 if a court orders the public funds to be protected from improper diversion from their public purpose.

(13) The state auditor shall:

(a) establish audit guidelines and procedures for audits of local mental health and substance abuse authorities and their contract providers, conducted pursuant to Title 17, Chapter 43, Part 2, Local Substance Abuse Authorities, Title 17, Chapter 43, Part 3, Local Mental Health Authorities, Title 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal Organizations, and Other Local Entities Act, and Title 62A, Chapter 15, Substance Abuse and Mental Health Act; and

(b) ensure that those guidelines and procedures provide assurances to the state that:

(i) state and federal funds appropriated to local mental health authorities are used for mental health purposes;

(ii) a private provider under an annual or otherwise ongoing contract to provide comprehensive mental health programs or services for a local mental health authority is in compliance with state and local contract requirements, and state and federal law;

(iii) state and federal funds appropriated to local substance abuse authorities are used for substance abuse programs and services; and

(iv) a private provider under an annual or otherwise ongoing contract to provide comprehensive substance abuse programs or services for a local substance abuse authority is in compliance with state and local contract requirements, and state and federal law.

(14) The state auditor may, in accordance with the auditor's responsibilities for political subdivisions of the state as provided in Title 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal Organizations, and Other Local Entities Act, initiate audits or investigations of any political subdivision that are necessary to determine honesty and integrity in fiscal affairs, accuracy and reliability of financial statements, effectiveness, and adequacy of financial controls and compliance with the law.

(15) (a) The state auditor may not audit work that the state auditor performed before becoming state auditor.

(b) If the state auditor has previously been a responsible official in state government whose work has not yet been audited, the Legislature shall:

(i) designate how that work shall be audited; and

(ii) provide additional funding for those audits, if necessary.

(16) The state auditor shall:

(a) with the assistance, advice, and recommendations of an advisory committee appointed by the state auditor from among local district boards of trustees, officers, and employees and special service district boards, officers, and employees:

(i) prepare a Uniform Accounting Manual for Local Districts that:

(A) prescribes a uniform system of accounting and uniform budgeting and reporting procedures for local districts under Title 17B, Limited Purpose Local Government Entities - Local Districts, and special service districts under Title 17D, Chapter 1, Special Service District Act;

(B) conforms with generally accepted accounting principles; and

(C) prescribes reasonable exceptions and modifications for smaller districts to the uniform system of accounting, budgeting, and reporting;

(ii) maintain the manual under this Subsection (16)(a) so that [~~it~~] the manual continues to reflect generally accepted accounting principles;

(iii) conduct a continuing review and modification of procedures in order to improve them;

(iv) prepare and supply each district with suitable budget and reporting forms; and

(v) (A) prepare instructional materials, conduct training programs, and render other services considered necessary to assist local districts and special service districts in implementing the uniform accounting, budgeting, and reporting procedures; and

(B) ensure that any training described in Subsection (16)(a)(v)(A) complies with Title 63G, Chapter 22, State Training and Certification Requirements; and

(b) continually analyze and evaluate the accounting, budgeting, and reporting practices and experiences of specific local districts and special service districts selected by the state auditor and make the information available to all districts.

(17) (a) The following records in the custody or control of the state auditor are protected records under Title 63G, Chapter 2, Government Records Access and Management Act:

(i) records that would disclose information relating to allegations of personal misconduct, gross mismanagement, or illegal activity of a past or present governmental employee if the information or allegation cannot be corroborated by the state auditor through other documents or evidence, and the records relating to the allegation are not relied upon by the state auditor in preparing a final audit report;

(ii) records and audit workpapers to the extent [~~they~~] the workpapers would disclose the identity of [~~a person~~] an individual who during the course of an audit, communicated the existence of any waste of public funds, property, or manpower, or a violation or suspected violation of a law, rule, or regulation adopted under the laws of this state, a political subdivision of the state, or any recognized entity of the United States, if the information was disclosed on the condition that the identity of the [~~person~~] individual be protected;

(iii) before an audit is completed and the final audit report is released, records or drafts circulated to [~~a person~~] an individual who is not an employee or head of a governmental entity for [~~their~~] the individual's response or information;

(iv) records that would disclose an outline or part of any audit survey plans or audit program; and

(v) requests for audits, if disclosure would risk circumvention of an audit.

(b) The provisions of Subsections (17)(a)(i), (ii), and (iii) do not prohibit the disclosure of records or information that relate to a violation of the law by a governmental entity or employee to a government prosecutor or peace officer.

(c) The provisions of this Subsection (17) do not limit the authority otherwise given to the state auditor to classify a document as public, private, controlled, or protected under Title 63G, Chapter 2, Government Records Access and Management Act.

(d) (i) As used in this Subsection (17)(d), "record dispute" means a dispute between the state auditor and the subject of an audit performed by the state auditor as to whether the state auditor may release a record, as defined in Section 63G-2-103, to the public that the state auditor gained access to in the course of the state auditor's audit but which the subject of the audit claims is not subject to disclosure under Title 63G, Chapter 2, Government Records Access and Management Act.

(ii) The state auditor may submit a record dispute to the State Records Committee, created in Section 63G-2-501, for a determination of whether the state auditor may, in conjunction with the state auditor's release of an audit report, release to the public the record that is the subject of the record dispute.

(iii) The state auditor or the subject of the audit may seek judicial review of a State Records Committee determination under Subsection (17)(d)(ii), as provided in Section 63G-2-404.

(18) If the state auditor conducts an audit of an entity that the state auditor has previously audited and finds that the entity has not implemented a recommendation made by the state auditor in a previous audit, the state auditor shall notify the Legislative Management Committee through [~~its~~] the Legislative Management Committee's audit subcommittee that the entity has not implemented that recommendation.

(19) The state auditor shall, with the advice and consent of the Senate, appoint the state privacy officer described in Section 67-3-12.

Section 7. Section 67-3-12 is enacted to read:

67-3-12. (Codified as 67-3-13) State privacy officer.

(1) As used in this section:

(a) "Designated government entity" means a government entity that is not a state agency.

(b) "Independent entity" means the same as that term is defined in Section 63E-1-102.

(c) (i) "Government entity" means the state, a county, a municipality, a higher education institution, a local district, a special service district, a school district, an independent entity, or any other political subdivision of the state or an administrative subunit of any political subdivision, including a law enforcement entity.

(ii) "Government entity" includes an agent of an entity described in Subsection (1)(c)(i).

(d) (i) "Personal data" means any information relating to an identified or identifiable individual.

(ii) "Personal data" includes personally identifying information.

(e) (i) "Privacy practice" means the acquisition, use, storage, or disposal of personal data.

(ii) "Privacy practice" includes:

(A) a technology use related to personal data; and

(B) policies related to the protection, storage, sharing, and retention of personal data.

(f) (i) "State agency" means the following entities that are under the direct supervision and control of the governor or the lieutenant governor:

(A) a department;

(B) a commission;

(C) a board;

(D) a council;

(E) an institution;

(F) an officer;

(G) a corporation;

(H) a fund;

(I) a division;

(J) an office;

(K) a committee;

(L) an authority;

(M) a laboratory;

(N) a library;

(O) a bureau;

(P) a panel;

(Q) another administrative unit of the state; or

(R) an agent of an entity described in Subsections (A) through (Q).

(ii) "State agency" does not include:

(A) the legislative branch;

(B) the judicial branch;

(C) an executive branch agency within the Office of the Attorney General, the state auditor, the state treasurer, or the State Board of Education; or

(D) an independent entity.

(2) The state privacy officer shall:

(a) when completing the duties of this Subsection (2), focus on the privacy practices of designated government entities;

(b) compile information about government privacy practices of designated government entities;

(c) make public and maintain information about government privacy practices on the state auditor's website;

(d) provide designated government entities with educational and training materials developed by the Personal Privacy Oversight Commission established in Section 63C-23-201 that include the information described in Subsection 63C-23-202(1)(b);

(e) implement a process to analyze and respond to requests from individuals for the state privacy officer to review a designated government entity's privacy practice;

(f) identify annually which designated government entities' privacy practices pose the greatest risk to individual privacy and prioritize those privacy practices for review;

(g) review each year, in as timely a manner as possible, the privacy practices that the privacy officer identifies under Subsection (2)(e) or (2)(f) as posing the greatest risk to individuals' privacy;

(h) when reviewing a designated government entity's privacy practice under Subsection (2)(g), analyze:

(i) details about the technology or the policy and the technology's or the policy's application;

(ii) information about the type of data being used;

(iii) information about how the data is obtained, stored, shared, secured, and disposed;

(iv) information about with which persons the designated government entity shares the information;

(v) information about whether an individual can or should be able to opt out of the retention and sharing of the individual's data;

(vi) information about how the designated government entity de-identifies or anonymizes data;

(vii) a determination about the existence of alternative technology or improved practices to protect privacy; and

(viii) a finding of whether the designated government entity's current privacy practice adequately protects individual privacy; and

(i) after completing a review described in Subsections (2)(g) and (h), determine:

(i) each designated government entity's use of personal data, including the designated government entity's practices regarding data:

(A) acquisition;

(B) storage;

(C) disposal;

(D) protection; and

(E) sharing;

(ii) the adequacy of the designated government entity's practices in each of the areas described in Subsection (2)(i)(i); and

(iii) for each of the areas described in Subsection (2)(i)(i) that the state privacy officer determines to require reform, provide recommendations for reform to the designated government entity and the legislative body charged with regulating the designated government entity.

(3) (a) The legislative body charged with regulating a designated government entity that receives a recommendation described in Subsection (2)(i)(iii) shall hold a public hearing on the proposed reforms:

(i) with a quorum of the legislative body present; and

(ii) within 90 days after the day on which the legislative body receives the recommendation.

(b) (i) The legislative body shall provide notice of the hearing described in Subsection (3)(a).

(ii) Notice of the public hearing and the recommendations to be discussed shall be posted on:

(A) the Utah Public Notice Website created in Section 63F-1-701 for 30 days before the day on which the legislative body will hold the public hearing; and

(B) the website of the designated government entity that received a recommendation, if the designated government entity has a website, for 30 days before the day on which the legislative body will hold the public hearing.

(iii) Each notice required under Subsection (3)(b)(i) shall:

(A) identify the recommendations to be discussed; and

(B) state the date, time, and location of the public hearing.

(c) During the hearing described in Subsection (3)(a), the legislative body shall:

(i) provide the public the opportunity to ask questions and obtain further information about the recommendations; and

(ii) provide any interested person an opportunity to address the legislative body with concerns about the recommendations.

(d) At the conclusion of the hearing, the legislative body shall determine whether the legislative body shall adopt reforms to address the recommendations and any concerns raised during the public hearing.

(4) (a) Except as provided in Subsection (4)(b), if the government operations privacy officer described in Section 67-1-17 is not conducting reviews of the privacy practices of state agencies, the state privacy officer may review the privacy practices of a state agency in accordance with the processes described in this section.

(b) Subsection (3) does not apply to a state agency.

(5) The state privacy officer shall:

(a) quarterly report, to the Personal Privacy Oversight Commission:

(i) recommendations for privacy practices for the commission to review; and

(ii) the information provided in Subsection (2)(i); and

(b) annually, on or before October 1, report to the Judiciary Interim Committee:

(i) the results of any reviews described in Subsection (2)(g), if any reviews have been completed;

(ii) reforms, to the extent that the state privacy officer is aware of any reforms, that the designated government entity made in response to any reviews described in Subsection (2)(g);

(iii) the information described in Subsection (2)(i); and

(iv) recommendations for legislation based on any results of a review described in Subsection (2)(g).

CHAPTER 156
H. B. 248
Passed March 4, 2021
Approved March 16, 2021
Effective May 5, 2021

MENTAL HEALTH SUPPORT PROGRAM FOR FIRST RESPONDERS

Chief Sponsor: Karen Kwan
Senate Sponsor: Daniel W. Thatcher
Cosponsors: Jefferson S. Burton
Jennifer Dailey-Provost
Matthew H. Gwynn
Suzanne Harrison
Sandra Hollins
Marsha Judkins
Rosemary T. Lesser
Paul Ray
Angela Romero
Andrew Stoddard
Ryan D. Wilcox
Mike Winder

LONG TITLE

General Description:

This bill relates to mental health resources for first responders.

Highlighted Provisions:

This bill:

- defines terms; and
- requires the Division of Substance Abuse and Mental Health to administer a grant program to provide mental health resources for first responders.

Monies Appropriated in this Bill:

This bill appropriates in fiscal year 2022:

- to Department of Human Services -- Division of Substance Abuse and Mental Health, Community Mental Health Services, as a one-time appropriation:
  - from the General Fund, One-time, $500,000.

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:
63I-2-262, as last amended by Laws of Utah 2020, Chapter 212

ENACTS:
62A-15-120, Utah Code Annotated 1953

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

Section 1. Section 62A-15-120 is enacted to read:

62A-15-120. Mental health resources for first responders grant program.

(1) As used in this section:

(a) "First responder" means:

(i) a law enforcement officer, as defined in Section 53-13-103;

(ii) an emergency medical technician, as defined in Section 26-8c-102;

(iii) an advanced emergency medical technician, as defined in Section 26-8c-102;

(iv) a paramedic, as defined in Section 26-8c-102;

(v) a firefighter, as defined in Section 34A-3-113;

(vi) a dispatcher, as defined in Section 53-6-102; or

(vii) a correctional officer, as defined in Section 53-13-104.

(b) "First responder agency" means a local district, municipality, interlocal entity, or other political subdivision that employs a first responder to provide fire protection, paramedic, law enforcement, or emergency services.

(c) "Mental health resources" means:

(i) an assessment to determine appropriate mental health treatment that is performed by a mental health therapist;

(ii) outpatient mental health treatment provided by a mental health therapist; or

(iii) peer support services provided by a peer support specialist who is qualified to provide peer support services under Subsection 62A-15-103(2)(h).

(d) "Mental health therapist" means the same as that term is defined in Section 58-60-102.

(e) "Project" means a project to implement or expand a program that provides mental health resources to first responders for which the division awards a grant under this section.

(2) On or before July 1, 2021, the division shall issue a request for proposals in accordance with this section to award a grant to one or more first responder agencies to implement a project.

(3) The purpose of a project is to provide mental health resources for first responders.

(4) An application for a grant under this section shall:

(a) explain how first responders will benefit from the provision of mental health resources; and

(b) provide details regarding:

(i) how the proposed project plans to provide mental health resources to first responders in the first responder agency;

(ii) the number of first responders served by the proposed project;

(iii) how the proposed project will ensure timely and effective provision of mental health resources to first responders in the first responder agency;

(iv) the cost of the proposed project; and

(v) the sustainability of the proposed project.

(5) In evaluating a project proposal for a grant under this section, the division shall consider:

(a) the extent to which the proposed project will fulfill the purpose described in Subsection (3);

(b) the extent to which the first responders that will be served by the proposed project are likely to benefit from the proposed project;

(c) the cost of the proposed project; and

(d) the viability of the proposed project.

(6) Before June 30, 2022, the division shall report to the Law Enforcement and Criminal Justice Interim Committee regarding:

(a) each first responder agency awarded a grant under this section; and

(b) the details of each project.

(7) Before June 30, 2024, the division shall report to the Law Enforcement and Criminal Justice Interim Committee regarding:

(a) any knowledge gained regarding provision of mental health resources to first responders;

(b) data gathered in relation to each project;

(c) recommendations for the future use of mental health resources to first responders; and

(d) obstacles encountered in the provision of mental health resources to first responders.

Section 2. Section 63I-2-262 is amended to read:

63I-2-262. Repeal dates -- Title 62A.

(1) Subsection 62A-5-103.1(6) is repealed January 1, 2023.

[~~(2) Section 62A-5-111 is repealed January 1, 2021.~~]

(2) Section 62A-15-120 is repealed January 1, 2025.

Section 3. Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2021, and ending June 30, 2022. These are additions to amounts previously appropriated for fiscal year 2022. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 1

To Department of Human Services -- Division of Substance Abuse and Mental Health

From General Fund, One-time $500,000

Schedule of Programs:

Community Mental Health Services $500,000

The Legislature intends that:

(1) the appropriation under this item be used to award grants under Section 62A-15-120; and

(2) under Section 63J-1-603, the one-time appropriation provided under this item not lapse at the close of fiscal year 2022 and the use of any nonlapsing funds is limited to the purposes described in Subsection (1) of this item.

CHAPTER 157
H. B. 249
Passed March 4, 2021
Approved March 16, 2021
Effective May 5, 2021

PUBLIC ACCESS TO COURT RECORDS

Chief Sponsor: Stephen G. Handy
Senate Sponsor: Michael K. McKell

LONG TITLE

General Description:

This bill allows for public access to the Xchange database.

Highlighted Provisions:

This bill:

- allows the Judicial Council, by rule, to allow members of the public to have access to records on the Xchange database for a fee without having to pay a monthly subscription; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

78A-2-301, as last amended by Laws of Utah 2020, Chapter 230

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

Section 1. Section 78A-2-301 is amended to read:

78A-2-301. Civil fees of the courts of record -- Courts complex design.

(1) (a) The fee for filing any civil complaint or petition invoking the jurisdiction of a court of record not governed by another subsection is $375.

(b) The fee for filing a complaint or petition is:

(i) $90 if the claim for damages or amount in interpleader exclusive of court costs, interest, and attorney fees is $2,000 or less;

(ii) $200 if the claim for damages or amount in interpleader exclusive of court costs, interest, and attorney fees is greater than $2,000 and less than $10,000;

(iii) $375 if the claim for damages or amount in interpleader is $10,000 or more;

(iv) $325 if the petition is filed under Title 30, Chapter 3, Divorce, or Title 30, Chapter 4, Separate Maintenance;

(v) $35 for a motion for temporary separation order filed under Section 30-3-4.5;

(vi) $125 if the petition is for removal from the Sex Offender and Kidnap Offender Registry under Section 77-41-112; and

(vii) $35 if the petition is for guardianship and the prospective ward is the biological or adoptive child of the petitioner.

(c) The fee for filing a small claims affidavit is:

(i) $60 if the claim for damages or amount in interpleader exclusive of court costs, interest, and attorney fees is $2,000 or less;

(ii) $100 if the claim for damages or amount in interpleader exclusive of court costs, interest, and attorney fees is greater than $2,000, but less than $7,500; and

(iii) $185 if the claim for damages or amount in interpleader exclusive of court costs, interest, and attorney fees is $7,500 or more.

(d) The fee for filing a counter claim, cross claim, complaint in intervention, third party complaint, or other claim for relief against an existing or joined party other than the original complaint or petition is:

(i) $55 if the claim for relief exclusive of court costs, interest, and attorney fees is $2,000 or less;

(ii) $165 if the claim for relief exclusive of court costs, interest, and attorney fees is greater than $2,000 and less than $10,000;

(iii) $170 if the original petition is filed under Subsection (1)(a), the claim for relief is $10,000 or more, or the party seeks relief other than monetary damages; and

(iv) $130 if the original petition is filed under Title 30, Chapter 3, Divorce, or Title 30, Chapter 4, Separate Maintenance.

(e) The fee for filing a small claims counter affidavit is:

(i) $50 if the claim for relief exclusive of court costs, interest, and attorney fees is $2,000 or less;

(ii) $70 if the claim for relief exclusive of court costs, interest, and attorney fees is greater than $2,000, but less than $7,500; and

(iii) $120 if the claim for relief exclusive of court costs, interest, and attorney fees is $7,500 or more.

(f) The fee for depositing funds under Section 57-1-29 when not associated with an action already before the court is determined under Subsection (1)(b) based on the amount deposited.

(g) The fee for filing a petition is:

(i) $240 for trial de novo of an adjudication of the justice court or of the small claims department; and

(ii) $80 for an appeal of a municipal administrative determination in accordance with Section 10-3-703.7.

(h) The fee for filing a notice of appeal, petition for appeal of an interlocutory order, or petition for writ of certiorari is $240.

(i) The fee for filing a petition for expungement is $150.

(j) (i) Fifteen dollars of the fees established by Subsections (1)(a) through (i) shall be allocated to

and between the Judges' Contributory Retirement Trust Fund and the Judges' Noncontributory Retirement Trust Fund, as provided in Title 49, Chapter 17, Judges' Contributory Retirement Act, and Title 49, Chapter 18, Judges' Noncontributory Retirement Act.

(ii) Four dollars of the fees established by Subsections (1)(a) through (i) shall be allocated by the state treasurer to be deposited [~~in~~] into the restricted account, Children's Legal Defense Account, as provided in Section 51-9-408.

(iii) Three dollars of the fees established under Subsections (1)(a) through (e), (1)(g), and (1)(s) shall be allocated to and deposited with the Dispute Resolution Account as provided in Section 78B-6-209.

(iv) Thirty dollars of the fees established by Subsections (1)(a), (1)(b)(iii) and (iv), (1)(d)(iii) and (iv), (1)(g)(ii), (1)(h), and (1)(i) shall be allocated by the state treasurer to be deposited [~~in~~] into the restricted account, Court Security Account, as provided in Section 78A-2-602.

(v) Twenty dollars of the fees established by Subsections (1)(b)(i) and (ii), (1)(d)(ii) and (1)(g)(i) shall be allocated by the state treasurer to be deposited [~~in~~] into the restricted account, Court Security Account, as provided in Section 78A-2-602.

(k) The fee for filing a judgment, order, or decree of a court of another state or of the United States is $35.

(l) The fee for filing a renewal of judgment in accordance with Section 78B-6-1801 is 50% of the fee for filing an original action seeking the same relief.

(m) The fee for filing probate or child custody documents from another state is $35.

(n) (i) The fee for filing an abstract or transcript of judgment, order, or decree of the State Tax Commission is $30.

(ii) The fee for filing an abstract or transcript of judgment of a court of law of this state or a judgment, order, or decree of an administrative agency, commission, board, council, or hearing officer of this state or of its political subdivisions other than the State Tax Commission, is $50.

(o) The fee for filing a judgment by confession without action under Section 78B-5-205 is $35.

(p) The fee for filing an award of arbitration for confirmation, modification, or vacation under Title 78B, Chapter 11, Utah Uniform Arbitration Act, that is not part of an action before the court is $35.

(q) The fee for filing a petition or counter-petition to modify a domestic relations order other than a protective order or stalking injunction is $100.

(r) The fee for filing any accounting required by law is:

(i) $15 for an estate valued at $50,000 or less;

(ii) $30 for an estate valued at $75,000 or less but more than $50,000;

(iii) $50 for an estate valued at $112,000 or less but more than $75,000;

(iv) $90 for an estate valued at $168,000 or less but more than $112,000; and

(v) $175 for an estate valued at more than $168,000.

(s) The fee for filing a demand for a civil jury is $250.

(t) The fee for filing a notice of deposition in this state concerning an action pending in another state under Utah Rules of Civil Procedure, Rule 30 is $35.

(u) The fee for filing documents that require judicial approval but are not part of an action before the court is $35.

(v) The fee for a petition to open a sealed record is $35.

(w) The fee for a writ of replevin, attachment, execution, or garnishment is $50 in addition to any fee for a complaint or petition.

(x) (i) The fee for a petition for authorization for a minor to marry required by Section 30-1-9 is $5.

(ii) The fee for a petition for emancipation of a minor provided in Title 78A, Chapter 6, Part 8, Emancipation, is $50.

(y) The fee for a certificate issued under Section 26-2-25 is $8.

(z) The fee for a certified copy of a document is $4 per document plus 50 cents per page.

(aa) The fee for an exemplified copy of a document is $6 per document plus 50 cents per page.

(bb) The Judicial Council shall, by rule, establish a schedule of fees for copies of documents and forms and for the search and retrieval of records under Title 63G, Chapter 2, Government Records Access and Management Act. Fees under [~~this~~] Subsection (1)(bb) and (cc) shall be credited to the court as a reimbursement of expenditures.

(cc) The Judicial Council may, by rule, establish a reasonable fee to allow members of the public to conduct a limited amount of searches on the Xchange database without having to pay a monthly subscription fee.

[~~(cc)~~] (dd) There is no fee for services or the filing of documents not listed in this section or otherwise provided by law.

[~~(dd)~~] (ee) Except as provided in this section, all fees collected under this section are paid to the General Fund. Except as provided in this section, all fees shall be paid at the time the clerk accepts the pleading for filing or performs the requested service.

[~~(ee)~~] (ff) The filing fees under this section may not be charged to the state, [~~its~~] the state's agencies, or political subdivisions filing or defending any action. In judgments awarded in favor of the state,

its agencies, or political subdivisions, except the Office of Recovery Services, the court shall order the filing fees and collection costs to be paid by the judgment debtor. The sums collected under this Subsection (1)[~~(ee)~~](ff) shall be applied to the fees after credit to the judgment, order, fine, tax, lien, or other penalty and costs permitted by law.

(2) (a) (i) From March 17, 1994, until June 30, 1998, the state court administrator shall transfer all revenues representing the difference between the fees in effect after May 2, 1994, and the fees in effect before February 1, 1994, as dedicated credits to the Division of Facilities Construction and Management Capital Projects Fund.

(ii) (A) Except as provided in Subsection (2)(a)(ii)(B), the Division of Facilities Construction and Management shall use up to $3,750,000 of the revenue deposited [~~in~~] into the Capital Projects Fund under this Subsection (2)(a) to design and take other actions necessary to initiate the development of a courts complex in Salt Lake City.

(B) If the Legislature approves funding for construction of a courts complex in Salt Lake City in the 1995 Annual General Session, the Division of Facilities Construction and Management shall use the revenue deposited [~~in~~] into the Capital Projects Fund under this Subsection (2)(a)(ii) to construct a courts complex in Salt Lake City.

(C) After the courts complex is completed and all bills connected with its construction have been paid, the Division of Facilities Construction and Management shall use any money remaining in the Capital Projects Fund under this Subsection (2)(a)(ii) to fund the Vernal District Court building.

(iii) The Division of Facilities Construction and Management may enter into agreements and make expenditures related to this project before the receipt of revenues provided for under this Subsection (2)(a)(iii).

(iv) The Division of Facilities Construction and Management shall:

(A) make those expenditures from unexpended and unencumbered building funds already appropriated to the Capital Projects Fund; and

(B) reimburse the Capital Projects Fund upon receipt of the revenues provided for under this Subsection (2).

(b) After June 30, 1998, the state court administrator shall ensure that all revenues representing the difference between the fees in effect after May 2, 1994, and the fees in effect before February 1, 1994, are transferred to the Division of Finance for deposit in the restricted account.

(c) The Division of Finance shall deposit all revenues received from the state court administrator into the restricted account created by this section.

(d) (i) From May 1, 1995, until June 30, 1998, the state court administrator shall transfer $7 of the amount of a fine or bail forfeiture paid for a violation of Title 41, Motor Vehicles, in a court of record to the Division of Facilities Construction and Management Capital Projects Fund. The division of money pursuant to Section 78A-5-110 shall be calculated on the balance of the fine or bail forfeiture paid.

(ii) After June 30, 1998, the state court administrator or a municipality shall transfer $7 of the amount of a fine or bail forfeiture paid for a violation of Title 41, Motor Vehicles, in a court of record to the Division of Finance for deposit in the restricted account created by this section. The division of money pursuant to Section 78A-5-110 shall be calculated on the balance of the fine or bail forfeiture paid.

(3) (a) There is created within the General Fund a restricted account known as the State Courts Complex Account.

(b) The Legislature may appropriate money from the restricted account to the state court administrator for the following purposes only:

(i) to repay costs associated with the construction of the court complex that were funded from sources other than revenues provided for under this Subsection (3)(b)(i); and

(ii) to cover operations and maintenance costs on the court complex.

CHAPTER 158
H. B. 252
Passed February 19, 2021
Approved March 16, 2021
Effective May 5, 2021

STATE PAY PLAN AMENDMENTS

Chief Sponsor: Ryan D. Wilcox
Senate Sponsor: Derrin R. Owens

LONG TITLE

General Description:

This bill amends provisions related to state pay plans.

Highlighted Provisions:

This bill:

- defines terms; and
- requires the executive director of the Department of Human Resource Management to:
  - establish specialized state pay plans for Department of Natural Resources (DNR) peace officers and wildland firefighters that include certain information about salary range, qualifications, training, performance evaluation, and promotion; and
  - include recommendations on funding and salary increases for DNR peace officers and wildland firefighters in the executive director's annual compensation plan to the governor.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

67-19-12.6, Utah Code Annotated 1953

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

Section 1. Section 67-19-12.6 is enacted to read:

67-19-12.6. (Codified as 63A-17-110) State pay plans for DNR peace officers and wildland firefighters.

(1) As used in this section:

(a) "DNR peace officer" means an employee of the Department of Natural Resources who is designated as a peace officer by law.

(b) "Wildland firefighter" means an employee of the Division of Forestry, Fire, and State Lands who is:

(i) trained in firefighter techniques; and

(ii) assigned to a position of hazardous duty.

(2) The executive director shall:

(a) establish a specialized state pay plan for DNR peace officers and wildland firefighters that:

(i) meets the requirements of Section 67-19-12;

(ii) distinguishes the salary range for each DNR peace officer and wildland firefighter classification;

(iii) includes for each DNR peace officer and wildland firefighter classification:

(A) the minimum qualifications; and

(B) any training requirements; and

(iv) provides standards for:

(A) performance evaluation; and

(B) promotion; and

(b) include, in the plan described in Subsection 67-19-12(5), recommendations on funding and salary increases for DNR peace officers and wildland firefighters.

CHAPTER 159
H. B. 255
Passed March 5, 2021
Approved March 16, 2021
Effective May 5, 2021

PROTECTIVE ORDER REVISIONS

Chief Sponsor: V. Lowry Snow
Senate Sponsor: Todd D. Weiler

LONG TITLE

General Description:

This bill modifies provisions relating to protective orders.

Highlighted Provisions:

This bill:

- modifies definitions;
- requires the Administrative Office of the Courts to include an expiration date on a civil protective order form;
- modifies the time frame within which:
  - an objection to certain civil protective orders must be filed; and
  - certain hearings on a civil protective order must be held;
- modifies the circumstances under which a violation of a civil protective order is a civil offense;
- modifies the circumstances under which a provision of a cohabitant abuse protective order may be modified or dismissed during a divorce, parentage, custody, or guardianship proceeding;
- modifies the day on which a civil provision of a cohabitant abuse protective order expires;
- adds sexual battery as a qualifying offense for protective orders;
- provides that jail release agreements and other measures can apply when an individual is issued a citation and not arrested;
- modifies the type of contact prohibited under jail release agreements and orders;
- establishes procedures for a victim's waiver of jail release agreement conditions;
- prohibits issuance of a continuous protective order against a minor unless the minor is tried as an adult;
- modifies the expiration dates for criminal protective orders issued against a minor;
- modifies terminology in the Cohabitant Abuse Procedures Act to clarify that the act applies to a minor; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a coordination clause.

Utah Code Sections Affected:

AMENDS:

53-10-208, as last amended by Laws of Utah 2020, Chapter 142
53-10-208.1, as last amended by Laws of Utah 2020, Chapter 142
76-7-101, as last amended by Laws of Utah 2020, Chapter 260
77-36-1, as last amended by Laws of Utah 2020, Chapter 142
77-36-1.2, as last amended by Laws of Utah 2020, Chapter 70
77-36-2.6, as last amended by Laws of Utah 2020, Chapter 142
77-36-2.7, as last amended by Laws of Utah 2020, Chapter 142
77-36-5, as last amended by Laws of Utah 2020, Chapter 142
77-36-5.1, as last amended by Laws of Utah 2020, Chapter 142
78B-7-105, as last amended by Laws of Utah 2020, Chapter 142
78B-7-108, as last amended by Laws of Utah 2018, Chapter 255
78B-7-203, as last amended by Laws of Utah 2020, Chapter 142
78B-7-405, as last amended by Laws of Utah 2020, Chapter 142
78B-7-408, as enacted by Laws of Utah 2018, Chapter 255
78B-7-505, as last amended by Laws of Utah 2020, Chapter 142
78B-7-603, as renumbered and amended by Laws of Utah 2020, Chapter 142
78B-7-604, as renumbered and amended by Laws of Utah 2020, Chapter 142
78B-7-605, as renumbered and amended by Laws of Utah 2020, Chapter 142
78B-7-606, as renumbered and amended by Laws of Utah 2020, Chapter 142
78B-7-801, as enacted by Laws of Utah 2020, Chapter 142
78B-7-802, as renumbered and amended by Laws of Utah 2020, Chapter 142
78B-7-803, as enacted by Laws of Utah 2020, Chapter 142
78B-7-804, as enacted by Laws of Utah 2020, Chapter 142
78B-7-805, as enacted by Laws of Utah 2020, Chapter 142

Utah Code Sections Affected by Coordination Clause:

78B-7-801, as enacted by Laws of Utah 2020, Chapter 142
78B-7-804, as enacted by Laws of Utah 2020, Chapter 142
78B-7-805, as enacted by Laws of Utah 2020, Chapter 142

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

Section 1. Section 53-10-208 is amended to read:

53-10-208. Definition -- Offenses included on statewide warrant system -- Transportation fee to be included -- Statewide warrant system responsibility -- Quality control -- Training -- Technical support -- Transaction costs.

(1) "Statewide warrant system" means the portion of the state court computer system that is accessible by modem from the state mainframe computer and contains:

(a) records of criminal warrant information; and

(b) after notice and hearing, records of protective orders issued pursuant to:

(i) Title 77, Chapter 36, Cohabitant Abuse Procedures Act;

(ii) Title 78B, Chapter 7, Part 4, Dating Violence Protective Orders;

(iii) Title 78B, Chapter 7, Part 5, Sexual Violence Protective Orders; [~~or~~]

(iv) Title 78B, Chapter 7, Part 6, Cohabitant Abuse Protective Orders[~~.~~]; or

(v) Title 78B, Chapter 7, Part 8, Criminal Protective Orders.

(2) (a) The division shall include on the statewide warrant system all warrants issued for felony offenses and class A, B, and C misdemeanor offenses in the state.

(b) The division shall include on the statewide warrant system all warrants issued for failure to appear on a traffic citation as ordered by a magistrate under Subsection 77-7-19(3).

(c) For each warrant, the division shall indicate whether the magistrate ordered under Section 77-7-5 and Rule 6, Utah Rules of Criminal Procedure, that the accused appear in court.

(3) The division is the agency responsible for the statewide warrant system and shall:

(a) ensure quality control of all warrants of arrest or commitment and protective orders contained in the statewide warrant system by conducting regular validation checks with every clerk of a court responsible for entering the information on the system;

(b) upon the expiration of the protective orders and in the manner prescribed by the division, purge information regarding protective orders described in Subsection 53-10-208.1(1)(d) within 30 days of the time after expiration;

(c) establish system procedures and provide training to all criminal justice agencies having access to information contained on the state warrant system;

(d) provide technical support, program development, and systems maintenance for the operation of the system; and

(e) pay data processing and transaction costs for state, county, and city law enforcement agencies and criminal justice agencies having access to information contained on the state warrant system.

(4) (a) Any data processing or transaction costs not funded by legislative appropriation shall be paid on a pro rata basis by all agencies using the system during the fiscal year.

(b) This Subsection (4) supersedes any conflicting provision in Subsection (3)(e).

Section 2. Section 53-10-208.1 is amended to read:

53-10-208.1. Magistrates and court clerks to supply information.

(1) Every magistrate or clerk of a court responsible for court records in this state shall, within 30 days of the disposition and on forms and in the manner provided by the division, furnish the division with information pertaining to:

(a) all dispositions of criminal matters, including:

(i) guilty pleas;

(ii) convictions;

(iii) dismissals;

(iv) acquittals;

(v) pleas held in abeyance;

(vi) judgments of not guilty by reason of insanity;

(vii) judgments of guilty with a mental illness;

(viii) finding of mental incompetence to stand trial; and

(ix) probations granted;

(b) orders of civil commitment under the terms of Section 62A-15-631;

(c) the issuance, recall, cancellation, or modification of all warrants of arrest or commitment as described in Rule 6, Utah Rules of Criminal Procedure and Section 78B-6-303, within one day of the action and in a manner provided by the division; and

(d) protective orders issued after notice and hearing, pursuant to:

(i) Title 77, Chapter 36, Cohabitant Abuse Procedures Act;

(ii) Title 78B, Chapter 7, Part 4, Dating Violence Protective Orders;

(iii) Title 78B, Chapter 7, Part 5, Sexual Violence Protective Orders; [~~or~~]

(iv) Title 78B, Chapter 7, Part 6, Cohabitant Abuse Protective Orders[~~.~~]; or

(v) Title 78B, Chapter 7, Part 8, Criminal Protective Orders.

(2) The court in the county where a determination or finding was made shall transmit a record of the determination or finding to the bureau no later than 48 hours after the determination is made, excluding Saturdays, Sundays, and legal holidays, if an individual is:

(a) adjudicated as a mental defective; or

(b) involuntarily committed to a mental institution in accordance with Subsection 62A-15-631(16).

(3) The record described in Subsection (2) shall include:

(a) an agency record identifier;

(b) the individual's name, sex, race, and date of birth; and

(c) the individual's social security number, government issued driver license or identification number, alien registration number, government passport number, state identification number, or FBI number.

Section 3. Section 76-7-101 is amended to read:

76-7-101. Bigamy -- Penalty -- Defense.

(1) An individual is guilty of bigamy if:

(a) the individual purports to marry another individual; and

(b) knows or reasonably should know that one or both of the individuals described in Subsection (1)(a) are legally married to another individual.

(2) An individual who violates Subsection (1) is guilty of an infraction.

(3) An individual is guilty of a third degree felony if the individual induces bigamy:

(a) under fraudulent or false pretenses; or

(b) by threat or coercion.

(4) An individual is guilty of a second degree felony if the individual:

(a) cohabitates with another individual with whom the individual is engaged in bigamy as described in Subsection (1); and

(b) in furtherance of the conduct described in Subsection (4)(a), commits a felony offense, or for Subsection (4)(b)(vii), a misdemeanor offense, in violation of one or more of the following:

(i) Chapter 5, Part 2, Criminal Homicide;

(ii) Chapter 5, Part 3, Kidnapping, Trafficking, and Smuggling;

(iii) Chapter 5, Part 4, Sexual Offenses;

(iv) Section 76-5-109, child abuse -- child abandonment;

(v) Section 76-5-111, abuse, neglect, or exploitation of a vulnerable adult;

(vi) Section 76-5-209, child abuse homicide;

(vii) Section 76-9-702.1, sexual battery;

(viii) Section 76-7-201, criminal nonsupport; [~~or~~]

(ix) Title 77, Chapter 36, Cohabitant Abuse Procedures Act[~~.~~]; or

(x) Title 78B, Chapter 7, Part 8, Criminal Protective Orders.

(5) It is a defense to prosecution under Subsection (2) that:

(a) the individual ceased the practice of bigamy as described in Subsection (1) under reasonable fear of coercion or bodily harm;

(b) the individual entered the practice of bigamy, as described in Subsection (1), as a minor and ceased the practice of bigamy at any time after the individual entered the practice of bigamy; or

(c) law enforcement discovers that the individual practices bigamy, as described in Subsection (1), as a result of the individual's efforts to protect the safety and welfare of another individual.

Section 4. Section 77-36-1 is amended to read:

77-36-1. Definitions.

As used in this chapter:

(1) "Cohabitant" means the same as that term is defined in Section 78B-7-102.

(2) "Department" means the Department of Public Safety.

(3) "Divorced" means an individual who has obtained a divorce under Title 30, Chapter 3, Divorce.

(4) "Domestic violence" or "domestic violence offense" means any criminal offense involving violence or physical harm or threat of violence or physical harm, or any attempt, conspiracy, or solicitation to commit a criminal offense involving violence or physical harm, when committed by one cohabitant against another. "Domestic violence" or "domestic violence offense" includes commission or attempt to commit, any of the following offenses by one cohabitant against another:

(a) aggravated assault, as described in Section 76-5-103;

(b) aggravated cruelty to an animal, as described in Subsection 76-9-301(4), with the intent to harass or threaten the other cohabitant;

(c) assault, as described in Section 76-5-102;

(d) criminal homicide, as described in Section 76-5-201;

(e) harassment, as described in Section 76-5-106;

(f) electronic communication harassment, as described in Section 76-9-201;

(g) kidnapping, child kidnapping, or aggravated kidnapping, as described in Sections 76-5-301, 76-5-301.1, and 76-5-302;

(h) mayhem, as described in Section 76-5-105;

(i) sexual offenses, as described in Title 76, Chapter 5, Part 4, Sexual Offenses, and Section 76-5b-201, Sexual exploitation of a minor -- Offenses;

(j) stalking, as described in Section 76-5-106.5;

(k) unlawful detention or unlawful detention of a minor, as described in Section 76-5-304;

(l) violation of a protective order or ex parte protective order, as described in Section 76-5-108;

(m) any offense against property described in Title 76, Chapter 6, Part 1, Property Destruction,

Title 76, Chapter 6, Part 2, Burglary and Criminal Trespass, or Title 76, Chapter 6, Part 3, Robbery;

(n) possession of a deadly weapon with criminal intent, as described in Section 76-10-507;

(o) discharge of a firearm from a vehicle, near a highway, or in the direction of any person, building, or vehicle, as described in Section 76-10-508;

(p) disorderly conduct, as defined in Section 76-9-102, if a conviction or adjudication of disorderly conduct is the result of a plea agreement in which the [~~defendant~~] perpetrator was originally charged with a domestic violence offense otherwise described in this Subsection (4), except that a conviction or adjudication of disorderly conduct as a domestic violence offense, in the manner described in this Subsection (4)(p), does not constitute a misdemeanor crime of domestic violence under 18 U.S.C. Sec. 921, and is exempt from the federal Firearms Act, 18 U.S.C. Sec. 921 et seq.;

(q) child abuse, as described in Section 76-5-109.1;

(r) threatening use of a dangerous weapon, as described in Section 76-10-506;

(s) threatening violence, as described in Section 76-5-107;

(t) tampering with a witness, as described in Section 76-8-508;

(u) retaliation against a witness or victim, as described in Section 76-8-508.3;

(v) unlawful distribution of an intimate image, as described in Section 76-5b-203;

(w) sexual battery, as described in Section 76-9-702.1;

(x) voyeurism, as described in Section 76-9-702.7;

(y) damage to or interruption of a communication device, as described in Section 76-6-108; or

(z) an offense described in Subsection 78B-7-806(1).

(5) "Jail release agreement" means the same as that term is defined in Section 78B-7-801.

(6) "Jail release court order" means the same as that term is defined in Section 78B-7-801.

(7) "Marital status" means married and living together, divorced, separated, or not married.

(8) "Married and living together" means a couple whose marriage was solemnized under Section 30-1-4 or 30-1-6 and who are living in the same residence.

(9) "Not married" means any living arrangement other than married and living together, divorced, or separated.

(10) "Protective order" includes an order issued under Subsection 78B-7-804(3).

(11) "Pretrial protective order" means a written order:

(a) specifying and limiting the contact a person who has been charged with a domestic violence offense may have with an alleged victim or other specified individuals; and

(b) specifying other conditions of release under Sections 78B-7-802 or 78B-7-803, pending trial in the criminal case.

(12) "Sentencing protective order" means a written order of the court as part of sentencing in a domestic violence case that limits the contact [~~a person who has been convicted~~] an individual who is convicted or adjudicated of a domestic violence offense may have with a victim or other specified individuals under Section 78B-7-804.

(13) "Separated" means a couple who have had their marriage solemnized under Section 30-1-4 or 30-1-6 and who are not living in the same residence.

(14) "Victim" means a cohabitant who has been subjected to domestic violence.

Section 5. Section 77-36-1.2 is amended to read:

77-36-1.2. Acceptance of a plea of guilty or no contest to domestic violence -- Restrictions.

[~~(1) For purposes of this section, "qualifying domestic violence offense" means:~~]

[~~(a) a domestic violence offense in Utah; or~~]

[~~(b) an offense in any other state, or in any district, possession, or territory of the United States, that would be a domestic violence offense under Utah law.~~]

[~~(2)~~] (1) For purposes of this section and Section 77-36-1.1, a plea of guilty or no contest to any domestic violence offense in Utah, which plea is held in abeyance under [~~Title 77,~~] Chapter 2a, Pleas in Abeyance, is the equivalent of a conviction, even if the charge has been subsequently reduced or dismissed in accordance with the plea in abeyance agreement.

[~~(3)~~] (2) (a) Before agreeing to a plea of guilty or no contest, the prosecutor shall examine the criminal history of the [~~defendant~~] perpetrator.

(b) An entry of a plea of guilty or no contest to a domestic violence offense is invalid unless the prosecutor agrees to the plea:

(i) in open court;

(ii) in writing; or

(iii) by another means of communication that the court finds adequate to record the prosecutor's agreement.

Section 6. Section 77-36-2.6 is amended to read:

77-36-2.6. Appearance required -- Considerations by court.

(1) [~~A defendant who has been~~] An alleged perpetrator who is arrested for an offense involving domestic violence shall appear in person or by video before the court or a magistrate within one judicial day after the day on which the arrest is made.

(2) [~~A defendant who has been~~] An alleged perpetrator who is charged by citation, indictment, or information with an offense involving domestic violence but has not been arrested, shall appear before the court in person for arraignment or initial appearance as soon as practicable, but no later than 14 days after the next day on which court is in session following the issuance of the citation or the filing of the indictment or information.

(3) At the time of an appearance under Subsection (1) or (2), the court shall consider imposing a pretrial protective order in accordance with Section 78B-7-803.

(4) Appearances required by this section are mandatory and may not be waived.

Section 7. Section 77-36-2.7 is amended to read:

77-36-2.7. Dismissal -- Diversion prohibited -- Plea in abeyance -- Pretrial protective order.

(1) Because of the serious nature of domestic violence, the court, in domestic violence actions:

(a) may not dismiss any charge or delay disposition because of concurrent divorce or other civil proceedings;

(b) may not require proof that either party is seeking a dissolution of marriage before instigation of criminal proceedings;

(c) shall waive any requirement that the victim's location be disclosed other than to the [~~defendant's~~] alleged perpetrator's attorney and order the [~~defendant's~~] alleged perpetrator's attorney not to disclose the victim's location to the client;

(d) shall identify, on the docket sheets, the criminal actions arising from acts of domestic violence; and

(e) may hold a plea in abeyance, in accordance with the provisions of Chapter 2a, Pleas in Abeyance, making treatment or any other requirement for the [~~defendant~~] alleged perpetrator a condition of that status.

(2) When the court holds a plea in abeyance in accordance with Subsection (1)(e), the case against a perpetrator of domestic violence may be dismissed only if the perpetrator successfully completes all conditions imposed by the court. If the [~~defendant~~] perpetrator fails to complete any condition imposed by the court under Subsection (1)(e), the court may accept the [~~defendant's~~] perpetrator's plea.

(3) When [~~a defendant~~] an alleged perpetrator is charged with a crime involving a qualifying offense, as defined in Section 78B-7-801, the court may, during any court hearing where the [~~defendant~~] alleged perpetrator is present, issue a pretrial protective order in accordance with Section 78B-7-803.

(4) (a) When a court dismisses criminal charges or a prosecutor moves to dismiss charges against [~~a defendant accused~~] an alleged perpetrator of a domestic violence offense, the specific reasons for dismissal shall be recorded in the court file and made a part of any related order or agreement on the statewide domestic violence network described in Section 78B-7-113.

(b) The court shall transmit the dismissal to the statewide domestic violence network.

(c) Any pretrial protective orders, including jail release court orders and jail release agreements, related to the dismissed domestic violence criminal charge shall also be dismissed.

(5) The court may not approve diversion for a perpetrator of domestic violence.

Section 8. Section 77-36-5 is amended to read:

77-36-5. Sentencing -- Restricting contact with victim -- Electronic monitoring -- Counseling -- Cost assessed against perpetrator -- Sentencing protective order -- Continuous protective order.

(1) When a [~~defendant~~] perpetrator is found guilty of a crime involving domestic violence and a condition of the sentence restricts the [~~defendant's~~] perpetrator's contact with the victim, a sentencing protective order may be issued under Section 78B-7-804 for the length of the [~~defendant's~~] perpetrator's probation or a continuous protective order may be issued under Section 78B-7-804.

(2) In determining the court's sentence, the court, in addition to penalties otherwise provided by law, may require the [~~defendant~~] perpetrator to participate in an electronic or other type of monitoring program.

(3) The court may also require the [~~defendant~~] perpetrator to pay all or part of the costs of counseling incurred by the victim and any children affected by or exposed to the domestic violence offense, as well as the costs for the [~~defendant's~~] perpetrator's own counseling.

(4) The court shall:

(a) assess against the [~~defendant~~] perpetrator, as restitution, any costs for services or treatment provided to the victim and affected [~~children~~] child of the victim or the [~~defendant~~] perpetrator by the Division of Child and Family Services under Section 62A-4a-106; and

(b) order those costs to be paid directly to the division or its contracted provider.

(5) The court may order the [~~defendant~~] perpetrator to obtain and satisfactorily complete treatment or therapy in a domestic violence treatment program, as defined in Section 62A-2-101, that is licensed by the Department of Human Services.

Section 9. Section 77-36-5.1 is amended to read:

77-36-5.1. Conditions of probation for domestic violence offense.

(1) Before [~~any~~] a perpetrator who [~~has been~~] is convicted or adjudicated of a domestic violence offense may be placed on probation, the court shall consider the safety and protection of the victim and any member of the victim's family or household.

(2) The court may condition probation or a plea in abeyance on the perpetrator's compliance with one or more orders of the court, which may include:

(a) a sentencing protective order issued [~~in accordance with~~] under Section 78B-7-804;

(b) prohibiting the perpetrator from possessing or consuming alcohol or controlled substances;

(c) prohibiting the perpetrator from purchasing, using, or possessing a firearm or other specified weapon;

(d) directing the perpetrator to surrender any weapons the perpetrator owns or possesses;

(e) directing the perpetrator to participate in and complete, to the satisfaction of the court, a program of intervention for perpetrators, treatment for alcohol or substance abuse, or psychiatric or psychological treatment;

(f) directing the perpetrator to pay restitution to the victim, enforcement of which shall be in accordance with Chapter 38a, Crime Victims Restitution Act; and

(g) imposing any other condition necessary to protect the victim and any other designated family or household member or to rehabilitate the perpetrator.

(3) The perpetrator is responsible for the costs of any condition of probation, according to the perpetrator's ability to pay.

(4) (a) Adult Probation and Parole, or other provider, shall immediately report to the court and notify the victim of any offense involving domestic violence committed by the perpetrator, the perpetrator's failure to comply with any condition imposed by the court, and any violation of a sentencing protective order issued by the court under Section 78B-7-804.

(b) Notification of the victim under Subsection (4)(a) shall consist of a good faith reasonable effort to provide prompt notification, including mailing a copy of the notification to the last-known address of the victim.

(5) In addition to a protective order issued under this section, the court may issue a separate order relating to the transfer of a wireless telephone number in accordance with Section 78B-7-117.

Section 10. Section 78B-7-105 is amended to read:

78B-7-105. Forms for petitions, civil protective orders, and civil stalking injunctions -- Assistance -- Fees.

(1) (a) The offices of the court clerk shall provide forms to an individual seeking any of the following under this chapter:

(i) an ex parte civil protective order;

(ii) a civil protective order;

(iii) an ex parte stalking injunction; or

(iv) a civil stalking injunction.

(b) The Administrative Office of the Courts shall:

(i) develop and adopt uniform forms for petitions and the protective orders and stalking injunctions described in Subsection (1)(a) in accordance with the provisions of this chapter; and

(ii) provide the forms to the clerk of each court authorized to issue the protective orders and stalking injunctions described in Subsection (1)(a).

(2) The forms described in Subsection (1)(b) shall include:

(a) for a petition for an ex parte civil protective order or a civil protective order:

(i) a statement notifying the petitioner for an ex parte civil protective order that knowing falsification of any statement or information provided for the purpose of obtaining a civil protective order may subject the petitioner to felony prosecution;

(ii) language indicating the criminal penalty for a violation of an ex parte civil protective order or a civil protective order under this chapter and language stating a violation of or failure to comply with a civil provision is subject to contempt proceedings;

(iii) a space for information the petitioner is able to provide to facilitate identification of the respondent, including the respondent's social security number, driver license number, date of birth, address, telephone number, and physical description;

(iv) a space for information the petitioner is able to provide related to a proceeding for a civil protective order or a criminal protective order, civil litigation, a proceeding in juvenile court, or a criminal case involving either party, including the case name, file number, the county and state of the proceeding, and the judge's name; [~~and~~]

(v) a space to indicate whether the party to be protected is an intimate partner to the respondent or a child of an intimate partner to the respondent; and

(vi) a space for the date on which the provisions of the protective order expire; and

(b) for a petition under Part 6, Cohabitant Abuse Protective Orders:

(i) a separate portion of the form for those provisions, the violation of which is a criminal offense, and a separate portion for those provisions, the violation of which is a civil violation;

(ii) a statement advising the petitioner that when a child is included in an ex parte protective order or a protective order, as part of either the criminal or the civil portion of the order, the petitioner may provide a copy of the order to the principal of the school that the child attends; and

(iii) a statement advising the petitioner that if the respondent fails to return custody of a minor child to the petitioner as ordered in a protective order, the petitioner may obtain from the court a writ of assistance.

(3) If the individual seeking to proceed as a petitioner under this chapter is not represented by an attorney, the court clerk's office shall provide nonlegal assistance, including:

(a) the forms adopted under Subsection (1)(b);

(b) all other forms required to petition for a protective order or stalking injunction described in Subsection (1)(a), including forms for service;

(c) clerical assistance in filling out the forms and filing the petition, or if the court clerk's office designates another entity, agency, or person to provide that service, oversight over the entity, agency, or person to see that the service is provided;

(d) information regarding the means available for the service of process;

(e) a list of legal service organizations that may represent the petitioner in an action brought under this chapter, together with the telephone numbers of those organizations; and

(f) written information regarding the procedure for transporting a jailed or imprisoned respondent to the protective order hearing, including an explanation of the use of transportation order forms when necessary.

(4) A court clerk, constable, or law enforcement agency may not impose a charge for:

(a) filing a petition under this chapter;

(b) obtaining an ex parte civil protective order or ex parte civil stalking injunction;

(c) obtaining copies, either certified or uncertified, necessary for service or delivery to law enforcement officials; or

(d) fees for service of:

(i) a petition under this chapter;

(ii) an ex parte civil protective order;

(iii) a civil protective order;

(iv) an ex parte civil stalking injunction; or

(v) a civil stalking injunction.

(5) A petition for an ex parte civil protective order and a civil protective order shall be in writing and verified.

(6) (a) The protective orders and stalking injunctions described in Subsection (1)(a) shall be issued in the form adopted by the Administrative Office of the Courts under Subsection (1)(b).

(b) A civil protective order that is issued shall, if applicable, include the following language:

"Respondent was afforded both notice and opportunity to be heard in the hearing that gave rise to this order. Pursuant to the Violence Against Women Act of 1994, P.L. 103-322, 108 Stat. 1796, 18 U.S.C. Sec. 2265, this order is valid in all the United States, the District of Columbia, tribal lands, and United States territories. This order complies with the Uniform Interstate Enforcement of Domestic Violence Protection Orders Act.".

(c) An ex parte civil protective order and a civil protective order issued under Part 6, Cohabitant Abuse Protective Orders, shall include the following language:

"NOTICE TO PETITIONER: The court may amend or dismiss a protective order after one year if it finds that the basis for the issuance of the protective order no longer exists and the petitioner has repeatedly acted in contravention of the protective order provisions to intentionally or knowingly induce the respondent to violate the protective order, demonstrating to the court that the petitioner no longer has a reasonable fear of the respondent.".

(d) A child protective order issued under Part 2, Child Protective Orders, shall include:

(i) the date the order expires; and

(ii) a statement that the address provided by the petitioner will not be made available to the respondent.

(7) (a) (i) The court clerk shall provide, without charge, to the petitioner, one certified copy of a civil stalking injunction issued by the court and one certified copy of the proof of service of the civil stalking injunction on the respondent.

(ii) A charge may be imposed by the court clerk's office for any copies in addition to the copy described in Subsection (7)(a)(i), certified or uncertified.

(b) An ex parte civil stalking injunction and civil stalking injunction shall include the following statement:

"Attention: This is an official court order. If you disobey this order, the court may find you in contempt. You may also be arrested and prosecuted for the crime of stalking and any other crime you may have committed in disobeying this order.".

Section 11. Section 78B-7-108 is amended to read:

78B-7-108. Mutual protective orders.

(1) A court may not grant a mutual order or mutual [~~orders for protection~~] civil protective orders to opposing parties, unless each party:

(a) files an independent petition against the other for a civil protective order, and both petitions are served;

(b) makes a showing at a due process civil protective order hearing of abuse or domestic violence committed by the other party; and

(c) demonstrates the abuse or domestic violence did not occur in self-defense.

(2) If the court issues mutual civil protective orders, the court shall include specific findings of all elements of Subsection (1) in the court order justifying the entry of the court order.

(3) (a) [~~A~~] Except as provided in Subsection (3)(b), a court may not grant [~~an order for protection to a civil petitioner~~] a civil protective order to a petitioner who is the respondent or defendant subject to a protective order, child protective order, or ex parte child protective order:

[~~(a)~~] (i) issued under:

[~~(i) a foreign protection order enforceable under Chapter 7, Part 3, Uniform Interstate Enforcement of Domestic Violence Protection Orders Act;~~]

[~~(ii)~~] (A) Title 77, Chapter 36, Cohabitant Abuse Procedures Act;

[~~(iii)~~] (B) Title 78A, Chapter 6, Juvenile Court Act; [~~or~~]

[~~(iv) Chapter 7, Part 1, Cohabitant Abuse Act; and~~]

(C) Part 6, Cohabitant Abuse Protective Orders; or

(D) Part 8, Criminal Protective Orders; or

(ii) enforceable under Part 3, Uniform Interstate Enforcement of Domestic Violence Protection Orders Act.

(b) [~~unless~~] The court may grant a civil protective order to a petitioner described in Subsection (3)(a) if:

(i) the court determines that the requirements of Subsection (1) are met[~~, and:~~]; and

[~~(i)~~] (ii) (A) the same court [~~issued the order for protection~~] that issued the protective order, child protective order, or ex parte child protective order issues the civil protective order against the respondent; or

[~~(ii)~~] (B) if the matter is before a subsequent court, the subsequent court[~~: (A)~~] determines it would be impractical for the original court to consider the matter[~~;~~] or [~~(B)~~] confers with the court that issued the [~~order for protection~~] protective order, child protective order, or ex parte child protective order.

Section 12. Section 78B-7-203 is amended to read:

78B-7-203. Hearings.

(1) (a) If an ex parte child protective order is granted, the court shall schedule a hearing to be held within [~~20~~] 21 days after the day on which the court makes the ex parte determination.

(b) If an ex parte child protective order is denied, the court, upon the request of the petitioner made within five days after the day on which the court makes the ex parte determination, shall schedule a hearing to be held within [~~20~~] 21 days after the day on which the petitioner makes the request.

(2) (a) The petition, ex parte child protective order, and notice of hearing shall be served on the respondent, the child's parent or guardian, and, if appointed, the guardian ad litem.

(b) The notice of hearing described in Subsection (2)(a) shall contain:

[~~(a)~~] (i) the name and address of the individual to whom the notice is directed;

[~~(b)~~] (ii) the date, time, and place of the hearing;

[~~(c)~~] (iii) the name of the child on whose behalf a petition is being brought; and

[~~(d)~~] (iv) a statement that an individual is entitled to have an attorney present at the hearing.

(3) The court shall provide an opportunity for any person having relevant knowledge to present evidence or information and may hear statements by counsel.

(4) An agent of the division served with a subpoena in compliance with the Utah Rules of Civil Procedure shall testify in accordance with the Utah Rules of Evidence.

(5) The court shall issue a child protective order if the court determines, based on a preponderance of the evidence, that:

(a) for a petition for a child protective order filed under Subsection 78B-7-202(1)(a)(i), the child is being abused or is in imminent danger of being abused; or

(b) for a petition for a protective order filed under Subsection 78B-7-202(1)(a)(ii), the child has been abused and the child protective order is necessary to protect the child.

(6) [~~With the exception of the provisions of~~] Except as provided in Section 78A-6-323, a child protective order is not an adjudication of abuse, neglect, or dependency under Title 78A, Chapter 6, Part 3, Abuse, Neglect, and Dependency Proceedings.

Section 13. Section 78B-7-405 is amended to read:

78B-7-405. Hearings -- Expiration -- Extension.

(1) (a) The court shall set a date for a hearing on the petition for a dating violence protective order to be held within [~~20~~] 21 days after the day on which the court issues an ex parte dating violence protective order.

(b) If, at the hearing described in Subsection (1)(a), the court does not issue a dating violence

protective order, the ex parte dating protective order shall expire, unless [~~the dating violence protective order is~~] extended by the court.

(c) (i) [~~Extensions beyond the 20-day period may not be granted unless~~] The court may extend the 21-day period described in Subsection (1)(a) only if:

[~~(i)~~] (A) the petitioner is unable to be present at the hearing;

[~~(ii)~~] (B) the respondent has not been served; or

[~~(iii)~~] (C) exigent circumstances exist.

[~~(c)~~] (ii) Under no circumstances may an ex parte dating violence protective order be extended beyond 180 days from the day on which the court issues the initial ex parte dating violence protective order.

(d) If, at the hearing described in Subsection (1)(a), the court issues a dating violence protective order, the ex parte dating violence protective order shall remain in effect until service of process of the dating violence protective order is completed.

(e) A dating violence protective order [~~issued after notice and a hearing shall remain~~] remains in effect for three years after the day on which the [~~order is issued~~] court issues the order.

(f) If the hearing [~~on the petition is heard~~] described in Subsection (1)(a) is held by a commissioner, [~~either~~] the petitioner or respondent may file an objection within [~~10~~] 14 calendar days after the day on which the [~~recommended order is entered~~] commissioner recommends the order, and, if the petitioner or respondent requests a hearing be held, the assigned judge shall hold a hearing on the objection within [~~20~~] 21 days after the day on which the objection is filed.

(2) Upon a hearing under this section, the court may grant any of the relief permitted under Section 78B-7-404, except the court shall not grant the relief described in Subsection 78B-7-404(3)(b) without providing the respondent notice and an opportunity to be heard.

(3) If [~~a~~] the court denies a petition for an ex parte dating violence protective order or a petition to modify a dating violence protective order ex parte, the court shall, upon the petitioner's request made within five days after the day on which the court denies the petition:

(a) set the matter for a hearing to be held within [~~20~~] 21 days after the day on which the petitioner makes the request; and

(b) notify and serve the respondent.

(4) (a) A dating violence protective order automatically expires [~~as described in~~] under Subsection (1)(e), unless the petitioner files a motion before the day on which the dating violence protective order expires requesting an extension of the dating violence protective order and demonstrates that:

[~~(a)~~] (i) there is a substantial likelihood the petitioner will be subjected to dating violence; or

[~~(b)~~] (ii) the respondent committed or was convicted of a violation of the dating violence protective order that the petitioner requests be extended or dating violence after the day on which the dating violence protective order is issued.

(b) (i) If the court denies the motion described in Subsection (4)(a), the dating violence protective order expires under Subsection (1)(e).

[~~(5) (a)~~] (ii) If the court grants the motion [~~under~~] described in Subsection (4)(a), the court shall set a new date on which the dating violence protective order expires.

[~~(b) The dating violence protective order shall expire on the date set by the court unless the petitioner files a motion described in Subsection (4) to extend the dating violence protective order.~~]

Section 14. Section 78B-7-408 is amended to read:

78B-7-408. Duties of law enforcement officers -- Notice to victims.

(1) A law enforcement officer who responds to an allegation of dating violence shall use all reasonable means to protect the victim and prevent further violence, including:

(a) taking action that, in the officer's discretion, is reasonably necessary to provide for the safety of the victim and any family or household member;

(b) confiscating the weapon or weapons involved in the alleged dating violence;

(c) making arrangements for the victim and any child to obtain emergency housing or shelter;

(d) providing protection while the victim removes essential personal effects;

(e) arranging, facilitating, or providing for the victim and any child to obtain medical treatment; and

(f) arranging, facilitating, or providing the victim with immediate and adequate notice of the rights of victims and of the remedies and services available to victims of dating violence, in accordance with Subsection (2).

(2) (a) A law enforcement officer shall give written notice to the victim in simple language, describing the rights and remedies available under this chapter.

(b) The written notice shall also include:

(i) a statement that the forms needed in order to obtain [~~an order for protection~~] a protective order are available from the court clerk's office in the judicial district where the victim resides or is temporarily domiciled; and

(ii) a list of shelters, services, and resources available in the appropriate community, together with telephone numbers, to assist the victim in accessing any needed assistance.

(3) If a weapon is confiscated under this section, the law enforcement agency shall return the weapon to the individual from whom the weapon is

confiscated if a dating protective order is not issued or once the dating protective order is terminated.

Section 15. Section 78B-7-505 is amended to read:

78B-7-505. Hearings -- Expiration -- Extension.

(1) (a) The court shall set a date for a hearing on the petition for a sexual violence protective order to be held within [~~20~~] 21 days after the day on which the court issues an ex parte protective order.

(b) If, at the hearing described in Subsection (1)(a), the court does not issue a sexual violence protective order, the ex parte sexual protective order expires, unless extended by the [~~district~~] court.

(c) The court may extend the [~~20-day~~] 21-day period described in Subsection (1)(a) only if:

(i) a party is unable to be present at the hearing for good cause, established by the party's sworn affidavit;

(ii) the respondent has not been served; or

(iii) exigent circumstances exist.

(d) If, at the hearing described in Subsection (1)(a), the court issues a sexual violence protective order, the ex parte sexual violence protective order remains in effect until service of process of the sexual violence protective order is completed.

(e) A sexual violence protective order remains in effect for three years after the day on which the court issues the order.

(f) If the hearing described in Subsection (1)(a) is held by a commissioner, the petitioner or respondent may file an objection within [~~10~~] 14 calendar days after the day on which the commissioner [~~enters the recommended~~] recommends the order, and, if the petitioner or respondent requests a hearing be held, the assigned judge shall hold a hearing on the objection within [~~20~~] 21 days after the day on which the objection is filed.

(2) If the court denies a petition for an ex parte sexual violence protective order or a petition to modify a sexual violence protective order ex parte, the court shall, upon the petitioner's request made within five days after the day on which the court denies the petition:

(a) set the matter for hearing to be held within [~~20~~] 21 days after the day on which the petitioner makes the request; and

(b) notify and serve the respondent.

(3) (a) A sexual violence protective order automatically expires under Subsection (1)(e) unless the petitioner files a motion before the day on which the sexual violence protective order expires requesting an extension of the sexual violence protective order and demonstrates that:

(i) there is a substantial likelihood the petitioner will be subjected to sexual violence; or

(ii) the respondent committed or was convicted of a violation of the sexual violence protective order that the petitioner requests be extended or a sexual violence offense after the day on which the sexual violence protective order is issued.

(b) (i) If the court denies the motion described in Subsection (3)(a), the sexual violence protective order expires under Subsection (1)(e).

(ii) If the court grants the motion described in Subsection (3)(a), the court shall set a new date on which the sexual violence protective order expires.

(iii) A sexual violence protective order that is extended under this Subsection (3), may not be extended for more than three years after the day on which the court issues the order for extension.

(c) After the day on which the court issues an extension of a sexual violence protective order, the court shall take the action described in Subsection 78B-7-504(6).

(4) Nothing in this part prohibits a petitioner from seeking another protective order after the day on which the petitioner's protective order expires.

Section 16. Section 78B-7-603 is amended to read:

78B-7-603. Cohabitant abuse protective orders -- Ex parte cohabitant abuse protective orders -- Modification and dismissal of orders -- Service of process -- Duties of the court.

(1) If it appears from a petition for a protective order or a petition to modify a protective order that domestic violence or abuse has occurred, that there is a substantial likelihood domestic violence or abuse will occur, or that a modification of a protective order is required, a court may:

(a) without notice, immediately issue an ex parte cohabitant abuse protective order or modify a protective order ex parte as the court considers necessary to protect the petitioner and all parties named to be protected in the petition; or

(b) upon notice, issue a protective order or modify an order after a hearing, regardless of whether the respondent appears.

(2) A court may grant the following relief without notice in a protective order or a modification issued ex parte:

(a) enjoin the respondent from threatening to commit domestic violence or abuse, committing domestic violence or abuse, or harassing the petitioner or any designated family or household member;

(b) prohibit the respondent from telephoning, contacting, or otherwise communicating with the petitioner or any designated family or household member, directly or indirectly, with the exception of any parent-time provisions in the ex parte order;

(c) subject to Subsection (2)(e), prohibit the respondent from being within a specified distance of the petitioner;

(d) subject to Subsection (2)(e), order that the respondent is excluded from and is to stay away from the following places and their premises:

(i) the petitioner's residence or any designated family or household member's residence;

(ii) the petitioner's school or any designated family or household member's school;

(iii) the petitioner's or any designated family or household member's place of employment;

(iv) the petitioner's place of worship or any designated family or household member's place of worship; or

(v) any specified place frequented by the petitioner or any designated family or household member;

(e) if the petitioner or designated family or household member attends the same school as the respondent, is employed at the same place of employment as the respondent, or attends the same place of worship, the court:

(i) may not enter an order under Subsection (2)(c) or (d) that excludes the respondent from the respondent's school, place of employment, or place of worship; and

(ii) may enter an order governing the respondent's conduct at the respondent's school, place of employment, or place of worship;

(f) upon finding that the respondent's use or possession of a weapon may pose a serious threat of harm to the petitioner, prohibit the respondent from purchasing, using, or possessing a firearm or other weapon specified by the court;

(g) order possession and use of an automobile and other essential personal effects, and direct the appropriate law enforcement officer to accompany the petitioner to the residence of the parties to ensure that the petitioner is safely restored to possession of the residence, automobile, and other essential personal effects, or to supervise the petitioner's or respondent's removal of personal belongings;

(h) order the respondent to maintain an existing wireless telephone contract or account;

(i) grant to the petitioner or someone other than the respondent temporary custody of a minor child of the parties;

(j) order the appointment of an attorney guardian ad litem under Sections 78A-2-703 and 78A-6-902;

(k) order any further relief that the court considers necessary to provide for the safety and welfare of the petitioner and any designated family or household member; and

(l) if the petition requests child support or spousal support, at the hearing on the petition order both parties to provide verification of current income, including year-to-date pay stubs or employer statements of year-to-date or other period of earnings, as specified by the court, and complete copies of tax returns from at least the most recent year.

(3) A court may grant the following relief in a cohabitant abuse protective order or a modification of an order after notice and hearing, regardless of whether the respondent appears:

(a) grant the relief described in Subsection (2); and

(b) specify arrangements for parent-time of any minor child by the respondent and require supervision of that parent-time by a third party or deny parent-time if necessary to protect the safety of the petitioner or child.

(4) In addition to the relief granted under Subsection (3), the court may order the transfer of a wireless telephone number in accordance with Section 78B-7-117.

(5) Following the cohabitant abuse protective order hearing, the court shall:

(a) as soon as possible, deliver the order to the county sheriff for service of process;

(b) make reasonable efforts to ensure that the cohabitant abuse protective order is understood by the petitioner, and the respondent, if present;

(c) transmit electronically, by the end of the next business day after the order is issued, a copy of the cohabitant abuse protective order to the local law enforcement agency or agencies designated by the petitioner;

(d) transmit a copy of the order to the statewide domestic violence network described in Section 78B-7-113; and

(e) if the individual is a respondent or defendant subject to a court order that meets the qualifications outlined in 18 U.S.C. Sec. 922(g)(8), transmit within 48 hours, excluding Saturdays, Sundays, and legal holidays, a record of the order to the Bureau of Criminal Identification that includes:

(i) an agency record identifier;

(ii) the individual's name, sex, race, and date of birth;

(iii) the issue date, conditions, and expiration date for the protective order; and

(iv) if available, the individual's social security number, government issued driver license or identification number, alien registration number, government passport number, state identification number, or FBI number.

(6) Each protective order shall include two separate portions, one for provisions, the violation of which are criminal offenses, and one for provisions, the violation of which are civil [~~violations~~] offenses, as follows:

(a) criminal offenses are those under Subsections (2)(a) through (g), and under Subsection (3)(a) as it refers to Subsections (2)(a) through (g); and

(b) civil offenses are those under Subsections (2)(h)[~~, (j), (k), and~~] through (l), [~~and~~] Subsection (3)(a) as it refers to Subsections (2)(h)[~~, (j), (k), and (l)~~] through (l), and Subsection (3)(b).

(7) Child support and spouse support orders issued as part of a protective order are subject to mandatory income withholding under Title 62A, Chapter 11, Part 4, Income Withholding in IV-D Cases, and Title 62A, Chapter 11, Part 5, Income Withholding in Non IV-D Cases, except when the protective order is issued ex parte.

(8) (a) The county sheriff that receives the order from the court, under Subsection [~~(6)~~] (5), shall provide expedited service for protective orders issued in accordance with this part, and shall transmit verification of service of process, when the order has been served, to the statewide domestic violence network described in Section 78B-7-113.

(b) This section does not prohibit any law enforcement agency from providing service of process if that law enforcement agency:

(i) has contact with the respondent and service by that law enforcement agency is possible; or

(ii) determines that under the circumstances, providing service of process on the respondent is in the best interests of the petitioner.

(9) (a) When an order is served on a respondent in a jail or other holding facility, the law enforcement agency managing the facility shall make a reasonable effort to provide notice to the petitioner at the time the respondent is released from incarceration.

(b) Notification of the petitioner shall consist of a good faith reasonable effort to provide notification, including mailing a copy of the notification to the last-known address of the victim.

(10) A court may modify or vacate a protective order or any provisions in the protective order after notice and hearing, except that the criminal provisions of a cohabitant abuse protective order may not be vacated within two years of issuance unless the petitioner:

(a) is personally served with notice of the hearing, as provided in the Utah Rules of Civil Procedure, and the petitioner personally appears, in person or through court video conferencing, before the court and gives specific consent to the vacation of the criminal provisions of the cohabitant abuse protective order; or

(b) submits a verified affidavit, stating agreement to the vacation of the criminal provisions of the cohabitant abuse protective order.

(11) A protective order may be modified without a showing of substantial and material change in circumstances.

(12) A civil provision of a [~~cohabitant abuse~~] protective order described in Subsection (6) may be dismissed or modified at any time in a divorce, parentage, custody, or guardianship proceeding that is pending between the parties to the [~~cohabitant abuse~~] protective order action [~~after 150 days after the day on which the cohabitant abuse protective order is issued~~] if:

(a) the parties stipulate in writing or on the record to dismiss or modify a civil provision of the [~~cohabitant abuse~~] protective order; or

(b) the court in the divorce, parentage, custody, or guardianship proceeding finds good cause to dismiss or modify the civil provision.

Section 17. Section 78B-7-604 is amended to read:

78B-7-604. Hearings.

(1) (a) [~~When a court issues an ex parte cohabitant abuse protective order the~~] The court shall set a date for a hearing on the petition for a cohabitant abuse protective order to be held within [~~20~~] 21 days after the day on which the court issues an ex parte cohabitant abuse protective order [~~is issued~~].

(b) If, at [~~that~~] the hearing described in Subsection (1)(a), the court does not issue a protective order, the ex parte cohabitant abuse protective order [~~shall expire, unless the cohabitant abuse protective order is otherwise extended by the court. Extensions beyond the 20-day period may not be granted unless:~~] expires, unless extended by the court.

(c) (i) The court may extend the 21-day period described in Subsection (1)(a) only if:

[~~(i)~~] (A) the petitioner is unable to be present at the hearing;

[~~(ii)~~] (B) the respondent has not been served;

[~~(iii)~~] (C) the respondent has had the opportunity to present a defense at the hearing;

[~~(iv)~~] (D) the respondent requests that the ex parte cohabitant abuse protective order be extended; or

[~~(v)~~] (E) exigent circumstances exist.

[~~(c)~~] (ii) Under no circumstances may an ex parte cohabitant abuse protective order be extended beyond 180 days from the day on which the court issues the initial ex parte cohabitant abuse protective order.

(d) If, at that hearing described in Subsection (1)(a), the court issues a cohabitant abuse protective order, the ex parte cohabitant abuse protective order remains in effect until service of process of the protective order is completed.

(e) A cohabitant abuse protective order issued after notice and a hearing is effective until further order of the court.

(f) If the hearing [~~on the petition is heard~~] described in Subsection (1)(a) is held by a commissioner, [~~either~~] the petitioner or respondent may file an objection within [~~10~~] 14 days after the day on which the [~~recommended~~] commissioner recommends the order, and, if the petitioner or respondent requests a hearing be held, the assigned judge shall hold a hearing within [~~20~~] 21 days after the day on which the objection is filed.

(2) Upon a hearing under this section, the court may grant any of the relief described in Section 78B-7-603.

(3) [~~When a court denies a petition~~] If the court denies a petition for an ex parte cohabitant abuse protective order or a petition to modify a protective order ex parte, the court shall, upon the request of the petitioner made within five days after the day on which the court denies the petition[~~, the court shall~~]:

(a) set the matter for hearing to be held within [~~20~~] 21 days after the day on which the petitioner makes the request; and

(b) notify [~~the petitioner~~] and serve the respondent.

(4) (a) A respondent who has been served with an ex parte cohabitant abuse protective order may seek to vacate the ex parte cohabitant abuse protective order [~~under~~] described in Subsection (1)(a) by filing a verified motion to vacate before the day on which the hearing is set.

(b) The respondent's verified motion to vacate described in Subsection (4)(a) and a notice of hearing on [~~that~~] the motion shall be personally served on the petitioner at least two days before the day on which the hearing on the motion to vacate is set.

Section 18. Section 78B-7-605 is amended to read:

78B-7-605. Dismissal.

(1) The court may amend or dismiss a protective order issued in accordance with this part that has been in effect for at least one year if the court finds that:

(a) the basis for the issuance of the protective order no longer exists;

(b) the petitioner has repeatedly acted in contravention of the protective order provisions to intentionally or knowingly induce the respondent to violate the protective order; and

(c) the petitioner's actions demonstrate that the petitioner no longer has a reasonable fear of the respondent.

(2) The court shall enter sanctions against either party if the court determines that either party acted:

(a) in bad faith; or

(b) with intent to harass or intimidate the other party.

(3) [~~Except as provided in Subsection (4), if~~] If a divorce proceeding is pending between parties to a protective order action, the court shall dismiss the protective order [~~shall be dismissed~~] when the court issues a decree of divorce for the parties if:

(a) the respondent files a motion to dismiss a protective order in both the divorce action and the protective order action and personally serves the petitioner; and

(b) (i) the parties stipulate in writing or on the record to dismiss the protective order; or

(ii) based on evidence at the divorce trial, the court determines that the petitioner no longer has a reasonable fear of future harm, abuse, or domestic violence.

(4) When the court dismisses a protective order, the court shall immediately:

(a) issue an order of dismissal to be filed in the protective order action; and

(b) transmit a copy of the order of dismissal to the statewide domestic violence network as described in Section 78B-7-113.

Section 19. Section 78B-7-606 is amended to read:

78B-7-606. Expiration -- Extension.

(1) (a) [~~Subject~~] Except as provided in Subsection (1)(b) and subject to the other provisions of this section, a cohabitant abuse protective order automatically expires three years after the day on which the cohabitant abuse protective order is entered.

(b) (i) The civil provisions of a cohabitant abuse protective order described in Section 78B-7-603 expires 150 days after the day on which the cohabitant abuse protective order is entered, unless the court finds good cause for extending the expiration date of the civil provisions.

(ii) Unless a motion under this section is granted, a court may not extend the civil provisions of a cohabitant abuse protective order for more than three years after the day on which the cohabitant abuse protective order is entered.

(2) A cohabitant abuse protective order automatically expires [~~as described in~~] under Subsection (1), unless the petitioner files a motion before the day on which the cohabitant abuse protective order expires and demonstrates that:

(a) the petitioner has a current reasonable fear of future harm, abuse, or domestic violence; or

(b) the respondent committed or was convicted of a cohabitant abuse protective order violation or a qualifying domestic violence offense, as defined in Section 77-36-1.1, subsequent to the issuance of the cohabitant abuse protective order.

(3) (a) If the court grants the motion under Subsection (2), the court shall set a new date on which the cohabitant abuse protective order expires.

(b) The cohabitant abuse protective order will expire on the date set by the court unless the petitioner files a motion described in Subsection (2) to extend the cohabitant abuse protective order.

Section 20. Section 78B-7-801 is amended to read:

78B-7-801. Definitions.

As used in this part:

(1) (a) "Jail release agreement" means a written agreement that is entered into by an [~~arrested~~]

individual who is arrested or issued a citation, regardless of whether the individual is booked into jail:

[~~(a)~~] (i) under which the arrested or cited individual agrees to not engage in any of the following:

[~~(i) have personal contact with the alleged victim;~~]

[~~(ii) threaten or harass~~]

(A) telephoning, contacting, or otherwise communicating with the alleged victim, directly or indirectly;

(B) threatening or harassing the alleged victim; or

[~~(iii)~~] (C) knowingly [~~enter on~~] entering onto the premises of the alleged victim's residence or on premises temporarily occupied by the alleged victim; and

[~~(b)~~] (ii) that specifies other conditions of release from jail or arrest.

(b) "Jail release agreement" includes a written agreement that includes the conditions described in Section (1)(a) entered into by a minor who is taken into custody or placed in detention or a shelter facility under Section 78A-6-112.

(2) "Jail release court order" means a written court order that:

(a) orders an arrested or cited individual not to engage in any of the following:

[~~(i) have personal contact with the alleged victim;~~]

(i) telephoning, contacting, or otherwise communicating with the alleged victim, directly or indirectly;

(ii) [~~threaten or harass~~] threatening or harassing the alleged victim; or

(iii) knowingly [~~enter on~~] entering onto the premises of the alleged victim's residence or on premises temporarily occupied by the alleged victim; and

(b) specifies other conditions of release from jail.

(3) "Minor" means [~~an unemancipated individual who is younger than 18 years of age~~] the same as that term is defined in Section 78A-6-105.

(4) "Offense against a child or vulnerable adult" means the commission or attempted commission of an offense described in Section 76-5-109, 76-5-109.1, 76-5-110, [~~or~~] 76-5-111, or 76-9-702.1.

(5) "Qualifying offense" means:

(a) domestic violence;

(b) an offense against a child or vulnerable adult; or

(c) the commission or attempted commission of an offense described in Section 76-9-702.1 or Title 76, Chapter 5, Part 4, Sexual Offenses.

Section 21. Section 78B-7-802 is amended to read:

78B-7-802. Conditions for release after arrest for domestic violence and other offenses -- Jail release agreements -- Jail release court orders.

(1) Upon arrest or issuance of a citation for a qualifying offense and before the individual is released on bail, recognizance, or otherwise, the individual may not [~~personally contact the alleged victim~~] telephone, contact, or otherwise communicate with the alleged victim, directly or indirectly.

(2) (a) After an individual is arrested or issued a citation for a qualifying offense, the individual may not be released before:

(i) the matter is submitted to a magistrate in accordance with Section 77-7-23; or

(ii) the individual signs a jail release agreement.

(b) [~~The~~] If an arrested individual is booked into jail, the arresting officer shall ensure that the information presented to the magistrate includes whether the alleged victim has made a waiver described in Subsection (5)(a).

(c) (i) If the magistrate determines there is probable cause to support the charge or charges of one or more qualifying offenses, the magistrate shall determine whether the arrested individual may be held without bail, in accordance with Section 77-20-1.

(ii) If the magistrate determines that the arrested individual has the right to be admitted to bail, the magistrate shall determine:

(A) whether any release conditions, including electronic monitoring, are necessary to protect the alleged victim; and

(B) any bail that is required to guarantee the arrested individual's subsequent appearance in court.

(d) The magistrate may not release an individual arrested for a qualifying offense unless the magistrate issues a jail release court order or the arrested individual signs a jail release agreement.

(3) (a) If an individual charged with a qualifying offense fails to either schedule an initial appearance or to appear at the time scheduled by the magistrate within 96 hours after the time of arrest, the individual shall comply with the release conditions of a jail release agreement or jail release court order until the individual makes an initial appearance.

(b) If the prosecutor has not filed charges against an individual who was arrested for a qualifying offense and who appears in court at the time scheduled by the magistrate under Subsection (2), or by the court under Subsection (3)(b)(ii), the court:

(i) may, upon the motion of the prosecutor and after allowing the individual an opportunity to be

heard on the motion, extend the release conditions described in the jail release court order or the jail release agreement by no more than three court days; and

(ii) if the court grants the motion described in Subsection (3)(b)(i), shall order the arrested individual to appear at a time scheduled before the end of the granted extension.

(c) (i) If the prosecutor determines that there is insufficient evidence to file charges before an initial appearance scheduled under Subsection (3)(a), the prosecutor shall transmit a notice of declination to either the magistrate who signed the jail release court order or, if the releasing agency obtains a jail release agreement from the released arrestee, to the statewide domestic violence network described in Section 78B-7-113.

(ii) A prosecutor's notice of declination transmitted under this Subsection (3)(c) is considered a motion to dismiss a jail release court order and a notice of expiration of a jail release agreement.

(4) Except as provided in [~~Subsection (3)~~] Subsections (3) and (11) or otherwise ordered by a court, a jail release agreement or jail release court order expires at midnight after the earlier of:

(a) the arrested or cited individual's initial scheduled court appearance described in Subsection (3)(a);

(b) the day on which the prosecutor transmits the notice of the declination under Subsection (3)(c); or

(c) 30 days after the day on which the [~~arrested~~] individual is arrested or issued a citation.

(5) (a) (i) After an individual is arrested or issued a citation for a qualifying offense, an alleged victim who is not a minor may waive in writing any condition of a jail release agreement by:

(A) appearing in person to the law enforcement agency that arrested the individual or issued the citation to the individual for the qualifying offense;

(B) appearing in person to the jail or correctional facility that released the arrested individual from custody; or

(C) appearing in person to the clerk at the court of the jurisdiction where the charges are filed.

[~~(5) (a) (i) After an arrest for a qualifying offense, an~~] (ii) An alleged victim who is not a minor may waive in writing the release conditions prohibiting:

[~~(A) personal contact with the alleged victim; or~~]

(A) telephoning, contacting, or otherwise communicating with the alleged victim, directly or indirectly; or

(B) knowingly entering on the premises of the alleged victim's residence or on premises temporarily occupied by the alleged victim.

(iii) Except as provided in Subsection (5)(a)(iv), a parent or guardian may waive any condition of a jail release agreement on behalf of an alleged victim who is a minor in the manner described in Subsections (5)(a)(i) and (ii).

(iv) A parent or guardian may not, without the approval of the court, waive the release conditions described in Subsection (5)(a)(ii) on behalf of an alleged victim who is a minor, if the alleged victim who is a minor:

(A) allegedly suffers bodily injury as a result of the qualifying offense;

(B) summons or attempts to summon emergency aid for the qualifying offense; or

(C) after the time at which the qualifying offense is allegedly committed and before the time at which the arrested or cited individual signs the jail release agreement, discloses to a law enforcement officer that the arrested or cited individual threatened the alleged victim who is a minor with bodily injury.

[~~(ii)~~] (v) Upon waiver, the release conditions described in Subsection (5)(a)[~~(i)~~](ii) do not apply to the arrested or cited individual.

(b) A court or magistrate may modify a jail release agreement or a jail release court order in writing or on the record, and only for good cause shown.

(6) (a) When an [~~arrested~~] individual is arrested or issued a citation and subsequently released in accordance with Subsection (2), the releasing agency shall:

(i) notify the arresting law enforcement agency of the release, conditions of release, and any available information concerning the location of the alleged victim;

(ii) make a reasonable effort to notify the alleged victim of the release; and

(iii) before releasing the [~~arrested~~] individual who is arrested or issued a citation, give the arrested or cited individual a copy of the jail release agreement or the jail release court order.

(b) (i) When an individual arrested or issued a citation for domestic violence is released under this section based on a jail release agreement, the releasing agency shall transmit that information to the statewide domestic violence network described in Section 78B-7-113.

(ii) When an individual arrested or issued a citation for domestic violence is released under this section based upon a jail release court order or if a jail release agreement is modified under Subsection (5)(b), the court shall transmit that order to the statewide domestic violence network described in Section 78B-7-113.

(c) This Subsection (6) does not create or increase liability of a law enforcement officer or agency, and the good faith immunity provided by Section 77-36-8 is applicable.

(7) An individual who is arrested for a qualifying offense that is a felony and released in accordance with this section may subsequently be held without bail if there is substantial evidence to support a new felony charge against the individual.

(8) At the time an arrest is made or a citation is issued for a qualifying offense, the arresting officer

shall provide the alleged victim with written notice containing:

(a) the release conditions described in this section, and notice that the alleged perpetrator will not be released, before appearing before the court with jurisdiction over the offense for which the alleged perpetrator was arrested, unless:

(i) the alleged perpetrator enters into a jail release agreement to comply with the release conditions; or

(ii) the magistrate issues a jail release order that specifies the release conditions;

(b) notification of the penalties for violation of any jail release agreement or jail release court order;

(c) the address of the appropriate court in the district or county in which the alleged victim resides;

(d) the availability and effect of any waiver of the release conditions; and

(e) information regarding the availability of and procedures for obtaining civil and criminal protective orders with or without the assistance of an attorney.

(9) At the time an arrest is made or a citation is issued for a qualifying offense, the arresting officer shall provide the alleged perpetrator with written notice containing:

(a) notification that the alleged perpetrator may not contact the alleged victim before being released, including telephoning, contacting, or otherwise communicating with the alleged victim, directly or indirectly;

(b) the release conditions described in this section and notice that the alleged perpetrator will not be released, before appearing before the court with jurisdiction over the offense for which the alleged perpetrator was arrested, unless:

(i) the alleged perpetrator enters into a jail release agreement to comply with the release conditions; or

(ii) the magistrate issues a jail release court order;

(c) notification of the penalties for violation of any jail release agreement or jail release court order; and

(d) notification that the alleged perpetrator is to personally appear in court on the next day the court is open for business after the day of the arrest.

(10) (a) A pretrial or sentencing protective order issued under this part supersedes a jail release agreement or jail release court order.

(b) If a court dismisses the charges for the qualifying offense that gave rise to a jail release agreement or jail release court order, the court shall dismiss the jail release agreement or jail release court order.

(11) (a) This section does not apply if the individual arrested for the qualifying offense is a minor who is under 18 years old, unless the qualifying offense is domestic violence.

(b) A jail release agreement signed by, or a jail release court order issued against, a minor expires on the earlier of:

(i) the day of the minor's initial court appearance described in Subsection (3)(a);

(ii) the day on which the prosecutor transmits the notice of declination under Subsection (3)(c);

(iii) 30 days after the day on which the minor is arrested or issued a citation; or

(iv) the day on which the juvenile court terminates jurisdiction.

Section 22. Section 78B-7-803 is amended to read:

78B-7-803. Pretrial protective orders.

(1) (a) When [~~a defendant~~] an alleged perpetrator is charged with a crime involving a qualifying offense, the court shall, at the time of the [~~defendant's~~] alleged perpetrator's court appearance under Section 77-36-2.6:

(i) determine the necessity of imposing a pretrial protective order or other condition of pretrial release; and

(ii) state the court's findings and determination in writing.

(b) [~~In~~] Except as provided in Subsection (4), in any criminal case, the court may, during any court hearing where the [~~defendant~~] alleged perpetrator is present, issue a pretrial protective order, pending trial.

(2) A court may include any of the following provisions in a pretrial protective order:

(a) an order enjoining the [~~defendant~~] alleged perpetrator from threatening to commit or committing acts of domestic violence or abuse against the victim and any designated family or household member;

(b) an order prohibiting the [~~defendant~~] alleged perpetrator from harassing, telephoning, contacting, or otherwise communicating with the victim, directly or indirectly;

(c) an order removing and excluding the [~~defendant~~] alleged perpetrator from the victim's residence and the premises of the residence;

(d) an order requiring the [~~defendant~~] alleged perpetrator to stay away from the victim's residence, school, or place of employment, and the premises of any of these, or any specified place frequented by the victim and any designated family member;

(e) an order for any other relief that the court considers necessary to protect and provide for the safety of the victim and any designated family or household member;

(f) an order identifying and requiring an individual designated by the victim to communicate

between the [~~defendant~~] alleged perpetrator and the victim if and to the extent necessary for family related matters;

(g) an order requiring the [~~defendant~~] alleged perpetrator to participate in an electronic or other type of monitoring program; and

(h) if the alleged victim and the [~~defendant~~] alleged perpetrator share custody of one or more minor children, an order for indirect or limited contact to temporarily facilitate parent visitation with a minor child.

(3) [~~When issuing a~~] If the court issues a pretrial protective order, the court shall determine whether to allow provisions for transfer of personal property to decrease the need for contact between the parties.

(4) A pretrial protective order issued under this section against an alleged perpetrator who is a minor expires on the earlier of:

(a) the day on which the court issues an order against the alleged perpetrator under Section 78B-7-804 or 805 or otherwise makes a disposition of the alleged perpetrator's case under Section 78A-6-117; or

(b) the day on which the juvenile court terminates jurisdiction.

Section 23. Section 78B-7-804 is amended to read:

78B-7-804. Sentencing and continuous protective orders for a domestic violence offense -- Modification -- Expiration.

(1) Before a perpetrator who has been convicted of or adjudicated for a domestic violence offense may be placed on probation, the court shall consider the safety and protection of the victim and any member of the victim's family or household.

(2) The court may condition probation or a plea in abeyance on the perpetrator's compliance with a sentencing protective order that includes:

(a) an order enjoining the perpetrator from threatening to commit or committing acts of domestic violence against the victim or other family or household member;

(b) an order prohibiting the perpetrator from harassing, telephoning, contacting, or otherwise communicating with the victim, directly or indirectly;

(c) an order requiring the perpetrator to stay away from the victim's residence, school, place of employment, and the premises of any of these, or a specified place frequented regularly by the victim or any designated family or household member;

(d) an order prohibiting the perpetrator from purchasing, using, or possessing a firearm or other specified weapon;

(e) an order directing the perpetrator to surrender any weapons the perpetrator owns or possesses; and

(f) an order imposing any other condition necessary to protect the victim and any other designated family or household member or to rehabilitate the perpetrator.

(3) (a) Because of the serious, unique, and highly traumatic nature of domestic violence crimes, the high recidivism rate of violent offenders, and the demonstrated increased risk of continued acts of violence subsequent to the release of a perpetrator who is convicted of or adjudicated for domestic violence, it is the finding of the Legislature that domestic violence crimes warrant the issuance of continuous protective orders under this Subsection (3) because of the need to provide ongoing protection for the victim and to be consistent with the purposes of protecting victims' rights under Title 77, Chapter 37, Victims' Rights, and Title 77, Chapter 38, Rights of Crime Victims Act, and Article I, Section 28 of the Utah Constitution.

(b) [~~If~~] Except as provided in Subsection (6), if a perpetrator is convicted of a domestic violence offense resulting in a sentence of imprisonment, including jail, that is to be served after conviction, the court shall issue a continuous protective order at the time of the conviction or sentencing limiting the contact between the perpetrator and the victim unless the court determines by clear and convincing evidence that the victim does not a have a reasonable fear of future harm or abuse.

(c) (i) The court shall notify the perpetrator of the right to request a hearing.

(ii) If the perpetrator requests a hearing under this Subsection (3)(c), the court shall hold the hearing at the time determined by the court. The continuous protective order shall be in effect while the hearing is being scheduled and while the hearing is pending.

(d) A continuous protective order is permanent in accordance with this Subsection (3) and may include:

(i) an order enjoining the perpetrator from threatening to commit or committing acts of domestic violence against the victim or other family or household member;

(ii) an order prohibiting the perpetrator from harassing, telephoning, contacting, or otherwise communicating with the victim, directly or indirectly;

(iii) an order prohibiting the perpetrator from going to the victim's residence, school, place of employment, and the premises of any of these, or a specified place frequented regularly by the victim or any designated family or other household member;

(iv) an order directing the perpetrator to pay restitution to the victim as may apply, and shall be enforced in accordance with Title 77, Chapter 38a, Crime Victims Restitution Act; and

(v) any other order the court considers necessary to fully protect the victim and members of the victim's family or other household member.

(4) A continuous protective order may be modified or dismissed only if the court determines by clear

and convincing evidence that all requirements of Subsection (3) have been met and the victim does not have a reasonable fear of future harm or abuse.

(5) [~~In~~] Except as provided in Subsection (6), in addition to the process of issuing a continuous protective order described in Subsection (3), a district court may issue a continuous protective order at any time if the victim files a petition with the court, and after notice and hearing the court finds that a continuous protective order is necessary to protect the victim.

(6) (a) Unless the juvenile court transfers jurisdiction of the offense to the district court under Section 78A-6-703.5, a continuous protective order may not be issued under this section against a perpetrator who is a minor.

(b) Unless the court sets an earlier date for expiration, a sentencing protective order issued under this section against a perpetrator who is a minor expires on the earlier of:

(i) the day on which the juvenile court terminates jurisdiction; or

(ii) in accordance with Section 62A-7-506, the day on which the Division of Juvenile Justice Services discharges the perpetrator.

Section 24. Section 78B-7-805 is amended to read:

78B-7-805. Sentencing protective orders and continuous protective orders for an offense that is not domestic violence -- Modification -- Expiration.

(1) Before a perpetrator has been convicted of or adjudicated for an offense that is not domestic violence is placed on probation, the court may consider the safety and protection of the victim and any member of the victim's family or household.

(2) The court may condition probation or a plea in abeyance on the perpetrator's compliance with a sentencing protective order that includes:

(a) an order enjoining the perpetrator from threatening to commit or committing acts of domestic violence against the victim or other family or household member;

(b) an order prohibiting the perpetrator from harassing, telephoning, contacting, or otherwise communicating with the victim, directly or indirectly;

(c) an order requiring the perpetrator to stay away from the victim's residence, school, place of employment, and the premises of any of these, or a specified place frequented regularly by the victim or any designated family or household member;

(d) an order prohibiting the perpetrator from purchasing, using, or possessing a firearm or other specified weapon;

(e) an order directing the perpetrator to surrender any weapons the perpetrator owns or possesses; and

(f) an order imposing any other condition necessary to protect the victim and any other designated family or household member or to rehabilitate the perpetrator.

(3) (a) If a perpetrator is convicted of an offense that is not domestic violence resulting in a sentence of imprisonment that is to be served after conviction, the court may issue a continuous protective order at the time of the conviction or sentencing limiting the contact between the perpetrator and the victim if the court determines by clear and convincing evidence that the victim has a reasonable fear of future harm or abuse.

(b) (i) The court shall notify the perpetrator of the right to request a hearing.

(ii) If the perpetrator requests a hearing under this Subsection (3), the court shall hold the hearing at the time determined by the court and the continuous protective order shall be in effect while the hearing is being scheduled and while the hearing is pending.

(c) [~~A~~] Except as provided in Subsection (6), a continuous protective order is permanent in accordance with this Subsection (3)(c) and may include any order described in Subsection 78B-7-804(3)(c).

(4) A continuous protective order issued under this section may be modified or dismissed only in accordance with Subsection 78B-7-804(4).

(5) [~~In~~] Except as provided in Subsection (6), in addition to the process of issuing a continuous protective order described in Subsection (3)(a), a district court may issue a continuous protective order at any time in accordance with Subsection 78B-7-804(5).

(6) (a) Unless the juvenile court transfers jurisdiction of the offense to the district court under Section 78A-6-703.5, a continuous protective order may not be issued under this section against a perpetrator who is a minor.

(b) Unless the court sets an earlier date for expiration, a sentencing protective order issued under this section against a perpetrator who is a minor expires on the earlier of:

(i) the day on which the juvenile court terminates jurisdiction; or

(ii) in accordance with Section 62A-7-506, the day on which the Division of Juvenile Justice Services discharges the perpetrator.

Section 25. Coordinating H.B. 255 with H.B. 285 -- Technical amendments.

If this H.B. 255 and H.B. 285, Juvenile Recodification, both pass and become law, the Legislature intends that, on September 1, 2021, the Office of Legislative Research and General Counsel shall prepare the Utah Code database for publication by:

(1) amending Subsection 78B-7-801(3) to read:

"(3) "Minor" means [~~an unemancipated individual who is younger than 18 years of age~~] the same as that term is defined in Section 80-1-102.";

(2) amending Subsection 78B-7-804(6)(a) to read:

"(6) (a) Unless the juvenile court transfers jurisdiction of the offense to the district court under Section 80-6-504, a continuous protective order may not be issued under this section against a perpetrator who is a minor."; and

(3) amending Subsection 78B-7-805(6)(a) to read:

"(6) (a) Unless the juvenile court transfers jurisdiction of the offense to the district court under Section 80-6-504, a continuous protective order may not be issued under this section against a perpetrator who is a minor."

CHAPTER 160
H. B. 257
Passed March 4, 2021
Approved March 16, 2021
Effective May 5, 2021

UTAH STATE PARK AMENDMENTS

Chief Sponsor: Steve Eliason
Senate Sponsor: David P. Hinkins
Cosponsors: Carl R. Albrecht
Stewart E. Barlow
Kera Birkeland
Stephen G. Handy
Rosemary T. Lesser
Christine F. Watkins
Mike Winder

LONG TITLE

General Description:

This bill addresses the creation of Utahraptor State Park and Lost Creek State Park.

Highlighted Provisions:

This bill:

- authorizes the Division of Parks and Recreation to use portions of the Dalton Wells area as a state park;
- provides that Utahraptor State Park shall be considered part of the state parks system;
- authorizes the Division of Parks and Recreation to enter into an agreement with the Bureau of Reclamation to use Lost Creek Reservoir as a state park; and
- provides that Lost Creek State Park shall be considered part of the state parks system when the division enters into an agreement with the bureau.

Monies Appropriated in this Bill:

This bill appropriates in fiscal year 2022:

- to the Department of Natural Resources, as a one-time appropriation:
  - from the General Fund, One-time, $36,500,000.

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:
79-4-607, Utah Code Annotated 1953
79-4-608, Utah Code Annotated 1953

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

Section 1. Section 79-4-607 is enacted to read:

79-4-607. Utahraptor State Park.

(1) As used in this section, "Dalton Wells" means the land located in the area known as Dalton Wells and fully described by the map and legal description on file with the division.

(2) The division may:

(a) receive donations of land or facilities in the Dalton Wells area for the creation of, and inclusion within, Utahraptor State Park;

(b) engage in land transfers for land in the Dalton Wells area for inclusion in Utahraptor State Park; or

(c) purchase land or facilities in the Dalton Wells area for inclusion in Utahraptor State Park.

(3) Utahraptor State Park shall be included within the state park system.

(4) The division may not open Utahraptor State Park to the public for use as a state park until the division has received sufficient funding from the State Building Board or from the General Fund to provide for capital improvements and any necessary land acquisitions.

(5) Land acquisitions and capital investments will be made at the park in a way that allows Utahraptor State Park to remain financially self-sustaining.

(6) Ongoing operations at Utahraptor State Park shall be funded through the Division of Parks and Recreation's restricted fees account.

Section 2. Section 79-4-608 is enacted to read:

79-4-608. Lost Creek State Park.

(1) As used in this section, the "Lost Creek area" means the Lost Creek Reservoir and certain land around the reservoir, fully described by the map and legal description on file with the division.

(2) The division may enter into an agreement with the United States Bureau of Reclamation to manage recreational operations at Lost Creek Reservoir and to use the Lost Creek area as a state park.

(3) Upon the division entering into an agreement described in Subsection (2), the Lost Creek area shall be included within the state park system as Lost Creek State Park.

(4) Hunting wildlife in Lost Creek State Park is limited to waterfowl only.

Section 3. Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2021, and ending June 30, 2022. These are additions to amounts previously appropriated for fiscal year 2022. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 1

To Department of Natural Resources - Division of Parks Capital

From General Fund, One-time	$36,500,000
Schedule of Programs:	
Renovation and Development	$36,500,000

Under Section 63J-1-603, the Legislature intends that appropriations provided under this item not lapse at the close of fiscal year 2022. The

use of any nonlapsing funds is limited to the development of Utahraptor State Park and Lost Creek State Park. The Legislature intends that up to $7,500,000 be used to acquire land in the Dalton Wells area for inclusion in Utahraptor State Park.

CHAPTER 161
H. B. 259
Passed March 5, 2021
Approved March 16, 2021
Effective May 5, 2021

LEAD EXPOSURE EDUCATION AND TESTING AMENDMENTS

Chief Sponsor: Stewart E. Barlow
Senate Sponsor: Jani Iwamoto
Cosponsors: Suzanne Harrison
Rosemary T. Lesser

LONG TITLE

General Description:

This bill creates a program to increase testing and education regarding lead exposure for children.

Highlighted Provisions:

This bill:

- creates a program within the Department of Health to increase education and testing for lead exposure in children.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

26-10-15, Utah Code Annotated 1953

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

Section 1. Section 26-10-15 is enacted to read:

26-10-15. Lead exposure public education and testing.

(1) The department shall establish a child blood lead epidemiology and surveillance program to:

(a) encourage pediatric health care providers to include a lead test in accordance with the department's recommendations under Subsection (2); and

(b) conduct a public education program to inform parents of children who are two years old or younger regarding:

(i) the effects of lead exposure in children;

(ii) the availability of free screening and testing for lead exposure; and

(iii) other available preventative measures.

(2) The department may recommend consideration of screening and testing during the first year or second year well child clinical visit.

(3) (a) The department shall provide the information described in Subsection (1) to organizations that regularly provide care or services for children who are 5 years old or younger.

(b) The department may work with the following organizations to share the information described in Subsection (1):

(i) a child care program licensed under Title 26, Chapter 39, Utah Child Care Licensing Act, and the employees of the child care program;

(ii) a health care facility licensed under Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act;

(iii) a person providing child care under a program that is described in Subsection 26-39-403(2);

(iv) an individual offering health education in a school district, including a school nurse under Section 53G-9-204;

(v) a health care provider offering care to pregnant women and infants;

(vi) a religious, ecclesiastical, or denominational organization offering children's programs as a part of worship services;

(vii) an organization that advocates for public education, testing, and screening of children for lead exposure;

(viii) a local health department as defined in Section 26A-1-102; and

(ix) any other person that the department believes would advance public education regarding the effects of lead exposure on children.

(4) The department shall seek grant funding to fund the program created in this section.

CHAPTER 162
H. B. 261
Passed February 12, 2021
Approved March 16, 2021
Effective May 5, 2021

GEOGRAPHIC REFERENCE CENTER AMENDMENTS

Chief Sponsor: Walt Brooks
Senate Sponsor: Don L. Ipson

LONG TITLE

General Description:

This bill changes the name of the Automated Geographic Reference Center.

Highlighted Provisions:

This bill:

- changes the name of the Automated Geographic Reference Center to the "Utah Geospatial Resource Center"; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides revisor instructions.

Utah Code Sections Affected:

AMENDS:

10-9a-203, as last amended by Laws of Utah 2015, Chapter 202
10-9a-603, as last amended by Laws of Utah 2020, Chapter 434
11-58-503, as last amended by Laws of Utah 2019, Chapter 399
17-27a-203, as last amended by Laws of Utah 2009, Chapter 188
17-27a-603, as last amended by Laws of Utah 2020, Chapter 434
17-50-105, as last amended by Laws of Utah 2009, Chapter 350
17B-1-106, as last amended by Laws of Utah 2013, Chapter 445
17C-2-109, as last amended by Laws of Utah 2016, Chapter 350
17C-3-108, as last amended by Laws of Utah 2016, Chapter 350
17C-4-107, as last amended by Laws of Utah 2016, Chapter 350
17C-5-111, as enacted by Laws of Utah 2016, Chapter 350
20A-5-303, as last amended by Laws of Utah 2011, Chapter 335
20A-13-102.2, as last amended by Laws of Utah 2013, Chapter 383
20A-13-104, as last amended by Laws of Utah 2013, Chapter 383
20A-14-102.2, as last amended by Laws of Utah 2013, Chapter 455
20A-14-102.3, as last amended by Laws of Utah 2013, Chapter 455
20A-14-201, as last amended by Laws of Utah 2011, Chapter 297
36-1-103.2, as last amended by Laws of Utah 2013, Chapter 454
36-1-105, as last amended by Laws of Utah 2013, Chapter 454
36-1-202.2, as last amended by Laws of Utah 2013, Chapter 382
36-1-204, as last amended by Laws of Utah 2013, Chapter 382
53G-3-204, as renumbered and amended by Laws of Utah 2018, Chapter 3
54-3-28, as last amended by Laws of Utah 2013, Chapter 445
63F-1-502, as last amended by Laws of Utah 2017, Chapter 238
63F-1-506, as last amended by Laws of Utah 2009, Chapter 350
63F-1-508, as last amended by Laws of Utah 2013, Chapter 310
63H-1-403, as last amended by Laws of Utah 2020, Chapter 282
63H-7a-304, as last amended by Laws of Utah 2020, Chapters 294 and 368
63N-3-501, as enacted by Laws of Utah 2018, Chapter 182
67-1a-2.2, as enacted by Laws of Utah 2011, Third Special Session, Chapter 9
67-1a-6.5, as last amended by Laws of Utah 2016, Chapter 350
72-5-304, as last amended by Laws of Utah 2005, Chapter 169
72-5-309, as last amended by Laws of Utah 2008, Chapters 97 and 382

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

Section 1. Section 10-9a-203 is amended to read:

10-9a-203. Notice of intent to prepare a general plan or comprehensive general plan amendments in certain municipalities.

(1) Before preparing a proposed general plan or a comprehensive general plan amendment, each municipality within a county of the first or second class shall provide 10 calendar days notice of [~~its~~] the municipality's intent to prepare a proposed general plan or a comprehensive general plan amendment:

(a) to each affected entity;

(b) to the [~~Automated Geographic Reference Center~~] Utah Geospatial Resource Center created in Section 63F-1-506;

(c) to the association of governments, established pursuant to an interlocal agreement under Title 11, Chapter 13, Interlocal Cooperation Act, of which the municipality is a member; and

(d) on the Utah Public Notice Website created under Section 63F-1-701.

(2) Each notice under Subsection (1) shall:

(a) indicate that the municipality intends to prepare a general plan or a comprehensive general plan amendment, as the case may be;

(b) describe or provide a map of the geographic area that will be affected by the general plan or amendment;

(c) be sent by mail, e-mail, or other effective means;

(d) invite the affected entities to provide information for the municipality to consider in the process of preparing, adopting, and implementing a general plan or amendment concerning:

(i) impacts that the use of land proposed in the proposed general plan or amendment may have; and

(ii) uses of land within the municipality that the affected entity is considering that may conflict with the proposed general plan or amendment; and

(e) include the address of an Internet website, if the municipality has one, and the name and telephone number of [~~a person~~] an individual where more information can be obtained concerning the municipality's proposed general plan or amendment.

Section 2. Section 10-9a-603 is amended to read:

10-9a-603. Plat required when land is subdivided -- Approval of plat -- Owner acknowledgment, surveyor certification, and underground utility facility owner verification of plat -- Recording plat.

(1) Unless exempt under Section 10-9a-605 or excluded from the definition of subdivision under Section 10-9a-103, whenever any land is laid out and platted, the owner of the land shall provide an accurate plat that describes or specifies:

(a) a subdivision name that is distinct from any subdivision name on a plat recorded in the county recorder's office;

(b) the boundaries, course, and dimensions of all of the parcels of ground divided, by their boundaries, course, and extent, whether the owner proposes that any parcel of ground is intended to be used as a street or for any other public use, and whether any such area is reserved or proposed for dedication for a public purpose;

(c) the lot or unit reference, block or building reference, street or site address, street name or coordinate address, acreage or square footage for all parcels, units, or lots, and length and width of the blocks and lots intended for sale; and

(d) every existing right-of-way and easement grant of record for an underground facility, as defined in Section 54-8a-2, and for any other utility facility.

(2) (a) Subject to Subsections (3), (5), and (6), if the plat conforms to the municipality's ordinances and this part and has been approved by the culinary water authority, the sanitary sewer authority, and the local health department, as defined in Section 26A-1-102, if the local health department and the municipality consider the local health department's approval necessary, the municipality shall approve the plat.

(b) Municipalities are encouraged to receive a recommendation from the fire authority and the public safety answering point before approving a plat.

(c) A municipality may not require that a plat be approved or signed by a person or entity who:

(i) is not an employee or agent of the municipality; or

(ii) does not:

(A) have a legal or equitable interest in the property within the proposed subdivision;

(B) provide a utility or other service directly to a lot within the subdivision;

(C) own an easement or right-of-way adjacent to the proposed subdivision who signs for the purpose of confirming the accuracy of the location of the easement or right-of-way in relation to the plat; or

(D) provide culinary public water service whose source protection zone designated as provided in Section 19-4-113 is included, in whole or in part, within the proposed subdivision.

(d) For a subdivision application that includes land located within a notification zone, as determined under Subsection (2)(f), the land use authority shall:

(i) within 20 days after the day on which a complete subdivision application is filed, provide written notice of the application to the canal owner or associated canal operator contact described in:

(A) Section 10-9a-211;

(B) Subsection 73-5-7(2); or

(C) Subsection (5)(c); and

(ii) wait to approve or reject the subdivision application for at least 20 days after the day on which the land use authority mails the notice described in Subsection (2)(d)(i) in order to receive input from the canal owner or associated canal operator, including input regarding:

(A) access to the canal;

(B) maintenance of the canal;

(C) canal protection; and

(D) canal safety.

(e) When applicable, the subdivision applicant shall comply with Section 73-1-15.5.

(f) The land use authority shall provide the notice described in Subsection (2)(d) to a canal owner or associated canal operator if:

(i) the canal's centerline is located within 100 feet of a proposed subdivision; and

(ii) the centerline alignment is available to the land use authority:

(A) from information provided by the canal company under Section 10-9a-211, using mapping-grade global positioning satellite units or

digitized data from the most recent aerial photo available to the canal owner or associated canal operator;

(B) using the state engineer's inventory of canals under Section 73-5-7; or

(C) from information provided by a surveyor under Subsection (5)(c).

(3) The municipality may withhold an otherwise valid plat approval until the owner of the land provides the legislative body with a tax clearance indicating that all taxes, interest, and penalties owing on the land have been paid.

(4) (a) Within 30 days after approving a final plat under this section, a municipality shall submit to the [~~Automated Geographic Reference Center~~] Utah Geospatial Resource Center, created in Section 63F-1-506, for inclusion in the unified statewide 911 emergency service database described in Subsection 63H-7a-304(4)(b):

(i) an electronic copy of the approved final plat; or

(ii) preliminary geospatial data that depict any new streets and situs addresses proposed for construction within the bounds of the approved plat.

(b) If requested by the [~~Automated Geographic Reference Center~~] Utah Geospatial Resource Center, a municipality that approves a final plat under this section shall:

(i) coordinate with the [~~Automated Geographic Reference Center~~] Utah Geospatial Resource Center to validate the information described in Subsection (4)(a); and

(ii) assist the [~~Automated Geographic Reference Center~~] Utah Geospatial Resource Center in creating electronic files that contain the information described in Subsection (4)(a) for inclusion in the unified statewide 911 emergency service database.

(5) (a) A county recorder may not record a plat unless:

(i) prior to recordation, the municipality has approved and signed the plat;

(ii) each owner of record of land described on the plat has signed the owner's dedication as shown on the plat; and

(iii) the signature of each owner described in Subsection (5)(a)(ii) is acknowledged as provided by law.

(b) The surveyor making the plat shall certify that the surveyor:

(i) holds a license in accordance with Title 58, Chapter 22, Professional Engineers and Professional Land Surveyors Licensing Act;

(ii) has completed a survey of the property described on the plat in accordance with Section 17-23-17 and has verified all measurements; and

(iii) has placed monuments as represented on the plat.

(c) (i) To the extent possible, the surveyor shall consult with the owner or operator of an existing or proposed underground facility or utility facility within the proposed subdivision, or a representative designated by the owner or operator, to verify the accuracy of the surveyor's depiction of the:

(A) boundary, course, dimensions, and intended use of the public rights-of-way, a public or private easement, or grants of record;

(B) location of an existing underground facility and utility facility; and

(C) physical restrictions governing the location of the underground facility and utility facility within the subdivision.

(ii) The cooperation of an owner or operator under Subsection (5)(c)(i):

(A) indicates only that the plat approximates the location of the existing underground and utility facilities but does not warrant or verify their precise location; and

(B) does not affect a right that the owner or operator has under Title 54, Chapter 8a, Damage to Underground Utility Facilities, a recorded easement or right-of-way, the law applicable to prescriptive rights, or any other provision of law.

(6) (a) Except as provided in Subsection (5)(c), after the plat has been acknowledged, certified, and approved, the individual seeking to record the plat shall, within the time period and manner designated by ordinance, record the plat in the county recorder's office in the county in which the lands platted and laid out are situated.

(b) A failure to record a plat within the time period designated by ordinance renders the plat voidable by the land use authority.

Section 3. Section 11-58-503 is amended to read:

11-58-503. Notice of project area plan adoption -- Effective date of plan -- Time for challenging a project area plan or project area.

(1) Upon the board's adoption of a project area plan, the board shall provide notice as provided in Subsection (2) by publishing or causing to be published legal notice:

(a) in a newspaper of general circulation within or near the project area; and

(b) as required by Section 45-1-101.

(2) (a) Each notice under Subsection (1) shall include:

(i) the board resolution adopting the project area plan or a summary of the resolution; and

(ii) a statement that the project area plan is available for general public inspection and the hours for inspection.

(b) The statement required under Subsection (2)(a)(ii) may be included within the board resolution adopting the project area plan or within the summary of the resolution.

(3) The project area plan shall become effective on the date designated in the board resolution.

(4) The authority shall make the adopted project area plan available to the general public at [~~its~~] the authority's offices during normal business hours.

(5) Within 10 days after the day on which a project area plan is adopted that establishes a project area, or after an amendment to a project area plan is adopted under which the boundary of a project area is modified, the authority shall send notice of the establishment or modification of the project area and an accurate map or plat of the project area to:

(a) the State Tax Commission;

(b) the [~~Automated Geographic Reference Center~~] Utah Geospatial Resource Center created in Section 63F-1-506; and

(c) the assessor and recorder of each county where the project area is located.

(6) (a) A legal action or other challenge to a project area plan or a project area described in a project area plan is barred unless brought within 30 days after the effective date of the project area plan.

(b) A legal action or other challenge to a project area that consists of authority jurisdictional land is barred unless brought within 30 days after the board adopts a business plan under Subsection 11-58-202(1)(a) for the authority jurisdictional land.

Section 4. Section 17-27a-203 is amended to read:

17-27a-203. Notice of intent to prepare a general plan or comprehensive general plan amendments in certain counties.

(1) Before preparing a proposed general plan or a comprehensive general plan amendment, each county of the first or second class shall provide 10 calendar days notice of [~~its~~] the county's intent to prepare a proposed general plan or a comprehensive general plan amendment:

(a) to each affected entity;

(b) to the [~~Automated Geographic Reference Center~~] Utah Geospatial Resource Center created in Section 63F-1-506;

(c) to the association of governments, established pursuant to an interlocal agreement under Title 11, Chapter 13, Interlocal Cooperation Act, of which the county is a member; and

(d) on the Utah Public Notice Website created under Section 63F-1-701.

(2) Each notice under Subsection (1) shall:

(a) indicate that the county intends to prepare a general plan or a comprehensive general plan amendment, as the case may be;

(b) describe or provide a map of the geographic area that will be affected by the general plan or amendment;

(c) be sent by mail, e-mail, or other effective means;

(d) invite the affected entities to provide information for the county to consider in the process of preparing, adopting, and implementing a general plan or amendment concerning:

(i) impacts that the use of land proposed in the proposed general plan or amendment may have; and

(ii) uses of land within the county that the affected entity is considering that may conflict with the proposed general plan or amendment; and

(e) include the address of an Internet website, if the county has one, and the name and telephone number of [~~a person~~] an individual where more information can be obtained concerning the county's proposed general plan or amendment.

Section 5. Section 17-27a-603 is amended to read:

17-27a-603. Plat required when land is subdivided -- Approval of plat -- Owner acknowledgment, surveyor certification, and underground utility facility owner verification of plat -- Recording plat.

(1) Unless exempt under Section 17-27a-605 or excluded from the definition of subdivision under Section 17-27a-103, whenever any land is laid out and platted, the owner of the land shall provide an accurate plat that describes or specifies:

(a) a subdivision name that is distinct from any subdivision name on a plat recorded in the county recorder's office;

(b) the boundaries, course, and dimensions of all of the parcels of ground divided, by their boundaries, course, and extent, whether the owner proposes that any parcel of ground is intended to be used as a street or for any other public use, and whether any such area is reserved or proposed for dedication for a public purpose;

(c) the lot or unit reference, block or building reference, street or site address, street name or coordinate address, acreage or square footage for all parcels, units, or lots, and length and width of the blocks and lots intended for sale; and

(d) every existing right-of-way and easement grant of record for an underground facility, as defined in Section 54-8a-2, and for any other utility facility.

(2) (a) Subject to Subsections (3), (5), and (6), if the plat conforms to the county's ordinances and this part and has been approved by the culinary water authority, the sanitary sewer authority, and the local health department, as defined in Section 26A-1-102, if the local health department and the county consider the local health department's approval necessary, the county shall approve the plat.

(b) Counties are encouraged to receive a recommendation from the fire authority and the public safety answering point before approving a plat.

(c) A county may not require that a plat be approved or signed by a person or entity who:

(i) is not an employee or agent of the county; or

(ii) does not:

(A) have a legal or equitable interest in the property within the proposed subdivision;

(B) provide a utility or other service directly to a lot within the subdivision;

(C) own an easement or right-of-way adjacent to the proposed subdivision who signs for the purpose of confirming the accuracy of the location of the easement or right-of-way in relation to the plat; or

(D) provide culinary public water service whose source protection zone designated as provided in Section 19-4-113 is included, in whole or in part, within the proposed subdivision.

(d) For a subdivision application that includes land located within a notification zone, as determined under Subsection (2)(f), the land use authority shall:

(i) within 20 days after the day on which a complete subdivision application is filed, provide written notice of the application to the canal owner or associated canal operator contact described in:

(A) Section 17-27a-211;

(B) Subsection 73-5-7(2); or

(C) Subsection (5)(c); and

(ii) wait to approve or reject the subdivision application for at least 20 days after the day on which the land use authority mails the notice under Subsection (2)(d)(i) in order to receive input from the canal owner or associated canal operator, including input regarding:

(A) access to the canal;

(B) maintenance of the canal;

(C) canal protection; and

(D) canal safety.

(e) When applicable, the subdivision applicant shall comply with Section 73-1-15.5.

(f) The land use authority shall provide the notice described in Subsection (2)(d) to a canal owner or associated canal operator if:

(i) the canal's centerline is located within 100 feet of a proposed subdivision; and

(ii) the centerline alignment is available to the land use authority:

(A) from information provided by the canal company under Section 17-27a-211 using mapping-grade global positioning satellite units or digitized data from the most recent aerial photo available to the canal owner or canal operator;

(B) using the state engineer's inventory of canals under Section 73-5-7; or

(C) from information provided by a surveyor under Subsection (5)(c).

(3) The county may withhold an otherwise valid plat approval until the owner of the land provides the legislative body with a tax clearance indicating that all taxes, interest, and penalties owing on the land have been paid.

(4) (a) Within 30 days after approving a final plat under this section, a county shall submit to the [~~Automated Geographic Reference Center~~] Utah Geospatial Resource Center, created in Section 63F-1-506, for inclusion in the unified statewide 911 emergency service database described in Subsection 63H-7a-304(4)(b):

(i) an electronic copy of the approved final plat; or

(ii) preliminary geospatial data that depict any new streets and situs addresses proposed for construction within the bounds of the approved plat.

(b) If requested by the [~~Automated Geographic Reference Center~~] Utah Geospatial Resource Center, a county that approves a final plat under this section shall:

(i) coordinate with the [~~Automated Geographic Reference Center~~] Utah Geospatial Resource Center to validate the information described in Subsection (4)(a); and

(ii) assist the [~~Automated Geographic Reference Center~~] Utah Geospatial Resource Center in creating electronic files that contain the information described in Subsection (4)(a) for inclusion in the unified statewide 911 emergency service database.

(5) (a) A county recorder may not record a plat unless, subject to Subsection 17-27a-604(1):

(i) prior to recordation, the county has approved and signed the plat;

(ii) each owner of record of land described on the plat has signed the owner's dedication as shown on the plat; and

(iii) the signature of each owner described in Subsection (5)(a)(ii) is acknowledged as provided by law.

(b) The surveyor making the plat shall certify that the surveyor:

(i) holds a license in accordance with Title 58, Chapter 22, Professional Engineers and Professional Land Surveyors Licensing Act;

(ii) has completed a survey of the property described on the plat in accordance with Section 17-23-17 and has verified all measurements; and

(iii) has placed monuments as represented on the plat.

(c) (i) To the extent possible, the surveyor shall consult with the owner or operator of an existing or proposed underground facility or utility facility within the proposed subdivision, or a representative designated by the owner or operator, to verify the accuracy of the surveyor's depiction of the:

(A) boundary, course, dimensions, and intended use of the public rights-of-way, a public or private easement, or grants of record;

(B) location of an existing underground facility and utility facility; and

(C) physical restrictions governing the location of the underground facility and utility facility within the subdivision.

(ii) The cooperation of an owner or operator under Subsection (5)(c)(i):

(A) indicates only that the plat approximates the location of the existing underground and utility facilities but does not warrant or verify their precise location; and

(B) does not affect a right that the owner or operator has under Title 54, Chapter 8a, Damage to Underground Utility Facilities, a recorded easement or right-of-way, the law applicable to prescriptive rights, or any other provision of law.

(6) (a) Except as provided in Subsection (5)(c), after the plat has been acknowledged, certified, and approved, the individual seeking to record the plat shall, within the time period and manner designated by ordinance, record the plat in the county recorder's office in the county in which the lands platted and laid out are situated.

(b) A failure to record a plat within the time period designated by ordinance renders the plat voidable by the land use authority.

Section 6. Section 17-50-105 is amended to read:

17-50-105. Disputed boundaries.

(1) As used in this section, "independent surveyor" means the surveyor whose position is established within the [~~Automated Geographic Reference Center~~] Utah Geospatial Resource Center under Subsection 63F-1-506(3).

(2) (a) If a dispute or uncertainty arises as to the true location of a county boundary as described in the official records maintained by the office of the lieutenant governor, the surveyors of each county whose boundary is the subject of the dispute or uncertainty may determine the true location.

(b) If agreement is reached under Subsection (2)(a), the county surveyors shall provide notice, accompanied by a map, to the lieutenant governor showing the true location of the county boundary.

(3) (a) If the county surveyors fail to agree on or otherwise fail to establish the true location of the county boundary, the county executive of either or both of the affected counties shall engage the services of the independent surveyor.

(b) After being engaged under Subsection (3)(a), the independent surveyor shall notify the surveyor of each county whose boundary is the subject of the dispute or uncertainty of the procedure the independent surveyor will use to determine the true location of the boundary.

(c) With the assistance of each surveyor who chooses to participate, the independent surveyor shall determine permanently the true location of the boundary by marking surveys and erecting suitable monuments to designate the boundary.

(d) Each boundary established under this Subsection (3) shall be considered permanent until superseded by legislative enactment.

(e) The independent surveyor shall provide notice, accompanied by a map, to the lieutenant governor showing the true location of the county boundary.

(4) Nothing in this section may be construed to give the county surveyors or independent surveyor any authority other than to erect suitable monuments to designate county boundaries as they are described in the official records maintained by the office of the lieutenant governor.

Section 7. Section 17B-1-106 is amended to read:

17B-1-106. Notice before preparing or amending a long-range plan or acquiring certain property.

(1) As used in this section:

(a) (i) "Affected entity" means each county, municipality, local district under this title, special service district, school district, interlocal cooperation entity established under Title 11, Chapter 13, Interlocal Cooperation Act, and specified public utility:

(A) whose services or facilities are likely to require expansion or significant modification because of an intended use of land; or

(B) that has filed with the local district a copy of the general or long-range plan of the county, municipality, local district, school district, interlocal cooperation entity, or specified public utility.

(ii) "Affected entity" does not include the local district that is required under this section to provide notice.

(b) "Specified public utility" means an electrical corporation, gas corporation, or telephone corporation, as those terms are defined in Section 54-2-1.

(2) (a) If a local district under this title located in a county of the first or second class prepares a long-range plan regarding [~~its~~] the local district's facilities proposed for the future or amends an already existing long-range plan, the local district shall, before preparing a long-range plan or amendments to an existing long-range plan, provide written notice, as provided in this section, of [~~its~~] the local district's intent to prepare a long-range plan or to amend an existing long-range plan.

(b) Each notice under Subsection (2)(a) shall:

(i) indicate that the local district intends to prepare a long-range plan or to amend a long-range plan, as the case may be;

(ii) describe or provide a map of the geographic area that will be affected by the long-range plan or amendments to a long-range plan;

(iii) be:

(A) sent to each county in whose unincorporated area and each municipality in whose boundaries is located the land on which the proposed long-range plan or amendments to a long-range plan are expected to indicate that the proposed facilities will be located;

(B) sent to each affected entity;

(C) sent to the [~~Automated Geographic Reference Center~~] Utah Geospatial Resource Center created in Section 63F-1-506;

(D) sent to each association of governments, established pursuant to an interlocal agreement under Title 11, Chapter 13, Interlocal Cooperation Act, of which a county or municipality described in Subsection (2)(b)(iii)(A) is a member; and

(E) (I) placed on the Utah Public Notice Website created under Section 63F-1-701, if the local district:

(Aa) is required under Subsection 52-4-203(3) to use that website to provide public notice of a meeting; or

(Bb) voluntarily chooses to place notice on that website despite not being required to do so under Subsection (2)(b)(iii)(E)(I)(Aa); or

(II) the state planning coordinator appointed under Section 63J-4-202, if the local district does not provide notice on the Utah Public Notice Website under Subsection (2)(b)(iii)(E)(I);

(iv) with respect to the notice to counties and municipalities described in Subsection (2)(b)(iii)(A) and affected entities, invite them to provide information for the local district to consider in the process of preparing, adopting, and implementing the long-range plan or amendments to a long-range plan concerning:

(A) impacts that the use of land proposed in the proposed long-range plan or amendments to a long-range plan may have on the county, municipality, or affected entity; and

(B) uses of land that the county, municipality, or affected entity is planning or considering that may conflict with the proposed long-range plan or amendments to a long-range plan; and

(v) include the address of an Internet website, if the local district has one, and the name and telephone number of [~~a person~~] an individual where more information can be obtained concerning the local district's proposed long-range plan or amendments to a long-range plan.

(3) (a) Except as provided in Subsection (3)(d), each local district intending to acquire real property in a county of the first or second class for the purpose of expanding the local district's infrastructure or other facilities used for providing the services that the local district is authorized to provide shall provide written notice, as provided in this Subsection (3), of [~~its~~] the local district's intent to acquire the property if the intended use of the property is contrary to:

(i) the anticipated use of the property under the county or municipality's general plan; or

(ii) the property's current zoning designation.

(b) Each notice under Subsection (3)(a) shall:

(i) indicate that the local district intends to acquire real property;

(ii) identify the real property; and

(iii) be sent to:

(A) each county in whose unincorporated area and each municipality in whose boundaries the property is located; and

(B) each affected entity.

(c) A notice under this Subsection (3) is a protected record as provided in Subsection 63G-2-305(8).

(d) (i) The notice requirement of Subsection (3)(a) does not apply if the local district previously provided notice under Subsection (2) identifying the general location within the municipality or unincorporated part of the county where the property to be acquired is located.

(ii) If a local district is not required to comply with the notice requirement of Subsection (3)(a) because of application of Subsection (3)(d)(i), the local district shall provide the notice specified in Subsection (3)(a) as soon as practicable after [~~its~~] the local district's acquisition of the real property.

Section 8. Section 17C-2-109 is amended to read:

17C-2-109. Agency required to transmit and record documents after adoption of an urban renewal project area plan.

Within 30 days after the community legislative body adopts, under Section 17C-2-107, an urban renewal project area plan, the agency shall:

(1) record with the recorder of the county in which the project area is located a document containing:

(a) a description of the land within the project area;

(b) a statement that the project area plan for the project area has been adopted; and

(c) the date of adoption;

(2) transmit a copy of the description of the land within the project area and an accurate map or plat indicating the boundaries of the project area to the [~~Automated Geographic Reference Center~~] Utah

Geospatial Resource Center created under Section 63F-1-506; and

(3) for a project area plan that provides for the agency to receive tax increment, transmit a copy of the description of the land within the project area, a copy of the community legislative body ordinance adopting the project area plan, and a map or plat indicating the boundaries of the project area to:

(a) the auditor, recorder, attorney, surveyor, and assessor of each county in which any part of the project area is located;

(b) the officer or officers performing the function of auditor or assessor for each taxing entity that does not use the county assessment roll or collect the taxing entity's taxes through the county;

(c) the legislative body or governing board of each taxing entity;

(d) the State Tax Commission; and

(e) the State Board of Education.

Section 9. Section 17C-3-108 is amended to read:

17C-3-108. Agency required to transmit and record documents after adoption of economic development project area plan.

Within 30 days after the community legislative body adopts, under Section 17C-3-106, an economic development project area plan, the agency shall:

(1) record with the recorder of the county in which the economic development project area is located a document containing:

(a) a description of the land within the project area;

(b) a statement that the project area plan for the project area has been adopted; and

(c) the date of adoption;

(2) transmit a copy of the description of the land within the project area and an accurate map or plat indicating the boundaries of the project area to the [~~Automated Geographic Reference Center~~] Utah Geospatial Resource Center created under Section 63F-1-506; and

(3) for a project area plan that provides for the agency to receive tax increment, transmit a copy of the description of the land within the project area, a copy of the community legislative body ordinance adopting the project area plan, and a map or plat indicating the boundaries of the project area to:

(a) the auditor, recorder, attorney, surveyor, and assessor of each county in which any part of the project area is located;

(b) the officer or officers performing the function of auditor or assessor for each taxing entity that does not use the county assessment roll or collect the taxing entity's taxes through the county;

(c) the legislative body or governing board of each taxing entity;

(d) the State Tax Commission; and

(e) the State Board of Education.

Section 10. Section 17C-4-107 is amended to read:

17C-4-107. Agency required to transmit and record documents after adoption of community development project area plan.

Within 30 days after the community legislative body adopts, under Section 17C-4-105, a community development project area plan, the agency shall:

(1) record with the recorder of the county in which the project area is located a document containing:

(a) a description of the land within the project area;

(b) a statement that the project area plan for the project area has been adopted; and

(c) the date of adoption;

(2) transmit a copy of the description of the land within the project area and an accurate map or plat indicating the boundaries of the project area to the [~~Automated Geographic Reference Center~~] Utah Geospatial Resource Center created under Section 63F-1-506; and

(3) for a project area plan that provides for the agency to receive tax increment, transmit a copy of the description of the land within the project area, a copy of the community legislative body ordinance adopting the project area plan, and a map or plat indicating the boundaries of the project area to:

(a) the auditor, recorder, attorney, surveyor, and assessor of each county in which any part of the project area is located;

(b) the officer or officers performing the function of auditor or assessor for each taxing entity that does not use the county assessment roll or collect the taxing entity's taxes through the county;

(c) the legislative body or governing board of each taxing entity;

(d) the State Tax Commission; and

(e) the State Board of Education.

Section 11. Section 17C-5-111 is amended to read:

17C-5-111. Agency required to transmit and record documentation after adoption of community reinvestment project area plan.

Within 30 days after the day on which a community legislative body adopts a community reinvestment project area plan under Section 17C-5-109, the agency shall:

(1) record with the recorder of the county in which the community reinvestment project area is located a document containing:

(a) the name of the community reinvestment project area;

(b) a boundary description of the community reinvestment project area; and

(c) (i) a statement that the community legislative body adopted the community reinvestment project area plan; and

(ii) the day on which the community legislative body adopted the community reinvestment project area plan;

(2) transmit a copy of a description of the land within the community reinvestment project area and an accurate map or plat indicating the boundaries of the community reinvestment project area to the [~~Automated Geographic Reference Center~~] Utah Geospatial Resource Center created in Section 63F-1-506; and

(3) for a community reinvestment project area plan that provides for the agency to receive tax increment, transmit a copy of a description of the land within the community reinvestment project area, a copy of the community legislative body ordinance adopting the community reinvestment project area plan, and an accurate map or plat indicating the boundaries of the community reinvestment project area to:

(a) the auditor, recorder, county or district attorney, surveyor, and assessor of each county in which any part of the community reinvestment project area is located;

(b) the officer or officers performing the function of auditor or assessor for each taxing entity that does not use the county assessment roll or collect the taxing entity's taxes through the county;

(c) the legislative body or governing board of each taxing entity;

(d) the State Tax Commission; and

(e) the State Board of Education.

Section 12. Section 20A-5-303 is amended to read:

20A-5-303. Establishing, dividing, abolishing, and changing voting precincts -- Common polling places -- Combined voting precincts.

(1) (a) After receiving recommendations from the county clerk, the county legislative body may establish, divide, abolish, and change voting precincts.

(b) Within 30 days after the establishment, division, abolition, or change of a voting precinct under this section, the county legislative body shall file with the [~~Automated Geographic Reference Center~~] Utah Geospatial Resource Center, created under Section 63F-1-506, a notice describing the action taken and specifying the resulting boundaries of each voting precinct affected by the action.

(2) (a) The county legislative body shall alter or divide voting precincts so that each voting precinct contains not more than 1,250 active voters.

(b) The county legislative body shall:

(i) identify those precincts that may reach the limit of active voters in a precinct under Subsection (2)(a) or that becomes too large to facilitate the election process; and

(ii) except as provided by Subsection (3), divide those precincts on or before January 1 of a general election year.

(3) A county legislative body shall divide a precinct identified under Subsection (2)(b)(i) on or before January 31 of a regular general election year that immediately follows the calendar year in which the Legislature divides the state into districts in accordance with Utah Constitution, Article IX, Section 1.

(4) Notwithstanding Subsection (2)(a) and except as provided by Subsection (5), the county legislative body may not:

(a) establish or abolish any voting precinct after January 1 of a regular general election year;

(b) alter or change the boundaries of any voting precinct after January 1 of a regular general election year; or

(c) establish, divide, abolish, alter, or change a voting precinct between January 1 of a year immediately preceding the year in which an enumeration is required by the United States Constitution and the day on which the Legislature divides the state into districts in accordance with Utah Constitution, Article IX, Section 1.

(5) A county legislative body may establish, divide, abolish, alter, or change a voting precinct on or before January 31 of a regular general election year that immediately follows the calendar year in which the Legislature divides the state into districts in accordance with Utah Constitution, Article IX, Section 1.

(6) (a) For the purpose of voting in an election, the county legislative body may establish a common polling place for two or more whole voting precincts.

(b) At least 90 days before the election, the county legislative body shall designate:

(i) the voting precincts that will vote at the common polling place; and

(ii) the location of the common polling place.

(c) A county may use one set of election judges for the common polling place under this Subsection (6).

(7) Each county shall have at least two polling places open for voting on the date of the election.

(8) Each common polling place shall have at least one voting device that is accessible for individuals with disabilities in accordance with Public Law 107-252, the Help America Vote Act of 2002.

Section 13. Section 20A-13-102.2 is amended to read:

20A-13-102.2. County clerk, Utah Geospatial Resource Center, and

lieutenant governor responsibilities -- Maps and voting precinct boundaries.

(1) Each county clerk shall obtain a copy of the Congressional shapefile for the clerk's county from the lieutenant governor's office.

(2) (a) A county clerk may create one or more county maps that identify the boundaries of Utah's Congressional districts as generated from the Congressional shapefile.

(b) Before publishing or distributing any map or data created by the county clerk that identifies the boundaries of Utah's Congressional districts within the county, the county clerk shall submit the county map and data to the lieutenant governor and to the [~~Automated Geographic Reference Center~~] Utah Geospatial Resource Center for review.

(c) Within 30 days after receipt of a county map and data from a county clerk, the [~~Automated Geographic Reference Center~~] Utah Geospatial Resource Center shall:

(i) review the county map and data to evaluate if the county map and data accurately reflect the boundaries of Utah's Congressional districts established by the Legislature in the Congressional shapefile;

(ii) determine whether the county map and data are correct or incorrect; and

(iii) communicate those findings to the lieutenant governor.

(d) The lieutenant governor shall either notify the county clerk that the county map and data are correct or notify the county clerk that the county map and data are incorrect.

(e) If the county clerk receives notice from the lieutenant governor that the county map and data submitted are incorrect, the county clerk shall:

(i) make the corrections necessary to conform the county map and data to the Congressional shapefile; and

(ii) resubmit the corrected county map and data to the lieutenant governor and to the [~~Automated Geographic Reference Center~~] Utah Geospatial Resource Center for a new review under this Subsection (2).

(3) (a) Subject to the requirements of this Subsection (3), each county clerk shall establish voting precincts and polling places within each Utah Congressional district according to the procedures and requirements of Section 20A-5-303.

(b) Within five working days after approval of voting precincts and polling places by the county legislative body as required by Section 20A-5-303, each county clerk shall submit a voting precinct map identifying the boundaries of each voting precinct within the county to the lieutenant governor and to the [~~Automated Geographic Reference Center~~] Utah Geospatial Resource Center for review.

(c) Within 30 days after receipt of a map from a county clerk, the [~~Automated Geographic Reference Center~~] Utah Geospatial Resource Center shall:

(i) review the voting precinct map to evaluate if the voting precinct map accurately reflects the boundaries of Utah's Congressional districts established by the Legislature in the Congressional shapefile;

(ii) determine whether the voting precinct map is correct or incorrect; and

(iii) communicate those findings to the lieutenant governor.

(d) The lieutenant governor shall either notify the county clerk that the voting precinct map is correct or notify the county clerk that the map is incorrect.

(e) If the county clerk receives notice from the lieutenant governor that the voting precinct map is incorrect, the county clerk shall:

(i) make the corrections necessary to conform the voting precinct map to the Congressional shapefile; and

(ii) resubmit the corrected voting precinct map to the lieutenant governor and to the [~~Automated Geographic Reference Center~~] Utah Geospatial Resource Center for a new review under this Subsection (3).

Section 14. Section 20A-13-104 is amended to read:

20A-13-104. Uncertain boundaries -- How resolved.

(1) As used in this section, "affected party" means:

(a) a representative whose Congressional district boundary is uncertain because the boundary in the Congressional shapefile used to establish the district boundary has been removed, modified, or is unable to be identified or who is uncertain about whether [~~or not~~] the representative or another [~~person~~] individual resides in a particular Congressional district;

(b) a candidate for Congressional representative whose Congressional district boundary is uncertain because the boundary in the Congressional shapefile used to establish the district boundary has been removed, modified, or is unable to be identified or who is uncertain about whether [~~or not~~] the candidate or another [~~person~~] individual resides in a particular Congressional district; or

(c) [~~a person~~] an individual who is uncertain about which Congressional district contains the [~~person's~~] individual's residence because the boundary in the Congressional shapefile used to establish the district boundary has been removed, modified, or is unable to be identified.

(2) (a) An affected party may file a written request petitioning the lieutenant governor to determine:

(i) the precise location of the Congressional district boundary;

(ii) the number of the Congressional district in which [~~a person~~] an individual resides; or

(iii) both Subsections (2)(a)(i) and (ii).

(b) In order to make the determination required by Subsection (2)(a), the lieutenant governor shall review the Congressional shapefile and obtain and review other relevant data such as aerial photographs, aerial maps, or other data about the area.

(c) Within five days of receipt of the request, the lieutenant governor shall review the Congressional shapefile, obtain and review any relevant data, and make a determination.

(d) When the lieutenant governor determines the location of the Congressional district boundary, the lieutenant governor shall:

(i) prepare a certification identifying the appropriate boundary and attaching a map, if necessary; and

(ii) send a copy of the certification to:

(A) the affected party;

(B) the county clerk of the affected county; and

(C) the [~~Automated Geographic Reference Center~~] Utah Geospatial Resource Center created under Section 63F-1-506.

(e) If the lieutenant governor determines the number of the Congressional district in which a particular [~~person~~] individual resides, the lieutenant governor shall send a letter identifying that district by number to:

(i) the [~~person~~] individual;

(ii) the affected party who filed the petition, if different than the [~~person~~] individual whose Congressional district number was identified; and

(iii) the county clerk of the affected county.

Section 15. Section 20A-14-102.2 is amended to read:

20A-14-102.2. Uncertain boundaries -- How resolved.

(1) As used in this section:

(a) "Affected party" means:

(i) a state school board member whose State Board of Education district boundary is uncertain because the feature used to establish the district boundary in the Board shapefile has been removed, modified, or is unable to be identified or who is uncertain about whether [~~or not~~] the member or another [~~person~~] individual resides in a particular State Board of Education district;

(ii) a candidate for state school board whose State Board of Education district boundary is uncertain because the feature used to establish the district boundary in the Board shapefile has been removed, modified, or is unable to be identified or who is uncertain about whether [~~or not~~] the candidate or another [~~person~~] individual resides in a particular State Board of Education district; or

(iii) [~~a person~~] an individual who is uncertain about which State Board of Education district contains the [~~person's~~] individual's residence because the feature used to establish the district boundary in the Board shapefile has been removed, modified, or is unable to be identified.

(b) "Feature" means a geographic or other tangible or intangible mark such as a road or political subdivision boundary that is used to establish a State Board of Education district boundary.

(2) (a) An affected party may file a written request petitioning the lieutenant governor to determine:

(i) the precise location of the State Board of Education district boundary;

(ii) the number of the State Board of Education district in which [~~a person~~] an individual resides; or

(iii) both Subsections (2)(a)(i) and (ii).

(b) In order to make the determination required by Subsection (2)(a), the lieutenant governor shall review:

(i) the Board shapefile; and

(ii) other relevant data such as aerial photographs, aerial maps, or other data about the area.

(c) Within five days of receipt of the request, the lieutenant governor shall:

(i) review the Board block shapefile;

(ii) review any relevant data; and

(iii) make a determination.

(d) If the lieutenant governor determines the precise location of the State Board of Education district boundary, the lieutenant governor shall:

(i) prepare a certification identifying the appropriate State Board of Education district boundary and attaching a map, if necessary; and

(ii) send a copy of the certification to:

(A) the affected party;

(B) the county clerk of the affected county; and

(C) the [~~Automated Geographic Reference Center~~] Utah Geospatial Resource Center created under Section 63F-1-506.

(e) If the lieutenant governor determines the number of the State Board of Education district in which a particular [~~person~~] individual resides, the lieutenant governor shall send a letter identifying that district by number to:

(i) the [~~person~~] individual;

(ii) the affected party who filed the petition, if different than the [~~person~~] individual whose State Board of Education district number was identified; and

(iii) the county clerk of the affected county.

Section 16. Section 20A-14-102.3 is amended to read:

20A-14-102.3. County clerk, Utah Geospatial Resource Center, and lieutenant governor responsibilities -- Maps and voting precinct boundaries.

(1) As used in this section, "redistricting boundary data" means the Board shapefile.

(2) Each county clerk shall obtain a copy of the redistricting boundary data for the clerk's county from the lieutenant governor's office.

(3) (a) A county clerk may create one or more county maps that identify the boundaries of State Board of Education districts as generated from the redistricting boundary data.

(b) Before publishing or distributing any map or data created by the county clerk that identifies the boundaries of State Board of Education districts within the county, the clerk shall submit the county map and data to the lieutenant governor and to the [~~Automated Geographic Reference Center~~] Utah Geospatial Resource Center for review.

(c) Within 30 days after receipt of a county map and data from a county clerk, the [~~Automated Geographic Reference Center~~] Utah Geospatial Resource Center shall:

(i) review the county map and data to evaluate if the county map and data accurately reflect the boundaries of State Board of Education districts established by the Legislature in the redistricting boundary data;

(ii) determine whether the county map and data are correct or incorrect; and

(iii) communicate those findings to the lieutenant governor.

(d) The lieutenant governor shall either notify the county clerk that the county map and data are correct or inform the county clerk that the county map and data are incorrect.

(e) If the county clerk receives notice from the lieutenant governor that the county map and data submitted are incorrect, the county clerk shall:

(i) make the corrections necessary to conform the county map and data to the redistricting boundary data; and

(ii) resubmit the corrected county map and data to the lieutenant governor for a new review under this Subsection (3).

(4) (a) Subject to the requirements of this Subsection (4), each county clerk shall establish voting precincts and polling places within each State Board of Education district according to the procedures and requirements of Section 20A-5-303.

(b) Within five working days after approval of voting precincts and polling places by the county legislative body as required by Section 20A-5-303, each county clerk shall submit a voting precinct map identifying the boundaries of each voting precinct within the county to the lieutenant governor and to the [~~Automated Geographic Reference Center~~] Utah Geospatial Resource Center for review.

(c) Within 30 days after receipt of a voting precinct map from a county clerk, the [~~Automated Geographic Reference Center~~] Utah Geospatial Resource Center shall:

(i) review the voting precinct map to evaluate if the voting precinct map accurately reflects the boundaries of State Board of Education districts established by the Legislature in the redistricting boundary data;

(ii) determine whether the voting precinct map is correct or incorrect; and

(iii) communicate those findings to the lieutenant governor.

(d) The lieutenant governor shall either notify the county clerk that the voting precinct map is correct or notify the county clerk that the voting precinct map is incorrect.

(e) If the county clerk receives notice from the lieutenant governor that the voting precinct map is incorrect, the county clerk shall:

(i) make the corrections necessary to conform the voting precinct map to the redistricting boundary data; and

(ii) resubmit the corrected voting precinct map to the lieutenant governor and to the [~~Automated Geographic Reference Center~~] Utah Geospatial Resource Center for a new review under this Subsection (4).

Section 17. Section 20A-14-201 is amended to read:

20A-14-201. Boards of education -- School board districts -- Creation -- Reapportionment.

(1) (a) The county legislative body, for local school districts whose boundaries encompass more than a single municipality, and the municipal legislative body, for school districts contained completely within a municipality, shall divide the local school district into local school board districts as required under Subsection 20A-14-202(1)(a).

(b) The county and municipal legislative bodies shall divide the school district so that the local school board districts are substantially equal in population and are as contiguous and compact as practicable.

(2) (a) County and municipal legislative bodies shall reapportion district boundaries to meet the population, compactness, and contiguity requirements of this section:

(i) at least once every 10 years;

(ii) if a new district is created:

(A) within 45 days after the canvass of an election at which voters approve the creation of a new district; and

(B) at least 60 days before the candidate filing deadline for a school board election;

(iii) whenever districts are consolidated;

(iv) whenever a district loses more than 20% of the population of the entire school district to another district;

(v) whenever a district loses more than 50% of the population of a local school board district to another district;

(vi) whenever a district receives new residents equal to at least 20% of the population of the district at the time of the last reapportionment because of a transfer of territory from another district; and

(vii) whenever it is necessary to increase the membership of a board from five to seven members as a result of changes in student membership under Section 20A-14-202.

(b) If a school district receives territory containing less than 20% of the population of the transferee district at the time of the last reapportionment, the local school board may assign the new territory to one or more existing school board districts.

(3) (a) Reapportionment does not affect the right of any school board member to complete the term for which the member was elected.

(b) (i) After reapportionment, representation in a local school board district shall be determined as provided in this Subsection (3).

(ii) If only one board member whose term extends beyond reapportionment lives within a reapportioned local school board district, that board member shall represent that local school board district.

(iii) (A) If two or more members whose terms extend beyond reapportionment live within a reapportioned local school board district, the members involved shall select one member by lot to represent the local school board district.

(B) The other members shall serve at-large for the remainder of their terms.

(C) The at-large board members shall serve in addition to the designated number of board members for the board in question for the remainder of their terms.

(iv) If there is no board member living within a local school board district whose term extends beyond reapportionment, the seat shall be treated as vacant and filled as provided in this part.

(4) (a) If, before an election affected by reapportionment, the county or municipal legislative body that conducted the reapportionment determines that one or more members shall be elected to terms of two years to meet this part's requirements for staggered terms, the legislative body shall determine by lot which of the reapportioned local school board districts will elect members to two-year terms and which will elect members to four-year terms.

(b) All subsequent elections are for four-year terms.

(5) Within 10 days after any local school board district boundary change, the county or municipal legislative body making the change shall send an accurate map or plat of the boundary change to the [~~Automated Geographic Reference Center~~] Utah Geospatial Resource Center created under Section 63F-1-506.

Section 18. Section 36-1-103.2 is amended to read:

36-1-103.2. County clerk, Utah Geospatial Resource Center, and lieutenant governor responsibilities -- Maps and voting precinct boundaries.

(1) As used in this section, "redistricting boundary data" means the Senate shapefile.

(2) Each county clerk shall obtain a copy of the redistricting boundary data for the clerk's county from the lieutenant governor's office.

(3) (a) A county clerk may create one or more county maps that identify the boundaries of Senate districts as generated from the redistricting boundary data.

(b) Before publishing or distributing any map or data created by the county clerk that identifies the boundaries of Senate districts within the county, the clerk shall submit the county map and data to the lieutenant governor and to the [~~Automated Geographic Reference Center~~] Utah Geospatial Resource Center for review.

(c) Within 30 days after receipt of a county map and data from a county clerk, the [~~Automated Geographic Reference Center~~] Utah Geospatial Resource Center shall:

(i) review the county map and data to evaluate if the county map and data accurately reflect the boundaries of Senate districts established by the Legislature in the redistricting boundary data;

(ii) determine whether the county map and data are correct or incorrect; and

(iii) communicate those findings to the lieutenant governor.

(d) The lieutenant governor shall either notify the county clerk that the county map and data are correct or notify the county clerk that the county map and data are incorrect.

(e) If the county clerk receives notice from the lieutenant governor that the county map and data submitted are incorrect, the county clerk shall:

(i) make the corrections necessary to conform the county map and data to the redistricting boundary data; and

(ii) resubmit the corrected county map and data to the lieutenant governor and to the [~~Automated Geographic Reference Center~~] Utah Geospatial Resource Center for a new review under this Subsection (3).

(4) (a) Subject to the requirements of this Subsection (4), each county clerk shall establish voting precincts and polling places within each

Senate district according to the procedures and requirements of Section 20A-5-303.

(b) Within five working days after approval of voting precincts and polling places by the county legislative body as required by Section 20A-5-303, each county clerk shall submit a voting precinct map identifying the boundaries of each voting precinct within the county to the lieutenant governor and to the [~~Automated Geographic Reference Center~~] Utah Geospatial Resource Center for review.

(c) Within 30 days after receipt of a voting precinct map from a county clerk, the [~~Automated Geographic Reference Center~~] Utah Geospatial Resource Center shall:

(i) review the voting precinct map to evaluate if the voting precinct map accurately reflects the boundaries of Senate districts established by the Legislature in the redistricting boundary data;

(ii) determine whether the voting precinct map is correct or incorrect; and

(iii) communicate those findings to the lieutenant governor.

(d) The lieutenant governor shall either notify the county clerk that the voting precinct map is correct or notify the county clerk that the map is incorrect.

(e) If the county clerk receives notice from the lieutenant governor that the voting precinct map is incorrect, the county clerk shall:

(i) make the corrections necessary to conform the voting precinct map to the redistricting boundary data; and

(ii) resubmit the corrected voting precinct map to the lieutenant governor and to the [~~Automated Geographic Reference Center~~] Utah Geospatial Resource Center for a new review under this Subsection (4).

Section 19. Section 36-1-105 is amended to read:

36-1-105. Uncertain boundaries -- How resolved.

(1) As used in this section:

(a) "Affected party" means:

(i) a senator whose Utah State Senate district boundary is uncertain because the feature used to establish the district boundary in the Senate shapefile has been removed, modified, or is unable to be identified or who is uncertain about whether [~~or not~~] the senator or another [~~person~~] individual resides in a particular Senate district;

(ii) a candidate for senator whose Senate district boundary is uncertain because the feature used to establish the district boundary in the Senate shapefile has been removed, modified, or is unable to be identified or who is uncertain about whether [~~or not~~] the candidate or another [~~person~~] individual resides in a particular Senate district; or

(iii) [~~a person~~] an individual who is uncertain about which Senate district contains the [~~person's~~] individual's residence because the feature used to establish the district boundary in the Senate shapefile has been removed, modified, or is unable to be identified.

(b) "Feature" means a geographic or other tangible or intangible mark such as a road or political subdivision boundary that is used to establish a Senate district boundary.

(2) (a) An affected party may file a written request petitioning the lieutenant governor to determine:

(i) the precise location of the Senate district boundary;

(ii) the number of the Senate district in which [~~a person~~] an individual resides; or

(iii) both Subsections (2)(a)(i) and (ii).

(b) In order to make the determination required by Subsection (2)(a), the lieutenant governor shall review:

(i) the Senate shapefile; and

(ii) other relevant data such as aerial photographs, aerial maps, or other data about the area.

(c) Within five days of receipt of the request, the lieutenant governor shall:

(i) review the Senate shapefile;

(ii) review any relevant data; and

(iii) make a determination.

(d) When the lieutenant governor determines the location of the Senate district boundary, the lieutenant governor shall:

(i) prepare a certification identifying the appropriate Senate district boundary and attaching a map, if necessary; and

(ii) send a copy of the certification to:

(A) the affected party;

(B) the county clerk of the affected county; and

(C) the [~~Automated Geographic Reference Center~~] Utah Geospatial Resource Center created under Section 63F-1-506.

(e) If the lieutenant governor determines the number of the Senate district in which a particular [~~person~~] individual resides, the lieutenant governor shall send a letter identifying that district by number to:

(i) the [~~person~~] individual;

(ii) the affected party who filed the petition, if different than the [~~person~~] individual whose Senate district number was identified; and

(iii) the county clerk of the affected county.

Section 20. Section 36-1-202.2 is amended to read:

36-1-202.2. County clerk, Utah Geospatial Resource Center, and lieutenant governor

responsibilities -- Maps and voting precinct boundaries.

(1) As used in this section, "redistricting boundary data" means the House shapefile.

(2) Each county clerk shall obtain a copy of the redistricting boundary data for the clerk's county from the lieutenant governor's office.

(3) (a) A county clerk may create one or more county maps that identify the boundaries of House districts as generated from the redistricting boundary data.

(b) Before publishing or distributing any map or data created by the county clerk that identifies the boundaries of House districts within the county, the clerk shall submit the county map and data to the lieutenant governor and to the [~~Automated Geographic Reference Center~~] Utah Geospatial Resource Center for review.

(c) Within 30 days after receipt of a county map and data from a county clerk, the [~~Automated Geographic Reference Center~~] Utah Geospatial Resource Center shall:

(i) review the county map and data to evaluate if the county map and data accurately reflect the boundaries of House districts established by the Legislature in the redistricting boundary data;

(ii) determine whether the county map and data are correct or incorrect; and

(iii) communicate those findings to the lieutenant governor.

(d) The lieutenant governor shall either notify the county clerk that the county map and data are correct or notify the county clerk that the county map and data are incorrect.

(e) If the county clerk receives notice from the lieutenant governor that the county map and data submitted are incorrect, the county clerk shall:

(i) make the corrections necessary to conform the county map and data to the redistricting boundary data; and

(ii) resubmit the corrected county map and data to the lieutenant governor and to the [~~Automated Geographic Reference Center~~] Utah Geospatial Resource Center for a new review under this Subsection (3).

(4) (a) Subject to the requirements of this Subsection (4), each county clerk shall establish voting precincts and polling places within each House district according to the procedures and requirements of Section 20A-5-303.

(b) Within five working days after approval of voting precincts and polling places by the county legislative body as required by Section 20A-5-303, each county clerk shall submit a voting precinct map identifying the boundaries of each voting precinct within the county to the lieutenant governor and to the [~~Automated Geographic Reference Center~~] Utah Geospatial Resource Center for review.

(c) Within 30 days after receipt of a voting precinct map from a county clerk, the [~~Automated Geographic Reference Center~~] Utah Geospatial Resource Center shall:

(i) review the voting precinct map to evaluate if the county map accurately reflects the boundaries of House districts established by the Legislature in the redistricting boundary data;

(ii) determine whether the voting precinct map is correct or incorrect; and

(iii) communicate those findings to the lieutenant governor.

(d) The lieutenant governor shall either notify the county clerk that the voting precinct map is correct or notify the county clerk that the voting precinct map is incorrect.

(e) If the county clerk receives notice from the lieutenant governor that the voting precinct map is incorrect, the county clerk shall:

(i) make the corrections necessary to conform the voting precinct map to the redistricting boundary data; and

(ii) resubmit the corrected voting precinct map to the lieutenant governor and to the [~~Automated Geographic Reference Center~~] Utah Geospatial Resource Center for a new review under this Subsection (4).

Section 21. Section 36-1-204 is amended to read:

36-1-204. Uncertain boundaries -- How resolved.

(1) As used in this section:

(a) "Affected party" means:

(i) a representative whose Utah House of Representatives district boundary is uncertain because the feature used to establish the district boundary in the House shapefile has been removed, modified, or is unable to be identified or who is uncertain about whether [~~or not~~] the representative or another [~~person~~] individual resides in a particular House district;

(ii) a candidate for representative whose House district boundary is uncertain because the feature used to establish the district boundary in the House shapefile has been removed, modified, or is unable to be identified or who is uncertain about whether [~~or not~~] the candidate or another [~~person~~] individual resides in a particular House district; or

(iii) [~~a person~~] an individual who is uncertain about which House district contains the [~~person's~~] individual's residence because the feature used to establish the district boundary in the House shapefile has been removed, modified, or is unable to be identified.

(b) "Feature" means a geographic or other identifiable tangible or intangible object such as a road or political subdivision boundary that is used to establish a House district boundary.

(2) (a) An affected party may file a written request petitioning the lieutenant governor to determine:

(i) the precise location of the House district boundary;

(ii) the number of the House district in which [~~a person~~] an individual resides; or

(iii) both Subsections (2)(a)(i) and (ii).

(b) In order to make the determination required by Subsection (2)(a), the lieutenant governor shall review:

(i) the House shapefile; and

(ii) other relevant data such as aerial photographs, aerial maps, or other data about the area.

(c) Within five days of receipt of the request, the lieutenant governor shall:

(i) review the House shapefile;

(ii) review any relevant data; and

(iii) make a determination.

(d) When the lieutenant governor determines the location of the House district boundary, the lieutenant governor shall:

(i) prepare a certification identifying the appropriate House district boundary and attaching a map, if necessary; and

(ii) send a copy of the certification to:

(A) the affected party;

(B) the county clerk of the affected county; and

(C) the [~~Automated Geographic Reference Center~~] Utah Geospatial Resource Center created under Section 63F-1-506.

(e) If the lieutenant governor determines the number of the House district in which a particular [~~person~~] individual resides, the lieutenant governor shall send a letter identifying that district by number to:

(i) the [~~person~~] individual;

(ii) the affected party who filed the petition, if different than the [~~person~~] individual whose House district number was identified; and

(iii) the county clerk of the affected county.

Section 22. Section 53G-3-204 is amended to read:

53G-3-204. Notice before preparing or amending a long-range plan or acquiring certain property.

(1) As used in this section:

(a) "Affected entity" means each county, municipality, local district under Title 17B, Limited Purpose Local Government Entities - Local Districts, special service district under Title 17D, Chapter 1, Special Service District Act, interlocal cooperation entity established under Title 11, Chapter 13, Interlocal Cooperation Act, and specified public utility:

(i) whose services or facilities are likely to require expansion or significant modification because of an intended use of land; or

(ii) that has filed with the school district a copy of the general or long-range plan of the county, municipality, local district, special service district, school district, interlocal cooperation entity, or specified public utility.

(b) "Specified public utility" means an electrical corporation, gas corporation, or telephone corporation, as those terms are defined in Section 54-2-1.

(2) (a) If a school district located in a county of the first or second class prepares a long-range plan regarding [~~its~~] the school district's facilities proposed for the future or amends an already existing long-range plan, the school district shall, before preparing a long-range plan or amendments to an existing long-range plan, provide written notice, as provided in this section, of [~~its~~] the school district's intent to prepare a long-range plan or to amend an existing long-range plan.

(b) Each notice under Subsection (2)(a) shall:

(i) indicate that the school district intends to prepare a long-range plan or to amend a long-range plan, as the case may be;

(ii) describe or provide a map of the geographic area that will be affected by the long-range plan or amendments to a long-range plan;

(iii) be:

(A) sent to each county in whose unincorporated area and each municipality in whose boundaries is located the land on which the proposed long-range plan or amendments to a long-range plan are expected to indicate that the proposed facilities will be located;

(B) sent to each affected entity;

(C) sent to the [~~Automated Geographic Reference Center~~] Utah Geospatial Resource Center created in Section 63F-1-506;

(D) sent to each association of governments, established pursuant to an interlocal agreement under Title 11, Chapter 13, Interlocal Cooperation Act, of which a county or municipality described in Subsection (2)(b)(iii)(A) is a member; and

(E) placed on the Utah Public Notice Website created under Section 63F-1-701;

(iv) with respect to the notice to counties and municipalities described in Subsection (2)(b)(iii)(A) and affected entities, invite them to provide information for the school district to consider in the process of preparing, adopting, and implementing the long-range plan or amendments to a long-range plan concerning:

(A) impacts that the use of land proposed in the proposed long-range plan or amendments to a long-range plan may have on the county, municipality, or affected entity; and

(B) uses of land that the county, municipality, or affected entity is planning or considering that may

conflict with the proposed long-range plan or amendments to a long-range plan; and

(v) include the address of an Internet website, if the school district has one, and the name and telephone number of [~~a person~~] an individual where more information can be obtained concerning the school district's proposed long-range plan or amendments to a long-range plan.

(3) (a) Except as provided in Subsection (3)(d), each school district intending to acquire real property in a county of the first or second class for the purpose of expanding the district's infrastructure or other facilities shall provide written notice, as provided in this Subsection (3), of [~~its~~] the school district's intent to acquire the property if the intended use of the property is contrary to:

(i) the anticipated use of the property under the county or municipality's general plan; or

(ii) the property's current zoning designation.

(b) Each notice under Subsection (3)(a) shall:

(i) indicate that the school district intends to acquire real property;

(ii) identify the real property; and

(iii) be sent to:

(A) each county in whose unincorporated area and each municipality in whose boundaries the property is located; and

(B) each affected entity.

(c) A notice under this Subsection (3) is a protected record as provided in Subsection 63G-2-305(8).

(d) (i) The notice requirement of Subsection (3)(a) does not apply if the school district previously provided notice under Subsection (2) identifying the general location within the municipality or unincorporated part of the county where the property to be acquired is located.

(ii) If a school district is not required to comply with the notice requirement of Subsection (3)(a) because of application of Subsection (3)(d)(i), the school district shall provide the notice specified in Subsection (3)(a) as soon as practicable after [~~its~~] the school district's acquisition of the real property.

Section 23. Section 54-3-28 is amended to read:

54-3-28. Notice required of certain public utilities before preparing or amending a long-range plan or acquiring certain property.

(1) As used in this section:

(a) (i) "Affected entity" means each county, municipality, local district under Title 17B, Limited Purpose Local Government Entities - Local Districts, special service district, school district, interlocal cooperation entity established under Title 11, Chapter 13, Interlocal Cooperation Act, and specified public utility:

(A) whose services or facilities are likely to require expansion or significant modification because of expected uses of land under a proposed long-range plan or under proposed amendments to a long-range plan; or

(B) that has filed with the specified public utility a copy of the general or long-range plan of the county, municipality, local district, special service district, school district, interlocal cooperation entity, or specified public utility.

(ii) "Affected entity" does not include the specified public utility that is required under Subsection (2) to provide notice.

(b) "Specified public utility" means an electrical corporation, gas corporation, or telephone corporation, as those terms are defined in Section 54-2-1.

(2) (a) If a specified public utility prepares a long-range plan regarding [~~its~~] the specified public utility's facilities proposed for the future in a county of the first or second class or amends an already existing long-range plan, the specified public utility shall, before preparing a long-range plan or amendments to an existing long-range plan, provide written notice, as provided in this section, of [~~its~~] the specified public utility's intent to prepare a long-range plan or to amend an existing long-range plan.

(b) Each notice under Subsection (2) shall:

(i) indicate that the specified public utility intends to prepare a long-range plan or to amend a long-range plan, as the case may be;

(ii) describe or provide a map of the geographic area that will be affected by the long-range plan or amendments to a long-range plan;

(iii) be sent to:

(A) each county in whose unincorporated area and each municipality in whose boundaries is located the land on which the proposed long-range plan or amendments to a long-range plan are expected to indicate that the proposed facilities will be located;

(B) each affected entity;

(C) the [~~Automated Geographic Reference Center~~] Utah Geospatial Resource Center created in Section 63F-1-506;

(D) each association of governments, established pursuant to an interlocal agreement under Title 11, Chapter 13, Interlocal Cooperation Act, of which a county or municipality described in Subsection (2)(b)(iii)(A) is a member; and

(E) the state planning coordinator appointed under Section 63J-4-202;

(iv) with respect to the notice to counties and municipalities described in Subsection (2)(b)(iii)(A) and affected entities, invite them to provide information for the specified public utility to

consider in the process of preparing, adopting, and implementing the long-range plan or amendments to a long-range plan concerning:

(A) impacts that the use of land proposed in the proposed long-range plan or amendments to a long-range plan may have on the county, municipality, or affected entity; and

(B) uses of land that the county, municipality, or affected entity is planning or considering that may conflict with the proposed long-range plan or amendments to a long-range plan; and

(v) include the address of an Internet website, if the specified public utility has one, and the name and telephone number of [~~a person~~] an individual where more information can be obtained concerning the specified public utility's proposed long-range plan or amendments to a long-range plan.

(3) (a) Except as provided in Subsection (3)(d), each specified public utility intending to acquire real property in a county of the first or second class for the purpose of expanding [~~its~~] the specified public utility's infrastructure or other facilities used for providing the services that the specified public utility is authorized to provide shall provide written notice, as provided in this Subsection (3), of [~~its~~] the specified public utility's intent to acquire the property if the intended use of the property is contrary to:

(i) the anticipated use of the property under the county or municipality's general plan; or

(ii) the property's current zoning designation.

(b) Each notice under Subsection (3)(a) shall:

(i) indicate that the specified public utility intends to acquire real property;

(ii) identify the real property; and

(iii) be sent to:

(A) each county in whose unincorporated area and each municipality in whose boundaries the property is located; and

(B) each affected entity.

(c) A notice under this Subsection (3) is a protected record as provided in Subsection 63G-2-305(8).

(d) (i) The notice requirement of Subsection (3)(a) does not apply if the specified public utility previously provided notice under Subsection (2) identifying the general location within the municipality or unincorporated part of the county where the property to be acquired is located.

(ii) If a specified public utility is not required to comply with the notice requirement of Subsection (3)(a) because of application of Subsection (3)(d)(i), the specified public utility shall provide the notice specified in Subsection (3)(a) as soon as practicable after [~~its~~] the specified public utility's acquisition of the real property.

Section 24. Section 63F-1-502 is amended to read:

63F-1-502. Definitions.

As used in this part:

(1) "Center" means the [~~Automated Geographic Reference Center~~] Utah Geospatial Resource Center created in Section 63F-1-506.

(2) "Database" means the State Geographic Information Database created in Section 63F-1-507.

(3) "Geographic Information System" or "GIS" means a computer driven data integration and map production system that interrelates disparate layers of data to specific geographic locations.

(4) "State Geographic Information Database" means the database created in Section 63F-1-507.

(5) "Statewide Global Positioning Reference Network" or "network" means the network created in Section 63F-1-509.

Section 25. Section 63F-1-506 is amended to read:

63F-1-506. Utah Geospatial Resource Center.

(1) There is created the [~~Automated Geographic Reference Center~~] Utah Geospatial Resource Center as part of the division.

(2) The center shall:

(a) provide geographic information system services to state agencies under rules adopted in accordance with Section 63F-1-504 and policies established by the division;

(b) provide geographic information system services to federal government, local political subdivisions, and private persons under rules and policies established by the division;

(c) manage the State Geographic Information Database; and

(d) establish standard format, lineage, and other requirements for the database.

(3) (a) There is created a position of surveyor within the center.

(b) The surveyor under this Subsection (3) shall:

(i) be licensed as a professional land surveyor under Title 58, Chapter 22, Professional Engineers and Professional Land Surveyors Licensing Act;

(ii) provide technical support to the office of lieutenant governor in the lieutenant governor's evaluation under Section 67-1a-6.5 of a proposed boundary action, as defined in Section 17-23-20;

(iii) as requested by a county surveyor, provide technical assistance to the county surveyor with respect to the county surveyor's responsibilities under Section 17-23-20;

(iv) fulfill the duties described in Section 17-50-105, if engaged to do so as provided in that section;

(v) assist the State Tax Commission in processing and quality assurance of boundary descriptions or maps into digital format for inclusion in the State Geographic Information Database;

(vi) coordinate with county recorders and surveyors to create a statewide parcel layer in the State Geographic Information Database containing parcel boundary, parcel identifier, parcel address, owner type, and county recorder contact information; and

(vii) facilitate and integrate the collection efforts of local government and federal agencies for data collection to densify and enhance the statewide Public Land Survey System reference network in the State Geographic Information Database.

(4) The division may:

(a) make rules and establish policies to govern the center and [~~its~~] the center's operations; and

(b) set fees for the services provided by the center.

(5) The state may not sell information obtained from counties under Subsection (3)(b)(v).

Section 26. Section 63F-1-508 is amended to read:

63F-1-508. Committee to award grants to counties for inventory and mapping of R.S. 2477 rights-of-way -- Use of grants -- Request for proposals.

(1) There is created within the center a committee to award grants to counties to inventory and map R.S. 2477 rights-of-way, associated structures, and other features as provided by Subsection (5).

(2) (a) The committee shall consist of:

(i) the center manager;

(ii) a representative of the Governor's Office of Management and Budget;

(iii) a representative of Utah State University Extension;

(iv) a representative of the Utah Association of Counties; and

(v) three county commissioners.

(b) The committee members specified in Subsections (2)(a)(ii) through (2)(a)(iv) shall be selected by the organizations they represent.

(c) The committee members specified in Subsection (2)(a)(v) shall be:

(i) selected by the Utah Association of Counties;

(ii) from rural counties; and

(iii) from different regions of the state.

(3) (a) The committee shall select a chair from [~~its~~] the committee's membership.

(b) The committee shall meet upon the call of the chair or a majority of the committee members.

(c) Four members shall constitute a quorum.

(4) (a) Committee members who are state government employees shall receive no additional compensation for their work on the committee.

(b) Committee members who are not state government employees shall receive no compensation or expenses from the state for their work on the committee.

(5) (a) The committee shall award grants to counties to:

(i) inventory and map R.S. 2477 rights-of-way using Global Positioning System (GPS) technology; and

(ii) photograph:

(A) roads and other evidence of construction of R.S. 2477 rights-of-way;

(B) structures or natural features that may be indicative of the purpose for which an R.S. 2477 right-of-way was created, such as mines, agricultural facilities, recreational facilities, or scenic overlooks; and

(C) evidence of valid and existing rights on federal lands, such as mines and agricultural facilities.

(b) (i) The committee may allow counties, while they are conducting the activities described in Subsection (5)(a), to use grant money to inventory, map, or photograph other natural or cultural resources.

(ii) Activities funded under Subsection (5)(b)(i) must be integrated with existing programs underway by state agencies, counties, or institutions of higher education.

(c) Maps and other data acquired through the grants shall become a part of the State Geographic Information Database.

(d) Counties shall provide an opportunity to interested parties to submit information relative to the mapping and photographing of R.S. 2477 rights-of-way and other structures as provided in Subsections (5)(a) and (5)(b).

(6) (a) The committee shall develop a request for proposals process and issue a request for proposals.

(b) The request for proposals shall require each grant applicant to submit an implementation plan and identify any monetary or in-kind contributions from the county.

(c) In awarding grants, the committee shall give priority to proposals to inventory, map, and photograph R.S. 2477 rights-of-way and other structures as specified in Subsection (5)(a) which are located on federal lands that:

(i) a federal land management agency proposes for special management, such as lands to be managed as an area of critical environmental concern or primitive area; or

(ii) are proposed to receive a special designation by Congress, such as lands to be designated as wilderness or a national conservation area.

(7) Each county that receives a grant under the provision of this section shall provide a copy of all data regarding inventory and mapping to the [~~AGRC~~] Utah Geospatial Resource Center for inclusion in the state database.

Section 27. Section 63H-1-403 is amended to read:

63H-1-403. Notice of project area plan adoption -- Effective date of plan -- Contesting the formation of the plan.

(1) Upon the board's adoption of a project area plan, the board shall provide notice as provided in Subsection (1)(b) by publishing or causing to be published legal notice:

(a) in a newspaper of general circulation within or near the project area; and

(b) as required by Section 45-1-101.

(2) (a) Each notice under Subsection (1) shall include:

(i) the board resolution adopting the project area plan or a summary of the resolution; and

(ii) a statement that the project area plan is available for general public inspection and the hours for inspection.

(b) The statement required under Subsection (2)(a)(ii) may be included in the board resolution or summary described in Subsection (2)(a)(i).

(3) The project area plan becomes effective on the date designated in the board resolution adopting the project area plan.

(4) The authority shall make the adopted project area plan available to the general public at [~~its~~] the authority's offices during normal business hours.

(5) Within 10 days after the day on which a project area plan is adopted that establishes a project area, or after an amendment to a project area plan is adopted under which the boundary of a project area is modified, the authority shall send notice of the establishment or modification of the project area and an accurate map or plat of the project area to:

(a) the State Tax Commission;

(b) the [~~Automated Geographic Reference Center~~] Utah Geospatial Resource Center created in Section 63F-1-506; and

(c) the assessor and recorder of each county where the project area is located.

(6) (a) A legal action or other challenge to a project area plan or a project area described in a project area plan is barred unless brought within 30 days after the effective date of the project area plan.

(b) For a project area created before December 1, 2018, a legal action or other challenge is barred.

(c) For a project area created after December 1, 2018, and before May 14, 2019, a legal action or other challenge is barred after July 1, 2019.

Section 28. Section 63H-7a-304 is amended to read:

63H-7a-304. Unified Statewide 911 Emergency Service Account -- Creation -- Administration -- Permitted uses.

(1) There is created a restricted account within the General Fund known as the "Unified Statewide 911 Emergency Service Account," consisting of:

(a) proceeds from the fee imposed in Section 69-2-403;

(b) money appropriated or otherwise made available by the Legislature; and

(c) contributions of money, property, or equipment from federal agencies, political subdivisions of the state, persons, or corporations.

(2) (a) Except as provided in Subsection (4) and subject to Subsection (3) and appropriations by the Legislature, the authority shall disburse funds in the 911 account for the purpose of enhancing and maintaining the statewide public safety communications network and 911 call processing equipment in order to rapidly, efficiently, effectively, and with greater interoperability deliver 911 services in the state.

(b) In expending funds in the 911 account, the authority shall give a higher priority to an expenditure that:

(i) best promotes statewide public safety;

(ii) best promotes interoperability;

(iii) impacts the largest service territory;

(iv) impacts a densely populated area; or

(v) impacts an underserved area.

(c) The authority shall expend funds in the 911 account in accordance with the authority strategic plan described in Section 63H-7a-206.

(d) The authority may not expend funds from the 911 account collected through the 911 emergency service charge imposed in Section 69-2-403 on behalf of a PSAP that chooses not to participate in the:

(i) public safety communications network; and

(ii) the 911 emergency service defined in Section 69-2-102.

(e) The authority may not expend funds from the 911 account collected through the prepaid wireless 911 service charge revenue distributed in Subsection 69-2-405(9)(c) on behalf of a PSAP that chooses not to participate in the:

(i) public safety communications network; and

(ii) 911 emergency service defined in Section 69-2-102.

(f) The executive director shall recommend to the board expenditures for the authority to make from the 911 account in accordance with this Subsection (2).

(3) Subject to an appropriation by the Legislature and approval by the board, the Administrative

Services Division may use funds in the 911 account to cover the Administrative Services Division's administrative costs related to the 911 account.

(4) (a) The authority shall reimburse from the 911 account to the [~~Automated Geographic Reference Center~~] Utah Geospatial Resource Center created in Section 63F-1-506 an amount equal to up to 1 cent of each unified statewide 911 emergency service charge deposited into the 911 account under Section 69-2-403.

(b) The [~~Automated Geographic Reference Center~~] Utah Geospatial Resource Center shall use the funds reimbursed to the [~~Automated Geographic Reference Center~~] Utah Geospatial Resource Center under Subsection (4)(a) to:

(i) enhance and upgrade digital mapping standards; and

(ii) maintain a statewide geospatial database for unified statewide 911 emergency service.

Section 29. Section 63N-3-501 is amended to read:

63N-3-501. Infrastructure and broadband coordination.

(1) The office shall partner with the [~~Automated Geographic Reference Center~~] Utah Geospatial Resource Center created in Section 63F-1-506 to collect and maintain a database and interactive map that displays economic development data statewide, including:

(a) voluntarily submitted broadband availability, speeds, and other broadband data;

(b) voluntarily submitted public utility data;

(c) workforce data, including information regarding:

(i) enterprise zones designated under Section 63N-2-206;

(ii) business resource centers;

(iii) public institutions of higher education; and

(iv) procurement technical assistance centers;

(d) transportation data, which may include information regarding railway routes, commuter rail routes, airport locations, and major highways;

(e) lifestyle data, which may include information regarding state parks, national parks and monuments, United States Forest Service boundaries, ski areas, golf courses, and hospitals; and

(f) other relevant economic development data as determined by the office, including data provided by partner organizations.

(2) The office may:

(a) make recommendations to state and federal agencies, local governments, the governor, and the Legislature regarding policies and initiatives that promote the development of broadband-related infrastructure in the state and help implement those policies and initiatives;

(b) facilitate coordination between broadband providers and public and private entities;

(c) collect and analyze data on broadband availability and usage in the state, including Internet speed, capacity, the number of unique visitors, and the availability of broadband infrastructure throughout the state;

(d) create a voluntary broadband advisory committee, which shall include broadband providers and other public and private stakeholders, to solicit input on broadband-related policy guidance, best practices, and adoption strategies;

(e) work with broadband providers, state and local governments, and other public and private stakeholders to facilitate and encourage the expansion and maintenance of broadband infrastructure throughout the state; and

(f) in accordance with the requirements of Title 63J, Chapter 5, Federal Funds Procedures Act, and in accordance with federal requirements:

(i) apply for federal grants;

(ii) participate in federal programs; and

(iii) administer federally funded broadband-related programs.

Section 30. Section 67-1a-2.2 is amended to read:

67-1a-2.2. Residences in more than one district -- Lieutenant governor to resolve.

(1) If, in reviewing a map generated from a redistricting block assignment file, the lieutenant governor determines that a single-family or multi-family residence is within more than one Congressional, Senate, House, or State Board of Education district, the lieutenant governor may, by January 31, 2012, and in consultation with the [~~Automated Geographic Reference Center~~] Utah Geospatial Resource Center, determine the district to which the residence is assigned.

(2) In order to make the determination required by Subsection (1), the lieutenant governor shall review the block assignment file and other Bureau of the Census data and obtain and review other relevant data such as aerial photography or other data about the area.

(3) Upon making the determination authorized by this section, the lieutenant governor shall notify county clerks affected by the determination and the [~~Automated Geographic Reference Center~~] Utah Geospatial Resource Center created under Section 63F-1-506.

Section 31. Section 67-1a-6.5 is amended to read:

67-1a-6.5. Certification of local entity boundary actions -- Definitions -- Notice requirements -- Electronic copies -- Filing.

(1) As used in this section:

(a) "Applicable certificate" means:

(i) for the impending incorporation of a city, town, local district, conservation district, or incorporation of a local district from a reorganized special service district, a certificate of incorporation;

(ii) for the impending creation of a county, school district, special service district, community reinvestment agency, or interlocal entity, a certificate of creation;

(iii) for the impending annexation of territory to an existing local entity, a certificate of annexation;

(iv) for the impending withdrawal or disconnection of territory from an existing local entity, a certificate of withdrawal or disconnection, respectively;

(v) for the impending consolidation of multiple local entities, a certificate of consolidation;

(vi) for the impending division of a local entity into multiple local entities, a certificate of division;

(vii) for the impending adjustment of a common boundary between local entities, a certificate of boundary adjustment; and

(viii) for the impending dissolution of a local entity, a certificate of dissolution.

(b) "Approved final local entity plat" means a final local entity plat, as defined in Section 17-23-20, that has been approved under Section 17-23-20 as a final local entity plat by the county surveyor.

(c) "Approving authority" has the same meaning as defined in Section 17-23-20.

(d) "Boundary action" has the same meaning as defined in Section 17-23-20.

(e) "Center" means the [~~Automated Geographic Reference Center~~] Utah Geospatial Resource Center created under Section 63F-1-506.

(f) "Community reinvestment agency" has the same meaning as defined in Section 17C-1-102.

(g) "Conservation district" has the same meaning as defined in Section 17D-3-102.

(h) "Interlocal entity" has the same meaning as defined in Section 11-13-103.

(i) "Local district" has the same meaning as defined in Section 17B-1-102.

(j) "Local entity" means a county, city, town, school district, local district, community reinvestment agency, special service district, conservation district, or interlocal entity.

(k) "Notice of an impending boundary action" means a written notice, as described in Subsection (3), that provides notice of an impending boundary action.

(l) "Special service district" has the same meaning as defined in Section 17D-1-102.

(2) Within 10 days after receiving a notice of an impending boundary action, the lieutenant governor shall:

(a) (i) issue the applicable certificate, if:

(A) the lieutenant governor determines that the notice of an impending boundary action meets the requirements of Subsection (3); and

(B) except in the case of an impending local entity dissolution, the notice of an impending boundary action is accompanied by an approved final local entity plat;

(ii) send the applicable certificate to the local entity's approving authority;

(iii) return the original of the approved final local entity plat to the local entity's approving authority;

(iv) send a copy of the applicable certificate and approved final local entity plat to:

(A) the State Tax Commission;

(B) the center; and

(C) the county assessor, county surveyor, county auditor, and county attorney of each county in which the property depicted on the approved final local entity plat is located; and

(v) send a copy of the applicable certificate to the state auditor, if the boundary action that is the subject of the applicable certificate is:

(A) the incorporation or creation of a new local entity;

(B) the consolidation of multiple local entities;

(C) the division of a local entity into multiple local entities; or

(D) the dissolution of a local entity; or

(b) (i) send written notification to the approving authority that the lieutenant governor is unable to issue the applicable certificate, if:

(A) the lieutenant governor determines that the notice of an impending boundary action does not meet the requirements of Subsection (3); or

(B) the notice of an impending boundary action is:

(I) not accompanied by an approved final local entity plat; or

(II) accompanied by a plat or final local entity plat that has not been approved as a final local entity plat by the county surveyor under Section 17-23-20; and

(ii) explain in the notification under Subsection (2)(b)(i) why the lieutenant governor is unable to issue the applicable certificate.

(3) Each notice of an impending boundary action shall:

(a) be directed to the lieutenant governor;

(b) contain the name of the local entity or, in the case of an incorporation or creation, future local entity, whose boundary is affected or established by the boundary action;

(c) describe the type of boundary action for which an applicable certificate is sought;

(d) be accompanied by a letter from the Utah State Retirement Office, created under Section 49-11-201, to the approving authority that identifies the potential provisions under Title 49, Utah State Retirement and Insurance Benefit Act, that the local entity shall comply with, related to the boundary action, if the boundary action is an impending incorporation or creation of a local entity that may result in the employment of personnel; and

(e) (i) contain a statement, signed and verified by the approving authority, certifying that all requirements applicable to the boundary action have been met; or

(ii) in the case of the dissolution of a municipality, be accompanied by a certified copy of the court order approving the dissolution of the municipality.

(4) The lieutenant governor may require the approving authority to submit a paper or electronic copy of a notice of an impending boundary action and approved final local entity plat in conjunction with the filing of the original of those documents.

(5) (a) The lieutenant governor shall:

(i) keep, index, maintain, and make available to the public each notice of an impending boundary action, approved final local entity plat, applicable certificate, and other document that the lieutenant governor receives or generates under this section;

(ii) make a copy of each document listed in Subsection (5)(a)(i) available on the Internet for 12 months after the lieutenant governor receives or generates the document;

(iii) furnish a paper copy of any of the documents listed in Subsection (5)(a)(i) to any person who requests a paper copy; and

(iv) furnish a certified copy of any of the documents listed in Subsection (5)(a)(i) to any person who requests a certified copy.

(b) The lieutenant governor may charge a reasonable fee for a paper copy or certified copy of a document that the lieutenant governor provides under this Subsection (5).

Section 32. Section 72-5-304 is amended to read:

72-5-304. Mapping and survey requirements.

(1) The Department of Transportation, counties, and cities are not required to possess centerline surveys for R.S. 2477 rights-of-ways.

(2) To be accepted, highways within R.S. 2477 rights-of-way do not need to be included in the plats, descriptions, and maps of county roads required by Sections 72-3-105 and 72-3-107 or on the State Geographic Information Database, created in Section 63F-1-507, required to be maintained by Subsection (3).

(3) (a) The [~~Automated Geographic Reference Center~~] Utah Geospatial Resource Center, created in Section 63F-1-506, shall create and maintain a record of R.S. 2477 rights-of-way on the Geographic Information Database.

(b) The record of R.S. 2477 rights-of-way shall be based on information maintained by the Department of Transportation and cartographic, topographic, photographic, historical, and other data available to or maintained by the [~~Automated Geographic Reference Center~~] Utah Geospatial Resource Center.

(c) Agencies and political subdivisions of the state may provide additional information regarding R.S. 2477 rights-of-way when information is available.

Section 33. Section 72-5-309 is amended to read:

72-5-309. Acceptance of rights-of-way -- Notice of acknowledgment required.

(1) The governor or the governor's designee may assess whether the grant of the R.S. 2477 has been accepted with regard to any right-of-way so as to vest title of the right-of-way in the state and the applicable political subdivision as provided for in Section 72-5-103.

(2) If the governor or governor's designee concludes that the grant has been accepted as to any right-of-way, the governor or a designee shall issue a notice of acknowledgment of the acceptance of the R.S. 2477 grant as to that right-of-way.

(3) A notice of acknowledgment of the R.S. 2477 grant shall include:

(a) a statement of reasons for the acknowledgment;

(b) a general description of the right-of-way or rights-of-way subject to the notice of acknowledgment, including the county in which it is located, and notice of where a center-line description derived from Global Positioning System data may be viewed or obtained;

(c) a statement that the owner of the servient estate in the land over which the right-of-way or rights-of-way subject to the notice runs or any person with a competing dominant estate ownership claim may file a petition with the district court for a decision regarding the correctness or incorrectness of the acknowledgment; and

(d) a statement of the time limit provided in Section 72-5-310 for filing a petition.

(4) (a) (i) The governor or the governor's designee may record a notice of acknowledgment, and any supporting affidavit, map, or other document purporting to establish or affect the state's property interest in the right-of-way or rights-of-way, in the office of the county recorder in the county where the right-of-way or rights-of-way exist.

(ii) (A) A notice of acknowledgment recorded in the county recorder's office is not required to be accompanied by a paper copy of the center-line description.

(B) A paper copy of each center-line description together with the notice of acknowledgment shall be placed in the state archives created in Section 63A-12-101 and made available to the public upon request in accordance with Title 63G, Chapter 2, Government Records Access and Management Act.

(C) An electronic copy of the center-line description identified in a notice of acknowledgment shall be available upon request at:

(I) the county recorder's office; or

(II) the [~~Automated Geographic Reference Center~~] Utah Geospatial Resource Center created in Section 63F-1-506.

(b) A notice of acknowledgment recorded in the county recorder's office is conclusive evidence of acceptance of the R.S. 2477 grant upon:

(i) expiration of the 60-day period for filing a petition under Section 72-5-310 without the filing of a petition; or

(ii) a final court decision that the notice of acknowledgment was not incorrect.

Section 34. Revisor instructions.

The Legislature intends that the Office of Legislative Research and General Counsel, in preparing the Utah Code database for publication, on May 5, 2021, replace "Automated Geographic Reference Center" with "Utah Geospatial Resource Center" in any new language added to the Utah Code by legislation passed during the 2021 General Session.

CHAPTER 163
H. B. 262
Passed March 3, 2021
Approved March 16, 2021
Effective May 5, 2021

CHILDREN'S HEALTH INSURANCE AMENDMENTS

Chief Sponsor: Douglas R. Welton
Senate Sponsor: Michael K. McKell
Cosponsors: Suzanne Harrison
Mike Winder

LONG TITLE

General Description:

This bill creates the Children's Health Care Coverage Program.

Highlighted Provisions:

This bill:

- amends provisions relating to outreach to promote health insurance coverage for children;
- creates the Children's Health Care Coverage Program;
- describes the purposes of the program created in this bill;
- creates the Children's Health Care Coverage Program Restricted Account; and
- establishes a sunset date.

Monies Appropriated in this Bill:

This bill appropriates in fiscal year 2022:

- to Department of Health Children's Health Insurance Program, as an ongoing appropriation:
  - from the General Fund, Ongoing, $172,500.

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

26-18-15, as enacted by Laws of Utah 2008, Chapter 390
63I-1-226, as last amended by Laws of Utah 2020, Chapters 19, 154, 172, 181, 221, 232, 303, 347, and 429

ENACTS:

26-18-27, Utah Code Annotated 1953

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

Section 1. Section 26-18-15 is amended to read:

26-18-15. Process to promote health insurance coverage for children.

(1) The department, in collaboration with the Department of Workforce Services[~~,~~] and the State Board of Education, [~~and the department shall: (a) collaborate with one another to~~] shall develop a process to promote health insurance coverage for a child in school when:

[~~(i)~~] (a) the child applies for free or reduced price school lunch;

[~~(ii)~~] (b) a child enrolls in or registers in school; and

[~~(iii)~~] (c) other appropriate school related opportunities[~~;~~].

[~~(b) report to the Legislature on the development of the process under Subsection (1)(a) no later than November 19, 2008; and~~]

[~~(c) implement the process developed under Subsection (1)(a) no later than the 2009-10 school year.~~]

(2) The department, in collaboration with the Department of Workforce Services, shall promote and facilitate the enrollment of children identified under Subsection (1)[~~(a)~~] without health insurance in the Utah Children's Health Insurance Program, the Medicaid program, or the Utah Premium Partnership for Health Insurance Program.

Section 2. Section 26-18-27 is enacted to read:

26-18-27. Children's Health Care Coverage Program.

(1) As used in this section:

(a) "CHIP" means the Children's Health Insurance Program created in Section 26-40-103.

(b) "Program" means the Children's Health Care Coverage Program created in Subsection (2).

(2) (a) There is created the Children's Health Care Coverage Program within the department.

(b) The purpose of the program is to:

(i) promote health insurance coverage for children in accordance with Section 26-18-15;

(ii) conduct research regarding families who are eligible for Medicaid and CHIP to determine awareness and understanding of available coverage;

(iii) analyze trends in disenrollment and identify reasons that families may not be renewing enrollment, including any barriers in the process of renewing enrollment;

(iv) administer surveys to recently enrolled CHIP and children's Medicaid enrollees to identify:

(A) how the enrollees learned about coverage; and

(B) any barriers during the application process;

(v) develop promotional material regarding CHIP and children's Medicaid eligibility, including outreach through social media, video production, and other media platforms;

(vi) identify ways that the eligibility website for enrollment in CHIP and children's Medicaid can be redesigned to increase accessibility and enhance the user experience;

(vii) identify outreach opportunities, including partnerships with community organizations including:

(A) schools;

(B) small businesses;

(C) unemployment centers;

(D) parent-teacher associations; and

(E) youth athlete clubs and associations; and

(viii) develop messaging to increase awareness of coverage options that are available through the department.

(3) (a) The department may not delegate implementation of the program to a private entity.

(b) Notwithstanding Subsection (3)(a), the department may contract with a media agency to conduct the activities described in Subsection (2)(b)(iv) and (vii).

Section 3. Section 63I-1-226 is amended to read:

63I-1-226. Repeal dates, Title 26.

(1) Subsection 26-1-7(1)(f), related to the Residential Child Care Licensing Advisory Committee, is repealed July 1, 2024.

(2) Subsection 26-1-7(1)(h), related to the Primary Care Grant Committee, is repealed July 1, 2025.

(3) Section 26-1-7.5, which creates the Utah Health Advisory Council, is repealed July 1, 2025.

(4) Section 26-1-40 is repealed July 1, 2022.

(5) Section 26-1-41 is repealed July 1, 2026.

(6) Section 26-7-10 is repealed July 1, 2025.

(7) Subsection 26-7-11(5), regarding reports to the Legislature, is repealed July 1, 2028.

(8) Section 26-7-14 is repealed December 31, 2027.

(9) Title 26, Chapter 9f, Utah Digital Health Service Commission Act, is repealed July 1, 2025.

(10) Subsection 26-10-6(5), which creates the Newborn Hearing Screening Committee, is repealed July 1, 2026.

(11) Section 26-10-11 is repealed July 1, 2025.

(12) Section 26-10b-106, which creates the Primary Care Grant Committee, is repealed July 1, 2025.

(13) Section 26-18-27 is repealed July 1, 2025.

[~~(13)~~] (14) Title 26, Chapter 18, Part 2, Drug Utilization Review Board, is repealed July 1, 2027.

[~~(14) Subsection 26-18-417(3) relating to a report to the Health and Human services Interim Committee is repealed July 1, 2020.~~]

(15) Subsection 26-18-418(2), the language that states "and the Behavioral Health Crisis Response Commission created in Section 63C-18-202" is repealed July 1, 2023.

(16) Title 26, Chapter 18a, Kurt Oscarson Children's Organ Transplant Coordinating Committee, is repealed July 1, 2021.

(17) Section 26-33a-117 is repealed on December 31, 2023.

(18) Title 26, Chapter 33a, Utah Health Data Authority Act, is repealed July 1, 2024.

(19) Title 26, Chapter 36b, Inpatient Hospital Assessment Act, is repealed July 1, 2024.

(20) Title 26, Chapter 36c, Medicaid Expansion Hospital Assessment Act, is repealed July 1, 2024.

(21) Title 26, Chapter 36d, Hospital Provider Assessment Act, is repealed July 1, 2024.

(22) Section 26-39-201, which creates the Residential Child Care Licensing Advisory Committee, is repealed July 1, 2024.

(23) Section 26-40-104, which creates the Utah Children's Health Insurance Program Advisory Council, is repealed July 1, 2025.

(24) Section 26-50-202, which creates the Traumatic Brain Injury Advisory Committee, is repealed July 1, 2025.

(25) Title 26, Chapter 54, Spinal Cord and Brain Injury Rehabilitation Fund and Pediatric Neuro-Rehabilitation Fund, is repealed January 1, 2025.

(26) Title 26, Chapter 63, Nurse Home Visiting Pay-for-Success Program, is repealed July 1, 2026.

(27) Title 26, Chapter 66, Early Childhood Utah Advisory Council, is repealed July 1, 2026.

Section 4. Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2021, and ending June 30, 2022. These are additions to amounts previously appropriated for fiscal year 2022.

Subsection 4(a). Operating and Capital Budgets.

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

To Department of Health -- Children's Health Insurance Program

From General Fund, Ongoing	$172,500

Schedule of Programs:

Children's Health Care Coverage Program	$172,500

CHAPTER 164
H. B. 264
Passed March 5, 2021
Approved March 16, 2021
Effective May 5, 2021

LAW ENFORCEMENT WEAPONS USE AMENDMENTS

Chief Sponsor: Angela Romero
Senate Sponsor: Todd D. Weiler

LONG TITLE

General Description:

This bill requires a law enforcement officer to file a report after pointing a firearm or a conductive energy device at an individual.

Highlighted Provisions:

This bill:

- defines terms;
- requires a law enforcement officer to file a report after pointing a firearm or a conductive energy device at an individual;
- provides procedures for submitting a report;
- requires supervisory review of a report; and
- provides exceptions.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

53-13-116, Utah Code Annotated 1953

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

Section 1. Section 53-13-116 is enacted to read:

53-13-116. Report required after pointing a firearm at an individual.

(1) As used in this section:

(a) "Conductive energy device" means a weapon that uses electrical current to disrupt voluntary control of muscles.

(b) "Firearm" means the same as that term is defined in Section 76-10-501.

(c) "Law enforcement officer" means the same as that term is defined in Section 53-13-103.

(d) "Officer-involved critical incident" means the same as that term is defined in Section 76-2-408.

(2) A law enforcement officer shall file a report described in Subsection (3) if, during the performance of the officer's duties:

(a) the officer points a firearm at an individual; or

(b) the officer aims a conductive energy device at an individual and displays the electrical current.

(3) (a) A report described in Subsection (2) shall include:

(i) a description of the incident;

(ii) the identification of the individuals involved in the incident; and

(iii) any other information required by the law enforcement agency.

(b) A law enforcement officer shall submit a report required under Subsection (2) to the officer's law enforcement agency within 48 hours after the incident.

(4) A supervisory law enforcement officer shall review a report submitted under Subsection (3)(b).

(5) This section does not apply to:

(a) law enforcement training exercises; or

(b) an officer who, as part of an officer-involved critical incident, engaged in conduct described under Subsection (2)(a) or (2)(b).

CHAPTER 165
H. B. 265
Passed March 5, 2021
Approved March 16, 2021
Effective May 5, 2021

PHARMACY SOFTWARE AMENDMENTS

Chief Sponsor: Rosemary T. Lesser
Senate Sponsor: Evan J. Vickers
Cosponsors: Cheryl K. Acton
Stewart E. Barlow
Stephen G. Handy
Suzanne Harrison
Candice B. Pierucci
Elizabeth Weight

LONG TITLE

General Description:

This bill amends provisions relating to an electronic prescription for a controlled substance.

Highlighted Provisions:

This bill:

- requires a pharmacy software system that receives electronic prescriptions for a controlled substance to allow an unfilled prescription to be transferred to a different pharmacy; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

58-37-6, as last amended by Laws of Utah 2020, Chapter 81

ENACTS:

58-37-22, Utah Code Annotated 1953

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

Section 1. Section 58-37-6 is amended to read:

58-37-6. License to manufacture, produce, distribute, dispense, administer, or conduct research -- Issuance by division -- Denial, suspension, or revocation -- Records required -- Prescriptions.

(1) (a) The division may adopt rules relating to the licensing and control of the manufacture, distribution, production, prescription, administration, dispensing, conducting of research with, and performing of laboratory analysis upon controlled substances within this state.

(b) The division may assess reasonable fees to defray the cost of issuing original and renewal licenses under this chapter pursuant to Section 63J-1-504.

(2) (a) (i) Every person who manufactures, produces, distributes, prescribes, dispenses, administers, conducts research with, or performs laboratory analysis upon any controlled substance in Schedules I through V within this state, or who proposes to engage in manufacturing, producing, distributing, prescribing, dispensing, administering, conducting research with, or performing laboratory analysis upon controlled substances included in Schedules I through V within this state shall obtain a license issued by the division.

(ii) The division shall issue each license under this chapter in accordance with a two-year renewal cycle established by rule. The division may by rule extend or shorten a renewal period by as much as one year to stagger the renewal cycles it administers.

(b) Persons licensed to manufacture, produce, distribute, prescribe, dispense, administer, conduct research with, or perform laboratory analysis upon controlled substances in Schedules I through V within this state may possess, manufacture, produce, distribute, prescribe, dispense, administer, conduct research with, or perform laboratory analysis upon those substances to the extent authorized by their license and in conformity with this chapter.

(c) The following persons are not required to obtain a license and may lawfully possess controlled substances included in Schedules II through V under this section:

(i) an agent or employee, except a sales representative, of any registered manufacturer, distributor, or dispenser of any controlled substance, if the agent or employee is acting in the usual course of the agent or employee's business or employment; however, nothing in this subsection shall be interpreted to permit an agent, employee, sales representative, or detail man to maintain an inventory of controlled substances separate from the location of the person's employer's registered and licensed place of business;

(ii) a motor carrier or warehouseman, or an employee of a motor carrier or warehouseman, who possesses a controlled substance in the usual course of the person's business or employment; and

(iii) an ultimate user, or a person who possesses any controlled substance pursuant to a lawful order of a practitioner.

(d) The division may enact rules waiving the license requirement for certain manufacturers, producers, distributors, prescribers, dispensers, administrators, research practitioners, or laboratories performing analysis if waiving the license requirement is consistent with public health and safety.

(e) A separate license is required at each principal place of business or professional practice where the applicant manufactures, produces, distributes, dispenses, conducts research with, or performs laboratory analysis upon controlled substances.

(f) The division may enact rules providing for the inspection of a licensee or applicant's establishment, and may inspect the establishment according to those rules.

(3) (a) (i) Upon proper application, the division shall license a qualified applicant to manufacture,

produce, distribute, conduct research with, or perform laboratory analysis upon controlled substances included in Schedules I through V, unless it determines that issuance of a license is inconsistent with the public interest.

(ii) The division may not issue a license to any person to prescribe, dispense, or administer a Schedule I controlled substance except under Subsection (3)(a)(i).

(iii) In determining public interest under this Subsection (3)(a), the division shall consider whether the applicant has:

(A) maintained effective controls against diversion of controlled substances and any Schedule I or II substance compounded from any controlled substance into channels other than legitimate medical, scientific, or industrial channels;

(B) complied with applicable state and local law;

(C) been convicted under federal or state laws relating to the manufacture, distribution, or dispensing of substances;

(D) past experience in the manufacture of controlled dangerous substances;

(E) established effective controls against diversion; and

(F) complied with any other factors that the division establishes that promote the public health and safety.

(b) Licenses granted under Subsection (3)(a) do not entitle a licensee to manufacture, produce, distribute, conduct research with, or perform laboratory analysis upon controlled substances in Schedule I other than those specified in the license.

(c) (i) Practitioners shall be licensed to administer, dispense, or conduct research with substances in Schedules II through V if they are authorized to administer, dispense, or conduct research under the laws of this state.

(ii) The division need not require a separate license for practitioners engaging in research with nonnarcotic controlled substances in Schedules II through V where the licensee is already licensed under this chapter in another capacity.

(iii) With respect to research involving narcotic substances in Schedules II through V, or where the division by rule requires a separate license for research of nonnarcotic substances in Schedules II through V, a practitioner shall apply to the division prior to conducting research.

(iv) Licensing for purposes of bona fide research with controlled substances by a practitioner considered qualified may be denied only on a ground specified in Subsection (4), or upon evidence that the applicant will abuse or unlawfully transfer or fail to safeguard adequately the practitioner's supply of substances against diversion from medical or scientific use.

(v) Practitioners registered under federal law to conduct research in Schedule I substances may conduct research in Schedule I substances within this state upon providing the division with evidence of federal registration.

(d) Compliance by manufacturers, producers, and distributors with the provisions of federal law respecting registration, excluding fees, entitles them to be licensed under this chapter.

(e) The division shall initially license those persons who own or operate an establishment engaged in the manufacture, production, distribution, dispensation, or administration of controlled substances prior to April 3, 1980, and who are licensed by the state.

(4) (a) Any license issued pursuant to Subsection (2) or (3) may be denied, suspended, placed on probation, or revoked by the division upon finding that the applicant or licensee has:

(i) materially falsified any application filed or required pursuant to this chapter;

(ii) been convicted of an offense under this chapter or any law of the United States, or any state, relating to any substance defined as a controlled substance;

(iii) been convicted of a felony under any other law of the United States or any state within five years of the date of the issuance of the license;

(iv) had a federal registration or license denied, suspended, or revoked by competent federal authority and is no longer authorized to manufacture, distribute, prescribe, or dispense controlled substances;

(v) had the licensee's license suspended or revoked by competent authority of another state for violation of laws or regulations comparable to those of this state relating to the manufacture, distribution, or dispensing of controlled substances;

(vi) violated any division rule that reflects adversely on the licensee's reliability and integrity with respect to controlled substances;

(vii) refused inspection of records required to be maintained under this chapter by a person authorized to inspect them; or

(viii) prescribed, dispensed, administered, or injected an anabolic steroid for the purpose of manipulating human hormonal structure so as to:

(A) increase muscle mass, strength, or weight without medical necessity and without a written prescription by any practitioner in the course of the practitioner's professional practice; or

(B) improve performance in any form of human exercise, sport, or game.

(b) The division may limit revocation or suspension of a license to a particular controlled substance with respect to which grounds for revocation or suspension exist.

(c) (i) Proceedings to deny, revoke, or suspend a license shall be conducted pursuant to this section

and in accordance with the procedures set forth in Title 58, Chapter 1, Division of Occupational and Professional Licensing Act, and conducted in conjunction with the appropriate representative committee designated by the director of the department.

(ii) Nothing in this Subsection (4)(c) gives the Division of Occupational and Professional Licensing exclusive authority in proceedings to deny, revoke, or suspend licenses, except where the division is designated by law to perform those functions, or, when not designated by law, is designated by the executive director of the Department of Commerce to conduct the proceedings.

(d) (i) The division may suspend any license simultaneously with the institution of proceedings under this section if it finds there is an imminent danger to the public health or safety.

(ii) Suspension shall continue in effect until the conclusion of proceedings, including judicial review, unless withdrawn by the division or dissolved by a court of competent jurisdiction.

(e) (i) If a license is suspended or revoked under this Subsection (4), all controlled substances owned or possessed by the licensee may be placed under seal in the discretion of the division.

(ii) Disposition may not be made of substances under seal until the time for taking an appeal has lapsed, or until all appeals have been concluded, unless a court, upon application, orders the sale of perishable substances and the proceeds deposited with the court.

(iii) If a revocation order becomes final, all controlled substances shall be forfeited.

(f) The division shall notify promptly the Drug Enforcement Administration of all orders suspending or revoking a license and all forfeitures of controlled substances.

(g) If an individual's Drug Enforcement Administration registration is denied, revoked, surrendered, or suspended, the division shall immediately suspend the individual's controlled substance license, which shall only be reinstated by the division upon reinstatement of the federal registration, unless the division has taken further administrative action under Subsection (4)(a)(iv), which would be grounds for the continued denial of the controlled substance license.

(5) (a) A person licensed under Subsection (2) or (3) shall maintain records and inventories in conformance with the record keeping and inventory requirements of federal and state law and any additional rules issued by the division.

(b) (i) A physician, dentist, naturopathic physician, veterinarian, practitioner, or other individual who is authorized to administer or professionally use a controlled substance shall keep a record of the drugs received by the individual and a record of all drugs administered, dispensed, or professionally used by the individual otherwise than by a prescription.

(ii) An individual using small quantities or solutions or other preparations of those drugs for local application has complied with this Subsection (5)(b) if the individual keeps a record of the quantity, character, and potency of those solutions or preparations purchased or prepared by the individual, and of the dates when purchased or prepared.

(6) Controlled substances in Schedules I through V may be distributed only by a licensee and pursuant to an order form prepared in compliance with division rules or a lawful order under the rules and regulations of the United States.

(7) (a) An individual may not write or authorize a prescription for a controlled substance unless the individual is:

(i) a practitioner authorized to prescribe drugs and medicine under the laws of this state or under the laws of another state having similar standards; and

(ii) licensed under this chapter or under the laws of another state having similar standards.

(b) An individual other than a pharmacist licensed under the laws of this state, or the pharmacist's licensed intern, as required by Sections 58-17b-303 and 58-17b-304, may not dispense a controlled substance.

(c) (i) A controlled substance may not be dispensed without the written prescription of a practitioner, if the written prescription is required by the federal Controlled Substances Act.

(ii) That written prescription shall be made in accordance with Subsection (7)(a) and in conformity with Subsection (7)(d).

(iii) In emergency situations, as defined by division rule, controlled substances may be dispensed upon oral prescription of a practitioner, if reduced promptly to writing on forms designated by the division and filed by the pharmacy.

(iv) Prescriptions reduced to writing by a pharmacist shall be in conformity with Subsection (7)(d).

(d) Except for emergency situations designated by the division, an individual may not issue, fill, compound, or dispense a prescription for a controlled substance unless the prescription is signed by the prescriber in ink or indelible pencil or is signed with an electronic signature of the prescriber as authorized by division rule, and contains the following information:

(i) the name, address, and registry number of the prescriber;

(ii) the name, address, and age of the person to whom or for whom the prescription is issued;

(iii) the date of issuance of the prescription; and

(iv) the name, quantity, and specific directions for use by the ultimate user of the controlled substance.

(e) A prescription may not be written, issued, filled, or dispensed for a Schedule I controlled substance unless:

(i) the individual who writes the prescription is licensed under Subsection (2); and

(ii) the prescribed controlled substance is to be used in research.

(f) Except when administered directly to an ultimate user by a licensed practitioner, controlled substances are subject to the restrictions of this Subsection (7)(f).

(i) A prescription for a Schedule II substance may not be refilled.

(ii) A Schedule II controlled substance may not be filled in a quantity to exceed a one-month's supply, as directed on the daily dosage rate of the prescriptions.

(iii) (A) Except as provided in Subsection (7)(f)(iii)(B), a prescription for a Schedule II or Schedule III controlled substance that is an opiate and that is issued for an acute condition shall be completely or partially filled in a quantity not to exceed a seven-day supply as directed on the daily dosage rate of the prescription.

(B) Subsection (7)(f)(iii)(A) does not apply to a prescription issued for a surgery when the practitioner determined that a quantity exceeding seven days is needed, in which case the practitioner may prescribe up to a 30-day supply, with a partial fill at the discretion of the practitioner.

(C) Subsection (7)(f)(iii)(A) does not apply to prescriptions issued for complex or chronic conditions which are documented as being complex or chronic in the medical record.

(D) A pharmacist is not required to verify that a prescription is in compliance with Subsection (7)(f)(iii).

(iv) A Schedule III or IV controlled substance may be filled only within six months of issuance, and may not be refilled more than six months after the date of its original issuance or be refilled more than five times after the date of the prescription unless renewed by the practitioner.

(v) All other controlled substances in Schedule V may be refilled as the prescriber's prescription directs, but they may not be refilled one year after the date the prescription was issued unless renewed by the practitioner.

(vi) Any prescription for a Schedule II substance may not be dispensed if it is not presented to a pharmacist for dispensing by a pharmacist or a pharmacy intern within 30 days after the date the prescription was issued, or 30 days after the dispensing date, if that date is specified separately from the date of issue.

(vii) A practitioner may issue more than one prescription at the same time for the same Schedule II controlled substance, but only under the following conditions:

(A) no more than three prescriptions for the same Schedule II controlled substance may be issued at the same time;

(B) no one prescription may exceed a 30-day supply; and

(C) a second or third prescription shall include the date of issuance and the date for dispensing.

[~~(g) (i) Beginning January 1, 2022, each prescription issued for a controlled substance shall be transmitted electronically as an electronic prescription unless the prescription is:~~]

[~~(A) for a patient residing in an assisted living facility as that term is defined in Section 26-21-2, a long-term care facility as that term is defined in Section 58-31b-102, or a correctional facility as that term is defined in Section 64-13-1;~~]

[~~(B) issued by a veterinarian licensed under Title 58, Chapter 28, Veterinary Practice Act;~~]

[~~(C) dispensed by a Department of Veterans Affairs pharmacy;~~]

[~~(D) issued during a temporary technical or electronic failure at the practitioner's or pharmacy's location; or~~]

[~~(E) issued in an emergency situation.~~]

[~~(ii) The division, in collaboration with the appropriate boards that govern the licensure of the licensees who are authorized by the division to prescribe or to dispense controlled substances, shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act to:~~]

[~~(A) require that controlled substances prescribed or dispensed under Subsection (7)(g)(i)(D) indicate on the prescription that the prescribing practitioner or the pharamacy is experiencing a technical difficulty or an electronic failure;~~]

[~~(B) define an emergency situation for purposes of Subsection (7)(g)(i)(E);~~]

[~~(C) establish additional exemptions to the electronic prescription requirements established in this Subsection (7)(g);~~]

[~~(D) establish guidelines under which a prescribing practitioner or a pharmacy may obtain an extension of up to two additional years to comply with Subsection (7)(g)(i);~~]

[~~(E) establish a protocol to follow if the pharmacy that receives the electronic prescription is not able to fill the prescription; and~~]

[~~(F) establish requirements that comply with federal laws and regulations for software used to issue and dispense electronic prescriptions.~~]

[~~(h)~~] (g) An order for a controlled substance in Schedules II through V for use by an inpatient or an outpatient of a licensed hospital is exempt from all requirements of this Subsection (7) if the order is:

(i) issued or made by a prescribing practitioner who holds an unrestricted registration with the federal Drug Enforcement Administration, and an

active Utah controlled substance license in good standing issued by the division under this section, or a medical resident who is exempted from licensure under Subsection 58-1-307(1)(c);

(ii) authorized by the prescribing practitioner treating the patient and the prescribing practitioner designates the quantity ordered;

(iii) entered upon the record of the patient, the record is signed by the prescriber affirming the prescriber's authorization of the order within 48 hours after filling or administering the order, and the patient's record reflects the quantity actually administered; and

(iv) filled and dispensed by a pharmacist practicing the pharmacist's profession within the physical structure of the hospital, or the order is taken from a supply lawfully maintained by the hospital and the amount taken from the supply is administered directly to the patient authorized to receive it.

[~~(i)~~] (h) A practitioner licensed under this chapter may not prescribe, administer, or dispense a controlled substance to a child, without first obtaining the consent required in Section 78B-3-406 of a parent, guardian, or person standing in loco parentis of the child except in cases of an emergency. For purposes of Subsection (7)[~~(i)~~](h), "child" has the same meaning as defined in Section 78A-6-105, and "emergency" means any physical condition requiring the administration of a controlled substance for immediate relief of pain or suffering.

[~~(j)~~] (i) A practitioner licensed under this chapter may not prescribe or administer dosages of a controlled substance in excess of medically recognized quantities necessary to treat the ailment, malady, or condition of the ultimate user.

[~~(k)~~] (j) A practitioner licensed under this chapter may not prescribe, administer, or dispense any controlled substance to another person knowing that the other person is using a false name, address, or other personal information for the purpose of securing the controlled substance.

[~~(l)~~] (k) A person who is licensed under this chapter to manufacture, distribute, or dispense a controlled substance may not manufacture, distribute, or dispense a controlled substance to another licensee or any other authorized person not authorized by this license.

[~~(m)~~] (l) A person licensed under this chapter may not omit, remove, alter, or obliterate a symbol required by this chapter or by a rule issued under this chapter.

[~~(n)~~] (m) A person licensed under this chapter may not refuse or fail to make, keep, or furnish any record notification, order form, statement, invoice, or information required under this chapter.

[~~(o)~~] (n) A person licensed under this chapter may not refuse entry into any premises for inspection as authorized by this chapter.

[~~(p)~~] (o) A person licensed under this chapter may not furnish false or fraudulent material information in any application, report, or other document required to be kept by this chapter or willfully make any false statement in any prescription, order, report, or record required by this chapter.

(8) (a) (i) Any person licensed under this chapter who is found by the division to have violated any of the provisions of Subsections (7)(k) through (o) or Subsection (10) is subject to a penalty not to exceed $5,000. The division shall determine the procedure for adjudication of any violations in accordance with Sections 58-1-106 and 58-1-108.

(ii) The division shall deposit all penalties collected under Subsection (8)(a)(i) [~~in~~] into the General Fund as a dedicated credit to be used by the division under Subsection 58-37f-502(1).

(iii) The director may collect a penalty that is not paid by:

(A) referring the matter to a collection agency; or

(B) bringing an action in the district court of the county where the person against whom the penalty is imposed resides or in the county where the office of the director is located.

(iv) A county attorney or the attorney general of the state shall provide legal assistance and advice to the director in an action to collect a penalty.

(v) A court shall award reasonable attorney fees and costs to the prevailing party in an action brought by the division to collect a penalty.

(b) Any person who knowingly and intentionally violates Subsections (7)(h) through (j) or Subsection (10) is:

(i) upon first conviction, guilty of a class B misdemeanor;

(ii) upon second conviction, guilty of a class A misdemeanor; and

(iii) on third or subsequent conviction, guilty of a third degree felony.

(c) Any person who knowingly and intentionally violates Subsections (7)(k) through (o) shall upon conviction be guilty of a third degree felony.

(9) Any information communicated to any licensed practitioner in an attempt to unlawfully procure, or to procure the administration of, a controlled substance is not considered to be a privileged communication.

(10) A person holding a valid license under this chapter who is engaged in medical research may produce, possess, administer, prescribe, or dispense a controlled substance for research purposes as licensed under Subsection (2) but may not otherwise prescribe or dispense a controlled substance listed in Section 58-37-4.2.

Section 2. Section 58-37-22 is enacted to read:

58-37-22. Electronic prescriptions for controlled substances.

(1) Beginning January 1, 2022, each prescription issued for a controlled substance shall be transmitted electronically as an electronic prescription unless the prescription is:

(a) for a patient residing in an assisted living facility as that term is defined in Section 26-21-2, a long-term care facility as that term is defined in Section 58-31b-102, or a correctional facility as that term is defined in Section 64-13-1;

(b) issued by a veterinarian licensed under Title 58, Chapter 28, Veterinary Practice Act;

(c) dispensed by a Department of Veterans Affairs pharmacy;

(d) issued during a temporary technical or electronic failure at the practitioner's or pharmacy's location; or

(e) issued in an emergency situation.

(2) The division, in collaboration with the appropriate boards that govern the licensure of the licensees who are authorized by the division to prescribe or to dispense controlled substances, shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:

(a) require that controlled substances prescribed or dispensed under Subsection (1)(d) indicate on the prescription that the prescribing practitioner or the pharmacy is experiencing a technical difficulty or an electronic failure;

(b) define an emergency situation for purposes of Subsection (1)(e);

(c) establish additional exemptions to the electronic prescription requirements established in this section;

(d) establish guidelines under which a prescribing practitioner or a pharmacy may obtain an extension of up to two additional years to comply with Subsection (1);

(e) establish a protocol to follow if the pharmacy that receives the electronic prescription is not able to fill the prescription; and

(f) establish requirements that comply with federal laws and regulations for software used to issue and dispense electronic prescriptions.

(3) Beginning July 1, 2024, a pharmacy software program for receiving an electronic prescription for a controlled substance shall be capable of electronically transferring a prescription to a different pharmacy:

(a) upon the request of the patient or the practitioner;

(b) with the approval of a pharmacist at the originating pharmacy; and

(c) if the prescription is unfilled.

CHAPTER 166
H. B. 267
Passed March 5, 2021
Approved March 16, 2021
Effective May 5, 2021

VOLUNTARY LETHAL MEANS RESTRICTIONS AMENDMENTS

Chief Sponsor: Steve Eliason
Senate Sponsor: Michael S. Kennedy

LONG TITLE

General Description:

This bill creates a voluntary process for an individual to restrict the individual's ability to purchase a firearm.

Highlighted Provisions:

This bill:

- requires the Bureau of Criminal Identification to create a process and forms to allow a non-restricted individual to voluntarily become a restricted individual for a limited period of time;
- requires the individual to acknowledge the consequences of the restrictions;
- allows the individual to request removal after 30 days;
- requires the law enforcement agency and bureau to destroy all records after an individual is removed from the voluntary restricted list; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53-5-704, as last amended by Laws of Utah 2013, Chapter 280
53-5c-102, as enacted by Laws of Utah 2013, Chapter 188
76-10-526, as last amended by Laws of Utah 2019, Chapters 386 and 440

ENACTS:

53-5c-301, Utah Code Annotated 1953

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

Section 1. Section 53-5-704 is amended to read:

53-5-704. Bureau duties -- Permit to carry concealed firearm -- Certification for concealed firearms instructor -- Requirements for issuance -- Violation -- Denial, suspension, or revocation -- Appeal procedure.

(1) (a) The bureau shall issue a permit to carry a concealed firearm for lawful self defense to an applicant who is 21 years of age or older within 60 days after receiving an application, unless the bureau finds proof that the applicant does not meet the qualifications set forth in Subsection (2).

(b) The permit is valid throughout the state for five years, without restriction, except as otherwise provided by Section 53-5-710.

(c) The provisions of Subsections 76-10-504(1) and (2), and Section 76-10-505 do not apply to a person issued a permit under Subsection (1)(a).

(d) Subsection (4)(a) does not apply to a nonresident:

(i) active duty service member, who [~~present~~] presents to the bureau orders requiring the active duty service member to report for duty in this state; or

(ii) [~~an~~] active duty service member's spouse, stationed with the active duty service member, who presents to the bureau the active duty service member's orders requiring the service member to report for duty in this state.

(2) (a) The bureau may deny, suspend, or revoke a concealed firearm permit if the applicant or permit holder:

(i) has been or is convicted of a felony;

(ii) has been or is convicted of a crime of violence;

(iii) has been or is convicted of an offense involving the use of alcohol;

(iv) has been or is convicted of an offense involving the unlawful use of narcotics or other controlled substances;

(v) has been or is convicted of an offense involving moral turpitude;

(vi) has been or is convicted of an offense involving domestic violence;

(vii) has been or is adjudicated by a state or federal court as mentally incompetent, unless the adjudication has been withdrawn or reversed; and

(viii) is not qualified to purchase and possess a firearm pursuant to Section 76-10-503 and federal law.

(b) In determining whether an applicant or permit holder meets the qualifications set forth in Subsection (2)(a), the bureau shall consider mitigating circumstances.

(3) (a) The bureau may deny, suspend, or revoke a concealed firearm permit if it has reasonable cause to believe that the applicant or permit holder has been or is a danger to self or others as demonstrated by evidence, including:

(i) past pattern of behavior involving unlawful violence or threats of unlawful violence;

(ii) past participation in incidents involving unlawful violence or threats of unlawful violence; or

(iii) conviction of an offense in violation of Title 76, Chapter 10, Part 5, Weapons.

(b) The bureau may not deny, suspend, or revoke a concealed firearm permit solely for a single conviction of an infraction violation of Title 76, Chapter 10, Part 5, Weapons.

(c) In determining whether the applicant or permit holder has been or is a danger to self or others, the bureau may inspect:

(i) expunged records of arrests and convictions of adults as provided in Section 77-40-109; and

(ii) juvenile court records as provided in Section 78A-6-209.

(d) (i) The bureau shall suspend a concealed firearm permit if a permit holder becomes a temporarily restricted person in accordance with Section 53-5c-301.

(ii) Upon removal from the temporary restricted list, the permit holder's permit shall be reinstated unless:

(A) the permit has been revoked, been suspended for a reason other than the restriction described in Subsection (3)(d)(i), or expired; or

(B) the permit holder has become a restricted person under Section 76-10-503.

(4) (a) In addition to meeting the other qualifications for the issuance of a concealed firearm permit under this section, a nonresident applicant who resides in a state that recognizes the validity of the Utah permit or has reciprocity with Utah's concealed firearm permit law shall:

(i) hold a current concealed firearm or concealed weapon permit issued by the appropriate permitting authority of the nonresident applicant's state of residency; and

(ii) submit a photocopy or electronic copy of the nonresident applicant's current concealed firearm or concealed weapon permit referred to in Subsection (4)(a)(i).

(b) A nonresident applicant who knowingly and willfully provides false information to the bureau under Subsection (4)(a) is prohibited from holding a Utah concealed firearm permit for a period of 10 years.

(c) Subsection (4)(a) applies to all applications for the issuance of a concealed firearm permit that are received by the bureau after May 10, 2011.

(d) Beginning January 1, 2012, Subsection (4)(a) also applies to an application for renewal of a concealed firearm permit by a nonresident.

(5) The bureau shall issue a concealed firearm permit to a former peace officer who departs full-time employment as a peace officer, in an honorable manner, within five years of that departure if the officer meets the requirements of this section.

(6) Except as provided in Subsection (7), the bureau shall also require the applicant to provide:

(a) the address of the applicant's permanent residence;

(b) one recent dated photograph;

(c) one set of fingerprints; and

(d) evidence of general familiarity with the types of firearms to be concealed as defined in Subsection (8).

(7) An applicant who is a law enforcement officer under Section 53-13-103 may provide a letter of good standing from the officer's commanding officer in place of the evidence required by Subsection (6)(d).

(8) (a) General familiarity with the types of firearms to be concealed includes training in:

(i) the safe loading, unloading, storage, and carrying of the types of firearms to be concealed; and

(ii) current laws defining lawful use of a firearm by a private citizen, including lawful self-defense, use of force by a private citizen, including use of deadly force, transportation, and concealment.

(b) An applicant may satisfy the general familiarity requirement of Subsection (8)(a) by one of the following:

(i) completion of a course of instruction conducted by a national, state, or local firearms training organization approved by the bureau;

(ii) certification of general familiarity by a person who has been certified by the bureau, which may include a law enforcement officer, military or civilian firearms instructor, or hunter safety instructor; or

(iii) equivalent experience with a firearm through participation in an organized shooting competition, law enforcement, or military service.

(c) Instruction taken by a student under this Subsection (8) shall be in person and not through electronic means.

(9) (a) An applicant for certification as a Utah concealed firearms instructor shall:

(i) be at least 21 years [~~of age~~] old;

(ii) be currently eligible to possess a firearm under Section 76-10-503;

(iii) have:

(A) completed a firearm instruction training course from the National Rifle Association or the Department of Public Safety, Division of Peace Officer Safety Standards and Training; or

(B) received training equivalent to one of the courses referred to in Subsection (9)(a)(iii)(A) as determined by the bureau;

(iv) have taken a course of instruction and passed a certification test as described in Subsection (9)(c); and

(v) possess a Utah concealed firearm permit.

(b) An instructor's certification is valid for three years from the date of issuance, unless revoked by the bureau.

(c) (i) In order to obtain initial certification or renew a certification, an instructor shall attend an

instructional course and pass a test under the direction of the bureau.

(ii) (A) The bureau shall provide or contract to provide the course referred to in Subsection (9)(c)(i) twice every year.

(B) The course shall include instruction on current Utah law related to firearms, including concealed carry statutes and rules, and the use of deadly force by private citizens.

(d) (i) Each applicant for certification under this Subsection (9) shall pay a fee of $50.00 at the time of application for initial certification.

(ii) The renewal fee for the certificate is $25.

(iii) The bureau may use a fee paid under Subsections (9)(d)(i) and (ii) as a dedicated credit to cover the cost incurred in maintaining and improving the instruction program required for concealed firearm instructors under this Subsection (9).

(10) A certified concealed firearms instructor shall provide each of the instructor's students with the required course of instruction outline approved by the bureau.

(11) (a) (i) A concealed firearms instructor shall provide a signed certificate to a person successfully completing the offered course of instruction.

(ii) The instructor shall sign the certificate with the exact name indicated on the instructor's certification issued by the bureau under Subsection (9).

(iii) (A) The certificate shall also have affixed to it the instructor's official seal, which is the exclusive property of the instructor and may not be used by any other person.

(B) The instructor shall destroy the seal upon revocation or expiration of the instructor's certification under Subsection (9).

(C) The bureau shall determine the design and content of the seal to include at least the following:

(I) the instructor's name as it appears on the instructor's certification;

(II) the words "Utah Certified Concealed Firearms Instructor," "state of Utah," and "my certification expires on (the instructor's certification expiration date)"; and

(III) the instructor's business or residence address.

(D) The seal shall be affixed to each student certificate issued by the instructor in a manner that does not obscure or render illegible any information or signatures contained in the document.

(b) The applicant shall provide the certificate to the bureau in compliance with Subsection (6)(d).

(12) The bureau may deny, suspend, or revoke the certification of an applicant or a concealed firearms instructor if it has reason to believe the applicant or the instructor has:

(a) become ineligible to possess a firearm under Section 76-10-503 or federal law; or

(b) knowingly and willfully provided false information to the bureau.

(13) An applicant for certification or a concealed firearms instructor has the same appeal rights as set forth in Subsection (16).

(14) In providing instruction and issuing a permit under this part, the concealed firearms instructor and the bureau are not vicariously liable for damages caused by the permit holder.

(15) An individual who knowingly and willfully provides false information on an application filed under this part is guilty of a class B misdemeanor, and the application may be denied, or the permit may be suspended or revoked.

(16) (a) In the event of a denial, suspension, or revocation of a permit, the applicant or permit holder may file a petition for review with the board within 60 days from the date the denial, suspension, or revocation is received by the applicant or permit holder by certified mail, return receipt requested.

(b) The bureau's denial of a permit shall be in writing and shall include the general reasons for the action.

(c) If an applicant or permit holder appeals the denial to the review board, the applicant or permit holder may have access to the evidence upon which the denial is based in accordance with Title 63G, Chapter 2, Government Records Access and Management Act.

(d) On appeal to the board, the bureau has the burden of proof by a preponderance of the evidence.

(e) (i) Upon a ruling by the board on the appeal of a denial, the board shall issue a final order within 30 days stating the board's decision.

(ii) The final order shall be in the form prescribed by Subsection 63G-4-203(1)(i).

(iii) The final order is final bureau action for purposes of judicial review under Section 63G-4-402.

(17) The commissioner may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, necessary to administer this chapter.

Section 2. Section 53-5c-102 is amended to read:

53-5c-102. Definitions.

As used in this part:

(1) "Bureau" means the Bureau of Criminal Identification created in Section 53-10-201.

[~~(1)~~] (2) "Cohabitant" means a person who is 21 years of age or older who resides in the same residence as the other party.

[~~(2)~~] (3) "Firearm" means a pistol, revolver, shotgun, short barrel shotgun, rifle or short barrel rifle, or a device that could be used as a dangerous weapon from which is expelled a projectile by action of an explosive.

[~~(3)~~] (4) "Illegal firearm" means a firearm the ownership or possession of which is prohibited under state or federal law.

[~~(4)~~] (5) "Law enforcement agency" means a municipal or county police agency or an officer of that agency.

[~~(5)~~] (6) "Owner cohabitant" means a cohabitant who owns, in whole or in part, a firearm.

[~~(6)~~] (7) "Public interest use" means:

(a) use by a government agency as determined by the legislative body of the agency's jurisdiction; or

(b) donation to a bona fide charity.

Section 3. Section 53-5c-301 is enacted to read:

Part 3. Voluntary Firearm Restrictions

53-5c-301. Voluntary restrictions on firearm purchase and possession.

(1) An individual who is not a restricted person under Section 76-10-503 may be restricted from the purchase and possession of firearms through a voluntary process.

(2) (a) The bureau shall develop a process and forms for inclusion on, and removal from, a temporary restricted list to be maintained by the bureau.

(b) The bureau shall make the forms for inclusion and removal available by download through the bureau's website and require, at a minimum, the following information for the individual described in Subsection (1):

(i) name;

(ii) address;

(iii) date of birth;

(iv) contact information;

(v) the signature of the individual; and

(vi) an acknowledgment of the statement in Subsection (8).

(3) (a) An individual requesting inclusion on the temporary restricted list shall deliver the completed form in person to a law enforcement agency.

(b) The law enforcement agency described in Subsection (3)(a):

(i) shall verify the individual's identity before accepting the form;

(ii) may not accept a form from someone other than the individual named on the form; and

(iii) shall transmit the form electronically to the bureau through the Utah Criminal Justice Information System.

(4) Upon receipt of a verified form requesting inclusion on the temporary restricted list, the bureau shall, within 24 hours:

(a) add the individual's name to the list; and

(b) enter the information in the National Instant Criminal Background Check System Indices, including:

(i) the date of the entry; and

(ii) that the restriction ends 180 days after the date of the entry.

(5) If the bureau does not receive a request for extension before the removal date, the bureau shall remove the individual from the temporary restricted list.

(6) (a) An individual who is added to the temporary restricted list may not request removal from the list unless the individual has been on the list for at least 30 days.

(b) The bureau shall remove an individual from the list 180 days after the individual was added to the list, unless the individual requests to remain on the list.

(c) Requests for extensions shall be made in the same manner as the original request.

(d) An individual may continue to request extensions every 180 days.

(7) If an individual restricted under this section is a concealed firearm permit holder,

the individual's permit shall be:

(a) suspended upon entry on the temporary list; and

(b) reinstated upon removal from the list, unless:

(i) the permit has been revoked, been suspended for a reason other than under this section, or has expired; or

(ii) the individual has become a restricted person under Section 76-10-503.

(8) The form shall have the following language prominently displayed before the signature:

ACKNOWLEDGMENT

"By presenting this completed form to a law enforcement agency, I understand that I am requesting that my name be placed on a list that restricts my ability to purchase or possess firearms for a minimum of 30 days, and up to 6 months. I understand that by voluntarily making myself a temporarily restricted person, I may not have a firearm in my possession and any attempt to purchase a firearm while I am on the list will be declined. I also understand that any time after 30 days, I may request removal from the temporary restricted list and all previous rights will be restored. In addition, if I am in possession of a valid concealed firearm permit, my permit will be suspended during the time I am on the list, but will be reinstated upon my removal, unless the permit has expired, been revoked, been suspended for another reason, or I become ineligible to possess a firearm. Additionally, I acknowledge that if I possess a firearm or attempt to purchase a firearm while outside Utah, I will be subject to the law of that location regarding restricted persons."

(9) (a) An individual requesting removal from the temporary restricted list shall deliver a completed

removal form in person to the law enforcement agency that processed the inclusion form under Subsection (3).

(b) The law enforcement agency described in Subsection (9)(a):

(i) shall verify the individual's identity before accepting the form;

(ii) may not accept a form from someone other than the individual named on the form; and

(iii) shall transmit the form electronically to the bureau through the Utah Criminal Justice Information System.

(10) Upon receipt of a verified removal form, the bureau shall, within 24 hours, remove the individual from the temporary restricted list and remove the information from the National Instant Criminal Background Check System.

(11) Within 30 days before the 180-day removal deadline, the bureau shall notify the individual at the address listed on the form and the law enforcement agency that processed the inclusion form that the individual is due to be removed from the temporary list, and the date on which the removal will occur, unless the individual requests an extension of up to 180 days.

(12) (a) A law enforcement agency that receives a request for inclusion shall maintain the form and all subsequent forms in a separate file.

(b) If the individual requests removal before the end of the 180 days, the law enforcement agency shall destroy the entire file within five days after transmission of the information to the bureau.

(c) If the individual does not request an extension after notification in accordance with Subsection (11), the law enforcement agency shall destroy the entire file within five days after the date indicated in the notification.

(d) Upon removal of an individual from the voluntary restricted list, the bureau shall destroy all records related to the inclusion and removal of the individual.

(e) All forms and records created in accordance with this section are classified as private records in accordance with Title 63G, Chapter 2, Government Records Access and Management Act.

(13) The bureau may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to develop the process and forms to implement this section.

Section 4. Section 76-10-526 is amended to read:

76-10-526. Criminal background check prior to purchase of a firearm -- Fee -- Exemption for concealed firearm permit holders and law enforcement officers.

(1) For purposes of this section, "valid permit to carry a concealed firearm" does not include a temporary permit issued under Section 53-5-705.

(2) (a) To establish personal identification and residence in this state for purposes of this part, a dealer shall require an individual receiving a firearm to present one photo identification on a form issued by a governmental agency of the state.

(b) A dealer may not accept a driving privilege card issued under Section 53-3-207 as proof of identification for the purpose of establishing personal identification and residence in this state as required under this Subsection (2).

(3) (a) A criminal history background check is required for the sale of a firearm by a licensed firearm dealer in the state.

(b) Subsection (3)(a) does not apply to the sale of a firearm to a Federal Firearms Licensee.

(4) (a) An individual purchasing a firearm from a dealer shall consent in writing to a criminal background check, on a form provided by the bureau.

(b) The form shall contain the following information:

(i) the dealer identification number;

(ii) the name and address of the individual receiving the firearm;

(iii) the date of birth, height, weight, eye color, and hair color of the individual receiving the firearm; and

(iv) the social security number or any other identification number of the individual receiving the firearm.

(5) (a) The dealer shall send the information required by Subsection (4) to the bureau immediately upon its receipt by the dealer.

(b) A dealer may not sell or transfer a firearm to an individual until the dealer has provided the bureau with the information in Subsection (4) and has received approval from the bureau under Subsection (7).

(6) The dealer shall make a request for criminal history background information by telephone or other electronic means to the bureau and shall receive approval or denial of the inquiry by telephone or other electronic means.

(7) When the dealer calls for or requests a criminal history background check, the bureau shall:

(a) review the criminal history files, including juvenile court records, and the temporary restricted file created under Section 53-5c-301, to determine if the individual is prohibited from purchasing, possessing, or transferring a firearm by state or federal law;

(b) inform the dealer that:

(i) the records indicate the individual is prohibited; or

(ii) the individual is approved for purchasing, possessing, or transferring a firearm;

(c) provide the dealer with a unique transaction number for that inquiry; and

(d) provide a response to the requesting dealer during the call for a criminal background check, or by return call, or other electronic means, without delay, except in case of electronic failure or other circumstances beyond the control of the bureau, the bureau shall advise the dealer of the reason for the delay and give the dealer an estimate of the length of the delay.

(8) (a) The bureau may not maintain any records of the criminal history background check longer than 20 days from the date of the dealer's request, if the bureau determines that the individual receiving the firearm is not prohibited from purchasing, possessing, or transferring the firearm under state or federal law.

(b) However, the bureau shall maintain a log of requests containing the dealer's federal firearms number, the transaction number, and the transaction date for a period of 12 months.

(9) (a) If the criminal history background check discloses information indicating that the individual attempting to purchase the firearm is prohibited from purchasing, possessing, or transferring a firearm, the bureau shall inform the law enforcement agency in the jurisdiction where the individual resides.

(b) Subsection (9)(a) does not apply to an individual prohibited from purchasing a firearm solely due to placement on the temporary restricted list under Section 53-5c-301.

[~~(b)~~] (c) A law enforcement agency that receives information from the bureau under Subsection (9)(a) shall provide a report before August 1 of each year to the bureau that includes:

(i) based on the information the bureau provides to the law enforcement agency under Subsection (9)(a), the number of cases that involve an individual who is prohibited from purchasing, possessing, or transferring a firearm as a result of a conviction for an offense involving domestic violence; and

(ii) of the cases described in Subsection (9)[~~(b)~~](c)(i):

(A) the number of cases the law enforcement agency investigates; and

(B) the number of cases the law enforcement agency investigates that result in a criminal charge.

[~~(c)~~] (d) The bureau shall:

(i) compile the information from the reports described in Subsection (9)[~~(b)~~](c);

(ii) omit or redact any identifying information in the compilation; and

(iii) submit the compilation to the Law Enforcement and Criminal Justice Interim Committee before November 1 of each year.

(10) If an individual is denied the right to purchase a firearm under this section, the individual may review the individual's criminal history information and may challenge or amend the information as provided in Section 53-10-108.

(11) The bureau shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to ensure the identity, confidentiality, and security of all records provided by the bureau under this part are in conformance with the requirements of the Brady Handgun Violence Prevention Act, Pub. L. No. 103-159, 107 Stat. 1536 (1993).

(12) (a) A dealer shall collect a criminal history background check fee for the sale of a firearm under this section.

(b) The fee described under Subsection (12)(a) remains in effect until changed by the bureau through the process described in Section 63J-1-504.

(c) (i) The dealer shall forward at one time all fees collected for criminal history background checks performed during the month to the bureau by the last day of the month following the sale of a firearm.

(ii) The bureau shall deposit the fees in the General Fund as dedicated credits to cover the cost of administering and conducting the criminal history background check program.

(13) An individual with a concealed firearm permit issued under Title 53, Chapter 5, Part 7, Concealed Firearm Act, is exempt from the background check and corresponding fee required in this section for the purchase of a firearm if:

(a) the individual presents the individual's concealed firearm permit to the dealer prior to purchase of the firearm; and

(b) the dealer verifies with the bureau that the individual's concealed firearm permit is valid.

(14) (a) A law enforcement officer, as defined in Section 53-13-103, is exempt from the background check fee required in this section for the purchase of a personal firearm to be carried while off-duty if the law enforcement officer verifies current employment by providing a letter of good standing from the officer's commanding officer and current law enforcement photo identification.

(b) Subsection (14)(a) may only be used by a law enforcement officer to purchase a personal firearm once in a 24-month period.

(15) (a) A dealer or a person engaged in the business of selling firearm safes in Utah may participate in the redeemable coupon program described in this Subsection (15) and Subsection 62A-15-103(3).

(b) A participating dealer or person shall:

(i) apply the coupon only toward the purchase of a gun safe;

(ii) collect the receipts from the purchase of a firearm safe using the redeemable coupons and send the receipts to the Division of Substance Abuse and Mental Health for redemption; and

(iii) make the firearm safety brochure described in Subsection 62A-15-103(3) available to a customer free of charge.

(16) A dealer engaged in the business of selling, leasing, or otherwise transferring any firearm shall:

(a) make the firearm safety brochure described in Subsection 62A-15-103(3) available to a customer free of charge; and

(b) at the time of purchase, distribute a cable-style gun lock provided to the dealer under Subsection 62A-15-103(3) to a customer purchasing a shotgun, short barreled shotgun, short barreled rifle, rifle, or another firearm that federal law does not require be accompanied by a gun lock at the time of purchase.

CHAPTER 167
H. B. 276
Passed February 25, 2021
Approved March 16, 2021
Effective May 5, 2021

NOTARY PUBLIC AMENDMENTS

Chief Sponsor: Merrill F. Nelson
Senate Sponsor: Scott D. Sandall

LONG TITLE

General Description:

This bill amends requirements for notaries public.

Highlighted Provisions:

This bill:

- expands eligibility for individuals to qualify for a notarial commission to individuals who are employed in the state; and
- amends resignation requirements to account for the eligibility expansion.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

46-1-3, as last amended by Laws of Utah 2019, Chapter 192
46-1-21, as last amended by Laws of Utah 2019, Chapter 192

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

Section 1. Section 46-1-3 is amended to read:

46-1-3. Qualifications -- Application for notarial commission required -- Term.

(1) Except as provided in Subsection (4), and subject to Section 46-1-3.5, the lieutenant governor shall commission as a notary any qualified [~~person~~] individual who submits an application in accordance with this chapter.

(2) To qualify for a notarial commission an individual shall:

(a) be at least 18 years old;

(b) lawfully reside in the state or be employed in the state for at least 30 days immediately before the individual applies for a notarial commission;

(c) be able to read, write, and understand English;

(d) submit an application to the lieutenant governor containing no significant misstatement or omission of fact, that includes:

(i) the individual's:

(A) name as it will appear on the commission;

(B) residential address;

(C) business address;

(D) daytime telephone number; and

(E) date of birth;

(ii) an affirmation that the individual meets the requirements of this section;

(iii) an indication of any criminal convictions the individual has received, including a plea of admission or no contest;

(iv) all issuances, denials, revocations, suspensions, restrictions, and resignations of a notarial commission or other professional license involving the applicant in this or any other state;

(v) an indication that the individual has passed the examination described in Subsection (6); and

(vi) payment of an application fee that the lieutenant governor establishes in accordance with Section 63J-1-504;

(e) (i) be a United States citizen; or

(ii) have permanent resident status under Section 245 of the Immigration and Nationality Act; and

(f) submit to a background check described in Subsection (3).

(3) (a) The lieutenant governor shall:

(i) request the Department of Human Resource Management to perform a criminal background check under Subsection 53-10-108(16) on each individual who submits an application under this section;

(ii) require an individual who submits an application under this section to provide a signed waiver on a form provided by the lieutenant governor that complies with Subsection 53-10-108(4); and

(iii) provide the Department of Human Resource Management the personal identifying information of each individual who submits an application under this section.

(b) The Department of Human Resource Management shall:

(i) perform a criminal background check under Subsection 53-10-108(16) on each individual described in Subsection (3)(a)(i); and

(ii) provide to the lieutenant governor all information that pertains to the individual described in Subsection (3)(a)(i) that the department identifies or receives as a result of the background check.

(4) The lieutenant governor may deny an application based on:

(a) the applicant's conviction for a crime involving dishonesty or moral turpitude;

(b) any revocation, suspension, or restriction of a notarial commission or professional license issued to the applicant by this or any other state;

(c) the applicant's official misconduct while acting in the capacity of a notary; or

(d) the applicant's failure to pass the examination described in Subsection (6).

(5) (a) An individual whom the lieutenant governor commissions as a notary:

(i) may perform notarial acts in any part of the state for a term of four years, unless the [~~person~~] individual resigns or the commission is revoked or suspended under Section 46-1-19; and

(ii) except through a remote notarization performed in accordance with this chapter, may not perform a notarial act for another individual who is outside of the state.

(b) (i) After an individual's commission expires, the individual may not perform a notarial act until the individual obtains a new commission.

(ii) An individual whose commission expires and who wishes to obtain a new commission shall submit a new application, showing compliance with the requirements of this section.

(6) (a) Each applicant for a notarial commission shall take an examination that the lieutenant governor approves and submit the examination to a testing center that the lieutenant governor designates for purposes of scoring the examination.

(b) The testing center that the lieutenant governor designates shall issue a written acknowledgment to the applicant indicating whether the applicant passed or failed the examination.

(7) (a) A notary shall maintain permanent residency or employment in the state during the term of the notary's notarial commission.

(b) A notary who does not maintain permanent residency or employment under Subsection (7)(a) shall resign the notary's notarial commission in accordance with Section 46-1-21.

Section 2. Section 46-1-21 is amended to read:

46-1-21. Resignation.

(1) A notary who resigns a notarial commission shall provide to the lieutenant governor a notice indicating the effective date of resignation.

(2) A notary who ceases to reside in this state, who ceases to be employed in the state, or who becomes unable to read and write as provided in Section 46-1-3 shall resign the commission.

(3) A notary who resigns shall destroy the official seal and certificate in accordance with Subsection 46-1-16(9).

CHAPTER 168
H. B. 277
Passed March 4, 2021
Approved March 16, 2021
Effective May 5, 2021

CHILD CARE ELIGIBILITY AMENDMENTS

Chief Sponsor: Ashlee Matthews
Senate Sponsor: Lincoln Fillmore
Cosponsors: Gay Lynn Bennion
Clare Collard
Suzanne Harrison
Marsha Judkins
Angela Romero
Steve Waldrip
Mike Winder

LONG TITLE

General Description:

This bill modifies the child care subsidy provisions of the Employment Support Act.

Highlighted Provisions:

This bill:

- defines "income" and "income-eligible child";
- provides criteria for an income-eligible child to be eligible for a child care subsidy or grant through the Employment Support Act; and
- modifies the Office of Child Care's rulemaking authority to allow the office to make rules on prioritizing awards of a child care subsidy or grant.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

35A-3-201, as last amended by Laws of Utah 2015, Chapter 221
35A-3-203, as last amended by Laws of Utah 2020, Chapter 354

ENACTS:

35A-3-209, Utah Code Annotated 1953

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

Section 1. Section 35A-3-201 is amended to read:

35A-3-201. Definitions.

As used in this part:

(1) "Child care" means the child care services defined in Section 35A-3-102 for:

(a) children age 12 or younger; and

(b) children with disabilities age 18 or younger.

(2) "Child care provider association" means an association:

(a) that has functioned as a child care provider association in the state for at least three years; and

(b) is affiliated with a national child care provider association.

(3) "Committee" means the Child Care Advisory Committee created in Section 35A-3-205.

(4) "Director" means the director of the Office of Child Care.

(5) (a) "Income" means gross income, whether earned or unearned, as defined by rule made in accordance with Section 35A-3-203.

(b) "Income" does not include:

(i) income from means-tested programs, including:

(A) Temporary Assistance to Needy Families;

(B) the Social Security Act; and

(C) the Supplemental Nutrition Assistance Program;

(ii) in-kind income;

(iii) scholarship, grant, or bona fide loan money;

(iv) a federal or state income tax credit; or

(v) a nonrecurring lump sum benefit.

(6) "Income-eligible child" means a child whose:

(a) family income does not exceed 85% of state median income for a family of the same size; and

(b) family assets do not exceed the limit established by the office through rule created in accordance with Section 35A-3-203.

[~~(5)~~] (7) "Office" means the Office of Child Care created in Section 35A-3-202.

Section 2. Section 35A-3-203 is amended to read:

35A-3-203. Functions and duties of office -- Annual report.

The office shall:

(1) assess critical child care needs throughout the state on an ongoing basis and focus its activities on helping to meet the most critical needs;

(2) provide child care subsidy services for income-eligible children through age 12 and for income-eligible children with disabilities through age 18;

(3) provide information:

(a) to employers for the development of options for child care in the work place; and

(b) for educating the public in obtaining quality child care;

(4) coordinate services for quality child care training and child care resource and referral core services;

(5) apply for, accept, or expend gifts or donations from public or private sources;

(6) provide administrative support services to the committee;

(7) work collaboratively with the following for the delivery of quality child care, early childhood programs, and school age programs throughout the state:

(a) the State Board of Education; and

(b) the Department of Health;

(8) research child care programs and public policy to improve the quality and accessibility of child care, early childhood programs, and school age programs in the state;

(9) provide planning and technical assistance for the development and implementation of programs in communities that lack child care, early childhood programs, and school age programs;

(10) provide organizational support for the establishment of nonprofit organizations approved by the Child Care Advisory Committee, created in Section 35A-3-205;

(11) coordinate with the department to include in the annual written report described in Section 35A-1-109 information regarding the status of child care in Utah; and

(12) make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and consistent with state and federal law[~~,~~]:

(a) establishing the eligibility requirements for a child care provider to receive a grant or subsidy, including for the following:

[~~(a)~~] (i) providing child care for an income-eligible child age 12 or younger; and

[~~(b)~~] (ii) providing child care for an income-eligible child with disabilities age 18 or younger[~~.~~]; and

(b) prioritizing awards of child care grants or subsidies for income-eligible children within available funds.

Section 3. Section 35A-3-209 is enacted to read:

35A-3-209. Award of child care subsidy services.

(1) (a) On or before June 30, 2023, the office shall award a full child care subsidy or grant for an income-eligible child.

(b) The office shall make the award described in Subsection (1)(a):

(i) in accordance with applicable federal law and regulation; and

(ii) subject to available funds.

(2) Beginning on July 1, 2023, the office may award:

(a) a full child care subsidy or grant for an income-eligible child whose family income is equal to or below 75% of state median income; and

(b) a progressively lower child care subsidy or grant for each tenth of a percentage point by which the income-eligible child's family income exceeds 75% of state median income up to 85% of state median income.

(3) (a) On or before June 30, 2023, and subject to Subsection (3)(b), the office shall determine the amount of a child care subsidy or grant based on the income-eligible child's enrollment in child care.

(b) To qualify for a child care subsidy or grant under Subsection (3)(a), an income-eligible child shall be enrolled in child care for a minimum of eight hours per month.

(c) On or after July 1, 2023, and subject to Subsection (3)(d), the office shall determine the amount of a child care subsidy or grant based on the income-eligible child's attendance in child care.

(d) To qualify for a child care subsidy or grant under Subsection (3)(c), an income-eligible child shall attend child care for a minimum of eight hours per month.

CHAPTER 169
H. B. 278
Passed March 3, 2021
Approved March 16, 2021
Effective May 5, 2021

NAME CHANGE PROCESS FOR DIXIE STATE UNIVERSITY

Chief Sponsor: Kelly B. Miles
Senate Sponsor: Don L. Ipson

LONG TITLE

General Description:

This bill requires a process for the Dixie State University Board of Trustees, in consultation with the Utah Board of Higher Education, to select and recommend a name for the institution and, if the boards choose, forward the name to the Legislature.

Highlighted Provisions:

This bill:

- requires a process for the Dixie State University Board of Trustees (board of trustees), in consultation with the Utah Board of Higher Education, to recommend a name for the institution and, if the boards choose, forward the name to the Legislature;
- requires the board of trustees to create a Heritage Committee to preserve the heritage, culture, and history of the region and the institution; and
- makes technical changes.

Monies Appropriated in this Bill:

This bill appropriates in fiscal year 2022:

- To Dixie State University – Education and General as a one-time appropriation:
  - from General Fund, One-time, $500,000.

Other Special Clauses:

This bill provides a coordination clause.

Utah Code Sections Affected:

AMENDS:

53B-2-111, as enacted by Laws of Utah 2013, Chapter 10

ENACTS:

53B-16-502, Utah Code Annotated 1953

Utah Code Sections Affected by Coordination Clause:

53B-16-502, Utah Code Annotated 1953

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

Section 1. Section 53B-2-111 is amended to read:

53B-2-111. Dixie State University -- Institutional name change.

(1) As used in this Section:

(a) "Board of trustees" means the board of trustees of Dixie State University.

(b) "Institution" means Dixie State University.

[~~(1)~~] (2) (a) Dixie State College of Utah shall be known as Dixie State University.

[~~(2)~~] (b) Dixie State University is a continuation of Dixie State College of Utah and shall:

[~~(a)~~] (i) possess all rights, titles, privileges, powers, immunities, franchises, endowments, property, and claims of Dixie State College of Utah; and

[~~(b)~~] (ii) fulfill and perform all obligations of Dixie State College of Utah, including obligations relating to outstanding bonds and notes.

(3) The board of trustees in consultation with the Utah Board of Higher Education shall:

(a) create a committee to recommend a name for the institution; and

(b) ensure that the committee:

(i) represents students, university personnel, community members, and industry leaders in the committee's membership;

(ii) provides opportunity for input from and collaboration with the public, including:

(A) residents of southwestern Utah;

(B) institutional partners; and

(C) university faculty, staff, students, and alumni;

(iii) reviews options for the institution's name; and

(iv) makes recommendations regarding the institution's name to the board of trustees.

(4) (a) The board of trustees shall:

(i) review the committee's recommendation described in Subsection (3)(b); and

(ii) choose whether to forward a name for the institution to the Utah Board of Higher Education.

(b) Should the board of trustees choose to forward a name for the institution to the Utah Board of Higher Education under Subsection (4)(a), the board of trustees shall ensure that the name:

(i) reflects the institution's mission and significance to the surrounding region and state; and

(ii) enables the institution to compete and be recognized nationally.

(c) Should the board of trustees recommend a name for the institution under Subsection (4)(a), the Utah Board of Higher Education shall vote on whether to approve and recommend the name to the Legislature.

(5) Should the Utah Board of Higher Education and the board of trustees recommend a name for the institution to the Legislature through the process described in Subsections (3) and (4), the Utah Board of Higher Education and the board of trustees shall recommend the name for the institution to the Legislative Management Committee no later than November 1, 2021.

Section 2. Section 53B-16-502 is enacted to read:

53B-16-502. Heritage Committee.

Should the Dixie State University board of trustees and the Utah Board of Higher Education forward a name to the Legislature that does not include the term "Dixie" under Section 53B-2-111, the board of trustees shall establish a Heritage Committee to identify and implement strategies to preserve the heritage, culture, and history of the region on the campus of the institution, including the regional significance of the term "Dixie."

Section 3. Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2021, and ending June 30, 2022. These are additions to amounts previously appropriated for fiscal year 2022. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 1

To Dixie State University - Education and General

From General Fund, One-time	500,000

Schedule of Programs:

Education and General	500,000

The Legislature intends that appropriations provided under this section be used for the Heritage Committee described in Section 53B-16-502.

Section 4. Coordinating H.B. 278 with H.B. 279 -- Technical amendment.

If this H.B. 278 and H.B. 279, Higher Education for Incarcerated Youth, both pass and become law, it is the intent of the Legislature that the Office of Legislative Research and General Counsel renumber Section 53B-16-502 in this bill to Section 53B-30-401 in preparing the Utah Code database for publication.

CHAPTER 170
H. B. 282
Passed March 5, 2021
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RIGHT OF SURVIVORSHIP AMENDMENTS

Chief Sponsor: Kelly B. Miles
Senate Sponsor: Michael K. McKell

LONG TITLE

General Description:

This bill amends provisions regarding the right of survivorship for a joint account.

Highlighted Provisions:

This bill:

- amends provisions addressing sums that are in a joint account at the time a party to the account dies; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

75-6-104, as last amended by Laws of Utah 1977, Chapter 194

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

Section 1. Section 75-6-104 is amended to read:

75-6-104. Right of survivorship.

(1) (a) Sums remaining on deposit at the death of a party to a joint account belong to the surviving party or parties as against the estate of the decedent unless there is clear and convincing evidence of a different intention [~~at the time the account is created~~].

(b) A financial institution may rely on the financial institution's records for a joint account when distributing funds for the joint account in accordance with Subsection (1)(a).

(c) If there are two or more surviving parties under Subsection (1)(a), their respective ownerships during lifetime shall be in proportion to their previous ownership interests under Section 75-6-103 augmented by an equal share for each survivor of any interest the decedent may have owned in the account immediately before [~~his~~] the decedent's death; and the right of survivorship continues between the surviving parties.

(2) If the account is a P.O.D. account:

(a) [~~On~~] on death of one of two or more original payees, the rights to any sums remaining on deposit are governed by Subsection (1); or

(b) [~~On~~] on death of the sole original payee or of the survivor of two or more original payees, any sums remaining on deposit belong to the P.O.D. payee or payees if surviving, or to the survivor of them if one or more die before the original payee; if two or more P.O.D. payees survive, there is no right of survivorship in event of death of a P.O.D. payee thereafter unless the terms of the account or deposit agreement expressly provide for survivorship between them.

(3) If the account is a trust account:

(a) [~~On~~] on death of one of two or more trustees, the rights to any sums remaining on deposit are governed by Subsection (1); or

(b) [~~On~~] on death of the sole trustee or the survivor of two or more trustees, any sums remaining on deposit belong to the person or persons named as beneficiaries, if surviving, or to the survivor of them if one or more die before the trustee, unless there is clear evidence of a contrary intent; and if two or more beneficiaries survive, there is no right of survivorship in event of death of any beneficiary thereafter unless the terms of the account or deposit agreement expressly provide for survivorship between them.

(4) In other cases, the death of any party to a multiple-party account has no effect on beneficial ownership of the account other than to transfer the rights of the decedent as part of [~~his~~] the decedent's estate.

(5) A right of survivorship arising from the express terms of the account or under this section, a beneficiary designation in a trust account, or a P.O.D. payee designation, cannot be changed by will.

CHAPTER 171
H. B. 288
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EDUCATION AND MENTAL HEALTH COORDINATING COUNCIL

Chief Sponsor: Val L. Peterson
Senate Sponsor: Ann Millner

LONG TITLE

General Description:

This bill creates and establishes duties for the Education and Mental Health Coordinating Council.

Highlighted Provisions:

This bill:

- defines terms;
- creates the Education and Mental Health Coordinating Council (council);
- provides for the membership of the council;
- requires the council to make certain findings and recommendations regarding behavioral health support to youth and families within the state;
- requires certain regular reports to the president of the Senate, the speaker of the House of Representatives, the Education Interim Committee, and the Health and Human Services Interim Committee;
- establishes a sunset date; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63I-1-263, as last amended by Laws of Utah 2020, Chapters 82, 152, 154, 199, 230, 303, 322, 336, 354, 360, 375, 405 and last amended by Coordination Clause, Laws of Utah 2020, Chapter 360

ENACTS:

63C-23-101, Utah Code Annotated 1953
63C-23-102, Utah Code Annotated 1953
63C-23-201, Utah Code Annotated 1953
63C-23-202, Utah Code Annotated 1953

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

Section 1. Section 63C-23-101 is enacted to read:

CHAPTER 23. EDUCATION AND MENTAL HEALTH COORDINATINGCOUNCIL

63C-23-101. Title.

This chapter is known as "Education and Mental Health Coordinating Council."

Section 2. Section 63C-23-102 is enacted to read:

63C-23-102. Definitions.

As used in this section:

(1) "Council" means the Education and Mental Health Coordinating Council created in Section 63C-23-201.

(2) "Local education agency" or "LEA" means the same as that term is defined in Section 53E-1-102.

(3) "Local mental health authority" means a local mental health authority described in Section 17-42-301.

(4) "Local substance abuse authority" means a local substance abuse authority described in Section 17-43-201.

Section 3. Section 63C-23-201 is enacted to read:

63C-23-201. Education and Mental Health Coordinating Council -- Membership -- Quorum and voting requirements -- Compensation -- Staff support.

(1) There is created the Education and Mental Health Coordinating Council to:

(a) provide action-oriented guidance to legislative and other state leaders on how to meet the behavioral health needs, including mental health and substance use issues, facing youth and families within the state; and

(b) ensure close collaboration and alignment with existing statewide behavioral health efforts and groups, including:

(i) the Behavioral Health Crisis Response Commission created in Section 63C-18-202; and

(ii) the Utah Substance Use and Mental Health Advisory Council created in Section 63M-7-301.

(2) The council consists of the following members:

(a) a member of the House of Representatives whom the speaker of the House of Representatives appoints;

(b) a member of the Senate whom the president of the Senate appoints;

(c) an individual with expertise in behavioral health whom the governor appoints;

(d) the state superintendent of public instruction appointed under Section 53E-3-301 or the state superintendent's designee;

(e) the chief executive officer of the Huntsman Mental Health Institute at the University of Utah or the chief executive officer's designee;

(f) the director of the Division of Substance Abuse and Mental Health or the director's designee;

(g) the commissioner of higher education appointed under Section 53B-1-408 or the commissioner's designee; and

(h) the following individuals whom the president of the Senate and the speaker of the House of Representatives jointly appoint:

(i) a community-oriented behavioral health leader from the private sector;

(ii) the president or chief executive officer of an association that represents hospitals within the state;

(iii) a community health executive from an academic medical system;

(iv) a community health executive from an integrated healthcare system;

(v) the president or chief executive officer of a nonprofit organization that provides comprehensive mental health care to children and families across the socioeconomic spectrum; and

(vi) a mental health research expert.

(3) (a) The members described in Subsections (2)(a) and (2)(h)(i) shall serve as co-chairs of the council.

(b) A council member whom the speaker of the House of Representatives and the president of the Senate jointly appoint under Subsection (2)(h), and the council member whom the governor appoints under Subsection (2)(c), shall serve a term of two years.

(c) The speaker of the House of Representatives, the president of the Senate, and the governor shall:

(i) make the initial appointments described in Subsection (2) before July 1, 2021; and

(ii) make appointments for subsequent terms for the council positions described in Subsection (2)(b) before July 1 of each odd-numbered year, by:

(A) reappointing the council member whose term expires under Subsection (3)(b); or

(B) appointing a new council member.

(d) The speaker of the House of Representatives and the president of the Senate may change the appointment described in Subsections (2)(a) and (b) at any time.

(4) (a) The salary and expenses of a council member who is a legislator shall be paid in accordance with Section 36-2-2 and Legislative Joint Rules, Title 5, Chapter 3, Legislator Compensation.

(b) A council member who is not a legislator:

(i) may not receive compensation or benefits for the member's service on the council; and

(ii) may receive per diem and reimbursement for travel expenses that the council member incurs as a council member at the rates that the Division of Finance establishes under:

(A) Sections 63A-3-106 and 63A-3-107; and

(B) rules that the Division of Finance makes under Sections 63A-3-106 and 63A-3-107.

(5) (a) A majority of the council members constitutes a quorum.

(b) The action of a majority of a quorum constitutes an action of the council.

(6) The Office of Legislative Research and General Counsel shall provide staff support to the council.

Section 4. Section 63C-23-202 is enacted to read:

63C-23-202. Council duties -- Reporting requirements.

(1) The council shall:

(a) meet at least twice per quarter; and

(b) make findings and recommendations to:

(i) generate a common framework for preventing and addressing mild, moderate, and serious behavioral health concerns that youth within the state face;

(ii) clarify roles among LEAs, local mental health authorities, local substance abuse authorities, and other behavioral health partners regarding the practical and legal obligations of screening, assessment, and the provision of care; and

(iii) facilitate joint development of state and local plans among LEAs, local mental health authorities, local substance abuse authorities, and other behavioral health partners that:

(A) describe how the entities will collaborate to meet the behavioral health needs of youth within the state; and

(B) provide clarity and consistency in the standardization, collection, analysis, and application of behavioral health-related data to drive improvement.

(2) At least once per quarter, the council co-chairs shall report to the speaker of the House of Representatives and the president of the Senate regarding the findings and recommendations described in Subsection (1)(b).

(3) At or before the November interim meeting, the council shall report the council's findings and recommendations described in Subsection (1)(b) to the Education Interim Committee and the Health and Human Services Interim Committee.

Section 5. Section 63I-1-263 is amended to read:

63I-1-263. Repeal dates, Titles 63A to 63N.

(1) In relation to the Utah Transparency Advisory Board, on January 1, 2025:

(a) Subsection 63A-1-201(1) is repealed;

(b) Subsection 63A-1-202(2)(c), the language "using criteria established by the board" is repealed;

(c) Section 63A-1-203 is repealed;

(d) Subsections 63A-1-204(1) and (2), the language "After consultation with the board, and" is repealed; and

(e) Subsection 63A-1-204(1)(b), the language "using the standards provided in Subsection 63A-1-203(3)(c)" is repealed.

(2) Subsection 63A-5b-405(5), relating to prioritizing and allocating capital improvement funding, is repealed July 1, 2024.

(3) Section 63A-5b-1003, State Facility Energy Efficiency Fund, is repealed July 1, 2023.

(4) Sections 63A-9-301 and 63A-9-302, related to the Motor Vehicle Review Committee, are repealed July 1, 2023.

(5) Title 63C, Chapter 4a, Constitutional and Federalism Defense Act, is repealed July 1, 2028.

(6) Title 63C, Chapter 6, Utah Seismic Safety Commission, is repealed January 1, 2025.

(7) Title 63C, Chapter 12, Snake Valley Aquifer Advisory Council, is repealed July 1, 2024.

(8) Title 63C, Chapter 17, Point of the Mountain Development Commission Act, is repealed July 1, 2021.

(9) Title 63C, Chapter 18, Behavioral Health Crisis Response Commission, is repealed July 1, 2023.

(10) Title 63C, Chapter 21, Outdoor Adventure Commission, is repealed July 1, 2025.

(11) Title 63C, Chapter 23, Education and Mental Health Coordinating Council, is repealed July 1, 2026.

[~~(11)~~] (12) Title 63F, Chapter 2, Data Security Management Council, is repealed July 1, 2025.

[~~(12)~~] (13) Section 63G-6a-805, which creates the Purchasing from Persons with Disabilities Advisory Board, is repealed July 1, 2026.

[~~(13)~~] (14) Title 63G, Chapter 21, Agreements to Provide State Services, is repealed July 1, 2025.

[~~(14)~~] (15) Title 63H, Chapter 4, Heber Valley Historic Railroad Authority, is repealed July 1, 2024.

[~~(15)~~] (16) Title 63H, Chapter 8, Utah Housing Corporation Act, is repealed July 1, 2026.

[~~(16)~~] (17) Subsection 63J-1-602.1(14), Nurse Home Visiting Restricted Account is repealed July 1, 2026.

[~~(17)~~] (18) (a) Subsection 63J-1-602.1(58), relating to the Utah Statewide Radio System Restricted Account, is repealed July 1, 2022.

(b) When repealing Subsection 63J-1-602.1(58), the Office of Legislative Research and General Counsel shall, in addition to the office's authority under Subsection 36-12-12(3), make necessary changes to subsection numbering and cross references.

[~~(18)~~] (19) Subsection 63J-1-602.2(4), referring to dedicated credits to the Utah Marriage Commission, is repealed July 1, 2023.

[~~(19)~~] (20) Subsection 63J-1-602.2(5), referring to the Trip Reduction Program, is repealed July 1, 2022.

[~~(20)~~] (21) Subsection 63J-1-602.2(25), related to the Utah Seismic Safety Commission, is repealed January 1, 2025.

[~~(21)~~] (22) Title 63J, Chapter 4, Part 5, Resource Development Coordinating Committee, is repealed July 1, 2027.

[~~(22)~~] (23) Subsection 63J-4-608(3), which creates the Federal Land Application Advisory Committee, is repealed on July 1, 2021.

[~~(23)~~] (24) In relation to the Utah Substance Use and Mental Health Advisory Council, on January 1, 2023:

(a) Sections 63M-7-301, 63M-7-302, 63M-7-303, 63M-7-304, and 63M-7-306 are repealed;

(b) Section 63M-7-305, the language that states "council" is replaced with "commission";

(c) Subsection 63M-7-305(1) is repealed and replaced with:

"(1) "Commission" means the Commission on Criminal and Juvenile Justice."; and

(d) Subsection 63M-7-305(2) is repealed and replaced with:

"(2) The commission shall:

(a) provide ongoing oversight of the implementation, functions, and evaluation of the Drug-Related Offenses Reform Act; and

(b) coordinate the implementation of Section 77-18-1.1 and related provisions in Subsections 77-18-1(5)(b)(iii) and (iv).".

[~~(24)~~] (25) The Crime Victim Reparations and Assistance Board, created in Section 63M-7-504, is repealed July 1, 2027.

[~~(25)~~] (26) Title 63M, Chapter 7, Part 6, Utah Council on Victims of Crime, is repealed July 1, 2022.

[~~(26)~~] (27) Title 63M, Chapter 11, Utah Commission on Aging, is repealed July 1, 2021.

[~~(27)~~] (28) Subsection 63N-1-301(4)(c), related to the Talent Ready Utah Board, is repealed January 1, 2023.

[~~(28)~~] (29) Title 63N, Chapter 1, Part 5, Governor's Economic Development Coordinating Council, is repealed July 1, 2024.

[~~(29)~~] (30) Title 63N, Chapter 2, Part 2, Enterprise Zone Act, is repealed July 1, 2028.

[~~(30)~~] (31) Section 63N-2-512 is repealed July 1, 2021.

[~~(31)~~] (32) (a) Title 63N, Chapter 2, Part 6, Utah Small Business Jobs Act, is repealed January 1, 2021.

(b) Section 59-9-107 regarding tax credits against premium taxes is repealed for calendar years beginning on or after January 1, 2021.

(c) Notwithstanding Subsection (31)(b), an entity may carry forward a tax credit in accordance with Section 59-9-107 if:

(i) the person is entitled to a tax credit under Section 59-9-107 on or before December 31, 2020; and

(ii) the qualified equity investment that is the basis of the tax credit is certified under Section 63N-2-603 on or before December 31, 2023.

[~~(32)~~] (33) Subsections 63N-3-109(2)(e) and 63N-3-109(2)(f)(i) are repealed July 1, 2023.

[~~(33)~~] (34) Title 63N, Chapter 4, Part 4, Rural Employment Expansion Program, is repealed July 1, 2023.

[~~(34)~~] (35) Title 63N, Chapter 7, Part 1, Board of Tourism Development, is repealed July 1, 2025.

[~~(35)~~] (36) Title 63N, Chapter 9, Part 2, Outdoor Recreational Infrastructure Grant Program, is repealed January 1, 2023.

[~~(36)~~] (37) Title 63N, Chapter 12, Part 5, Talent Ready Utah Center, is repealed January 1, 2023.

CHAPTER 172
H. B. 289
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VICTIM SERVICES AMENDMENTS

Chief Sponsor: Karianne Lisonbee
Senate Sponsor: Chris H. Wilson

LONG TITLE

General Description:

This bill modifies the Utah Council for Victims of Crime (council).

Highlighted Provisions:

This bill:

- modifies the membership of the council;
- allows the council to advocate for a victim of crime in appellate courts;
- clarifies the duties of the staff assigned to the council; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63M-7-601, as last amended by Laws of Utah 2019, Chapter 246
63M-7-602, as renumbered and amended by Laws of Utah 2008, Chapter 382
63M-7-603, as last amended by Laws of Utah 2010, Chapter 82
63M-7-605, as renumbered and amended by Laws of Utah 2008, Chapter 382

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

Section 1. Section 63M-7-601 is amended to read:

63M-7-601. Creation -- Members -- Chair.

(1) There is created within the governor's office the Utah Council on Victims of Crime.

(2) The [~~Utah Council on Victims of Crime~~] council shall be composed of [~~25~~] 27 voting members as follows:

(a) a representative of the Commission on Criminal and Juvenile Justice appointed by the executive director;

(b) a representative of the Department of Corrections appointed by the executive director;

(c) a representative of the Board of Pardons and Parole appointed by the chair;

(d) a representative of the Department of Public Safety appointed by the commissioner;

(e) a representative of the Division of Juvenile Justice Services appointed by the director;

(f) a representative of the Utah Office for Victims of Crime appointed by the director;

(g) a representative of the Office of the Attorney General appointed by the attorney general;

(h) a representative of the United States Attorney for the district of Utah appointed by the United States Attorney;

(i) a representative of Utah's Native American community appointed by the director of the Division of Indian Affairs after input from federally recognized tribes in Utah;

(j) a professional or volunteer working in the area of violence against women and families appointed by the governor;

(k) a representative of the Department of Health's Violence and Injury Prevention Program appointed by the program's manager;

[~~(k)~~] (l) the chair of each judicial district's victims' rights committee;

[~~(l) the following members appointed to serve four-year terms:~~]

[~~(i)~~] (m) a representative of the Statewide Association of Public Attorneys appointed by that association;

[~~(ii)~~] (n) a representative of the Utah Chiefs of Police Association appointed by the president of that association;

[~~(iii)~~] (o) a representative of the Utah Sheriffs' Association appointed by the president of that association;

[~~(iv)~~] (p) a representative of a Children's Justice Center appointed by the attorney general; [~~and~~]

(q) the director of the Division of Child and Family Services or that individual's designee; and

[~~(v) a citizen representative appointed by the governor; and~~]

[~~(m)~~] (r) the following members appointed by the members in Subsections (2)(a) through (2)[~~(k)~~](q) to serve four-year terms:

(i) an individual who [~~works professionally with victims of crime; and~~] engages in community based advocacy;

[~~(ii) a victim of crime.~~]

[~~(3) The council shall annually elect one member to serve as chair.~~]

(ii) a citizen representative; and

(iii) a citizen representative who has been a victim of crime.

(3) The council shall annually elect:

(a) one member to serve as chair;

(b) one member to serve as vice-chair; and

(c) one member to serve as treasurer.

Section 2. Section 63M-7-602 is amended to read:

63M-7-602. Reappointment -- Vacancies.

(1) [~~Members~~] A member appointed to serve a four-year [~~terms shall be~~] term is eligible for reappointment [~~one time~~].

(2) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the remainder of the unexpired term.

Section 3. Section 63M-7-603 is amended to read:

63M-7-603. Duties of the council.

(1) The council shall:

(a) make recommendations to the Legislature, the governor, and the Judicial Council on the following:

(i) enforcing existing rights of victims of crime;

(ii) enhancing rights of victims of crime;

(iii) the role of victims of crime in the criminal justice system;

(iv) victim restitution;

(v) educating and training criminal justice professionals on the rights of victims of crime; and

(vi) enhancing services to victims of crimes;

(b) provide training on the rights of victims of crime; and

(c) establish a subcommittee to consider complaints not resolved by the Victims' Rights Committee established in Section 77-37-5.

(2) The council:

(a) shall advocate the adoption, repeal, or modification of laws or proposed legislation in the interest of victims of crime;

(b) subject to court rules and the governor's approval, may advocate in appellate courts on behalf of a victim of crime as described in Subsection 77-38-11(2)(a)(ii);

[~~(b)~~] (c) may establish additional subcommittees to assist in accomplishing its duties; and

[~~(c)~~] (d) shall select and appoint [~~persons pursuant to the provisions of~~] individuals in accordance with Section 77-37-5 to act as chairpersons of the judicial district victims' rights committees and provide assistance to the committees in their operations.

Section 4. Section 63M-7-605 is amended to read:

63M-7-605. Staffing.

(1) The Commission on Criminal and Juvenile Justice shall provide staff to the council and any subcommittees established by the council.

(2) Staff assigned to the council shall:

(a) provide administrative assistance to the council and any subcommittees; and

(b) receive complaints regarding victim's rights violations from victims and other interested persons and forward the complaints to the appropriate subcommittee within the council.

CHAPTER 173
H. B. 290
Passed March 4, 2021
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PROBATION AND PAROLE AMENDMENTS

Chief Sponsor: Keven J. Stratton
Senate Sponsor: Todd D. Weiler

LONG TITLE

General Description:

This bill modifies provisions related to the Sentencing Commission.

Highlighted Provisions:

This bill:

- modifies the membership and duties of the Sentencing Commission (commission) by:
  - adding a member to the commission;
  - requiring the commission to make recommendations regarding policies and services that assist individuals in successfully completing supervision and reduce incarceration rates from community supervision programs; and
  - directing the commission to establish processes for responding to and recognizing an individual's progress and positive behavior while under supervision; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63M-7-401, as renumbered and amended by Laws of Utah 2008, Chapter 382
63M-7-404, as last amended by Laws of Utah 2018, Chapter 334
64-13-6, as last amended by Laws of Utah 2018, Chapter 200
64-13-21, as last amended by Laws of Utah 2019, Chapter 27
64-13-29, as last amended by Laws of Utah 2020, Chapter 227
77-18-1, as last amended by Laws of Utah 2020, Chapters 209, 299, and 354
77-27-10, as last amended by Laws of Utah 2015, Chapter 412

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

Section 1. Section 63M-7-401 is amended to read:

63M-7-401. Creation -- Members -- Appointment -- Qualifications.

(1) There is created a state commission to be known as the Sentencing Commission composed of [~~27~~] 28 members. The commission shall develop by-laws and rules in compliance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and elect its officers.

(2) The commission's members shall be:

(a) two members of the House of Representatives, appointed by the speaker of the House and not of the same political party;

(b) two members of the Senate, appointed by the president of the Senate and not of the same political party;

(c) the executive director of the Department of Corrections or a designee appointed by the executive director;

(d) the director of the Division of Juvenile Justice Services or a designee appointed by the director;

(e) the executive director of the Commission on Criminal and Juvenile Justice or a designee appointed by the executive director;

(f) the chair of the Board of Pardons and Parole or a designee appointed by the chair;

(g) the chair of the Youth Parole Authority or a designee appointed by the chair;

(h) two trial judges and an appellate judge appointed by the chair of the Judicial Council;

(i) two juvenile court judges designated by the chair of the Judicial Council;

(j) an attorney in private practice who is a member of the Utah State Bar, experienced in criminal defense, and appointed by the Utah Bar Commission;

(k) an attorney who is a member of the Utah State Bar, experienced in the defense of minors in juvenile court, and appointed by the Utah Bar Commission;

(l) the director of Salt Lake Legal Defenders or a designee appointed by the director;

(m) the attorney general or a designee appointed by the attorney general;

(n) a criminal prosecutor appointed by the Statewide Association of Public Attorneys;

(o) a juvenile court prosecutor appointed by the Statewide Association of Public Attorneys;

(p) a representative of the Utah Sheriff's Association appointed by the governor;

(q) a chief of police appointed by the governor;

(r) a licensed professional appointed by the governor who assists in the rehabilitation of adult offenders;

(s) a licensed professional appointed by the governor who assists in the rehabilitation of juvenile offenders;

(t) two members from the public appointed by the governor who exhibit sensitivity to the concerns of victims of crime and the ethnic composition of the population; [~~and~~]

(u) one member from the public at large appointed by the governor[~~.~~]; and

(v) a representative of an organization that specializes in civil rights or civil liberties on behalf

of incarcerated individuals appointed by the governor.

Section 2. Section 63M-7-404 is amended to read:

63M-7-404. Purpose -- Duties.

(1) The purpose of the commission is to develop guidelines and propose recommendations to the Legislature, the governor, and the Judicial Council regarding:

(a) the sentencing and release of juvenile and adult offenders in order to:

(i) respond to public comment;

(ii) relate sentencing practices and correctional resources;

(iii) increase equity in criminal sentencing;

(iv) better define responsibility in criminal sentencing; and

(v) enhance the discretion of sentencing judges while preserving the role of the Board of Pardons and Parole and the Youth Parole Authority; [~~and~~]

(b) the length of supervision of adult offenders on probation or parole in order to:

(i) increase equity in criminal supervision lengths;

(ii) respond to public comment;

(iii) relate the length of supervision to an offender's progress;

(iv) take into account an offender's risk of offending again;

(v) relate the length of supervision to the amount of time an offender has remained under supervision in the community; and

(vi) enhance the discretion of the sentencing judges while preserving the role of the Board of Pardons and Parole[~~.~~];

(c) appropriate, evidence-based probation and parole supervision policies and services that assist individuals in successfully completing supervision and reduce incarceration rates from community supervision programs while ensuring public safety, including:

(i) treatment and intervention completion determinations based on individualized case action plans;

(ii) measured and consistent processes for addressing violations of conditions of supervision;

(iii) processes that include using positive reinforcement to recognize an individual's progress in supervision;

(iv) engaging with social services agencies and other stakeholders who provide services that meet offender needs; and

(v) identifying community violations that may not warrant revocation of probation or parole.

(2) (a) The commission shall modify the sentencing guidelines and supervision length guidelines for adult offenders to implement the recommendations of the Commission on Criminal and Juvenile Justice for reducing recidivism.

(b) The modifications under Subsection (2)(a) shall be for the purposes of protecting the public and ensuring efficient use of state funds.

(3) (a) The commission shall modify the criminal history score in the sentencing guidelines for adult offenders to implement the recommendations of the Commission on Criminal and Juvenile Justice for reducing recidivism.

(b) The modifications to the criminal history score under Subsection (3)(a) shall include factors in an offender's criminal history that are relevant to the accurate determination of an individual's risk of offending again.

(4) (a) The commission shall establish sentencing guidelines for periods of incarceration for individuals who are on probation and:

(i) who have violated one or more conditions of probation; and

(ii) whose probation has been revoked by the court.

(b) The guidelines shall consider the seriousness of the violation of the conditions of probation, the probationer's conduct while on probation, and the probationer's criminal history.

(5) (a) The commission shall establish sentencing guidelines for periods of incarceration for individuals who are on parole and:

(i) who have violated a condition of parole; and

(ii) whose parole has been revoked by the Board of Pardons and Parole.

(b) The guidelines shall consider the seriousness of the violation of the conditions of parole, the individual's conduct while on parole, and the individual's criminal history.

(6) The commission shall establish graduated [~~sanctions~~] and evidence-based processes to facilitate the prompt and effective response to an individual's progress in or violation of the terms of probation or parole by the adult probation and parole section of the Department of Corrections, or other supervision services provider, in order to implement the recommendations of the Commission on Criminal and Juvenile Justice for reducing recidivism and incarceration, including:

[~~(a) sanctions to be used in response to a violation of the terms of probation or parole;~~]

(a) responses to be used when an individual violates a condition of probation or parole;

(b) responses to recognize positive behavior and progress related to an individual's case action plan;

[~~(b)~~] (c) when [~~violations~~] a violation of a condition of probation or parole should be reported to the court or the Board of Pardons and Parole; and

[~~(c)~~] (d) a range of sanctions that may not exceed a period of incarceration of more than:

(i) three consecutive days; and

(ii) a total of five days in a period of 30 days.

(7) The commission shall establish graduated incentives to facilitate a prompt and effective response by the adult probation and parole section of the Department of Corrections to an offender's:

(a) compliance with the terms of probation or parole; and

(b) positive conduct that exceeds those terms.

(8) (a) The commission shall establish guidelines, including sanctions and incentives, to appropriately respond to negative and positive behavior of juveniles who are:

(i) nonjudicially adjusted;

(ii) placed on diversion;

(iii) placed on probation;

(iv) placed on community supervision;

(v) placed in an out-of-home placement; or

(vi) placed in a secure care facility.

(b) In establishing guidelines under this Subsection (8), the commission shall consider:

(i) the seriousness of the negative and positive behavior;

(ii) the juvenile's conduct post-adjudication; and

(iii) the delinquency history of the juvenile.

(c) The guidelines shall include:

(i) responses that are swift and certain;

(ii) a continuum of community-based options for juveniles living at home;

(iii) responses that target the individual's criminogenic risk and needs; and

(iv) incentives for compliance, including earned discharge credits.

(9) The commission shall establish supervision length guidelines in accordance with this section before October 1, 2018.

Section 3. Section 64-13-6 is amended to read:

64-13-6. Department duties.

(1) The department shall:

(a) protect the public through institutional care and confinement, and supervision in the community of offenders where appropriate;

(b) implement court-ordered punishment of offenders;

(c) provide program opportunities for offenders;

(d) provide treatment for sex offenders who are found to be treatable based upon criteria developed by the department;

(e) provide the results of ongoing assessment of sex offenders and objective diagnostic testing to sentencing and release authorities;

(f) manage programs that take into account the needs and interests of victims, where reasonable;

(g) supervise probationers and parolees as directed by statute and implemented by the courts and the Board of Pardons and Parole;

(h) subject to Subsection (2), investigate criminal conduct involving offenders incarcerated in a state correctional facility;

(i) cooperate and exchange information with other state, local, and federal law enforcement agencies to achieve greater success in prevention and detection of crime and apprehension of criminals;

(j) implement the provisions of Title 77, Chapter 28c, Interstate Compact for Adult Offender Supervision;

(k) establish a case action plan for each offender as follows:

(i) if an offender is to be supervised in the community, the case action plan shall be established for the offender not more than 90 days after supervision by the department begins; and

(ii) if the offender is committed to the custody of the department, the case action plan shall be established for the offender not more than 120 days after the commitment; and

(l) ensure that any training or certification required of a public official or public employee, as those terms are defined in Section 63G-22-102, complies with Title 63G, Chapter 22, State Training and Certification Requirements, if the training or certification is required:

(i) under this title;

(ii) by the department; or

(iii) by an agency or division within the department.

(2) The department may in the course of supervising probationers and parolees:

(a) [~~impose graduated sanctions, as~~] respond in accordance with the graduated and evidence-based processes established by the Utah Sentencing Commission under Subsection 63M-7-404(6), [~~for~~] to an individual's violation of one or more terms of the probation or parole; and

(b) upon approval by the court or the Board of Pardons and Parole, impose as a sanction for an individual's violation of the terms of probation or parole a period of incarceration of not more than three consecutive days and not more than a total of five days within a period of 30 days.

(3) (a) By following the procedures in Subsection (3)(b), the department may investigate the

following occurrences at state correctional facilities:

(i) criminal conduct of departmental employees;

(ii) felony crimes resulting in serious bodily injury;

(iii) death of any person; or

(iv) aggravated kidnaping.

(b) Prior to investigating any occurrence specified in Subsection (3)(a), the department shall:

(i) notify the sheriff or other appropriate law enforcement agency promptly after ascertaining facts sufficient to believe an occurrence specified in Subsection (3)(a) has occurred; and

(ii) obtain consent of the sheriff or other appropriate law enforcement agency to conduct an investigation involving an occurrence specified in Subsection (3)(a).

(4) Upon request, the department shall provide copies of investigative reports of criminal conduct to the sheriff or other appropriate law enforcement agencies.

(5) The Department of Corrections shall collect accounts receivable ordered by the district court as a result of prosecution for a criminal offense according to the requirements and during the time periods established in Subsection 77-18-1(9).

Section 4. Section 64-13-21 is amended to read:

64-13-21. Supervision of sentenced offenders placed in community -- Rulemaking -- POST certified parole or probation officers and peace officers -- Duties -- Supervision fee.

(1) (a) The department, except as otherwise provided by law, shall supervise sentenced offenders placed in the community on probation by the courts, on parole by the Board of Pardons and Parole, or upon acceptance for supervision under the terms of the Interstate Compact for the Supervision of Parolees and Probationers.

(b) The department shall establish standards for the supervision of offenders in accordance with sentencing guidelines and supervision length guidelines, including the graduated [~~sanctions matrix~~] and evidence-based responses, established by the Utah Sentencing Commission, giving priority, based on available resources, to felony offenders and offenders sentenced pursuant to Subsection 58-37-8(2)(b)(ii).

(2) The department shall apply [~~graduated sanctions~~] the graduated and evidence-based responses established by the Utah Sentencing Commission to facilitate a prompt and appropriate response to an individual's violation of the terms of probation or parole, including:

(a) sanctions to be used in response to a violation of the terms of probation or parole; and

(b) requesting approval from the court or Board of Pardons and Parole to impose a sanction for an individual's violation of the terms of probation or parole, for a period of incarceration of not more than three consecutive days and not more than a total of five days within a period of 30 days.

(3) The department shall implement a program of graduated incentives as established by the Utah Sentencing Commission to facilitate the department's prompt and appropriate response to an offender's:

(a) compliance with the terms of probation or parole; or

(b) positive conduct that exceeds those terms.

(4) (a) The department shall, in collaboration with the Commission on Criminal and Juvenile Justice and the Division of Substance Abuse and Mental Health, create standards and procedures for the collection of information, including cost savings related to recidivism reduction and the reduction in the number of inmates, related to the use of the graduated [~~sanctions~~] and evidence-based responses and graduated incentives, and offenders' outcomes.

(b) The collected information shall be provided to the Commission on Criminal and Juvenile Justice not less frequently than annually on or before August 31.

(5) Employees of the department who are POST certified as law enforcement officers or correctional officers and who are designated as parole and probation officers by the executive director have the following duties:

(a) monitoring, investigating, and supervising a parolee's or probationer's compliance with the conditions of the parole or probation agreement;

(b) investigating or apprehending any offender who has escaped from the custody of the department or absconded from supervision;

(c) supervising any offender during transportation; or

(d) collecting DNA specimens when the specimens are required under Section 53-10-404.

(6) (a) A monthly supervision fee of $30 shall be collected from each offender on probation or parole. The fee may be suspended or waived by the department upon a showing by the offender that imposition would create a substantial hardship or if the offender owes restitution to a victim.

(b) (i) The department shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, specifying the criteria for suspension or waiver of the supervision fee and the circumstances under which an offender may request a hearing.

(ii) In determining whether the imposition of the supervision fee would constitute a substantial hardship, the department shall consider the financial resources of the offender and the burden that the fee would impose, with regard to the offender's other obligations.

(7) (a) For offenders placed on probation under Section 77-18-1 or parole under Subsection 76-3-202(2)(a) on or after October 1, 2015, but before January 1, 2019, the department shall establish a program allowing an offender to earn credits for the offender's compliance with the terms of the offender's probation or parole, which shall be applied to reducing the period of probation or parole as provided in this Subsection (7).

(b) The program shall provide that an offender earns a reduction credit of 30 days from the offender's period of probation or parole for each month the offender completes without any violation of the terms of the offender's probation or parole agreement, including the case action plan.

(c) The department shall maintain a record of credits earned by an offender under this Subsection (7) and shall request from the court or the Board of Pardons and Parole the termination of probation or parole not fewer than 30 days prior to the termination date that reflects the credits earned under this Subsection (7).

(d) This Subsection (7) does not prohibit the department from requesting a termination date earlier than the termination date established by earned credits under Subsection (7)(c).

(e) The court or the Board of Pardons and Parole shall terminate an offender's probation or parole upon completion of the period of probation or parole accrued by time served and credits earned under this Subsection (7) unless the court or the Board of Pardons and Parole finds that termination would interrupt the completion of a necessary treatment program, in which case the termination of probation or parole shall occur when the treatment program is completed.

(f) The department shall report annually to the Commission on Criminal and Juvenile Justice on or before August 31:

(i) the number of offenders who have earned probation or parole credits under this Subsection (7) in one or more months of the preceding fiscal year and the percentage of the offenders on probation or parole during that time that this number represents;

(ii) the average number of credits earned by those offenders who earned credits;

(iii) the number of offenders who earned credits by county of residence while on probation or parole;

(iv) the cost savings associated with sentencing reform programs and practices; and

(v) a description of how the savings will be invested in treatment and early-intervention programs and practices at the county and state levels.

Section 5. Section 64-13-29 is amended to read:

64-13-29. Violation of parole or probation -- Detention -- Hearing.

(1) (a) The department or local law enforcement agency shall ensure that the court is notified of violations of the terms and conditions of probation in the case of probationers under the supervision of the department, the local law enforcement agency, or the Board of Pardons and Parole in the case of parolees under the department's supervision when:

(i) a sanction of incarceration is recommended; or

(ii) the department or local law enforcement agency determines that a graduated [~~sanction~~] and evidence-based response is not an appropriate response to the offender's violation and recommends revocation of probation or parole.

(b) In cases where the department desires to detain an offender alleged to have violated his parole or probation and where it is unlikely that the Board of Pardons and Parole or court will conduct a hearing within a reasonable time to determine if the offender has violated his conditions of parole or probation, the department shall hold an administrative hearing within a reasonable time, unless the hearing is waived by the parolee or probationer, to determine if there is probable cause to believe that a violation has occurred.

(c) If there is a conviction for a crime based on the same charges as the probation or parole violation, or a finding by a federal or state court that there is probable cause to believe that an offender has committed a crime based on the same charges as the probation or parole violation, the department need not hold an administrative hearing.

(2) The appropriate officer or officers of the department shall, as soon as practical following the department's administrative hearing, report to the court or the Board of Pardons and Parole, furnishing a summary of the hearing, and may make recommendations regarding the disposition to be made of the parolee or probationer.

(3) Pending any proceeding under this section, the department may take custody of and detain the parolee or probationer involved for a period not to exceed 72 hours excluding weekends and holidays.

(4) In cases where probationers are supervised by a local law enforcement agency, the agency may take custody of and detain the probationer involved for a period not to exceed 72 hours excluding weekends and holidays if:

(a) the probationer commits a major violation or repeated violations of probation; [~~and~~]

(b) it is unlikely that the court will conduct a hearing within a reasonable time to determine if the offender has violated the conditions of probation; and

(c) the law enforcement agency conducts an administrative hearing within a reasonable time to determine if there is probable cause to believe the offender has violated the conditions of probation, unless the hearing is waived by the probationer.

(5) If the requirements for Subsection (4) are met, the local law enforcement agency shall ensure the proper court is notified.

(6) If the hearing officer determines that there is probable cause to believe that the offender has violated the conditions of [~~his~~] the offender's parole or probation, the department may detain the offender for a reasonable period of time after the hearing or waiver, as necessary to arrange for the incarceration of the offender. A written order of the department is sufficient authorization for any peace officer to incarcerate the offender. The department may promulgate rules for the implementation of this section.

(7) A written order from the local law enforcement agency is sufficient authorization for any peace officer to incarcerate the offender if:

(a) the probationers are supervised by a local law enforcement agency; and

(b) the appropriate officer or officers determine that there is probable cause to believe that the offender has violated the conditions of probation.

(8) If a probationer supervised by a local law enforcement agency commits a violation outside of the jurisdiction of the supervising agency, the arresting agency is not required to hold or transport the probationer for the supervising agency.

Section 6. Section 77-18-1 is amended to read:

77-18-1. Suspension of sentence -- Pleas held in abeyance -- Probation -- Supervision -- Presentence investigation -- Standards -- Confidentiality -- Terms and conditions -- Termination, revocation, modification, or extension -- Hearings -- Electronic monitoring.

(1) On a plea of guilty or no contest entered by a defendant in conjunction with a plea in abeyance agreement, the court may hold the plea in abeyance as provided in Chapter 2a, Pleas in Abeyance, and under the terms of the plea in abeyance agreement.

(2) (a) On a plea of guilty, guilty with a mental illness, no contest, or conviction of any crime or offense, the court may, after imposing sentence, suspend the execution of the sentence and place the defendant:

(i) on probation under the supervision of the Department of Corrections except in cases of class C misdemeanors or infractions;

(ii) on probation under the supervision of an agency of local government or with a private organization; or

(iii) on court probation under the jurisdiction of the sentencing court.

(b) (i) The legal custody of all probationers under the supervision of the department is with the department.

(ii) The legal custody of all probationers under the jurisdiction of the sentencing court is vested as ordered by the court.

(iii) The court has continuing jurisdiction over all probationers.

(iv) Court probation may include an administrative level of services, including notification to the court of scheduled periodic reviews of the probationer's compliance with conditions.

(c) Supervised probation services provided by the department, an agency of local government, or a private organization shall specifically address the offender's risk of reoffending as identified by a validated risk and needs screening or assessment.

(3) (a) The department shall establish supervision and presentence investigation standards for all individuals referred to the department based on:

(i) the type of offense;

(ii) the results of a risk and needs assessment;

(iii) the demand for services;

(iv) the availability of agency resources;

(v) public safety; and

(vi) other criteria established by the department to determine what level of services shall be provided.

(b) Proposed supervision and investigation standards shall be submitted to the Judicial Council and the Board of Pardons and Parole on an annual basis for review and comment prior to adoption by the department.

(c) The Judicial Council and the department shall establish procedures to implement the supervision and investigation standards.

(d) The Judicial Council and the department shall annually consider modifications to the standards based upon criteria in Subsection (3)(a) and other criteria as they consider appropriate.

(e) The Judicial Council and the department shall annually prepare an impact report and submit it to the appropriate legislative appropriations subcommittee.

(4) Notwithstanding other provisions of law, the department is not required to supervise the probation of an individual convicted of a class B or C misdemeanor or an infraction or to conduct presentence investigation reports on a class C misdemeanor or infraction. However, the department may supervise the probation of a class B misdemeanant in accordance with department standards.

(5) (a) Before the imposition of any sentence, the court may, with the concurrence of the defendant, continue the date for the imposition of sentence for a reasonable period of time for the purpose of obtaining a presentence investigation report from the department or information from other sources about the defendant.

(b) The presentence investigation report shall include:

(i) a victim impact statement according to guidelines set in Section 77-38a-203 describing the effect of the crime on the victim and the victim's family;

(ii) a specific statement of pecuniary damages, accompanied by a recommendation from the department regarding the payment of restitution with interest by the defendant in accordance with Chapter 38a, Crime Victims Restitution Act;

(iii) findings from any screening and any assessment of the offender conducted under Section 77-18-1.1;

(iv) recommendations for treatment of the offender; and

(v) the number of days since the commission of the offense that the offender has spent in the custody of the jail and the number of days, if any, the offender was released to a supervised release or alternative incarceration program under Section 17-22-5.5.

(c) The contents of the presentence investigation report are protected and are not available except by court order for purposes of sentencing as provided by rule of the Judicial Council or for use by the department.

(6) (a) The department shall provide the presentence investigation report to the defendant's attorney, or the defendant if not represented by counsel, the prosecutor, and the court for review, three working days prior to sentencing. Any alleged inaccuracies in the presentence investigation report, which have not been resolved by the parties and the department prior to sentencing, shall be brought to the attention of the sentencing judge, and the judge may grant an additional 10 working days to resolve the alleged inaccuracies of the report with the department. If after 10 working days the inaccuracies cannot be resolved, the court shall make a determination of relevance and accuracy on the record.

(b) If a party fails to challenge the accuracy of the presentence investigation report at the time of sentencing, that matter shall be considered to be waived.

(7) At the time of sentence, the court shall receive any testimony, evidence, or information the defendant or the prosecuting attorney desires to present concerning the appropriate sentence. This testimony, evidence, or information shall be presented in open court on record and in the presence of the defendant.

(8) While on probation, and as a condition of probation, the court may require that a defendant perform any or all of the following:

(a) provide for the support of others for whose support the defendant is legally liable;

(b) participate in available treatment programs, including any treatment program in which the defendant is currently participating, if the program is acceptable to the court;

(c) if on probation for a felony offense, serve a period of time, as an initial condition of probation, not to exceed one year, in a county jail designated by the department, after considering any recommendation by the court as to which jail the court finds most appropriate:

(i) the court may modify probation to include a period of time served in a county jail immediately prior to the termination of probation as long as the terminal period of time does not exceed one year; and

(ii) jail days ordered as a sanction for probation violations do not apply to the limitation on jail days described in Subsection (8)(c) or (8)(c)(i);

(d) serve a term of home confinement, which may include the use of electronic monitoring;

(e) participate in compensatory service restitution programs, including the compensatory service program provided in Section 76-6-107.1;

(f) pay for the costs of investigation, probation, and treatment services;

(g) make restitution or reparation to the victim or victims with interest in accordance with Chapter 38a, Crime Victims Restitution Act; and

(h) comply with other terms and conditions the court considers appropriate to ensure public safety or increase a defendant's likelihood of success on probation.

(9) The department shall collect and disburse the accounts receivable as defined by Section 77-32a-101, with interest and any other costs assessed under Section 64-13-21 during:

(a) the parole period and any extension of that period in accordance with Subsection 77-27-6(4); and

(b) the probation period in cases for which the court orders supervised probation and any extension of that period by the department in accordance with Subsection (10).

(10) (a) (i) Except as provided in Subsection (10)(a)(ii), probation of an individual placed on probation after December 31, 2018:

(A) may not exceed the individual's maximum sentence;

(B) shall be for a period of time that is in accordance with the supervision length guidelines established by the Utah Sentencing Commission under Section 63M-7-404, to the extent the guidelines are consistent with the requirements of the law; and

(C) shall be terminated in accordance with the supervision length guidelines established by the Utah Sentencing Commission under Section 63M-7-404, to the extent the guidelines are consistent with the requirements of the law.

(ii) Probation of an individual placed on probation after December 31, 2018, whose maximum sentence is one year or less may not exceed 36 months.

(iii) Probation of an individual placed on probation on or after October 1, 2015, but before January 1, 2019, may be terminated at any time at the discretion of the court or upon completion without violation of 36 months probation in felony

or class A misdemeanor cases, 12 months in cases of class B or C misdemeanors or infractions, or as allowed pursuant to Section 64-13-21 regarding earned credits.

(b) (i) If, upon expiration or termination of the probation period under Subsection (10)(a), there remains an unpaid balance upon the accounts receivable as defined in Section 77-32a-101, the court may retain jurisdiction of the case and continue the defendant on bench probation for the limited purpose of enforcing the payment of the account receivable. If the court retains jurisdiction for this limited purpose, the court may order the defendant to pay to the court the costs associated with continued probation under this Subsection (10).

(ii) In accordance with Section 77-18-6, the court shall record in the registry of civil judgments any unpaid balance not already recorded and immediately transfer responsibility to collect the account to the Office of State Debt Collection.

(iii) Upon motion of the Office of State Debt Collection, prosecutor, victim, or upon its own motion, the court may require the defendant to show cause why the defendant's failure to pay should not be treated as contempt of court.

(c) Subsections (10)(a) and (b) do not apply to Section 76-7-201, criminal nonsupport.

(d) (i) The department shall notify the court, the Office of State Debt Collection, and the prosecuting attorney in writing in advance in all cases when termination of supervised probation is being requested by the department or will occur by law.

(ii) The notification shall include a probation progress report and complete report of details on outstanding accounts receivable.

(11) (a) (i) Any time served by a probationer outside of confinement after having been charged with a probation violation and prior to a hearing to revoke probation does not constitute service of time toward the total probation term unless the probationer is exonerated at a hearing to revoke the probation.

(ii) Any time served in confinement awaiting a hearing or decision concerning revocation of probation does not constitute service of time toward the total probation term unless the probationer is exonerated at the hearing.

(iii) Any time served in confinement awaiting a hearing or decision concerning revocation of probation constitutes service of time toward a term of incarceration imposed as a result of the revocation of probation or a graduated [~~sanction~~] and evidence-based response imposed under Section 63M-7-404.

(b) The running of the probation period is tolled upon the filing of a violation report with the court alleging a violation of the terms and conditions of probation or upon the issuance of an order to show cause or warrant by the court.

(12) (a) (i) Probation may be modified as is consistent with the supervision length guidelines and the graduated [~~sanctions~~] and evidence-based responses and graduated incentives developed by the Utah Sentencing Commission under Section 63M-7-404.

(ii) The length of probation may not be extended, except upon waiver of a hearing by the probationer or upon a hearing and a finding in court that the probationer has violated the conditions of probation.

(iii) Probation may not be revoked except upon a hearing in court and a finding that the conditions of probation have been violated.

(b) (i) Upon the filing of an affidavit, or an unsworn written declaration executed in substantial compliance with Title 78B, Chapter 18a, Uniform Unsworn Declarations Act, alleging with particularity facts asserted to constitute violation of the conditions of probation, the court shall determine if the affidavit or unsworn written declaration establishes probable cause to believe that revocation, modification, or extension of probation is justified.

(ii) If the court determines there is probable cause, it shall cause to be served on the defendant a warrant for the defendant's arrest or a copy of the affidavit or unsworn written declaration and an order to show cause why the defendant's probation should not be revoked, modified, or extended.

(c) (i) The order to show cause shall specify a time and place for the hearing and shall be served upon the defendant at least five days prior to the hearing.

(ii) The defendant shall show good cause for a continuance.

(iii) The order to show cause shall inform the defendant of a right to be represented by counsel at the hearing and to have counsel appointed if the defendant is indigent.

(iv) The order shall also inform the defendant of a right to present evidence.

(d) (i) At the hearing, the defendant shall admit or deny the allegations of the affidavit or unsworn written declaration.

(ii) If the defendant denies the allegations of the affidavit or unsworn written declaration, the prosecuting attorney shall present evidence on the allegations.

(iii) The persons who have given adverse information on which the allegations are based shall be presented as witnesses subject to questioning by the defendant unless the court for good cause otherwise orders.

(iv) The defendant may call witnesses, appear and speak in the defendant's own behalf, and present evidence.

(e) (i) After the hearing the court shall make findings of fact.

(ii) Upon a finding that the defendant violated the conditions of probation, the court may order the

probation revoked, modified, continued, or reinstated for all or a portion of the original term of probation.

(iii) (A) Except as provided in Subsection (10)(a)(ii), the court may not require a defendant to remain on probation for a period of time that exceeds the length of the defendant's maximum sentence.

(B) Except as provided in Subsection (10)(a)(ii), if a defendant's probation is revoked and later reinstated, the total time of all periods of probation the defendant serves, relating to the same sentence, may not exceed the defendant's maximum sentence.

(iv) If a period of incarceration is imposed for a violation, the defendant shall be sentenced within the guidelines established by the Utah Sentencing Commission pursuant to Subsection 63M-7-404(4), unless the judge determines that:

(A) the defendant needs substance abuse or mental health treatment, as determined by a validated risk and needs screening and assessment, that warrants treatment services that are immediately available in the community; or

(B) the sentence previously imposed shall be executed.

(v) If the defendant had, prior to the imposition of a term of incarceration or the execution of the previously imposed sentence under this Subsection (12), served time in jail as a condition of probation or due to a violation of probation under Subsection (12)(e)(iv), the time the probationer served in jail constitutes service of time toward the sentence previously imposed.

(13) The court may order the defendant to commit the defendant to the custody of the Division of Substance Abuse and Mental Health for treatment at the Utah State Hospital as a condition of probation or stay of sentence, only after the superintendent of the Utah State Hospital or the superintendent's designee has certified to the court that:

(a) the defendant is appropriate for and can benefit from treatment at the state hospital;

(b) treatment space at the hospital is available for the defendant; and

(c) individuals described in Subsection 62A-15-610(2)(g) are receiving priority for treatment over the defendants described in this Subsection (13).

(14) Presentence investigation reports are classified protected in accordance with Title 63G, Chapter 2, Government Records Access and Management Act. Notwithstanding Sections 63G-2-403 and 63G-2-404, the State Records Committee may not order the disclosure of a presentence investigation report. Except for disclosure at the time of sentencing pursuant to this section, the department may disclose the presentence investigation only when:

(a) ordered by the court pursuant to Subsection 63G-2-202(7);

(b) requested by a law enforcement agency or other agency approved by the department for purposes of supervision, confinement, and treatment of the offender;

(c) requested by the Board of Pardons and Parole;

(d) requested by the subject of the presentence investigation report or the subject's authorized representative;

(e) requested by the victim of the crime discussed in the presentence investigation report or the victim's authorized representative, provided that the disclosure to the victim shall include only information relating to statements or materials provided by the victim, to the circumstances of the crime including statements by the defendant, or to the impact of the crime on the victim or the victim's household; or

(f) requested by a sex offender treatment provider who is certified to provide treatment under the program established in Subsection 64-13-25(3) and who, at the time of the request:

(i) is providing sex offender treatment to the offender who is the subject of the presentence investigation report; and

(ii) provides written assurance to the department that the report:

(A) is necessary for the treatment of the offender;

(B) will be used solely for the treatment of the offender; and

(C) will not be disclosed to an individual or entity other than the offender.

(15) (a) The court shall consider home confinement as a condition of probation under the supervision of the department, except as provided in Sections 76-3-406 and 76-5-406.5.

(b) The department shall establish procedures and standards for home confinement, including electronic monitoring, for all individuals referred to the department in accordance with Subsection (16).

(16) (a) If the court places the defendant on probation under this section, it may order the defendant to participate in home confinement through the use of electronic monitoring as described in this section until further order of the court.

(b) The electronic monitoring shall alert the department and the appropriate law enforcement unit of the defendant's whereabouts.

(c) The electronic monitoring device shall be used under conditions which require:

(i) the defendant to wear an electronic monitoring device at all times; and

(ii) that a device be placed in the home of the defendant, so that the defendant's compliance with the court's order may be monitored.

(d) If a court orders a defendant to participate in home confinement through electronic monitoring

as a condition of probation under this section, it shall:

(i) place the defendant on probation under the supervision of the Department of Corrections;

(ii) order the department to place an electronic monitoring device on the defendant and install electronic monitoring equipment in the residence of the defendant; and

(iii) order the defendant to pay the costs associated with home confinement to the department or the program provider.

(e) The department shall pay the costs of home confinement through electronic monitoring only for an individual who is determined to be indigent by the court.

(f) The department may provide the electronic monitoring described in this section either directly or by contract with a private provider.

Section 7. Section 77-27-10 is amended to read:

77-27-10. Conditions of parole -- Inmate agreement to warrant -- Rulemaking -- Intensive early release parole program.

(1) (a) When the Board of Pardons and Parole releases an offender on parole, it shall issue to the parolee a certificate setting forth the conditions of parole, including the [~~use of graduated sanctions pursuant to~~] graduated and evidence-based responses to a violation of a condition of parole established by the Sentencing Commission in accordance with Section 64-13-21, which the offender shall accept and agree to as evidenced by the offender's signature affixed to the agreement.

(b) The parole agreement shall require that the inmate agree in writing that the board may issue a warrant and conduct a parole revocation hearing if:

(i) the board determines after the grant of parole that the inmate willfully provided to the board false or inaccurate information that the board finds was significant in the board's determination to grant parole; or

(ii) (A) the inmate has engaged in criminal conduct prior to the granting of parole; and

(B) the board did not have information regarding the conduct at the time parole was granted.

(c) A copy of the agreement shall be delivered to the Department of Corrections and a copy shall be given to the parolee. The original shall remain with the board's file.

(2) (a) If an offender convicted of violating or attempting to violate Section 76-5-301.1, Subsection 76-5-302(1), Section 76-5-402, 76-5-402.1, 76-5-402.2, 76-5-402.3, 76-5-403, 76-5-403.1, 76-5-404, 76-5-404.1, or 76-5-405, is released on parole, the board shall order outpatient mental health counseling and treatment as a condition of parole.

(b) The board shall develop standards and conditions of parole under this Subsection (2) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(c) This Subsection (2) does not apply to intensive early release parole.

(3) (a) In addition to the conditions set out in Subsection (1), the board may place offenders in an intensive early release parole program. The board shall determine the conditions of parole which are reasonably necessary to protect the community as well as to protect the interests of the offender and to assist the offender to lead a law-abiding life.

(b) The offender is eligible for this program only if the offender:

(i) has not been convicted of a sexual offense; or

(ii) has not been sentenced pursuant to Section 76-3-406.

(c) The department shall:

(i) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for operation of the program;

(ii) adopt and implement internal management policies for operation of the program;

(iii) determine whether or not to refer an offender into this program within 120 days from the date the offender is committed to prison by the sentencing court; and

(iv) make the final recommendation to the board regarding the placement of an offender into the program.

(d) The department may not consider credit for time served in a county jail awaiting trial or sentencing when calculating the 120-day period.

(e) The prosecuting attorney or sentencing court may refer an offender for consideration by the department for participation in the program.

(f) The board shall determine whether or not to place an offender into this program within 30 days of receiving the department's recommendation.

(4) This program shall be implemented by the department within the existing budget.

(5) During the time the offender is on parole, the department shall collect from the offender the monthly supervision fee authorized by Section 64-13-21.

(6) When a parolee commits a violation of the parole agreement, the department may:

(a) [~~impose a graduated sanction pursuant to~~] respond in accordance with the graduated and evidence-based responses established in accordance with Section 64-13-21; or

(b) when [~~the graduated sanctions matrix under Subsection 63M-7-404(6) indicates~~] the graduated and evidence-based responses established in accordance with Section 64-13-21 indicate, refer the parolee to the Board of Pardons and Parole for revocation of parole.

CHAPTER 174
H. B. 291
Passed March 4, 2021
Approved March 16, 2021
Effective May 5, 2021

RESIDENTIAL PICKETING PROHIBITION

Chief Sponsor: Ryan D. Wilcox
Senate Sponsor: Evan J. Vickers

LONG TITLE

General Description:

This bill concerns targeted residential picketing.

Highlighted Provisions:

This bill:

- defines terms;
- creates the offense of targeted residential picketing;
- creates the offense of disclosing an individual's physical address with the intent to cause another individual to engage in targeted residential picketing; and
- imposes penalties.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

76-9-109, Utah Code Annotated 1953

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

Section 1. Section 76-9-109 is enacted to read:

76-9-109. Targeted residential picketing.

(1) As used in this section:

(a) "Picketing" means the stationing or posting of one or more individuals to apprise the public, vocally or by standing or marching with signs, banners, sound amplification devices, or other means, of an opinion or a message.

(b) "Residence" means any single-family, duplex, or multi-family dwelling unit that is not being used as a targeted occupant's sole place of business or as a place of public meeting.

(c) "Targeted residential picketing" means picketing, with or without signs, that is specifically directed or focused toward a residence, or one or more occupants of the residence, and that takes place:

(i) on that portion of a sidewalk or street in front of the residence, in front of an adjoining residence, or on either side of the targeted residence; or

(ii) within 100 feet of the property line of the targeted residence.

(2) It is unlawful to engage in targeted residential picketing.

(3) This section does not apply to:

(a) an individual picketing at the individual's own residence;

(b) the picketing of a meeting place or assembly area commonly used to discuss subjects of general public interest; or

(c) general picketing that proceeds through residential neighborhoods or that proceeds past residences.

(4) It is unlawful to publish, post, disseminate, or disclose an individual's residential address, or other information identifying the specific location of an individual's residence, with the intent to cause another individual to engage in targeted residential picketing.

(5) Targeted residential picketing is a class B misdemeanor.

(6) A violation of Subsection (4) is a class B misdemeanor.

CHAPTER 175
H. B. 292
Passed March 3, 2021
Approved March 16, 2021
Effective May 5, 2021

CHILDREN'S HEALTH INSURANCE PLAN AMENDMENTS

Chief Sponsor: James A. Dunnigan
Senate Sponsor: Todd D. Weiler
Cosponsor: Karen Kwan

LONG TITLE

General Description:

This bill amends the Utah Children's Health Insurance Act.

Highlighted Provisions:

This bill:

- adds treatment for autism spectrum disorder to the program benefits within the Utah Children's Health Insurance Program.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

26-40-106, as last amended by Laws of Utah 2020, Chapter 225

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

Section 1. Section 26-40-106 is amended to read:

26-40-106. Program benefits.

(1) Except as provided in Subsection (3), medical and dental program benefits shall be benchmarked, in accordance with 42 U.S.C. Sec. 1397cc, as follows:

(a) medical program benefits, including behavioral health care benefits, shall be benchmarked effective July 1, 2019, and on July 1 every third year thereafter, to:

(i) be substantially equal to a health benefit plan with the largest insured commercial enrollment offered by a health maintenance organization in the state; and

(ii) comply with the Mental Health Parity and Addiction Equity Act, Pub. L. No. 110-343; and

(b) dental program benefits shall be benchmarked effective July 1, 2019, and on July 1 every third year thereafter in accordance with the Children's Health Insurance Program Reauthorization Act of 2009, to be substantially equal to a dental benefit plan that has the largest insured, commercial, non-Medicaid enrollment of covered lives that is offered in the state, except that the utilization review mechanism for orthodontia shall be based on medical necessity.

(2) On or before July 1 of each year, the department shall publish the benchmark for dental program benefits established under Subsection (1)(b).

(3) The program benefits:

(a) for enrollees who are at or below 100% of the federal poverty level are exempt from the benchmark requirements of Subsections (1) and (2)[.]; and

(b) shall include treatment for autism spectrum disorder as defined in Section 31A-22-642, which:

(i) shall include coverage for applied behavioral analysis; and

(ii) if the benchmark described in Subsection (1)(a) does not include the coverage described in this Subsection (3)(b), the department shall exclude from the benchmark described in Subsection (1)(a) for any purpose other than providing benefits under the program.

CHAPTER 176
H. B. 293
Passed March 1, 2021
Approved March 16, 2021
Effective May 5, 2021

OPEN MEETING MINUTES AMENDMENTS

Chief Sponsor: Michael J. Petersen
Senate Sponsor: John D. Johnson

LONG TITLE

General Description:

This bill amends provisions related to the posting of minutes of open meetings.

Highlighted Provisions:

This bill:

- requires a state body that is not a public body or a specified local public body to:
  - post to the state public notice website a copy of the approved minutes and any public materials distributed at the meeting or a link to a website on which the approved minutes and any public materials distributed at the meeting are posted;
  - make the approved minutes and public materials available to the public at the public body's primary office; and
  - if the public body provides online minutes, post approved minutes and the public materials on the public body's website.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

52-4-203, as last amended by Laws of Utah 2018, Chapter 425

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

Section 1. Section 52-4-203 is amended to read:

52-4-203. Written minutes of open meetings -- Public records -- Recording of meetings.

(1) Except as provided under Subsection (7), written minutes and a recording shall be kept of all open meetings.

(2) (a) Written minutes of an open meeting shall include:

(i) the date, time, and place of the meeting;

(ii) the names of members present and absent;

(iii) the substance of all matters proposed, discussed, or decided by the public body which may include a summary of comments made by members of the public body;

(iv) a record, by individual member, of each vote taken by the public body;

(v) the name of each person who:

(A) is not a member of the public body; and

(B) after being recognized by the presiding member of the public body, provided testimony or comments to the public body;

(vi) the substance, in brief, of the testimony or comments provided by the public under Subsection (2)(a)(v); and

(vii) any other information that is a record of the proceedings of the meeting that any member requests be entered in the minutes or recording.

(b) A public body may satisfy the requirement under Subsection (2)(a)(iii) or (vi) that minutes include the substance of matters proposed, discussed, or decided or the substance of testimony or comments by maintaining a publicly available online version of the minutes that provides a link to the meeting recording at the place in the recording where the matter is proposed, discussed, or decided or the testimony or comments provided.

(3) A recording of an open meeting shall:

(a) be a complete and unedited record of all open portions of the meeting from the commencement of the meeting through adjournment of the meeting; and

(b) be properly labeled or identified with the date, time, and place of the meeting.

(4) (a) As used in this Subsection (4):

(i) "Approved minutes" means written minutes:

(A) of an open meeting; and

(B) that have been approved by the public body that held the open meeting.

(ii) "Electronic information" means information presented or provided in an electronic format.

(iii) "Pending minutes" means written minutes:

(A) of an open meeting; and

(B) that have been prepared in draft form and are subject to change before being approved by the public body that held the open meeting.

(iv) "Specified local public body" means a legislative body of a county, city, town, or metro township.

(v) "State public body" means a public body that is an administrative, advisory, executive, or legislative body of the state.

(vi) "State website" means the Utah Public Notice Website created under Section 63F-1-701.

(b) Pending minutes, approved minutes, and a recording of a public meeting are public records under Title 63G, Chapter 2, Government Records Access and Management Act.

(c) Pending minutes shall contain a clear indication that the public body has not yet approved the minutes or that the minutes are subject to change until the public body approves them.

(d) A [~~state public body and a specified local~~] public body shall require an individual who, at an

open meeting of the public body, publicly presents or provides electronic information, relating to an item on the public body's meeting agenda, to provide the public body, at the time of the meeting, an electronic or hard copy of the electronic information for inclusion in the public record.

(e) A state public body shall:

(i) make pending minutes available to the public within 30 days after holding the open meeting that is the subject of the pending minutes;

(ii) within three business days after approving written minutes of an open meeting:

(A) post to the state website a copy of the approved minutes and any public materials distributed at the meeting;

(B) make the approved minutes and public materials available to the public at the public body's primary office; and

(C) if the public body provides online minutes under Subsection (2)(b), post approved minutes that comply with Subsection (2)(b) and the public materials on the public body's website; and

(iii) within three business days after holding an open meeting, post on the state website an audio recording of the open meeting, or a link to the recording.

(f) A specified local public body shall:

(i) make pending minutes available to the public within 30 days after holding the open meeting that is the subject of the pending minutes;

(ii) within three business days after approving written minutes of an open meeting, post and make available a copy of the approved minutes and any public materials distributed at the meeting, as provided in Subsection (4)(e)(ii); and

(iii) within three business days after holding an open meeting, make an audio recording of the open meeting available to the public for listening.

(g) A public body that is not a state public body or a specified local public body shall:

(i) make pending minutes available to the public within a reasonable time after holding the open meeting that is the subject of the pending minutes;

(ii) within three business days after approving written minutes[~~, make the approved minutes available to the public~~] of an open meeting:

(A) post and make available a copy of the approved minutes and any public materials distributed at the meeting, as provided in Subsection (4)(e)(ii); or

(B) comply with Subsections (4)(e)(ii)(B) and (C) and post to the state website a link to a website on which the approved minutes and any public materials distributed at the meeting are posted; and

(iii) within three business days after holding an open meeting, make an audio recording of the open meeting available to the public for listening.

(h) A public body shall establish and implement procedures for the public body's approval of the written minutes of each meeting.

(i) Approved minutes of an open meeting are the official record of the meeting.

(5) All or any part of an open meeting may be independently recorded by any person in attendance if the recording does not interfere with the conduct of the meeting.

(6) The written minutes or recording of an open meeting that are required to be retained permanently shall be maintained in or converted to a format that meets long-term records storage requirements.

(7) Notwithstanding Subsection (1), a recording is not required to be kept of:

(a) an open meeting that is a site visit or a traveling tour, if no vote or action is taken by the public body; or

(b) an open meeting of a local district under Title 17B, Limited Purpose Local Government Entities - Local Districts, or special service district under Title 17D, Chapter 1, Special Service District Act, if the district's annual budgeted expenditures for all funds, excluding capital expenditures and debt service, are $50,000 or less.

CHAPTER 177
H. B. 295
Passed March 4, 2021
Approved March 16, 2021
Effective May 5, 2021

WILDLIFE MODIFICATIONS

Chief Sponsor: Casey Snider
Senate Sponsor: Derrin R. Owens

LONG TITLE

General Description:

This bill enacts provisions related to the hunting of waterfowl and other wildlife.

Highlighted Provisions:

This bill:

- defines terms;
- authorizes and instructs the Wildlife Board to make rules governing the use of trail cameras;
- prohibits big game baiting;
- prohibits the construction of permanent blinds or other structures used for hunting within a waterfowl management area;
- prohibits commercial hunting guides from transporting individuals across a waterfowl management area; and
- authorizes and instructs the Wildlife Board to make rules regarding the creation and management of waterfowl management areas.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

23-13-18, as enacted by Laws of Utah 2008, Chapter 34

ENACTS:

23-16-11, Utah Code Annotated 1953
23-32-101, Utah Code Annotated 1953
23-32-102, Utah Code Annotated 1953
23-32-103, Utah Code Annotated 1953
23-32-104, Utah Code Annotated 1953

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

Section 1. Section 23-13-18 is amended to read:

23-13-18. Use of a computer or other device to remotely hunt wildlife prohibited -- Trail cameras.

(1) A person may not use a computer or other device to remotely control the aiming and discharge of a firearm or other weapon for hunting an animal.

(2) A person who violates Subsection (1) is guilty of a class A misdemeanor.

(3) (a) As used in this Subsection (3), "trail camera" means a device that is not held or manually operated by a person and is used to capture images, video, or location data of wildlife using heat or motion to trigger the device.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the Wildlife Board shall make rules regulating the use of trail cameras.

(c) The division shall provide an annual report to the Natural Resources, Agriculture, and Environment Interim Committee regarding rules made or changed in accordance with this Subsection (3).

Section 2. Section 23-16-11 is enacted to read:

23-16-11. Big game baiting prohibited.

(1) As used in this section:

(a) (i) "Bait" means intentionally placing food or nutrient substances to manipulate the behavior of wildlife for the purpose of taking or attempting to take big game.

(ii) "Bait" does not include:

(A) the use of salt, mineral blocks, or other commonly used types of livestock supplements placed in the field by agricultural producers for normal agricultural purposes; or

(B) standing crops, natural vegetation, harvested croplands, or lands or areas where seeds or grains have been scattered solely as the result of a normal agricultural planting, harvesting, post-harvest manipulation, or normal soil stabilization practice.

(b) "Baited area" means all land within a 50-yard radius of the site where bait is placed, including the site where bait is placed.

(2) Unless authorized by a certificate of registration, it is unlawful to:

(a) bait big game;

(b) take big game in a baited area; or

(c) take big game that has been lured to or is traveling from a baited area.

(3) The division may only issue a certificate of registration to allow for the baiting of big game if the division determines that baiting is necessary to alleviate substantial big game depredation on cultivated crops or to facilitate the removal of deer causing property damage within cities or towns.

Section 3. Section 23-32-101 is enacted to read:

CHAPTER 32. WATERFOWL MANAGEMENT AREAS ACT

23-32-101. Title.

This chapter is known as the "Waterfowl Management Areas Act."

Section 4. Section 23-32-102 is enacted to read:

23-32-102. Definitions.

(1) The definitions in Section 58-79-102 apply to this chapter.

(2) (a) As used in this chapter, "waterfowl management area" means real property owned or

managed by the Division of Wildlife Resources that is:

(i) primarily used for the conservation, production, or recreational harvest of ducks, mergansers, geese, brant, swans, and other waterfowl; and

(ii) designated as a waterfowl management area by the Wildlife Board in accordance with Section 23-32-104.

(b) "Waterfowl management area" includes the Willard Spur Waterfowl Management Area and the Harold Crane Waterfowl Management Area described in Section 23-21-5.

Section 5. Section 23-32-103 is enacted to read:

23-32-103. Prohibited Activities.

(1) A commercial hunting guide or outfitter may not use a waterfowl management area for any of the following, unless the commercial hunting guide or outfitter has an annual permit, issued by the Wildlife Board pursuant to this chapter, for the use:

(a) hunting guide services or outfitter services; or

(b) transportation of an individual to another area for the purpose of providing hunting guide services or outfitter services.

(2) An individual may not construct a permanent blind or other permanent structure that is used for hunting within the boundaries of a waterfowl management area.

Section 6. Section 23-32-104 is enacted to read:

23-32-104. Rulemaking -- Notice.

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

(a) designating and establishing the boundaries of a waterfowl management area;

(b) governing the management and use of a waterfowl management area in accordance with the provisions of this chapter; and

(c) to create an annual permit process by which commercial hunting guides and outfitters may use waterfowl management areas in accordance with the provisions of this chapter.

(2) The annual permit process described in Subsection (1)(c) shall:

(a) preserve the opportunity for non-guided hunters to use waterfowl management areas; and

(b) require a permit holder to comply with safety standards established by the Wildlife Board.

(3) The division shall provide an annual report to the Natural Resources, Agriculture, and Environment Interim Committee regarding any rules made or changed in accordance with this chapter.

(4) The Wildlife Board shall publish a map of the boundaries of each waterfowl management area.

(5) Nothing in this chapter modifies or limits:

(a) the provisions of Section 23-21-5, or the discretion of the division to manage waterfowl management areas for other beneficial purposes, including for the benefit of the public, shorebirds, waterfowl, and other protected wildlife; or

(b) the authority of the division, the director of the division, or the Wildlife Board under Title 23, Chapter 21, Lands and Waters for Wildlife Purposes.

CHAPTER 178
H. B. 296
Passed March 3, 2021
Approved March 16, 2021
Effective May 5, 2021

SOIL HEALTH AMENDMENTS

Chief Sponsor: Joel Ferry
Senate Sponsor: Jerry W. Stevenson

LONG TITLE

General Description:

This bill address programs related to health of soil.

Highlighted Provisions:

This bill:

- modifies the purposes of the Conservation Commission Act;
- defines terms;
- creates the Utah Soil Health Program and provides for its scope;
- addresses powers and duties under the program;
- establishes the Soil Health Advisory Committee;
- addresses confidentiality of information;
- imposes reporting requirements;
- provides a sunset date; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

4-18-102, as last amended by Laws of Utah 2018, Chapter 115
63I-1-204, as last amended by Laws of Utah 2020, Chapters 154 and 232

ENACTS:

4-18-301, Utah Code Annotated 1953
4-18-302, Utah Code Annotated 1953
4-18-303, Utah Code Annotated 1953
4-18-304, Utah Code Annotated 1953
4-18-305, Utah Code Annotated 1953
4-18-306, Utah Code Annotated 1953
4-18-307, Utah Code Annotated 1953
4-18-308, Utah Code Annotated 1953

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

Section 1. Section 4-18-102 is amended to read:

4-18-102. Purpose declaration.

(1) The Legislature finds and declares that:

(a) the soil and water resources of this state constitute one of the state's basic assets; and

(b) the preservation of soil and water resources requires planning and programs to ensure:

(i) the development and utilization of soil and water resources; and

(ii) soil and water resources' protection from the adverse effects of wind and water erosion, sediment, and sediment related pollutants.

(2) The Legislature finds that local production of food is essential for:

(a) the security of the state's food supply; and

(b) the self-sufficiency of the state's citizens.

(3) The Legislature finds that sustainable agriculture is critical to:

(a) the success of rural communities;

(b) the historical culture of the state;

(c) maintaining healthy farmland;

(d) maintaining high water quality;

(e) maintaining abundant wildlife;

(f) high-quality recreation for citizens of the state; and

(g) helping to stabilize the state economy.

(4) The Legislature finds that livestock grazing on public lands is important for the proper management, maintenance, and health of public lands in the state.

(5) The Legislature encourages each agricultural producer in the state to operate in a reasonable and responsible manner to maintain the integrity of soil, water, and air.

(6) The department shall administer the Utah Agriculture Certificate of Environmental Stewardship Program, created in Section 4-18-107, to encourage each agricultural producer in this state to operate in a reasonable and responsible manner to maintain the integrity of the state's resources.

(7) The Legislature finds that soil health is essential to protecting the state's soil and water resources, bolstering the state's food supply, and sustaining the state's agricultural industry.

Section 2. Section 4-18-301 is enacted to read:

Part 3. Utah Soil Health Program

4-18-301. Title.

This part is known as the "Utah Soil Health Program."

Section 3. Section 4-18-302 is enacted to read:

4-18-302. Definitions.

As used in this part:

(1) "Agricultural producer" means a person engaged in the production of a product of agriculture, as defined in Section 4-1-109.

(2) "Commission" means the Conservation Commission created in Section 4-18-104.

(3) "Commissioner" means the commissioner of agriculture and food or the commissioner's designee.

(4) "Demonstration project" means an on- or off-farm or ranch project that incorporates soil health practices and principles into soil

management for the purposes of demonstrating soil health practices and the resulting impacts to agricultural producers and others.

(5) (a) "Educational project" means a project that promotes knowledge about soil health to eligible entities, consumers, policymakers, and others.

(b) "Educational project" includes the development of written or video-based materials or in-person events, such as workshops, field days, or conferences.

(6) "Eligible entities" means public, governmental, and private entities, including:

(a) conservation districts;

(b) producers;

(c) groups of producers;

(d) producer groups;

(e) producer cooperatives;

(f) water conservancy districts;

(g) American Indian Tribes;

(h) nonprofit entities;

(i) academic or research institutions and subdivisions of these institutions;

(j) the United States or any corporation or agency created or designed by the United States; or

(k) the state or any of the state's agencies or political subdivisions.

(7) "Environmental benefits" means benefits to natural and agricultural resources and human health, including:

(a) improved air quality;

(b) surface or ground water quality and quantity;

(c) improved soil health, including nutrient cycling, soil fertility, or drought resilience;

(d) reductions in agricultural inputs;

(e) carbon sequestration or climate resilience;

(f) increased biodiversity; or

(g) improved nutritional quality of agricultural products.

(8) "Historically underserved producer" means a producer who qualifies as one of the following:

(a) a beginning farmer or rancher, as defined in 7 U.S.C. Sec. 2279;

(b) a limited resource farmer or rancher, as described in 7 U.S.C. Sec. 9081;

(c) a socially disadvantaged farmer or rancher, as defined in 7 U.S.C. Sec. 2003; or

(d) a veteran farmer or rancher, as defined in 7 U.S.C. Sec. 1502.

(9) "Implementation project" means a project that provides incentives directly to producers to implement on-farm or on-ranch soil health practices.

(10) "Incentives" means monetary incentives, including grants and loans, or non-monetary incentives, including equipment, technical assistance, educational materials, outreach, and market development assistance for market premiums or ecosystem services markets.

(11) "Land manager" means a manager of land where agricultural activities occur, including:

(a) a federal land manager;

(b) a lessee of federal, tribal, state, county, municipal, or private land where agricultural activities occur; or

(c) others as the department may determine.

(12) "Landowner" means an owner of record of federal, tribal, state, county, municipal, or private land where agricultural activities occur.

(13) "Program" means the Utah Soil Health Program created in Section 4-18-303.

(14) (a) "Research project" means a project that advances the scientific understanding of how agricultural practices improve soil health, and related impacts, such as environmental benefits, benefits to human health, including the nutritive composition of foods, or economic impacts.

(b) "Research project" includes projects at experiment stations, on:

(i) lands owned by the United States or any corporation or agency created or designed by the United States; and

(ii) lands owned by the state or any of the state's agencies or political subdivisions; or

(iii) private lands.

(15) "Soil health" means the continued capacity of soil to function as a vital living ecosystem that sustains plants, animals, and humans.

(16) "Soil health activities" means implementation of soil health practices, research projects, demonstration projects, or educational projects, or other activities the department finds necessary or appropriate to promote soil health.

(17) "Soil Health Advisory Committee" means the committee created in Section 4-18-306.

(18) "Soil health grant program" means the grant program authorized in Section 4-18-304.

(19) "Soil health practices" means those practices that may contribute to soil health, including:

(a) no-tillage;

(b) conservation tillage;

(c) crop rotations;

(d) intercropping;

(e) cover cropping;

(f) planned grazing;

(g) the application of soil amendments that add carbon or organic matter, including biosolids, manure, compost, or biochar;

(h) revegetation; or

(i) other practices the department determines contribute or have the potential to contribute to soil health.

(20) "Soil health principle" means a principle that promotes soil health and includes maximizing soil cover, minimizing soil disturbance, maximizing biodiversity, maintaining a continual live plant or root in the soil, or integrating livestock.

(21) "State soil health inventory and platform" means a tool, including a geospatial inventory, documenting:

(a) the condition of agricultural soils;

(b) the implementation of soil health practices; or

(c) the environmental and economic impacts, including current and potential future carbon holding capacity of soils, or other information the department considers appropriate.

(22) "Technical assistance organization" means a person, including an eligible entity, who has demonstrated technical expertise in implementing soil health practices and soil health principles, as determined by the department.

Section 4. Section 4-18-303 is enacted to read:

4-18-303. Creates Utah Soil Health Program -- Program and purposes.

(1) Under the commission there is created the Utah Soil Health Program.

(2) The program shall:

(a) encourage widespread adoption of soil health practices by producers;

(b) promote environmental benefits;

(c) advance the understanding of the environmental and economic benefits of soil health practices by producers, policymakers, consumers, and the general public; and

(d) support scientific research.

(3) The program may obtain the objectives described in Subsection (2) by:

(a) providing incentives to implement soil health practices;

(b) increasing the understanding of the benefit of soil health practices through education and outreach programs;

(c) advancing scientific understanding of soil health as it relates to:

(i) the existing conditions of Utah's agricultural soils, including current carbon storage and carbon storage potential;

(ii) the on- and off-farm or ranch environmental benefits of soil health practices; and

(iii) the on- and off-farm or ranch economic benefits of soil health practices;

(d) evaluating currently available or developing new consistent soil health sampling and testing protocols appropriate for Utah's agricultural systems; and

(e) facilitating multi-stakeholder collaboration to advance the understanding of the science of soil health and the implementation of soil health practices, including amongst the federal government and the federal government's agencies, agencies and political subdivisions of the state, academic or research institutions, non-governmental organizations, private entities, nonprofits, producers, or other parties.

(4) The department shall provide support to the commission in implementing the program.

Section 5. Section 4-18-304 is enacted to read:

4-18-304. Program development.

(1) In consultation with the Soil Health Advisory Committee created in Section 4-18-306 and in accordance with Subsection 4-18-305(1)(e), the commission may establish the following programs:

(a) a grant program for eligible entities to engage in soil health activities including implementation, research, education, or demonstration projects;

(b) a state soil health monitoring and inventory platform; or

(c) other programs the commission considers appropriate or necessary.

(2) In establishing a program in accordance with Subsection (1), the commission may prioritize the establishment of programs based on the needs of historically underserved producers, the availability of funds and staffing, emerging areas of scientific inquiry and research, environmental benefits, or other considerations.

(3) A program established pursuant to this section shall be voluntary and incentive-based and may not:

(a) require participation by an eligible entity;

(b) mandate the implementation of soil health practices by non-participating entities; or

(c) bind participants to execute specific practice standards in adverse climate conditions or circumstances with limited or no chance of success or that would cause irreparable physical or economic harm to the producer's operation physically or economically.

(4) In addition to Section 4-18-307:

(a) the commission, grantees, partners, or other program participants may not disclose, sell, or otherwise provide information that could be used to identify the agricultural operations or practices of program participants without express permission provided in writing; and

(b) in determining whether information may be released, the private interests of a participant are presumed to outweigh the public interest in disclosure.

(5) The commission shall act as the policy board to set guidelines by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for the administration of programs developed under Section 4-18-305. The Soil Health Advisory Committee serves as an advisory committee to the commission.

Section 6. Section 4-18-305 is enacted to read:

4-18-305. Powers and duties.

(1) In carrying out the provisions of this part, including for the soil health grant program, the commission may:

(a) subject to Subsection (2), accept grants, gifts, services, donations, or other resources from:

(i) the United States government or a corporation or agency created or designed by the United States to lend or grant money;

(ii) the state or any of the state's political subdivisions; or

(iii) any other source;

(b) administer and expend money for the purpose of planning, developing, or putting into operation a program or project in accordance with Section 4-18-304 that is made available to the department:

(i) by the United States government or any of the United States' agencies;

(ii) by the state or any of the state's political subdivisions; or

(iii) derived from any other source;

(c) provide grants, loans, and other resources to an eligible entity to perform soil health activities;

(d) unless otherwise specified by the grantor or donor, use funds received, including from the state or any of the state's political subdivisions or the United States government or any of the United States' agencies, to serve as matching funds for soil health activities;

(e) place money the commission receives pursuant to Subsection (1)(a) into an escrow account and to administer and expend any money or interest accrued in the trust; and

(f) cooperate and collaborate with:

(i) producers;

(ii) groups of producers;

(iii) producer cooperatives;

(iv) conservation districts;

(v) water conservancy districts;

(vi) academic, land grant, or other research institutions;

(vii) the United States government, the United States' agencies, or any corporation of the United States;

(viii) the state or any of the state's political subdivisions;

(ix) other states;

(x) American Indian Tribes; or

(xi) other entities as the commission may decide for the purpose of advancing the scientific understanding of soil health, soil health practices, or the environmental or economic outcomes, increasing monetary or nonmonetary resources to support scientific research, or in applying for grants, including applying for grants jointly, or otherwise obtaining resources to support the programs authorized in this part.

(2) (a) The department may not pledge the faith or credit of the state or any county or other political subdivision.

(b) In connection with grants, gifts, donations, or other resources, the commission:

(i) may enter into agreements or contracts as may be required; and

(ii) shall comply with Title 67, Chapter 16, Utah Public Officers' and Employees' Ethics Act, and executive orders establishing ethics policy for executive branch agencies and employees.

(3) In establishing a soil health grant program, the commission shall issue guidelines, by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:

(a) make money available for demonstration, educational, implementation, or research grants to eligible entities;

(b) if a grant recipient of an implementation, demonstration, or research project grant does not have sufficient expertise in implementing soil health practices or principles or interpreting project outcomes, require the recipient to work with a technical assistance organization;

(c) ensure that the most accurate and current scientific evidence related to soil health, soil health practices, and economic and environmental benefits of soil health practices is considered in awarding a grant;

(d) minimize the use of money by grant recipients for costs not directly related to grant outcomes, such as administrative expenses or other expenses related to overhead;

(e) establish a monitoring and oversight procedure to ensure that money is spent in accordance with the state law; and

(f) establish protocols to ensure the confidentiality of producer, landowner, and land information, including with respect to a state soil health monitoring and inventory platform and state soil health testing program.

(4) Notwithstanding Subsection 4-18-304(3) and Section 4-18-307, the commission shall require a

recipient of a grant for research, educational, or demonstration projects to:

(a) conduct outreach and educational activities regarding the projects, including field day visits; and

(b) disclose information related to the projects, including the locations of the projects, the soil health practices implemented, and the environmental or economic outcomes.

(5) Upon receiving money to implement a soil health grant program, the commission shall make money available to eligible entities by July 1 of the following year.

(6) The commission may adopt rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, necessary to carry out this part.

Section 7. Section 4-18-306 is enacted to read:

4-18-306. Soil Health Advisory Committee.

(1) The Soil Health Advisory Committee is created under the commission.

(2) The Soil Health Advisory Committee shall assist the commission in administering the program.

(3) The Soil Health Advisory Committee shall maintain no less than seven members appointed by the commissioner.

(4) Soil Health Advisory Committee members shall include farmers, ranchers, or other agricultural producers of diverse production systems, including diversity in size, product, irrigated and dryland systems, and other production methods. Members may include:

(a) an irrigated crop producer;

(b) a dryland crop producer;

(c) a dairyman or pasture producer;

(d) a rancher;

(e) a specialty crop or small farm producer;

(f) a crop consultant;

(g) a tribal representative;

(h) a representative with expertise in soil health;

(i) a board member representative of the commission; or

(j) a Utah Association of Conservation Districts representative.

(5) At least two members of the Soil Health Advisory Committee shall be water users who own, lease, or represent owners of adjudicated water rights used for agricultural purposes.

(6) Representation on the Soil Health Advisory Committee shall reflect the different geographic areas and demographic diversity of the state, to the greatest extent possible.

(7) (a) The commissioner shall appoint members of the Soil Health Advisory Committee for two year terms.

(b) Notwithstanding the requirements of Subsection (7)(a), the commissioner shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of Soil Health Advisory Committee members are staggered so that approximately half of the committee is appointed every two years.

(c) An appointee to the Soil Health Advisory Committee may not serve more than two full terms.

(8) A Soil Health Advisory Committee member shall hold office until the expiration of the term for which the member is appointed or until a successor has been duly appointed.

(9) The commissioner may remove a member of the Soil Health Advisory Committee for cause.

(10) The Soil Health Advisory Committee may invite a representative of the Utah Association of Conservation Districts, the United States Department of Agriculture Natural Resources Conservation Service, Utah State University faculty member, the Department of Natural Resources, Division of Water Rights, and Division of Water Quality, to provide technical expertise to the Soil Health Advisory Committee on an as needed basis.

(11) The department will provide staff to manage the Soil Advisory Health Committee.

(12) The Soil Health Advisory Committee shall make recommendations to the commission concerning and assist in:

(a) setting program priorities;

(b) developing the development of guidelines for the implementation of the program, including guidelines and recommendations for the qualifications of nonprofit entities to receive grant money;

(c) soliciting input from similar stakeholders within each member's area of expertise and region of the state and communicate the Soil Health Advisory Committee's recommendations to the region and stakeholders represented by each member;

(d) soliciting input, in collaboration with the department, from underserved agricultural producers;

(e) soliciting input from producers that reflect the different geographic areas and demographic diversity of the state to the greatest extent possible;

(f) identifying key questions and areas of need to recommend for future research and demonstration efforts;

(g) reviewing soil health grant proposals, including proposed budgets, proposed grant outcomes, and the qualifications of any nonprofits applying for grants;

(h) creating a screening and ranking system for proposals and proposing funding recommendations to the commission;

(i) reviewing agreements for cooperation or collaboration entered into by the department pursuant to Subsection 4-18-305(1)(f) and making recommendations to the commission for approval;

(j) reviewing and recommending soil health practices to ensure they support soil health;

(k) evaluating the results and effectiveness of soil health activities and the program in improving soil health; and

(l) recommending to the commission, ways to enhance statewide efforts to support healthy soils throughout the state.

(13) The Soil Health Advisory Committee shall meet at least quarterly. Meetings shall be conducted as required by Title 52, Chapter 4, Open and Public Meetings Act.

(14) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

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

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

Section 8. Section 4-18-307 is enacted to read:

4-18-307. Producer and landowner information - confidentiality.

(1) With regard to information that constitutes a record under Title 63G, Chapter 2, Government Records Access and Management Act, notwithstanding that act, the department may not disclose a record, including analyses or a map, compiled or maintained pursuant to this part that is related to private lands and identify, or allow to be identified, the agricultural practices of a specific Utah landowner or producer.

(2) In determining whether a record may be released, private interests are presumed to outweigh the public interest in disclosure.

(3) Summary or aggregated data that does not specifically identify agricultural practices of an individual landowner or producer is not subject to this section.

Section 9. Section 4-18-308 is enacted to read:

4-18-308. Reporting requirement.

(1) Each year, by no later than June 30, the department shall prepare and make available to the public a report on the department's official website that contains the following information:

(a) an accounting of money received and spent for the program;

(b) a description of activities undertaken, including the number and type of grant-funded projects and the educational and stakeholder engagement activities; and

(c) a summary of the activities and recommendations of the Soil Health Advisory Committee.

(2) The commissioner shall annually report to the Natural Resources, Agriculture, and Environment Interim Committee by no later than the November interim meeting of that committee. The report shall include the information described in Subsection (1).

Section 10. Section 63I-1-204 is amended to read:

63I-1-204. Repeal dates, Title 4.

(1) Section 4-2-108, which creates the Agricultural Advisory Board, is repealed July 1, 2023.

(2) Section 4-17-104, which creates the State Weed Committee, is repealed July 1, 2021.

(3) Title 4, Chapter 18, Part 3, Utah Soil Health Program, is repealed July 1, 2026.

[~~(3)~~] (4) Section 4-20-103, which creates the State Grazing Advisory Board, is repealed July 1, 2022.

[~~(4)~~] (5) Sections 4-23-104 and 4-23-105, which create the Agricultural and Wildlife Damage Prevention Board, are repealed July 1, 2024.

[~~(5)~~] (6) Section 4-24-104, which creates the Livestock Brand Board, is repealed July 1, 2025.

[~~(6)~~] (7) Section 4-35-103, which creates the Decision and Action Committee, is repealed July 1, 2026.

[~~(7)~~] (8) Section 4-39-104, which creates the Domesticated Elk Act Advisory Council, is repealed July 1, 2027.

CHAPTER 179
H. B. 297
Passed March 4, 2021
Approved March 16, 2021
Effective March 16, 2021

COLORADO RIVER AMENDMENTS

Chief Sponsor: Brad R. Wilson
Senate Sponsor: J. Stuart Adams

LONG TITLE

General Description:

This bill addresses Utah's management of Utah's Colorado River system interests.

Highlighted Provisions:

This bill:

- enacts the Colorado River Authority of Utah Act, including:
  - defining terms;
  - describing the scope of the chapter;
  - creating the authority;
  - providing for the organization and operation of the authority;
  - establishing the authority's powers and mission;
  - addressing creation of a management plan;
  - providing for rulemaking, reporting, and recordkeeping;
  - addressing authority meetings, including closure of meetings;
  - providing for authorized advisory councils;
  - authorizing consultations;
  - addressing application of certain state codes;
  - addressing the river commissioner and chair;
  - providing for employees, consultants, and other professionals, including an executive director; and
  - addressing financial operations including creating a restricted account;
- adapts implementation of the Colorado River Authority of Utah Act to existing law; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

This bill provides revisor instructions.

Utah Code Sections Affected:

AMENDS:

52-4-205, as last amended by Laws of Utah 2020, Chapters 12 and 201
63G-2-305, as last amended by Laws of Utah 2020, Chapters 112, 198, 339, 349, 382, and 393
63G-6a-103, as last amended by Laws of Utah 2020, Chapters 152, 257, 365 and last amended by Coordination Clause, Laws of Utah 2020, Chapter 365
63G-6a-107.6, as enacted by Laws of Utah 2020, Chapter 257
63J-1-602.2, as last amended by Laws of Utah 2020, Fifth Special Session, Chapters 20 and 20
73-10-3, as last amended by Laws of Utah 1983, Chapter 320
73-10-4, as last amended by Laws of Utah 2020, Chapter 342
73-10-18, as last amended by Laws of Utah 2016, Chapter 58

ENACTS:

63M-14-101, Utah Code Annotated 1953
63M-14-102, Utah Code Annotated 1953
63M-14-103, Utah Code Annotated 1953
63M-14-201, Utah Code Annotated 1953
63M-14-202, Utah Code Annotated 1953
63M-14-203, Utah Code Annotated 1953
63M-14-204, Utah Code Annotated 1953
63M-14-205, Utah Code Annotated 1953
63M-14-206, Utah Code Annotated 1953
63M-14-207, Utah Code Annotated 1953
63M-14-208, Utah Code Annotated 1953
63M-14-209, Utah Code Annotated 1953
63M-14-210, Utah Code Annotated 1953
63M-14-301, Utah Code Annotated 1953
63M-14-302, Utah Code Annotated 1953
63M-14-303, Utah Code Annotated 1953
63M-14-304, Utah Code Annotated 1953
63M-14-305, Utah Code Annotated 1953
63M-14-306, Utah Code Annotated 1953
63M-14-401, Utah Code Annotated 1953
63M-14-402, Utah Code Annotated 1953
63M-14-501, Utah Code Annotated 1953
63M-14-502, Utah Code Annotated 1953

Utah Code Sections Affected by Revisor Instructions:

63M-14-203, Utah Code Annotated 1953
63M-14-301, Utah Code Annotated 1953

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

Section 1. Section 52-4-205 is amended to read:

52-4-205. Purposes of closed meetings -- Certain issues prohibited in closed meetings.

(1) A closed meeting described under Section 52-4-204 may only be held for:

(a) except as provided in Subsection (3), discussion of the character, professional competence, or physical or mental health of an individual;

(b) strategy sessions to discuss collective bargaining;

(c) strategy sessions to discuss pending or reasonably imminent litigation;

(d) strategy sessions to discuss the purchase, exchange, or lease of real property, including any form of a water right or water shares, if public discussion of the transaction would:

(i) disclose the appraisal or estimated value of the property under consideration; or

(ii) prevent the public body from completing the transaction on the best possible terms;

(e) strategy sessions to discuss the sale of real property, including any form of a water right or water shares, if:

(i) public discussion of the transaction would:

(A) disclose the appraisal or estimated value of the property under consideration; or

(B) prevent the public body from completing the transaction on the best possible terms;

(ii) the public body previously gave public notice that the property would be offered for sale; and

(iii) the terms of the sale are publicly disclosed before the public body approves the sale;

(f) discussion regarding deployment of security personnel, devices, or systems;

(g) investigative proceedings regarding allegations of criminal misconduct;

(h) as relates to the Independent Legislative Ethics Commission, conducting business relating to the receipt or review of ethics complaints;

(i) as relates to an ethics committee of the Legislature, a purpose permitted under Subsection 52-4-204(1)(a)(iii)(C);

(j) as relates to the Independent Executive Branch Ethics Commission created in Section 63A-14-202, conducting business relating to an ethics complaint;

(k) as relates to a county legislative body, discussing commercial information as defined in Section 59-1-404;

(l) as relates to the Utah Higher Education Assistance Authority and its appointed board of directors, discussing fiduciary or commercial information as defined in Section 53B-12-102;

(m) deliberations, not including any information gathering activities, of a public body acting in the capacity of:

(i) an evaluation committee under Title 63G, Chapter 6a, Utah Procurement Code, during the process of evaluating responses to a solicitation, as defined in Section 63G-6a-103;

(ii) a protest officer, defined in Section 63G-6a-103, during the process of making a decision on a protest under Title 63G, Chapter 6a, Part 16, Protests; or

(iii) a procurement appeals panel under Title 63G, Chapter 6a, Utah Procurement Code, during the process of deciding an appeal under Title 63G, Chapter 6a, Part 17, Procurement Appeals Board;

(n) the purpose of considering information that is designated as a trade secret, as defined in Section 13-24-2, if the public body's consideration of the information is necessary in order to properly conduct a procurement under Title 63G, Chapter 6a, Utah Procurement Code;

(o) the purpose of discussing information provided to the public body during the procurement process under Title 63G, Chapter 6a, Utah Procurement Code, if, at the time of the meeting:

(i) the information may not, under Title 63G, Chapter 6a, Utah Procurement Code, be disclosed to a member of the public or to a participant in the procurement process; and

(ii) the public body needs to review or discuss the information in order to properly fulfill its role and responsibilities in the procurement process;

(p) as relates to the governing board of a governmental nonprofit corporation, as that term is defined in Section 11-13a-102, the purpose of discussing information that is designated as a trade secret, as that term is defined in Section 13-24-2, if:

(i) public knowledge of the discussion would reasonably be expected to result in injury to the owner of the trade secret; and

(ii) discussion of the information is necessary for the governing board to properly discharge the board's duties and conduct the board's business; or

(q) a purpose for which a meeting is required to be closed under Subsection (2).

(2) The following meetings shall be closed:

(a) a meeting of the Health and Human Services Interim Committee to review a fatality review report described in Subsection 62A-16-301(1)(a), and the responses to the report described in Subsections 62A-16-301(2) and (4);

(b) a meeting of the Child Welfare Legislative Oversight Panel to:

(i) review a fatality review report described in Subsection 62A-16-301(1)(a), and the responses to the report described in Subsections 62A-16-301(2) and (4); or

(ii) review and discuss an individual case, as described in Subsection 62A-4a-207(5);

(c) a meeting of the Opioid and Overdose Fatality Review Committee, created in Section 26-7-13, to review and discuss an individual case, as described in Subsection 26-7-13(10); [~~and~~]

(d) a meeting of a conservation district as defined in Section 17D-3-102 for the purpose of advising the Natural Resource Conservation Service of the United States Department of Agriculture on a farm improvement project if the discussed information is protected information under federal law; [~~and~~]

(e) a meeting of the Compassionate Use Board established in Section 26-61a-105 for the purpose of reviewing petitions for a medical cannabis card in accordance with Section 26-61a-105[~~.~~]; and

(f) a meeting of the Colorado River Authority of Utah if:

(i) the purpose of the meeting is to discuss an interstate claim to the use of the water in the Colorado River system; and

(ii) failing to close the meeting would:

(A) reveal the contents of a record classified as protected under Subsection 63G-2-305(82);

(B) reveal a legal strategy relating to the state's claim to the use of the water in the Colorado River system;

(C) harm the ability of the Colorado River Authority of Utah or river commissioner to negotiate the best terms and conditions regarding the use of water in the Colorado River system; or

(D) give an advantage to another state or to the federal government in negotiations regarding the use of water in the Colorado River system.

(3) In a closed meeting, a public body may not:

(a) interview a person applying to fill an elected position;

(b) discuss filling a midterm vacancy or temporary absence governed by Title 20A, Chapter 1, Part 5, Candidate Vacancy and Vacancy and Temporary Absence in Elected Office; or

(c) discuss the character, professional competence, or physical or mental health of the person whose name was submitted for consideration to fill a midterm vacancy or temporary absence governed by Title 20A, Chapter 1, Part 5, Candidate Vacancy and Vacancy and Temporary Absence in Elected Office.

Section 2. Section 63G-2-305 is amended to read:

63G-2-305. Protected records.

The following records are protected if properly classified by a governmental entity:

(1) trade secrets as defined in Section 13-24-2 if the person submitting the trade secret has provided the governmental entity with the information specified in Section 63G-2-309;

(2) commercial information or nonindividual financial information obtained from a person if:

(a) disclosure of the information could reasonably be expected to result in unfair competitive injury to the person submitting the information or would impair the ability of the governmental entity to obtain necessary information in the future;

(b) the person submitting the information has a greater interest in prohibiting access than the public in obtaining access; and

(c) the person submitting the information has provided the governmental entity with the information specified in Section 63G-2-309;

(3) commercial or financial information acquired or prepared by a governmental entity to the extent that disclosure would lead to financial speculations in currencies, securities, or commodities that will interfere with a planned transaction by the governmental entity or cause substantial financial injury to the governmental entity or state economy;

(4) records, the disclosure of which could cause commercial injury to, or confer a competitive advantage upon a potential or actual competitor of, a commercial project entity as defined in Subsection 11-13-103(4);

(5) test questions and answers to be used in future license, certification, registration, employment, or academic examinations;

(6) records, the disclosure of which would impair governmental procurement proceedings or give an unfair advantage to any person proposing to enter into a contract or agreement with a governmental entity, except, subject to Subsections (1) and (2), that this Subsection (6) does not restrict the right of a person to have access to, after the contract or grant has been awarded and signed by all parties:

(a) a bid, proposal, application, or other information submitted to or by a governmental entity in response to:

(i) an invitation for bids;

(ii) a request for proposals;

(iii) a request for quotes;

(iv) a grant; or

(v) other similar document; or

(b) an unsolicited proposal, as defined in Section 63G-6a-712;

(7) information submitted to or by a governmental entity in response to a request for information, except, subject to Subsections (1) and (2), that this Subsection (7) does not restrict the right of a person to have access to the information, after:

(a) a contract directly relating to the subject of the request for information has been awarded and signed by all parties; or

(b) (i) a final determination is made not to enter into a contract that relates to the subject of the request for information; and

(ii) at least two years have passed after the day on which the request for information is issued;

(8) records that would identify real property or the appraisal or estimated value of real or personal property, including intellectual property, under consideration for public acquisition before any rights to the property are acquired unless:

(a) public interest in obtaining access to the information is greater than or equal to the governmental entity's need to acquire the property on the best terms possible;

(b) the information has already been disclosed to persons not employed by or under a duty of confidentiality to the entity;

(c) in the case of records that would identify property, potential sellers of the described property have already learned of the governmental entity's plans to acquire the property;

(d) in the case of records that would identify the appraisal or estimated value of property, the potential sellers have already learned of the governmental entity's estimated value of the property; or

(e) the property under consideration for public acquisition is a single family residence and the

governmental entity seeking to acquire the property has initiated negotiations to acquire the property as required under Section 78B-6-505;

(9) records prepared in contemplation of sale, exchange, lease, rental, or other compensated transaction of real or personal property including intellectual property, which, if disclosed prior to completion of the transaction, would reveal the appraisal or estimated value of the subject property, unless:

(a) the public interest in access is greater than or equal to the interests in restricting access, including the governmental entity's interest in maximizing the financial benefit of the transaction; or

(b) when prepared by or on behalf of a governmental entity, appraisals or estimates of the value of the subject property have already been disclosed to persons not employed by or under a duty of confidentiality to the entity;

(10) records created or maintained for civil, criminal, or administrative enforcement purposes or audit purposes, or for discipline, licensing, certification, or registration purposes, if release of the records:

(a) reasonably could be expected to interfere with investigations undertaken for enforcement, discipline, licensing, certification, or registration purposes;

(b) reasonably could be expected to interfere with audits, disciplinary, or enforcement proceedings;

(c) would create a danger of depriving a person of a right to a fair trial or impartial hearing;

(d) reasonably could be expected to disclose the identity of a source who is not generally known outside of government and, in the case of a record compiled in the course of an investigation, disclose information furnished by a source not generally known outside of government if disclosure would compromise the source; or

(e) reasonably could be expected to disclose investigative or audit techniques, procedures, policies, or orders not generally known outside of government if disclosure would interfere with enforcement or audit efforts;

(11) records the disclosure of which would jeopardize the life or safety of an individual;

(12) records the disclosure of which would jeopardize the security of governmental property, governmental programs, or governmental recordkeeping systems from damage, theft, or other appropriation or use contrary to law or public policy;

(13) records that, if disclosed, would jeopardize the security or safety of a correctional facility, or records relating to incarceration, treatment, probation, or parole, that would interfere with the control and supervision of an offender's incarceration, treatment, probation, or parole;

(14) records that, if disclosed, would reveal recommendations made to the Board of Pardons and Parole by an employee of or contractor for the Department of Corrections, the Board of Pardons and Parole, or the Department of Human Services that are based on the employee's or contractor's supervision, diagnosis, or treatment of any person within the board's jurisdiction;

(15) records and audit workpapers that identify audit, collection, and operational procedures and methods used by the State Tax Commission, if disclosure would interfere with audits or collections;

(16) records of a governmental audit agency relating to an ongoing or planned audit until the final audit is released;

(17) records that are subject to the attorney client privilege;

(18) records prepared for or by an attorney, consultant, surety, indemnitor, insurer, employee, or agent of a governmental entity for, or in anticipation of, litigation or a judicial, quasi-judicial, or administrative proceeding;

(19) (a) (i) personal files of a state legislator, including personal correspondence to or from a member of the Legislature; and

(ii) notwithstanding Subsection (19)(a)(i), correspondence that gives notice of legislative action or policy may not be classified as protected under this section; and

(b) (i) an internal communication that is part of the deliberative process in connection with the preparation of legislation between:

(A) members of a legislative body;

(B) a member of a legislative body and a member of the legislative body's staff; or

(C) members of a legislative body's staff; and

(ii) notwithstanding Subsection (19)(b)(i), a communication that gives notice of legislative action or policy may not be classified as protected under this section;

(20) (a) records in the custody or control of the Office of Legislative Research and General Counsel, that, if disclosed, would reveal a particular legislator's contemplated legislation or contemplated course of action before the legislator has elected to support the legislation or course of action, or made the legislation or course of action public; and

(b) notwithstanding Subsection (20)(a), the form to request legislation submitted to the Office of Legislative Research and General Counsel is a public document unless a legislator asks that the records requesting the legislation be maintained as protected records until such time as the legislator elects to make the legislation or course of action public;

(21) research requests from legislators to the Office of Legislative Research and General Counsel or the Office of the Legislative Fiscal Analyst and

research findings prepared in response to these requests;

(22) drafts, unless otherwise classified as public;

(23) records concerning a governmental entity's strategy about:

(a) collective bargaining; or

(b) imminent or pending litigation;

(24) records of investigations of loss occurrences and analyses of loss occurrences that may be covered by the Risk Management Fund, the Employers' Reinsurance Fund, the Uninsured Employers' Fund, or similar divisions in other governmental entities;

(25) records, other than personnel evaluations, that contain a personal recommendation concerning an individual if disclosure would constitute a clearly unwarranted invasion of personal privacy, or disclosure is not in the public interest;

(26) records that reveal the location of historic, prehistoric, paleontological, or biological resources that if known would jeopardize the security of those resources or of valuable historic, scientific, educational, or cultural information;

(27) records of independent state agencies if the disclosure of the records would conflict with the fiduciary obligations of the agency;

(28) records of an institution within the state system of higher education defined in Section 53B-1-102 regarding tenure evaluations, appointments, applications for admissions, retention decisions, and promotions, which could be properly discussed in a meeting closed in accordance with Title 52, Chapter 4, Open and Public Meetings Act, provided that records of the final decisions about tenure, appointments, retention, promotions, or those students admitted, may not be classified as protected under this section;

(29) records of the governor's office, including budget recommendations, legislative proposals, and policy statements, that if disclosed would reveal the governor's contemplated policies or contemplated courses of action before the governor has implemented or rejected those policies or courses of action or made them public;

(30) records of the Office of the Legislative Fiscal Analyst relating to budget analysis, revenue estimates, and fiscal notes of proposed legislation before issuance of the final recommendations in these areas;

(31) records provided by the United States or by a government entity outside the state that are given to the governmental entity with a requirement that they be managed as protected records if the providing entity certifies that the record would not be subject to public disclosure if retained by it;

(32) transcripts, minutes, recordings, or reports of the closed portion of a meeting of a public body except as provided in Section 52-4-206;

(33) records that would reveal the contents of settlement negotiations but not including final settlements or empirical data to the extent that they are not otherwise exempt from disclosure;

(34) memoranda prepared by staff and used in the decision-making process by an administrative law judge, a member of the Board of Pardons and Parole, or a member of any other body charged by law with performing a quasi-judicial function;

(35) records that would reveal negotiations regarding assistance or incentives offered by or requested from a governmental entity for the purpose of encouraging a person to expand or locate a business in Utah, but only if disclosure would result in actual economic harm to the person or place the governmental entity at a competitive disadvantage, but this section may not be used to restrict access to a record evidencing a final contract;

(36) materials to which access must be limited for purposes of securing or maintaining the governmental entity's proprietary protection of intellectual property rights including patents, copyrights, and trade secrets;

(37) the name of a donor or a prospective donor to a governmental entity, including an institution within the state system of higher education defined in Section 53B-1-102, and other information concerning the donation that could reasonably be expected to reveal the identity of the donor, provided that:

(a) the donor requests anonymity in writing;

(b) any terms, conditions, restrictions, or privileges relating to the donation may not be classified protected by the governmental entity under this Subsection (37); and

(c) except for an institution within the state system of higher education defined in Section 53B-1-102, the governmental unit to which the donation is made is primarily engaged in educational, charitable, or artistic endeavors, and has no regulatory or legislative authority over the donor, a member of the donor's immediate family, or any entity owned or controlled by the donor or the donor's immediate family;

(38) accident reports, except as provided in Sections 41-6a-404, 41-12a-202, and 73-18-13;

(39) a notification of workers' compensation insurance coverage described in Section 34A-2-205;

(40) (a) the following records of an institution within the state system of higher education defined in Section 53B-1-102, which have been developed, discovered, disclosed to, or received by or on behalf of faculty, staff, employees, or students of the institution:

(i) unpublished lecture notes;

(ii) unpublished notes, data, and information:

(A) relating to research; and

(B) of:

(I) the institution within the state system of higher education defined in Section 53B-1-102; or

(II) a sponsor of sponsored research;

(iii) unpublished manuscripts;

(iv) creative works in process;

(v) scholarly correspondence; and

(vi) confidential information contained in research proposals;

(b) Subsection (40)(a) may not be construed to prohibit disclosure of public information required pursuant to Subsection 53B-16-302(2)(a) or (b); and

(c) Subsection (40)(a) may not be construed to affect the ownership of a record;

(41) (a) records in the custody or control of the Office of Legislative Auditor General that would reveal the name of a particular legislator who requests a legislative audit prior to the date that audit is completed and made public; and

(b) notwithstanding Subsection (41)(a), a request for a legislative audit submitted to the Office of the Legislative Auditor General is a public document unless the legislator asks that the records in the custody or control of the Office of Legislative Auditor General that would reveal the name of a particular legislator who requests a legislative audit be maintained as protected records until the audit is completed and made public;

(42) records that provide detail as to the location of an explosive, including a map or other document that indicates the location of:

(a) a production facility; or

(b) a magazine;

(43) information:

(a) contained in the statewide database of the Division of Aging and Adult Services created by Section 62A-3-311.1; or

(b) received or maintained in relation to the Identity Theft Reporting Information System (IRIS) established under Section 67-5-22;

(44) information contained in the Management Information System and Licensing Information System described in Title 62A, Chapter 4a, Child and Family Services;

(45) information regarding National Guard operations or activities in support of the National Guard's federal mission;

(46) records provided by any pawn or secondhand business to a law enforcement agency or to the central database in compliance with Title 13, Chapter 32a, Pawnshop and Secondhand Merchandise Transaction Information Act;

(47) information regarding food security, risk, and vulnerability assessments performed by the Department of Agriculture and Food;

(48) except to the extent that the record is exempt from this chapter pursuant to Section 63G-2-106, records related to an emergency plan or program, a copy of which is provided to or prepared or maintained by the Division of Emergency Management, and the disclosure of which would jeopardize:

(a) the safety of the general public; or

(b) the security of:

(i) governmental property;

(ii) governmental programs; or

(iii) the property of a private person who provides the Division of Emergency Management information;

(49) records of the Department of Agriculture and Food that provides for the identification, tracing, or control of livestock diseases, including any program established under Title 4, Chapter 24, Utah Livestock Brand and Anti-Theft Act, or Title 4, Chapter 31, Control of Animal Disease;

(50) as provided in Section 26-39-501:

(a) information or records held by the Department of Health related to a complaint regarding a child care program or residential child care which the department is unable to substantiate; and

(b) information or records related to a complaint received by the Department of Health from an anonymous complainant regarding a child care program or residential child care;

(51) unless otherwise classified as public under Section 63G-2-301 and except as provided under Section 41-1a-116, an individual's home address, home telephone number, or personal mobile phone number, if:

(a) the individual is required to provide the information in order to comply with a law, ordinance, rule, or order of a government entity; and

(b) the subject of the record has a reasonable expectation that this information will be kept confidential due to:

(i) the nature of the law, ordinance, rule, or order; and

(ii) the individual complying with the law, ordinance, rule, or order;

(52) the portion of the following documents that contains a candidate's residential or mailing address, if the candidate provides to the filing officer another address or phone number where the candidate may be contacted:

(a) a declaration of candidacy, a nomination petition, or a certificate of nomination, described in Section 20A-9-201, 20A-9-202, 20A-9-203, 20A-9-404, 20A-9-405, 20A-9-408, 20A-9-408.5, 20A-9-502, or 20A-9-601;

(b) an affidavit of impecuniosity, described in Section 20A-9-201; or

(c) a notice of intent to gather signatures for candidacy, described in Section 20A-9-408;

(53) the name, home address, work addresses, and telephone numbers of an individual that is engaged in, or that provides goods or services for, medical or scientific research that is:

(a) conducted within the state system of higher education, as defined in Section 53B-1-102; and

(b) conducted using animals;

(54) in accordance with Section 78A-12-203, any record of the Judicial Performance Evaluation Commission concerning an individual commissioner's vote on whether or not to recommend that the voters retain a judge including information disclosed under Subsection 78A-12-203(5)(e);

(55) information collected and a report prepared by the Judicial Performance Evaluation Commission concerning a judge, unless Section 20A-7-702 or Title 78A, Chapter 12, Judicial Performance Evaluation Commission Act, requires disclosure of, or makes public, the information or report;

(56) records contained in the Management Information System created in Section 62A-4a-1003;

(57) records provided or received by the Public Lands Policy Coordinating Office in furtherance of any contract or other agreement made in accordance with Section 63J-4-603;

(58) information requested by and provided to the 911 Division under Section 63H-7a-302;

(59) in accordance with Section 73-10-33:

(a) a management plan for a water conveyance facility in the possession of the Division of Water Resources or the Board of Water Resources; or

(b) an outline of an emergency response plan in possession of the state or a county or municipality;

(60) the following records in the custody or control of the Office of Inspector General of Medicaid Services, created in Section 63A-13-201:

(a) records that would disclose information relating to allegations of personal misconduct, gross mismanagement, or illegal activity of a person if the information or allegation cannot be corroborated by the Office of Inspector General of Medicaid Services through other documents or evidence, and the records relating to the allegation are not relied upon by the Office of Inspector General of Medicaid Services in preparing a final investigation report or final audit report;

(b) records and audit workpapers to the extent they would disclose the identity of a person who, during the course of an investigation or audit, communicated the existence of any Medicaid fraud, waste, or abuse, or a violation or suspected violation of a law, rule, or regulation adopted under the laws of this state, a political subdivision of the state, or any recognized entity of the United States, if the information was disclosed on the condition that the identity of the person be protected;

(c) before the time that an investigation or audit is completed and the final investigation or final audit report is released, records or drafts circulated to a person who is not an employee or head of a governmental entity for the person's response or information;

(d) records that would disclose an outline or part of any investigation, audit survey plan, or audit program; or

(e) requests for an investigation or audit, if disclosure would risk circumvention of an investigation or audit;

(61) records that reveal methods used by the Office of Inspector General of Medicaid Services, the fraud unit, or the Department of Health, to discover Medicaid fraud, waste, or abuse;

(62) information provided to the Department of Health or the Division of Occupational and Professional Licensing under Subsections 58-67-304(3) and (4) and Subsections 58-68-304(3) and (4);

(63) a record described in Section 63G-12-210;

(64) captured plate data that is obtained through an automatic license plate reader system used by a governmental entity as authorized in Section 41-6a-2003;

(65) any record in the custody of the Utah Office for Victims of Crime relating to a victim, including:

(a) a victim's application or request for benefits;

(b) a victim's receipt or denial of benefits; and

(c) any administrative notes or records made or created for the purpose of, or used to, evaluate or communicate a victim's eligibility for or denial of benefits from the Crime Victim Reparations Fund;

(66) an audio or video recording created by a body-worn camera, as that term is defined in Section 77-7a-103, that records sound or images inside a hospital or health care facility as those terms are defined in Section 78B-3-403, inside a clinic of a health care provider, as that term is defined in Section 78B-3-403, or inside a human service program as that term is defined in Section 62A-2-101, except for recordings that:

(a) depict the commission of an alleged crime;

(b) record any encounter between a law enforcement officer and a person that results in death or bodily injury, or includes an instance when an officer fires a weapon;

(c) record any encounter that is the subject of a complaint or a legal proceeding against a law enforcement officer or law enforcement agency;

(d) contain an officer involved critical incident as defined in Subsection 76-2-408(1)(f); or

(e) have been requested for reclassification as a public record by a subject or authorized agent of a subject featured in the recording;

(67) a record pertaining to the search process for a president of an institution of higher education described in Section 53B-2-102, except for application materials for a publicly announced finalist;

(68) an audio recording that is:

(a) produced by an audio recording device that is used in conjunction with a device or piece of equipment designed or intended for resuscitating an individual or for treating an individual with a life-threatening condition;

(b) produced during an emergency event when an individual employed to provide law enforcement, fire protection, paramedic, emergency medical, or other first responder service:

(i) is responding to an individual needing resuscitation or with a life-threatening condition; and

(ii) uses a device or piece of equipment designed or intended for resuscitating an individual or for treating an individual with a life-threatening condition; and

(c) intended and used for purposes of training emergency responders how to improve their response to an emergency situation;

(69) records submitted by or prepared in relation to an applicant seeking a recommendation by the Research and General Counsel Subcommittee, the Budget Subcommittee, or the Audit Subcommittee, established under Section 36-12-8, for an employment position with the Legislature;

(70) work papers as defined in Section 31A-2-204;

(71) a record made available to Adult Protective Services or a law enforcement agency under Section 61-1-206;

(72) a record submitted to the Insurance Department in accordance with Section 31A-37-201 or 31A-22-653;

(73) a record described in Section 31A-37-503[~~.~~];

(74) any record created by the Division of Occupational and Professional Licensing as a result of Subsection 58-37f-304(5) or 58-37f-702(2)(a)(ii);

(75) a record described in Section 72-16-306 that relates to the reporting of an injury involving an amusement ride;

(76) except as provided in Subsection 63G-2-305.5(1), the signature of an individual on a political petition, or on a request to withdraw a signature from a political petition, including a petition or request described in the following titles:

(a) Title 10, Utah Municipal Code;

(b) Title 17, Counties;

(c) Title 17B, Limited Purpose Local Government Entities - Local Districts;

(d) Title 17D, Limited Purpose Local Government Entities - Other Entities; and

(e) Title 20A, Election Code;

(77) except as provided in Subsection 63G-2-305.5(2), the signature of an individual in a voter registration record;

(78) except as provided in Subsection 63G-2-305.5(3), any signature, other than a signature described in Subsection (76) or (77), in the custody of the lieutenant governor or a local political subdivision collected or held under, or in relation to, Title 20A, Election Code;

(79) a Form I-918 Supplement B certification as described in Title 77, Chapter 38, Part 5, Victims Guidelines for Prosecutors Act;

(80) a record submitted to the Insurance Department under Subsection 31A-47-103(1)(b); [~~and~~]

(81) personal information, as defined in Section 63G-26-102, to the extent disclosure is prohibited under Section 63G-26-103[~~.~~]; and

(82) a record:

(a) concerning an interstate claim to the use of waters in the Colorado River system;

(b) relating to a judicial proceeding, administrative proceeding, or negotiation with a representative from another state or the federal government as provided in Section 63M-14-205; and

(c) the disclosure of which would:

(i) reveal a legal strategy relating to the state's claim to the use of the water in the Colorado River system;

(ii) harm the ability of the Colorado River Authority of Utah or river commissioner to negotiate the best terms and conditions regarding the use of water in the Colorado River system; or

(iii) give an advantage to another state or to the federal government in negotiations regarding the use of water in the Colorado River system.

Section 3. Section 63G-6a-103 is amended to read:

63G-6a-103. Definitions.

As used in this chapter:

(1) "Approved vendor" means a person who has been approved for inclusion on an approved vendor list through the approved vendor list process.

(2) "Approved vendor list" means a list of approved vendors established under Section 63G-6a-507.

(3) "Approved vendor list process" means the procurement process described in Section 63G-6a-507.

(4) "Bidder" means a person who submits a bid or price quote in response to an invitation for bids.

(5) "Bidding process" means the procurement process described in Part 6, Bidding.

(6) "Board" means the Utah State Procurement Policy Board, created in Section 63G-6a-202.

(7) "Building board" means the State Building Board, created in Section 63A-5b-201.

(8) "Change directive" means a written order signed by the procurement officer that directs the contractor to suspend work or make changes, as authorized by contract, without the consent of the contractor.

(9) "Change order" means a written alteration in specifications, delivery point, rate of delivery, period of performance, price, quantity, or other provisions of a contract, upon mutual agreement of the parties to the contract.

(10) "Chief procurement officer" means the individual appointed under Subsection 63G-6a-302(1).

(11) "Conducting procurement unit" means a procurement unit that conducts all aspects of a procurement:

(a) except:

(i) reviewing a solicitation to verify that it is in proper form; and

(ii) causing the publication of a notice of a solicitation; and

(b) including:

(i) preparing any solicitation document;

(ii) appointing an evaluation committee;

(iii) conducting the evaluation process, except the process relating to scores calculated for costs of proposals;

(iv) selecting and recommending the person to be awarded a contract;

(v) negotiating the terms and conditions of a contract, subject to the issuing procurement unit's approval; and

(vi) contract administration.

(12) "Conservation district" means the same as that term is defined in Section 17D-3-102.

(13) "Construction project":

(a) means a project for the construction, renovation, alteration, improvement, or repair of a public facility on real property, including all services, labor, supplies, and materials for the project; and

(b) does not include services and supplies for the routine, day-to-day operation, repair, or maintenance of an existing public facility.

(14) "Construction manager/general contractor":

(a) means a contractor who enters into a contract:

(i) for the management of a construction project; and

(ii) that allows the contractor to subcontract for additional labor and materials that are not included in the contractor's cost proposal submitted at the time of the procurement of the contractor's services; and

(b) does not include a contractor whose only subcontract work not included in the contractor's cost proposal submitted as part of the procurement of the contractor's services is to meet subcontracted portions of change orders approved within the scope of the project.

(15) "Construction subcontractor":

(a) means a person under contract with a contractor or another subcontractor to provide services or labor for the design or construction of a construction project;

(b) includes a general contractor or specialty contractor licensed or exempt from licensing under Title 58, Chapter 55, Utah Construction Trades Licensing Act; and

(c) does not include a supplier who provides only materials, equipment, or supplies to a contractor or subcontractor for a construction project.

(16) "Contract" means an agreement for a procurement.

(17) "Contract administration" means all functions, duties, and responsibilities associated with managing, overseeing, and carrying out a contract between a procurement unit and a contractor, including:

(a) implementing the contract;

(b) ensuring compliance with the contract terms and conditions by the conducting procurement unit and the contractor;

(c) executing change orders;

(d) processing contract amendments;

(e) resolving, to the extent practicable, contract disputes;

(f) curing contract errors and deficiencies;

(g) terminating a contract;

(h) measuring or evaluating completed work and contractor performance;

(i) computing payments under the contract; and

(j) closing out a contract.

(18) "Contractor" means a person who is awarded a contract with a procurement unit.

(19) "Cooperative procurement" means procurement conducted by, or on behalf of:

(a) more than one procurement unit; or

(b) a procurement unit and a cooperative purchasing organization.

(20) "Cooperative purchasing organization" means an organization, association, or alliance of purchasers established to combine purchasing power in order to obtain the best value for the

purchasers by engaging in procurements in accordance with Section 63G-6a-2105.

(21) "Cost-plus-a-percentage-of-cost contract" means a contract under which the contractor is paid a percentage of the total actual expenses or costs in addition to the contractor's actual expenses or costs.

(22) "Cost-reimbursement contract" means a contract under which a contractor is reimbursed for costs which are allowed and allocated in accordance with the contract terms and the provisions of this chapter, and a fee, if any.

(23) "Days" means calendar days, unless expressly provided otherwise.

(24) "Definite quantity contract" means a fixed price contract that provides for a specified amount of supplies over a specified period, with deliveries scheduled according to a specified schedule.

(25) "Design professional" means:

(a) an individual licensed as an architect under Title 58, Chapter 3a, Architects Licensing Act;

(b) an individual licensed as a professional engineer or professional land surveyor under Title 58, Chapter 22, Professional Engineers and Professional Land Surveyors Licensing Act; or

(c) an individual certified as a commercial interior designer under Title 58, Chapter 86, State Certification of Commercial Interior Designers Act.

(26) "Design professional procurement process" means the procurement process described in Part 15, Design Professional Services.

(27) "Design professional services" means:

(a) professional services within the scope of the practice of architecture as defined in Section 58-3a-102;

(b) professional engineering as defined in Section 58-22-102;

(c) master planning and programming services; or

(d) services within the scope of the practice of commercial interior design, as defined in Section 58-86-102.

(28) "Design-build" means the procurement of design professional services and construction by the use of a single contract.

(29) "Division" means the Division of Purchasing and General Services, created in Section 63A-2-101.

(30) "Educational procurement unit" means:

(a) a school district;

(b) a public school, including a local school board or a charter school;

(c) the Utah Schools for the Deaf and the Blind;

(d) the Utah Education and Telehealth Network;

(e) an institution of higher education of the state described in Section 53B-1-102; or

(f) the State Board of Education.

(31) "Established catalogue price" means the price included in a catalogue, price list, schedule, or other form that:

(a) is regularly maintained by a manufacturer or contractor;

(b) is published or otherwise available for inspection by customers; and

(c) states prices at which sales are currently or were last made to a significant number of any category of buyers or buyers constituting the general buying public for the supplies or services involved.

(32) (a) "Executive branch procurement unit" means a department, division, office, bureau, agency, or other organization within the state executive branch.

(b) "Executive branch procurement unit" does not include the Colorado River Authority of Utah as provided in Section 63M-14-210.

(33) "Facilities division" means the Division of Facilities Construction and Management, created in Section 63A-5b-301.

(34) "Fixed price contract" means a contract that provides a price, for each procurement item obtained under the contract, that is not subject to adjustment except to the extent that:

(a) the contract provides, under circumstances specified in the contract, for an adjustment in price that is not based on cost to the contractor; or

(b) an adjustment is required by law.

(35) "Fixed price contract with price adjustment" means a fixed price contract that provides for an upward or downward revision of price, precisely described in the contract, that:

(a) is based on the consumer price index or another commercially acceptable index, source, or formula; and

(b) is not based on a percentage of the cost to the contractor.

(36) "Grant" means an expenditure of public funds or other assistance, or an agreement to expend public funds or other assistance, for a public purpose authorized by law, without acquiring a procurement item in exchange.

(37) "Immaterial error":

(a) means an irregularity or abnormality that is:

(i) a matter of form that does not affect substance; or

(ii) an inconsequential variation from a requirement of a solicitation that has no, little, or a trivial effect on the procurement process and that is not prejudicial to other vendors; and

(b) includes:

(i) a missing signature, missing acknowledgment of an addendum, or missing copy of a professional license, bond, or insurance certificate;

(ii) a typographical error;

(iii) an error resulting from an inaccuracy or omission in the solicitation; and

(iv) any other error that the procurement official reasonably considers to be immaterial.

(38) "Indefinite quantity contract" means a fixed price contract that:

(a) is for an indefinite amount of procurement items to be supplied as ordered by a procurement unit; and

(b) (i) does not require a minimum purchase amount; or

(ii) provides a maximum purchase limit.

(39) "Independent procurement unit" means:

(a) (i) a legislative procurement unit;

(ii) a judicial branch procurement unit;

(iii) an educational procurement unit;

(iv) a local government procurement unit;

(v) a conservation district;

(vi) a local building authority;

(vii) a local district;

(viii) a public corporation;

(ix) a special service district; or

(x) the Utah Communications Authority, established in Section 63H-7a-201;

(b) the building board or the facilities division, but only to the extent of the procurement authority provided under Title 63A, Chapter 5b, Administration of State Facilities;

(c) the attorney general, but only to the extent of the procurement authority provided under Title 67, Chapter 5, Attorney General;

(d) the Department of Transportation, but only to the extent of the procurement authority provided under Title 72, Transportation Code; or

(e) any other executive branch department, division, office, or entity that has statutory procurement authority outside this chapter, but only to the extent of that statutory procurement authority.

(40) "Invitation for bids":

(a) means a document used to solicit:

(i) bids to provide a procurement item to a procurement unit; or

(ii) quotes for a price of a procurement item to be provided to a procurement unit; and

(b) includes all documents attached to or incorporated by reference in a document described in Subsection (40)(a).

(41) "Issuing procurement unit" means a procurement unit that:

(a) reviews a solicitation to verify that it is in proper form;

(b) causes the notice of a solicitation to be published; and

(c) negotiates and approves the terms and conditions of a contract.

(42) "Judicial procurement unit" means:

(a) the Utah Supreme Court;

(b) the Utah Court of Appeals;

(c) the Judicial Council;

(d) a state judicial district; or

(e) an office, committee, subcommittee, or other organization within the state judicial branch.

(43) "Labor hour contract" is a contract under which:

(a) the supplies and materials are not provided by, or through, the contractor; and

(b) the contractor is paid a fixed rate that includes the cost of labor, overhead, and profit for a specified number of labor hours or days.

(44) "Legislative procurement unit" means:

(a) the Legislature;

(b) the Senate;

(c) the House of Representatives;

(d) a staff office of the Legislature, the Senate, or the House of Representatives; or

(e) a committee, subcommittee, commission, or other organization:

(i) within the state legislative branch; or

(ii) (A) that is created by statute to advise or make recommendations to the Legislature;

(B) the membership of which includes legislators; and

(C) for which the Office of Legislative Research and General Counsel provides staff support.

(45) "Local building authority" means the same as that term is defined in Section 17D-2-102.

(46) "Local district" means the same as that term is defined in Section 17B-1-102.

(47) "Local government procurement unit" means:

(a) a county or municipality, and each office or agency of the county or municipality, unless the county or municipality adopts its own procurement code by ordinance;

(b) a county or municipality that has adopted this entire chapter by ordinance, and each office or agency of that county or municipality; or

(c) a county or municipality that has adopted a portion of this chapter by ordinance, to the extent that a term in the ordinance is used in the adopted portion of this chapter, and each office or agency of that county or municipality.

(48) "Multiple award contracts" means the award of a contract for an indefinite quantity of a procurement item to more than one person.

(49) "Multiyear contract" means a contract that extends beyond a one-year period, including a contract that permits renewal of the contract, without competition, beyond the first year of the contract.

(50) "Municipality" means a city, town, or metro township.

(51) "Nonadopting local government procurement unit" means:

(a) a county or municipality that has not adopted Part 16, Protests, Part 17, Procurement Appeals Board, Part 18, Appeals to Court and Court Proceedings, and Part 19, General Provisions Related to Protest or Appeal; and

(b) each office or agency of a county or municipality described in Subsection (51)(a).

(52) "Offeror" means a person who submits a proposal in response to a request for proposals.

(53) "Preferred bidder" means a bidder that is entitled to receive a reciprocal preference under the requirements of this chapter.

(54) "Procure" means to acquire a procurement item through a procurement.

(55) "Procurement" means the acquisition of a procurement item through an expenditure of public funds, or an agreement to expend public funds, including an acquisition through a public-private partnership.

(56) "Procurement item" means an item of personal property, a technology, a service, or a construction project.

(57) "Procurement official" means:

(a) for a procurement unit other than an independent procurement unit, the chief procurement officer;

(b) for a legislative procurement unit, the individual, individuals, or body designated in a policy adopted by the Legislative Management Committee;

(c) for a judicial procurement unit, the Judicial Council or an individual or body designated by the Judicial Council by rule;

(d) for a local government procurement unit:

(i) the legislative body of the local government procurement unit; or

(ii) an individual or body designated by the local government procurement unit;

(e) for a local district, the board of trustees of the local district or the board of trustees' designee;

(f) for a special service district, the governing body of the special service district or the governing body's designee;

(g) for a local building authority, the board of directors of the local building authority or the board of directors' designee;

(h) for a conservation district, the board of supervisors of the conservation district or the board of supervisors' designee;

(i) for a public corporation, the board of directors of the public corporation or the board of directors' designee;

(j) for a school district or any school or entity within a school district, the board of the school district or the board's designee;

(k) for a charter school, the individual or body with executive authority over the charter school or the designee of the individual or body;

(l) for an institution of higher education described in Section 53B-2-101, the president of the institution of higher education or the president's designee;

(m) for the State Board of Education, the State Board of Education or the State Board of Education's designee;

(n) for the Utah Board of Higher Education, the Commissioner of Higher Education or the designee of the Commissioner of Higher Education;

(o) for the Utah Communications Authority, established in Section 63H-7a-201, the executive director of the Utah Communications Authority or the executive director's designee; or

(p) (i) for the building board, and only to the extent of procurement activities of the building board as an independent procurement unit under the procurement authority provided under Title 63A, Chapter 5b, Administration of State Facilities, the director of the building board or the director's designee;

(ii) for the facilities division, and only to the extent of procurement activities of the facilities division as an independent procurement unit under the procurement authority provided under Title 63A, Chapter 5b, Administration of State Facilities, the director of the facilities division or the director's designee;

(iii) for the attorney general, and only to the extent of procurement activities of the attorney general as an independent procurement unit under the procurement authority provided under Title 67, Chapter 5, Attorney General, the attorney general or the attorney general's designee;

(iv) for the Department of Transportation created in Section 72-1-201, and only to the extent of procurement activities of the Department of Transportation as an independent procurement unit under the procurement authority provided under Title 72, Transportation Code, the executive

director of the Department of Transportation or the executive director's designee; or

(v) for any other executive branch department, division, office, or entity that has statutory procurement authority outside this chapter, and only to the extent of the procurement activities of the department, division, office, or entity as an independent procurement unit under the procurement authority provided outside this chapter for the department, division, office, or entity, the chief executive officer of the department, division, office, or entity or the chief executive officer's designee.

(58) "Procurement unit":

(a) means:

(i) a legislative procurement unit;

(ii) an executive branch procurement unit;

(iii) a judicial procurement unit;

(iv) an educational procurement unit;

(v) the Utah Communications Authority, established in Section 63H-7a-201;

(vi) a local government procurement unit;

(vii) a local district;

(viii) a special service district;

(ix) a local building authority;

(x) a conservation district;

(xi) a public corporation; and

(b) does not include a political subdivision created under Title 11, Chapter 13, Interlocal Cooperation Act.

(59) "Professional service" means labor, effort, or work that requires specialized knowledge, expertise, and discretion, including labor, effort, or work in the field of:

(a) accounting;

(b) administrative law judge service;

(c) architecture;

(d) construction design and management;

(e) engineering;

(f) financial services;

(g) information technology;

(h) the law;

(i) medicine;

(j) psychiatry; or

(k) underwriting.

(60) "Protest officer" means:

(a) for the division or an independent procurement unit:

(i) the procurement official;

(ii) the procurement official's designee who is an employee of the procurement unit; or

(iii) a person designated by rule made by the rulemaking authority; or

(b) for a procurement unit other than an independent procurement unit, the chief procurement officer or the chief procurement officer's designee who is an employee of the division.

(61) "Public corporation" means the same as that term is defined in Section 63E-1-102.

(62) "Public entity" means the state or any other government entity within the state that expends public funds.

(63) "Public facility" means a building, structure, infrastructure, improvement, or other facility of a public entity.

(64) "Public funds" means money, regardless of its source, including from the federal government, that is owned or held by a procurement unit.

(65) "Public transit district" means a public transit district organized under Title 17B, Chapter 2a, Part 8, Public Transit District Act.

(66) "Public-private partnership" means an arrangement or agreement, occurring on or after January 1, 2017, between a procurement unit and one or more contractors to provide for a public need through the development or operation of a project in which the contractor or contractors share with the procurement unit the responsibility or risk of developing, owning, maintaining, financing, or operating the project.

(67) "Qualified vendor" means a vendor who:

(a) is responsible; and

(b) submits a responsive statement of qualifications under Section 63G-6a-410 that meets the minimum mandatory requirements, evaluation criteria, and any applicable score thresholds set forth in the request for statement of qualifications.

(68) "Real property" means land and any building, fixture, improvement, appurtenance, structure, or other development that is permanently affixed to land.

(69) "Request for information" means a nonbinding process through which a procurement unit requests information relating to a procurement item.

(70) "Request for proposals" means a document used to solicit proposals to provide a procurement item to a procurement unit, including all other documents that are attached to that document or incorporated in that document by reference.

(71) "Request for proposals process" means the procurement process described in Part 7, Request for Proposals.

(72) "Request for statement of qualifications" means a document used to solicit information about the qualifications of a person interested in responding to a potential procurement, including

all other documents attached to that document or incorporated in that document by reference.

(73) "Requirements contract" means a contract:

(a) under which a contractor agrees to provide a procurement unit's entire requirements for certain procurement items at prices specified in the contract during the contract period; and

(b) that:

(i) does not require a minimum purchase amount; or

(ii) provides a maximum purchase limit.

(74) "Responsible" means being capable, in all respects, of:

(a) meeting all the requirements of a solicitation; and

(b) fully performing all the requirements of the contract resulting from the solicitation, including being financially solvent with sufficient financial resources to perform the contract.

(75) "Responsive" means conforming in all material respects to the requirements of a solicitation.

(76) "Rule" includes a policy or regulation adopted by the rulemaking authority, if adopting a policy or regulation is the method the rulemaking authority uses to adopt provisions that govern the applicable procurement unit.

(77) "Rulemaking authority" means:

(a) for a legislative procurement unit, the Legislative Management Committee;

(b) for a judicial procurement unit, the Judicial Council;

(c) (i) only to the extent of the procurement authority expressly granted to the procurement unit by statute:

(A) for the building board or the facilities division, the building board;

(B) for the Office of the Attorney General, the attorney general;

(C) for the Department of Transportation created in Section 72-1-201, the executive director of the Department of Transportation; and

(D) for any other executive branch department, division, office, or entity that has statutory procurement authority outside this chapter, the governing authority of the department, division, office, or entity; and

(ii) for each other executive branch procurement unit, the board;

(d) for a local government procurement unit:

(i) the governing body of the local government unit; or

(ii) an individual or body designated by the local government procurement unit;

(e) for a school district or a public school, the board, except to the extent of a school district's own nonadministrative rules that do not conflict with the provisions of this chapter;

(f) for a state institution of higher education, the Utah Board of Higher Education;

(g) for the State Board of Education or the Utah Schools for the Deaf and the Blind, the State Board of Education;

(h) for a public transit district, the chief executive of the public transit district;

(i) for a local district other than a public transit district or for a special service district, the board, except to the extent that the board of trustees of the local district or the governing body of the special service district makes its own rules:

(i) with respect to a subject addressed by board rules; or

(ii) that are in addition to board rules;

(j) for the Utah Educational Savings Plan, created in Section 53B-8a-103, the Utah Board of Higher Education;

(k) for the School and Institutional Trust Lands Administration, created in Section 53C-1-201, the School and Institutional Trust Lands Board of Trustees;

(l) for the School and Institutional Trust Fund Office, created in Section 53D-1-201, the School and Institutional Trust Fund Board of Trustees;

(m) for the Utah Communications Authority, established in Section 63H-7a-201, the Utah Communications Authority board, created in Section 63H-7a-203; or

(n) for any other procurement unit, the board.

(78) "Service":

(a) means labor, effort, or work to produce a result that is beneficial to a procurement unit;

(b) includes a professional service; and

(c) does not include labor, effort, or work provided under an employment agreement or a collective bargaining agreement.

(79) "Small purchase process" means the procurement process described in Section 63G-6a-506.

(80) "Sole source contract" means a contract resulting from a sole source procurement.

(81) "Sole source procurement" means a procurement without competition pursuant to a determination under Subsection 63G-6a-802(1)(a) that there is only one source for the procurement item.

(82) "Solicitation" means an invitation for bids, request for proposals, or request for statement of qualifications.

(83) "Solicitation response" means:

(a) a bid submitted in response to an invitation for bids;

(b) a proposal submitted in response to a request for proposals; or

(c) a statement of qualifications submitted in response to a request for statement of qualifications.

(84) "Special service district" means the same as that term is defined in Section 17D-1-102.

(85) "Specification" means any description of the physical or functional characteristics or of the nature of a procurement item included in an invitation for bids or a request for proposals, or otherwise specified or agreed to by a procurement unit, including a description of:

(a) a requirement for inspecting or testing a procurement item; or

(b) preparing a procurement item for delivery.

(86) "Standard procurement process" means:

(a) the bidding process;

(b) the request for proposals process;

(c) the approved vendor list process;

(d) the small purchase process; or

(e) the design professional procurement process.

(87) "State cooperative contract" means a contract awarded by the division for and in behalf of all public entities.

(88) "Statement of qualifications" means a written statement submitted to a procurement unit in response to a request for statement of qualifications.

(89) "Subcontractor":

(a) means a person under contract to perform part of a contractual obligation under the control of the contractor, whether the person's contract is with the contractor directly or with another person who is under contract to perform part of a contractual obligation under the control of the contractor; and

(b) includes a supplier, distributor, or other vendor that furnishes supplies or services to a contractor.

(90) "Technology" means the same as "information technology," as defined in Section 63F-1-102.

(91) "Tie bid" means that the lowest responsive bids of responsible bidders are identical in price.

(92) "Time and materials contract" means a contract under which the contractor is paid:

(a) the actual cost of direct labor at specified hourly rates;

(b) the actual cost of materials and equipment usage; and

(c) an additional amount, expressly described in the contract, to cover overhead and profit, that is not based on a percentage of the cost to the contractor.

(93) "Transitional costs":

(a) means the costs of changing:

(i) from an existing provider of a procurement item to another provider of that procurement item; or

(ii) from an existing type of procurement item to another type;

(b) includes:

(i) training costs;

(ii) conversion costs;

(iii) compatibility costs;

(iv) costs associated with system downtime;

(v) disruption of service costs;

(vi) staff time necessary to implement the change;

(vii) installation costs; and

(viii) ancillary software, hardware, equipment, or construction costs; and

(c) does not include:

(i) the costs of preparing for or engaging in a procurement process; or

(ii) contract negotiation or drafting costs.

(94) "Vendor":

(a) means a person who is seeking to enter into a contract with a procurement unit to provide a procurement item; and

(b) includes:

(i) a bidder;

(ii) an offeror;

(iii) an approved vendor;

(iv) a design professional; and

(v) a person who submits an unsolicited proposal under Section 63G-6a-712.

Section 4. Section 63G-6a-107.6 is amended to read:

63G-6a-107.6. Exemptions from chapter.

(1) Except for this Subsection (1), the provisions of this chapter do not apply to:

(a) a public entity's acquisition of a procurement item from another public entity; or

(b) a public entity that is not a procurement unit, including the Colorado River Authority of Utah as provided in Section 63M-14-210.

(2) Unless otherwise provided by statute and except for this Subsection (2), the provisions of this chapter do not apply to the acquisition or disposal of real property or an interest in real property.

(3) Except for this Subsection (3) and Part 24, Unlawful Conduct and Penalties, the provisions of this chapter do not apply to:

(a) funds administered under the Percent-for-Art Program of the Utah Percent-for-Art Act;

(b) a grant;

(c) medical supplies or medical equipment, including service agreements for medical equipment, obtained by the University of Utah Hospital through a purchasing consortium if:

(i) the consortium uses a competitive procurement process; and

(ii) the chief administrative officer of the hospital makes a written finding that the prices for purchasing medical supplies and medical equipment through the consortium are competitive with market prices;

(d) the purchase of firefighting supplies or equipment by the Division of Forestry, Fire, and State Lands, created in Section 65A-1-4, through the federal General Services Administration or the National Fire Cache system;

(e) supplies purchased for resale to the public; or

(f) activities related to the management of investments by a public entity granted investment authority by law.

(4) This chapter does not supersede the requirements for retention or withholding of construction proceeds and release of construction proceeds as provided in Section 13-8-5.

(5) Except for this Subsection (5), the provisions of this chapter do not apply to a procurement unit's hiring a mediator, arbitrator, or arbitration panel member to participate in the procurement unit's dispute resolution efforts.

Section 5. Section 63J-1-602.2 is amended to read:

63J-1-602.2. List of nonlapsing appropriations to programs.

Appropriations made to the following programs are nonlapsing:

(1) The Legislature and the Legislature's committees.

(2) The State Board of Education, including all appropriations to agencies, line items, and programs under the jurisdiction of the State Board of Education, in accordance with Section 53F-9-103.

(3) The Percent-for-Art Program created in Section 9-6-404.

(4) The LeRay McAllister Critical Land Conservation Program created in Section 11-38-301.

(5) Dedicated credits accrued to the Utah Marriage Commission as provided under Subsection 17-16-21(2)(d)(ii).

(6) The Trip Reduction Program created in Section 19-2a-104.

(7) The Division of Wildlife Resources for the appraisal and purchase of lands under the Pelican Management Act, as provided in Section 23-21a-6.

(8) The emergency medical services grant program in Section 26-8a-207.

(9) The primary care grant program created in Section 26-10b-102.

(10) Sanctions collected as dedicated credits from Medicaid provider under Subsection 26-18-3(7).

(11) The Utah Health Care Workforce Financial Assistance Program created in Section 26-46-102.

(12) The Rural Physician Loan Repayment Program created in Section 26-46a-103.

(13) The Opiate Overdose Outreach Pilot Program created in Section 26-55-107.

(14) Funds that the Department of Alcoholic Beverage Control retains in accordance with Subsection 32B-2-301(8)(a) or (b).

(15) The General Assistance program administered by the Department of Workforce Services, as provided in Section 35A-3-401.

(16) A new program or agency that is designated as nonlapsing under Section 36-24-101.

(17) The Utah National Guard, created in Title 39, Militia and Armories.

(18) The State Tax Commission under Section 41-1a-1201 for the:

(a) purchase and distribution of license plates and decals; and

(b) administration and enforcement of motor vehicle registration requirements.

(19) The Search and Rescue Financial Assistance Program, as provided in Section 53-2a-1102.

(20) The Motorcycle Rider Education Program, as provided in Section 53-3-905.

(21) The Utah Board of Higher Education for teacher preparation programs, as provided in Section 53B-6-104.

(22) The Medical Education Program administered by the Medical Education Council, as provided in Section 53B-24-202.

(23) The Division of Services for People with Disabilities, as provided in Section 62A-5-102.

(24) The Division of Fleet Operations for the purpose of upgrading underground storage tanks under Section 63A-9-401.

(25) The Utah Seismic Safety Commission, as provided in Section 63C-6-104.

(26) Appropriations to the Department of Technology Services for technology innovation as provided under Section 63F-4-202.

(27) The Office of Administrative Rules for publishing, as provided in Section 63G-3-402.

(28) The Colorado River Authority of Utah, created in Title 63M, Chapter 14, Colorado River Authority of Utah Act.

[~~(28)~~] (29) The Governor's Office of Economic Development to fund the Enterprise Zone Act, as

provided in Title 63N, Chapter 2, Part 2, Enterprise Zone Act.

[~~(29)~~] (30) Appropriations to fund the Governor's Office of Economic Development's Rural Employment Expansion Program, as described in Title 63N, Chapter 4, Part 4, Rural Employment Expansion Program.

[~~(30)~~] (31) Appropriations to fund programs for the Jordan River Recreation Area as described in Section 65A-2-8.

[~~(31)~~] (32) The Department of Human Resource Management user training program, as provided in Section 67-19-6.

[~~(32)~~] (33) A public safety answering point's emergency telecommunications service fund, as provided in Section 69-2-301.

[~~(33)~~] (34) The Traffic Noise Abatement Program created in Section 72-6-112.

[~~(34)~~] (35) The Judicial Council for compensation for special prosecutors, as provided in Section 77-10a-19.

[~~(35)~~] (36) A state rehabilitative employment program, as provided in Section 78A-6-210.

[~~(36)~~] (37) The Utah Geological Survey, as provided in Section 79-3-401.

[~~(37)~~] (38) The Bonneville Shoreline Trail Program created under Section 79-5-503.

[~~(38)~~] (39) Adoption document access as provided in Sections 78B-6-141, 78B-6-144, and 78B-6-144.5.

[~~(39)~~] (40) Indigent defense as provided in Title 78B, Chapter 22, Part 4, Utah Indigent Defense Commission.

[~~(40)~~] (41) The program established by the Division of Facilities Construction and Management under Section 63A-5b-703 under which state agencies receive an appropriation and pay lease payments for the use and occupancy of buildings owned by the Division of Facilities Construction and Management.

Section 6. Section 63M-14-101 is enacted to read:

CHAPTER 14. COLORADO RIVER AUTHORITY OF UTAH ACT

Part 1. General Provisions

63M-14-101. Title.

This chapter is known as the "Colorado River Authority of Utah Act."

Section 7. Section 63M-14-102 is enacted to read:

63M-14-102. Definitions.

As used in this chapter:

(1) "Appointing authority" means an authority named in Section 63M-14-202 that appoints an authority member for a Colorado River authority area.

(2) "Authority" means the Colorado River Authority of Utah created by Section 63M-14-201.

(3) "Authority member" means a person appointed as a member of the authority under Section 63M-14-202 or designated as a member of the authority.

(4) "Chair" means the chair of the authority.

(5) "Colorado River Basin States" means Arizona, California, Colorado, Nevada, New Mexico, Utah, and Wyoming.

(6) "Colorado River authority area" means the geographic area designated by Subsection 63M-14-202(2).

(7) "Colorado River system" means the entire drainage of the Colorado River in Utah including both the main stem of the Colorado River and the Colorado River's tributaries.

(8) "Law of the river" means the compacts, federal laws, treaties, court decisions and decrees, contracts, and regulatory guidelines that underlie and authorize the management and operation of the Colorado River.

(9) "Restricted account" means the Colorado River Authority Restricted Account created in Section 63M-14-501.

(10) "River commissioner" means the person appointed under Section 63M-14-301.

Section 8. Section 63M-14-103 is enacted to read:

63M-14-103. Scope of chapter.

(1) This chapter may not be interpreted to override, supersede, or modify any water right within the state, or the role and authority of the state engineer.

(2) The Division of Water Resources shall coordinate with the authority and river commissioner in the implementation of this chapter.

Section 9. Section 63M-14-201 is enacted to read:

Part 2. Authority

63M-14-201. Authority created.

There is created within the governor's office the Colorado River Authority of Utah.

Section 10. Section 63M-14-202 is enacted to read:

63M-14-202. Organization of the authority.

(1) The authority is composed of six authority members:

(a) five authority members who represent Colorado River authority areas; and

(b) one authority member who represents the governor.

(2) The five Colorado River authority areas, defined by existing county boundaries that reflect the historic and current use of the Colorado River system, include:

(a) the Central Utah Area composed of Salt Lake, Utah, Juab, Sanpete, Summit, Wasatch, Duchesne, and Uintah counties, located within the service area of the Central Utah Water Conservancy District;

(b) the Uintah Basin Area composed of Duchesne and Uintah counties, notwithstanding that these counties fall within the Central Utah Area;

(c) the Price and San Rafael Area composed of Carbon and Emery counties;

(d) the Virgin River Area composed of Kane and Washington counties; and

(e) the State of Utah Area that represents:

(i) the remaining counties using the Colorado River system;

(ii) the Department of Natural Resources and the Department of Natural Resources' divisions; and

(iii) the users of the Colorado River system that are not specifically included in the other four Colorado River authority areas and include Daggett, Garfield, Grand, San Juan, and Wayne counties.

(3) The members of the authority are:

(a) four members appointed as follows:

(i) a representative of the Central Utah Area appointed by the board of trustees of the Central Utah Water Conservancy District;

(ii) a representative of the Uintah Basin Area appointed jointly by the boards of trustees of the Duchesne County and Uintah Water Conservancy Districts;

(iii) a representative of the Price and San Rafael Area appointed jointly by the county commission of Carbon County and the board of trustees of the Emery Water Conservancy District; and

(iv) a representative of the Virgin River Area appointed by the board of trustees of the Washington County Water Conservancy District;

(b) the director of the Division of Water Resources as the representative of the State of Utah Area created in Subsection (2)(e); and

(c) the executive director of the Department of Natural Resources as the representative of the governor.

(4) A joint appointment required under Subsection (3) requires the agreement of both appointing authorities before the authority member seat is filled.

(5) An authority member who is appointed under Subsection (3) shall:

(a) be a resident of the state; and

(b) have experience and a general knowledge of:

(i) Colorado River issues and the use of the Colorado River system in the member's respective Colorado River authority area;

(ii) the development of the use of the waters of the Colorado River system; and

(iii) the rights of this state concerning the resources and benefits of the Colorado River system.

(6) (a) An appointing authority shall notify the chair of:

(i) the appointing authority's initial appointment to the authority on or before July 1, 2021; and

(ii) the appointment of a new member or when a vacancy is being filled.

(b) An appointment of an authority member is effective when received by the chair.

(c) The initial term of an appointed authority member expires June 30, 2027. Before June 30, 2027, the authority shall adopt a system to stagger the terms of appointed authority members beginning July 1, 2027, and notify each appointing authority of the duration of the term of the appointing authority's authority member. The staggering of terms after July 1, 2027, shall result in approximately one-third of the appointed authority members' terms expiring every two years. After the respective terms of adjustment are complete, subsequent authority members shall be appointed by an appointing authority for six-year terms.

(d) An authority member term shall end on June 30. New terms commence on July 1.

(e) An authority member whose term has expired shall serve until replaced or reappointed by the applicable appointing authority.

(f) An appointing authority may at any time remove the appointing authority's authority member for neglect of duty or malfeasance in office. If the authority member is jointly appointed, the authority member may only be removed by joint agreement of both appointing authorities.

(7) In the event of a vacancy in the authority, the chair shall notify the appointing authority of the vacancy and ask that an authority member be promptly appointed.

(8) (a) An authority member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(i) Section 63A-3-106;

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

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

(b) If an authority member is a full-time employee with either the state or a water conservancy district, the authority member is not eligible for the per diem compensation.

(9) The executive director appointed under Section 63M-14-401 shall provide staff services to the authority.

Section 11. Section 63M-14-203 is enacted to read:

63M-14-203. Authority operation -- Participation of the Department of Natural Resources.

(1) An authority member has one vote on authority matters.

(2) (a) Four members of the authority constitute a quorum to conduct authority business.

(b) A vote of four members is needed to pass authority business.

(3) (a) (i) The river commissioner appointed by the governor before the effective date of this bill shall serve as the chair of the authority until June 30, 2027, if the river commissioner is a member of the authority.

(ii) Beginning on July 1, 2027, the river commissioner shall be appointed under Section 63M-14-301 and shall serve as chair of the authority for a term of six years in accordance with Section 63M-14-302.

(b) The authority may elect other officers such as vice chair, secretary, and treasurer.

(c) The chair, vice chair, secretary, and treasurer are required to be authority members.

(d) Other officers of the authority are not required to be authority members. The authority shall adopt rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for job responsibilities and terms of offices for the officers appointed under this Subsection (3)(d).

(e) If an authority officer no longer serves as an officer of the authority, the authority shall fill the vacancy for the unexpired term of the officer who is no longer serving.

(4) (a) The Department of Natural Resources shall cooperate with the authority.

(b) At the request of the authority, the executive director of the Department of Natural Resources shall:

(i) provide to the authority data or information collected by the Department of Natural Resources; and

(ii) ensure that the Department of Natural Resources present information to the authority.

Section 12. Section 63M-14-204 is enacted to read:

63M-14-204. Authority's general powers and mission -- Management plan.

(1) The authority may advise, support, gather information, and provide input to the river commissioner.

(2) The mission of the authority is to protect, conserve, use, and develop Utah's waters of the Colorado River system.

(3) The authority may develop a management plan to ensure that Utah can protect and develop the Colorado River system and to work to ensure that Utah can live within the state's apportionment of the Colorado River system.

Section 13. Section 63M-14-205 is enacted to read:

63M-14-205. Records.

(1) The records of the authority and the river commissioner shall be maintained by the authority.

(2) The authority may classify a record in accordance with Title 63G, Chapter 2, Government Access and Management Act, including a record described in Subsection 63G-2-305(82).

Section 14. Section 63M-14-206 is enacted to read:

63M-14-206. Adoption of rules.

The authority may, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, adopt rules when expressly authorized by this chapter.

Section 15. Section 63M-14-207 is enacted to read:

63M-14-207. Reports.

(1) The authority shall prepare an annual report of the authority's and river commissioner's activities and submit the report to the following:

(a) the governor; and

(b) the Legislative Management Committee.

(2) The authority shall respond to and participate in meetings as requested by a legislative committee or by the governor.

Section 16. Section 63M-14-208 is enacted to read:

63M-14-208. Authority meetings.

The authority shall comply with Title 52, Chapter 4, Open and Public Meetings Act, in holding meetings.

Section 17. Section 63M-14-209 is enacted to read:

63M-14-209. Advisory councils authorized -- Consultations.

(1) (a) The authority may create authorized advisory councils of interested persons for consultations with the authority.

(b) The authority shall, by no later than December 31, 2021, make rules governing:

(i) authorized advisory councils;

(ii) authorized advisory council members;

(iii) authorized advisory council leadership; and

(iv) authorized topic areas of interest for each authorized advisory council that directly relate to the mission and objectives of the authority.

(c) The authority may consult with authorized advisory councils and consider data, information,

and input from these authorized advisory councils relevant to the mission and objectives of the authority.

(2) The authority may consult with relevant watershed councils created under Title 73, Chapter 10g, Part 3, Watershed Councils Act.

Section 18. Section 63M-14-210 is enacted to read:

63M-14-210. Application of state laws.

(1) (a) The authority is not an executive branch procurement unit under Title 63G, Chapter 6a, Utah Procurement Code, and is not subject to that chapter.

(b) The authority shall make by rule a procurement procedure substantially similar to Title 63G, Chapter 6a, Utah Procurement Code, or a procurement code adopted by an appointing authority.

(c) The authority may contract with an appointing authority that has a local procurement procedure to deal with procurement in manner consistent with the rules made under Subsection (1)(b).

(2) (a) The authority shall comply with Title 67, Chapter 19, Utah State Personnel Management Act, except as provided in this Subsection (2).

(b) (i) The authority may approve, upon recommendation of the chair, that exemption for specific positions under Subsections 67-19-12(2) and 67-19-15(1) is required to enable the authority to efficiently fulfill the authority's responsibilities under the law.

(ii) The chair shall consult with the executive director of the Department of Human Resource Management before making a recommendation under Subsection (2)(b)(i).

(iii) The position of executive director is exempt under Subsections 67-19-12(2) and 67-19-15(1).

(c) (i) The executive director shall set salaries for exempted positions, except for the executive director, after consultation with the executive director of the Department of Human Resource Management, within ranges approved by the authority. The chair shall set the salary of the executive director.

(ii) The authority and executive director shall consider salaries for similar positions in private enterprise and other public employment when setting salary ranges.

Section 19. Section 63M-14-301 is enacted to read:

Part 3. River Commissioner

63M-14-301. Appointment of river commissioner.

(1) (a) If the governor appoints the river commissioner before the effective date of this bill, that appointment expires on June 30, 2027.

(b) If the river commissioner appointed by the governor is also appointed as a member of the authority, the river commissioner shall serve as the chair of the authority for a term expiring June 30, 2027.

(c) After June 30, 2027, the authority shall elect a chair, who shall also serve, subject to the approval of the governor, as the river commissioner.

(2) The term of a river commissioner runs concurrently with the term of the chair as provided in Sections 63M-14-203 and 63M-14-302.

(3) If the river commissioner no longer serves as river commissioner, the authority shall fill the vacancy in accordance with Section 63M-14-203.

(4) Notwithstanding Title 67, Chapter 16, Utah Public Officers' and Employees' Ethics Act, a river commissioner may hold another government position at the same time as being a river commissioner without creating a conflict of interest.

Section 20. Section 63M-14-302 is enacted to read:

63M-14-302. Term -- Removal of river commissioner.

(1) The term of the river commissioner is six years.

(2) The authority, with the consent of the governor, may remove the river commissioner if the authority finds that the river commissioner has engaged in neglect of duty or malfeasance in office. If the river commissioner is removed under this Subsection (2), the removed river commissioner may not serve as chair of the authority or as a member of the authority.

Section 21. Section 63M-14-303 is enacted to read:

63M-14-303. Compensation.

The river commissioner shall serve without compensation, but may receive travel expenses in accordance with:

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

(2) rules made by the Division of Finance pursuant to Section 63A-3-107.

Section 22. Section 63M-14-304 is enacted to read:

63M-14-304. Duties and powers.

(1) Before legal action on behalf of the state or the users of the waters of the Colorado River system may be taken under this chapter, the river commissioner shall request that the governor and attorney general take legal action on behalf of the state and the users of the waters of the Colorado River system to assure, conserve, protect, and preserve Utah's allocation of the waters of the Colorado River system as authorized by the law of the river.

(2) Except as provided in Section 63M-14-402, the attorney general shall represent the river commissioner and the authority, including the

authority's members and officers, in all matters related to the Colorado River. At the request of the authority or the river commissioner, the attorney general may institute or join legal actions against any party to enforce or defend the state's rights in matters related to the Colorado River.

(3) The river commissioner shall act for the state and the Utah Colorado River users in consultations or negotiations with:

(a) the Upper Colorado River Commission;

(b) the states in the Colorado River Compact; and

(c) the government of the United States.

(4) The river commissioner may make and enter into a compact between Utah and Colorado River Basin States, either jointly or severally. A compact that defines the rights of the states or of the United States in the waters of the Colorado River system is not binding on Utah until ratified and approved by:

(a) the Utah State Legislature by joint resolution;

(b) the governor of this state; and

(c) the appropriate federal agency when the federal agency's approval is required.

(5) The river commissioner within the limits of the river commissioner's authority shall:

(a) represent and act for the state in consultation with other states, the United States, foreign countries, and private persons, and negotiate and enter into agreements between the state and those entities, jointly or severally;

(b) represent and act for the state as a member of an interstate or international commission or other body as may be established relating to the Colorado River system in transactions with Colorado River Basin States, the federal government, or a foreign country; and

(c) report to the governor the measures or legislative actions that the river commissioner considers necessary to carry out the provisions of any law relating to the powers and duties of the authority.

(6) The river commissioner shall perform the duties imposed by this chapter and perform all other things the river commissioner considers necessary or expedient to carry out the purposes of this chapter.

Section 23. Section 63M-14-305 is enacted to read:

63M-14-305. Authority consultation with river commissioner.

(1) The river commissioner shall consult with the authority in exercising the powers and performing the duties of the river commissioner enumerated in this chapter.

(2) The river commissioner shall report and make recommendations to the authority at the request of the authority or when the river commissioner considers it proper.

(3) The purpose of consulting with and reporting to the authority is to safeguard and protect the rights and interests of Utah, Utah's agencies, and Utah's citizens in respect of the waters of the Colorado River system.

Section 24. Section 63M-14-306 is enacted to read:

63M-14-306. Investigative powers -- Storage of data relating to the use of the Colorado River system.

(1) The river commissioner may investigate past, present, and potential uses of the water of the Colorado River system within and without the state.

(2) The river commissioner shall investigate, coordinate, collate, and preserve information, facts, and data bearing upon the claims of states and of public or private agencies within and without the state to and in respect of the water and the use of water of the Colorado River system.

Section 25. Section 63M-14-401 is enacted to read:

Part 4. Employees of the Authority

63M-14-401. Executive director.

(1) The chair may hire an executive director.

(2) The executive director:

(a) is responsible for the administering and carrying out the policies of the authority;

(b) shall direct and supervise the technical and administrative activities of the authority;

(c) subject to the supervision of the chair, is responsible for the conduct of the administrative function of the river commissioner and the authority; and

(d) shall perform any lawful act necessary to carry out the duties of the authority.

(3) The executive director shall, within the limits of available funding, employ the employees necessary to carry out the functions and duties of the executive director. The employees have the duties prescribed by the executive director.

Section 26. Section 63M-14-402 is enacted to read:

63M-14-402. Consultants or other professionals.

To advise the authority on matters relating to the authority, the executive director may:

(1) employ one or more consultants or other professionals; and

(2) employ or retain legal counsel, with the consent of the attorney general, to advise the authority or river commissioner on matters relating to the authority's or river commissioner's operations.

Section 27. Section 63M-14-501 is enacted to read:

Part 5. Financial Operation

63M-14-501. Colorado River Authority Restricted Account.

(1) There is created a restricted account in the General Fund known as the "Colorado River Authority Restricted Account."

(2) The restricted account shall consist of:

(a) money contributed by the following users of the Colorado River system in an amount that the respective governing bodies considers advisable:

(i) an irrigation district;

(ii) a nonprofit corporation;

(iii) a water conservancy district;

(iv) a municipality; or

(v) a metropolitan water district;

(b) appropriations of the Legislature;

(c) contributions from other sources, including federal funding; and

(d) interest or earnings on the restricted account.

(3) (a) The state treasurer shall invest money in the restricted account according to Title 51, Chapter 7, State Money Management Act.

(b) The state treasurer shall deposit interest or other earnings derived from investment of restricted account money into the restricted account.

(4) Subject to appropriation by the Legislature, money in the restricted account is for the use of the authority to:

(a) fill the authority's statutory duties related to Utah's allocation of water from the Colorado River system;

(b) pay the compensation of employees, consultants, and legal counsel; and

(c) pay the travel expenses of the river commissioner.

(5) In addition to money contributed by the users of the Colorado River system described in Subsection (2)(a), a user may provide in-kind goods and services to the authority.

Section 28. Section 63M-14-502 is enacted to read:

63M-14-502. Budgeting process.

(1) Within the legislative appropriations and in-kind goods and services received by the authority, the authority shall prepare an annual budget of revenues and expenditures for the authority for each fiscal year.

(2) The authority may not make expenditures in excess of the total expenditures established in the annual budget as the budget is adopted or amended.

Section 29. Section 73-10-3 is amended to read:

73-10-3. Organization of board -- Interstate conferences -- Designation of representative -- Salary -- Compacts -- Ratification required.

(1) The board shall elect a [~~chairman,~~] chair and one or more [~~vice-chairmen,~~] vice-chairs who shall be members of the board, and shall establish [~~its~~] the board's own rules of organization and procedure.

(2) The board, with the approval of the executive director of [~~natural resources~~] the Department of Natural Resources and the governor, shall designate a representative who may be one of [~~its~~] the board's members to represent the state [~~of Utah~~] in all interstate conferences between the state [~~of Utah~~] and one or more sister states held for the purpose of entering into compacts between such states for the division of the waters of interstate rivers, lakes, or other sources of water supply, and to represent the state [~~of Utah~~] upon all commissions or other governing bodies provided for by any compacts [~~which~~] that have been or may hereafter be entered into between the state [~~of Utah~~] and one or more sister states. [~~No such compact shall, however,~~] A compact may not become binding upon the state [~~of Utah until it has been~~] until the compact is ratified and approved by the Utah State Legislature [~~of the state of Utah~~] and the legislatures of other states [~~which~~] that are parties [~~thereto~~] to the compact.

(3) In acting as such representative of the state [~~of Utah~~], the representative so acting shall act under the supervision of the governor, through the executive director of [~~natural resources~~] the Department of Natural Resources and of the Board of Water Resources. The director of the Division of Finance shall fix the salary to be paid to the representative while [~~he~~] the representative is acting in this capacity.

(4) The designee of the Water Resource Board shall continue to represent the state as outlined in Subsections (2) and (3) on waters in the state except for the Colorado River system which is governed by Title 63M, Chapter 14, Colorado River Authority of Utah Act.

Section 30. Section 73-10-4 is amended to read:

73-10-4. Powers and duties of board.

(1) The board shall have the following powers and duties to:

(a) authorize studies, investigations, and plans for the full development, use, and promotion of the water and power resources of the state, including preliminary surveys, stream gauging, examinations, tests, and other estimates either separately or in consultation with federal, state and other agencies;

(b) enter into contracts subject to the provisions of this chapter for the construction of conservation projects that in the opinion of the board will conserve and use for the best advantage of the

people of this state the water and power resources of the state, including projects beyond the boundaries of the state of Utah located on interstate waters when the benefit of such projects accrues to the citizens of the state;

(c) sue and be sued in accordance with applicable law;

(d) supervise in cooperation with the governor and the executive director of natural resources all matters affecting interstate compact negotiations and the administration of the compacts affecting the waters of interstate rivers, lakes and other sources of supply, with the exception of the waters of the Colorado River system that are governed by Title 63M, Chapter 14, Colorado River Authority of Utah Act;

(e) contract with federal and other agencies and with the National Water Resources Association and to make studies, investigations and recommendations and do all other things on behalf of the state for any purpose that relates to the development, conservation, protection and control of the water and power resources of the state;

(f) consult and advise with the Utah Water Users' Association and other organized water users' associations in the state;

(g) consider and make recommendations on behalf of the state of reclamation projects or other water development projects for construction by any agency of the state or United States and in so doing recommend the order in which projects shall be undertaken; or

(h) review, approve, and revoke an application to create a water bank under Chapter 31, Water Banking Act, collect an annual report, maintain the water banking website, and conduct any other function related to a water bank as described in Chapter 31, Water Banking Act.

(2) Nothing contained in this section shall be construed to impair or otherwise interfere with the authority of the state engineer granted by [~~Title 73, Water and Irrigation~~] this title, except as specifically otherwise provided in this section.

Section 31. Section 73-10-18 is amended to read:

73-10-18. Division of Water Resources -- Creation -- Power and authority.

(1) There is created the Division of Water Resources, which shall be within the Department of Natural Resources under the administration and general supervision of the executive director [~~of natural resources~~] of the Department of Natural Resources and under the policy direction of the Board of Water Resources.

(2) [~~The~~] Except for the waters of the Colorado River system that are governed by Title 63M, Chapter 14, Colorado River Authority of Utah Act, the Division of Water Resources shall:

(a) be the water resource authority for the state; and

(b) assume all of the functions, powers, duties, rights, and responsibilities of the Utah water and power board except those which are delegated to the board by this act and is vested with such other functions, powers, duties, rights and responsibilities as provided in this act and other law.

Section 32. Effective date.

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

Section 33. Revisor instructions.

The Legislature intends that the Office of Legislative Research and General Counsel, in preparing the Utah Code database for publication, replace the references in the following sections from "the effective date of this bill" to the bill's actual effective date:

(1) Subsection 63M-14-203(3); and

(2) Subsection 63M-14-301(1).

CHAPTER 180
H. B. 301
Passed March 3, 2021
Approved March 16, 2021
Effective May 5, 2021

DOMESTIC VIOLENCE TRAINING AMENDMENTS

Chief Sponsor: Candice B. Pierucci
Senate Sponsor: Lincoln Fillmore
Cosponsors: Cheryl K. Acton
Melissa G. Ballard
Brady Brammer
Jefferson S. Burton
Suzanne Harrison
Marsha Judkins
Rosemary T. Lesser
Karianne Lisonbee
Susan Pulsipher
Angela Romero
Christine F. Watkins

LONG TITLE

General Description:

This bill provides for domestic violence and lethality assessment training for law enforcement officers and reporting requirements.

Highlighted Provisions:

This bill:

- requires the Department of Public Safety and Peace Officer Standards and Training create a training program for law enforcement officers in:
  - recognizing domestic violence indicators;
  - providing lethality assessments; and
  - writing reports on incidents; and
- directs the Division of Child and Family Services to work with to the Department of Public Safety and the State Commission on Criminal and Juvenile Justice with data on domestic violence for reporting to the Legislature.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:
78B-7-120, Utah Code Annotated 1953

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

Section 1. Section 78B-7-120 is enacted to read:

78B-7-120. Law enforcement -- Training -- Domestic violence -- Lethality assessments.

(1) The Department of Public Safety shall develop training in domestic violence responses and lethality assessment protocols, which include the following:

(a) recognizing the symptoms of domestic violence and trauma;

(b) an evidence-based assessment to identify victims of domestic violence who may be at a high risk of being killed by a perpetrator;

(c) lethality assessment protocols and interviewing techniques, including indicators of strangulation;

(d) responding to the needs and concerns of a victim of domestic violence;

(e) delivering services to victims of domestic violence in a compassionate, sensitive, and professional manner; and

(f) understanding cultural perceptions and common myths of domestic violence.

(2) The department shall develop and offer an online training course in domestic violence issues to all certified law enforcement officers in the state.

(3) Training in domestic violence issues shall be incorporated into training offered by the Peace Officer Standards and Training division to all persons seeking certification as a peace officer.

(4) The department shall develop specific training curriculums that meet the requirements of this section, including:

(a) response to domestic violence incidents, including trauma-informed and victim-centered interview techniques;

(b) lethality assessment protocols which have been demonstrated to minimize retraumatizing victims; and

(c) standards for report writing.

(5) The Department of Public Safety, in partnership with the Division of Child and Family Services and the Commission on Criminal and Juvenile Justice, shall work to identify aggregate domestic violence data to include:

(a) lethality assessments;

(b) the prevalence of stalking;

(c) strangulation;

(d) violence in the presence of children; and

(e) threats of suicide or homicide.

(6) The Department of Public Safety, with support from the Commission on Criminal and Juvenile Justice and the Division of Child and Family Services shall provide recommendations to the Law Enforcement and Criminal Justice Interim Committee not later than July 31 of each year and in the commission's annual report required by Section 63M-7-205.

CHAPTER 181
H. B. 305
Passed March 5, 2021
Approved March 16, 2021
Effective May 5, 2021

QUALITY GROWTH ACT

Chief Sponsor: Joel Ferry
Senate Sponsor: Jani Iwamoto

LONG TITLE

General Description:

This bill modifies provisions related to quality growth.

Highlighted Provisions:

This bill:

- defines terms;
- directs the use of ranking criteria;
- prioritizes funding for working agricultural land; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

11-38-102, as last amended by Laws of Utah 2013, Chapter 310
11-38-202, as last amended by Laws of Utah 2009, Chapter 368
11-38-302, as last amended by Laws of Utah 2017, Chapter 345

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

Section 1. Section 11-38-102 is amended to read:

11-38-102. Definitions.

As used in this chapter:

(1) "Affordable housing" means housing occupied or reserved for occupancy by households with a gross household income equal to or less than 80% of the median gross income of the applicable municipal or county statistical area for households of the same size.

(2) "Agricultural land" has the same meaning as "land in agricultural use" under Section 59-2-502.

(3) "Brownfield sites" means abandoned, idled, or underused commercial or industrial land where expansion or redevelopment is complicated by real or perceived environmental contamination.

(4) "Commission" means the Quality Growth Commission established in Section 11-38-201.

(5) "Infill development" means residential, commercial, or industrial development on unused or underused land, excluding open land and agricultural land, within existing, otherwise developed urban areas.

(6) "Local entity" means a county, city, or town.

(7) (a) "Open land" means land that is:

(i) preserved in or restored to a predominantly natural, open, and undeveloped condition; and

(ii) used for:

(A) wildlife habitat;

(B) cultural or recreational use;

(C) watershed protection; or

(D) another use consistent with the preservation of the land in or restoration of the land to a predominantly natural, open, and undeveloped condition.

(b) (i) "Open land" does not include land whose predominant use is as a developed facility for active recreational activities, including baseball, tennis, soccer, golf, or other sporting or similar activity.

(ii) The condition of land does not change from a natural, open, and undeveloped condition because of the development or presence on the land of facilities, including trails, waterways, and grassy areas, that:

(A) enhance the natural, scenic, or aesthetic qualities of the land; or

(B) facilitate the public's access to or use of the land for the enjoyment of its natural, scenic, or aesthetic qualities and for compatible recreational activities.

(8) "Program" means the LeRay McAllister Critical Land Conservation Program established in Section 11-38-301.

(9) "Surplus land" means real property owned by the Department of Administrative Services, the Department of Agriculture and Food, the Department of Natural Resources, or the Department of Transportation that the individual department determines not to be necessary for carrying out the mission of the department.

(10) (a) "Working agricultural land" means agricultural land for which an owner or producer engages in the activity of producing for commercial purposes crops, orchards, livestock, poultry, aquaculture, livestock products, or poultry products and the facilities, equipment, and property used to facilitate the activity.

(b) "Working agricultural land" includes an agricultural protection area established under Title 17, Chapter 41, Agriculture, Industrial, or Critical Infrastructure Materials Protection Areas.

Section 2. Section 11-38-202 is amended to read:

11-38-202. Commission duties and powers -- No regulatory authority -- Rulemaking -- Criteria.

(1) The commission shall:

(a) make recommendations to the Legislature on how to define more specifically quality growth areas

within the general guidelines provided to the commission by the Legislature;

(b) advise the Legislature on growth management issues;

(c) make recommendations to the Legislature on refinements to this chapter;

(d) conduct a review in 2002 and each year thereafter to determine progress statewide on accomplishing the purposes of this chapter, and give a report of each review to the Political Subdivisions Interim Committee of the Legislature by November 30 of the year of the review;

(e) administer the program as provided in this chapter;

(f) assist as many local entities as possible, at their request, to identify principles of growth that the local entity may consider implementing to help achieve the highest possible quality of growth for that entity;

(g) fulfill other responsibilities imposed on the commission by the Legislature; and

(h) fulfill all other duties imposed on the commission by this chapter.

(2) The commission may sell, lease, or otherwise dispose of equipment or personal property belonging to the program, the proceeds from which shall return to the fund.

(3) The commission may not exercise any regulatory authority.

(4) In carrying out the commission's powers and duties under this chapter, the commission shall adopt ranking criteria that is substantially similar to the ranking criteria used by the Agriculture Conservation Easement Program and Agriculture Land Easement as determined by the Natural Resources Conservation Service under the United States Department of Agriculture.

Section 3. Section 11-38-302 is amended to read:

11-38-302. Use of money in program -- Criteria -- Administration.

(1) Subject to Subsection (2), the commission may authorize the use of money in the program, by grant, to:

(a) a local entity;

(b) the Department of Natural Resources created under Section 79-2-201;

(c) the Department of Agriculture and Food created under Section 4-2-102; or

(d) a charitable organization that qualifies as being tax exempt under Section 501(c)(3), Internal Revenue Code.

(2) (a) The money in the program shall be used for preserving or restoring open land and agricultural land.

(b) (i) Except as provided in Subsection (2)(b)(ii), money from the program may not be used to purchase a fee interest in real property in order to preserve open land or agricultural land, but may be used to establish a conservation easement under Title 57, Chapter 18, Land Conservation Easement Act, or to fund similar methods to preserve open land or agricultural land.

(ii) Notwithstanding Subsection (2)(b)(i), money from the fund may be used to purchase a fee interest in real property to preserve open land or agricultural land if:

(A) the parcel to be purchased is no more than 20 acres in size; and

(B) with respect to a parcel purchased in a county in which over 50% of the land area is publicly owned, real property roughly equivalent in size and located within that county is contemporaneously transferred to private ownership from the governmental entity that purchased the fee interest in real property.

(iii) Eminent domain may not be used or threatened in connection with any purchase using money from the program.

(iv) A parcel of land larger than 20 acres in size may not be divided into separate parcels smaller than 20 acres each to meet the requirement of Subsection (2)(b)(ii).

(c) A local entity, department, or organization under Subsection (1) may not receive money from the program unless [~~it~~] the local entity, department, or organization provides matching funds equal to or greater than the amount of money received from the program.

(d) In granting money from the program, the commission may impose conditions on the recipient as to how the money is to be spent.

(e) The commission shall give priority to:

(i) working agricultural land; and

(ii) after giving priority to working agricultural land under Subsection (2)(e)(i), requests from the Department of Natural Resources for up to 20% of each annual increase in the amount of money in the program if the money is used for the protection of wildlife or watershed.

(f) (i) The commission may not make a grant from the program that exceeds $1,000,000 until after making a report to the Legislative Management Committee about the grant.

(ii) The Legislative Management Committee may make a recommendation to the commission concerning the intended grant, but the recommendation is not binding on the commission.

(3) In determining the amount and type of financial assistance to provide an entity, department, or organization under Subsection (1) and subject to Subsection (2)(f), the commission shall consider:

(a) the nature and amount of open land and agricultural land proposed to be preserved or restored;

(b) the qualities of the open land and agricultural land proposed to be preserved or restored;

(c) the cost effectiveness of the project to preserve or restore open land or agricultural land;

(d) the funds available;

(e) the number of actual and potential applications for financial assistance and the amount of money sought by those applications;

(f) the open land preservation plan of the local entity where the project is located and the priority placed on the project by that local entity;

(g) the effects on housing affordability and diversity; and

(h) whether the project protects against the loss of private property ownership.

(4) If a local entity, department, or organization under Subsection (1) seeks money from the program for a project whose purpose is to protect critical watershed, the commission shall require that the needs and quality of that project be verified by the state engineer.

(5) [~~Each~~] An interest in real property purchased with money from the program shall be held and administered by the state or a local entity.

CHAPTER 182
H. B. 308
Passed March 5, 2021
Approved March 16, 2021
Effective May 5, 2021

COVID-19 VACCINE AMENDMENTS

Chief Sponsor: Robert M. Spendlove
Senate Sponsor: Daniel McCay
Cosponsors: Stewart E. Barlow
Walt Brooks
Scott H. Chew
Stephen G. Handy
Karianne Lisonbee
Jefferson Moss
Candice B. Pierucci
Susan Pulsipher
Paul Ray
Rex P. Shipp
Mark A. Strong
Norman K. Thurston
Steve Waldrip
Christine F. Watkins
Mike Winder

LONG TITLE

General Description:

This bill prohibits a governmental entity from requiring that an individual receive a vaccine for COVID-19.

Highlighted Provisions:

This bill:

- defines terms;
- prohibits a governmental entity from requiring that an individual receive a vaccine for COVID-19;
- provides exceptions to the prohibition in this bill; and
- provides a sunset date.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63I-1-226, as last amended by Laws of Utah 2020, Chapters 19, 154, 172, 181, 221, 232, 303, 347, and 429

ENACTS:

26-68-101, Utah Code Annotated 1953
26-68-102, Utah Code Annotated 1953

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

Section 1. Section 26-68-101 is enacted to read:

CHAPTER 68. COVID-19 VACCINE RESTRICTIONS ACT

26-68-101. Title.

This chapter is known as the "COVID-19 Vaccine Restrictions Act."

Section 2. Section 26-68-102 is enacted to read:

26-68-102. Governmental entities prohibited from requiring a COVID-19 vaccine.

(1) As used in this section:

(a) "Governmental entity" means the same as that term is defined in Section 63D-2-102.

(b) "Emergency COVID-19 vaccine" means a substance that is:

(i) authorized for use by the United States Food and Drug Administration under an emergency use authorization under 21 U.S.C. Sec. 360bbb-3;

(ii) injected into or otherwise administered to an individual; and

(iii) intended to immunize an individual against COVID-19 as defined in Section 78B-4-517.

(2) Except as provided in Subsection (4), a governmental entity may not require, directly or indirectly, that an individual receive an emergency COVID-19 vaccine.

(3) The prohibited activities under Subsection (2) include:

(a) making rules that require, directly or indirectly, that an individual receive an emergency COVID-19 vaccine;

(b) requiring that an individual receive an emergency COVID-19 vaccine as a condition of:

(i) employment;

(ii) participation in an activity of the governmental entity, including outside or extracurricular activities; or

(iii) attendance at events that are hosted or sponsored by the governmental entity; and

(c) any action that a reasonable person would not be able to deny without significant harm to the individual.

(4) Subsection (2) does not include:

(a) facilitating the distribution, dispensing, administration, coordination, or provision of an emergency COVID-19 vaccine;

(b) an employee of a governmental entity who is:

(i) acting in a public health or medical setting; and

(ii) required to receive vaccinations in order to perform the employee's assigned duties and responsibilities; or

(c) enforcement by a governmental entity of a non-discretionary requirement under federal law.

(5) This section may not be suspended or modified by the governor or any other chief executive officer under Title 53, Chapter 2a, Emergency Management Act.

Section 3. Section 63I-1-226 is amended to read:

63I-1-226. Repeal dates, Title 26.

(1) Subsection 26-1-7(1)(f), related to the Residential Child Care Licensing Advisory Committee, is repealed July 1, 2024.

(2) Subsection 26-1-7(1)(h), related to the Primary Care Grant Committee, is repealed July 1, 2025.

(3) Section 26-1-7.5, which creates the Utah Health Advisory Council, is repealed July 1, 2025.

(4) Section 26-1-40 is repealed July 1, 2022.

(5) Section 26-1-41 is repealed July 1, 2026.

(6) Section 26-7-10 is repealed July 1, 2025.

(7) Subsection 26-7-11(5), regarding reports to the Legislature, is repealed July 1, 2028.

(8) Section 26-7-14 is repealed December 31, 2027.

(9) Title 26, Chapter 9f, Utah Digital Health Service Commission Act, is repealed July 1, 2025.

(10) Subsection 26-10-6(5), which creates the Newborn Hearing Screening Committee, is repealed July 1, 2026.

(11) Section 26-10-11 is repealed July 1, 2025.

(12) Section 26-10b-106, which creates the Primary Care Grant Committee, is repealed July 1, 2025.

(13) Title 26, Chapter 18, Part 2, Drug Utilization Review Board, is repealed July 1, 2027.

(14) Subsection 26-18-417(3) relating to a report to the Health and Human services Interim Committee is repealed July 1, 2020.

(15) Subsection 26-18-418(2), the language that states "and the Behavioral Health Crisis Response Commission created in Section 63C-18-202" is repealed July 1, 2023.

(16) Title 26, Chapter 18a, Kurt Oscarson Children's Organ Transplant Coordinating Committee, is repealed July 1, 2021.

(17) Section 26-33a-117 is repealed on December 31, 2023.

(18) Title 26, Chapter 33a, Utah Health Data Authority Act, is repealed July 1, 2024.

(19) Title 26, Chapter 36b, Inpatient Hospital Assessment Act, is repealed July 1, 2024.

(20) Title 26, Chapter 36c, Medicaid Expansion Hospital Assessment Act, is repealed July 1, 2024.

(21) Title 26, Chapter 36d, Hospital Provider Assessment Act, is repealed July 1, 2024.

(22) Section 26-39-201, which creates the Residential Child Care Licensing Advisory Committee, is repealed July 1, 2024.

(23) Section 26-40-104, which creates the Utah Children's Health Insurance Program Advisory Council, is repealed July 1, 2025.

(24) Section 26-50-202, which creates the Traumatic Brain Injury Advisory Committee, is repealed July 1, 2025.

(25) Title 26, Chapter 54, Spinal Cord and Brain Injury Rehabilitation Fund and Pediatric Neuro-Rehabilitation Fund, is repealed January 1, 2025.

(26) Title 26, Chapter 63, Nurse Home Visiting Pay-for-Success Program, is repealed July 1, 2026.

(27) Title 26, Chapter 66, Early Childhood Utah Advisory Council, is repealed July 1, 2026.

(28) Title 26, Chapter 68, COVID-19 Vaccine Restrictions, is repealed July 1, 2024.

CHAPTER 183
H. B. 312
Passed February 26, 2021
Approved March 16, 2021
Effective May 5, 2021

STATE RESIDENCY AMENDMENTS

Chief Sponsor: Jordan D. Teuscher
Senate Sponsor: Daniel McCay

LONG TITLE

General Description:

This bill makes changes to the Election Code regarding residency determinations for candidates.

Highlighted Provisions:

This bill:

- clarifies when a presumption of residency applies;
- provides that a statement made in a declaration of candidacy is subject to the penalties of perjury;
- addresses when a rebuttable presumption of residency applies for an individual filing a declaration of candidacy; and
- modifies deadlines for objecting to a person's declaration of candidacy.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

20A-2-105, as last amended by Laws of Utah 2014, Chapter 260
20A-9-201, as last amended by Laws of Utah 2020, Chapter 22
20A-9-202, as last amended by Laws of Utah 2020, Chapter 22
20A-9-203, as last amended by Laws of Utah 2020, Chapter 22
20A-9-408.5, as enacted by Laws of Utah 2015, Chapter 296

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

Section 1. Section 20A-2-105 is amended to read:

20A-2-105. Determining residency.

(1) As used in this section:

(a) "Principal place of residence" means the single location where a person's habitation is fixed and to which, whenever the person is absent, the person has the intention of returning.

(b) "Resident" means a person whose principal place of residence is within a specific voting precinct in Utah.

(2) Election officials and judges shall apply the standards and requirements of this section when determining whether a person is a resident for purposes of interpreting this title or the Utah Constitution.

(3) (a) A person resides in Utah if:

(i) the person's principal place of residence is within Utah; and

(ii) the person has a present intention to maintain the person's principal place of residence in Utah permanently or indefinitely.

(b) A person resides within a particular voting precinct if, as of the date of registering to vote, the person's principal place of residence is in that voting precinct.

(c) A person's principal place of residence does not change solely because the person is present in Utah, present in a voting precinct, absent from Utah, or absent from the person's voting precinct because the person is:

(i) employed in the service of the United States or of Utah;

(ii) a student at an institution of learning;

(iii) incarcerated in prison or jail; or

(iv) residing upon an Indian or military reservation.

(d) (i) A member of the armed forces of the United States is not a resident of Utah merely because that member is stationed at a military facility within Utah.

(ii) In order to be a resident of Utah, a member of the armed forces described in this Subsection (3)(d) shall meet the other requirements of this section.

(e) (i) Except as provided in Subsection (3)(e)(ii) or (iii), a person has not lost the person's principal place of residence in Utah or a precinct if that person moves to a foreign country, another state, or another voting precinct within Utah, for temporary purposes with the intention of returning.

(ii) If a person leaves the state or a voting precinct and votes in another state or voting precinct, the person is no longer a resident of the state or voting precinct that the person left.

(iii) A person loses the person's principal place of residence in Utah or in a precinct, if, after the person moves to another state or another precinct under Subsection (3)(e)(i), the person forms the intent of making the other state or precinct the person's principal place of residence.

(f) A person is not a resident of a county or voting precinct if that person comes for temporary purposes and does not intend to make that county or voting precinct the person's principal place of residence.

(g) A person loses the person's principal place of residence in Utah or in a precinct if the person moves to another state or precinct with the intention of making the other state or precinct the person's principal place of residence.

(h) If a person moves to another state or precinct with the intent of remaining there for an indefinite time as the person's principal place of residence, the person loses the person's residence in Utah, or in the precinct, even though the person intends to return at some future time.

(4) An election official or judge shall, in determining a person's principal place of residence, consider the following factors, to the extent that the election official or judge determines the factors to be relevant:

(a) where the person's family resides;

(b) whether the person is single, married, separated, or divorced;

(c) the age of the person;

(d) where the person usually sleeps;

(e) where the person's minor children attend school;

(f) the location of the person's employment, income sources, or business pursuits;

(g) the location of real property owned by the person;

(h) the person's residence for purposes of taxation or tax exemption; and

(i) other relevant factors.

(5) (a) A person has changed the person's principal place of residence if the person:

(i) acts affirmatively to move from the state or a precinct in the state; and

(ii) has the intent to remain in another state or precinct.

(b) A person may not have more than one principal place of residence.

(c) A person does not lose the person's principal place of residence until the person establishes another principal place of residence.

(6) In computing the period that a person is a resident, a person shall:

(a) include the day on which the person establishes the person's principal place of residence; and

(b) exclude the day of the next election.

(7) (a) [~~There~~] Except as provided in Subsection (10), there is a rebuttable presumption that a person's principal place of residence is in Utah and in the voting precinct claimed by the person if the person makes an oath or affirmation upon a registration application form or declaration of candidacy that the person's principal place of residence is in Utah and in the voting precinct claimed by the person.

(b) [~~The~~] Except as provided in Subsection (10), the election officers and election officials shall allow a person described in Subsection (7)(a) to register and vote, or accept the person's declaration of candidacy, unless, upon a challenge by a registrar or some other person, it is shown by law or by clear and convincing evidence that:

(i) the person's principal place of residence is not in Utah; or

(ii) the person is incarcerated in prison or jail and did not, before the person was incarcerated in prison or jail, establish the person's principal place of residence in the voting precinct.

(8) (a) The criteria described in this section for establishing a person's principal place of residence for voting purposes do not apply in relation to the person's location while the person is incarcerated in prison or jail.

(b) For voting registration purposes, the principal place of residence of a person incarcerated in prison or jail is the state and voting precinct where the person's principal place of residence was located before incarceration.

(9) If a person's principal place of residence is a residential parcel of one acre in size or smaller that is divided by the boundary line between two or more counties, that person shall be considered a resident of the county in which a majority of the residential parcel lies.

(10) (a) If an individual seeking to become a candidate for a political office that includes a durational residency requirement has been absent from the state for a period of more than 180 consecutive days during the applicable residency period, the individual may, at the time that the candidate files a declaration of candidacy, submit evidence to the filing officer to show that the individual intended to return to the state during the time of the individual's absence from the state.

(b) There is a rebuttable presumption that an individual described in Subsection (10)(a) intended to return to the state during the individual's absence if:

(i) the individual submits evidence of the individual's intent to the filing officer at the time that the individual files a declaration of candidacy; or

(ii) the individual was absent from the state because the individual was:

(A) employed in the service of the United States or of Utah;

(B) a student at an institution of learning; or

(C) engaged solely in religious, missionary, philanthropic, or humanitarian activities.

(c) If a valid written objection to an individual's declaration of candidacy is filed, there is a rebuttable presumption that an individual described in Subsection (10)(a) did not intend to return to the state during the individual's absence if:

(i) the individual did not submit evidence of the individual's intent to the filing officer at the time that the individual filed a declaration of candidacy; and

(ii) the individual's absence from the state was not for one of the reasons described in Subsection (10)(b)(ii).

(d) An individual must rebut the presumption described in this Subsection (10) by clear and convincing evidence.

Section 2. Section 20A-9-201 is amended to read:

20A-9-201. Declarations of candidacy -- Candidacy for more than one office or of more than one political party prohibited with exceptions -- General filing and form requirements -- Affidavit of impecuniosity.

(1) Before filing a declaration of candidacy for election to any office, an individual shall:

(a) be a United States citizen;

(b) meet the legal requirements of that office; and

(c) if seeking a registered political party's nomination as a candidate for elective office, state:

(i) the registered political party of which the individual is a member; or

(ii) that the individual is not a member of a registered political party.

(2) (a) Except as provided in Subsection (2)(b), an individual may not:

(i) file a declaration of candidacy for, or be a candidate for, more than one office in Utah during any election year;

(ii) appear on the ballot as the candidate of more than one political party; or

(iii) file a declaration of candidacy for a registered political party of which the individual is not a member, except to the extent that the registered political party permits otherwise in the registered political party's bylaws.

(b) (i) An individual may file a declaration of candidacy for, or be a candidate for, president or vice president of the United States and another office, if the individual resigns the individual's candidacy for the other office after the individual is officially nominated for president or vice president of the United States.

(ii) An individual may file a declaration of candidacy for, or be a candidate for, more than one justice court judge office.

(iii) An individual may file a declaration of candidacy for lieutenant governor even if the individual filed a declaration of candidacy for another office in the same election year if the individual withdraws as a candidate for the other office in accordance with Subsection 20A-9-202(6) before filing the declaration of candidacy for lieutenant governor.

(3) (a) Except for a candidate for president or vice president of the United States, before the filing officer may accept any declaration of candidacy, the filing officer shall:

(i) read to the individual the constitutional and statutory qualification requirements for the office that the individual is seeking;

(ii) require the individual to state whether the individual meets the requirements described in Subsection (3)(a)(i); [~~and~~]

(iii) if the declaration of candidacy is for a county office, inform the individual that an individual who holds a county elected office may not, at the same time, hold a municipal elected office[~~.~~]; and

(iv) if the declaration of candidacy is for a legislative office, inform the individual that Utah Constitution, Article VI, Section 6, prohibits a person who holds a public office of profit or trust, under authority of the United States or Utah, from being a member of the Legislature.

(b) Before accepting a declaration of candidacy for the office of county attorney, the county clerk shall ensure that the individual filing that declaration of candidacy is:

(i) a United States citizen;

(ii) an attorney licensed to practice law in the state who is an active member in good standing of the Utah State Bar;

(iii) a registered voter in the county in which the individual is seeking office; and

(iv) a current resident of the county in which the individual is seeking office and either has been a resident of that county for at least one year or was appointed and is currently serving as county attorney and became a resident of the county within 30 days after appointment to the office.

(c) Before accepting a declaration of candidacy for the office of district attorney, the county clerk shall ensure that, as of the date of the election, the individual filing that declaration of candidacy is:

(i) a United States citizen;

(ii) an attorney licensed to practice law in the state who is an active member in good standing of the Utah State Bar;

(iii) a registered voter in the prosecution district in which the individual is seeking office; and

(iv) a current resident of the prosecution district in which the individual is seeking office and either will have been a resident of that prosecution district for at least one year as of the date of the election or was appointed and is currently serving as district attorney and became a resident of the prosecution district within 30 days after receiving appointment to the office.

(d) Before accepting a declaration of candidacy for the office of county sheriff, the county clerk shall ensure that the individual filing the declaration:

(i) is a United States citizen;

(ii) is a registered voter in the county in which the individual seeks office;

(iii) (A) has successfully met the standards and training requirements established for law enforcement officers under Title 53, Chapter 6, Part 2, Peace Officer Training and Certification Act; or

(B) has met the waiver requirements in Section 53-6-206;

(iv) is qualified to be certified as a law enforcement officer, as defined in Section 53-13-103; and

(v) as of the date of the election, will have been a resident of the county in which the individual seeks office for at least one year.

(e) Before accepting a declaration of candidacy for the office of governor, lieutenant governor, state auditor, state treasurer, attorney general, state legislator, or State Board of Education member, the filing officer shall ensure:

(i) that the individual filing the declaration of candidacy also makes the conflict of interest disclosure required by Section 20A-11-1603; and

(ii) until January 1, 2020, if the filing officer is not the lieutenant governor, that the individual provides the conflict of interest disclosure form to the lieutenant governor in accordance with Section 20A-11-1603.

(4) If an individual who files a declaration of candidacy does not meet the qualification requirements for the office the individual is seeking, the filing officer may not accept the individual's declaration of candidacy.

(5) If an individual who files a declaration of candidacy meets the requirements described in Subsection (3), the filing officer shall:

(a) inform the individual that:

(i) the individual's name will appear on the ballot as the individual's name is written on the individual's declaration of candidacy;

(ii) the individual may be required to comply with state or local campaign finance disclosure laws; and

(iii) the individual is required to file a financial statement before the individual's political convention under:

(A) Section 20A-11-204 for a candidate for constitutional office;

(B) Section 20A-11-303 for a candidate for the Legislature; or

(C) local campaign finance disclosure laws, if applicable;

(b) except for a presidential candidate, provide the individual with a copy of the current campaign financial disclosure laws for the office the individual is seeking and inform the individual that failure to comply will result in disqualification as a candidate and removal of the individual's name from the ballot;

(c) provide the individual with a copy of Section 20A-7-801 regarding the Statewide Electronic Voter Information Website Program and inform the individual of the submission deadline under Subsection 20A-7-801(4)(a);

(d) provide the candidate with a copy of the pledge of fair campaign practices described under Section 20A-9-206 and inform the candidate that:

(i) signing the pledge is voluntary; and

(ii) signed pledges shall be filed with the filing officer;

(e) accept the individual's declaration of candidacy; and

(f) if the individual has filed for a partisan office, provide a certified copy of the declaration of candidacy to the chair of the county or state political party of which the individual is a member.

(6) If the candidate elects to sign the pledge of fair campaign practices, the filing officer shall:

(a) accept the candidate's pledge; and

(b) if the candidate has filed for a partisan office, provide a certified copy of the candidate's pledge to the chair of the county or state political party of which the candidate is a member.

(7) (a) Except for a candidate for president or vice president of the United States, the form of the declaration of candidacy shall:

(i) be substantially as follows:

"State of Utah, County of ____

I, _____, declare my candidacy for the office of ____, seeking the nomination of the ____ party. I do solemnly swear, under penalty of perjury, that: I will meet the qualifications to hold the office, both legally and constitutionally, if selected; I reside at _____ in the City or Town of ____, Utah, Zip Code ____ Phone No. ____; I will not knowingly violate any law governing campaigns and elections; if filing via a designated agent, I will be out of the state of Utah during the entire candidate filing period; I will file all campaign financial disclosure reports as required by law; and I understand that failure to do so will result in my disqualification as a candidate for this office and removal of my name from the ballot. The mailing address that I designate for receiving official election notices is _____.

_____

Subscribed and sworn before me this _____(month\day\year).Notary Public (or other officer qualified to administer oath).";

(ii) require the candidate to state, in the sworn statement described in Subsection (7)(a)(i):

(A) the registered political party of which the candidate is a member; or

(B) that the candidate is not a member of a registered political party.

(b) An agent designated under Subsection 20A-9-202(1)(c) to file a declaration of candidacy may not sign the form described in Subsection (7)(a) or Section 20A-9-408.5.

(8) (a) Except for a candidate for president or vice president of the United States, the fee for filing a declaration of candidacy is:

(i) $50 for candidates for the local school district board; and

(ii) $50 plus 1/8 of 1% of the total salary for the full term of office legally paid to the person holding the office for all other federal, state, and county offices.

(b) Except for presidential candidates, the filing officer shall refund the filing fee to any candidate:

(i) who is disqualified; or

(ii) who the filing officer determines has filed improperly.

(c) (i) The county clerk shall immediately pay to the county treasurer all fees received from candidates.

(ii) The lieutenant governor shall:

(A) apportion to and pay to the county treasurers of the various counties all fees received for filing of nomination certificates or acceptances; and

(B) ensure that each county receives that proportion of the total amount paid to the lieutenant governor from the congressional district that the total vote of that county for all candidates for representative in Congress bears to the total vote of all counties within the congressional district for all candidates for representative in Congress.

(d) (i) A person who is unable to pay the filing fee may file a declaration of candidacy without payment of the filing fee upon a prima facie showing of impecuniosity as evidenced by an affidavit of impecuniosity filed with the filing officer and, if requested by the filing officer, a financial statement filed at the time the affidavit is submitted.

(ii) A person who is able to pay the filing fee may not claim impecuniosity.

(iii) (A) False statements made on an affidavit of impecuniosity or a financial statement filed under this section shall be subject to the criminal penalties provided under Sections 76-8-503 and 76-8-504 and any other applicable criminal provision.

(B) Conviction of a criminal offense under Subsection (8)(d)(iii)(A) shall be considered an offense under this title for the purposes of assessing the penalties provided in Subsection 20A-1-609(2).

(iv) The filing officer shall ensure that the affidavit of impecuniosity is printed in substantially the following form:

"Affidavit of Impecuniosity

Individual Name

_____Address_____

Phone Number _____

I,_____(name), do solemnly [swear] [affirm], under penalty of law for false statements, that, owing to my poverty, I am unable to pay the filing fee required by law.

Date_____Signature_____

Affiant

Subscribed and sworn to before me on _____ (month\day\year)

_____

(signature)

Name and Title of Officer Authorized to Administer Oath

_____".

(v) The filing officer shall provide to a person who requests an affidavit of impecuniosity a statement printed in substantially the following form, which may be included on the affidavit of impecuniosity:

"Filing a false statement is a criminal offense. In accordance with Section 20A-1-609, a candidate who is found guilty of filing a false statement, in addition to being subject to criminal penalties, will be removed from the ballot."

(vi) The filing officer may request that a person who makes a claim of impecuniosity under this Subsection (8)(d) file a financial statement on a form prepared by the election official.

(9) An individual who fails to file a declaration of candidacy or certificate of nomination within the time provided in this chapter is ineligible for nomination to office.

(10) A declaration of candidacy filed under this section may not be amended or modified after the final date established for filing a declaration of candidacy.

Section 3. Section 20A-9-202 is amended to read:

20A-9-202. Declarations of candidacy for regular general elections.

(1) (a) An individual seeking to become a candidate for an elective office that is to be filled at the next regular general election shall:

(i) except as provided in Subsection (1)(c), file a declaration of candidacy in person with the filing officer on or after January 1 of the regular general election year, and, if applicable, before the individual circulates nomination petitions under Section 20A-9-405; and

(ii) pay the filing fee.

(b) Unless expressly provided otherwise in this title, for a registered political party that is not a qualified political party, the deadline for filing a declaration of candidacy for an elective office that is to be filled at the next regular general election is 5 p.m. on the first Monday after the third Saturday in April.

(c) Subject to Subsection 20A-9-201(7)(b), an individual may designate an agent to file a declaration of candidacy with the filing officer if:

(i) the individual is located outside of the state during the entire filing period;

(ii) the designated agent appears in person before the filing officer;

(iii) the individual communicates with the filing officer using an electronic device that allows the individual and filing officer to see and hear each other; and

(iv) the individual provides the filing officer with an email address to which the filing officer may send the individual the copies described in Subsection 20A-9-201(5).

(d) Each county clerk who receives a declaration of candidacy from a candidate for multicounty office shall transmit the filing fee and a copy of the candidate's declaration of candidacy to the lieutenant governor within one business day after the candidate files the declaration of candidacy.

(e) Each day during the filing period, each county clerk shall notify the lieutenant governor electronically or by telephone of candidates who have filed a declaration of candidacy with the county clerk.

(f) Each individual seeking the office of lieutenant governor, the office of district attorney, or the office of president or vice president of the United States shall comply with the specific declaration of candidacy requirements established by this section.

(2) (a) Each individual intending to become a candidate for the office of district attorney within a multicounty prosecution district that is to be filled at the next regular general election shall:

(i) file a declaration of candidacy with the clerk designated in the interlocal agreement creating the prosecution district on or after January 1 of the regular general election year, and before the individual circulates nomination petitions under Section 20A-9-405; and

(ii) pay the filing fee.

(b) The designated clerk shall provide to the county clerk of each county in the prosecution district a certified copy of each declaration of candidacy filed for the office of district attorney.

(3) (a) Before the deadline described in Subsection (1)(b), each lieutenant governor candidate shall:

(i) file a declaration of candidacy with the lieutenant governor;

(ii) pay the filing fee; and

(iii) submit a letter from a candidate for governor who has received certification for the primary-election ballot under Section 20A-9-403 that names the lieutenant governor candidate as a joint-ticket running mate.

(b) (i) A candidate for lieutenant governor who fails to timely file is disqualified.

(ii) If a candidate for lieutenant governor is disqualified, another candidate may file to replace the disqualified candidate.

(4) Before 5 p.m. no later than August 31, each registered political party shall:

(a) certify the names of the political party's candidates for president and vice president of the United States to the lieutenant governor; or

(b) provide written authorization for the lieutenant governor to accept the certification of candidates for president and vice president of the United States from the national office of the registered political party.

(5) (a) A declaration of candidacy filed under this section is valid unless a written objection is filed with the clerk or lieutenant governor before 5 p.m. [~~within five days after the last day for filing~~] on the last business day that is at least 10 days before the deadline described in Subsection 20A-9-409(4)(c).

(b) If an objection is made, the clerk or lieutenant governor shall:

(i) mail or personally deliver notice of the objection to the affected candidate immediately; and

(ii) decide any objection within 48 hours after it is filed.

(c) If the clerk or lieutenant governor sustains the objection, the candidate may cure the problem by amending the declaration or petition before 5 p.m. within three days after the day on which the objection is sustained or by filing a new declaration before 5 p.m. within three days after the day on which the objection is sustained.

(d) (i) The clerk's or lieutenant governor's decision upon objections to form is final.

(ii) The clerk's or lieutenant governor's decision upon substantive matters is reviewable by a district court if prompt application is made to the court.

(iii) The decision of the district court is final unless the Supreme Court, in the exercise of its discretion, agrees to review the lower court decision.

(6) Any person who filed a declaration of candidacy may withdraw as a candidate by filing a written affidavit with the clerk.

(7) (a) Except for a candidate who is certified by a registered political party under Subsection (4), and except as provided in Section 20A-9-504, before 5 p.m. no later than August 31 of a general election year, each individual running as a candidate for vice president of the United States shall:

(i) file a declaration of candidacy, in person or via a designated agent, on a form developed by the lieutenant governor, that:

(A) contains the individual's name, address, and telephone number;

(B) states that the individual meets the qualifications for the office of vice president of the United States;

(C) names the presidential candidate, who has qualified for the general election ballot, with which the individual is running as a joint-ticket running mate;

(D) states that the individual agrees to be the running mate of the presidential candidate described in Subsection (7)(a)(i)(C); and

(E) contains any other necessary information identified by the lieutenant governor;

(ii) pay the filing fee; and

(iii) submit a letter from the presidential candidate described in Subsection (7)(a)(i)(C) that

names the individual as a joint-ticket running mate as a vice presidential candidate.

(b) A designated agent described in Subsection (7)(a)(i) may not sign the declaration of candidacy.

(c) A vice presidential candidate who fails to meet the requirements described in this Subsection (7) may not appear on the general election ballot.

(8) An individual filing a declaration of candidacy for president or vice president of the United States shall pay a filing fee of $500.

Section 4. Section 20A-9-203 is amended to read:

20A-9-203. Declarations of candidacy -- Municipal general elections.

(1) An individual may become a candidate for any municipal office if:

(a) the individual is a registered voter; and

(b) (i) the individual has resided within the municipality in which the individual seeks to hold elective office for the 12 consecutive months immediately before the date of the election; or

(ii) the territory in which the individual resides was annexed into the municipality, the individual has resided within the annexed territory or the municipality the 12 consecutive months immediately before the date of the election.

(2) (a) For purposes of determining whether an individual meets the residency requirement of Subsection (1)(b)(i) in a municipality that was incorporated less than 12 months before the election, the municipality is considered to have been incorporated 12 months before the date of the election.

(b) In addition to the requirements of Subsection (1), each candidate for a municipal council position shall, if elected from a district, be a resident of the council district from which the candidate is elected.

(c) In accordance with Utah Constitution, Article IV, Section 6, a mentally incompetent individual, an individual convicted of a felony, or an individual convicted of treason or a crime against the elective franchise may not hold office in this state until the right to hold elective office is restored under Section 20A-2-101.3 or 20A-2-101.5.

(3) (a) An individual seeking to become a candidate for a municipal office shall, regardless of the nomination method by which the individual is seeking to become a candidate:

(i) except as provided in Subsection (3)(b) or Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project, and subject to Subsection 20A-9-404(3)(e), file a declaration of candidacy, in person with the city recorder or town clerk, during the office hours described in Section 10-3-301 and not later than the close of those office hours, between June 1 and June 7 of any odd-numbered year; and

(ii) pay the filing fee, if one is required by municipal ordinance.

(b) Subject to Subsection (5)(b), an individual may designate an agent to file a declaration of candidacy with the city recorder or town clerk if:

(i) the individual is located outside of the state during the entire filing period;

(ii) the designated agent appears in person before the city recorder or town clerk;

(iii) the individual communicates with the city recorder or town clerk using an electronic device that allows the individual and city recorder or town clerk to see and hear each other; and

(iv) the individual provides the city recorder or town clerk with an email address to which the city recorder or town clerk may send the individual the copies described in Subsection (4).

(c) Any resident of a municipality may nominate a candidate for a municipal office by:

(i) except as provided in Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project, filing a nomination petition with the city recorder or town clerk during the office hours described in Section 10-3-301 and not later than the close of those office hours, between June 1 and June 7 of any odd-numbered year that includes signatures in support of the nomination petition of the lesser of at least:

(A) 25 registered voters who reside in the municipality; or

(B) 20% of the registered voters who reside in the municipality; and

(ii) paying the filing fee, if one is required by municipal ordinance.

(4) (a) Before the filing officer may accept any declaration of candidacy or nomination petition, the filing officer shall:

(i) read to the prospective candidate or individual filing the petition the constitutional and statutory qualification requirements for the office that the candidate is seeking;

(ii) require the candidate or individual filing the petition to state whether the candidate meets the requirements described in Subsection (4)(a)(i); and

(iii) inform the candidate or the individual filing the petition that an individual who holds a municipal elected office may not, at the same time, hold a county elected office.

(b) If the prospective candidate does not meet the qualification requirements for the office, the filing officer may not accept the declaration of candidacy or nomination petition.

(c) If it appears that the prospective candidate meets the requirements of candidacy, the filing officer shall:

(i) inform the candidate that the candidate's name will appear on the ballot as it is written on the declaration of candidacy;

(ii) provide the candidate with a copy of the current campaign financial disclosure laws for the office the candidate is seeking and inform the candidate that failure to comply will result in disqualification as a candidate and removal of the candidate's name from the ballot;

(iii) provide the candidate with a copy of Section 20A-7-801 regarding the Statewide Electronic Voter Information Website Program and inform the candidate of the submission deadline under Subsection 20A-7-801(4)(a);

(iv) provide the candidate with a copy of the pledge of fair campaign practices described under Section 20A-9-206 and inform the candidate that:

(A) signing the pledge is voluntary; and

(B) signed pledges shall be filed with the filing officer; and

(v) accept the declaration of candidacy or nomination petition.

(d) If the candidate elects to sign the pledge of fair campaign practices, the filing officer shall:

(i) accept the candidate's pledge; and

(ii) if the candidate has filed for a partisan office, provide a certified copy of the candidate's pledge to the chair of the county or state political party of which the candidate is a member.

(5) (a) The declaration of candidacy shall be in substantially the following form:

"I, (print name) ____, being first sworn and under penalty of perjury, say that I reside at ____ Street, City of ____, County of ____, state of Utah, Zip Code ____, Telephone Number (if any) ____; that I am a registered voter; and that I am a candidate for the office of ____ (stating the term). I will meet the legal qualifications required of candidates for this office. If filing via a designated agent, I attest that I will be out of the state of Utah during the entire candidate filing period. I will file all campaign financial disclosure reports as required by law and I understand that failure to do so will result in my disqualification as a candidate for this office and removal of my name from the ballot. I request that my name be printed upon the applicable official ballots. (Signed) _____

Subscribed and sworn to (or affirmed) before me by ____ on this _____(month\day\year).

(Signed) _____ (Clerk or other officer qualified to administer oath)".

(b) An agent designated under Subsection (3)(b) to file a declaration of candidacy may not sign the form described in Subsection (5)(a).

(c) (i) A nomination petition shall be in substantially the following form:

"NOMINATION PETITION

The undersigned residents of (name of municipality), being registered voters, nominate (name of nominee) for the office of (name of office) for the (length of term of office)."

(ii) The remainder of the petition shall contain lines and columns for the signatures of individuals signing the petition and each individual's address and phone number.

(6) If the declaration of candidacy or nomination petition fails to state whether the nomination is for the two-year or four-year term, the clerk shall consider the nomination to be for the four-year term.

(7) (a) The clerk shall verify with the county clerk that all candidates are registered voters.

(b) Any candidate who is not registered to vote is disqualified and the clerk may not print the candidate's name on the ballot.

(8) Immediately after expiration of the period for filing a declaration of candidacy, the clerk shall:

(a) publish a list of the names of the candidates as they will appear on the ballot:

(i) (A) in at least two successive publications of a newspaper of general circulation in the municipality;

(B) if there is no newspaper of general circulation in the municipality, by posting one copy of the list, and at least one additional copy of the list per 2,000 population of the municipality, in places within the municipality that are most likely to give notice to the voters in the municipality; or

(C) by mailing notice to each registered voter in the municipality;

(ii) on the Utah Public Notice Website created in Section 63F-1-701, for seven days;

(iii) in accordance with Section 45-1-101, for seven days; and

(iv) if the municipality has a website, on the municipality's website for seven days; and

(b) notify the lieutenant governor of the names of the candidates as they will appear on the ballot.

(9) Except as provided in Subsection (10)(c), an individual may not amend a declaration of candidacy or nomination petition filed under this section after the candidate filing period ends.

(10) (a) A declaration of candidacy or nomination petition that an individual files under this section is valid unless a person files a written objection with the clerk before 5 p.m. within [~~five~~] 10 days after the last day for filing.

(b) If a person files an objection, the clerk shall:

(i) mail or personally deliver notice of the objection to the affected candidate immediately; and

(ii) decide any objection within 48 hours after the objection is filed.

(c) If the clerk sustains the objection, the candidate may, before 5 p.m. within three days after the day on which the clerk sustains the objection, correct the problem for which the objection is sustained by amending the candidate's declaration

of candidacy or nomination petition, or by filing a new declaration of candidacy.

(d) (i) The clerk's decision upon objections to form is final.

(ii) The clerk's decision upon substantive matters is reviewable by a district court if prompt application is made to the district court.

(iii) The decision of the district court is final unless the Supreme Court, in the exercise of its discretion, agrees to review the lower court decision.

(11) A candidate who qualifies for the ballot under this section may withdraw as a candidate by filing a written affidavit with the municipal clerk.

Section 5. Section 20A-9-408.5 is amended to read:

20A-9-408.5. Declaration of candidacy form for qualified political party.

The declaration of candidacy form described in Sections 20A-9-407 and 20A-9-408 shall:

(1) be substantially as follows:

"State of Utah, County of ____

I, _____, declare my intention of becoming a candidate for the office of ____ as a candidate for the ____ party. I do solemnly swear, under penalty of perjury, that: I will meet the qualifications to hold the office, both legally and constitutionally, if selected; I reside at _____ in the City or Town of ____, Utah, Zip Code ____, Phone No. ____;

I will not knowingly violate any law governing campaigns and elections; I will file all campaign financial disclosure reports as required by law; and I understand that failure to do so will result in my disqualification as a candidate for this office and removal of my name from the ballot. The mailing address that I designate for receiving official election notices is

_____
_____.

Subscribed and sworn before me this _____(month\day\year). Notary Public (or other officer qualified to administer oath).";

(2) direct the candidate to state, in the sworn statement described in Subsection (1):

(a) the registered political party of which the candidate is a member; or

(b) that the candidate is not a member of a registered political party; and

(3) direct the candidate to indicate whether the candidate is seeking the nomination using:

(a) the convention process described in Section 20A-9-407;

(b) the signature-gathering process described in Section 20A-9-408; or

(c) both processes described in Subsections (3)(a) and (b).

CHAPTER 184
H. B. 313
Passed March 4, 2021
Approved March 16, 2021
Effective May 5, 2021

HERITAGE AND ARTS AMENDMENTS

Chief Sponsor: Mike Winder
Senate Sponsor: Wayne A. Harper

LONG TITLE

General Description:

This bill changes the name of the Department of Heritage and Arts.

Highlighted Provisions:

This bill:

- changes the name of the Department of Heritage and Arts to the Department of Cultural and Community Engagement (the department);
- modifies the powers and duties of the department;
- changes the name of a foundation and a fund within the department to reflect the new name of the department; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides revisor instructions.

Utah Code Sections Affected:

AMENDS:

9-1-101, as enacted by Laws of Utah 2020, Chapter 419
9-1-102, as last amended by Laws of Utah 2017, Chapter 48
9-1-201, as last amended by Laws of Utah 2020, Chapter 318
9-1-209, as enacted by Laws of Utah 2020, Chapter 318
9-9-104.6, as last amended by Laws of Utah 2020, Chapters 236 and 365
9-20-201, as renumbered and amended by Laws of Utah 2019, Chapter 221
9-20-207, as renumbered and amended by Laws of Utah 2019, Chapter 221
19-3-301, as last amended by Laws of Utah 2018, Chapter 281
19-3-320, as last amended by Laws of Utah 2020, Chapter 365
53-2a-802, as last amended by Laws of Utah 2020, Chapter 365
53B-18-1002, as last amended by Laws of Utah 2012, Chapter 212
63I-5-201, as last amended by Laws of Utah 2020, Chapter 365
63J-1-219, as last amended by Laws of Utah 2020, Chapter 365
63J-4-502, as last amended by Laws of Utah 2015, Chapter 451
63N-15-103, as last amended by Laws of Utah 2020, Sixth Special Session, Chapter 19
67-19-6.7, as last amended by Laws of Utah 2018, Chapter 39
67-19c-101, as last amended by Laws of Utah 2020, Chapter 365
67-22-2, as last amended by Laws of Utah 2018, Chapter 39
72-4-302, as last amended by Laws of Utah 2019, Chapter 246

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

Section 1. Section 9-1-101 is amended to read:

TITLE 9. CULTURAL AND COMMUNITY ENGAGEMENT

CHAPTER 1. GENERAL POLICIES AND ADMINISTRATION OF THE DEPARTMENT OF CULTURAL AND COMMUNITY ENGAGEMENT

9-1-101. Title.

(1) This title is known as[~~"Heritage, Arts, Libraries, and Cultural Development."~~] "Cultural and Community Engagement."

(2) This chapter is known as "General Policies and Administration of the [~~Department of Heritage and Arts."~~] Department of Cultural and Community Engagement."

Section 2. Section 9-1-102 is amended to read:

9-1-102. Definitions.

As used in this title:

(1) "Department" means the Department of [~~Heritage and Arts~~] Cultural and Community Engagement.

(2) "Executive director" means the executive director of the Department of [~~Heritage and Arts~~] Cultural and Community Engagement.

(3) (a) "Pass-through funding" means funding from an appropriation by the Legislature to a state agency that is intended to be passed through the state agency to:

(i) a government or local government entity;

(ii) a private entity, including a not-for-profit entity; or

(iii) a person in the form of a loan or a grant.

(b) The funding may come from general funds, federal funds, dedicated credits, or a combination of funding sources.

(4) "STEM" means science, technology, engineering, and mathematics.

Section 3. Section 9-1-201 is amended to read:

Part 2. Department of Cultural and Community Engagement

9-1-201. Department of Cultural and Community Engagement -- Creation -- Powers and duties.

(1) There is created the Department of [~~Heritage and Arts~~] Cultural and Community Engagement.

[~~(2) The department shall:~~]

[~~(a) be responsible for preserving and promoting the heritage of the state, the arts in the state, and cultural development within the state;~~]

[~~(b) perform heritage, arts, and cultural development planning for the state;~~]

[~~(c) coordinate the program plans of the various divisions within the department;~~]

[~~(d) administer and coordinate all state or federal grant programs which are, or become, available for heritage, arts, and cultural development;~~]

(2) The department is responsible for:

(a) planning, promoting, and supporting cultural and community engagement in the state, including programs and activities related to:

(i) libraries;

(ii) history;

(iii) the arts;

(iv) STEM engagement;

(v) museums;

(vi) cultural development;

(vii) cultural organizations;

(viii) multicultural organizations and communities;

(ix) service and volunteerism; and

(x) the coordination of relationships with tribal nations;

(b) overseeing and coordinating the program plans of the divisions within the department;

(c) administering and coordinating state and federal grant programs related to the programs and activities described in Subsection (2)(a);

[~~(e)~~] (d) [~~administer~~] administering any other programs over which the department is given administrative supervision by the governor;

[~~(f)~~] (e) [~~submit~~] submitting an annual written report to the governor and the Legislature as described in Section 9-1-208;

[~~(g)~~] (f) [~~ensure~~] ensuring that any training or certification required of a public official or public employee, as those terms are defined in Section 63G-22-102, complies with Title 63G, Chapter 22, State Training and Certification Requirements, if the training or certification is required:

(i) under this title;

(ii) by the department; or

(iii) by an agency or division within the department; and

[~~(h)~~] (g) [~~perform~~] performing any other duties as provided by the Legislature.

(3) The department may:

(a) solicit and accept contributions of money, services, and facilities from any other sources, public or private, but may not use those contributions for publicizing the exclusive interest of the donor; and

(b) establish a nonprofit foundation called the [~~Heritage and Arts~~] Cultural and Community Engagement Foundation under the control and direction of the executive director to assist in the development and implementation of the programs and objectives described in this title.

(4) Money received under Subsection (3)(a) shall be deposited into the General Fund as dedicated credits.

(5) A foundation established by the department under Subsection (3)(b):

(a) may receive contributions of money, services, and facilities from legislative appropriations, government grants, and private sources for the development and implementation of the programs and objectives described in this title;

(b) shall comply with the requirements described in Section 9-1-209; and

(c) shall provide information detailing all transactions and balances associated with the foundation to the department, which shall be summarized by the department and included in the department's annual report described in Section 9-1-208.

(6) (a) For a pass-through funding grant of $50,000 or less, the department shall make an annual disbursement to the pass-through funding grant recipient.

(b) For a pass-through funding grant of more than $50,000, the department shall make a semiannual disbursement to the pass-through funding grant recipient, contingent upon the department receiving a semiannual progress report from the pass-through funding grant recipient.

(c) The department shall:

(i) provide the pass-through funding grant recipient with a progress report form for the reporting purposes described in Subsection (6)(b); and

(ii) include reporting requirement instructions with the form.

Section 4. Section 9-1-209 is amended to read:

9-1-209. Cultural and Community Engagement Foundation Fund.

(1) As used in this section, "fund" means the [~~Heritage and Arts~~] Cultural and Community Engagement Foundation Fund created in this section.

(2) There is created an expendable special revenue fund known as the "[~~Heritage and Arts~~] Cultural and Community Engagement Foundation Fund."

(3) The executive director shall administer the fund.

(4) Money may be deposited into the fund from a variety of sources, including transfers, grants,

private foundations, individual donors, gifts, bequests, legislative appropriations, and money made available from any other source.

(5) Money collected by the [~~Heritage and Arts~~] Cultural and Community Engagement Foundation described in Subsections [~~9-22-104~~] 9-1-201(3)(b) and (5) shall be deposited into the fund.

(6) Any portion of the fund may be treated as an endowment fund such that the principal of that portion of the fund is held in perpetuity on behalf of the department.

(7) The state treasurer shall invest the money in the fund according to the procedures and requirements of Title 51, Chapter 7, State Money Management Act, except that all interest or other earnings derived from those investments shall be deposited into the fund.

(8) The executive director may expend money from the fund for any of the purposes described in this title.

Section 5. Section 9-9-104.6 is amended to read:

9-9-104.6. Participation of state agencies in meetings with tribal leaders -- Contact information.

(1) For at least three of the joint meetings described in Subsection 9-9-104.5(2)(a), the division shall coordinate with representatives of tribal governments and the entities listed in Subsection (2) to provide for the broadest participation possible in the joint meetings.

(2) The following may participate in all meetings described in Subsection (1):

(a) the chairs of the Native American Legislative Liaison Committee created in Section 36-22-1;

(b) the governor or the governor's designee;

(c) the American Indian-Alaska Native Health Liaison appointed in accordance with Section 26-7-2.5;

(d) the American Indian-Alaska Native Public Education Liaison appointed in accordance with Section 53F-5-604; and

(e) a representative appointed by the chief administrative officer of the following:

(i) the Department of Human Services;

(ii) the Department of Natural Resources;

(iii) the Department of Workforce Services;

(iv) the Governor's Office of Economic Development;

(v) the State Board of Education; and

(vi) the Utah Board of Higher Education.

(3) (a) The chief administrative officer of the agencies listed in Subsection (3)(b) shall:

(i) designate the name of a contact person for that agency that can assist in coordinating the efforts of state and tribal governments in meeting the needs of the Native Americans residing in the state; and

(ii) notify the division:

(A) who is the designated contact person described in Subsection (3)(a)(i); and

(B) of any change in who is the designated contact person described in Subsection (3)(a)(i).

(b) This Subsection (3) applies to:

(i) the Department of Agriculture and Food;

(ii) the Department of [~~Heritage and Arts~~] Cultural and Community Engagement;

(iii) the Department of Corrections;

(iv) the Department of Environmental Quality;

(v) the Department of Public Safety;

(vi) the Department of Transportation;

(vii) the Office of the Attorney General;

(viii) the State Tax Commission; and

(ix) any agency described in Subsections (2)(c) through (e).

(c) At the request of the division, a contact person listed in Subsection (3)(b) may participate in a meeting described in Subsection (1).

(4) (a) A participant under this section who is not a legislator may not receive compensation or benefits for the participant's service, but may receive per diem and travel expenses as allowed in:

(i) Section 63A-3-106;

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

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

(b) Compensation and expenses of a participant who is a legislator are governed by Section 36-2-2 and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.

Section 6. Section 9-20-201 is amended to read:

9-20-201. Creation -- Members -- Appointment -- Terms -- Vacancies -- Per diem and expenses.

(1) There is created the Utah Commission on Service and Volunteerism consisting of 19 voting members and one nonvoting member.

(2) The 19 voting members of the commission are:

(a) the lieutenant governor;

(b) the commissioner of higher education or the commissioner's designee;

(c) the state superintendent of public instruction or the superintendent's designee;

(d) the executive director of the Department of [~~Heritage and Arts~~] Cultural and Community Engagement or the executive director's designee;

(e) nine members appointed by the governor as follows:

(i) an individual with expertise in the educational, training, and developmental needs of youth, particularly disadvantaged youth;

(ii) an individual with experience in promoting the involvement of older adults in volunteer service;

(iii) a representative of a community-based agency or organization within the state;

(iv) a representative of local government;

(v) a representative of a local labor organization in the state;

(vi) a representative of business;

(vii) an individual between the ages of 16 and 25 who participates in a volunteer or service program;

(viii) a representative of a national service program; and

(ix) a representative of the volunteer sector; and

(f) six members appointed by the governor from among the following groups:

(i) local educators;

(ii) experts in the delivery of human, educational, cultural, environmental, or public safety services to communities and individuals;

(iii) representatives of Native American tribes;

(iv) representatives of organizations that assist out-of-school youth or other at-risk youth; or

(v) representatives of entities that receive assistance under the Domestic Volunteer Service Act of 1973, 42 U.S.C. 4950 et seq.

(3) The nonvoting member of the commission is the state representative of the corporation.

(4) (a) In appointing persons to serve on the commission, the governor shall ensure that:

(i) no more than 10 voting members of the commission are members of the same political party; and

(ii) no more than five voting members of the commission are state government employees.

(b) In appointing persons to serve on the commission, the governor shall strive for balance on the commission according to race, ethnicity, age, gender, and disability characteristics.

(5) (a) Except as required by Subsection (5)(b), as terms of current commission members expire, the governor shall appoint each new member or reappointed member to a three-year term.

(b) Notwithstanding the requirements of Subsection (5)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of commission members are staggered so that approximately one-third of the commission is appointed every year.

(6) When a vacancy occurs in the membership, the replacement shall be appointed for the unexpired term.

(7) A member appointed by the governor may not serve more than two consecutive terms.

(8) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

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

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

Section 7. Section 9-20-207 is amended to read:

9-20-207. Rulemaking.

In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and the provisions of this chapter, the Department of [~~Heritage and Arts~~] Cultural and Community Engagement may make rules to:

(1) implement this chapter; and

(2) ensure the commission complies with the act and related federal requirements.

Section 8. Section 19-3-301 is amended to read:

19-3-301. Restrictions on nuclear waste placement in state.

(1) The placement, including transfer, storage, decay in storage, treatment, or disposal, within the exterior boundaries of Utah of high-level nuclear waste or greater than class C radioactive waste is prohibited.

(2) Notwithstanding Subsection (1) the governor, after consultation with the county executive and county legislative body of the affected county and with concurrence of the Legislature, may specifically approve the placement as provided in this part, but only if:

(a) (i) the federal Nuclear Regulatory Commission issues a license, pursuant to the Nuclear Waste Policy Act, 42 U.S.C.A. 10101 et seq., or the Atomic Energy Act, 42 U.S.C.A. 2011 et seq., for the placement within the exterior boundaries of Utah of high-level nuclear waste or greater than class C radioactive waste; and

(ii) the authority of the federal Nuclear Regulatory Commission to grant a license under Subsection (2)(a)(i) is clearly upheld by a final judgment of a court of competent jurisdiction; or

(b) an agency of the federal government is transporting the waste, and all state and federal requirements to proceed with the transportation have been met.

(3) The requirement for the approval of a final court of competent jurisdiction shall be met in all of the following categories, in order for a state license proceeding regarding waste to begin:

(a) transfer or transportation, by rail, truck, or other mechanisms;

(b) storage, including any temporary storage at a site away from the generating reactor;

(c) decay in storage;

(d) treatment; and

(e) disposal.

(4) (a) Upon satisfaction of the requirements of Subsection (2)(a), for each category listed in Subsection (3), or satisfaction of the requirements under Subsection (2)(b), the governor, with the concurrence of the attorney general, shall certify in writing to the executive director of the Department of Environmental Quality that all of the requirements have been met, and that any necessary state licensing processes may begin.

(b) Separate certification under this Subsection (4) shall be given for each category in Subsection (3).

(5) (a) The department shall make, by rule, a determination of the dollar amount of the health and economic costs expected to result from a reasonably foreseeable accidental release of waste involving a transfer facility or storage facility, or during transportation of waste, within the exterior boundaries of the state. The department may initiate rulemaking under this Subsection (5)(a) on or after March 15, 2001.

(b) (i) The department shall also determine the dollar amount currently available to cover the costs as determined in Subsection (5)(a):

(A) under nuclear industry self-insurance;

(B) under federal insurance requirements; and

(C) in federal money.

(ii) The department may not include any calculations of federal money that may be appropriated in the future in determining the amount under Subsection (5)(b)(i).

(c) The department shall use the information compiled under Subsections (5)(a) and (b) to determine the amount of unfunded potential liability in the event of a release of waste from a storage or transfer facility, or a release during the transportation of waste.

(6) (a) State agencies may not, for the purpose of providing any goods, services, or municipal-type services to a storage facility or transfer facility, or to any organization engaged in the transportation of waste, enter into any contracts or any other agreements prior to:

(i) the satisfaction of the conditions in Subsection (4); and

(ii) the executive director of the department having certified that the requirements of Sections 19-3-304 through 19-3-308 have been met for the purposes of a license application proceeding for a storage facility or transfer facility.

(b) Political subdivisions of the state may not enter into any contracts or any other agreements for the purpose of providing any goods, services, or municipal-type services to a storage facility or transfer facility, or to any organization engaged in the transportation of waste.

(c) This Subsection (6) does not prohibit a state agency from exercising the regulatory authority granted to it by law.

(7) (a) Notwithstanding any other provision of law, any political subdivision may not be formed pursuant to the laws of Utah for the purpose of providing any goods, services, or municipal-type services to a storage facility or transfer facility prior to the satisfaction of the conditions in Subsection (4). These political subdivisions include:

(i) a cooperative;

(ii) a local district authorized by Title 17B, Limited Purpose Local Government Entities - Local Districts;

(iii) a special service district under Title 17D, Chapter 1, Special Service District Act;

(iv) a limited purpose local governmental entity authorized by Title 17, Counties;

(v) any joint power agreement authorized by Title 11, Cities, Counties, and Local Taxing Units; and

(vi) the formation of a municipality, or any authority of a municipality authorized by Title 10, Utah Municipal Code.

(b) (i) Subsection (7)(a) shall be strictly interpreted. Any political subdivision authorized and formed under the laws of the state on or after March 15, 2001, which subsequently contracts to, or in any manner agrees to provide, or does provide goods, services, or municipal-type services to a storage facility or transfer facility is formed in violation of Subsection (7)(a).

(ii) If the conditions of Subsection (7)(b)(i) apply, the persons who formed the political subdivision are considered to have knowingly violated a provision of this part, and the penalties of Section 19-3-312 apply.

(8) (a) An organization may not be formed for the purpose of providing any goods, services, or municipal-type services to a storage facility or transfer facility prior to:

(i) the satisfaction of the conditions in Subsection (4); and

(ii) the executive director of the department having certified that the requirements of Sections 19-3-304 through 19-3-308 have been met.

(b) A foreign organization may not be registered to do business in the state for the purpose of providing any goods, services, or municipal-type services to a storage facility or transfer facility prior to:

(i) the satisfaction of the conditions in Subsection (4); and

(ii) the executive director of the department having certified that the requirements of Sections 19-3-304 through 19-3-308 have been met.

(c) The prohibitions of Subsections (8)(a) and (b) shall be strictly applied, and:

(i) the formation of a new organization or registration of a foreign organization within the state, any of whose purposes are to provide goods, services, or municipal-type services to a storage facility or transfer facility may not be licensed or registered in the state, and the local or foreign organization is void and does not have authority to operate within the state;

(ii) any organization which is formed or registered on or after March 15, 2001, and which subsequently contracts to, or in any manner agrees to provide, or does provide goods, services, or municipal-type services to a storage facility or transfer facility has been formed or registered in violation of Subsection (8)(a) or (b) respectively; and

(iii) if the conditions of Subsection (8)(c)(ii) apply, the persons who formed the organization or the principals of the foreign organization, are considered to have knowingly violated a provision of this part, and are subject to the penalties in Section 19-3-312.

(9) (a) (i) Any contract or agreement to provide any goods, services, or municipal-type services to any organization engaging in, or attempting to engage in the placement of high-level nuclear waste or greater than class C radioactive waste at a storage facility or transfer facility within the state are declared to be against the greater public interest, health, and welfare of the state, by promoting an activity which has the great potential to cause extreme public harm.

(ii) These contracts or agreements under Subsection (9)(a)(i), whether formal or informal, are declared to be void from inception, agreement, or execution as against public policy.

(b) (i) Any contract or other agreement to provide goods, services, or municipal-type services to storage or transfer facilities may not be executed within the state.

(ii) Any contract or other agreement, existing or executed on or after March 15, 2001, is considered void from the time of agreement or execution.

(10) (a) All contracts and agreements under Subsection (10)(b) are assessed an annual transaction fee of 75% of the gross value of the contract to the party providing the goods, services, or municipal-type services to the storage facility or transfer facility or transportation entity. The fee shall be assessed per calendar year, and is payable on a prorated basis on or before the last day of each month in accordance with rules established under Subsection (10)(d), and as follows:

(i) 25% of the gross value of the contract to the department; and

(ii) 50% of the gross value of the contract to the Department of [~~Heritage and Arts~~] Cultural and Community Engagement, to be used by the Utah Division of Indian Affairs as provided in Subsection (11).

(b) Contracts and agreements subject to the fee under Subsection (10)(a) are those contracts and agreements to provide goods, services, or municipal-type services to a storage or transfer facility, or to any organization engaged in the transportation of high-level nuclear waste or greater than class C radioactive waste to a transfer facility or storage facility, and which:

(i) are in existence on March 15, 2001; or

(ii) become effective notwithstanding Subsection (9)(a).

(c) Any governmental agency which regulates the charges to consumers for services provided by utilities or other organizations shall require the regulated utility or organization to include the fees under Subsection (10)(a) in the rates charged to the purchaser of the goods, services, or municipal-type services affected by Subsection (10)(b).

(d) (i) The department, in consultation with the State Tax Commission, shall establish rules for the valuation of the contracts and assessment and collection of the fees, and other rules as necessary to determine the amount of and collection of the fee under Subsection (10)(a). The department may initiate rulemaking under this Subsection (10)(d)(i) on or after March 15, 2001.

(ii) Persons and organizations holding contracts affected by Subsection (10)(b) shall make a good faith estimate of the fee under Subsection (10)(a) for calendar year 2001, and remit that amount to the department on or before July 31, 2001.

(11) (a) The portion of the fees imposed under Subsection (10) which is to be paid to the Department of [~~Heritage and Arts~~] Cultural and Community Engagement for use by the Utah Division of Indian Affairs shall be used for establishment of a statewide community and economic development program for the tribes of Native American people within the exterior boundaries of the state who have by tribal procedure established a position rejecting siting of any nuclear waste facility on their reservation lands.

(b) The program under Subsection (11)(a) shall include:

(i) educational services and facilities;

(ii) health care services and facilities;

(iii) programs of economic development;

(iv) utilities;

(v) sewer;

(vi) street lighting;

(vii) roads and other infrastructure; and

(viii) oversight and staff support for the program.

(12) It is the intent of the Legislature that this part does not prohibit or interfere with a person's

exercise of the rights under the First Amendment to the Constitution of the United States or under Utah Constitution Article I, Sec. 15, by an organization attempting to site a storage facility or transfer facility within the borders of the state for the placement of high-level nuclear waste or greater than class C radioactive waste.

Section 9. Section 19-3-320 is amended to read:

19-3-320. Efforts to prevent siting of any nuclear waste facility to include economic development study regarding Native American reservation lands within the state.

(1) It is the intent of the Legislature that the department, in its efforts to prevent the siting of a nuclear waste facility within the exterior borders of the state, include in its work the study under Subsection (2) and the report under Subsection (3).

(2) It is the intent of the Legislature that the Department of Environmental Quality, in coordination with the office of the governor, and in cooperation with the Departments of [~~Heritage and Arts~~] Cultural and Community Engagement, Human Services, Health, Workforce Services, Agriculture and Food, Natural Resources, and Transportation, the State Board of Education, and the Utah Board of Higher Education:

(a) study the needs and requirements for economic development on the Native American reservations within the state; and

(b) prepare, on or before November 30, 2001, a long-term strategic plan for economic development on the reservations.

(3) It is the intent of the Legislature that this plan, prepared under Subsection (2)(b), shall be distributed to the governor and the members of the Legislature on or before December 31, 2001.

Section 10. Section 53-2a-802 is amended to read:

53-2a-802. Definitions.

(1) (a) "Absent" means:

(i) not physically present or not able to be communicated with for 48 hours; or

(ii) for local government officers, as defined by local ordinances.

(b) "Absent" does not include a person who can be communicated with via telephone, radio, or telecommunications.

(2) "Department" means the Department of Administrative Services, the Department of Agriculture and Food, the Alcoholic Beverage Control Commission, the Department of Commerce, the Department of [~~Heritage and Arts~~] Cultural and Community Engagement, the Department of Corrections, the Department of Environmental Quality, the Department of Financial Institutions, the Department of Health, the Department of Human Resource Management, the Department of Workforce Services, the Labor Commission, the National Guard, the Department of Insurance, the Department of Natural Resources, the Department of Public Safety, the Public Service Commission, the Department of Human Services, the State Tax Commission, the Department of Technology Services, the Department of Transportation, any other major administrative subdivisions of state government, the State Board of Education, the Utah Board of Higher Education, the Utah Housing Corporation, the State Retirement Board, and each institution of higher education within the system of higher education.

(3) "Division" means the Division of Emergency Management established in Title 53, Chapter 2a, Part 1, Emergency Management Act.

(4) "Emergency interim successor" means a person designated by this part to exercise the powers and discharge the duties of an office when the person legally exercising the powers and duties of the office is unavailable.

(5) "Executive director" means the person with ultimate responsibility for managing and overseeing the operations of each department, however denominated.

(6) (a) "Office" includes all state and local offices, the powers and duties of which are defined by constitution, statutes, charters, optional plans, ordinances, articles, or by-laws.

(b) "Office" does not include the office of governor or the legislative or judicial offices.

(7) "Place of governance" means the physical location where the powers of an office are being exercised.

(8) "Political subdivision" includes counties, cities, towns, metro townships, districts, authorities, and other public corporations and entities whether organized and existing under charter or general law.

(9) "Political subdivision officer" means a person holding an office in a political subdivision.

(10) "State officer" means the attorney general, the state treasurer, the state auditor, and the executive director of each department.

(11) "Unavailable" means:

(a) absent from the place of governance during a disaster that seriously disrupts normal governmental operations, whether or not that absence or inability would give rise to a vacancy under existing constitutional or statutory provisions; or

(b) as otherwise defined by local ordinance.

Section 11. Section 53B-18-1002 is amended to read:

53B-18-1002. Establishment of the center -- Purpose -- Duties and responsibilities.

(1) There is established the Mormon Pioneer Heritage Center in connection with Utah State University.

(2) The purpose of the center is to coordinate interdepartmental research and extension efforts in recreation, heritage tourism, and agricultural extension service and to enter into cooperative contracts with the United States Departments of Agriculture and the Interior, state, county, and city officers, public and private organizations, and individuals to enhance Mormon pioneer heritage.

(3) The center has the following duties and responsibilities:

(a) to support United States Congressional findings that the landscape, architecture, traditions, products, and events in the counties convey the heritage of pioneer settlements and their role in agricultural development;

(b) to coordinate with extension agents in the counties to assist in the enhancement of heritage businesses and the creation of heritage products;

(c) to foster a close working relationship with all levels of government, the private sector, residents, business interests, and local communities;

(d) to support United States Congressional findings that the historical, cultural, and natural heritage legacies of Mormon colonization and settlement are nationally significant;

(e) to encourage research and studies relative to the variety of heritage resources along the 250-mile Highway 89 corridor from Fairview to Kanab, Utah, and Highways 12 and 24, the All American Road, to the extent those resources demonstrate:

(i) the colonization of the western United States; and

(ii) the expansion of the United States as a major world power;

(f) to demonstrate that the great relocation to the western United States was facilitated by:

(i) the 1,400 mile trek from Illinois to the Great Salt Lake by the Mormon Pioneers; and

(ii) the subsequent colonization effort in Nevada, Utah, the southeast corner of Idaho, the southwest corner of Wyoming, large areas of southeastern Oregon, much of southern California, and areas along the eastern border of California; and

(g) to assist in interpretive efforts that demonstrate how the Boulder Loop, Capitol Reef National Park, Zion National Park, Bryce Canyon National Park, and the Highway 89 area convey the compelling story of how early settlers:

(i) interacted with Native Americans; and

(ii) established towns and cities in a harsh, yet spectacular, natural environment.

(4) The center, in collaboration with the United States Department of the Interior, the National Park Service, the United States Department of Agriculture, the United States Forest Service, the [~~Utah~~] Department of [~~Heritage and Arts~~] Cultural and Community Engagement, the Utah Division of State History, and the alliance and its intergovernmental local partners, shall:

(a) assist in empowering communities in the counties to conserve, preserve, and enhance the heritage of the communities while strengthening future economic opportunities;

(b) help conserve, interpret, and develop the historical, cultural, natural, and recreational resources within the counties; and

(c) expand, foster, and develop heritage businesses and products relating to the cultural heritage of the counties.

(5) The center, in collaboration with the United States Department of the Interior, the National Park Service, and with funding from the alliance, shall develop a heritage management plan.

Section 12. Section 63I-5-201 is amended to read:

63I-5-201. Internal auditing programs -- State agencies.

(1) (a) The departments of Administrative Services, Agriculture, Commerce, [~~Heritage and Arts~~] Cultural and Community Engagement, Corrections, Workforce Services, Environmental Quality, Health, Human Services, Natural Resources, Public Safety, and Transportation, and the State Tax Commission shall conduct various types of auditing procedures as determined by the agency head or governor.

(b) The governor may, by executive order, require a state agency not described in Subsection (1)(a) to establish an internal audit program.

(c) The governor shall ensure that each state agency that reports to the governor has adequate internal audit coverage.

(2) (a) The Administrative Office of the Courts shall establish an internal audit program under the direction of the Judicial Council, including auditing procedures for courts not of record.

(b) The Judicial Council may, by rule, require other judicial agencies to establish an internal audit program.

(3) (a) Dixie State University, the University of Utah, Utah State University, Salt Lake Community College, Southern Utah University, Utah Valley University, Weber State University, and Snow College shall establish an internal audit program under the direction of the Utah Board of Higher Education.

(b) The Utah Board of Higher Education may issue policies requiring other higher education entities or programs to establish an internal audit program.

(4) The State Board of Education shall establish an internal audit program that provides internal audit services for each program administered by the State Board of Education.

(5) Subject to Section 32B-2-302.5, the internal audit division of the Department of Alcoholic

Beverage Control shall establish an internal audit program under the direction of the Alcoholic Beverage Control Commission.

Section 13. Section 63J-1-219 is amended to read:

63J-1-219. Definitions -- Federal receipts reporting requirements.

(1) As used in this section:

(a) (i) "Designated state agency" means the Department of Administrative Services, the Department of Agriculture and Food, the Department of Alcoholic Beverage Control, the Department of Commerce, the Department of [~~Heritage and Arts~~] Cultural and Community Engagement, the Department of Corrections, the Department of Environmental Quality, the Department of Financial Institutions, the Department of Health, the Department of Human Resource Management, the Department of Human Services, the Department of Insurance, the Department of Natural Resources, the Department of Public Safety, the Department of Technology Services, the Department of Transportation, the Department of Veterans and Military Affairs, the Department of Workforce Services, the Labor Commission, the Office of Economic Development, the Public Service Commission, the Utah Board of Higher Education, the State Board of Education, the State Tax Commission, or the Utah National Guard.

(ii) "Designated state agency" does not include the judicial branch, the legislative branch, or an office or other entity within the judicial branch or the legislative branch.

(b) "Federal receipts" means the federal financial assistance, as defined in 31 U.S.C. Sec. 7501, that is reported as part of a single audit.

(c) "Single audit" is as defined in 31 U.S.C. Sec. 7501.

(2) Subject to Subsections (3) and (4), a designated state agency shall each year, on or before October 31, prepare a report that:

(a) reports the aggregate value of federal receipts the designated state agency received for the preceding fiscal year;

(b) reports the aggregate amount of federal funds appropriated by the Legislature to the designated state agency for the preceding fiscal year;

(c) calculates the percentage of the designated state agency's total budget for the preceding fiscal year that constitutes federal receipts that the designated state agency received for that fiscal year; and

(d) develops plans for operating the designated state agency if there is a reduction of:

(i) 5% or more in the federal receipts that the designated state agency receives; and

(ii) 25% or more in the federal receipts that the designated state agency receives.

(3) (a) The report required by Subsection (2) that the Utah Board of Higher Education prepares shall include the information required by Subsections (2)(a) through (c) for each state institution of higher education listed in Section 53B-2-101.

(b) The report required by Subsection (2) that the State Board of Education prepares shall include the information required by Subsections (2)(a) through (c) for each school district and each charter school within the public education system.

(4) A designated state agency that prepares a report in accordance with Subsection (2) shall submit the report to the Division of Finance on or before November 1 of each year.

(5) (a) The Division of Finance shall, on or before November 30 of each year, prepare a report that:

(i) compiles and summarizes the reports the Division of Finance receives in accordance with Subsection (4); and

(ii) compares the aggregate value of federal receipts each designated state agency received for the previous fiscal year to the aggregate amount of federal funds appropriated by the Legislature to that designated state agency for that fiscal year.

(b) The Division of Finance shall, as part of the report required by Subsection (5)(a), compile a list of designated state agencies that do not submit a report as required by this section.

(6) The Division of Finance shall submit the report required by Subsection (5) to the Executive Appropriations Committee on or before December 1 of each year.

(7) Upon receipt of the report required by Subsection (5), the chairs of the Executive Appropriations Committee shall place the report on the agenda for review and consideration at the next Executive Appropriations Committee meeting.

(8) When considering the report required by Subsection (5), the Executive Appropriations Committee may elect to:

(a) recommend that the Legislature reduce or eliminate appropriations for a designated state agency;

(b) take no action; or

(c) take another action that a majority of the committee approves.

Section 14. Section 63J-4-502 is amended to read:

63J-4-502. Membership -- Terms -- Chair -- Expenses.

(1) The Resource Development Coordinating Committee shall consist of the following 24 members:

(a) the state science advisor;

(b) a representative from the Department of Agriculture and Food appointed by the executive director;

(c) a representative from the Department of [~~Heritage and Arts~~] Cultural and Community Engagement appointed by the executive director;

(d) a representative from the Department of Environmental Quality appointed by the executive director;

(e) a representative from the Department of Natural Resources appointed by the executive director;

(f) a representative from the Department of Transportation appointed by the executive director;

(g) a representative from the Governor's Office of Economic Development appointed by the director;

(h) a representative from the Housing and Community Development Division appointed by the director;

(i) a representative from the Division of State History appointed by the director;

(j) a representative from the Division of Air Quality appointed by the director;

(k) a representative from the Division of Drinking Water appointed by the director;

(l) a representative from the Division of Environmental Response and Remediation appointed by the director;

(m) a representative from the Division of Waste Management and Radiation Control appointed by the director;

(n) a representative from the Division of Water Quality appointed by the director;

(o) a representative from the Division of Oil, Gas, and Mining appointed by the director;

(p) a representative from the Division of Parks and Recreation appointed by the director;

(q) a representative from the Division of Forestry, Fire, and State Lands appointed by the director;

(r) a representative from the Utah Geological Survey appointed by the director;

(s) a representative from the Division of Water Resources appointed by the director;

(t) a representative from the Division of Water Rights appointed by the director;

(u) a representative from the Division of Wildlife Resources appointed by the director;

(v) a representative from the School and Institutional Trust Lands Administration appointed by the director;

(w) a representative from the Division of Facilities Construction and Management appointed by the director; and

(x) a representative from the Division of Emergency Management appointed by the director.

(2) (a) As particular issues require, the committee may, by majority vote of the members present, and with the concurrence of the state planning coordinator, appoint additional temporary members to serve as ex officio voting members.

(b) Those ex officio members may discuss and vote on the issue or issues for which they were appointed.

(3) A chair shall be selected by a majority vote of committee members with the concurrence of the state planning coordinator.

(4) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

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

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

Section 15. Section 63N-15-103 is amended to read:

63N-15-103. Reporting and use of appropriations.

(1) The office shall include in the office's 2020 and 2021 annual reports to the governor and the Legislature under Section 63N-1-301 the following information about each of the grant programs established under this chapter:

(a) the number of applications submitted under the grant program;

(b) the number of grants awarded under the grant program;

(c) the aggregate amount of grant funds awarded under the grant program; and

(d) any other information the office considers relevant to evaluating the success of the grant program.

(2) After providing notice to members of the legislative committee, the executive director, in cooperation with the director of the Division of Finance, may move funds among the following programs to make efficient and full use of CARES Act funding:

(a) the COVID-19 Commercial Rental and Mortgage Assistance Program described in Chapter 14, COVID-19 Commercial Rental and Mortgage Assistance Program;

(b) any of the programs described in this chapter;

(c) after consultation with the commissioner of the Department of Agriculture and Food, the COVID-19 Agricultural Operations Grant Program described in Section 4-18-106.1;

(d) after consultation with the executive director of the Department of [~~Heritage and Arts~~] Cultural and Community Engagement, the COVID-19 Cultural Assistance Grant Program described in Title 9, Chapter 6, Part 9, COVID-19 Cultural Assistance Grant Program; and

(e) after consultation with the executive director of the Department of Workforce Services, COVID-19 Residential Housing Assistance described in Title 35A, Chapter 8, Part 23, COVID-19 Residential Housing Assistance.

Section 16. Section 67-19-6.7 is amended to read:

67-19-6.7. Overtime policies for state employees.

(1) As used in this section:

(a) "Accrued overtime hours" means:

(i) for nonexempt employees, overtime hours earned during a fiscal year that, at the end of the fiscal year, have not been paid and have not been taken as time off by the nonexempt state employee who accrued them; and

(ii) for exempt employees, overtime hours earned during an overtime year.

(b) "Appointed official" means:

(i) each department executive director and deputy director, each division director, and each member of a board or commission; and

(ii) any other person employed by a department who is appointed by, or whose appointment is required by law to be approved by, the governor and who:

(A) is paid a salary by the state; and

(B) who exercises managerial, policy-making, or advisory responsibility.

(c) "Department" means the Department of Administrative Services, the Department of Corrections, the Department of Financial Institutions, the Department of Alcoholic Beverage Control, the Insurance Department, the Public Service Commission, the Labor Commission, the Department of Agriculture and Food, the Department of Human Services, the Department of Natural Resources, the Department of Technology Services, the Department of Transportation, the Department of Commerce, the Department of Workforce Services, the State Tax Commission, the Department of [~~Heritage and Arts~~] Cultural and Community Engagement, the Department of Health, the National Guard, the Department of Environmental Quality, the Department of Public Safety, the Department of Human Resource Management, the Commission on Criminal and Juvenile Justice, all merit employees except attorneys in the Office of the Attorney General, merit employees in the Office of the State Treasurer, merit employees in the Office of the State Auditor, Department of Veterans and Military Affairs, and the Board of Pardons and Parole.

(d) "Elected official" means any person who is an employee of the state because the person was elected by the registered voters of Utah to a position in state government.

(e) "Exempt employee" means a state employee who is exempt as defined by the Fair Labor Standards Act of 1978, 29 U.S.C. Sec. 201 et seq.

(f) "FLSA" means the Fair Labor Standards Act of 1978, 29 U.S.C. Sec. 201 et seq.

(g) "FLSA agreement" means the agreement authorized by the Fair Labor Standards Act of 1978, 29 U.S.C. Sec. 201 et seq., by which a nonexempt employee elects the form of compensation the nonexempt employee will receive for overtime.

(h) "Nonexempt employee" means a state employee who is nonexempt as defined by the Department of Human Resource Management applying FLSA requirements.

(i) "Overtime" means actual time worked in excess of the employee's defined work period.

(j) "Overtime year" means the year determined by a department under Subsection (4)(b) at the end of which an exempt employee's accrued overtime lapses.

(k) "State employee" means every person employed by a department who is not:

(i) an appointed official;

(ii) an elected official; or

(iii) a member of a board or commission who is paid only for per diem or travel expenses.

(l) "Uniform annual date" means the date when an exempt employee's accrued overtime lapses.

(m) "Work period" means:

(i) for all nonexempt employees, except law enforcement and hospital employees, a consecutive seven day 24 hour work period of 40 hours;

(ii) for all exempt employees, a 14 day, 80 hour payroll cycle; and

(iii) for nonexempt law enforcement and hospital employees, the period established by each department by rule for those employees according to the requirements of the Fair Labor Standards Act of 1978, 29 U.S.C. Sec. 201 et seq.

(2) Each department shall compensate each state employee who works overtime by complying with the requirements of this section.

(3) (a) Each department shall negotiate and obtain a signed FLSA agreement from each nonexempt employee.

(b) In the FLSA agreement, the nonexempt employee shall elect either to be compensated for overtime by:

(i) taking time off work at the rate of one and one-half hour off for each overtime hour worked; or

(ii) being paid for the overtime worked at the rate of one and one-half times the rate per hour that the state employee receives for nonovertime work.

(c) Any nonexempt employee who elects to take time off under this Subsection (3) shall be paid for any overtime worked in excess of the cap established by the Department of Human Resource Management.

(d) Before working any overtime, each nonexempt employee shall obtain authorization to work overtime from the employee's immediate supervisor.

(e) Each department shall:

(i) for employees who elect to be compensated with time off for overtime, allow overtime earned during a fiscal year to be accumulated; and

(ii) for employees who elect to be paid for overtime worked, pay them for overtime worked in the paycheck for the pay period in which the employee worked the overtime.

(f) If the department pays a nonexempt employee for overtime, the department shall charge that payment to the department's budget.

(g) At the end of each fiscal year, the Division of Finance shall total all the accrued overtime hours for nonexempt employees and charge that total against the appropriate fund or subfund.

(4) (a) (i) Except as provided in Subsection (4)(a)(ii), each department shall compensate exempt employees who work overtime by granting them time off at the rate of one hour off for each hour of overtime worked.

(ii) The executive director of the Department of Human Resource Management may grant limited exceptions to this requirement, where work circumstances dictate, by authorizing a department to pay employees for overtime worked at the rate per hour that the employee receives for nonovertime work, if the department has funds available.

(b) (i) Each department shall:

(A) establish in its written human resource policies a uniform annual date for each division that is at the end of any pay period; and

(B) communicate the uniform annual date to its employees.

(ii) If any department fails to establish a uniform annual date as required by this Subsection (4), the executive director of the Department of Human Resource Management, in conjunction with the director of the Division of Finance, shall establish the date for that department.

(c) (i) Any overtime earned under this Subsection (4) is not an entitlement, is not a benefit, and is not a vested right.

(ii) A court may not construe the overtime for exempt employees authorized by this Subsection (4) as an entitlement, a benefit, or as a vested right.

(d) At the end of the overtime year, upon transfer to another department at any time, and upon termination, retirement, or other situations where the employee will not return to work before the end of the overtime year:

(i) any of an exempt employee's overtime that is more than the maximum established by the Department of Human Resource Management rule lapses; and

(ii) unless authorized by the executive director of the Department of Human Resource Management under Subsection (4)(a)(ii), a department may not compensate the exempt employee for that lapsed overtime by paying the employee for the overtime or by granting the employee time off for the lapsed overtime.

(e) Before working any overtime, each exempt employee shall obtain authorization to work overtime from the exempt employee's immediate supervisor.

(f) If the department pays an exempt employee for overtime under authorization from the executive director of the Department of Human Resource Management, the department shall charge that payment to the department's budget in the pay period earned.

(5) The Department of Human Resource Management shall:

(a) ensure that the provisions of the FLSA and this section are implemented throughout state government;

(b) determine, for each state employee, whether that employee is exempt, nonexempt, law enforcement, or has some other status under the FLSA;

(c) in coordination with modifications to the systems operated by the Division of Finance, make rules:

(i) establishing procedures for recording overtime worked that comply with FLSA requirements;

(ii) establishing requirements governing overtime worked while traveling and procedures for recording that overtime that comply with FLSA requirements;

(iii) establishing requirements governing overtime worked if the employee is "on call" and procedures for recording that overtime that comply with FLSA requirements;

(iv) establishing requirements governing overtime worked while an employee is being trained and procedures for recording that overtime that comply with FLSA requirements;

(v) subject to the FLSA, establishing the maximum number of hours that a nonexempt employee may accrue before a department is required to pay the employee for the overtime worked;

(vi) subject to the FLSA, establishing the maximum number of overtime hours for an exempt employee that do not lapse; and

(vii) establishing procedures for adjudicating appeals of any FLSA determinations made by the Department of Human Resource Management as required by this section;

(d) monitor departments for compliance with the FLSA; and

(e) recommend to the Legislature and the governor any statutory changes necessary because of federal government action.

(6) In coordination with the procedures for recording overtime worked established in rule by

the Department of Human Resource Management, the Division of Finance shall modify its payroll and human resource systems to accommodate those procedures.

(a) Notwithstanding the procedures and requirements of Title 63G, Chapter 4, Administrative Procedures Act, Section 67-19-31, and Section 67-19a-301, any employee who is aggrieved by the FLSA designation made by the Department of Human Resource Management as required by this section may appeal that determination to the executive director of the Department of Human Resource Management by following the procedures and requirements established in Department of Human Resource Management rule.

(b) Upon receipt of an appeal under this section, the executive director shall notify the executive director of the employee's department that the appeal has been filed.

(c) If the employee is aggrieved by the decision of the executive director of the Department of Human Resource Management, the employee shall appeal that determination to the Department of Labor, Wage and Hour Division, according to the procedures and requirements of federal law.

Section 17. Section 67-19c-101 is amended to read:

67-19c-101. Department award program.

(1) As used in this section:

(a) "Department" means the Department of Administrative Services, the Department of Agriculture and Food, the Department of Alcoholic Beverage Control, the Department of Commerce, the Department of [~~Heritage and Arts~~] Cultural and Community Engagement, the Department of Corrections, the Department of Workforce Services, the Department of Environmental Quality, the Department of Financial Institutions, the Department of Health, the Department of Human Resource Management, the Department of Human Services, the Insurance Department, the National Guard, the Department of Natural Resources, the Department of Public Safety, the Public Service Commission, the Labor Commission, the State Board of Education, the Utah Board of Higher Education, the State Tax Commission, the Department of Technology Services, and the Department of Transportation.

(b) "Department head" means the individual or body of individuals in whom the ultimate legal authority of the department is vested by law.

(2) There is created a department awards program to award an outstanding employee in each department of state government.

(3) (a) By April 1 of each year, each department head shall solicit nominations for outstanding employee of the year for his department from the employees in his department.

(b) By July 1 of each year, the department head shall:

(i) select a person from the department to receive the outstanding employee of the year award using the criteria established in Subsection (3)(c); and

(ii) announce the recipient of the award to his employees.

(c) Department heads shall make the award to a person who demonstrates:

(i) extraordinary competence in performing his function;

(ii) creativity in identifying problems and devising workable, cost-effective solutions to them;

(iii) excellent relationships with the public and other employees;

(iv) a commitment to serving the public as the client; and

(v) a commitment to economy and efficiency in government.

(4) (a) The Department of Human Resource Management shall divide any appropriation for outstanding department employee awards that it receives from the Legislature equally among the departments.

(b) If the department receives money from the Department of Human Resource Management or if the department budget allows, the department head shall provide the employee with a bonus, a plaque, or some other suitable acknowledgement of the award.

(5) (a) The department head may name the award after an exemplary present or former employee of the department.

(b) A department head may not name the award for himself or for any relative as defined in Section 52-3-1.

(c) Any awards or award programs existing in any department as of May 3, 1993, shall be modified to conform to the requirements of this section.

Section 18. Section 67-22-2 is amended to read:

67-22-2. Compensation -- Other state officers.

(1) As used in this section:

(a) "Appointed executive" means the:

(i) commissioner of the Department of Agriculture and Food;

(ii) commissioner of the Insurance Department;

(iii) commissioner of the Labor Commission;

(iv) director, Department of Alcoholic Beverage Control;

(v) commissioner of the Department of Financial Institutions;

(vi) executive director, Department of Commerce;

(vii) executive director, Commission on Criminal and Juvenile Justice;

(viii) adjutant general;

(ix) executive director, Department of [~~Heritage and Arts~~] Cultural and Community Engagement;

(x) executive director, Department of Corrections;

(xi) commissioner, Department of Public Safety;

(xii) executive director, Department of Natural Resources;

(xiii) executive director, Governor's Office of Management and Budget;

(xiv) executive director, Department of Administrative Services;

(xv) executive director, Department of Human Resource Management;

(xvi) executive director, Department of Environmental Quality;

(xvii) director, Governor's Office of Economic Development;

(xviii) executive director, Utah Science Technology and Research Governing Authority;

(xix) executive director, Department of Workforce Services;

(xx) executive director, Department of Health, Nonphysician;

(xxi) executive director, Department of Human Services;

(xxii) executive director, Department of Transportation;

(xxiii) executive director, Department of Technology Services; and

(xxiv) executive director, Department of Veterans and Military Affairs.

(b) "Board or commission executive" means:

(i) members, Board of Pardons and Parole;

(ii) chair, State Tax Commission;

(iii) commissioners, State Tax Commission;

(iv) executive director, State Tax Commission;

(v) chair, Public Service Commission; and

(vi) commissioners, Public Service Commission.

(c) "Deputy" means the person who acts as the appointed executive's second in command as determined by the Department of Human Resource Management.

(2) (a) The executive director of the Department of Human Resource Management shall:

(i) before October 31 of each year, recommend to the governor a compensation plan for the appointed executives and the board or commission executives; and

(ii) base those recommendations on market salary studies conducted by the Department of Human Resource Management.

(b) (i) The Department of Human Resource Management shall determine the salary range for the appointed executives by:

(A) identifying the salary range assigned to the appointed executive's deputy;

(B) designating the lowest minimum salary from those deputies' salary ranges as the minimum salary for the appointed executives' salary range; and

(C) designating 105% of the highest maximum salary range from those deputies' salary ranges as the maximum salary for the appointed executives' salary range.

(ii) If the deputy is a medical doctor, the Department of Human Resource Management may not consider that deputy's salary range in designating the salary range for appointed executives.

(c) (i) Except as provided in Subsection (2)(c)(ii), in establishing the salary ranges for board or commission executives, the Department of Human Resource Management shall set the maximum salary in the salary range for each of those positions at 90% of the salary for district judges as established in the annual appropriation act under Section 67-8-2.

(ii) In establishing the salary ranges for an individual described in Subsection (1)(b)(ii) or (iii), the Department of Human Resource Management shall set the maximum salary in the salary range for each of those positions at 100% of the salary for district judges as established in the annual appropriation act under Section 67-8-2.

(3) (a) (i) Except as provided in Subsection (3)(a)(ii), the governor shall establish a specific salary for each appointed executive within the range established under Subsection (2)(b).

(ii) If the executive director of the Department of Health is a physician, the governor shall establish a salary within the highest physician salary range established by the Department of Human Resource Management.

(iii) The governor may provide salary increases for appointed executives within the range established by Subsection (2)(b) and identified in Subsection (3)(a)(ii).

(b) The governor shall apply the same overtime regulations applicable to other FLSA exempt positions.

(c) The governor may develop standards and criteria for reviewing the appointed executives.

(4) Salaries for other Schedule A employees, as defined in Section 67-19-15, that are not provided for in this chapter, or in Title 67, Chapter 8, Utah Elected Official and Judicial Salary Act, shall be established as provided in Section 67-19-15.

(5) (a) The Legislature fixes benefits for the appointed executives and the board or commission executives as follows:

(i) the option of participating in a state retirement system established by Title 49, Utah State Retirement and Insurance Benefit Act, or in a deferred compensation plan administered by the State Retirement Office in accordance with the Internal Revenue Code and its accompanying rules and regulations;

(ii) health insurance;

(iii) dental insurance;

(iv) basic life insurance;

(v) unemployment compensation;

(vi) workers' compensation;

(vii) required employer contribution to Social Security;

(viii) long-term disability income insurance;

(ix) the same additional state-paid life insurance available to other noncareer service employees;

(x) the same severance pay available to other noncareer service employees;

(xi) the same leave, holidays, and allowances granted to Schedule B state employees as follows:

(A) sick leave;

(B) converted sick leave if accrued prior to January 1, 2014;

(C) educational allowances;

(D) holidays; and

(E) annual leave except that annual leave shall be accrued at the maximum rate provided to Schedule B state employees;

(xii) the option to convert accumulated sick leave to cash or insurance benefits as provided by law or rule upon resignation or retirement according to the same criteria and procedures applied to Schedule B state employees;

(xiii) the option to purchase additional life insurance at group insurance rates according to the same criteria and procedures applied to Schedule B state employees; and

(xiv) professional memberships if being a member of the professional organization is a requirement of the position.

(b) Each department shall pay the cost of additional state-paid life insurance for its executive director from its existing budget.

(6) The Legislature fixes the following additional benefits:

(a) for the executive director of the State Tax Commission a vehicle for official and personal use;

(b) for the executive director of the Department of Transportation a vehicle for official and personal use;

(c) for the executive director of the Department of Natural Resources a vehicle for commute and official use;

(d) for the commissioner of Public Safety:

(i) an accidental death insurance policy if POST certified; and

(ii) a public safety vehicle for official and personal use;

(e) for the executive director of the Department of Corrections:

(i) an accidental death insurance policy if POST certified; and

(ii) a public safety vehicle for official and personal use;

(f) for the adjutant general a vehicle for official and personal use; and

(g) for each member of the Board of Pardons and Parole a vehicle for commute and official use.

Section 19. Section 72-4-302 is amended to read:

72-4-302. Utah State Scenic Byway Committee -- Creation -- Membership -- Meetings -- Expenses.

(1) There is created the Utah State Scenic Byway Committee.

(2) (a) The committee shall consist of the following 13 members:

(i) a representative from each of the following entities appointed by the governor:

(A) the Governor's Office of Economic Development;

(B) the Utah Department of Transportation;

(C) the Department of [~~Heritage and Arts~~] Cultural and Community Engagement;

(D) the Division of Parks and Recreation;

(E) the Federal Highway Administration;

(F) the National Park Service;

(G) the National Forest Service; and

(H) the Bureau of Land Management;

(ii) one local government tourism representative appointed by the governor;

(iii) a representative from the private business sector appointed by the governor; and

(iv) three local elected officials from a county, city, or town within the state appointed by the governor.

(b) Except as provided in Subsection (2)(c), the members appointed in this Subsection (2) shall be appointed for a four-year term of office.

(c) The governor shall, at the time of appointment or reappointment for appointments made under Subsection (2)(a)(i), (ii), (iii), or (iv) adjust the length of terms to ensure that the terms of committee members are staggered so that approximately half of the committee is appointed every two years.

(3) (a) The representative from the Governor's Office of Economic Development shall chair the committee.

(b) The members appointed under Subsections (2)(a)(i)(E) through (H) serve as nonvoting, ex officio members of the committee.

(4) The Governor's Office of Economic Development and the department shall provide staff support to the committee.

(5) (a) The chair may call a meeting of the committee only with the concurrence of the department.

(b) A majority of the voting members of the committee constitute a quorum.

(c) Action by a majority vote of a quorum of the committee constitutes action by the committee.

(6) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses as allowed in:

(a) Section 63A-3-106;

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

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

Section 20. Revisor instructions.

The Legislature intends that the Office of Legislative Research and General Counsel, in preparing the Utah Code database for publication, on May 5, 2021, replace "Heritage and Arts," when referring to the Department of Heritage and Arts, with "Cultural and Community Engagement" in any new language added to the Utah Code by legislation passed during the 2021 General Session.

CHAPTER 185
H. B. 314
Passed March 5, 2021
Approved March 16, 2021
Effective May 5, 2021

MOTORBOAT AGREEMENTS ACT

Chief Sponsor: Francis D. Gibson
Senate Sponsor: Don L. Ipson

LONG TITLE

General Description:

This bill enacts the Motorboat Agreements Act.

Highlighted Provisions:

This bill:

- defines terms;
- requires certain provisions in an agreement;
- enacts provisions related to a motorboat dealer's default and curing a default; and
- enacts provisions related to the termination or nonrenewal of an agreement.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

13-58-101, Utah Code Annotated 1953
13-58-102, Utah Code Annotated 1953
13-58-201, Utah Code Annotated 1953
13-58-301, Utah Code Annotated 1953
13-58-302, Utah Code Annotated 1953
13-58-401, Utah Code Annotated 1953
13-58-402, Utah Code Annotated 1953

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

Section 1. Section 13-58-101 is enacted to read:

CHAPTER 58. MOTORBOAT AGREEMENTS ACT

Part 1. General Provisions

13-58-101. Title.

This chapter is known as the "Motorboat Agreements Act."

Section 2. Section 13-58-102 is enacted to read:

13-58-102. Definitions.

As used in this chapter:

(1) "Agreement" means an agreement between:

(a) a motorboat dealer; and

(b) (i) a manufacturer; or

(ii) a distributor.

(2) "Distributor" means a person who:

(a) has an agreement with a manufacturer of motorboats to distribute motorboats within this state; and

(b) in whole or in part sells or distributes motorboats to motorboat dealers.

(3) "Manufacturer" means a person engaged in the business of constructing, manufacturing, assembling, producing, or importing new motorboats for the purpose of sale or trade.

(4) "Motorboat" means the same as that term is defined in Section 73-18-2.

(5) "Motorboat dealer" means a person who:

(a) is engaged in the business of buying, selling, offering for sale, or exchanging new motorboats either outright or on conditional sale, bailment, lease, chattel mortgage, or otherwise; and

(b) has established in this state a place of business for the sale, lease, trade, or display of new motorboats.

Section 3. Section 13-58-201 is enacted to read:

Part 2. Agreements

13-58-201. Agreement requirement -- Terms of agreements.

(1) A person may not act as a motorboat dealer in this state without entering into an agreement.

(2) An agreement shall include:

(a) each working capital standard, inventory standard, facility standard, equipment standard, and tool standard, if any, including each agreed upon minimum product stocking requirement;

(b) provisions for termination or nonrenewal of the agreement;

(c) the designation of a successor motorboat dealer in the event of the motorboat dealer's death or disability;

(d) the obligations of the manufacturer, distributor, and motorboat dealer in the preparation and delivery of, and warranty service on, new motorboats and new motorboat motors;

(e) the obligations of the manufacturer, distributor, and new motorboat dealer upon termination of the agreement, including obligations in relation to:

(i) inventory of new motorboats;

(ii) inventory of new motorboat motors;

(iii) inventory of parts;

(iv) equipment;

(v) furnishings;

(vi) special tools; and

(vii) required signs;

(f) each standard for maintenance of:

(i) a dedicated or self-funded line of credit, if any; and

(ii) a trade-in line of credit or self-funded trade-in line of credit, if any; and

(g) dispute resolution procedures.

Section 4. Section 13-58-301 is enacted to read:

Part 3. Default

13-58-301. Motorboat dealer default.

A motorboat dealer defaults on an agreement if the motorboat dealer:

(1) materially fails to:

(a) meet minimum product stocking requirements as specified under the agreement;

(b) make timely payment of a material obligation as specified under the agreement; or

(c) meet an applicable standard, as specified by the agreement, for:

(i) a dedicated or self-funded line of credit; or

(ii) a trade-in or self-funded trade-in line of credit; or

(2) markets the manufacturer's motorboats outside of the motorboat dealer's territory in violation of the agreement.

Section 5. Section 13-58-302 is enacted to read:

13-58-302. Cure of default.

(1) If a motorboat dealer defaults as described in Section 13-58-301, the manufacturer or distributor who is part of the agreement shall:

(a) give the dealer written notice of the dealer's default; and

(b) allow the dealer to cure the default within the period described in Subsection (2).

(2) A motorboat dealer may cure a default no later than:

(a) 30 days after the day on which the dealer receives the notice described in Subsection (1), if the dealer defaulted as described in Subsection 13-58-301(1)(b) or (2);

(b) 60 days after the day on which the dealer receives the notice described in Subsection (1), if the dealer defaulted as described in Subsection 13-58-301(1)(a), (d), or (e); and

(c) 160 days after the day on which the dealer receives the notice described in Subsection (1), if the dealer defaulted as described in Subsection 13-58-301(1)(c).

Section 6. Section 13-58-401 is enacted to read:

Part 4. Termination or Nonrenewal of Agreements

13-58-401. Termination or nonrenewal of agreement -- Notice -- Repurchase obligations.

(1) Except as provided in Section 13-58-402, a manufacturer or distributor may not terminate or fail to renew an agreement with a motorboat dealer unless:

(a) the motorboat dealer defaults as described in Section 13-58-301;

(b) the manufacturer or distributor gives the motorboat dealer written notice as described in Section 13-58-302 that clearly and concisely states:

(i) the default; and

(ii) that if the dealer fails to cure the default, the manufacturer or distributor may terminate the agreement;

(c) the manufacturer or distributor provides the motorboat dealer the applicable period to cure the default as described in Subsection 13-58-302(2); and

(d) the motorboat dealer fails to cure the default during the applicable period described in Subsection 13-58-302(2).

(2) If an agreement is terminated or not renewed in violation of this section, the manufacturer shall pay to the motorboat dealer:

(a) an amount that equals:

(i) the dealer's cost of each new, undamaged, unsold, and unregistered motorboat, motorboat motor, and trailer in the dealer's inventory that the dealer:

(A) acquired from the manufacturer or from another dealer; and

(B) invoiced during the 24-month period immediately before the day on which the agreement terminates or is not renewed; minus

(ii) each applicable dealer rebate and discount;

(b) for each charge the manufacturer made for distribution, delivery, or taxes;

(c) an amount that equals the dealer's cost for accessories added on a motorboat or trailer;

(d) an amount that equals:

(i) the cost of all new, undamaged, and unsold supplies, parts, and accessories, as advertised in the manufacturer's catalog or website on the day on which the agreement terminates or is not renewed; minus

(ii) all allowance the manufacturer paid or credited to the dealer;

(e) an amount that equals the greater of the fair market value for or the dealer's depreciated acquisition cost of a sign, if:

(i) the manufacturer required or recommended the dealer to acquire the sign;

(ii) the sign bears the manufacturer's name, trade name, or trademark;

(iii) the sign is undamaged; and

(iv) the dealer owns the sign;

(f) an amount that equals the greater of the fair market value for or the dealer's depreciated

acquisition cost of all special tools, equipment, and furnishings:

(i) acquired from the manufacturer or a source the manufacturer approved;

(ii) that the manufacturer required the dealer to acquire; and

(iii) that are in good and usable condition; and

(g) the cost of transporting, handling, packing, and loading all motorboats, motorboat motors, trailers, supplies, parts, accessories, signs, special tools, equipment, and furnishings.

(3) A manufacturer shall pay a motorboat dealer the amounts described in Subsection (2) within 90 days after the day on which the tender of the property to the manufacturer occurs, if the dealer has:

(a) clear title to the property; or

(b) the manufacturer's statement of origin.

(4) If an item described in Subsection (2) is subject to a security interest, the manufacturer may make payment jointly to:

(a) the motorboat dealer; and

(b) the holder of the security interest.

Section 7. Section 13-58-402 is enacted to read:

13-58-402. Termination without time to cure.

A manufacturer or distributor may terminate an agreement with a motorboat dealer upon written notice and without a cure period described in Section 13-58-302, if:

(1) the motorboat dealer:

(a) financially defaults to the manufacturer, the distributor, or a financing source;

(b) becomes subject to an order for relief, as defined in 11 U.S.C. Sec. 102;

(c) files a voluntary petition in bankruptcy;

(d) has had an involuntary petition in bankruptcy filed against the motorboat dealer;

(e) engages in an act of material fraud in relation to the performance of a right or obligation under the agreement;

(f) is a corporation that ceases to exist;

(g) becomes insolvent;

(h) takes or fails to take an action that constitutes an admission of inability to pay debts as the debts mature;

(i) makes a general assignment for the benefit of creditors to an agent authorized to liquidate any substantial amount of assets;

(j) applies to a court for the appointment of a receiver for any assets or properties;

(k) fails to substantially comply with a federal, state, or local law, rule, regulation, ordinance, or order applicable to the agreement;

(l) receives three valid notices of a default under Section 13-58-302 for the same default within a 12-month period, regardless of whether the dealer cures the default;

(m) transfers an interest in the dealership without the manufacturer's written consent;

(n) has pleaded guilty to or has been convicted of a felony, or of any misdemeanor relating to the relationship between the motorboat dealer and manufacturer;

(o) or one of the owners of the motorboat dealer is convicted or enters a plea of nolo contendere to a felony; or

(p) makes a material misrepresentation;

(2) there is a closeout or sale of a substantial part of the dealer's assets related to the motorboat dealership;

(3) there is a commencement or dissolution or liquidation of the motorboat dealership;

(4) there is a change without the prior written approval of the manufacturer in the location of the motorboat dealer's principal place of business under the dealership agreement; or

(5) the motorboat dealer's license is suspended, revoked, or is not renewed.

CHAPTER 186
H. B. 316
Passed March 5, 2021
Approved March 16, 2021
Effective May 5, 2021

COMMON LAW MARRIAGE AMENDMENTS

Chief Sponsor: Jordan D. Teuscher
Senate Sponsor: Todd D. Weiler

LONG TITLE

General Description:

This bill amends provisions regarding an unsolemnized marriage.

Highlighted Provisions:

This bill:

- amends provisions regarding the requirements for validating an unsolemnized marriage; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

30-1-4.5, as last amended by Laws of Utah 2011, Chapter 297

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

Section 1. Section 30-1-4.5 is amended to read:

30-1-4.5. Validity of marriage not solemnized.

(1) A marriage which is not solemnized according to this chapter shall be legal and valid if a court or administrative order establishes that [~~it~~] the marriage arises out of a contract between a man and a woman who:

(a) are of legal age and capable of giving consent;

(b) are legally capable of entering a solemnized marriage under the provisions of this chapter;

(c) have cohabited;

(d) mutually assume marital rights, duties, and obligations; and

(e) who hold themselves out as and have acquired a uniform and general reputation as husband and wife.

(2) (a) [~~The determination or establishment of a marriage under this section shall occur~~] A petition for an unsolemnized marriage shall be filed during the relationship described in Subsection (1), or within one year following the termination of that relationship.

(b) Evidence of a marriage recognizable under this section may be manifested in any form, and may be proved under the same general rules of evidence as facts in other cases.

CHAPTER 187
H. B. 318
Passed March 5, 2021
Approved March 16, 2021
Effective March 16, 2021
(Exception clause in Section 32)

HIGHER EDUCATION AMENDMENTS

Chief Sponsor: Melissa G. Ballard
Senate Sponsor: Ann Millner

LONG TITLE

General Description:

This bill amends provisions related to the Utah system of higher education.

Highlighted Provisions:

This bill:

- defines terms;
- amends the duties of the Utah Board of Higher Education (the board);
- reorganizes provisions related to technical education provided by certain degree-granting institutions;
- authorizes an institution of higher education to form a nonprofit corporation or foundation, within the institution of higher education's role and mission;
- amends provisions related to the duties of institution of higher education boards of trustees;
- repeals provisions related to the Salt Lake Community College School of Applied Technology;
- transfers responsibility for Salt Lake Community College School of Applied Technology to Salt Lake Community College;
- repeals outdated provisions; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

This bill provides coordination clauses.

Utah Code Sections Affected:

AMENDS:

53B-1-112, as last amended by Coordination Clause, Laws of Utah 2018, Chapter 315
53B-1-114, as last amended by Laws of Utah 2020, Chapter 365
53B-1-402, as renumbered and amended by Laws of Utah 2020, Chapter 365
53B-1-408, as last amended by Laws of Utah 2020, Chapter 352 and renumbered and amended by Laws of Utah 2020, Chapter 365
53B-2-102, as last amended by Laws of Utah 2020, Chapter 365
53B-2-103, as last amended by Laws of Utah 2020, Chapter 365
53B-2-104, as last amended by Laws of Utah 2020, Chapters 352, 365, and 373
53B-2-106, as last amended by Laws of Utah 2020, Chapter 365
53B-2a-100.5, as last amended by Laws of Utah 2020, Chapter 365
53B-2a-107, as last amended by Laws of Utah 2020, Chapter 365
53B-2a-110, as last amended by Laws of Utah 2020, Chapter 365
53B-6-105, as last amended by Laws of Utah 2019, Chapter 444
53B-7-103, as enacted by Laws of Utah 1987, Chapter 167
53B-7-105, as enacted by Laws of Utah 2004, Chapter 116
53B-8-115, as last amended by Laws of Utah 2020, Chapter 196
53B-8d-102, as last amended by Laws of Utah 2017, Chapter 382
53B-16-101, as last amended by Laws of Utah 2020, Chapter 365
53B-16-205, as last amended by Laws of Utah 2020, Chapter 365
53B-16-207, as last amended by Laws of Utah 2019, Chapter 357
53B-26-102, as last amended by Laws of Utah 2019, Chapters 136 and 357
53B-28-402, as enacted by Laws of Utah 2020, Chapter 254
53E-3-507, as last amended by Laws of Utah 2020, Chapter 365
63A-5b-102, as enacted by Laws of Utah 2020, Chapter 152
63A-5b-202, as enacted by Laws of Utah 2020, Chapter 152
63A-5b-403, as enacted by Laws of Utah 2020, Chapter 152
63I-2-253, as last amended by Laws of Utah 2020, Sixth Special Session, Chapter 13
63N-12-501, as last amended by Laws of Utah 2020, Chapter 164

ENACTS:

53B-2-112, Utah Code Annotated 1953
53B-2a-201, Utah Code Annotated 1953
53B-2a-202, Utah Code Annotated 1953

REPEALS:

53B-1-115, as enacted by Laws of Utah 2018, Chapter 3
53B-1-503, as enacted by Laws of Utah 2020, Chapter 365
53B-2-105, as last amended by Laws of Utah 1991, Chapter 58
53B-2a-103, as last amended by Laws of Utah 2020, Chapters 352 and 373
53B-2a-104, as last amended by Laws of Utah 2020, Chapter 365
53B-2a-114, as last amended by Laws of Utah 2020, Chapter 365
53B-16-201, as last amended by Laws of Utah 2017, Chapter 382
53B-16-209, as last amended by Laws of Utah 2020, Chapter 365
53B-16-211, as enacted by Laws of Utah 2012, Chapter 181

Utah Code Sections Affected by Coordination Clause:

53B-7-702, as last amended by Laws of Utah 2020, Chapter 365
53B-8-115, as last amended by Laws of Utah 2020, Chapter 196
53B-26-102, as last amended by Laws of Utah 2019, Chapters 136 and 357

63N-1b-101, Utah Code Annotated 1953

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

Section 1. Section 53B-1-112 is amended to read:

53B-1-112. Disclosure requirements for institution programs.

(1) As used in this section:

(a) "Department" means the Department of Workforce Services.

[~~(b) (i) "Institution" means:~~]

[~~(A) the University of Utah;~~]

[~~(B) Utah State University;~~]

[~~(C) Weber State University;~~]

[~~(D) Southern Utah University;~~]

[~~(E) Snow College;~~]

[~~(F) Dixie State University;~~]

[~~(G) Utah Valley University;~~]

[~~(H) Salt Lake Community College; and~~]

[~~(I) except as provided in Subsection (1)(b)(iii), any other university or college established and maintained by the state.~~]

[~~(ii) "Institution" includes a branch or affiliated institution and a campus or facility owned, operated, or controlled by the governing board of the university or college.~~]

[~~(iii) "Institution" does not include a technical college.~~]

(b) "Institution" means an institution of higher education described in Section 53B-1-102.

(c) "Job placement data" means information collected by the board, and based on information from the department, that reflects the job placement rate and industry employment information for a student who graduates from a program.

(d) (i) "Program" means a program of organized instruction or study at an institution that leads to:

(A) an academic degree;

(B) a professional degree;

(C) a vocational degree;

(D) a certificate of one year or greater or the direct assessment equivalent; or

(E) another recognized educational credential.

(ii) "Program" includes instruction or study that, in lieu of time as a measurement for student learning, utilizes direct assessment of student learning, or recognizes the direct assessment of student learning by others, if the assessment is consistent with the accreditation of the institution or program utilizing the results of the assessment.

(e) "Student loan information" means the percentage of students at an institution who:

(i) received a Title IV loan authorized under:

(A) the Federal Perkins Loan Program;

(B) the Federal Family Education Loan Program; or

(C) the William D. Ford Direct Loan Program; and

(ii) fail to pay a loan described in Subsection (1)(e)(i)(A), (B), or (C).

(f) "Total costs" means:

(i) the estimated costs a student would incur while completing a program, including:

(A) tuition and fees; and

(B) books, supplies, and equipment; and

(ii) calculated based on a student's degree, the institution's average costs that would be incurred while a student completes a program and are subsidized by taxpayer contribution, including:

(A) tuition and fees; and

(B) other applicable expenses subsidized by taxpayer contribution for program completion.

(g) "Wage data" means information collected by the board, and based on information from the department, that reflects a student's wage the first year and fifth year after a student has successfully completed a program.

(2) (a) Except as provided in Subsection [~~(5)~~] (4), for each program listed in an institution's course catalog or each program otherwise offered by the institution, the institution shall provide a conspicuous and direct link on the institution's website, subject to Subsection (2)(b), to the following information maintained by the board in accordance with Subsection (3):

(i) job placement data;

(ii) to the extent supporting data is available, student loan information;

(iii) total costs; and

(iv) wage data.

(b) An institution shall include the information described in Subsection (2)(a) on each institutional website that includes academic, cost, financial aid, or admissions information for a program.

(3) The board or the board's designee shall:

(a) collect the information described in Subsection (2)(a);

(b) develop through user testing a format for the display of information described in Subsection (2)(a) that is easily accessible and informative; and

(c) maintain the information described in Subsection (2)(a) so that it is current.

[~~(4) No later than July 1, 2018:~~]

[~~(a) the board shall make the information described in Subsection (2)(a) available in a format described in Subsection (3)(b); and~~]

[~~(b) an institution shall include the information described in Subsection (2)(a) in accordance with Subsection (2)(b).~~]

[~~(5)~~] (4) An institution is not subject to Subsection (2) for a program that the institution is required to report on under 34 C.F.R. Sec. 668.412.

[~~(6)~~] (5) The board shall, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules for the implementation and administration of this section.

Section 2. Section 53B-1-114 is amended to read:

53B-1-114. Coordination for education.

(1) At least quarterly, in order to coordinate education services, the commissioner and the state superintendent of public instruction shall convene a meeting of individuals who have responsibilities related to Utah's education system, including:

(a) the state superintendent of public instruction;

(b) the commissioner;

(c) the executive director of the Department of Workforce Services described in Section 35A-1-201;

(d) the executive director of the Governor's Office of Economic Development described in Section 63N-1-202;

(e) the chair of the State Board of Education;

(f) the chair of the Utah Board of Higher Education;

(g) a member of the governor's staff; and

(h) the chairs of the Education Interim Committee.

(2) The coordinating group described in this section shall, for the State Board of Education and the Utah Board of Higher Education:

(a) coordinate strategic planning efforts;

(b) [~~encourage alignment of~~] align strategic plans; and

(c) report on the State Board of Education's strategic plan to the Utah Board of Higher Education and the Utah Board of Higher Education's strategic plan to the State Board of Education.

(3) A meeting described in Subsection (1) is not subject to Title 52, Chapter 4, Open and Public Meetings Act.

Section 3. Section 53B-1-402 is amended to read:

53B-1-402. Establishment of board -- Powers, duties, and authority -- Reports.

(1) There is established a State Board of Regents, which:

(a) beginning July 1, 2020, is renamed the Utah Board of Higher Education;

(b) is the governing board for the institutions of higher education;

(c) controls, manages, and supervises the Utah system of higher education; and

(d) is a body politic and corporate with perpetual succession and with all rights, immunities, and franchises necessary to function as a body politic and corporate.

(2) The board shall:

(a) establish and promote a state-level vision and goals for higher education that emphasize system priorities, including:

(i) quality;

(ii) affordability;

[~~(iii) educational opportunity, access, equity, and completion;~~]

(iii) access and equity;

(iv) completion;

[~~(iv)~~] (v) workforce alignment and preparation for high-quality jobs; and

[~~(v)~~] (vi) economic growth;

(b) establish policies and practices that advance the vision and goals;

(c) establish metrics to demonstrate and monitor:

(i) performance related to the goals; and

(ii) performance on measures of operational efficiency;

(d) collect and analyze data including economic data, demographic data, and data related to the metrics;

(e) coordinate data collection across institutions;

(f) establish, approve, and oversee each institution's mission and role in accordance with Section 53B-16-101;

(g) assess an institution's performance in accomplishing the institution's mission and role;

(h) participate in the establishment and review of programs of instruction in accordance with Section 53B-16-102;

(i) perform duties related to an institution of higher education president, including:

(i) appointing an institution of higher education president in accordance with [~~Sections 53B-2-102 and 53B-2a-107~~] Section 53B-2-102;

(ii) providing support and guidance to an institution of higher education president; [~~and~~]

(iii) evaluating an institution of higher education president based on institution performance and progress toward systemwide priorities; and

(iv) setting the compensation for an institution of higher education president;

(j) create and implement a strategic finance plan for higher education, including by:

(i) establishing comprehensive budget and finance priorities for academic education and technical education;

(ii) allocating statewide resources to institutions;

(iii) setting tuition for each institution;

(iv) administering state financial aid programs;

(v) administering performance funding in accordance with Chapter 7, Part 7, Performance Funding; and

(vi) developing a strategic capital facility plan and prioritization process in accordance with Chapter 22, Part 2, Capital Developments, and Sections 53B-2a-117 and 53B-2a-118;

(k) create a seamless articulated education system for Utah students that responds to changing demographics and workforce, including by:

(i) providing for statewide prior learning assessment, in accordance with Section 53B-16-110;

(ii) establishing and maintaining clear pathways for articulation and transfer, in accordance with Section 53B-16-105;

(iii) establishing degree program requirement guidelines, including credit hour limits;

(iv) aligning general education requirements across degree-granting institutions;

(v) coordinating and incentivizing collaboration and partnerships between institutions in delivering programs;

(vi) coordinating distance delivery of programs; and

(vii) coordinating work-based learning;

(l) coordinate with the public education system:

(i) regarding public education programs that provide postsecondary credit or certificates; and

(ii) to ensure that an institution of higher education providing technical education serves secondary students in the public education system;

(m) delegate to an institution board of trustees certain duties related to institution governance including:

(i) guidance and support for the institution president;

(ii) effective administration;

(iii) the institution's responsibility for contributing to progress toward achieving systemwide goals; and

(iv) other responsibilities determined by the board;

(n) delegate to an institution of higher education president management of the institution of higher education;

(o) consult with an institution of higher education board of trustees or institution of higher education president before acting on matters pertaining to the institution of higher education;

[~~(o)~~] (p) maximize efficiency throughout the Utah system of higher education by identifying and establishing shared administrative services;

[~~(p)~~] (q) develop strategies for providing higher education, including career and technical education, in rural areas;

[~~(q)~~] (r) manage and facilitate a process for initiating, prioritizing, and implementing education reform initiatives; and

[~~(r)~~] (s) provide ongoing quality review of institutions.

(3) The board shall submit an annual report of the board's activities and performance against the board's goals and metrics to:

(a) the Education Interim Committee;

(b) the Higher Education Appropriations Subcommittee;

(c) the governor; and

(d) each institution of higher education.

(4) The board shall prepare and submit an annual report detailing the board's progress and recommendations on workforce related issues, including career and technical education, to the governor and to the Legislature's Education Interim Committee by October 31 of each year, including information detailing:

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

(b) how the emphasis on high demand, high wage, and high skill jobs in business and industry is being provided;

(c) performance outcomes, including:

(i) entered employment;

(ii) job retention; and

(iii) earnings;

(d) an analysis of workforce needs and efforts to meet workforce needs; and

(e) student tuition and fees.

(5) The board may modify the name of an institution of higher education to reflect the role and general course of study of the institution.

(6) The board may not [~~conduct a feasibility study or perform another act~~] take action relating to merging a technical college with another institution of higher education without legislative approval.

(7) This section does not affect the power and authority vested in the State Board of Education to

apply for, accept, and manage federal appropriations for the establishment and maintenance of career and technical education.

(8) The board shall ensure that any training or certification that an employee of the higher education system is required to complete under this title or by board rule complies with Title 63G, Chapter 22, State Training and Certification Requirements.

Section 4. Section 53B-1-408 is amended to read:

53B-1-408. Appointment of commissioner of higher education -- Qualifications -- Associate commissioners -- Duties.

(1) (a) [~~Subject to Section 53B-1-503, the~~] The board, upon approval from the governor and with the advice and consent of the Senate, shall appoint a commissioner of higher education to serve at the board's pleasure as the board's chief executive officer.

(b) The commissioner may be terminated by:

(i) the board; or

(ii) the governor, after consultation with the board.

(c) The board shall:

(i) set the salary of the commissioner;

(ii) subject to Subsection (3), prescribe the duties and functions of the commissioner; and

(iii) select a commissioner on the basis of outstanding professional qualifications.

(2) (a) The commissioner shall appoint, subject to approval by the board:

(i) an associate commissioner for academic education; and

(ii) an associate commissioner for technical education.

(b) (i) The commissioner may appoint associate commissioners in addition to the associate commissioners described in Subsection (2)(a).

(ii) An association commissioner described in Subsection (2)(b)(i) is not subject to the approval of the board.

(3) The commissioner is responsible to the board to:

(a) ensure that the policies, programs, and strategic plan of the board are properly executed;

(b) furnish information about the Utah system of higher education and make recommendations regarding that information to the board;

(c) provide state-level leadership in any activity affecting an institution of higher education; and

(d) perform other duties assigned by the board in carrying out the board's duties and responsibilities.

Section 5. Section 53B-2-102 is amended to read:

53B-2-102. Appointment of institution of higher education presidents.

(1) As used in this section:

(a) "Institution of higher education" means:

(i) a degree-granting institution[.]; or

(ii) a technical college.

(b) "President" means the president of an institution of higher education.

(c) "Search committee" means a committee that selects finalists for a position as an institution of higher education president.

(2) The board shall appoint a president for each institution of higher education.

(3) An institution of higher education president serves at the pleasure of the board.

(4) (a) (i) Except as provided in Subsection (4)(a)(ii), to appoint an institution of higher education president, the board shall establish a search committee that includes representatives of faculty, staff, students, the institution of higher education board of trustees, alumni, the outgoing institution of higher education president's executive council or cabinet, and the board.

(ii) The board may delegate the authority to appoint the search committee described in Subsection (4)(a)(i) to an institution of higher education board of trustees.

(iii) The commissioner shall provide staff support to a search committee.

(b) (i) Except as provided in Subsection (4)(b)(ii), a search committee shall be cochaired by a member of the board and a member of the institution of higher education board of trustees.

(ii) The board may delegate the authority to chair a search committee to the institution of higher education board trustees.

(c) A search committee described in Subsection (4)(a) shall forward three to five finalists to the board to consider for a position as an institution of higher education president .

(d) A search committee may not forward an individual to the board as a finalist unless two-thirds of the search committee members, as verified by the commissioner, find the individual to be qualified and likely to succeed as an institution of higher education president.

(5) (a) The board shall select an institution of higher education president from among the finalists presented by a search committee.

(b) If the board is not satisfied with the finalists forwarded by a search committee, the board may direct the search committee to resume the search process until the search committee has forwarded three finalists with whom the board is satisfied.

(6) The board, through the commissioner, shall create a comprehensive, active recruiting plan to

ensure a strong, diverse pool of potential candidates for institution of higher education presidents.

(7) (a) Except as provided in Subsection (7)(b), a record or information gathered or generated during the search process, including a candidate's application and the search committee's deliberations, is confidential and is a protected record under Section 63G-2-305.

(b) Application materials for a publicly named finalist described in Subsection (5)(a) are not protected records under Section 63G-2-305.

Section 6. Section 53B-2-103 is amended to read:

53B-2-103. Degree-granting institution board of trustees -- Powers and duties.

(1) A degree-granting institution has a board of trustees that may act on behalf of the institution in performing duties, responsibilities, and functions as may be specifically authorized to the board of trustees by the board or by statute.

(2) A board of trustees of a degree-granting institution has the following powers and duties:

(a) to facilitate communication between the institution and the community;

(b) to assist in planning, implementing, and executing fund raising and development projects aimed at supplementing institutional appropriations;

(c) to perpetuate and strengthen alumni and community identification with the degree-granting institution's tradition and goals;

(d) to select recipients of honorary degrees; and

(e) to approve changes to the degree-granting institution's programs, in accordance with Section 53B-16-102.

(3) A board of trustees of a degree-granting institution shall:

(a) approve a strategic plan for the institution of higher education that is aligned with:

(i) state attainment goals;

(ii) workforce needs; [~~and~~]

(iii) board goals and metrics described in Section 53B-1-402; and

[~~(iii)~~] (iv) the institution of higher education's role, mission, and distinctiveness; and

(b) monitor the institution of higher education's progress toward achieving the strategic plan.

Section 7. Section 53B-2-104 is amended to read:

53B-2-104. Degree-granting institution board of trustees -- Membership -- Terms -- Vacancies -- Oath -- Officers -- Bylaws -- Quorum -- Committees -- Compensation.

(1) As used in this section, "board of trustees" means the board of trustees for a degree-granting institution.

[~~(1)~~] (2) (a) [~~Except as provided in Subsection (10), the~~] The board of trustees of [~~an institution of higher education~~] a degree-granting institution consists of the following:

(i) except as provided in Subsection [~~(1)~~] (2)(c), eight individuals appointed by the governor with the advice and consent of the Senate in accordance with Title 63G, Chapter 24, Part 2, Vacancies; and

(ii) two ex officio members who are the president of the institution's alumni association, and the president of the associated students of the institution.

[~~(b) The appointed members of the boards of trustees for Utah Valley University and Salt Lake Community College shall be representative of the interests of business, industry, and labor.~~]

(b) In making the appointments described in Subsections (2)(a)(i) and (2)(c)(i), the governor:

(i) shall ensure that the membership of a board of trustees includes representation of interests of business, industry, and labor; and

(ii) may not appoint an individual to more than two consecutive full terms.

(c) (i) The board of trustees of Utah State University has nine individuals appointed by the governor with the advice and consent of the Senate in accordance with Title 63G, Chapter 24, Part 2, Vacancies.

(ii) One of the nine individuals described in Subsection [~~(1)~~] (2)(c)(i) shall reside in the Utah State University Eastern service region or the Utah State University Blanding service region.

[~~(2)~~] (3) (a) The governor shall appoint four members of each board of trustees during each odd-numbered year to four-year terms commencing on July 1 of the year of appointment.

(b) Except as provided in Subsection [~~(2)~~] (3)(d), a member appointed under Subsection [~~(1)~~] (2)(a)(i) or [~~(1)~~] (2)(c)(i) holds office until a successor is appointed and qualified.

(c) The ex officio members serve for the same period as they serve as presidents and until their successors have qualified.

(d) (i) The governor may remove a member appointed under Subsection [~~(1)~~] (2)(a)(i) or [~~(1)~~] (2)(c)(i) for cause.

(ii) The governor shall consult with the president of the Senate before removing a member [~~appointed under Subsection (1)(a)(i) or (1)(c)(i)~~] in accordance with Subsection (3)(d)(i).

[~~(3)~~] (4) When a vacancy occurs in the membership of a board of trustees for any reason, [~~the replacement shall be appointed~~] the governor shall appoint a replacement for the unexpired term.

[~~(4)~~] (5) (a) Each member of a board of trustees shall take the official oath of office prior to assuming the office.

(b) The oath shall be filed with the Division of Archives and Records Services.

[~~(5)~~] (6) A board of trustees shall elect a chair and vice chair, who serve for two years and until their successors are elected and qualified.

[~~(6)~~] (7) (a) A board of trustees may enact bylaws for the board of trustees' own government, including provisions for regular meetings.

(b) (i) A board of trustees may provide for an executive committee in the board of trustees' bylaws.

(ii) If established, an executive committee shall have full authority of the board of trustees to act upon routine matters during the interim between board of trustees meetings.

(iii) An executive committee may act on nonroutine matters only under extraordinary and emergency circumstances.

(iv) An executive committee shall report the executive committee's activities to the board of trustees at the board of trustees' next regular meeting following the action.

(c) Copies of a board of trustees' bylaws shall be filed with the board.

[~~(7)~~] (8) A quorum is required to conduct business and consists of six members.

[~~(8)~~] (9) A board of trustees may establish advisory committees.

[~~(9)~~] (10) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

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

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

[~~(10) This section does not apply to a technical college board of trustees described in Section 53B-2a-108.~~]

(11) A board of trustees member shall comply with the conflict of interest provisions described in Title 63G, Chapter 24, Part 3, Conflicts of Interest.

Section 8. Section 53B-2-106 is amended to read:

53B-2-106. Duties and responsibilities of the president of a degree-granting institution of higher education -- Approval by board of trustees.

(1) As used in this section, "president" means the president of a degree-granting institution.

[~~(1)~~] (2) (a) [~~Except as provided in Subsection (6), the~~] The president of each [~~institution of higher education described in Section 53B-2-101~~] degree-granting institution may exercise grants of power and authority as delegated by the board, as well as the necessary and proper exercise of powers and authority not specifically denied to the [~~institution of higher education or the institution of higher education's~~] degree-granting institution or the degree-granting institution's administration, faculty, or students by the board or by law, to ensure the effective and efficient administration and operation of the [~~institution of higher education~~] degree-granting institution consistent with the statewide [~~master~~] strategic plan for higher education.

(b) [~~The president of each institution of higher education~~] A president may, after consultation with the [~~institution of higher education's~~] degree-granting institution's board of trustees, exercise powers relating to the [~~institution of higher education's~~] degree-granting institution's employees, including faculty and persons under contract with the [~~institution of higher education~~] degree-granting institution, by implementing:

(i) furloughs;

(ii) reductions in force;

(iii) benefit adjustments;

(iv) program reductions or discontinuance;

(v) early retirement incentives that provide cost savings to the degree-granting institution [~~of higher education~~]; or

(vi) other measures that provide cost savings to the degree-granting institution [~~of higher education~~].

[~~(2) Except as provided by the board, the president of each institution of higher education, with the approval of the institution of higher education's board of trustees, may:~~]

(3) A president may:

(a) (i) appoint a secretary, a treasurer, administrative officers, deans, faculty members, and other professional personnel[~~,~~];

(ii) prescribe [~~their duties, and determine their salaries~~] duties for a position described in Subsection (3)(a)(i);

[~~(ii)~~] (iii) appoint support personnel[~~,~~];

(iv) prescribe [~~their duties, and~~] duties for support personnel;

(v) determine [~~their~~] salaries for support personnel from the [~~institution of higher education's~~] degree-granting institution's position classification plan, which may:

(A) be based upon similarity of duties and responsibilities within the institution of higher education; and

(B) as funds permit, provide salary and benefits comparable with private enterprise;

[~~(iii)~~] (vi) adopt policies for:

(A) employee sick leave use and accrual; and

(B) service recognition for employees with more than 15 years of employment with the [~~institution of higher education~~] degree-granting institution; and

[~~(iv)~~] (vii) subject to the authority of, the policy established by, and the approval of the board, and recognizing the status of the institutions within the [~~state~~] Utah system of higher education as bodies politic and corporate, appoint attorneys to:

(A) provide legal advice to the [~~institution of higher education's~~] degree-granting institution's administration; and [~~to~~]

(B) coordinate legal affairs within the degree-granting institution [~~of higher education. The board shall coordinate activities of attorneys at the institutions of higher education. The institutions of higher education shall provide an annual report to the board on the activities of appointed attorneys. These appointed attorneys may not conduct litigation, settle claims covered by the State Risk Management Fund, or issue formal legal opinions, but shall, in all respects, cooperate with the Office of the Attorney General in providing legal representation to the institution of higher education~~];

(b) subject to the approval of the degree-granting institution's board of trustees, provide for the constitution, government, and organization of the faculty and administration, and enact implementing rules, including the establishment of a prescribed system of tenure;

(c) subject to the approval of the degree-granting institution's board of trustees, authorize the faculty to determine the general initiation and direction of instruction and of the examination, admission, and classification of students[~~. In recognition of the diverse nature and traditions of the various institutions governed by the board, the systems of faculty government need not be identical but should be designed to further faculty identification with and involvement in the institution's pursuit of achievement and excellence and in fulfillment of the institution's role as established in the statewide master plan for higher education~~]; and

(d) enact rules for administration and operation of the degree-granting institution [~~which~~] that:

(i) are consistent with the [~~prescribed~~] degree-granting institution's role established by the board, rules enacted by the board, or the laws of the state[~~. The rules~~]; and

(ii) may provide for:

(A) administrative, faculty, student, and joint committees with jurisdiction over specified institutional matters[~~, for~~];

(B) student government and student affairs organization[~~, for~~];

(C) the establishment of institutional standards in furtherance of the ideals of higher education fostered and subscribed to by the degree-granting institution [~~of higher education, the institution of higher education's~~] and the degree-granting institution's administration, faculty, and students[~~, and for~~]; and

(D) the holding of classes on legal holidays, other than Sunday.

[~~(3)~~] (4) [~~An institution of higher education~~] A president shall manage the president's degree-granting institution as a part of the Utah system of higher education.

[~~(4)~~] (5) (a) Compensation costs and related office expenses for [~~appointed attorneys~~] an attorney described in Subsection (3)(a)(vii) shall be funded within existing budgets.

(b) The board shall coordinate the activities of attorneys described in Subsection (3)(a)(vii).

(c) An attorney described in Subsection (3)(a)(vii):

(i) may not:

(A) conduct litigation;

(B) settle a claim covered by the State Risk Management Fund; or

(C) issue a formal legal opinion; and

(ii) shall cooperate with the Office of the Attorney General in providing legal representation to a degree-granting institution.

(d) A degree-granting institution shall submit an annual report to the board on the activities of appointed attorneys.

[~~(5)~~] (6) The board shall establish guidelines relating to the roles and relationships between [~~institutional~~] presidents and boards of trustees, including those matters which must be approved by a board of trustees before implementation by the president.

[~~(6) This section does not apply to a technical college president.~~]

(7) A president is subject to regular review and evaluation administered by the board, in consultation with the degree-granting institution's board of trustees, through a process approved by the board.

Section 9. Section 53B-2-112 is enacted to read:

53B-2-112. Formation of non-profit corporations or foundations.

(1) An institution of higher education described in Section 53B-2-101 may form a non-profit corporation or foundation to aid or assist the institution of higher education, within the institution of higher education's mission and role described in Section 53B-16-101, in meeting the institution of higher education's charitable, scientific, literary, research, educational, or other objectives.

(2) The board and the president of the institution of higher education control a nonprofit corporation or foundation described in Subsection (1).

(3) A nonprofit corporation or foundation described in Subsection (1) may receive and administer:

(a) legislative appropriations;

(b) government grants;

(c) private contracts; or

(d) private gifts.

Section 10. Section 53B-2a-100.5 is amended to read:

CHAPTER 2a. TECHNICAL EDUCATION

Part 1. Technical Colleges

53B-2a-100.5. Title.

This chapter is known as "Technical [~~Colleges~~] Education."

Section 11. Section 53B-2a-107 is amended to read:

53B-2a-107. Technical college presidents.

(1) [~~(a)~~] The board shall appoint a president for each technical college in accordance with Section 53B-2-102.

[~~(b) The board shall establish a policy for appointing a technical college president that:~~]

[~~(i) requires the board to create, or delegate to the technical college board of trustees to create, a search committee that:~~]

[~~(A) includes board members and at least as many members from the technical college board of trustees as members from the board; and~~]

[~~(B) may include technical college faculty, students, or other individuals;~~]

[~~(ii) requires the search committee to seek nominations, interview candidates, and forward qualified candidates to the board for consideration;~~]

[~~(iii) provides for at least two members of the technical college board of trustees to participate in the board's interviews of finalists;~~]

[~~(iv) provides for the board to vote to appoint a technical college president in a meeting that complies with Title 52, Chapter 4, Open and Public Meetings Act; and~~]

[~~(v) provides for the commissioner to provide staff support for a search committee.~~]

[~~(c) (i) Except as provided in Subsection (1)(c)(ii), a record or information gathered or generated during the search process for a technical college president, including a candidate's application and the search committee's deliberations, is confidential and is a protected record under Section 63G-2-305.~~]

[~~(ii) Application materials for a publicly named finalist are not protected records under Section 63G-2-305.~~]

(2) (a) A technical college president [~~shall serve as~~] is the chief executive officer of the technical college.

(b) A technical college president:

(i) does not need to have a doctorate degree[~~, but~~]; and

(ii) shall have extensive experience in career and technical education.

[~~(c) A technical college president is subject to regular review and evaluation administered by the board, in consultation with the technical college board of trustees, through a process approved by the board.~~]

[~~(d) A technical college president serves at the pleasure of the board.~~]

[~~(e) The board, in consultation with a technical college board of trustees, shall set the compensation for the technical college president using market survey information.~~]

(3) A technical college president shall:

[~~(a) serve as the executive officer of the technical college board of trustees;~~]

(a) exercise grants of power and authority as delegated by the board, as well as the necessary and proper exercise of powers and authority not specifically denied to the technical college's administration, faculty, or students, by the board or by law, to ensure the effective and efficient administration and operation of the technical college consistent with the statewide strategic plan for higher education;

(b) administer the day-to-day operations of the technical college;

(c) consult with the technical college board of trustees;

(d) administer human resource policies and employee compensation plans in accordance with the requirements of the board; [~~and~~]

(e) prepare a budget request for the technical college's annual operations to the board;

(f) after consulting with the board, other institutions of higher education, school districts, and charter schools within the technical college's region, prepare a comprehensive strategic plan for delivering technical education within the region;

(g) consult with business, industry, the Department of Workforce Services, the Governor's Office of Economic Development, and the Governor's Office of Management and Budget on an ongoing basis to determine what workers and skills are needed for employment in Utah businesses and industries;

(h) coordinate with local school boards, school districts, and charter schools to meet the technical education needs of secondary students;

(i) develop policies and procedures for the admission, classification, instruction, and examination of students in accordance with the policies and accreditation guidelines of the board and the State Board of Education; and

[~~(e)~~] (j) manage the technical college president's institution as part of the Utah system of higher education.

Section 12. Section 53B-2a-110 is amended to read:

53B-2a-110. Technical college board of trustees' powers and duties.

(1) A technical college board of trustees shall:

(a) assist the technical college president in preparing a budget request for the technical college's annual operations to the board;

(b) after consulting with the board, other higher education institutions, school districts, and charter schools within the technical college's region, [~~prepare~~] assist the technical college president in preparing a comprehensive strategic plan for delivering technical education within the region;

[~~(c) consult with business, industry, the Department of Workforce Services, the Governor's Office of Economic Development, and the Governor's Office of Management and Budget on an ongoing basis to determine what workers and skills are needed for employment in Utah businesses and industries;~~]

[~~(d)~~] (c) in accordance with Section 53B-16-102, [~~develop programs based upon the information described in Subsection (1)(c)~~] approve programs, including expedited program approval and termination procedures to meet market needs;

[~~(e)~~] (d) adopt an annual budget and fund balances;

[~~(f) develop policies for the operation of technical education facilities under the technical college board of trustees' jurisdiction;~~]

[~~(g) establish human resources and compensation policies for all employees in accordance with policies of the board;~~]

[~~(h) approve credentials for employees and assign employees to duties in accordance with board policies and accreditation guidelines;~~]

[~~(i)~~] (e) conduct annual program evaluations;

[~~(j) appoint program advisory committees and other advisory groups to provide counsel, support, and recommendations for updating and improving the effectiveness of training programs and services;~~]

[~~(k) approve regulations, both regular and emergency, to be issued and executed by the technical college president;~~]

[~~(l) coordinate with local school boards, school districts, and charter schools to meet the technical education needs of secondary students;~~]

[~~(m) develop policies and procedures for the admission, classification, instruction, and examination of students in accordance with the policies and accreditation guidelines of the board and the State Board of Education; and~~]

[~~(n)~~] (f) (i) approve a strategic plan for the technical college that is aligned with:

(A) state attainment goals;

(B) workforce needs; [~~and~~]

(C) the technical college's role, mission, and distinctiveness; and

(D) board goals and metrics described in Section 53B-1-402; and

(ii) monitor the technical college's progress toward achieving the strategic plan[~~.~~]; and

(g) act on behalf of the technical college in performing other duties as authorized by the board or by statute.

[~~(2) A policy described in Subsection (1)(g) does not apply to compensation for a technical college president.~~]

[~~(3)~~] (2) A technical college board of trustees may not exercise jurisdiction over career and technical education provided by a school district or charter school or provided by a higher education institution independently of the technical college.

[~~(4) If a program advisory committee or other advisory group submits a printed recommendation to a technical college board of trustees, the technical college board of trustees shall acknowledge the recommendation with a printed response that explains the technical college board of trustees' action regarding the recommendation and the reasons for the action.~~]

Section 13. Section 53B-2a-201 is enacted to read:

Part 2. Technical Education at Degree-granting Institutions

53B-2a-201. Geographic service areas for degree-granting institutions that provide technical education.

(1) A degree-granting institution of higher education provides technical education in the geographic areas of the state described in this section.

(2) (a) The Snow College Richfield campus, described in Section 53B-16-205, provides technical education for the geographic area encompassing:

(i) the Juab School District;

(ii) the Millard School District;

(iii) the Tintic School District;

(iv) the North Sanpete School District;

(v) the South Sanpete School District;

(vi) the Wayne School District;

(vii) the Piute School District; and

(viii) the Sevier School District.

(b) A Utah State University regional institution, as defined in Section 53B-16-207, provides technical education for the geographic area encompassing:

(i) for Utah State University Eastern, described in Section 53B-18-1201:

(A) the Carbon School District; and

(B) the Emery School District;

(ii) for Utah State University Blanding, described in Section 53B-18-1202, the San Juan School District; and

(iii) for Utah State University Moab, described in Section 53B-18-301, the Grand School District.

(c) Salt Lake Community College provides technical education for the geographic area encompassing:

(i) the Salt Lake City School District;

(ii) the Granite School District;

(iii) the Murray School District;

(iv) the Canyons School District; and

(v) the Jordan School District.

Section 14. Section 53B-2a-202 is enacted to read:

53B-2a-202. Degree-granting institutions that provide technical education -- Duties -- Board evaluation.

(1) A degree-granting institution described in Section 53B-2a-201:

(a) shall:

(i) fulfill the technical college duties described in Subsections 53B-2a-106(1) and (2); and

(ii) report annually to the board on:

(A) the status of technical education in the degree-granting institution's service area; and

(B) student tuition and fees for the technical education programs provided by the degree-granting institution; and

(b) may not exercise any jurisdiction over career and technical education provided by a school district or charter school independently of the school district or charter school.

(2) The board shall monitor and evaluate the impact of degree programs on technical education provided by a degree-granting institution described in Section 53B-2a-201.

Section 15. Section 53B-6-105 is amended to read:

53B-6-105. Engineering and Computer Technology Initiative.

[~~(1) The Legislature recognizes that a significant increase in the number of engineering, computer science, and related technology graduates from the state system of higher education is required over the next several years to advance the intellectual, cultural, social, and economic well-being of the state and its citizens.~~]

[~~(2)~~] (1) (a) (i) The board shall [~~therefore~~] develop, establish, and maintain an Engineering and Computer Science Initiative within the state system of higher education to [~~double~~] increase the number of graduates in engineering, computer science, and related technology [~~by 2006 and triple the number of graduates by 2009~~].

(ii) The board shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, providing the criteria for those fields of study that qualify as "related technology" under this section and Section 53B-6-105.9.

(b) The initiative shall include components that:

(i) improve the quality of instructional programs in engineering, computer science, and related technology by providing supplemental money for equipment purchases; and

(ii) provide incentives to institutions to hire and retain faculty under Section 53B-6-105.9.

[~~(3)~~] (2) The increase in program capacity under Subsection [~~(2)~~] (1)(a) shall include funding for new and renovated capital facilities and funding for new engineering and computer science programs.

[~~(4)~~] (3) The Legislature shall provide an annual appropriation to the board to fund the initiative.

Section 16. Section 53B-7-103 is amended to read:

53B-7-103. Board designated state educational agent for federal contracts and aid -- Individual research grants -- Powers of institutions or foundations under authorized programs.

(1) (a) The board is the designated state educational agency authorized to negotiate and contract with the federal government and to accept financial or other assistance from the federal government or any of its agencies in the name of and in behalf of the state of Utah, under terms and conditions as may be prescribed by congressional enactment designed to further higher education.

(b) Nothing in this chapter alters or limits the authority of the State Building Board to act as the designated state agency to administer programs [~~in~~] on behalf of and accept funds from federal, state, and other sources, for capital facilities for the benefit of higher education.

(2) (a) Subject to policies and procedures established by the board, [~~the institutions and their individual~~] an institution of higher education and the institution of higher education's employees may apply for and receive grants or research and development contracts within the educational role of the recipient institution.

(b) [~~These authorized programs~~] A program described in Subsection (2)(a) may be conducted by and through the institution, or by and through any foundation or organization [~~which~~] that is established for the purpose of assisting the institution in the accomplishment of [~~its~~] the institution's purposes.

(3) An institution or [~~its~~] the institution's foundation or organization engaged in a program authorized by the board may do the following:

(a) enter into contracts with federal, state, or local governments or their subsidiary agencies or

departments, with private organizations, companies, firms, or industries, or with individuals for conducting the authorized programs;

(b) subject to the approval of the controlling state agency, conduct authorized programs within any of the penal, corrective, or custodial institutions of this state and engage the voluntary participation of inmates in those programs;

(c) accept contributions, grants, or gifts from, and enter into contracts and cooperative agreements with, any private organization, company, firm, industry, or individual, or any governmental agency or department, for support of authorized programs within the educational role of the recipient institution, and may agree to provide matching funds with respect to those programs from resources available to [~~it~~] the institution; and

(d) retain, accumulate, invest, commit, and expend the funds and proceeds from programs funded under Subsection (3)(c), including the acquisition of real and personal property reasonably required for their accomplishment[~~. No~~], except that no portion of the funds and proceeds may be diverted from or used for purposes other than those authorized or undertaken under Subsection (3)(c), or [~~shall~~] may ever become a charge upon or obligation of the state of Utah or the general funds appropriated for the normal operations of the institution unless otherwise permitted by law.

(4) (a) [~~All~~] Except as provided in Subsection (4)(b), all contracts and research or development grants or contracts requiring the use or commitment of facilities, equipment, or personnel under the control of an institution of higher education are subject to the approval of the board.

(b) (i) The board may delegate the approval of a contract or grant described in Subsection (4)(a) to an institution of higher education board of trustees.

(ii) If the board makes a delegation described in Subsection (4)(b)(i), the board of trustees shall annually report to the board on all approved contracts or grants.

Section 17. Section 53B-7-105 is amended to read:

53B-7-105. Higher education cost disclosure.

(1) Each institution within the [~~state~~] Utah system of higher education shall, at the time of registration, plainly disclose to all of [~~its~~] the institution's undergraduate resident students the following amounts, in dollar figures for a full-time equivalent student:

(a) the full cost of instruction;

(b) the amount collected from student tuition and fees; and

(c) the difference between the amounts described under Subsections (1)(a) and (b).

(2) The disclosure under Subsection (1)(c) shall also clearly indicate that this balance was paid by state tax dollars and other money.

Section 18. Section 53B-8-115 is amended to read:

53B-8-115. Career and technical education scholarships.

(1) As used in this section:

(a) "Eligible institution" means[~~:~~] a degree-granting institution that provides technical education described in Section 53B-2a-201.

[~~(i) Salt Lake Community College's School of Applied Technology established in Section 53B-16-209;~~]

[~~(ii) Snow College;~~]

[~~(iii) Utah State University Eastern established in Section 53B-18-1201;~~]

[~~(iv) Utah State University Blanding established in Section 53B-18-1202; or~~]

[~~(v) the Utah State University regional campus located at or near Moab described in Section 53B-18-301.~~]

(b) "High demand program" means a noncredit career and technical education program that:

(i) is offered by an eligible institution;

(ii) leads to a certificate; and

(iii) is designated by the board in accordance with Subsection (6).

(c) "Scholarship" means a career and technical education scholarship described in this section.

(2) Subject to future budget constraints, the Legislature shall annually appropriate money to the board to be distributed to eligible institutions to award career and technical education scholarships.

(3) In accordance with the rules described in Subsection (5), an eligible institution may award a scholarship to an individual who:

(a) is enrolled in, or intends to enroll in, a high demand program; and

(b) demonstrates, in accordance with rules described in Subsection (5)(b), the completion of a Free Application for Federal Student Aid.

(4) (a) An eligible institution may award a scholarship for an amount of money up to the total cost of tuition, fees, and required textbooks for the high demand program in which the scholarship recipient is enrolled or intends to enroll.

(b) An eligible institution may award a scholarship to a scholarship recipient for up to two academic years.

(c) An eligible institution may cancel a scholarship if the scholarship recipient does not:

(i) maintain enrollment in the eligible institution on at least a half time basis, as determined by the eligible institution; or

(ii) make satisfactory progress toward the completion of a certificate.

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

(a) that establish:

(i) how state funding available for scholarships is divided among eligible institutions;

(ii) requirements related to an eligible institution's administration of a scholarship;

(iii) requirements related to eligibility for a scholarship, including requiring eligible institutions to prioritize scholarships for underserved populations;

(iv) a process for an individual to apply to an eligible institution to receive a scholarship; and

(v) how to determine satisfactory progress described in Subsection (4)(c)(ii); and

(b) regarding the completion of the Free Application for Federal Student Aid described in Subsection (3)(b), including:

(i) provisions for students or parents to opt out of the requirement due to:

(A) financial ineligibility for any potential grant or other financial aid;

(B) personal privacy concerns; or

(C) other reasons the board specifies; and

(ii) direction for applicants to financial aid advisors.

(6) Every other year, after consulting with the Department of Workforce Services, the board shall designate, as a high demand program, a noncredit career and technical education program that prepares an individual to work in a job that has, in Utah:

(a) high employer demand and high median hourly wages; or

(b) significant industry importance.

Section 19. Section 53B-8d-102 is amended to read:

53B-8d-102. Definitions.

As used in this chapter:

(1) "Division" means the Division of Child and Family Services.

(2) "Long-term foster care" means an individual who remains in the custody of the division, whether or not the individual resides:

(a) with licensed foster parents; or

(b) in independent living arrangements under the supervision of the division.

(3) "State institution of higher education" means[~~: (a)~~] an institution [~~designated~~] described in Section 53B-1-102[~~; or~~].

[~~(b) a public institution that offers postsecondary education in consideration of the payment of tuition or fees for the attainment of educational or vocational objectives leading to a degree or certificate, including:~~]

[~~(i) a business school;~~]

[~~(ii) a technical school;~~]

[~~(iii) a trade school; or~~]

[~~(iv) an institution offering related apprenticeship programs.~~]

(4) "Tuition" means tuition at the rate for residents of the state.

(5) "Ward of the state" means an individual:

(a) who is:

(i) at least 17 years [~~of age~~] old; and

(ii) not older than 26 years [~~of age~~] old;

(b) who had a permanency goal in the individual's child and family plan, as described in Sections 62A-4a-205 and 78A-6-314, of long-term foster care while in the custody of the division; and

(c) for whom the custody of the division was not terminated as a result of adoption.

Section 20. Section 53B-16-101 is amended to read:

53B-16-101. Establishment of institutional roles and general courses of study.

(1) Except as institutional roles are specifically assigned by the Legislature, the board:

(a) shall establish and define the roles of the various institutions of higher education; and

(b) shall, within each institution of higher education's primary role, prescribe the general course of study to be offered at the institution of higher education, including for:

(i) research universities, which provide undergraduate, graduate, and research programs and include:

(A) the University of Utah; and

(B) Utah State University;

(ii) regional universities, which provide career and technical education, undergraduate associate and baccalaureate programs, and select master's degree programs to fill regional demands and include:

(A) Weber State University;

(B) Southern Utah University;

(C) Dixie State University; and

(D) Utah Valley University;

(iii) comprehensive community colleges, which provide associate programs and include:

(A) Salt Lake Community College; and

(B) Snow College; and

(iv) technical colleges and degree-granting institutions that provide technical education, and include:

(A) each technical college; and

[~~(B) Salt Lake Community College's School of Applied Technology's technical education role described in Section 53B-16-209;~~]

[~~(C) each Utah State University regional institution's technical education role described in Section 53B-16-207; and~~]

[~~(D) Snow College's technical education role described in Section 53B-16-205.~~]

(B) the degree-granting institutions described in Section 53B-2a-201.

(2) (a) Except for the University of Utah, and subject to Subsection (2)(b), each institution of higher education described in Subsections (1)(b)(i) through (iii) has career and technical education included in the institution of higher education's primary role.

(b) The board shall determine the extent to which an institution described in Subsection (2)(a) provides career and technical education within the institution's primary role.

(3) The board shall further clarify each institution of higher education's primary role by clarifying:

(a) the level of program that the institution of higher education generally offers;

(b) broad fields that are within the institution of higher education's mission; and

(c) any special characteristics of the institution of higher education, such as being a land grant university.

[~~(4) On or before November 1, 2020, the board shall report to the Higher Education Strategic Planning Commission on the board's activities related to defining and clarifying each institution's role.~~]

Section 21. Section 53B-16-205 is amended to read:

53B-16-205. Establishment of Snow College Richfield campus.

(1) There is established a branch campus of Snow College in Richfield, Utah, [~~hereafter referred to~~] known as the Snow College Richfield campus.

(2) Snow College shall administer the branch campus under the general control and supervision of the board as an integrated part of Snow College's mission, programs, and curriculum.

(3) Snow College shall:

(a) maintain a strong curriculum in career and technical education courses at the Snow College Richfield campus and within the region served by Snow College which can be transferred to other institutions within the higher education system, together with lower division courses and courses required for associate degrees in science, arts, applied science, and career and technical education; and

(b) work with school districts and charter schools in developing an aggressive concurrent enrollment program in cooperation with Snow College Richfield campus[~~; and~~].

[~~(c) provide, through the Snow College Richfield Campus, for open-entry, open-exit competency-based career and technical education programs, at a low cost tuition rate for adults and at no tuition cost to secondary students, that emphasize short-term job training or retraining for immediate placement in the job market and serve the geographic area encompassing:~~]

[~~(i) the Juab School District;~~]

[~~(ii) the Millard School District;~~]

[~~(iii) the Tintic School District;~~]

[~~(iv) the North Sanpete School District;~~]

[~~(v) the South Sanpete School District;~~]

[~~(vi) the Wayne School District;~~]

[~~(vii) the Piute School District; and~~]

[~~(viii) the Sevier School District.~~]

[~~(4) Snow College may not exercise any jurisdiction over career and technical education provided by a school district or charter school independently of Snow College.~~]

[~~(5) Snow College shall report to the board annually on:~~]

[~~(a) the status of and maintenance of the effort for career and technical education in the region served by Snow College, including access to open-entry, open-exit competency-based career and technical education programs; and~~]

[~~(b) student tuition and fees.~~]

[~~(6) Legislative appropriations to Snow College's career and technical education shall be made as line items that are separate from other appropriations for Snow College.~~]

Section 22. Section 53B-16-207 is amended to read:

53B-16-207. Utah State University regional institutions -- Career and technical education.

(1) As used in this section:

(a) "Utah State University regional institution" or "USU regional institution" means:

(i) Utah State University Eastern;

(ii) Utah State University Blanding; or

(iii) Utah State University Moab.

(b) "Utah State University Moab" means the Utah State University regional campus located at or near Moab described in Section 53B-18-301.

(2) A USU regional institution shall:

(a) maintain a strong curriculum in career and technical education courses at the USU regional institution's campus and within the region the USU regional institution serves that can be transferred to other institutions within the higher education system, together with lower division courses and courses required for associate degrees in science, arts, applied science, and career and technical education; and

(b) work with school districts and charter schools in developing an aggressive concurrent enrollment program[~~; and~~].

[~~(c) provide for open-entry, open-exit competency-based career and technical education programs, at a low cost tuition rate for adults and at no tuition cost to secondary students, that emphasize short-term job training or retraining for immediate placement in the job market and serve the geographic area encompassing:~~]

[~~(i) for Utah State University Eastern, the Carbon School District and the Emery School District;~~]

[~~(ii) for Utah State University Blanding, the San Juan School District; and~~]

[~~(iii) for Utah State University Moab, the Grand School District.~~]

[~~(3) A USU regional institution may not exercise any jurisdiction over career and technical education provided by a school district or charter school independently of the USU regional institution.~~]

[~~(4) A USU regional institution shall report to the board annually on:~~]

[~~(a) the status of and maintenance of the effort for career and technical education in the region served by the USU regional institution, including access to open-entry, open-exit competency-based career and technical education programs; and~~]

[~~(b) student tuition and fees.~~]

[~~(5) Legislative appropriations to Utah State University career and technical education described in this section shall be made as line items that are separate from other appropriations for Utah State University.~~]

Section 23. Section 53B-26-102 is amended to read:

53B-26-102. Definitions.

As used in this part:

(1) "CTE" means career and technical education.

(2) "CTE region" means an economic service area created in Section 35A-2-101.

(3) "Eligible partnership" means:

(a) a regional partnership; or

(b) a statewide partnership.

(4) "Employer" means a private employer, public employer, industry association, the military, or a union.

(5) "Industry advisory group" means:

(a) a group of at least five employers that represent the workforce needs to which a proposal submitted under Section 53B-26-103 responds; and

(b) a representative of the Governor's Office of Economic Development, appointed by the executive director of the Governor's Office of Economic Development.

[~~(6) "Institution of higher education" means the University of Utah, Utah State University, Southern Utah University, Weber State University, Snow College, Dixie State University, Utah Valley University, or Salt Lake Community College.~~]

[~~(7)~~] (6) "Regional partnership" means a partnership that:

(a) provides educational services within one CTE region; and

(b) is between at least two of the following located in the CTE region:

(i) a technical college;

(ii) a school district or charter school; or

[~~(iii) an institution of higher education.~~]

(iii) a degree-granting institution.

[~~(8)~~] (7) "Stackable sequence of credentials" means a sequence of credentials that:

(a) an individual can build upon to access an advanced job or higher wage;

(b) is part of a career pathway system;

(c) provides a pathway culminating in the equivalent of an associate's or bachelor's degree;

(d) facilitates multiple exit and entry points; and

(e) recognizes sub-goals or momentum points.

[~~(9)~~] (8) "Statewide partnership" means a partnership between at least two regional partnerships.

[~~(10)~~] (9) "Technical college" means:

(a) a college described in Section 53B-2a-105; or

(b) a degree-granting institution that provides technical education described in Section 53B-2a-201.

[~~(b) the School of Applied Technology at Salt Lake Community College established under Section 53B-16-209;~~]

[~~(c) Utah State University Eastern established under Section 53B-18-1201;~~]

[~~(d) Utah State University Blanding established under Section 53B-18-1202; or~~]

[~~(e) the Snow College Richfield campus established under Section 53B-16-205.~~]

Section 24. Section 53B-28-402 is amended to read:

53B-28-402. Campus safety study -- Report to Legislature.

(1) As used in this section:

(a) "Campus law enforcement" means a unit of an institution that provides public safety services.

(b) (i) "Institution" means an institution of higher education described in Section 53B-2-101.

(ii) "Institution" includes an institution's campus law enforcement.

(c) "Local district" means the same as that term is defined in Section 17B-1-102.

(d) "Local law enforcement" means a state or local law enforcement agency other than campus law enforcement.

(e) "Public safety services" means police services, security services, dispatch services, emergency services, or other similar services.

(f) "Sexual violence" means the same as that term is defined in Section 53B-28-301.

(g) "Special service district" means the same as that term is defined in Section 17D-1-102.

(h) "Student" means the same as that term is defined in Section 53B-28-301.

(i) "Student organization" means the same as that term is defined in Section 53B-28-401.

(2) The board shall:

(a) study issues related to providing public safety services on institution campuses, including:

(i) policies and practices for hiring, supervision, and firing of campus law enforcement officers;

(ii) training of campus law enforcement in responding to incidents of sexual violence or other crimes reported by or involving a student, including training related to lethality or similar assessments;

(iii) how campus law enforcement and local law enforcement respond to reports of incidents of sexual violence or other crimes reported by or involving a student, including supportive measures for victims and disciplinary actions for perpetrators;

(iv) training provided to faculty, staff, students, and student organizations on campus safety and prevention of sexual violence;

(v) roles, responsibilities, jurisdiction, and authority of local law enforcement and campus law enforcement, including authority based on:

(A) the type of public safety services provided; or

(B) geographic boundaries;

(vi) how an institution and local law enforcement coordinate to respond to on-campus and off-campus incidents requiring public safety services, including:

(A) legal requirements or restrictions affecting coordination;

(B) agreements, practices, or procedures governing coordination between an institution and local law enforcement, including mutual support, sharing information, or dispatch management;

(C) any issues that may affect the timeliness of a response to an on-campus or off-campus incident reported by or involving a student;

(vii) infrastructure, staffing, and equipment considerations that impact the effectiveness of campus law enforcement or local law enforcement responses to an on-campus or off-campus incident reported by or involving a student;

(viii) the benefits and disadvantages of an institution employing campus law enforcement compared to local law enforcement providing public safety services on an institution campus;

(ix) an institution's compliance with federal and state crime statistic reporting requirements;

(x) how an institution informs faculty, staff, and students about a crime or emergency on campus;

(xi) national best practices for providing public safety services on institution campuses, including differences in best practices based on the size, infrastructure, location, and other relevant characteristics of a college or university; and

(xii) any other issue the board determines is relevant to the study;

(b) make recommendations for providing public safety services on institution campuses statewide;

(c) produce a final report of the study described in this section, including the recommendations described in Subsection (2)(b); and

(d) in accordance with Section 68-3-14, present the final report described in Subsection (2)(c) to the Education Interim Committee and the Law Enforcement and Criminal Justice Interim Committee at or before the committees' November 2021 meetings.

(3) In carrying out the board's duties under this section, the board may coordinate with individuals and organizations with knowledge, expertise, or experience related to the board's duties under this section, including:

[~~(a) the Utah System of Technical Colleges Board of Trustees;~~]

[~~(b)~~] (a) the Utah Department of Health;

[~~(c)~~] (b) the Utah Office for Victims of Crime;

[~~(d)~~] (c) the Utah Council on Victims of Crime;

[~~(e)~~] (d) institutions;

[~~(f)~~] (e) local law enforcement;

[~~(g)~~] (f) local districts or special service districts that provide 911 and emergency dispatch service; and

[~~(h)~~] (g) community and other non-governmental organizations.

Section 25. Section 53E-3-507 is amended to read:

53E-3-507. Powers of the state board.

The state board:

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

(2) may apply for, receive, administer, and distribute funds made available through programs of federal and state governments to promote and aid career and technical education;

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

(4) shall cooperate with the Utah Board of Higher Education, technical colleges, [~~Salt Lake Community College's School of Applied Technology, Snow College, Utah State University Eastern, and Utah State University Blanding~~] and degree-granting institutions that provide technical education described Section 53B-2a-201 to ensure that students in the public education system have access to career and technical education at technical colleges[~~, Salt Lake Community College's School of Applied Technology, Snow College, Utah State University Eastern, and Utah State University Blanding~~] and degree-granting institutions that provide technical education described in Section 53B-2a-201;

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

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

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

(6) shall, after consulting with school districts, charter schools, the Utah Board of Higher Education, technical colleges, [~~Salt Lake Community College's School of Applied Technology, Snow College, Utah State University Eastern, and Utah State University Blanding~~] and degree-granting institutions that provide technical education described in Section 53B-2a-201, prepare and submit an annual report in accordance with Section 53E-1-203 detailing:

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

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

(i) at technical colleges; and

(ii) within the regions served by [~~Salt Lake Community College's School of Applied Technology, Snow College, Utah State University Eastern, and Utah State University Blanding~~] degree-granting institutions that provide technical education described in Section 53B-2a-201.

Section 26. Section 63A-5b-102 is amended to read:

63A-5b-102. Definitions.

As used in this chapter:

(1) "Board" means the state building board created in Section 63A-5b-201.

(2) "Capitol hill facilities" means the same as that term is defined in Section 63C-9-102.

(3) "Capitol hill grounds" means the same as that term is defined in Section 63C-9-102.

(4) "Compliance agency" means the same as that term is defined in Section 15A-1-202.

(5) "Director" means the division director, appointed under Section 63A-5b-302.

(6) "Division" means the Division of Facilities Construction and Management created in Section 63A-5b-301.

(7) "Institution of higher education" means an institution listed in Subsection 53B-2-101(1).

(8) "Trust lands administration" means the School and Institutional Trust Lands Administration established in Section 53C-1-201.

(9) "Utah Board of Higher Education" means the Utah Board of Higher Education established in Section 53B-1-402.

[~~(10) "UTech board" means the UTech Board of Trustees created in Section 53B-2a-103.~~]

Section 27. Section 63A-5b-202 is amended to read:

63A-5b-202. State Building Board powers and duties.

(1) The board may, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules that are necessary to discharge the board's duties.

(2) The board shall:

(a) review and approve agency master plans of structures built or contemplated;

(b) submit capital development recommendations and priorities to the Legislature as set forth in Section 63A-5b-402;

(c) submit recommendations for dedicated projects and prioritize nondedicated projects as provided in Section 63A-5b-403;

(d) make a finding that the requirements of Section 53B-2a-112 are met before the board may consider a funding request [~~from the UTech board pertaining to new capital facilities and land purchases~~] described in Section 53B-2a-117; and

(e) fulfill the board's responsibilities under:

(i) Section 63A-5b-802, relating to the approval of leases with terms of more than 10 years;

(ii) Section 63A-5b-907, relating to vacant division-owned property; and

(iii) Section 63A-5b-1003, relating to the approval of loans from the state facility energy efficiency fund.

(3) The board may:

(a) authorize capital development projects without Legislative approval only as authorized in Section 63A-5b-404; and

(b) make rules relating to the categorical delegation of projects as provided in Subsection 63A-5b-604(4).

Section 28. Section 63A-5b-403 is amended to read:

63A-5b-403. Institutions of higher education -- Capital development projects -- Dedicated and nondedicated projects -- Recommendations and prioritization.

(1) As used in this section:

(a) "Dedicated project" has the same meaning as that term is defined in:

(i) Section 53B-2a-101, for a capital development project under [~~Title 53B, Chapter 2a, Technical Colleges~~] Title 53B, Chapter 2a, Technical Education; or

(ii) Section 53B-22-201, for a capital development project under Title 53B, Chapter 22, Higher Education Capital Projects.

(b) "Nondedicated project" has the same meaning as that term is defined in:

(i) Section 53B-2a-101, for a capital development project under [~~Title 53B, Chapter 2a, Technical Colleges~~] Title 53B, Chapter 2a, Technical Education; or

(ii) Section 53B-22-201, for a capital development project under Title 53B, Chapter 22, Higher Education Capital Projects.

(2) (a) The board shall submit recommendations to the Legislature in accordance with:

(i) Section 53B-2a-117, for a dedicated project under [~~Title 53B, Chapter 2a, Technical Colleges~~] Title 53B, Chapter 2a, Technical Education; or

(ii) Section 53B-22-204, for a dedicated project under Title 53B, Chapter 22, Higher Education Capital Projects.

(b) A dedicated project is not subject to prioritization by the board.

(3) (a) The board shall prioritize nondedicated projects in accordance with:

(i) Section 63A-5b-402; and

(ii) (A) Section 53B-2a-117, for a nondedicated project under [~~Title 53B, Chapter 2a, Technical Colleges~~] Title 53B, Chapter 2a, Technical Education; or

(B) Section 53B-22-204, for a nondedicated project under Title 53B, Chapter 22, Higher Education Capital Projects.

(b) In the board's scoring process for prioritizing nondedicated projects, the board shall give more weight to a request that is designated as a higher priority by the [~~UTech board or~~] Utah Board of Higher Education than a request that is designated as a lower priority by the [~~UTech board or~~] Utah Board of Higher Education only for determining the order of prioritization among requests submitted by the [~~UTech board or~~] Utah Board of Higher Education[~~, respectively~~].

(4) The board shall require that an institution of higher education that submits a request for a capital development project address whether and how, as a result of the project, the institution of higher education will:

(a) offer courses or other resources that will help meet demand for jobs, training, and employment in the current market and the projected market for the next five years;

(b) respond to individual skilled and technical job demand over the next three, five, and 10 years;

(c) respond to industry demands for trained workers;

(d) help meet commitments made by the Governor's Office of Economic Development, including relating to training and incentives;

(e) respond to changing needs in the economy; and

(f) respond to demands for online or in-class instruction, based on demographics.

(5) The division shall:

(a) (i) assist institutions of higher education in providing the information required by Subsection (3); and

(ii) verify the completion and accuracy of the information submitted by an institution of higher education under Subsection (3);

(b) assist the [~~UTech board~~] Utah Board of Higher Education to fulfill the requirements of Section 53B-2a-112 in connection with the finding that the [~~board~~] technical college is required to make under Subsection 53B-2a-112(5)(b); and

(c) assist the [~~Board of Regents~~] Utah Board of Higher Education in submitting a list of dedicated projects to the board for approval and nondedicated projects to the board for recommendation and prioritization pursuant to Section 53B-22-204.

Section 29. Section 63I-2-253 is amended to read:

63I-2-253. Repeal dates -- Titles 53 through 53G.

(1) (a) Section 53-2a-217, regarding procurement during an epidemic or pandemic emergency, is repealed on December 31, 2021.

(b) When repealing Section 53-2a-217, the Office of Legislative Research and General Counsel shall, in addition to the office's authority under Subsection 36-12-12(3), make necessary changes to subsection numbering and cross references.

[~~(2) Section 53B-2a-103 is repealed July 1, 2021.~~]

[~~(3) Section 53B-2a-104 is repealed July 1, 2021.~~]

[~~(4)~~] (2) (a) Subsection 53B-2a-108(5), regarding exceptions to the composition of a technical college board of trustees, is repealed July 1, 2022.

(b) When repealing Subsection 53B-2a-108(5), the Office of Legislative Research and General Counsel shall, in addition to its authority under Subsection 36-12-12(3), make necessary changes to subsection numbering and cross references.

[~~(5)~~] (3) Section 53B-6-105.7 is repealed July 1, 2024.

[~~(6)~~] (4) (a) Subsection 53B-7-705(6)(b)(ii)(A), the language that states "Except as provided in Subsection (6)(b)(ii)(B)," is repealed July 1, 2021.

(b) Subsection 53B-7-705(6)(b)(ii)(B), regarding comparing a technical college's change in performance with the technical college's average performance, is repealed July 1, 2021.

[~~(7)~~] (5) (a) Subsection 53B-7-707(3)(a)(ii), the language that states "Except as provided in Subsection (3)(b)," is repealed July 1, 2021.

(b) Subsection 53B-7-707(3)(b), regarding performance data of a technical college during a fiscal year before fiscal year 2020, is repealed July 1, 2021.

[~~(8)~~] (6) Section 53B-8-114 is repealed July 1, 2024.

[~~(9)~~] (7) (a) The following sections, regarding the Regents' scholarship program, are repealed on July 1, 2023:

(i) Section 53B-8-202;

(ii) Section 53B-8-203;

(iii) Section 53B-8-204; and

(iv) Section 53B-8-205.

(b) (i) Subsection 53B-8-201(2), regarding the Regents' scholarship program for students who graduate from high school before fiscal year 2019, is repealed on July 1, 2023.

(ii) When repealing Subsection 53B-8-201(2), the Office of Legislative Research and General Counsel shall, in addition to its authority under Subsection 36-12-12(3), make necessary changes to subsection numbering and cross references.

[~~(10)~~] (8) Section 53B-10-101 is repealed on July 1, 2027.

[~~(11)~~] (9) Title 53B, Chapter 18, Part 14, Uintah Basin Air Quality Research Project, is repealed July 1, 2023.

[~~(12) Section 53E-3-519 regarding school counselor services is repealed July 1, 2020.~~]

[~~(13)~~] (10) Section 53E-3-520 is repealed July 1, 2021.

[~~(14) Subsection 53E-5-306(3)(b)(ii)(B), related to improving school performance and continued funding relating to the School Recognition and Reward Program, is repealed July 1, 2020.~~]

[~~(15) Section 53E-5-307 is repealed July 1, 2020.~~]

[~~(16)~~] (11) Subsection 53E-10-309(7), related to the PRIME pilot program, is repealed July 1, 2024.

[~~(17)~~] (12) In Subsections 53F-2-205(4) and (5), regarding the State Board of Education's duties if contributions from the minimum basic tax rate are overestimated or underestimated, the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

[~~(18)~~] (13) Subsection 53F-2-301(1), relating to the years the section is not in effect, is repealed July 1, 2023.

[~~(19)~~] (14) In Subsection 53F-2-515(1), the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

[~~(20)~~] (15) Section 53F-4-207 is repealed July 1, 2022.

[~~(21)~~] (16) In Subsection 53F-9-302(3), the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

[~~(22)~~] (17) In Subsection 53F-9-305(3)(a), the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

[~~(23)~~] (18) In Subsection 53F-9-306(3)(a), the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

[~~(24)~~] (19) In Subsection 53G-3-304(1)(c)(i), the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

[~~(25)~~] (20) Subsections 53G-10-204(1)(c) through (e), and Subsection 53G-10-204(7), related to the civics engagement pilot program, are repealed on July 1, 2023.

[~~(26)~~] (21) On July 1, 2023, when making changes in this section, the Office of Legislative Research and General Counsel shall, in addition to the office's authority under Subsection 36-12-12(3), make corrections necessary to ensure that sections and subsections identified in this section are complete sentences and accurately reflect the office's perception of the Legislature's intent.

Section 30. Section 63N-12-501 is amended to read:

63N-12-501. Definitions.

As used in this part:

(1) "Apprenticeship program" means a program that combines paid on-the-job learning with formal classroom instruction to prepare students for careers and that includes:

(a) structured on-the-job learning for students under the supervision of a skilled employee;

(b) classroom instruction for students related to the on-the-job learning;

(c) ongoing student assessments using established competency and skills standards; and

(d) the student receiving an industry-recognized credential or degree upon completion of the program.

(2) "Career and technical education region" means an economic service area created in Section 35A-2-101.

(3) "Center" means the Talent Ready Utah Center created in Section 63N-12-502.

(4) "High quality professional learning" means the professional learning standards for teachers and principals described in Section 53G-11-303.

(5) "Institution of higher education" means the University of Utah, Utah State University, Southern Utah University, Weber State University, Snow College, Dixie State University, Utah Valley University, or Salt Lake Community College.

(6) "Local education agency" means a school district, a charter school, or the Utah Schools for the Deaf and the Blind.

(7) "Master plan" means the computer science education master plan described in Section 63N-12-505.

(8) "Participating employer" means an employer that:

(a) partners with an educational institution on a curriculum for an apprenticeship program or work-based learning program; and

(b) provides an apprenticeship or work-based learning program for students.

(9) "Stackable credentials" means a sequence of credentials that:

(a) can be accumulated over time to build up an individual's qualifications for a better job or higher wage;

(b) are part of a career pathway system; and

(c) provide the option of culminating in an associate or bachelor's degree.

(10) "State board" means the State Board of Education.

(11) "Talent ready board" means the Talent Ready Utah Board created in Section 63N-12-503.

(12) "Technical college" means:

(a) a technical college described in Section 53B-2a-105; and

(b) a degree-granting institution that provides technical education described in Section 53B-2a-201.

[~~(b) the School of Applied Technology at Salt Lake Community College established in Section 53B-16-209;~~]

[~~(c) Utah State University Eastern established in Section 53B-18-1201;~~]

[~~(d) Utah State University Blanding established in Section 53B-18-1202; or~~]

[~~(e) the Snow College Richfield campus established in Section 53B-16-205.~~]

(13) (a) "Work-based learning program" means a program that combines structured and supervised learning activities with authentic work experiences and that is implemented through industry and education partnerships.

(b) "Work-based learning program" includes the following objectives:

(i) providing students an applied workplace experience using knowledge and skills attained in a program of study that includes an internship, externship, or work experience;

(ii) providing an educational institution with objective input from a participating employer regarding the education requirements of the current workforce; and

(iii) providing funding for programs that are associated with high-wage, in-demand, or emerging occupations.

(14) "Workforce programs" means education or industry programs that facilitate training the state's workforce to meet industry demand.

Section 31. Repealer.

This bill repeals:

Section 53B-1-115, Purchases of educational technology.

Section 53B-1-503, Commissioner beginning July 1, 2020.

Section 53B-2-105, Consultation with boards of trustees.

Section 53B-2a-103, UTech Board of Trustees -- Membership -- Terms -- Vacancies -- Oath -- Officers -- Quorum -- Committees -- Compensation.

Section 53B-2a-104, Utah System of Technical Colleges Board of Trustees powers and duties.

Section 53B-2a-114, Educational program on the use of information technology.

Section 53B-16-201, Degrees and certificates that may be conferred.

Section 53B-16-209, Salt Lake Community College -- School of Applied Technology --

Career and technical education -- Supervision and administration -- Institutional mission.

Section 53B-16-211, Salt Lake Community College -- Educational program on the use of information technology.

Section 32. Effective date.

(1) Except as provided in Subsection (2), this bill takes effect May 5, 2021.

(2) If approved by two-thirds of all the members elected to each house, Section 53B-2-102 takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

Section 33. Coordinating H.B. 318 with S.B. 136 -- Technical amendment.

If this H.B. 318 and S.B. 136, Higher Education Scholarship Amendments, both pass and become law, it is the intent of the Legislature that the Office of Legislative Research and General Counsel shall prepare the Utah Code database for publication by amending Subsection 53B-8-115(1)(a) to read:

"(a) "Eligible institution" means:

[~~(i) Salt Lake Community College's School of Applied Technology established in Section 53B-16-209;~~]

[~~(ii) Snow College;~~]

[~~(iii) Utah State University Eastern established in Section 53B-18-1201;~~]

[~~(iv) Utah State University Blanding established in Section 53B-18-1202; or~~]

[~~(v) the Utah State University regional campus located at or near Moab described in Section 53B-18-301.~~]

(i) a degree-granting institution that provides technical education described in Section 53B-2a-201; or

(ii) a technical college.".

Section 34. Coordinating H.B. 318 with S.B. 193 -- Substantive amendments.

If this H.B. 318 and S.B. 193, Higher Education Performance Funding, both pass and become law, it is the intent of the Legislature that the Office of Legislative Research and General Counsel shall prepare the Utah Code database for publication by amending Subsection 53B-7-702(12) to read:

"(12) "Technical college" means:

(a) the same as that term is defined in Section 53B-1-101.5; and

(b) a degree-granting institution acting in the degree-granting institution's technical education role described in Section 53B-2a-201.".

Section 35. Coordinating H.B. 318 with H.B. 348 -- Substantive amendments.

If this H.B. 318 and H.B. 348, Economic Development Amendments, both pass and become law, it is the intent of the Legislature that the Office of Legislative Research and General Counsel shall prepare the Utah Code database for publication by:

(1) amending Subsection 53B-26-102(10) to read:

"(10) "Technical college" means:

(a) [~~a college described in Section 53B-2a-105;~~] the same as that term is defined in Section 53B-1-101.5; and

(b) a degree-granting institution acting in the degree-granting institution's technical education role described in Section 53B-2a-201;

[~~(b) the School of Applied Technology at Salt Lake Community College established under Section 53B-16-209;~~]

[~~(c) Utah State University Eastern established under Section 53B-18-1201;~~]

[~~(d) Utah State University Blanding established under Section 53B-18-1202; or~~]

[~~(e) the Snow College Richfield campus established under Section 53B-16-205.~~]"; and

(2) amending Subsection 63N-1b-101(11) to read:

"(11) "Technical college" means:

(a) the same as that term is defined in Section 53B-1-101.5; and

(b) a degree-granting institution acting in the degree-granting institution's technical education role described in Section 53B-2a-201.".

CHAPTER 188
H. B. 319
Passed March 5, 2021
Approved March 16, 2021
Effective May 5, 2021

EMERGENCY VOLUNTEER HEALTH PRACTITIONERS ACT AMENDMENTS

Chief Sponsor: Raymond P. Ward
Senate Sponsor: Chris H. Wilson

LONG TITLE

General Description:

This bill amends the Emergency Volunteer Health Practitioners Act.

Highlighted Provisions:

This bill:

- defines terms;
- extends application of the Emergency Volunteer Health Practitioners Act to emergencies declared by the president of the United States and certain local government entities;
- requires a host entity to consult with the Department of Human Services when providing volunteer services under the act; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

26-49-102, as last amended by Laws of Utah 2013, Chapter 295
26-49-103, as enacted by Laws of Utah 2008, Chapter 242
26-49-201, as enacted by Laws of Utah 2008, Chapter 242
26-49-202, as last amended by Laws of Utah 2011, Chapter 297
26-49-203, as enacted by Laws of Utah 2008, Chapter 242
26-49-204, as enacted by Laws of Utah 2008, Chapter 242

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

Section 1. Section 26-49-102 is amended to read:

26-49-102. Definitions.

As used in this chapter:

(1) "Department of Health" shall have the meaning provided for in Section 26-1-4.

(2) "Disaster relief organization" means an entity that:

(a) provides emergency or disaster relief services that include health or veterinary services provided by volunteer health practitioners;

(b) is designated or recognized as a provider of the services described in Subsection (2)(a) under a disaster response and recovery plan adopted by:

(i) an agency of the federal government;

(ii) the state Department of Health; or

(iii) a local health department; and

(c) regularly plans and conducts its activities in coordination with:

(i) an agency of the federal government;

(ii) the Department of Health; or

(iii) a local health department.

[~~(3) "Emergency" means a "state of emergency" as defined in Section 53-2a-203.~~]

[~~(4) "Emergency declaration" means a declaration made in accordance with Section 53-2a-206 or 53-2a-208.~~]

(3) "Emergency" means:

(a) a state of emergency declared by:

(i) the president of the United States;

(ii) the governor in accordance with Title 53, Chapter 2a, Part 2, Disaster Response and Recovery Act; and

(iii) the chief executive officer of a political subdivision in accordance with Title 53, Chapter 2a, Part 2, Disaster Response and Recovery Act, for a local emergency; or

(b) a public health emergency declared by:

(i) the executive director through a public health order in accordance with Title 26, Utah Health Code; or

(ii) a local health department for a location under the local health department's jurisdiction.

[~~(5)~~] (4) "Emergency Management Assistance Compact" means the interstate compact approved by Congress by Public Law No. 104-321, 110 Stat. 3877 and adopted by Utah in Title 53, Chapter 2a, Part 4, Emergency Management Assistance Compact.

[~~(6)~~] (5) "Entity" means a person other than an individual.

[~~(7)~~] (6) "Health facility" means an entity licensed under the laws of this or another state to provide health or veterinary services.

[~~(8)~~] (7) "Health practitioner" means an individual licensed under Utah law or another state to provide health or veterinary services.

[~~(9)~~] (8) "Health services" means the provision of treatment, care, advice, guidance, other services, or supplies related to the health or death of individuals or human populations, to the extent necessary to respond to an emergency, including:

(a) the following, concerning the physical or mental condition or functional status of an individual or affecting the structure or function of the body:

(i) preventive, diagnostic, therapeutic, rehabilitative, maintenance, or palliative care; or

(ii) counseling, assessment, procedures, or other services;

(b) selling or dispensing a drug, a device, equipment, or another item to an individual in accordance with a prescription; and

(c) funeral, cremation, cemetery, or other mortuary services.

[~~(10)~~] (9) "Host entity":

(a) means an entity operating in Utah that:

(i) uses volunteer health practitioners to respond to an emergency; and

(ii) is responsible during an emergency, for actually delivering health services to individuals or human populations, or veterinary services to animals or animal populations; and

(b) may include disaster relief organizations, hospitals, clinics, emergency shelters, health care provider offices, or any other place where volunteer health practitioners may provide health or veterinary services.

[~~(11)~~] (10) (a) "License" means authorization by a state to engage in health or veterinary services that are unlawful without authorization.

(b) "License" includes authorization under this title to an individual to provide health or veterinary services based upon a national or state certification issued by a public or private entity.

(11) "Local emergency" means the same as that term is defined in Section 53-2a-203.

(12) "Local health department" [~~shall have the meaning provided for in Subsection~~] means the same as that term is defined in Section 26A-1-102[~~(5)~~].

(13) "Person" means an individual, corporation, business trust, trust, partnership, limited liability company, association, joint venture, public corporation, government or governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.

(14) "Public health emergency" means the same as that term is defined in Section 26-23b-102.

[~~(14)~~] (15) "Scope of practice" means the extent of the authorization to provide health or veterinary services granted to a health practitioner by a license issued to the practitioner in the state in which the principal part of the practitioner's services are rendered, including any conditions imposed by the licensing authority.

[~~(15)~~] (16) "State" means:

(a) a state of the United States;

(b) the District of Columbia;

(c) Puerto Rico;

(d) the United States Virgin Islands; or

(e) any territory or insular possession subject to the jurisdiction of the United States.

[~~(16)~~] (17) "Veterinary services" shall have the meaning provided for in Subsection 58-28-102(11).

[~~(17)~~] (18) (a) "Volunteer health practitioner" means a health practitioner who provides health or veterinary services, whether or not the practitioner receives compensation for those services.

(b) "Volunteer health practitioner" does not include a practitioner who receives compensation under a preexisting employment relationship with a host entity or affiliate that requires the practitioner to provide health services in Utah, unless the practitioner is:

(i) not a Utah resident; and

(ii) employed by a disaster relief organization providing services in Utah [~~while an emergency declaration is in effect~~] during an emergency.

Section 2. Section 26-49-103 is amended to read:

26-49-103. Applicability to volunteer health practitioners.

This chapter applies to volunteer health practitioners who:

(1) are registered with a registration system that complies with Section 26-49-202; and

(2) provide health or veterinary services in Utah for a host entity [~~while an emergency declaration is in effect~~] during an emergency.

Section 3. Section 26-49-201 is amended to read:

26-49-201. Regulation of services during emergency.

(1) [~~While an emergency declaration is in effect~~] During an emergency, the Department of Health or a local health department may limit, restrict, or otherwise regulate:

(a) the duration of practice by volunteer health practitioners;

(b) the geographical areas in which volunteer health practitioners may practice;

(c) the types of volunteer health practitioners who may practice; and

(d) any other matters necessary to coordinate effectively the provision of health or veterinary services during the emergency.

(2) An order issued under Subsection (1) takes effect immediately, without prior notice or comment, and is not a rule within the meaning of Title 63G, Chapter 3, Utah Administrative Rulemaking Act, or an adjudication within the meaning of Title 63G, Chapter 4, Administrative Procedures Act.

(3) A host entity that uses volunteer health practitioners to provide health or veterinary services in Utah shall:

(a) to the extent practicable and in order to provide for the efficient and effective use of volunteer health practitioners, consult and coordinate its activities with:

(i) the Department of Health;

(ii) local health departments; [~~or~~]

(iii) the [~~Utah~~] Department of Agriculture and Food; or

(iv) the Department of Human Services; and

(b) comply with all state and federal laws relating to the management of emergency health or veterinary services.

Section 4. Section 26-49-202 is amended to read:

26-49-202. Volunteer health practitioner registration systems.

(1) To qualify as a volunteer health practitioner registration system, the registration system shall:

(a) accept applications for the registration of volunteer health practitioners before or during an emergency;

(b) include information about the licensure and good standing of health practitioners that is accessible by authorized persons;

(c) be capable of confirming the accuracy of information concerning whether a health practitioner is licensed and in good standing before health services or veterinary services are provided under this chapter; and

(d) meet one of the following conditions:

(i) be an emergency system for advance registration of volunteer health practitioners established by a state and funded through the United States Department of Health and Human Services under Section 319I of the Public Health Services Act, 42 U.S.C. Sec. 247d–7b, as amended;

(ii) be a local unit consisting of trained and equipped emergency response, public health, and medical personnel formed under Section 2801 of the Public Health Services Act, 42 U.S.C. Sec. 300hh as amended;

(iii) be operated by a:

(A) disaster relief organization;

(B) licensing board;

(C) national or regional association of licensing boards or health practitioners;

(D) health facility that provides comprehensive inpatient and outpatient healthcare services, including tertiary care; or

(E) governmental entity; or

(iv) be designated by the Department of Health as a registration system for purposes of this chapter.

(2) (a) Subject to Subsection (2)(b), [~~while an emergency declaration is in effect~~] during an emergency, the Department of Health, a person authorized to act on behalf of the Department of Health, or a host entity shall confirm whether a volunteer health practitioner in Utah is registered with a registration system that complies with Subsection (1).

(b) The confirmation authorized under this Subsection (2) is limited to obtaining the identity of the practitioner from the system and determining whether the system indicates that the practitioner is licensed and in good standing.

(3) Upon request of a person authorized under Subsection (2), or a similarly authorized person in another state, a registration system located in Utah shall notify the person of the identity of a volunteer health practitioner and whether or not the volunteer health practitioner is licensed and in good standing.

(4) A host entity is not required to use the services of a volunteer health practitioner even if the volunteer health practitioner is registered with a registration system that indicates that the practitioner is licensed and in good standing.

Section 5. Section 26-49-203 is amended to read:

26-49-203. Recognition of volunteer health practitioners licensed in other states.

(1) [~~While an emergency declaration is in effect~~] During an emergency, a volunteer health practitioner registered with a registration system that complies with Section 26–49–202 and licensed and in good standing in the state upon which the practitioner's registration is based:

(a) may practice in Utah to the extent authorized by this chapter as if the practitioner were licensed in Utah; and

(b) is exempt from:

(i) licensure in Utah; or

(ii) operating under modified scope of practice provisions in accordance with Subsections 58–1–307(4) and (5).

(2) A volunteer health practitioner qualified under Subsection (1) is not entitled to the protections of this chapter if the practitioner is licensed in more than one state and any license of the practitioner:

(a) is suspended, revoked, or subject to an agency order limiting or restricting practice privileges; or

(b) has been voluntarily terminated under threat of sanction.

Section 6. Section 26-49-204 is amended to read:

26-49-204. No effect on credentialing and privileging.

(1) For purposes of this section:

(a) "Credentialing" means obtaining, verifying, and assessing the qualifications of a health practitioner to provide treatment, care, or services.

(b) "Privileging" means the authorizing by an appropriate authority of a health practitioner to provide specific treatment, care, or services at a health facility subject to limits based on factors that

include license, education, training, experience, competence, health status, and specialized skill.

(2) This chapter does not affect credentialing or privileging standards of a health facility, and does not preclude a health facility from waiving or modifying those standards [~~while an emergency declaration is in effect~~] during an emergency.

CHAPTER 189
S. B. 10
Passed February 18, 2021
Approved March 16, 2021
Effective May 5, 2021

PLACE NAME AMENDMENTS

Chief Sponsor: Jani Iwamoto
House Sponsor: Christine F. Watkins

LONG TITLE

General Description:

This bill addresses names of places.

Highlighted Provisions:

This bill:

- defines terms;
- authorizes the Division of Indian Affairs to help facilitate the application process for changing location names referring to American Indian terms;
- requires reporting; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

9-9-107, as last amended by Laws of Utah 2014, Chapter 371

ENACTS:

9-9-112, Utah Code Annotated 1953

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

Section 1. Section 9-9-107 is amended to read:

9-9-107. Division report.

The department shall include a report of the division's operations and recommendations, including the division's activities under Section 9-9-112, in the annual written report described in Section 9-1-208.

Section 2. Section 9-9-112 is enacted to read:

9-9-112. Geographic place names -- Role of division -- Report.

(1) As used in this section:

(a) "Location name referring to American Indians" means the name of a place in the state that uses American Indian related terms.

(b) "Utah Committee on Geographic Names" means the committee created by executive order of the governor that has a primary function to act as the state's liaison with the United States Board on Geographic Names and to review geographic name changes and additions in Utah.

(2) (a) To facilitate the United States Board on Geographic Names' application process for changing a location name referring to American Indians, the division may create an application template, in consultation with the Utah Committee on Geographic Names, for the following to use:

(i) a county in which a place with a location name referring to American Indians is located;

(ii) an Indian tribe that is connected to the geographic location referring to American Indians for which the Indian tribe seeks to change the name;

(iii) a local community in and around a place with a location name referring to American Indians; or

(iv) another person identified by the division in consultation with the Utah Committee on Geographic Names.

(b) The application template described in Subsection (2)(a) shall encourage an applicant to solicit feedback from the one or more tribal governments that are connected to the geographic location for which the applicant is proposing to change the location name referring to American Indians.

(c) If the division assists a person applying to change the location name referring to American Indians, the division shall direct the person to consult with any tribal government that is connected to the geographic location for which the location name referring to American Indians is proposed to be changed so that a tribal government has an opportunity to provide an official response.

(d) The division may bring proposed name changes to location names referring to American Indians to tribal leaders to solicit input from the Indian tribes.

(3) The division shall provide on the division's website resources for applicants and information about proposed changes to location names referring to American Indians.

(4) In accordance with Section 9-9-107, the division shall annually report to the Native American Legislative Liaison Committee on the division's activities under this section.

CHAPTER 190
S. B. 12
Passed March 4, 2021
Approved March 16, 2021
Effective May 1, 2021

REAUTHORIZATION OF ADMINISTRATIVE RULES

Chief Sponsor: Jacob L. Anderegg
House Sponsor: Brady Brammer

LONG TITLE

General Description:

This bill provides legislative action regarding administrative rules.

Highlighted Provisions:

This bill:

- reauthorizes all state agency administrative rules.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Uncodified Material Affected:

ENACTS UNCODIFIED MATERIAL

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

Section 1. Rules reauthorized.

All rules of Utah state agencies are reauthorized.

Section 2. Effective date.

If approved by two-thirds of all the members elected to each house, this bill takes effect on May 1, 2021.

CHAPTER 191
S. B. 14
Passed February 3, 2021
Approved March 16, 2021
Effective May 5, 2021

DRIVER LICENSE AND STATE IDENTIFICATION CARD AMENDMENTS

Chief Sponsor: Wayne A. Harper
House Sponsor: Steve Eliason

LONG TITLE

General Description:

This bill amends provisions related to application for a state identification card.

Highlighted Provisions:

This bill:

- amends provisions related to the application requirements and process for a state identification card;
- requires the Driver License Division to waive the application fee for a state identification card in certain circumstances; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53-3-803, as last amended by Laws of Utah 2019, Chapter 381
53-3-804, as last amended by Laws of Utah 2019, Chapters 381 and 382

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

Section 1. Section 53-3-803 is amended to read:

53-3-803. Application for identification card -- Age requirements -- Application on behalf of others.

(1) A person at least 16 years [~~of age~~] old or older may apply to the division for an identification card.

(2) A person younger than 16 years [~~of age~~] old may apply to the division for an identification card with the consent of the applicant's parent or guardian.

(3) (a) If a person is unable to apply for the card due to his youth or incapacitation, the application may be made on behalf of that person by his parent or guardian.

(b) A parent or guardian applying for an identification card on behalf of a child or incapacitated person shall provide:

(i) identification, as required by the commissioner; and

(ii) the consent of the incapacitated person, as required by the commissioner.

(4) [~~A~~] The division may not issue a Utah identification card or an extension of a regular identification card to a person who holds an unexpired Utah license certificate issued under Part 2, Driver Licensing Act[~~, may not be issued a Utah identification card or an extension of a regular identification card~~] unless:

(a) the Utah license certificate is canceled; and

(b) if the Utah license certificate is in the person's possession, the Utah license certificate is surrendered to the division.

Section 2. Section 53-3-804 is amended to read:

53-3-804. Application for identification card -- Required information -- Release of anatomical gift information -- Cancellation of identification card.

(1) To apply for a regular identification card or limited-term identification card, an applicant shall:

(a) be a Utah resident;

(b) have a Utah residence address; and

(c) appear in person at any license examining station.

(2) An applicant shall provide the following information to the division:

(a) true and full legal name and Utah residence address;

(b) date of birth as set forth in a certified copy of the applicant's birth certificate, or other satisfactory evidence of birth, which shall be attached to the application;

(c) (i) social security number; or

(ii) written proof that the applicant is ineligible to receive a social security number;

(d) place of birth;

(e) height and weight;

(f) color of eyes and hair;

(g) signature;

(h) photograph;

(i) evidence of the applicant's lawful presence in the United States by providing documentary evidence:

(i) that the applicant is:

(A) a United States citizen;

(B) a United States national; or

(C) a legal permanent resident alien; or

(ii) of the applicant's:

(A) unexpired immigrant or nonimmigrant visa status for admission into the United States;

(B) pending or approved application for asylum in the United States;

(C) admission into the United States as a refugee;

(D) pending or approved application for temporary protected status in the United States;

(E) approved deferred action status;

(F) pending application for adjustment of status to legal permanent resident or conditional resident; or

(G) conditional permanent resident alien status;

(j) an indication whether the applicant intends to make an anatomical gift under Title 26, Chapter 28, Revised Uniform Anatomical Gift Act;

(k) an indication whether the applicant is required to register as a sex offender in accordance with Title 77, Chapter 41, Sex and Kidnap Offender Registry; and

(l) an indication whether the applicant is a veteran of the United States Armed Forces, verification that the applicant has received an honorable or general discharge from the United States Armed Forces, and an indication whether the applicant does or does not authorize sharing the information with the state Department of Veterans and Military Affairs.

(3) (a) The requirements of Section 53-3-234 apply to this section for each individual, age 16 and older, applying for an identification card.

(b) Refusal to consent to the release of information under Section 53-3-234 shall result in the denial of the identification card.

(4) An individual person who knowingly fails to provide the information required under Subsection (2)(k) is guilty of a class A misdemeanor.

(5) (a) A person may not hold both an unexpired Utah license certificate and an unexpired identification card.

(b) A person who holds a regular or limited term Utah driver license and chooses to relinquish the person's driving privilege may apply for an identification card under this chapter, provided:

(i) the driver:

(A) no longer qualifies for a driver license for failure to meet the requirement in Section 53-3-304; or

(B) makes a personal decision to permanently discontinue driving; and

(ii) the driver:

(A) submits an application to the division on a form approved by the division in person, through electronic means, or by mail;

(B) affirms their intention to permanently discontinue driving; and

(C) surrenders to the division the driver license certificate; and

(iii) the division possesses a digital photograph of the driver obtained within the preceding 10 years.

(c) (i) The division shall waive the fee under Section 53-3-105 for an identification card for an original identification card application under this Subsection (5).

(ii) The fee waiver described in Subsection (5)(c)(i) does not apply to a person whose driving privilege is suspended or revoked.

(6) Notwithstanding Title 63G, Chapter 2, Government Records Access and Management Act, the division shall, upon request, release to the Sex and Kidnap Offender Registry office in the Department of Corrections, the names and addresses of all applicants who, under Subsection (2)(k), indicate they are required to register as a sex offender in accordance with Title 77, Chapter 41, Sex and Kidnap Offender Registry.

CHAPTER 192
S. B. 15
Passed March 2, 2021
Approved March 16, 2021
Effective May 5, 2021

WORKFORCE SOLUTIONS FOR AIR QUALITY AMENDMENTS

Chief Sponsor: Daniel McCay
House Sponsor: Mike Winder

LONG TITLE

General Description:

This bill enacts reporting and other requirements for the Department of Human Resource Management (DHRM) related to teleworking by state employees.

Highlighted Provisions:

This bill:

- defines terms;
- requires DHRM to:
  - cooperate with state agencies to provide and measure teleworking options for state employees during bad air quality days and other certain days; and
  - provide an annual written report regarding teleworking by state employees during bad air quality days and other certain days; and
- requires the Governor's Office of Management and Budget to notify state agencies of mandatory action days for air quality and special circumstance days to encourage teleworking by eligible employees.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

67-19-46, Utah Code Annotated 1953

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

Section 1. Section 67-19-46 is enacted to read:

67-19-46. Teleworking progress report.

(1) As used in this section:

(a) "Mandatory action day" means a day where notice has been issued at least 48 hours in advance by the director of the Division of Air Quality that the concentration of air pollutants measured in a county are predicted to reach or exceed levels of air pollution that are unhealthy for sensitive groups.

(b) "Special circumstance day" means a day where predicted heavy snowfall or other situations pose a risk to employee safety or employee health as determined by the Governor's Office of Management and Budget or a designee of the Governor's Office of Management and Budget.

(c) "Surge telework eligible" means all employment positions identified as telework eligible and employment positions identified as able to telework temporarily for mandatory action days or special circumstance days.

(d) "Surge teleworking" means an employee who temporarily teleworks on a mandatory action day or a special circumstance day.

(e) "Telework" or "Teleworking" means an employee working from home, or from an approved worksite other than the location from which the employee would otherwise work, through the use of a computer, the Internet, a telephone, or other technology to complete work-related duties and maintain contact with colleagues, clients, or a central office as needed.

(2) (a) The department shall assist each state agency with identifying positions that are surge telework eligible.

(b) The department may identify and distribute to each state agency strategies and best practices to increase the use of teleworking by the agency's employees during mandatory action days and special circumstance days.

(3) The Governor's Office of Management and Budget or a designee of the Governor's Office of Management and Budget shall inform each state agency in a timely manner of mandatory action days and special circumstance days.

(4) On or before October 1 of each year, the department shall provide a written report to the Economic Development and Workforce Services Interim Committee describing:

(a) the number of employees and the percentage of employees from each agency that are identified as telework eligible and surge telework eligible;

(b) except for the initial written report on or before October 1, 2021, the number of employees and the percentage of employees from each agency that have teleworked during mandatory action days and special circumstance days during the previous fiscal year;

(c) for each agency that has not met the target goal of 90% of surge telework eligible employees teleworking on mandatory action days or special circumstance days, impediments to achieving the target goals and recommended strategies to achieve the target goals in the future; and

(d) for each agency, recommendations for any actions by the Legislature to increase the number and percentage of surge telework eligible employees.

CHAPTER 193
S. B. 16
Passed February 18, 2021
Approved March 16, 2021
Effective May 5, 2021
(Exception clause in Section 18)

UTAH RETIREMENT SYSTEMS AMENDMENTS

Chief Sponsor: Wayne A. Harper
House Sponsor: Craig Hall

LONG TITLE

General Description:

This bill modifies the Utah State Retirement and Insurance Benefit Act.

Highlighted Provisions:

This bill:

- clarifies that an employee does not receive service credit until required contributions are paid to the Utah State Retirement Office;
- provides that additional acts relating to unlawfully obtaining or appropriating benefit payments are criminal violations;
- amends the procedures for making an appeal related to a benefit, right, obligation, or employment right;
- clarifies that a person is still convicted of an employment related offense if the person pleads guilty, even if a charge is reduced or dismissed under a plea agreement;
- allows certain independent entities to make an election to withdraw from participation in a Utah retirement system or plan for current and future employees;
- requires the independent entities that make the withdrawal to pay certain costs that arise out of the election to withdraw;
- imposes minimum age requirements on certain retirees who will receive in-service retirement distributions;
- amends certain provisions that govern a participating employer's purchase of service credit on behalf of an employee for years of service provided before the participating employer's admission to the Utah Retirement System;
- amends the process for establishing the service status of justice court judges with multiple employers; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

49-11-401, as last amended by Laws of Utah 2010, Chapter 266
49-11-608, as renumbered and amended by Laws of Utah 2002, Chapter 250
49-11-613, as last amended by Laws of Utah 2016, Chapter 251
49-11-613.5, as enacted by Laws of Utah 2016, Chapter 251
49-11-1205, as last amended by Laws of Utah 2020, Chapter 449
49-11-1303, as last amended by Laws of Utah 2020, Chapter 98
49-11-1401, as last amended by Laws of Utah 2020, Chapter 24
49-12-202, as last amended by Laws of Utah 2018, Chapter 415
49-12-203, as last amended by Laws of Utah 2020, Chapters 24 and 365
49-12-406, as last amended by Laws of Utah 2019, Chapter 31
49-13-202, as last amended by Laws of Utah 2018, Chapter 415
49-13-203, as last amended by Laws of Utah 2020, Chapters 24 and 365
49-13-406, as last amended by Laws of Utah 2019, Chapter 31
49-15-202, as last amended by Laws of Utah 2014, Chapter 15
49-22-203, as last amended by Laws of Utah 2020, Chapters 24 and 365
49-23-202, as last amended by Laws of Utah 2012, Chapter 298

ENACTS:

49-11-625, Utah Code Annotated 1953

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

Section 1. Section 49-11-401 is amended to read:

49-11-401. Transfer of service credit -- Eligibility for service credit -- Computation of service credit -- Retirement from most recent system.

(1) (a) The office shall make the transfer of service credit, together with related member and participating employer contributions, from one system to another upon terms and conditions established by the board.

(b) The terms and conditions may not result in a loss of accrued benefits.

(2) [~~Transfer of~~] An employee does not lose active member status by transferring employment from a position covered by one system to a position covered by another system [~~does not cause the employee to lose active member status~~].

(3) In the accrual of service credit, the following provisions apply:

(a) [~~A~~] (i) a person employed and compensated by a participating employer who meets the eligibility requirements for membership in a system or the Utah Governors' and Legislators' Retirement Plan shall receive service credit for the term of the employment provided that all required contributions are paid to the office[~~.~~]; and

(ii) the person may not receive service credit for a term of employment until all required contributions related to that service credit have been paid to the office;

(b) [~~An~~] an allowance or other benefit may not accrue under this title which is based upon the same period of employment as has been the basis for any retirement benefits under some other public retirement system[~~.~~];

(c) (i) [~~The~~] the board shall fix the minimum time per day, per month, and per year upon the basis of which one year of service and proportionate parts of a year shall be credited toward qualification for retirement[~~.~~];

(ii) [~~Service~~] service may be computed on a fiscal or calendar year basis and portions of years served shall be accumulated and counted as service[~~.~~]; and

(iii) [~~In~~] in any event, all of the service rendered in any one fiscal or calendar year may not count for more than one year[~~.~~];

(d) [~~Service~~] service credit shall be accrued on a fiscal or calendar year basis as determined by the participating employer[~~.~~];

(e) [~~A~~] a member may not accrue more than one year of service credit per fiscal or calendar year as determined by the office[~~.~~]; and

(f) [~~Fractions~~] fractions of years of service credit shall be accumulated and counted in proportion to the work performed.

(4) The office may estimate the amount of service credit, compensation, or age of any member, participant, or alternate payee, if information is not contained in the records.

(5) A member shall retire from the system [~~which~~] that most recently covered the member.

(6) (a) Under no circumstances may service credit earned by a member under Chapter 22, New Public Employees' Tier II Contributory Retirement Act, or Chapter 23, New Public Safety and Firefighter Tier II Contributory Retirement Act, be transferable to any other system or plan under this title.

(b) Under no circumstances may service credit earned by a member under one of the following systems be transferable to the system created under Chapter 22, New Public Employees' Tier II Contributory Retirement Act, or under Chapter 23, New Public Safety and Firefighter Tier II Contributory Retirement Act:

(i) Chapter 12, Public Employees' Contributory Retirement Act;

(ii) Chapter 13, Public Employees' Noncontributory Retirement Act;

(iii) Chapter 14, Public Safety Contributory Retirement Act;

(iv) Chapter 15, Public Safety Noncontributory Retirement Act;

(v) Chapter 16, Firefighters' Retirement Act; or

(vi) Chapter 19, Utah Governors' and Legislators' Retirement Act.

Section 2. Section 49-11-608 is amended to read:

49-11-608. False statements or records -- Unlawfully cashing benefit checks -- Unlawfully obtaining or appropriating benefit payments.

(1) A person who knowingly makes any false statement, or who falsifies or permits to be falsified any record necessary for carrying out the intent of this title is in violation of Section 76-6-504.

(2) A person cashing a benefit check to which that person is not entitled is in violation of Section 76-6-501.

(3) A person who obtains a benefit payment, including a direct deposit or electronic benefit payment, to which that person is not entitled and who fails to take reasonable measures to return the benefit payment to the office is in violation of Section 76-6-407.

(4) A person who appropriates property or a benefit of another person, including a direct deposit or electronic benefit payment, by obtaining or exercising unauthorized control over the property or the benefit is in violation of Section 76-6-407.

Section 3. Section 49-11-613 is amended to read:

49-11-613. Appeals procedure -- Right of appeal to hearing officer -- Board reconsideration -- Judicial review.

(1) (a) A member, retiree, participant, alternative payee, covered individual, employer, participating employer, and covered employer shall inform themselves of their benefits, rights [~~and~~], obligations, and employment rights under this title.

(b) Subject to [~~the provisions in~~] Subsection (8), any dispute regarding a benefit, right, obligation, or employment right under this title is subject to the procedures provided under this section.

(c) (i) A person who disputes a benefit, right, obligation, or employment right under this title shall request a ruling by the executive director who may delegate the decision to the deputy director.

(ii) A request for a ruling to the executive director under this section shall constitute the initiation of an action for purposes of the limitations periods [~~prescribed~~] described in Section 49-11-613.5.

(d) A person who is dissatisfied by a ruling under Subsection (1)(c) with respect to any benefit, right, obligation, or employment right under this title [~~shall have 30 days from the date of the ruling to~~] may request a review of that claim by a hearing officer within the time period described in Section 49-11-613.5.

(e) (i) The executive director, on behalf of the board, may request that the hearing officer review a dispute regarding any benefit, right, obligation, or employment right under this title by filing a notice of board action and providing notice to all affected parties in accordance with rules adopted by the board.

(ii) The filing of a notice of board action shall constitute the initiation of an action for purposes of the limitations periods described in Section 49-11-613.5.

(2) The hearing officer shall:

(a) be hired by the executive director after consultation with the board;

(b) follow and enforce the procedures and requirements of:

(i) this title;

(ii) the rules adopted by the board in accordance with Subsection (9); and

(iii) Title 63G, Chapter 4, Administrative Procedures Act, except as specifically modified under this title or the rules adopted by the board in accordance with Subsection (9);

(c) hear and determine all facts relevant to a decision, including facts pertaining to applications for benefits under any system, plan, or program under this title and all matters pertaining to the administration of the office; and

(d) make conclusions of law in determining the person's rights under any system, plan, or program under this title and matters pertaining to the administration of the office.

(3) The board shall review and approve or deny all decisions of the hearing officer in accordance with rules adopted by the board in accordance with Subsection (9).

(4) The moving party in any proceeding brought under this section shall bear the burden of proof.

(5) A party may file an application for reconsideration by the board upon any of the following grounds:

(a) that the board acted in excess of [~~its~~] the board's powers;

(b) that the order or the award was procured by fraud;

(c) that the evidence does not justify the determination of the hearing officer; or

(d) that the party has discovered new material evidence that could not, with reasonable diligence, have been discovered or procured prior to the hearing.

(6) The board shall affirm, reverse, or modify the decision of the hearing officer, or remand the application to the hearing officer for further consideration.

(7) A party aggrieved by the board's final decision under Subsection (6) may obtain judicial review by complying with the procedures and requirements of:

(a) this title;

(b) rules adopted by the board in accordance with Subsection (9); and

(c) Title 63G, Chapter 4, Administrative Procedures Act, except as specifically modified under this title or the rules adopted by the board in accordance with Subsection (9).

(8) The program shall provide an appeals process for medical claims that complies with federal law.

(9) (a) The board [~~may~~] shall make rules to implement this section and to establish procedures and requirements for adjudicative proceedings.

(b) The rules shall be substantially similar to or incorporate provisions of the Utah Rules of Civil Procedure, the Utah Rules of Evidence, and Title 63G, Chapter 4, Administrative Procedures Act.

Section 4. Section 49-11-613.5 is amended to read:

49-11-613.5. Limitation of actions -- Cause of action.

(1) (a) Subject to the procedures provided in Section 49-11-613 and except as provided in Subsection (3), an action regarding a benefit, right, obligation, or employment right brought under this title may be commenced only within four years of the [~~date that~~] day on which the cause of action accrues.

(b) A person who is dissatisfied with an executive director's ruling under Section 49-11-613 and who seeks a review of that claim by a hearing officer shall file a request for board action within 30 days of the day on which the hearing officer issues the ruling.

(2) (a) A cause of action accrues under this title and the limitation period in this section runs from the [~~date when~~] day on which the aggrieved party became aware, or through the exercise of reasonable diligence should have become aware, of the facts giving rise to the cause of action, including when:

(i) a benefit, right, or employment right is or should have been granted;

(ii) a payment is or should have been made; or

(iii) an obligation is or should have been performed.

(b) If a claim involves a retirement service credit issue under this title:

(i) a cause of action specifically accrues at the time the requisite retirement contributions relating to that retirement service credit are paid or should have been paid to the office; and

(ii) the person is deemed to be on notice of the payment or nonpayment of those retirement contributions.

(3) If an aggrieved party fails to discover the facts giving rise to the cause of action due to misrepresentation, fraud, intentional nondisclosure, or other affirmative steps to conceal the cause of action, a limitation period prescribed in this section does not begin to run until the aggrieved party actually discovers the existence of the cause of action.

(4) The person claiming a benefit, right, obligation, or employment right arising under this title has the burden of bringing the action within the period prescribed in this section.

(5) Nothing in this section relieves a member, retiree, participant, alternative payee, covered

individual, employer, participating employer, or covered employer of the obligations under this title.

(6) The office is not required to bring a claim on behalf of a member, retiree, participant, alternative payee, covered individual, employer, participating employer, or covered employer.

(7) (a) A limitation period provided in this section does not apply to actions for which a specific limit is otherwise specified in this title or by contract, including master policies or other insurance contracts.

(b) For actions arising under this title, this section supersedes any applicable limitation period provided in Title 78B, Chapter 2, Statutes of Limitations.

Section 5. Section 49-11-625 is enacted to read:

49-11-625. Withdrawing independent entity -- Participation election date -- Withdrawal costs -- Rulemaking.

(1) As used in this section, "withdrawing entity" means an entity that:

(a) participates in a system or plan under this title before January 1, 2021;

(b) is an independent entity listed under Subsection 63E-1-102(4)(b); and

(c) after beginning participation with a system or plan under this title, has restructured the entity's business operations and employment of employees under contract through a regional, multi-state partnership.

(2) A withdrawing entity may elect to withdraw from participation in all systems or plans for all current and future employees of the withdrawing entity, beginning on the date set in accordance with Subsection (3)(a).

(3) Notwithstanding any other provision of this title, a withdrawing entity may provide for the participation of the withdrawing entity's employees with the system or plan as follows:

(a) the withdrawing entity shall determine a date that is before July 1, 2022, on which the withdrawing entity shall make an election under Subsection (2); and

(b) subject to Subsection (6), the withdrawing entity shall pay to the office any reasonable actuarial and administrative costs determined by the office to have arisen out of an election made under this section.

(4) (a) An election made under Subsection (2):

(i) shall be made on or before the date specified under Subsection (3)(a);

(ii) shall be documented by a resolution adopted by the governing body of the withdrawing entity;

(iii) remains in effect unless and until the withdrawing entity again becomes a participating entity with the office in accordance with Subsection (5); and

(iv) applies to a withdrawing entity as the employer and to all employees of the withdrawing entity.

(b) Notwithstanding an election made under Subsection (2), any eligibility for service credit earned by an employee under this title before the date specified under Subsection (3)(a) is not affected by this section.

(c) Notwithstanding any other provision of this title, a withdrawing entity that makes an election under Subsection (2) may provide or participate in any type of public or private retirement for the withdrawing entity's employees.

(5) After the withdrawal and subject to the laws and rules governing participating employer admission, the withdrawing entity may elect, by resolution of the withdrawing entity's governing body, to resume participation with the office and apply for admission as a participating employer in a system or plan under this title.

(6) Before a withdrawing entity may withdraw under this section, the withdrawing entity and the office shall enter into an agreement on:

(a) the costs described in Subsection (3)(b); and

(b) arrangements for the payment of the costs described in Subsection (3)(b).

(7) The board shall make rules to implement this section.

Section 6. Section 49-11-1205 is amended to read:

49-11-1205. Postretirement reemployment restriction exceptions.

(1) (a) The office may not cancel the retirement allowance of a retiree who is reemployed with a participating employer within one year of the retiree's retirement date if:

(i) the retiree is not reemployed by a participating employer for a period of at least 60 days from the retiree's retirement date;

(ii) upon reemployment after the break in service under Subsection (1)(a)(i), the retiree does not receive any employer paid benefits, including:

(A) retirement service credit or retirement-related contributions;

(B) medical benefits;

(C) dental benefits;

(D) other insurance benefits except for workers' compensation as provided under Title 34A, Chapter 2, Workers' Compensation Act, Title 34A, Chapter 3, Utah Occupational Disease Act, and withholdings required by federal or state law for social security, Medicare, and unemployment insurance; or

(E) paid time off, including sick, annual, or other type of leave; and

(iii) (A) the retiree does not earn in any calendar year of reemployment an amount in excess of the lesser of $15,000 or one-half of the retiree's final average salary upon which the retiree's retirement allowance is based; or

(B) the retiree is reemployed as a judge as defined under Section 78A-11-102.

(b) [~~Beginning January 1, 2013, the~~] The board shall adjust the amounts under Subsection (1)(a)(iii) by the annual change in the Consumer Price Index during the previous calendar year as measured by a United States Bureau of Labor Statistics Consumer Price Index average as determined by the board.

(2) A retiree shall be considered as having completed the one-year separation from employment with a participating employer required under Section 49-11-1204, if the retiree:

(a) before retiring:

(i) was employed with a participating employer as a public safety service employee as defined in Section 49-14-102, 49-15-102, or 49-23-102;

(ii) [~~and~~] during the employment under Subsection (2)(a)(i), suffered a physical injury resulting from external force or violence while performing the duties of the employment, [~~and~~] for which injury the retiree would have been approved for total disability in accordance with the provisions under Chapter 21, Public Employees' Long-Term Disability Act, if years of service are not considered;

(iii) had less than 30 years of service credit but had sufficient service credit to retire, with an unreduced allowance making the public safety service employee ineligible for long-term disability payments under Chapter 21, Public Employees' Long-Term Disability Act, or a substantially similar long-term disability program; [~~and~~]

(iv) does not receive any long-term disability benefits from any participating employer; and

(v) is at least 50 years old; and

(b) is reemployed by a different participating employer.

(3) (a) The office may not cancel the retirement allowance of a retiree who is employed as an affiliated emergency services worker within one year of the retiree's retirement date if the affiliated emergency services worker does not receive any compensation, except for:

(i) a nominal fee, stipend, discount, tax credit, voucher, or other fixed sum of money or cash equivalent payment not tied to productivity and paid periodically for services;

(ii) a length-of-service award;

(iii) insurance policy premiums paid by the participating employer in the event of death of an affiliated emergency services worker or a line-of-duty accidental death or disability; or

(iv) reimbursement of expenses incurred in the performance of duties.

(b) For purposes of Subsections (3)(a)(i) and (ii), the total amount of any discounts, tax credits, vouchers, and payments to an affiliated emergency services worker may not exceed $500 per month.

(c) [~~Beginning January 1, 2016, the~~] The board shall adjust the amount under Subsection (3)(b) by the annual change in the Consumer Price Index during the previous calendar year as measured by a United States Bureau of Labor Statistics Consumer Price Index average as determined by the board.

(d) A retiree is eligible for an exemption from the requirement to cease service without cancellation of a retirement allowance under this Subsection (3) only if the retiree, at the time of retirement, is at least:

(i) 50 years old, if the retiree is retiring from a public safety system or a firefighter system; or

(ii) 55 years old.

(4) (a) The office may not cancel the retirement allowance of a retiree employed as a part-time appointed or elected board member within one year after the retiree's retirement date if the part-time appointed or elected board member does not receive any compensation exceeding the amount described in this Subsection (4).

(b) A retiree who is a part-time appointed or elected board member for one or more boards, commissions, councils, committees, panels, or other bodies of participating employers:

(i) may receive an aggregate amount of compensation, remuneration, a stipend, or other benefit for service on a single or multiple boards, commissions, councils, committees, panels, or other bodies of no more than $5,000 per year; and

(ii) may not receive an employer paid retirement service credit or retirement-related contribution.

(c) For purposes of Subsection (4)(b)(i):

(i) a part-time appointed or elected board member's compensation includes:

(A) an amount paid for the part-time appointed or elected board member's coverage in a group insurance plan provided by the participating employer; and

(B) the part-time appointed or elected board member's receipt of any other benefit provided by the participating employer; and

(ii) the part-time appointed or elected board member's compensation does not include:

(A) an amount the participating employer pays for employer-matching employment taxes, if the participating employer treats the part-time appointed or elected board member as an employee for federal tax purposes; or

(B) an amount that the part-time appointed or elected board member receives for per diem and travel expenses for up to 12 approved meetings or activities of the government board per year, if the

per diem and travel expenses do not exceed the amounts established by the Division of Finance under Sections 63A-3-106 and 63A-3-107 or by rules made by the Division of Finance according to Sections 63A-3-106 and 63A-3-107.

(d) [~~Beginning January 1, 2021, the~~] The board shall adjust the amount under Subsection (4)(b)(i) by the annual change in the Consumer Price Index during the previous calendar year as measured by a United States Bureau of Labor Statistics Consumer Price Index average, as determined by the board.

(5) (a) If a retiree is reemployed under the provisions of Subsection (1) or (4), the termination date of the reemployment, as confirmed in writing by the participating employer, is considered the retiree's retirement date for the purpose of calculating the separation requirement under Section 49-11-1204.

(b) The office shall cancel the retirement allowance of a retiree for the remainder of the calendar year if the reemployment with a participating employer exceeds the limitation under Subsection (1)(a)(iii), (3)(b), or (4)(b).

Section 7. Section 49-11-1303 is amended to read:

49-11-1303. Phased retirement -- Eligibility -- Restrictions -- Amortization rate -- Public safety service or firefighter service employees.

(1) A retiree is eligible for employment with only one position for only one participating employer under phased retirement following the retiree's retirement date if:

(a) the retiree:

(i) is eligible to retire and retires in accordance with this title;

(ii) has been employed full time, for not less than four years immediately before the retiree's retirement date;

(iii) [~~for a retiree employed as a public safety service employee or a firefighter service employee, is at least 50 years old;~~] is, at the time of retirement, at least:

(A) 50 years old, if the retiree is employed as a public safety service employee or a firefighter service employee; or

(B) 55 years old;

(iv) completes and submits all required retirement forms to the office; and

(v) prior to the retiree's retirement date, completes and submits all required phased retirement forms to the office; and

(b) the retiree and the participating employer enter into an agreement described under Section 49-11-1304.

(2) A retiree shall begin phased retirement employment after the retiree's retirement date but no later than 120 days after the retiree's retirement date.

(3) Except as provided in Subsection (4), for the period of the phased retirement:

(a) the retiree receives 50% of the retiree's monthly allowance;

(b) the participating employer employs the retiree on a half-time basis;

(c) a participating employer that employs the retiree shall contribute the amortization rate to the office;

(d) the retiree or an alternate payee may not receive an annual cost-of-living adjustment to the retiree's or alternate payee's allowance;

(e) any death benefits payable to a surviving spouse or other beneficiary shall be paid based on 100% of the retiree's retirement allowance;

(f) the retiree may not receive any employer provided retirement benefits, service credit accruals, or any retirement related contributions from the participating employer; and

(g) except as specified under this section, a retiree working under phased retirement shall be treated in the same manner as any other part-time employee working a similar position and number of hours with the participating employer, including:

(i) any non-retirement related benefits;

(ii) leave benefits;

(iii) medical benefits; and

(iv) other benefits.

(4) (a) If a retiree is employed as a public safety service employee or a firefighter service employee, for the period of the phased retirement the requirements of Subsection (3) or (4)(b) are satisfied.

(b) For the period of the phased retirement:

(i) the retiree is employed as a public safety service employee or a firefighter service employee;

(ii) the retiree receives 25% of the retiree's monthly allowance;

(iii) the participating employer employs the retiree on a three-quarter time basis;

(iv) a participating employer that employs the retiree shall contribute to the office the certified contribution rate applicable to the system that would have covered the retiree if the retiree's part-time position were considered to be an eligible, full-time position within the system;

(v) the retiree or an alternate payee may not receive an annual cost-of-living adjustment to the retiree's or alternate payee's allowance;

(vi) any death benefits payable to a surviving spouse or other beneficiary shall be paid based on 100% of the retiree's retirement allowance;

(vii) the retiree may not receive any employer provided retirement benefits, service credit

accruals, or any retirement related contributions from the participating employer; and

(viii) except as specified under this section, a retiree working under phased retirement shall be treated in the same manner as any other part-time employee working a similar position and number of hours with the participating employer, including:

(A) any non-retirement related benefits;

(B) leave benefits;

(C) medical benefits; and

(D) other benefits.

(5) The office shall begin paying 100% of the retiree's retirement allowance on the first day of the month following the month in which the office receives written notification and any required supporting documentation that the retiree's phased retirement has been irrevocably terminated.

Section 8. Section 49-11-1401 is amended to read:

49-11-1401. Forfeiture of retirement benefits for employees for employment related offense convictions -- Notifications -- Investigations -- Appeals.

(1) As used in this section:

(a) "Convicted" means a conviction by plea or by verdict, including a plea of guilty or a plea of no contest that is held in abeyance under Title 77, Chapter 2a, Pleas in Abeyance, regardless of whether the charge was, or is, subsequently reduced in accordance with the plea agreement or reduced or dismissed in accordance with the plea agreement or the plea in abeyance agreement.

(b) "Employee" means a member of a system or plan administered by the board.

(c) (i) "Employment related offense" means a felony committed during employment or the term of an elected or appointed office with a participating employer that is:

(A) during the performance of the employee's duties;

(B) within the scope of the employee's employment; or

(C) under color of the employee's authority.

(ii) "Employment related offense" does not include any federal offense for conduct that is lawful under Title 26, Chapter 61a, Utah Medical Cannabis Act.

(2) (a) Notwithstanding any other provision of this title, an employee shall forfeit accrual of service credit, employer retirement related contributions, including employer contributions to the employer sponsored defined contribution plans, or other retirement related benefits from a system or plan under this title in accordance with this section.

(b) The forfeiture of retirement related benefits under Subsection (2)(a) does not include the employee's contribution to a defined contribution plan.

(3) An employee shall forfeit the benefits described under Subsection (2)(a):

(a) if the employee is convicted of an employment related offense;

(b) beginning on the day on which the employment related offense occurred; and

(c) until the employee is either:

(i) re-elected or reappointed to office; or

(ii) (A) terminated from the position for which the employee was found to have committed an employment related offense; and

(B) rehired or hired as an employee who is eligible to be a member of a Utah state retirement system or plan.

(4) The employee's participating employer shall:

(a) immediately notify the office:

(i) if an employee is charged with an offense that is or may be an employment related offense under this section; and

(ii) if the employee described in Subsection (4)(a)(i) is acquitted of the offense that is or may be an employment related offense under this section; and

(b) if the employee is convicted of an offense that may be an employment related offense:

(i) conduct an investigation, which may rely on the conviction, to determine:

(A) whether the conviction is for an employment related offense; and

(B) the date on which the employment related offense was initially committed; and

(ii) after the period of time for an appeal by an employee under Subsection (5), immediately notify the office of the employer's determination under this Subsection (4)(b).

(5) An employee may appeal the employee's participating employer's determination under Subsection (4)(b) in accordance with the participating employer's procedures for appealing agency action, including Title 63G, Chapter 4, Administrative Procedures Act, if applicable.

(6) (a) Notwithstanding Subsection (4), a district attorney, a county attorney, the attorney general's office, or the state auditor may notify the office and the employee's participating employer if an employee is charged with an offense that is or may be an employment related offense under this section.

(b) If the employee's participating employer receives a notification under Subsection (6)(a), the participating employer shall immediately report to the entity that provided the notification under Subsection (6)(a):

(i) if the employee is acquitted of the offense;

(ii) if the employee is convicted of an offense that may be an employment related offense; and

(iii) when the participating employer has concluded [~~its~~] the participating employer's duties under this section if the employee is convicted, including conducting an investigation, making a determination under Subsection (4)(b) that the conviction was for an employment related offense, and notifying the office under Subsection (7).

(c) The notifying entity under Subsection (6)(a) may assist the employee's participating employer with the investigation and determination described under Subsection (4)(b).

(7) Upon receiving a notification from a participating employer that the participating employer has made a determination under Subsection (4)(b) that the conviction was for an employment related offense, the office shall immediately forfeit any service credit, employer retirement related contributions, including employer contributions to the employer sponsored contribution plans, or other retirement related benefits accrued by or made for the benefit of the employee, beginning on the date of the initial employment related offense determined under Subsection (4)(b).

(8) This section applies to an employee who is convicted on or after the effective date of this act for an employment related offense.

(9) The board may make rules to implement this section.

(10) If any provision of this section, or the application of any provision to any person or circumstance, is held invalid, the remainder of this section shall be given effect without the invalid provision or application.

Section 9. Section 49-12-202 is amended to read:

49-12-202. Participation of employers -- Limitations -- Exclusions -- Admission requirements -- Exceptions -- Nondiscrimination requirements.

(1) (a) Unless excluded under Subsection (2), an employer is a participating employer and may not withdraw from participation in this system.

(b) In addition to [~~their~~] participation in this system, a participating [~~employers~~] employer may provide or participate in public or private retirement, supplemental or defined contribution plan, either directly or indirectly, for [~~their~~] the participating employer's employees.

(2) The following employers may be excluded from participation in this system:

(a) an employer not initially admitted or included as a participating employer in this system prior to January 1, 1982, if:

(i) the employer elects not to provide or participate in any type of private or public retirement, supplemental or defined contribution plan, either directly or indirectly, for [~~its~~] the employer's employees, except for Social Security; or

(ii) the employer offers another collectively bargained retirement benefit and has continued to do so on an uninterrupted basis since that date;

(b) an employer that is a charter school authorized under Title 53G, Chapter 5, Part 3, Charter School Authorization, and does not elect to participate in accordance with Section 53G-5-407;

(c) an employer that is a hospital created as a special service district under Title 17D, Chapter 1, Special Service District Act, that makes an election of nonparticipation in accordance with Subsection (4); or

(d) an employer that is licensed as a nursing care facility under Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act, and created as a special service district under Title 17D, Chapter 1, Special Service District Act, in a rural area of the state that makes an election of nonparticipation in accordance with Subsection (4).

(3) An employer who did not become a participating employer in this system prior to July 1, 1986, may not participate in this system.

(4) (a) (i) Until June 30, 2009, a employer that is a hospital created as a special service district under Title 17D, Chapter 1, Special Service District Act, may make an election of nonparticipation as an employer for retirement programs under this chapter.

(ii) Until June 30, 2014, an employer that is licensed as a nursing care facility under Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act, and created as a special service district under Title 17D, Chapter 1, Special Service District Act, in a rural area of the state may make an election of nonparticipation as an employer for retirement programs under this chapter.

(b) An election provided under Subsection (4)(a):

(i) is a one-time election made no later than the time specified under Subsection (4)(a);

(ii) shall be documented by a resolution adopted by the governing body of the special service district;

(iii) is irrevocable; and

(iv) applies to the special service district as the employer and to all employees of the special service district.

(c) The governing body of the special service district may offer employee benefit plans for [~~its~~] special service district's employees:

(i) under Title 49, Chapter 20, Public Employees' Benefit and Insurance Program Act; or

(ii) under any other program.

(5) (a) If a participating employer purchases service credit on behalf of a regular full-time [~~employees~~] employee for service rendered prior to the participating employer's admission to this system, the participating employer shall:

(i) purchase service credit [~~shall be purchased~~] in a nondiscriminatory manner on behalf of all current and former regular full-time employees who were eligible for service credit at the time service was rendered[~~.~~]; and

(ii) comply with the provisions of Section 49-11-403, except for the requirement described in Subsection 49-11-403(2)(a).

(b) For a purchase made under this Subsection (5), an employee is not required to:

(i) have at least four years of service credit before the purchase can be made; or

(ii) forfeit service credit or any defined contribution balance based on the employer contributions under any other retirement system or plan based on the period of employment for which service credit is being purchased.

Section 10. Section 49-12-203 is amended to read:

49-12-203. Exclusions from membership in system.

(1) The following employees are not eligible for service credit in this system:

(a) subject to the requirements of Subsection (2), an employee whose employment status is temporary in nature due to the nature or the type of work to be performed;

(b) except as provided under Subsection (3)(a), an employee of an institution of higher education who participates in a retirement system with a public or private retirement system, organization, or company designated by the Utah Board of Higher Education, or the technical college board of trustees for an employee of each technical college, during any period in which required contributions based on compensation have been paid on behalf of the employee by the employer;

(c) an employee serving as an exchange employee from outside the state for an employer who has not elected to make all of the employer's exchange employees eligible for service credit in this system;

(d) an executive department head of the state, a member of the State Tax Commission, the Public Service Commission, and a member of a full-time or part-time board or commission who files a formal request for exemption;

(e) an employee of the Department of Workforce Services who is covered under another retirement system allowed under Title 35A, Chapter 4, Employment Security Act;

(f) an employee who is employed on or after July 1, 2009, with an employer that has elected, prior to July 1, 2009, to be excluded from participation in this system under Subsection 49-12-202(2)(c);

(g) an employee who is employed on or after July 1, 2014, with an employer that has elected, prior to July 1, 2014, to be excluded from participation in this system under Subsection 49-12-202(2)(d);

(h) an employee who is employed with a withdrawing entity that has elected under Section 49-11-623, prior to January 1, 2017, to exclude:

(i) new employees from participation in this system under Subsection 49-11-623(3)(a); or

(ii) all employees from participation in this system under Subsection 49-11-623(3)(b); [~~or~~]

(i) an employee described in Subsection (1)(i)(i) or (ii) who is employed with a withdrawing entity that has elected under Section 49-11-624, before January 1, 2018, to exclude:

(i) new employees from participation in this system under Subsection 49-11-624(3)(a); or

(ii) all employees from participation in this system under Subsection 49-11-624(3)(b)[~~.~~]; or

(j) an employee who is employed with a withdrawing entity that has elected under Section 49-11-625, before July 1, 2022, to exclude all employees from participation in this system.

(2) If an employee whose status is temporary in nature due to the nature of type of work to be performed:

(a) is employed for a term that exceeds six months and the employee otherwise qualifies for service credit in this system, the participating employer shall report and certify to the office that the employee is a regular full-time employee effective the beginning of the seventh month of employment; or

(b) was previously terminated prior to being eligible for service credit in this system and is reemployed within three months of termination by the same participating employer, the participating employer shall report and certify that the member is a regular full-time employee when the total of the periods of employment equals six months and the employee otherwise qualifies for service credits in this system.

(3) (a) Upon cessation of the participating employer contributions, an employee under Subsection (1)(b) is eligible for service credit in this system.

(b) Notwithstanding the provisions of Subsection (1)(f), any eligibility for service credit earned by an employee under this chapter before July 1, 2009 is not affected under Subsection (1)(f).

(c) Notwithstanding the provisions of Subsection (1)(g), any eligibility for service credit earned by an employee under this chapter before July 1, 2014, is not affected under Subsection (1)(g).

(4) Upon filing a written request for exemption with the office, the following employees shall be exempt from coverage under this system:

(a) a full-time student or the spouse of a full-time student and individuals employed in a trainee relationship;

(b) an elected official;

(c) an executive department head of the state, a member of the State Tax Commission, a member of the Public Service Commission, and a member of a full-time or part-time board or commission;

(d) an employee of the Governor's Office of Management and Budget;

(e) an employee of the Governor's Office of Economic Development;

(f) an employee of the Commission on Criminal and Juvenile Justice;

(g) an employee of the Governor's Office;

(h) an employee of the State Auditor's Office;

(i) an employee of the State Treasurer's Office;

(j) any other member who is permitted to make an election under Section 49-11-406;

(k) a person appointed as a city manager or chief city administrator or another person employed by a municipality, county, or other political subdivision, who is an at-will employee;

(l) an employee of an interlocal cooperative agency created under Title 11, Chapter 13, Interlocal Cooperation Act, who is engaged in a specialized trade customarily provided through membership in a labor organization that provides retirement benefits to its members; and

(m) an employee serving as an exchange employee from outside the state for an employer who has elected to make all of the employer's exchange employees eligible for service credit in this system.

(5) (a) Each participating employer shall prepare and maintain a list designating those positions eligible for exemption under Subsection (4).

(b) An employee may not be exempted unless the employee is employed in an exempted position designated by the participating employer.

(6) (a) In accordance with this section, Section 49-13-203, and Section 49-22-205, a municipality, county, or political subdivision may not exempt a total of more than 50 positions or a number equal to 10% of the eligible employees of the municipality, county, or political subdivision, whichever is less.

(b) A municipality, county, or political subdivision may exempt at least one regular full-time employee.

(7) Each participating employer shall:

(a) maintain a list of employee exemptions; and

(b) update the employee exemptions in the event of any change.

(8) The office may make rules to implement this section.

(9) An employee's exclusion, exemption, participation, or election described in this section:

(a) shall be made in accordance with this section; and

(b) is subject to requirements under federal law and rules made by the board.

Section 11. Section 49-12-406 is amended to read:

49-12-406. Exceptions for part-time elective or appointive service -- Computation of allowance -- Justice court judges.

(1) Notwithstanding the provisions of Sections 49-11-401 and 49-12-102, and unless otherwise provided in this section, a member's elective or appointive service rendered on a basis not considered full-time by the office shall have a separate allowance computed on the basis of compensation actually received by the member during the period of elective or appointive service.

(2) (a) (i) A justice court judge who has service with only one participating employer shall be considered part-time or full-time by the office as certified by the participating employer.

(ii) If there is a dispute between the office and a participating employer or justice court judge over whether service is full-time or part-time for any employment period, the disputed service shall be submitted by the office to the Administrative Office of the Courts for determination.

(b) If a justice court judge has a combination of part-time service and full-time position service with one participating employer, the office shall compute separate allowances on the basis of compensation actually received by the judge during the part-time and full-time periods of service.

(3) (a) A justice court judge who has service with more than one participating employer shall be considered full-time by the office for a period of service in which the judge is certified as full-time by:

(i) a participating employer; [~~or~~]

(ii) a group of participating employers where the judge's part-time work for each employer, when aggregated, amounts to full-time service; or

[~~(ii)~~] (iii) the Administrative Office of the Courts beginning on or after January 1, 2009, based on the judge's aggregate caseload of the multiple employers as determined by the judge's caseloads of the individual courts of each employer in accordance with Subsection 78A-7-206(1)(b)(ii).

(b) If a justice court judge has full-time service under Subsection (3)(a), the office shall compute an allowance on the basis of total compensation actually received from all participating employers by the judge during the total period of full-time service.

(c) If a justice court judge has part-time service performed that is not within a period considered full-time service under Subsection (3)(a), the office shall compute a separate allowance on the basis of compensation actually received by the member during the period of part-time service.

(d) If there is a dispute between the office and a participating employer, a group of participating

employers, or a justice court judge over whether service is full-time or part-time for any employment period, the disputed service shall be submitted by the office to the Administrative Office of the Courts for determination.

(4) All of the service rendered by a justice court judge in any one fiscal or calendar year may not count for more than one year of service credit.

Section 12. Section 49-13-202 is amended to read:

49-13-202. Participation of employers -- Limitations -- Exclusions -- Admission requirements -- Nondiscrimination requirements -- Service credit purchases.

(1) (a) Unless excluded under Subsection (2), an employer is a participating employer and may not withdraw from participation in this system.

(b) In addition to [~~their~~] participation in this system, a participating [~~employers~~] employer may provide or participate in any additional public or private retirement, supplemental or defined contribution plan, either directly or indirectly, for [~~their~~] the participating employer's employees.

(2) The following employers may be excluded from participation in this system:

(a) an employer not initially admitted or included as a participating employer in this system before January 1, 1982, if:

(i) the employer elects not to provide or participate in any type of private or public retirement, supplemental or defined contribution plan, either directly or indirectly, for [~~its~~] the employer's employees, except for Social Security; or

(ii) the employer offers another collectively bargained retirement benefit and has continued to do so on an uninterrupted basis since that date;

(b) an employer that is a charter school authorized under Title 53G, Chapter 5, Part 3, Charter School Authorization, and does not elect to participate in accordance with Section 53G-5-407;

(c) an employer that is a hospital created as a special service district under Title 17D, Chapter 1, Special Service District Act, that makes an election of nonparticipation in accordance with Subsection (5);

(d) an employer that is licensed as a nursing care facility under Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act, and created as a special service district under Title 17D, Chapter 1, Special Service District Act, in a rural area of the state that makes an election of nonparticipation in accordance with Subsection (5); or

(e) an employer that is a risk management association initially created by interlocal agreement before 1986 for the purpose of implementing a self-insurance joint protection program for the benefit of member municipalities of the association.

(3) If an employer that may be excluded under Subsection (2)(a)(i) elects at any time to provide or participate in any type of public or private retirement, supplemental or defined contribution plan, either directly or indirectly, except for Social Security, the employer shall be a participating employer in this system regardless of whether the employer has applied for admission under Subsection (4).

(4) (a) An employer may, by resolution of [~~its~~] the employer's governing body, apply for admission to this system.

(b) Upon approval of the resolution by the board, the employer is a participating employer in this system and is subject to this title.

(5) (a) (i) Until June 30, 2009, a employer that is a hospital created as a special service district under Title 17D, Chapter 1, Special Service District Act, may make an election of nonparticipation as an employer for retirement programs under this chapter.

(ii) Until June 30, 2014, an employer that is licensed as a nursing care facility under Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act, and created as a special service district under Title 17D, Chapter 1, Special Service District Act, in a rural area of the state may make an election of nonparticipation as an employer for retirement programs under this chapter.

(iii) On or before July 1, 2010, an employer described in Subsection (2)(e) may make an election of nonparticipation as an employer for retirement programs under this chapter.

(b) An election provided under Subsection (5)(a):

(i) is a one-time election made no later than the time specified under Subsection (5)(a);

(ii) shall be documented by a resolution adopted by the governing body of the employer;

(iii) is irrevocable; and

(iv) applies to the employer as described in Subsection (5)(a)(i), (ii), or (iii) and to all employees of that employer.

(c) The employer making an election under Subsection (5)(a) may offer employee benefit plans for [~~its~~] the employer's employees:

(i) under Title 49, Chapter 20, Public Employees' Benefit and Insurance Program Act; or

(ii) under any other program.

(6) (a) If a participating employer purchases service credit on behalf of a regular full-time [~~employees~~] employee for service rendered prior to the participating employer's admission to this system, the participating employer shall:

(i) purchase service credit [~~shall be purchased~~] in a nondiscriminatory manner on behalf of all current and former regular full-time employees who were eligible for service credit at the time service was rendered[~~.~~]; and

(ii) comply with the provisions of Section 49-11-403, except for the requirement described in Subsection 49-11-403(2)(a).

(b) For a purchase made under this Subsection (6), an employee is not required to:

(i) have at least four years of service credit before the purchase can be made; or

(ii) forfeit service credit or any defined contribution balance based on the employer contributions under any other retirement system or plan based on the period of employment for which service credit is being purchased.

Section 13. Section 49-13-203 is amended to read:

49-13-203. Exclusions from membership in system.

(1) The following employees are not eligible for service credit in this system:

(a) subject to the requirements of Subsection (2), an employee whose employment status is temporary in nature due to the nature or the type of work to be performed;

(b) except as provided under Subsection (3)(a), an employee of an institution of higher education who participates in a retirement system with a public or private retirement system, organization, or company designated by the Utah Board of Higher Education, or the technical college board of trustees for an employee of each technical college, during any period in which required contributions based on compensation have been paid on behalf of the employee by the employer;

(c) an employee serving as an exchange employee from outside the state for an employer who has not elected to make all of the employer's exchange employees eligible for service credit in this system;

(d) an executive department head of the state or a legislative director, senior executive employed by the governor's office, a member of the State Tax Commission, a member of the Public Service Commission, and a member of a full-time or part-time board or commission who files a formal request for exemption;

(e) an employee of the Department of Workforce Services who is covered under another retirement system allowed under Title 35A, Chapter 4, Employment Security Act;

(f) an employee who is employed with an employer that has elected to be excluded from participation in this system under Subsection 49-13-202(5), effective on or after the date of the employer's election under Subsection 49-13-202(5);

(g) an employee who is employed with a withdrawing entity that has elected under Section 49-11-623, prior to January 1, 2017, to exclude:

(i) new employees from participation in this system under Subsection 49-11-623(3)(a); or

(ii) all employees from participation in this system under Subsection 49-11-623(3)(b); [~~or~~]

(h) an employee described in Subsection (1)(h)(i) or (ii) who is employed with a withdrawing entity that has elected under Section 49-11-624, before January 1, 2018, to exclude:

(i) new employees from participation in this system under Subsection 49-11-624(3)(a); or

(ii) all employees from participation in this system under Subsection 49-11-624(3)(b)[~~.~~]; or

(i) an employee who is employed with a withdrawing entity that has elected under Section 49-11-625, before July 1, 2022, to exclude all employees from participation in this system.

(2) If an employee whose status is temporary in nature due to the nature of type of work to be performed:

(a) is employed for a term that exceeds six months and the employee otherwise qualifies for service credit in this system, the participating employer shall report and certify to the office that the employee is a regular full-time employee effective the beginning of the seventh month of employment; or

(b) was previously terminated prior to being eligible for service credit in this system and is reemployed within three months of termination by the same participating employer, the participating employer shall report and certify that the member is a regular full-time employee when the total of the periods of employment equals six months and the employee otherwise qualifies for service credits in this system.

(3) (a) Upon cessation of the participating employer contributions, an employee under Subsection (1)(b) is eligible for service credit in this system.

(b) Notwithstanding the provisions of Subsection (1)(f), any eligibility for service credit earned by an employee under this chapter before the date of the election under Subsection 49-13-202(5) is not affected under Subsection (1)(f).

(4) Upon filing a written request for exemption with the office, the following employees shall be exempt from coverage under this system:

(a) a full-time student or the spouse of a full-time student and individuals employed in a trainee relationship;

(b) an elected official;

(c) an executive department head of the state, a member of the State Tax Commission, a member of the Public Service Commission, and a member of a full-time or part-time board or commission;

(d) an employee of the Governor's Office of Management and Budget;

(e) an employee of the Governor's Office of Economic Development;

(f) an employee of the Commission on Criminal and Juvenile Justice;

(g) an employee of the Governor's Office;

(h) an employee of the State Auditor's Office;

(i) an employee of the State Treasurer's Office;

(j) any other member who is permitted to make an election under Section 49-11-406;

(k) a person appointed as a city manager or chief city administrator or another person employed by a municipality, county, or other political subdivision, who is an at-will employee;

(l) an employee of an interlocal cooperative agency created under Title 11, Chapter 13, Interlocal Cooperation Act, who is engaged in a specialized trade customarily provided through membership in a labor organization that provides retirement benefits to its members;

(m) an employee of the Utah Science Technology and Research Initiative created under Title 63M, Chapter 2, Utah Science Technology and Research Governing Authority Act; and

(n) an employee serving as an exchange employee from outside the state for an employer who has elected to make all of the employer's exchange employees eligible for service credit in this system.

(5) (a) Each participating employer shall prepare and maintain a list designating those positions eligible for exemption under Subsection (4).

(b) An employee may not be exempted unless the employee is employed in a position designated by the participating employer.

(6) (a) In accordance with this section, Section 49-12-203, and Section 49-22-205, a municipality, county, or political subdivision may not exempt a total of more than 50 positions or a number equal to 10% of the eligible employees of the municipality, county, or political subdivision, whichever is less.

(b) A municipality, county, or political subdivision may exempt at least one regular full-time employee.

(7) Each participating employer shall:

(a) maintain a list of employee exemptions; and

(b) update the employee exemptions in the event of any change.

(8) The office may make rules to implement this section.

(9) An employee's exclusion, exemption, participation, or election described in this section:

(a) shall be made in accordance with this section; and

(b) is subject to requirements under federal law and rules made by the board.

Section 14. Section 49-13-406 is amended to read:

49-13-406. Exceptions for part-time elective or appointive service -- Computation of allowance -- Justice court judges.

(1) Notwithstanding the provisions of Sections 49-11-401 and 49-13-102, and unless otherwise provided in this section, a member's elective or appointive service rendered on a basis not considered full-time by the office shall have a separate allowance computed on the basis of compensation actually received by the member during the period of elective or appointive service.

(2) (a) (i) A justice court judge who has service with only one participating employer shall be considered part-time or full-time by the office as certified by the participating employer.

(ii) If there is a dispute between the office and a participating employer or justice court judge over whether service is full-time or part-time for any employment period, the disputed service shall be submitted by the office to the Administrative Office of the Courts for determination.

(b) If a justice court judge has a combination of part-time service and full-time position service with one participating employer, the office shall compute separate allowances on the basis of compensation actually received by the judge during the part-time and full-time periods of service.

(3) (a) A justice court judge who has service with more than one participating employer shall be considered full-time by the office for a period of service in which the judge is certified as full-time by:

(i) a participating employer; [~~or~~]

(ii) a group of participating employers where the judge's part-time work for each employer, when aggregated, amounts to full-time service; or

[~~(ii)~~] (iii) the Administrative Office of the Courts beginning on or after January 1, 2009, based on the judge's aggregate caseload of the multiple employers as determined by the judge's caseloads of the individual courts of each employer in accordance with Subsection 78A-7-206(1)(b)(ii).

(b) If a justice court judge has full-time service under Subsection (3)(a), the office shall compute an allowance on the basis of total compensation actually received from all participating employers by the judge during the total period of full-time service.

(c) If a justice court judge has part-time service performed that is not within a period considered full-time service under Subsection (3)(a), the office shall compute a separate allowance on the basis of compensation actually received by the member during the period of part-time service.

(d) If there is a dispute between the office and a participating employer, a group of participating employers, or a justice court judge over whether service is full-time or part-time for any employment period, the disputed service shall be submitted by the office to the Administrative Office of the Courts for determination.

(4) All of the service rendered by a justice court judge in any one fiscal or calendar year may not count for more than one year of service credit.

Section 15. Section 49-15-202 is amended to read:

49-15-202. Participation of employers -- Requirements -- Admission -- Full participation in system -- Supplemental programs authorized.

(1) An employer that employs public safety service employees and is required by Section 49-12-202 or 49-13-202 to be a participating employer in the Public Employees' Contributory Retirement System or the Public Employees' Noncontributory Retirement System shall cover all [~~its~~] the employer's public safety service employees under one of the following systems or plans:

(a) Chapter 12, Public Employees' Contributory Retirement Act;

(b) Chapter 13, Public Employees' Noncontributory Retirement Act;

(c) Chapter 14, Public Safety Contributory Retirement Act;

(d) Chapter 15, Public Safety Noncontributory Retirement Act; or

(e) Chapter 23, New Public Safety and Firefighter Tier II Contributory Retirement Act.

(2) An employer that covers [~~its~~] the employer's public safety employees under Subsection (1)(d) is a participating employer in this system.

(3) If a participating employer under Subsection (1) covers any of [~~its~~] the participating employer's public safety service employees under the Public Safety Contributory Retirement System or the Public Safety Noncontributory Retirement System, that participating employer shall cover all of [~~its~~] the participating employer's public safety service employees under one of those systems, except for a public safety service employee initially entering employment with a participating employer beginning on or after July 1, 2011.

(4) (a) Until June 30, 2011, an employer that is not participating in this system may by resolution of [~~its~~] the employer's governing body apply for coverage of [~~its~~] the employer's public safety service employees by this system.

(b) Upon approval of the board, the employer shall become a participating employer in this system subject to this title.

(5) (a) If a participating employer purchases service credit on behalf of [~~employees~~] an employee for service rendered prior to the participating employer's admission to this system, the participating employer shall:

(i) purchase service credit [~~must be purchased~~] in a nondiscriminatory manner on behalf of all current and former employees who were eligible for service credit at the time service was rendered[~~.~~]; and

(ii) comply with the provisions of Section 49-11-403, except for the requirement described in Subsection 49-11-403(2)(a).

(b) For a purchase made under this Subsection (5), an employee is not required to:

(i) have at least four years of service credit before the purchase can be made; or

(ii) forfeit service credit or any defined contribution balance based on the employer contributions under any other retirement system or plan based on the period of employment for which service credit is being purchased.

(6) A participating employer may not withdraw from this system.

(7) In addition to [~~their~~] participation in the system, a participating [~~employers~~] employer may provide or participate in any additional public or private retirement, supplemental or defined contribution plan, either directly or indirectly, for [~~their~~] the public employer's employees.

Section 16. Section 49-22-203 is amended to read:

49-22-203. Exclusions from membership in system.

(1) The following employees are not eligible for service credit in this system:

(a) subject to the requirements of Subsection (2), an employee whose employment status is temporary in nature due to the nature or the type of work to be performed;

(b) except as provided under Subsection (3), an employee of an institution of higher education who participates in a retirement system with a public or private retirement system, organization, or company designated by the Utah Board of Higher Education, or the technical college board of trustees for an employee of each technical college, during any period in which required contributions based on compensation have been paid on behalf of the employee by the employer;

(c) an employee serving as an exchange employee from outside the state for an employer who has not elected to make all of the employer's exchange employees eligible for service credit in this system;

(d) an employee of the Department of Workforce Services who is covered under another retirement system allowed under Title 35A, Chapter 4, Employment Security Act;

(e) an employee who is employed with a withdrawing entity that has elected under Section 49-11-623, prior to January 1, 2017, to exclude:

(i) new employees from participation in this system under Subsection 49-11-623(3)(a); or

(ii) all employees from participation in this system under Subsection 49-11-623(3)(b);

(f) a person who files a written request for exemption with the office under Section 49-22-205; [~~or~~]

(g) an employee described in Subsection (1)(g)(i) or (ii) who is employed with a withdrawing entity that has elected under Section 49-11-624, before January 1, 2018, to exclude:

(i) new employees from participation in this system under Subsection 49-11-624(3)(a); or

(ii) all employees from participation in this system under Subsection 49-11-624(3)(b)[.]; or

(h) an employee who is employed with a withdrawing entity that has elected under Section 49-11-625, before July 1, 2022, to exclude all employees from participation in this system.

(2) If an employee whose status is temporary in nature due to the nature of type of work to be performed:

(a) is employed for a term that exceeds six months and the employee otherwise qualifies for service credit in this system, the participating employer shall report and certify to the office that the employee is a regular full-time employee effective the beginning of the seventh month of employment; or

(b) was previously terminated prior to being eligible for service credit in this system and is reemployed within three months of termination by the same participating employer, the participating employer shall report and certify that the member is a regular full-time employee when the total of the periods of employment equals six months and the employee otherwise qualifies for service credits in this system.

(3) Upon cessation of the participating employer contributions, an employee under Subsection (1)(b) is eligible for service credit in this system.

(4) An employee's exclusion, exemption, participation, or election described in this section:

(a) shall be made in accordance with this section; and

(b) is subject to requirements under federal law and rules made by the board.

Section 17. Section 49-23-202 is amended to read:

49-23-202. Participation of employers -- Admission requirements.

(1) (a) An employer is a participating employer and may not withdraw from participation in this system.

(b) A participating employer shall cover [~~its~~] the participating employer's:

(i) public safety service employees in accordance with Section 49-15-202; and

(ii) firefighter service employees in accordance with Section 49-16-202.

(2) (a) An employer may, by resolution of [~~its~~] the employer's governing body, apply for admission to this system.

(b) Upon approval of the resolution by the board, the employer is a participating employer in this system and is subject to this title.

(3) If a participating employer purchases service credit on behalf of a public safety service [~~employees or~~] employee or a firefighter service [~~employees~~] employee for service rendered prior to the participating employer's admission to this system, the participating employer shall:

(a) purchase service credit [~~shall be purchased~~] in a nondiscriminatory manner on behalf of all current and former public safety service employees or firefighter service employees who were eligible for service credit at the time service was rendered[.]; and

(b) comply with the provisions of Section 49-11-403.

Section 18. Effective date.

(1) Except as provided in Subsection (2), this bill takes effect on May 5, 2021.

(2) The changes affecting the following sections take effect on July 1, 2021:

(a) Section 49-11-613;

(b) Section 49-11-613.5;

(c) Section 49-11-1205; and

(d) Section 49-11-1303.

CHAPTER 194
S. B. 17
Passed March 3, 2021
Approved March 16, 2021
Effective May 5, 2021

CRIMINAL CODE EVALUATION TASK FORCE EXTENSION

Chief Sponsor: Karen Mayne
House Sponsor: Paul Ray

LONG TITLE

General Description:

This bill reenacts the Criminal Code Evaluation Task Force.

Highlighted Provisions:

This bill:

- reenacts the Criminal Code Evaluation Task Force.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63I-1-236, as last amended by Laws of Utah 2020, Fifth Special Session, Chapter 19

ENACTS:

36-29-108, Utah Code Annotated 1953

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

Section 1. Section 36-29-108 is enacted to read:

36-29-108. Criminal Code Evaluation Task Force.

(1) As used in this section, "task force" means the Criminal Code Evaluation Task Force created in this section.

(2) There is created the Criminal Code Evaluation Task Force consisting of the following 15 members:

(a) three members of the Senate appointed by the president of the Senate, no more than two of whom may be from the same political party;

(b) three members of the House of Representatives appointed by the speaker of the House of Representatives, no more than two of whom may be from the same political party;

(c) the executive director of the Commission on Criminal and Juvenile Justice or the executive director's designee;

(d) the director of the Utah Sentencing Commission or the director's designee;

(e) one member appointed by the presiding officer of the Utah Judicial Council;

(f) one member of the Utah Prosecution Council appointed by the chair of the Utah Prosecution Council;

(g) the executive director of the Utah Department of Corrections or the executive director's designee;

(h) the commissioner of the Utah Department of Public Safety or the commissioner's designee;

(i) the director of the Utah Office for Victims of Crime or the director's designee;

(j) an individual who represents an association of criminal defense attorneys, appointed by the president of the Senate; and

(k) an individual who represents an association of victim advocates, appointed by the speaker of the House of Representatives.

(3) (a) The president of the Senate shall designate a member of the Senate appointed under Subsection (2)(a) as a cochair of the task force.

(b) The speaker of the House of Representatives shall designate a member of the House of Representatives appointed under Subsection (2)(b) as a cochair of the task force.

(4) (a) A majority of the members of the task force constitutes a quorum.

(b) The action of a majority of a quorum constitutes an action of the task force.

(5) (a) Salaries and expenses of the members of the task force who are legislators shall be paid in accordance with Section 36-2-2 and Legislative Joint Rules, Title 5, Chapter 3, Legislator Compensation.

(b) A member of the task force who is not a legislator:

(i) may not receive compensation for the member's work associated with the task force; and

(ii) may receive per diem and reimbursement for travel expenses incurred as a member of the task force at the rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

(6) The Office of Legislative Research and General Counsel shall provide staff support to the task force.

(7) The task force shall review the state's criminal code and related statutes and make recommendations regarding:

(a) the proper classification of crimes by degrees of felony and misdemeanor;

(b) standardizing the format of criminal statutes; and

(c) other modifications related to the criminal code and related statutes.

(8) On or before November 30 of each year that the task force is in effect, the task force shall provide a report, including any proposed legislation, to:

(a) the Law Enforcement and Criminal Justice Interim Committee; and

(b) the Legislative Management Committee.

(9) The task force is repealed April 15, 2023.

Section 2. Section 63I-1-236 is amended to read:

63I-1-236. Repeal dates, Title 36.

(1) Title 36, Chapter 17, Legislative Process Committee, is repealed January 1, 2023.

(2) Section 36-12-20 is repealed June 30, 2023.

(3) Title 36, Chapter 28, Veterans and Military Affairs Commission, is repealed January 1, 2025.

[~~(4) Section 36-29-105 is repealed on December 31, 2020.~~]

[~~(5)~~] (4) Section 36-29-106 is repealed June 1, 2021.

(5) Section 36-29-108, Criminal Code Evaluation Task Force, is repealed April 15, 2023.

(6) Title 36, Chapter 31, Martha Hughes Cannon Capitol Statue Oversight Committee, is repealed January 1, 2022.

CHAPTER 195
S. B. 19
Passed March 2, 2021
Approved March 16, 2021
Effective May 5, 2021

EXPANDED INFERTILITY TREATMENT COVERAGE PILOT PROGRAM AMENDMENTS

Chief Sponsor: Luz Escamilla
House Sponsor: Candice B. Pierucci

LONG TITLE

General Description:

This bill amends the expanded infertility treatment coverage pilot program.

Highlighted Provisions:

This bill:

- defines "qualified assisted reproductive technology cycle";
- modifies the expanded infertility treatment coverage pilot program by:
  - providing an additional three years of coverage; and
  - providing coverage for each qualified assisted reproductive technology cycle;
- provides reporting requirements to evaluate the expanded infertility treatment coverage pilot program;
- extends the repeal date of the expanded infertility treatment coverage pilot program; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

49-20-418, as enacted by Laws of Utah 2018, Chapter 357
63I-1-249, as last amended by Laws of Utah 2020, Chapter 98

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

Section 1. Section 49-20-418 is amended to read:

49-20-418. Expanded infertility treatment coverage pilot program.

(1) As used in this section:

(a) "Assisted reproductive technology" means the same as the term is defined in 42 [~~U.S. Code Sec. 26-3a-7a~~] U.S.C. Sec. 263a-7.

(b) "Physician" means the same as the term is defined in Section 58-67-102.

(c) "Pilot program" means the expanded infertility treatment coverage pilot program described in Subsection (2).

(d) "Qualified assisted reproductive technology cycle" means the use of assisted reproductive technology to transfer a single embryo for implantation.

[~~(d)~~] (e) "Qualified individual" means a covered individual who is eligible for maternity benefits under the program.

(2) (a) Beginning plan year 2018-19, and ending plan year [~~2020-21~~] 2023-24, the program shall offer a [~~3-year~~] pilot program within the state risk pool that provides coverage to a qualified individual for the use of an assisted reproductive technology.

[~~(b) The~~] (b) (i) For plan year 2018-19, 2019-20, or 2020-21, the pilot program shall offer a one-time[~~, lifetime maximum~~] benefit of $4,000 toward the costs of using an assisted reproductive technology for each qualified individual.

(ii) For plan year 2021-22, 2022-23, or 2023-24, the pilot program shall offer a benefit of $4,000 to a qualified individual toward the costs of each qualified assisted reproductive technology cycle.

(c) The [~~benefit~~] benefits described in Subsection (2)(b) [~~is~~] are subject to the same cost sharing requirements as the covered individual's plan.

(3) Coverage offered under the pilot program applies if:

(a) the patient who will use the assisted reproductive technology is a qualified individual;

(b) (i) the patient's physician verifies that the patient or the patient's spouse has a demonstrated condition recognized by a physician as a cause of infertility; or

(ii) the patient attests that the patient is unable to conceive a pregnancy or carry a pregnancy to a live birth after a year or more of regular sexual relations without contraception;

(c) the patient attests that the patient has been unable to attain a successful pregnancy through any less-costly, potentially effective infertility treatments for which coverage is available under the health benefit plan; and

(d) the use of the assisted reproductive technology procedure is performed at a medical facility that conforms to the minimal standards for programs of assisted reproductive technology procedures adopted by the American Society for Reproductive Medicine.

(4) Coverage offered under the pilot program:

[~~(a) may not exceed $4,000 over the lifetime of each qualified individual;~~]

[~~(b)~~] (a) shall satisfy, in accordance with Subsection 31A-22-610.1(1)(c)(ii), the requirement to provide an adoption indemnity benefit to a qualified individual under Section 31A-22-610.1; [~~and~~]

[~~(c)~~] (b) does not apply to a qualified individual if the qualified individual has received the adoption indemnity benefit required under Section 31A-22-610.1[~~.~~]; and

(c) for plan year 2021-22, 2022-23, or 2023-24, shall apply to a qualified individual, even if the qualified individual received the benefit described in Subsection (2)(b)(i).

(5) (a) The purpose of the pilot program is to study the efficacy of providing coverage for the use of an assisted reproductive technology and is not a mandate for coverage of an assisted reproductive technology within all health plans offered by the program.

[~~(b) Before November 30, 2021, the program shall report to the Social Services Appropriations Subcommittee regarding the costs and benefits of the pilot program.~~]

(b) The program shall report to the Retirement and Independent Entities Interim Committee regarding the costs and benefits of the pilot program:

(i) on or before October 1; and

(ii) during calendar years 2022 and 2023.

(6) Under Section 63J-1-603, the Legislature intends that the cost of the pilot program will be paid from money above the minimum recommended level in the public employees' state risk pool reserve.

Section 2. Section 63I-1-249 is amended to read:

63I-1-249. Repeal dates, Title 49.

(1) Title 49, Chapter 11, Part 13, Phased Retirement, is repealed January 1, 2025.

(2) Section 49-20-418 is repealed January 1, [~~2022~~] 2025.

CHAPTER 196
S. B. 30
Passed February 18, 2021
Approved March 16, 2021
Effective May 5, 2021

UTAH COMMISSION ON AGING AMENDMENTS

Chief Sponsor: Jani Iwamoto
House Sponsor: Stewart E. Barlow

LONG TITLE

General Description:

This bill modifies provisions relating to the Utah Commission on Aging.

Highlighted Provisions:

This bill:

- modifies the sunset date for the Utah Commission on Aging;
- modifies the duties and membership of the Utah Commission on Aging; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63I-1-263, as last amended by Laws of Utah 2020, Chapters 82, 152, 154, 199, 230, 303, 322, 336, 354, 360, 375, 405 and last amended by Coordination Clause, Laws of Utah 2020, Chapter 360
63M-11-201, as last amended by Laws of Utah 2019, Chapter 246
63M-11-203, as renumbered and amended by Laws of Utah 2008, Chapter 382

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

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

63I-1-263. Repeal dates, Titles 63A to 63N.

(1) In relation to the Utah Transparency Advisory Board, on January 1, 2025:

(a) Subsection 63A-1-201(1) is repealed;

(b) Subsection 63A-1-202(2)(c), the language "using criteria established by the board" is repealed;

(c) Section 63A-1-203 is repealed;

(d) Subsections 63A-1-204(1) and (2), the language "After consultation with the board, and" is repealed; and

(e) Subsection 63A-1-204(1)(b), the language "using the standards provided in Subsection 63A-1-203(3)(c)" is repealed.

(2) Subsection 63A-5b-405(5), relating to prioritizing and allocating capital improvement funding, is repealed July 1, 2024.

(3) Section 63A-5b-1003, State Facility Energy Efficiency Fund, is repealed July 1, 2023.

(4) Sections 63A-9-301 and 63A-9-302, related to the Motor Vehicle Review Committee, are repealed July 1, 2023.

(5) Title 63C, Chapter 4a, Constitutional and Federalism Defense Act, is repealed July 1, 2028.

(6) Title 63C, Chapter 6, Utah Seismic Safety Commission, is repealed January 1, 2025.

(7) Title 63C, Chapter 12, Snake Valley Aquifer Advisory Council, is repealed July 1, 2024.

(8) Title 63C, Chapter 17, Point of the Mountain Development Commission Act, is repealed July 1, 2021.

(9) Title 63C, Chapter 18, Behavioral Health Crisis Response Commission, is repealed July 1, 2023.

(10) Title 63C, Chapter 21, Outdoor Adventure Commission, is repealed July 1, 2025.

(11) Title 63F, Chapter 2, Data Security Management Council, is repealed July 1, 2025.

(12) Section 63G-6a-805, which creates the Purchasing from Persons with Disabilities Advisory Board, is repealed July 1, 2026.

(13) Title 63G, Chapter 21, Agreements to Provide State Services, is repealed July 1, 2025.

(14) Title 63H, Chapter 4, Heber Valley Historic Railroad Authority, is repealed July 1, 2024.

(15) Title 63H, Chapter 8, Utah Housing Corporation Act, is repealed July 1, 2026.

(16) Subsection 63J-1-602.1[~~(14)~~](13), Nurse Home Visiting Restricted Account is repealed July 1, 2026.

(17) (a) Subsection 63J-1-602.1[~~(58)~~](56), relating to the Utah Statewide Radio System Restricted Account, is repealed July 1, 2022.

(b) When repealing Subsection 63J-1-602.1[~~(58)~~](56), the Office of Legislative Research and General Counsel shall, in addition to the office's authority under Subsection 36-12-12(3), make necessary changes to subsection numbering and cross references.

(18) Subsection 63J-1-602.2[~~(4)~~](5), referring to dedicated credits to the Utah Marriage Commission, is repealed July 1, 2023.

(19) Subsection 63J-1-602.2[~~(5)~~](6), referring to the Trip Reduction Program, is repealed July 1, 2022.

(20) Subsection 63J-1-602.2(25), related to the Utah Seismic Safety Commission, is repealed January 1, 2025.

(21) Title 63J, Chapter 4, Part 5, Resource Development Coordinating Committee, is repealed July 1, 2027.

(22) Subsection 63J-4-608(3), which creates the Federal Land Application Advisory Committee, is repealed on July 1, 2021.

(23) In relation to the Utah Substance Use and Mental Health Advisory Council, on January 1, 2023:

(a) Sections 63M-7-301, 63M-7-302, 63M-7-303, 63M-7-304, and 63M-7-306 are repealed;

(b) Section 63M-7-305, the language that states "council" is replaced with "commission";

(c) Subsection 63M-7-305(1) is repealed and replaced with:

"(1) "Commission" means the Commission on Criminal and Juvenile Justice."; and

(d) Subsection 63M-7-305(2) is repealed and replaced with:

"(2) The commission shall:

(a) provide ongoing oversight of the implementation, functions, and evaluation of the Drug-Related Offenses Reform Act; and

(b) coordinate the implementation of Section 77-18-1.1 and related provisions in Subsections 77-18-1(5)(b)(iii) and (iv).".

(24) The Crime Victim Reparations and Assistance Board, created in Section 63M-7-504, is repealed July 1, 2027.

(25) Title 63M, Chapter 7, Part 6, Utah Council on Victims of Crime, is repealed July 1, 2022.

(26) Title 63M, Chapter 11, Utah Commission on Aging, is repealed July 1, [~~2021~~] 2026.

(27) Subsection 63N-1-301(4)(c), related to the Talent Ready Utah Board, is repealed January 1, 2023.

(28) Title 63N, Chapter 1, Part 5, Governor's Economic Development Coordinating Council, is repealed July 1, 2024.

(29) Title 63N, Chapter 2, Part 2, Enterprise Zone Act, is repealed July 1, 2028.

(30) Section 63N-2-512 is repealed July 1, 2021.

(31) (a) Title 63N, Chapter 2, Part 6, Utah Small Business Jobs Act, is repealed January 1, 2021.

(b) Section 59-9-107 regarding tax credits against premium taxes is repealed for calendar years beginning on or after January 1, 2021.

(c) Notwithstanding Subsection (31)(b), an entity may carry forward a tax credit in accordance with Section 59-9-107 if:

(i) the person is entitled to a tax credit under Section 59-9-107 on or before December 31, 2020; and

(ii) the qualified equity investment that is the basis of the tax credit is certified under Section 63N-2-603 on or before December 31, 2023.

(32) Subsections 63N-3-109(2)(e) and 63N-3-109(2)(f)(i) are repealed July 1, 2023.

(33) Title 63N, Chapter 4, Part 4, Rural Employment Expansion Program, is repealed July 1, 2023.

(34) Title 63N, Chapter 7, Part 1, Board of Tourism Development, is repealed July 1, 2025.

(35) Title 63N, Chapter 9, Part 2, Outdoor Recreational Infrastructure Grant Program, is repealed January 1, 2023.

(36) Title 63N, Chapter 12, Part 5, Talent Ready Utah Center, is repealed January 1, 2023.

Section 2. Section 63M-11-201 is amended to read:

63M-11-201. Composition -- Appointments -- Terms -- Removal.

(1) The commission shall be composed of [~~20 voting members as follows~~] the following voting members:

(a) the executive director of the Department of Health or the executive director's designee;

(b) the executive director of the Department of Human Services or the executive director's designee;

(c) the executive director of the Governor's Office of Economic Development or the executive director's designee;

(d) the executive director of the Department of Workforce Services or the executive director's designee; and

(e) [~~16 voting~~] 20 members, appointed by the governor[~~, representing each of the following~~] in accordance with Subsection (3), including:

[~~(i) the Utah Association of Area Agencies on Aging;~~]

[~~(ii) higher education in Utah;~~]

[~~(iii) the business community;~~]

[~~(iv) the Utah Association of Counties;~~]

[~~(v) the Utah League of Cities and Towns;~~]

[~~(vi) charitable organizations;~~]

[~~(vii) the health care provider industry;~~]

[~~(viii) financial institutions;~~]

[~~(ix) the legal profession;~~]

[~~(x) the public safety sector;~~]

[~~(xi) public transportation;~~]

[~~(xii) ethnic minorities;~~]

[~~(xiii) the industry that provides long-term care for the elderly;~~]

[~~(xiv) organizations or associations that advocate for the aging population;~~]

[~~(xv) the Alzheimer's Association; and~~]

[~~(xvi) the general public.~~]

(i) three members that represent the Utah Association of Areas on Aging, the Alzheimer's

Association, or another organization or association that advocates for the aging population;

(ii) two members that represent an organization or association that advocates for local government; and

(iii) two members that represent the general public.

(2) (a) A member appointed under Subsection (1)(e) shall serve a two-year term.

(b) Notwithstanding the term requirements [~~of~~] described in Subsection (2)(a), the governor may adjust the length of the initial commission members' terms to ensure that the terms are staggered so that approximately [~~1/2~~] one-half of the members appointed under Subsection (1)(e) are appointed each year.

(c) When, for any reason, a vacancy occurs in a position appointed by the governor under Subsection (1)(e), the governor shall appoint a person to fill the vacancy for the unexpired term of the commission member being replaced.

(d) [~~Members~~] A member appointed under Subsection (1)(e) may be removed by the governor for cause.

(e) A member appointed under Subsection (1)(e) shall be removed from the commission and replaced by the governor if the member is absent for three consecutive meetings of the commission without being excused by the chair of the commission.

(3) In appointing the members under Subsection (1)(e), the governor shall:

(a) ensure each of the following areas are represented:

(i) higher education in Utah;

(ii) the business community;

(iii) charitable organizations;

(iv) the health care provider industry;

(v) the industry that provides telehealth services;

(vi) the industry that provides data analysis services;

(vii) the industry that provides information technology support services;

(viii) financial institutions;

(ix) the legal profession;

(x) the public safety sector;

(xi) public transportation;

(xii) ethnic minorities; and

(xiii) the industry that provides long-term care for the elderly;

[~~(a)~~] (b) take into account the geographical makeup of the commission; and

[~~(b)~~] (c) strive to appoint members who:

(i) are knowledgeable or have an interest in issues relating to the aging population[~~,~~];

(ii) provide a balanced representation of urban and rural communities in the state; and

(iii) represent the diversity of the population in the state.

Section 3. Section 63M-11-203 is amended to read:

63M-11-203. Duties and powers of commission.

(1) The commission shall:

(a) fulfill the commission's purposes [~~as listed~~] described in Section 63M-11-102;

(b) facilitate the communication and coordination of public and private entities that provide services to the aging population;

(c) study, evaluate, and report on the status and effectiveness of policies, procedures, and programs that provide services to the aging population;

(d) study and evaluate the policies, procedures, and programs implemented by other states that address the needs of the aging population;

(e) facilitate and conduct the research and study of issues related to aging, including emerging public health issues with a significant impact on the aging population;

(f) provide a forum for public comment on issues related to aging;

(g) provide public information on the aging population and the services available to the aging population;

(h) facilitate the provision of services to the aging population from the public and private sectors; and

(i) encourage state and local governments to analyze, plan, and prepare for the impacts of the aging population on services and operations.

(2) To accomplish [~~its~~] the commission's duties, the commission may:

(a) request and receive from any state or local governmental agency or institution, summary information relating to the aging population, including:

(i) reports;

(ii) audits;

(iii) projections; and

(iv) statistics;

(b) apply for and accept grants or donations for uses consistent with the duties of the commission from public or private sources; and

(c) appoint special committees to advise and assist the commission.

(3) All funds received under Subsection (2)(b) shall be:

(a) accounted for and expended in compliance with the requirements of federal and state law; and

(b) continuously available to the commission to carry out the commission's duties.

(4) (a) [~~Members~~] A member of a special committee described in Subsection (2)(c):

(i) shall be appointed by the commission;

(ii) may be:

(A) [~~members~~] a member of the commission; or

(B) [~~individuals~~] an individual from the private or public sector; and

(iii) notwithstanding Section 63M-11-206, shall not receive any reimbursement or pay for any work done in relation to the special committee.

(b) A special committee described in Subsection (2)(c) shall report to the commission on the progress of the special committee.

(5) This chapter does not diminish the planning authority conferred on state, regional, and local governments by existing law.

CHAPTER 197
S. B. 31
Passed February 5, 2021
Approved March 16, 2021
Effective May 5, 2021

CONDOMINIUM AND COMMUNITY ASSOCIATION REGULATION AMENDMENTS

Chief Sponsor: Curtis S. Bramble
House Sponsor: James A. Dunnigan

LONG TITLE

General Description:

This bill amends the Condominium Ownership Act and the Community Association Act.

Highlighted Provisions:

This bill:

- prevents a condominium or homeowners association from prohibiting a condominium unit or lot owner from installing a personal security camera on the owner's dwelling unit; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

57-8-8.1, as last amended by Laws of Utah 2016, Chapters 154 and 348
57-8a-218, as last amended by Laws of Utah 2017, Chapter 131

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

Section 1. Section 57-8-8.1 is amended to read:

57-8-8.1. Equal treatment by rules required -- Limits on rules.

(1) (a) Except as provided in Subsection (1)(b), a rule shall treat similarly situated unit owners similarly.

(b) Notwithstanding Subsection (1)(a), a rule may:

(i) vary according to the level and type of service that the association of unit owners provides to unit owners;

(ii) differ between residential and nonresidential uses; or

(iii) for a unit that a unit owner leases for a term of less than 30 days, impose a reasonable limit on the number of individuals that may use the common areas and facilities as the rental unit tenant's guest or as the unit owner's guest.

(2) (a) If a unit owner owns a rental unit and is in compliance with the association of unit owners' governing documents and any rule that the association of unit owners adopts under Subsection (4), a rule may not treat the unit owner differently because the unit owner owns a rental unit.

(b) Notwithstanding Subsection (2)(a), a rule may:

(i) limit or prohibit a rental unit owner from using the common areas and facilities for purposes other than attending an association meeting or managing the rental unit;

(ii) if the rental unit owner retains the right to use the association of unit owners' common areas and facilities, even occasionally:

(A) charge a rental unit owner a fee to use the common areas and facilities; and

(B) for a unit that a unit owner leases for a term of less than 30 days, impose a reasonable limit on the number of individuals that may use the common areas and facilities as the rental unit tenant's guest or as the unit owner's guest; or

(iii) include a provision in the association of unit owners' governing documents that:

(A) requires each tenant of a rental unit to abide by the terms of the governing documents; and

(B) holds the tenant and the rental unit owner jointly and severally liable for a violation of a provision of the governing documents.

(3) (a) A rule may not interfere with the freedom of a unit owner to determine the composition of the unit owner's household.

(b) Notwithstanding Subsection (3)(a), an association of unit owners may:

(i) require that all occupants of a dwelling be members of a single housekeeping unit; or

(ii) limit the total number of occupants permitted in each residential dwelling on the basis of the residential dwelling's:

(A) size and facilities; and

(B) fair use of the common areas and facilities.

(4) Unless contrary to a declaration, a rule may require a minimum lease term.

(5) Unless otherwise provided in the declaration, an association of unit owners may by rule:

(a) regulate the use, maintenance, repair, replacement, and modification of common areas and facilities;

(b) impose and receive any payment, fee, or charge for:

(i) the use, rental, or operation of the common areas, except limited common areas and facilities; and

(ii) a service provided to a unit owner;

(c) impose a charge for a late payment of an assessment; or

(d) provide for the indemnification of the association of unit owners' officers and management committee consistent with Title 16,

Chapter 6a, Utah Revised Nonprofit Corporation Act.

(6) (a) Except as provided in Subsection (6)(b), a rule may not prohibit a unit owner from installing a personal security camera immediately adjacent to the entryway, window, or other outside entry point of the owner's condominium unit.

(b) A rule may prohibit a unit owner from installing a personal security camera in a common area not physically connected to the owner's unit.

[~~(6)~~] (7) A rule shall be reasonable.

[~~(7)~~] (8) A declaration, or an amendment to a declaration, may vary any of the requirements of Subsections (1) through (5), except Subsection (1)(b)(ii).

[~~(8)~~] (9) This section applies to an association of unit owners regardless of when the association of unit owners is created.

Section 2. Section 57-8a-218 is amended to read:

57-8a-218. Equal treatment by rules required -- Limits on association rules and design criteria.

(1) (a) Except as provided in Subsection (1)(b), a rule shall treat similarly situated lot owners similarly.

(b) Notwithstanding Subsection (1)(a), a rule may:

(i) vary according to the level and type of service that the association provides to lot owners;

(ii) differ between residential and nonresidential uses; and

(iii) for a lot that an owner leases for a term of less than 30 days, impose a reasonable limit on the number of individuals who may use the common areas and facilities as guests of the lot tenant or lot owner.

(2) (a) If a lot owner owns a rental lot and is in compliance with the association's governing documents and any rule that the association adopts under Subsection (4), a rule may not treat the lot owner differently because the lot owner owns a rental lot.

(b) Notwithstanding Subsection (2)(a), a rule may:

(i) limit or prohibit a rental lot owner from using the common areas for purposes other than attending an association meeting or managing the rental lot;

(ii) if the rental lot owner retains the right to use the association's common areas, even occasionally:

(A) charge a rental lot owner a fee to use the common areas; or

(B) for a lot that an owner leases for a term of less than 30 days, impose a reasonable limit on the number of individuals who may use the common areas and facilities as guests of the lot tenant or lot owner; or

(iii) include a provision in the association's governing documents that:

(A) requires each tenant of a rental lot to abide by the terms of the governing documents; and

(B) holds the tenant and the rental lot owner jointly and severally liable for a violation of a provision of the governing documents.

(3) (a) A rule criterion may not abridge the rights of a lot owner to display religious and holiday signs, symbols, and decorations inside a dwelling on a lot.

(b) Notwithstanding Subsection (3)(a), the association may adopt time, place, and manner restrictions with respect to displays visible from outside the dwelling or lot.

(4) (a) A rule may not regulate the content of political signs.

(b) Notwithstanding Subsection (4)(a):

(i) a rule may regulate the time, place, and manner of posting a political sign; and

(ii) an association design provision may establish design criteria for political signs.

(5) (a) A rule may not interfere with the freedom of a lot owner to determine the composition of the lot owner's household.

(b) Notwithstanding Subsection (5)(a), an association may:

(i) require that all occupants of a dwelling be members of a single housekeeping unit; or

(ii) limit the total number of occupants permitted in each residential dwelling on the basis of the residential dwelling's:

(A) size and facilities; and

(B) fair use of the common areas.

(6) (a) A rule may not interfere with an activity of a lot owner within the confines of a dwelling or lot, to the extent that the activity is in compliance with local laws and ordinances.

(b) Notwithstanding Subsection (6)(a), a rule may prohibit an activity within a dwelling on an owner's lot if the activity:

(i) is not normally associated with a project restricted to residential use; or

(ii) (A) creates monetary costs for the association or other lot owners;

(B) creates a danger to the health or safety of occupants of other lots;

(C) generates excessive noise or traffic;

(D) creates unsightly conditions visible from outside the dwelling;

(E) creates an unreasonable source of annoyance to persons outside the lot; or

(F) if there are attached dwellings, creates the potential for smoke to enter another lot owner's dwelling, the common areas, or limited common areas.

(c) If permitted by law, an association may adopt rules described in Subsection (6)(b) that affect the use of or behavior inside the dwelling.

(7) (a) A rule may not, to the detriment of a lot owner and over the lot owner's written objection to the board, alter the allocation of financial burdens among the various lots.

(b) Notwithstanding Subsection (7)(a), an association may:

(i) change the common areas available to a lot owner;

(ii) adopt generally applicable rules for the use of common areas; or

(iii) deny use privileges to a lot owner who:

(A) is delinquent in paying assessments;

(B) abuses the common areas; or

(C) violates the governing documents.

(c) This Subsection (7) does not permit a rule that:

(i) alters the method of levying assessments; or

(ii) increases the amount of assessments as provided in the declaration.

(8) (a) Subject to Subsection (8)(b), a rule may not:

(i) prohibit the transfer of a lot; or

(ii) require the consent of the association or board to transfer a lot.

(b) Unless contrary to a declaration, a rule may require a minimum lease term.

(9) (a) A rule may not require a lot owner to dispose of personal property that was in or on a lot before the adoption of the rule or design criteria if the personal property was in compliance with all rules and other governing documents previously in force.

(b) The exemption in Subsection (9)(a):

(i) applies during the period of the lot owner's ownership of the lot; and

(ii) does not apply to a subsequent lot owner who takes title to the lot after adoption of the rule described in Subsection (9)(a).

(10) A rule or action by the association or action by the board may not unreasonably impede a declarant's ability to satisfy existing development financing for community improvements and right to develop:

(a) the project; or

(b) other properties in the vicinity of the project.

(11) A rule or association or board action may not interfere with:

(a) the use or operation of an amenity that the association does not own or control; or

(b) the exercise of a right associated with an easement.

(12) A rule may not divest a lot owner of the right to proceed in accordance with a completed application for design review, or to proceed in accordance with another approval process, under the terms of the governing documents in existence at the time the completed application was submitted by the owner for review.

(13) Unless otherwise provided in the declaration, an association may by rule:

(a) regulate the use, maintenance, repair, replacement, and modification of common areas;

(b) impose and receive any payment, fee, or charge for:

(i) the use, rental, or operation of the common areas, except limited common areas; and

(ii) a service provided to a lot owner;

(c) impose a charge for a late payment of an assessment; or

(d) provide for the indemnification of the association's officers and board consistent with Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act.

(14) A rule may not prohibit a lot owner from installing a personal security camera immediately adjacent to the entryway, window, or other outside entry point of the owner's dwelling unit.

[~~(14)~~] (15) A rule shall be reasonable.

[~~(15)~~] (16) A declaration, or an amendment to a declaration, may vary any of the requirements of Subsections (1) through (13), except Subsection (1)(b)(ii).

[~~(16)~~] (17) A rule may not be inconsistent with a provision of the association's declaration, bylaws, or articles of incorporation.

[~~(17)~~] (18) This section applies to an association regardless of when the association is created.

CHAPTER 198
S. B. 32
Passed February 10, 2021
Approved March 16, 2021
Effective May 5, 2021

EMPLOYEE STATUS AMENDMENTS

Chief Sponsor: Curtis S. Bramble
House Sponsor: James A. Dunnigan

LONG TITLE

General Description:

This bill amends Title 34, Labor in General regarding the employment status of certain workers.

Highlighted Provisions:

This bill:

- defines terms; and
- establishes that a remote-service contractor is not an employee of a marketplace company if certain conditions are met.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:
34-53a-101, Utah Code Annotated 1953
34-53a-102, Utah Code Annotated 1953
34-53a-201, Utah Code Annotated 1953

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

Section 1. Section 34-53a-101 is enacted to read:

CHAPTER 53a. REMOTE SERVICE MARKETPLACE PLATFORMS ACT

Part 1. General Provisions

34-53a-101. Title.

This chapter is known as "Remote Service Marketplace Platforms Act."

Section 2. Section 34-53a-102 is enacted to read:

34-53a-102. Definitions.

As used in this chapter:

(1) "Digital application" means an Internet-connected software application that a person uses to obtain or provide a remote service.

(2) "Marketplace company" means a person that:

(a) offers a digital application to the public; and

(b) accepts requests for remote services exclusively through the person's digital application.

(3) (a) "Remote service" means a service that a person performs remotely through a digital application.

(b) "Remote service" includes tutoring, closed captioning, open captioning, subtitling, transcribing, translating, interpreting, and conducting a language assessment remotely through a digital application.

(4) "Remote-service contractor" means a person who uses a marketplace company's digital application to provide a remote service to another person.

Section 3. Section 34-53a-201 is enacted to read:

Part 2. Employment Status

34-53a-201. Conditions under which a remote-service contractor is not an employee of a marketplace company.

(1) A remote-service contractor is not an employee of a marketplace company, if under the agreement between the remote-service contractor and the marketplace company and in fact:

(a) all or substantially all of the work the remote-service contractor performs under the agreement:

(i) is on a per-job or per-transaction basis; and

(ii) the remote-service contractor receives payment for on an hourly, per-job, or per-transaction basis;

(b) the marketplace company does not:

(i) prescribe specific hours during which the remote-service contractor must be available to accept a request for remote service;

(ii) prescribe a specific location where the remote-service contractor must be available to perform a remote service; or

(iii) restrict the remote-service contractor from engaging in another occupation or business; and

(c) except for the use of the marketplace company's digital application, the remote-service contractor is responsible for providing the necessary tools, materials, and equipment to perform a remote service a person requests through the marketplace company's digital application.

(2) A marketplace company's act of screening or training a remote-service contractor does not affect the remote-service contractor's employment status under this chapter.

CHAPTER 199
S. B. 33
Passed February 25, 2021
Approved March 16, 2021
Effective July 1, 2021

UNIFORM BUILDING CODE COMMISSION AMENDMENTS

Chief Sponsor: Curtis S. Bramble
House Sponsor: Mike Schultz

LONG TITLE

General Description:

This bill amends provisions in Title 15A, State Construction and Fire Codes Act.

Highlighted Provisions:

This bill:

- amends the composition of the Uniform Building Code Commission;
- amends reporting requirements for the Uniform Building Code Commission;
- adopts the 2020 edition of the National Electrical Code;
- adopts Appendix C of the International Building Code;
- amends statewide amendments to the International Building Code and the International Residential Code to reference the 2020 edition of the National Electrical Code;
- amends provisions of the International Residential Code regarding:
  - energy storage systems; and
  - receptacles mounted below the countertop;
- amends provisions of the National Electrical Code regarding:
  - ground-fault circuit-interrupter protection for personnel;
  - surge protection;
  - bathtub and shower space; and
  - boxes at ceiling-suspended fan outlets;
- amends provisions related to an ordinance of a political subdivision being more restrictive than the State Fire Code;
- amends statewide amendments to the National Electrical Code to update the reference of a deleted section; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

15A-1-203, as last amended by Laws of Utah 2020, Chapter 339
15A-1-204, as last amended by Laws of Utah 2020, Chapters 111 and 441
15A-1-403, as last amended by Laws of Utah 2017, Chapters 18 and 341
15A-2-103, as last amended by Laws of Utah 2020, Chapter 441
15A-3-113, as last amended by Laws of Utah 2019, Chapter 20
15A-3-202, as last amended by Laws of Utah 2020, Chapter 441
15A-3-206, as last amended by Laws of Utah 2018, Chapter 186
15A-3-601, as last amended by Laws of Utah 2018, Chapter 186

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

Section 1. Section 15A-1-203 is amended to read:

15A-1-203. Uniform Building Code Commission -- Unified Code Analysis Council.

(1) There is created a Uniform Building Code Commission to advise the division with respect to the division's responsibilities in administering the codes.

(2) The commission shall consist of [~~11~~] 13 members as follows:

(a) one member shall be [~~from among candidates nominated by the Utah League of Cities and Towns and the Utah Association of Counties~~] a heating, ventilation, and air conditioning contractor licensed by the state;

(b) one member shall be a licensed building inspector [~~employed by a political subdivision of the state~~] nominated by the Utah League of Cities and Towns;

(c) one member shall be a licensed professional engineer;

(d) one member shall be a licensed architect;

(e) one member shall be:

(i) a licensed architect who specializes in residential architecture; or

(ii) a residential home designer;

(f) one member shall be a member of an association of building owners;

[~~(e)~~] (g) one member shall be a fire official;

[~~(f)~~] (h) [~~three~~] four members shall be contractors licensed by the state, of which [~~one~~]:

(i) two shall be [~~a~~] general [~~contractor,~~] contractors, one of which shall specialize in residential construction;

(ii) one shall be an electrical contractor[~~,~~]; and

(iii) one shall be a plumbing contractor;

[~~(g)~~] (i) [~~two members~~] one member shall be from the general public and have no affiliation with the construction industry or real estate development industry; and

[~~(h)~~] (j) one member shall be from the Division of Facilities Construction and Management of the Department of Administrative Services.

(3) (a) The executive director shall appoint each commission member after submitting a nomination to the governor for confirmation or rejection.

(b) (i) If the governor rejects a nominee, the executive director shall submit an alternative

nominee until the governor confirms the nomination.

(ii) An appointment is effective after the governor confirms the nomination.

(4) (a) Except as required by Subsection (4)(b), as terms of commission members expire, the executive director shall appoint each new commission member or reappointed commission member to a four-year term.

(b) Notwithstanding the requirements of Subsection (4)(a), the executive director shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of commission members are staggered so that approximately half of the commission is appointed every two years.

(5) When a vacancy occurs in the commission membership for any reason, the executive director shall appoint a replacement for the unexpired term.

(6) (a) A commission member may not serve more than two full terms.

(b) A commission member who ceases to serve may not again serve on the commission until after the expiration of two years after the day on which service ceased.

(7) A majority of the commission members constitute a quorum and may act on behalf of the commission.

(8) A commission member may not receive compensation or benefits for the commission member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

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

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

(9) (a) The commission shall annually designate one of the commission's members to serve as chair of the commission.

(b) The division shall provide a secretary to facilitate the function of the commission and to record the commission's actions and recommendations.

(10) The commission shall:

(a) in accordance with Section 15A-1-204, report to the Business and Labor Interim Committee;

(b) act as an appeals board as provided in Section 15A-1-207;

(c) establish advisory peer committees on either a standing or ad hoc basis to advise the commission with respect to matters related to a code, including a committee to advise the commission regarding health matters related to a plumbing code; and

(d) assist the division in overseeing code-related training in accordance with Section 15A-1-209.

(11) (a) In a manner consistent with Subsection (10)(c), the commission shall jointly create with the Utah Fire Prevention Board an advisory peer committee known as the "Unified Code Analysis Council" to review fire prevention and construction code issues that require definitive and specific analysis.

(b) The commission and Utah Fire Prevention Board shall jointly, by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, provide for:

(i) the appointment of members to the Unified Code Analysis Council; and

(ii) procedures followed by the Unified Code Analysis Council.

Section 2. Section 15A-1-204 is amended to read:

15A-1-204. Adoption of State Construction Code -- Amendments by commission -- Approved codes -- Exemptions.

(1) (a) The State Construction Code is the construction codes adopted with any modifications in accordance with this section that the state and each political subdivision of the state shall follow.

(b) A person shall comply with the applicable provisions of the State Construction Code when:

(i) new construction is involved; and

(ii) the owner of an existing building, or the owner's agent, is voluntarily engaged in:

(A) the repair, renovation, remodeling, alteration, enlargement, rehabilitation, conservation, or reconstruction of the building; or

(B) changing the character or use of the building in a manner that increases the occupancy loads, other demands, or safety risks of the building.

(c) On and after July 1, 2010, the State Construction Code is the State Construction Code in effect on July 1, 2010, until in accordance with this section:

(i) a new State Construction Code is adopted; or

(ii) one or more provisions of the State Construction Code are amended or repealed in accordance with this section.

(d) A provision of the State Construction Code may be applicable:

(i) to the entire state; or

(ii) within a county, city, or town.

(2) (a) The Legislature shall adopt a State Construction Code by enacting legislation that adopts a nationally recognized construction code with any modifications.

(b) Legislation described in Subsection (2)(a) shall state that the legislation takes effect on the July 1 after the day on which the legislation is enacted, unless otherwise stated in the legislation.

(c) Subject to Subsection (6), a State Construction Code adopted by the Legislature is the State

Construction Code until, in accordance with this section, the Legislature adopts a new State Construction Code by:

(i) adopting a new State Construction Code in its entirety; or

(ii) amending or repealing one or more provisions of the State Construction Code.

(3) (a) Except as provided in Subsection (3)(b), for each update of a nationally recognized construction code, the commission shall prepare a report described in Subsection (4).

(b) For the provisions of a nationally recognized construction code that apply only to detached one- and two-family dwellings and townhouses not more than three stories above grade plane in height with separate means of egress and their accessory structures, the commission shall[~~: (i)~~] prepare a report described in Subsection (4) in [~~2021~~] 2022 and, thereafter, for every second update of the nationally recognized construction code[~~; and~~].

[~~(ii) not prepare a report described in Subsection (4) in 2018.~~]

(4) (a) In accordance with Subsection (3), on or before September 1 of the [~~same~~] year [~~as~~] after the year designated in the title of a nationally recognized construction code, the commission shall prepare and submit, in accordance with Section 68-3-14, a written report to the Business and Labor Interim Committee that:

(i) states whether the commission recommends the Legislature adopt the update with any modifications; and

(ii) describes the costs and benefits of each recommended change in the update or in any modification.

(b) After the Business and Labor Interim Committee receives the report described in Subsection (4)(a), the Business and Labor Interim Committee shall:

(i) study the recommendations; and

(ii) if the Business and Labor Interim Committee decides to recommend legislative action to the Legislature, prepare legislation for consideration by the Legislature in the next general session.

(5) (a) (i) The commission shall, by no later than September 1 of each year in which the commission is not required to submit a report described in Subsection (4), submit, in accordance with Section 68-3-14, a written report to the Business and Labor Interim Committee recommending whether the Legislature should amend or repeal one or more provisions of the State Construction Code.

(ii) As part of a recommendation described in Subsection (5)(a)(i), the commission shall describe the costs and benefits of each proposed amendment or repeal.

(b) The commission may recommend legislative action related to the State Construction Code:

(i) on [~~its~~] the commission's own initiative;

(ii) upon the recommendation of the division; or

(iii) upon the receipt of a request by one of the following that the commission recommend legislative action related to the State Construction Code:

(A) a local regulator;

(B) a state regulator;

(C) a state agency involved with the construction and design of a building;

(D) the Construction Services Commission;

(E) the Electrician Licensing Board;

(F) the Plumbers Licensing Board; or

(G) a recognized construction-related association.

(c) If the Business and Labor Interim Committee decides to recommend legislative action to the Legislature, the Business and Labor Interim Committee shall prepare legislation for consideration by the Legislature in the next general session.

(6) (a) Notwithstanding the provisions of this section, the commission may, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, amend the State Construction Code if the commission determines that waiting for legislative action in the next general legislative session would:

(i) cause an imminent peril to the public health, safety, or welfare; or

(ii) place a person in violation of federal or other state law.

(b) If the commission amends the State Construction Code in accordance with this Subsection (6), the commission shall file with the division:

(i) the text of the amendment to the State Construction Code; and

(ii) an analysis that includes the specific reasons and justifications for the commission's findings.

(c) If the State Construction Code is amended under this Subsection (6), the division shall:

(i) publish the amendment to the State Construction Code in accordance with Section 15A-1-205; and

(ii) prepare and submit, in accordance with Section 68-3-14, a written notice to the Business and Labor Interim Committee containing the amendment to the State Construction Code, including a copy of the commission's analysis described in Subsection (6)(b)(ii).

(d) If not formally adopted by the Legislature at the next annual general session, an amendment to the State Construction Code under this Subsection (6) is repealed on the July 1 immediately following

the next annual general session that follows the adoption of the amendment.

(7) (a) The division, in consultation with the commission, may approve, without adopting, one or more approved codes, including a specific edition of a construction code, for use by a compliance agency.

(b) If the code adopted by a compliance agency is an approved code described in Subsection (7)(a), the compliance agency may:

(i) adopt an ordinance requiring removal, demolition, or repair of a building;

(ii) adopt, by ordinance or rule, a dangerous building code; or

(iii) adopt, by ordinance or rule, a building rehabilitation code.

(8) Except as provided in Subsections (6), (7), (9), and (10), or as expressly provided in state law, a state executive branch entity or political subdivision of the state may not, after December 1, 2016, adopt or enforce a rule, ordinance, or requirement that applies to a subject specifically addressed by, and that is more restrictive than, the State Construction Code.

(9) A state executive branch entity or political subdivision of the state may:

(a) enforce a federal law or regulation;

(b) adopt or enforce a rule, ordinance, or requirement if the rule, ordinance, or requirement applies only to a facility or construction owned or used by a state entity or a political subdivision of the state; or

(c) enforce a rule, ordinance, or requirement:

(i) that the state executive branch entity or political subdivision adopted or made effective before July 1, 2015; and

(ii) for which the state executive branch entity or political subdivision can demonstrate, with substantial evidence, that the rule, ordinance, or requirement is necessary to protect an individual from a condition likely to cause imminent injury or death.

(10) The Department of Health or the Department of Environmental Quality may enforce a rule or requirement adopted before January 1, 2015.

(11) (a) Except as provided in Subsection (11)(b), a structure used solely in conjunction with agriculture use, and not for human occupancy, or a structure that is no more than 1,500 square feet and used solely for the type of sales described in Subsection 59-12-104(20), is exempt from the requirements of the State Construction Code.

(b) (i) Unless exempted by a provision other than Subsection (11)(a), a plumbing, electrical, and mechanical permit may be required when that work is included in a structure described in Subsection (11)(a).

(ii) Unless located in whole or in part in an agricultural protection area created under Title 17, Chapter 41, Agriculture, Industrial, or Critical Infrastructure Materials Protection Areas, a structure described in Subsection (11)(a) is not exempt from a permit requirement if the structure is located on land that is:

(A) within the boundaries of a city or town, and less than five contiguous acres; or

(B) within a subdivision for which the county has approved a subdivision plat under Title 17, Chapter 27a, Part 6, Subdivisions, and less than two contiguous acres.

(12) (a) As used in this Subsection (12):

(i) "Membrane-covered frame structure" means a nonpressurized building wherein the structure is composed of a rigid framework to support a tensioned membrane that provides the weather barrier.

(ii) "Remote yurt" means a membrane-covered frame structure that:

(A) is no larger than 710 square feet;

(B) is not used as a permanent residence;

(C) is located in an unincorporated county area that is not zoned for residential, commercial, industrial, or agricultural use;

(D) does not have plumbing or electricity;

(E) is set back at least 300 feet from any river, stream, lake, or other body of water; and

(F) registers with the local health department.

(b) A remote yurt is exempt from the State Construction Code including the permit requirements of the State Construction Code.

(c) Notwithstanding Subsection (12)(b), a county may by ordinance require remote yurts to comply with the State Construction Code, if the ordinance requires the remote yurts to comply with all of the following:

(i) the State Construction Code;

(ii) notwithstanding Section 15A-5-104, the State Fire Code; and

(iii) notwithstanding Section 19-5-125, Title 19, Chapter 5, Water Quality Act, rules made under that chapter, and local health department's jurisdiction over onsite wastewater disposal.

Section 3. Section 15A-1-403 is amended to read:

15A-1-403. Adoption of State Fire Code.

(1) (a) The State Fire Code is:

(i) a code promulgated by a nationally recognized code authority that is adopted by the Legislature under this section with any modifications; and

(ii) a code to which cities, counties, fire protection districts, and the state shall adhere in safeguarding life and property from the hazards of fire and explosion.

(b) On and after July 1, 2010, the State Fire Code is the State Fire Code in effect on July 1, 2010, until in accordance with this section:

(i) a new State Fire Code is adopted; or

(ii) one or more provisions of the State Fire Code are amended or repealed in accordance with this section.

(c) A provision of the State Fire Code may be applicable:

(i) to the entire state; or

(ii) within a city, county, or fire protection district.

(2) (a) The Legislature shall adopt a State Fire Code by enacting legislation that adopts a nationally recognized fire code with any modifications.

(b) Legislation described in Subsection (2)(a) shall state that the legislation takes effect on the July 1 after the day on which the legislation is enacted, unless otherwise stated in the legislation.

(c) Subject to Subsection (6), a State Fire Code adopted by the Legislature is the State Fire Code until in accordance with this section the Legislature adopts a new State Fire Code by:

(i) adopting a new State Fire Code in its entirety; or

(ii) amending or repealing one or more provisions of the State Fire Code.

(3) (a) Except as provided in Subsection (3)(b), for each update of a nationally recognized fire code, the board shall prepare a report described in Subsection (4).

(b) For the provisions of a nationally recognized fire code that apply only to detached one- and two-family dwellings and townhouses not more than three stories above grade plane in height with separate means of egress and their accessory structures, the board shall:

(i) prepare a report described in Subsection (4) in 2021 and, thereafter, for every second update of the nationally recognized fire code; and

(ii) not prepare a report described in Subsection (4) in 2018.

(4) (a) In accordance with Subsection (3), on or before September 1 of the same year as the year designated in the title of an update of a nationally recognized fire code, the board shall prepare and submit, in accordance with Section 68-3-14, a written report to the Business and Labor Interim Committee that:

(i) states whether the board recommends the Legislature adopt the update with any modifications; and

(ii) describes the costs and benefits of each recommended change in the update or in any modification.

(b) After the Business and Labor Interim Committee receives the report described in Subsection (4)(a), the Business and Labor Interim Committee shall:

(i) study the recommendations; and

(ii) if the Business and Labor Interim Committee decides to recommend legislative action to the Legislature, prepare legislation for consideration by the Legislature in the next general session.

(5) (a) (i) The board shall, by no later than September 1 of each year in which the board is not required to submit a report described in Subsection (4), submit, in accordance with Section 68-3-14, a written report to the Business and Labor Interim Committee recommending whether the Legislature should amend or repeal one or more provisions of the State Fire Code.

(ii) As part of a recommendation described in Subsection (5)(a)(i), the board shall describe the costs and benefits of each proposed amendment or repeal.

(b) The board may recommend legislative action related to the State Fire Code:

(i) on its own initiative; or

(ii) upon the receipt of a request by a city, county, or fire protection district that the board recommend legislative action related to the State Fire Code.

(c) Within 45 days after the day on which the board receives a request under Subsection (5)(b), the board shall direct the division to convene an informal hearing concerning the request.

(d) The board shall conduct a hearing under this section in accordance with the rules of the board.

(e) The board shall decide whether to include the request in the report described in Subsection (5)(a).

(f) (i) Within 15 days after the day on which the board conducts a hearing, the board shall direct the division to notify the entity that made the request of the board's decision regarding the request.

(ii) The division shall provide the notice:

(A) in writing; and

(B) in a form prescribed by the board.

(g) If the Business and Labor Interim Committee decides to recommend legislative action to the Legislature, the Business and Labor Interim Committee shall prepare legislation for consideration by the Legislature in the next general session that, if passed by the Legislature, would amend or repeal one or more provisions of the State Fire Code.

(6) (a) Notwithstanding the provisions of this section, the board may, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, amend a State Fire Code if the board determines that waiting for legislative action in the next general legislative session would:

(i) cause an imminent peril to the public health, safety, or welfare; or

(ii) place a person in violation of federal or other state law.

(b) If the board amends a State Fire Code in accordance with this Subsection (6), the board shall:

(i) publish the State Fire Code with the amendment; and

(ii) prepare and submit, in accordance with Section 68-3-14, written notice to the Business and Labor Interim Committee of the adoption, including a copy of an analysis by the board identifying specific reasons and justifications for its findings.

(c) If not formally adopted by the Legislature at the next annual general session, an amendment to a State Fire Code adopted under this Subsection (6) is repealed on the July 1 immediately following the next annual general session that follows the adoption of the amendment.

(7) (a) Except as provided in Subsection (7)(b), a legislative body of a political subdivision may enact an ordinance in the political subdivision's fire code that is more restrictive than the State Fire Code:

(i) in order to meet a public safety need of the political subdivision; and

(ii) subject to the requirements of Subsection (7)(c).

(b) Except as provided in Subsections (7)(c), (10), and (11), or as expressly provided in state law, a political subdivision may not, after December 1, 2016, enact or enforce a rule or ordinance that applies to a structure built in accordance with the International Residential Code, as adopted in the State Construction Code, that is more restrictive than the State Fire Code.

(c) (i) Except as provided in Subsection (7)(c)(ii), a political subdivision may adopt:

(A) the appendices of the International Fire Code; and

(B) a fire sprinkler ordinance in accordance with Section 15A-5-203.

(ii) If a political subdivision adopts International Fire Code Appendix B, the political subdivision may not require:

(A) a subdivision of structures built in accordance with the International Residential Code to have a fire flow rate that is greater than 2000 gallons per minute;

(B) an individual structure built in accordance with the International Residential Code to have a fire flow rate [~~greater than that required under Subsection 15A-5-203(1)(a)~~] that is greater than 2000 gallons per minute; or

(C) a one- or two-family dwelling or a town home to have a fire sprinkler system, except in accordance with Section 15A-5-203.

[~~(d) A legislative body of a political subdivision that enacts an ordinance under Subsection (7)(a) shall:~~]

[~~(i) notify the board in writing at least 30 days before the day on which the legislative body enacts the ordinance and include in the notice a statement as to the proposed subject matter of the ordinance; and~~]

[~~(ii) after the legislative body enacts the ordinance, report to the board before the board makes the report required under Subsection (7)(e), including providing the board:~~]

[~~(A) a copy of the ordinance enacted under this Subsection (7); and~~]

[~~(B) a description of the public safety need that is the basis of enacting the ordinance.~~]

[~~(e)~~] (d) The board shall submit, in accordance with Section 68-3-14, to the Business and Labor Interim Committee each year with the recommendations submitted in accordance with Subsection (4)[~~: (i) a list of the ordinances enacted under this Subsection (7) during the fiscal year immediately preceding the report; and (ii)~~], recommendations, if any, for legislative action related to an ordinance enacted under this Subsection (7).

[~~(f) (i) The state fire marshal shall keep an indexed copy of an ordinance enacted under this Subsection (7).~~]

[~~(ii) The state fire marshal shall make a copy of an ordinance enacted under this Subsection (7) available on request.~~]

[~~(g) The board may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish procedures for a legislative body of a political subdivision to follow to provide the notice and report required under this Subsection (7).~~]

(8) Except as provided in Subsections (9), (10), and (11), or as expressly provided in state law, a state executive branch entity may not, after December 1, 2016, adopt or enforce a rule or requirement that:

(a) is more restrictive than the State Fire Code; and

(b) applies to detached one- and two-family dwellings and townhouses not more than three stories above grade plane in height with a separate means of egress and their accessory structures.

(9) A state government entity may adopt a rule or requirement regarding a residential occupancy that is regulated by:

(a) the State Fire Prevention Board;

(b) the Department of Health; or

(c) the Department of Human Services.

(10) A state executive branch entity or political subdivision of the state may:

(a) enforce a federal law or regulation;

(b) adopt or enforce a rule, ordinance, or requirement if the rule, ordinance, or requirement applies only to a facility or construction owned or

used by a state entity or a political subdivision of the state; or

(c) enforce a rule, ordinance, or requirement:

(i) that the state executive branch entity or political subdivision adopted or made effective before July 1, 2015; and

(ii) for which the state executive branch entity or political subdivision can demonstrate, with substantial evidence, that the rule, ordinance, or requirement is necessary to protect an individual from a condition likely to cause imminent injury or death.

(11) The Department of Health or the Department of Environmental Quality may enforce a rule or requirement adopted before January 1, 2015.

Section 4. Section 15A-2-103 is amended to read:

15A-2-103. Specific editions adopted of construction code of a nationally recognized code authority.

(1) Subject to the other provisions of this part, the following construction codes are incorporated by reference, and together with the amendments specified in Chapter 3, Statewide Amendments Incorporated as Part of State Construction Code, and Chapter 4, Local Amendments Incorporated as Part of State Construction Code, are the construction standards to be applied to building construction, alteration, remodeling, and repair, and in the regulation of building construction, alteration, remodeling, and repair in the state:

(a) the 2018 edition of the International Building Code, including [~~Appendix~~] Appendices C and J, issued by the International Code Council;

(b) the 2015 edition of the International Residential Code, issued by the International Code Council;

(c) Appendix Q of the 2018 edition of the International Residential Code, issued by the International Code Council;

(d) the 2018 edition of the International Plumbing Code, issued by the International Code Council;

(e) the 2018 edition of the International Mechanical Code, issued by the International Code Council;

(f) the 2018 edition of the International Fuel Gas Code, issued by the International Code Council;

(g) the [~~2017~~] 2020 edition of the National Electrical Code, issued by the National Fire Protection Association;

(h) the residential provisions of the 2015 edition of the International Energy Conservation Code, issued by the International Code Council;

(i) the commercial provisions of the 2018 edition of the International Energy Conservation Code, issued by the International Code Council;

(j) the 2018 edition of the International Existing Building Code, issued by the International Code Council;

(k) subject to Subsection 15A-2-104(2), the HUD Code;

(l) subject to Subsection 15A-2-104(1), Appendix E of the 2015 edition of the International Residential Code, issued by the International Code Council;

(m) subject to Subsection 15A-2-104(1), the 2005 edition of the NFPA 225 Model Manufactured Home Installation Standard, issued by the National Fire Protection Association;

(n) subject to Subsection (3), for standards and guidelines pertaining to plaster on a historic property, as defined in Section 9-8-302, the U.S. Department of the Interior Secretary's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings; and

(o) the residential provisions of the 2018 edition of the International Swimming Pool and Spa Code, issued by the International Code Council.

(2) Consistent with Title 65A, Chapter 8, Management of Forest Lands and Fire Control, the Legislature adopts the 2006 edition of the Utah Wildland Urban Interface Code, issued by the International Code Council, with the alternatives or amendments approved by the Utah Division of Forestry, as a construction code that may be adopted by a local compliance agency by local ordinance or other similar action as a local amendment to the codes listed in this section.

(3) The standards and guidelines described in Subsection (1)(n) apply only if:

(a) the owner of the historic property receives a government tax subsidy based on the property's status as a historic property;

(b) the historic property is wholly or partially funded by public money; or

(c) the historic property is owned by a government entity.

Section 5. Section 15A-3-113 is amended to read:

15A-3-113. Amendments to Chapters 32 through 35 of IBC.

(1) In IBC, Chapter 35, the referenced standard for NFPA 70-17 is deleted and replaced with NFPA 70-20.

(2) In IBC, Chapter 35, the referenced standard ICCA117.1-09, Section 606.2, Exception 1 is modified to include the following sentence at the end of the exception:

"The minimum clear floor space shall be centered on the sink assembly."

Section 6. Section 15A-3-202 is amended to read:

15A-3-202. Amendments to Chapters 1 through 5 of IRC.

(1) In IRC, Section R102, a new Section R102.7.2 is added as follows: "R102.7.2 Physical change for bedroom window egress. A structure whose egress window in an existing bedroom is smaller than required by this code, and that complied with the construction code in effect at the time that the bedroom was finished, is not required to undergo a physical change to conform to this code if the change would compromise the structural integrity of the structure or could not be completed in accordance with other applicable requirements of this code, including setback and window well requirements."

(2) In IRC, Section R108.3, the following sentence is added at the end of the section: "The building official shall not request proprietary information."

(3) In IRC, Section 109:

(a) A new IRC, Section 109.1.5, is added as follows: "R109.1.5 Weather-resistant exterior wall envelope inspections. An inspection shall be made of the weather-resistant exterior wall envelope as required by Section R703.1 and flashings as required by Section R703.8 to prevent water from entering the weather-resistive barrier."

(b) The remaining sections are renumbered as follows: R109.1.6 Other inspections; R109.1.6.1 Fire- and smoke-resistance-rated construction inspection; R109.1.6.2 Reinforced masonry, insulating concrete form (ICF) and conventionally formed concrete wall inspection; and R109.1.7 Final inspection.

(4) IRC, Section R114.1, is deleted and replaced with the following: "R114.1 Notice to owner. Upon notice from the building official that work on any building or structure is being prosecuted contrary to the provisions of this code or other pertinent laws or ordinances or in an unsafe and dangerous manner, such work shall be immediately stopped. The stop work order shall be in writing and shall be given to the owner of the property involved, or to the owner's agent or to the person doing the work; and shall state the conditions under which work will be permitted to resume."

(5) In IRC, Section R202, the following definition is added: "CERTIFIED BACKFLOW PREVENTER ASSEMBLY TESTER: A person who has shown competence to test Backflow prevention assemblies to the satisfaction of the authority having jurisdiction under Utah Code, Subsection 19-4-104(4)."

(6) In IRC, Section R202, the definition of "Cross Connection" is deleted and replaced with the following: "CROSS CONNECTION. Any physical connection or potential connection or arrangement between two otherwise separate piping systems, one of which contains potable water and the other either water of unknown or questionable safety or steam, gas, or chemical, whereby there exists the possibility for flow from one system to the other, with the direction of flow depending on the pressure differential between the two systems (see "Backflow, Water Distribution")."

(7) In IRC, Section 202, the following definition is added: "ENERGY STORAGE SYSTEM (ESS). One or more devices, assembled together, that are capable of storing energy for supplying electrical energy at a future time."

[~~(7)~~] (8) In IRC, Section 202, in the definition for gray water a comma is inserted after the word "washers"; the word "and" is deleted; and the following is added to the end: "and clear water wastes which have a pH of 6.0 to 9.0; are non-flammable; non-combustible; without objectionable odors; non-highly pigmented; and will not interfere with the operation of the sewer treatment facility."

[~~(8)~~] (9) In IRC, Section R202, the definition of "Potable Water" is deleted and replaced with the following: "POTABLE WATER. Water free from impurities present in amounts sufficient to cause disease or harmful physiological effects and conforming to the Utah Code, Title 19, Chapter 4, Safe Drinking Water Act, and Title 19, Chapter 5, Water Quality Act, and the regulations of the public health authority having jurisdiction."

[~~(9)~~] (10) IRC, Figure R301.2(5), is deleted and replaced with R301.2(5) as follows:

"TABLE NO. R301.2(5)
GROUND SNOW LOADS FOR SELECTED LOCATIONS IN UTAH

City/Town	County	Ground Snow Load (lb.ft2)	Elevation (ft)
Beaver	Beaver	35	5886
Brigham City	Box Elder	42	4423
Castle Dale	Emery	32	5669
Coalville	Summit	57	5581
Duchesne	Duchesne	39	5508
Farmington	Davis	35	4318
Fillmore	Millard	30	5138
Heber City	Wasatch	60	5604
Junction	Piute	27	6030
Kanab	Kane	25	4964
Loa	Wayne	37	7060
Logan	Cache	43	4531
Manila	Daggett	26	6368
Manti	Sanpete	37	5620
Moab	Grand	21	4029
Monticello	San Juan	67	7064
Morgan	Morgan	52	5062
Nephi	Juab	39	5131
Ogden	Weber	37	4334
Panguitch	Garfield	41	6630
Parowan	Iron	32	6007
Price	Carbon	31	5558
Provo	Utah	31	4541
Randolph	Rich	50	6286
Richfield	Sevier	27	5338
St. George	Washington	21	2585
Salt Lake City	Salt Lake	28	4239
Tooele	Tooele	35	5029
Vernal	Uintah	39	5384

Note: To convert lb/ft^2 to kN/m^2, multiply by 0.0479. To convert feet to meters, multiply by 0.3048.

1. Statutory requirements of the Authority Having Jurisdiction are not included in this state ground snow load table.

2. For locations where there is substantial change in altitude over the city/town, the load applies at and below the cited elevation, with a tolerance of 100 ft (30 m).

3. For other locations in Utah, see Bean, B., Maguire, M., Sun, Y. (2018), "The Utah Snow Load Study," Utah State University Civil and Environmental Engineering Faculty Publications, Paper 3589, http://utah-snowload.usu.edu/, for ground snow load values.

[~~(10)~~] (11) IRC, Section R301.6, is deleted and replaced with the following: "R301.6 Utah Snow Loads. The snow loads specified in Table R301.2(5b) shall be used for the jurisdictions identified in that table. Otherwise, for other locations in Utah, see Bean, B., Maguire, M., Sun, Y. (2018), "The Utah Snow Load Study," Utah State University Civil and Environmental Engineering Faculty Publications, Paper 3589, http://utahsnowload.usu.edu/, for ground snow load values."

[~~(11)~~] (12) In IRC, Section R302.2, the following sentence is added after the second sentence: "When an access/maintenance agreement or easement is in place, plumbing, mechanical ducting, schedule 40 steel gas pipe, and electric service conductors including feeders, are permitted to penetrate the common wall at grade, above grade, or below grade."

[~~(12)~~] (13) In IRC, Section R302.5.1, the words "self-closing device" are deleted and replaced with "self-latching hardware."

[~~(13)~~] (14) IRC, Section R302.13, is deleted.

[~~(14)~~] (15) In IRC, Section R303.4, the number "5" is changed to "3" in the first sentence.

[~~(15)~~] (16) IRC, Sections R311.7.4 through R311.7.5.3, are deleted and replaced with the following: "R311.7.4 Stair treads and risers. R311.7.5.1 Riser height. The maximum riser height shall be 8 inches (203 mm). The riser shall be measured vertically between leading edges of the adjacent treads. The greatest riser height within any flight of stairs shall not exceed the smallest by more than 3/8 inch (9.5 mm).

R311.7.5.2 Tread depth. The minimum tread depth shall be 9 inches (228 mm). The tread depth shall be measured horizontally between the vertical planes of the foremost projection of adjacent treads and at a right angle to the tread's leading edge. The greatest tread depth within any flight of stairs shall not exceed the smallest by more than 3/8 inch (9.5 mm). Winder treads shall have a minimum tread depth of 10 inches (254 mm) measured as above at a point 12 inches (305 mm) from the side where the treads are narrower. Winder treads shall have a minimum tread depth of 6 inches (152 mm) at any point. Within any flight of stairs, the greatest winder tread depth at the 12-inch (305 mm) walk line shall not exceed the smallest by more than 3/8 inch (9.5 mm).

R311.7.5.3 Profile. The radius of curvature at the leading edge of the tread shall be no greater than 9/16 inch (14.3 mm). A nosing not less than 3/4 inch (19 mm) but not more than 1 1/4 inches (32 mm) shall be provided on stairways with solid risers. The greatest nosing projection shall not exceed the smallest nosing projection by more than 3/8 inch (9.5 mm) between two stories, including the nosing at the level of floors and landings. Beveling of nosing shall not exceed 1/2 inch (12.7 mm). Risers shall be vertical or sloped from the underside of the leading edge of the tread above at an angle not more than 30 degrees (0.51 rad) from the vertical. Open risers are permitted, provided that the opening between treads does not permit the passage of a 4-inch diameter (102 mm) sphere.

Exceptions.

1. A nosing is not required where the tread depth is a minimum of 10 inches (254 mm).

2. The opening between adjacent treads is not limited on stairs with a total rise of 30 inches (762 mm) or less."

[~~(16)~~] (17) IRC, Section R312.2, is deleted.

[~~(17)~~] (18) IRC, Sections R313.1 through R313.2.1, are deleted and replaced with the following: "R313.1 Design and installation. When installed, automatic residential fire sprinkler systems for townhouses or one- and two-family dwellings shall be designed and installed in accordance with Section P2904 or NFPA 13D."

[~~(18)~~] (19) In IRC, Section 315.3, the following words are added to the first sentence after the word "installed": "on each level of the dwelling unit and."

[~~(19)~~] (20) In IRC, Section R315.5, a new exception, 3, is added as follows:"3. Hard wiring of carbon monoxide alarms in existing areas shall not be required where the alterations or repairs do not result in the removal of interior wall or ceiling finishes exposing the structure, unless there is an attic, crawl space or basement available which could provide access for hard wiring, without the removal of interior finishes."

[~~(20)~~] (21) A new IRC, Section R315.7, is added as follows: " R315.7 Interconnection. Where more than one carbon monoxide alarm is required to be installed within an individual dwelling unit in accordance with Section R315.1, the alarm devices shall be interconnected in such a manner that the actuation of one alarm will activate all of the alarms in the individual unit. Physical interconnection of smoke alarms shall not be required where listed wireless alarms are installed and all alarms sound upon activation of one alarm.

Exception: Interconnection of carbon monoxide alarms in existing areas shall not be required where alterations or repairs do not result in removal of interior wall or ceiling finishes exposing the structure, unless there is an attic, crawl space or basement available which could provide access for interconnection without the removal of interior finishes."

[~~(21)~~] (22) In IRC, Section R317.1.5, the period is deleted and the following language is added to the end of the paragraph: "or treated with a moisture resistant coating."

[~~(22)~~] (23) In IRC, Section 326.1, the words "residential provisions of the" are added after the words "pools and spas shall comply with".

(24) In IRC, Section R327.1 is deleted and replaced with the following: "327.1 General. Energy storage systems (ESS) shall comply with the provisions of this section.

Exceptions:

1. ESS listed and labeled in accordance with UL 9540 and marked "For use in residential dwelling units", where installed in accordance with the manufacturer's instruction and NFPA 70.

2. ESS less than 1kWh (3.6 megajoules)."

(25) In IRC, Section R327.2 is deleted and replaced with the following: "327.2 Equipment listings. ESS shall be listed and labeled in accordance with UL 9540.

Exception: Where approved, repurposed unlisted battery systems from electric vehicle are allowed to be installed outdoors or in detached sheds located not less than 5 feet (1524 mm) from exterior walls, property lines and public ways."

(26) In IRC, Section R327.3 is deleted and replaced with the following: "327.3 Installation. ESS shall be installed in accordance with the manufacturer's instructions and their listing."

(27) In IRC, Section R327, a new section 327.3.1 is added as follows: "327.3.1 Spacing. Individual units shall be separate from each other by not less than three feet (914 mm) except where smaller separation distances are documented to be adequate based on large-scale fire testing complying with Section 1206.2.3 of the adopted International Fire Code."

(28) In IRC, Section 327.4 is deleted and replaced with the following: "327.4 Locations. ESS shall be installed only in the following locations:

1. Detached garages and detached accessory structures.

2. Attached garages separated from the dwelling unit living space in accordance with Section R302.6.

3. Outdoors or on the exterior side of exterior walls located not less than 3 feet (914 mm) from doors and windows directly entering the dwelling unit.

4. Enclosed utility closets, basements, storage or utility spaces within dwelling units with finished or noncombustible walls and ceilings. Walls and ceilings of unfinished wood-framed construction shall be provided with not less than 5/8-inch (15.9 mm) Type X gypsum wallboard.

ESS shall not be installed in sleeping rooms, or closets or spaces opening directly into sleeping rooms."

(29) In IRC, Section 327.5 is deleted and replaced with the following: "327.5 Energy ratings. Individual ESS units shall have a maximum rating of 20 kWh. The aggregate rating of the ESS shall not exceed:

1. 40 kWh within utility closets, basements, and storage or utility spaces.

2. 80 kWh in attached or detached garages and detached accessory structures.

3. 80 kWh on exterior walls.

4. 80 kWh outdoors on the ground.

ESS installations exceeding the permitted individual or aggregate ratings shall be installed in accordance with Sections 1206.2.1 through 1206.2.12 of the adopted International Fire Code."

(30) In IRC, Section 327.6 is deleted and replaced with the following: "327.6 Electrical installation. ESS shall be installed in accordance with NFPA 70. Inverters shall be listed and labeled in accordance with UL 1741 or provided as part of the UL 9540 listing. Systems connected to the utility grid shall use inverters listed for utility interaction."

(31) In IRC, Section 327, a new section 327.7 is added as follows: "327.7 Fire detection. Rooms and areas within dwelling units, basements, and attached garages in which ESS are installed shall be protected by smoke alarms in accordance with Section R314. A heat detector, listed and interconnected to the smoke alarms, shall be installed in locations within dwelling units and attached garages where smoke alarms cannot be installed based on their listing."

(32) In IRC, Section 327, a new section 327.8 is added as follows: "327.8 Protection from impact. ESS installed in a location subject to vehicle damage shall be protected by approved barriers."

(33) In IRC, Section 327, a new section 327.9 is added as follows: "327.9 Ventilation. Indoor installations of ESS that include batteries that produce hydrogen or other flammable gasses during charging shall be provided with mechanical ventilation in accordance with Section M1307.4."

(34) In IRC, Section 327, a new section 327.10 is added as follows: "327.10 Electric vehicle use. The temporary use of an owner or occupant's electric-powered vehicle to power a dwelling unit while parked in an attached or detached garage or outdoors shall comply with the vehicle manufacturer's instructions and NFPA 70."

(35) In IRC, Section 327, a new section 327.11 is added as follows: "327.11 Signage. A sign located on the exterior of the dwelling shall be installed at a location approved by the authority having jurisdiction which identifies the battery chemistry included in the ESS. This sign shall be of sufficient durability to withstand the environment involved and shall not be handwritten."

[~~(23)~~] (36) In IRC, Section R403.1.6, a new Exception 3 is added as follows: " 3. When anchor bolt spacing does not exceed 32 inches (813 mm) apart, anchor bolts may be placed with a minimum of two bolts per plate section located not less than 4 inches (102 mm) from each end of each plate section at interior bearing walls, interior braced wall lines, and at all exterior walls."

[~~(24)~~] (37) In IRC, Section R403.1.6.1, a new exception is added at the end of Item 2 and Item 3 as follows: "Exception: When anchor bolt spacing does not exceed 32 inches (816 mm) apart, anchor bolts may be placed with a minimum of two bolts per plate section located not less than 4 inches (102 mm) from each end of each plate section at interior bearing walls, interior braced wall lines, and at all exterior walls."

[~~(25)~~] (38) In IRC, Section R404.1, a new exception is added as follows: "Exception: As an alternative to complying with Sections R404.1 through R404.1.5.3, concrete and masonry foundation walls may be designed in accordance with IBC Sections 1807.1.5 and 1807.1.6 as amended in Section 1807.1.6.4 and Table 1807.1.6.4 under these rules."

[~~(26)~~] (39) In IRC, Section R405.1, a new exception is added as follows: "Exception: When a geotechnical report has been provided for the property, a drainage system is not required unless the drainage system is required as a condition of the geotechnical report. The geological report shall make a recommendation regarding a drainage system."

Section 7. Section 15A-3-206 is amended to read:

15A-3-206. Amendments to Chapters 37, 39, and 44 and Appendix F of IRC.

(1) In IRC, Section E3705.4.5, the following words are added after the word "assemblies": "with ungrounded conductors 10 AWG and smaller".

(2) In IRC, Section E3901.4.5, the last sentence in the exception is deleted and replaced with the following: "Receptacles mounted below the countertop in accordance with this exception shall not be located more than 14 inches from the bottom leading edge of the countertop."

[~~(2)~~] (3) In IRC, Section E3901.9, the following exception is added:"Exception: Receptacles or other outlets adjacent to the exterior walls of the garage, outlets adjacent to an exterior wall of the garage, or outlets in a storage room with entry from the garage may be connected to the garage branch circuit."

[~~(3)~~] (4) IRC, Section E3902.16 is deleted.

[~~(4)~~] (5) In Section E3902.17:

(a) following the word "Exception" the number "1." is added; and

(b) at the end of the section, the following sentences are added:"2. This section does not apply for a simple move or an extension of a branch circuit or an outlet which does not significantly increase the existing electrical load. This exception does not include changes involving remodeling or additions to a residence."

[~~(5)~~] (6) IRC, Chapter 44, is amended by adding the following reference standard:

"Standard reference number	Title	Referenced in code section number
USC-FCCCHR 10th Edition Manual of Cross Connection Control	Foundation for Cross-Connection Control and Hydraulic Research University of Southern California Kaprielian Hall 300 Los Angeles CA90089-2531	Table P2902.3"

(7) In IRC, Chapter 44, is amended by adding the following reference standard: "UL 9540-20: Energy Storage Systems and Equipment; R327.1, R327.2 and R327.6."

[~~(6)~~] (8) (a) When passive radon controls or portions thereof are voluntarily installed, the voluntary installation shall comply with Appendix F of the IRC.

(b) An additional inspection of a voluntary installation described in Subsection [~~(6)~~] (8)(a) is not required.

Section 8. Section 15A-3-601 is amended to read:

15A-3-601. General provisions.

The following are adopted as amendments to the NEC to be applicable statewide:

(1) The IRC provisions are adopted as the residential electrical standards applicable to residential installations under the IRC. All other installations shall comply with the adopted NEC.

[~~(2) In NEC, Section 210.8(B), the words "and three phase receptacles rated 150 volts to ground or less, 100 amperes or less" are deleted.~~]

(2) In NEC, Section 210.8(A), the words "through 250-volt" are deleted.

(3) In NEC, Section 210.8(A)(5), the word "Basements" is deleted and replaced with "Unfinished portions or areas of the basement not intended as habitable rooms."

(4) In NEC, Section 210.8(F), is deleted.

[~~(3)~~] (5) NEC, Section [~~210.71~~] 210.65, is deleted.

[~~(4) In NEC, Section 240.67, the words "January 1, 2020" are deleted and replaced with "upon adoption of the 2020 NEC".~~]

(6) In NEC, Section 230.67, is deleted.

(7) In NEC, Section 314.27(C), is deleted and replaced with the following: "314.27(C) Boxes at Ceiling-Suspended (Paddle) Fan Outlets. Outlet boxes or outlet box systems used as the sole support of a ceiling-suspended (paddle) fan shall be listed, shall be marked by their manufacturer as suitable for this purpose, and shall not support ceiling-suspended (paddle) fans that weigh more than 32 kg (70 lb). For outlet boxes or outlet box systems designed to support ceiling-suspended (paddle) fans that weigh more than 16 kg (35 lb), the required marking shall include the maximum weight to be supported."

(8) In NEC, Section 406.9(C), is deleted and replaced with the following: "406.9(C) Bathtub and Shower Space. Receptacles shall not be installed within or directly over a bathtub or shower stall."

Section 9. Effective date.

This bill takes effect on July 1, 2021.

CHAPTER 200
S. B. 34
Passed March 4, 2021
Approved March 16, 2021
Effective May 5, 2021

GOVERNMENTAL USE OF FACIAL RECOGNITION TECHNOLOGY

Chief Sponsor: Daniel W. Thatcher
House Sponsor: Travis M. Seegmiller

LONG TITLE

General Description:

This bill addresses the state's use of facial recognition technology.

Highlighted Provisions:

This bill:

- defines terms;
- places limitation on the circumstances under which government entities may use image databases for facial recognition comparisons;
- describes the process of, and requirements for, conducting a facial recognition comparison;
- addresses training of Department of Public Safety (the department) and government entity employees;
- provides that only the department may use a facial recognition system with respect to image databases shared with or maintained by the department;
- provides a notice requirement for government entities that use facial recognition technology with respect to images taken by that government entity; and
- describes information that is required to be released, and information that is protected, in relation to a facial recognition comparison.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:
77-23e-101, Utah Code Annotated 1953
77-23e-102, Utah Code Annotated 1953
77-23e-103, Utah Code Annotated 1953
77-23e-104, Utah Code Annotated 1953
77-23e-105, Utah Code Annotated 1953
77-23e-106, Utah Code Annotated 1953

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

Section 1. Section 77-23e-101 is enacted to read:

CHAPTER 23e. GOVERNMENT USE OF FACIAL RECOGNITION TECHNOLOGY

77-23e-101. Title.

This chapter is known as "Government Use of Facial Recognition Technology."

Section 2. Section 77-23e-102 is enacted to read:

77-23e-102. Definitions.

As used in this chapter:

(1) "Department" means the Department of Public Safety, created in Section 53-1-103.

(2) "Facial biometric data" means data derived from a measurement, pattern, contour, or other characteristic of an individual's face, either directly or from an image.

(3) "Facial recognition comparison" means the process of comparing an image or facial biometric data to an image database.

(4) (a) "Facial recognition system" means a computer system that, for the purpose of attempting to determine the identity of an unknown individual, uses an algorithm to compare biometric data of the face of the unknown individual to facial biometric data of known individuals.

(b) "Facial recognition system" does not include:

(i) a system described in Subsection (4)(a) that is available for use, free of charge, by the general public; or

(ii) a system a consumer uses for the consumer's private purposes.

(5) (a) "Government entity" means:

(i) an executive department agency of the state;

(ii) the office of:

(A) the governor;

(B) the lieutenant governor;

(C) the state auditor;

(D) the attorney general; or

(E) the state treasurer;

(iii) the Board of Pardons and Parole;

(iv) the Board of Examiners;

(v) the National Guard;

(vi) the Career Service Review Office;

(vii) the State Board of Education;

(viii) the Utah Board of Higher Education;

(ix) the State Archives;

(x) the Office of the Legislative Auditor General;

(xi) the Office of Legislative Fiscal Analyst;

(xii) the Office of Legislative Research and General Counsel;

(xiii) the Legislature;

(xiv) a legislative committee of the Legislature;

(xv) a court, the Judicial Council, the Administrative Office of the Courts, and similar administrative units in the judicial branch;

(xvi) a state institution of higher education as that term is defined in Section 53B-3-102;

(xvii) an entity within the system of public education that receives funding from the state; or

(xviii) a political subdivision of the state as that term is defined in Section 63G-7-102.

(b) "Government entity" includes:

(i) every office, agency, board, bureau, committee, department, advisory board, or commission of an entity described in Subsection (5)(a) that is funded or established by the government to carry out the public's business; or

(ii) an individual acting as an agent of a government entity or acting on behalf of an entity described in this Subsection (5).

(6) (a) "Image database" means a database maintained by a government entity that contains images the government entity captures of an individual while the individual interacts with the government entity.

(b) "Image database" does not include publicly available information.

(7) "Law enforcement agency" means a public entity that exists primarily to prevent, detect, or prosecute crime or enforce criminal statutes or ordinances.

(8) "Trained employee" means an individual who is trained to make a facial recognition comparison and identification and who has completed implicit bias training.

Section 3. Section 77-23e-103 is enacted to read:

77-23e-103. Government use of facial recognition system with image database -- Restrictions -- Process -- Disclosure.

(1) Except as provided in this section, in Section 77-23e-104, and in Section 77-23e-105, a government entity may not use a facial recognition system on an image database.

(2) (a) (i) Only a law enforcement agency may make a request for a government entity to conduct a facial recognition comparison using a facial recognition system.

(ii) Except as provided in Subsection (2)(a)(iii), a law enforcement agency shall submit a request for a facial recognition comparison on an image database in writing to the government entity that manages the image database.

(iii) A law enforcement agency shall submit a request for a facial recognition comparison on an image database shared with or maintained by the department in accordance with Section 77-23e-104.

(b) A trained employee who is employed by the government entity that maintains or has access to the image database shall complete the request if the request:

(i) is for a purpose described in Subsection (2)(c);

(ii) includes a case identification number; and

(iii) is, if it is a request made for the purpose of investigating a crime, supported by a statement of the specific crime and factual narrative to support that there is a fair probability that the individual who is the subject of the request is connected to the crime.

(c) An individual described in Subsection (2)(b) shall only comply with requests made for a purpose of:

(i) investigating a felony, a violent crime, or a threat to human life; or

(ii) identifying an individual who is:

(A) deceased;

(B) incapacitated; or

(C) at risk and otherwise unable to provide the law enforcement agency with his or her identity.

(d) The law enforcement agency shall only use the facial recognition comparison:

(i) in accordance with the requirements of law; and

(ii) in relation to a purpose described in Subsection (2)(c).

(3) A government entity may not use a facial recognition system for a civil immigration violation.

(4) To make a facial recognition comparison, a trained employee described in Subsection (2)(b) shall:

(a) use a facial recognition system that, in accordance with industry standards:

(i) makes the comparison using an algorithm that compares only facial biometric data;

(ii) is secure; and

(iii) is produced by a company that is currently in business;

(b) if the facial recognition system indicates a possible match, make an independent visual comparison to determine whether the facial recognition system's possible match is a probable match;

(c) if the trained employee determines that there is a possible match that is a probable match, seek a second opinion from another trained employee or the trained employee's supervisor; and

(d) (i) if the other trained employee or the trained employee's supervisor agrees that the match is a probable match:

(A) report the result to the requesting law enforcement agency through an encrypted method; and

(B) return to the requesting law enforcement agency only a result that all trained employees agree is a probable match; or

(ii) if the other trained employee or the trained employee's supervisor disagrees that there is a

probable match, report the fact that the search returned no results to the requesting law enforcement agency.

(5) When submitting a case to a prosecutor, a law enforcement agency of the state or of a political subdivision shall disclose to the prosecutor, in writing:

(a) whether a facial recognition system was used in investigating the case; and

(b) if a facial recognition system was used:

(i) the information the law enforcement agency received in accordance with Subsection (4)(d)(ii); and

(ii) a description of how the facial recognition comparison was used in the investigation.

Section 4. Section 77-23e-104 is enacted to read:

77-23e-104. Department use of facial recognition system with specific images -- Restrictions.

(1) The department is the only government entity in the state authorized to use a facial recognition system to conduct a facial recognition comparison on an image database that is maintained by or shared with the department.

(2) The department may only use a facial recognition system:

(a) for a purpose authorized in Subsection 77-23e-103(2)(c); or

(b) notwithstanding Subsection 77-23e-103(2)(b), to:

(i) compare an image taken of an applicant for a license certificate or an identification card to determine whether the applicant has submitted a fraudulent or an inaccurate application; or

(ii) provide images for a photo lineup for a purpose authorized in Subsection 77-23e-103(2)(c).

(3) Notwithstanding Subsection 77-23e-104(2)(a)(ii), a law enforcement agency shall submit a request to the department to use a facial recognition system on an image database maintained by the department through the Utah Criminal Justice Information System.

Section 5. Section 77-23e-105 is enacted to read:

77-23e-105. Notice requirement.

(1) When capturing an image of an individual when the individual interacts with the government entity, the government entity shall notify the individual that the individual's image may be used in conjunction with facial recognition technology.

(2) At least 30 days before the day on which a government entity other than the department begins using a facial recognition system to conduct a facial recognition comparison on the government entity's image database, the government entity shall:

(a) publish on the government entity's website:

(i) notice of the proposed use of facial recognition system;

(ii) a description of the image database on which the government entity plans to use the facial recognition system; and

(iii) information about how to provide public comment;

(b) allow the public to submit written comments to the government entity within 15 days after the date of publication;

(c) consider timely submitted public comments and the criteria established in this chapter in determining whether to proceed with the intended use of the facial recognition system; and

(d) post notice of the final decision on the government entity's website.

(3) The process described in Subsection (2) does not create a right of appeal.

Section 6. Section 77-23e-106 is enacted to read:

77-23e-106. Data protection and disclosure.

(1) Notwithstanding Title 63G, Chapter 2, Government Records Access and Management Act, data relating to a facial recognition comparison may not be used or shared for any purpose other than a purpose described in this chapter.

(2) (a) Upon request, a government entity shall release statistical information regarding facial recognition comparisons, including:

(i) the different types of crime for which the government entity received a request;

(ii) how many requests the government entity received for each type of crime; and

(iii) the number of probable matches the government entity provided in response to each request.

(b) In responding to a request for a release of statistical information under Subsection (2)(a), a government entity may not disclose details regarding a pending investigation.

(3) (a) On or after August 1 but before October 15 of each year, a government entity that uses a facial recognition system to conduct a facial recognition comparison shall provide to the Government Operations Interim Committee a report that discloses:

(i) the different types of crime for which the department received a request;

(ii) how many requests the department received for each type of crime;

(iii) the number of probable matches the department provided in response to each request; and

(iv) the image source from which the department made each match.

(b) In responding to a request for a release of statistical information under Subsection (2)(a), a government entity may not disclose details regarding a pending investigation.

CHAPTER 201
S. B. 38
Passed February 10, 2021
Approved March 16, 2021
Effective May 5, 2021

K-9 POLICY REQUIREMENTS

Chief Sponsor: Daniel W. Thatcher
House Sponsor: Candice B. Pierucci

LONG TITLE

General Description:

This bill amends the liability provisions for dog bites relating to law enforcement activities and requires the annual certification of law enforcement canines and handlers.

Highlighted Provisions:

This bill:

- amends the liability provision for dog bites relating to law enforcement activities to require certification of dogs and handlers, a written policy on the use of dogs, and compliance with the policy; and
- enacts the Law Enforcement Canine Team Certification Act, to require certification and training of dogs and handlers.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

18-1-1, as last amended by Laws of Utah 2019, Chapter 92

ENACTS:

53-6-401, Utah Code Annotated 1953
53-6-402, Utah Code Annotated 1953
53-6-403, Utah Code Annotated 1953

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

Section 1. Section 18-1-1 is amended to read:

18-1-1. Liability and damages for dog injury -- Dogs used in law enforcement.

(1) (a) Except as provided in Subsection (2), a person who owns or keeps a dog is liable for an injury caused by the dog, regardless of whether:

(i) the dog is vicious or mischievous; or

(ii) the owner knows the dog is vicious or mischievous.

(b) Damages for an injury described in Subsection (1)(a) shall be determined in accordance with Section 78B-5-818.

(2) Neither the state nor any county, city, metro township, or town in the state nor any peace officer employed by the state, a county, a city, a metro township, or a town shall be liable in damages for an injury caused by a dog, if:

(a) the dog [~~has been trained~~] and the dog's law enforcement handler are trained to assist in law enforcement[~~;~~] and are certified according to the standards adopted in Title 53, Chapter 6, Part 4, Law Enforcement Canine Team Certification Act;

(b) the governmental agency has adopted a written policy on the necessary and appropriate use of dogs in official law enforcement duties;

(c) the actions of the dog's handler do not violate the agency's written policy; and

[~~(b)~~] (d) the injury occurs while the dog is reasonably and carefully being used in the apprehension, arrest, or location of a suspected offender or in maintaining or controlling the public order.

Section 2. Section 53-6-401 is enacted to read:

Part 4. Law Enforcement Canine Team Certification Act

53-6-401. Definitions.

As used in this part:

(1) "Council" means the Peace Officer Standards and Training Council created in Section 53-6-106.

(2) "Qualifying canine certifying entity" means an entity that certifies law enforcement canines and law enforcement canine handlers in accordance with the standards developed under Section 53-6-403.

Section 3. Section 53-6-402 is enacted to read:

53-6-402. Law enforcement canine and handler certification.

(1) Each law enforcement canine in the state shall be initially certified and annually recertified by a qualifying canine certifying entity.

(2) Each law enforcement canine handler in the state shall be initially certified and annually recertified by a qualifying canine certifying entity.

Section 4. Section 53-6-403 is enacted to read:

53-6-403. Canine and handler certification standards and criteria--Rules.

In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the council shall establish and maintain required standards for the training, certification, and recertification of:

(1) law enforcement canines; and

(2) law enforcement canine handlers.

CHAPTER 202
S. B. 40
Passed March 4, 2021
Approved March 16, 2021
Effective May 5, 2021

STORAGE TANKS AMENDMENTS

Chief Sponsor: David P. Hinkins
House Sponsor: Keven J. Stratton

LONG TITLE

General Description:

This bill addresses regulation of storage tanks.

Highlighted Provisions:

This bill:

- defines terms;
- addresses fees;
- requires owners or operators of certain aboveground petroleum storage tanks to notify the director of the Division of Environmental Response and Remediation and establish financial assurance;
- provides for rulemaking;
- requires notifying the division in certain circumstances;
- addresses the Environmental Assurance Program and participation in the Petroleum Storage Tank Trust Fund;
- repeals outdated language;
- addresses state owned or leased tanks;
- imposes restrictions on delivery of petroleum;
- addresses civil penalties; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

19-6-105, as last amended by Laws of Utah 2020, Chapter 256
19-6-402, as last amended by Laws of Utah 2018, Chapter 281
19-6-403, as last amended by Laws of Utah 2012, Chapters 310 and 360
19-6-407, as last amended by Laws of Utah 2012, Chapter 360
19-6-408, as last amended by Laws of Utah 2014, Chapter 227
19-6-409, as last amended by Laws of Utah 2018, Chapter 31
19-6-410.5, as last amended by Laws of Utah 2014, Chapter 227
19-6-415, as last amended by Laws of Utah 1997, Chapter 172
19-6-415.5, as enacted by Laws of Utah 1997, Chapter 172
19-6-416, as last amended by Laws of Utah 2012, Chapter 360
19-6-420, as last amended by Laws of Utah 2014, Chapter 227
19-6-428, as last amended by Laws of Utah 2012, Chapter 360
19-8-119, as last amended by Laws of Utah 2014, Chapter 227

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

Section 1. Section 19-6-105 is amended to read:

19-6-105. Rules of board.

(1) The board may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(a) establishing minimum standards for protection of human health and the environment, for the storage, collection, transport, transfer, recovery, treatment, and disposal of solid waste, including requirements for the approval by the director of plans for the construction, extension, operation, and closure of solid waste disposal sites;

(b) identifying wastes that are determined to be hazardous, including wastes designated as hazardous under Sec. 3001 of the Resource Conservation and Recovery Act of 1976, 42 U.S.C., Sec. 6921, et seq.;

(c) governing generators and transporters of hazardous wastes and owners and operators of hazardous waste treatment, storage, and disposal facilities, including requirements for keeping records, monitoring, submitting reports, and using a manifest, without treating high-volume wastes such as cement kiln dust, mining wastes, utility waste, gas and oil drilling muds, and oil production brines in a manner more stringent than they are treated under federal standards;

(d) requiring an owner or operator of a treatment, storage, or disposal facility that is subject to a plan approval under Section 19-6-108 or that received waste after July 26, 1982, to take appropriate corrective action or other response measures for releases of hazardous waste or hazardous waste constituents from the facility, including releases beyond the boundaries of the facility;

(e) specifying the terms and conditions under which the director shall approve, disapprove, revoke, or review hazardous wastes operation plans;

(f) governing public hearings and participation under this part;

(g) establishing standards governing underground storage tanks and aboveground petroleum storage tanks, in accordance with Title 19, Chapter 6, Part 4, Underground Storage Tank Act;

(h) relating to the collection, transportation, processing, treatment, storage, and disposal of infectious waste in health facilities in accordance with the requirements of Section 19-6-106;

(i) defining closure plans, modification requests, or both for hazardous waste, as class I, class I with prior director approval, class II, or class III;

and

(j) prohibiting refuse, offal, garbage, dead animals, decaying vegetable matter, or organic

waste substance of any kind to be thrown, or remain upon or in a street, road, ditch, canal, gutter, public place, private premises, vacant lot, watercourse, lake, pond, spring, or well.

(2) If any of the following are determined to be hazardous waste and are therefore subjected to the provisions of this part, the board shall, in the case of landfills or surface impoundments that receive the solid wastes, take into account the special characteristics of the wastes, the practical difficulties associated with applying requirements for other wastes to the wastes, and site-specific characteristics, including the climate, geology, hydrology, and soil chemistry at the site, if the modified requirements assure protection of human health and the environment and are no more stringent than federal standards applicable to waste:

(a) solid waste from the extraction, beneficiation, or processing of ores and minerals, including phosphate rock and overburden from the mining of uranium;

(b) fly ash waste, bottom ash waste, slag waste, and flue gas emission control waste generated primarily from the combustion of coal or other fossil fuels; and

(c) cement kiln dust waste.

(3) The board shall establish criteria for siting commercial hazardous waste treatment, storage, and disposal facilities, including commercial hazardous waste incinerators. Those criteria shall apply to any facility or incinerator for which plan approval is required under Section 19-6-108.

Section 2. Section 19-6-402 is amended to read:

19-6-402. Definitions.

As used in this part:

(1) "Abatement action" means action taken to limit, reduce, mitigate, or eliminate:

(a) a release from [~~an underground storage tank or~~] a petroleum storage tank; or

(b) the damage caused by that release.

(2) "Aboveground petroleum storage tank" means a storage tank that is, by volume, less than 10% buried in the ground, including the pipes connected to the storage tank and:

(a) (i) has attached underground piping; or

(ii) rests directly on the ground;

(b) contains regulated substances;

(c) has the capacity to hold 501 gallons or more; and

(d) is not:

(i) used in agricultural operations, as defined by the board by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(ii) used for heating oil for consumptive use on the premises where stored;

(iii) related to a petroleum facility under SIC Code 2911 or 5171 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of the President, Office of Management and Budget;

(iv) directly related to oil or gas production and gathering operations; or

(v) used in the fueling of aircraft or ground service equipment at a commercial airport that serves passengers or cargo, with commercial airport defined in Section 72-10-102.

[~~(2)~~] (3) "Board" means the Waste Management and Radiation Control Board created in Section 19-1-106.

[~~(3)~~] (4) "Bodily injury" means bodily harm, sickness, disease, or death sustained by a person.

[~~(4)~~] (5) "Certificate of compliance" means a certificate issued to a facility by the director:

(a) demonstrating that an owner or operator of a facility containing one or more petroleum storage tanks has met the requirements of this part; and

(b) listing [~~all~~] petroleum storage tanks at the facility, specifying:

(i) which tanks may receive petroleum; and

(ii) which tanks have not met the requirements for compliance.

[~~(5)~~] (6) "Certificate of registration" means a certificate issued to a facility by the director demonstrating that an owner or operator of a facility containing one or more [~~underground~~] petroleum storage tanks has:

(a) registered the tanks; and

(b) paid the annual [~~underground storage~~] tank fee.

[~~(6)~~] (7) (a) "Certified [~~underground~~] petroleum storage tank consultant" means a person who:

(i) for a fee, or in connection with services for which a fee is charged, provides or contracts to provide information, opinions, or advice relating to underground storage tank release:

(A) management;

(B) abatement;

(C) investigation;

(D) corrective action; or

(E) evaluation;

(ii) has submitted an application to the director;

(iii) received a written statement of certification from the director; and

(iv) meets the education and experience standards established by the board under Subsection 19-6-403(1)(a)(vii).

(b) "Certified [~~underground~~] petroleum storage tank consultant" does not include:

(i) (A) an employee of the owner or operator of the underground storage tank; or

(B) an employee of a business operation that has a business relationship with the owner or operator of the underground storage tank, and markets petroleum products or manages underground storage tanks; or

(ii) a person licensed to practice law in this state who offers only legal advice on underground storage tank release:

(A) management;

(B) abatement;

(C) investigation;

(D) corrective action; or

(E) evaluation.

[~~(7)~~] (8) "Closed" means [~~an underground~~] a petroleum storage tank that is no longer in use that has been:

(a) emptied and cleaned to remove [~~all~~] the liquids and accumulated sludges; and

(b) (i) removed [~~from the ground~~] along with all underground components; or

(ii) filled with an inert solid material, and in the case of piping, secured and capped.

[~~(8)~~] (9) "Corrective action plan" means a plan for correcting a release from a petroleum storage tank that includes provisions for any of the following:

(a) cleanup or removal of the release;

(b) containment or isolation of the release;

(c) treatment of the release;

(d) correction of the cause of the release;

(e) monitoring and maintenance of the site of the release;

(f) provision of alternative water supplies to a person whose drinking water has become contaminated by the release; or

(g) temporary or permanent relocation, whichever is determined by the director to be more cost-effective, of a person whose dwelling has been determined by the director to be no longer habitable due to the release.

[~~(9)~~] (10) "Costs" means money expended for:

(a) investigation;

(b) abatement action;

(c) corrective action;

(d) judgments, awards, and settlements for bodily injury or property damage to third parties;

(e) legal and claims adjusting costs incurred by the state in connection with judgments, awards, or settlements for bodily injury or property damage to third parties; or

(f) costs incurred by the state risk manager in determining the actuarial soundness of the fund.

[~~(10)~~] (11) "Covered by the fund" means the requirements of Section 19-6-424 have been met.

[~~(11)~~] (12) "Director" means the director of the Division of Environmental Response and Remediation.

[~~(12)~~] (13) "Division" means the Division of Environmental Response and Remediation, created in Subsection 19-1-105(1)(c).

[~~(13)~~] (14) "Dwelling" means a building that is usually occupied by a person lodging there at night.

[~~(14)~~] (15) "Enforcement proceedings" means a civil action or the procedures to enforce orders established by Section 19-6-425.

[~~(15)~~] (16) "Facility" means [~~all underground~~] the petroleum storage tanks located on a single parcel of property or on any property adjacent or contiguous to that parcel.

[~~(16)~~] (17) "Fund" means the Petroleum Storage Tank Trust Fund created in Section 19-6-409.

[~~(17)~~] (18) "Operator" means a person in control of or who is responsible on a daily basis for the maintenance of [~~an underground~~] a petroleum storage tank that is in use for the storage, use, or dispensing of a regulated substance.

[~~(18)~~] (19) "Owner" means:

(a) in the case of an underground storage tank in use on or after November 8, 1984, a person who owns an underground storage tank used for the storage, use, or dispensing of a regulated substance; [~~and~~]

(b) in the case of an underground storage tank in use before November 8, 1984, but not in use on or after November 8, 1984, a person who owned the tank immediately before the discontinuance of its use for the storage, use, or dispensing of a regulated substance[~~.~~]; and

(c) in the case of an aboveground petroleum storage tank, a person who owns the aboveground petroleum storage tank.

[~~(19)~~] (20) "Petroleum" includes crude oil or a fraction of crude oil that is liquid at:

(a) 60 degrees Fahrenheit; and

(b) a pressure of 14.7 pounds per square inch absolute.

[~~(20)~~] (21) "Petroleum storage tank" means a tank that:

(a) [~~(i)~~] is an underground storage tank;

[~~(ii) is regulated under Subtitle I of the Resource Conservation and Recovery Act, 42 U.S.C. Sec. 6991c, et seq., and~~]

[~~(iii) contains petroleum; or~~]

[~~(b) the owner or operator voluntarily submits~~]

(b) is an aboveground petroleum storage tank; or

(c) is a tank containing regulated substances that is voluntarily submitted for participation in the Petroleum Storage Tank Trust Fund under Section 19-6-415.

[~~(21)~~] (22) "Petroleum Storage Tank Restricted Account" means the account created in Section 19-6-405.5.

[~~(22)~~] (23) "Program" means the Environmental Assurance Program under Section 19-6-410.5.

[~~(23)~~] (24) "Property damage" means physical injury to, destruction of, or loss of use of tangible property.

[~~(24)~~] (25) (a) "Regulated substance" means petroleum and petroleum-based substances comprised of a complex blend of hydrocarbons derived from crude oil through processes of separation, conversion, upgrading, and finishing.

(b) "Regulated substance" includes motor fuels, jet fuels, distillate fuel oils, residual fuel oils, lubricants, petroleum solvents, and used oils.

[~~(25)~~] (26) (a) "Release" means spilling, leaking, emitting, discharging, escaping, leaching, or disposing a regulated substance from [~~an underground storage tank or~~] a petroleum storage tank into ground water, surface water, or subsurface soils.

(b) A release of a regulated substance from [~~an underground storage tank or~~] a petroleum storage tank is considered a single release from that tank system.

[~~(26)~~] (27) (a) "Responsible party" means a person who:

(i) is the owner or operator of a facility;

(ii) owns or has legal or equitable title in a facility or [~~an underground~~] a petroleum storage tank;

(iii) owned or had legal or equitable title in a facility at the time petroleum was received or contained at the facility;

(iv) operated or otherwise controlled activities at a facility at the time petroleum was received or contained at the facility; or

(v) is an underground storage tank installation company.

(b) "Responsible party" is as defined in Subsections [~~(26)~~] (27)(a)(i), (ii), and (iii) does not include:

(i) a person who is not an operator and, without participating in the management of a facility and otherwise not engaged in petroleum production, refining, and marketing, holds indicia of ownership:

(A) primarily to protect the person's security interest in the facility; or

(B) as a fiduciary or custodian under Title 75, Utah Uniform Probate Code, or under an employee benefit plan; or

(ii) governmental ownership or control of property by involuntary transfers as provided in CERCLA Section 101(20)(D), 42 U.S.C. Sec. 9601(20)(D).

(c) The exemption created by Subsection [~~(26)~~] (27)(b)(i)(B) does not apply to actions taken by the state or its officials or agencies under this part.

(d) The terms and activities "indicia of ownership," "primarily to protect a security interest," "participation in management," and "security interest" under this part are in accordance with 40 C.F.R. Part 280, Subpart I, as amended, and 42 U.S.C. Sec. 6991b(h)(9).

(e) The terms "participate in management" and "indicia of ownership" as defined in 40 C.F.R. Part 280, Subpart I, as amended, and 42 U.S.C. Sec. 6991b(h)(9) include and apply to the fiduciaries listed in Subsection [~~(26)~~] (27)(b)(i)(B).

(28) "Rests directly on the ground" means that at least some portion of a petroleum storage tank situated aboveground is in direct contact with soil.

[~~(27)~~] (29) "Soil test" means a test, established or approved by board rule, to detect the presence of petroleum in soil.

[~~(28)~~] (30) "State cleanup appropriation" means money appropriated by the Legislature to the department to fund the investigation, abatement, and corrective action regarding releases not covered by the fund.

(31) "Underground piping" means piping that is buried in the ground that is in direct contact with soil and connected to an aboveground petroleum storage tank.

[~~(29)~~] (32) "Underground storage tank" means a tank regulated under Subtitle I, Resource Conservation and Recovery Act, 42 U.S.C. Sec. 6991c, et seq., including:

[~~(a) a petroleum storage tank;~~]

[~~(b)~~] (a) underground pipes and lines connected to a storage tank;

[~~(c)~~] (b) underground ancillary equipment;

[~~(d)~~] (c) a containment system; and

[~~(e)~~] (d) each compartment of a multi-compartment storage tank.

[~~(30)~~] (33) "Underground storage tank installation company" means a person, firm, partnership, corporation, governmental entity, association, or other organization that installs underground storage tanks.

[~~(31)~~] (34) "Underground storage tank installation company permit" means a permit issued to an underground storage tank installation company by the director.

[~~(32)~~] (35) "Underground storage tank technician" means a person employed by and acting under the direct supervision of a certified [~~underground~~] petroleum storage tank consultant to assist in carrying out the functions described in Subsection [~~(6)~~] (7)(a).

Section 3. Section 19-6-403 is amended to read:

19-6-403. Powers and duties of board.

The board shall regulate [~~an underground storage tank or~~] a petroleum storage tank by:

(1) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, making rules that:

(a) provide for the:

(i) certification of an underground storage tank installer, inspector, tester, or remover;

(ii) registration of an underground storage tank operator;

(iii) registration of an underground storage tank;

(iv) administration of the petroleum storage tank program;

(v) format of, and required information in, a record kept by an underground storage or petroleum storage tank owner or operator who is participating in the fund;

(vi) voluntary participation in the fund for[~~:~~] a tank containing regulated substances, but excluded from the definition of a petroleum storage tank as provided in Section 19-6-415;

[~~(A) an above ground petroleum storage tank; and~~]

[~~(B) a tank:~~]

[~~(I) exempt from regulation under 40 C.F.R., Part 280, Subpart (B); and~~]

[~~(II) specified in Section 19-6-415; and~~]

(vii) certification of [~~an underground~~] a petroleum storage tank consultant including:

(A) a minimum education or experience requirement; and

(B) a recognition of the educational requirement of a professional engineer licensed under Title 58, Chapter 22, Professional Engineers and Professional Land Surveyors Licensing Act, as meeting the education requirement for certification; and

(viii) compliance with this chapter by an aboveground petroleum storage tank;

(b) adopt the requirements for an underground storage tank contained in:

(i) the Solid Waste Disposal Act, Subchapter IX, 42 U.S.C. Sec. 6991, et seq., as may be amended in the future; and

(ii) an applicable federal requirement authorized by the federal law referenced in Subsection (1)(b)(i); and

(c) comply with the requirements of the Solid Waste Disposal Act, Subchapter IX, 42 U.S.C. Sec. 6991[~~e~~], et seq., as may be amended in the future, for the state's assumption of primacy in the regulation of an underground storage tank; and

(2) applying the provisions of this part.

Section 4. Section 19-6-407 is amended to read:

19-6-407. Underground storage tank registration -- Change of ownership or operation -- Aboveground petroleum storage tank -- Civil penalty.

(1) (a) [~~Each~~] An owner or operator of an underground storage tank shall register the tank with the director if the tank:

(i) is in use; or

(ii) was closed after January 1, 1974.

(b) If a new person assumes ownership or operational responsibilities for an underground storage tank, that person shall inform the [~~executive secretary~~] director of the change within 30 days after the change occurs.

(c) Each installer of an underground storage tank shall notify the director of the completed installation within 60 days following the installation of an underground storage tank.

(2) (a) The owner or operator of an aboveground petroleum storage tank shall notify the director of the location of the aboveground petroleum storage tank by no later than:

(i) June 30, 2022, if the aboveground petroleum storage tank is installed on or before June 30, 2022;

(ii) if the aboveground petroleum storage tank is installed on or after July 1, 2022, 30 days after the day on which the aboveground petroleum storage tank is installed;

(iii) 30 days before the aboveground petroleum storage tank is closed; or

(iv) within 24 hours of the discovery of a reportable release or suspected release, as defined by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, from an aboveground petroleum storage tank.

(b) When notifying the director under this Subsection (2), an owner of an aboveground petroleum storage tank described in this Subsection (2) shall pay a processing fee established under Section 63J-1-504.

(c) Before operating an aboveground petroleum storage tank on or after June 30, 2023, the owner or operator of the aboveground petroleum storage tank shall provide financial responsibility by participating in the Environmental Assurance Program or demonstrating coverage through another method approved by the board by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(d) (i) The director shall certify when an owner or operator of an aboveground petroleum storage tank is in compliance with this Subsection (2).

(ii) The board shall make rules providing for the identification, through a tag or other readily identifiable method, of an aboveground petroleum storage tank under Subsection (2)(a) that is not

certified by the director as in compliance with this Subsection (2).

[~~(2)~~] (3) The director may issue a notice of agency action assessing a civil penalty in the amount of $1,000 if an owner, operator, or installer of a petroleum [~~or underground~~] storage tank fails to register the tank or provide notice as required in Subsection (1) or (2).

[~~(3)~~] (4) The penalties collected under authority of this section shall be deposited in the Petroleum Storage Tank Restricted Account created in Section 19-6-405.5.

Section 5. Section 19-6-408 is amended to read:

19-6-408. Petroleum storage tank registration fee -- Processing fee.

(1) The department may assess an annual [~~underground~~] petroleum storage tank registration fee against an owner or operator of [~~an underground~~] a petroleum storage tank that has not been closed. These fees shall be:

(a) billed per facility;

(b) due on July 1 annually;

(c) deposited with the department as dedicated credits;

(d) used by the department for the administration of the [~~underground~~] petroleum storage tank program outlined in this part; and

(e) established under Section 63J-1-504.

(2) (a) As used in this Subsection (2), "financial assurance mechanism document" may be a single document that covers more than one facility through a single financial assurance mechanism.

(b) (i) In addition to the fee under Subsection (1), an owner or operator of a petroleum storage tank who elects to demonstrate financial assurance through a mechanism other than the Environmental Assurance Program shall pay a processing fee established under Section 63J-1-504.

(ii) This Subsection (2)(b) does not apply to a self-insured public entity.

(c) If a combination of financial assurance mechanisms is used to demonstrate financial assurance, the fee under Subsection (2)(b) shall be paid for each document submitted.

(3) [~~Any funds~~] Money provided for administration of the [~~underground~~] petroleum storage tank program under this section that [~~are~~] is not expended at the end of the fiscal year lapse into the Petroleum Storage Tank Restricted Account created in Section 19-6-405.5.

(4) The director shall provide all owners or operators who pay the annual [~~underground~~] petroleum storage tank registration fee a certificate of registration.

(5) (a) The director may issue a notice of agency action assessing a civil penalty of $1,000 per facility if an owner or operator of [~~an underground~~] a petroleum storage tank facility fails to pay the required fee within 60 days after the July 1 due date.

(b) The registration fee and late payment penalty accrue interest at 12% per annum.

(c) If the registration fee, late payment penalty, and interest accrued under this Subsection (5) are not paid in full within 60 days after the July 1 due date any certificate of compliance issued prior to the July 1 due date lapses. The director may not reissue the certificate of compliance until full payment under this Subsection (5) is made to the department.

(d) The director may waive any penalty assessed under this Subsection (5) if no fuel has been dispensed from the tank on or after July 1, 1991.

Section 6. Section 19-6-409 is amended to read:

19-6-409. Petroleum Storage Tank Trust Fund created -- Source of revenues.

(1) (a) There is created a private-purpose trust fund entitled the "Petroleum Storage Tank Trust Fund."

(b) The sole sources of revenues for the fund are:

(i) petroleum storage tank fees paid under Section 19-6-411;

(ii) underground storage tank installation company permit fees paid under Section 19-6-411;

(iii) the environmental assurance fee and penalties paid under Section 19-6-410.5;

(iv) appropriations to the fund;

(v) principal and interest received from the repayment of loans made by the director under Subsection (5); and

(vi) interest accrued on revenues listed in this Subsection (1)(b).

(c) Interest earned on fund money is deposited into the fund.

(2) The director may expend money from the fund to pay costs:

(a) covered by the fund under Section 19-6-419;

(b) of administering the:

(i) fund; and

(ii) environmental assurance program and fee under Section 19-6-410.5;

(c) incurred by the state for a legal service or claim adjusting service provided in connection with a claim, judgment, award, or settlement for bodily injury or property damage to a third party;

(d) incurred by the [~~executive~~] director in determining the actuarial soundness of the fund;

(e) incurred by a third party claiming injury or damages from a release reported on or after

May 11, 2010, for hiring a certified [~~underground~~] petroleum storage tank consultant:

(i) to review an investigation or corrective action by a responsible party; and

(ii) in accordance with Subsection (4); and

[~~(f) incurred by the department to implement the study described in Subsection 19-6-410.5(8), including a one-time cost of up to $200,000 for the actuarial study described in Subsection 19-6-410.5(8)(a)(ii); and~~]

[~~(g)~~] (f) allowed under this part that are not listed under this Subsection (2).

(3) Costs for the administration of the fund and the environmental assurance fee shall be appropriated by the Legislature.

(4) The director shall:

(a) in paying costs under Subsection (2)(e):

(i) determine a reasonable limit on costs paid based on the:

(A) extent of the release;

(B) impact of the release; and

(C) services provided by the certified [~~underground~~] petroleum storage tank consultant;

(ii) pay, per release, costs for one certified [~~underground~~] petroleum storage tank consultant agreed to by all third parties claiming damages or injury;

(iii) include costs paid in the coverage limits allowed under Section 19-6-419; and

(iv) not pay legal costs of third parties;

(b) review and give careful consideration to reports and recommendations provided by a certified [~~underground~~] petroleum storage tank consultant hired by a third party; and

(c) make reports and recommendations provided under Subsection (4)(b) available on the Division of Environmental Response and Remediation's website.

(5) The director may loan, in accordance with this section, money available in the fund to a person to be used for:

(a) upgrading an underground storage tank;

(b) replacing an underground storage tank; or

(c) permanently closing an underground storage tank.

(6) (a) A person may apply to the director for a loan under Subsection (5)(c) if all tanks owned or operated by that person are in substantial compliance with all state and federal requirements or will be brought into substantial compliance using money from the fund.

(b) A person may apply to the director for a loan under Subsection (5)(a) or (b) if:

(i) the requirements of Subsection (6)(a) are met; and

(ii) the person participates in the Environmental Assurance Program under Section 19-6-410.5.

(7) The director shall consider loan applications under Subsection (6) to meet the following objectives:

(a) support availability of gasoline in rural parts of the state;

(b) support small businesses; and

(c) reduce the threat of a petroleum release endangering the environment.

(8) (a) A loan made under this section may not be for more than:

(i) $300,000 for all tanks at any one facility;

(ii) $100,000 per tank; and

(iii) 80% of the total cost of:

(A) upgrading an underground storage tank;

(B) replacing an underground storage tank; or

(C) permanently closing an underground storage tank.

(b) A loan made under this section shall:

(i) have a fixed annual interest rate of 0%;

(ii) have a term no longer than 10 years;

(iii) be made on the condition the loan applicant obtains adequate security for the loan as established by board rule under Subsection (9); and

(iv) comply with rules made by the board under Subsection (9).

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

(a) form, content, and procedure for a loan application;

(b) criteria and procedures for prioritizing a loan application;

(c) requirements and procedures for securing a loan;

(d) procedures for making a loan;

(e) procedures for administering and ensuring repayment of a loan, including late payment penalties;

(f) procedures for recovering on a defaulted loan; and

(g) the maximum amount of the fund that may be used for loans.

(10) A decision by the director to loan money from the fund and otherwise administer the fund is not subject to Title 63G, Chapter 4, Administrative Procedures Act.

(11) The Legislature shall appropriate money from the fund to the department for the

administration costs associated with making loans under this section.

(12) The director may enter into an agreement with a public entity or private organization to perform a task associated with administration of loans made under this section.

Section 7. Section 19-6-410.5 is amended to read:

19-6-410.5. Environmental Assurance Program -- Participant fee -- State Tax Commission administration, collection, and enforcement of tax.

(1) As used in this section:

(a) "Cash balance" means cash plus investments and current accounts receivable minus current accounts payable, excluding the liabilities estimated by the executive director.

(b) "Commission" means the State Tax Commission, as defined in Section 59-1-101.

(2) (a) There is created an Environmental Assurance Program.

(b) The program shall provide to a participating owner or operator, upon payment of the fee imposed under Subsection (4), assistance with satisfying the financial responsibility requirements of 40 C.F.R., Part 280, Subpart H, by providing funds from the Petroleum Storage Tank Trust Fund established in Section 19-6-409, subject to the terms and conditions of [~~Chapter 6, Part 4, Underground Storage Tank Act~~] this part, and rules implemented under [~~that~~] this part.

(3) (a) Subject to Subsection (3)(b), participation in the program is voluntary.

(b) An owner or operator seeking to satisfy financial responsibility requirements through the program shall use the program for all petroleum [~~underground~~] storage tanks that the owner or operator owns or operates.

(4) (a) There is assessed an environmental assurance fee of 13/20 cent per gallon on the first sale or use of petroleum products in the state.

(b) The environmental assurance fee and any other revenue collected under this section shall be deposited in the Petroleum Storage Tank Trust Fund created in Section 19-6-409 and used solely for the purposes listed in Section 19-6-409.

(5) (a) The commission shall administer, collect, and enforce the fee imposed under this section according to the same procedures used in the administration, collection, and enforcement of the state sales and use tax under:

(i) Title 59, Chapter 1, General Taxation Policies; and

(ii) Title 59, Chapter 12, Part 1, Tax Collection.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules to establish:

(i) the method of payment of the environmental assurance fee;

(ii) the procedure for reimbursement or exemption of an owner or operator that does not participate in the program, including an owner or operator of an above ground storage tank; and

(iii) the procedure for confirming with the department that an owner or operator qualifies for reimbursement or exemption under Subsection (5)(b)(ii).

(c) The commission may retain an amount not to exceed 2.5% of fees collected under this section for the cost to the commission of rendering its services.

(d) By January 1, 2015, for underground storage tanks, and by July 1, 2026, for aboveground petroleum storage tanks, the division shall, by rule, create:

(i) a model for assessing the risk profile of each facility participating in the program, for purposes of qualifying for a rebate of a portion of the environmental assurance fee described in Subsection (4) collected from an owner or operator that participates in the program; and

(ii) a rebate schedule listing the amount of the environmental assurance fee that an owner or operator participating in the program may qualify for based on risk profiles determined by the model developed under Subsection (5)(d)(i).

(e) The rebate described in Subsection (5)(d):

(i) may not exceed 40% of the actual fee collected from an owner or operator of a low-risk underground storage tank as defined in the risk-based model developed under Subsection (5)(d);

(ii) is administered on a per facility basis;

(iii) is based on the facility's risk profile at the end of the prior calendar year;

(iv) is only applicable to an environmental assurance fee collected after December 30, 2014, for underground storage tanks, and June 30, 2026, for aboveground petroleum storage tanks; and

(v) shall be claimed in the form of a refund from the commission.

(f) The refund described in Subsection (5)(e)(v) may be claimed on a monthly basis.

(6) (a) The person responsible for payment of the fee under this section shall, by the last day of the month following the month in which the sale occurs:

(i) complete and submit the form prescribed by the commission; and

(ii) pay the fee to the commission.

(b) (i) The penalties and interest for failure to file the form or to pay the environmental assurance fee are the same as the penalties and interest under Sections 59-1-401 and 59-1-402.

(ii) The commission shall deposit penalties and interest collected under this section in the Petroleum Storage Tank Trust Fund.

(c) The commission shall report to the department a person who is delinquent in payment of the fee under this section.

(7) (a) (i) If the cash balance of the Petroleum Storage Tank Trust Fund on June 30 of any year exceeds [~~$30,000,000~~] $50,000,000, the assessment of the environmental assurance fee as provided in Subsection (4) is reduced to 1/4 cent per gallon beginning November 1.

(ii) The reduction under this Subsection (7)(a) remains in effect until modified by the Legislature in a general or special session.

(b) The commission shall determine the cash balance of the fund each year as of June 30.

(c) Before September 1 of each year, the department shall provide the commission with the accounts payable of the fund as of June 30.

[~~(8) The department shall:~~]

[~~(a) (i) study the adverse selection of participants in the program and the actuarial deficit of the fund;~~]

[~~(ii) obtain an actuarial study and related consultation that provides the necessary calculations to minimize adverse selection in the program and the actuarial deficit of the fund;~~]

[~~(iii) develop a risk characterization profile for participants in the program and recommend a fee schedule based on fair market rates;~~]

[~~(iv) develop a strategy to reduce the negative equity balance of the fund and, based on the fee schedule described in Subsection (8)(a)(iii), a corresponding time schedule showing an actuarial reduction in the negative equity balance of the fund; and~~]

[~~(v) identify and study other adverse impacts to the program and the fund; and~~]

[~~(b) based on the information obtained and developed under Subsection (8)(a), prepare a recommendation to implement a strategy to minimize adverse selection of participants in the program and eliminate or reduce the actuarial deficit of the fund.~~]

[~~(9) The department shall report to the Natural Resources, Agriculture, and Environment Interim Committee before December 31, 2013, regarding:~~]

[~~(a) the information obtained and developed under Subsection (8)(a); and~~]

[~~(b) the recommendation prepared under Subsection (8)(b).~~]

Section 8. Section 19-6-415 is amended to read:

19-6-415. Participation of excluded or exempt tanks.

(1) An underground storage tank exempt from regulation under 40 C.F.R., Part 280, Subpart A, may become eligible for payments from the Petroleum Storage Tank Trust Fund if [~~it~~] the underground storage tank:

(a) (i) is a farm or residential tank with a capacity of 1,100 gallons or less and is used for storing motor fuel for noncommercial purposes;

(ii) is used for storing heating oil for consumptive use on the premises where stored; or

(iii) is used for any oxygenate blending component for motor fuels;

(b) complies with the requirements of Section 19-6-412;

(c) meets other requirements established by rules made under Section 19-6-403; and

(d) pays registration and tank fees and environmental assurance fees, equivalent to those fees outlined in Sections 19-6-408, 19-6-410.5, and 19-6-411.

(2) An [~~above ground petroleum storage tank~~] aboveground petroleum storage tank excluded from the definition of aboveground petroleum storage tank under Section 19-6-402, may become eligible for payments from the Petroleum Storage Tank Trust Fund if the owner or operator:

(a) pays those fees that are equivalent to the registration and tank fees and environmental assurance fees under Sections 19-6-408, 19-6-410.5, and 19-6-411;

(b) complies with the requirements of Section 19-6-412; and

(c) meets other requirements established by rules made under Section 19-6-403.

Section 9. Section 19-6-415.5 is amended to read:

19-6-415.5. State owned or leased tanks to participate in program.

Any underground storage tank or aboveground petroleum storage tank owned or leased by the state [~~of Utah~~] and subject to the financial assurance requirements established by division rule shall participate in the program.

Section 10. Section 19-6-416 is amended to read:

19-6-416. Restrictions on delivery of petroleum -- Civil penalty.

(1) (a) [~~After July 1, 1991, a~~] A person may not deliver petroleum to, place petroleum in, or accept petroleum for placement in a petroleum storage tank that is not identified in compliance with Subsection 19-6-411(7).

(b) Beginning July 1, 2023, a person may not deliver petroleum to, place petroleum in, or accept petroleum for placement in an aboveground petroleum storage tank that is not in compliance with Subsection 19-6-407(2).

(2) [~~Any~~] A person who delivers or accepts delivery of petroleum to a petroleum storage tank or places petroleum, including waste petroleum substances, in an underground storage tank or aboveground petroleum storage tank in violation of Subsection (1) is subject to a civil penalty of not more than $500 for each occurrence.

(3) The director shall issue a notice of agency action assessing a civil penalty of not more than $500 against any person who delivers or accepts delivery of petroleum to a petroleum storage tank or places petroleum, including waste petroleum substances, in violation of Subsection (1) in a petroleum storage tank [~~or underground storage tank~~].

(4) A civil penalty may not be assessed under this section against any person who in good faith delivers or places petroleum in a petroleum storage tank [~~or underground storage tank~~] that is identified in compliance with Subsection 19-6-411(7) or 19-6-407(2) and rules made under [~~that~~] the relevant subsection, whether or not the tank is in actual compliance with the other requirements of Section 19-6-411 or 19-6-407.

Section 11. Section 19-6-420 is amended to read:

19-6-420. Releases -- Abatement actions -- Corrective actions.

(1) If the director determines that a release from a petroleum storage tank has occurred, the director shall:

(a) identify and name as many of the responsible parties as reasonably possible; and

(b) determine which responsible parties, if any, are covered by the fund regarding the release in question.

(2) Regardless of whether the petroleum storage tank generating the release is covered by the fund:

(a) the director may order the owner or operator to take abatement, or investigative or corrective action, including the submission of a corrective action plan; and

(b) if the owner or operator fails to comply with the action ordered by the director under Subsection (2)(a), the director may take one or more of the following actions:

(i) subject to the conditions in this part, use money from the fund, if the tank involved is covered by the fund, state cleanup appropriation, or the Petroleum Storage Tank Cleanup Fund created under Section 19-6-405.7 to perform investigative, abatement, or corrective action;

(ii) commence an enforcement proceeding;

(iii) enter into agreements or issue orders as allowed by Section 19-6-424.5;

(iv) recover costs from responsible parties equal to their proportionate share of liability as determined by Section 19-6-424.5; or

(v) where the owner or operator is the responsible party, revoke the responsible party's certificate of compliance, as described in Section 19-6-414.

(3) (a) Subject to the limitations established in Section 19-6-419, the director shall provide money from the fund for abatement action for a release generated by a tank covered by the fund if:

(i) the owner or operator takes the abatement action ordered by the director; and

(ii) the director approves the abatement action.

(b) If a release presents the possibility of imminent and substantial danger to the public health or the environment, the owner or operator may take immediate abatement action and petition the director for reimbursement from the fund for the costs of the abatement action. If the owner or operator can demonstrate to the satisfaction of the director that the abatement action was reasonable and timely in light of circumstances, the director shall reimburse the petitioner for costs associated with immediate abatement action, subject to the limitations established in Section 19-6-419.

(c) The owner or operator shall notify the director within 24 hours of the abatement action taken.

(4) (a) If the director determines corrective action is necessary, the director shall order the owner or operator to submit a corrective action plan to address the release.

(b) If the owner or operator submits a corrective action plan, the director shall review the corrective action plan and approve or disapprove the plan.

(c) In reviewing the corrective action plan, the director shall consider the following:

(i) the threat to public health;

(ii) the threat to the environment; and

(iii) the cost-effectiveness of alternative corrective actions.

(5) If the director approves the corrective action plan or develops the director's own corrective action plan, the director shall:

(a) approve the estimated cost of implementing the corrective action plan;

(b) order the owner or operator to implement the corrective action plan;

(c) (i) if the release is covered by the fund, determine the amount of fund money to be allocated to an owner or operator to implement a corrective action plan; and

(ii) subject to the limitations established in Section 19-6-419, provide money from the fund to the owner or operator to implement the corrective action plan.

(6) (a) The director may not distribute any money from the fund for corrective action until the owner or operator obtains the director's approval of the corrective action plan.

(b) An owner or operator who begins corrective action without first obtaining approval from the director and who is covered by the fund may be reimbursed for the costs of the corrective action, subject to the limitations established in Section 19-6-419, if:

(i) the owner or operator submits the corrective action plan to the director within seven days after beginning corrective action; and

(ii) the director approves the corrective action plan.

(7) If the director disapproves the plan, the director shall solicit a new corrective action plan from the owner or operator.

(8) If the director disapproves the second corrective action plan, or if the owner or operator fails to submit a second plan within a reasonable time, the director may:

(a) develop an alternative corrective action plan; and

(b) act as authorized under Subsections (2) and (5).

(9) (a) When notified that the corrective action plan has been implemented, the director shall inspect the location of the release to determine whether or not the corrective action has been properly performed and completed.

(b) If the director determines the corrective action has not been properly performed or completed, the director may issue an order requiring the owner or operator to complete the corrective action within the time specified in the order.

(10) (a) For releases not covered by the fund, the director may recover from the responsible party expenses incurred by the division for managing and overseeing the abatement, and investigation or corrective action of the release. These expenses shall be:

(i) billed quarterly per release;

(ii) due within 30 days of billing;

(iii) deposited with the division as dedicated credits;

(iv) used by the division for the administration of the underground storage tank program outlined in this part; and

(v) billed per hourly rates as established under Section 63J-1-504.

(b) If the responsible party fails to pay expenses under Subsection 10(a), the director may:

(i) revoke the responsible party's certificate of compliance, as described in Section 19-6-414, if the responsible party is also the owner or operator; and

(ii) pursue an action to collect expenses in Subsection 10(a), including the costs of collection.

(11) This section does not apply to a release of a substance defined as a regulated substance in Section 101(14) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980.

Section 12. Section 19-6-428 is amended to read:

19-6-428. Eligibility for participation in the fund.

(1) Subject to the requirements of Section 19-6-410.5, [~~all owners and operators of~~] an owner or operator of an existing petroleum storage [~~tanks that were~~] tank that is covered by the fund on May 5, 1997, may elect to continue to participate in the program by meeting the requirements of this part, including paying the tank fees and environmental assurance fee as provided in Sections 19-6-410.5 and 19-6-411.

(2) [~~Any new petroleum storage tanks that were~~] A new petroleum storage tank that is installed after May 5, 1997, or [~~tanks~~] a tank eligible under Section 19-6-415, may elect to participate in the program by complying with the requirements of this part.

(3) (a) [~~All owners and operators of petroleum storage tanks who elect~~] An owner or operator of a petroleum storage tank who elects to not participate in the program, including by the use of an alternative financial assurance mechanism, shall, in order to subsequently participate in the program:

(i) perform a tank tightness test;

(ii) except as provided in Subsection (3)(b), (c), or (d), perform a site check, including soil and, when applicable, groundwater samples, to demonstrate that no release of petroleum exists or that there has been adequate remediation of releases as required by board rules;

(iii) provide the required tests and samples to the director; and

(iv) comply with the requirements of this part.

(b) A site check under Subsection (3)(a)(ii) is not required if the director determines, with reasonable cause, that soil and groundwater samples are unnecessary to establish that no petroleum has been released.

(c) For an aboveground petroleum storage tank, a site check under Subsection (3)(a)(ii) is not required to participate in the program except that if the aboveground petroleum storage tank does not conduct a site check:

(i) historic contamination, as defined by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(A) subject to the other provisions of this Subsection (3)(c), is covered only if the historic contamination is discovered more than five years after the day the owner or operator elects to participate in the program;

(B) is 20% covered beginning on the five-year date; and

(C) is covered at increasing amounts of 20% each year after the five-year date until at the 10-year date historic contamination is covered at 100%; and

(ii) new releases, as defined by rule made in accordance with Title 63G, Chapter 3, Utah

Administrative Rulemaking Act, are covered at 100% beginning on the day the aboveground petroleum storage tank participates in the program.

(d) For an underground storage tank that previously elected not to participate in the program, a site check under Subsection (3)(a)(ii) is not required to begin participating in the program, except that if the underground storage tank does not conduct a site check:

(i) historic contamination, as defined by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(A) subject to the other provisions of this Subsection (3)(d), is covered only if the historic contamination is discovered more than five years after the day the owner or operator elects to participate in the program;

(B) is 20% covered beginning on the five-year date; and

(C) is covered at increasing amounts of 20% each year after the five-year date until at the 10-year date historic contamination is covered at 100%; and

(ii) new releases, as defined by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, are covered at 100% beginning on the day the underground storage tank participates in the program.

(4) The director shall review the tests and samples provided under Subsection (3)(a)(iii) to determine:

(a) whether or not any release of the petroleum has occurred; or

(b) if the remediation is adequate.

Section 13. Section 19-8-119 is amended to read:

19-8-119. Apportionment or contribution.

(1) Any party who incurs costs under a voluntary agreement entered into under this part in excess of [~~his~~] the party's liability may seek contribution in an action in district court from any other party who is or may be liable under Subsection 19-6-302(21) or 19-6-402[~~(26)~~](27) for the excess costs after providing written notice to any other party that the party bringing the action has entered into a voluntary agreement and will incur costs.

(2) In resolving claims made under Subsection (1), the court shall allocate costs using the standards in Subsection 19-6-310(2).

CHAPTER 203
S. B. 45
Passed February 3, 2021
Approved March 16, 2021
Effective May 5, 2021

HIGHER EDUCATION CLASSES FOR VETERANS

Chief Sponsor: Todd D. Weiler
House Sponsor: Paul Ray

LONG TITLE

General Description:

This bill amends provisions related to higher education.

Highlighted Provisions:

This bill:

- allows veterans to audit classes at institutions of higher education if the veterans:
  - are Utah residents; and
  - meet certain qualifications.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53B-9-101, as enacted by Laws of Utah 1987, Chapter 167

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

Section 1. Section 53B-9-101 is amended to read:

53B-9-101. Legislative findings on higher education for senior citizens and veterans -- Legislative intent -- Quarterly registration fee.

(1) The Legislature finds that substantial benefits would accrue to the state, as well as those directly involved, through making higher education more accessible to senior citizens and veterans who generally find themselves with more time for learning but with less funds for such purposes.

(2) It is intended that an institution of higher education allow Utah residents who have reached 62 years of age or are veterans as defined in Section 68-3-12.5 to enroll at the institution, in classes for which they may be qualified, on the basis of surplus space in regularly scheduled classes and in accordance with this chapter and implementing rules. These persons are exempt from tuition and other charges, except for a quarterly registration fee established by the board.

CHAPTER 204
S. B. 47
Passed March 3, 2021
Approved March 16, 2021
Effective May 5, 2021

MENTAL HEALTH CRISIS INTERVENTION COUNCIL

Chief Sponsor: Daniel W. Thatcher
House Sponsor: Angela Romero

LONG TITLE

General Description:

This bill creates the Mental Health Crisis Intervention Council to establish protocols and standards for the training and functioning of local mental health crisis intervention teams.

Highlighted Provisions:

This bill:

- defines terms;
- creates the Mental Health Crisis Intervention Council;
- addresses the council's membership, meetings, compensation, and staff;
- describes the duties of the council, including developing a program providing for:
  - training, and developing protocols and standards, for local mental health crisis intervention teams; and
  - implementation and oversight of crisis intervention teams on a local and statewide basis;
- requires the council to present the program and recommendations relating to the program to the Government Operations Interim Committee and other organizations;
- provides for training grants as funding becomes available; and
- repeals the council after the council's duties are completed.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63I-2-262, as last amended by Laws of Utah 2020, Chapter 212

ENACTS:

62A-15-1901, Utah Code Annotated 1953
62A-15-1902, Utah Code Annotated 1953
62A-15-1903, Utah Code Annotated 1953

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

Section 1. Section 62A-15-1901 is enacted to read:

Part 19. Mental Health Crisis Intervention Council

62A-15-1901. Definitions.

As used in this part:

(1) "Council" means the Mental Health Crisis Intervention Council created in Section 62A-15-1902.

(2) "Crisis intervention team" means a local mental health crisis intervention team created to provide services to individuals, and the families of individuals, experiencing a behavioral health or psychiatric emergency.

(3) "Mental health catchment area" means a county or group of counties governed by a local mental health authority.

Section 2. Section 62A-15-1902 is enacted to read:

62A-15-1902. Mental Health Crisis Intervention Council -- Creation -- Membership -- Meetings -- Compensation -- Staff.

(1) There is created, within the division, the Mental Health Crisis Intervention Council.

(2) The council comprises the following members:

(a) the director or the director's designee;

(b) two members representing statewide mental health advocacy organizations, appointed by the director;

(c) an individual who has experienced mental illness, appointed by the director;

(d) a family member of an individual who has experienced mental illness, appointed by the director;

(e) a representative of an urban local mental health authority, appointed by the director;

(f) a representative of a rural local mental health authority, appointed by the director;

(g) a representative of the Utah Chiefs of Police Association from an urban area, appointed by the director based upon a recommendation from the association;

(h) a representative of the Utah Chiefs of Police Association from a rural area, appointed by the director based upon a recommendation from the association;

(i) a representative of the Utah Sheriffs' Association from an urban area, appointed by the director based upon a recommendation from the association;

(j) a representative of the Utah Sheriffs' Association from a rural area, appointed by the director based upon a recommendation from the association;

(k) the commissioner of the Department of Public Safety or the commissioner's designee;

(l) the executive director of the Department of Corrections or the executive director's designee; and

(m) other individuals, appointed by the director, with knowledge and experience that would be useful to the council.

(3) (a) If a vacancy occurs on the council, the director shall appoint a replacement member.

(b) The director may remove a member for cause, including failure to regularly attend meetings.

(4) (a) The council shall meet when a meeting is called by the director, the chair, or upon a request of a majority of the council members.

(b) A majority of the council members appointed constitutes a quorum and a two-thirds majority of a quorum present constitutes action of the council.

(c) The council shall appoint a chair from among the council's members upon a two-thirds majority vote of a quorum.

(5) A member of the council may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

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

(c) rules made by the Division of Finance in accordance with Sections 63A-3-106 and 63A-3-107.

(6) The division shall provide staff support to the council.

Section 3. Section 62A-15-1903 is enacted to read:

62A-15-1903. Council duties -- Training grants.

(1) The council shall develop a program to:

(a) train crisis intervention teams throughout the state; and

(b) establish standards for crisis intervention teams, including coordination within and between teams.

(2) The program shall:

(a) include required curriculum and required practice standards based on best practices for crisis intervention;

(b) establish standards for completion of initial crisis intervention team training and annual continuing education training, including:

(i) at least 40 hours of initial training; and

(ii) successful completion of an approved exam;

(c) prioritize crisis intervention efforts by collaborating with law enforcement and statewide mental health advocacy efforts;

(d) take into consideration local training needs; and

(e) establish mental health and law enforcement coordinator roles and responsibilities for implementation and oversight of crisis intervention teams on a statewide basis, and in each mental health catchment area, that utilizes input and representation from:

(i) for statewide implementation and oversight:

(A) individuals who have experienced mental illness; and

(B) statewide mental health advocates; and

(ii) for implementation and oversight in a mental health catchment area:

(A) individuals who reside within the mental health catchment area and have experienced mental illness; and

(B) mental health advocates within the mental health catchment area.

(3) The council shall:

(a) before July 1, 2022, develop and present the program, in writing, to the director;

(b) before August 1, 2022, present the program, and other recommendations related to the duties of the council, for review and input to:

(i) the Government Operations Interim Committee;

(ii) the Utah Chiefs of Police Association, the Utah Sheriffs' Association, the Department of Public Safety, the Department of Corrections, and the Utah Association of Counties;

(iii) the Utah Substance Use and Mental Health Advisory Council, created in Section 63M-7-301; and

(iv) the Behavioral Health Crisis Response Commission, created in Section 63C-18-202; and

(c) before December 1, 2022, submit the plan in final form to the Government Operations Interim Committee for consideration as a potential committee bill, which may include a grant of administrative rulemaking authority as appropriate.

(4) The division shall, as funding becomes available, provide training grants to crisis intervention teams.

Section 4. Section 63I-2-262 is amended to read:

63I-2-262. Repeal dates -- Title 62A.

(1) Subsection 62A-5-103.1(6) is repealed January 1, 2023.

(2) Section 62A-5-111 is repealed January 1, 2021.

(3) Title 62A, Chapter 15, Part 19, Mental Health Crisis Intervention Council, is repealed January 1, 2023.

CHAPTER 205
S. B. 48
Passed March 4, 2021
Approved March 16, 2021
Effective May 5, 2021

STATE FLAG AMENDMENTS

Chief Sponsor: Daniel McCay
House Sponsor: Stephen G. Handy

LONG TITLE

General Description:

This bill creates the State Flag Task Force and establishes a commemorative state flag.

Highlighted Provisions:

This bill:

- defines terms;
- creates the State Flag Task Force;
- provides for the appointment of task force members;
- describes the duties of the task force, which include:
  - creating a process that includes public input for the submission and assessment of designs for a new state flag; and
  - providing a written report and recommendations for the design of a new or revised state flag to the Economic Development and Workforce Services Interim Committee;
- establishes a commemorative state flag to commemorate the 125th anniversary of Utah's statehood in 2021;
- describes the design and meaning of the commemorative state flag;
- allows a governmental entity to display the commemorative state flag on public grounds during 2021;
- establishes repeal dates for the task force and for the commemorative state flag;
- modifies the description of the current state flag; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

36-29-101, as enacted by Laws of Utah 2015, Chapter 219
63G-1-501, as renumbered and amended by Laws of Utah 2008, Chapter 382
63I-2-236, as last amended by Laws of Utah 2019, Chapter 389
63I-2-263, as last amended by Laws of Utah 2020, Fifth Special Session, Chapter 12

ENACTS:

36-29-201, Utah Code Annotated 1953
36-29-202, Utah Code Annotated 1953
36-29-203, Utah Code Annotated 1953
63G-1-502, Utah Code Annotated 1953

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

Section 1. Section 36-29-101 is amended to read:

CHAPTER 29. TASK FORCES CREATED BY THE LEGISLATURE

Part 1. Legislative Task Forces

36-29-101. Title.

This chapter is known as[~~"Legislative Task Forces."~~] "Task Forces Created by the Legislature."

Section 2. Section 36-29-201 is enacted to read:

Part 2. State Flag Task Force

36-29-201. Definitions.

As used in this part, "task force" means the State Flag Task Force created in Section 36-29-202.

Section 3. Section 36-29-202 is enacted to read:

36-29-202. State Flag Task Force -- Creation -- Membership -- Meetings -- Vacancies -- Per diem and expenses -- Staff.

(1) There is created the State Flag Task Force.

(2) The task force consists of the following nine members:

(a) the governor, or the governor's designee;

(b) the lieutenant governor, or the lieutenant governor's designee;

(c) three members of the Senate, appointed by the president of the Senate;

(d) three members of the House of Representatives, appointed by the speaker of the House of Representatives; and

(e) the executive director of the Department of Heritage and Arts.

(3) Each individual with authority to appoint a member of the task force under Subsection (2) shall make the appointment on or before June 1, 2021.

(4) The governor shall appoint a chair of the task force.

(5) A majority of the task force constitutes a quorum for the transaction of task force business.

(6) The task force shall ensure that each meeting of the task force complies with Title 52, Chapter 4, Open and Public Meetings Act.

(7) The term of each member of the task force ends on November 30, 2022.

(8) (a) A member of the task force may be removed from the task force by the individual who appointed the member.

(b) Within 14 days after the day on which a vacancy occurs on the task force for any reason, the individual who originally appointed the member shall fill the vacancy in accordance with Subsection (2).

(9) (a) Subject to Subsection (9)(b), a task force member may not receive compensation or benefits for the member's service on the task force but may receive per diem and reimbursement for travel expenses incurred as a task force member in accordance with:

(i) Sections 63A-3-106 and 63A-3-107; and

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

(b) Compensation and expenses of a task force member who is a legislator are governed by Section 36-2-2 and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.

(10) The Department of Heritage and Arts shall provide staff support for the task force and assist the task force in conducting task force meetings.

Section 4. Section 36-29-203 is enacted to read:

36-29-203. Task force duties.

The task force shall:

(1) convene the task force's initial meeting on or before June 11, 2021;

(2) establish and adopt guiding principles for the task force regarding flag design and the goals of recommending a revised or new state flag for the state;

(3) create a process for the submission and task force assessment of proposed designs for a revised or new state flag of Utah, including a process that includes the design community;

(4) on or before September 15, 2021, select a group of up to 10 proposed flag designs that:

(a) represent the state; and

(b) adhere to the guiding principles described in Subsection (2);

(5) create a process that includes the gathering of public input to review the proposed flag designs described in Subsections (2) and (3), including the public input of children and young people in the state, and to select a proposed revised or new state flag of Utah; and

(6) on or before November 1, 2021, provide a written report and recommendations to the Economic Development and Workforce Services Interim Committee and the Legislature regarding:

(a) the proposed flag designs described in Subsection (3);

(b) the process and results of the review of the proposed flag designs described in Subsection (5);

(c) the task force's recommendation for the design of a revised or new state flag of Utah; and

(d) proposed legislation retaining the current flag, revising the current flag, or designating a new state flag of Utah, which may include a recommendation to designate the current state flag of Utah described in Section 63G-1-501 as the governor's flag.

(7) The task force may:

(a) create working groups to carry out the task force's duties under this section, including working with one or more graphic designers or other professionals to review and improve designs for consideration by the task force; and

(b) accept contributions from private or public sources for the purpose of awarding a prize to one or more creators of flag designs selected and recommended by the task force.

Section 5. Section 63G-1-501 is amended to read:

63G-1-501. State flag.

The state flag of Utah shall be a flag of blue field, [~~fringed, with gold borders,~~] with the following device worked in natural colors on the center of the blue field:

[~~The~~] (1) in the center a shield;

(2) above the shield and thereon an American eagle with outstretched wings;

(3) the top of the shield pierced with six arrows arranged crosswise;

(4) upon the shield under the arrows the word "Industry," and below the word "Industry" on the center of the shield, a beehive;

(5) on each side of the beehive, growing sego lilies;

(6) below the beehive and near the bottom of the shield, the word[~~"Utah," and~~] "Utah";

(7) below the word "Utah" and on the bottom of the shield, the figures "1847";

(8) with the appearance of being back of the shield there shall be two American flags on flagstaffs placed crosswise with the flag so draped that they will project beyond each side of the shield, the heads of the flagstaffs appearing in front of the eagle's wings and the bottom of each staff appearing over the face of the draped flag below the shield;

(9) below the shield and flags and upon the blue field, the figures "1896"; and

(10) around the entire design, a narrow circle in gold.

Section 6. Section 63G-1-502 is enacted to read:

63G-1-502. Commemorative state flag -- Display.

(1) As used in this section:

(a) "CMYK" means the color model of four-color printing using cyan, magenta, yellow, and black ink.

(b) "Commemorative state flag" means the flag described in Subsection (3).

(c) "Governmental entity" means the same as that term is defined in Section 63G-2-103.

(d) "Legacy gold" means a color with:

(i) an RGB value of 251, 178, 23;

(ii) a CMYK value of 1, 33, 100, 0;

(iii) a web color value of #fbb217; and

(iv) a Pantone value of 2010 C.

(e) "Liberty blue" means a color with:

(i) an RGB value of 11, 36, 68;

(ii) a CMYK value of 100, 86, 44, 47;

(iii) a web color value of #0b2444; and

(iv) a Pantone value of 282 C.

(f) "Mountain white" means a color with:

(i) an RGB value of 255, 255, 255;

(ii) a CMYK value of 0, 0, 0, 0;

(iii) a web color value of #ffffff; and

(iv) a Pantone value of Safe.

(g) "Pantone" means the color model of printing using ink mixes to create a color match.

(h) "Public grounds" means the same as that term is defined in Section 11-61-102.

(i) "RGB" means the color model of three-color video and computer displays using red, green, and blue light.

(j) "State flag of Utah" means the flag described in Section 63G-1-501.

(k) "Utah red" means a color with:

(i) an RGB value of 175, 31, 36;

(ii) a CMYK value of 22, 100, 99, 13;

(iii) a web color value of #af1f24; and

(iv) a Pantone value of 2350 C.

(l) "Web color" means the color model of web page displays using a hexadecimal color code.

(2) The state may commemorate the 125th anniversary of Utah's statehood in 2021 with the display of a commemorative state flag.

(3) The commemorative state flag shall be a rectangle that has a width to length ratio of three to five and contain the following:

(a) one diagonal cross pattern that creates four triangles meeting at the center of the flag:

(i) with the two triangles in the horizontal plane that are:

(A) equal in width and length, spreading the full width and length of the flag; and

(B) colored mountain white;

(ii) with the upper and lower triangle shaped quadrants:

(A) each having a length equal to the full length of the flag; and

(B) the upper triangle shaped quadrant being colored liberty blue and the lower triangle shaped quadrant being colored Utah red;

(iii) with the cross pattern to represent:

(A) Utah's moniker as "the Crossroads of the West"; and

(B) the history of Promontory Point;

(iv) with the two triangles in the horizontal plane colored mountain white to represent the Rocky Mountains of Utah;

(v) with the upper triangle shaped quadrant colored liberty blue to represent:

(A) the Great Salt Lake; and

(B) the tradition of Utah; and

(vi) with the lower triangle shaped quadrant colored Utah red to represent the red rocks and national parks of Southern Utah;

(b) one circle that:

(i) is shaded legacy gold and filled with a background that is shaded liberty blue;

(ii) contains a slightly thinner gold circle that is:

(A) shaded legacy gold; and

(B) filled with a background that is shaded liberty blue;

(iii) is placed over the meeting point of the four triangle shaped quadrants described in Subsection (3)(a) in the center of the flag; and

(iv) represents, in combination with the four triangle shaped quadrants, the following Native American Tribes of Utah:

(A) the Ute;

(B) the Paiute;

(C) the Navajo;

(D) the Shoshone; and

(E) the Goshute;

(c) one beehive that is shaded legacy gold that:

(i) contains six hive sections with a small semicircle removed from the center of the base of the lowest section;

(ii) is placed within the circles described in Subsection (3)(b); and

(iii) represents:

(A) Utah's identity as "the Beehive State"; and

(B) industry; and

(d) one regular, five-pointed star that:

(i) is shaded mountain white;

(ii) is located below the center of the beehive described in Subsection (3)(c);

(iii) is spaced so that the upper point of the star is located near the removed semicircle described in

Subsection (3)(c)(ii) but not on an even plane with the bottom of the beehive;

(iv) is oriented so that one point faces upward; and

(v) represents:

(A) Utah's statehood in the United States of America, dating to Utah's joining the union in 1896; and

(B) Utah's star on the flag of the United States of America.

(4) (a) In any place where the state flag of Utah is displayed out of doors on public grounds, the governmental entity responsible for the display of the state flag of Utah may display the commemorative state flag in the manner described in Subsection (4)(b) during the 2021 calendar year.

(b) When displaying the commemorative state flag under Subsection (4)(a), the governmental entity displaying the flag shall place the commemorative state flag directly under the state flag of Utah.

Section 7. Section 63I-2-236 is amended to read:

63I-2-236. Repeal dates -- Title 36.

[~~Section 36-29-105 is repealed on December 31, 2020.~~]

The following sections regarding the State Flag Task Force are repealed on January 1, 2023:

(1) Section 36-29-201;

(2) Section 36-29-202; and

(3) Section 36-29-203.

Section 8. Section 63I-2-263 is amended to read:

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

[~~(1) On July 1, 2020:~~]

[~~(a) Subsection 63A-1-203(5)(a)(i) is repealed; and~~]

[~~(b) in Subsection 63A-1-203(5)(a)(ii), the language that states "appointed on or after May 8, 2018," is repealed.~~]

[~~(2)~~] (1) Section 63A-3-111 is repealed June 30, 2021.

[~~(3)~~] (2) Title 63C, Chapter 19, Higher Education Strategic Planning Commission is repealed July 1, 2021.

[~~(4)~~] (3) Title 63C, Chapter 22, Digital Wellness, Citizenship, and Safe Technology Commission is repealed July 1, 2023.

(4) Section 63G-1-502 is repealed July 1, 2022.

(5) The following sections regarding the World War II Memorial Commission are repealed on July 1, 2022:

(a) Section 63G-1-801;

(b) Section 63G-1-802;

(c) Section 63G-1-803; and

(d) Section 63G-1-804.

(6) Subsections 63G-6a-802(1)(d) and 63G-6a-802(3)(b)(iii), regarding a procurement relating to a vice presidential debate, are repealed January 1, 2021.

(7) In relation to the State Fair Park Committee, on January 1, 2021:

(a) Section 63H-6-104.5 is repealed; and

(b) Subsections 63H-6-104(8) and (9) are repealed.

(8) Section 63H-7a-303 is repealed July 1, 2024.

(9) Subsection 63J-1-206(3)(c), relating to coronavirus, is repealed July 1, 2021.

(10) In relation to the Employability to Careers Program Board, on July 1, 2022:

(a) Subsection 63J-1-602.1(57) is repealed;

(b) Subsection 63J-4-301(1)(h), related to the review of data and metrics, is repealed; and

(c) Title 63J, Chapter 4, Part 7, Employability to Careers Program, is repealed.

(11) Title 63M, Chapter 4, Part 8, Voluntary Home Energy Information Pilot Program Act, is repealed January 1, 2022.

(12) Sections 63M-7-213 and 63M-7-213.5 are repealed on January 1, 2023.

(13) Subsection 63N-12-508(3) is repealed December 31, 2021.

(14) Title 63N, Chapter 13, Part 3, Facilitating Public-Private Partnerships Act, is repealed January 1, 2024.

(15) Title 63N, Chapter 15, COVID-19 Economic Recovery Programs, is repealed December 31, 2021.

CHAPTER 206
S. B. 50
Passed February 18, 2021
Approved March 16, 2021
Effective May 5, 2021

JUVENILE OFFENDER PENALTY AMENDMENTS

Chief Sponsor: Daniel W. Thatcher
House Sponsor: Stephanie Pitcher

LONG TITLE

General Description:

This bill addresses penalties imposed on an individual for certain sexual offenses committed as a juvenile.

Highlighted Provisions:

This bill:

- defines a term;
- subject to an exception for certain repeat offenders, provides that, if an individual is sentenced in district court for certain sexual offenses committed while the individual was a juvenile:
  - the individual is not required to register on the sex and kidnap offender registry;
  - the individual will be sentenced consistent with the disposition that would have been made in juvenile court; and
  - incarceration is limited to certain circumstances and subject to certain limitations;
- subject to an exception, provides for expungement of the conviction of an individual described in the preceding paragraph; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

76-3-209, as enacted by Laws of Utah 2016, Chapter 277
77-40-102, as last amended by Laws of Utah 2020, Chapter 354
77-40-105, as last amended by Laws of Utah 2020, Chapters 177 and 218
77-40-107, as last amended by Laws of Utah 2020, Chapters 12, 12, and 54
77-41-113, as enacted by Laws of Utah 2020, Chapter 237

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

Section 1. Section 76-3-209 is amended to read:

76-3-209. Limitation on sentencing for crimes committed by juveniles.

(1) As used in this section, "qualifying sexual offense" means:

(a) an offense described in Chapter 5, Part 4, Sexual Offenses;

(b) Section 76-9-702, lewdness;

(c) Section 76-9-702.1, sexual battery; or

(d) Section 76-9-702.5, lewdness involving a child.

(2) (a) This Subsection (2) only applies prospectively to an individual sentenced on or after May 10, 2016.

(b) Notwithstanding any provision of law, [~~a person~~] an individual may not be sentenced to life without parole if:

(i) the individual is convicted of a crime punishable by life without parole [~~if, at the time of the commission of the crime, the person was younger than 18 years of age.~~]; and

(ii) at the time the individual committed the crime, the individual was less than 18 years old.

(c) The maximum punishment that may be imposed on [~~a person described in this section~~] an individual described in Subsection (2)(b) is an indeterminate prison term of not less than 25 years and that may be for life. [~~This section shall only apply prospectively to individuals sentenced on or after May 10, 2016.~~]

(3) Except as provided in Subsection (4), if an individual is convicted in district court of a qualifying sexual offense and, at the time of the offense, the individual was at least 14 years old, but under 18 years old:

(a) the individual is not, based on the conviction, subject to the registration requirements described in Title 77, Chapter 41, Sex and Kidnap Offender Registry;

(b) the district court shall impose a sentence consistent with the disposition that would have been made in juvenile court; and

(c) the district court may not impose incarceration unless the court enters specific written findings that incarceration is warranted based on a totality of the circumstances, taking into account:

(i) the time that elapsed after the individual committed the offense;

(ii) the age of the individual at the time of the offense;

(iii) the age of the victim at the time of the offense;

(iv) the criminal history of the individual after the individual committed the offense;

(v) any treatment assessments or validated risk tools; and

(vi) public safety concerns.

(4) Subsection (3) does not apply if:

(a) before the individual described in Subsection (3) is convicted of the qualifying sexual offense, the individual is convicted of a qualifying sexual offense that the individual committed when the individual was 18 years old or older; or

(b) the individual is convicted in district court, before the victim is 18 years old, of a violation of Section 76-5-405, aggravated sexual assault.

(5) If the district court imposes incarceration under Subsection (3)(c), the term of incarceration may not exceed:

(a) seven years for a violation of Section 76-5-405, aggravated sexual assault;

(b) except as provided in Subsection (5)(a), four years for a felony violation of Chapter 5, Part 4, Sexual Offenses; or

(c) the maximum sentence described in Section 76-3-204 for:

(i) a misdemeanor violation of Chapter 5, Part 4, Sexual Offenses;

(ii) a violation of Section 76-9-702, lewdness;

(iii) a violation of Section 76-9-702.1, sexual battery; or

(iv) a violation of Section 76-9-702.5, lewdness involving a child.

Section 2. Section 77-40-102 is amended to read:

77-40-102. Definitions.

As used in this chapter:

(1) "Administrative finding" means a decision upon a question of fact reached by an administrative agency following an administrative hearing or other procedure satisfying the requirements of due process.

(2) "Agency" means a state, county, or local government entity that generates or maintains records relating to an investigation, arrest, detention, or conviction for an offense for which expungement may be ordered.

(3) "Bureau" means the Bureau of Criminal Identification of the Department of Public Safety established in Section 53-10-201.

(4) "Certificate of eligibility" means a document issued by the bureau stating that the criminal record and all records of arrest, investigation, and detention associated with a case that is the subject of a petition for expungement is eligible for expungement.

(5) (a) "Clean slate eligible case" means a case:

(i) where, except as provided in Subsection (5)(c), each conviction within the case is:

(A) a misdemeanor conviction for possession of a controlled substance in violation of Subsection 58-37-8(2)(a)(i);

(B) a class B or class C misdemeanor conviction; or

(C) an infraction conviction;

(ii) that involves an individual:

(A) whose total number of convictions in Utah state courts, not including infractions, traffic offenses, or minor regulatory offenses, does not exceed the limits described in Subsections 77-40-105[~~(5) and~~] (6) and (7) without taking into consideration the exception in Subsection 77-40-105[~~(8)~~](9); and

(B) against whom no criminal proceedings are pending in the state; and

(iii) for which the following time periods have elapsed from the day on which the case is adjudicated:

(A) at least five years for a class C misdemeanor or an infraction;

(B) at least six years for a class B misdemeanor; and

(C) at least seven years for a class A conviction for possession of a controlled substance in violation of Subsection 58-37-8(2)(a)(i).

(b) "Clean slate eligible case" includes a case that is dismissed as a result of a successful completion of a plea in abeyance agreement governed by Subsection 77-2a-3(2)(b) if:

(i) except as provided in Subsection (5)(c), each charge within the case is:

(A) a misdemeanor for possession of a controlled substance in violation of Subsection 58-37-8(2)(a)(i);

(B) a class B or class C misdemeanor; or

(C) an infraction;

(ii) the individual involved meets the requirements of Subsection (5)(a)(ii); and

(iii) the time periods described in Subsections (5)(a)(iii)(A) through (C) have elapsed from the day on which the case is dismissed.

(c) "Clean slate eligible case" does not include a case:

(i) where the individual is found not guilty by reason of insanity;

(ii) where the case establishes a criminal judgment accounts receivable, as defined in Section 77-32a-101, that:

(A) has been entered as a civil judgment and transferred to the Office of State Debt Collection; or

(B) has not been satisfied according to court records; or

(iii) that resulted in one or more pleas held in abeyance or convictions for the following offenses:

(A) any of the offenses listed in Subsection 77-40-105(2)(a);

(B) an offense against the person in violation of Title 76, Chapter 5, Offenses Against the Person;

(C) a weapons offense in violation of Title 76, Chapter 10, Part 5, Weapons;

(D) sexual battery in violation of Section 76-9-702.1;

(E) an act of lewdness in violation of Section 76-9-702 or 76-9-702.5;

(F) an offense in violation of Title 41, Chapter 6a, Part 5, Driving Under the Influence and Reckless Driving;

(G) damage to or interruption of a communication device in violation of Section 76-6-108;

(H) a domestic violence offense as defined in Section 77-36-1; or

(I) any other offense classified in the Utah Code as a felony or a class A misdemeanor other than a class A misdemeanor conviction for possession of a controlled substance in violation of Subsection 58-37-8(2)(a)(i).

(6) "Conviction" means judgment by a criminal court on a verdict or finding of guilty after trial, a plea of guilty, or a plea of nolo contendere.

(7) "Department" means the Department of Public Safety established in Section 53-1-103.

(8) "Drug possession offense" means an offense under:

(a) Subsection 58-37-8(2), except any offense under Subsection 58-37-8(2)(b)(i), possession of 100 pounds or more of marijuana, any offense enhanced under Subsection 58-37-8(2)(e), violation in a correctional facility or Subsection 58-37-8(2)(g), driving with a controlled substance illegally in the person's body and negligently causing serious bodily injury or death of another;

(b) Subsection 58-37a-5(1), use or possession of drug paraphernalia;

(c) Section 58-37b-6, possession or use of an imitation controlled substance; or

(d) any local ordinance which is substantially similar to any of the offenses described in this Subsection (8).

(9) "Expunge" means to seal or otherwise restrict access to the individual's record held by an agency when the record includes a criminal investigation, detention, arrest, or conviction.

(10) "Jurisdiction" means a state, district, province, political subdivision, territory, or possession of the United States or any foreign country.

(11) "Minor regulatory offense" means any class B or C misdemeanor offense, and any local ordinance, except:

(a) any drug possession offense;

(b) Title 41, Chapter 6a, Part 5, Driving Under the Influence and Reckless Driving;

(c) Sections 73-18-13 through 73-18-13.6;

(d) those offenses defined in Title 76, Utah Criminal Code; or

(e) any local ordinance that is substantially similar to those offenses listed in Subsections (11)(a) through (d).

(12) "Petitioner" means an individual applying for expungement under this chapter.

(13) (a) "Traffic offense" means:

(i) all infractions, class B misdemeanors, and class C misdemeanors in Title 41, Chapter 6a, Traffic Code;

(ii) Title 53, Chapter 3, Part 2, Driver Licensing Act;

(iii) Title 73, Chapter 18, State Boating Act; and

(iv) all local ordinances that are substantially similar to those offenses.

(b) "Traffic offense" does not mean:

(i) Title 41, Chapter 6a, Part 5, Driving Under the Influence and Reckless Driving;

(ii) Sections 73-18-13 through 73-18-13.6; or

(iii) any local ordinance that is substantially similar to the offenses listed in Subsections (13)(b)(i) and (ii).

Section 3. Section 77-40-105 is amended to read:

77-40-105. Requirements to apply for a certificate of eligibility to expunge conviction.

(1) An individual convicted of an offense may apply to the bureau for a certificate of eligibility to expunge the record of conviction as provided in this section.

(2) [~~An~~] Except as provided in Subsection (3), an individual is not eligible to receive a certificate of eligibility from the bureau if:

(a) the conviction for which expungement is sought is:

(i) a capital felony;

(ii) a first degree felony;

(iii) a violent felony as defined in Subsection 76-3-203.5(1)(c)(i);

(iv) felony automobile homicide;

(v) a felony conviction described in Subsection 41-6a-501(2);

(vi) a registerable sex offense as defined in Subsection 77-41-102(17); or

(vii) a registerable child abuse offense as defined in Subsection 77-43-102(2);

(b) a criminal proceeding is pending against the petitioner; or

(c) the petitioner intentionally or knowingly provides false or misleading information on the application for a certificate of eligibility.

(3) The eligibility limitation described in Subsection (2) does not apply in relation to a conviction for a qualifying sexual offense, as defined in Subsection 76-3-209(1), if, at the time of the offense, the individual who committed the offense was at least 14 years old, but under 18 years old, unless the conviction occurred in district court after the individual was:

(a) charged by criminal information under Section 78A-6-703.2 or 78A-6-703.3; and

(b) bound over to district court under Section 78A-6-703.5.

[~~(3)~~] (4) A petitioner seeking to obtain expungement for a record of conviction is not eligible to receive a certificate of eligibility from the bureau until all of the following have occurred:

(a) the petitioner has paid in full all fines and interest ordered by the court related to the conviction for which expungement is sought;

(b) the petitioner has paid in full all restitution ordered by the court pursuant to Section 77-38a-302, or by the Board of Pardons and Parole pursuant to Section 77-27-6; and

(c) the following time periods have elapsed from the date the petitioner was convicted or released from incarceration, parole, or probation, whichever occurred last, for each conviction the petitioner seeks to expunge:

(i) 10 years in the case of a misdemeanor conviction of Subsection 41-6a-501(2) or a felony conviction of Subsection 58-37-8(2)(g);

(ii) seven years in the case of a felony;

(iii) five years in the case of any class A misdemeanor or a felony drug possession offense;

(iv) four years in the case of a class B misdemeanor; or

(v) three years in the case of any other misdemeanor or infraction.

[~~(4)~~] (5) When determining whether to issue a certificate of eligibility, the bureau may not consider:

(a) a petitioner's pending or previous:

(i) infraction;

(ii) traffic offense;

(iii) minor regulatory offense; or

(iv) clean slate eligible case that was automatically expunged in accordance with Section 77-40-114; or

(b) a fine or fee related to an offense described in Subsection [~~(4)~~] (5)(a).

[~~(5)~~] (6) The bureau may not issue a certificate of eligibility if, at the time the petitioner seeks a certificate of eligibility, the bureau determines that the petitioner's criminal history, including previously expunged convictions, contains any of the following, except as provided in Subsection [~~(8)~~] (9):

(a) two or more felony convictions other than for drug possession offenses, each of which is contained in a separate criminal episode;

(b) any combination of three or more convictions other than for drug possession offenses that include two class A misdemeanor convictions, each of which is contained in a separate criminal episode;

(c) any combination of four or more convictions other than for drug possession offenses that include three class B misdemeanor convictions, each of which is contained in a separate criminal episode; or

(d) five or more convictions other than for drug possession offenses of any degree whether misdemeanor or felony, each of which is contained in a separate criminal episode.

[~~(6)~~] (7) The bureau may not issue a certificate of eligibility if, at the time the petitioner seeks a certificate of eligibility, the bureau determines that the petitioner's criminal history, including previously expunged convictions, contains any of the following:

(a) three or more felony convictions for drug possession offenses, each of which is contained in a separate criminal episode; or

(b) any combination of five or more convictions for drug possession offenses, each of which is contained in a separate criminal episode.

[~~(7)~~] (8) If the petitioner's criminal history contains convictions for both a drug possession offense and a non drug possession offense arising from the same criminal episode, that criminal episode shall be counted as provided in Subsection [~~(5)~~] (6) if any non drug possession offense in that episode:

(a) is a felony or class A misdemeanor; or

(b) has the same or a longer waiting period under Subsection [~~(3)~~] (4) than any drug possession offense in that episode.

[~~(8)~~] (9) If at least 10 years have elapsed from the date the petitioner was convicted or released from incarceration, parole, or probation, whichever occurred last, for all convictions, then each eligibility limit defined in Subsection [~~(5)~~] (6) shall be increased by one.

[~~(9)~~] (10) If, prior to May 14, 2013, the petitioner has received a pardon from the Utah Board of Pardons and Parole, the petitioner is entitled to an expungement order for all pardoned crimes pursuant to Section 77-27-5.1.

Section 4. Section 77-40-107 is amended to read:

77-40-107. Petition for expungement -- Prosecutorial responsibility -- Hearing -- Standard of proof -- Exception.

(1) The petitioner shall file a petition for expungement and, except as provided in Subsection 77-40-103(5), the certificate of eligibility in the court specified in Section 77-40-103 and deliver a copy of the petition and certificate to the prosecuting agency. If the certificate is filed electronically, the petitioner or the petitioner's attorney shall keep the original certificate until the proceedings are concluded. If the original certificate is filed with the petition, the clerk of the court shall scan it and return it to the petitioner or the petitioner's attorney, who shall keep it until the proceedings are concluded.

(2) (a) Upon receipt of a petition for expungement of a conviction or a charge dismissed in accordance with a plea in abeyance, the prosecuting attorney shall provide notice of the expungement request by first-class mail to the victim at the most recent address of record on file.

(b) The notice shall:

(i) include a copy of the petition, certificate of eligibility, statutes, and rules applicable to the petition;

(ii) state that the victim has a right to object to the expungement; and

(iii) provide instructions for registering an objection with the court.

(3) The prosecuting attorney and the victim, if applicable, may respond to the petition by filing a recommendation or objection with the court within 35 days after receipt of the petition.

(4) (a) The court may request a written response to the petition from the Division of Adult Probation and Parole within the Department of Corrections.

(b) If requested, the response prepared by the Division of Adult Probation and Parole shall include:

(i) the reasons probation was terminated; and

(ii) certification that the petitioner has completed all requirements of sentencing and probation or parole.

(c) The Division of Adult Probation and Parole shall provide a copy of the response to the petitioner and the prosecuting attorney.

(5) The petitioner may respond in writing to any objections filed by the prosecutor or the victim and the response prepared by the Division of Adult Probation and Parole within 14 days after receipt.

(6) (a) If the court receives an objection concerning the petition from any party, the court shall set a date for a hearing and notify the petitioner and the prosecuting attorney of the date set for the hearing. The prosecuting attorney shall notify the victim of the date set for the hearing.

(b) The petitioner, the prosecuting attorney, the victim, and any other person who has relevant information about the petitioner may testify at the hearing.

(c) The court shall review the petition, the certificate of eligibility, and any written responses submitted regarding the petition.

(7) If no objection is received within 60 days from the date the petition for expungement is filed with the court, the expungement may be granted without a hearing.

(8) The court shall issue an order of expungement if the court finds by clear and convincing evidence that:

(a) the petition and, except as provided under Subsection 77-40-103(5), certificate of eligibility are sufficient;

(b) the statutory requirements have been met;

(c) if the petitioner seeks expungement after a case is dismissed without prejudice or without condition, the prosecutor provided written consent and has not filed and does not intend to refile related charges;

(d) if the petitioner seeks expungement of drug possession offenses allowed under Subsection 77-40-105[~~(6)~~](7), the petitioner is not illegally using controlled substances and is successfully managing any substance addiction;

(e) if the petitioner seeks expungement without a certificate of eligibility for expungement under Subsection 77-40-103(5) for a record of conviction related to cannabis possession:

(i) the petitioner had, at the time of the relevant arrest or citation leading to the conviction, a qualifying condition, as that term is defined in Section 26-61a-102; and

(ii) the possession of cannabis in question was in a form and an amount to medicinally treat the condition described in Subsection (8)(e)(i);

(f) if an objection is received, the petition for expungement is for a charge dismissed in accordance with a plea in abeyance agreement, and the charge is an offense eligible to be used for enhancement, there is good cause for the court to grant the expungement; and

(g) it is not contrary to the interests of the public to grant the expungement.

(9) (a) If the court denies a petition described in Subsection (8)(c) because the prosecutor intends to refile charges, the person seeking expungement may again apply for a certificate of eligibility if charges are not refiled within 180 days of the day on which the court denies the petition.

(b) A prosecutor who opposes an expungement of a case dismissed without prejudice or without condition shall have a good faith basis for the intention to refile the case.

(c) A court shall consider the number of times that good faith basis of intention to refile by the prosecutor is presented to the court in making the court's determination to grant the petition for expungement described in Subsection (8)(c).

(10) If the court grants a petition described in Subsection (8)(e), the court shall make the court's findings in a written order.

(11) A court may not expunge a conviction of an offense for which a certificate of eligibility may not be or should not have been issued under Section 77-40-104 or 77-40-105.

Section 5. Section 77-41-113 is amended to read:

77-41-113. Removal for offenses for which registration is no longer required.

(1) An individual who is currently on the Sex and Kidnap Offender Registry because of a conviction for any of the following offenses may contact the department and request removal from the registry if the only offense or offenses for which the individual is on the registry is listed in Subsection (2).

(2) This section applies to a conviction for the following offenses:

(a) a class B or class C misdemeanor for enticing a minor, Section 76-4-401;

(b) kidnapping, based upon Subsection 76-5-301(1)(a) or (b);

(c) child kidnapping, Section 76-5-301.1, if the offender was the natural parent of the child victim;

(d) unlawful detention, Section 76-5-304;

(e) a third degree felony for unlawful sexual intercourse before 1986, or a class B misdemeanor for unlawful sexual intercourse, Section 76-5-401; [~~or~~]

(f) sodomy, but not forcible sodomy, Section 76-5-403[~~.~~]; or

(g) unless the offender is an individual described in Subsection 77-41-102(9)(f) or (17)(f), an offense committed in Utah before the offender is 18 years old.

(3) The department, upon receipt of a request for removal from the registry shall:

(a) check the registry for the individual's current status;

(b) determine whether the individual qualifies for removal based upon this section; and

(c) notify the individual in writing of the department's determination and whether the individual:

(i) qualifies for removal from the registry; or

(ii) does not qualify for removal.

(4) If the department determines that the individual qualifies for removal from the registry, the department shall remove the offender from the registry.

(5) If the department determines that the individual does not qualify for removal from the registry, the department shall provide an explanation in writing for the department's determination. The department's determination is final and not subject to administrative review.

(6) Neither the department nor any employee may be civilly liable for a determination made in good faith in accordance with this section.

(7) The department shall provide a response to a request for removal within 30 days of receipt of the request and payment of the fee. If the response cannot be provided within 30 days, the department shall notify the individual that the response may be delayed up to 30 additional days.

(8) The department may charge a fee, not to exceed $25, for a request for removal.

CHAPTER 207
S. B. 51
Passed February 19, 2021
Approved March 16, 2021
Effective May 5, 2021

GROUP GANG ENHANCEMENT AMENDMENTS

Chief Sponsor: Daniel W. Thatcher
House Sponsor: Stephanie Pitcher

LONG TITLE

General Description:

This bill modifies the sentencing enhancements and applicable offenses for certain crimes committed in concert with multiple people or on behalf of criminal street gangs.

Highlighted Provisions:

This bill:

- increases the number of additional people necessary for an offense to be enhanced under certain circumstances;
- modifies the offenses subject to enhancement under this section;
- modifies potential enhancements for certain offenses under this section; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

76-3-203.1, as last amended by Laws of Utah 2020, Chapter 394
78B-6-1101, as last amended by Laws of Utah 2019, Chapters 81 and 227
78B-6-1107, as last amended by Laws of Utah 2010, Chapter 193

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

Section 1. Section 76-3-203.1 is amended to read:

76-3-203.1. Offenses committed in concert with three or more persons or in relation to a criminal street gang -- Notice -- Enhanced penalties.

(1) As used in this section:

(a) "Criminal street gang" has the same definition as in Section 76-9-802.

(b) "In concert with [~~two~~] three or more persons" means:

(i) the defendant was aided or encouraged by at least [~~two~~] three other persons in committing the offense and was aware of this aid or encouragement; and

(ii) each of the other persons:

(A) was physically present; [~~or~~] and

(B) participated as a party to any offense listed in Subsection (5).

(c) "In concert with [~~two~~] three or more persons" means, regarding intent:

(i) other persons participating as parties need not have the intent to engage in the same offense or degree of offense as the defendant; and

(ii) a minor is a party if the minor's actions would cause the minor to be a party if the minor were an adult.

(2) A person [~~who commits any offense listed in Subsection (5) is~~] who commits any offense in accordance with this section is subject to an enhanced penalty [~~for the offense as provided in Subsection (4)~~] as provided in Subsection (4), (5), or (6) if the trier of fact finds beyond a reasonable doubt that the person acted:

(a) in concert with [~~two~~] three or more persons;

(b) for the benefit of, at the direction of, or in association with any criminal street gang as defined in Section 76-9-802; or

(c) to gain recognition, acceptance, membership, or increased status with a criminal street gang as defined in Section 76-9-802.

(3) The prosecuting attorney, or grand jury if an indictment is returned, shall cause to be subscribed upon the information or indictment notice that the defendant is subject to the enhanced penalties provided under this section.

[~~(4) The enhanced penalty for a:~~]

[~~(a) class B misdemeanor is a class A misdemeanor;~~]

[~~(b) class A misdemeanor is a third degree felony;~~]

[~~(c) third degree felony is a second degree felony;~~]

[~~(d) second degree felony is a first degree felony; and~~]

[~~(e) first degree felony is an indeterminate prison term of not less than five years in addition to the statutory minimum prison term for the offense, and which may be for life.~~]

[~~(5) Offenses referred to in Subsection (2) are:~~]

[~~(a) any criminal violation of the following chapters of Title 58, Occupations and Professions:~~]

[~~(i) Chapter 37, Utah Controlled Substances Act;~~]

[~~(ii) Chapter 37a, Utah Drug Paraphernalia Act;~~]

[~~(iii) Chapter 37b, Imitation Controlled Substances Act; or~~]

[~~(iv) Chapter 37c, Utah Controlled Substance Precursor Act;~~]

[~~(b) assault and related offenses under Title 76, Chapter 5, Part 1, Assault and Related Offenses;~~]

[~~(c) any criminal homicide offense under Title 76, Chapter 5, Part 2, Criminal Homicide;~~]

[~~(d) kidnapping and related offenses under Title 76, Chapter 5, Part 3, Kidnapping, Trafficking, and Smuggling;~~]

[~~(e) any felony sexual offense under Title 76, Chapter 5, Part 4, Sexual Offenses;~~]

[~~(f) sexual exploitation of a minor as defined in Section 76-5b-201;~~]

[~~(g) any property destruction offense under Title 76, Chapter 6, Part 1, Property Destruction;~~]

[~~(h) burglary, criminal trespass, and related offenses under Title 76, Chapter 6, Part 2, Burglary and Criminal Trespass;~~]

[~~(i) robbery and aggravated robbery under Title 76, Chapter 6, Part 3, Robbery;~~]

[~~(j) theft and related offenses under Title 76, Chapter 6, Part 4, Theft, or Part 6, Retail Theft;~~]

[~~(k) any fraud offense under Title 76, Chapter 6, Part 5, Fraud, except Sections 76-6-504, 76-6-505, 76-6-507, 76-6-508, 76-6-509, 76-6-510, 76-6-511, 76-6-512, 76-6-513, 76-6-514, 76-6-516, 76-6-517, 76-6-518, and 76-6-520;~~]

[~~(l) any offense of obstructing government operations under Title 76, Chapter 8, Part 3, Obstructing Governmental Operations, except Sections 76-8-302, 76-8-303, 76-8-307, 76-8-308, and 76-8-312;~~]

[~~(m) tampering with a witness or other violation of Section 76-8-508;~~]

[~~(n) retaliation against a witness, victim, informant, or other violation of Section 76-8-508.3;~~]

[~~(o) extortion or bribery to dismiss criminal proceeding as defined in Section 76-8-509;~~]

[~~(p) any explosives offense under Title 76, Chapter 10, Part 3, Explosives;~~]

[~~(q) any weapons offense under Title 76, Chapter 10, Part 5, Weapons;~~]

[~~(r) pornographic and harmful materials and performances offenses under Title 76, Chapter 10, Part 12, Pornographic and Harmful Materials and Performances;~~]

[~~(s) prostitution and related offenses under Title 76, Chapter 10, Part 13, Prostitution;~~]

[~~(t) any violation of Title 76, Chapter 10, Part 15, Bus Passenger Safety Act;~~]

[~~(u) any violation of Title 76, Chapter 10, Part 16, Pattern of Unlawful Activity Act;~~]

[~~(v) communications fraud as defined in Section 76-10-1801;~~]

[~~(w) any violation of Title 76, Chapter 10, Part 19, Money Laundering and Currency Transaction Reporting Act; and~~]

[~~(x) burglary of a research facility as defined in Section 76-10-2002.~~]

(4) (a) For an offense listed in Subsection (4)(b), a person may be charged as follows:

(i) for a class B misdemeanor, as a class A misdemeanor; and

(ii) for a class A misdemeanor, as a third degree felony.

(b) The following offenses are subject to Subsection (4)(a):

(i) criminal mischief as defined in Section 76-6-106; and

(ii) graffiti as defined in Section 76-6-107.

(5) (a) For an offense listed in Subsection (5)(b), a person may be charged as follows:

(i) for a class B misdemeanor, as a class A misdemeanor;

(ii) for a class A misdemeanor, as a third degree felony; and

(iii) for a third degree felony, as a second degree felony.

(b) The following offenses are subject to Subsection (5)(a):

(i) burglary, if committed in a dwelling as defined in Subsection 76-6-202(2);

(ii) any offense of obstructing government operations under Title 76, Chapter 8, Part 3, Obstructing Governmental Operations, except Sections 76-8-302, 76-8-303, 76-8-307, 76-8-308, and 76-8-312;

(iii) tampering with a witness or other violation of Section 76-8-508;

(iv) retaliation against a witness, victim, informant, or other violation of Section 76-8-508.3;

(v) extortion or bribery to dismiss a criminal proceeding as defined in Section 76-8-509;

(vi) any weapons offense under Title 76, Chapter 10, Part 5, Weapons; and

(vii) any violation of Title 76, Chapter 10, Part 16, Pattern of Unlawful Activity Act.

(6) (a) For an offense listed in Subsection (6)(b), a person may be charged as follows:

(i) for a class B misdemeanor, as a class A misdemeanor;

(ii) for a class A misdemeanor, as a third degree felony;

(iii) for a third degree felony, as a second degree felony; and

(iv) for a second degree felony, as a first degree felony.

(b) The following offenses are subject to Subsection (6)(a):

(i) assault and related offenses under Title 76, Chapter 5, Part 1, Assault and Related Offenses;

(ii) any criminal homicide offense under Title 76, Chapter 5, Part 2, Criminal Homicide;

(iii) kidnapping and related offenses under Title 76, Chapter 5, Part 3, Kidnapping, Trafficking, and Smuggling;

(iv) any felony sexual offense under Title 76, Chapter 5, Part 4, Sexual Offenses;

(v) sexual exploitation of a minor as defined in Section 76-5b-201;

(vi) robbery and aggravated robbery under Title 76, Chapter 6, Part 3, Robbery; and

(vii) aggravated exploitation of prostitution under Section 76-10-1306.

(7) The sentence imposed under Subsection (4), (5), or (6) may be suspended and the individual placed on probation for the higher level of offense.

[~~(6)~~] (8) It is not a bar to imposing the enhanced penalties under this section that the persons with whom the actor is alleged to have acted in concert are not identified, apprehended, charged, or convicted, or that any of those persons are charged with or convicted of a different or lesser offense.

Section 2. Section 78B-6-1101 is amended to read:

78B-6-1101. Definitions -- Nuisance -- Right of action -- Agriculture operations.

(1) A nuisance is anything that is injurious to health, indecent, offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property. A nuisance may be the subject of an action.

(2) A nuisance may include the following:

(a) drug houses and drug dealing as provided in Section 78B-6-1107;

(b) gambling as provided in Title 76, Chapter 10, Part 11, Gambling;

(c) criminal activity committed in concert with [~~two~~] three or more persons as provided in Section 76-3-203.1;

(d) criminal activity committed for the benefit of, at the direction of, or in association with any criminal street gang as defined in Section 76-9-802;

(e) criminal activity committed to gain recognition, acceptance, membership, or increased status with a criminal street gang as defined in Section 76-9-802;

(f) party houses that frequently create conditions defined in Subsection (1); and

(g) prostitution as provided in Title 76, Chapter 10, Part 13, Prostitution.

(3) A nuisance under this part includes tobacco smoke that drifts into a residential unit a person rents, leases, or owns, from another residential or commercial unit and the smoke:

(a) drifts in more than once in each of two or more consecutive seven-day periods; and

(b) creates any of the conditions under Subsection (1).

(4) Subsection (3) does not apply to:

(a) a residential rental unit available for temporary rental, such as for a vacation, or available for only 30 or fewer days at a time; or

(b) a hotel or motel room.

(5) Subsection (3) does not apply to a unit that is part of a timeshare development, as defined in Section 57-19-2, or subject to a timeshare interest as defined in Section 57-19-2.

(6) An action may be brought by a person whose property is injuriously affected, or whose personal enjoyment is lessened by the nuisance.

(7) An action for nuisance against an agricultural operation is governed by Title 4, Chapter 44, Agricultural Operations Nuisances Act.

(8) "Critical infrastructure materials operations" means the same as that term is defined in Section 10-9a-901.

(9) "Manufacturing facility" means a factory, plant, or other facility including its appurtenances, where the form of raw materials, processed materials, commodities, or other physical objects is converted or otherwise changed into other materials, commodities, or physical objects or where such materials, commodities, or physical objects are combined to form a new material, commodity, or physical object.

Section 3. Section 78B-6-1107 is amended to read:

78B-6-1107. Nuisance -- Drug houses and drug dealing -- Gambling -- Group criminal activity -- Party house -- Prostitution -- Weapons -- Abatement by eviction.

(1) Every building or place is a nuisance where:

(a) the unlawful sale, manufacture, service, storage, distribution, dispensing, or acquisition occurs of any controlled substance, precursor, or analog specified in Title 58, Chapter 37, Utah Controlled Substances Act;

(b) gambling is permitted to be played, conducted, or dealt upon as prohibited in Title 76, Chapter 10, Part 11, Gambling, which creates the conditions of a nuisance as defined in Subsection 78B-6-1101(1);

(c) criminal activity is committed in concert with [~~two~~] three or more persons as provided in Section 76-3-203.1;

(d) criminal activity is committed for the benefit of, at the direction of, or in association with any criminal street gang as defined in Section 76-9-802;

(e) criminal activity is committed to gain recognition, acceptance, membership, or increased status with a criminal street gang as defined in Section 76-9-802;

(f) parties occur frequently which create the conditions of a nuisance as defined in Subsection 78B-6-1101(1);

(g) prostitution or promotion of prostitution is regularly carried on by one or more persons as provided in Title 76, Chapter 10, Part 13, Prostitution; and

(h) a violation of Title 76, Chapter 10, Part 5, Weapons, occurs on the premises.

(2) It is a defense to nuisance under Subsection (1)(a) if the defendant can prove that the defendant is lawfully entitled to possession of a controlled substance.

(3) Sections 78B-6-1108 through 78B-6-1114 govern only an abatement by eviction of the nuisance as defined in Subsection (1).

CHAPTER 208
S. B. 53
Passed March 3, 2021
Approved March 16, 2021
Effective May 5, 2021
(Exception clause in Section 9)

BEHAVIORAL EMERGENCY SERVICES AMENDMENTS

Chief Sponsor: Daniel W. Thatcher
House Sponsor: Jefferson S. Burton

LONG TITLE

General Description:

This bill enacts requirements and provisions relating to behavioral emergency services technicians.

Highlighted Provisions:

This bill:

- defines terms;
- creates a new license for behavioral emergency services technicians and advanced behavioral emergency services technicians;
- requires the Utah Department of Health to administer the license, including setting initial and ongoing licensure and training requirements;
- enacts provisions relating to the new license for behavioral emergency services technicians, including certain testimonial exceptions; and
- makes technical and corresponding changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

26-8a-102, as last amended by Laws of Utah 2019, Chapter 265
26-8a-103, as last amended by Laws of Utah 2017, Chapters 326 and 336
26-8a-206, as enacted by Laws of Utah 1999, Chapter 141
26-8a-302, as last amended by Laws of Utah 2017, Chapter 326
26-8a-307, as enacted by Laws of Utah 1999, Chapter 141
78B-5-901, as enacted by Laws of Utah 2018, Chapter 109
78B-5-902, as enacted by Laws of Utah 2018, Chapter 109

ENACTS:

78B-5-904, Utah Code Annotated 1953

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

Section 1. Section 26-8a-102 is amended to read:

26-8a-102. Definitions.

As used in this chapter:

(1) (a) "911 ambulance or paramedic services" means:

(i) either:

(A) 911 ambulance service;

(B) 911 paramedic service; or

(C) both 911 ambulance and paramedic service; and

(ii) a response to a 911 call received by a designated dispatch center that receives 911 or E911 calls.

(b) "911 ambulance or paramedic service" does not mean a seven or ten digit telephone call received directly by an ambulance provider licensed under this chapter.

(2) "Ambulance" means a ground, air, or water vehicle that:

(a) transports patients and is used to provide emergency medical services; and

(b) is required to obtain a permit under Section 26-8a-304 to operate in the state.

(3) "Ambulance provider" means an emergency medical service provider that:

(a) transports and provides emergency medical care to patients; and

(b) is required to obtain a license under Part 4, Ambulance and Paramedic Providers.

(4) (a) "Behavioral emergency services" means delivering a behavioral health intervention to a patient in an emergency context within a scope and in accordance with guidelines established by the department.

(b) "Behavioral emergency services" does not include engaging in the:

(i) practice of mental health therapy as defined in Section 58-60-102;

(ii) practice of psychology as defined in Section 58-61-102;

(iii) practice of clinical social work as defined in Section 58-60-202;

(iv) practice of certified social work as defined in Section 58-60-202;

(v) practice of marriage and family therapy as defined in Section 58-60-302; or

(vi) practice of clinical mental health counseling as defined in Section 58-60-402; and

(vii) practice as a substance use disorder counselor as defined in Section 58-60-502.

[~~(4)~~] (5) "Committee" means the State Emergency Medical Services Committee created by Section 26-1-7.

[~~(5)~~] (6) "Direct medical observation" means in-person observation of a patient by a physician, registered nurse, physician's assistant, or individual licensed under Section 26-8a-302.

[~~(6)~~] (7) "Emergency medical condition" means:

(a) a medical condition that manifests itself by symptoms of sufficient severity, including severe pain, that a prudent layperson, who possesses an average knowledge of health and medicine, could reasonably expect the absence of immediate medical attention to result in:

(i) placing the individual's health in serious jeopardy;

(ii) serious impairment to bodily functions; or

(iii) serious dysfunction of any bodily organ or part; or

(b) a medical condition that in the opinion of a physician or his designee requires direct medical observation during transport or may require the intervention of an individual licensed under Section 26-8a-302 during transport.

[~~(7)~~] (8) "Emergency medical service personnel":

(a) means an individual who provides emergency medical services or behavioral emergency services to a patient and is required to be licensed under Section 26-8a-302; and

(b) includes a paramedic, medical director of a licensed emergency medical service provider, emergency medical service instructor, behavioral emergency services technician, and other categories established by the committee.

[~~(8)~~] (9) "Emergency medical service providers" means:

(a) licensed ambulance providers and paramedic providers;

(b) a facility or provider that is required to be designated under Subsection 26-8a-303(1)(a); and

(c) emergency medical service personnel.

[~~(9)~~] (10) "Emergency medical services" means:

(a) medical services[~~,~~];

(b) transportation services[~~, or both rendered to a patient.~~];

(c) behavioral emergency services; or

(d) any combination of the services described in Subsections (10)(a) through (c).

[~~(10)~~] (11) "Emergency medical service vehicle" means a land, air, or water vehicle that is:

(a) maintained and used for the transportation of emergency medical personnel, equipment, and supplies to the scene of a medical emergency; and

(b) required to be permitted under Section 26-8a-304.

[~~(11)~~] (12) "Governing body":

(a) is as defined in Section 11-42-102; and

(b) for purposes of a "special service district" under Section 11-42-102, means a special service district that has been delegated the authority to select a provider under this chapter by the special service district's legislative body or administrative control board.

[~~(12)~~] (13) "Interested party" means:

(a) a licensed or designated emergency medical services provider that provides emergency medical services within or in an area that abuts an exclusive geographic service area that is the subject of an application submitted pursuant to Part 4, Ambulance and Paramedic Providers;

(b) any municipality, county, or fire district that lies within or abuts a geographic service area that is the subject of an application submitted pursuant to Part 4, Ambulance and Paramedic Providers; or

(c) the department when acting in the interest of the public.

[~~(13)~~] (14) "Medical control" means a person who provides medical supervision to an emergency medical service provider.

[~~(14)~~] (15) "Non-911 service" means transport of a patient that is not 911 transport under Subsection (1).

[~~(15)~~] (16) "Nonemergency secured behavioral health transport" means an entity that:

(a) provides nonemergency secure transportation services for an individual who:

(i) is not required to be transported by an ambulance under Section 26-8a-305; and

(ii) requires behavioral health observation during transport between any of the following facilities:

(A) a licensed acute care hospital;

(B) an emergency patient receiving facility;

(C) a licensed mental health facility; and

(D) the office of a licensed health care provider; and

(b) is required to be designated under Section 26-8a-303.

[~~(16)~~] (17) "Paramedic provider" means an entity that:

(a) employs emergency medical service personnel; and

(b) is required to obtain a license under Part 4, Ambulance and Paramedic Providers.

[~~(17)~~] (18) "Patient" means an individual who, as the result of illness [~~or~~], injury, or a behavioral emergency condition, meets any of the criteria in Section 26-8a-305.

[~~(18)~~] (19) "Political subdivision" means:

(a) a city or town located in a county of the first or second class as defined in Section 17-50-501;

(b) a county of the first or second class;

(c) the following districts located in a county of the first or second class:

(i) a special service district created under Title 17D, Chapter 1, Special Service District Act; or

(ii) a local district under Title 17B, Limited Purpose Local Government Entities - Local Districts, for the purpose of providing fire protection, paramedic, and emergency services;

(d) areas coming together as described in Subsection 26-8a-405.2(2)(b)(ii);

(e) an interlocal entity under Title 11, Chapter 13, Interlocal Cooperation Act; or

(f) a special service district for fire protection service under Subsection 17D-1-201(9).

[~~(19)~~] (20) "Trauma" means an injury requiring immediate medical or surgical intervention.

[~~(20)~~] (21) "Trauma system" means a single, statewide system that:

(a) organizes and coordinates the delivery of trauma care within defined geographic areas from the time of injury through transport and rehabilitative care; and

(b) is inclusive of all prehospital providers, hospitals, and rehabilitative facilities in delivering care for trauma patients, regardless of severity.

[~~(21)~~] (22) "Triage" means the sorting of patients in terms of disposition, destination, or priority. For prehospital trauma victims, triage requires a determination of injury severity to assess the appropriate level of care according to established patient care protocols.

[~~(22)~~] (23) "Triage, treatment, transportation, and transfer guidelines" means written procedures that:

(a) direct the care of patients; and

(b) are adopted by the medical staff of an emergency patient receiving facility, trauma center, or an emergency medical service provider.

Section 2. Section 26-8a-103 is amended to read:

26-8a-103. State Emergency Medical Services Committee -- Membership -- Expenses.

(1) The State Emergency Medical Services Committee created by Section 26-1-7 shall be composed of the following [~~17~~] 19 members appointed by the governor, at least six of whom shall reside in a county of the third, fourth, fifth, or sixth class:

(a) five physicians licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act, as follows:

(i) one surgeon who actively provides trauma care at a hospital;

(ii) one rural physician involved in emergency medical care;

(iii) two physicians who practice in the emergency department of a general acute hospital; and

(iv) one pediatrician who practices in the emergency department or critical care unit of a general acute hospital or a children's specialty hospital;

(b) two representatives from private ambulance providers;

(c) one representative from an ambulance provider that is neither privately owned nor operated by a fire department;

(d) two chief officers from fire agencies operated by the following classes of licensed or designated emergency medical services providers: municipality, county, and fire district, provided that no class of medical services providers may have more than one representative under this Subsection (1)(d);

(e) one director of a law enforcement agency that provides emergency medical services;

(f) one hospital administrator;

(g) one emergency care nurse;

(h) one paramedic in active field practice;

(i) one emergency medical technician in active field practice;

(j) one licensed emergency medical dispatcher affiliated with an emergency medical dispatch center; [~~and~~]

(k) one licensed mental health professional with experience as a first responder;

(l) one licensed behavioral emergency services technician; and

[~~(k)~~] (m) one consumer.

(2) (a) Except as provided in Subsection (2)(b), members shall be appointed to a four-year term beginning July 1.

(b) Notwithstanding Subsection (2)(a), the governor:

(i) shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of committee members are staggered so that approximately half of the committee is appointed every two years;

(ii) may not reappoint a member for more than two consecutive terms; and

(iii) shall:

(A) initially appoint the second member under Subsection (1)(b) from a different private provider than the private provider currently serving under Subsection (1)(b); and

(B) thereafter stagger each replacement of a member in Subsection (1)(b) so that the member positions under Subsection (1)(b) are not held by representatives of the same private provider.

(c) When a vacancy occurs in the membership for any reason, the replacement shall be appointed by the governor for the unexpired term.

(3) (a) Each January, the committee shall organize and select one of its members as chair and one member as vice chair. The committee may organize standing or ad hoc subcommittees, which shall operate in accordance with guidelines established by the committee.

(b) The chair shall convene a minimum of four meetings per year. The chair may call special meetings. The chair shall call a meeting upon request of five or more members of the committee.

(c) Nine members of the committee constitute a quorum for the transaction of business and the action of a majority of the members present is the action of the committee.

(4) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

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

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

(5) Administrative services for the committee shall be provided by the department.

Section 3. Section 26-8a-206 is amended to read:

26-8a-206. Personnel stress management program.

(1) The department shall develop and implement a statewide program to provide support and counseling for personnel who have been exposed to one or more stressful incidents in the course of providing emergency services.

(2) This program shall include:

(a) ongoing training for agencies providing emergency services and counseling program volunteers; [~~and~~]

(b) critical incident stress debriefing for personnel at no cost to the emergency provider[~~.~~]; and

(c) advising the department on training requirements for licensure as a behavioral emergency services technician.

Section 4. Section 26-8a-302 is amended to read:

26-8a-302. Licensure of emergency medical service personnel.

(1) To promote the availability of comprehensive emergency medical services throughout the state, the committee shall establish:

(a) initial and ongoing licensure and training requirements for emergency medical service personnel in the following categories:

(i) paramedic;

(ii) medical director;

(iii) emergency medical service instructor; [~~and~~]

(iv) behavioral emergency services technician;

(v) advanced behavioral emergency services technician; and

[~~(iv)~~] (vi) other types of emergency medical personnel as the committee considers necessary; and

(b) guidelines for giving credit for out-of-state training and experience.

(2) The department shall, based on the requirements established in Subsection (1):

(a) develop, conduct, and authorize training and testing for emergency medical service personnel; and

(b) issue a license and license renewals to emergency medical service personnel.

(3) The department shall coordinate with the Department of Human Services established in Section 62A-1-102, and local mental health authorities described in Section 17-43-301, to develop and authorize initial and ongoing licensure and training requirements for licensure as a:

(a) behavioral emergency services technician; and

(b) advanced behavioral emergency services technician.

[~~(3)~~] (4) As provided in Section 26-8a-502, an individual issued a license under this section may only provide emergency medical services to the extent allowed by the license.

[~~(4)~~] (5) An individual may not be issued or retain a license under this section unless the individual obtains and retains background clearance under Section 26-8a-310.

Section 5. Section 26-8a-307 is amended to read:

26-8a-307. Patient destination.

(1) If an individual being transported by a ground or air ambulance is in a critical or unstable medical condition, the ground or air ambulance shall transport the patient to the trauma center or closest emergency patient receiving facility appropriate to adequately treat the patient.

(2) If the patient's condition is not critical or unstable as determined by medical control, the ground or air ambulance may transport the patient to the:

(a) hospital, emergency patient receiving facility, licensed mental health facility, or other medical provider chosen by the patient and approved by medical control as appropriate for the patient's condition and needs; or

(b) nearest hospital, emergency patient receiving facility, licensed mental health facility, or other medical provider approved by medical control as appropriate for the patient's condition and needs if the patient expresses no preference.

Section 6. Section 78B-5-901 is amended to read:

Part 9. Public Safety Peer Counseling and Behavioral EmergencyServices Technicians

78B-5-901. Public safety peer counseling and behavioral emergency services technicians.

This part is known as "Public Safety Peer Counseling and Behavioral Emergency Services Technicians."

Section 7. Section 78B-5-902 is amended to read:

78B-5-902. Definitions.

As used in this part:

(1) "Communication" means an oral statement, written statement, note, record, report, or document made during, or arising out of, a meeting between a law enforcement officer, firefighter, emergency medical service provider, or rescue provider and a peer support team member.

(2) "Behavioral emergency services technician" means an individual who is licensed under Section 26-8a-302 as:

(a) a behavioral emergency services technician; or

(b) an advanced behavioral emergency services technician.

[~~(2)~~] (3) "Emergency medical service provider or rescue unit peer support team member" means a person who is:

(a) an emergency medical service provider as defined in Section 26-8a-102, a regular or volunteer member of a rescue unit acting as an emergency responder as defined in Section 53-2a-502, or another person who has been trained in peer support skills; and

(b) designated by the chief executive of an emergency medical service agency or the chief of a rescue unit as a member of an emergency medical service provider's peer support team or as a member of a rescue unit's peer support team.

[~~(3)~~] (4) "Law enforcement or firefighter peer support team member" means a person who is:

(a) a peace officer, law enforcement dispatcher, civilian employee, or volunteer member of a law enforcement agency, a regular or volunteer member of a fire department, or another person who has been trained in peer support skills; and

(b) designated by the commissioner of the Department of Public Safety, the executive director of the Department of Corrections, a sheriff, a police chief, or a fire chief as a member of a law enforcement agency's peer support team or a fire department's peer support team.

[~~(4)~~] (5) "Trained" means a person who has successfully completed a peer support training program approved by the Peace Officer Standards and Training Division, the State Fire Marshal's Office, or the Health Department, as applicable.

Section 8. Section 78B-5-904 is enacted to read:

78B-5-904. Exclusions for certain communications.

In accordance with the Utah Rules of Evidence, a behavioral emergency services technician may refuse to disclose communications made by an individual during the delivery of behavioral emergency services as defined in Section 26-8a-102.

Section 9. Effective date.

This bill takes effect on July 1, 2021.

CHAPTER 209
S. B. 57
Passed February 10, 2021
Approved March 16, 2021
Effective May 5, 2021

EXECUTIVE RESIDENCE COMMISSION AMENDMENTS

Chief Sponsor: Chris H. Wilson
House Sponsor: Calvin R. Musselman

LONG TITLE

General Description:

This bill amends provisions related to the Executive Residence Commission.

Highlighted Provisions:

This bill:

- requires the Executive Residence Commission to make recommendations to the Division of Facilities Construction and Management instead of the state building board; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

67-1-8.1, as last amended by Laws of Utah 2017, Chapter 181
67-1-9, as last amended by Laws of Utah 2001, Chapter 9

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

Section 1. Section 67-1-8.1 is amended to read:

67-1-8.1. Executive Residence Commission -- Recommendations as to use, maintenance, and operation of executive residence.

(1) The Legislature finds and declares that:

(a) the state property known as the Thomas Kearns Mansion is a recognized state landmark possessing historical and architectural qualities that should be preserved; and

(b) the Thomas Kearns Mansion was the first building listed on the National Register of Historic Places in the state.

(2) As used in this section:

(a) "Executive residence" includes the:

(i) Thomas Kearns Mansion;

(ii) Carriage House building; and

(iii) grounds and landscaping surrounding the Thomas Kearns Mansion and the Carriage House building.

(b) "Commission" means the Executive Residence Commission established in this section.

(3) (a) An Executive Residence Commission is established to make recommendations to the [~~State Building Board~~] Division of Facilities Construction and Management for the use, operation, maintenance, repair, rehabilitation, alteration, restoration, placement of art and monuments, or adoptive use of the executive residence.

(b) The commission shall meet at least once a year and make any recommendations to the [~~State Building Board~~] Division of Facilities Construction and Management prior to August 1 of each year.

(4) The commission shall consist of nine voting members and one ex officio, nonvoting member representing the Governor's Mansion Foundation. The membership shall consist of:

(a) three private citizens appointed by the governor, who have demonstrated an interest in historical preservation;

(b) three additional private citizens appointed by the governor with the following background:

(i) an interior design professional with a background in historic spaces;

(ii) an architect with a background in historic preservation and restoration recommended by the Utah chapter of the American Institute of Architects; and

(iii) a landscape architect with a background and knowledge of historic properties recommended by the Utah chapter of the American Society of Landscape Architects;

(c) the director, or director's designee, of the Division of Art and Museums;

(d) the director, or director's designee, of the Division of State History; and

(e) the executive director, or executive director's designee, of the Department of Administrative Services.

(5) (a) Except as required by Subsection (5)(b), as terms of current commission members expire, the governor shall appoint each new member or reappointed member to a four-year term ending on March 1.

(b) Notwithstanding the requirements of Subsection (5)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of commission members are staggered so that approximately half of the commission is appointed every two years.

(6) (a) The governor shall appoint a chair from among the membership of the commission.

(b) Six members of the commission shall constitute a quorum, and either the chair or two other members of the commission may call meetings of the commission.

(7) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.

(8) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

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

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

(9) The Division of Facilities Construction and Management shall provide the administrative support to the commission.

Section 2. Section 67-1-9 is amended to read:

67-1-9. Governor's residence -- Sources of funds.

(1) The Kearns' mansion shall be the official residence of the governor.

(2) The [~~building board~~] Division of Facilities Construction and Management may apply for, accept and expend funds from federal and other sources for carrying out the purposes of Section 67-1-8.1 and this section.

CHAPTER 210
S. B. 58
Passed February 18, 2021
Approved March 16, 2021
Effective May 5, 2021

METRO TOWNSHIP AMENDMENTS

Chief Sponsor: Karen Mayne
House Sponsor: James A. Dunnigan

LONG TITLE

General Description:

This bill amends provisions relating to metro townships.

Highlighted Provisions:

This bill:

- allows a metro township to impose a municipal energy sales and use tax or a municipal telecommunication's license tax after holding a public hearing;
- repeals provisions limiting the taxing authority of certain metro townships;
- requires the State Tax Commission to provide certain tax collection data to a metro township; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

10-1-303, as last amended by Laws of Utah 2010, Chapter 142
10-1-402, as last amended by Laws of Utah 2008, Chapter 384
10-3c-204, as enacted by Laws of Utah 2015, Chapter 352

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

Section 1. Section 10-1-303 is amended to read:

10-1-303. Definitions.

As used in this part:

(1) "Commission" means the State Tax Commission.

(2) "Contractual franchise fee" means:

(a) a fee:

(i) provided for in a franchise agreement; and

(ii) that is consideration for the franchise agreement; or

(b) (i) a fee similar to Subsection (2)(a); or

(ii) any combination of Subsections (2)(a) and (b).

(3) (a) "Delivered value" means the fair market value of the taxable energy delivered for sale or use in the municipality and includes:

(i) the value of the energy itself; and

(ii) any transportation, freight, customer demand charges, services charges, or other costs typically incurred in providing taxable energy in usable form to each class of customer in the municipality.

(b) "Delivered value" does not include the amount of a tax paid under:

(i) Title 59, Chapter 12, Sales and Use Tax Act; or

(ii) this part.

(4) "De minimis amount" means an amount of taxable energy that does not exceed the greater of:

(a) 5% of the energy supplier's estimated total Utah gross receipts from sales of property or services; or

(b) $10,000.

(5) "Energy supplier" means a person supplying taxable energy, except that the commission may by rule exclude from this definition a person supplying a de minimis amount of taxable energy.

(6) "Franchise agreement" means a franchise or an ordinance, contract, or agreement granting a franchise.

(7) "Franchise tax" means:

(a) a franchise tax;

(b) a tax similar to a franchise tax; or

(c) any combination of Subsections (7)(a) and (b).

(8) "Municipality" means a city, town, or metro township.

[~~(8)~~] (9) "Person" is as defined in Section 59-12-102.

[~~(9)~~] (10) "Taxable energy" means gas and electricity.

Section 2. Section 10-1-402 is amended to read:

10-1-402. Definitions.

As used in this part:

(1) "Commission" means the State Tax Commission.

(2) (a) Subject to Subsections (2)(b) and (c), "customer" means the person who is obligated under a contract with a telecommunications provider to pay for telecommunications service received under the contract.

(b) For purposes of this section and Section 10-1-407, "customer" means:

(i) the person who is obligated under a contract with a telecommunications provider to pay for telecommunications service received under the contract; or

(ii) if the end user is not the person described in Subsection (2)(b)(i), the end user of telecommunications service.

(c) "Customer" does not include a reseller:

(i) of telecommunications service; or

(ii) for mobile telecommunications service, of a serving carrier under an agreement to serve the customer outside the telecommunications provider's licensed service area.

(3) (a) "End user" means the person who uses a telecommunications service.

(b) For purposes of telecommunications service provided to a person who is not an individual, "end user" means the individual who uses the telecommunications service on behalf of the person who is provided the telecommunications service.

(4) (a) "Gross receipts from telecommunications service" means the revenue that a telecommunications provider receives for telecommunications service rendered except for amounts collected or paid as:

(i) a tax, fee, or charge:

(A) imposed by a governmental entity;

(B) separately identified as a tax, fee, or charge in the transaction with the customer for the telecommunications service; and

(C) imposed only on a telecommunications provider;

(ii) sales and use taxes collected by the telecommunications provider from a customer under Title 59, Chapter 12, Sales and Use Tax Act; or

(iii) interest, a fee, or a charge that is charged by a telecommunications provider on a customer for failure to pay for telecommunications service when payment is due.

(b) "Gross receipts from telecommunications service" includes a charge necessary to complete a sale of a telecommunications service.

(5) "Mobile telecommunications service" is as defined in the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

(6) "Municipality" means a city [~~or town~~], town, or metro township.

(7) "Place of primary use":

(a) for telecommunications service other than mobile telecommunications service, means the street address representative of where the customer's use of the telecommunications service primarily occurs, which shall be:

(i) the residential street address of the customer; or

(ii) the primary business street address of the customer; or

(b) for mobile telecommunications service, is as defined in the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

(8) Notwithstanding where a call is billed or paid, "service address" means:

(a) if the location described in this Subsection (8)(a) is known, the location of the telecommunications equipment:

(i) to which a call is charged; and

(ii) from which the call originates or terminates;

(b) if the location described in Subsection (8)(a) is not known but the location described in this Subsection (8)(b) is known, the location of the origination point of the signal of the telecommunications service first identified by:

(i) the telecommunications system of the telecommunications provider; or

(ii) if the system used to transport the signal is not a system of the telecommunications provider, information received by the telecommunications provider from its service provider; or

(c) if the locations described in Subsection (8)(a) or (b) are not known, the location of a customer's place of primary use.

(9) (a) Subject to Subsections (9)(b) and (9)(c), "telecommunications provider" means a person that:

(i) owns, controls, operates, or manages a telecommunications service; or

(ii) engages in an activity described in Subsection (9)(a)(i) for the shared use with or resale to any person of the telecommunications service.

(b) A person described in Subsection (9)(a) is a telecommunications provider whether or not the Public Service Commission of Utah regulates:

(i) that person; or

(ii) the telecommunications service that the person owns, controls, operates, or manages.

(c) "Telecommunications provider" does not include an aggregator as defined in Section 54-8b-2.

(10) "Telecommunications service" means:

(a) telecommunications service, as defined in Section 59-12-102, other than mobile telecommunications service, that originates and terminates within the boundaries of this state;

(b) mobile telecommunications service, as defined in Section 59-12-102:

(i) that originates and terminates within the boundaries of one state; and

(ii) only to the extent permitted by the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 116 et seq.; or

(c) an ancillary service as defined in Section 59-12-102.

(11) (a) Except as provided in Subsection (11)(b), "telecommunications tax or fee" means any of the following imposed by a municipality on a telecommunications provider:

(i) a tax;

(ii) a license;

(iii) a fee;

(iv) a license fee;

(v) a license tax;

(vi) a franchise fee; or

(vii) a charge similar to a tax, license, or fee described in Subsections (11)(a)(i) through (vi).

(b) "Telecommunications tax or fee" does not include:

(i) the municipal [~~telecommunications~~] telecommunication's license tax authorized by this part; or

(ii) a tax, fee, or charge, including a tax imposed under Title 59, Revenue and Taxation, that is imposed:

(A) on telecommunications providers; and

(B) on persons who are not telecommunications providers.

Section 3. Section 10-3c-204 is amended to read:

10-3c-204. Taxing authority limited.

(1) A metro township may [~~not~~] impose:

(a) a municipal energy sales and use tax [~~as described~~] in accordance with Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act; or

(b) a municipal telecommunication's license tax [~~as described~~] in accordance with Chapter 1, Part 4, Municipal Telecommunications License Tax Act.

[~~(2) (a) If the electors at an election under Section 10-2a-404 chose a metro township that is included in a municipal services district and has limited municipal powers, or a metro township subsequently joins a municipal services district, the metro township may not levy or impose a tax unless the Legislature expressly provides that the metro township may levy or impose the tax.~~]

[~~(b) Subsection (2)(a) does not apply if a municipal services district is dissolved.~~]

(2) (a) The State Tax Commission shall provide to each metro township the collection data necessary to verify that revenues collected by the commission are distributed to each metro township in accordance with:

(i) Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act; and

(ii) Chapter 1, Part 4, Municipal Telecommunications License Tax Act.

(b) The data described in Subsection (2)(a) shall include the State Tax Commission's reports of collections, distributions, and a breakdown of metro township revenues.

(3) (a) Before a metro township enacts a tax described in Subsection (1), the metro township council shall hold a public hearing:

(i) on a weekday evening other than a holiday beginning no earlier than 6:00 p.m.;

(ii) that is open to the public; and

(iii) to allow an individual present to comment on the proposed tax:

(A) within reasonable time limits; and

(B) without unreasonable restriction on the number of individuals permitted to comment on the proposed tax.

(b) (i) A metro township council shall publish notice of the public hearing described in Subsection (3)(a):

(A) by mailing notice to each mailing address in the metro township at least 14 days before the day of the public hearing;

(B) by posting notice on the Utah Public Notice Website created in Section 63F-1-701 for each of the 14 days before the day of the public hearing; and

(C) if the metro township has a website, by posting notice on the metro township's website for each of the 14 days before the day of the public hearing.

(ii) The council of a metro township that is included in a municipal services district satisfies the requirement described in Subsection (3)(b)(i)(A) by mailing notice, at least 14 days before the day of the public hearing, to each mailing address in the metro township, using records or information available to the municipal services district in which the metro township is included.

(c) The notice described in Subsection (3)(b) shall:

(i) state "NOTICE OF PROPOSED TAX" at the top of the notice, in bold upper-case type no smaller than 18 point;

(ii) indicate the date, time, and location of the public hearing described in Subsection (3)(a); and

(iii) indicate the proposed tax rate.

CHAPTER 211
S. B. 60
Passed February 11, 2021
Approved March 16, 2021
Effective May 5, 2021

ACCIDENT REPORTS AMENDMENTS

Chief Sponsor: Curtis S. Bramble
House Sponsor: Paul Ray

LONG TITLE

General Description:

This bill amends provisions related to the disclosure of accident reports.

Highlighted Provisions:

This bill:

- amends the definition of "initial contact report";
- limits a relevant law enforcement entity from disclosing an accident report to a licensed private investigator to circumstances in which the license private investigator represents certain individuals involved or affected by the accident that is the subject of the accident report; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

41-6a-404, as last amended by Laws of Utah 2018, Chapter 162
53-9-107, as last amended by Laws of Utah 2011, Chapter 432
63G-2-103, as last amended by Laws of Utah 2020, Chapter 365

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

Section 1. Section 41-6a-404 is amended to read:

41-6a-404. Accident reports -- When confidential -- Insurance policy information -- Use as evidence -- Penalty for false information.

(1) As used in this section:

(a) "Accompanying data" means all materials gathered by the investigating peace officer in an accident investigation including:

(i) the identity of witnesses and, if known, contact information;

(ii) witness statements;

(iii) photographs and videotapes;

(iv) diagrams; and

(v) field notes.

(b) "Agent" means:

(i) a person's attorney;

(ii) a person's insurer;

(iii) a general acute hospital, as defined in Section 26-21-2, that:

(A) has an emergency room; and

(B) is providing or has provided emergency services to the person in relation to the accident; or

(iv) any other individual or entity with signed permission from the person to receive the person's accident report.

(2) (a) Except as provided in Subsections (3) and (7), all accident reports required in this part to be filed with the department:

(i) are without prejudice to the reporting individual;

(ii) are protected and for the confidential use of the department or other state, local, or federal agencies having use for the records for official governmental statistical, investigative, and accident prevention purposes; and

(iii) may be disclosed only in a statistical form that protects the privacy of any person involved in the accident.

(b) An investigating peace officer shall include in an accident report an indication as to whether the accident occurred on a highway designated as a livestock highway in accordance with Section 72-3-112 if the accident resulted in the injury or death of livestock.

(3) (a) Subject to the provisions of this section, the department or the responsible law enforcement agency employing the peace officer that investigated the accident shall disclose an accident report to:

(i) a person involved in the accident, excluding a witness to the accident;

(ii) a person suffering loss or injury in the accident;

(iii) an agent, parent, or legal guardian of a person described in Subsections (3)(a)(i) and (ii);

(iv) subject to Subsection (3)(d), a member of the press or broadcast news media;

(v) a state, local, or federal agency that uses the records for official governmental, investigative, or accident prevention purposes;

(vi) law enforcement personnel when acting in their official governmental capacity; and

(vii) a licensed private investigator who:

(A) represents an individual described in Subsections (3)(a)(i) through (iii); and

(B) demonstrates that the representation of the individual described in Subsections (3)(a)(i) through (iii) is directly related to the accident that is the subject of the accident report.

(b) The responsible law enforcement agency employing the peace officer that investigated the accident:

(i) shall in compliance with Subsection (3)(a):

(A) disclose an accident report; or

(B) upon written request disclose an accident report and its accompanying data within 10 business days from receipt of a written request for disclosure; or

(ii) may withhold an accident report, and any of its accompanying data if disclosure would jeopardize an ongoing criminal investigation or criminal prosecution.

(c) In accordance with Subsection (3)(a), the department or the responsible law enforcement agency employing the investigating peace officer shall disclose whether any person or vehicle involved in an accident reported under this section was covered by a vehicle insurance policy, and the name of the insurer.

(d) Information provided to a member of the press or broadcast news media under Subsection (3)(a)(iv) may only include:

(i) the name, age, sex, and city of residence of each person involved in the accident;

(ii) the make and model year of each vehicle involved in the accident;

(iii) whether or not each person involved in the accident was covered by a vehicle insurance policy;

(iv) the location of the accident; and

(v) a description of the accident that excludes personal identifying information not listed in Subsection (3)(d)(i).

(e) The department shall disclose to any requesting person the following vehicle accident history information, excluding personal identifying information, in bulk electronic form:

(i) any vehicle identifying information that is electronically available, including the make, model year, and vehicle identification number of each vehicle involved in an accident;

(ii) the date of the accident; and

(iii) any electronically available data which describes the accident, including a description of any physical damage to the vehicle.

(f) The department may establish a fee under Section 63J-1-504 based on the fair market value of the information for providing bulk vehicle accident history information under Subsection (3)(e).

(4) (a) Except as provided in Subsection (4)(b), accident reports filed under this section may not be used as evidence in any civil or criminal trial arising out of an accident.

(b) (i) Upon demand of any party to the trial or upon demand of any court, the department shall furnish a certificate showing that a specified accident report has or has not been made to the department in compliance with law.

(ii) If the report has been made, the certificate furnished by the department shall show:

(A) the date, time, and location of the accident;

(B) the names and addresses of the drivers;

(C) the owners of the vehicles involved; and

(D) the investigating peace officers.

(iii) The reports may be used as evidence when necessary to prosecute charges filed in connection with a violation of Subsection (5).

(5) A person who gives information in reports as required in this part knowing or having reason to believe that the information is false is guilty of a class A misdemeanor.

(6) The department and the responsible law enforcement agency employing the investigating peace officer may charge a reasonable fee determined by the department under Section 63J-1-504 for the cost incurred in disclosing an accident report or an accident report and any of its accompanying data under Subsections (3)(a) and (b).

(7) (a) The Office of State Debt Collection may, in the performance of its regular duties, disclose an accident report to:

(i) a person involved in the accident, excluding a witness to the accident;

(ii) an owner of a vehicle involved in the accident; or

(iii) an agent, parent, or legal guardian of a person described in Subsection (7)(a)(i) or (ii).

(b) A disclosure under Subsection (7)(a) does not change the classification of the record as a protected record under Section 63G-2-305.

Section 2. Section 53-9-107 is amended to read:

53-9-107. Classification of licenses -- License required to act.

(1) Every person applying for a license under this chapter shall indicate on the application which of the following licenses the applicant is applying for:

(a) an agency license shall be issued to an applicant who meets the agency requirements of Sections 53-9-108 and 53-9-109;

(b) a registrant license shall be issued to an applicant who meets the registrant requirements of Sections 53-9-108 and 53-9-110; or

(c) an apprentice license shall be issued to an applicant who meets the apprentice requirements of Sections 53-9-108 and 53-9-110.

(2) Unless licensed under this chapter, a person may not:

(a) act or assume to act as, or represent himself to be:

(i) a licensee; or

(ii) a private investigator or private detective as defined in [~~Subsection 53-9-102(16)~~] Section 53-9-102 or conduct any investigation as [~~provided in Subsection 53-9-102(16)~~] described in the definition of private investigator or private detective; or

(b) falsely represent to be employed by or for an independent contractor for an agency.

(3) A licensed registrant, as defined in Section 53-9-102, may only work as an employee of, or as an independent contractor for, an agency licensed under this chapter, and may not:

(a) advertise the licensed registrant's services or conduct investigations for the general public; or

(b) employ other private investigators or hire them as independent contractors.

(4) (a) A licensed apprentice, as defined in Section 53-9-102, may only work under the direct supervision and guidance of an agency licensed under this chapter, and may not:

(i) advertise the licensed apprentice's services or conduct investigations for the general public;

(ii) employ other private investigators; or

(iii) obtain information from the Utah State Tax Commission Motor Vehicle Division or Driver License Division within the Department of Public Safety, except the apprentice may utilize information from these agencies for a legitimate business need and under the direct supervision and guidance of a licensed agency.

(b) A registrant or apprentice whose license has been suspended or revoked shall immediately notify the agency which supervises the registrant or apprentice of the action.

Section 3. Section 63G-2-103 is amended to read:

63G-2-103. Definitions.

As used in this chapter:

(1) "Audit" means:

(a) a systematic examination of financial, management, program, and related records for the purpose of determining the fair presentation of financial statements, adequacy of internal controls, or compliance with laws and regulations; or

(b) a systematic examination of program procedures and operations for the purpose of determining their effectiveness, economy, efficiency, and compliance with statutes and regulations.

(2) "Chronological logs" mean the regular and customary summary records of law enforcement agencies and other public safety agencies that show:

(a) the time and general nature of police, fire, and paramedic calls made to the agency; and

(b) any arrests or jail bookings made by the agency.

(3) "Classification," "classify," and their derivative forms mean determining whether a record series, record, or information within a record is public, private, controlled, protected, or exempt from disclosure under Subsection 63G-2-201(3)(b).

(4) (a) "Computer program" means:

(i) a series of instructions or statements that permit the functioning of a computer system in a manner designed to provide storage, retrieval, and manipulation of data from the computer system; and

(ii) any associated documentation and source material that explain how to operate the computer program.

(b) "Computer program" does not mean:

(i) the original data, including numbers, text, voice, graphics, and images;

(ii) analysis, compilation, and other manipulated forms of the original data produced by use of the program; or

(iii) the mathematical or statistical formulas, excluding the underlying mathematical algorithms contained in the program, that would be used if the manipulated forms of the original data were to be produced manually.

(5) (a) "Contractor" means:

(i) any person who contracts with a governmental entity to provide goods or services directly to a governmental entity; or

(ii) any private, nonprofit organization that receives funds from a governmental entity.

(b) "Contractor" does not mean a private provider.

(6) "Controlled record" means a record containing data on individuals that is controlled as provided by Section 63G-2-304.

(7) "Designation," "designate," and their derivative forms mean indicating, based on a governmental entity's familiarity with a record series or based on a governmental entity's review of a reasonable sample of a record series, the primary classification that a majority of records in a record series would be given if classified and the classification that other records typically present in the record series would be given if classified.

(8) "Elected official" means each person elected to a state office, county office, municipal office, school board or school district office, local district office, or special service district office, but does not include judges.

(9) "Explosive" means a chemical compound, device, or mixture:

(a) commonly used or intended for the purpose of producing an explosion; and

(b) that contains oxidizing or combustive units or other ingredients in proportions, quantities, or packing so that:

(i) an ignition by fire, friction, concussion, percussion, or detonator of any part of the compound or mixture may cause a sudden generation of highly heated gases; and

(ii) the resultant gaseous pressures are capable of:

(A) producing destructive effects on contiguous objects; or

(B) causing death or serious bodily injury.

(10) "Government audit agency" means any governmental entity that conducts an audit.

(11) (a) "Governmental entity" means:

(i) executive department agencies of the state, the offices of the governor, lieutenant governor, state auditor, attorney general, and state treasurer, the Board of Pardons and Parole, the Board of Examiners, the National Guard, the Career Service Review Office, the State Board of Education, the Utah Board of Higher Education, and the State Archives;

(ii) the Office of the Legislative Auditor General, Office of the Legislative Fiscal Analyst, Office of Legislative Research and General Counsel, the Legislature, and legislative committees, except any political party, group, caucus, or rules or sifting committee of the Legislature;

(iii) courts, the Judicial Council, the Administrative Office of the Courts, and similar administrative units in the judicial branch;

(iv) any state-funded institution of higher education or public education; or

(v) any political subdivision of the state, but, if a political subdivision has adopted an ordinance or a policy relating to information practices pursuant to Section 63G-2-701, this chapter shall apply to the political subdivision to the extent specified in Section 63G-2-701 or as specified in any other section of this chapter that specifically refers to political subdivisions.

(b) "Governmental entity" also means:

(i) every office, agency, board, bureau, committee, department, advisory board, or commission of an entity listed in Subsection (11)(a) that is funded or established by the government to carry out the public's business;

(ii) as defined in Section 11-13-103, an interlocal entity or joint or cooperative undertaking;

(iii) as defined in Section 11-13a-102, a governmental nonprofit corporation;

(iv) an association as defined in Section 53G-7-1101;

(v) the Utah Independent Redistricting Commission; and

(vi) a law enforcement agency, as defined in Section 53-1-102, that employs one or more law enforcement officers, as defined in Section 53-13-103.

(c) "Governmental entity" does not include the Utah Educational Savings Plan created in Section 53B-8a-103.

(12) "Gross compensation" means every form of remuneration payable for a given period to an individual for services provided including salaries, commissions, vacation pay, severance pay, bonuses, and any board, rent, housing, lodging, payments in kind, and any similar benefit received from the individual's employer.

(13) "Individual" means a human being.

(14) (a) "Initial contact report" means an initial written or recorded report, however titled, prepared by peace officers engaged in public patrol or response duties describing official actions initially taken in response to either a public complaint about or the discovery of an apparent violation of law, which report may describe:

(i) the date, time, location, and nature of the complaint, the incident, or offense;

(ii) names of victims;

(iii) the nature or general scope of the agency's initial actions taken in response to the incident;

(iv) the general nature of any injuries or estimate of damages sustained in the incident;

(v) the name, address, and other identifying information about any person arrested or charged in connection with the incident; or

(vi) the identity of the public safety personnel, except undercover personnel, or prosecuting attorney involved in responding to the initial incident.

(b) Initial contact reports do not include follow-up or investigative reports prepared after the initial contact report. However, if the information specified in Subsection (14)(a) appears in follow-up or investigative reports, it may only be treated confidentially if it is private, controlled, protected, or exempt from disclosure under Subsection 63G-2-201(3)(b).

(c) Initial contact reports do not include accident reports, as that term is described in Title 41, Chapter 6a, Part 4, Accident Responsibilities.

(15) "Legislative body" means the Legislature.

(16) "Notice of compliance" means a statement confirming that a governmental entity has complied with an order of the State Records Committee.

(17) "Person" means:

(a) an individual;

(b) a nonprofit or profit corporation;

(c) a partnership;

(d) a sole proprietorship;

(e) other type of business organization; or

(f) any combination acting in concert with one another.

(18) "Private provider" means any person who contracts with a governmental entity to provide services directly to the public.

(19) "Private record" means a record containing data on individuals that is private as provided by Section 63G-2-302.

(20) "Protected record" means a record that is classified protected as provided by Section 63G-2-305.

(21) "Public record" means a record that is not private, controlled, or protected and that is not exempt from disclosure as provided in Subsection 63G-2-201(3)(b).

(22) (a) "Record" means a book, letter, document, paper, map, plan, photograph, film, card, tape, recording, electronic data, or other documentary material regardless of physical form or characteristics:

(i) that is prepared, owned, received, or retained by a governmental entity or political subdivision; and

(ii) where all of the information in the original is reproducible by photocopy or other mechanical or electronic means.

(b) "Record" does not mean:

(i) a personal note or personal communication prepared or received by an employee or officer of a governmental entity:

(A) in a capacity other than the employee's or officer's governmental capacity; or

(B) that is unrelated to the conduct of the public's business;

(ii) a temporary draft or similar material prepared for the originator's personal use or prepared by the originator for the personal use of an individual for whom the originator is working;

(iii) material that is legally owned by an individual in the individual's private capacity;

(iv) material to which access is limited by the laws of copyright or patent unless the copyright or patent is owned by a governmental entity or political subdivision;

(v) proprietary software;

(vi) junk mail or a commercial publication received by a governmental entity or an official or employee of a governmental entity;

(vii) a book that is cataloged, indexed, or inventoried and contained in the collections of a library open to the public;

(viii) material that is cataloged, indexed, or inventoried and contained in the collections of a library open to the public, regardless of physical form or characteristics of the material;

(ix) a daily calendar or other personal note prepared by the originator for the originator's personal use or for the personal use of an individual for whom the originator is working;

(x) a computer program that is developed or purchased by or for any governmental entity for its own use;

(xi) a note or internal memorandum prepared as part of the deliberative process by:

(A) a member of the judiciary;

(B) an administrative law judge;

(C) a member of the Board of Pardons and Parole; or

(D) a member of any other body, other than an association or appeals panel as defined in Section 53G-7-1101, charged by law with performing a quasi-judicial function;

(xii) a telephone number or similar code used to access a mobile communication device that is used by an employee or officer of a governmental entity, provided that the employee or officer of the governmental entity has designated at least one business telephone number that is a public record as provided in Section 63G-2-301;

(xiii) information provided by the Public Employees' Benefit and Insurance Program, created in Section 49-20-103, to a county to enable the county to calculate the amount to be paid to a health care provider under Subsection 17-50-319(2)(e)(ii);

(xiv) information that an owner of unimproved property provides to a local entity as provided in Section 11-42-205;

(xv) a video or audio recording of an interview, or a transcript of the video or audio recording, that is conducted at a Children's Justice Center established under Section 67-5b-102;

(xvi) child pornography, as defined by Section 76-5b-103; or

(xvii) before final disposition of an ethics complaint occurs, a video or audio recording of the closed portion of a meeting or hearing of:

(A) a Senate or House Ethics Committee;

(B) the Independent Legislative Ethics Commission;

(C) the Independent Executive Branch Ethics Commission, created in Section 63A-14-202; or

(D) the Political Subdivisions Ethics Review Commission established in Section 63A-15-201.

(23) "Record series" means a group of records that may be treated as a unit for purposes of designation, description, management, or disposition.

(24) "Records officer" means the individual appointed by the chief administrative officer of each governmental entity, or the political subdivision to work with state archives in the care, maintenance, scheduling, designation, classification, disposal, and preservation of records.

(25) "Schedule," "scheduling," and their derivative forms mean the process of specifying the length of time each record series should be retained by a governmental entity for administrative, legal, fiscal, or historical purposes and when each record series should be transferred to the state archives or destroyed.

(26) "Sponsored research" means research, training, and other sponsored activities as defined

by the federal Executive Office of the President, Office of Management and Budget:

(a) conducted:

(i) by an institution within the state system of higher education defined in Section 53B-1-102; and

(ii) through an office responsible for sponsored projects or programs; and

(b) funded or otherwise supported by an external:

(i) person that is not created or controlled by the institution within the state system of higher education; or

(ii) federal, state, or local governmental entity.

(27) "State archives" means the Division of Archives and Records Service created in Section 63A-12-101.

(28) "State archivist" means the director of the state archives.

(29) "State Records Committee" means the State Records Committee created in Section 63G-2-501.

(30) "Summary data" means statistical records and compilations that contain data derived from private, controlled, or protected information but that do not disclose private, controlled, or protected information.

CHAPTER 212
S. B. 63
Passed March 2, 2021
Approved March 16, 2021
Effective May 5, 2021

CAREGIVER COMPENSATION AMENDMENTS

Chief Sponsor: Wayne A. Harper
House Sponsor: Jennifer Dailey-Provost

LONG TITLE

General Description:

This bill addresses reimbursement for certain personal care services under Medicaid.

Highlighted Provisions:

This bill:

- defines terms; and
- directs the Department of Health to:
  - apply for an amendment to an existing waiver to the state Medicaid plan to implement a program to reimburse a spouse who provides extraordinary personal care services to a waiver enrollee; and
  - make administrative rules defining personal care services that are extraordinary.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

26-18-424, Utah Code Annotated 1953

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

Section 1. Section 26-18-424 is enacted to read:

26-18-424. (Codified as 26-18-426) Medicaid waiver expansion for extraordinary care reimbursement.

(1) As used in this section:

(a) "Existing home and community-based services waiver" means an existing home and community-based services waiver in the state that serves an individual:

(i) with an acquired brain injury;

(ii) with an intellectual or physical disability; or

(iii) who is 65 years old or older.

(b) "Personal care services" means a service that:

(i) is furnished to an individual who is not an inpatient nor a resident of a hospital, nursing facility, intermediate care facility, or institution for mental diseases;

(ii) is authorized for an individual described in Subsection (1)(b)(i) in accordance with a plan of treatment;

(iii) is provided by an individual who is qualified to provide the services; and

(iv) is furnished in a home or another community-based setting.

(c) "Waiver enrollee" means an individual who is enrolled in an existing home and community-based services waiver.

(2) Before July 1, 2021, the department shall apply with CMS for an amendment to an existing home and community-based services waiver to implement a program to offer reimbursement to an individual who provides personal care services that constitute extraordinary care to a waiver enrollee who is the individual's spouse.

(3) If CMS approves the amendment described in Subsection (2), the department shall implement the program described in Subsection (2).

(4) The department shall by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, define "extraordinary care" for purposes of Subsection (2).

CHAPTER 213
S. B. 64
Passed February 11, 2021
Approved March 16, 2021
Effective May 5, 2021

DOMESTIC VIOLENCE AMENDMENTS

Chief Sponsor: Jani Iwamoto
House Sponsor: Paul Ray
Cosponsor: Daniel W. Thatcher

LONG TITLE

General Description:

This bill addresses penalty enhancements for a domestic violence offense.

Highlighted Provisions:

This bill:

- defines terms;
- modifies the circumstances under which the penalty for certain domestic violence offenses may be enhanced;
- provides that an adjudication in juvenile court is not a conviction for purposes of a penalty enhancement for a domestic violence offense; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53-10-403, as last amended by Laws of Utah 2020, Chapters 142, 214, and 415
77-36-1.1, as last amended by Laws of Utah 2019, Chapter 367
77-36-1.2, as last amended by Laws of Utah 2020, Chapter 70

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

Section 1. Section 53-10-403 is amended to read:

53-10-403. DNA specimen analysis -- Application to offenders, including minors.

(1) Sections 53-10-403.6, 53-10-404, 53-10-404.5, 53-10-405, and 53-10-406 apply to any person who:

(a) has pled guilty to or has been convicted of any of the offenses under Subsection (2)(a) or (b) on or after July 1, 2002;

(b) has pled guilty to or has been convicted by any other state or by the United States government of an offense which if committed in this state would be punishable as one or more of the offenses listed in Subsection (2)(a) or (b) on or after July 1, 2003;

(c) has been booked on or after January 1, 2011, through December 31, 2014, for any offense under Subsection (2)(c);

(d) has been booked:

(i) by a law enforcement agency that is obtaining a DNA specimen on or after May 13, 2014, through December 31, 2014, under Subsection 53-10-404(4)(b) for any felony offense; or

(ii) on or after January 1, 2015, for any felony offense; or

(e) is a minor under Subsection (3).

(2) Offenses referred to in Subsection (1) are:

(a) any felony or class A misdemeanor under the Utah Code;

(b) any offense under Subsection (2)(a):

(i) for which the court enters a judgment for conviction to a lower degree of offense under Section 76-3-402; or

(ii) regarding which the court allows the defendant to enter a plea in abeyance as defined in Section 77-2a-1; or

(c) (i) any violent felony as defined in Section 53-10-403.5;

(ii) sale or use of body parts, Section 26-28-116;

(iii) failure to stop at an accident that resulted in death, Section 41-6a-401.5;

(iv) driving with any amount of a controlled substance in a person's body and causing serious bodily injury or death, Subsection 58-37-8(2)(g);

(v) a felony violation of enticing a minor over the Internet, Section 76-4-401;

(vi) a felony violation of propelling a substance or object at a correctional officer, a peace officer, or an employee or a volunteer, including health care providers, Section 76-5-102.6;

(vii) aggravated human trafficking and aggravated human smuggling, Section 76-5-310;

(viii) a felony violation of unlawful sexual activity with a minor, Section 76-5-401;

(ix) a felony violation of sexual abuse of a minor, Section 76-5-401.1;

(x) unlawful sexual contact with a 16 or 17-year old, Section 76-5-401.2;

(xi) sale of a child, Section 76-7-203;

(xii) aggravated escape, Subsection 76-8-309(2);

(xiii) a felony violation of assault on an elected official, Section 76-8-315;

(xiv) influencing, impeding, or retaliating against a judge or member of the Board of Pardons and Parole, Section 76-8-316;

(xv) advocating criminal syndicalism or sabotage, Section 76-8-902;

(xvi) assembly for advocating criminal syndicalism or sabotage, Section 76-8-903;

(xvii) a felony violation of sexual battery, Section 76-9-702.1;

(xviii) a felony violation of lewdness involving a child, Section 76-9-702.5;

(xix) a felony violation of abuse or desecration of a dead human body, Section 76-9-704;

(xx) manufacture, possession, sale, or use of a weapon of mass destruction, Section 76-10-402;

(xxi) manufacture, possession, sale, or use of a hoax weapon of mass destruction, Section 76-10-403;

(xxii) possession of a concealed firearm in the commission of a violent felony, Subsection 76-10-504(4);

(xxiii) assault with the intent to commit bus hijacking with a dangerous weapon, Subsection 76-10-1504(3);

(xxiv) commercial obstruction, Subsection 76-10-2402(2);

(xxv) a felony violation of failure to register as a sex or kidnap offender, Section 77-41-107;

(xxvi) repeat violation of a protective order, Subsection 77-36-1.1[~~(2)(c)~~](4); or

(xxvii) violation of condition for release after arrest under Section 78B-7-802.

(3) A minor under Subsection (1) is a minor 14 years old or older who is adjudicated by the juvenile court due to the commission of any offense described in Subsection (2), and who:

(a) committed an offense under Subsection (2) within the jurisdiction of the juvenile court on or after July 1, 2002; or

(b) is in the legal custody of the Division of Juvenile Justice Services on or after July 1, 2002 for an offense under Subsection (2).

Section 2. Section 77-36-1.1 is amended to read:

77-36-1.1. Enhancement of offense and penalty for subsequent domestic violence offenses.

(1) As used in this section:

(a) (i) "Convicted" means a conviction by plea or verdict of a crime or offense.

(ii) "Convicted" includes:

(A) a plea of guilty or guilty and mentally ill;

(B) a plea of no contest; and

(C) the acceptance by the court of a plea in abeyance under Title 77, Chapter 2a, Pleas in Abeyance, regardless of whether the charge is subsequently reduced or dismissed in accordance with the plea in abeyance agreement.

(iii) "Convicted" does not include an adjudication in juvenile court.

[~~(a)~~] (b) "Criminal mischief offense" means commission or attempt to commit an offense under Section 76-6-106 by one cohabitant against another.

(c) "Offense against the person" means commission or attempt to commit an offense under Title 76, Chapter 5, Part 1, Assault and Related Offenses, Part 2, Criminal Homicide, Part 3, Kidnapping, Trafficking, and Smuggling, Part 4, Sexual Offenses, or Part 7, Genital Mutilation, by one cohabitant against another.

[~~(b)~~] (d) "Qualifying domestic violence offense" means:

(i) a domestic violence offense in Utah; or

(ii) an offense in any other state, or in any district, possession, or territory of the United States, that would be a domestic violence offense under Utah law.

(2) An individual who is convicted of a domestic violence offense is[~~: (a)~~] guilty of a class B misdemeanor if:

[~~(i)~~] (a) the domestic violence offense described in this Subsection (2) is designated by law as a class C misdemeanor; and

[~~(ii) (A)~~] (b) the individual commits or is convicted of the domestic violence offense described in this Subsection (2) [~~is committed~~]:

(i) within 10 years after the day on which the individual is convicted of a qualifying domestic violence offense that is not a criminal mischief offense; or

[~~(B) the individual is convicted of the domestic violence offense described in this Subsection (2) within 10 years after the individual is convicted of a qualifying domestic violence offense that is not a criminal mischief offense;~~]

(ii) within five years after the day on which the individual is convicted of a criminal mischief offense.

[~~(b)~~] (3) An individual who is convicted of a domestic violence offense is guilty of a class A misdemeanor if:

[~~(i)~~] (a) the domestic violence offense described in this Subsection [~~(2)~~] (3) is designated by law as a class B misdemeanor; and

[~~(ii) (A)~~] (b) the individual commits or is convicted of the domestic violence offense described in this Subsection [~~(2) is committed~~] (3):

(i) within 10 years after the day on which the individual is convicted of a qualifying domestic violence offense that is not a criminal mischief offense; or

[~~(B) the individual is convicted of the domestic violence offense described in this Subsection (2) within 10 years after the individual is convicted of a qualifying domestic violence offense that is not a criminal mischief offense; or~~]

(ii) within five years after the day on which the individual is convicted of a criminal mischief offense.

[~~(c)~~] (4) An individual who is convicted of a domestic violence offense is guilty of a [~~felony of the~~] third degree felony if:

(a) the domestic violence offense described in this Subsection (4) is designated by law as a class B misdemeanor offense against the person and the individual:

(i) (A) commits or is convicted of the domestic violence offense described in this Subsection (4) within 10 years after the day on which the individual is convicted of a qualifying domestic violence offense that is not a criminal mischief offense; and

(B) is convicted of another qualifying domestic violence offense that is not a criminal mischief offense after the day on which the individual is convicted of the qualifying domestic violence offense described in Subsection (4)(a)(i)(A) and before the day on which the individual is convicted of the domestic violence offense described in this Subsection (4);

(ii) (A) commits or is convicted of the domestic violence offense described in this Subsection (4) within five years after the day on which the individual is convicted of a criminal mischief offense; and

(B) is convicted of another criminal mischief offense after the day on which the individual is convicted of the criminal mischief offense described in Subsection (4)(a)(ii)(A) and before the day on which the individual is convicted of the domestic violence offense described in this Subsection (4); or

(iii) commits or is convicted of the domestic violence offense described in this Subsection (4) within 10 years after the day on which the individual is convicted of a qualifying domestic violence offense that is not a criminal mischief offense and within five years after the day on which the individual is convicted of a criminal mischief offense; and

[~~(i)~~] (b) (i) the domestic violence offense described in this Subsection [~~(2)~~] (4) is designated by law as a class A misdemeanor; and

(ii) [~~(A)~~] the individual commits or is convicted of the domestic violence offense described in this Subsection [~~(2) is committed~~] (4):

(A) within 10 years after the day on which the individual is convicted of a qualifying domestic violence offense that is not a criminal mischief offense; or

[~~(B) the individual is convicted of the domestic violence offense described in this Subsection (2) within 10 years after the individual is convicted of a qualifying domestic violence offense that is not a criminal mischief offense.~~]

(B) within five years after the day on which the individual is convicted of a criminal mischief offense.

[~~(3) An individual who is convicted of a domestic violence offense is:~~]

[~~(a) guilty of a class B misdemeanor if:~~]

[~~(i) the domestic violence offense described in this Subsection (3) is designated by law as a class C misdemeanor; and~~]

[~~(ii) (A) the domestic violence offense described in this Subsection (3) is committed within five years after the individual is convicted of a criminal mischief offense; or~~]

[~~(B) the individual is convicted of the domestic violence offense described in~~]

[~~this Subsection (3) within five years after the individual is convicted of a criminal mischief offense;~~]

[~~(b) guilty of a class A misdemeanor if:~~]

[~~(i) the domestic violence offense described in this Subsection (3) is designated by law as a class B misdemeanor; and~~]

[~~(ii) (A) the domestic violence offense described in this Subsection (3) is committed within five years after the individual is convicted of a criminal mischief offense; or~~]

[~~(B) the individual is convicted of the domestic violence offense described in~~]

[~~this Subsection (3) within five years after the individual is convicted of a criminal mischief offense; or~~]

[~~(c) guilty of a third degree felony if:~~]

[~~(i) the domestic violence offense described in this Subsection (3) is designated by law as a class A misdemeanor; and~~]

[~~(ii) (A) the domestic violence offense described in this Subsection (3) is committed within five years after the individual is convicted of a criminal mischief offense; or~~]

[~~(B) the individual is convicted of the domestic violence offense described in this Subsection (3) within five years after the individual is convicted of a criminal mischief offense.~~]

Section 3. Section 77-36-1.2 is amended to read:

77-36-1.2. Acceptance of a plea of guilty or no contest to domestic violence -- Restrictions.

[~~(1) For purposes of this section, "qualifying domestic violence offense" means:~~]

[~~(a) a domestic violence offense in Utah; or~~]

[~~(b) an offense in any other state, or in any district, possession, or territory of the United States, that would be a domestic violence offense under Utah law.~~]

[~~(2) For purposes of this section and Section 77-36-1.1, a plea of guilty or no contest to any domestic violence offense in Utah, which plea is held in abeyance under Title 77, Chapter 2a, Pleas in Abeyance, is the equivalent of a conviction, even if the charge has been subsequently reduced or dismissed in accordance with the plea in abeyance agreement.~~]

[~~(3) (a)~~] (1) Before agreeing to a plea of guilty or no contest, the prosecutor shall examine the criminal history of the defendant.

[~~(b)~~] (2) An entry of a plea of guilty or no contest to a domestic violence offense is invalid unless the prosecutor agrees to the plea:

[~~(i)~~] (a) in open court;

[~~(ii)~~] (b) in writing; or

[~~(iii)~~] (c) by another means of communication that the court finds adequate to record the prosecutor's agreement.

CHAPTER 214
S. B. 65
Passed March 5, 2021
Approved March 16, 2021
Effective May 5, 2021

COMMUNITY REINVESTMENT AGENCY AMENDMENTS

Chief Sponsor: Wayne A. Harper
House Sponsor: Stephen G. Handy

LONG TITLE

General Description:

This bill amends Title 17C, Limited Purpose Local Government Entities – Community Reinvestment Agency Act.

Highlighted Provisions:

This bill:

- defines terms;
- provides an option for an agency and certain taxing entities to enter into an interlocal agreement for the purpose of dissolving the agency's project area and transferring project area incremental revenue;
- for an agency that chooses to enter into an interlocal agreement:
  - authorizes the agency to levy a property tax on property within the agency's boundaries;
  - prohibits the agency from extending the scope of certain project area plans or project area budgets;
  - allows the agency to use property tax revenue for agency-wide project development;
  - requires the agency to adopt an implementation plan to guide agency-wide project development;
  - requires the agency to allocate a certain amount of property tax revenue for affordable housing;
  - prohibits the agency from creating a new community reinvestment project area unless the purpose is for a cooperative development project or an economic development project;
  - describes the method by which an agency's certified tax rate is calculated;
  - prohibits the agency from using eminent domain for agency-wide project development; and
  - describes how the agency accounts for property tax revenue; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

17C-1-102, as last amended by Laws of Utah 2020, Chapter 241
17C-1-202, as last amended by Laws of Utah 2018, Chapters 364 and 366
17C-1-402, as last amended by Laws of Utah 2019, Chapter 376
17C-1-409, as last amended by Laws of Utah 2019, Chapter 376
17C-1-502, as last amended by Laws of Utah 2016, Chapter 350
17C-1-605, as last amended by Laws of Utah 2016, Chapter 350
17C-2-110, as last amended by Laws of Utah 2019, Chapter 376
17C-2-206, as last amended by Laws of Utah 2016, Chapter 350
17C-2-207, as last amended by Laws of Utah 2020, Chapter 385
17C-3-109, as last amended by Laws of Utah 2018, Chapter 364
17C-3-205, as last amended by Laws of Utah 2016, Chapter 350
17C-3-206, as last amended by Laws of Utah 2016, Chapter 350
17C-4-108, as last amended by Laws of Utah 2018, Chapter 364
17C-5-102, as enacted by Laws of Utah 2016, Chapter 350
17C-5-112, as last amended by Laws of Utah 2019, Chapter 376
17C-5-306, as last amended by Laws of Utah 2017, Chapter 456
53G-7-306, as last amended by Laws of Utah 2020, Chapters 354 and 408
59-2-924, as last amended by Laws of Utah 2020, Chapters 305 and 354

ENACTS:

17C-1-1001, Utah Code Annotated 1953
17C-1-1002, Utah Code Annotated 1953
17C-1-1003, Utah Code Annotated 1953
17C-1-1004, Utah Code Annotated 1953
17C-1-1005, Utah Code Annotated 1953

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

Section 1. Section 17C-1-102 is amended to read:

17C-1-102. Definitions.

As used in this title:

(1) "Active project area" means a project area that has not been dissolved in accordance with Section 17C-1-702.

(2) "Adjusted tax increment" means the percentage of tax increment, if less than 100%, that an agency is authorized to receive:

(a) for a pre-July 1, 1993, project area plan, under Section 17C-1-403, excluding tax increment under Subsection 17C-1-403(3);

(b) for a post-June 30, 1993, project area plan, under Section 17C-1-404, excluding tax increment under Section 17C-1-406;

(c) under a project area budget approved by a taxing entity committee; or

(d) under an interlocal agreement that authorizes the agency to receive a taxing entity's tax increment.

(3) "Affordable housing" means housing owned or occupied by a low or moderate income family, as determined by resolution of the agency.

(4) "Agency" or "community reinvestment agency" means a separate body corporate and politic, created under Section 17C-1-201.5 or as a redevelopment agency or community development and renewal agency under previous law:

(a) that is a political subdivision of the state;

(b) that is created to undertake or promote project area development as provided in this title; and

(c) whose geographic boundaries are coterminous with:

(i) for an agency created by a county, the unincorporated area of the county; and

(ii) for an agency created by a municipality, the boundaries of the municipality.

(5) "Agency funds" means money that an agency collects or receives for agency operations, implementing a project area plan or an implementation plan as defined in Section 17C-1-1001, or other agency purposes, including:

(a) project area funds;

(b) income, proceeds, revenue, or property derived from or held in connection with the agency's undertaking and implementation of project area development or agency-wide project development as defined in Section 17C-1-1001; [~~or~~]

(c) a contribution, loan, grant, or other financial assistance from any public or private source[~~.~~];

(d) project area incremental revenue as defined in Section 17C-1-1001; or

(e) property tax revenue as defined in Section 17C-1-1001.

(6) "Annual income" means the same as that term is defined in regulations of the United States Department of Housing and Urban Development, 24 C.F.R. Sec. 5.609, as amended or as superseded by replacement regulations.

(7) "Assessment roll" means the same as that term is defined in Section 59-2-102.

(8) "Base taxable value" means, unless otherwise adjusted in accordance with provisions of this title, a property's taxable value as shown upon the assessment roll last equalized during the base year.

(9) "Base year" means, except as provided in Subsection 17C-1-402(4)(c), the year during which the assessment roll is last equalized:

(a) for a pre-July 1, 1993, urban renewal or economic development project area plan, before the project area plan's effective date;

(b) for a post-June 30, 1993, urban renewal or economic development project area plan, or a community reinvestment project area plan that is subject to a taxing entity committee:

(i) before the date on which the taxing entity committee approves the project area budget; or

(ii) if taxing entity committee approval is not required for the project area budget, before the date on which the community legislative body adopts the project area plan;

(c) for a project on an inactive airport site, after the later of:

(i) the date on which the inactive airport site is sold for remediation and development; or

(ii) the date on which the airport that operated on the inactive airport site ceased operations; or

(d) for a community development project area plan or a community reinvestment project area plan that is subject to an interlocal agreement, as described in the interlocal agreement.

(10) "Basic levy" means the portion of a school district's tax levy constituting the minimum basic levy under Section 59-2-902.

(11) "Board" means the governing body of an agency, as described in Section 17C-1-203.

(12) "Budget hearing" means the public hearing on a proposed project area budget required under Subsection 17C-2-201(2)(d) for an urban renewal project area budget, Subsection 17C-3-201(2)(d) for an economic development project area budget, or Subsection 17C-5-302(2)(e) for a community reinvestment project area budget.

(13) "Closed military base" means land within a former military base that the Defense Base Closure and Realignment Commission has voted to close or realign when that action has been sustained by the president of the United States and Congress.

(14) "Combined incremental value" means the combined total of all incremental values from all project areas, except project areas that contain some or all of a military installation or inactive industrial site, within the agency's boundaries under project area plans and project area budgets at the time that a project area budget for a new project area is being considered.

(15) "Community" means a county or municipality.

(16) "Community development project area plan" means a project area plan adopted under Chapter 4, Part 1, Community Development Project Area Plan.

(17) "Community legislative body" means the legislative body of the community that created the agency.

(18) "Community reinvestment project area plan" means a project area plan adopted under Chapter 5, Part 1, Community Reinvestment Project Area Plan.

(19) "Contest" means to file a written complaint in the district court of the county in which the agency is located.

(20) "Development impediment" means a condition of an area that meets the requirements described in Section 17C-2-303 for an urban renewal project area or Section 17C-5-405 for a community reinvestment project area.

(21) "Development impediment hearing" means a public hearing regarding whether a development impediment exists within a proposed:

(a) urban renewal project area under Subsection 17C-2-102(1)(a)(i)(C) and Section 17C-2-302; or

(b) community reinvestment project area under Section 17C-5-404.

(22) "Development impediment study" means a study to determine whether a development impediment exists within a survey area as described in Section 17C-2-301 for an urban renewal project area or Section 17C-5-403 for a community reinvestment project area.

(23) "Economic development project area plan" means a project area plan adopted under Chapter 3, Part 1, Economic Development Project Area Plan.

(24) "Fair share ratio" means the ratio derived by:

(a) for a municipality, comparing the percentage of all housing units within the municipality that are publicly subsidized income targeted housing units to the percentage of all housing units within the county in which the municipality is located that are publicly subsidized income targeted housing units; or

(b) for the unincorporated part of a county, comparing the percentage of all housing units within the unincorporated county that are publicly subsidized income targeted housing units to the percentage of all housing units within the whole county that are publicly subsidized income targeted housing units.

(25) "Family" means the same as that term is defined in regulations of the United States Department of Housing and Urban Development, 24 C.F.R. Section 5.403, as amended or as superseded by replacement regulations.

(26) "Greenfield" means land not developed beyond agricultural, range, or forestry use.

(27) "Hazardous waste" means any substance defined, regulated, or listed as a hazardous substance, hazardous material, hazardous waste, toxic waste, pollutant, contaminant, or toxic substance, or identified as hazardous to human health or the environment, under state or federal law or regulation.

(28) "Housing allocation" means project area funds allocated for housing under Section 17C-2-203, 17C-3-202, or 17C-5-307 for the purposes described in Section 17C-1-412.

(29) "Housing fund" means a fund created by an agency for purposes described in Section 17C-1-411 or 17C-1-412 that is comprised of:

(a) project area funds, project area incremental revenue as defined in Section 17C-1-1001, or property tax revenue as defined in Section 17C-1-1001 allocated for the purposes described in Section 17C-1-411; or

(b) an agency's housing allocation.

(30) (a) "Inactive airport site" means land that:

(i) consists of at least 100 acres;

(ii) is occupied by an airport:

(A) (I) that is no longer in operation as an airport; or

(II) (Aa) that is scheduled to be decommissioned; and

(Bb) for which a replacement commercial service airport is under construction; and

(B) that is owned or was formerly owned and operated by a public entity; and

(iii) requires remediation because:

(A) of the presence of hazardous waste or solid waste; or

(B) the site lacks sufficient public infrastructure and facilities, including public roads, electric service, water system, and sewer system, needed to support development of the site.

(b) "Inactive airport site" includes a perimeter of up to 2,500 feet around the land described in Subsection (30)(a).

(31) (a) "Inactive industrial site" means land that:

(i) consists of at least 1,000 acres;

(ii) is occupied by an inactive or abandoned factory, smelter, or other heavy industrial facility; and

(iii) requires remediation because of the presence of hazardous waste or solid waste.

(b) "Inactive industrial site" includes a perimeter of up to 1,500 feet around the land described in Subsection (31)(a).

(32) "Income targeted housing" means housing that is owned or occupied by a family whose annual income is at or below 80% of the median annual income for a family within the county in which the housing is located.

(33) "Incremental value" means a figure derived by multiplying the marginal value of the property located within a project area on which tax increment is collected by a number that represents the adjusted tax increment from that project area that is paid to the agency.

(34) "Loan fund board" means the Olene Walker Housing Loan Fund Board, established under Title 35A, Chapter 8, Part 5, Olene Walker Housing Loan Fund.

(35) (a) " Local government building" means a building owned and operated by a community for the primary purpose of providing one or more primary community functions, including:

(i) a fire station;

(ii) a police station;

(iii) a city hall; or

(iv) a court or other judicial building.

(b) " Local government building" does not include a building the primary purpose of which is cultural or recreational in nature.

(36) "Major transit investment corridor" means the same as that term is defined in Section 10-9a-103.

(37) "Marginal value" means the difference between actual taxable value and base taxable value.

(38) "Military installation project area" means a project area or a portion of a project area located within a federal military installation ordered closed by the federal Defense Base Realignment and Closure Commission.

(39) "Municipality" means a city, town, or metro township as defined in Section 10-2a-403.

(40) "Participant" means one or more persons that enter into a participation agreement with an agency.

(41) "Participation agreement" means a written agreement between a person and an agency that:

(a) includes a description of:

(i) the project area development that the person will undertake;

(ii) the amount of project area funds the person may receive; and

(iii) the terms and conditions under which the person may receive project area funds; and

(b) is approved by resolution of the board.

(42) "Plan hearing" means the public hearing on a proposed project area plan required under Subsection 17C-2-102(1)(a)(vi) for an urban renewal project area plan, Subsection 17C-3-102(1)(d) for an economic development project area plan, Subsection 17C-4-102(1)(d) for a community development project area plan, or Subsection 17C-5-104(3)(e) for a community reinvestment project area plan.

(43) "Post-June 30, 1993, project area plan" means a project area plan adopted on or after July 1, 1993, and before May 10, 2016, whether or not amended subsequent to the project area plan's adoption.

(44) "Pre-July 1, 1993, project area plan" means a project area plan adopted before July 1, 1993, whether or not amended subsequent to the project area plan's adoption.

(45) "Private," with respect to real property, means property not owned by a public entity or any other governmental entity.

(46) "Project area" means the geographic area described in a project area plan within which the project area development described in the project area plan takes place or is proposed to take place.

(47) "Project area budget" means a multiyear projection of annual or cumulative revenues and expenses and other fiscal matters pertaining to a project area prepared in accordance with:

(a) for an urban renewal project area, Section 17C-2-201;

(b) for an economic development project area, Section 17C-3-201;

(c) for a community development project area, Section 17C-4-204; or

(d) for a community reinvestment project area, Section 17C-5-302.

(48) "Project area development" means activity within a project area that, as determined by the board, encourages, promotes, or provides development or redevelopment for the purpose of implementing a project area plan, including:

(a) promoting, creating, or retaining public or private jobs within the state or a community;

(b) providing office, manufacturing, warehousing, distribution, parking, or other facilities or improvements;

(c) planning, designing, demolishing, clearing, constructing, rehabilitating, or remediating environmental issues;

(d) providing residential, commercial, industrial, public, or other structures or spaces, including recreational and other facilities incidental or appurtenant to the structures or spaces;

(e) altering, improving, modernizing, demolishing, reconstructing, or rehabilitating existing structures;

(f) providing open space, including streets or other public grounds or space around buildings;

(g) providing public or private buildings, infrastructure, structures, or improvements;

(h) relocating a business;

(i) improving public or private recreation areas or other public grounds;

(j) eliminating a development impediment or the causes of a development impediment;

(k) redevelopment as defined under the law in effect before May 1, 2006; or

(l) any activity described in this Subsection (48) outside of a project area that the board determines to be a benefit to the project area.

(49) "Project area funds" means tax increment or sales and use tax revenue that an agency receives under a project area budget adopted by a taxing entity committee or an interlocal agreement.

(50) "Project area funds collection period" means the period of time that:

(a) begins the day on which the first payment of project area funds is distributed to an agency under a project area budget approved by a taxing entity committee or an interlocal agreement; and

(b) ends the day on which the last payment of project area funds is distributed to an agency under a project area budget approved by a taxing entity committee or an interlocal agreement.

(51) "Project area plan" means an urban renewal project area plan, an economic development project area plan, a community development project area plan, or a community reinvestment project area plan that, after the project area plan's effective

date, guides and controls the project area development.

(52) (a) "Property tax" means each levy on an ad valorem basis on tangible or intangible personal or real property.

(b) "Property tax" includes a privilege tax imposed under Title 59, Chapter 4, Privilege Tax.

(53) "Public entity" means:

(a) the United States, including an agency of the United States;

(b) the state, including any of the state's departments or agencies; or

(c) a political subdivision of the state, including a county, municipality, school district, local district, special service district, community reinvestment agency, or interlocal cooperation entity.

(54) "Publicly owned infrastructure and improvements" means water, sewer, storm drainage, electrical, natural gas, telecommunication, or other similar systems and lines, streets, roads, curb, gutter, sidewalk, walkways, parking facilities, public transportation facilities, or other facilities, infrastructure, and improvements benefitting the public and to be publicly owned or publicly maintained or operated.

(55) "Record property owner" or "record owner of property" means the owner of real property, as shown on the records of the county in which the property is located, to whom the property's tax notice is sent.

(56) "Sales and use tax revenue" means revenue that is:

(a) generated from a tax imposed under Title 59, Chapter 12, Sales and Use Tax Act; and

(b) distributed to a taxing entity in accordance with Sections 59-12-204 and 59-12-205.

(57) "Superfund site":

(a) means an area included in the National Priorities List under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. Sec. 9605; and

(b) includes an area formerly included in the National Priorities List, as described in Subsection (57)(a), but removed from the list following remediation that leaves on site the waste that caused the area to be included in the National Priorities List.

(58) "Survey area" means a geographic area designated for study by a survey area resolution to determine whether:

(a) one or more project areas within the survey area are feasible; or

(b) a development impediment exists within the survey area.

(59) "Survey area resolution" means a resolution adopted by a board that designates a survey area.

(60) "Taxable value" means:

(a) the taxable value of all real property a county assessor assesses in accordance with Title 59, Chapter 2, Part 3, County Assessment, for the current year;

(b) the taxable value of all real and personal property the commission assesses in accordance with Title 59, Chapter 2, Part 2, Assessment of Property, for the current year; and

(c) the year end taxable value of all personal property a county assessor assesses in accordance with Title 59, Chapter 2, Part 3, County Assessment, contained on the prior year's tax rolls of the taxing entity.

(61) (a) "Tax increment" means the difference between:

(i) the amount of property tax revenue generated each tax year by a taxing entity from the area within a project area designated in the project area plan as the area from which tax increment is to be collected, using the current assessed value of the property and each taxing entity's current certified tax rate as defined in Section 59-2-924; and

(ii) the amount of property tax revenue that would be generated from that same area using the base taxable value of the property and each taxing entity's current certified tax rate as defined in Section 59-2-924.

(b) "Tax increment" does not include taxes levied and collected under Section 59-2-1602 on or after January 1, 1994, upon the taxable property in the project area unless:

(i) the project area plan was adopted before May 4, 1993, whether or not the project area plan was subsequently amended; and

(ii) the taxes were pledged to support bond indebtedness or other contractual obligations of the agency.

(62) "Taxing entity" means a public entity that:

(a) levies a tax on property located within a project area; or

(b) imposes a sales and use tax under Title 59, Chapter 12, Sales and Use Tax Act.

(63) "Taxing entity committee" means a committee representing the interests of taxing entities, created in accordance with Section 17C-1-402.

(64) "Unincorporated" means not within a municipality.

(65) "Urban renewal project area plan" means a project area plan adopted under Chapter 2, Part 1, Urban Renewal Project Area Plan.

Section 2. Section 17C-1-202 is amended to read:

17C-1-202. Agency powers.

(1) An agency may:

(a) sue and be sued;

(b) enter into contracts generally;

(c) buy, obtain an option upon, acquire by gift, or otherwise acquire any interest in real or personal property;

(d) hold, sell, convey, grant, gift, or otherwise dispose of any interest in real or personal property;

(e) own, hold, maintain, utilize, manage, or operate real or personal property, which may include the use of agency funds or the collection of revenue;

(f) enter into a lease agreement on real or personal property, either as lessee or lessor;

(g) provide for project area development as provided in this title;

(h) receive and use agency funds as provided in this title;

(i) if disposing of or leasing land, retain controls or establish restrictions and covenants running with the land consistent with the project area plan;

(j) accept financial or other assistance from any public or private source for the agency's activities, powers, and duties, and expend any funds the agency receives for any purpose described in this title;

(k) borrow money or accept financial or other assistance from a public entity or any other source for any of the purposes of this title and comply with any conditions of any loan or assistance;

(l) issue bonds to finance the undertaking of any project area development or for any of the agency's other purposes, including:

(i) reimbursing an advance made by the agency or by a public entity to the agency;

(ii) refunding bonds to pay or retire bonds previously issued by the agency; and

(iii) refunding bonds to pay or retire bonds previously issued by the community that created the agency for expenses associated with project area development;

(m) pay an impact fee, exaction, or other fee imposed by a community in connection with land development; [~~or~~]

(n) subject to Part 10, Agency Taxing Authority, levy a property tax; or

[~~(n)~~] (o) transact other business and exercise all other powers described in this title.

(2) The establishment of controls or restrictions and covenants under Subsection (1)(i) is a public purpose.

(3) An agency may acquire real property under Subsection (1)(c) that is outside a project area only if the board determines that the property will benefit a project area.

(4) An agency is not subject to Section 10-8-2 or 17-50-312.

Section 3. Section 17C-1-402 is amended to read:

17C-1-402. Taxing entity committee.

(1) The provisions of this section apply to a taxing entity committee that is created by an agency for:

(a) a post-June 30, 1993, urban renewal project area plan or economic development project area plan;

(b) any other project area plan adopted before May 10, 2016, for which the agency created a taxing entity committee; and

(c) a community reinvestment project area plan adopted before May 14, 2019, that is subject to a taxing entity committee.

(2) (a) (i) Each taxing entity committee shall be composed of:

(A) two school district representatives appointed in accordance with Subsection (2)(a)(ii);

(B) (I) in a county of the second, third, fourth, fifth, or sixth class, two representatives appointed by resolution of the legislative body of the county in which the agency is located; or

(II) in a county of the first class, one representative appointed by the county executive and one representative appointed by the legislative body of the county in which the agency is located;

(C) if the agency is created by a municipality, two representatives appointed by resolution of the legislative body of the municipality;

(D) one representative appointed by the State Board of Education; and

(E) one representative selected by majority vote of the legislative bodies or governing boards of all other taxing entities that levy a tax on property within the agency's boundaries, to represent the interests of those taxing entities on the taxing entity committee.

(ii) (A) If the agency boundaries include only one school district, that school district shall appoint the two school district representatives under Subsection (2)(a)(i)(A).

(B) If the agency boundaries include more than one school district, those school districts shall jointly appoint the two school district representatives under Subsection (2)(a)(i)(A).

(b) (i) Each taxing entity committee representative described in Subsection (2)(a) shall be appointed within 30 days after the day on which the agency provides notice of the creation of the taxing entity committee.

(ii) If a representative is not appointed within the time required under Subsection (2)(b)(i), the board may appoint an individual to serve on the taxing entity committee in the place of the missing representative until that representative is appointed.

(c) (i) A taxing entity committee representative may be appointed for a set term or period of time, as determined by the appointing authority under Subsection (2)(a)(i).

(ii) Each taxing entity committee representative shall serve until a successor is appointed and qualified.

(d) (i) Upon the appointment of each representative under Subsection (2)(a)(i), whether an initial appointment or an appointment to replace an already serving representative, the appointing authority shall:

(A) notify the agency in writing of the name and address of the newly appointed representative; and

(B) provide the agency a copy of the resolution making the appointment or, if the appointment is not made by resolution, other evidence of the appointment.

(ii) Each appointing authority of a taxing entity committee representative under Subsection (2)(a)(i) shall notify the agency in writing of any change of address of a representative appointed by that appointing authority.

(3) At a taxing entity committee's first meeting, the taxing entity committee shall adopt an organizing resolution that:

(a) designates a chair and a secretary of the taxing entity committee; and

(b) if the taxing entity committee considers it appropriate, governs the use of electronic meetings under Section 52-4-207.

(4) (a) A taxing entity committee represents all taxing entities regarding:

(i) an urban renewal project area plan;

(ii) an economic development project area plan; or

(iii) a community reinvestment project area plan that is subject to a taxing entity committee.

(b) A taxing entity committee may:

(i) cast votes that are binding on all taxing entities;

(ii) negotiate with the agency concerning a proposed project area plan;

(iii) approve or disapprove:

(A) an urban renewal project area budget as described in Section 17C-2-204;

(B) an economic development project area budget as described in Section 17C-3-203; or

(C) for a community reinvestment project area plan that is subject to a taxing entity committee, a community reinvestment project area budget as described in Section 17C-5-302;

(iv) approve or disapprove an amendment to a project area budget as described in Section 17C-2-206, 17C-3-205, or 17C-5-306;

(v) approve an exception to the limits on the value and size of a project area imposed under this title;

(vi) approve:

(A) an exception to the percentage of tax increment to be paid to the agency;

(B) except for a project area funds collection period that is approved by an interlocal agreement, each project area funds collection period; and

(C) an exception to the requirement for an urban renewal project area budget, an economic development project area budget, or a community reinvestment project area budget to include a maximum cumulative dollar amount of tax increment that the agency may receive;

(vii) approve the use of tax increment for publicly owned infrastructure and improvements outside of a project area that the agency and community legislative body determine to be of benefit to the project area, as described in Subsection 17C-1-409(1)(a)(iii)[~~(D)~~](E);

(viii) waive the restrictions described in Subsection 17C-2-202(1);

(ix) subject to Subsection (4)(c), designate the base taxable value for a project area budget; and

(x) give other taxing entity committee approval or consent required or allowed under this title.

(c) (i) Except as provided in Subsection (4)(c)(ii), the base year may not be a year that is earlier than five years before the beginning of a project area funds collection period.

(ii) The taxing entity committee may approve a base year that is earlier than the year described in Subsection (4)(c)(i).

(5) A quorum of a taxing entity committee consists of:

(a) if the project area is located within a municipality, five members; or

(b) if the project area is not located within a municipality, four members.

(6) Taxing entity committee approval, consent, or other action requires:

(a) the affirmative vote of a majority of all members present at a taxing entity committee meeting:

(i) at which a quorum is present; and

(ii) considering an action relating to a project area budget for, or approval of a development impediment determination within, a project area or proposed project area that contains:

(A) an inactive industrial site;

(B) an inactive airport site; or

(C) a closed military base; or

(b) for any other action not described in Subsection (6)(a)(ii), the affirmative vote of two-thirds of all members present at a taxing entity committee meeting at which a quorum is present.

(7) (a) An agency may call a meeting of the taxing entity committee by sending written notice to the members of the taxing entity committee at least 10 days before the date of the meeting.

(b) Each notice under Subsection (7)(a) shall be accompanied by:

(i) the proposed agenda for the taxing entity committee meeting; and

(ii) if not previously provided and if the documents exist and are to be considered at the meeting:

(A) the project area plan or proposed project area plan;

(B) the project area budget or proposed project area budget;

(C) the analysis required under Subsection 17C-2-103(2), 17C-3-103(2), or 17C-5-105(12);

(D) the development impediment study;

(E) the agency's resolution making a development impediment determination under Subsection 17C-2-102(1)(a)(ii)(B) or 17C-5-402(2)(c)(ii); and

(F) other documents to be considered by the taxing entity committee at the meeting.

(c) (i) An agency may not schedule a taxing entity committee meeting on a day on which the Legislature is in session.

(ii) Notwithstanding Subsection (7)(c)(i), a taxing entity committee may, by unanimous consent, waive the scheduling restriction described in Subsection (7)(c)(i).

(8) (a) A taxing entity committee may not vote on a proposed project area budget or proposed amendment to a project area budget at the first meeting at which the proposed project area budget or amendment is considered unless all members of the taxing entity committee present at the meeting consent.

(b) A second taxing entity committee meeting to consider a proposed project area budget or a proposed amendment to a project area budget may not be held within 14 days after the first meeting unless all members of the taxing entity committee present at the first meeting consent.

(9) Each taxing entity committee shall be governed by Title 52, Chapter 4, Open and Public Meetings Act.

(10) A taxing entity committee's records shall be:

(a) considered the records of the agency that created the taxing entity committee; and

(b) maintained by the agency in accordance with Section 17C-1-209.

(11) Each time a school district representative or a representative of the State Board of Education votes as a member of a taxing entity committee to allow an agency to receive tax increment, to increase the amount of tax increment the agency receives, or to extend a project area funds collection period, that representative shall, within 45 days after the vote, provide to the representative's respective school board an explanation in writing of the representative's vote and the reasons for the vote.

(12) (a) The auditor of each county in which an agency is located shall provide a written report to the taxing entity committee stating, with respect to property within each project area:

(i) the base taxable value, as adjusted by any adjustments under Section 17C-1-408; and

(ii) the assessed value.

(b) With respect to the information required under Subsection (12)(a), the auditor shall provide:

(i) actual amounts for each year from the adoption of the project area plan to the time of the report; and

(ii) estimated amounts for each year beginning the year after the time of the report and ending the time that each project area funds collection period ends.

(c) The auditor of the county in which the agency is located shall provide a report under this Subsection (12):

(i) at least annually; and

(ii) upon request of the taxing entity committee, before a taxing entity committee meeting at which the committee considers whether to allow the agency to receive tax increment, to increase the amount of tax increment that the agency receives, or to extend a project area funds collection period.

(13) This section does not apply to:

(a) a community development project area plan; or

(b) a community reinvestment project area plan that is subject to an interlocal agreement.

(14) (a) A taxing entity committee resolution approving a development impediment determination, approving a project area budget, or approving an amendment to a project area budget:

(i) is final; and

(ii) is not subject to repeal, amendment, or reconsideration unless the agency first consents by resolution to the proposed repeal, amendment, or reconsideration.

(b) The provisions of Subsection (14)(a) apply regardless of when the resolution is adopted.

Section 4. Section 17C-1-409 is amended to read:

17C-1-409. Allowable uses of agency funds.

(1) (a) An agency may use agency funds:

(i) for any purpose authorized under this title;

(ii) for administrative, overhead, legal, or other operating expenses of the agency, including consultant fees and expenses under Subsection

17C-2-102(1)(b)(ii)(B) or funding for a business resource center;

(iii) to pay for, including financing or refinancing, all or part of:

(A) project area development in a project area, including environmental remediation activities occurring before or after adoption of the project area plan;

(B) housing-related expenditures, projects, or programs as described in Section 17C-1-411 or 17C-1-412;

(C) an incentive or other consideration paid to a participant under a participation agreement;

(D) subject to Subsections (1)(c) and (4), the value of the land for and the cost of the installation and construction of any publicly owned building, facility, structure, landscaping, or other improvement within the project area from which the project area funds are collected; or

(E) the cost of the installation of publicly owned infrastructure and improvements outside the project area from which the project area funds are collected if the board and the community legislative body determine by resolution that the publicly owned infrastructure and improvements benefit the project area;

(iv) in an urban renewal project area that includes some or all of an inactive industrial site and subject to Subsection (1)(e), to reimburse the Department of Transportation created under Section 72-1-201, or a public transit district created under Title 17B, Chapter 2a, Part 8, Public Transit District Act, for the cost of:

(A) construction of a public road, bridge, or overpass;

(B) relocation of a railroad track within the urban renewal project area; or

(C) relocation of a railroad facility within the urban renewal project area; [~~or~~]

(v) subject to Subsection (5), to transfer funds to a community that created the agency; or

(vi) subject to Subsection (1)(f), for agency-wide project development under Part 10, Agency Taxing Authority.

(b) The determination of the board and the community legislative body under Subsection (1)(a)(iii)(E) regarding benefit to the project area shall be final and conclusive.

(c) An agency may not use project area funds received from a taxing entity for the purposes stated in Subsection (1)(a)(iii)(D) under an urban renewal project area plan, an economic development project area plan, or a community reinvestment project area plan without the community legislative body's consent.

(d) (i) Subject to Subsection (1)(d)(ii), an agency may loan project area funds from a project area fund to another project area fund if:

(A) the board approves; and

(B) the community legislative body approves.

(ii) An agency may not loan project area funds under Subsection (1)(d)(i) unless the projections for agency funds are sufficient to repay the loan amount.

(iii) A loan described in Subsection (1)(d) is not subject to Title 10, Chapter 5, Uniform Fiscal Procedures Act for Utah Towns, Title 10, Chapter 6, Uniform Fiscal Procedures Act for Utah Cities, Title 17, Chapter 36, Uniform Fiscal Procedures Act for Counties, or Title 17B, Chapter 1, Part 6, Fiscal Procedures for Local Districts.

(e) Before an agency may pay any tax increment or sales tax revenue under Subsection (1)(a)(iv), the agency shall enter into an interlocal agreement defining the terms of the reimbursement with:

(i) the Department of Transportation; or

(ii) a public transit district.

(f) Before an agency may use project area funds for agency-wide project development, as defined in Section 17C-1-1001, the agency shall obtain the consent of the taxing entity committee or each taxing entity party to an interlocal agreement with the agency.

(2) (a) Sales and use tax revenue that an agency receives from a taxing entity is not subject to the prohibition or limitations of Title 11, Chapter 41, Prohibition on Sales and Use Tax Incentive Payments Act.

(b) An agency may use sales and use tax revenue that the agency receives under an interlocal agreement under Section 17C-4-201 or 17C-5-204 for the uses authorized in the interlocal agreement.

(3) (a) An agency may contract with the community that created the agency or another public entity to use agency funds to reimburse the cost of items authorized by this title to be paid by the agency that are paid by the community or other public entity.

(b) If land is acquired or the cost of an improvement is paid by another public entity and the land or improvement is leased to the community, an agency may contract with and make reimbursement from agency funds to the community.

(4) Notwithstanding any other provision of this title, an agency may not use project area funds, project area incremental revenue as defined in Section 17C-1-1001, or property tax revenue as defined in Section 17C-1-1001, to construct a local government building unless the taxing entity committee or each taxing entity party to an interlocal agreement with the agency consents.

(5) For the purpose of offsetting the community's annual local contribution to the Homeless Shelter Cities Mitigation Restricted Account, the total amount an agency transfers in a calendar year to a community under Subsections (1)(a)(v), 17C-1-411(1)(d), and 17C-1-412[~~(3)~~](1)(a)(x) may

not exceed the community's annual local contribution as defined in Section 35A-8-606.

Section 5. Section 17C-1-502 is amended to read:

17C-1-502. Sources from which bonds may be made payable -- Agency powers regarding bonds.

[~~(1) The principal and interest on a bond issued by an agency may be paid from:~~]

(1) An agency may pay the principal and interest on a bond issued by the agency from:

(a) the income and revenues of the project area development financed with the proceeds of the bond;

(b) the income and revenue of certain designated project area development regardless of whether the project area development is financed in whole or in part with the proceeds of the bond;

(c) the income, proceeds, revenue, property, or agency funds derived from or held in connection with the agency's undertaking and implementation of project area development;

(d) project area funds;

(e) agency revenues generally;

(f) a contribution, loan, grant, or other financial assistance from a public entity in aid of project area development, including the assignment of revenue or taxes in support of an agency bond; [~~or~~]

(g) project area incremental revenue or property tax revenue as those terms are defined in Section 17C-1-1001; or

(h) funds derived from any combination of the methods listed in Subsections (1)(a) through [~~(f)~~] (g).

(2) In connection with the issuance of an agency bond, an agency may:

(a) pledge all or any part of the agency's gross or net rents, fees, or revenues to which the agency's right then exists or may thereafter come into existence;

(b) encumber by mortgage, deed of trust, or otherwise all or any part of the agency's real or personal property, then owned or thereafter acquired; and

(c) make the covenants and take the action that:

(i) may be necessary, convenient, or desirable to secure the bond; or

(ii) except as otherwise provided in this chapter, will tend to make the bond more marketable, even though such covenants or actions are not specifically enumerated in this chapter.

Section 6. Section 17C-1-605 is amended to read:

17C-1-605. Audit report.

(1) Each agency required to be audited under Section 17C-1-604 shall, within 180 days after the end of the agency's fiscal year, file a copy of the audit report with the county auditor, the State Tax Commission, the State Board of Education, and each taxing entity from which the agency receives tax increment.

(2) Each audit report under Subsection (1) shall include:

(a) the tax increment collected by the agency for each project area;

(b) the amount of tax increment paid to each taxing entity under Section 17C-1-410;

(c) the outstanding principal amount of bonds issued or other loans incurred to finance the costs associated with the agency's project areas; [~~and~~]

(d) the amount of property tax revenue generated under Part 10, Agency Taxing Authority; and

(e) the actual amount expended for:

(i) acquisition of property;

(ii) site improvements or site preparation costs;

(iii) installation of public utilities or other public improvements; and

(iv) administrative costs of the agency.

Section 7. Section 17C-1-1001 is enacted to read:

Part 10. Agency Taxing Authority

17C-1-1001. Definitions.

As used in this part:

(1) (a) "Agency-wide project development" means activity within the agency's boundaries that, as determined by the board, encourages, promotes, or provides development or redevelopment for the purpose of achieving the results described in an implementation plan, including affordable housing.

(b) "Agency-wide project development" does not include project area development under a project area plan.

(2) "Certified tax rate" means the same as that term is defined in Section 59-2-924.

(3) "Cooperative development project" means project area development with impacts that extend beyond an agency's geographic boundaries to the benefit of two or more communities.

(4) "Economic development project" means project area development for the purpose of:

(a) creating, developing, attracting, and retaining business;

(b) creating or preserving jobs;

(c) stimulating business and economic activity; or

(d) providing a local incentive as required by the Governor's Office of Economic Development under Title 63N, Governor's Office of Economic Development.

(5) "Eligible taxing entity" means a taxing entity that:

(a) is a municipality, a county, or a school district; and

(b) contains an agency partially or completely within the taxing entity's geographic boundaries.

(6) "Implementation plan" means a plan adopted in accordance with Section 17C-1-1004 that:

(a) describes how the agency uses property tax revenue; and

(b) guides and controls agency-wide project development.

(7) "Project area incremental revenue" means the amount of revenue generated by the incremental value that a taxing entity receives after a project area funds collection period ends.

(8) "Property tax revenue" means the amount of revenue generated by an agency from the property within the agency using the current taxable value of the property and the agency's certified tax rate.

Section 8. Section 17C-1-1002 is enacted to read:

17C-1-1002. Transferring project area incremental revenue -- Agency may levy a property tax.

(1) An agency and an eligible taxing entity may enter into an interlocal agreement for the purpose of transferring all or a portion of the eligible taxing entity's project area incremental revenue.

(2) An agency shall ensure that an interlocal agreement described in Subsection (1):

(a) identifies each project area that is subject to the interlocal agreement;

(b) is adopted by the board and the taxing entity in accordance with Section 17C-1-1003;

(c) for each project area:

(i) states the amount of project area incremental revenue that the eligible taxing entity agrees to transfer to the agency;

(ii) states the year in which the eligible taxing entity will transfer the amount described in Subsection (2)(c)(i); and

(iii) for the year described in Subsection (2)(c)(ii), requires the agency to add the project area incremental revenue transferred in the agency's budget;

(d) includes a copy of the implementation plan described in Section 17C-1-1004;

(e) requires the agency to dissolve, in accordance with Section 17C-1-702, any project area:

(i) that is subject to the interlocal agreement; and

(ii) for which the project area funds collection period will expire; and

(f) is filed with the county auditor, the State Tax Commission, and the eligible taxing entity.

(3) If an agency and an eligible taxing entity enter into an interlocal agreement under this section:

(a) subject to Subsection (4) and Section 17C-1-1004, the agency may levy a property tax on taxable property within the agency's geographic boundaries; and

(b) except as provided in Subsection (5), the agency may not:

(i) create a new community reinvestment project area within the taxing entity's geographic boundaries; or

(ii) amend a project area plan or budget if the amendment:

(A) enlarges the project area from which tax increment is collected;

(B) permits the agency to receive a greater amount of tax increment; or

(C) extends the project area funds collection period.

(4) (a) An agency may levy a property tax for a fiscal year that:

(i) is after the year in which the agency receives project area incremental revenue; and

(ii) begins on or after the January 1 on which the agency has authority to impose a property tax under this section.

(b) An agency board shall calculate the agency's certified tax rate in accordance with Section 59-2-924.

(c) An agency may levy a property tax rate that exceeds the agency's certified rate only if the agency complies with Sections 59-2-919 through 59-2-923.

(5) For a cooperative development project or an economic development project, an agency may, in accordance with Chapter 5, Community Reinvestment:

(a) create a new community reinvestment project area; or

(b) amend a community reinvestment project area plan or budget.

Section 9. Section 17C-1-1003 is enacted to read:

17C-1-1003. Interlocal agreement -- Notice requirements -- Effective date.

(1) An agency that enters into an interlocal agreement under Section 17C-1-1002 shall:

(a) adopt the interlocal agreement at an open and public meeting; and

(b) provide a notice, in accordance with Subsections (2) and (3), titled "Authorization to Levy a Property Tax."

(2) Upon the execution of an interlocal agreement, the agency shall provide, subject to Subsection (3), notice of the execution by:

(a) (i) publishing the notice in a newspaper of general circulation within the agency's geographic boundaries; or

(ii) if there is no newspaper of general circulation within the agency's geographic boundaries, posting the notice in at least three public places within the agency's geographic boundaries; and

(b) posting the notice on the Utah Public Notice Website created in Section 63F-1-701.

(3) A notice described in Subsection (2) shall include:

(a) a summary of the interlocal agreement; and

(b) a statement that the interlocal agreement:

(i) is available for public inspection and the place and the hours for inspection; and

(ii) authorizes the agency to:

(A) receive all or a portion of a taxing entity's project area incremental revenue; and

(B) levy a property tax on taxable property within the agency's boundaries.

(4) An interlocal agreement described in Section 17C-1-1002 is effective the day on which the notice is published or posted in accordance with Subsections (2) and (3).

(5) An eligible taxing entity that enters into an interlocal agreement under Section 17C-1-1002 shall make a copy of the interlocal agreement available to the public for inspecting and copying at the eligible taxing entity's office during normal business hours.

Section 10. Section 17C-1-1004 is enacted to read:

17C-1-1004. Plan hearing -- Implementation plan -- Use of an agency's property tax revenue -- Eminent domain.

(1) Before an agency may levy a property tax, an agency board shall hold a plan hearing in accordance with Chapter 1, Part 8, Hearing and Notice Requirements, to:

(a) adopt an implementation plan that:

(i) contains a boundary description and a map of the geographic area within which the agency will use the agency's property tax revenue;

(ii) contains a general description of the existing land uses, zoning, infrastructure conditions, population densities, and demographics of the area described in Subsection (1)(b)(i);

(iii) describes the physical, social, and economic conditions that exist in the area described in Subsection (1)(b)(i);

(iv) describes the goals and strategies that will guide the agency's use of property tax revenue;

(v) shows how agency-wide project development will further the purposes of this title;

(vi) is consistent with the general plan of the community that created the agency and shows that agency-wide project development will conform to the community's general plan;

(vii) generally describes the type of financial assistance and tools that the agency anticipates providing to participants;

(viii) includes an analysis or description of the anticipated public benefits resulting from agency-wide project development, including benefits to economic activity and taxing entities' tax bases;

(ix) includes any identified geographic target areas within which the agency will focus investment; and

(x) includes other information that the agency determines to be necessary or advisable;

(b) inform the public about:

(i) the amount of revenue that the agency will receive as property tax revenue that a participating taxing entity would have otherwise received;

(ii) the property tax rate that the agency will levy;

(iii) any changes to the use of revenue; and

(iv) how the agency will be using property tax revenue under the implementation plan; and

(c) allow individuals present at the plan hearing to comment on the proposed property tax.

(2) An agency that levies a property tax under this part shall allocate an amount of property tax revenue for housing:

(a) in an amount that is the same as the agency's housing allocation under Section 17C-5-307 before entering into an interlocal agreement under Section 17C-1-1002; and

(b) for a period of time that is the same as the agency's project area funds collection period before entering into an interlocal agreement under Section 17C-1-1002.

(3) (a) Except as provided in Subsection (3)(b), an agency that levies a property tax under this part may not use eminent domain to acquire property for agency-wide project development.

(b) An agency that levies a property tax under this part may use eminent domain for an urban renewal project area or a community reinvestment project area in accordance with Part 9, Eminent Domain.

Section 11. Section 17C-1-1005 is enacted to read:

17C-1-1005. Agency property tax levy -- Budget -- Accounting for property tax revenue.

(1) (a) Each agency that levies and collects property tax under this part shall levy and collect the property tax in accordance with Title 59, Chapter 2, Property Tax Act.

(b) Except as provided in Subsection (1)(c), an agency, at a regular meeting or special meeting

called for that purpose, shall, by resolution, set the property tax rate by the date described in Section 59-2-912.

(c) An agency may set the rate described in Subsection (1)(b) at an appropriate later date in accordance with Sections 59-2-919 through 59-2-923.

(2) (a) An agency shall include in the agency's budget any project area incremental revenue transferred by an eligible taxing entity under this part.

(b) The amount of project area incremental revenue described in Subsection (2)(a) plus the ad valorem property tax revenue that the agency budgeted for the prior year shall constitute the basis for determining the property tax levy that the agency sets for the corresponding tax year.

(3) (a) An agency shall create a property tax revenue fund and separately account for property tax revenue generated under this part.

(b) An agency shall include revenue and expenditures of the property tax revenue fund described in Subsection (3)(a) in the annual budget adopted in accordance with Section 17C-1-601.5.

Section 12. Section 17C-2-110 is amended to read:

17C-2-110. Amending an urban renewal project area plan.

[~~(1) An~~] (1) Except as provided in Section 17C-1-1002, an agency may amend an urban renewal project area plan as provided in this section.

(2) If an agency proposes to amend an urban renewal project area plan to enlarge the project area:

(a) subject to Subsection (2)(e), the requirements under this part that apply to adopting a project area plan apply equally to the proposed amendment as if it were a proposed project area plan;

(b) for a pre-July 1, 1993, project area plan, the base year for the new area added to the project area shall be determined under Subsection 17C-1-102(9) using the effective date of the amended project area plan;

(c) for a post-June 30, 1993, project area plan:

(i) the base year for the new area added to the project area shall be determined under Subsection 17C-1-102(9) using the date of the taxing entity committee's consent referred to in Subsection (2)(c)(ii); and

(ii) the agency shall obtain the consent of the taxing entity committee before the agency may collect tax increment from the area added to the project area by the amendment;

(d) the agency shall make a determination regarding the existence of a development impediment in the area proposed to be added to the project area by following the procedure set forth in Chapter 2, Part 3, Development Impediment Determination in Urban Renewal Project Areas; and

(e) the agency need not make a development impediment determination in the project area as described in the original project area plan, if the agency made a development impediment determination regarding that project area in connection with adoption of the original project area plan.

(3) If a proposed amendment does not propose to enlarge an urban renewal project area, a board may adopt a resolution approving an amendment to a project area plan after:

(a) the agency gives notice, as provided in Section 17C-1-806, of the proposed amendment and of the public hearing required by Subsection (3)(b);

(b) the board holds a public hearing on the proposed amendment that meets the requirements of a plan hearing;

(c) the agency obtains the taxing entity committee's consent to the amendment, if the amendment proposes:

(i) to enlarge the area within the project area from which tax increment is collected;

(ii) to permit the agency to receive a greater percentage of tax increment or to extend the project area funds collection period, or both, than allowed under the adopted project area plan; or

(iii) for an amendment to a project area plan that was adopted before April 1, 1983, to expand the area from which tax increment is collected to exceed 100 acres of private property; and

(d) the agency obtains the consent of the legislative body or governing board of each taxing entity affected, if the amendment proposes to permit the agency to receive, from less than all taxing entities, a greater percentage of tax increment or to extend the project area funds collection period, or both, than allowed under the adopted project area plan.

(4) (a) An agency may amend an urban renewal project area plan without complying with the notice and public hearing requirements of Subsections [~~(2)(a) and~~] (3)(a) and (b) and without obtaining taxing entity committee approval under Subsection (3)(c) if the amendment:

(i) makes a minor adjustment in the boundary description of a project area boundary requested by a county assessor or county auditor to avoid inconsistent property boundary lines; or

(ii) subject to Subsection (4)(b), removes one or more parcels from a project area because the agency determines that each parcel removed is:

(A) tax exempt;

(B) without a development impediment; or

(C) no longer necessary or desirable to the project area.

(b) An agency may make an amendment removing one or more parcels from a project area under Subsection (4)(a)(ii) without the consent of the record property owner of each parcel being removed.

(5) (a) An amendment approved by board resolution under this section may not take effect until adopted by ordinance of the legislative body of the community in which the project area that is the subject of the project area plan being amended is located.

(b) Upon a community legislative body passing an ordinance adopting an amendment to a project area plan, the agency whose project area plan was amended shall comply with the requirements of Sections 17C-2-108 and 17C-2-109 to the same extent as if the amendment were a project area plan.

(6) (a) Within 30 days after the day on which an amendment to a project area plan becomes effective, a person may contest the amendment to the project area plan or the procedure used to adopt the amendment to the project area plan if the amendment or procedure fails to comply with a provision of this title.

(b) After the 30-day period described in Subsection (6)(a) expires, a person may not contest the amendment to the project area plan or procedure used to adopt the amendment to the project area plan for any cause.

Section 13. Section 17C-2-206 is amended to read:

17C-2-206. Amending an urban renewal project area budget.

[~~(1) An~~] (1) Except as provided in Section 17C-1-1002, an agency may by resolution amend an urban renewal project area budget as provided in this section.

(2) To amend an adopted urban renewal project area budget, the agency shall:

(a) advertise and hold one public hearing on the proposed amendment as provided in Subsection (3);

(b) if approval of the taxing entity committee was required for adoption of the original project area budget, obtain the approval of the taxing entity committee to the same extent that the agency was required to obtain the consent of the taxing entity committee for the project area budget as originally adopted;

(c) if approval of the taxing entity committee is required under Subsection (2)(b), obtain a written certification, signed by an attorney licensed to practice law in this state, stating that the taxing entity committee followed the appropriate procedures to approve the project area budget; and

(d) adopt a resolution amending the project area budget.

(3) The public hearing required under Subsection (2)(a) shall be conducted according to the procedures and requirements of Subsections 17C-2-201(2)(c) and (d), except that if the amended project area budget proposes that the agency be paid a greater proportion of tax increment from a project area than was to be paid under the previous project area budget, the notice shall state the percentage paid under the previous project area budget and the percentage proposed under the amended project area budget.

(4) If the removal of a parcel under Subsection 17C-2-110(4)(a)(ii) reduces the base taxable value of the project area, an agency may amend the project area budget to conform with the new base taxable value without:

(a) complying with Subsections (2)(a) and (3); and

(b) if applicable, obtaining taxing entity committee approval described in Subsection (2)(b).

(5) If a proposed amendment is not adopted, the agency shall continue to operate under the previously adopted project area budget without the proposed amendment.

(6) (a) A person may contest the agency's adoption of a budget amendment within 30 days after the day on which the agency adopts the amendment.

(b) A person who fails to contest a budget amendment under Subsection (6)(a):

(i) forfeits any claim against an agency's adoption of the amendment; and

(ii) may not contest:

(A) a distribution of tax increment to the agency under the budget amendment; or

(B) an agency's use of a tax increment under the budget amendment.

Section 14. Section 17C-2-207 is amended to read:

17C-2-207. Extending collection of tax increment in an urban renewal project area budget.

(1) An extension approved by a taxing entity or taxing entity committee before May 10, 2011, is not subject to this section.

(2) (a) [~~An~~] Except as provided in Section 17C-1-1002, an agency's collection of tax increment under an urban renewal project area budget may be extended by:

(i) following the project area budget amendment procedures outlined in Section 17C-2-206; or

(ii) following the procedures outlined in this section.

(b) The base taxable value for an urban renewal project area budget may not be altered as a result of an extension under this section unless otherwise expressly provided for in an interlocal agreement adopted in accordance with Subsection (3)(a).

(3) Except as provided in Subsection (4), to extend under this section the project area funds collection period under a previously approved project area budget, the agency shall:

(a) obtain the approval of the taxing entity through an interlocal agreement;

(b) (i) hold a public hearing on the proposed extension in accordance with Subsection 17C-2-201(2)(d) in the same manner as required for a proposed project area budget; and

(ii) provide notice of the hearing:

(A) as required by Chapter 1, Part 8, Hearing and Notice Requirements; and

(B) including the proposed project area budget's extension period; and

(c) after obtaining the taxing entity's approval in accordance with Subsection (3)(a), at or after the public hearing, adopt a resolution approving the extension.

(4) (a) Subject to Subsection (4)(b), to extend under this section the project area funds collection period under a previously approved project area budget for a project area that includes an inactive industrial site, the agency shall:

(i) hold a public hearing on the proposed extension in accordance with Subsection 17C-2-201(2)(d) in the same manner as required for a proposed project area budget;

(ii) provide notice of the hearing as required by Chapter 1, Part 8, Hearing and Notice Requirements, including notice of the proposed project area budget's extension period; and

(iii) at or after the public hearing, adopt a resolution approving the extension.

(b) An extension under Subsection (4)(a) may not extend the length of time that tax increment is collected from any single tax parcel.

(5) After the project area funds collection period expires, an agency may continue to receive project area funds from those taxing entities that agree to an extension through an interlocal agreement in accordance with Subsection (3)(a) or through the process described in Subsection (4).

(6) (a) A person may contest the agency's adoption of an extension within 30 days after the day on which the agency adopts the resolution providing for the extension.

(b) A person that fails to contest an extension under Subsection (6)(a):

(i) shall forfeit any claim against the agency's adoption of the extension; and

(ii) may not contest:

(A) a distribution of tax increment to the agency under the budget, as extended; or

(B) an agency's use of tax increment under the budget, as extended.

Section 15. Section 17C-3-109 is amended to read:

17C-3-109. Amending an economic development project area plan.

(1) [~~An~~] Except as provided in Section 17C-1-1002, an agency may amend an economic development project area plan [~~may be amended~~] as provided in this section.

(2) If an agency proposes to amend an economic development project area plan to enlarge the project area:

(a) the requirements under this part that apply to adopting a project area plan apply equally to the proposed amendment as if it were a proposed project area plan;

(b) the base year for the new area added to the project area shall be determined under Subsection 17C-1-102(9) using the date of the taxing entity committee's consent referred to in Subsection (2)(c); and

(c) the agency shall obtain the consent of the taxing entity committee before the agency may collect tax increment from the area added to the project area by the amendment.

(3) If a proposed amendment does not propose to enlarge an economic development project area, a board may adopt a resolution approving an amendment to an economic development project area plan after:

(a) the agency gives notice, as provided in Chapter 1, Part 8, Hearing and Notice Requirements, of the proposed amendment and of the public hearing required by Subsection (3)(b);

(b) the board holds a public hearing on the proposed amendment that meets the requirements of a plan hearing;

(c) the agency obtains the taxing entity committee's consent to the amendment, if the amendment proposes:

(i) to enlarge the area within the project area from which tax increment is received; or

(ii) to permit the agency to receive a greater percentage of tax increment or to extend the project area funds collection period under the economic development project area plan; and

(d) the agency obtains the consent of the legislative body or governing board of each taxing entity affected, if the amendment proposes to permit the agency to receive, from less than all taxing entities, a greater percentage of tax increment or to extend the project area funds collection period, or both, than allowed under the economic development project area plan.

(4) (a) An economic development project area plan may be amended without complying with the notice and public hearing requirements of Subsections (2)(a) and (3)(a) and (b) and without obtaining taxing entity committee approval under Subsection (3)(c) if the amendment:

(i) makes a minor adjustment in the boundary description of a project area boundary requested by a county assessor or county auditor to avoid inconsistent property boundary lines; or

(ii) subject to Subsection (4)(b), removes one or more parcels from a project area because the agency determines that each parcel removed is:

(A) tax exempt; or

(B) no longer necessary or desirable to the project area.

(b) An amendment removing one or more parcels from a project area under Subsection (4)(a) may be made without the consent of the record property owner of each parcel being removed.

(5) (a) An amendment approved by board resolution under this section may not take effect until adopted by ordinance of the legislative body of the community in which the project area that is the subject of the project area plan being amended is located.

(b) Upon a community legislative body passing an ordinance adopting an amendment to a project area plan, the agency whose project area plan was amended shall comply with the requirements of Sections 17C-3-107 and 17C-3-108 to the same extent as if the amendment were a project area plan.

(6) (a) Within 30 days after the day on which an amendment to a project area plan becomes effective, a person may contest the amendment to the project area plan or the procedure used to adopt the amendment to the project area plan if the amendment or procedure fails to comply with a provision of this title.

(b) After the 30-day period described in Subsection (6)(a) expires, a person may not contest the amendment to the project area plan or procedure used to adopt the amendment to the project area plan for any cause.

Section 16. Section 17C-3-205 is amended to read:

17C-3-205. Amending an economic development project area budget.

(1) [~~An~~] Except as provided in Section 17C-1-1002, an agency may by resolution amend an economic development project area budget as provided in this section.

(2) To amend an adopted economic development project area budget, the agency shall:

(a) advertise and hold one public hearing on the proposed amendment as provided in Subsection (3);

(b) if approval of the taxing entity committee was required for adoption of the original project area budget, obtain the approval of the taxing entity committee to the same extent that the agency was required to obtain the consent of the taxing entity committee for the project area budget as originally adopted;

(c) if approval of the taxing entity committee is required under Subsection (2)(b), obtain a written certification, signed by an attorney licensed to practice law in this state, stating that the taxing entity committee followed the appropriate procedures to approve the project area budget; and

(d) adopt a resolution amending the project area budget.

(3) The public hearing required under Subsection (2)(a) shall be conducted according to the procedures and requirements of Section 17C-3-201, except that if the amended project area budget proposes that the agency be paid a greater proportion of tax increment from a project area than was to be paid under the previous project area budget, the notice shall state the percentage paid under the previous project area budget and the percentage proposed under the amended project area budget.

(4) If the removal of a parcel under Subsection 17C-3-109(4)(a)(ii) reduces the base taxable value of the project area, an agency may amend the project area budget to conform with the new base taxable value without:

(a) complying with Subsections (2)(a) and (3); and

(b) if applicable, obtaining taxing entity committee approval described in Subsection (2)(b).

(5) If a proposed amendment is not adopted, the agency shall continue to operate under the previously adopted economic development project area budget without the proposed amendment.

(6) (a) A person may contest the agency's adoption of a budget amendment within 30 days after the day on which the agency adopts the amendment.

(b) A person [~~who~~] that fails to contest a budget amendment under Subsection (6)(a):

(i) forfeits any claim against an agency's adoption of the amendment; and

(ii) may not contest:

(A) a distribution of tax increment to the agency under the budget amendment; or

(B) an agency's use of a tax increment under a budget amendment.

Section 17. Section 17C-3-206 is amended to read:

17C-3-206. Extending collection of tax increment under an economic development project area budget.

(1) An amendment or extension approved by a taxing entity or taxing entity committee before May 10, 2011, is not subject to this section.

(2) (a) [~~An~~] Except as provided in Section 17C-1-1002, an agency's collection of tax increment under an adopted economic development project area budget may be extended by:

(i) following the project area budget amendment procedures outlined in Section 17C-3-205; or

(ii) following the procedures outlined in this section.

(b) The base taxable value for an urban renewal project area budget may not be altered as a result of an extension under this section unless otherwise expressly provided for in an interlocal agreement adopted in accordance with Subsection (3)(a).

(3) To extend under this section the agency's collection of tax increment from a taxing entity under a previously approved project area budget, the agency shall:

(a) obtain the approval of the taxing entity through an interlocal agreement;

(b) (i) hold a public hearing on the proposed extension in accordance with Subsection 17C-2-201(2)(d) in the same manner as required for a proposed project area budget; and

(ii) provide notice of the hearing:

(A) as required by Chapter 1, Part 8, Hearing and Notice Requirements; and

(B) including the proposed period of extension of the project area budget; and

(c) after obtaining the approval of the taxing entity in accordance with Subsection (3)(a), at or after the public hearing, adopt a resolution approving the extension.

(4) After the expiration of a project area budget, an agency may continue to receive tax increment from those taxing entities that have agreed to an extension through an interlocal agreement in accordance with Subsection (3)(a).

(5) (a) A person may contest the agency's adoption of a budget extension within 30 days after the day on which the agency adopts the resolution providing for the extension.

(b) A person [~~who~~] that fails to contest a budget extension under Subsection (5)(a):

(i) shall forfeit any claim against the agency's adoption of the extension; and

(ii) may not contest:

(A) a distribution of tax increment to the agency under the budget, as extended; or

(B) an agency's use of tax increment under the budget, as extended.

Section 18. Section 17C-4-108 is amended to read:

17C-4-108. Amending a community development project area plan.

(1) Except as provided in Section 17C-1-1002, an agency may amend a community development project area plan as provided in this section.

[~~(1)~~] (2) Except as provided in Subsection [~~(2)~~] (3) and Section 17C-4-109, the requirements under this part that apply to adopting a community development project area plan apply equally to a proposed amendment of a community development project area plan as though the amendment were a proposed project area plan.

[~~(2)~~] (3) (a) Notwithstanding Subsection [~~(1)~~] (2), a community development project area plan may be amended without complying with the requirements of Chapter 1, Part 8, Hearing and Notice Requirements, if the proposed amendment:

(i) makes a minor adjustment in the boundary description of a project area boundary requested by a county assessor or county auditor to avoid inconsistent property boundary lines; or

(ii) subject to Subsection [~~(2)~~] (3)(b), removes one or more parcels from a project area because the agency determines that each parcel removed is:

(A) tax exempt; or

(B) no longer necessary or desirable to the project area.

(b) An amendment removing one or more parcels from a community development project area under Subsection [~~(2)~~] (3)(a)(ii) may be made without the consent of the record property owner of each parcel being removed.

[~~(3)~~] (4) (a) An amendment approved by board resolution under this section may not take effect until adopted by ordinance of the legislative body of the community in which the project area that is the subject of the project area plan being amended is located.

(b) Upon a community legislative body passing an ordinance adopting an amendment to a community development project area plan, the agency whose project area plan was amended shall comply with the requirements of Sections 17C-4-106 and 17C-4-107 to the same extent as if the amendment were a project area plan.

[~~(4)~~] (5) (a) Within 30 days after the day on which an amendment to a project area plan becomes effective, a person may contest the amendment to the project area plan or the procedure used to adopt the amendment to the project area plan if the amendment or procedure fails to comply with a provision of this title.

(b) After the 30-day period described in Subsection [~~(4)~~] (5)(a) expires, a person may not contest the amendment to the project area plan or procedure used to adopt the amendment to the project area plan for any cause.

Section 19. Section 17C-5-102 is amended to read:

17C-5-102. Applicability of chapter.

This chapter applies to a community reinvestment project area that:

(1) an agency created on or after May 10, 2016; and

(2) an agency, that has entered into an interlocal agreement and levies a property tax under Chapter 1, Part 10, Agency Taxing Authority, created for a cooperative development project or an economic development project as those terms are defined in Section 17C-1-1001.

Section 20. Section 17C-5-112 is amended to read:

17C-5-112. Amending a community reinvestment project area plan.

[~~(1) An~~] (1) Except as provided in Section 17C-1-1002, an agency may amend a community

reinvestment project area plan in accordance with this section.

(2) (a) If an amendment proposes to enlarge a community reinvestment project area's geographic area, the agency shall:

(i) comply with this part as though the agency were creating a community reinvestment project area;

(ii) if the agency anticipates receiving project area funds from the area proposed to be added to the community reinvestment project area, before the agency may collect project area funds:

(A) for a community reinvestment project area plan that is subject to a taxing entity committee, obtain approval to receive tax increment from the taxing entity committee; or

(B) for a community reinvestment project area plan that is subject to an interlocal agreement, obtain the approval of the taxing entity that is a party to the interlocal agreement; and

(iii) if the agency anticipates acquiring property in the area proposed to be added to the community reinvestment project area by eminent domain, follow the procedures described in Section 17C-5-402.

(b) The base year for the area proposed to be added to the community reinvestment project area shall be determined using the date of:

(i) the taxing entity committee's consent as described in Subsection (2)(a)(ii)(A); or

(ii) the taxing entity's consent as described in Subsection (2)(a)(ii)(B).

(3) If an amendment does not propose to enlarge a community reinvestment project area's geographic area, the board may adopt a resolution approving the amendment after the agency:

(a) if the amendment does not propose to allow the agency to receive a greater amount of project area funds or to extend a project area funds collection period:

(i) gives notice in accordance with Section 17C-1-806; and

(ii) holds a public hearing on the proposed amendment that meets the requirements described in Subsection 17C-5-104(3); or

(b) if the amendment proposes to also allow the agency to receive a greater amount of project area funds or to extend a project area funds collection period:

(i) complies with [~~Subsection~~] Subsections (3)(a)(i) and (ii); and

(ii) (A) for a community reinvestment project area plan that is subject to a taxing entity committee, obtains approval from the taxing entity committee; or

(B) for a community reinvestment project area plan that is subject to an interlocal agreement, obtains approval to receive project area funds from the taxing entity that is a party to the interlocal agreement.

(4) (a) If a board has not made a determination under Part 4, Development Impediment Determination in a Community Reinvestment Project Area, but intends to use eminent domain within a community reinvestment project area, the agency may amend the community reinvestment project area plan in accordance with this Subsection (4).

(b) To amend a community reinvestment project area plan as described in Subsection (4)(a), an agency shall:

(i) adopt a survey area resolution that identifies each parcel that the agency intends to study to determine whether a development impediment exists;

(ii) in accordance with Part 4, Development Impediment Determination in a Community Reinvestment Project Area, conduct a development impediment study within the survey area and make a development impediment determination; and

(iii) obtain approval to amend the community reinvestment project area plan from each taxing entity that is a party to an interlocal agreement.

(c) Amending a community reinvestment project area plan as described in this Subsection (4) does not affect:

(i) the base year of the parcel or parcels that are the subject of an amendment under this Subsection (4); and

(ii) any interlocal agreement under which the agency is authorized to receive project area funds from the community reinvestment project area.

(5) An agency may amend a community reinvestment project area plan without obtaining the consent of a taxing entity or a taxing entity committee and without providing notice or holding a public hearing if the amendment:

(a) makes a minor adjustment in the community reinvestment project area boundary that is requested by a county assessor or county auditor to avoid inconsistent property boundary lines; or

(b) removes one or more parcels from a community reinvestment project area because the agency determines that each parcel is:

(i) tax exempt;

(ii) without a development impediment; or

(iii) no longer necessary or desirable to the project area.

(6) (a) An amendment approved by board resolution under this section may not take effect until the community legislative body adopts an ordinance approving the amendment.

(b) Upon the community legislative body adopting an ordinance approving an amendment under Subsection (6)(a), the agency shall comply with the requirements described in Sections

17C-5-110 and 17C-5-111 as if the amendment were a community reinvestment project area plan.

(7) (a) Within 30 days after the day on which an amendment to a project area plan becomes effective, a person may contest the amendment to the project area plan or the procedure used to adopt the amendment to the project area plan if the amendment or procedure fails to comply with a provision of this title.

(b) After the 30-day period described in Subsection (7)(a) expires, a person may not contest the amendment to the project area plan or procedure used to adopt the amendment to the project area plan for any cause.

Section 21. Section 17C-5-306 is amended to read:

17C-5-306. Amending a community reinvestment project area budget.

(1) [~~Before~~] Except as provided in Section 17C-1-1002 and before a project area funds collection period ends, an agency may amend a community reinvestment project area budget in accordance with this section.

(2) To amend a community reinvestment project area budget, an agency shall:

(a) provide notice and hold a public hearing on the proposed amendment in accordance with Chapter 1, Part 8, Hearing and Notice Requirements;

(b) (i) if the community reinvestment project area budget required approval from a taxing entity committee, obtain the taxing entity committee's approval; or

(ii) if the community reinvestment project area budget required an interlocal agreement with a taxing entity, obtain approval from the taxing entity that is a party to the interlocal agreement; and

(c) at the public hearing described in Subsection (2)(a) or at a subsequent board meeting, by resolution, adopt the community reinvestment project area budget amendment.

(3) If an agency proposes a community reinvestment project area budget amendment under which the agency is paid a greater proportion of tax increment from the community reinvestment project area than provided under the community reinvestment project area budget, the notice described in Subsection (2)(a) shall state:

(a) the percentage of tax increment paid under the community reinvestment project area budget; and

(b) the proposed percentage of tax increment paid under the community reinvestment project area budget amendment.

(4) (a) If an agency proposes a community reinvestment project area budget amendment that extends a project area funds collection period, before a taxing entity committee or taxing entity may provide the taxing entity committee's or taxing entity's approval described in Subsection (2)(b), the agency shall provide to the taxing entity committee or taxing entity:

(i) the reasons why the extension is required;

(ii) a description of the project area development for which project area funds received by the agency under the extension will be used;

(iii) a statement of whether the project area funds received by the agency under the extension will be used within an active project area or a proposed project area; and

(iv) a revised community reinvestment project area budget that includes:

(A) the annual and total amounts of project area funds that the agency receives under the extension; and

(B) the number of years that are added to each project area funds collection period under the extension.

(b) With respect to an amendment described in Subsection (4)(a), a taxing entity committee or taxing entity may consent to:

(i) allow an agency to use project area funds received under an extension within a different project area from which the project area funds are generated; or

(ii) alter the base taxable value in connection with a community reinvestment project area budget extension.

(5) If an agency proposes a community reinvestment project area budget amendment that reduces the base taxable value of the project area due to the removal of a parcel under Subsection 17C-5-112(5)(b), an agency may amend a project area budget without:

(a) complying with Subsection (2)(a); and

(b) obtaining taxing entity committee or taxing entity approval described in Subsection (2)(b).

(6) (a) A person may contest an agency's adoption of a community reinvestment project area budget amendment within 30 days after the day on which the agency adopts the community reinvestment project area budget amendment.

(b) After the 30-day period described in Subsection (6)(a), a person may not contest:

(i) the agency's adoption of the community reinvestment project area budget amendment;

(ii) a payment to the agency under the community reinvestment project area budget amendment; or

(iii) the agency's use of project area funds received under the community reinvestment project area budget amendment.

Section 22. Section 53G-7-306 is amended to read:

53G-7-306. School district interfund transfers.

(1) A school district shall spend revenues only within the fund for which they were originally authorized, levied, collected, or appropriated.

(2) Except as otherwise provided in this section, school district interfund transfers of residual equity are prohibited.

(3) The state board may authorize school district interfund transfers of residual equity when a district states its intent to create a new fund or expand, contract, or liquidate an existing fund.

(4) The state board may also authorize school district interfund transfers of residual equity for a financially distressed district if the state board determines the following:

(a) the district has a significant deficit in its maintenance and operations fund caused by circumstances not subject to the administrative decisions of the district;

(b) the deficit cannot be reasonably reduced under Section 53G-7-305; and

(c) without the transfer, the school district will not be capable of meeting statewide educational standards adopted by the state board.

(5) The state board shall develop by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, standards for defining and aiding financially distressed school districts under this section.

(6) (a) All debt service levies not subject to certified tax rate hearings shall be recorded and reported in the debt service fund.

(b) Debt service levies under Subsection 59-2-924(5)[~~(c)~~](d) that are not subject to the public hearing provisions of Section 59-2-919 may not be used for any purpose other than retiring general obligation debt.

(c) Amounts from these levies remaining in the debt service fund at the end of a fiscal year shall be used in subsequent years for general obligation debt retirement.

(d) Any amounts left in the debt service fund after all general obligation debt has been retired may be transferred to the capital projects fund upon completion of the budgetary hearing process required under Section 53G-7-303.

Section 23. Section 59-2-924 is amended to read:

59-2-924. Definitions -- Report of valuation of property to county auditor and commission -- Transmittal by auditor to governing bodies -- Calculation of certified tax rate -- Rulemaking authority -- Adoption of tentative budget -- Notice provided by the commission.

(1) As used in this section:

(a) (i) "Ad valorem property tax revenue" means revenue collected in accordance with this chapter.

(ii) "Ad valorem property tax revenue" does not include:

(A) interest;

(B) penalties;

(C) collections from redemptions; or

(D) revenue received by a taxing entity from personal property that is semiconductor manufacturing equipment assessed by a county assessor in accordance with Part 3, County Assessment.

(b) "Adjusted tax increment" means the same as that term is defined in Section 17C-1-102.

(c) (i) "Aggregate taxable value of all property taxed" means:

(A) the aggregate taxable value of all real property a county assessor assesses in accordance with Part 3, County Assessment, for the current year;

(B) the aggregate taxable value of all real and personal property the commission assesses in accordance with Part 2, Assessment of Property, for the current year; and

(C) the aggregate year end taxable value of all personal property a county assessor assesses in accordance with Part 3, County Assessment, contained on the prior year's tax rolls of the taxing entity.

(ii) "Aggregate taxable value of all property taxed" does not include the aggregate year end taxable value of personal property that is:

(A) semiconductor manufacturing equipment assessed by a county assessor in accordance with Part 3, County Assessment; and

(B) contained on the prior year's tax rolls of the taxing entity.

(d) "Base taxable value" means:

(i) for an authority created under Section 11-58-201, the same as that term is defined in Section 11-58-102;

(ii) for an agency created under Section 17C-1-201.5, the same as that term is defined in Section 17C-1-102;

(iii) for an authority created under Section 63H-1-201, the same as that term is defined in Section 63H-1-102; or

(iv) for a host local government, the same as that term is defined in Section 63N-2-502.

(e) "Centrally assessed benchmark value" means an amount equal to the highest year end taxable value of real and personal property the commission assesses in accordance with Part 2, Assessment of Property, for a previous calendar year that begins on or after January 1, 2015, adjusted for taxable value attributable to:

(i) an annexation to a taxing entity; or

(ii) an incorrect allocation of taxable value of real or personal property the commission assesses in accordance with Part 2, Assessment of Property.

(f) (i) "Centrally assessed new growth" means the greater of:

(A) zero; or

(B) the amount calculated by subtracting the centrally assessed benchmark value adjusted for prior year end incremental value from the taxable value of real and personal property the commission assesses in accordance with Part 2, Assessment of Property, for the current year, adjusted for current year incremental value.

(ii) "Centrally assessed new growth" does not include a change in value as a result of a change in the method of apportioning the value prescribed by the Legislature, a court, or the commission in an administrative rule or administrative order.

(g) "Certified tax rate" means a tax rate that will provide the same ad valorem property tax revenue for a taxing entity as was budgeted by that taxing entity for the prior year.

(h) "Community reinvestment agency" means the same as that term is defined in Section 17C-1-102.

[~~(h)~~] (i) "Eligible new growth" means the greater of:

(i) zero; or

(ii) the sum of:

(A) locally assessed new growth;

(B) centrally assessed new growth; and

(C) project area new growth or hotel property new growth.

[~~(i)~~] (j) "Host local government" means the same as that term is defined in Section 63N-2-502.

[~~(j)~~] (k) "Hotel property" means the same as that term is defined in Section 63N-2-502.

[~~(k)~~] (l) "Hotel property new growth" means an amount equal to the incremental value that is no longer provided to a host local government as incremental property tax revenue.

[~~(l)~~] (m) "Incremental property tax revenue" means the same as that term is defined in Section 63N-2-502.

[~~(m)~~] (n) "Incremental value" means:

(i) for an authority created under Section 11-58-201, the amount calculated by multiplying:

(A) the difference between the taxable value and the base taxable value of the property that is located within a project area and on which property tax differential is collected; and

(B) the number that represents the percentage of the property tax differential that is paid to the authority;

(ii) for an agency created under Section 17C-1-201.5, the amount calculated by multiplying:

(A) the difference between the taxable value and the base taxable value of the property located within a project area and on which tax increment is collected; and

(B) the number that represents the adjusted tax increment from that project area that is paid to the agency;

(iii) for an authority created under Section 63H-1-201, the amount calculated by multiplying:

(A) the difference between the taxable value and the base taxable value of the property located within a project area and on which property tax allocation is collected; and

(B) the number that represents the percentage of the property tax allocation from that project area that is paid to the authority; or

(iv) for a host local government, an amount calculated by multiplying:

(A) the difference between the taxable value and the base taxable value of the hotel property on which incremental property tax revenue is collected; and

(B) the number that represents the percentage of the incremental property tax revenue from that hotel property that is paid to the host local government.

[~~(n)~~] (o) (i) "Locally assessed new growth" means the greater of:

(A) zero; or

(B) the amount calculated by subtracting the year end taxable value of real property the county assessor assesses in accordance with Part 3, County Assessment, for the previous year, adjusted for prior year end incremental value from the taxable value of real property the county assessor assesses in accordance with Part 3, County Assessment, for the current year, adjusted for current year incremental value.

(ii) "Locally assessed new growth" does not include a change in:

(A) value as a result of factoring in accordance with Section 59-2-704, reappraisal, or another adjustment;

(B) assessed value based on whether a property is allowed a residential exemption for a primary residence under Section 59-2-103;

(C) assessed value based on whether a property is assessed under Part 5, Farmland Assessment Act; or

(D) assessed value based on whether a property is assessed under Part 17, Urban Farming Assessment Act.

[~~(o)~~] (p) "Project area" means:

(i) for an authority created under Section 11-58-201, the same as that term is defined in Section 11-58-102;

(ii) for an agency created under Section 17C-1-201.5, the same as that term is defined in Section 17C-1-102; or

(iii) for an authority created under Section 63H-1-201, the same as that term is defined in Section 63H-1-102.

[~~(p)~~] (q) "Project area new growth" means:

(i) for an authority created under Section 11-58-201, an amount equal to the incremental value that is no longer provided to an authority as property tax differential;

(ii) for an agency created under Section 17C-1-201.5, an amount equal to the incremental value that is no longer provided to an agency as tax increment; or

(iii) for an authority created under Section 63H-1-201, an amount equal to the incremental value that is no longer provided to an authority as property tax allocation.

(r) "Project area incremental revenue" means the same as that term is defined in Section 17C-1-1001.

[~~(q)~~] (s) "Property tax allocation" means the same as that term is defined in Section 63H-1-102.

[~~(r)~~] (t) "Property tax differential" means the same as that term is defined in Section 11-58-102.

[~~(s)~~] (u) "Tax increment" means the same as that term is defined in Section 17C-1-102.

(2) Before June 1 of each year, the county assessor of each county shall deliver to the county auditor and the commission the following statements:

(a) a statement containing the aggregate valuation of all taxable real property a county assessor assesses in accordance with Part 3, County Assessment, for each taxing entity; and

(b) a statement containing the taxable value of all personal property a county assessor assesses in accordance with Part 3, County Assessment, from the prior year end values.

(3) The county auditor shall, on or before June 8, transmit to the governing body of each taxing entity:

(a) the statements described in Subsections (2)(a) and (b);

(b) an estimate of the revenue from personal property;

(c) the certified tax rate; and

(d) all forms necessary to submit a tax levy request.

(4) (a) Except as otherwise provided in this section, the certified tax rate shall be calculated by dividing the ad valorem property tax revenue that a taxing entity budgeted for the prior year by the amount calculated under Subsection (4)(b).

(b) For purposes of Subsection (4)(a), the legislative body of a taxing entity shall calculate an amount as follows:

(i) calculate for the taxing entity the difference between:

(A) the aggregate taxable value of all property taxed; and

(B) any adjustments for current year incremental value;

(ii) after making the calculation required by Subsection (4)(b)(i), calculate an amount determined by increasing or decreasing the amount calculated under Subsection (4)(b)(i) by the average of the percentage net change in the value of taxable property for the equalization period for the three calendar years immediately preceding the current calendar year;

(iii) after making the calculation required by Subsection (4)(b)(ii), calculate the product of:

(A) the amount calculated under Subsection (4)(b)(ii); and

(B) the percentage of property taxes collected for the five calendar years immediately preceding the current calendar year; and

(iv) after making the calculation required by Subsection (4)(b)(iii), calculate an amount determined by:

(A) multiplying the percentage of property taxes collected for the five calendar years immediately preceding the current calendar year by eligible new growth; and

(B) subtracting the amount calculated under Subsection (4)(b)(iv)(A) from the amount calculated under Subsection (4)(b)(iii).

(5) A certified tax rate for a taxing entity described in this Subsection (5) shall be calculated as follows:

(a) except as provided in Subsection (5)(b) or (c), for a new taxing entity, the certified tax rate is zero;

(b) for a municipality incorporated on or after July 1, 1996, the certified tax rate is:

(i) in a county of the first, second, or third class, the levy imposed for municipal-type services under Sections 17-34-1 and 17-36-9; and

(ii) in a county of the fourth, fifth, or sixth class, the levy imposed for general county purposes and such other levies imposed solely for the municipal-type services identified in Section 17-34-1 and Subsection 17-36-3(23); [~~and~~]

(c) for a community reinvestment agency that received all or a portion of a taxing entity's project area incremental revenue in the prior year under Title 17C, Chapter 1, Part 10, Agency Taxing Authority, the certified tax rate is calculated as described in Subsection (4) except that the commission shall treat the total revenue transferred to the community reinvestment agency as ad valorem property tax revenue that the taxing entity budgeted for the prior year; and

[~~(c)~~] (d) for debt service voted on by the public, the certified tax rate is the actual levy imposed by that section, except that a certified tax rate for the following levies shall be calculated in accordance with Section 59-2-913 and this section:

(i) a school levy provided for under Section 53F-8-301, 53F-8-302, or 53F-8-303; and

(ii) a levy to pay for the costs of state legislative mandates or judicial or administrative orders under Section 59-2-1602.

(6) (a) A judgment levy imposed under Section 59-2-1328 or 59-2-1330 may be imposed at a rate that is sufficient to generate only the revenue required to satisfy one or more eligible judgments.

(b) The ad valorem property tax revenue generated by a judgment levy described in Subsection (6)(a) may not be considered in establishing a taxing entity's aggregate certified tax rate.

(7) (a) For the purpose of calculating the certified tax rate, the county auditor shall use:

(i) the taxable value of real property:

(A) the county assessor assesses in accordance with Part 3, County Assessment; and

(B) contained on the assessment roll;

(ii) the year end taxable value of personal property:

(A) a county assessor assesses in accordance with Part 3, County Assessment; and

(B) contained on the prior year's assessment roll; and

(iii) the taxable value of real and personal property the commission assesses in accordance with Part 2, Assessment of Property.

(b) For purposes of Subsection (7)(a), taxable value does not include eligible new growth.

(8) (a) On or before June 30, a taxing entity shall annually adopt a tentative budget.

(b) If a taxing entity intends to exceed the certified tax rate, the taxing entity shall notify the county auditor of:

(i) the taxing entity's intent to exceed the certified tax rate; and

(ii) the amount by which the taxing entity proposes to exceed the certified tax rate.

(c) The county auditor shall notify property owners of any intent to levy a tax rate that exceeds the certified tax rate in accordance with Sections 59-2-919 and 59-2-919.1.

(9) (a) Subject to Subsection (9)(d), the commission shall provide notice, through electronic means on or before July 31, to a taxing entity and the Revenue and Taxation Interim Committee if:

(i) the amount calculated under Subsection (9)(b) is 10% or more of the year end taxable value of the real and personal property the commission assesses in accordance with Part 2, Assessment of Property, for the previous year, adjusted for prior year end incremental value; and

(ii) the amount calculated under Subsection (9)(c) is 50% or more of the total year end taxable value of the real and personal property of a taxpayer the commission assesses in accordance with Part 2, Assessment of Property, for the previous year.

(b) For purposes of Subsection (9)(a)(i), the commission shall calculate an amount by subtracting the taxable value of real and personal property the commission assesses in accordance with Part 2, Assessment of Property, for the current year, adjusted for current year incremental value, from the year end taxable value of the real and personal property the commission assesses in accordance with Part 2, Assessment of Property, for the previous year, adjusted for prior year end incremental value.

(c) For purposes of Subsection (9)(a)(ii), the commission shall calculate an amount by subtracting the total taxable value of real and personal property of a taxpayer the commission assesses in accordance with Part 2, Assessment of Property, for the current year, from the total year end taxable value of the real and personal property of a taxpayer the commission assesses in accordance with Part 2, Assessment of Property, for the previous year.

(d) The notification under Subsection (9)(a) shall include a list of taxpayers that meet the requirement under Subsection (9)(a)(ii).

CHAPTER 215
S. B. 68
Passed March 4, 2021
Approved March 16, 2021
Effective May 5, 2021

LAW ENFORCEMENT WEAPONS AMENDMENTS

Chief Sponsor: David G. Buxton
House Sponsor: Paul Ray

LONG TITLE

General Description:

This bill creates a program to fund the purchase of technology and equipment for law enforcement agencies to assist in investigating officer-involved critical incidents.

Highlighted Provisions:

This bill:

- creates a program within the Utah Highway Patrol to fund purchases of technology and equipment to assist law enforcement agencies in investigating officer-involved critical incidents when a firearm is involved;
- requires that a law enforcement agency that applies for funds must provide matching funds;
- requires the department to report on the program to the Executive Offices and Criminal Justice Appropriations Subcommittee; and
- appropriates $500,000 to the department.

Monies Appropriated in this Bill:

This bill appropriates in fiscal year 2022:

- to the Department of Public Safety, Utah Highway Patrol, Special Projects, as a one-time appropriation:
  - from the General Fund, One-time, $500,000.

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:
53-1-121, Utah Code Annotated 1953

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

Section 1. Section 53-1-121 is enacted to read:

53-1-121. Technology and equipment for officer-involved critical incident investigation -- Rulemaking -- Legislative findings -- Revenue fund created.

(1) The department shall assist the law enforcement agencies of the state and the state's political subdivisions to obtain technology and equipment to assist in the investigation of officer-involved critical incidents in which a firearm is used.

(2) To be eligible, the technology or equipment shall be:

(a) capable of recording actual shots fired, including the date and time, from a specific weapon;

(b) able to distinguish between actual shots fired and other, unrelated but contemporaneous, events; and

(c) tamper-proof and unable to be removed or manipulated by the officer.

(3) The department shall create a program to assist law enforcement agencies through monetary grants to:

(a) purchase technology and equipment to assist in the investigation of officer-involved critical incidents involving a firearm; and

(b) train law enforcement officers in the proper use and handling of any technology and equipment purchased in accordance with this section.

(4) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commissioner shall make rules establishing a program with criteria and procedures for granting matching funds under this section to law enforcement agencies to purchase technology or equipment meeting the criteria in Subsection (2).

(b) The rules shall require that funding provided to purchase technology or equipment under this section shall be matched by the requesting law enforcement agency.

(5) The Legislature finds that the money is for a general and statewide public purpose.

(6) Expenses accrued by the department in carrying out this section shall be provided from this appropriation, but may not exceed $40,000 annually.

(7) The Legislature shall appropriate funds to the department to use for matching grants to local law enforcement agencies to carry out the purpose of this program.

(8) The department shall report annually to the Executive Offices and Criminal Justice Appropriations Subcommittee on the program. The report shall contain:

(a) the total amount of appropriations received by the program;

(b) amounts granted from the program to local law enforcement agencies, including an accounting of technology purchased by the local law enforcement agency;

(c) an accounting of any administrative expenses for the program paid out of the funds;

(d) requests for funding that were not granted and the reason for denial; and

(e) the total amount of remaining funds.

Section 2. Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2021, and ending June 30, 2022. These are additions to amounts previously appropriated for fiscal year 2022. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the

funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 1

To Department of Public Safety -- Utah Highway Patrol -- Special Projects

From General Fund, One-time	$500,000
Schedule of Programs:	
Utah Highway Patrol — Special Projects	$500,000

CHAPTER 216
S. B. 69
Passed February 11, 2021
Approved March 16, 2021
Effective May 5, 2021

ACCIDENT REPORT AMENDMENTS

Chief Sponsor: Todd D. Weiler
House Sponsor: Melissa G. Ballard

LONG TITLE

General Description:

This bill amends provisions related to the disclosure of an accident report.

Highlighted Provisions:

This bill:

- amends provisions related to the disclosure of an accident report to allow the Department of Transportation, the Division of Risk Management, and the Office of State Debt Collection to disclose an accident report to certain relevant parties.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

41-6a-404, as last amended by Laws of Utah 2018, Chapter 162

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

Section 1. Section 41-6a-404 is amended to read:

41-6a-404. Accident reports -- When confidential -- Insurance policy information -- Use as evidence -- Penalty for false information.

(1) As used in this section:

(a) "Accompanying data" means all materials gathered by the investigating peace officer in an accident investigation including:

(i) the identity of witnesses and, if known, contact information;

(ii) witness statements;

(iii) photographs and videotapes;

(iv) diagrams; and

(v) field notes.

(b) "Agent" means:

(i) a person's attorney;

(ii) a person's insurer;

(iii) a general acute hospital, as defined in Section 26-21-2, that:

(A) has an emergency room; and

(B) is providing or has provided emergency services to the person in relation to the accident; or

(iv) any other individual or entity with signed permission from the person to receive the person's accident report.

(2) (a) Except as provided in Subsections (3) and (7), all accident reports required in this part to be filed with the department:

(i) are without prejudice to the reporting individual;

(ii) are protected and for the confidential use of the department or other state, local, or federal agencies having use for the records for official governmental statistical, investigative, and accident prevention purposes; and

(iii) may be disclosed only in a statistical form that protects the privacy of any person involved in the accident.

(b) An investigating peace officer shall include in an accident report an indication as to whether the accident occurred on a highway designated as a livestock highway in accordance with Section 72-3-112 if the accident resulted in the injury or death of livestock.

(3) (a) Subject to the provisions of this section, the department or the responsible law enforcement agency employing the peace officer that investigated the accident shall disclose an accident report to:

(i) a person involved in the accident, excluding a witness to the accident;

(ii) a person suffering loss or injury in the accident;

(iii) an agent, parent, or legal guardian of a person described in Subsections (3)(a)(i) and (ii);

(iv) subject to Subsection (3)(d), a member of the press or broadcast news media;

(v) a state, local, or federal agency that uses the records for official governmental, investigative, or accident prevention purposes;

(vi) law enforcement personnel when acting in their official governmental capacity; and

(vii) a licensed private investigator.

(b) The responsible law enforcement agency employing the peace officer that investigated the accident:

(i) shall in compliance with Subsection (3)(a):

(A) disclose an accident report; or

(B) upon written request disclose an accident report and its accompanying data within 10 business days from receipt of a written request for disclosure; or

(ii) may withhold an accident report, and any of its accompanying data if disclosure would jeopardize an ongoing criminal investigation or criminal prosecution.

(c) In accordance with Subsection (3)(a), the department or the responsible law enforcement agency employing the investigating peace officer

shall disclose whether any person or vehicle involved in an accident reported under this section was covered by a vehicle insurance policy, and the name of the insurer.

(d) Information provided to a member of the press or broadcast news media under Subsection (3)(a)(iv) may only include:

(i) the name, age, sex, and city of residence of each person involved in the accident;

(ii) the make and model year of each vehicle involved in the accident;

(iii) whether or not each person involved in the accident was covered by a vehicle insurance policy;

(iv) the location of the accident; and

(v) a description of the accident that excludes personal identifying information not listed in Subsection (3)(d)(i).

(e) The department shall disclose to any requesting person the following vehicle accident history information, excluding personal identifying information, in bulk electronic form:

(i) any vehicle identifying information that is electronically available, including the make, model year, and vehicle identification number of each vehicle involved in an accident;

(ii) the date of the accident; and

(iii) any electronically available data which describes the accident, including a description of any physical damage to the vehicle.

(f) The department may establish a fee under Section 63J-1-504 based on the fair market value of the information for providing bulk vehicle accident history information under Subsection (3)(e).

(4) (a) Except as provided in Subsection (4)(b), accident reports filed under this section may not be used as evidence in any civil or criminal trial arising out of an accident.

(b) (i) Upon demand of any party to the trial or upon demand of any court, the department shall furnish a certificate showing that a specified accident report has or has not been made to the department in compliance with law.

(ii) If the report has been made, the certificate furnished by the department shall show:

(A) the date, time, and location of the accident;

(B) the names and addresses of the drivers;

(C) the owners of the vehicles involved; and

(D) the investigating peace officers.

(iii) The reports may be used as evidence when necessary to prosecute charges filed in connection with a violation of Subsection (5).

(5) A person who gives information in reports as required in this part knowing or having reason to believe that the information is false is guilty of a class A misdemeanor.

(6) The department and the responsible law enforcement agency employing the investigating peace officer may charge a reasonable fee determined by the department under Section 63J-1-504 for the cost incurred in disclosing an accident report or an accident report and any of its accompanying data under Subsections (3)(a) and (b).

(7) (a) The Office of State Debt Collection, the Division of Risk Management, and the Department of Transportation may, in the performance of [~~its~~] the regular duties of each respective division or department, disclose an accident report to:

(i) a person involved in the accident, excluding a witness to the accident;

(ii) an owner of a vehicle involved in the accident; [~~or~~]

(iii) an agent, parent, or legal guardian of a person described in Subsection (7)(a)(i) or (ii)[~~.~~]; or

(iv) an insurer that provides motor vehicle insurance to a person described in Subsection (7)(a)(i) or (iii).

(b) A disclosure under Subsection (7)(a) does not change the classification of the record as a protected record under Section 63G-2-305.

CHAPTER 217
S. B. 72
Passed February 10, 2021
Approved March 16, 2021
Effective May 5, 2021

OPEN AND PUBLIC MEETINGS AMENDMENTS

Chief Sponsor: Lincoln Fillmore
House Sponsor: Susan Pulsipher

LONG TITLE

General Description:

This bill modifies a provision relating to open and public meetings.

Highlighted Provisions:

This bill:

- prohibits a vote in a closed meeting, except to end the closed portion of the meeting; and
- provides that a motion to end the closed portion of a meeting may be approved by a majority vote.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

52-4-204, as last amended by Laws of Utah 2018, Chapter 461

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

Section 1. Section 52-4-204 is amended to read:

52-4-204. Closed meeting held upon vote of members -- Business -- Reasons for meeting recorded.

(1) A closed meeting may be held if:

(a) (i) a quorum is present;

(ii) the meeting is an open meeting for which notice has been given under Section 52-4-202; and

(iii) (A) two-thirds of the members of the public body present at the open meeting vote to approve closing the meeting;

(B) for a meeting that is required to be closed under Section 52-4-205, if a majority of the members of the public body present at an open meeting vote to approve closing the meeting;

(C) for an ethics committee of the Legislature that is conducting an open meeting for the purpose of reviewing an ethics complaint, a majority of the members present vote to approve closing the meeting for the purpose of seeking or obtaining legal advice on legal, evidentiary, or procedural matters, or for conducting deliberations to reach a decision on the complaint; or

(D) for the Political Subdivisions Ethics Review Commission established in Section 63A-15-201 that is conducting an open meeting for the purpose of reviewing an ethics complaint in accordance with Section 63A-15-701, a majority of the members present vote to approve closing the meeting for the purpose of seeking or obtaining legal advice on legal, evidentiary, or procedural matters, or for conducting deliberations to reach a decision on the complaint; or

(b) (i) for the Independent Legislative Ethics Commission, the closed meeting is convened for the purpose of conducting business relating to the receipt or review of an ethics complaint, provided that public notice of the closed meeting is given under Section 52-4-202, with the agenda for the meeting stating that the meeting will be closed for the purpose of "conducting business relating to the receipt or review of ethics complaints";

(ii) for the Political Subdivisions Ethics Review Commission established in Section 63A-15-201, the closed meeting is convened for the purpose of conducting business relating to the preliminary review of an ethics complaint in accordance with Section 63A-15-602, provided that public notice of the closed meeting is given under Section 52-4-202, with the agenda for the meeting stating that the meeting will be closed for the purpose of "conducting business relating to the review of ethics complaints"; or

(iii) for the Independent Executive Branch Ethics Commission created in Section 63A-14-202, the closed meeting is convened for the purpose of conducting business relating to an ethics complaint, provided that public notice of the closed meeting is given under Section 52-4-202, with the agenda for the meeting stating that the meeting will be closed for the purpose of "conducting business relating to an ethics complaint."

(2) A closed meeting is not allowed unless each matter discussed in the closed meeting is permitted under Section 52-4-205.

(3) (a) An ordinance, resolution, rule, regulation, contract, or appointment may not be approved at a closed meeting.

(b) (i) A public body may not take a vote in a closed meeting, except for a vote on a motion to end the closed portion of the meeting and return to an open meeting.

(ii) A motion to end the closed portion of a meeting may be approved by a majority of the public body members present at the meeting.

(4) The following information shall be publicly announced and entered on the minutes of the open meeting at which the closed meeting was approved:

(a) the reason or reasons for holding the closed meeting;

(b) the location where the closed meeting will be held; and

(c) the vote by name, of each member of the public body, either for or against the motion to hold the closed meeting.

(5) Except as provided in Subsection 52-4-205(2), nothing in this chapter shall be construed to require any meeting to be closed to the public.

CHAPTER 218
S. B. 75
Passed February 17, 2021
Approved March 16, 2021
Effective May 5, 2021

COMMUNITY ASSOCIATION FUND AMENDMENTS

Chief Sponsor: Lincoln Fillmore
House Sponsor: Jordan D. Teuscher

LONG TITLE

General Description:

This bill amends the Condominium Ownership Act and the Community Association Act regarding reserve funds.

Highlighted Provisions:

This bill:

- amends the definition of reserve funds to permit the use of reserve funds to cover a budget shortfall during a declared emergency under certain conditions;
- amends the contents of a reserve fund analysis;
- permits the use of reserve funds to pay for daily maintenance expenses without a majority member vote under certain conditions; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

57-8-7.5, as last amended by Laws of Utah 2018, Chapter 395
57-8a-211, as last amended by Laws of Utah 2018, Chapter 395

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

Section 1. Section 57-8-7.5 is amended to read:

57-8-7.5. Reserve analysis -- Reserve fund.

(1) As used in this section:

(a) "Reserve analysis" means an analysis to determine:

(i) the need for a reserve fund to accumulate reserve funds; and

(ii) the appropriate amount of any reserve fund.

(b) "Reserve fund line item" means the line item in an association of unit owners' annual budget that identifies the amount to be placed into a reserve fund.

(c) "Reserve funds" means money to cover:

(i) the cost of repairing, replacing, or restoring common areas and facilities that have a useful life of three years or more and a remaining useful life of less than 30 years, if the cost cannot reasonably be funded from the general budget or other funds of the association of unit owners[.]; or

(ii) a shortfall in the general budget, if:

(A) the shortfall occurs while a state of emergency declared in accordance with Section 53-2a-206 is in effect;

(B) the geographic area for which the state of emergency described in Subsection (1)(c)(ii)(A) is declared extends to the entire state; and

(C) at the time the money is spent, more than 10% of unit owners that are not members of the management committee in the association are delinquent in the payment of assessments as a result of events giving rise to the state of emergency described in Subsection (1)(c)(ii)(A).

(2) Except as otherwise provided in the declaration, a management committee shall:

(a) cause a reserve analysis to be conducted no less frequently than every six years; and

(b) review and, if necessary, update a previously conducted reserve analysis no less frequently than every three years.

(3) The management committee may conduct a reserve analysis itself or may engage a reliable person or organization, as determined by the management committee, to conduct the reserve analysis.

(4) A reserve fund analysis shall include:

(a) a list of the components identified in the reserve analysis that will reasonably require reserve funds;

(b) a statement of the probable remaining useful life, as of the date of the reserve analysis, of each component identified in the reserve analysis;

(c) an estimate of the cost to repair, replace, or restore each component identified in the reserve analysis;

(d) an estimate of the total annual contribution to a reserve fund necessary:

(i) to meet the cost to repair, replace, or restore each component identified in the reserve analysis during the component's useful life and at the end of the component's useful life; and

(ii) to prepare for a shortfall in the general budget that the association or management committee may use reserve funds to cover; and

(e) a reserve funding plan that recommends how the association of unit owners may fund the annual contribution described in Subsection (4)(d).

(5) An association of unit owners shall:

(a) annually provide unit owners a summary of the most recent reserve analysis or update; and

(b) provide a copy of the complete reserve analysis or update to a unit owner who requests a copy.

(6) In formulating the association of unit owners' budget each year, an association of unit owners shall include a reserve fund line item in:

(a) an amount the management committee determines, based on the reserve analysis, to be prudent; or

(b) an amount required by the declaration, if the declaration requires an amount higher than the amount determined under Subsection (6)(a).

(7) (a) Within 45 days after the day on which an association of unit owners adopts the association of unit owners' annual budget, the unit owners may veto the reserve fund line item by a 51% vote of the allocated voting interests in the association of unit owners at a special meeting called by the unit owners for the purpose of voting whether to veto a reserve fund line item.

(b) If the unit owners veto a reserve fund line item under Subsection (7)(a) and a reserve fund line item exists in a previously approved annual budget of the association of unit owners that was not vetoed, the association of unit owners shall fund the reserve account in accordance with that prior reserve fund line item.

(8) (a) Subject to Subsection (8)(b), if an association of unit owners does not comply with the requirements of Subsection (5), (6), or (7) and fails to remedy the noncompliance within the time specified in Subsection (8)(c), a unit owner may file an action in state court for:

(i) injunctive relief requiring the association of unit owners to comply with the requirements of Subsection (5), (6), or (7);

(ii) $500 or actual damages, whichever is greater;

(iii) any other remedy provided by law; and

(iv) reasonable costs and attorney fees.

(b) No fewer than 90 days before the day on which a unit owner files a complaint under Subsection (8)(a), the unit owner shall deliver written notice described in Subsection (8)(c) to the association of unit owners.

(c) A notice under Subsection (8)(b) shall state:

(i) the requirement in Subsection (5), (6), or (7) with which the association of unit owners has failed to comply;

(ii) a demand that the association of unit owners come into compliance with the requirements; and

(iii) a date, no fewer than 90 days after the day on which the unit owner delivers the notice, by which the association of unit owners shall remedy its noncompliance.

(d) In a case filed under Subsection (8)(a), a court may order an association of unit owners to produce the summary of the reserve analysis or the complete reserve analysis on an expedited basis and at the association of unit owners' expense.

(9) (a) [~~Unless a majority of the members of the association of unit owners vote to approve the use of reserve fund money for that purpose, a~~] A management committee may not use money in a reserve fund[~~: (i) for daily maintenance expenses; or (ii)~~] for any purpose other than the purpose for which the reserve fund was established, unless a majority of the members of the association of unit owners vote to approve the use of reserve fund money for that purpose.

(b) (i) A management committee may not use money in a reserve fund for daily maintenance expenses, unless:

(A) a majority of the members of the association of unit owners vote to approve the use of reserve fund money for daily maintenance expenses; or

(B) there exists in the general budget a shortfall that the management committee may use reserve funds to cover.

(ii) Members of the association of unit owners may prohibit the use of reserve fund money for daily maintenance expenses under the circumstances described in Subsection (9)(b)(i)(B) by a 51% vote of the allocated voting interest in the association of unit owners at a special meeting:

(A) for which each unit owner receives at least 48 hours notice; and

(B) the unit owners call for the purpose of voting whether to prohibit the use of reserve fund money for daily maintenance expenses under the circumstances described in Subsection (9)(b)(i)(B).

[~~(b)~~] (c) A management committee shall maintain a reserve fund separate from other funds of the association of unit owners.

[~~(c)~~] (d) This Subsection (9) may not be construed to:

(i) limit a management committee from prudently investing money in a reserve fund, subject to any investment constraints imposed by the declaration[~~.~~];

(ii) excuse an association from the requirements described in Section 57-8-58; or

(iii) permit the use of money in a reserve fund for a legal action described in Section 57-8-58.

(10) Subsections (2) through (9) do not apply to an association of unit owners during the period of administrative control.

(11) For a condominium project whose initial declaration is recorded on or after May 12, 2015, during the period of administrative control, for any property that the declarant sells to a third party, the declarant shall give the third party:

(a) a copy of the association of unit owners' governing documents; and

(b) a copy of the association of unit owners' most recent financial statement that includes any reserve funds held by the association of unit owners or by a subsidiary of the association of unit owners.

(12) Except as otherwise provided in this section, this section applies to each association of unit owners, regardless of when the association of unit owners was created.

Section 2. Section 57-8a-211 is amended to read:

57-8a-211. Reserve analysis -- Reserve fund.

(1) As used in this section:

(a) "Reserve analysis" means an analysis to determine:

(i) the need for a reserve fund to accumulate reserve funds; and

(ii) the appropriate amount of any reserve fund.

(b) "Reserve fund line item" means the line item in an association's annual budget that identifies the amount to be placed into a reserve fund.

(c) "Reserve funds" means money to cover:

(i) the cost of repairing, replacing, or restoring common areas and facilities that have a useful life of three years or more and a remaining useful life of less than 30 years, if the cost cannot reasonably be funded from the general budget or other funds of the association[.]; or

(ii) a shortfall in the general budget, if:

(A) the shortfall occurs while a state of emergency declared in accordance with Section 53-2a-206 is in effect;

(B) the geographic area for which the state of emergency described in Subsection (1)(c)(ii)(A) is declared extends to the entire state; and

(C) at the time the money is spent, more than 10% of lot owners that are not board members in the association are delinquent in the payment of assessments as a result of events giving rise to the state of emergency described in Subsection (1)(c)(ii)(A).

(2) Except as otherwise provided in the governing documents, a board shall:

(a) cause a reserve analysis to be conducted no less frequently than every six years; and

(b) review and, if necessary, update a previously conducted reserve analysis no less frequently than every three years.

(3) The board may conduct a reserve analysis itself or may engage a reliable person or organization, as determined by the board, to conduct the reserve analysis.

(4) A reserve fund analysis shall include:

(a) a list of the components identified in the reserve analysis that will reasonably require reserve funds;

(b) a statement of the probable remaining useful life, as of the date of the reserve analysis, of each component identified in the reserve analysis;

(c) an estimate of the cost to repair, replace, or restore each component identified in the reserve analysis;

(d) an estimate of the total annual contribution to a reserve fund necessary:

(i) to meet the cost to repair, replace, or restore each component identified in the reserve analysis during the component's useful life and at the end of the component's useful life; and

(ii) to prepare for a shortfall in the general budget that the association or board may use reserve funds to cover; and

(e) a reserve funding plan that recommends how the association may fund the annual contribution described in Subsection (4)(d).

(5) An association shall:

(a) annually provide lot owners a summary of the most recent reserve analysis or update; and

(b) provide a copy of the complete reserve analysis or update to a lot owner who requests a copy.

(6) In formulating the association's budget each year, an association shall include a reserve fund line item in:

(a) an amount the board determines, based on the reserve analysis, to be prudent; or

(b) an amount required by the governing documents, if the governing documents require an amount higher than the amount determined under Subsection (6)(a).

(7) (a) Within 45 days after the day on which an association adopts the association's annual budget, the lot owners may veto the reserve fund line item by a 51% vote of the allocated voting interests in the association at a special meeting called by the lot owners for the purpose of voting whether to veto a reserve fund line item.

(b) If the lot owners veto a reserve fund line item under Subsection (7)(a) and a reserve fund line item exists in a previously approved annual budget of the association that was not vetoed, the association shall fund the reserve account in accordance with that prior reserve fund line item.

(8) (a) Subject to Subsection (8)(b), if an association does not comply with the requirements described in Subsection (5), (6), or (7) and fails to remedy the noncompliance within the time specified in Subsection (8)(c), a lot owner may file an action in state court for:

(i) injunctive relief requiring the association to comply with the requirements of Subsection (5), (6), or (7);

(ii) $500 or the lot owner's actual damages, whichever is greater;

(iii) any other remedy provided by law; and

(iv) reasonable costs and attorney fees.

(b) No fewer than 90 days before the day on which a lot owner files a complaint under Subsection (8)(a), the lot owner shall deliver written notice described in Subsection (8)(c) to the association.

(c) A notice under Subsection (8)(b) shall state:

(i) the requirement in Subsection (5), (6), or (7) with which the association has failed to comply;

(ii) a demand that the association come into compliance with the requirements; and

(iii) a date, no fewer than 90 days after the day on which the lot owner delivers the notice, by which the association shall remedy its noncompliance.

(d) In a case filed under Subsection (8)(a), a court may order an association to produce the summary of the reserve analysis or the complete reserve analysis on an expedited basis and at the association's expense.

(9) (a) [~~Unless a majority of association members vote to approve the use of reserve fund money for that purpose, a~~] A board may not use money in a reserve fund[~~: (i) for daily maintenance expenses; or (ii)~~] for any purpose other than the purpose for which the reserve fund was established, unless a majority of association members vote to approve the use of reserve fund money for that purpose.

(b) (i) A board may not use money in a reserve fund for daily maintenance expenses, unless:

(A) a majority of association members vote to approve the use of reserve fund money for daily maintenance expenses; or

(B) there exists in the general budget a shortfall that the board may use reserve funds to cover.

(ii) Association members may prohibit the use of reserve fund money for daily maintenance expenses under the circumstances described in Subsection (9)(b)(i)(B) by a 51% vote of the allocated voting interest in the association at a special meeting:

(A) for which each lot owner receives at least 48 hours notice; and

(B) the lot owners call for the purpose of voting whether to prohibit the use of reserve fund money for daily maintenance expenses under the circumstances described in Subsection (9)(b)(i)(B).

[~~(b)~~] (c) A board shall maintain a reserve fund separate from other association funds.

[~~(c)~~] (d) This Subsection (9) may not be construed to:

(i) limit a board from prudently investing money in a reserve fund, subject to any investment constraints imposed by the governing documents[~~.~~];

(ii) excuse an association from the requirements described in Section 57-8a-229; or

(iii) permit the use of money in a reserve fund for a legal action described in Section 57-8a-229.

(10) Subsections (2) through (9) do not apply to an association during the period of administrative control.

(11) For a project whose initial declaration of covenants, conditions, and restrictions is recorded on or after May 12, 2015, during the period of administrative control, for any property that the declarant sells to a third party, the declarant shall give the third party:

(a) a copy of the association's governing documents; and

(b) a copy of the association's most recent financial statement that includes any reserve funds held by the association or by a subsidiary of the association.

(12) Except as otherwise provided in this section, this section applies to each association, regardless of when the association was created.

CHAPTER 219
S. B. 77
Passed March 5, 2021
Approved March 16, 2021
Effective November 1, 2021

KIWANIS SPECIAL GROUP LICENSE PLATE

Chief Sponsor: Michael K. McKell
House Sponsor: Jefferson S. Burton

LONG TITLE

General Description:

This bill creates a support special group license plate.

Highlighted Provisions:

This bill:

- creates a support special group license plate to support the mission and purpose of the Kiwanis International clubs within the state;
- creates the Kiwanis Education Support Fund;
- directs donations of license plate recipients to be distributed to the Education Fund; and
- makes technical changes.

Monies Appropriated in this Bill:

This bill appropriates in fiscal year 2022:

- to the State Tax Commission – Kiwanis Education Support Fund, as a one-time appropriation:
  - from the General Fund, One-time, $7,500.

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

41-1a-418, as last amended by Laws of Utah 2020, Chapters 120, 322, and 405

41-1a-422, as last amended by Laws of Utah 2020, Chapters 120, 322, 354, and 405

ENACTS:

53F-9-403, Utah Code Annotated 1953

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

Section 1. Section 41-1a-418 is amended to read:

41-1a-418. Authorized special group license plates.

(1) The division shall only issue special group license plates in accordance with this section through Section 41-1a-422 to a person who is specified under this section within the categories listed as follows:

(a) disability special group license plates issued in accordance with Section 41-1a-420;

(b) honor special group license plates, as in a war hero, which plates are issued for a:

(i) survivor of the Japanese attack on Pearl Harbor;

(ii) former prisoner of war;

(iii) recipient of a Purple Heart;

(iv) disabled veteran;

(v) recipient of a gold star award issued by the United States Secretary of Defense; or

(vi) recipient of a campaign or combat theater award determined by the Department of Veterans and Military Affairs;

(c) unique vehicle type special group license plates, as for historical, collectors value, or other unique vehicle type, which plates are issued for:

(i) a special interest vehicle;

(ii) a vintage vehicle;

(iii) a farm truck; or

(iv) (A) until Subsection (1)(c)(iv)(B) or (4) applies, a vehicle powered by clean fuel as defined in Section 59-13-102; or

(B) beginning on the effective date of rules made by the Department of Transportation authorized under Subsection 41-6a-702(5)(b) and until Subsection (4) applies, a vehicle powered by clean fuel that meets the standards established by the Department of Transportation in rules authorized under Subsection 41-6a-702(5)(b);

(d) recognition special group license plates, which plates are issued for:

(i) a current member of the Legislature;

(ii) a current member of the United States Congress;

(iii) a current member of the National Guard;

(iv) a licensed amateur radio operator;

(v) a currently employed, volunteer, or retired firefighter until June 30, 2009;

(vi) an emergency medical technician;

(vii) a current member of a search and rescue team;

(viii) a current honorary consulate designated by the United States Department of State;

(ix) an individual supporting commemoration and recognition of women's suffrage;

(x) an individual supporting a fraternal, initiatic order for those sharing moral and metaphysical ideals, and designed to teach ethical and philosophical matters of brotherly love, relief, and truth;

(xi) an individual supporting the Utah Wing of the Civil Air Patrol; or

(xii) an individual supporting the recognition and continuation of the work and life of Dr. Martin Luther King, Jr.; or

(e) support special group license plates, as for a contributor to an institution or cause, which plates are issued for a contributor to:

(i) an institution's scholastic scholarship fund;

(ii) the Division of Wildlife Resources;

(iii) the Department of Veterans and Military Affairs;

(iv) the Division of Parks and Recreation;

(v) the Department of Agriculture and Food;

(vi) the Guardian Ad Litem Services Account and the Children's Museum of Utah;

(vii) the Boy Scouts of America;

(viii) spay and neuter programs through No More Homeless Pets in Utah;

(ix) the Boys and Girls Clubs of America;

(x) Utah public education;

(xi) programs that provide support to organizations that create affordable housing for those in severe need through the Division of Real Estate;

(xii) the Department of Public Safety;

(xiii) programs that support Zion National Park;

(xiv) beginning on July 1, 2009, programs that provide support to firefighter organizations;

(xv) programs that promote bicycle operation and safety awareness;

(xvi) programs that conduct or support cancer research;

(xvii) programs that create or support autism awareness;

(xviii) programs that create or support humanitarian service and educational and cultural exchanges;

(xix) until September 30, 2017, programs that conduct or support prostate cancer awareness, screening, detection, or prevention;

(xx) programs that support and promote adoptions;

(xxi) programs that support issues affecting women and children through an organization affiliated with a national professional men's basketball organization;

(xxii) programs that strengthen youth soccer, build communities, and promote environmental sustainability through an organization affiliated with a professional men's soccer organization;

(xxiii) programs that support children with heart disease;

(xxiv) programs that support the operation and maintenance of the Utah Law Enforcement Memorial;

(xxv) programs that provide assistance to children with cancer;

(xxvi) programs that promote leadership and career development through agricultural education;

(xxvii) the Utah State Historical Society;

(xxviii) programs to transport veterans to visit memorials honoring the service and sacrifices of veterans;

(xxix) programs that promote motorcycle safety awareness;

(xxx) organizations that promote clean air through partnership, education, and awareness; [~~or~~]

(xxxi) programs dedicated to strengthening the state's Latino community through education, mentoring, and leadership opportunities[~~.~~]; or

(xxxii) public education on behalf of the Kiwanis International clubs.

(2) (a) The division may not issue a new type of special group license plate or decal unless the division receives:

(i) (A) a private donation for the start-up fee established under Section 63J-1-504 for the production and administrative costs of providing the new special group license plates or decals; or

(B) a legislative appropriation for the start-up fee provided under Subsection (2)(a)(i)(A); and

(ii) beginning on January 1, 2012, and for the issuance of a support special group license plate authorized in Section 41-1a-422, at least 500 completed applications for the new type of support special group license plate or decal to be issued with all fees required under this part for the support special group license plate or decal issuance paid by each applicant.

(b) (i) Beginning on January 1, 2012, each participating organization shall collect and hold applications for support special group license plates or decals authorized in Section 41-1a-422 on or after January 1, 2012, until it has received at least 500 applications.

(ii) Once a participating organization has received at least 500 applications, it shall submit the applications, along with the necessary fees, to the division for the division to begin working on the design and issuance of the new type of support special group license plate or decal to be issued.

(iii) Beginning on January 1, 2012, the division may not work on the issuance or design of a new support special group license plate or decal authorized in Section 41-1a-422 until the applications and fees required under this Subsection (2) have been received by the division.

(iv) The division shall begin issuance of a new support special group license plate or decal authorized in Section 41-1a-422 on or after January 1, 2012, no later than six months after receiving the applications and fees required under this Subsection (2).

(c) (i) Beginning on July 1, 2009, the division may not renew a motor vehicle registration of a motor vehicle that has been issued a firefighter recognition special group license plate unless the applicant is a contributor as defined in Subsection 41-1a-422(1)(a)(ii)(D) to the Firefighter Support Restricted Account.

(ii) A registered owner of a vehicle that has been issued a firefighter recognition special group

license plate prior to July 1, 2009, upon renewal of the owner's motor vehicle registration shall:

(A) be a contributor to the Firefighter Support Restricted Account as required under Subsection (2)(c)(i); or

(B) replace the firefighter recognition special group license plate with a new license plate.

(3) Beginning on July 1, 2011, if a support special group license plate or decal type authorized in Section 41-1a-422 and issued on or after January 1, 2012, has fewer than 500 license plates issued each year for a three consecutive year time period that begins on July 1, the division may not issue that type of support special group license plate or decal to a new applicant beginning on January 1 of the following calendar year after the three consecutive year time period for which that type of support special group license plate or decal has fewer than 500 license plates issued each year.

(4) Beginning on July 1, 2011, the division may not issue to an applicant a unique vehicle type license plate for a vehicle powered by clean fuel under Subsection (1)(c)(iv).

(5) (a) Beginning on October 1, 2017, the division may not issue a new prostate cancer support special group license plate.

(b) A registered owner of a vehicle that has been issued a prostate cancer support special group license plate before October 1, 2017, may renew the owner's motor vehicle registration, with the contribution allocated as described in Section 41-1a-422.

Section 2. Section 41-1a-422 is amended to read:

41-1a-422. Support special group license plates -- Contributor -- Voluntary contribution collection procedures.

(1) As used in this section:

(a) (i) [~~Except~~] except as provided in Subsection (1)(a)(ii), "contributor" means a person who has donated or in whose name at least $25 has been donated to:

(A) a scholastic scholarship fund of a single named institution;

(B) the Department of Veterans and Military Affairs for veterans programs;

(C) the Division of Wildlife Resources for the Wildlife Resources Account created in Section 23-14-13, for conservation of wildlife and the enhancement, preservation, protection, access, and management of wildlife habitat;

(D) the Department of Agriculture and Food for the benefit of conservation districts;

(E) the Division of Parks and Recreation for the benefit of snowmobile programs;

(F) the Guardian Ad Litem Services Account and the Children's Museum of Utah, with the donation evenly divided between the two;

(G) the Boy Scouts of America for the benefit of a Utah Boy Scouts of America council as specified by the contributor;

(H) No More Homeless Pets in Utah for distribution to organizations or individuals that provide spay and neuter programs that subsidize the sterilization of domestic animals;

(I) the Utah Alliance of Boys and Girls Clubs, Inc. to provide and enhance youth development programs;

(J) the Utah Association of Public School Foundations to support public education;

(K) the Utah Housing Opportunity Restricted Account created in Section 61-2-204 to assist people who have severe housing needs;

(L) the Public Safety Honoring Heroes Restricted Account created in Section 53-1-118 to support the families of fallen Utah Highway Patrol troopers and other Department of Public Safety employees;

(M) the Division of Parks and Recreation for distribution to organizations that provide support for Zion National Park;

(N) the Firefighter Support Restricted Account created in Section 53-7-109 to support firefighter organizations;

(O) the Share the Road Bicycle Support Restricted Account created in Section 72-2-127 to support bicycle operation and safety awareness programs;

(P) the Cancer Research Restricted Account created in Section 26-21a-302 to support cancer research programs;

(Q) Autism Awareness Restricted Account created in Section 53F-9-401 to support autism awareness programs;

(R) Humanitarian Service and Educational and Cultural Exchange Restricted Account created in Section 9-17-102 to support humanitarian service and educational and cultural programs;

(S) Upon renewal of a prostate cancer support special group license plate, to the Cancer Research Restricted Account created in Section 26-21a-302 to support cancer research programs;

(T) the Choose Life Adoption Support Restricted Account created in Section 62A-4a-608 to support programs that promote adoption;

(U) the National Professional Men's Basketball Team Support of Women and Children Issues Restricted Account created in Section 62A-1-202;

(V) the Utah Law Enforcement Memorial Support Restricted Account created in Section 53-1-120;

(W) the Children with Cancer Support Restricted Account created in Section 26-21a-304 for

programs that provide assistance to children with cancer;

(X) the National Professional Men's Soccer Team Support of Building Communities Restricted Account created in Section 9-19-102;

(Y) the Children with Heart Disease Support Restricted Account created in Section 26-58-102;

(Z) the Utah Intracurricular Student Organization Support for Agricultural Education and Leadership Restricted Account created in Section 4-42-102;

(AA) the Division of Wildlife Resources for the Support for State-Owned Shooting Ranges Restricted Account created in Section 23-14-13.5, for the creation of new, and operation and maintenance of existing, state-owned firearm shooting ranges;

(BB) the Utah State Historical Society to further the mission and purpose of the Utah State Historical Society;

(CC) the Motorcycle Safety Awareness Support Restricted Account created in Section 72-2-130; [~~or~~]

(DD) the Transportation of Veterans to Memorials Support Restricted Account created in Section 71-14-102;

(EE) clean air support causes, with half of the donation deposited into the Clean Air Support Restricted Account created in Section 19-1-109, and half of the donation deposited into the Clean Air Fund created in Section 59-10-1319; [~~or~~]

(FF) the Latino Community Support Restricted Account created in Section 13-1-16[~~.~~]; or

(GG) public education on behalf of the Kiwanis International clubs, with the amount of the donation required to cover the costs of issuing, ordering, or reordering Kiwanis support special group plates, as determined by the State Tax Commission, deposited into the Kiwanis Education Support Fund created in Section 53F-9-403, and all remaining donation amounts deposited into the Education Fund.

(ii) (A) For a veterans special group license plate described in Subsection 41-1a-421(1)(a)(v) or 41-1a-422(4), "contributor" means a person who has donated or in whose name at least a $25 donation at the time of application and $10 annual donation thereafter has been made.

(B) For a Utah Housing Opportunity special group license plate, "contributor" means a person who:

(I) has donated or in whose name at least $30 has been donated at the time of application and annually after the time of application; and

(II) is a member of a trade organization for real estate licensees that has more than 15,000 Utah members.

(C) For an Honoring Heroes special group license plate, "contributor" means a person who has donated or in whose name at least $35 has been donated at the time of application and annually thereafter.

(D) For a firefighter support special group license plate, "contributor" means a person who:

(I) has donated or in whose name at least $15 has been donated at the time of application and annually after the time of application; and

(II) is a currently employed, volunteer, or retired firefighter.

(E) For a cancer research special group license plate, "contributor" means a person who has donated or in whose name at least $35 has been donated at the time of application and annually after the time of application.

(F) For a Utah Law Enforcement Memorial Support special group license plate, "contributor" means a person who has donated or in whose name at least $35 has been donated at the time of application and annually thereafter.

(b) "Institution" means a state institution of higher education as defined under Section 53B-3-102 or a private institution of higher education in the state accredited by a regional or national accrediting agency recognized by the United States Department of Education.

(2) (a) An applicant for original or renewal collegiate special group license plates under Subsection (1)(a)(i) must be a contributor to the institution named in the application and present the original contribution verification form under Subsection (2)(b) or make a contribution to the division at the time of application under Subsection (3).

(b) An institution with a support special group license plate shall issue to a contributor a verification form designed by the commission containing:

(i) the name of the contributor;

(ii) the institution to which a donation was made;

(iii) the date of the donation; and

(iv) an attestation that the donation was for a scholastic scholarship.

(c) The state auditor may audit each institution to verify that the money collected by the institutions from contributors is used for scholastic scholarships.

(d) After an applicant has been issued collegiate license plates or renewal decals, the commission shall charge the institution whose plate was issued, a fee determined in accordance with Section 63J-1-504 for management and administrative expenses incurred in issuing and renewing the collegiate license plates.

(e) If the contribution is made at the time of application, the contribution shall be collected, treated, and deposited as provided under Subsection (3).

(3) (a) An applicant for original or renewal support special group license plates under this section must be a contributor to the sponsoring organization associated with the license plate.

(b) This contribution shall be:

(i) unless collected by the named institution under Subsection (2), collected by the division;

(ii) considered a voluntary contribution for the funding of the activities specified under this section and not a motor vehicle registration fee;

(iii) deposited into the appropriate account less actual administrative costs associated with issuing the license plates; and

(iv) for a firefighter special group license plate, deposited into the appropriate account less:

(A) the costs of reordering firefighter special group license plate decals; and

(B) the costs of replacing recognition special group license plates with new license plates under Subsection 41-1a-1211(13).

(c) The donation described in Subsection (1)(a) must be made in the 12 months prior to registration or renewal of registration.

(d) The donation described in Subsection (1)(a) shall be a one-time donation made to the division when issuing original:

(i) snowmobile license plates; or

(ii) conservation license plates.

(4) Veterans license plates shall display one of the symbols representing the Army, Navy, Air Force, Marines, Coast Guard, or American Legion.

Section 3. Section 53F-9-403 is enacted to read:

53F-9-403. Kiwanis Education Support Fund.

(1) There is created an expendable special revenue fund known as the "Kiwanis Education Support Fund."

(2) The fund consists of:

(a) contributions deposited into the fund in accordance with Section 41-1a-422;

(b) private contributions;

(c) donations or grants from public or private entities; and

(d) money appropriated to the fund by the Legislature.

(3) Subject to Subsection 41-1a-418(2), the State Tax Commission:

(a) shall expend money in the fund to pay the initial costs of ordering and issuing Kiwanis special group license plates; and

(b) as needed, may expend money in the fund to pay the costs of reordering Kiwanis special group license plates and decals.

(4) On an annual basis, the State Tax Commission shall:

(a) evaluate the fund's ability to cover the costs described in Subsection (3); and

(b) based on the evaluation described in Subsection (4)(a), adjust the allocation of contributions described in Subsection (2)(a) deposited into the fund.

Section 4. Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2021, and ending June 30, 2022. These are additions to amounts previously appropriated for fiscal year 2022. The Legislature has reviewed the following expendable funds. The Legislature authorizes the State Division of Finance to transfer the amounts between funds and accounts as indicated. Outlays and expenditures from the funds or accounts to which the money is transferred may be made without further legislative action, in accordance with statutory provisions relating to the funds or accounts.

ITEM 1

To State Tax Commission-- Kiwanis Education Support Fund

From General Fund, One-time	$7,500
Schedule of Programs:	
Kiwanis Education Support Fund	$7,500

Section 5. Effective date.

This bill takes effect on November 1, 2021.

CHAPTER 220
S. B. 78
Passed February 18, 2021
Approved March 16, 2021
Effective May 5, 2021

MOTOR VEHICLE REPAIR AMENDMENTS

Chief Sponsor: Curtis S. Bramble
House Sponsor: Joel Ferry

LONG TITLE

General Description:

This bill amends provisions related to advanced driver assistance facilities and enacts provisions related to motor vehicle glass repair.

Highlighted Provisions:

This bill:

- amends provisions related to the repair and recalibration of an advanced driver assistance feature;
- establishes a violation of a provision related to an advanced driver assistance feature as an infraction;
- enacts provisions related to motor vehicle glass repair; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

41-6a-1645, as enacted by Laws of Utah 2020, Chapter 267

ENACTS:

41-6a-1646, Utah Code Annotated 1953

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

Section 1. Section 41-6a-1645 is amended to read:

41-6a-1645. Advanced driver assistance facilities -- Repair, calibration, and disclosure -- Penalties.

(1) As used in this section, "advanced driver assistance [~~system~~] feature" means an electronic safety system that is:

(a) designed to support the driver and vehicle while operating on roads and highways [~~that is~~];

(b) intended to increase vehicle safety and reduce losses associated with automobile crashes[~~.~~]; and

(c) tied to the windshield of a vehicle.

(2) If [~~the~~] a vehicle is equipped with an advanced driver assistance [~~system~~] feature, an automotive glass company or repair facility approving or conducting glass repair, replacement, or recalibration on the vehicle shall:

(a) before approving or performing a vehicle glass repair or replacement, inform the consumer in electronic or hardcopy writing if a recalibration of [~~that system~~] the advanced driver assistance feature:

(i) is required [~~and if such recalibration~~]; or

(ii) will be performed; and

(b) if performing [~~such~~] a recalibration of an advanced driver assistance feature, meet or exceed the manufacturer's specifications.

(3) (a) The automotive glass company or repair facility shall provide the consumer:

(i) an itemized description of the work to be done on the vehicle; and

(ii) if an insurer is paying all or part of the repair, the total amount the insurer has agreed to pay for the work described in Subsection (3)(a)(i).

(b) An insurance company that [~~makes payment~~] pays for work described in Subsection (3)(a) may not be required to pay more than a fair and competitive price for the local market area.

(c) An automotive glass company or repair facility may not represent to a customer that the cost of a repair, replacement, or recalibration will be paid for entirely by the customer's insurer and at no cost to the customer unless the cost of the repair, replacement, or recalibration is fully covered and approved by the insurer.

(d) If a recalibration was not performed or not completed successfully, the automotive glass company or repair facility shall inform the consumer electronically or in writing that:

(i) the recalibration was not successful or was not performed; and [~~that~~]

(ii) the vehicle should be taken to a vehicle manufacturer's certified dealership, a qualified automobile glass company, or repair facility capable of performing the recalibration of an advanced driver assistance [~~system~~] feature that meets or exceeds the manufacturer's specifications.

(4) An automotive glass company or repair facility conducting a scan or recalibration for vehicle glass repair or replacement services on a vehicle equipped with an advanced driver assistance [~~system~~] feature:

(a) is not limited to vehicle glass, tooling, or equipment dictated or recommended by the manufacturer's procedures or specifications; and

(b) shall recalibrate the advanced driver assistance [~~system~~] feature to meet or exceed the manufacturer's procedures or specifications.

(5) An automotive glass company or repair facility may only bill or charge for vehicle glass repair, replacement, or recalibration services that are performed and necessary.

(6) (a) A person with actual knowledge that [~~the~~] an advanced driver assistance [~~system~~] feature of a motor vehicle is inoperable or has not been repaired or recalibrated [~~after a vehicle glass repair or replacement as described in this section~~] may not knowingly sell, offer for sale, or display for sale, the motor vehicle without providing written notice to the purchaser that:

[~~(a)~~] (i) the advanced driver assistance [~~system~~] feature has not been repaired or recalibrated to the manufacturer's specifications; or

[~~(b)~~] (ii) the advanced driver assistance [~~system~~] feature is inoperable.

(b) This Subsection (6) does not apply to:

(i) a motor vehicle auction or consignor to a motor vehicle auction, if no disclosure is required under Section 41-1a-1005.3; or

(ii) a vehicle for which the ownership document is:

(A) a certification of title in an insurance company's name;

(B) a salvage certificate, as defined in Section 41-1a-1001; or

(C) a nonrepairable certificate, as defined in Section 41-1a-1001.

[~~(7) A violation described in Subsections (1) through (6) is a civil penalty of $500.~~]

(7) A person who violates a provision of this section is:

(a) guilty of an infraction; and

(b) subject to a civil penalty of $500.

(8) (a) In addition to any other penalties, a purchaser may bring a civil action to recover damages resulting from a seller's failure to provide notice under Subsection (6).

(b) The amount of damages that may be recovered in a civil action described in Subsection (8)(a) is the greater of:

(i) the amount of the actual damages; or

(ii) $1,500.

Section 2. Section 41-6a-1646 is enacted to read:

41-6a-1646. Motor vehicle glass repair requirements -- Penalties.

(1) An automotive glass company or repair facility shall provide a consumer seeking motor vehicle glass repair or replacement:

(a) an electronic or hardcopy written and itemized description of the work to be done on the vehicle; and

(b) if an insurer is paying all or part of the repair, the total amount the insurer has agreed to pay for the work described in Subsection (1)(a).

(2) An insurance company that pays for work described in Subsection (1)(a) may not be required to pay more than a fair and competitive price for the local market area.

(3) An automotive glass company or repair facility:

(a) may not represent to a customer that the cost of a repair or replacement will be paid for entirely by the customer's insurer and at no cost to the customer unless the cost of the repair or replacement is fully covered and approved by the insurer;

(b) is not limited to vehicle glass, tooling, or equipment dictated or recommended by the manufacturer's procedures or specifications; and

(c) may only bill or charge for vehicle glass repair, replacement, or recalibration services that are performed and necessary.

(4) A person who violates a provision of this section is:

(a) guilty of an infraction; and

(b) subject to a civil penalty of $500.

CHAPTER 221
S. B. 79
Passed February 25, 2021
Approved March 16, 2021
Effective May 5, 2021

INSURANCE POLICY NOTIFICATION AMENDMENTS

Chief Sponsor: Wayne A. Harper
House Sponsor: Steve Eliason

LONG TITLE

General Description:

This bill amends provisions regarding life insurance policy notifications.

Highlighted Provisions:

This bill:

- requires an insurer of life insurance to send a notice to a designated third party before terminating coverage;
- requires an insurer of life insurance who sends a notice of termination of coverage to obtain and, upon request, demonstrate proof of delivery for the notice of termination of coverage; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

31A-22-402, as last amended by Laws of Utah 2002, Chapter 308
31A-22-430, as enacted by Laws of Utah 2020, Chapter 32

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

Section 1. Section 31A-22-402 is amended to read:

31A-22-402. Grace period -- Notification.

(1) (a) Every life insurance policy other than a group policy shall contain a provision entitling the policyholder to a grace period within which the payment of any premium may be made after the first payment of any premium.

(b) During the grace period described in Subsection (1)(a), the policy continues in full force.

(2) The grace period required by Subsection (1) may not be less than:

(a) 31 days; or

(b) four weeks for policies whose premiums are payable more frequently than monthly.

(3) The insurer may impose an interest charge during the grace period not in excess of the interest rate:

(a) set by the policy for policy loans; or

(b) in the absence of a provision described in Subsection (3)(a), a rate set by the commissioner by rule.

(4) If a claim arises under the policy during the grace period, an insurer may deduct from the policy proceeds:

(a) the amount of any premium due or overdue;

(b) interest at the rate provided in this section; and

(c) any deferred installment of the annual premium.

(5) (a) [~~The~~] At least 30 days before the day on which the insurer terminates coverage, the insurer shall send written notice of termination of coverage to:

[~~(a) to~~] (i) the policyholder's last-known address; and

[~~(b) at least 30 days before the date that the coverage is terminated.~~]

(ii) a third party designated in accordance with Section 31A-22-430.

(b) An insurer shall obtain and, upon request, demonstrate proof of delivery for a notice the insurer sends under Subsection (5)(a).

(c) Proof of delivery described in Subsection (5)(b) may include a certified mail receipt or, for electronic delivery, a read receipt.

Section 2. Section 31A-22-430 is amended to read:

31A-22-430. Policy notification.

(1) (a) An insurer that delivers or issues for delivery an individual life insurance policy in this state shall notify the applicant for the policy, in writing at the time of application for the policy, of an applicant's right to designate a third party to receive notice of lapse or cancellation of the policy based on nonpayment of premium.

(b) An applicant may make a designation described in Subsection (1)(a) at the time of application for the policy, or at any time the policy is in force, by submitting a written notice to the insurer containing the name and address of the third-party designee.

(2) [~~An~~] In accordance with Subsection 31A-22-402(5), an insurer shall transmit a copy of a notice of lapse or cancellation of the policy based on nonpayment of premium to a third party designated in accordance with this section in addition to the transmission of the notice of lapse or cancellation of the policy to the policyholder.

(3) The designation of a third party under this section does not constitute acceptance of any liability on the part of the third party or insurer for a service provided to the policyholder.

CHAPTER 222
S. B. 82
Passed February 3, 2021
Approved March 16, 2021
Effective May 5, 2021

ROAD USAGE CHARGE PROGRAM SPECIAL REVENUE FUND

Chief Sponsor: Wayne A. Harper
House Sponsor: Jeffrey D. Stenquist

LONG TITLE

General Description:

This bill creates the Road Usage Charge Program Special Revenue Fund.

Highlighted Provisions:

This bill:

- amends definitions;
- creates the Road Usage Charge Program Special Revenue Fund;
- defines sources of revenue to be deposited into the Road Usage Charge Program Special Revenue Fund;
- defines allowed uses for revenue in the Road Usage Charge Program Special Revenue Fund; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

72-1-213.1, as last amended by Laws of Utah 2020, Chapter 377
72-5-102, as last amended by Laws of Utah 2019, Chapter 431

ENACTS:

72-1-213.2, Utah Code Annotated 1953

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

Section 1. Section 72-1-213.1 is amended to read:

72-1-213.1. Road usage charge program.

(1) As used in this section:

(a) "Account manager" means an entity under contract with the department to administer and manage the road usage charge program.

(b) "Alternative fuel vehicle" means the same as that term is defined in Section 41-1a-102.

(c) "Payment period" means the interval during which an owner is required to report mileage and pay the appropriate road usage charge according to the terms of the program.

(d) "Program" means the road usage charge program established and described in this section.

(2) There is established a road usage charge program as described in this section.

(3) (a) The department shall implement and oversee the administration of the program, which shall begin on January 1, 2020.

(b) To implement and administer the program, the department may contract with an account manager.

(4) (a) The owner or lessee of an alternative fuel vehicle may apply for enrollment of the alternative fuel vehicle in the program.

(b) If an application for enrollment into the program is approved by the department, the owner or lessee of an alternative fuel vehicle may participate in the program in lieu of paying the fee described in Subsection 41-1a-1206(1)(h) or (2)(b).

(5) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and consistent with this section, the department:

(i) shall make rules to establish:

(A) processes and terms for enrollment into and withdrawal or removal from the program;

(B) payment periods and other payment methods and procedures for the program;

(C) standards for mileage reporting mechanisms for an owner or lessee of an alternative fuel vehicle to report mileage as part of participation in the program;

(D) standards for program functions for mileage recording, payment processing, account management, and other similar aspects of the program;

(E) contractual terms between an owner or lessee of an alternative fuel vehicle owner and an account manager for participation in the program;

(F) contractual terms between the department and an account manager, including authority for an account manager to enforce the terms of the program;

(G) procedures to provide security and protection of personal information and data connected to the program, and penalties for account managers for violating privacy protection rules;

(H) penalty procedures for a program participant's failure to pay a road usage charge or tampering with a device necessary for the program; and

(I) department oversight of an account manager, including privacy protection of personal information and access and auditing capability of financial and other records related to administration of the program; and

(ii) may make rules to establish:

(A) an enrollment cap for certain alternative fuel vehicle types to participate in the program;

(B) a process for collection of an unpaid road usage charge or penalty; or

(C) integration of the program with other similar programs, such as tolling.

(b) The department shall make recommendations to and consult with the commission regarding road usage mileage rates for each type of alternative fuel vehicle.

(6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and consistent with this section, the commission shall, after consultation with the department, make rules to establish the road usage charge mileage rate for each type of alternative fuel vehicle.

(7) [~~(a)~~] Revenue generated by the road usage charge program and relevant penalties shall be deposited into the [~~Transportation Fund~~] Road Usage Charge Program Special Revenue Fund.

[~~(b) The department may use revenue generated by the program to cover the costs of administering the program.~~]

(8) (a) The department may:

(i) (A) impose a penalty for failure to timely pay a road usage charge according to the terms of the program or tampering with a device necessary for the program; and

(B) request that the Division of Motor Vehicles place a hold on the registration of the owner's or lessee's alternative fuel vehicle for failure to pay a road usage charge according to the terms of the program;

(ii) send correspondence to the owner of an alternative fuel vehicle to inform the owner or lessee of:

(A) the road usage charge program, implementation, and procedures;

(B) an unpaid road usage charge and the amount of the road usage charge to be paid to the department;

(C) the penalty for failure to pay a road usage charge within the time period described in Subsection (8)(a)(iii); and

(D) a hold being placed on the owner's or lessee's registration for the alternative fuel vehicle, if the road usage charge and penalty are not paid within the time period described in Subsection (8)(a)(iii), which would prevent the renewal of the alternative fuel vehicle's registration; and

(iii) require that the owner or lessee of the alternative fuel vehicle pay the road usage charge to the department within 30 days of the date when the department sends written notice of the road usage charge to the owner or lessee.

(b) The department shall send the correspondence and notice described in Subsection (8)(a) to the owner of the alternative fuel vehicle according to the terms of the program.

(9) (a) The Division of Motor Vehicles and the department shall share and provide access to information pertaining to an alternative fuel vehicle and participation in the program including:

(i) registration and ownership information pertaining to an alternative fuel vehicle;

(ii) information regarding the failure of an alternative fuel vehicle owner or lessee to pay a road usage charge or penalty imposed under this section within the time period described in Subsection (8)(a)(iii); and

(iii) the status of a request for a hold on the registration of an alternative fuel vehicle.

(b) If the department requests a hold on the registration in accordance with this section, the Division of Motor Vehicles may not renew the registration of a motor vehicle under Title 41, Chapter 1a, Part 2, Registration, until the department withdraws the hold request.

(10) The owner of an alternative fuel vehicle may apply for enrollment in the program or withdraw from the program according to the terms established by the department pursuant to rules made under Subsection (5).

(11) If enrolled in the program, the owner or lessee of an alternative fuel vehicle shall:

(a) report mileage driven as required by the department pursuant to Subsection (5);

(b) pay the road usage fee for each payment period as set by the department and the commission pursuant to Subsections (5) and (6); and

(c) comply with all other provisions of this section and other requirements of the program.

(12) (a) On or before June 1, 2021, and except for the vehicles excluded in Subsection (12)(b), the department shall submit to a legislative committee designated by the Legislative Management Committee a written plan to enroll all vehicles registered in the state in the program by December 31, 2031.

(b) The plan described in Subsection (12)(a) may exclude authorized carriers described in Subsection 59-12-102(17)(a).

(c) Beginning in 2021, on or before October 1 of each year, the department shall submit annually an electronic report recommending strategies to expand enrollment in the program to meet the deadline provided in Subsection (12)(a).

(13) Beginning in 2021, the department shall submit annually, on or before October 1, to the legislative committee that receives the report described in Subsection (12)(a), an electronic report that:

(a) states for the preceding fiscal year:

(i) the amount of revenue collected from the program;

(ii) the participation rate in the program; and

(iii) the department's costs to administer the program; and

(b) provides for the current fiscal year, an estimate of:

(i) the revenue that will be collected from the program;

(ii) the participation rate in the program; and

(iii) the department's costs to administer the program.

Section 2. Section 72-1-213.2 is enacted to read:

72-1-213.2. Road Usage Charge Program Special Revenue Fund -- Revenue.

(1) There is created a special revenue fund within the Transportation Fund known as the "Road Usage Charge Program Special Revenue Fund."

(2) The fund shall be funded from the following sources:

(a) revenue collected by the department under Section 72-1-213.1;

(b) appropriations made to the fund by the Legislature;

(c) contributions from other public and private sources for deposit into the fund;

(d) interest earnings on cash balances; and

(e) money collected for repayments and interest on fund money.

(3) (a) Revenue generated by the road usage charge program and relevant penalties shall be deposited into the Road Usage Charge Program Special Revenue Fund.

(b) Revenue in the Road Usage Charge Program Special Revenue Fund is nonlapsing.

(4) Upon appropriation by the Legislature, the department may use revenue deposited into the Road Usage Charge Program Special Revenue Fund:

(a) to cover the costs of administering the program; and

(b) for state transportation purposes.

Section 3. Section 72-5-102 is amended to read:

72-5-102. Definitions.

As used in this part, "state transportation purposes" includes:

(1) highway and [~~public~~] transportation rights-of-way, including those necessary within cities and towns;

(2) the construction, reconstruction, relocation, improvement, maintenance, and mitigation from the effects of these activities on state highways and other transportation facilities, including parking facilities, under the control of the department;

(3) limited access facilities, including rights of access, air, light, and view and frontage and service roads to highways;

(4) adequate drainage in connection with any highway, cut, fill, or channel change and the maintenance of any highway, cut, fill, or channel change;

(5) weighing stations, shops, offices, storage buildings and yards, and road maintenance or construction sites;

(6) road material sites, sites for the manufacture of road materials, and access roads to the sites;

(7) the maintenance of an unobstructed view of any portion of a highway to promote the safety of the traveling public;

(8) the placement of traffic signals, directional signs, and other signs, fences, curbs, barriers, and obstructions for the convenience of the traveling public;

(9) the construction and maintenance of storm sewers, sidewalks, and highway illumination;

(10) the construction and maintenance of livestock highways;

(11) the construction and maintenance of roadside rest areas adjacent to or near any highway; and

(12) the mitigation of impacts from [~~public~~] transportation projects.

CHAPTER 223
S. B. 83
Passed February 17, 2021
Approved March 16, 2021
Effective May 5, 2021

POLST ORDER AMENDMENTS

Chief Sponsor: Jani Iwamoto
House Sponsor: Raymond P. Ward

LONG TITLE

General Description:

This bill amends provisions relating to POLST orders.

Highlighted Provisions:

This bill:

- renames the life with dignity order as the POLST order;
- applies the provisions of the Uniform Electronic Transactions Act to signatures that are required on a POLST order; and
- allows a verbal confirmation, under limited circumstances, to satisfy the requirement for a signature on a POLST order.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

75-2a-103, as last amended by Laws of Utah 2009, Chapter 99
75-2a-106, as last amended by Laws of Utah 2009, Chapter 99

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

Section 1. Section 75-2a-103 is amended to read:

75-2a-103. Definitions.

As used in this chapter:

(1) "Adult" means a person who is:

(a) at least 18 years of age; or

(b) an emancipated minor.

(2) "Advance health care directive":

(a) includes:

(i) a designation of an agent to make health care decisions for an adult when the adult cannot make or communicate health care decisions; or

(ii) an expression of preferences about health care decisions;

(b) may take one of the following forms:

(i) a written document, voluntarily executed by an adult in accordance with the requirements of this chapter; or

(ii) a witnessed oral statement, made in accordance with the requirements of this chapter; and

(c) does not include a [~~life with dignity~~] POLST order.

(3) "Agent" means a person designated in an advance health care directive to make health care decisions for the declarant.

(4) "APRN" means a person who is:

(a) certified or licensed as an advance practice registered nurse under Subsection 58-31b-301(2)(d);

(b) an independent practitioner;

(c) acting under a consultation and referral plan with a physician; and

(d) acting within the scope of practice for that person, as provided by law, rule, and specialized certification and training in that person's area of practice.

(5) "Best interest" means that the benefits to the person resulting from a treatment outweigh the burdens to the person resulting from the treatment, taking into account:

(a) the effect of the treatment on the physical, emotional, and cognitive functions of the person;

(b) the degree of physical pain or discomfort caused to the person by the treatment or the withholding or withdrawal of treatment;

(c) the degree to which the person's medical condition, the treatment, or the withholding or withdrawal of treatment, result in a severe and continuing impairment of the dignity of the person by subjecting the person to humiliation and dependency;

(d) the effect of the treatment on the life expectancy of the person;

(e) the prognosis of the person for recovery with and without the treatment;

(f) the risks, side effects, and benefits of the treatment, or the withholding or withdrawal of treatment; and

(g) the religious beliefs and basic values of the person receiving treatment, to the extent these may assist the decision maker in determining the best interest.

(6) "Capacity to appoint an agent" means that the adult understands the consequences of appointing a particular person as agent.

(7) "Declarant" means an adult who has completed and signed or directed the signing of an advance health care directive.

(8) "Default surrogate" means the adult who may make decisions for an individual when either:

(a) an agent or guardian has not been appointed; or

(b) an agent is not able, available, or willing to make decisions for an adult.

(9) "Emergency medical services provider" means a person who is licensed, designated, or certified under Title 26, Chapter 8a, Utah Emergency Medical Services System Act.

(10) "Generally accepted health care standards":

(a) is defined only for the purpose of:

(i) this chapter and does not define the standard of care for any other purpose under Utah law; and

(ii) enabling health care providers to interpret the statutory form set forth in Section 75-2a-117; and

(b) means the standard of care that justifies a provider in declining to provide life sustaining care because the proposed life sustaining care:

(i) will not prevent or reduce the deterioration in the health or functional status of a person;

(ii) will not prevent the impending death of a person; or

(iii) will impose more burden on the person than any expected benefit to the person.

(11) "Health care" means any care, treatment, service, or procedure to improve, maintain, diagnose, or otherwise affect a person's physical or mental condition.

(12) "Health care decision":

(a) means a decision about an adult's health care made by, or on behalf of, an adult, that is communicated to a health care provider;

(b) includes:

(i) selection and discharge of a health care provider and a health care facility;

(ii) approval or disapproval of diagnostic tests, procedures, programs of medication, and orders not to resuscitate; and

(iii) directions to provide, withhold, or withdraw artificial nutrition and hydration and all other forms of health care; and

(c) does not include decisions about an adult's financial affairs or social interactions other than as indirectly affected by the health care decision.

(13) "Health care decision making capacity" means an adult's ability to make an informed decision about receiving or refusing health care, including:

(a) the ability to understand the nature, extent, or probable consequences of health status and health care alternatives;

(b) the ability to make a rational evaluation of the burdens, risks, benefits, and alternatives of accepting or rejecting health care; and

(c) the ability to communicate a decision.

(14) "Health care facility" means:

(a) a health care facility as defined in Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act; and

(b) private offices of physicians, dentists, and other health care providers licensed to provide health care under Title 58, Occupations and Professions.

(15) "Health care provider" is as defined in Section 78B-3-403, except that it does not include an emergency medical services provider.

(16) (a) "Life sustaining care" means any medical intervention, including procedures, administration of medication, or use of a medical device, that maintains life by sustaining, restoring, or supplanting a vital function.

(b) "Life sustaining care" does not include care provided for the purpose of keeping a person comfortable.

[~~(17) "Life with dignity order" means an order, designated by the Department of Health under Section 75-2a-106(5)(a), that gives direction to health care providers, health care facilities, and emergency medical services providers regarding the specific health care decisions of the person to whom the order relates.~~]

[~~(18)~~] (17) "Minor" means a person who:

(a) is under 18 years [~~of age~~] old; and

(b) is not an emancipated minor.

[~~(19)~~] (18) "Physician" means a physician and surgeon or osteopathic surgeon licensed under Title 58, Chapter 67, Utah Medical Practice Act or Chapter 68, Utah Osteopathic Medical Practice Act.

[~~(20)~~] (19) "Physician assistant" means a person licensed as a physician assistant under Title 58, Chapter 70a, Utah Physician Assistant Act.

(20) "POLST order" means an order, on a form designated by the Department of Health under Section 75-2a-106(5)(a), that gives direction to health care providers, health care facilities, and emergency medical services providers regarding the specific health care decisions of the person to whom the order relates.

(21) "Reasonably available" means:

(a) readily able to be contacted without undue effort; and

(b) willing and able to act in a timely manner considering the urgency of the circumstances.

(22) "Substituted judgment" means the standard to be applied by a surrogate when making a health care decision for an adult who previously had the capacity to make health care decisions, which requires the surrogate to consider:

(a) specific preferences expressed by the adult:

(i) when the adult had the capacity to make health care decisions; and

(ii) at the time the decision is being made;

(b) the surrogate's understanding of the adult's health care preferences;

(c) the surrogate's understanding of what the adult would have wanted under the circumstances; and

(d) to the extent that the preferences described in Subsections (22)(a) through (c) are unknown, the best interest of the adult.

(23) "Surrogate" means a health care decision maker who is:

(a) an appointed agent;

(b) a default surrogate under the provisions of Section 75-2a-108; or

(c) a guardian.

Section 2. Section 75-2a-106 is amended to read:

75-2a-106. Emergency medical services -- POLST order.

(1) A [~~life with dignity~~] POLST order may be created by or on behalf of a person as described in this section.

(2) A [~~life with dignity~~] POLST order shall, in consultation with the person authorized to consent to the order pursuant to this section, be prepared by:

(a) the physician, APRN, or, subject to Subsection (11), physician assistant of the person to whom the [~~life with dignity~~] POLST order relates; or

(b) a health care provider who:

(i) is acting under the supervision of a person described in Subsection (2)(a); and

(ii) is:

(A) a nurse, licensed under Title 58, Chapter 31b, Nurse Practice Act;

(B) a physician assistant, licensed under Title 58, Chapter 70a, Utah Physician Assistant Act;

(C) a mental health professional, licensed under Title 58, Chapter 60, Mental Health Professional Practice Act; or

(D) another health care provider, designated by rule as described in Subsection (10).

(3) A [~~life with dignity~~] POLST order shall be signed:

(a) personally, by the physician, APRN, or, subject to Subsection (11), physician assistant of the person to whom the [~~life with dignity~~] POLST order relates; and

(b) (i) if the person to whom the [~~life with dignity~~] POLST order relates is an adult with health care decision making capacity, by:

(A) the person; or

(B) an adult who is directed by the person to sign the [~~life with dignity~~] POLST order on behalf of the person;

(ii) if the person to whom the [~~life with dignity~~] POLST order relates is an adult who lacks health care decision making capacity, by:

(A) the surrogate with the highest priority under Section 75-2a-111;

(B) the majority of the class of surrogates with the highest priority under Section 75-2a-111; or

(C) a person directed to sign the POLST order by, and on behalf of, the persons described in Subsection (3)(b)(ii)(A) or (B); or

(iii) if the person to whom the [~~life with dignity~~] POLST order relates is a minor, by a parent or guardian of the minor.

(4) If a [~~life with dignity~~] POLST order relates to a minor and directs that life sustaining treatment be withheld or withdrawn from the minor, the order shall include a certification by two physicians that, in their clinical judgment, an order to withhold or withdraw life sustaining treatment is in the best interest of the minor.

(5) A [~~life with dignity~~] POLST order:

(a) shall be in writing, on a form [~~approved~~] designated by the Department of Health;

(b) shall state the date on which the POLST order was made;

(c) may specify the level of life sustaining care to be provided to the person to whom the order relates; and

(d) may direct that life sustaining care be withheld or withdrawn from the person to whom the order relates.

(6) A health care provider or emergency medical service provider, licensed or certified under Title 26, Chapter 8a, Utah Emergency Medical Services System Act, is immune from civil or criminal liability, and is not subject to discipline for unprofessional conduct, for:

(a) complying with a [~~life with dignity~~] POLST order in good faith; or

(b) providing life sustaining treatment to a person when a [~~life with dignity~~] POLST order directs that the life sustaining treatment be withheld or withdrawn.

(7) To the extent that the provisions of a [~~life with dignity~~] POLST order described in this section conflict with the provisions of an advance health care directive made under Section 75-2a-107, the provisions of the [~~life with dignity~~] POLST order take precedence.

(8) An adult, or a parent or guardian of a minor, may revoke a [~~life with dignity~~] POLST order by:

(a) orally informing emergency service personnel;

(b) writing "void" across the POLST order form;

(c) burning, tearing, or otherwise destroying or defacing:

(i) the POLST order form; or

(ii) a bracelet or other evidence of the [~~life with dignity~~] POLST order;

(d) asking another adult to take the action described in this Subsection (8) on the person's behalf;

(e) signing or directing another adult to sign a written revocation on the person's behalf;

(f) stating, in the presence of an adult witness, that the person wishes to revoke the order; or

(g) completing a new [~~life with dignity~~] POLST order.

(9) (a) Except as provided in Subsection (9)(c), a surrogate for an adult who lacks health care decision making capacity may only revoke a [~~life with dignity~~] POLST order if the revocation is consistent with the substituted judgment standard.

(b) Except as provided in Subsection (9)(c), a surrogate who has authority under this section to sign a [~~life with dignity~~] POLST order may revoke a [~~life with dignity~~] POLST order, in accordance with Subsection (9)(a), by:

(i) signing a written revocation of the [~~life with dignity~~] POLST order; or

(ii) completing and signing a new [~~life with dignity~~] POLST order.

(c) A surrogate may not revoke a [~~life with dignity~~] POLST order during the period of time beginning when an emergency service provider is contacted for assistance, and ending when the emergency ends.

(10) (a) The Department of Health shall [~~adopt~~] make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:

(i) create the forms and systems described in this section; and

(ii) develop uniform instructions for the form established in Section 75-2a-117.

(b) The Department of Health may [~~adopt~~] make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to designate health care professionals, in addition to those described in Subsection (2)(b)(ii), who may prepare a [~~life with dignity~~] POLST order.

(c) The Department of Health may assist others with training of health care professionals regarding this chapter.

(11) A physician assistant may not prepare or sign a [~~life with dignity~~] POLST order, unless the physician assistant is permitted to prepare or sign the [~~life with dignity~~] POLST order under the physician assistant's delegation of services agreement, as defined in Section 58-70a-102.

(12) (a) Notwithstanding any other provision of this section:

(i) the provisions of Title 46, Chapter 4, Uniform Electronic Transactions Act, apply to any signature required on the POLST order; and

(ii) a verbal confirmation satisfies the requirement for a signature from an individual under Subsection (3)(b)(ii) or (iii), if:

(A) requiring the individual described in Subsection (3)(b)(i)(B), (ii), or (iii) to sign the POLST order in person or electronically would require significant difficulty or expense; and

(B) a licensed health care provider witnesses the verbal confirmation and signs the POLST order attesting that the health care provider witnessed the verbal confirmation.

(b) The health care provider described in Subsection (12)(a)(ii)(B):

(i) may not be the same individual who signs the POLST order under Subsection (3)(a); and

(ii) shall verify, in accordance with HIPAA as defined in Section 26-18-17, the identity of the individual who is providing the verbal confirmation.

CHAPTER 224
S. B. 84
Passed March 5, 2021
Approved March 16, 2021
Effective May 5, 2021

INDIGENT DEFENSE TRANSCRIPTS AMENDMENTS

Chief Sponsor: Todd D. Weiler
House Sponsor: Joel Ferry

LONG TITLE

General Description:

This bill amends provisions regarding court transcripts.

Highlighted Provisions:

This bill:

- addresses the cost of court transcripts; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

78A-2-408, as last amended by Laws of Utah 2019, Chapter 326

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

Section 1. Section 78A-2-408 is amended to read:

78A-2-408. Transcripts and copies -- Fees.

(1) The Judicial Council shall by rule provide for a standard page format for transcripts of court hearings.

(2) (a) [~~The~~] Except as provided in Subsections (2)(c) and (e), the fee for a transcript of a court session, or any part of a court session, [~~shall be~~] may not be more than $4.50 per page, which includes the initial preparation of the transcript and one certified copy.

(b) The preparer shall:

(i) deposit the original text file and printed transcript with the clerk of the court; and

(ii) provide the person requesting the transcript with the certified copy.

(c) The cost of additional copies of the transcript shall be as provided in Subsection 78A-2-301(1).

(d) The transcript for an appeal shall be prepared within the time period permitted by [~~the rules~~] the Utah Rules of Appellate Procedure. [~~The fee for a transcript prepared within three business days of the request shall be 1-1/2 times the base rate. The fee for a transcript prepared within one business day of the request shall be double the base rate.~~]

(e) The fee for a transcript prepared:

(i) within three business days of the request, shall be 1-1/2 times the base rate; and

(ii) within one business day of the request, shall be double the base rate.

[~~(b)~~] (3) (a) When a transcript is ordered by the court, the fees shall be paid by the parties to the action in equal proportion or as ordered by the court.

(b) The fee for a transcript in a criminal case in which the defendant is found to be [~~indigent shall be paid pursuant to Section 78B-22-302~~] an indigent individual, as defined in Section 78B-22-102, shall be paid in accordance with Subsection 78B-22-203(3).

[~~(3)~~] (4) (a) The fee for the preparation of a transcript of a court hearing by an official court transcriber and the fee for the preparation of the transcript by a certified court reporter of a hearing before any court, referee, master, board, or commission of this state shall be [~~as provided in Subsection (2)(a), and shall be~~]:

(i) in accordance with Subsection (2); and

(ii) payable to the person preparing the transcript.

(b) Payment for a transcript under this section is the responsibility of the party requesting the transcript.

CHAPTER 225
S. B. 85
Passed February 25, 2021
Approved March 16, 2021
Effective May 5, 2021

DISINHERITANCE FOLLOWING CRIMES AGAINST VULNERABLE ADULTS

Chief Sponsor: Todd D. Weiler
House Sponsor: V. Lowry Snow

LONG TITLE

General Description:

This bill statutorily disinherits an individual who commits certain felony offenses against a vulnerable adult.

Highlighted Provisions:

This bill:

- defines terms;
- statutorily disinherits an individual who commits certain felony offenses against a vulnerable adult, including any:
  - shares in an estate or intestate shares;
  - revocation of revocable dispositions, appointments, nominations, or conferrals; and
  - property owned jointly;
- addresses third-party interests in the property in question;
- addresses certain contingencies in the application of the statute; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides revisor instructions.

Utah Code Sections Affected:

AMENDS:

75-2-508, as repealed and reenacted by Laws of Utah 1998, Chapter 39
75-2-804, as last amended by Laws of Utah 2013, Chapter 264
75-6-413, as enacted by Laws of Utah 2018, Chapter 26

ENACTS:

75-2-807, Utah Code Annotated 1953Utah Code Sections Affected by Revisor Instructions:
75-2-807, Utah Code Annotated 1953

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

Section 1. Section 75-2-508 is amended to read:

75-2-508. Revocation by change of circumstances.

Except as provided in Sections 75-2-803 [~~and~~], 75-2-804, and 75-2-807, a change of circumstances does not revoke a will or any part of it.

Section 2. Section 75-2-804 is amended to read:

75-2-804. Definitions -- Revocation of probate and nonprobate transfers by divorce -- Effect of severance -- Revival -- Protection of payors, third parties, and bona fide purchasers -- Personal liability of recipient -- No revocation by other changes of circumstances.

(1) As used in this section:

(a) "Disposition or appointment of property" includes a transfer of an item of property or any other benefit to a beneficiary designated in a governing instrument.

(b) "Divorce or annulment" means any divorce or annulment, or any dissolution or declaration of invalidity of a marriage, that would exclude the spouse as a surviving spouse within the meaning of Section 75-2-802. A decree of separation that does not terminate the status of husband and wife is not a divorce for purposes of this section.

(c) "Divorced individual" includes an individual whose marriage has been annulled.

(d) "Governing instrument" means a governing instrument executed by the divorced individual before the divorce or annulment of the individual's marriage to the individual's former spouse.

(e) "Relative of the divorced individual's former spouse" means an individual who is related to the divorced individual's former spouse by blood, adoption, or affinity and who, after the divorce or annulment, is not related to the divorced individual by blood, adoption, or affinity.

(f) "Revocable," with respect to a disposition, appointment, provision, or nomination, means one under which the divorced individual, at the time of the divorce or annulment, was alone empowered, by law or under the governing instrument, to cancel the designation in favor of the individual's former spouse or former spouse's relative, whether or not the divorced individual was then empowered to designate another in place of the individual's former spouse or in place of the individual's former spouse's relative and whether or not the divorced individual then had the capacity to exercise the power.

(2) Except as provided by the express terms of a governing instrument, a court order, or a contract relating to the division of the marital estate made between the divorced individuals before or after the marriage, divorce, or annulment, the divorce or annulment of a marriage:

(a) revokes any revocable:

(i) disposition or appointment of property made by a divorced individual to the individual's former spouse in a governing instrument and any disposition or appointment created by law or in a governing instrument to a relative of the divorced individual's former spouse;

(ii) provision in a governing instrument conferring a general or nongeneral power of

appointment on the divorced individual's former spouse or on a relative of the divorced individual's former spouse; and

(iii) nomination in a governing instrument, which nominates a divorced individual's former spouse or a relative of the divorced individual's former spouse to serve in any fiduciary or representative capacity, including a personal representative, executor, trustee, conservator, agent, or guardian; and

(b) severs the interests of the former spouses in property held by them at the time of the divorce or annulment as joint tenants with the right of survivorship, transforming the interests of the former spouses into tenancies in common.

(3) A severance under Subsection (2)(b) does not affect any third-party interest in property acquired for value and in good faith reliance on an apparent title by survivorship in the survivor of the former spouses unless a writing declaring the severance has been noted, registered, filed, or recorded in records appropriate to the kind and location of the property, which are relied upon, in the ordinary course of transactions involving such property, as evidence of ownership.

(4) Provisions of a governing instrument are given effect as if the former spouse and relatives of the former spouse disclaimed all provisions revoked by this section or, in the case of a revoked nomination in a fiduciary or representative capacity, as if the former spouse and relatives of the former spouse died immediately before the divorce or annulment.

(5) Provisions revoked solely by this section are revived by the divorced individual's remarriage to the former spouse or by a nullification of the divorce or annulment.

(6) No change of circumstances other than as described in this section and in [~~Section~~] Sections 75-2-803 and 75-2-807 effects a revocation.

(7) (a) A payor or other third party is not liable for having made a payment or transferred an item of property or any other benefit to a beneficiary designated in a governing instrument affected by a divorce, annulment, or remarriage, or for having taken any other action in good faith reliance on the validity of the governing instrument, before the payor or other third party received written notice of the divorce, annulment, or remarriage. A payor or other third party is liable for a payment made or other action taken after the payor or other third party received written notice of a claimed forfeiture or revocation under this section.

(b) Written notice of the divorce, annulment, or remarriage under Subsection (7)(a) shall be mailed to the payor's or other third party's main office or home by registered or certified mail, return receipt requested, or served upon the payor or other third party in the same manner as a summons in a civil action. Upon receipt of written notice of the divorce, annulment, or remarriage, a payor or other third party may pay any amount owed or transfer or deposit any item of property held by it to or with the court having jurisdiction of the probate proceedings relating to the decedent's estate or, if no proceedings have been commenced, to or with the court having jurisdiction of probate proceedings relating to the decedent's estates located in the county of the decedent's residence. The court shall hold the funds or item of property and, upon its determination under this section, shall order disbursement or transfer in accordance with the determination. Payments, transfers, or deposits made to or with the court discharge the payor or other third party from all claims for the value of amounts paid to or items of property transferred to or deposited with the court.

(8) (a) A person who purchases property from a former spouse, relative of a former spouse, or any other person for value and without notice, or who receives from a former spouse, relative of a former spouse, or any other person a payment or other item of property in partial or full satisfaction of a legally enforceable obligation, is neither obligated under this section to return the payment, item of property, or benefit, nor is liable under this section for the amount of the payment or the value of the item of property or benefit. But a former spouse, relative of a former spouse, or other person who, not for value, received a payment, item of property, or any other benefit to which that person is not entitled under this section is obligated to return the payment, item of property, or benefit, or is personally liable for the amount of the payment or the value of the item of property or benefit, to the person who is entitled to it under this section.

(b) If this section or any part of this section is preempted by federal law with respect to a payment, an item of property, or any other benefit covered by this section, a former spouse, relative of the former spouse, or any other person who, not for value, received a payment, item of property, or any other benefit to which that person is not entitled under this section is obligated to return that payment, item of property, or benefit, or is personally liable for the amount of the payment or the value of the item of property or benefit, to the person who would have been entitled to it were this section or part of this section not preempted.

Section 3. Section 75-2-807 is enacted to read:

75-2-807. Effect of disqualifying felony offense on intestate succession, wills, trusts, joint assets, life insurance, beneficiary designations -- Forfeiture -- Revocation.

(1) As used in this section:

(a) "Abuser" means a person who is convicted of committing a disqualifying felony offense against a vulnerable adult.

(b) "Dependent adult" means the same as that term is defined in Section 76-5-111.

(c) "Disposition or apportionment of property" means a transfer of an item of property or any other benefit to a beneficiary designated in a governing instrument.

(d) "Disqualifying felony offense" means a felony offense against a vulnerable adult that meets the elements of:

(i) felony financial exploitation of a vulnerable adult, as described in Subsection 76-5-111(9);

(ii) felony aggravated abuse of a vulnerable adult, as described in Subsection 76-5-111(2);

(iii) felony abuse of a vulnerable adult based on isolation, as described in Subsection 76-5-111(3); or

(iv) any felony offense in another state, territory, or district of the United States that, if committed in Utah, would constitute a felony offense described in this Subsection (1)(d).

(e) "Elder adult" means the same as that term is defined in Section 76-5-111.

(f) "Governing instrument" means a governing instrument executed by a vulnerable adult.

(g) "Vulnerable adult" means the same as that term is defined in Section 76-5-111.

(2) (a) An abuser who is convicted of a disqualifying felony offense against a vulnerable adult forfeits any benefit under this chapter with respect to the vulnerable adult's estate:

(i) that the vulnerable adult made to the abuser in a governing instrument; or

(ii) according to intestate succession, as described in Title 75, Chapter 2, Intestate Succession and Wills.

(b) The abuser described in Subsection (2)(a):

(i) may not inherit, take, enjoy, receive, or otherwise benefit from the estate of the vulnerable adult described in Subsection (2)(a), including by any:

(A) intestate share;

(B) elective share;

(C) omitted spouse's or child's share;

(D) homestead allowance;

(E) exempt property;

(F) family allowance;

(G) banknote or other form of physical currency;

(H) deposit account;

(I) interest-bearing account;

(J) contents of a safe deposit box;

(K) investment;

(L) retirement benefit or account;

(M) pension;

(N) annuity; or

(O) insurance proceed; and

(ii) is considered to have predeceased the vulnerable adult with respect to any intestate property or governing instrument belonging to the vulnerable adult.

(3) Conviction of a disqualifying felony offense against a vulnerable adult:

(a) revokes any revocable:

(i) disposition or apportionment of property that the vulnerable adult made to the abuser in a governing instrument;

(ii) provision in a governing instrument conferring a general or nongeneral power of appointment on the abuser; and

(iii) nomination of the abuser in a governing instrument nominating or appointing the abuser to serve in any fiduciary or representative capacity, including a personal representative, representative payee, executor, trustee, or agent; and

(b) (i) severs any interest in property held by the abuser and the vulnerable adult as joint tenants with the right of survivorship; and

(ii) transforms the interests described in Subsection (3)(b)(i) to a tenancy in common.

(4) A wrongful acquisition of property or interest by an abuser under circumstances not covered by this section shall be treated in accordance with the principle that one cannot profit from one's own wrongdoing.

(5) Revocation by the court of an abuser's interest in the property of the vulnerable adult and of an abuser's powers and appointments in the estate of the vulnerable adult as established by any governing instrument is final.

(6) Conviction of a disqualifying felony offense against a vulnerable adult:

(a) prevents any revocable interest or share an abuser has or may have in the estate of the vulnerable adult, under Subsection (2), from vesting into a right of property upon the death of the vulnerable adult; and

(b) is the triggering event for action under this section.

(7) As a consequence of bringing an action under this section, a court may not reduce or eliminate the rights, interest, or share in the estate of a vulnerable adult belonging to any interested person who:

(a) petitions the court under this section; and

(b) retains a property or other interest in the estate of a vulnerable adult, either as an heir, devisee, legatee, beneficiary, survivor, appointee, or claimant, notwithstanding any no-contest provision which appears in any governing instrument of the vulnerable adult.

(8) (a) A payor or other third party is not liable for having made a payment or transferred an item of property or any other benefit to a beneficiary designated in a governing instrument that a disqualifying felony offense affects, or for having taken any other action in good faith reliance on the validity of the governing instrument, upon request

and satisfactory proof of the decedent's death, before the payor or other third party received written notice of a claimed forfeiture or revocation under this section.

(b) A payor or other third party is liable for a payment made or other action taken after the payor or other third party received written notice of a claimed forfeiture or revocation under this section.

(c) (i) An individual seeking enforcement of this section shall mail a written notice of a claimed forfeiture or revocation to the payor's or other third party's main office or home by registered or certified mail, return receipt requested, or served upon the payor or other third party in the same manner as a summons in a civil action.

(ii) Upon receipt of a written notice of a claimed forfeiture or revocation described in Subsection (8)(c)(i), a payor or other third party may pay any amount owed or transfer or deposit any item of property the payor or third party holds to or with:

(A) the court having jurisdiction of the probate proceedings relating to the vulnerable adult's estate; or

(B) if the individual who gave notice has not brought an action under this section, to or with the court having jurisdiction of probate proceedings relating to the decedent's estate located in the county of the decedent's residence.

(d) A court described in Subsection (8)(c)(ii) shall:

(i) hold the funds or item of property; and

(ii) upon the court's determination under this section, order disbursement in accordance with the determination.

(e) A payor's or third party's payment, transfer, or deposit made to or with the court discharges the payor or third party from all claims for the value of the paid amounts or transferred or deposited items of property.

(9) (a) A person who purchases property for value and without notice, or who receives a payment or other item of property in partial or full satisfaction of a legally enforceable obligation:

(i) may retain the payment, item of property, or benefit; and

(ii) is not liable under this section for the amount of the payment or the value of the item of property or benefit.

(b) A person who, not for value, receives a payment, item of property, or any other benefit to which the person is not entitled under this section:

(i) shall return the payment, item of property, or benefit to the person who is entitled to the payment or the item of property or benefit under this section; or

(ii) is personally liable for the amount of the payment or the value of the item of property or benefit, to the person who is entitled to the payment or the item of property or benefit under this section.

(c) If this section, or any part of this section, is preempted by federal law with respect to a payment, an item of property, or any other benefit that this section addresses, a person who, not for value, receives the payment, item of property, or any other benefit to which the person is not entitled under this section:

(i) shall return the payment, item of property, or benefit to the person who would have been entitled to the payment or the item of property or benefit if this section or the relevant part of this section was not preempted; or

(ii) is personally liable for the amount of the payment, or the value of the item of property or benefit, to the person who would have been entitled to the payment or the item of property or benefit if this section or the relevant part of this section was not preempted.

(10) Notwithstanding Subsections (2) through (6), and notwithstanding an abuser's conviction for a disqualifying felony offense, the abuser may inherit, take, enjoy, receive, or otherwise benefit from the estate of the vulnerable adult if:

(a) (i) after the abuser's conviction, the vulnerable adult executes a new governing instrument or amends or affirms an existing governing instrument under which the abuser receives a benefit; and

(ii) the vulnerable adult is not incapacitated, as that term is defined in Section 75-1-201, at the time the vulnerable adult makes the execution, amendment, or affirmation described in Subsection (10)(a)(i); or

(b) the court reviewing a petition under this section determines that a manifest injustice would result if the abuser is disinherited by operation of this section.

(11) This section:

(a) does not operate retrospectively;

(b) except as provided in Subsection (10)(c), does not apply to a disqualifying felony offense that occurred prior to the effective date of this bill; and

(c) applies to a disqualifying felony offense described in Subsection (10)(b) if any portion of the offense persists after the effective date of this bill.

Section 4. Section 75-6-413 is amended to read:

75-6-413. Effect of transfer on death deed at transferor's death.

(1) Except as otherwise provided in the transfer on death deed, Sections 75-2-205, 75-2-702, 75-2-803, [~~and~~] 75-2-804, and 75-2-807, on the death of the transferor, the following rules apply to property that is the subject of a transfer on death deed and owned by the transferor at death.

(a) Subject to Subsection (1)(b), the interests in the property are transferred to the designated beneficiaries in accordance with the deed.

(b) The interest of a designated beneficiary is contingent on the designated beneficiary surviving

the transferor. Notwithstanding Section 75-2-706, the interest of a designated beneficiary that fails to survive the transferor lapses.

(c) Subject to Subsection (1)(d), concurrent interests are transferred to the beneficiaries in equal and undivided shares with no right of survivorship, unless otherwise specified in the transfer on death deed.

(d) If the transferor has identified two or more designated beneficiaries to receive concurrent interests in the property, the share of one that lapses or fails for any reason is transferred to the other, or to the others in proportion to the interest of each in the remaining part of the property held concurrently.

(2) Subject to Title 57, Chapter 3, Recording of Documents, a beneficiary takes the property subject to all conveyances, encumbrances, assignments, contracts, mortgages, liens, and other interests to which the property is subject at the transferor's death. For purposes of this Subsection (2) and Title 57, Chapter 3, Recording of Documents, the recording of the transfer on death deed is considered to have occurred at the transferor's death.

(3) If a transferor is a joint owner and is:

(a) survived by one or more other joint owners, the property that is the subject of a transfer on death deed belongs to the surviving joint owner or owners with right of survivorship; or

(b) the last surviving joint owner, the transfer on death deed is effective.

(4) A transfer on death deed transfers property without covenant or warranty of title even if the deed contains a contrary provision.

(5) Following the death of the transferor, an affidavit in substantially the form found in Section 57-1-5.1 shall be recorded in the office of the recorder of the county in which the affected property is located. Each affidavit shall:

(a) contain a legal description of the real property that is affected;

(b) reference the entry number and the book and page of the previously recorded transfer on death deed; and

(c) have attached as an exhibit, a copy of the death certificate or other document issued by a governmental agency as described in Section 75-1-107 certifying the transferor's death.

Section 5. Revisor instructions.

The Legislature intends that the Office of Legislative Research and General Counsel, in preparing the Utah Code database for publication, replace the references in Subsection 75-2-807(11) from "the effective date of this bill" to the bill's actual effective date.

CHAPTER 226
S. B. 86
Passed March 4, 2021
Approved March 16, 2021
Effective May 5, 2021

AMENDMENTS TO THE PRICE CONTROLS DURING EMERGENCIES ACT

Chief Sponsor: Lincoln Fillmore
House Sponsor: Rex P. Shipp

LONG TITLE

General Description:

This bill amends provisions of the Price Controls During Emergencies Act.

Highlighted Provisions:

This bill:

- amends the standard of evidence required to cite a person for a violation of the Price Controls During Emergencies Act;
- defines "total cost" and "margin";
- amends provisions regarding when a price is excessive;
- requires the division to consider certain factors in determining whether to investigate, contact, or request information from a seller for a violation of the Price Controls During Emergencies Act;
- prohibits the division from publicly identifying a person under investigation for a violation of the Price Controls During Emergencies Act unless certain conditions are met;
- amends the amount the Division of Consumer Protection may fine for a violation of the Price Controls During Emergencies Act; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

13-2-6, as last amended by Laws of Utah 2019, Chapter 115
13-41-102, as last amended by Laws of Utah 2013, Chapter 295
13-41-201, as enacted by Laws of Utah 2005, Chapter 306
13-41-202, as last amended by Laws of Utah 2006, Chapter 153

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

Section 1. Section 13-2-6 is amended to read:

13-2-6. Enforcement powers.

(1) In accordance with Title 63G, Chapter 4, Administrative Procedures Act, the division shall have authority to convene administrative hearings, issue cease and desist orders, and impose fines under all the chapters identified in Section 13-2-1.

(2) Any person who intentionally violates a final cease and desist order entered by the division of which the person has notice is guilty of a third degree felony.

(3) If the division has reasonable cause to believe that any person has violated or is violating any chapter listed in Section 13-2-1, the division may promptly issue the alleged violator a citation signed by the division's director or the director's designee.

(a) Each citation shall be in writing and shall:

(i) set forth with particularity the nature of the violation, including a reference to the statutory or administrative rule provision violated;

(ii) state that any request for review of the citation shall be made in writing and be received by the division no more than 20 calendar days [~~following issuance~~] after the day on which the division issues the citation;

(iii) state the consequences of failing to make a timely request for review; and

(iv) state all other information required by Subsection 63G-4-201(2).

(b) In computing any time period prescribed by this section, the following days may not be included:

(i) the day on which the division issues a citation; and

(ii) the day on which the division receives a request for review of a citation.

(c) (i) [~~If~~] Except as provided in Subsection (3)(c)(iii), if the presiding officer finds that there is not substantial evidence that the recipient violated a chapter listed in Section 13-2-1[~~,~~]:

(A) the citation may not become final[~~,~~]; and

(B) the division shall immediately vacate the citation and promptly notify the recipient in writing.

(ii) [~~If~~] Except as provided in Subsection (3)(c)(iv), if the presiding officer finds that there is substantial evidence that the recipient violated a chapter listed in Section 13-2-1[~~,~~]:

(A) the citation shall become final; and

(B) the division may enter a cease and desist order against the recipient.

(iii) For a citation issued for a violation of Chapter 41, Price Controls During Emergencies Act, if the presiding officer finds that there is not clear and convincing evidence that the recipient violated the chapter:

(A) the citation may not become final; and

(B) the division shall immediately vacate the citation and promptly notify the recipient in writing.

(iv) For a citation issued for a violation of Chapter 41, Price Controls During Emergencies Act, if the presiding officer finds that there is clear and convincing evidence that the recipient violated the chapter:

(A) the citation shall become final; and

(B) the division may enter a cease and desist order against the recipient.

(d) (i) A citation issued under this chapter may be personally served upon any person upon whom a summons may be served in accordance with the Utah Rules of Civil Procedure.

(ii) A citation also may be served by first-class mail, postage prepaid.

(e) (i) If the recipient fails to make a request for review within 20 calendar days after the day on which the division issues the citation, the citation shall become the final order of the division.

(ii) The period to contest the citation may be extended by the director for good cause shown.

(f) If the chapter violated allows for an administrative fine, after a citation becomes final, the director may impose the administrative fine.

(4) (a) A person who has violated, is violating, or has attempted to violate a chapter identified in Section 13-2-1 is subject to the division's jurisdiction if:

(i) the violation or attempted violation is committed wholly or partly within the state;

(ii) conduct committed outside the state constitutes an attempt to commit a violation within the state; or

(iii) transactional resources located within the state are used by the offender to directly or indirectly facilitate a violation or attempted violation.

(b) As used in this section, "transactional resources" means:

(i) any mail drop or mail box, regardless of whether the mail drop or mail box is located on the premises of a United States Post Office;

(ii) any telephone or facsimile transmission device;

(iii) any Internet connection by a resident or inhabitant of this state with a resident- or nonresident-maintained [~~internet~~] Internet site;

(iv) any business office or private residence used for a business-related purpose;

(v) any account with or services of a financial institution;

(vi) the services of a common or private carrier; or

(vii) the use of any city, county, or state asset or facility, including any road or highway.

(5) The director or the director's designee, for the purposes outlined in any chapter administered by the division, may administer oaths, issue subpoenas, compel the attendance of witnesses, or compel the production of papers, books, accounts, documents, or evidence.

(6) (a) An administrative action filed under this chapter or a chapter listed in Section 13-2-1 shall be commenced no later than 10 years after the day on which the alleged violation occurs.

(b) A civil action filed under this chapter or a chapter listed in Section 13-2-1 shall be commenced no later than five years after the day on which the alleged violation occurs.

(c) The provisions of this Subsection (6) control over the provisions of Title 78B, Chapter 2, Statutes of Limitations.

Section 2. Section 13-41-102 is amended to read:

13-41-102. Definitions.

For purposes of this chapter:

(1) "Consumer" means a person who seeks to acquire or acquires a good or service for consumption.

(2) "Division" means the Division of Consumer Protection.

(3) (a) "Emergency territory" means the geographical area:

(i) for which there has been a state of emergency declared; and

(ii) that is directly affected by the events giving rise to a state of emergency.

(b) "Emergency territory" does not include a geographical area that is affected by the events giving rise to a state of emergency only by economic market forces.

(4) "Excessive price" means:

(a) for a person that sold the good or provided the service in the 30-day period immediately preceding the day on which a state of emergency is declared:

(i) a price for a good or service that exceeds by more than 10% the [~~average price charged by that person for that~~] highest price the person charged for the good or service in the 30-day period immediately preceding the day on which the state of emergency is declared[~~.~~]; or

(ii) if the person's total cost for the good or service exceeds the average total cost to the person for the good or service in the 30-day period immediately preceding the day on which the state of emergency is declared, a price that exceeds by more than 10% the sum of:

(A) the total cost to the person for the good or service; and

(B) the person's customary margin; or

(b) for a person that did not sell the good or provide the service in the 30-day period immediately preceding the day on which a state of emergency is declared, a price for a good or service that is more than twice the person's total cost for the good or service.

(5) "Good" means any personal property displayed, held, or offered for sale by a merchant that is necessary for consumption or use as a direct result of events giving rise to a state of emergency.

(6) "Margin" means the difference between the sale price and the total cost of the good or service.

[~~(6)~~] (7) "Retail" means the level of distribution where a good or service is typically sold directly, or otherwise provided, to a member of the public who is an end user and does not resell the good or service.

[~~(7)~~] (8) "Service" means any activity that is performed in whole or in part for the purpose of financial gain including personal service, professional service, rental, leasing, or licensing for use that is necessary for consumption or use as a direct result of events giving rise to a state of emergency.

[~~(8)~~] (9) "State of emergency" means a declaration of:

(a) an emergency or major disaster by the president of the United States of America; or

(b) a state of emergency by the governor under Section 53-2a-206.

(10) (a) "Total cost" means an amount equal to:

(i) the sum of all costs associated with a person obtaining a product or service and providing the product or service to a consumer, including fees, shipping, or employee labor; minus

(ii) any trade discount, cash discount, or manufacturer rebate.

(b) "Total cost" does not include an amount that incorporates an ongoing cost to operate a business that is not directly associated with a good or service.

Section 3. Section 13-41-201 is amended to read:

13-41-201. Excessive price prohibited.

(1) [~~Except as provided in Subsection (2), if a state of emergency exists, a~~] A person may not [~~charge a consumer an excessive price for goods or services sold or provided~~] offer for sale, offer to provide, sell, or provide a good or service to a consumer at an excessive price, if:

(a) a state of emergency exists; and

(b) the person offers for sale, offers to provide, sells, or provides the good or service at retail:

[~~(a)~~] (i) (A) during the time period for which a state of emergency declared by the governor exists, if the state of emergency described in Subsection (1) is declared by the governor; or

[~~(ii)~~] (B) for 30 days after the day on which the state of emergency begins, if the state of emergency described in Subsection (1)(a) is declared by the [~~President~~] president of the United States; and

[~~(b)~~] (ii) within the emergency territory.

[~~(2) A person may charge an excessive price if:~~]

[~~(a) that person's cost of obtaining the good or providing the service exceeds the average cost to the person of obtaining the good or providing the service in the 30-day period immediately preceding the day on which the state of emergency is declared; and~~]

[~~(b) the price charged for the good or service does not exceed the sum of:~~]

[~~(i) 10% above the total cost to that person of obtaining the good or providing the service; and~~]

[~~(ii) the person's customary markup.~~]

(2) A person may offer for sale, offer to provide, sell, or provide a good or service as otherwise prohibited under Subsection (1), if the person establishes that:

(a) the good or service is identical, similar, or comparable in nature to a good or service that the person sold or provided in the 30-day period immediately preceding the day on which the state of emergency described in Subsection (1)(a) is declared; and

(b) the person applies the same margin to the good or service as the margin applied to the identical, similar, or comparable good or service described in Subsection (2)(a) during the 30-day period immediately preceding the day on which the state of emergency described in Subsection (1)(a) is declared.

(3) Upon request of the division, a person allegedly [~~charging~~] offering for sale, offering to provide, selling, or providing a good or service at an excessive price [~~under Subsection (2)~~] in accordance with this chapter shall provide documentation to the division that the person is in compliance with this chapter.

[~~(4) If a good or service has not been sold by a person during the 30-day period immediately preceding the day on which the state of emergency is declared, a price is not excessive if it does not exceed 30% above the person's total cost of obtaining the good or providing the service.~~]

Section 4. Section 13-41-202 is amended to read:

13-41-202. Enforcement -- Penalty.

(1) The division shall enforce this chapter.

(2) In determining whether to investigate, contact, or request information from a person in the enforcement of this chapter, the division shall consider:

(a) whether a complaint, information, or evidence reasonably justifies further division inquiry;

(b) the burden contact, investigation, or providing information places on the person;

(c) the result of a previous investigation of the person, including whether the previous investigation suggests that the person did not violate this chapter;

(d) whether the person may benefit from receiving information about requirements under this chapter; and

(e) the potential gravity of harm to consumers, considering price, availability, and volume of a good or service.

(3) In enforcing this chapter, the division may not publicly disclose the identity of a person the division investigates unless:

(a) the person's identity is a matter of public record in an enforcement proceeding; or

(b) the person consents to public disclosure.

[~~(2)~~] (4) In determining whether to impose penalties against a person who violates this chapter, the division shall consider:

(a) the person's cost of doing business not accounted for in the total cost to the person [~~of~~] for the good or service, including costs associated with a decrease in the supply available to a person who relies on a high volume of sales;

(b) the person's efforts to comply with this chapter;

(c) whether the average price charged by the person during the 30-day period immediately preceding the day on which the state of emergency is declared is artificially deflated because the good or service was on sale for a lower price than the person customarily charges for the good or service; and

(d) any other factor that the division considers appropriate.

[~~(3)~~] (5) (a) If the division finds that a person has violated, or is violating, this chapter, the division may:

(i) issue a cease and desist order; and

(ii) subject to Subsection [~~(3)~~] (5)(b), impose an administrative fine [~~of up to $1,000~~] for each violation of this chapter.

(b) Each instance of charging an excessive price under Section 13-41-201 constitutes a separate violation, but in no case shall the administrative fine imposed under Subsection [~~(3)~~] (5)(a) exceed [~~$10,000 per day~~] double the excessive portion of the price the person charged.

[~~(4)~~] (6) The division may sue in a court of competent jurisdiction to enforce an order under Subsection [~~(3)~~] (5).

[~~(5)~~] (7) In a suit brought under Subsection [~~(3)~~] (5), if the division prevails, the court may award the division:

(a) court costs;

(b) attorney fees; and

(c) the division's costs incurred in the investigation of the violation of this chapter.

[~~(6)~~] (8) All money received through an administrative fine imposed, or judgment obtained, under this section shall be deposited in the Consumer Protection Education and Training Fund created by Section 13-2-8.

CHAPTER 227
S. B. 87
Passed February 12, 2021
Approved March 16, 2021
Effective May 5, 2021

PROFESSIONAL LICENSING AMENDMENTS

Chief Sponsor: Curtis S. Bramble
House Sponsor: Candice B. Pierucci

LONG TITLE

General Description:

This bill modifies provisions of the Cosmetology and Associated Professions Licensing Act (cosmetology act) and other related provisions.

Highlighted Provisions:

This bill:

- creates an exemption from licensure under the cosmetology act for an individual who:
  - only dries, styles, arranges, dresses, curls, hot irons, shampoos, or conditions hair;
  - receives a hair safety permit; and
  - displays a sign in the individual's place of business informing the public that the individual is not licensed under the cosmetology act; and
- provides that the Department of Health rules of sanitation related to cosmetology professions includes a facility in which individuals are engaged in the exemption from licensure described in this bill; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

26-15-2, as last amended by Laws of Utah 2007, Chapter 25
58-11a-304, as last amended by Laws of Utah 2020, Chapter 339

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

Section 1. Section 26-15-2 is amended to read:

26-15-2. Minimum rules of sanitation established by department.

The department shall establish and enforce, or provide for the enforcement of minimum rules of sanitation necessary to protect the public health. Such rules shall include, but not be limited to, rules necessary for the design, construction, operation, maintenance, or expansion of:

(1) restaurants and all places where food or drink is handled, sold or served to the public;

(2) public swimming pools;

(3) public baths including saunas, spas, massage parlors, and suntan parlors;

(4) public bathing beaches;

(5) schools which are publicly or privately owned or operated;

(6) recreational resorts, camps, and vehicle parks;

(7) amusement parks and all other centers and places used for public gatherings;

(8) mobile home parks and highway rest stops;

(9) construction or labor camps;

(10) jails, prisons and other places of incarceration or confinement;

(11) hotels and motels;

(12) lodging houses and boarding houses;

(13) service stations;

(14) barbershops and beauty shops[;], including a facility in which one or more individuals are engaged in:

(a) any of the practices licensed under Title 58, Chapter 11a, Cosmetology and Associated Professions Licensing Act; or

(b) styling hair in accordance with the exemption from licensure described in Section 58-11a-304(13);

(15) physician and dentist offices;

(16) public buildings and grounds;

(17) public conveyances and terminals; and

(18) commercial tanning facilities.

Section 2. Section 58-11a-304 is amended to read:

58-11a-304. Exemptions from licensure.

In addition to the exemptions from licensure in Section 58-1-307, the following persons may engage in the practice of barbering, cosmetology/barbering, hair design, esthetics, master-level esthetics, electrology, or nail technology without being licensed under this chapter:

(1) a person licensed under the laws of this state to engage in the practice of medicine, surgery, osteopathy, or chiropractic when engaged in the practice of the profession for which they are licensed;

(2) a commissioned physician or surgeon serving in the armed forces of the United States or another federal agency;

(3) a registered nurse, undertaker, or mortician licensed under the laws of this state when engaged in the practice of the profession for which the person is licensed;

(4) a person who visits the state to engage in instructional seminars, advanced classes, trade shows, or competitions of a limited duration;

(5) a person who engages in the practice of barbering, cosmetology/barbering, hair design,

esthetics, master-level esthetics, electrology, or nail technology without compensation;

(6) a person instructing an adult education class or other educational program directed toward persons who are not licensed under this chapter and that is not intended to train persons to become licensed under this chapter, provided:

(a) an attendee receives no credit toward educational requirements for licensure under this chapter;

(b) the instructor informs each attendee in writing that taking such a class or program will not certify or qualify the attendee to perform a service for compensation that requires licensure under this chapter; and

(c) (i) the instructor is properly licensed; or

(ii) the instructor receives no compensation;

(7) a person providing instruction in workshops, seminars, training meetings, or other educational programs whose purpose is to provide continuing professional development to licensed barbers, cosmetologists/barbers, hair designers, estheticians, master estheticians, electrologists, or nail technicians;

(8) a person enrolled in a licensed barber, cosmetology/barber, or hair design school when participating in an on the job training internship under the direct supervision of a licensed barber, cosmetologist/barber, or hair designer upon completion of a basic program under the standards established by rule by the division in collaboration with the board;

(9) a person enrolled in an approved apprenticeship pursuant to Section 58-11a-306;

(10) an employee of a company that is primarily engaged in the business of selling products used in the practice of barbering, cosmetology/barbering, hair design, esthetics, master-level esthetics, electrology, or nail technology when demonstrating the company's products to a potential customer, provided the employee makes no representation to a potential customer that attending such a demonstration will certify or qualify the attendee to perform a service for compensation that requires licensure under this chapter;

(11) a person who:

(a) is qualified to engage in the practice of barbering, cosmetology/barbering, hair design, esthetics, master-level esthetics, electrology, or nail technology in another jurisdiction as evidenced by licensure, certification, or lawful practice in the other jurisdiction;

(b) is employed by, or under contract with, a motion picture company; and

(c) engages in the practice of barbering, cosmetology/barbering, hair design, esthetics, master-level esthetics, electrology, or nail technology in the state:

(i) solely to assist in the production of a motion picture; and

(ii) for no more than 120 days per calendar year; [~~and~~]

(12) a person who:

(a) engages in hair braiding; and

(b) unless it is expressly exempted under this section or Section 58-1-307, does not engage in other activity requiring licensure under this chapter[~~.~~]; and

(13) a person who:

(a) dries, styles, arranges, dresses, curls, hot irons, shampoos, or conditions hair;

(b) does not cut the hair;

(c) does not apply dye to alter the color of the hair;

(d) does not apply reactive chemicals to straighten, curl, or alter the structure of the hair;

(e) unless it is expressly exempted under this section or Section 58-1-307, does not engage in other activity requiring licensure under this chapter; and

(f) provides evidence to the division that the person has received a hair safety permit from completing a hair safety program that:

(i) is approved by the division;

(ii) consists of no more than two hours of instruction;

(iii) is offered by a provider approved by the division; and

(iv) includes an examination that requires a passing score of 75%; and

(g) displays in a conspicuous location in the person's place of business:

(i) a valid hair safety permit as described in Subsection (13)(f); and

(ii) a sign notifying the public that the person's services are not provided by an individual who has a license under this chapter.

CHAPTER 228
S. B. 90
Passed February 18, 2021
Approved March 16, 2021
Effective May 5, 2021

PARENTAL DEFENSE AMENDMENTS

Chief Sponsor: Wayne A. Harper
House Sponsor: Cheryl K. Acton

LONG TITLE

General Description:

This bill modifies provisions relating to parental representation in a child welfare case.

Highlighted Provisions:

This bill:

- modifies definitions and terminology referring to "parental defense";
- changes the name of the "Child Welfare Parental Defense Program" to the "Child Welfare Parental Representation Program";
- changes the name of the "Child Welfare Parental Defense Fund" to the "Child Welfare Parental Representation Fund";
- repeals provisions requiring the Utah Indigent Defense Commission to make administrative rules regarding the Child Welfare Parental Representation Fund; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

This bill appropriates in fiscal year 2022:

- to Governor's Office -- Indigent Defense Commission -- Child Welfare Parental Representation Program, as an ongoing appropriation:
  - from General Fund, $9,000.

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

78B-22-102, as last amended by Laws of Utah 2020, Chapters 371, 392, and 395
78B-22-402, as last amended by Laws of Utah 2020, Chapters 352, 371, 373, 392, 395 and last amended by Coordination Clause, Laws of Utah 2020, Chapter 395
78B-22-404, as last amended by Laws of Utah 2020, Chapters 371, 392, and 395
78B-22-406, as last amended by Laws of Utah 2020, Chapters 371, 392, and 395
78B-22-452, as enacted by Laws of Utah 2020, Chapters 371, 392, 395 and last amended by Coordination Clause, Laws of Utah 2020, Chapters 392, and 395
78B-22-453, as renumbered and amended by Laws of Utah 2020, Chapters 371, 392, 395 and last amended by Coordination Clause, Laws of Utah 2020, Chapters 392, and 395
78B-22-801, as enacted by Laws of Utah 2020, Chapter 395
78B-22-802, as renumbered and amended by Laws of Utah 2020, Chapter 395
78B-22-803, as renumbered and amended by Laws of Utah 2020, Chapter 395 and last amended by Coordination Clause, Laws of Utah 2020, Chapter 395
78B-22-804, as renumbered and amended by Laws of Utah 2020, Chapter 395

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

Section 1. Section 78B-22-102 is amended to read:

78B-22-102. Definitions.

As used in this chapter:

(1) "Account" means the Indigent Defense Resources Restricted Account created in Section 78B-22-405.

(2) "Board" means the Indigent Defense Funds Board created in Section 78B-22-501.

(3) "Commission" means the Utah Indigent Defense Commission created in Section 78B-22-401.

(4) "Child welfare case" means a proceeding under Title 78A, Chapter 6, Part 3, Abuse, Neglect, and Dependency Proceedings, or Part 5, Termination of Parental Rights Act.

[~~(4)~~] (5) "Director" means the director of the Office of Indigent Defense Services, created in Section 78B-22-451, who is appointed in accordance with Section 78B-22-453.

[~~(5)~~] (6) (a) "Indigent defense resources" means the resources necessary to provide an effective defense for an indigent individual, including the costs for a competent investigator, expert witness, scientific or medical testing, transcripts, and printing briefs.

(b) "Indigent defense resources" does not include an indigent defense service provider.

[~~(6)~~] (7) "Indigent defense service provider" means an attorney or entity appointed to represent an indigent individual pursuant to:

(a) a contract with an indigent defense system to provide indigent defense services; or

(b) an order issued by the court under Subsection 78B-22-203(2)(a).

[~~(7)~~] (8) "Indigent defense services" means:

(a) the representation of an indigent individual by an indigent defense service provider; and

(b) the provision of indigent defense resources for an indigent individual.

[~~(8)~~] (9) "Indigent defense system" means:

(a) a city or town that is responsible for providing indigent defense services;

(b) a county that is responsible for providing indigent defense services in the district court, juvenile court, and the county's justice courts; or

(c) an interlocal entity, created pursuant to Title 11, Chapter 13, Interlocal Cooperation Act, that is

responsible for providing indigent defense services according to the terms of an agreement between a county, city, or town.

[~~(9)~~] (10) "Indigent individual" means:

(a) a minor who is:

(i) arrested and admitted into detention for an offense under Section 78A-6-103;

(ii) charged by petition or information in the juvenile or district court; or

(iii) described in this Subsection (9)(a), who is appealing an adjudication or other final court action; and

(b) an individual listed in Subsection 78B-22-201(1) who is found indigent pursuant to Section 78B-22-202.

[~~(10)~~] (11) "Minor" means the same as that term is defined in Section 78A-6-105.

[~~(11)~~] (12) "Office" means the Office of Indigent Defense Services created in Section 78B-22-451.

[~~(12)~~] (13) "Participating county" means a county that complies with this chapter for participation in the Indigent Aggravated Murder Defense Trust Fund as provided in Sections 78B-22-702 and 78B-22-703.

Section 2. Section 78B-22-402 is amended to read:

78B-22-402. Commission members -- Member qualifications -- Terms -- Vacancy.

(1) (a) The commission is composed of 15 members.

(b) The governor, with the advice and consent of the Senate, and in accordance with Title 63G, Chapter 24, Part 2, Vacancies, shall appoint the following 11 members:

(i) two practicing criminal defense attorneys recommended by the Utah Association of Criminal Defense Lawyers;

(ii) one attorney practicing in juvenile delinquency defense recommended by the Utah Association of Criminal Defense Lawyers;

(iii) one attorney [~~practicing in the area of parental defense~~] who represents parents in child welfare cases, recommended by an entity funded under the Child Welfare Parental [~~Defense~~] Representation Program created in Section 78B-22-802;

(iv) one attorney representing minority interests recommended by the Utah Minority Bar Association;

(v) one member recommended by the Utah Association of Counties from a county of the first or second class;

(vi) one member recommended by the Utah Association of Counties from a county of the third through sixth class;

(vii) a director of a county public defender organization recommended by the Utah Association of Criminal Defense Lawyers;

(viii) two members recommended by the Utah League of Cities and Towns from its membership; and

(ix) one retired judge recommended by the Judicial Council.

(c) The speaker of the House of Representatives and the president of the Senate shall appoint two members of the Utah Legislature, one from the House of Representatives and one from the Senate.

(d) The Judicial Council shall appoint a member from the Administrative Office of the Courts.

(e) The executive director of the State Commission on Criminal and Juvenile Justice or the executive director's designee is a member of the commission.

(2) A member appointed by the governor shall serve a four-year term, except as provided in Subsection (3).

(3) The governor shall stagger the initial terms of appointees so that approximately half of the members appointed by the governor are appointed every two years.

(4) A member appointed to the commission shall have significant experience in indigent criminal defense, [~~parental defense~~] representing parents in child welfare cases, or in juvenile defense in delinquency proceedings or have otherwise demonstrated a strong commitment to providing effective representation in indigent defense services.

(5) An individual who is currently employed solely as a criminal prosecuting attorney may not serve as a member of the commission.

(6) A commission member shall hold office until the member's successor is appointed.

(7) The commission may remove a member for incompetence, dereliction of duty, malfeasance, misfeasance, or nonfeasance in office, or for any other good cause.

(8) If a vacancy occurs in the membership for any reason, a replacement shall be appointed for the remaining unexpired term in the same manner as the original appointment.

(9) (a) The commission shall elect annually a chair from the commission's membership to serve a one-year term.

(b) A commission member may not serve as chair of the commission for more than three consecutive terms.

(10) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

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

(c) rules made by the Division of Finance in accordance with Sections 63A-3-106 and 63A-3-107.

(11) (a) A majority of the members of the commission constitutes a quorum.

(b) If a quorum is present, the action of a majority of the voting members present constitutes the action of the commission.

(c) A member shall comply with the conflict of interest provisions described in Title 63G, Chapter 24, Part 3, Conflicts of Interest.

Section 3. Section 78B-22-404 is amended to read:

78B-22-404. Powers and duties of the commission.

(1) The commission shall:

(a) adopt core principles for an indigent defense system to ensure the effective representation of indigent individuals consistent with the requirements of the United States Constitution, the Utah Constitution, and the Utah Code, which principles at a minimum shall address the following:

(i) an indigent defense system shall ensure that in providing indigent defense services:

(A) an indigent individual receives conflict-free indigent defense services; and

(B) there is a separate contract for each type of indigent defense service; and

(ii) an indigent defense system shall ensure an indigent defense service provider has:

(A) the ability to exercise independent judgment without fear of retaliation and is free to represent an indigent individual based on the indigent defense service provider's own independent judgment;

(B) adequate access to indigent defense resources;

(C) the ability to provide representation to accused individuals in criminal cases at the critical stages of proceedings, and at all stages to indigent individuals in juvenile delinquency and child welfare proceedings;

(D) a workload that allows for sufficient time to meet with clients, investigate cases, file appropriate documents with the courts, and otherwise provide effective assistance of counsel to each client;

(E) adequate compensation without financial disincentives;

(F) appropriate experience or training in the area for which the indigent defense service provider is representing indigent individuals;

(G) compensation for legal training and education in the areas of the law relevant to the types of cases for which the indigent defense service provider is representing indigent individuals; and

(H) the ability to meet the obligations of the Utah Rules of Professional Conduct, including expectations on client communications and managing conflicts of interest;

(b) encourage and aid indigent defense systems in the state in the regionalization of indigent defense services to provide for effective and efficient representation to the indigent individuals;

(c) emphasize the importance of ensuring constitutionally effective indigent defense services;

(d) encourage members of the judiciary to provide input regarding the delivery of indigent defense services; and

(e) oversee individuals and entities involved in providing indigent defense services.

(2) The commission may:

(a) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to carry out the commission's duties under this part;

(b) assign duties related to indigent defense services to the office to assist the commission with the commission's statutory duties;

(c) request supplemental appropriations from the Legislature to address a deficit in the Indigent Inmate Trust Fund created in Section 78B-22-455; and

(d) request supplemental appropriations from the Legislature to address a deficit in the Child Welfare Parental [~~Defense~~] Representation Fund created in Section 78B-22-804.

Section 4. Section 78B-22-406 is amended to read:

78B-22-406. Indigent defense services grant program.

(1) The commission may award grants:

(a) to supplement local spending by an indigent defense system for indigent defense services; and

(b) for contracts to provide indigent defense services for appeals from juvenile court proceedings in a county of the third, fourth, fifth, or sixth class.

(2) The commission may use grant money:

(a) to assist an indigent defense system to provide indigent defense services that meet the commission's core principles for the effective representation of indigent individuals;

(b) to establish and maintain local indigent defense data collection systems;

(c) to provide indigent defense services in addition to indigent defense services that are currently being provided by an indigent defense system;

(d) to provide training and continuing legal education for indigent defense service providers;

(e) to assist indigent defense systems with appeals from juvenile court proceedings;

(f) to pay for indigent defense resources and costs and expenses for parental [~~defense~~] representation

attorneys as described in Subsection 78B-22-804(2); and

(g) to reimburse an indigent defense system for the cost of providing indigent defense services in an action initiated by a private party under Title 78A, Chapter 6, Part 5, Termination of Parental Rights, if the indigent defense system has complied with the commission's policies and procedures for reimbursement.

(3) To receive a grant from the commission, an indigent defense system shall demonstrate to the commission's satisfaction that:

(a) the indigent defense system has incurred or reasonably anticipates incurring expenses for indigent defense services that are in addition to the indigent defense system's average annual spending on indigent defense services in the three fiscal years immediately preceding the grant application; and

(b) a grant from the commission is necessary for the indigent defense system to meet the commission's core principles for the effective representation of indigent individuals.

(4) The commission may revoke a grant if an indigent defense system fails to meet requirements of the grant or any of the commission's core principles for the effective representation of indigent individuals.

Section 5. Section 78B-22-452 is amended to read:

78B-22-452. Duties of the office.

(1) The office shall:

(a) establish an annual budget for the office for the Indigent Defense Resources Restricted Account created in Section 78B-22-405;

(b) assist the commission in performing the commission's statutory duties described in this chapter;

(c) identify and collect data that is necessary for the commission to:

(i) aid, oversee, and review compliance by indigent defense systems with the commission's core principles for the effective representation of indigent individuals; and

(ii) provide reports regarding the operation of the commission and the provision of indigent defense services by indigent defense systems in the state;

(d) assist indigent defense systems by reviewing contracts and other agreements, to ensure compliance with the commission's core principles for effective representation of indigent individuals;

(e) establish procedures for the receipt and acceptance of complaints regarding the provision of indigent defense services in the state;

(f) establish procedures to award grants to indigent defense systems under Section 78B-22-406 that are consistent with the commission's core principles;

(g) create and enter into contracts consistent with Section 78B-22-454 to provide indigent defense services for an indigent defense inmate who:

(i) is incarcerated in a state prison located in a county of the third, fourth, fifth, or sixth class as [~~defined~~] classified in Section 17-50-501;

(ii) is charged with having committed a crime within that state prison; and

(iii) has been appointed counsel in accordance with Section 78B-22-203;

(h) assist the commission in developing and reviewing advisory caseload guidelines and procedures;

(i) investigate, audit, and review the provision of indigent defense services to ensure compliance with the commission's core principles for the effective representation of indigent individuals;

(j) administer the Child Welfare Parental [~~Defense~~] Representation Program in accordance with Part 8, Child Welfare Parental [~~Defense~~] Representation Program;

(k) annually report to the governor, Legislature, Judiciary Interim Committee, and Judicial Council, regarding:

(i) the operations of the commission;

(ii) the operations of the indigent defense systems in the state; and

(iii) compliance with the commission's core principles by indigent defense systems receiving grants from the commission;

(l) submit recommendations to the commission for improving indigent defense services in the state;

(m) publish an annual report on the commission's website; and

(n) perform all other duties assigned by the commission related to indigent defense services.

(2) The office may enter into contracts and accept, allocate, and administer funds and grants from any public or private person to accomplish the duties of the office.

(3) Any contract entered into under this part shall require that indigent defense services are provided in a manner consistent with the commission's core principles implemented under Section 78B-22-404.

Section 6. Section 78B-22-453 is amended to read:

78B-22-453. Director -- Qualifications -- Staff.

(1) The executive director of the State Commission on Criminal and Juvenile Justice shall appoint a director to carry out the duties of the office described in Section 78B-22-452.

(2) The director shall be an active member of the Utah State Bar with an appropriate background and experience to serve as the full-time director.

(3) The director shall hire staff as necessary to carry out the duties of the office as described in Section 78B-22-452, including:

(a) one individual who is an active member of the Utah State Bar to serve as a full-time assistant director; and

(b) one individual with data collection and analysis skills.

(4) When appointing the director of the office under Subsection (1), the executive director of the State Commission on Criminal and Juvenile Justice shall give preference to an individual with experience in adult criminal defense, representing parents in child welfare [~~parental defense~~] cases, or in juvenile delinquency defense.

(5) When hiring the assistant director, the director shall give preference to an individual with experience in adult criminal defense, representing parents in child welfare [~~parental defense~~] cases, or in juvenile delinquency defense.

Section 7. Section 78B-22-801 is amended to read:

Part 8. Child Welfare Parental Representation Program

78B-22-801. Definitions.

As used in this part:

[~~(1) "Child welfare case" means a proceeding under Title 78A, Chapter 6, Part 3, Abuse, Neglect, and Dependency Proceedings, or Part 5, Termination of Parental Rights Act.~~]

[~~(2)~~] (1) "Contracted parental [~~defense~~] representation attorney" means an attorney who represents an indigent individual who is a parent in a child welfare case under a contract with the office or a contributing county.

[~~(3)~~] (2) "Contributing county" means a county that complies with this part for participation in the [~~Child Welfare Parental Defense Fund~~] fund described in Section 78B-22-804.

[~~(4)~~] (3) "Fund" means the Child Welfare Parental [~~Defense~~] Representation Fund created in Section 78B-22-804.

[~~(5)~~] (4) "Program" means the Child Welfare Parental [~~Defense~~] Representation Program created in Section 78B-22-802.

Section 8. Section 78B-22-802 is amended to read:

78B-22-802. Child Welfare Parental Representation Program -- Creation -- Duties -- Annual report -- Budget.

(1) There is created within the office the Child Welfare Parental [~~Defense~~] Representation Program.

(2) (a) The office shall:

(i) administer and enforce the program in accordance with this part;

(ii) manage the operation and budget of the program;

(iii) develop and provide educational and training programs for contracted parental [~~defense~~] representation attorneys; and

(iv) provide information and advice to assist a contracted parental [~~defense~~] representation attorney to comply with the attorney's professional, contractual, and ethical duties.

(b) In administering the program, the office shall contract with:

(i) a person who is qualified to perform the program duties under this section; and

(ii) an attorney, as an independent contractor, in accordance with Section 78B-22-803.

(3) (a) The director shall prepare a budget of:

(i) the administrative expenses for the program; and

(ii) the amount estimated to fund needed contracts and other costs.

(b) On or before October 1 of each year, the director shall report to the governor and the Child Welfare Legislative Oversight Panel regarding the preceding fiscal year on the operations, activities, and goals of the program.

Section 9. Section 78B-22-803 is amended to read:

78B-22-803. Child welfare parental representation contracts.

(1) (a) The office may enter into a contract with an attorney to provide indigent defense services for a parent who is the subject of a petition alleging abuse, neglect, or dependency, and requires indigent defense services under Section 78A-6-1111.

(b) The office shall make payment for the representation, costs, and expenses of a contracted parental [~~defense~~] representation attorney from the [~~Child Welfare Parental Defense Fund~~] fund in accordance with Section 78B-22-804.

(2) (a) Except as provided in Subsection (2)(b), a contracted parental [~~defense~~] representation attorney shall:

(i) complete a basic training course provided by the office;

(ii) provide parental [~~defense~~] representation services consistent with the commission's core principles described in Section 78B-22-404;

(iii) have experience in child welfare cases; and

(iv) participate each calendar year in continuing legal education courses providing no fewer than eight hours of instruction in child welfare law.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may, by rule, exempt from the requirements of Subsection (2)(a) an attorney who has equivalent training or adequate experience.

Section 10. Section 78B-22-804 is amended to read:

78B-22-804. Child Welfare Parental Representation Fund -- Contracts for coverage by the fund.

(1) There is created an expendable special revenue fund known as the "Child Welfare Parental [~~Defense~~] Representation Fund."

(2) Subject to availability, the office may make distributions from the fund for the following purposes:

(a) to pay for indigent defense resources for contracted parental [~~defense~~] representation attorneys;

(b) for administrative costs of the program; and

(c) for reasonable expenses directly related to the functioning of the program, including training and travel expenses.

(3) The fund consists of:

(a) appropriations made to the fund by the Legislature;

(b) interest and earnings from the investment of fund money;

(c) proceeds deposited by contributing counties under this section; and

(d) private contributions to the fund.

(4) The state treasurer shall invest the money in the fund by following the procedures and requirements of Title 51, Chapter 7, State Money Management Act.

(5) (a) If the office anticipates a deficit in the fund during a fiscal year:

(i) the commission may request an appropriation from the Legislature; and

(ii) the Legislature may fund the anticipated deficit through appropriation.

(b) If the anticipated deficit is not funded by the Legislature under Subsection (5)(a), the office may request an interim assessment [~~to participating~~] from contributing counties as described in Subsection (6) to fund the anticipated deficit.

(6) (a) A county legislative body and the office may annually enter into a contract for the office to provide [~~parental defense attorney services~~] indigent defense services for a parent in a child welfare case in the [~~contributing~~] county out of the fund.

(b) [~~The~~] A contract described [~~under~~] in Subsection (6)(a) shall:

(i) require the contributing county described in Subsection (6)(a) to pay into the fund an amount defined by a formula established by the commission [~~by rule under Title 63G, Chapter 3, Utah Administrative Rulemaking Act~~]; and

(ii) provide for revocation of the [~~agreement~~] contract for the contributing county's failure to pay [~~an~~] the assessment described in Subsection (5) on the due date established by the commission [~~by rule under Title 63G, Chapter 3, Utah Administrative Rulemaking Act~~].

(7) [~~(a)~~] After the first year of operation of the fund, [~~any~~] a contributing county that [~~elects~~] enters into a contract under Subsection (6) to initiate or reestablish participation in the fund[~~, or reestablish participation in the fund after participation was terminated,~~] is required to make an equity payment in the amount determined by the commission, in addition to the assessment [~~provided~~] described in Subsection (5).

[~~(b) The commission shall determine the amount of the equity payment described in Subsection (7)(a) by rule established by the commission under Title 63G, Chapter 3, Utah Administrative Rulemaking Act.~~]

(8) A contributing county that [~~elects to withdraw~~] withdraws from participation in the fund, or whose participation in the fund is revoked [~~due to~~] as described in Subsection (6) for failure to pay the contributing county's assessment[~~, as described in Subsection (6), when due,~~] when due, shall forfeit any right to any previously paid assessment by the contributing county or coverage from the fund.

Section 11. Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2021, and ending June 30, 2022. These are additions to amounts previously appropriated for fiscal year 2022. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 1 To Governor's Office -- Indigent Defense Commission

From General Fund	$9,000
Schedule of Programs:	
Child Welfare Parental Representation Program	$9,000

The Legislature intends that:

(1) the appropriations under this item be used to provide additional technological support for educational and training programs developed for parental defense attorneys under Section 78B-22-802; and

(2) if this S.B. 90 passes and becomes law, the Division of Finance shall recognize the Child Welfare Parental Defense Program as the Child Welfare Parental Representation Program.

CHAPTER 229
S. B. 96
Passed February 18, 2021
Approved March 16, 2021
Effective May 5, 2021

LEGISLATIVE WATER DEVELOPMENT COMMISSION AMENDMENTS

Chief Sponsor: Jani Iwamoto
House Sponsor: Joel Ferry

LONG TITLE

General Description:

This bill modifies provisions related to the Legislative Water Development Commission.

Highlighted Provisions:

This bill:

- modifies the quorum requirements to rely on joint legislative rules;
- addresses sunset date provisions related to the commission; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63I-1-273, as last amended by Laws of Utah 2020, Chapters 28, 154, and 342
73-27-102, as last amended by Laws of Utah 2020, Chapter 28

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

Section 1. Section 63I-1-273 is amended to read:

63I-1-273. Repeal dates, Title 73.

[~~(1) In relation to the Legislative Water Development Commission, on January 1, 2031:~~]

[~~(a) in Subsection 73-10g-105(3), the language that states "and in consultation with the Legislative Water Development Commission created in Section 73-27-102" is repealed;~~]

[~~(b) Subsection 73-10g-203(4)(a) is repealed; and~~]

[~~(c)~~] (1) Title 73, Chapter 27, Legislative Water Development Commission, is repealed January 1, 2031.

(2) Title 73, Chapter 10g, Part 2, Agricultural Water Optimization, is repealed July 1, 2025.

(3) Section 73-18-3.5, which creates the Boating Advisory Council, is repealed July 1, 2024.

(4) Title 73, Chapter 30, Great Salt Lake Advisory Council Act, is repealed July 1, 2027.

(5) In relation to Title 73, Chapter 31, Water Banking Act, on December 31, 2030:

(a) Subsection 73-1-4(2)(e)(xi) is repealed;

(b) Subsection 73-10-4(1)(h) is repealed; and

(c) Title 73, Chapter 31, Water Banking Act, is repealed.

Section 2. Section 73-27-102 is amended to read:

73-27-102. Legislative Water Development Commission created.

(1) (a) The Legislative Water Development Commission is created to determine the state's role in the protection, conservation, and development of the state's water resources.

(b) For purposes of this chapter, "commission" means the Legislative Water Development Commission.

(2) (a) The commission membership shall include:

(i) five members of the Senate, appointed by the president of the Senate, no more than four of whom may be from the same political party;

(ii) eight members of the House of Representatives, appointed by the speaker of the House of Representatives, no more than six of whom may be from the same political party; and

(iii) subject to Subsections (2)(b) and (c), nonvoting members, appointed by the Legislative Management Committee, from a list recommended by the cochairs of the commission described in Subsection (5).

(b) If the Legislative Management Committee chooses to not appoint an individual on the list described in Subsection (2)(a)(iii), the Legislative Management Committee may ask the cochairs of the commission to submit an additional list of recommendations.

(c) The Legislative Management Committee may not appoint an individual who is not recommended by the cochairs of the commission.

(3) (a) The members appointed by the Legislative Management Committee under Subsection (2)(a)(iii) shall be appointed or reappointed to a two-year term.

(b) When a vacancy occurs in the membership for any reason, the Legislative Management Committee, in consultation with the cochairs of the commission, shall appoint a replacement for the unexpired term.

(4) The president of the Senate and the speaker of the House of Representatives shall, to the extent possible, appoint members under Subsections (2)(a)(i) and (ii) that represent both rural and urban areas of the state.

(5) (a) The president of the Senate shall designate a member of the Senate appointed under Subsection (2)(a)(i) as a cochair of the commission.

(b) The speaker of the House of Representatives shall designate a member of the House of Representatives appointed under Subsection (2)(a)(ii) as a cochair of the commission.

[~~(6) Attendance by at least 50% of one legislative house and more than 50% of the other legislative house constitutes a quorum.~~]

(6) What constitutes a quorum of the commission is determined in accordance with Legislative Joint Rules, Title 7, Chapter 1, Part 2, Creation and Organization of Legislative Committees, except nonvoting members of the commission described in Subsection (2)(a)(iii) may not be considered for purposes of determining a quorum.

(7) (a) Compensation and expenses of a member of the commission who is a legislator are governed by Section 36-2-2 and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.

(b) Commission members who are employees of the state shall receive no additional compensation.

(c) Other commission members shall receive no compensation or expenses for their service on the commission.

(8) The Office of Legislative Research and General Counsel shall provide staff support to the commission.

CHAPTER 230
S. B. 98
Passed March 4, 2021
Approved March 16, 2021
Effective May 5, 2021

ASSET FORFEITURE AMENDMENTS

Chief Sponsor: Todd D. Weiler
House Sponsor: Karianne Lisonbee

LONG TITLE

General Description:

This bill amends provisions related to asset forfeiture.

Highlighted Provisions:

This bill:

- clarifies provisions related to the seizure and forfeiture of property and contraband;
- addresses jurisdiction of a district court over seized property;
- provides, with certain exceptions, that seized property may not be transferred or shared with a federal agency or an agency of another state;
- requires that a disclaimer of seized property by an individual be knowing and voluntary;
- provides that law enforcement agencies have 30 days to process seized cash or negotiable instruments;
- requires the cash or negotiable instrument be deposited into an interest-bearing account;
- amends provisions related to the retention of property for court proceedings;
- reduces the length of time for an agency to present a written request for forfeiture to a prosecutor;
- allows an agency or prosecuting attorney to release property to an innocent owner;
- prohibits the forfeiture of property seized upon the sole offense of possession of a controlled substance;
- permits grants to any agency involved in forfeiture activities regardless of whether the agency contributed to the State Asset Forfeiture Fund;
- requires certification of asset forfeiture specialists by Peace Officers Standards and Training or the Utah Prosecution Council; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

24-1-102, as last amended by Laws of Utah 2017, Chapters 285 and 362
24-1-103, as enacted by Laws of Utah 2013, Chapter 394
24-2-102, as enacted by Laws of Utah 2013, Chapter 394
24-2-103, as last amended by Laws of Utah 2017, Chapter 362
24-3-101, as enacted by Laws of Utah 2013, Chapter 394
24-3-103, as last amended by Laws of Utah 2017, Chapters 285 and 334
24-3-104, as enacted by Laws of Utah 2013, Chapter 394
24-4-101, as enacted by Laws of Utah 2013, Chapter 394
24-4-102, as last amended by Laws of Utah 2017, Chapter 362
24-4-103, as enacted by Laws of Utah 2013, Chapter 394
24-4-104, as last amended by Laws of Utah 2017, Chapter 362
24-4-105, as last amended by Laws of Utah 2014, Chapter 112
24-4-109, as enacted by Laws of Utah 2013, Chapter 394
24-4-110, as last amended by Laws of Utah 2017, Chapter 362
24-4-111, as enacted by Laws of Utah 2013, Chapter 394
24-4-112, as enacted by Laws of Utah 2013, Chapter 394
24-4-113, as enacted by Laws of Utah 2013, Chapter 394
24-4-115, as last amended by Laws of Utah 2017, Chapter 303
24-4-116, as enacted by Laws of Utah 2013, Chapter 394
24-4-117, as last amended by Laws of Utah 2015, Chapter 134
24-4-118, as last amended by Laws of Utah 2017, Chapter 303

ENACTS:

24-2-102.5, Utah Code Annotated 1953
24-2-104, Utah Code Annotated 1953
24-2-107, Utah Code Annotated 1953
24-2-108, Utah Code Annotated 1953
24-3-101.5, Utah Code Annotated 1953
24-4-103.3, Utah Code Annotated 1953
24-4-103.5, Utah Code Annotated 1953
24-4-119, Utah Code Annotated 1953
53-13-110.5, Utah Code Annotated 1953

RENUMBERS AND AMENDS:

24-2-105, (Renumbered from 24-4-114, as last amended by Laws of Utah 2015, Chapter 134)
24-2-106, (Renumbered from 24-3-102, as enacted by Laws of Utah 2013, Chapter 394)

REPEALS:

24-4-107, as last amended by Laws of Utah 2017, Chapter 362
24-4-108, as enacted by Laws of Utah 2013, Chapter 394

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

Section 1. Section 24-1-102 is amended to read:

24-1-102. Definitions.

As used in this title:

(1) "Account" means the Criminal Forfeiture Restricted Account created in Section 24-4-116.

(2) (a) "Acquitted" means a finding by a jury or a judge at trial that a claimant is not guilty.

(b) "Acquitted" does not include:

(i) a verdict of guilty on a lesser or reduced charge;

(ii) a plea of guilty to a lesser or reduced charge; or

(iii) dismissal of a charge as a result of a negotiated plea agreement.

(3) (a) "Agency" means [~~any~~] an agency of [~~municipal, county, or state government, including law enforcement agencies, law enforcement personnel, and multijurisdictional task forces~~] this state or a political subdivision of this state.

(b) "Agency" includes a law enforcement agency or a multijurisdictional task force.

(4) "Claimant" means [~~any~~]:

(a) an owner of property as defined in this section;

(b) an interest holder as defined in this section; or

(c) [~~person~~] an individual or entity who asserts a claim to any property seized for forfeiture under this title.

(5) "Commission" means the [~~Utah~~] State Commission on Criminal and Juvenile Justice created in Section 63M-7-201.

(6) "Complaint" means a civil [~~in rem~~] or criminal complaint seeking the forfeiture of any real or personal property under this title.

(7) (a) "Computer" means an electronic, magnetic, optical, electrochemical, or other high-speed data processing device that performs logical, arithmetic, and storage functions[~~, and~~].

(b) "Computer" includes any device that is used for the storage of digital or electronic files, flash memory, software, or other electronic information.

[~~(b)~~] (c) "Computer" does not mean a computer server of an Internet or [~~an~~] electronic service provider, or the service provider's employee, if used [~~for the purpose of compliance with obligations pursuant to~~] to comply with the requirements under 18 U.S.C. Sec. 2258A.

(8) "Constructive seizure" means a seizure of property where the property is left in the control of the owner and [~~the seizing~~] an agency posts the property with a notice of intent to seek forfeiture.

(9) (a) "Contraband" means any property, item, or substance that is unlawful to produce or to possess under state or federal law.

[~~(b) All controlled substances that are~~]

(b) "Contraband" includes:

(i) a controlled substance that is possessed, transferred, distributed, or offered for distribution in violation of Title 58, Chapter 37, Utah Controlled Substances Act[~~, are contraband.~~]; or

[~~(c) A computer is contraband if it:~~]

(ii) a computer that:

[~~(i)~~] (A) contains or houses child pornography, or is used to create, download, transfer, upload to a storage account, or store any electronic or digital files containing child pornography; or

[~~(ii)~~] (B) contains the personal identifying information of another [~~person~~] individual, as defined in Subsection 76-6-1102(1), whether that [~~person~~] individual is alive or deceased, and the personal identifying information has been used to create false or fraudulent identification documents or financial transaction cards in violation of Title 76, Chapter 6, Part 5, Fraud.

(10) "Forfeit" means to divest a claimant of an ownership interest in property seized under this title.

[~~(10)~~] (11) "Innocent owner" means a claimant who:

(a) held an ownership interest in property at the time [~~the conduct subjecting the property to forfeiture occurred~~] of the commission of an offense subjecting the property to forfeiture under this title, and:

(i) did not have actual knowledge of the [~~conduct~~] offense subjecting the property to forfeiture; or

(ii) upon learning of the [~~conduct subjecting the property to forfeiture~~] commission of the offense, took reasonable steps to prohibit the [~~illegal~~] use of the property in the commission of the offense; or

(b) acquired an ownership interest in the property and had no knowledge that the [~~illegal conduct subjecting the property to forfeiture~~] commission of the offense subjecting the property to forfeiture under this title had occurred or that the property had been seized for forfeiture, and:

(i) acquired the property in a bona fide transaction for value;

(ii) was [~~a person~~] an individual, including a minor child, who acquired an interest in the property through probate or inheritance; or

(iii) was a spouse who acquired an interest in property through dissolution of marriage or by operation of law.

[~~(11)~~] (12) (a) "Interest holder" means a secured party as defined in Section 70A-9a-102, a party with a right-of-offset, a mortgagee, lien creditor, or the beneficiary of a security interest or encumbrance pertaining to an interest in property, whose interest would be perfected against a good faith purchaser for value.

(b) "Interest holder" does not mean a person:

(i) who holds property for the benefit of or as an agent or nominee for another person[~~,~~]; or

(ii) who is not in substantial compliance with any statute requiring an interest in property to be recorded or reflected in public records in order to perfect the interest against a good faith purchaser for value.

[~~(12)~~] (13) "Known address" means any address provided by a claimant to the peace officer or agency at the time the property [~~was~~] is seized, or the

claimant's most recent address on record with a governmental entity if no address was provided at the time of the seizure.

[~~(13)~~] (14) "Legal costs" means the costs and expenses incurred by a party in a forfeiture action.

[~~(14)~~] (15) "Legislative body" means:

(a) (i) the Legislature, county commission, county council, city commission, city council, or town council that has fiscal oversight and budgetary approval authority over an agency; or

(ii) the agency's governing political subdivision; or

(b) the lead governmental entity of a multijurisdictional task force, as designated in a memorandum of understanding executed by the agencies participating in the task force.

[~~(15)~~] (16) "Multijurisdictional task force" means a law enforcement task force or other agency comprised of [~~persons~~] individuals who are employed by or acting under the authority of different governmental entities, including federal, state, county, or municipal governments, or any combination of [~~these~~] federal, state, county, or municipal agencies.

[~~(16)~~] (17) "Owner" means [~~any person~~] an individual or entity, other than an interest holder, that possesses a bona fide legal or equitable interest in real or personal property.

(18) "Peace officer" means an employee:

(a) of an agency;

(b) whose duties consist primarily of the prevention and detection of violations of laws of this state or a political subdivision of this state; and

(c) who is authorized by the agency to seize property under this title.

[~~(17)~~] (19) (a) "Proceeds" means:

(i) property of any kind that is obtained directly or indirectly as a result of the commission of an offense [~~that gives rise to forfeiture~~]; or

(ii) any property acquired directly or indirectly from, produced through, realized through, or caused by an act or omission regarding property under Subsection [~~(17)~~] (19)(a)(i).

(b) "Proceeds" includes any property of any kind without reduction for expenses incurred in the acquisition, maintenance, or production of that property, or any other purpose regarding property under Subsection [~~(17)~~] (19)(a)(i).

(c) "Proceeds" is not limited to the net gain or profit realized from the offense that [~~gives rise to forfeiture~~] subjects the property to forfeiture.

[~~(18)~~] (20) "Program" means the State Asset Forfeiture Grant Program [~~established~~] created in Section 24-4-117.

[~~(19)~~] (21) (a) "Property" means all property, whether real or personal, tangible or intangible[~~, but~~].

(b) "Property" does not include contraband.

[~~(20)~~] (22) "Prosecuting attorney" means:

(a) the attorney general and [~~any~~] an assistant attorney general;

(b) [~~any~~] a district attorney or deputy district attorney;

(c) [~~any~~] a county attorney or assistant county attorney; and

(d) [~~any other~~] an attorney authorized to commence an action on behalf of the state under this title.

[~~(21)~~] (23) "Public interest use" means a:

(a) use by a government agency as determined by the legislative body of the agency's jurisdiction; or

(b) donation of the property to a nonprofit charity registered with the state.

[~~(22)~~] (24) "Real property" means land [~~and includes~~], including any building, fixture, improvement, appurtenance, structure, or other development that is affixed permanently to land.

Section 2. Section 24-1-103 is amended to read:

24-1-103. Venue.

[~~(1) A state district court has jurisdiction over any action filed in accordance with this title regarding:~~]

[~~(a) all interests in property if the property is within this state at the time the action is filed; and~~]

[~~(b) a claimant's interests in the property, if the claimant is subject to the personal jurisdiction of the district court.~~]

[~~(2) (a)~~] (1) In addition to the venue provided for under Title 78B, Chapter 3, Part 3, Place of Trial -- Venue, or any other provisions of law, a proceeding [~~for forfeiture~~] under this title may be maintained in the judicial district in which:

(a) the property is seized;

[~~(i)~~] (b) any part of the property is found; or

[~~(ii)~~] (c) a civil or criminal action could be maintained against a claimant for the [~~conduct alleged to constitute grounds for forfeiture~~] offense subjecting the property to forfeiture under this title.

[~~(b)~~] (2) A claimant may obtain a change of venue under Section 78B-3-309.

Section 3. Section 24-2-102 is amended to read:

24-2-102. Grounds for seizing property.

[~~(1) Property may be seized by a peace officer or any other person authorized by law upon process issued by a court having jurisdiction over the property in accordance with the Utah Rules of Criminal Procedure relating to search warrants or administrative warrants.~~]

(1) A peace officer may seize property and contraband upon a search warrant or

administrative warrant that is issued in accordance with the Utah Rules of Criminal Procedure.

(2) [~~Property may be seized~~] A peace officer may seize property and contraband under this chapter when:

(a) the seizure is incident to an arrest;

(b) the property seized is the subject of a prior judgment in favor of the state in a criminal injunction or forfeiture proceeding under this title; or

(c) the peace officer [~~or other person authorized by law~~] has probable cause to believe that the property:

(i) is directly or indirectly dangerous to health or safety;

(ii) is evidence of [~~a crime~~] an offense;

(iii) has been used or was intended to be used to commit [~~a crime~~] an offense; or

(iv) is proceeds of [~~a crime~~] an offense.

Section 4. Section 24-2-102.5 is enacted to read:

24-2-102.5. Seizure of contraband.

If a peace officer seizes contraband, a person may not assert an ownership interest in the contraband under this title.

Section 5. Section 24-2-103 is amended to read:

24-2-103. Property seized by a peace officer.

(1) To disclaim an ownership interest in property at the time of seizure, an individual's disclaimer of the property shall be knowing and voluntary.

[~~(1) (a) When~~] (2) If property is seized [~~by a peace officer~~], the peace officer or the peace officer's employing agency shall provide a receipt to the person from [~~whom~~] which the property [~~was~~] is seized.

[~~(b)~~] (3) The receipt shall describe the:

[~~(i)~~] (a) property seized;

[~~(ii)~~] (b) date of seizure; and

[~~(iii)~~] (c) name and contact information of the peace officer's employing agency.

[~~(c)~~] (4) In addition to the receipt, [~~the person from whom the property was seized shall be provided with information regarding the forfeiture process, including:~~] the peace officer or agency shall provide the person with:

(a) information on:

(i) the time periods for the forfeiture of property; and

(ii) what happens to property upon a conviction or acquittal of the offense subjecting the property to seizure; and

(b) a web link or referral to the self-help webpage of the Utah Courts' website for resources that may assist the person in making a claim for the return of seized property.

[~~(i) important time periods in the forfeiture process;~~]

[~~(ii) what happens to the property upon conviction or acquittal; and~~]

[~~(iii) how to make a claim for the return of the property.~~]

[~~(d) A copy of the receipt shall be maintained by the agency.~~]

(5) The agency shall maintain a copy of the receipt provided in accordance with Subsection (2).

[~~(e)~~] (6) If custody of the property is transferred to another agency, [~~a copy of the receipt under Subsection (1)(a) shall be provided with the property~~] the transferring agency shall provide the other agency a copy of the receipt under Subsection (2) and the name of the person from which the property was seized.

[~~(2) The agency responsible for maintaining the property shall:~~]

[~~(a) hold all seized property in safe custody until it can be disposed of as provided in this title; and~~]

[~~(b) maintain a record of the property that includes:~~]

[~~(i) a detailed inventory of all property seized;~~]

[~~(ii) the name of the person from whom it was seized; and~~]

[~~(iii) the agency's case number.~~]

[~~(3) Property seized under this title is not recoverable by replevin, but is considered in the agency's custody subject only to the orders of the court or the official having jurisdiction.~~]

[~~(4) All controlled substances or other contraband that is seized by a peace officer may be processed for evidentiary or investigative purposes, including sampling or other preservation procedure prior to disposal or destruction.~~]

[~~(5) (a) An agency shall deposit property in the form of cash or other readily negotiable instruments into a separate, restricted, interest-bearing account maintained by the agency solely for the purpose of managing and protecting the property from commingling, loss, or devaluation.~~]

[~~(b) Each agency shall have written policies for the identification, tracking, management, and safekeeping of seized property, which shall include a prohibition against the transfer, sale, or auction of seized property to any employee of the agency.~~]

[~~(6) If a peace officer or the officer's employing agency records an interview of a minor child during an investigation of a violation of Section 76-5-402.1, 76-5-402.3, 76-5-403.1, or 76-5-404.1, the agency shall retain a copy of the recording for 18 years following the date of the last~~

~~recording unless the prosecuting attorney requests in writing that the recording be retained for an additional period of time.~~]

[~~(7) Title 13, Chapter 32a, Pawnshop and Secondhand Merchandise Transaction Information Act, governs the disposition of property held by a pawn or secondhand business in the course of its business.~~]

Section 6. Section 24-2-104 is enacted to read:

24-2-104. Custody of seized property and contraband.

(1) If a peace officer seizes property or contraband under Section 24-2-102, the property and contraband:

(a) is not recoverable by replevin; and

(b) is considered in the custody of the agency that employed the peace officer.

(2) An agency with custody of seized property shall:

(a) hold the property in safe custody until the property is released or disposed of in accordance with this title; and

(b) maintain a record of the property, including:

(i) a detailed inventory of all property seized;

(ii) the name of the person from whom the property was seized; and

(iii) the agency's case number.

(3) An agency may process property or contraband that is seized by a peace officer for evidentiary or investigative purposes, including sampling or other preservation procedure, before disposal or destruction.

(4) (a) Except as provided in Subsection (4)(b), no later than 30 days after the day on which a peace officer seizes property in the form of cash or other readily negotiable instruments under Section 24-2-102, an agency shall deposit the property into a separate, restricted, interest-bearing account maintained by the agency solely for the purpose of managing and protecting the property from commingling, loss, or devaluation.

(b) A prosecuting attorney may authorize one or more written extensions of the 30-day period under Subsection (4)(a) if the property needs to maintain the form in which the property was seized for evidentiary purposes or other good cause.

(c) An agency shall:

(i) have written policies for the identification, tracking, management, and safekeeping of seized property; and

(ii) shall have a written policy that prohibits the transfer, sale, or auction of seized property to an employee of the agency.

Section 7. Section 24-2-105, which is renumbered from Section 24-4-114 is renumbered and amended to read:

[~~24-4-114~~]. 24-2-105. Transfer and sharing procedures.

[~~(1) (a) Seizing agencies or prosecuting attorneys authorized to bring forfeiture proceedings under this chapter may not directly or indirectly transfer property held for forfeiture and not already named in a criminal indictment to any federal agency or any governmental entity not created under and subject to state law unless the court enters an order, upon petition of the prosecuting attorney, authorizing the property to be transferred.~~]

[~~(b) The court may not enter an order authorizing a transfer under Subsection (1)(a) unless:~~]

[~~(i) the conduct giving rise to the investigation or seizure is interstate in nature and sufficiently complex to justify the transfer;~~]

[~~(ii) the property may only be forfeited under federal law; or~~]

[~~(iii) pursuing forfeiture under state law would unreasonably burden prosecuting attorneys or state law enforcement agencies.~~]

[~~(c) A petition to transfer property to a federal agency under this section shall include:~~]

[~~(i) a detailed description of the property seized;~~]

[~~(ii) the location where the property was seized;~~]

[~~(iii) the date the property was seized;~~]

[~~(iv) the case number assigned by the seizing law enforcement agency; and~~]

[~~(v) a declaration that:~~]

[~~(A) states the basis for relinquishing jurisdiction to a federal agency;~~]

[~~(B) contains the names and addresses of any claimants then known; and~~]

[~~(C) is signed by the prosecutor.~~]

[~~(d) The court may not authorize the transfer of property to the federal government if the transfer would circumvent the protections of the Utah Constitution or of this chapter that would otherwise be available to the property owner.~~]

(1) Except as provided in Subsections (3)(a), (b), and (c), upon the seizure of property by a peace officer under this title, the property is subject to the exclusive jurisdiction of a district court of this state.

(2) Except as provided in Subsection (3), a peace officer, agency, or prosecuting attorney may not directly or indirectly transfer or release property seized under this title to a federal agency or to a governmental entity not created or subject to the laws of this state.

(3) An agency or prosecuting attorney may transfer or release seized property to a federal agency or to a governmental entity not created or subject to the laws of this state if:

(a) (i) the property is cash or another readily negotiable instrument; and

(ii) the property is evidence in, or subject to, a federal criminal indictment, a federal criminal information, or a federal criminal complaint that is filed before the property is seized;

(b) (i) the property is not cash or another readily negotiable instrument; and

(ii) the property is evidence in, or subject to, a federal criminal indictment, a federal criminal information, or a federal criminal complaint that is filed before the day on which the agency with custody of the property is required to return the property if no criminal or civil action is filed by the prosecuting attorney or a federal prosecutor in accordance with Section 24-4-103.5;

(c) (i) the property was used in the commission of an offense in another state; and

(ii) an agency of that state requests the transfer of the property before the day on which the agency with custody of the property is required to return the property if no criminal or civil action is filed by the prosecuting attorney or a federal prosecutor in accordance with Section 24-4-103.5; or

(d) a district court authorizes, in accordance with Subsection (5), the transfer or release of the property to an agency of another state or a federal agency upon a petition by a prosecuting attorney or a federal prosecutor.

(4) (a) A prosecuting attorney, or a federal prosecutor, may file a petition in the district court for the transfer or release of seized property.

(b) If a prosecuting attorney, or a federal prosecutor, files a petition under Subsection (4)(a), the petition shall include:

(i) a detailed description of the property seized;

(ii) the location where the property was seized;

(iii) the date the property was seized;

(iv) the case number assigned by the agency; and

(v) a declaration that:

(A) states the basis for relinquishing jurisdiction to a federal agency or an agency of another state;

(B) contains the names and addresses of any known claimant; and

(C) is signed by the prosecuting attorney or federal prosecutor.

(5) A district court may not authorize the transfer or release of seized property under Subsection (3)(d), unless the district court finds, by a preponderance of the evidence:

(a) the property is evidence in, or subject to, a federal criminal indictment, a federal criminal information, or a federal criminal complaint after the property is seized;

(b) the property may only be forfeited under federal law;

(c) forfeiting the property under state law would unreasonably burden the prosecuting attorney or agency; or

(d) the property was subject to a federal criminal investigation before the property was seized.

[~~(c) (i) Prior to granting any order to transfer pursuant to this section, the court shall give any~~]

(6) (a) Before a district court may order the transfer of seized property in accordance with this section, the court, the prosecuting attorney, or the federal prosecutor shall mail a notice to:

(i) each address contained in the declaration under Subsection (4)(b)(v) to give a claimant the right to be heard with regard to the transfer [~~by the mailing of a notice to each address contained in the declaration.~~]; and

(ii)(A) if a federal prosecutor files the petition under Subsection (4), the prosecuting attorney that is representing the agency with custody of the property; or

(B) if a prosecuting attorney files the petition under Subsection (4), the federal prosecutor who will receive the property upon the transfer or release of the property.

[~~(ii) If no claimant objects to the petition to transfer property within 10 days of the mailing of the notice,~~]

(b) If a claimant, or the party under Subsection (6)(a)(i), does not object to the petition to transfer the property within 10 days after the day on which the notice is mailed, the court shall issue [~~its~~] the court's order [~~under~~] in accordance with this section.

[~~(iii)~~] (c) If the declaration does not include an address for a claimant, the court shall delay [~~its~~] the court's order under this section for 20 days to allow time for the claimant to appear and make an objection.

[~~(f)~~] (d) (i) If a claimant, or a party under Subsection (6)(a)(i), contests a petition to transfer the property to a federal agency or to another governmental entity not created or subject to the laws of this state, the district court shall promptly set the matter for hearing.

[~~(ii) (A) The court shall determine whether the state may relinquish jurisdiction by a standard of preponderance of the evidence.~~]

[~~(B)~~] (ii) In making [~~the~~] a determination under Subsection (5), the district court shall consider evidence regarding hardship, complexity, judicial and law enforcement resources, protections afforded under state and federal law, pending state or federal investigations, and any other relevant matter [~~the court determines to be relevant~~].

[~~(2) All property, money, or other things of value received by an agency pursuant to federal law, which authorizes the sharing or transfer of all or a portion of forfeited property or the proceeds of the sale of forfeited property to an agency.~~]

(7) If an agency receives property, money, or other things of value under a federal law that authorizes

the sharing or transfer of all or a portion of forfeited property, or the proceeds from the sale of forfeited property, the agency:

(a) shall [~~be used~~] use the property, money, or other things of value in compliance with federal laws and regulations relating to equitable sharing;

(b) may [~~be used for those law enforcement purposes specified~~] use the property, money, or other things of value for a law enforcement purpose described in Subsection 24-4-117[~~(9)~~](10); and

(c) may not [~~be used for those law enforcement purposes~~] use the property, money, or other thing of value for a law enforcement purpose prohibited in Subsection 24-4-117[~~(10)~~](11).

[~~(3)~~] (8) [~~A state or local law enforcement~~] An agency awarded [~~any~~] an equitable share of property forfeited by the federal government may [~~only~~] use the award money only after approval of the use by the agency's legislative body.

(9) If a district court exercises exclusive control over seized property, the district court's exclusive control is terminated if the property is released by the agency with custody of the property to:

(a) a claimant under Subsection 24-2-107(1)(a), Section 24-3-104, or Section 24-4-103.5;

(b) a rightful owner under Section 24-3-103; or

(c) an innocent owner under Section 24-2-108.

Section 8. Section 24-2-106, which is renumbered from Section 24-3-102 is renumbered and amended to read:

[~~24-3-102~~]. 24-2-106. Retention of property.

(1) [~~When property is received in evidence by the court~~] If seized property is admitted into evidence during a court proceeding, the clerk of the court shall:

(a) retain the property; or [~~the clerk shall~~]

(b) return the property to the custody [~~of the peace officer or the agency employing the peace officer~~] of the agency.

[~~(2) The property shall be retained by the clerk or the officer or the officer's agency~~]

(2) (a) The agency shall retain seized or forfeited property:

(i) at the discretion of the prosecuting attorney; or

(ii) until all direct appeals and retrials are final[~~, at which time the property shall be disposed of in accordance with this title~~].

(3) If the prosecuting attorney [~~considers it necessary~~] decides to retain control over the [~~evidence~~] seized or forfeited property under Subsection (2)(a) in anticipation of possible collateral attacks upon the judgment or for use in a potential prosecution, the [~~prosecutor~~] prosecuting attorney may decline to authorize the disposal of the property [~~under this chapter~~].

Section 9. Section 24-2-107 is enacted to read:

24-2-107. Release of seized property to a claimant -- Release by surety bond or cash - Release for hardship.

(1) (a) An agency with custody of seized property or the prosecuting attorney may release the property to a claimant if the agency or the prosecuting attorney:

(i) determines that retention of the property is unnecessary; or

(ii) seeks to return the property to the claimant because the agency or prosecuting attorney determines that the claimant is an innocent owner.

(b) An agency with custody of the seized property, or the prosecuting attorney, shall release the property to a claimant if:

(i) the claimant posts a surety bond or cash with the court in accordance with Subsection (2);

(ii) the court orders the release of property for hardship purposes under Subsection (3);

(iii) a claimant establishes that the claimant is an innocent owner under Section 24-2-107; or

(iv) the court orders property retained as evidence to be released to a rightful owner under Section 24-3-104.

(2) (a) Except as provided in Subsection (2)(b), a claimant may obtain release of seized property by posting a surety bond or cash with the court that is in an amount equal to the current fair market value of the property as determined by the court or a stipulation by the parties.

(b) A court may refuse to order the release under Subsection (2)(a) of:

(i) the property if:

(A) the bond tendered is inadequate;

(B) the property is retained as evidence; or

(C) the property is particularly altered or designed for use in the commission of the offense subjecting the property to forfeiture; or

(ii) contraband.

(c) If a surety bond or cash is posted and the court later determines that the property is forfeited, the court shall order the forfeiture of the surety bond or cash in lieu of the property.

(3) A claimant is entitled to the immediate release of seized property for which the agency has filed a notice of intent to forfeit under Section 24-4-103 if:

(a) the claimant had a possessory interest in the property at the time of seizure;

(b) continued possession by the agency pending a forfeiture proceeding will cause substantial hardship to the claimant, including:

(i) preventing the functioning of a legitimate business;

(ii) preventing any individual from working;

(iii) preventing any child from attending elementary or secondary school;

(iv) preventing or hindering an individual from receiving necessary medical care;

(v) preventing the care of a dependent child or adult who is elderly or disabled;

(vi) leaving an individual homeless; or

(vii) any other condition that the court determines causes a substantial hardship;

(c) the hardship from the continued possession of the property by the agency outweighs the risk that the property will be destroyed, damaged, lost, concealed, or transferred if the property is returned to the claimant during the pendency of the proceeding; and

(d) the determination of substantial hardship under this Subsection (3) is based upon the property's use before the seizure.

(4) A claimant may file a motion or petition for hardship release under Subsection (3):

(a) in the court in which forfeiture proceedings have commenced; or

(b) in a district court where there is venue if a forfeiture proceeding has not yet commenced.

(5) The motion or petition for hardship release shall be served upon the agency with custody of the property within five days after the day on which the motion or petition is filed.

(6) The court shall:

(a) schedule a hearing on the motion or petition within 14 days after the day on which the motion or petition is filed; and

(b) render a decision on a motion or petition for hardship filed under this section no later than 20 days after the day of the hearing, unless this period is extended by the agreement of both parties or by the court for good cause shown.

(7) (a) If the claimant demonstrates substantial hardship under Subsection (3), the court shall order the property immediately released to the claimant pending completion of any forfeiture proceeding.

(b) The court may place conditions on release of the property as the court finds necessary and appropriate to preserve the availability of the property or the property's equivalent for forfeiture.

(8) The hardship release under this section does not apply to:

(a) contraband; or

(b) property that is likely to be used to commit additional offenses if returned to the claimant.

Section 10. Section 24-2-108 is enacted to read:

24-2-108. Innocent owners.

(1) (a) A claimant alleged to be an innocent owner may recover possession of seized property by:

(i) submitting a written request with the seizing agency before the later of:

(A) the commencement of a civil asset forfeiture proceeding; or

(B) 30 days after the day on which the property was seized; and

(ii) providing the seizing agency with:

(A) evidence that establishes proof of ownership; and

(B) a brief description of the date, time, and place that the claimant mislaid or relinquished possession of the seized property, or any evidence that the claimant is an innocent owner.

(b) If a seizing agency receives a claim under Subsection (1)(a), the seizing agency shall issue a written response to the claimant within 30 days after the day on which the seizing agency receives the claim.

(c) A response under Subsection (1)(b) from the seizing agency shall indicate whether the claim has been granted, denied on the merits, or denied for failure to provide the information required by Subsection (1)(a)(ii).

(d) (i) If a seizing agency denies a claim for failure to provide the information required by Subsection (1)(a)(ii), the claimant has 15 days after the day on which the claim is denied to submit additional information.

(ii) If a prosecuting attorney has not filed a civil action seeking to forfeit the property and a seizing agency has denied a claim for failure to provide the information required by Subsection (1)(a)(ii), the prosecuting attorney may not commence a civil action until:

(A) the claimant has submitted information under Subsection (1)(d)(i); or

(B) the deadline for the claimant to submit information under Subsection (1)(d)(i) has passed.

(e) If a seizing agency fails to issue a written response within 30 days after the day on which the seizing agency receives the response, the seizing agency shall return the property.

(2) If a claim under Subsection (1)(a) is granted, or the property is returned because the seizing agency fails to respond within 30 days, a claimant may not receive any expenses, costs, or attorney fees for the returned property.

(3) A claimant may collect reasonable attorney fees and court costs if:

(a) a claimant filed a claim under Subsection (1)(a);

(b) the seizing agency denies the claim on the merits; and

(c) a court determines that the claimant is an innocent owner in a civil asset forfeiture proceeding.

(4) If a court grants reasonable attorney fees and court costs, the amount of the attorney fees begins to accrue from the day on which the seizing agency denied the claim.

(5) If the court grants reasonable attorney fees and court costs under Subsection (3), the attorney fees and court costs are not subject to the 50% cap under Subsection 24-4-110(2).

(6) A communication between parties regarding a claim submitted under Subsection (3) and any evidence provided to the parties in connection with a claim is subject to the Utah Rules of Evidence, Rules 408 and 410.

(7) An agency and the prosecuting attorney may not forfeit the seized property of an innocent owner.

Section 11. Section 24-3-101 is amended to read:

CHAPTER 3. DISPOSAL OF PROPERTY

24-3-101. Title.

This chapter is known as[~~"Property Held as Evidence."~~] "Disposal of Property."

Section 12. Section 24-3-101.5 is enacted to read:

24-3-101.5. Application of this chapter.

The provisions of this chapter do not apply to property for which an agency has filed a notice of intent to seek forfeiture under Section 23-4-103.

Section 13. Section 24-3-103 is amended to read:

24-3-103. Disposition of property.

(1) [~~When the~~] If a prosecuting attorney determines that seized property no longer needs to be [~~held as evidence~~] retained for court proceedings, the prosecuting attorney may:

(a) petition the court to apply [~~any~~] the property that is money towards restitution, fines, fees, or monetary judgments owed by the owner of the property;

(b) petition the court for an order transferring ownership of any weapons to the [~~seizing~~] agency with custody for the agency's use and disposal in accordance with [~~applicable law~~] Section 24-3-103.5, if the owner:

(i) is the [~~person~~] individual who committed the [~~crime~~] offense for which the weapon was seized; or

(ii) may not lawfully possess the weapon; or

(c) notify the agency [~~that has possession~~] with custody of the property [~~that the property may be:~~] or contraband that:

(i) the property may be returned to the rightful owner[~~,~~] if the rightful owner may lawfully possess [~~it~~] the property; or

(ii) the contraband may be disposed of or destroyed[~~, if the property is contraband~~].

(2) The agency shall exercise due diligence in attempting to notify the rightful owner of the property to advise the owner that the property is to be returned.

(3) (a) For a computer determined to be contraband, a court may order the reasonable extraction and return of specifically described personal digital data to the rightful owner.

(b) The law enforcement agency shall determine a reasonable cost to [~~provide~~] extract the data[~~, which shall be paid by the owner at the time of the request to extract the data~~].

(c) At the time of the request to extract the data, the owner of the computer shall pay the agency the cost to extract the data.

(4) (a) Before [~~the~~] an agency may release seized property to a person claiming ownership of the property, the person shall establish in accordance with Subsection (4)(b) that the person:

(i) is the rightful owner; and

(ii) may lawfully possess the property.

(b) The person shall establish ownership under Subsection (4)(a) by providing to the agency:

(i) identifying proof or documentation of ownership of the property; or

(ii) a notarized statement[~~,~~] if proof or documentation is not available.

(5) (a) When seized property is returned to the owner, the owner shall sign a receipt listing in detail the property that is returned [~~shall be signed by the owner~~].

[~~(b) The receipt shall be retained by the agency and a copy shall be provided to the owner.~~]

(b) The agency shall:

(i) retain a copy of the receipt; and

(ii) provide a copy of the receipt to the owner.

(6) (a) Except as provided in Subsection (6)(b), if the agency is unable to locate the rightful owner of the property or [~~if~~] the rightful owner is not entitled to lawfully possess the property, the agency may:

(i) apply the property to a public interest use;

(ii) sell the property at public auction and apply the proceeds of the sale to a public interest use; or

(iii) destroy the property if the property is unfit for a public interest use or for sale.

(b) If the property described in Subsection (6)(a) is a firearm, the agency shall dispose of the firearm in accordance with Section 24-3-103.5.

(7) Before applying the property or the proceeds from the sale of the property to a public interest use, the agency shall obtain from the legislative body of [~~its~~] the agency's jurisdiction:

(a) permission to apply the property or the proceeds to public interest use; and

(b) the designation and approval of the public interest use of the property or the proceeds.

(8) If a peace officer seizes property that at the time of seizure is held by a pawn or secondhand business in the course of the pawn or secondhand business's business, the provisions of Section 13-32a-116 shall apply to the disposition of the property.

Section 14. Section 24-3-104 is amended to read:

24-3-104. Petition to return property.

(1) (a) A [~~person claiming ownership of property held as evidence~~] claimant may file a petition with the court for the return of the property that is being retained as evidence.

[~~(b) The petition may be filed in:~~]

(b) The claimant may file the petition in:

(i) the court in which criminal proceedings have commenced regarding the [~~conduct~~] offense for which the property is [~~held as~~] being retained as evidence; or

(ii) the district court [~~of the jurisdiction where the property was seized,~~] with venue under Section 24-1-103 if there are no pending criminal proceedings.

(c) [~~A copy of the petition shall be served~~] A claimant shall serve a copy of the petition on the prosecuting attorney and the agency [~~which has possession~~] with custody of the property.

(2) (a) The court shall provide an opportunity for an expedited hearing.

(b) After the opportunity for an expedited hearing, the court may order that the property [~~be~~] is:

[~~(a)~~] (i) returned to the rightful owner as determined by the court;

[~~(b)~~] (ii) if the offense subjecting the property to seizure results in a conviction, applied directly or by proceeds of the sale of the property toward restitution, fines, or fees owed by the rightful owner in an amount set by the court;

[~~(c)~~] (iii) converted to a public interest use;

[~~(d)~~] (iv) held for further legal action;

[~~(e)~~] (v) sold at public auction and the proceeds of the sale applied to a public interest use; or

[~~(f)~~] (vi) destroyed.

(3) Before the court can order property be returned to a [~~person claiming ownership of property, the person~~] claimant, the claimant shall establish, by clear and convincing evidence, that the [~~person~~] claimant:

(a) is the rightful owner; and

(b) may lawfully possess the property.

(4) If the court orders the property to be returned to the claimant, the agency [~~that possesses~~] with custody of the property shall return the property to the claimant as expeditiously as possible.

Section 15. Section 24-4-101 is amended to read:

CHAPTER 4. FORFEITURE OF SEIZED PROPERTY

24-4-101. Title.

This chapter is known as[~~, "Property Held for Forfeiture."~~] "Forfeiture of Seized Property."

Section 16. Section 24-4-102 is amended to read:

24-4-102. Property subject to forfeiture.

[~~(1) Except as provided in Subsection (3), property that has been used to facilitate the commission of a federal or state criminal offense and any proceeds of criminal activity may be forfeited under this chapter, including:~~]

[~~(a) real property, including things growing on, affixed to, and found in land; and~~]

[~~(b) tangible and intangible personal property, including money, rights, privileges, interests, claims, and securities of any kind.~~]

(1) Except as provided in Subsection (2), (3), or (4), an agency may seek to forfeit:

(a) seized property that was used to facilitate the commission of an offense that is a violation of federal or state law; and

(b) seized proceeds.

(2) If [~~the~~] seized property is used to facilitate [~~a~~] an offense that is a violation of Section 76-10-1204, 76-10-1205, 76-10-1206, or 76-10-1222, [~~the property subject to forfeiture under this section is limited to property, the seizure or forfeiture of which would not~~] an agency may not forfeit the property if the forfeiture would constitute a prior restraint on the exercise of an affected party's rights under the First Amendment to the Constitution of the United States or Utah Constitution, Article I, Section 15, or would [~~not~~] otherwise unlawfully interfere with the exercise of [~~those~~] the party's rights under the First Amendment to the Constitution of the United States or Utah Constitution, Article I, Section 15.

(3) [~~A~~] If a motor vehicle is used in [~~a~~] an offense that is a violation of Section 41-6a-502, 41-6a-517, a local ordinance that complies with the requirements of Subsection 41-6a-510(1), Subsection 58-37-8(2)(g), or Section 76-5-207 [~~may not be forfeited unless~~], an agency may not seek forfeiture of the motor vehicle, unless:

(a) the operator of the vehicle has previously been convicted of [~~a violation,~~] an offense committed after May 12, 2009, [~~of~~] that is:

(i) a felony driving under the influence violation under Section 41-6a-502;

(ii) a felony violation under Subsection 58-37-8(2)(g); or

(iii) automobile homicide under Section 76-5-207; or

(b) the operator of the vehicle was driving on a denied, suspended, revoked, or disqualified license[~~;~~] and:

(i) the denial, suspension, revocation, or disqualification under Subsection (3)(b)(ii) was imposed because of a violation under:

(A) Section 41-6a-502;

(B) Section 41-6a-517;

(C) a local ordinance that complies with the requirements of Subsection 41-6a-510(1);

(D) Section 41-6a-520;

(E) Subsection 58-37-8(2)(g);

(F) Section 76-5-207; or

(G) a criminal prohibition [~~that the person was charged with violating~~] as a result of a plea bargain after having been originally charged with violating one or more of the sections or ordinances described in Subsections (3)(b)(i)(A) through (F); or

(ii) the denial, suspension, revocation, or disqualification described in Subsections (3)(b)(i)(A) through (G):

(A) is an extension imposed under Subsection 53-3-220(2) of a denial, suspension, revocation, or disqualification; and

(B) the original denial, suspension, revocation, or disqualification was imposed because of a violation described in Subsections (3)(b)(i)(A) through (G).

(4) If a peace officer seizes property incident to an arrest solely for possession of a controlled substance under Subsection 58-37-8(2)(a)(i) but not Subsection 53-37-8(2)(b)(i), an agency may not seek to forfeit the property that was seized in accordance with the arrest.

Section 17. Section 24-4-103 is amended to read:

24-4-103. Initiating forfeiture proceedings -- Notice of intent to seek forfeiture.

[~~(1) (a) Within 30 days from the date that property is seized, an agency seeking to forfeit property shall serve a notice of intent to seek forfeiture upon any claimants known to the agency.~~]

(1) (a) If an agency seeks to forfeit property seized under this title, the agency shall serve a notice of intent to seek forfeiture to any known claimant within 30 days after the day on which the property is seized.

(b) The notice of intent to seek forfeiture shall describe [~~the~~]:

(i) the date of the seizure;

(ii) the property seized;

(iii) the claimant's rights and obligations under this chapter, including the availability of hardship relief in appropriate circumstances; and

(iv) the statutory basis for the forfeiture, including the judicial proceedings by which the property may be forfeited under this chapter.

[~~(c) The notice of intent to seek forfeiture shall be served by:~~]

(c) The agency shall serve the notice of intent to seek forfeiture by:

(i) certified mail, with a return receipt requested, to the claimant's known address; or

(ii) personal service.

(d) [~~The~~] A court may void [~~any~~] a forfeiture made without notice under Subsection (1)(a), unless the agency demonstrates:

(i) good cause for the failure to give notice to the claimant; or

(ii) that the claimant had actual notice of the seizure.

[~~(2) (a) Once the agency has served each claimant with a notice of intent to seek forfeiture, but no later than 60 days from the date that property is seized, the agency shall present a written request for forfeiture to the prosecuting attorney.~~]

(2) If an agency sends a notice of intent to forfeit seized property under Subsection 24-4-103(1), an individual or entity may not alienate, convey, sequester, or attach the property until a court:

(a) issues a final order to dismiss an action under this title; or

(b) orders the forfeiture of the property.

(3) (a) (i) If an agency has served each claimant with a notice of intent to seek forfeiture, the agency shall present a written request for forfeiture to the prosecuting attorney of the municipality or county where the property is seized.

(ii) The agency shall provide the request under Subsection (3)(a)(i) no later than 45 days after the day on which the property is seized.

(b) The written request described in Subsection (3)(a) shall:

(i) describe the property [~~to be forfeited~~] that the agency is seeking to forfeit; and

(ii) include a copy of all reports, supporting documents, and other evidence that is necessary for the prosecuting attorney to determine the legal sufficiency for filing a forfeiture action.

(c) The prosecuting attorney shall:

(i) review the written request described in Subsection (3)(a)(i); and

(ii) within 75 days after the day on which the property is seized, decline or accept, in writing, the agency's written request for the prosecuting attorney to initiate a proceeding to forfeit the property.

Section 18. Section 24-4-103.3 is enacted to read:

24-4-103.3. Sale of seized property.

(1) (a) Subject to Subsection (2), the court may order seized property, for which a forfeiture proceeding is pending, to:

(i) be sold, leased, rented, or operated to satisfy a specified interest of any claimant; or

(ii) preserve the interests of any party on motion of that party.

(b) The court may enter an order under Subsection (1)(a) after:

(i) written notice to any person known to have an interest in the property has been given; and

(ii) an opportunity for a hearing for any person known to have an interest in the property has occurred.

(2) (a) A court may order a sale of property under Subsection (1) when:

(i) the property is liable to perish, waste, or be significantly reduced in value; or

(ii) the expenses of maintaining the property are disproportionate to the property's value.

(b) A third party designated by the court shall:

(i) dispose of the property by a commercially reasonable public sale; and

(ii) distribute the proceeds in the following order of priority:

(A) first, for the payment of reasonable expenses incurred in connection with the sale;

(B) second, for the satisfaction of an interest, including an interest of an interest holder, in the order of an interest holder's priority as determined by Title 70A, Uniform Commercial Code; and

(C) third, any balance of the proceeds shall be preserved in the actual or constructive custody of the court, in an interest-bearing account, subject to further proceedings under this chapter.

Section 19. Section 24-4-103.5 is enacted to read:

24-4-103.5. Mandatory return of seized property.

(1) An agency shall promptly return property seized under this title, and the prosecuting attorney may take no further action to forfeit the property, unless within 75 days after the day on which the property is seized:

(a) the prosecuting attorney:

(i) files a criminal indictment or information under Subsection 24-4-105(3);

(ii) files a petition to transfer the property to another agency in accordance with Section 24-2-105;

(iii) files a civil forfeiture complaint under Section 24-4-104; or

(b) the prosecuting attorney or a federal prosecutor obtains a restraining order under Subsection 24-4-105(4).

(2) (a) The prosecuting attorney may file a petition to extend the deadline under Subsection (1) by 21 days.

(b) If a prosecuting attorney files a petition under Subsection (2)(a), and the prosecuting attorney provides good cause for extending the deadline, a court shall grant the petition.

(c) The prosecuting attorney may not file more than one petition under this Subsection (2).

(3) If a prosecuting attorney is unable to file a civil forfeiture complaint under Subsection (1)(a)(iii) because a claimant has filed a claim under Section 24-2-108 and the claimant has an extension to provide additional information on the claim under Subsection 24-2-108(1)(d), the deadline under Subsection (1) may be extended by 15 days.

Section 20. Section 24-4-104 is amended to read:

24-4-104. Civil forfeiture procedure.

[~~(1) (a) The law enforcement agency shall promptly return seized property, and the prosecuting attorney may take no further action to effect the forfeiture of the property, unless within 75 days after the property is seized the prosecuting attorney:~~]

[~~(i) files a criminal indictment or information under Subsection 24-4-105(2);~~]

[~~(ii) obtains a restraining order under Subsection 24-4-105(3);~~]

[~~(iii) files a petition under Subsection 24-4-114(1); or~~]

[~~(iv) files a civil forfeiture complaint.~~]

(1) (a) A prosecuting attorney may commence a civil action to forfeit seized property by filing a complaint.

(b) [~~A complaint for civil forfeiture~~] The complaint under Subsection (1)(a) shall describe with reasonable particularity [~~the~~]:

(i) the property that [~~is the subject of the forfeiture proceeding~~] the agency is seeking to forfeit;

(ii) the date and place of seizure; and

(iii) the factual allegations that constitute a basis for forfeiture.

(2) (a) After a complaint is filed, the prosecuting attorney shall serve a copy of the complaint and summons upon each claimant known to the prosecuting attorney within 30 days after the day on which the complaint is filed.

(b) The prosecuting attorney is not required to serve a copy of the complaint or the summons upon [~~any~~] a claimant [~~who~~] which has disclaimed, in writing, an ownership interest in the seized property.

(c) Service of the complaint and summons shall be by:

(i) personal service;

(ii) certified mail, with a return receipt requested, to the claimant's known address; or

(iii) service by publication, if the prosecuting attorney demonstrates to the court that service cannot reasonably be made by personal service or certified mail.

(d) Service by publication shall be by publication of two notices, in two successive weeks, of the forfeiture proceeding:

(i) in a newspaper of general circulation in the county in which the seizure occurred; and

(ii) on Utah's Public Legal Notice Website established in Subsection 45-1-101(2)(b).

(e) Service is effective upon the earlier of:

(i) personal service;

[~~(ii) mailing of a written notice; or~~]

(ii) certified mail; or

(iii) publication in accordance with Subsection (2)(d).

(f) [~~Upon motion of the prosecuting attorney and a showing of good cause, the~~] The court may extend the period to complete service under this section for an additional 60 days[~~.~~] if the prosecuting attorney:

(i) moves the court to extend the period to complete service; and

(ii) has shown good cause for extending service.

(3) (a) [~~In any case where the~~] If a prosecuting attorney files a complaint for forfeiture as described in Subsection (1), a claimant may file an answer to the complaint.

[~~(b) The answer shall be filed within 30 days after the complaint is served upon the claimant as provided in Subsection (2)(b).~~]

(b) If a claimant files an answer in accordance with Subsection (3)(a), the claimant shall file the answer within 30 days after the day on which the complaint is served upon the claimant.

(c) [~~When the property subject to forfeiture~~] If an agency is seeking to forfeit property under Section 24-4-103 and the property is valued at less than $10,000, the agency [~~that has custody of the property~~] shall return the property to the claimant if:

(i) (A) the prosecuting attorney has filed a forfeiture complaint, and the claimant has filed an answer [~~through an attorney or pro se~~], in accordance with Subsections (3)(a) and (b); and

(B) the prosecuting attorney has not filed an information or indictment for [~~criminal conduct giving rise to the forfeiture~~] the offense for which the property is seized within 60 days after the [~~date that service of the forfeiture complaint on the claimant was completed~~] day on which the prosecuting attorney served the claimant with the complaint, or the prosecuting attorney has not timely moved a court [~~of competent jurisdiction~~] and demonstrated reasonable cause for [~~an extension of time to file such an~~] extending the time to file the information or indictment; or

(ii) the information or indictment for [~~criminal conduct giving rise to the forfeiture~~] the offense for which the property was seized was dismissed and the prosecuting attorney has not refiled the information or indictment within seven days [~~of the dismissal~~] after the day on which the information or indictment was dismissed.

(d) [~~The~~] A claimant is not entitled to any expenses, costs, or attorney fees for the return of property to the claimant under Subsection (3)(c) [~~does not include any expenses, costs, or attorney fees~~].

(e) (i) The time limitations in Subsection (3)(c)(i) may be extended for up to 15 days if a claimant timely seeks to recover possession of seized property [~~pursuant to Subsection 24-4-107(8), but~~] in accordance with Section 24-2-108.

(ii) If the time limitations are extended under Subsection (3)(c)(i), the time limitations in Subsection (3)(c)(i) shall resume immediately upon the [~~seizing~~] agency's or prosecuting attorney's timely denial of [~~the~~] a claim under Section 24-2-108 on the merits.

(4) Except as otherwise provided in this chapter, [~~forfeiture proceedings are~~] a civil action for a forfeiture proceeding is governed by the Utah Rules of Civil Procedure.

(5) The court shall:

(a) take all reasonable steps to expedite [~~civil forfeiture proceedings and shall~~] a civil forfeiture proceeding; and

(b) give [~~these proceedings~~] a civil forfeiture proceeding the same priority as [~~is given to criminal cases~~] a criminal case.

[~~(6) In all suits or actions brought under this section for the civil forfeiture of any property, the burden of proof is on the prosecuting attorney to establish by clear and convincing evidence that the claimant engaged in conduct giving rise to the forfeiture.~~]

[~~(7)~~] (6) A claimant may file an answer to a complaint for civil forfeiture without posting bond with respect to the property [~~subject to forfeiture~~] that the agency seeks to forfeit.

[~~(8)~~] (7) [~~Property is subject to forfeiture under this chapter~~] A court shall grant an agency's request to forfeit property if the prosecuting attorney establishes, by clear and convincing evidence, that:

(a) the claimant [~~has engaged in conduct giving rise to forfeiture;~~]:

[~~(b) the property was acquired by the claimant during that portion of the conduct that gives rise to forfeiture, or within a reasonable time after that conduct is committed; and~~]

(i) committed the offense subjecting the property to forfeiture under Subsection 24-4-102(1);

(ii) knew of the offense subjecting the property to forfeiture under Subsection 24-4-102(1) and allowed the property to be used in furtherance of the offense; or

(iii) acquired the property at the time of the offense subjecting the property to forfeiture under Subsection 24-4-102(1), or within a reasonable time after the offense occurred; or

[~~(c)~~] (b) there is no likely source for the purchase or acquisition of the property other than [~~the conduct that gives rise to forfeiture~~] the commission of the offense subjecting the property to forfeiture under Subsection 24-4-102(1).

[~~(9) A finding by the court that property is the proceeds of conduct giving rise to forfeiture does not require proof that the property was the proceeds of any particular exchange or transaction.~~]

[~~(10) If the prosecutor establishes that the property is subject to forfeiture, but the claimant is subsequently criminally charged with the conduct giving rise to the forfeiture and is acquitted of that charge on the merits:~~]

[~~(a) the property subject to the forfeiture or the open market value of the property, if the property has been disposed of under Subsection 24-4-108(13), shall be returned to the claimant; and~~]

[~~(b) any payments required under this chapter regarding the costs of holding the property shall be paid to the claimant.~~]

(8) If a court finds that the property is the proceeds of an offense that subjects the proceeds to forfeiture under Subsection 24-4-102(1), the prosecuting attorney does not need to prove that the property was the proceeds of a particular exchange or transaction.

(9) If a claimant is acquitted of the offense subjecting the property to forfeiture under this section:

(a) (i) the property for which forfeiture is sought shall be returned to the claimant; or

(ii) the open market value of the property for the property for which forfeiture is sought shall be awarded to the claimant if the property has been disposed of under Section 24-4-103.3; and

(b) any payment requirement under this chapter related to the holding of property shall be paid to the claimant.

(10) If the prosecuting attorney seeks to discontinue a forfeiture proceeding under this section and transfer the action to another state or federal agency that has initiated a civil or criminal proceeding involving the same property, the prosecuting attorney shall file a petition to transfer the property in accordance with Section 24-2-105.

(11) A civil forfeiture action under this section may be converted to a criminal forfeiture action at any time after a prosecuting attorney files a criminal complaint, information, or indictment for the offense subjecting the property to forfeiture under Subsection 24-4-102(1).

Section 21. Section 24-4-105 is amended to read:

24-4-105. Criminal forfeiture procedure.

(1) As used in this section, "defendant" means a claimant who is criminally prosecuted for the offense subjecting the property to forfeiture under Subsection 24-4-102(1).

[~~(1)~~] (2) [~~If a claimant is criminally prosecuted for conduct giving rise to the forfeiture, the~~] A prosecuting attorney may [~~elect to~~] seek forfeiture of [~~the claimant's~~] the defendant's interest in [~~the property~~] seized property through the criminal case.

[~~(2)~~] (3) If the prosecuting attorney [~~elects to seek~~] seeks forfeiture of [~~the claimant's~~] a defendant's interest in [~~the property~~] seized property through the criminal case, [~~the information or indictment shall state that the claimant's interest in the property is subject to forfeiture and the basis for the forfeiture~~] the prosecuting attorney shall state in the information or indictment the grounds for which the agency seeks to forfeit the property.

[~~(3) (a) Upon application of the prosecuting attorney, the court may enter restraining orders or injunctions, or take other reasonable actions to preserve for forfeiture under this section, any property subject to forfeiture if, after notice to known claimants and claimants who can be identified after due diligence and who are known to have an interest in the property, and after affording those persons an opportunity for a hearing, the court determines that:~~]

(4) (a) (i) A court may enter a restraining order or injunction or take any other reasonable action to preserve property being forfeited under this section.

(ii) Before a court's decision under Subsection (4)(a)(i), a known claimant, who can be identified after due diligence, shall be:

(A) provided notice; and

(B) given an opportunity for a hearing.

(iii) A court shall grant an order under Subsection (4)(a)(i) if:

[~~(i)~~] (A) there is a substantial probability that the state will prevail on the issue of forfeiture and that failure to enter the order will result in the property being sold, transferred, destroyed, or removed from the jurisdiction of the court or otherwise made unavailable for forfeiture; and

[~~(ii)~~] (B) the need to preserve the availability of the property or prevent [~~its~~] the property's sale, transfer, destruction, or removal through the entry of the requested order outweighs the hardship against [~~any party~~] a claimant against [~~whom~~] which the order is to be entered.

(b) A [~~temporary restraining order may be entered~~] court may enter a temporary restraining order ex parte upon application of the prosecuting attorney or a federal prosecutor before or after an information or indictment has been filed, with respect to the property, if the prosecuting attorney or federal prosecutor demonstrates that:

(i) there is probable cause to believe that the property with respect to which the order is sought would, in the event of a conviction, be [~~subject to forfeiture~~] forfeited under this section; and

(ii) [~~provision of notice~~] providing notice to a claimant would jeopardize the availability of the property for forfeiture or would jeopardize an ongoing criminal investigation.

(c) The temporary order expires [~~not~~] no more than 10 days after [~~entry~~] the day on which the order is entered unless extended for good cause shown or unless the [~~party~~] claimant against whom [~~it~~] the temporary order is entered consents to an extension.

(d) After service of the temporary order upon [~~any claimants~~] a claimant known to the prosecuting attorney[~~, a hearing concerning the order entered under this section shall be held~~] or federal prosecutor, the court shall hold a hearing on the order as soon as practicable and [~~prior to~~] before the expiration of the temporary order.

(e) The court is not bound by the Utah Rules of Evidence regarding evidence [~~it~~] the court may receive and consider at [~~any~~] a hearing under this section.

[~~(4) (a) Upon conviction of a claimant for conduct giving rise to criminal forfeiture, the prosecutor shall ask the finder of fact to make a specific finding as to whether the property or any part of it is subject to forfeiture.~~]

[~~(b) A determination of whether property is subject to forfeiture under this section shall be proven beyond a reasonable doubt.~~]

(5) Upon conviction of a defendant for the offense subjecting the property to forfeiture, a court or jury shall find property forfeited to the agency if the prosecuting attorney establishes, beyond a reasonable doubt, that:

(a) the defendant:

(i) committed the offense subjecting the property to forfeiture under Subsection 24-4-102(1);

(ii) knew of the offense subjecting the property to forfeiture under Subsection 24-4-102(1) and allowed the property to be used in furtherance of the offense; or

(iii) acquired the property at the time of the offense subjecting the property to forfeiture under Subsection 24-4-102(1), or within a reasonable time after the offense occurred; or

(b) there is no likely source for the purchase or acquisition of the property other than the commission of the offense subjecting the property to forfeiture under Subsection 24-4-102(1).

[~~(5)~~] (6) (a) Upon conviction of a [~~claimant for violating any provision of state law subjecting a claimant's property to forfeiture~~] defendant for the offense subjecting the property to forfeiture and a finding by [~~the trier of fact~~] a court or jury that the property [~~is subject to forfeiture~~] is forfeited, the court shall enter a judgment and order the property forfeited to the [~~state~~] agency upon the terms stated by the court in [~~its~~] the court's order.

(b) Following the entry of an order declaring the property forfeited under Subsection (6)(a), and upon application by the prosecuting attorney, the court may[~~, upon application of the prosecuting attorney,~~]:

(i) enter [~~appropriate restraining orders or injunctions,~~] a restraining order or injunction;

(ii) require the execution of satisfactory performance bonds[~~,~~];

(iii) appoint [~~receivers, conservators, appraisers, accountants, or trustees,~~] a receiver, conservator, appraiser, accountant, or trustee; or

(iv) take any other action to protect the [~~interest of the state~~] the agency's interest in property ordered forfeited.

[~~(6)~~] (7) (a) (i) After property is ordered forfeited under this section, the [~~seizing~~] agency shall direct the disposition of the property under Section 24-4-115.

[~~(ii) Any property right or interest under this Subsection (6)(a) not exercisable by or transferable for value to the state expires and does not revert to the defendant.~~]

(ii) If property under Subsection (7)(a)(i) is not transferrable for value to the agency, or the agency is not able to exercise an ownership interest in the property, the property may not revert to the defendant.

(iii) [~~The defendant or any person~~] A defendant, or a person acting in concert with or on behalf of the defendant, is not eligible to purchase forfeited property at any sale held by the [~~seizing~~] agency unless approved by the judge.

(b) [~~The~~] A court may stay the sale or disposition of the property pending the conclusion of any appeal of [~~the criminal case giving rise to the forfeiture~~] the offense subjecting the property to forfeiture if the [~~defendant~~] claimant demonstrates that proceeding with the sale or disposition of the property may result in irreparable injury, harm, or loss.

(8) If a defendant is acquitted of the offense subjecting the property to forfeiture under this section on the merits:

(a) (i) the property for which forfeiture is sought shall be returned to the claimant; or

(ii) the open market value of the property for the property for which forfeiture is sought shall be awarded to the claimant if the property has been disposed of under Section 24-4-103.3; and

(b) any payment requirement under this chapter related to the holding of property shall be paid to the claimant.

[~~(7)~~] (9) Except as provided under Subsection [~~(3) or (10)~~] (4) or (12), a [~~party~~] claimant claiming an interest in property [~~subject to forfeiture~~] that is being forfeited under this section:

(a) may not intervene in a trial or appeal of a criminal case involving the forfeiture of the property [~~under this section~~]; and

(b) may not commence an action at law or equity concerning the validity of the [~~party's~~] claimant's alleged interests in the property subsequent to the filing of an indictment or an information alleging that the property is [~~subject to forfeiture~~] being forfeited under this section.

[~~(8) The district~~] (10) A court that has jurisdiction of a case under this part may enter orders under this section without regard to the location of any property that [~~may be subject to forfeiture~~] is or has been ordered forfeited under this section [~~or that has been ordered forfeited under this section~~].

[~~(9)~~] (11) To facilitate the identification or location of property [~~declared forfeited~~] forfeited under this section, and to facilitate the disposition of [~~petitions~~] a petition for remission or mitigation of forfeiture after the entry of an order declaring property forfeited to the [~~state~~] agency, the court may, upon application of the prosecuting attorney, order [~~that~~]:

(a) the testimony of any witness relating to the forfeited property be taken by deposition[~~,~~]; and [~~that~~]

(b) any book, paper, document, record, recording, or other material [~~shall be~~] is produced [~~as provided for depositions and discovery under~~] in accordance with the Utah Rules of Civil Procedure.

[~~(10)~~] (12) (a) [~~(i) Following the entry of an order of forfeiture under this section~~] If a court orders property forfeited under this section, the prosecuting attorney shall publish notice of the [~~order's~~] intent to dispose of the property [~~by publication~~].

(b) Service by publication shall be by publication of two notices, in two successive weeks, of the forfeiture proceeding:

[~~(A)~~] (i) in a newspaper of general circulation in the county in which the seizure of the property occurred; and

[~~(B)~~] (ii) on Utah's Public Legal Notice Website established in Subsection 45-1-101(2)(b).

[~~(ii)~~] (c) The prosecuting attorney shall also send written notice to any claimants, other than the defendant, known to the prosecuting attorney to have an interest in the property, at the claimant's known address.

[~~(b) (i) Any~~] (13) (a) A claimant, other than the defendant, [~~asserting a legal interest in property that has been ordered forfeited to the state under this section may, within 30 days after the notice has been published or the claimant receives the written notice under Subsection (10)(a), whichever is earlier,~~] may petition the court for a hearing to adjudicate the validity of the claimant's alleged interest in [~~the~~] property forfeited under this section.

[~~(ii) Any genuine issue of material fact, including issues of standing, may be tried to a jury upon demand of any party.~~]

(b) A claimant shall file a petition within 30 days after the earlier of the day on which a notice is published or the day on which the claimant receives written notice under Subsection (12)(a).

[~~(c)~~] (14) The petition under Subsection (13) shall:

[~~(i)~~] (a) be in writing and signed by the claimant under penalty of perjury;

[~~(ii)~~] (b) set forth the nature and extent of the claimant's right, title, or interest in the property, the time and circumstances of the claimant's acquisition of the right, title, or interest in the property; and

[~~(iii)~~] (c) set forth any additional facts supporting the claimant's claim and the relief sought.

[~~(d) The trial or hearing on the petition shall be expedited to the extent practicable.~~]

(15) (a) The court shall expedite the trial or hearing under this Subsection (15) to the extent practicable.

(b) Any party may request a jury to decide any genuine issue of material fact.

(c) The court may consolidate a trial or hearing on the petition under Subsection (11)(b) and any other petition filed by [~~any~~] a claimant, other than the defendant, under this section.

(d) [~~The~~] For a petition under this section, the court shall permit the parties to conduct pretrial discovery [~~pursuant to~~] in accordance with the Utah Rules of Civil Procedure.

(e) (i) At the trial or hearing, the claimant may testify and present evidence and witnesses on the claimant's own behalf and cross-examine witnesses who appear at the hearing.

(ii) The prosecuting attorney may present evidence and witnesses in rebuttal and in defense of the claim to the property and cross-examine witnesses who appear.

[~~(ii)~~] (f) In addition to testimony and evidence presented at the trial or hearing, the court may consider the relevant portion of the record of the criminal case that resulted in the order of forfeiture.

[~~(iii)~~] (g) [~~Any~~] A trial or hearing shall be conducted [~~pursuant to~~] in accordance with the Utah Rules of Evidence.

[~~(f)~~] (16) The court shall amend the order of forfeiture in accordance with [~~its~~] the court's determination, if after the trial or hearing under Subsection (15), the court or jury determines that the [~~petitioner~~] claimant has established, by a preponderance of the evidence, that:

(a) (i) the claimant has a legal right, title, or interest in the property[~~,~~]; and

(ii) the claimant's right, title, or interest renders the order of forfeiture invalid in whole or in part because the right, title, or interest was vested in the claimant rather than the defendant, or was superior to any right, title, or interest of the defendant at the time [~~of the commission of the acts or conduct that gave rise to the forfeiture of the property under this section~~] of the commission of the offense subjecting the property to forfeiture under Subsection 24-4-102(1); or

[~~(ii)~~] (b) the claimant acquired the right, title, or interest in the property in a bona fide transaction for value, and, at the time of acquisition, the claimant did not know that the property [~~was subject to forfeiture~~] could be forfeited under this chapter.

[~~(g) Following the court's disposition of all petitions filed under this Subsection (10), or if no petitions are filed following the expiration of the period provided in Subsection (10)(b) for the filing of petitions, the state has clear title to property subject to the order of forfeiture and may warrant good title to any subsequent purchaser or transferee.~~]

(17) An agency has clear title to the property and may transfer title to a purchaser or transferee if:

(a) the court issued a disposition on all petitions under Subsection (13) denying any claimant's right, title, or interest to the property; or

(b) a petition was not filed under the timelines provided in Subsection (13)(b).

(18) If the prosecuting attorney seeks to discontinue a forfeiture proceeding under this section and transfer the action to another state or federal agency that has initiated a civil or criminal proceeding involving the same property, the prosecuting attorney shall file a petition to transfer the property in accordance with Section 24-2-105.

Section 22. Section 24-4-109 is amended to read:

24-4-109. Postjudgment interest.

In [~~any~~] a proceeding to forfeit currency or other negotiable instruments under this chapter, the court shall award postjudgment interest to a prevailing party [~~postjudgment interest~~] on the currency or negotiable instruments at the interest rate established under Section 15-1-4.

Section 23. Section 24-4-110 is amended to read:

24-4-110. Attorney fees and costs.

(1) In [~~any~~] a forfeiture proceeding under this chapter, [~~the~~] a court shall award [~~a prevailing claimant reasonable:~~] reasonable legal costs and attorney fees to a prevailing claimant.

[~~(a) legal costs; and~~]

[~~(b) attorney fees.~~]

(2) [~~The legal costs and attorney fees awarded by the court to the prevailing party~~] If a court awards legal costs and attorney fees to a prevailing claimant under Subsection (1), the award may not exceed 50% of the value of the seized property.

(3) A claimant who prevails only in part is entitled to recover reasonable legal costs and attorney fees only on [~~those issues~~] an issue on which the party prevailed[~~, as determined by the court~~].

Section 24. Section 24-4-111 is amended to read:

24-4-111. Compensation for damaged property.

(1) As used in this section, "damage or other injury" does not mean normal depreciation, deterioration, or ordinary wear and tear of the property.

[~~(1)~~] (2) If [~~property seized for forfeiture~~] seized property is returned [~~by operation of~~] under this chapter, a claimant has a civil right of action against [~~a seizing~~] an agency for [~~any~~] a claim based upon the negligent destruction, loss, or damage[~~,~~] or other injury to seized property while in the possession or custody of the agency.

[~~(2) As used in this section, "damage or other injury" does not include normal depreciation, deterioration, or ordinary wear and tear.~~]

Section 25. Section 24-4-112 is amended to read:

24-4-112. Limitation on fees for holding seized property.

In any civil or criminal proceeding under this chapter in which a judgment is entered in favor of a claimant, or where a forfeiture proceeding against a claimant is voluntarily dismissed by the prosecuting attorney, [~~the seizing~~] an agency may not charge [~~that~~] a claimant any fee or cost for holding seized property.

Section 26. Section 24-4-113 is amended to read:

24-4-113. Proportionality.

(1) (a) A claimant's interest in property that is used to facilitate [~~a crime, excluding contraband, is not subject to forfeiture~~] an offense may not be forfeited under any provision of state law if the forfeiture is substantially disproportionate to the use of the property in committing or facilitating [~~a~~] an offense that is a violation of state law and the value of the property.

(b) [~~Forfeiture of property~~] If property is used solely in a manner that is merely incidental and not instrumental to the commission or facilitation of [~~a violation of law~~] an offense, a forfeiture of the property is not proportional.

(2) (a) In determining proportionality, the court shall consider:

(i) the [~~conduct giving cause for the forfeiture~~] offense subjecting the property to forfeiture under Subsection 24-4-102(1);

(ii) what portion of the forfeiture, if any, is remedial in nature;

(iii) the gravity of the conduct for which the claimant is responsible in light of the offense; and

(iv) the value of the property.

(b) If the court finds that the forfeiture is substantially disproportional to [~~the conduct~~] an offense for which the claimant is responsible, [~~it~~] the court shall reduce or eliminate the forfeiture[~~,~~] as [~~it~~] the court finds appropriate.

(3) [~~The~~] A prosecuting attorney has the burden [~~to demonstrate~~] of demonstrating that [~~any~~] a forfeiture is proportional to the [~~conduct giving rise to the forfeiture~~] offense subjecting the property to forfeiture under Subsection 24-4-102(1).

(4) In all cases, the court shall decide questions of proportionality.

(5) [~~Forfeiture~~] A forfeiture of any proceeds used to facilitate the commission of an offense that is a violation of federal or state law is proportional.

Section 27. Section 24-4-115 is amended to read:

24-4-115. Disposition and allocation of forfeiture property.

(1) [~~Upon finding that property is subject to forfeiture under this chapter~~] If a court finds that property is forfeited under this chapter, the court shall order the property forfeited to the [~~state~~] agency.

(2) (a) If the property is not currency, the [~~seizing~~] agency shall authorize a public or otherwise commercially reasonable sale of that property [~~that~~] if the property is not required by law to be destroyed and [~~that~~] is not harmful to the public.

(b) If the property forfeited is an alcoholic product as defined in Section 32B-1-102, [~~it~~] the property shall be disposed of as follows:

(i) an alcoholic product shall be sold if the alcoholic product is:

(A) unadulterated, pure, and free from any crude, unrectified, or impure form of ethylic alcohol, or any other deleterious substance or liquid; and

(B) otherwise in saleable condition; or

(ii) an alcoholic product and [~~its~~] the alcoholic product's package shall be destroyed if the alcoholic product is impure, adulterated, or otherwise unfit for sale.

(c) If the property forfeited is a cigarette or other tobacco product as defined in Section 59-14-102, [~~it~~] the property shall be destroyed, except that [~~prior to the destruction of any cigarette or other tobacco product seized pursuant to this part,~~] the lawful holder of the trademark rights in the cigarette or tobacco product brand [~~shall be~~] is permitted to inspect the cigarette before the destruction of the cigarette or tobacco product.

(d) The proceeds of the sale of forfeited property shall remain segregated from other property, equipment, or assets of the [~~seizing~~] agency until transferred [~~to the state~~] in accordance with this chapter.

(3) [~~From the forfeited property, both~~] Before transferring currency and the proceeds or revenue from the sale of the property in accordance with this chapter, the [~~seizing~~] agency shall:

(a) deduct the [~~seizing~~] agency's direct costs, expense of reporting under Section 24-4-118, and [~~expenses~~] expense of obtaining and maintaining the property pending a forfeiture proceeding; and

(b) if the prosecuting agency that employed the prosecuting attorney has met the requirements of Subsection 24-4-119(3), pay the [~~office of the~~] prosecuting attorney the legal costs associated with the litigation of the forfeiture proceeding, and up to 20% of the value of the forfeited property in attorney fees.

(4) If the forfeiture arises from [~~any~~] a violation relating to wildlife resources, the agency shall deposit any remaining currency and the proceeds or revenue from the sale of the property [~~shall be deposited in~~] into the Wildlife Resources Account created in Section 23-14-13.

(5) The agency shall transfer any remaining currency, [~~and~~] the proceeds, or revenue from the sale of the property [~~shall then be transferred~~] to the commission and deposited into the account.

Section 28. Section 24-4-116 is amended to read:

24-4-116. Criminal Forfeiture Restricted Account.

(1) There is created within the General Fund a restricted account known as the "Criminal Forfeiture Restricted Account."

(2) [~~Proceeds~~] Except as provided in Section 24-4-115, the commission shall deposit any proceeds from forfeited property and forfeited money through [~~state forfeitures shall be deposited into the account~~] a forfeiture proceeding under this chapter into the account.

(3) Money in the account shall be appropriated to the commission for implementing the program under Section 24-4-117.

Section 29. Section 24-4-117 is amended to read:

24-4-117. State Asset Forfeiture Grant Program.

(1) There is created the State Asset Forfeiture Grant Program.

(2) The program shall fund crime prevention, crime victim reparations, and law enforcement activities that have the purpose of:

(a) deterring crime by depriving criminals of the profits and proceeds of their illegal activities;

(b) weakening criminal enterprises by removing the instrumentalities of crime;

(c) reducing crimes involving substance abuse by supporting the creation, administration, or

operation of drug court programs throughout the state;

(d) encouraging cooperation between [~~local, state, and multijurisdictional law enforcement~~] agencies;

(e) allowing the costs and expenses of law enforcement to be defrayed by the forfeited proceeds of crime;

(f) increasing the equitability and accountability of the use of forfeited property used to assist [~~law enforcement~~] agencies in reducing and preventing crime; and

(g) providing aid to victims of criminally injurious conduct, as defined in Section 63M-7-502, who may be eligible for assistance under Title 63M, Chapter 7, Part 5, Utah Office for Victims of Crime.

(3) (a) [~~When property is forfeited under this chapter and transferred to the account, upon appropriation~~] Upon appropriation of funds from the account, the commission shall allocate and administer grants to [~~state agencies, local law enforcement agencies, multijurisdictional law enforcement agencies, or political subdivisions~~] an agency or political subdivision of the state in compliance with this section and Subsection 24-4-119(2) and to further the program purposes under Subsection (2).

(b) The commission may retain up to 3% of the annual appropriation from the account to pay for administrative costs incurred by the commission, including salary and benefits, equipment, supplies, or travel costs that are directly related to the administration of the program.

(4) [~~Agencies or political subdivisions~~] An agency or political subdivision shall apply for an award from the program by completing and submitting forms specified by the commission.

(5) In granting the awards, the commission shall ensure that the amount of each award takes into consideration the:

(a) demonstrated needs of the agency or political subdivision;

(b) demonstrated ability of the agency or political subdivision to appropriately use the award;

(c) degree to which the agency's or political subdivision's need is offset through the agency's or political subdivision's participation in federal equitable sharing or through other federal and state grant programs; and

(d) agency's or political subdivision's cooperation with other state and local agencies and task forces.

(6) The commission may award a grant to any agency or political subdivision engaged in activities associated with Subsection (2) even if the agency has not contributed to the fund.

[~~(6)~~] (7) [~~Applying agencies or political subdivisions~~] An applying agency or political subdivision shall demonstrate compliance with all reporting and policy requirements applicable under this chapter and under Title 63M, Chapter 7, Criminal Justice and Substance Abuse, in order to qualify as a potential award recipient.

[~~(7)~~] (8) (a) [~~Recipient law enforcement agencies~~] A recipient agency may only use award money after approval by the agency's legislative body.

(b) The award money is nonlapsing.

[~~(8)~~] (9) A recipient [~~state agency, local law enforcement agency, multijurisdictional law enforcement~~] agency[~~,~~] or political subdivision shall use [~~awards~~] an award:

(a) only for law enforcement purposes [~~as~~] described in this section, or for victim reparations as described in Subsection (2)(g)[~~, and only as these~~]; and

(b) for the purposes [~~are~~] specified by the agency or political subdivision in [~~its~~] the agency's or political subdivision's application for the award.

[~~(9)~~] (10) [~~Permissible law enforcement purposes~~] A permissible law enforcement purpose for which award money may be used [~~include~~] includes:

(a) controlled substance interdiction and enforcement activities;

(b) drug court programs;

(c) activities calculated to enhance future law enforcement investigations;

(d) law enforcement training that includes:

(i) implementation of the Fourth Amendment to the United States Constitution and Utah Constitution, Article I, Section 7, and that addresses the protection of the individual's right of due process;

(ii) protection of the rights of innocent property holders; and

(iii) the Tenth Amendment to the United States Constitution regarding states' sovereignty and the states' reserved rights;

(e) law enforcement or detention facilities;

(f) law enforcement operations or equipment that are not routine costs or operational expenses;

(g) drug, gang, or crime prevention education programs that are sponsored in whole or in part by the law enforcement agency or its legislative body;

(h) matching funds for other state or federal law enforcement grants; and

(i) the payment of legal costs, attorney fees, and postjudgment interest in forfeiture actions.

[~~(10)~~] (11) [~~Law enforcement purposes~~] A law enforcement purpose for which award money may not be granted or used [~~include~~] includes:

(a) payment of salaries, retirement benefits, or bonuses to any [~~person~~] individual;

(b) payment of expenses not related to law enforcement;

(c) uses not specified in the agency's award application;

(d) uses not approved by the agency's legislative body;

(e) payments, transfers, or pass-through funding to [~~entities other than law enforcement agencies~~] an entity other than an agency; or

(f) uses, payments, or expenses that are not within the scope of the agency's functions.

Section 30. Section 24-4-118 is amended to read:

24-4-118. Forfeiture reporting requirements.

(1) [~~On and after January 1, 2016, every state, county, municipal, or other law enforcement~~] An agency shall provide all reasonably available data described in Subsection (5)[~~, along with the transfer of any applicable forfeited property~~]:

(a) [~~when~~] if transferring the forfeited property resulting from the final disposition of any civil or criminal forfeiture matter to the [~~Commission on Criminal and Juvenile Justice~~] commission as required under Subsection 24-4-115(5); or

(b) [~~when~~] if the agency has been awarded [~~any~~] an equitable share of property forfeited by the federal government.

(2) The [~~Commission on Criminal and Juvenile Justice~~] commission shall develop a standardized report format that each agency shall use in reporting the data required under this section.

(3) The [~~Commission on Criminal and Juvenile Justice~~] commission shall annually, on or before April 30, prepare a summary report of the case data submitted by each agency under Subsection (1) during the prior calendar year.

(4) (a) If an agency does not comply with the reporting requirements under this section, the [~~Commission on Criminal and Juvenile Justice~~] commission shall contact the agency and request that the agency comply with the required reporting provisions.

(b) If an agency fails to comply with the reporting requirements under this section within 30 days after receiving the request to comply, the [~~Commission on Criminal and Juvenile Justice~~] commission shall report the noncompliance to the [~~Utah~~] attorney general, the speaker of the House of Representatives, and the president of the Senate.

(5) The data for any civil or criminal forfeiture matter for which final disposition has been made under Subsection (1) shall include:

(a) the agency that conducted the seizure;

(b) the case number or other identification;

(c) the date or dates on which the seizure was conducted;

(d) the number of individuals having a known property interest in each seizure of property;

(e) the type of property seized;

(f) the alleged offense that was the cause for seizure of the property;

(g) whether any criminal charges were filed regarding the alleged offense, and if so, the final disposition of each charge, including the conviction, acquittal, or dismissal, or whether action on a charge is pending;

(h) the type of enforcement action that resulted in the seizure, including an enforcement stop, a search warrant, or an arrest warrant;

(i) whether the forfeiture procedure was civil or criminal;

(j) the value of the property seized, including currency and the estimated market value of any tangible property;

(k) the final disposition of the matter, including whether final disposition was entered by stipulation of the parties, including the amount of property returned to any claimant, by default, by summary judgment, by jury award, or by guilty plea or verdict in a criminal forfeiture;

(l) if the property was forfeited by the federal government, the amount of forfeited money awarded to the agency;

(m) the agency's direct costs, expense of reporting under this section, and expenses for obtaining and maintaining the seized property, as described in Subsection 24-4-115(3)(a);

(n) the legal costs and attorney fees paid to the prosecuting attorney, as described in Subsection 24-4-115(3)(b); and

(o) if the property was transferred to a federal agency or any governmental entity not created under and subject to state law:

(i) the date of the transfer;

(ii) the name of the federal agency or entity to which the property was transferred;

(iii) a reference to which reason under Subsection [~~24-4-114(1)(a)~~] 24-2-106(3) justified the transfer;

(iv) the court or agency where the forfeiture case was heard;

(v) the date of the order of transfer of the property; and

(vi) the value of the property transferred to the federal agency, including currency and the estimated market value of any tangible property.

(6) [~~On and after January 1, 2016, every state, county, municipal, or other law enforcement~~] An agency shall annually on or before April 30 submit a report for the prior calendar year to the [~~Commission on Criminal and Juvenile Justice which~~] commission that states:

(a) whether the agency received an award from the State Asset Forfeiture Grant Program under Section 24-4-117 and, if so, the following information for each award:

(i) the amount of the award;

(ii) the date of the award;

(iii) how the award was used or is planned to be used; and

(iv) a statement signed by both the agency's executive officer or designee and by the agency's legal counsel, that:

(A) the agency has complied with all inventory, policy, and reporting requirements under Section 24-4-117; and

(B) all awards were used for crime reduction or law enforcement purposes as specified in the application and that the awards were used only upon approval by the agency's legislative body; and

(b) whether the agency received any property, money, or other things of value [~~pursuant to~~] in accordance with federal law as described in Subsection [~~24-4-114(2)~~] 24-2-106(6) and, if so, the following information for each piece of property, money, or other thing of value:

(i) the case number or other case identification;

(ii) the value of the award and the property, money, or other things of value received by the agency;

(iii) the date of the award;

(iv) the identity of any federal agency involved in the forfeiture;

(v) how the awarded property has been used or is planned to be used; and

(vi) a statement signed by both the agency's executive officer or designee and by the agency's legal counsel, that the agency has only used the award for crime reduction or law enforcement purposes authorized under Section 24-4-117, and that the award was used only upon approval by the agency's legislative body.

(7) (a) On or before July 1 of each year, the [~~Commission on Criminal and Juvenile Justice~~] commission shall submit notice of the annual reports in Subsection (3) and Subsection (6), in electronic format, to:

(i) the [~~Utah~~] attorney general;

(ii) the speaker of the House of Representatives, for referral to any House standing or interim committees with oversight over law enforcement and criminal justice;

(iii) the president of the Senate, for referral to any Senate standing or interim committees with oversight over law enforcement and criminal justice; and

(iv) each law enforcement agency.

(b) The reports described in Subsection (3) and Subsection (6), as well as the individual case data described in Subsection (1) for the previous calendar year, shall be published on the Utah Open Government website at open.utah.gov on or before July 15 of each year.

Section 31. Section 24-4-119 is enacted to read:

24-4-119. Training requirements.

(1) As used in this section:

(a) "Council" means the Utah Prosecution Council created in Section 67-5a-1.

(b) "Division" means the Peace Officers Standards and Training Division created in Section 53-6-103.

(2) To participate in the program, an agency shall have at least one employee who is certified by the division as an asset forfeiture specialist through the completion of an online asset forfeiture course by the division.

(3) The division shall:

(a) develop an online asset forfeiture specialist course that is available to an agency for certification purposes;

(b) certify an employee of an agency who meets the course requirements to be an asset forfeiture specialist;

(c) recertify, every 36 months, an employee who is designated as an asset forfeiture specialist by an agency;

(d) submit annually a report to the commission no later than April 30 that contains a list of the names of the employees and agencies participating in the certification courses;

(e) review and update the asset forfeiture specialist course each year to comply with state and federal law; and

(f) provide asset forfeiture training to all peace officers in basic training programs.

(4) To be reimbursed for costs under Subsection 24-4-115(3)(b), a prosecuting agency shall have at least one employee who is certified by the council as an asset forfeiture specialist through the completion of an online asset forfeiture course.

(5) The council shall:

(a) develop an online asset forfeiture specialist course that is available to a prosecuting agency for certification purposes;

(b) certify an employee of a prosecuting agency who meets the course requirements to be an asset forfeiture specialist;

(c) submit annually a report to the commission no later than April 30 that contains a list of the names of the employees and prosecuting agencies participating in certification courses by the council; and

(d) review and update the asset forfeiture specialist course each year to comply with state and federal law.

Section 32. Section 53-13-110.5 is enacted to read:

53-13-110.5. Retention of records of interviews of minors.

If a peace officer, or the officer's employing agency, records an interview of a minor during an investigation of a violation of Section 76-5-402.1, 76-5-402.3, 76-5-403.1, or 76-5-404.1, the agency shall retain a copy of the recording for 18 years after the day on which the last recording of the interview is made, unless the prosecuting attorney requests in writing that the recording be retained for an additional period of time.

Section 33. Repealer.

This bill repeals:

Section 24-4-107, Innocent owners.

Section 24-4-108, Release of property held for forfeiture on certain grounds.

CHAPTER 231
S. B. 99
Passed March 1, 2021
Approved March 16, 2021
Effective May 5, 2021

CHILD WELFARE AMENDMENTS

Chief Sponsor: Wayne A. Harper
House Sponsor: Paul Ray

LONG TITLE

General Description:

This bill addresses provisions related to child welfare.

Highlighted Provisions:

This bill:

- modifies definitions and defines terms;
- repeals a requirement that the child welfare training coordinator be appointed by the director of the Division of Child and Family Services;
- modifies the training requirements for caseworkers of the Division of Child and Family Services;
- allows certain information and records contained in the Management Information System developed by the Division of Child and Family Services to be classified as private or controlled under the Government Records Access and Management Act;
- allows the Division of Child and Family Services to share a record related to a report or an investigation of child abuse or neglect with the Division of Substance Abuse and Mental Health, the Department of Health, or a local substance abuse authority for the purpose of providing substance abuse treatment to a parent of a newborn child;
- directs the Division of Substance Abuse and Mental Health to coordinate with the Department of Health and other health care providers to develop a program to reduce substance abuse by parents of a newborn child;
- requires the Department of Human Services to perform a review of a child who has suffered a near fatality and is the subject of an open case for child welfare services within one year of the near fatality;
- modifies the fatality review process of the Department of Human Services to allow review of near fatalities of children;
- modifies the requirements giving notice of a summons for a parent or guardian of a juvenile proceeding;
- modifies the requirements for returning a child to the custody of a parent or guardian in a shelter hearing;
- repeals provisions that prohibit disclosure of child abuse, neglect, or dependency reports that are unsubstantiated, unsupported, or without merit to an individual who is not the alleged perpetrator;
- prohibits a court from receiving certain child abuse, neglect, or dependency reports that are unsubstantiated, unsupported, or without merit into evidence without a finding of good cause;
- clarifies that an adjudication for abuse, neglect, or dependency of a child, or termination or restoration of parental rights may not be expunged;
- modifies the type of records that a court may order sealed in a juvenile expungement proceeding; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a coordination clause.

Utah Code Sections Affected:

AMENDS:

52-4-205, as last amended by Laws of Utah 2020, Chapters 12 and 201
62A-4a-101, as last amended by Laws of Utah 2019, Chapters 259 and 335
62A-4a-107, as last amended by Laws of Utah 2013, Chapter 171
62A-4a-402, as last amended by Laws of Utah 2008, Chapter 299
62A-4a-404, as last amended by Laws of Utah 2020, Chapter 193
62A-4a-412, as last amended by Laws of Utah 2020, Chapters 193 and 258
62A-4a-1003, as last amended by Laws of Utah 2019, Chapter 335
62A-15-103, as last amended by Laws of Utah 2020, Chapter 193
62A-16-102, as last amended by Laws of Utah 2019, Chapter 139
62A-16-201, as last amended by Laws of Utah 2019, Chapter 139
62A-16-202, as enacted by Laws of Utah 2010, Chapter 239
62A-16-203, as enacted by Laws of Utah 2010, Chapter 239
62A-16-204, as last amended by Laws of Utah 2019, Chapter 139
62A-16-301, as last amended by Laws of Utah 2019, Chapter 139
62A-16-302, as last amended by Laws of Utah 2011, Chapter 343
63G-2-202, as last amended by Laws of Utah 2020, Chapter 255
63G-2-305, as last amended by Laws of Utah 2020, Chapters 112, 198, 339, 349, 382, and 393
63G-2-305.5, as enacted by Laws of Utah 2020, Chapter 349
78A-6-105, as last amended by Laws of Utah 2020, Chapters 214, 312 and last amended by Coordination Clause, Laws of Utah 2020, Chapter 214
78A-6-109, as last amended by Laws of Utah 2017, Chapter 330
78A-6-306, as last amended by Laws of Utah 2020, Chapters 158 and 214
78A-6-317, as last amended by Laws of Utah 2019, Chapters 326 and 335
78A-6-1503, as renumbered and amended by Laws of Utah 2020, Chapter 218

Utah Code Sections Affected by Coordination Clause:

80-3-107, Utah Code Annotated 1953
80-3-110, Utah Code Annotated 1953

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

Section 1. Section 52-4-205 is amended to read:

52-4-205. Purposes of closed meetings -- Certain issues prohibited in closed meetings.

(1) A closed meeting described under Section 52-4-204 may only be held for:

(a) except as provided in Subsection (3), discussion of the character, professional competence, or physical or mental health of an individual;

(b) strategy sessions to discuss collective bargaining;

(c) strategy sessions to discuss pending or reasonably imminent litigation;

(d) strategy sessions to discuss the purchase, exchange, or lease of real property, including any form of a water right or water shares, if public discussion of the transaction would:

(i) disclose the appraisal or estimated value of the property under consideration; or

(ii) prevent the public body from completing the transaction on the best possible terms;

(e) strategy sessions to discuss the sale of real property, including any form of a water right or water shares, if:

(i) public discussion of the transaction would:

(A) disclose the appraisal or estimated value of the property under consideration; or

(B) prevent the public body from completing the transaction on the best possible terms;

(ii) the public body previously gave public notice that the property would be offered for sale; and

(iii) the terms of the sale are publicly disclosed before the public body approves the sale;

(f) discussion regarding deployment of security personnel, devices, or systems;

(g) investigative proceedings regarding allegations of criminal misconduct;

(h) as relates to the Independent Legislative Ethics Commission, conducting business relating to the receipt or review of ethics complaints;

(i) as relates to an ethics committee of the Legislature, a purpose permitted under Subsection 52-4-204(1)(a)(iii)(C);

(j) as relates to the Independent Executive Branch Ethics Commission created in Section 63A-14-202, conducting business relating to an ethics complaint;

(k) as relates to a county legislative body, discussing commercial information as defined in Section 59-1-404;

(l) as relates to the Utah Higher Education Assistance Authority and its appointed board of directors, discussing fiduciary or commercial information as defined in Section 53B-12-102;

(m) deliberations, not including any information gathering activities, of a public body acting in the capacity of:

(i) an evaluation committee under Title 63G, Chapter 6a, Utah Procurement Code, during the process of evaluating responses to a solicitation, as defined in Section 63G-6a-103;

(ii) a protest officer, defined in Section 63G-6a-103, during the process of making a decision on a protest under Title 63G, Chapter 6a, Part 16, Protests; or

(iii) a procurement appeals panel under Title 63G, Chapter 6a, Utah Procurement Code, during the process of deciding an appeal under Title 63G, Chapter 6a, Part 17, Procurement Appeals Board;

(n) the purpose of considering information that is designated as a trade secret, as defined in Section 13-24-2, if the public body's consideration of the information is necessary in order to properly conduct a procurement under Title 63G, Chapter 6a, Utah Procurement Code;

(o) the purpose of discussing information provided to the public body during the procurement process under Title 63G, Chapter 6a, Utah Procurement Code, if, at the time of the meeting:

(i) the information may not, under Title 63G, Chapter 6a, Utah Procurement Code, be disclosed to a member of the public or to a participant in the procurement process; and

(ii) the public body needs to review or discuss the information in order to properly fulfill its role and responsibilities in the procurement process;

(p) as relates to the governing board of a governmental nonprofit corporation, as that term is defined in Section 11-13a-102, the purpose of discussing information that is designated as a trade secret, as that term is defined in Section 13-24-2, if:

(i) public knowledge of the discussion would reasonably be expected to result in injury to the owner of the trade secret; and

(ii) discussion of the information is necessary for the governing board to properly discharge the board's duties and conduct the board's business; or

(q) a purpose for which a meeting is required to be closed under Subsection (2).

(2) The following meetings shall be closed:

(a) a meeting of the Health and Human Services Interim Committee to review a [~~fatality review~~] report described in Subsection 62A-16-301(1)(a), and the responses to the report described in Subsections 62A-16-301(2) and (4);

(b) a meeting of the Child Welfare Legislative Oversight Panel to:

(i) review a [~~fatality review~~] report described in Subsection 62A-16-301(1)(a), and the responses to

the report described in Subsections 62A-16-301(2) and (4); or

(ii) review and discuss an individual case, as described in Subsection 62A-4a-207(5);

(c) a meeting of the Opioid and Overdose Fatality Review Committee, created in Section 26-7-13, to review and discuss an individual case, as described in Subsection 26-7-13(10); [~~and~~]

(d) a meeting of a conservation district as defined in Section 17D-3-102 for the purpose of advising the Natural Resource Conservation Service of the United States Department of Agriculture on a farm improvement project if the discussed information is protected information under federal law; and

(e) a meeting of the Compassionate Use Board established in Section 26-61a-105 for the purpose of reviewing petitions for a medical cannabis card in accordance with Section 26-61a-105.

(3) In a closed meeting, a public body may not:

(a) interview a person applying to fill an elected position;

(b) discuss filling a midterm vacancy or temporary absence governed by Title 20A, Chapter 1, Part 5, Candidate Vacancy and Vacancy and Temporary Absence in Elected Office; or

(c) discuss the character, professional competence, or physical or mental health of the person whose name was submitted for consideration to fill a midterm vacancy or temporary absence governed by Title 20A, Chapter 1, Part 5, Candidate Vacancy and Vacancy and Temporary Absence in Elected Office.

Section 2. Section 62A-4a-101 is amended to read:

62A-4a-101. Definitions.

As used in this chapter:

(1) "Abuse" means the same as that term is defined in Section 78A-6-105.

(2) "Adoption services" means:

(a) placing children for adoption;

(b) subsidizing adoptions under Section 62A-4a-105;

(c) supervising adoption placements until the adoption is finalized by the court;

(d) conducting adoption studies;

(e) preparing adoption reports upon request of the court; and

(f) providing postadoptive placement services, upon request of a family, for the purpose of stabilizing a possible disruptive placement.

(3) "Child" means, except as provided in Part 7, Interstate Compact on Placement of Children, [~~a person~~] an individual under 18 years [~~of age~~] old.

(4) "Child protection team" means a team consisting of:

(a) the caseworker assigned to the case;

(b) the caseworker who made the decision to remove the child;

(c) a representative of the school or school district where the child attends school;

(d) the peace officer who removed the child from the home;

(e) a representative of the appropriate Children's Justice Center, if one is established within the county where the child resides;

(f) if appropriate, and known to the division, a therapist or counselor who is familiar with the child's circumstances;

(g) members of a child protection unit; and

(h) any other individuals determined appropriate and necessary by the team coordinator and chair.

(5) "Child protection unit" means any unit created by a chief of police or a sheriff of a city, town, metro township, or county that is composed of at least the following individuals who are trained in the prevention, identification, and treatment of abuse or neglect:

(a) a law enforcement officer, as defined in Section 53-13-103; and

(b) a child advocate selected by the chief of police or a sheriff.

(6) (a) "Chronic abuse" means repeated or patterned abuse.

(b) "Chronic abuse" does not mean an isolated incident of abuse.

(7) (a) "Chronic neglect" means repeated or patterned neglect.

(b) "Chronic neglect" does not mean an isolated incident of neglect.

(8) "Consult" means an interaction between two persons in which the initiating person:

(a) provides information to another person;

(b) provides the other person an opportunity to respond; and

(c) takes the other person's response, if any, into consideration.

(9) "Consumer" means a person who receives services offered by the division in accordance with this chapter.

(10) "Custody," with regard to the division, means the custody of a minor in the division as of the date of disposition.

(11) "Day-care services" means care of a child for a portion of the day which is less than 24 hours:

(a) in the child's own home by a responsible [~~person~~] individual; or

(b) outside of the child's home in a:

(i) day-care center;

(ii) family group home; or

(iii) family child care home.

(12) "Dependent child" or "dependency" means a child, or the condition of a child, who is [~~homeless or~~] without proper care through no fault of the child's parent, guardian, or custodian.

(13) "Director" means the director of the Division of Child and Family Services.

(14) "Division" means the Division of Child and Family Services.

(15) "Domestic violence services" means:

(a) temporary shelter, treatment, and related services to:

(i) [~~a person~~] an individual who is a victim of abuse, as defined in Section 78B-7-102; and

(ii) the dependent children of [~~a person~~] an individual who is a victim of abuse, as defined in Section 78B-7-102; and

(b) treatment services for [~~a person~~] an individual who is alleged to have committed, has been convicted of, or has pled guilty to, an act of domestic violence as defined in Section 77-36-1.

(16) "Harm" means the same as that term is defined in Section 78A-6-105.

(17) "Homemaking service" means the care of individuals in their domiciles, and help given to individual caretaker relatives to achieve improved household and family management through the services of a trained homemaker.

(18) "Incest" means the same as that term is defined in Section 78A-6-105.

(19) "Indian child" means the same as that term is defined in 25 U.S.C. Sec. 1903.

(20) "Indian tribe" means the same as that term is defined in 25 U.S.C. Sec. 1903.

(21) "Minor" means, except as provided in Part 7, Interstate Compact on Placement of Children:

(a) a child; or

(b) [~~a person~~] an individual:

(i) who is at least 18 years [~~of age~~] old and younger than 21 years [~~of age~~] old; and

(ii) for whom the division has been specifically ordered by the juvenile court to provide services.

(22) "Molestation" means the same as that term is defined in Section 78A-6-105.

(23) "Mutual case" means a case that has been:

(a) opened by the division under the division's discretion and procedures;

(b) opened by the law enforcement agency with jurisdiction over the case; and

(c) accepted for investigation by the child protection unit established by the chief of police or sheriff, as applicable.

(24) "Natural parent" means a minor's biological or adoptive parent, and includes a minor's noncustodial parent.

(25) "Neglect" means the same as that term is defined in Section 78A-6-105.

(26) "Protective custody," with regard to the division, means the shelter of a child by the division from the time the child is removed from the child's home until the earlier of:

(a) the shelter hearing; or

(b) the child's return home.

(27) "Protective services" means expedited services that are provided:

(a) in response to evidence of neglect, abuse, or dependency of a child;

(b) to a cohabitant who is neglecting or abusing a child, in order to:

(i) help the cohabitant develop recognition of the cohabitant's duty of care and of the causes of neglect or abuse; and

(ii) strengthen the cohabitant's ability to provide safe and acceptable care; and

(c) in cases where the child's welfare is endangered:

(i) to bring the situation to the attention of the appropriate juvenile court and law enforcement agency;

(ii) to cause a protective order to be issued for the protection of the child, when appropriate; and

(iii) to protect the child from the circumstances that endanger the child's welfare including, when appropriate:

(A) removal from the child's home;

(B) placement in substitute care; and

(C) petitioning the court for termination of parental rights.

(28) "Severe abuse" means the same as that term is defined in Section 78A-6-105.

(29) "Severe neglect" means the same as that term is defined in Section 78A-6-105.

(30) "Sexual abuse" means the same as that term is defined in Section 78A-6-105.

(31) "Sexual exploitation" means the same as that term is defined in Section 78A-6-105.

(32) "Shelter care" means the temporary care of a minor in a nonsecure facility.

(33) "Sibling" means a child who shares or has shared at least one parent in common either by blood or adoption.

(34) "Sibling visitation" means services provided by the division to facilitate the interaction between a child in division custody with a sibling of that child.

(35) "State" means:

(a) a state of the United States;

(b) the District of Columbia;

(c) the Commonwealth of Puerto Rico;

(d) the Virgin Islands;

(e) Guam;

(f) the Commonwealth of the Northern Mariana Islands; or

(g) a territory or possession administered by the United States.

(36) "State plan" means the written description of the programs for children, youth, and family services administered by the division in accordance with federal law.

(37) "Status offense" means a violation of the law that would not be a violation but for the age of the offender.

(38) "Substance abuse" means, except as provided in Section 62A-4a-404, the same as that term is defined in Section 78A-6-105.

(39) "Substantiated" or "substantiation" means a judicial finding based on a preponderance of the evidence that abuse or neglect occurred. Each allegation made or identified in a given case shall be considered separately in determining whether there should be a finding of substantiated.

(40) "Substitute care" means:

(a) the placement of a minor in a family home, group care facility, or other placement outside the minor's own home, either at the request of a parent or other responsible relative, or upon court order, when it is determined that continuation of care in the minor's own home would be contrary to the minor's welfare;

(b) services provided for a minor awaiting placement; and

(c) the licensing and supervision of a substitute care facility.

(41) "Supported" means a finding by the division based on the evidence available at the completion of an investigation that there is a reasonable basis to conclude that abuse, neglect, or dependency occurred. Each allegation made or identified during the course of the investigation shall be considered separately in determining whether there should be a finding of supported.

(42) "Temporary custody," with regard to the division, means the custody of a child in the division from the date of the shelter hearing until disposition.

(43) "Threatened harm" means the same as that term is defined in Section 78A-6-105.

(44) "Transportation services" means travel assistance given to an individual with escort service, if necessary, to and from community facilities and resources as part of a service plan.

(45) "Unsubstantiated" means a judicial finding that there is insufficient evidence to conclude that abuse or neglect occurred.

(46) "Unsupported" means a finding by the division at the completion of an investigation that there is insufficient evidence to conclude that abuse, neglect, or dependency occurred. However, a finding of unsupported means also that the division did not conclude that the allegation was without merit.

(47) "Without merit" means a finding at the completion of an investigation by the division, or a judicial finding, that the alleged abuse, neglect, or dependency did not occur, or that the alleged perpetrator was not responsible for the abuse, neglect, or dependency.

Section 3. Section 62A-4a-107 is amended to read:

62A-4a-107. Mandatory education and training of caseworkers -- Development of curriculum.

(1) There is created within the division a full-time position of [~~Child Welfare Training Coordinator, who shall be appointed by and serve at the pleasure of the director. The employee in that position~~] a child welfare training coordinator.

(2) The child welfare training coordinator is not responsible for direct casework services or the supervision of those services, but is required to:

(a) develop child welfare curriculum that:

(i) is current and effective, consistent with the division's mission and purpose for child welfare; and

(ii) utilizes curriculum and resources from a variety of sources including those from:

(A) the public sector;

(B) the private sector; and

(C) inside and outside of the state;

(b) recruit, select, and supervise child welfare trainers;

(c) develop a statewide training program, including a budget and identification of sources of funding to support that training;

(d) evaluate the efficacy of training in improving job performance;

(e) assist child protective services and foster care workers in developing and fulfilling their individual training plans;

(f) monitor staff compliance with division training requirements and individual training plans; and

(g) expand the collaboration between the division and schools of social work within institutions of higher education in developing child welfare services curriculum, and in providing and evaluating training.

[~~(2) (a)~~] (3) The director shall, with the assistance of the child welfare training coordinator, establish

and ensure caseworker competency regarding a core curriculum for child welfare services that [~~is substantially equivalent to the Child Welfare League of America's Core Training for Child Welfare Caseworkers Curriculum.~~]:

(a) is driven by child safety and family well-being;

(b) emphasizes child and family voice;

(c) is trauma-informed, as defined in Section 63M-7-209; and

(d) is consistent with national child welfare practice standards.

[~~(b) Any child welfare caseworker who is employed by the division for the first time after July 1, 1999, shall, before assuming significant independent casework responsibilities, successfully complete:~~]

[~~(i) the core curriculum; and~~]

[~~(ii) except as provided in Subsection (2)(c), on-the-job training that consists of observing and accompanying at least two capable and experienced child welfare caseworkers as they perform work-related functions:~~]

[~~(A) for three months if the caseworker has less than six months of on-the-job experience as a child welfare caseworker; or~~]

[~~(B) for two months if the caseworker has six months or more but less than 24 months of on-the-job experience as a child welfare caseworker.~~]

[~~(c) A child welfare caseworker with at least 24 months of on-the-job experience is not required to receive on-the-job training under Subsection (2)(b)(ii).~~]

[~~(3) Child welfare caseworkers~~]

(4) A child welfare caseworker shall complete training in:

(a) the legal duties of a child welfare caseworker;

(b) the responsibility of a child welfare caseworker to protect the safety and legal rights of children, parents, and families at all stages of a case, including:

(i) initial contact;

(ii) [~~investigation~~] safety and risk assessment; and

(iii) [~~treatment~~] intervention;

(c) recognizing situations involving:

(i) substance abuse;

(ii) domestic violence;

(iii) abuse; and

(iv) neglect; and

(d) the relationship of the Fourth and Fourteenth Amendments of the Constitution of the United States to the child welfare caseworker's job, including:

(i) search and seizure of evidence;

(ii) the warrant requirement;

(iii) exceptions to the warrant requirement; and

(iv) removing a child from the custody of the child's parent or guardian.

[~~(4)~~] (5) The division shall train [~~its~~] the division's child welfare caseworkers to apply the [~~risk assessment tools~~] safety, risk, needs, and strength assessment tools and rules described in Subsection 62A-4a-1002(2).

[~~(5)~~] (6) The division shall use the training of child welfare caseworkers to emphasize:

(a) the importance of maintaining the parent-child relationship [~~whenever possible~~];

(b) the preference for providing in-home services over taking a child into protective custody, both for the emotional well-being of the child and the efficient allocation of resources; and

(c) the importance and priority of:

(i) kinship placement in the event a child must be taken into protective custody; and

(ii) guardianship placement, in the event the parent-child relationship is legally terminated and no appropriate adoptive placement is available.

[~~(6)~~] (7) When a child welfare caseworker is hired, before assuming [~~significant~~] independent casework responsibilities, [~~the child welfare caseworker shall complete the training described in Subsections (3) through (5).~~] the division shall ensure that the child welfare caseworker has:

(a) completed the training described in Subsections (4), (5), and (6); and

(b) participated in sufficient skills development for a child welfare caseworker.

Section 4. Section 62A-4a-402 is amended to read:

62A-4a-402. Definitions.

As used in this part:

(1) "A person responsible for a child's care" means the child's parent, guardian, or other person responsible for the child's care, whether in the same home as the child, a relative's home, a group, family, or center day care facility, a foster care home, or a residential institution.

(2) "Newborn child" means a child who is 30 days old or younger.

[~~(2)~~] (3) "Subject" or "subject of the report" means any person reported under this part, including, but not limited to, a child, parent, guardian, or other person responsible for a child's care.

Section 5. Section 62A-4a-404 is amended to read:

62A-4a-404. Fetal alcohol syndrome or spectrum disorder and drug dependency -- Reporting requirements.

(1) As used in this section:

(a) "Health care provider" means:

(i) an individual licensed under:

(A) Title 58, Chapter 31b, Nurse Practice Act;

(B) Title 58, Chapter 44a, Nurse Midwife Practice Act;

(C) Title 58, Chapter 67, Utah Medical Practice Act;

(D) Title 58, Chapter 68, Utah Osteopathic Medical Practice Act;

(E) Title 58, Chapter 70a, Utah Physician Assistant Act; or

(F) Title 58, Chapter 77, Direct-Entry Midwife Act; or

(ii) an unlicensed individual who practices midwifery.

[~~(b) "Newborn child" means a child who is 30 days of age or younger.~~]

[~~(c)~~] (b) "Qualified medical provider" means the same as that term is defined in Section 26-61a-102.

[~~(d)~~] (c) (i) "Substance abuse" means [~~the misuse or excessive use of alcohol or other drugs or substances~~], except as provided in Subsection (1)(c)(ii), the same as that term is defined in Section 78A-6-105.

(ii) "Substance abuse" does not include use of drugs or other substances that are:

(A) obtained by lawful prescription and used as prescribed; or

(B) obtained in accordance with Title 26, Chapter 61a, Utah Medical Cannabis Act, and used as recommended by a qualified medical provider.

(2) A health care provider who attends the birth of a newborn child or cares for a newborn child and determines [~~any of~~] the following, shall report the determination to the division as soon as possible:

(a) the newborn child:

(i) is adversely affected by the child's mother's substance abuse during pregnancy;

(ii) has fetal alcohol syndrome or fetal alcohol spectrum disorder; or

(iii) demonstrates drug or alcohol withdrawal symptoms; or

(b) the parent of the newborn child or a person responsible for the child's care demonstrates functional impairment or an inability to care for the child as a result of the parent's or person's substance abuse.

Section 6. Section 62A-4a-412 is amended to read:

62A-4a-412. Reports, information, and referrals confidential.

(1) Except as otherwise provided in this chapter, reports made under this part, as well as any other information in the possession of the division obtained as the result of a report are private, protected, or controlled records under Title 63G, Chapter 2, Government Records Access and Management Act, and may only be made available to:

(a) a police or law enforcement agency investigating a report of known or suspected abuse or neglect, including members of a child protection unit;

(b) a physician who reasonably believes that a child may be the subject of abuse or neglect;

(c) an agency that has responsibility or authority to care for, treat, or supervise a minor who is the subject of a report;

(d) a contract provider that has a written contract with the division to render services to a minor who is the subject of a report;

(e) [~~except as provided in Subsection 63G-2-202(10),~~] a subject of the report, the natural parents of the child, and the guardian ad litem;

(f) a court, upon a finding that access to the records may be necessary for the determination of an issue before the court, provided that in a divorce, custody, or related proceeding between private parties, the record alone is:

(i) limited to objective or undisputed facts that were verified at the time of the investigation; and

(ii) devoid of conclusions drawn by the division or any of the division's workers on the ultimate issue of whether or not [~~a person's~~] an individual's acts or omissions constituted any level of abuse or neglect of another [~~person~~] individual;

(g) an office of the public prosecutor or its deputies in performing an official duty;

(h) a person authorized by a Children's Justice Center, for the purposes described in Section 67-5b-102;

(i) a person engaged in bona fide research, when approved by the director of the division, if the information does not include names and addresses;

(j) the State Board of Education, acting on behalf of itself or on behalf of a local education agency, as defined in Section 63J-5-102, for the purpose of evaluating whether an individual should be permitted to obtain or retain a license as an educator or serve as an employee or volunteer in a school, limited to information with substantiated or supported findings involving an alleged sexual offense, an alleged felony or class A misdemeanor drug offense, or any alleged offense against the person under Title 76, Chapter 5, Offenses Against the Person, and with the understanding that the office must provide the subject of a report received

under Subsection (1)(k) with an opportunity to respond to the report before making a decision concerning licensure or employment;

(k) any [~~person~~] individual identified in the report as a perpetrator or possible perpetrator of abuse or neglect, after being advised of the screening prohibition in Subsection (2);

(l) except as provided in Subsection 63G-2-202(10), a person filing a petition for a child protective order on behalf of a child who is the subject of the report;

(m) a licensed child-placing agency or person who is performing a preplacement adoptive evaluation in accordance with the requirements of Sections 78B-6-128 and 78B-6-130;

(n) an Indian tribe to:

(i) certify or license a foster home;

(ii) render services to a subject of a report; or

(iii) investigate an allegation of abuse, neglect, or dependency; or

(o) the Division of Substance Abuse and Mental Health, the Department of Health, or a local substance abuse authority, described in Section 17-43-201, for the purpose of providing substance abuse treatment to a pregnant woman or a parent of a newborn child, or the services described in Subsection 62A-15-103(2)(o).

(2) (a) A person, unless listed in Subsection (1), may not request another person to obtain or release a report or any other information in the possession of the division obtained as a result of the report that is available under Subsection (1)(k) to screen for potential perpetrators of abuse or neglect.

(b) A person who requests information knowing that the request is a violation of Subsection (2)(a) is subject to the criminal penalty in Subsection (4).

(3) (a) Except as provided in Section 62A-4a-1007 [~~and Subsection (3)(b)~~], the division and law enforcement officials shall ensure the anonymity of the person or persons making the initial report and any others involved in [~~its~~] the division's or law enforcement officials' subsequent investigation.

(b) Notwithstanding any other provision of law, excluding Section 78A-6-317, but including this chapter and Title 63G, Chapter 2, Government Records Access and Management Act, when the division makes a report or other information in the division's possession available under Subsection (1)(e) to a subject of the report or a parent of a child, the division shall remove from the report or other information only the names, addresses, and telephone numbers of individuals or specific information that could:

(i) identify the referent;

(ii) impede a criminal investigation; or

(iii) endanger [~~a person's~~] an individual's safety.

(4) Any person who [~~wilfully~~] willfully permits, or aides and abets the release of data or information obtained as a result of this part, in the possession of the division or contained on any part of the Management Information System, in violation of this part or Sections 62A-4a-1003 through 62A-4a-1007, is guilty of a class C misdemeanor.

(5) The physician-patient privilege is not a ground for excluding evidence regarding a child's injuries or the cause of those injuries, in any proceeding resulting from a report made in good faith [~~pursuant to~~] under this part.

(6) A child-placing agency or person who receives a report in connection with a preplacement adoptive evaluation [~~pursuant to~~] under Sections 78B-6-128 and 78B-6-130:

(a) may provide this report to the person who is the subject of the report; and

(b) may provide this report to a person who is performing a preplacement adoptive evaluation in accordance with the requirement of Sections 78B-6-128 and 78B-6-130, or to a licensed child-placing agency or to an attorney seeking to facilitate an adoption.

(7) (a) Except as provided in Subsection (7)(b), in a divorce, custody, or related proceeding between private parties, a court may not receive into evidence a report that:

(i) is provided to the court:

(A) under Subsection (1)(f); or

(B) by a parent of the child after the record is made available to the parent under Subsection (1)(e);

(ii) describes a parent of the child as the alleged perpetrator; and

(iii) is found to be unsubstantiated, unsupported, or without merit.

(b) (i) After a motion to admit the report described in Subsection (7)(a) is made, the court shall allow sufficient time for all subjects of the record to respond before making a finding on the motion.

(ii) After considering the motion described in Subsection (7)(b), the court may receive the report into evidence upon a finding on the record of good cause.

Section 7. Section 62A-4a-1003 is amended to read:

62A-4a-1003. Management Information System -- Requirements -- Contents -- Purpose -- Access.

(1) (a) The division shall develop and implement a Management Information System that meets the requirements of this section and the requirements of federal law and regulation.

(b) The information and records contained in the Management Information System:

(i) are private, controlled, or protected records under Title 63G, Chapter 2, Government Records Access and Management Act; and

(ii) except as provided in Subsections (1)(c) and (d), are available only to a person or government entity with statutory authorization under Title 63G, Chapter 2, Government Records Access and Management Act, to review the information and records described in this Subsection (1)(b).

(c) Notwithstanding Subsection (1)(b)(ii), the information and records described in Subsection (1)(b) are available to a person:

(i) as provided under Subsection (6) or Section 62A-4a-1006; or

(ii) who has specific statutory authorization to access the information or records for the purpose of assisting the state with state and federal requirements to maintain information solely for the purpose of protecting minors and providing services to families in need.

(d) Notwithstanding Subsection (1)(b)(ii), the information and records described in Subsection (1)(b) may, to the extent required by Title IV-B or IV-E of the Social Security Act, be provided by the division:

(i) to comply with abuse and neglect registry checks requested by other states; and

(ii) to the United States Department of Health and Human Services for purposes of maintaining an electronic national registry of supported or substantiated cases of abuse and neglect.

(2) With regard to all child welfare cases, the Management Information System shall provide each caseworker and the department's office of licensing, exclusively for the purposes of foster parent licensure and monitoring, with a complete history of each child in that worker's caseload, including:

(a) a record of all past action taken by the division with regard to that child and the child's siblings;

(b) the complete case history and all reports and information in the control or keeping of the division regarding that child and the child's siblings;

(c) the number of times the child has been in the custody of the division;

(d) the cumulative period of time the child has been in the custody of the division;

(e) a record of all reports of abuse or neglect received by the division with regard to that child's parent, parents, or guardian including:

(i) for each report, documentation of the:

(A) latest status; or

(B) final outcome or determination; and

(ii) information that indicates whether each report was found to be:

(A) supported;

(B) unsupported;

(C) substantiated;

(D) unsubstantiated; or

(E) without merit;

(f) the number of times the child's parent or parents failed any child and family plan; and

(g) the number of different caseworkers who have been assigned to that child in the past.

(3) The division's Management Information System shall:

(a) contain all key elements of each family's current child and family plan, including:

(i) the dates and number of times the plan has been administratively or judicially reviewed;

(ii) the number of times the parent or parents have failed that child and family plan; and

(iii) the exact length of time the child and family plan has been in effect; and

(b) alert caseworkers regarding deadlines for completion of and compliance with policy, including child and family plans.

(4) With regard to all child protective services cases, the Management Information System shall:

(a) monitor the compliance of each case with:

(i) division rule;

(ii) state law; and

(iii) federal law and regulation; and

(b) include the age and date of birth of the alleged perpetrator at the time the abuse or neglect is alleged to have occurred, in order to ensure accuracy regarding the identification of the alleged perpetrator.

(5) Except as provided in Subsection (6) regarding contract providers and Section 62A-4a-1006 regarding limited access to the Licensing Information System, all information contained in the division's Management Information System is available to the department, upon the approval of the executive director, on a need-to-know basis.

(6) (a) Subject to this Subsection (6), the division may allow the division's contract providers, court clerks designated by the Administrative Office of the Courts, the Office of Guardian Ad Litem, or an Indian tribe to have limited access to the Management Information System.

(b) A division contract provider or Indian tribe has access only to information about a person who is currently receiving services from that specific contract provider or Indian tribe.

(c) (i) Designated court clerks may only have access to information necessary to comply with Subsection 78B-7-202(2).

(ii) The Office of Guardian Ad Litem may access only the information that:

(A) relates to children and families where the Office of Guardian Ad Litem is appointed by a court to represent the interests of the children; and

(B) except as provided in Subsection (6)(d), is entered into the Management Information System on or after July 1, 2004.

(d) Notwithstanding Subsection (6)(c)(ii)(B), the Office of Guardian Ad Litem shall have access to all abuse and neglect referrals about children and families where the office has been appointed by a court to represent the interests of the children, regardless of the date that the information is entered into the Management Information System.

(e) Each contract provider, designated representative of the Office of Guardian Ad Litem, and Indian tribe who requests access to information contained in the Management Information System shall:

(i) take all necessary precautions to safeguard the security of the information contained in the Management Information System;

(ii) train its employees regarding:

(A) requirements for protecting the information contained in the Management Information System as required by this chapter and under Title 63G, Chapter 2, Government Records Access and Management Act; and

(B) the criminal penalties under Sections 62A-4a-412 and 63G-2-801 for improper release of information; and

(iii) monitor its employees to ensure that they protect the information contained in the Management Information System as required by law.

(f) The division shall take reasonable precautions to ensure that its contract providers comply with the requirements of this Subsection (6).

(7) The division shall take all necessary precautions, including password protection and other appropriate and available technological techniques, to prevent unauthorized access to or release of information contained in the Management Information System.

Section 8. Section 62A-15-103 is amended to read:

62A-15-103. Division -- Creation -- Responsibilities.

(1) (a) There is created the Division of Substance Abuse and Mental Health within the department, under the administration and general supervision of the executive director.

(b) The division is the substance abuse authority and the mental health authority for this state.

(2) The division shall:

(a) (i) educate the general public regarding the nature and consequences of substance abuse by promoting school and community-based prevention programs;

(ii) render support and assistance to public schools through approved school-based substance abuse education programs aimed at prevention of substance abuse;

(iii) promote or establish programs for the prevention of substance abuse within the community setting through community-based prevention programs;

(iv) cooperate with and assist treatment centers, recovery residences, and other organizations that provide services to individuals recovering from a substance abuse disorder, by identifying and disseminating information about effective practices and programs;

(v) except as provided in Section 62A-15-103.5, make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to develop, in collaboration with public and private programs, minimum standards for public and private providers of substance abuse and mental health programs licensed by the department under Title 62A, Chapter 2, Licensure of Programs and Facilities;

(vi) promote integrated programs that address an individual's substance abuse, mental health, physical health, and criminal risk factors;

(vii) establish and promote an evidence-based continuum of screening, assessment, prevention, treatment, and recovery support services in the community for individuals with substance use disorder and mental illness that addresses criminal risk factors;

(viii) evaluate the effectiveness of programs described in this Subsection (2);

(ix) consider the impact of the programs described in this Subsection (2) on:

(A) emergency department utilization;

(B) jail and prison populations;

(C) the homeless population; and

(D) the child welfare system; and

(x) promote or establish programs for education and certification of instructors to educate [~~persons~~] individuals convicted of driving under the influence of alcohol or drugs or driving with any measurable controlled substance in the body;

(b) (i) collect and disseminate information pertaining to mental health;

(ii) provide direction over the state hospital including approval of the state hospital's budget, administrative policy, and coordination of services with local service plans;

(iii) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to educate families concerning mental illness and promote family involvement, when appropriate, and with patient consent, in the treatment program of a family member; and

(iv) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to direct that an individual receiving services through a local mental health authority or the Utah

State Hospital be informed about and, if desired by the individual, provided assistance in the completion of a declaration for mental health treatment in accordance with Section 62A-15-1002;

(c) (i) consult and coordinate with local substance abuse authorities and local mental health authorities regarding programs and services;

(ii) provide consultation and other assistance to public and private agencies and groups working on substance abuse and mental health issues;

(iii) promote and establish cooperative relationships with courts, hospitals, clinics, medical and social agencies, public health authorities, law enforcement agencies, education and research organizations, and other related groups;

(iv) promote or conduct research on substance abuse and mental health issues, and submit to the governor and the Legislature recommendations for changes in policy and legislation;

(v) receive, distribute, and provide direction over public funds for substance abuse and mental health services;

(vi) monitor and evaluate programs provided by local substance abuse authorities and local mental health authorities;

(vii) examine expenditures of local, state, and federal funds;

(viii) monitor the expenditure of public funds by:

(A) local substance abuse authorities;

(B) local mental health authorities; and

(C) in counties where they exist, a private contract provider that has an annual or otherwise ongoing contract to provide comprehensive substance abuse or mental health programs or services for the local substance abuse authority or local mental health authority;

(ix) contract with local substance abuse authorities and local mental health authorities to provide a comprehensive continuum of services that include community-based services for individuals involved in the criminal justice system, in accordance with division policy, contract provisions, and the local plan;

(x) contract with private and public entities for special statewide or nonclinical services, or services for individuals involved in the criminal justice system, according to division rules;

(xi) review and approve each local substance abuse authority's plan and each local mental health authority's plan in order to ensure:

(A) a statewide comprehensive continuum of substance abuse services;

(B) a statewide comprehensive continuum of mental health services;

(C) services result in improved overall health and functioning;

(D) a statewide comprehensive continuum of community-based services designed to reduce criminal risk factors for individuals who are determined to have substance abuse or mental illness conditions or both, and who are involved in the criminal justice system;

(E) compliance, where appropriate, with the certification requirements in Subsection (2)(j); and

(F) appropriate expenditure of public funds;

(xii) review and make recommendations regarding each local substance abuse authority's contract with the local substance abuse authority's provider of substance abuse programs and services and each local mental health authority's contract with the local mental health authority's provider of mental health programs and services to ensure compliance with state and federal law and policy;

(xiii) monitor and ensure compliance with division rules and contract requirements; and

(xiv) withhold funds from local substance abuse authorities, local mental health authorities, and public and private providers for contract noncompliance, failure to comply with division directives regarding the use of public funds, or for misuse of public funds or money;

(d) ensure that the requirements of this part are met and applied uniformly by local substance abuse authorities and local mental health authorities across the state;

(e) require each local substance abuse authority and each local mental health authority, in accordance with Subsections 17-43-201(5)(b) and 17-43-301(6)(a)(ii), to submit a plan to the division on or before May 15 of each year;

(f) conduct an annual program audit and review of each local substance abuse authority and each local substance abuse authority's contract provider, and each local mental health authority and each local mental health authority's contract provider, including:

(i) a review and determination regarding whether:

(A) public funds allocated to the local substance abuse authority or the local mental health authorities are consistent with services rendered by the authority or the authority's contract provider, and with outcomes reported by the authority's contract provider; and

(B) each local substance abuse authority and each local mental health authority is exercising sufficient oversight and control over public funds allocated for substance use disorder and mental health programs and services; and

(ii) items determined by the division to be necessary and appropriate; and

(g) define "prevention" by rule as required under Title 32B, Chapter 2, Part 4, Alcoholic Beverage and

Substance Abuse Enforcement and Treatment Restricted Account Act;

(h) (i) train and certify an adult as a peer support specialist, qualified to provide peer supports services to an individual with:

(A) a substance use disorder;

(B) a mental health disorder; or

(C) a substance use disorder and a mental health disorder;

(ii) certify a person to carry out, as needed, the division's duty to train and certify an adult as a peer support specialist;

(iii) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

(A) establish training and certification requirements for a peer support specialist;

(B) specify the types of services a peer support specialist is qualified to provide;

(C) specify the type of supervision under which a peer support specialist is required to operate; and

(D) specify continuing education and other requirements for maintaining or renewing certification as a peer support specialist; and

(iv) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

(A) establish the requirements for a person to be certified to carry out, as needed, the division's duty to train and certify an adult as a peer support specialist; and

(B) specify how the division shall provide oversight of a person certified to train and certify a peer support specialist;

(i) except as provided in Section 62A-15-103.5, establish by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, minimum standards and requirements for the provision of substance use disorder and mental health treatment to an individual who is incarcerated or who is required to participate in treatment by a court or by the Board of Pardons and Parole, including:

(i) collaboration with the Department of Corrections and the Utah Substance Use and Mental Health Advisory Council to develop and coordinate the standards, including standards for county and state programs serving individuals convicted of class A and class B misdemeanors;

(ii) determining that the standards ensure available treatment, including the most current practices and procedures demonstrated by recognized scientific research to reduce recidivism, including focus on the individual's criminal risk factors; and

(iii) requiring that all public and private treatment programs meet the standards established under this Subsection (2)(i) in order to receive public funds allocated to the division, the Department of Corrections, or the Commission on Criminal and Juvenile Justice for the costs of providing screening, assessment, prevention, treatment, and recovery support;

(j) except as provided in Section 62A-15-103.5, establish by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the requirements and procedures for the certification of licensed public and private providers, including individuals licensed by the Division of Occupational and Professional Licensing, programs licensed by the department, and health care facilities licensed by the Department of Health, who provide, as part of their practice, substance use disorder and mental health treatment to an individual involved in the criminal justice system, including:

(i) collaboration with the Department of Corrections, the Utah Substance Use and Mental Health Advisory Council, and the Utah Association of Counties to develop, coordinate, and implement the certification process;

(ii) basing the certification process on the standards developed under Subsection (2)(i) for the treatment of an individual involved in the criminal justice system; and

(iii) the requirement that a public or private provider of treatment to an individual involved in the criminal justice system shall obtain certification on or before July 1, 2016, and shall renew the certification every two years, in order to qualify for funds allocated to the division, the Department of Corrections, or the Commission on Criminal and Juvenile Justice on or after July 1, 2016;

(k) collaborate with the Commission on Criminal and Juvenile Justice to analyze and provide recommendations to the Legislature regarding:

(i) pretrial services and the resources needed to reduce recidivism;

(ii) county jail and county behavioral health early-assessment resources needed for an offender convicted of a class A or class B misdemeanor; and

(iii) the replacement of federal dollars associated with drug interdiction law enforcement task forces that are reduced;

(l) (i) establish performance goals and outcome measurements for all treatment programs for which minimum standards are established under Subsection (2)(i), including recidivism data and data regarding cost savings associated with recidivism reduction and the reduction in the number of inmates, that are obtained in collaboration with the Administrative Office of the Courts and the Department of Corrections; and

(ii) collect data to track and determine whether the goals and measurements are being attained and make this information available to the public;

(m) in the division's discretion, use the data to make decisions regarding the use of funds allocated

to the division, the Administrative Office of the Courts, and the Department of Corrections to provide treatment for which standards are established under Subsection (2)(i);

(n) annually, on or before August 31, submit the data collected under Subsection (2)(k) to the Commission on Criminal and Juvenile Justice, which shall compile a report of findings based on the data and provide the report to the Judiciary Interim Committee, the Health and Human Services Interim Committee, the Law Enforcement and Criminal Justice Interim Committee, and the related appropriations subcommittees; and

(o) consult and coordinate with the Department of Health and the Division of Child and Family Services to develop and manage the operation of a program designed to reduce substance abuse during pregnancy and by parents of a newborn child that includes:

(i) providing education and resources to health care providers and individuals in the state regarding prevention of substance abuse during pregnancy;

(ii) providing training to health care providers in the state regarding screening of a pregnant woman or pregnant minor to identify a substance abuse disorder; and

(iii) providing referrals to pregnant women [~~or~~], pregnant minors, or parents of a newborn child in need of substance [~~use~~] abuse treatment services to a facility that has the capacity to provide the treatment services.

(3) In addition to the responsibilities described in Subsection (2), the division shall, within funds appropriated by the Legislature for this purpose, implement and manage the operation of a firearm safety and suicide prevention program, in consultation with the Bureau of Criminal Identification created in Section 53-10-201, including:

(a) coordinating with the Department of Health, local mental health and substance abuse authorities, a nonprofit behavioral health advocacy group, and a representative from a Utah-based nonprofit organization with expertise in the field of firearm use and safety that represents firearm owners, to:

(i) produce and periodically review and update a firearm safety brochure and other educational materials with information about the safe handling and use of firearms that includes:

(A) information on safe handling, storage, and use of firearms in a home environment;

(B) information about at-risk individuals and individuals who are legally prohibited from possessing firearms;

(C) information about suicide prevention awareness; and

(D) information about the availability of firearm safety packets;

(ii) procure cable-style gun locks for distribution [~~pursuant to~~] under this section;

(iii) produce a firearm safety packet that includes the firearm safety brochure and the cable-style gun lock described in this Subsection (3); and

(iv) create a suicide prevention education course that:

(A) provides information for distribution regarding firearm safety education;

(B) incorporates current information on how to recognize suicidal behaviors and identify individuals who may be suicidal; and

(C) provides information regarding crisis intervention resources;

(b) distributing, free of charge, the firearm safety packet to the following persons, who shall make the firearm safety packet available free of charge:

(i) health care providers, including emergency rooms;

(ii) mobile crisis outreach teams;

(iii) mental health practitioners;

(iv) other public health suicide prevention organizations;

(v) entities that teach firearm safety courses;

(vi) school districts for use in the seminar, described in Section 53G-9-702, for parents of students in the school district; and

(vii) firearm dealers to be distributed in accordance with Section 76-10-526;

(c) creating and administering a redeemable coupon program described in this Subsection (3) and Section 76-10-526 that includes:

(i) producing a redeemable coupon that offers between $10 and $200 off the purchase price of a firearm safe from a participating firearms dealer or a person engaged in the business of selling firearm safes in Utah, by a Utah resident who has filed an application for a concealed firearm permit; and

(ii) collecting the receipts described in Section 76-10-526 from the participating dealers and persons and reimbursing the dealers and persons;

(d) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, making rules that establish procedures for:

(i) producing and distributing the suicide prevention education course and the firearm safety brochures and packets;

(ii) procuring the cable-style gun locks for distribution; and

(iii) administering the redeemable coupon program; and

(e) reporting to the Health and Human Services Interim Committee regarding implementation and

success of the firearm safety program and suicide prevention education course at or before the November meeting each year.

(4) (a) The division may refuse to contract with and may pursue legal remedies against any local substance abuse authority or local mental health authority that fails, or has failed, to expend public funds in accordance with state law, division policy, contract provisions, or directives issued in accordance with state law.

(b) The division may withhold funds from a local substance abuse authority or local mental health authority if the authority's contract provider of substance abuse or mental health programs or services fails to comply with state and federal law or policy.

(5) (a) Before reissuing or renewing a contract with any local substance abuse authority or local mental health authority, the division shall review and determine whether the local substance abuse authority or local mental health authority is complying with the oversight and management responsibilities described in Sections 17-43-201, 17-43-203, 17-43-303, and 17-43-309.

(b) Nothing in this Subsection (5) may be used as a defense to the responsibility and liability described in Section 17-43-303 and to the responsibility and liability described in Section 17-43-203.

(6) In carrying out the division's duties and responsibilities, the division may not duplicate treatment or educational facilities that exist in other divisions or departments of the state, but shall work in conjunction with those divisions and departments in rendering the treatment or educational services that those divisions and departments are competent and able to provide.

(7) The division may accept in the name of and on behalf of the state donations, gifts, devises, or bequests of real or personal property or services to be used as specified by the donor.

(8) The division shall annually review with each local substance abuse authority and each local mental health authority the authority's statutory and contract responsibilities regarding:

(a) use of public funds;

(b) oversight of public funds; and

(c) governance of substance use disorder and mental health programs and services.

(9) The Legislature may refuse to appropriate funds to the division upon the division's failure to comply with the provisions of this part.

(10) If a local substance abuse authority contacts the division under Subsection 17-43-201(10) for assistance in providing treatment services to a pregnant woman or pregnant minor, the division shall:

(a) refer the pregnant woman or pregnant minor to a treatment facility that has the capacity to provide the treatment services; or

(b) otherwise ensure that treatment services are made available to the pregnant woman or pregnant minor.

(11) The division shall employ a school-based mental health specialist to be housed at the State Board of Education who shall work with the State Board of Education to:

(a) provide coordination between a local education agency and local mental health authority;

(b) recommend evidence-based and evidence informed mental health screenings and intervention assessments for a local education agency; and

(c) coordinate with the local community, including local departments of health, to enhance and expand mental health related resources for a local education agency.

Section 9. Section 62A-16-102 is amended to read:

62A-16-102. Definitions.

(1) "Abuse" means the same as that term is defined in Section 78A-6-105.

(2) "Child" means the same as that term is defined in Section 62A-4a-101.

[~~(1)~~] (3) "Committee" means a fatality review committee[~~,~~] that is formed under Section 62A-16-202 or 62A-16-203.

(4) "Dependency" means the same as that term is defined in Section 62A-4a-101.

(5) "Formal review" means a review of a death or a near fatality that is ordered under Subsection 62A-16-201(6).

(6) "Near fatality" means alleged abuse or neglect that, as certified by a physician, places a child in serious or critical condition.

[~~(2)~~] (7) "Qualified individual" means an individual who:

(a) at the time that the individual dies, is a resident of a facility or program that is owned or operated by the department or a division of the department;

(b) (i) is in the custody of the department or a division of the department; and

(ii) is placed in a residential placement by the department or a division of the department;

(c) at the time that the individual dies, has an open case for the receipt of child welfare services, including:

(i) an investigation for abuse, neglect, or dependency;

(ii) foster care;

(iii) in-home services; or

(iv) substitute care;

(d) had an open case for the receipt of child welfare services within one year [~~immediately~~

~~preceding~~] before the day on which the individual dies;

(e) was the subject of an accepted referral received by Adult Protective Services within one year [~~immediately preceding~~] before the day on which the individual dies, if:

(i) the department or a division of the department is aware of the death; and

(ii) the death is reported as a homicide, suicide, or an undetermined cause;

(f) received services from, or under the direction of, the Division of Services for People with Disabilities within one year [~~immediately preceding~~] before the day on which the individual dies, unless the individual:

(i) lived in the individual's home at the time of death; and

(ii) the director of the Office of Quality and Design determines that the death was not in any way related to services that were provided by, or under the direction of, the department or a division of the department;

(g) dies within 60 days after the day on which the individual is discharged from the Utah State Hospital, if the department is aware of the death; [~~or~~]

(h) is a child who:

(i) suffers a near fatality; and

(ii) is the subject of an open case for the receipt of child welfare services within one year before the day on which the child suffered the near fatality, including:

(A) an investigation for abuse, neglect, or dependency;

(B) foster care;

(C) in-home services; or

(D) substitute care; or

[~~(h)~~] (i) is designated as a qualified individual by the executive director.

(8) "Neglect" means the same as that term is defined in Section 78A-6-105.

(9) "Substitute care" means the same as that term is defined in Section 62A-4a-101.

Section 10. Section 62A-16-201 is amended to read:

62A-16-201. Initial review.

(1) Within seven days after the day on which the department knows that a qualified individual has died or is an individual described in Subsection 62A-16-102(7)(h), a person designated by the department shall:

(a) (i) for a death, complete a deceased client report form, created by the department; [~~and~~] or

(ii) for an individual described in Subsection 62A-16-102(7)(h), complete a near fatality client report form, created by the department; and

(b) forward the completed client report form to the director of the office or division that has jurisdiction over the region or facility.

(2) The director of the office or division described in Subsection (1) shall, upon receipt of a near fatality client report form or a deceased client report form, immediately provide a copy of the form to:

(a) the executive director; and

(b) the fatality review coordinator or the fatality review coordinator's designee.

(3) Within 10 days after the day on which the fatality review coordinator or the fatality review coordinator's designee receives a copy of the near fatality client report form or the deceased client report form, the fatality review coordinator or the fatality review coordinator's designee shall request a copy of all relevant department case records regarding the individual who is the subject of the [~~deceased~~] client report form.

(4) Each person who receives a request for a record described in Subsection (3) shall provide a copy of the record to the fatality review coordinator or the fatality review coordinator's designee, by a secure method, within seven days after the day on which the request is made.

(5) Within 30 days after the day on which the fatality review coordinator or the fatality review coordinator's designee receives the case records requested under Subsection (3), the fatality review coordinator, or the fatality review coordinator's designee, shall:

(a) review the [~~deceased~~] client report form, the case files, and other relevant information received by the fatality review coordinator; and

(b) make a recommendation to the director of the Office of Quality and Design regarding whether a formal [~~fatality~~] review of the death or near fatality should be conducted.

(6) (a) In accordance with Subsection (6)(b), within seven days after the day on which the fatality review coordinator or the fatality review coordinator's designee makes the recommendation described in Subsection (5)(b), the director of the Office of Quality and Design or the director's designee shall determine whether to order that a [~~formal fatality~~] review of the death or near fatality be conducted.

(b) The director of the Office of Quality and Design or the director's designee shall order that a formal [~~fatality~~] review of the death or near fatality be conducted if:

(i) at the time of the near fatality or the death, the qualified individual is:

(A) an individual described in Subsection 62A-16-102[~~(2)~~](6)(a) or (b), unless:

(I) the near fatality or the death is due to a natural cause; or

(II) the director of the Office of Quality and Design or the director's designee determines that the near fatality or the death was not in any way related to services that were provided by, or under the direction of, the department or a division of the department; or

(B) a child in foster care or substitute care, unless the near fatality or the death is due to:

(I) a natural cause; or

(II) an accident;

(ii) it appears, based on the information provided to the director of the Office of Quality and Design or the director's designee, that:

(A) a provision of law, rule, policy, or procedure relating to the [~~deceased~~] qualified individual or the [~~deceased~~] individual's family may not have been complied with;

(B) the near fatality or the fatality was not responded to properly;

(C) a law, rule, policy, or procedure may need to be changed; or

(D) additional training is needed;

(iii) (A) the death is caused by suicide; or

(B) the near fatality is caused by attempted suicide; or

(iv) the director of the Office of Quality and Design or the director's designee determines that another reason exists to order that a [~~formal fatality~~] review of the near fatality or the death be conducted.

Section 11. Section 62A-16-202 is amended to read:

62A-16-202. Fatality review committee for a qualified individual who was not a resident of the Utah State Hospital or the Utah State Developmental Center.

(1) Except for a fatality review committee described in Section 62A-16-203, the fatality review coordinator shall organize a fatality review committee for each formal [~~fatality review that is ordered to be conducted under Subsection 62A-16-201(6)~~] review.

(2) Except as provided in Subsection (5), a committee described in Subsection (1):

(a) shall include the following members:

(i) the department's fatality review coordinator, who shall designate a member of the committee to serve as chair of the committee;

(ii) a member of the board, if there is a board, of the relevant division or office;

(iii) the attorney general or the attorney general's designee;

(iv) (A) a member of the management staff of the relevant division or office; or

(B) a person who is a supervisor, or a higher level position, from a region that did not have jurisdiction over the qualified individual; and

(v) a member of the department's risk management services; and

(b) may include the following members:

(i) a health care professional;

(ii) a law enforcement officer; or

(iii) a representative of the Office of Public Guardian.

(3) If a death that is subject to formal review involves a qualified individual described in Subsection 62A-16-102[~~(2)(c) or (d)~~](7)(c), (d), or (h), the committee may also include:

(a) a health care professional;

(b) a law enforcement officer;

(c) the director of the Office of Guardian ad Litem;

(d) an employee of the division who may be able to provide information or expertise that would be helpful to the formal review; or

(e) a professional whose knowledge or expertise may significantly contribute to the formal review.

(4) A committee described in Subsection (1) may also include a person whose knowledge or expertise may significantly contribute to the formal review.

(5) A committee described in this section may not include an individual who was involved in, or who supervises a person who was involved in, the [~~fatality.~~] near fatality or the death.

(6) Each member of a committee described in this section who is not an employee of the department shall sign a form, created by the department, indicating that the member agrees to:

(a) keep all information relating to [~~a fatality~~] the formal review confidential; and

(b) not release any information relating to a [~~fatality~~] formal review, unless required or permitted by law to release the information.

Section 12. Section 62A-16-203 is amended to read:

62A-16-203. Fatality review committees for a resident of the Utah State Hospital or the Utah State Developmental Center.

(1) If a qualified individual who is the subject of a formal [~~fatality review that is ordered to be conducted under Subsection 62A-16-201(6)~~] review was a resident of the Utah State Hospital or the Utah State Developmental Center, the fatality review coordinator of that facility shall organize a fatality review committee to review the [~~fatality.~~] near fatality or the death.

(2) Except as provided in Subsection (4), a committee described in Subsection (1) shall include the following members:

(a) the fatality review coordinator for the facility, who shall serve as chair of the committee;

(b) a member of the management staff of the facility;

(c) a supervisor of a unit other than the one in which the qualified individual resided;

(d) a physician;

(e) a representative from the administration of the division that oversees the facility;

(f) the department's fatality review coordinator;

(g) a member of the department's risk management services; and

(h) a citizen who is not an employee of the department.

(3) A committee described in Subsection (1) may also include a person whose knowledge or expertise may significantly contribute to the formal review.

(4) A committee described in this section may not include an individual who:

(a) was involved in, or who supervises a person who was involved in, the [~~fatality~~] near fatality or the death; or

(b) has a conflict with the fatality review.

Section 13. Section 62A-16-204 is amended to read:

62A-16-204. Fatality review committee proceedings.

(1) A majority vote of committee members present constitutes the action of the committee.

(2) The department shall give the committee access to all reports, records, and other documents that are relevant to the [~~fatality~~] near fatality or the death under investigation, including:

(a) narrative reports;

(b) case files;

(c) autopsy reports; and

(d) police reports, unless the report is protected from disclosure under Subsection 63G-2-305(10) or (11).

(3) The Utah State Hospital and the Utah State Developmental Center shall provide protected health information to the committee if requested by a fatality review coordinator.

(4) A committee shall convene its first meeting within 14 days after the day on which a formal [~~fatality review is ordered under Subsection 62A-16-201(6)~~] review is ordered, unless this time is extended, for good cause, by the director of the Office of Quality and Design.

(5) A committee may interview a staff member, a provider, or any other person who may have knowledge or expertise that is relevant to the [~~fatality~~] formal review.

(6) A committee shall render an advisory opinion regarding:

(a) whether the provisions of law, rule, policy, and procedure relating to the [~~deceased~~] qualified individual and the [~~deceased~~] individual's family were complied with;

(b) whether the [~~fatality~~] near fatality or the death was responded to properly;

(c) whether to recommend that a law, rule, policy, or procedure be changed; and

(d) whether additional training is needed.

Section 14. Section 62A-16-301 is amended to read:

62A-16-301. Fatality review committee report -- Response to report.

(1) Within 20 days after the day on which the committee proceedings described in Section 62A-16-204 end, the committee shall submit:

(a) a written report to the executive director that includes:

(i) the advisory opinions made under Subsection 62A-16-204(6); and

(ii) any recommendations regarding action that should be taken in relation to an employee of the department or a person who contracts with the department;

(b) a copy of the report described in Subsection (1)(a) to:

(i) the director, or the director's designee, of the office or division to which the [~~fatality~~] near fatality or the death relates; and

(ii) the regional director, or the regional director's designee, of the region to which the [~~fatality~~] near fatality or the death relates; and

(c) a copy of the report described in Subsection (1)(a), with only identifying information redacted, to the Office of Legislative Research and General Counsel.

(2) Within 20 days after the day on which the director described in Subsection (1)(b)(i) receives a copy of the report described in Subsection (1)(a), the director shall provide a written response to the director of the Office of Quality and Design and a copy of the response, with only identifying information redacted, to the Office of Legislative Research and General Counsel, if the report:

(a) indicates that a law, rule, policy, or procedure was not complied with;

(b) indicates that the [~~fatality~~] near fatality or the death was not responded to properly;

(c) recommends that a law, rule, policy, or procedure be changed; or

(d) indicates that additional training is needed.

(3) The response described in Subsection (2) shall include a plan of action to implement any recommended improvements within the office or division.

(4) Within 30 days after the day on which the executive director receives the response described

in Subsection (2), the executive director, or the executive director's designee shall:

(a) review the plan of action described in Subsection (3);

(b) make any written response that the executive director or the executive director's designee determines is necessary;

(c) provide a copy of the written response described in Subsection (4)(b), with only identifying information redacted, to the Office of Legislative Research and General Counsel; and

(d) provide an unredacted copy of the response described in Subsection (4)(b) to the director of the Office of Quality and Design.

(5) A report described in Subsection (1) and each response described in this section is a protected record.

(6) (a) As used in this Subsection (6), "fatality review document" means any document created in connection with, or as a result of, a [~~fatality~~] formal review of a near fatality or a death, or a decision whether to conduct a [~~fatality~~] formal review of a near fatality or a death, including:

(i) a report described in Subsection (1);

(ii) a response described in this section;

(iii) a recommendation regarding whether a [~~fatality~~] formal review should be conducted;

(iv) a decision to conduct a [~~fatality~~] formal review;

(v) notes of a person who participates in a [~~fatality~~] formal review;

(vi) notes of a person who reviews a [~~fatality~~] formal review report;

(vii) minutes of a [~~fatality~~] formal review;

(viii) minutes of a meeting where a [~~fatality~~] formal review report is reviewed; and

(ix) minutes of, documents received in relation to, and documents generated in relation to, the portion of a meeting of the Health and Human Services Interim Committee or the Child Welfare Legislative Oversight Panel that a [~~fatality~~] formal review report or a document described in this Subsection (6)(a) is reviewed or discussed.

(b) A fatality review document is not subject to discovery, subpoena, or similar compulsory process in any civil, judicial, or administrative proceeding, nor shall any individual or organization with lawful access to the data be compelled to testify with regard to a report described in Subsection (1) or a response described in this section.

(c) The following are not admissible as evidence in a civil, judicial, or administrative proceeding:

(i) a fatality review document; and

(ii) an executive summary described in Subsection 62A-16-302(4).

Section 15. Section 62A-16-302 is amended to read:

62A-16-302. Reporting to, and review by, legislative committees.

(1) The Office of Legislative Research and General Counsel shall provide a copy of the report described in Subsection 62A-16-301(1)(b), and the responses described in Subsections 62A-16-301(2) and (4)(c) to the chairs of:

(a) the Health and Human Services Interim Committee; or

(b) if the qualified individual who is the subject of the report [~~was, at the time of death, a person~~] is an individual described in Subsection 62A-16-102[~~(2)(c) or (d)~~](7)(c), (d), or (h), the Child Welfare Legislative Oversight Panel.

(2) (a) The Health and Human Services Interim Committee may, in a closed meeting, review a report described in Subsection 62A-16-301(1)(b).

(b) The Child Welfare Legislative Oversight Panel shall, in a closed meeting, review a report described in Subsection (1)(b).

(3) (a) [~~Neither the~~] The Health and Human Services Interim Committee [~~nor~~] and the Child Welfare Legislative Oversight Panel may not interfere with, or make recommendations regarding, the resolution of a particular case.

(b) The purpose of a review described in Subsection (2) is to assist a committee or panel described in Subsection (2) in determining whether to recommend a change in the law.

(c) Any recommendation, described in Subsection (3)(b), by a committee or panel for a change in the law shall be made in an open meeting.

(4) (a) On or before September 1 of each year, the department shall provide an executive summary of all [~~fatality~~] formal review reports for the preceding state fiscal year to the Office of Legislative Research and General Counsel.

(b) The Office of Legislative Research and General Counsel shall forward a copy of the executive summary described in Subsection (4)(a) to:

(i) the Health and Human Services Interim Committee; and

(ii) the Child Welfare Legislative Oversight Panel.

(5) The executive summary described in Subsection (4):

(a) may not include any names or identifying information;

(b) shall include:

(i) all recommendations regarding changes to the law that were made during the preceding fiscal year under Subsection 62A-16-204(6);

(ii) all changes made, or in the process of being made, to a law, rule, policy, or procedure in response to a [~~fatality~~] formal review that occurred during the preceding fiscal year;

(iii) a description of the training that has been completed in response to a [~~fatality~~] formal review that occurred during the preceding fiscal year;

(iv) statistics for the preceding fiscal year regarding:

(A) the number of qualified individuals and the type of [~~fatalities of qualified individuals~~] deaths and near fatalities that are known to the department;

(B) the number of formal [~~fatality~~] reviews conducted;

(C) the categories[~~,~~] described in Subsection 62A-16-102(2) of qualified individuals [~~who died~~];

(D) the gender, age, race, and other significant categories of qualified individuals [~~who died~~]; and

(E) the number of fatalities of qualified individuals known to the department that are identified as suicides; and

(v) action taken by the Office of Licensing and the Bureau of Internal Review and Audits in response to the [~~fatality~~] near fatality or the death of a qualified individual; and

(c) is a public document.

(6) The Division of Child and Family Services shall, to the extent required by the federal Child Abuse Prevention and Treatment Act, as amended, allow public disclosure of the findings or information relating to a case of child abuse or neglect that results in a child fatality or a near fatality.

Section 16. Section 63G-2-202 is amended to read:

63G-2-202. Access to private, controlled, and protected documents.

(1) Except as provided in Subsection (11)(a), a governmental entity:

(a) shall, upon request, disclose a private record to:

(i) the subject of the record;

(ii) the parent or legal guardian of an unemancipated minor who is the subject of the record;

(iii) the legal guardian of a legally incapacitated individual who is the subject of the record;

(iv) any other individual who:

(A) has a power of attorney from the subject of the record;

(B) submits a notarized release from the subject of the record or the individual's legal representative dated no more than 90 days before the date the request is made; or

(C) if the record is a medical record described in Subsection 63G-2-302(1)(b), is a health care provider, as defined in Section 26-33a-102, if releasing the record or information in the record is consistent with normal professional practice and medical ethics; or

(v) any person to whom the record must be provided pursuant to:

(A) court order as provided in Subsection (7); or

(B) a legislative subpoena as provided in Title 36, Chapter 14, Legislative Subpoena Powers; and

(b) may disclose a private record described in Subsections 63G-2-302(1)(j) through (m), without complying with Section 63G-2-206, to another governmental entity for a purpose related to:

(i) voter registration; or

(ii) the administration of an election.

(2) (a) Upon request, a governmental entity shall disclose a controlled record to:

(i) a physician, physician assistant, psychologist, certified social worker, insurance provider or producer, or a government public health agency upon submission of:

(A) a release from the subject of the record that is dated no more than 90 days prior to the date the request is made; and

(B) a signed acknowledgment of the terms of disclosure of controlled information as provided by Subsection (2)(b); and

(ii) any person to whom the record must be disclosed pursuant to:

(A) a court order as provided in Subsection (7); or

(B) a legislative subpoena as provided in Title 36, Chapter 14, Legislative Subpoena Powers.

(b) A person who receives a record from a governmental entity in accordance with Subsection (2)(a)(i) may not disclose controlled information from that record to any person, including the subject of the record.

(3) If there is more than one subject of a private or controlled record, the portion of the record that pertains to another subject shall be segregated from the portion that the requester is entitled to inspect.

(4) Upon request, and except as provided in Subsection [~~(10) or~~] (11)(b), a governmental entity shall disclose a protected record to:

(a) the person that submitted the record;

(b) any other individual who:

(i) has a power of attorney from all persons, governmental entities, or political subdivisions whose interests were sought to be protected by the protected classification; or

(ii) submits a notarized release from all persons, governmental entities, or political subdivisions whose interests were sought to be protected by the protected classification or from their legal representatives dated no more than 90 days prior to the date the request is made;

(c) any person to whom the record must be provided pursuant to:

(i) a court order as provided in Subsection (7); or

(ii) a legislative subpoena as provided in Title 36, Chapter 14, Legislative Subpoena Powers; or

(d) the owner of a mobile home park, subject to the conditions of Subsection 41-1a-116(5).

(5) Except as provided in Subsection (1)(b), a governmental entity may disclose a private, controlled, or protected record to another governmental entity, political subdivision, state, the United States, or a foreign government only as provided by Section 63G-2-206.

(6) Before releasing a private, controlled, or protected record, the governmental entity shall obtain evidence of the requester's identity.

(7) A governmental entity shall disclose a record pursuant to the terms of a court order signed by a judge from a court of competent jurisdiction, provided that:

(a) the record deals with a matter in controversy over which the court has jurisdiction;

(b) the court has considered the merits of the request for access to the record;

(c) the court has considered and, where appropriate, limited the requester's use and further disclosure of the record in order to protect:

(i) privacy interests in the case of private or controlled records;

(ii) business confidentiality interests in the case of records protected under Subsection 63G-2-305(1), (2), (40)(a)(ii), or (40)(a)(vi); and

(iii) privacy interests or the public interest in the case of other protected records;

(d) to the extent the record is properly classified private, controlled, or protected, the interests favoring access, considering limitations thereon, are greater than or equal to the interests favoring restriction of access; and

(e) where access is restricted by a rule, statute, or regulation referred to in Subsection 63G-2-201(3)(b), the court has authority independent of this chapter to order disclosure.

(8) (a) Except as provided in Subsection (8)(d), a governmental entity may disclose or authorize disclosure of private or controlled records for research purposes if the governmental entity:

(i) determines that the research purpose cannot reasonably be accomplished without use or disclosure of the information to the researcher in individually identifiable form;

(ii) determines that:

(A) the proposed research is bona fide; and

(B) the value of the research is greater than or equal to the infringement upon personal privacy;

(iii) (A) requires the researcher to assure the integrity, confidentiality, and security of the records; and

(B) requires the removal or destruction of the individual identifiers associated with the records as soon as the purpose of the research project has been accomplished;

(iv) prohibits the researcher from:

(A) disclosing the record in individually identifiable form, except as provided in Subsection (8)(b); or

(B) using the record for purposes other than the research approved by the governmental entity; and

(v) secures from the researcher a written statement of the researcher's understanding of and agreement to the conditions of this Subsection (8) and the researcher's understanding that violation of the terms of this Subsection (8) may subject the researcher to criminal prosecution under Section 63G-2-801.

(b) A researcher may disclose a record in individually identifiable form if the record is disclosed for the purpose of auditing or evaluating the research program and no subsequent use or disclosure of the record in individually identifiable form will be made by the auditor or evaluator except as provided by this section.

(c) A governmental entity may require indemnification as a condition of permitting research under this Subsection (8).

(d) A governmental entity may not disclose or authorize disclosure of a private record for research purposes as described in this Subsection (8) if the private record is a record described in Subsection 63G-2-302(1)(w).

(9) (a) Under Subsections 63G-2-201(5)(b) and 63G-2-401(6), a governmental entity may disclose to persons other than those specified in this section records that are:

(i) private under Section 63G-2-302; or

(ii) protected under Section 63G-2-305, subject to Section 63G-2-309 if a claim for business confidentiality has been made under Section 63G-2-309.

(b) Under Subsection 63G-2-403(11)(b), the State Records Committee may require the disclosure to persons other than those specified in this section of records that are:

(i) private under Section 63G-2-302;

(ii) controlled under Section 63G-2-304; or

(iii) protected under Section 63G-2-305, subject to Section 63G-2-309 if a claim for business confidentiality has been made under Section 63G-2-309.

(c) Under Subsection 63G-2-404(7), the court may require the disclosure of records that are private under Section 63G-2-302, controlled under Section 63G-2-304, or protected under Section

63G-2-305 to persons other than those specified in this section.

[~~(10) A record contained in the Management Information System, created in Section 62A-4a-1003, that is found to be unsubstantiated, unsupported, or without merit may not be disclosed to any person except the person who is alleged in the report to be a perpetrator of abuse, neglect, or dependency.~~]

[~~(11)~~] (10) (a) A private record described in Subsection 63G-2-302(2)(f) may only be disclosed as provided in Subsection (1)(a)(v).

(b) A protected record described in Subsection 63G-2-305(43) may only be disclosed as provided in Subsection (4)(c) or Section 62A-3-312.

[~~(12)~~] (11) (a) A private, protected, or controlled record described in Section 62A-16-301 shall be disclosed as required under:

(i) Subsections 62A-16-301(1)(b), (2), and (4)(c); and

(ii) Subsections 62A-16-302(1) and (6).

(b) A record disclosed under Subsection [~~(12)~~] (11)(a) shall retain its character as private, protected, or controlled.

Section 17. Section 63G-2-305 is amended to read:

63G-2-305. Protected records.

The following records are protected if properly classified by a governmental entity:

(1) trade secrets as defined in Section 13-24-2 if the person submitting the trade secret has provided the governmental entity with the information specified in Section 63G-2-309;

(2) commercial information or nonindividual financial information obtained from a person if:

(a) disclosure of the information could reasonably be expected to result in unfair competitive injury to the person submitting the information or would impair the ability of the governmental entity to obtain necessary information in the future;

(b) the person submitting the information has a greater interest in prohibiting access than the public in obtaining access; and

(c) the person submitting the information has provided the governmental entity with the information specified in Section 63G-2-309;

(3) commercial or financial information acquired or prepared by a governmental entity to the extent that disclosure would lead to financial speculations in currencies, securities, or commodities that will interfere with a planned transaction by the governmental entity or cause substantial financial injury to the governmental entity or state economy;

(4) records, the disclosure of which could cause commercial injury to, or confer a competitive advantage upon a potential or actual competitor of, a commercial project entity as defined in Subsection 11-13-103(4);

(5) test questions and answers to be used in future license, certification, registration, employment, or academic examinations;

(6) records, the disclosure of which would impair governmental procurement proceedings or give an unfair advantage to any person proposing to enter into a contract or agreement with a governmental entity, except, subject to Subsections (1) and (2), that this Subsection (6) does not restrict the right of a person to have access to, after the contract or grant has been awarded and signed by all parties:

(a) a bid, proposal, application, or other information submitted to or by a governmental entity in response to:

(i) an invitation for bids;

(ii) a request for proposals;

(iii) a request for quotes;

(iv) a grant; or

(v) other similar document; or

(b) an unsolicited proposal, as defined in Section 63G-6a-712;

(7) information submitted to or by a governmental entity in response to a request for information, except, subject to Subsections (1) and (2), that this Subsection (7) does not restrict the right of a person to have access to the information, after:

(a) a contract directly relating to the subject of the request for information has been awarded and signed by all parties; or

(b) (i) a final determination is made not to enter into a contract that relates to the subject of the request for information; and

(ii) at least two years have passed after the day on which the request for information is issued;

(8) records that would identify real property or the appraisal or estimated value of real or personal property, including intellectual property, under consideration for public acquisition before any rights to the property are acquired unless:

(a) public interest in obtaining access to the information is greater than or equal to the governmental entity's need to acquire the property on the best terms possible;

(b) the information has already been disclosed to persons not employed by or under a duty of confidentiality to the entity;

(c) in the case of records that would identify property, potential sellers of the described property have already learned of the governmental entity's plans to acquire the property;

(d) in the case of records that would identify the appraisal or estimated value of property, the potential sellers have already learned of the governmental entity's estimated value of the property; or

(e) the property under consideration for public acquisition is a single family residence and the governmental entity seeking to acquire the property has initiated negotiations to acquire the property as required under Section 78B-6-505;

(9) records prepared in contemplation of sale, exchange, lease, rental, or other compensated transaction of real or personal property including intellectual property, which, if disclosed prior to completion of the transaction, would reveal the appraisal or estimated value of the subject property, unless:

(a) the public interest in access is greater than or equal to the interests in restricting access, including the governmental entity's interest in maximizing the financial benefit of the transaction; or

(b) when prepared by or on behalf of a governmental entity, appraisals or estimates of the value of the subject property have already been disclosed to persons not employed by or under a duty of confidentiality to the entity;

(10) records created or maintained for civil, criminal, or administrative enforcement purposes or audit purposes, or for discipline, licensing, certification, or registration purposes, if release of the records:

(a) reasonably could be expected to interfere with investigations undertaken for enforcement, discipline, licensing, certification, or registration purposes;

(b) reasonably could be expected to interfere with audits, disciplinary, or enforcement proceedings;

(c) would create a danger of depriving a person of a right to a fair trial or impartial hearing;

(d) reasonably could be expected to disclose the identity of a source who is not generally known outside of government and, in the case of a record compiled in the course of an investigation, disclose information furnished by a source not generally known outside of government if disclosure would compromise the source; or

(e) reasonably could be expected to disclose investigative or audit techniques, procedures, policies, or orders not generally known outside of government if disclosure would interfere with enforcement or audit efforts;

(11) records the disclosure of which would jeopardize the life or safety of an individual;

(12) records the disclosure of which would jeopardize the security of governmental property, governmental programs, or governmental recordkeeping systems from damage, theft, or other appropriation or use contrary to law or public policy;

(13) records that, if disclosed, would jeopardize the security or safety of a correctional facility, or records relating to incarceration, treatment, probation, or parole, that would interfere with the control and supervision of an offender's incarceration, treatment, probation, or parole;

(14) records that, if disclosed, would reveal recommendations made to the Board of Pardons and Parole by an employee of or contractor for the Department of Corrections, the Board of Pardons and Parole, or the Department of Human Services that are based on the employee's or contractor's supervision, diagnosis, or treatment of any person within the board's jurisdiction;

(15) records and audit workpapers that identify audit, collection, and operational procedures and methods used by the State Tax Commission, if disclosure would interfere with audits or collections;

(16) records of a governmental audit agency relating to an ongoing or planned audit until the final audit is released;

(17) records that are subject to the attorney client privilege;

(18) records prepared for or by an attorney, consultant, surety, indemnitor, insurer, employee, or agent of a governmental entity for, or in anticipation of, litigation or a judicial, quasi-judicial, or administrative proceeding;

(19) (a) (i) personal files of a state legislator, including personal correspondence to or from a member of the Legislature; and

(ii) notwithstanding Subsection (19)(a)(i), correspondence that gives notice of legislative action or policy may not be classified as protected under this section; and

(b) (i) an internal communication that is part of the deliberative process in connection with the preparation of legislation between:

(A) members of a legislative body;

(B) a member of a legislative body and a member of the legislative body's staff; or

(C) members of a legislative body's staff; and

(ii) notwithstanding Subsection (19)(b)(i), a communication that gives notice of legislative action or policy may not be classified as protected under this section;

(20) (a) records in the custody or control of the Office of Legislative Research and General Counsel, that, if disclosed, would reveal a particular legislator's contemplated legislation or contemplated course of action before the legislator has elected to support the legislation or course of action, or made the legislation or course of action public; and

(b) notwithstanding Subsection (20)(a), the form to request legislation submitted to the Office of Legislative Research and General Counsel is a public document unless a legislator asks that the records requesting the legislation be maintained as protected records until such time as the legislator elects to make the legislation or course of action public;

(21) research requests from legislators to the Office of Legislative Research and General Counsel or the Office of the Legislative Fiscal Analyst and research findings prepared in response to these requests;

(22) drafts, unless otherwise classified as public;

(23) records concerning a governmental entity's strategy about:

(a) collective bargaining; or

(b) imminent or pending litigation;

(24) records of investigations of loss occurrences and analyses of loss occurrences that may be covered by the Risk Management Fund, the Employers' Reinsurance Fund, the Uninsured Employers' Fund, or similar divisions in other governmental entities;

(25) records, other than personnel evaluations, that contain a personal recommendation concerning an individual if disclosure would constitute a clearly unwarranted invasion of personal privacy, or disclosure is not in the public interest;

(26) records that reveal the location of historic, prehistoric, paleontological, or biological resources that if known would jeopardize the security of those resources or of valuable historic, scientific, educational, or cultural information;

(27) records of independent state agencies if the disclosure of the records would conflict with the fiduciary obligations of the agency;

(28) records of an institution within the state system of higher education defined in Section 53B-1-102 regarding tenure evaluations, appointments, applications for admissions, retention decisions, and promotions, which could be properly discussed in a meeting closed in accordance with Title 52, Chapter 4, Open and Public Meetings Act, provided that records of the final decisions about tenure, appointments, retention, promotions, or those students admitted, may not be classified as protected under this section;

(29) records of the governor's office, including budget recommendations, legislative proposals, and policy statements, that if disclosed would reveal the governor's contemplated policies or contemplated courses of action before the governor has implemented or rejected those policies or courses of action or made them public;

(30) records of the Office of the Legislative Fiscal Analyst relating to budget analysis, revenue estimates, and fiscal notes of proposed legislation before issuance of the final recommendations in these areas;

(31) records provided by the United States or by a government entity outside the state that are given to the governmental entity with a requirement that they be managed as protected records if the providing entity certifies that the record would not be subject to public disclosure if retained by it;

(32) transcripts, minutes, recordings, or reports of the closed portion of a meeting of a public body except as provided in Section 52-4-206;

(33) records that would reveal the contents of settlement negotiations but not including final settlements or empirical data to the extent that they are not otherwise exempt from disclosure;

(34) memoranda prepared by staff and used in the decision-making process by an administrative law judge, a member of the Board of Pardons and Parole, or a member of any other body charged by law with performing a quasi-judicial function;

(35) records that would reveal negotiations regarding assistance or incentives offered by or requested from a governmental entity for the purpose of encouraging a person to expand or locate a business in Utah, but only if disclosure would result in actual economic harm to the person or place the governmental entity at a competitive disadvantage, but this section may not be used to restrict access to a record evidencing a final contract;

(36) materials to which access must be limited for purposes of securing or maintaining the governmental entity's proprietary protection of intellectual property rights including patents, copyrights, and trade secrets;

(37) the name of a donor or a prospective donor to a governmental entity, including an institution within the state system of higher education defined in Section 53B-1-102, and other information concerning the donation that could reasonably be expected to reveal the identity of the donor, provided that:

(a) the donor requests anonymity in writing;

(b) any terms, conditions, restrictions, or privileges relating to the donation may not be classified protected by the governmental entity under this Subsection (37); and

(c) except for an institution within the state system of higher education defined in Section 53B-1-102, the governmental unit to which the donation is made is primarily engaged in educational, charitable, or artistic endeavors, and has no regulatory or legislative authority over the donor, a member of the donor's immediate family, or any entity owned or controlled by the donor or the donor's immediate family;

(38) accident reports, except as provided in Sections 41-6a-404, 41-12a-202, and 73-18-13;

(39) a notification of workers' compensation insurance coverage described in Section 34A-2-205;

(40) (a) the following records of an institution within the state system of higher education defined in Section 53B-1-102, which have been developed, discovered, disclosed to, or received by or on behalf of faculty, staff, employees, or students of the institution:

(i) unpublished lecture notes;

(ii) unpublished notes, data, and information:

(A) relating to research; and

(B) of:

(I) the institution within the state system of higher education defined in Section 53B-1-102; or

(II) a sponsor of sponsored research;

(iii) unpublished manuscripts;

(iv) creative works in process;

(v) scholarly correspondence; and

(vi) confidential information contained in research proposals;

(b) Subsection (40)(a) may not be construed to prohibit disclosure of public information required pursuant to Subsection 53B-16-302(2)(a) or (b); and

(c) Subsection (40)(a) may not be construed to affect the ownership of a record;

(41) (a) records in the custody or control of the Office of Legislative Auditor General that would reveal the name of a particular legislator who requests a legislative audit prior to the date that audit is completed and made public; and

(b) notwithstanding Subsection (41)(a), a request for a legislative audit submitted to the Office of the Legislative Auditor General is a public document unless the legislator asks that the records in the custody or control of the Office of Legislative Auditor General that would reveal the name of a particular legislator who requests a legislative audit be maintained as protected records until the audit is completed and made public;

(42) records that provide detail as to the location of an explosive, including a map or other document that indicates the location of:

(a) a production facility; or

(b) a magazine;

(43) information:

(a) contained in the statewide database of the Division of Aging and Adult Services created by Section 62A-3-311.1; or

(b) received or maintained in relation to the Identity Theft Reporting Information System (IRIS) established under Section 67-5-22;

(44) information contained in the [~~Management Information System and~~] Licensing Information System described in Title 62A, Chapter 4a, Child and Family Services;

(45) information regarding National Guard operations or activities in support of the National Guard's federal mission;

(46) records provided by any pawn or secondhand business to a law enforcement agency or to the central database in compliance with Title 13, Chapter 32a, Pawnshop and Secondhand Merchandise Transaction Information Act;

(47) information regarding food security, risk, and vulnerability assessments performed by the Department of Agriculture and Food;

(48) except to the extent that the record is exempt from this chapter pursuant to Section 63G-2-106, records related to an emergency plan or program, a copy of which is provided to or prepared or maintained by the Division of Emergency Management, and the disclosure of which would jeopardize:

(a) the safety of the general public; or

(b) the security of:

(i) governmental property;

(ii) governmental programs; or

(iii) the property of a private person who provides the Division of Emergency Management information;

(49) records of the Department of Agriculture and Food that provides for the identification, tracing, or control of livestock diseases, including any program established under Title 4, Chapter 24, Utah Livestock Brand and Anti-Theft Act, or Title 4, Chapter 31, Control of Animal Disease;

(50) as provided in Section 26-39-501:

(a) information or records held by the Department of Health related to a complaint regarding a child care program or residential child care which the department is unable to substantiate; and

(b) information or records related to a complaint received by the Department of Health from an anonymous complainant regarding a child care program or residential child care;

(51) unless otherwise classified as public under Section 63G-2-301 and except as provided under Section 41-1a-116, an individual's home address, home telephone number, or personal mobile phone number, if:

(a) the individual is required to provide the information in order to comply with a law, ordinance, rule, or order of a government entity; and

(b) the subject of the record has a reasonable expectation that this information will be kept confidential due to:

(i) the nature of the law, ordinance, rule, or order; and

(ii) the individual complying with the law, ordinance, rule, or order;

(52) the portion of the following documents that contains a candidate's residential or mailing address, if the candidate provides to the filing officer another address or phone number where the candidate may be contacted:

(a) a declaration of candidacy, a nomination petition, or a certificate of nomination, described in Section 20A-9-201, 20A-9-202, 20A-9-203,

20A-9-404, 20A-9-405, 20A-9-408, 20A-9-408.5, 20A-9-502, or 20A-9-601;

(b) an affidavit of impecuniosity, described in Section 20A-9-201; or

(c) a notice of intent to gather signatures for candidacy, described in Section 20A-9-408;

(53) the name, home address, work addresses, and telephone numbers of an individual that is engaged in, or that provides goods or services for, medical or scientific research that is:

(a) conducted within the state system of higher education, as defined in Section 53B-1-102; and

(b) conducted using animals;

(54) in accordance with Section 78A-12-203, any record of the Judicial Performance Evaluation Commission concerning an individual commissioner's vote on whether or not to recommend that the voters retain a judge including information disclosed under Subsection 78A-12-203(5)(e);

(55) information collected and a report prepared by the Judicial Performance Evaluation Commission concerning a judge, unless Section 20A-7-702 or Title 78A, Chapter 12, Judicial Performance Evaluation Commission Act, requires disclosure of, or makes public, the information or report;

[~~(56) records contained in the Management Information System created in Section 62A-4a-1003;~~]

[~~(57)~~] (56) records provided or received by the Public Lands Policy Coordinating Office in furtherance of any contract or other agreement made in accordance with Section 63J-4-603;

[~~(58)~~] (57) information requested by and provided to the 911 Division under Section 63H-7a-302;

[~~(59)~~] (58) in accordance with Section 73-10-33:

(a) a management plan for a water conveyance facility in the possession of the Division of Water Resources or the Board of Water Resources; or

(b) an outline of an emergency response plan in possession of the state or a county or municipality;

[~~(60)~~] (59) the following records in the custody or control of the Office of Inspector General of Medicaid Services, created in Section 63A-13-201:

(a) records that would disclose information relating to allegations of personal misconduct, gross mismanagement, or illegal activity of a person if the information or allegation cannot be corroborated by the Office of Inspector General of Medicaid Services through other documents or evidence, and the records relating to the allegation are not relied upon by the Office of Inspector General of Medicaid Services in preparing a final investigation report or final audit report;

(b) records and audit workpapers to the extent they would disclose the identity of a person who, during the course of an investigation or audit, communicated the existence of any Medicaid fraud, waste, or abuse, or a violation or suspected violation of a law, rule, or regulation adopted under the laws of this state, a political subdivision of the state, or any recognized entity of the United States, if the information was disclosed on the condition that the identity of the person be protected;

(c) before the time that an investigation or audit is completed and the final investigation or final audit report is released, records or drafts circulated to a person who is not an employee or head of a governmental entity for the person's response or information;

(d) records that would disclose an outline or part of any investigation, audit survey plan, or audit program; or

(e) requests for an investigation or audit, if disclosure would risk circumvention of an investigation or audit;

[~~(61)~~] (60) records that reveal methods used by the Office of Inspector General of Medicaid Services, the fraud unit, or the Department of Health, to discover Medicaid fraud, waste, or abuse;

[~~(62)~~] (61) information provided to the Department of Health or the Division of Occupational and Professional Licensing under Subsections 58-67-304(3) and (4) and Subsections 58-68-304(3) and (4);

[~~(63)~~] (62) a record described in Section 63G-12-210;

[~~(64)~~] (63) captured plate data that is obtained through an automatic license plate reader system used by a governmental entity as authorized in Section 41-6a-2003;

[~~(65)~~] (64) any record in the custody of the Utah Office for Victims of Crime relating to a victim, including:

(a) a victim's application or request for benefits;

(b) a victim's receipt or denial of benefits; and

(c) any administrative notes or records made or created for the purpose of, or used to, evaluate or communicate a victim's eligibility for or denial of benefits from the Crime Victim Reparations Fund;

[~~(66)~~] (65) an audio or video recording created by a body-worn camera, as that term is defined in Section 77-7a-103, that records sound or images inside a hospital or health care facility as those terms are defined in Section 78B-3-403, inside a clinic of a health care provider, as that term is defined in Section 78B-3-403, or inside a human service program as that term is defined in Section 62A-2-101, except for recordings that:

(a) depict the commission of an alleged crime;

(b) record any encounter between a law enforcement officer and a person that results in death or bodily injury, or includes an instance when an officer fires a weapon;

(c) record any encounter that is the subject of a complaint or a legal proceeding against a law enforcement officer or law enforcement agency;

(d) contain an officer involved critical incident as defined in Subsection 76-2-408(1)(f); or

(e) have been requested for reclassification as a public record by a subject or authorized agent of a subject featured in the recording;

[~~(67)~~] (66) a record pertaining to the search process for a president of an institution of higher education described in Section 53B-2-102, except for application materials for a publicly announced finalist;

[~~(68)~~] (67) an audio recording that is:

(a) produced by an audio recording device that is used in conjunction with a device or piece of equipment designed or intended for resuscitating an individual or for treating an individual with a life-threatening condition;

(b) produced during an emergency event when an individual employed to provide law enforcement, fire protection, paramedic, emergency medical, or other first responder service:

(i) is responding to an individual needing resuscitation or with a life-threatening condition; and

(ii) uses a device or piece of equipment designed or intended for resuscitating an individual or for treating an individual with a life-threatening condition; and

(c) intended and used for purposes of training emergency responders how to improve their response to an emergency situation;

[~~(69)~~] (68) records submitted by or prepared in relation to an applicant seeking a recommendation by the Research and General Counsel Subcommittee, the Budget Subcommittee, or the Audit Subcommittee, established under Section 36-12-8, for an employment position with the Legislature;

[~~(70)~~] (69) work papers as defined in Section 31A-2-204;

[~~(71)~~] (70) a record made available to Adult Protective Services or a law enforcement agency under Section 61-1-206;

[~~(72)~~] (71) a record submitted to the Insurance Department in accordance with Section 31A-37-201 or 31A-22-653;

[~~(73)~~] (72) a record described in Section 31A-37-503[~~.~~];

[~~(74)~~] (73) any record created by the Division of Occupational and Professional Licensing as a result of Subsection 58-37f-304(5) or 58-37f-702(2)(a)(ii);

[~~(75)~~] (74) a record described in Section 72-16-306 that relates to the reporting of an injury involving an amusement ride;

[~~(76)~~] (75) except as provided in Subsection 63G-2-305.5(1), the signature of an individual on a political petition, or on a request to withdraw a signature from a political petition, including a petition or request described in the following titles:

(a) Title 10, Utah Municipal Code;

(b) Title 17, Counties;

(c) Title 17B, Limited Purpose Local Government Entities - Local Districts;

(d) Title 17D, Limited Purpose Local Government Entities - Other Entities; and

(e) Title 20A, Election Code;

[~~(77)~~] (76) except as provided in Subsection 63G-2-305.5(2), the signature of an individual in a voter registration record;

[~~(78)~~] (77) except as provided in Subsection 63G-2-305.5(3), any signature, other than a signature described in Subsection [~~(76)~~] (75) or [~~(77)~~] (76), in the custody of the lieutenant governor or a local political subdivision collected or held under, or in relation to, Title 20A, Election Code;

[~~(79)~~] (78) a Form I-918 Supplement B certification as described in Title 77, Chapter 38, Part 5, Victims Guidelines for Prosecutors Act;

[~~(80)~~] (79) a record submitted to the Insurance Department under Subsection [~~31A-47-103~~] 31A-48-103(1)(b); and

[~~(81)~~] (80) personal information, as defined in Section 63G-26-102, to the extent disclosure is prohibited under Section 63G-26-103.

Section 18. Section 63G-2-305.5 is amended to read:

63G-2-305.5. Viewing or obtaining lists of signatures.

(1) The records custodian of a signature described in Subsection 63G-2-305[~~(76)~~](75) shall, upon request, except for a name or signature classified as private under Title 20A, Chapter 2, Voter Registration:

(a) provide a list of the names of the individuals who signed the petition or request; and

(b) permit an individual to view, but not take a copy or other image of, the signatures on a political petition described in Subsection 63G-2-305[~~(76)~~](75).

(2) The records custodian of a signature described in Subsection 63G-2-305[~~(77)~~](76) shall, upon request, except for a name or signature classified as private under Title 20A, Chapter 2, Voter Registration:

(a) provide a list of the names of registered voters, excluding the names that are classified as private under Title 20A, Chapter 2, Voter Registration; and

(b) except for a signature classified as private under Title 20A, Chapter 2, Voter Registration, permit an individual to view, but not take a copy or other image of, the signature on a voter registration record.

(3) Except for a signature classified as private under Title 20A, Chapter 2, Voter Registration, the

records custodian of a signature described in Subsection 63G-2-305[~~(78)~~](77) shall, upon request, permit an individual to view, but not take a copy or other image of, a signature.

Section 19. Section 78A-6-105 is amended to read:

78A-6-105. Definitions.

As used in this chapter:

(1) (a) "Abuse" means:

(i) (A) nonaccidental harm of a child;

(B) threatened harm of a child;

(C) sexual exploitation;

(D) sexual abuse; or

(E) human trafficking of a child in violation of Section 76-5-308.5; or

(ii) that a child's natural parent:

(A) intentionally, knowingly, or recklessly causes the death of another parent of the child;

(B) is identified by a law enforcement agency as the primary suspect in an investigation for intentionally, knowingly, or recklessly causing the death of another parent of the child; or

(C) is being prosecuted for or has been convicted of intentionally, knowingly, or recklessly causing the death of another parent of the child.

(b) "Abuse" does not include:

(i) reasonable discipline or management of a child, including withholding privileges;

(ii) conduct described in Section 76-2-401; or

(iii) the use of reasonable and necessary physical restraint or force on a child:

(A) in self-defense;

(B) in defense of others;

(C) to protect the child; or

(D) to remove a weapon in the possession of a child for any of the reasons described in Subsections (1)(b)(iii)(A) through (C).

(2) "Abused child" means a child who has been subjected to abuse.

(3) (a) "Adjudication" means a finding by the court, incorporated in a decree, that the facts alleged in the petition have been proved.

(b) "Adjudication" does not mean a finding of not competent to proceed in accordance with Section 78A-6-1302.

(4) (a) "Adult" means an individual who is 18 years old or older.

(b) "Adult" does not include an individual:

(i) who is 18 years old or older; and

(ii) whose case is under the continuing jurisdiction of the juvenile court in accordance with Section 78A-6-120.

(5) "Board" means the Board of Juvenile Court Judges.

(6) "Child" means an individual who is under 18 years old.

(7) "Child placement agency" means:

(a) a private agency licensed to receive a child for placement or adoption under this code; or

(b) a private agency that receives a child for placement or adoption in another state, which agency is licensed or approved where such license or approval is required by law.

(8) "Clandestine laboratory operation" means the same as that term is defined in Section 58-37d-3.

(9) "Commit" means, unless specified otherwise:

(a) with respect to a child, to transfer legal custody; and

(b) with respect to a minor who is at least 18 years old, to transfer custody.

(10) "Court" means the juvenile court.

(11) "Criminogenic risk factors" means evidence-based factors that are associated with a minor's likelihood of reoffending.

(12) "Delinquent act" means an act that would constitute a felony or misdemeanor if committed by an adult.

(13) "Department" means the Department of Human Services created in Section 62A-1-102.

(14) "Dependent child" includes a child who is [~~homeless or~~] without proper care through no fault of the child's parent, guardian, or custodian.

(15) "Deprivation of custody" means transfer of legal custody by the court from a parent or the parents or a previous legal custodian to another person, agency, or institution.

(16) "Detention" means home detention and secure detention as defined in Section 62A-7-101 for the temporary care of a minor who requires secure custody in a physically restricting facility:

(a) pending court disposition or transfer to another jurisdiction; or

(b) while the minor's case is under the continuing jurisdiction of the court.

(17) "Detention risk assessment tool" means an evidence-based tool established under Section 78A-6-124, on and after July 1, 2018, that assesses a minor's risk of failing to appear in court or reoffending pre-adjudication and designed to assist in making detention determinations.

(18) "Developmental immaturity" means incomplete development in one or more domains which manifests as a functional limitation in the minor's present ability to consult with counsel with

a reasonable degree of rational understanding and have a rational as well as factual understanding of the proceedings.

(19) "Division" means the Division of Child and Family Services.

(20) "Educational neglect" means that, after receiving a notice of compulsory education violation under Section 53G-6-202, the parent or guardian fails to make a good faith effort to ensure that the child receives an appropriate education.

(21) "Educational series" means an evidence-based instructional series:

(a) obtained at a substance abuse program that is approved by the Division of Substance Abuse and Mental Health in accordance with Section 62A-15-105; and

(b) designed to prevent substance use or the onset of a mental health disorder.

(22) "Evidence-based" means a program or practice that has had multiple randomized control studies or a meta-analysis demonstrating that the program or practice is effective for a specific population or has been rated as effective by a standardized program evaluation tool.

(23) "Forensic evaluator" means the same as that term is defined in Section 77-15-2.

(24) "Formal probation" means a minor is under field supervision by the probation department or other agency designated by the court and subject to return to the court in accordance with Section 78A-6-123 on and after July 1, 2018.

(25) "Formal referral" means a written report from a peace officer or other person informing the court that a minor is, or appears to be, within the court's jurisdiction and that the minor's case must be reviewed by the court's probation department or a prosecuting attorney.

(26) "Group rehabilitation therapy" means psychological and social counseling of one or more individuals in the group, depending upon the recommendation of the therapist.

(27) "Guardianship of the person" includes the authority to consent to:

(a) marriage;

(b) enlistment in the armed forces;

(c) major medical, surgical, or psychiatric treatment; or

(d) legal custody, if legal custody is not vested in another individual, agency, or institution.

(28) "Habitual truant" means the same as that term is defined in Section 53G-6-201.

(29) "Harm" means:

(a) physical or developmental injury or damage;

(b) emotional damage that results in a serious impairment in the child's growth, development, behavior, or psychological functioning;

(c) sexual abuse; or

(d) sexual exploitation.

(30) (a) "Incest" means engaging in sexual intercourse with an individual whom the perpetrator knows to be the perpetrator's ancestor, descendant, brother, sister, uncle, aunt, nephew, niece, or first cousin.

(b) The relationships described in Subsection (30)(a) include:

(i) blood relationships of the whole or half blood, without regard to legitimacy;

(ii) relationships of parent and child by adoption; and

(iii) relationships of stepparent and stepchild while the marriage creating the relationship of a stepparent and stepchild exists.

(31) "Intake probation" means a period of court monitoring that does not include field supervision, but is overseen by a juvenile probation officer, during which a minor is subject to return to the court in accordance with Section 78A-6-123 on and after July 1, 2018.

(32) "Intellectual disability" means a significant subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior that constitutes a substantial limitation to the individual's ability to function in society.

(33) "Legal custody" means a relationship embodying the following rights and duties:

(a) the right to physical custody of the minor;

(b) the right and duty to protect, train, and discipline the minor;

(c) the duty to provide the minor with food, clothing, shelter, education, and ordinary medical care;

(d) the right to determine where and with whom the minor shall live; and

(e) the right, in an emergency, to authorize surgery or other extraordinary care.

(34) "Material loss" means an uninsured:

(a) property loss;

(b) out-of-pocket monetary loss for property that is stolen, damaged, or destroyed;

(c) lost wages because of an injury, time spent as a witness, or time spent assisting the police or prosecution; or

(d) medical expense.

(35) "Mental illness" means:

(a) a psychiatric disorder that substantially impairs an individual's mental, emotional, behavioral, or related functioning; or

(b) the same as that term is defined in:

(i) the current edition of the Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association; or

(ii) the current edition of the International Statistical Classification of Diseases and Related Health Problems.

(36) "Minor" means:

(a) for the purpose of juvenile delinquency:

(i) a child; or

(ii) an individual:

(A) who is at least 18 years old and younger than 25 years old; and

(B) whose case is under the jurisdiction of the juvenile court; and

(b) for all other purposes in this chapter:

(i) a child; or

(ii) an individual:

(A) who is at least 18 years old and younger than 21 years old; and

(B) whose case is under the jurisdiction of the juvenile court.

(37) "Mobile crisis outreach team" means a crisis intervention service for a minor or the family of a minor experiencing a behavioral health or psychiatric emergency.

(38) "Molestation" means that an individual, with the intent to arouse or gratify the sexual desire of any individual, touches the anus, buttocks, pubic area, or genitalia of any child, or the breast of a female child, or takes indecent liberties with a child as defined in Section 76-5-416.

(39) (a) "Natural parent" means a minor's biological or adoptive parent.

(b) "Natural parent" includes the minor's noncustodial parent.

(40) (a) "Neglect" means action or inaction causing:

(i) abandonment of a child, except as provided in Title 62A, Chapter 4a, Part 8, Safe Relinquishment of a Newborn Child;

(ii) lack of proper parental care of a child by reason of the fault or habits of the parent, guardian, or custodian;

(iii) failure or refusal of a parent, guardian, or custodian to provide proper or necessary subsistence or medical care, or any other care necessary for the child's health, safety, morals, or well-being;

(iv) a child to be at risk of being neglected or abused because another child in the same home is neglected or abused;

(v) abandonment of a child through an unregulated custody transfer; or

(vi) educational neglect.

(b) "Neglect" does not include:

(i) a parent or guardian legitimately practicing religious beliefs and who, for that reason, does not provide specified medical treatment for a child;

(ii) a health care decision made for a child by the child's parent or guardian, unless the state or other party to a proceeding shows, by clear and convincing evidence, that the health care decision is not reasonable and informed;

(iii) a parent or guardian exercising the right described in Section 78A-6-301.5; or

(iv) permitting a child, whose basic needs are met and who is of sufficient age and maturity to avoid harm or unreasonable risk of harm, to engage in independent activities, including:

(A) traveling to and from school, including by walking, running, or bicycling;

(B) traveling to and from nearby commercial or recreational facilities;

(C) engaging in outdoor play;

(D) remaining in a vehicle unattended, except under the conditions described in Subsection 76-10-2202(2);

(E) remaining at home unattended; or

(F) engaging in a similar independent activity.

(41) "Neglected child" means a child who has been subjected to neglect.

(42) "Nonjudicial adjustment" means closure of the case by the assigned probation officer without judicial determination upon the consent in writing of:

(a) the assigned probation officer; and

(b) (i) the minor; or

(ii) the minor and the minor's parent, legal guardian, or custodian.

(43) "Not competent to proceed" means that a minor, due to a mental illness, intellectual disability or related condition, or developmental immaturity, lacks the ability to:

(a) understand the nature of the proceedings against the minor or of the potential disposition for the offense charged; or

(b) consult with counsel and participate in the proceedings against the minor with a reasonable degree of rational understanding.

(44) "Physical abuse" means abuse that results in physical injury or damage to a child.

(45) "Probation" means a legal status created by court order following an adjudication on the ground of a violation of law or under Section 78A-6-103, whereby the minor is permitted to remain in the minor's home under prescribed conditions.

(46) "Prosecuting attorney" means:

(a) the attorney general and any assistant attorney general;

(b) any district attorney or deputy district attorney;

(c) any county attorney or assistant county attorney; and

(d) any other attorney authorized to commence an action on behalf of the state.

(47) "Protective supervision" means a legal status created by court order following an adjudication on the ground of abuse, neglect, or dependency, whereby the minor is permitted to remain in the minor's home, and supervision and assistance to correct the abuse, neglect, or dependency is provided by the probation department or other agency designated by the court.

(48) (a) "Related condition" means a condition that:

(i) is found to be closely related to intellectual disability;

(ii) results in impairment of general intellectual functioning or adaptive behavior similar to that of an intellectually disabled individual;

(iii) is likely to continue indefinitely; and

(iv) constitutes a substantial limitation to the individual's ability to function in society.

(b) "Related condition" does not include mental illness, psychiatric impairment, or serious emotional or behavioral disturbance.

(49) (a) "Residual parental rights and duties" means those rights and duties remaining with the parent after legal custody or guardianship, or both, have been vested in another person or agency, including:

(i) the responsibility for support;

(ii) the right to consent to adoption;

(iii) the right to determine the child's religious affiliation; and

(iv) the right to reasonable parent-time unless restricted by the court.

(b) If no guardian has been appointed, "residual parental rights and duties" includes the right to consent to:

(i) marriage;

(ii) enlistment; and

(iii) major medical, surgical, or psychiatric treatment.

(50) "Secure facility" means any facility operated by or under contract with the Division of Juvenile Justice Services, that provides 24-hour supervision and confinement for youth offenders committed to the division for custody and rehabilitation in accordance with Subsection 78A-6-117(2)(d).

(51) "Severe abuse" means abuse that causes or threatens to cause serious harm to a child.

(52) "Severe neglect" means neglect that causes or threatens to cause serious harm to a child.

(53) "Sexual abuse" means:

(a) an act or attempted act of sexual intercourse, sodomy, incest, or molestation by an adult directed towards a child;

(b) an act or attempted act of sexual intercourse, sodomy, incest, or molestation committed by a child towards another child if:

(i) there is an indication of force or coercion;

(ii) the children are related, as described in Subsection (30), including siblings by marriage while the marriage exists or by adoption;

(iii) there have been repeated incidents of sexual contact between the two children, unless the children are 14 years old or older; or

(iv) there is a disparity in chronological age of four or more years between the two children;

(c) engaging in any conduct with a child that would constitute an offense under any of the following, regardless of whether the individual who engages in the conduct is actually charged with, or convicted of, the offense:

(i) Title 76, Chapter 5, Part 4, Sexual Offenses, except for Section 76-5-401, if the alleged perpetrator of an offense described in Section 76-5-401 is a minor;

(ii) child bigamy, Section 76-7-101.5;

(iii) incest, Section 76-7-102;

(iv) lewdness, Section 76-9-702;

(v) sexual battery, Section 76-9-702.1;

(vi) lewdness involving a child, Section 76-9-702.5; or

(vii) voyeurism, Section 76-9-702.7; or

(d) subjecting a child to participate in or threatening to subject a child to participate in a sexual relationship, regardless of whether that sexual relationship is part of a legal or cultural marriage.

(54) "Sexual exploitation" means knowingly:

(a) employing, using, persuading, inducing, enticing, or coercing any child to:

(i) pose in the nude for the purpose of sexual arousal of any individual; or

(ii) engage in any sexual or simulated sexual conduct for the purpose of photographing, filming, recording, or displaying in any way the sexual or simulated sexual conduct;

(b) displaying, distributing, possessing for the purpose of distribution, or selling material depicting a child:

(i) in the nude, for the purpose of sexual arousal of any individual; or

(ii) engaging in sexual or simulated sexual conduct; or

(c) engaging in any conduct that would constitute an offense under Section 76-5b-201, sexual exploitation of a minor, regardless of whether the individual who engages in the conduct is actually charged with, or convicted of, the offense.

(55) "Shelter" means the temporary care of a child in a physically unrestricted facility pending court disposition or transfer to another jurisdiction.

(56) "Single criminal episode" means the same as that term is defined in Section 76-1-401.

(57) "Status offense" means a violation of the law that would not be a violation but for the age of the offender.

(58) "Substance abuse" means the misuse or excessive use of alcohol or other drugs or substances.

(59) "Substantiated" means the same as that term is defined in Section 62A-4a-101.

(60) "Supported" means the same as that term is defined in Section 62A-4a-101.

(61) "Termination of parental rights" means the permanent elimination of all parental rights and duties, including residual parental rights and duties, by court order.

(62) "Therapist" means:

(a) an individual employed by a state division or agency for the purpose of conducting psychological treatment and counseling of a minor in its custody; or

(b) any other individual licensed or approved by the state for the purpose of conducting psychological treatment and counseling.

(63) "Threatened harm" means actions, inactions, or credible verbal threats, indicating that the child is at an unreasonable risk of harm or neglect.

(64) "Unregulated custody transfer" means the placement of a child:

(a) with an individual who is not the child's parent, step-parent, grandparent, adult sibling, adult uncle or aunt, or legal guardian, or a friend of the family who is an adult and with whom the child is familiar, or a member of the child's federally recognized tribe;

(b) with the intent of severing the child's existing parent-child or guardian-child relationship; and

(c) without taking:

(i) reasonable steps to ensure the safety of the child and permanency of the placement; and

(ii) the necessary steps to transfer the legal rights and responsibilities of parenthood or guardianship to the individual taking custody of the child.

(65) "Unsupported" means the same as that term is defined in Section 62A-4a-101.

(66) "Unsubstantiated" means the same as that term is defined in Section 62A-4a-101.

(67) "Validated risk and needs assessment" means an evidence-based tool that assesses a minor's risk of reoffending and a minor's criminogenic needs.

(68) (a) "Victim" means a person that the court determines has suffered a material loss as a result of a minor's wrongful act or conduct.

(b) "Victim" includes the Utah Office for Victims of Crime.

(69) "Without merit" means the same as that term is defined in Section 62A-4a-101.

Section 20. Section 78A-6-109 is amended to read:

78A-6-109. Summons -- Service and process -- Issuance and contents -- Notice to absent parent or guardian -- Emergency medical or surgical treatment -- Compulsory process for attendance of witnesses when authorized.

(1) After a petition is filed the court shall promptly issue a summons, unless the judge directs that a further investigation is needed. No summons is required as to any person who appears voluntarily or who files a written waiver of service with the clerk of the court at or before the hearing.

(2) The summons shall contain:

(a) the name of the court;

(b) the title of the proceedings; and

(c) except for a published summons, a brief statement of the substance of the allegations in the petition.

(3) A published summons shall state:

(a) that a proceeding concerning the minor is pending in the court; and

(b) an adjudication will be made.

(4) The summons shall require the person or persons who have physical custody of the minor to appear personally and bring the minor before the court at a time and place stated. If the person or persons summoned are not the parent, parents, or guardian of the minor, the summons shall also be issued to the parent, parents, or guardian, as the case may be, notifying them of the pendency of the case and of the time and place set for the hearing.

(5) Summons may be issued requiring the appearance of any other person whose presence the court finds necessary.

(6) If it appears to the court that the welfare of the minor or of the public requires that the minor be taken into custody, and it does not conflict with Section 78A-6-106.5, the court may by endorsement upon the summons direct that the person serving the summons take the minor into custody at once.

(7) Subject to Subsection 78A-6-117(2), upon the sworn testimony of one or more reputable physicians, the court may order emergency medical or surgical treatment that is immediately necessary for a minor concerning whom a petition has been filed pending the service of summons upon the minor's parents, guardian, or custodian.

(8) A parent or guardian is entitled to the issuance of compulsory process for the attendance of witnesses on the parent's or guardian's own behalf or on behalf of the minor. A guardian ad litem or a probation officer is entitled to compulsory process for the attendance of witnesses on behalf of the minor.

(9) Service of summons and process and proof of service shall be made in the manner provided in the Utah Rules of Civil Procedure.

(10) (a) Service of summons or process shall be made by the sheriff of the county where the service is to be made, or by the sheriff's deputy.

(b) Notwithstanding Subsection (10)(a), upon request of the court, service shall be made by any other peace officer, or by another suitable person selected by the court.

(11) Service of summons in the state shall be made personally, by delivering a copy to the person summoned; provided, however, that parents of a minor living together at their usual place of abode may both be served by personal delivery to either parent of copies of the summons, one copy for each parent.

(12) If the judge makes a written finding that the judge has reason to believe that personal service of the summons will be unsuccessful, or will not accomplish notification within a reasonable time after issuance of the summons, the judge may order service by registered mail, with a return receipt to be signed by the addressee only, to be addressed to the last-known address of the person to be served in the state. Service shall be complete upon return to the court of the signed receipt.

(13) If the parents, parent, or guardian required to be summoned under Subsection (4) cannot be found within the state, the fact of their minor's presence within the state shall confer jurisdiction on the court in proceedings in a minor's case under this chapter as to any absent parent or guardian, provided that due notice has been given in the following manner:

(a) If the address of the parent or guardian is known, due notice is given by sending the parent or guardian a copy of the summons by registered mail with a return receipt to be signed by the addressee only, or by personal service outside the state, as provided in the Utah Rules of Civil Procedure. Service by registered mail shall be complete upon return to the court of the signed receipt.

(b) (i) If the address or whereabouts of the parent or guardian outside the state cannot after diligent inquiry be ascertained, due notice is given by publishing a summons:

(A) in a newspaper having general circulation in the county in which the proceeding is pending once a week for four successive weeks; [~~and~~] or

(B) in accordance with Section 45-1-101 for four weeks.

(ii) Service shall be complete on the day of the last publication.

(c) Service of summons as provided in this subsection shall vest the court with jurisdiction over the parent or guardian served in the same manner and to the same extent as if the person served was served personally within the state.

(14) In the case of service in the state, service completed not less than 48 hours before the time set in the summons for the appearance of the person served, shall be sufficient to confer jurisdiction. In the case of service outside the state, service completed not less than five days before the time set in the summons for appearance of the person served, shall be sufficient to confer jurisdiction.

(15) Computation of periods of time under this chapter shall be made in accordance with the Utah Rules of Civil Procedure.

Section 21. Section 78A-6-306 is amended to read:

78A-6-306. Shelter hearing.

(1) A shelter hearing shall be held within 72 hours excluding weekends and holidays after any one or all of the following occur:

(a) removal of the child from the child's home by the division;

(b) placement of the child in the protective custody of the division;

(c) emergency placement under Subsection 62A-4a-202.1(4);

(d) as an alternative to removal of the child, a parent enters a domestic violence shelter at the request of the division; or

(e) a "Motion for Expedited Placement in Temporary Custody" is filed under Subsection 78A-6-106(4).

(2) If one of the circumstances described in Subsections (1)(a) through (e) occurs, the division shall issue a notice that contains all of the following:

(a) the name and address of the person to whom the notice is directed;

(b) the date, time, and place of the shelter hearing;

(c) the name of the child on whose behalf a petition is being brought;

(d) a concise statement regarding:

(i) the reasons for removal or other action of the division under Subsection (1); and

(ii) the allegations and code sections under which the proceeding has been instituted;

(e) a statement that the parent or guardian to whom notice is given, and the child, are entitled to have an attorney present at the shelter hearing, and that if the parent or guardian is indigent and cannot afford an attorney, and desires to be represented by an attorney, one will be provided in accordance with Title 78B, Chapter 22, Indigent Defense Act; and

(f) a statement that the parent or guardian is liable for the cost of support of the child in the protective custody, temporary custody, and custody of the division, and the cost for legal counsel appointed for the parent or guardian under Subsection (2)(e), according to the financial ability of the parent or guardian.

(3) The notice described in Subsection (2) shall be personally served as soon as possible, but no later than one business day after removal of the child from the child's home, or the filing of a "Motion for Expedited Placement in Temporary Custody" under Subsection 78A-6-106(4), on:

(a) the appropriate guardian ad litem; and

(b) both parents and any guardian of the child, unless the parents or guardians cannot be located.

(4) The following persons shall be present at the shelter hearing:

(a) the child, unless it would be detrimental for the child;

(b) the child's parents or guardian, unless the parents or guardian cannot be located, or fail to appear in response to the notice;

(c) counsel for the parents, if one is requested;

(d) the child's guardian ad litem;

(e) the caseworker from the division who is assigned to the case; and

(f) the attorney from the attorney general's office who is representing the division.

(5) (a) At the shelter hearing, the court shall:

(i) provide an opportunity to provide relevant testimony to:

(A) the child's parent or guardian, if present; and

(B) any other person having relevant knowledge;

(ii) subject to Section 78A-6-305, provide an opportunity for the child to testify; and

(iii) in accordance with Subsections 78A-6-307(18)(c) through (e), grant preferential consideration to a relative or friend for the temporary placement of the child.

(b) The court:

(i) may consider all relevant evidence, in accordance with the Utah Rules of Juvenile Procedure;

(ii) shall hear relevant evidence presented by the child, the child's parent or guardian, the requesting party, or their counsel; and

(iii) may in its discretion limit testimony and evidence to only that which goes to the issues of removal and the child's need for continued protection.

(6) If the child is in the protective custody of the division, the division shall report to the court:

(a) the reason why the child was removed from the parent's or guardian's custody;

(b) any services provided to the child and the child's family in an effort to prevent removal;

(c) the need, if any, for continued shelter;

(d) the available services that could facilitate the return of the child to the custody of the child's parent or guardian; and

(e) subject to Subsections 78A-6-307(18)(c) through (e), whether any relatives of the child or friends of the child's parents may be able and willing to accept temporary placement of the child.

(7) The court shall consider all relevant evidence provided by persons or entities authorized to present relevant evidence pursuant to this section.

(8) (a) If necessary to protect the child, preserve the rights of a party, or for other good cause shown, the court may grant no more than one continuance, not to exceed five judicial days.

(b) A court shall honor, as nearly as practicable, the request by a parent or guardian for a continuance under Subsection (8)(a).

(c) Notwithstanding Subsection (8)(a), if the division fails to provide the notice described in Subsection (2) within the time described in Subsection (3), the court may grant the request of a parent or guardian for a continuance, not to exceed five judicial days.

(9) (a) If the child is in the protective custody of the division, the court shall order that the child be returned to the custody of the parent or guardian unless it finds, by a preponderance of the evidence, consistent with the protections and requirements provided in Subsection 62A-4a-201(1), that any one of the following exists:

(i) subject to Subsection (9)(b)(i), there is a serious danger to the physical health or safety of the child and the child's physical health or safety may not be protected without removing the child from the custody of the child's parent;

(ii) (A) the child is suffering emotional damage that results in a serious impairment in the child's growth, development, behavior, or psychological functioning;

(B) the parent or guardian is unwilling or unable to make reasonable changes that would sufficiently prevent future damage; and

(C) there are no reasonable means available by which the child's emotional health may be protected without removing the child from the custody of the child's parent or guardian;

(iii) there is a substantial risk that the child will suffer abuse or neglect if the child is not removed from the custody of the child's parent or guardian;

(iv) subject to Subsection (9)(b)(ii), the child or a minor residing in the same household has been, or is considered to be at substantial risk of being, physically abused, sexually abused, or sexually exploited by a:

(A) parent or guardian;

(B) member of the parent's household or the guardian's household; or

(C) person known to the parent or guardian;

(v) the parent or guardian is unwilling to have physical custody of the child;

(vi) the parent or guardian is unable to have physical custody of the child;

[~~(vi)~~] (vii) the child is without any provision for the child's support;

[~~(vii)~~] (viii) a parent who is incarcerated or institutionalized has not or cannot arrange for safe and appropriate care for the child;

[~~(viii)~~] (ix) (A) a relative or other adult custodian with whom the child is left by the parent or guardian is unwilling or unable to provide care or support for the child;

(B) the whereabouts of the parent or guardian are unknown; and

(C) reasonable efforts to locate the parent or guardian are unsuccessful;

[~~(ix)~~] (x) subject to Subsections 78A-6-105(40)(b) and 78A-6-117(2) and Section 78A-6-301.5, the child is in immediate need of medical care;

[~~(x)~~] (xi) (A) the physical environment or the fact that the child is left unattended beyond a reasonable period of time poses a threat to the child's health or safety; and

(B) the parent or guardian is unwilling or unable to make reasonable changes that would remove the threat;

[~~(xi)~~] (xii) (A) the child or a minor residing in the same household has been neglected; and

(B) the parent or guardian is unwilling or unable to make reasonable changes that would prevent the neglect;

[~~(xii)~~] (xiii) the parent, guardian, or an adult residing in the same household as the parent or guardian, is charged or arrested pursuant to Title 58, Chapter 37d, Clandestine Drug Lab Act, and any clandestine laboratory operation was located in the residence or on the property where the child resided;

[~~(xiii)~~] (xiv) (A) the child's welfare is substantially endangered; and

(B) the parent or guardian is unwilling or unable to make reasonable changes that would remove the danger; or

[~~(xiv)~~] (xv) the child's natural parent:

(A) intentionally, knowingly, or recklessly causes the death of another parent of the child;

(B) is identified by a law enforcement agency as the primary suspect in an investigation for intentionally, knowingly, or recklessly causing the death of another parent of the child; or

(C) is being prosecuted for or has been convicted of intentionally, knowingly, or recklessly causing the death of another parent of the child.

(b) (i) Prima facie evidence of the finding described in Subsection (9)(a)(i) is established if:

(A) a court previously adjudicated that the child suffered abuse, neglect, or dependency involving the parent; and

(B) a subsequent incident of abuse, neglect, or dependency involving the parent occurs.

(ii) For purposes of Subsection (9)(a)(iv), if the court finds that the parent knowingly allowed the child to be in the physical care of a person after the parent received actual notice that the person physically abused, sexually abused, or sexually exploited the child, that fact constitutes prima facie evidence that there is a substantial risk that the child will be physically abused, sexually abused, or sexually exploited.

(10) (a) (i) The court shall also make a determination on the record as to whether reasonable efforts were made to prevent or eliminate the need for removal of the child from the child's home and whether there are available services that would prevent the need for continued removal.

(ii) If the court finds that the child can be safely returned to the custody of the child's parent or guardian through the provision of those services, the court shall place the child with the child's parent or guardian and order that those services be provided by the division.

(b) In making the determination described in Subsection (10)(a), and in ordering and providing services, the child's health, safety, and welfare shall be the paramount concern, in accordance with federal law.

(11) Where the division's first contact with the family occurred during an emergency situation in which the child could not safely remain at home, the court shall make a finding that any lack of preplacement preventive efforts was appropriate.

(12) In cases where actual sexual abuse, sexual exploitation, abandonment, severe abuse, or severe neglect are involved, neither the division nor the court has any duty to make "reasonable efforts" or to, in any other way, attempt to maintain a child in the child's home, return a child to the child's home, provide reunification services, or attempt to rehabilitate the offending parent or parents.

(13) The court may not order continued removal of a child solely on the basis of educational neglect as defined in Section 78A-6-105, truancy, or failure to comply with a court order to attend school.

(14) (a) Whenever a court orders continued removal of a child under this section, the court shall state the facts on which that decision is based.

(b) If no continued removal is ordered and the child is returned home, the court shall state the facts on which that decision is based.

(15) If the court finds that continued removal and temporary custody are necessary for the protection of a child pursuant to Subsection (9)(a), the court shall order continued removal regardless of:

(a) any error in the initial removal of the child;

(b) the failure of a party to comply with notice provisions; or

(c) any other procedural requirement of this chapter or Title 62A, Chapter 4a, Child and Family Services.

Section 22. Section 78A-6-317 is amended to read:

78A-6-317. All proceedings -- Persons entitled to be present -- Legal representation -- Records sharing -- Admissibility of evidence.

(1) A child who is the subject of a juvenile court hearing, any person entitled to notice pursuant to Section 78A-6-306 or 78A-6-310, preadoptive parents, foster parents, and any relative providing care for the child, are:

(a) entitled to notice of, and to be present at, each hearing and proceeding held under this part, including administrative reviews; and

(b) have a right to be heard at each hearing and proceeding described in Subsection (1)(a).

(2) A child shall be represented at each hearing by the guardian ad litem appointed to the child's case by the court. The child has a right to be present at each hearing, subject to the discretion of the guardian ad litem or the court regarding any possible detriment to the child.

(3) (a) The parent or guardian of a child who is the subject of a petition under this part has the right to be represented by counsel, and to present evidence, at each hearing.

(b) A court may appoint an indigent defense service provider as provided in Title 78B, Chapter 22, Indigent Defense Act.

(4) In every abuse, neglect, or dependency proceeding under this chapter, the court shall order that the child be represented by a guardian ad litem, in accordance with Section 78A-6-902. The guardian ad litem shall represent the best interest of the child, in accordance with the requirements of that section, at the shelter hearing and at all subsequent court and administrative proceedings, including any proceeding for termination of parental rights in accordance with Part 5, Termination of Parental Rights Act.

(5) (a) Except as provided in Subsection (5)(b), and notwithstanding any other provision of law:

(i) counsel for all parties to the action shall be given access to all records, maintained by the division or any other state or local public agency, that are relevant to the abuse, neglect, or dependency proceeding under this chapter; and

(ii) if the natural parent of a child is not represented by counsel, the natural parent shall have access to the records described in Subsection (5)(a)(i).

(b) The disclosures described in Subsection (5)(a) are not required in the following circumstances:

(i) subject to Subsection (5)(c), the division or other state or local public agency did not originally create the record being requested;

(ii) disclosure of the record would jeopardize the life or physical safety of a child who has been a victim of abuse or neglect, or any person who provided substitute care for the child;

(iii) disclosure of the record would jeopardize the anonymity of the person or persons making the initial report of abuse or neglect or any others involved in the subsequent investigation;

(iv) disclosure of the record would jeopardize the life or physical safety of an individual who has been a victim of domestic violence; or

[~~(v) the record is a report maintained in the Management Information System, for which a finding of unsubstantiated, unsupported, or without merit has been made, unless the person requesting the information is the alleged perpetrator in the report or counsel for the alleged perpetrator in the report; or~~]

[~~(vi)~~] (v) the record is a Children's Justice Center interview, including a video or audio recording, and a transcript of the recording, the release of which is governed by Section 77-37-4.

(c) If a disclosure is denied under Subsection (5)(b)(i), the division shall inform the person making the request of the following:

(i) the existence of all records in the possession of the division or any other state or local public agency;

(ii) the name and address of the person or agency that originally created the record; and

(iii) that the requesting person must seek access to the record from the person or agency that originally created the record.

Section 23. Section 78A-6-1503 is amended to read:

78A-6-1503. Requirements to apply to expunge an adjudication.

(1) (a) [~~An~~] Except as provided in Subsection (4), an individual who has been adjudicated by a juvenile court may petition the court for an order to expunge the individual's juvenile court record and any related records in the custody of an agency if:

(i) the individual has reached 18 years old; and

(ii) at least one year has passed from the date of:

(A) termination of the continuing jurisdiction of the juvenile court; or

(B) the individual's unconditional release from the custody of the Division of Juvenile Justice Services if the individual was committed to a secure youth corrections facility.

(b) The court may waive the requirements in Subsection (1)(a) if the court finds, and states on the record, the reason why the waiver is appropriate.

(c) The petitioner shall include in the petition described in Subsection (1)(a):

(i) any agency known or alleged to have any records related to the offense for which expungement is being sought; and

(ii) the original criminal history report obtained from the Bureau of Criminal Identification in accordance with Section 53-10-108.

(d) The petitioner shall send a copy of the petition described in Subsection (1)(a) to the county attorney or, if within a prosecution district, the district attorney.

(e) (i) Upon the filing of a petition described in Subsection (1)(a), the court shall:

(A) set a date for a hearing;

(B) notify the county attorney or district attorney and the agency with custody of the records at least 30 days before the day on which the hearing of the pendency of the petition is scheduled; and

(C) notify the county attorney or district attorney and the agency with records that the petitioner is asking the court to expunge of the date of the hearing.

(ii) (A) The court shall provide a victim with the opportunity to request notice of a petition described in Subsection (1)(a).

(B) Upon the victim's request under Subsection (1)(e)(ii)(A), the victim shall receive notice of the petition at least 30 days before the day on which the hearing is scheduled if, before the day on which an expungement order is made, the victim or, in the case of a child or an individual who is incapacitated or deceased, the victim's next of kin or authorized representative submits a written and signed request for notice to the court in the judicial district in which the offense occurred or judgment is entered.

(C) The notice described in Subsection (1)(e)(ii)(B) shall include a copy of the petition described in Subsection (1)(a) and any statutes and rules applicable to the petition.

(2) (a) At the hearing described in Subsection (1)(e)(i), the county attorney or district attorney, a victim, and any other individual who may have relevant information about the petitioner may testify.

(b) In deciding whether to grant a petition described in Subsection (1)(a) for expungement, the court shall consider whether the rehabilitation of the petitioner has been attained to the satisfaction of the court, including the petitioner's response to programs and treatment, the petitioner's behavior subsequent to the adjudication, and the nature and seriousness of the conduct.

(c) [~~The~~] (i) Except as provided in Subsection (2)(c)(ii), a court may order sealed all of the petitioner's records under the control of the juvenile court and an agency or an official[~~, including any record contained in the Management Information System created in Section 62A-4a-1003 and the Licensing Information System created in Section 62A-4a-1005,~~] if the court finds that:

[~~(i)~~] (A) the petitioner has not, in the five years preceding the day on which the petition described in Subsection (1)(a) is filed, been convicted of a violent felony, as defined in Section 76-3-203.5;

[~~(ii)~~] (B) there are no delinquency or criminal proceedings pending against the petitioner; and

[~~(iii)~~] (C) a judgment for restitution entered by the court on the conviction for which the expungement is sought has been satisfied.

(ii) A court may not order the Division of Child and Family Services to seal a petitioner's record that is contained in the Management Information System created in Section 62A-4a-1003 or the Licensing Information System created in Section 62A-4a-1005 unless:

(A) the record is unsupported; or

(B) after notice and an opportunity to be heard, the Division of Child and Family Services stipulates in writing to sealing the record.

(3) (a) The petitioner is responsible for service of the expungement order issued under Subsection (2) to any affected agency or official.

(b) To avoid destruction or sealing of the records in whole or in part, the agency or the official receiving the expungement order described in Subsection (3)(a) shall only expunge all references to the petitioner's name in the records pertaining to the petitioner's juvenile court record.

(4) (a) The court may not expunge a record if the record contains an adjudication of:

[~~(a)~~] (i) Section 76-5-202, aggravated murder; or

[~~(b)~~] (ii) Section 76-5-203, murder.

(b) This section does not apply to an adjudication under Part 3, Abuse, Neglect, or Dependency Proceedings, Part 5, Termination of Parental Rights Act, or Part 14, Restoration of Parental Rights Act.

Section 24. Coordinating S.B. 99 with H.B. 285 -- Technical and substantive amendments.

If this S.B. 99 and H.B. 285, Juvenile Recodification, both pass and become law, the Legislature intends that, on September 1, 2021, the Office of Legislative Research and General Counsel shall prepare the Utah Code database for publication by amending Subsection 80-3-107(2)(b) to read:

"(b) The disclosures described in Subsection (2)(a) are not required if:

(i) subject to Subsection (2)(c), the division or other state or local public agency did not originally create the record being requested;

(ii) disclosure of the record would jeopardize the life or physical safety of a child who has been a victim of abuse or neglect, or any individual who provided substitute care for the child;

(iii) disclosure of the record would jeopardize the anonymity of the individual making the initial report of abuse or neglect or any others involved in the subsequent investigation;

(iv) disclosure of the record would jeopardize the life or physical safety of an individual who has been a victim of domestic violence; or

(v) the record is a Children's Justice Center interview, including a video or audio recording, and a transcript of the recording, the release of which is governed by Section 77-37-4.".

CHAPTER 232
S. B. 101
Passed February 11, 2021
Approved March 16, 2021
Effective May 5, 2021

MOTOR VEHICLE AMENDMENTS

Chief Sponsor: Wayne A. Harper
House Sponsor: Mike Winder

LONG TITLE

General Description:

This bill amends the definition of "handheld wireless communication device" to exclude certain two-way radio devices as related to the use of such a device while operating a motor vehicle.

Highlighted Provisions:

This bill:

- amends the definition of "handheld wireless communication device" to exclude certain two-way radio devices as related to the use of such a device while operating a motor vehicle.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

41-6a-1716, as last amended by Laws of Utah 2014, Chapter 416

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

Section 1. Section 41-6a-1716 is amended to read:

41-6a-1716. Prohibition on using a handheld wireless communication device while operating a moving motor vehicle -- Exceptions -- Penalties.

(1) As used in this section:

(a) "Handheld wireless communication device" means a handheld device used for the transfer of information without the use of electrical conductors or wires.

(b) "Handheld wireless communication device" includes a:

(i) wireless telephone;

(ii) text messaging device;

(iii) laptop; or

(iv) any substantially similar communication device that is readily removable from the vehicle and is used to write, send, or read text or data through manual input.

(c) "Handheld wireless communication device" does not include a two-way radio device described in 47 C.F.R. Part 90, 95, or 97.

(2) Except as provided in Subsection (3), a person may not use a handheld wireless communication device while operating a moving motor vehicle on a highway in this state to manually:

(a) write, send, or read a written communication, including:

(i) a text message;

(ii) an instant message; or

(iii) electronic mail;

(b) dial a phone number;

(c) access the Internet;

(d) view or record video; or

(e) enter data into a handheld wireless communication device.

(3) Subsection (2) does not prohibit a person from using a handheld wireless communication device while operating a moving motor vehicle:

(a) when using a handheld communication device for voice communication;

(b) to view a global positioning or navigation device or a global positioning or navigation application;

(c) during a medical emergency;

(d) when reporting a safety hazard or requesting assistance relating to a safety hazard;

(e) when reporting criminal activity or requesting assistance relating to a criminal activity;

(f) when used by a law enforcement officer or emergency service personnel acting within the course and scope of the law enforcement officer's or emergency service personnel's employment; or

(g) to operate:

(i) hands-free or voice operated technology; or

(ii) a system that is physically or electronically integrated into the motor vehicle.

(4) A person convicted of a violation of this section is guilty of a:

(a) class C misdemeanor with a maximum fine of $100; or

(b) class B misdemeanor if the person:

(i) has also inflicted serious bodily injury upon another as a proximate result of using a handheld wireless communication device in violation of this section while operating a moving motor vehicle on a highway in this state; or

(ii) has a prior conviction under this section, that is within three years of:

(A) the current conviction under this section; or

(B) the commission of the offense upon which the current conviction is based.

CHAPTER 233
S. B. 102
Passed February 18, 2021
Approved March 16, 2021
Effective May 5, 2021

PEACE OFFICER TRAINING QUALIFICATIONS AMENDMENTS

Chief Sponsor: Karen Mayne
House Sponsor: Paul Ray

LONG TITLE

General Description:

This bill permits some lawful permanent residents to apply to become peace officers or dispatchers.

Highlighted Provisions:

This bill:

- permits lawful permanent residents who meet certain requirements to apply to become peace officers or dispatchers.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53-6-203, as last amended by Laws of Utah 2019, Chapter 90
53-6-302, as last amended by Laws of Utah 2011, Chapter 258
63I-1-253, as last amended by Laws of Utah 2020, Chapters 154, 174, 214, 234, 242, 269, 335, and 354

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

Section 1. Section 53-6-203 is amended to read:

53-6-203. Applicants for admission to training programs or for certification examination -- Requirements.

(1) Before being accepted for admission to the training programs conducted by a certified academy, and before being allowed to take a certification examination, each applicant for admission or certification examination shall meet the following requirements:

[~~(a) be a United States citizen;~~]

(a) be either:

(i) a United States citizen; or

(ii) a lawful resident of the United States who:

(A) has been in the United States legally for at least five years; and

(B) has legal authorization to work in the United States;

(b) be at least:

(i) 21 years [~~of age~~] old at the time of certification as a special function officer; or

(ii) as of July 1, 2019, 19 years [~~of age~~] old at the time of certification as a correctional officer;

(c) be a high school graduate or furnish evidence of successful completion of an examination indicating an equivalent achievement;

(d) have not been convicted of a crime for which the applicant could have been punished by imprisonment in a federal penitentiary or by imprisonment in the penitentiary of this or another state;

(e) have demonstrated good moral character, as determined by a background investigation; [~~and~~]

(f) be free of any physical, emotional, or mental condition that might adversely affect the performance of the applicant's duties as a peace officer[~~.~~]; and

(g) meet all other standards required by POST.

(2) (a) An application for admission to a training program shall be accompanied by a criminal history background check of local, state, and national criminal history files and a background investigation.

(b) The costs of the background check and investigation shall be borne by the applicant or the applicant's employing agency.

(3) (a) Notwithstanding any expungement statute or rule of any other jurisdiction, any conviction obtained in this state or other jurisdiction, including a conviction that has been expunged, dismissed, or treated in a similar manner to either of these procedures, may be considered for purposes of this section.

(b) This provision applies to convictions entered both before and after the effective date of this section.

(4) Any background check or background investigation performed pursuant to the requirements of this section shall be to determine eligibility for admission to training programs or qualification for certification examinations and may not be used as a replacement for any background investigations that may be required of an employing agency.

(5) An applicant shall be considered to be of good moral character under Subsection (1)(e) if the applicant has not engaged in conduct that would be a violation of Subsection 53-6-211(1).

(6) An applicant seeking certification as a law enforcement officer, as defined in Section 53-13-103, shall be qualified to possess a firearm under state and federal law.

Section 2. Section 53-6-302 is amended to read:

53-6-302. Applicants for certification examination -- Requirements.

(1) Before being allowed to take a dispatcher certification examination, each applicant shall meet the following requirements:

[~~(a) be a United States citizen;~~]

(a) be either:

(i) a United States citizen; or

(ii) a lawful resident of the United States who:

(A) has been in the United States legally for at least five years; and

(B) has legal authorization to work in the United States;

(b) be 18 years [~~of age~~] old or older at the time of employment as a dispatcher;

(c) be a high school graduate or have a G.E.D. equivalent;

(d) have not been convicted of a crime for which the applicant could have been punished by imprisonment in a federal penitentiary or by imprisonment in the penitentiary of this or another state;

(e) have demonstrated good moral character, as determined by a background investigation; [~~and~~]

(f) be free of any physical, emotional, or mental condition that might adversely affect the performance of the applicant's duty as a dispatcher[~~.~~]; and

(g) meet all other standards required by POST.

(2) (a) An application for certification shall be accompanied by a criminal history background check of local, state, and national criminal history files and a background investigation.

(b) The costs of the background check and investigation shall be borne by the applicant or the applicant's employing agency.

(3) (a) Notwithstanding Title 77, Chapter 40, Utah Expungement Act, regarding expungements, or a similar statute or rule of any other jurisdiction, any conviction obtained in this state or other jurisdiction, including a conviction that has been expunged, dismissed, or treated in a similar manner to either of these procedures, may be considered for purposes of this section.

(b) Subsection (3)(a) applies to convictions entered both before and after May 1, 1995.

(4) Any background check or background investigation performed pursuant to the requirements of this section shall be to determine eligibility for admission to training programs or qualification for certification examinations and may not be used as a replacement for any background investigations that may be required of an employing agency.

(5) An applicant is considered to be of good moral character under Subsection (1)(e) if the applicant has not engaged in conduct that would be a violation of Subsection 53-6-309(1).

Section 3. Section 63I-1-253 is amended to read:

63I-1-253. Repeal dates, Titles 53 through 53G.

(1) Section 53-2a-105, which creates the Emergency Management Administration Council, is repealed July 1, 2021.

(2) Sections 53-2a-1103 and 53-2a-1104, which create the Search and Rescue Advisory Board, are repealed July 1, 2022.

(3) Section 53-5-703, which creates the Concealed Firearm Review Board, is repealed July 1, 2023.

(4) Subsection 53-6-203(1)(b)(ii), regarding being 19 years old at certification, is repealed July 1, 2027.

(5) Subsection 53-13-104(6)(a), regarding being 19 years old at certification, is repealed July 1, 2027.

(6) Section 53B-6-105.5, which creates the Technology Initiative Advisory Board, is repealed July 1, 2024.

(7) Title 53B, Chapter 17, Part 11, USTAR Researchers, is repealed July 1, 2028.

(8) Section 53B-17-1203, which creates the SafeUT and School Safety Commission, is repealed January 1, 2025.

(9) Section 53B-18-1501 is repealed July 1, 2021.

(10) Title 53B, Chapter 18, Part 16, USTAR Researchers, is repealed July 1, 2028.

(11) Title 53B, Chapter 24, Part 4, Rural Residency Training Program, is repealed July 1, 2025.

(12) Subsection 53C-3-203(4)(b)(vii), which provides for the distribution of money from the Land Exchange Distribution Account to the Geological Survey for test wells and other hydrologic studies in the West Desert, is repealed July 1, 2030.

(13) Section 53E-3-515 is repealed January 1, 2023.

(14) In relation to a standards review committee, on January 1, 2023:

(a) in Subsection 53E-4-202(8), the language "by a standards review committee and the recommendations of a standards review committee established under Section 53E-4-203" is repealed; and

(b) Section 53E-4-203 is repealed.

(15) Subsections 53E-3-503(5) and (6), which create coordinating councils for youth in custody, are repealed July 1, 2027.

(16) Section 53E-4-402, which creates the State Instructional Materials Commission, is repealed July 1, 2022.

(17) Title 53E, Chapter 6, Part 5, Utah Professional Practices Advisory Commission, is repealed July 1, 2023.

(18) Subsection 53E-8-204(4), which creates the advisory council for the Utah Schools for the Deaf and the Blind, is repealed July 1, 2021.

[~~(19) Section 53F-2-514 is repealed July 1, 2020.~~]

[~~(20)~~] (19) Section 53F-5-203 is repealed July 1, 2024.

[~~(21)~~] (20) Section 53F-5-212 is repealed July 1, 2024.

[~~(22)~~] (21) Section 53F-5-213 is repealed July 1, 2023.

[~~(23)~~] (22) Section 53F-5-214, in relation to a grant for professional learning, is repealed July 1, 2025.

[~~(24)~~] (23) Section 53F-5-215, in relation to an elementary teacher preparation grant is repealed July 1, 2025.

[~~(25)~~] (24) Subsection 53F-9-203(7), which creates the Charter School Revolving Account Committee, is repealed July 1, 2024.

[~~(26)~~] (25) Section 53F-9-501 is repealed January 1, 2023.

[~~(27)~~] (26) Subsections 53G-4-608(2)(b) and (4)(b), related to the Utah Seismic Safety Commission, are repealed January 1, 2025.

[~~(28)~~] (27) Subsection 53G-8-211(5), regarding referrals of a minor to court for a class C misdemeanor, is repealed July 1, 2022.

CHAPTER 234
S. B. 103
Passed March 2, 2021
Approved March 16, 2021
Effective May 5, 2021

DENTAL HYGIENIST AMENDMENTS

Chief Sponsor: Todd D. Weiler
House Sponsor: V. Lowry Snow

LONG TITLE

General Description:

This bill enacts provisions related to Medicaid reimbursement for dental hygienists.

Highlighted Provisions:

This bill:

- defines terms;
- requires the Department of Health to reimburse a dental hygienist directly for certain services provided through the Medicaid program;
- creates a deadline for the department to begin reimbursing dental hygienists directly;
- creates a reporting requirement; and
- provides a sunset date for the provisions of this bill.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

26-18-2.6, as last amended by Laws of Utah 2020, Chapter 225
63I-1-226, as last amended by Laws of Utah 2020, Chapters 19, 154, 172, 181, 221, 232, 303, 347, and 429

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

Section 1. Section 26-18-2.6 is amended to read:

26-18-2.6. Dental benefits.

(1) (a) Except as provided in Subsection (8), the division may establish a competitive bid process to bid out Medicaid dental benefits under this chapter.

(b) The division may bid out the Medicaid dental benefits separately from other program benefits.

(2) The division shall use the following criteria to evaluate dental bids:

(a) ability to manage dental expenses;

(b) proven ability to handle dental insurance;

(c) efficiency of claim paying procedures;

(d) provider contracting, discounts, and adequacy of network; and

(e) other criteria established by the department.

(3) The division shall request bids for the program's benefits at least once every five years.

(4) The division's contract with dental plans for the program's benefits shall include risk sharing provisions in which the dental plan must accept 100% of the risk for any difference between the division's premium payments per client and actual dental expenditures.

(5) The division may not award contracts to:

(a) more than three responsive bidders under this section; or

(b) an insurer that does not have a current license in the state.

(6) (a) The division may cancel the request for proposals if:

(i) there are no responsive bidders; or

(ii) the division determines that accepting the bids would increase the program's costs.

(b) If the division cancels a request for proposal or a contract that results from a request for proposal described in Subsection (6)(a), the division shall report to the Health and Human Services Interim Committee regarding the reasons for the decision.

(7) Title 63G, Chapter 6a, Utah Procurement Code, shall apply to this section.

(8) (a) The division may:

(i) establish a dental health care delivery system and payment reform pilot program for Medicaid dental benefits to increase access to cost effective and quality dental health care by increasing the number of dentists available for Medicaid dental services; and

(ii) target specific Medicaid populations or geographic areas in the state.

(b) The pilot program shall establish compensation models for dentists and dental hygienists that:

(i) increase access to quality, cost effective dental care; and

(ii) use funds from the Division of Family Health and Preparedness that are available to reimburse dentists for educational loans in exchange for the dentist agreeing to serve Medicaid and under-served populations.

(c) The division may amend the state plan and apply to the Secretary of Health and Human Services for waivers or pilot programs if necessary to establish the new dental care delivery and payment reform model.

(d) The division shall evaluate the pilot program's effect on the cost of dental care and access to dental care for the targeted Medicaid populations.

(9) (a) As used in this Subsection (9), "dental hygienist" means an individual who is licensed as a dental hygienist under Section 58-69-301.

(b) The department shall reimburse a dental hygienist for dental services performed in a public health setting and in accordance with Subsection (9)(c) beginning on the earlier of:

(i) January 1, 2023; or

(ii) 30 days after the date on which the replacement of the department's Medicaid Management Information System software is complete.

(c) The department shall reimburse a dental hygienist directly for a service provided through the Medicaid program if:

(i) the dental hygienist requests to be reimbursed directly; and

(ii) the dental hygienist provides the service within the scope of practice described in Section 58-69-801.

(d) Before November 30 of each year in which the department reimburses dental hygienists in accordance with Subsection (9)(c), the department shall report to the Health and Human Services Interim Committee, for the previous fiscal year:

(i) the number and geographic distribution of dental hygienists who requested to be reimbursed directly;

(ii) the total number of Medicaid enrollees who were served by a dental hygienist who were reimbursed under this Subsection (9);

(iii) the total amount reimbursed directly to dental hygienists under this Subsection (9);

(iv) the specific services and billing codes that are reimbursed under this Subsection (9); and

(v) the aggregate amount reimbursed for each service and billing code described in Subsection (9)(d)(iv).

(e) (i) Except as provided in this Subsection (9), nothing in this Subsection (9) shall be interpreted as expanding or otherwise altering the limitations and scope of practice for a dental hygienist.

(ii) A dental hygienist may only directly bill and receive compensation for billing codes that fall within the scope of practice of a dental hygienist.

Section 2. Section 63I-1-226 is amended to read:

63I-1-226. Repeal dates, Title 26.

(1) Subsection 26-1-7(1)(f), related to the Residential Child Care Licensing Advisory Committee, is repealed July 1, 2024.

(2) Subsection 26-1-7(1)(h), related to the Primary Care Grant Committee, is repealed July 1, 2025.

(3) Section 26-1-7.5, which creates the Utah Health Advisory Council, is repealed July 1, 2025.

(4) Section 26-1-40 is repealed July 1, 2022.

(5) Section 26-1-41 is repealed July 1, 2026.

(6) Section 26-7-10 is repealed July 1, 2025.

(7) Subsection 26-7-11(5), regarding reports to the Legislature, is repealed July 1, 2028.

(8) Section 26-7-14 is repealed December 31, 2027.

(9) Title 26, Chapter 9f, Utah Digital Health Service Commission Act, is repealed July 1, 2025.

(10) Subsection 26-10-6(5), which creates the Newborn Hearing Screening Committee, is repealed July 1, 2026.

(11) Section 26-10-11 is repealed July 1, 2025.

(12) Section 26-10b-106, which creates the Primary Care Grant Committee, is repealed July 1, 2025.

(13) Subsection 26-18-2.6(9), which addresses reimbursement for dental hygienists, is repealed July 1, 2028.

[~~(13)~~] (14) Title 26, Chapter 18, Part 2, Drug Utilization Review Board, is repealed July 1, 2027.

[~~(14) Subsection 26-18-417(3) relating to a report to the Health and Human services Interim Committee is repealed July 1, 2020.~~]

(15) Subsection 26-18-418(2), the language that states "and the Behavioral Health Crisis Response Commission created in Section 63C-18-202" is repealed July 1, 2023.

(16) Title 26, Chapter 18a, Kurt Oscarson Children's Organ Transplant Coordinating Committee, is repealed July 1, 2021.

(17) Section 26-33a-117 is repealed on December 31, 2023.

(18) Title 26, Chapter 33a, Utah Health Data Authority Act, is repealed July 1, 2024.

(19) Title 26, Chapter 36b, Inpatient Hospital Assessment Act, is repealed July 1, 2024.

(20) Title 26, Chapter 36c, Medicaid Expansion Hospital Assessment Act, is repealed July 1, 2024.

(21) Title 26, Chapter 36d, Hospital Provider Assessment Act, is repealed July 1, 2024.

(22) Section 26-39-201, which creates the Residential Child Care Licensing Advisory Committee, is repealed July 1, 2024.

(23) Section 26-40-104, which creates the Utah Children's Health Insurance Program Advisory Council, is repealed July 1, 2025.

(24) Section 26-50-202, which creates the Traumatic Brain Injury Advisory Committee, is repealed July 1, 2025.

(25) Title 26, Chapter 54, Spinal Cord and Brain Injury Rehabilitation Fund and Pediatric Neuro-Rehabilitation Fund, is repealed January 1, 2025.

(26) Title 26, Chapter 63, Nurse Home Visiting Pay-for-Success Program, is repealed July 1, 2026.

(27) Title 26, Chapter 66, Early Childhood Utah Advisory Council, is repealed July 1, 2026.

CHAPTER 235
S. B. 105
Passed March 4, 2021
Approved March 16, 2021
Effective May 5, 2021

INDIGENT DEFENSE COMMISSION AMENDMENTS

Chief Sponsor: Todd D. Weiler
House Sponsor: Joel Ferry

LONG TITLE

General Description:

This bill amends provisions relating to the Utah Indigent Defense Commission.

Highlighted Provisions:

This bill:

- changes the term "director" to "executive director" in Title 78B, Chapter 22, Indigent Defense Act;
- provides that the Office of Indigent Defense Services is created under the Utah Indigent Defense Commission;
- provides that the Utah Indigent Defense Commission shall appoint, and may remove, the executive director of the Office of Indigent Defense Services by a majority vote of the commission; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

78B-22-102, as last amended by Laws of Utah 2020, Chapters 371, 392, and 395
78B-22-451, as enacted by Laws of Utah 2020, Chapters 371, 392, 395 and last amended by Coordination Clause, Laws of Utah 2020, Chapters 392, and 395
78B-22-453, as renumbered and amended by Laws of Utah 2020, Chapters 371, 392, 395 and last amended by Coordination Clause, Laws of Utah 2020, Chapters 392, and 395
78B-22-802, as renumbered and amended by Laws of Utah 2020, Chapter 395
78B-22-903, as enacted by Laws of Utah 2020, Chapter 371
78B-22-904, as enacted by Laws of Utah 2020, Chapter 371

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

Section 1. Section 78B-22-102 is amended to read:

78B-22-102. Definitions.

As used in this chapter:

(1) "Account" means the Indigent Defense Resources Restricted Account created in Section 78B-22-405.

(2) "Board" means the Indigent Defense Funds Board created in Section 78B-22-501.

(3) "Commission" means the Utah Indigent Defense Commission created in Section 78B-22-401.

(4) [~~"Director"~~] "Executive director" means the executive director of the Office of Indigent Defense Services, created in Section 78B-22-451, who is appointed in accordance with Section 78B-22-453.

(5) (a) "Indigent defense resources" means the resources necessary to provide an effective defense for an indigent individual, including the costs for a competent investigator, expert witness, scientific or medical testing, transcripts, and printing briefs.

(b) "Indigent defense resources" does not include an indigent defense service provider.

(6) "Indigent defense service provider" means an attorney or entity appointed to represent an indigent individual pursuant to:

(a) a contract with an indigent defense system to provide indigent defense services; or

(b) an order issued by the court under Subsection 78B-22-203(2)(a).

(7) "Indigent defense services" means:

(a) the representation of an indigent individual by an indigent defense service provider; and

(b) the provision of indigent defense resources for an indigent individual.

(8) "Indigent defense system" means:

(a) a city or town that is responsible for providing indigent defense services;

(b) a county that is responsible for providing indigent defense services in the district court, juvenile court, and the county's justice courts; or

(c) an interlocal entity, created pursuant to Title 11, Chapter 13, Interlocal Cooperation Act, that is responsible for providing indigent defense services according to the terms of an agreement between a county, city, or town.

(9) "Indigent individual" means:

(a) a minor who is:

(i) arrested and admitted into detention for an offense under Section 78A-6-103;

(ii) charged by petition or information in the juvenile or district court; or

(iii) described in this Subsection (9)(a), who is appealing an adjudication or other final court action; and

(b) an individual listed in Subsection 78B-22-201(1) who is found indigent pursuant to Section 78B-22-202.

(10) "Minor" means the same as that term is defined in Section 78A-6-105.

(11) "Office" means the Office of Indigent Defense Services created in Section 78B-22-451.

(12) "Participating county" means a county that complies with this chapter for participation in the Indigent Aggravated Murder Defense Trust Fund as provided in Sections 78B-22-702 and 78B-22-703.

Section 2. Section 78B-22-451 is amended to read:

78B-22-451. Office of Indigent Defense Services -- Creation.

There is created [~~the Office of Indigent Defense Services within the State Commission on Criminal and Juvenile Justice~~] under the commission the Office of Indigent Defense Services.

Section 3. Section 78B-22-453 is amended to read:

78B-22-453. Executive director -- Qualifications -- Staff.

[~~(1) The executive director of the State Commission on Criminal and Juvenile Justice shall appoint a director to carry out the duties of the office described in Section 78B-22-452.~~]

(1) The commission:

(a) shall appoint the executive director, by a majority vote of the commission, to carry out the duties of the office described in Section 78B-22-452; and

(b) may remove the executive director by majority vote of the commission.

(2) The executive director shall be an active member of the Utah State Bar with an appropriate background and experience to serve as the full-time executive director.

(3) The executive director shall hire staff as necessary to carry out the duties of the office as described in Section 78B-22-452, including:

(a) one individual who is an active member of the Utah State Bar to serve as a full-time assistant director; and

(b) one individual with data collection and analysis skills.

(4) When appointing the executive director of the office under Subsection (1), the [~~executive director of the State Commission on Criminal and Juvenile Justice~~] commission shall give preference to an individual with experience in adult criminal defense, child welfare parental defense, or juvenile delinquency defense.

(5) When hiring the assistant director, the executive director shall give preference to an individual with experience in adult criminal defense, child welfare parental defense, or juvenile delinquency defense.

Section 4. Section 78B-22-802 is amended to read:

78B-22-802. Child Welfare Parental Defense Program -- Creation -- Duties -- Annual report -- Budget.

(1) There is created within the office the Child Welfare Parental Defense Program.

(2) (a) The office shall:

(i) administer and enforce the program in accordance with this part;

(ii) manage the operation and budget of the program;

(iii) develop and provide educational and training programs for contracted parental defense attorneys; and

(iv) provide information and advice to assist a contracted parental defense attorney to comply with the attorney's professional, contractual, and ethical duties.

(b) In administering the program, the office shall contract with:

(i) a person who is qualified to perform the program duties under this section; and

(ii) an attorney, as an independent contractor, in accordance with Section 78B-22-803.

(3) (a) The executive director shall prepare a budget of:

(i) the administrative expenses for the program; and

(ii) the amount estimated to fund needed contracts and other costs.

(b) On or before October 1 of each year, the executive director shall report to the governor and the Child Welfare Legislative Oversight Panel regarding the preceding fiscal year on the operations, activities, and goals of the program.

Section 5. Section 78B-22-903 is amended to read:

78B-22-903. Powers and duties of the division.

(1) The division shall:

(a) provide appellate defense services in counties of the third, fourth, fifth, and sixth class; and

(b) provide appellate defense services in accordance with the core principles adopted by the commission under Section 78B-22-404 and any other state and federal standards for appellate defense services.

(2) Upon consultation with the executive director and the commission, the division shall:

(a) adopt a budget for the division;

(b) adopt and publish on the commission's website:

(i) appellate performance standards;

(ii) case weighting standards; and

(iii) any other relevant measures or information to assist with appellate defense services; and

(c) if requested by the commission, provide a report to the commission on:

(i) the provision of appellate defense services by the division;

(ii) the caseloads of appellate attorneys; and

(iii) any other information relevant to appellate defense services in the state.

(3) If the division provides appellate defense services to an indigent individual in an indigent defense system, the division shall provide notice to the district court and the indigent defense system that the division intends to be appointed as counsel for the indigent individual.

(4) The office shall assist with providing training and continual legal education on appellate defense to indigent defense service providers in counties of the third, fourth, fifth, and sixth class.

Section 6. Section 78B-22-904 is amended to read:

78B-22-904. Chief appellate officer -- Qualifications -- Staff.

(1) (a) After consulting with the commission, the executive director shall appoint a chief appellate officer.

(b) When appointing the chief appellate officer, the executive director shall give preference to an individual with experience in adult criminal appellate defense representation.

(2) The chief appellate officer shall be an active member of the Utah State Bar with an appropriate background and experience to serve as the chief appellate officer.

(3) The chief appellate officer shall carry out the duties of the division described in Section 78B-22-903.

(4) The chief appellate officer shall:

(a) provide appellate defense services in a county of the third, fourth, fifth, or sixth class;

(b) hire staff as necessary to carry out the duties of the division described in Section 78B-22-903; and

(c) perform all other duties that are necessary for the division to carry out the division's statutory duties.

CHAPTER 236
S. B. 108
Passed March 4, 2021
Approved March 16, 2021
Effective May 5, 2021

PENALTY ENHANCEMENT AMENDMENTS

Chief Sponsor: Todd D. Weiler
House Sponsor: Brady Brammer

LONG TITLE

General Description:

This bill modifies provisions relating to convictions that can be used to enhance penalties for certain controlled substances offenses.

Highlighted Provisions:

This bill:

- provides that in order to be used as a penalty enhancement for certain controlled substances offenses, a prior offense must be committed within seven years before the date of the current offense; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

58-37-8, as last amended by Laws of Utah 2020, Chapters 12, 117, 131, 191, and 354

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

Section 1. Section 58-37-8 is amended to read:

58-37-8. Prohibited acts -- Penalties.

(1) Prohibited acts A -- Penalties and reporting:

(a) Except as authorized by this chapter, it is unlawful for a person to knowingly and intentionally:

(i) produce, manufacture, or dispense, or to possess with intent to produce, manufacture, or dispense, a controlled or counterfeit substance;

(ii) distribute a controlled or counterfeit substance, or to agree, consent, offer, or arrange to distribute a controlled or counterfeit substance;

(iii) possess a controlled or counterfeit substance with intent to distribute; or

(iv) engage in a continuing criminal enterprise where:

(A) the person participates, directs, or engages in conduct that results in a violation of Chapter 37, Utah Controlled Substances Act, Chapter 37a, Utah Drug Paraphernalia Act, Chapter 37b, Imitation Controlled Substances Act, Chapter 37c, Utah Controlled Substance Precursor Act, or Chapter 37d, Clandestine Drug Lab Act, that is a felony; and

(B) the violation is a part of a continuing series of two or more violations of Chapter 37, Utah Controlled Substances Act, Chapter 37a, Utah Drug Paraphernalia Act, Chapter 37b, Imitation Controlled Substances Act, Chapter 37c, Utah Controlled Substance Precursor Act, or Chapter 37d, Clandestine Drug Lab Act, on separate occasions that are undertaken in concert with five or more persons with respect to whom the person occupies a position of organizer, supervisor, or any other position of management.

(b) A person convicted of violating Subsection (1)(a) with respect to:

(i) a substance or a counterfeit of a substance classified in Schedule I or II, a controlled substance analog, or gammahydroxybutyric acid as listed in Schedule III is guilty of a second degree felony, punishable by imprisonment for not more than 15 years, and upon a second or subsequent conviction is guilty of a first degree felony;

(ii) a substance or a counterfeit of a substance classified in Schedule III or IV, or marijuana, or a substance listed in Section 58-37-4.2 is guilty of a third degree felony, and upon a second or subsequent conviction is guilty of a second degree felony; or

(iii) a substance or a counterfeit of a substance classified in Schedule V is guilty of a class A misdemeanor and upon a second or subsequent conviction is guilty of a third degree felony.

(c) A person who has been convicted of a violation of Subsection (1)(a)(ii) or (iii) may be sentenced to imprisonment for an indeterminate term as provided by law, but if the trier of fact finds a firearm as defined in Section 76-10-501 was used, carried, or possessed on the person or in the person's immediate possession during the commission or in furtherance of the offense, the court shall additionally sentence the person convicted for a term of one year to run consecutively and not concurrently; and the court may additionally sentence the person convicted for an indeterminate term not to exceed five years to run consecutively and not concurrently.

(d) (i) A person convicted of violating Subsection (1)(a)(iv) is guilty of a first degree felony punishable by imprisonment for an indeterminate term of not less than:

(A) seven years and which may be for life; or

(B) 15 years and which may be for life if the trier of fact determined that the defendant knew or reasonably should have known that any subordinate under Subsection (1)(a)(iv)(B) was under 18 years [~~of age~~] old.

(ii) Imposition or execution of the sentence may not be suspended, and the person is not eligible for probation.

(iii) Subsection (1)(d)(i)(B) does not apply to any defendant who, at the time of the offense, was under 18 years [~~of age~~] old.

(e) The Administrative Office of the Courts shall report to the Division of Occupational and

Professional Licensing the name, case number, date of conviction, and if known, the date of birth of each person convicted of violating Subsection (1)(a).

(2) Prohibited acts B -- Penalties and reporting:

(a) It is unlawful:

(i) for a person knowingly and intentionally to possess or use a controlled substance analog or a controlled substance, unless it was obtained under a valid prescription or order, directly from a practitioner while acting in the course of the person's professional practice, or as otherwise authorized by this chapter;

(ii) for an owner, tenant, licensee, or person in control of a building, room, tenement, vehicle, boat, aircraft, or other place knowingly and intentionally to permit them to be occupied by persons unlawfully possessing, using, or distributing controlled substances in any of those locations; or

(iii) for a person knowingly and intentionally to possess an altered or forged prescription or written order for a controlled substance.

(b) A person convicted of violating Subsection (2)(a)(i) with respect to:

(i) marijuana, if the amount is 100 pounds or more, is guilty of a second degree felony; or

(ii) a substance classified in Schedule I or II, or a controlled substance analog, is guilty of a class A misdemeanor on a first or second conviction, and on a third or subsequent conviction if each prior offense was committed within seven years before [~~the date of the current conviction or~~] the date of the offense upon which the current conviction is based is guilty of a third degree felony.

(c) Upon a person's conviction of a violation of this Subsection (2) subsequent to a conviction under Subsection (1)(a), that person shall be sentenced to a one degree greater penalty than provided in this Subsection (2).

(d) A person who violates Subsection (2)(a)(i) with respect to all other controlled substances not included in Subsection (2)(b)(i) or (ii), including a substance listed in Section 58-37-4.2, or marijuana, is guilty of a class B misdemeanor.

(i) Upon a third conviction the person is guilty of a class A misdemeanor, if each prior offense was committed within seven years before [~~the date of the current conviction or~~] the date of the offense upon which the current conviction is based.

(ii) Upon a fourth or subsequent conviction the person is guilty of a third degree felony if each prior offense was committed within seven years [~~of the date of the current conviction or~~] before the date of the offense upon which the current conviction is based.

(e) A person convicted of violating Subsection (2)(a)(i) while inside the exterior boundaries of property occupied by a correctional facility as defined in Section 64-13-1 or a public jail or other place of confinement shall be sentenced to a penalty one degree greater than provided in Subsection (2)(b), and if the conviction is with respect to controlled substances as listed in:

(i) Subsection (2)(b), the person may be sentenced to imprisonment for an indeterminate term as provided by law, and:

(A) the court shall additionally sentence the person convicted to a term of one year to run consecutively and not concurrently; and

(B) the court may additionally sentence the person convicted for an indeterminate term not to exceed five years to run consecutively and not concurrently; and

(ii) Subsection (2)(d), the person may be sentenced to imprisonment for an indeterminate term as provided by law, and the court shall additionally sentence the person convicted to a term of six months to run consecutively and not concurrently.

(f) A person convicted of violating Subsection (2)(a)(ii) or (iii) is:

(i) on a first conviction, guilty of a class B misdemeanor;

(ii) on a second conviction, guilty of a class A misdemeanor; and

(iii) on a third or subsequent conviction, guilty of a third degree felony.

(g) A person is subject to the penalties under Subsection (2)(h) who, in an offense not amounting to a violation of Section 76-5-207:

(i) violates Subsection (2)(a)(i) by knowingly and intentionally having in the person's body any measurable amount of a controlled substance, except for 11-nor-9-carboxy-tetrahydrocannabinol; and

(ii) (A) if the controlled substance is not marijuana, operates a motor vehicle as defined in Section 76-5-207 in a negligent manner, causing serious bodily injury as defined in Section 76-1-601 or the death of another; or

(B) if the controlled substance is marijuana, operates a motor vehicle as defined in Section 76-5-207 in a criminally negligent manner, causing serious bodily injury as defined in Section 76-1-601 or the death of another.

(h) A person who violates Subsection (2)(g) by having in the person's body:

(i) a controlled substance classified under Schedule I, other than those described in Subsection (2)(h)(ii), or a controlled substance classified under Schedule II is guilty of a second degree felony;

(ii) except as provided in Subsection (2)(g)(ii)(B), marijuana, tetrahydrocannabinols, or equivalents described in Subsection 58-37-4(2)(a)(iii)(S) or (AA), or a substance listed in Section 58-37-4.2 is guilty of a third degree felony; or

(iii) a controlled substance classified under Schedules III, IV, or V is guilty of a class A misdemeanor.

(i) A person is guilty of a separate offense for each victim suffering serious bodily injury or death as a result of the person's negligent driving in violation of Subsection(2)(g) whether or not the injuries arise from the same episode of driving.

(j) The Administrative Office of the Courts shall report to the Division of Occupational and Professional Licensing the name, case number, date of conviction, and if known, the date of birth of each person convicted of violating Subsection (2)(a).

(3) Prohibited acts C -- Penalties:

(a) It is unlawful for a person knowingly and intentionally:

(i) to use in the course of the manufacture or distribution of a controlled substance a license number which is fictitious, revoked, suspended, or issued to another person or, for the purpose of obtaining a controlled substance, to assume the title of, or represent oneself to be, a manufacturer, wholesaler, apothecary, physician, dentist, veterinarian, or other authorized person;

(ii) to acquire or obtain possession of, to procure or attempt to procure the administration of, to obtain a prescription for, to prescribe or dispense to a person known to be attempting to acquire or obtain possession of, or to procure the administration of a controlled substance by misrepresentation or failure by the person to disclose receiving a controlled substance from another source, fraud, forgery, deception, subterfuge, alteration of a prescription or written order for a controlled substance, or the use of a false name or address;

(iii) to make a false or forged prescription or written order for a controlled substance, or to utter the same, or to alter a prescription or written order issued or written under the terms of this chapter; or

(iv) to make, distribute, or possess a punch, die, plate, stone, or other thing designed to print, imprint, or reproduce the trademark, trade name, or other identifying mark, imprint, or device of another or any likeness of any of the foregoing upon any drug or container or labeling so as to render a drug a counterfeit controlled substance.

(b) (i) A first or second conviction under Subsection (3)(a)(i), (ii), or (iii) is a class A misdemeanor.

(ii) A third or subsequent conviction under Subsection (3)(a)(i), (ii), or (iii) is a third degree felony.

(c) A violation of Subsection (3)(a)(iv) is a third degree felony.

(4) Prohibited acts D -- Penalties:

(a) Notwithstanding other provisions of this section, a person not authorized under this chapter who commits any act that is unlawful under Subsection (1)(a) or Section 58-37b-4 is upon conviction subject to the penalties and classifications under this Subsection (4) if the trier of fact finds the act is committed:

(i) in a public or private elementary or secondary school or on the grounds of any of those schools during the hours of 6 a.m. through 10 p.m.;

(ii) in a public or private vocational school or postsecondary institution or on the grounds of any of those schools or institutions during the hours of 6 a.m. through 10 p.m.;

(iii) in or on the grounds of a preschool or child-care facility during the preschool's or facility's hours of operation;

(iv) in a public park, amusement park, arcade, or recreation center when the public or amusement park, arcade, or recreation center is open to the public;

(v) in or on the grounds of a house of worship as defined in Section 76-10-501;

(vi) in or on the grounds of a library when the library is open to the public;

(vii) within an area that is within 100 feet of any structure, facility, or grounds included in Subsections (4)(a)(i), (ii), (iii), (iv), (v), and (vi);

(viii) in the presence of a person younger than 18 years of age, regardless of where the act occurs; or

(ix) for the purpose of facilitating, arranging, or causing the transport, delivery, or distribution of a substance in violation of this section to an inmate or on the grounds of a correctional facility as defined in Section 76-8-311.3.

(b) (i) A person convicted under this Subsection (4) is guilty of a first degree felony and shall be imprisoned for a term of not less than five years if the penalty that would otherwise have been established but for this Subsection (4) would have been a first degree felony.

(ii) Imposition or execution of the sentence may not be suspended, and the person is not eligible for probation.

(c) If the classification that would otherwise have been established would have been less than a first degree felony but for this Subsection (4), a person convicted under this Subsection (4) is guilty of one degree more than the maximum penalty prescribed for that offense. This Subsection (4)(c) does not apply to a violation of Subsection (2)(g).

(d) (i) If the violation is of Subsection (4)(a)(ix):

(A) the person may be sentenced to imprisonment for an indeterminate term as provided by law, and the court shall additionally sentence the person convicted for a term of one year to run consecutively and not concurrently; and

(B) the court may additionally sentence the person convicted for an indeterminate term not to exceed five years to run consecutively and not concurrently; and

(ii) the penalties under this Subsection (4)(d) apply also to a person who, acting with the mental state required for the commission of an offense, directly or indirectly solicits, requests, commands, coerces, encourages, or intentionally aids another person to commit a violation of Subsection (4)(a)(ix).

(e) It is not a defense to a prosecution under this Subsection (4) that:

(i) the actor mistakenly believed the individual to be 18 years [~~of age~~] old or older at the time of the offense or was unaware of the individual's true age; or

(ii) the actor mistakenly believed that the location where the act occurred was not as described in Subsection (4)(a) or was unaware that the location where the act occurred was as described in Subsection (4)(a).

(5) A violation of this chapter for which no penalty is specified is a class B misdemeanor.

(6) (a) For purposes of penalty enhancement under Subsections (1) and (2), a plea of guilty or no contest to a violation or attempted violation of this section or a plea which is held in abeyance under Title 77, Chapter 2a, Pleas in Abeyance, is the equivalent of a conviction, even if the charge has been subsequently reduced or dismissed in accordance with the plea in abeyance agreement.

(b) A prior conviction used for a penalty enhancement under Subsection (2) shall be a conviction that is:

(i) from a separate criminal episode than the current charge; and

(ii) from a conviction that is separate from any other conviction used to enhance the current charge.

(7) A person may be charged and sentenced for a violation of this section, notwithstanding a charge and sentence for a violation of any other section of this chapter.

(8) (a) A penalty imposed for violation of this section is in addition to, and not in lieu of, a civil or administrative penalty or sanction authorized by law.

(b) When a violation of this chapter violates a federal law or the law of another state, conviction or acquittal under federal law or the law of another state for the same act is a bar to prosecution in this state.

(9) In any prosecution for a violation of this chapter, evidence or proof that shows a person or persons produced, manufactured, possessed, distributed, or dispensed a controlled substance or substances, is prima facie evidence that the person or persons did so with knowledge of the character of the substance or substances.

(10) This section does not prohibit a veterinarian, in good faith and in the course of the veterinarian's professional practice only and not for humans, from prescribing, dispensing, or administering controlled substances or from causing the substances to be administered by an assistant or orderly under the veterinarian's direction and supervision.

(11) Civil or criminal liability may not be imposed under this section on:

(a) a person registered under this chapter who manufactures, distributes, or possesses an imitation controlled substance for use as a placebo or investigational new drug by a registered practitioner in the ordinary course of professional practice or research; or

(b) a law enforcement officer acting in the course and legitimate scope of the officer's employment.

(12) (a) Civil or criminal liability may not be imposed under this section on any Indian, as defined in Section 58-37-2, who uses, possesses, or transports peyote for bona fide traditional ceremonial purposes in connection with the practice of a traditional Indian religion as defined in Section 58-37-2.

(b) In a prosecution alleging violation of this section regarding peyote as defined in Section 58-37-4, it is an affirmative defense that the peyote was used, possessed, or transported by an Indian for bona fide traditional ceremonial purposes in connection with the practice of a traditional Indian religion.

(c) (i) The defendant shall provide written notice of intent to claim an affirmative defense under this Subsection (12) as soon as practicable, but not later than 10 days before trial.

(ii) The notice shall include the specific claims of the affirmative defense.

(iii) The court may waive the notice requirement in the interest of justice for good cause shown, if the prosecutor is not unfairly prejudiced by the lack of timely notice.

(d) The defendant shall establish the affirmative defense under this Subsection (12) by a preponderance of the evidence. If the defense is established, it is a complete defense to the charges.

(13) (a) It is an affirmative defense that the person produced, possessed, or administered a controlled substance listed in Section 58-37-4.2 if the person was:

(i) engaged in medical research; and

(ii) a holder of a valid license to possess controlled substances under Section 58-37-6.

(b) It is not a defense under Subsection (13)(a) that the person prescribed or dispensed a controlled substance listed in Section 58-37-4.2.

(14) It is an affirmative defense that the person possessed, in the person's body, a controlled substance listed in Section 58-37-4.2 if:

(a) the person was the subject of medical research conducted by a holder of a valid license to possess controlled substances under Section 58-37-6; and

(b) the substance was administered to the person by the medical researcher.

(15) The application of any increase in penalty under this section to a violation of Subsection (2)(a)(i) may not result in any greater penalty than a second degree felony. This Subsection (15) takes

precedence over any conflicting provision of this section.

(16) (a) It is an affirmative defense to an allegation of the commission of an offense listed in Subsection (16)(b) that the person or bystander:

(i) reasonably believes that the person or another person is experiencing an overdose event due to the ingestion, injection, inhalation, or other introduction into the human body of a controlled substance or other substance;

(ii) reports, or assists a person who reports, in good faith the overdose event to a medical provider, an emergency medical service provider as defined in Section 26-8a-102, a law enforcement officer, a 911 emergency call system, or an emergency dispatch system, or the person is the subject of a report made under this Subsection (16);

(iii) provides in the report under Subsection (16)(a)(ii) a functional description of the actual location of the overdose event that facilitates responding to the person experiencing the overdose event;

(iv) remains at the location of the person experiencing the overdose event until a responding law enforcement officer or emergency medical service provider arrives, or remains at the medical care facility where the person experiencing an overdose event is located until a responding law enforcement officer arrives;

(v) cooperates with the responding medical provider, emergency medical service provider, and law enforcement officer, including providing information regarding the person experiencing the overdose event and any substances the person may have injected, inhaled, or otherwise introduced into the person's body; and

(vi) is alleged to have committed the offense in the same course of events from which the reported overdose arose.

(b) The offenses referred to in Subsection (16)(a) are:

(i) the possession or use of less than 16 ounces of marijuana;

(ii) the possession or use of a scheduled or listed controlled substance other than marijuana; and

(iii) any violation of Chapter 37a, Utah Drug Paraphernalia Act, or Chapter 37b, Imitation Controlled Substances Act.

(c) As used in this Subsection (16) and in Section 76-3-203.11, "good faith" does not include seeking medical assistance under this section during the course of a law enforcement agency's execution of a search warrant, execution of an arrest warrant, or other lawful search.

(17) If any provision of this chapter, or the application of any provision to any person or circumstances, is held invalid, the remainder of this chapter shall be given effect without the invalid provision or application.

(18) A legislative body of a political subdivision may not enact an ordinance that is less restrictive than any provision of this chapter.

(19) If a minor who is under 18 years [~~of age~~] old is found by a court to have violated this section, the court may order the minor to complete:

(a) a screening as defined in Section 41-6a-501;

(b) an assessment as defined in Section 41-6a-501 if the screening indicates an assessment to be appropriate; and

(c) an educational series as defined in Section 41-6a-501 or substance use disorder treatment as indicated by an assessment.

CHAPTER 237
S. B. 109
Passed February 17, 2021
Approved March 16, 2021
Effective May 5, 2021

EMERGENCY SERVICES AMENDMENTS

Chief Sponsor: Wayne A. Harper
House Sponsor: Stephen G. Handy

LONG TITLE

General Description:

This bill modifies certification provisions for emergency medical responders.

Highlighted Provisions:

This bill:

- directs the State Emergency Medical Services Committee to establish certification requirements;
- applies existing liability protections to individuals certified by the State Emergency Medical Services Committee;
- amends the background check requirements for individuals certified by the State Emergency Medical Services Committee;
- addresses the certification and accreditation authority of the Utah Fire Prevention Board; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:
26-8a-102, as last amended by Laws of Utah 2019, Chapter 265
26-8a-103, as last amended by Laws of Utah 2017, Chapters 326 and 336
26-8a-104, as last amended by Laws of Utah 2017, Chapter 326
26-8a-301, as last amended by Laws of Utah 2019, Chapter 265
26-8a-302, as last amended by Laws of Utah 2017, Chapter 326
26-8a-306, as enacted by Laws of Utah 1999, Chapter 141
26-8a-310, as last amended by Laws of Utah 2020, Chapter 150
26-8a-502, as last amended by Laws of Utah 2017, Chapter 326
26-8a-601, as last amended by Laws of Utah 2019, Chapter 349
53-7-204, as last amended by Laws of Utah 2020, Chapters 365, 403 and last amended by Coordination Clause, Laws of Utah 2020, Chapter 403

ENACTS:
26-8a-310.5, Utah Code Annotated 1953

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

Section 1. Section 26-8a-102 is amended to read:

26-8a-102. Definitions.

As used in this chapter:

(1) (a) "911 ambulance or paramedic services" means:

(i) either:

(A) 911 ambulance service;

(B) 911 paramedic service; or

(C) both 911 ambulance and paramedic service; and

(ii) a response to a 911 call received by a designated dispatch center that receives 911 or E911 calls.

(b) "911 ambulance or paramedic service" does not mean a seven or ten digit telephone call received directly by an ambulance provider licensed under this chapter.

(2) "Ambulance" means a ground, air, or water vehicle that:

(a) transports patients and is used to provide emergency medical services; and

(b) is required to obtain a permit under Section 26-8a-304 to operate in the state.

(3) "Ambulance provider" means an emergency medical service provider that:

(a) transports and provides emergency medical care to patients; and

(b) is required to obtain a license under Part 4, Ambulance and Paramedic Providers.

(4) "Committee" means the State Emergency Medical Services Committee created by Section 26-1-7.

(5) "Direct medical observation" means in-person observation of a patient by a physician, registered nurse, physician's assistant, or individual licensed under Section 26-8a-302.

(6) "Emergency medical condition" means:

(a) a medical condition that manifests itself by symptoms of sufficient severity, including severe pain, that a prudent layperson, who possesses an average knowledge of health and medicine, could reasonably expect the absence of immediate medical attention to result in:

(i) placing the individual's health in serious jeopardy;

(ii) serious impairment to bodily functions; or

(iii) serious dysfunction of any bodily organ or part; or

(b) a medical condition that in the opinion of a physician or [~~his~~] the physician's designee requires direct medical observation during transport or may

require the intervention of an individual licensed under Section 26-8a-302 during transport.

[~~(7) "Emergency medical service personnel":~~]

[~~(a)~~] (7) (a) "Emergency medical service personnel" means an individual who provides emergency medical services to a patient and is required to be licensed or certified under Section 26-8a-302[~~; and~~].

(b) "Emergency medical service personnel" includes a paramedic, medical director of a licensed emergency medical service provider, emergency medical service instructor, [~~and~~] other categories established by the committee, and a certified emergency medical dispatcher.

(8) "Emergency medical service providers" means:

(a) licensed ambulance providers and paramedic providers;

(b) a facility or provider that is required to be designated under Subsection 26-8a-303(1)(a); and

(c) emergency medical service personnel.

(9) "Emergency medical services" means medical services, transportation services, or both rendered to a patient.

(10) "Emergency medical service vehicle" means a land, air, or water vehicle that is:

(a) maintained and used for the transportation of emergency medical personnel, equipment, and supplies to the scene of a medical emergency; and

(b) required to be permitted under Section 26-8a-304.

(11) "Governing body":

(a) [~~is as~~] means the same as that term is defined in Section 11-42-102; and

(b) for purposes of a "special service district" under Section 11-42-102, means a special service district that has been delegated the authority to select a provider under this chapter by the special service district's legislative body or administrative control board.

(12) "Interested party" means:

(a) a licensed or designated emergency medical services provider that provides emergency medical services within or in an area that abuts an exclusive geographic service area that is the subject of an application submitted pursuant to Part 4, Ambulance and Paramedic Providers;

(b) any municipality, county, or fire district that lies within or abuts a geographic service area that is the subject of an application submitted pursuant to Part 4, Ambulance and Paramedic Providers; or

(c) the department when acting in the interest of the public.

(13) "Medical control" means a person who provides medical supervision to an emergency medical service provider.

(14) "Non-911 service" means transport of a patient that is not 911 transport under Subsection (1).

(15) "Nonemergency secured behavioral health transport" means an entity that:

(a) provides nonemergency secure transportation services for an individual who:

(i) is not required to be transported by an ambulance under Section 26-8a-305; and

(ii) requires behavioral health observation during transport between any of the following facilities:

(A) a licensed acute care hospital;

(B) an emergency patient receiving facility;

(C) a licensed mental health facility; and

(D) the office of a licensed health care provider; and

(b) is required to be designated under Section 26-8a-303.

(16) "Paramedic provider" means an entity that:

(a) employs emergency medical service personnel; and

(b) is required to obtain a license under Part 4, Ambulance and Paramedic Providers.

(17) "Patient" means an individual who, as the result of illness or injury, meets any of the criteria in Section 26-8a-305.

(18) "Political subdivision" means:

(a) a city or town located in a county of the first or second class as defined in Section 17-50-501;

(b) a county of the first or second class;

(c) the following districts located in a county of the first or second class:

(i) a special service district created under Title 17D, Chapter 1, Special Service District Act; or

(ii) a local district under Title 17B, Limited Purpose Local Government Entities - Local Districts, for the purpose of providing fire protection, paramedic, and emergency services;

(d) areas coming together as described in Subsection 26-8a-405.2(2)(b)(ii);

(e) an interlocal entity under Title 11, Chapter 13, Interlocal Cooperation Act; or

(f) a special service district for fire protection service under Subsection 17D-1-201(9).

(19) "Trauma" means an injury requiring immediate medical or surgical intervention.

(20) "Trauma system" means a single, statewide system that:

(a) organizes and coordinates the delivery of trauma care within defined geographic areas from the time of injury through transport and rehabilitative care; and

(b) is inclusive of all prehospital providers, hospitals, and rehabilitative facilities in delivering care for trauma patients, regardless of severity.

(21) "Triage" means the sorting of patients in terms of disposition, destination, or priority. For prehospital trauma victims, triage requires a determination of injury severity to assess the appropriate level of care according to established patient care protocols.

(22) "Triage, treatment, transportation, and transfer guidelines" means written procedures that:

(a) direct the care of patients; and

(b) are adopted by the medical staff of an emergency patient receiving facility, trauma center, or an emergency medical service provider.

Section 2. Section 26-8a-103 is amended to read:

26-8a-103. State Emergency Medical Services Committee -- Membership -- Expenses.

(1) The State Emergency Medical Services Committee created by Section 26-1-7 shall be composed of the following 17 members appointed by the governor, at least six of whom shall reside in a county of the third, fourth, fifth, or sixth class:

(a) five physicians licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act, as follows:

(i) one surgeon who actively provides trauma care at a hospital;

(ii) one rural physician involved in emergency medical care;

(iii) two physicians who practice in the emergency department of a general acute hospital; and

(iv) one pediatrician who practices in the emergency department or critical care unit of a general acute hospital or a children's specialty hospital;

(b) two representatives from private ambulance providers;

(c) one representative from an ambulance provider that is neither privately owned nor operated by a fire department;

(d) two chief officers from fire agencies operated by the following classes of licensed or designated emergency medical services providers: municipality, county, and fire district, provided that no class of medical services providers may have more than one representative under this Subsection (1)(d);

(e) one director of a law enforcement agency that provides emergency medical services;

(f) one hospital administrator;

(g) one emergency care nurse;

(h) one paramedic in active field practice;

(i) one emergency medical technician in active field practice;

(j) one [~~licensed~~] certified emergency medical dispatcher affiliated with an emergency medical dispatch center; and

(k) one consumer.

(2) (a) Except as provided in Subsection (2)(b), members shall be appointed to a four-year term beginning July 1.

(b) Notwithstanding Subsection (2)(a), the governor:

(i) shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of committee members are staggered so that approximately half of the committee is appointed every two years;

(ii) may not reappoint a member for more than two consecutive terms; and

(iii) shall:

(A) initially appoint the second member under Subsection (1)(b) from a different private provider than the private provider currently serving under Subsection (1)(b); and

(B) thereafter stagger each replacement of a member in Subsection (1)(b) so that the member positions under Subsection (1)(b) are not held by representatives of the same private provider.

(c) When a vacancy occurs in the membership for any reason, the replacement shall be appointed by the governor for the unexpired term.

(3) (a) (i) Each January, the committee shall organize and select one of [~~its~~] the committee's members as chair and one member as vice chair.

(ii) The committee may organize standing or ad hoc subcommittees, which shall operate in accordance with guidelines established by the committee.

(b) (i) The chair shall convene a minimum of four meetings per year.

(ii) The chair may call special meetings.

(iii) The chair shall call a meeting upon request of five or more members of the committee.

(c) (i) Nine members of the committee constitute a quorum for the transaction of business [~~and the~~].

(ii) The action of a majority of the members present is the action of the committee.

(4) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

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

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

(5) Administrative services for the committee shall be provided by the department.

Section 3. Section 26-8a-104 is amended to read:

26-8a-104. Committee advisory duties.

The committee shall adopt rules, with the concurrence of the department, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

(1) establish licensure, certification, and reciprocity requirements under Section 26-8a-302;

(2) establish designation requirements under Section 26-8a-303;

(3) promote the development of a statewide emergency medical services system under Section 26-8a-203;

(4) establish insurance requirements for ambulance providers;

(5) provide guidelines for requiring patient data under Section 26-8a-203;

(6) establish criteria for awarding grants under Section 26-8a-207;

(7) establish requirements for the coordination of emergency medical services and the medical supervision of emergency medical service providers under Section 26-8a-306; [~~and~~]

(8) select appropriate vendors to establish certification requirements for emergency medical dispatchers; and

[~~(8)~~] (9) are necessary to carry out the responsibilities of the committee as specified in other sections of this chapter.

Section 4. Section 26-8a-301 is amended to read:

26-8a-301. General requirement.

(1) Except as provided in Section 26-8a-308 or 26-8b-201:

(a) an individual may not provide emergency medical services without a license or certification issued under Section 26-8a-302;

(b) a facility or provider may not hold itself out as a designated emergency medical service provider or nonemergency secured behavioral health transport provider without a designation issued under Section 26-8a-303;

(c) a vehicle may not operate as an ambulance, emergency response vehicle, or nonemergency secured behavioral health transport vehicle without a permit issued under Section 26-8a-304; and

(d) an entity may not respond as an ambulance or paramedic provider without the appropriate license issued under Part 4, Ambulance and Paramedic Providers.

(2) Section 26-8a-502 applies to violations of this section.

Section 5. Section 26-8a-302 is amended to read:

26-8a-302. Licensure or certification of emergency medical service personnel.

(1) To promote the availability of comprehensive emergency medical services throughout the state, the committee shall establish:

(a) initial and ongoing licensure and training requirements for emergency medical service personnel in the following categories:

(i) paramedic;

(ii) medical director;

(iii) emergency medical service instructor; and

(iv) except emergency medical dispatchers, other types of emergency medical service personnel as the committee considers necessary; [~~and~~]

(b) a method to monitor the certification status and continuing medical education hours for emergency medical dispatchers; and

[~~(b)~~] (c) guidelines for giving credit for out-of-state training and experience.

(2) The department shall, based on the requirements established in Subsection (1):

(a) develop, conduct, and authorize training and testing for emergency medical service personnel; [~~and~~]

(b) issue a license and license renewals to emergency medical service personnel[~~.~~] other than emergency medical dispatchers; and

(c) verify the certification of emergency medical dispatchers.

(3) As provided in Section 26-8a-502, an individual issued a license or certified under this section may only provide emergency medical services to the extent allowed by the license or certification.

(4) An individual may not be issued or retain a license under this section unless the individual obtains and retains background clearance under Section 26-8a-310.

(5) An individual may not be issued or retain a certification under this section unless the individual obtains and retains background clearance in accordance with Section 26-8a-310.5.

Section 6. Section 26-8a-306 is amended to read:

26-8a-306. Medical control.

(1) The committee shall establish requirements for the coordination of emergency medical services rendered by emergency medical service providers, including the coordination between prehospital providers, hospitals, emergency patient receiving facilities, and other appropriate destinations.

(2) The committee [~~may~~] shall establish requirements for the medical supervision of emergency medical service providers to assure adequate physician oversight of emergency medical services and quality improvement.

Section 7. Section 26-8a-310 is amended to read:

26-8a-310. Background clearance for emergency medical service personnel.

(1) [~~The~~] Subject to Section 26-8a-310.5, the department shall determine whether to grant background clearance for an individual seeking licensure or certification under Section 26-8a-302 from whom [~~it~~] the department receives:

(a) the individual's social security number, fingerprints, and other personal identification information specified by the department under Subsection (4); and

(b) any fees established by the department under Subsection (10).

(2) The department shall determine whether to deny or revoke background clearance for individuals for whom [~~it~~] the department has previously granted background clearance.

(3) The department shall determine whether to grant, deny, or revoke background clearance for an individual based on an initial and ongoing evaluation of information the department obtains under Subsections (5) and (11), which, at a minimum, shall include an initial criminal background check of state, regional, and national databases using the individual's fingerprints.

(4) The department shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that specify:

(a) the criteria the department will use under Subsection (3) to determine whether to grant, deny, or revoke background clearance; and

(b) the other personal identification information an individual seeking licensure or certification under Section 26-8a-302 must submit under Subsection (1).

(5) To determine whether to grant, deny, or revoke background clearance, the department may access and evaluate any of the following:

(a) Department of Public Safety arrest, conviction, and disposition records described in Title 53, Chapter 10, Criminal Investigations and Technical Services Act, including information in state, regional, and national records files;

(b) adjudications by a juvenile court of committing an act that if committed by an adult would be a felony or misdemeanor, if:

(i) the applicant is under 28 years [~~of age~~] old; or

(ii) the applicant:

(A) is over 28 years [~~of age~~] old; and

(B) has been convicted of, has pleaded no contest to, or is currently subject to a plea in abeyance or diversion agreement for a felony or misdemeanor;

(c) juvenile court arrest, adjudication, and disposition records, other than those under Subsection (5)(b), as allowed under Section 78A-6-209;

(d) child abuse or neglect findings described in Section 78A-6-323;

(e) the Department of Human Services' Division of Child and Family Services Licensing Information System described in Section 62A-4a-1006;

(f) the Department of Human Services' Division of Aging and Adult Services database of reports of vulnerable adult abuse, neglect, or exploitation, described in Section 62A-3-311.1;

(g) Division of Occupational and Professional Licensing records of licensing and certification under Title 58, Occupations and Professions;

(h) records in other federal criminal background databases available to the state; and

(i) any other records of arrests, warrants for arrest, convictions, pleas in abeyance, pending diversion agreements, or dispositions.

(6) Except for the Department of Public Safety, an agency may not charge the department for information accessed under Subsection (5).

(7) When evaluating information under Subsection (3), the department shall classify a crime committed in another state according to the closest matching crime under Utah law, regardless of how the crime is classified in the state where the crime was committed.

(8) The department shall adopt measures to protect the security of information [~~it~~] the department accesses under Subsection (5), which shall include limiting access by department employees to those responsible for acquiring, evaluating, or otherwise processing the information.

(9) The department may disclose personal identification information [~~it~~] the department receives under Subsection (1) to the Department of Human Services to verify that the subject of the information is not identified as a perpetrator or offender in the information sources described in Subsections (5)(d) through (f).

(10) The department may charge fees, in accordance with Section 63J-1-504, to pay for:

(a) the cost of obtaining, storing, and evaluating information needed under Subsection (3), both initially and on an ongoing basis, to determine whether to grant, deny, or revoke background clearance; and

(b) other department costs related to granting, denying, or revoking background clearance.

(11) The Criminal Investigations and Technical Services Division within the Department of Public Safety shall:

(a) retain, separate from other division records, personal information under Subsection (1), including any fingerprints sent to it by the Department of Health; and

(b) notify the Department of Health upon receiving notice that an individual for whom personal information has been retained is the subject of:

(i) a warrant for arrest;

(ii) an arrest;

(iii) a conviction, including a plea in abeyance; or

(iv) a pending diversion agreement.

(12) The department shall use the Direct Access Clearance System database created under Section 26-21-209 to manage information about the background clearance status of each individual for whom the department is required to make a determination under Subsection (1).

(13) Clearance granted for an individual licensed or certified under Section 26-8a-302 is valid until two years after the day on which the individual is no longer licensed or certified in Utah as emergency medical service personnel.

Section 8. Section 26-8a-310.5 is enacted to read:

26-8a-310.5. Background check requirements for emergency medical dispatchers.

An emergency medical dispatcher seeking certification under Section 26-8a-302 shall undergo the background clearance process described in Subsection 26-8a-310 unless the emergency medical dispatcher can demonstrate that the emergency medical dispatcher has received and currently holds an approved Department of Public Safety background clearance.

Section 9. Section 26-8a-502 is amended to read:

26-8a-502. Illegal activity.

(1) Except as provided in Section 26-8a-308 or 26-8b-201, a person may not:

(a) practice or engage in the practice, represent that the person is practicing or engaging in the practice, or attempt to practice or engage in the practice of any activity that requires a license, certification, or designation under this chapter unless that person is licensed, certified, or designated under this chapter; or

(b) offer an emergency medical service that requires a license, certification, or designation under this chapter unless the person is licensed, certified, or designated under this chapter.

(2) A person may not advertise or represent that the person holds a license, certification, or designation required under this chapter, unless that person holds the license, certification, or designation under this chapter.

(3) A person may not employ or permit any employee to perform any service for which a license or certification is required by this chapter, unless the person performing the service possesses the required license or certification under this chapter.

(4) A person may not wear, display, sell, reproduce, or otherwise use any Utah Emergency Medical Services insignia without authorization from the department.

(5) A person may not reproduce or otherwise use materials developed by the department for licensure or certification testing or examination without authorization from the department.

(6) A person may not willfully summon an ambulance or emergency response vehicle or report that one is needed when the person knows that the ambulance or emergency response vehicle is not needed.

(7) A person who violates this section is subject to Section 26-23-6.

Section 10. Section 26-8a-601 is amended to read:

26-8a-601. Persons and activities exempt from civil liability.

(1) (a) Except as provided in Subsection (1)(b), a licensed physician, physician's assistant, or licensed registered nurse who, gratuitously and in good faith, gives oral or written instructions to any of the following is not liable for any civil damages as a result of issuing the instructions:

(i) an individual licensed or certified under Section 26-8a-302;

(ii) [~~a person~~] an individual who uses a fully automated external defibrillator, as defined in Section 26-8b-102; or

(iii) [~~a person~~] an individual who administers CPR, as defined in Section 26-8b-102.

(b) The liability protection described in Subsection (1)(a) does not apply if the instructions given were the result of gross negligence or willful misconduct.

(2) An individual licensed or certified under Section 26-8a-302, during either training or after licensure or certification, a licensed physician, a physician assistant, or a registered nurse who, gratuitously and in good faith, provides emergency medical instructions or renders emergency medical care authorized by this chapter is not liable for any civil damages as a result of any act or omission in providing the emergency medical instructions or medical care, unless the act or omission is the result of gross negligence or willful misconduct.

(3) An individual licensed or certified under Section 26-8a-302 is not subject to civil liability for failure to obtain consent in rendering emergency medical services authorized by this chapter to any individual who is unable to give his consent, regardless of the individual's age, where there is no other person present legally authorized to consent to emergency medical care, provided that the licensed individual acted in good faith.

(4) A principal, agent, contractor, employee, or representative of an agency, organization, institution, corporation, or entity of state or local government that sponsors, authorizes, supports, finances, or supervises any functions of an individual licensed or certified under Section 26-8a-302 is not liable for any civil damages for any act or omission in connection with [~~such~~] the sponsorship, authorization, support, finance, or supervision of the licensed or certified individual where the act or omission occurs in connection with the licensed or certified individual's training or occurs outside a hospital where the life of a patient is in immediate danger, unless the act or omission is inconsistent with the training of the licensed or certified individual, and unless the act or omission is the result of gross negligence or willful misconduct.

(5) A physician or physician assistant who gratuitously and in good faith arranges for, requests, recommends, or initiates the transfer of a patient from a hospital to a critical care unit in another hospital is not liable for any civil damages as a result of such transfer where:

(a) sound medical judgment indicates that the patient's medical condition is beyond the care capability of the transferring hospital or the medical community in which that hospital is located; and

(b) the physician or physician assistant has secured an agreement from the receiving facility to accept and render necessary treatment to the patient.

(6) [~~A person~~] An individual who is a registered member of the National Ski Patrol System (NSPS) or a member of a ski patrol who has completed a course in winter emergency care offered by the NSPS combined with CPR for medical technicians offered by the American Red Cross or American Heart Association, or an equivalent course of instruction, and who in good faith renders emergency care in the course of ski patrol duties is not liable for civil damages as a result of any act or omission in rendering the emergency care, unless the act or omission is the result of gross negligence or willful misconduct.

(7) An emergency medical service provider who, in good faith, transports an individual against his will but at the direction of a law enforcement officer pursuant to Section 62A-15-629 is not liable for civil damages for transporting the individual.

Section 11. Section 53-7-204 is amended to read:

53-7-204. Duties of Utah Fire Prevention Board -- Unified Code Analysis Council -- Local administrative duties.

(1) The board shall:

(a) administer the state fire code as the standard in the state;

(b) subject to the state fire code, make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(i) establishing standards for the prevention of fire and for the protection of life and property against fire and panic in any:

(A) publicly owned building, including all public and private schools, colleges, and university buildings;

(B) building or structure used or intended for use as an asylum, a mental hospital, a hospital, a sanitarium, a home for the elderly, an assisted living facility, a children's home or day care center, or any building or structure used for a similar purpose; or

(C) place of assemblage where 50 or more persons may gather together in a building, structure, tent, or room for the purpose of amusement, entertainment, instruction, or education;

(ii) establishing safety and other requirements for placement and discharge of display fireworks on the basis of:

(A) the state fire code; and

(B) relevant publications of the National Fire Protection Association;

(iii) establishing safety standards for retail storage, handling, and sale of class C common state approved explosives;

(iv) defining methods to establish proof of competence to place and discharge display fireworks, special effects fireworks, and flame effects;

(v) subject to Subsection (2), creating a uniform statewide policy regarding a state, county, special district, and local government entity's safe seizure, storage, and repurposing, destruction, or disposal of a firework, class A explosive, or class B explosive that:

(A) is illegal; or

(B) a person uses or handles in an illegal manner;

(vi) deputizing qualified persons to act as deputy fire marshals, and to secure special services in emergencies;

(vii) implementing Section 15A-1-403;

[~~(viii) setting guidelines for use of funding;~~]

(viii) establishing criteria for the certification of firefighters, pump operators, instructors, fire officers, fire investigators, and rescue personnel not certified or licensed under any other section of the Utah Code;

(ix) establishing criteria for training and safety equipment grants for fire departments enrolled in firefighter certification;

(x) establishing ongoing training standards for hazardous materials emergency response agencies; [~~and~~]

(xi) establishing criteria for the fire safety inspection of a food truck; and

(xii) establishing criteria for the accreditation and reaccreditation of fire service training organizations;

(c) recommend to the commissioner a state fire marshal;

(d) develop policies under which the state fire marshal and the state fire marshal's authorized representatives will perform;

(e) provide for the employment of field assistants and other salaried personnel as required;

(f) prescribe the duties of the state fire marshal and the state fire marshal's authorized representatives;

(g) provide technical expertise, advice, and support to Utah Valley University in the establishment and operation of the fire and rescue training program described in Section 53B-29-202;

(h) establish a statewide fire statistics program for the purpose of gathering fire data from all political subdivisions of the state;

(i) coordinate the efforts of all people engaged in fire suppression in the state;

(j) work aggressively with the local political subdivisions to reduce fire losses;

(k) regulate the sale and servicing of portable fire extinguishers and automatic fire suppression systems in the interest of safeguarding lives and property;

(l) establish a certification program for persons who inspect and test automatic fire sprinkler systems;

(m) establish a certification program for persons who inspect and test fire alarm systems;

(n) establish a certification for persons who provide response services regarding hazardous materials emergencies;

(o) in accordance with Sections 15A-1-403 and 68-3-14, submit a written report to the Business and Labor Interim Committee; and

(p) jointly create the Unified Code Analysis Council with the Uniform Building Code Commission in accordance with Section 15A-1-203.

(2) (a) In the rules that the board makes under Subsection (1)(b)(v), the board shall include a provision prohibiting a state, county, special district, or local government entity from disposing of an item described in Subsection (1)(b)(v) by means of open burning, except under circumstances described in the rule.

(b) When making a rule under Subsection (1)(b)(v), the board shall:

(i) review and include applicable references to:

(A) requirements described in Title 15A, Chapter 5, State Fire Code Act; and

(B) provisions of the International Fire Code; and

(ii) consider the appropriate role of the following in relation to the rule:

(A) the federal Bureau of Alcohol, Tobacco, Firearms, and Explosives; and

(B) a firework wholesaler or distributor.

(3) The board may incorporate in its rules by reference, in whole or in part:

(a) the state fire code; or

(b) subject to the state fire code, a nationally recognized and readily available standard pertaining to the protection of life and property from fire, explosion, or panic.

(4) The following functions shall be administered locally by a city, county, or fire protection district:

(a) issuing permits, including open burning permits pursuant to Sections 11-7-1 and 19-2-114;

(b) creating a local board of appeals in accordance with the state fire code; and

(c) subject to the state fire code and the other provisions of this chapter, establishing, modifying, or deleting fire flow and water supply requirements.

CHAPTER 238
S. B. 110
Passed February 26, 2021
Approved March 16, 2021
Effective May 5, 2021

TAX COMMISSION APPEAL AMENDMENTS

Chief Sponsor: Lincoln Fillmore
House Sponsor: Stewart E. Barlow

LONG TITLE

General Description:

This bill modifies provisions related to judicial review of a decision of the State Tax Commission.

Highlighted Provisions:

This bill:

- requires the State Tax Commission to stay a property tax appeal that is before the commission, if a commission decision involving the same taxpayer, the same legal issue or valuation principle, and to a material degree the same facts is before a court on judicial review.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

59–1–613, Utah Code Annotated 1953

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

Section 1. Section 59-1-613 is enacted to read:

59-1-613. Judicial review -- Mandatory stay of certain commission cases.

(1) Unless all parties otherwise agree, upon request, the commission shall stay an appeal of the valuation or equalization of real or personal property, if:

(a) a commission decision on the valuation or equalization of real or personal property is under judicial review; and

(b) the commission decision described in Subsection (1)(a) and the pending commission appeal involve the same:

(i) taxpayer;

(ii) legal issue or valuation principle; and

(iii) to a material degree, facts.

(2) An appeal stayed in accordance with Subsection (1) is stayed until the court issues a final decision after judicial review of the commission decision.

CHAPTER 239
S. B. 113
Passed March 5, 2021
Approved March 16, 2021
Effective May 5, 2021

TRANSPORTATION AMENDMENTS

Chief Sponsor: Wayne A. Harper
House Sponsor: Kay J. Christofferson

LONG TITLE

General Description:

This bill amends provisions related to transportation, public transit, towing, and other related items.

Highlighted Provisions:

This bill:

- amends provisions related to the service of a member of the board of trustees of a large public transit district;
- modifies provisions related to the costs of repair or replacement of damaged public property;
- changes the rulemaking authority related to school bus safety from the Department of Transportation to the Department of Public Safety;
- allows the Department of Public Safety to issue a request for information to evaluate options for creating a pilot program related to contracting with a towing management company and requires the department to report to the Transportation Interim Committee;
- removes the requirement for certain vehicles transporting livestock to stop at a port-of-entry;
- amends provisions related to the use of certain funds for public transit projects that increase capacity; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

17B-2a-807.1, as last amended by Laws of Utah 2019, Chapter 479
17B-2a-808.1, as last amended by Laws of Utah 2020, Chapter 377
41-6a-409, as last amended by Laws of Utah 2017, Chapter 142
41-6a-1304, as last amended by Laws of Utah 2008, Chapter 382
63I-2-253, as last amended by Laws of Utah 2020, Sixth Special Session, Chapter 13
72-1-304, as last amended by Laws of Utah 2020, Chapter 377
72-2-121, as last amended by Laws of Utah 2020, Fifth Special Session, Chapter 20
72-2-124, as last amended by Laws of Utah 2020, Chapters 366 and 377
72-7-301, as renumbered and amended by Laws of Utah 1998, Chapter 270
72-9-501, as last amended by Laws of Utah 2008, Chapter 284
72-9-502, as last amended by Laws of Utah 2019, Chapter 251

ENACTS:

53-1-106.1, Utah Code Annotated 1953

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

Section 1. Section 17B-2a-807.1 is amended to read:

17B-2a-807.1. Large public transit district board of trustees -- Appointment -- Quorum -- Compensation -- Terms.

(1) (a) For a large public transit district, the board of trustees shall consist of three members appointed as described in Subsection (1)(b).

(b) (i) The governor, with advice and consent of the Senate, shall appoint the members of the board of trustees, making an appointment from nominations given from each region created in Subsection (1)(b)(ii).

(ii) (A) Before creation of a large public transit district, the political subdivision or subdivisions forming the large public transit district shall submit to the Legislature for approval a proposal for the creation of three regions for nominating members to the board of trustees of the large public transit district.

(B) For a large public transit district created after January 1, 2019, the Legislature, after receiving and considering the proposal described in Subsection (1)(b)(ii)(A), shall designate three regions for nominating members to the board of trustees of the large public transit district, and further describe the process for nomination for appointment to the board of trustees.

(c) Each nominee shall be a qualified executive with technical and administrative experience and training appropriate for the position.

(d) The board of trustees of a large public transit district shall be full-time employees of the public transit district.

(e) The compensation package for the board of trustees shall be determined by a local advisory council as described in Section 17B-2a-808.2.

(f) (i) Subject to Subsection (1)(f)(iii), for a board of trustees of a large public transit district, "quorum" means at least two members of the board of trustees.

(ii) Action by a majority of a quorum constitutes an action of the board of trustees.

(iii) A meeting of a quorum of the board of trustees of a large public transit district is subject to Section 52-4-103 regarding convening of a three-member board of trustees and what constitutes a public meeting.

(2) (a) Subject to Subsections (3), (4), and [~~(4)~~] (7), each member of the board of trustees of a large public transit district shall serve for a term of four years.

(b) A member of the board of trustees may serve an unlimited number of terms.

(3) Each member of the board of trustees of a large public transit district shall serve at the pleasure of the governor.

(4) The first time the board of trustees is appointed under this section, the governor shall stagger the initial term of each of the members of the board of trustees as follows:

(a) one member of the board of trustees shall serve an initial term of two years;

(b) one member of the board of trustees shall serve an initial term of three years; and

(c) one member of the board of trustees shall serve an initial term of four years.

(5) The governor shall designate one member of the board of trustees as chair of the board of trustees.

(6) (a) If a vacancy occurs, the nomination and appointment procedures to replace the individual shall occur in the same manner described in Subsection (1) for the member creating the vacancy.

(b) A replacement board member shall serve for the remainder of the unexpired term, but may serve an unlimited number of terms as provided in Subsection (2)(b).

(c) If the nominating officials under Subsection (1) do not nominate to fill the vacancy within 60 days, the governor shall appoint an individual to fill the vacancy.

(7) Each board of trustees member shall serve until a successor is duly nominated, appointed, and qualified, unless the board of trustees member is removed from office or resigns or otherwise leaves office.

Section 2. Section 17B-2a-808.1 is amended to read:

17B-2a-808.1. Large public transit district board of trustees powers and duties -- Adoption of ordinances, resolutions, or orders -- Effective date of ordinances.

(1) The powers and duties of a board of trustees of a large public transit district stated in this section are in addition to the powers and duties stated in Section 17B-1-301.

(2) The board of trustees of each large public transit district shall:

(a) hold public meetings and receive public comment;

(b) ensure that the policies, procedures, and management practices established by the public transit district meet state and federal regulatory requirements and federal grantee eligibility;

(c) subject to Subsection (8), create and approve an annual budget, including the issuance of bonds and other financial instruments, after consultation with the local advisory council;

(d) approve any interlocal agreement with a local jurisdiction;

(e) in consultation with the local advisory council, approve contracts and overall property acquisitions and dispositions for transit-oriented development;

(f) in consultation with constituent counties, municipalities, metropolitan planning organizations, and the local advisory council:

(i) develop and approve a strategic plan for development and operations on at least a four-year basis; and

(ii) create and pursue funding opportunities for transit capital and service initiatives to meet anticipated growth within the public transit district;

(g) annually report the public transit district's long-term financial plan to the State Bonding Commission;

(h) annually report the public transit district's progress and expenditures related to state resources to the Executive Appropriations Committee and the Infrastructure and General Government Appropriations Subcommittee;

(i) annually report to the Transportation Interim Committee the public transit district's efforts to engage in public-private partnerships for public transit services;

[~~(j) (i) in partnership with the Department of Transportation, study and evaluate the feasibility of a strategic transition of a large public transit district into a state entity; and~~]

[~~(ii) in partnership with the Department of Transportation, before November 30, 2019, report on the progress of the study to the Transportation Interim Committee and the Infrastructure and General Government Appropriations Subcommittee;~~]

[~~(k)~~] (j) hire, set salaries, and develop performance targets and evaluations for:

(i) the executive director; and

(ii) all chief level officers;

[~~(l)~~] (k) supervise and regulate each transit facility that the public transit district owns and operates, including:

(i) fix rates, fares, rentals, charges and any classifications of rates, fares, rentals, and charges; and

(ii) make and enforce rules, regulations, contracts, practices, and schedules for or in connection with a transit facility that the district owns or controls;

[~~(m)~~] (l) subject to Subsection (4), control the investment of all funds assigned to the district for investment, including funds:

(i) held as part of a district's retirement system; and

(ii) invested in accordance with the participating employees' designation or direction pursuant to an employee deferred compensation plan established and operated in compliance with Section 457 of the Internal Revenue Code;

[~~(n)~~] (m) in consultation with the local advisory council created under Section 17B-2a-808.2, invest all funds according to the procedures and requirements of Title 51, Chapter 7, State Money Management Act;

[~~(o)~~] (n) if a custodian is appointed under Subsection (3)(d), and subject to Subsection (4), pay the fees for the custodian's services from the interest earnings of the investment fund for which the custodian is appointed;

[~~(p)~~] (o) (i) cause an annual audit of all public transit district books and accounts to be made by an independent certified public accountant;

(ii) as soon as practicable after the close of each fiscal year, submit to each of the councils of governments within the public transit district a financial report showing:

(A) the result of district operations during the preceding fiscal year;

(B) an accounting of the expenditures of all local sales and use tax revenues generated under Title 59, Chapter 12, Part 22, Local Option Sales and Use Taxes for Transportation Act;

(C) the district's financial status on the final day of the fiscal year; and

(D) the district's progress and efforts to improve efficiency relative to the previous fiscal year; and

(iii) supply copies of the report under Subsection [~~(2)(p)(ii)~~] (2)(o)(ii) to the general public upon request;

[~~(q)~~] (p) report at least annually to the Transportation Commission created in Section 72-1-301, which report shall include:

(i) the district's short-term and long-range public transit plans, including the portions of applicable regional transportation plans adopted by a metropolitan planning organization established under 23 U.S.C. Sec. 134; and

(ii) any transit capital development projects that the board of trustees would like the Transportation Commission to consider;

[~~(r)~~] (q) direct the internal auditor appointed under Section 17B-2a-810 to conduct audits that the board of trustees determines, in consultation with the local advisory council created in Section 17B-2a-808.2, to be the most critical to the success of the organization;

[~~(s)~~] (r) together with the local advisory council created in Section 17B-2a-808.2, hear audit reports for audits conducted in accordance with Subsection [~~(2)(p)~~] (2)(o);

[~~(t)~~] (s) review and approve all contracts pertaining to reduced fares, and evaluate existing contracts, including review of:

(i) how negotiations occurred;

(ii) the rationale for providing a reduced fare; and

(iii) identification and evaluation of cost shifts to offset operational costs incurred and impacted by each contract offering a reduced fare;

[~~(u)~~] (t) in consultation with the local advisory council, develop and approve other board policies, ordinances, and bylaws; and

[~~(v)~~] (u) review and approve any:

(i) contract or expense exceeding $200,000; or

(ii) proposed change order to an existing contract if the change order:

(A) increases the total contract value to $200,000 or more;

(B) increases a contract of or expense of $200,000 or more by 15% or more; or

(C) has a total change order value of $200,000 or more.

(3) A board of trustees of a large public transit district may:

(a) subject to Subsection (5), make and pass ordinances, resolutions, and orders that are:

(i) not repugnant to the United States Constitution, the Utah Constitution, or the provisions of this part; and

(ii) necessary for:

(A) the governance and management of the affairs of the district;

(B) the execution of district powers; and

(C) carrying into effect the provisions of this part;

(b) provide by resolution, under terms and conditions the board considers fit, for the payment of demands against the district without prior specific approval by the board, if the payment is:

(i) for a purpose for which the expenditure has been previously approved by the board;

(ii) in an amount no greater than the amount authorized; and

(iii) approved by the executive director or other officer or deputy as the board prescribes;

(c) in consultation with the local advisory council created in Section 17B-2a-808.2:

(i) hold public hearings and subpoena witnesses; and

(ii) appoint district officers to conduct a hearing and require the officers to make findings and conclusions and report them to the board; and

(d) appoint a custodian for the funds and securities under its control, subject to Subsection [~~(2)(o)~~] (2)(n).

(4) For a large public transit district in existence as of May 8, 2018, on or before September 30, 2019, the board of trustees of a large public transit district shall present a report to the Transportation Interim Committee regarding retirement benefits of the district, including:

(a) the feasibility of becoming a participating employer and having retirement benefits of eligible employees and officials covered in applicable systems and plans administered under Title 49, Utah State Retirement and Insurance Benefit Act;

(b) any legal or contractual restrictions on any employees that are party to a collectively bargained retirement plan; and

(c) a comparison of retirement plans offered by the large public transit district and similarly situated public employees, including the costs of each plan and the value of the benefit offered.

(5) The board of trustees may not issue a bond unless the board of trustees has consulted and received approval from the State Bonding Commission created in Section 63B-1-201.

(6) A member of the board of trustees of a large public transit district or a hearing officer designated by the board may administer oaths and affirmations in a district investigation or proceeding.

(7) (a) The vote of the board of trustees on each ordinance or resolution shall be by roll call vote with each affirmative and negative vote recorded.

(b) The board of trustees of a large public transit district may not adopt an ordinance unless it is introduced at least 24 hours before the board of trustees adopts it.

(c) Each ordinance adopted by a large public transit district's board of trustees shall take effect upon adoption, unless the ordinance provides otherwise.

(8) (a) For a large public transit district in existence on May 8, 2018, for the budget for calendar year 2019, the board in place on May 8, 2018, shall create the tentative annual budget.

(b) The budget described in Subsection (8)(a) shall include setting the salary of each of the members of the board of trustees that will assume control on or before November 1, 2018, which salary may not exceed $150,000, plus additional retirement and other standard benefits, as set by the local advisory council as described in Section 17B-2a-808.2.

(c) For a large public transit district in existence on May 8, 2018, the board of trustees that assumes control of the large public transit district on or before November 2, 2018, shall approve the calendar year 2019 budget on or before December 31, 2018.

Section 3. Section 41-6a-409 is amended to read:

41-6a-409. Prohibition of flat response fee for motor vehicle accident.

(1) As used in this section, "government entity" means the Department of Transportation, the Utah Highway Patrol Division, or a local government entity or agency.

(2) A government entity:

(a) may not impose a flat fee, or collect a flat fee, from an individual involved in a motor vehicle accident; and

(b) may only charge the individual for the actual cost or a reasonable estimate of the cost of services provided in responding to the motor vehicle accident, limited to:

(i) medical costs for transporting an individual from the scene of a motor vehicle accident or treating a person injured in a motor vehicle accident;

(ii) subject to Subsection (6), the cost for repair [~~to~~] or replacement of damaged public property, if the individual is legally liable for the damage;

(iii) the cost of materials used in cleaning up the motor vehicle accident, if the individual is legally liable for the motor vehicle accident; and

(iv) towing costs.

(3) If a government entity imposes a charge on more than one individual for the actual cost or a reasonable estimate of the cost of responding to a motor vehicle accident, the government entity shall apportion the charges so that the government entity does not receive more for responding to the motor vehicle accident than the actual response cost or a reasonable estimate of the cost.

(4) Nothing in this section prohibits a government entity from contracting with an independent contractor to recover costs related to damage to public property.

(5) If a government entity enters into a contract with an independent contractor to recover costs related to damage to public property, the government entity may only pay the independent contractor out of any recovery received from the person who caused the damage or the responsible party.

(6) (a) The costs of repair or replacement of damaged public property described in Subsection (2)(b)(ii) include the full cost to:

(i) repair the damaged public property; or

(ii) replace the damaged public property with a replacement that is functionally equivalent to the property that was damaged.

(b) Except for the replacement of a damaged motor vehicle, the costs described in Subsection (6)(a) may not be reduced based on the depreciated value of the damaged public property at the time the damage occurs.

Section 4. Section 41-6a-1304 is amended to read:

41-6a-1304. School buses -- Rules regarding design and operation.

(1) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the Department of [~~Transportation by and~~] Public Safety, with the advice of the State Board of Education [~~and the Department of Public Safety~~], shall adopt and enforce rules, not inconsistent with

this chapter, to govern the design and operation of all school buses in this state when:

(i) owned and operated by any school district;

(ii) privately owned and operated under contract with a school district; or

(iii) privately owned for use by a private school.

(b) The rules under this Subsection (1) shall by reference be made a part of any contract with a school district or private school to operate a school bus.

(2) Every school district or private school, its officers and employees, and every person employed under contract by a school district or private school shall be subject to the rules under Subsection (1).

Section 5. Section 53-1-106.1 is enacted to read:

53-1-106.1. Public-private partnership for tow rotation services.

(1) The department may issue a request for information under Section 63G-6a-409 to evaluate the availability of vendors, products, and technology capable of increasing efficiency, effectiveness, and transparency in the dispatching of towing providers and management of towing rotations in counties of the first or second class as classified under Section 17-50-501 that experience high demand for tow truck services.

(2) The department shall evaluate responses to a request for information described in Subsection (1) for:

(a) the following requirements and capabilities:

(i) decreasing delays associated with requesting and dispatching a tow truck motor carrier from an established tow rotation;

(ii) increasing information, transparency, and data collection associated with tow rotation operations, including dispatching, response time, completion, clearance, and storage; and

(iii) increasing responder and traffic safety by reducing secondary crashes, responder time on scene, and the impacts of traffic accidents on traffic flow and safety; and

(b) costs and distribution of costs for the implementation of product programs, equipment, technology, and other requirements.

(3) (a) The department shall report the department's findings and evaluation of any request for information described in Subsection (1) to the Transportation Interim Committee no later than November 30, 2021.

(b) Upon receipt of a report described in Subsection (3)(a), the Transportation Interim Committee shall:

(i) review the department's evaluation of the responses to the request for information in accordance with Subsection (2); and

(ii) if the Transportation Interim Committee determines appropriate, recommend legislation that creates a pilot program for a public-private partnership related to towing rotation management.

Section 6. Section 63I-2-253 is amended to read:

63I-2-253. Repeal dates -- Titles 53 through 53G.

(1) Section 53-1-106.1 is repealed January 1, 2022.

[~~(1)~~] (2) (a) Section 53-2a-217, regarding procurement during an epidemic or pandemic emergency, is repealed on December 31, 2021.

(b) When repealing Section 53-2a-217, the Office of Legislative Research and General Counsel shall, in addition to the office's authority under Subsection 36-12-12(3), make necessary changes to subsection numbering and cross references.

[~~(2)~~] (3) Section 53B-2a-103 is repealed July 1, 2021.

[~~(3)~~] (4) Section 53B-2a-104 is repealed July 1, 2021.

[~~(4)~~] (5) (a) Subsection 53B-2a-108(5), regarding exceptions to the composition of a technical college board of trustees, is repealed July 1, 2022.

(b) When repealing Subsection 53B-2a-108(5), the Office of Legislative Research and General Counsel shall, in addition to its authority under Subsection 36-12-12(3), make necessary changes to subsection numbering and cross references.

[~~(5)~~] (6) Section 53B-6-105.7 is repealed July 1, 2024.

[~~(6)~~] (7) (a) Subsection 53B-7-705(6)(b)(ii)(A), the language that states "Except as provided in Subsection (6)(b)(ii)(B)," is repealed July 1, 2021.

(b) Subsection 53B-7-705(6)(b)(ii)(B), regarding comparing a technical college's change in performance with the technical college's average performance, is repealed July 1, 2021.

[~~(7)~~] (8) (a) Subsection 53B-7-707(3)(a)(ii), the language that states "Except as provided in Subsection (3)(b)," is repealed July 1, 2021.

(b) Subsection 53B-7-707(3)(b), regarding performance data of a technical college during a fiscal year before fiscal year 2020, is repealed July 1, 2021.

[~~(8)~~] (9) Section 53B-8-114 is repealed July 1, 2024.

[~~(9)~~] (10) (a) The following sections, regarding the Regents' scholarship program, are repealed on July 1, 2023:

(i) Section 53B-8-202;

(ii) Section 53B-8-203;

(iii) Section 53B-8-204; and

(iv) Section 53B-8-205.

(b) (i) Subsection 53B-8-201(2), regarding the Regents' scholarship program for students who graduate from high school before fiscal year 2019, is repealed on July 1, 2023.

(ii) When repealing Subsection 53B-8-201(2), the Office of Legislative Research and General Counsel shall, in addition to its authority under Subsection 36-12-12(3), make necessary changes to subsection numbering and cross references.

[~~(10)~~] (11) Section 53B-10-101 is repealed on July 1, 2027.

[~~(11)~~] (12) Title 53B, Chapter 18, Part 14, Uintah Basin Air Quality Research Project, is repealed July 1, 2023.

[~~(12)~~] (13) Section 53E-3-519 regarding school counselor services is repealed July 1, 2020.

[~~(13)~~] (14) Section 53E-3-520 is repealed July 1, 2021.

[~~(14)~~] (15) Subsection 53E-5-306(3)(b)(ii)(B), related to improving school performance and continued funding relating to the School Recognition and Reward Program, is repealed July 1, 2020.

[~~(15)~~] (16) Section 53E-5-307 is repealed July 1, 2020.

[~~(16)~~] (17) Subsection 53E-10-309(7), related to the PRIME pilot program, is repealed July 1, 2024.

[~~(17)~~] (18) In Subsections 53F-2-205(4) and (5), regarding the State Board of Education's duties if contributions from the minimum basic tax rate are overestimated or underestimated, the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

[~~(18)~~] (19) Subsection 53F-2-301(1), relating to the years the section is not in effect, is repealed July 1, 2023.

[~~(19)~~] (20) In Subsection 53F-2-515(1), the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

[~~(20)~~] (21) Section 53F-4-207 is repealed July 1, 2022.

[~~(21)~~] (22) In Subsection 53F-9-302(3), the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

[~~(22)~~] (23) In Subsection 53F-9-305(3)(a), the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

[~~(23)~~] (24) In Subsection 53F-9-306(3)(a), the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

[~~(24)~~] (25) In Subsection 53G-3-304(1)(c)(i), the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

[~~(25)~~] (26) Subsections 53G-10-204(1)(c) through (e), and Subsection 53G-10-204(7), related to the civics engagement pilot program, are repealed on July 1, 2023.

[~~(26)~~] (27) On July 1, 2023, when making changes in this section, the Office of Legislative Research and General Counsel shall, in addition to the office's authority under Subsection 36-12-12(3), make corrections necessary to ensure that sections and subsections identified in this section are complete sentences and accurately reflect the office's perception of the Legislature's intent.

Section 7. Section 72-1-304 is amended to read:

72-1-304. Written project prioritization process for new transportation capacity projects -- Rulemaking.

(1) (a) The Transportation Commission, in consultation with the department and the metropolitan planning organizations as defined in Section 72-1-208.5, shall develop a written prioritization process for the prioritization of:

(i) new transportation capacity projects that are or will be part of the state highway system under Chapter 4, Part 1, State Highways;

(ii) paved pedestrian or paved nonmotorized transportation projects that:

(A) mitigate traffic congestion on the state highway system; and

(B) are part of an active transportation plan approved by the department;

(iii) public transit projects that directly add capacity to the public transit systems within the state, not including facilities ancillary to the public transit system; and

(iv) pedestrian or nonmotorized transportation projects that provide connection to a public transit system.

(b) (i) A local government or district may nominate a project for prioritization in accordance with the process established by the commission in rule.

(ii) If a local government or district nominates a project for prioritization by the commission, the local government or district shall provide data and evidence to show that:

(A) the project will advance the purposes and goals described in Section 72-1-211;

(B) for a public transit project, the local government or district has an ongoing funding source for operations and maintenance of the proposed development; and

(C) the local government or district will provide 40% of the costs for the project as required by Subsection 72-2-124(4)(a)(viii) or 72-2-124(9)(e).

(2) The following shall be included in the written prioritization process under Subsection (1):

(a) a description of how the strategic initiatives of the department adopted under Section 72-1-211 are advanced by the written prioritization process;

(b) a definition of the type of projects to which the written prioritization process applies;

(c) specification of a weighted criteria system that is used to rank proposed projects and how it will be used to determine which projects will be prioritized;

(d) specification of the data that is necessary to apply the weighted ranking criteria; and

(e) any other provisions the commission considers appropriate, which may include consideration of:

(i) regional and statewide economic development impacts, including improved local access to:

(A) employment;

(B) educational facilities;

(C) recreation;

(D) commerce; and

(E) residential areas, including moderate income housing as demonstrated in the local government's or district's general plan pursuant to Section 10-9a-403 or 17-27a-403;

(ii) the extent to which local land use plans relevant to a project support and accomplish the strategic initiatives adopted under Section 72-1-211; and

(iii) any matching funds provided by a political subdivision or public transit district in addition to the 40% required by Subsections 72-2-124(4)(a)(viii) and 72-2-124(9)(e).

(3) (a) When prioritizing a public transit project that increases capacity, the commission may give priority consideration to projects that are part of a transit-oriented development or transit-supportive development as defined in Section 17B-2a-802.

(b) When prioritizing a public transit or transportation project that increases capacity, the commission may give priority consideration to projects that are part of a transportation reinvestment zone created under Section 11-13-227 if:

(i) the state is a participant in the transportation reinvestment zone; or

(ii) the commission finds that the transportation reinvestment zone provides a benefit to the state transportation system.

(4) In developing the written prioritization process, the commission:

(a) shall seek and consider public comment by holding public meetings at locations throughout the state; and

(b) may not consider local matching dollars as provided under Section 72-2-123 unless the state provides an equal opportunity to raise local matching dollars for state highway improvements within each county.

(5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the Transportation Commission, in consultation with the department, shall make rules establishing the written prioritization process under Subsection (1).

(6) The commission shall submit the proposed rules under this section to a committee or task force designated by the Legislative Management Committee for review prior to taking final action on the proposed rules or any proposed amendment to the rules described in Subsection (5).

Section 8. Section 72-2-121 is amended to read:

72-2-121. County of the First Class Highway Projects Fund.

(1) There is created a special revenue fund within the Transportation Fund known as the "County of the First Class Highway Projects Fund."

(2) The fund consists of money generated from the following revenue sources:

(a) any voluntary contributions received for new construction, major renovations, and improvements to highways within a county of the first class;

(b) the portion of the sales and use tax described in Subsection 59-12-2214(3)(b) deposited in or transferred to the fund;

(c) the portion of the sales and use tax described in Section 59-12-2217 deposited in or transferred to the fund; and

(d) a portion of the local option highway construction and transportation corridor preservation fee imposed in a county of the first class under Section 41-1a-1222 deposited in or transferred to the fund.

(3) (a) The fund shall earn interest.

(b) All interest earned on fund money shall be deposited into the fund.

(4) The executive director shall use the fund money only:

(a) to pay debt service and bond issuance costs for bonds issued under Sections 63B-16-102, 63B-18-402, and 63B-27-102;

(b) for right-of-way acquisition, new construction, major renovations, and improvements to highways within a county of the first class and to pay any debt service and bond issuance costs related to those projects, including improvements to a highway located within a municipality in a county of the first class where the municipality is located within the boundaries of more than a single county;

(c) for the construction, acquisition, use, maintenance, or operation of:

(i) an active transportation facility for nonmotorized vehicles;

(ii) multimodal transportation that connects an origin with a destination; or

(iii) a facility that may include a:

(A) pedestrian or nonmotorized vehicle trail;

(B) nonmotorized vehicle storage facility;

(C) pedestrian or vehicle bridge; or

(D) vehicle parking lot or parking structure;

(d) to transfer to the 2010 Salt Lake County Revenue Bond Sinking Fund created by Section 72-2-121.3 the amount required in Subsection 72-2-121.3(4)(c) minus the amounts transferred in accordance with Subsection 72-2-124(4)(a)(iv);

(e) for a fiscal year beginning on or after July 1, 2013, to pay debt service and bond issuance costs for $30,000,000 of the bonds issued under Section 63B-18-401 for the projects described in Subsection 63B-18-401(4)(a);

(f) for a fiscal year beginning on or after July 1, 2013, and after the department has verified that the amount required under Subsection 72-2-121.3(4)(c) is available in the fund, to transfer an amount equal to 50% of the revenue generated by the local option highway construction and transportation corridor preservation fee imposed under Section 41-1a-1222 in a county of the first class:

(i) to the legislative body of a county of the first class; and

(ii) to be used by a county of the first class for:

(A) highway construction, reconstruction, or maintenance projects; or

(B) the enforcement of state motor vehicle and traffic laws;

(g) for fiscal year 2015-16 only, and after the department has verified that the amount required under Subsection 72-2-121.3(4)(c) is available in the fund and the transfer under Subsection (4)(e) has been made, to transfer an amount equal to $25,000,000:

(i) to the legislative body of a county of the first class; and

(ii) to be used by the county for the purposes described in this section;

(h) for a fiscal year beginning on or after July 1, 2015, after the department has verified that the amount required under Subsection 72-2-121.3(4)(c) is available in the fund and the transfer under Subsection (4)(e) has been made, to annually transfer an amount equal to up to 42.5% of the sales and use tax revenue imposed in a county of the first class and deposited into the fund in accordance with Subsection 59-12-2214(3)(b) to:

(i) the appropriate debt service or sinking fund for the repayment of bonds issued under Section 63B-27-102; and

(ii) the Transportation Fund created in Section 72-2-102 until $28,079,000 has been deposited into the Transportation Fund;

(i) for a fiscal year beginning on or after July 1, 2018, after the department has verified that the amount required under Subsection 72-2-121.3(4)(c) is available in the fund and after the transfer under Subsection (4)(d), the payment under Subsection (4)(e), and the transfers under Subsections (4)(h)(i) and (ii) have been made, to annually transfer 20% of the amount deposited into the fund under Subsection (2)(b) to a public transit district in a county of the first class to fund a system for public transit;

(j) for a fiscal year beginning on or after July 1, 2018, after the department has verified that the amount required under Subsection 72-2-121.3(4)(c) is available in the fund and after the transfer under Subsection (4)(d), the payment under Subsection (4)(e), and the transfers under Subsections (4)(h)(i) and (ii) have been made, to annually transfer 20% of the amount deposited into the fund under Subsection (2)(b):

(i) to the legislative body of a county of the first class; and

(ii) to fund parking facilities in a county of the first class that facilitate significant economic development and recreation and tourism within the state;

(k) for the 2018-19 fiscal year only, after the department has verified that the amount required under Subsection 72-2-121.3(4)(c) is available in the fund and after the transfer under Subsection (4)(d), the payment under Subsection (4)(e), and the transfers under Subsections (4)(h), (i), and (j) have been made, to transfer $12,000,000 to the department to distribute for the following projects:

(i) $2,000,000 to West Valley City for highway improvement to 4100 South;

(ii) $1,000,000 to Herriman for highway improvements to Herriman Boulevard from 6800 West to 7300 West;

(iii) $1,100,000 to South Jordan for highway improvements to Grandville Avenue;

(iv) $1,800,000 to Riverton for highway improvements to Old Liberty Way from 13400 South to 13200 South;

(v) $1,000,000 to Murray City for highway improvements to 5600 South from State Street to Van Winkle;

(vi) $1,000,000 to Draper for highway improvements to Lone Peak Parkway from 11400 South to 12300 South;

(vii) $1,000,000 to Sandy City for right-of-way acquisition for Monroe Street;

(viii) $900,000 to South Jordan City for right-of-way acquisition and improvements to 10200 South from 2700 West to 3200 West;

(ix) $1,000,000 to West Jordan for highway improvements to 8600 South near Mountain View Corridor;

(x) $700,000 to South Jordan right-of-way improvements to 10550 South; and

(xi) $500,000 to Salt Lake County for highway improvements to 2650 South from 7200 West to 8000 West; and

(l) for a fiscal year beginning after the amount described in Subsection (4)(h) has been repaid to the Transportation Fund until fiscal year 2030, or sooner if the amount described in Subsection (4)(h)(ii) has been repaid, after the department has verified that the amount required under Subsection 72-2-121.3(4)(c) is available in the fund and the transfer under Subsection (4)(e) has been made, and after the bonds under Section 63B-27-102 have been repaid, to annually transfer an amount equal to up to 42.5% of the sales and use tax revenue imposed in a county of the first class and deposited into the fund in accordance with Subsection 59-12-2214(3)(b):

(i) to the legislative body of a county of the first class; and

(ii) to be used by the county for the purposes described in this section.

(5) The revenues described in Subsections (2)(b), (c), and (d) that are deposited in the fund and bond proceeds from bonds issued under Sections 63B-16-102, 63B-18-402, and 63B-27-102 are considered a local matching contribution for the purposes described under Section 72-2-123.

(6) The additional administrative costs of the department to administer this fund shall be paid from money in the fund.

(7) Notwithstanding any statutory or other restrictions on the use or expenditure of the revenue sources deposited into this fund, the Department of Transportation may use the money in this fund for any of the purposes detailed in Subsection (4).

(8) (a) For a fiscal year beginning on or after July 1, 2018, at the end of each fiscal year, after all programmed payments and transfers authorized or required under this section have been made, on November 30 the department shall transfer the remainder of the money in the fund to the Transportation Fund to reduce the amount owed to the Transportation Fund under Subsection [~~(4)(j)(ii)~~] (4)(h)(ii).

(b) The department shall provide notice to a county of the first class of the amount transferred in accordance with this Subsection (8).

(9) (a) Any revenue in the fund that is not specifically allocated and obligated under Subsections (4) through (8) is subject to the review process described in this Subsection (9).

(b) A county of the first class shall create a county transportation advisory committee as described in Subsection (9)(c) to review proposed transportation and, as applicable, public transit projects and rank projects for allocation of funds.

(c) The county transportation advisory committee described in Subsection (9)(b) shall be composed of the following 13 members:

(i) six members who are residents of the county, nominated by the county executive and confirmed by the county legislative body who are:

(A) members of a local advisory council of a large public transit district as defined in Section 17B-2a-802;

(B) county council members; or

(C) other residents with expertise in transportation planning and funding; and

(ii) seven members nominated by the county executive, and confirmed by the county legislative body, chosen from mayors or managers of cities or towns within the county.

(d) (i) A majority of the members of the county transportation advisory committee constitutes a quorum.

(ii) The action by a quorum of the county transportation advisory committee constitutes an action by the county transportation advisory committee.

(e) The county body shall determine:

(i) the length of a term of a member of the county transportation advisory committee;

(ii) procedures and requirements for removing a member of the county transportation advisory committee;

(iii) voting requirements of the county transportation advisory committee;

(iv) chairs or other officers of the county transportation advisory committee;

(v) how meetings are to be called and the frequency of meetings, but not less than once annually; and

(vi) the compensation, if any, of members of the county transportation advisory committee.

(f) The county shall establish by ordinance criteria for prioritization and ranking of projects, which may include consideration of regional and countywide economic development impacts, including improved local access to:

(i) employment;

(ii) recreation;

(iii) commerce; and

(iv) residential areas.

(g) The county transportation advisory committee shall evaluate and rank each proposed public transit project and regionally significant transportation facility according to criteria developed pursuant to Subsection (9)(f).

(h) (i) After the review and ranking of each project as described in this section, the county transportation advisory committee shall provide a report and recommend the ranked list of projects to the county legislative body and county executive.

(ii) After review of the recommended list of projects, as part of the county budgetary process,

the county executive shall review the list of projects and may include in the proposed budget the proposed projects for allocation, as funds are available.

(i) The county executive of the county of the first class, with information provided by the county and relevant state entities, shall provide a report annually to the county transportation advisory committee, and to the mayor or manager of each city, town, or metro township in the county, including the following:

(i) the amount of revenue received into the fund during the past year;

(ii) any funds available for allocation;

(iii) funds obligated for debt service; and

(iv) the outstanding balance of transportation-related debt.

(10) As resources allow, the department shall study in 2020 transportation connectivity in the southwest valley of Salt Lake County, including the feasibility of connecting major east-west corridors to U-111.

Section 9. Section 72-2-124 is amended to read:

72-2-124. Transportation Investment Fund of 2005.

(1) There is created a capital projects fund entitled the Transportation Investment Fund of 2005.

(2) The fund consists of money generated from the following sources:

(a) any voluntary contributions received for the maintenance, construction, reconstruction, or renovation of state and federal highways;

(b) appropriations made to the fund by the Legislature;

(c) registration fees designated under Section 41-1a-1201;

(d) the sales and use tax revenues deposited into the fund in accordance with Section 59-12-103; and

(e) revenues transferred to the fund in accordance with Section 72-2-106.

(3) (a) The fund shall earn interest.

(b) All interest earned on fund money shall be deposited into the fund.

(4) (a) Except as provided in Subsection (4)(b), the executive director may only use fund money to pay:

(i) the costs of maintenance, construction, reconstruction, or renovation to state and federal highways prioritized by the Transportation Commission through the prioritization process for new transportation capacity projects adopted under Section 72-1-304;

(ii) the costs of maintenance, construction, reconstruction, or renovation to the highway projects described in Subsections 63B-18-401(2), (3), and (4);

(iii) principal, interest, and issuance costs of bonds authorized by Section 63B-18-401 minus the costs paid from the County of the First Class Highway Projects Fund in accordance with Subsection 72-2-121(4)(e);

(iv) for a fiscal year beginning on or after July 1, 2013, to transfer to the 2010 Salt Lake County Revenue Bond Sinking Fund created by Section 72-2-121.3 the amount certified by Salt Lake County in accordance with Subsection 72-2-121.3(4)(c) as necessary to pay the debt service on $30,000,000 of the revenue bonds issued by Salt Lake County;

(v) principal, interest, and issuance costs of bonds authorized by Section 63B-16-101 for projects prioritized in accordance with Section 72-2-125;

(vi) all highway general obligation bonds that are intended to be paid from revenues in the Centennial Highway Fund created by Section 72-2-118;

(vii) for fiscal year 2015-16 only, to transfer $25,000,000 to the County of the First Class Highway Projects Fund created in Section 72-2-121 to be used for the purposes described in Section 72-2-121; and

(viii) if a political subdivision provides a contribution equal to or greater than 40% of the costs needed for construction, reconstruction, or renovation of paved pedestrian or paved nonmotorized transportation for projects that:

(A) mitigate traffic congestion on the state highway system;

(B) are part of an active transportation plan approved by the department; and

(C) are prioritized by the commission through the prioritization process for new transportation capacity projects adopted under Section 72-1-304.

(b) The executive director may use fund money to exchange for an equal or greater amount of federal transportation funds to be used as provided in Subsection (4)(a).

(5) (a) Except as provided in Subsection (5)(b), the executive director may not program fund money to a project prioritized by the commission under Section 72-1-304, including fund money from the Transit Transportation Investment Fund, within the boundaries of a municipality that is required to adopt a moderate income housing plan element as part of the municipality's general plan as described in Subsection 10-9a-401(3), if the municipality has failed to adopt a moderate income housing plan element as part of the municipality's general plan or has failed to implement the requirements of the moderate income housing plan as determined by the results of the Department of Workforce Service's review of the annual moderate income housing report described in Subsection 35A-8-803(1)(a)(vii).

(b) Within the boundaries of a municipality that is required under Subsection 10-9a-401(3) to plan

for moderate income housing growth but has failed to adopt a moderate income housing plan element as part of the municipality's general plan or has failed to implement the requirements of the moderate income housing plan as determined by the results of the Department of Workforce Service's review of the annual moderate income housing report described in Subsection 35A-8-803(1)(a)(vii), the executive director:

(i) may program fund money in accordance with Subsection (4)(a) for a limited-access facility or interchange connecting limited-access facilities;

(ii) may not program fund money for the construction, reconstruction, or renovation of an interchange on a limited-access facility;

(iii) may program Transit Transportation Investment Fund money for a multi-community fixed guideway public transportation project; and

(iv) may not program Transit Transportation Investment Fund money for the construction, reconstruction, or renovation of a station that is part of a fixed guideway public transportation project.

(c) Subsections (5)(a) and (b) do not apply to a project programmed by the executive director before May 1, 2020, for projects prioritized by the commission under Section 72-1-304.

(6) (a) Except as provided in Subsection (6)(b), the executive director may not program fund money to a project prioritized by the commission under Section 72-1-304, including fund money from the Transit Transportation Investment Fund, within the boundaries of the unincorporated area of a county, if the county is required to adopt a moderate income housing plan element as part of the county's general plan as described in Subsection 17-27a-401(3) and if the county has failed to adopt a moderate income housing plan element as part of the county's general plan or has failed to implement the requirements of the moderate income housing plan as determined by the results of the Department of Workforce Service's review of the annual moderate income housing report described in Subsection 35A-8-803(1)(a)(vii).

(b) Within the boundaries of the unincorporated area of a county where the county is required under Subsection 17-27a-401(3) to plan for moderate income housing growth but has failed to adopt a moderate income housing plan element as part of the county's general plan or has failed to implement the requirements of the moderate income housing plan as determined by the results of the Department of Workforce Service's review of the annual moderate income housing report described in Subsection 35A-8-803(1)(a)(vii), the executive director:

(i) may program fund money in accordance with Subsection (4)(a) for a limited-access facility to a project prioritized by the commission under Section 72-1-304;

(ii) may not program fund money for the construction, reconstruction, or renovation of an interchange on a limited-access facility;

(iii) may program Transit Transportation Investment Fund money for a multi-community fixed guideway public transportation project; and

(iv) may not program Transit Transportation Investment Fund money for the construction, reconstruction, or renovation of a station that is part of a fixed guideway public transportation project.

(c) Subsections (5)(a) and (b) do not apply to a project programmed by the executive director before July 1, 2020, for projects prioritized by the commission under Section 72-1-304.

(7) (a) Before bonds authorized by Section 63B-18-401 or 63B-27-101 may be issued in any fiscal year, the department and the commission shall appear before the Executive Appropriations Committee of the Legislature and present the amount of bond proceeds that the department needs to provide funding for the projects identified in Subsections 63B-18-401(2), (3), and (4) or Subsection 63B-27-101(2) for the current or next fiscal year.

(b) The Executive Appropriations Committee of the Legislature shall review and comment on the amount of bond proceeds needed to fund the projects.

(8) The Division of Finance shall, from money deposited into the fund, transfer the amount of funds necessary to pay principal, interest, and issuance costs of bonds authorized by Section 63B-18-401 or 63B-27-101 in the current fiscal year to the appropriate debt service or sinking fund.

(9) (a) There is created in the Transportation Investment Fund of 2005 the Transit Transportation Investment Fund.

(b) The fund shall be funded by:

(i) contributions deposited into the fund in accordance with Section 59-12-103;

(ii) appropriations into the account by the Legislature;

(iii) private contributions; and

(iv) donations or grants from public or private entities.

(c) (i) The fund shall earn interest.

(ii) All interest earned on fund money shall be deposited into the fund.

(d) Subject to Subsection (9)(e), the Legislature may appropriate money from the fund for public transit capital development of new capacity projects to be used as prioritized by the commission through the prioritization process adopted under Section 72-1-304.

(e) (i) The Legislature may only appropriate money from the fund for a public transit capital development project or pedestrian or nonmotorized transportation project that provides connection to

the public transit system if the public transit district or political subdivision provides funds of equal to or greater than 40% of the costs needed for the project.

(ii) A public transit district or political subdivision may use money derived from a loan granted pursuant to Title 72, Chapter 2, Part 2, State Infrastructure Bank Fund, to provide all or part of the 40% requirement described in Subsection (9)(e)(i) if:

(A) the loan is approved by the commission as required in Title 72, Chapter 2, Part 2, State Infrastructure Bank Fund; and

(B) the proposed capital project has been prioritized by the commission pursuant to Section 72-1-303.

Section 10. Section 72-7-301 is amended to read:

72-7-301. Liability for damage to highway, highway equipment, or highway sign -- Liability for damage to highway from illegal operation of oversize or overweight vehicles -- Recovery.

(1) A person who by any means willfully or negligently injures or damages any highway, highway equipment, or highway sign is liable for the damage.

(2) A person who operates or moves any vehicle or object on any highway is liable for all damage that the highway sustains from:

(a) any illegal operation or movement of a vehicle or object; and

(b) any vehicle or object that exceeds the maximum size, weight, or load limitations specified by law, with or without authority of an oversize or overweight permit.

(3) (a) Except under Subsection (3)(b), if the operator is not the owner of the vehicle or object but is operating or moving the vehicle or object with the express or implied permission of the owner, the owner and operator are jointly and severally liable under Subsection (2) for any damage caused to a highway by the operation or movement of the vehicle or object.

(b) An operator who is not the owner of the vehicle or object and who under an express or implied condition of his employment or any privilege related to his employment is required to operate or move a vehicle or object in violation of Part 4, Vehicle Size, Weight, and Load Limitations, is not liable for any damage caused to a highway by the illegal operation or movement of the vehicle or object.

(4) The value of the property damaged may be recovered in a civil action brought by the highway authority having jurisdiction over the property damaged.

(5) (a) For purposes of this section, the value of the damaged property includes the full cost to:

(i) repair the damaged property; or

(ii) replace the damaged property with a replacement that is functionally equivalent to the property that was damaged.

(b) Except for the replacement of a damaged motor vehicle, the costs described in Subsection (5)(a) may not be reduced based on the depreciated value of the damaged property at the time the damage occurs.

Section 11. Section 72-9-501 is amended to read:

72-9-501. Construction, operation, and maintenance of ports-of-entry by the department -- Function of ports-of-entry -- Checking and citation powers of port-of-entry agents.

(1) (a) The department shall construct ports-of-entry for the purpose of checking motor carriers, drivers, vehicles, and vehicle loads for compliance with state and federal laws including laws relating to:

(i) driver qualifications;

(ii) Title 53, Chapter 3, Part 4, Uniform Commercial Driver License Act;

(iii) vehicle registration;

(iv) fuel tax payment;

(v) vehicle size, weight, and load;

(vi) security or insurance;

(vii) this chapter;

(viii) hazardous material as defined under 49 U.S.C. 5102; and

[~~(ix) livestock transportation; and~~]

[~~(x)~~] (ix) safety.

(b) The ports-of-entry shall be located on state highways at sites determined by the department.

(2) (a) The ports-of-entry shall be operated and maintained by the department.

(b) A port-of-entry agent or a peace officer may check, inspect, or test drivers, vehicles, and vehicle loads for compliance with state and federal laws specified in Subsection (1).

(3) (a) A port-of-entry agent or a peace officer, in whose presence an offense described in this section is committed, may:

(i) issue and deliver a misdemeanor or infraction citation under Section 77-7-18;

(ii) request and administer chemical tests to determine blood alcohol concentration in compliance with Section 41-6a-515;

(iii) place a driver out-of-service in accordance with Section 53-3-417; and

(iv) serve a driver with notice of the Driver License Division of the Department of Public Safety's intention to disqualify the driver's

privilege to drive a commercial motor vehicle in accordance with Section 53-3-418.

(b) This section does not grant actual arrest powers as defined in Section 77-7-1 to a port-of-entry agent who is not a peace officer or special function officer designated under Title 53, Chapter 13, Peace Officer Classifications.

(4) (a) A port-of-entry agent, a peace officer, or the Division of Wildlife Resources may inspect, detain, or quarantine a conveyance or equipment in accordance with Sections 23-27-301 and 23-27-302.

(b) The department is not responsible for decontaminating a conveyance or equipment detained or quarantined.

(c) The Division of Wildlife Resources may decontaminate, as defined in Section 23-27-102, a conveyance or equipment at the port-of-entry if authorized by the department.

Section 12. Section 72-9-502 is amended to read:

72-9-502. Motor vehicles to stop at ports-of-entry -- Signs -- Exceptions -- Rulemaking -- By-pass permits.

(1) Except under Subsection (3), a motor carrier operating a motor vehicle with a gross vehicle weight of 10,001 pounds or more [~~or any motor vehicle carrying livestock as defined in Section 4-24-102~~] shall stop at a port-of-entry as required under this section.

(2) The department may erect and maintain signs directing motor vehicles to a port-of-entry as provided in this section.

(3) A motor vehicle required to stop at a port-of-entry under Subsection (1) is exempt from this section if:

(a) the total one-way trip distance for the motor vehicle would be increased by more than 5% or three miles, whichever is greater if diverted to a port-of-entry;

(b) the motor vehicle is operating under a temporary port-of-entry by-pass permit issued under Subsection (4); or

(c) the motor vehicle is an implement of husbandry as defined in Section 41-1a-102 being operated only incidentally on a highway as described in Section 41-1a-202.

(4) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department shall make rules for the issuance of a temporary port-of-entry by-pass permit exempting a motor vehicle from the provisions of Subsection (1) if the department determines that the permit is needed to accommodate highway transportation needs due to multiple daily or weekly trips in the proximity of a port-of-entry.

(b) The rules under Subsection (4)(a) shall provide that one permit may be issued to a motor carrier for multiple motor vehicles.

CHAPTER 240
S. B. 114
Passed February 18, 2021
Approved March 16, 2021
Effective May 5, 2021

ANIMAL CHIROPRACTIC AMENDMENTS

Chief Sponsor: Scott D. Sandall
House Sponsor: Scott H. Chew

LONG TITLE

General Description:

This bill allows a licensed chiropractor to treat an animal without a referral from a licensed veterinarian.

Highlighted Provisions:

This bill:

- removes the requirement that a veterinarian refer an animal to a licensed chiropractor before the chiropractor can treat the animal;
- removes the requirement that a licensed chiropractor take a course for treating animals before treating an animal, instead requiring a licensed chiropractor to obtain a certification for animal chiropractic; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

58-28-307, as last amended by Laws of Utah 2019, Chapter 177
58-73-102, as last amended by Laws of Utah 2006, Chapter 109

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

Section 1. Section 58-28-307 is amended to read:

58-28-307. Exemptions from chapter.

In addition to the exemptions from licensure in Section 58-1-307 this chapter does not apply to:

(1) [~~any person~~] an individual who practices veterinary medicine, surgery, or dentistry upon any animal owned by [~~him~~] the individual, and the employee of that [~~person~~] individual when the practice is upon an animal owned by [~~his~~] the employee's employer, and incidental to [~~his~~] employment, except:

(a) this exemption does not apply to [~~any person, or his~~] an individual, or the individual's employee, when the ownership of an animal was acquired for the purpose of circumventing this chapter; and

(b) this exemption does not apply to the administration, dispensing, or prescribing of a prescription drug, or nonprescription drug intended for off label use, unless the administration, dispensing, or prescribing of the drug is obtained through an existing veterinarian-patient relationship;

(2) [~~any person~~] an individual who as a student at a veterinary college approved by the board engages in the practice of veterinary medicine, surgery, and dentistry as part of [~~his~~] the individual's academic training and under the direct supervision and control of a licensed veterinarian, if that practice is during the last two years of the college course of instruction and does not exceed an 18-month duration;

(3) a veterinarian who is an officer or employee of the government of the United States, or the state, or its political subdivisions, and technicians under [~~his~~] the veterinarian's supervision, while engaged in the practice of veterinary medicine, surgery, or dentistry for that government;

(4) [~~any person~~] an individual while engaged in the vaccination of poultry, pullorum testing, typhoid testing of poultry, and related poultry disease control activity;

(5) [~~any person~~] an individual who is engaged in bona fide and legitimate medical, dental, pharmaceutical, or other scientific research, if that practice of veterinary medicine, surgery, or dentistry is directly related to, and a necessary part of, that research;

(6) [~~veterinarians~~] a veterinarian licensed under the laws of another state rendering professional services in association with licensed veterinarians of this state for a period not to exceed 90 days;

(7) [~~registered pharmacists~~] a registered pharmacist of this state engaged in the sale of veterinary supplies, instruments, and medicines, if the sale is at [~~his~~] the registered pharmacist's regular place of business;

(8) [~~any person~~] an individual in this state engaged in the sale of veterinary supplies, instruments, and medicines, except prescription drugs which must be sold in compliance with state and federal regulations, if the supplies, instruments, and medicines are sold in original packages bearing adequate identification and directions for application and administration and the sale is made in the regular course of, and at the regular place of business;

(9) [~~any person~~] an individual rendering emergency first aid to animals in those areas where a licensed veterinarian is not available, and if suspicious reportable diseases are reported immediately to the state veterinarian;

(10) [~~any person~~] an individual performing or teaching nonsurgical bovine artificial insemination;

(11) [~~any person~~] an individual affiliated with an institution of higher education who teaches nonsurgical bovine embryo transfer or any technician trained by or approved by an institution of higher education who performs nonsurgical bovine embryo transfer, but only if any prescription drug used in the procedure is prescribed and administered under the direction of a veterinarian licensed to practice in Utah;

(12) (a) [~~upon written referral by a licensed veterinarian,~~] the practice of animal chiropractic by

a chiropractic physician licensed under Chapter 73, Chiropractic Physician Practice Act, who has [~~completed an animal chiropractic course approved~~] been certified by the American Veterinary Chiropractic Association [~~or the division~~] for performing chiropractic on an animal;

(b) upon written referral by a licensed veterinarian, the practice of animal physical therapy by a physical therapist licensed under Chapter 24b, Physical Therapy Practice Act, who has completed at least 100 hours of animal physical therapy training, including quadruped anatomy and hands-on training, approved by the division;

(c) upon written referral by a licensed veterinarian, the practice of animal massage therapy by a massage therapist licensed under Chapter 47b, Massage Therapy Practice Act, who has completed at least 60 hours of animal massage therapy training, including quadruped anatomy and hands-on training, approved by the division; and

(d) upon written referral by a licensed veterinarian, the practice of acupuncture by an acupuncturist licensed under Chapter 72, Acupuncture Licensing Act, who has completed a course of study on animal acupuncture approved by the division;

(13) unlicensed assistive personnel performing duties appropriately delegated to the unlicensed assistive personnel in accordance with Section 58-28-502;

(14) an animal shelter employee who is:

(a) (i) acting under the indirect supervision of a licensed veterinarian; and

(ii) performing animal euthanasia in the course and scope of employment; and

(b) acting under the indirect supervision of a veterinarian who is under contract with the animal shelter, administering a rabies vaccine to a shelter animal in accordance with the Compendium of Animal Rabies Prevention and Control;

(15) an individual providing appropriate training for animals; however, this exception does not include diagnosing any medical condition, or prescribing or dispensing any prescription drugs or therapeutics; and

(16) an individual who performs teeth floating if the individual:

(a) has a valid certification from the International Association of Equine Dentistry, or an equivalent certification designated by division rule made in collaboration with the board, to perform teeth floating; and

(b) administers or uses a sedative drug only if the individual is under the direct supervision of a veterinarian in accordance with Subsection 58-28-502(2)(a)(iv).

Section 2. Section 58-73-102 is amended to read:

58-73-102. Definitions.

(1) "Adjustment of the articulation of the spinal column" means performance by a chiropractic physician by the use of passive movements directed toward the goal of restoring joints to their proper physiological relationship of motion and related function, releasing adhesions, or stimulating joint receptors using one or more of the following techniques:

(a) impulse adjusting or the use of sudden, high velocity, short amplitude thrust of a nature that the patient cannot prevent the motion, commencing where the motion encounters the elastic barrier of resistance and ends at the limit of anatomical integrity;

(b) instrument adjusting, utilizing instruments specifically designed to deliver sudden, high velocity, short amplitude thrust;

(c) light force adjusting utilizing sustained joint traction or applied directional pressure, or both, which may be combined with passive motion to restore joint mobility; and

(d) long distance lever adjusting utilizing forces delivered at some distance from the dysfunctional site and aimed at transmission through connected structures to accomplish joint mobility.

(2) "Board" means the Chiropractic Physician Licensing Board created in Section 58-73-201.

(3) "Chiropractic assistant" means [~~a person~~] an individual who performs activities related to the practice of chiropractic under the supervision of a licensed chiropractic physician in accordance with division rule established in collaboration with the board.

(4) "Chiropractic physician" means [~~a person~~] an individual who has been licensed under this chapter to practice chiropractic.

(5) "Diagnosis of the articulation of the spinal column" means to examine the articulations of the spinal column of another human to determine the source, nature, kind, or extent of a disease, vertebral [~~sublixation~~]subluxation, or other physical condition, and to make a determination of the source, nature, kind, or extent of a disease or other physical condition.

(6) "Elastic barrier" means the point at which the patient cannot move a joint by his own means and through which movement is obtained or caused by a practitioner's skillful treatment using the practitioner's hands in a manipulation of a joint by thrust of sudden, high velocity, short amplitude so the patient cannot prevent the motion.

(7) "Incisive surgery" means any procedure having the power or quality of cutting of a patient for the purpose of treating disease, injury, or deformity, and includes the use of laser.

(8) [~~(a)~~] "Manipulate the articulation of the spinal column" means use by a practitioner of a skillful treatment using the practitioner's hands in a manipulation of a joint as follows:

(a) by thrust of sudden, high velocity, short amplitude so the patient cannot prevent the motion[~~. Movement~~];

(b) the movement of the joint is by force beyond its active limit of motion[~~.~~];

[~~(b)~~] (c) [~~This~~]the manipulation commences where mobilization ends and specifically begins when the elastic barrier of resistance is encountered and ends at the limit of anatomical integrity[~~.~~]; and

[~~(c)~~] (d) [~~Manipulation as described in this definition~~] the manipulation is directed to the goal of restoring joints to their proper physiological relationship of motion and related function, releasing adhesions, or stimulating joint receptors.

(9) "Practice of chiropractic" means a practice of a branch of the healing arts:

(a) the purpose of which is to restore or maintain human health, in which patient care or first aid, hygienic, nutritional, or rehabilitative procedures are administered;

(b) which places emphasis upon specific vertebral adjustment, manipulation, and treatment of the articulation and adjacent tissues of the spinal column, musculoskeletal structure of the body, and nervous system;

(c) that involves examining, diagnosing, treating, correcting, or prescribing treatment for any human disease, ailment, injury, infirmity, deformity, pain, or other condition, or the attempt to do so, in accordance with Section 58-73-601;

(d) that involves diagnosing, prescribing treatment, or making a determination of treatment necessity for another person's condition by means of:

(i) a physical examination of the person; or

(ii) a determination based upon or derived from information supplied directly or indirectly by a third person; and

(e) that includes the practice described in this Subsection (9) on an animal [~~to the extent permitted by~~] subject to:

(i) Subsection 58-28-307(12);

(ii) the provisions of this chapter; and

(iii) division rule.

(10) "Therapeutically position the articulation of the spinal column" means to adjust or manipulate the articulation of the spinal column.

CHAPTER 241
S. B. 117
Passed March 2, 2021
Approved March 16, 2021
Effective May 5, 2021

HUMAN SMUGGLING AMENDMENTS

Chief Sponsor: Luz Escamilla
House Sponsor: Jefferson S. Burton

LONG TITLE

General Description:

This bill modifies the offenses of human smuggling, aggravated human smuggling, and aggravated human trafficking.

Highlighted Provisions:

This bill:

- increases the penalty for human smuggling from a third degree felony to a second degree felony;
- increases the penalty for aggravated human smuggling from a second degree felony to a first degree felony; and
- removes the requirement of "in a single episode" when there are 10 or more victims from the offenses of aggravated human smuggling and aggravated human trafficking.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

76-5-309, as last amended by Laws of Utah 2020, Chapter 108
76-5-310, as last amended by Laws of Utah 2020, Chapter 108

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

Section 1. Section 76-5-309 is amended to read:

76-5-309. Human trafficking and human smuggling -- Penalties.

(1) Human trafficking for labor and human trafficking for sexual exploitation are each a second degree felony, except under Section 76-5-310.

(2) Human smuggling under Section 76-5-308 of one or more persons is a [~~third~~] second degree felony, except under Section 76-5-310.

(3) Human trafficking for labor or for sexual exploitation, human trafficking of a child, and human smuggling are each a separate offense from any other crime committed in relationship to the commission of either of these offenses.

(4) Under circumstances not amounting to aggravated sexual abuse of a child, a violation of Subsection 76-5-404.1(4)(h), a person who benefits, receives, or exchanges anything of value from knowing participation in:

(a) human trafficking for labor or for sexual exploitation in violation of Section 76-5-308 is guilty of a second degree felony;

(b) human smuggling is guilty of a third degree felony; and

(c) human trafficking of a child is guilty of a first degree felony.

(5) A person commits a separate offense of human trafficking, human trafficking of a child, or human smuggling for each person who is smuggled or trafficked under Section 76-5-308, 76-5-308.5, or 76-5-310.

Section 2. Section 76-5-310 is amended to read:

76-5-310. Aggravated human trafficking and aggravated human smuggling -- Penalties.

(1) An actor commits aggravated human trafficking for labor or sexual exploitation or aggravated human smuggling if, in the course of committing an offense under Section 76-5-308, the offense:

(a) results in the death of the trafficked or smuggled person;

(b) results in serious bodily injury of the trafficked or smuggled person;

(c) involves:

(i) rape under Section 76-5-402;

(ii) rape of a child under Section 76-5-402.1;

(iii) object rape under Section 76-5-402.2;

(iv) object rape of a child under Section 76-5-402.3;

(v) forcible sodomy under Section 76-5-403;

(vi) sodomy on a child under Section 76-5-403.1;

(vii) aggravated sexual abuse of a child under Section 76-5-404.1; or

(viii) aggravated sexual assault under Section 76-5-405;

(d) involves 10 or more victims [~~in a single episode of human trafficking or human smuggling~~]; or

(e) involves a victim trafficked for longer than 30 consecutive days.

(2) An actor commits aggravated human smuggling if the actor commits human smuggling under Section 76-5-308 and any human being whom the person engages in smuggling is:

(a) a child; and

(b) not accompanied by a family member who is 18 years of age or older.

(3) (a) Aggravated human trafficking is a first degree felony.

(b) Aggravated human smuggling is a [~~second~~] first degree felony.

(c) Aggravated human trafficking and aggravated human smuggling are each a separate offense from any other crime committed in relationship to the commission of either of these offenses.

CHAPTER 242
S. B. 125
Passed February 18, 2021
Approved March 16, 2021
Effective May 5, 2021

OPEN AND PUBLIC MEETINGS ACT AMENDMENTS

Chief Sponsor: David G. Buxton
House Sponsor: Timothy D. Hawkes

LONG TITLE

General Description:

This bill modifies the Open and Public Meetings Act.

Highlighted Provisions:

This bill:

- modifies provisions relating to the convening of an electronic meeting;
- requires a public body convening an electronic meeting to provide facilities at an anchor location for the public to attend the meeting;
- makes exceptions to the requirement to provide facilities at an anchor location; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

52-4-207, as last amended by Laws of Utah 2020, Fifth Special Session, Chapter 1

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

Section 1. Section 52-4-207 is amended to read:

52-4-207. Electronic meetings -- Authorization -- Requirements.

(1) Except as otherwise provided for a charter school in Section 52-4-209, a public body may convene and conduct an electronic meeting in accordance with this section.

(2) (a) A public body may not hold an electronic meeting unless the public body has adopted a resolution, rule, or ordinance governing the use of electronic meetings.

(b) The resolution, rule, or ordinance may:

(i) prohibit or limit electronic meetings based on budget, public policy, or logistical considerations;

(ii) require a quorum of the public body to:

(A) be present at a single anchor location for the meeting; and

(B) vote to approve establishment of an electronic meeting in order to include other members of the public body through an electronic connection;

(iii) require a request for an electronic meeting to be made by a member of a public body up to three days prior to the meeting to allow for arrangements to be made for the electronic meeting;

(iv) restrict the number of separate connections for members of the public body that are allowed for an electronic meeting based on available equipment capability; or

(v) establish other procedures, limitations, or conditions governing electronic meetings not in conflict with this section.

(3) A public body that convenes or conducts an electronic meeting shall:

(a) give public notice of the meeting:

(i) in accordance with Section 52-4-202; and

(ii) except for an electronic meeting [~~held without an anchor location~~] under Subsection [~~(4)~~] (5)(a), post written notice at the anchor location; and

(b) in addition to giving public notice required by Subsection (3)(a), provide:

(i) notice of the electronic meeting to the members of the public body at least 24 hours before the meeting so that they may participate in and be counted as present for all purposes, including the determination that a quorum is present; and

(ii) a description of how the members will be connected to the electronic meeting[~~;~~].

[~~(c) except for an electronic meeting held without an anchor location under Subsection (4), establish one or more anchor locations for the public meeting, at least one of which is in the building and political subdivision where the public body would normally meet if they were not holding an electronic meeting;~~]

[~~(d) (i) provide space and facilities at the anchor location so that interested persons and the public may attend and monitor the open portions of the meeting; or~~]

[~~(ii) for an electronic meeting held without an anchor location under Subsection (4), provide means by which the public may hear, or view and hear, the open portions of the meeting; and~~]

[~~(e) if comments from the public will be accepted during the electronic meeting:~~]

[~~(i) provide space and facilities at the anchor location so that interested persons and the public may attend, monitor, and participate in the open portions of the meeting; or~~]

[~~(ii) for an electronic meeting held without an anchor location under Subsection (4), provide means by which members of the public may provide comments by electronic means to the public body.~~]

[~~(4) A public body may convene and conduct an electronic meeting without an anchor location if~~]

[~~the chair of the public body:~~]

[~~(a) makes a written determination that conducting the meeting with an anchor location presents a substantial risk to the health and safety of those who may be present at the anchor location;~~]

[~~(b) states in the written determination described in Subsection (4)(a) the facts upon which the determination is based;~~]

[~~(c) includes in the public notice for the meeting, and reads at the beginning of the meeting, the information described in Subsections (4)(a) and (b); and~~]

[~~(d) includes in the public notice information on how a member of the public may view or make a comment at the meeting.~~]

(4) (a) Except as provided in Subsection (5), a public body that convenes and conducts an electronic meeting shall provide space and facilities at an anchor location for members of the public to attend the open portions of the meeting.

(b) A public body that convenes and conducts an electronic meeting may provide means by which members of the public who are not physically present at the anchor location may attend the meeting remotely by electronic means.

(5) Subsection (4)(a) does not apply to an electronic meeting if:

(a) (i) the chair of the public body determines that:

(A) conducting the meeting as provided in Subsection (4)(a) presents a substantial risk to the health or safety of those present or who would otherwise be present at the anchor location; or

(B) the location where the public body would normally meet has been ordered closed to the public for health or safety reasons; and

(ii) the public notice for the meeting includes:

(A) a statement describing the chair's determination under Subsection (5)(a)(i);

(B) a summary of the facts upon which the chair's determination is based; and

(C) information on how a member of the public may attend the meeting remotely by electronic means; or

(b) (i) during the course of the electronic meeting, the chair:

(A) determines that continuing to conduct the electronic meeting as provided in Subsection (4)(a) presents a substantial risk to the health or safety of those present at the anchor location; and

(B) announces during the electronic meeting the chair's determination under Subsection (5)(b)(i)(A) and states a summary of the facts upon which the determination is made; and

(ii) in convening the electronic meeting, the public body has provided means by which members of the public who are not physically present at the anchor location may attend the electronic meeting remotely by electronic means.

[~~(5)~~] (6) A [~~written~~] determination [~~described in Subsections (4)(a) and (b)~~] under Subsection (5)(a)(i) expires 30 days after the day on which the chair of the public body makes the determination.

[~~(6)~~] (7) Compliance with the provisions of this section by a public body constitutes full and complete compliance by the public body with the corresponding provisions of Sections 52-4-201 and 52-4-202.

CHAPTER 243
S. B. 126
Passed February 25, 2021
Approved March 16, 2021
Effective May 5, 2021

SENTENCING COMMISSION REQUIREMENTS

Chief Sponsor: Daniel W. Thatcher
House Sponsor: Marsha Judkins

LONG TITLE

General Description:

This bill provides requirements for the Utah Sentencing Commission regarding the collateral consequences for a conviction or an adjudication of an offense.

Highlighted Provisions:

This bill:

- defines terms;
- requires the Utah Sentencing Commission to identify any provision of state law that imposes a collateral consequence for a conviction or an adjudication of an offense;
- requires the Utah Sentencing Commission to prepare and update a guide with collateral consequences that are identified by the Utah Sentencing Commission;
- requires the guide to contain specific statements regarding the guide's application; and
- provides a reporting requirement for the Utah Sentencing Commission regarding the guide.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63M-7-405, as last amended by Laws of Utah 2018, Chapter 334

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

Section 1. Section 63M-7-405 is amended to read:

63M-7-405. Compensation of members -- Reports to the Legislature, the courts, and the governor -- Collateral consequences guide.

(1) (a) A member who is not a legislator may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses as allowed in:

(i) Section 63A-3-106;

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

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

(b) Compensation and expenses of a member who is a legislator are governed by Section 36-2-2 and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.

(2) (a) The commission shall submit to the Legislature, the courts, and the governor at least 60 days before the annual general session of the Legislature the commission's reports and recommendations for sentencing guidelines and supervision length guidelines and amendments.

(b) The commission shall use existing data and resources from state criminal justice agencies.

(c) The commission may employ professional assistance and other staff members as it considers necessary or desirable.

(3) The commission shall assist and respond to questions from all three branches of government, but is part of the Commission on Criminal and Juvenile Justice for coordination on criminal and juvenile justice issues, budget, and administrative support.

(4) (a) As used in this Subsection (4), "master offense list" means a document that contains all offenses that exist in statute and each offense's associated penalty.

(b) No later than May 1, 2017, the commission shall create a master offense list.

(c) No later than June 30 of each calendar year, the commission shall:

(i) after the last day of the general legislative session, update the master offense list; and

(ii) present the updated master offense list to the Law Enforcement and Criminal Justice Interim Committee.

(5) As used in Subsection (6):

(a) "Adjudication" means an adjudication, as that term is defined in Section 78A-6-105, of an offense under Section 78A-6-117.

(b) "Civil disability" means a legal right or privilege that is revoked as a result of the individual's conviction or adjudication.

(c) "Collateral consequence" means:

(i) a discretionary disqualification; or

(ii) a mandatory sanction.

(d) "Conviction" means the same as that term is defined in Section 77-38a-102.

(e) "Disadvantage" means any legal or regulatory restriction that:

(i) is imposed on an individual as a result of the individual's conviction or adjudication; and

(ii) is not a civil disability or a legal penalty.

(f) "Discretionary disqualification" means a penalty, a civil disability, or a disadvantage that a court in a civil proceeding, or a federal, state, or local government agency or official, may impose on an individual as a result of the individual's adjudication or conviction for an offense regardless of whether the penalty, the civil disability, or the disadvantage is specifically designated as a penalty, a civil disability, or a disadvantage.

(g) "Mandatory sanction" means a penalty, a civil disability, or a disadvantage that:

(i) is imposed on an individual as a result of the individual's adjudication or conviction for an offense regardless of whether the penalty, the civil disability, or the disadvantage is specifically designated as a penalty, a civil disability, or a disadvantage; and

(ii) is not included in the judgment for the adjudication or conviction.

(h) "Offense" means a felony, a misdemeanor, an infraction, or an adjudication under the laws of this state, another state, or the United States.

(i) "Penalty" means an administrative, civil, or criminal sanction imposed to punish the individual for the individual's conviction or adjudication.

(6) (a) The commission shall:

(i) identify any provision of state law, including the Utah Constitution, and any administrative rule that imposes a collateral consequence;

(ii) prepare and compile a guide that contains all the provisions identified in Subsection (6)(a)(i) on or before October 1, 2022; and

(iii) update the guide described in Subsection (6)(a)(ii) annually.

(b) The commission shall state in the guide described in Subsection (6)(a) that:

(i) the guide has not been enacted into law;

(ii) the guide does not have the force of law;

(iii) the guide is for informational purposes only;

(iv) an error or omission in the guide, or in any reference in the guide:

(A) has no effect on a plea, an adjudication, a conviction, a sentence, or a disposition; and

(B) does not prevent a collateral consequence from being imposed;

(v) any laws or regulations for a county, a municipality, another state, or the United States, imposing a collateral consequence are not included in the guide; and

(vi) the guide does not include any provision of state law or any administrative rule imposing a collateral consequence that is enacted on or after March 31 of each year.

(c) The commission shall:

(i) place the statements described in Subsection (6)(b) in a prominent place at the beginning of the guide; and

(ii) make the guide available to the public on the commission's website.

(d) The commission shall:

(i) present the updated guide described in Subsection (6)(a)(iii) annually to the Law Enforcement and Criminal Justice Interim Committee; and

(ii) identify and recommend legislation on collateral consequences to the Law Enforcement and Criminal Justice Interim Committee.

CHAPTER 244
S. B. 130
Passed February 22, 2021
Approved March 16, 2021
Effective May 5, 2021

REGULATION OF CONCENTRATED ANIMAL FEEDING OPERATIONS

Chief Sponsor: Scott D. Sandall
House Sponsor: Joel Ferry

LONG TITLE

General Description:

This bill enacts provisions related to large concentrated animal feeding operations.

Highlighted Provisions:

This bill:

- enacts the Large Concentrated Animal Feeding Operations Act, including:
  - defining terms;
  - requiring adoption of county large concentrated animal feeding operation land use ordinances under certain circumstances;
  - addressing scope of a county large concentrated animal feeding operation land use ordinance; and
  - addressing determining the geographic area where large concentrated animal feeding operations may be located.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:
17-27a-1101, Utah Code Annotated 1953
17-27a-1102, Utah Code Annotated 1953
17-27a-1103, Utah Code Annotated 1953
17-27a-1104, Utah Code Annotated 1953

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

Section 1. Section 17-27a-1101 is enacted to read:

Part 11. Large Concentrated Animal Feeding Operations Act

17-27a-1101. Title.

This part is known as the "Large Concentrated Animal Feeding Operations Act."

Section 2. Section 17-27a-1102 is enacted to read:

17-27a-1102. Definitions.

(1) "Animal feeding operation" means a lot or facility where the following conditions are met:

(a) animals have been, are, or will be stabled or confined and fed or maintained for a total of 45 days or more in any 12-month period; and

(b) crops, vegetation, forage growth, or post-harvest residues are not sustained in the normal growing season over any portion of the lot or facility.

(2) (a) "Commercial enterprise" means a building:

(i) used as a part of a business that manufactures goods, delivers services, or sells goods or services;

(ii) customarily and regularly used by the general public during the entire calendar year; and

(iii) connected to electric or water systems.

(b) "Commercial enterprise" does not include an agriculture operation.

(3) "County large concentrated animal feeding operation land use ordinance" means an ordinance adopted in accordance with Section 17-27a-1103.

(4) "Education institution" means a building in which any part is used:

(a) for more than three hours each weekday during a school year as a public or private:

(i) elementary school;

(ii) secondary school; or

(iii) kindergarten;

(b) a state institution of higher education as defined in Section 53B-3-102; or

(c) a private institution of higher education in the state accredited by a regional or national accrediting agency recognized by the United States Department of Education.

(5) "Health care facility" means the same as that term is defined in Section 26-21-2.

(6) "Large concentrated animal feeding operation" means an animal feeding operation that stables or confines as many as or more than the numbers of animals specified in any of the following categories:

(a) 700 mature dairy cows, whether milked or dry;

(b) 1,000 veal calves;

(c) 1,000 cattle other than mature dairy cows or veal calves, with "cattle" including heifers, steers, bulls, and cow calf pairs;

(d) 2,500 swine each weighing 55 pounds or more;

(e) 10,000 swine each weighing less than 55 pounds;

(f) 500 horses;

(g) 10,000 sheep or lambs;

(h) 55,000 turkeys;

(i) 30,000 laying hens or broilers, if the animal feeding operation uses a liquid manure handling system;

(j) 125,000 chickens, other than laying hens, if the animal feeding operation uses other than a liquid manure handling system;

(k) 82,000 laying hens, if the animal feeding operation uses other than a liquid manure handling system;

(l) 30,000 ducks, if the animal feeding operation uses other than a liquid manure handling system; or

(m) 5,000 ducks, if the animal feeding operation uses a liquid manure handling system.

(7) "Manure" includes manure, bedding, compost, a raw material, or other material commingled with manure or set aside for disposal.

(8) "Public area" means land that:

(a) is owned by the federal government, the state, or a political subdivision with facilities that attract the public to congregate and remain in the area for significant periods of time;

(b) (i) is part of a public park, preserve, or recreation area that is owned or managed by the federal government, the state, a political subdivision, or a nongovernmental entity; and

(ii) has a cultural, archaeological, scientific, or historic significance or contains a rare or valuable ecological system, including a site recognized as a National Historic Landmark or Site; or

(c) is a cemetery.

(9) "Religious institution" means a building and grounds used at least monthly for religious services or ceremonies.

Section 3. Section 17-27a-1103 is enacted to read:

17-27a-1103. County adoption of a county large concentrated animal feeding operation land use ordinance.

(1) (a) The legislative body of a county desiring to restrict siting of large concentrated animal feeding operations shall adopt a county large concentrated animal feeding operation land use ordinance in accordance with this part by no later than February 1, 2022.

(b) A county may consider an application to locate large concentrated animal feeding operations in the county before the county adopts the county large concentrated animal feeding operation land use ordinance under this part.

(2) A county large concentrated animal feeding operation land use ordinance described in Subsection (1) shall:

(a) designate geographic areas of sufficient size to support large concentrated animal feeding operations, including state trust lands described in Subsection 53C-1-103(8) and private property within the county, including adopting a map described in Section 17-27a-1104;

(b) establish requirements and procedures for applying for land use decision that provides a reasonable opportunity to operate large concentrated animal feeding operations within the geographic area described in Subsection (2)(a);

(c) disclose fees imposed to apply for the land use decision described in Subsection (2)(b);

(d) disclose any requirements in addition to fees described in Subsection (2)(c) to be imposed by the county; and

(e) provide for administrative remedies consistent with this chapter.

(3) (a) This part does not authorize a county to regulate the operation of large concentrated animal feeding operations in any way that conflicts with state or federal statutes or regulations.

(b) Nothing in this part supersedes or authorizes enactment of an ordinance that infringes on Chapter 41, Agriculture, Industrial, or Critical Infrastructure Materials Protection Areas, or Title 4, Chapter 44, Agricultural Operations Nuisances Act.

Section 4. Section 17-27a-1104 is enacted to read:

17-27a-1104. Criteria considered in adopting the geographic area of a county large concentrated animal feeding operation land use ordinance -- Maps -- Exception.

(1) (a) To determine the geographic areas where large concentrated animal feeding operations may be located under a county large concentrated animal feeding operation land use ordinance, the county shall consider:

(i) the distance of the geographic area measured in feet from the following:

(A) a residential zone;

(B) a health care facility;

(C) a public area;

(D) an education institution;

(E) a religious institution;

(F) a commercial enterprise;

(G) a municipal boundary; and

(H) a state or county highway or road;

(ii) prevailing winds;

(iii) topography;

(iv) economic benefits to the county; and

(v) reasonable access to transportation, water, and power infrastructure.

(b) A county may consider criteria in addition to those described in Subsection (1)(a).

(2) After considering the factors described in Subsection (1), the county shall designate the geographic areas where large concentrated animal feeding operations may locate as required by Subsection 17-27a-1103(2)(a) and prepare a map available to the public showing the geographic areas in the county.

(3) A county may not designate a geographic area for large concentrated animal feeding operations based solely on a uniform setback distance requirement from the locations described in

Subsection (1)(a)(i), but shall determine the geographic area by evaluating all criteria in Subsection (1).

(4) A county shall designate at least one geographic area within the county where large concentrated animal feeding operations for all animal species listed in Subsection 17-27a-1102(6) may be located unless the county demonstrates that one of the following makes it not feasible for the county to meet the criteria described in this section:

(a) the county's population density; or

(b) the county's population density relative to the amount of private land within the county.

CHAPTER 245
S. B. 135
Passed February 24, 2021
Approved March 16, 2021
Effective May 5, 2021

MOTOR VEHICLE INSURANCE AMENDMENT

Chief Sponsor: Michael K. McKell
House Sponsor: Kelly B. Miles

LONG TITLE

General Description:

This bill amends Motor Vehicle Insurance in Title 31A, Insurance Code.

Highlighted Provisions:

This bill:

- amends the definition of "pedestrian" in Title 31A, Chapter 22, Part 3, Motor Vehicle Insurance; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

31A-22-301, as last amended by Laws of Utah 1987, Chapter 91

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

Section 1. Section 31A-22-301 is amended to read:

31A-22-301. Definitions.

As used in this part:

(1) "Motor vehicle" [~~has the same meaning as under~~] means the same as that term is defined in [~~Subsection 41-12a-103(4)~~] Section 41-6a-102.

(2) "Motor vehicle business" means a motor vehicle sales agency, repair shop, service station, storage garage, or public parking place.

(3) "Motor vehicle liability policy" means a policy which satisfies the requirements of Sections 31A-22-303 and 31A-22-304.

(4) "Occupying" means being in or on a motor vehicle as a passenger or operator, or being engaged in the immediate acts of entering, boarding, or alighting from a motor vehicle.

(5) "Operator" [~~has the same meaning as under~~] means the same as that term is defined in Subsection 41-12a-103(7).

(6) "Owner" [~~has the same meaning as under~~] means the same as that term is defined in Subsection 41-12a-103(8).

(7) "Pedestrian" means any natural person not occupying a motor vehicle.

CHAPTER 246
S. B. 139
Passed March 3, 2021
Approved March 16, 2021
Effective May 5, 2021

UTAH STATE CORRECTIONAL FACILITY OPERATIONAL AMENDMENTS

Chief Sponsor: Derrin R. Owens
House Sponsor: V. Lowry Snow

LONG TITLE

General Description:

This bill addresses Department of Corrections operations, including treatment and program opportunities for offenders.

Highlighted Provisions:

This bill:

- defines terms;
- requires the Department of Corrections to offer offenders program opportunities that are evidence-based and evidence-informed;
- requires the Department of Corrections to implement direct supervision where appropriate to reduce violence and enhance offenders' voluntary participation in program opportunities;
- requires the Department of Corrections to develop an individual case action plan for each offender that includes program priorities based on assessments of the offender's risk, needs, and responsivity;
- requires the Department of Corrections to share an individual's case action plan, including changes to or progress made in the plan, with the sentencing and release authority;
- requires the sentencing and release authority to consider an individual's case action plan when making decisions;
- requires the Department of Corrections to provide training in direct supervision and trauma-informed care; and
- exempts the Department of Corrections shooting ranges from public access.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a coordination clause.

Utah Code Sections Affected:

AMENDS:

47-3-305, as enacted by Laws of Utah 2013, Chapter 155 and further amended by Revisor Instructions, Laws of Utah 2013, Chapter 155
64-13-1, as last amended by Laws of Utah 2016, Chapter 243
64-13-6, as last amended by Laws of Utah 2018, Chapter 200
64-13-14, as last amended by Laws of Utah 2007, Chapter 306
64-13-24, as last amended by Laws of Utah 1987, Chapter 116
77-18-1, as last amended by Laws of Utah 2020, Chapters 209, 299, and 354
77-27-5, as last amended by Laws of Utah 2019, Chapter 148

Utah Code Sections Affected by Coordination Clause:

77-18-1, as last amended by Laws of Utah 2020, Chapters 209, 299, and 354
77-18-105, Utah Code Annotated 1953

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

Section 1. Section 47-3-305 is amended to read:

47-3-305. Exceptions and prohibitions.

(1) This part does not apply to:

(a) shooting ranges that are otherwise open to the public;

(b) shooting ranges that are operated as a public shooting range staffed by and operated by Division of Wildlife Resources;

(c) the Utah National Guard ranges located at Camp Williams and the Salt Lake International Airport; [~~and~~]

(d) Department of Corrections ranges; and

[~~(d)~~] (e) ranges owned, operated, or currently leased as of March 26, 2013, by a state or local public safety agency.

(2) Firearms may not be allowed in a school building, except under the provision of Section 76-10-505.5, unless there is an outdoor entrance to the shooting range and the most direct access to the range is used. An outdoor entrance to a shooting range may not be blocked by fences, structures, or gates for the purpose of blocking the outdoor entrance.

(3) Only air guns may be used in public ranges where the ventilation systems do not meet current OSHA standards as applied to the duration of exposure of the participants. For the purposes of this part, an air gun does not include larger caliber pneumatic weapons, paintball guns, or air shotguns.

(4) Group range use is a lawful, approved activity under Subsection 76-10-505.5(4)(a).

Section 2. Section 64-13-1 is amended to read:

64-13-1. Definitions.

As used in this chapter:

(1) "Case action plan" means a document developed by the Department of Corrections that identifies:

(a) the program priorities for the treatment of the offender, including the criminal risk factors as determined by [~~a risk and needs assessment~~] risk, needs, and responsivity assessments conducted by the department[~~.~~]; and

(b) clearly defined completion requirements.

(2) "Community correctional center" means a nonsecure correctional facility operated by the department.

(3) "Correctional facility" means any facility operated to house offenders, either in a secure or nonsecure setting:

(a) by the department; or

(b) under a contract with the department.

(4) "Criminal risk factors" means a person's characteristics and behaviors that:

(a) affect that person's risk of engaging in criminal behavior; and

(b) are diminished when addressed by effective treatment, supervision, and other support resources, resulting in a reduced risk of criminal behavior.

(5) "Department" means the Department of Corrections.

(6) "Direct supervision" means a housing and supervision system that is designed to meet the goals described in Subsection 64-13-14(5) and has the elements described in Subsection 64-13-14(6).

[~~(6)~~] (7) "Emergency" means any riot, disturbance, homicide, inmate violence occurring in any correctional facility, or any situation that presents immediate danger to the safety, security, and control of the department.

(8) "Evidence-based" means a program or practice that has had multiple randomized control studies or a meta-analysis demonstrating that the program or practice is effective for a specific population or has been rated as effective by a standardized program evaluation tool.

(9) "Evidence-informed" means a program or practice that is based on research and the experience and expertise of the department.

[~~(7)~~] (10) "Executive director" means the executive director of the Department of Corrections.

[~~(8)~~] (11) "Inmate" means any person who is committed to the custody of the department and who is housed at a correctional facility or at a county jail at the request of the department.

[~~(9)~~] (12) "Offender" means any person who has been convicted of a crime for which he may be committed to the custody of the department and is at least one of the following:

(a) committed to the custody of the department;

(b) on probation; or

(c) on parole.

[~~(10)~~] (13) "Risk and needs assessment" means an actuarial tool validated on criminal offenders that determines:

(a) an individual's risk of reoffending; and

(b) the criminal risk factors that, when addressed, reduce the individual's risk of reoffending.

[~~(11)~~] (14) "Secure correctional facility" means any prison, penitentiary, or other institution operated by the department or under contract for the confinement of offenders, where force may be used to restrain them if they attempt to leave the institution without authorization.

Section 3. Section 64-13-6 is amended to read:

64-13-6. Department duties.

(1) The department shall:

(a) protect the public through institutional care and confinement, and supervision in the community of offenders where appropriate;

(b) implement court-ordered punishment of offenders;

(c) provide evidence-based and evidence-informed program opportunities for offenders designed to reduce offenders' criminogenic and recidivism risks, including behavioral, cognitive, educational, and career-readiness program opportunities;

(d) ensure that offender participation in all program opportunities described in Subsection (1)(c) is voluntary;

(e) where appropriate, utilize offender volunteers as mentors in the program opportunities described in Subsection (1)(c);

[~~(d)~~] (f) provide treatment for sex offenders who are found to be treatable based upon criteria developed by the department;

[~~(e)~~] (g) provide the results of ongoing clinical assessment of sex offenders and objective diagnostic testing to sentencing and release authorities;

[~~(f)~~] (h) manage programs that take into account the needs and interests of victims, where reasonable;

[~~(g)~~] (i) supervise probationers and parolees as directed by statute and implemented by the courts and the Board of Pardons and Parole;

[~~(h)~~] (j) subject to Subsection (2), investigate criminal conduct involving offenders incarcerated in a state correctional facility;

[~~(i)~~] (k) cooperate and exchange information with other state, local, and federal law enforcement agencies to achieve greater success in prevention and detection of crime and apprehension of criminals;

[~~(j)~~] (l) implement the provisions of Title 77, Chapter 28c, Interstate Compact for Adult Offender Supervision;

[~~(k)~~] (m) establish a case action plan based on appropriate validated risk, needs, and responsivity assessments for each offender as follows:

(i) (A) if an offender is to be supervised in the community, the case action plan shall be established for the offender not more than 90 days after supervision by the department begins; and

[~~(ii)~~] (B) if the offender is committed to the custody of the department, the case action plan shall be established for the offender not more than 120 days after the commitment; [~~and~~]

(ii) each case action plan shall integrate an individualized, evidence-based, and evidence-informed treatment and program plan with clearly defined completion requirements;

(iii) the department shall share each newly established case action plan with the sentencing and release authority within 30 days after the day on which the case action plan is established; and

(iv) the department shall share any changes to a case action plan, including any change in an offender's risk assessment, with the sentencing and release authority within 30 days after the day of the change; and

[~~(l)~~] (n) ensure that any training or certification required of a public official or public employee, as those terms are defined in Section 63G-22-102, complies with Title 63G, Chapter 22, State Training and Certification Requirements, if the training or certification is required:

(i) under this title;

(ii) by the department; or

(iii) by an agency or division within the department.

(2) The department may in the course of supervising probationers and parolees:

(a) impose graduated sanctions, as established by the Utah Sentencing Commission under Subsection 63M-7-404(6), for an individual's violation of one or more terms of the probation or parole; and

(b) upon approval by the court or the Board of Pardons and Parole, impose as a sanction for an individual's violation of the terms of probation or parole a period of incarceration of not more than three consecutive days and not more than a total of five days within a period of 30 days.

(3) (a) By following the procedures in Subsection (3)(b), the department may investigate the following occurrences at state correctional facilities:

(i) criminal conduct of departmental employees;

(ii) felony crimes resulting in serious bodily injury;

(iii) death of any person; or

(iv) aggravated kidnaping.

(b) Prior to investigating any occurrence specified in Subsection (3)(a), the department shall:

(i) notify the sheriff or other appropriate law enforcement agency promptly after ascertaining facts sufficient to believe an occurrence specified in Subsection (3)(a) has occurred; and

(ii) obtain consent of the sheriff or other appropriate law enforcement agency to conduct an investigation involving an occurrence specified in Subsection (3)(a).

(4) Upon request, the department shall provide copies of investigative reports of criminal conduct to the sheriff or other appropriate law enforcement agencies.

(5) (a) The executive director of the department, or the executive director's designee if the designee possesses expertise in correctional programming, shall consult at least annually with cognitive and career-readiness staff experts from the Utah system of higher education and the State Board of Education to review the department's evidence-based and evidence-informed treatment and program opportunities.

(b) Beginning in the 2022 interim, the department shall provide an annual report to the Law Enforcement and Criminal Justice Interim Committee regarding the department's implementation of and offender participation in evidence-based and evidence-informed treatment and program opportunities designed to reduce the criminogenic and recidivism risks of offenders over time.

[~~(5)~~] (6) The Department of Corrections shall collect accounts receivable ordered by the district court as a result of prosecution for a criminal offense according to the requirements and during the time periods established in Subsection 77-18-1(9).

Section 4. Section 64-13-14 is amended to read:

64-13-14. Secure correctional facilities.

(1) The department shall maintain and operate secure correctional facilities for the incarceration of offenders.

(2) For each compound of secure correctional facilities, as established by the executive director, wardens shall be appointed as the chief administrative officers by the executive director.

(3) The department may transfer offenders from one correctional facility to another and may, with the consent of the sheriff, transfer any offender to a county jail.

(4) Where new or modified facilities are designed appropriately, the department shall implement an evidence-based direct supervision system in accordance with Subsections (5) and (6).

(5) A direct supervision system shall be designed to meet the goals of:

(a) reducing offender violence;

(b) enhancing offenders' participation in treatment, program, and work opportunities;

(c) managing and reducing offender risk;

(d) promoting pro-social offender behaviors;

(e) providing a tiered-housing structure that:

(i) rewards an offender's pro-social behaviors and progress toward the completion requirements of the offender's individual case action plan with less restrictive housing and increased privileges; and

(ii) houses similarly behaving offenders together; and

(f) reducing departmental costs.

(6) A direct supervision system shall include the following elements:

(a) department staff will interact continuously with offenders to actively manage offenders' behavior and to identify problems at early stages;

(b) department staff will use management techniques designed to prevent and discourage negative offender behavior and encourage positive offender behavior;

(c) department staff will establish and maintain a professional supervisory relationship with offenders; and

(d) barriers separating department staff and offenders shall be removed.

(7) Beginning in the 2022 interim, the department shall provide an annual report to the Law Enforcement and Criminal Justice Interim Committee regarding the status of the implementation of direct supervision.

Section 5. Section 64-13-24 is amended to read:

64-13-24. Standards for staff training.

To assure the safe and professional operation of correctional programs, the department shall establish policies setting minimum standards for the basic training of all staff upon employment, and the subsequent regular training of staff, including training on direct supervision and trauma-informed care. The training standards of correctional officers who are designated as peace officers shall be not less than those established by the Peace Officer Standards and Training Council.

Section 6. Section 77-18-1 is amended to read:

77-18-1. Suspension of sentence -- Pleas held in abeyance -- Probation -- Supervision -- Presentence investigation -- Standards -- Confidentiality -- Terms and conditions -- Termination, revocation, modification, or extension -- Hearings -- Electronic monitoring.

(1) On a plea of guilty or no contest entered by a defendant in conjunction with a plea in abeyance agreement, the court may hold the plea in abeyance as provided in Chapter 2a, Pleas in Abeyance, and under the terms of the plea in abeyance agreement.

(2) (a) On a plea of guilty, guilty with a mental illness, no contest, or conviction of any crime or offense, the court may, after imposing sentence, suspend the execution of the sentence and place the defendant:

(i) on probation under the supervision of the Department of Corrections except in cases of class C misdemeanors or infractions;

(ii) on probation under the supervision of an agency of local government or with a private organization; or

(iii) on court probation under the jurisdiction of the sentencing court.

(b) (i) The legal custody of all probationers under the supervision of the department is with the department.

(ii) The legal custody of all probationers under the jurisdiction of the sentencing court is vested as ordered by the court.

(iii) The court has continuing jurisdiction over all probationers.

(iv) Court probation may include an administrative level of services, including notification to the court of scheduled periodic reviews of the probationer's compliance with conditions.

(c) Supervised probation services provided by the department, an agency of local government, or a private organization shall specifically address the offender's risk of reoffending as identified by a validated risk and needs screening or assessment.

(3) (a) The department shall establish supervision and presentence investigation standards for all individuals referred to the department based on:

(i) the type of offense;

(ii) the results of a risk and needs assessment;

(iii) the demand for services;

(iv) the availability of agency resources;

(v) public safety; and

(vi) other criteria established by the department to determine what level of services shall be provided.

(b) Proposed supervision and investigation standards shall be submitted to the Judicial Council and the Board of Pardons and Parole on an annual basis for review and comment prior to adoption by the department.

(c) The Judicial Council and the department shall establish procedures to implement the supervision and investigation standards.

(d) The Judicial Council and the department shall annually consider modifications to the standards based upon criteria in Subsection (3)(a) and other criteria as they consider appropriate.

(e) The Judicial Council and the department shall annually prepare an impact report and submit it to the appropriate legislative appropriations subcommittee.

(4) Notwithstanding other provisions of law, the department is not required to supervise the probation of an individual convicted of a class B or C misdemeanor or an infraction or to conduct presentence investigation reports on a class C misdemeanor or infraction. However, the department may supervise the probation of a class B misdemeanant in accordance with department standards.

(5) (a) Before the imposition of any sentence, the court may, with the concurrence of the defendant,

continue the date for the imposition of sentence for a reasonable period of time for the purpose of obtaining a presentence investigation report from the department or information from other sources about the defendant.

(b) The presentence investigation report shall include:

(i) a victim impact statement according to guidelines set in Section 77-38a-203 describing the effect of the crime on the victim and the victim's family;

(ii) a specific statement of pecuniary damages, accompanied by a recommendation from the department regarding the payment of restitution with interest by the defendant in accordance with Chapter 38a, Crime Victims Restitution Act;

(iii) findings from any screening and any assessment of the offender conducted under Section 77-18-1.1;

(iv) recommendations for treatment of the offender; and

(v) the number of days since the commission of the offense that the offender has spent in the custody of the jail and the number of days, if any, the offender was released to a supervised release or alternative incarceration program under Section 17-22-5.5.

(c) The contents of the presentence investigation report are protected and are not available except by court order for purposes of sentencing as provided by rule of the Judicial Council or for use by the department.

(6) (a) The department shall provide the presentence investigation report to the defendant's attorney, or the defendant if not represented by counsel, the prosecutor, and the court for review, three working days prior to sentencing. Any alleged inaccuracies in the presentence investigation report, which have not been resolved by the parties and the department prior to sentencing, shall be brought to the attention of the sentencing judge, and the judge may grant an additional 10 working days to resolve the alleged inaccuracies of the report with the department. If after 10 working days the inaccuracies cannot be resolved, the court shall make a determination of relevance and accuracy on the record.

(b) If a party fails to challenge the accuracy of the presentence investigation report at the time of sentencing, that matter shall be considered to be waived.

(7) At the time of sentence, the court shall receive any testimony, evidence, or information the defendant or the prosecuting attorney desires to present concerning the appropriate sentence. This testimony, evidence, or information shall be presented in open court on record and in the presence of the defendant.

(8) While on probation, and as a condition of probation, the court may require that a defendant perform any or all of the following:

(a) provide for the support of others for whose support the defendant is legally liable;

(b) participate in available treatment programs, including any treatment program in which the defendant is currently participating, if the program is acceptable to the court;

(c) if on probation for a felony offense, serve a period of time, as an initial condition of probation, not to exceed one year, in a county jail designated by the department, after considering any recommendation by the court as to which jail the court finds most appropriate:

(i) the court may modify probation to include a period of time served in a county jail immediately prior to the termination of probation as long as the terminal period of time does not exceed one year; and

(ii) jail days ordered as a sanction for probation violations do not apply to the limitation on jail days described in Subsection (8)(c) or (8)(c)(i);

(d) serve a term of home confinement, which may include the use of electronic monitoring;

(e) participate in compensatory service restitution programs, including the compensatory service program provided in Section 76-6-107.1;

(f) pay for the costs of investigation, probation, and treatment services;

(g) make restitution or reparation to the victim or victims with interest in accordance with Chapter 38a, Crime Victims Restitution Act; and

(h) comply with other terms and conditions the court considers appropriate to ensure public safety or increase a defendant's likelihood of success on probation.

(9) The department shall collect and disburse the accounts receivable as defined by Section 77-32a-101, with interest and any other costs assessed under Section 64-13-21 during:

(a) the parole period and any extension of that period in accordance with Subsection 77-27-6(4); and

(b) the probation period in cases for which the court orders supervised probation and any extension of that period by the department in accordance with Subsection (10).

(10) (a) (i) Except as provided in Subsection (10)(a)(ii), probation of an individual placed on probation after December 31, 2018:

(A) may not exceed the individual's maximum sentence;

(B) shall be for a period of time that is in accordance with the supervision length guidelines established by the Utah Sentencing Commission under Section 63M-7-404, to the extent the guidelines are consistent with the requirements of the law; and

(C) shall be terminated in accordance with the supervision length guidelines established by the Utah Sentencing Commission under Section

63M-7-404, to the extent the guidelines are consistent with the requirements of the law.

(ii) Probation of an individual placed on probation after December 31, 2018, whose maximum sentence is one year or less may not exceed 36 months.

(iii) Probation of an individual placed on probation on or after October 1, 2015, but before January 1, 2019, may be terminated at any time at the discretion of the court or upon completion without violation of 36 months probation in felony or class A misdemeanor cases, 12 months in cases of class B or C misdemeanors or infractions, or as allowed pursuant to Section 64-13-21 regarding earned credits.

(b) (i) If, upon expiration or termination of the probation period under Subsection (10)(a), there remains an unpaid balance upon the accounts receivable as defined in Section 77-32a-101, the court may retain jurisdiction of the case and continue the defendant on bench probation for the limited purpose of enforcing the payment of the account receivable. If the court retains jurisdiction for this limited purpose, the court may order the defendant to pay to the court the costs associated with continued probation under this Subsection (10).

(ii) In accordance with Section 77-18-6, the court shall record in the registry of civil judgments any unpaid balance not already recorded and immediately transfer responsibility to collect the account to the Office of State Debt Collection.

(iii) Upon motion of the Office of State Debt Collection, prosecutor, victim, or upon its own motion, the court may require the defendant to show cause why the defendant's failure to pay should not be treated as contempt of court.

(c) Subsections (10)(a) and (b) do not apply to Section 76-7-201, criminal nonsupport.

(d) (i) The department shall notify the court, the Office of State Debt Collection, and the prosecuting attorney in writing in advance in all cases when termination of supervised probation is being requested by the department or will occur by law.

(ii) The notification shall include a probation progress report and complete report of details on outstanding accounts receivable.

(11) (a) (i) Any time served by a probationer outside of confinement after having been charged with a probation violation and prior to a hearing to revoke probation does not constitute service of time toward the total probation term unless the probationer is exonerated at a hearing to revoke the probation.

(ii) Any time served in confinement awaiting a hearing or decision concerning revocation of probation does not constitute service of time toward the total probation term unless the probationer is exonerated at the hearing.

(iii) Any time served in confinement awaiting a hearing or decision concerning revocation of probation constitutes service of time toward a term of incarceration imposed as a result of the revocation of probation or a graduated sanction imposed under Section 63M-7-404.

(b) The running of the probation period is tolled upon the filing of a violation report with the court alleging a violation of the terms and conditions of probation or upon the issuance of an order to show cause or warrant by the court.

(12) (a) (i) Probation may be modified as is consistent with the supervision length guidelines and the graduated sanctions and incentives developed by the Utah Sentencing Commission under Section 63M-7-404.

(ii) The length of probation may not be extended, except upon waiver of a hearing by the probationer or upon a hearing and a finding in court that the probationer has violated the conditions of probation.

(iii) Probation may not be revoked except upon a hearing in court and a finding that the conditions of probation have been violated.

(b) (i) Upon the filing of an affidavit, or an unsworn written declaration executed in substantial compliance with Title 78B, Chapter 18a, Uniform Unsworn Declarations Act, alleging with particularity facts asserted to constitute violation of the conditions of probation, the court shall determine if the affidavit or unsworn written declaration establishes probable cause to believe that revocation, modification, or extension of probation is justified.

(ii) If the court determines there is probable cause, it shall cause to be served on the defendant a warrant for the defendant's arrest or a copy of the affidavit or unsworn written declaration and an order to show cause why the defendant's probation should not be revoked, modified, or extended.

(c) (i) The order to show cause shall specify a time and place for the hearing and shall be served upon the defendant at least five days prior to the hearing.

(ii) The defendant shall show good cause for a continuance.

(iii) The order to show cause shall inform the defendant of a right to be represented by counsel at the hearing and to have counsel appointed if the defendant is indigent.

(iv) The order shall also inform the defendant of a right to present evidence.

(d) (i) At the hearing, the defendant shall admit or deny the allegations of the affidavit or unsworn written declaration.

(ii) If the defendant denies the allegations of the affidavit or unsworn written declaration, the prosecuting attorney shall present evidence on the allegations.

(iii) The persons who have given adverse information on which the allegations are based shall be presented as witnesses subject to questioning by the defendant unless the court for good cause otherwise orders.

(iv) The defendant may call witnesses, appear and speak in the defendant's own behalf, and present evidence.

(e) (i) After the hearing the court shall make findings of fact.

(ii) Upon a finding that the defendant violated the conditions of probation, the court may order the probation revoked, modified, continued, or reinstated for all or a portion of the original term of probation.

(iii) (A) Except as provided in Subsection (10)(a)(ii), the court may not require a defendant to remain on probation for a period of time that exceeds the length of the defendant's maximum sentence.

(B) Except as provided in Subsection (10)(a)(ii), if a defendant's probation is revoked and later reinstated, the total time of all periods of probation the defendant serves, relating to the same sentence, may not exceed the defendant's maximum sentence.

(iv) If a period of incarceration is imposed for a violation, the defendant shall be sentenced within the guidelines established by the Utah Sentencing Commission pursuant to Subsection 63M-7-404(4), unless the judge determines that:

(A) the defendant needs substance abuse or mental health treatment, as determined by a validated risk and needs screening and assessment, that warrants treatment services that are immediately available in the community; or

(B) the sentence previously imposed shall be executed.

(v) If the defendant had, prior to the imposition of a term of incarceration or the execution of the previously imposed sentence under this Subsection (12), served time in jail as a condition of probation or due to a violation of probation under Subsection (12)(e)(iv), the time the probationer served in jail constitutes service of time toward the sentence previously imposed.

(13) The court may order the defendant to commit the defendant to the custody of the Division of Substance Abuse and Mental Health for treatment at the Utah State Hospital as a condition of probation or stay of sentence, only after the superintendent of the Utah State Hospital or the superintendent's designee has certified to the court that:

(a) the defendant is appropriate for and can benefit from treatment at the state hospital;

(b) treatment space at the hospital is available for the defendant; and

(c) individuals described in Subsection 62A-15-610(2)(g) are receiving priority for treatment over the defendants described in this Subsection (13).

(14) Presentence investigation reports are classified protected in accordance with Title 63G, Chapter 2, Government Records Access and Management Act. Notwithstanding Sections 63G-2-403 and 63G-2-404, the State Records Committee may not order the disclosure of a presentence investigation report. Except for disclosure at the time of sentencing pursuant to this section, the department may disclose the presentence investigation only when:

(a) ordered by the court pursuant to Subsection 63G-2-202(7);

(b) requested by a law enforcement agency or other agency approved by the department for purposes of supervision, confinement, and treatment of the offender;

(c) requested by the Board of Pardons and Parole;

(d) requested by the subject of the presentence investigation report or the subject's authorized representative;

(e) requested by the victim of the crime discussed in the presentence investigation report or the victim's authorized representative, provided that the disclosure to the victim shall include only information relating to statements or materials provided by the victim, to the circumstances of the crime including statements by the defendant, or to the impact of the crime on the victim or the victim's household; or

(f) requested by a sex offender treatment provider who is certified to provide treatment under the program established in Subsection 64-13-25(3) and who, at the time of the request:

(i) is providing sex offender treatment to the offender who is the subject of the presentence investigation report; and

(ii) provides written assurance to the department that the report:

(A) is necessary for the treatment of the offender;

(B) will be used solely for the treatment of the offender; and

(C) will not be disclosed to an individual or entity other than the offender.

(15) (a) The court shall consider home confinement as a condition of probation under the supervision of the department, except as provided in Sections 76-3-406 and 76-5-406.5.

(b) The department shall establish procedures and standards for home confinement, including electronic monitoring, for all individuals referred to the department in accordance with Subsection (16).

(16) (a) If the court places the defendant on probation under this section, it may order the defendant to participate in home confinement through the use of electronic monitoring as described in this section until further order of the court.

(b) The electronic monitoring shall alert the department and the appropriate law enforcement unit of the defendant's whereabouts.

(c) The electronic monitoring device shall be used under conditions which require:

(i) the defendant to wear an electronic monitoring device at all times; and

(ii) that a device be placed in the home of the defendant, so that the defendant's compliance with the court's order may be monitored.

(d) If a court orders a defendant to participate in home confinement through electronic monitoring as a condition of probation under this section, it shall:

(i) place the defendant on probation under the supervision of the Department of Corrections;

(ii) order the department to place an electronic monitoring device on the defendant and install electronic monitoring equipment in the residence of the defendant; and

(iii) order the defendant to pay the costs associated with home confinement to the department or the program provider.

(e) The department shall pay the costs of home confinement through electronic monitoring only for an individual who is determined to be indigent by the court.

(f) The department may provide the electronic monitoring described in this section either directly or by contract with a private provider.

(17) When making any decision regarding probation, the court shall consider information provided by the Department of Corrections regarding a defendant's individual case action plan, including any progress the defendant has made in satisfying the case action plan's completion requirements.

Section 7. Section 77-27-5 is amended to read:

77-27-5. Board of Pardons and Parole authority.

(1) (a) The Board of Pardons and Parole shall determine by majority decision when and under what conditions any convictions, except for treason or impeachment, may be pardoned or commuted, subject to this chapter and other laws of the state.

(b) The Board of Pardons and Parole shall determine by majority decision when and under what conditions, subject to this chapter and other laws of the state, individuals committed to serve sentences at penal or correctional facilities that are under the jurisdiction of the Department of Corrections, except treason or impeachment convictions or as otherwise limited by law, may be released upon parole, ordered to pay restitution, or have their fines, forfeitures, or restitution remitted, or their sentences terminated.

(c) The board may sit together or in panels to conduct hearings. The chair shall appoint members to the panels in any combination and in accordance with rules made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, by the board. The chair may participate on any panel and when doing so is chair of the panel. The chair of the board may designate the chair for any other panel.

(d) No restitution may be ordered, no fine, forfeiture, or restitution remitted, no parole, pardon, or commutation granted or sentence terminated, except after a full hearing before the board or the board's appointed examiner in open session. Any action taken under this subsection other than by a majority of the board shall be affirmed by a majority of the board.

(e) A commutation or pardon may be granted only after a full hearing before the board.

(f) The board may determine restitution as provided in Section 77-27-6 and Subsection 77-38a-302(5)(d)(iii)(A).

(2) (a) In the case of any hearings, timely prior notice of the time and location of the hearing shall be given to the offender.

(b) The county or district attorney's office responsible for prosecution of the case, the sentencing court, and law enforcement officials responsible for the defendant's arrest and conviction shall be notified of any board hearings through the board's website.

(c) Whenever possible, the victim or the victim's representative, if designated, shall be notified of original hearings and any hearing after that if notification is requested and current contact information has been provided to the board.

(d) Notice to the victim or the victim's representative shall include information provided in Section 77-27-9.5, and any related rules made by the board under that section. This information shall be provided in terms that are reasonable for the lay person to understand.

(3) Decisions of the board in cases involving paroles, pardons, commutations or terminations of sentence, restitution, or remission of fines or forfeitures are final and are not subject to judicial review. Nothing in this section prevents the obtaining or enforcement of a civil judgment, including restitution as provided in Section 77-27-6.

(4) This chapter may not be construed as a denial of or limitation of the governor's power to grant respite or reprieves in all cases of convictions for offenses against the state, except treason or conviction on impeachment. However, respites or reprieves may not extend beyond the next session of the Board of Pardons and Parole and the board, at that session, shall continue or terminate the respite or reprieve, or it may commute the punishment, or pardon the offense as provided. In the case of conviction for treason, the governor may suspend execution of the sentence until the case is reported to the Legislature at its next session. The Legislature shall then either pardon or commute the sentence, or direct its execution.

(5) In determining when, where, and under what conditions an offender serving a sentence may be

paroled, pardoned, have restitution ordered, or have the offender's fines or forfeitures remitted, or the offender's sentence commuted or terminated, the board shall:

(a) consider whether the offender has made or is prepared to make restitution as ascertained in accordance with the standards and procedures of Section 77-38a-302, as a condition of any parole, pardon, remission of fines or forfeitures, or commutation or termination of sentence; [~~and~~]

(b) develop and use a list of criteria for making determinations under this Subsection (5)[~~.~~];

(c) consider information provided by the Department of Corrections regarding an offender's individual case action plan; and

(d) review an offender's status within 60 days after the day on which the board receives notice from the Department of Corrections that the offender has completed all of the offender's case action plan components that relate to activities that can be accomplished while the offender is imprisoned.

(6) In determining whether parole may be terminated, the board shall consider:

(a) the offense committed by the parolee; and

(b) the parole period as provided in Section 76-3-202, and in accordance with Section 77-27-13.

(7) For offenders placed on parole after December 31, 2018, the board shall terminate parole in accordance with the supervision length guidelines established by the Utah Sentencing Commission under Section 63M-7-404, to the extent the guidelines are consistent with the requirements of the law.

Section 8. Coordinating S.B. 139 with H.B. 260 -- Technical and substantive amendments.

If this S.B. 139 and H.B. 260, Criminal Justice Modifications, both pass and become law, it is the intent of the Legislature that the Office of Legislative Research and General Counsel shall prepare the Utah Code database for publication by:

(1) not making the changes to Section 77-18-1 in this S.B.139; and

(2) adding a new subsection (9) to Section 77-18-105 in H.B. 260:

"(9) When making any decision regarding probation, the court shall consider information provided by the Department of Corrections regarding a defendant's individual case action plan, including any progress the defendant has made in satisfying the case action plan's completion requirements.".

CHAPTER 247
H. B. 18
Passed February 5, 2021
Approved March 17, 2021
Effective May 5, 2021

DRIVER EDUCATION AMENDMENTS

Chief Sponsor: Melissa G. Ballard
Senate Sponsor: David G. Buxton

LONG TITLE

General Description:

This bill amends provisions related to driver education requirements and driver licenses.

Highlighted Provisions:

This bill:

- extends the term of a learner permit from one year to 18 months;
- changes identifying information required on a driver license application to include "sex" instead of "gender";
- removes certain references to a "school district" and replaces that term with "local education agency" to ensure that Utah Schools for the Deaf and the Blind receive funding and resources for driver education;
- prohibits rules requiring driver education observation hours; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53-3-205, as last amended by Laws of Utah 2019, Chapters 381 and 382
53-3-210.5, as last amended by Laws of Utah 2015, Chapter 207
53-3-502, as last amended by Laws of Utah 2006, Chapter 266
53-3-505, as last amended by Laws of Utah 2018, Chapter 233
53G-10-502, as last amended by Laws of Utah 2020, Chapter 408
53G-10-503, as last amended by Laws of Utah 2019, Chapters 293 and 325
53G-10-506, as last amended by Laws of Utah 2019, Chapter 293
53G-10-507, as last amended by Laws of Utah 2020, Chapter 408
53G-10-508, as last amended by Laws of Utah 2020, Chapter 408

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

Section 1. Section 53-3-205 is amended to read:

53-3-205. Application for license or endorsement -- Fee required -- Tests -- Expiration dates of licenses and endorsements -- Information required -- Previous licenses surrendered -- Driving record transferred from other states -- Reinstatement -- Fee required -- License agreement.

(1) An application for an original license, provisional license, or endorsement shall be:

(a) made upon a form furnished by the division; and

(b) accompanied by a nonrefundable fee set under Section 53-3-105.

(2) An application and fee for an original provisional class D license or an original class D license entitle the applicant to:

(a) not more than three attempts to pass both the knowledge and the skills tests for a class D license within six months after the date of the application;

(b) a learner permit if needed pending completion of the application and testing process; and

(c) an original class D license and license certificate after all tests are passed and requirements are completed.

(3) An application and fee for a motorcycle or taxicab endorsement entitle the applicant to:

(a) not more than three attempts to pass both the knowledge and skills tests within six months after the date of the application;

(b) a motorcycle learner permit after the motorcycle knowledge test is passed; and

(c) a motorcycle or taxicab endorsement when all tests are passed.

(4) An application for a commercial class A, B, or C license entitles the applicant to:

(a) not more than two attempts to pass a knowledge test when accompanied by the fee provided in Subsection 53-3-105(18);

(b) not more than two attempts to pass a skills test when accompanied by a fee in Subsection 53-3-105(19) within six months after the date of application;

(c) both a commercial driver instruction permit and a temporary license permit for the license class held before the applicant submits the application if needed after the knowledge test is passed; and

(d) an original commercial class A, B, or C license and license certificate when all applicable tests are passed.

(5) An application and fee for a CDL endorsement entitle the applicant to:

(a) not more than two attempts to pass a knowledge test and not more than two attempts to pass a skills test within six months after the date of the application; and

(b) a CDL endorsement when all tests are passed.

(6) (a) If a CDL applicant does not pass a knowledge test, skills test, or an endorsement test within the number of attempts provided in Subsection (4) or (5), each test may be taken two additional times within the six months for the fee provided in Section 53-3-105.

(b) (i) Beginning July 1, 2015, an out-of-state resident who holds a valid CDIP issued by a state or jurisdiction that is compliant with 49 C.F.R. Part 383 may take a skills test administered by the division if the out-of-state resident pays the fee provided in Subsection 53-3-105(19).

(ii) The division shall:

(A) electronically transmit skills test results for an out-of-state resident to the licensing agency in the state or jurisdiction in which the out-of-state resident has obtained a valid CDIP; and

(B) provide the out-of-state resident with documentary evidence upon successful completion of the skills test.

(7) (a) (i) Except as provided under Subsections (7)(a)(ii), (f), and (g), an original class D license expires on the birth date of the applicant in the eighth year after the year the license certificate was issued.

(ii) An original provisional class D license expires on the birth date of the applicant in the fifth year following the year the license certificate was issued.

(iii) Except as provided in Subsection (7)(f), a limited term class D license expires on the birth date of the applicant in the fifth year the license certificate was issued.

(b) Except as provided under Subsections (7)(f) and (g), a renewal or an extension to a license expires on the birth date of the licensee in the eighth year after the expiration date of the license certificate renewed or extended.

(c) Except as provided under Subsections (7)(f) and (g), a duplicate license expires on the same date as the last license certificate issued.

(d) An endorsement to a license expires on the same date as the license certificate regardless of the date the endorsement was granted.

(e) (i) A regular license certificate and an endorsement to the regular license certificate held by an individual described in Subsection (7)(e)(ii), that expires during the time period the individual is stationed outside of the state, is valid until 90 days after the individual's orders are terminated, the individual is discharged, or the individual's assignment is changed or terminated, unless:

(A) the license is suspended, disqualified, denied, or has been cancelled or revoked by the division; or

(B) the licensee updates the information or photograph on the license certificate.

(ii) The provisions in Subsection (7)(e)(i) apply to an individual:

(A) ordered to active duty and stationed outside of Utah in any of the armed forces of the United States;

(B) who is an immediate family member or dependent of an individual described in Subsection (7)(e)(ii)(A) and is residing outside of Utah;

(C) who is a civilian employee of the United States State Department or United States Department of Defense and is stationed outside of the United States; or

(D) who is an immediate family member or dependent of an individual described in Subsection (7)(e)(ii)(C) and is residing outside of the United States.

(f) (i) Except as provided in Subsection (7)(f)(ii), a limited-term license certificate or a renewal to a limited-term license certificate expires:

(A) on the expiration date of the period of time of the individual's authorized stay in the United States or on the date provided under this Subsection (7), whichever is sooner; or

(B) on the date of issuance in the first year following the year that the limited-term license certificate was issued if there is no definite end to the individual's period of authorized stay.

(ii) A limited-term license certificate or a renewal to a limited-term license certificate issued to an approved asylee or a refugee expires on the birth date of the applicant in the fifth year following the year that the limited-term license certificate was issued.

(g) A driving privilege card issued or renewed under Section 53-3-207 expires on the birth date of the applicant in the first year following the year that the driving privilege card was issued or renewed.

(8) (a) In addition to the information required by Title 63G, Chapter 4, Administrative Procedures Act, for requests for agency action, an applicant shall:

(i) provide:

(A) the applicant's full legal name;

(B) the applicant's birth date;

(C) the applicant's [~~gender~~] sex;

(D) (I) documentary evidence of the applicant's valid social security number;

(II) written proof that the applicant is ineligible to receive a social security number;

(III) the applicant's temporary identification number (ITIN) issued by the Internal Revenue Service for an individual who:

(Aa) does not qualify for a social security number; and

(Bb) is applying for a driving privilege card; or

(IV) other documentary evidence approved by the division;

(E) the applicant's Utah residence address as documented by a form or forms acceptable under rules made by the division under Section 53-3-104, unless the application is for a temporary CDL issued under Subsection 53-3-407(2)(b); and

(F) fingerprints and a photograph in accordance with Section 53-3-205.5 if the applicant is applying for a driving privilege card;

(ii) provide evidence of the applicant's lawful presence in the United States by providing documentary evidence:

(A) that the applicant is:

(I) a United States citizen;

(II) a United States national; or

(III) a legal permanent resident alien; or

(B) of the applicant's:

(I) unexpired immigrant or nonimmigrant visa status for admission into the United States;

(II) pending or approved application for asylum in the United States;

(III) admission into the United States as a refugee;

(IV) pending or approved application for temporary protected status in the United States;

(V) approved deferred action status;

(VI) pending application for adjustment of status to legal permanent resident or conditional resident; or

(VII) conditional permanent resident alien status;

(iii) provide a description of the applicant;

(iv) state whether the applicant has previously been licensed to drive a motor vehicle and, if so, when and by what state or country;

(v) state whether the applicant has ever had a license suspended, cancelled, revoked, disqualified, or denied in the last 10 years, or whether the applicant has ever had a license application refused, and if so, the date of and reason for the suspension, cancellation, revocation, disqualification, denial, or refusal;

(vi) state whether the applicant intends to make an anatomical gift under Title 26, Chapter 28, Revised Uniform Anatomical Gift Act, in compliance with Subsection (15);

(vii) state whether the applicant is required to register as a sex offender in accordance with Title 77, Chapter 41, Sex and Kidnap Offender Registry;

(viii) state whether the applicant is a veteran of the United States military, provide verification that the applicant was granted an honorable or general discharge from the United States Armed Forces, and state whether the applicant does or does not authorize sharing the information with the Department of Veterans and Military Affairs;

(ix) provide all other information the division requires; and

(x) sign the application which signature may include an electronic signature as defined in Section 46-4-102.

(b) An applicant shall have a Utah residence address, unless the application is for a temporary CDL issued under Subsection 53-3-407(2)(b).

(c) An applicant shall provide evidence of lawful presence in the United States in accordance with Subsection (8)(a)(ii), unless the application is for a driving privilege card.

(d) The division shall maintain on the division's computerized records an applicant's:

(i) (A) social security number;

(B) temporary identification number (ITIN); or

(C) other number assigned by the division if Subsection (8)(a)(i)(D)(IV) applies; and

(ii) indication whether the applicant is required to register as a sex offender in accordance with Title 77, Chapter 41, Sex and Kidnap Offender Registry.

(9) The division shall require proof of an applicant's name, birth date, and birthplace by at least one of the following means:

(a) current license certificate;

(b) birth certificate;

(c) Selective Service registration; or

(d) other proof, including church records, family Bible notations, school records, or other evidence considered acceptable by the division.

(10) (a) Except as provided in Subsection (10)(c), if an applicant receives a license in a higher class than what the applicant originally was issued:

(i) the license application is treated as an original application; and

(ii) license and endorsement fees is assessed under Section 53-3-105.

(b) An applicant that receives a downgraded license in a lower license class during an existing license cycle that has not expired:

(i) may be issued a duplicate license with a lower license classification for the remainder of the existing license cycle; and

(ii) shall be assessed a duplicate license fee under Subsection 53-3-105(25) if a duplicate license is issued under Subsection (10)(b)(i).

(c) An applicant who has received a downgraded license in a lower license class under Subsection (10)(b):

(i) may, when eligible, receive a duplicate license in the highest class previously issued during a license cycle that has not expired for the remainder of the existing license cycle; and

(ii) shall be assessed a duplicate license fee under Subsection 53-3-105(25) if a duplicate license is issued under Subsection (10)(c)(i).

(11) (a) When an application is received from an applicant previously licensed in another state to drive a motor vehicle, the division shall request a copy of the driver's record from the other state.

(b) When received, the driver's record becomes part of the driver's record in this state with the same effect as though entered originally on the driver's record in this state.

(12) An application for reinstatement of a license after the suspension, cancellation, disqualification, denial, or revocation of a previous license is accompanied by the additional fee or fees specified in Section 53-3-105.

(13) An individual who has an appointment with the division for testing and fails to keep the appointment or to cancel at least 48 hours in advance of the appointment shall pay the fee under Section 53-3-105.

(14) An applicant who applies for an original license or renewal of a license agrees that the individual's license is subject to a suspension or revocation authorized under this title or Title 41, Motor Vehicles.

(15) (a) A licensee shall authenticate the indication of intent under Subsection (8)(a)(vi) in accordance with division rule.

(b) (i) Notwithstanding Title 63G, Chapter 2, Government Records Access and Management Act, the division may, upon request, release to an organ procurement organization, as defined in Section 26-28-102, the names and addresses of all applicants who, under Subsection (8)(a)(vi), indicate that they intend to make an anatomical gift.

(ii) An organ procurement organization may use released information only to:

(A) obtain additional information for an anatomical gift registry; and

(B) inform licensees of anatomical gift options, procedures, and benefits.

(16) Notwithstanding Title 63G, Chapter 2, Government Records Access and Management Act, the division may release to the Department of Veterans and Military Affairs the names and addresses of all applicants who indicate their status as a veteran under Subsection (8)(a)(viii).

(17) Notwithstanding Title 63G, Chapter 2, Government Records Access and Management Act, the division shall, upon request, release to the Sex and Kidnap Offender Registry office in the Department of Corrections, the names and addresses of all applicants who, under Subsection (8)(a)(vii), indicate they are required to register as a sex offender in accordance with Title 77, Chapter 41, Sex and Kidnap Offender Registry.

(18) The division and its employees are not liable, as a result of false or inaccurate information provided under Subsection (8)(a)(vi) or (viii), for direct or indirect:

(a) loss;

(b) detriment; or

(c) injury.

(19) An applicant who knowingly fails to provide the information required under Subsection (8)(a)(vii) is guilty of a class A misdemeanor.

(20) A person may not hold both an unexpired Utah license certificate and an unexpired identification card.

(21) (a) An applicant who applies for an original motorcycle endorsement to a regular license certificate is exempt from the requirement to pass the knowledge and skills test to be eligible for the motorcycle endorsement if the applicant:

(i) is a resident of the state of Utah;

(ii) (A) is ordered to active duty and stationed outside of Utah in any of the armed forces of the United States; or

(B) is an immediate family member or dependent of an individual described in Subsection (21)(a)(ii)(A) and is residing outside of Utah;

(iii) has a digitized driver license photo on file with the division;

(iv) provides proof to the division of the successful completion of a certified Motorcycle Safety Foundation rider training course; and

(v) provides the necessary information and documentary evidence required under Subsection (8).

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

(i) establishing the procedures for an individual to obtain a motorcycle endorsement under this Subsection (21); and

(ii) identifying the applicable restrictions for a motorcycle endorsement issued under this Subsection (21).

Section 2. Section 53-3-210.5 is amended to read:

53-3-210.5. Learner permit.

(1) [~~Beginning on August 1, 2006, the~~] The division, upon receiving an application for a learner permit, may issue a learner permit effective for [~~one year~~] 18 months to an applicant who is at least 15 years [~~of age~~] old.

(2) (a) The learner permit entitles an applicant that is 18 years [~~of age~~] old or older to operate a class D motor vehicle only if:

(i) a person 21 years [~~of age~~] old or older who is a licensed driver is occupying a seat beside the applicant; and

(ii) the applicant has the learner permit in the applicant's immediate possession while operating the motor vehicle.

(b) The learner permit entitles an applicant that is younger than 18 years [~~of age~~] old to operate a class D motor vehicle only if:

(i) (A) an approved driving instructor is occupying a seat beside the applicant;

(B) the applicant's parent or legal guardian, who must be a licensed driver, is occupying a seat beside the applicant; or

(C) a responsible adult who has signed for the applicant under Section 53-3-211 and who must be a licensed driver, is occupying a seat beside the applicant; and

(ii) the applicant has the learner permit in the applicant's immediate possession while operating the motor vehicle.

(3) The division shall issue a learner permit to an applicant who:

(a) is at least 15 years [~~of age~~] old;

(b) has passed the knowledge test required by the division;

(c) has passed the physical and mental fitness tests; and

(d) has submitted a nonrefundable fee for a learner permit under Section 53-3-105.

(4) (a) The division shall supply the learner permit form.

(b) The form under Subsection (4)(a) shall include:

(i) the applicant's full name, date of birth, sex, Utah residence address, height, weight, and eye color;

(ii) the date of issuance and expiration of the permit; and

(iii) the conditions and restrictions contained in this section for operating a class D motor vehicle.

(5) An application and fee for a learner permit entitle the applicant to:

(a) not more than three attempts to pass the knowledge test for a class D license within one year; and

(b) a learner permit after the knowledge test is passed.

(6) (a) If an applicant has been issued a learner permit under this section or an equivalent by another state or branch of the United States Armed Forces, the applicant may be issued an original or provisional class D license from the division upon:

(i) completing a driver education course in a:

(A) commercial driver training school licensed under Part 5, Commercial Driver Training Schools Act; or

(B) driver education program approved by the State Board of Education or the division;

(ii) passing a knowledge test approved by the division that complies with the requirement of Subsection (6)(d);

(iii) passing the skills test approved by the division;

(iv) reaching 16 years [~~of age~~] old; and

(v) paying the nonrefundable fee for an original or provisional class D license application under Section 53-3-105.

(b) In addition to the requirements under Subsection (6)(a), an applicant who is 17 years [~~of age~~] old or younger is required to hold a learner permit for six months before applying for a provisional class D license.

(c) An applicant is exempt from the requirement under Subsection (6)(a)(i) if the applicant:

(i) is 19 years [~~of age~~] old or older;

(ii) holds a learner permit for three months before applying for an original class D license; and

(iii) certifies that the applicant, under the authority of a permit issued under this chapter, has completed at least 40 hours of driving a motor vehicle, of which at least 10 hours were completed during night hours after sunset.

(d) Fifty percent of the test questions included in the knowledge test required under Subsection (6)(a)(ii) shall cover the topic of major causes of traffic related deaths as identified in statistics published by the Highway Safety Office.

Section 3. Section 53-3-502 is amended to read:

53-3-502. Definitions.

As used in this part:

(1) (a) "Commercial driver training school" or "school" means a business enterprise conducted by an individual, association, partnership, or corporation for the education and training of persons, either practically or theoretically, or both, to:

(i) drive motor vehicles, including motorcycles; and

(ii) prepare an applicant for an examination given by the state for a license or learner permit.

(b) A commercial driver training school may charge a consideration or tuition for the services described under Subsection (1)(a).

(2) (a) "Commercial testing only school" means a business enterprise conducted by an individual, association, partnership, or corporation that:

(i) is designated by the division as a commercial testing only school;

(ii) employs instructors who are certified by the division; and

(iii) engages only in testing students for the purpose of obtaining a driver license.

(b) A commercial testing only school may conduct behind-the-wheel or observation instruction if approved by the division.

(c) A commercial testing only school may not engage in education or training of persons, either practically or theoretically, or both to drive motor vehicles, except when:

(i) counseling the driver following a test in reference to errors made during the administration of the test; or

(ii) conducting behind-the-wheel or observation instruction if approved by the division.

(d) A commercial testing only school may not test an individual who has completed any behind-the-wheel or observation instruction through the school with which the tester is employed.

(3) "Instructor" means a person, whether acting as an operator of a commercial driver training school or for a school for compensation, who:

(a) teaches, conducts classes of, gives demonstrations to, or supervises practice of persons learning to drive motor vehicles, including motorcycles;

(b) prepares persons to take an examination for a license or learner permit; or

(c) supervises the work of any other instructor.

(4) "Observation time" means a period of time during which a driver education student observes another student, instructor, or road user.

[~~(4)~~] (5) "School operator" means a person who:

(a) is certified as an instructor;

(b) has met the requirements for school operator status as established by the division;

(c) is authorized or certified to operate or manage a driver training school; and

(d) may supervise the work of another instructor.

Section 4. Section 53-3-505 is amended to read:

53-3-505. School license -- Contents of rules.

(1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commissioner shall make rules regarding the requirements for:

(a) a school license, including requirements concerning:

(i) locations;

(ii) equipment;

(iii) courses of instruction;

(iv) curriculum on air quality, based on data and information provided by the Division of Air Quality, including:

(A) instruction on ways drivers can improve air quality; and

(B) the harmful effects of vehicle emissions;

(v) instructors;

(vi) previous records of the school and instructors;

(vii) financial statements;

(viii) schedule of fees and charges;

(ix) character and reputation of the operators and instructors;

(x) insurance as the commissioner determines necessary to protect the interests of the public; and

(xi) other provisions the commissioner may prescribe for the protection of the public; and

(b) an instructor's license, including requirements concerning:

(i) moral character;

(ii) physical condition;

(iii) knowledge of the courses of instruction;

(iv) motor vehicle laws and safety principles and practices;

(v) previous personnel and employment records; and

(vi) other provisions the commissioner may prescribe for the protection of the public;

(c) applications for licenses; and

(d) minimum standards for:

(i) driving simulation devices that are fully interactive under Subsection 53-3-505.5(2)(b); and

(ii) driving simulation devices that are not fully interactive under Subsection 53-3-505.5(2)(c).

(2) (a) Rules made by the commissioner may not require observation time to observe the instructor, another student driver, or another road user.

(b) The prohibition on rulemaking described in Subsection (2)(a) does not prohibit a commercial driver education school or other driver education program from including observation time as part of a driver education curriculum.

[~~(2)~~] (3) Rules made by the commissioner shall require that a commercial driver training school offering motorcycle rider education meet or exceed the standards established by the Motorcycle Safety Foundation.

[~~(3)~~] (4) Rules made by the commissioner shall require that an instructor of motorcycle rider education meet or exceed the standards for certification established by the Motorcycle Safety Foundation.

[~~(4)~~] (5) The commissioner may call upon the state superintendent of public instruction for assistance in formulating appropriate rules.

Section 5. Section 53G-10-502 is amended to read:

53G-10-502. Driver education established by a local education agency.

(1) (a) [~~Local school districts~~] A local education agency may establish and maintain driver education for pupils.

(b) A school or local [~~school district~~] education agency that provides driver education shall provide an opportunity for each pupil enrolled in that school or local [~~school district~~] education agency to take the written test when the pupil is 15 years and nine months of age.

(c) Notwithstanding the provisions of Subsection (1)(b), a school or local[~~school district~~] education agency that provides driver education may provide

an opportunity for each pupil enrolled in that school or [~~school district~~] local education agency to take the written test when the pupil is 15 years of age.

(2) The purpose of driver education is to help develop the knowledge, attitudes, habits, and skills necessary for the safe operation of motor vehicles.

(3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board shall make rules for driver education offered in the public schools.

(4) The rules under Subsection (3) shall:

(a) require at least one hour of classroom training on the subject of railroad crossing safety for each driver education pupil;

(b) require instruction, based on data and information provided by the Division of Air Quality, on:

(i) ways drivers can improve air quality; and

(ii) the harmful effects of vehicle emissions; and

(c) establish minimum standards for approved driving ranges under Section 53-3-505.5.

(5) The requirements of Section 53-3-505.5 apply to any behind-the-wheel driving training provided as part of driver education offered under this part and used to satisfy the driver training requirement under Section 53-3-204.

Section 6. Section 53G-10-503 is amended to read:

53G-10-503. Driver education funding -- Reimbursement of a local education agency for driver education class expenses -- Limitations -- Excess funds -- Student fees.

(1) (a) Except as provided in Subsection (1)(b), a [~~school district~~] local education agency that provides driver education shall fund the program solely through:

(i) funds provided from the Automobile Driver Education Tax Account in the Uniform School Fund as created under Section 41-1a-1205; and

(ii) student fees collected by each school.

(b) In determining the cost of driver education, a [~~school district~~] local education agency may exclude:

(i) the full-time equivalent cost of a teacher for a driver education class taught during regular school hours; and

(ii) classroom space and classroom maintenance.

(c) A [~~school district~~] local education agency may not use any additional school funds beyond those allowed under Subsection (1)(b) to subsidize driver education.

(2) (a) The state superintendent shall, prior to September 2nd following the school year during which it was expended, or may at earlier intervals during that school year, reimburse each [~~school district~~] local education agency that applied for reimbursement in accordance with this section.

(b) A [~~school district~~] local education agency that maintains driver education classes that conform to this part and the rules prescribed by the state board may apply for reimbursement for the actual cost of providing the behind-the-wheel and observation training incidental to those classes.

(3) Under the state board's supervision for driver education, a [~~school district~~] local education agency may:

(a) employ personnel who are not licensed by the state board under Section 53E-6-201; or

(b) contract with private parties or agencies licensed under Section 53-3-504 for the behind-the-wheel phase of the driver education program.

(4) The reimbursement amount shall be paid out of the Automobile Driver Education Tax Account in the Uniform School Fund and may not exceed:

(a) $100 per student who has completed driver education during the school year;

(b) $30 per student who has only completed the classroom portion in the school during the school year; or

(c) $70 per student who has only completed the behind-the-wheel and observation portion in the school during the school year.

(5) If the amount of money in the account at the end of a school year is less than the total of the reimbursable costs, the state superintendent shall allocate the money to each [~~school district~~] local education agency in the same proportion that [~~its~~] the local education agency's reimbursable costs bear to the total reimbursable costs of all [~~school districts~~] local education agencies.

(6) If the amount of money in the account at the end of any school year is more than the total of the reimbursement costs provided under Subsection (4), the state superintendent may allocate the excess funds to [~~school districts~~] local education agencies:

(a) to reimburse each [~~school district~~] local education agency that applies for reimbursement of the cost of a fee waived under Section 53G-7-504 for driver education; and

(b) to aid in the procurement of equipment and facilities which reduce the cost of behind-the-wheel instruction.

(7) A local school board shall establish the student fee for driver education for the [~~school district~~] local education agency. Student fees shall be reasonably associated with the costs of driver education that are not otherwise covered by reimbursements and allocations made under this section.

Section 7. Section 53G-10-506 is amended to read:

53G-10-506. Promoting the establishment and maintenance of classes -- Payment of costs.

(1) The state superintendent shall promote the establishment and maintenance of driver education classes in [~~school districts~~] local education agencies under rules adopted by the state board.

(2) The state board may employ personnel and sponsor experimental programs considered necessary to give full effect to this program.

(3) The costs of implementing this section shall be paid from the legislative appropriation to the state board made from the Automobile Driver Education Tax Account in the Uniform School Fund.

Section 8. Section 53G-10-507 is amended to read:

53G-10-507. Driver education teachers certified as license examiners.

(1) The Driver License Division of the Department of Public Safety and the state board shall establish procedures and standards to certify teachers of driver education classes under this part to administer written and driving tests.

(2) The division is the certifying authority.

(3) (a) A teacher certified under this section shall give written and driving tests designed for driver education classes authorized under this part.

(b) The Driver License Division shall, in conjunction with the state board, establish minimal standards for the driver education class tests that are at least as difficult as those required to receive a class D operator's license under Title 53, Chapter 3, Uniform Driver License Act.

(c) A student who passes the written test but fails the driving test given by a teacher certified under this section may apply for a learner permit or class D operator's license under Title 53, Chapter 3, Part 2, Driver Licensing Act, and complete the driving test at a Driver License Division office.

(4) A student shall have a learner permit issued by the Driver License Division under Section 53-3-210.5 in the student's immediate possession at all times when operating a motor vehicle under this section.

(5) A student who successfully passes the tests given by a certified driver education teacher under this section satisfies the written and driving parts of the test required for a learner permit or class D operator's license.

(6) The Driver License Division and the state board shall establish procedures to enable [~~school districts~~] a local education agency to administer or process any tests for [~~students~~] a student to receive a learner permit or class D operator's license.

(7) The division and state board shall establish the standards and procedures required under this section by rules made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Section 9. Section 53G-10-508 is amended to read:

53G-10-508. Programs authorized -- Minimum standards.

(1) [~~Local school districts~~] A local education agency may:

(a) allow [~~students~~] a student to complete the classroom training portion of driver education through home study;

(b) provide each parent with driver education instructional materials to assist in parent involvement with driver education including behind-the-wheel driving materials;

(c) offer driver education outside of school hours in order to reduce the cost of providing driver education;

(d) offer driver education through community education programs;

(e) offer the classroom portion of driver education in the public schools and allow the student to complete the behind-the-wheel portion with a private provider:

(i) licensed under Section 53-3-504; and

(ii) not associated with the school or under contract with the school under Subsection 53G-10-503(3); or

(f) any combination of Subsections (1)(a) through (e).

(2) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board shall establish in rule minimum standards for the school-related programs under Subsection (1).

CHAPTER 248
H. B. 29
Passed February 5, 2021
Approved March 17, 2021
Effective May 5, 2021

STATEWIDE AQUATIC INVASIVE SPECIES EMERGENCY RESPONSE PLAN

Chief Sponsor: Keven J. Stratton
Senate Sponsor: David P. Hinkins

LONG TITLE

General Description:

This bill addresses the development of a statewide aquatic invasive species emergency response plan.

Highlighted Provisions:

This bill:

- defines terms;
- requires the Division of Wildlife Resources to:
  - develop a statewide aquatic invasive species emergency response plan aimed at remediating the spread of aquatic invasive species throughout the state;
  - present the statewide aquatic invasive species emergency response plan, any proposed legislation to effectuate the plan, and an estimate of the cost to effectuate the plan, to the Legislature for consideration; and
  - report to the Legislature on any events that require implementation of the plan.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

23-27-501, Utah Code Annotated 1953

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

Section 1. Section 23-27-501 is enacted to read:

Part 5. Statewide Aquatic Invasive Species Emergency Response Plan

23-27-501. Aquatic Invasive Species Emergency Response Plan.

(1) As used in this section:

(a) "Committee" means the Natural Resources, Agriculture, and Environment Interim Committee.

(b) "Emergency response plan" means the statewide aquatic invasive species emergency response plan developed by the division in accordance with this part.

(2) The division shall develop a statewide aquatic invasive species emergency response plan to address the potential spread of aquatic invasive species throughout the state.

(3) In developing the emergency response plan, the division shall coordinate with public and private entities that may be necessary or helpful to remediating the potential spread of aquatic invasive species throughout the state.

(4) The emergency response plan shall:

(a) designate the division as the entity that will coordinate the implementation of the emergency response plan;

(b) provide for annual review of the emergency response plan by the division;

(c) provide that the emergency response plan may only be implemented if the division detects aquatic invasive species, including Dreissena mussels, at a water body, facility, or water supply system within the state; and

(d) define what constitutes a detection of aquatic invasive species at a water body, facility, or water supply system.

(5) On or before August 1, 2021, the division shall submit to the committee the following:

(a) the emergency response plan;

(b) proposed legislation that may be necessary to effectuate the emergency response plan or to increase the effectiveness of the emergency response plan; and

(c) an analysis and estimate of the cost to implement the emergency response plan.

(6) After receiving the items described in Subsection (5), the committee may:

(a) recommend to the Legislature that the plan be implemented;

(b) return the plan to the division for further study and evaluation;

(c) draft legislation proposed or requested by the division; or

(d) take action to further the funding of the emergency response plan.

(7) If an event requires the implementation of the emergency response plan, the division shall report on that event and the implementation of the emergency response plan to the committee.

CHAPTER 249
H. B. 32
Passed February 4, 2021
Approved March 17, 2021
Effective May 5, 2021

ENERGY BALANCING ACCOUNT AMENDMENTS

Chief Sponsor: Carl R. Albrecht
Senate Sponsor: Ronald M. Winterton

LONG TITLE

General Description:

This bill provides a mechanism for an interim rate as a part of the energy balancing account process.

Highlighted Provisions:

This bill:

- provides the process for establishing an energy balancing account;
- describes the process for requesting an interim rate as a part of the energy balancing account process;
- establishes a timeline for the interim rate to be requested and granted;
- establishes a timeline for finalizing the energy balancing account; and
- subjects an interim rate to the commission's authority to order a refund or a surcharge.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

54-7-13.5, as last amended by Laws of Utah 2019, Chapters 61 and 88

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

Section 1. Section 54-7-13.5 is amended to read:

54-7-13.5. Energy balancing accounts.

(1) As used in this section:

(a) "Base rates" means the same as that term is defined in Subsection 54-7-12(1).

(b) "Energy balancing account" means an electrical corporation account for some or all components of the electrical corporation's incurred actual power costs, including:

(i) (A) fuel;

(B) purchased power; and

(C) wheeling expenses; and

(ii) the sum of the power costs described in Subsection (1)(b)(i) less wholesale [~~revenues~~] revenue.

(c) "Gas balancing account" means a gas corporation account to recover on a dollar-for-dollar basis, purchased gas costs, and gas cost-related expenses.

(2) (a) The commission may authorize an electrical corporation to establish an energy balancing account.

(b) An energy balancing account shall become effective upon a commission finding that the energy balancing account is:

(i) in the public interest;

(ii) for prudently-incurred costs; and

(iii) implemented at the conclusion of a general rate case.

(c) An electrical corporation:

(i) may, with approval from the commission, recover costs under this section through:

(A) base rates;

(B) contract rates;

(C) surcredits; or

(D) surcharges; and

(ii) shall file a reconciliation of the energy balancing account with the commission at least annually with actual costs and [~~revenues~~] revenue incurred by the electrical corporation.

(d) [~~Beginning June 1, 2016, for~~] For an electrical corporation with an energy balancing account established before January 1, 2016, the commission shall allow an electrical corporation to recover 100% of the electrical corporation's prudently incurred costs as determined and approved by the commission under this section.

(e) [~~An~~] Except in the case of an interim rate request made in accordance with Subsection (2)(k), an energy balancing account may not alter:

(i) the standard for cost recovery; or

(ii) the electrical corporation's burden of proof.

(f) The collection method described in Subsection (2)(c)(i) shall:

(i) apply to the appropriate billing components in base rates; and

(ii) be incorporated into base rates in an appropriate commission proceeding.

(g) The collection of costs related to an energy balancing account from customers paying contract rates shall be governed by the terms of the contract.

(h) [~~Revenues~~] Revenue collected in excess of prudently incurred actual costs shall:

(i) be refunded as a bill surcredit to an electrical corporation's customers over a period specified by the commission; and

(ii) include a carrying charge.

(i) Prudently incurred actual costs in excess of [~~revenues~~] revenue collected shall:

(i) be recovered as a bill surcharge over a period to be specified by the commission; and

(ii) include a carrying charge.

(j) The carrying charge applied to the balance in an energy balancing account shall be:

(i) determined by the commission; and

(ii) symmetrical for over or under collections.

(k) (i) The commission may consider an interim rate request made as a part of an electrical corporation's filing an energy balancing account.

(ii) The commission, on the commission's own initiative or in response to an interim rate request by an electrical corporation or another party:

(A) shall hold a hearing on an interim rate; and

(B) if the electrical corporation or the other party makes the showing required by Subsection (2)(k)(iii), may allow any rate increase or decrease, or a reasonable part of the rate increase or decrease, to take effect on an interim basis, subject to the commission's right to order a refund or surcharge.

(iii) The electrical corporation or the other party shall make an adequate prima facie showing that:

(A) the proposed interim rate appears consistent with prior years' filings; and

(B) the interim rate requested is more likely to reflect actual power costs than the current base rates.

(l) The commission may issue a final order establishing and fixing the electrical corporation's energy balancing account:

(i) after a hearing; and

(ii) before the expiration of 300 days after the day on which the electrical corporation files a complete filing.

(m) (i) If the commission in the commission's final decision on an electrical corporation's energy balancing account finds that the interim rate ordered under Subsection (2)(k)(ii) exceeds the rate finally determined in the energy balancing account, the commission shall order the electrical corporation to refund the excess revenue generated by the interim rate to customers.

(ii) If the commission in the commission's final decision on an electrical corporation's energy balancing account finds that the interim rate ordered under Subsection (2)(k)(ii) is lower than the rate finally determined in the energy balancing account, the commission shall order the electrical corporation to charge a surcharge to customers to recover the revenue not recovered during that period.

(3) (a) The commission may:

(i) establish a gas balancing account for a gas corporation; and

(ii) set forth procedures for a gas corporation's gas balancing account in the gas corporation's commission-approved tariff.

(b) A gas balancing account may not alter:

(i) the standard of cost recovery; or

(ii) the gas corporation's burden of proof.

(4) (a) All allowed costs and [~~revenues~~] revenue associated with an energy balancing account or gas balancing account shall remain in the respective balancing account until charged or refunded to customers.

(b) The balance of an energy balancing account or gas balancing account may not be:

(i) transferred by the electrical corporation or gas corporation; or

(ii) used by the commission to impute earnings or losses to the electrical corporation or gas corporation.

(c) An energy balancing account or gas balancing account that is formed and maintained in accordance with this section does not constitute impermissible retroactive ratemaking or single-issue ratemaking.

(5) This section does not create a presumption for or against approval of an energy balancing account.

(6) (a) An electrical corporation that has established an energy balancing account under this section shall report to the Public Utilities, Energy, and Technology Interim Committee before December 1 of each even numbered year[~~, beginning in 2020~~].

(b) The report required in Subsection (6)(a) shall provide information regarding:

(i) the continued 100% recovery of the electrical corporation's prudently incurred costs related to the energy balancing account; and

(ii) any determination by the [~~Public Service Commission~~] commission of costs not prudently incurred.

CHAPTER 250
H. B. 41
Passed March 3, 2021
Approved March 17, 2021
Effective March 17, 2021

MURDERED AND MISSING INDIGENOUS WOMEN AND GIRLS TASK FORCE

Chief Sponsor: Angela Romero
Senate Sponsor: David P. Hinkins

LONG TITLE

General Description:

This bill creates the Murdered and Missing Indigenous Women and Girls Task Force (task force).

Highlighted Provisions:

This bill:

- creates the task force, addressing:
  - membership;
  - quorum requirements; and
  - compensation for task force members;
- requires the Office of Legislative Research and General Counsel to staff the task force; and
- specifies duties of the task force.

Monies Appropriated in this Bill:

This bill appropriates: in fiscal year 2021:

- to the Legislature – Senate as a one-time appropriation:
  - from the General Fund, One-time, $400;
- to the Legislature – House of Representatives as a one-time appropriation:
  - from the General Fund, One-time, $400; and
- to the Legislature – Office of Legislative Research and General Counsel as a one-time appropriation:
  - from the General Fund, One-time, $300; and in fiscal year 2022:
- to the Legislature – Senate as an ongoing appropriation:
  - from the General Fund, $2,800;
- to the Legislature – House of Representatives as an ongoing appropriation:
  - from the General Fund, $2,800; and
- to the Legislature – Office of Legislative Research and General Counsel as an ongoing appropriation:
  - from the General Fund, $2,500.

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:
63I-2-236, as last amended by Laws of Utah 2019, Chapter 389

ENACTS:
36-29-107.5, Utah Code Annotated 1953

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

Section 1. Section 36-29-107.5 is enacted to read:

36-29-107.5. Murdered and Missing Indigenous Women and Girls Task Force -- Creation -- Membership -- Quorum -- Compensation -- Staff -- Vacancies -- Duties -- Interim report.

(1) As used in this section, "task force" means the Murdered and Missing Indigenous Women and Girls Task Force created in Subsection (2).

(2) There is created the Murdered and Missing Indigenous Women and Girls Task Force consisting of the following nine members:

(a) one member of the Senate appointed by the president of the Senate;

(b) one member of the House of Representatives appointed by the speaker of the House of Representatives;

(c) the following three members, appointed jointly by the president of the Senate and the speaker of the House of Representatives:

(i) a member of a nonprofit organization primarily serving Utah's Native American community;

(ii) a representative of a Utah Native American tribe; and

(iii) a representative of a victim advocate organization serving Utah's Native American population;

(d) the director of the Division of Indian Affairs, or the director's designee;

(e) the executive director of the Department of Human Services, or the executive director's designee;

(f) the attorney general, or the attorney general's designee; and

(g) the commissioner of public safety for the Department of Public Safety, or the commissioner's designee.

(3) A vacancy in a position appointed under Subsection (2)(a), (b), or (c) shall be filled by appointing a replacement member in the same manner as the member creating the vacancy was appointed under Subsection (2)(a), (b), or (c).

(4) (a) The member of the Senate appointed under Subsection (2)(a) is a cochair of the task force.

(b) The member of the House of Representatives appointed under Subsection (2)(b) is a cochair of the task force.

(5) (a) A quorum consists of five members.

(b) The action of a majority of a quorum constitutes an action of the task force.

(6) (a) Salaries and expenses of the members of the task force who are legislators shall be paid in accordance with Section 36-2-2 and Legislative Joint Rules, Title 5, Chapter 3, Legislator Compensation.

(b) A member of the task force who is not a legislator:

(i) may not receive compensation or benefits for the member's service associated with the task force; and

(ii) may receive per diem and travel expenses incurred as a member of the task force at the rates the Division of Finance establishes in accordance with:

(A) Sections 63A-3-106 and 63A-3-107; and

(B) rules the Division of Finance makes in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to carry out the provisions of Sections 63A-3-106 and 63A-3-107.

(7) The Office of Legislative Research and General Counsel shall provide staff support to the task force.

(8) The task force shall:

(a) conduct appropriate consultations with tribal governments on the scope and nature of the issues regarding murdered and missing indigenous women and girls;

(b) develop model protocols and procedures to apply to new and unsolved cases of murdered or missing indigenous women and girls, including the best practices for:

(i) improving the way law enforcement investigators and prosecutors respond to the high volume of the cases, and to the investigative challenges that might be presented in cases involving female victims;

(ii) collecting and sharing data among various jurisdictions and law enforcement agencies; and

(iii) better use of existing criminal databases;

(c) seek input from multi-disciplinary and multi-jurisdictional persons, including representatives from tribal law enforcement and federal agencies, about how to review cold cases involving murdered and missing indigenous women and girls; and

(d) address the need for greater clarity concerning roles, authorities, and jurisdiction throughout the lifecycle of cases involving murdered and missing indigenous women and girls by discussing:

(i) best practices in cases involving murdered and missing indigenous women and girls, including best practices related to communication with affected families from initiation of an investigation through case resolution or closure; and

(ii) education and outreach campaigns for communities that are most affected by crime resulting in murdered and missing indigenous women and girls to identify and reduce the crime.

(9) (a) On or before November 30, 2023, the task force shall provide a report to the Law Enforcement and Criminal Justice Interim Committee.

(b) The report described in Subsection (9)(a) shall include a summary of the task force's findings under Subsection (8) and recommendations for improvements in the criminal justice and social service systems for preventing and addressing crimes involving murdered and missing indigenous women and girls in the state.

Section 2. Section 63I-2-236 is amended to read:

63I-2-236. Repeal dates -- Title 36.

[~~Section 36-29-105 is repealed on December 31, 2020.~~]

Section 36-29-107.5 is repealed on November 30, 2023.

Section 3. Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2020, and ending June 30, 2021. These are additions to amounts previously appropriated for fiscal year 2021. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 1

To Legislature - Senate

From General Fund, One-time $400

Schedule of Programs:

Administration $400

ITEM 2

To Legislature - House of Representatives

From General Fund, One-time $400

Schedule of Programs:

Administration $400

ITEM 3

To Legislature - Office of Legislative Research and General Counsel

From General Fund, One-time $300

Schedule of Programs:

Administration $300

The following sums of money are appropriated for the fiscal year beginning July 1, 2021, and ending June 30, 2022. These are additions to amounts previously appropriated for fiscal year 2022. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 1

To Legislature - Senate

From General Fund $2,800

Schedule of Programs:

Administration $2,800

ITEM 2

To Legislature - House of Representatives

From General Fund $2,800

Schedule of Programs:

Administration $2,800

ITEM 3

To Legislature - Office of Legislative Research and General Counsel

From General Fund $2,500

Schedule of Programs:

Administration $2,500

The Legislature intends that an appropriation provided under this section be used for expenses relating to the Murdered and Missing Indigenous Women and Girls Task Force as described in Section 36-29-107.5.

Section 4. Effective date.

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

CHAPTER 251
H. B. 42
Passed February 22, 2021
Approved March 17, 2021
Effective May 5, 2021

EDUCATION AGENCY REPORT PROCESS AMENDMENTS

Chief Sponsor: Susan Pulsipher
Senate Sponsor: Derrin R. Owens
Cosponsors: Cheryl K. Acton
Carl R. Albrecht
Stephen G. Handy
Dan N. Johnson
Marsha Judkins
Karianne Lisonbee
Jefferson Moss
V. Lowry Snow
Christine F. Watkins

LONG TITLE

General Description:

This bill removes certain education reporting requirements and requires the State Board of Education to establish a policy or procedures to evaluate the impact a report required in a proposed rule may have on reporting requirements for local education agencies.

Highlighted Provisions:

This bill:

- requires the State Board of Education (state board) to establish a policy or procedures to evaluate the impact any report required in a rule proposed by the state board may have on reporting requirements for a local education agency;
- removes education reporting requirements related to:
  - the program evaluation of the dual language immersion program;
  - a local education agency's expenditure of early literacy program money;
  - the digital teaching and learning program;
  - instruction and preparation of students to become informed and responsible citizens; and
  - the state board's progress implementing certain employee evaluations;
- repeals the Student Leadership Skills Development Program;
- repeals provisions related to the appropriation for accommodation plans for students with Section 504 accommodations; and
- defines terms.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53E-1-201, as last amended by Laws of Utah 2020, Chapters 51, 174, 254, 274, 321, 354, 365 and last amended by Coordination Clause, Laws of Utah 2020, Chapters 254, 274, and 321
53E-1-202, as last amended by Laws of Utah 2020, Chapters 330 and 354
53E-1-203, as last amended by Laws of Utah 2020, Chapters 365 and 388
53F-2-502, as last amended by Laws of Utah 2020, Chapter 408
53F-2-503, as last amended by Laws of Utah 2020, Chapters 174 and 408
53F-2-510, as last amended by Laws of Utah 2020, Chapter 408
53G-10-204, as last amended by Laws of Utah 2020, Chapter 320
53G-11-505, as last amended by Laws of Utah 2019, Chapter 293
63I-2-253, as last amended by Laws of Utah 2020, Sixth Special Session, Chapter 13

ENACTS:

53E-1-205, Utah Code Annotated 1953

REPEALS:

53F-2-508, as last amended by Laws of Utah 2020, Chapter 408
53F-2-512, as last amended by Laws of Utah 2020, Chapter 408

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

Section 1. Section 53E-1-201 is amended to read:

53E-1-201. Reports to and action required of the Education Interim Committee.

(1) In accordance with applicable provisions and Section 68-3-14, the following recurring reports are due to the Education Interim Committee:

(a) the report described in Section 9-22-109 by the STEM Action Center Board, including the information described in Section 9-22-113 on the status of the computer science initiative and Section 9-22-114 on the Computing Partnerships Grants Program;

(b) the prioritized list of data research described in Section 35A-14-302 and the report on research described in Section 35A-14-304 by the Utah Data Research Center;

(c) the report described in Section 35A-15-303 by the State Board of Education on preschool programs;

(d) the report described in Section 53B-1-402 by the Utah Board of Higher Education on career and technical education issues and addressing workforce needs;

(e) the annual report of the Utah Board of Higher Education described in Section 53B-1-402;

(f) the reports described in Section 53B-28-401 by the Utah Board of Higher Education regarding activities related to campus safety;

(g) the State Superintendent's Annual Report by the state board described in Section 53E-1-203;

(h) the annual report described in Section 53E-2-202 by the state board on the strategic plan to improve student outcomes;

(i) the report described in Section 53E-8-204 by the state board on the Utah Schools for the Deaf and the Blind;

(j) the report described in Section 53E-10-703 by the Utah Leading through Effective, Actionable, and Dynamic Education director on research and other activities;

(k) the report described in Section 53F-4-203 by the state board and the independent evaluator on an evaluation of early interactive reading software;

(l) the report described in Section 53F-4-407 by the state board on UPSTART;

(m) the reports described in Sections 53F-5-214 and 53F-5-215 by the state board related to grants for professional learning and grants for an elementary teacher preparation assessment; and

(n) the report described in Section 53F-5-405 by the State Board of Education regarding an evaluation of a partnership that receives a grant to improve educational outcomes for students who are low income.

(2) In accordance with applicable provisions and Section 68-3-14, the following occasional reports are due to the Education Interim Committee:

(a) the report described in Section 35A-15-303 by the School Readiness Board by November 30, 2020, on benchmarks for certain preschool programs;

(b) the report described in Section 53B-28-402 by the Utah Board of Higher Education on or before the Education Interim Committee's November 2021 meeting;

(c) the report described in Section 53E-3-519 by the state board regarding counseling services in schools;

(d) the reports described in Section 53E-3-520 by the state board regarding cost centers and implementing activity based costing;

(e) if required, the report described in Section 53E-4-309 by the state board explaining the reasons for changing the grade level specification for the administration of specific assessments;

(f) if required, the report described in Section 53E-5-210 by the state board of an adjustment to the minimum level that demonstrates proficiency for each statewide assessment;

(g) in 2022 and in 2023, on or before November 30, the report described in Subsection 53E-10-309(7) related to the PRIME pilot program;

(h) the report described in Section 53E-10-702 by Utah Leading through Effective, Actionable, and Dynamic Education;

[~~(i) the report described in Section 53F-2-502 by the state board on the program evaluation of the dual language immersion program;~~]

[~~(j)~~] (i) if required, the report described in Section 53F-2-513 by the state board evaluating the effects of salary bonuses on the recruitment and retention of effective teachers in high poverty schools;

[~~(k)~~] (j) upon request, the report described in Section 53F-5-207 by the state board on the Intergenerational Poverty Intervention Grants Program;

[~~(l)~~] (k) the report described in Section 53F-5-210 by the state board on the Educational Improvement Opportunities Outside of the Regular School Day Grant Program;

[~~(m)~~] (l) the report described in Section 53G-7-503 by the state board regarding fees that LEAs charge during the 2020-2021 school year;

[~~(n)~~] (m) the reports described in Section 53G-11-304 by the state board regarding proposed rules and results related to educator exit surveys;

[~~(o) upon request, the report described in Section 53G-11-505 by the state board on progress in implementing employee evaluations;~~]

[~~(p)~~] (n) the report described in Section 62A-15-117 by the Division of Substance Abuse and Mental Health, the State Board of Education, and the Department of Health regarding recommendations related to Medicaid reimbursement for school-based health services; and

[~~(q)~~] (o) the reports described in Section 63C-19-202 by the Higher Education Strategic Planning Commission.

(3) In accordance with Section 53B-7-705, the Education Interim Committee shall complete the review of the implementation of performance funding.

Section 2. Section 53E-1-202 is amended to read:

53E-1-202. Reports to and action required of the Public Education Appropriations Subcommittee.

(1) In accordance with applicable provisions and Section 68-3-14, the following recurring reports are due to the Public Education Appropriations Subcommittee:

(a) the State Superintendent's Annual Report by the state board described in Section 53E-1-203;

(b) the report described in Section 53E-10-703 by the Utah Leading through Effective, Actionable, and Dynamic Education director on research and other activities; and

(c) the report by the STEM Action Center Board described in Section 9-22-109, including the information described in Section 9-22-113 on the status of the computer science initiative.

(2) [~~(a)~~] The one-time report by the state board regarding cost centers and implementing activity based costing is due to the Public Education Appropriations Subcommittee in accordance with Section 53E-3-520.

[~~(b) The occasional report, described in Section 53F-2-502 by the state board on the program evaluation of the dual language immersion program, is due to the Public Education Appropriations Subcommittee and in accordance with Section 68-3-14.~~]

(3) In accordance with applicable provisions, the Public Education Appropriations Subcommittee shall complete the following:

(a) the evaluation described in Section 53F-2-410 of funding for at-risk students; and

(b) if required, the study described in Section 53F-4-304 of scholarship payments.

Section 3. Section 53E-1-203 is amended to read:

53E-1-203. State Superintendent's Annual Report.

(1) The state board shall prepare and submit to the governor, the Education Interim Committee, and the Public Education Appropriations Subcommittee, by January 15 of each year, an annual written report known as the State Superintendent's Annual Report that includes:

(a) the operations, activities, programs, and services of the state board;

(b) subject to Subsection (4)(b), all reports listed in Subsection (4)(a); and

(c) data on the general condition of the schools with recommendations considered desirable for specific programs, including:

(i) a complete statement of fund balances;

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

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

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

(v) a statement that includes data on:

(A) fall enrollments;

(B) average membership;

(C) high school graduates;

(D) licensed and classified employees, including data reported by school districts on educator ratings described in Section 53G-11-511;

(E) pupil-teacher ratios;

(F) average class sizes;

(G) average salaries;

(H) applicable private school data; and

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

(vi) statistical information regarding incidents of delinquent activity in the schools or at school-related activities; and

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

(2) (a) For the purposes of Subsection (1)(c)(v):

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

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

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

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

(b) The report shall:

(i) include the pupil-teacher ratio for:

(A) each school district;

(B) the charter schools aggregated; and

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

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

(3) For each operation, activity, program, or service provided by the state board, the annual report shall include:

(a) a description of the operation, activity, program, or service;

(b) data and metrics:

(i) selected and used by the state board to measure progress, performance, effectiveness, and scope of the operation, activity, program, or service, including summary data; and

(ii) that are consistent and comparable for each state operation, activity, program, or service;

(c) budget data, including the amount and source of funding, expenses, and allocation of full-time employees for the operation, activity, program, or service;

(d) historical data from previous years for comparison with data reported under Subsections (3)(b) and (c);

(e) goals, challenges, and achievements related to the operation, activity, program, or service;

(f) relevant federal and state statutory references and requirements;

(g) contact information of officials knowledgeable and responsible for each operation, activity, program, or service; and

(h) other information determined by the state board that:

(i) may be needed, useful, or of historical significance; or

(ii) promotes accountability and transparency for each operation, activity, program, or service with the public and elected officials.

(4) (a) Except as provided in Subsection (4)(b), the annual report shall also include:

(i) the report described in Section 53E-3-507 by the state board on career and technical education needs and program access;

(ii) through October 1, 2022, the report described in Section 53E-3-515 by the state board on the Hospitality and Tourism Management Career and Technical Education Pilot Program;

(iii) beginning on July 1, 2023, the report described in Section 53E-3-516 by the state board on certain incidents that occur on school grounds;

(iv) the report described in Section 53E-4-202 by the state board on the development and implementation of the core standards for Utah public schools;

(v) the report described in Section 53E-5-310 by the state board on school turnaround and leadership development;

(vi) the report described in Section 53E-10-308 by the state board and Utah Board of Higher Education on student participation in the concurrent enrollment program;

[~~(vii) the report described in Section 53F-2-503 by the state board on early literacy;~~]

[~~(viii)~~] (vii) the report described in Section 53F-5-506 by the state board on information related to competency-based education; and

[~~(ix)~~] (viii) the report described in Section 53G-9-802 by the state board on dropout prevention and recovery services[~~; and~~].

[~~(x) the report described in Section 53G-10-204 by the state board on methods used, and the results being achieved, to instruct and prepare students to become informed and responsible citizens.~~]

(b) The Education Interim Committee or the Public Education Appropriations Subcommittee may request a report described in Subsection (4)(a) to be reported separately from the State Superintendent's Annual Report.

(5) The annual report shall be designed to provide clear, accurate, and accessible information to the public, the governor, and the Legislature.

(6) The state board shall:

(a) submit the annual report in accordance with Section 68-3-14; and

(b) make the annual report, and previous annual reports, accessible to the public by placing a link to the reports on the state board's website.

(7) (a) Upon request of the Education Interim Committee or Public Education Appropriations Subcommittee, the state board shall present the State Superintendent's Annual Report to either committee.

(b) After submitting the State Superintendent's Annual Report in accordance with this section, the state board may supplement the report at a later time with updated data, information, or other materials as necessary or upon request by the governor, the Education Interim Committee, or the Public Education Appropriations Subcommittee.

Section 4. Section 53E-1-205 is enacted to read:

53E-1-205. Reporting impact analysis.

(1) As used in this section, "proposed report" means a report that:

(a) an LEA is required to prepare or submit to the state board;

(b) a rule proposed by the state board requires; and

(c) is not required by federal law, Utah Code, or another state entity.

(2) The state board shall establish a policy or procedures to evaluate the impact a proposed report may have on reporting requirements for an LEA.

(3) The impact described in Subsection (2) may include:

(a) the estimated cost to an LEA associated with the proposed report;

(b) the estimated time an LEA administrator will spend preparing the proposed report; and

(c) any disproportionate impact the proposed report may have on an LEA because of the LEA's size, location, or other factors.

Section 5. Section 53F-2-502 is amended to read:

53F-2-502. Dual language immersion.

(1) As used in this section:

(a) "Dual language immersion" means an instructional setting in which a student receives a portion of instruction in English and a portion of instruction exclusively in a partner language.

(b) "Local education agency" or "LEA" means a school district or a charter school.

(c) "Participating LEA" means an LEA selected by the state board to receive a grant described in this section.

(d) "Partner language" means a language other than English in which instruction is provided in dual language immersion.

(2) The state board shall:

(a) establish a dual language immersion program;

(b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules that establish:

(i) a grant program for an LEA to receive funding for dual language immersion;

(ii) the required qualifications for an LEA to be a participating LEA;

(iii) subject to this section, requirements of a participating LEA;

(iv) a proficiency assessment for each partner language; and

(v) a progression of how a school in a participating LEA adds grade levels in which the school offers dual language immersion; and

(c) subject to legislative appropriations:

(i) select participating LEAs; and

(ii) award to a participating LEA a grant to support dual language immersion in the LEA[~~; and~~].

[~~(d) report to a legislative committee on the results of a proficiency assessment described in Subsection (2)(b)(iv) upon request.~~]

(3) A participating LEA shall:

(a) establish in a school a full-day dual language immersion instructional model that provides at least 50% of instruction exclusively in a partner language;

(b) in accordance with the state board rules described in Subsection (2)(b), add grades in which dual language immersion is provided in a school; and

(c) annually administer to each student in grades 3 through 8 who participates in dual language immersion an assessment described in Subsection (2)(b)(iv).

(4) The state board shall:

(a) provide support to a participating LEA, including by:

(i) offering professional learning for dual language immersion educators;

(ii) developing curriculum related to dual language immersion; or

(iii) providing instructional support for a partner language;

(b) conduct a program evaluation of the dual language immersion program established under Subsection (2)(a); and

(c) on or before November 1, 2019, report to the Education Interim Committee and the Public Education Appropriations Subcommittee on the results of the program evaluation described in Subsection (4)(b).

(5) The state board may, in accordance with Title 63G, Chapter 6a, Utah Procurement Code, contract with a third party to conduct the program evaluation described in Subsection (4)(b).

Section 6. Section 53F-2-503 is amended to read:

53F-2-503. Early Literacy Program -- Literacy proficiency plan.

(1) As used in this section:

(a) "Program" means the Early Literacy Program.

(b) "Program money" means:

(i) school district revenue allocated to the program from other money available to the school district, except money provided by the state, for the purpose of receiving state funds under this section; and

(ii) money appropriated by the Legislature to the program.

(2) The Early Literacy Program consists of program money and is created to supplement other school resources for early literacy.

(3) Subject to future budget constraints, the Legislature may annually appropriate money to the Early Literacy Program.

(4) An LEA governing board of a school district or a charter school that serves students in any of grades kindergarten through grade 3 shall submit, in accordance with Section 53G-7-218, a plan to the state board for literacy proficiency improvement that incorporates the following components:

(a) core instruction in:

(i) phonological awareness;

(ii) phonics;

(iii) fluency;

(iv) comprehension;

(v) vocabulary;

(vi) oral language; and

(vii) writing;

(b) intervention strategies that are aligned to student needs;

(c) professional development for classroom teachers, literacy coaches, and interventionists in kindergarten through grade 3;

(d) assessments that support adjustments to core and intervention instruction;

(e) a growth goal for the school district or charter school that:

(i) is based upon student learning gains as measured by benchmark assessments administered pursuant to Section 53E-4-307; and

(ii) includes a target of at least 60% of all students in grades 1 through 3 meeting the growth goal;

(f) at least one goal that is specific to the school district or charter school that:

(i) is measurable;

(ii) addresses current performance gaps in student literacy based on data; and

(iii) includes specific strategies for improving outcomes; and

(g) if a school uses interactive literacy software, the use of interactive literacy software, including early interactive reading software described in Section 53F-4-203.

(5) (a) There are created within the Early Literacy Program three funding programs:

(i) the Base Level Program;

(ii) the Guarantee Program; and

(iii) the Low Income Students Program.

(b) The state board may use up to $7,500,000 from an appropriation described in Subsection (3) for computer-assisted instructional learning and assessment programs.

(6) Money appropriated to the state board for the Early Literacy Program and not used by the state board for computer-assisted instructional learning and assessments described in Subsection (5)(b) shall be allocated to the three funding programs as follows:

(a) 8% to the Base Level Program;

(b) 46% to the Guarantee Program; and

(c) 46% to the Low Income Students Program.

(7) (a) For a school district or charter school to participate in the Base Level Program, the LEA governing board shall submit a plan described in Subsection (4) and shall receive approval of the plan from the state board.

(b) (i) The local school board of a school district qualifying for Base Level Program funds and the charter school governing boards of qualifying elementary charter schools combined shall receive a base amount.

(ii) The base amount for the qualifying elementary charter schools combined shall be allocated among each charter school in an amount proportionate to:

(A) each existing charter school's prior year fall enrollment in grades kindergarten through grade 3; and

(B) each new charter school's estimated fall enrollment in grades kindergarten through grade 3.

(8) (a) A local school board that applies for program money in excess of the Base Level Program funds may choose to first participate in the Guarantee Program or the Low Income Students Program.

(b) A school district shall fully participate in either the Guarantee Program or the Low Income Students Program before the local school board may elect for the school district to either fully or partially participate in the other program.

(c) For a school district to fully participate in the Guarantee Program, the local school board shall allocate to the program money available to the school district, except money provided by the state, equal to the amount of revenue that would be generated by a tax rate of .000056.

(d) For a school district to fully participate in the Low Income Students Program, the local school board shall allocate to the program money available to the school district, except money provided by the state, equal to the amount of revenue that would be generated by a tax rate of .000065.

(e) (i) The state board shall verify that a local school board allocates the money required in accordance with Subsections (8)(c) and (d) before the state board distributes funds in accordance with this section.

(ii) The State Tax Commission shall provide the state board the information the state board needs in order to comply with Subsection (8)(e)(i).

(9) (a) Except as provided in Subsection (9)(c), the local school board of a school district that fully participates in the Guarantee Program shall receive state funds in an amount that is:

(i) equal to the difference between $21 multiplied by the school district's total WPUs and the revenue the local school board is required to allocate under Subsection (8)(c) for the school district to fully participate in the Guarantee Program; and

(ii) not less than $0.

(b) Except as provided in Subsection (9)(c), an elementary charter school shall receive under the Guarantee Program an amount equal to $21 times the elementary charter school's total WPUs.

(c) The state board may adjust the $21 guarantee amount described in Subsections (9)(a) and (b) to account for actual appropriations and money used by the state board for computer-assisted instructional learning and assessments.

(10) The state board shall distribute Low Income Students Program funds in an amount proportionate to the number of students in each school district or charter school who qualify for free or reduced price school lunch multiplied by two.

(11) A school district that partially participates in the Guarantee Program or Low Income Students Program shall receive program funds based on the amount of school district revenue allocated to the program as a percentage of the amount of revenue that could have been allocated if the school district had fully participated in the program.

(12) (a) An LEA governing board shall use program money for early literacy interventions and supports in kindergarten through grade 3 that have proven to significantly increase the percentage of students who are proficient in literacy, including:

(i) evidence-based intervention curriculum;

(ii) literacy assessments that identify student learning needs and monitor learning progress; or

(iii) focused literacy interventions that may include:

(A) the use of reading specialists or paraprofessionals;

(B) tutoring;

(C) before or after school programs;

(D) summer school programs; or

(E) the use of interactive computer software programs for literacy instruction and assessments for students.

(b) An LEA governing board may use program money for portable technology devices used to administer literacy assessments.

(c) Program money may not be used to supplant funds for existing programs, but may be used to augment existing programs.

[~~(13) (a) An LEA governing board shall annually submit a report to the state board accounting for the expenditure of program money in accordance with the LEA governing board's plan described in Subsection (4).~~]

[~~(b)~~] (13) If an LEA governing board uses program money in a manner that is inconsistent with Subsection (12), the school district or charter school is liable for reimbursing the state board for the amount of program money improperly used, up to the amount of program money received from the state board.

(14) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board shall make rules to implement the program.

(b) (i) The rules under Subsection (14)(a) shall require each LEA governing board to annually report progress in meeting goals described in Subsections (4)(e) and (f), including the strategies the school district or charter school uses to address the goals.

(ii) If a school district or charter school does not meet or exceed the school district's or charter school's goals described in Subsections (4)(e) or (f), the LEA governing board shall prepare a new plan that corrects deficiencies.

(iii) The new plan described in Subsection (14)(b)(ii) shall be approved by the state board before the LEA governing board receives an allocation for the next year.

(15) The state board may use up to 3% of the funds appropriated by the Legislature to carry out the provisions of this section for administration of the program.

(16) The state board shall make an annual report in accordance with Section 53E-1-203 that:

(a) includes information on:

(i) student learning gains in early literacy for the past school year and the five-year trend;

(ii) the percentage of grade 3 students who are proficient in English language arts in the past school year and the five-year trend;

(iii) the progress of school districts and charter schools in meeting goals described in a plan described in Subsection (4); and

(iv) the specific strategies or interventions used by school districts or charter schools that have significantly improved early grade literacy proficiency; and

(b) may include recommendations on how to increase the percentage of grade 3 students who are proficient in English language arts, including how to use a strategy or intervention described in Subsection (16)(a)(iv) to improve literacy proficiency for additional students.

(17) The report described in Subsection (16) shall include information provided through the digital reporting platform described in Subsection 53G-7-218(5)(a).

Section 7. Section 53F-2-510 is amended to read:

53F-2-510. Digital Teaching and Learning Grant Program.

(1) As used in this section:

(a) "Advisory committee" means the committee established by the state board under Subsection (7)(b).

(b) "Digital readiness assessment" means an assessment provided by the state board that:

(i) is completed by an LEA analyzing an LEA's readiness to incorporate comprehensive digital teaching and learning; and

(ii) informs the preparation of an LEA's plan for incorporating comprehensive digital teaching and learning.

(c) "High quality professional learning" means the professional learning standards described in Section 53G-11-303.

(d) "Implementation assessment" means an assessment that analyzes an LEA's implementation of an LEA plan, including identifying areas for improvement, obstacles to implementation, progress toward the achievement of stated goals, and recommendations going forward.

(e) "LEA plan" means an LEA's plan to implement a digital teaching and learning program that meets the requirements of this section and requirements set forth by the state board and the advisory committee.

(f) "Program" means the Digital Teaching and Learning Grant Program created and described in Subsections (6) through (11).

(g) "Utah Education and Telehealth Network" or "UETN" means the Utah Education and Telehealth Network created in Section 53B-17-105.

(2) (a) The state board shall establish a digital teaching and learning task force to develop a funding proposal to present to the Legislature for digital teaching and learning in elementary and secondary schools.

(b) The digital teaching and learning task force shall include representatives of:

(i) the state board;

(ii) UETN;

(iii) LEAs; and

(iv) the Governor's Education Excellence Commission.

(3) As funding allows, the state board shall develop a master plan for a statewide digital teaching and learning program, including the following:

(a) a statement of purpose that describes the objectives or goals the state board will accomplish by implementing a digital teaching and learning program;

(b) a forecast for fundamental components needed to implement a digital teaching and learning program, including a forecast for:

(i) student and teacher devices;

(ii) Wi-Fi and wireless compatible technology;

(iii) curriculum software;

(iv) assessment solutions;

(v) technical support;

(vi) change management of LEAs;

(vii) high quality professional learning;

(viii) Internet delivery and capacity; and

(ix) security and privacy of users;

(c) a determination of the requirements for:

(i) statewide technology infrastructure; and

(ii) local LEA technology infrastructure;

(d) standards for high quality professional learning related to implementing and maintaining a digital teaching and learning program;

(e) a statewide technical support plan that will guide the implementation and maintenance of a digital teaching and learning program, including standards and competency requirements for technical support personnel;

(f) (i) a grant program for LEAs; or

(ii) a distribution formula to fund LEA digital teaching and learning programs;

(g) in consultation with UETN, an inventory of the state public education system's current technology resources and other items and a plan to integrate those resources into a digital teaching and learning program;

(h) an ongoing evaluation process that is overseen by the state board;

(i) proposed rules that incorporate the principles of the master plan into the state's public education system as a whole; and

(j) a plan to ensure long-term sustainability that:

(i) accounts for the financial impacts of a digital teaching and learning program; and

(ii) facilitates the redirection of LEA savings that arise from implementing a digital teaching and learning program.

(4) UETN shall:

(a) in consultation with the state board, conduct an inventory of the state public education system's current technology resources and other items as determined by UETN, including software;

(b) perform an engineering study to determine the technology infrastructure needs of the public education system to implement a digital teaching and learning program, including the infrastructure needed for the state board, UETN, and LEAs; and

(c) as funding allows, provide infrastructure and technology support for school districts and charter schools.

(5) Beginning July 1, 2016, and ending July 1, 2021, each LEA, including each school within an LEA, shall annually complete a digital readiness assessment.

(6) There is created the Digital Teaching and Learning Grant Program to improve educational outcomes in public schools by effectively incorporating comprehensive digital teaching and learning technology.

(7) The state board shall:

(a) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, adopt rules for the administration of the program, including rules requiring:

(i) an LEA plan to include measures to ensure that the LEA monitors and implements technology with best practices, including the recommended use for effectiveness;

(ii) an LEA plan to include robust goals for learning outcomes and appropriate measurements of goal achievement; and

(iii) an LEA to demonstrate that the LEA plan can be fully funded by grant funds or a combination of grant and local funds[~~; and~~];

[~~(iv) an LEA to report on funds from expenses previous to the implementation of the LEA plan that the LEA has redirected after implementation;~~]

(b) establish an advisory committee to make recommendations on the program and LEA plan requirements and report to the state board; and

(c) in accordance with this section, approve LEA plans and award grants.

(8) (a) The state board shall, subject to legislative appropriations, award a grant to an LEA:

(i) that submits an LEA plan that meets the requirements described in Subsection (9); and

(ii) for which the LEA's leadership and management members have completed a digital teaching and learning leadership and implementation training as provided in Subsection (8)(b).

(b) The state board or its designee shall provide the training described in Subsection (8)(a)(ii).

(9) The state board shall establish requirements of an LEA plan that shall include:

(a) the results of the LEA's digital readiness assessment and a proposal to remedy an obstacle to implementation or other issues identified in the assessment;

(b) a proposal to provide high quality professional learning for educators in the use of digital teaching and learning technology;

(c) a proposal for leadership training and management restructuring, if necessary, for successful implementation;

(d) clearly identified targets for improved student achievement, student learning, and college readiness through digital teaching and learning; and

(e) any other requirement established by the state board in rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, including an application process and metrics to analyze the quality of a proposed LEA plan.

(10) The state board or the state board's designee shall establish an interactive dashboard available to each LEA that is awarded a grant for the LEA to track and report the LEA's long-term, intermediate, and direct outcomes in [~~realtime~~] real time and for the LEA to use to create customized reports.

(11) (a) There is no federal funding, federal requirement, federal education agreement, or national program included or related to this state adopted program.

(b) Any inclusion of federal funding, federal requirement, federal education agreement, or national program shall require separate express approval as provided in Title 53E, Chapter 3, Part 8, Implementing Federal or National Education Programs.

(12) [~~(a)~~] An LEA that receives a grant as part of the program shall:

[~~(i)~~] (a) [~~subject to Subsection (12)(b), complete~~] complete an implementation assessment for each year that the LEA is expending grant money; and

[~~(ii) (A)~~] (b) (i) report the findings of the implementation assessment to the state board; and

[~~(B)~~] (ii) submit to the state board a plan to resolve issues raised in the implementation assessment.

[~~(b) Each school within the LEA shall:~~]

[~~(i) complete an implementation assessment; and~~]

[~~(ii) submit a compilation report that meets the requirements described in Subsections (12)(a)(ii)(A) and (B).~~]

(13) The state board or the state board's designee shall review an implementation assessment and review each participating LEA's progress from the previous year, as applicable.

(14) The state board shall establish interventions for an LEA that does not make progress on implementation of the LEA's implementation plan, including:

(a) nonrenewal of, or time period extensions for, the LEA's grant;

(b) reduction of funds; or

(c) other interventions to assist the LEA.

(15) In accordance with Title 63G, Chapter 6a, Utah Procurement Code, the state board shall contract with an independent evaluator to:

(a) annually evaluate statewide direct and intermediate outcomes beginning the first year that grants are awarded, including baseline data collection for long-term outcomes;

(b) in the fourth year after a grant is awarded, and each year thereafter, evaluate statewide long-term outcomes; and

(c) report on the information described in Subsections (15)(a) and (b) to the state board.

(16) (a) To implement an LEA plan, a contract, in accordance with Title 63G, Chapter 6a, Utah Procurement Code, or other agreement with one or more providers of technology powered learning solutions and one or more providers of wireless networking solutions may be entered into by:

(i) UETN, in cooperation with or on behalf of, as applicable, the state board, the state board's designee, or an LEA; or

(ii) an LEA.

(b) A contract or agreement entered into under Subsection (16)(a) may be a contract or agreement that:

(i) UETN enters into with a provider and payment for services is directly appropriated by the Legislature, as funds are available, to UETN;

(ii) UETN enters into with a provider and pays for the provider's services and is reimbursed for payments by an LEA that benefits from the services;

(iii) UETN negotiates the terms of on behalf of an LEA that enters into the contract or agreement directly with the provider and the LEA pays directly for the provider's services; or

(iv) an LEA enters into directly, pays a provider, and receives preapproved reimbursement from a UETN fund established for this purpose.

(c) If an LEA does not reimburse UETN in a reasonable time for services received under a contract or agreement described in Subsection (16)(b), the state board shall pay the balance due to UETN from the LEA's funds received under Title 53F, Chapter 2, State Funding -- Minimum School Program.

(d) If UETN negotiates or enters into an agreement as described in Subsection (16)(b)(ii) or (16)(b)(iii), and UETN enters into an additional agreement with an LEA that is associated with the agreement described in Subsection (16)(b)(ii) or (16)(b)(iii), the associated agreement may be treated by UETN and the LEA as a cooperative procurement, as that term is defined in Section 63G-6a-103, regardless of whether the associated agreement satisfies the requirements of Section 63G-6a-2105.

Section 8. Section 53G-10-204 is amended to read:

53G-10-204. Civic and character education -- Definitions -- Legislative finding -- Elements -- Reporting requirements.

(1) As used in this section:

(a) "Character education" means reaffirming values and qualities of character which promote an upright and desirable citizenry.

(b) "Civic education" means the cultivation of informed, responsible participation in political life by competent citizens committed to the fundamental values and principles of representative democracy in Utah and the United States.

(c) "Civics engagement pilot program" means the pilot program described in Subsection [~~(7)~~] (6).

(d) "Civics engagement project" means the civics engagement project described in Subsection [~~(7)~~] (6), which a student enrolled in a participating LEA may complete.

(e) "Participating LEA" means an LEA that meets the eligibility criteria, and is selected by the state board, to participate in the civics engagement pilot program.

(f) "Values" means time-established principles or standards of worth.

(2) The Legislature recognizes that:

(a) Civic and character education are fundamental elements of the public education system's core mission as originally intended and established under Article X of the Utah Constitution;

(b) Civic and character education are fundamental elements of the constitutional responsibility of public education and shall be a continuing emphasis and focus in public schools;

(c) the cultivation of a continuing understanding and appreciation of a constitutional republic and principles of representative democracy in Utah and the United States among succeeding generations of educated and responsible citizens is important to the nation and state;

(d) the primary responsibility for the education of children within the state resides with their parents and that the role of state and local governments is to support and assist parents in fulfilling that responsibility;

(e) public schools fulfill a vital purpose in the preparation of succeeding generations of informed and responsible citizens who are deeply attached to essential democratic values and institutions; and

(f) the happiness and security of American society relies upon the public virtue of its citizens which requires a united commitment to a moral social order where self-interests are willingly subordinated to the greater common good.

(3) Through an integrated curriculum, students shall be taught in connection with regular school work:

(a) honesty, integrity, morality, civility, duty, honor, service, and obedience to law;

(b) respect for and an understanding of the Declaration of Independence and the constitutions of the United States and of the state of Utah;

(c) Utah history, including territorial and preterritorial development to the present;

(d) the essentials and benefits of the free enterprise system;

(e) respect for parents, home, and family;

(f) the dignity and necessity of honest labor; and

(g) other skills, habits, and qualities of character which will promote an upright and desirable citizenry and better prepare students to recognize and accept responsibility for preserving and defending the blessings of liberty inherited from prior generations and secured by the constitution.

(4) Local school boards and school administrators may provide training, direction, and encouragement, as needed, to accomplish the intent and requirements of this section and to effectively emphasize civic and character education in the course of regular instruction in the public schools.

(5) Civic and character education in public schools are:

(a) not intended to be separate programs in need of special funding or added specialists to be accomplished; and

(b) core principles which reflect the shared values of the citizens of Utah and the founding principles upon which representative democracy in the United States and the state of Utah are based.

[~~(6) In accordance with Section 53E-1-203, the state board shall report to the Education Interim Committee the methods used, and the results being achieved, to instruct and prepare students to~~

~~become informed and responsible citizens through an integrated curriculum taught in connection with regular school work as required in this section.~~]

[~~(7)~~] (6) (a) In accordance with this section, subject to appropriations by the Legislature for this purpose, beginning with the 2020-21 school year, the state board shall administer a three-year civics engagement pilot program to assess the benefits of, and methods for, implementing a requirement to complete a civics engagement project as a condition for receiving a high school diploma.

(b) The state board shall:

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

(A) to create a civics engagement project that complies with core standards for Utah public education for social studies and prepares students for lifelong civic motivation and participation through applied learning of civics content;

(B) to establish eligibility requirements for participating LEAs;

(C) to create an application process for LEAs to apply to participate in the pilot program; and

(D) for a report that a participating LEA is required to submit to the state board at the end of the pilot program;

(ii) select participating LEAs:

(A) from diverse geographic areas within the state; and

(B) with a range of student population sizes; and

(iii) subject to appropriations by the Legislature for this purpose, in cooperation with school districts, charter schools, and interested private and nonprofit entities, provide training that prepares teachers in a participating LEA to assist students to successfully complete the civics engagement project.

(c) A participating LEA shall submit a report to the state board in accordance with the rules described in Subsection [~~(7)~~] (6)(b)(i)(D).

Section 9. Section 53G-11-505 is amended to read:

53G-11-505. State board rules -- Reporting to Legislature.

[~~(1)~~]Subject to Sections 53G-11-506, 53G-11-507, 53G-11-508, 53G-11-509, 53G-11-510, and 53G-11-511, rules adopted by the state board under Section 53G-11-504 shall:

[~~(a)~~] (1) provide general guidelines, requirements, and procedures for the development and implementation of employee evaluations;

[~~(b)~~] (2) establish required components and allow for optional components of employee evaluations;

[~~(c)~~] (3) require school districts to choose valid and reliable methods and tools to implement the evaluations; and

[~~(d)~~] (4) establish a timeline for school districts to implement employee evaluations.

[~~(2) The state board shall report to the Education Interim Committee, as requested, on progress in implementing employee evaluations in accordance with this section and Sections 53G-11-504, 53G-11-506, 53G-11-507, 53G-11-508, 53G-11-509, 53G-11-510, and 53G-11-511.~~]

Section 10. Section 63I-2-253 is amended to read:

63I-2-253. Repeal dates -- Titles 53 through 53G.

(1) (a) Section 53-2a-217, regarding procurement during an epidemic or pandemic emergency, is repealed on December 31, 2021.

(b) When repealing Section 53-2a-217, the Office of Legislative Research and General Counsel shall, in addition to the office's authority under Subsection 36-12-12(3), make necessary changes to subsection numbering and cross references.

(2) Section 53B-2a-103 is repealed July 1, 2021.

(3) Section 53B-2a-104 is repealed July 1, 2021.

(4) (a) Subsection 53B-2a-108(5), regarding exceptions to the composition of a technical college board of trustees, is repealed July 1, 2022.

(b) When repealing Subsection 53B-2a-108(5), the Office of Legislative Research and General Counsel shall, in addition to its authority under Subsection 36-12-12(3), make necessary changes to subsection numbering and cross references.

(5) Section 53B-6-105.7 is repealed July 1, 2024.

(6) (a) Subsection 53B-7-705(6)(b)(ii)(A), the language that states "Except as provided in Subsection (6)(b)(ii)(B)," is repealed July 1, 2021.

(b) Subsection 53B-7-705(6)(b)(ii)(B), regarding comparing a technical college's change in performance with the technical college's average performance, is repealed July 1, 2021.

(7) (a) Subsection 53B-7-707(3)(a)(ii), the language that states "Except as provided in Subsection (3)(b)," is repealed July 1, 2021.

(b) Subsection 53B-7-707(3)(b), regarding performance data of a technical college during a fiscal year before fiscal year 2020, is repealed July 1, 2021.

(8) Section 53B-8-114 is repealed July 1, 2024.

(9) (a) The following sections, regarding the Regents' scholarship program, are repealed on July 1, 2023:

(i) Section 53B-8-202;

(ii) Section 53B-8-203;

(iii) Section 53B-8-204; and

(iv) Section 53B-8-205.

(b) (i) Subsection 53B-8-201(2), regarding the Regents' scholarship program for students who graduate from high school before fiscal year 2019, is repealed on July 1, 2023.

(ii) When repealing Subsection 53B-8-201(2), the Office of Legislative Research and General Counsel shall, in addition to its authority under Subsection 36-12-12(3), make necessary changes to subsection numbering and cross references.

(10) Section 53B-10-101 is repealed on July 1, 2027.

(11) Title 53B, Chapter 18, Part 14, Uintah Basin Air Quality Research Project, is repealed July 1, 2023.

(12) Section 53E-3-519 regarding school counselor services is repealed July 1, 2020.

(13) Section 53E-3-520 is repealed July 1, 2021.

(14) Subsection 53E-5-306(3)(b)(ii)(B), related to improving school performance and continued funding relating to the School Recognition and Reward Program, is repealed July 1, 2020.

(15) Section 53E-5-307 is repealed July 1, 2020.

(16) Subsection 53E-10-309(7), related to the PRIME pilot program, is repealed July 1, 2024.

(17) In Subsections 53F-2-205(4) and (5), regarding the State Board of Education's duties if contributions from the minimum basic tax rate are overestimated or underestimated, the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

(18) Subsection 53F-2-301(1), relating to the years the section is not in effect, is repealed July 1, 2023.

(19) In Subsection 53F-2-515(1), the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

(20) Section 53F-4-207 is repealed July 1, 2022.

(21) In Subsection 53F-9-302(3), the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

(22) In Subsection 53F-9-305(3)(a), the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

(23) In Subsection 53F-9-306(3)(a), the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

(24) In Subsection 53G-3-304(1)(c)(i), the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

(25) Subsections 53G-10-204(1)(c) through (e), and Subsection 53G-10-204[~~(7)~~](6), related to the civics engagement pilot program, are repealed on July 1, 2023.

(26) On July 1, 2023, when making changes in this section, the Office of Legislative Research and General Counsel shall, in addition to the office's authority under Subsection 36-12-12(3), make corrections necessary to ensure that sections and subsections identified in this section are complete sentences and accurately reflect the office's perception of the Legislature's intent.

Section 11. Repealer.

This bill repeals:

Section 53F-2-508, Student Leadership Skills Development Program.

Section 53F-2-512, Appropriation for accommodation plans for students with Section 504 accommodations.

CHAPTER 252
H. B. 54
Passed March 4, 2021
Approved March 17, 2021
Effective May 5, 2021

INSURANCE REVISIONS

Chief Sponsor: James A. Dunnigan
Senate Sponsor: Curtis S. Bramble

LONG TITLE

General Description:

This bill amends the Insurance Code.

Highlighted Provisions:

This bill:

- amends references to "blanket insurance policy" for consistency;
- amends the definition of "captive insurance company";
- permits credit to a ceding insurer ceding to a foreign captive insurer under certain conditions;
- provides that inland marine insurance that includes accident and health insurance is subject to Title 31A, Chapter 22, Contracts in Specific Lines;
- removes provisions that the Utah Insurance Commissioner define "conspicuously" in regards to certain forms;
- amend provisions related to mass marketed life or accident and health insurance;
- amends the scope of Title 31A, Chapter 22, Part 6, Accident and Health Insurance;
- allows reinstatement language of individual or franchise accident and health insurance policies to be substantially, rather than verbatim, as provided in statute;
- amends provisions related to the coverage of emergency medical services;
- amends provisions related to notice of discontinuance of a group health benefit plan;
- amends the minimum nonforfeiture amounts under the standard nonforfeiture law for individual deferred annuities;
- amends reporting provisions related to the study of coverage for in vitro fertilization and genetic testings;
- amends provisions regarding group life insurance related to trustee groups and conversion on termination of eligibility;
- amends provisions related to premium rates for accident and health insurance;
- amends provisions related to the issuance of a group insurance policy offering life insurance to an association group;
- amends provisions regarding an association group to whom a group accident and health insurance policy may be issued;
- permits the Utah Insurance Commissioner to adopt rules permitting or including independent review of benefit determinations for long-term care insurance;
- amends the definition of "limited long-term care insurance" under the Limited Long-term Care Insurance Act;
- amends provisions related to the lapse of a license under Title 31A, Chapter 23a, Insurance Marketing - Licensing Producers, Consultants, and Reinsurance Intermediaries;
- amends provisions of Title 31A, Chapter 23a, Insurance Marketing - Licensing Producers, Consultants, and Reinsurance Intermediaries, in relation to inducements and compensation;
- amends provisions regarding a title insurance producer's business;
- amends provisions related to certain trust obligations for a person authorized to engage in the insurance business;
- amends the definition of "company adjuster";
- amends the coverage and limitations of guaranty association coverage;
- amends the minimum financial requirements for a bail bond agency license;
- amends the requirements for initial licensure and license renewal of a bail bond agency license;
- amends required unimpaired paid-in capital and other capital for capital insurance companies;
- permits a captive insurance company to provide coverage for punitive damages awarded under certain conditions;
- amends provisions allowing a captive insurance company to reinsure risks;
- amends provisions related to a captive insurance company's certificate of dormancy; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

31A-1-103, as last amended by Laws of Utah 2020, Chapter 32
31A-1-301, as last amended by Laws of Utah 2020, Chapter 32
31A-17-404, as last amended by Laws of Utah 2020, Chapter 32
31A-21-101, as last amended by Laws of Utah 2017, Chapter 363
31A-21-201, as last amended by Laws of Utah 2020, Chapter 32
31A-21-402, as last amended by Laws of Utah 2001, Chapter 116
31A-21-404, as last amended by Laws of Utah 2011, Chapter 62
31A-22-409, as last amended by Laws of Utah 2008, Chapters 345 and 382
31A-22-501, as last amended by Laws of Utah 2019, Chapter 193
31A-22-504, as last amended by Laws of Utah 2015, Chapter 244
31A-22-505, as last amended by Laws of Utah 2020, Chapter 32
31A-22-517, as last amended by Laws of Utah 2006, Chapter 175
31A-22-522, as last amended by Laws of Utah 2002, Chapter 308
31A-22-600, as last amended by Laws of Utah 2001, Chapter 116
31A-22-602, as last amended by Laws of Utah 2002, Chapter 308
31A-22-607, as last amended by Laws of Utah 2011, Chapter 284
31A-22-608, as last amended by Laws of Utah 2001, Chapter 116

31A-22-612, as last amended by Laws of Utah 2018, Chapter 319
31A-22-618.6, as last amended by Laws of Utah 2018, Chapter 319
31A-22-618.7, as last amended by Laws of Utah 2017, Chapter 168 and renumbered and amended by Laws of Utah 2017, Chapter 292
31A-22-618.8, as renumbered and amended by Laws of Utah 2017, Chapter 292
31A-22-627, as last amended by Laws of Utah 2019, Chapter 193
31A-22-654, as enacted by Laws of Utah 2020, Chapter 187
31A-22-701, as last amended by Laws of Utah 2019, Chapter 193
31A-22-716, as last amended by Laws of Utah 2017, Chapter 168
31A-22-717, as last amended by Laws of Utah 2004, Chapter 108
31A-22-1404, as last amended by Laws of Utah 1995, Chapter 344
31A-22-2002, as enacted by Laws of Utah 2020, Chapter 32
31A-23a-113, as last amended by Laws of Utah 2015, Chapter 244
31A-23a-201, as renumbered and amended by Laws of Utah 2003, Chapter 298
31A-23a-402.5, as last amended by Laws of Utah 2018, Chapter 181
31A-23a-406, as last amended by Laws of Utah 2019, Chapter 231
31A-23a-409, as last amended by Laws of Utah 2012, Chapter 253
31A-23a-501, as last amended by Laws of Utah 2017, Chapter 168
31A-26-102, as last amended by Laws of Utah 2018, Chapter 319
31A-28-103, as last amended by Laws of Utah 2018, Chapter 391
31A-35-404, as last amended by Laws of Utah 2016, Chapter 234
31A-35-406, as last amended by Laws of Utah 2016, Chapter 234
31A-37-102, as last amended by Laws of Utah 2019, Chapter 193
31A-37-202, as repealed and reenacted by Laws of Utah 2019, Chapter 193
31A-37-204, as last amended by Laws of Utah 2017, Chapter 168
31A-37-303, as last amended by Laws of Utah 2020, Chapter 32
31A-37-701, as last amended by Laws of Utah 2020, Chapter 32
31A-45-501, as renumbered and amended by Laws of Utah 2017, Chapter 292

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

Section 1. Section 31A-1-103 is amended to read:

31A-1-103. Scope and applicability of title.

(1) This title does not apply to:

(a) a retainer contract made by an attorney-at-law:

(i) with an individual client; and

(ii) under which fees are based on estimates of the nature and amount of services to be provided to the specific client;

(b) a contract similar to a contract described in Subsection (1)(a) made with a group of clients involved in the same or closely related legal matters;

(c) an arrangement for providing benefits that do not exceed a limited amount of consultations, advice on simple legal matters, either alone or in combination with referral services, or the promise of fee discounts for handling other legal matters;

(d) limited legal assistance on an informal basis involving neither an express contractual obligation nor reasonable expectations, in the context of an employment, membership, educational, or similar relationship;

(e) legal assistance by employee organizations to their members in matters relating to employment;

(f) death, accident, health, or disability benefits provided to a person by an organization or its affiliate if:

(i) the organization is tax exempt under Section 501(c)(3) of the Internal Revenue Code and has had its principal place of business in Utah for at least five years;

(ii) the person is not an employee of the organization; and

(iii) (A) substantially all the person's time in the organization is spent providing voluntary services:

(I) in furtherance of the organization's purposes;

(II) for a designated period of time; and

(III) for which no compensation, other than expenses, is paid; or

(B) the time since the service under Subsection (1)(f)(iii)(A) was completed is no more than 18 months; or

(g) a prepaid contract of limited duration that provides for scheduled maintenance only.

(2) (a) This title restricts otherwise legitimate business activity.

(b) What this title does not prohibit is permitted unless contrary to other provisions of Utah law.

(3) Except as otherwise expressly provided, this title does not apply to:

(a) those activities of an insurer where state jurisdiction is preempted by Section 514 of the federal Employee Retirement Income Security Act of 1974, as amended;

(b) ocean marine insurance;

(c) death, accident, health, or disability benefits provided by an organization if the organization:

(i) has as the organization's principal purpose to achieve charitable, educational, social, or religious objectives rather than to provide death, accident, health, or disability benefits;

(ii) does not incur a legal obligation to pay a specified amount; and

(iii) does not create reasonable expectations of receiving a specified amount on the part of an insured person;

(d) other business specified in rules adopted by the commissioner on a finding that:

(i) the transaction of the business in this state does not require regulation for the protection of the interests of the residents of this state; or

(ii) it would be impracticable to require compliance with this title;

(e) except as provided in Subsection (4), a transaction independently procured through negotiations under Section 31A-15-104;

(f) self-insurance;

(g) reinsurance;

(h) subject to Subsection (5), an employee [~~and~~] or labor union group [~~or~~] insurance policy covering risks in this state or an employee or labor union blanket insurance policy covering risks in this state, if:

(i) the policyholder exists primarily for purposes other than to procure insurance;

(ii) the policyholder:

(A) is not a resident of this state;

(B) is not a domestic corporation; or

(C) does not have the policyholder's principal office in this state;

(iii) no more than 25% of the certificate holders or insureds are residents of this state;

(iv) on request of the commissioner, the insurer files with the department a copy of the policy and a copy of each form or certificate; and

(v) (A) the insurer agrees to pay premium taxes on the Utah portion of the insurer's business, as if the insurer were authorized to do business in this state; and

(B) the insurer provides the commissioner with the security the commissioner considers necessary for the payment of premium taxes under Title 59, Chapter 9, Taxation of Admitted Insurers;

(i) to the extent provided in Subsection (6):

(i) a manufacturer's or seller's warranty; and

(ii) a manufacturer's or seller's service contract;

(j) except to the extent provided in Subsection (7), a public agency insurance mutual; or

(k) except as provided in Chapter 6b, Guaranteed Asset Protection Waiver Act, a guaranteed asset protection waiver.

(4) A transaction described in Subsection (3)(e) is subject to taxation under Section 31A-3-301.

(5) (a) After a hearing, the commissioner may order an insurer of certain group insurance policies or blanket [~~contracts~~] insurance policies to transfer the Utah portion of the business otherwise exempted under Subsection (3)(h) to an authorized insurer if the contracts have been written by an unauthorized insurer.

(b) If the commissioner finds that the conditions required for the exemption of a group or blanket insurer are not satisfied or that adequate protection to residents of this state is not provided, the commissioner may require:

(i) the insurer to be authorized to do business in this state; or

(ii) that any of the insurer's transactions be subject to this title.

(c) Subsection (3)(h) does not apply to a blanket insurance policy offering accident and health insurance.

(6) (a) As used in Subsection (3)(i) and this Subsection (6):

(i) "manufacturer's or seller's service contract" means a service contract:

(A) made available by:

(I) a manufacturer of a product;

(II) a seller of a product; or

(III) an affiliate of a manufacturer or seller of a product;

(B) made available:

(I) on one or more specific products; or

(II) on products that are components of a system; and

(C) under which the person described in Subsection (6)(a)(i)(A) is liable for services to be provided under the service contract including, if the manufacturer's or seller's service contract designates, providing parts and labor;

(ii) "manufacturer's or seller's warranty" means the guaranty of:

(A) (I) the manufacturer of a product;

(II) a seller of a product; or

(III) an affiliate of a manufacturer or seller of a product;

(B) (I) on one or more specific products; or

(II) on products that are components of a system; and

(C) under which the person described in Subsection (6)(a)(ii)(A) is liable for services to be provided under the warranty, including, if the manufacturer's or seller's warranty designates, providing parts and labor; and

(iii) "service contract" means the same as that term is defined in Section 31A-6a-101.

(b) A manufacturer's or seller's warranty may be designated as:

(i) a warranty;

(ii) a guaranty; or

(iii) a term similar to a term described in Subsection (6)(b)(i) or (ii).

(c) This title does not apply to:

(i) a manufacturer's or seller's warranty;

(ii) a manufacturer's or seller's service contract paid for with consideration that is in addition to the consideration paid for the product itself; and

(iii) a service contract that is not a manufacturer's or seller's warranty or manufacturer's or seller's service contract if:

(A) the service contract is paid for with consideration that is in addition to the consideration paid for the product itself;

(B) the service contract is for the repair or maintenance of goods;

(C) the purchase price of the product is $3,700 or less;

(D) the product is not a motor vehicle; and

(E) the product is not the subject of a home warranty service contract.

(d) This title does not apply to a manufacturer's or seller's warranty or service contract paid for with consideration that is in addition to the consideration paid for the product itself regardless of whether the manufacturer's or seller's warranty or service contract is sold:

(i) at the time of the purchase of the product; or

(ii) at a time other than the time of the purchase of the product.

(7) (a) For purposes of this Subsection (7), "public agency insurance mutual" means an entity formed by two or more political subdivisions or public agencies of the state:

(i) under Title 11, Chapter 13, Interlocal Cooperation Act; and

(ii) for the purpose of providing for the political subdivisions or public agencies:

(A) subject to Subsection (7)(b), insurance coverage; or

(B) risk management.

(b) Notwithstanding Subsection (7)(a)(ii)(A), a public agency insurance mutual may not provide health insurance unless the public agency insurance mutual provides the health insurance using:

(i) a third party administrator licensed under Chapter 25, Third Party Administrators;

(ii) an admitted insurer; or

(iii) a program authorized by Title 49, Chapter 20, Public Employees' Benefit and Insurance Program Act.

(c) Except for this Subsection (7), a public agency insurance mutual is exempt from this title.

(d) A public agency insurance mutual is considered to be a governmental entity and political subdivision of the state with all of the rights, privileges, and immunities of a governmental entity or political subdivision of the state including all the rights and benefits of Title 63G, Chapter 7, Governmental Immunity Act of Utah.

Section 2. Section 31A-1-301 is amended to read:

31A-1-301. Definitions.

As used in this title, unless otherwise specified:

(1) (a) "Accident and health insurance" means insurance to provide protection against economic losses resulting from:

(i) a medical condition including:

(A) a medical care expense; or

(B) the risk of disability;

(ii) accident; or

(iii) sickness.

(b) "Accident and health insurance":

(i) includes a contract with disability contingencies including:

(A) an income replacement contract;

(B) a health care contract;

(C) an expense reimbursement contract;

(D) a credit accident and health contract;

(E) a continuing care contract; and

(F) a long-term care contract; and

(ii) may provide:

(A) hospital coverage;

(B) surgical coverage;

(C) medical coverage;

(D) loss of income coverage;

(E) prescription drug coverage;

(F) dental coverage; or

(G) vision coverage.

(c) "Accident and health insurance" does not include workers' compensation insurance.

(d) For purposes of a national licensing registry, "accident and health insurance" is the same as "accident and health or sickness insurance."

(2) "Actuary" is as defined by the commissioner by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(3) "Administrator" means the same as that term is defined in Subsection [~~(179)~~] (178).

(4) "Adult" means an individual who has attained the age of at least 18 years.

(5) "Affiliate" means a person who controls, is controlled by, or is under common control with, another person. A corporation is an affiliate of another corporation, regardless of ownership, if substantially the same group of individuals manage the corporations.

(6) "Agency" means:

(a) a person other than an individual, including a sole proprietorship by which an individual does business under an assumed name; and

(b) an insurance organization licensed or required to be licensed under Section 31A-23a-301, 31A-25-207, or 31A-26-209.

(7) "Alien insurer" means an insurer domiciled outside the United States.

(8) "Amendment" means an endorsement to an insurance policy or certificate.

(9) "Annuity" means an agreement to make periodical payments for a period certain or over the lifetime of one or more individuals if the making or continuance of all or some of the series of the payments, or the amount of the payment, is dependent upon the continuance of human life.

(10) "Application" means a document:

(a) (i) completed by an applicant to provide information about the risk to be insured; and

(ii) that contains information that is used by the insurer to evaluate risk and decide whether to:

(A) insure the risk under:

(I) the coverage as originally offered; or

(II) a modification of the coverage as originally offered; or

(B) decline to insure the risk; or

(b) used by the insurer to gather information from the applicant before issuance of an annuity contract.

(11) "Articles" or "articles of incorporation" means:

(a) the original articles;

(b) a special law;

(c) a charter;

(d) an amendment;

(e) restated articles;

(f) articles of merger or consolidation;

(g) a trust instrument;

(h) another constitutive document for a trust or other entity that is not a corporation; and

(i) an amendment to an item listed in Subsections (11)(a) through (h).

(12) "Bail bond insurance" means a guarantee that a person will attend court when required, up to and including surrender of the person in execution of a sentence imposed under Subsection 77-20-7(1), as a condition to the release of that person from confinement.

(13) "Binder" means the same as that term is defined in Section 31A-21-102.

(14) "Blanket insurance policy" or "blanket contract" means a group insurance policy covering a defined class of persons:

(a) without individual underwriting or application; and

(b) that is determined by definition without designating each person covered.

(15) "Board," "board of trustees," or "board of directors" means the group of persons with responsibility over, or management of, a corporation, however designated.

(16) "Bona fide office" means a physical office in this state:

(a) that is open to the public;

(b) that is staffed during regular business hours on regular business days; and

(c) at which the public may appear in person to obtain services.

(17) "Business entity" means:

(a) a corporation;

(b) an association;

(c) a partnership;

(d) a limited liability company;

(e) a limited liability partnership; or

(f) another legal entity.

(18) "Business of insurance" means the same as that term is defined in Subsection (94).

(19) "Business plan" means the information required to be supplied to the commissioner under Subsections 31A-5-204(2)(i) and (j), including the information required when these subsections apply by reference under:

(a) Section 31A-8-205; or

(b) Subsection 31A-9-205(2).

(20) (a) "Bylaws" means the rules adopted for the regulation or management of a corporation's affairs, however designated.

(b) "Bylaws" includes comparable rules for a trust or other entity that is not a corporation.

(21) "Captive insurance company" means:

(a) an insurer:

(i) owned by [~~another~~] a parent organization; and

(ii) whose [~~exclusive~~] purpose is to insure risks of the parent organization and [~~an affiliated company; or~~] other risks as authorized under:

(A) Chapter 37, Captive Insurance Companies Act; and

(B) Chapter 37a, Special Purpose Financial Captive Insurance Company Act; or

(b) in the case of a group or association, an insurer:

(i) owned by the insureds; and

(ii) whose [~~exclusive~~] purpose is to insure risks of:

(A) a member organization;

(B) a group member; or

(C) an affiliate of:

(I) a member organization; or

(II) a group member.

(22) "Casualty insurance" means liability insurance.

(23) "Certificate" means evidence of insurance given to:

(a) an insured under a group insurance policy; or

(b) a third party.

(24) "Certificate of authority" is included within the term "license."

(25) "Claim," unless the context otherwise requires, means a request or demand on an insurer for payment of a benefit according to the terms of an insurance policy.

(26) "Claims-made coverage" means an insurance contract or provision limiting coverage under a policy insuring against legal liability to claims that are first made against the insured while the policy is in force.

(27) (a) "Commissioner" or "commissioner of insurance" means Utah's insurance commissioner.

(b) When appropriate, the terms listed in Subsection (27)(a) apply to the equivalent supervisory official of another jurisdiction.

(28) (a) "Continuing care insurance" means insurance that:

(i) provides board and lodging;

(ii) provides one or more of the following:

(A) a personal service;

(B) a nursing service;

(C) a medical service; or

(D) any other health-related service; and

(iii) provides the coverage described in this Subsection (28)(a) under an agreement effective:

(A) for the life of the insured; or

(B) for a period in excess of one year.

(b) Insurance is continuing care insurance regardless of whether or not the board and lodging are provided at the same location as a service described in Subsection (28)(a)(ii).

(29) (a) "Control," "controlling," "controlled," or "under common control" means the direct or indirect possession of the power to direct or cause the direction of the management and policies of a person. This control may be:

(i) by contract;

(ii) by common management;

(iii) through the ownership of voting securities; or

(iv) by a means other than those described in Subsections (29)(a)(i) through (iii).

(b) There is no presumption that an individual holding an official position with another person controls that person solely by reason of the position.

(c) A person having a contract or arrangement giving control is considered to have control despite the illegality or invalidity of the contract or arrangement.

(d) There is a rebuttable presumption of control in a person who directly or indirectly owns, controls, holds with the power to vote, or holds proxies to vote 10% or more of the voting securities of another person.

(30) "Controlled insurer" means a licensed insurer that is either directly or indirectly controlled by a producer.

(31) "Controlling person" means a person that directly or indirectly has the power to direct or cause to be directed, the management, control, or activities of a reinsurance intermediary.

(32) "Controlling producer" means a producer who directly or indirectly controls an insurer.

(33) "Corporate governance annual disclosure" means a report an insurer or insurance group files in accordance with the requirements of Chapter 16b, Corporate Governance Annual Disclosure Act.

(34) (a) "Corporation" means an insurance corporation, except when referring to:

(i) a corporation doing business:

(A) as:

(I) an insurance producer;

(II) a surplus lines producer;

(III) a limited line producer;

(IV) a consultant;

(V) a managing general agent;

(VI) a reinsurance intermediary;

(VII) a third party administrator; or

(VIII) an adjuster; and

(B) under:

(I) Chapter 23a, Insurance Marketing - Licensing Producers, Consultants, and Reinsurance Intermediaries;

(II) Chapter 25, Third Party Administrators; or

(III) Chapter 26, Insurance Adjusters; or

(ii) a noninsurer that is part of a holding company system under Chapter 16, Insurance Holding Companies.

(b) "Mutual" or "mutual corporation" means a mutual insurance corporation.

(c) "Stock corporation" means a stock insurance corporation.

(35) (a) "Creditable coverage" has the same meaning as provided in federal regulations adopted pursuant to the Health Insurance Portability and Accountability Act.

(b) "Creditable coverage" includes coverage that is offered through a public health plan such as:

(i) the Primary Care Network Program under a Medicaid primary care network demonstration waiver obtained subject to Section 26-18-3;

(ii) the Children's Health Insurance Program under Section 26-40-106; or

(iii) the Ryan White Program Comprehensive AIDS Resources Emergency Act, Pub. L. No. 101-381, and Ryan White HIV/AIDS Treatment Modernization Act of 2006, Pub. L. No. 109-415.

(36) "Credit accident and health insurance" means insurance on a debtor to provide indemnity for payments coming due on a specific loan or other credit transaction while the debtor has a disability.

(37) (a) "Credit insurance" means insurance offered in connection with an extension of credit that is limited to partially or wholly extinguishing that credit obligation.

(b) "Credit insurance" includes:

(i) credit accident and health insurance;

(ii) credit life insurance;

(iii) credit property insurance;

(iv) credit unemployment insurance;

(v) guaranteed automobile protection insurance;

(vi) involuntary unemployment insurance;

(vii) mortgage accident and health insurance;

(viii) mortgage guaranty insurance; and

(ix) mortgage life insurance.

(38) "Credit life insurance" means insurance on the life of a debtor in connection with an extension of credit that pays a person if the debtor dies.

(39) "Creditor" means a person, including an insured, having a claim, whether:

(a) matured;

(b) unmatured;

(c) liquidated;

(d) unliquidated;

(e) secured;

(f) unsecured;

(g) absolute;

(h) fixed; or

(i) contingent.

(40) "Credit property insurance" means insurance:

(a) offered in connection with an extension of credit; and

(b) that protects the property until the debt is paid.

(41) "Credit unemployment insurance" means insurance:

(a) offered in connection with an extension of credit; and

(b) that provides indemnity if the debtor is unemployed for payments coming due on a:

(i) specific loan; or

(ii) credit transaction.

(42) (a) "Crop insurance" means insurance providing protection against damage to crops from unfavorable weather conditions, fire or lightning, flood, hail, insect infestation, disease, or other yield-reducing conditions or perils that is:

(i) provided by the private insurance market; or

(ii) subsidized by the Federal Crop Insurance Corporation.

(b) "Crop insurance" includes multiperil crop insurance.

(43) (a) "Customer service representative" means a person that provides an insurance service and insurance product information:

(i) for the customer service representative's:

(A) producer;

(B) surplus lines producer; or

(C) consultant employer; and

(ii) to the customer service representative's employer's:

(A) customer;

(B) client; or

(C) organization.

(b) A customer service representative may only operate within the scope of authority of the customer service representative's producer, surplus lines producer, or consultant employer.

(44) "Deadline" means a final date or time:

(a) imposed by:

(i) statute;

(ii) rule; or

(iii) order; and

(b) by which a required filing or payment must be received by the department.

(45) "Deemer clause" means a provision under this title under which upon the occurrence of a condition precedent, the commissioner is considered to have taken a specific action. If the statute so provides, a condition precedent may be the commissioner's failure to take a specific action.

(46) "Degree of relationship" means the number of steps between two persons determined by counting the generations separating one person from a common ancestor and then counting the generations to the other person.

(47) "Department" means the Insurance Department.

(48) "Director" means a member of the board of directors of a corporation.

(49) "Disability" means a physiological or psychological condition that partially or totally limits an individual's ability to:

(a) perform the duties of:

(i) that individual's occupation; or

(ii) an occupation for which the individual is reasonably suited by education, training, or experience; or

(b) perform two or more of the following basic activities of daily living:

(i) eating;

(ii) toileting;

(iii) transferring;

(iv) bathing; or

(v) dressing.

(50) "Disability income insurance" means the same as that term is defined in Subsection (85).

(51) "Domestic insurer" means an insurer organized under the laws of this state.

(52) "Domiciliary state" means the state in which an insurer:

(a) is incorporated;

(b) is organized; or

(c) in the case of an alien insurer, enters into the United States.

(53) (a) "Eligible employee" means:

(i) an employee who:

(A) works on a full-time basis; and

(B) has a normal work week of 30 or more hours; or

(ii) a person described in Subsection (53)(b).

(b) "Eligible employee" includes:

(i) an owner who:

(A) works on a full-time basis;

(B) has a normal work week of 30 or more hours; and

(C) employs at least one common employee; and

(ii) if the individual is included under a health benefit plan of a small employer:

(A) a sole proprietor;

(B) a partner in a partnership; or

(C) an independent contractor.

(c) "Eligible employee" does not include, unless eligible under Subsection (53)(b):

(i) an individual who works on a temporary or substitute basis for a small employer;

(ii) an employer's spouse who does not meet the requirements of Subsection (53)(a)(i); or

(iii) a dependent of an employer who does not meet the requirements of Subsection (53)(a)(i).

(54) "Employee" means:

(a) an individual employed by an employer; and

(b) an owner who meets the requirements of Subsection (53)(b)(i).

(55) "Employee benefits" means one or more benefits or services provided to:

(a) an employee; or

(b) a dependent of an employee.

(56) (a) "Employee welfare fund" means a fund:

(i) established or maintained, whether directly or through a trustee, by:

(A) one or more employers;

(B) one or more labor organizations; or

(C) a combination of employers and labor organizations; and

(ii) that provides employee benefits paid or contracted to be paid, other than income from investments of the fund:

(A) by or on behalf of an employer doing business in this state; or

(B) for the benefit of a person employed in this state.

(b) "Employee welfare fund" includes a plan funded or subsidized by a user fee or tax revenues.

(57) "Endorsement" means a written agreement attached to a policy or certificate to modify the policy or certificate coverage.

(58) (a) "Enrollee" means:

(i) a policyholder;

(ii) a certificate holder;

(iii) a subscriber; or

(iv) a covered individual:

(A) who has entered into a contract with an organization for health care; or

(B) on whose behalf an arrangement for health care has been made.

(b) "Enrollee" includes an insured.

(59) "Enrollment date," with respect to a health benefit plan, means:

(a) the first day of coverage; or

(b) if there is a waiting period, the first day of the waiting period.

(60) "Enterprise risk" means an activity, circumstance, event, or series of events involving one or more affiliates of an insurer that, if not remedied promptly, is likely to have a material adverse effect upon the financial condition or liquidity of the insurer or its insurance holding company system as a whole, including anything that would cause:

(a) the insurer's risk-based capital to fall into an action or control level as set forth in Sections 31A-17-601 through 31A-17-613; or

(b) the insurer to be in hazardous financial condition set forth in Section 31A-27a-101.

(61) (a) "Escrow" means:

(i) a transaction that effects the sale, transfer, encumbering, or leasing of real property, when a person not a party to the transaction, and neither having nor acquiring an interest in the title, performs, in accordance with the written instructions or terms of the written agreement between the parties to the transaction, any of the following actions:

(A) the explanation, holding, or creation of a document; or

(B) the receipt, deposit, and disbursement of money;

(ii) a settlement or closing involving:

(A) a mobile home;

(B) a grazing right;

(C) a water right; or

(D) other personal property authorized by the commissioner.

(b) "Escrow" does not include:

(i) the following notarial acts performed by a notary within the state:

(A) an acknowledgment;

(B) a copy certification;

(C) jurat; and

(D) an oath or affirmation;

(ii) the receipt or delivery of a document; or

(iii) the receipt of money for delivery to the escrow agent.

(62) "Escrow agent" means an agency title insurance producer meeting the requirements of Sections 31A-4-107, 31A-14-211, and 31A-23a-204, who is acting through an individual title insurance producer licensed with an escrow subline of authority.

(63) (a) "Excludes" is not exhaustive and does not mean that another thing is not also excluded.

(b) The items listed in a list using the term "excludes" are representative examples for use in interpretation of this title.

(64) "Exclusion" means for the purposes of accident and health insurance that an insurer does not provide insurance coverage, for whatever reason, for one of the following:

(a) a specific physical condition;

(b) a specific medical procedure;

(c) a specific disease or disorder; or

(d) a specific prescription drug or class of prescription drugs.

(65) "Expense reimbursement insurance" means insurance:

(a) written to provide a payment for an expense relating to hospital confinement resulting from illness or injury; and

(b) written:

(i) as a daily limit for a specific number of days in a hospital; and

(ii) to have a one or two day waiting period following a hospitalization.

(66) "Fidelity insurance" means insurance guaranteeing the fidelity of a person holding a position of public or private trust.

(67) (a) "Filed" means that a filing is:

(i) submitted to the department as required by and in accordance with applicable statute, rule, or filing order;

(ii) received by the department within the time period provided in applicable statute, rule, or filing order; and

(iii) accompanied by the appropriate fee in accordance with:

(A) Section 31A-3-103; or

(B) rule.

(b) "Filed" does not include a filing that is rejected by the department because it is not submitted in accordance with Subsection (67)(a).

(68) "Filing," when used as a noun, means an item required to be filed with the department including:

(a) a policy;

(b) a rate;

(c) a form;

(d) a document;

(e) a plan;

(f) a manual;

(g) an application;

(h) a report;

(i) a certificate;

(j) an endorsement;

(k) an actuarial certification;

(l) a licensee annual statement;

(m) a licensee renewal application;

(n) an advertisement;

(o) a binder; or

(p) an outline of coverage.

(69) "First party insurance" means an insurance policy or contract in which the insurer agrees to pay a claim submitted to it by the insured for the insured's losses.

(70) "Foreign insurer" means an insurer domiciled outside of this state, including an alien insurer.

(71) (a) "Form" means one of the following prepared for general use:

(i) a policy;

(ii) a certificate;

(iii) an application;

(iv) an outline of coverage; or

(v) an endorsement.

(b) "Form" does not include a document specially prepared for use in an individual case.

(72) "Franchise insurance" means an individual insurance policy provided through a mass marketing arrangement involving a defined class of persons related in some way other than through the purchase of insurance.

(73) "General lines of authority" include:

(a) the general lines of insurance in Subsection (74);

(b) title insurance under one of the following sublines of authority:

(i) title examination, including authority to act as a title marketing representative;

(ii) escrow, including authority to act as a title marketing representative; and

(iii) title marketing representative only;

(c) surplus lines;

(d) workers' compensation; and

(e) another line of insurance that the commissioner considers necessary to recognize in the public interest.

(74) "General lines of insurance" include:

(a) accident and health;

(b) casualty;

(c) life;

(d) personal lines;

(e) property; and

(f) variable contracts, including variable life and annuity.

(75) "Group health plan" means an employee welfare benefit plan to the extent that the plan provides medical care:

(a) (i) to an employee; or

(ii) to a dependent of an employee; and

(b) (i) directly;

(ii) through insurance reimbursement; or

(iii) through another method.

(76) (a) "Group insurance policy" means a policy covering a group of persons that is issued:

(i) to a policyholder on behalf of the group; and

(ii) for the benefit of a member of the group who is selected under a procedure defined in:

(A) the policy; or

(B) an agreement that is collateral to the policy.

(b) A group insurance policy may include a member of the policyholder's family or a dependent.

(77) "Group-wide supervisor" means the commissioner or other regulatory official designated as the group-wide supervisor for an internationally active insurance group under Section 31A-16-108.6.

(78) "Guaranteed automobile protection insurance" means insurance offered in connection with an extension of credit that pays the difference in amount between the insurance settlement and the balance of the loan if the insured automobile is a total loss.

(79) (a) "Health benefit plan" means, except as provided in Subsection (79)(b), a policy, contract, certificate, or agreement offered or issued by a health carrier to provide, deliver, arrange for, pay for, or reimburse any of the costs of health care.

(b) "Health benefit plan" does not include:

(i) coverage only for accident or disability income insurance, or any combination thereof;

(ii) coverage issued as a supplement to liability insurance;

(iii) liability insurance, including general liability insurance and automobile liability insurance;

(iv) workers' compensation or similar insurance;

(v) automobile medical payment insurance;

(vi) credit-only insurance;

(vii) coverage for on-site medical clinics;

(viii) other similar insurance coverage, specified in federal regulations issued pursuant to

Pub. L. No. 104-191, under which benefits for health care services are secondary or incidental to other insurance benefits;

(ix) the following benefits if they are provided under a separate policy, certificate, or contract of insurance or are otherwise not an integral part of the plan:

(A) limited scope dental or vision benefits;

(B) benefits for long-term care, nursing home care, home health care, community-based care, or any combination thereof; or

(C) other similar limited benefits, specified in federal regulations issued pursuant to Pub. L. No. 104-191;

(x) the following benefits if the benefits are provided under a separate policy, certificate, or contract of insurance, there is no coordination between the provision of benefits and any exclusion of benefits under any health plan, and the benefits are paid with respect to an event without regard to whether benefits are provided under any health plan:

(A) coverage only for specified disease or illness; or

(B) hospital indemnity or other fixed indemnity insurance;

(xi) the following if offered as a separate policy, certificate, or contract of insurance:

(A) Medicare supplemental health insurance as defined under the Social Security Act, 42 U.S.C. Sec. 1395ss(g)(1);

(B) coverage supplemental to the coverage provided under United States Code, Title 10, Chapter 55, Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); or

(C) similar supplemental coverage provided to coverage under a group health insurance plan;

(xii) short-term[~~, limited-duration~~] limited duration health insurance; and

(xiii) student health insurance, except as required under 45 C.F.R. Sec. 147.145.

(80) "Health care" means any of the following intended for use in the diagnosis, treatment, mitigation, or prevention of a human ailment or impairment:

(a) a professional service;

(b) a personal service;

(c) a facility;

(d) equipment;

(e) a device;

(f) supplies; or

(g) medicine.

(81) (a) "Health care insurance" or "health insurance" means insurance providing:

(i) a health care benefit; or

(ii) payment of an incurred health care expense.

(b) "Health care insurance" or "health insurance" does not include accident and health insurance providing a benefit for:

(i) replacement of income;

(ii) short-term accident;

(iii) fixed indemnity;

(iv) credit accident and health;

(v) supplements to liability;

(vi) workers' compensation;

(vii) automobile medical payment;

(viii) no-fault automobile;

(ix) equivalent self-insurance; or

(x) a type of accident and health insurance coverage that is a part of or attached to another type of policy.

(82) "Health care provider" means the same as that term is defined in Section 78B-3-403.

(83) "Health insurance exchange" means an exchange as defined in 45 C.F.R. Sec. 155.20.

(84) "Health Insurance Portability and Accountability Act" means the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191, 110 Stat. 1936, as amended.

(85) "Income replacement insurance" or "disability income insurance" means insurance written to provide payments to replace income lost from accident or sickness.

(86) "Indemnity" means the payment of an amount to offset all or part of an insured loss.

(87) "Independent adjuster" means an insurance adjuster required to be licensed under Section 31A-26-201 who engages in insurance adjusting as a representative of an insurer.

(88) "Independently procured insurance" means insurance procured under Section 31A-15-104.

(89) "Individual" means a natural person.

(90) "Inland marine insurance" includes insurance covering:

(a) property in transit on or over land;

(b) property in transit over water by means other than boat or ship;

(c) bailee liability;

(d) fixed transportation property such as bridges, electric transmission systems, radio and television transmission towers and tunnels; and

(e) personal and commercial property floaters.

(91) "Insolvency" or "insolvent" means that:

(a) an insurer is unable to pay the insurer's obligations as the obligations are due;

(b) an insurer's total adjusted capital is less than the insurer's mandatory control level RBC under Subsection 31A-17-601(8)(c); or

(c) an insurer's admitted assets are less than the insurer's liabilities.

(92) (a) "Insurance" means:

(i) an arrangement, contract, or plan for the transfer of a risk or risks from one or more persons to one or more other persons; or

(ii) an arrangement, contract, or plan for the distribution of a risk or risks among a group of persons that includes the person seeking to distribute that person's risk.

(b) "Insurance" includes:

(i) a risk distributing arrangement providing for compensation or replacement for damages or loss through the provision of a service or a benefit in kind;

(ii) a contract of guaranty or suretyship entered into by the guarantor or surety as a business and not as merely incidental to a business transaction; and

(iii) a plan in which the risk does not rest upon the person who makes an arrangement, but with a class of persons who have agreed to share the risk.

(93) "Insurance adjuster" means a person who directs or conducts the investigation, negotiation, or settlement of a claim under an insurance policy other than life insurance or an annuity, on behalf of an insurer, policyholder, or a claimant under an insurance policy.

(94) "Insurance business" or "business of insurance" includes:

(a) providing health care insurance by an organization that is or is required to be licensed under this title;

(b) providing a benefit to an employee in the event of a contingency not within the control of the employee, in which the employee is entitled to the benefit as a right, which benefit may be provided either:

(i) by a single employer or by multiple employer groups; or

(ii) through one or more trusts, associations, or other entities;

(c) providing an annuity:

(i) including an annuity issued in return for a gift; and

(ii) except an annuity provided by a person specified in Subsections 31A-22-1305(2) and (3);

(d) providing the characteristic services of a motor club as outlined in Subsection (125);

(e) providing another person with insurance;

(f) making as insurer, guarantor, or surety, or proposing to make as insurer, guarantor, or surety, a contract or policy [~~of~~] offering title insurance;

(g) transacting or proposing to transact any phase of title insurance, including:

(i) solicitation;

(ii) negotiation preliminary to execution;

(iii) execution of a contract of title insurance;

(iv) insuring; and

(v) transacting matters subsequent to the execution of the contract and arising out of the contract, including reinsurance;

(h) transacting or proposing a life settlement; and

(i) doing, or proposing to do, any business in substance equivalent to Subsections (94)(a) through (h) in a manner designed to evade this title.

(95) "Insurance consultant" or "consultant" means a person who:

(a) advises another person about insurance needs and coverages;

(b) is compensated by the person advised on a basis not directly related to the insurance placed; and

(c) except as provided in Section 31A-23a-501, is not compensated directly or indirectly by an insurer or producer for advice given.

(96) "Insurance group" means the persons that comprise an insurance holding company system.

(97) "Insurance holding company system" means a group of two or more affiliated persons, at least one of whom is an insurer.

(98) (a) "Insurance producer" or "producer" means a person licensed or required to be licensed under the laws of this state to sell, solicit, or negotiate insurance.

(b) (i) "Producer for the insurer" means a producer who is compensated directly or indirectly by an insurer for selling, soliciting, or negotiating an insurance product of that insurer.

(ii) "Producer for the insurer" may be referred to as an "agent."

(c) (i) "Producer for the insured" means a producer who:

(A) is compensated directly and only by an insurance customer or an insured; and

(B) receives no compensation directly or indirectly from an insurer for selling, soliciting, or negotiating an insurance product of that insurer to an insurance customer or insured.

(ii) "Producer for the insured" may be referred to as a "broker."

(99) (a) "Insured" means a person to whom or for whose benefit an insurer makes a promise in an insurance policy and includes:

(i) a policyholder;

(ii) a subscriber;

(iii) a member; and

(iv) a beneficiary.

(b) The definition in Subsection (99)(a):

(i) applies only to this title;

(ii) does not define the meaning of "insured" as used in an insurance policy or certificate; and

(iii) includes an enrollee.

(100) (a) "Insurer" means a person doing an insurance business as a principal including:

(i) a fraternal benefit society;

(ii) an issuer of a gift annuity other than an annuity specified in Subsections 31A-22-1305(2) and (3);

(iii) a motor club;

(iv) an employee welfare plan;

(v) a person purporting or intending to do an insurance business as a principal on that person's own account; and

(vi) a health maintenance organization.

(b) "Insurer" does not include a governmental entity.

(101) "Interinsurance exchange" means the same as that term is defined in Subsection (160).

(102) "Internationally active insurance group" means an insurance holding company system:

(a) that includes an insurer registered under Section 31A-16-105;

(b) that has premiums written in at least three countries;

(c) whose percentage of gross premiums written outside the United States is at least 10% of its total gross written premiums; and

(d) that, based on a three-year rolling average, has:

(i) total assets of at least $50,000,000,000; or

(ii) total gross written premiums of at least $10,000,000,000.

(103) "Involuntary unemployment insurance" means insurance:

(a) offered in connection with an extension of credit; and

(b) that provides indemnity if the debtor is involuntarily unemployed for payments coming due on a:

(i) specific loan; or

(ii) credit transaction.

(104) "Large employer," in connection with a health benefit plan, means an employer who, with respect to a calendar year and to a plan year:

(a) employed an average of at least 51 employees on business days during the preceding calendar year; and

(b) employs at least one employee on the first day of the plan year.

(105) "Late enrollee," with respect to an employer health benefit plan, means an individual whose enrollment is a late enrollment.

(106) "Late enrollment," with respect to an employer health benefit plan, means enrollment of an individual other than:

(a) on the earliest date on which coverage can become effective for the individual under the terms of the plan; or

(b) through special enrollment.

(107) (a) Except for a retainer contract or legal assistance described in Section 31A-1-103, "legal expense insurance" means insurance written to indemnify or pay for a specified legal expense.

(b) "Legal expense insurance" includes an arrangement that creates a reasonable expectation of an enforceable right.

(c) "Legal expense insurance" does not include the provision of, or reimbursement for, legal services incidental to other insurance coverage.

(108) (a) "Liability insurance" means insurance against liability:

(i) for death, injury, or disability of a human being, or for damage to property, exclusive of the coverages under:

(A) medical malpractice insurance;

(B) professional liability insurance; and

(C) workers' compensation insurance;

(ii) for a medical, hospital, surgical, and funeral benefit to a person other than the insured who is injured, irrespective of legal liability of the insured, when issued with or supplemental to insurance against legal liability for the death, injury, or disability of a human being, exclusive of the coverages under:

(A) medical malpractice insurance;

(B) professional liability insurance; and

(C) workers' compensation insurance;

(iii) for loss or damage to property resulting from an accident to or explosion of a boiler, pipe, pressure container, machinery, or apparatus;

(iv) for loss or damage to property caused by:

(A) the breakage or leakage of a sprinkler, water pipe, or water container; or

(B) water entering through a leak or opening in a building; or

(v) for other loss or damage properly the subject of insurance not within another kind of insurance as defined in this chapter, if the insurance is not contrary to law or public policy.

(b) "Liability insurance" includes:

(i) vehicle liability insurance;

(ii) residential dwelling liability insurance; and

(iii) making inspection of, and issuing a certificate of inspection upon, an elevator, boiler, machinery, or apparatus of any kind when done in connection with insurance on the elevator, boiler, machinery, or apparatus.

(109) (a) "License" means authorization issued by the commissioner to engage in an activity that is part of or related to the insurance business.

(b) "License" includes a certificate of authority issued to an insurer.

(110) (a) "Life insurance" means:

(i) insurance on a human life; and

(ii) insurance pertaining to or connected with human life.

(b) The business of life insurance includes:

(i) granting a death benefit;

(ii) granting an annuity benefit;

(iii) granting an endowment benefit;

(iv) granting an additional benefit in the event of death by accident;

(v) granting an additional benefit to safeguard the policy against lapse; and

(vi) providing an optional method of settlement of proceeds.

(111) "Limited license" means a license that:

(a) is issued for a specific product of insurance; and

(b) limits an individual or agency to transact only for that product or insurance.

(112) "Limited line credit insurance" includes the following forms of insurance:

(a) credit life;

(b) credit accident and health;

(c) credit property;

(d) credit unemployment;

(e) involuntary unemployment;

(f) mortgage life;

(g) mortgage guaranty;

(h) mortgage accident and health;

(i) guaranteed automobile protection; and

(j) another form of insurance offered in connection with an extension of credit that:

(i) is limited to partially or wholly extinguishing the credit obligation; and

(ii) the commissioner determines by rule should be designated as a form of limited line credit insurance.

(113) "Limited line credit insurance producer" means a person who sells, solicits, or negotiates one or more forms of limited line credit insurance coverage to an individual through a master, corporate, group, or individual policy.

(114) "Limited line insurance" includes:

(a) bail bond;

(b) limited line credit insurance;

(c) legal expense insurance;

(d) motor club insurance;

(e) car rental related insurance;

(f) travel insurance;

(g) crop insurance;

(h) self-service storage insurance;

(i) guaranteed asset protection waiver;

(j) portable electronics insurance; and

(k) another form of limited insurance that the commissioner determines by rule should be designated a form of limited line insurance.

(115) "Limited lines authority" includes the lines of insurance listed in Subsection (114).

(116) "Limited lines producer" means a person who sells, solicits, or negotiates limited lines insurance.

(117) (a) "Long-term care insurance" means an insurance policy or rider advertised, marketed, offered, or designated to provide coverage:

(i) in a setting other than an acute care unit of a hospital;

(ii) for not less than 12 consecutive months for a covered person on the basis of:

(A) expenses incurred;

(B) indemnity;

(C) prepayment; or

(D) another method;

(iii) for one or more necessary or medically necessary services that are:

(A) diagnostic;

(B) preventative;

(C) therapeutic;

(D) rehabilitative;

(E) maintenance; or

(F) personal care; and

(iv) that may be issued by:

(A) an insurer;

(B) a fraternal benefit society;

(C) (I) a nonprofit health hospital; and

(II) a medical service corporation;

(D) a prepaid health plan;

(E) a health maintenance organization; or

(F) an entity similar to the entities described in Subsections (117)(a)(iv)(A) through (E) to the extent that the entity is otherwise authorized to issue life or health care insurance.

(b) "Long-term care insurance" includes:

(i) any of the following that provide directly or supplement long-term care insurance:

(A) a group or individual annuity or rider; or

(B) a life insurance policy or rider;

(ii) a policy or rider that provides for payment of benefits on the basis of:

(A) cognitive impairment; or

(B) functional capacity; or

(iii) a qualified long-term care insurance contract.

(c) "Long-term care insurance" does not include:

(i) a policy that is offered primarily to provide basic Medicare supplement coverage;

(ii) basic hospital expense coverage;

(iii) basic medical/surgical expense coverage;

(iv) hospital confinement indemnity coverage;

(v) major medical expense coverage;

(vi) income replacement or related asset-protection coverage;

(vii) accident only coverage;

(viii) coverage for a specified:

(A) disease; or

(B) accident;

(ix) limited benefit health coverage; or

(x) a life insurance policy that accelerates the death benefit to provide the option of a lump sum payment:

(A) if the following are not conditioned on the receipt of long-term care:

(I) benefits; or

(II) eligibility; and

(B) the coverage is for one or more the following qualifying events:

(I) terminal illness;

(II) medical conditions requiring extraordinary medical intervention; or

(III) permanent institutional confinement.

(118) "Managed care organization" means a person:

(a) licensed as a health maintenance organization under Chapter 8, Health Maintenance Organizations and Limited Health Plans; or

(b) (i) licensed under:

(A) Chapter 5, Domestic Stock and Mutual Insurance Corporations;

(B) Chapter 7, Nonprofit Health Service Insurance Corporations; or

(C) Chapter 14, Foreign Insurers; and

(ii) that requires an enrollee to use, or offers incentives, including financial incentives, for an enrollee to use, network providers.

(119) "Medical malpractice insurance" means insurance against legal liability incident to the practice and provision of a medical service other than the practice and provision of a dental service.

(120) "Member" means a person having membership rights in an insurance corporation.

(121) "Minimum capital" or "minimum required capital" means the capital that must be constantly maintained by a stock insurance corporation as required by statute.

(122) "Mortgage accident and health insurance" means insurance offered in connection with an extension of credit that provides indemnity for payments coming due on a mortgage while the debtor has a disability.

(123) "Mortgage guaranty insurance" means surety insurance under which a mortgagee or other creditor is indemnified against losses caused by the default of a debtor.

(124) "Mortgage life insurance" means insurance on the life of a debtor in connection with an extension of credit that pays if the debtor dies.

(125) "Motor club" means a person:

(a) licensed under:

(i) Chapter 5, Domestic Stock and Mutual Insurance Corporations;

(ii) Chapter 11, Motor Clubs; or

(iii) Chapter 14, Foreign Insurers; and

(b) that promises for an advance consideration to provide for a stated period of time one or more:

(i) legal services under Subsection 31A-11-102(1)(b);

(ii) bail services under Subsection 31A-11-102(1)(c); or

(iii) (A) trip reimbursement;

(B) towing services;

(C) emergency road services;

(D) stolen automobile services;

(E) a combination of the services listed in Subsections (125)(b)(iii)(A) through (D); or

(F) other services given in Subsections 31A-11-102(1)(b) through (f).

(126) "Mutual" means a mutual insurance corporation.

(127) "Network plan" means health care insurance:

(a) that is issued by an insurer; and

(b) under which the financing and delivery of medical care is provided, in whole or in part, through a defined set of providers under contract with the insurer, including the financing and delivery of an item paid for as medical care.

(128) "Network provider" means a health care provider who has an agreement with a managed care organization to provide health care services to an enrollee with an expectation of receiving payment, other than coinsurance, copayments, or deductibles, directly from the managed care organization.

(129) "Nonparticipating" means a plan of insurance under which the insured is not entitled to receive a dividend representing a share of the surplus of the insurer.

(130) "Ocean marine insurance" means insurance against loss of or damage to:

(a) ships or hulls of ships;

(b) goods, freight, cargoes, merchandise, effects, disbursements, profits, money, securities, choses in action, evidences of debt, valuable papers, bottomry, respondentia interests, or other cargoes in or awaiting transit over the oceans or inland waterways;

(c) earnings such as freight, passage money, commissions, or profits derived from transporting goods or people upon or across the oceans or inland waterways; or

(d) a vessel owner or operator as a result of liability to employees, passengers, bailors, owners of other vessels, owners of fixed objects, customs or other authorities, or other persons in connection with maritime activity.

(131) "Order" means an order of the commissioner.

(132) "ORSA guidance manual" means the current version of the Own Risk and Solvency Assessment Guidance Manual developed and adopted by the National Association of Insurance Commissioners and as amended from time to time.

(133) "ORSA summary report" means a confidential high-level summary of an insurer or insurance group's own risk and solvency assessment.

(134) "Outline of coverage" means a summary that explains an accident and health insurance policy.

(135) "Own risk and solvency assessment" means an insurer or insurance group's confidential internal assessment:

(a) (i) of each material and relevant risk associated with the insurer or insurance group;

(ii) of the insurer or insurance group's current business plan to support each risk described in Subsection (135)(a)(i); and

(iii) of the sufficiency of capital resources to support each risk described in Subsection (135)(a)(i); and

(b) that is appropriate to the nature, scale, and complexity of an insurer or insurance group.

(136) "Participating" means a plan of insurance under which the insured is entitled to receive a dividend representing a share of the surplus of the insurer.

(137) "Participation," as used in a health benefit plan, means a requirement relating to the minimum percentage of eligible employees that must be enrolled in relation to the total number of eligible employees of an employer reduced by each eligible employee who voluntarily declines coverage under the plan because the employee:

(a) has other group health care insurance coverage; or

(b) receives:

(i) Medicare, under the Health Insurance for the Aged Act, Title XVIII of the Social Security Amendments of 1965; or

(ii) another government health benefit.

(138) "Person" includes:

(a) an individual;

(b) a partnership;

(c) a corporation;

(d) an incorporated or unincorporated association;

(e) a joint stock company;

(f) a trust;

(g) a limited liability company;

(h) a reciprocal;

(i) a syndicate; or

(j) another similar entity or combination of entities acting in concert.

(139) "Personal lines insurance" means property and casualty insurance coverage sold for primarily noncommercial purposes to:

(a) an individual; or

(b) a family.

(140) "Plan sponsor" means the same as that term is defined in 29 U.S.C. Sec. 1002(16)(B).

(141) "Plan year" means:

(a) the year that is designated as the plan year in:

(i) the plan document of a group health plan; or

(ii) a summary plan description of a group health plan;

(b) if the plan document or summary plan description does not designate a plan year or there is no plan document or summary plan description:

(i) the year used to determine deductibles or limits;

(ii) the policy year, if the plan does not impose deductibles or limits on a yearly basis; or

(iii) the employer's taxable year if:

(A) the plan does not impose deductibles or limits on a yearly basis; and

(B) (I) the plan is not insured; or

(II) the insurance policy is not renewed on an annual basis; or

(c) in a case not described in Subsection (141)(a) or (b), the calendar year.

(142) (a) "Policy" means a document, including an attached endorsement or application that:

(i) purports to be an enforceable contract; and

(ii) memorializes in writing some or all of the terms of an insurance contract.

(b) "Policy" includes a service contract issued by:

(i) a motor club under Chapter 11, Motor Clubs;

(ii) a service contract provided under Chapter 6a, Service Contracts; and

(iii) a corporation licensed under:

(A) Chapter 7, Nonprofit Health Service Insurance Corporations; or

(B) Chapter 8, Health Maintenance Organizations and Limited Health Plans.

(c) "Policy" does not include:

(i) a certificate under a group insurance contract; or

(ii) a document that does not purport to have legal effect.

(143) "Policyholder" means a person who controls a policy, binder, or oral contract by ownership, premium payment, or otherwise.

(144) "Policy illustration" means a presentation or depiction that includes nonguaranteed elements of a policy [~~of~~] offering life insurance over a period of years.

(145) "Policy summary" means a synopsis describing the elements of a life insurance policy.

(146) "PPACA" means the Patient Protection and Affordable Care Act, Pub. L. No. 111-148 and the Health Care Education Reconciliation Act of 2010, Pub. L. No. 111-152, and related federal regulations and guidance.

(147) "Preexisting condition," with respect to health care insurance:

(a) means a condition that was present before the effective date of coverage, whether or not medical advice, diagnosis, care, or treatment was recommended or received before that day; and

(b) does not include a condition indicated by genetic information unless an actual diagnosis of the condition by a physician has been made.

(148) (a) "Premium" means the monetary consideration for an insurance policy.

(b) "Premium" includes, however designated:

(i) an assessment;

(ii) a membership fee;

(iii) a required contribution; or

(iv) monetary consideration.

(c) (i) "Premium" does not include consideration paid to a third party administrator for the third party administrator's services.

(ii) "Premium" includes an amount paid by a third party administrator to an insurer for insurance on the risks administered by the third party administrator.

(149) "Principal officers" for a corporation means the officers designated under Subsection 31A-5-203(3).

(150) "Proceeding" includes an action or special statutory proceeding.

(151) "Professional liability insurance" means insurance against legal liability incident to the practice of a profession and provision of a professional service.

(152) (a) Except as provided in Subsection (152)(b), "property insurance" means insurance against loss or damage to real or personal property of every kind and any interest in that property:

(i) from all hazards or causes; and

(ii) against loss consequential upon the loss or damage including vehicle comprehensive and vehicle physical damage coverages.

(b) "Property insurance" does not include:

(i) inland marine insurance; and

(ii) ocean marine insurance.

(153) "Qualified long-term care insurance contract" or "federally tax qualified long-term care insurance contract" means:

(a) an individual or group insurance contract that meets the requirements of Section 7702B(b), Internal Revenue Code; or

(b) the portion of a life insurance contract that provides long-term care insurance:

(i) (A) by rider; or

(B) as a part of the contract; and

(ii) that satisfies the requirements of Sections 7702B(b) and (e), Internal Revenue Code.

(154) "Qualified United States financial institution" means an institution that:

(a) is:

(i) organized under the laws of the United States or any state; or

(ii) in the case of a United States office of a foreign banking organization, licensed under the laws of the United States or any state;

(b) is regulated, supervised, and examined by a United States federal or state authority having regulatory authority over a bank or trust company; and

(c) meets the standards of financial condition and standing that are considered necessary and appropriate to regulate the quality of a financial institution whose letters of credit will be acceptable to the commissioner as determined by:

(i) the commissioner by rule; or

(ii) the Securities Valuation Office of the National Association of Insurance Commissioners.

(155) (a) "Rate" means:

(i) the cost of a given unit of insurance; or

(ii) for property or casualty insurance, that cost of insurance per exposure unit either expressed as:

(A) a single number; or

(B) a pure premium rate, adjusted before the application of individual risk variations based on loss or expense considerations to account for the treatment of:

(I) expenses;

(II) profit; and

(III) individual insurer variation in loss experience.

(b) "Rate" does not include a minimum premium.

(156) (a) Except as provided in Subsection (156)(b), "rate service organization" means a person who assists an insurer in rate making or filing by:

(i) collecting, compiling, and furnishing loss or expense statistics;

(ii) recommending, making, or filing rates or supplementary rate information; or

(iii) advising about rate questions, except as an attorney giving legal advice.

(b) "Rate service organization" does not mean:

(i) an employee of an insurer;

(ii) a single insurer or group of insurers under common control;

(iii) a joint underwriting group; or

(iv) an individual serving as an actuarial or legal consultant.

(157) "Rating manual" means any of the following used to determine initial and renewal policy premiums:

(a) a manual of rates;

(b) a classification;

(c) a rate-related underwriting rule; and

(d) a rating formula that describes steps, policies, and procedures for determining initial and renewal policy premiums.

(158) (a) "Rebate" means a licensee paying, allowing, giving, or offering to pay, allow, or give, directly or indirectly:

(i) a refund of premium or portion of premium;

(ii) a refund of commission or portion of commission;

(iii) a refund of all or a portion of a consultant fee; or

(iv) providing services or other benefits not specified in an insurance or annuity contract.

(b) "Rebate" does not include:

(i) a refund due to termination or changes in coverage;

(ii) a refund due to overcharges made in error by the licensee; or

(iii) savings or wellness benefits as provided in the contract by the licensee.

(159) "Received by the department" means:

(a) the date delivered to and stamped received by the department, if delivered in person;

(b) the post mark date, if delivered by mail;

(c) the delivery service's post mark or pickup date, if delivered by a delivery service;

(d) the received date recorded on an item delivered, if delivered by:

(i) facsimile;

(ii) email; or

(iii) another electronic method; or

(e) a date specified in:

(i) a statute;

(ii) a rule; or

(iii) an order.

(160) "Reciprocal" or "interinsurance exchange" means an unincorporated association of persons:

(a) operating through an attorney-in-fact common to all of the persons; and

(b) exchanging insurance contracts with one another that provide insurance coverage on each other.

(161) "Reinsurance" means an insurance transaction where an insurer, for consideration, transfers any portion of the risk it has assumed to another insurer. In referring to reinsurance transactions, this title sometimes refers to:

(a) the insurer transferring the risk as the "ceding insurer"; and

(b) the insurer assuming the risk as the:

(i) "assuming insurer"; or

(ii) "assuming reinsurer."

(162) "Reinsurer" means a person licensed in this state as an insurer with the authority to assume reinsurance.

(163) "Residential dwelling liability insurance" means insurance against liability resulting from or incident to the ownership, maintenance, or use of a residential dwelling that is a detached single family residence or multifamily residence up to four units.

(164) (a) "Retrocession" means reinsurance with another insurer of a liability assumed under a reinsurance contract.

(b) A reinsurer "retrocedes" when the reinsurer reinsures with another insurer part of a liability assumed under a reinsurance contract.

(165) "Rider" means an endorsement to:

(a) an insurance policy; or

(b) an insurance certificate.

(166) "Secondary medical condition" means a complication related to an exclusion from coverage in accident and health insurance.

(167) (a) "Security" means a:

(i) note;

(ii) stock;

(iii) bond;

(iv) debenture;

(v) evidence of indebtedness;

(vi) certificate of interest or participation in a profit-sharing agreement;

(vii) collateral-trust certificate;

(viii) preorganization certificate or subscription;

(ix) transferable share;

(x) investment contract;

(xi) voting trust certificate;

(xii) certificate of deposit for a security;

(xiii) certificate of interest of participation in an oil, gas, or mining title or lease or in payments out of production under such a title or lease;

(xiv) commodity contract or commodity option;

(xv) certificate of interest or participation in, temporary or interim certificate for, receipt for, guarantee of, or warrant or right to subscribe to or purchase any of the items listed in Subsections (167)(a)(i) through (xiv); or

(xvi) another interest or instrument commonly known as a security.

(b) "Security" does not include:

(i) any of the following under which an insurance company promises to pay money in a specific lump sum or periodically for life or some other specified period:

(A) insurance;

(B) an endowment policy; or

(C) an annuity contract; or

(ii) a burial certificate or burial contract.

(168) "Securityholder" means a specified person who owns a security of a person, including:

(a) common stock;

(b) preferred stock;

(c) debt obligations; and

(d) any other security convertible into or evidencing the right of any of the items listed in this Subsection (168).

(169) (a) "Self-insurance" means an arrangement under which a person provides for spreading its own risks by a systematic plan.

(b) Except as provided in this Subsection (169), "self-insurance" does not include an arrangement under which a number of persons spread their risks among themselves.

(c) "Self-insurance" includes:

(i) an arrangement by which a governmental entity undertakes to indemnify an employee for liability arising out of the employee's employment; and

(ii) an arrangement by which a person with a managed program of self-insurance and risk management undertakes to indemnify its affiliates, subsidiaries, directors, officers, or employees for liability or risk that is related to the relationship or employment.

(d) "Self-insurance" does not include an arrangement with an independent contractor.

(170) "Sell" means to exchange a contract of insurance:

(a) by any means;

(b) for money or its equivalent; and

(c) on behalf of an insurance company.

[~~(171) "Short-term care insurance" means an insurance policy or rider advertised, marketed, offered, or designed to provide coverage that is similar to long-term care insurance, but that provides coverage for less than 12 consecutive months for each covered person.~~]

[~~(172)~~] (171) "Short-term[~~, limited-duration~~] limited duration health insurance" means a health benefit product that:

(a) after taking into account any renewals or extensions, has a total duration of no more than 36 months; and

(b) has an expiration date specified in the contract that is less than 12 months after the original effective date of coverage under the health benefit product.

[~~(173)~~] (172) "Significant break in coverage" means a period of 63 consecutive days during each of which an individual does not have creditable coverage.

[~~(174)~~] (173) (a) "Small employer" means, in connection with a health benefit plan and with respect to a calendar year and to a plan year, an employer who:

(i) (A) employed at least one but not more than 50 eligible employees on business days during the preceding calendar year; or

(B) if the employer did not exist for the entirety of the preceding calendar year, reasonably expects to employ an average of at least one but not more than 50 eligible employees on business days during the current calendar year;

(ii) employs at least one employee on the first day of the plan year; and

(iii) for an employer who has common ownership with one or more other employers, is treated as a single employer under 26 U.S.C. Sec. 414(b), (c), (m), or (o).

(b) "Small employer" does not include a sole proprietor that does not employ at least one employee.

[~~(175)~~] (174) "Special enrollment period," in connection with a health benefit plan, has the same meaning as provided in federal regulations adopted pursuant to the Health Insurance Portability and Accountability Act.

[~~(176)~~] (175) (a) "Subsidiary" of a person means an affiliate controlled by that person either directly or indirectly through one or more affiliates or intermediaries.

(b) "Wholly owned subsidiary" of a person is a subsidiary of which all of the voting shares are owned by that person either alone or with its affiliates, except for the minimum number of shares the law of the subsidiary's domicile requires to be owned by directors or others.

[~~(177)~~] (176) Subject to Subsection (91)(b), "surety insurance" includes:

(a) a guarantee against loss or damage resulting from the failure of a principal to pay or perform the principal's obligations to a creditor or other obligee;

(b) bail bond insurance; and

(c) fidelity insurance.

[~~(178)~~] (177) (a) "Surplus" means the excess of assets over the sum of paid-in capital and liabilities.

(b) (i) "Permanent surplus" means the surplus of an insurer or organization that is designated by the insurer or organization as permanent.

(ii) Sections 31A-5-211, 31A-7-201, 31A-8-209, 31A-9-209, and 31A-14-205 require that insurers or organizations doing business in this state maintain specified minimum levels of permanent surplus.

(iii) Except for assessable mutuals, the minimum permanent surplus requirement is the same as the minimum required capital requirement that applies to stock insurers.

(c) "Excess surplus" means:

(i) for a life insurer, accident and health insurer, health organization, or property and casualty insurer as defined in Section 31A-17-601, the lesser of:

(A) that amount of an insurer's or health organization's total adjusted capital that exceeds the product of:

(I) 2.5; and

(II) the sum of the insurer's or health organization's minimum capital or permanent surplus required under Section 31A-5-211, 31A-9-209, or 31A-14-205; or

(B) that amount of an insurer's or health organization's total adjusted capital that exceeds the product of:

(I) 3.0; and

(II) the authorized control level RBC as defined in Subsection 31A-17-601(8)(a); and

(ii) for a monoline mortgage guaranty insurer, financial guaranty insurer, or title insurer that amount of an insurer's paid-in-capital and surplus that exceeds the product of:

(A) 1.5; and

(B) the insurer's total adjusted capital required by Subsection 31A-17-609(1).

[~~(179)~~] (178) "Third party administrator" or "administrator" means a person who collects charges or premiums from, or who, for consideration, adjusts or settles claims of residents of the state in connection with insurance coverage, annuities, or service insurance coverage, except:

(a) a union on behalf of its members;

(b) a person administering a:

(i) pension plan subject to the federal Employee Retirement Income Security Act of 1974;

(ii) governmental plan as defined in Section 414(d), Internal Revenue Code; or

(iii) nonelecting church plan as described in Section 410(d), Internal Revenue Code;

(c) an employer on behalf of the employer's employees or the employees of one or more of the subsidiary or affiliated corporations of the employer;

(d) an insurer licensed under the following, but only for a line of insurance for which the insurer holds a license in this state:

(i) Chapter 5, Domestic Stock and Mutual Insurance Corporations;

(ii) Chapter 7, Nonprofit Health Service Insurance Corporations;

(iii) Chapter 8, Health Maintenance Organizations and Limited Health Plans;

(iv) Chapter 9, Insurance Fraternals; or

(v) Chapter 14, Foreign Insurers;

(e) a person:

(i) licensed or exempt from licensing under:

(A) Chapter 23a, Insurance Marketing - Licensing Producers, Consultants, and Reinsurance Intermediaries; or

(B) Chapter 26, Insurance Adjusters; and

(ii) whose activities are limited to those authorized under the license the person holds or for which the person is exempt; or

(f) an institution, bank, or financial institution:

(i) that is:

(A) an institution whose deposits and accounts are to any extent insured by a federal deposit insurance agency, including the Federal Deposit Insurance Corporation or National Credit Union Administration; or

(B) a bank or other financial institution that is subject to supervision or examination by a federal or state banking authority; and

(ii) that does not adjust claims without a third party administrator license.

[~~(180)~~] (179) "Title insurance" means the insuring, guaranteeing, or indemnifying of an owner of real or personal property or the holder of liens or encumbrances on that property, or others interested in the property against loss or damage suffered by reason of liens or encumbrances upon, defects in, or the unmarketability of the title to the property, or invalidity or unenforceability of any liens or encumbrances on the property.

[~~(181)~~] (180) "Total adjusted capital" means the sum of an insurer's or health organization's statutory capital and surplus as determined in accordance with:

(a) the statutory accounting applicable to the annual financial statements required to be filed under Section 31A-4-113; and

(b) another item provided by the RBC instructions, as RBC instructions is defined in Section 31A-17-601.

[~~(182)~~] (181) (a) "Trustee" means "director" when referring to the board of directors of a corporation.

(b) "Trustee," when used in reference to an employee welfare fund, means an individual, firm, association, organization, joint stock company, or corporation, whether acting individually or jointly and whether designated by that name or any other, that is charged with or has the overall management of an employee welfare fund.

[~~(183)~~] (182) (a) "Unauthorized insurer," "unadmitted insurer," or "nonadmitted insurer" means an insurer:

(i) not holding a valid certificate of authority to do an insurance business in this state; or

(ii) transacting business not authorized by a valid certificate.

(b) "Admitted insurer" or "authorized insurer" means an insurer:

(i) holding a valid certificate of authority to do an insurance business in this state; and

(ii) transacting business as authorized by a valid certificate.

[~~(184)~~] (183) "Underwrite" means the authority to accept or reject risk on behalf of the insurer.

[~~(185)~~] (184) "Vehicle liability insurance" means insurance against liability resulting from or incident to ownership, maintenance, or use of a land vehicle or aircraft, exclusive of a vehicle comprehensive or vehicle physical damage coverage under Subsection (152).

[~~(186)~~] (185) "Voting security" means a security with voting rights, and includes a security convertible into a security with a voting right associated with the security.

[~~(187)~~] (186) "Waiting period" for a health benefit plan means the period that must pass before coverage for an individual, who is otherwise eligible to enroll under the terms of the health benefit plan, can become effective.

[~~(188)~~] (187) "Workers' compensation insurance" means:

(a) insurance for indemnification of an employer against liability for compensation based on:

(i) a compensable accidental injury; and

(ii) occupational disease disability;

(b) employer's liability insurance incidental to workers' compensation insurance and written in connection with workers' compensation insurance; and

(c) insurance assuring to a person entitled to workers' compensation benefits the compensation provided by law.

Section 3. Section 31A-17-404 is amended to read:

31A-17-404. Credit allowed a domestic ceding insurer against reserves for reinsurance.

(1) (a) [~~A~~] Subject to Subsections (1)(b) and (c), a domestic ceding insurer is allowed credit for reinsurance as either an asset or a reduction from liability for reinsurance ceded only if the reinsurer meets the requirements of Subsection (3), (4), (5), (6), (7), (8), or (9) [~~subject to the following:~~].

[~~(a)~~] (b) Credit is allowed under Subsection (3), (4), or (5) only with respect to a cession of a kind or

class of business that the assuming insurer is licensed or otherwise permitted to write or assume:

(i) in [~~its~~] the assuming insurer's state of domicile; or

(ii) in the case of a United States branch of an alien assuming insurer, in the state through which [~~it~~] the assuming insurer is entered and licensed to transact insurance or reinsurance.

[~~(b)~~] (c) Credit is allowed under Subsection (5) or (6) only if the applicable requirements of Subsection (11) are met.

(2) A domestic ceding insurer is allowed credit for reinsurance ceded:

(a) only if the reinsurance is payable in a manner consistent with Section 31A-22-1201;

(b) only to the extent that the accounting:

(i) is consistent with the terms of the reinsurance contract; and

(ii) clearly reflects:

(A) the amount and nature of risk transferred; and

(B) liability, including contingent liability, of the ceding insurer;

(c) only to the extent the reinsurance contract shifts insurance policy risk from the ceding insurer to the assuming reinsurer in fact and not merely in form; and

(d) only if the reinsurance contract contains a provision placing on the reinsurer the credit risk of all dealings with intermediaries regarding the reinsurance contract.

(3) A domestic ceding insurer is allowed a credit if the reinsurance is ceded to an assuming insurer that is licensed to transact insurance or reinsurance in this state.

(4) (a) A domestic ceding insurer is allowed a credit if the reinsurance is ceded to an assuming insurer that is accredited by the commissioner as a reinsurer in this state.

(b) An insurer is accredited as a reinsurer if the insurer:

(i) files with the commissioner evidence of the insurer's submission to this state's jurisdiction;

(ii) submits to the commissioner's authority to examine the insurer's books and records;

(iii) (A) is licensed to transact insurance or reinsurance in at least one state; or

(B) in the case of a United States branch of an alien assuming insurer, is entered through and licensed to transact insurance or reinsurance in at least one state;

(iv) files annually with the commissioner a copy of the insurer's:

(A) annual statement filed with the insurance department of [~~its~~] the insurer's state of domicile; and

(B) most recent audited financial statement; and

(v) (A) (I) has not had [~~its~~] the insurer's accreditation denied by the commissioner within 90 days after the day on which the insurer submits the information required by this Subsection (4); and

(II) maintains a surplus with regard to policyholders in an amount not less than $20,000,000; or

(B) (I) has [~~its~~] the insurer's accreditation approved by the commissioner; and

(II) maintains a surplus with regard to policyholders in an amount less than $20,000,000.

(c) Credit may not be allowed a domestic ceding insurer if the assuming insurer's accreditation is revoked by the commissioner after a notice and hearing.

(5) (a) A domestic ceding insurer is allowed a credit if:

(i) the reinsurance is ceded to an assuming insurer that is:

(A) domiciled in a state meeting the requirements of Subsection (5)(a)(ii); or

(B) in the case of a United States branch of an alien assuming insurer, is entered through a state meeting the requirements of Subsection (5)(a)(ii);

(ii) the state described in Subsection (5)(a)(i) employs standards regarding credit for reinsurance substantially similar to those applicable under this section; and

(iii) the assuming insurer or United States branch of an alien assuming insurer:

(A) maintains a surplus with regard to policyholders in an amount not less than $20,000,000; and

(B) submits to the authority of the commissioner to examine [~~its~~] the insurer's books and records.

(b) The requirements of Subsections (5)(a)(i) and (ii) do not apply to reinsurance ceded and assumed pursuant to a pooling arrangement among insurers in the same holding company system.

(6) (a) A domestic ceding insurer is allowed a credit if the reinsurance is ceded to an assuming insurer that maintains a trust fund:

(i) created in accordance with rules made by the commissioner pursuant to Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(ii) in a qualified United States financial institution for the payment of a valid claim of:

(A) a United States ceding insurer of the assuming insurer;

(B) an assign of the United States ceding insurer; and

(C) a successor in interest to the United States ceding insurer.

(b) To enable the commissioner to determine the sufficiency of the trust fund described in Subsection (6)(a), the assuming insurer shall:

(i) report annually to the commissioner information substantially the same as that required to be reported on the National Association of Insurance Commissioners Annual Statement form by a licensed insurer; and

(ii) (A) submit to examination of its books and records by the commissioner; and

(B) pay the cost of an examination.

(c) (i) Credit for reinsurance may not be granted under this Subsection (6) unless the form of the trust and any amendment to the trust is approved by:

(A) the commissioner of the state where the trust is domiciled; or

(B) the commissioner of another state who, pursuant to the terms of the trust instrument, accepts principal regulatory oversight of the trust.

(ii) The form of the trust and an amendment to the trust shall be filed with the commissioner of every state in which a ceding insurer beneficiary of the trust is domiciled.

(iii) The trust instrument shall provide that a contested claim is valid and enforceable upon the final order of a court of competent jurisdiction in the United States.

(iv) The trust shall vest legal title to [~~its~~] the trust's assets in [~~its~~] one or more of the trust's trustees for the benefit of:

(A) a United States ceding insurer of the assuming insurer;

(B) an assign of the United States ceding insurer; or

(C) a successor in interest to the United States ceding insurer.

(v) The trust and the assuming insurer are subject to examination as determined by the commissioner.

(vi) The trust shall remain in effect for as long as the assuming insurer has an outstanding obligation due under a reinsurance agreement subject to the trust.

(vii) No later than February 28 of each year, the trustee of the trust shall:

(A) report to the commissioner in writing the balance of the trust;

(B) list the trust's investments at the end of the preceding calendar year; and

(C) (I) certify the date of termination of the trust, if so planned; or

(II) certify that the trust will not expire before the following December 31.

(d) The following requirements apply to the following categories of assuming insurer:

(i) For a single assuming insurer:

(A) the trust fund shall consist of funds in trust in an amount not less than the assuming insurer's liabilities attributable to reinsurance ceded by United States ceding insurers; and

(B) the assuming insurer shall maintain a trusteed surplus of not less than $20,000,000, except as provided in Subsection (6)(d)(ii).

(ii) (A) At any time after the assuming insurer has permanently discontinued underwriting new business secured by the trust for at least three full years, the commissioner with principal regulatory oversight of the trust may authorize a reduction in the required trusteed surplus, but only after a finding, based on an assessment of the risk, that the new required surplus level is adequate for the protection of United States ceding insurers, policyholders, and claimants in light of reasonably foreseeable adverse loss development.

(B) The risk assessment may involve an actuarial review, including an independent analysis of reserves and cash flows, and shall consider all material risk factors, including, when applicable, the lines of business involved, the stability of the incurred loss estimates, and the effect of the surplus requirements on the assuming insurer's liquidity or solvency.

(C) The minimum required trusteed surplus may not be reduced to an amount less than 30% of the assuming insurer's liabilities attributable to reinsurance ceded by United States ceding insurers covered by the trust.

(iii) For a group acting as assuming insurer, including incorporated and individual unincorporated underwriters:

(A) for reinsurance ceded under a reinsurance agreement with an inception, amendment, or renewal date on or after August 1, 1995, the trust shall consist of a trusteed account in an amount not less than the respective underwriters' several liabilities attributable to business ceded by the one or more United States domiciled ceding insurers to an underwriter of the group;

(B) for reinsurance ceded under a reinsurance agreement with an inception date on or before July 31, 1995, and not amended or renewed after July 31, 1995, notwithstanding the other provisions of this chapter, the trust shall consist of a trusteed account in an amount not less than the respective underwriters' several insurance and reinsurance liabilities attributable to business written in the United States;

(C) in addition to a trust described in Subsection (6)(d)(iii)(A) or (B), the group shall maintain in trust a trusteed surplus of which $100,000,000 is held jointly for the benefit of the one or more United States domiciled ceding insurers of a member of the group for all years of account;

(D) the incorporated members of the group:

(I) may not be engaged in a business other than underwriting as a member of the group; and

(II) are subject to the same level of regulation and solvency control by the group's domiciliary regulator as are the unincorporated members; and

(E) within 90 days after the day on which the group's financial statements are due to be filed with the group's domiciliary regulator, the group shall provide to the commissioner:

(I) an annual certification by the group's domiciliary regulator of the solvency of each underwriter member; or

(II) if a certification is unavailable, a financial statement, prepared by an independent public accountant, of each underwriter member of the group.

(iv) For a group of incorporated underwriters under common administration, the group shall:

(A) have continuously transacted an insurance business outside the United States for at least three years immediately preceding the day on which the group makes application for accreditation;

(B) maintain aggregate policyholders' surplus of at least $10,000,000,000;

(C) maintain a trust fund in an amount not less than the group's several liabilities attributable to business ceded by the one or more United States domiciled ceding insurers to a member of the group pursuant to a reinsurance contract issued in the name of the group;

(D) in addition to complying with the other provisions of this Subsection (6)(d)(iv), maintain a joint trusteed surplus of which $100,000,000 is held jointly for the benefit of the one or more United States domiciled ceding insurers of a member of the group as additional security for these liabilities; and

(E) within 90 days after the day on which the group's financial statements are due to be filed with the group's domiciliary regulator, make available to the commissioner:

(I) an annual certification of each underwriter member's solvency by the member's domiciliary regulator; and

(II) a financial statement of each underwriter member of the group prepared by an independent public accountant.

(7) A domestic ceding insurer is allowed a credit if the reinsurance is ceded to an assuming insurer that secures [~~its~~] the assuming insurer's obligations in accordance with this Subsection (7):

(a) The insurer shall be certified by the commissioner as a reinsurer in this state.

(b) To be eligible for certification, the assuming insurer shall:

(i) be domiciled and licensed to transact insurance or reinsurance in a qualified jurisdiction, as determined by the commissioner pursuant to Subsection (7)(d);

(ii) maintain minimum capital and surplus, or its equivalent, in an amount to be determined by the commissioner pursuant to rules made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(iii) maintain financial strength ratings from two or more rating agencies considered acceptable by the commissioner pursuant to rules made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(iv) agree to:

(A) submit to the jurisdiction of this state;

(B) appoint the commissioner as [~~its~~] the assuming insurer's agent for service of process in this state;

(C) provide security for 100% of the assuming insurer's liabilities attributable to reinsurance ceded by United States ceding insurers if [~~it~~] the assuming insurer resists enforcement of a final United States judgment;

(D) agree to meet applicable information filing requirements as determined by the commissioner including an application for certification, a renewal and on an ongoing basis; and

(E) any other requirements for certification considered relevant by the commissioner.

(c) An association, including incorporated and individual unincorporated underwriters, may be a certified reinsurer[~~. To be eligible for certification, in addition to satisfying requirements of Subsections (7)(a) and (b)~~], if the association:

(i) satisfies the requirements of Subsections (7)(a) and (b);

[~~(i)~~] (ii) [~~shall satisfy its~~] satisfies the association's minimum capital and surplus requirements through the capital and surplus equivalents, net of liabilities, of the association and [~~its~~] the association's members, which shall include a joint central fund that may be applied to any unsatisfied obligation of the association or any of [~~its~~] the association's members in an amount determined by the commissioner to provide adequate protection;

[~~(ii)~~] (iii) [~~may~~] does not have incorporated members of the association engaged in any business other than underwriting as a member of the association;

[~~(iii)~~] (iv) [~~shall be~~] is subject to the same level of regulation and solvency control of the incorporated members of the association by the association's domiciliary regulator as are the unincorporated members; and

[~~(iv)~~] (v) within 90 days after [~~its~~] the day on which the association's financial statements are due to be filed with the association's domiciliary regulator [~~provide: (A)~~], provides to the commissioner:

(A) an annual certification by the association's domiciliary regulator of the solvency of each underwriter member; or

(B) if a certification described in Subsection (7)(c)(v)(A) is unavailable, financial statements prepared by independent public accountants, of each underwriter member of the association.

(d) (i) The commissioner shall create and publish a list of qualified jurisdictions under which an assuming insurer licensed and domiciled in the jurisdiction is eligible to be considered for certification by the commissioner as a certified reinsurer.

[~~(i)~~] (ii) To determine whether the domiciliary jurisdiction of a non-United States assuming insurer is eligible to be recognized as a qualified jurisdiction, the commissioner:

(A) shall evaluate the appropriateness and effectiveness of the reinsurance supervisory system of the jurisdiction, both initially and on an ongoing basis;

(B) shall consider the rights, the benefits, and the extent of reciprocal recognition afforded by the non-United States jurisdiction to reinsurers licensed and domiciled in the United States;

(C) shall require the qualified jurisdiction to share information and cooperate with the commissioner with respect to all certified reinsurers domiciled within that jurisdiction; and

(D) may not recognize a jurisdiction as a qualified jurisdiction if the commissioner has determined that the jurisdiction does not adequately and promptly enforce final United States judgments and arbitration awards.

[~~(ii)~~] (iii) The commissioner may consider additional factors in determining a qualified jurisdiction.

[~~(iii)~~] (iv) A list of qualified jurisdictions shall be published through the National Association of Insurance Commissioners' Committee Process [~~and the~~].

(v) The commissioner shall:

(A) consider [~~this list~~] the National Association of Insurance Commissioners' list of qualified jurisdictions in determining qualified jurisdictions; and

(B) if the commissioner approves a jurisdiction as qualified that does not appear on the National Association of Insurance [~~Commissioner's~~] Commissioners' list of qualified jurisdictions, provide thoroughly documented justification in accordance with criteria to be developed by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

[~~(iv)~~] (vi) United States jurisdictions that meet the requirement for accreditation under the National Association of Insurance Commissioners' financial standards and accreditation program shall be recognized as qualified jurisdictions.

[~~(v)~~] (vii) If a certified reinsurer's domiciliary jurisdiction ceases to be a qualified jurisdiction, the commissioner may suspend the reinsurer's certification indefinitely, in lieu of revocation.

(e) The commissioner shall:

(i) assign a rating to each certified reinsurer, giving due consideration to the financial strength ratings that have been assigned by rating agencies considered acceptable to the commissioner by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(ii) publish a list of all certified reinsurers and their ratings.

(f) A certified reinsurer shall secure obligations assumed from United States ceding insurers under this Subsection (7) at a level consistent with [~~its~~] the certified reinsurer's rating, as specified in rules made by the commissioner in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(i) For a domestic ceding insurer to qualify for full financial statement credit for reinsurance ceded to a certified reinsurer, the certified reinsurer shall maintain security in a form acceptable to the commissioner and consistent with Section 31A-17-404.1, or in a multibeneficiary trust in accordance with Subsections (5), (6), and (9), except as otherwise provided in this Subsection (7).

(ii) If a certified reinsurer maintains a trust to fully secure [~~its~~] the certified reinsurer's obligations subject to Subsections (5), (6), and (9), and chooses to secure [~~its~~] the certified reinsurer's obligations incurred as a certified reinsurer in the form of a multibeneficiary trust, the certified reinsurer shall maintain separate trust accounts for [~~its~~] the certified reinsurer's obligations incurred under reinsurance agreements issued or renewed as a certified reinsurer with reduced security as permitted by this Subsection (7) or comparable laws of other United States jurisdictions and for [~~its~~] the certified reinsurer's obligations subject to Subsections (5), (6), and (9).

(iii) It shall be a condition to the grant of certification under this Subsection (7) that the certified reinsurer shall have bound itself:

(A) by the language of the trust and agreement with the commissioner with principal regulatory oversight of the trust account; and

(B) upon termination of the trust account, to fund, out of the remaining surplus of the trust, any deficiency of any other trust account.

(iv) The minimum trusteed surplus requirements provided in Subsections (5), (6), and (9) are not applicable with respect to a multibeneficiary trust maintained by a certified reinsurer for the purpose of securing obligations incurred under this Subsection (7), except that the trust shall maintain a minimum trusteed surplus of $10,000,000.

(v) With respect to obligations incurred by a certified reinsurer under this Subsection (7), if the security is insufficient, the commissioner:

(A) shall reduce the allowable credit by an amount proportionate to the deficiency; and

(B) may impose further reductions in allowable credit upon finding that there is a material risk that the certified reinsurer's obligations will not be paid in full when due.

(vi) (A) For purposes of this Subsection (7), a certified reinsurer whose certification has been terminated for any reason shall be treated as a certified reinsurer required to secure 100% of [~~its~~] the certified reinsurer's obligations.

[~~(A)~~] (B) As used in this Subsection (7), the term "terminated" refers to revocation, suspension, voluntary surrender, and inactive status.

[~~(B)~~] (C) If the commissioner continues to assign a higher rating as permitted by other provisions of this section, the requirement under this Subsection (7)(f)(vi) does not apply to a certified reinsurer in inactive status or to a reinsurer whose certification has been suspended.

(g) If an applicant for certification has been certified as a reinsurer in a National Association of Insurance Commissioners' accredited jurisdiction, the commissioner may:

(i) defer to that jurisdiction's certification;

(ii) defer to the rating assigned by that jurisdiction; and

(iii) consider such reinsurer to be a certified reinsurer in this state.

(h) (i) A certified reinsurer that ceases to assume new business in this state may request to maintain [~~its~~] the certified reinsurer's certification in inactive status in order to continue to qualify for a reduction in security for its in-force business.

(ii) An inactive certified reinsurer shall continue to comply with all applicable requirements of this Subsection (7).

(iii) The commissioner shall assign a rating to a reinsurer that qualifies under this Subsection (7)(h), that takes into account, if relevant, the reasons why the reinsurer is not assuming new business.

(8) (a) As used in this Subsection (8):

(i) "Covered agreement" means an agreement entered into pursuant to Dodd-Frank Wall Street Reform and Consumer Protection Act, 31 U.S.C. Sections 313 and 314, that:

(A) is currently in effect or in a period of provisional application; and

(B) addresses the elimination, under specified conditions, of collateral requirements as a condition for entering into any reinsurance agreement with a ceding insurer domiciled in this state or for allowing the ceding insurer to recognize credit for reinsurance.

(ii) "Reciprocal jurisdiction" means a jurisdiction that is:

(A) a non-United States jurisdiction that is subject to an in-force covered agreement with the United States, each within its legal authority, or, in the case of a covered agreement between the United States and European Union, is a member state of the European Union;

(B) a United States jurisdiction that meets the requirements for accreditation under the National Association of Insurance Commissioners' financial standards and accreditation program; or

(C) a qualified jurisdiction, as determined by the commissioner in accordance with Subsection (7)(d), that is not otherwise described in this Subsection (8)(a)(ii) and meets certain additional requirements, consistent with the terms and conditions of in-force covered agreements, as specified by the commissioner in rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(b) (i) Credit [~~shall be~~] is allowed when the reinsurance is ceded to an assuming insurer meeting each of the conditions set forth in this Subsection (8)(b).

(ii) The assuming insurer must have [~~its~~] the assuming insurer's head office in or be domiciled in, as applicable, and be licensed in a reciprocal jurisdiction.

(iii) (A) The assuming insurer [~~must~~] shall have and maintain, on an ongoing basis, minimum capital and surplus, or its equivalent, calculated according to the methodology of [~~its~~] the assuming insurer's domiciliary jurisdiction, in an amount to be set forth in regulation.

(B) If the assuming insurer is an association, including incorporated and individual unincorporated underwriters, [~~it must~~] the assuming insurer shall have and maintain, on an ongoing basis, minimum capital and surplus equivalents (net of liabilities), calculated according to the methodology applicable in [~~its~~] the assuming insurer's domiciliary jurisdiction, and a central fund containing a balance in amounts [~~to be~~] set forth in regulation.

(iv) (A) The assuming insurer must have and maintain, on an ongoing basis, a minimum solvency or capital ration, as applicable, which will be set forth in regulation.

(B) If the assuming insurer is an association, including incorporated and individual unincorporated underwriters, [~~it~~] the assuming insurer must have and maintain, on an ongoing basis, a minimum solvency or capital ratio in the reciprocal jurisdiction where the assuming insurer has [~~its~~] the assuming insurer's head office or is domiciled, as applicable, and is also licensed.

(v) The assuming insurer must agree and provide adequate assurance to the commissioner, in a form specified by the commissioner by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, as follows:

(A) the assuming insurer must provide prompt written notice and explanation to the commissioner if [~~it~~] the assuming insurer falls below the minimum requirements set forth in [~~Subsections~~] Subsection (8)(c) or (d), or if any regulatory action is taken

against [~~it~~] the assuming insurer for serious noncompliance with applicable law;

(B) the assuming insurer must consent in writing to the jurisdiction of the courts of this state and to the appointment of the commissioner as agent for service of process, however the commissioner may require that consent for service of process be provided to the commissioner and included in each reinsurance agreement and nothing in this provision shall limit, or in any way alter, the capacity of parties to a reinsurance agreement to agree to alternative dispute resolution mechanisms, except to the extent such agreements are unenforceable under applicable insolvency or delinquency laws;

(C) the assuming insurer must consent in writing to pay all final judgments, wherever enforcement is sought, obtained by a ceding insurer or [~~its~~] the ceding insurer's legal successor, that have been declared enforceable in the jurisdiction where the judgment was obtained;

(D) each reinsurance agreement must include a provision requiring the assuming insurer to provide security in an amount equal to 100% of the assuming insurer's liabilities attributable to reinsurance ceded pursuant to that agreement if the assuming insurer resists enforcement of a final judgment that is enforceable under the law of the jurisdiction in which [~~it~~] the final judgement was obtained or a properly enforceable arbitration award, whether obtained by the ceding insurer or by [~~its~~] the ceding insurer's legal successor on behalf of [~~its~~] the ceding insurer's resolution estate; and

(E) the assuming insurer must confirm that [~~it~~] the assuming insurer is not presently participating in any solvent scheme of arrangement which involved this state's ceding insurers, and agree to notify the ceding insurer and the commissioner and to provide security:

(I) in an amount equal to 100% of the assuming insurer's liabilities to the ceding insurer, should the assuming insurer enter into such a solvent scheme of arrangement; and

(II) in a form consistent with the provisions of Subsections (7) and (10) and as specified by the commissioner in regulation.

(vi) The assuming insurer or [~~its~~] the assuming insurer's legal successor must provide, if requested by the commissioner, on behalf of [~~itself~~] the assuming insurer and any legal predecessors, certain documentation to the commissioner, as specified by the commissioner by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(vii) The assuming insurer must maintain a practice of prompt payment of claims under reinsurance agreements, pursuant to criteria set forth in rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(viii) The assuming insurer's supervisory authority must confirm to the commissioner on an annual basis, as of the preceding December 31 or at the annual date otherwise statutorily reported to the reciprocal jurisdiction, that the assuming insurer complies with the requirements set forth in Subsections (8)(c) and (d).

(ix) Nothing in this provision precludes an assuming insurer from providing the commissioner with information on a voluntary basis.

(c) (i) The commissioner shall timely create and publish a list of reciprocal jurisdictions.

(ii) (A) A list of reciprocal jurisdictions is published through the National Association of Insurance Commissioners' Committee Process.

(B) The commissioner's list of reciprocal jurisdictions shall include any reciprocal jurisdiction as defined in this Subsection (8), and shall consider any other reciprocal jurisdictions in accordance with the criteria developed under rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(iii) (A) The commissioner may remove a jurisdiction from the list of reciprocal jurisdictions upon a determination that the jurisdiction no longer meets the requirements of a reciprocal jurisdiction, in accordance with a process set forth in rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, except that the commissioner [~~shall~~] may not remove from the list a reciprocal jurisdiction.

(B) Upon removal of a reciprocal jurisdiction from this list, credit for reinsurance ceded to an assuming insurer [~~which has its~~] whose home office or [~~is domiciled~~] domicile is in that jurisdiction [~~shall be~~] is allowed, if otherwise allowed under this chapter.

(d) (i) The commissioner shall timely create and publish a list of assuming insurers that have satisfied the conditions set forth in this subsection and to which cessions shall be granted credit in accordance with this Subsection (8).

(ii) The commissioner may add an assuming insurer to such list if a National Association of Insurance Commissioners accredited jurisdiction has added such assuming insurer to a list of such assuming insurers or if, upon initial eligibility, the assuming insurer submits the information to the commissioner as required under this Subsection (8) and complies with any additional requirements that the commissioner may impose by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, except to the extent that they conflict with an applicable covered agreement.

(e) (i) If the commissioner determines that an assuming insurer no longer meets one or more of the requirements under this Subsection (8), the commissioner may revoke or suspend the eligibility of the assuming insurer for recognition under this Subsection (8) in accordance with procedures established in rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(ii) (A) While an assuming insurer's eligibility is suspended, no reinsurance agreement issued, amended, or renewed after the [~~effective date of the suspension~~] day on which the suspension is effective qualifies for credit except to the extent that the assuming insurer's obligations under the contract are secured in accordance with Subsection (10).

(B) If an assuming insurer's eligibility is revoked, no credit for reinsurance may be granted after the [~~effective date of the revocation~~] day on which the revocation is effective with respect to any reinsurance agreements entered into by the assuming insurer, including reinsurance agreements entered into [~~prior to the date of~~] before the day on which the revocation is effective, except to the extent that the assuming insurer's obligations under the contract are secured in a form acceptable to the commissioner and consistent with the provisions of Subsection (10).

(f) If subject to a legal process of rehabilitation, liquidation, or conservation, as applicable, the ceding insurer, or [~~its~~] the ceding insurer's representative, may seek and, if determined appropriate by the court in which the proceedings are pending, may obtain an order requiring that the assuming insurer post security for all outstanding ceded liabilities.

(g) Nothing in this Subsection (8) limits or in any way alters the capacity of parties to a reinsurance agreement to agree on requirements for security or other terms in that reinsurance agreement, except as expressly prohibited by this chapter or other applicable law or regulation.

(h) (i) Credit may be taken under this Subsection (8) only for reinsurance agreements entered into, amended, or renewed on or after the effective date of the statute adding this Subsection (8), and only with respect to losses incurred and reserves reported on or after the later of:

(A) the [~~date~~] day on which the assuming insurer has met all eligibility requirements pursuant to Subsection (8)(b); and

[~~(B) the effective date of the new reinsurance agreement, amendment or renewal.~~]

(B) the day on which the new reinsurance agreement, amendment, or renewal is effective.

(ii) This Subsection (8) does not alter or impair a ceding insurer's right to take credit for reinsurance, to the extent that credit is not available under this Subsection (8), as long as the reinsurance qualifies for credit under any other applicable provision of this chapter.

(iii) Nothing in this Subsection (8) authorizes an assuming insurer to withdraw or reduce the security provided under any reinsurance agreement except as permitted by the terms of the agreement.

(iv) Nothing in this Subsection (8) limits, or in any way alters, the capacity of parties to any reinsurance agreement to renegotiate the agreement.

(9) If reinsurance is ceded to an assuming insurer not meeting the requirements of Subsection (3), (4), (5), (6), (7), or (8), a domestic ceding insurer is allowed credit only as to the insurance of a risk located in a jurisdiction where the reinsurance is required by applicable law or regulation of that jurisdiction.

(10) (a) An asset or a reduction from liability for the reinsurance ceded by a domestic insurer to an assuming insurer not meeting the requirements of Subsection (3), (4), (5), (6), (7), or (8) shall be allowed in an amount not exceeding the liabilities carried by the ceding insurer.

(b) The commissioner may adopt by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, specific additional requirements relating to or setting forth:

(i) the valuation of assets or reserve credits;

(ii) the amount and forms of security supporting reinsurance arrangements; and

(iii) the circumstances pursuant to which credit will be reduced or eliminated.

(c) (i) The reduction shall be in the amount of funds held by or on behalf of the ceding insurer, including funds held in trust for the ceding insurer, under a reinsurance contract with the assuming insurer as security for the payment of obligations thereunder, if the security is:

(A) held in the United States subject to withdrawal solely by, and under the exclusive control of, the ceding insurer; or

(B) in the case of a trust, held in a qualified United States financial institution.

(ii) The security described in this Subsection (10)(c) may be in the form of:

(A) cash;

(B) securities listed by the Securities Valuation Office of the National Association of Insurance Commissioners, including those deemed exempt from filing as defined by the Purposes and Procedures Manual of the Securities Valuation Office, and qualifying as admitted assets;

(C) clean, irrevocable, unconditional letters of credit, issued or confirmed by a qualified United States financial institution effective no later than December 31 of the year for which the filing is being made, and in the possession of, or in trust for, the ceding insurer on or before the filing date of its annual statement;

(D) letters of credit meeting applicable standards of issuer acceptability as of the dates of their issuance or confirmation shall, notwithstanding the issuing or confirming institution's subsequent failure to meet applicable standards of issuer acceptability, continue to be acceptable as security until their expiration, extension, renewal, modification or amendment, whichever first occurs; or

(E) any other form of security acceptable to the commissioner.

(11) Reinsurance credit [~~may not be~~] is not allowed a domestic ceding insurer unless the assuming insurer under the reinsurance contract submits to the jurisdiction of Utah courts by:

(a) (i) being an admitted insurer; and

(ii) submitting to jurisdiction under Section 31A-2-309;

(b) having irrevocably appointed the commissioner as the domestic ceding insurer's agent for service of process in an action arising out of or in connection with the reinsurance, which appointment is made under Section 31A-2-309; or

(c) agreeing in the reinsurance contract:

(i) that if the assuming insurer fails to perform [~~its~~] the assuming insurer's obligations under the terms of the reinsurance contract, the assuming insurer, at the request of the ceding insurer, shall:

(A) submit to the jurisdiction of a court of competent jurisdiction in a state of the United States;

(B) comply with all requirements necessary to give the court jurisdiction; and

(C) abide by the final decision of the court or of an appellate court in the event of an appeal; and

(ii) to designate the commissioner or a specific attorney licensed to practice law in this state as its attorney upon whom may be served lawful process in an action, suit, or proceeding instituted by or on behalf of the ceding company.

(12) Submitting to the jurisdiction of Utah courts under Subsection (11) does not override a duty or right of a party under the reinsurance contract, including a requirement that the parties arbitrate their disputes.

(13) (a) If an assuming insurer does not meet the requirements of Subsection (3), (4), (5), or (8), the credit permitted by Subsection (6) or (7) may not be allowed unless the assuming insurer agrees in the trust instrument to the [~~following conditions:~~] conditions described in Subsections (13)(b) through (e).

[~~(a)~~] (b) (i) Notwithstanding any other provision in the trust instrument, if an event described in Subsection (13)[~~(a)~~](b)(ii) occurs the trustee shall comply with:

(A) an order of the commissioner with regulatory oversight over the trust; or

(B) an order of a court of competent jurisdiction directing the trustee to transfer to the commissioner with regulatory oversight all of the assets of the trust fund.

(ii) This Subsection (13)[~~(a)~~](b) applies if:

(A) the trust fund is inadequate because the trust contains an amount less than the amount required by Subsection (6)(d); or

(B) the grantor of the trust is:

(I) declared insolvent; or

(II) placed into receivership, rehabilitation, liquidation, or similar proceeding under the laws of its state or country of domicile.

[~~(b)~~] (c) The assets of a trust fund described in Subsection [~~(13)(a)~~] (13)(b) shall be distributed by and a claim shall be filed with and valued by the commissioner with regulatory oversight in accordance with the laws of the state in which the trust is domiciled that are applicable to the liquidation of a domestic insurance company.

[~~(c)~~] (d) If the commissioner with regulatory oversight determines that the assets of the trust fund, or any part of the assets, are not necessary to satisfy the claims of the one or more United States ceding insurers of the grantor of the trust, the assets, or a part of the assets, shall be returned by the commissioner with regulatory oversight to the trustee for distribution in accordance with the trust instrument.

[~~(d)~~] (e) A grantor shall waive any right otherwise available to [~~it~~] the grantor under United States law that is inconsistent with this Subsection (13).

(14) (a) If an accredited or certified reinsurer ceases to meet the requirements for accreditation or certification, the commissioner may suspend or revoke the reinsurer's accreditation or certification.

[~~(a)~~] (b) The commissioner shall give the reinsurer notice and opportunity for hearing.

[~~(b)~~] (c) The suspension or revocation may not take effect until after the [~~commissioner's~~] day on which the commissioner issues an order after a hearing, unless:

(i) the reinsurer waives [~~its~~] the reinsurer's right to hearing;

(ii) the commissioner's order is based on:

(A) regulatory action by the reinsurer's domiciliary jurisdiction; or

(B) the voluntary surrender or termination of the reinsurer's eligibility to transact insurance or reinsurance business in its domiciliary jurisdiction or primary certifying state under Subsection (7)(g); or

(iii) the commissioner's finding that an emergency requires immediate action and a court of competent jurisdiction has not stayed the commissioner's action.

[~~(c)~~] (d) While a reinsurer's accreditation or certification is suspended, no reinsurance contract issued or renewed after the effective date of the suspension qualifies for credit except to the extent that the reinsurer's obligations under the contract are secured in accordance with Section 31A-17-404.1.

[~~(d)~~] (e) If a reinsurer's accreditation or certification is revoked, no credit for reinsurance may be granted after the effective date of the revocation except to the extent that the reinsurer's

obligations under the contract are secured in accordance with Subsection (7)(f) or Section 31A-17-404.1.

(15) (a) A ceding insurer shall take steps to manage [~~its~~] the ceding insurer's reinsurance recoverables proportionate to [~~its~~] the ceding insurer's own book of business.

(b) (i) A domestic ceding insurer shall notify the commissioner within 30 days after the day on which reinsurance recoverables from any single assuming insurer, or group of affiliated assuming insurers:

(A) exceeds 50% of the domestic ceding insurer's last reported surplus to policyholders; or

(B) after it is determined that reinsurance recoverables from any single assuming insurer, or group of affiliated assuming insurers, is likely to exceed 50% of the domestic ceding insurer's last reported surplus to policyholders.

(ii) The notification required by Subsection (15)(b)(i) shall demonstrate that the exposure is safely managed by the domestic ceding insurer.

(c) A ceding insurer shall take steps to diversify [~~its~~] the ceding insurer's reinsurance program.

(d) (i) A domestic ceding insurer shall notify the commissioner within 30 days after [~~ceding or being likely to cede~~] the day on which the ceding insurer cedes or is likely to cede more than 20% of the ceding insurer's gross written premium in the prior calendar year to any:

(A) single assuming insurer; or

(B) group of affiliated assuming insurers.

(ii) The notification shall demonstrate that the exposure is safely managed by the domestic ceding insurer.

(16) A ceding insurer licensed under Chapter 5, Domestic Stock and Mutual Insurance Corporations, Chapter 7, Nonprofit Health Service Insurance Corporations, Chapter 8, Health Maintenance Organizations and Limited Health Plans, Chapter 9, Insurance Fraternals, or Chapter 14, Foreign Insurers is not allowed credit if the reinsurance is ceded to an assuming domestic or foreign captive insurer, unless the assuming domestic or foreign captive insurer complies with:

(a) Chapter 4, Insurers in General;

(b) Chapter 16, Insurance Holding Companies;

(c) Chapter 16a, Risk Management and Own Risk and Solvency Assessment Act;

(d) Chapter 17, Determination of Financial Condition; and

(e) Chapter 18, Investments.

Section 4. Section 31A-21-101 is amended to read:

31A-21-101. Scope of Chapters 21 and 22.

(1) Except as provided in Subsections (2) through (6), this chapter and Chapter 22, Contracts in Specific Lines, apply to all insurance policies, applications, and certificates:

(a) delivered or issued for delivery in this state;

(b) on property ordinarily located in this state;

(c) on persons residing in this state when the policy is issued; or

(d) on business operations in this state.

(2) This chapter and Chapter 22, Contracts in Specific Lines, do not apply to:

(a) an exemption provided in Section 31A-1-103;

(b) an insurance policy procured under Sections 31A-15-103 and 31A-15-104;

(c) an insurance policy on business operations in this state:

(i) if:

(A) the contract is negotiated primarily outside this state; and

(B) the operations in this state are incidental or subordinate to operations outside this state; and

(ii) except that insurance required by a Utah statute shall conform to the statutory requirements; or

(d) other exemptions provided in this title.

(3) (a) Sections 31A-21-102, 31A-21-103, 31A-21-104, Subsections 31A-21-107(1) and (3), and Sections 31A-21-306, 31A-21-308, 31A-21-312, and 31A-21-314 apply to ocean marine and inland marine insurance.

(b) Section 31A-21-201 applies to inland marine insurance that is written according to manual rules or rating plans.

(c) Inland marine insurance that includes accident and health insurance is subject to Chapter 22, Contracts in Specific Lines.

(4) A group insurance policy or a blanket insurance policy is subject to this chapter and Chapter 22, Contracts in Specific Lines, except:

(a) a group [~~or blanket~~] insurance policy outside the scope of this title under Subsection 31A-1-103(3)(h);

(b) a blanket insurance policy outside the scope of this title under Subsection 31A-1-103(3)(h); and

[~~(b)~~] (c) other exemptions provided under Subsection (5).

(5) The commissioner may by rule exempt any class of insurance contract or class of insurer from any or all of the provisions of this chapter and Chapter 22, Contracts in Specific Lines, if the interests of the Utah insureds, creditors, or the public would not be harmed by the exemption.

(6) Workers' compensation insurance is subject to this chapter and Chapter 22, Contracts in Specific Lines.

(7) Unless clearly inapplicable, any provision of this chapter or Chapter 22, Contracts in Specific Lines, applicable to either a policy or a contract is applicable to both.

Section 5. Section 31A-21-201 is amended to read:

31A-21-201. Filing of forms.

(1) (a) Except as exempted under Subsections 31A-21-101(2) through (6), a form may not be used, sold, or offered for sale until the form is filed with the commissioner.

(b) A form is considered filed with the commissioner when the commissioner receives:

(i) the form;

(ii) the applicable filing fee as prescribed under Section 31A-3-103; and

(iii) the applicable transmittal forms as required by the commissioner.

(2) In filing a form for use in this state the insurer is responsible for assuring that the form is in compliance with this title and rules adopted by the commissioner.

(3) (a) The commissioner may prohibit the use of a form at any time upon a finding that:

(i) the form:

(A) is inequitable;

(B) is unfairly discriminatory;

(C) is misleading;

(D) is deceptive;

(E) is obscure;

(F) is unfair;

(G) encourages misrepresentation; or

(H) is not in the public interest;

(ii) the form provides benefits or contains another provision that endangers the solidity of the insurer;

(iii) except for a life or accident and health insurance policy form, the form is an insurance policy or application for an insurance policy, that fails to conspicuously[~~, as defined by rule,~~] provide:

(A) the exact name of the insurer; and

(B) the state of domicile of the insurer filing the insurance policy or application for the insurance policy;

(iv) except an application required by Section 31A-22-635, the form is a life or accident and health insurance policy form that fails to conspicuously[~~, as defined by rule,~~] provide:

(A) the exact name of the insurer;

(B) the state of domicile of the insurer filing the insurance policy or application for the insurance policy; and

(C) for a life insurance policy only, the address of the administrative office of the insurer filing the form;

(v) the form violates a statute or a rule adopted by the commissioner; or

(vi) the form is otherwise contrary to law.

(b) (i) When the commissioner prohibits the use of a form under Subsection (3)(a), the commissioner may order that, on or before a date not less than 15 days after the day on which the commissioner issues the order, the use of the form be discontinued.

(ii) Once use of a form is prohibited, the form may not be used until appropriate changes are filed with and reviewed by the commissioner.

(iii) When the commissioner prohibits the use of a form under Subsection (3)(a), the commissioner may require the insurer to disclose contract deficiencies to the existing policyholders.

(c) If the commissioner prohibits use of a form under this Subsection (3), the prohibition shall:

(i) be in writing;

(ii) constitute an order; and

(iii) state the reasons for the prohibition.

(4) (a) If, after a hearing, the commissioner determines that it is in the public interest, the commissioner may require by rule or order that a form be subject to the commissioner's approval before [~~its use~~] an insurer uses the form.

(b) The rule or order described in Subsection (4)(a) shall prescribe the filing procedures for a form if the procedures are different from the procedures stated in this section.

(c) The type of form that under Subsection (4)(a) the commissioner may require approval of before use includes:

(i) a form for a particular class of insurance;

(ii) a form for a specific line of insurance;

(iii) a specific type of form; or

(iv) a form for a specific market segment.

(5) (a) An insurer shall maintain a complete and accurate record of the following for the time period described in Subsection (5)(b):

(i) a form:

(A) filed under this section for use; or

(B) that is in use; and

(ii) a document filed under this section with a form described in Subsection (5)(a)(i).

(b) The insurer shall maintain a record required under Subsection (5)(a) for the balance of the current year, plus five years from:

(i) the last day on which the form is used; or

(ii) the last day an insurance policy that is issued using the form is in effect.

Section 6. Section 31A-21-402 is amended to read:

31A-21-402. Definitions.

As used in this part:

(1) (a) "Direct response solicitation" means any offer [~~by~~] an insurer makes to persons in this state, either directly or through a third party, to effect life or accident and health insurance coverage which enables the individual to apply or enroll for the insurance on the basis of the offer.

(b) "Direct response solicitation" does not include:

(i) solicitations for insurance through an employee benefit plan exempt from state regulation under preemptive federal law[~~, nor does it include~~]; or

(ii) solicitations through [~~the~~] an individual's creditor with respect to credit life or credit accident and health insurance.

(2) "Mass marketed life or accident and health insurance" means the insurance under any individual, franchise, group, or blanket insurance policy [~~of~~] offering life or accident and health insurance [~~which~~]:

(a) that is offered by means of direct response solicitation through:

(i) a sponsoring organization; or [~~through~~]

(ii) the mails or other mass communications media; and

(b) under which the person insured pays all or substantially all of the cost of [~~his~~] the person's insurance.

Section 7. Section 31A-21-404 is amended to read:

31A-21-404. Out-of-state insurers.

[~~Any~~] Notwithstanding Subsection 31A-1-103(3)(h), an insurer extending mass marketed life or accident and health insurance under a group insurance policy issued outside of this state to residents of this state or a blanket insurance policy issued outside of this state to residents of this state shall, with respect to the mass marketed life or accident and health insurance policy:

(1) comply with:

(a) Sections 31A-23a-402, 31A-23a-402.5, and 31A-23a-403; and

(b) Chapter 26, Part 3, Claim Practices; and

(2) upon the commissioner's request, deliver to the commissioner a copy of:

(a) any mass marketed life or accident and health insurance policy[~~, certificates issued under these policies, and~~];

(b) a certificate issued under a mass marketed life or accident and health insurance policy;

(c) an application for a mass marketed life or accident and health insurance policy;

(d) an enrollment form for a mass marketed life or accident and health insurance policy; and

(e) advertising material used in this state in connection with [~~the~~] a mass marketed life or accident and health insurance policy.

Section 8. Section 31A-22-409 is amended to read:

31A-22-409. Standard Nonforfeiture Law for Individual Deferred Annuities.

(1) This section is known as the "Standard Nonforfeiture Law for Individual Deferred Annuities."

(2) This section does not apply to:

(a) reinsurance;

(b) a group annuity purchased under a retirement plan or plan of deferred compensation:

(i) established or maintained by:

(A) an employer, including a partnership or sole proprietorship;

(B) an employee organization; or

(C) both an employer and an employee organization; and

(ii) other than a plan providing individual retirement accounts or individual retirement annuities under Section 408, Internal Revenue Code;

(c) a premium deposit fund;

(d) a variable annuity;

(e) an investment annuity;

(f) an immediate annuity;

(g) a deferred annuity contract after annuity payments have commenced;

(h) a reversionary annuity; or

(i) a contract that is delivered outside this state through an agent or other representative of the company issuing the contract.

(3) (a) If a policy is issued after this section takes effect as set forth in Subsection (15), a contract of annuity, except as stated in Subsection (2), may not be delivered or issued for delivery in this state unless the contract of annuity contains in substance:

(i) the provisions described in Subsection (3)(b); or

(ii) provisions corresponding to the provisions described in Subsection (3)(b) that in the opinion of the commissioner are at least as favorable to the contractholder, governing cessation of payment of consideration under the contract.

(b) Subsection (3)(a)(i) requires the following provisions:

(i) the company shall grant a paid-up annuity benefit on a plan stipulated in the contract of such a value as specified in Subsections (7), (8), (9), (10), and (12):

(A) upon cessation of payment of consideration under a contract; or

(B) upon a written request of the contract owner;

(ii) if a contract provides for a lump-sum settlement at maturity, or at any other time, upon surrender of the contract at or before the commencement of any annuity payments, the company shall pay in lieu of any paid-up annuity benefit a cash surrender benefit of such amount as is specified in Subsections (7), (8), (10), and (12);

(iii) a statement of the mortality table, if any, and interest rates used in calculating any of the following that are guaranteed under the contract:

(A) minimum paid-up annuity benefit;

(B) cash surrender benefit; or

(C) death benefit;

(iv) sufficient information to determine the amounts of the benefits described in Subsection (3)(b)(iii);

(v) a statement that any paid-up annuity, cash surrender, or death benefits that may be available under the contract are not less than the minimum benefits required by a statute of the state in which the contract is delivered; and

(vi) an explanation of the manner in which a benefit described in Subsection (3)(b)(v) is altered by the existence of any:

(A) additional amounts credited by the company to the contract;

(B) indebtedness to the company on the contract; or

(C) prior withdrawals from or partial surrender of the contract.

(c) Notwithstanding the requirements of this Subsection (3), a deferred annuity contract may provide that if no consideration is received under a contract for a period of two full years and the portion of the paid-up annuity benefit at maturity on the plan stipulated in the contract arising from consideration paid before the period would be less than $20 monthly:

(i) the company may at the company's option terminate the contract by payment in cash of the then present value of such portion of the paid-up annuity benefit, calculated on the basis of the mortality table specified in the contract, if any, and the interest rate specified in the contract for determining the paid-up annuity benefit; and

(ii) the payment described in Subsection (3)(c)(i), relieves the company of any further obligation under the contract.

(d) A company may reserve the right to defer the payment of cash surrender benefit for a period not to exceed six months after demand for the payment of the cash surrender benefit with surrender of the contract.

(4) For a policy issued before June 1, 2006, the minimum values as specified in Subsections (7), (8), (9), (10), and (12) of any paid-up annuity, cash surrender, or death benefits available under an annuity contract shall be based upon minimum nonforfeiture amounts as established in this Subsection (4).

(a) (i) With respect to a contract providing for flexible considerations, the minimum nonforfeiture amount at any time at or before the commencement of any annuity payments shall be equal to an accumulation up to such time, at a rate of interest of 3% per annum of percentages of the net considerations paid [~~prior to~~] before such time:

(A) decreased by the sum of:

(I) any prior withdrawals from or partial surrenders of the contract accumulated at a rate of interest of 3% per annum; and

(II) the amount of any indebtedness to the company on the contract, including interest due and accrued; and

(B) increased by any existing additional amounts credited by the company to the contract.

(ii) For purposes of this Subsection (4)(a), the net consideration for a given contract year used to define the minimum nonforfeiture amount shall be:

(A) an amount not less than zero; and

(B) equal to the corresponding gross considerations credited to the contract during that contract year less:

(I) an annual contract charge of $30; and

(II) a collection charge of $1.25 per consideration credited to the contract during that contract year.

(iii) The percentages of net considerations shall be:

(A) 65% of the net consideration for the first contract year; and

(B) 87-1/2% of the net considerations for the second and later contract years.

(iv) Notwithstanding Subsection (4)(a)(iii), the percentage shall be 65% of the portion of the total net consideration for any renewal contract year that exceeds by not more than two times the sum of those portions of the net considerations in all prior contract years for which the percentage was 65%.

(b) (i) Except as provided in Subsections (4)(b)(ii) and (iii), with respect to a contract providing for fixed scheduled consideration, minimum nonforfeiture amounts shall be:

(A) calculated on the assumption that considerations are paid annually in advance; and

(B) defined as for contracts with flexible considerations that are paid annually.

(ii) The portion of the net consideration for the first contract year to be accumulated shall be equal to an amount that is the sum of:

(A) 65% of the net consideration for the first contract year; and

(B) 22-1/2% of the excess of the net consideration for the first contract year over the lesser of the net considerations for:

(I) the second contract year; and

(II) the third contract year.

(iii) The annual contract charge shall be the lesser of $30 or 10% of the gross annual consideration.

(c) With respect to a contract providing for a single consideration payment, minimum nonforfeiture amounts shall be defined as for contracts with flexible considerations except that:

(i) the percentage of net consideration used to determine the minimum nonforfeiture amount shall be equal to 90%; and

(ii) the net consideration shall be the gross consideration less a contract charge of $75.

(5) (a) For a policy issued on or after June 1, 2006, the minimum values as specified in Subsections (7), (8), (9), (10), and (12) of any paid-up annuity, cash surrender, or death benefits available under an annuity contract shall be based upon minimum nonforfeiture amounts as established in this Subsection (5).

[~~(a)~~] (b) The minimum nonforfeiture amount at any time at or before the commencement of any annuity payments shall be equal to an accumulation up to such time, at rates of interest as indicated in Subsection (5)[~~(b)~~](c), of 87-1/2% of the gross considerations paid before such time decreased by the sum of:

(i) any prior withdrawals from or partial surrenders of the contract accumulated at rates of interest as indicated in Subsection (5)[~~(b)~~](c);

(ii) an annual contract charge of $50, accumulated at rates of interest as indicated in Subsection (5)[~~(b)~~](c);

(iii) any premium tax paid by the company for the contract, accumulated at rates of interest as indicated in Subsection (5)[~~(b)~~](c); and

(iv) the amount of any indebtedness to the company on the contract, including interest due and accrued.

[~~(b)~~] (c) (i) The interest rate used in determining minimum nonforfeiture amounts shall be an annual rate of interest determined as the lesser of:

(A) 3% per annum; [~~and~~] or

(B) the five-year Constant Maturity Treasury Rate reported by the Federal Reserve, rounded to the nearest 1/20th of 1%, as of a date or average over a period no longer than 15 months [~~prior to~~] before the contract issue date or redetermination date under Subsection (5)[~~(b)~~](c)(iii):

(I) reduced by 125 basis points; and

(II) where the resulting interest rate is not less than 100 basis points, 1% for a policy issued on or after June 1, 2006, and before June 1, 2021, or where the resulting interest rate is not less than 15 basis points, 0.15% for a policy issued on or after June 1, 2021.

(ii) The interest rate shall apply for an initial period and may be redetermined for additional periods.

(iii) (A) If the interest rate will be reset, the contract shall state:

(I) the initial period;

(II) the redetermination date;

(III) the redetermination basis; and

(IV) the redetermination period.

(B) The basis is the date or average over a specified period that produces the value of the five-year Constant Maturity Treasury Rate to be used at each redetermination date.

[~~(c)~~] (d) (i) During the period or term that a contract provides substantive participation in an equity indexed benefit, the reduction described in Subsection (5)[~~(b)~~](c)(i)(B)(I) may be increased by up to an additional 100 basis points to reflect the value of the equity index benefit.

(ii) The present value of the additional reduction at the contract issue date and at each redetermination date may not exceed the market value of the benefit.

(iii) (A) The commissioner may require a demonstration that the present value of the additional reduction does not exceed the market value of the benefit.

(B) If the demonstration required under Subsection (5)[~~(c)~~](d)(iii)(A) is not made to the satisfaction of the commissioner, the commissioner may disallow or limit the additional reduction.

(6) Notwithstanding Subsection (4), for a policy issued on or after June 1, 2004 and before June 1, 2006, at the election of a company, on a contract form-by-contract form basis, the minimum values as specified in Subsections (7), (8), (9), (10), and (12) of any paid-up annuity, cash surrender, or death benefits available under an annuity contract may be based upon minimum nonforfeiture amounts as established in Subsection (5).

(7) (a) A paid-up annuity benefit available under a contract shall be such that the contract's present value on the date annuity payments are to commence is at least equal to the minimum nonforfeiture amount on that date.

(b) The present value described in Subsection (7)(a) shall be computed using the mortality table, if any, and the interest rate specified in the contract

for determining the minimum paid-up annuity benefits guaranteed in the contract.

(8) (a) For a contract that provides cash surrender benefits, the cash surrender benefits available before maturity may not be less than the present value as of the date of surrender of that portion of the cash surrender value that would be provided under the contract at maturity arising from considerations paid before the time of cash surrender:

(i) decreased by the amount appropriate to reflect any prior withdrawals from or partial surrender of the contract;

(ii) decreased by the amount of any indebtedness to the company on the contract, including interest due and accrued; and

(iii) increased by any existing additional amounts credited by the company to the contract.

(b) For purposes of this Subsection (8), the present value is to be calculated on the basis of an interest rate not more than 1% higher than the interest rate specified in the contract for accumulating the net considerations to determine the maturity value.

(c) In no event shall a cash surrender benefit be less than the minimum nonforfeiture amount at that time.

(d) The death benefit under a contract described in Subsection (8)(a) shall be at least equal to the cash surrender benefit.

(9) (a) For a contract that does not provide cash surrender benefits, the present value of any paid-up annuity benefit available as a nonforfeiture option at any time [~~prior to~~] before maturity may not be less than the present value of that portion of the maturity value of the paid-up annuity benefit provided under the contract arising from considerations paid before the time the contract is surrendered in exchange for, or changed to, a deferred paid-up annuity increased by any existing additional amounts credited by the company to the contract.

(b) For purposes of Subsection (9)(a), the present value for the period [~~prior to~~] before the maturity date is to be calculated on the basis of the interest rate specified in the contract for accumulating the net considerations to determine maturity value.

(c) For a contract that does not provide a death benefit before commencement of any annuity payments, the present values shall be calculated on the basis of the interest rate and the mortality table specified in the contract for determining the maturity value of the paid-up annuity benefit.

(d) In no event shall the present value of a paid-up annuity benefit be less than the minimum nonforfeiture amount at that time.

(10) (a) For the purpose of determining the benefits calculated under Subsections (8) and (9), the maturity date shall be considered to be:

(i) in the case of an annuity contract issued on or before May 5, 2002, under which an election may be made to have an annuity payment commence at an optional maturity date, the latest date for which an election is permitted by the contract, except that it may not be considered to be later than the later of:

(A) the anniversary of the contract next following the day on which the annuitant becomes 70 years [~~of age~~] old; or

(B) the tenth anniversary of the contract; or

(ii) in the case of an annuity contract issued on or after May 6, 2002, the latest date permitted by the contract, except that [~~it~~] the maturity date may not be considered to be later than the later of:

(A) the anniversary of the contract next following the day on which the annuitant becomes 70 years [~~of age~~] old; or

(B) the tenth anniversary of the contract.

(b) In the case of an annuity contract issued on or after May 6, 2002:

(i) for a contract that provides cash surrender benefits, the cash surrender value on or past the maturity date shall be equal to the amount used to determine the annuity benefit payments; and

(ii) a surrender charge may not be imposed on or past maturity.

(11) A contract that does not provide cash surrender benefits or does not provide death benefits at least equal to the minimum nonforfeiture amount before the commencement of any annuity payments shall include a statement in a prominent place in the contract that these benefits are not provided.

(12) A paid-up annuity, cash surrender, or death benefit available at any time, other than on the contract anniversary under a contract with fixed scheduled considerations, shall be calculated with allowance for the lapse of time and the payment of any scheduled considerations beyond the beginning of the contract year in which cessation of payment of considerations under the contract occurs.

(13) (a) For a contract that provides, within the same contract by rider or supplemental contract provisions, both annuity benefits and life insurance benefits that are in excess of the greater of cash surrender benefits or a return of the gross considerations with interest, the minimum nonforfeiture benefits shall:

(i) be equal to the sum of:

(A) the minimum nonforfeiture benefits for the annuity portion; and

(B) the minimum nonforfeiture benefits, if any, for the life insurance portion; and

(ii) computed as if each portion were a separate contract.

(b) (i) Notwithstanding Subsections (7), (8), (9), (10), and (12), additional benefits payable, as described in Subsection (13)(b)(ii), and consideration for the additional benefits payable,

shall be disregarded in ascertaining, if required by this section:

(A) the minimum nonforfeiture amounts;

(B) paid-up annuity;

(C) cash surrender; and

(D) death benefits.

(ii) For purposes of this Subsection (13), an additional benefit is a benefit payable:

(A) in the event of total and permanent disability;

(B) as reversionary annuity or deferred reversionary annuity benefits; or

(C) as other policy benefits additional to life insurance, endowment, and annuity benefits.

(iii) The inclusion of the additional benefits described in this Subsection (13) may not be required in any paid-up benefits, unless the additional benefits separately would require:

(A) minimum nonforfeiture amounts;

(B) paid-up annuity;

(C) cash surrender; and

(D) death benefits.

(14) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commissioner may adopt rules necessary to implement this section, including:

(a) ensuring that any additional reduction under Subsection (5)[~~(c)~~](d) is consistent with the requirements imposed by Subsection (5)[~~(c)~~](d); and

(b) providing for adjustments in addition to the adjustments allowed under Subsection (5)[~~(c)~~](d) to the calculation of minimum nonforfeiture amounts for:

(i) a contract that provides substantive participation in an equity index benefit; and

(ii) a contract for which the commissioner determines adjustments are justified.

(15) (a) After this section takes effect, a company may file with the commissioner a written notice of [~~its~~] the company's election to comply with this section after a specified date before July 1, 1988.

(b) This section applies to annuity contracts of a company issued on or after the date the company specifies in the notice.

(c) If a company makes no election under Subsection (15)(a), the operative date of this section for such company is July 1, 1988.

Section 9. Section 31A-22-501 is amended to read:

31A-22-501. Eligible groups.

A group insurance policy offering life insurance or a blanket insurance policy [~~of~~] offering life insurance may not be delivered in Utah unless the insured group:

(1) falls within at least one of the classifications under Sections 31A-22-501.1 through 31A-22-509; and

(2) is formed and maintained in good faith for purposes other than obtaining insurance.

Section 10. Section 31A-22-504 is amended to read:

31A-22-504. Trustee groups.

(1) [~~Group~~] A group insurance policy offering life insurance [~~policies~~] may be issued to:

(a) policyholders who are the trustees of a fund established by two or more employers, by one or more labor unions, or similar employee organizations, or by one or more employers and one or more labor unions or similar employee organizations, to insure employees of the employers or members of the unions or the organizations for the benefit of persons other than the employers, the unions, or the organizations; or

(b) notwithstanding Subsection 31A-22-501(2)[~~,~~]:

(i) a Taft Hartley trust created in accordance with Section 302(c)(5) of the Federal Labor Management Relations Act[~~.~~]; or

(ii) a trustee under a trust established for the purpose of facilitating the continuation of a policy when an individual's coverage would otherwise end, if the participating group through which the original coverage was offered would be eligible under this section, Section 31A-22-502, or Section 31A-22-503.

(2) [~~These policies are~~] A group insurance policy offering life insurance is subject to the following requirements:

(a) [~~The~~] the persons eligible for insurance are all of the employees of the employers or all of the members of the unions or organizations, or all of any classes of employees or members[~~. The~~];

(b) the policy may include retired or former employees or members, elected and appointed officials of a public agency if the employees of the agency are insured, and individual proprietors or partners who are employers[~~. The~~];

(c) the policy may include the trustees or [~~their~~] the trustees' employees, or both, if their duties are principally connected with the trusteeship[~~.~~];

[~~(b) The~~] (d) the premiums for the policy are paid by the policyholders from funds contributed by the employers, unions, or similar employee organizations, or from funds contributed by the insured persons, or any combination of these[~~. Except~~]; and

(e) except as provided under Section 31A-22-512, a policy on which no part of the premium is contributed by the insured persons specifically for [~~their~~] the insured persons' insurance is required to insure all eligible persons.

Section 11. Section 31A-22-505 is amended to read:

31A-22-505. Association groups.

[~~(1) A policy is subject to the requirements of this section if the policy is issued as policyholder to an association or to the trustees of a fund established, created, or maintained for the benefit of members of one or more associations:~~]

[~~(a) with a minimum membership of 100 persons;~~]

[~~(b) with a constitution and bylaws;~~]

[~~(c) having a shared substantial common purpose that:~~]

[~~(i) is the same profession, trade, occupation, or similar; or~~]

[~~(ii) is by some common economic or representation of interest or genuine organizational relationship unrelated to the provision of benefits; and~~]

[~~(d) that has been in active existence for at least two years.~~]

(1) An insurer may issue a group insurance policy offering life insurance to an association group if:

(a) the commissioner authorizes the association group;

(b) the benefits of the group insurance policy are reasonable in relation to the premiums charged for the policy; and

(c) the association group:

(i) purchases insurance on a group basis on behalf of the association group's members;

(ii) is formed and maintained for a shared substantially common purpose that:

(A) is not related to obtaining insurance; and

(B) is the same profession, trade, or occupation or has some common economic, representation of interest, or genuine organizational relationship;

(iii) has at least 100 members;

(iv) has been actively in existence for at least five years;

(v) has a constitution and bylaws that require:

(A) the association to hold regular meetings not less than annually to further the purpose of the association's members; and

(B) members of the association to have voting privileges and representation on any governing board or committee;

(vi) does not condition membership in the association group on any health status-related factor;

(vii) makes insurance offered through the association group available exclusively to a member of the association; and

(viii) only offers insurance through the association group in connection with a member of the association group.

(2) [~~The policy~~] A group insurance policy offering life insurance that an insurer issues to an association group may insure members and employees of the association, employees of the members, one or more of the preceding entities, or all of any classes of these named entities for the benefit of persons other than the employees' employer, or any officials, representatives, trustees, or agents of the employer or association.

(3) (a) The [~~premiums~~] following shall [~~be paid by~~] pay the premium under a group insurance policy offering life insurance that an insurer issues to an association group:

(i) the policyholder from funds contributed by the [~~associations~~] association;

(ii) employer members, from funds contributed by the covered persons; or

(iii) from any combination of Subsections (3)(a)(i) and (ii).

(b) Except as provided under Section 31A-22-512, a policy on which no part of the premium is contributed by the covered persons, specifically for their insurance, is required to insure all eligible persons.

(4) (a) An association group that meets the requirements described under Subsection (1) shall disclose the following to each insured member:

(i) each cost related to joining and maintaining membership in the association;

(ii) that membership fees or dues are in addition to the policy premium;

(iii) that the association group holds the master group insurance policy;

(iv) that the association group and insurer determine the amount of the premium charged and the terms and conditions of coverage under the group insurance policy; and

(v) that the association group policyholder and insurer may change the premium and terms and conditions of coverage under the insurance policy:

(A) through agreement; and

(B) without the consent of the individual certificate holder.

(b) If an insurer collects membership fees or dues on behalf of an association, the insurer shall disclose to each member of the association that the insurer is billing and collecting membership fees and dues on behalf of the association.

Section 12. Section 31A-22-517 is amended to read:

31A-22-517. Conversion on termination of eligibility.

(1) [~~A~~] Except as provided in Subsection (6), a person is entitled to be issued by an insurer, without evidence of insurability, an individual policy [~~of~~]

offering life insurance without accident and health or other supplementary benefits, if:

(a) any portion of insurance on a person covered by a policy ceases because of:

(i) termination of employment; or

(ii) termination of membership in the classes eligible for coverage;

(b) an application for the individual policy is made; and

(c) the first premium is paid to the insurer within 31 days after the day on which the termination described in Subsection (1)(a) occurs.

(2) The individual policy described in Subsection (1) shall, at the option of the person entitled to the policy, be on any form then customarily provided by the insurer at the age and for the amount applied for, except that the group policy may exclude the option to elect:

(a) term insurance; or

(b) flexible premium insurance.

(3) (a) The individual policy described in Subsection (1) shall be for an amount equal to or, at the election of the person entitled, less than the life insurance that ceases because of the termination described in Subsection (1)(a), less the amount of any group life insurance for which the person is eligible within 30 days after the day on which the termination described in Subsection (1)(a) occurs.

(b) Any amount of insurance that matures on or before the termination, as an endowment payable to the person insured, is not included in the amount that is considered to cease because of the termination whether the endowment payment is in:

(i) one sum;

(ii) installments; or

(iii) the form of an annuity.

(4) The premium on the individual policy described in Subsection (1) shall be at the insurer's customary rate at the time of termination, which is applicable to:

(a) the form and amount of the individual policy;

(b) the class of risk to which the person belonged when terminated from the group policy; and

(c) the age attained on the effective date of the individual policy.

(5) Subject to the conditions of this section, the conversion privilege described in this section is available:

(a) to a surviving dependent, if any, at the death of the employee or member, with respect to the survivor's coverage under the group policy that terminates by reason of the death; and

(b) to the dependent of the employee or member upon termination of coverage of the dependent, while the employee or member remains insured, because the dependent ceases to be a qualified dependent under the group policy.

(6) This section does not apply to an insured whose coverage will continue being the policy of group life insurance issued to a group as authorized under Subsection 31A-22-504(1)(b)(ii).

Section 13. Section 31A-22-522 is amended to read:

31A-22-522. Required provision for notice of termination.

(1) [~~A policy for~~] A group insurance policy offering life insurance coverage or a blanket insurance policy offering life insurance coverage [~~issued or renewed after July 1, 2001,~~] shall include a provision that obligates the policyholder to notify each employee or group member:

(a) in writing;

(b) 30 days before the [~~date~~] day on which the coverage [~~is terminated~~] terminates; and

(c) (i) that the group insurance policy offering life insurance coverage or blanket insurance policy offering life insurance coverage is being terminated; and

(ii) the rights the employee or group member has to convert coverage upon termination.

(2) For a [~~policy for~~] group insurance policy offering life insurance coverage or a blanket insurance policy offering life insurance coverage described in Subsection (1), an insurer shall:

(a) include a statement of a policyholder's obligations under Subsection (1) in the insurer's monthly notice to the policyholder of premium payments due; and

(b) provide a sample notice to the policyholder at least once a year.

Section 14. Section 31A-22-600 is amended to read:

31A-22-600. Scope of Part 6.

(1) Except where a provision's application is otherwise specifically limited, this part applies to all:

(a) accident and health insurance contracts, including credit accident and health;

(b) franchise;

(c) group contracts; and

(d) [~~a~~] life insurance and annuity [~~policy, but only if~~] policies that directly or through a rider provide:

[~~(i) it includes supplemental benefits and riders including accelerated benefits; and~~]

(i) accident and health insurance benefits; or

(ii) accelerated benefits where the receipt of benefits is contingent on morbidity requirements.

(2) Nothing in this part applies to or affects:

(a) workers' compensation insurance;

(b) reinsurance; or

(c) accident and health insurance when it is part of or supplemental to liability, steam boiler, elevator, automobile, or other insurance covering loss of or damage to property, provided the loss, damage, or expense arises out of a hazard directly related to the other insurance.

(3) Except as provided in Subsection (1), this part does not apply to or affect a life insurance or annuity policy including a life insurance policy:

(a) with a rider or supplemental benefit that accelerates the death benefit contingent upon a mortality risk specifically for one or more of the qualifying events of:

(i) terminal illness;

(ii) medical conditions requiring extraordinary medical intervention; or

(iii) permanent institutional confinement; and

(b) that provides the option of a lump-sum payment for those benefits.

Section 15. Section 31A-22-602 is amended to read:

31A-22-602. Premium rates.

(1) [~~This~~] Except as provided in Subsection 31A-22-701(4), this section does not apply to group accident and health insurance.

(2) The benefits in an accident and health insurance policy shall be reasonable in relation to the premiums charged.

(3) The commissioner shall prohibit the use of [~~an accident and health insurance~~] a policy offering accident and health insurance form or rates if the form or rates do not satisfy Subsection (2).

Section 16. Section 31A-22-607 is amended to read:

31A-22-607. Grace period.

(1) (a) An individual or franchise accident and health insurance policy shall contain one or more clauses providing for a grace period for premium payment only of:

(i) at least 15 days for a weekly or monthly premium policy; and

(ii) 30 days for a policy that is not a weekly or monthly premium policy, for each premium after the first premium payment.

(b) An insurer may elect to include a grace period that is longer than 15 days for a weekly or monthly policy.

(c) An individual or franchise accident and health insurance policy is not in force during a grace period.

(d) If an insurer receives payment before the day on which a grace period expires, the individual or franchise accident and health insurance policy continues in force with no gap in coverage.

(e) If an insurer does not receive payment before the day on which a grace period expires, the individual or franchise accident and health insurance policy [~~is terminated~~] terminates as of the last date for which the premium is paid in full.

(f) A grace period is not required if the policyholder has requested that the individual or franchise accident and health insurance policy be discontinued.

(2) (a) A group insurance policy offering accident and health insurance or a blanket insurance policy offering accident and health insurance [~~policy~~] shall provide for a grace period of at least 30 days, unless the policyholder gives written notice of discontinuance before the [~~date of discontinuance~~] day on which the policy discontinues, in accordance with the policy terms.

(b) A group insurance policy offering accident and health insurance or a blanket insurance policy offering accident and health insurance [~~policy~~] is in force during a grace period.

(c) If an insurer does not receive payment before the day on which a grace period expires, the group insurance policy offering accident and health insurance or blanket insurance policy offering accident and health insurance [~~policy is terminated~~] terminates as of the last day [~~of~~] on which the grace period is in effect.

(d) A group insurance policy offering accident and health insurance or a blanket insurance policy offering accident and health insurance [~~policy~~] may provide for payment of a pro rata premium for the period the [~~group or blanket accident and health insurance~~] policy is in effect during a grace period under this Subsection (2).

(3) If an insurer has not guaranteed the insured a right to renew an accident and health insurance policy, a grace period beyond the expiration or anniversary date may, if provided in the accident and health insurance policy, be cut off by compliance with the notice provision under Subsection [~~31A-21-303(4)(b)~~] (4).

(4) (a) An insurer shall send a written renewal notice to the policyholder or, if the insurer issued the policy to an employer group, the producer:

(i) no sooner than 90 days before, and no later than 14 days before, the day on which an accident and health insurance policy renews; or

(ii) if the renewal notice includes a change in premium, at least 45 days before the day on which an accident and health insurance policy renews.

(b) The renewal notice described in Subsection (4)(a) shall clearly state:

(i) the renewal amount;

(ii) how the policyholder may pay the renewal premium, including the day on which the renewal premium is due; and

(iii) that failure of the policyholder to pay the renewal premium extinguishes the policyholder's right to renew.

(5) The extinguishment of a policyholder's right to renew for nonpayment of premium is effective no sooner than 10 days after the day on which the policyholder receives written notice that the policyholder has failed to pay the premium when due.

Section 17. Section 31A-22-608 is amended to read:

31A-22-608. Reinstatement of individual or franchise accident and health insurance policies.

(1) Every individual or franchise accident and health insurance policy shall contain a provision which reads substantially as follows:

"REINSTATEMENT: If any renewal premium is not paid within the time granted the insured for payment, a subsequent acceptance of premium by the insurer or by any agent duly authorized by the insurer to accept the premium, without also requiring an application for reinstatement, shall reinstate the policy. However, if the insurer or agent requires an application for reinstatement and issues a conditional receipt for the premium tendered, the policy shall be reinstated upon approval of this application from the insurer or, lacking this approval, upon the 45th day following the date of the conditional receipt, unless the insurer has previously notified the insured in writing of its disapproval of the application. The reinstated policy shall cover only loss resulting from such accidental injury as may be sustained after the date of reinstatement and loss due to such sickness as may begin more than 10 days after that date. In all other respects the insured and insurer have the same rights under the reinstated policy as they had under the policy immediately before the due date of the defaulted premium, subject to any provisions endorsed on or attached to this policy in connection with the reinstatement. Any premium accepted in connection with a reinstatement shall be applied to a period for which premium has not been previously paid, but not to any period more than 60 days prior to the date of reinstatement."

(2) The last sentence of the provision [~~set forth~~] described in Subsection (1) may be omitted from any policy that the insured has the right to continue in force subject to [~~its~~] the policy's terms by the timely payment of premiums until at least age 50, or in the case of a policy issued after age 44, for at least five years from [~~its date of issue~~] the day on which the insurer issues the policy.

Section 18. Section 31A-22-612 is amended to read:

31A-22-612. Conversion privileges for insured former spouse.

(1) An accident and health insurance policy, [~~which~~] that in addition to covering the insured also provides coverage to the spouse of the insured, may not contain a provision for termination of coverage of a spouse covered under the policy, except by entry of a valid decree of divorce, legal separation, or annulment between the parties.

(2) Every policy [~~which~~] that contains [~~this~~] the type of provision described in Subsection (1) shall provide that:

(a) upon the entry of the divorce decree the spouse is entitled to have issued an individual policy [~~of~~] offering accident and health insurance without evidence of insurability, upon application to the company and payment of the appropriate premium[~~. The~~]; and

(b) the individual policy described in Subsection (2)(a) shall:

(i) provide the coverage [~~being issued which~~] that is most nearly similar to the terminated coverage[~~. Probationary or waiting periods in the policy are considered~~]; and

(ii) consider a probationary or waiting period satisfied to the extent the coverage was in force under the prior policy.

(3) (a) When [~~the~~] an insurer receives actual notice that the coverage of a spouse is to be terminated because of a divorce, legal separation, or annulment, the insurer shall promptly provide the spouse written notification of the right to obtain individual coverage as provided in Subsection (2), the premium amounts required, and the manner, place, and time in which premiums may be paid.

(b) The premium is determined in accordance with the insurer's table of premium rates applicable to the age and class of risk of the persons to be covered and to the type and amount of coverage provided.

(c) If [~~the~~] a spouse applies and tenders the first monthly premium to the insurer within 30 days after [~~receiving~~] the day on which the spouse receives the notice provided by this Subsection (3), the spouse shall receive individual coverage that commences immediately upon termination of coverage under the insured's policy.

(4) This section does not apply to:

(a) a blanket insurance policy offering accident and health insurance [~~policies offered on a group blanket basis~~]; or

(b) a health benefit plan.

Section 19. Section 31A-22-618.6 is amended to read:

31A-22-618.6. Discontinuance, nonrenewal, or changes to group health benefit plans.

(1) Except as otherwise provided in this section, a group health benefit plan for a plan sponsor is renewable and continues in force:

(a) with respect to all eligible employees and dependents; and

(b) at the option of the plan sponsor.

(2) A health benefit plan for a plan sponsor may be discontinued or nonrenewed:

(a) for noncompliance with the insurer's employer contribution requirements;

(b) if there is no longer any enrollee under the group health plan who lives, resides, or works in:

(i) the service area of the insurer; or

(ii) the area for which the insurer is authorized to do business;

(c) for coverage made available in the small or large employer market only through an association, if:

(i) the employer's membership in the association ceases; and

(ii) the coverage is terminated uniformly without regard to any health status-related factor relating to any covered individual; or

(d) for noncompliance with the insurer's minimum employee participation requirements, except as provided in Subsection (3).

(3) If a small employer no longer employs at least one eligible employee, a carrier may not discontinue or not renew the health benefit plan until the first renewal date following the beginning of a new plan year, even if the carrier knows at the beginning of the plan year that the employer no longer has at least one eligible employee.

(4) (a) A small employer that, after purchasing a health benefit plan in the small group market, employs on average more than 50 eligible employees on each business day in a calendar year may continue to renew the health benefit plan purchased in the small group market.

(b) A large employer that, after purchasing a health benefit plan in the large group market, employs on average fewer than 51 eligible employees on each business day in a calendar year may continue to renew the health benefit plan purchased in the large group market.

(5) A health benefit plan for a plan sponsor may be discontinued if:

(a) a condition described in Subsection (2) exists;

(b) the plan sponsor fails to pay premiums or contributions in accordance with the terms of the contract;

(c) the plan sponsor:

(i) performs an act or practice that constitutes fraud; or

(ii) makes an intentional misrepresentation of material fact under the terms of the coverage;

(d) the insurer:

(i) elects to discontinue offering a particular health benefit plan [~~product~~] delivered or issued for delivery in this state; [~~and~~]

(ii) [~~(A)~~] provides notice of the discontinuation in writing to each plan sponsor, employee, [~~or~~] and dependent of [~~a plan sponsor or~~] an employee, at least 90 days before the [~~date~~] day on which the coverage [~~will be discontinued~~] discontinues;

[~~(B)~~] (iii) provides notice of the discontinuation in writing to the commissioner, and at least three working days before the [~~date~~] day on which the notice is sent to [~~the~~] each affected plan [~~sponsors, employees, and dependents of the plan sponsors or employees~~] sponsor, employee, and dependent of an employee;

[~~(C)~~] (iv) offers to each plan sponsor, on a guaranteed issue basis, the option to purchase all other health benefit plans currently being offered by the insurer in the market or, in the case of a large employer, any other health benefit plans currently being offered in that market; and

[~~(D)~~] (v) in exercising the option to discontinue that health benefit plan and in offering the option of coverage in this section, acts uniformly without regard to the claims experience of a plan sponsor, any health status-related factor relating to any covered participant or beneficiary, or any health status-related factor relating to any new participant or beneficiary who may become eligible for the coverage; or

(e) the insurer:

(i) elects to discontinue all of the insurer's health benefit plans in:

(A) the small employer market;

(B) the large employer market; or

(C) both the small employer and large employer markets; [~~and~~]

(ii) [~~(A)~~] provides notice of the discontinuation in writing to each plan sponsor, employee, [~~or~~] and dependent of [~~a plan sponsor or~~] an employee at least 180 days before the [~~date~~] day on which the coverage [~~will be discontinued~~] discontinues;

[~~(B)~~] (iii) provides notice of the discontinuation in writing to the commissioner in each state in which an affected insured individual is known to reside and, at least 30 working days before the [~~date~~] day on which the notice is sent to [~~the~~] each affected plan [~~sponsors, employees, and the dependents of the plan sponsors or employees~~] sponsor, employee, and dependent of an employee;

[~~(C)~~] (iv) discontinues and nonrenews all plans issued or delivered for issuance in the market described in Subsection (5)(e)(i); and

[~~(D)~~] (v) provides a plan of orderly withdrawal as required by Section 31A-4-115.

(6) (a) Except as provided in Subsection (6)(d), an eligible employee may be discontinued if after issuance of coverage the eligible employee:

(i) engages in an act or practice in connection with the coverage that constitutes fraud; or

(ii) makes an intentional misrepresentation of material fact in connection with the coverage.

(b) An eligible employee [~~that~~] whose coverage is discontinued under Subsection (6)(a) may reenroll:

(i) 12 months after the [~~date of discontinuance~~] day on which the employee's coverage discontinues; and

(ii) if the plan sponsor's coverage is in effect at the time the eligible employee applies to reenroll.

(c) At the time the eligible employee's coverage [~~is discontinued~~] discontinues under Subsection (6)(a),

the insurer shall notify the eligible employee of the right to reenroll [~~when coverage is discontinued~~] as described in Subsection (6)(b).

(d) An eligible [~~employee~~] employee's coverage may not be discontinued under this Subsection (6) because of a fraud or misrepresentation that relates to health status.

(7) For purposes of this section, a reference to "plan sponsor" includes a reference to the employer:

(a) with respect to coverage provided to an employer member of the association; and

(b) if the health benefit plan is made available by an insurer in the employer market only through:

(i) an association;

(ii) a trust; or

(iii) a discretionary group.

(8) An insurer may modify a health benefit plan for a plan sponsor only:

(a) at the time of coverage renewal; and

(b) if the modification is effective uniformly among all plans with that product.

Section 20. Section 31A-22-618.7 is amended to read:

31A-22-618.7. Discontinuance, nonrenewal, and modification for individual health benefit plans.

(1) (a) Except as otherwise provided in this section, a health benefit plan offered on an individual basis is renewable and continues in force:

(i) with respect to all enrollees or dependents; and

(ii) at the option of the enrollee.

(b) Subsection (1)(a) applies regardless of:

(i) whether the contract is issued through:

(A) a trust;

(B) an association;

(C) a discretionary group; or

(D) other similar grouping; or

(ii) the situs of delivery of the policy or contract.

(2) An individual health benefit plan may be discontinued or nonrenewed:

(a) if:

(i) there is no longer an enrollee under the individual health benefit plan who lives, resides, or works in:

(A) the service area of the insurer; or

(B) the area for which the insurer is authorized to do business; and

(ii) coverage is terminated uniformly without regard to any health status-related factor relating to any covered enrollee; or

(b) for coverage made available through an association, if:

(i) the enrollee's membership in the association ceases; and

(ii) the coverage is terminated uniformly without regard to any health status-related factor relating to any covered enrollee.

(3) An individual health benefit plan may be discontinued if:

(a) a condition described in Subsection (2) exists;

(b) the enrollee fails to pay premiums or contributions in accordance with the terms of the health benefit plan, including any timeliness requirements;

(c) the enrollee:

(i) performs an act or practice in connection with the coverage that constitutes fraud; or

(ii) makes an intentional misrepresentation of material fact under the terms of the coverage;

(d) the insurer:

(i) elects to discontinue offering a particular health benefit plan product delivered or issued for delivery in this state; and

(ii) (A) provides notice of the discontinuation in writing to each enrollee provided coverage at least 90 days before the [~~date~~] day on which the coverage [~~will be discontinued~~] discontinues;

(B) provides notice of the discontinuation in writing to the commissioner and, at least three working days before the [~~date~~] day on which the notice is sent, to [~~the affected enrollees~~] each affected enrollee;

(C) offers to each covered enrollee on a guaranteed issue basis the option to purchase all other individual health benefit plans currently being offered by the insurer for individuals in that market; and

(D) acts uniformly without regard to any health status-related factor of covered enrollees or dependents of covered enrollees who may become eligible for coverage; or

(e) the insurer:

(i) elects to discontinue all of the insurer's health benefit plans in the individual market; and

(ii) (A) provides notice of the discontinuation in writing to each enrollee provided coverage at least 180 days before the [~~date~~] day on which the coverage [~~will be discontinued~~] discontinues;

(B) provides notice of the discontinuation in writing to the commissioner in each state in which an affected enrollee is known to reside and, at least 30 working days before the [~~date~~] day on which the insurer sends the notice [~~is sent, to the affected enrollees~~], to each affected enrollee;

(C) discontinues and nonrenews all health benefit plans the insurer issues or delivers for issuance in the individual market; and

(D) acts uniformly without regard to any health status-related factor of covered enrollees or dependents of covered enrollees who may become eligible for coverage.

(4) An insurer may modify an individual health benefit plan only:

(a) at the time of coverage renewal; and

(b) if the modification is effective uniformly among all health benefit plans.

Section 21. Section 31A-22-618.8 is amended to read:

31A-22-618.8. Discontinuance and nonrenewal limitations for health benefit plans.

(1) Subject to Section 31A-4-115, an insurer that elects to discontinue offering a health benefit plan under Subsections 31A-22-618.6(5)(e) and 31A-22-618.7(3)(e) is prohibited from writing new business:

(a) in the market in this state for which the insurer discontinues or does not renew; and

(b) for a period of five years beginning on the [~~date of discontinuation of~~] day on which the last coverage that is discontinued.

(2) If an insurer is doing business in one established geographic service area of the state, Sections 31A-22-618.6 and 31A-22-618.7 apply only to the insurer's operations in that service area.

(3) The commissioner may, by rule or order, define the scope of service area.

Section 22. Section 31A-22-627 is amended to read:

31A-22-627. Coverage of emergency medical services.

(1) A health insurance policy or managed care organization contract:

(a) shall provide[~~, at a minimum,~~] coverage of emergency services [~~as required in 29 C.F.R. Sec. 2590.715-2719A~~]; and

(b) may not:

(i) require any form of preauthorization for treatment of an emergency medical condition until after the insured's condition has been stabilized; [~~or~~]

(ii) deny a claim for any covered evaluation, covered diagnostic test, or other covered treatment considered medically necessary to stabilize the emergency medical condition of an insured[~~,~~]; or

(iii) impose any cost-sharing requirement for out-of-network that exceeds the cost-sharing requirement imposed for in-network.

(2) (a) A health insurance policy or managed care organization contract may require authorization for the continued treatment of an emergency medical condition after the insured's condition has been stabilized.

(b) If [~~such~~] authorization described in Subsection (2)(a) is required, an insurer who does not accept or reject a request for authorization may not deny a claim for any evaluation, diagnostic testing, or other treatment considered medically necessary that occurred between the time the request was received and the time the insurer rejected the request for authorization.

(3) For purposes of this section:

(a) "Emergency medical condition" means a medical condition manifesting itself by acute symptoms of sufficient severity, including severe pain, such that a prudent layperson, who possesses an average knowledge of medicine and health, would reasonably expect the absence of immediate medical attention through a hospital emergency department to result in:

(i) placing the insured's health, or with respect to a pregnant woman, the health of the woman or her unborn child, in serious jeopardy;

(ii) serious impairment to bodily functions; or

(iii) serious dysfunction of any bodily organ or part.

(b) "Hospital emergency department" means that area of a hospital in which emergency services are provided on a 24-hour-a-day basis.

(c) "Stabilize" means the same as that term is defined in 42 U.S.C. Sec. 1395dd(e)(3).

(4) Nothing in this section may be construed as:

(a) altering the level or type of benefits that are provided under the terms of a contract or policy; or

(b) restricting a policy or contract from providing enhanced benefits for certain emergency medical conditions that are identified in the policy or contract.

(5) Notwithstanding Section 31A-2-308, if the commissioner finds an insurer has violated this section, the commissioner may:

(a) work with the insurer to improve the insurer's compliance with this section; or

(b) impose the following fines:

(i) not more than $5,000; or

(ii) twice the amount of any profit gained from violations of this section.

Section 23. Section 31A-22-654 is amended to read:

31A-22-654. Study of coverage for in vitro fertilization and genetic testing -- Reporting -- Coverage requirements.

(1) As used in this section:

(a) "Qualified condition" means the same as that term is defined in Section 49-20-420.

(b) "Qualified insurer" means an insurer that provides a health benefit plan [~~described~~] as defined

in Section [~~31A-22-600~~] 31A-1-301 to more than 25,000 enrollees in the state as of December 31 of the preceding reporting year.

(c) "Qualified enrollee" means an enrollee of a qualified insurer who:

(i) has been diagnosed by a physician as having a genetic trait associated with a qualified condition; and

(ii) intends to get pregnant with a partner who is diagnosed by a physician as having a genetic trait associated with the same qualified condition as the enrollee.

(2) (a) A qualified insurer shall submit the information described in this Subsection (2) to the department [~~with the qualified insurer's rate filings required under Section 31A-2-201.1~~] for a plan year beginning:

(i) on or after January 1, 2022, but before December 31, 2022; and

(ii) on or after January 1, 2025, but before December 31, 2025.

(b) A qualified insurer shall study whether providing the coverage for the services described in Subsections (3)(a) and (b) for qualified enrollees will result in cost savings for the qualified insurer.

(c) (i) If a qualified insurer determines that providing the coverage described in Subsection (3) for qualified enrollees will result in cost savings for the qualified insurer, the qualified insurer shall submit a summary of the results of the study described in Subsection (2)(b), and:

(A) describe how the qualified insurer intends to provide the coverage described in Subsection (3); or

(B) submit an explanation of why the insurer will not provide the coverage described in Subsection (3).

(ii) If a qualified insurer determines that providing the coverage described in Subsection (3) will not result in cost savings to the qualified insurer, the qualified insurer shall submit a summary of the results of the study described in Subsection (2)(b).

(d) A qualified insurer shall provide the information required under this Subsection (2) to the department no later than:

(i) January 1, 2022, for a plan year beginning on or after January 1, 2022, but before December 31, 2022; and

(ii) January 1, 2025, for a plan year beginning on or after January 1, 2025, but before December 31, 2025.

(3) A qualified insurer shall consider coverage for:

(a) in vitro fertilization services for a qualified enrollee; and

(b) genetic testing of a qualified enrollee who received in vitro fertilization services under Subsection (3)(a).

(4) The department shall report the information received under Subsection (2) to the Health and Human Services Interim Committee on or before:

(a) for information submitted under Subsection (2)(a)(i), November 1, 2022; and

(b) for information submitted under Subsection (2)(a)(ii), November 1, 2025.

Section 24. Section 31A-22-701 is amended to read:

31A-22-701. Groups eligible for group or blanket insurance.

[~~(1) As used in this section, "association group" means a lawfully formed association of individuals or business entities that:~~]

[~~(a) purchases insurance on a group basis on behalf of members; and~~]

[~~(b) is formed and maintained in good faith for purposes other than obtaining insurance.~~]

[~~(2)~~] (1) A group [~~accident and health~~] insurance policy offering accident and health insurance may be issued to:

(a) a group:

(i) to which a group life insurance policy may be issued under Section 31A-22-502, 31A-22-503, 31A-22-504, 31A-22-505, 31A-22-506, or 31A-22-507; and

(ii) that is formed and maintained in good faith for a purpose other than obtaining insurance;

[~~(b) an association group authorized by the commissioner that:~~]

[~~(i) has been actively in existence for at least five years;~~]

[~~(ii) has a constitution and bylaws;~~]

[~~(iii) has a shared or common purpose that is not primarily a business or customer relationship;~~]

[~~(iv) is formed and maintained in good faith for purposes other than obtaining insurance;~~]

[~~(v) does not condition membership in the association group on any health status-related factor relating to an individual, including an employee of an employer or a dependent of an employee;~~]

[~~(vi) makes accident and health insurance coverage offered through the association group available to all members regardless of any health status-related factor relating to the members or individuals eligible for coverage through a member;~~]

[~~(vii) does not make accident and health insurance coverage offered through the association group available other than in connection with a member of the association group; and~~]

[~~(viii) is actuarially sound; or~~]

[~~(c)~~] (b) a group specifically authorized by the commissioner, upon a finding that:

(i) authorization is not contrary to the public interest;

(ii) the group is actuarially sound;

(iii) formation of the proposed group may result in economies of scale in acquisition, administrative, marketing, and brokerage costs;

(iv) the insurance policy, insurance certificate, or other indicia of coverage that will be offered to the proposed group is substantially equivalent to insurance policies that are otherwise available to similar groups;

(v) the group would not present hazards of adverse selection;

(vi) the premiums for the insurance policy and any contributions by or on behalf of the insured persons are reasonable in relation to the benefits provided; and

(vii) the group is formed and maintained in good faith for a purpose other than obtaining insurance[.]; or

(c) a postsecondary educational institution covering students, upon a finding that:

(i) the policy provides standards for financial soundness;

(ii) the policy protects the students covered;

(iii) the policy provides for the establishment of a financially viable alternative to traditional health care plans;

(iv) authorization is not contrary to the public interest;

(v) the policy would not present hazards of adverse selection; and

(vi) the premiums for the policy and any contributions by or on behalf of the insured persons are reasonable in relation to the benefits provided.

[~~(3)~~] (2) A blanket insurance policy offering accident and health insurance [~~policy~~]:

(a) covers a defined class of persons;

(b) may not be offered or underwritten on an individual basis;

(c) shall cover only a group that is:

(i) actuarially sound; and

(ii) formed and maintained in good faith for a purpose other than obtaining insurance; and

(d) may be issued only to:

(i) a common carrier or an operator, owner, or lessee of a means of transportation, as policyholder, covering persons who may become passengers as defined by reference to the person's travel status;

(ii) an employer, as policyholder, covering any group of employees, dependents, or guests, as defined by reference to specified hazards incident to any activities of the policyholder;

(iii) an institution of learning, including a school district, a school jurisdictional unit, or the head, principal, or governing board of a school jurisdictional unit, as policyholder, covering students, teachers, or employees;

(iv) a religious, charitable, recreational, educational, or civic organization, or branch of one of those organizations, as policyholder, covering a group of members or participants as defined by reference to specified hazards incident to the activities sponsored or supervised by the policyholder;

(v) a sports team, camp, or sponsor of a sports team or camp, as policyholder, covering members, campers, employees, officials, or supervisors;

(vi) a volunteer fire department, first aid, civil defense, or other similar volunteer organization, as policyholder, covering a group of members or participants as defined by reference to specified hazards incident to activities sponsored, supervised, or participated in by the policyholder;

(vii) a newspaper or other publisher, as policyholder, covering its carriers;

(viii) a labor union, as a policyholder, covering a group of members or participants as defined by reference to specified hazards incident to the activities or operations sponsored or supervised by the policyholder;

(ix) an association that has a constitution and bylaws covering a group of members or participants as defined by reference to specified hazards incident to the activities or operations sponsored or supervised by the policyholder; or

(x) any other class of risks that, in the judgment of the commissioner, may be properly eligible for a blanket insurance policy offering accident and health insurance.

[~~(4)~~] (3) The judgment of the commissioner may be exercised on the basis of:

(a) individual risks;

(b) a class of risks; or

(c) both Subsections [~~(4)~~](3)(a) and (b).

(4) A group insurance policy offering accident and health insurance issued to a group authorized under Subsection 31A-22-504(b)(ii) is subject to the provisions of Section 31A-22-602.

Section 25. Section 31A-22-716 is amended to read:

31A-22-716. Required provision for notice of termination.

(1) [~~A policy for~~] A group insurance policy offering accident and health insurance or a blanket insurance policy offering accident and health [~~coverage issued or renewed after July 1, 1990,~~] insurance shall include a provision that obligates the policyholder:

(a) to give [~~30 days prior~~] written notice of termination to each employee or group member 30 days before the day on which the policy terminates; and

(b) to notify each employee or group member of the employee's or group member's rights to continue coverage upon termination.

(2) (a) An insurer's monthly notice to the policyholder of premium payments due shall include a statement of the policyholder's obligations as set forth in Subsection (1).

(b) Insurers shall provide a sample notice to the policyholder at least once a year.

Section 26. Section 31A-22-717 is amended to read:

31A-22-717. Provisions pertaining to service members and their families affected by mobilization into the armed forces.

For [~~any~~] a group insurance policy offering accident and health insurance or a blanket insurance policy offering accident and health [~~coverage~~] insurance, an insurer:

(1) may not refuse to reinstate an insured or [~~his~~] the insured's family whose coverage lapsed due to the insured's mobilization into the United States armed forces provided application is made within 180 days [~~of release~~] after the day on which the insured is released from active duty;

(2) shall reinstate an insured in full upon payment of the first premium without the requirement of a waiting period or exclusion for preexisting conditions or any other underwriting requirements that were covered previously; and

(3) may not increase the insured's premium in excess of what [~~it~~] the premium would have been increased to in the normal course of time had the insured not been mobilized into the United States armed forces.

Section 27. Section 31A-22-1404 is amended to read:

31A-22-1404. Rulemaking authority.

The commissioner may adopt rules that may permit or include:

(1) the increase of benefits over time;

(2) standards for full and fair disclosure of the manner, content, and required disclosures for the sale of long-term care insurance policies;

(3) terms of renewability;

(4) initial and subsequent conditions of eligibility;

(5) nonduplication of coverage provisions;

(6) coverage of dependents;

(7) termination of coverage;

(8) continuation or conversion;

(9) probationary periods;

(10) limitations, exceptions, and reductions of coverage;

(11) preexisting conditions;

(12) elimination and waiting periods;

(13) requirements for replacement;

(14) recurrent conditions;

(15) definition of terms;

(16) loss ratio requirements;

(17) post claim underwriting;

(18) waiver of premium;

(19) independent review of benefit determinations;

[~~(19)~~] (20) inflation protection benefits; and

[~~(20)~~] (21) premium rate filing and review.

Section 28. Section 31A-22-2002 is amended to read:

31A-22-2002. Definitions.

As used in this part:

(1) "Applicant" means:

(a) when referring to an individual limited long-term care insurance policy, the person who seeks to contract for benefits; and

(b) when referring to a group limited long-term care insurance policy, the proposed certificate holder.

(2) "Elimination period" means the length of time between meeting the eligibility for benefit payment and receiving benefit payments from an insurer.

(3) "Group limited long-term care insurance" means a limited long-term care insurance policy that is delivered or issued for delivery:

(a) in this state; and

(b) to an eligible group, as described under Subsection 31A-22-701(2).

(4) (a) "Limited long-term care insurance" means an insurance[~~: (i)~~] policy, endorsement, or rider that is advertised, marketed, offered, or designed to provide coverage:

[~~(A)~~] (i) for less than 12 consecutive months for each covered person;

[~~(B)~~] (ii) on an expense-incurred, indemnity, prepaid or other basis; and

[~~(C)~~] (iii) for one or more necessary or medically necessary diagnostic, preventative, therapeutic, rehabilitative, maintenance, or personal care services that is provided in a setting other than an acute care unit of a hospital[~~; or~~].

[~~(ii)~~] (b) "Limited long-term care insurance" includes a policy or rider described in Subsection (4)(a) that provides for payment of benefits based on cognitive impairment or the loss of functional capacity.

[~~(b)~~] (c) "Limited long-term care insurance" does not include an insurance policy that is offered primarily to provide:

(i) basic Medicare supplement coverage;

(ii) basic hospital expense coverage;

(iii) basic medical-surgical expense coverage;

(iv) hospital confinement indemnity coverage;

(v) major medical expense coverage;

(vi) disability income or related asset-protection coverage;

(vii) accidental only coverage;

(viii) specified disease or specified accident coverage; or

(ix) limited benefit health coverage.

(5) "Preexisting condition" means a condition for which medical advice or treatment is recommended:

(a) by, or received from, a provider of health care services; and

(b) within six months before the day on which the coverage of an insured person becomes effective.

(6) "Waiting period" means the time an insured waits before some or all of the insured's coverage becomes effective.

Section 29. Section 31A-23a-113 is amended to read:

31A-23a-113. License lapse and voluntary surrender.

(1) (a) A license issued under this chapter, including a line of authority, shall lapse if the licensee fails to:

(i) pay when due a fee under Section 31A-3-103;

(ii) complete continuing education requirements under Section 31A-23a-202 before submitting the license renewal application;

(iii) submit a completed renewal application as required by Section 31A-23a-104;

(iv) submit additional documentation required to complete the licensing process as related to a specific license type or line of authority; or

(v) maintain an active license in a licensee's home state if the licensee is a nonresident licensee.

(b) A license that lapses shall expire effective at midnight on the day on which the license expires.

[~~(b)~~] (c) (i) A licensee whose license lapses may request reinstatement of the license and line of authority no more than one year after the day on which the license lapses.

(ii) A licensee whose license lapses due to the following may request an action described in Subsection (1)[~~(b)~~](c)(iii):

(A) military service;

(B) voluntary service for a period of time designated by the person for whom the licensee provides voluntary service; or

(C) some other extenuating circumstances, [~~such as~~] including long-term medical disability.

(iii) A licensee described in Subsection (1)[~~(b)~~](c)(ii) may request:

(A) reinstatement of the license and line of authority no later than one year after the day on which the license lapses; and

(B) waiver of any of the following imposed for failure to comply with renewal procedures:

(I) an examination requirement;

(II) reinstatement fees set under Section 31A-3-103;

(III) continuing education requirements; or

(IV) other sanction imposed for failure to comply with renewal procedures.

(2) If a license or line of authority issued under this chapter is voluntarily surrendered, the license or line of authority may be reinstated:

(a) during the license period in which the license or line of authority is voluntarily surrendered; and

(b) no later than one year after the day on which the license or line of authority is voluntarily surrendered.

Section 30. Section 31A-23a-201 is amended to read:

31A-23a-201. Exceptions to producer licensing.

(1) The commissioner may not require a license as an insurance producer of:

(a) an officer, director, or employee of an insurer or of an insurance producer if:

(i) the officer, director, or employee does not receive any commission on a policy written or sold to insure risks residing, located, or to be performed in this state; and

(ii) (A) the officer's, director's, or employee's activities are:

(I) executive, administrative, managerial, clerical, or a combination of these activities; and

(II) only indirectly related to the sale, solicitation, or negotiation of insurance;

(B) the officer's, director's, or employee's function relates to:

(I) underwriting;

(II) loss control;

(III) inspection; or

(IV) the processing, adjusting, investigating or settling of a claim on a contract of insurance; or

(C) (I) the officer, director, or employee is acting in the capacity of a special agent or agency supervisor assisting an insurance producer;

(II) the officer's, director's, or employee's activities are limited to providing technical advice

and assistance to a licensed insurance producer; and

(III) the officer's, director's, or employee's activities do not include the sale, solicitation, or negotiation of insurance;

(b) a person who:

(i) is paid no commission for the services described in Subsection (1)(b)(ii); and

(ii) secures and furnishes information for the purpose of:

(A) group life insurance;

(B) group property and casualty insurance;

(C) group annuities;

(D) a group insurance policy offering accident and health insurance or a blanket insurance policy offering accident and health insurance;

(E) enrolling individuals under plans;

(F) issuing certificates under plans; or

(G) otherwise assisting in administering plans;

(c) a person who:

(i) is paid no commission for the services described in Subsection (1)(c)(ii); and

(ii) performs administrative services related to mass marketed property and casualty insurance;

(d) (i) any of the following if the conditions of Subsection (1)(d)(ii) are met:

(A) an employer or association; or

(B) an officer, director, employee, or trustee of an employee trust plan;

(ii) a person listed in Subsection (1)(d)(i):

(A) to the extent that the employer, officer, employee, director, or trustee is engaged in the administration or operation of a program of employee benefits for:

(I) the employer's or association's own employees; or

(II) the employees of a subsidiary or affiliate of an employer or association;

(B) the program involves the use of insurance issued by an insurer; and

(C) the employer, association, officer, director, employee, or trustee is not in any manner compensated, directly or indirectly, by the company issuing the contract;

(e) an employee of an insurer or organization employed by an insurer who:

(i) is engaging in:

(A) the inspection, rating, or classification of risks; or

(B) the supervision of the training of insurance producers; and

(ii) is not individually engaged in the sale, solicitation, or negotiation of insurance;

(f) a person whose activities in this state are limited to advertising:

(i) without the intent to solicit insurance in this state;

(ii) through communications in mass media including:

(A) a printed publication; or

(B) a form of electronic mass media;

(iii) that is distributed to residents outside of the state; and

(iv) if the person does not sell, solicit, or negotiate insurance that would insure risks residing, located, or to be performed in this state;

(g) a person who:

(i) is not a resident of this state;

(ii) sells, solicits, or negotiates a contract of insurance:

(A) for commercial property and casualty risks to an insured with risks located in more than one state insured under that contract; and

(B) insures risks located in a state in which the person is licensed as provided in Subsection (1)(g)(iii); and

(iii) is licensed as an insurance producer to sell, solicit, or negotiate that insurance in the state where the insured maintains its principal place of business; or

(h) if the employee does not sell, solicit, or receive a commission for a contract of insurance, a salaried full-time employee who counsels or advises the employee's employer relating to the insurance interests of:

(i) the employer; or

(ii) a subsidiary or business affiliate of the employer.

(2) The commissioner may by rule exempt a class of persons from the license requirement of Subsection 31A-23a-103(1) if:

(a) the functions performed by the class of persons does not require:

(i) special competence;

(ii) special trustworthiness; or

(iii) regulatory surveillance made possible by licensing; or

(b) other existing safeguards make regulation unnecessary.

Section 31. Section 31A-23a-402.5 is amended to read:

31A-23a-402.5. Inducements.

(1) (a) Except as provided in Subsection (2), a producer, consultant, or other licensee under this

title, or an officer or employee of a licensee, may not induce a person to enter into, continue, or terminate an insurance contract by offering a benefit that is not:

(i) specified in the insurance contract; or

(ii) directly related to the insurance contract.

(b) An insurer may not make or knowingly allow an agreement of insurance that is not clearly expressed in the insurance contract to be issued or renewed.

(c) A licensee under this title may not absorb the tax under Section 31A-3-301.

(2) This section does not apply to a title insurer, an individual title insurance producer, or agency title insurance producer, or an officer or employee of a title insurer, an individual title insurance producer, or an agency title insurance producer.

(3) Items not prohibited by Subsection (1) include an insurer:

(a) reducing premiums because of expense savings;

(b) providing to a policyholder or insured one or more incentives, as defined by the commissioner by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to participate in a program or activity designed to reduce claims or claim expenses, including:

(i) a premium discount offered to a small or large employer group based on a wellness program if:

(A) the premium discount for the employer group does not exceed 20% of the group premium; and

(B) the premium discount based on the wellness program is offered uniformly by the insurer to all employer groups in the large or small group market;

(ii) a premium discount offered to employees of a small or large employer group in an amount that does not exceed federal limits on wellness program incentives;

(iii) a combination of premium discounts offered to the employer group and the employees of an employer group, based on a wellness program, if:

(A) the premium discounts for the employer group comply with Subsection (3)(b)(i); and

(B) the premium discounts for the employees of an employer group comply with Subsection (3)(b)(ii); or

(iv) rewards or incentives for employees of an employer group, if the rewards or incentives are for a savings reward program described in Section 31A-22-647; or

(c) receiving premiums under an installment payment plan.

(4) Items not prohibited by Subsection (1) include a producer, consultant, or other licensee, or an officer or employee of a licensee, either directly or through a third party:

(a) engaging in a usual kind of social courtesy if receipt of the social courtesy is not conditioned on a quote or the purchase of a particular insurance product;

(b) extending credit on a premium to the insured:

(i) without interest, for no more than 90 days [~~from the effective date of~~] after the day on which the insurance contract becomes effective;

(ii) for interest that is not less than the legal rate under Section 15-1-1, on the unpaid balance after the time period described in Subsection (4)(b)(i); and

(iii) except that an installment or payroll deduction payment of premiums on an insurance contract issued under an insurer's mass marketing program is not considered an extension of credit for purposes of this Subsection (4)(b);

(c) preparing or conducting a survey that:

(i) is directly related to an accident and health insurance policy purchased from the licensee; or

(ii) is used by the licensee to assess the benefit needs and preferences of insureds, employers, or employees directly related to an insurance product sold by the licensee;

(d) providing limited human resource services that are directly related to an insurance product sold by the licensee, including:

(i) answering questions directly related to:

(A) an employee benefit offering or administration, if the insurance product purchased from the licensee is accident and health insurance or health insurance; and

(B) employment practices liability, if the insurance product offered by or purchased from the licensee is property or casualty insurance; and

(ii) providing limited human resource compliance training and education directly pertaining to an insurance product purchased from the licensee;

(e) providing the following types of information or guidance:

(i) providing guidance directly related to compliance with federal and state laws for an insurance product purchased from the licensee;

(ii) providing a workshop or seminar addressing an insurance issue that is directly related to an insurance product purchased from the licensee; or

(iii) providing information regarding:

(A) employee benefit issues;

(B) directly related insurance regulatory and legislative updates; or

(C) similar education about an insurance product sold by the licensee and how the insurance product interacts with tax law;

(f) preparing or providing a form that is directly related to an insurance product purchased from, or offered by, the licensee;

(g) preparing or providing documents directly related to a premium only cafeteria plan within the meaning of Section 125, Internal Revenue Code, or a flexible spending account, but not providing ongoing administration of a flexible spending account;

(h) providing enrollment and billing assistance, including:

(i) providing benefit statements or new hire insurance benefits packages; and

(ii) providing technology services such as an electronic enrollment platform or application system;

(i) communicating coverages in writing and in consultation with the insured and employees;

(j) providing employee communication materials and notifications directly related to an insurance product purchased from a licensee;

(k) providing claims management and resolution to the extent permitted under the licensee's license;

(l) providing underwriting or actuarial analysis or services;

(m) negotiating with an insurer regarding the placement and pricing of an insurance product;

(n) recommending placement and coverage options;

(o) providing a health fair or providing assistance or advice on establishing or operating a wellness program, but not providing any payment for or direct operation of the wellness program;

(p) providing COBRA and Utah mini-COBRA administration, consultations, and other services directly related to an insurance product purchased from the licensee;

(q) assisting with a summary plan description, including providing a summary plan description wraparound;

(r) providing information necessary for the preparation of documents directly related to the Employee Retirement Income Security Act of 1974, 29 U.S.C. Sec. 1001, et seq., as amended;

(s) providing information or services directly related to the Health Insurance Portability and Accountability Act of 1996, Pub. L. 104-191, 110 Stat. 1936, as amended, such as services directly related to health care access, portability, and renewability when offered in connection with accident and health insurance sold by a licensee;

(t) sending proof of coverage to a third party with a legitimate interest in coverage;

(u) providing information in a form approved by the commissioner and directly related to determining whether an insurance product sold by the licensee meets the requirements of a third party contract that requires or references insurance coverage;

(v) facilitating risk management services directly related to property and casualty insurance products sold or offered for sale by the licensee, including:

(i) risk management;

(ii) claims and loss control services;

(iii) risk assessment consulting, including analysis of:

(A) employer's job descriptions; or

(B) employer's safety procedures or manuals; and

(iv) providing information and training on best practices;

(w) otherwise providing services that are legitimately part of servicing an insurance product purchased from a licensee; and

(x) providing other directly related services approved by the department.

(5) An inducement prohibited under Subsection (1) includes a producer, consultant, or other licensee, or an officer or employee of a licensee:

(a) (i) except as permitted under Section 31A-22-647, providing a rebate, reward, or incentive;

(ii) paying the salary of an employee of a person who purchases an insurance product from the licensee; or

(iii) if the licensee is an insurer, or a third party administrator who contracts with an insurer, paying the salary for an onsite staff member to perform an act prohibited under Subsection (5)(b)(xii); or

(b) except as provided in Subsection (10), engaging in one or more of the following, unless a fee is paid in accordance with Subsection (8):

(i) performing background checks of prospective employees;

(ii) providing legal services by a person licensed to practice law;

(iii) performing drug testing that is directly related to an insurance product purchased from the licensee;

(iv) preparing employer or employee handbooks, except that a licensee may:

(A) provide information for a medical benefit section of an employee handbook;

(B) provide information for the section of an employee handbook directly related to an employment practices liability insurance product purchased from the licensee; or

(C) prepare or print an employee benefit enrollment guide;

(v) providing job descriptions, postings, and applications for a person;

(vi) providing payroll services;

(vii) providing performance reviews or performance review training;

(viii) providing union advice;

(ix) providing accounting services;

(x) providing data analysis information technology programs, except as provided in Subsection (4)(h)(ii);

(xi) providing administration of health reimbursement accounts or health savings accounts; or

(xii) if the licensee is an insurer, or a third party administrator who contracts with an insurer, the insurer issuing an insurance policy that lists in the insurance policy one or more of the following prohibited benefits:

(A) performing background checks of prospective employees;

(B) providing legal services by a person licensed to practice law;

(C) performing drug testing that is directly related to an insurance product purchased from the insurer;

(D) preparing employer or employee handbooks;

(E) providing job descriptions postings, and applications;

(F) providing payroll services;

(G) providing performance reviews or performance review training;

(H) providing union advice;

(I) providing accounting services;

(J) providing discrimination testing; or

(K) providing data analysis information technology programs.

(6) A producer, consultant, or other licensee or an officer or employee of a licensee shall itemize and bill separately from any other insurance product or service offered or provided under Subsection (5)(b).

(7) (a) A de minimis gift or meal not to exceed a fair market value of $100 for each individual receiving the gift or meal is presumed to be a social courtesy not conditioned on a quote or purchase of a particular insurance product for purposes of Subsection (4)(a).

(b) Notwithstanding Subsection (4)(a), a de minimis gift or meal not to exceed $10 may be conditioned on receipt of a quote of a particular insurance product.

(8) If as provided under Subsection (5)(b) a producer, consultant, or other licensee is paid a fee to provide an item listed in Subsection (5)(b), [~~the licensee shall comply with Subsection 31A-23a-501(2) in charging the fee, except that~~] the fee paid for the item shall equal or exceed the fair market value of the item.

(9) For purposes of this section, "fair market value" means what a knowledgeable, willing, and unpressured buyer would pay for a product or service to a knowledgeable, willing, and unpressured seller in the open market without any connection to other goods, services, including insurance services, or contracts, including insurance contracts, sold by the producer, consultant, or other licensee, or an officer or employee of the licensee.

(10) Notwithstanding any other provision of this section, a producer, consultant, or other licensee, or an officer or employee of a licensee, may offer, make available, or provide goods or services, whether or not the goods or services are directly related to an insurance contract, for free or for less than fair market value if:

(a) the goods or services are available on the same terms to the general public;

(b) receipt of the goods or services is not contingent upon the immediate or future purchase, continuation, or termination of an insurance product or receipt of a quote for an insurance product; and

(c) the producer, consultant, or other licensee, or an officer or an employee of a licensee, does not retroactively charge for the goods or services based on an event subsequent to receipt of the goods or services.

(11) (a) A producer, consultant, or other licensee, or an officer or employee of a licensee, that provides or offers goods or services that are not described in Subsection (3) or (4) for free or less than fair market value shall conspicuously disclose to the recipient before the purchase of insurance, receipt of a quote for insurance, or designation of an agent of record, that receipt of the goods or services is not contingent on the purchase, continuation, or termination of an insurance product or receiving a quote for an insurance product.

(b) A producer, consultant, or other licensee, or an officer or employee of the licensee, may comply with this Subsection (11) by an oral or written disclosure.

Section 32. Section 31A-23a-406 is amended to read:

31A-23a-406. Title insurance producer's business.

(1) An individual title insurance producer or agency title insurance producer may do escrow involving real property transactions if all of the following exist:

(a) the individual title insurance producer or agency title insurance producer is licensed with:

(i) the title line of authority; and

(ii) the escrow subline of authority;

(b) the individual title insurance producer or agency title insurance producer is appointed by a title insurer authorized to do business in the state;

(c) except as provided in Subsection (3), the individual title insurance producer or agency title insurance producer issues one or more of the following as part of the transaction:

(i) an owner's policy [~~of~~] offering title insurance;

(ii) a lender's policy [~~of~~] offering title insurance; or

(iii) if the transaction does not involve a transfer of ownership, an endorsement to an owner's or a lender's policy [~~of~~] offering title insurance;

(d) money deposited with the individual title insurance producer or agency title insurance producer in connection with any escrow[~~: (i)~~] is deposited:

[~~(A)~~] (i) in a federally insured [~~financial~~] depository institution, as defined in Section 7-1-103, that:

(A) has an office in this state, if the individual title insurance producer or agency title insurance producer depositing the money is a resident licensee; and

(B) is authorized by the depository institution's primary regulator to engage in trust business, as defined in Section 7-5-1, in this state; and

[~~(B)~~] (ii) in a trust account that is separate from all other trust account money that is not related to real estate transactions;

[~~(ii)~~] (e) money deposited with the individual title insurance producer or agency title insurance producer in connection with any escrow is the property of the one or more persons entitled to the money under the provisions of the escrow; and

[~~(iii)~~] (f) money deposited with the individual title insurance producer or agency title insurance producer in connection with an escrow is segregated escrow by escrow in the records of the individual title insurance producer or agency title insurance producer;

[~~(e)~~] (g) earnings on money held in escrow may be paid out of the escrow account to any person in accordance with the conditions of the escrow;

[~~(f)~~] (h) the escrow does not require the individual title insurance producer or agency title insurance producer to hold:

(i) construction money; or

(ii) money held for exchange under Section 1031, Internal Revenue Code; and

[~~(g)~~] (i) the individual title insurance producer or agency title insurance producer shall maintain a physical office in Utah staffed by a person with an escrow subline of authority who processes the escrow.

(2) Notwithstanding Subsection (1), an individual title insurance producer or agency title insurance producer may engage in the escrow business if:

(a) the escrow involves:

(i) a mobile home;

(ii) a grazing right;

(iii) a water right; or

(iv) other personal property authorized by the commissioner; and

(b) the individual title insurance producer or agency title insurance producer complies with this section except for Subsection (1)(c).

(3) (a) Subsection (1)(c) does not apply if the transaction is for the transfer of real property from the School and Institutional Trust Lands Administration.

(b) This subsection does not prohibit an individual title insurance producer or agency title insurance producer from issuing a policy described in Subsection (1)(c) as part of a transaction described in Subsection (3)(a).

(4) Money held in escrow:

(a) is not subject to any debts of the individual title insurance producer or agency title insurance producer;

(b) may only be used to fulfill the terms of the individual escrow under which the money is accepted; and

(c) may not be used until the conditions of the escrow are met.

(5) Assets or property other than escrow money received by an individual title insurance producer or agency title insurance producer in accordance with an escrow shall be maintained in a manner that will:

(a) reasonably preserve and protect the asset or property from loss, theft, or damages; and

(b) otherwise comply with the general duties and responsibilities of a fiduciary or bailee.

(6) (a) A check from the trust account described in Subsection (1)(d) may not be drawn, executed, or dated, or money otherwise disbursed unless the segregated escrow account from which money is to be disbursed contains a sufficient credit balance consisting of collected and cleared money at the time the check is drawn, executed, or dated, or money is otherwise disbursed.

(b) As used in this Subsection (6), money is considered to be "collected and cleared," and may be disbursed as follows:

(i) cash may be disbursed on the same day the cash is deposited;

(ii) a wire transfer may be disbursed on the same day the wire transfer is deposited; and

(iii) the proceeds of one or more of the following financial instruments may be disbursed on the same day the financial instruments are deposited if received from a single party to the real estate transaction and if the aggregate of the financial instruments for the real estate transaction is less than $10,000:

(A) a cashier's check, certified check, or official check that is drawn on an existing account at a federally insured financial institution;

(B) a check drawn on the trust account of a principal broker or associate broker licensed under Title 61, Chapter 2f, Real Estate Licensing and Practices Act, if the individual title insurance

producer or agency title insurance producer has reasonable and prudent grounds to believe sufficient money will be available from the trust account on which the check is drawn at the time of disbursement of proceeds from the individual title insurance producer or agency title insurance producer's escrow account;

(C) a personal check not to exceed $500 per closing; or

(D) a check drawn on the escrow account of another individual title insurance producer or agency title insurance producer, if the individual title insurance producer or agency title insurance producer in the escrow transaction has reasonable and prudent grounds to believe that sufficient money will be available for withdrawal from the account upon which the check is drawn at the time of disbursement of money from the escrow account of the individual title insurance producer or agency title insurance producer in the escrow transaction.

(c) A check or deposit not described in Subsection (6)(b) may be disbursed:

(i) within the time limits provided under the Expedited Funds Availability Act, 12 U.S.C. Sec. 4001 et seq., as amended, and related regulations of the Federal Reserve System; or

(ii) upon notification from the financial institution to which the money has been deposited that final settlement has occurred on the deposited financial instrument.

(7) An individual title insurance producer or agency title insurance producer shall maintain a record of a receipt or disbursement of escrow money.

(8) An individual title insurance producer or agency title insurance producer shall comply with:

(a) Section 31A-23a-409;

(b) Title 46, Chapter 1, Notaries Public Reform Act; and

(c) any rules adopted by the Title and Escrow Commission, subject to Section 31A-2-404, that govern escrows.

(9) If an individual title insurance producer or agency title insurance producer conducts a search for real estate located in the state, the individual title insurance producer or agency title insurance producer shall conduct a reasonable search of the public records.

Section 33. Section 31A-23a-409 is amended to read:

31A-23a-409. Trust obligation for money collected.

(1) (a) Subject to Subsection (7), a licensee is a trustee for money that is paid to, received by, or collected by a licensee for forwarding to insurers or to insureds.

(b) (i) Except as provided in Subsection (1)(b)(ii), a licensee may not commingle trust funds with:

(A) the licensee's own money; or

(B) money held in any other capacity.

(ii) This Subsection (1)(b) does not apply to:

(A) amounts necessary to pay bank charges; and

(B) money paid by insureds and belonging in part to the licensee as a fee or commission.

(c) Except as provided under Subsection (4), a licensee owes to insureds and insurers the fiduciary duties of a trustee with respect to money to be forwarded to insurers or insureds through the licensee.

(d) (i) Unless money is sent to the appropriate payee by the close of the next business day after their receipt, the licensee shall deposit them in an account authorized under Subsection (2).

(ii) Money deposited under this Subsection (1)(d) shall remain in an account authorized under Subsection (2) until sent to the appropriate payee.

(2) Money required to be deposited under Subsection (1) shall be deposited:

(a) in a federally insured trust account in a depository institution, as defined in Section 7-1-103, which:

(i) has an office in this state, if the licensee depositing the money is a resident licensee;

(ii) has federal deposit insurance; and

(iii) is authorized by its primary regulator to engage in the trust business, as defined by Section 7-5-1, in this state; or

(b) in some other account, [~~approved by~~] that:

(i) the commissioner approves by rule or order[~~, providing~~]; and

(ii) provides safety comparable to [~~federally insured trust accounts~~] an account described in Subsection (2)(a).

(3) It is not a violation of Subsection (2)(a) if the amounts in the accounts exceed the amount of the federal insurance on the accounts.

(4) A trust account into which money is deposited may be interest bearing. The interest accrued on the account may be paid to the licensee, so long as the licensee otherwise complies with this section and with the contract with the insurer.

(5) A depository institution or other organization holding trust funds under this section may not offset or impound trust account funds against debts and obligations incurred by the licensee.

(6) A licensee who, not being lawfully entitled to do so, diverts or appropriates any portion of the money held under Subsection (1) to the licensee's own use, is guilty of theft under Title 76, Chapter 6, Part 4, Theft. Section 76-6-412 applies in determining the classification of the offense. Sanctions under Section 31A-2-308 also apply.

(7) A nonresident licensee:

(a) shall comply with Subsection (1)(a) by complying with the trust account requirements of the nonresident licensee's home state; and

(b) is not required to comply with the other provisions of this section.

Section 34. Section 31A-23a-501 is amended to read:

31A-23a-501. Licensee compensation.

(1) As used in this section:

(a) "Commission compensation" includes funds paid to or credited for the benefit of a licensee from:

(i) commission amounts deducted from insurance premiums on insurance sold by or placed through the licensee;

(ii) commission amounts received from an insurer or another licensee as a result of the sale or placement of insurance; or

(iii) overrides, bonuses, contingent bonuses, or contingent commissions received from an insurer or another licensee as a result of the sale or placement of insurance.

(b) (i) "Compensation from an insurer or third party administrator" means commissions, fees, awards, overrides, bonuses, contingent commissions, loans, stock options, gifts, prizes, or any other form of valuable consideration:

(A) whether or not payable pursuant to a written agreement; and

(B) received from:

(I) an insurer; or

(II) a third party to the transaction for the sale or placement of insurance.

(ii) "Compensation from an insurer or third party administrator" does not mean compensation from a customer that is:

(A) a fee or pass-through costs as provided in Subsection (1)(e); or

(B) a fee or amount collected by or paid to the producer that does not exceed an amount established by the commissioner by administrative rule.

(c) (i) "Customer" means:

(A) the person signing the application or submission for insurance; or

(B) the authorized representative of the insured actually negotiating the placement of insurance with the producer.

(ii) "Customer" does not mean a person who is a participant or beneficiary of:

(A) an employee benefit plan; or

(B) a group or blanket insurance policy or group annuity contract sold, solicited, or negotiated by the producer or affiliate.

(d) (i) "Noncommission compensation" includes all funds paid to or credited for the benefit of a licensee other than commission compensation.

(ii) "Noncommission compensation" does not include charges for pass-through costs incurred by the licensee in connection with obtaining, placing, or servicing an insurance policy.

(e) "Pass-through costs" include:

(i) costs for copying documents to be submitted to the insurer; and

(ii) bank costs for processing cash or credit card payments.

(2) (a) [~~A~~] Except as provided in Subsection (3), a licensee may receive from an insured or from a person purchasing an insurance policy, noncommission compensation [~~if the noncommission compensation is stated on a separate, written disclosure~~].

[~~(a) The disclosure required by this Subsection (2) shall:~~]

[~~(i) include the signature of the insured or prospective insured acknowledging the noncommission compensation;~~]

[~~(ii) clearly specify:~~]

[~~(A) the amount of any known noncommission compensation; and~~]

[~~(B) the type and amount, if known, of any potential and contingent noncommission compensation; and~~]

[~~(iii) be provided to the insured or prospective insured before the performance of the service.~~]

(b) Noncommission compensation shall be:

(i) limited to actual or reasonable expenses incurred for services; and

(ii) uniformly applied to all insureds or prospective insureds in a class or classes of business or for a specific service or services.

[~~(c) A copy of the signed disclosure required by this Subsection (2) shall be maintained by any licensee who collects or receives the noncommission compensation or any portion of the noncommission compensation.~~]

(c) The following additional noncommission compensation is authorized:

(i) compensation a surety bond's principal debtor pays, under procedures approved by a rule or order of the commissioner, to a producer of a compensation corporate surety for an extra service;

(ii) compensation an insurance producer receives for services performed for an insured in connection with a claim adjustment, if the producer:

(A) does not receive and is not promised compensation for aiding in the claim adjustment before the claim occurs; and

(B) is also licensed as a public adjuster in accordance with Section 31A-26-203;

(iii) compensation a consultant receives as a consulting fee, if the consultant complies with the requirements under Section 31A-23a-401; and

(iv) a compensation arrangement that the commissioner approves after finding that the arrangement:

(A) does not violate Section 31A-23a-401; and

(B) is not harmful to the public.

(d) All accounting records relating to noncommission compensation shall be maintained [~~by the person described in Subsection (2)(c)~~] in a manner that facilitates an audit.

(3) (a) A [~~licensee~~] surplus lines producer may receive noncommission compensation when acting as a producer for the insured in [~~connection with the actual sale or placement of insurance~~] a surplus lines transaction, if:

(i) the producer and the insured have agreed on the producer's noncommission compensation; and

(ii) the producer has disclosed to the insured the existence and source of any other compensation that accrues to the producer as a result of the transaction.

(b) The disclosure required by this Subsection (3) shall:

(i) include the signature of the insured or prospective insured acknowledging the noncommission compensation;

(ii) clearly specify:

(A) the amount of any known noncommission compensation;

(B) the type and amount, if known, of any potential and contingent noncommission compensation; and

(C) the existence and source of any other compensation; and

(iii) be provided to the insured or prospective insured before the performance of the service.

[~~(c) The following additional noncommission compensation is authorized:~~]

[~~(i) compensation received by a producer of a compensated corporate surety who under procedures approved by a rule or order of the commissioner is paid by surety bond principal debtors for extra services;~~]

[~~(ii) compensation received by an insurance producer who is also licensed as a public adjuster under Section 31A-26-203, for services performed for an insured in connection with a claim adjustment, so long as the producer does not receive or is not promised compensation for aiding in the claim adjustment prior to the occurrence of the claim;~~]

[~~(iii) compensation received by a consultant as a consulting fee, provided the consultant complies with the requirements of Section 31A-23a-401; or~~]

[~~(iv) other compensation arrangements approved by the commissioner after a finding that they do not violate Section 31A-23a-401 and are not harmful to the public.~~]

[~~(d) Subject to Section 31A-23a-402.5, a producer for the insured may receive compensation from an insured through an insurer, for the negotiation and sale of a health benefit plan, if there is a separate written agreement between the insured and the licensee for the compensation. An insurer who passes through the compensation from the insured to the licensee under this Subsection (3)(d) is not providing direct or indirect compensation or commission compensation to the licensee.~~]

(4) (a) For purposes of this Subsection (4):

(i) "Large customer" means an employer who, with respect to a calendar year and to a plan year:

(A) employed an average of at least 100 eligible employees on each business day during the preceding calendar year; and

(B) employs at least two employees on the first day of the plan year.

(ii) "Producer" includes:

(A) a producer;

(B) an affiliate of a producer; or

(C) a consultant.

(b) A producer may not accept or receive any compensation from an insurer or third party administrator for the initial placement of a health benefit plan, other than a hospital confinement indemnity policy, unless prior to a large customer's initial purchase of the health benefit plan the producer discloses in writing to the large customer that the producer will receive compensation from the insurer or third party administrator for the placement of insurance, including the amount or type of compensation known to the producer at the time of the disclosure.

(c) A producer shall:

(i) obtain the large customer's signed acknowledgment that the disclosure under Subsection (4)(b) was made to the large customer; or

(ii) (A) sign a statement that the disclosure required by Subsection (4)(b) was made to the large customer; and

(B) keep the signed statement on file in the producer's office while the health benefit plan placed with the large customer is in force.

(d) A licensee who collects or receives any part of the compensation from an insurer or third party administrator in a manner that facilitates an audit shall, while the health benefit plan placed with the large customer is in force, maintain a copy of:

(i) the signed acknowledgment described in Subsection (4)(c)(i); or

(ii) the signed statement described in Subsection (4)(c)(ii).

(e) Subsection (4)(c) does not apply to:

(i) a person licensed as a producer who acts only as an intermediary between an insurer and the customer's producer, including a managing general agent; or

(ii) the placement of insurance in a secondary or residual market.

(f) (i) A producer shall provide to a large customer listed in this Subsection (4)(f) an annual accounting, as defined by rule made by the department in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, of all amounts the producer receives in commission compensation from an insurer or third party administrator as a result of the sale or placement of a health benefit plan to a large customer that is:

(A) the state;

(B) a political subdivision or instrumentality of the state or a combination thereof primarily engaged in educational activities or the administration or servicing of educational activities, including the State Board of Education and its instrumentalities, an institution of higher education and its branches, a school district and its instrumentalities, a vocational and technical school, and an entity arising out of a consolidation agreement between entities described under this Subsection (4)(f)(i)(B);

(C) a county, city, town, local district under Title 17B, Limited Purpose Local Government Entities - Local Districts, special service district under Title 17D, Chapter 1, Special Service District Act, an entity created by an interlocal cooperation agreement under Title 11, Chapter 13, Interlocal Cooperation Act, or any other governmental entity designated in statute as a political subdivision of the state; or

(D) a quasi-public corporation, that has the same meaning as defined in Section 63E-1-102.

(ii) The department shall pattern the annual accounting required by this Subsection (4)(f) on the insurance related information on Internal Revenue Service Form 5500 and its relevant attachments.

(g) At the request of the department, a producer shall provide the department a copy of:

(i) a disclosure required by this Subsection (4); or

(ii) an Internal Revenue Service Form 5500 and its relevant attachments.

(5) This section does not alter the right of any licensee to recover from an insured the amount of any premium due for insurance effected by or through that licensee or to charge a reasonable rate of interest upon past-due accounts.

(6) This section does not apply to bail bond producers or bail enforcement agents as defined in Section 31A-35-102.

(7) A licensee may not receive noncommission compensation from an insurer, insured, or enrollee for providing a service or engaging in an act that is required to be provided or performed in order to receive commission compensation, except for the surplus lines transactions that do not receive commissions.

Section 35. Section 31A-26-102 is amended to read:

31A-26-102. Definitions.

As used in this chapter, unless expressly provided otherwise:

(1) "Company adjuster" means a person employed by an insurer[~~, or an entity under common control or ownership with the insurer,~~] who negotiates or settles claims on behalf of the [~~employer~~] insurer or an affiliated insurer.

(2) "Designated home state" means the state or territory of the United States or the District of Columbia:

(a) in which an insurance adjuster does not maintain the adjuster's principal:

(i) place of residence; or

(ii) place of business;

(b) if the resident state, territory, or District of Columbia of the adjuster does not license adjusters for the line of authority sought, the adjuster has qualified for the license as if the person were a resident in the state, territory, or District of Columbia described in Subsection (2)(a), including an applicable:

(i) examination requirement;

(ii) fingerprint background check requirement; and

(iii) continuing education requirement; and

(c) that the adjuster has designated [~~the state, territory, or District of Columbia~~] as the insurance adjuster's designated home state.

(3) "Home state" means:

(a) a state or territory of the United States or the District of Columbia in which an insurance adjuster:

(i) maintains the adjuster's principal:

(A) place of residence; or

(B) place of business; and

(ii) is licensed to act as a resident adjuster; or

(b) if the resident state, territory, or the District of Columbia described in Subsection (3)(a) does not license adjusters for the line of authority sought, a state, territory, or the District of Columbia:

(i) in which the adjuster is licensed;

(ii) in which the adjuster is in good standing; and

(iii) that the adjuster has designated as the adjuster's designated home state.

(4) "Independent adjuster" means an insurance adjuster required to be licensed under Section 31A-26-201, who engages in insurance adjusting as a representative of one or more insurers.

(5) "Insurance adjusting" or "adjusting" means directing or conducting the investigation,

negotiation, or settlement of a claim under an insurance policy, on behalf of an insurer, policyholder, or a claimant under an insurance policy.

(6) (a) "Organization" means a person other than a natural person[~~, and~~].

(b) "Organization" includes a sole proprietorship by which a natural person does business under an assumed name.

(7) "Portable electronics insurance" [~~is as~~] means the same as that term is defined in Section 31A-22-1802.

(8) "Public adjuster" means a person required to be licensed under Section 31A-26-201, who engages in insurance adjusting as a representative of insureds and claimants under insurance policies.

Section 36. Section 31A-28-103 is amended to read:

31A-28-103. Coverage and limitations.

(1) This part provides coverage for a policy or contract specified in Subsections (6) and (7) to a person who is:

(a) except for a nonresident certificate holder under a group policy or contract, a beneficiary, assignee, or payee of a person covered by Subsection (1)(b), including a health care provider rendering services covered under an accident and health insurance policy or certificate, regardless of where that person resides; or

(b) an owner of or a certificate holder or enrollee under a policy or contract, other than an unallocated annuity contract or structured settlement annuity, if the owner, enrollee, or certificate holder is:

(i) a resident of Utah; or

(ii) not a resident of Utah, but only if:

(A) the member insurer that issued the policy or contract is domiciled in this state;

(B) the state in which the person resides has an association similar to the association created by this part; and

(C) the person is not eligible for coverage by an association in any other state because the insurer was not licensed in the other states at the time specified in the other states' guaranty association's laws.

(2) For an unallocated annuity contract specified in Subsections (6) and (7):

(a) Subsection (1) does not apply; and

(b) except as provided in Subsections (4) and (5), this part provides coverage for the unallocated annuity contract specified in Subsection (2) to a person who is:

(i) the owner of the unallocated annuity contract if the contract is issued to or in connection with a specific benefit plan whose plan sponsor has its principal place of business in this state; or

(ii) an owner of an unallocated annuity contract issued to or in connection with a government lottery if the owner is a resident.

(3) For a structured settlement annuity specified in Subsections (6) and (7):

(a) Subsection (1) does not apply; and

(b) except as provided in Subsections (4) and (5), this part provides coverage for the structured settlement annuity specified in Subsections (6) and (7) to a person who is a payee under a structured settlement annuity, or beneficiary of a payee if the payee is deceased, if the payee:

(i) is a resident, regardless of where the contract owner resides;

(ii) is not a resident, but only if one or more of the contract owners of the structured settlement annuity is a resident, and the payee, beneficiary, or contract owner is not eligible for coverage by the association of the state in which the payee or contract owner resides; or

(iii) is not a resident, but only if:

(A) no contract owner of the structured settlement annuity is a resident;

(B) the insurer that issued the structured settlement annuity is domiciled in this state;

(C) the state in which the contract owner resides has an association similar to the association created by this part; and

(D) the payee, beneficiary, or the contract owner is not eligible for coverage by the association of the state in which the payee or contract owner resides.

(4) This part may not provide coverage for a policy or contract specified in Subsections (6) and (7) to a person who:

(a) is a payee or beneficiary of a contract owner resident of this state, if the payee or beneficiary is afforded any coverage by the association of another state;

(b) is covered under Subsection (2), if any coverage is provided to the person by the association of another state; or

(c) acquires rights to receive payments through a structured settlement factoring transaction, regardless of whether the transaction occurred before or after 26 U.S.C. Sec. 5891(c)(3)(A) became effective.

(5) (a) This part provides coverage for a policy or contract specified in Subsections (6) and (7) to a person who is a resident of this state and, in special circumstances, to a nonresident.

(b) To avoid duplicate coverage, if a person who would otherwise receive coverage under this part is provided coverage under the laws of any other state, the person may not be provided coverage under this part.

(c) In determining the application of this Subsection (5) when a person could be covered by the association of more than one state, whether as

an owner, payee, enrollee, beneficiary, or assignee, this part shall be construed in conjunction with other state laws to result in coverage by only one association.

(6) (a) Except as limited by this part, this part provides coverage to a person specified in Subsections (1) through (5) for:

(i) a direct nongroup life insurance, direct accident and health insurance, or direct annuity policy or contract;

(ii) a supplemental contract to a policy or contract described in Subsection (6)(a)(i);

(iii) a certificate under a direct group policy or contract; and

(iv) an unallocated annuity contract issued by a member insurer.

(b) For purposes of Subsection (6)(a), an annuity contract and a certificate under a group annuity contract includes:

(i) a guaranteed investment contract;

(ii) a deposit administration contract;

(iii) an unallocated funding agreement;

(iv) an allocated funding agreement;

(v) a structured settlement annuity;

(vi) an annuity issued to or in connection with a government lottery; and

(vii) an immediate or deferred annuity contract.

(7) This part does not provide coverage for:

(a) a portion of a policy or contract:

(i) not guaranteed by the member insurer; or

(ii) under which the risk is borne by the policy or contract owner;

(b) a policy or contract of reinsurance, unless:

(i) an assumption certificate is issued before the coverage date;

(ii) the assumption certificate required by Subsection (7)(b)(i) is in effect pursuant to the reinsurance policy or contract; and

(iii) the reinsurance contract is approved by the appropriate regulatory authorities;

(c) except as provided in Subsection (11)(e), a portion of a policy or contract to the extent that the rate of interest on which the policy or contract is based, or the interest rate, crediting rate, or similar factor determined by use of an index or other external reference stated in the policy or contract employed in calculating returns or changes in value exceeds:

(i) a rate of interest determined by subtracting two percentage points from Moody's Corporate Bond Yield Average averaged:

(A) over the period of four years before the coverage date with respect to the policy or contract; or

(B) for the corresponding lesser period if the policy or contract was issued less than four years before the association became obligated; or

(ii) a rate of interest determined by subtracting three percentage points from Moody's Corporate Bond Yield Average as most recently available as determined on or after the earlier of:

(A) the day on which the member insurer becomes an impaired insurer; or

(B) the day on which the member insurer becomes an insolvent insurer;

(d) a portion of a policy or contract issued to a plan or program of an employer, association, or other person to provide life, accident and health, or annuity benefits to its employees, members, or others, to the extent that the plan or program is self-funded or uninsured, including benefits payable by an employer, association, or other person under:

(i) a multiple employer welfare arrangement, as that term is defined in 29 U.S.C. Sec. 1002;

(ii) a minimum premium group insurance plan;

(iii) a stop-loss group insurance plan; or

(iv) an administrative services only contract;

(e) a portion of a policy or contract to the extent that it provides:

(i) a dividend;

(ii) an experience rating credit;

(iii) voting rights; or

(iv) payment of a fee or allowance to any person, including the policy or contract owner, in connection with the service to or administration of the policy or contract;

(f) an unallocated annuity contract issued to or in connection with a benefit plan protected under the federal Pension Benefit Guaranty Corporation, regardless of whether the federal Pension Benefit Guaranty Corporation has yet become liable to make any payment with respect to the benefit plan;

(g) a portion of an unallocated annuity contract that is not issued to or in connection with:

(i) a specific benefit plan of:

(A) employees;

(B) a union; or

(C) an association of natural persons; or

(ii) a government lottery;

(h) a portion of a policy or contract to the extent that the assessment required by Section 31A-28-109 that applies to the policy or contract is preempted by federal or state law;

(i) an obligation that does not arise under the express written terms of the policy or contract

issued by a member insurer to the enrollee, certificate holder, contract owner, or policy owner, including:

(i) a claim based on marketing materials;

(ii) a claim based on a side letter, rider, or other document that is issued by the member insurer without meeting applicable policy or contract form filing or approval requirements;

(iii) a misrepresentation regarding a policy or contract benefit;

(iv) an extra-contractual claim;

(v) a claim for penalties; or

(vi) a claim for consequential or incidental damages;

(j) a contract that establishes the member insurer's obligations to provide a book value accounting guaranty for defined contribution benefit plan participants by reference to a portfolio of assets that is owned by a person that is:

(i) (A) the benefit plan; or

(B) the benefit plan's trustee; and

(ii) not an affiliate of the member insurer;

(k) a portion of a policy or contract to the extent it provides for interest or other changes in value:

(i) to be determined by the use of an index or other external reference stated in the policy or contract; and

(ii) as of the date the member insurer becomes an impaired or insolvent insurer, whichever occurs earlier:

(A) that have not been credited to the policy or contract; or

(B) as to which the policy or contract owner's rights are subject to forfeiture;

(l) a policy or contract [~~providing~~] offering hospital, medical, prescription drug, or other health care benefit pursuant to:

(i) Part C or D of Title XVIII of the Social Security Act, 42 U.S.C. 1395 et seq.; [~~or~~]

(ii) Title XIX of the Social Security Act, 42 U.S.C. Sec. 1396 et seq.; or

(iii) Title XXI of the Social Security Act, 42 U.S.C. Sec. 1397aa et seq.; or

(m) a structured settlement annuity benefit to which a payee or beneficiary has transferred the payee or beneficiary's rights in a structured settlement factoring transaction, regardless of whether the transaction occurred before or after 26 U.S.C. Sec. 5891(c)(3)(A) became effective.

(8) The benefits for which the association may become liable may not exceed the lesser of:

(a) the contractual obligations for which the member insurer is liable or would have been liable if it were not an impaired or insolvent insurer;

(b) with respect to one life, regardless of the number of policies or contracts:

(i) for a life insurance policy:

(A) if the insured died before the coverage date, $500,000 of the death benefit;

(B) if the insurer received a valid request for cash surrender before the coverage date but has not paid the cash surrender value before the coverage date, $200,000 of cash surrender benefits; or

(C) if neither Subsection (8)(b)(i)(A) nor (B) applies, the covered portion of each benefit provided under the policy;

(ii) for an annuity contract, the covered portion of each benefit provided under the contract; and

(iii) for an accident and health insurance policy or contract:

(A) classified as a health benefit plan, $500,000; or

(B) not classified as a health benefit plan, the covered portion of each benefit provided under the policy;

(c) for an individual participating in a governmental retirement plan established under Section 401, 403(b), or 457, Internal Revenue Code, covered by an unallocated annuity contract, or a beneficiary of that individual if the individual is deceased, $250,000 in present value of annuity benefits, in the aggregate, including:

(i) net cash surrender; and

(ii) net cash withdrawal values; or

(d) for a payee of a structured settlement annuity or a beneficiary of the payee if the payee is deceased, the limits set forth in Subsection (8)(b).

(9) Notwithstanding Subsection (8), the association may not be obligated to cover more than:

(a) an aggregate of $500,000 in benefits for any one life under:

(i) Subsection (8)(b)(i)(A);

(ii) Subsection (8)(b)(i)(B);

(iii) Subsection (8)(b)(ii); and

(iv) Subsection (8)(b)(iii)(B);

(b) $5,000,000 in benefits for one owner of multiple nongroup policies of life insurance:

(i) whether the policy or contract owner is an individual, firm, corporation, or other person;

(ii) whether the persons insured are officers, managers, employees, or other persons; and

(iii) regardless of the number of policies and contracts held by the owner; and

(c) $5,000,000 in benefits, regardless of the number of contracts held by the contract owner or plan sponsor, for:

(i) one contract owner provided coverage under Subsection (2)(b)(ii); or

(ii) one plan sponsor whose plans own, directly or in trust, one or more unallocated annuity contracts not included in Subsection (8)(b)(ii).

(10) (a) Notwithstanding Subsection (9)(c) and except as provided in Subsection (10)(b), the association shall provide coverage if one or more unallocated annuity contracts are:

(i) covered contracts under this part;

(ii) owned by a trust or other entity for the benefit of two or more plan sponsors; and

(iii) the largest interest in the trust or entity owning the contract or contracts is held by a plan sponsor whose principal place of business is in the state.

(b) The association may not be obligated to cover more than $5,000,000 in benefits with respect to the unallocated contracts described in Subsection (10)(a).

(11) (a) The limitations set forth in Subsections (8) and (9) are limitations on the benefits for which the association is obligated before taking into account:

(i) the association's subrogation and assignment rights; or

(ii) the extent to which those benefits could be provided out of the assets of the impaired or insolvent insurer attributable to covered policies.

(b) The costs of the association's obligations under this part may be met by the use of assets:

(i) attributable to covered policies, as described in Subsection 31A-28-114(3)(c); or

(ii) reimbursed to the association pursuant to the association's subrogation and assignment rights.

(c) Benefits provided by a long-term care rider to a life insurance policy or annuity contract shall be considered the same type of benefits as the base life insurance policy or annuity contract to which the long-term care rider relates.

(d) In performing [~~its~~] the association's obligations to provide coverage under Section 31A-28-108, the association may not be required to guarantee, assume, reinsure, reissue, perform, or cause to be guaranteed, assumed, reinsured, reissued, or performed a contractual obligation of the insolvent or impaired insurer under a covered policy or contract that does not materially affect the economic values or economic benefits of the covered policy or contract.

(e) The exclusion from coverage described in Subsection (7)(c) does not apply to any portion of a policy or contract, including a rider, that [~~provides~~] offers long-term care or any other accident and health insurance benefit.

Section 37. Section 31A-35-404 is amended to read:

31A-35-404. Minimum financial requirements for bail bond agency license.

(1) (a) A bail bond agency that pledges the assets of a letter of credit from a Utah depository institution in connection with a judicial proceeding shall maintain an irrevocable letter of credit with a minimum face value of $300,000 assigned to the state from a Utah depository institution.

(b) Notwithstanding Subsection (1)(a), a bail bond agency described in Subsection (1)(a) that is licensed under this chapter [~~as of~~] on or before December 31, 1999, shall maintain an irrevocable letter of credit with a minimum face value of $250,000 assigned to the state from a Utah depository institution.

(2) (a) A bail bond agency that pledges personal or real property, or both, as security for a bail bond in connection with a judicial proceeding shall maintain[~~: (i) (A)~~] a verified financial statement for the current year:

[~~(I)~~] (i) reviewed by a certified public accountant; and

[~~(II)~~] (ii) showing a minimum net worth of [~~at least~~]:

(A) $300,000, at least $100,000 of which is in liquid assets; or

(B) if the bail bond agency is licensed under this chapter on or before December 31, 1999, $250,000, at least $50,000 of which is in liquid assets.

[~~(B) notwithstanding Subsection (2)(a)(i), if the bail bond agency is licensed under this chapter as of December 31, 1999, a current financial statement:~~]

[~~(I) reviewed by a certified public accountant; and~~]

[~~(II) showing a net worth of at least $250,000, at least $50,000 of which is in liquid assets;~~]

[~~(ii) a copy of the applicant's federal and state income tax returns for the preceding two years, but only for an original application; and~~]

[~~(iii) for each parcel of real property owned by the applicant and included in net worth calculations:~~]

[~~(A) a title letter or report, or a current abstract of title from the office of the county recorder; and~~]

[~~(B) (I) a certified appraisal made not more than six months prior to licensure for each parcel and a title report that is current as of the date of licensure, if the bail bond agency is in its first year of licensure and has pledged real property owned by the applicant; or~~]

[~~(II) a certified appraisal report or a current tax notice and a title letter or report, or a current abstract of title from the county recorder if the bail bond agency is in its second or subsequent year of licensure and has pledged real property owned by the applicant.~~]

(b) For purposes of this Subsection (2), only real or personal property located in Utah may be included in the net worth of the bail bond agency.

(3) A bail bond agency shall maintain a qualifying power of attorney issued by a surety insurer if:

(a) the bail bond agency is the agent of the surety insurer; and

(b) the surety insurer:

(i) sells bail bonds;

(ii) is in good standing in its state of domicile; and

(iii) is granted a certificate to write bail bonds in Utah.

(4) The commissioner may revoke the license of a bail bond agency that fails to maintain the minimum financial requirements required under this section.

(5) The commissioner may set by rule the limits on the aggregate amounts of bail bonds issued by a bail bond agency.

Section 38. Section 31A-35-406 is amended to read:

31A-35-406. Initial licensing, license renewal, and license reinstatement.

(1) An applicant for an initial bail bond agency license shall:

(a) complete and submit to the department an application;

(b) submit to the department, as applicable, a copy of the applicant's:

(i) irrevocable letter of credit, as required under Subsection 31A-35-404(1);

(ii) verified financial statement, as required under Subsection 31A-35-404(2); or

(iii) qualifying power of attorney, as required under Subsection 31A-35-404(3); and

(c) pay the department the applicable renewal fee established in accordance with Section 31A-3-103.

[~~(1)~~] (2) (a) A license under this chapter expires annually effective at midnight on August 14.

(b) To renew [~~its~~] a bail bond agency license issued under this chapter, on or before July 15, [~~a~~] the bail bond agency shall:

(i) complete and submit to the department a renewal application [~~to the department;~~] that includes certification that:

[~~(ii) require that a principal of the agency attends at least one board meeting each year; and~~]

(A) a principal of the agency attended or participated by telephone in at least one entire board meeting during the 12-month period before July 15; and

(B) as of May 1, the agency complies with aggregate bond limits established by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(ii) submit to the department, as applicable, a copy of the applicant's:

(A) irrevocable letter of credit, as required under Subsection 31A-35-404(1);

(B) verified financial statement, as required under Subsection 31A-35-404(2); or

(C) qualifying power of attorney, as required under Subsection 31A-35-404(3); and

(iii) pay the department the applicable renewal fee established in accordance with Section 31A-3-103.

[~~(b)~~] (c) A bail bond agency shall renew [~~its~~] the bail bond agency's license under this chapter annually as established by department rule, regardless of when the license is issued.

[~~(2)~~] (3) (a) A bail bond agency may apply for reinstatement of an expired bail bond agency license within one year [~~following the expiration of the license under Subsection (1) by:~~] after the day on which the license expires by complying with the renewal requirements described in Subsection (2).

[~~(a) submitting the renewal application required by Subsection (1); and~~]

[~~(b) paying a license reinstatement fee established in accordance with Section 31A-3-103.~~]

[~~(3)~~] (b) If a bail bond agency license has been expired for more than one year, the person applying for reinstatement of the bail bond agency license shall[~~:~~] comply with the initial licensing requirements described in Subsection (1).

[~~(a) submit a new application form to the commissioner; and~~]

[~~(b) pay the application fee established in accordance with Section 31A-3-103.~~]

(4) If a bail bond agency license is suspended, the applicant may not submit an application for a bail bond agency license until after [~~the end of~~] the day on which the period of suspension ends.

(5) [~~A~~] The department shall deposit a fee collected under this section [~~shall be deposited~~] in the restricted account created in Section 31A-35-407.

Section 39. Section 31A-37-102 is amended to read:

31A-37-102. Definitions.

As used in this chapter:

(1) (a) "Affiliated company" means a business entity that because of common ownership, control, operation, or management is in the same corporate or limited liability company system as:

(i) a parent;

(ii) an industrial insured; or

(iii) a member organization.

(b) [~~Notwithstanding Subsection (1)(a), the commissioner may issue~~] "Affiliated company" does

not include a business entity for which the commissioner issues an order finding that [~~a~~] the business entity is not an affiliated company.

(2) "Alien captive insurance company" means an insurer:

(a) formed to write insurance business for a parent or affiliate of the insurer; and

(b) licensed pursuant to the laws of an alien or foreign jurisdiction that imposes statutory or regulatory standards:

(i) on a business entity transacting the business of insurance in the alien or foreign jurisdiction; and

(ii) in a form acceptable to the commissioner.

(3) "Applicant captive insurance company" means an entity that has submitted an application for a certificate of authority for a captive insurance company, unless the application has been denied or withdrawn.

(4) "Association" means a legal association of two or more persons that has been in continuous existence for at least one year if:

(a) the association or its member organizations:

(i) own, control, or hold with power to vote all of the outstanding voting securities of an association captive insurance company incorporated as a stock insurer; or

(ii) have complete voting control over an association captive insurance company incorporated as a mutual insurer;

(b) the association's member organizations collectively constitute all of the subscribers of an association captive insurance company formed as a reciprocal insurer; or

(c) the association or [~~its~~] the association's member organizations have complete voting control over an association captive insurance company formed as a limited liability company.

(5) "Association captive insurance company" means a business entity that insures risks of:

(a) a member organization of the association;

(b) an affiliate of a member organization of the association; and

(c) the association.

(6) "Branch business" means an insurance business transacted by a branch captive insurance company in this state.

(7) "Branch captive insurance company" means an alien captive insurance company that has a certificate of authority from the commissioner to transact the business of insurance in this state through a captive insurance company that is domiciled outside of this state.

(8) "Branch operation" means a business operation of a branch captive insurance company in this state.

(9) (a) "Captive insurance company" means the same as that term is defined in Section 31A-1-301.

(b) "Captive insurance company" includes any of the following formed or holding a certificate of authority under this chapter:

[~~(a)~~] (i) a branch captive insurance company;

[~~(b)~~] (ii) a pure captive insurance company;

[~~(c)~~] (iii) an association captive insurance company;

[~~(d)~~] (iv) a sponsored captive insurance company;

[~~(e)~~] (v) an industrial insured captive insurance company, including an industrial insured captive insurance company formed as a risk retention group captive in this state pursuant to the provisions of the Federal Liability Risk Retention Act of 1986;

[~~(f)~~] (vi) a special purpose captive insurance company; or

[~~(g)~~] (vii) a special purpose financial captive insurance company.

(10) "Commissioner" means Utah's Insurance Commissioner or the commissioner's designee.

(11) "Common ownership and control" means that two or more captive insurance companies are owned or controlled by the same person or group of persons as follows:

(a) in the case of a captive insurance company that is a stock corporation, the direct or indirect ownership of 80% or more of the outstanding voting stock of the stock corporation;

(b) in the case of a captive insurance company that is a mutual corporation, the direct or indirect ownership of 80% or more of the surplus and the voting power of the mutual corporation;

(c) in the case of a captive insurance company that is a limited liability company, the direct or indirect ownership by the same member or members of 80% or more of the membership interests in the limited liability company; or

(d) in the case of a sponsored captive insurance company, a protected cell is a separate captive insurance company owned and controlled by the protected cell's participant, only if:

(i) the participant is the only participant with respect to the protected cell; and

(ii) the participant is the sponsor or is affiliated with the sponsor of the sponsored captive insurance company through common ownership and control.

(12) "Consolidated debt to total capital ratio" means the ratio of Subsection (12)(a) to (b).

(a) This Subsection (12)(a) is an amount equal to the sum of all debts and hybrid capital instruments including:

(i) all borrowings from depository institutions;

(ii) all senior debt;

(iii) all subordinated debts;

(iv) all trust preferred shares; and

(v) all other hybrid capital instruments that are not included in the determination of consolidated GAAP net worth issued and outstanding.

(b) This Subsection (12)(b) is an amount equal to the sum of:

(i) total capital consisting of all debts and hybrid capital instruments as described in Subsection (12)(a); and

(ii) shareholders' equity determined in accordance with generally accepted accounting principles for reporting to the United States Securities and Exchange Commission.

(13) "Consolidated GAAP net worth" means the consolidated shareholders' or members' equity determined in accordance with generally accepted accounting principles for reporting to the United States Securities and Exchange Commission.

(14) "Controlled unaffiliated business" means a business entity:

(a) (i) in the case of a pure captive insurance company, that is not in the corporate or limited liability company system of a parent or the parent's affiliate; or

(ii) in the case of an industrial insured captive insurance company, that is not in the corporate or limited liability company system of an industrial insured or an affiliated company of the industrial insured;

(b) (i) in the case of a pure captive insurance company, that has a contractual relationship with a parent or affiliate; or

(ii) in the case of an industrial insured captive insurance company, that has a contractual relationship with an industrial insured or an affiliated company of the industrial insured; and

(c) whose risks that are or will be insured by a pure captive insurance company, an industrial insured captive insurance company, or both, are managed in accordance with Subsection 31A-37-106(1)(j) by:

(i) (A) a pure captive insurance company; or

(B) an industrial insured captive insurance company; or

(ii) a parent or affiliate of:

(A) a pure captive insurance company; or

(B) an industrial insured captive insurance company.

(15) "Criminal act" means an act for which a person receives a verdict or finding of guilt after a criminal trial or a plea of guilty or nolo contendere to a criminal charge.

[~~(15)~~] (16) "Establisher" means a person who establishes a business entity or a trust.

[~~(16)~~] (17) "Governing body" means the persons who hold the ultimate authority to direct and manage the affairs of an entity.

[~~(17)~~] (18) "Industrial insured" means an insured:

(a) that produces insurance:

(i) by the services of a full-time employee acting as a risk manager or insurance manager; or

(ii) using the services of a regularly and continuously qualified insurance consultant;

(b) whose aggregate annual premiums for insurance on all risks total at least $25,000; and

(c) that has at least 25 full-time employees.

[~~(18)~~] (19) "Industrial insured captive insurance company" means a business entity that:

(a) insures risks of the industrial insureds that comprise the industrial insured group; and

(b) may insure the risks of:

(i) an affiliated company of an industrial insured; or

(ii) a controlled unaffiliated business of:

(A) an industrial insured; or

(B) an affiliated company of an industrial insured.

[~~(19)~~] (20) "Industrial insured group" means:

(a) a group of industrial insureds that collectively:

(i) own, control, or hold with power to vote all of the outstanding voting securities of an industrial insured captive insurance company incorporated or organized as a limited liability company as a stock insurer; or

(ii) have complete voting control over an industrial insured captive insurance company incorporated or organized as a limited liability company as a mutual insurer;

(b) a group that is:

(i) created under the Product Liability Risk Retention Act of 1981, 15 U.S.C. Sec. 3901 et seq., as amended, as a corporation or other limited liability association; and

(ii) taxable under this title as a:

(A) stock corporation; or

(B) mutual insurer; or

(c) a group that has complete voting control over an industrial captive insurance company formed as a limited liability company.

[~~(20)~~] (21) "Member organization" means a person that belongs to an association.

[~~(21)~~] (22) "Parent" means a person that directly or indirectly owns, controls, or holds with power to vote more than 50% of the outstanding securities of an organization.

[~~(22)~~] (23) "Participant" means an entity that is insured by a sponsored captive insurance company:

(a) if the losses of the participant are limited through a participant contract to the assets of a protected cell; and

(b) (i) the entity is permitted to be a participant under Section 31A-37-403; or

(ii) the entity is an affiliate of an entity permitted to be a participant under Section 31A-37-403.

[~~(23)~~] (24) "Participant contract" means a contract by which a sponsored captive insurance company:

(a) insures the risks of a participant; and

(b) limits the losses of the participant to the assets of a protected cell.

[~~(24)~~] (25) "Protected cell" means a separate account established and maintained by a sponsored captive insurance company for one participant.

[~~(25)~~] (26) "Pure captive insurance company" means a business entity that insures risks of a parent or affiliate of the business entity.

[~~(26)~~] (27) "Special purpose financial captive insurance company" [~~is as~~] means the same as that term is defined in Section 31A-37a-102.

[~~(27)~~] (28) "Sponsor" means an entity that:

(a) meets the requirements of Section 31A-37-402; and

(b) is approved by the commissioner to:

(i) provide all or part of the capital and surplus required by applicable law in an amount of not less than $350,000, which amount the commissioner may increase by order if the commissioner considers it necessary; and

(ii) organize and operate a sponsored captive insurance company.

[~~(28)~~] (29) "Sponsored captive insurance company" means a captive insurance company:

(a) in which the minimum capital and surplus required by applicable law is provided by one or more sponsors;

(b) that is formed or holding a certificate of authority under this chapter;

(c) that insures the risks of a separate participant through the contract; and

(d) that segregates each participant's liability through one or more protected cells.

[~~(29)~~] (30) "Treasury rates" means the United States Treasury strip asked yield as published in the Wall Street Journal as of a balance sheet date.

Section 40. Section 31A-37-202 is amended to read:

31A-37-202. Permissive areas of insurance.

(1) Except as provided in Subsections (2) and (3), a captive insurance company may not directly insure a risk other than the risk of the captive insurance company's parent or affiliated company.

(2) In addition to the risks described in Subsection (1), an association captive insurance company may insure the risk of:

(a) a member organization of the association captive insurance company's association; or

(b) an affiliate of a member organization of the association captive insurance company's association.

(3) The following may insure a risk of a controlled unaffiliated business:

(a) an industrial insured captive insurance company;

(b) a protected cell;

(c) a pure captive insurance company; or

(d) a sponsored captive insurance company.

(4) To the extent allowed by a captive insurance company's organizational charter, a captive insurance company may provide any type of insurance described in this title, except:

(a) workers' compensation insurance;

(b) personal motor vehicle insurance;

(c) homeowners' insurance; and

(d) any component of the types of insurance described in Subsections (4)(a) through (c).

(5) A captive insurance company may not provide coverage for:

(a) a wager or gaming risk;

(b) loss of an election; or

(c) the penal consequences of a crime[~~; or~~].

[~~(d) punitive damages.~~]

(6) Unless the punitive damages award arises out of a criminal act of an insured, a captive insurance company may provide coverage for punitive damages awarded, including through adjudication or compromise, against the captive insurance company's:

(a) parent;

(b) affiliated company; or

(c) controlled unaffiliated business.

[~~(6)~~] (7) Notwithstanding Subsection (4), if approved by the commissioner, a captive insurance company may insure as a reimbursement a limited layer or deductible of workers' compensation coverage.

Section 41. Section 31A-37-204 is amended to read:

31A-37-204. Paid-in capital -- Other capital.

(1) (a) The commissioner may not issue a certificate of authority to a company described in Subsection (1)(c) unless the company possesses and

thereafter maintains unimpaired paid-in capital and unimpaired paid-in surplus of:

(i) in the case of a pure captive insurance company, not less than $250,000;

(ii) in the case of an association captive insurance company, not less than $750,000;

(iii) in the case of an industrial insured captive insurance company incorporated as a stock insurer, not less than $700,000;

(iv) in the case of a sponsored captive insurance company, not less than [~~$1,000,000~~] $500,000, of which a minimum of [~~$350,000~~] $200,000 is provided by the sponsor; or

(v) in the case of a special purpose captive insurance company, an amount determined by the commissioner after giving due consideration to the company's business plan, feasibility study, and pro-formas, including the nature of the risks to be insured.

(b) The paid-in capital and surplus required under this Subsection (1) may be in the form of:

(i) (A) cash; or

(B) cash equivalent;

(ii) an irrevocable letter of credit:

(A) issued by:

(I) a bank chartered by this state; or

(II) a member bank of the Federal Reserve System; and

(B) approved by the commissioner;

(iii) marketable securities as determined by Subsection (5); or

(iv) some other thing of value approved by the commissioner, for a period not to exceed 45 days, to facilitate the formation of a captive insurance company in this state pursuant to an approved plan of liquidation and reorganization of another captive insurance company or alien captive insurance company in another jurisdiction.

(c) This Subsection (1) applies to:

(i) a pure captive insurance company;

(ii) a sponsored captive insurance company;

(iii) a special purpose captive insurance company;

(iv) an association captive insurance company; or

(v) an industrial insured captive insurance company.

(2) (a) The commissioner may, under Section 31A-37-106, prescribe additional capital based on the type, volume, and nature of insurance business transacted.

(b) The capital prescribed by the commissioner under this Subsection (2) may be in the form of:

(i) cash;

(ii) an irrevocable letter of credit issued by:

(A) a bank chartered by this state; or

(B) a member bank of the Federal Reserve System; or

(iii) marketable securities as determined by Subsection (5).

(3) (a) Except as provided in Subsection (3)(c), a branch captive insurance company, as security for the payment of liabilities attributable to branch operations, shall, through its branch operations, establish and maintain a trust fund:

(i) funded by an irrevocable letter of credit or other acceptable asset; and

(ii) in the United States for the benefit of:

(A) United States policyholders; and

(B) United States ceding insurers under:

(I) insurance policies issued; or

(II) reinsurance contracts issued or assumed.

(b) The amount of the security required under this Subsection (3) shall be no less than:

(i) the capital and surplus required by this chapter; and

(ii) the reserves on the insurance policies or reinsurance contracts, including:

(A) reserves for losses;

(B) allocated loss adjustment expenses;

(C) incurred but not reported losses; and

(D) unearned premiums with regard to business written through branch operations.

(c) Notwithstanding the other provisions of this Subsection (3):

(i) the commissioner may permit a branch captive insurance company that is required to post security for loss reserves on branch business by its reinsurer to reduce the funds in the trust account required by this section by the same amount as the security posted if the security remains posted with the reinsurer; and

(ii) a branch captive insurance company that is the result of the licensure of an alien captive insurance company that is not formed in an alien jurisdiction is not subject to the requirements of this Subsection (3).

(4) (a) A captive insurance company may not pay the following without the prior approval of the commissioner:

(i) a dividend out of capital or surplus in excess of the limits under Section 16-10a-640; or

(ii) a distribution with respect to capital or surplus in excess of the limits under Section 16-10a-640.

(b) The commissioner shall condition approval of an ongoing plan for the payment of dividends or other distributions on the retention, at the time of each payment, of capital or surplus in excess of:

(i) amounts specified by the commissioner under Section 31A-37-106; or

(ii) determined in accordance with formulas approved by the commissioner under Section 31A-37-106.

(5) For purposes of this section, marketable securities means:

(a) a bond or other evidence of indebtedness of a governmental unit in the United States or Canada or any instrumentality of the United States or Canada; or

(b) securities:

(i) traded on one or more of the following exchanges in the United States:

(A) New York;

(B) American; or

(C) NASDAQ;

(ii) when no particular security, or a substantially related security, applied toward the required minimum capital and surplus requirement of Subsection (1) represents more than 50% of the minimum capital and surplus requirement; and

(iii) when no group of up to four particular securities, consolidating substantially related securities, applied toward the required minimum capital and surplus requirement of Subsection (1) represents more than 90% of the minimum capital and surplus requirement.

(6) Notwithstanding Subsection (5), to protect the solvency and liquidity of a captive insurance company, the commissioner may reject the application of specific assets or amounts of specific assets to satisfying the requirement of Subsection (1).

Section 42. Section 31A-37-303 is amended to read:

31A-37-303. Reinsurance.

(1) (a) A captive insurance company may cede risks to any insurance company approved by the commissioner.

(b) [~~A~~] Except as provided in Subsection (1)(c), a captive insurance company may provide reinsurance[~~, as authorized in this title,~~] on risks ceded by any other insurer with prior approval of the commissioner.

(c) A captive insurance company may not provide reinsurance on a punitive damages risk ceded by an insurer, unless the punitive damages risk is the risk of the captive insurance company's:

(i) parent;

(ii) affiliated company; or

(iii) controlled unaffiliated business.

(2) (a) A captive insurance company may take credit for reserves on risks or portions of risks ceded to reinsurers if the captive insurance company complies with:

(i) Section 31A-17-404, 31A-17-404.1, 31A-17-404.3, or 31A-17-404.4; or [~~if the captive insurance company complies with~~]

(ii) other requirements as the commissioner may establish by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(b) Unless the reinsurer is in compliance with Section 31A-17-404, 31A-17-404.1, 31A-17-404.3, or 31A-17-404.4 or a rule adopted under Subsection (2)(a)(ii), a captive insurance company may not take credit for:

(i) reserves on risks ceded to a reinsurer; or

(ii) portions of risks ceded to a reinsurer.

Section 43. Section 31A-37-701 is amended to read:

31A-37-701. Certificate of dormancy.

(1) In accordance with the provisions of this section, a captive insurance company, other than a risk retention group, may apply, without fee, to the commissioner for a certificate of dormancy.

(2) (a) A captive insurance company, other than a risk retention group, is eligible for a certificate of dormancy if the captive insurance company:

(i) has ceased transacting the business of insurance, including the issuance of insurance policies; and

(ii) has no remaining insurance liabilities or obligations associated with insurance business transactions or insurance policies.

(b) For purposes of Subsection (2)(a)(ii), the commissioner may disregard liabilities or obligations for which the captive insurance company has withheld sufficient funds or that are otherwise sufficiently secured.

(3) Except as provided in Subsection [~~(5)~~] (4), a captive insurance company that holds a certificate of dormancy is subject to all requirements of this chapter.

(4) A captive insurance company that holds a certificate of dormancy:

(a) shall possess and maintain unimpaired paid-in capital and unimpaired paid-in surplus of:

(i) in the case of a pure captive insurance company or a special purpose captive insurance company, not less than $25,000;

(ii) in the case of an association captive insurance company, not less than $75,000; or

(iii) in the case of a sponsored captive insurance company, not less than [~~$100,000~~] $50,000, of which the sponsor provides at least [~~$35,000 is provided by the sponsor~~] $20,000; and

(b) is not required to:

(i) subject to Subsection (5), submit an annual audit or statement of actuarial opinion;

(ii) maintain an active agreement with an independent auditor or actuary; or

(iii) hold an annual meeting of the captive insurance company in the state.

(5) The commissioner may require a captive insurance company that holds a certificate of dormancy to submit an annual audit if the commissioner determines that there are concerns regarding the captive insurance company's solvency or liquidity.

(6) To maintain a certificate of dormancy and in lieu of a certificate of authority renewal fee, no later than July 1 of each year, a captive insurance company shall pay an annual dormancy renewal fee that is equal to 50% of the captive insurance's company's certificate of authority renewal fee.

(7) A captive insurance company may consecutively renew a certificate of dormancy no more than five times.

Section 44. Section 31A-45-501 is amended to read:

31A-45-501. Access to health care providers.

(1) As used in this section:

(a) "Class of health care provider" means a health care provider or a health care facility regulated by the state within the same professional, trade, occupational, or certification category established under Title 58, Occupations and Professions, or within the same facility licensure category established under Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act.

(b) "Covered health care services" or "covered services" means health care services for which an enrollee is entitled to receive under the terms of a [~~health maintenance~~] managed care organization contract.

(c) "Credentialed staff member" means a health care provider with active staff privileges at an independent hospital or federally qualified health center.

(d) "Federally qualified health center" means as defined in the Social Security Act, 42 U.S.C. Sec. 1395x.

(e) "Independent hospital" means a general acute hospital or a critical access hospital that:

(i) is either:

(A) located 20 miles or more from any other general acute hospital or critical access hospital; or

(B) licensed as of January 1, 2004;

(ii) is licensed pursuant to Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act; [~~and~~]

(iii) is controlled by a board of directors of which 51% or more reside in the county where the hospital is located; and[~~:~~]

(iv) (A) the hospital's board of directors is ultimately responsible for the policy and financial decisions of the hospital; or

(B) the hospital is licensed for 60 or fewer beds and is not owned, in whole or in part, by an entity that owns or controls a health maintenance organization if the hospital is a contracting facility of the organization.

(f) "Noncontracting provider" means an independent hospital, federally qualified health center, or credentialed staff member that has not contracted with a managed care organization to provide health care services to enrollees of the managed care organization.

(2) Except for a managed care organization that is under the common ownership or control of an entity with a hospital located within 10 paved road miles of an independent hospital, a managed care organization shall pay for covered health care services rendered to an enrollee by an independent hospital, a credentialed staff member at an independent hospital, or a credentialed staff member at his local practice location if:

(a) the enrollee:

(i) lives or resides within 30 paved road miles of the independent hospital; or

(ii) if Subsection (2)(a)(i) does not apply, lives or resides in closer proximity to the independent hospital than a contracting hospital;

(b) the independent hospital is located prior to December 31, 2000 in a county with a population density of less than 100 people per square mile, or the independent hospital is located in a county with a population density of less than 30 people per square mile; and

(c) the enrollee has complied with the prior authorization and utilization review requirements otherwise required by the managed care organization contract.

(3) A managed care organization shall pay for covered health care services rendered to an enrollee at a federally qualified health center if:

(a) the enrollee:

(i) lives or resides within 30 paved road miles of the federally qualified health center; or

(ii) if Subsection (3)(a)(i) does not apply, lives or resides in closer proximity to the federally qualified health center than a contracting provider;

(b) the federally qualified health center is located in a county with a population density of less than 30 people per square mile; and

(c) the enrollee has complied with the prior authorization and utilization review requirements otherwise required by the managed care organization contract.

(4) (a) A managed care organization shall reimburse a noncontracting provider or the enrollee for covered services rendered pursuant to Subsection (2) a like dollar amount as [~~it~~] the managed care organization pays to contracting providers under a noncapitated arrangement for comparable services.

(b) A managed care organization shall reimburse a federally qualified health center or the enrollee for

covered services rendered pursuant to Subsection (3) a like amount as paid by the managed care organization under a noncapitated arrangement for comparable services to a contracting provider in the same class of health care providers as the provider who rendered the service.

(5) (a) A noncontracting independent hospital may not balance bill a patient when the [~~health maintenance~~] managed care organization reimburses a noncontracting independent hospital or an enrollee in accordance with Subsection (4)(a).

(b) A noncontracting federally qualified health center may not balance bill a patient when the federally qualified health center or the enrollee receives reimbursement in accordance with Subsection (4)(b).

(6) A noncontracting provider may only refer an enrollee to another noncontracting provider so as to obligate the enrollee's managed care organization to pay for the resulting services if:

(a) the noncontracting provider making the referral or the enrollee has received prior authorization from the organization for the referral; or

(b) the practice location of the noncontracting provider to whom the referral is made:

(i) is located in a county with a population density of less than 25 people per square mile; and

(ii) is within 30 paved road miles of:

(A) the place where the enrollee lives or resides; or

(B) the independent hospital or federally qualified health center at which the enrollee may receive covered services pursuant to Subsection (2) or (3).

(7) Notwithstanding this section, a managed care organization may contract directly with an independent hospital, federally qualified health center, or credentialed staff member.

(8) (a) A managed care organization that violates any provision of this section is subject to sanctions as determined by the commissioner in accordance with Section 31A-2-308.

(b) Violations of this section include:

(i) failing to provide the notice required by Subsection (8)(d) by placing the notice in any managed care organization's provider list that is supplied to enrollees, including any website maintained by the managed care organization;

(ii) failing to provide notice of an enrollee's rights under this section when:

(A) an enrollee makes personal contact with the managed care organization by telephone, electronic transaction, or in person; and

(B) the enrollee inquires about the enrollee's rights to access an independent hospital or federally qualified health center; and

(iii) refusing to reprocess or reconsider a claim, initially denied by the managed care organization, when the provisions of this section apply to the claim.

(c) The commissioner shall, pursuant to Chapter 2, Part 2, Duties and Powers of Commissioner:

(i) adopt rules as necessary to implement this section;

(ii) identify in rule:

(A) the counties with a population density of less than 100 people per square mile;

(B) independent hospitals as defined in Subsection (1)(e); and

(C) federally qualified health centers as defined in Subsection (1)(d).

(d) (i) A managed care organization shall:

(A) use the information developed by the commissioner under Subsection (8)(c) to identify the rural counties, independent hospitals, and federally qualified health centers that are located in the managed care organization's service area; and

(B) include the providers identified under Subsection (8)(d)(i)(A) in the notice required in Subsection (8)(d)(ii).

(ii) The managed care organization shall provide the following notice, in bold type, to enrollees as specified under Subsection (8)(b)(i), and shall keep the notice current:

"You may be entitled to coverage for health care services from the following noncontracted providers if you live or reside within 30 paved road miles of the listed providers, or if you live or reside in closer proximity to the listed providers than to your contracted providers:

This list may change periodically, please check on our website or call for verification. Please be advised that if you choose a noncontracted provider you will be responsible for any charges not covered by your health insurance plan.

If you have questions concerning your rights to see a provider on this list you may contact your managed care organization at _____. If the managed care organization does not resolve your problem, you may contact the Office of Consumer Health Assistance in the Insurance Department, toll free."

(e) A person whose interests are affected by an alleged violation of this section may contact the Office of Consumer Health Assistance and request assistance, or file a complaint as provided in Section 31A-2-216.

CHAPTER 253
H. B. 77
Passed March 5, 2021
Approved March 17, 2021
Effective May 5, 2021

AVIATION LIABILITY INSURANCE AMENDMENTS

Chief Sponsor: Cheryl K. Acton
Senate Sponsor: Wayne A. Harper

LONG TITLE

General Description:

This bill amends provisions related to aircraft liability insurance requirements.

Highlighted Provisions:

This bill:

- establishes requirements for aircraft public liability insurance coverage;
- requires an owner of an aircraft to provide proof of public liability insurance as part of a lease agreement with a term of six months or more between the aircraft owner and a public airport; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

31A-22-1300, as last amended by Laws of Utah 1998, Chapter 270
72-10-117, as last amended by Laws of Utah 2019, Chapter 431

ENACTS:

72-10-111.5, Utah Code Annotated 1953

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

Section 1. Section 31A-22-1300 is amended to read:

31A-22-1300. Aircraft public liability insurance.

[~~Subsections 72-10-117(5) and (6) apply to aircraft liability insurance.~~]

Policies containing aircraft public liability insurance coverage for an aircraft shall include minimum coverage of:

(1) $50,000 per person for bodily injury or death in any one accident;

(2) $50,000 for property damage in any one accident; and

(3) $100,000 in any one accident, whether for property damage, or bodily injury or death.

Section 2. Section 72-10-111.5 is enacted to read:

72-10-111.5. Aircraft public liability insurance requirements -- Proof of public liability insurance.

(1) Subject to Subsection (2), an aircraft owner shall:

(a) maintain public liability insurance coverage for the aircraft that conforms to the requirements described in Section 31A-22-1300; and

(b) provide a certificate of insurance issued by an insurer as proof of the owner's valid public liability insurance covering the aircraft as part of any lease agreement with a term of six months or more between the aircraft owner and a public airport.

(2) Subsection (1) applies to an aircraft only if the aircraft is:

(a) an operable fixed-wing aircraft; and

(b) used for flight.

Section 3. Section 72-10-117 is amended to read:

72-10-117. Aircraft landing permits -- Eligible aircraft -- Special licenses -- Rules -- Proof of insurance -- Bonds.

(1) (a) The county executive of any county may issue [~~permits~~] a permit authorizing an aircraft to land on or take off from designated county roads.

(b) [~~Permits may be issued~~] The county executive of any county may issue a permit to an aircraft operated:

(i) as an air [~~ambulances~~] ambulance;

(ii) as a pesticide [~~applicators~~] applicator; or

(iii) by or under contract with a public [~~utilities~~] utility and used in connection with inspection, maintenance, installation, operation, construction, or repair of property owned or operated by the public utility.

(2) [~~Permits may also be issued by the county executive~~] The county executive of any county may issue a permit under this section to other aircraft under rules made by the department.

(3) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department shall make rules for issuing a special license to:

(i) an aircraft permitted by a county executive to land on a county road; and

(ii) a pilot permitted to operate an aircraft licensed under this subsection from a county road.

(b) The rules made under this subsection shall include provisions for the safety of the flying and motoring public.

(4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department shall make rules for the landing and taking off of aircraft to which permits have been issued under this section, which may include annual reports of activities of the aircraft.

(5) [~~Prior to obtaining a permit or license to any aircraft~~] Before obtaining a permit or license under this section, the applicant shall file with the county executive and the department [~~a certificate of~~

~~insurance executed by an insurance company or association authorized to transact business in this state upon a form prescribed by the department that there is in full force and effect a policy of insurance covering the aircraft for liability against:~~] proof of public liability insurance coverage that meets the requirements described in Section 31A-22-1300.

[~~(a) personal injury or death for any one person in an amount of $50,000 or more;~~]

[~~(b) any one accident in an amount of $100,000 or more; and~~]

[~~(c) property damage in an amount of $50,000 or more.~~]

(6) In addition to the insurance required under this section, either the county executive or the department may require the posting of a bond to indemnify the county or department against liability resulting from issuing the permit or license under this section.

CHAPTER 254
H. B. 134
Passed February 22, 2021
Approved March 17, 2021
Effective May 5, 2021

NOTICE OF PUBLIC EDUCATION REPORTING REQUIREMENT

Chief Sponsor: Susan Pulsipher
Senate Sponsor: Lincoln Fillmore

LONG TITLE

General Description:

This bill enacts provisions related to legislation that affects reporting requirements for local education agencies.

Highlighted Provisions:

This bill:

- requires the State Board of Education to inform the Office of the Legislative Fiscal Analyst when a bill impacts reporting requirements for local education agencies; and
- provides that the Office of the Legislative Fiscal Analyst shall disclose any impacts to the bill's sponsor and, upon request, to any other legislator.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

36-12-13, as last amended by Laws of Utah 2018, Chapter 248
53E-3-507, as last amended by Laws of Utah 2020, Chapter 365

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

Section 1. Section 36-12-13 is amended to read:

36-12-13. Office of the Legislative Fiscal Analyst established -- Powers, functions, and duties -- Qualifications.

(1) There is established an Office of the Legislative Fiscal Analyst as a permanent staff office for the Legislature.

(2) The powers, functions, and duties of the Office of the Legislative Fiscal Analyst under the supervision of the fiscal analyst are:

(a) (i) to estimate general revenue collections, including comparisons of:

(A) current estimates for each major tax type to long-term trends for that tax type;

(B) current estimates for federal fund receipts to long-term federal fund trends; and

(C) current estimates for tax collections and federal fund receipts to long-term trends deflated for the inflationary effects of debt monetization; and

(ii) to report the analysis required under Subsection (2)(a)(i) to the Legislature's Executive Appropriations Committee before each annual general session of the Legislature;

(b) to analyze in detail the state budget before the convening of each legislative session and make recommendations to the Legislature on each item or program appearing in the budget, including:

(i) funding for and performance of programs, acquisitions, and services currently undertaken by state government to determine whether each department, agency, institution, or program should:

(A) continue at its current level of expenditure;

(B) continue at a different level of expenditure; or

(C) be terminated; and

(ii) increases or decreases to spending authority and other resource allocations for the current and future fiscal years;

(c) to prepare on all proposed bills fiscal estimates that reflect:

(i) potential state government revenue impacts;

(ii) anticipated state government expenditure changes;

(iii) anticipated expenditure changes for county, municipal, local district, or special service district governments; and

(iv) anticipated direct expenditure by Utah residents and businesses, including the unit cost, number of units, and total cost to all impacted residents and businesses;

(d) to indicate whether each proposed bill will impact the regulatory burden for Utah residents or businesses, and if so:

(i) whether the impact increases or decreases the regulatory burden; and

(ii) whether the change in burden is high, medium, or low;

(e) beginning in 2017 and repeating every three years after 2017, to prepare the following cycle of analyses of long-term fiscal sustainability:

(i) in year one, the joint revenue volatility report required under Section 63J-1-205;

(ii) in year two, a long-term budget for programs appropriated from major funds and tax types; and

(iii) in year three, a budget stress test comparing estimated future revenue to and expenditure from major funds and tax types under various potential economic conditions;

(f) to report instances in which the administration may be failing to carry out the expressed intent of the Legislature;

(g) to propose and analyze statutory changes for more effective operational economies or more effective administration;

(h) to prepare, before each annual general session of the Legislature, a summary showing the current status of the following as compared to the past nine fiscal years:

(i) debt;

(ii) long-term liabilities;

(iii) contingent liabilities;

(iv) General Fund borrowing;

(v) reserves;

(vi) fund and nonlapsing balances; and

(vii) cash funded capital investments;

(i) to make recommendations for addressing the items described in Subsection (2)(h) in the upcoming annual general session of the Legislature;

(j) to prepare, after each session of the Legislature, a summary showing the effect of the final legislative program on the financial condition of the state;

(k) to conduct organizational and management improvement studies;

(l) to prepare and deliver upon request of any interim committee or the Legislative Management Committee, reports on the finances of the state and on anticipated or proposed requests for appropriations;

(m) to recommend areas for research studies by the executive department or the interim committees;

(n) to appoint and develop a professional staff within budget limitations;

(o) to prepare and submit the annual budget request for the office;

(p) to develop a taxpayer receipt:

(i) available to taxpayers through a website; and

(ii) that allows a taxpayer to view on the website an estimate of how the taxpayer's tax dollars are expended for government purposes; and

(q) to publish or provide other information on taxation and government expenditures that may be accessed by the public.

(3) The legislative fiscal analyst shall have a master's degree in public administration, political science, economics, accounting, or the equivalent in academic or practical experience.

(4) In carrying out the duties provided for in this section, the legislative fiscal analyst may obtain access to all records, documents, and reports necessary to the scope of the legislative fiscal analyst's duties according to the procedures contained in Title 36, Chapter 14, Legislative Subpoena Powers.

(5) The Office of the Legislative Fiscal Analyst shall provide any information the State Board of Education reports in accordance with Subsection 53E-3-507(7) to:

(a) the chief sponsor of the proposed bill; and

(b) upon request, any legislator.

Section 2. Section 53E-3-507 is amended to read:

53E-3-507. Powers of the state board.

The state board:

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

(2) may apply for, receive, administer, and distribute funds made available through programs of federal and state governments to promote and aid career and technical education;

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

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

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

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

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

(6) shall, after consulting with school districts, charter schools, the Utah Board of Higher Education, technical colleges, Salt Lake Community College's School of Applied Technology, Snow College, Utah State University Eastern, and Utah State University Blanding, prepare and submit an annual report in accordance with Section 53E-1-203 detailing:

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

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

(i) at technical colleges; and

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

(7) when the Office of the Legislative Fiscal Analyst requests information from the board related to a fiscal note for a proposed bill, shall

report to the Office of the Legislative Fiscal Analyst, in addition to the other information requested, whether the proposed bill will impact the reporting requirements for local education agencies and if so:

(a) whether the impact increases or decreases the reporting requirements;

(b) whether the change in requirements is high, medium, or low; and

(c) the effect of the change in requirements on the amount and quality of information available to taxpayers, parents, and legislators.

CHAPTER 255
H. B. 206
Passed March 2, 2021
Approved March 17, 2021
Effective July 1, 2021

EPINEPHRINE AUTO-INJECTOR ACCESS AMENDMENTS

Chief Sponsor: Suzanne Harrison
Senate Sponsor: Michael S. Kennedy

LONG TITLE

General Description:

This bill creates a mechanism to increase Utahns' access to epinephrine auto-injectors.

Highlighted Provisions:

This bill:

- directs the Public Employees' Benefit and Insurance Program to expand the discount program to allow participants to purchase epinephrine auto-injectors at a discounted price;
- modifies the circumstances under which the Public Employees' Benefit and Insurance Program offers the discount program; and
- permits a health benefit plan that provides coverage for epinephrine auto-injectors to not reimburse a participant who purchased an epinephrine auto-injector through the discount program.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

49-20-421, as enacted by Laws of Utah 2020, Chapter 310

ENACTS:

31A-22-656, Utah Code Annotated 1953

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

Section 1. Section 31A-22-656 is enacted to read:

31A-22-656. Coverage of epinephrine auto-injector.

A health benefit plan entered into or renewed on or after July 1, 2021, that provides coverage of an epinephrine auto-injector is not required to reimburse a participant, as that term is defined in Section 49-20-421, for an epinephrine auto-injector the participant obtains through the discount program described in Section 49-20-421.

Section 2. Section 49-20-421 is amended to read:

49-20-421. Prescription discount program.

(1) As used in this section:

(a) "Diabetes" means:

(i) complete insulin deficiency or type 1 diabetes;

(ii) insulin resistant with partial insulin deficiency or type 2 diabetes; or

(iii) elevated blood glucose levels induced by pregnancy or gestational diabetes.

(b) "Discount program" means a process developed by the program that allows participants to purchase [~~insulin~~] a qualified prescription at a discounted, post-rebate rate.

(c) "Epinephrine auto-injector" means the same as that term is defined in Section 26-41-102.

[~~(c)~~] (d) "Individual with diabetes" means an individual who has been diagnosed with diabetes and who uses insulin to treat diabetes.

[~~(d)~~] (e) "Insulin" means a prescription drug that contains insulin.

[~~(e)~~] (f) "Participant" means a resident of Utah who:

[~~(i) uses insulin to treat diabetes;~~]

(i) has a qualified condition;

(ii) does not receive health coverage under the program; and

(iii) enrolls in the discount program.

[~~(f)~~] (g) "Prescription drug" means the same as that term is defined in Section 58-17b-102.

(h) "Qualified condition" means the individual:

(i) uses insulin to treat diabetes; or

(ii) has a prescription or a standing prescription drug order for an epinephrine auto-injector issued under Section 58-17b-1005.

(i) "Qualified prescription" means:

(i) insulin; or

(ii) epinephrine auto-injector.

[~~(g)~~] (j) "Rebate" means the same as that term is defined in Section 31A-46-102.

(2) Notwithstanding Subsection 49-20-201(1), and for the purpose of the [~~insulin~~] discount program only, the program shall offer [~~an insulin~~] a discount program that allows participants to purchase [~~insulin~~] a qualified prescription at a discounted, post-rebate price when a rebate is available.

(3) The discount program described in Subsection (2) shall:

(a) provide a participant with a card or electronic document that identifies the participant as eligible for the discount on a qualified prescription related to the participant's qualified condition;

(b) provide a participant with information about pharmacies that will honor the discount;

(c) allow a participant to purchase [~~insulin~~] a qualified prescription at a discounted, post-rebate price; and

(d) provide a participant with instructions to pursue a reimbursement of the purchase price from the participant's health insurer.

(4) The discount program shall charge a price for [~~insulin~~] a qualified prescription that allows the program to retain only enough of any rebate for the [~~insulin~~] qualified prescription to make the state risk pool whole for providing a discounted [~~insulin~~] qualified prescription to participants.

Section 3. Effective date.

This bill takes effect on July 1, 2021.

CHAPTER 256
H. B. 212
Passed March 4, 2021
Approved March 17, 2021
Effective May 5, 2021

HOMELESS YOUTH PROTECTION AMENDMENTS

Chief Sponsor: Elizabeth Weight
Senate Sponsor: Luz Escamilla
Cosponsor: Steve Waldrip

LONG TITLE

General Description:

This bill modifies provisions related to shelter, care, and services for homeless youth.

Highlighted Provisions:

This bill:

- clarifies that a person who provides shelter, care, or services to certain homeless youth may refer the homeless youth to temporary or permanent housing; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

62A-4a-502, as enacted by Laws of Utah 2019, Chapter 242

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

Section 1. Section 62A-4a-502 is amended to read:

62A-4a-502. Consent to shelter, care, or services by a homeless youth.

(1) As used in this section:

(a) "Care" means providing:

(i) assistance to obtain food, clothing, hygiene products, or other basic necessities;

(ii) access to a bed, showering facility, or transportation; or

(iii) assistance with school enrollment or attendance.

(b) "Homeless youth" means the same as that term is defined in Section 62A-4a-501.

(c) "Licensed services" means a service provided by a temporary homeless youth shelter, a youth services center, or other facility that is licensed to provide the service to a homeless youth.

(d) "Service" means:

(i) youth services, as defined in Section 62A-7-101;

(ii) child welfare or juvenile court case management or advocacy;

(iii) aftercare services, as defined in 45 C.F.R. 1351.1; or

(iv) independent living skills training.

(e) "Temporary homeless youth shelter" means the same as that term is defined in Section 62A-4a-501.

(f) "Youth services center" means the same as that term is defined in Section 62A-4a-501.

(2) A homeless youth may consent to temporary shelter, care, or licensed services if the homeless youth:

(a) is at least 15 years old; and

(b) manages the homeless youth's own financial affairs, regardless of the source of income.

(3) In determining consent under Subsection (2), a person may rely on the homeless youth's verbal or written statement describing the homeless youth's ability to consent to temporary shelter, care, or licensed services.

(4) A person who provides shelter, care, or licensed services to a homeless youth who consents to the shelter, care, or licensed services under Subsection (2):

(a) shall report to the division as required under Section 62A-4a-403 and Subsection 62A-4a-501(4); and

(b) may provide the homeless youth a referral to [~~safe~~] temporary or permanent housing, employment [~~services~~] resources, medical or dental [~~care~~] providers, or counseling.

CHAPTER 257
H. B. 213
Passed February 19, 2021
Approved March 17, 2021
Effective May 5, 2021

CANINE INJURY AMENDMENTS

Chief Sponsor: Steve R. Christiansen
Senate Sponsor: Michael S. Kennedy
Cosponsor: Travis M. Seegmiller

LONG TITLE

General Description:

This bill amends provisions related to liability for an injury caused by a dog.

Highlighted Provisions:

This bill:

- defines terms;
- provides that a person is not liable for an injury or death caused by the person's dog to another animal in certain circumstances; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

18-1-1, as last amended by Laws of Utah 2019, Chapter 92

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

Section 1. Section 18-1-1 is amended to read:

18-1-1. Liability and damages for dog injury -- Exceptions.

(1) (a) Except as provided in [~~Subsection (2)~~] Subsections (2) and (3), a person who owns or keeps a dog is liable for an injury caused by the dog, regardless of whether:

(i) the dog is vicious or mischievous; or

(ii) the owner knows the dog is vicious or mischievous.

(b) Damages for an injury described in Subsection (1)(a) shall be determined in accordance with Section 78B-5-818.

(2) Neither the state nor any county, city, metro township, or town in the state nor any peace officer employed by the state, a county, a city, a metro township, or a town shall be liable in damages for an injury caused by a dog, if:

(a) the dog has been trained to assist in law enforcement; and

(b) the injury occurs while the dog is reasonably and carefully being used in the apprehension, arrest, or location of a suspected offender or in maintaining or controlling the public order.

(3) A person who owns or keeps a dog is not liable for an injury or death caused by the dog if:

(a) the injury or death is to another animal;

(b) the injury or death occurs:

(i) on the person's private property; and

(ii) while the dog is reasonably secured within a fence or other enclosure; and

(c) the animal described in Subsection (3)(a) entered the person's private property without consent.

CHAPTER 258
H. B. 233
Passed March 4, 2021
Approved March 17, 2021
Effective May 5, 2021

EDUCATION IMMUNIZATION MODIFICATIONS

Chief Sponsor: Mark A. Strong
Senate Sponsor: Michael S. Kennedy

LONG TITLE

General Description:

This bill ensures the availability of vaccination exemptions in higher education.

Highlighted Provisions:

This bill:

- prohibits the Utah Board of Higher Education and institutions within the higher education system from requiring proof of vaccination unless certain vaccination exemptions are available; and
- prohibits higher education institutions and local education agencies that offer both remote and in-person learning from requiring a vaccine-exempt student to participate remotely rather than in-person.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53B-3-103, as last amended by Laws of Utah 2014, Chapter 298
53G-9-303, as renumbered and amended by Laws of Utah 2018, Chapter 3

ENACTS:

53B-2-112, Utah Code Annotated 1953

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

Section 1. Section 53B-2-112 is enacted to read:

53B-2-112. (Codified as 53B-2-113) Vaccination requirements -- Exemptions.

(1) An institution of higher education described in Section 53B-2-101 may not require proof of vaccination as a condition for enrollment or attendance unless the institution allows for the following exemptions:

(a) a medical exemption if the student provides to the institution a statement that the claimed exemption is for a medical reason; and

(b) a personal exemption if the student provides to the institution a statement that the claimed exemption is for a personal or religious belief.

(2) An institution that offers both remote and in-person learning options may not deny a student who is exempt from a requirement to receive a vaccine under Subsection (1) to participate in an in-person learning option based upon the student's vaccination status.

(3) Subsections (1) and (2) do not apply to a student studying in a medical setting at an institution of higher education.

(4) Nothing in this section restricts a state or local health department from acting under applicable law to contain the spread of an infectious disease.

Section 2. Section 53B-3-103 is amended to read:

53B-3-103. Power of board to adopt rules and enact regulations.

(1) The board may enact regulations governing the conduct of university and college students, faculty, and employees.

(2) (a) The board may:

(i) enact and authorize higher education institutions to enact traffic, parking, and related regulations governing all individuals on campuses and other facilities owned or controlled by the institutions or the board; and

(ii) acknowledging that the Legislature has the authority to regulate, by law, firearms at higher education institutions:

(A) authorize higher education institutions to establish no more than one secure area at each institution as a hearing room as prescribed in Section 76-8-311.1, but not otherwise restrict the lawful possession or carrying of firearms; and

(B) authorize a higher education institution to make a rule that allows a resident of a dormitory located at the institution to request only roommates who are not licensed to carry a concealed firearm under Section 53-5-704 or 53-5-705.

(b) In addition to the requirements and penalty prescribed in Subsections 76-8-311.1(3), (4), (5), and (6), the board shall make rules to ensure that:

(i) reasonable means such as mechanical, electronic, x-ray, or similar devices are used to detect firearms, ammunition, or dangerous weapons contained in the personal property of or on the person of any individual attempting to enter a secure area hearing room;

(ii) an individual required or requested to attend a hearing in a secure area hearing room is notified in writing of the requirements related to entering a secured area hearing room under this Subsection (2)(b) and Section 76-8-311.1;

(iii) the restriction of firearms, ammunition, or dangerous weapons in the secure area hearing room is in effect only during the time the secure area hearing room is in use for hearings and for a reasonable time before and after its use; and

(iv) reasonable space limitations are applied to the secure area hearing room as warranted by the number of individuals involved in a typical hearing.

(c) (i) The board may not require proof of vaccination as a condition for enrollment or attendance within the system of higher education

unless the board allows for the following exemptions:

(A) a medical exemption if the student provides to the institution a statement that the claimed exemption is for a medical reason; and

(B) a personal exemption if the student provides to the institution a statement that the claimed exemption is for a personal or religious belief.

(ii) An institution that offers both remote and in-person learning options may not deny a student who is exempt from a requirement to receive a vaccine under Subsection (2)(c)(i) to participate in an in-person learning option based upon the student's vaccination status.

(iii) Subsections (2)(c)(i) and (ii) do not apply to a student studying in a medical setting at an institution of higher education.

(iv) Nothing in this section restricts a state or local health department from acting under applicable law to contain the spread of an infectious disease.

(3) The board shall enact regulations that require all testimony be given under oath during an employee grievance hearing for a non-faculty employee of an institution of higher education if the grievance hearing relates to the non-faculty employee's:

(a) demotion; or

(b) termination.

(4) The board and institutions may enforce these rules and regulations in any reasonable manner, including the assessment of fees, fines, and forfeitures, the collection of which may be by withholding from money owed the violator, the imposition of probation, suspension, or expulsion from the institution, the revocation of privileges, the refusal to issue certificates, degrees, and diplomas, through judicial process or any reasonable combination of these alternatives.

Section 3. Section 53G-9-303 is amended to read:

53G-9-303. Grounds for exemption from required vaccines -- Renewal.

(1) A student is exempt from the requirement to receive a vaccine required under Section 53G-9-305 if the student qualifies for a medical or personal exemption from the vaccination under Subsection (2) or (3).

(2) A student qualifies for a medical exemption from a vaccination required under Section 53G-9-305 if the student's legally responsible individual provides to the student's school:

(a) a completed vaccination exemption form; and

(b) a written notice signed by a licensed health care provider stating that, due to the physical condition of the student, administration of the vaccine would endanger the student's life or health.

(3) A student qualifies for a personal exemption from a vaccination required under Section 53G-9-305 if the student's legally responsible individual provides to the student's school a completed vaccination exemption form, stating that the student is exempt from the vaccination because of a personal or religious belief.

(4) (a) A vaccination exemption form submitted under this section is valid for as long as the student remains at the school to which the form first is presented.

(b) If the student changes schools before the student is old enough to enroll in kindergarten, the vaccination exemption form accepted as valid at the student's previous school is valid until the earlier of the day on which:

(i) the student enrolls in kindergarten; or

(ii) the student turns six years old.

(c) If the student changes schools after the student is old enough to enroll in kindergarten but before the student is eligible to enroll in grade 7, the vaccination exemption form accepted as valid at the student's previous school is valid until the earlier of the day on which:

(i) the student enrolls in grade 7; or

(ii) the student turns 12 years old.

(d) If the student changes schools after the student is old enough to enroll in grade 7, the vaccination exemption form accepted as valid at the student's previous school is valid until the student completes grade 12.

(e) Notwithstanding Subsections (4)(b) and (c), a vaccination exemption form obtained through completion of the online education module created in Section 26-7-9 is valid for at least two years.

(5) An LEA that offers both remote and in-person learning options may not deny a student who is exempt from a requirement to receive a vaccine under Subsection (1) to participate in an in-person learning option based upon the student's vaccination status.

(6) Nothing in this section restricts a state or local health department from acting under applicable law to contain the spread of an infectious disease.

CHAPTER 259
H. B. 234
Passed March 5, 2021
Approved March 17, 2021
Effective May 5, 2021

DIVISION OF REAL ESTATE AMENDMENTS

Chief Sponsor: Calvin R. Musselman
Senate Sponsor: Kirk A. Cullimore

LONG TITLE

General Description:

This bill amends provisions of Title 61, Securities Division – Real Estate Division, regarding real estate.

Highlighted Provisions:

This bill:

- removes an unused definition;
- permits the Division of Real Estate to suspend or revoke the registration of an appraisal management company registered in the state if the company fails to pay certain fees;
- permits disciplinary action, under certain conditions, against an entity for a violation of statute made while the person was registered, or should have been registered, as an appraisal management company;
- permits the Division of Real Estate, under certain conditions, to enter into a reciprocal licensing agreement with another jurisdiction for a principal broker, associate broker, or sales agent license;
- amends the rulemaking requirements of the Real Estate Commission;
- amends registration requirements under the Real Estate Licensing and Practices Act;
- expands the membership of the Real Estate Appraiser Licensing and Certification Board;
- changes quorum requirements for the Real Estate Appraiser Licensing and Certification Board; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

61-2-203, as last amended by Laws of Utah 2019, Chapter 337
61-2e-102, as last amended by Laws of Utah 2018, Chapter 213
61-2e-205, as enacted by Laws of Utah 2018, Chapter 213
61-2e-402, as last amended by Laws of Utah 2012, Chapter 369
61-2f-103, as last amended by Laws of Utah 2020, Chapters 352 and 373
61-2f-203, as last amended by Laws of Utah 2016, Chapter 25
61-2f-206, as last amended by Laws of Utah 2017, Chapter 182
61-2g-204, as last amended by Laws of Utah 2020, Chapters 352 and 373

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

Section 1. Section 61-2-203 is amended to read:

61-2-203. Adjudicative proceedings -- Citation authority.

(1) The division shall comply with Title 63G, Chapter 4, Administrative Procedures Act, in an adjudicative proceeding under a chapter the division administers.

(2) The division may initiate an adjudicative proceeding through:

(a) a notice of agency action; or

(b) a notice of formal or informal proceeding.

(3) The provisions of Title 63G, Chapter 4, Administrative Procedures Act, do not apply to the issuance of a citation under Subsection (4), unless a licensee or another person authorized by law to contest the validity or correctness of a citation commences an adjudicative proceeding contesting the citation.

(4) In addition to any other statutory penalty for a violation related to an occupation or profession regulated under this title, the division may issue a citation to a person who, upon inspection or investigation, the division concludes to have violated:

(a) Subsection 61-2c-201(1), which requires licensure;

(b) Subsection 61-2c-201(4), which requires [~~entity~~] licensure;

(c) Subsection 61-2c-205(3), which requires notification of a change in specified information regarding a licensee;

(d) Subsection 61-2c-205(4), which requires notification of a specified legal action;

(e) Subsection 61-2c-301(1)(g), which prohibits failing to respond to the division within the required time period;

(f) Subsection 61-2c-301(1)(h), which prohibits making a false representation to the division;

(g) Subsection 61-2c-301(1)(i), which prohibits taking a dual role in a transaction;

(h) Subsection 61-2c-301(1)(l), which prohibits engaging in false or misleading advertising;

(i) Subsection 61-2c-301(1)(t), which prohibits advertising the ability to do licensed work if unlicensed;

(j) Subsection 61-2c-302(5), which requires a mortgage entity to create and file a quarterly report of condition;

(k) Subsection 61-2e-201(1), which requires registration;

(l) Subsection 61-2e-203(4), which requires a notification of a change in ownership;

(m) Subsection 61-2e-307(1)(c), which prohibits use of an unregistered fictitious name;

(n) Subsection 61-2e-401(1)(c), which prohibits failure to respond to a division request;

(o) Subsection 61-2f-201(1), which requires licensure;

(p) Subsection 61-2f-206(1), which requires [~~entity~~] registration;

(q) Subsection 61-2f-301(1), which requires notification of a specified legal action;

(r) Subsection 61-2f-401(1)(a), which prohibits making a substantial misrepresentation;

(s) Subsection 61-2f-401(3), which prohibits undertaking real estate while not affiliated with a principal broker;

(t) Subsection 61-2f-401(9), which prohibits failing to keep specified records and prohibits failing to make the specified records available for division inspection;

(u) Subsection [~~61-2f-401(13)~~] 61-2f-401(12), which prohibits false, misleading, or deceptive advertising;

(v) Subsection [~~61-2f-401(20)~~] 61-2f-401(18), which prohibits failing to respond to a division request;

(w) Subsection 61-2g-301(1), which requires licensure;

(x) Subsection 61-2g-405(3), which requires making records required to be maintained available to the division;

(y) Subsection 61-2g-501(2)(c), which requires a person to respond to a division request in an investigation within 10 days after the day on which the request is served;

(z) Subsection 61-2g-502(2)(f), which prohibits using a nonregistered fictitious name;

(aa) a rule made pursuant to any Subsection listed in this Subsection (4);

(bb) an order of the division; or

(cc) an order of the commission or board that oversees the person's profession.

(5) (a) In accordance with Subsection (10), the division may assess a fine against a person for a violation of a provision listed in Subsection (4), as evidenced by:

(i) an uncontested citation;

(ii) a stipulated settlement; or

(iii) a finding of a violation in an adjudicative proceeding.

(b) The division may, in addition to or in lieu of a fine under Subsection (5)(a), order the person to cease and desist from an activity that violates a provision listed in Subsection (4).

(6) Except as provided in Subsection (8)(d), the division may not use a citation to effect a license:

(a) denial;

(b) probation;

(c) suspension; or

(d) revocation.

(7) (a) A citation issued by the division shall:

(i) be in writing;

(ii) describe with particularity the nature of the violation, including a reference to the provision of the statute, rule, or order alleged to have been violated;

(iii) clearly state that the recipient must notify the division in writing within 20 calendar days after the day on which the citation is served if the recipient wishes to contest the citation at a hearing conducted under Title 63G, Chapter 4, Administrative Procedures Act; and

(iv) clearly explain the consequences of failure to timely contest the citation or to make payment of a fine assessed by the citation within the time period specified in the citation.

(b) The division may issue a notice in lieu of a citation.

(8) (a) A citation becomes final:

(i) if within 20 calendar days after the day on which the citation is served, the person to whom the citation was issued fails to request a hearing to contest the citation; or

(ii) if the director or the director's designee conducts a hearing pursuant to a timely request for a hearing and issues an order finding that a violation has occurred.

(b) The division may extend, for cause, the 20-day period to contest a citation.

(c) A citation that becomes the final order of the division due to a person's failure to timely request a hearing is not subject to further agency review.

(d) (i) The division may refuse to issue, refuse to renew, suspend, revoke, or place on probation the license of a licensee who fails to comply with a citation after the citation becomes final.

(ii) The failure of a license applicant to comply with a citation after the citation becomes final is a ground for denial of the license application.

(9) (a) The division may not issue a citation under this section after the expiration of one year after the day on which the violation occurs.

(b) The division may issue a notice to address a violation that is outside of the one-year citation period.

(10) The director or the director's designee shall assess a fine with a citation in an amount that is no more than:

(a) for a first offense, $1,000;

(b) for a second offense, $2,000; and

(c) for each offense subsequent to a second offense, $2,000 for each day of continued offense.

(11) (a) An action for a first or second offense for which the division has not issued a final order does not preclude the division from initiating a subsequent action for a second or subsequent offense while the preceding action is pending.

(b) The final order on a subsequent action is considered a second or subsequent offense, respectively, provided the preceding action resulted in a first or second offense, respectively.

(12) (a) If a person does not pay a penalty, the director may collect the unpaid penalty by:

(i) referring the matter to a collection agency; or

(ii) bringing an action in the district court of the county:

(A) where the person resides; or

(B) where the office of the director is located.

(b) A county attorney or the attorney general of the state shall provide legal services to the director in an action to collect the penalty.

(c) A court may award reasonable attorney fees and costs to the division in an action the division brings to enforce the provisions of this section.

Section 2. Section 61-2e-102 is amended to read:

61-2e-102. Definitions.

As used in this chapter:

(1) "Applicable appraisal standards" means:

(a) the Uniform Standards for Professional Appraisal Practice:

(i) published by the Appraisal Foundation; and

(ii) as adopted under Section 61-2g-403;

(b) Chapter 2g, Real Estate Appraiser Licensing and Certification Act; and

(c) rules made by the board under Chapter 2g, Real Estate Appraiser Licensing and Certification Act.

(2) "Appraisal" [~~is as~~] means the same as that term is defined in Section 61-2g-102.

(3) "Appraisal foundation" [~~is as~~] means the same as that term is defined in Section 61-2g-102.

(4) "Appraisal management company" means a third party authorized by one of the following persons to broker an appraisal of a dwelling that is collateral for a residential mortgage loan:

(a) a creditor; or

(b) an underwriter of, or other principal in, a secondary mortgage market.

(5) "Appraisal management service" means:

(a) recruiting, selecting, or retaining an appraiser;

(b) contracting with an appraiser to perform a real estate appraisal activity for a client;

(c) managing the appraisal process, including one or more of the following administrative services:

(i) receiving an appraisal order or an appraisal report;

(ii) submitting a completed appraisal report to a client;

(iii) collecting a fee from a client for a service provided; or

(iv) paying an appraiser for a real estate appraisal activity; or

(d) reviewing or verifying the work of an appraiser.

(6) "Appraisal report" [~~is as~~] means the same as that term is defined in Section 61-2g-102.

(7) "Appraisal Subcommittee" means the Appraisal Subcommittee of the Federal Financial Institutions Examination Council.

(8) "Appraiser" means an individual who engages in a real estate appraisal activity.

(9) (a) "Appraiser panel" means a network, list, or roster of appraisers who are:

(i) licensed or certified in a state, territory, or the District of Columbia; and

(ii) approved by an appraisal management company to perform appraisals as independent contractors for the appraisal management company.

(b) "Appraiser panel" includes an appraiser whom the appraisal management company has:

(i) accepted for consideration for a future appraisal assignment:

(A) in a residential mortgage loan transaction; or

(B) for a secondary mortgage market participant in connection with a residential mortgage loan transaction; or

(ii) engaged to perform an appraisal:

(A) in a residential mortgage loan transaction; or

(B) for a secondary mortgage market participant in connection with a residential mortgage loan transaction.

(10) "Board" means the Real Estate Appraiser Licensing and Certification Board that is created in Section 61-2g-204.

(11) "Client" means a person that enters into an agreement with an appraisal management company for the performance of a real estate appraisal activity.

(12) "Concurrence" means that the entities that are given a concurring role must jointly agree before an action may be taken.

(13) "Controlling person" means:

(a) an owner, officer, or director of an entity seeking to offer appraisal management services;

(b) an individual employed, appointed, or authorized by an appraisal management company who has the authority to:

(i) enter into a contractual relationship with a client for the performance of an appraisal management service; and

(ii) enter into an agreement with an appraiser for the performance of a real estate appraisal activity; or

(c) a person who possesses, directly or indirectly, the power to direct or cause the direction of the management or policies of an appraisal management company.

(14) "Creditor" means:

(a) a person who regularly extends credit that, under a written agreement, is subject to a finance charge or is payable in more than four installments, not including any down payment; and

(b) a person to whom the obligation described in Subsection (14)(a) is initially payable, either on the face of the note or contract, or by agreement when there is no note or contract.

(15) "Director" means the director of the division.

(16) "Division" means the Division of Real Estate, created in Section 61-2-201, of the Department of Commerce.

(17) "Dwelling" means a residential structure that contains up to four units, regardless of whether the structure is attached to real property, including:

(a) an individual condominium unit;

(b) a cooperative unit;

(c) a mobile home; or

(d) a trailer, if the trailer is used as a residence.

(18) "Entity" means:

(a) a corporation;

(b) a partnership;

(c) a sole proprietorship;

(d) a limited liability company;

(e) another business entity; or

(f) a subsidiary or unit of an entity described in Subsections (18)(a) through (e).

(19) "Federally regulated appraisal management company" means an appraisal management company that is:

(a) owned and controlled by an insured depository institution, as defined in 12 U.S.C. Sec. 1813; and

(b) regulated by:

(i) the Office of the Comptroller of the Currency;

(ii) the Board of Governors of the Federal Reserve System; or

(iii) the Federal Deposit Insurance Corporation.

(20) "Independent contractor" means an appraiser whom an appraisal management company treats as an independent contractor for purposes of federal income taxation.

[~~(21) "National Registry" means the database maintained by the Appraisal Subcommittee containing information regarding appraisal management companies that are:~~]

[~~(a) licensed or certified by a state, territory, or the District of Columbia; or~~]

[~~(b) federally regulated appraisal management companies.~~]

[~~(22)~~] (21) "Person" means an individual or an entity.

[~~(23)~~] (22) "Person who regularly extends credit" means a person who:

(a) extends credit, other than credit subject to the requirements of 12 C.F.R. Sec. 1026.32, to a person who has been extended credit for transactions secured by a dwelling more than five times in:

(i) the preceding calendar year; or

(ii) the current calendar year;

(b) originates two or more credit extensions that are subject to the requirements of 12 C.F.R. Sec. 1026.32; or

(c) originates through a mortgage broker a credit extension that is subject to the requirements of 12 C.F.R. Sec. 1026.32.

[~~(24)~~] (23) "Real estate appraisal activity" [~~is as~~] means the same as that term is defined in Section 61-2g-102.

[~~(25)~~] (24) "Residential mortgage loan" means the same as that term is defined in Section 61-2c-102.

[~~(26)~~] (25) (a) "Secondary mortgage market participant" means:

(i) a guarantor or insurer of a mortgage-backed security; or

(ii) an underwriter or insurer of a mortgage-backed security.

(b) "Secondary mortgage market participant" includes an individual investor in a mortgage-backed security, if the investor is also the guarantor, insurer, underwriter, or issuer of the mortgage-backed security.

[~~(27)~~] (26) "Territory" means any of the following United States territories:

(a) Guam;

(b) Northern Mariana Islands;

(c) Puerto Rico; or

(d) United States Virgin Islands.

Section 3. Section 61-2e-205 is amended to read:

61-2e-205. Division service fees -- Federal registry fees.

(1) The division, with the concurrence of the board, shall establish and collect fees, in accordance

with Section 63J-1-504, for services the division renders to carry out this chapter.

(2) (a) The division shall:

[~~(a)~~] (i) collect the annual registry fee established by the Appraisal Subcommittee from:

[~~(i)~~] (A) each appraisal management company registered under this chapter; and

[~~(ii)~~] (B) each federally regulated appraisal management company; and

[~~(b)~~] (ii) transfer the fees collected under Subsection (2)(a) to the Appraisal Subcommittee on a monthly basis.

(b) If an appraisal management company registered under this chapter fails to pay the annual registry fee established by the Appraisal Subcommittee, the division may suspend or revoke the appraisal management company's registration.

(3) If an appraisal management company pays a fee or cost to the division with a negotiable instrument or any other payment method that is not honored, the division:

(a) may void the transaction for which the payment is submitted;

(b) may reverse the transaction, if the division does not receive full payment of the applicable fee or cost; and

(c) shall suspend the appraisal management company's registration:

(i) beginning the day on which the payment is due; and

(ii) ending the day on which payment is made in full.

Section 4. Section 61-2e-402 is amended to read:

61-2e-402. Enforcement -- Immunity for board.

(1) (a) The board may order disciplinary action, with the concurrence of the division, against:

(i) an entity registered under this chapter;

(ii) an entity required to be registered under this chapter; or

(iii) a controlling person of an entity described in this Subsection (1)(a).

(b) The board may order disciplinary action, with the concurrence of the division, against an entity, or controlling person of an entity, who is not registered under this chapter, if the entity violated a provision of this chapter or rule made under this chapter:

(i) within four years before the day on which the division commences disciplinary action; and

(ii) during a period in which:

(A) the provision or rule was in effect; and

(B) the entity was registered or required to be registered under this chapter.

[~~(b)~~] (c) If the board, with the concurrence of the division, makes a finding described in Subsection (2) pursuant to an adjudicative proceeding conducted in accordance with Title 63G, Chapter 4, Administrative Procedures Act, the board, with the concurrence of the division, may:

(i) revoke, suspend, or place an entity's registration on probation;

(ii) deny an entity's original registration;

(iii) deny an entity's renewal registration;

(iv) in the case of denial or revocation of a registration, set a waiting period for an applicant to apply for a registration under this chapter;

(v) order remedial education;

(vi) impose a civil penalty upon a person not to exceed the greater of:

(A) $5,000 for each violation; or

(B) the amount of any gain or economic benefit from a violation;

(vii) issue a cease and desist order; or

(viii) do a combination of Subsections [~~(1)(b)(i)~~] (1)(c)(i) through (vii).

(2) Subsection (1) applies if the board finds, with the concurrence of the division, that a person has engaged in, is attempting to, or has attempted to engage in:

(a) an act that violates this chapter;

(b) an act that violates a rule made under this chapter;

(c) procuring a registration for the person or another person by fraud, misrepresentation, or deceit;

(d) paying money or attempting to pay money other than a fee provided for by this chapter to an employee of the division to procure a registration under this chapter;

(e) an act or omission in the business of an appraisal management company that constitutes dishonesty, fraud, or misrepresentation;

(f) unprofessional conduct as defined by statute or rule; or

(g) other conduct that constitutes dishonest dealing.

(3) (a) If the board, with the concurrence of the director, issues an order that orders a fine or remedial education as part of a disciplinary action against a person, including a stipulation and order, the board shall state in the order the deadline by which the person shall comply with the fine or remedial education requirements.

(b) If a person fails to comply by the stated deadline, the person's registration shall be immediately and automatically suspended:

(i) beginning the day specified in the order as the deadline for compliance; and

(ii) ending the day on which the person complies in full with the order.

(c) If a person fails to pay a fine required by an order, the division shall begin a collection process:

(i) established by the division by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(ii) subject to Title 63A, Chapter 3, Part 5, Office of State Debt Collection.

(4) To the extent permitted by federal law, the board, with the concurrence of the division, may bring a disciplinary proceeding under this chapter for a violation of 15 U.S.C. Sec. 1639e(i).

(5) A member of the board is immune from a civil action or criminal prosecution for a disciplinary proceeding under this chapter if:

(a) the action is taken without malicious intent; and

(b) in the reasonable belief that the action taken was taken pursuant to the powers and duties vested in a member of the board under this chapter.

Section 5. Section 61-2f-103 is amended to read:

61-2f-103. Real Estate Commission.

(1) There is created within the division a Real Estate Commission.

(2) The commission shall:

(a) subject to concurrence by the division and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules for the administration of this chapter that are not inconsistent with this chapter, including:

(i) licensing of:

(A) a principal broker;

(B) an associate broker; and

(C) a sales agent;

(ii) registration of:

(A) an entity; [~~and~~]

(B) an assumed name under which a person conducts business;

[~~(B)~~] (C) a branch office; and

(D) a property management company;

(iii) prelicensing and postlicensing education curricula;

(iv) examination procedures;

(v) the certification and conduct of:

(A) a real estate school;

(B) a course provider; or

(C) an instructor;

(vi) proper handling of money received by a licensee under this chapter;

(vii) brokerage office procedures and recordkeeping requirements;

(viii) property management;

(ix) standards of conduct for a licensee under this chapter; and

(x) if the commission, with the concurrence of the division, determines necessary, a rule as provided in Subsection 61-2f-306(3) regarding a legal form;

(b) establish, with the concurrence of the division, a fee provided for in this chapter, except a fee imposed under Part 5, Real Estate Education, Research, and Recovery Fund Act;

(c) conduct an administrative hearing not delegated by the commission to an administrative law judge or the division relating to the:

(i) licensing of an applicant;

(ii) conduct of a licensee;

(iii) the certification or conduct of a real estate school, course provider, or instructor regulated under this chapter; or

(iv) violation of this chapter by any person;

(d) with the concurrence of the director, impose a sanction as provided in Section 61-2f-404;

(e) advise the director on the administration and enforcement of a matter affecting the division and the real estate sales and property management industries;

(f) advise the director on matters affecting the division budget;

(g) advise and assist the director in conducting real estate seminars; and

(h) perform other duties as provided by this chapter.

[~~(2)~~] (3) (a) Except as provided in Subsection [~~(2)~~] (3)(b), a state entity may not, without the concurrence of the commission, make a rule that changes the rights, duties, or obligations of buyers, sellers, or persons licensed under this chapter in relation to a real estate transaction between private parties.

(b) Subsection [~~(2)~~] (3)(a) does not apply to a rule made:

(i) under Title 31A, Insurance Code, or Title 7, Financial Institutions Act; or

(ii) by the Department of Commerce or any division or other rulemaking body within the Department of Commerce.

[~~(3)~~] (4) (a) The commission shall be comprised of five members appointed by the governor and approved by the Senate in accordance with Title 63G, Chapter 24, Part 2, Vacancies.

(b) Four of the commission members shall:

(i) have at least five years' experience in the real estate business; and

(ii) hold an active principal broker, associate broker, or sales agent license.

(c) One commission member shall be a member of the general public.

(d) The governor may not appoint a commission member described in Subsection [~~(3)~~] (4)(b) who, at the time of appointment, resides in the same county in the state as another commission member.

(e) At least one commission member described in Subsection [~~(3)~~] (4)(b) shall at the time of an appointment reside in a county that is not a county of the first or second class.

[~~(4)~~] (5) (a) Except as required by Subsection [~~(4)~~] (5)(b), as terms of current commission members expire, the governor shall appoint each new member or reappointed member to a four-year term ending June 30.

(b) Notwithstanding the requirements of Subsection [~~(4)~~] (5)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of commission members are staggered so that approximately half of the commission is appointed every two years.

(c) Upon the expiration of the term of a member of the commission, the member of the commission shall continue to hold office until a successor is appointed and qualified.

(d) A commission member may not serve more than two consecutive terms.

(e) Members of the commission shall annually select one member to serve as chair.

[~~(5)~~] (6) When a vacancy occurs in the membership for any reason, the governor, with the advice and consent of the Senate, shall appoint a replacement for the unexpired term.

[~~(6)~~] (7) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

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

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

[~~(7)~~] (8) (a) The commission shall meet at least monthly.

(b) The director may call additional meetings:

(i) at the director's discretion;

(ii) upon the request of the chair; or

(iii) upon the written request of three or more commission members.

[~~(8)~~] (9) Three members of the commission constitute a quorum for the transaction of business.

[~~(9)~~] (10) A member of the commission shall comply with the conflict of interest provisions described in Title 63G, Chapter 24, Part 3, Conflicts of Interest.

Section 6. Section 61-2f-203 is amended to read:

61-2f-203. Licensing requirements.

(1) (a) (i) The division shall determine whether an applicant with a criminal history qualifies for licensure.

(ii) If the division, acting under Subsection (1)(a)(i), denies or restricts a license or places a license on probation, the applicant may petition the commission for de novo review of the application.

(b) Except as provided in Subsection [~~(5)~~] (6), the commission shall determine all other qualifications and requirements of an applicant for:

(i) a principal broker license;

(ii) an associate broker license; or

(iii) a sales agent license.

(c) The division, with the concurrence of the commission, shall require and pass upon proof necessary to determine the honesty, integrity, truthfulness, reputation, and competency of each applicant for an initial license or for renewal of an existing license.

(d) (i) The division, with the concurrence of the commission, shall require an applicant for:

(A) a sales agent license to complete an approved educational program consisting of the number of hours designated by rule made by the commission with the concurrence of the division, except that the rule may not require less than 120 hours; and

(B) an associate broker or a principal broker license to complete an approved educational program consisting of the number of hours designated by rule made by the commission with the concurrence of the division, except that the rule may not require less than 120 hours.

(ii) An hour required by this section means 50 minutes of instruction in each 60 minutes.

(iii) The maximum number of program hours available to an individual is eight hours per day.

(e) The division, with the concurrence of the commission, shall require the applicant to pass an examination approved by the commission covering:

(i) the fundamentals of:

(A) the English language;

(B) arithmetic;

(C) bookkeeping; and

(D) real estate principles and practices;

(ii) this chapter;

(iii) the rules established by the commission with the concurrence of the division; and

(iv) any other aspect of Utah real estate license law considered appropriate.

(f) (i) Three years' full-time experience as a sales agent or its equivalent is required before an applicant may apply for, and secure a principal broker or associate broker license in this state.

(ii) The commission shall establish by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, subject to concurrence by the division, the criteria by which the commission will accept experience or special education in similar fields of business in lieu of the three years' experience.

(2) (a) The division, with the concurrence of the commission, may require an applicant to furnish a sworn statement setting forth evidence satisfactory to the division of the applicant's reputation and competency as set forth by rule.

(b) The division shall require an applicant to provide the applicant's social security number, which is a private record under Subsection 63G-2-302(1)(i).

(3) (a) An individual who is not a resident of this state may be licensed in this state if the person complies with this chapter.

(b) An individual who is not a resident of this state may be licensed as an associate broker or sales agent in this state by:

(i) complying with this chapter; and

(ii) being employed or engaged as an independent contractor by or on behalf of a principal broker who is licensed in this state, regardless of whether the principal broker is a resident of this state.

(4) The division, with the concurrence of the commission, may enter into a reciprocal licensing agreement with another jurisdiction for the licensure of a principal broker, an associate broker, or a sales agent, if the jurisdiction's requirements and standards for the license are substantially similar to those of this state.

[~~(4)~~] (5) (a) The division and commission shall treat an application to be relicensed of an applicant whose real estate license is revoked as an original application.

(b) In the case of an applicant for a new license as a principal broker or associate broker, the applicant is not entitled to credit for experience gained before the revocation of a real estate license.

[~~(5)~~] (6) (a) Notwithstanding Subsection (1)(b), the commission may delegate to the division the authority to:

(i) review a class or category of applications for initial or renewed licenses;

(ii) determine whether an applicant meets the licensing criteria in Subsection (1); and

(iii) approve or deny a license application without concurrence by the commission.

(b) (i) If the commission delegates to the division the authority to approve or deny an application without concurrence by the commission and the division denies an application for licensure, the applicant who is denied licensure may petition the commission for de novo review of the application.

(ii) An applicant who is denied licensure pursuant to this Subsection [~~(5)~~] (6) may seek agency review by the executive director only after the commission has reviewed the division's denial of the applicant's application.

Section 7. Section 61-2f-206 is amended to read:

61-2f-206. Registration of person or branch office -- Certification of education providers and courses -- Specialized licenses.

(1) (a) [~~An entity~~] A person may not engage in an activity described in Section 61-2f-201, unless [~~it~~] the person is registered with the division.

(b) To register with the division under this Subsection (1), [~~an entity~~] a person shall submit to the division:

(i) an application in a form required by the division;

(ii) evidence of an affiliation with a principal broker;

(iii) evidence that the [~~entity~~] person is registered and in good standing with the Division of Corporations and Commercial Code; and

(iv) a registration fee established by the commission with the concurrence of the division under Section 63J-1-504.

(c) The division may terminate [~~an entity's~~] a person's registration if:

(i) the [~~entity's~~] person's registration with the Division of Corporations and Commercial Code has been expired for at least three years; and

(ii) the [~~entity's~~] person's license with the division has been inactive for at least three years.

(2) (a) A principal broker shall register with the division each of the principal broker's branch offices.

(b) To register a branch office with the division under this Subsection (2), a principal broker shall submit to the division:

(i) an application in a form required by the division; and

(ii) a registration fee established by the commission with the concurrence of the division under Section 63J-1-504.

(3) (a) In accordance with rules made by the commission with the concurrence of the division and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division shall certify:

(i) a real estate school;

(ii) a course provider; or

(iii) an instructor.

(b) In accordance with rules made by the commission in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, subject to concurrence by the division, the division shall certify a continuing education course that is required under this chapter.

(4) Except as provided [~~by rule~~] under this chapter or by rule the commission makes in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, a principal broker may not be responsible for more than one registered [~~entity~~] person at the same time.

[~~(5) A principal broker may simultaneously supervise one main office and up to two additional branch offices.~~]

[~~(6) A branch broker may simultaneously supervise up to three branch offices.~~]

(5) A principal broker:

(a) shall exercise active and reasonable supervision of the principal broker's main office in accordance with this chapter and rules the commission makes in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(b) may supervise a branch office affiliated with the principal broker at the same time the principal broker exercises the supervision required under Subsection (5)(a).

(6) (a) A principal broker may designate a branch broker to supervise a branch office affiliated with the principal broker.

(b) A branch broker shall exercise active and reasonable supervision, in accordance with this chapter and rules the commission makes in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, of each branch office the principal broker designates the branch broker to supervise.

(7) (a) In addition to issuing a principal broker license, associate broker license, or sales agent license authorizing the performance of an act set forth in Section 61-2f-201, the division may issue a specialized sales license or specialized property management license with the scope of practice limited to the specialty.

(b) An individual may hold a specialized license in addition to a license as a principal broker, associate broker, or a sales agent.

(c) A sales agent who is affiliated with a dual broker may act as a property management sales agent if:

(i) the dual broker designates the sales agent as a property management sales agent; and

(ii) the sales agent pays to the division a property management sales agent designation fee in an amount determined by the division in accordance with Section 63J-1-504.

(d) A property management sales agent may simultaneously provide both property management services and real estate sales services under the supervision of a dual broker as provided by the commission with the concurrence of the division by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(8) The commission may determine, by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, subject to concurrence by the division, licensing requirements related to this section for a principal broker, associate broker, sales agent, dual broker, property management sales agent, or for a specialized license described in Subsection (7), including:

(a) prelicensing and postlicensing education requirements;

(b) examination requirements;

(c) affiliation with real estate brokerages or property management companies;

(d) property management sales agent:

(i) designation procedures;

(ii) allowable scope of practice; and

(iii) division fees;

(e) what constitutes active and reasonable supervision for:

(i) a principal broker when supervising a branch broker or sales agent; and

(ii) a branch broker when supervising a sales agent; and

(f) other licensing procedures.

Section 8. Section 61-2g-204 is amended to read:

61-2g-204. Real Estate Appraiser Licensing and Certification Board.

(1) (a) There is established a Real Estate Appraiser Licensing and Certification Board that consists of [~~five~~] seven regular members as follows:

(i) one state-licensed or state-certified appraiser who may be either a residential or general licensee or certificate holder;

(ii) one state-certified residential appraiser;

(iii) one state-certified general appraiser;

(iv) one member who is certified as either a state-certified residential appraiser or a state-certified general appraiser; [~~and~~]

(v) one member who represents an appraisal management company registered in accordance with Chapter 2e, Appraisal Management Company Registration and Regulation Act;

(vi) one member:

(A) who is licensed or represents a person licensed under Chapter 2c, Utah Residential Mortgage Practices and Licensing Act; or

(B) who represents a mortgage lender, as defined in Section 70D-2-102, operating in the state in accordance with Title 70D, Chapter 2, Mortgage Lending and Servicing Act; and

[~~(v)~~] (vii) one member of the general public.

(b) A state-licensed or state-certified appraiser may be appointed as an alternate member of the board.

(c) The governor shall appoint all members of the board with the advice and consent of the Senate in accordance with Title 63G, Chapter 24, Part 2, Vacancies.

(2) (a) Except as required by Subsection (2)(b), as terms of current board members expire, the governor shall appoint each new member or reappointed member to a four-year term beginning on July 1.

(b) Notwithstanding the requirements of Subsection (2)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of board members are staggered so that approximately half of the board is appointed every two years.

(c) Upon the expiration of a member's term, a member of the board shall continue to hold office until the appointment and qualification of the member's successor.

(d) A person may not serve as a member of the board for more than two consecutive terms.

(3) (a) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.

(b) The governor may remove a member for cause.

(4) The public member of the board may not be licensed or certified under this chapter.

(5) The board shall meet at least quarterly to conduct its business. The division shall give public notice of a board meeting.

(6) The members of the board shall elect a chair annually from among the members to preside at board meetings.

(7) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

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

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

(8) (a) [~~Three~~] Four members of the board shall constitute a quorum for the transaction of business.

(b) If a quorum of members is unavailable for any meeting, the alternate member of the board, if any, shall serve as a regular member of the board for that meeting if with the presence of the alternate member a quorum is present at the meeting.

(c) A member of the board shall comply with the conflict of interest provisions described in Title 63G, Chapter 24, Part 3, Conflicts of Interest.

CHAPTER 260
H. B. 260
Passed March 3, 2021
Approved March 17, 2021
Effective July 1, 2021

CRIMINAL JUSTICE MODIFICATIONS

Chief Sponsor: Karianne Lisonbee
Senate Sponsor: Michael S. Kennedy

LONG TITLE

General Description:

This bill amends provisions related to sentencing, probation, parole, and court-ordered restitution, fines, fees, and other costs.

Highlighted Provisions:

This bill:

- defines and modifies terms;
- modifies the duties of the Office of State Debt Collection in relation to processing and collecting payments in criminal cases;
- prohibits the Office of State Debt Collection from assessing interest on certain accounts receivables;
- amends provisions on interest, fees, and other amounts charged by the Office of State Debt Collection;
- authorizes the Office of State Debt Collection to make certain rules regarding a payment for a civil judgment of restitution;
- amends provisions regarding the State Debt Collection Fund;
- provides that an administrative garnishment order for a civil accounts receivable or a civil judgment of restitution is a continuation of a criminal action;
- amends provisions regarding a restitution request from the Office for Victims of Crime;
- addresses the collection of an accounts receivable by the Department of Corrections;
- amends provisions regarding accounts for offenders who are in the custody of the Department of Corrections;
- allows the Department of Corrections to establish a fine for a violation of department rules and to require the offender to pay the fine;
- amends the exceptions to a spendthrift provision of a trust to allow the Office of State Debt Collection to obtain a court order for a distribution;
- amends the orders that a court imposes at sentencing;
- requires the court to order restitution, and to collect, receive, process, and distribute payments for restitution, for a diversion agreement and a plea in abeyance agreement;
- requires a court to order restitution if a defendant does not successfully complete a plea in abeyance agreement;
- reorganizes and renumbers Title 77, Chapter 18, The Judgment;
- amends provisions on presentence investigation reports;
- amends provisions on the suspension of a sentence and the terms and conditions of probation;
- amends provisions regarding home confinement for a probationer;
- amends provisions regarding the termination, revocation, modification, or extension of probation;
- amends provisions regarding standards for supervision and presentence investigation reports;
- requires a court to enter a civil accounts receivable and a civil judgment of restitution upon the termination of a defendant's sentence if there is an unpaid balance of the defendant's criminal accounts receivable;
- requires the court to enter a civil accounts receivable and a civil judgment of restitution if a defendant does not owe restitution and the defendant's criminal accounts receivable is 90 days past due;
- enacts provisions regarding civil accounts receivables and civil judgments of restitution;
- allows the sentencing court to retain jurisdiction over a defendant's case for certain reasons;
- repeals the authority of the Board of Pardons and Parole to enter an order for restitution;
- allows the Board of Pardons and Parole to remit a criminal accounts receivable and modify a payment schedule for a criminal accounts receivable;
- amends provisions on the conditions for parole;
- provides that a defendant may be required to pay a criminal accounts receivable during incarceration or parole supervision;
- requires the Board of Pardons and Parole to refer an offender's case to the sentencing court if an order for restitution or a criminal accounts receivable has not been entered by the court within certain time periods;
- requires the Board of Pardons and Parole to refer an offender's case to the sentencing court for any challenges to the defendant's criminal accounts receivable;
- provides certain notice requirements for a modification of a criminal accounts receivable;
- allows the Board of Pardons and Parole to enter an order to recover certain damages;
- amends provisions related to extradition costs for a defendant;
- reorganizes and renumbers Title 77, Chapter 32a, Criminal Accounts Receivable and Defense Costs;
- enacts provisions relating to criminal accounts receivables;
- modifies provisions regarding costs that a defendant may be ordered to pay;
- allows for the remittance or modification of a criminal accounts receivable in certain circumstances;
- provides the requirements for remittance or modification of a criminal accounts receivable, or modification of a payment schedule for a criminal accounts receivable;
- provides that certain victim information maintained by the Utah State Courts is classified as protected;
- provides that victim contact information and impact statement is available to the Utah State Courts;
- requires a victim to provide contact information to the court for restitution and hearing purposes;
- reorganizes and renumbers Title 77, Chapter 38a, Crime Victims Restitution Act;

- enacts provisions relating to restitution information collected by a law enforcement agency;
- enacts provisions relating to a prosecuting attorney's responsibilities for gathering restitution information and depositing restitution money;
- enacts provisions on the Department of Correction's responsibilities in preparing the presentence investigation report with restitution information;
- requires a victim to submit certain information in a restitution claim;
- addresses protecting a victim's identity, and a victim's family's identity, in information submitted to the court for restitution purposes;
- allows a defendant to view protected, safeguarded, or confidential information about a victim or a victim's family in certain circumstances;
- amends provisions related to a financial declaration by a defendant;
- enacts provisions relating to an order for restitution;
- enacts provisions related to the enforceability, nature, effect, and satisfaction of a civil judgment of restitution and a civil accounts receivable;
- addresses interest on a civil judgment of restitution and civil accounts receivable;
- addresses the default or delinquency of a civil accounts receivable and a civil judgment of restitution;
- provides that a civil judgment of restitution and a civil accounts receivable may not be discharged in bankruptcy;
- addresses a civil action for restitution by a victim;
- addresses the priority of payments for a restitution, a criminal accounts receivable, a civil judgment of restitution, and a civil accounts receivable;
- amends provisions regarding the enforcement and collection of restitution;
- addresses contempt of court for delinquency or default of a civil accounts receivable or a civil judgment of restitution;
- repeals statutes relating to restitution, probation, and criminal accounts receivables; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

This bill provides coordination clauses.

Utah Code Sections Affected:

AMENDS:

17-50-319, as last amended by Laws of Utah 2016, Chapter 243
32B-4-305, as enacted by Laws of Utah 2010, Chapter 276
58-50-2, as last amended by Laws of Utah 2006, Chapter 196
58-50-9, as last amended by Laws of Utah 1995, Chapters 20 and 352
58-50-10, as last amended by Laws of Utah 1995, Chapters 20 and 352
59-10-529, as last amended by Laws of Utah 2017, Chapter 270
62A-15-625, as last amended by Laws of Utah 2018, Chapter 322
63A-3-501, as last amended by Laws of Utah 2016, Chapters 129 and 298
63A-3-502, as last amended by Laws of Utah 2017, Chapters 56 and 304
63A-3-504, as renumbered and amended by Laws of Utah 2011, Chapter 79
63A-3-505, as last amended by Laws of Utah 2016, Chapter 192
63A-3-507, as last amended by Laws of Utah 2019, Chapter 269
63I-1-263, as last amended by Laws of Utah 2020, Chapters 82, 152, 154, 199, 230, 303, 322, 336, 354, 360, 375, 405 and last amended by Coordination Clause, Laws of Utah 2020, Chapter 360
63M-7-303, as last amended by Laws of Utah 2018, Chapter 414
63M-7-305, as last amended by Laws of Utah 2016, Chapters 158 and 191
63M-7-502, as last amended by Laws of Utah 2020, Chapters 149 and 230
63M-7-503, as last amended by Laws of Utah 2020, Chapter 149
63M-7-513, as last amended by Laws of Utah 2020, Chapter 149
64-13-1, as last amended by Laws of Utah 2016, Chapter 243
64-13-6, as last amended by Laws of Utah 2018, Chapter 200
64-13-21, as last amended by Laws of Utah 2019, Chapter 27
64-13-23, as last amended by Laws of Utah 2002, Chapter 140
64-13-33, as last amended by Laws of Utah 2009, Chapter 258
64-13e-102, as last amended by Laws of Utah 2020, Chapters 354 and 410
75-7-503, as last amended by Laws of Utah 2018, Chapter 116
76-2-404, as last amended by Laws of Utah 2015, Chapter 47
76-3-208, as last amended by Laws of Utah 2019, Chapter 222
76-3-301.5, as enacted by Laws of Utah 1988, Chapter 152
76-3-406, as last amended by Laws of Utah 2020, Chapter 214
76-6-107.1, as renumbered and amended by Laws of Utah 2008, Chapter 3
76-6-111, as last amended by Laws of Utah 2017, Chapter 345
76-6-206.2, as last amended by Laws of Utah 2009, Chapter 344
76-6-206.3, as enacted by Laws of Utah 2009, Chapter 270
76-6-1102, as last amended by Laws of Utah 2015, Chapter 258
76-6-1105, as last amended by Laws of Utah 2018, Chapter 221
76-10-1204, as last amended by Laws of Utah 2009, Chapter 345

76-10-1205, as last amended by Laws of Utah 2007, Chapter 337
76-10-1206, as last amended by Laws of Utah 2019, Chapters 189 and 382
76-10-1214, as last amended by Laws of Utah 1990, Chapter 163
76-10-1228, as last amended by Laws of Utah 2007, Chapter 123
77-1-3, as last amended by Laws of Utah 2015, Chapter 412
77-2-2, as enacted by Laws of Utah 1980, Chapter 15
77-2-5, as enacted by Laws of Utah 1980, Chapter 15
77-2a-1, as enacted by Laws of Utah 1993, Chapter 82
77-2a-3, as last amended by Laws of Utah 2008, Chapters 3, 339, and 382
77-7-5, as last amended by Laws of Utah 2019, Chapter 406
77-7-21, as last amended by Laws of Utah 2020, Chapter 185
77-19-10, as last amended by Laws of Utah 2015, Chapter 47
77-20-4, as last amended by Laws of Utah 2020, Chapter 185
77-20b-101, as last amended by Laws of Utah 2020, Chapter 185
77-27-1, as last amended by Laws of Utah 2015, Chapter 412
77-27-2, as last amended by Laws of Utah 2020, Chapters 352 and 373
77-27-5, as last amended by Laws of Utah 2019, Chapter 148
77-27-11, as last amended by Laws of Utah 2018, Chapter 334
77-30-24, as last amended by Laws of Utah 1987, Chapter 107
77-37-3, as last amended by Laws of Utah 2014, Chapter 232
77-37-5, as last amended by Laws of Utah 2011, Chapter 131
77-38-3, as last amended by Laws of Utah 2016, Chapter 223
77-38-15, as last amended by Laws of Utah 2019, Chapter 26
77-40-102, as last amended by Laws of Utah 2020, Chapter 354
77-40-105, as last amended by Laws of Utah 2020, Chapters 177 and 218
78A-2-214, as last amended by Laws of Utah 2011, Chapter 79
78A-2-231, as last amended by Laws of Utah 2020, Chapter 12
78B-2-115, as last amended by Laws of Utah 2017, Chapter 304
78B-5-502, as renumbered and amended by Laws of Utah 2008, Chapter 3
78B-5-505, as last amended by Laws of Utah 2020, Chapter 425
78B-6-317, as enacted by Laws of Utah 2017, Chapter 304
78B-7-804, as enacted by Laws of Utah 2020, Chapter 142

ENACTS:
77-18-101, Utah Code Annotated 1953
77-18-102, Utah Code Annotated 1953
77-18-103, Utah Code Annotated 1953
77-18-105, Utah Code Annotated 1953
77-18-106, Utah Code Annotated 1953
77-18-107, Utah Code Annotated 1953
77-18-108, Utah Code Annotated 1953
77-18-109, Utah Code Annotated 1953
77-18-114, Utah Code Annotated 1953
77-18-118, Utah Code Annotated 1953
77-27-6.1, Utah Code Annotated 1953
77-32b-101, Utah Code Annotated 1953
77-32b-103, Utah Code Annotated 1953
77-32b-105, Utah Code Annotated 1953
77-32b-106, Utah Code Annotated 1953
77-38b-201, Utah Code Annotated 1953
77-38b-202, Utah Code Annotated 1953
77-38b-203, Utah Code Annotated 1953
77-38b-205, Utah Code Annotated 1953
77-38b-301, Utah Code Annotated 1953
77-38b-302, Utah Code Annotated 1953
77-38b-303, Utah Code Annotated 1953

REPEALS AND REENACTS:
76-3-201, as last amended by Laws of Utah 2017, Chapter 304

RENUMBERS AND AMENDS:
77-2-2.1, (Renumbered from 77-2-1, as enacted by Laws of Utah 1980, Chapter 15)
77-2-2.2, (Renumbered from 77-2-1.1, as enacted by Laws of Utah 1992, Chapter 33)
77-2-2.3, (Renumbered from 77-2-1.2, as enacted by Laws of Utah 2020, Chapter 151)
77-18-104, (Renumbered from 77-18-1.1, as last amended by Laws of Utah 2016, Chapter 158)
77-18-110, (Renumbered from 77-18-3, as last amended by Laws of Utah 2008, Chapter 3)
77-18-111, (Renumbered from 77-18-4, as last amended by Laws of Utah 1994, Chapter 13)
77-18-112, (Renumbered from 77-18-5, as last amended by Laws of Utah 1994, Chapter 13)
77-18-113, (Renumbered from 77-18-5.5, as last amended by Laws of Utah 2015, Chapter 47)
77-18-115, (Renumbered from 77-18-6.5, as enacted by Laws of Utah 1997, Chapter 223)
77-18-116, (Renumbered from 77-18-7, as enacted by Laws of Utah 1980, Chapter 15)
77-18-117, (Renumbered from 77-18-8, as enacted by Laws of Utah 1980, Chapter 15)
77-32b-102, (Renumbered from 77-32a-101, as enacted by Laws of Utah 2017, Chapter 304)
77-32b-104, (Renumbered from 77-32a-107, as renumbered and amended by Laws of Utah 2017, Chapter 304)
77-32b-107, (Renumbered from 77-32a-110, as renumbered and amended by Laws of Utah 2017, Chapter 304)
77-38b-101, (Renumbered from 77-38a-101, as enacted by Laws of Utah 2001, Chapter 137)
77-38b-102, (Renumbered from 77-38a-102, as last amended by Laws of Utah 2020, Chapter 214)

77-38b-204, (Renumbered from 77-38a-204, as enacted by Laws of Utah 2013, Chapter 74)
77-38b-304, (Renumbered from 77-38a-404, as last amended by Laws of Utah 2020, Chapter 214)
77-38b-401, (Renumbered from 77-38a-502, as enacted by Laws of Utah 2001, Chapter 137)
77-38b-402, (Renumbered from 77-38a-601, as last amended by Laws of Utah 2009, Chapter 265)

REPEALS:
76-6-412.5, as last amended by Laws of Utah 2013, Chapter 187
77-18-1, as last amended by Laws of Utah 2020, Chapters 209, 299, and 354
77-18-6, as last amended by Laws of Utah 2017, Chapter 304
77-27-6, as last amended by Laws of Utah 2016, Chapter 223
77-32a-102, as last amended by Laws of Utah 2018, Chapters 136 and 281
77-32a-103, as enacted by Laws of Utah 2017, Chapter 304
77-32a-104, as enacted by Laws of Utah 2017, Chapter 304
77-32a-105, as enacted by Laws of Utah 2017, Chapter 304
77-32a-106, as enacted by Laws of Utah 2017, Chapter 304
77-32a-108, as renumbered and amended by Laws of Utah 2017, Chapter 304
77-32a-109, as renumbered and amended by Laws of Utah 2017, Chapter 304
77-38a-201, as enacted by Laws of Utah 2001, Chapter 137
77-38a-202, as last amended by Laws of Utah 2011, Chapter 131
77-38a-203, as last amended by Laws of Utah 2013, Chapter 74
77-38a-301, as last amended by Laws of Utah 2017, Chapter 304
77-38a-302, as last amended by Laws of Utah 2020, Chapter 214
77-38a-401, as last amended by Laws of Utah 2018, Chapter 281
77-38a-402, as enacted by Laws of Utah 2001, Chapter 137
77-38a-403, as enacted by Laws of Utah 2001, Chapter 137
77-38a-501, as last amended by Laws of Utah 2017, Chapter 304

Utah Code Sections Affected by Coordination Clause:
76-9-101, as last amended by Laws of Utah 1997, Chapter 289
77-18-108, Utah Code Annotated 1953
77-27-5, as last amended by Laws of Utah 2019, Chapter 148

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

Section 1. Section 17-50-319 is amended to read:

17-50-319. County charges enumerated.

(1) County charges are:

(a) [~~those~~] charges incurred against the county by any law;

(b) the necessary expenses of the county attorney or district attorney incurred in criminal cases arising in the county, and all other expenses necessarily incurred by the county or district attorney in the prosecution of criminal cases, except jury and witness fees;

(c) the expenses of medical care as described in Section 17-22-8, and other expenses necessarily incurred in the support of persons charged with or convicted of a criminal offense and committed to the county jail, except as provided in Subsection (2);

(d) for a county not within the state district court administrative system, the sum required by law to be paid jurors in civil cases;

(e) all charges and accounts for services rendered by any justice court judge for services in the trial and examination of persons charged with a criminal offense not otherwise provided for by law;

(f) the contingent expenses necessarily incurred for the use and benefit of the county;

(g) every other sum directed by law to be raised for any county purposes under the direction of the county legislative body or declared a county charge;

(h) the fees of constables for services rendered in criminal cases;

(i) the necessary expenses of the sheriff and deputies incurred in civil and criminal cases arising in the county, and all other expenses necessarily incurred by the sheriff and deputies in performing the duties imposed upon them by law;

(j) the sums required by law to be paid by the county to jurors and witnesses serving at inquests and in criminal cases in justice courts; and

(k) subject to Subsection (2), expenses incurred by a health care facility or provider in providing medical services, treatment, hospitalization, or related transportation, at the request of a county sheriff for:

(i) persons booked into a county jail on a charge of a criminal offense; or

(ii) persons convicted of a criminal offense and committed to a county jail.

(2) (a) Expenses described in Subsections (1)(c) and (1)(k) are a charge to the county only to the extent that they exceed any private insurance in effect that covers [~~those expenses~~] the expenses described in Subsections (1)(c) and (1)(k).

(b) The county may collect costs of medical care, treatment, hospitalization, and related transportation provided to the person described in Subsection (1)(k) who has the resources or the ability to pay, subject to the following priorities for payment:

(i) first priority shall be given to restitution; and

(ii) second priority shall be given to family support obligations.

(c) A county may seek reimbursement from a person described in Subsection (1)(k) for expenses incurred by the county in behalf of the inmate for medical care, treatment, hospitalization, or related transportation by:

(i) deducting the cost from the inmate's cash account on deposit with the detention facility during the inmate's incarceration or during a subsequent incarceration if the subsequent incarceration occurs within the same county and the incarceration is within 10 years of the date of the expense in behalf of the inmate;

(ii) placing a lien for the amount of the expense against the inmate's personal property held by the jail; and

(iii) adding the amount of expenses incurred to any other amount owed by the inmate to the jail upon the inmate's release[~~, as allowed under Subsection 76-3-201(6)(a).~~] in accordance with Subsection 76-3-201(4)(d).

(d) An inmate who receives medical care, treatment, hospitalization, or related transportation shall cooperate with the jail facility seeking payment or reimbursement under this section for the inmate's expenses.

(e) If there is no contract between a county jail and a health care facility or provider that establishes a fee schedule for medical services rendered, expenses under Subsection (1)(k) shall be commensurate with:

(i) for a health care facility, the current noncapitated state Medicaid rates; and

(ii) for a health care provider, 65% of the amount that would be paid to the health care provider:

(A) under the Public Employees' Benefit and Insurance Program, created in Section 49-20-103; and

(B) if the person receiving the medical service were a covered employee under the Public Employees' Benefit and Insurance Program.

(f) Subsection (1)(k) does not apply to expenses of a person held at the jail at the request of an agency of the United States.

(g) A county that receives information from the Public Employees' Benefit and Insurance Program to enable the county to calculate the amount to be paid to a health care provider under Subsection (2)(e)(ii) shall keep that information confidential.

Section 2. Section 32B-4-305 is amended to read:

32B-4-305. Additional criminal penalties.

(1) (a) [~~For purposes of this section~~] As used in this section, "business entity" means a corporation, partnership, association, limited liability company, or similar entity.

(b) In addition to the penalties provided in Title 76, Chapter 3, Punishments, this section applies.

(2) Upon a defendant's conviction of an offense defined in this title, the court may order the defendant to [~~make restitution or pay costs in accordance with Title 77, Chapter 32a, Criminal Accounts Receivable and Defense Costs.~~] pay restitution or costs in accordance with Subsection 76-3-201(4).

(3) (a) Upon a business entity's conviction of an offense defined in this title, and a failure of the business entity to pay a fine imposed upon it:

(i) if it is a domestic business entity, the powers, rights, and privileges of the business entity may be suspended or revoked; and

(ii) if it is a foreign business entity, it forfeits its right to do intrastate business in this state.

(b) The department shall transmit the name of a business entity described in Subsection (3)(a) to the Division of Corporations and Commercial Code. Upon receipt of the information, the Division of Corporations and Commercial Code shall immediately record the action in a manner that makes the information available to the public.

(c) A suspension, revocation, or forfeiture under this Subsection (3) is effective from the day on which the Division of Corporations and Commercial Code records the information.

(d) A certificate of the Division of Corporations and Commercial Code is prima facie evidence of a suspension, revocation, or forfeiture.

(e) This section may not be construed as affecting, limiting, or restricting a proceeding that otherwise may be taken for the imposition of any other punishment or the modes of enforcement or recovery of fines or penalties.

(4) (a) Upon the conviction of a business entity required to have a business license to operate its business activities, or upon the conviction of any of its staff of any offense defined in this title, with the knowledge, consent, or acquiescence of the business entity, the department shall forward a copy of the judgment of conviction to the appropriate governmental entity responsible for issuing and revoking the business license.

(b) A governmental entity that receives a copy of a judgment under this Subsection (4) may institute appropriate proceedings to revoke the business license.

(c) Upon revocation under this Subsection (4), a governmental entity may not issue a business license to the business entity for at least one year from the date of revocation.

(d) Upon the conviction for a second or other offense, the governmental entity may not issue a business license for at least two years from the date of revocation.

(5) (a) Upon conviction of one of the following of an offense defined in this title, the department shall forward a certified copy of the judgment of conviction to the Division of Occupational and Professional Licensing:

(i) a health care practitioner; or

(ii) an individual licensed as a veterinarian under Title 58, Chapter 28, Veterinary Practice Act.

(b) The Division of Occupational and Professional Licensing may bring a proceeding in accordance with Title 58, Occupations and Professions, to revoke the license issued under Title 58, Occupations and Professions, of an individual described in Subsection (5)(a).

(c) Upon revocation of a license under Subsection (5)(b):

(i) the Division of Occupational and Professional Licensing may not issue a license to the individual under Title 58, Occupations and Professions, for at least one year from the date of revocation; and

(ii) if the individual is convicted of a second or subsequent offense, the Division of Occupational and Professional Licensing may not issue a license to the individual under Title 58, Occupations and Professions, for at least two years from the date of revocation.

Section 3. Section 58-50-2 is amended to read:

58-50-2. Definitions.

In addition to the definitions in Section 58-1-102, as used in this chapter:

(1) "Board" means the Private Probation Provider Licensing Board created in Section 58-50-3.

(2) "Court" means the particular court [~~which~~] that orders probation in a case.

(3) "Private probation" means the preparation of presentence investigation reports and the performance of supervision services by a private probation provider and funded by a court-ordered fee, to be paid by the defendant, [~~pursuant to Section 77-18-1~~] in accordance with Subsection 77-18-105(6)(a)(vii).

(4) (a) "Private probation provider" means any private individual preparing presentence investigation reports or providing probation supervision [~~pursuant to~~] in accordance with a court order under Section [~~77-18-1~~] 77-18-105 and who is licensed under this chapter, and whose services are limited to minor offenses and misdemeanor violations.

(b) A private probation provider does not have the authority of a peace officer.

(5) "Unprofessional conduct" as defined in Section 58-1-501 and as may be further defined by rule includes:

(a) failure to disclose any financial or personal interest or prior relationship with parties that affects the private probation provider's impartiality or otherwise constitutes a conflict of interest;

(b) providing contract probation services when any financial or personal interest or prior relationship with parties affects the private probation provider's impartiality or otherwise constitutes an actual conflict of interest;

(c) failure to clearly define to the offender the services provided by the private probation provider, the rules of conduct, the criteria used, and the fees charged;

(d) failure to provide adequate supervision, or supervision as ordered by the court, as determined by the division in collaboration with the board; and

(e) failure to comply with the standards specified in Section 58-50-9.

Section 4. Section 58-50-9 is amended to read:

58-50-9. Standards of conduct for private probation providers.

The private probation provider:

(1) shall maintain impartiality toward all parties;

(2) shall ensure that all parties understand the nature of the process, the procedure, the particular role of the private probation provider, and the parties' relationship to the private probation provider;

(3) shall maintain confidentiality or, in cases where confidentiality is not protected, the private probation provider shall so advise the parties;

(4) shall disclose any circumstance that may create or give the appearance of a conflict of interest and any circumstance that may reasonably raise a question as to the private probation provider's impartiality; if the contract probation supervisor perceives or believes a conflict of interest to exist, the contract probation supervisor shall refrain from entering into those probation services;

(5) shall adhere to the standards regarding private probation services adopted by the licensing board;

(6) shall comply with orders of court and perform services as directed by judges in individual cases; and

(7) shall perform duties established under Section [~~77-18-1~~] 77-18-105, as ordered by the court.

Section 5. Section 58-50-10 is amended to read:

58-50-10. Exceptions from licensure.

In addition to the exemptions from licensure in Section 58-1-307, the following persons may engage in probation supervision services subject to the stated circumstances and limitations without being licensed under this chapter:

(1) employees of the Department of Corrections while performing probation services as part of their normal duties and responsibilities;

(2) members of the armed forces and employees, agents, or representatives of the federal government while acting in their official capacity; and

(3) agencies of local government[~~, pursuant to Section 77-18-1~~] in accordance with Section 77-18-105.

Section 6. Section 59-10-529 is amended to read:

59-10-529. Overpayment of tax -- Credits -- Refunds.

(1) If there has been an overpayment of any tax imposed by this chapter, the amount of overpayment is credited as follows:

(a) against an income tax due from a taxpayer;

(b) against:

(i) the amount of a judgment against a taxpayer, including a final judgment or order requiring payment of a fine or of restitution to a victim under Title 77, Chapter [~~38a~~] 38b, Crime Victims Restitution Act, obtained through due process of law by an entity of state or local government; or

(ii) subject to Subsection (4)(a)(i), a child support obligation that is due or past due, as determined by the Office of Recovery Services in the Department of Human Services and after notice and an opportunity for an adjudicative proceeding, as provided in Subsection (4)(a)(iii); or

(c) subject to Subsections (3), (5), (6), and (7), as bail to ensure the appearance of a taxpayer before the appropriate authority to resolve an outstanding warrant against the taxpayer for which bail is due, if a court of competent jurisdiction has not approved an alternative form of payment.

(2) If a balance remains after an overpayment is credited in accordance with Subsection (1), the balance shall be refunded to the taxpayer.

(3) Bail described in Subsection (1)(c) may be applied to any fine or forfeiture:

(a) that is due and related to a warrant that is outstanding on or after February 16, 1984; and

(b) in accordance with Subsections (5) and (6).

(4) (a) The amount of an overpayment may be credited against an obligation described in Subsection (1)(b)(ii) if the Office of Recovery Services has sent written notice to the taxpayer's last-known address or the address on file under Section 62A-11-304.4, stating:

(i) the amount of child support that is due or past due as of the date of the notice or other specified date;

(ii) that any overpayment shall be applied to reduce the amount of due or past-due child support specified in the notice; and

(iii) that the taxpayer may contest the amount of past-due child support specified in the notice by filing a written request for an adjudicative proceeding with the office within 15 days of the notice being sent.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the Office of Recovery Services shall establish rules to implement this Subsection (4), including procedures, in accordance with the other provisions of this section, to ensure:

(i) prompt reimbursement to a taxpayer of any amount of an overpayment that was credited against a child support obligation in error; and

(ii) prompt distribution of properly credited funds to the obligee parent.

(5) The amount of an overpayment may be credited against bail described in Subsection (1)(c) if:

(a) a court has issued a warrant for the arrest of the taxpayer for failure to post bail, appear, or otherwise satisfy the terms of a citation, summons, or court order; and

(b) a notice of intent to apply the overpayment as bail on the issued warrant has been sent to the taxpayer's current address on file with the commission.

(6) (a) (i) The commission shall deliver an overpayment applied as bail to the court that issued the warrant of arrest.

(ii) The clerk of the court is authorized to endorse the check or commission warrant of payment on behalf of the payees and deposit the money in the court treasury.

(b) (i) The court receiving an overpayment applied as bail shall order withdrawal of the warrant for arrest of the taxpayer if:

(A) the case is a case for which a personal appearance of the taxpayer is not required; and

(B) the dollar amount of the overpayment represents the full dollar amount of bail.

(ii) In a case except for a case described in Subsection (6)(b)(i):

(A) the court receiving the overpayment applied as bail is not required to order the withdrawal of the warrant of arrest of the taxpayer during the 40-day period; and

(B) the taxpayer may be arrested on the warrant.

(c) (i) If a taxpayer fails to respond to the notice required by Subsection (5)(b), or to resolve the warrant within 40 days after the notice is sent under Subsection (5)(b), the overpayment applied as bail is forfeited.

(ii) A court may issue another warrant or allow the original warrant to remain in force if:

(A) the taxpayer has not complied with an order of the court;

(B) the taxpayer has failed to appear and respond to a criminal charge for which a personal appearance is required; or

(C) the taxpayer has paid partial but not full bail in a case for which a personal appearance is not required.

(d) If the alleged violations named in a warrant are later resolved in favor of the taxpayer, the bail amount shall be remitted to the taxpayer.

(7) The fine and bail forfeiture provisions of this section apply to all warrants, fines, fees, and surcharges issued in cases charging a taxpayer with a felony, a misdemeanor, or an infraction described in this section, which are outstanding on or after February 16, 1984.

(8) If the amount allowed as a credit for tax withheld from a taxpayer exceeds the tax to which the credit relates, the excess is considered an overpayment.

(9) (a) Subject to Subsection (9)(b), a taxpayer shall claim a credit or refund of an overpayment that is attributable to a net operating loss carry back or carry forward within three years after the day on which the return for the taxable year of the net operating loss is due.

(b) The three-year period described in Subsection (9)(a) shall be extended by any extension of time provided in statute for filing the return described in Subsection (9)(a).

(10) If there is no tax liability for a period in which an amount is paid under this chapter, the amount is an overpayment.

(11) If a tax under this chapter is assessed or collected after the expiration of the applicable period of limitation, that amount is an overpayment.

(12) (a) A taxpayer may file a claim for a credit or refund of an overpayment within two years after the day on which a notice of change, notice of correction, or amended return is required to be filed with the commission if the taxpayer is required to:

(i) report a change or correction in income reported on the taxpayer's federal income tax return;

(ii) report a change or correction that is treated in the same manner as if the change or correction were an overpayment for federal income tax purposes; or

(iii) file an amended return with the commission.

(b) If a report or amended return is not filed within 90 days after the day on which the report or amended return is due, interest on any resulting refund or credit ceases to accrue after the 90-day period.

(c) The amount of the credit or refund may not exceed the amount of the reduction in tax attributable to the federal change, correction, or items amended on the taxpayer's amended federal income tax return.

(d) Except as provided in Subsection (12)(a), this Subsection (12) does not affect the amount or the time within which a claim for credit or refund may be filed.

(13) A credit or refund may not be allowed or made if an overpayment is less than $1.

(14) In the case of an overpayment of tax by an employer under Part 4, Withholding of Tax, an employer shall receive a refund or credit only to the extent that the amount of the overpayment is not deducted and withheld from wages under this chapter.

(15) (a) If a taxpayer that is allowed a refund under this chapter dies, the commission may make payment to the personal representative of the taxpayer's estate.

(b) If there is no personal representative of the taxpayer's estate, the commission may make payment to those persons that establish entitlement to inherit the property of the decedent in the proportions established in Title 75, Utah Uniform Probate Code.

(16) If an overpayment relates to a change in net income described in Subsection 59-10-536(2)(a), a credit may be allowed or a refund paid any time before the expiration of the period within which a deficiency may be assessed.

(17) An overpayment of a tax imposed by this chapter shall accrue interest at the rate and in the manner prescribed in Section 59-1-402.

(18) A pass-through entity may claim a refund of qualifying excess withholding in accordance with Section 59-10-1403.3 in lieu of a pass-though entity taxpayer claiming a tax credit under Section 59-7-614.4 or Section 59-10-1103.

Section 7. Section 62A-15-625 is amended to read:

62A-15-625. Voluntary admission of adults.

(1) A local mental health authority, a designee of a local mental health authority, or another mental health facility may admit for observation, diagnosis, care, and treatment an adult who applies for voluntary admission and who has a mental illness or exhibits the symptoms of a mental illness.

(2) No adult may be committed to a local mental health authority against that adult's will except as provided in this chapter.

(3) An adult may be voluntarily admitted to a local mental health authority for treatment at the Utah State Hospital as a condition of probation or stay of sentence only after the requirements of [~~Subsection 77-18-1(13)~~] Section 77-18-106 have been met.

Section 8. Section 63A-3-501 is amended to read:

63A-3-501. Definitions.

As used in this part:

(1) (a) "Accounts receivable" or "receivables" means any amount due to a state agency from an entity for which payment has not been received by the state agency that is servicing the debt.

(b) "Accounts receivable" includes:

(i) unpaid fees, licenses, taxes, loans, overpayments, fines, forfeitures, surcharges, costs, contracts, interest, penalties, [~~restitution to victims,~~] third-party claims, sale of goods, sale of services, claims, and damages[~~.~~];

(ii) a civil accounts receivable; and

(iii) a civil judgment of restitution.

(c) "Accounts receivable" does not include a criminal accounts receivable.

(2) "Administrative offset" means:

(a) a reduction of an individual's tax refund or other payments due to the individual to reduce or eliminate accounts receivable that the individual owes to a state agency; and

(b) a reduction of an entity's tax refund or other payments due to the entity to reduce or eliminate accounts receivable that the entity owes to a state agency.

(3) "Civil accounts receivable" means the same as that term is defined in Section 77-32b-102.

(4) "Civil judgment of restitution" means the same as that term is defined in Section 77-32b-102.

(5) "Criminal accounts receivable" means the same as that term is defined in Section 77-32b-102.

[~~(3)~~] (6) "Entity" means an individual, a corporation, partnership, or other organization that pays taxes to, or does business, with the state.

[~~(4)~~] (7) "Office" means the Office of State Debt Collection [~~established by this part~~] created in Section 63A-3-502.

[~~(5)~~] (8) "Past due" means any accounts receivable that the state has not received by the payment due date.

[~~(6)~~] (9) "Political subdivision" means the same as that term is defined in Section 63G-7-102.

[~~(7) "Restitution to victims" means restitution ordered by a court to be paid to a victim of an offense in a criminal or juvenile proceeding.~~]

(10) "Restitution" means the same as that term is defined in Section 77-38b-102.

[~~(8)~~] (11) (a) "State agency" includes:

(i) an executive branch agency;

(ii) the legislative branch of state government; and

(iii) the judicial branches of state government, including justice courts.

(b) "State agency" does not include:

(i) any institution of higher education;

(ii) except in Subsection 63A-3-502(7)(g), the State Tax Commission; or

(iii) the administrator of the Uninsured Employers' Fund appointed by the Labor Commissioner under Section 34A-2-704, solely for the purposes of collecting money required to be deposited into the Uninsured Employers' Fund under:

(A) Section 34A-1-405;

(B) Title 34A, Chapter 2, Workers' Compensation Act; or

(C) Title 34A, Chapter 3, Utah Occupational Disease Act.

[~~(9)~~] (12) "Writing-off" means the removal of an accounts receivable from an agency's accounts receivable records but does not necessarily eliminate further collection efforts.

Section 9. Section 63A-3-502 is amended to read:

63A-3-502. Office of State Debt Collection created -- Duties.

(1) The state and each state agency shall comply with:

(a) the requirements of this chapter; and

(b) any rules established by the Office of State Debt Collection.

(2) There is created the Office of State Debt Collection in the Division of Finance.

(3) The office shall:

(a) have overall responsibility for collecting and managing state receivables;

(b) assist the Division of Finance to develop consistent policies governing the collection and management of state receivables;

(c) oversee and monitor state receivables to ensure that state agencies are:

(i) implementing all appropriate collection methods;

(ii) following established receivables guidelines; and

(iii) accounting for and reporting receivables in the appropriate manner;

(d) assist the Division of Finance to develop policies, procedures, and guidelines for accounting, reporting, and collecting money owed to the state;

(e) provide information, training, and technical assistance to each state agency on various collection-related topics;

(f) write an inclusive receivables management and collection manual for use by each state agency;

(g) prepare quarterly and annual reports of the state's receivables;

(h) create or coordinate a state accounts receivable database;

(i) develop reasonable criteria to gauge state agencies' efforts in maintaining an effective accounts receivable program;

(j) identify any state agency that is not making satisfactory progress toward implementing collection techniques and improving accounts receivable collections;

(k) coordinate information, systems, and procedures between each state agency to maximize the collection of past-due accounts receivable;

(l) establish an automated cash receipt process between each state agency;

(m) assist the Division of Finance to establish procedures for writing off accounts receivable for accounting and collection purposes;

(n) establish standard time limits after which an agency will delegate responsibility to collect state receivables to the office or [~~its~~] the office's designee;

(o) be a real party in interest for:

(i) an account receivable referred to the office by any state agency [~~or for any restitution to victims referred to the office~~]; and

(ii) a civil judgment of restitution entered on a civil judgment docket by a court; [~~and~~]

(p) allocate money collected for [~~judgments registered under Section 77-18-6~~] a judgment entered on the civil judgment docket under Section 77-18-114 in accordance with Sections 51-9-402, 63A-3-506, and 78A-5-110[~~.~~]; and

(q) if a criminal accounts receivable is transferred to the office under Subsection 77-32b-103(2)(a)(ii), receive, process, and distribute payments for the criminal accounts receivable.

(4) The office may:

(a) recommend to the Legislature new laws to enhance collection of past-due accounts by state agencies;

(b) collect accounts receivables for higher education entities, if the higher education entity agrees;

(c) prepare a request for proposal for consulting services to:

(i) analyze the state's receivable management and collection efforts; and

(ii) identify improvements needed to further enhance the state's effectiveness in collecting its receivables;

(d) contract with private or state agencies to collect past-due accounts;

(e) perform other appropriate and cost-effective coordinating work directly related to collection of state receivables;

(f) obtain access to records and databases of any state agency that are necessary to the duties of the office by following the procedures and requirements of Section 63G-2-206, including the financial [~~disclosure form described in Section 77-38a-204~~] declaration form described in Section 77-38b-204;

(g) collect interest and fees related to the collection of receivables under this chapter, and establish, by following the procedures and requirements of Section 63J-1-504:

(i) a fee to cover the administrative costs of collection[~~,~~] on accounts administered by the office;

(ii) a late penalty fee that may not be more than 10% of the account receivable on accounts administered by the office;

(iii) an interest charge that is:

(A) the postjudgment interest rate established by Section 15-1-4 in judgments established by the courts; or

(B) not more than 2% above the prime rate as of July 1 of each fiscal year for accounts receivable for which no court judgment has been entered; and

(iv) fees to collect accounts receivable for higher education;

(h) collect reasonable attorney fees and reasonable costs of collection that are related to the collection of receivables under this chapter;

(i) make rules that allow accounts receivable to be collected over a reasonable period of time and under certain conditions with credit cards;

[~~(j) file a satisfaction of judgment in the court by following the procedures and requirements of the Utah Rules of Civil Procedure;~~]

(j) for a case that is referred to the office or in which the office is a judgment creditor, file a motion or other document related to the office or the accounts receivable in that case, including a satisfaction of judgment, in accordance with the Utah Rules of Civil Procedure;

(k) ensure that judgments for which the office is the judgment creditor are renewed, as necessary;

(l) notwithstanding Section 63G-2-206, share records obtained under Subsection (4)(f) with private sector vendors under contract with the state to assist state agencies in collecting debts owed to the state agencies without changing the classification of any private, controlled, or protected record into a public record;

(m) enter into written agreements with other governmental agencies to obtain and share information for the purpose of collecting state accounts receivable [~~and restitution for victims~~]; and

(n) collect accounts receivable for a political subdivision of the state[~~,~~] if the political subdivision enters into an agreement or contract with the office under Title 11, Chapter 13, Interlocal Cooperation Act, for the office to collect the political subdivision's accounts receivable.

(5) The office shall ensure that:

(a) a record obtained by the office or a private sector vendor [~~as referred to in~~] under Subsection (4)(l):

(i) is used only for the limited purpose of collecting accounts receivable; and

(ii) is subject to federal, state, and local agency records restrictions; and

(b) any person employed by, or formerly employed by, the office or a private sector vendor as referred to in Subsection (4)(l) is subject to:

(i) the same duty of confidentiality with respect to the record imposed by law on officers and employees

of the state agency from which the record was obtained; and

(ii) any civil or criminal penalties imposed by law for violations of lawful access to a private, controlled, or protected record.

(6) (a) The office shall collect [~~accounts receivable~~] a civil accounts receivable or a civil judgment of restitution ordered by a court as a result of prosecution for a criminal offense that have been transferred to the office under [~~Section 77-32a-102~~] Subsection 77-18-114(1) or (2).

(b) The office may not assess:

(i) the interest charge established by the office under Subsection (4) on an account receivable subject to the postjudgment interest rate established by Section 15-1-4[~~.~~]; and

(ii) an interest charge on a criminal accounts receivable that is transferred to the office under Subsection 77-32b-103(2)(a)(ii).

(7) The office shall require a state agency to:

(a) transfer collection responsibilities to the office or [~~its~~] the office's designee according to time limits established by the office;

(b) make annual progress towards implementing collection techniques and improved accounts receivable collections;

(c) use the state's accounts receivable system or develop systems that are adequate to properly account for and report [~~their~~] the state's receivables;

(d) develop and implement internal policies and procedures that comply with the collections policies and guidelines established by the office;

(e) provide internal accounts receivable training to staff involved in the management and collection of receivables as a supplement to statewide training;

(f) bill for and make initial collection efforts of its receivables up to the time the accounts must be transferred; and

(g) submit quarterly receivable reports to the office that identify the age, collection status, and funding source of each receivable.

(8) All interest, fees, and other amounts authorized to be [~~charged~~] collected by the office under Subsection (4)(g):

(a) are penalties that may be charged by the office; [~~and~~]

(b) do not require an order from a court for the office to assess or collect;

[~~(b)~~] (c) are not compensation for actual pecuniary loss[~~.~~];

(d) for a civil accounts receivable:

(i) begin to accrue on the day on which the civil accounts receivable is entered on the civil judgment docket under Subsection 77-18-114(1) or (2); and

(ii) may be collected as part of the civil accounts receivable;

(e) for a civil judgment of restitution:

(i) begin to accrue on the day on which the civil judgment of restitution is entered on the civil judgment docket under Subsection 77-18-114(1); and

(ii) may be collected as part of the civil judgment of restitution;

(f) for all other accounts receivable:

(i) begin to accrue on the day on which the accounts receivable is transferred to the office, even if there is no court order on the day on which the accounts receivable is transferred; and

(ii) may be collected as part of the accounts receivable; and

(g) may be waived by:

(i) the office; or

(ii) if the interest, fee, or other amount is charged in error, the court.

Section 10. Section 63A-3-504 is amended to read:

63A-3-504. Rulemaking authority -- Collection techniques.

In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office shall make rules:

(1) providing details, as necessary, for the distribution of debts collected in accordance with the priorities under Subsection 63A-3-505(3); [~~and~~]

(2) to govern collection techniques, which may include the use of:

(a) credit reporting bureaus;

(b) collection agencies;

(c) garnishments;

(d) liens;

(e) judgments; and

(f) administrative offsets[~~.~~]; and

(3) establishing that any portion of a payment for a civil judgment of restitution be credited to principal first and, if the principal amount owed for the civil judgment of restitution has been satisfied, the remainder of the payment be credited to interest that has accrued on the principal.

Section 11. Section 63A-3-505 is amended to read:

63A-3-505. State Debt Collection Fund.

(1) There is created an expendable special revenue fund entitled the "State Debt Collection Fund."

(2) The fund consists of:

(a) all amounts appropriated to the fund under this chapter;

(b) fees and interest established by the office under Subsection 63A-3-502(4)(g); and

(c) except as otherwise provided by law, all postjudgment interest collected by the office or the state, except postjudgment interest on [~~restitution~~] a civil judgment of restitution.

(3) Money in this fund shall be used to pay for:

(a) the costs of the office in the performance of [~~its~~] the office's duties under this chapter;

(b) [~~restitution to victims to whom the debt is owed~~] a civil judgment of restitution for which debt is owed;

(c) interest accrued that is associated with the debt;

(d) principal on the debt to the state agencies or other entities that placed the receivable for collection; and

(e) other legal obligations including those ordered by a court.

(4) (a) The fund may collect interest.

(b) All interest earned from the fund shall be deposited in the General Fund.

(5) The office shall ensure that money remaining in the fund at the end of the fiscal year that is not committed under the priorities established under Subsection (3) is deposited into the General Fund.

Section 12. Section 63A-3-507 is amended to read:

63A-3-507. Administrative garnishment order.

(1) [~~If~~] Subject to Subsection (2), if a judgment is entered against a debtor, the office may[~~, subject to Subsection (2),~~] issue an administrative garnishment order against the debtor's personal property, including wages, in the possession of a party other than the debtor in the same manner and with the same effect as if the order was a writ of garnishment issued by a court with jurisdiction.

(2) The office may issue the administrative garnishment order if [~~the order is~~]:

(a) the order is signed by the director or the director's designee; and

(b) the underlying debt is for:

(i) nonpayment of [~~a criminal judgment accounts receivable as defined in Section 77-32a-101~~] a civil accounts receivable or a civil judgment of restitution; or

(ii) nonpayment of a judgment, or abstract of judgment or award filed with a court, based on an administrative order for payment issued by an agency of the state.

(3) An administrative garnishment order issued in accordance with this section is subject to the procedures and due process protections provided by Rule 64D, Utah Rules of Civil Procedure, except as provided by Section 70C-7-103.

(4) An administrative garnishment order issued by the office shall:

(a) contain a statement that includes:

(i) if known:

(A) the nature, location, account number, and estimated value of the property; and

(B) the name, address, and phone number of the person holding the property;

(ii) whether any of the property consists of earnings;

(iii) the amount of the judgment and the amount due on the judgment;

(iv) the name, address, and phone number of any person known to the plaintiff to claim an interest in the property; and

(v) that the plaintiff has attached or will serve the garnishee fee established in Section 78A-2-216;

(b) identify the defendant, including:

(i) the defendant's name and address; and

(ii) if known:

(A) the last four digits of the defendant's Social Security number;

(B) the last four digits of the defendant's driver license; and

(C) the state in which the driver license was issued;

(c) include one or more interrogatories inquiring:

(i) whether the garnishee is indebted to the defendant and, if so, the nature of the indebtedness;

(ii) whether the garnishee possesses or controls any property of the defendant, and, if so, the nature, location, and estimated value of the property;

(iii)(A) whether the garnishee knows of any property of the defendant in the possession or under the control of another; and

(B) the nature, location, and estimated value of the defendant's property in possession or under the control of another, and the name, address, and phone number of the person with possession or control;

(iv) whether the garnishee is deducting a liquidated amount in satisfaction of a claim against the plaintiff or the defendant, a designation as to whom the claim relates, and the amount deducted;

(v) the date and manner of the garnishee's service of papers upon the defendant and any third party;

(vi) the dates on which previously served writs of continuing garnishment were served, if any; and

(vii) any other relevant information the office may request, including the defendant's position, rate, and method of compensation, pay period, or computation of the amount of the defendant's disposable earnings;

(d) notify the defendant of the defendant's right to reply to answers and request a hearing as provided by Rule 64D, Utah Rules of Civil Procedure; and

(e) state where the garnishee may deliver property.

(5)(a) A garnishee who acts in accordance with this section and the administrative garnishment issued by the office is released from liability unless an answer to an interrogatory is successfully controverted.

(b) Except as provided in Subsection (5)(c), if the garnishee fails to comply with an administrative garnishment issued by the office without a court or final administrative order directing otherwise, the garnishee is liable to the office for an amount ordered by the court, including:

(i) the value of the property or the value of the judgment, whichever is less;

(ii) reasonable costs; and

(iii) attorney fees incurred by the parties as a result of the garnishee's failure.

(c) If the garnishee shows that the steps taken to secure the property were reasonable, the court may excuse the garnishee's liability in whole or in part.

(6) A creditor who files a motion for an order to show cause under this section shall attach to the motion a statement that the creditor has in good faith conferred or attempted to confer with the garnishee in an effort to settle the issue without court action.

(7) A person is not liable as a garnishee for drawing, accepting, making, or endorsing a negotiable instrument if the instrument is not in the possession or control of the garnishee at the time of service of the administrative garnishment order.

(8)(a) A person indebted to the defendant may pay to the office the amount of the debt or an amount to satisfy the administrative garnishment.

(b) The office's receipt of an amount described in Subsection (8)(a) discharges the debtor for the amount paid.

(9) A garnishee may deduct from the property any liquidated claim against the defendant.

(10)(a) If a debt to the garnishee is secured by property, the office:

(i) is not required to apply the property to the debt when the office issues the administrative garnishment order; and

(ii) may obtain a court order authorizing the office to buy the debt and requiring the garnishee to deliver the property.

(b) Notwithstanding Subsection (10)(a)(i):

(i) the administrative garnishment order remains in effect; and

(ii) the office may apply the property to the debt.

(c) The office or a third party may perform an obligation of the defendant and require the garnishee to deliver the property upon completion of performance or, if performance is refused, upon tender of performance if:

(i) the obligation is secured by property; and

(ii)(A) the obligation does not require the personal performance of the defendant; and

(B) a third party may perform the obligation.

(11)(a) The office may issue a continuing garnishment order against a nonexempt periodic payment.

(b) This section is subject to the Utah Exemptions Act.

(c) A continuing garnishment order issued in accordance with this section applies to payments to the defendant from the date of service upon the garnishee until the earlier of the following:

(i) the last periodic payment;

(ii) the judgment upon which the administrative garnishment order is issued is stayed, vacated, or satisfied in full; or

(iii) the office releases the order.

(d) No later than seven days after the last day of each payment period, the garnishee shall with respect to that period:

(i) answer each interrogatory;

(ii) serve an answer to each interrogatory on the office, the defendant, and any other person who has a recorded interest in the property; and

(iii) deliver the property to the office.

(e) If the office issues a continuing garnishment order during the term of a writ of continuing garnishment issued by the district court, the order issued by the office:

(i) is tolled when a writ of garnishment or other income withholding is already in effect and is withholding greater than or equal to the maximum portion of disposable earnings described in Subsection (12);

(ii) is collected in the amount of the difference between the maximum portion of disposable earnings described in Subsection (12) and the amount being garnished by an existing writ of continuing garnishment if the maximum portion of disposable earnings exceed the existing writ of garnishment or other income withholding; and

(iii) shall take priority upon the termination of the current term of existing writs.

(12) The maximum portion of disposable earnings of an individual subject to seizure in accordance with this section is the lesser of:

(a) 25% of the defendant's disposable earnings for any other judgment; or

(b) the amount by which the defendant's disposable earnings for a pay period exceeds the number of weeks in that pay period multiplied by 30 times the federal minimum wage as provided in 29

U.S.C. Sec. 201 et seq., Fair Labor Standards Act of 1938.

(13) The administrative garnishment instituted in accordance with this section shall continue to operate and require that a person withhold the nonexempt portion of earnings at each succeeding earning disbursement interval until the total amount due in the garnishment is withheld or the garnishment is released in writing by the court or office.

(14) If the office issues an administrative garnishment order under this section to collect an amount owed on a civil accounts receivable or a civil judgment of restitution, the administrative garnishment order shall be construed as a continuation of the criminal action for which the civil accounts receivable or civil judgment of restitution arises if the amount owed is from a fine, fee, or restitution for the criminal action.

Section 13. Section 63I-1-263 is amended to read:

63I-1-263. Repeal dates, Titles 63A to 63N.

(1) In relation to the Utah Transparency Advisory Board, on January 1, 2025:

(a) Subsection 63A-1-201(1) is repealed;

(b) Subsection 63A-1-202(2)(c), the language "using criteria established by the board" is repealed;

(c) Section 63A-1-203 is repealed;

(d) Subsections 63A-1-204(1) and (2), the language "After consultation with the board, and" is repealed; and

(e) Subsection 63A-1-204(1)(b), the language "using the standards provided in Subsection 63A-1-203(3)(c)" is repealed.

(2) Subsection 63A-5b-405(5), relating to prioritizing and allocating capital improvement funding, is repealed July 1, 2024.

(3) Section 63A-5b-1003, State Facility Energy Efficiency Fund, is repealed July 1, 2023.

(4) Sections 63A-9-301 and 63A-9-302, related to the Motor Vehicle Review Committee, are repealed July 1, 2023.

(5) Title 63C, Chapter 4a, Constitutional and Federalism Defense Act, is repealed July 1, 2028.

(6) Title 63C, Chapter 6, Utah Seismic Safety Commission, is repealed January 1, 2025.

(7) Title 63C, Chapter 12, Snake Valley Aquifer Advisory Council, is repealed July 1, 2024.

(8) Title 63C, Chapter 17, Point of the Mountain Development Commission Act, is repealed July 1, 2021.

(9) Title 63C, Chapter 18, Behavioral Health Crisis Response Commission, is repealed July 1, 2023.

(10) Title 63C, Chapter 21, Outdoor Adventure Commission, is repealed July 1, 2025.

(11) Title 63F, Chapter 2, Data Security Management Council, is repealed July 1, 2025.

(12) Section 63G-6a-805, which creates the Purchasing from Persons with Disabilities Advisory Board, is repealed July 1, 2026.

(13) Title 63G, Chapter 21, Agreements to Provide State Services, is repealed July 1, 2025.

(14) Title 63H, Chapter 4, Heber Valley Historic Railroad Authority, is repealed July 1, 2024.

(15) Title 63H, Chapter 8, Utah Housing Corporation Act, is repealed July 1, 2026.

(16) Subsection 63J-1-602.1(14), Nurse Home Visiting Restricted Account is repealed July 1, 2026.

(17) (a) Subsection 63J-1-602.1(58), relating to the Utah Statewide Radio System Restricted Account, is repealed July 1, 2022.

(b) When repealing Subsection 63J-1-602.1(58), the Office of Legislative Research and General Counsel shall, in addition to the office's authority under Subsection 36-12-12(3), make necessary changes to subsection numbering and cross references.

(18) Subsection 63J-1-602.2(4), referring to dedicated credits to the Utah Marriage Commission, is repealed July 1, 2023.

(19) Subsection 63J-1-602.2(5), referring to the Trip Reduction Program, is repealed July 1, 2022.

(20) Subsection 63J-1-602.2(25), related to the Utah Seismic Safety Commission, is repealed January 1, 2025.

(21) Title 63J, Chapter 4, Part 5, Resource Development Coordinating Committee, is repealed July 1, 2027.

(22) Subsection 63J-4-608(3), which creates the Federal Land Application Advisory Committee, is repealed on July 1, 2021.

(23) In relation to the Utah Substance Use and Mental Health Advisory Council, on January 1, 2023:

(a) Sections 63M-7-301, 63M-7-302, 63M-7-303, 63M-7-304, and 63M-7-306 are repealed;

(b) Section 63M-7-305, the language that states "council" is replaced with "commission";

(c) Subsection 63M-7-305(1) is repealed and replaced with:

"(1) "Commission" means the Commission on Criminal and Juvenile Justice."; and

(d) Subsection 63M-7-305(2) is repealed and replaced with:

"(2) The commission shall:

(a) provide ongoing oversight of the implementation, functions, and evaluation of the Drug-Related Offenses Reform Act; and

(b) coordinate the implementation of Section [~~77-18-1.1~~] 77-18-104 and related provisions in Subsections [~~77-18-1(5)(b)(iii) and (iv)~~] 77-18-103(2)(c) and (d).".

(24) The Crime Victim Reparations and Assistance Board, created in Section 63M-7-504, is repealed July 1, 2027.

(25) Title 63M, Chapter 7, Part 6, Utah Council on Victims of Crime, is repealed July 1, 2022.

(26) Title 63M, Chapter 11, Utah Commission on Aging, is repealed July 1, 2021.

(27) Subsection 63N-1-301(4)(c), related to the Talent Ready Utah Board, is repealed January 1, 2023.

(28) Title 63N, Chapter 1, Part 5, Governor's Economic Development Coordinating Council, is repealed July 1, 2024.

(29) Title 63N, Chapter 2, Part 2, Enterprise Zone Act, is repealed July 1, 2028.

(30) Section 63N-2-512 is repealed July 1, 2021.

(31) (a) Title 63N, Chapter 2, Part 6, Utah Small Business Jobs Act, is repealed January 1, 2021.

(b) Section 59-9-107 regarding tax credits against premium taxes is repealed for calendar years beginning on or after January 1, 2021.

(c) Notwithstanding Subsection (31)(b), an entity may carry forward a tax credit in accordance with Section 59-9-107 if:

(i) the person is entitled to a tax credit under Section 59-9-107 on or before December 31, 2020; and

(ii) the qualified equity investment that is the basis of the tax credit is certified under Section 63N-2-603 on or before December 31, 2023.

(32) Subsections 63N-3-109(2)(e) and 63N-3-109(2)(f)(i) are repealed July 1, 2023.

(33) Title 63N, Chapter 4, Part 4, Rural Employment Expansion Program, is repealed July 1, 2023.

(34) Title 63N, Chapter 7, Part 1, Board of Tourism Development, is repealed July 1, 2025.

(35) Title 63N, Chapter 9, Part 2, Outdoor Recreational Infrastructure Grant Program, is repealed January 1, 2023.

(36) Title 63N, Chapter 12, Part 5, Talent Ready Utah Center, is repealed January 1, 2023.

Section 14. Section 63M-7-303 is amended to read:

63M-7-303. Duties of council.

(1) The Utah Substance Use and Mental Health Advisory Council shall:

(a) provide leadership and generate unity for Utah's ongoing efforts to reduce and eliminate the impact of substance use and mental health disorders in Utah through a comprehensive and evidence-based prevention, treatment, and justice strategy;

(b) recommend and coordinate the creation, dissemination, and implementation of statewide policies to address substance use and mental health disorders;

(c) facilitate planning for a balanced continuum of substance use and mental health disorder prevention, treatment, and justice services;

(d) promote collaboration and mutually beneficial public and private partnerships;

(e) coordinate recommendations made by any committee created under Section 63M-7-302;

(f) analyze and provide an objective assessment of all proposed legislation concerning substance use, mental health, and related issues;

(g) coordinate the implementation of Section [~~77-18-1.1~~] 77-18-104 and related provisions in Subsections [~~77-18-1(5)(b)(iii) and (iv)~~] 77-18-103(2)(c) and (d), as provided in Section 63M-7-305;

(h) comply with Section 32B-2-306; and

(i) oversee coordination for the funding, implementation, and evaluation of suicide prevention efforts described in Section 62A-15-1101.

(2) The council shall meet quarterly or more frequently as determined necessary by the chair.

(3) The council shall report [~~its~~] the council's recommendations annually to the commission, governor, the Legislature, and the Judicial Council.

Section 15. Section 63M-7-305 is amended to read:

63M-7-305. Drug-Related Offenses Reform Act -- Coordination.

(1) As used in this section:

(a) "Council" means the Utah Substance Use and Mental Health Advisory Council.

(b) "Drug-Related Offenses Reform Act" and "act" mean the screening, assessment, substance use disorder treatment, and supervision provided to convicted persons under Subsection [~~77-18-1.1(2)~~] 77-18-104(2) to:

(i) determine a person's specific substance use disorder treatment needs as early as possible in the judicial process;

(ii) expand treatment resources for persons in the community;

(iii) integrate a person's treatment with supervision by the Department of Corrections; and

(iv) reduce the incidence of substance use disorders and related criminal conduct.

(c) "Substance abuse authority" [~~has the same meaning as~~] means the same as that term is defined in Section 17-43-201.

(2) The council shall provide ongoing oversight of the implementation, functions, and evaluation of the Drug-Related Offenses Reform Act.

(3) The council shall develop an implementation plan for the Drug-Related Offenses Reform Act. The plan shall:

(a) identify local substance abuse authority areas where the act will be implemented, in cooperation with the Division of Substance Abuse and Mental Health, the Department of Corrections, and the local substance abuse authorities;

(b) include guidelines for local substance abuse authorities and the Utah Department of Corrections on how funds appropriated under the act should be used, including eligibility requirements for convicted persons who participate in services funded by the act, that are consistent with the recommendations of the Commission on Criminal and Juvenile Justice for reducing recidivism; and

(c) require that treatment plans under the act are appropriate for persons involved in the criminal justice system.

Section 16. Section 63M-7-502 is amended to read:

63M-7-502. Definitions.

As used in this part:

(1) "Accomplice" means an individual who has engaged in criminal conduct as described in Section 76-2-202.

(2) "Board" means the Crime Victim Reparations and Assistance Board created under Section 63M-7-504.

(3) "Bodily injury" means physical pain, illness, or any impairment of physical condition.

(4) "Claimant" means any of the following claiming reparations under this part:

(a) a victim;

(b) a dependent of a deceased victim; or

(c) an individual or representative who files a reparations claim on behalf of a victim.

(5) "Child" means an unemancipated individual who is under 18 years old.

(6) "Collateral source" means any source of benefits or advantages for economic loss otherwise reparable under this part [~~which~~] that the victim or claimant has received, or [~~which~~] that is readily available to the victim from:

(a) the offender;

(b) the insurance of the offender or the victim;

(c) the United States government or any of its agencies, a state or any of its political subdivisions, or an instrumentality of two or more states, except in the case on nonobligatory state-funded programs;

(d) social security, Medicare, and Medicaid;

(e) state-required temporary nonoccupational income replacement insurance or disability income insurance;

(f) workers' compensation;

(g) wage continuation programs of any employer;

(h) proceeds of a contract of insurance payable to the victim for the loss the victim sustained because of the criminally injurious conduct;

(i) a contract providing prepaid hospital and other health care services or benefits for disability; or

(j) veteran's benefits, including veteran's hospitalization benefits.

(7) (a) "Criminally injurious conduct" other than acts of war declared or not declared means conduct that:

(i) is or would be subject to prosecution in this state under Section 76-1-201;

(ii) occurs or is attempted;

(iii) causes, or poses a substantial threat of causing, bodily injury or death;

(iv) is punishable by fine, imprisonment, or death if the individual engaging in the conduct possessed the capacity to commit the conduct; and

(v) does not arise out of the ownership, maintenance, or use of a motor vehicle, aircraft, or water craft, unless the conduct is intended to cause bodily injury or death, or is conduct which is or would be punishable under Title 76, Chapter 5, Offenses Against the Person, or as any offense chargeable as driving under the influence of alcohol or drugs.

(b) "Criminally injurious conduct" includes an act of terrorism, as defined in 18 U.S.C. Sec. 2331 committed outside of the United States against a resident of this state. "Terrorism" does not include an "act of war" as defined in 18 U.S.C. Sec. 2331.

(c) "Criminally injurious conduct" includes a felony violation of Section 76-7-101 and other conduct leading to the psychological injury of an individual resulting from living in a setting that involves a bigamous relationship.

(8) (a) "Dependent" means a natural person to whom the victim is wholly or partially legally responsible for care or support [~~and includes~~].

(b) "Dependent" includes a child of the victim born after the victim's death.

(9) "Dependent's economic loss" means loss after the victim's death of contributions of things of economic value to the victim's dependent, not including services the dependent would have received from the victim if the victim had not suffered the fatal injury, less expenses of the dependent avoided by reason of victim's death.

(10) "Dependent's replacement services loss" means loss reasonably and necessarily incurred by the dependent after the victim's death in obtaining services in lieu of those the decedent would have performed for the victim's benefit if the victim had not suffered the fatal injury, less expenses of the dependent avoided by reason of the victim's death and not subtracted in calculating the dependent's economic loss.

(11) "Director" means the director of the office.

(12) "Disposition" means the sentencing or determination of penalty or punishment to be imposed upon an individual:

(a) convicted of a crime;

(b) found delinquent; or

(c) against whom a finding of sufficient facts for conviction or finding of delinquency is made.

(13) (a) "Economic loss" means economic detriment consisting only of allowable expense, work loss, replacement services loss, and if injury causes death, dependent's economic loss and dependent's replacement service loss.

(b) "Economic loss" includes economic detriment even if caused by pain and suffering or physical impairment.

(c) "Economic loss" does not include noneconomic detriment.

(14) "Elderly victim" means an individual 60 years old or older who is a victim.

(15) "Fraudulent claim" means a filed reparations based on material misrepresentation of fact and intended to deceive the reparations staff for the purpose of obtaining reparation funds for which the claimant is not eligible.

(16) "Fund" means the Crime Victim Reparations Fund created in Section 63M-7-526.

(17) "Law enforcement officer" means [~~a law enforcement officer as defined in Section 53-13-103~~] the same as that term is defined in Section 53-13-103.

(18) (a) "Medical examination" means a physical examination necessary to document criminally injurious conduct [~~but~~].

(b) "Medical examination" does not include mental health evaluations for the prosecution and investigation of a crime.

(19) "Mental health counseling" means outpatient and inpatient counseling necessitated as a result of criminally injurious conduct, is subject to rules made by the board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(20) "Misconduct" [~~as provided in Subsection 63M-7-512(1)(b)~~] means conduct by the victim [~~which~~] that was attributable to the injury or death of the victim as provided by rules made by the board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(21) "Noneconomic detriment" means pain, suffering, inconvenience, physical impairment, and other nonpecuniary damage, except as provided in this part.

(22) "Pecuniary loss" does not include loss attributable to pain and suffering except as otherwise provided in this part.

(23) "Offender" means an individual who has violated [~~the~~] Title 76, Utah Criminal Code, through criminally injurious conduct regardless of whether the individual is arrested, prosecuted, or convicted.

(24) "Offense" means a violation of [~~the~~] Title 76, Utah Criminal Code.

(25) "Office" means the director, the reparations and assistance officers, and any other staff employed for the purpose of carrying out the provisions of this part.

(26) "Perpetrator" means the individual who actually participated in the criminally injurious conduct.

(27) "Reparations award" means money or other benefits provided to a claimant or to another on behalf of a claimant after the day on which a reparations claim is approved by the office.

(28) "Reparations claim" means a claimant's request or application made to the office for a reparations award.

(29) (a) "Reparations officer" means an individual employed by the office to investigate claims of victims and award reparations under this part[~~, and includes~~].

(b) "Reparations officer" includes the director when the director is acting as a reparations officer.

(30) "Replacement service loss" means expenses reasonably and necessarily incurred in obtaining ordinary and necessary services in lieu of those the injured individual would have performed, not for income but the benefit of the injured individual or the injured individual's dependents if the injured individual had not been injured.

(31) (a) "Representative" means the victim, immediate family member, legal guardian, attorney, conservator, executor, or an heir of an individual [~~but~~].

(b) "Representative" does not include a service provider or collateral source.

(32) "Restitution" means [~~money or services an appropriate authority orders an offender to pay or render to a victim of the offender's conduct.~~] the same as that term is defined in Section 77-38b-102.

(33) "Secondary victim" means an individual who is traumatically affected by the criminally injurious conduct subject to rules made by the board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(34) "Service provider" means an individual or agency who provides a service to [~~crime victims~~] a victim for a monetary fee, except attorneys as provided in Section 63M-7-524.

(35) "Serious bodily injury" means the same as that term is defined in Section 76-1-601.

(36) "Substantial bodily injury" means the same as that term is defined in Section 76-1-601.

(37) (a) "Victim" means an individual who suffers bodily or psychological injury or death as a direct result of:

(i) criminally injurious conduct; or [~~of~~]

(ii) the production of pornography in violation of Section 76-5b-201 if the individual is a minor.

(b) "Victim" does not include an individual who participated in or observed the judicial proceedings against an offender unless otherwise provided by statute or rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(c) "Victim" includes a resident of this state who is injured or killed by an act of terrorism, as defined in 18 U.S.C. Sec. 2331, committed outside of the United States.

(38) "Work loss" means loss of income from work the injured victim would have performed if the injured victim had not been injured and expenses reasonably incurred by the injured victim in obtaining services in lieu of those the injured victim would have performed for income, reduced by any income from substitute work the injured victim was capable of performing but unreasonably failed to undertake.

Section 17. Section 63M-7-503 is amended to read:

63M-7-503. Restitution -- Reparations not to supplant restitution -- Assignment of claim for restitution judgment to Reparations Office.

(1) A reparations award may not supplant [~~restitution as established under Title 77, Chapter 38a, Crime Victims Restitution Act, or as established by any other provisions.~~] an order for restitution under Title 77, Chapter 38b, Crime Victims Restitution Act, or under any other provision of law.

(2) The court may not reduce an order [~~of~~] for restitution based on a reparations award.

(3) (a) (i) [~~If, due to reparation payments to a victim, the office is assigned under Section 63M-7-519 a claim for the victim's judgment for restitution or a portion of the restitution~~] If a victim receives a reparations award and the office is assigned the victim's claim for restitution, or a portion of the victim's claim for restitution, under Section 63M-7-519, the office may file with the sentencing court a notice of restitution listing the amounts or estimated future amounts of payments made or anticipated to be made to or on behalf of the victim.

(ii) The office may provide a [~~restitution notice~~] notice of restitution to the victim or victim's representative before or at sentencing.

(iii) The office's failure to provide notice under Subsection (3)(a)(i) or (ii) does not invalidate the imposition of the judgment or [~~order of~~] an order for restitution if the defendant is given the opportunity to object and be heard as provided in this part.

(b) (i) Any objection by the defendant to the imposition or amount of restitution under Subsection (3)(a)(i) shall be:

(A) made at the time of sentencing; or

(B) made in writing within 20 days after the day on which the defendant receives the notice described in Subsection (3)(a)[~~, to be~~] and filed with the court and a copy mailed to the office.

(ii) Upon [~~the filing of the~~] an objection, the court shall allow the defendant a [~~full~~] hearing on the issue [~~in accordance with Subsection 77-38a-302(4)~~].

(iii) After a hearing under Subsection (3)(b)(ii), the court shall:

(A) enter an order for restitution in accordance with Section 77-38b-205; and

(B) identify the office as an assignee for the order for restitution.

[~~(iii) The~~] (iv) Subject to the right of the defendant to object, the amount of restitution sought by the office may be updated [~~at any time, subject to the right of the defendant to object.~~] and the office identified as an assignee of an order for restitution in accordance with the time periods established under Subsection 77-38b-205(5).

(4) If no objection is made or filed by the defendant under Subsection (3), [~~then upon conviction and sentencing, the court shall enter a judgment for complete restitution under Subsections 76-3-201(4)(c) and (d) and identify the office as the assignee of the assigned portion of the judgment and order of restitution.~~] the court shall upon conviction and sentencing:

(a) enter an order for restitution in accordance with Section 77-38b-205; and

(b) identify the office as an assignee for the order for restitution.

(5) (a) If the notice of restitution is filed after sentencing but during the term of probation or parole, the court [~~or Board of Pardons~~] shall:

(i) modify any [~~existing civil judgment and order of~~] order for restitution to include expenses paid by the office on behalf of the victim in accordance with Subsection 77-38b-205(5); and

(ii) identify the office as [~~the~~] an assignee of the [~~assigned portion of the judgment and order of~~] order for restitution. [~~If no judgment or order of restitution has~~]

(b) If an order for restitution has not been entered, the court shall [~~enter a judgment for complete restitution and court-ordered restitution under Sections 77-38a-302 and 77-38a-401.~~]:

(i) enter an order for restitution in accordance with Section 77-38b-205; and

(ii) identify the office as an assignee of the order for restitution.

Section 18. Section 63M-7-513 is amended to read:

63M-7-513. Collateral sources.

(1) (a) An order [~~of~~] for restitution may not be considered readily available as a collateral source.

(b) Receipt of a reparations award under this part is considered an assignment of the victim's rights to restitution from the offender.

(2) (a) The victim may not discharge a claim against an individual or entity without the office's written permission [~~and~~].

(b) The victim shall fully cooperate with the office in pursuing the office's right of reimbursement, including providing the office with any evidence in the victim's possession.

(3) The office's right of reimbursement applies regardless of whether the victim is fully compensated for the victim's losses.

(4) Notwithstanding Subsection 63M-7-512(1)(a), a victim of a sexual offense who requests testing of the victim's self may be reimbursed for the costs of the HIV test only as provided in Subsection 76-5-503(4).

Section 19. Section 64-13-1 is amended to read:

64-13-1. Definitions.

As used in this chapter:

(1) "Case action plan" means a document developed by the Department of Corrections that identifies the program priorities for the treatment of the offender, including the criminal risk factors as determined by a risk and needs assessment conducted by the department.

(2) "Community correctional center" means a nonsecure correctional facility operated by the department.

(3) "Correctional facility" means any facility operated to house offenders[~~, either~~] in a secure or nonsecure setting:

(a) by the department; or

(b) under a contract with the department.

(4) "Criminal risk factors" means [~~a person's~~] an individual's characteristics and behaviors that:

(a) affect [~~that person's~~] the individual's risk of engaging in criminal behavior; and

(b) are diminished when addressed by effective treatment, supervision, and other support resources, resulting in a reduced risk of criminal behavior.

(5) "Department" means the Department of Corrections.

(6) "Emergency" means any riot, disturbance, homicide, inmate violence occurring in any correctional facility, or any situation that presents immediate danger to the safety, security, and control of the department.

(7) "Executive director" means the executive director of the Department of Corrections.

(8) "Inmate" means [~~any person~~] an individual who is:

(a) committed to the custody of the department [~~and who is~~]; and

(b) housed at a correctional facility or at a county jail at the request of the department.

(9) "Offender" means [~~any person~~] an individual who has been convicted of a crime for which [~~he~~] the individual may be committed to the custody of the department and is at least one of the following:

(a) committed to the custody of the department;

(b) on probation; or

(c) on parole.

(10) "Restitution" means the same as that term is defined in Section 77-38b-102.

[~~(10)~~] (11) "Risk and needs assessment" means an actuarial tool validated on criminal offenders that determines:

(a) an individual's risk of reoffending; and

(b) the criminal risk factors that, when addressed, reduce the individual's risk of reoffending.

[~~(11)~~] (12) "Secure correctional facility" means any prison, penitentiary, or other institution operated by the department or under contract for the confinement of offenders, where force may be used to restrain [~~them if they attempt~~] an offender if the offender attempts to leave the institution without authorization.

Section 20. Section 64-13-6 is amended to read:

64-13-6. Department duties.

(1) The department shall:

(a) protect the public through institutional care and confinement, and supervision in the community of offenders where appropriate;

(b) implement court-ordered punishment of offenders;

(c) provide program opportunities for offenders;

(d) provide treatment for sex offenders who are found to be treatable based upon criteria developed by the department;

(e) provide the results of ongoing assessment of sex offenders and objective diagnostic testing to sentencing and release authorities;

(f) manage programs that take into account the needs and interests of victims, where reasonable;

(g) supervise probationers and parolees as directed by statute and implemented by the courts and the Board of Pardons and Parole;

(h) subject to Subsection (2), investigate criminal conduct involving offenders incarcerated in a state correctional facility;

(i) cooperate and exchange information with other state, local, and federal law enforcement agencies to achieve greater success in prevention and detection of crime and apprehension of criminals;

(j) implement the provisions of Title 77, Chapter 28c, Interstate Compact for Adult Offender Supervision;

(k) establish a case action plan for each offender as follows:

(i) if an offender is to be supervised in the community, the case action plan shall be established for the offender not more than 90 days after supervision by the department begins; and

(ii) if the offender is committed to the custody of the department, the case action plan shall be established for the offender not more than 120 days after the commitment; and

(l) ensure that any training or certification required of a public official or public employee, as those terms are defined in Section 63G-22-102, complies with Title 63G, Chapter 22, State Training and Certification Requirements, if the training or certification is required:

(i) under this title;

(ii) by the department; or

(iii) by an agency or division within the department.

(2) The department may in the course of supervising probationers and parolees:

(a) impose graduated sanctions, as established by the Utah Sentencing Commission under Subsection 63M-7-404(6), for an individual's violation of one or more terms of the probation or parole; and

(b) upon approval by the court or the Board of Pardons and Parole, impose as a sanction for an individual's violation of the terms of probation or parole a period of incarceration of not more than three consecutive days and not more than a total of five days within a period of 30 days.

(3) (a) By following the procedures in Subsection (3)(b), the department may investigate the following occurrences at state correctional facilities:

(i) criminal conduct of departmental employees;

(ii) felony crimes resulting in serious bodily injury;

(iii) death of any person; or

(iv) aggravated kidnaping.

(b) [~~Prior to~~] Before investigating any occurrence specified in Subsection (3)(a), the department shall:

(i) notify the sheriff or other appropriate law enforcement agency promptly after ascertaining facts sufficient to believe an occurrence specified in Subsection (3)(a) has occurred; and

(ii) obtain consent of the sheriff or other appropriate law enforcement agency to conduct an investigation involving an occurrence specified in Subsection (3)(a).

(4) Upon request, the department shall provide copies of investigative reports of criminal conduct to the sheriff or other appropriate law enforcement agencies.

[~~(5) The Department of Corrections shall collect accounts receivable ordered by the district court as a result of prosecution for a criminal offense according to the requirements and during the time periods established in Subsection 77-18-1(9).~~]

(5) (a) As used in this Subsection (5):

(i) "Accounts receivable" means any amount owed by an offender arising from a criminal judgment that has not been paid.

(ii) "Accounts receivable" includes unpaid fees, overpayments, fines, forfeitures, surcharges, costs, interest, penalties, restitution to victims, third-party claims, claims, reimbursement of a reward, and damages that an offender is ordered to pay.

(b) The department shall collect and disburse, with any interest and any other costs assessed under Section 64-13-21, an accounts receivable for an offender during:

(i) the parole period and any extension of that period in accordance with Subsection (5)(c); and

(ii) the probation period for which the court orders supervised probation and any extension of that period by the department in accordance with Subsection 77-18-105(7).

(c) (i) If an offender has an unpaid balance of the offender's accounts receivable at the time that the offender's sentence expires or terminates, the department shall be referred to the sentencing court for the sentencing court to enter a civil judgment of restitution and a civil accounts receivable as described in Section 77-18-114.

(ii) If the board makes an order for restitution within 60 days from the day on which the offender's sentence expires or terminates, the board shall refer the order for restitution to the sentencing court to be entered as a civil judgment of restitution as described in Section 77-18-114.

(d) This Subsection (5) only applies to offenders sentenced before July 1, 2021.

Section 21. Section 64-13-21 is amended to read:

64-13-21. Supervision of sentenced offenders placed in community -- Rulemaking -- POST certified parole or probation officers and peace officers -- Duties -- Supervision fee.

(1) (a) The department, except as otherwise provided by law, shall supervise sentenced offenders placed in the community on probation by the courts, on parole by the Board of Pardons and Parole, or upon acceptance for supervision under the terms of the Interstate Compact for the Supervision of Parolees and Probationers.

(b) The department shall establish standards for the supervision of offenders in accordance with sentencing guidelines and supervision length guidelines, including the graduated sanctions matrix, established by the Utah Sentencing Commission, giving priority, based on available resources, to felony offenders and offenders

sentenced pursuant to Subsection 58-37-8(2)(b)(ii).

(2) The department shall apply graduated sanctions established by the Utah Sentencing Commission to facilitate a prompt and appropriate response to an individual's violation of the terms of probation or parole, including:

(a) sanctions to be used in response to a violation of the terms of probation or parole; and

(b) requesting approval from the court or Board of Pardons and Parole to impose a sanction for an individual's violation of the terms of probation or parole, for a period of incarceration of not more than three consecutive days and not more than a total of five days within a period of 30 days.

(3) The department shall implement a program of graduated incentives as established by the Utah Sentencing Commission to facilitate the department's prompt and appropriate response to an offender's:

(a) compliance with the terms of probation or parole; or

(b) positive conduct that exceeds those terms.

(4) (a) The department shall, in collaboration with the Commission on Criminal and Juvenile Justice and the Division of Substance Abuse and Mental Health, create standards and procedures for the collection of information, including cost savings related to recidivism reduction and the reduction in the number of inmates, related to the use of the graduated sanctions and incentives, and offenders' outcomes.

(b) The collected information shall be provided to the Commission on Criminal and Juvenile Justice not less frequently than annually on or before August 31.

(5) Employees of the department who are POST certified as law enforcement officers or correctional officers and who are designated as parole and probation officers by the executive director have the following duties:

(a) monitoring, investigating, and supervising a parolee's or probationer's compliance with the conditions of the parole or probation agreement;

(b) investigating or apprehending any offender who has escaped from the custody of the department or absconded from supervision;

(c) supervising any offender during transportation; or

(d) collecting DNA specimens when the specimens are required under Section 53-10-404.

(6) (a) A monthly supervision fee of $30 shall be collected from each offender on probation or parole. The fee may be suspended or waived by the department upon a showing by the offender that imposition would create a substantial hardship or if the offender owes restitution to a victim.

(b) (i) The department shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, specifying the criteria for suspension or waiver of the supervision fee and the circumstances under which an offender may request a hearing.

(ii) In determining whether the imposition of the supervision fee would constitute a substantial hardship, the department shall consider the financial resources of the offender and the burden that the fee would impose, with regard to the offender's other obligations.

(7) (a) For offenders placed on probation under Section [~~77-18-1~~] 77-18-105 or parole under Subsection 76-3-202(2)(a) on or after October 1, 2015, but before January 1, 2019, the department shall establish a program allowing an offender to earn credits for the offender's compliance with the terms of the offender's probation or parole, which shall be applied to reducing the period of probation or parole as provided in this Subsection (7).

(b) The program shall provide that an offender earns a reduction credit of 30 days from the offender's period of probation or parole for each month the offender completes without any violation of the terms of the offender's probation or parole agreement, including the case action plan.

(c) The department shall maintain a record of credits earned by an offender under this Subsection (7) and shall request from the court or the Board of Pardons and Parole the termination of probation or parole not fewer than 30 days prior to the termination date that reflects the credits earned under this Subsection (7).

(d) This Subsection (7) does not prohibit the department from requesting a termination date earlier than the termination date established by earned credits under Subsection (7)(c).

(e) The court or the Board of Pardons and Parole shall terminate an offender's probation or parole upon completion of the period of probation or parole accrued by time served and credits earned under this Subsection (7) unless the court or the Board of Pardons and Parole finds that termination would interrupt the completion of a necessary treatment program, in which case the termination of probation or parole shall occur when the treatment program is completed.

(f) The department shall report annually to the Commission on Criminal and Juvenile Justice on or before August 31:

(i) the number of offenders who have earned probation or parole credits under this Subsection (7) in one or more months of the preceding fiscal year and the percentage of the offenders on probation or parole during that time that this number represents;

(ii) the average number of credits earned by those offenders who earned credits;

(iii) the number of offenders who earned credits by county of residence while on probation or parole;

(iv) the cost savings associated with sentencing reform programs and practices; and

(v) a description of how the savings will be invested in treatment and early-intervention programs and practices at the county and state levels.

Section 22. Section 64-13-23 is amended to read:

64-13-23. Offender's income and finances.

(1) The department may require each offender, while in the custody of the department or while on probation or parole, to place funds received or earned by [~~him~~] the offender from any source into:

(a) an account administered by the department; or [~~into~~]

(b) a joint account with the department at a federally insured financial institution.

[~~(1)~~] (2) The department may require each offender to maintain a minimum balance in [~~either or both accounts~~] an account under Subsection (1) for the particular offender's use upon:

(a) discharge from the custody of the department; or [~~upon~~]

(b) completion of parole or probation.

[~~(2)~~] (3) If the funds are placed in a joint account at a federally insured financial institution:

(a) any interest accrues to the benefit of the offender account; and

(b) the department may require that the signatures of both the offender and a departmental representative be submitted to the financial institution to withdraw funds from the account.

[~~(3)~~] (4) If the funds are placed in an account administered by the department, the department may by rule designate:

(a) a certain portion of the offender's funds as interest-bearing savings[~~,~~]; and [~~another~~]

(b) a portion of the offender's funds as noninterest-bearing to be used for day-to-day expenses.

[~~(4)~~] (5) The department may withhold part of the offender's funds in [~~either account~~] an account under Subsection (1) for expenses of:

(a) [~~incarceration, supervision,~~] supervision or treatment;

(b) [~~court-ordered~~] restitution, reparation, fines, alimony, support payments, or similar court-ordered payments;

(c) obtaining the offender's DNA specimen, if the offender is required under Section 53-10-404 to provide a specimen;

(d) department-ordered [~~restitution~~] repayment of a fine that is incurred under Section 64-13-33; and

(e) any other debt to the state.

[~~(5)~~] (6) (a) [~~Offenders~~] An offender may not be granted free process in civil actions, including petitions for a writ of habeas corpus, if, at any time from the date the cause of action arose through the date the cause of action remains pending, there are any funds in [~~either account which~~] an account under Subsection (1) that have not been withheld or are not subject to withholding under Subsection [~~(3) or (4)~~] (4) or (5).

(b) The amount assessed for the filing fee, service of process and other fees and costs shall not exceed the total amount of funds the offender has in excess of the indigence threshold established by the department but not less than $25 including the withholdings under Subsection [~~(3) or (4)~~] (4) or (5) during the identified period of time.

(c) The amounts assessed shall not exceed the regular fees and costs provided by law.

[~~(6)~~] (7) The department may disclose information on offender accounts to the Office of Recovery Services and other appropriate state agencies.

Section 23. Section 64-13-33 is amended to read:

64-13-33. Fines for violation of department rules -- Debt collection.

(1) (a) Following an administrative hearing, the department is authorized to:

(i) assess a reasonable fine against the offender for expenses incurred by the department as a result of the offender's violation of department rules; and

(ii) require [~~restitution~~] repayment from [~~an offender for expenses incurred by the department as a result of the offender's violation of department rules.~~] the offender for the fine under Subsection (1)(a)(i).

(b) The department is authorized to require payment from the offender's account or to place a hold on [~~it~~] the offender's account to secure compliance with this section.

(2) The department shall turn over to the Office of State Debt Collection any debt under this section that is unpaid at the time that the offender is released from parole.

Section 24. Section 64-13e-102 is amended to read:

64-13e-102. Definitions.

As used in this chapter:

(1) "Actual county daily incarceration rate" means the median amount of jail daily incarceration costs based on the data submitted by counties in accordance with Section 64-13e-104(6)(b).

(2) "Actual state daily incarceration rate" means the average daily incarceration rate, calculated by the department based on the previous three fiscal years, that reflects the following expenses incurred by the department for housing an inmate:

(a) executive overhead;

(b) administrative overhead;

(c) transportation overhead;

(d) division overhead; and

(e) motor pool expenses.

(3) "Alternative treatment" means:

(a) evidence-based cognitive behavioral therapy; or

(b) a certificate-based program provided by a Utah technical college, as defined in Section 53B-26-102.

(4) "Annual inmate jail days" means the total number of state probationary inmates housed in a county jail each day for the preceding fiscal year.

(5) "CCJJ" means the Utah Commission on Criminal and Juvenile Justice, created in Section 63M-7-201.

(6) "Department" means the Department of Corrections.

(7) "Division of Finance" means the Division of Finance, created in Section 63A-3-101.

(8) "Final county daily incarceration rate" means the amount equal to:

(a) the amount appropriated by the Legislature for the purpose of making payments to counties under Section 64-13e-104; divided by

(b) the average annual inmate jail days for the preceding five fiscal years.

(9) "Jail daily incarceration costs" means the following daily costs incurred by a county jail for housing a state probationary inmate on behalf of the department:

(a) executive overhead;

(b) administrative overhead;

(c) transportation overhead;

(d) division overhead; and

(e) motor pool expenses.

(10) "State inmate" means an individual, other than a state probationary inmate or state parole inmate, who is committed to the custody of the department.

(11) "State parole inmate" means an individual who is:

(a) on parole, as defined in Section 77-27-1; and

(b) housed in a county jail for a reason related to the individual's parole.

(12) "State probationary inmate" means a felony probationer sentenced to time in a county jail under Subsection [~~77-18-1(8)~~] 77-18-105(6).

(13) "Treatment program" means:

(a) an alcohol treatment program;

(b) a substance abuse treatment program;

(c) a sex offender treatment program; or

(d) an alternative treatment program.

Section 25. Section 75-7-503 is amended to read:

75-7-503. Exceptions to spendthrift provision.

(1) As used in this section:

(a) "Child" includes any person for whom an order or judgment for child support has been entered in this or another state.

(b) "Civil accounts receivable" means the same as that term is defined in Section 77-32b-102.

(c) "Civil restitution of judgment" means the same as that term is defined in Section 77-32b-102.

[~~(b)~~] (d) "Restitution" means the same as that term is defined in Section [~~77-38a-102~~] 77-38b-102.

[~~(c)~~] (e) "Victim" means the same as that term is defined in Section [~~77-38a-102~~] 77-38b-102.

(2) Even if a trust contains a spendthrift provision, the following persons may obtain [~~from a court an order attaching~~] an order from a court that attaches present or future distributions to the beneficiary:

(a) a beneficiary's child who has a judgment or court order against the beneficiary for support or maintenance;

(b) a judgment creditor who has provided services for the protection of a beneficiary's interest in the trust; [~~or~~]

(c) a victim who has a judgment requiring the beneficiary to pay restitution in accordance with Title 77, [~~Chapter 38a,~~] Chapter 38b, Crime Victims Restitution Act, or similar provision in another state[~~.~~]; or

(d) the Office of State Debt Collection, created in Section 63A-3-502, for collecting payment on a civil accounts receivable or a civil judgment of restitution.

(3) A spendthrift provision is unenforceable against a claim of this state or the United States to the extent a statute of this state or federal law so provides.

Section 26. Section 76-2-404 is amended to read:

76-2-404. Peace officer's use of deadly force.

(1) A peace officer, or any person acting by the officer's command in providing aid and assistance, is justified in using deadly force when:

(a) the officer is acting in obedience to and in accordance with the judgment of a competent court in executing a penalty of death under Subsection [~~77-18-5.5~~] 77-18-113(2), (3), or (4);

(b) effecting an arrest or preventing an escape from custody following an arrest, where the officer reasonably believes that deadly force is necessary to prevent the arrest from being defeated by escape; and

(i) the officer has probable cause to believe that the suspect has committed a felony offense involving the infliction or threatened infliction of death or serious bodily injury; or

(ii) the officer has probable cause to believe the suspect poses a threat of death or serious bodily injury to the officer or to others if apprehension is delayed; or

(c) the officer reasonably believes that the use of deadly force is necessary to prevent death or serious bodily injury to the officer or another person.

(2) If feasible, a verbal warning should be given by the officer prior to any use of deadly force under Subsection (1)(b) or (1)(c).

Section 27. Section 76-3-201 is repealed and reenacted to read:

76-3-201. Sentences or combination of sentences allowed -- Restitution and other costs -- Civil penalties.

(1) As used in this section:

(a) (i) "Convicted" means:

(A) having entered a plea of guilty, a plea of no contest, or a plea of guilty with a mental illness; or

(B) having received a judgment of guilty or a judgment of guilty with a mental illness.

(ii) "Convicted" does not include an adjudication of an offense under Section 78A-6-117.

(b) "Restitution" means the same as that term is defined in Section 77-38b-102.

(2) Within the limits provided by this chapter, a court may sentence an individual convicted of an offense to any one of the following sentences, or combination of the following sentences:

(a) to pay a fine;

(b) to removal or disqualification from public or private office;

(c) except as otherwise provided by law, to probation in accordance with Section 77-18-105;

(d) to imprisonment;

(e) on or after April 27, 1992, to life in prison without parole; or

(f) to death.

(3) (a) This chapter does not deprive a court of authority conferred by law:

(i) to forfeit property;

(ii) to dissolve a corporation;

(iii) to suspend or cancel a license;

(iv) to permit removal of an individual from office;

(v) to cite for contempt; or

(vi) to impose any other civil penalty.

(b) A court may include a civil penalty in a sentence.

(4) In addition to any other sentence that a sentencing court may impose, the court shall order an individual to:

(a) pay restitution in accordance with Title 77, Chapter 38b, Crime Victim Restitution Act;

(b) subject to Subsection (5) and Section 77-32b-104, pay the cost of any government transportation if the individual was:

(i) transported, in accordance with a court order, from one county to another county within the state;

(ii) charged with a felony or a misdemeanor; and

(iii) convicted of an offense;

(c) subject to Section 77-32b-104, pay the cost expended by an appropriate governmental entity under Section 77-30-24 for the extradition of the individual if the individual:

(i) was extradited to this state, under Title 77, Chapter 30, Extradition, to resolve pending criminal charges; and

(ii) is convicted of an offense in the county for which the individual is returned;

(d) subject to Subsection (6) and Subsections 77-32b-104(2), (3), and (4), pay the cost of medical care, treatment, hospitalization, and related transportation, as described in Section 17-50-319, that is provided by a county to the individual while the individual is in a county correctional facility before and after sentencing if:

(i) the individual is convicted of an offense that results in incarceration in the county correctional facility; and

(ii) (A) the individual is not a state prisoner housed in the county correctional facility through a contract with the Department of Corrections; or

(B) the reimbursement does not duplicate the reimbursement under Section 64-13e-104 if the individual is a state probationary inmate or a state parole inmate; and

(e) pay any other cost that the court determines is appropriate under Section 77-32b-104.

(5) (a) The court may not order an individual to pay the costs of government transportation under Subsection (4)(b) if:

(i) the individual is charged with an infraction or a warrant is issued for an infraction on a subsequent failure to appear; or

(ii) the individual was not transported in accordance with a court order.

(b) (i) The cost of governmental transportation under Subsection (4)(b) shall be calculated according to the following schedule:

(A) $100 for up to 100 miles that an individual is transported;

(B) $200 for 100 miles to 200 miles that an individual is transported; and

(C) $350 for 200 miles or more that an individual is transported.

(ii) The schedule under Subsection (5)(b)(i) applies to each individual transported regardless of the number of individuals transported in a single trip.

(6) The cost of medical care under Subsection (4)(d) does not include expenses incurred by the county correctional facility in providing reasonable accommodation for an inmate qualifying as an individual with a disability as defined and covered by the Americans with Disabilities Act, 42 U.S.C. 12101 through 12213, including medical and mental health treatment for the inmate's disability.

Section 28. Section 76-3-208 is amended to read:

76-3-208. Imprisonment -- Custodial authorities.

(1) Persons sentenced to imprisonment shall be committed to the following custodial authorities:

(a) felony commitments shall be to the Utah State Prison;

(b) (i) notwithstanding Section 76-3-204, class A misdemeanor commitments shall be to the jail, or other facility designated by the town, city, or county where the defendant was convicted, unless the defendant is also serving a felony commitment at the Utah State Prison at the commencement of the class A misdemeanor conviction, in which case, the class A misdemeanor commitment shall be to the Utah State Prison for an indeterminate term not to exceed one year with a credit for one day; and

(ii) the court may not order the imprisonment of a defendant to the Utah State Prison for a fixed term or other term that is inconsistent with this section and Section [~~77-18-4~~] 77-18-111; and

(c) all other misdemeanor commitments shall be to the jail or other facility designated by the town, city or county where the defendant was convicted.

(2) [~~Custodial authorities~~] A custodial authority may place a prisoner in a facility other than the one to which the prisoner was committed when:

(a) [~~it~~] the custodial authority does not have space to accommodate the prisoner; or

(b) the security of the institution or [~~inmate requires it.~~] prisoner requires the prisoner to be placed in a facility other than the one to which the prisoner was committed.

Section 29. Section 76-3-301.5 is amended to read:

76-3-301.5. Uniform fine schedule -- Judicial Council.

(1) The Judicial Council shall establish a uniform recommended fine schedule for each offense under Subsection 76-3-301(1).

(a) The fine for each offense shall proportionally reflect the seriousness of the offense and other factors as determined in writing by the Judicial Council.

(b) The schedule shall be reviewed annually by the Judicial Council.

(c) The fines shall be collected [~~under Section 77-18-1.~~] as part of a criminal accounts receivable, as defined in Section 77-32b-102, that is established under Section 77-32b-103.

(2) The schedule shall incorporate:

(a) criteria for determining aggravating and mitigating circumstances; and

(b) guidelines for enhancement or reduction of the fine, based on aggravating or mitigating circumstances.

(3) Presentence investigation reports shall include documentation of aggravating and mitigating circumstances as determined under the criteria, and a recommended fine under the schedule.

(4) The Judicial Council shall also establish a separate uniform recommended fine schedule for the juvenile court and by rule provide for its implementation.

(5) This section does not prohibit the court from in its discretion imposing no fine, or a fine in any amount up to and including the maximum fine, for the offense.

Section 30. Section 76-3-406 is amended to read:

76-3-406. Crimes for which probation, suspension of sentence, lower category of offense, or hospitalization may not be granted.

(1) Notwithstanding Sections 76-3-201 and [~~77-18-1~~] 77-18-105 and Title 77, Chapter 16a, Commitment and Treatment of Persons with a Mental Illness, except as provided in Section 76-5-406.5, probation may not be granted, the execution or imposition of sentence may not be suspended, the court may not enter a judgment for a lower category of offense, and hospitalization may not be ordered, the effect of which would in any way shorten the prison sentence for an individual who commits a capital felony or a first degree felony involving:

(a) Section 76-5-202, aggravated murder;

(b) Section 76-5-203, murder;

(c) Section 76-5-301.1, child kidnaping;

(d) Section 76-5-302, aggravated kidnaping;

(e) Section 76-5-402, rape, if the individual is sentenced under Subsection 76-5-402(3)(b), (3)(c), or (4);

(f) Section 76-5-402.1, rape of a child;

(g) Section 76-5-402.2, object rape, if the individual is sentenced under Subsection 76-5-402.2(1)(b), (1)(c), or (2);

(h) Section 76-5-402.3, object rape of a child;

(i) Section 76-5-403, forcible sodomy, if the individual is sentenced under Subsection 76-5-403(3)(b), (3)(c), or (4);

(j) Section 76-5-403.1, sodomy on a child;

(k) Section 76-5-404, forcible sexual abuse, if the individual is sentenced under Subsection 76-5-404(2)(b) or (3);

(l) Subsections 76-5-404.1(4) and (5), aggravated sexual abuse of a child;

(m) Section 76-5-405, aggravated sexual assault; or

(n) any attempt to commit a felony listed in Subsection (1)(f), (h), or (j).

(2) Except for an offense before the district court in accordance with Section 78A-6-703.2 or 78A-6-703.5, the provisions of this section do not apply if the sentencing court finds that the defendant:

(a) was under 18 years old at the time of the offense; and

(b) could have been adjudicated in the juvenile court but for the delayed reporting or delayed filing of the information.

Section 31. Section 76-6-107.1 is amended to read:

76-6-107.1. Compensatory service -- Graffiti penalties.

(1) If an offender uses graffiti and is convicted under Section 76-6-106 or 76-6-206 for [~~its use~~] the use of graffiti, the court may, as a condition of probation under Subsection [~~77-18-1(8)~~] 77-18-105(6), order the offender to clean up graffiti of [~~his own~~] the offender and any other at a time and place within the jurisdiction of the court.

(a) For a first conviction or adjudication, the court may require the offender to clean up graffiti for not less than eight hours.

(b) For a second conviction or adjudication, the court may require the offender to clean up graffiti for not less than 16 hours.

(c) For a third conviction or adjudication, the court may require the offender to clean up graffiti for not less than 24 hours.

(2) The offender convicted under Section 76-6-106, 76-6-206, or 76-6-107 shall be responsible for removal costs as determined under Section 76-6-107, unless waived by the court for good cause.

(3) The court may also require the offender to perform other alternative forms of restitution or repair to the damaged property [~~pursuant to Subsection 77-18-1(8).~~] in accordance with Subsection 77-18-105(6).

Section 32. Section 76-6-111 is amended to read:

76-6-111. Wanton destruction of livestock -- Penalties -- Restitution criteria -- Seizure and disposition of property.

(1) As used in this section:

(a) "Law enforcement officer" means the same as that term is defined in Section 53-13-103.

(b) "Livestock" means a domestic animal or fur bearer raised or kept for profit, including:

(i) cattle;

(ii) sheep;

(iii) goats;

(iv) swine;

(v) horses;

(vi) mules;

(vii) poultry; and

(viii) domesticated elk as defined in Section 4-39-102.

(2) Unless authorized by Section 4-25-201, 4-25-202, 4-25-401, 4-39-401, or 18-1-3, a person is guilty of wanton destruction of livestock if that person:

(a) injures, physically alters, releases, or causes the death of livestock; and

(b) does so:

(i) intentionally or knowingly; and

(ii) without the permission of the owner of the livestock.

(3) Wanton destruction of livestock is punishable as a:

(a) class B misdemeanor if the aggregate value of the livestock is $500 or less;

(b) class A misdemeanor if the aggregate value of the livestock is more than $500, but does not exceed $1,500;

(c) third degree felony if the aggregate value of the livestock is more than $1,500, but does not exceed $5,000; and

(d) second degree felony if the aggregate value of the livestock is more than $5,000.

(4) When a court orders a person who is convicted of wanton destruction of livestock to pay restitution under Title 77, Chapter [~~38a~~] 38b, Crime Victims Restitution Act, the court shall consider[~~, in addition to the restitution criteria in Section 77-38a-302, the restitution guidelines in Subsection (5) when setting the amount.~~] the restitution guidelines in Subsection (5) when setting the amount of restitution under Section 77-38b-205.

(5) The minimum restitution value for cattle and sheep is the sum of the following, unless the court states on the record why it finds the sum to be inappropriate:

(a) the fair market value of the animal, using as a guide the market information obtained from the Department of Agriculture and Food created under Section 4-2-102; and

(b) 10 years times the average annual value of offspring, for which average annual value is

determined using data obtained from the National Agricultural Statistics Service within the United States Department of Agriculture, for the most recent 10-year period available.

(6) A material, device, or vehicle used in violation of Subsection (2) is subject to forfeiture under the procedures and substantive protections established in Title 24, Forfeiture and Disposition of Property Act.

(7) A peace officer may seize a material, device, or vehicle used in violation of Subsection (2):

(a) upon notice and service of process issued by a court having jurisdiction over the property; or

(b) without notice and service of process if:

(i) the seizure is incident to an arrest under:

(A) a search warrant; or

(B) an inspection under an administrative inspection warrant;

(ii) the material, device, or vehicle has been the subject of a prior judgment in favor of the state in a criminal injunction or forfeiture proceeding under this section; or

(iii) the peace officer has probable cause to believe that the property has been used in violation of Subsection (2).

(8) (a) A material, device, or vehicle seized under this section is not repleviable but is in custody of the law enforcement agency making the seizure, subject only to the orders and decrees of a court or official having jurisdiction.

(b) A peace officer who seizes a material, device, or vehicle under this section may:

(i) place the property under seal;

(ii) remove the property to a place designated by the warrant under which it was seized; or

(iii) take custody of the property and remove it to an appropriate location for disposition in accordance with law.

Section 33. Section 76-6-206.2 is amended to read:

76-6-206.2. Criminal trespass on state park lands -- Penalties.

(1) [~~For purposes of this section~~] As used in this section:

(a) "Authorization" means specific written permission by, or contractual agreement with, the Division of Parks and Recreation.

(b) "Criminal trespass" means the elements of the crime of criminal trespass, as set forth in Section 76-6-206.

(c) "Division" means the Division of Parks and Recreation[~~,~~] created in Section 79-4-201.

(d) "State park lands" means all lands administered by the division.

(2) A person is guilty of criminal trespass on state park lands and is liable for the civil damages prescribed in Subsection (5) if, under circumstances not amounting to a greater offense, and without authorization, the person:

(a) constructs improvements or structures on state park lands;

(b) uses or occupies state park lands for more than 30 days after the cancellation or expiration of authorization;

(c) knowingly or intentionally uses state park lands for commercial gain;

(d) intentionally or knowingly grazes livestock on state park lands, except as provided in Section 72-3-112; or

(e) remains, after being ordered to leave by someone with actual authority to act for the division, or by a law enforcement officer.

(3) A person is not guilty of criminal trespass if that person enters onto state park lands:

(a) without first paying the required fee; and

(b) for the sole purpose of pursuing recreational activity.

(4) A violation of Subsection (2) is a class B misdemeanor.

(5) In addition to [~~restitution, as provided in Section 76-3-201~~] an order for restitution under Section 77-38b-205, a person who commits any act described in Subsection (2) may also be liable for civil damages in the amount of three times the value of:

(a) damages resulting from a violation of Subsection (2);

(b) the water, mineral, vegetation, improvement, or structure on state park lands that is removed, destroyed, used, or consumed without authorization;

(c) the historical, prehistorical, archaeological, or paleontological resource on state park lands that is removed, destroyed, used, or consumed without authorization; or

(d) the consideration which would have been charged by the division for unauthorized use of the land and resources during the period of trespass.

(6) Civil damages under Subsection (5) may be collected in a separate action by the division, and shall be deposited in the State Parks Fees Restricted Account as established in Section 79-4-402.

Section 34. Section 76-6-206.3 is amended to read:

76-6-206.3. Criminal trespass on agricultural land or range land.

(1) As used in this section:

(a) "Agricultural or range land" and "land" mean land as defined under Subsections (1)(d) and (e).

(b) "Authorization" means specific written permission by, or contractual agreement with, the owner or manager of the property.

(c) "Criminal trespass" means the elements of the crime of criminal trespass under Section 76-6-206.

(d) "Land in agricultural use" has the same meaning as in Section 59-2-502.

(e) "Range land" means privately owned land that is not fenced or divided into lots and that is generally unimproved. This land includes land used for livestock.

(2) A person is guilty of the class B misdemeanor criminal offense of criminal trespass on agricultural or range land and is liable for the civil damages under Subsection (5) if, under circumstances not amounting to a greater offense, and without authorization or a right under state law, the person enters or remains on agricultural or range land regarding which notice prohibiting entry is given by:

(a) personal communication to the person by the owner of the land, an employee of the owner, or a person with apparent authority to act for the owner;

(b) fencing or other form of enclosure a reasonable person would recognize as intended to exclude intruders; or

(c) posted signs or markers that would reasonably be expected to be seen by persons in the area of the borders of the land.

(3) A person is guilty of the class B misdemeanor criminal offense of cutting, destroying, or rendering ineffective the fencing of agricultural or range land if the person willfully cuts, destroys, or renders ineffective any fencing as described under Subsection (2)(b).

(4) In addition to [~~restitution, as provided in Section 76-3-201~~] an order for restitution under Section 77-38b-205, a person who commits any violation of Subsection (2) or (3) may also be liable for:

(a) statutory damages in the amount of the value of damages resulting from the violation of Subsection (2) or $500, whichever is greater; and

(b) reasonable attorney fees not to exceed $250, and court costs.

(5) Civil damages under Subsection (4) may be collected in a separate action by the owner of the agricultural or range land or the owner's assignee.

Section 35. Section 76-6-1102 is amended to read:

76-6-1102. Identity fraud crime.

(1) As used in this part[~~, "personal"~~]:

(a) "Personal identifying information" may include:

[~~(a)~~] (i) name;

[~~(b)~~] (ii) birth date;

[~~(c)~~] (iii) address;

[~~(d)~~] (iv) telephone number;

[~~(e)~~] (v) drivers license number;

[~~(f)~~] (vi) Social Security number;

[~~(g)~~] (vii) place of employment;

[~~(h)~~] (viii) employee identification numbers or other personal identification numbers;

[~~(i)~~] (ix) mother's maiden name;

[~~(j)~~] (x) electronic identification numbers;

[~~(k)~~] (xi) electronic signatures under Title 46, Chapter 4, Uniform Electronic Transactions Act;

[~~(l)~~] (xii) any other numbers or information that can be used to access a person's financial resources or medical information, except for numbers or information that can be prosecuted as financial transaction card offenses under Sections 76-6-506 through 76-6-506.6; or

[~~(m)~~] (xiii) a photograph or any other realistic likeness.

(b) "Restitution" means the same as that term is defined in Section 77-38b-102.

(2) (a) A person is guilty of identity fraud when that person knowingly or intentionally uses, or attempts to use, the personal identifying information of another person, whether that person is alive or deceased, with fraudulent intent, including to obtain, or attempt to obtain, credit, goods, services, employment, any other thing of value, or medical information.

(b) It is not a defense to a violation of Subsection (2)(a) that the person did not know that the personal information belonged to another person.

(3) Identity fraud is:

(a) except as provided in Subsection (3)(b)(ii), a third degree felony if the value of the credit, goods, services, employment, or any other thing of value is less than $5,000; or

(b) a second degree felony if:

(i) the value of the credit, goods, services, employment, or any other thing of value is or exceeds $5,000; or

(ii) the use described in Subsection (2)(a) of personal identifying information results, directly or indirectly, in bodily injury to another person.

(4) Multiple violations may be aggregated into a single offense, and the degree of the offense is determined by the total value of all credit, goods, services, or any other thing of value used, or attempted to be used, through the multiple violations.

(5) When a defendant is convicted of a violation of this section, the court shall order the defendant to [~~make restitution to any victim of the offense or state on the record the reason the court does not find ordering restitution to be appropriate~~] pay restitution in accordance with Title 77, Chapter 38b, Crime Victims Restitution Act.

(6) Restitution under Subsection (5) may include:

(a) payment for any costs incurred, including attorney fees, lost wages, and replacement of checks; and

(b) the value of the victim's time incurred due to the offense:

(i) in clearing the victim's credit history or credit rating;

(ii) in any civil or administrative proceedings necessary to satisfy or resolve any debt, lien, or other obligation of the victim or imputed to the victim and arising from the offense; and

(iii) in attempting to remedy any other intended or actual harm to the victim incurred as a result of the offense.

Section 36. Section 76-6-1105 is amended to read:

76-6-1105. Unlawful possession of another's identification documents.

(1) As used in this section:

(a) (i) "Identifying document" means:

(A) a government issued document commonly used for identification;

(B) a vehicle registration certificate; or

(C) any other document, image, data file, or medium containing personal identifying information as defined in Subsections 76-6-1102[~~(1)(b) through (m)~~] (1)(a)(ii) through (xiii).

(ii) "Identifying document" includes:

(A) a counterfeit identifying document; or

(B) a document containing personal identifying information of a deceased individual.

(b) "Possess" means to have physical control or electronic access.

(2) (a) Under circumstances that do not constitute a violation of Section 76-6-1102 or Section 76-6-502, an individual is guilty of a class A misdemeanor if the individual:

(i) obtains or possesses an identifying document:

(A) with knowledge that the individual is not entitled to obtain or possess the identifying document; or

(B) with intent to deceive or defraud; or

(ii) assists another person in obtaining or possessing an identifying document:

(A) with knowledge that the person is not entitled to obtain or possess the identifying document; or

(B) with knowledge that the person intends to use the identifying document to deceive or defraud.

(b) Under circumstances that do not constitute a violation of Section 76-6-1102, an individual is guilty of a third degree felony if the individual:

(i) obtains or possesses identifying documents of more than two, but fewer than 100, individuals:

(A) with knowledge that the individual is not entitled to obtain or possess the identifying documents; or

(B) with intent to deceive or defraud; or

(ii) assists another person in obtaining or possessing identifying documents of more than two, but fewer than 100, individuals:

(A) with knowledge that the person is not entitled to obtain or possess the multiple identifying documents; or

(B) with knowledge that the person intends to use the identifying documents to deceive or defraud.

(c) Under circumstances that do not constitute a violation of Section 76-6-1102, an individual is guilty of a second degree felony if the individual:

(i) obtains or possesses identifying documents of 100 or more individuals:

(A) with knowledge that the individual is not entitled to obtain or possess the identifying documents; or

(B) with intent to deceive or defraud; or

(ii) assists another person in obtaining or possessing identifying documents of 100 or more individuals:

(A) with knowledge that the person is not entitled to obtain or possess the identifying documents; or

(B) with knowledge that the person intends to use the identifying documents to deceive or defraud.

Section 37. Section 76-10-1204 is amended to read:

76-10-1204. Distributing pornographic material -- Penalties -- Exemptions for Internet service providers and hosting companies.

(1) A person is guilty of distributing pornographic material when the person knowingly:

(a) sends or brings any pornographic material into the state with intent to distribute or exhibit it to others;

(b) prepares, publishes, prints, or possesses any pornographic material with intent to distribute or exhibit it to others;

(c) distributes or offers to distribute, or exhibits or offers to exhibit, any pornographic material to others;

(d) writes, creates, or solicits the publication or advertising of pornographic material;

(e) promotes the distribution or exhibition of material the person represents to be pornographic; or

(f) presents or directs a pornographic performance in any public place or any place exposed to public view or participates in that portion of the performance which makes it pornographic.

(2) Each distributing of pornographic material as defined in Subsection (1) is a separate offense.

(3) It is a separate offense under this section for:

(a) each day's exhibition of any pornographic motion picture film; and

(b) each day in which any pornographic publication is displayed or exhibited in a public place with intent to distribute or exhibit it to others.

(4) (a) An offense under this section committed by a person 18 years [~~of age~~] old or older is a third degree felony punishable by:

(i) a minimum mandatory fine of not less than $1,000, plus $10 for each article exhibited up to the maximum allowed by law; and

(ii) incarceration, without suspension of sentence in any way, for a term of not less than 30 days.

(b) An offense under this section committed by a person 16 or 17 years [~~of age~~] old is a class A misdemeanor.

(c) An offense under this section committed by a person younger than 16 years [~~of age~~] old is a class B misdemeanor.

(d) Subsection (4)(a) supersedes Section [~~77-18-1~~] 77-18-105.

(5) A person 18 years [~~of age~~] old or older who knowingly solicits, requests, commands, encourages, or intentionally aids another person younger than 18 years [~~of age~~] old to engage in conduct prohibited under Subsection (1), (2), or (3) is guilty of a third degree felony and is subject to the penalties under Subsection (4)(a).

(6) (a) This section does not apply to an Internet service provider, as defined in Section 76-10-1230, if:

(i) the distribution of pornographic material by the Internet service provider occurs only incidentally through the Internet service provider's function of:

(A) transmitting or routing data from one person to another person; or

(B) providing a connection between one person and another person;

(ii) the Internet service provider does not intentionally aid or abet in the distribution of the pornographic material; and

(iii) the Internet service provider does not knowingly receive funds from or through a person who distributes the pornographic material in exchange for permitting the person to distribute the pornographic material.

(b) This section does not apply to a hosting company, as defined in Section 76-10-1230, if:

(i) the distribution of pornographic material by the hosting company occurs only incidentally through the hosting company's function of providing data storage space or data caching to a person;

(ii) the hosting company does not intentionally engage, aid, or abet in the distribution of the pornographic material; and

(iii) the hosting company does not knowingly receive funds from or through a person who distributes the pornographic material in exchange for permitting the person to distribute, store, or cache the pornographic material.

Section 38. Section 76-10-1205 is amended to read:

76-10-1205. Inducing acceptance of pornographic material -- Exemptions for Internet service providers and hosting companies.

(1) A person is guilty of inducing acceptance of pornographic material when he knowingly:

(a) requires or demands as a condition to a sale, allocation, consignment, or delivery for resale of any newspaper, magazine, periodical, book, publication, or other merchandise that the purchaser or consignee receive any pornographic material or material reasonably believed by the purchaser or consignee to be pornographic; or

(b) denies, revokes, or threatens to deny or revoke a franchise, or to impose any penalty, financial or otherwise, because of the failure or refusal to accept pornographic material or material reasonably believed by the purchaser or consignee to be pornographic.

(2) (a) An offense under this section is a third degree felony punishable by:

(i) a minimum mandatory fine of not less than $1,000 plus $10 for each article exhibited up to the maximum allowed by law; and

(ii) incarceration, without suspension of sentence in any way, for a term of not less than 30 days.

(b) This Subsection (2) supersedes Section [~~77-18-1~~] 77-18-105.

(3) (a) This section does not apply to an Internet service provider, as defined in Section 76-10-1230, if:

(i) the distribution of pornographic material by the Internet service provider occurs only incidentally through the Internet service provider's function of:

(A) transmitting or routing data from one person to another person; or

(B) providing a connection between one person and another person;

(ii) the Internet service provider does not intentionally aid or abet in the distribution of the pornographic material; and

(iii) the Internet service provider does not knowingly receive funds from or through a person who distributes the pornographic material in exchange for permitting the person to distribute the pornographic material.

(b) This section does not apply to a hosting company, as defined in Section 76-10-1230, if:

(i) the distribution of pornographic material by the hosting company occurs only incidentally through the hosting company's function of providing data storage space or data caching to a person;

(ii) the hosting company does not intentionally engage, aid, or abet in the distribution of the pornographic material; and

(iii) the hosting company does not knowingly receive funds from or through a person who distributes the pornographic material in exchange for permitting the person to distribute, store, or cache the pornographic material.

Section 39. Section 76-10-1206 is amended to read:

76-10-1206. Dealing in material harmful to a minor -- Penalties -- Exemptions for Internet service providers and hosting companies.

(1) A person is guilty of dealing in material harmful to minors when, knowing or believing that an individual is a minor, or having negligently failed to determine the proper age of a minor, the person intentionally:

(a) distributes or offers to distribute, or exhibits or offers to exhibit, to a minor or an individual whom the person believes to be a minor, any material harmful to minors;

(b) produces, performs, or directs any performance, before a minor or an individual whom the person believes to be a minor, that is harmful to minors; or

(c) participates in any performance, before a minor or an individual whom the person believes to be a minor, that is harmful to minors.

(2) (a) Except as provided in Subsection (2)(b), each separate offense under this section committed by a person 18 years [~~of age~~] old or older is a third degree felony punishable by:

(i) a minimum mandatory fine of not less than $1,000, plus $10 for each article exhibited up to the maximum allowed by law; and

(ii) incarceration, without suspension of sentence, for a term of not less than 14 days.

(b) Each separate offense under this section committed by a person 18 years [~~of age~~] old or older against a minor 16 years [~~of age~~] old or older, but younger than 18 years [~~of age~~] old, is a class A misdemeanor if the person is less than seven years older than the minor at the time of the offense.

(c) Each separate offense under this section committed by a person 16 or 17 years [~~of age~~] old is a class A misdemeanor.

(d) Each separate offense under this section committed by a person younger than 16 years [~~of age~~] old is a class B misdemeanor.

(e) Subsection (2)(a) supersedes Section [~~77-18-1~~] 77-18-105.

(3) (a) Except for a defendant described in Subsection (2)(b), if a defendant 18 years [~~of age~~] old or older has been previously convicted or adjudicated [~~to be under the jurisdiction of~~] by the juvenile court under this section, each separate subsequent offense is a second degree felony punishable by:

(i) a minimum mandatory fine of not less than $5,000, plus $10 for each article exhibited up to the maximum allowed by law; and

(ii) incarceration, without suspension of sentence, for a term of not less than one year.

(b) If a defendant described in Subsection (2)(b) or a defendant younger than 18 years [~~of age~~] old has been previously convicted or adjudicated [~~to be under the jurisdiction of~~] by the juvenile court under this section, each separate subsequent offense is a third degree felony.

(c) Subsection (3)(a) supersedes Section [~~77-18-1~~] 77-18-105.

(d) (i) This section does not apply to an Internet service provider, as defined in Section 76-10-1230, a provider of an electronic communications service as defined in 18 U.S.C. Sec. 2510, a telecommunications service, information service, or mobile service as defined in 47 U.S.C. Sec. 153, including a commercial mobile service as defined in 47 U.S.C. Sec. 332(d), or a cable operator as defined in 47 U.S.C. Sec. 522, if:

(A) the distribution of pornographic material by the Internet service provider occurs only incidentally through the provider's function of:

(I) transmitting or routing data from one person to another person; or

(II) providing a connection between one person and another person;

(B) the provider does not intentionally aid or abet in the distribution of the pornographic material; and

(C) the provider does not knowingly receive from or through a person who distributes the pornographic material a fee greater than the fee generally charged by the provider, as a specific condition for permitting the person to distribute the pornographic material.

(ii) This section does not apply to a hosting company, as defined in Section 76-10-1230, if:

(A) the distribution of pornographic material by the hosting company occurs only incidentally through the hosting company's function of providing data storage space or data caching to a person;

(B) the hosting company does not intentionally engage, aid, or abet in the distribution of the pornographic material; and

(C) the hosting company does not knowingly receive from or through a person who distributes the pornographic material a fee greater than the fee generally charged by the provider, as a specific condition for permitting the person to distribute, store, or cache the pornographic material.

(4) A service provider, as defined in Section 76-10-1230, is not negligent under this section if the service provider complies with Section 76-10-1231.

(5) A person 18 years [~~of age~~] old or older who knowingly solicits, requests, commands, encourages, or intentionally aids another person younger than 18 years [~~of age~~] old to engage in conduct in violation of Subsection (1) is guilty of a third degree felony and is subject to the penalties under Subsection (2)(a).

Section 40. Section 76-10-1214 is amended to read:

76-10-1214. Conspiracy -- Punishment.

(1) (a) A conspiracy of two or more persons to commit any offense proscribed by this part is a third degree felony punishable for each separate offense by a minimum mandatory fine of not less than $1,000 and by imprisonment, without suspension of sentence in any way, for a term of not less than 60 days.

(b) This subsection supersedes Section [~~77-18-1~~] 77-18-105.

(2) (a) If a defendant has already been convicted once under this section, each separate further offense is a second degree felony punishable by a minimum mandatory fine of not less than $5,000 and by imprisonment, without suspension of sentence in any way, for a term of not less than one year.

(b) This subsection supersedes Section [~~77-18-1~~] 77-18-105.

Section 41. Section 76-10-1228 is amended to read:

76-10-1228. Indecent public displays -- Prohibitions -- Penalty.

(1) Subject to the affirmative defense in Subsection 76-10-1208(3), a person is guilty of a class A misdemeanor who willfully or knowingly:

(a) engages in the business of selling, lending, giving away, showing, advertising for sale, or distributing to a minor or has in the person's possession with intent to engage in that business or to otherwise offer for sale or commercial distribution to a minor any material with:

(i) a description or depiction of illicit sex or sexual immorality; or

(ii) a nude or partially denuded figure; or

(b) publicly displays at newsstands or any other establishment frequented by minors, or where the minors are or may be invited as a part of the general public, any motion picture, or any live, taped, or recorded performance, or any still picture or photograph, or any book, pocket book, pamphlet, or magazine the cover or content of which:

(i) exploits, is devoted to, or is principally made up of one or more descriptions or depictions of illicit sex or sexual immorality; or

(ii) consists of one or more pictures of nude or partially denuded figures.

(2) (a) A violation of this section is punishable by:

(i) a minimum mandatory fine of not less than $500; and

(ii) incarceration, without suspension of sentence in any way, for a term of not less than 30 days.

(b) This section supersedes Section [~~77-18-1~~] 77-18-105.

Section 42. Section 77-1-3 is amended to read:

77-1-3. Definitions.

For the purpose of this act:

(1) "Criminal action" means the proceedings by which a person is charged, accused, and brought to trial for a public offense.

(2) "Indictment" means an accusation in writing presented by a grand jury to the district court charging a person with a public offense.

(3) "Information" means an accusation, in writing, charging a person with a public offense which is presented, signed, and filed in the office of the clerk where the prosecution is commenced [~~pursuant to Section 77-2-1.1~~] in accordance with Section 77-2-2.2.

(4) "Magistrate" means a justice or judge of a court of record or not of record or a commissioner of such a court appointed in accordance with Section 78A-5-107, except that the authority of a court commissioner to act as a magistrate shall be limited by rule of the judicial council. The judicial council rules shall not exceed constitutional limitations upon the delegation of judicial authority.

(5) "Risk and needs assessment" means an actuarial tool validated on offenders that determines:

(a) an individual's risk of reoffending; and

(b) the criminal risk factors that, when addressed, reduce the individual's risk of reoffending.

Section 43. Section 77-2-2 is amended to read:

77-2-2. Definitions.

[~~For the purpose of this chapter:~~]

[~~(1) "Screening" means the process used by a prosecuting attorney to terminate investigative action, proceed with prosecution, move to dismiss a prosecution that has been commenced, or cause a prosecution to be diverted;~~]

As used in this chapter:

(1) "Commencement of prosecution" means the filing of an information or an indictment.

(2) "Diversion" means suspending criminal proceedings [~~prior to~~] before conviction on the condition that a defendant agree to:

(a) participate in a rehabilitation program [~~or make~~];

(b) pay restitution to [~~the~~] a victim; or

(c) fulfill some other condition[~~; and~~].

[~~(3) "Commencement of prosecution" means the filing of an information or an indictment.~~]

(3) "Restitution" means the same as that term is defined in Section 77-38b-102.

(4) "Screening" means the process used by a prosecuting attorney to:

(a) terminate an investigative action;

(b) proceed with prosecution;

(c) move to dismiss a prosecution that has been commenced; or

(d) cause a prosecution to be diverted.

Section 44. Section 77-2-2.1, which is renumbered from Section 77-2-1 is renumbered and amended to read:

[~~77-2-1~~]. 77-2-2.1. Authorization to file information.

[~~Unless~~] Except as otherwise provided by law, no information may be filed charging the commission of any felony or class A misdemeanor unless authorized by a prosecuting attorney.

Section 45. Section 77-2-2.2, which is renumbered from Section 77-2-1.1 is renumbered and amended to read:

[~~77-2-1.1~~]. 77-2-2.2. Signing and filing of information.

(1) The prosecuting attorney shall sign all informations.

(2) The prosecuting attorney may:

[~~(1)~~] (a) sign the information in the presence of a magistrate; or

[~~(2)~~] (b) present and file the information in the office of the clerk where the prosecution is commenced upon the signature of the prosecuting attorney.

Section 46. Section 77-2-2.3, which is renumbered from Section 77-2-1.2 is renumbered and amended to read:

[~~77-2-1.2~~]. 77-2-2.3. Reducing the level of an offense.

(1) Notwithstanding any other provision of law, a prosecuting attorney may:

(a) present and file an information charging an individual for an offense under Subsections 76-3-103(1)(b) through (d), Subsection 76-3-103(2), or Section 76-3-104 with a classification of the offense at one degree lower than the classification that is provided in statute if the prosecuting attorney believes that the sentence would be disproportionate to the offense because there are special circumstances relating to the offense; or

(b) subject to the approval of the court, amend an information, as part of a plea agreement, to charge an individual for an offense under Subsections 76-3-103(1)(b) through (d), Subsection 76-3-103(2), or Section 76-3-104 with a classification of the offense at one degree lower than the classification that is provided in statute.

(2) A court may:

(a) enter a judgment of conviction for an offense filed under Subsection (1) at one degree lower than classified in statute; and

(b) impose a sentence for the offense filed under Subsection (1) at one degree lower than classified in statute.

(3) A conviction of an offense at one degree lower than classified in statute under Subsection (2) does not affect the requirements for registration of the offense under Title 77, Chapter 41, Sex and Kidnap Offender Registry, or Title 77, Chapter 43, Child Abuse Offender Registry, if the elements of the offense for which the defendant is convicted are the same as the elements of an offense described in Section 77-41-102 or 77-43-102.

(4) This section does not preclude an individual from obtaining and being granted an expungement for the individual's record in accordance with Title 77, Chapter 40, Utah Expungement Act.

Section 47. Section 77-2-5 is amended to read:

77-2-5. Diversion agreement -- Negotiation -- Contents.

(1) At any time after the [~~filing of an information or indictment and prior to~~] commencement of prosecution and before conviction, the prosecuting attorney may, by written agreement with the defendant, filed with the court, and upon approval of the court, divert a defendant to a non-criminal diversion program.

(2) A defendant shall be represented by counsel during negotiations for diversion and at the time of execution of any diversion agreement unless [~~he shall have~~] the defendant has knowingly and intelligently waived [~~his~~] the defendant's right to counsel.

(3) The defendant has the right to be represented by counsel at any court hearing relating to a diversion program.

(4) [~~Any~~] (a) A diversion agreement, entered into between [~~the prosecution and the defense~~] the prosecuting attorney and the defendant and approved by a magistrate, shall contain a full, detailed statement of the requirements agreed to by the defendant and the reasons for diversion.

(b) The diversion agreement described in Subsection (4)(a) shall include an agreement, by the parties, for a specific amount of restitution that the defendant will pay, unless the prosecuting attorney certifies that:

(i) the prosecuting attorney has consulted with all victims, including the Utah Office for Victims of Crime; and

(ii) the defendant does not owe any restitution.

(5) (a) If the court approves a diversion agreement that includes an agreement by the parties for the amount of restitution that the defendant will pay, the court shall order the defendant to pay restitution in accordance with the terms of the diversion agreement.

(b) The court shall collect, receive, process, and distribute payments for restitution to the victim, unless otherwise provided by law or by the diversion agreement.

(6) A decision by a prosecuting attorney not to divert a defendant is not subject to judicial review.

[~~(5)~~] (7) Diversion programs longer than two years shall not be permitted.

[~~(6)~~] (8) A diversion agreement shall not be approved unless the defendant, before a magistrate and in the agreement, knowingly and intelligently waives [~~his~~] the defendant's constitutional right to a speedy trial.

Section 48. Section 77-2a-1 is amended to read:

77-2a-1. Definitions.

[~~For the purposes of this chapter:~~]

As used in this chapter:

(1) "Pecuniary damages" means the same as that term is defined in Section 77-38b-102.

[~~(1)~~] (2) "Plea in abeyance" means an order by a court, upon motion of the [~~prosecution~~] prosecuting attorney and the defendant, accepting a plea of guilty or of no contest from the defendant but not, at that time, entering judgment of conviction against [~~him~~] the defendant nor imposing sentence upon [~~him~~] the defendant on condition that [~~he~~] the defendant comply with specific conditions as set forth in a plea in abeyance agreement.

[~~(2)~~] (3) "Plea in abeyance agreement" means an agreement entered into between the [~~prosecution~~] prosecuting attorney and the defendant setting forth the specific terms and conditions upon which, following acceptance of the agreement by the court, a plea may be held in abeyance.

(4) "Restitution" means the same as that term is defined in Section 77-38b-102.

Section 49. Section 77-2a-3 is amended to read:

77-2a-3. Manner of entry of plea -- Powers of court.

(1) (a) Acceptance of any plea in anticipation of a plea in abeyance agreement shall be done in full compliance with [~~the provisions of Rule 11, Utah Rules of Criminal Procedure.~~] the Utah Rules of Criminal Procedure, Rule 11.

(b) In cases charging offenses for which bail may be forfeited, a plea in abeyance agreement may be entered into without a personal appearance before a magistrate.

(2) A plea in abeyance agreement may provide that the court may, upon finding that the defendant has successfully completed the terms of the agreement:

(a) reduce the degree of the offense and enter judgment of conviction and impose sentence for a lower degree of offense; or

(b) allow withdrawal of defendant's plea and order the dismissal of the case.

(3) (a) Upon finding that a defendant has successfully completed the terms of a plea in abeyance agreement, the court may reduce the degree of the offense or dismiss the case only as provided in the plea in abeyance agreement or as agreed to by all parties.

(b) Upon sentencing a defendant for any lesser offense [~~pursuant to~~] in accordance with a plea in abeyance agreement, the court may not invoke Section 76-3-402 to further reduce the degree of the offense.

(4) The court may require the Department of Corrections to assist in the administration of the plea in abeyance agreement as if the defendant were on probation to the court under Section [~~77-18-1~~] 77-18-105.

(5) The terms of a plea in abeyance agreement may include:

(a) an order that the defendant pay a nonrefundable plea in abeyance fee, with a surcharge based on the amount of the plea in abeyance fee, both of which shall be allocated in the same manner as if paid as a fine for a criminal conviction under Section 78A-5-110 and a surcharge under Title 51, Chapter 9, Part 4, Criminal Conviction Surcharge Allocation, and which may not exceed in amount the maximum fine and surcharge which could have been imposed upon conviction and sentencing for the same offense;

[~~(b) an order that the defendant pay restitution to the victims of the defendant's actions as provided in Title 77, Chapter 38a, Crime Victims Restitution Act;~~]

[~~(c)~~] (b) an order that the defendant pay the costs of any remedial or rehabilitative program required by the terms of the agreement; and

[~~(d)~~] (c) an order that the defendant comply with any other conditions [~~which~~] that could have been imposed as conditions of probation upon conviction and sentencing for the same offense.

(6) (a) The terms of a plea in abeyance shall include an order for a specific amount of restitution that the defendant will pay, as agreed to by the defendant and the prosecuting attorney, unless the prosecuting attorney certifies that:

(i) the prosecuting attorney has consulted with all victims, including the Utah Office for Victims of Crime; and

(ii) the defendant does not owe any restitution.

(b) The court shall collect, receive, process, and distribute payments for restitution to the victim,

unless otherwise provided by law or by the plea in abeyance agreement.

(c) If the defendant does not successfully complete the terms of the plea in abeyance, the court shall enter an order for restitution, in accordance with Title 77, Chapter 38b, Crime Victims Restitution Act, upon entering a sentence for the defendant.

[~~(6)~~] (7) (a) A court may not hold a plea in abeyance without the consent of both the prosecuting attorney and the defendant.

(b) A decision by a prosecuting attorney not to agree to a plea in abeyance is final.

[~~(7)~~] (8) No plea may be held in abeyance in any case involving a sexual offense against a victim who is under [~~the age of 14.~~] 14 years old.

[~~(8)~~] (9) Beginning on July 1, 2008, no plea may be held in abeyance in any case involving a driving under the influence violation under Section 41-6a-502.

Section 50. Section 77-7-5 is amended to read:

77-7-5. Issuance of summons or warrant -- Time and place arrests may be made -- Contents of warrant or summons -- Responsibility for transporting prisoners -- Court clerk to dispense costs for transportation.

(1) A magistrate may issue a warrant for arrest in lieu of a summons for the appearance of the accused only upon finding:

(a) probable cause to believe that the person to be arrested has committed a public offense; and

(b) under the Utah Rules of Criminal Procedure, and this section that a warrant is necessary to:

(i) prevent risk of injury to a person or property;

(ii) secure the appearance of the accused; or

(iii) protect the public safety and welfare of the community or an individual.

(2) If the offense charged is:

(a) a felony, the arrest upon a warrant may be made at any time of the day or night; or

(b) a misdemeanor, the arrest upon a warrant can be made at night only if:

(i) the magistrate has endorsed authorization to do so on the warrant;

(ii) the person to be arrested is upon a public highway, in a public place, or in a place open to or accessible to the public; or

(iii) the person to be arrested is encountered by a peace officer in the regular course of that peace officer's investigation of a criminal offense unrelated to the misdemeanor warrant for arrest.

(3) For the purpose of Subsection (1):

(a) daytime hours are the hours of 6 a.m. to 10 p.m.; and

(b) nighttime hours are the hours after 10 p.m. and before 6 a.m.

(4) (a) If the magistrate determines that the accused must appear in court, the magistrate shall include in the arrest warrant the name of the law enforcement agency in the county or municipality with jurisdiction over the offense charged.

(b) (i) The law enforcement agency identified by the magistrate under Subsection (4)(a) is responsible for providing inter-county transportation of the defendant, if necessary, from the arresting law enforcement agency to the court site.

(ii) The law enforcement agency named on the warrant may contract with another law enforcement agency to have a defendant transported.

(c) (i) The law enforcement agency identified by the magistrate under Subsection (4)(a) as responsible for transporting the defendant shall provide to the court clerk of the court in which the defendant is tried, an affidavit stating that the defendant was transported, indicating the law enforcement agency responsible for the transportation, and stating the number of miles the defendant was transported.

(ii) The court clerk shall:

(A) account for [~~restitution~~] a cost paid under Subsection [~~76-3-201(5) for governmental transportation expenses~~] 76-3-201(4)(b) for government transportation; and

(B) dispense [~~restitution~~] money collected by the court under Subsection (4)(c)(ii)(A) to the law enforcement agency responsible for the transportation of a convicted defendant.

(5) The law enforcement agency identified by the magistrate under Subsection (4)(a) shall indicate to the court within 48 hours of the issuance, excluding Saturdays, Sundays, and legal holidays if a warrant issued [~~pursuant to~~] in accordance with this section is an extradition warrant.

(6) The law enforcement agency identified by the magistrate under Subsection (4)(a) shall report any changes to the status of a warrant issued [~~pursuant to~~] in accordance with this section to the Bureau of Criminal Identification.

Section 51. Section 77-7-21 is amended to read:

77-7-21. Proceeding on citation -- Voluntary forfeiture of bail -- Parent signature required -- Information, when required.

(1) (a) A citation filed with the court may, with the consent of the defendant, serve in lieu of an information to which the defendant may plead guilty or no contest to the charge or charges listed and be sentenced accordingly.

(b) If provided by the uniform fine schedule described in Section 76-3-301.5, an individual may

remit the fine and other penalties without a personal appearance before the court in any case charging a class B misdemeanor or lower offense, unless the charge is:

(i) a domestic violence offense as defined in Section 77-36-1;

(ii) a violation of Section 41-6a-502, driving under the influence of alcohol, drugs, or a combination of both or with specified or unsafe blood alcohol concentration;

(iii) a violation of Section 41-6a-517, driving with any measurable controlled substance in the body;

(iv) a violation of a local ordinance similar to the offenses described in Subsections (1)(b)(i) through (iii); or

(v) a violation that appears to:

(A) affect a victim, as defined in Section [~~77-38a-102~~] 77-38b-102; or

(B) require restitution, as defined in Section [~~77-38a-102~~] 77-38b-102.

(c) The remittal of fines and other penalties shall be entered as a conviction and treated the same as if the accused pleaded no contest.

(d) If the person cited is under 18 years [~~of age~~] old, the court shall promptly mail a copy or notice of the citation to the address as shown on the citation, to the attention of the parent or guardian of the defendant.

(2) If the individual pleads not guilty to the offense charged, further proceedings shall be held in accordance with the Rules of Criminal Procedure and all other applicable provisions of this code.

Section 52. Section 77-18-101 is enacted to read:

77-18-101. Title.

This chapter is known as "The Judgment."

Section 53. Section 77-18-102 is enacted to read:

77-18-102. Definitions.

As used in this chapter:

(1) "Assessment" means, except as provided in Section 77-18-104, the same as the term "risk and needs assessment" in Section 77-1-3.

(2) "Board" means the Board of Pardons and Parole.

(3) "Civil accounts receivable" means the same as that term is defined in Section 77-32b-102.

(4) "Civil judgment of restitution" means the same as that term is defined in Section 77-32b-102.

(5) "Convicted" means the same as that term is defined in Section 76-3-201.

(6) "Criminal accounts receivable" means the same as that term is defined in Section 77-32b-102.

(7) "Default" means the same as that term is defined in Section 77-32b-102.

(8) "Delinquent" means the same as that term is defined in Section 77-32b-102.

(9) "Department" means the Department of Corrections created in Section 64-13-2.

(10) "Payment schedule" means the same as that term is defined in Section 77-32b-102.

(11) "Restitution" means the same as that term is defined in Section 77-38b-102.

(12) "Screening" means, except as provided in Section 77-18-104, a tool or questionnaire that is designed to determine whether an individual needs further assessment or any additional resource or referral for treatment.

(13) "Substance use disorder treatment" means treatment obtained through a substance use disorder program that is licensed by the Office of Licensing within the Department of Human Services.

Section 54. Section 77-18-103 is enacted to read:

77-18-103. Presentence investigation report -- Classification of presentence investigation report -- Evidence or other information at sentencing.

(1) Before the imposition of a sentence, the court may:

(a) upon agreement of the defendant, continue the date for the imposition of the sentence for a reasonable period of time for the purpose of obtaining a presentence investigation report from the department or information from other sources about the defendant; and

(b) if the defendant is convicted of a felony or a class A misdemeanor, request that the department prepare a presentence investigation report for the defendant.

(2) If a presentence investigation report is required under the standards established by the department described in Section 77-18-109, the presentence investigation report under Subsection (1) shall include:

(a) any impact statement provided by a victim as described in Subsection 77-38b-203(3)(c);

(b) information on restitution as described in Subsection 77-38b-203(3)(a) and (b);

(c) findings from any screening and any assessment of the defendant conducted under Section 77-18-104;

(d) recommendations for treatment for the defendant; and

(e) the number of days since the commission of the offense that the defendant has spent in the custody of the jail and the number of days, if any, the defendant was released to a supervised release program or an alternative incarceration program under Section 17-22-5.5.

(3) The department shall provide the presentence investigation report to the defendant's attorney, or the defendant if the defendant is not represented by counsel, the prosecuting attorney, and the court for review within three working days before the day on which the defendant is sentenced.

(4) (a) (i) If there is an alleged inaccuracy in the presentence investigation report that is not resolved by the parties and the department before sentencing:

(A) the alleged inaccuracy shall be brought to the attention of the court at sentencing; and

(B) the court may grant an additional 10 working days after the day on which the alleged inaccuracy is brought to the court's attention to allow the parties and the department to resolve the alleged inaccuracy in the presentence investigation report.

(ii) If the court does not grant additional time under Subsection (4)(a)(i)(B), or the alleged inaccuracy cannot be resolved after 10 working days, and if the court finds that there is an inaccuracy in the presentence investigation report, the court shall:

(A) enter a written finding as to the relevance and accuracy of the challenged portion of the presentence investigation report; and

(B) provide the written finding to the Division of Adult Probation and Parole.

(b) The Division of Adult Probation and Parole shall attach the written finding to the presentence investigation report as an addendum.

(c) If a party fails to challenge the accuracy of the presentence investigation report at the time of sentencing, the matter shall be considered waived.

(5) The contents of the presentence investigation report are protected and not available except by court order for purposes of sentencing as provided by rule of the Judicial Council or for use by the department.

(6) (a) A presentence investigation report is classified as protected in accordance with Title 63G, Chapter 2, Government Records Access and Management Act.

(b) Notwithstanding Sections 63G-2-403 and 63G-2-404, the State Records Committee may not order the disclosure of a presentence investigation report.

(7) Except for disclosure at the time of sentencing in accordance with this section, the department may disclose a presentence investigation only when:

(a) ordered by the court in accordance with Subsection 63G-2-202(7);

(b) requested by a law enforcement agency or other agency approved by the department for purposes of supervision, confinement, and treatment of a defendant;

(c) requested by the board;

(d) requested by the subject of the presentence investigation report or the subject's authorized representative;

(e) requested by the victim of the offense discussed in the presentence investigation report, or the victim's authorized representative, if the disclosure is only information relating to:

(i) statements or materials provided by the victim;

(ii) the circumstances of the offense, including statements by the defendant; or

(iii) the impact of the offense on the victim or the victim's household; or

(f) requested by a sex offender treatment provider:

(i) who is certified to provide treatment under the certification program established in Subsection 64-13-25(3);

(ii) who is providing, at the time of the request, sex offender treatment to the offender who is the subject of the presentence investigation report; and

(iii) who provides written assurance to the department that the report:

(A) is necessary for the treatment of the defendant;

(B) will be used solely for the treatment of the defendant; and

(C) will not be disclosed to an individual or entity other than the defendant.

(8) (a) At the time of sentence, the court shall receive any testimony, evidence, or information that the defendant or the prosecuting attorney desires to present concerning the appropriate sentence.

(b) Testimony, evidence, or information under Subsection (8)(a) shall be presented in open court on record and in the presence of the defendant.

Section 55. Section 77-18-104, which is renumbered from Section 77-18-1.1 is renumbered and amended to read:

[~~77-18-1.1~~]. 77-18-104. Screening, assessment, and treatment.

(1) As used in this section:

(a) "Assessment" has the same meaning as in Section 41-6a-501.

[~~(b) "Convicted" means:~~]

[~~(i) a conviction by entry of a plea of guilty or nolo contendere, guilty with a mental illness, or no contest; and~~]

[~~(ii) conviction of any crime or offense.~~]

[~~(c)~~] (b) "Screening" has the same meaning as in Section 41-6a-501.

[~~(d) "Substance use disorder treatment" means treatment obtained through a substance use disorder program that is licensed by the Office of~~

~~Licensing within the Department of Human Services.~~]

[~~(2) On or after July 1, 2009, the courts of the judicial districts where the Drug-Related Offenses Reform Act under Section 63M-7-305 is implemented shall, in coordination with the local substance abuse authority regarding available resources,~~]

(2) In coordination with the local substance abuse authority regarding available resources, a court in which the Drug-Related Offenses Reform Act under Section 63M-7-305 is implemented shall order [~~convicted persons~~] a convicted defendant, who is determined to be eligible in accordance with the implementation plan developed by the Utah Substance Use and Mental Health Advisory Council under Section 63M-7-305, to:

(a) participate in a screening [~~prior to~~] before sentencing;

(b) participate in an assessment [~~prior to~~] before sentencing if the screening indicates an assessment to be appropriate; and

(c) participate in substance use disorder treatment if:

(i) the assessment indicates treatment to be appropriate;

(ii) the court finds treatment to be appropriate for the convicted [~~person~~] defendant; and

(iii) the court finds the convicted [~~person~~] defendant to be an appropriate candidate for community-based supervision.

(3) The findings from any screening and any assessment conducted under this section shall be part of the presentence investigation report submitted to the court [~~before sentencing of the convicted person~~] under Section 77-18-103.

(4) Money appropriated by the Legislature to assist in the funding of the screening, assessment, substance use disorder treatment, and supervision provided under this section is not subject to any requirement regarding matching funds from a state or local governmental entity.

Section 56. Section 77-18-105 is enacted to read:

77-18-105. Pleas held in abeyance -- Suspension of a sentence -- Probation -- Supervision -- Terms and conditions of probation -- Time periods for probation -- Bench supervision for payments on criminal accounts receivable.

(1) If a defendant enters a plea of guilty or no contest in conjunction with a plea in abeyance agreement, the court may hold the plea in abeyance:

(a) in accordance with Chapter 2a, Pleas in Abeyance; and

(b) under the terms of the plea in abeyance agreement.

(2) If a defendant is convicted, the court:

(a) shall impose a sentence in accordance with Section 76-3-201; and

(b) may suspend the execution of the sentence and place the defendant:

(i) on probation under the supervision of the department, except as provided in Subsection (5);

(ii) on probation under the supervision of an agency of a local government or a private organization; or

(iii) on court probation under the jurisdiction of the sentencing court.

(3) (a) The legal custody of all probationers under the supervision of the department is with the department.

(b) The legal custody of all probationers under the jurisdiction of the sentencing court is vested as ordered by the court.

(c) The court has continuing jurisdiction over all probationers.

(4) (a) Court probation may include an administrative level of services, including notification to the sentencing court of scheduled periodic reviews of the probationer's compliance with conditions.

(b) Supervised probation services provided by the department, an agency of a local government, or a private organization shall specifically address the defendant's risk of reoffending as identified by a screening or an assessment.

(5) A court may not order the department to supervise the probation of an individual who is convicted of a class B or C misdemeanor or an infraction.

(6) (a) If a defendant is placed on probation, the court may order the defendant as a condition of the defendant's probation:

(i) to provide for the support of persons for whose support the defendant is legally liable;

(ii) to participate in available treatment programs, including any treatment program in which the defendant is currently participating if the program is acceptable to the court;

(iii) be voluntarily admitted to the custody of the Division of Substance Abuse and Mental Health for treatment at the Utah State Hospital in accordance with Section 77-18-106;

(iv) if the defendant is on probation for a felony offense, to serve a period of time as an initial condition of probation that does not exceed one year in a county jail designated by the department, after considering any recommendation by the court as to which jail the court finds most appropriate;

(v) to serve a term of home confinement in accordance with Section 77-18-107;

(vi) to participate in compensatory service programs, including the compensatory service program described in Section 76-6-107.1;

(vii) to pay for the costs of investigation, probation, or treatment services;

(viii) to pay a criminal accounts receivable established for the defendant under Section 77-32b-103; or

(ix) to comply with other terms and conditions the court considers appropriate to ensure public safety or increase a defendant's likelihood of success on probation.

(b) (i) Notwithstanding Subsection (6)(a)(iv), the court may modify the probation of a defendant to include a period of time that is served in a county jail immediately before the termination of probation as long as that period of time does not exceed one year.

(ii) If a defendant is ordered to serve time in a county jail as a sanction for a probation violation, the one-year limitation described in Subsection (6)(a)(iv) or (6)(b)(i) does not apply to the period of time that the court orders the defendant to serve in a county jail under this Subsection (6)(b)(ii).

(7) (a) Except as provided in Subsection (7)(b), probation of an individual placed on probation after December 31, 2018:

(i) may not exceed the individual's maximum sentence;

(ii) shall be for a period of time that is in accordance with the supervision length guidelines established by the Utah Sentencing Commission under Section 63M-7-404, to the extent the guidelines are consistent with the requirements of the law; and

(iii) shall be terminated in accordance with the supervision length guidelines established by the Utah Sentencing Commission under Section 63M-7-404, to the extent the guidelines are consistent with the requirements of the law.

(b) Probation of an individual placed on probation after December 31, 2018, whose maximum sentence is one year or less, may not exceed 36 months.

(c) Probation of an individual placed on probation on or after October 1, 2015, but before January 1, 2019, may be terminated at any time at the discretion of the court or upon completion without violation of 36 months probation in felony or class A misdemeanor cases, 12 months in cases of class B or C misdemeanors or infractions, or as allowed in accordance with Section 64-13-21 regarding earned credits.

(d) This Subsection (7) does not apply to the probation of an individual convicted of an offense for criminal nonsupport under Section 76-7-201.

(8) (a) Notwithstanding Subsection (7), if there is an unpaid balance of the criminal accounts receivable for the defendant upon termination of the probation period for the defendant under Subsection (7), the court may require the defendant to continue to make payments towards the criminal accounts receivable in accordance with the payment schedule established by the court under Section 77-32b-103.

(b) A court may not require the defendant to make payments as described in Subsection (8)(a) beyond the expiration of the defendant's sentence.

(c) If the court requires a defendant to continue to pay in accordance with the payment schedule for the criminal accounts receivable under this Subsection (8) and the defendant defaults on the criminal accounts receivable, the court shall proceed with an order for a civil judgment of restitution and a civil accounts receivable for the defendant as described in Section 77-18-114.

(d) (i) Upon a motion from the prosecuting attorney, the victim, or upon the court's own motion, the court may require a defendant to show cause as to why the defendant's failure to pay in accordance with the payment schedule should not be treated as contempt of court.

(ii) A court may hold a defendant in contempt for failure to make payments for a criminal accounts receivable in accordance with Title 78B, Chapter 6, Part 3, Contempt.

(e) This Subsection (8) does not apply to the probation of an individual convicted of an offense for criminal nonsupport under Section 76-7-201.

Section 57. Section 77-18-106 is enacted to read:

77-18-106. Treatment at the Utah State Hospital -- Condition of probation or stay of sentence.

The court may order as a condition of probation, or a stay of sentence, that the defendant be voluntarily admitted to the custody of the Division of Substance Abuse and Mental Health for treatment at the Utah State Hospital only if the superintendent of the Utah State Hospital, or the superintendent's designee, certifies to the court that:

(1) the defendant is appropriate for, and can benefit from, treatment at the Utah State Hospital;

(2) there is space at the Utah State Hospital for treatment of the defendant; and

(3) individuals described in Subsection 62A-15-610(2)(g) are receiving priority for treatment over the defendant.

Section 58. Section 77-18-107 is enacted to read:

77-18-107. Home confinement -- Electronic monitoring for home confinement.

(1) The court may order home confinement as a condition of probation under the supervision of the department, except as provided in Sections 76-3-406 and 76-5-406.5.

(2) The department shall establish procedures and standards for home confinement for all defendants supervised by the department for home confinement.

(3) If the court places the defendant on probation and orders the defendant to participate in home confinement under Subsection (1), the court may order the defendant to participate in home confinement through the use of electronic monitoring until further order of the court.

(4) The electronic monitoring of a defendant shall alert the department and the appropriate law enforcement agency of the defendant's whereabouts.

(5) An electronic monitoring device shall be used under conditions that require:

(a) the defendant to wear an electronic monitoring device at all times; and

(b) the device be placed in the home of the defendant to monitor the defendant's compliance with the court's order.

(6) If a court orders a defendant to participate in home confinement through electronic monitoring as a condition of probation under Subsection (3), the court shall:

(a) place the defendant on probation under the supervision of the department;

(b) order the department to place an electronic monitoring device on the defendant and install electronic monitoring equipment in the residence of the defendant; and

(c) order the defendant to pay the costs associated with home confinement to the department or the program provider.

(7) The department shall pay the costs of home confinement through electronic monitoring only for an individual who is determined to be indigent by the court.

(8) The department may provide the electronic monitoring described in this section directly or by contract with a private provider.

Section 59. Section 77-18-108 is enacted to read:

77-18-108. Termination, revocation, modification, or extension of probation -- Violation of probation -- Hearing on violation.

(1) (a) The department shall notify the court and the prosecuting attorney, in writing:

(i) when the department is requesting termination of supervision for a defendant; or

(ii) before a defendant's supervision will be terminated by law.

(b) The notification under this Subsection (1) shall include a probation progress report.

(c) If a defendant's probation is being terminated, and the defendant's criminal accounts receivable has an unpaid balance or there is any outstanding debt with the department, the department shall notify the Office of State Debt Collection that the defendant's criminal accounts receivable has an unpaid balance or there is an outstanding debt with the department.

(2) (a) The court may modify the defendant's probation in accordance with the supervision length guidelines and the graduated sanctions and incentives developed by the Utah Sentencing Commission under Section 63M-7-404.

(b) The court may not:

(i) extend the length of a defendant's probation, except upon:

(A) waiver of a hearing by the defendant; or

(B) a hearing and a finding by the court that the defendant has violated the terms of probation;

(ii) revoke a defendant's probation, except upon a hearing and a finding by the court that the terms of probation have been violated; or

(iii) terminate a defendant's probation before expiration of the probation period until the court enters a finding of whether the defendant owes restitution under Section 77-38b-205.

(3) (a) Upon the filing of an affidavit, or an unsworn written declaration executed in substantial compliance with Title 78B, Chapter 18a, Uniform Unsworn Declarations Act, alleging with particularity facts asserted to constitute violation of the terms of a defendant's probation, the court shall determine if the affidavit or unsworn written declaration establishes probable cause to believe that revocation, modification, or extension of the defendant's probation is justified.

(b) (i) If the court determines there is probable cause, the court shall order that the defendant be served with:

(A) a warrant for the defendant's arrest or a copy of the affidavit or unsworn written declaration; and

(B) an order to show cause as to why the defendant's probation should not be revoked, modified, or extended.

(ii) The order under Subsection (3)(b)(i)(B) shall:

(A) be served upon the defendant at least five days before the day on which the hearing is held;

(B) specify the time and place of the hearing; and

(C) inform the defendant of the right to be represented by counsel at the hearing, the right to have counsel appointed if the defendant is indigent, and the right to present evidence at the hearing.

(iii) The defendant shall show good cause for a continuance of the hearing.

(c) At the hearing, the defendant shall admit or deny the allegations of the affidavit or unsworn written declaration.

(d) (i) If the defendant denies the allegations of the affidavit or unsworn written declaration, the prosecuting attorney shall present evidence on the allegations.

(ii) If the affidavit, or unsworn written declaration, alleges that a defendant is delinquent, or in default, on a criminal accounts receivable, the prosecuting attorney shall present evidence to establish, by a preponderance of the evidence, that the defendant:

(A) was aware of the defendant's obligation to pay the balance of the criminal accounts receivable;

(B) failed to pay on the balance of the criminal accounts receivable as ordered by the court; and

(C) had the ability to make a payment on the balance of the criminal accounts receivable if the defendant opposes an order to show cause, in writing, and presents evidence that the defendant was unable to make a payment on the balance of the criminal accounts receivable.

(e) The persons who have given adverse information on which the allegations are based shall be presented as witnesses subject to questioning by the defendant, unless the court for good cause otherwise orders.

(f) At the hearing, the defendant may:

(i) call witnesses;

(ii) appear and speak in the defendant's own behalf; and

(iii) present evidence.

(g) (i) After the hearing, the court shall make findings of fact.

(ii) Upon a finding that the defendant violated the terms of the defendant's probation, the court may order the defendant's probation terminated, revoked, modified, continued, or reinstated for all or a portion of the original term of probation.

(4) (a) (i) Except as provided in Subsection 77-18-105(7), the court may not require a defendant to remain on probation for a period of time that exceeds the length of the defendant's maximum sentence.

(ii) Except as provided in Subsection 77-18-105(7), if a defendant's probation is revoked and later reinstated, the total time of all periods of probation that the defendant serves, in relation to the same sentence, may not exceed the defendant's maximum sentence.

(b) If a period of incarceration is imposed for a violation of the defendant's probation, the defendant shall be sentenced within the guidelines established by the Utah Sentencing Commission in accordance with Subsection 63M-7-404(4), unless the court determines that:

(i) the defendant needs substance abuse or mental health treatment, as determined by a screening and an assessment, that warrants treatment services that are immediately available in the community; or

(ii) the sentence previously imposed shall be executed.

(c) If the defendant had, before the imposition of a term of incarceration or the execution of the previously imposed sentence under this section, served time in jail as a term of probation or due to a violation of probation, the time that the defendant served in jail constitutes service of time toward the sentence previously imposed.

(5) (a) Any time served by a defendant:

(i) outside of confinement after having been charged with a probation violation, and before a hearing to revoke probation, does not constitute service of time toward the total probation term, unless the defendant is exonerated at a hearing to revoke the defendant's probation;

(ii) in confinement awaiting a hearing or a decision concerning revocation of the defendant's probation does not constitute service of time toward the total probation term, unless the defendant is exonerated at the hearing to revoke probation; or

(iii) in confinement awaiting a hearing or a decision concerning revocation of the defendant's probation constitutes service of time toward a term of incarceration imposed as a result of the revocation of probation or a graduated sanction imposed under the guidelines established by the Utah Sentencing Commission in accordance with Section 63M-7-404.

(b) The running of the probation period is tolled upon:

(i) the filing of a report with the court alleging a violation of the terms of the defendant's probation; or

(ii) the issuance of an order or a warrant under Subsection (3).

Section 60. Section 77-18-109 is enacted to read:

77-18-109. Standards for supervision and presentence investigation.

(1) The department shall establish supervision and presentence investigation standards for all individuals referred to the department based on:

(a) the type of offense;

(b) the results of a screening and an assessment;

(c) the demand for services;

(d) the availability of agency resources;

(e) public safety; and

(f) other criteria established by the department to determine what level of services shall be provided.

(2) The department shall submit proposed supervision and presentence investigation standards annually to the Judicial Council and the board for review and comment before the department adopts the standards.

(3) The Judicial Council and the department shall establish procedures to implement the supervision and presentence investigation standards.

(4) The Judicial Council and the department shall annually consider modifications to the standards based upon criteria in Subsection (1) and other criteria as the Judicial Council and the department consider appropriate.

(5) The Judicial Council and the department shall:

(a) annually prepare an impact report; and

(b) submit the impact report to the appropriate legislative appropriations subcommittee.

Section 61. Section 77-18-110, which is renumbered from Section 77-18-3 is renumbered and amended to read:

[~~77-18-3~~]. 77-18-110. Disposition of fines.

[~~Fines~~] A fine imposed by the district court shall be paid [~~as provided in~~] in accordance with Section 78A-5-110.

Section 62. Section 77-18-111, which is renumbered from Section 77-18-4 is renumbered and amended to read:

[~~77-18-4~~]. 77-18-111. Sentence -- Term -- Construction.

(1) [~~Whenever a person~~] If an individual is convicted of a crime and the judgment provides for a commitment to the state prison, the court shall not fix a definite term of imprisonment unless otherwise provided by law.

(2) The sentence and judgment of imprisonment shall be for an indeterminate term of not less than the minimum and not to exceed the maximum term provided by law for the particular crime.

(3) Except as otherwise expressly provided by law, every sentence, regardless of [~~its~~] the sentence's form or terms, which purports to be for a shorter or different period of time, shall be construed to be a sentence for the term between the minimum and maximum periods of time provided by law and shall continue until the maximum period has been reached unless sooner terminated or commuted by authority of the [~~Board of Pardons and Parole~~] board.

Section 63. Section 77-18-112, which is renumbered from Section 77-18-5 is renumbered and amended to read:

[~~77-18-5~~]. 77-18-112. Reports by courts and prosecuting attorneys to Board of Pardons and Parole.

In cases where an indeterminate sentence is imposed, the [~~judge~~] court and prosecuting attorney may, within 30 days, mail a statement to the [~~Board of Pardons and Parole~~] board setting forth the term for which the prisoner ought to be imprisoned together with any information which might aid the board in passing on the application for termination or commutation of the sentence or for parole or pardon.

Section 64. Section 77-18-113, which is renumbered from Section 77-18-5.5 is renumbered and amended to read:

[~~77-18-5.5~~]. 77-18-113. Judgment of death -- Method is lethal injection -- Exceptions for use of firing squad.

(1) (a) When a defendant is convicted of a capital felony and the judgment of death has been imposed, lethal intravenous injection is the method of execution.

(b) Subsection (1)(a) applies to any defendant sentenced to death on or after May 3, 2004, except under Subsections (2), (3), and (4).

(2) (a) If a court holds that a defendant has a right to be executed by a firing squad, the method of execution for that defendant shall be a firing squad.

(b) This Subsection (2) applies to any defendant whose right to be executed by a firing squad is preserved by that judgment.

(3) (a) If a court holds that execution by lethal injection is unconstitutional on its face, the method of execution shall be a firing squad.

(b) If a court holds that execution by lethal injection is unconstitutional as applied, the method of execution for that defendant shall be a firing squad.

(4) The method of execution for the defendant is the firing squad if the sentencing court determines the state is unable to lawfully obtain the substance or substances necessary to conduct an execution by lethal intravenous injection 30 or more days [~~prior to~~] before the date specified in the warrant issued upon a judgment of death under Section 77-19-6.

Section 65. Section 77-18-114 is enacted to read:

77-18-114. Unpaid balance at termination of sentence -- Past due account -- Notice -- Account or judgment paid in full -- Effect of civil accounts receivable and civil judgment of restitution.

(1) When a defendant's sentence is terminated by law or by the decision of the court or the board:

(a) the board shall provide an accounting of the unpaid balance of the defendant's criminal accounts receivable to the court if the defendant was on parole or incarcerated at the time of termination; and

(b) within 90 days after the day on which a defendant's sentence is terminated, the court shall:

(i) enter an order for a civil accounts receivable and a civil judgment of restitution for a defendant on the civil judgment docket;

(ii) transfer the responsibility of collecting the civil accounts receivable and the civil judgment of restitution to the Office of State Debt Collection; and

(iii) identify in the order under this Subsection (1):

(A) the Office of State Debt Collection as a judgment creditor for the civil accounts receivable and the civil judgment of restitution; and

(B) the victim as a judgment creditor for the civil judgment of restitution.

(2) If a criminal accounts receivable for the defendant is more than 90 days past due and the court has ordered that a defendant does not owe restitution to any victim, or the time period in Subsection 77-38b-205(5) has passed and the court has not ordered restitution, the court may:

(a) enter an order for a civil accounts receivable for the defendant on the civil judgment docket;

(b) identify, in the order under Subsection (2)(a), the Office of State Debt Collection as a judgment creditor for the civil accounts receivable; and

(c) transfer the responsibility of collecting the civil accounts receivable to the Office of State Debt Collection.

(3) An order for a criminal accounts receivable is no longer in effect after the court enters an order for a civil accounts receivable or a civil judgment of restitution under Subsection (1) or (2).

(4) The court shall provide notice to the Office of State Debt Collection and the prosecuting attorney of any hearing that affects an order for the civil accounts receivable or the civil judgment of restitution.

(5) The Office of State Debt Collection shall:

(a) notify the court when a civil judgment of restitution or a civil accounts receivable is satisfied; and

(b) provide the court with an accounting of any distribution made by the Office of State Debt Collection for the civil accounts receivable and the civil judgment of restitution.

(6) When a fine, forfeiture, surcharge, cost, or fee is recorded in an order for a civil accounts receivable on the civil judgment docket, or when restitution is recorded as an order for a civil judgment of restitution on the civil judgment docket, the order:

(a) constitutes a lien on the defendant's real property until the judgment is satisfied; and

(b) may be collected by any means authorized by law for the collection of a civil judgment.

(7) A criminal accounts receivable, a civil accounts receivable, and a civil judgment of restitution are not subject to the civil statutes of limitation and expire only upon payment in full.

(8) (a) If a defendant asserts that a payment was made to a victim or third party for a civil judgment of restitution, or enters into any other transaction that does not involve the Office of State Debt Collection, and the defendant asserts that the payment results in a credit towards the civil judgment of restitution for the defendant:

(i) the defendant shall provide notice to the Office of State Debt Collection and the prosecuting attorney within 30 days after the day on which the payment or other transaction is made; and

(ii) the payment may only be credited towards the principal of the civil judgment of restitution and does not affect any other amount owed to the Office of State Debt Collection under Section 63A-3-502.

(b) Nothing in this Subsection (8) shall be construed to prevent a victim or a third party from providing notice of a payment towards a civil judgment of restitution to the Office of State Debt Collection.

Section 66. Section 77-18-115, which is renumbered from Section 77-18-6.5 is renumbered and amended to read:

[~~77-18-6.5~~]. 77-18-115. Liability of rescued person for costs of emergency response.

(1) Any person who violates Section 76-6-206.1 and whose conduct required emergency care, rescue, assistance, or recovery services at the scene of an abandoned or inactive mine may be charged with the expenses incurred in meeting the emergency.

(2) (a) The court's order shall be a judgment [~~which~~] that orders the payment of reimbursement to any public agency or private body that incurred the expenses.

(b) The judgment shall constitute a lien when recorded in the judgment docket and shall have the same effect and is subject to the same rules as a judgment for money in a civil action.

(3) The liability imposed under this section is in addition to and not in limitation of any other liability that may be imposed.

Section 67. Section 77-18-116, which is renumbered from Section 77-18-7 is renumbered and amended to read:

[~~77-18-7~~]. 77-18-116. Costs imposed on defendant -- Restrictions.

Unless specifically authorized by statute, a defendant shall not be required to pay court costs in a criminal case [~~either as~~] as:

(1) a part of a sentence; or [~~as~~]

(2) a condition of probation or dismissal.

Section 68. Section 77-18-117, which is renumbered from Section 77-18-8 is renumbered and amended to read:

[~~77-18-8~~]. 77-18-117. Fine not paid -- Commitment.

(1) When a defendant is sentenced to pay a fine in addition to a jail or a prison sentence and the judgment is that the jail or prison sentence be suspended upon payment of the fine, the service of the jail or prison sentence shall satisfy the judgment.

(2) If a defendant fails to pay the fine and [~~thereafter~~] the court finds that the defendant failed to make a good faith effort to pay the fine, the court may, after a hearing, order the execution of the suspended jail or prison sentence.

(3) If a defendant is sentenced to pay a fine only, or is sentenced to jail or prison and a fine, with neither suspended, [~~he shall not~~] the defendant may not later be committed to jail for failure to pay the fine.

Section 69. Section 77-18-118 is enacted to read:

77-18-118. Continuing jurisdiction of a sentencing court.

(1) A sentencing court shall retain jurisdiction over a defendant's criminal case:

(a) if the defendant is on probation as described in Subsection 77-18-105(3)(c);

(b) if the defendant is on probation and the probation period has terminated under Subsection 77-18-105(7), to require the defendant to continue to make payments towards a criminal accounts receivable until the defendant's sentence expires;

(c) within the time periods described in Subsection 77-38b-205(5), to enter or modify an order for a criminal accounts receivable in accordance with Section 77-32b-103;

(d) within the time periods described in Subsection 77-38b-205(5), to enter or modify an order for restitution in accordance with Section 77-38b-205;

(e) until a defendant's sentence is terminated, to correct an error for a criminal accounts receivable in accordance with Subsection 77-32b-105(1)(a);

(f) until a defendant's sentence is terminated, to modify a payment schedule for a criminal accounts receivable in accordance with Subsection 77-32b-105(1)(b);

(g) if a defendant files a petition for remittance under Subsection 77-32b-105(1)(c) before the defendant's sentence is terminated, for 90 days from the day on which the petition is filed to determine whether to remit, in whole or in part, the defendant's criminal accounts receivable;

(h) if a defendant files a petition for remittance under Subsection 77-32b-106(1) within 90 days from the day on which the defendant's sentence is terminated, to determine whether to remit, in whole or in part, the defendant's criminal accounts receivable; and

(i) to enter an order for a civil accounts receivable and a civil judgment of restitution in accordance with Section 77-18-114.

(2) This section does not prevent a court from exercising jurisdiction over:

(a) a contempt proceeding for a defendant under Title 78B, Chapter 6, Part 3, Contempt; or

(b) enforcement of a civil accounts receivable or a civil judgment of restitution.

Section 70. Section 77-19-10 is amended to read:

77-19-10. Judgment of death -- Location and procedures for execution.

(1) The executive director of the Department of Corrections or a designee shall ensure that the method of judgment of death specified in the warrant or as required under Section [~~77-18-5.5~~] 77-18-113 is carried out at a secure correctional facility operated by the department and at an hour determined by the department on the date specified in the warrant.

(2) When the judgment of death is to be carried out by lethal intravenous injection, the executive director of the department or a designee shall select two or more persons trained in accordance with accepted medical practices to administer intravenous injections, who shall each administer a continuous intravenous injection, one of which shall be of a lethal quantity of:

(a) sodium thiopental; or

(b) other equally or more effective substance sufficient to cause death.

(3) If the judgment of death is to be carried out by firing squad under Subsection [~~77-18-5.5~~] 77-18-113(2), (3), or (4) the executive director of the department or a designee shall select a five-person firing squad of peace officers.

(4) Compensation for persons administering intravenous injections and for members of a firing squad under Subsection [~~77-18-5.5~~] 77-18-113(2), (3), or (4) shall be in an amount determined by the director of the Division of Finance.

(5) Death under this section shall be certified by a physician.

(6) The department shall adopt and enforce rules governing procedures for the execution of judgments of death.

Section 71. Section 77-20-4 is amended to read:

77-20-4. Bail to be posted in cash, by credit or debit card, or by written undertaking -- Specific monetary bail methods.

(1) (a) Except as provided in Subsection (2), the judge or magistrate shall set bail at a single amount per case or charge.

(b) Subject to Subsection (2), a defendant may choose to post the amount described in Subsection (1)(a) by any of the following methods:

(i) in cash;

(ii) by written undertaking with sureties;

(iii) by written undertaking without sureties, at the discretion of the judge or magistrate; or

(iv) by credit or debit card, at the discretion of the judge or bail commissioner.

(2) A judge or magistrate may limit a defendant to a specific method of posting monetary bail described in Subsection (1)(b)(i), (ii), (iii), or (iv):

(a) if, after charges are filed, the defendant fails to appear in the case on a bond and the case involves a violent offense;

(b) in order to allow the defendant to voluntarily forfeit monetary bail in accordance with Section 77-7-21 and the offense with which the defendant is charged is listed in the shared master offense table as one for which an appearance is not mandatory;

(c) if the defendant has failed to respond to a citation or summons and the offense with which the defendant is charged is listed in the shared master offense table as one for which an appearance is not mandatory;

(d) if a warrant is issued for the defendant solely for failure to pay a [~~criminal judgment account~~

~~receivable, as defined in Section 77-32a-101~~] criminal accounts receivable, as defined in Section 77-32b-102, and the defendant's monetary bail is limited to the amount owed; or

(e) if a court has entered a judgment of bond forfeiture under Section 77-20b-104 in any case involving the defendant.

(3) Monetary bail may not be accepted without receiving in writing at the time the monetary bail is posted the current mailing address, telephone number, and email address of the surety.

(4) Monetary bail paid by debit or credit card, less the fee charged by the financial institution, shall be tendered to the courts.

(5) Monetary bail refunded by the court may be refunded by credit to the debit or credit card, or cash. The amount refunded shall be the full amount received by the court under Subsection (4), which may be less than the full amount of the monetary bail set by the court.

(6) Before refunding monetary bail that is posted by the defendant in cash, by credit card, or by debit card, the court may apply the amount posted toward [~~accounts receivable, as defined in Section 77-32a-101~~] a criminal accounts receivable, as defined in Section 77-32b-102, that [~~are~~] is owed by the defendant in the priority set forth in Section [~~77-38a-404~~] 77-38b-304.

Section 72. Section 77-20b-101 is amended to read:

77-20b-101. Entry of nonappearance -- Notice to surety -- Release of surety on failure of timely notice.

(1) If a defendant who has posted bail fails to appear before the appropriate court as required, the court shall within 30 days of the failure to appear issue a bench warrant that includes the original case number. The court shall also direct that the surety or surety insurer be given notice of the nonappearance. The clerk of the court shall:

(a) email notice of nonappearance to the surety or surety insurer at the email address provided on the bond;

(b) email a copy of the notice sent under Subsection (1)(a) to the prosecutor's office; and

(c) ensure that the name, address, business email address, and telephone number of the surety, its agent, or surety insurer as listed on the bond is stated on the bench warrant.

(2) The prosecutor may email notice of nonappearance to the address of the surety or surety insurer as listed on the bond within 37 days after the date of the defendant's failure to appear.

(3) If notice of nonappearance is not emailed to a surety or surety insurer as listed on the bond, other than the defendant, in accordance with Subsection (1) or (2), the surety or surety insurer and its bond producer are relieved of further obligation under the bond if the surety or surety insurer have listed their current name and email addresses on the bond in the court's file.

(4) (a) (i) If a defendant appears in court within 30 days after a missed, scheduled court appearance, the court may reinstate the bond without further notice to the surety or surety insurer.

(ii) If the defendant, while in custody, appears on the case for which the bond was posted, the court may not reinstate the bond without the consent of the bond company.

(b) If a defendant fails to appear within 30 days after a scheduled court appearance, the court may not reinstate the bond without the consent of the surety or surety insurer.

(c) If the defendant is arrested and booked into a county jail booking facility pursuant to a warrant for failure to appear on the original charges and the court is notified of the arrest, or the court recalls the warrant due to the defendant's having paid the fine and prior to entry of judgment of forfeiture, the court shall exonerate the bond.

(d) Unless the court makes a finding of good cause why the bond should not be exonerated, [~~it~~] the court shall exonerate the bond if:

(i) the surety or surety insurer has delivered the defendant to the county jail booking facility in the county where the original charge or charges are pending;

(ii) the defendant has been released on a bond secured from a subsequent surety or surety insurer for the original charge and the failure to appear;

(iii) after an arrest, the defendant has escaped from jail or has been released on the defendant's own recognizance, pursuant to a pretrial release, under a court order regulating jail capacity, or by a sheriff's release under Section 17-22-5.5;

(iv) the surety or surety insurer has transported or agreed to pay for the transportation of the defendant from a location outside of the county back to the county where the original charge is pending, and the payment is in an amount equal to [~~government transportation expenses listed in Section 76-3-201~~] the cost of government transportation under Section 76-3-201; or

(v) the surety or surety insurer demonstrates by a preponderance of the evidence that:

(A) at the time the surety or surety insurer issued the bond, it had made reasonable efforts to determine that the defendant was legally present in the United States;

(B) a reasonable person would have concluded, based on the surety's or surety insurer's determination, that the defendant was legally present in the United States; and

(C) the surety or surety insurer has failed to bring the defendant before the court because the defendant is in federal custody or has been deported.

(e) Under circumstances not otherwise provided for in this section, the court may exonerate the bond

if it finds that the prosecutor has been given reasonable notice of a surety's or surety insurer's motion and there is good cause for the bond to be exonerated.

(f) If a surety's or surety insurer's bond has been exonerated under this section and the surety or surety insurer remains liable for the cost of transportation of the defendant, the surety or surety insurer may take custody of the defendant for the purpose of transporting the defendant to the jurisdiction where the charge is pending.

Section 73. Section 77-27-1 is amended to read:

77-27-1. Definitions.

As used in this chapter:

(1) "Appearance" means any opportunity to address the board, a board member, a panel, or hearing officer, including an interview.

(2) "Board" means the Board of Pardons and Parole.

(3) (a) "Case action plan" means a document developed by the Department of Corrections that identifies the program priorities for the treatment of the offender[~~, including~~].

(b) "Case action plan" includes the criminal risk factors as determined by a risk and needs assessment conducted by the department.

(4) "Commission" means the State Commission on Criminal and Juvenile Justice created in Section 63M-7-201.

(5) "Commutation" is the change from a greater to a lesser punishment after conviction.

(6) "Criminal accounts receivable" means the same as that term is defined in Section 77-32b-102.

[~~(6)~~] (7) "Criminal risk factors" means a person's characteristics and behaviors that:

(a) affect that person's risk of engaging in criminal behavior; and

(b) are diminished when addressed by effective treatment, supervision, and other support resources resulting in reduced risk of criminal behavior.

[~~(7)~~] (8) "Department" means the Department of Corrections.

[~~(8)~~] (9) "Expiration" [~~occurs~~] means when the maximum sentence has run.

[~~(9)~~] (10) "Family" means [~~persons~~] any individual related to the victim as a spouse, child, sibling, parent, or grandparent, or the victim's legal guardian.

[~~(10)~~] (11) "Hearing" or "full hearing" means an appearance before the board, a panel, a board member or hearing examiner, at which an offender or inmate is afforded an opportunity to be present and address the board[~~, and encompasses the term "full hearing."~~].

[~~(11)~~] (12) "Location," in reference to a hearing, means the physical location at which the board, a panel, a board member, or a hearing examiner is conducting the hearing, regardless of the location of any person participating by electronic means.

[~~(12)~~] (13) "Open session" means any hearing, before the board, a panel, a board member, or a hearing examiner [~~which~~], that is open to the public, regardless of the location of any person participating by electronic means.

[~~(13)~~] (14) "Panel" means members of the board assigned by the chairperson to a particular case.

[~~(14)~~] (15) "Pardon" [~~is~~] means:

(a) an act of grace that forgives a criminal conviction and restores the rights and privileges forfeited by or because of the criminal conviction[~~. A pardon releases~~];

(b) the release of an offender from the entire punishment prescribed for a criminal offense and from disabilities that are a consequence of the criminal conviction[~~. A pardon reinstates~~]; and

(c) the reinstatement of any civil rights lost as a consequence of conviction or punishment for a criminal offense.

[~~(15)~~] (16) "Parole" [~~is~~] means a release from imprisonment on prescribed conditions which, if satisfactorily performed by the parolee, enables the parolee to obtain a termination of [~~his~~] the parolee's sentence.

(17) "Payment schedule" means the same as that term is defined in Section 77-32b-102.

(18) "Pecuniary damages" means the same as that term is defined in Section 77-38b-102.

[~~(16)~~] (19) "Probation" [~~is~~] means an act of grace by the court suspending the imposition or execution of a convicted offender's sentence upon prescribed conditions.

(20) "Remit" or "remission" means the same as that term is defined in Section 77-32b-102.

[~~(17) "Reprieve or respite" is~~]

(21) "Reprieve" or "respite" means the temporary suspension of the execution of the sentence.

(22) "Restitution" means the same as that term is defined in Section 77-38b-102.

[~~(18)~~] (23) "Termination" [~~is~~] means the act of discharging from parole or concluding the sentence of imprisonment [~~prior to~~] before the expiration of the sentence.

[~~(19)~~] (24) "Victim" means:

(a) a person against whom the defendant committed a felony or class A misdemeanor offense[~~, and regarding which offense~~] for which a hearing is held under this chapter; or

(b) the victim's family[~~,~~] if the victim is deceased as a result of the offense for which a hearing is held under this chapter.

Section 74. Section 77-27-2 is amended to read:

77-27-2. Board of Pardons and Parole -- Creation -- Compensation -- Functions.

(1) (a) There is created the Board of Pardons and Parole.

(b) The board shall consist of five full-time members and not more than five pro tempore members to be appointed by the governor with the advice and consent of the Senate in accordance with Title 63G, Chapter 24, Part 2, Vacancies, and as provided in this section.

(c) The members of the board shall be resident citizens of the state.

(d) The governor shall establish salaries for the members of the board within the salary range fixed by the Legislature in Title 67, Chapter 22, State Officer Compensation.

(2) (a) (i) (A) The full-time board members shall serve terms of five years.

(B) The terms of the full-time members shall be staggered so one board member is appointed for a term of five years on March 1 of each year.

(ii) (A) The pro tempore members shall serve terms of five years, beginning on March 1 of the year of appointment, with no more than one pro tempore member term beginning or expiring in the same calendar year.

(B) If a pro tempore member vacancy occurs, the board may submit the names of not fewer than three or more than five persons to the governor for appointment to fill the vacancy.

(b) All vacancies occurring on the board for any cause shall be filled by the governor with the advice and consent of the Senate [~~pursuant to~~] in accordance with this section for the unexpired term of the vacating member.

(c) The governor may at any time remove any member of the board for inefficiency, neglect of duty, malfeasance or malfeasance in office, or for cause upon a hearing.

(d) (i) A member of the board may not hold any other office in the government of the United States, this state or any other state, or of any county government or municipal corporation within a state.

(ii) A member may not engage in any occupation or business inconsistent with the member's duties.

(e) (i) A majority of the board constitutes a quorum for the transaction of business, including the holding of hearings at any time or any location within or without the state, or for the purpose of exercising any duty or authority of the board. [~~Action taken by a majority of the board regarding whether parole, pardon, commutation, termination of sentence, or remission of fines or forfeitures may be granted or restitution ordered in individual cases is deemed the action of the board.~~]

(ii) An action is deemed the action of the board if the action is taken by a majority of the board regarding whether:

(A) parole, pardon, commutation, or termination of a sentence is granted in an offender's case;

(B) remission of a criminal accounts receivable, or a fines or forfeiture, is granted in an offender's case; or

(C) an offender's payment schedule for a criminal accounts receivable is modified.

(iii) A majority vote of the five full-time members of the board is required for adoption of rules or policies of general applicability as provided by statute. [~~However,~~]

(iv) Notwithstanding Subsection (2)(e)(iii), a vacancy on the board does not impair the right of the remaining board members to exercise any duty or authority of the board as long as a majority of the board remains.

(v) A board member shall comply with the conflict of interest provisions described in Title 63G, Chapter 24, Part 3, Conflicts of Interest.

(f) (i) Any investigation, inquiry, or hearing that the board has authority to undertake or hold may be conducted by any board member or an examiner appointed by the board.

(ii) When [~~any of these actions are~~] an action under Subsection (2)(f)(i) is approved and confirmed by the board and filed in [~~its~~] the board's office, [~~they are~~] the action is considered to be the action of the board and [~~have~~] has the same effect as if originally made by the board.

(g) (i) When a full-time board member is absent or in other extraordinary circumstances, the chair may, as dictated by public interest and efficient administration of the board, assign a pro tempore member to act in the place of a full-time member.

(ii) Pro tempore members shall receive a per diem rate of compensation as established by the Division of Finance and all actual and necessary expenses incurred in attending to official business.

(h) The chair may request staff and administrative support as necessary from the [~~Department of Corrections~~] department.

(3) (a) Except as provided in Subsection (3)(b), the [~~Commission on Criminal and Juvenile Justice~~] commission shall:

(i) recommend five applicants to the governor for a full-time member appointment to the [~~Board of Pardons and Parole~~] board; and

(ii) consider applicants' knowledge of the criminal justice system, state and federal criminal law, judicial procedure, corrections policies and procedures, and behavioral sciences.

(b) The procedures and requirements of Subsection (3)(a) do not apply if the governor appoints a sitting board member to a new term of office.

(4) (a) (i) The board shall appoint an individual to serve as [~~its~~] the board's mental health adviser and may appoint other staff necessary to aid [~~it~~] the board in fulfilling [~~its~~] the board's responsibilities under Title 77, Chapter 16a, Commitment and Treatment of Persons with a Mental Illness.

(ii) The adviser shall prepare reports and recommendations to the board on all persons adjudicated as guilty with a mental illness, in accordance with Title 77, Chapter 16a, Commitment and Treatment of Persons with a Mental Illness.

(b) The mental health adviser shall possess the qualifications necessary to carry out the duties imposed by the board and may not be employed by the [~~Department of Corrections~~] department or the Utah State Hospital.

(i) The [~~Board of Pardons and Parole~~] board may review outside employment by the mental health advisor.

(ii) The [~~Board of Pardons and Parole~~] board shall develop rules governing employment with entities other than the board by the mental health advisor for the purpose of prohibiting a conflict of interest.

(c) The mental health adviser shall:

(i) act as liaison for the board with the Department of Human Services and local mental health authorities;

(ii) educate the members of the board regarding the needs and special circumstances of persons with a mental illness in the criminal justice system;

(iii) in cooperation with the [~~Department of Corrections~~] department, monitor the status of persons in the prison who have been found guilty with a mental illness;

(iv) monitor the progress of other persons under the board's jurisdiction who have a mental illness;

(v) conduct hearings as necessary in the preparation of reports and recommendations; and

(vi) perform other duties as assigned by the board.

Section 75. Section 77-27-5 is amended to read:

77-27-5. Board of Pardons and Parole authority.

(1) (a) [~~The Board of Pardons and Parole~~] Subject to this chapter and other laws of the state, and except for a conviction for treason or impeachment, the board shall determine by majority decision when and under what conditions [~~any convictions, except for treason or impeachment, may be pardoned or commuted, subject to this chapter and other laws of the state.~~] an offender's conviction may be pardoned or commuted.

(b) The Board of Pardons and Parole shall determine by majority decision when and under what conditions[~~, subject to this chapter and other laws of the state, individuals committed to serve sentences at penal or correctional facilities that are under the jurisdiction of the Department of Corrections, except treason or impeachment convictions or as otherwise limited by law, may be released upon parole, ordered to pay restitution, or have their fines, forfeitures, or restitution remitted, or their sentences terminated.~~] an offender committed to serve a sentence at a penal or correctional facility, which is under the jurisdiction of the department, may:

(i) be released upon parole;

(ii) have a fine or forfeiture remitted;

(iii) have the offender's criminal accounts receivable remitted in accordance with Section 77-32b-105 or 77-32b-106;

(iv) have the offender's payment schedule modified in accordance with Section 77-32b-103; or

(v) have the offender's sentence terminated.

(c) (i) The board may sit together or in panels to conduct hearings.

(ii) The chair shall appoint members to the panels in any combination and in accordance with rules made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, by the board.

(iii) The chair may participate on any panel and when doing so is chair of the panel.

(iv) The chair of the board may designate the chair for any other panel.

[~~(d) No restitution may be ordered, no fine, forfeiture, or restitution remitted, no parole, pardon, or commutation granted or sentence terminated, except after a full hearing before the board or the board's appointed examiner in open session. Any action taken under this subsection~~]

(d) (i) Except after a hearing before the board, or the board's appointed examiner, in an open session, the board may not:

(A) remit a fine or forfeiture for an offender or the offender's criminal accounts receivable;

(B) release the offender on parole; or

(C) commute, pardon, or terminate an offender's sentence.

(ii) An action taken under this Subsection (1) other than by a majority of the board shall be affirmed by a majority of the board.

(e) A commutation or pardon may be granted only after a full hearing before the board.

[~~(f) The board may determine restitution as provided in Section 77-27-6 and Subsection 77-38a-302(5)(d)(iii)(A).~~]

(2) (a) In the case of any hearings, timely prior notice of the time and location of the hearing shall be given to the offender.

(b) The county or district attorney's office responsible for prosecution of the case, the sentencing court, and law enforcement officials responsible for the defendant's arrest and conviction shall be notified of any board hearings through the board's website.

(c) Whenever possible, the victim or the victim's representative, if designated, shall be notified of original hearings and any hearing after that if notification is requested and current contact information has been provided to the board.

(d) (i) Notice to the victim or the victim's representative shall include information provided in Section 77-27-9.5, and any related rules made by the board under that section.[~~This information~~]

(ii) The information under Subsection (2)(d)(i) shall be provided in terms that are reasonable for the lay person to understand.

[~~(3) Decisions of the board in cases involving paroles, pardons, commutations or terminations of sentence, restitution, or remission of fines or forfeitures are final and are not subject to judicial review.~~]

(3) (a) A decision by the board is final and not subject for judicial review if the decision is regarding:

(i) a pardon, parole, commutation, or termination of an offender's sentence;

(ii) the modification of an offender's payment schedule for restitution; or

(iii) the remission of an offender's criminal accounts receivable or a fine or forfeiture.

(b) Nothing in this section prevents the obtaining or enforcement of a civil judgment[~~, including restitution as provided in Section 77-27-6.~~].

(4) (a) This chapter may not be construed as a denial of or limitation of the governor's power to grant respite or reprieves in all cases of convictions for offenses against the state, except treason or conviction on impeachment. [~~However,~~]

(b) Notwithstanding Subsection (4)(a), respites or reprieves may not extend beyond the next session of the Board of Pardons and Parole [~~and the board, at that session,~~].

(c) At the next session of the board, the board:

(i) shall continue or terminate the respite or reprieve[~~, or it~~]; or

(ii) may commute the punishment[~~,~~] or pardon the offense as provided.

(d) In the case of conviction for treason, the governor may suspend execution of the sentence until the case is reported to the Legislature at [~~its~~] the Legislature's next session.

(e) The Legislature shall [~~then either~~] pardon or commute the sentence[~~, or direct its execution~~] or direct the sentence's execution.

(5) (a) In determining when, where, and under what conditions an offender serving a sentence may be [~~paroled, pardoned, have restitution ordered, or have the offender's fines or forfeitures remitted, or the~~] paroled or pardoned, have a fine or forfeiture remitted, have the offender's criminal accounts receivable remitted, or have the offender's sentence commuted or terminated, the board shall:

[~~(a)~~] (i) [~~consider whether the offender has made or is prepared to make restitution as ascertained in accordance with the standards and procedures of Section 77-38a-302, as a condition of any parole, pardon, remission of fines or forfeitures, or commutation or termination of sentence; and~~] consider whether the offender has made restitution ordered by the court under Section 77-38b-205, or is prepared to pay restitution as a condition of any parole, pardon, remission of a criminal accounts receivable or a fine or forfeiture, or a commutation or termination of the offender's sentence; and

[~~(b)~~] (ii) except as provided in Subsection (5)(b), develop and use a list of criteria for making determinations under this Subsection (5).

(b) The board shall determine whether to remit an offender's criminal accounts receivable under this Subsection (5) in accordance with Section 77-32b-105 or 77-32b-106.

(6) In determining whether parole may be terminated, the board shall consider:

(a) the offense committed by the parolee; and

(b) the parole period [~~as provided in~~] under Section 76-3-202, and in accordance with Section 77-27-13.

(7) For [~~offenders~~] an offender placed on parole after December 31, 2018, the board shall terminate parole in accordance with the supervision length guidelines established by the Utah Sentencing Commission under Section 63M-7-404, to the extent the guidelines are consistent with the requirements of the law.

Section 76. Section 77-27-6.1 is enacted to read:

77-27-6.1. Payment of a criminal accounts receivable -- Failure to enter an order for restitution or create a criminal accounts receivable -- Modification of a criminal accounts receivable -- Order for recovery of costs or pecuniary damages.

(1) When an offender is committed to prison, the board may require the offender to pay the offender's criminal accounts receivable ordered by the court during the period of incarceration or parole supervision.

(2) If the board orders the release of an offender on parole and there is an unpaid balance on the offender's criminal accounts receivable, the board may modify the payment schedule entered by the court for the offender's criminal accounts receivable in accordance with Section 77-32b-105.

(3) (a) If the sentencing court has not entered an order of restitution for an offender who is under the jurisdiction of the board, the board shall refer the offender's case to the sentencing court, within the time periods described in Subsection 77-38b-205(5), to enter an order for restitution for the offender in accordance with Section 77-38b-205.

(b) If the sentencing court has not entered an order to establish a criminal accounts receivable for an offender who is under the jurisdiction of the board, the board shall refer the offender's case to the sentencing court, within the time periods described in Subsection 77-38b-205(5), to enter an order to establish a criminal accounts receivable for the offender in accordance with Section 77-32b-103.

(4) (a) If there is a challenge to an offender's criminal accounts receivable, the board shall refer the offender's case to the sentencing court, within the time periods described in Subsection 77-38b-205(5), to resolve the challenge to the criminal accounts receivable.

(b) If a sentencing court modifies a criminal accounts receivable after the offender is committed to prison, the sentencing court shall provide notice to the board of the modification.

(5) The board may enter an order to recover any cost incurred by the department, or the state or any other agency, arising out of the offender's needs or conduct.

Section 77. Section 77-27-11 is amended to read:

77-27-11. Revocation of parole.

(1) The board may revoke the parole of any individual who is found to have violated any condition of the individual's parole.

(2) (a) If a parolee is confined by the [~~Department of Corrections~~] department or any law enforcement official for a suspected violation of parole, the [~~Department of Corrections~~] department:

(i) shall immediately report the alleged violation to the board, by means of an incident report[~~,~~]; and

(ii) make any recommendation regarding the incident.

(b) [~~No parolee may be~~] A parolee may not be held for a period longer than 72 hours, excluding weekends and holidays, without first obtaining a warrant.

(3) Any member of the board may:

(a) issue a warrant based upon a certified warrant request to a peace officer or other persons authorized to arrest, detain, and return to actual custody a parolee[~~, and may~~]; and

(b) upon arrest [~~or otherwise direct the Department of Corrections to~~] of the parolee, determine, or direct the department to determine, if there is probable cause to believe that the parolee has violated the conditions of the parolee's parole.

(4) Upon a finding of probable cause, a parolee may be further detained or imprisoned again pending a hearing by the board or [~~its~~] the board's appointed examiner.

(5) (a) The board or [~~its~~] the board's appointed examiner shall conduct a hearing on the alleged violation, and the parolee shall have written notice of the time and location of the hearing, the alleged violation of parole, and a statement of the evidence against the parolee.

(b) The board or [~~its~~] the board's appointed examiner shall provide the parolee the opportunity:

(i) to be present;

(ii) to be heard;

(iii) to present witnesses and documentary evidence;

(iv) to confront and cross-examine adverse witnesses, absent a showing of good cause for not allowing the confrontation; and

(v) to be represented by counsel when the parolee is mentally incompetent or pleading not guilty.

(c) (i) If heard by an appointed examiner, the examiner shall make a written decision which shall include a statement of the facts relied upon by the examiner in determining the guilt or innocence of the parolee on the alleged violation and a conclusion as to whether the alleged violation occurred.

(ii) The appointed examiner shall then refer the case to the board for disposition.

[~~(d) Final decisions shall be reached by majority vote of the members of the board sitting and the parolee shall be promptly notified in writing of the board's findings and decision.~~]

[~~(6) (a) Parolees found to have violated the conditions of parole may, at the discretion of the board, be returned to parole, have restitution ordered, or be imprisoned again as determined by the board, not to exceed the maximum term, or be subject to any other conditions the board may impose within its discretion.~~]

(d) (i) A final decision shall be reached by a majority vote of the sitting members of the board.

(ii) A parolee shall be promptly notified in writing of the board's findings and decision.

(6) (a) If a parolee is found to have violated the terms of parole, the board, at the board's discretion, may:

(i) return the parolee to parole;

(ii) modify the payment schedule for the parolee's criminal accounts receivable in accordance with Section 77-32b-105;

(iii) order the parolee to pay pecuniary damages that are proximately caused by a defendant's violation of the terms of the defendant's parole;

(iv) order the parolee to be imprisoned, but not to exceed the maximum term of imprisonment for the parolee's sentence; or

(v) order any other conditions for the parolee.

(b) If the board returns the parolee to parole, the length of parole may not be for a period of time that exceeds the length of the parolee's maximum sentence.

(c) If the board revokes parole for a violation and orders incarceration, the board shall impose a

period of incarceration consistent with the guidelines under Subsection 63M-7-404(5).

(d) The following periods of time constitute service of time toward the period of incarceration imposed under Subsection (6)(c):

(i) time served in jail by a parolee awaiting a hearing or decision concerning revocation of parole; and

(ii) time served in jail by a parolee due to a violation of parole under Subsection 64-13-6(2).

Section 78. Section 77-30-24 is amended to read:

77-30-24. Payment of expenses -- Extradition costs.

(1) (a) When the punishment of [~~the crime~~] an offense is the confinement of the defendant in prison, the expenses shall be paid out of the state treasury on the certificate of the governor and warrant of the auditor[~~, and in~~].

(b) In all other cases [~~they~~], the expenses for confinement shall be paid out of the treasury of the county where the [~~crime~~] offense is alleged to have been committed.

(c) The expenses shall be the fees paid to the officers of the state on whose governor the requisition is made.

[~~(2) Any person who is returned to the state under this chapter, and who is convicted of, or pleads guilty or no contest to, the criminal charge or to a lesser criminal charge may, under Sections 76-3-201, 77-27-5, and 77-27-6, be required to make restitution to the appropriate governmental entities for the costs of his extradition.~~]

(2) If a defendant is returned to the state under this chapter and the defendant is convicted of, or pleads guilty or no contest to, the offense or to a lesser offense, the defendant may be required to pay the costs of extradition to the appropriate governmental entity as described in Subsection 76-3-201(4)(c).

Section 79. Section 77-32b-101 is enacted to read:

CHAPTER 32b. CRIMINAL ACCOUNTS RECEIVABLE AND COSTS

77-32b-101. Title.

This chapter is known as "Criminal Accounts Receivable and Costs."

Section 80. Section 77-32b-102, which is renumbered from Section 77-32a-101 is renumbered and amended to read:

[~~77-32a-101~~]. 77-32b-102. Definitions.

As used in this chapter:

[~~(1) "Accounts receivable" includes unpaid fees, overpayments, fines, forfeitures, surcharges, costs, interest, penalties, restitution to victims, third party claims, claims, reimbursement of a reward, and damages.~~]

[~~(2) "Criminal judgment accounts receivable" means any amounts owed by a criminal defendant arising from a criminal judgment that has not been paid. This includes fines, surcharges, costs, interest, and restitution.~~]

(1) "Board" means the Board of Pardons and Parole.

(2) (a) "Civil accounts receivable" means any amount of the criminal accounts receivable that is owed by the defendant that has not been paid on or before the day on which:

(i) the defendant's sentence is terminated; or

(ii) the court enters an order for a civil accounts receivable under Subsection 77-18-114(1) or (2).

(b) "Civil accounts receivable" does not include any amount of the criminal accounts receivable that is owed by the defendant for restitution.

(3) "Civil judgment of restitution" means any amount of the criminal accounts receivable that is owed by the defendant for restitution that has not been paid on or before the day on which the defendant's sentence is terminated.

(4) (a) "Criminal accounts receivable" means any amount owed by a defendant that arises from a criminal judgment until:

(i) the defendant's sentence terminates;

(ii) the court enters an order for a civil accounts receivable under Subsection 77-18-114(1) or (2); or

(iii) if the court requires the defendant, upon termination of the probation period for the defendant, to continue to make payments on the criminal accounts as described in Subsection 77-18-105(8), the defendant's sentence expires.

(b) "Criminal accounts receivable" includes unpaid fees, forfeitures, surcharges, costs, interest, penalties, restitution, third party claims, claims, reimbursement of a reward, and damages.

[~~(3)~~] (5) "Default" means [~~an account receivable~~] a civil accounts receivable, a civil judgment of restitution, or a criminal accounts receivable that is overdue by at least 90 days.

[~~(4)~~] (6) "Delinquent" means [~~an account receivable or installment payment~~] a civil accounts receivable, a civil judgment of restitution, or a criminal account receivable that is overdue by more than 28 days but less than 90 days.

(7) "Payment schedule" means the amount that is be paid by a defendant in installments, or by a certain date, to satisfy a criminal accounts receivable for the defendant.

(8) "Remit" or "remission" means to forgive or to excuse, in whole or in part, any unpaid amount of a criminal accounts receivable.

(9) "Restitution" means the same as that term is defined in Section 77-38b-102.

Section 81. Section 77-32b-103 is enacted to read:

77-32b-103. Establishment of a criminal accounts receivable -- Responsibility -- Payment schedule -- Delinquency or default.

(1) (a) Except as provided in Subsection (1)(b) and (c), at the time of sentencing or acceptance of a plea in abeyance, the court shall enter an order to establish a criminal accounts receivable for the defendant.

(b) The court is not required to create a criminal accounts receivable for the defendant under Subsection (1) if the court finds that the defendant does not owe restitution and there are no other fines or fees to be assessed against the defendant.

(c) Subject to Subsection 77-38b-205(5), if the court does not create a criminal accounts receivable for a defendant under Subsection (1), the court shall enter an order to establish a criminal accounts receivable for the defendant at the time the court enters an order for restitution under Section 77-38b-205.

(2) After establishing a criminal accounts receivable for a defendant, the court shall:

(a) if a prison sentence is imposed and not suspended for the defendant:

(i) accept any payment for the criminal accounts receivable that is tendered on the date of sentencing; and

(ii) transfer the responsibility of receiving, distributing, and processing payments for the criminal accounts receivable to the Office of State Debt Collection; and

(b) for all other cases:

(i) retain the responsibility for receiving, processing, and distributing payments for the criminal accounts receivable until the court enters a civil accounts receivable or civil judgment of restitution on the civil judgment docket under Subsection 77-18-114(1) or (2); and

(ii) record each payment by the defendant on the case docket.

(c) For a criminal accounts receivable that a court retains responsibility for receiving, processing, and distributing payments under Subsection (1)(b)(i), the Judicial Council may establish rules to require a defendant to pay the cost, or a portion of the cost, that is charged by a financial institution for the use of a credit or debit card by the defendant to make payments towards the criminal accounts receivable.

(3) (a) Upon entering an order for a criminal accounts receivable, the court shall establish a payment schedule for the defendant to make payments towards the criminal accounts receivable.

(b) In establishing the payment schedule for the defendant, the court shall consider:

(i) the needs of the victim if the criminal accounts receivable includes an order for restitution under Section 77-38b-205;

(ii) the financial resources of the defendant, as disclosed in the financial declaration under Section 77-38b-204;

(iii) the burden that the payment schedule will impose on the defendant regarding the other reasonable obligations of the defendant;

(iv) the ability of the defendant to pay restitution on an installment basis or on other conditions fixed by the court;

(v) the rehabilitative effect on the defendant of the payment of restitution and method of payment; and

(vi) any other circumstance that the court determines is relevant.

(4) A payment schedule for a criminal accounts receivable does not limit the ability of a judgment creditor to pursue collection by any means allowable by law.

(5) If the court orders restitution under Section 77-38b-205, or makes another financial decision, after sentencing that increases the total amount owed in a defendant's case, the defendant's criminal accounts receivable balance shall be adjusted to include any new amount ordered by the court.

(6) (a) If a defendant is incarcerated in a county jail or a secure correctional facility, as defined in Section 64-13-1, or the defendant is involuntarily committed under Section 62A-15-631:

(i) all payments for a payment schedule shall be suspended for the period of time that the defendant is incarcerated or involuntarily committed, unless the court, or the board if the defendant is under the jurisdiction of the board, expressly orders the defendant to make payments according to the payment schedule; and

(ii) the defendant shall provide the court with notice of the incarceration or involuntary commitment.

(b) A suspension under Subsection (6)(a) shall remain in place for 60 days after the day in which the defendant is released from incarceration or commitment.

Section 82. Section 77-32b-104, which is renumbered from Section 77-32a-107 is renumbered and amended to read:

[~~77-32a-107~~]. 77-32b-104. Costs -- What constitute costs -- Ability to pay.

[~~Costs~~] (1) Except for a cost described in Subsection 76-3-201(4), costs shall be limited to expenses [~~specially~~] incurred by the state or any political subdivision [~~in~~] of the state for investigating, searching for, apprehending, and prosecuting the defendant, including:

(a) attorney fees of counsel assigned to represent the defendant[~~, and~~];

(b) investigators' fees[~~. Costs may~~]; or

(c) except for a monetary reward that is paid to a codefendant, an accomplice, or a bounty hunter, a monetary reward that is:

(i) offered to the public in exchange for information that would lead to the apprehension and conviction of the defendant; and

(ii) paid to a person who provided information that led to the apprehension and conviction of the defendant.

(2) A cost may not include:

(a) expenses inherent in providing a constitutionally guaranteed trial [~~or~~];

(b) expenditures in connection with the maintenance and operation of government agencies that must be made by the public irrespective of specific violations of law[~~. Costs may not include~~]; or

(c) attorney fees for prosecuting attorneys.

(3) The court may not order a defendant to pay a cost, unless there is evidence that the defendant is, or will be, able to pay the cost.

(4) In determining the amount of a cost that a defendant is ordered to pay, the court shall take into account:

(a) the financial resources of the defendant;

(b) the nature of the burden that payment of the cost will impose; and

(c) that restitution is prioritized over any cost.

Section 83. Section 77-32b-105 is enacted to read:

77-32b-105. Petition for remittance or modification of a criminal accounts receivable before termination of a sentence.

(1) At any time before a defendant's sentence terminates, the defendant may petition the sentencing court to:

(a) correct an error in a criminal accounts receivable;

(b) modify the payment schedule for the defendant's criminal accounts receivable in accordance with this section if the defendant is not under the jurisdiction of the board; or

(c) remit, in whole or in part, an unpaid amount of the defendant's criminal accounts receivable that is not the principal amount owed for restitution in accordance with this section.

(2) If a defendant files a petition under Subsection (1), and it appears to the satisfaction of the sentencing court that payment of an unpaid amount of a criminal accounts receivable will impose manifest hardship on the defendant, or the defendant's family, the court may:

(a) if the criminal accounts receivable is not delinquent or in default, remit, in whole or in part, the unpaid amount of the criminal accounts receivable that is not the principal amount owed for restitution; or

(b) regardless of whether the criminal accounts receivable is delinquent or in default:

(i) require the defendant to pay the criminal accounts receivable, or a specified amount of the criminal accounts receivable, by a certain date;

(ii) modify the payment schedule for the criminal accounts receivable in accordance with the factors described in Subsection 77-32b-103(3)(b) if the defendant has demonstrated that the criminal accounts receivable will impose a manifest hardship due to changed circumstances or new evidence that justifies modifying the payment schedule; or

(iii) allow the defendant to satisfy an unpaid amount of the criminal accounts receivable that is not the principal amount owed for restitution with proof of compensatory service completed by the defendant at a rate of credit not less than $10 for each hour of compensatory service.

(3) (a) If a defendant is under the jurisdiction of the board, the defendant may petition the board, at any time before the defendant's sentence terminates, to modify the payment schedule for the defendant's criminal accounts receivable.

(b) If a defendant files a petition under Subsection (3)(a), the board may modify the payment schedule for the criminal accounts receivable in accordance with the factors described in Subsection 77-32b-103(3)(b) if the defendant has demonstrated that the criminal accounts receivable will impose a manifest hardship to the defendant, or the defendant's family, due to changed circumstances or new evidence that justifies modifying the payment schedule.

Section 84. Section 77-32b-106 is enacted to read:

77-32b-106. Petition for remittance of an unpaid balance of a criminal accounts receivable upon termination of a sentence.

(1) (a) If a defendant is not under the jurisdiction of the board, and if any amount of a defendant's criminal accounts receivable is unpaid at the termination of the defendant's sentence, the defendant may petition the sentencing court, within 90 days after the day on which the sentence is terminated, to remit, in whole or in part, the unpaid amount of the criminal accounts receivable.

(b) (i) If a defendant is under the jurisdiction of the board, and if any amount of the defendant's criminal accounts receivable is unpaid at the termination of the defendant's sentence, the defendant may petition the board within 90 days after the day on which the sentence is terminated, to remit, in whole or in part, the unpaid amount of the criminal accounts receivable.

(ii) If a defendant files a petition for remittance under Subsection (1)(b)(i) within 90 days from the day on which the defendant's sentence is terminated, the board retains jurisdiction over the defendant's case beyond the termination of the

defendant's sentence to determine whether to remit, in whole or in part, the defendant's criminal accounts receivable.

(2) (a) If a petition is filed under Subsection (1), a hearing shall be held, unless the court or the board determines that the petition under Subsection (1) is frivolous or the petition is uncontested.

(b) If a hearing is held under Subsection (2)(a), and the court, or the board, finds by a preponderance of the evidence that the factors listed in Subsection (3) weigh in favor of remitting, in whole or in part, the unpaid amount of a criminal accounts receivable, the court or the board may remit:

(i) any of the unpaid amount of the criminal accounts receivable that is not the principal amount owed for restitution; or

(ii) if the victim consents to remittance of the unpaid amount of the criminal accounts receivable that is restitution that the defendant owes to the victim, any of the unpaid amount of restitution that defendant owes to the victim.

(c) The court, or the board, shall give the prosecuting attorney and the victim:

(i) notice of a hearing on the remittance of a criminal accounts receivable; and

(ii) an opportunity to be heard at the hearing.

(d) Nothing in this section shall be construed to prohibit a victim from pursuing a private action against a defendant, even if the victim consents to the remission of restitution.

(3) In making a determination to remit an unpaid amount of a criminal accounts receivable, the court, or the board, shall consider:

(a) whether the defendant has made substantial and good faith efforts to make payments on the criminal accounts receivable;

(b) the needs of the victim;

(c) whether the remission would further the rehabilitation of the defendant;

(d) the ability of the defendant to continue to make payments on a civil accounts receivable; and

(e) any other factor that the court or the board determines is relevant.

(4) If any unpaid amount of a criminal accounts receivable is not remitted by the court or the board upon termination of the defendant's sentence, the court shall proceed with an order for a civil judgment of restitution and a civil accounts receivable as described in Section 77-18-114.

Section 85. Section 77-32b-107, which is renumbered from Section 77-32a-110 is renumbered and amended to read:

[~~77-32a-110~~]. 77-32b-107. Verified statement of time and expenses of counsel for indigent defendants.

The court may require a verified statement of time and expenses from appointed counsel, or the nonprofit legal aid or other association providing counsel [~~to convicted indigent defendants~~], for a convicted indigent defendant in order to establish [~~the costs, if any, which will be included in the judgment~~] any cost under Section 77-32b-104 that will be included in the judgment.

Section 86. Section 77-37-3 is amended to read:

77-37-3. Bill of rights.

(1) The bill of rights for victims and witnesses is:

(a) Victims and witnesses have a right to be informed as to the level of protection from intimidation and harm available to them, and from what sources, as they participate in criminal justice proceedings as designated by Section 76-8-508, regarding witness tampering, and Section 76-8-509, regarding threats against a victim. Law enforcement, prosecution, and corrections personnel have the duty to timely provide this information in a form which is useful to the victim.

(b) Victims and witnesses, including children and their guardians, have a right to be informed and assisted as to their role in the criminal justice process. All criminal justice agencies have the duty to provide this information and assistance.

(c) Victims and witnesses have a right to clear explanations regarding relevant legal proceedings; these explanations shall be appropriate to the age of child victims and witnesses. All criminal justice agencies have the duty to provide these explanations.

(d) Victims and witnesses should have a secure waiting area that does not require them to be in close proximity to defendants or the family and friends of defendants. Agencies controlling facilities shall, whenever possible, provide this area.

(e) Victims may seek restitution or reparations, including medical costs, as provided in Title 63M, Chapter 7, Criminal Justice and Substance Abuse, [~~and Sections 62A-7-109.5, 77-38a-302, and 77-27-6.~~] Title 77, Chapter 38b, Crime Victims Restitution Act, and Section 78A-6-117. State and local government agencies that serve victims have the duty to have a functional knowledge of the procedures established by the Crime Victim Reparations Board and to inform victims of these procedures.

(f) Victims and witnesses have a right to have any personal property returned as provided in Sections 77-24a-1 through 77-24a-5. Criminal justice agencies shall expeditiously return the property when it is no longer needed for court law enforcement or prosecution purposes.

(g) Victims and witnesses have the right to reasonable employer intercession services, including pursuing employer cooperation in minimizing employees' loss of pay and other benefits resulting from their participation in the criminal justice process. Officers of the court shall

provide these services and shall consider victims' and witnesses' schedules so that activities which conflict can be avoided. Where conflicts cannot be avoided, the victim may request that the responsible agency intercede with employers or other parties.

(h) Victims and witnesses, particularly children, should have a speedy disposition of the entire criminal justice process. All involved public agencies shall establish policies and procedures to encourage speedy disposition of criminal cases.

(i) Victims and witnesses have the right to timely notice of judicial proceedings they are to attend and timely notice of cancellation of any proceedings. Criminal justice agencies have the duty to provide these notifications. Defense counsel and others have the duty to provide timely notice to prosecution of any continuances or other changes that may be required.

(j) Victims of sexual offenses have the following rights:

(i) the right to request voluntary testing for themselves for HIV infection as provided in Section 76-5-503 and to request mandatory testing of the alleged sexual offender for HIV infection as provided in Section 76-5-502;

(ii) the right to be informed whether a DNA profile was obtained from the testing of the rape kit evidence or from other crime scene evidence;

(iii) the right to be informed whether a DNA profile developed from the rape kit evidence or other crime scene evidence has been entered into the Utah Combined DNA Index System;

(iv) the right to be informed whether there is a match between a DNA profile developed from the rape kit evidence or other crime scene evidence and a DNA profile contained in the Utah Combined DNA Index System, provided that disclosure would not impede or compromise an ongoing investigation; and

(v) the right to designate a person of the victim's choosing to act as a recipient of the information provided under this Subsection (1)(j) and under Subsections (2) and (3).

(k) Subsections (1)(j)(ii) through (iv) do not require that the law enforcement agency communicate with the victim or the victim's designee regarding the status of DNA testing, absent a specific request received from the victim or the victim's designee.

(2) The law enforcement agency investigating a sexual offense may:

(a) release the information indicated in Subsections (1)(j)(ii) through (iv) upon the request of a victim or the victim's designee and is the designated agency to provide that information to the victim or the victim's designee;

(b) require that the victim's request be in writing; and

(c) respond to the victim's request with verbal communication, written communication, or by email, if an email address is available.

(3) The law enforcement agency investigating a sexual offense has the following authority and responsibilities:

(a) If the law enforcement agency determines that DNA evidence will not be analyzed in a case where the identity of the perpetrator has not been confirmed, the law enforcement agency shall notify the victim or the victim's designee.

(b) (i) If the law enforcement agency intends to destroy or dispose of rape kit evidence or other crime scene evidence from an unsolved sexual assault case, the law enforcement agency shall provide written notification of that intention and information on how to appeal the decision to the victim or the victim's designee of that intention.

(ii) Written notification under this Subsection (3) shall be made not fewer than 60 days prior to the destruction or disposal of the rape kit evidence or other crime scene evidence.

(c) A law enforcement agency responsible for providing information under Subsections (1)(j)(ii) through (iv), (2), and (3) shall do so in a timely manner and, upon request of the victim or the victim's designee, shall advise the victim or the victim's designee of any significant changes in the information of which the law enforcement agency is aware.

(d) The law enforcement agency investigating the sexual offense is responsible for informing the victim or the victim's designee of the rights established under Subsections (1)(j)(ii) through (iv) and (2), and this Subsection (3).

(4) Informational rights of the victim under this chapter are based upon the victim providing the current name, address, telephone number, and email address, if an email address is available, of the person to whom the information should be provided to the criminal justice agencies involved in the case.

Section 87. Section 77-37-5 is amended to read:

77-37-5. Remedies -- District Victims' Rights Committee.

(1) In each judicial district, the Utah Council on Victims of Crime, established in Section 63M-7-601, shall appoint a person who shall chair a judicial district victims' rights committee consisting of:

(a) a county attorney or district attorney;

(b) a sheriff;

(c) a corrections field services administrator;

(d) an appointed victim advocate;

(e) a municipal attorney;

(f) a municipal chief of police; and

(g) other representatives as appropriate.

(2) The committee shall meet at least semiannually to review progress and problems related to this chapter, Title 77, Chapter 38, Rights of Crime Victims Act, Title 77, Chapter [~~38a~~] 38b, Crime Victims Restitution Act, and Utah Constitution Article I, Section 28. Victims and other interested parties may submit matters of concern to the victims' rights committee. The committee may hold a hearing open to the public on any appropriate matter of concern and may publish its findings. These matters shall also be considered at the meetings of the victims' rights committee. The committee shall forward minutes of all meetings to the Utah Council on Victims of Crime for review and other appropriate action.

(3) If a victims' rights committee is unable to resolve a complaint, it may refer the complaint to the Utah Council on Victims of Crime.

(4) The Utah Office for Victims of Crime shall provide materials to local law enforcement to inform every victim of a sexual offense of the right to request testing of the convicted sexual offender and of the victim as provided in Section 76-5-502.

(5) (a) If a person acting under color of state law willfully or wantonly fails to perform duties so that the rights in this chapter are not provided, an action for injunctive relief may be brought against the individual and the government entity that employs the individual.

(b) For all other violations, if the committee finds a violation of a victim's right, it shall refer the matter to the appropriate court for further proceedings consistent with Subsection 77-38-11(2).

(c) The failure to provide the rights in this chapter or Title 77, Chapter 38, Rights of Crime Victims Act, does not constitute cause for a judgment against the state or any government entity, or any individual employed by the state or any government entity, for monetary damages, attorney fees, or the costs of exercising any rights under this chapter.

(6) The person accused of and subject to prosecution for the crime or the act which would be a crime if committed by a competent adult, has no standing to make a claim concerning any violation of the provisions of this chapter.

Section 88. Section 77-38-3 is amended to read:

77-38-3. Notification to victims -- Initial notice, election to receive subsequent notices -- Form of notice -- Protected victim information -- Pretrial criminal no contact order.

(1) Within seven days [~~of the filing of felony criminal charges~~] after the day on which felony criminal charges are filed against a defendant, the prosecuting agency shall provide an initial notice to reasonably identifiable and locatable victims of the crime contained in the charges, except as otherwise provided in this chapter.

(2) The initial notice to the victim of a crime shall provide information about electing to receive notice of subsequent important criminal justice hearings listed in Subsections 77-38-2(5)(a) through (f) and rights under this chapter.

(3) The prosecuting agency shall provide notice to a victim of a crime:

(a) for the important criminal justice hearings, provided in Subsections 77-38-2(5)(a) through (f), which the victim has requested; and

[~~(b) for restitution requests to be submitted as provided in Subsection 77-38a-302(5)(d)~~]

(b) for a restitution request to be submitted in accordance with Section 77-38b-202.

(4) (a) The responsible prosecuting agency may provide initial and subsequent notices in any reasonable manner, including telephonically, electronically, orally, or by means of a letter or form prepared for this purpose.

(b) In the event of an unforeseen important criminal justice hearing, listed in Subsections 77-38-2(5)(a) through (f) for which a victim has requested notice, a good faith attempt to contact the victim by telephone shall be considered sufficient notice, provided that the prosecuting agency subsequently notifies the victim of the result of the proceeding.

(5) (a) The court shall take reasonable measures to ensure that its scheduling practices for the proceedings provided in Subsections 77-38-2(5)(a) through (f) permit an opportunity for victims of crimes to be notified.

(b) The court shall [~~also~~] consider whether any notification system [~~it~~] that the court might use to provide notice of judicial proceedings to defendants could be used to provide notice of [~~those same~~] judicial proceedings to victims of crimes.

(6) A defendant or, if it is the moving party, the Division of Adult Probation and Parole, shall give notice to the responsible prosecuting agency of any motion for modification of any determination made at any of the important criminal justice hearings provided in Subsections 77-38-2(5)(a) through (f) in advance of any requested court hearing or action so that the prosecuting agency may comply with [~~its~~] the prosecuting agency's notification obligation.

(7) (a) Notice to a victim of a crime shall be provided by the Board of Pardons and Parole for the important criminal justice hearing [~~provided in~~] under Subsection 77-38-2(5)(g).

(b) The board may provide notice in any reasonable manner, including telephonically, electronically, orally, or by means of a letter or form prepared for this purpose.

(8) Prosecuting agencies and the Board of Pardons and Parole are required to give notice to a victim of a crime for the proceedings provided in Subsections 77-38-2(5)(a) through (f) only where the victim has responded to the initial notice,

requested notice of subsequent proceedings, and provided a current address and telephone number if applicable.

(9) To facilitate the payment of restitution and the notice of hearings regarding restitution, a victim who seeks restitution and notice of restitution hearings shall provide the court with the victim's current address and telephone number.

[~~(9)~~] (10) (a) Law enforcement and criminal justice agencies shall refer any requests for notice or information about crime victim rights from victims to the responsible prosecuting agency.

(b) In a case in which the Board of Pardons and Parole is involved, the responsible prosecuting agency shall forward any request for notice [~~it~~] the prosecuting agency has received from a victim to the Board of Pardons and Parole.

[~~(10)~~] (11) In all cases where the number of victims exceeds 10, the responsible prosecuting agency may send any notices required under this chapter in [~~its~~] the prosecuting agency's discretion to a representative sample of the victims.

[~~(11)~~] (12) (a) A victim's address, telephone number, and victim impact statement maintained by a peace officer, prosecuting agency, Youth Parole Authority, Division of Juvenile Justice Services, Department of Corrections, Utah State Courts, and Board of Pardons and Parole, for purposes of providing notice under this section, [~~is~~] are classified as protected [~~as provided in~~] under Subsection 63G-2-305(10).

(b) The victim's address, telephone number, and victim impact statement is available only to the following persons or entities in the performance of their duties:

(i) a law enforcement agency, including the prosecuting agency;

(ii) a victims' right committee as provided in Section 77-37-5;

(iii) a governmentally sponsored victim or witness program;

(iv) the Department of Corrections;

(v) the Utah Office for Victims of Crime;

(vi) the Commission on Criminal and Juvenile Justice; [~~and~~]

(vii) the Utah State Courts; and

[~~(vii)~~] (viii) the Board of Pardons and Parole.

[~~(12)~~] (13) The notice provisions as provided in this section do not apply to misdemeanors as provided in Section 77-38-5 and to important juvenile justice hearings as provided in Section 77-38-2.

[~~(13)~~] (14) (a) When a defendant is charged with a felony crime under Sections 76-5-301 through 76-5-310 regarding kidnapping, human trafficking, and human smuggling; Sections 76-5-401 through 76-5-413 regarding sexual offenses; or Section 76-10-1306 regarding aggravated exploitation of prostitution, the court may, during any court hearing where the defendant is present, issue a pretrial criminal no contact order:

(i) prohibiting the defendant from harassing, telephoning, contacting, or otherwise communicating with the victim directly or through a third party;

(ii) ordering the defendant to stay away from the residence, school, place of employment of the victim, and the premises of any of these, or any specified place frequented by the victim or any designated family member of the victim directly or through a third party; and

(iii) ordering any other relief that the court considers necessary to protect and provide for the safety of the victim and any designated family or household member of the victim.

(b) Violation of a pretrial criminal no contact order issued pursuant to this section is a third degree felony.

(c) (i) The court shall provide to the victim a certified copy of any pretrial criminal no contact order that has been issued if the victim can be located with reasonable effort.

(ii) The court shall also transmit the pretrial criminal no contact order to the statewide domestic violence network in accordance with Section 78B-7-113.

Section 89. Section 77-38-15 is amended to read:

77-38-15. Civil action against human traffickers and human smugglers.

(1) A victim of a person that commits the offense of human trafficking or human smuggling under Section 76-5-308, human trafficking of a child under Section 76-5-308.5, aggravated human trafficking or aggravated human smuggling under Section 76-5-310, or benefitting from human trafficking under Subsection 76-5-309(4) may bring a civil action against that person.

(2) (a) The court may award actual damages, compensatory damages, punitive damages, injunctive relief, or any other appropriate relief.

(b) The court may award treble damages on proof of actual damages if the court finds that the person's acts were willful and malicious.

(3) In an action under this section, the court shall award a prevailing victim reasonable attorney fees and costs.

(4) An action under this section shall be commenced no later than 10 years after the later of:

(a) the day on which the victim was freed from the human trafficking or human smuggling situation;

(b) the day on which the victim attains 18 years [~~of age~~] old; or

(c) if the victim was unable to bring an action due to a disability, the day on which the victim's disability ends.

(5) The time period described in Subsection (4) is tolled during a period of time when the victim fails to bring an action due to the person:

(a) inducing the victim to delay filing the action;

(b) preventing the victim from filing the action; or

(c) threatening and causing duress upon the victim in order to prevent the victim from filing the action.

(6) The court shall offset damages awarded to the victim under this section by any restitution paid to the victim under Title 77, Chapter [~~38a~~] 38b, Crime Victims Restitution Act.

(7) A victim may bring an action described in this section in any court of competent jurisdiction where:

(a) a violation described in Subsection (1) occurred;

(b) the victim resides; or

(c) the person that commits the offense resides or has a place of business.

(8) If the victim is deceased or otherwise unable to represent the victim's own interests in court, a legal guardian, family member, representative of the victim, or court appointee may bring an action under this section on behalf of the victim.

(9) This section does not preclude any other remedy available to the victim under the laws of this state or under federal law.

Section 90. Section 77-38b-101, which is renumbered from Section 77-38a-101 is renumbered and amended to read:

CHAPTER 38b. CRIME VICTIMS RESTITUTION ACT

Part 1. General Provisions

[~~77-38a-101~~]. 77-38b-101. Title.

This chapter is known as the "Crime Victims Restitution Act."

Section 91. Section 77-38b-102, which is renumbered from Section 77-38a-102 is renumbered and amended to read:

[~~77-38a-102~~]. 77-38b-102. Definitions.

As used in this chapter:

[~~(1) "Conviction" includes a:~~]

[~~(a) judgment of guilt;~~]

[~~(b) a plea of guilty; or~~]

[~~(c) a plea of no contest.~~]

(1) (a) "Conviction" means:

(i) a plea of:

(A) guilty;

(B) guilty with a mental illness; or

(C) no contest; or

(ii) a judgment of:

(A) guilty; or

(B) guilty with a mental illness.

(b) "Conviction" does not include:

(i) a plea in abeyance until a conviction is entered for the plea in abeyance;

(ii) a diversion agreement; or

(iii) an adjudication of a minor for an offense under Section 78A-6-117.

(2) "Criminal [~~activities~~"] conduct" means:

(a) any misdemeanor or felony offense of which the defendant is convicted; or

(b) any other criminal [~~conduct~~] behavior for which the defendant admits responsibility to the sentencing court with or without an admission of committing the criminal [~~conduct~~] behavior.

(3) (a) "Defendant" means an individual who has been convicted of, or entered into a plea disposition for, [~~a criminal activity~~] criminal conduct.

(b) "Defendant" does not include a minor, as defined in Section 78A-6-105, who is adjudicated, or enters into a nonjudicial adjustment, for any offense under Title 78A, Chapter 6, Juvenile Court Act.

(4) "Department" means the Department of Corrections.

(5) [~~"Diversion"~~] "Diversion agreement" means [~~suspending~~] an agreement entered into by the prosecuting attorney and the defendant that suspends criminal proceedings [~~prior to~~] before conviction on the condition that a defendant agree to participate in a rehabilitation program, [~~make~~] pay restitution to the victim, or fulfill some other condition.

(6) "Office" means the Office of State Debt Collection created in Section 63A-3-502.

[~~(6)~~] (7) "Party" means the [~~prosecutor,~~] prosecuting attorney, the defendant, or the department involved in a prosecution.

[~~(7) "Pecuniary damages" means all demonstrable economic injury, whether or not yet incurred, including those which a person could recover in a civil action arising out of the facts or events constituting the defendant's criminal activities and includes the fair market value of property taken, destroyed, broken, or otherwise harmed, and losses, including lost earnings, including those and other travel expenses reasonably incurred as a result of participation in criminal proceedings, and medical and other expenses, but excludes punitive or exemplary damages and pain and suffering.~~]

(8) "Payment schedule" means the same as that term is defined in Section 77-32b-102.

(9) (a) "Pecuniary damages" means all demonstrable economic injury, losses, and expenses regardless of whether the economic injury, losses, and expenses have yet been incurred.

(b) "Pecuniary damages" does not include punitive damages or pain and suffering damages.

[~~(8)~~] (10) "Plea agreement" means an agreement entered between the [~~prosecution~~] prosecuting attorney and the defendant setting forth the special terms and conditions and criminal charges upon which the defendant will enter a plea of guilty or no contest.

[~~(9)~~] (11) "Plea disposition" means an agreement entered into between the [~~prosecution~~] prosecuting attorney and the defendant including a diversion agreement, a plea agreement, a plea in abeyance agreement, or any agreement by which the defendant may enter a plea in any other jurisdiction or where charges are dismissed without a plea.

[~~(10)~~] (12) "Plea in abeyance" means an order by a court, upon motion of the [~~prosecution~~] prosecuting attorney and the defendant, accepting a plea of guilty or of no contest from the defendant but not, at that time, entering judgment of conviction against [~~him~~] the defendant nor imposing sentence upon [~~him~~] the defendant on condition that [~~he~~] the defendant comply with specific conditions as set forth in a plea in abeyance agreement.

[~~(11)~~] (13) "Plea in abeyance agreement" means an agreement entered into between the [~~prosecution~~] prosecuting attorney and the defendant setting forth the specific terms and conditions upon which, following acceptance of the agreement by the court, a plea may be held in abeyance.

[~~(12) "Restitution" means full, partial, or nominal payment for pecuniary damages to a victim, including prejudgment interest, the accrual of interest from the time of sentencing, insured damages, reimbursement for payment of a reward, and payment for expenses to a governmental entity for extradition or transportation and as may be further defined by law.~~]

[~~(13) (a) "Reward" means a sum of money:~~]

[~~(i) offered to the public for information leading to the arrest and conviction of an offender; and~~]

[~~(ii) that has been paid to a person or persons who provide this information, except that the person receiving the payment may not be a codefendant, an accomplice, or a bounty hunter.~~]

[~~(b) "Reward" does not include any amount paid in excess of the sum offered to the public.~~]

[~~(14) "Screening" means the process used by a prosecuting attorney to terminate investigative action, proceed with prosecution, move to dismiss a prosecution that has been commenced, or cause a prosecution to be diverted.~~]

[~~(15) (a) "Victim" means an individual or entity, including the Utah Office for Victims of Crime, that the court determines has suffered pecuniary damages as a result of the defendant's criminal activities.~~]

[~~(b) "Victim" may not include a codefendant or accomplice.~~]

(14) "Restitution" means the payment of pecuniary damages to a victim.

(15) (a) "Victim" means any person who has suffered pecuniary damages that are proximately caused by the criminal conduct of the defendant.

(b) "Victim" includes:

(i) the Utah Office for Victims of Crime if the Utah Office for Victims of Crime makes a payment to a victim under Section 63M-7-519;

(ii) the estate of a deceased victim; and

(iii) a parent, spouse, or sibling of a victim.

(c) "Victim" does not include a codefendant or accomplice.

Section 92. Section 77-38b-201 is enacted to read:

Part 2. Determination of Restitution

77-38b-201. Law enforcement responsibility for collecting restitution information.

A law enforcement agency investigating criminal conduct that would constitute a felony or a misdemeanor shall include all information about restitution for any potential victim in the investigative report, including information about:

(1) whether a claim for restitution exists;

(2) the basis for the claim; and

(3) the estimated or actual amount of the claim.

Section 93. Section 77-38b-202 is enacted to read:

77-38b-202. Prosecuting attorney responsibility for collecting restitution information -- Depositing restitution on behalf of victim.

(1) If a prosecuting attorney files a criminal charge against a defendant, the prosecuting attorney shall:

(a) contact any known victim of the offense for which the criminal charge is filed, or person asserting a claim for restitution on behalf of the victim; and

(b) gather the following information from the victim or person:

(i) the name of the victim or person; and

(ii) the actual or estimated amount of restitution.

(2) (a) When a conviction, a diversion agreement, or a plea in abeyance is entered by the court, the prosecuting attorney shall provide the court with the information gathered by the prosecuting attorney under Subsection (1)(b).

(b) If, at the time of the plea disposition or conviction, the prosecuting attorney does not have all the information under Subsection (1)(b), the prosecuting attorney shall provide the defendant with:

(i) at the time of plea disposition or conviction, all information under Subsection (1)(b) that is reasonably available to the prosecuting attorney; and

(ii) any information under Subsection (1)(b) as the information becomes available to the prosecuting attorney.

(c) Nothing in this section shall be construed to prevent a prosecuting attorney, a victim, or a person asserting a claim for restitution on behalf of a victim from:

(i) submitting information on, or a request for, restitution to the court within the time periods described in Subsection 77-38b-205(5); or

(ii) submitting information on, or a request for, restitution for additional or substituted victims within the time periods described in Subsection 77-38b-205(5).

(3) (a) The prosecuting attorney may be authorized by the appropriate public treasurer to deposit restitution collected on behalf of a victim into an interest-bearing account in accordance with Title 51, Chapter 7, State Money Management Act, pending the distribution of the funds to the victim.

(b) If restitution is deposited into an interest-bearing account under Subsection (3)(a), the prosecuting attorney shall:

(i) distribute any interest that accrues in the account to each victim on a pro rata basis; and

(ii) if all victims have been made whole and funds remain in the account, distribute any remaining funds to the Division of Finance, created in Section 63A-3-101, to deposit to the Utah Office for Victims of Crime.

(c) Nothing in this section prevents an independent judicial authority from collecting, holding, and distributing restitution.

Section 94. Section 77-38b-203 is enacted to read:

77-38b-203. Department of Corrections responsibility for collecting restitution information -- Presentence investigation report -- In camera review of victim information.

(1) In preparing a presentence investigation report described in Section 77-18-103, the department shall obtain information on restitution from:

(a) the law enforcement agency and the prosecuting attorney; and

(b) any victim of the offense or person asserting a claim for restitution on behalf of the victim.

(2) A victim seeking restitution, a prosecuting attorney, or a person asserting a claim for restitution on behalf of a victim, shall provide the department with:

(a) all invoices, bills, receipts, and any other evidence of pecuniary damages;

(b) all documentation of any compensation or reimbursement from an insurance company or a local, state, or federal agency that is related to the pecuniary damages for the offense;

(c) the victim's proof of identification, including the victim's date of birth, social security number, driver license number; and

(d) the victim's or the person's contact information, including next of kin if available, current home and work address, and telephone number.

(3) In the presentence investigation report, the department shall make every effort to:

(a) itemize any pecuniary damages suffered by the victim;

(b) include a specific statement on the amount of restitution that the department recommends for each victim; and

(c) include a victim impact statement that:

(i) provides the name of each victim and any person asserting a claim on behalf of a victim;

(ii) describes the effect of the offense on the victim and the victim's family;

(iii) describes any physical, mental, or emotional injury suffered by a victim as a result of the offense and the seriousness and permanence of the injury;

(iv) describes any change in a victim's personal welfare or familial relationships as a result of the offense;

(v) provides any request for mental health services by a victim or a victim's family member as a result of the offense; and

(vi) provides any other relevant information regarding the impact of the offense upon a victim or the victim's family.

(4) (a) A prosecuting attorney and the department may take steps that are reasonably necessary to protect the identity of a victim and the victim's family in information that is submitted to the court under this section.

(b) If a defendant seeks to view protected, safeguarded, or confidential information about a victim or a victim's family, the court shall review the information in camera.

(c) The court may allow the defendant to view the information under Subsection (4)(b) if the court finds that:

(i) the defendant's interest in viewing the information outweighs the victim's or the victim's family safety and privacy interests; and

(ii) there are protections in place to safeguard the victim's and the victim's family safety and privacy interests.

Section 95. Section 77-38b-204, which is renumbered from Section 77-38a-204 is renumbered and amended to read:

[~~77-38a-204~~]. 77-38b-204. Financial declaration by defendant.

(1) (a) The Judicial Council shall design and publish a financial declaration form to be completed by a defendant [~~in a case where the prosecutor has indicated that restitution may be ordered.~~] before the sentencing court establishes a payment schedule under Section 77-38b-205.

(b) The financial declaration form shall:

(i) require a defendant to disclose all assets, income, and financial liabilities of the defendant, including:

(A) real property;

(B) vehicles;

(C) precious metals or gems;

(D) jewelry with a value of $1,000 or more;

(E) other personal property with a value of $1,000 or more;

(F) [~~bank account balances~~] the balance of any bank account and the name of the financial institution for the bank account;

(G) cash;

(H) salary, wages, commission, tips, and business income, including the name of any employer or entity from which the defendant receives a salary, wage, commission, tip, or business income;

(I) pensions and annuities;

(J) intellectual property;

(K) accounts receivable;

(L) accounts payable;

(M) mortgages, loans, and other debts; and

(N) restitution that has been ordered, and not fully paid, in other cases; and

(ii) state that a false statement made in the financial declaration form is punishable as a class B misdemeanor under Section 76-8-504.

[~~(2) A defendant shall, before sentencing, or earlier if ordered by the court, complete the financial declaration described in Subsection (1).~~]

(2) After a plea disposition or conviction has been entered but before sentencing, a defendant shall complete the financial declaration form described in Subsection (1).

(3) When a civil judgment of restitution or a civil accounts receivable is entered for a defendant on the civil judgment docket under Section 77-18-114, the court shall provide the Office of State Debt Collection with the defendant's financial declaration form.

Section 96. Section 77-38b-205 is enacted to read:

77-38b-205. Order for restitution.

(1) (a) (i) If a defendant is convicted, as defined in Section 76-3-201, the court shall order a defendant, as part of the sentence imposed under Section 76-3-201, to pay restitution to all victims:

(A) in accordance with the terms of any plea agreement in the case; or

(B) for the entire amount of pecuniary damages that are proximately caused to each victim by the criminal conduct of the defendant.

(ii) In determining the amount of pecuniary damages under Subsection (1)(a)(i)(B), the court shall consider all relevant facts to establish an amount that fully compensates a victim for all pecuniary damages proximately caused by the criminal conduct of the defendant.

(iii) The court shall enter the determination of the amount of restitution under Subsection (1)(a)(ii) as a finding on the record.

(b) If a court enters a plea in abeyance or a diversion agreement for a defendant that includes an agreement to pay restitution, the court shall order the defendant to pay restitution in accordance with the terms of the plea in abeyance or the diversion agreement.

(2) (a) Upon an order for a defendant to pay restitution under Subsection (1), the court shall:

(i) enter an order to establish a criminal accounts receivable as described in Section 77-32b-103; and

(ii) establish a payment schedule for the criminal accounts receivable as described in Section 77-32b-103.

(3) If the defendant objects to the order for restitution or the payment schedule, the court shall allow the defendant to have a hearing on the issue, unless the issue is addressed at the sentencing hearing for the defendant.

(4) (a) For a defendant who is sentenced after July 1, 2021, if no restitution is ordered at sentencing, the court shall schedule a hearing to determine restitution, unless the parties waive the hearing in accordance with Subsection (4)(b).

(b) The parties may only waive a hearing under Subsection (4)(a) if:

(i) the parties have stipulated to the amount of restitution owed; or

(ii) the prosecuting attorney certifies that the prosecuting attorney has consulted with the victim, including the Utah Office for Victims of Crime, and the defendant owes no restitution.

(c) The court may not enter an order for restitution without a statement from the prosecuting attorney that the prosecuting attorney has consulted with the victim, including the Utah Office for Victims of Crime.

(d) If the court does not enter an order for restitution in a hearing under Subsection (4)(a), the court shall:

(i) state, on the record, why the court did not enter an order for restitution; and

(ii) order a continuance of the hearing.

(5) A court shall enter an order for restitution in a defendant's case no later than the earlier of:

(a) the termination of the defendant's sentence; or

(b) (i) if the defendant is convicted and imprisoned for a first degree felony, within seven years after the day on which the court sentences the defendant for the first degree felony conviction;

(ii) except as provided in Subsection (5)(b)(i), and if the defendant is convicted of a felony, within three years after the day on which the court sentences the defendant for the felony conviction; and

(iii) if the defendant is convicted of a misdemeanor, within one year after the day on which the court sentences the defendant for the misdemeanor conviction.

(6) (a) Upon a motion from the prosecuting attorney or the victim, the court may modify an existing order of restitution, including the amount of pecuniary damages owed by the defendant in the order for restitution, if the prosecuting attorney or the victim shows good cause for modifying the order.

(b) A motion under Subsection (6)(a) shall be brought within the time periods described in Subsection (5).

Section 97. Section 77-38b-301 is enacted to read:

Part 3. Civil Accounts Receivables and Civil Judgments for Restitution

77-38b-301. Entry of judgment -- Interest -- Civil actions -- Lien -- Delinquency.

(1) As used in this section, "judgment" means an order for:

(a) a civil judgment of restitution; or

(b) a civil accounts receivable.

(2) (a) If the court has entered a judgment on the civil judgment docket under Section 77-18-114, the judgment is enforceable under the Utah Rules of Civil Procedure.

(b) (i) Notwithstanding Subsection (2)(a):

(A) a judgment is an obligation that arises out of the defendant's criminal case;

(B) civil enforcement of a judgment shall be construed as a continuation of the criminal action for which the judgment arises; and

(C) a judgment is criminal in nature.

(ii) Civil enforcement of a judgment does not divest a defendant of an obligation imposed in a criminal action as part of the defendant's punishment for an offense.

(3) (a) Notwithstanding Sections 77-18-114, 78B-2-311, and 78B-5-202, a judgment shall expire only upon payment in full, including applicable interest, collection fees, attorney fees, and liens that directly result from the judgment.

(b) Interest on a judgment may only accrue from the day on which the judgment is entered on the civil judgment docket by the court.

(c) This Subsection (3) applies to all judgments that are not paid in full on or before May 12, 2009.

(4) A judgment is considered entered on the civil judgment docket when the judgment appears on the civil judgment docket with:

(a) an amount owed by the defendant;

(b) the name of the defendant as the judgment debtor; and

(c) the name of the judgment creditors described in Subsections 77-18-114(1)(c)(iii) and (2)(b).

(5) If a civil judgment of restitution becomes delinquent, or is in default, and upon a motion from a judgment creditor, the court may order the defendant to appear and show cause why the defendant should not be held in contempt under Section 78B-6-317 for the delinquency or the default.

Section 98. Section 77-38b-302 is enacted to read:

77-38b-302. Nondischargability in bankruptcy.

A civil judgment of restitution and a civil accounts receivable are considered a debt from a criminal case that may not be discharged in bankruptcy.

Section 99. Section 77-38b-303 is enacted to read:

77-38b-303. Civil action by a victim for damages.

(1) (a) A provision under this part concerning restitution does not limit or impair the right of a person injured by a defendant's criminal conduct to sue and recover damages from the defendant in a civil action.

(b) A court's finding under Subsection 77-38b-205(1)(a)(iii) may be used in a civil action for a defendant's liability to a victim as presumptive proof of the victim's pecuniary damages that are proximately caused by the defendant's criminal conduct.

(c) If a conviction in a criminal trial decides the issue of a defendant's liability for pecuniary damages suffered by a victim, the issue of the defendant's liability is conclusively determined as to the defendant if the issue is involved in a subsequent civil action.

(2) (a) The sentencing court shall credit any payment in favor of the victim in a civil action for the defendant's criminal conduct toward the amount of restitution owed by the defendant to the victim.

(b) In a civil action, a court shall credit any restitution paid by the defendant to a victim for the defendant's criminal conduct towards the victim

against any judgment that is in favor of the victim for the civil action.

(c) If a victim receives payment from the defendant for the civil action, the victim shall provide notice to the sentencing court and the court in the civil action of the payment within 30 days after the day on which the victim receives the payment.

(d) Nothing in this section shall prevent a defendant from providing proof of payment to the court or the office.

(3) (a) If a victim prevails in a civil action against a defendant, the court shall award reasonable attorney fees and costs to the victim.

(b) If the defendant prevails in the civil action, the court shall award reasonable costs to the defendant if the court finds that the victim brought the civil action for an improper purpose, including to harass the defendant or to cause unnecessary delay or needless increase in the cost of litigation.

Section 100. Section 77-38b-304, which is renumbered from Section 77-38a-404 is renumbered and amended to read:

[~~77-38a-404~~]. 77-38b-304. Priority.

[~~(1) Restitution payments made pursuant to a court order shall be disbursed to victims within 60 days of receipt from the defendant by the court or department provided:~~]

(1) The court, or the office, shall disburse a payment for restitution within 60 days after the day on which the payment is received from the defendant if:

(a) the victim has complied with Subsection [~~77-38a-203(1)(b)~~] 77-38b-203(2);

(b) if the defendant has tendered a negotiable instrument, funds from the financial institution are actually received; and

(c) the payment to the victim is at least $5, unless the payment is the final payment.

[~~(2) If restitution to more than one person, agency, or entity is required at the same time, the department shall establish the following priorities of payment, except as provided in Subsection (4):~~]

[~~(a) the crime victim;~~]

[~~(b) the Utah Office for Victims of Crime;~~]

[~~(c) any other government agency which has provided reimbursement to the victim as a result of the offender's criminal conduct;~~]

[~~(d) the person, entity, or governmental agency that has offered and paid a reward under Section 77-32a-101;~~]

[~~(e) any insurance company which has provided reimbursement to the victim as a result of the offender's criminal conduct; and~~]

[~~(f) any county correctional facility to which the defendant is required to pay restitution under Subsection 76-3-201(6).~~]

[~~(3) Restitution ordered under Subsection (2)(f) is paid after criminal fines and surcharges are paid.~~]

[~~(4) If the offender is required under Section 53-10-404 to reimburse the department for the cost of obtaining the offender's DNA specimen, this reimbursement is the next priority after restitution to the crime victim under Subsection (2)(a).~~]

[~~(5) All money collected for court-ordered obligations from offenders by the department will be applied:~~]

[~~(a) first, to victim restitution, except the current and past due amount of $30 per month required to be collected by the department under Section 64-13-21, if applicable; and~~]

[~~(b) second, if applicable, to the cost of obtaining a DNA specimen under Subsection (4).~~]

[~~(6) Restitution owed to more than one victim shall be disbursed to each victim according to the percentage of each victim's share of the total restitution order.~~]

(2) The court, or the office, shall disburse money collected from a defendant for a criminal accounts receivable in the following order of priority:

(a) first, and except as provided in Subsection (4)(b), to restitution owed by the defendant in accordance with Subsection (4);

(b) second, to the cost of obtaining a DNA specimen from the defendant as described in Subsection (4)(b);

(c) third, to any criminal fine or surcharge owed by the defendant;

(d) fourth, to the cost owed by the defendant for a reward described in Section 77-32b-104;

(e) fifth, to the cost owed by the defendant for medical care, treatment, hospitalization, and related transportation paid by a county correctional facility under Section 17-50-319; and

(f) sixth, to any other cost owed by the defendant.

(3) The office shall disburse money collected from a defendant for a civil accounts receivable and civil judgment of restitution in the following order of priority:

(a) first, to any past due amount owed to the department for the monthly supervision fee under Subsection 64-13-21(6)(a);

(b) second, and except as provided in Subsection (4)(b), to restitution owed by the defendant in accordance with Subsection (4);

(c) third, to the cost of obtaining a DNA specimen from the defendant in accordance with Subsection (4)(b);

(d) fourth, to any criminal fine or surcharge owed by the defendant;

(e) fifth, to the cost owed by the defendant for a reward described in Section 77-32b-104;

(f) sixth, to the cost owed by the defendant for medical care, treatment, hospitalization and related transportation paid by a county correctional facility under Section 17-50-319; and

(g) seventh, to any other cost owed by the defendant.

(4) (a) If a defendant owes restitution to more than one person or government agency at the same time, the court, or the office, shall disburse a payment for restitution in the following order of priority:

(i) first, to the victim of the offense;

(ii) second, to the Utah Office for Victims of Crime;

(iii) third, any other government agency that has provided reimbursement to the victim as a result of the defendant's criminal conduct; and

(iv) fourth, any insurance company that has provided reimbursement to the victim as a result of the defendant's criminal conduct.

(b) If a defendant is required under Section 53-10-404 to reimburse the department for the cost of obtaining the defendant's DNA specimen, the reimbursement for the cost of obtaining the defendant's DNA specimen is the next priority after restitution to the victim of the offense under Subsection (4)(a)(i).

(c) If the defendant is required to pay restitution to more than one victim, restitution shall be disbursed to each victim according to the percentage of each victim's share of the total order for restitution.

(5) For a criminal accounts receivable, the department shall collect the current and past due amount owed by a defendant for the monthly supervision fee under Subsection 64-13-21(6)(a) until the court enters a civil accounts receivable on the civil judgment docket under Section 77-18-114.

Section 101. Section 77-38b-401, which is renumbered from Section 77-38a-502 is renumbered and amended to read:

Part 4. Enforcement and Collection of Restitution

[~~77-38a-502~~]. 77-38b-401. Collection from inmate offenders.

[~~In addition to the remedies provided in Section 77-38a-501, the~~] Upon written request of the prosecuting attorney, the victim, or the parole or probation agent for the defendant, the department [~~upon written request of the prosecutor, victim, or parole or probation agent,~~] shall collect restitution from offender funds held by the department [~~as provided in~~] under Section 64-13-23.

Section 102. Section 77-38b-402, which is renumbered from Section 77-38a-601 is renumbered and amended to read:

[~~77-38a-601~~]. 77-38b-402. Preservation of assets.

(1) [~~Prior to or at the time~~] Before, or at the time, a criminal information, indictment charging a violation, or a petition alleging delinquency is filed, or at any time during the prosecution of the case, a [~~prosecutor~~] prosecuting attorney may, if in the [~~prosecutor's~~] prosecuting attorney's best judgment there is a substantial likelihood that a conviction will be obtained and restitution will be ordered in the case, petition the court to:

(a) enter a temporary restraining order, an injunction, or both;

(b) require the execution of a satisfactory performance bond; or

(c) take any other action to preserve the availability of property [~~which~~] that may be necessary to satisfy an anticipated [~~restitution order~~] order for restitution.

(2) (a) Upon receiving a request from a [~~prosecutor~~] prosecuting attorney under Subsection (1), and after notice to [~~persons~~] a person appearing to have an interest in the property and affording [~~them~~] the person an opportunity to be heard, the court may take action as requested by the [~~prosecutor~~] prosecuting attorney if the court determines:

(i) there is probable cause to believe that [~~a crime~~] an offense has been committed and that the defendant committed [~~it~~] the offense, and that failure to enter the order will likely result in the property being sold, distributed, exhibited, destroyed, or removed from the jurisdiction of the court, or otherwise be made unavailable for restitution; and

(ii) the need to preserve the availability of the property or prevent [~~its~~] the property's sale, distribution, exhibition, destruction, or removal through the entry of the requested order outweighs the hardship on any party against whom the order is to be entered.

(b) In a hearing conducted [~~pursuant to~~] in accordance with this section, a court may consider reliable hearsay as defined in Utah Rules of Evidence, Rule 1102.

(c) An order for an injunction entered under this section is effective for the period of time given in the order.

(3) (a) Upon receiving a request for a temporary restraining order from a [~~prosecutor~~] prosecuting attorney under this section, a court may enter a temporary restraining order against an owner with respect to specific property without notice or opportunity for a hearing if:

(i) the [~~prosecutor~~] prosecuting attorney demonstrates that there is a substantial likelihood that the property with respect to which the order is sought appears to be necessary to satisfy an

anticipated restitution order under this chapter; and

(ii) provision of notice would jeopardize the availability of the property to satisfy any [~~restitution order or judgment~~] judgment or order for restitution.

(b) The temporary order in this Subsection (3) expires [~~not more than 10 days after it~~] no later than 10 days after the day on which the temporary order is entered unless extended for good cause shown or the party against whom [~~it~~] the temporary order is entered consents to an extension.

(4) A hearing concerning an order entered under this section shall be held as soon as possible, and [~~prior to~~] before the expiration of the temporary order.

Section 103. Section 77-40-102 is amended to read:

77-40-102. Definitions.

As used in this chapter:

(1) "Administrative finding" means a decision upon a question of fact reached by an administrative agency following an administrative hearing or other procedure satisfying the requirements of due process.

(2) "Agency" means a state, county, or local government entity that generates or maintains records relating to an investigation, arrest, detention, or conviction for an offense for which expungement may be ordered.

(3) "Bureau" means the Bureau of Criminal Identification of the Department of Public Safety established in Section 53-10-201.

(4) "Certificate of eligibility" means a document issued by the bureau stating that the criminal record and all records of arrest, investigation, and detention associated with a case that is the subject of a petition for expungement is eligible for expungement.

(5) (a) "Clean slate eligible case" means a case:

(i) where, except as provided in Subsection (5)(c), each conviction within the case is:

(A) a misdemeanor conviction for possession of a controlled substance in violation of Subsection 58-37-8(2)(a)(i);

(B) a class B or class C misdemeanor conviction; or

(C) an infraction conviction;

(ii) that involves an individual:

(A) whose total number of convictions in Utah state courts, not including infractions, traffic offenses, or minor regulatory offenses, does not exceed the limits described in Subsections 77-40-105(5) and (6) without taking into consideration the exception in Subsection 77-40-105(8); and

(B) against whom no criminal proceedings are pending in the state; and

(iii) for which the following time periods have elapsed from the day on which the case is adjudicated:

(A) at least five years for a class C misdemeanor or an infraction;

(B) at least six years for a class B misdemeanor; and

(C) at least seven years for a class A conviction for possession of a controlled substance in violation of Subsection 58-37-8(2)(a)(i).

(b) "Clean slate eligible case" includes a case that is dismissed as a result of a successful completion of a plea in abeyance agreement governed by Subsection 77-2a-3(2)(b) if:

(i) except as provided in Subsection (5)(c), each charge within the case is:

(A) a misdemeanor for possession of a controlled substance in violation of Subsection 58-37-8(2)(a)(i);

(B) a class B or class C misdemeanor; or

(C) an infraction;

(ii) the individual involved meets the requirements of Subsection (5)(a)(ii); and

(iii) the time periods described in Subsections (5)(a)(iii)(A) through (C) have elapsed from the day on which the case is dismissed.

(c) "Clean slate eligible case" does not include a case:

(i) where the individual is found not guilty by reason of insanity;

(ii) where the case establishes [~~a criminal judgment accounts receivable, as defined in Section 77-32a-101~~] a criminal accounts receivable, as defined in Section 77-32b-102, that:

(A) has been entered as a [~~civil judgment~~] civil accounts receivable or a civil judgment of restitution, as those terms are defined in Section 77-32b-102, and transferred to the Office of State Debt Collection under Section 77-18-114; or

(B) has not been satisfied according to court records; or

(iii) that resulted in one or more pleas held in abeyance or convictions for the following offenses:

(A) any of the offenses listed in Subsection 77-40-105(2)(a);

(B) an offense against the person in violation of Title 76, Chapter 5, Offenses Against the Person;

(C) a weapons offense in violation of Title 76, Chapter 10, Part 5, Weapons;

(D) sexual battery in violation of Section 76-9-702.1;

(E) an act of lewdness in violation of Section 76-9-702 or 76-9-702.5;

(F) an offense in violation of Title 41, Chapter 6a, Part 5, Driving Under the Influence and Reckless Driving;

(G) damage to or interruption of a communication device in violation of Section 76-6-108;

(H) a domestic violence offense as defined in Section 77-36-1; or

(I) any other offense classified in the Utah Code as a felony or a class A misdemeanor other than a class A misdemeanor conviction for possession of a controlled substance in violation of Subsection 58-37-8(2)(a)(i).

(6) "Conviction" means judgment by a criminal court on a verdict or finding of guilty after trial, a plea of guilty, or a plea of nolo contendere.

(7) "Department" means the Department of Public Safety established in Section 53-1-103.

(8) "Drug possession offense" means an offense under:

(a) Subsection 58-37-8(2), except any offense under Subsection 58-37-8(2)(b)(i), possession of 100 pounds or more of marijuana, any offense enhanced under Subsection 58-37-8(2)(e), violation in a correctional facility or Subsection 58-37-8(2)(g), driving with a controlled substance illegally in the person's body and negligently causing serious bodily injury or death of another;

(b) Subsection 58-37a-5(1), use or possession of drug paraphernalia;

(c) Section 58-37b-6, possession or use of an imitation controlled substance; or

(d) any local ordinance which is substantially similar to any of the offenses described in this Subsection (8).

(9) "Expunge" means to seal or otherwise restrict access to the individual's record held by an agency when the record includes a criminal investigation, detention, arrest, or conviction.

(10) "Jurisdiction" means a state, district, province, political subdivision, territory, or possession of the United States or any foreign country.

(11) "Minor regulatory offense" means any class B or C misdemeanor offense, and any local ordinance, except:

(a) any drug possession offense;

(b) Title 41, Chapter 6a, Part 5, Driving Under the Influence and Reckless Driving;

(c) Sections 73-18-13 through 73-18-13.6;

(d) those offenses defined in Title 76, Utah Criminal Code; or

(e) any local ordinance that is substantially similar to those offenses listed in Subsections (11)(a) through (d).

(12) "Petitioner" means an individual applying for expungement under this chapter.

(13) (a) "Traffic offense" means:

(i) all infractions, class B misdemeanors, and class C misdemeanors in Title 41, Chapter 6a, Traffic Code;

(ii) Title 53, Chapter 3, Part 2, Driver Licensing Act;

(iii) Title 73, Chapter 18, State Boating Act; and

(iv) all local ordinances that are substantially similar to those offenses.

(b) "Traffic offense" does not mean:

(i) Title 41, Chapter 6a, Part 5, Driving Under the Influence and Reckless Driving;

(ii) Sections 73-18-13 through 73-18-13.6; or

(iii) any local ordinance that is substantially similar to the offenses listed in Subsections (13)(b)(i) and (ii).

Section 104. Section 77-40-105 is amended to read:

77-40-105. Requirements to apply for a certificate of eligibility to expunge conviction.

(1) An individual convicted of an offense may apply to the bureau for a certificate of eligibility to expunge the record of conviction as provided in this section.

(2) An individual is not eligible to receive a certificate of eligibility from the bureau if:

(a) the conviction for which expungement is sought is:

(i) a capital felony;

(ii) a first degree felony;

(iii) a violent felony as defined in Subsection 76-3-203.5(1)(c)(i);

(iv) felony automobile homicide;

(v) a felony conviction described in Subsection 41-6a-501(2);

(vi) a registerable sex offense as defined in Subsection 77-41-102(17); or

(vii) a registerable child abuse offense as defined in Subsection 77-43-102(2);

(b) a criminal proceeding is pending against the petitioner; or

(c) the petitioner intentionally or knowingly provides false or misleading information on the application for a certificate of eligibility.

(3) A petitioner seeking to obtain expungement for a record of conviction is not eligible to receive a certificate of eligibility from the bureau until all of the following have occurred:

(a) the petitioner has paid in full all fines and interest ordered by the court related to the conviction for which expungement is sought;

(b) the petitioner has paid in full all restitution ordered by the court [~~pursuant to Section~~

~~77-38a-302, or by the Board of Pardons and Parole pursuant to Section 77-27-6~~] under Section 77-38b-205; and

(c) the following time periods have elapsed from the date the petitioner was convicted or released from incarceration, parole, or probation, whichever occurred last, for each conviction the petitioner seeks to expunge:

(i) 10 years in the case of a misdemeanor conviction of Subsection 41-6a-501(2) or a felony conviction of Subsection 58-37-8(2)(g);

(ii) seven years in the case of a felony;

(iii) five years in the case of any class A misdemeanor or a felony drug possession offense;

(iv) four years in the case of a class B misdemeanor; or

(v) three years in the case of any other misdemeanor or infraction.

(4) When determining whether to issue a certificate of eligibility, the bureau may not consider:

(a) a petitioner's pending or previous:

(i) infraction;

(ii) traffic offense;

(iii) minor regulatory offense; or

(iv) clean slate eligible case that was automatically expunged in accordance with Section 77-40-114; or

(b) a fine or fee related to an offense described in Subsection (4)(a).

(5) The bureau may not issue a certificate of eligibility if, at the time the petitioner seeks a certificate of eligibility, the bureau determines that the petitioner's criminal history, including previously expunged convictions, contains any of the following, except as provided in Subsection (8):

(a) two or more felony convictions other than for drug possession offenses, each of which is contained in a separate criminal episode;

(b) any combination of three or more convictions other than for drug possession offenses that include two class A misdemeanor convictions, each of which is contained in a separate criminal episode;

(c) any combination of four or more convictions other than for drug possession offenses that include three class B misdemeanor convictions, each of which is contained in a separate criminal episode; or

(d) five or more convictions other than for drug possession offenses of any degree whether misdemeanor or felony, each of which is contained in a separate criminal episode.

(6) The bureau may not issue a certificate of eligibility if, at the time the petitioner seeks a certificate of eligibility, the bureau determines that the petitioner's criminal history, including previously expunged convictions, contains any of the following:

(a) three or more felony convictions for drug possession offenses, each of which is contained in a separate criminal episode; or

(b) any combination of five or more convictions for drug possession offenses, each of which is contained in a separate criminal episode.

(7) If the petitioner's criminal history contains convictions for both a drug possession offense and a non drug possession offense arising from the same criminal episode, that criminal episode shall be counted as provided in Subsection (5) if any non drug possession offense in that episode:

(a) is a felony or class A misdemeanor; or

(b) has the same or a longer waiting period under Subsection (3) than any drug possession offense in that episode.

(8) If at least 10 years have elapsed from the date the petitioner was convicted or released from incarceration, parole, or probation, whichever occurred last, for all convictions, then each eligibility limit defined in Subsection (5) shall be increased by one.

(9) If, prior to May 14, 2013, the petitioner has received a pardon from the Utah Board of Pardons and Parole, the petitioner is entitled to an expungement order for all pardoned crimes pursuant to Section 77-27-5.1.

Section 105. Section 78A-2-214 is amended to read:

78A-2-214. Collection of accounts receivable.

(1) As used in this section:

(a) "Accounts receivable" means any amount due the state from an entity for which payment has not been received by the state agency that is servicing the debt.

(b) "Accounts receivable" includes unpaid fees, licenses, taxes, loans, overpayments, fines, forfeitures, surcharges, costs, contracts, interest, penalties, restitution to victims, third party claims, sale of goods, sale of services, claims, and damages.

[~~(2) If the Department of Corrections does not have responsibility under Subsection 77-18-1(9) for collecting an account receivable and if the Office of State Debt Collection does not have responsibility under Subsection 63A-3-502(6), the district court shall collect the account receivable.~~]

(2) If a defendant is sentenced before July 1, 2021, and the Department of Corrections, or the Office of State Debt Collection, is not responsible for collecting an accounts receivable for the defendant, the district court shall collect the accounts receivable for the defendant.

(3) (a) In the juvenile court, money collected by the court from past-due accounts receivable may be used to offset system, administrative, legal, and other costs of collection.

(b) The juvenile court shall allocate money collected above the cost of collection on a pro rata basis to the various revenue types that generated the accounts receivable.

(4) The interest charge established by the Office of State Debt Collection under Subsection 63A-3-502(4)(g)(iii) may not be assessed on an account receivable subject to the postjudgment interest rate established by Section 15-1-4.

Section 106. Section 78A-2-231 is amended to read:

78A-2-231. Consideration of lawful use or possession of medical cannabis.

(1) As used in this section:

(a) "Cannabis product" means the same as that term is defined in Section 26-61a-102.

(b) "Directions of use" means the same as that term is defined in Section 26-61a-102.

(c) "Dosing guidelines" means the same as that term is defined in Section 26-61a-102.

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

(e) "Medical cannabis card" means the same as that term is defined in Section 26-61a-102.

(f) "Medical cannabis device" means the same as that term is defined in Section 26-61a-102.

(g) "Qualified medical provider" means the same as that term is defined in Section 26-61a-102.

(2) In any judicial proceeding in which a judge, panel, jury, or court commissioner makes a finding, determination, or otherwise considers an individual's possession or use of medical cannabis, a cannabis product, or a medical cannabis device, the judge, panel, jury, or court commissioner may not consider or treat the individual's possession or use any differently than the lawful possession or use of any prescribed controlled substance if:

(a) the individual's possession complies with Title 4, Chapter 41a, Cannabis Production Establishments;

(b) the individual's possession or use complies with Subsection 58-37-3.7(2) or (3); or

(c) (i) the individual's possession or use complies with Title 26, Chapter 61a, Utah Medical Cannabis Act; and

(ii) the individual reasonably complies with the directions of use and dosing guidelines determined by the individual's qualified medical provider or through a consultation described in Subsection 26-61a-502(4) or (5).

(3) Notwithstanding Sections [~~77-18-1~~] 77-18-105 and 77-2a-3, for probation, release, a plea in abeyance agreement, a diversion agreement, or a tendered admission under Utah Rules of Juvenile Procedure, Rule 25, a term or condition may not require that an individual abstain from the use or possession of medical cannabis, a cannabis product, or a medical cannabis device, either directly or through a general prohibition on violating federal law, without an exception related to medical cannabis use, if the individual's use or possession complies with:

(a) Title 26, Chapter 61a, Utah Medical Cannabis Act; or

(b) Subsection 58-37-3.7(2) or (3).

Section 107. Section 78B-2-115 is amended to read:

78B-2-115. Actions by state or other governmental entity.

Except for the provisions of Section 78B-2-116, and the collection of criminal fines, fees, and restitution by the Office of State Debt Collection in accordance with [~~Section 63A-3-502 and Title 77, Chapter 32a, Criminal Accounts Receivable and Defense Costs~~] Sections 63A-3-502, 77-32b-103, and 77-18-114, the limitations in this chapter apply to actions brought in the name of or for the benefit of the state or other governmental entity the same as to actions by private parties.

Section 108. Section 78B-5-502 is amended to read:

78B-5-502. Definitions.

As used in this part:

(1) "Civil accounts receivable" means the same as that term is defined in Section 77-32b-102.

(2) "Civil judgment of restitution" means the same as that term is defined in Section 77-32b-102.

[~~(1)~~] (3) "Debt" means a legally enforceable monetary obligation or liability of an individual, whether arising out of contract, tort, or otherwise.

[~~(2)~~] (4) "Dependent" means the spouse of an individual, and the grandchild or the natural or adoptive child of an individual who derives support primarily from that individual.

[~~(3)~~] (5) "Exempt" means protected, and "exemption" means protection from subjection to a judicial process to collect an unsecured debt.

[~~(4)~~] (6) "Judicial lien" means a lien on property obtained by judgment or other legal process instituted for the purpose of collecting an unsecured debt.

[~~(5)~~] (7) "Levy" means the seizure of property pursuant to any legal process issued for the purpose of collecting an unsecured debt.

[~~(6)~~] (8) "Lien" means a judicial, or statutory lien, in property securing payment of a debt or performance of an obligation.

[~~(7)~~] (9) "Liquid assets" means deposits, securities, notes, drafts, unpaid earnings not otherwise exempt, accrued vacation pay, refunds, prepayments, and other receivables.

[~~(8)~~] (10) "Security interest" means an interest in property created by contract to secure payment or performance of an obligation.

[~~(9)~~] (11) "Statutory lien" means a lien arising by force of a statute, but does not include a security interest or a judicial lien.

[~~(10)~~] (12) "Value" means fair market value of an individual's interest in property, exclusive of valid liens.

Section 109. Section 78B-5-505 is amended to read:

78B-5-505. Property exempt from execution.

(1) (a) An individual is entitled to exemption of the following property:

(i) a burial plot for the individual and the individual's family;

(ii) health aids reasonably necessary to enable the individual or a dependent to work or sustain health;

(iii) benefits that the individual or the individual's dependent have received or are entitled to receive from any source because of:

(A) disability;

(B) illness; or

(C) unemployment;

(iv) benefits paid or payable for medical, surgical, or hospital care to the extent that the benefits are used by an individual or the individual's dependent to pay for that care;

(v) veterans benefits;

(vi) money or property received, and rights to receive money or property for child support;

(vii) money or property received, and rights to receive money or property for alimony or separate maintenance, to the extent reasonably necessary for the support of the individual and the individual's dependents;

(viii) (A) one:

(I) clothes washer and dryer;

(II) refrigerator;

(III) freezer;

(IV) stove;

(V) microwave oven; and

(VI) sewing machine;

(B) all carpets in use;

(C) provisions sufficient for 12 months actually provided for individual or family use;

(D) all wearing apparel of every individual and dependent, not including jewelry or furs; and

(E) all beds and bedding for every individual or dependent;

(ix) except for works of art held by the debtor as part of a trade or business, works of art:

(A) depicting the debtor or the debtor and the debtor's resident family; or

(B) produced by the debtor or the debtor and the debtor's resident family;

(x) proceeds of insurance, a judgment, or a settlement, or other rights accruing as a result of bodily injury of the individual or of the wrongful death or bodily injury of another individual of whom the individual was or is a dependent to the extent that those proceeds are compensatory;

(xi) the proceeds or benefits of any life insurance contracts or policies paid or payable to the debtor or any trust of which the debtor is a beneficiary upon the death of the spouse or children of the debtor, provided that the contract or policy has been owned by the debtor for a continuous unexpired period of one year;

(xii) the proceeds or benefits of any life insurance contracts or policies paid or payable to the spouse or children of the debtor or any trust of which the spouse or children are beneficiaries upon the death of the debtor, provided that the contract or policy has been in existence for a continuous unexpired period of one year;

(xiii) proceeds and avails of any unmatured life insurance contracts owned by the debtor or any revocable grantor trust created by the debtor, excluding any payments made on the contract during the one year immediately preceding a creditor's levy or execution;

(xiv) except as provided in Subsection (1)(b), and except for a judgment described in Subsection 75-7-503(2)(c), any money or other assets held for or payable to the individual as an owner, participant, or beneficiary from or an interest of the individual as an owner, participant, or beneficiary in a fund or account, including an inherited fund or account, in a retirement plan or arrangement that is described in Section 401(a), 401(h), 401(k), 403(a), 403(b), 408, 408A, 409, 414(d), 414(e), or 457, Internal Revenue Code, including an owner's, a participant's, or a beneficiary's interest that arises by inheritance, designation, appointment, or otherwise;

(xv) the interest of or any money or other assets payable to an alternate payee under a qualified domestic relations order as those terms are defined in Section 414(p), Internal Revenue Code;

(xvi) unpaid earnings of the household of the filing individual due as of the date of the filing of a bankruptcy petition in the amount of 1/24 of the Utah State annual median family income for the household size of the filing individual as determined by the Utah State Annual Median Family Income reported by the United States Census Bureau and as adjusted based upon the Consumer Price Index for All Urban Consumers for an individual whose unpaid earnings are paid more often than once a month or, if unpaid earnings are not paid more often than once a month, then in the amount of 1/12 of the Utah State annual median family income for the household size of the individual as determined by the Utah State Annual Median Family Income reported by the United

States Census Bureau and as adjusted based upon the Consumer Price Index for All Urban Consumers;

(xvii) except for curio or relic firearms, as defined in Section 76-10-501, any three of the following:

(A) one handgun and ammunition for the handgun not exceeding 1,000 rounds;

(B) one shotgun and ammunition for the shotgun not exceeding 1,000 rounds; and

(C) one shoulder arm and ammunition for the shoulder arm not exceeding 1,000 rounds; and

(xviii) money, not exceeding $200,000, in the aggregate, that an individual deposits, more than 18 months before the day on which the individual files a petition for bankruptcy or an action is filed by a creditor against the individual, as applicable, in all tax-advantaged accounts for saving for higher education costs on behalf of a particular individual that meets the requirements of Section 529, Internal Revenue Code.

(b) (i) Any money, asset, or other interest in a fund or account that is exempt from a claim of a creditor of the owner, beneficiary, or participant under Subsection (1)(a)(xiv) does not cease to be exempt after the owner's, participant's, or beneficiary's death by reason of a direct transfer or eligible rollover to an inherited individual retirement account as defined in Section 408(d)(3), Internal Revenue Code.

(ii) Subsections (1)(a)(xiv) and (1)(b)(i) apply to all inherited individual retirement accounts without regard to the date on which the account was created.

(c) (i) The exemption granted by Subsection (1)(a)(xiv) does not apply to:

(A) an alternate payee under a qualified domestic relations order, as those terms are defined in Section 414(p), Internal Revenue Code; or

(B) amounts contributed or benefits accrued by or on behalf of a debtor within one year before the debtor files for bankruptcy, except amounts directly rolled over from other funds that are exempt from attachment under this section.

(ii) The exemptions in Subsections (1)(a)(xi), (xii), and (xiii) do not apply to the secured creditor's interest in proceeds and avails of any matured or unmatured life insurance contract assigned or pledged as collateral for repayment of a loan or other legal obligation.

(2) (a) Disability benefits, as described in Subsection (1)(a)(iii)(A), and veterans benefits, as described in Subsection (1)(a)(v), may be garnished on behalf of a [~~child victim~~] victim who is a child if the person receiving the benefits has been convicted of a felony sex offense against [~~a child~~] the victim and ordered by the [~~convicting~~] sentencing court to pay restitution to the victim.

(b) The exemption from execution under this [~~section~~] Subsection (2) shall be reinstated upon payment of the restitution in full.

(3) [~~Exemptions~~] The exemptions under this section do not limit items that may be claimed as exempt under Section 78B-5-506.

(4) (a) The exemptions described in Subsections (1)(a)(iii), (iv), (vi), (vii), (x), (xii), (xiii), (xiv), (xv), (xvii), and (xviii) do not apply to a civil accounts receivable or a civil judgment of restitution for an individual who is found in contempt under Section 78B-6-317.

(b) Subsection (4)(a) does not apply to the benefits described in Subsection (1)(a)(iii) if the individual's dependent received, or is entitled to receive, the benefits.

Section 110. Section 78B-6-317 is amended to read:

78B-6-317. Willful failure to pay a civil accounts receivable or a civil judgment of restitution.

(1) As used in this section:

(a) "Civil accounts receivable" means the same as that term is defined in Section 77-32b-102.

(b) "Civil judgment of restitution" means the same as that term is defined in Section 77-32b-102.

(c) "Default" means the same as that term is defined in Section 77-32b-102.

(d) "Delinquent" means the same as that term is defined in Section 77-32b-102.

[~~(1)~~] (2) If a [~~criminal judgment accounts receivable has become delinquent as defined in Section 77-32a-101~~] civil accounts receivable or a civil judgment of restitution is delinquent or in default, the court, by motion of the [~~prosecutor~~] prosecuting attorney, a judgment creditor, [~~the Office of State Debt Collection,~~] or on the court's own motion, may order the defendant to appear and show cause why the delinquency or default should not be treated as contempt of court[~~, as provided in this section~~] under this section.

[~~(2)~~] (3) (a) The moving party or [~~a court clerk~~] a clerk of the court shall provide a declaration outlining:

(i) the nature of the debt [~~and the delinquency.~~];

(ii) the way in which the civil accounts receivable or civil judgment of restitution is delinquent or in default;

(iii) if the moving party is the Office of State Debt Collection, the attempts that have been made to collect the civil accounts receivable or the civil judgment of restitution before moving for an order to show cause; and

(iv) if the moving party is not the Office of State Debt Collection, that the defendant has failed to comply with any payment agreement that the defendant has with the Office of State Debt Collection.

(b) Upon receipt of [~~that~~] a declaration under Subsection (3)(a), the court shall:

(i) set the matter for a hearing; and

(ii) provide notice of the hearing to the defendant by mailing notice of the hearing to the defendant's last known address and by any other means the court finds likely to provide defendant notice of the hearing.

[~~(i)~~] (c) If it appears to the court that the defendant is not likely to appear at the hearing, the court may issue an arrest warrant with a bail amount reasonably likely to guarantee the defendant's appearance.

[~~(ii)~~] (d) If the defendant is a corporation or an unincorporated association, the court shall cite the person authorized to make disbursement from the assets of the corporation or association to appear to answer for the alleged contempt.

[~~(3)~~] (4) At the hearing, the defendant is entitled to be:

(a) represented by counsel; and[~~,~~]

(b) if the court is considering a period of incarceration as a potential sanction, appointed counsel [~~if the defendant is indigent~~] if the court determines that the defendant is indigent in accordance with Title 78B, Chapter 22, Indigent Defense Act.

[~~(4)~~] (5) To find the defendant in contempt, the court shall find beyond a reasonable doubt that the defendant:

(a) was aware of the obligation to pay the [~~criminal judgment accounts receivable~~] civil accounts receivable or the civil judgment of restitution;

(b) had the capacity to [~~pay the criminal judgment accounts receivable in the manner ordered by the court~~] make a payment towards the civil accounts receivable or the civil judgment of restitution; and

(c) [~~did not make a good faith effort to make the payments~~] failed to make a payment towards the civil accounts receivable or the civil judgment of restitution.

[~~(5)~~] (6) [~~If~~] Subject to the limitations in Subsections (7) through (9), if the court finds the defendant in contempt for nonpayment, the court may impose the sanctions for contempt [~~as provided in~~] under Section 78B-6-310[~~, subject to the limitations in Subsections (6) through (8)~~].

[~~(6)~~] (7) If the court imposes a jail sanction for the contempt, the number of jail days may not exceed one day for each $100 of the amount the court finds was contemptuously unpaid[~~, up to~~] with a maximum of:

(a) five days for contempt arising from a class B misdemeanor or lesser offense[~~,~~]; and

(b) 30 days for a class A misdemeanor or felony offense.

[~~(7)~~] (8) (a) Any jail sanction imposed for contempt under this section shall serve to satisfy the [~~criminal judgment account receivable~~] civil accounts receivable at $100 for each day served. [~~Amounts satisfied under this Subsection (7) may not include restitution amounts ordered by the court in accordance with Title 77, Chapter 38a, Crime Victims Restitution Act.~~]

(b) Subsection (8)(a) does not apply to a civil judgment of restitution.

[~~(8) Any financial penalty authorized by Section 78B-6-310 and ordered by the court may only become due after the satisfaction of the original criminal account receivable.~~]

(9) A financial penalty ordered by the court under Section 78B-6-310 may only become due after the satisfaction of the civil accounts receivable or the civil judgment of restitution.

[~~(9)~~] (10) The order of the court finding the defendant in contempt and ordering sanctions is a final appealable order.

Section 111. Section 78B-7-804 is amended to read:

78B-7-804. Sentencing and continuous protective orders for a domestic violence offense -- Modification.

(1) Before a perpetrator who has been convicted of a domestic violence offense may be placed on probation, the court shall consider the safety and protection of the victim and any member of the victim's family or household.

(2) The court may condition probation or a plea in abeyance on the perpetrator's compliance with a sentencing protective order that includes:

(a) an order enjoining the perpetrator from threatening to commit or committing acts of domestic violence against the victim or other family or household member;

(b) an order prohibiting the perpetrator from harassing, telephoning, contacting, or otherwise communicating with the victim, directly or indirectly;

(c) an order requiring the perpetrator to stay away from the victim's residence, school, place of employment, and the premises of any of these, or a specified place frequented regularly by the victim or any designated family or household member;

(d) an order prohibiting the perpetrator from purchasing, using, or possessing a firearm or other specified weapon;

(e) an order directing the perpetrator to surrender any weapons the perpetrator owns or possesses; and

(f) an order imposing any other condition necessary to protect the victim and any other designated family or household member or to rehabilitate the perpetrator.

(3) (a) Because of the serious, unique, and highly traumatic nature of domestic violence crimes, the high recidivism rate of violent offenders, and the demonstrated increased risk of continued acts of violence subsequent to the release of a perpetrator who is convicted of domestic violence, it is the finding of the Legislature that domestic violence

crimes warrant the issuance of continuous protective orders under this Subsection (3) because of the need to provide ongoing protection for the victim and to be consistent with the purposes of protecting victims' rights under Title 77, Chapter 37, Victims' Rights, and Title 77, Chapter 38, Rights of Crime Victims Act, and Article I, Section 28 of the Utah Constitution.

(b) If a perpetrator is convicted of a domestic violence offense resulting in a sentence of imprisonment, including jail, that is to be served after conviction, the court shall issue a continuous protective order at the time of the conviction or sentencing limiting the contact between the perpetrator and the victim unless the court determines by clear and convincing evidence that the victim does not a have a reasonable fear of future harm or abuse.

(c) (i) The court shall notify the perpetrator of the right to request a hearing.

(ii) If the perpetrator requests a hearing under this Subsection (3)(c), the court shall hold the hearing at the time determined by the court. The continuous protective order shall be in effect while the hearing is being scheduled and while the hearing is pending.

(d) A continuous protective order is permanent in accordance with this Subsection (3) and may include:

(i) an order enjoining the perpetrator from threatening to commit or committing acts of domestic violence against the victim or other family or household member;

(ii) an order prohibiting the perpetrator from harassing, telephoning, contacting, or otherwise communicating with the victim, directly or indirectly;

(iii) an order prohibiting the perpetrator from going to the victim's residence, school, place of employment, and the premises of any of these, or a specified place frequented regularly by the victim or any designated family or other household member;

(iv) an order directing the perpetrator to pay restitution to the victim as may apply, and shall be enforced in accordance with Title 77, Chapter [~~38a~~] 38b, Crime Victims Restitution Act; and

(v) any other order the court considers necessary to fully protect the victim and members of the victim's family or other household member.

(4) A continuous protective order may be modified or dismissed only if the court determines by clear and convincing evidence that all requirements of Subsection (3) have been met and the victim does not have a reasonable fear of future harm or abuse.

(5) In addition to the process of issuing a continuous protective order described in Subsection (3), a district court may issue a continuous protective order at any time if the victim files a petition with the court, and after notice and hearing the court finds that a continuous protective order is necessary to protect the victim.

Section 112. Repealer.

This bill repeals:

Section 76-6-412.5, Property damage caused in the course of committing a theft.

Section 77-18-1, Suspension of sentence -- Pleas held in abeyance -- Probation -- Supervision -- Presentence investigation -- Standards -- Confidentiality -- Terms and conditions -- Termination, revocation, modification, or extension -- Hearings -- Electronic monitoring.

Section 77-18-6, Judgment to pay fine or restitution constitutes a lien.

Section 77-27-6, Payment of restitution.

Section 77-32a-102, Creation of criminal judgment account receivable.

Section 77-32a-103, Past due accounts or payments -- Authority to send to Office of State Debt Collection independent of probation status -- Expiration.

Section 77-32a-104, Delinquency and default as contempt of court.

Section 77-32a-105, Accounts with balances at termination of probation.

Section 77-32a-106, Transfer of collection responsibility does not affect probation.

Section 77-32a-108, Ability to pay considered.

Section 77-32a-109, Petition for remission of payment of costs.

Section 77-38a-201, Restitution determination -- Law enforcement duties and responsibilities.

Section 77-38a-202, Restitution determination -- Prosecution duties and responsibilities.

Section 77-38a-203, Restitution determination -- Department of Corrections -- Presentence investigation.

Section 77-38a-301, Restitution -- Convicted defendant may be required to pay.

Section 77-38a-302, Restitution criteria.

Section 77-38a-401, Entry of judgment -- Interest -- Civil actions -- Lien.

Section 77-38a-402, Nondischargeability in bankruptcy.

Section 77-38a-403, Civil action by victim for damages.

Section 77-38a-501, Default and sanctions.

Section 113. Effective date.

This bill takes effect on July 1, 2021.

Section 114. Coordinating H.B. 260 with H.B. 58 -- Substantive amendment.

If this H.B. 260 and H.B. 58, Riot Amendments, both pass and become law, the Legislature intends that on July 1, 2021, the Office of Legislative Research and General Counsel prepare the Utah

Code database for publication by amending Subsection 76-9-101(6) to read:

"(6) The court shall order a defendant convicted under Subsection (4) to pay restitution in accordance with Section 77-38b-205.".

Section 115. Coordinating H.B. 260 with H.B. 290 -- Substantive amendments.

If this H.B. 260 and H.B. 290, Probation and Parole Amendments, both pass and become law, the Legislature intends that on July 1, 2021, the Office of Legislative Research and General Counsel prepare the Utah Code database for publication by:

(1) amending Subsection 77-18-108(2)(a) to read:

"(2) (a) The court may modify the defendant's probation in accordance with the supervision length guidelines and the graduated and evidence-based responses and graduated incentives developed by the Utah Sentencing Commission under Section 63M-7-404."; and

(2) amending Subsection 77-18-108(5)(a)(iii) to read:

"(iii) in confinement awaiting a hearing or a decision concerning revocation of the defendant's probation constitutes service of time toward a term of incarceration imposed as a result of the revocation of probation or a graduated and evidence-based response imposed under the guidelines established by the Utah Sentencing Commission in accordance with Section 63M-7-404.".

Section 116. Coordinating H.B. 260 with H.B. 379 -- Substantive amendment.

If this H.B. 260 and H.B. 379, Board of Pardons Amendments, both pass and become law, the Legislature intends that on July 1, 2021, the Office of Legislative Research and General Counsel prepare the Utah Code database for publication by amending Subsection 77-27-5(3) to read:

"(3) (a) A decision by the board is final and not subject for judicial review if the decision is regarding:

(i) a pardon, parole, commutation, or termination of an offender's sentence;

(ii) the modification of an offender's payment schedule for restitution; or

(iii) the remission of an offender's criminal accounts receivable or a fine or forfeiture.

(b) Deliberative processes are not public and the board is exempt from Title 52, Chapter 4, Open and Public Meetings Act, when the board is engaged in the board's deliberative process.

(c) Pursuant to Subsection 63G-2-103(22)(b)(xi), records of the deliberative process are exempt from Title 63G, Chapter 2, Government Records Access and Management Act.

(d) Unless it will interfere with a constitutional right, deliberative processes are not subject to disclosure, including discovery.

(e) Nothing in this section prevents the obtaining or enforcement of a civil judgment [~~including restitution as provided in Section 77-27-6.~~].".

CHAPTER 261
H. B. 285
Passed March 3, 2021
Approved March 17, 2021
Effective September 1, 2021

JUVENILE RECODIFICATION

Chief Sponsor: V. Lowry Snow
Senate Sponsor: Todd D. Weiler

LONG TITLE

General Description:

This bill reorganizes, renumbers, amends, repeals, and enacts statutes related to juveniles.

Highlighted Provisions:

This bill:

- defines terms and amends definitions;
- reorganizes and renumbers Title 78A, Chapter 6, Juvenile Court Act;
- reorganizes and renumbers Title 62A, Chapter 7, Juvenile Justice Services;
- enacts Title 80, Utah Juvenile Code;
- renumbers and amends statutes in Title 62A, Chapter 7, Juvenile Justice Services, and Title 78A, Chapter 6, Juvenile Court Act, to Title 80, Utah Juvenile Code;
- reorganizes and clarifies provisions related to removal of a child from the home and placement of a child in protective custody;
- amends the notice requirements for removal of a child from the home or placement of the child in protective custody;
- clarifies the notice requirements for release of a minor who is committed to a local mental health authority or the Utah State Developmental Center;
- renumbers a statute related to aiding or concealing a juvenile offender, and trespassing in a secure care facility, to Title 76, Utah Criminal Code;
- clarifies that an offense for damaging a jail or other place of confinement is applicable to a child;
- renumbers statutes regarding the Office of the Guardian Ad Litem;
- clarifies the original and concurrent jurisdiction of the juvenile court;
- enacts a statute on the exclusive jurisdiction of the juvenile court;
- modifies the continuing jurisdiction of the juvenile court;
- clarifies jurisdiction for proceedings to determine parentage;
- repeals a provision allowing delinquency records for an individual charged with a felony as an adult to be made available upon request;
- clarifies provisions related to venue for juvenile court proceedings;
- repeals provisions related to venue transfer in the juvenile court;
- clarifies requirements for emergency medical or surgical treatment after a petition is filed in the juvenile court;
- clarifies the requirements and punishments for contempt of court in the juvenile court;
- repeals provisions related to hearings after an adjudication in the juvenile court;
- clarifies the requirements for modifying an order or decree in the juvenile court;
- provides that a county or district attorney may file a criminal information for an adult in the juvenile court for certain offenses;
- clarifies the jurisdiction and requirements for adult criminal proceedings in the juvenile court;
- provides that certain agencies and courts assist and cooperate to further the provisions of Title 80, Utah Juvenile Code;
- clarifies provisions related to abuse, neglect, and dependency proceedings, including provisions related to:
  - individuals entitled to be present at abuse, neglect, and dependency proceedings;
  - consolidating abuse, neglect, and dependency proceedings;
  - records of abuse, neglect, and dependency proceedings;
  - disclosures made by parties in abuse, neglect, and dependency proceedings;
  - physical and mental health examinations for a minor in abuse, neglect, and dependency proceedings;
  - consideration of an individual's cannabis use in abuse, neglect, and dependency proceedings;
  - amending a petition for abuse, neglect, or dependency;
  - referrals for mediation in an abuse, neglect, and dependency proceeding;
  - temporary custody and protective services of a child who is the subject of a petition for abuse, neglect, or dependency;
  - shelter hearings;
  - dispositions that may be ordered after an adjudication on a petition for abuse, neglect, or dependency;
  - permanency hearings; and
  - removal of a minor from the jurisdiction of the juvenile court and custody of the Division of Child and Family Services;
- clarifies provisions related to proceedings for the termination and restoration of parental rights, including provisions related to:
  - the rules of procedure that apply to termination proceedings;
  - individuals entitled to be present at termination proceedings;
  - records of termination proceedings;
  - physical or mental health examinations for termination proceedings;
  - temporary custody of a child after a petition for termination of parental rights is filed;
  - consideration of an individual's use of cannabis in termination proceedings;
  - amending a petition for termination of parental rights; and
  - referrals for mediation in termination proceedings;
- repeals provisions regarding the contents of a petition for termination of parental rights;
- clarifies the responsibilities of the Division of Juvenile Justice Services;

- grants rulemaking authority to the Division of Juvenile Justice Services regarding the operation of certain programs and facilities;
- requires the Division of Juvenile Justice Services to provide prenatal and postnatal care to a pregnant minor who is in secure detention or secure care;
- allows the Division of Juvenile Justice Services to refer a minor, who has a child while the minor is in secure detention or secure care, and the minor's child to the Division of Child and Family Services to receive services;
- requires a report for a runaway be given to the Division of Juvenile Justice Services;
- requires the Division of Juvenile Justice Services to refer a runaway to the Division of Child and Family Services to determine whether the runaway is abused, neglected, or dependent;
- reorganizes and clarifies statutes regarding the Youth Parole Authority;
- modifies school notification requirements for minors who are taken into custody, admitted to detention, or adjudicated by the juvenile court for certain offenses;
- amends the grounds for which a minor may be taken into custody by a peace officer or a juvenile probation officer;
- provides the warrant requirements for taking a minor into custody after a delinquency petition is filed;
- clarifies the requirements for holding a minor in custody and releasing a minor from custody;
- clarifies the requirements for admitting a minor to detention;
- provides the rights that a minor has in a detention facility;
- provides the requirements for interviewing a minor who is taken into custody or admitted to a detention facility;
- clarifies when bail is allowed for a minor who is in a detention facility;
- provides the types of pleas that a minor may enter in the juvenile court and the requirements for a minor to withdraw a plea in the juvenile court;
- clarifies that, in preparing a dispositional report or recommendation, a juvenile probation officer or the juvenile court shall consider the dispositional guidelines;
- provides that competency proceedings apply to a petition or an information filed in the juvenile court for a minor;
- clarifies competency proceedings for minors in juvenile court, including commitment proceedings for a minor who is 18 years old or older;
- clarifies provisions regarding delinquency proceedings, including:
  - when the juvenile court or the Division of Juvenile Justice Services is required to take photographs or fingerprints of a minor;
  - the types of dispositions that a juvenile court may order after a minor is adjudicated for an offense;
  - the requirements for placing a minor in detention after an adjudication; and
  - the time periods for probation and supervision by the juvenile court and the Youth Parole Authority;
- enacts provisions on the rights that minors have for delinquency proceedings;
- provides the burden of proof for an adjudication of an offense;
- amends the time period for suspending a disposition after an adjudication of an offense;
- clarifies provisions regarding the commitment and parole of a minor, including:
  - commitment of a minor to a local mental health authority or the Utah State Developmental Center; and
  - the presumptive terms of commitment to secure care, parole supervision, and aftercare services;
- provides the rights that a juvenile offender has in secure care;
- clarifies provisions regarding youth courts;
- provides that a criminal defense attorney be appointed to the Youth Court Board;
- clarifies provisions regarding juvenile records and expungement;
- clarifies provisions regarding emancipation of a minor;
- repeals statutes relating to the Division of Juvenile Justice Services, Youth Parole Authority, and juvenile court proceedings; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

This bill provides coordination clauses.

Utah Code Sections Affected:

AMENDS:

53G-6-201, as last amended by Laws of Utah 2020, Chapter 20

62A-4a-101, as last amended by Laws of Utah 2019, Chapters 259 and 335

62A-4a-202.2, as last amended by Laws of Utah 2008, Chapter 3

62A-5-308, as last amended by Laws of Utah 2011, Chapter 366

62A-5-309, as last amended by Laws of Utah 2011, Chapter 366

62A-15-705, as last amended by Laws of Utah 2018, Chapter 322

76-8-418, as last amended by Laws of Utah 2005, Chapter 13

78A-6-101, as last amended by Laws of Utah 2012, Chapter 316

78A-6-102, as renumbered and amended by Laws of Utah 2008, Chapter 3

78A-6-103, as last amended by Laws of Utah 2020, Chapters 142, 214, and 250

78A-6-120, as last amended by Laws of Utah 2020, Chapter 214

78A-6-201, as renumbered and amended by Laws of Utah 2008, Chapter 3

78A-6-202, as renumbered and amended by Laws of Utah 2008, Chapter 3

78A-6-203, as last amended by Laws of Utah 2009, Chapter 356

78A-6-204, as renumbered and amended by Laws of Utah 2008, Chapter 3

78A-6-205, as renumbered and amended by Laws of Utah 2008, Chapter 3

78A-6-206, as renumbered and amended by Laws of Utah 2008, Chapter 3
78A-6-207, as renumbered and amended by Laws of Utah 2008, Chapter 3
78A-6-208, as last amended by Laws of Utah 2012, Chapter 316
78A-6-209, as last amended by Laws of Utah 2017, Chapter 326
78A-6-210, as last amended by Laws of Utah 2020, Chapter 312
78A-6-211, as renumbered and amended by Laws of Utah 2008, Chapter 3
78B-6-105, as last amended by Laws of Utah 2020, Chapter 214
78B-15-104, as last amended by Laws of Utah 2010, Chapter 237

ENACTS:
78A-2-801, Utah Code Annotated 1953
78A-6-101.5, Utah Code Annotated 1953
78A-6-103.5, Utah Code Annotated 1953
78A-6-357, Utah Code Annotated 1953
80-1-101, Utah Code Annotated 1953
80-2-101, Utah Code Annotated 1953
80-3-101, Utah Code Annotated 1953
80-3-105, Utah Code Annotated 1953
80-3-106, Utah Code Annotated 1953
80-3-107, Utah Code Annotated 1953
80-3-203, Utah Code Annotated 1953
80-3-206, Utah Code Annotated 1953
80-3-207, Utah Code Annotated 1953
80-3-405, Utah Code Annotated 1953
80-3-503, Utah Code Annotated 1953
80-4-103, Utah Code Annotated 1953
80-4-106, Utah Code Annotated 1953
80-4-107, Utah Code Annotated 1953
80-4-109, Utah Code Annotated 1953
80-4-205, Utah Code Annotated 1953
80-4-206, Utah Code Annotated 1953
80-4-207, Utah Code Annotated 1953
80-5-101, Utah Code Annotated 1953
80-5-102, Utah Code Annotated 1953
80-5-202, Utah Code Annotated 1953
80-5-702, Utah Code Annotated 1953
80-5-703, Utah Code Annotated 1953
80-6-101, Utah Code Annotated 1953
80-6-102, Utah Code Annotated 1953
80-6-103, Utah Code Annotated 1953
80-6-203, Utah Code Annotated 1953
80-6-205, Utah Code Annotated 1953
80-6-206, Utah Code Annotated 1953
80-6-301, Utah Code Annotated 1953
80-6-306, Utah Code Annotated 1953
80-6-602, Utah Code Annotated 1953
80-6-603, Utah Code Annotated 1953
80-6-604, Utah Code Annotated 1953
80-6-606, Utah Code Annotated 1953
80-6-701, Utah Code Annotated 1953
80-6-702, Utah Code Annotated 1953
80-6-703, Utah Code Annotated 1953
80-6-704, Utah Code Annotated 1953
80-6-705, Utah Code Annotated 1953
80-6-706, Utah Code Annotated 1953
80-6-708, Utah Code Annotated 1953
80-6-709, Utah Code Annotated 1953
80-6-710, Utah Code Annotated 1953
80-6-711, Utah Code Annotated 1953
80-6-712, Utah Code Annotated 1953
80-6-801, Utah Code Annotated 1953
80-6-1003, Utah Code Annotated 1953
80-7-101, Utah Code Annotated 1953

REPEALS AND REENACTS:
62A-4a-202.1, as last amended by Laws of Utah 2018, Third Special Session, Chapter 1
78A-6-104, as last amended by Laws of Utah 2020, Chapter 214

RENUMBERS AND AMENDS:
53G-6-210, (Renumbered from 78A-6-319, as last amended by Laws of Utah 2018, Chapter 415)
53G-6-211, (Renumbered from 78A-6-320, as renumbered and amended by Laws of Utah 2008, Chapter 3)
76-8-311.5, (Renumbered from 62A-7-402, as last amended by Laws of Utah 2020, Chapter 214)
78A-2-802, (Renumbered from 78A-6-901, as last amended by Laws of Utah 2014, Chapter 267)
78A-2-803, (Renumbered from 78A-6-902, as last amended by Laws of Utah 2019, Chapter 335)
78A-2-804, (Renumbered from 78A-6-903, as enacted by Laws of Utah 2020, Chapter 230)
78A-6-212, (Renumbered from 62A-7-105.5, as last amended by Laws of Utah 2020, Chapter 214)
78A-6-350, (Renumbered from 78A-6-110, as renumbered and amended by Laws of Utah 2008, Chapter 3)
78A-6-351, (Renumbered from 78A-6-109, as last amended by Laws of Utah 2017, Chapter 330)
78A-6-352, (Renumbered from 78A-6-111, as last amended by Laws of Utah 2018, Chapter 148)
78A-6-353, (Renumbered from 78A-6-1101, as last amended by Laws of Utah 2019, Chapter 162)
78A-6-354, (Renumbered from 78A-6-114, as last amended by Laws of Utah 2020, Chapter 142)
78A-6-355, (Renumbered from 78A-6-1112, as renumbered and amended by Laws of Utah 2008, Chapter 3)
78A-6-356, (Renumbered from 78A-6-1106, as last amended by Laws of Utah 2018, Chapter 56)
78A-6-358, (Renumbered from 78A-6-118, as last amended by Laws of Utah 2020, Chapter 214)
78A-6-359, (Renumbered from 78A-6-1109, as last amended by Laws of Utah 2013, Chapter 245)
78A-6-450, (Renumbered from 78A-6-1001, as last amended by Laws of Utah 2018, Chapter 415)
78A-6-451, (Renumbered from 78A-6-1002, as last amended by Laws of Utah 2013, Chapter 237)

78A-6-452, (Renumbered from 78A-6-1003, as renumbered and amended by Laws of Utah 2008, Chapter 3)
80-1-102, (Renumbered from 78A-6-105, as last amended by Laws of Utah 2020, Chapters 214, 312 and last amended by Coordination Clause, Laws of Utah 2020, Chapter 214)
80-1-103, (Renumbered from 78A-6-1110, as renumbered and amended by Laws of Utah 2008, Chapter 3)
80-3-102, (Renumbered from 78A-6-301, as last amended by Laws of Utah 2018, Chapter 46)
80-3-103, (Renumbered from 78A-6-303, as renumbered and amended by Laws of Utah 2008, Chapter 3)
80-3-104, (Renumbered from 78A-6-317, as last amended by Laws of Utah 2019, Chapters 326 and 335)
80-3-108, (Renumbered from 78A-6-305, as last amended by Laws of Utah 2019, Chapter 71)
80-3-109, (Renumbered from 78A-6-324, as renumbered and amended by Laws of Utah 2008, Chapter 3)
80-3-110, (Renumbered from 78A-6-115, as last amended by Laws of Utah 2020, Chapters 12, 132, 250, and 354)
80-3-201, (Renumbered from 78A-6-304, as last amended by Laws of Utah 2020, Chapter 158)
80-3-202, (Renumbered from 78A-6-107, as renumbered and amended by Laws of Utah 2008, Chapter 3)
80-3-204, (Renumbered from 78A-6-302, as last amended by Laws of Utah 2020, Chapter 158)
80-3-205, (Renumbered from 78A-6-322, as last amended by Laws of Utah 2017, Chapter 459)
80-3-301, (Renumbered from 78A-6-306, as last amended by Laws of Utah 2020, Chapters 158 and 214)
80-3-302, (Renumbered from 78A-6-307, as last amended by Laws of Utah 2020, Chapter 250)
80-3-303, (Renumbered from 78A-6-307.5, as last amended by Laws of Utah 2019, Chapter 71)
80-3-304, (Renumbered from 78A-6-301.5, as enacted by Laws of Utah 2015, Chapter 274)
80-3-305, (Renumbered from 78A-6-308, as last amended by Laws of Utah 2012, Chapter 293)
80-3-306, (Renumbered from 78A-6-308.5, as enacted by Laws of Utah 2018, Chapter 46)
80-3-401, (Renumbered from 78A-6-309, as renumbered and amended by Laws of Utah 2008, Chapter 3)
80-3-402, (Renumbered from 78A-6-311, as renumbered and amended by Laws of Utah 2008, Chapter 3)
80-3-403, (Renumbered from 78A-6-321, as renumbered and amended by Laws of Utah 2008, Chapter 3)
80-3-404, (Renumbered from 78A-6-323, as last amended by Laws of Utah 2015, Chapters 255 and 307)
80-3-406, (Renumbered from 78A-6-312, as last amended by Laws of Utah 2020, Chapter 214)
80-3-407, (Renumbered from 78A-6-313, as renumbered and amended by Laws of Utah 2008, Chapter 3)
80-3-408, (Renumbered from 78A-6-315, as last amended by Laws of Utah 2009, Chapter 161)
80-3-409, (Renumbered from 78A-6-314, as last amended by Laws of Utah 2020, Chapter 158)
80-3-501, (Renumbered from 78A-6-311.5, as last amended by Laws of Utah 2020, Chapter 250)
80-3-502, (Renumbered from 78A-6-318, as last amended by Laws of Utah 2018, Chapter 285)
80-4-101, (Renumbered from 78A-6-501, as renumbered and amended by Laws of Utah 2008, Chapter 3)
80-4-102, (Renumbered from 78A-6-502, as renumbered and amended by Laws of Utah 2008, Chapter 3)
80-4-104, (Renumbered from 78A-6-503, as last amended by Laws of Utah 2020, Chapter 158)
80-4-105, (Renumbered from 78A-6-513, as last amended by Laws of Utah 2013, Chapters 340, 416 and last amended by Coordination Clause, Laws of Utah 2013, Chapter 416)
80-4-108, (Renumbered from 78A-6-515, as last amended by Laws of Utah 2012, Chapter 120)
80-4-201, (Renumbered from 78A-6-504, as renumbered and amended by Laws of Utah 2008, Chapter 3)
80-4-202, (Renumbered from 78A-6-505, as renumbered and amended by Laws of Utah 2008, Chapter 3)
80-4-203, (Renumbered from 78A-6-316, as renumbered and amended by Laws of Utah 2008, Chapter 3)
80-4-204, (Renumbered from 78A-6-506, as last amended by Laws of Utah 2018, Chapter 359)
80-4-301, (Renumbered from 78A-6-507, as last amended by Laws of Utah 2020, Chapter 158)
80-4-302, (Renumbered from 78A-6-508, as last amended by Laws of Utah 2018, Third Special Session, Chapter 1)
80-4-303, (Renumbered from 78A-6-509, as renumbered and amended by Laws of Utah 2008, Chapter 3)
80-4-304, (Renumbered from 78A-6-510, as renumbered and amended by Laws of Utah 2008, Chapter 3)

80-4-305, (Renumbered from 78A-6-511, as last amended by Laws of Utah 2013, Chapter 416 and last amended by Coordination Clause, Laws of Utah 2013, Chapter 416)
80-4-306, (Renumbered from 78A-6-512, as last amended by Laws of Utah 2009, Chapter 32)
80-4-307, (Renumbered from 78A-6-514, as renumbered and amended by Laws of Utah 2008, Chapter 3)
80-4-401, (Renumbered from 78A-6-1403, as last amended by Laws of Utah 2015, Chapter 272)
80-4-402, (Renumbered from 78A-6-1404, as last amended by Laws of Utah 2015, Chapter 272)
80-5-103, (Renumbered from 62A-7-102, as last amended by Laws of Utah 2019, Chapter 246)
80-5-104, (Renumbered from 62A-7-103, as last amended by Laws of Utah 2019, Chapter 246)
80-5-201, (Renumbered from 62A-7-104, as last amended by Laws of Utah 2020, Chapter 214)
80-5-203, (Renumbered from 78A-6-124, as enacted by Laws of Utah 2017, Chapter 330)
80-5-204, (Renumbered from 62A-7-106.5, as last amended by Laws of Utah 2019, Chapter 246)
80-5-205, (Renumbered from 62A-7-107.5, as last amended by Laws of Utah 2020, Chapter 214)
80-5-206, (Renumbered from 62A-7-108.5, as last amended by Laws of Utah 2020, Chapter 214)
80-5-207, (Renumbered from 62A-7-109.5, as last amended by Laws of Utah 2020, Chapter 214)
80-5-208, (Renumbered from 62A-7-403, as last amended by Laws of Utah 2020, Chapter 214)
80-5-301, (Renumbered from 62A-7-104.5, as enacted by Laws of Utah 2013, Chapter 452)
80-5-302, (Renumbered from 62A-7-112, as enacted by Laws of Utah 2019, Chapter 162)
80-5-303, (Renumbered from 62A-7-113, as last amended by Laws of Utah 2020, Chapter 214)
80-5-401, (Renumbered from 62A-7-601, as last amended by Laws of Utah 2019, Chapter 246)
80-5-402, (Renumbered from 62A-7-701, as last amended by Laws of Utah 2020, Chapter 214)
80-5-403, (Renumbered from 62A-7-702, as last amended by Laws of Utah 2020, Chapter 214)
80-5-501, (Renumbered from 62A-7-202, as last amended by Laws of Utah 2017, Chapter 330)
80-5-502, (Renumbered from 62A-7-203, as last amended by Laws of Utah 2012, Chapter 242)
80-5-503, (Renumbered from 62A-7-401.5, as last amended by Laws of Utah 2020, Chapter 214)
80-5-601, (Renumbered from 62A-4a-501, as last amended by Laws of Utah 2019, Chapter 242)
80-5-602, (Renumbered from 62A-4a-502, as enacted by Laws of Utah 2019, Chapter 242)
80-5-603, (Renumbered from 78A-6-117.5, as last amended by Laws of Utah 2020, Chapter 250)
80-5-701, (Renumbered from 62A-7-501, as last amended by Laws of Utah 2020, Chapters 214 and 352)
80-6-201, (Renumbered from 78A-6-112, as last amended by Laws of Utah 2020, Chapter 214)
80-6-202, (Renumbered from 78A-6-106.5, as enacted by Laws of Utah 2017, Chapter 330)
80-6-204, (Renumbered from 62A-7-201, as last amended by Laws of Utah 2020, Chapter 214)
80-6-207, (Renumbered from 78A-6-113, as last amended by Laws of Utah 2020, Chapters 214, 250, and 312)
80-6-302, (Renumbered from 78A-6-603, as last amended by Laws of Utah 2020, Chapters 214, 312 and last amended by Coordination Clause, Laws of Utah 2020, Chapter 214)
80-6-303, (Renumbered from 78A-6-601, as last amended by Laws of Utah 2020, Chapters 214, 312 and last amended by Coordination Clause, Laws of Utah 2020, Chapter 214)
80-6-304, (Renumbered from 78A-6-602, as last amended by Laws of Utah 2020, Fifth Special Session, Chapter 4)
80-6-305, (Renumbered from 78A-6-602.5, as last amended by Laws of Utah 2020, Fifth Special Session, Chapter 4)
80-6-307, (Renumbered from 78A-6-605, as renumbered and amended by Laws of Utah 2008, Chapter 3)
80-6-401, (Renumbered from 78A-6-1301, as last amended by Laws of Utah 2019, Chapter 388)
80-6-402, (Renumbered from 78A-6-1302, as last amended by Laws of Utah 2019, Chapters 136, 335, and 388)
80-6-403, (Renumbered from 78A-6-1303, as last amended by Laws of Utah 2019, Chapter 388)
80-6-501, (Renumbered from 78A-6-703.1, as enacted by Laws of Utah 2020, Chapter 214)
80-6-502, (Renumbered from 78A-6-703.2, as enacted by Laws of Utah 2020, Chapter 214)

80-6-503, (Renumbered from 78A-6-703.3, as enacted by Laws of Utah 2020, Chapter 214)
80-6-504, (Renumbered from 78A-6-703.5, as enacted by Laws of Utah 2020, Chapter 214)
80-6-505, (Renumbered from 78A-6-703.6, as enacted by Laws of Utah 2020, Chapter 214)
80-6-506, (Renumbered from 78A-6-704, as last amended by Laws of Utah 2020, Chapter 214)
80-6-507, (Renumbered from 78A-6-705, as last amended by Laws of Utah 2020, Chapter 214)
80-6-601, (Renumbered from 78A-6-116, as last amended by Laws of Utah 2020, Chapters 214, 218, 312 and last amended by Coordination Clause, Laws of Utah 2020, Chapter 214)
80-6-605, (Renumbered from 78A-6-703.4, as enacted by Laws of Utah 2020, Chapter 214)
80-6-607, (Renumbered from 78A-6-123, as last amended by Laws of Utah 2020, Chapter 142)
80-6-608, (Renumbered from 78A-6-1104, as last amended by Laws of Utah 2012, Chapter 369)
80-6-609, (Renumbered from 78A-6-122, as enacted by Laws of Utah 2015, Chapter 338)
80-6-610, (Renumbered from 78A-6-1113, as last amended by Laws of Utah 2015, Chapter 258)
80-6-707, (Renumbered from 78A-6-606, as last amended by Laws of Utah 2017, Chapter 330)
80-6-802, (Renumbered from 62A-7-404, as repealed and reenacted by Laws of Utah 2020, Chapter 214)
80-6-803, (Renumbered from 62A-7-111.5, as last amended by Laws of Utah 2020, Chapter 214)
80-6-804, (Renumbered from 62A-7-404.5, as enacted by Laws of Utah 2020, Chapter 214)
80-6-805, (Renumbered from 62A-7-502, as last amended by Laws of Utah 2020, Chapter 214)
80-6-806, (Renumbered from 62A-7-504, as last amended by Laws of Utah 2020, Chapter 214)
80-6-807, (Renumbered from 62A-7-506, as last amended by Laws of Utah 2020, Chapter 214)
80-6-808, (Renumbered from 62A-7-507, as last amended by Laws of Utah 2020, Chapter 214)
80-6-901, (Renumbered from 78A-6-1202, as last amended by Laws of Utah 2017, Chapter 330)
80-6-902, (Renumbered from 78A-6-1203, as last amended by Laws of Utah 2018, Chapter 415)
80-6-903, (Renumbered from 78A-6-1204, as renumbered and amended by Laws of Utah 2008, Chapter 3)
80-6-904, (Renumbered from 78A-6-1205, as last amended by Laws of Utah 2009, Chapter 356)
80-6-905, (Renumbered from 78A-6-1206, as last amended by Laws of Utah 2009, Chapter 356)
80-6-906, (Renumbered from 78A-6-1207, as last amended by Laws of Utah 2013, Chapter 27)
80-6-907, (Renumbered from 78A-6-1208, as last amended by Laws of Utah 2013, Chapter 27)
80-6-908, (Renumbered from 78A-6-1209, as renumbered and amended by Laws of Utah 2008, Chapter 3)
80-6-909, (Renumbered from 78A-6-1210, as renumbered and amended by Laws of Utah 2008, Chapter 123)
80-6-1001, (Renumbered from 78A-6-1502, as enacted by Laws of Utah 2020, Chapter 218)
80-6-1002, (Renumbered from 78A-6-1114, as last amended by Laws of Utah 2020, Chapter 108)
80-6-1004, (Renumbered from 78A-6-1503, as renumbered and amended by Laws of Utah 2020, Chapter 218)
80-6-1005, (Renumbered from 78A-6-1504, as enacted by Laws of Utah 2020, Chapter 218)
80-6-1006, (Renumbered from 78A-6-1505, as enacted by Laws of Utah 2020, Chapter 218)
80-6-1007, (Renumbered from 78A-6-1506, as enacted by Laws of Utah 2020, Chapter 218)
80-7-102, (Renumbered from 78A-6-802, as renumbered and amended by Laws of Utah 2008, Chapter 3)
80-7-103, (Renumbered from 78A-6-803, as renumbered and amended by Laws of Utah 2008, Chapter 3)
80-7-104, (Renumbered from 78A-6-804, as last amended by Laws of Utah 2010, Chapter 259)
80-7-105, (Renumbered from 78A-6-805, as renumbered and amended by Laws of Utah 2008, Chapter 3)

REPEALS:
62A-4a-203.5, as last amended by Laws of Utah 2008, Chapter 3
62A-7-101, as last amended by Laws of Utah 2020, Chapter 214
62A-7-503, as renumbered and amended by Laws of Utah 2005, Chapter 13
62A-7-505, as last amended by Laws of Utah 2020, Chapter 214
78A-6-106, as last amended by Laws of Utah 2018, Chapter 285
78A-6-108, as last amended by Laws of Utah 2020, Chapter 214

78A-6-117, as last amended by Laws of Utah 2020, Fifth Special Session, Chapters 20 and 20
78A-6-119, as last amended by Laws of Utah 2019, Chapter 162
78A-6-121, as last amended by Laws of Utah 2017, Chapter 330
78A-6-310, as renumbered and amended by Laws of Utah 2008, Chapter 3
78A-6-604, as last amended by Laws of Utah 2019, Chapter 162
78A-6-801, as renumbered and amended by Laws of Utah 2008, Chapter 3
78A-6-1102, as renumbered and amended by Laws of Utah 2008, Chapter 3
78A-6-1103, as last amended by Laws of Utah 2019, Chapters 136 and 335
78A-6-1107, as last amended by Laws of Utah 2020, Chapter 214
78A-6-1108, as last amended by Laws of Utah 2020, Chapter 214
78A-6-1111, as last amended by Laws of Utah 2020, Chapters 371, 392, and 395
78A-6-1201, as renumbered and amended by Laws of Utah 2008, Chapter 3
78A-6-1401, as enacted by Laws of Utah 2013, Chapter 340
78A-6-1402, as enacted by Laws of Utah 2013, Chapter 340
78A-6-1501, as enacted by Laws of Utah 2020, Chapter 218

Utah Code Sections Affected by Coordination Clause:
62A-4a-101, as last amended by Laws of Utah 2019, Chapters 259 and 335
76-3-201, as last amended by Laws of Utah 2017, Chapter 304
76-3-401.5, Utah Code Annotated 1953
77-40-105, as last amended by Laws of Utah 2020, Chapters 177 and 218
80-3-102, Utah Code Annotated 1953
80-3-110, Utah Code Annotated 1953
80-6-206, Utah Code Annotated 1953

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

Section 1. Section 53G-6-201 is amended to read:

53G-6-201. Definitions.

As used in this part:

(1) (a) "Absence" or "absent" means the failure of a school-age child assigned to a class or class period to attend a class or class period.

(b) "Absence" or "absent" does not mean multiple tardies used to calculate an absence for the sake of a truancy.

[~~(2) "Minor" means a person under the age of 18 years.~~]

(2) "Educational neglect" means the same as that term is defined in Section 80-1-102.

(3) "Minor" means an individual who is under 18 years old.

[~~(3)~~] (4) "Parent" includes:

(a) a custodial parent of the minor;

(b) a legally appointed guardian of a minor; or

(c) any other person purporting to exercise any authority over the minor which could be exercised by a person described in Subsection [~~(3)~~] (4)(a) or (b).

[~~(4)~~] (5) "School day" means the portion of a day that school is in session in which a school-age child is required to be in school for purposes of receiving instruction.

[~~(5)~~] (6) "School year" means the period of time designated by a local school board or charter school governing board as the school year for the school where the school-age child:

(a) is enrolled; or

(b) should be enrolled, if the school-age child is not enrolled in school.

[~~(6)~~] (7) "School-age child" means a minor who:

(a) is at least six years old but younger than 18 years old; and

(b) is not emancipated.

[~~(7)~~] (8) (a) "Truant" means a condition in which a school-age child, without a valid excuse, and subject to Subsection [~~(7)~~] (8)(b), is absent for at least:

(i) half of the school day; or

(ii) if the school-age child is enrolled in a learner verified program, as that term is defined by the state board, the relevant amount of time under the LEA's policy regarding the LEA's continuing enrollment measure as it relates to truancy.

(b) A school-age child may not be considered truant under this part more than one time during one day.

[~~(8)~~] (9) "Truant minor" means a school-age child who:

(a) is subject to the requirements of Section 53G-6-202 or 53G-6-203; and

(b) is truant.

[~~(9)~~] (10) (a) "Valid excuse" means:

(i) an illness, which may be either mental or physical;

(ii) a family death;

(iii) an approved school activity;

(iv) an absence permitted by a school-age child's:

(A) individualized education program; or

(B) Section 504 accommodation plan;

(v) an absence permitted in accordance with Subsection 53G-6-803(5); or

(vi) any other excuse established as valid by a local school board, charter school governing board, or school district.

(b) "Valid excuse" does not mean a parent acknowledgment of an absence for a reason other

than a reason described in Subsections [~~(9)~~] (10)(a)(i) through (vi), unless specifically permitted by the local school board, charter school governing board, or school district under Subsection [~~(9)~~] (10)(a)(vi).

Section 2. Section 53G-6-210, which is renumbered from Section 78A-6-319 is renumbered and amended to read:

[~~78A-6-319~~]. 53G-6-210. Educational neglect of a minor -- Procedures -- Defenses.

(1) With regard to a [~~child~~] minor who is the subject of a petition [~~under this chapter~~] under Section 80-3-201 based on educational neglect:

(a) if allegations include failure of a [~~child~~] minor to make adequate educational progress, the juvenile court shall permit demonstration of the [~~child's~~] minor's educational skills and abilities based upon any of the criteria used in granting school credit, in accordance with Section 53G-6-702;

(b) parental refusal to comply with actions taken by school authorities in violation of Section 53G-10-202, 53G-10-205, 53G-10-403, or 53G-10-203, does not constitute educational neglect;

(c) parental refusal to support efforts by a school to encourage a [~~child~~] minor to act in accordance with any educational objective that focuses on the adoption or expression of a personal philosophy, attitude, or belief that is not reasonably necessary to maintain order and discipline in the school, prevent unreasonable endangerment of persons or property, or to maintain concepts of civility and propriety appropriate to a school setting, does not constitute educational neglect; and

(d) an allegation of educational neglect may not be sustained, based solely on a [~~child's~~] minor's absence from school, unless the [~~child~~] minor has been absent from school or from any given class, without good cause, for more than 10 consecutive school days or more than 1/16 of the applicable school term.

(2) A [~~child~~] minor may not be considered to be educationally neglected, for purposes of this chapter:

(a) unless there is clear and convincing evidence that:

(i) the [~~child~~] minor has failed to make adequate educational progress, and school officials have complied with the requirements of Section 53G-6-206; and

(ii) the [~~child~~] minor is two or more years behind the local public school's age group expectations in one or more basic skills, and is not receiving special educational services or systematic remediation efforts designed to correct the problem;

(b) if the [~~child's~~] minor's parent or guardian establishes by a preponderance of the evidence that:

(i) school authorities have failed to comply with the requirements of [~~Title 53G, Public Education System -- Local Administration~~] this title;

(ii) the [~~child~~] minor is being instructed at home in compliance with Section 53G-6-204;

(iii) there is documentation that the [~~child~~] minor has demonstrated educational progress at a level commensurate with the [~~child's~~] minor's ability;

(iv) the parent, guardian, or other person in control of the [~~child~~] minor has made a good faith effort to secure the [~~child's~~] minor's regular attendance in school;

(v) good cause or a valid excuse exists for the [~~child's~~] minor's absence from school;

(vi) the [~~child~~] minor is not required to attend school [~~pursuant to~~] under court order or is exempt under other applicable state or federal law;

(vii) the [~~student~~] minor has performed above the twenty-fifth percentile of the local public school's age group expectations in all basic skills, as measured by a standardized academic achievement test administered by the school district where the [~~student~~] minor resides; or

(viii) the parent or guardian [~~has proffered~~] presented a reasonable alternative curriculum to required school curriculum, in accordance with Section 53G-10-205 or 53G-10-403, [~~that~~] and the alternative curriculum was rejected by the school district, but the parents have implemented the alternative curriculum; or

(c) if the [~~child~~] minor is attending school on a regular basis.

Section 3. Section 53G-6-211, which is renumbered from Section 78A-6-320 is renumbered and amended to read:

[~~78A-6-320~~]. 53G-6-211. Proceedings arising from failure to attend public school.

(1) (a) When a proceeding under Title 80, Chapter 3, Abuse, Neglect, and Dependency Proceedings, arises from a [~~child's~~] minor's failure to attend public school based upon the assertion of a constitutional or statutory right or duty, raised either by the [~~child or by the child's custodial~~] minor, or by the minor's parent, guardian, or custodian, the juvenile court shall hear the petition and resolve the issues associated with the asserted constitutional or statutory claims within 15 days after the day on which the petition is filed.

(b) The parties may waive the time limitation described in this subsection.

(2) Absent an emergency situation or other exigent circumstances, the juvenile court may not enter any order changing the educational status of the [~~child~~] minor that existed at the time the petition was filed, until the hearing described in Subsection (1) is concluded.

(3) [~~Parties~~] A party proceeding under this section shall, insofar as it is possible, provide the juvenile court with factual stipulations and make

all other efforts that are reasonably available to minimize the time required to hear the claims described in Subsection (1).

Section 4. Section 62A-4a-101 is amended to read:

62A-4a-101. Definitions.

As used in this chapter:

(1) "Abuse" means the same as that term is defined in Section [~~78A-6-105~~] 80-1-102.

(2) "Adoption services" means:

(a) placing children for adoption;

(b) subsidizing adoptions under Section 62A-4a-105;

(c) supervising adoption placements until the adoption is finalized by the court;

(d) conducting adoption studies;

(e) preparing adoption reports upon request of the court; and

(f) providing postadoptive placement services, upon request of a family, for the purpose of stabilizing a possible disruptive placement.

(3) "Child" means, except as provided in Part 7, Interstate Compact on Placement of Children, [~~a person~~] an individual under 18 years [~~of age~~] old.

(4) "Child protection team" means a team consisting of:

(a) the caseworker assigned to the case;

(b) the caseworker who made the decision to remove the child;

(c) a representative of the school or school district where the child attends school;

(d) the peace officer who removed the child from the home;

(e) a representative of the appropriate Children's Justice Center, if one is established within the county where the child resides;

(f) if appropriate, and known to the division, a therapist or counselor who is familiar with the child's circumstances;

(g) members of a child protection unit; and

(h) any other individuals determined appropriate and necessary by the team coordinator and chair.

(5) "Child protection unit" means any unit created by a chief of police or a sheriff of a city, town, metro township, or county that is composed of at least the following individuals who are trained in the prevention, identification, and treatment of abuse or neglect:

(a) a law enforcement officer, as defined in Section 53-13-103; and

(b) a child advocate selected by the chief of police or a sheriff.

(6) (a) "Chronic abuse" means repeated or patterned abuse.

(b) "Chronic abuse" does not mean an isolated incident of abuse.

(7) (a) "Chronic neglect" means repeated or patterned neglect.

(b) "Chronic neglect" does not mean an isolated incident of neglect.

(8) "Consult" means an interaction between two persons in which the initiating person:

(a) provides information to another person;

(b) provides the other person an opportunity to respond; and

(c) takes the other person's response, if any, into consideration.

(9) "Consumer" means a person who receives services offered by the division in accordance with this chapter.

(10) "Custody," with regard to the division, means the custody of a minor in the division as of the date of disposition.

(11) "Day-care services" means care of a child for a portion of the day which is less than 24 hours:

(a) in the child's own home by a responsible person; or

(b) outside of the child's home in a:

(i) day-care center;

(ii) family group home; or

(iii) family child care home.

(12) "Dependent child" or "dependency" means a child, or the condition of a child, who is homeless or without proper care through no fault of the child's parent, guardian, or custodian.

(13) "Director" means the director of the Division of Child and Family Services created in Section 62A-4a-103.

(14) "Division" means the Division of Child and Family Services.

(15) "Domestic violence services" means:

(a) temporary shelter, treatment, and related services to:

(i) a person who is a victim of abuse, as defined in Section 78B-7-102; and

(ii) the dependent children of a person who is a victim of abuse, as defined in Section 78B-7-102; and

(b) treatment services for a person who is alleged to have committed, has been convicted of, or has pled guilty to, an act of domestic violence as defined in Section 77-36-1.

(16) "Educational neglect" means the same as that term is defined in Section 80-1-102.

[~~(16)~~] (17) "Harm" means the same as that term is defined in Section [~~78A-6-105~~] 80-1-102.

[~~(17)~~] (18) "Homemaking service" means the care of individuals in their domiciles, and help given to individual caretaker relatives to achieve improved household and family management through the services of a trained homemaker.

[~~(18)~~] (19) "Incest" means the same as that term is defined in Section [~~78A-6-105~~] 80-1-102.

[~~(19)~~] (20) "Indian child" means the same as that term is defined in 25 U.S.C. Sec. 1903.

[~~(20)~~] (21) "Indian tribe" means the same as that term is defined in 25 U.S.C. Sec. 1903.

[~~(21)~~] (22) "Minor" means, except as provided in Part 7, Interstate Compact on Placement of Children[~~:~~], the same as that term is defined in Section 80-1-102.

[~~(a) a child; or~~]

[~~(b) a person:~~]

[~~(i) who is at least 18 years of age and younger than 21 years of age; and~~]

[~~(ii) for whom the division has been specifically ordered by the juvenile court to provide services.~~]

[~~(22)~~] (23) "Molestation" means the same as that term is defined in Section [~~78A-6-105~~] 80-1-102.

[~~(23)~~] (24) "Mutual case" means a case that has been:

(a) opened by the division under the division's discretion and procedures;

(b) opened by the law enforcement agency with jurisdiction over the case; and

(c) accepted for investigation by the child protection unit established by the chief of police or sheriff, as applicable.

[~~(24) "Natural parent" means a minor's biological or adoptive parent, and includes a minor's noncustodial parent.~~]

(25) "Natural parent" means the same as that term is defined in Section 80-1-102.

[~~(25)~~] (26) "Neglect" means the same as that term is defined in Section [~~78A-6-105~~] 80-1-102.

[~~(26) "Protective custody," with regard to the division, means the shelter of a child by the division from the time the child is removed from the child's home until the earlier of:~~]

[~~(a) the shelter hearing; or~~]

[~~(b) the child's return home.~~]

(27) "Protective custody" means the same as that term is defined in Section 80-1-102.

[~~(27)~~] (28) "Protective services" means expedited services that are provided:

(a) in response to evidence of neglect, abuse, or dependency of a child;

(b) to a cohabitant who is neglecting or abusing a child, in order to:

(i) help the cohabitant develop recognition of the cohabitant's duty of care and of the causes of neglect or abuse; and

(ii) strengthen the cohabitant's ability to provide safe and acceptable care; and

(c) in cases where the child's welfare is endangered:

(i) to bring the situation to the attention of the appropriate juvenile court and law enforcement agency;

(ii) to cause a protective order to be issued for the protection of the child, when appropriate; and

(iii) to protect the child from the circumstances that endanger the child's welfare including, when appropriate:

(A) removal from the child's home;

(B) placement in substitute care; and

(C) petitioning the court for termination of parental rights.

[~~(28)~~] (29) "Severe abuse" means the same as that term is defined in Section [~~78A-6-105~~] 80-1-102.

[~~(29)~~] (30) "Severe neglect" means the same as that term is defined in Section [~~78A-6-105~~] 80-1-102.

[~~(30)~~] (31) "Sexual abuse" means the same as that term is defined in Section [~~78A-6-105~~] 80-1-102.

[~~(31)~~] (32) "Sexual exploitation" means the same as that term is defined in Section [~~78A-6-105~~] 80-1-102.

[~~(32)~~] (33) "Shelter care" means the temporary care of a minor in a nonsecure facility.

(34) "Shelter facility" means a nonsecure facility that provides shelter care for a minor.

[~~(33)~~] (35) "Sibling" means a child who shares or has shared at least one parent in common either by blood or adoption.

[~~(34)~~] (36) "Sibling visitation" means services provided by the division to facilitate the interaction between a child in division custody with a sibling of that child.

[~~(35)~~] (37) "State" means:

(a) a state of the United States;

(b) the District of Columbia;

(c) the Commonwealth of Puerto Rico;

(d) the Virgin Islands;

(e) Guam;

(f) the Commonwealth of the Northern Mariana Islands; or

(g) a territory or possession administered by the United States.

[~~(36)~~] (38) "State plan" means the written description of the programs for children, youth, and family services administered by the division in accordance with federal law.

[~~(37)~~] (39) "Status offense" means [~~a violation of the law that would not be a violation but for the age of the offender~~] the same as that term is defined in Section 80-1-102.

[~~(38)~~] (40) "Substance abuse" means the same as that term is defined in Section [~~78A-6-105~~] 80-1-102.

[~~(39)~~] (41) "Substantiated" or "substantiation" means a judicial finding based on a preponderance of the evidence that abuse or neglect occurred. Each allegation made or identified in a given case shall be considered separately in determining whether there should be a finding of substantiated.

[~~(40)~~] (42) "Substitute care" means:

(a) the placement of a minor in a family home, group care facility, or other placement outside the minor's own home, either at the request of a parent or other responsible relative, or upon court order, when it is determined that continuation of care in the minor's own home would be contrary to the minor's welfare;

(b) services provided for a minor awaiting placement; and

(c) the licensing and supervision of a substitute care facility.

[~~(41)~~] (43) "Supported" means a finding by the division based on the evidence available at the completion of an investigation that there is a reasonable basis to conclude that abuse, neglect, or dependency occurred. Each allegation made or identified during the course of the investigation shall be considered separately in determining whether there should be a finding of supported.

[~~(42) "Temporary custody," with regard to the division, means the custody of a child in the division from the date of the shelter hearing until disposition.~~]

(44) "Temporary custody" means, with regard to the division, the custody of a child from the day on which the shelter hearing described in Section 80-3-301 is held until the day on which the juvenile court enters a disposition under Section 80-3-405.

[~~(43)~~] (45) "Threatened harm" means the same as that term is defined in Section [~~78A-6-105~~] 80-1-102.

[~~(44)~~] (46) "Transportation services" means travel assistance given to an individual with escort service, if necessary, to and from community facilities and resources as part of a service plan.

[~~(45)~~] (47) "Unsubstantiated" means a judicial finding that there is insufficient evidence to conclude that abuse or neglect occurred.

[~~(46)~~] (48) "Unsupported" means a finding by the division at the completion of an investigation that there is insufficient evidence to conclude that abuse, neglect, or dependency occurred. However, a finding of unsupported means also that the division did not conclude that the allegation was without merit.

[~~(47)~~] (49) "Without merit" means a finding at the completion of an investigation by the division, or a judicial finding, that the alleged abuse, neglect, or dependency did not occur, or that the alleged perpetrator was not responsible for the abuse, neglect, or dependency.

Section 5. Section 62A-4a-202.1 is repealed and reenacted to read:

62A-4a-202.1. Removal or protective custody of a child -- Search warrants -- Temporary care of a child.

(1) A peace officer or a child welfare worker may not enter the home of a child whose case is not under the jurisdiction of the court, remove a child from the child's home or school, or take a child into protective custody unless:

(a) there exist exigent circumstances sufficient to relieve the peace officer or the child welfare worker of the requirement to obtain a search warrant under Subsection (4) or (8);

(b) the peace officer or the child welfare worker obtains a search warrant under Subsection (4) or (8);

(c) the peace officer or the child welfare worker obtains a court order after the child's parent or guardian is given notice and an opportunity to be heard; or

(d) the peace officer or the child welfare worker obtains the consent of the child's parent or guardian.

(2) A peace officer or a child welfare worker may not remove a child from the child's home or take a child into custody under this section solely on the basis of:

(a) educational neglect, truancy, or failure to comply with a court order to attend school; or

(b) the possession or use, in accordance with Title 26, Chapter 61a, Utah Medical Cannabis Act, of cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device, as those terms are defined in Section 26-61a-102.

(3) (a) A child welfare worker may take action under Subsection (1) accompanied by a peace officer or without a peace officer if a peace officer is not reasonably available.

(b) Before taking a child into protective custody, and if possible and if consistent with the child's safety and welfare, a child welfare worker shall determine whether there are services available that, if provided to a parent or guardian of the child, would eliminate the need to remove the child from the custody of the child's parent or guardian.

(c) If the services described in Subsection (3)(b) are reasonably available, the services described in Subsection (3)(b) shall be utilized.

(d) In determining whether the services described in Subsection (3)(b) are reasonably available, and in making reasonable efforts to provide the services described in Subsection (3)(b),

the child's health, safety, and welfare shall be the child welfare worker's paramount concern.

(4) (a) The juvenile court may issue a warrant authorizing a peace officer or a child welfare worker to search for a child and take the child into protective custody if it appears to the juvenile court upon a verified petition, recorded sworn testimony or an affidavit sworn to by a peace officer or any other individual, and upon the examination of other witnesses if required by the juvenile court, that there is probable cause to believe that:

(i) there is a threat of substantial harm to the child's health or safety;

(ii) it is necessary to take the child into protective custody to avoid the harm described in Subsection (4)(a)(i); and

(iii) it is likely that the child will suffer substantial harm if the parent or guardian of the child is given notice and an opportunity to be heard before the child is taken into protective custody.

(b) In accordance with Section 77-23-210, a peace officer making the search may enter a house or premises by force, if necessary, in order to remove the child.

(c) The individual executing the warrant shall take the child to a shelter facility designated by the juvenile court or the division or to an emergency placement if the division makes an emergency placement under Section 62A-4a-209.

(5) If a peace officer or a child welfare worker takes a child into protective custody under Subsection (1), the peace officer or the child welfare worker shall:

(a) notify the child's parent or guardian as described in Section 62A-4a-202.2;

(b) release the child to the care of the child's parent, guardian, or another responsible adult, unless:

(i) the child's immediate welfare requires the child remain in protective custody; or

(ii) the protection of the community requires the child's detention in accordance with Title 80, Chapter 6, Part 2, Custody and Detention.

(6) If a peace officer or a child welfare worker takes a child to a shelter facility, the peace officer or the child welfare worker shall promptly file a written report, on a form provided by the division, with the shelter facility.

(7) (a) A child removed or taken into protective custody under this section may not be placed or kept in detention, as defined in Section 80-1-102, pending court proceedings, unless the child may be held in detention under Title 80, Chapter 6, Part 2, Custody and Detention.

(b) A child removed from the custody of the child's parent or guardian but who does not require physical restriction shall be given temporary care in:

(i) a shelter facility; or

(ii) an emergency placement in accordance with Section 62A-4a-209.

(c) When making a placement under Subsection (7)(b), the division shall give priority to a placement with a noncustodial parent, relative, or friend in accordance with Section 62A-4a-209.

(d) If the child is not placed with a noncustodial parent, a relative, or a designated friend, the caseworker assigned to the child shall file a report with the caseworker's supervisor explaining why a different placement was in the child's best interest.

(8) A juvenile court shall issue a warrant authorizing a peace officer or a child welfare worker to search for a child who is missing, has been abducted, or has run away, and take the child into custody if the court determines that:

(a) the child is in the legal custody of the division; and

(b) the child is missing, has been abducted, or has run away.

(9) When a juvenile court issues a warrant under Subsection (8):

(a) the division shall notify the child's parent or guardian who has a right to parent-time with the child;

(b) the court shall order:

(i) the law enforcement agency that has jurisdiction over the location from which the child ran away to enter a record of the warrant into the National Crime Information Center database within 24 hours after the time in which the law enforcement agency receives a copy of the warrant; and

(ii) the division to notify the law enforcement agency described in Subsection (9)(b)(i) of the order described in Subsection (9)(b)(i); and

(c) the court shall specify the location to which the peace officer or the child welfare worker shall transport the child.

(10) (a) The parent or guardian to be notified under Subsection (9) must be:

(i) the child's primary caregiver; or

(ii) the parent or guardian who has custody of the child when the order is sought.

(b) The person required to provide notice under Subsection (9) shall make a good faith effort to provide notice to a parent or guardian who:

(i) is not required to be notified under Subsection (10)(a); and

(ii) has a right to parent-time with the child.

Section 6. Section 62A-4a-202.2 is amended to read:

62A-4a-202.2. Notice upon removal of a child -- Locating noncustodial parent --

Information provided to parent, guardian, or responsible adult.

(1) (a) [~~Any peace officer or caseworker~~] A peace officer or a child welfare worker who takes a child into protective custody [~~pursuant to Section 62A-4a-202.1~~] under Subsection 62A-4a-202.1(1), shall immediately use reasonable efforts to locate and inform, through the most efficient means available, the parents, including a noncustodial parent, the guardian, or responsible relative:

(i) that the child has been taken into protective custody;

(ii) the reasons for removal and placement of the child in protective custody;

(iii) that [~~a written statement is available that explains~~] the parent, guardian, or relative will be provided with information on:

(A) the parent's or guardian's procedural rights; and

(B) the preliminary stages of the investigation and shelter hearing;

(iv) of a telephone number where the parent or guardian may access further information;

(v) that the child and the child's parent or guardian are entitled to have an attorney present at the shelter hearing;

(vi) that if the child's parent or guardian is [~~impecunious~~] an indigent individual, as defined in Section 78B-22-102, and desires to have an attorney, one will be provided; and

(vii) that resources are available to assist the child's parent or guardian, including:

(A) a parent advocate;

(B) a qualified attorney; or

(C) potential expert witnesses to testify on behalf of the[~~:~~] child, the child's parent or guardian, or the child's family.

[~~(I) child;~~]

[~~(II) child's parent;~~]

[~~(III) child's guardian; or~~]

[~~(IV) child's family.~~]

(b) For purposes of locating and informing the noncustodial parent as required in Subsection (1)(a), the division shall search for the noncustodial parent through the national parent locator database if the division is unable to locate the noncustodial parent through other reasonable efforts.

[~~(2) (a) The Office of the Attorney General shall adopt, print, and distribute a form for the written statement described in Subsection (1)(a)(iii).~~]

[~~(b) The statement described in Subsections (1)(a)(iii) and (2)(a) shall:~~]

[~~(i) be made available to the division and for distribution in:~~]

(2) At the time that a child is taken into protective custody under Subsection 62A-4a-202.1(1), the child's parent or a guardian shall be provided an informational packet with:

(a) all of the information described in Subsection (1);

(b) information on the conditions under which a child may be released;

(c) information on resources that are available to the parent or guardian, including:

(i) mental health resources;

(ii) substance abuse resources; and

(iii) parenting classes; and

(d) any other information considered relevant by the division.

(3) The informational packet described in Subsection (2) shall be:

(a) evaluated periodically for the effectiveness of the informational packet at conveying necessary information and revised accordingly;

(b) written in simple, easy-to-understand language;

(c) available in English and other languages as the division determines to be appropriate and necessary; and

(d) made available for distribution in:

[~~(A)~~] (i) schools;

[~~(B)~~] (ii) health care facilities;

[~~(C)~~] (iii) local police and sheriff's offices;

[~~(D)~~] (iv) the division; and

[~~(E)~~] (v) any other appropriate office within the Department of Human Services[~~;~~].

[~~(ii) be in simple language; and~~]

[~~(iii) include at least the following information:~~]

[~~(A) the conditions under which a child may be released;~~]

[~~(B) hearings that may be required;~~]

[~~(C) the means by which the parent or guardian may access further specific information about a child's case and conditions of protective and temporary custody; and~~]

[~~(D) the rights of a child and of the parent or guardian to legal counsel and to appeal.~~]

[~~(3)~~] (4) If reasonable efforts are made by the peace officer or caseworker to notify the parent or guardian or a responsible relative in accordance with the requirements of Subsection (1), failure to notify:

(a) shall be considered to be due to circumstances beyond the control of the peace officer or caseworker; and

(b) may not be construed to:

(i) permit a new defense to any juvenile or judicial proceeding; or

(ii) interfere with any rights, procedures, or investigations provided for by this chapter or [~~Title 78A, Chapter 6, Juvenile Court Act of 1996~~] Title 80, Chapter 3, Abuse, Neglect, and Dependency Proceedings, or Chapter 4, Termination and Restoration of Parental Rights.

Section 7. Section 62A-5-308 is amended to read:

62A-5-308. Commitment -- Individual who is under 18 years old.

(1) [~~Beginning July 1, 1993, the~~] The director of the division, or the director's designee, may commit an individual under 18 years [~~of age~~] old who has an intellectual disability or symptoms of an intellectual disability, to the division for observation, diagnosis, care, and treatment if that commitment is based on:

[~~(1) involuntary commitment under the provisions of Section 62A-5-312. Proceedings for involuntary commitment of an individual under 18 years of age may be commenced by filing a written petition with the juvenile court under Section 62A-5-312. The juvenile court has jurisdiction to proceed in the same manner and with the same authority as the district court; or~~]

[~~(2) an emergency commitment in accordance with the provisions of Section 62A-5-311.~~]

(a) an emergency commitment in accordance with Section 62A-5-311; or

(b) involuntary commitment in accordance with Section 62A-5-312.

(2) A proceeding for involuntary commitment under Subsection (1)(a) may be commenced by filing a written petition with the juvenile court under Section 62A-5-312.

(3) (a) A juvenile court has jurisdiction over the proceeding under Subsection (2) as described in Subsection 78A-6-103(2)(f).

(b) A juvenile court shall proceed with the written petition in the same manner and with the same authority as the district court.

(4) If an individual who is under 18 years old is committed to the custody of the Utah State Developmental Center by the juvenile court, the director or the director's designee shall give the juvenile court written notice of the intention to release the individual not fewer than five days before the day on which the individual is released.

Section 8. Section 62A-5-309 is amended to read:

62A-5-309. Commitment -- Individual who is 18 years old or older.

(1) [~~Beginning July 1, 1993, the~~] The director, or [~~his~~] the director's designee may commit to the division an individual 18 years [~~of age~~] old or older who has an intellectual disability, for observation, diagnosis, care, and treatment if that commitment is based on:

[~~(1)~~] (a) involuntary commitment [~~under the provisions of~~] in accordance with Section 62A-5-312; or

[~~(2)~~] (b) temporary emergency commitment [~~under the provisions of~~] in accordance with Section 62A-5-311.

(2) If an individual who is 18 years old or older is committed to the custody of the Utah State Developmental Center by the juvenile court, the director or the director's designee shall give the juvenile court written notice of the intention to release the individual not fewer than five days before the day on which the individual is released.

Section 9. Section 62A-15-705 is amended to read:

62A-15-705. Commitment proceedings in juvenile court -- Criteria -- Custody.

(1) (a) Subject to Subsection (1)(b), [~~commitment proceedings~~] a commitment proceeding for a child may be commenced by filing a written application with the juvenile court of the county in which the child resides or is found, in accordance with the procedures described in Section 62A-15-631.

(b) [~~Commitment proceedings~~] A commitment proceeding under this section may be commenced only after a commitment proceeding under Section 62A-15-703 has concluded without the child being committed.

(2) The juvenile court shall order commitment to the physical custody of a local mental health authority if, upon completion of the hearing and consideration of the record, [~~it~~] the juvenile court finds by clear and convincing evidence that:

(a) the child has a mental illness, as defined in Section 62A-15-602;

(b) the child demonstrates a risk of harm to [~~himself~~] the child or others;

(c) the child is experiencing significant impairment in the child's ability to perform socially;

(d) the child will benefit from the proposed care and treatment; and

(e) there is no appropriate less restrictive alternative.

(3) The juvenile court may not commit a child under Subsection (1) directly to the Utah State Hospital.

[~~(3)~~] (4) The local mental health authority has an affirmative duty to:

(a) conduct periodic reviews of children committed to [~~its custody pursuant to~~] the local mental health authority's custody in accordance with this section[~~, and to~~]; and

(b) release any child who has sufficiently improved so that the local mental health authority, or [~~its~~] the local mental authority's designee,

determines that commitment is no longer appropriate.

(5) If a child is committed to the custody of a local mental health authority, or the local mental health authority's designee, by the juvenile court, the local mental health authority, or the local mental health authority's designee, shall give the juvenile court written notice of the intention to release the child not fewer than five days before the day on which the child is released.

Section 10. Section 76-8-311.5, which is renumbered from Section 62A-7-402 is renumbered and amended to read:

[~~62A-7-402~~]. 76-8-311.5. Aiding or concealing a juvenile offender -- Trespass of a secure care facility -- Criminal penalties.

(1) As used in this section:

(a) "Division" means the Division of Juvenile Justice Services created in Section 80-5-103.

(b) "Juvenile offender" means the same as that term is defined in Section 80-1-102.

(c) "Secure care" means the same as that term is defined in Section 80-1-102.

(d) "Secure care facility" means the same as that term is defined in Section 80-1-102.

[~~(1)~~] (2) An individual who commits any of the following offenses is guilty of a class A misdemeanor:

(a) entering, or attempting to enter, a building or enclosure appropriated to the use of juvenile offenders, without permission;

(b) entering any premises belonging to a secure care facility and committing or attempting to commit a trespass or damage on [~~those premises~~] the premises of a secure care facility; or

(c) willfully annoying or disturbing the peace and quiet of a secure care facility or of a juvenile offender in a secure care facility.

[~~(2)~~] (3) An individual is guilty of a third degree felony who:

(a) knowingly harbors or conceals a juvenile offender who has:

(i) escaped from [~~a secure facility~~] secure care; or

(ii) as described in Subsection (4), absconded from:

(A) a facility or supervision; or

(B) supervision of the division; or

(b) willfully aided or assisted a juvenile offender who has been lawfully committed to a secure care facility in escaping or attempting to escape from [~~that~~] the secure care facility.

[~~(3)~~] (4) As used in this section:

(a) a juvenile offender absconds from a facility under this section when the juvenile offender:

(i) leaves the facility without permission; or

(ii) fails to return at a prescribed time.

(b) A juvenile offender absconds from supervision when the juvenile offender:

(i) changes the juvenile offender's residence from the residence that the juvenile offender reported to the division as the juvenile offender's correct address to another residence, without notifying the division or obtaining permission; or

(ii) for the purpose of avoiding supervision:

(A) hides at a different location from the juvenile offender's reported residence; or

(B) leaves the juvenile offender's reported residence.

Section 11. Section 76-8-418 is amended to read:

76-8-418. Damaging jails or other places of confinement.

(1) As used in this section:

(a) "Child" means the same as that term is defined in Section 80-1-102.

(b) "Detention facility" means the same as that term is defined in Section 80-1-102.

(c) "Secure care facility" means the same as that term is defined in Section 80-1-102.

(d) "Shelter facility" means the same as that term is defined in Section 62A-4a-101.

(2) A person who willfully and intentionally breaks down, pulls down, destroys, floods, or otherwise damages any public jail or other place of confinement, including a detention[~~, shelter, or secure confinement facility for juveniles~~] facility, a shelter facility, or a secure care facility, is guilty of a felony of the third degree.

(3) This section is applicable to a child who willfully and intentionally commits an offense against a public jail, a detention facility, a shelter facility, or a secure care facility.

Section 12. Section 78A-2-801 is enacted to read:

Part 8. Guardian Ad Litem

78A-2-801. Definitions.

As used in this chapter:

(1) "Abuse, neglect, or dependency petition" means the same as that term is defined in Section 80-3-102.

(2) "Attorney guardian ad litem" means an attorney employed by the office.

(3) "Director" means the director of the office.

(4) "Division" means the Division of Child and Family Services created in Section 62A-4a-103.

(5) "Guardian ad litem" means an attorney guardian ad litem or a private attorney guardian ad litem.

(6) "Indigent individual" means the same as that term is defined in Section 78B-22-102.

(7) "Minor" means the same as that term is defined in Section 80-1-102.

(8) "Office" means the Office of Guardian ad Litem created in Section 78A-2-802.

(9) "Private attorney guardian ad litem" means an attorney designated by the office in accordance with Section 78A-2-705 who is not an employee of the office.

Section 13. Section 78A-2-802, which is renumbered from Section 78A-6-901 is renumbered and amended to read:

[~~78A-6-901~~]. 78A-2-802. Office of Guardian ad Litem -- Appointment of director -- Duties of director -- Contracts in second, third, and fourth districts.

[~~(1) As used in this part:~~]

[~~(a) "Attorney guardian ad litem" means an attorney employed by the office.~~]

[~~(b) "Director" means the director of the office.~~]

[~~(c) "Office" means the Office of Guardian ad Litem, created in this section.~~]

[~~(d) "Private attorney guardian ad litem" means an attorney designated by the office pursuant to Section 78A-2-705 who is not an employee of the office.~~]

[~~(2)~~] (1) There is created the Office of Guardian ad Litem under the direct supervision of the Guardian ad Litem Oversight Committee described in Subsection 78A-2-104(13).

[~~(3)~~] (2) (a) The Guardian ad Litem Oversight Committee shall appoint one [~~person~~] individual to serve full time as the guardian ad litem director for the state.

(b) The guardian ad litem director shall:

(i) serve at the pleasure of the Guardian ad Litem Oversight Committee, in consultation with the state court administrator[~~.~~];

[~~(b)~~] (ii) [~~The director shall~~] be an attorney licensed to practice law in this state and selected on the basis of:

[~~(i)~~] (A) professional ability;

[~~(ii)~~] (B) experience in abuse, neglect, and dependency proceedings;

[~~(iii)~~] (C) familiarity with the role, purpose, and function of guardians ad litem in both juvenile and district courts; and

[~~(iv)~~] (D) ability to develop training curricula and reliable methods for data collection and evaluation[~~.~~]; and

[~~(c)~~] (iii) [~~The director shall, prior to~~] before or immediately after the director's appointment, be trained in nationally recognized standards for an attorney guardian ad litem.

[~~(4)~~] (3) The guardian ad litem director shall:

(a) establish policy and procedure for the management of a statewide guardian ad litem program;

(b) manage the guardian ad litem program to assure that [~~minors receive~~] a minor receives qualified guardian ad litem services in an abuse, neglect, and dependency [~~proceedings~~] proceeding under Title 80, Chapter 3, Abuse, Neglect, and Dependency Proceedings, in accordance with state and federal law and policy;

(c) develop standards for contracts of employment and contracts with independent contractors, and employ or contract with attorneys licensed to practice law in this state, to act as attorney guardians ad litem in accordance with Section [~~78A-6-902~~] 78A-2-803;

(d) develop and provide training programs for volunteers in accordance with the United States Department of Justice National Court Appointed Special Advocates Association standards;

(e) develop and update a guardian ad litem manual that includes:

(i) best practices for an attorney guardian ad litem; and

(ii) statutory and case law relating to an attorney guardian ad litem;

(f) develop and provide a library of materials for the continuing education of attorney guardians ad litem and volunteers;

(g) educate court personnel regarding the role and function of guardians ad litem;

(h) develop needs assessment strategies, perform needs assessment surveys, and ensure that guardian ad litem training programs correspond with actual and perceived needs for training;

(i) design and implement evaluation tools based on specific objectives targeted in the needs assessments described in Subsection [~~(4)~~] (3)(h);

(j) prepare and submit an annual report to the Guardian ad Litem Oversight Committee and the Child Welfare Legislative Oversight Panel created in Section 62A-4a-207 regarding:

(i) the development, policy, and management of the statewide guardian ad litem program;

(ii) the training and evaluation of attorney guardians ad litem and volunteers; and

(iii) the number of minors served by the office;

(k) hire, train, and supervise investigators; and

(l) administer the program of private attorney guardians ad litem established by Section 78A-2-705.

[~~(5)~~] (4) A contract of employment or independent contract described under Subsection [~~(4)~~] (3)(c) shall provide that [~~attorney guardians~~] an attorney guardian ad litem in the second, third, and fourth judicial districts devote [~~their~~] the attorney

guardian's ad litem full time and attention to the role of attorney guardian ad litem, having no clients other than the minors whose interest [~~they represent~~] the attorney guardian ad litem represents within the guardian ad litem program.

Section 14. Section 78A-2-803, which is renumbered from Section 78A-6-902 is renumbered and amended to read:

[~~78A-6-902~~]. 78A-2-803. Appointment of attorney guardian ad litem -- Duties and responsibilities -- Training -- Trained staff and court-appointed special advocate volunteers -- Costs -- Immunity -- Annual report.

(1) (a) The court:

(i) may appoint an attorney guardian ad litem to represent the best interest of a minor involved in any case before the court; and

(ii) shall consider the best interest of a minor, consistent with the provisions of Section 62A-4a-201, in determining whether to appoint a guardian ad litem.

(b) In all cases where an attorney guardian ad litem is appointed, the court shall make a finding that establishes the necessity of the appointment.

(2) An attorney guardian ad litem shall represent the best interest of each [~~child~~] minor who may become the subject of [~~a petition alleging abuse, neglect, or dependency,~~] an abuse, neglect, or dependency petition from the earlier of [~~the day that~~]:

(a) the [~~child~~] day on which the minor is removed from the [~~child's~~] minor's home by the division; or

(b) the day on which the abuse, neglect, or dependency petition is filed.

(3) The director shall ensure that each attorney guardian ad litem employed by the office:

(a) represents the best interest of each client of the office in all venues, including:

(i) court proceedings; and

(ii) meetings to develop, review, or modify the child and family plan with the [~~Division of Child and Family Services~~] division in accordance with Section 62A-4a-205;

(b) [~~prior to~~] before representing any minor before the court, be trained in:

(i) applicable statutory, regulatory, and case law; and

(ii) nationally recognized standards for an attorney guardian ad litem;

(c) conducts or supervises an ongoing, independent investigation in order to obtain, first-hand, a clear understanding of the situation and needs of the minor;

(d) (i) personally meets with the minor, unless:

(A) the minor is outside of the state; or

(B) meeting with the minor would be detrimental to the minor;

(ii) personally interviews the minor, unless:

(A) the minor is not old enough to communicate;

(B) the minor lacks the capacity to participate in a meaningful interview; or

(C) the interview would be detrimental to the minor; and

(iii) if the minor is placed in an out-of-home placement, or is being considered for placement in an out-of-home placement, unless it would be detrimental to the minor:

(A) to the extent possible, determines the minor's goals and concerns regarding placement; and

(B) personally assesses or supervises an assessment of the appropriateness and safety of the minor's environment in each placement;

(e) personally attends all review hearings pertaining to the minor's case;

(f) participates in all appeals, unless excused by order of the court;

(g) is familiar with local experts who can provide consultation and testimony regarding the reasonableness and appropriateness of efforts made by the [~~Division of Child and Family Services~~] division to:

(i) maintain a minor in the minor's home; or

(ii) reunify [~~a child with the child's parent~~] a minor with a minor's parent;

(h) to the extent possible, and unless it would be detrimental to the minor, personally or through a trained volunteer, paralegal, or other trained staff, keeps the minor advised of:

(i) the status of the minor's case;

(ii) all court and administrative proceedings;

(iii) discussions with, and proposals made by, other parties;

(iv) court action; and

(v) the psychiatric, medical, or other treatment or diagnostic services that are to be provided to the minor;

(i) in cases where a child and family plan is required, personally or through a trained volunteer, paralegal, or other trained staff, monitors implementation of a minor's child and family plan and any dispositional orders to:

(i) determine whether services ordered by the court:

(A) are actually provided; and

(B) are provided in a timely manner; and

(ii) attempt to assess whether services ordered by the court are accomplishing the intended goal of the services; and

(j) makes all necessary court filings to advance the [~~guardian ad litem's~~] guardian's ad litem

position regarding the best interest of the [~~child~~] minor.

(4) (a) Consistent with this Subsection (4), an attorney guardian ad litem may use trained volunteers, in accordance with Title 67, Chapter 20, Volunteer Government Workers Act, trained paralegals, and other trained staff to assist in investigation and preparation of information regarding the cases of individual minors before the court.

(b) [~~All volunteers, paralegals, and staff utilized pursuant to~~] A volunteer, paralegal, or other staff utilized under this section shall be trained in and follow, at a minimum, the guidelines established by the United States Department of Justice Court Appointed Special Advocate Association.

(5) The attorney guardian ad litem shall continue to represent the best interest of the minor until released from that duty by the court.

(6) (a) Consistent with Subsection (6)(b), the juvenile court is responsible for:

(i) all costs resulting from the appointment of an attorney guardian ad litem; and

(ii) the costs of volunteer, paralegal, and other staff appointment and training.

(b) The court shall use funds appropriated by the Legislature for the guardian ad litem program to cover the costs described in Subsection (6)(a).

(c) (i) When the court appoints an attorney guardian ad litem under this section, the court may assess all or part of the attorney fees, court costs, and paralegal, staff, and volunteer expenses against the [~~child's~~] minor's parents, parent, or legal guardian in a proportion that the court determines to be just and appropriate, taking into consideration costs already borne by the parents, parent, or legal guardian, including:

(A) private attorney fees;

(B) counseling for the [~~child~~] minor;

(C) counseling for the parent, if mandated by the court or recommended by the [~~Division of Child and Family Services~~] division; and

(D) any other cost the court determines to be relevant.

(ii) The court may not assess [~~those~~] the fees or costs described in Subsection (6)(c)(i) against:

(A) a legal guardian, when that guardian is the state; or

(B) consistent with Subsection (6)(d), a parent who is found to be [~~impecunious~~] an indigent individual.

(d) For purposes of Subsection (6)(c)(ii)(B), if [~~a person~~] an individual claims to be [~~impecunious~~] an indigent individual, the court shall:

(i) require [~~that person~~] the individual to submit an affidavit of [~~impecuniosity~~] indigence as provided in Section 78A-2-302; and

(ii) follow the procedures and make the determinations as provided in Section 78A-2-304.

(e) The [~~child's~~] minor's parents, parent, or legal guardian may appeal the court's determination, under Subsection (6)(c), of fees, costs, and expenses.

(7) An attorney guardian ad litem appointed under this section, when serving in the scope of the attorney [~~guardian ad litem's~~] guardian's ad litem duties as guardian ad litem is considered an employee of the state for purposes of indemnification under Title 63G, Chapter 7, Governmental Immunity Act of Utah.

(8) (a) An attorney guardian ad litem shall represent the best interest of a minor.

(b) If the minor's wishes differ from the attorney's determination of the minor's best interest, the attorney guardian ad litem shall communicate the minor's wishes to the court in addition to presenting the attorney's determination of the minor's best interest.

(c) A difference between the minor's wishes and the attorney's determination of best interest may not be considered a conflict of interest for the attorney.

(d) The guardian ad litem shall disclose the wishes of the [~~child unless the child~~] minor unless the minor:

(i) instructs the guardian ad litem to not disclose the [~~child's~~] minor's wishes; or

(ii) has not expressed any wishes.

(e) The court may appoint one attorney guardian ad litem to represent the best interests of more than one [~~child~~] minor of a marriage.

(9) [~~An~~] The division shall provide an attorney guardian ad litem [~~shall be provided~~] access to all [~~Division of Child and Family Services~~] division records regarding the minor at issue and the minor's family.

(10) (a) An attorney guardian ad litem shall conduct an independent investigation regarding the minor at issue, the minor's family, and what [~~constitutes~~] is in the best interest of the minor.

(b) An attorney guardian ad litem may interview the minor's [~~Division of Child and Family Services caseworker~~] child welfare worker, but may not:

(i) rely exclusively on the conclusions and findings of the [~~Division of Child and Family Services~~] division; or

(ii) except as provided in Subsection (10)(c), conduct a visit with the client in conjunction with the visit of a [~~Division of Child and Family Services caseworker~~] child welfare worker.

(c) (i) An attorney guardian ad litem may meet with a client during a team meeting, court hearing, or similar venue when a [~~Division of Child and Family Services caseworker~~] child welfare worker is present for a purpose other than the attorney guardian ad litem's meeting with the client.

(ii) A party and the party's counsel may attend a team meeting in accordance with the Utah Rules of Professional Conduct.

(11) (a) An attorney guardian ad litem shall maintain current and accurate records regarding:

(i) the number of times the attorney has had contact with each minor; and

(ii) the actions the attorney has taken in representation of the minor's best interest.

(b) In every hearing where the attorney guardian ad litem makes a recommendation regarding the best interest of the [~~child~~] minor, the court shall require the attorney guardian ad litem to disclose the factors that form the basis of the recommendation.

(12) (a) Except as provided in Subsection (12)(b), and notwithstanding Title 63G, Chapter 2, Government Records Access and Management Act, all records of an attorney guardian ad litem are confidential and may not be released or made public upon subpoena, search warrant, discovery proceedings, or otherwise. [~~This subsection supersedes Title 63G, Chapter 2, Government Records Access and Management Act.~~]

(b) Consistent with Subsection (12)(d), all records of an attorney guardian ad litem:

(i) are subject to legislative subpoena, under Title 36, Chapter 14, Legislative Subpoena Powers; and

(ii) shall be released to the Legislature.

(c) (i) Except as provided in Subsection (12)(c)(ii), the Legislature shall maintain records released in accordance with Subsection (12)(b) [~~shall be maintained~~] as confidential [~~by the Legislature~~].

(ii) Notwithstanding Subsection (12)(c)(i), the Office of the Legislative Auditor General may include summary data and nonidentifying information in [~~its~~] the office's audits and reports to the Legislature.

(d) (i) Subsection (12)(b) [~~constitutes~~] is an exception to Rules of Professional Conduct, Rule 1.6, as provided by Rule 1.6(b)(4), because of:

(A) the unique role of an attorney guardian ad litem described in Subsection (8); and

(B) the state's role and responsibility[~~: (I)~~] to provide a guardian ad litem program[~~; and (II)~~], and as parens patriae, to protect minors.

(ii) A claim of attorney-client privilege does not bar access to the records of an attorney guardian ad litem by the Legislature, through legislative subpoena.

Section 15. Section 78A-2-804, which is renumbered from Section 78A-6-903 is renumbered and amended to read:

[~~78A-6-903~~]. 78A-2-804. Guardian Ad Litem Services Account established -- Funding.

(1) There is created [~~in the General Fund~~] a restricted account in the General Fund known as the Guardian Ad Litem Services Account, for the purpose of funding the [~~Office of Guardian Ad Litem~~] office, in accordance with [~~the provisions of Sections 78A-6-901 and 78A-6-902~~] this part.

(2) The account shall be funded by the donation described in Subsection 41-1a-422(1)(a)(i)(F).

Section 16. Section 78A-6-101 is amended to read:

CHAPTER 6. JUVENILE COURT

78A-6-101. Title.

This chapter is known as [~~the~~] "Juvenile Court [~~Act~~]."

Section 17. Section 78A-6-101.5 is enacted to read:

78A-6-101.5. Definitions.

The terms defined in Section 80-1-102 apply to this chapter.

Section 18. Section 78A-6-102 is amended to read:

78A-6-102. Establishment of juvenile court -- Organization and status of court -- Purpose.

(1) There is established a juvenile court for the state [~~a juvenile court~~].

(2) (a) The juvenile court is a court of record. [~~It~~]

(b) The juvenile court shall have a seal[~~, and its~~].

(c) The juvenile court's judges, clerks, and referees have the power to administer oaths and affirmations.

(d) The juvenile court has the authority to issue search warrants, subpoenas, or investigative subpoenas under Section 62A-4a-202.1, Chapter 4a, Adult Criminal Proceedings, and Title 80, Chapter 3, Abuse, Neglect, and Dependency Proceedings, Chapter 4, Termination and Restoration of Parental Rights, and Chapter 6, Juvenile Justice, for the same purposes and in the same manner as described in Title 77, Utah Code of Criminal Procedure, and the Utah Rules of Criminal Procedure, for the issuance of search warrants, subpoenas, or investigative subpoenas in other trial courts in the state.

(3) The juvenile court is of equal status with the district courts of the state.

(4) The juvenile court is established as a forum for the resolution of all matters properly brought before [~~it~~] the juvenile court, consistent with applicable constitutional and statutory requirements of due process.

(5) The purpose of the court under this chapter is to:

(a) promote public safety and individual accountability by the imposition of appropriate sanctions on persons who have committed acts in violation of law;

(b) order appropriate measures to promote guidance and control, preferably in the minor's own

home, as an aid in the prevention of future unlawful conduct and the development of responsible citizenship;

(c) where appropriate, order rehabilitation, reeducation, and treatment for persons who have committed acts bringing them within the court's jurisdiction;

(d) adjudicate matters that relate to minors who are beyond parental or adult control and to establish appropriate authority over these minors by means of placement and control orders;

(e) adjudicate matters that relate to abused, neglected, and dependent children and to provide care and protection for minors by placement, protection, and custody orders;

(f) remove a minor from parental custody only where the minor's safety or welfare, or the public safety, may not otherwise be adequately safeguarded; and

(g) consistent with the ends of justice, act in the best interests of the minor in all cases and preserve and strengthen family ties.

Section 19. Section 78A-6-103 is amended to read:

78A-6-103. Original jurisdiction of the juvenile court -- Magistrate functions -- Findings -- Transfer of a case from another court.

(1) Except as otherwise provided by Subsections 78A-5-102(9), 78A-5-102(10), and 78A-7-106(2), the juvenile court has original jurisdiction over:

(a) a felony, misdemeanor, infraction, or violation of an ordinance, under municipal, state, or federal law, that was committed by a child; and

(b) a felony, misdemeanor, infraction, or violation of an ordinance, under municipal, state, or federal law, that was committed by an individual:

(i) who is under 21 years old at the time of all court proceedings; and

(ii) who was under 18 years old at the time the offense was committed.

(2) The juvenile court has original jurisdiction over any proceeding concerning:

(a) a child who is an abused child, neglected child, or dependent child[~~, as those terms are defined in Section 78A-6-105~~];

(b) a protective order for a child in accordance with Title 78B, Chapter 7, Part 2, Child Protective Orders[~~, which the juvenile court may transfer to the district court if the juvenile court has entered an ex parte protective order and finds that:~~];

[~~(i) the petitioner and the respondent are the natural parent, adoptive parent, or step parent of the child who is the object of the petition;~~]

[~~(ii) the district court has a petition pending or an order related to custody or parent-time entered under Title 30, Chapter 3, Divorce, Title 78B, Chapter 7, Part 6, Cohabitant Abuse Protective Orders, or Title 78B, Chapter 15, Utah Uniform Parentage Act, in which the petitioner and the respondent are parties; and~~]

[~~(iii) the best interests of the child will be better served in the district court;~~]

(c) the appointment of a guardian of the individual or other guardian of a minor who comes within the court's jurisdiction under other provisions of this section;

(d) the emancipation of a minor in accordance with [~~Part 8, Emancipation~~] Title 80, Chapter 7, Emancipation;

(e) the termination of [~~the legal parent-child relationship~~] parental rights in accordance with [~~Part 5, Termination of Parental Rights Act~~] Title 80, Chapter 4, Termination and Restoration of Parental Rights, including termination of residual parental rights and duties;

(f) the treatment or commitment of a minor who has an intellectual disability;

(g) the judicial consent to the marriage of a minor who is 16 or 17 years old [~~upon a determination of voluntariness or where otherwise required by law~~] in accordance with Section 30-1-9;

[~~(h) any parent of a child committed to a secure youth facility, to order, at the discretion of the court and on the recommendation of a secure facility, the parent of a child committed to a secure facility for a custodial term, to undergo group rehabilitation therapy under the direction of a secure facility therapist, who has supervision of that parent's child, or any other therapist the court may direct, for a period directed by the court as recommended by a secure facility;~~]

(h) an order for a parent or a guardian of a child under Subsection 80-6-705(3);

(i) a minor under Title 55, Chapter 12, Interstate Compact for Juveniles;

(j) the treatment or commitment of a child with a mental illness [~~in accordance with Subsection (11)~~];

(k) the commitment of a child to a secure drug or alcohol facility in accordance with Section 62A-15-301;

(l) a minor found not competent to proceed in accordance with [~~Section 78A-6-1301~~] Title 80, Chapter 6, Part 4, Competency;

(m) de novo review of final agency actions resulting from an informal adjudicative proceeding as provided in Section 63G-4-402; [~~and~~]

(n) adoptions conducted in accordance with the procedures described in Title 78B, Chapter 6, Part 1, Utah Adoption Act, [~~when~~] if the juvenile court has previously entered an order terminating the rights of a parent and finds that adoption is in the best interest of the child[~~.~~];

[~~(3) (a) Except as provided in Subsection (3)(c), the juvenile court has exclusive jurisdiction over a~~

~~felony, misdemeanor, infraction, or violation of an ordinance:~~]

[~~(i) committed by a child and that arises from a single criminal episode containing an offense for which:~~]

[~~(A) a citation, petition, indictment, or criminal information is filed; and~~]

[~~(B) the court has original jurisdiction; and~~]

[~~(ii) committed by an individual who is under 21 years old at the time of all court proceedings, but committed before the individual was 18 years old, and that arises from a single criminal episode containing an offense for which:~~]

[~~(A) a citation, petition, indictment, or criminal information is filed; and~~]

[~~(B) the court has original jurisdiction.~~]

[~~(b) For purposes of this Subsection (3), the juvenile court has jurisdiction over the following offenses committed by an individual who is under 21 years old at the time of all court proceedings, but was under 18 years old at the time the offense was committed:~~]

[~~(i) Title 41, Chapter 6a, Part 5, Driving Under the Influence and Reckless Driving; and~~]

[~~(ii) Section 73-18-12.~~]

[~~(c) If a juvenile court transfers jurisdiction of an offense to the district court under Section 78A-6-703.5, the exclusive jurisdiction of the juvenile court over that offense is terminated.~~]

[~~(4) (a) As used in this Subsection (4):~~]

[~~(i) "Qualifying offense" means an offense described in Sections 78A-6-703.2 and 78A-6-703.3.~~]

[~~(ii) "Separate offense" means any offense that is not a qualifying offense.~~]

[~~(b) The juvenile court:~~]

[~~(i) regains exclusive jurisdiction over any separate offense described in Subsection (3)(a) if:~~]

[~~(A) the individual who is alleged to have committed the separate offense is bound over to the district court for a qualifying offense under Section 78A-6-703.5; and~~]

[~~(B) the qualifying offense results in an acquittal, a finding of not guilty, or a dismissal; and~~]

[~~(ii) gains exclusive jurisdiction over any separate offense described in Subsection (3)(a) if:~~]

[~~(A) the individual who is alleged to have committed the separate offense is charged for a qualifying offense under Section 78A-6-703.2 in the district court; and~~]

[~~(B) the qualifying offense results in an acquittal, a finding of not guilty, or a dismissal in the district court.~~]

[~~(5)~~] (o) [~~The juvenile court has jurisdiction over~~] an ungovernable or runaway child who is referred to the juvenile court by the Division of Juvenile Justice Services [~~when~~] if, despite earnest and persistent efforts by the Division of Juvenile Justice Services, the child has demonstrated that the child:

[~~(a)~~] (i) is beyond the control of the child's parent, guardian, or [~~lawful~~] custodian to the extent that the child's behavior or condition endangers the child's own welfare or the welfare of others; or

[~~(b)~~] (ii) has run away from home[~~.~~]; and

[~~(6) The juvenile court has continuing jurisdiction over a minor's case for an offense that is adjudicated under Section 78A-6-117 until jurisdiction is terminated in accordance with Section 78A-6-120.~~]

(p) a criminal information filed under Part 4a, Adult Criminal Proceedings, for an adult alleged to have committed an offense under Subsection 78A-6-352(4)(b) for failure to comply with a promise to appear and bring a child to the juvenile court.

(3) It is not necessary for a minor to be adjudicated for an offense or violation of the law under Section 80-6-701, for the juvenile court to exercise jurisdiction under Subsection (2)(p).

[~~(7)~~] (4) This section does not restrict the right of access to the juvenile court by private agencies or other persons.

[~~(8)~~] (5) The juvenile court has jurisdiction of all magistrate functions relative to cases arising under [~~Part 7, Transfer of Jurisdiction~~] Title 80, Chapter 6, Part 5, Transfer to District Court.

[~~(9)~~] (6) The juvenile court has jurisdiction to make a finding of substantiated, unsubstantiated, or without merit, in accordance with Section [~~78A-6-323~~] 80-3-404.

[~~(10)~~] (7) The juvenile court has [~~subject matter~~] jurisdiction over matters transferred to the juvenile court by another trial court in accordance with Subsection 78A-7-106(4) and Section [~~78A-6-601~~] 80-6-303.

[~~(11) The juvenile court may commit a child to the physical custody of a local mental health authority in accordance with Title 62A, Chapter 15, Part 7, Commitment of Persons Under Age 18 to Division of Substance Abuse and Mental Health, but not directly to the Utah State Hospital.~~]

Section 20. Section 78A-6-103.5 is enacted to read:

78A-6-103.5. Exclusive jurisdiction of the juvenile court.

(1) Except as provided in Subsection (3), the juvenile court has exclusive jurisdiction over a felony, misdemeanor, infraction, or violation of an ordinance:

(a) committed by a child and that arises from a single criminal episode containing an offense for which:

(i) a citation, petition, indictment, or criminal information is filed; and

(ii) the court has original jurisdiction; and

(b) committed by an individual who is under 21 years old at the time of all court proceedings, but committed before the individual was 18 years old, and that arises from a single criminal episode containing an offense for which:

(i) a citation, petition, indictment, or criminal information is filed; and

(ii) the court has original jurisdiction.

(2) For purposes of this section, the juvenile court has jurisdiction over the following offenses committed by an individual who is under 21 years old at the time of all court proceedings, but was under 18 years old at the time the offense was committed:

(a) Title 41, Chapter 6a, Part 5, Driving Under the Influence and Reckless Driving; and

(b) Section 73-18-12.

(3) If a juvenile court transfers jurisdiction of an offense to the district court under Section 80-6-504, the exclusive jurisdiction of the juvenile court over that offense is terminated.

(4) (a) As used in this Subsection (4):

(i) "Qualifying offense" means an offense described in Sections 80-6-502 and 80-6-503.

(ii) "Separate offense" means any offense that is not a qualifying offense.

(b) The juvenile court:

(i) regains exclusive jurisdiction over any separate offense described in Subsection (1) if:

(A) the individual who is alleged to have committed the separate offense is bound over to the district court for a qualifying offense under Section 80-6-504; and

(B) the qualifying offense results in an acquittal, a finding of not guilty, or a dismissal; and

(ii) gains exclusive jurisdiction over any separate offense described in Subsection (1) if:

(A) the individual who is alleged to have committed the separate offense is charged for a qualifying offense under Section 80-6-502 in the district court; and

(B) the qualifying offense results in an acquittal, a finding of not guilty, or a dismissal in the district court.

Section 21. Section 78A-6-104 is repealed and reenacted to read:

78A-6-104. Concurrent jurisdiction of the juvenile court -- Transfer of a protective order.

(1) (a) The juvenile court has jurisdiction, concurrent with the district court:

(i) to establish paternity, or to order testing for purposes of establishing paternity, for a child in accordance with Title 78B, Chapter 15, Utah Uniform Parentage Act, when a proceeding is initiated under Title 80, Chapter 3, Abuse, Neglect, and Dependency Proceedings, or Chapter 4, Termination and Restoration of Parental Rights, that involves the child;

(ii) over a petition to modify a minor's birth certificate if the juvenile court has jurisdiction over the minor's case under Section 78A-6-103; and

(iii) over questions of custody, support, and parent-time of a minor if the juvenile court has jurisdiction over the minor's case under Section 78A-6-103.

(b) If the juvenile court obtains jurisdiction over a paternity action under Subsection (1)(a)(i), the juvenile court may:

(i) retain jurisdiction over the paternity action until paternity of the child is adjudicated; or

(ii) transfer jurisdiction over the paternity action to the district court.

(2) (a) The juvenile court has jurisdiction, concurrent with the district court or the justice court otherwise having jurisdiction, over a criminal information filed under Part 4a, Adult Criminal Proceedings, for an adult alleged to have committed:

(i) an offense under Section 32B-4-403, unlawful sale, offer for sale, or furnishing to a minor;

(ii) an offense under Section 53G-6-202, failure to comply with compulsory education requirements;

(iii) an offense under Section 62A-4a-411, failure to report;

(iv) a misdemeanor offense under Section 76-5-303, custodial interference;

(v) an offense under Section 76-10-2301, contributing to the delinquency of a minor; or

(vi) an offense under Section 80-5-601, harboring a runaway.

(b) It is not necessary for a minor to be adjudicated for an offense or violation of the law under Section 80-6-701 for the juvenile court to exercise jurisdiction under Subsection (2)(a).

(3) (a) When a support, custody, or parent-time award has been made by a district court in a divorce action or other proceeding, and the jurisdiction of the district court in the case is continuing, the juvenile court may acquire jurisdiction in a case involving the same child if the child comes within the jurisdiction of the juvenile court under Section 78A-6-103.

(b) (i) The juvenile court may, by order, change the custody subject to Subsection 30-3-10(6), support, parent-time, and visitation rights previously ordered in the district court as necessary to implement the order of the juvenile court for the safety and welfare of the child.

(ii) An order by the juvenile court under Subsection (3)(b)(i) remains in effect so long as the juvenile court continues to exercise jurisdiction.

(c) If a copy of the findings and order of the juvenile court under this Subsection (3) are filed

with the district court, the findings and order of the juvenile court are binding on the parties to the divorce action as though entered in the district court.

(4) This section does not deprive the district court of jurisdiction to:

(a) appoint a guardian for a child;

(b) determine the support, custody, and parent-time of a child upon writ of habeas corpus; or

(c) determine a question of support, custody, and parent-time that is incidental to the determination of an action in the district court.

(5) A juvenile court may transfer a petition for a protective order for a child to the district court if the juvenile court has entered an ex parte protective order and finds that:

(a) the petitioner and the respondent are the natural parent, adoptive parent, or step parent of the child who is the object of the petition;

(b) the district court has a petition pending or an order related to custody or parent-time entered under Title 30, Chapter 3, Divorce, Title 78B, Chapter 7, Part 6, Cohabitant Abuse Protective Orders, or Title 78B, Chapter 15, Utah Uniform Parentage Act, in which the petitioner and the respondent are parties; and

(c) the best interests of the child will be better served in the district court.

Section 22. Section 78A-6-120 is amended to read:

78A-6-120. Continuing jurisdiction of juvenile court -- Period of and termination of jurisdiction.

(1) Except as provided in Subsection (2), if the [~~court retains jurisdiction over a minor's case under Section 78A-6-117~~] juvenile court obtains jurisdiction of a minor's case, the juvenile court's jurisdiction over the minor's case continues until:

(a) the minor is 21 years old; or

(b) if the juvenile court extends jurisdiction over the minor's case [~~until the minor is 25 years old~~] under Section [~~78A-6-703.4~~] 80-6-605, the minor is 25 years old.

(2) (a) The juvenile court's continuing jurisdiction under Subsection (1) terminates:

(i) upon order of the court;

(ii) upon [~~commitment to a secure facility;~~] an order for secure care under Section 80-6-705; or

[~~(iii) upon commencement of proceedings in adult cases under Section 78A-6-1001; or~~]

[~~(iv)~~] (iii) in accordance with [~~Sections 62A-7-404 and 78A-6-117~~] Section 80-6-712.

(b) The continuing jurisdiction of the juvenile court over a minor's case is not terminated:

(i) by marriage; or

(ii) when a minor commits an offense under municipal, state, or federal law that is under the jurisdiction of another court [~~and the minor is at least 18 years old at the time of the offense~~].

(c) Notwithstanding Subsection (2)(a)(ii), the juvenile court retains jurisdiction to make and enforce orders related to restitution until the Youth Parole Authority discharges the minor under Section 80-6-807.

[~~(3) When a minor has been committed by the court to the physical custody of a local mental health authority or the local mental health authority's designee or to the Utah State Developmental Center, the local mental health authority or the local mental health authority's designee or the superintendent of the Utah State Developmental Center shall give the court written notice of the intention to discharge, release, or parole the minor not fewer than five days before the discharge, release, or parole.~~]

[~~(4) (a) The court may transfer a case of a minor who is on probation or under protective supervision, or of a minor who is otherwise under the continuing jurisdiction of the court, to a court of another district, if the receiving court consents, or upon direction of the chair of the Board of Juvenile Court Judges.~~]

[~~(b) The receiving court has the same powers with respect to the minor that the court would have if the proceedings originated in that court.~~]

[~~(5) A minor shall undergo a validated risk and needs assessment within seven days of the day on which an order terminating jurisdiction is issued if:~~]

[~~(a) the minor is adjudicated under Section 78A-6-117; and~~]

[~~(b) the minor underwent a validated risk and needs assessment under Subsection 78A-6-117(1)(d).~~]

Section 23. Section 78A-6-201 is amended to read:

78A-6-201. Judges of juvenile court -- Appointments -- Terms.

(1) (a) [~~Judges of the juvenile court~~] A judge of the juvenile court shall be appointed initially to serve until the first general election held more than three years after [~~the effective date of the appointment. Thereafter,~~] the day on which the appointment is effective.

(b) After the initial term described in Subsection (1)(a), the term of office of a [~~judge of a juvenile court~~] juvenile court judge is six years and commences on the first Monday in January next following the date of election.

(2) A juvenile court judge whose term expires may serve, upon request of the Judicial Council, until a successor is appointed and qualified.

Section 24. Section 78A-6-202 is amended to read:

78A-6-202. Sessions of juvenile court.

(1) In each county, regular juvenile court sessions shall be held at a place designated by the judge or

judges of the juvenile court district, with the approval of the board.

(2) [~~Court~~] Juvenile court sessions shall be held in each county when the presiding judge of the juvenile court directs, except that a judge of the district may hold court in any county within the district at any time[~~,~~] if required by the urgency of the case.

Section 25. Section 78A-6-203 is amended to read:

78A-6-203. Board of Juvenile Court Judges -- Composition -- Purpose -- Presiding judge.

(1) (a) The Judicial Council shall, by rule, establish a Board of Juvenile Court Judges.

(b) The board shall establish general policies for the operation of the juvenile courts and uniform rules and forms governing practice, consistent with the provisions of this chapter, the rules of the Judicial Council, and the rules of the Supreme Court.

(c) (i) The board may receive and expend any funds that may become available from the federal government or private sources to carry out any of the purposes [~~of this chapter~~] described in Subsection 78A-6-102(5).

[~~(i)~~] (ii) The board may meet any federal requirements that are conditions precedent to receiving the funds.

[~~(ii)~~] (iii) The board may cooperate with the federal government in a program for training personnel employed, or preparing for employment, by the juvenile court and may receive and expend funds from federal or state sources or from private donations for these purposes.

[~~(iii)~~] (iv) Funds donated or paid to the juvenile court by private sources for the purpose of compensatory service programs [~~shall be~~] are nonlapsing.

[~~(iv)~~] (v) The board may:

(A) contract with public or nonprofit institutions of higher learning for the training of personnel;

(B) conduct short-term training courses of [~~its~~] the board's own and hire experts on a temporary basis for this purpose; and

(C) cooperate with the Division of Child and Family Services and other state departments or agencies in personnel training programs.

(d) The board may contract, on behalf of the juvenile court, with the United States Forest Service or other agencies or departments of the federal government or with agencies or departments of other states for the care and placement of minors adjudicated under [~~this chapter~~] Title 80, Utah Juvenile Code.

(e) The powers to contract and expend funds are subject to budgetary control and procedures as provided by law.

(2) Under the direction of the presiding officer of the council, the chair shall supervise the juvenile courts to:

(a) ensure uniform adherence to law and to the rules and forms adopted by the Supreme Court and Judicial Council[~~, and to~~]; and

(b) promote the proper and efficient functioning of the juvenile courts.

(3) (a) The judges of districts having more than one juvenile court judge shall elect a presiding juvenile court judge.

(b) In districts comprised of five or more juvenile court judges and court commissioners, the presiding juvenile court judge shall receive an additional $1,000 per annum as compensation.

[~~(4) Consistent with policies of the Judicial Council, the presiding judge shall:~~]

(4) The presiding juvenile court judge, in accordance with the policies of the Judicial Council, shall:

(a) implement policies of the Judicial Council;

(b) exercise powers and perform administrative duties as authorized by the Judicial Council;

(c) manage the judicial business of the district; and

(d) call and preside over meetings of juvenile court judges of the district.

Section 26. Section 78A-6-204 is amended to read:

78A-6-204. Administrator of juvenile court -- Appointment -- Qualifications -- Powers and duties.

(1) With the approval of the board, the state court administrator shall appoint a chief administrative officer of the juvenile court.

(2) The chief administrative officer shall:

(a) be selected on the basis of professional ability and experience in the field of public administration [~~and shall~~]; and

(b) possess an understanding of court procedures[~~, as well as~~] and the nature and significance of probation services and other court services.

Section 27. Section 78A-6-205 is amended to read:

78A-6-205. Court executives -- Selection -- Duties.

(1) (a) The chief administrative officer of the juvenile court, with the approval of the juvenile court judge of each district or the presiding juvenile court judge of multiple judge districts, shall appoint a court executive for each district.

(b) [~~The court executive~~] A court executive appointed under Subsection (1)(a) serves at the pleasure of the chief administrative officer.

(2) The court executive shall:

(a) appoint a clerk of the court, [~~deputy court clerks, probation officers, and other persons~~] district managers, and other staff, including juvenile probation officers, as required to carry out the work of the court;

(b) supervise the work of all nonjudicial court staff of the district; and

(c) serve as administrative officer of the district.

(3) (a) The clerk shall keep a record of court proceedings [~~and~~].

(b) The clerk may issue all process and [~~notice~~] notices required.

Section 28. Section 78A-6-206 is amended to read:

78A-6-206. Juvenile court employees -- Salaries -- State courts personnel system -- Exemptions and discharge.

(1) All employees, except juvenile court judges and commissioners, shall be selected, promoted, and discharged through the state courts personnel system for the juvenile court[~~,~~] under the direction and rules of the [~~Board of Juvenile Court Judges~~] board and the Judicial Council.

(2) (a) An employee under the state courts personnel system may not be discharged except for cause and after a hearing before the appointing authority[~~,~~] with an appeal as provided by the state courts personnel system.

(b) An employee may be suspended pending the hearing and appeal under Subsection (2)(a).

Section 29. Section 78A-6-207 is amended to read:

78A-6-207. Volunteers.

(1) The [~~names of volunteers~~] name of a volunteer serving in a case under Section [~~78A-6-902~~] 78A-2-803 shall be stated in the court records of the [~~cases they work with. Volunteers of record with the court are considered to be volunteers to the juvenile court and are volunteers under Title 67, Chapter 20, Volunteer Government Workers Act~~] case.

(2) A volunteer of record under Subsection (1) is:

(a) considered a volunteer to the juvenile court; and

(b) a volunteer under Title 67, Chapter 20, Volunteer Government Workers Act.

Section 30. Section 78A-6-208 is amended to read:

78A-6-208. Mental health evaluations -- Duty of administrator.

(1) The [~~administrator~~] chief administrative officer of the juvenile court, with the approval of the board, and the executive director of the Department of Health, and director of the Division of Substance Abuse and Mental Health shall from time to time agree upon an appropriate plan:

(a) for obtaining mental health services and health services for the juvenile court from the state and local health departments and programs of mental health; and

(b) for assistance by the Department of Health [~~and~~] or the Division of Substance Abuse and Mental Health in securing for the juvenile court special health, mental health, juvenile competency evaluations, and related services including community mental health services not already available from the Department of Health and the Division of Substance Abuse and Mental Health.

(2) The Legislature may provide an appropriation to the Department of Health and the Division of Substance Abuse and Mental Health for [~~this purpose~~] the services under Subsection (1).

Section 31. Section 78A-6-209 is amended to read:

78A-6-209. Court records -- Inspection.

(1) The juvenile court and the juvenile court's probation department shall keep records as required by the board and the presiding judge.

(2) [~~Court records~~] A court record shall be open to inspection by:

(a) the parents or guardian of a child, a minor who is at least 18 years [~~of age~~] old, other parties in the case, the attorneys, and agencies to which custody of a minor has been transferred;

(b) for information relating to adult offenders alleged to have committed a sexual offense, a felony or class A misdemeanor drug offense, or an offense against the person under Title 76, Chapter 5, Offenses Against the Person, the State Board of Education for the purpose of evaluating whether an individual should be permitted to obtain or retain a license as an educator or serve as an employee or volunteer in a school, with the understanding that the State Board of Education must provide the individual with an opportunity to respond to any information gathered from [~~its~~] the State Board of Education's inspection of the records before [~~it~~] the State Board of Education makes a decision concerning licensure or employment;

(c) the Criminal Investigations and Technical Services Division, established in Section 53-10-103, for the purpose of a criminal history background check for the purchase of a firearm and establishing good character for issuance of a concealed firearm permit as provided in Section 53-5-704;

(d) the Division of Child and Family Services for the purpose of Child Protective Services Investigations in accordance with Sections 62A-4a-403 and 62A-4a-409 and administrative hearings in accordance with Section 62A-4a-1009;

(e) the Office of Licensing for the purpose of conducting a background check in accordance with Section 62A-2-120;

(f) for information related to a [~~juvenile offender~~] minor who has committed a sexual offense, a felony, or an offense that if committed by an adult would be

a misdemeanor, the Department of Health for the purpose of evaluating under the provisions of Subsection 26-39-404(3) whether a licensee should be permitted to obtain or retain a license to provide child care, with the understanding that the department must provide the individual who committed the offense with an opportunity to respond to any information gathered from [~~its~~] the Department of Health's inspection of records before [~~it~~] the Department of Health makes a decision concerning licensure;

(g) for information related to a [~~juvenile offender~~] minor who has committed a sexual offense, a felony, or an offense that if committed by an adult would be a misdemeanor, the Department of Health to determine whether an individual meets the background screening requirements of Title 26, Chapter 21, Part 2, Clearance for Direct Patient Access, with the understanding that the department must provide the individual who committed the offense an opportunity to respond to any information gathered from [~~its~~] the Department of Health's inspection of records before [~~it~~] the Department of Health makes a decision under that part; and

(h) for information related to a [~~juvenile offender~~] minor who has committed a sexual offense, a felony, or an offense that if committed by an adult would be a misdemeanor, the Department of Health to determine whether to grant, deny, or revoke background clearance under Section 26-8a-310 for an individual who is seeking or who has obtained an emergency medical service personnel license under Section 26-8a-302, with the understanding that the [~~department~~] Department of Health must provide the individual who committed the offense an opportunity to respond to any information gathered from the [~~department's~~] Department of Health's inspection of records before [~~it~~] the Department of Health makes a determination.

(3) With the consent of the [~~judge, court records~~] juvenile court, a court record may be inspected by the child, by persons having a legitimate interest in the proceedings, and by persons conducting pertinent research studies.

(4) If a petition is filed charging a minor who is 14 years [~~of age~~] old or older with an offense that would be a felony if committed by an adult, the juvenile court shall make available to any person upon request the petition, any adjudication or disposition orders, and the delinquency history summary of the minor charged unless the records are closed by the juvenile court upon findings on the record for good cause.

(5) [~~Probation officers'~~] A juvenile probation officer's records and reports of social and clinical studies are not open to inspection, except by consent of the juvenile court, given under rules adopted by the board.

[~~(6) (a) Any juvenile delinquency adjudication or disposition orders and the delinquency history summary of any person charged as an adult with a felony offense shall be made available to any person upon request.~~]

[~~(b) This provision does not apply to records that have been destroyed or expunged in accordance with court rules.~~]

[~~(c)~~] (6) The juvenile court may charge a reasonable fee to cover the costs associated with retrieving a requested record that has been archived.

Section 32. Section 78A-6-210 is amended to read:

78A-6-210. Fines -- Fees -- Deposit with state treasurer -- Restricted account.

(1) There is created [~~within the General Fund~~] a restricted account in the General Fund known as the "Nonjudicial Adjustment Account."

(2) (a) The account shall be funded from the financial penalty established under Subsection [~~78A-6-602(8)(a)~~] 80-6-304(6)(a).

(b) The court shall deposit all money collected as a result of penalties assessed as part of the nonjudicial adjustment of a case [~~in~~] into the account.

(c) The account shall be used to pay the expenses of juvenile compensatory service, victim restitution, and diversion programs.

(3) (a) Except under Subsection (3)(b) or (4) and as otherwise provided by law, the juvenile court shall pay all fines, fees, penalties, and forfeitures imposed and collected by the juvenile court [~~shall be paid~~] to the state treasurer for deposit into the General Fund.

(b) [~~Not~~] No more than 50% of any fine or forfeiture collected may be paid to a state rehabilitative employment program for [~~delinquent minors~~] a minor adjudicated under Section 80-6-701 that provides for employment of the minor in the county of the minor's residence if:

(i) reimbursement for the minor's labor is paid to the victim of the [~~minor's delinquent behavior~~] offense or wrongful act committed by the minor;

(ii) the amount earned and paid is set by court order;

(iii) the minor is not paid more than the hourly minimum wage; and

(iv) no payments to victims are made without the minor's involvement in a rehabilitative work program.

(c) Fines withheld under Subsection (3)(b) and any private contributions to the rehabilitative employment program are accounted for separately and are subject to audit at any time by the state auditor.

(d) (i) Funds withheld under Subsection (3)(b) and private contributions are nonlapsing.

(ii) The [~~Board of Juvenile Court Judges~~] board shall establish policies for the use of the funds described in this [~~subsection~~] Subsection (3)(d).

(4) For fines and forfeitures collected by the court for a violation of Section 41-6a-1302 in instances where evidence of the violation was obtained by an automated traffic enforcement safety device as described in Section 41-6a-1310, the court shall allocate 20% to the school district or private school that owns or contracts for the use of the bus, and the state treasurer shall allocate 80% to the General Fund.

(5) [~~No fee may be charged by any state or local public officer~~] A state or local public officer may not charge a fee for the service of process in any proceedings initiated by a public agency.

Section 33. Section 78A-6-211 is amended to read:

78A-6-211. Courtrooms -- Physical facilities.

(1) Suitable courtrooms and office space in each county shall be provided or made available to the juvenile court by the county for the hearing of cases, except in counties where the state has provided courtrooms and offices as needed.

(2) Equipment and supplies for the use of the judges, officers, and employees of the juvenile court and the cost of maintaining the juvenile courts shall be paid from the General Fund or other funds for those purposes.

Section 34. Section 78A-6-212, which is renumbered from Section 62A-7-105.5 is renumbered and amended to read:

[~~62A-7-105.5~~]. 78A-6-212. Information supplied to the Division of Juvenile Justice Services.

(1) [~~Juvenile court probation sections~~] A juvenile probation officer shall render full and complete cooperation to the [~~division~~] Division of Juvenile Justice Services in supplying the [~~division~~] Division of Juvenile Justice Services with all pertinent information relating to [~~juvenile offenders who have been~~] a juvenile offender committed to the [~~division~~] Division of Juvenile Justice Services.

(2) Information under Subsection (1) [~~may include, but is not limited to,~~] includes prior criminal history, social history, psychological evaluations, and identifying information specified by the [~~division~~] Division of Juvenile Justice Services.

Section 35. Section 78A-6-350, which is renumbered from Section 78A-6-110 is renumbered and amended to read:

Part 3a. Juvenile Court Proceedings

[~~78A-6-110~~]. 78A-6-350. Venue -- Dismissal without adjudication on merits.

(1) [~~Proceedings in minor's cases~~] Notwithstanding Title 78B, Chapter 3, Part 3, Place of Trial -- Venue, a proceeding for a minor's case in the juvenile court shall be commenced in the court of the district in which [~~the minor is living or is found, or in which an alleged violation of law or ordinance occurred.~~]:

[~~(2) After the filing of a petition, the court may transfer the case to the district where the minor resides or to the district where the violation of law or ordinance is alleged to have occurred. The court may, in its discretion, after adjudication certify the case for disposition to the court of the district in which the minor resides.~~]

[~~(3) The transferring or certifying court shall transmit all documents and legal and social records, or certified copies to the receiving court, and the receiving court shall proceed with the case as if the petition had been originally filed or the adjudication had been originally made in that court.~~]

(a) for a proceeding under Title 80, Chapter 6, Juvenile Justice:

(i) the minor is living or found; or

(ii) the alleged offense occurred; or

(b) for all other proceedings, the minor is living or found.

(2) If a party seeks to transfer a case to another district after a petition has been filed in the juvenile court, the juvenile court may transfer the case in accordance with the Utah Rules of Juvenile Procedure.

[~~(4)~~] (3) The dismissal of a petition in one district where the dismissal is without prejudice and where there has been no adjudication upon the merits [~~shall~~] may not preclude refiling within the same district or another district where there is venue [~~of~~] for the case.

Section 36. Section 78A-6-351, which is renumbered from Section 78A-6-109 is renumbered and amended to read:

[~~78A-6-109~~]. 78A-6-351. Summons -- Service and process -- Issuance and contents -- Notice to absent parent or guardian -- Emergency medical or surgical treatment -- Compulsory process for attendance of witnesses when authorized.

(1) (a) After a petition is filed [~~the~~] in the juvenile court, the juvenile court shall promptly issue a summons, unless the [~~judge~~] juvenile court directs that a further investigation is needed. [~~No summons is required as to any person who~~]

(b) A summons is not required for a person who:

(i) appears voluntarily; or [~~who~~]

(ii) files a written waiver of service with the clerk of the court at or before the hearing.

(2) [~~The~~] A summons under Subsection (1)(a) shall contain:

(a) the name of the court;

(b) the title of the proceedings; and

(c) except for a published summons, a brief statement of the substance of the allegations in the petition.

(3) A published summons shall state:

(a) that a proceeding concerning the minor is pending in the court; and

(b) an adjudication will be made.

(4) (a) The summons shall require [~~the person or persons who have~~]:

(i) a minor to appear personally in the juvenile court at a time and place stated; or

(ii) if a person who has physical custody of the minor, for the person to:

(A) appear personally; and

(B) bring the minor before the court at a time and place stated. [~~If the person or persons summoned are not the parent, parents, or guardian~~]

(b) If the minor is a child and a person summoned is not the parent or guardian of the minor, [~~the summons shall also be issued to the parent, parents, or guardian,~~] the juvenile court shall issue the summons to the minor's parent or guardian, as the case may be, notifying [~~them~~] the parent or guardian of the pendency of the case and of the time and place set for the hearing.

(5) [~~Summons~~] A summons may be issued requiring the appearance of any other person whose presence the juvenile court finds necessary.

(6) If it appears to the juvenile court that the welfare of the minor or of the public requires that the minor be taken into temporary custody under Section 80-6-201 or protective custody under Section 62A-4a-202.1, and it does not conflict with Section [~~78A-6-106.5~~] 80-6-202, the court may by endorsement upon the summons direct that the person serving the summons take the minor into custody at once.

(7) (a) [~~Subject to Subsection 78A-6-117(2), upon~~] Upon the sworn testimony of one or more reputable physicians, the juvenile court may order emergency medical or surgical treatment that is immediately necessary for a minor [~~concerning~~] for whom a petition has been filed pending the service of summons upon the minor's [~~parents~~] parent, guardian, or custodian.

(b) If the juvenile court orders emergency medical or surgical treatment:

(i) if a petition for delinquency has been filed under Section 80-6-305, Subsection 80-6-706(4) shall apply to the juvenile court's decision to order treatment;

(ii) if a petition has been filed under Section 80-3-201, Subsection 80-3-109(3) shall apply to the juvenile court's decision to order treatment; or

(iii) if a petition has been filed under Section 80-4-201, Subsection 80-4-108(4) shall apply to the juvenile court's decision to order treatment.

(8) (a) A minor is entitled to the issuance of compulsory process for the attendance of witnesses on the minor's own behalf.

[~~(8)~~] (b) A minor's parent or guardian is entitled to the issuance of compulsory process for the attendance of witnesses on the parent's or guardian's own behalf or on behalf of the minor.

(c) A guardian ad litem or a juvenile probation officer is entitled to compulsory process for the attendance of witnesses on behalf of the minor.

(9) Service of summons and process and proof of service shall be made in the manner provided in the Utah Rules of [~~Civil~~] Juvenile Procedure.

(10) (a) Service of summons or process shall be made by the sheriff of the county where the service is to be made, or by the sheriff's deputy.

(b) Notwithstanding Subsection (10)(a), upon request of the juvenile court, service shall be made by any other peace officer[~~,~~] or by another suitable person selected by the court.

(11) Service of summons in the state shall be made personally, by delivering a copy to the person summoned[~~; provided, however, that~~], except that the parents of a [~~minor~~] child living together at [~~their~~] the parents' usual place of abode may both be served by personal delivery [~~to either parent of copies of the summons, one copy for each parent~~] with one copy of the summons for each parent.

(12) (a) If the [~~judge~~] juvenile court makes a written finding that the [~~judge~~] juvenile court has reason to believe that personal service of the summons will be unsuccessful, or will not accomplish notification within a reasonable time after issuance of the summons, the [~~judge~~] juvenile court may order service by registered mail, with a return receipt to be signed by the addressee only, to be addressed to the last-known address of the person to be served in the state.

(b) Service [~~shall be~~] is complete upon return to the juvenile court of the signed receipt.

(13) (a) If the [~~parents, parent,~~] child's parent or guardian required to be summoned under Subsection (4) cannot be found within the state, the fact of [~~their minor's~~] the child's presence within the state shall confer jurisdiction on the juvenile court in proceedings in a [~~minor's~~] child's case under this [~~chapter~~] title as to any absent parent or guardian[~~, provided that due notice has been given in the following manner~~] when:

[~~(a)~~] (i) [~~If~~] if the address of the parent or guardian is known, due notice is given by sending the parent or guardian a copy of the summons by registered mail with a return receipt to be signed by the addressee only, or by personal service outside the state, as provided in the Utah Rules of [~~Civil~~] Juvenile Procedure[~~. Service by registered mail shall be complete upon return to the court of the signed receipt.~~]; or

[~~(b) (i)~~] (ii) [~~If~~] if the address or whereabouts of the parent or guardian outside the state cannot after diligent inquiry be ascertained, due notice is given by publishing a summons:

(A) in a newspaper having general circulation in the county in which the proceeding is pending once a week for four successive weeks; and

(B) in accordance with Section 45-1-101 for four weeks.

[~~(ii) Service shall be complete on the day of the last publication.~~]

(b) (i) If service is by registered mail under Subsection (13)(a)(i), service is complete upon return to the juvenile court of the signed receipt.

(ii) If service is by publication under Subsection (13)(a)(ii), service is complete on the day of the last publication.

(c) Service of summons as provided in this [~~subsection~~] Subsection (13) shall vest the court with jurisdiction over the parent or guardian served in the same manner and to the same extent as if the person served was served personally within the state.

(14) (a) In the case of service in the state, service completed not less than 48 hours before the time set in the summons for the appearance of the person served, shall be sufficient to confer jurisdiction.

(b) In the case of service outside the state, service completed not less than five days before the time set in the summons for appearance of the person served, shall be sufficient to confer jurisdiction.

(15) Computation of periods of time under this chapter and Title 80, Utah Juvenile Code, shall be made in accordance with [~~the~~] Utah Rules of [~~Civil~~] Juvenile Procedure, Rule 4.

Section 37. Section 78A-6-352, which is renumbered from Section 78A-6-111 is renumbered and amended to read:

[~~78A-6-111~~]. 78A-6-352. Appearances -- Parents, guardian, or custodian to appear with minor or child -- Failure to appear -- Warrant of arrest, when authorized -- Parent's, guardian's, or custodian's employer to grant time off -- Appointment of guardian ad litem.

[~~(1) Any person required to appear who, without reasonable cause, fails to appear may be proceeded against for contempt of court, and the court may cause a bench warrant to be issued to produce the person in court.~~]

[~~(2) In a case when a minor is required to appear in court, the parents, guardian, or other person with legal custody of the minor shall appear with the minor unless excused by the judge.~~]

(1) If a person is required to appear in a proceeding in the juvenile court and the person fails, without reasonable cause, to appear before the juvenile court, the juvenile court may issue a bench warrant to produce the person in court.

(2) If a child is required to appear in juvenile court, the child's parent, guardian, or custodian shall appear with the child in the juvenile court, unless the child's parent, guardian, or custodian is excused by the juvenile court.

(3) (a) [~~An employee~~] A child's parent, guardian, or custodian may request permission from the parent's, guardian's, or custodian's employer to leave the workplace for the purpose of attending court if the [~~employee has been~~] parent, guardian, or custodian is notified by the juvenile court that the [~~employee's minor~~] child is required to appear before the court.

(b) An employer must grant the parent, guardian, or custodian permission to leave the workplace with or without pay if the [~~employee has requested~~] parent, guardian, or custodian requests permission at least seven days in advance or within 24 hours of the [~~employee~~] parent, guardian, or custodian receiving notice of the hearing.

[~~(3)~~] (4) (a) If a parent, guardian, custodian or other person [~~who~~] to whom a child is released, signed a written promise to appear and bring the child to juvenile court under Section [~~78A-6-112 or 78A-6-113~~] 80-6-203 and fails to appear and bring the child to the juvenile court on the date set in the promise[~~,~~] or, if the date was to be set, after notification by the juvenile court, a warrant may be issued for the apprehension of [~~that person~~] the parent, guardian, custodian, or other person.

[~~(4)~~] (b) [~~Willful~~] A willful failure to perform the promise described in Subsection (4)(a) is a class B misdemeanor if, at the time of the execution of the promise, the promisor is given a copy of the promise [~~which~~] that clearly states [~~that~~] a failure to appear and have the child appear as promised is a class B misdemeanor. [~~The juvenile court shall have jurisdiction to proceed against the promisor in adult proceedings pursuant to Part 10, Adult Offenses.~~]

[~~(5) The court shall endeavor, through use of the warrant of arrest if necessary, as provided in Subsection (6), or by other means, to ensure the presence at all hearings of one or both parents or of the guardian of a child. If neither a parent nor guardian is present at the court proceedings, the court may appoint a guardian ad litem to protect the interest of a minor. A guardian ad litem may also be appointed whenever necessary for the welfare of a minor, whether or not a parent or guardian is present.~~]

(5) (a) A juvenile court shall make every effort to ensure the presence of the parent, guardian, or custodian of a child at all hearings through the use of a warrant of arrest, if necessary, or by other means.

(b) A juvenile court may appoint a guardian ad litem whenever necessary for the welfare of a child, regardless of whether the child's parent or guardian is present at the juvenile court proceedings.

(6) A [~~warrant may be issued~~] juvenile court may issue a warrant for a child's parent, [~~a~~] guardian, [~~a~~] or custodian[~~, or a minor~~] if:

(a) a summons is issued but cannot be served;

(b) [~~it is made to appear to the~~] it appears to the juvenile court that the person to be served will not obey the summons; or

(c) serving the summons will be ineffectual.

Section 38. Section 78A-6-353, which is renumbered from Section 78A-6-1101 is renumbered and amended to read:

[~~78A-6-1101~~]. 78A-6-353. Contempt -- Penalty -- Enforcement of fine, fee, or restitution.

(1) [~~A person~~] An individual who willfully violates or refuses to obey any order of the juvenile court may be proceeded against for contempt of court.

[~~(2) A person 18 years of age or older found in contempt of court may be punished in accordance with Section 78B-6-310.~~]

[~~(3) (a) A person younger than 18 years of age found in contempt of court may be punished by disposition permitted under Section 78A-6-117, except the court may only order a disposition that changes the custody of the minor, including community placement or commitment to a secure facility, if the disposition is commitment to a secure detention pursuant to Subsection 78A-6-117(2)(h) for no longer than 72 hours, excluding weekends and legal holidays.~~]

(2) If a juvenile court finds an individual who is 18 years old or older in contempt of court, the juvenile court may impose sanctions on the individual in accordance with Title 78B, Chapter 6, Part 3, Contempt.

(3) (a) Except as otherwise provided in this Subsection (3), if a juvenile court finds a child in contempt of court, the juvenile court may:

(i) place the child on probation in accordance with Section 80-6-702;

(ii) order the child to detention, or an alternative to detention, in accordance with Section 80-6-704; or

(iii) require the child to pay a fine or fee in accordance with Section 80-6-709.

(b) The juvenile court may only order a child to secure detention under Subsection (3)(a)(ii) for no longer than 72 hours, excluding weekends and legal holidays.

[~~(b) A~~] (c) The juvenile court may not suspend all or part of [~~the punishment~~] an order to secure detention upon compliance with conditions imposed by the juvenile court.

[~~(4) In accordance with Section 78A-6-117, the court may enforce orders of fines, fees, or restitution through garnishments, wage withholdings, supplementary proceedings, or executions. An order described in this Subsection (4) may not be enforced through an order of detention, community placement, or commitment to a secure facility.~~]

(d) The juvenile court may not enforce a disposition under Subsection (3)(a)(iii) through an order for detention, a community-based program, or secure care.

(4) On the sole basis of a child's absence from placement, a juvenile court may not hold a child in contempt under this section if the child:

(a) is in the legal custody of the Division of Child and Family Services; and

(b) is missing, has been abducted, or has run away.

Section 39. Section 78A-6-354, which is renumbered from Section 78A-6-114 is renumbered and amended to read:

[~~78A-6-114~~]. 78A-6-354. Hearings -- Minors cases heard separately from adult cases -- Minor or parents or custodian heard separately -- Continuance of hearing.

(1) [~~Hearings in minors' cases~~] A hearing for a minor's case shall be held before the juvenile court without a jury and may be conducted in an informal manner.

[~~(a) (i) In abuse, neglect, and dependency cases the court shall admit any person to a hearing, including a hearing under Section 78A-6-322, unless the court makes a finding upon the record that the person's presence at the hearing would:~~]

[~~(A) be detrimental to the best interest of a child who is a party to the proceeding;~~]

[~~(B) impair the fact-finding process; or~~]

[~~(C) be otherwise contrary to the interests of justice.~~]

[~~(ii) The court may exclude a person from a hearing under Subsection (1)(a)(i) on its own motion or by motion of a party to the proceeding.~~]

[~~(b) In delinquency cases the court shall admit all persons who have a direct interest in the case and may admit persons requested by the parent or legal guardian to be present. The court shall exclude all other persons except as provided in Subsection (1)(c).~~]

[~~(c) In delinquency cases in which the minor charged is 14 years of age or older, the court shall admit any person unless the hearing is closed by the court upon findings on the record for good cause if:~~]

[~~(i) the minor has been charged with an offense which would be a felony if committed by an adult; or~~]

[~~(ii) the minor is charged with an offense that would be a class A or B misdemeanor if committed by an adult, and the minor has been previously charged with an offense which would be a misdemeanor or felony if committed by an adult.~~]

[~~(d) The victim of any act charged in a petition or information involving an offense committed by a minor which if committed by an adult would be a felony or a class A or class B misdemeanor shall, upon request, be afforded all rights afforded victims in Title 77, Chapter 36, Cohabitant Abuse Procedures Act, Title 77, Chapter 37, Victims' Rights, Title 77, Chapter 38, Rights of Crime Victims Act, and Title 78B, Chapter 7, Part 8, Criminal Protective Orders. The notice provisions in Section 77-38-3 do not apply to important juvenile justice hearings as defined in Section 77-38-2.~~]

[~~(e) A victim, upon request to appropriate juvenile court personnel, shall have the right to~~

~~inspect and duplicate juvenile court legal records that have not been expunged concerning:~~]

[~~(i) the scheduling of any court hearings on the petition;~~]

[~~(ii) any findings made by the court; and~~]

[~~(iii) any sentence or decree imposed by the court.~~]

(2) (a) [~~Minors' cases~~] A minor's case under Title 80, Chapter 3, Abuse, Neglect, and Dependency Proceedings, Chapter 4, Termination and Restoration of Parental Rights, and Chapter 6, Juvenile Justice, shall be heard separately from [~~adult cases~~] any adult case.

(b) The minor or the [~~parents or custodian of a minor~~] minor's parent or guardian may be heard separately when considered necessary by the juvenile court.

(c) [~~The~~] A hearing may be continued [~~from time to time~~] to a date specified by court order.

[~~(3) When more than one child is involved in a home situation which may be found to constitute neglect or dependency, or when more than one minor is alleged to be involved in the same law violation, the proceedings may be consolidated, except that separate hearings may be held with respect to disposition.~~]

Section 40. Section 78A-6-355, which is renumbered from Section 78A-6-1112 is renumbered and amended to read:

[~~78A-6-1112~~]. 78A-6-355. Exchange of information with agency or institution having legal custody.

(1) [~~Whenever~~] If legal custody of a minor is vested in an institution or agency, the juvenile court shall transmit, with the court order, copies of the social study, any clinical reports, and other information pertinent to the care and treatment of the minor to the institution or agency with legal custody of the minor.

(2) The institution or agency shall give the juvenile court any information concerning the minor that the juvenile court may at any time require.

[~~(2) The Division of Juvenile Justice Services or any other institution or agency to whom a minor is committed under Section 78A-6-117 may not transfer custody of the minor to the state prison or any other institution for the correction of adult offenders.~~]

Section 41. Section 78A-6-356, which is renumbered from Section 78A-6-1106 is renumbered and amended to read:

[~~78A-6-1106~~]. 78A-6-356. Child support obligation when custody of a child is vested in an individual or institution.

(1) As used in this section:

(a) "Office" means the Office of Recovery Services.

(b) "State custody" means that a child is in the custody of a state department, division, or agency, including [~~a secure youth corrections facility~~] secure care.

(2) Under this section, a juvenile court may not issue a child support order against an individual unless:

(a) the individual is served with notice that specifies the date and time of a hearing to determine the financial support of a specified child;

(b) the individual makes a voluntary appearance; or

(c) the individual submits a waiver of service.

(3) Except as provided in Subsection (11), when a juvenile court places a child in state custody or if the guardianship of the child has been granted to another party and an agreement for a guardianship subsidy has been signed by the guardian, the juvenile court:

(a) shall order [~~the parents, a parent, or other obligated individual~~] the child's parent, guardian, or other obligated individual to pay child support for each month the child is in state custody or cared for under a grant of guardianship; [~~and~~]

(b) shall inform [~~the parents, a parent, or other obligated individual,~~] the child's parent, guardian, or other obligated individual, verbally and in writing, of the requirement to pay child support in accordance with Title 78B, Chapter 12, Utah Child Support Act; and

(c) may refer the establishment of a child support order to the office.

(4) When a juvenile court chooses to refer a case to the office to determine support obligation amounts in accordance with Title 78B, Chapter 12, Utah Child Support Act, the juvenile court shall:

(a) make the referral within three working days after the day on which the juvenile court holds the hearing described in Subsection (2)(a); and

(b) inform [~~the parents, a parent, or other obligated individual~~] the child's parent, guardian, or other obligated individual of:

(i) the requirement to contact the office within 30 days after the day on which the juvenile court holds the hearing described in Subsection (2)(a); and

(ii) the penalty described in Subsection (6) for failure to contact the office.

(5) Liability for child support ordered under Subsection (3) shall accrue:

(a) except as provided in Subsection (5)(b), beginning on day 61 after the day on which the juvenile court holds the hearing described in Subsection (2)(a)[~~,~~] if there is no existing child support order for the child; or

(b) beginning on the day the child is removed from the child's home, including time spent in detention or sheltered care, if the child is removed after having been returned to the child's home from state custody.

(6) (a) If the [~~parents, a parent, or other obligated individual~~] child's parent, guardian, or other obligated individual contacts the office within 30 days after the day on which the court holds the hearing described in Subsection (2)(a), the child support order may not include a judgment for past due support for more than two months.

(b) Notwithstanding Subsections (5) and (6)(a), the juvenile court may order the liability of support to begin to accrue from the date of the proceeding referenced in Subsection (3) if:

(i) the court informs [~~the parents, a parent, or other obligated individual~~] the child's parent, guardian, or other obligated individual, as described in Subsection (4)(b), and the [~~parents, a parent, or other obligated individual~~] parent, guardian, or other obligated individual fails to contact the office within 30 days after the day on which the court holds the hearing described in Subsection (2)(a); and

(ii) the office took reasonable steps under the circumstances to contact [~~the parents, parent, or other obligated individual~~] the child's parent, guardian, or other obligated individual within 30 days after the last day on which [~~the parents, a parent, or other obligated individual~~] the parent, guardian, or other obligated individual was required to contact the office to facilitate the establishment of a child support order.

(c) For purposes of Subsection (6)(b)(ii), the office is presumed to have taken reasonable steps if the office:

(i) has a signed, returned receipt for a certified letter mailed to the address of the [~~parents, a parent, or other obligated individual~~] child's parent, guardian, or other obligated individual regarding the requirement that a child support order be established; or

(ii) has had a documented conversation, whether by telephone or in person, with the [~~parents, parent, or other obligated individual~~] child's parent, guardian, or other obligated individual regarding the requirement that a child support order be established.

(7) In collecting arrears, the office shall comply with Section 62A-11-320 in setting a payment schedule or demanding payment in full.

(8) (a) Unless a court orders otherwise, the [~~parents, a parent, or other obligated individual~~] child's parent, guardian, or other obligated individual shall pay the child support to the office.

(b) The clerk of the juvenile court, the office, or the Department of Human Services and [~~its~~] the department's divisions shall have authority to receive periodic payments for the care and maintenance of the child, such as [~~Social Security~~] social security payments or railroad retirement payments made in the name of or for the benefit of the child.

(9) An existing child support order payable to a parent or other individual shall be assigned to the Department of Human Services as provided in Section 62A-1-117.

(10) (a) Subsections (4) through (9) do not apply if legal custody of a child is vested by the juvenile court in an individual.

(b) (i) If legal custody of a child is vested by the juvenile court in an individual, the court may order the [~~parents, a parent, or other obligated individual~~] child's parent, guardian, or other obligated individual to pay child support to the individual in whom custody is vested.

(ii) In the same proceeding, the juvenile court shall inform the [~~parents, a parent, or other obligated individual~~] child's parent, guardian, or other obligated individual, verbally and in writing, of the requirement to pay child support in accordance with Title 78B, Chapter 12, Utah Child Support Act.

(11) The juvenile court may not order an individual to pay child support for a child in state custody if:

(a) the individual's only form of income is a government-issued disability benefit;

(b) the benefit described in Subsection (11)(a) is issued because of the individual's disability, and not the child's disability; and

(c) the individual provides the juvenile court and the office evidence that the individual meets the requirements of Subsections (11)(a) and (b).

(12) After the juvenile court or the office establishes an individual's child support obligation ordered under Subsection (3), the office shall waive the obligation without further order of the juvenile court if:

(a) the individual's child support obligation is established under Subsection 78B-12-205(6) or Section 78B-12-302; or

(b) the individual's only source of income is a means-tested, income replacement payment of aid, including:

(i) cash assistance provided under Title 35A, Chapter 3, Part 3, Family Employment Program; or

(ii) cash benefits received under General Assistance, social security income, or social security disability income.

Section 42. Section 78A-6-357 is enacted to read:

78A-6-357. New hearings -- Modification of order or decree -- Requirements for changing or terminating custody, probation, or protective supervision.

(1) If a party seeks a new hearing after an adjudication under Title 80, Utah Juvenile Code, Utah Rules of Juvenile Procedure, Rule 48, shall govern the matter of granting a new hearing.

(2) (a) Except as provided in Subsection (3), a juvenile court may modify or set aside any order or decree made by the juvenile court.

(b) A modification of an order placing a minor on probation may not:

(i) include an order under Section 80-3-405, 80-6-703, 80-6-704, or 80-6-705; or

(ii) extend supervision over a minor, except in accordance with Section 80-6-712.

(3) (a) A parent or guardian of a child whose legal custody has been transferred by the juvenile court to an individual, agency, or institution may petition the juvenile court for restoration of custody or other modification or revocation of the juvenile court's order or decree, except as provided in Subsections (3)(b), (c), and (d) and for a transfer of legal custody for secure care.

(b) A parent or guardian may only petition the juvenile court under Subsection (3)(a) on the ground that a change of circumstances has occurred that requires modification or revocation in the best interest of the child or the public.

(c) A parent may not file a petition after the parent's parental rights have been terminated in accordance with Title 80, Chapter 4, Termination and Restoration of Parental Rights.

(d) A parent may not file a petition for restoration of custody under this section during the existence of a permanent guardianship established for the child under Subsection 80-3-405(2)(d).

(4) (a) An individual, agency, or institution vested with legal custody of a child may petition the juvenile court for a modification of the custody order on the ground that the change is necessary for the welfare of the child or in the public interest.

(b) The juvenile court shall proceed upon the petition in accordance with this section.

(5) Notice of hearing is required in any case in which the effect of modifying or setting aside an order or decree may be to make any change in the minor's legal custody under Section 80-3-405 or 80-6-703.

(6) (a) Upon the filing of a petition under Subsection (3)(a), the juvenile court shall make a preliminary investigation.

(b) After the preliminary investigation described in Subsection (6)(a), the juvenile court:

(i) may dismiss the petition if the juvenile court finds the alleged change of circumstances, if proved, would not affect the decree; or

(ii) shall conduct a hearing, if the juvenile court finds that further examination of the facts is needed, or if the juvenile court on the juvenile court's own motion determines that the juvenile court's order or decree should be reviewed.

(c) Notice of the hearing described in Subsection (6)(b)(ii) shall be given to all interested persons.

(d) At a hearing under Subsection (6)(b)(ii), the juvenile court may enter an order continuing, modifying, or terminating the juvenile court's order or decree.

(7) Notice of an order terminating probation or protective supervision of a child shall be given to the child's:

(a) parent;

(b) guardian;

(c) custodian; and

(d) where appropriate, to the child.

(8) Notice of an order terminating probation or protective supervision of a minor who is at least 18 years old shall be given to the minor.

Section 43. Section 78A-6-358, which is renumbered from Section 78A-6-118 is renumbered and amended to read:

[~~78A-6-118~~]. 78A-6-358. Period of effect for a judgment, decree, or order by a juvenile court.

(1) A judgment, order, or decree of the juvenile court is no longer in effect after a minor is 21 years old, except:

(a) for an order of commitment to the Utah State Developmental Center or to the custody of the Division of Substance Abuse and Mental Health;

(b) for an adoption under Subsection 78A-6-103[~~(1)~~](2)(n);

(c) for an order permanently terminating the rights of a parent, guardian, or custodian under Title 80, Chapter 4, Termination and Restoration of Parental Rights;

(d) for a permanent order of custody and guardianship under Subsection 80-3-405(2)(d); [~~and~~]

(e) an order establishing paternity under Subsection 78A-6-104(1)(a)(i); and

[~~(e)~~] (f) as provided in Subsection (2).

(2) If the juvenile court enters a judgment or order for a minor for whom the juvenile court has extended continuing jurisdiction over the minor's case until the minor is 25 years old under Section [~~78A-6-703.4~~] 80-6-605, the juvenile court's judgment or order is no longer in effect after the minor is 25 years old.

Section 44. Section 78A-6-359, which is renumbered from Section 78A-6-1109 is renumbered and amended to read:

[~~78A-6-1109~~]. 78A-6-359. Appeals.

(1) An appeal to the Court of Appeals may be taken from any order, decree, or judgment of the juvenile court.

[~~(2) Appeals of right from juvenile court orders related to abuse, neglect, dependency, termination, and adoption proceedings, shall be taken within 15 days from entry of the order, decree, or judgment appealed from. In addition, the~~]

(2) (a) An appeal of right from an order, decree, or judgment by a juvenile court related to a proceeding under Title 78B, Chapter 6, Part 1, Utah Adoption Act, Title 80, Chapter 3, Abuse, Neglect, and

Dependency Proceedings, and Title 80, Chapter 4, Termination and Restoration of Parental Rights, shall be filed within 15 days after the day on which the juvenile court enters the order, decree, or judgment.

(b) A notice of appeal must be signed by appellant's counsel, if any, and by appellant, unless the appellant is a child or state agency.

(c) If an appellant fails to timely sign a notice of appeal, the appeal shall be dismissed.

(3) [~~The disposition order~~] An order for a disposition from the juvenile court shall include the following information:

(a) notice that the right to appeal described in Subsection (2)(a) is time sensitive and must be taken within 15 days [~~from entry of~~] after the day on which the juvenile court enters the order, decree, or judgment appealed from;

(b) the right to appeal within the specified time limits;

(c) the need for the signature of the parties on a notice of appeal in [~~appeals from juvenile court orders related to abuse, neglect, dependency, termination, and adoption proceedings~~] an appeal described in Subsection (2)(a); and

(d) the need for parties to maintain regular contact with [~~their~~] the parties' counsel and to keep all other parties and the appellate court informed of [~~their~~] the parties' whereabouts.

(4) If the parties are not present in the courtroom, the juvenile court shall [~~mail a written statement~~] provide a statement containing the information provided in Subsection (3) to the parties at [~~their~~] the parties' last known address.

(5) (a) The juvenile court shall inform the parties' counsel at the conclusion of the proceedings that, if an appeal is filed, [~~they~~] the parties' counsel must represent [~~their clients~~] the parties throughout the appellate process unless relieved of that obligation by the juvenile court upon a showing of extraordinary circumstances.

(b) (i) Until the petition on appeal is filed, claims of ineffective assistance of counsel do not constitute extraordinary circumstances.

(ii) If a claim is raised by trial counsel or a party, [~~it~~] the claim must be included in the petition on appeal.

(6) During the pendency of an appeal [~~from juvenile court orders related to abuse, neglect, dependency, termination, and adoption proceedings~~] under Subsection (2)(a), parties shall maintain regular contact with [~~their~~] the parties' counsel, if any, and keep all other parties and the appellate court informed of [~~their~~] the parties' whereabouts.

(7) (a) In all other appeals of right, the appeal shall be taken within 30 days [~~from the entry of the order, decree, or judgment appealed from and the~~] after the day on which the juvenile court enters the order, decree, or judgment.

(b) A notice of appeal under Subsection (7)(a) must be signed by appellant's counsel, if any, or by appellant.

(8) The attorney general shall represent the state in all appeals under this chapter and Title 80, Chapter 3, Abuse, Neglect, and Dependency Proceedings, Chapter 4, Termination and Restoration of Parental Rights, and Chapter 6, Juvenile Justice.

[~~(8)~~] (9) Unless the juvenile court stays [~~its~~] the juvenile court's order, the pendency of an appeal does not stay the order or decree appealed from in a minor's case, unless otherwise ordered by the Court of Appeals, if suitable provision for the care and custody of the minor involved is made pending the appeal.

[~~(9)~~] (10) Access to the record on appeal [~~shall be~~] is governed by Title 63G, Chapter 2, Government Records Access and Management Act.

Section 45. Section 78A-6-450, which is renumbered from Section 78A-6-1001 is renumbered and amended to read:

Part 4a. Adult Criminal Proceedings

[~~78A-6-1001~~]. 78A-6-450. Criminal information for an adult in juvenile court.

[~~(1) The court shall have jurisdiction, concurrent with the district court or justice court otherwise having subject matter jurisdiction, to try adults for the following offenses committed against minors:~~]

A county attorney or district attorney may file a criminal information in the juvenile court charging an adult for:

[~~(a)~~] (1) unlawful sale or furnishing of an alcoholic product to minors in violation of Section 32B-4-403;

[~~(b)~~] (2) failure to report abuse or neglect[~~, as required by Title 62A, Chapter 4a, Part 4, Child Abuse or Neglect Reporting Requirements~~] in violation of Section 62A-4a-411;

[~~(c)~~] (3) harboring a runaway in violation of Section [~~62A-4a-501~~] 80-5-601;

[~~(d)~~] (4) misdemeanor custodial interference in violation of Section 76-5-303;

[~~(e)~~] (5) contributing to the delinquency of a minor in violation of Section 76-10-2301; [~~and~~]

[~~(f)~~] (6) failure to comply with compulsory education requirements in violation of Section 53G-6-202[~~.~~]; or

[~~(2) It is not necessary for the minor to be found to be delinquent or to have committed a delinquent act for the court to exercise jurisdiction under Subsection (1).~~]

(7) a willful failure to perform a promise to appear under Subsection 78A-6-352(4)(b).

Section 46. Section 78A-6-451, which is renumbered from Section 78A-6-1002 is renumbered and amended to read:

[~~78A-6-1002~~]. 78A-6-451. Who may prosecute an adult in juvenile court -- Transfer to district court.

(1) The county attorney or district attorney, as provided in Title 17, Chapter 18a, Powers and Duties of County and District Attorney, shall prosecute any case brought under this part.

(2) [~~Proceedings~~] Any proceeding under this part [~~shall be~~] is governed by the statutes and rules governing criminal proceedings in the district court, except the juvenile court may, [~~and~~] on stipulation of the parties, [~~shall,~~] transfer the case to the district court.

Section 47. Section 78A-6-452, which is renumbered from Section 78A-6-1003 is renumbered and amended to read:

[~~78A-6-1003~~]. 78A-6-452. Costs and expenses of trial.

[~~The fees and expenses, the cost of publication of summons, and the expense of a trial of an adult, when approved by the court, are paid by the state, except prosecution costs and public defender costs are paid by the county where the hearing or trial is held.~~]

(1) Except as provided in Subsection (2), the state shall pay, when approved by the court, the cost of publication of a summons, the expense of a trial, and any other fee or expense of a trial of an adult under this part.

(2) The county where the hearing or trial is held shall pay the prosecution costs and public defender costs.

Section 48. Section 78B-6-105 is amended to read:

78B-6-105. District court venue -- Jurisdiction of juvenile court -- Jurisdiction over nonresidents -- Time for filing.

(1) [~~Adoption proceedings~~] An adoption proceeding shall be commenced by filing a petition [~~with the clerk of the district court either~~] in:

(a) the district court in the district where the prospective adoptive parent resides;

(b) if the prospective adoptive parent is not a resident of this state, the district court in the district where:

(i) the adoptee was born;

(ii) the adoptee resides on the day on which the petition is filed; or

(iii) a parent of the proposed adoptee resides on the day on which the petition is filed; or

(c) [~~with~~] the juvenile court as provided in Subsection 78A-6-103(2)(n) and Section 78A-6-350.

(2) All orders, decrees, agreements, and notices in [~~the proceedings~~] an adoption proceeding shall be filed with the clerk of the court where the adoption [~~proceedings were~~] proceeding is commenced under Subsection (1).

(3) A petition for adoption:

(a) may be filed before the birth of a child;

(b) may be filed before or after the adoptee is placed in the home of the petitioner for the purpose of adoption; and

(c) shall be filed no later than 30 days after the day on which the adoptee is placed in the home of the petitioners for the purpose of adoption, unless:

(i) the time for filing has been extended by the court; or

(ii) the adoption is arranged by a child-placing agency in which case the agency may extend the filing time.

(4) (a) If a person whose consent for the adoption is required under Section 78B-6-120 or 78B-6-121 cannot be found within the state, the fact of the minor's presence within the state shall confer jurisdiction on the court in proceedings under this chapter as to such absent person, provided that due notice has been given in accordance with the Utah Rules of Civil Procedure.

(b) The notice may not include the name of:

(i) a prospective adoptive parent; or

(ii) an unmarried mother without her consent.

(5) Service of notice [~~as provided in~~] described in Subsection (6) shall vest the court with jurisdiction over the person served in the same manner and to the same extent as if the person served was served personally within the state.

(6) In the case of service outside the state, service completed not less than five days before the time set in the notice for appearance of the person served [~~shall be~~] is sufficient to confer jurisdiction.

(7) Computation of periods of time not otherwise set forth in this section shall be made in accordance with the Utah Rules of Civil Procedure.

Section 49. Section 78B-15-104 is amended to read:

78B-15-104. Jurisdiction -- Authority of Office of Recovery Services -- Dismissal of petition.

[~~(1) The district court, the juvenile court, and the Office of Recovery Services in accordance with Section 62A-11-304.2 and Title 63G, Chapter 4, Administrative Procedures Act, are authorized to adjudicate parentage under Part 1, General Provisions, Part 2, Parent and Child Relationship, Part 3, Voluntary Declaration of Paternity Act, Part 4, Registry, Part 5, Genetic Testing, Part 6, Adjudication of Parentage, and Part 9, Miscellaneous.~~]

[~~(2) The district court and the juvenile court have jurisdiction over proceedings under Part 7, Assisted Reproduction, and Part 8, Gestational Agreement.~~]

(1) (a) Except as provided in Subsection 78A-6-104(1)(a)(i), the district court has original jurisdiction over any action brought under this chapter.

(b) If the juvenile court has concurrent jurisdiction under Subsection 78A-6-104(1)(a)(i) over a paternity action filed in the district court, the district court may transfer jurisdiction over the paternity action to the juvenile court.

(2) The Office of Recovery Services is authorized to establish paternity in accordance with this chapter, Title 62A, Chapter 11, Recovery Services, and Title 63G, Chapter 4, Administrative Procedures Act.

(3) [~~The~~] A court shall, without adjudicating paternity, dismiss a petition that is filed under this chapter by an unmarried biological father if he is not entitled to consent to the adoption of the child under Sections 78B-6-121 and 78B-6-122.

Section 50. Section 80-1-101 is enacted to read:

TITLE 80. UTAH JUVENILE CODE

CHAPTER 1. GENERAL PROVISIONS

80-1-101. Title.

(1) This title is known as the "Utah Juvenile Code."

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

Section 51. Section 80-1-102, which is renumbered from Section 78A-6-105 is renumbered and amended to read:

[~~78A-6-105~~]. 80-1-102. Juvenile code definitions.

As used in this [~~chapter~~] title:

(1) (a) "Abuse" means:

(i) (A) nonaccidental harm of a child;

(B) threatened harm of a child;

(C) sexual exploitation;

(D) sexual abuse; or

(E) human trafficking of a child in violation of Section 76-5-308.5; or

(ii) that a child's natural parent:

(A) intentionally, knowingly, or recklessly causes the death of another parent of the child;

(B) is identified by a law enforcement agency as the primary suspect in an investigation for intentionally, knowingly, or recklessly causing the death of another parent of the child; or

(C) is being prosecuted for or has been convicted of intentionally, knowingly, or recklessly causing the death of another parent of the child.

(b) "Abuse" does not include:

(i) reasonable discipline or management of a child, including withholding privileges;

(ii) conduct described in Section 76-2-401; or

(iii) the use of reasonable and necessary physical restraint or force on a child:

(A) in self-defense;

(B) in defense of others;

(C) to protect the child; or

(D) to remove a weapon in the possession of a child for any of the reasons described in Subsections (1)(b)(iii)(A) through (C).

(2) "Abused child" means a child who has been subjected to abuse.

(3) (a) "Adjudication" means a finding by the court, incorporated in a decree, that the facts alleged in the petition have been proved.

(b) "Adjudication" does not mean a finding of not competent to proceed in accordance with Section [~~78A-6-1302~~] 80-6-402.

(4) (a) "Adult" means an individual who is 18 years old or older.

(b) "Adult" does not include an individual:

(i) who is 18 years old or older; and

[~~(ii) whose case is under the continuing jurisdiction of the juvenile court in accordance with Section 78A-6-120.~~]

(ii) who is a minor.

(5) "Attorney guardian ad litem" means the same as that term is defined in Section 78A-2-801.

[~~(5)~~] (6) "Board" means the Board of Juvenile Court Judges.

[~~(6)~~] (7) "Child" means an individual who is under 18 years old.

(8) "Child and family plan" means a written agreement between a child's parents or guardian and the Division of Child and Family Services as described in Section 62A-4a-205.

[~~(7)~~] (9) "Child placement agency" means:

(a) a private agency licensed to receive a child for placement or adoption under this code; or

(b) a private agency that receives a child for placement or adoption in another state, which [~~agency~~] is licensed or approved where such license or approval is required by law.

[~~(8)~~] (10) "Clandestine laboratory operation" means the same as that term is defined in Section 58-37d-3.

[~~(9)~~] (11) "Commit" or "committed" means, unless specified otherwise:

(a) with respect to a child, to transfer legal custody; and

(b) with respect to a minor who is at least 18 years old, to transfer custody.

[~~(10) "Court" means the juvenile court.~~]

(12) "Community-based program" means a nonsecure residential or nonresidential program, designated to supervise and rehabilitate juvenile offenders, that prioritizes the least restrictive setting, consistent with public safety, and operated by or under contract with the Division of Juvenile Justice Services.

(13) "Community placement" means placement of a minor in a community-based program described in Section 80-5-402.

(14) "Correctional facility" means:

(a) a county jail; or

(b) a secure correctional facility as defined in Section 64-13-1.

[~~(11)~~] (15) "Criminogenic risk factors" means evidence-based factors that are associated with a minor's likelihood of reoffending.

[~~(12) "Delinquent act" means an act that would constitute a felony or misdemeanor if committed by an adult.~~]

[~~(13)~~] (16) "Department" means the Department of Human Services created in Section 62A-1-102.

[~~(14)~~] (17) "Dependent child" [~~includes~~] or "dependency" means a child who is homeless or without proper care through no fault of the child's parent, guardian, or custodian.

[~~(15)~~] (18) "Deprivation of custody" means transfer of legal custody by the juvenile court from a parent [~~or the parents~~] or a previous [~~legal~~] custodian to another person, agency, or institution.

[~~(16) "Detention" means home detention and secure detention as defined in Section 62A-7-101 for the temporary care of a minor who requires secure custody in a physically restricting facility:~~]

[~~(a) pending court disposition or transfer to another jurisdiction; or~~]

[~~(b) while the minor's case is under the continuing jurisdiction of the court.~~]

[~~(17) "Detention risk assessment tool" means an evidence-based tool established under Section 78A-6-124, on and after July 1, 2018, that assesses a minor's risk of failing to appear in court or reoffending pre-adjudication and designed to assist in making detention determinations.~~]

(19) "Detention" means home detention or secure detention.

(20) "Detention risk assessment tool" means an evidence-based tool established under Section 80-5-203 that:

(a) assesses a minor's risk of failing to appear in court or reoffending before adjudication; and

(b) is designed to assist in making a determination of whether a minor shall be held in detention.

[~~(18)~~] (21) "Developmental immaturity" means incomplete development in one or more domains [~~which~~] that manifests as a functional limitation in the minor's present ability to:

(a) consult with counsel with a reasonable degree of rational understanding; and

(b) have a rational as well as factual understanding of the proceedings.

[~~(19) "Division" means the Division of Child and Family Services.~~]

(22) "Disposition" means an order by a juvenile court, after the adjudication of a minor, under Section 80-3-405 or 80-4-305 or Chapter 6, Part 7, Adjudication and Disposition.

[~~(20)~~] (23) "Educational neglect" means that, after receiving a notice of compulsory education violation under Section 53G-6-202, the parent or guardian fails to make a good faith effort to ensure that the child receives an appropriate education.

[~~(21)~~] (24) "Educational series" means an evidence-based instructional series:

(a) obtained at a substance abuse program that is approved by the Division of Substance Abuse and Mental Health in accordance with Section 62A-15-105; and

(b) designed to prevent substance use or the onset of a mental health disorder.

(25) "Emancipated" means the same as that term is defined in Section 80-7-102.

[~~(22)~~] (26) "Evidence-based" means a program or practice that has had multiple randomized control studies or a meta-analysis demonstrating that the program or practice is effective for a specific population or has been rated as effective by a standardized program evaluation tool.

[~~(23)~~] (27) "Forensic evaluator" means the same as that term is defined in Section 77-15-2.

[~~(24)~~] (28) "Formal probation" means a minor is [~~under field supervision by the probation department or other agency designated by the court and~~]:

(a) supervised in the community by, and reports to, a juvenile probation officer or an agency designated by the juvenile court; and

(b) subject to return to the juvenile court in accordance with Section [~~78A-6-123 on and after July 1, 2018~~] 80-6-607.

[~~(25) "Formal referral" means a written report from a peace officer or other person informing the court that a minor is, or appears to be, within the court's jurisdiction and that the minor's case must be reviewed by the court's probation department or a prosecuting attorney.~~]

[~~(26)~~] (29) "Group rehabilitation therapy" means psychological and social counseling of one or more individuals in the group, depending upon the recommendation of the therapist.

[~~(27)~~] (30) [~~"Guardianship of the person" includes~~] "Guardian" means a person appointed by

a court to make decisions regarding a minor, including the authority to consent to:

(a) marriage;

(b) enlistment in the armed forces;

(c) major medical, surgical, or psychiatric treatment; or

(d) legal custody, if legal custody is not vested in another individual, agency, or institution.

[~~(28) "Habitual truant" means the same as that term is defined in Section 53G-6-201.~~]

(31) "Guardian ad litem" means the same as that term is defined in Section 78A-2-801.

[~~(29)~~] (32) "Harm" means:

(a) physical or developmental injury or damage;

(b) emotional damage that results in a serious impairment in the child's growth, development, behavior, or psychological functioning;

(c) sexual abuse; or

(d) sexual exploitation.

(33) "Home detention" means placement of a minor:

(a) if prior to a disposition, in the minor's home, or in a surrogate home with the consent of the minor's parent, guardian, or custodian, under terms and conditions established by the Division of Juvenile Justice Services or the juvenile court; or

(b) if after a disposition, and in accordance with Section 78A-6-353 or 80-6-704, in the minor's home, or in a surrogate home with the consent of the minor's parent, guardian, or custodian, under terms and conditions established by the Division of Juvenile Justice Services or the juvenile court.

[~~(30)~~] (34) (a) "Incest" means engaging in sexual intercourse with an individual whom the perpetrator knows to be the perpetrator's ancestor, descendant, brother, sister, uncle, aunt, nephew, niece, or first cousin.

[~~(b) The relationships described in Subsection (30)(a) include:~~]

(b) "Incest" includes:

(i) blood relationships of the whole or half blood, without regard to legitimacy;

(ii) relationships of parent and child by adoption; and

(iii) relationships of stepparent and stepchild while the marriage creating the relationship of a stepparent and stepchild exists.

[~~(31) "Intake probation" means a period of court monitoring that does not include field supervision, but is overseen by a juvenile probation officer, during which a minor is subject to return to the court in accordance with Section 78A-6-123 on and after July 1, 2018.~~]

(35) "Indian child" means the same as that term is defined in 25 U.S.C. Sec. 1903.

(36) "Indian tribe" means the same as that term is defined in 25 U.S.C. Sec. 1903.

(37) "Indigent defense service provider" means the same as that term is defined in Section 78B-22-102.

(38) "Indigent defense services" means the same as that term is defined in Section 78B-22-102.

(39) "Indigent individual" means the same as that term is defined in Section 78B-22-102.

(40) (a) "Intake probation" means a minor is:

(i) monitored by a juvenile probation officer; and

(ii) subject to return to the juvenile court in accordance with Section 80-6-607.

(b) "Intake probation" does not include formal probation.

[~~(32)~~] (41) "Intellectual disability" means a significant subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior that constitutes a substantial limitation to the individual's ability to function in society.

(42) "Juvenile offender" means:

(a) a serious youth offender; or

(b) a youth offender.

(43) "Juvenile probation officer" means a probation officer appointed under Section 78A-6-205.

(44) "Juvenile receiving center" means a nonsecure, nonresidential program established by the Division of Juvenile Justice Services, or under contract with the Division of Juvenile Justice Services, that is responsible for minors taken into temporary custody under Section 80-6-201.

[~~(33)~~] (45) "Legal custody" means a relationship embodying [~~the following rights and duties~~]:

(a) the right to physical custody of the minor;

(b) the right and duty to protect, train, and discipline the minor;

(c) the duty to provide the minor with food, clothing, shelter, education, and ordinary medical care;

(d) the right to determine where and with whom the minor shall live; and

(e) the right, in an emergency, to authorize surgery or other extraordinary care.

[~~(34) "Material loss" means an uninsured:~~]

[~~(a) property loss;~~]

[~~(b) out-of-pocket monetary loss for property that is stolen, damaged, or destroyed;~~]

[~~(c) lost wages because of an injury, time spent as a witness, or time spent assisting the police or prosecution; or~~]

[~~(d) medical expense.~~]

[~~(35)~~] (46) "Mental illness" means:

(a) a psychiatric disorder that substantially impairs an individual's mental, emotional, behavioral, or related functioning; or

(b) the same as that term is defined in:

(i) the current edition of the Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association; or

(ii) the current edition of the International Statistical Classification of Diseases and Related Health Problems.

[~~(36) "Minor" means:~~]

[~~(a) for the purpose of juvenile delinquency:~~]

[~~(i) a child; or~~]

[~~(ii) an individual:~~]

[~~(A) who is at least 18 years old and younger than 25 years old; and~~]

[~~(B) whose case is under the jurisdiction of the juvenile court; and~~]

[~~(b) for all other purposes in this chapter:~~]

[~~(i) a child; or~~]

[~~(ii) an individual:~~]

[~~(A) who is at least 18 years old and younger than 21 years old; and~~]

[~~(B) whose case is under the jurisdiction of the juvenile court.~~]

(47) "Minor" means, except as provided in Sections 80-6-901 and 80-7-102:

(a) a child; or

(b) an individual:

(i) (A) who is at least 18 years old and younger than 21 years old; and

(B) for whom the Division of Child and Family Services has been specifically ordered by the juvenile court to provide services because the individual was an abused, neglected, or dependent child or because the individual was adjudicated for an offense; or

(ii) (A) who is at least 18 years old and younger than 25 years old; and

(B) whose case is under the continuing jurisdiction of the juvenile court under Chapter 6, Juvenile Justice.

[~~(37)~~] (48) "Mobile crisis outreach team" means [~~a crisis intervention service for a minor or the family of a minor experiencing a behavioral health or psychiatric emergency.~~] the same as that term is defined in Section 62A-15-102.

[~~(38)~~] (49) "Molestation" means that an individual, with the intent to arouse or gratify the sexual desire of any individual, touches the anus, buttocks, pubic area, or genitalia of any child, or the breast of a female child, or takes indecent liberties with a child as defined in Section 76-5-416.

[~~(39)~~] (50) (a) "Natural parent" means a minor's biological or adoptive parent.

(b) "Natural parent" includes the minor's noncustodial parent.

[~~(40)~~] (51) (a) "Neglect" means action or inaction causing:

(i) abandonment of a child, except as provided in Title 62A, Chapter 4a, Part 8, Safe Relinquishment of a Newborn Child;

(ii) lack of proper parental care of a child by reason of the fault or habits of the parent, guardian, or custodian;

(iii) failure or refusal of a parent, guardian, or custodian to provide proper or necessary subsistence or medical care, or any other care necessary for the child's health, safety, morals, or well-being;

(iv) a child to be at risk of being neglected or abused because another child in the same home is neglected or abused;

(v) abandonment of a child through an unregulated custody transfer; or

(vi) educational neglect.

(b) "Neglect" does not include:

(i) a parent or guardian legitimately practicing religious beliefs and who, for that reason, does not provide specified medical treatment for a child;

(ii) a health care decision made for a child by the child's parent or guardian, unless the state or other party to a proceeding shows, by clear and convincing evidence, that the health care decision is not reasonable and informed;

(iii) a parent or guardian exercising the right described in Section [~~78A-6-301.5~~] 80-3-304; or

(iv) permitting a child, whose basic needs are met and who is of sufficient age and maturity to avoid harm or unreasonable risk of harm, to engage in independent activities, including:

(A) traveling to and from school, including by walking, running, or bicycling;

(B) traveling to and from nearby commercial or recreational facilities;

(C) engaging in outdoor play;

(D) remaining in a vehicle unattended, except under the conditions described in Subsection 76-10-2202(2);

(E) remaining at home unattended; or

(F) engaging in a similar independent activity.

[~~(41)~~] (52) "Neglected child" means a child who has been subjected to neglect.

[~~(42)~~] (53) "Nonjudicial adjustment" means closure of the case by the assigned juvenile

probation officer, without [~~judicial determination~~] an adjudication of the minor's case under Section 80-6-701, upon the consent in writing of:

(a) the assigned juvenile probation officer; and

(b) (i) the minor; or

(ii) the minor and the minor's parent, legal guardian, or custodian.

[~~(43)~~] (54) "Not competent to proceed" means that a minor, due to a mental illness, intellectual disability or related condition, or developmental immaturity, lacks the ability to:

(a) understand the nature of the proceedings against the minor or of the potential disposition for the offense charged; or

(b) consult with counsel and participate in the proceedings against the minor with a reasonable degree of rational understanding.

(55) "Parole" means a conditional release of a juvenile offender from residency in secure care to live outside of secure care under the supervision of the Division of Juvenile Justice Services, or another person designated by the Division of Juvenile Justice Services.

[~~(44)~~] (56) "Physical abuse" means abuse that results in physical injury or damage to a child.

[~~(45)~~] (57) (a) "Probation" means a legal status created by court order, following an adjudication [~~on the ground of a violation of law or under Section 78A-6-103,~~] under Section 80-6-701, whereby the minor is permitted to remain in the minor's home under prescribed conditions.

(b) "Probation" includes intake probation or formal probation.

[~~(46)~~] (58) "Prosecuting attorney" means:

(a) the attorney general and any assistant attorney general;

(b) any district attorney or deputy district attorney;

(c) any county attorney or assistant county attorney; and

(d) any other attorney authorized to commence an action on behalf of the state.

(59) "Protective custody" means the shelter of a child by the Division of Child and Family Services from the time the child is removed from the home until the earlier of:

(a) the day on which the shelter hearing is held under Section 80-3-301; or

(b) the day on which the child is returned home.

[~~(47)~~] (60) "Protective supervision" means a legal status created by court order, following an adjudication on the ground of abuse, neglect, or dependency, whereby:

(a) the minor is permitted to remain in the minor's home[~~,~~]; and

(b) supervision and assistance to correct the abuse, neglect, or dependency is provided by [~~the probation department or other agency designated by the court~~] an agency designated by the juvenile court.

[~~(48)~~] (61) (a) "Related condition" means a condition that:

(i) is found to be closely related to intellectual disability;

(ii) results in impairment of general intellectual functioning or adaptive behavior similar to that of an intellectually disabled individual;

(iii) is likely to continue indefinitely; and

(iv) constitutes a substantial limitation to the individual's ability to function in society.

(b) "Related condition" does not include mental illness, psychiatric impairment, or serious emotional or behavioral disturbance.

[~~(49)~~] (62) (a) "Residual parental rights and duties" means [~~those~~] the rights and duties remaining with [~~the~~] a parent after legal custody or guardianship, or both, have been vested in another person or agency, including:

(i) the responsibility for support;

(ii) the right to consent to adoption;

(iii) the right to determine the child's religious affiliation; and

(iv) the right to reasonable parent-time unless restricted by the court.

(b) If no guardian has been appointed, "residual parental rights and duties" includes the right to consent to:

(i) marriage;

(ii) enlistment; and

(iii) major medical, surgical, or psychiatric treatment.

[~~(50) "Secure facility" means any facility operated by or under contract with the Division of Juvenile Justice Services, that provides 24-hour supervision and confinement for youth offenders committed to the division for custody and rehabilitation in accordance with Subsection 78A-6-117(2)(d).~~]

(63) "Runaway" means a child, other than an emancipated child, who willfully leaves the home of the child's parent or guardian, or the lawfully prescribed residence of the child, without permission.

(64) "Secure care" means placement of a minor, who is committed to the Division of Juvenile Justice Services for rehabilitation, in a facility operated by, or under contract with, the Division of Juvenile Justice Services, that provides 24-hour supervision and confinement of the minor.

(65) "Secure care facility" means a facility, established in accordance with Section 80-5-503, for juvenile offenders in secure care.

(66) "Secure detention" means temporary care of a minor who requires secure custody in a physically

restricting facility operated by, or under contract with, the Division of Juvenile Justice Services:

(a) before disposition of an offense that is alleged to have been committed by the minor; or

(b) under Section 80-6-704.

(67) "Serious youth offender" means an individual who:

(a) is at least 14 years old, but under 25 years old;

(b) committed a felony listed in Subsection 80-6-503(1) and the continuing jurisdiction of the juvenile court was extended over the individual's case until the individual was 25 years old in accordance with Section 80-6-605; and

(c) is committed by the juvenile court to the Division of Juvenile Justice Services for secure care under Sections 80-6-703 and 80-6-705.

[~~(51)~~] (68) "Severe abuse" means abuse that causes or threatens to cause serious harm to a child.

[~~(52)~~] (69) "Severe neglect" means neglect that causes or threatens to cause serious harm to a child.

[~~(53)~~] (70) "Sexual abuse" means:

(a) an act or attempted act of sexual intercourse, sodomy, incest, or molestation by an adult directed towards a child;

(b) an act or attempted act of sexual intercourse, sodomy, incest, or molestation committed by a child towards another child if:

(i) there is an indication of force or coercion;

(ii) the children are related, as described in Subsection [~~(30)~~] (34), including siblings by marriage while the marriage exists or by adoption;

(iii) there have been repeated incidents of sexual contact between the two children, unless the children are 14 years old or older; or

(iv) there is a disparity in chronological age of four or more years between the two children;

(c) engaging in any conduct with a child that would constitute an offense under any of the following, regardless of whether the individual who engages in the conduct is actually charged with, or convicted of, the offense:

(i) Title 76, Chapter 5, Part 4, Sexual Offenses, except for Section 76-5-401, if the alleged perpetrator of an offense described in Section 76-5-401 is a minor;

(ii) child bigamy, Section 76-7-101.5;

(iii) incest, Section 76-7-102;

(iv) lewdness, Section 76-9-702;

(v) sexual battery, Section 76-9-702.1;

(vi) lewdness involving a child, Section 76-9-702.5; or

(vii) voyeurism, Section 76-9-702.7; or

(d) subjecting a child to participate in or threatening to subject a child to participate in a sexual relationship, regardless of whether that sexual relationship is part of a legal or cultural marriage.

[~~(54)~~] (71) "Sexual exploitation" means knowingly:

(a) employing, using, persuading, inducing, enticing, or coercing any child to:

(i) pose in the nude for the purpose of sexual arousal of any individual; or

(ii) engage in any sexual or simulated sexual conduct for the purpose of photographing, filming, recording, or displaying in any way the sexual or simulated sexual conduct;

(b) displaying, distributing, possessing for the purpose of distribution, or selling material depicting a child:

(i) in the nude, for the purpose of sexual arousal of any individual; or

(ii) engaging in sexual or simulated sexual conduct; or

(c) engaging in any conduct that would constitute an offense under Section 76-5b-201, sexual exploitation of a minor, regardless of whether the individual who engages in the conduct is actually charged with, or convicted of, the offense.

[~~(55)~~] (72) "Shelter" means the temporary care of a child in a physically unrestricted facility pending [~~court~~] a disposition or transfer to another jurisdiction.

(73) "Shelter facility" means the same as that term is defined in Section 62A-4a-101.

[~~(56)~~] (74) "Single criminal episode" means the same as that term is defined in Section 76-1-401.

[~~(57)~~] (75) "Status offense" means [~~a violation of the law that would not be a violation~~] an offense that would not be an offense but for the age of the offender.

[~~(58)~~] (76) "Substance abuse" means the misuse or excessive use of alcohol or other drugs or substances.

[~~(59)~~] (77) "Substantiated" means the same as that term is defined in Section 62A-4a-101.

[~~(60)~~] (78) "Supported" means the same as that term is defined in Section 62A-4a-101.

[~~(61)~~] (79) "Termination of parental rights" means the permanent elimination of all parental rights and duties, including residual parental rights and duties, by court order.

[~~(62)~~] (80) "Therapist" means:

(a) an individual employed by a state division or agency for the purpose of conducting psychological treatment and counseling of a minor in [~~its~~] the division's or agency's custody; or

(b) any other individual licensed or approved by the state for the purpose of conducting psychological treatment and counseling.

[~~(63)~~] (81) "Threatened harm" means actions, inactions, or credible verbal threats, indicating that the child is at an unreasonable risk of harm or neglect.

(82) "Ungovernable" means a child in conflict with a parent or guardian, and the conflict:

(a) results in behavior that is beyond the control or ability of the child, or the parent or guardian, to manage effectively;

(b) poses a threat to the safety or well-being of the child, the child's family, or others; or

(c) results in the situations described in Subsections (82)(a) and (b).

[~~(64)~~] (83) "Unregulated custody transfer" means the placement of a child:

(a) with an individual who is not the child's parent, step-parent, grandparent, adult sibling, adult uncle or aunt, or legal guardian, or a friend of the family who is an adult and with whom the child is familiar, or a member of the child's federally recognized tribe;

(b) with the intent of severing the child's existing parent-child or guardian-child relationship; and

(c) without taking:

(i) reasonable steps to ensure the safety of the child and permanency of the placement; and

(ii) the necessary steps to transfer the legal rights and responsibilities of parenthood or guardianship to the individual taking custody of the child.

[~~(65)~~] (84) "Unsupported" means the same as that term is defined in Section 62A-4a-101.

[~~(66)~~] (85) "Unsubstantiated" means the same as that term is defined in Section 62A-4a-101.

[~~(67)~~] (86) "Validated risk and needs assessment" means an evidence-based tool that assesses a minor's risk of reoffending and a minor's criminogenic needs.

[~~(68) (a) "Victim" means a person that the court determines has suffered a material loss as a result of a minor's wrongful act or conduct.~~]

[~~(b) "Victim" includes the Utah Office for Victims of Crime.~~]

[~~(69)~~] (87) "Without merit" means the same as that term is defined in Section 62A-4a-101.

(88) "Youth offender" means an individual who is:

(a) at least 12 years old, but under 21 years old; and

(b) committed by the juvenile court to the Division of Juvenile Justice Services for secure care under Sections 80-6-703 and 80-6-705.

Section 52. Section 80-1-103, which is renumbered from Section 78A-6-1110 is renumbered and amended to read:

[~~78A-6-1110~~]. 80-1-103. Cooperation of political subdivisions and public or private agencies and organizations.

(1) Every county, municipality, and school district, and the Department of Human Services, the Division of Juvenile Justice Services, the Division of Child and Family Services, the Department of Health, the Division of Substance Abuse and Mental Health, the State Board of Education, and state and local law enforcement officers, shall render all assistance and cooperation within their jurisdiction and power to further the [~~objects~~] provisions of this [~~chapter, and the juvenile courts are~~] title.

(2) A juvenile court is authorized to seek the cooperation of all agencies and organizations, public or private, whose [~~object~~] objective is the protection or aid of minors.

Section 53. Section 80-2-101 is enacted to read:

80-2-101. Title.

Reserved

Section 54. Section 80-3-101 is enacted to read:

CHAPTER 3. ABUSE, NEGLECT, AND DEPENDENCY PROCEEDINGS

Part 1. General Provisions

80-3-101. Title.

This chapter is known as "Abuse, Neglect, and Dependency Proceedings."

Section 55. Section 80-3-102, which is renumbered from Section 78A-6-301 is renumbered and amended to read:

[~~78A-6-301~~]. 80-3-102. Definitions.

As used in this [~~part~~] chapter:

(1) "Abuse, neglect, or dependency petition" means a petition filed in accordance with this chapter to commence proceedings in a juvenile court alleging that a child is:

(a) abused;

(b) neglected; or

(c) dependent.

(2) "Child protection team" means the same as that term is defined in Section 62A-4a-101.

(3) "Child protection unit" means the same as that term is defined in Section 62A-4a-101.

[~~(1)~~] (4) "Custody" means the same as that term is defined in Section 62A-4a-101.

(5) "Division" means the Division of Child and Family Services created in Section 62A-4a-103.

(6) "Friend" means an adult who:

(a) has an established relationship with the child or a family member of the child; and

(b) is not the natural parent of the child.

[~~(2)~~] (7) "Immediate family member" means a spouse, child, parent, sibling, grandparent, or grandchild.

[~~(3) "Protective custody" means the shelter of a child by the division from the time the child is removed from home until the earlier of:~~]

[~~(a) the shelter hearing; or~~]

[~~(b) the child's return home.~~]

(8) "Relative" means an adult who:

(a) is the child's grandparent, great grandparent, aunt, great aunt, uncle, great uncle, brother-in-law, sister-in-law, stepparent, first cousin, stepsibling, or sibling;

(b) is a first cousin of the child's parent;

(c) is an adoptive parent of the child's sibling; or

(d) in the case of a child who is an Indian child, is an extended family member as defined in 25 U.S.C. Sec. 1903.

(9) "Shelter care" means the same as that term is defined in Section 62A-4a-101.

[~~(4)~~] (10) "Sibling" means the same as that term is defined in Section 62A-4a-101.

[~~(5)~~] (11) "Sibling visitation" means the same as that term is defined in Section 62A-4a-101.

(12) "Substitute care" means the same as that term is defined in Section 62A-4a-101.

[~~(6)~~] (13) "Temporary custody" means [~~the custody of a child in the division from the date of the shelter hearing until disposition~~] the same as that term is defined in Section 62A-4a-101.

Section 56. Section 80-3-103, which is renumbered from Section 78A-6-303 is renumbered and amended to read:

[~~78A-6-303~~]. 80-3-103. Nature of proceedings -- Rules of procedure -- Ex parte communications.

[~~(1) The Utah Rules of Civil Procedure and the Utah Rules of Juvenile Procedure apply to abuse, neglect, and dependency proceedings unless the provisions of this part specify otherwise.~~]

(1) The proceedings under this chapter are civil in nature and are governed by the Utah Rules of Civil Procedure and the Utah Rules of Juvenile Procedure.

(2) Any unauthorized ex parte communication concerning a pending case between a judge and a party to an abuse, neglect, or dependency proceeding shall be recorded for subsequent review, if necessary, by the Judicial Conduct Commission.

Section 57. Section 80-3-104, which is renumbered from Section 78A-6-317 is renumbered and amended to read:

[~~78A-6-317~~]. 80-3-104. Individuals entitled to be present at proceedings -- Legal representation -- Attorney general responsibilities.

(1) (a) A [~~child~~] minor who is the subject of a juvenile court hearing, any person entitled to notice [~~pursuant to Section 78A-6-306 or 78A-6-310~~] under Section 80-3-201 or 80-3-301, preadoptive parents, foster parents, and any relative providing care for the [~~child~~] minor, are:

[~~(a)~~] (i) entitled to notice of, and to be present at, each hearing and proceeding held under this [~~part~~] chapter, including administrative reviews; and

[~~(b)~~] (ii) have a right to be heard at each hearing and proceeding described in Subsection (1)(a)(i).

[~~(2) A child shall be represented at each hearing by the guardian ad litem appointed to the child's case by the court. The child has a right to be present at each hearing, subject to the discretion of the guardian ad litem or the court regarding any possible detriment to the child.~~]

(b) A child's right to be present at a hearing under Subsection (1)(a) is subject to the discretion of the guardian ad litem, as defined in Section 78A-2-801, appointed under Subsection (3) or the juvenile court regarding any possible detriment to the child.

[~~(3)~~] (2) (a) The parent or guardian of a [~~child~~] minor who is the subject of [~~a~~] an abuse, neglect, or dependency petition [~~under this part~~] has the right to be represented by counsel, and to present evidence, at each hearing.

[~~(b) A court may appoint an indigent defense service provider as provided in Title 78B, Chapter 22, Indigent Defense Act.~~]

(b) If a parent or guardian is the subject of an abuse, neglect, or dependency petition, the juvenile court shall:

(i) appoint an indigent defense service provider for a parent or guardian determined to be an indigent individual in accordance with Title 78B, Chapter 22, Part 2, Appointment of Counsel; and

(ii) order indigent defense services for the parent or legal guardian who is determined to be an indigent individual in accordance with Title 78B, Chapter 22, Part 2, Appointment of Counsel.

[~~(4)~~] (3) (a) In [~~every~~] an abuse, neglect, or dependency proceeding under this chapter, the juvenile court shall order that the child be represented by [~~a~~] an attorney guardian ad litem, in accordance with Section [~~78A-6-902. The~~] 78A-2-803.

(b) A guardian ad litem appointed under Subsection (3)(a) shall represent the best interest of the [~~child~~] minor, in accordance with the requirements of [~~that section,~~] Section 78A-2-803:

(i) at the shelter hearing and at all subsequent court and administrative proceedings, including

any proceeding for termination of parental rights in accordance with [~~Part 5, Termination of Parental Rights Act.~~] Chapter 4, Termination and Restoration of Parental Rights; and

(ii) in other actions initiated under this chapter when appointed by the court under Section 78A-2-803 or as otherwise provided by law.

(4) Subject to the attorney general's prosecutorial discretion in civil enforcement actions, the attorney general shall, in accordance with Section 62A-4a-113, enforce all provisions of this chapter and Title 62A, Chapter 4a, Child and Family Services, relating to protection or custody of an abused, neglected, or dependent minor and the termination of parental rights.

(5) (a) The juvenile court shall admit any individual to a hearing, including a hearing under Section 80-3-205, unless the juvenile court makes a finding upon the record that the individual's presence at the hearing would:

(i) be detrimental to the best interest of a minor who is a party to the proceeding;

(ii) impair the fact-finding process; or

(iii) be otherwise contrary to the interests of justice.

(b) The juvenile court may exclude an individual from a hearing under Subsection (5)(a) on the juvenile court's own motion or by motion of a party to the proceeding.

[~~(5) (a) Except as provided in Subsection (5)(b), and notwithstanding any other provision of law:~~]

[~~(i) counsel for all parties to the action shall be given access to all records, maintained by the division or any other state or local public agency, that are relevant to the abuse, neglect, or dependency proceeding under this chapter; and~~]

[~~(ii) if the natural parent of a child is not represented by counsel, the natural parent shall have access to the records described in Subsection (5)(a)(i).~~]

[~~(b) The disclosures described in Subsection (5)(a) are not required in the following circumstances:~~]

[~~(i) subject to Subsection (5)(c), the division or other state or local public agency did not originally create the record being requested;~~]

[~~(ii) disclosure of the record would jeopardize the life or physical safety of a child who has been a victim of abuse or neglect, or any person who provided substitute care for the child;~~]

[~~(iii) disclosure of the record would jeopardize the anonymity of the person or persons making the initial report of abuse or neglect or any others involved in the subsequent investigation;~~]

[~~(iv) disclosure of the record would jeopardize the life or physical safety of an individual who has been a victim of domestic violence;~~]

[~~(v) the record is a report maintained in the Management Information System, for which a finding of unsubstantiated, unsupported, or without merit has been made, unless the person requesting the information is the alleged perpetrator in the report or counsel for the alleged perpetrator in the report; or~~]

[~~(vi) the record is a Children's Justice Center interview, including a video or audio recording, and a transcript of the recording, the release of which is governed by Section 77-37-4.~~]

[~~(c) If a disclosure is denied under Subsection (5)(b)(i), the division shall inform the person making the request of the following:~~]

[~~(i) the existence of all records in the possession of the division or any other state or local public agency;~~]

[~~(ii) the name and address of the person or agency that originally created the record; and~~]

[~~(iii) that the requesting person must seek access to the record from the person or agency that originally created the record.~~]

Section 58. Section 80-3-105 is enacted to read:

80-3-105. Consolidation of proceedings.

(1) Subject to Subsection (2), when more than one child is involved in a home situation that may be found to constitute abuse, neglect, or dependency, the proceedings may be consolidated.

(2) Separate hearings may be held in proceedings consolidated under Subsection (1) with respect to disposition.

Section 59. Section 80-3-106 is enacted to read:

80-3-106. Record of proceedings.

(1) As used in this section:

(a) "Record of a proceeding" does not include documentary materials of any type submitted to the juvenile court as part of the proceeding, including items submitted under Utah Rules of Juvenile Procedure, Rule 45.

(b) "Subjects of the record" includes the child's attorney guardian ad litem, the child's guardian, the division, and any other party to the proceeding.

(2) (a) Except as provided in Subsection (2)(b), the juvenile court shall take a verbatim record of the proceedings under this chapter, unless dispensed with by the juvenile court.

(b) A juvenile court shall take a verbatim record of the proceedings in all cases under this chapter that might result in deprivation of custody.

(3) Notwithstanding any other provision, including Title 63G, Chapter 2, Government Records Access and Management Act, the juvenile court shall release a record of a proceeding made under Subsection (2) to any person upon a finding on the record for good cause.

(4) Following a petition for a record of a proceeding made under Subsection (2), the juvenile court shall:

(a) provide notice to all subjects of the record that a request for release of the record has been made; and

(b) allow sufficient time for the subjects of the record to respond before making a finding on the petition.

(5) A record of a proceeding may not be released under this section if the juvenile court's jurisdiction over the subjects of the proceeding ended more than 12 months before the day on which the request is made.

Section 60. Section 80-3-107 is enacted to read:

80-3-107. Disclosure of records -- Record sharing.

(1) (a) Except as provided in Subsections (1)(c) through (e), in an abuse, neglect, or dependency proceeding occurring after the commencement of a shelter hearing under Section 80-3-301, or the filing of an abuse, neglect, or dependency petition, each party to the proceeding shall provide in writing to any other party or the other party's counsel any information that the party:

(i) plans to report to the juvenile court at the proceeding; or

(ii) could reasonably expect would be requested of the party by the juvenile court at the proceeding.

(b) A party providing the disclosure required under Subsection (1)(a) shall make the disclosure:

(i) for a dispositional hearing under Part 4, Adjudication, Disposition, and Permanency, no less than five days before the day on which the dispositional hearing is held; and

(ii) for all other proceedings, no less than five days before the day on which the proceeding is held.

(c) The division is not required to provide a court report or a child and family plan described in Section 62A-4a-205 to each party to the proceeding if:

(i) the information is electronically filed with the juvenile court; and

(ii) each party to the proceeding has access to the electronically filed information.

(d) If a party to a proceeding obtains information after the deadline described in Subsection (1)(b), the information is exempt from the disclosure required under Subsection (1)(a) if the party certifies to the juvenile court that the information was obtained after the deadline.

(e) Subsection (1)(a) does not apply to:

(i) pretrial hearings; and

(ii) the frequent, periodic review hearings held in a dependency drug court case to assess and promote the parent's progress in substance use disorder treatment.

(2) (a) Except as provided in Subsection (2)(b), and notwithstanding any other provision of law:

(i) counsel for all parties to the action shall be given access to all records, maintained by the division or any other state or local public agency, that are relevant to the abuse, neglect, or dependency proceeding under this chapter; and

(ii) if the natural parent of a child is not represented by counsel, the natural parent shall have access to the records described in Subsection (2)(a)(i).

(b) The disclosures described in Subsection (2)(a) are not required if:

(i) subject to Subsection (2)(c), the division or other state or local public agency did not originally create the record being requested;

(ii) disclosure of the record would jeopardize the life or physical safety of a child who has been a victim of abuse or neglect, or any individual who provided substitute care for the child;

(iii) disclosure of the record would jeopardize the anonymity of the individual making the initial report of abuse or neglect or any others involved in the subsequent investigation;

(iv) disclosure of the record would jeopardize the life or physical safety of an individual who has been a victim of domestic violence;

(v) the record is a report maintained in the Management Information System, for which a finding of unsubstantiated, unsupported, or without merit has been made, unless the individual requesting the information is the alleged perpetrator in the report or counsel for the alleged perpetrator in the report; or

(vi) the record is a Children's Justice Center interview, including a video or audio recording, and a transcript of the recording, the release of which is governed by Section 77-37-4.

(c) If a disclosure is denied under Subsection (2)(b)(i), the division shall inform the individual making the request:

(i) of the existence of all records in the possession of the division or any other state or local public agency;

(ii) of the name and address of the individual or agency that originally created the record; and

(iii) that the individual making the request must seek access to the record from the individual or agency that originally created the record.

Section 61. Section 80-3-108, which is renumbered from Section 78A-6-305 is renumbered and amended to read:

[~~78A-6-305~~]. 80-3-108. Opportunity for a minor to address the juvenile court -- Consideration of minor's statement outside of court.

(1) [~~For purposes of~~] As used in this section, "postadjudication hearing" means:

(a) a dispositional hearing;

(b) a permanency hearing; or

(c) a review hearing, except a drug court review hearing.

(2) A minor shall be present at any postadjudication hearing in a case relating to the abuse, neglect, or dependency of the minor, unless the juvenile court determines that:

(a) requiring the minor to be present at the postadjudication hearing would be detrimental to the minor or impractical; or

(b) the minor is not sufficiently mature to articulate the minor's wishes in relation to the hearing.

(3) A juvenile court may, in the juvenile court's discretion, order that a minor described in Subsection (2) be present at a hearing that is not a postadjudication hearing.

(4) (a) Except as provided in Subsection (4)(b), at any hearing in a case relating to the abuse, neglect, or dependency of a minor, when the minor is present at the hearing, the juvenile court shall:

(i) ask the minor whether the minor desires the opportunity to address the juvenile court or testify; and

(ii) if the minor desires an opportunity to address the juvenile court or testify, allow the minor to address the juvenile court or testify.

(b) Subsection (4)(a) does not apply if the juvenile court determines that:

(i) it would be detrimental to the minor to comply with Subsection (4)(a); or

(ii) the minor is not sufficiently mature to articulate the minor's wishes in relation to the hearing.

(c) Subject to applicable court rules, the juvenile court may allow the minor to address the court in camera.

(d) If a minor 14 years [~~of age~~] old or older desires an opportunity to address the juvenile court or testify, the juvenile court shall give the minor's desires added weight, but may not treat the minor's desires as the single controlling factor in a postadjudication hearing or other hearing described in Subsection (3).

(e) For the purpose of establishing the fact of abuse, neglect, or dependency, the juvenile court may, in the juvenile court's discretion, consider evidence of statements made by a child under eight years old to an individual in a trust relationship.

(5) [~~Nothing in this section prohibits~~] This section does not prohibit a minor from being present at a hearing that the minor is not required to be at [~~by~~] under this section or by court order, unless the juvenile court orders otherwise.

Section 62. Section 80-3-109, which is renumbered from Section 78A-6-324 is renumbered and amended to read:

[~~78A-6-324~~]. 80-3-109. Physical or mental health examination during proceedings -- Division duties.

[~~(1) When a mental health practitioner is appointed in any juvenile court proceeding to evaluate the mental health of a parent or a minor, or to provide mental health services to a parent or minor, the court:~~]

(1) In a proceeding under this chapter, the juvenile court:

(a) may appoint any mental health therapist, as defined in Section 58-60-102, [~~which~~] who the juvenile court finds to be qualified[~~; and~~] to:

(i) evaluate the mental health of a minor or provide mental health services to the minor; or

(ii) after notice and a hearing set for the specific purpose, evaluate the mental health of the minor's parent or guardian or provide mental health services to the parent or guardian if the juvenile court finds from the evidence presented at the hearing that the parent's or guardian's mental or emotional condition may be a factor in causing the abuse, neglect, or dependency of the minor; or

(b) may appoint a physician or a physician assistant who the juvenile court finds to be qualified to:

(i) physically examine the minor; or

(ii) after notice and a hearing set for the specific purpose, physically examine the minor's parent or guardian if the juvenile court finds from the evidence presented at the hearing that the parent's or guardian's physical condition may be a factor in causing the abuse, neglect, or dependency of the minor.

[~~(b)~~] (2) The juvenile court may not refuse to appoint a mental health therapist under Subsection (1) for the reason that the therapist's recommendations in another case [~~have not followed~~] did not follow the recommendations of the [~~Division of Child and Family Services~~] division.

[~~(2) This section applies to all juvenile court proceedings involving:~~]

(3) The division shall, with regard to a minor in the division's custody:

(a) take reasonable measures to notify a minor's parent or guardian of any non-emergency health treatment or care scheduled for a minor;

(b) include the minor's parent or guardian as fully as possible in making health care decisions for the minor;

(c) defer to the minor's parent's or guardian's reasonable and informed decisions regarding the minor's health care to the extent that the minor's

health and well-being are not unreasonably compromised by the parent's or guardian's decision; and

(d) notify the minor's parent or guardian within five business days after the day on which the minor receives emergency health care or treatment.

(4) An examination conducted in accordance with Subsection (1) is not a privileged communication under Utah Rules of Evidence, Rule 506(d)(3), and is exempt from the general rule of privilege.

(5) Subsection (1) applies to a proceeding under this chapter involving:

(a) parents and minors; or

(b) the [~~Division of Child and Family Services~~] division.

Section 63. Section 80-3-110, which is renumbered from Section 78A-6-115 is renumbered and amended to read:

[~~78A-6-115~~]. 80-3-110. Consideration of cannabis during proceedings.

[~~(1) (a) A verbatim record of the proceedings shall be taken in all cases that might result in deprivation of custody as defined in this chapter. In all other cases a verbatim record shall also be made unless dispensed with by the court.~~]

[~~(b) (i) For purposes of this Subsection (1)(b):~~]

[~~(A) "Record of a proceeding" does not include documentary materials of any type submitted to the court as part of the proceeding, including items submitted under Subsection (4)(a).~~]

[~~(B) "Subjects of the record" includes the child's guardian ad litem, the child's legal guardian, the Division of Child and Family Services, and any other party to the proceeding.~~]

[~~(ii) Notwithstanding any other provision, including Title 63G, Chapter 2, Government Records Access and Management Act, the court shall release a record of a proceeding made under Subsection (1)(a) to any person upon a finding on the record for good cause.~~]

[~~(iii) Following a petition for a record of a proceeding made under Subsection (1)(a), the court shall:~~]

[~~(A) provide notice to all subjects of the record that a request for release of the record has been made; and~~]

[~~(B) allow sufficient time for the subjects of the record to respond before making a finding on the petition.~~]

[~~(iv) A record of a proceeding may not be released under this Subsection (1)(b) if the court's jurisdiction over the subjects of the proceeding ended more than 12 months before the day on which the request is made.~~]

[~~(2) (a) Except as provided in Subsection (2)(b), the county attorney or, if within a prosecution district, the district attorney shall represent the state in any proceeding in a minor's case.~~]

[~~(b) Subject to the attorney general's prosecutorial discretion in civil enforcement actions, the attorney general shall enforce all provisions of Title 62A, Chapter 4a, Child and Family Services, and this chapter, relating to:~~]

[~~(i) protection or custody of an abused, neglected, or dependent child; and~~]

[~~(ii) petitions for termination of parental rights.~~]

[~~(3) The board may adopt special rules of procedure to govern proceedings involving violations of traffic laws or ordinances, wildlife laws, and boating laws. However, proceedings involving offenses under Section 78A-6-606 are governed by that section regarding suspension of driving privileges.~~]

[~~(4) (a) For the purposes of determining proper disposition of the minor in dispositional hearings and establishing the fact of abuse, neglect, or dependency in adjudication hearings and in hearings upon petitions for termination of parental rights, written reports and other material relating to the minor's mental, physical, and social history and condition may be received in evidence and may be considered by the court along with other evidence. The court may require that the individual who wrote the report or prepared the material appear as a witness if the individual is reasonably available.~~]

[~~(b) For the purpose of determining proper disposition of a minor alleged to be or adjudicated as abused, neglected, or dependent, dispositional reports prepared by the division under Section 78A-6-315 may be received in evidence and may be considered by the court along with other evidence. The court may require any individual who participated in preparing the dispositional report to appear as a witness, if the individual is reasonably available.~~]

[~~(5) (a) Except as provided in Subsections (5)(c) through (e), in an abuse, neglect, or dependency proceeding occurring after the commencement of a shelter hearing under Section 78A-6-306 or the filing of a petition under Section 78A-6-304, each party to the proceeding shall provide in writing to the other parties or their counsel any information which the party:~~]

[~~(i) plans to report to the court at the proceeding; or~~]

[~~(ii) could reasonably expect would be requested of the party by the court at the proceeding.~~]

[~~(b) The disclosure required under Subsection (5)(a) shall be made:~~]

[~~(i) for dispositional hearings under Sections 78A-6-311 and 78A-6-312, no less than five days before the day on which the proceeding is held;~~]

[~~(ii) for proceedings under Chapter 6, Part 5, Termination of Parental Rights Act, in accordance with Utah Rules of Civil Procedure; and~~]

[~~(iii) for all other proceedings, no less than five days before the day on which the proceeding is held.~~]

[~~(c) The division is not required to provide a court report or a child and family plan to each party to the proceeding if:~~]

[~~(i) the information is electronically filed with the court; and~~]

[~~(ii) each party to the proceeding has access to the electronically filed information.~~]

[~~(d) If a party to a proceeding obtains information after the deadline in Subsection (5)(b), the information is exempt from the disclosure required under Subsection (5)(a) if the party certifies to the court that the information was obtained after the deadline.~~]

[~~(e) Subsection (5)(a) does not apply to:~~]

[~~(i) pretrial hearings; and~~]

[~~(ii) the frequent, periodic review hearings held in a dependency drug court case to assess and promote the parent's progress in substance use disorder treatment.~~]

[~~(6) For the purpose of establishing the fact of abuse, neglect, or dependency, the court may, in the court's discretion, consider evidence of statements made by a child under eight years of age to an individual in a trust relationship.~~]

[~~(7)~~] (1) [~~(a)~~] As used in this [~~Subsection (7)~~] section:

[~~(i)~~] (a) "Cannabis" means the same as that term is defined in Section 26-61a-102.

[~~(ii)~~] (b) "Cannabis product" means the same as that term is defined in Section 26-61a-102.

[~~(iii) (A)~~] (c) (i) "Chronic" means repeated or patterned.

[~~(B)~~] (ii) "Chronic" does not mean an isolated incident.

[~~(iv)~~] (d) "Directions of use" means the same as that term is defined in Section 26-61a-102.

[~~(v)~~] (e) "Dosing guidelines" means the same as that term is defined in Section 26-61a-102.

[~~(vi)~~] (f) "Medical cannabis" means the same as that term is defined in Section 26-61a-102.

[~~(vii)~~] (g) "Medical cannabis cardholder" means the same as that term is defined in Section 26-61a-102.

[~~(viii)~~] (h) "Qualified medical provider" means the same as that term is defined in Section 26-61a-102.

[~~(b)~~] (2) In [~~any child welfare proceeding~~] a proceeding under this chapter, in which the juvenile court makes a finding, determination, or otherwise considers an individual's possession or use of medical cannabis, a cannabis product, or a medical cannabis device, the juvenile court may not consider or treat the individual's possession or use any differently than the lawful possession or use of any prescribed controlled substance if:

[~~(i)~~] (a) the individual's possession or use complies with Title 4, Chapter 41a, Cannabis Production Establishments;

[~~(ii)~~] (b) the individual's possession or use complies with Subsection 58-37-3.7(2) or (3); or

[~~(iii) (A)~~] (c) (i) the individual's possession or use complies with Title 26, Chapter 61a, Utah Medical Cannabis Act; and

[~~(B)~~] (ii) the individual reasonably complies with the directions of use and dosing guidelines determined by the individual's qualified medical provider or through a consultation described in Subsection 26-61a-502(4) or (5).

[~~(c)~~] (3) In a [~~child welfare proceeding~~] proceeding under this chapter, a child's parent's or guardian's use of cannabis or a cannabis product is not abuse or neglect of [~~a~~] the child [~~under Section 78A-6-105~~] unless there is evidence showing that:

[~~(i)~~] (a) the child is harmed because of the child's inhalation or ingestion of cannabis, or because of cannabis being introduced to the child's body in another manner; or

[~~(ii)~~] (b) the child is at an unreasonable risk of harm because of chronic inhalation or ingestion of cannabis or chronic introduction of cannabis to the child's body in another manner.

[~~(d)~~] (4) Unless there is harm or an unreasonable risk of harm to the child as described in Subsection [~~(7)(c)~~] (3), in a child welfare proceeding under this chapter, a child's parent's or guardian's use of medical cannabis or a cannabis product is not contrary to the best interests of [~~a~~] the child if:

[~~(i)~~] (a) for a medical cannabis cardholder after January 1, 2021, the parent's or guardian's possession or use complies with Title 26, Chapter 61a, Utah Medical Cannabis Act, and there is no evidence that the parent's or guardian's use of medical cannabis unreasonably deviates from the directions of use and dosing guidelines determined by the parent's or guardian's qualified medical provider or through a consultation described in Subsection 26-61a-502(4) or (5); or

[~~(ii)~~] (b) before January 1, 2021, the parent's or guardian's possession or use complies with Subsection 58-37-3.7(2) or (3).

[~~(e)~~] (5) Subsection [~~(7)(c)~~] (3) does not prohibit a finding of abuse or neglect of a child [~~under Section 78A-6-105~~], and Subsection [~~(7)(d)~~] (3) does not prohibit a finding that a parent's or guardian's use of medical cannabis or a cannabis product is contrary to the best interests of a child, if there is evidence showing a nexus between the parent's or guardian's use of cannabis or a cannabis product and behavior that would separately constitute abuse or neglect of the child.

Section 64. Section 80-3-201, which is renumbered from Section 78A-6-304 is

renumbered and amended to read:

Part 2. Petition Alleging Abuse, Neglect, or Dependency

[~~78A-6-304~~]. 80-3-201. Petition -- Who may file -- Timing -- Dismissal -- Notice.

[~~(1) For purposes of this section, "petition" means a petition to commence proceedings in a juvenile court alleging that a child is:~~]

[~~(a) abused;~~]

[~~(b) neglected; or~~]

[~~(c) dependent.~~]

[~~(2) (a)~~] (1) Subject to Subsection (2)[~~(b)~~], any interested person may file [~~a~~] an abuse, neglect, or dependency petition.

[~~(b)~~] (2) A person described in Subsection [~~(2)(a)~~] (1) shall make a referral with the division before the person files [~~a~~] an abuse, neglect, or dependency petition.

[~~(3) If the child who is the subject of a petition is removed from the child's home by the division, the petition shall be filed on or before the date of the initial shelter hearing described in Section 78A-6-306.~~]

[~~(4) The petition shall be verified, and contain all of the following:~~]

[~~(a) the name, age, and address, if any, of the child upon whose behalf the petition is brought;~~]

[~~(b) the names and addresses, if known to the petitioner, of both parents and any guardian of the child;~~]

[~~(c) a concise statement of facts, separately stated, to support the conclusion that the child upon whose behalf the petition is being brought is abused, neglected, or dependent; and~~]

[~~(d) a statement regarding whether the child is in protective custody, and if so, the date and precise time the child was taken into protective custody.~~]

[~~(5) If a petition is filed under this section, and a petition for termination of parental rights is filed under Section 78A-6-504 before a dispositional hearing, a party may request a hearing on whether reunification services are appropriate in accordance with the factors described in Subsections 78A-6-312(21) and (23).~~]

(3) If a child who is the subject of an abuse, neglect, or dependency petition is removed from the child's home by the division, the petition shall be filed on or before the day on which the initial shelter hearing described in Section 80-3-301 is held.

(4) An abuse, neglect, or dependency petition shall include:

(a) a concise statement of facts, separately stated, to support the conclusion that the child upon whose behalf the abuse, neglect, or dependency petition is brought is abused, neglected, or dependent; and

(b) a statement regarding whether the child is in protective custody, and if so, the date and precise time the child was taken into protective custody.

(5) (a) Upon the filing of an abuse, neglect, or dependency petition, the petitioner shall serve the petition and notice on:

(i) the guardian ad litem;

(ii) both parents and any guardian of the child; and

(iii) the child's foster parents.

(b) The notice described in Subsection (5) shall contain all of the following:

(i) the name and address of the person to whom the notice is directed;

(ii) the date, time, and place of the hearing on the petition;

(iii) the name of the child on whose behalf the petition is brought;

(iv) a statement that the parent or guardian to whom notice is given, and the child, are entitled to have an attorney present at the hearing on the petition, and that if the parent or guardian is indigent and cannot afford an attorney, and desires to be represented by an attorney, one will be provided; and

(v) a statement that the parent or legal guardian is liable for the cost of support of the child in the protective custody, temporary custody, and custody of the division, and for legal counsel appointed for the parent or guardian under Subsection (5)(b)(iv), according to the parent's or guardian's financial ability.

(6) The petitioner shall serve the abuse, neglect, or dependency petition and notice under this section on all individuals described in Subsection (5)(a) as soon as possible after the petition is filed and at least five days before the day on which the hearing is set.

(7) The juvenile court may dismiss an abuse, neglect, or dependency petition at any stage of the proceedings.

(8) If an abuse, neglect, or dependency petition includes an allegation of educational neglect, Sections 53G-6-210 and 53G-6-211 are applicable to the proceedings under this chapter.

Section 65. Section 80-3-202, which is renumbered from Section 78A-6-107 is renumbered and amended to read:

[~~78A-6-107~~]. 80-3-202. Expedited filing of petition.

[~~(1) For purposes of this section, "petition" means a petition, under Section 78A-6-304, to commence proceedings in a juvenile court alleging that a child is:~~]

[~~(a) abused;~~]

[~~(b) neglected; or~~]

[~~(c) dependent.~~]

[~~(2) If a~~] (1) If an abuse, neglect, or dependency petition is requested by the division, the attorney general shall file the abuse, neglect, or dependency petition within 72 hours [~~of~~] after the completion of the division's investigation and request, excluding weekends and holidays, if:

(a) the child who is the subject of the requested abuse, neglect, or dependency petition is not removed from the child's home by the division; and

(b) without an expedited hearing and services ordered under the protective supervision of the juvenile court, the child will likely be taken into protective custody.

[~~(3)~~] (2) The juvenile court shall give scheduling priority to the pretrial and adjudication hearings on [~~a~~] an abuse, neglect, or dependency petition if:

(a) the child who is the subject of the petition is not in:

(i) protective custody; or

(ii) temporary custody; and

(b) the division indicates in the petition that, without expedited hearings and services ordered under the protective supervision of the court, the child will likely be taken into protective custody.

Section 66. Section 80-3-203 is enacted to read:

80-3-203. Expedited hearing for temporary custody.

(1) After an abuse, neglect, or dependency petition is filed, the juvenile court may make an order:

(a) providing for temporary custody of the child who is the subject of the petition; or

(b) that the division provide protective services to the child who is the subject of the petition if the juvenile court determines that:

(i) the child is at risk of being removed from the child's home due to abuse or neglect; and

(ii) the provision of protective services may make the removal described in Subsection (1)(b)(i) unnecessary.

(2) (a) The juvenile court shall hold an expedited hearing to determine whether a child should be placed in temporary custody if:

(i) a person files an abuse, neglect, or dependency petition;

(ii) a party to the proceeding files a motion for expedited placement in temporary custody; and

(iii) notice of the hearing described in this Subsection (1)(a) is served consistent with the requirements for notice of a shelter hearing under Section 80-3-301.

(b) The hearing described in Subsection (2)(a):

(i) shall be held within 72 hours, excluding weekends and holidays, after the time in which the motion described in Subsection (2)(a)(ii) is filed; and

(ii) shall be considered a shelter hearing under Section 80-3-301 and Utah Rules of Juvenile Procedure, Rule 13.

(3) (a) The hearing and notice described in Subsection (1) are subject to:

(i) Section 80-3-301;

(ii) Section 80-3-302; and

(iii) the Utah Rules of Juvenile Procedure.

(b) After the hearing described in Subsection (1), the juvenile court may order a child placed in the temporary custody of the division.

Section 67. Section 80-3-204, which is renumbered from Section 78A-6-302 is renumbered and amended to read:

[~~78A-6-302~~]. 80-3-204. Protective custody of a child after a petition is filed -- Grounds.

(1) When [~~a~~] an abuse, neglect, or dependency petition is filed [~~under Section 78A-6-304~~], the juvenile court shall apply, in addressing the petition, the least restrictive means and alternatives available to accomplish a compelling state interest and to prevent irretrievable destruction of family life as described in Subsections 62A-4a-201(1) and (7)(a) and Section [~~78A-6-503~~] 80-4-104.

(2) After [~~a petition has been filed under Section 78A-6-304~~] an abuse, neglect, or dependency petition is filed, if the child who is the subject of the petition is not in [~~the~~] protective custody [~~of the division~~], a juvenile court may order that the child be removed from the child's home or otherwise taken into protective custody if the juvenile court finds, by a preponderance of the evidence, that any one or more of the following circumstances exist:

(a) (i) there is an imminent danger to the physical health or safety of the child; and

(ii) the child's physical health or safety may not be protected without removing the child from the custody of the child's parent or guardian;

(b) (i) a parent or guardian engages in or threatens the child with unreasonable conduct that causes the child to suffer harm; and

(ii) there are no less restrictive means available by which the child's emotional health may be protected without removing the child from the custody of the child's parent or guardian;

(c) the child or another child residing in the same household has been, or is considered to be at substantial risk of being, physically abused, sexually abused, or sexually exploited, by a parent or guardian, a member of the parent's or guardian's household, or other [~~person~~] individual known to the parent or guardian;

(d) the parent or guardian is unwilling to have physical custody of the child;

(e) the child is abandoned or left without any provision for the child's support;

(f) a parent or guardian who has been incarcerated or institutionalized has not arranged or cannot arrange for safe and appropriate care for the child;

(g) (i) a relative or other adult custodian with whom the child is left by the parent or guardian is unwilling or unable to provide care or support for the child;

(ii) the whereabouts of the parent or guardian are unknown; and

(iii) reasonable efforts to locate the parent or guardian are unsuccessful;

(h) subject to [~~Subsections 78A-6-105(39)~~] Subsection 80-1-102(51)(b) and [~~78A-6-117(2) and Section 78A-6-301.5~~] Sections 80-3-109 and 80-3-304, the child is in immediate need of medical care;

(i) (i) a parent's or guardian's actions, omissions, or habitual action create an environment that poses a serious risk to the child's health or safety for which immediate remedial or preventive action is necessary; or

(ii) a parent's or guardian's action in leaving a child unattended would reasonably pose a threat to the child's health or safety;

(j) the child or another child residing in the same household has been neglected;

(k) the child's natural parent:

(i) intentionally, knowingly, or recklessly causes the death of another parent of the child;

(ii) is identified by a law enforcement agency as the primary suspect in an investigation for intentionally, knowingly, or recklessly causing the death of another parent of the child; or

(iii) is being prosecuted for or has been convicted of intentionally, knowingly, or recklessly causing the death of another parent of the child;

(l) an infant has been abandoned, as defined in Section [~~78A-6-316~~] 80-4-203;

(m) (i) the parent or guardian, or an adult residing in the same household as the parent or guardian, is charged or arrested pursuant to Title 58, Chapter 37d, Clandestine Drug Lab Act; and

(ii) any clandestine laboratory operation was located in the residence or on the property where the child resided; or

(n) the child's welfare is otherwise endangered.

(3) (a) For purposes of Subsection (2)(a), if a child has previously been adjudicated as abused, neglected, or dependent, and a subsequent incident of abuse, neglect, or dependency occurs involving the same substantiated abuser or under similar circumstance as the previous abuse, that fact [~~constitutes~~] is prima facie evidence that the child cannot safely remain in the custody of the child's parent.

(b) For purposes of Subsection (2)(c):

(i) another child residing in the same household may not be removed from the home unless that child is considered to be at substantial risk of being physically abused, sexually abused, or sexually exploited as described in Subsection (2)(c) or Subsection (3)(b)(ii); and

(ii) if a parent or guardian has received actual notice that physical abuse, sexual abuse, or sexual exploitation by [~~a person~~] an individual known to the parent has occurred, and there is evidence that the parent or guardian failed to protect the child, after having received the notice, by allowing the child to be in the physical presence of the alleged abuser, that fact [~~constitutes~~] is prima facie evidence that the child is at substantial risk of being physically abused, sexually abused, or sexually exploited.

(4) (a) For purposes of Subsection (2), if the division files [~~a~~] an abuse, neglect, or dependency petition [~~under Section 78A-6-304~~], the juvenile court shall consider the division's safety and risk assessments described in Section 62A-4a-203.1 to determine whether a child should be removed from the custody of the child's parent or guardian or should otherwise be taken into protective custody.

(b) The division shall make a diligent effort to provide the safety and risk assessments described in Section 62A-4a-203.1 to the juvenile court, guardian ad litem, and counsel for the parent or guardian, as soon as practicable before the shelter hearing described in Section [~~78A-6-306~~] 80-3-301.

(5) In the absence of one of the factors described in Subsection (2), a juvenile court may not remove a child from the parent's or guardian's custody on the basis of:

(a) educational neglect, truancy, or failure to comply with a court order to attend school;

(b) mental illness or poverty of the parent or guardian; [~~or~~]

(c) disability of the parent or guardian, as defined in Section 57-21-2[~~.~~]; or

(d) the possession or use, in accordance with Title 26, Chapter 61a, Utah Medical Cannabis Act, of cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device, as those terms are defined in Section 26-61a-102.

(6) A child removed from the custody of the child's parent or guardian under this section may not be placed or kept in [~~a secure detention facility pending further court proceedings unless the child is detainable based on guidelines promulgated by the Division of Juvenile Justice Services~~] detention, unless the child may be admitted to detention under Chapter 6, Part 2, Custody and Detention.

(7) This section does not preclude removal of a child from the child's home without a warrant or court order under Section 62A-4a-202.1.

(8) (a) Except as provided in Subsection (8)(b), [~~a court or the Division of Child and Family Services may not~~] a juvenile court and the division may not remove a child from the custody of the child's parent or guardian on the sole or primary basis that the parent or guardian refuses to consent to:

(i) the administration of a psychotropic medication to a child;

(ii) a psychiatric, psychological, or behavioral treatment for a child; or

(iii) a psychiatric or behavioral health evaluation of a child.

(b) Notwithstanding Subsection (8)(a), [~~a court or the Division of Child and Family Services~~] a juvenile court or the division may remove a child under conditions that would otherwise be prohibited under Subsection (8)(a) if failure to take an action described under Subsection (8)(a) would present a serious, imminent risk to the child's physical safety or the physical safety of others.

Section 68. Section 80-3-205, which is renumbered from Section 78A-6-322 is renumbered and amended to read:

[~~78A-6-322~~]. 80-3-205. Coordination of proceedings.

(1) In each case where an information or indictment [~~has been~~] is filed against a defendant concerning abuse, neglect, or dependency of a child, and a petition [~~has been~~] is filed in juvenile court concerning the victim, the appropriate county attorney's or district attorney's office shall coordinate with the attorney general's office.

(2) Law enforcement personnel, [~~Division of Child and Family Services~~] division personnel, the appointed guardian ad litem, pretrial services personnel, and corrections personnel shall make reasonable efforts to facilitate the coordination required [~~by~~] under this section.

(3) [~~Members of interdisciplinary child protection teams, established under Section 62A-4a-409,~~] A member of a child protection team may participate in the coordination required [~~by~~] under this section.

(4) [~~Members of a child protection unit, established under Section 10-3-913 or 17-22-2,~~] A member of a child protection unit may coordinate with the attorney general's office, [~~Division of Child and Family Services~~] division personnel, the appointed guardian ad litem, pretrial services personnel, and corrections personnel as appropriate under this section.

Section 69. Section 80-3-206 is enacted to read:

80-3-206. Mediation.

If an abuse, neglect, or dependency petition is filed, or if a matter is referred to the juvenile court under Subsection 78A-6-104(1)(a)(iii), the juvenile court may require the parties to participate in mediation in accordance with Title 78B, Chapter 6, Part 2, Alternative Dispute Resolution Act.

Section 70. Section 80-3-207 is enacted to read:

80-3-207. Modification of petition -- Continuance.

(1) When it appears in a proceeding under this chapter that evidence presented points to material facts not alleged in the abuse, neglect, or dependency petition, the juvenile court may consider the additional or different matters raised by the evidence if the parties consent.

(2) The juvenile court on motion of any interested party, or on the juvenile court's own motion, shall direct that the abuse, neglect, or dependency petition be amended to conform to the evidence described in Subsection (1).

(3) If the amendment described in Subsection (2) results in a substantial departure from the facts originally alleged in the abuse, neglect, or dependency petition, the juvenile court shall grant a continuance as justice may require in accordance with Utah Rules of Juvenile Procedure, Rule 54.

Section 71. Section 80-3-301, which is renumbered from Section 78A-6-306 is renumbered and amended to read:

Part 3. Shelter Proceedings and Placement of a Child

[~~78A-6-306~~]. 80-3-301. Shelter hearing -- Court considerations.

(1) A juvenile court shall hold a shelter hearing [~~shall be held~~] to determine the temporary custody of a child within 72 hours, excluding weekends and holidays, after any one or all of the following occur:

(a) removal of the child from the child's home by the division;

(b) placement of the child in [~~the~~] protective custody [~~of the division~~];

(c) emergency placement under Subsection 62A-4a-202.1[~~(4)~~](7);

(d) as an alternative to removal of the child, a parent enters a domestic violence shelter at the request of the division; or

[~~(e) a "Motion for Expedited Placement in Temporary Custody" is filed under Subsection 78A-6-106(4)~~]

(e) a motion for expedited placement in temporary custody is filed under Section 80-3-203.

(2) If one of the circumstances described in Subsections (1)(a) through (e) occurs, the division shall issue a notice that contains all of the following:

(a) the name and address of the [~~person~~] individual to whom the notice is directed;

(b) the date, time, and place of the shelter hearing;

(c) the name of the child on whose behalf [~~a~~] an abuse, neglect, or dependency petition is [~~being~~] brought;

(d) a concise statement regarding:

(i) the reasons for removal or other action of the division under Subsection (1); and

(ii) the allegations and code sections under which the proceeding [~~has been~~] is instituted;

(e) a statement that the parent or guardian to whom notice is given, and the child, are entitled to have an attorney present at the shelter hearing, and that if the parent or guardian is [~~indigent~~] an indigent individual and cannot afford an attorney, and desires to be represented by an attorney, one will be provided in accordance with Title 78B, Chapter 22, Indigent Defense Act; and

(f) a statement that the parent or guardian is liable for the cost of support of the child in the protective custody, temporary custody, and custody of the division, and the cost for legal counsel appointed for the parent or guardian under Subsection (2)(e), according to the financial ability of the parent or guardian.

(3) The notice described in Subsection (2) shall be personally served as soon as possible, but no later than one business day after [~~removal of~~] the day on which the child is removed from the child's home, or the [~~filing of a "Motion for Expedited Placement in Temporary Custody" under Subsection 78A-6-106(4)~~] day on which a motion for expedited placement in temporary custody under Section 80-3-203 is filed, on:

(a) the appropriate guardian ad litem; and

(b) both parents and any guardian of the child, unless the parents or guardians cannot be located.

(4) [~~The~~] Notwithstanding Section 80-3-104, the following [~~persons~~] individuals shall be present at the shelter hearing:

(a) the child, unless it would be detrimental for the child;

(b) the child's parents or guardian, unless the parents or guardian cannot be located, or fail to appear in response to the notice;

(c) counsel for the parents, if one is requested;

(d) the child's guardian ad litem;

(e) the [~~caseworker~~] child welfare worker from the division who is assigned to the case; and

(f) the attorney from the attorney general's office who is representing the division.

(5) (a) At the shelter hearing, the juvenile court shall:

(i) provide an opportunity to provide relevant testimony to:

(A) the child's parent or guardian, if present; and

(B) any other [~~person having~~] individual with relevant knowledge;

(ii) subject to Section [~~78A-6-305~~] 80-3-108, provide an opportunity for the child to testify; and

(iii) in accordance with Subsections [~~78A-6-307(18)(c)~~] 80-3-302(8)(c) through (e), grant preferential consideration to a relative or friend for the temporary placement of the child.

(b) The juvenile court:

(i) may consider all relevant evidence, in accordance with the Utah Rules of Juvenile Procedure;

(ii) shall hear relevant evidence presented by the child, the child's parent or guardian, the requesting party, or [~~their~~] the requesting party's counsel; and

(iii) may in [~~its~~] the juvenile court's discretion limit testimony and evidence to only that which goes to the issues of removal and the child's need for continued protection.

(6) If the child is in [~~the~~] protective custody [~~of the division~~], the division shall report to the juvenile court:

(a) the reason why the child was removed from the parent's or guardian's custody;

(b) any services provided to the child and the child's family in an effort to prevent removal;

(c) the need, if any, for continued shelter;

(d) the available services that could facilitate the return of the child to the custody of the child's parent or guardian; and

(e) subject to Subsections [~~78A-6-307(18)(c)~~] 80-3-302(8)(c) through (e), whether any relatives of the child or friends of the child's parents may be able and willing to accept temporary placement of the child.

(7) The juvenile court shall consider all relevant evidence provided by [~~persons or entities~~] an individual or entity authorized to present relevant evidence [~~pursuant to~~] under this section.

(8) (a) If necessary to protect the child, preserve the rights of a party, or for other good cause shown, the juvenile court may grant no more than one continuance, not to exceed five judicial days.

(b) A juvenile court shall honor, as nearly as practicable, the request by a parent or guardian for a continuance under Subsection (8)(a).

(c) Notwithstanding Subsection (8)(a), if the division fails to provide the notice described in Subsection (2) within the time described in Subsection (3), the juvenile court may grant the request of a parent or guardian for a continuance, not to exceed five judicial days.

(9) (a) If the child is in [~~the~~] protective custody [~~of the division~~], the juvenile court shall order that the child be returned to the custody of the parent or guardian unless [~~it~~] the juvenile court finds, by a preponderance of the evidence, consistent with the protections and requirements provided in Subsection 62A-4a-201(1), that any one of the following exists:

(i) subject to Subsection (9)(b)(i), there is a serious danger to the physical health or safety of the child and the child's physical health or safety may not be

protected without removing the child from the custody of the child's parent;

(ii) (A) the child is suffering emotional damage that results in a serious impairment in the child's growth, development, behavior, or psychological functioning;

(B) the parent or guardian is unwilling or unable to make reasonable changes that would sufficiently prevent future damage; and

(C) there are no reasonable means available by which the child's emotional health may be protected without removing the child from the custody of the child's parent or guardian;

(iii) there is a substantial risk that the child will suffer abuse or neglect if the child is not removed from the custody of the child's parent or guardian;

(iv) subject to Subsection (9)(b)(ii), the child or a minor residing in the same household has been, or is considered to be at substantial risk of being, physically abused, sexually abused, or sexually exploited by [~~a~~]:

(A) a parent or guardian;

(B) a member of the parent's household or the guardian's household; or

(C) [~~person~~] an individual known to the parent or guardian;

(v) the parent or guardian is unwilling to have physical custody of the child;

(vi) the child is without any provision for the child's support;

(vii) a parent who is incarcerated or institutionalized has not or cannot arrange for safe and appropriate care for the child;

(viii) (A) a relative or other adult custodian with whom the child is left by the parent or guardian is unwilling or unable to provide care or support for the child;

(B) the whereabouts of the parent or guardian are unknown; and

(C) reasonable efforts to locate the parent or guardian are unsuccessful;

[~~(ix) subject to Subsections 78A-6-105(40)(b) and 78A-6-117(2) and Section 78A-6-301.5, the child is in immediate need of medical care;~~]

(ix) subject to Subsection 80-1-102(51)(b) and Sections 80-3-109 and 80-3-304, the child is in immediate need of medical care;

(x) (A) the physical environment or the fact that the child is left unattended beyond a reasonable period of time poses a threat to the child's health or safety; and

(B) the parent or guardian is unwilling or unable to make reasonable changes that would remove the threat;

(xi) (A) the child or a minor residing in the same household has been neglected; and

(B) the parent or guardian is unwilling or unable to make reasonable changes that would prevent the neglect;

(xii) the parent, guardian, or an adult residing in the same household as the parent or guardian, is charged or arrested pursuant to Title 58, Chapter 37d, Clandestine Drug Lab Act, and any clandestine laboratory operation was located in the residence or on the property where the child resided;

(xiii) (A) the child's welfare is substantially endangered; and

(B) the parent or guardian is unwilling or unable to make reasonable changes that would remove the danger; or

(xiv) the child's natural parent:

(A) intentionally, knowingly, or recklessly causes the death of another parent of the child;

(B) is identified by a law enforcement agency as the primary suspect in an investigation for intentionally, knowingly, or recklessly causing the death of another parent of the child; or

(C) is being prosecuted for or has been convicted of intentionally, knowingly, or recklessly causing the death of another parent of the child.

(b) (i) Prima facie evidence of the finding described in Subsection (9)(a)(i) is established if:

(A) a court previously adjudicated that the child suffered abuse, neglect, or dependency involving the parent; and

(B) a subsequent incident of abuse, neglect, or dependency involving the parent occurs.

(ii) For purposes of Subsection (9)(a)(iv), if the juvenile court finds that the parent knowingly allowed the child to be in the physical care of [~~a person~~] an individual after the parent received actual notice that the [~~person~~] individual physically abused, sexually abused, or sexually exploited the child, that fact [~~constitutes~~] is prima facie evidence that there is a substantial risk that the child will be physically abused, sexually abused, or sexually exploited.

(10) (a) (i) The juvenile court shall [~~also~~] make a determination on the record as to whether reasonable efforts were made to prevent or eliminate the need for removal of the child from the child's home and whether there are available services that would prevent the need for continued removal.

(ii) If the juvenile court finds that the child can be safely returned to the custody of the child's parent or guardian through the provision of [~~those~~] the services described in Subsection (10)(a)(i), the juvenile court shall place the child with the child's parent or guardian and order that [~~those~~] the services be provided by the division.

(b) In accordance with federal law, the juvenile court shall consider the child's health, safety, and welfare as the paramount concern when making the determination described in Subsection (10)(a), and

in ordering and providing the services[~~, the child's health, safety, and welfare shall be the paramount concern, in accordance with federal law~~] described in Subsection (10)(a).

(11) Where the division's first contact with the family occurred during an emergency situation in which the child could not safely remain at home, the juvenile court shall make a finding that any lack of preplacement preventive efforts, as described in Section 62A-4a-203, was appropriate.

(12) In cases where [~~actual~~] sexual abuse, sexual exploitation, abandonment, severe abuse, or severe neglect are involved, [~~neither the division nor the court has~~] the juvenile court and the division do not have any duty to make[~~,~~ "]reasonable efforts["] or to, in any other way, attempt to maintain a child in the child's home, return a child to the child's home, provide reunification services, or attempt to rehabilitate the offending parent or parents.

(13) The juvenile court may not order continued removal of a child solely on the basis of educational neglect [~~as defined in Section 78A-6-105~~], truancy, or failure to comply with a court order to attend school.

(14) (a) Whenever a juvenile court orders continued removal of a child under this section, the juvenile court shall state the facts on which [~~that~~] the decision is based.

(b) If no continued removal is ordered and the child is returned home, the juvenile court shall state the facts on which [~~that~~] the decision is based.

(15) If the juvenile court finds that continued removal and temporary custody are necessary for the protection of a child [~~pursuant to~~] under Subsection (9)(a), the juvenile court shall order continued removal regardless of:

(a) any error in the initial removal of the child;

(b) the failure of a party to comply with notice provisions; or

(c) any other procedural requirement of this chapter or Title 62A, Chapter 4a, Child and Family Services.

Section 72. Section 80-3-302, which is renumbered from Section 78A-6-307 is renumbered and amended to read:

[~~78A-6-307~~]. 80-3-302. Shelter hearing -- Placement.

[~~(1) As used in this section:~~]

[~~(a) "Friend" means an adult who:~~]

[~~(i) has an established relationship with the child or a family member of the child; and~~]

[~~(ii) is not a natural parent of the child.~~]

[~~(b) (i) "Natural parent," notwithstanding Section 78A-6-105, means:~~]

(1) As used in this section:

(a) "Natural parent," notwithstanding Section 80-1-102, means:

[~~(A)~~] (i) a biological or adoptive mother of the child;

[~~(B)~~] (ii) an adoptive father of the child; or

[~~(C)~~] (iii) a biological father of the child who:

[~~(I)~~] (A) was married to the child's biological mother at the time the child was conceived or born; or

[~~(II)~~] (B) has strictly complied with Sections 78B-6-120 through 78B-6-122, before removal of the child or voluntary surrender of the child by the custodial parent.

[~~(ii)~~] (b) [~~The definition of "natural parent" described in Subsection (1)(b)(i) applies~~] "Natural parent" includes the individuals described in Subsection (1)(a) regardless of whether the child has been or will be placed with adoptive parents or whether adoption has been or will be considered as a long-term goal for the child.

[~~(c) "Relative" means:~~]

[~~(i) an adult who is the child's grandparent, great grandparent, aunt, great aunt, uncle, great uncle, brother-in-law, sister-in-law, stepparent, first cousin, stepsibling, or sibling;~~]

[~~(ii) a first cousin of the child's parent;~~]

[~~(iii) an adult who is an adoptive parent of the child's sibling; or~~]

[~~(iv) in the case of a child defined as an "Indian" under the Indian Child Welfare Act, 25 U.S.C. Sec. 1903, "relative" also means an "extended family member" as defined by that statute.~~]

(2) (a) At the shelter hearing, when the juvenile court orders that a child be removed from the custody of the child's parent in accordance with the requirements of Section [~~78A-6-306~~] 80-3-301, the juvenile court shall first determine whether there is another natural parent with whom the child was not residing at the time the events or conditions that brought the child within the juvenile court's jurisdiction occurred, who desires to assume custody of the child.

(b) [~~If~~] Subject to Subsection (8), if another natural parent requests custody under Subsection (2)(a), the juvenile court shall place the child with that parent unless the juvenile court finds that the placement would be unsafe or otherwise detrimental to the child.

[~~(c) This Subsection (2) is limited by Subsection (18)(b).~~]

[~~(d) (i)~~] (c) The juvenile court:

(i) shall make a specific finding regarding the fitness of the parent described in Subsection (2)(b) to assume custody, and the safety and appropriateness of the placement[~~.~~];

(ii) [~~The court~~] shall, at a minimum, order the division to visit the parent's home, comply with the criminal background check provisions described in Section [~~78A-6-308~~] 80-3-305, and check the division's management information system for any previous reports of abuse or neglect received by the division regarding the parent at issue[~~.~~];

(iii) [~~The court~~] may order the division to conduct any further investigation regarding the safety and appropriateness of the placement[~~.~~]; and

[~~(iv) The division shall report the division's findings in writing to the court.~~]

[~~(v)~~] (iv) [~~The court~~] may place the child in the temporary custody of the division, pending the juvenile court's determination regarding [~~that~~] the placement.

(d) The division shall report the division's findings from an investigation regarding the child in writing to the juvenile court.

(3) If the juvenile court orders placement with a parent under Subsection (2):

(a) the child and the parent are under the continuing jurisdiction of the juvenile court;

(b) the juvenile court may order:

(i) that the parent [~~assume~~] take custody subject to the supervision of the juvenile court; and

(ii) that services be provided to the parent from whose custody the child was removed, the parent who has assumed custody, or both; and

(c) the juvenile court shall order reasonable parent-time with the parent from whose custody the child was removed, unless parent-time is not in the best interest of the child.

(4) The juvenile court shall periodically review an order described in Subsection (3) to determine whether:

(a) placement with the parent continues to be in the child's best interest;

(b) the child should be returned to the original custodial parent;

(c) the child should be placed [~~in the custody of~~] with a relative[~~, pursuant to~~] under Subsections (7) through [~~(12)~~] (10); or

(d) the child should be placed in the temporary custody of the division.

(5) The time limitations described in Section [~~78A-6-312~~] 80-3-406 with regard to reunification efforts apply to children placed with a previously noncustodial parent [~~in accordance with~~] under Subsection (2).

(6) (a) Legal custody of the child is not affected by an order entered under Subsection (2) or (3).

(b) To affect a previous court order regarding legal custody, the party shall petition [~~that~~] the court for modification of [~~the order~~] legal custody.

(7) [~~If~~] Subject to Subsection (8), if, at the time of the shelter hearing, a child is removed from the custody of the child's parent and is not placed in the custody of the child's other parent, the juvenile court:

(a) shall, at that time, determine whether [~~, subject to Subsections (18)(c) through (e),~~] there is a relative or a friend who is able and willing to care for the child, which may include asking a child, who is of sufficient maturity to articulate the child's wishes in relation to a placement, if there is a relative or friend with whom the child would prefer to reside;

(b) may order the division to conduct a reasonable search to determine whether[~~, subject to Subsections (18)(c) through (e),~~] there are relatives or friends who are willing and appropriate, in accordance with the requirements of this [~~part~~] chapter and Title 62A, Chapter 4a, Part 2, Child Welfare Services, for placement of the child;

(c) shall order the parents to cooperate with the division, within five working days, to[~~, subject to Subsections (18)(c) through (e),~~] provide information regarding relatives or friends who may be able and willing to care for the child; and

(d) may order that the child be placed in the temporary custody of the division pending the determination under Subsection (7)(a).

[~~(8) This section may not be construed as a guarantee that an identified relative or friend will receive custody of the child.~~]

[~~(9)~~] (8) (a) Subject to Subsections [~~(18)(c) through (e)~~] (8)(b) through (d), preferential consideration shall be given to a relative's or a friend's request for placement of the child, if [~~it~~] the placement is in the best interest of the child, and the provisions of this section are satisfied.

(b) (i) The preferential consideration that a relative or friend is initially granted under Subsection (8)(a) expires 120 days after the day on which the shelter hearing occurs.

(ii) After the day on which the time period described in Subsection (8)(b)(i) expires, a relative or friend, who has not obtained custody or asserted an interest in a child, may not be granted preferential consideration by the division or the juvenile court.

(c) (i) The preferential consideration that a natural parent is initially granted under Subsection (2) is limited after 120 days after the day on which the shelter hearing occurs.

(ii) After the time period described in Subsection (8)(c)(i), the juvenile court shall base the juvenile court's custody decision on the best interest of the child.

(iii) Before the day on which the time period described in Subsection (8)(c)(i) expires, the following order of preference shall be applied when determining the individual with whom a child will be placed, provided that the individual is willing and able to care for the child:

(A) a noncustodial parent of the child;

(B) a relative of the child;

(C) subject to Subsection (8)(d), a friend if the friend is a licensed foster parent; and

(D) other placements that are consistent with the requirements of law.

(d) In determining whether a friend is a willing, able, and appropriate placement for a child, the juvenile court or the division:

(i) subject to Subsections (8)(d)(ii) through (iv), shall consider the child's preferences or level of comfort with the friend;

(ii) is required to consider no more than one friend designated by each parent of the child and one friend designated by the child if the child is of sufficient maturity to articulate the child's wishes in relation to a placement;

(iii) may limit the number of designated friends to two, one of whom shall be a friend designated by the child if the child is of sufficient maturity to articulate the child's wishes in relation to a placement; and

(iv) shall give preference to a friend designated by the child if:

(A) the child is of sufficient maturity to articulate the child's wishes; and

(B) the basis for removing the child under Section 80-3-301 is sexual abuse of the child.

(e) (i) If a parent of the child or the child, if the child is of sufficient maturity to articulate the child's wishes in relation to a placement, is not able to designate a friend who is a licensed foster parent for placement of the child, but is able to identify a friend who is willing to become licensed as a foster parent, the department shall fully cooperate to expedite the licensing process for the friend.

(ii) If the friend described in Subsection (8)(e)(i) becomes licensed as a foster parent within the time frame described in Subsection (8)(b), the juvenile court shall determine whether it is in the best interest of the child to place the child with the friend.

[~~(10)~~] (9) (a) If a [~~willing~~] relative or friend who is willing to cooperate with the child's permanency goal is identified under Subsection (7)(a), the juvenile court shall make a specific finding regarding:

(i) the fitness of that relative or friend as a placement for the child; and

(ii) the safety and appropriateness of placement with [~~that~~] the relative or friend.

[~~(b) To be considered a "willing relative or friend" under this section, the relative or friend shall be willing to cooperate with the child's permanency goal.~~]

[~~(11) (a)~~] (b) In making the finding described in Subsection [~~(10)~~] (9)(a), the juvenile court shall, at a minimum, order the division to:

(i) if the child may be placed with a relative, conduct a background check that includes:

(A) completion of a nonfingerprint-based, Utah Bureau of Criminal Identification background check of the relative;

(B) a completed search, relating to the relative, of the Management Information System described in Section 62A-4a-1003; and

(C) a background check that complies with the criminal background check provisions described in Section [~~78A-6-308~~] 80-3-305, of each nonrelative, as defined in Section 62A-4a-209, of the child who resides in the household where the child may be placed;

(ii) if the child will be placed with a noncustodial parent, complete a background check that includes:

(A) the background check requirements applicable to an emergency placement with a noncustodial parent that are described in Subsections 62A-4a-209(5) and (7);

(B) a completed search, relating to the noncustodial parent of the child, of the Management Information System described in Section 62A-4a-1003; and

(C) a background check that complies with the criminal background check provisions described in Section [~~78A-6-308~~] 80-3-305, of each nonrelative, as defined in Section 62A-4a-209, of the child who resides in the household where the child may be placed;

(iii) if the child may be placed with an individual other than a noncustodial parent or a relative, conduct a criminal background check of the individual, and each adult that resides in the household where the child may be placed, that complies with the criminal background check provisions described in Section [~~78A-6-308~~] 80-3-305;

(iv) visit the relative's or friend's home;

(v) check the division's management information system for any previous reports of abuse or neglect regarding the relative or friend at issue;

(vi) report the division's findings in writing to the juvenile court; and

(vii) provide sufficient information so that the juvenile court may determine whether:

(A) the relative or friend has any history of abusive or neglectful behavior toward other children that may indicate or present a danger to this child;

(B) the child is comfortable with the relative or friend;

(C) the relative or friend recognizes the parent's history of abuse and is committed to protect the child;

(D) the relative or friend is strong enough to resist inappropriate requests by the parent for access to the child, in accordance with court orders;

(E) the relative or friend is committed to caring for the child as long as necessary; and

(F) the relative or friend can provide a secure and stable environment for the child.

[~~(b)~~] (c) The division may determine to conduct, or the juvenile court may order the division to conduct, any further investigation regarding the safety and appropriateness of the placement described in Subsection (9)(a).

[~~(c)~~] (d) The division shall complete and file the division's assessment regarding placement with a relative or friend under Subsections (9)(a) and (b) as soon as practicable, in an effort to facilitate placement of the child with a relative or friend.

[~~(12)~~] (10) (a) The juvenile court may place a child described in Subsection (2)(a) in the temporary custody of the division, pending the division's investigation [~~pursuant to Subsections (10) and (11)~~] under Subsection (9), and the juvenile court's determination regarding the appropriateness of [~~that~~] the placement.

(b) The juvenile court shall ultimately base the juvenile court's determination regarding the appropriateness of a placement with a relative or friend on the best interest of the child.

[~~(13)~~] (11) When a juvenile court places a child described in Subsection (7) [~~in the custody of~~] with the child's relative or friend:

(a) the juvenile court:

(i) shall order the relative or friend [~~assume~~] take custody, subject to the continuing supervision of the juvenile court; and

(ii) may order the division provide necessary services to the child and the child's relative or friend, including the monitoring of the child's safety and well-being;

(b) the child and the relative or friend in whose custody the child is placed are under the continuing jurisdiction of the juvenile court;

(c) the juvenile court may enter any order that [~~it~~] the juvenile court considers necessary for the protection and best interest of the child;

(d) the juvenile court shall provide for reasonable parent-time with the parent or parents from whose custody the child was removed, unless parent-time is not in the best interest of the child; and

(e) the juvenile court shall conduct a periodic review no less often than every six months, to determine whether:

(i) placement with the relative or friend continues to be in the child's best interest;

(ii) the child should be returned home; or

(iii) the child should be placed in the custody of the division.

[~~(14)~~] (12) No later than 12 months after [~~placement with a relative or friend~~] the day on which the child was removed from the home, the juvenile court shall schedule a hearing for the purpose of entering a permanent order in accordance with the best interest of the child.

[~~(15)~~] (13) The time limitations described in Section [~~78A-6-312~~] 80-3-406, with regard to reunification efforts, apply to children placed with a relative or friend [~~pursuant to~~] under Subsection (7).

[~~(16)~~] (14) (a) If the juvenile court awards temporary custody of a child to the division, and the division places the child with a relative, the division shall:

(i) conduct a criminal background check of the relative that complies with the criminal background check provisions described in Section [~~78A-6-308~~] 80-3-305; and

(ii) if the results of the criminal background check described in Subsection [~~(16)~~] (14)(a)(i) would prohibit the relative from having direct access to the child under Section 62A-2-120, the division shall:

(A) take the child into physical custody; and

(B) within three days, excluding weekends and holidays, after [~~taking the child~~] the day on which the child is taken into physical custody under Subsection [~~(16)~~] (14)(a)(ii)(A), give written notice to the juvenile court, and all parties to the proceedings, of the division's action.

(b) [~~Nothing in Subsection (16)(a) prohibits~~] Subsection (14)(a) does not prohibit the division from placing a child with a relative, pending the results of the background check described in Subsection [~~(16)~~] (14)(a) on the relative.

[~~(17)~~] (15) [~~When the~~] If the juvenile court orders that a child be removed from the custody of the child's parent and does not award custody and guardianship to another parent, relative, or friend under this section, the juvenile court shall order that the child be placed in the temporary custody of the division, to proceed to adjudication and disposition and to be provided with care and services in accordance with this chapter and Title 62A, Chapter 4a, Child and Family Services.

[~~(18) (a) Any preferential consideration that a relative or friend is initially granted pursuant to Subsection (9) expires 120 days from the date of the shelter hearing. After that time period has expired, a relative or friend who has not obtained custody or asserted an interest in a child, may not be granted preferential consideration by the division or the court.~~]

[~~(b) When the time period described in Subsection (18)(a) has expired, the preferential consideration, which is initially granted to a natural parent in accordance with Subsection (2), is limited. After that time, the court shall base the court's custody decision on the best interest of the child.~~]

[~~(c) Before the expiration of the 120-day period described in Subsection (18)(a), the following order of preference shall be applied when determining the individual with whom a child will be placed, provided that the individual is willing, and has the ability, to care for the child:~~]

[~~(i) a noncustodial parent of the child;~~]

[~~(ii) a relative of the child;~~]

[~~(iii) subject to Subsection (18)(d), a friend, if the friend is a licensed foster parent; and~~]

[~~(iv) other placements that are consistent with the requirements of law.~~]

[~~(d) In determining whether a friend is a willing and appropriate placement for a child, the court or the division:~~]

[~~(i) subject to Subsections (18)(d)(ii) through (iv), shall consider the child's preferences or level of comfort with the friend;~~]

[~~(ii) is required to consider no more than one friend designated by each parent of the child and one friend designated by the child, if the child is of sufficient maturity to articulate the child's wishes in relation to a placement;~~]

[~~(iii) may limit the number of designated friends to two, one of whom shall be a friend designated by the child, if the child is of sufficient maturity to articulate the child's wishes in relation to a placement; and~~]

[~~(iv) shall give preference to a friend designated by the child, if:~~]

[~~(A) the child is of sufficient maturity to articulate the child's wishes; and~~]

[~~(B) the basis for removing the child under Section 78A-6-306 is sexual abuse of the child.~~]

[~~(e) If a parent of the child or the child, if the child is of sufficient maturity to articulate the child's wishes in relation to a placement, is not able to designate a friend who is a licensed foster parent for placement of the child, but is able to identify a friend who is willing to become licensed as a foster parent:~~]

[~~(i) the department shall fully cooperate to expedite the licensing process for the friend; and~~]

[~~(ii) if the friend becomes licensed as a foster parent within the time frame described in Subsection (18)(a), the court shall determine whether it is in the best interests of the child to place the child with the friend.~~]

[~~(19)~~] (16) If, following the shelter hearing, the child is placed with an individual who is not a parent, a relative, a friend, or a former foster parent of the child, priority shall be given to a foster placement with a married couple, unless it is in the best interests of the child to place the child with a single foster parent.

[~~(20)~~] (17) In determining the placement of a child, [~~neither the court, nor the division, may~~] the juvenile court and the division may not take into account, or discriminate against, the religion of an individual with whom the child may be placed, unless the purpose of taking religion into account is to place the child with an individual or family of the same religion as the child.

[~~(21)~~] (18) If the juvenile court's decision differs from a child's express wishes if the child is of sufficient maturity to articulate the wishes in relation to the child's placement, the juvenile court shall make findings explaining why the juvenile court's decision differs from the child's wishes.

(19) This section does not guarantee that an identified relative or friend will receive custody of the child.

Section 73. Section 80-3-303, which is renumbered from Section 78A-6-307.5 is renumbered and amended to read:

[~~78A-6-307.5~~]. 80-3-303. Post-shelter hearing placement of a child in division's temporary custody.

(1) If the juvenile court awards temporary custody of a [~~minor~~] child to the division under Section [~~78A-6-307~~] 80-3-302, or as otherwise permitted by law, the division shall determine ongoing placement of the [~~minor~~] child.

(2) In placing a [~~minor~~] child under Subsection (1), the division:

(a) except as provided in Subsections (2)(b) and (d), shall comply with the applicable background check provisions described in Section [~~78A-6-307~~] 80-3-302;

(b) is not required to receive approval from the juvenile court before making the placement;

(c) shall, within three days, excluding weekends and holidays, after [~~making the placement~~] the day on which the placement is made, give written notice to the juvenile court, and the parties to the proceedings, that the placement has been made;

(d) may place the [~~minor~~] child with a noncustodial parent, relative, or friend, using the same criteria established for an emergency placement under Section 62A-4a-209, pending the results of:

(i) the background check described in Subsection [~~78A-6-307(16)(a)~~] 80-3-302(14)(a); and

(ii) evaluation with the noncustodial parent, relative, or friend to determine the individual's capacity to provide ongoing care to the [~~minor~~] child; and

(e) shall take into consideration the will of the [~~minor~~] child, if the [~~minor~~] child is of sufficient maturity to articulate the [~~minor's~~] child's wishes in relation to the [~~minor's~~] child's placement.

(3) If the division's placement decision differs from a [~~minor's~~] child's express wishes if the [~~minor~~] child is of sufficient maturity to state the child's wishes in relation to the [~~minor's~~] child's placement, the division shall make findings explaining why the division's decision differs from the [~~minor's~~] child's wishes in a writing provided to the juvenile court and the [~~minor's~~] child's attorney guardian ad litem.

Section 74. Section 80-3-304, which is renumbered from Section 78A-6-301.5 is renumbered and amended to read:

[~~78A-6-301.5~~]. 80-3-304. Second medical opinion in cases of alleged medical neglect.

(1) In cases of alleged medical neglect where the division seeks protective custody, temporary custody, or custody of the child based on the report or testimony of a physician, a parent or guardian shall have a reasonable amount of time, as determined by the juvenile court, to obtain a second

medical opinion from another physician of the parent's or guardian's choosing who has expertise in the applicable field.

(2) Unless there is an imminent risk of death or a deteriorating condition of the child's health, the child shall remain in the custody of the parent or guardian while the parent or guardian obtains a second medical opinion.

(3) If the second medical opinion results in a different diagnosis or treatment recommendation from that of the opinion of the physician the division used, the juvenile court shall give deference to the second medical opinion as long as that opinion is reasonable and informed and is consistent with treatment that is regularly prescribed by medical experts in the applicable field.

(4) Subsections (1) through (3) do not apply to emergency treatment or care when the child faces an immediate threat of death or serious and irreparable harm and when there is insufficient time to safely allow the parent or guardian to provide alternative necessary care and treatment of the parent's or guardian's choosing.

Section 75. Section 80-3-305, which is renumbered from Section 78A-6-308 is renumbered and amended to read:

[~~78A-6-308~~]. 80-3-305. Criminal background checks necessary before out-of-home placement.

(1) Subject to Subsection (3), upon ordering removal of a child from the custody of the child's parent and placing that child in the temporary custody or custody of the [~~Division of Child and Family Services, prior to the division's placement of that~~] division before the division places a child in out-of-home care, the juvenile court shall require the completion of a nonfingerprint-based background check by the Utah Bureau of Criminal Identification regarding the proposed placement.

(2) (a) Except as provided in Subsection (4), the division and the Office of Guardian ad Litem may request, or the juvenile court upon the juvenile court's own motion, may order, the Department of Public Safety to conduct a complete Federal Bureau of Investigation criminal background check through the national criminal history system (NCIC).

(b) (i) Except as provided in Subsection (4), upon request by the division or the Office of Guardian ad Litem, or upon the juvenile court's order, [~~persons~~] an individual subject to the requirements of Subsection (1) shall submit fingerprints and shall be subject to an FBI fingerprint background check.

(ii) The child may be temporarily placed, pending the outcome of [~~that~~] the background check described in Subsection (2)(b)(i).

(c) (i) [~~The~~] Except as provided in Subsection (2)(c)(ii), the cost of [~~those~~] the investigations described in Subsection (2)(a) shall be borne by whoever is to receive placement of the child[~~, except that the Division of Child and Family Services~~].

(ii) The division may pay all or part of the cost of [~~those~~] the investigations described in Subsection (2)(a).

(3) Except as provided in Subsection (5), a child who is in the legal custody of the [~~state~~] division may not be placed with a prospective foster parent or a prospective adoptive parent, unless, before the child is placed with the prospective foster parent or the prospective adoptive parent:

(a) a fingerprint based FBI national criminal history records check is conducted on the prospective foster parent or prospective adoptive parent and any other adult residing in the household;

(b) the [~~Department of Human Services~~] department conducts a check of the abuse and neglect registry in each state where the prospective foster parent or prospective adoptive parent resided in the five years immediately [~~preceding~~] before the day on which the prospective foster parent or prospective adoptive parent applied to be a foster parent or adoptive parent, to determine whether the prospective foster parent or prospective adoptive parent is listed in the registry as having a substantiated or supported finding of a severe type of abuse or neglect as defined in Section 62A-4a-1002;

(c) the [~~Department of Human Services~~] department conducts a check of the abuse and neglect registry of each state where each adult living in the home of the prospective foster parent or prospective adoptive parent described in Subsection (3)(b) resided in the five years immediately [~~preceding~~] before the day on which the prospective foster parent or prospective adoptive parent applied to be a foster parent or adoptive parent, to determine whether the adult is listed in the registry as having a substantiated or supported finding of a severe type of abuse or neglect as defined in Section 62A-4a-1002; and

(d) each [~~person~~] individual required to undergo a background check described in this Subsection (3) passes the background check, [~~pursuant to~~] in accordance with the provisions of Section 62A-2-120.

(4) Subsections (2)(a) and (b) do not apply to a child who is placed with a noncustodial parent or relative under Section 62A-4a-209, [~~78A-6-307, or 78A-6-307.5~~] 80-3-302, or 80-3-303, unless the juvenile court finds that compliance with Subsection (2)(a) or (b) is necessary to ensure the safety of the child.

(5) The requirements under Subsection (3) do not apply to the extent that:

(a) federal law or rule permits otherwise; or

(b) the requirements would prohibit the division or a juvenile court from placing a child with:

(i) a noncustodial parent, under Section 62A-4a-209, [~~78A-6-307, or 78A-6-307.5~~] 80-3-302, or 80-3-303; or

(ii) a relative, under Section 62A-4a-209, [~~78A-6-307, or 78A-6-307.5~~] 80-3-302, or

80-3-303, pending completion of the background check described in Subsection (3).

Section 76. Section 80-3-306, which is renumbered from Section 78A-6-308.5 is renumbered and amended to read:

[~~78A-6-308.5~~]. 80-3-306. Outstanding arrest warrant check before return of custody.

(1) Before the division may recommend that a child who is in [~~the custody,~~] protective custody, [~~or~~] temporary custody, or custody of the division be returned to the custody of a parent or guardian of the child, the division shall determine whether the parent or guardian has an outstanding felony arrest warrant in any state where the parent or guardian has resided or in any state where an immediate family member of the parent or guardian resides.

(2) The division shall file the results of the felony arrest warrant check with the juvenile court.

(3) (a) If the parent or guardian of a child who is in [~~the custody,~~] protective custody, [~~or~~] temporary custody, or custody of the division has an outstanding arrest warrant in any state, the juvenile court may deny the return of the child to the custody of [~~that~~] the parent or guardian.

(b) [~~The~~] When making a determination described in Subsection (3)(a), the juvenile court shall consider the best interest of the child [~~when making the determination~~].

Section 77. Section 80-3-401, which is renumbered from Section 78A-6-309 is renumbered and amended to read:

Part 4. Adjudication, Disposition, and Permanency

[~~78A-6-309~~]. 80-3-401. Pretrial and adjudication hearing -- Time deadlines.

(1) (a) Upon the filing of [~~a~~] an abuse, neglect, or dependency petition, the clerk of the juvenile court shall set the pretrial hearing on the petition within 15 calendar days [~~from~~] after the later of:

[~~(a) the date of the shelter hearing; or~~]

[~~(b) the filing of the petition.~~]

(i) the day on which the shelter hearing is held; or

(ii) the day on which the abuse, neglect, or dependency petition is filed.

[~~(2)~~] (b) The pretrial hearing may be continued upon motion of any party[~~,~~] for good cause shown [~~, but the~~] as described in Utah Rules of Juvenile Procedure, Rule 54.

(2) The final adjudication hearing shall be held no later than 60 calendar days [~~from~~] after the later of:

[~~(a) the date of the shelter hearing; or~~]

[~~(b) the filing of the petition.~~]

(a) the day on which the shelter hearing is held; or

(b) the day on which the abuse, neglect, or dependency petition is filed.

Section 78. Section 80-3-402, which is renumbered from Section 78A-6-311 is renumbered and amended to read:

[~~78A-6-311~~]. 80-3-402. Adjudication hearing -- Dispositional hearing time deadlines -- Scheduling of review and permanency hearing.

(1) If, at the adjudication hearing, the juvenile court finds, by clear and convincing evidence, that the allegations contained in the abuse, neglect, or dependency petition are true, [~~it~~] the juvenile court shall conduct a dispositional hearing.

(2) The dispositional hearing may be held on the same date as the adjudication hearing, but shall be held no later than 30 calendar days after the [~~date of the~~] day on which the adjudication hearing is held.

(3) At the adjudication hearing or the dispositional hearing, the juvenile court shall schedule dates and times for:

(a) the six-month periodic review; and

(b) the permanency hearing.

(4) If an abuse, neglect, or dependency petition is filed under this chapter and a petition for termination of parental rights is filed under Section 80-4-201, before the day on which a dispositional hearing is held on the abuse, neglect, or dependency petition, a party may request a hearing on whether reunification services are appropriate in accordance with the factors described in Subsections 80-3-406(5) and (7).

Section 79. Section 80-3-403, which is renumbered from Section 78A-6-321 is renumbered and amended to read:

[~~78A-6-321~~]. 80-3-403. Treatment for offender and victim -- Costs.

(1) Upon adjudication in the juvenile court of [~~a person or persons~~] an individual charged with child abuse, child sexual abuse, or sexual exploitation of a child, the juvenile court may order treatment for the adjudicated offender [~~and~~] or the victim [~~or the child victim~~].

(2) [~~The adjudicated offender shall be required by the court~~] The juvenile court shall require the adjudicated offender described in Subsection (1) to pay, to the extent that [~~he~~] the adjudicated offender is able, the costs of [~~that treatment together with~~] the treatment described in Subsection (1) and the administrative costs incurred by the division in monitoring completion of the ordered therapy or treatment.

(3) If the adjudicated offender is unable to pay the full cost of treatment under Subsection (2), the juvenile court:

(a) may order the [~~Division of Child and Family Services~~] division to pay [~~those~~] the costs, to the extent that funding is provided by the Legislature for that purpose[~~,~~]; and

(b) shall order the adjudicated offender [~~shall be required by the court~~] to perform public service work as compensation for the cost of the treatment.

Section 80. Section 80-3-404, which is renumbered from Section 78A-6-323 is renumbered and amended to read:

[~~78A-6-323~~]. 80-3-404. Finding of severe child abuse or neglect -- Petition for removal from Licensing Information System -- Court records.

(1) Upon the filing with the juvenile court of [~~a~~] an abuse, neglect, or dependency petition [~~under Section 78A-6-304 by the Division of Child and Family Services or any interested person informing the court, among other things,~~] that informs the juvenile court that the division has made a supported finding that [~~a person~~] an individual committed a severe type of child abuse or neglect as defined in Section 62A-4a-1002, the juvenile court shall:

(a) make a finding of substantiated, unsubstantiated, or without merit;

(b) include the finding described in Subsection (1)(a) in a written order; and

(c) deliver a certified copy of the order described in Subsection (1)(b) to the division.

(2) The [~~judicial finding under Subsection (1) shall be made~~] juvenile court shall make the finding described in Subsection (1):

(a) as part of the adjudication hearing;

(b) at the conclusion of the adjudication hearing; or

(c) as part of a court order entered pursuant to a written stipulation of the parties.

(3) (a) [~~Any person~~] An individual described in Subsection 62A-4a-1010(1) may at any time file with the juvenile court a petition for removal of the [~~person's~~] individual's name from the Licensing Information System.

(b) At the conclusion of the hearing on the petition described in Subsection (3), the juvenile court shall:

(i) make a finding of substantiated, unsubstantiated, or without merit;

(ii) include the finding described in Subsection (1)(a) in a written order; and

(iii) deliver a certified copy of the order described in Subsection (1)(b) to the division.

(4) A proceeding for adjudication of a supported finding under this section of a type of abuse or neglect that does not constitute a severe type of child abuse or neglect may be joined in the juvenile court with an adjudication of a severe type of child abuse or neglect.

(5) If [~~a person~~] an individual whose name appears on the Licensing Information [~~system~~] System [~~prior to~~] before May 6, 2002, files a petition under Subsection (3) during the time that an alleged perpetrator's application for clearance to work with children or vulnerable adults is pending, the juvenile court shall hear the matter and enter a final decision no later than 60 days after the [~~filing of the petition~~] day on which the petition is filed.

(6) For the purposes of licensing under Sections 26-39-402, 62A-1-118, and 62A-2-120, and for the purposes described in Sections 26-8a-310 and 62A-2-121 and Title 26, Chapter 21, Part 2, Clearance for Direct Patient Access:

(a) the juvenile court shall make available records of [~~its~~] the juvenile court's findings under Subsections (1) and (2):

(i) for those purposes; and

(ii) only to [~~those~~] a person with statutory authority to access [~~also~~] the Licensing Information System created under Section 62A-4a-1006; and

(b) any appellate court shall make available court records of appeals from juvenile court decisions under Subsections (1), (2), (3), and (4):

(i) for those purposes; and

(ii) only to [~~those~~] a person with statutory authority to [~~access also~~] also access the Licensing Information System.

Section 81. Section 80-3-405 is enacted to read:

80-3-405. Dispositions after adjudication.

(1) (a) Upon adjudication under Subsection 80-3-402(1), the juvenile court may make the dispositions described in Subsection (2) at the dispositional hearing.

(2) (a) (i) The juvenile court may vest custody of an abused, neglected, or dependent minor in the division or any other appropriate person, with or without court-specified child welfare services, in accordance with the requirements and procedures of this chapter.

(ii) When placing a minor in the custody of the division or any other appropriate person, the juvenile court:

(A) shall give primary consideration to the welfare of the minor;

(B) shall give due consideration to the rights of the parent or parents concerning the minor; and

(C) when practicable, may take into consideration the religious preferences of the minor and of the minor's parents or guardian.

(b) (i) The juvenile court may appoint a guardian for the minor if it appears necessary in the interest of the minor.

(ii) A guardian appointed under Subsection (2)(b)(i) may be a public or private institution or agency, but not a nonsecure residential placement provider, in which legal custody of the minor is vested.

(iii) When placing a minor under the guardianship of an individual or of a private agency or institution, the juvenile court:

(A) shall give primary consideration to the welfare of the minor; and

(B) when practicable, may take into consideration the religious preferences of the minor and of the minor's parents or guardian.

(c) The juvenile court may order:

(i) protective supervision;

(ii) family preservation;

(iii) sibling visitation; or

(iv) other services.

(d) (i) If a minor has been placed with an individual or relative as a result of an adjudication under this chapter, the juvenile court may enter an order of permanent legal custody and guardianship with the individual or relative of the minor.

(ii) If a juvenile court enters an order of permanent custody and guardianship with an individual or relative of a minor under Subsection (2)(d)(i), the juvenile court may, in accordance with Section 78A-6-356, enter an order for child support on behalf of the minor against the natural parents of the minor.

(iii) An order under this Subsection (2)(d):

(A) shall remain in effect until the minor is 18 years old;

(B) is not subject to review under Section 78A-6-358; and

(C) may be modified by petition or motion as provided in Section 78A-6-357.

(e) The juvenile court may order a child be committed to the physical custody, as defined in Section 62A-15-701, of a local mental health authority, in accordance with the procedures and requirements of Title 62A, Chapter 15, Part 7, Commitment of Persons Under Age 18 to Division of Substance Abuse and Mental Health.

(f) (i) If the child has an intellectual disability, the juvenile court may make an order committing a minor to the Utah State Developmental Center in accordance with Title 62A, Chapter 5, Part 3, Admission to an Intermediate Care Facility for People with an Intellectual Disability.

(ii) The juvenile court shall follow the procedure applicable in the district court with respect to judicial commitments to the Utah State Developmental Center when ordering a commitment under Subsection (2)(f)(i).

(g) (i) Subject to Subsection 80-1-102(51)(b) and Section 80-3-304, the juvenile court may order that a minor:

(A) be examined or treated by a mental health therapist, as described in Section 80-3-109; or

(B) receive other special care.

(ii) For purposes of receiving the examination, treatment, or care described in Subsection (2)(g)(i), the juvenile court may place the minor in a hospital or other suitable facility that is not secure care or secure detention.

(iii) In determining whether to order the examination, treatment, or care described in Subsection (2)(g)(i), the juvenile court shall consider:

(A) the desires of the minor;

(B) the desires of the parent or guardian of the minor if the minor is younger than 18 years old; and

(C) whether the potential benefits of the examination, treatment, or care outweigh the potential risks and side-effects, including behavioral disturbances, suicidal ideation, brain function impairment, or emotional or physical harm resulting from the compulsory nature of the examination, treatment, or care.

(h) The juvenile court may make other reasonable orders for the best interest of the minor.

(3) Upon an adjudication under this chapter, the juvenile court may not:

(a) commit a minor solely on the ground of abuse, neglect, or dependency to the Division of Juvenile Justice Services;

(b) assume the function of developing foster home services; or

(c) vest legal custody of an abused, neglected, or dependent minor in the division to primarily address the minor's ungovernable or other behavior, mental health, or disability, unless the division:

(i) engages other relevant divisions within the department that are conducting an assessment of the minor and the minor's family's needs;

(ii) based on the assessment described in Subsection (3)(c)(i), determines that vesting custody of the minor in the division is the least restrictive intervention for the minor that meets the minor's needs; and

(iii) consents to legal custody of the minor being vested in the division.

(4) The juvenile court may combine the dispositions listed in Subsection (2) if combining the dispositions is permissible and the dispositions are compatible.

Section 82. Section 80-3-406, which is renumbered from Section 78A-6-312 is renumbered and amended to read:

[~~78A-6-312~~]. 80-3-406. Permanency plan -- Reunification services.

[~~(1) The court may:~~]

[~~(a) make any of the dispositions described in Section 78A-6-117;~~]

[~~(b) place the minor in the custody or guardianship of any:~~]

[~~(i) individual; or~~]

[~~(ii) public or private entity or agency; or~~]

[~~(c) order:~~]

[~~(i) protective supervision;~~]

[~~(ii) family preservation;~~]

[~~(iii) subject to Subsections (12)(b), 78A-6-105(40), and 78A-6-117(2) and Section 78A-6-301.5, medical or mental health treatment;~~]

[~~(iv) sibling visitation; or~~]

[~~(v) other services.~~]

[~~(2) Whenever~~]

(1) If the juvenile court orders continued removal at the dispositional hearing under Section 80-3-402, and that the minor remain in the custody of the division, the juvenile court shall first:

(a) establish a primary permanency plan and a concurrent permanency plan for the minor in accordance with this section; and

(b) determine whether, in view of the primary permanency plan, reunification services are appropriate for the [~~minor and the minor's family, pursuant to Subsections (21) through (23)~~] minor and the minor's family under Subsections (5) through (8).

[~~(3) Subject to Subsections (6) and (7), if the court determines that reunification services are appropriate for the minor and the minor's family, the court shall provide for reasonable parent-time with the parent or parents from whose custody the minor was removed, unless parent-time is not in the best interest of the minor.~~]

[~~(4) In cases where obvious sexual abuse, sexual exploitation, abandonment, severe abuse, or severe neglect are involved, neither the division nor the court has any duty to make "reasonable efforts" or to, in any other way, attempt to provide reunification services, or to attempt to rehabilitate the offending parent or parents.~~]

[~~(5) In all cases, the minor's health, safety, and welfare shall be the court's paramount concern in determining whether reasonable efforts to reunify should be made.~~]

[~~(6) For purposes of Subsection (3), parent-time is in the best interests of a minor unless the court makes a finding that it is necessary to deny parent-time in order to:~~]

[~~(a) protect the physical safety of the minor;~~]

[~~(b) protect the life of the minor; or~~]

[~~(c) prevent the minor from being traumatized by contact with the parent due to the minor's fear of the parent in light of the nature of the alleged abuse or neglect.~~]

[~~(7) Notwithstanding Subsection (3), a court may not deny parent-time based solely on a parent's failure to:~~]

[~~(a) prove that the parent has not used legal or illegal substances; or~~]

[~~(b) comply with an aspect of the child and family plan that is ordered by the court.~~]

[~~(8) (a) In addition to the primary permanency plan, the court shall establish a~~]

(2) (a) The concurrent permanency plan [~~that~~] shall include:

(i) a representative list of the conditions under which the primary permanency plan will be abandoned in favor of the concurrent permanency plan; and

(ii) an explanation of the effect of abandoning or modifying the primary permanency plan.

(b) In determining the primary permanency plan and concurrent permanency plan, the juvenile court shall consider:

(i) the preference for kinship placement over nonkinship placement;

(ii) the potential for a guardianship placement if [~~the parent-child relationship is legally terminated~~] parental rights are terminated and no appropriate adoption placement is available; and

(iii) the use of an individualized permanency plan, only as a last resort.

[~~(9) A permanency hearing shall be conducted in accordance with Subsection 78A-6-314(1)(b) within 30 days after the day on which the dispositional hearing ends if something other than reunification is initially established as a minor's primary permanency plan.~~]

[~~(10)~~] (3) (a) The juvenile court may amend a minor's primary permanency plan before the establishment of a final permanency plan under Section [~~78A-6-314~~] 80-3-409.

(b) The juvenile court is not limited to the terms of the concurrent permanency plan in the event that the primary permanency plan is abandoned.

(c) If, at any time, the juvenile court determines that reunification is no longer a minor's primary permanency plan, the juvenile court shall conduct a permanency hearing in accordance with Section [~~78A-6-314~~] 80-3-409 on or before the earlier of:

(i) 30 days after the day on which the juvenile court makes the determination described in this Subsection [~~(10)~~] (3)(c); or

(ii) the day on which the provision of reunification services, described in Section [~~78A-6-314~~] 80-3-409, ends.

(4) (a) Because of the state's interest in and responsibility to protect and provide permanency for minors who are abused, neglected, or dependent, the Legislature finds that a parent's interest in receiving reunification services is limited.

(b) The juvenile court may determine that:

(i) efforts to reunify a minor with the minor's family are not reasonable or appropriate, based on the individual circumstances; and

(ii) reunification services should not be provided.

(c) In determining reasonable efforts to be made with respect to a minor, and in making reasonable efforts, the juvenile court and the division shall consider the minor's health, safety, and welfare as the paramount concern.

(5) There is a presumption that reunification services should not be provided to a parent if the juvenile court finds, by clear and convincing evidence, that any of the following circumstances exist:

(a) the whereabouts of the parents are unknown, based upon a verified affidavit indicating that a reasonably diligent search has failed to locate the parent;

(b) subject to Subsection (6)(a), the parent is suffering from a mental illness of such magnitude that the mental illness renders the parent incapable of utilizing reunification services;

(c) the minor was previously adjudicated as an abused child due to physical abuse, sexual abuse, or sexual exploitation, and following the adjudication the child:

(i) was removed from the custody of the minor's parent;

(ii) was subsequently returned to the custody of the parent; and

(iii) is being removed due to additional physical abuse, sexual abuse, or sexual exploitation;

(d) the parent:

(i) caused the death of another minor through abuse or neglect;

(ii) committed, aided, abetted, attempted, conspired, or solicited to commit:

(A) murder or manslaughter of a minor; or

(B) child abuse homicide;

(iii) committed sexual abuse against the minor;

(iv) is a registered sex offender or required to register as a sex offender; or

(v) (A) intentionally, knowingly, or recklessly causes the death of another parent of the minor;

(B) is identified by a law enforcement agency as the primary suspect in an investigation for intentionally, knowingly, or recklessly causing the death of another parent of the minor; or

(C) is being prosecuted for or has been convicted of intentionally, knowingly, or recklessly causing the death of another parent of the minor;

(e) the minor suffered severe abuse by the parent or by any individual known by the parent if the parent knew or reasonably should have known that the individual was abusing the minor;

(f) the minor is adjudicated as an abused minor as a result of severe abuse by the parent, and the juvenile court finds that it would not benefit the minor to pursue reunification services with the offending parent;

(g) the parent's rights are terminated with regard to any other minor;

(h) the minor was removed from the minor's home on at least two previous occasions and reunification services were offered or provided to the family at those times;

(i) the parent has abandoned the minor for a period of six months or longer;

(j) the parent permitted the minor to reside, on a permanent or temporary basis, at a location where the parent knew or should have known that a clandestine laboratory operation was located;

(k) except as provided in Subsection (6)(b), with respect to a parent who is the minor's birth mother, the minor has fetal alcohol syndrome, fetal alcohol spectrum disorder, or was exposed to an illegal or prescription drug that was abused by the minor's mother while the minor was in utero, if the minor was taken into division custody for that reason, unless the mother agrees to enroll in, is currently enrolled in, or has recently and successfully completed a substance use disorder treatment program approved by the department; or

(l) any other circumstance that the juvenile court determines should preclude reunification efforts or services.

(6) (a) The juvenile court shall base the finding under Subsection (5)(b) on competent evidence from at least two medical or mental health professionals, who are not associates, establishing that, even with the provision of services, the parent is not likely to be capable of adequately caring for the minor within 12 months after the day on which the juvenile court finding is made.

(b) The juvenile court may disregard the provisions of Subsection (5)(k) if the juvenile court finds, under the circumstances of the case, that the substance use disorder treatment described in Subsection (5)(k) is not warranted.

(7) In determining whether reunification services are appropriate, the juvenile court shall take into consideration:

(a) failure of the parent to respond to previous services or comply with a previous child and family plan;

(b) the fact that the minor was abused while the parent was under the influence of drugs or alcohol;

(c) any history of violent behavior directed at the minor or an immediate family member;

(d) whether a parent continues to live with an individual who abused the minor;

(e) any patterns of the parent's behavior that have exposed the minor to repeated abuse;

(f) testimony by a competent professional that the parent's behavior is unlikely to be successful; and

(g) whether the parent has expressed an interest in reunification with the minor.

(8) If, under Subsections (5)(b) through (l), the juvenile court does not order reunification services, a permanency hearing shall be conducted within 30 days in accordance with Section 80-3-409.

(9) (a) Subject to Subsections (9)(b) and (c), if the juvenile court determines that reunification

services are appropriate for the minor and the minor's family, the juvenile court shall provide for reasonable parent-time with the parent or parents from whose custody the minor was removed, unless parent-time is not in the best interest of the minor.

(b) Parent-time is in the best interests of a minor unless the juvenile court makes a finding that it is necessary to deny parent-time in order to:

(i) protect the physical safety of the minor;

(ii) protect the life of the minor; or

(iii) prevent the minor from being traumatized by contact with the parent due to the minor's fear of the parent in light of the nature of the alleged abuse or neglect.

(c) Notwithstanding Subsection (9)(a), a juvenile court may not deny parent-time based solely on a parent's failure to:

(i) prove that the parent has not used legal or illegal substances; or

(ii) comply with an aspect of the child and family plan that is ordered by the juvenile court.

[~~(11)~~] (10) (a) If the juvenile court determines that reunification services are appropriate, the juvenile court shall order that the division make reasonable efforts to provide services to the minor and the minor's parent for the purpose of facilitating reunification of the family, for a specified period of time.

(b) In providing the services described in Subsection [~~(11)~~] (10)(a), the [~~minor's~~] juvenile court and the division shall consider the minor's health, safety, and welfare [~~shall be the division's~~] as the paramount concern[~~, and the court shall so order~~].

(11) In cases where sexual abuse, sexual exploitation, abandonment, severe abuse, or severe neglect are involved:

(a) the juvenile court does not have any duty to order reunification services; and

(b) the division does not have a duty to make reasonable efforts to or in any other way attempt to provide reunification services or attempt to rehabilitate the offending parent or parents.

(12) (a) The juvenile court shall:

(i) determine whether the services offered or provided by the division under the child and family plan constitute[~~ "reasonable efforts"~~] reasonable efforts on the part of the division;

(ii) determine and define the responsibilities of the parent under the child and family plan in accordance with Subsection 62A-4a-205(6)(e); and

(iii) identify verbally on the record, or in a written document provided to the parties, the responsibilities described in Subsection (12)(a)(ii), for the purpose of assisting in any future determination regarding the provision of reasonable efforts, in accordance with state and federal law.

(b) If the parent is in a substance use disorder treatment program, other than a certified drug court program, the juvenile court may order the parent:

(i) [~~the court may order the parent~~] to submit to supplementary drug or alcohol testing in addition to the testing recommended by the parent's substance use disorder program based on a finding of reasonable suspicion that the parent is abusing drugs or alcohol; and

(ii) [~~the court may order the parent~~] to provide the results of drug or alcohol testing recommended by the substance use disorder program to the juvenile court or division.

(13) (a) The time period for reunification services may not exceed 12 months from the [~~date that~~] day on which the minor was initially removed from the minor's home, unless the time period is extended under Subsection [~~78A-6-314(7)~~] 80-3-409(7).

(b) Nothing in this section may be construed to entitle any parent to an entire 12 months of reunification services.

(14) (a) If reunification services are ordered, the juvenile court may terminate those services at any time.

(b) If, at any time, continuation of reasonable efforts to reunify a minor is determined to be inconsistent with the final permanency plan for the minor established [~~pursuant to~~] under Section [~~78A-6-314~~] 80-3-409, then measures shall be taken, in a timely manner, to:

(i) place the minor in accordance with the final permanency plan; and

(ii) complete whatever steps are necessary to finalize the permanent placement of the minor.

(15) Any physical custody of the minor by the parent or a relative during the period described in Subsections [~~(11)~~] (10) through (14) does not interrupt the running of the period.

(16) (a) If reunification services are ordered, [~~a permanency hearing shall be conducted by the court~~] the juvenile court shall conduct a permanency hearing in accordance with Section [~~78A-6-314 at the expiration of the time period for reunification services~~] 80-3-409 before the day on which the time period for reunification services expires.

(b) The permanency hearing shall be held no later than 12 months after the original removal of the minor.

(c) If reunification services are not ordered, a permanency hearing shall be conducted within 30 days[~~,~~] in accordance with Section [~~78A-6-314~~] 80-3-409.

(17) With regard to a minor in the custody of the division whose parent or parents are ordered to receive reunification services but who have

abandoned that minor for a period of six months from the [~~date that~~] day on which reunification services [~~were~~] are ordered:

(a) the juvenile court shall terminate reunification services; and

(b) the division shall petition the juvenile court for termination of parental rights.

[~~(18) When a court conducts a permanency hearing for a minor under Section 78A-6-314, the court shall attempt to keep the minor's sibling group together if keeping the sibling group together is:~~]

[~~(a) practicable; and~~]

[~~(b) in accordance with the best interest of the minor.~~]

[~~(19)~~] (18) When a [~~child~~] minor is under the custody of the division and has been separated from a sibling due to foster care or adoptive placement, a juvenile court may order sibling visitation, subject to the division obtaining consent from the sibling's legal guardian, according to the juvenile court's determination of the best interests of the [~~child~~] minor for whom the hearing is held.

[~~(20) (a) Because of the state's interest in and responsibility to protect and provide permanency for minors who are abused, neglected, or dependent, the Legislature finds that a parent's interest in receiving reunification services is limited.~~]

[~~(b) The court may determine that:~~]

[~~(i) efforts to reunify a minor with the minor's family are not reasonable or appropriate, based on the individual circumstances; and~~]

[~~(ii) reunification services should not be provided.~~]

[~~(c) In determining "reasonable efforts" to be made with respect to a minor, and in making "reasonable efforts," the minor's health, safety, and welfare shall be the paramount concern.~~]

[~~(21) There is a presumption that reunification services should not be provided to a parent if the court finds, by clear and convincing evidence, that any of the following circumstances exist:~~]

[~~(a) the whereabouts of the parents are unknown, based upon a verified affidavit indicating that a reasonably diligent search has failed to locate the parent;~~]

[~~(b) subject to Subsection (22)(a), the parent is suffering from a mental illness of such magnitude that it renders the parent incapable of utilizing reunification services;~~]

[~~(c) the minor was previously adjudicated as an abused child due to physical abuse, sexual abuse, or sexual exploitation, and following the adjudication the minor:~~]

[~~(i) was removed from the custody of the minor's parent;~~]

[~~(ii) was subsequently returned to the custody of the parent; and~~]

[~~(iii) is being removed due to additional physical abuse, sexual abuse, or sexual exploitation;~~]

[~~(d) the parent:~~]

[~~(i) caused the death of another minor through abuse or neglect;~~]

[~~(ii) committed, aided, abetted, attempted, conspired, or solicited to commit:~~]

[~~(A) murder or manslaughter of a child; or~~]

[~~(B) child abuse homicide;~~]

[~~(iii) committed sexual abuse against the child;~~]

[~~(iv) is a registered sex offender or required to register as a sex offender; or~~]

[~~(v) (A) intentionally, knowingly, or recklessly causes the death of another parent of the child;~~]

[~~(B) is identified by a law enforcement agency as the primary suspect in an investigation for intentionally, knowingly, or recklessly causing the death of another parent of the child; or~~]

[~~(C) is being prosecuted for or has been convicted of intentionally, knowingly, or recklessly causing the death of another parent of the child;~~]

[~~(e) the minor suffered severe abuse by the parent or by any person known by the parent, if the parent knew or reasonably should have known that the person was abusing the minor;~~]

[~~(f) the minor is adjudicated an abused child as a result of severe abuse by the parent, and the court finds that it would not benefit the minor to pursue reunification services with the offending parent;~~]

[~~(g) the parent's rights are terminated with regard to any other minor;~~]

[~~(h) the minor was removed from the minor's home on at least two previous occasions and reunification services were offered or provided to the family at those times;~~]

[~~(i) the parent has abandoned the minor for a period of six months or longer;~~]

[~~(j) the parent permitted the child to reside, on a permanent or temporary basis, at a location where the parent knew or should have known that a clandestine laboratory operation was located;~~]

[~~(k) except as provided in Subsection (22)(b), with respect to a parent who is the child's birth mother, the child has fetal alcohol syndrome, fetal alcohol spectrum disorder, or was exposed to an illegal or prescription drug that was abused by the child's mother while the child was in utero, if the child was taken into division custody for that reason, unless the mother agrees to enroll in, is currently enrolled in, or has recently and successfully completed a substance use disorder treatment program approved by the department; or~~]

[~~(l) any other circumstance that the court determines should preclude reunification efforts or services.~~]

[~~(22) (a) The finding under Subsection (21)(b) shall be based on competent evidence from at least two medical or mental health professionals, who are not associates, establishing that, even with the provision of services, the parent is not likely to be capable of adequately caring for the minor within 12 months after the day on which the court finding is made.~~]

[~~(b) A judge may disregard the provisions of Subsection (21)(k) if the court finds, under the circumstances of the case, that the substance use disorder treatment described in Subsection (21)(k) is not warranted.~~]

[~~(23) In determining whether reunification services are appropriate, the court shall take into consideration:~~]

[~~(a) failure of the parent to respond to previous services or comply with a previous child and family plan;~~]

[~~(b) the fact that the minor was abused while the parent was under the influence of drugs or alcohol;~~]

[~~(c) any history of violent behavior directed at the child or an immediate family member;~~]

[~~(d) whether a parent continues to live with an individual who abused the minor;~~]

[~~(e) any patterns of the parent's behavior that have exposed the minor to repeated abuse;~~]

[~~(f) testimony by a competent professional that the parent's behavior is unlikely to be successful; and~~]

[~~(g) whether the parent has expressed an interest in reunification with the minor.~~]

[~~(24)~~] (19) (a) If reunification services are not ordered [~~pursuant to Subsections (20) through (22)~~] under this section, and the whereabouts of a parent [~~become~~] becomes known within six months after the day on which the out-of-home placement of the minor is made, the juvenile court may order the division to provide reunification services.

(b) The time limits described in [~~Subsections (2) through (18)~~] this section are not tolled by the parent's absence.

[~~(25)~~] (20) (a) If a parent is incarcerated or institutionalized, the juvenile court shall order reasonable services unless the juvenile court determines that those services would be detrimental to the minor.

(b) In making the determination described in Subsection [~~(25)~~] (20)(a), the juvenile court shall consider:

(i) the age of the minor;

(ii) the degree of parent-child bonding;

(iii) the length of the sentence;

(iv) the nature of the treatment;

(v) the nature of the crime or illness;

(vi) the degree of detriment to the minor if services are not offered;

(vii) for a minor who is 10 years old or older, the minor's attitude toward the implementation of family reunification services; and

(viii) any other appropriate factors.

(c) Reunification services for an incarcerated parent are subject to the time limitations imposed in [~~Subsections (2) through (18)~~] this section.

(d) Reunification services for an institutionalized parent are subject to the time limitations imposed in [~~Subsections (2) through (18)~~] this section, unless the juvenile court determines that continued reunification services would be in the minor's best interest.

[~~(26) If, pursuant to Subsections (21)(b) through (l), the court does not order reunification services, a permanency hearing shall be conducted within 30 days, in accordance with Section 78A-6-314.~~]

Section 83. Section 80-3-407, which is renumbered from Section 78A-6-313 is renumbered and amended to read:

[~~78A-6-313~~]. 80-3-407. Six-month review hearing -- Court determination regarding reasonable efforts by the division and parental compliance with child and family plan requirements.

If reunification efforts have been ordered by the juvenile court under Section 80-3-406, [~~a hearing shall be held~~] the juvenile court shall hold a hearing no more than six months after [~~initial removal of a minor~~] the day on which the minor is initially removed from the minor's home, in order for the juvenile court to determine whether:

(1) the division has provided and is providing[~~"reasonable efforts"~~] reasonable efforts to reunify [~~a~~] the family[~~,~~] in accordance with the child and family plan established under Section 62A-4a-205; and

(2) the parent has fulfilled or is fulfilling identified duties and responsibilities in order to comply with the requirements of the child and family plan.

Section 84. Section 80-3-408, which is renumbered from Section 78A-6-315 is renumbered and amended to read:

[~~78A-6-315~~]. 80-3-408. Periodic review hearings -- Dispositional reports.

(1) At least every six months, the division or the juvenile court shall conduct a periodic review of the status of each [~~child~~] minor in the custody of the division, until the juvenile court terminates the division's custody of the [~~child~~] minor.

(2) (a) The juvenile court or the division shall conduct the review described in Subsection (1) [~~shall be conducted~~] in accordance with the requirements of the case review system described in 42 U.S.C. Section 675.

(b) If a review described in Subsection (1) is conducted by the division, the division shall:

(i) conduct the review in accordance with the administrative review requirements of 42 U.S.C. Section 675; and

(ii) to the extent practicable, involve volunteer citizens in the administrative review process.

(3) (a) Within 30 days after [~~completion of~~] the day on which a review described in Subsection (1) that is conducted by the division is completed, the division shall:

(i) submit a copy of [~~its~~] the division's dispositional report to the juvenile court to be made a part of the juvenile court's legal file; and

(ii) provide a copy of the dispositional report to each party in the case to which the review relates.

(b) The juvenile court shall receive and review each dispositional report submitted under Subsection (3)(a)(i) in the same manner as the juvenile court receives and reviews a report described in Section [~~78A-6-605~~] 80-6-307.

(c) If a report submitted under Subsection (3)(a)(i) is determined to be an ex parte communication with a judge, the report [~~shall be~~] is considered a communication authorized by law.

[~~(d) A report described in Subsection (3)(a)(i) may be received as evidence, and may be considered by the court along with other evidence. The court may require any person who participated in the dispositional report to appear as a witness if the person is reasonably available.~~]

Section 85. Section 80-3-409, which is renumbered from Section 78A-6-314 is renumbered and amended to read:

[~~78A-6-314~~]. 80-3-409. Permanency hearing -- Final plan -- Petition for termination of parental rights filed -- Hearing on termination of parental rights.

(1) (a) [~~When~~] If reunification services [~~have been ordered in accordance with Section 78A-6-312~~] are ordered under Section 80-3-406, with regard to a minor who is in the custody of the [~~Division of Child and Family Services, a permanency hearing shall be held by the court~~] division, the juvenile court shall hold a permanency hearing no later than 12 months after the day on which the minor [~~was~~] is initially removed from the minor's home.

(b) If reunification services [~~were~~] are not ordered at the dispositional hearing, the juvenile court shall hold a permanency hearing [~~shall be held~~] within 30 days after the day on which the dispositional hearing ends.

(2) (a) If reunification services [~~were~~] are ordered [~~by the court~~] in accordance with Section [~~78A-6-312~~] 80-3-406, the juvenile court shall, at the permanency hearing, determine, consistent with Subsection (3), whether the minor may safely be returned to the custody of the minor's parent.

(b) If the juvenile court finds, by a preponderance of the evidence, that return of the minor to the minor's parent would create a substantial risk of detriment to the minor's physical or emotional well-being, the minor may not be returned to the custody of the minor's parent.

(c) Prima facie evidence that return of the minor to a parent or guardian would create a substantial risk of detriment to the minor is established if:

(i) the parent or guardian fails to:

(A) participate in a court approved child and family plan;

(B) comply with a court approved child and family plan in whole or in part; or

(C) meet the goals of a court approved child and family plan; or

(ii) the minor's natural parent:

(A) intentionally, knowingly, or recklessly causes the death of another parent of the minor;

(B) is identified by a law enforcement agency as the primary suspect in an investigation for intentionally, knowingly, or recklessly causing the death of another parent of the minor; or

(C) is being prosecuted for or has been convicted of intentionally, knowingly, or recklessly causing the death of another parent of the minor.

(3) In making a determination under Subsection (2)(a), the juvenile court shall:

(a) review and consider:

[~~(a)~~] (i) the report prepared by the [~~Division of Child and Family Services~~] division;

[~~(b)~~] (ii) in accordance with the Utah Rules of Evidence, any admissible evidence offered by the minor's attorney guardian ad litem;

[~~(c)~~] (iii) any report submitted by the division under Subsection [~~78A-6-315(3)(a)(i)~~] 80-3-408(3)(a)(i);

[~~(d)~~] (iv) any evidence regarding the efforts or progress demonstrated by the parent; and

[~~(e)~~] (v) the extent to which the parent cooperated and used the services provided[~~.~~]; and

(b) attempt to keep the minor's sibling group together if keeping the sibling group together is:

(i) practicable; and

(ii) in accordance with the best interest of the minor.

(4) With regard to a case where reunification services [~~were~~] are ordered by the juvenile court, if a minor is not returned to the minor's parent or guardian at the permanency hearing, the juvenile court shall, unless the time for the provision of reunification services is extended under Subsection (7):

(a) order termination of reunification services to the parent;

(b) make a final determination regarding whether termination of parental rights, adoption, or permanent custody and guardianship is the most appropriate final plan for the minor, taking into

account the minor's primary permanency plan established by the juvenile court [~~pursuant to Section 78A-6-312~~] under Section 80-3-406; and

(c) in accordance with Subsection 80-3-406(2), establish a concurrent permanency plan that identifies the second most appropriate final plan for the minor, if appropriate.

(5) The juvenile court may order another planned permanent living arrangement other than reunification for a minor who is 16 years old or older upon entering the following findings:

(a) the [~~Division of Child and Family Services~~] division has documented intensive, ongoing, and unsuccessful efforts to reunify the minor with the minor's parent or parents, or to secure a placement for the minor with a guardian, an adoptive parent, or an individual described in Subsection [~~78A-6-306(6)(e)~~] 80-3-301(6)(e);

(b) the [~~Division of Child and Family Services~~] division has demonstrated that the division has made efforts to normalize the life of the minor while in the division's custody, in accordance with Sections 62A-4a-210 through 62A-4a-212;

(c) the minor prefers another planned permanent living arrangement; and

(d) there is a compelling reason why reunification or a placement described in Subsection (5)(a) is not in the minor's best interest.

(6) Except as provided in Subsection (7), the juvenile court may not extend reunification services beyond 12 months after the day on which the minor [~~was~~] is initially removed from the minor's home, in accordance with the provisions of Section [~~78A-6-312~~] 80-3-406.

(7) (a) Subject to Subsection (7)(b), the juvenile court may extend reunification services for no more than 90 days if the juvenile court finds, beyond a preponderance of the evidence, that:

(i) there has been substantial compliance with the child and family plan;

(ii) reunification is probable within that 90-day period; and

(iii) the extension is in the best interest of the minor.

(b) (i) Except as provided in Subsection (7)(c), the juvenile court may not extend any reunification services beyond 15 months after the day on which the minor [~~was~~] is initially removed from the minor's home.

(ii) Delay or failure of a parent to establish paternity or seek custody does not provide a basis for the juvenile court to extend services for [~~that~~] the parent beyond the 12-month period described in Subsection (6).

(c) In accordance with Subsection (7)(d), the juvenile court may extend reunification services for one additional 90-day period, beyond the 90-day period described in Subsection (7)(a), if:

(i) the juvenile court finds, by clear and convincing evidence, that:

(A) the parent has substantially complied with the child and family plan;

(B) it is likely that reunification will occur within the additional 90-day period; and

(C) the extension is in the best interest of the minor;

(ii) the juvenile court specifies the facts upon which the findings described in Subsection (7)(c)(i) are based; and

(iii) the juvenile court specifies the time period in which it is likely that reunification will occur.

(d) A juvenile court may not extend the time period for reunification services without complying with the requirements of this Subsection (7) before the extension.

(e) In determining whether to extend reunification services for a minor, a juvenile court shall take into consideration the status of the minor siblings of the minor.

(8) The juvenile court may, in [~~its~~] the juvenile court's discretion:

(a) enter any additional order that [~~it~~] the juvenile court determines to be in the best interest of the minor, so long as that order does not conflict with the requirements and provisions of Subsections (4) through (7); or

(b) order the division to provide protective supervision or other services to a minor and the minor's family after the division's custody of a minor [~~has been~~] is terminated.

(9) (a) If the final plan for the minor is to proceed toward termination of parental rights, the petition for termination of parental rights shall be filed, and a pretrial held, within 45 calendar days after the day on which the permanency hearing is held.

(b) If the division opposes the plan to terminate parental rights, the juvenile court may not require the division to file a petition for the termination of parental rights, except as required under Subsection [~~78A-6-316(2)~~] 80-4-203(2).

(10) (a) Any party to an action may, at any time, petition the juvenile court for an expedited permanency hearing on the basis that continuation of reunification efforts are inconsistent with the permanency needs of the minor.

(b) If the juvenile court so determines, [~~it~~] the juvenile court shall order, in accordance with federal law, that:

(i) the minor be placed in accordance with the permanency plan; and

(ii) whatever steps are necessary to finalize the permanent placement of the minor be completed as quickly as possible.

(11) Nothing in this section may be construed to:

(a) entitle any parent to reunification services for any specified period of time;

(b) limit a juvenile court's ability to terminate reunification services at any time before a permanency hearing; or

(c) limit or prohibit the filing of a petition for termination of parental rights by any party, or a hearing on termination of parental rights, at any time [~~prior to~~] before a permanency hearing provided that relative placement and custody options have been fairly considered in accordance with Sections 62A-4a-201 and [~~78A-6-503~~] 80-4-104.

(12) (a) Subject to Subsection (12)(b), if a petition for termination of parental rights is filed [~~prior to~~] before the date scheduled for a permanency hearing, the juvenile court may consolidate the hearing on termination of parental rights with the permanency hearing.

(b) For purposes of Subsection (12)(a), if the juvenile court consolidates the hearing on termination of parental rights with the permanency hearing:

(i) the juvenile court shall first make a finding regarding whether reasonable efforts have been made by the [~~Division of Child and Family Services~~] division to finalize the permanency plan for the minor; and

(ii) any reunification services shall be terminated in accordance with the time lines described in Section [~~78A-6-312~~] 80-3-406.

(c) [~~A~~] The juvenile court shall make a decision on a petition for termination of parental rights [~~shall be made~~] within 18 months [~~from~~] after the day on which the minor is initially removed from the minor's home.

(13) If a juvenile court determines that a minor will not be returned to a parent of the minor, the juvenile court shall consider appropriate placement options inside and outside of the state.

(14) (a) [~~If~~] In accordance with Section 80-3-108, if a minor 14 years [~~of age~~] old or older desires an opportunity to address the juvenile court or testify regarding permanency or placement, the juvenile court shall give the minor's wishes added weight, but may not treat the minor's wishes as the single controlling factor under this section.

(b) If the juvenile court's decision under this section differs from a minor's express wishes if the minor is of sufficient maturity to articulate the wishes in relation to permanency or the minor's placement, the juvenile court shall make findings explaining why the juvenile court's decision differs from the minor's wishes.

Section 86. Section 80-3-501, which is renumbered from Section 78A-6-311.5 is renumbered and amended to read:

Part 5. Miscellaneous Hearings

[~~78A-6-311.5~~]. 80-3-501. Placement in a qualified residential treatment program -- Review hearings.

(1) As used in this section:

(a) "Qualified individual" means the same as that term is defined in 42 U.S.C. Sec. 675a.

(b) "Qualified residential treatment program" means the same as that term is defined in 42 U.S.C. Sec. 672.

(2) Within 60 days [~~of the date when a child~~] of the day on which a minor is placed in a qualified residential treatment program under this chapter or Chapter 6, Juvenile Justice, the juvenile court shall:

(a) review the assessment, determination, and documentation made by a qualified individual regarding the [~~child~~] minor;

(b) determine whether the needs of the [~~child~~] minor can be met through placement in a foster home;

(c) if the [~~child's~~] minor's needs cannot be met through placement in a foster home, determine whether:

(i) placement of the [~~child~~] minor in a qualified residential treatment program provides the most effective and appropriate level of care for the [~~child~~] minor in the least restrictive environment; and

(ii) placement in a qualified residential treatment program is consistent with the short-term and long-term goals for the [~~child~~] minor, as specified in the permanency plan for the [~~child~~] minor; and

(d) approve or disapprove of the [~~child's~~] minor's placement in a qualified residential treatment program.

(3) As long as a [~~child~~] minor remains placed in a qualified residential treatment program, the juvenile court shall review the placement decision at each subsequent review and permanency hearing held with respect to the [~~child.~~] minor.

(4) When the juvenile court conducts a review described in Subsection (3), the juvenile court shall review evidence submitted by the custodial division to:

(a) demonstrate an ongoing assessment of the strengths and needs of the [~~child~~] minor such that the [~~child's~~] minor's needs cannot be met through placement in a foster home;

(b) demonstrate that placement in a qualified residential treatment program provides the most effective and appropriate level of care for the [~~child~~] minor in the least restrictive environment;

(c) demonstrate that placement in the qualified residential treatment program is consistent with the short-term and long-term goals for the [~~child~~] minor, as specified by the permanency plan for the [~~child~~] minor;

(d) document the specific treatment or service needs that will be met for the [~~child~~] minor in the placement;

(e) document the length of time the [~~child~~] minor is expected to need the treatment or services; and

(f) document the efforts made by the custodial division to prepare the [~~child~~] minor to return home or transition to another setting, such as with a relative, with a friend of the [~~child~~] minor, with a [~~legal~~] guardian, with an adoptive parent, a foster home, or independent living.

Section 87. Section 80-3-502, which is renumbered from Section 78A-6-318 is renumbered and amended to read:

[~~78A-6-318~~]. 80-3-502. Review of foster care removal -- Foster parent's standing.

(1) With regard to a [~~child~~] minor in the custody of the [~~Division of Child and Family Services~~] division who is the subject of a petition alleging abuse, neglect, or dependency, and who has been placed in foster care with a foster family, the Legislature finds that:

(a) except with regard to the [~~child's~~] minor's natural parents, a foster family has a very limited but recognized interest in its familial relationship with the [~~child~~] minor; and

(b) [~~children~~] minors in the custody of the division are experiencing multiple changes in foster care placements with little or no documentation, and that numerous studies of child growth and development emphasize the importance of stability in foster care living arrangements.

(2) For the reasons described in Subsection (1), the Legislature finds that, except with regard to the [~~child's~~] minor's natural parents, procedural due process protections must be provided to a foster family prior to removal of a foster [~~child~~] minor from the foster home.

(3) (a) A foster parent who has had a foster [~~child~~] minor in the foster parent's home for 12 months or longer may petition the juvenile court for a review and determination of the appropriateness of a decision by the [~~Division of Child and Family Services~~] division to remove the [~~child~~] minor from the foster home, unless the removal was for the purpose of:

(i) returning the [~~child to the child's~~] minor to the minor's natural parent or legal guardian;

(ii) immediately placing the [~~child~~] minor in an approved adoptive home;

(iii) placing the [~~child~~] minor with a relative[~~, as defined in Subsection 78A-6-307(1),~~] who obtained custody or asserted an interest in the [~~child~~] minor within the preference period described in Subsection [~~78A-6-307(18)(a)~~] 80-3-302(8); or

(iv) placing an Indian child in accordance with [~~preplacement~~] placement preferences and other requirements described in the Indian Child Welfare Act, 25 U.S.C. Sec. 1915.

(b) The foster parent may petition the juvenile court under this section without exhausting administrative remedies within the division.

(c) The juvenile court may order the division to place the [~~child~~] minor in a specified home, and shall base [~~its~~] the juvenile court's determination on the best interest of the [~~child~~] minor.

(4) The requirements of this section do not apply to the removal of a [~~child~~] minor based on a foster parent's request for that removal.

Section 88. Section 80-3-503 is enacted to read:

80-3-503. Minor's petition for removal from division custody -- Reentering division custody.

(1) (a) A minor who is 18 years old or older, but younger than 21 years old, may petition the juvenile court to express the minor's desire to have the minor be removed from the custody of the division if the minor is in the division's custody on grounds of abuse, neglect, or dependency.

(b) If the minor's parent's rights have not been terminated in accordance with Chapter 4, Termination and Restoration of Parental Rights, the minor's petition described in Subsection (1)(a) shall contain a statement from the minor's parent or guardian agreeing that the minor should be removed from the custody of the division.

(c) The minor and the minor's parent or guardian shall sign the petition described in Subsection (1)(a).

(2) The juvenile court shall:

(a) review the petition described in Subsection (1)(a) within 14 days after the day on which the petition is filed; and

(b) remove the minor from the custody of the division if:

(i) the requirements under Subsections (1)(b) and (c) are met; and

(ii) the court finds, based on input from the division, the minor's attorney guardian ad litem, and the Office of the Attorney General, that the minor does not pose an imminent threat to self or others.

(3) (a) A minor removed from custody of the division under this section may, within 90 days after the day on which the minor is removed from custody of the division, petition the court to re-enter custody of the division.

(b) Upon receiving a petition described in Subsection (3)(a), the juvenile court shall order the division to take custody of the minor based on the findings the juvenile court entered when the juvenile court originally vested custody of the minor in the division.

Section 89. Section 80-4-101, which is renumbered from Section 78A-6-501 is renumbered and amended to read:

CHAPTER 4. TERMINATION AND RESTORATION OF PARENTAL RIGHTS

Part 1. General Provisions

[~~78A-6-501~~]. 80-4-101. Title.

This [~~part~~] chapter is known as [~~the "Termination of Parental Rights Act."~~] "Termination and Restoration of Parental Rights."

Section 90. Section 80-4-102, which is renumbered from Section 78A-6-502 is renumbered and amended to read:

[~~78A-6-502~~]. 80-4-102. Definitions.

As used in this chapter:

(1) "Division" means the Division of Child and Family Services [~~within the Department of Human Services~~] created in Section 62A-4a-103.

(2) "Failure of parental adjustment" means that a parent or parents are unable or unwilling within a reasonable time to substantially correct the circumstances, conduct, or conditions that led to placement of their child outside of their home, notwithstanding reasonable and appropriate efforts made by the [~~Division of Child and Family Services~~] division to return the child to [~~that~~] the home.

[~~(3) "Plan" means a written agreement between the parents of a child, who has been removed from the child's home by the juvenile court, and the Division of Child and Family Services or written conditions and obligations imposed upon the parents directly by the juvenile court, that have a primary objective of reuniting the family or, if the parents fail or refuse to comply with the terms and conditions of the case plan, freeing the child for adoption.~~]

(3) "Former parent" means an individual whose legal parental rights were terminated under this chapter.

(4) "Petition to restore parental rights" means a petition filed in accordance with this chapter to restore the rights of a parent with regard to a child.

(5) "Petition for termination of parental rights" means a petition filed in accordance with this chapter to terminate the parental rights of a parent.

(6) "Temporary custody" means the same as that term is defined in Section 62A-4a-101.

Section 91. Section 80-4-103 is enacted to read:

80-4-103. Nature of the proceedings -- Rules of procedure -- Burden of proof.

(1) The proceedings under this chapter are civil in nature and are governed by the Utah Rules of Civil Procedure and the Utah Rules of Juvenile Procedure.

(2) The juvenile court shall:

(a) in all cases filed under this chapter require the petitioner to establish the facts by clear and convincing evidence;

(b) give full and careful consideration to all of the evidence presented with regard to the constitutional rights and claims of the parent; and

(c) if a parent is found, by reason of the parent's conduct or condition, to be unfit or incompetent based upon any of the grounds for termination described in this chapter, consider the welfare and best interest of the child of paramount importance in determining whether to terminate parental rights.

Section 92. Section 80-4-104, which is renumbered from Section 78A-6-503 is renumbered and amended to read:

[~~78A-6-503~~]. 80-4-104. Judicial process for termination -- Parent unfit or incompetent -- Best interest of child.

(1) Under both the United States Constitution and the constitution of this state, a parent possesses a fundamental liberty interest in the care, custody, and management of the parent's child. For this reason, the termination of family ties by the state may only be done for compelling reasons.

(2) The juvenile court shall provide a fundamentally fair process to a parent if a party moves to terminate the parent's parental rights.

(3) If the party moving to terminate parental rights is a governmental entity, the juvenile court shall find that any actions or allegations made in opposition to the rights and desires of a parent regarding the parent's child are supported by sufficient evidence to satisfy a parent's constitutional entitlement to heightened protection against government interference with the parent's fundamental rights and liberty interests.

(4) (a) The fundamental liberty interest of a parent concerning the care, custody, and management of the parent's child is recognized, protected, and does not cease to exist simply because:

(i) a parent may fail to be a model parent; or

(ii) the parent's child is placed in the temporary custody of the state.

(b) The juvenile court should give serious consideration to the fundamental right of a parent to rear the parent's child, and concomitantly, of the right of the child to be reared by the child's natural parent.

(5) At all times, a parent retains a vital interest in preventing the irretrievable destruction of family life.

(6) [~~Prior to~~] Before an adjudication of unfitness, government action in relation to a parent and a parent's child may not exceed the least restrictive means or alternatives available to accomplish a compelling state interest.

(7) Until parental unfitness is established and the children suffer, or are substantially likely to suffer, serious detriment as a result, the child and the child's parent share a vital interest in preventing erroneous termination of their relationship and the juvenile court may not presume that a child and the child's parents are adversaries.

(8) It is in the best interest and welfare of a child to be raised under the care and supervision of the child's natural parents. A child's need for a normal

family life in a permanent home, and for positive, nurturing family relationships is usually best met by the child's natural parents. Additionally, the integrity of the family unit and the right of parents to conceive and raise their children are constitutionally protected. For these reasons, the juvenile court should only transfer custody of a child from the child's natural parent for compelling reasons and when there is a jurisdictional basis to do so.

(9) The right of a fit, competent parent to raise the parent's child without undue government interference is a fundamental liberty interest that has long been protected by the laws and Constitution of this state and of the United States, and is a fundamental public policy of this state.

(10) (a) The state recognizes that:

(i) a parent has the right, obligation, responsibility, and authority to raise, manage, train, educate, provide for, and reasonably discipline the parent's child; and

(ii) the state's role is secondary and supportive to the primary role of a parent.

(b) It is the public policy of this state that a parent retain the fundamental right and duty to exercise primary control over the care, supervision, upbringing, and education of the parent's child.

(c) The interests of the state favor preservation and not severance of natural familial bonds in situations where a positive, nurturing parent-child relationship can exist, including extended family association and support.

(11) This [~~part~~] chapter provides a judicial process for voluntary and involuntary severance of the parent-child relationship, designed to safeguard the rights and interests of all parties concerned and promote their welfare and that of the state.

(12) (a) Wherever possible, family life should be strengthened and preserved, but if a parent is found, by reason of the parent's conduct or condition, to be unfit or incompetent based upon any of the grounds for termination described in this part, the juvenile court shall then consider the welfare and best interest of the child of paramount importance in determining whether termination of parental rights shall be ordered.

(b) In determining whether termination is in the best interest of the child, and in finding that termination of parental rights, from the child's point of view, is strictly necessary, the juvenile court shall consider, among other relevant factors, whether:

(i) sufficient efforts were dedicated to reunification in accordance with [~~Subsection 78A-6-507(3)(a)~~] Section 80-4-301; and

(ii) the efforts to place the child with kin who have, or are willing to come forward to care for the child, were given due weight.

Section 93. Section 80-4-105, which is renumbered from Section 78A-6-513 is renumbered and amended to read:

[~~78A-6-513~~]. 80-4-105. Effect of decree.

(1) An order for the termination of [~~the parent-child legal relationship~~] parental rights divests the child and the parents of all legal rights, powers, immunities, duties, and obligations with respect to each other, except the right of the child to inherit from the parent.

(2) An order or decree entered [~~pursuant to this part~~] under this chapter may not disentitle a child to any benefit due [~~him~~] to the child from any third person, including[~~, but not limited to,~~] any Indian tribe, agency, state, or the United States.

(3) Except as provided in Sections [~~78A-6-1401 through 78A-6-1404~~] 80-4-401 and 80-4-402, after the termination of [~~a parent-child legal relationship~~] a parent's parental rights, the former parent:

(a) is [~~neither~~] not entitled to any notice of proceedings for the adoption of the child [~~nor has~~]; and

(b) does not have any right to object to the adoption or to participate in any other placement proceedings.

(4) An order permanently terminating the rights of a parent, guardian, or custodian does not expire with termination of the jurisdiction of the juvenile court.

Section 94. Section 80-4-106 is enacted to read:

80-4-106. Individuals entitled to be present at proceedings -- Legal representation -- Attorney general responsibilities.

(1) (a) The juvenile court shall admit any individual to a hearing unless the juvenile court makes a finding upon the record that the individual's presence at the hearing would:

(i) be detrimental to the best interest of a child who is a party to the proceeding;

(ii) impair the fact-finding process; or

(iii) be otherwise contrary to the interests of justice.

(b) The juvenile court may exclude an individual from a hearing under Subsection (1)(a) on the juvenile court's own motion or by motion of a party to the proceeding.

(2) (a) The parties shall be advised of the parties' right to counsel, including the appointment of counsel for a parent or legal guardian facing any action initiated by a private party under this chapter or under Section 78B-6-112 for termination of parental rights.

(b) If a parent or guardian is the subject of a petition for the termination of parental rights, the juvenile court shall:

(i) appoint an indigent defense service provider for a parent or guardian determined to be an

indigent individual in accordance with Title 78B, Chapter 22, Part 2, Appointment of Counsel; and

(ii) order indigent defense services for the parent or legal guardian who is determined to be an indigent individual in accordance with Title 78B, Chapter 22, Part 2, Appointment of Counsel.

(c) In any action under this chapter, a guardian ad litem, as defined in Section 78A-2-801, shall represent the child in accordance with Sections 78A-2-803 and 80-3-104.

(d) A guardian ad litem, as defined in Section 78A-2-801, shall represent the child in other actions initiated under this chapter when appointed by the juvenile court under Section 78A-2-803 or as otherwise provided by law.

(3) Subject to the attorney general's prosecutorial discretion in civil enforcement actions, the attorney general shall, in accordance with Section 62A-4a-113, enforce all provisions of this chapter and Title 62A, Chapter 4a, Child and Family Services, relating to the termination of parental rights.

Section 95. Section 80-4-107 is enacted to read:

80-4-107. Record of proceedings -- Written reports and other materials -- Statements of a child.

(1) As used in this section, "record of a proceeding" means the same as that term is defined in Section 80-3-106.

(2) A record of a proceeding under this chapter:

(a) shall be taken in accordance with Section 80-3-106; and

(b) may be requested for release as described in Section 80-3-106.

(3) (a) For purposes of determining proper disposition of a child in hearings upon a petition for termination of parental rights, written reports and other material relating to the minor's mental, physical, and social history and condition may be:

(i) received in evidence; and

(ii) considered by the court along with other evidence.

(b) The court may require that an individual who wrote a report or prepared the material under Subsection (3)(a) to appear as a witness if the individual is reasonably available.

(4) For the purpose of establishing abuse, neglect, or dependency under this chapter, the juvenile court may, in the juvenile court's discretion, consider evidence of statements made by a child under eight years old to an individual in a trust relationship.

Section 96. Section 80-4-108, which is renumbered from Section 78A-6-515 is renumbered and amended to read:

[~~78A-6-515~~]. 80-4-108. Physical or mental health examination during proceedings.

[~~(1) When a mental health practitioner is to be appointed in a parental rights action to evaluate the mental health of a parent or a child, or to provide mental health services to a parent or a child, the court:~~]

[~~(a)~~] (1) In a proceeding under this chapter, the juvenile court may appoint any mental health therapist, as defined in Section 58-60-102, [~~which~~] who the juvenile court finds to be qualified[~~;~~] to:

(a) evaluate the mental health of, or provide mental health services to, the child; or

(b) after notice and a hearing set for the specific purpose, evaluate the mental health of a parent, or provide mental health services to a parent, if the juvenile court finds from the evidence presented at the hearing that the parent's mental or emotional condition may be a factor in the parent's unfitness.

(2) The juvenile court:

[~~(b)~~] (a) may not refuse to appoint a mental health therapist under Subsection (1) for the reason that the therapist's recommendations in another case [~~have not followed~~] did not follow the recommendations of the [~~Division of Child and Family Services~~] division or the Office of Guardian Ad Litem; and

[~~(c)~~] (b) shall give strong consideration to the parent's or guardian's wishes regarding the selection of a mental health therapist.

(3) In a proceeding under this chapter, the juvenile court may appoint a physician, or a physician assistant, who the court finds to be qualified to:

(a) physically examine the child; or

(b) after notice and a hearing set for a specific purpose, physically examine the parent if the juvenile court finds from the evidence presented at the hearing that the parent's physical condition may be a factor in causing the parent's unfitness.

(4) The division shall, with regard to a child in the division's custody:

(a) take reasonable measures to notify a parent of any non-emergency health treatment or care scheduled for a child;

(b) include the parent as fully as possible in making health care decisions for the child;

(c) defer to the parent's reasonable and informed decisions regarding the child's health care to the extent that the child's health and well-being are not unreasonably compromised by the parent's decision; and

(d) notify the parent of the child within five business days after the day on which the child receives emergency health care or treatment.

(5) An examination conducted in accordance with Subsection (1) or (2) is not a privileged

communication under Utah Rules of Evidence, Rule 506(d)(3), and is exempt from the general rule of privilege.

[~~(2)~~] (6) This section applies to all juvenile court proceedings under this chapter involving:

(a) parents and children; or

[~~(b) the Division of Child and Family Services.~~]

(b) the division.

Section 97. Section 80-4-109 is enacted to read:

80-4-109. Consideration of cannabis during proceedings.

(1) As used in this section:

(a) "Cannabis" means the same as that term is defined in Section 26-61a-102.

(b) "Cannabis product" means the same as that term is defined in Section 26-61a-102.

(c) (i) "Chronic" means repeated or patterned.

(ii) "Chronic" does not mean an isolated incident.

(d) "Directions of use" means the same as that term is defined in Section 26-61a-102.

(e) "Dosing guidelines" means the same as that term is defined in Section 26-61a-102.

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

(g) "Medical cannabis cardholder" means the same as that term is defined in Section 26-61a-102.

(h) "Qualified medical provider" means the same as that term is defined in Section 26-61a-102.

(2) In a proceeding under this chapter in which the juvenile court makes a finding, determination, or otherwise considers an individual's possession or use of medical cannabis, a cannabis product, or a medical cannabis device, the juvenile court may not consider or treat the individual's possession or use any differently than the lawful possession or use of any prescribed controlled substance if:

(a) the individual's possession or use complies with Title 4, Chapter 41a, Cannabis Production Establishments;

(b) the individual's possession or use complies with Subsection 58-37-3.7(2) or (3); or

(c) (i) the individual's possession or use complies with Title 26, Chapter 61a, Utah Medical Cannabis Act; and

(ii) the individual reasonably complies with the directions of use and dosing guidelines determined by the individual's qualified medical provider or through a consultation described in Subsection 26-61a-502(4) or (5).

(3) In a proceeding under this chapter, a parent's or guardian's use of cannabis or a cannabis product is not abuse or neglect of a child unless there is evidence showing that:

(a) the child is harmed because of the child's inhalation or ingestion of cannabis, or because of cannabis being introduced to the child's body in another manner; or

(b) the child is at an unreasonable risk of harm because of chronic inhalation or ingestion of cannabis or chronic introduction of cannabis to the child's body in another manner.

(4) Unless there is harm or an unreasonable risk of harm to the child as described in Subsection (3), a parent's or guardian's use of medical cannabis or a cannabis product is not contrary to the best interests of a child if:

(a) for a medical cannabis cardholder after January 1, 2021, the parent's or guardian's possession or use complies with Title 26, Chapter 61a, Utah Medical Cannabis Act, and there is no evidence that the parent's or guardian's use of medical cannabis unreasonably deviates from the directions of use and dosing guidelines determined by the parent's or guardian's qualified medical provider or through a consultation described in Subsection 26-61a-502(4) or (5); or

(b) before January 1, 2021, the parent's or guardian's possession or use complies with Subsection 58-37-3.7(2) or (3).

(5) Subsection (3) does not prohibit a finding of abuse or neglect of a child and Subsection (3) does not prohibit a finding that a parent's or guardian's use of medical cannabis or a cannabis product is contrary to the best interests of a child, if there is evidence showing a nexus between the parent's or guardian's use of cannabis or a cannabis product and behavior that would separately constitute abuse or neglect of the child.

Section 98. Section 80-4-201, which is renumbered from Section 78A-6-504 is renumbered and amended to read:

Part 2. Petition for Termination of Parental Rights

[~~78A-6-504~~]. 80-4-201. Petition -- Who may file -- Dismissal.

(1) Any interested party, including a foster parent, may file a petition for termination of [~~the parent-child relationship with regard to a child~~] parental rights.

(2) The attorney general shall file a petition for termination of parental rights under this [~~part~~] chapter on behalf of the division.

(3) The juvenile court may dismiss a petition for termination of parental rights at any stage of the proceedings.

Section 99. Section 80-4-202, which is renumbered from Section 78A-6-505 is renumbered and amended to read:

[~~78A-6-505~~]. 80-4-202. Contents of petition.

(1) [~~The~~] A petition for termination of parental rights shall include, to the best information or belief of the petitioner:

[~~(a) the name and place of residence of the petitioner;~~]

[~~(b) the name, sex, date and place of birth, and residence of the child;~~]

[~~(c) the relationship of the petitioner to the child;~~]

[~~(d) the names, addresses, and dates of birth of the parents, if known;~~]

[~~(e) the name and address of the person having legal custody or guardianship, or acting in loco parentis to the child, or the organization or agency having legal custody or providing care for the child;~~]

(a) the information required by Utah Rules of Juvenile Procedure, Rule 17;

[~~(f)~~] (b) the grounds on which termination of parental rights is sought, in accordance with Section [~~78A-6-507~~] 80-4-301; and

[~~(g)~~] (c) the names and addresses of the [~~persons~~] individuals or the authorized agency to whom legal custody or guardianship of the child might be transferred.

(2) [~~A~~] The petitioner shall attach a copy of [~~any~~] a relinquishment or consent, if any, previously executed by the parent or parents [~~shall be attached~~] to the petition described in Subsection (1).

Section 100. Section 80-4-203, which is renumbered from Section 78A-6-316 is renumbered and amended to read:

[~~78A-6-316~~]. 80-4-203. Mandatory petition for termination of parental rights.

(1) For purposes of this section, "abandoned infant" means a child who is 12 months [~~of age or younger~~] old or younger and whose parent or parents:

(a) although having legal custody of the child, fail to maintain physical custody of the child without making arrangements for the care of the child;

(b) have failed to:

(i) maintain physical custody; and

(ii) exhibit the normal interest of a natural parent without just cause; or

(c) are unwilling to have physical custody of the child.

(2) Except as provided in Subsection (3), notwithstanding any other provision of this chapter or of Title 62A, Chapter 4a, Child and Family Services, the division shall file a petition for termination of parental rights with regard to:

(a) an abandoned infant; or

(b) the child of a parent, whenever a court has determined that the parent has:

(i) committed murder or child abuse homicide of another child of that parent;

(ii) committed manslaughter of another child of that parent;

(iii) aided, abetted, attempted, conspired, or solicited to commit murder, child abuse homicide, or manslaughter against another child of that parent; or

(iv) committed a felony assault or abuse that results in serious physical injury to:

(A) another child of that parent; or

(B) the other parent of the child.

(3) The division is not required to file a petition for termination of parental rights under Subsection (2) if:

(a) the child is being cared for by a relative;

(b) the division has:

(i) documented in the child's child and family plan a compelling reason for determining that filing a petition for termination of parental rights is not in the child's best interest; and

(ii) made that child and family plan available to the juvenile court for [~~its~~] the juvenile court's review; or

(c) (i) the juvenile court has previously determined, in accordance with the provisions and limitations of Sections 62A-4a-201, 62A-4a-203, [~~78A-6-306, and 78A-6-312~~] 80-3-301, and 80-3-406, that reasonable efforts to reunify the child with the child's parent or parents were required; and

(ii) the division has not provided, within the time period specified in the child and family plan, services that had been determined to be necessary for the safe return of the child.

Section 101. Section 80-4-204, which is renumbered from Section 78A-6-506 is renumbered and amended to read:

[~~78A-6-506~~]. 80-4-204. Notice of petition.

(1) (a) After a petition for termination of parental rights [~~has been~~] is filed, notice shall:

[~~(a)~~] (i) be provided to the parents, the guardian, the [~~person~~] individual or agency having legal custody of the child, and any [~~person~~] individual acting in loco parentis to the child; and

[~~(b)~~] (ii) indicate the:

[~~(i)~~] (A) nature of the petition;

[~~(ii)~~] (B) time and place of the hearing;

[~~(iii)~~] (C) right to counsel; and

[~~(iv)~~] (D) right to the appointment of counsel for a party whom the juvenile court determines is indigent and at risk of losing the party's parental rights.

(b) The notice described in Subsection (1)(a), or a separate notice subsequently issued, shall contain a statement to the effect that the rights of the parent or parents are proposed to be permanently terminated in the proceedings.

(2) [~~A hearing shall be held~~] The juvenile court shall hold a hearing specifically on the question of

termination of parental rights no sooner than 10 days after [~~service of summons is complete. A verbatim record of the proceedings shall be taken and the parties shall be advised of their right to counsel, including the appointment of counsel for an indigent parent or legal guardian facing any action initiated by a private party under this part or termination of parental rights under Section 78B-6-112. The summons shall contain a statement to the effect that the rights of the parent or parents are proposed to be permanently terminated in the proceedings. That statement may be contained in the summons originally issued in the proceeding or in a separate summons subsequently issued.~~] the day on which the notice described in Subsection (1) is served.

[~~(3) The proceedings are civil in nature and are governed by the Utah Rules of Civil Procedure. The court shall in all cases require the petitioner to establish the facts by clear and convincing evidence, and shall give full and careful consideration to all of the evidence presented with regard to the constitutional rights and claims of the parent and, if a parent is found, by reason of the parent's conduct or condition, to be unfit or incompetent based upon any of the grounds for termination described in this part, the court shall then consider the welfare and best interest of the child of paramount importance in determining whether termination of parental rights shall be ordered.~~]

Section 102. Section 80-4-205 is enacted to read:

80-4-205. Expedited hearing for temporary custody.

(1) At any time after a petition for termination of parental rights is filed, the juvenile court may make an order in accordance with this chapter:

(a) providing for temporary custody of the child who is the subject of the petition; or

(b) that the division provide protective services to the child who is the subject of the petition if the juvenile court determines that:

(i) the child is at risk of being removed from the child's home due to abuse and neglect; and

(ii) the provision of protective services may make the removal described in Subsection (1)(b)(i) unnecessary.

(2) (a) The juvenile court shall hold an expedited hearing to determine whether a child should be placed in temporary custody if:

(i) a person files a petition for termination of parental rights;

(ii) a party to the proceeding files a motion for expedited placement in temporary custody; and

(iii) notice of the hearing described in this Subsection (1)(a) is served consistent with the requirements for notice of a shelter hearing under Section 80-3-301.

(b) The hearing described in Subsection (2)(a):

(i) shall be held within 72 hours, excluding weekends and holidays, after the time in which the motion described in Subsection (2)(a)(ii) is filed; and

(ii) shall be considered a shelter hearing under Section 80-3-301 and Utah Rules of Juvenile Procedure, Rule 13.

(3) (a) The hearing and notice described in Subsection (1) are subject to:

(i) Section 80-3-301;

(ii) Section 80-3-302; and

(iii) the Utah Rules of Juvenile Procedure.

(b) After the hearing described in Subsection (1), the juvenile court may order a child placed in the temporary custody of the division.

Section 103. Section 80-4-206 is enacted to read:

80-4-206. Mediation.

If a petition for termination of parental rights is filed, or if the matter is referred to the juvenile court under Subsection 78A-6-104(1)(a)(iii), the juvenile court may require the parties to participate in mediation in accordance with Title 78B, Chapter 6, Part 2, Alternative Dispute Resolution Act.

Section 104. Section 80-4-207 is enacted to read:

80-4-207. Modification of petition -- Continuance.

(1) When it appears that evidence presented in a proceeding under this chapter points to material facts not alleged in the petition for termination of parental rights, the juvenile court may consider the additional or different matters raised by the evidence if the parties consent.

(2) The juvenile court, by a motion of any interested party or on the juvenile court's own motion, shall direct that the petition for termination of parental rights be amended to conform to the evidence described in Subsection (1).

(3) If the amendment described in Subsection (2) results in a substantial departure from the facts originally alleged in the petition for the termination of parental rights, the juvenile court shall grant a continuance as justice may require in accordance with Utah Rules of Juvenile Procedure, Rule 54.

Section 105. Section 80-4-301, which is renumbered from Section 78A-6-507 is renumbered and amended to read:

Part 3. Termination and Post-termination of Parental Rights

[~~78A-6-507~~]. 80-4-301. Grounds for termination of parental rights -- Findings regarding reasonable efforts.

(1) Subject to the protections and requirements of Section [~~78A-6-503~~] 80-4-104, and if the juvenile court finds termination of [~~a parent's~~] parental rights, from the child's point of view, is strictly necessary, the juvenile court may terminate all parental rights with respect to the parent if the juvenile court finds any one of the following:

(a) that the parent has abandoned the child;

(b) that the parent has neglected or abused the child;

(c) that the parent is unfit or incompetent;

(d) (i) that the child is being cared for in an out-of-home placement under the supervision of the juvenile court or the division;

(ii) that the parent has substantially neglected, [~~wilfully~~] willfully refused, or has been unable or unwilling to remedy the circumstances that cause the child to be in an out-of-home placement; and

(iii) that there is a substantial likelihood that the parent will not be capable of exercising proper and effective parental care in the near future;

(e) failure of parental adjustment, as defined in this chapter;

(f) that only token efforts have been made by the parent:

(i) to support or communicate with the child;

(ii) to prevent neglect of the child;

(iii) to eliminate the risk of serious harm to the child; or

(iv) to avoid being an unfit parent;

(g) (i) that the parent has voluntarily relinquished the parent's parental rights to the child; and

(ii) that termination is in the child's best interest;

(h) that, after a period of trial during which the child was returned to live in the child's own home, the parent substantially and continuously or repeatedly refused or failed to give the child proper parental care and protection; or

(i) the terms and conditions of safe relinquishment of a newborn child have been complied with, [~~pursuant to~~] in accordance with Title 62A, Chapter 4a, Part 8, Safe Relinquishment of a Newborn Child.

(2) The juvenile court may not terminate the parental rights of a parent because the parent has failed to complete the requirements of a child and family plan.

(3) (a) Except as provided in Subsection (3)(b), in any case in which the juvenile court has directed the division to provide reunification services to a parent, the juvenile court must find that the division made reasonable efforts to provide those services before the juvenile court may terminate the parent's rights under Subsection (1)(b), (c), (d), (e), (f), or (h).

(b) Notwithstanding Subsection (3)(a), the juvenile court is not required to make the finding under Subsection (3)(a) before terminating a parent's rights:

(i) under Subsection (1)(b), if the juvenile court finds that the abuse or neglect occurred subsequent to adjudication; or

(ii) if reasonable efforts to provide the services described in Subsection (3)(a) are not required under federal law, and federal law is not inconsistent with Utah law.

Section 106. Section 80-4-302, which is renumbered from Section 78A-6-508 is renumbered and amended to read:

[~~78A-6-508~~]. 80-4-302. Evidence of grounds for termination.

(1) In determining whether a parent or parents have abandoned a child, it is prima facie evidence of abandonment that the parent or parents:

(a) although having legal custody of the child, have surrendered physical custody of the child, and for a period of six months following the surrender have not manifested to the child or to the person having the physical custody of the child a firm intention to resume physical custody or to make arrangements for the care of the child;

(b) have failed to communicate with the child by mail, telephone, or otherwise for six months;

(c) failed to have shown the normal interest of a natural parent, without just cause; or

(d) have abandoned an infant, as described in [~~Subsection 78A-6-316(1)~~] Section 80-4-203.

(2) In determining whether a parent or parents are unfit or have neglected a child the juvenile court shall consider[~~, but is not limited to, the following circumstances, conduct, or conditions~~]:

(a) emotional illness, mental illness, or mental deficiency of the parent that renders the parent unable to care for the immediate and continuing physical or emotional needs of the child for extended periods of time;

(b) conduct toward a child of a physically, emotionally, or sexually cruel or abusive nature;

(c) habitual or excessive use of intoxicating liquors, controlled substances, or dangerous drugs that render the parent unable to care for the child;

(d) repeated or continuous failure to provide the child with adequate food, clothing, shelter, education, or other care necessary for the child's physical, mental, and emotional health and development by a parent or parents who are capable of providing that care;

(e) whether the parent is incarcerated as a result of conviction of a felony, and the sentence is of such length that the child will be deprived of a normal home for more than one year;

(f) a history of violent behavior; [~~or~~]

(g) whether the parent has intentionally exposed the child to pornography or material harmful to a minor, as defined in Section 76-10-1201[~~.~~]; or

(h) any other circumstance, conduct, or condition that the court considers relevant in the determination of whether a parent or parents are unfit or have neglected the child.

(3) Notwithstanding Subsection (2)(c), the juvenile court may not discriminate against a

parent because of or otherwise consider the parent's lawful possession or consumption of cannabis in a medicinal dosage form, a cannabis product, as those terms are defined in Section 26-61a-102 or a medical cannabis device, in accordance with Title 26, Chapter 61a, Utah Medical Cannabis Act.

(4) A parent who, legitimately practicing the parent's religious beliefs, does not provide specified medical treatment for a child is not, for that reason alone, a negligent or unfit parent.

(5) (a) Notwithstanding Subsection (2), a parent may not be considered neglectful or unfit because of a health care decision made for a child by the child's parent unless the state or other party to the proceeding shows, by clear and convincing evidence, that the health care decision is not reasonable and informed.

(b) Nothing in Subsection (5)(a) may prohibit a parent from exercising the right to obtain a second health care opinion.

(6) If a child has been placed in the custody of the division and the parent or parents fail to comply substantially with the terms and conditions of a plan within six months after the date on which the child was placed or the plan was commenced, whichever occurs later, that failure to comply is evidence of failure of parental adjustment.

(7) The following circumstances [~~constitute~~] are prima facie evidence of unfitness:

(a) sexual abuse, sexual exploitation, injury, or death of a sibling of the child, or of any child, due to known or substantiated abuse or neglect by the parent or parents;

(b) conviction of a crime, if the facts surrounding the crime are of such a nature as to indicate the unfitness of the parent to provide adequate care to the extent necessary for the child's physical, mental, or emotional health and development;

(c) a single incident of life-threatening or gravely disabling injury to or disfigurement of the child;

(d) the parent has committed, aided, abetted, attempted, conspired, or solicited to commit murder or manslaughter of a child or child abuse homicide; or

(e) the parent intentionally, knowingly, or recklessly causes the death of another parent of the child, without legal justification.

Section 107. Section 80-4-303, which is renumbered from Section 78A-6-509 is renumbered and amended to read:

[~~78A-6-509~~]. 80-4-303. Specific considerations when child is not in physical custody of parent.

(1) If a child is not in the physical custody of the child's parent or parents, the juvenile court, in determining whether parental rights should be terminated, shall consider[~~, but is not limited to, the following~~]:

(a) the physical, mental, or emotional condition and needs of the child and [~~his~~] the child's desires regarding the termination, if the juvenile court determines [~~he~~] the child is of sufficient capacity to express [~~his~~] the child's desires; [~~and~~]

(b) the effort the child's parent or parents have made to adjust [~~their~~] the parent's or parents' circumstances, conduct, or conditions to make it in the child's best interest to return [~~him to his~~] the child to the child's home after a reasonable length of time, including [~~but not limited to~~]:

(i) payment of a reasonable portion of substitute physical care and maintenance, if financially able;

(ii) maintenance of regular parent-time or other contact with the child that was designed and carried out in a plan to reunite the child with the parent or parents; and

(iii) maintenance of regular contact and communication with the custodian of the child[~~.~~]; and

(c) any other factor that the juvenile court considers relevant in the determination of whether to terminate parental rights.

(2) For purposes of this section, the juvenile court shall disregard incidental conduct, contributions, contacts, and communications.

Section 108. Section 80-4-304, which is renumbered from Section 78A-6-510 is renumbered and amended to read:

[~~78A-6-510~~]. 80-4-304. Specific considerations when child is placed in foster home.

If a child is in the custody of the division and has been placed and resides in a foster home and the division institutes proceedings under this [~~part~~] chapter regarding the child, with an ultimate goal of having the child's foster parent or parents adopt [~~him~~] the child, the juvenile court shall consider:

(1) whether the child has become integrated into the foster family to the extent that [~~his~~] the child's familial identity is with [~~that family, and~~] the foster family;

(2) whether the foster family is able and willing permanently to treat the child as a member of the family[~~. The court shall also consider, but is not limited to, the following:~~];

[~~(1)~~] (3) the love, affection, and other emotional ties existing between the child and the parents, and the child's ties with the foster family;

[~~(2)~~] (4) the capacity and disposition of the child's parents from whom the child was removed as compared with that of the foster family to give the child love, affection, and guidance and to continue the education of the child;

[~~(3)~~] (5) the length of time the child has lived in a stable, satisfactory foster home and the desirability of [~~his~~] the child continuing to live in that environment;

[~~(4)~~] (6) the permanence as a family unit of the foster family; and

[~~(5)~~] (7) any other factor [~~considered by the court to be~~] that the juvenile court considers relevant to a particular placement of a child.

Section 109. Section 80-4-305, which is renumbered from Section 78A-6-511 is renumbered and amended to read:

[~~78A-6-511~~]. 80-4-305. Court disposition of child upon termination of parental rights -- Posttermination reunification.

(1) As used in this section, "relative" means:

(a) an adult who is a grandparent, great-grandparent, aunt, great aunt, uncle, great uncle, brother-in-law, sister-in-law, stepparent, first cousin, sibling, or stepsibling of a child; and

[~~(b) in the case of a child defined as an "Indian" under the Indian Child Welfare Act, 25 U.S.C. Sec. 1903, "relative" also means an "extended family member" as defined by that statute.~~]

(b) in the case of a child who is an Indian child, an extended family member as defined in 25 U.S.C. Sec. 1903.

(2) Upon entry of an order under this [~~part~~] chapter, the juvenile court may:

(a) place the child in the legal custody and guardianship of a licensed child placement agency or the division for adoption; or

(b) make any other disposition of the child authorized under Section [~~78A-6-117~~] 80-3-405.

(3) Subject to the requirements of Subsections (4) and (5), all adoptable children placed in the custody of the division shall be placed for adoption.

(4) If the parental rights of all parents of an adoptable child placed in the custody of the division have been terminated and a suitable adoptive placement is not already available, the juvenile court:

(a) shall determine whether there is a relative who desires to adopt the child;

(b) may order the division to conduct a reasonable search to determine whether there are relatives who are willing to adopt the child; and

(c) shall, if a relative desires to adopt the child:

(i) make a specific finding regarding the fitness of the relative to adopt the child; and

(ii) place the child for adoption with that relative unless [~~it~~] the juvenile court finds that adoption by the relative is not in the best interest of the child.

(5) This section does not guarantee that a relative will be permitted to adopt the child.

(6) A parent whose rights were terminated under this [~~part~~] chapter, or a relative of the child, as defined by Section [~~78A-6-307~~] 80-3-102, may petition for guardianship of the child if:

(a) (i) following an adoptive placement, the child's adoptive parent returns the child to the custody of the division; or

(ii) the child is in the custody of the division for one year following the day on which the parent's rights were terminated, and no permanent placement has been found or is likely to be found; and

(b) reunification with the child's parent, or guardianship by the child's relative, is in the best interest of the child.

Section 110. Section 80-4-306, which is renumbered from Section 78A-6-512 is renumbered and amended to read:

[~~78A-6-512~~]. 80-4-306. Review following termination.

(1) At the conclusion of the hearing in which the juvenile court orders termination of [~~the parent-child relationship, the~~] parental rights, the juvenile court shall order that a review hearing be held within 90 days after the day on which [~~the parent-child relationship is~~] parental rights are terminated[~~,~~] if the child has not been permanently placed.

(2) At [~~that~~] the review hearing[~~,~~] described in Subsection (1):

(a) the agency or individual vested with custody of the child shall report to the juvenile court regarding the plan for permanent placement of the child[~~. The~~]; and

(b) the guardian ad litem shall make recommendations to the juvenile court, based on an independent investigation, for disposition meeting the best interests of the child.

(3) The juvenile court may order the agency or individual vested with custody of the child to report, at appropriate intervals, on the status of the child until the plan for permanent placement of the child [~~has been~~] is accomplished.

Section 111. Section 80-4-307, which is renumbered from Section 78A-6-514 is renumbered and amended to read:

[~~78A-6-514~~]. 80-4-307. Voluntary relinquishment -- Irrevocable.

[~~(1) Voluntary relinquishment or consent for termination of parental rights shall be signed or confirmed under oath either:~~]

(1) The individual consenting to termination of parental rights or voluntarily relinquishing parental rights shall sign or confirm the consent or relinquishment under oath:

(a) before a judge of any court that has jurisdiction over proceedings for termination of parental rights in this state or any other state, or a public officer appointed by that court for the purpose of taking consents or relinquishments; or

(b) except as provided in Subsection (2), any person authorized to take consents or relinquishments under Subsections 78B-6-124(1) and (2).

(2) Only the juvenile court is authorized to take consents or relinquishments from a parent who has any child who is in the custody of a state agency or

who has a child who is otherwise under the jurisdiction of the juvenile court.

(3) The court, appointed officer, or other authorized person shall certify to the best of that person's information and belief that the [~~person~~] individual executing the consent or relinquishment has read and understands the consent or relinquishment and has signed [~~it~~] the consent or relinquishment freely and voluntarily.

(4) A voluntary relinquishment or consent for termination of parental rights is effective when [~~it~~] the voluntary relinquishment or consent is signed and may not be revoked.

(5) (a) The requirements and processes described in [~~Sections 78A-6-503 through 78A-6-510~~] Section 80-4-104, Sections 80-4-301 through 80-4-304, and Part 2, Petition for Termination of Parental Rights, do not apply to a voluntary relinquishment or consent for termination of parental rights.

(b) [~~The~~] When determining voluntary relinquishment or consent for termination of parental rights, the juvenile court need only find that the relinquishment or termination is in the child's best interest.

(6) (a) There is a presumption that voluntary relinquishment or consent for termination of parental rights is not in the child's best interest where it appears to the juvenile court that the primary purpose for relinquishment or consent for termination is to avoid a financial support obligation.

(b) The presumption described in Subsection (6)(a) may be rebutted[~~, however,~~] if the juvenile court finds the relinquishment or consent to termination of parental rights will facilitate the establishment of stability and permanency for the child.

(7) Upon granting a voluntary relinquishment the juvenile court may make orders relating to the child's care and welfare that the juvenile court considers to be in the child's best interest.

Section 112. Section 80-4-401, which is renumbered from Section 78A-6-1403 is renumbered and amended to read:

Part 4. Restoration of Parental Rights

[~~78A-6-1403~~]. 80-4-401. Petition to restore parental rights -- Division duties.

(1) A child, who is 12 years [~~of age~~] old or older, or an authorized representative acting on behalf of a child of any age, may file a petition to restore parental rights if:

(a) 24 months have passed since the day on which the juvenile court ordered termination of [~~the parent-child legal relationship~~] the former parent's parental rights; and

(b) the child:

(i) has not been adopted and is not in an adoptive placement, or is unlikely to be adopted before the child is 18 years [~~of age~~] old; or

(ii) was previously adopted following a termination of [~~a parent-child legal relationship~~] parental rights, but the adoption failed and the child was returned to the custody of the division.

(2) The petition [~~described in Subsection (1)~~] to restore parental rights shall be:

(a) filed in the juvenile court that previously terminated [~~the parent-child relationship~~] parental rights; and

(b) served on the division.

(3) The division shall notify and inform a child who is 12 years [~~of age or~~] old or older and who qualifies for restoration of parental rights under Subsection (1) that the child is eligible to file a petition [~~for restoration~~] to restore parental rights under this part.

(4) Upon the receipt of a petition to restore parental rights, filed by a child or an authorized representative acting on behalf of a child, the division shall:

(a) make a diligent effort to locate the former parent whose rights may be restored under this part; and

(b) if the former parent is found, as described in Subsection (4)(a), notify the former parent of:

(i) the legal effects of restoration; and

(ii) the time and date of the hearing on the petition to restore parental rights.

(5) The juvenile court shall set a hearing on the petition to restore parental rights at least 30 days, but no more than 60 days, after the day on which the petition to restore parental rights is filed with the juvenile court.

(6) Before the hearing described in Subsection (5), the division may submit a confidential report to the juvenile court that includes the following information:

(a) material changes in circumstances since the termination of parental rights;

(b) a summary of the reasons why parental rights were terminated;

(c) the date on which parental rights were terminated;

(d) the willingness of the former parent to resume contact with the child and have parental rights restored;

(e) the ability of the former parent to be involved in the life of the child and accept physical custody of, and responsibility for, the child; and

(f) any other information the division reasonably considers appropriate and determinative.

(7) (a) A former parent who remedies the circumstances that resulted in the termination of the former parent's parental rights and who is

capable of exercising proper and effective parental care, shall notify the division that if the circumstances described in Subsection (1) are established, the former parent desires and requests to have the former parent's parental rights restored.

(b) The former parent's request to the division shall be fully and fairly considered by the division for appropriate submittal to the court.

Section 113. Section 80-4-402, which is renumbered from Section 78A-6-1404 is renumbered and amended to read:

[~~78A-6-1404~~]. 80-4-402. Hearing on petition to restore parental rights.

(1) The juvenile court may restore [~~the parent-child legal relationship~~] a parent's parental rights if:

(a) the child meets the requirements of Subsection [~~78A-6-1403~~] 80-4-401(1);

(b) considering the age and maturity of the child, the child consents to the restoration;

(c) the former parent consents to the restoration; and

(d) the juvenile court finds by clear and convincing evidence that restoration is in the best interest of the child.

(2) In determining whether reunification under this section is appropriate and in the best interest of the child, the juvenile court shall consider:

(a) whether the former parent has been sufficiently rehabilitated from the behavior that resulted in the termination of [~~the parent-child relationship~~] parental rights;

(b) extended family support for the former parent; and

(c) other material changes of circumstances, if any, that may have occurred that warrant the granting of the motion.

(3) At the hearing on a petition [~~described in Section 78A-6-1403~~] to restore parental rights, if the former parent consents and if the juvenile court finds by clear and convincing evidence that it is in the best interest of the child, the juvenile court may:

(a) allow contact between the former parent and the child, and describe the conditions under which contact may take place;

(b) order that the child be placed with the former parent, in a temporary custody and guardianship relationship, to be reevaluated after the child has been placed with the former parent for six months; or

(c) restore the parental rights of the parent.

(4) If the juvenile court orders the child to be placed in the physical custody of the former parent under Subsection (3), the juvenile court shall specify in the order:

(a) whether that custody is subject to:

(i) continued evaluation by the court; or

(ii) the supervision of the division; and

(b) the terms and conditions of reunification.

Section 114. Section 80-5-101 is enacted to read:

CHAPTER 5. JUVENILE JUSTICE SERVICES

Part 1. Division of Juvenile Justice Services

80-5-101. Title.

This chapter is known as "Juvenile Justice Services."

Section 115. Section 80-5-102 is enacted to read:

80-5-102. Definitions.

As used in this chapter:

(1) "Account" means the Juvenile Justice Reinvestment Restricted Account created in Section 80-5-302.

(2) (a) "Adult" means an individual who is 18 years old or older.

(b) "Adult" does not include a juvenile offender.

(3) "Aftercare services" means the same as the term "aftercare" is defined in 45 C.F.R. 1351.1.

(4) "Authority" means the Youth Parole Authority created in Section 80-5-701.

(5) "Control" means the authority to detain, restrict, and supervise a juvenile offender in a manner consistent with public safety and the well-being of the juvenile offender and division employees.

(6) "Director" means the director of the Division of Juvenile Justice Services.

(7) "Discharge" means the same as that term is defined in Section 80-6-102.

(8) "Division" means the Division of Juvenile Justice Services created in Section 80-5-103.

(9) "Homeless youth" means a child, other than an emancipated minor:

(a) who is a runaway; or

(b) who is:

(i) not accompanied by the child's parent or guardian; and

(ii) without care, as defined in Section 80-5-602.

(10) "Observation and assessment program" means a nonresidential service program operated or purchased by the division that is responsible only for diagnostic assessment of minors, including for substance use disorder, mental health, psychological, and sexual behavior risk assessments.

(11) "Performance based contracting" means a system of contracting with service providers for the provision of residential or nonresidential services that:

(a) provides incentives for the implementation of evidence-based juvenile justice programs or programs rated as effective for reducing recidivism by a standardized tool in accordance with Section 63M-7-208; and

(b) provides a premium rate allocation for a minor who receives the evidence-based dosage of treatment and successfully completes the program within three months.

(12) "Rescission" means the same as that term is defined in Section 80-6-102.

(13) "Restitution" means the same as that term is defined in Section 80-6-102.

(14) "Revocation" means the same as that term is defined in Section 80-6-102.

(15) "Temporary custody" means the same as that term is defined in Section 80-6-102.

(16) "Temporary homeless youth shelter" means a facility that:

(a) provides temporary shelter to homeless youth; and

(b) is licensed by the Office of Licensing, created under Section 62A-1-105, as a residential support program.

(17) "Termination" means the same as that term is defined in Section 80-6-102.

(18) "Victim" means the same as that term is defined in Section 80-6-102.

(19) "Work program" means a nonresidential public or private service work project established and administered by the division for juvenile offenders for the purpose of rehabilitation, education, and restitution to victims.

(20) (a) "Youth services" means services provided in an effort to resolve family conflict:

(i) for families in crisis when a minor is ungovernable or a runaway; or

(ii) involving a minor and the minor's parent or guardian.

(b) "Youth services" include efforts to:

(i) resolve family conflict;

(ii) maintain or reunite minors with the minors' families; and

(iii) divert minors from entering or escalating in the juvenile justice system.

(c) "Youth services" may provide:

(i) crisis intervention;

(ii) short-term shelter;

(iii) time-out placement; and

(iv) family counseling.

(21) "Youth services center" means a center established by, or under contract with, the division to provide youth services.

Section 116. Section 80-5-103, which is renumbered from Section 62A-7-102 is renumbered and amended to read:

[~~62A-7-102~~]. 80-5-103. Creation of division -- Jurisdiction.

(1) There is created the Division of Juvenile Justice Services within the department[~~,~~].

(2) The division shall be under the administration and supervision of the executive director of the department.

[~~(2)~~] (3) The division has jurisdiction over all [~~youth committed to the division under Section 78A-6-117~~] minors committed to the division under Sections 80-6-703 and 80-6-705.

Section 117. Section 80-5-104, which is renumbered from Section 62A-7-103 is renumbered and amended to read:

[~~62A-7-103~~]. 80-5-104. Division director -- Qualifications -- Responsibility.

[~~(1) The director of the division shall be appointed by the executive director.~~]

(1) The executive director of the department shall appoint the director of the division.

(2) The director shall have a bachelor's degree from an accredited university or college, be experienced in administration, and be knowledgeable in [~~youth corrections~~] juvenile justice.

(3) The director is the administrative head of the division.

Section 118. Section 80-5-201, which is renumbered from Section 62A-7-104 is renumbered and amended to read:

Part 2. Division Responsibilities

[~~62A-7-104~~]. 80-5-201. Division responsibilities.

(1) The division is responsible for all [~~juvenile offenders~~] minors committed to the division by juvenile courts [~~for secure confinement or supervision and treatment in the community in accordance with Section 78A-6-117~~] under Sections 80-6-703 and 80-6-705.

(2) The division shall:

(a) establish and administer a continuum of community, secure, and nonsecure programs for all [~~juvenile offenders~~] minors committed to the division;

(b) establish and maintain all detention and secure care facilities and set minimum standards for [~~those~~] all detention and secure care facilities;

(c) establish and operate prevention and early intervention youth services programs for nonadjudicated [~~youth~~] minors placed with the division; [~~and~~]

(d) establish observation and assessment programs necessary to serve [~~juvenile offenders~~] minors in a nonresidential setting under Subsection [~~78A-6-117(2)(e).~~] 80-6-706(1);

[~~(3) The division shall~~]

(e) place [~~juvenile offenders~~] minors committed to [~~it~~] the division under Section 80-6-703 in the most appropriate program for supervision and treatment[~~.~~];

[~~(4) (a) In an order committing a juvenile offender to the division, the court shall find whether the juvenile offender is being committed for secure confinement under Subsection 78A-6-117(2)(c), or placement in a community-based program under Subsection 78A-6-117(2)(c), and specify the criteria under Subsection 78A-6-117(2)(c) or (d) underlying the commitment.~~]

[~~(b) The division shall place a juvenile offender in the most appropriate program within the category specified by the court.~~]

[~~(5) The division shall~~]

(f) employ staff necessary to:

[~~(a)~~] (i) supervise and control [~~juvenile offenders in secure facilities or in the community~~] minors committed to the division for secure care or placement in the community;

[~~(b)~~] (ii) supervise and coordinate treatment of [~~juvenile offenders~~] minors committed to the division for placement in community-based programs; and

[~~(c)~~] (iii) control and supervise adjudicated and nonadjudicated [~~youth~~] minors placed with the division for temporary services in juvenile receiving centers, youth services, and other programs established by the division[~~.~~];

[~~(6) (a) Youth in the custody or temporary custody of the division are controlled or detained in a manner consistent with public safety and rules made by the division. In the event of an unauthorized leave from a secure facility, detention center, community-based program, receiving center, home, or any other designated placement, division employees have the authority and duty to locate and apprehend the youth, or to initiate action with local law enforcement agencies for assistance.~~]

[~~(b) A rule made by the division under this Subsection (6) may not permit secure detention based solely on the existence of multiple status offenses, misdemeanors, or infractions alleged in the same criminal episode.~~]

[~~(7) The division shall~~]

(g) control or detain a minor committed to the division, or in the temporary custody of the division, in a manner that is consistent with public safety and rules made by the division;

(h) establish and operate [~~compensatory-service~~] work programs for [~~juvenile offenders~~] minors committed to the division by the [~~court. The compensatory-service work program may not be residential and shall:~~] juvenile court that:

(i) are not residential;

[~~(a)~~] (ii) provide labor to help in the operation, repair, and maintenance of public facilities, parks, highways, and other programs designated by the division;

[~~(b)~~] (iii) provide educational and prevocational programs in cooperation with the State Board of Education for [~~juvenile offenders~~] minors placed in the program; and

[~~(c)~~] (iv) provide counseling to [~~juvenile offenders.~~] minors;

[~~(8) The division shall~~]

(i) establish minimum standards for the operation of all private residential and nonresidential rehabilitation facilities that provide services to [~~juveniles~~] minors who have committed [~~a delinquent act or infraction~~] an offense in this state or in any other state[~~.~~];

[~~(9) The division shall~~]

(j) provide regular training for [~~staff of secure facilities~~] secure care staff, detention staff, case management staff, and staff of the community-based programs[~~.~~];

[~~(10) (a) The division is authorized to employ special function officers, as defined in Section 53-13-105, to locate and apprehend minors who have absconded from division custody, transport minors taken into custody pursuant to division policy, investigate cases, and carry out other duties as assigned by the division.~~]

[~~(b) Special function officers may be employed through contract with the Department of Public Safety, any P.O.S.T. certified law enforcement agency, or directly hired by the division.~~]

[~~(11) The division shall~~]

(k) designate employees to obtain the saliva DNA specimens required under Section 53-10-403[~~. The division shall~~];

(l) ensure that the designated employees receive appropriate training and that the specimens are obtained in accordance with accepted protocol[~~.~~];

[~~(12) The division shall~~]

(m) register an individual with the Department of Corrections who:

[~~(a)~~] (i) is adjudicated [~~delinquent~~] for an offense listed in Subsection 77-41-102(17)(a) or 77-43-102(2);

[~~(b)~~] (ii) is committed to the division for secure [~~confinement~~] care; and

[~~(c) (i)~~] (iii) (A) if the individual is a youth offender, remains in the division's custody 30 days before the individual's 21st birthday; or

[~~(ii)~~] (B) if the individual is a serious youth offender, remains in the division's custody 30 days before the individual's 25th birthday[~~.~~]; and

[~~(13) The division shall~~]

(n) ensure that a program delivered to a [~~juvenile offender~~] minor under this section is [~~evidence~~

~~based~~] an evidence-based program in accordance with Section 63M-7-208.

(3) (a) The division is authorized to employ special function officers, as defined in Section 53-13-105, to:

(i) locate and apprehend minors who have absconded from division custody;

(ii) transport minors taken into custody in accordance with division policy;

(iii) investigate cases; and

(iv) carry out other duties as assigned by the division.

(b) A special function officer may be:

(i) employed through a contract with the Department of Public Safety, or any law enforcement agency certified by the Peace Officer Standards and Training Division; or

(ii) directly hired by the division.

(4) In the event of an unauthorized leave from secure care, detention, a community-based program, a juvenile receiving center, a home, or any other designated placement of a minor, a division employee has the authority and duty to locate and apprehend the minor, or to initiate action with a local law enforcement agency for assistance.

Section 119. Section 80-5-202 is enacted to read:

80-5-202. Division rulemaking authority.

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

(a) establishing standards for the admission of a minor to detention;

(b) that describe good behavior for which credit may be earned under Subsection 80-6-704(4); and

(c) that establish a formula, in consultation with the Office of the Legislative Fiscal Analyst, to calculate savings from General Fund appropriations under 2017 Laws of Utah, Chapter 330, resulting from the reduction in out-of-home placements for juvenile offenders with the division.

(2) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division may make rules:

(a) that govern the operation of prevention and early intervention programs, youth service programs, juvenile receiving centers, and other programs described in Section 80-5-401; and

(b) that govern the operation of detention and secure care facilities.

(3) A rule made by the division under Subsection (1)(a):

(a) may not permit secure detention based solely on the existence of multiple status offenses, misdemeanors, or infractions arising out of a single criminal episode; and

(b) shall prioritize use of home detention for a minor who might otherwise be held in secure detention.

Section 120. Section 80-5-203, which is renumbered from Section 78A-6-124 is renumbered and amended to read:

[~~78A-6-124~~]. 80-5-203. Detention risk assessment tool.

(1) The [~~Division of Juvenile Justice Services~~] division, in conjunction with the Administrative Office of the Courts, shall develop or adopt, and validate on the Utah juvenile population, a statewide detention risk assessment tool.

(2) (a) The [~~Division of Juvenile Justice Services~~] division shall administer the detention risk assessment tool for each [~~youth~~] minor under consideration for detention. [~~The detention risk assessment tool shall be administered by a designated individual who has completed training to conduct the detention risk assessment tool.~~]

(b) A designated individual who has completed training to conduct the detention risk assessment tool shall administer the detention risk assessment tool.

(3) The [~~Division of Juvenile Justice Services~~] division and the Administrative Office of the Courts shall establish a scoring system to inform eligibility for placement of a minor in a [~~juvenile~~] detention facility or for referral to an alternative to detention.

Section 121. Section 80-5-204, which is renumbered from Section 62A-7-106.5 is renumbered and amended to read:

[~~62A-7-106.5~~]. 80-5-204. Annual review of programs and facilities.

(1) (a) The division shall:

(i) annually review all programs and facilities that provide services to [~~juveniles who have committed a delinquent act~~] minors who have committed an offense, in this state or in any other state, which would constitute a felony or misdemeanor if committed by an adult[~~,~~]; and

(ii) license [~~those programs and facilities~~] all programs and facilities under Subsection (1)(a)(i) that are in compliance with standards established by the division.

(b) The division shall provide [~~written reviews to the managers of those programs and facilities~~] a written review to the manager of a program or facility under Subsection (1)(a).

[~~(b) Programs or facilities that are~~]

(c) A program or facility that is unable or unwilling to comply with the standards established by the division may not be licensed.

(2) Any private facility or program providing services under this chapter that willfully fails to comply with the standards established by the division is guilty of a class B misdemeanor.

Section 122. Section 80-5-205, which is renumbered from Section 62A-7-107.5 is renumbered and amended to read:

[~~62A-7-107.5~~]. 80-5-205. Contracts with private providers.

(1) This chapter does not prohibit the division from contracting with private providers or other agencies for:

(a) the construction, operation, and maintenance of juvenile facilities; or

(b) the provision of care, treatment, and supervision of [~~juvenile offenders~~] minors who have been committed to [~~the care of~~] the division.

(2) All programs for the care, treatment, and supervision of [~~juvenile offenders~~] minors committed to the division shall be licensed in compliance with division standards within six months after commencing operation.

(3) A contract for the care, treatment, and supervision of a [~~juvenile offender~~] minor committed to the division shall be executed in accordance with the performance-based contracting system developed under Section 63M-7-208.

Section 123. Section 80-5-206, which is renumbered from Section 62A-7-108.5 is renumbered and amended to read:

[~~62A-7-108.5~~]. 80-5-206. Records -- Property of division.

(1) All records maintained by programs that are under contract with the division to provide services to [~~juvenile offenders~~] minors, are the property of the division and shall be returned to the division when the [~~juvenile offender~~] minor is terminated from the program.

(2) The division shall maintain an accurate audit trail of information provided to other programs or agencies regarding [~~juvenile offenders~~] minors under the division's jurisdiction.

Section 124. Section 80-5-207, which is renumbered from Section 62A-7-109.5 is renumbered and amended to read:

[~~62A-7-109.5~~]. 80-5-207. Restitution by a minor committed to the division.

(1) (a) The division shall make reasonable efforts to ensure that restitution is made to the victim of a [~~juvenile offender. Restitution~~] minor who is committed to the division.

(b) Except as provided in Subsection (1)(c), restitution shall be made through the employment of [~~juvenile offenders~~] minors in work programs. [~~However, reimbursement~~]

(c) Reimbursement to the victim of a [~~juvenile offender~~] minor is conditional upon the [~~juvenile offender's~~] minor's involvement in the work program.

[~~(2) Restitution ordered by the court may be made a condition of release, placement, or parole by the division.~~]

[~~(3)~~] (2) The division shall notify the juvenile court of all restitution paid to victims through the employment of [~~juvenile offenders in work programs~~] a minor, who is committed to the division, in a work program.

Section 125. Section 80-5-208, which is renumbered from Section 62A-7-403 is renumbered and amended to read:

[~~62A-7-403~~]. 80-5-208. Care of pregnant minor in secure detention or secure care.

(1) When a [~~juvenile offender in a secure facility~~] minor in secure detention or secure care is pregnant, the division shall:

(a) ensure that adequate prenatal and postnatal care is provided[~~, and shall~~]; and

(b) place the [~~juvenile offender~~] minor in an accredited hospital before delivery.

(2) As soon as the [~~juvenile offender's~~] minor's condition after delivery will permit, the [~~juvenile offender may be returned to the secure facility~~] minor may be returned to:[~~.~~]

[~~(2) If the division has concern regarding the juvenile offender's fitness to raise the juvenile offender's child, the division shall petition the juvenile court to hold a custody hearing.~~]

(a) secure detention if the minor was placed in secure detention; or

(b) secure care if the minor was committed to secure care.

(3) If the division has concerns regarding the minor's fitness to raise the minor's child, the division shall make a referral for services for the minor and the minor's child to the Division of Child and Family Services.

Section 126. Section 80-5-301, which is renumbered from Section 62A-7-104.5 is renumbered and amended to read:

Part 3. Funds and Accounts

[~~62A-7-104.5~~]. 80-5-301. Appropriation and funding of juvenile receiving centers.

Funding for juvenile receiving centers and youth services programs under this part is intended to be broad based, be provided by an appropriation by the Legislature to the division, and include federal grant money, local government money, and private donations.

Section 127. Section 80-5-302, which is renumbered from Section 62A-7-112 is renumbered and amended to read:

[~~62A-7-112~~]. 80-5-302. Juvenile Justice Reinvestment Restricted Account.

(1) There is created in the General Fund a restricted account known as the "Juvenile Justice Reinvestment Restricted Account."

(2) The account shall be funded by savings calculated from General Fund appropriations by the Division of Finance as described in Subsection (3).

(3) At the end of the fiscal year, the Division of Finance shall:

(a) use the formula established in [~~Subsection 62A-7-113(1)~~] Subsection 80-5-202(1)(c) to calculate the savings from General Fund appropriations; and

(b) lapse the calculated savings into the account.

(4) Upon appropriation by the Legislature, the department may expend funds from the account:

(a) for the statewide expansion of nonresidential community-based programs, including:

(i) receiving centers;

(ii) mobile crisis outreach teams [~~as defined in Section 78A-6-105~~];

(iii) youth courts under Title 80, Chapter 6, Part 9, Youth Court; and

(iv) victim-offender mediation under Section 80-6-304 and Subsection 80-6-710(7);

(b) for nonresidential evidence-based programs and practices in cognitive, behavioral, and family therapy;

(c) to implement:

(i) nonresidential diagnostic assessment; and

(ii) nonresidential early intervention programs, including family strengthening programs, family wraparound services, and truancy interventions; or

(d) for infrastructure in nonresidential evidence-based juvenile justice programs, including staffing and transportation.

Section 128. Section 80-5-303, which is renumbered from Section 62A-7-113 is renumbered and amended to read:

[~~62A-7-113~~]. 80-5-303. Report on the Juvenile Justice Reinvestment Restricted Account.

[~~(1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division shall make rules that establish a formula, in consultation with the Office of the Legislative Fiscal Analyst, to calculate savings from General Fund appropriations under 2017 Laws of Utah, Chapter 330 resulting from the reduction in out-of-home placements for juvenile offenders with the division.~~]

[~~(2)~~] No later than December 31 of each year, the division shall provide to the Executive Offices and Criminal Justice Appropriations Subcommittee a written report of the division's activities under [~~this section and Section 62A-7-112~~] Subsection 80-5-202(1)(c) and Section 80-5-302, including:

[~~(a)~~] (1) for the report submitted in 2019, the formula used to calculate the savings from General Fund appropriations under Subsection [~~(1)~~] 80-5-202(1)(c);

[~~(b)~~] (2) the amount of savings from General Fund appropriations calculated by the division for the previous fiscal year;

[~~(c)~~] (3) an accounting of the money expended or committed to be expended under Subsection [~~62A-7-112~~] 80-5-302(4); and

[~~(d)~~] (4) the balance of the account.

Section 129. Section 80-5-401, which is renumbered from Section 62A-7-601 is renumbered and amended to read:

Part 4. Programs

[~~62A-7-601~~]. 80-5-401. Youth services for prevention and early intervention -- Program standards -- Program services.

(1) The division shall establish and operate prevention and early intervention youth services programs.

(2) The division shall adopt statewide policies and procedures, including minimum standards for the organization and operation of youth services programs.

(3) The division shall establish housing, programs, and procedures to ensure that [~~youth~~] minors who are receiving services under this section and who are not [~~in the custody of~~] committed to the division are served separately from [~~youth who are in custody of the division~~] minors who are committed to the division.

(4) The division may enter into contracts with state and local governmental entities and private providers to provide the youth services.

(5) The division shall establish and administer juvenile receiving centers and other programs to provide temporary custody, care, risk-needs assessments, evaluations, and control for nonadjudicated and adjudicated [~~youth~~] minors placed with the division.

(6) The division shall prioritize use of evidence-based juvenile justice programs and practices.

Section 130. Section 80-5-402, which is renumbered from Section 62A-7-701 is renumbered and amended to read:

[~~62A-7-701~~]. 80-5-402. Community-based programs.

(1) (a) The division shall operate residential and nonresidential community-based programs to provide care, treatment, and supervision for [~~juvenile offenders~~] minors committed to the division by juvenile courts.

(b) The division shall operate or contract for nonresidential community-based programs and independent living programs to provide care, treatment, and supervision of paroled juvenile offenders.

(2) The division shall adopt minimum standards for the organization and operation of community-based [~~corrections~~] programs for [~~juvenile offenders~~] minors.

(3) The division shall place [~~juvenile offenders~~] minors committed to the division for community-based programs in the most

appropriate program based upon the division's evaluation of the [~~juvenile offender's~~] minor's needs and the division's available resources in accordance with Sections [~~62A-7-404.5 and 78A-6-117~~] 80-6-703 and 80-6-804.

Section 131. Section 80-5-403, which is renumbered from Section 62A-7-702 is renumbered and amended to read:

[~~62A-7-702~~]. 80-5-403. Case management staff.

(1) The division shall provide a sufficient number of case management staff members to provide care, treatment, and supervision for juvenile offenders on parole and for [~~juvenile offenders~~] minors committed to the division by the juvenile courts for community-based programs.

(2) (a) Case management staff shall develop treatment programs for each [~~juvenile offender~~] minor in the community, provide appropriate services, and monitor individual progress.

(b) Progress reports shall be filed every three months with:

(i) the juvenile court for each [~~juvenile offender~~] minor committed to the division for community-based programs; and [~~with~~]

(ii) the authority for each [~~parolee~~] juvenile offender on parole.

(c) The authority, in the case of [~~parolees~~] juvenile offenders on parole, or the juvenile court, in the case of [~~youth~~] minors committed to the division for placement in community programs, shall be immediately notified, in writing, of any violation of law or of conditions of parole or placement.

(3) Case management staff shall:

(a) conduct investigations and make reports requested by [~~the courts~~] a juvenile court to aid [~~them~~] the juvenile court in determining appropriate case dispositions; and

(b) conduct investigations and make reports requested by the authority to aid [~~it~~] the authority in making appropriate dispositions in cases of parole, revocation, and termination.

Section 132. Section 80-5-501, which is renumbered from Section 62A-7-202 is renumbered and amended to read:

Part 5. Facilities

[~~62A-7-202~~]. 80-5-501. Detention facilities and services.

(1) The division shall provide detention facilities and services in each county, or group of counties, as the population demands, in accordance with this chapter.

(2) (a) The division is responsible for development, implementation, and administration of home detention services available in every judicial district[~~, and~~].

(b) The division shall establish criteria for placement [~~on~~] in home detention.

[~~(3) (a) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establishing standards for admission to secure detention and home detention programs.~~]

[~~(b) The rules made under this Subsection (3) shall prioritize use of home detention for a minor who might otherwise be held in secure detention.~~]

[~~(4)~~] (3) The division shall provide training regarding implementation of the rules made under Subsection 80-5-202(1)(a) to law enforcement agencies, division employees, juvenile court employees, and other affected agencies and individuals upon their request.

Section 133. Section 80-5-502, which is renumbered from Section 62A-7-203 is renumbered and amended to read:

[~~62A-7-203~~]. 80-5-502. New detention facilities.

(1) The division may issue requests for proposals to allow for the private construction of facilities suitable to meet the detention requirements of any county or group of counties, subject to approval by the governor.

(2) The governor shall furnish an analysis of the benefits of the proposals received to the Infrastructure and General Government Appropriations Subcommittee for [~~its~~] the subcommittee's review.

Section 134. Section 80-5-503, which is renumbered from Section 62A-7-401.5 is renumbered and amended to read:

[~~62A-7-401.5~~]. 80-5-503. Secure care facilities.

(1) The division shall maintain and operate [~~secure facilities~~] secure care facilities for the custody and rehabilitation of juvenile offenders:

(a) who pose a danger of serious bodily harm to others[~~,~~];

(b) who cannot be controlled in a less secure setting[~~,~~]; or

(c) who have engaged in a pattern of conduct characterized by persistent and serious criminal offenses [~~which~~] that, as demonstrated through the use of other alternatives, cannot be controlled in a less secure setting.

(2) (a) The director shall appoint an administrator for each [~~secure facility~~] secure care facility.

(b) An administrator of a secure care facility shall have experience in social work, law, criminology, corrections, or a related field, and [~~also~~] in administration.

(3) (a) (i) The division, in cooperation with the State Board of Education, shall provide instruction, or make instruction available, to juvenile offenders in secure care facilities.

(ii) The instruction shall be appropriate to the age, needs, and range of abilities of the juvenile offender.

(b) [~~An assessment shall be made of~~] A secure care facility shall:

(i) assess each juvenile offender [~~by the appropriate secure facility~~] to determine the juvenile offender's abilities, possible learning disabilities, interests, attitudes, and other attributes related to appropriate educational programs[~~.~~]; and

[~~(c) Prevocational education shall be provided~~]

(ii) provide prevocational education to juvenile offenders to acquaint juvenile offenders with vocations, and vocational requirements and opportunities.

(4) The division shall place juvenile offenders who have been committed to the division for [~~secure confinement and rehabilitation in a secure facility~~] secure care in a secure care facility, operated by the division or by a private entity, that is appropriate to ensure that humane care and rehabilitation opportunities are afforded to the juvenile offender.

(5) The division shall adopt standards, policies, and procedures for the regulation and operation of secure care facilities, consistent with state and federal law.

Section 135. Section 80-5-601, which is renumbered from Section 62A-4a-501 is renumbered and amended to read:

Part 6. Runaways and Ungovernable Children

[~~62A-4a-501~~]. 80-5-601. Harboring a runaway -- Reporting requirements -- Division of Child and Family Services to provide assistance -- Affirmative defense -- Providing shelter after notice.

[~~(1) As used in this section:~~]

[~~(a) "Harbor" means to provide shelter in:~~]

[~~(i) the home of the person who is providing the shelter; or~~]

[~~(ii) any structure over which the person providing the shelter has any control.~~]

[~~(b) "Homeless youth" means a child, other than an emancipated minor:~~]

[~~(i) who is a runaway; or~~]

[~~(ii) who is not accompanied by the child's parent or legal guardian.~~]

[~~(c) "Receiving center" means the same as that term is defined in Section 62A-7-101.~~]

[~~(d) "Runaway" means a child, other than an emancipated minor, who is absent from the home or lawfully prescribed residence of the child's parent or legal guardian without the permission of the parent or legal guardian.~~]

[~~(e) "Temporary homeless youth shelter" means a facility that:~~]

[~~(i) provides temporary shelter to a homeless youth; and~~]

[~~(ii) is licensed by the Office of Licensing, created in Section 62A-1-105, as a residential support program.~~]

[~~(f) "Youth services center" means a center established by, or under contract with, the Division of Juvenile Justice Services, created in Section 62A-1-105, to provide youth services, as defined in Section 62A-7-101.~~]

(1) As used in this section, "harbor" means to provide shelter in:

(a) the home of the person who is providing shelter; or

(b) any structure over which the person providing the shelter has any control.

(2) Except as provided in Subsection (3), a person[~~, including a temporary homeless youth shelter,~~] is guilty of a class B misdemeanor if the person:

(a) knowingly and intentionally harbors a child;

(b) knows at the time of harboring the child that the child is a runaway;

(c) fails to notify one of the following, by telephone or other reasonable means, of the location of the child:

(i) the parent or [~~legal~~] guardian of the child;

(ii) the division; or

(iii) a youth services center; and

(d) fails to notify a person described in Subsection (2)(c) within eight hours after the later of:

(i) the time that the person becomes aware that the child is a runaway; or

(ii) the time that the person begins harboring the child.

(3) A person described in Subsection (2)[~~, including a temporary homeless youth shelter,~~] is not guilty of a violation of Subsection (2) and is not required to comply with Subsections (2)(c) and (d), if:

(a) (i) a court order is issued authorizing a peace officer to take the child into custody; and

(ii) the person notifies a peace officer [~~or the nearest detention center, as defined in Section 62A-7-101~~], or the nearest detention facility, by telephone or other reasonable means, of the location of the child, within eight hours after the later of:

(A) the time that the person becomes aware that the child is a runaway; or

(B) the time that the person begins harboring the child; or

(b) (i) the child is a runaway who consents to shelter, care, or licensed services under Section [~~62A-4a-502~~] 80-5-602; and

(ii) (A) the person is unable to locate the child's parent or [~~legal~~] guardian; or

(B) the child refuses to disclose the contact information for the child's parent or [~~legal~~] guardian.

(4) A person described in Subsection (2)[~~, including a temporary homeless youth shelter,~~] shall provide a report to the division:

(a) if the person has an obligation under Section 62A-4a-403 to report child abuse or neglect; or

(b) if, within 48 hours after the person begins harboring the child:

(i) the person continues to harbor the child; and

(ii) the person does not make direct contact with:

(A) a parent or legal guardian of the child;

(B) the division;

(C) a youth services center; or

(D) a peace officer or the nearest [~~detention center, as defined in Section 62A-7-101,~~] detention facility if a court order is issued authorizing a peace officer to take the child into custody.

(5) It is an affirmative defense to the crime described in Subsection (2) that:

(a) the person failed to provide notice as described in Subsection (2) or (3) due to circumstances beyond the control of the person providing the shelter; and

(b) the person provided the notice described in Subsection (2) or (3) as soon as it was reasonably practicable to provide the notice.

(6) Upon receipt of a report that a runaway is being harbored by a person:

(a) a youth services center shall:

(i) notify the [~~parent or legal~~] runaway's parent or guardian that a report has been made; and

(ii) inform the [~~parent or legal~~] runaway's parent or guardian of assistance available from the youth services center; or

(b) the division shall:

(i) make a referral to the Division of Child and Family Services to determine whether the runaway is abused, neglected, or dependent; and

(ii) if appropriate, make a referral for services for the runaway.

(7) (a) A parent or [~~legal~~] guardian of a runaway who is aware that the runaway is being harbored may notify a law enforcement agency and request assistance in retrieving the runaway.

(b) The local law enforcement agency may assist the parent or [~~legal~~] guardian in retrieving the runaway.

(8) Nothing in this section prohibits a person[~~, including a temporary homeless youth shelter,~~] from continuing to provide shelter to a runaway, after giving the notice described in Subsections (2) through (4), if:

(a) a parent or [~~legal guardian of the child~~] guardian of the runaway consents to the continued provision of shelter; or

(b) a peace officer or a parent or [~~legal guardian of the child~~] guardian of the runaway fails to retrieve the runaway.

(9) Nothing in this section prohibits a person [~~or a temporary homeless youth shelter~~] from providing shelter to a child whose parent or [~~legal~~] guardian has intentionally:

(a) ceased to maintain physical custody of the child; and

(b) failed to make reasonable arrangements for the safety, care, and physical custody of the child.

(10) Nothing in this section prohibits:

(a) a juvenile receiving center or a youth services center from providing shelter to a runaway in accordance with the requirements of [~~Title 62A, Chapter 7, Juvenile Justice Services,~~] this chapter and the rules relating to a juvenile receiving center or a youth services center; or

(b) a government agency from taking custody of a child as otherwise provided by law.

Section 136. Section 80-5-602, which is renumbered from Section 62A-4a-502 is renumbered and amended to read:

[~~62A-4a-502~~]. 80-5-602. Homeless youth -- Consent to shelter, care, or services by a homeless youth.

(1) As used in this section:

(a) "Care" means providing:

(i) assistance to obtain food, clothing, hygiene products, or other basic necessities;

(ii) access to a bed, showering facility, or transportation; or

(iii) assistance with school enrollment or attendance.

[~~(b) "Homeless youth" means the same as that term is defined in Section 62A-4a-501.~~]

[~~(c)~~] (b) "Licensed services" means a service provided by a temporary homeless youth shelter, a youth services center, or other facility that is licensed to provide the service to a homeless youth.

[~~(d)~~] (c) "Service" means:

(i) youth services[~~, as defined in Section 62A-7-101~~];

(ii) child welfare or juvenile court case management or advocacy;

(iii) aftercare services[~~, as defined in 45 C.F.R. 1351.1~~]; or

(iv) independent living skills training.

[~~(e) "Temporary homeless youth shelter" means the same as that term is defined in Section 62A-4a-501.~~]

[~~(f) "Youth services center" means the same as that term is defined in Section 62A-4a-501.~~]

(2) A homeless youth may consent to temporary shelter, care, or licensed services if the homeless youth:

(a) is at least 15 years old; and

(b) manages the homeless youth's own financial affairs, regardless of the source of income.

(3) In determining consent under Subsection (2), a person may rely on the homeless youth's verbal or written statement describing the homeless youth's ability to consent to temporary shelter, care, or licensed services.

(4) A person who provides shelter, care, or licensed services to a homeless youth who consents to the shelter, care, or licensed services under Subsection (2):

(a) shall report to the division as required under [~~Section 62A-4a-403 and~~] Subsection [~~62A-4a-501~~] 80-5-601(4); and

(b) may provide the homeless youth a referral to safe permanent housing, employment services, medical or dental care, or counseling.

Section 137. Section 80-5-603, which is renumbered from Section 78A-6-117.5 is renumbered and amended to read:

[~~78A-6-117.5~~]. 80-5-603. Assessment of an ungovernable or runaway child for services.

[~~(1) Notwithstanding Subsections 78A-6-117(2)(c) and (d), the court may not vest custody in the Division of Child and Family Services except pursuant to Title 78A, Chapter 6, Part 3, Abuse, Neglect, and Dependency Proceedings.~~]

[~~(2) Notwithstanding Section 78A-6-117, a court may not place a minor on a ranch, forestry camp, or other residential work program for care or work.~~]

[~~(3) Notwithstanding Section 78A-6-117, a court may not commit a minor to the temporary custody of the Division of Juvenile Justice Services for residential observation and evaluation or residential observation and assessment.~~]

[~~(4) (a) If the court~~]

(1) If a juvenile court finds that a child is ungovernable or a runaway, [~~as those terms are defined in Section 62A-7-101,~~] or that the family is in crisis, the [~~court may order the Division of Juvenile Justice Services~~] juvenile court may order the division to conduct an assessment to determine [~~if provision of~~] whether it would be appropriate for the division to provide prevention and early intervention youth services, as described in Section [~~62A-7-601, is appropriate~~] 80-5-401, to the child.

[~~(b)~~] (2) If the [~~Division of Juvenile Justice Services~~] division determines that provision of prevention and early intervention youth services is appropriate under Subsection [~~(4)(a), the Division of Juvenile Justice Services~~] (1), the division shall provide the services to the ungovernable or runaway child.

Section 138. Section 80-5-701, which is renumbered from Section 62A-7-501 is renumbered and amended to read:

Part 7. Youth Parole Authority

[~~62A-7-501~~]. 80-5-701. Youth Parole Authority -- Creation -- Members.

(1) There is created the Youth Parole Authority within the division.

(2) (a) The authority is composed of 10 part-time members and five pro tempore members who are residents of this state.

(b) No more than three pro tempore members may serve on the authority at any one time.

[~~(b) Throughout this section, the term "member" refers to both part-time and pro tempore members of the Youth Parole Authority.~~]

[~~(3) (a) Except as required by Subsection (3)(b), members shall be appointed to four-year terms by the governor with the advice and consent of the Senate.~~]

[~~(b) The governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of authority members are staggered so that approximately half of the authority is appointed every two years.~~]

[~~(4) Each member shall have training or experience in social work, law, juvenile or criminal justice, or related behavioral sciences.~~]

[~~(5) When a vacancy occurs in the membership for any reason, the replacement member shall be appointed for the unexpired term.~~]

[~~(6) During the tenure of the member's appointment, a member may not:~~]

[~~(a) be an employee of the department, other than in the member's capacity as a member of the authority;~~]

[~~(b) hold any public office;~~]

[~~(c) hold any position in the state's juvenile justice system; or~~]

[~~(d) be an employee, officer, advisor, policy board member, or subcontractor of any juvenile justice agency or its contractor.~~]

[~~(7) In extraordinary circumstances or when a regular member is absent or otherwise unavailable, the chair may assign a pro tempore member to act in the absent member's place.~~]

[~~(8) A member may not receive compensation or benefits for the member's service but may receive per diem and travel expenses in accordance with:~~]

[~~(a) Section 63A-3-106;~~]

[~~(b) Section 63A-3-107; and~~]

[~~(c) rules made by the Division of Finance in accordance with Sections 63A-3-106 and 63A-3-107.~~]

[~~(9) The authority shall determine appropriate parole dates for juvenile offenders in accordance with Section 62A-7-404.5.~~]

[~~(10) A juvenile offender may be paroled to the juvenile offender's home, to an independent living program contracted or operated by the division, to an approved independent living setting, or to other appropriate residences of qualifying relatives or guardians, but shall remain on parole until parole is terminated by the authority in accordance with Section 62A-7-404.5.~~]

[~~(11) The division's case management staff shall implement parole release plans and shall supervise juvenile offenders while on parole.~~]

[~~(12) The division shall permit the authority to have reasonable access to juvenile offenders in secure facilities and shall furnish all pertinent data requested by the authority in matters of parole, revocation, and termination.~~]

Section 139. Section 80-5-702 is enacted to read:

80-5-702. Member qualifications -- Expenses.

(1) As used in this section, "member" means both a part-time member and a pro tempore member of the authority.

(2) (a) Except as required by Subsection (2)(b), the governor, with the advice and consent of the Senate, shall appoint members to four-year terms.

(b) The governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of members are staggered so that approximately half of the authority is appointed every two years.

(3) A member shall have training or experience in social work, law, juvenile or criminal justice, or related behavioral sciences.

(4) When a vacancy occurs in the membership for any reason, the replacement member shall be appointed for the unexpired term.

(5) During the tenure of the member's appointment, a member may not:

(a) be an employee of the department, other than in the member's capacity as a member of the authority;

(b) hold any public office;

(c) hold any position in the state's juvenile justice system; or

(d) be an employee, officer, advisor, policy board member, or subcontractor of any juvenile justice agency or the juvenile justice agency's contractor.

(6) In extraordinary circumstances or when a regular member is absent or otherwise unavailable, the chair may assign a pro tempore member to act in the absent member's place.

(7) A member may not receive compensation or benefits for the member's service but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

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

(c) rules made by the Division of Finance in accordance with Sections 63A-3-106 and 63A-3-107.

Section 140. Section 80-5-703 is enacted to read:

80-5-703. Authority responsibilities -- Administrative officer of the authority.

(1) The authority is responsible for:

(a) the release of a juvenile offender from secure care; and

(b) the rescission, revocation, and termination of parole for a juvenile offender.

(2) In accordance with Chapter 6, Part 8, Commitment and Parole, the authority shall:

(a) determine when and under what conditions a juvenile offender in secure care is eligible for parole;

(b) establish policies and procedures regarding:

(i) the authority's governance, meetings, and hearings;

(ii) the conduct of proceedings before the authority;

(iii) the parole of a juvenile offender; and

(iv) for which parole for a juvenile offender may be granted, rescinded, revoked, modified, and terminated; and

(c) determine appropriate parole dates for juvenile offenders.

(3) The division's case management staff shall:

(a) implement plans for parole; and

(b) supervise a juvenile offender on parole.

(4) The division shall:

(a) permit the authority to have reasonable access to a juvenile offender in secure care; and

(b) furnish all pertinent data requested by the authority in matters of parole, revocation, and termination.

(5) The director shall appoint an administrative officer of the authority.

(6) The administrative officer is responsible for the day-to-day operations of the authority.

(7) The authority and the administrative officer have power to:

(a) issue subpoenas;

(b) compel attendance of witnesses;

(c) compel production of books, papers, and other documents; and

(d) administer oaths and take testimony under oath for the purposes of conducting the hearings.

(8) The administrative officer shall maintain summary records of all hearings and provide written notice to the juvenile offender of a decision and the reason for the decision.

Section 141. Section 80-6-101 is enacted to read:

CHAPTER 6. JUVENILE JUSTICE

80-6-101. Title.

This chapter is known as "Juvenile Justice."

Section 142. Section 80-6-102 is enacted to read:

80-6-102. Definitions.

As used in this chapter:

(1) "Aftercare services" means the same as the term "aftercare" is defined in 45 C.F.R. 1351.1.

(2) "Authority" means the Youth Parole Authority created in Section 80-5-701.

(3) "Commission" means the State Commission on Criminal and Juvenile Justice created in Section 63M-7-201.

(4) "Compensatory service" means service or unpaid work performed by a minor in lieu of the payment of a fine, fee, or restitution.

(5) "Control" means the same as that term is defined in Section 80-5-102.

(6) "Detention hearing" means a proceeding under Section 80-6-207 to determine whether a minor should remain in detention.

(7) "Detention guidelines" means standards, established by the division in accordance with Subsection 80-5-202(1)(a), for the admission of a minor to detention.

(8) "Discharge" means a written order of the authority that removes a juvenile offender from the authority's jurisdiction.

(9) "Division" means the Division of Juvenile Justice Services created in Section 80-5-103.

(10) "Formal referral" means a written report from a peace officer, or other person, informing the juvenile court that:

(a) an offense committed by a minor is, or appears to be, within the juvenile court's jurisdiction; and

(b) the minor's case must be reviewed by a juvenile probation officer or a prosecuting attorney.

(11) "Material loss" means an uninsured:

(a) property loss;

(b) out-of-pocket monetary loss for property that is stolen, damaged, or destroyed;

(c) lost wages because of an injury, time spent as a witness, or time spent assisting the police or prosecution; or

(d) medical expense.

(12) "Referral" means a formal referral, a referral to the juvenile court under Section 53G-8-211, or a citation issued to a minor for which the juvenile court receives notice under Section 80-6-302.

(13) "Rescission" means a written order of the authority that rescinds a date for parole.

(14) "Restitution" means money or services that the juvenile court, or a juvenile probation officer if the minor agrees to a nonjudicial adjustment, orders a minor to pay or render to a victim for the minor's wrongful act or conduct.

(15) "Revocation" means a written order of the authority that, after a hearing and determination under Section 80-6-806:

(a) terminates supervision of a juvenile offender's parole; and

(b) directs a juvenile offender to return to secure care.

(16) "Temporary custody" means the control and responsibility of a minor, before an adjudication under Section 80-6-701, until the minor is released to a parent, guardian, responsible adult, or to an appropriate agency.

(17) "Termination" means a written order of the authority that terminates a juvenile offender from parole.

(18) (a) "Victim" means a person that the juvenile court determines suffered a material loss as a result of a minor's wrongful act or conduct.

(b) "Victim" includes:

(i) any person directly harmed by the minor's wrongful act or conduct in the course of the scheme, conspiracy, or pattern if the minor's wrongful act or conduct is an offense that involves an element of a scheme, a conspiracy, or a pattern of criminal activity; and

(ii) the Utah Office for Victims of Crime.

(19) "Violent felony" means the same as that term is defined in Section 76-3-203.5.

(20) "Work program" means the same as that term is defined in Section 80-5-102.

(21) "Youth services" means the same as that term is defined in Section 80-5-102.

Section 143. Section 80-6-103 is enacted to read:

80-6-103. Notification to a school -- Civil and criminal liability.

(1) As used in this section:

(a) "School official" means:

(i) the school superintendent of the district in which the minor resides or attends school; or

(ii) if there is no school superintendent for the school, the principal of the school where the minor attends.

(b) "Transferee school official" means:

(i) the school superintendent of the district in which the minor resides or attends school if the minor is admitted to home detention; or

(ii) if there is no school superintendent for the school, the principal of the school where the minor attends if the minor is admitted to home detention.

(2) A notification under this section is provided for a minor's supervision and student safety.

(3) (a) (i) If a minor is taken into temporary custody under Section 80-6-201, or admitted to a detention facility under Section 80-6-205, for a violent felony, or an offense in violation of Title 76, Chapter 10, Part 5, Weapons, the peace officer, or other person who has taken the minor into temporary custody, shall notify a school official as soon as practicable or as established under Subsection 53G-8-402(2).

(ii) A notification under this section shall only disclose:

(A) the name of the minor;

(B) the offense for which the minor was taken into temporary custody or admitted to detention; and

(C) if available, the name of the victim if the victim resides in the same school district as the minor or attends the same school as the minor.

(b) After a detention hearing for a minor who is alleged to have committed a violent felony, or an offense in violation of Title 76, Chapter 10, Part 5, Weapons, the juvenile court shall order that a school official, or a transferee school official, and the appropriate local law enforcement agency are notified of the juvenile court's decision, including any disposition, order, or no-contact order.

(4) If a designated staff member of a detention facility admits a minor to home detention under Section 80-6-205 and notifies the juvenile court of that admission, the juvenile court shall order that a school official, or a transferee school official, and the appropriate local law enforcement agency are notified that the minor has been admitted to home detention.

(5) (a) If the juvenile court adjudicates a minor for an offense of violence or an offense in violation of Title 76, Chapter 10, Part 5, Weapons, the court shall order that a school official, or a transferee school official, is notified of the adjudication.

(b) A notification under Subsection (5)(a) shall be given to a school official, or a transferee school official, within three days after the day on which the minor is adjudicated.

(c) A notification under this section shall include:

(i) the name of the minor;

(ii) the offense for which the minor was adjudicated; and

(iii) if available, the name of the victim if the victim:

(A) resides in the same school district as the minor; or

(B) attends the same school as the minor.

(6) If the juvenile court orders probation under Section 80-6-702, the juvenile court may order that the appropriate local law enforcement agency and the school official are notified of the juvenile court's order for probation.

(7) (a) An employee of the local law enforcement agency, or the school the minor attends, who discloses a notification under this section is not:

(i) civilly liable except when the disclosure constitutes fraud or willful misconduct as provided in Section 63G-7-202; and

(ii) civilly or criminally liable except when the disclosure constitutes a knowing violation of Section 63G-2-801.

(b) An employee of a governmental agency is immune from any criminal liability for failing to provide the information required by this section, unless the employee fails to act due to malice, gross negligence, or deliberate indifference to the consequences.

(8) (a) A notification under this section shall be classified as a protected record under Section 63G-2-305.

(b) All other records of disclosures under this section are governed by Title 63G, Chapter 2, Government Records Access and Management Act, and the Family Educational Rights and Privacy Act, 20 U.S.C. Sec. 1232g.

Section 144. Section 80-6-201, which is renumbered from Section 78A-6-112 is renumbered and amended to read:

Part 2. Custody and Detention

[~~78A-6-112~~]. 80-6-201. Minor taken into temporary custody by peace officer, private citizen, or probation officer -- Grounds -- Protective custody.

(1) A minor may be taken into temporary custody by a peace officer without a court order, or a warrant under Section 80-6-202, if the peace officer has probable cause to believe that:

(a) the minor has committed an offense under municipal, state, or federal law;

[~~(b) the minor has committed an act which if committed by an adult would be a felony;~~]

[~~(c) the minor:~~]

[~~(i) (A) is seriously endangered in the minor's surroundings; or~~]

[~~(B) seriously endangers others; and~~]

[~~(ii) immediate removal appears to be necessary for the minor's protection or the protection of others;~~]

(b) the minor seriously endangers the minor's own welfare or the welfare of others and taking the minor into temporary custody appears to be necessary for the protection of the minor or others;

[~~(d)~~] (c) the minor has run away or escaped from the minor's parents, guardian, or custodian; or

[~~(e) that~~] (d) the minor is:

(i) subject to the state's compulsory education law; and

(ii) subject to Section 53G-6-208, absent from school without legitimate or valid excuse[~~, subject to Section 53G-6-208~~].

(2) [~~(a)~~] A private citizen [~~or a probation officer~~] may take a minor into temporary custody if under the circumstances the private citizen [~~or probation officer~~] could make a citizen's arrest under Section 77-7-3 if the minor was an adult.

[~~(b)~~] (3) A juvenile probation officer may take a minor into temporary custody:

[~~(i)~~] (a) under the same circumstances as a peace officer in Subsection (1); or

[~~(ii)~~] (b) if the juvenile probation officer has a reasonable suspicion that the minor has violated the conditions of the minor's probation[~~;~~].

[~~(iii) if the minor is under the continuing jurisdiction of the juvenile court; or~~]

[~~(iv) in emergency situations in which a peace officer is not immediately available.~~]

[~~(3) (a) (i) If an officer or other person takes a minor into temporary custody under Subsection (1) or (2), the officer or person shall, without unnecessary delay, notify the parents, guardian, or custodian.~~]

[~~(ii) The minor shall then be released to the care of the minor's parent or other responsible adult, unless the minor's immediate welfare or the protection of the community requires the minor's detention.~~]

[~~(b) If the minor is taken into custody under Subsection (1) or (2) or placed in detention under Subsection (4) for a violent felony, as defined in Section 76-3-203.5, or an offense in violation of Title 76, Chapter 10, Part 5, Weapons, the officer or other law enforcement agent taking the minor into custody shall, as soon as practicable or as established under Subsection 53G-8-402(2), notify the school superintendent of the district in which the minor resides or attends school for the purposes of the minor's supervision and student safety.~~]

[~~(i) The notice shall disclose only:~~]

[~~(A) the name of the minor;~~]

[~~(B) the offense for which the minor was taken into custody or detention; and~~]

[~~(C) if available, the name of the victim, if the victim:~~]

[~~(I) resides in the same school district as the minor; or~~]

[~~(II) attends the same school as the minor.~~]

[~~(ii) The notice shall be classified as a protected record under Section 63G-2-305.~~]

[~~(iii) All other records disclosures are governed by Title 63G, Chapter 2, Government Records Access and Management Act, and the federal Family Educational Rights and Privacy Act.~~]

[~~(c) Employees of a governmental agency are immune from any criminal liability for providing or failing to provide the information required by this section unless the person acts or fails to act due to malice, gross negligence, or deliberate indifference to the consequences.~~]

[~~(d) Before the minor is released, the parent or other person to whom the minor is released shall be required to sign a written promise on forms supplied by the court to bring the minor to the court at a time set or to be set by the court.~~]

[~~(4) (a) A child may not be held in temporary custody by law enforcement any longer than is reasonably necessary to obtain the child's name, age, residence, and other necessary information and to contact the child's parents, guardian, or custodian.~~]

[~~(b) If the minor is not released under Subsection (3), the minor shall be taken to a place of detention or shelter without unnecessary delay.~~]

[~~(5) (a) The person who takes a minor to a detention or shelter facility shall promptly file with the detention or shelter facility a written report on a form provided by the division stating:~~]

[~~(i) the details of the presently alleged offense;~~]

[~~(ii) the facts that bring the minor within the jurisdiction of the juvenile court;~~]

[~~(iii) the reason the minor was not released by law enforcement; and~~]

[~~(iv) the eligibility of the minor under the division guidelines for detention admissions established by the Division of Juvenile Justice Services under Section 62A-7-202 if the minor is under consideration for detention.~~]

[~~(b) (i) The designated facility staff person shall immediately review the form and determine, based on the guidelines for detention admissions established by the Division of Juvenile Justice Services under Section 62A-7-202, the results of the detention risk assessment, and the criteria for detention eligibility under Section 78A-6-113, whether to:~~]

[~~(A) admit the minor to secure detention;~~]

[~~(B) admit the minor to home detention;~~]

[~~(C) place the minor in another alternative to detention; or~~]

[~~(D) return the minor home upon written promise to bring the minor to the court at a time set, or without restriction.~~]

[~~(ii) If the designated facility staff person determines to admit the minor to home detention, that staff person shall notify the juvenile court of that determination. The court shall order that notice be provided to the designated persons in the local law enforcement agency and the school or transferee school, if applicable, which the minor attends of the home detention. The designated persons may receive the information for purposes of the minor's supervision and student safety.~~]

[~~(iii) Any employee of the local law enforcement agency and the school that the minor attends who discloses the notification of home detention is not:~~]

[~~(A) civilly liable except when disclosure constitutes fraud or willful misconduct as provided in Section 63G-7-202; and~~]

[~~(B) civilly or criminally liable except when disclosure constitutes a knowing violation of Section 63G-2-801.~~]

[~~(iv) The person who takes a minor to a detention facility or the designated facility staff person may release a minor to a less restrictive alternative even if the minor is eligible for secure detention under this Subsection (5).~~]

[~~(c) A minor may not be admitted to detention unless:~~]

[~~(i) the minor is detainable based on the guidelines; or~~]

[~~(ii) the minor has been brought to detention in accordance with:~~]

[~~(A) a judicial order; or~~]

[~~(B) a division warrant in accordance with Section 62A-7-504.~~]

[~~(d) If a minor taken to detention does not qualify for admission under the guidelines established by the division under Section 62A-7-104 or the eligibility criteria under Subsection (4) and this Subsection (5), detention staff shall arrange an appropriate alternative.~~]

[~~(e) If a minor is taken into custody and admitted to a secure detention or shelter facility, facility staff shall:~~]

[~~(i) immediately notify the minor's parents, guardian, or custodian; and~~]

[~~(ii) promptly notify the court of the placement.~~]

[~~(f) If the minor is admitted to a secure detention or shelter facility outside the county of the minor's residence and it is determined in the hearing held under Subsection 78A-6-113(3) that detention shall continue, the judge or commissioner shall direct the sheriff of the county of the minor's residence to transport the minor to a detention or shelter facility as provided in this section.~~]

[~~(6) An individual may be taken into custody by a peace officer without a court order:~~]

[~~(a) if the individual is in apparent violation of a protective order; or~~]

[~~(b) if there is reason to believe that a child is being abused by the individual and any of the situations described in Section 77-7-2 exist.~~]

(4) (a) Nothing in this part shall be construed to prevent a peace officer or the Division of Child and Family Services from taking a minor into protective custody under Section 62A-4a-202.1 or 80-3-204.

(b) If a peace officer or the Division of Child and Family Services takes a minor into protective custody, the provisions of Chapter 3, Abuse, Neglect, and Dependency Proceedings, and Title 62A, Chapter 4a, Child and Family Services, shall govern.

Section 145. Section 80-6-202, which is renumbered from Section 78A-6-106.5 is renumbered and amended to read:

[~~78A-6-106.5~~]. 80-6-202. Warrants for minors.

(1) (a) Except as otherwise provided in this section, after a petition is filed under Section 80-6-305, or a criminal information under Section 80-6-503, a juvenile court may issue a warrant for a minor to be taken into temporary custody if:

(i) there is probable cause to believe that:

(A) the minor has committed an offense that would be a felony if committed by an adult;

(B) the minor has failed to appear after the minor or the minor's parent, guardian, or custodian has been legally served with a summons in accordance with Section 78A-6-351 and the Utah Rules of Juvenile Procedure;

(C) there is a substantial likelihood the minor will not respond to a summons;

(D) a summons cannot be served and the minor's present whereabouts are unknown;

(E) serving a summons for the minor will be ineffectual;

(F) the minor seriously endangers others or the public and temporary custody appears to be necessary for the protection of others or the public; or

(G) the minor is a runaway or has escaped from the minor's parent, guardian, or custodian; or

(ii) the minor is under the continuing jurisdiction of the juvenile court and there is probable cause to believe that the minor:

(A) has left the custody of the person or agency vested by a court with legal custody, or guardianship of the minor, without permission; or

(B) has violated a court order.

(b) A warrant issued under this Subsection (1) shall be:

(i) filed in accordance with Utah Rules of Juvenile Procedure, Rule 7; and

(ii) executed in accordance with Title 77, Chapter 7, Arrest, by Whom, and How Made.

[~~(1) Except as otherwise provided in this section, a~~]

(2) A juvenile court may not issue a warrant [~~of arrest~~] for a minor to be taken into temporary custody for:

(a) a status offense; or

(b) an infraction.

[~~(2) A~~] (3) (a) For a minor not eligible for a warrant under Subsection (2), a juvenile court may issue a warrant that directs [~~the~~] a minor to be returned home, to the juvenile court, or to a shelter or other nonsecure facility [~~for a minor not eligible for a warrant under Subsection (1). A warrant under this Subsection (2) may not direct placement in a secure facility, including secure detention~~].

(b) A warrant under Subsection (3)(a) may not direct a minor to secure care or secure detention.

[~~(3)~~] (4) Subsection [~~(1)~~] (2) does not apply to a minor who is under Title 55, Chapter 12, Interstate Compact for Juveniles.

Section 146. Section 80-6-203 is enacted to read:

80-6-203. Temporary custody of a minor -- Notification of a child's parent, guardian, or custodian -- Taking a minor to a detention facility.

(1) (a) Except as provided in Subsection (3), if a peace officer, or other person, takes a child into temporary custody under Section 80-6-201, the peace officer, or other person, may not take the child into temporary custody for any longer than is reasonably necessary to:

(i) obtain the child's name, age, residence, and other necessary information;

(ii) contact the child's parent, guardian, or custodian; and

(iii) release the child to the child's parent, guardian, or custodian.

(b) Before a child is released under Subsection (1)(a), the parent, or other person to whom the child is released, shall sign a written promise on forms supplied by the juvenile court to bring the child to the juvenile court at a time set or to be set by the court.

(2) Except as provided in Subsection (3), if a peace officer, or other person, takes a minor who is 18 years old or older into temporary custody under Section 80-6-201, the peace officer, or other person, may not take the minor into temporary custody for any longer than is reasonably necessary to obtain the minor's name, age, residence, and other necessary information.

(3) (a) A minor may remain in the temporary custody of a peace officer or other person if:

(i) the protection of the community requires the minor's detention; or

(ii) a warrant has been issued for the minor's arrest under Section 80-6-202 or 80-6-806.

(b) If a minor remains in temporary custody, the minor shall be taken to a detention facility without unnecessary delay.

(c) If the peace officer, or other person, takes a minor to a detention facility, the peace officer, or other person, shall promptly file a written report, on a form provided by the division, with the detention facility stating:

(i) the details of the offense that the minor is alleged to have committed;

(ii) the facts that bring the offense within the jurisdiction of the juvenile court;

(iii) the reason that the minor was not released by the peace officer or other person; and

(iv) if the minor is under consideration for detention, the eligibility of the minor for detention under the detention guidelines.

Section 147. Section 80-6-204, which is renumbered from Section 62A-7-201 is renumbered and amended to read:

[~~62A-7-201~~]. 80-6-204. Detention or confinement of a minor -- Restrictions.

(1) Except as provided in Subsection (2) or [~~by another statute~~] this chapter, if a child is apprehended by [~~an~~] a peace officer, or brought before a court for examination under state law, the child may not be confined:

(a) in a jail, lockup, or cell used for an adult who is charged with a crime; or

(b) in [~~a secure facility operated by the division~~] secure care.

(2) (a) The division shall detain a child in accordance with Sections [~~78A-6-703.2, 78A-6-703.5, and 78A-6-703.6~~] 80-6-502, 80-6-504, and 80-6-505 if:

(i) the child is charged with an offense under Section [~~78A-6-703.2 or 78A-6-703.3~~] 80-6-502 or 80-6-503;

(ii) the district court has obtained jurisdiction over the offense because the child is bound over to the district court under Section [~~78A-6-703.5~~] 80-6-504; and

(iii) the juvenile or district court orders the detention of the child.

(b) (i) If a child is detained before a detention hearing [~~under Subsection 78A-6-113(3) or Section 78A-6-703.5~~], or a preliminary hearing under Section 80-6-504 if a criminal information is filed for the child under Section 80-6-503, the child may only be held in certified juvenile detention accommodations in accordance with rules made by the commission.

(ii) The commission's rules shall include rules for acceptable sight and sound separation from adult inmates.

(iii) The commission shall certify that a correctional facility is in compliance with the commission's rules.

(iv) This Subsection (2)(b) does not apply to a child held in [~~an adult detention facility~~] a correctional facility in accordance with Subsection (2)(a).

(3) (a) In an area of low density population, the commission may, by rule, approve a juvenile detention accommodation within a correctional facility that has acceptable sight and sound separation.

(b) An accommodation described in Subsection (3)(a) shall be used only:

(i) for short-term holding of a child who is alleged to have committed an act that would be a criminal offense if committed by an adult; and

(ii) for a maximum confinement period of six hours.

(c) A child may only be held in an accommodation described in Subsection (3)(a) for:

(i) identification;

(ii) notification of a juvenile court official;

(iii) processing; and

(iv) allowance of adequate time for evaluation of needs and circumstances regarding the release or transfer of the child to a shelter or detention facility.

(d) This Subsection (3) does not apply to a child held in a correctional facility in accordance with Subsection (2)(a).

(4) (a) If a child is alleged to have committed an act that would be a criminal offense if committed by an adult, the child may be detained in a holding room in a local law enforcement agency facility:

(i) for a maximum of two hours; and

(ii) (A) for identification or interrogation; or

(B) while awaiting release to a parent or other responsible adult.

(b) A holding room described in Subsection (4)(a) shall be certified by the commission in accordance with the commission's rules.

(c) The commission's rules shall include provisions for constant supervision and for sight and sound separation from adult inmates.

(5) Willful failure to comply with this section is a class B misdemeanor.

(6) (a) The division is responsible for the custody and detention of:

(i) a child who requires [~~detention care~~] detention before trial or examination, [~~or is awaiting assignment to a home or facility, as a dispositional placement under Subsection 78A-6-117(2)(f)(i)~~] or is placed in secure detention after an adjudication under Section 80-6-704; and

(ii) a juvenile offender under Subsection [~~62A-7-504(9)~~] 80-6-806(7).

(b) Subsection (6)(a) does not apply to a child held in a correctional facility in accordance with Subsection (2)(a).

(c) (i) The commission shall provide standards for custody or detention under Subsections (2)(b), (3), and (4).

(ii) The division shall determine and set standards for conditions of care and confinement of children in detention facilities.

(d) (i) The division, or a public or private agency willing to undertake temporary custody or detention upon agreed terms in a contract with the division, shall provide all other custody or detention in suitable premises distinct and separate from the general jails, lockups, or cells used in law enforcement and corrections systems.

(ii) This Subsection (6)(d) does not apply to a child held in a correctional facility in accordance with Subsection (2)(a).

(7) Except as otherwise provided by this chapter, if an individual who is, or appears to be, under 18 years old is received at a correctional facility, the sheriff, warden, or other official, in charge of the correctional facility shall:

(a) immediately notify the juvenile court of the individual; and

(b) make arrangements for the transfer of the individual to a detention facility, unless otherwise ordered by the juvenile court.

Section 148. Section 80-6-205 is enacted to read:

80-6-205. Admission to detention -- Alternative to detention -- Rights of a minor in detention.

(1) If a minor is taken to a detention facility under Section 80-6-203, a designated staff member of the detention facility shall immediately review the form and determine, based on the results of the detention risk assessment tool and Subsection (2), whether to:

(a) admit the minor to secure detention;

(b) admit the minor to home detention;

(c) place the minor in another alternative to detention; or

(d) if the minor is a child, return the minor home upon a written promise by the minor's parent, guardian, or custodian to bring the minor to the juvenile court at a time set or without restriction.

(2) A minor may not be admitted to detention unless:

(a) the minor is detainable based on the detention guidelines; or

(b) the minor has been brought to detention in accordance with:

(i) a court order;

(ii) a warrant in accordance with Section 80-6-202; or

(iii) a division warrant in accordance with Section 80-6-806.

(3) If the designated staff member determines to admit a minor to home detention, the staff member shall notify the juvenile court of that determination.

(4) Even if a minor is eligible for secure detention, a peace officer or other person who takes a minor to a detention facility, or the designated staff member of the detention facility, may release a minor to a less restrictive alternative than secure detention.

(5) (a) If a minor taken to a detention facility does not qualify for admission under detention guidelines or this section, a designated staff member of the detention facility shall arrange an appropriate alternative, including admitting a minor to a juvenile receiving center or a shelter facility.

(b) (i) Except as otherwise provided by this section, a minor may not be placed or kept in secure detention while court proceedings are pending.

(ii) A child may not be placed or kept in a shelter facility while court proceedings are pending, unless the child is in protective custody in accordance with Chapter 3, Abuse, Neglect, and Dependency Proceedings.

(6) If a minor is taken into temporary custody and admitted to a secure detention, or another alternative to detention, a designated staff member of the detention facility shall:

(a) immediately notify the minor's parent, guardian, or custodian; and

(b) promptly notify the juvenile court of the placement.

(7) If a minor is admitted to secure detention, or another alternative to detention, outside the county of the minor's residence and a juvenile court determines, in a detention hearing, that secure detention, or an alternative to detention, of the minor shall continue, the juvenile court shall direct the sheriff of the county of the minor's residence to transport the minor to secure detention or another alternative to detention in that county.

(8) (a) Subject to Subsection (8)(b), a minor admitted to detention has a right to:

(i) phone the minor's parent, guardian, or attorney immediately after the minor is admitted to detention; and

(ii) confer in private, at any time, with an attorney, cleric, parent, guardian, or custodian.

(b) The division may:

(i) establish a schedule for which a minor in detention may visit or phone a person described in Subsection (8)(a);

(ii) allow a minor in detention to visit or call persons described in Subsection (8)(a) in special circumstances;

(iii) limit the number and length of calls and visits for a minor in detention to persons described in Subsection (8)(a) on account of scheduling, facility, or personnel constraints; or

(iv) limit the minor's rights under Subsection (8)(a) if a compelling reason exists to limit the minor's rights.

Section 149. Section 80-6-206 is enacted to read:

80-6-206. Interview of a child in detention.

(1) If a child is admitted to a detention facility, a juvenile probation officer, or a staff member at the detention facility, may interview the child regarding an offense the child is alleged to have committed without the child's parent, guardian, or custodian present.

(2) Except as provided in Subsection (1), a person may not interview a child, who is under 14 years old and admitted to a detention facility, regarding an offense the child is alleged to have committed, without the child's parent, guardian, or custodian present at the interview, unless:

(a) the parent, guardian, or custodian has given written permission for the interview to be held outside the presence of the parent, guardian, or custodian;

(b) the parent, guardian, or custodian has been advised of the child's rights under Section 80-6-603 and has knowingly and voluntarily waived the child's right under Subsection 80-6-603(9); and

(c) the child has been advised of the child's rights under Section 80-6-603 and has knowingly and voluntarily waived the child's right under Subsection 80-6-603(9).

(3) A person may not interview a minor who is 14 years old or older and admitted to a detention facility regarding an offense the minor is alleged to have committed without the consent of the minor or the minor's parent, guardian, or custodian, unless:

(a) the minor has been advised of the minor's rights under Section 80-6-603; and

(b) the minor has knowingly and voluntarily waived the minor's right under Subsection 80-6-603(9).

(4) If a child's parent, guardian, or custodian is not available to consent to an interview of a child in a detention facility, the consent of the juvenile court shall be obtained before interviewing the child.

(5) If a guardian ad litem is appointed for a minor, the division may not consent to the interview of the minor by a law enforcement officer, unless consent for the interview is obtained from the minor's guardian ad litem.

Section 150. Section 80-6-207, which is renumbered from Section 78A-6-113 is renumbered and amended to read:

[~~78A-6-113~~]. 80-6-207. Detention hearings -- Period of detention -- Bail.

[~~(1) (a) A minor may not be placed or kept in a secure detention facility pending court proceedings, except in accordance with Section 78A-6-112.~~]

[~~(b) A child may not be placed or kept in a shelter facility pending court proceedings unless it is unsafe to leave the child with the child's parents, guardian, or custodian.~~]

[~~(2)~~] (1) (a) After admission of a child to a detention facility [~~pursuant to Section 78A-6-112~~] under Section 80-6-205 and immediate investigation by [~~an authorized officer of the court~~] a juvenile probation officer, the [~~judge or the officer~~] juvenile court or the juvenile probation officer shall order the release of the child to the child's parent, guardian, or custodian if the [~~judge or~~] juvenile court or the juvenile probation officer finds that the child can be safely returned to the parent's, the guardian's, or the custodian's care, [~~either~~] upon written promise to bring the child to the juvenile court at a time set or without restriction.

(b) If a child's parent, guardian, or custodian fails to retrieve the child from a detention facility within 24 hours after notification of release, the parent, guardian, or custodian is responsible for the cost of care for the time the child remains in the detention facility in accordance with Section 78A-6-356.

(c) The detention facility shall determine the cost of care.

(d) Any money collected under this Subsection [~~(2)~~] (1) shall be retained by the [~~Division of Juvenile Justice Services~~] division to recover the cost of care for the time the child remains in the facility.

[~~(3)~~] (2) (a) When a child is [~~detained in~~] admitted to a detention [~~or shelter~~] facility, the [~~parents or~~] child's parent, guardian, or custodian shall be informed by the [~~person~~] individual in charge of the detention facility that the parent's [~~or~~], the guardian's, or the custodian's child has the right to a prompt hearing in a juvenile court to determine whether the child is to be further detained or released.

(b) [~~When a minor is detained in~~] If a minor is admitted to a detention facility, the minor shall be informed by the person in charge of the facility that the minor has the right to a prompt hearing in a juvenile court to determine whether the minor is to be further detained or released.

[~~(c) Detention hearings shall be held by the judge or by a commissioner.~~]

[~~(d)~~] (3) (a) The juvenile court may, at any time, order the release of the minor, from detention, regardless of whether a detention hearing is held or not.

[~~(e)~~] (b) If a child is released, and the child remains in the detention facility, because the [~~parents~~] child's parents, guardian, or custodian fails to retrieve the child, the [~~parents~~] parent, guardian, or custodian shall be responsible for the cost of care as provided in Subsections [~~(2)~~] (1)(b), (c), and (d) in accordance with Section 78A-6-356.

(4) (a) As used in this Subsection (4), "arrest" means being apprehended, detained, taken into temporary custody under Section 80-6-201 or 80-6-202, held for investigation, or restrained by a peace officer or other person due to an accusation or suspicion that the minor committed an offense.

(b) A minor may not be held in a detention facility longer than 24 hours, unless a juvenile court determines that there is probable cause for the minor's arrest.

(5) (a) A detention hearing under this section shall be held by a juvenile court judge or commissioner.

(b) [~~The court~~] A juvenile court shall hold a detention hearing within 48 hours of the minor's [~~arrest~~] admission to a detention facility, excluding weekends and holidays, to determine whether the minor should:

(i) remain in detention in accordance with Subsection [~~(4)(f)~~] (8);

(ii) be released to a parent or guardian; or

(iii) be placed in any other party's custody as authorized by statute.

[~~(c)~~] (6) The probable cause determination under Subsection (4)[~~(a)~~] and the detention hearing under Subsection [~~(4)(b)~~] (5) may occur at the same time if the probable cause determination and the detention hearing occur within the time [~~frames~~] frame under Subsection (4)[~~(a) and (4)(b)~~].

[~~(d) A child may not be held in a shelter facility longer than 48 hours before a shelter hearing, excluding weekends and holidays, unless a court order for extended shelter has been entered by the court after notice to all parties described in Section 78A-6-306.~~]

[~~(e) (i) A hearing for detention or shelter~~]

(7) (a) A detention hearing may not be waived.

[~~(ii) Detention staff~~]

(b) Staff at the detention facility shall provide the juvenile court with all information received from the individual who brought the minor to the detention facility.

[~~(f) The judge or commissioner~~]

(8) (a) The juvenile court may only order a minor to be held in the detention facility or be placed in another appropriate facility, subject to further order of the court, if the court finds at a detention hearing that:

[~~(i)~~] (i) releasing the minor to the minor's parent, guardian, or custodian presents an unreasonable risk to public safety;

[~~(ii)~~] (ii) less restrictive nonresidential alternatives to detention have been considered and, where appropriate, attempted; and

[~~(iii)~~] (iii) the minor is eligible for detention under the [~~division guidelines for detention admissions established by the Division of Juvenile Justice Services, under Section 62A-7-202 and under Section 78A-6-112~~] detention guidelines and Section 80-6-205.

(b) The juvenile court may not vest custody of a minor admitted to detention in the Division of Child

and Family Services, except as provided in Chapter 3, Abuse, Neglect, and Dependency Proceedings.

[~~(g) (i)~~] (9) (a) After a detention hearing has been held, only the juvenile court may release a minor from detention.

(b) If a minor remains in a detention facility, periodic reviews shall be held in accordance with the Utah Rules of Juvenile Procedure to ensure that continued detention of the minor is necessary.

[~~(ii) After a detention hearing for a violent felony, as defined in Section 76-3-203.5, or an offense in violation of Title 76, Chapter 10, Part 5, Weapons, the court shall direct that notice of the court's decision, including any disposition, order, or no contact orders, be provided to designated persons in the appropriate local law enforcement agency and the district superintendent or the school or transferee school, if applicable, that the minor attends. The designated persons may receive the information for purposes of the minor's supervision and student safety.~~]

[~~(iii) Any employee of the local law enforcement agency, the school district, and the school that the minor attends who discloses the court's order of probation is not:~~]

[~~(A) civilly liable except when the disclosure constitutes fraud or willful misconduct as provided in Section 63G-7-202; and~~]

[~~(B) civilly or criminally liable except when disclosure constitutes a knowing violation of Section 63G-2-801.~~]

[~~(5) A minor may not be held in a detention facility, following a dispositional order of the court for nonsecure substitute care as defined in Section 62A-4a-101, or for community-based placement under Section 62A-7-101.~~]

[~~(6) (a) Except as otherwise provided in this section, a minor may not be held in a detention facility following a disposition order of the court for longer than 72 hours, excluding weekends and holidays.~~]

[~~(b) The period of detention may be extended by the court for a cumulative total of seven calendar days if:~~]

[~~(i) the Division of Juvenile Justice Services, or another agency responsible for placement, files a written petition with the court requesting the extension and setting forth good cause; and~~]

[~~(ii) the court enters a written finding that it is in the best interests of both the minor and the community to extend the period of detention.~~]

[~~(c) The court may extend the period of detention beyond the seven calendar days if the court finds by clear and convincing evidence that:~~]

[~~(i) the Division of Juvenile Justice Services or another agency responsible for placement does not have space for the minor; and~~]

[~~(ii) the safety of the minor and community requires an extension of the period of detention.~~]

[~~(d) The Division of Juvenile Justice Services shall report to the court every 48 hours, excluding weekends and holidays, regarding whether the Division of Juvenile Justice Services or another agency responsible for placement has space for the minor.~~]

[~~(7) The agency requesting an extension shall promptly notify the detention facility that a written petition has been filed.~~]

[~~(8) The court shall promptly notify the detention facility regarding the court's initial disposition and any ruling on a petition for an extension, whether granted or denied.~~]

[~~(9) (a) (i) A child who is younger than 16 years old may not be held in a jail, lockup, or other place for adult detention, except as provided by Section 62A-7-201, 78A-6-703.5, or 78A-6-703.6.~~]

[~~(ii) Section 62A-7-201 regarding confinement facilities applies to this Subsection (9).~~]

[~~(b) (i) A child who is 16 years old or older and whose conduct or condition endangers the safety or welfare of others in the detention facility for children may, by court order that specifies the reasons, be detained in another place of confinement considered appropriate by the court, including a jail or other place of confinement for adults.~~]

[~~(ii) A secure facility is not an appropriate place of confinement for detention purposes under this section.~~]

[~~(10) A sheriff, warden, or other official in charge of a jail or other facility for the detention of adult offenders or individuals charged with an offense shall immediately notify the juvenile court when an individual who is or appears to be under 18 years old is received at the facility and shall make arrangements for the transfer of the individual to a detention facility, unless otherwise ordered by the juvenile court.~~]

[~~(11)~~] (10) This section does not apply to a minor who is brought to [~~the adult facility~~] a correctional facility in accordance with Section [~~78A-6-703.2, 78A-6-703.5, or 78A-6-703.6~~] 80-6-502, 80-6-504, or 80-6-505.

[~~(12) A provision of law regarding bail is not applicable to minors detained or taken into custody under this chapter, except that bail may be allowed:~~]

[~~(a) if a minor who need not be detained lives outside this state; or~~]

[~~(b) when a minor who need not be detained comes within one of the classes in Section 78A-6-1101.~~]

[~~(13) Section 76-8-418 is applicable to a child who willfully and intentionally commits an act against a jail or other place of confinement, including a Division of Juvenile Justice Services detention, shelter, or secure confinement facility that would be a third degree felony if committed by an adult.~~]

(11) Notwithstanding Title 77, Chapter 20, Bail, a minor in a detention facility does not have a right to bail, except that bail is allowed if:

(a) a minor is cited under Section 80-6-302;

(b) a minor is charged in accordance with Section 80-6-502;

(c) a minor is bound over to the district court in accordance with Section 80-6-504;

(d) a minor, who need not be detained, lives outside this state; and

(e) a minor, who need not be detained, is held in contempt under Section 78A-6-353.

Section 151. Section 80-6-301 is enacted to read:

Part 3. Referral and Prosecution

80-6-301. Referral to juvenile court.

(1) Except as provided in Subsections (2) and (3), a peace officer, or a public official of the state, a county, a city, or a town charged with the enforcement of the laws of the state or local jurisdiction, shall file a formal referral with the juvenile court within 10 days after the day on which a minor is taken into temporary custody under Section 80-6-201.

(2) If a minor is taken to a detention facility, a peace officer or a public official of the state, a county, a city, or a town charged with the enforcement of laws of the state or local jurisdiction shall file the formal referral with the juvenile court within 24 hours after the time in which the minor is taken into temporary custody under Section 80-6-201.

(3) A peace officer, public official, school district, or school may only refer a minor to the juvenile court under Section 53G-8-211 for an offense that is subject to referral under Section 53G-8-211.

Section 152. Section 80-6-302, which is renumbered from Section 78A-6-603 is renumbered and amended to read:

[~~78A-6-603~~]. 80-6-302. Citation -- Procedure -- Time limits -- Failure to appear.

(1) A petition is not required to commence a proceeding against a minor for an adjudication of an alleged offense if a citation is issued for an offense for which the juvenile court has jurisdiction over and the offense listed in the citation is for:

(a) a violation of a wildlife law;

(b) a violation of a boating law;

(c) a class B or C misdemeanor or an infraction other than a misdemeanor or infraction:

(i) for a traffic violation; or

(ii) designated as a citable offense by general order of the Board of Juvenile Court Judges;

(d) a class B misdemeanor or infraction for a traffic violation where the individual is 15 years old or younger at the time the offense was alleged to have occurred;

(e) an infraction or misdemeanor designated as a citable offense by a general order of the Board of Juvenile Court Judges; or

(f) a violation of Subsection 76-10-105(2).

(2) Except as provided in Subsection (6) and Section [~~53G-8-211~~] 80-6-301, a citation for an offense listed in Subsection (1) shall be submitted to the juvenile court within five days of issuance to a minor.

(3) A copy of the citation shall contain:

(a) the name and address of the juvenile court before which the minor may be required to appear;

(b) the name of the minor cited;

(c) the statute or local ordinance that the minor is alleged to have violated;

(d) a brief description of the offense charged;

(e) the date, time, and location at which the offense is alleged to have occurred;

(f) the date the citation was issued;

(g) the name and badge or identification number of the peace officer or public official who issued the citation;

(h) the name of the arresting person if an arrest was made by a private party and the citation was issued in lieu of taking the [~~arrested~~] minor into temporary custody as provided in Section [~~78A-6-112~~] 80-6-201;

(i) a statement that the minor and [~~parent or legal guardian~~] the minor's parent or guardian are to appear when notified by the juvenile court; and

(j) the signature of the minor and [~~the parent or legal guardian~~] the minor's parent or guardian, if present, agreeing to appear at the juvenile court when notified by the court.

(4) A copy of the citation shall contain space for the following information to be entered if known:

(a) the minor's address;

(b) the minor's date of birth;

(c) the name and address of the child's custodial parent [~~or legal guardian~~] or guardian, if different from the child; and

(d) if there is a victim, the victim's name, address, and an estimate of loss, except that this information shall be removed from the documents the minor receives.

(5) A citation received by the juvenile court beyond the time designated in Subsection (2) shall include a written explanation for the delay.

(6) A minor offense, as defined in Section [~~78A-6-1202~~] 80-6-901, alleged to have been committed by an enrolled child on school property or related to school attendance, may only be referred to the prosecuting attorney or the juvenile court in accordance with Section 53G-8-211.

(7) If a juvenile court receives a citation described in Subsection (1), [~~the court's probation~~

~~department~~] a juvenile probation officer shall make a preliminary inquiry as to whether the minor is eligible for a nonjudicial adjustment in accordance with Subsection [~~78A-6-602(7)~~] 80-6-304(5).

(8) (a) Except as provided in Subsection (8)(b), if a citation is issued to a minor, a prosecuting attorney may commence a proceeding against a minor, without filing a petition, for an adjudication of the offense in the citation only if:

(i) the minor is not eligible for, or does not complete, a nonjudicial adjustment in accordance with Section [~~78A-6-602~~] 80-6-304; and

(ii) the prosecuting attorney conducts an inquiry under Subsection (9).

(b) Except as provided in Subsection [~~78A-6-602.5(2)~~] 80-6-305(2), a prosecuting attorney may not commence a proceeding against an individual for any offense listed in a citation alleged to have occurred before the individual was 12 years old.

(9) The prosecuting attorney shall conduct an inquiry to determine, upon reasonable belief, that:

(a) the charge listed in the citation is supported by probable cause;

(b) admissible evidence will be sufficient to support adjudication beyond a reasonable doubt; and

(c) the decision to charge is in the interests of justice.

(10) If a proceeding is commenced against a minor under Subsection (8)(a), the minor shall appear at the juvenile court at a date and time established by the juvenile court.

(11) If a minor willfully fails to appear before the juvenile court for a proceeding under Subsection (8)(a), the juvenile court may:

(a) find the minor in contempt of court; and

(b) proceed against the minor as provided in Section [~~78A-6-1101~~] 78A-6-353.

(12) [~~When~~] If a proceeding is commenced under this section, bail may be posted and forfeited under Section [~~78A-6-113~~] 80-6-207 with the consent of:

(a) the juvenile court; and

(b) if the minor is a child, the parent or [~~legal~~] guardian of the child cited.

Section 153. Section 80-6-303, which is renumbered from Section 78A-6-601 is renumbered and amended to read:

[~~78A-6-601~~]. 80-6-303. Criminal proceedings involving minors -- Transfer to juvenile court -- Exception.

(1) (a) If while a criminal or quasi-criminal proceeding is pending, a district court or justice court determines that an individual being charged is under 21 years old and was younger than 18 years old at the time of committing the alleged offense, the district court or justice court shall transfer the case to the juvenile court with all the papers, documents, and transcripts of any testimony.

(b) (i) Notwithstanding Subsection (1)(a), a district court may not transfer an offense that is:

(A) filed in the district court in accordance with Section [~~78A-6-703.2~~] 80-6-502; or

(B) transferred to the district court in accordance with Section [~~78A-6-703.5~~] 80-6-504.

(ii) Notwithstanding Subsection (1)(a), a justice court may decline to transfer an offense for which the justice court has original jurisdiction under Subsection 78A-7-106(2).

(2) (a) Except as provided in Subsection (2)(b), the district court or justice court making the transfer shall:

(i) order the individual to be taken immediately to the juvenile court or to a place of detention designated by the juvenile court; or

(ii) release the individual to the custody of the individual's parent or guardian or other person legally responsible for the individual, to be brought before the juvenile court at a time designated by the juvenile court.

(b) If the alleged offense under Subsection (1) occurred before the individual was 12 years old:

(i) the district court or justice court making the transfer shall release the individual to the custody of the individual's parent or guardian, or other person legally responsible for the individual;

(ii) the juvenile court shall treat the transfer as a referral under [~~Subsection 78A-6-602(3)~~] Section 80-6-301; and

(iii) [~~the juvenile court's probation department~~] a juvenile probation officer shall make a preliminary inquiry to determine whether the individual is eligible for a nonjudicial adjustment in accordance with Section [~~78A-6-602~~] 80-6-304.

(c) If the case is transferred to the juvenile court under this section, the juvenile court shall then proceed in accordance with this chapter.

(3) A district court or justice court does not have to transfer a case under Subsection (1) if the district court or justice court would have had jurisdiction over the case at the time the individual committed the offense in accordance with Subsections 78A-5-102(9) and 78A-7-106(2).

Section 154. Section 80-6-304, which is renumbered from Section 78A-6-602 is renumbered and amended to read:

[~~78A-6-602~~]. 80-6-304. Nonjudicial adjustments.

[~~(1) As used in this section, "referral" means a formal referral, a referral to the court under Section 53G-8-211 or Subsection 78A-6-601(2)(b), or a citation issued to a minor for which the court receives notice under Section 78A-6-603.~~]

[~~(2) (a) A peace officer, or a public official of the state, a county, city, or town charged with the~~

~~enforcement of the laws of the state or local jurisdiction, shall file a formal referral with the court within 10 days of a minor's arrest.~~]

[~~(b) If the arrested minor is taken to a detention facility, the peace officer, or public official, shall file the formal referral with the court within 24 hours.~~]

[~~(c) A peace officer, public official, school district, or school may only make a referral to the court under Section 53G-8-211 for an offense that is subject to referral under Section 53G-8-211.~~]

[~~(3)~~] (1) If the juvenile court receives a referral for [~~a minor who~~] an offense committed by a minor that is, or appears to be, within the juvenile court's jurisdiction, [~~the court's probation department~~] a juvenile probation officer shall make a preliminary inquiry in accordance with Subsections [~~(5), (6), and (7)~~] (3), (4), and (5) to determine whether the minor is eligible to enter into a nonjudicial adjustment.

[~~(4)~~] (2) If a minor is referred to the juvenile court for multiple offenses arising from a single criminal episode, and the minor is eligible under this section for a nonjudicial adjustment, [~~the court's probation department~~] the juvenile probation officer shall offer the minor one nonjudicial adjustment for all offenses arising from the single criminal episode.

[~~(5)~~] (3) (a) [~~The court's probation department~~] The juvenile probation officer may:

(i) conduct a validated risk and needs assessment; and

(ii) request that a prosecuting attorney review a referral in accordance with Subsection [~~(11)~~] (9) if:

(A) the results of the validated risk and needs assessment indicate the minor is high risk; or

(B) the results of the validated risk and needs assessment indicate the minor is moderate risk and the referral is for a class A misdemeanor violation under Title 76, Chapter 5, Offenses Against the Person, or Title 76, Chapter 9, Part 7, Miscellaneous Provisions.

(b) If a minor violates Section 41-6a-502, the minor shall:

(i) undergo a drug and alcohol screening;

(ii) if found appropriate by the screening, participate in an assessment; and

(iii) if warranted by the screening and assessment, follow the recommendations of the assessment.

[~~(6)~~] (4) Except as provided in Subsection [~~(7)~~] (5)(b), the [~~probation department~~] juvenile probation officer shall request that a prosecuting attorney review a referral in accordance with Subsection [~~(11)~~] (9) if:

(a) the referral involves:

(i) a felony offense; or

(ii) a violation of:

(A) Section 41-6a-502, driving under the influence;

(B) Section 76-5-112, reckless endangerment creating a substantial risk of death or serious bodily injury;

(C) Section 76-5-206, negligent homicide;

(D) Section 76-9-702.1, sexual battery;

(E) Section 76-10-505.5, possession of a dangerous weapon, firearm, or short barreled shotgun on or about school premises; or

(F) Section 76-10-509, possession of a dangerous weapon by minor, but only if the dangerous weapon is a firearm;

(b) the minor has a current suspended order for custody under [~~Subsection 78A-6-117(5)(a)~~] Section 80-6-711; or

(c) the referral involves an offense alleged to have occurred before an individual was 12 years old and the offense is a felony violation of:

(i) Section 76-5-103, aggravated assault resulting in serious bodily injury to another;

(ii) Section 76-5-202, aggravated murder or attempted aggravated murder;

(iii) Section 76-5-203, murder or attempted murder;

(iv) Section 76-5-302, aggravated kidnapping;

(v) Section 76-5-405, aggravated sexual assault;

(vi) Section 76-6-103, aggravated arson;

(vii) Section 76-6-203, aggravated burglary;

(viii) Section 76-6-302, aggravated robbery; or

(ix) Section 76-10-508.1, felony discharge of a firearm.

[~~(7)~~] (5) (a) Except as provided in Subsections [~~(5) and (6), the court's probation department~~] (3) and (4), the juvenile probation officer shall offer a nonjudicial adjustment to a minor if the minor:

(i) is referred for an offense that is a misdemeanor, infraction, or status offense;

(ii) has no more than two prior adjudications; and

(iii) has no more than three prior unsuccessful nonjudicial adjustment attempts.

(b) If the juvenile court receives a referral for an offense that is alleged to have occurred before an individual was 12 years old, [~~the court's probation department~~] the juvenile probation officer shall offer a nonjudicial adjustment to the individual, unless the referral includes an offense described in Subsection [~~(6)~~] (4)(c).

(c) (i) For purposes of determining a minor's eligibility for a nonjudicial adjustment under this Subsection [~~(7), the court's probation department~~] (5), the juvenile probation officer shall treat all offenses arising out of a single criminal episode that resulted in a nonjudicial adjustment as one prior nonjudicial adjustment.

(ii) For purposes of determining a minor's eligibility for a nonjudicial adjustment under this Subsection [~~(7), the court's probation department~~] (5), the juvenile probation officer shall treat all offenses arising out of a single criminal episode that resulted in one or more prior adjudications as a single adjudication.

(d) Except as provided in Subsection [~~(6), the court's probation department~~] (4), the juvenile probation officer may offer a nonjudicial adjustment to a minor who does not meet the criteria provided in Subsection [~~(7)~~] (5)(a).

[~~(8)~~] (6) For a nonjudicial adjustment, [~~the court's probation department~~] the juvenile probation officer may require a minor to:

(a) pay a financial penalty of no more than $250 to the juvenile court, subject to the terms established under Subsection [~~(10)~~] (8)(c);

(b) pay restitution to any victim;

(c) complete community or compensatory service;

(d) attend counseling or treatment with an appropriate provider;

(e) attend substance abuse treatment or counseling;

(f) comply with specified restrictions on activities or associations;

(g) attend victim-offender mediation if requested by the victim; and

(h) comply with any other reasonable action that is in the interest of the minor, the community, or the victim.

[~~(9)~~] (7) (a) Within seven days of receiving a referral that appears to be eligible for a nonjudicial adjustment in accordance with Subsection [~~(7), the court's probation department~~] (5), the juvenile probation officer shall provide an initial notice to reasonably identifiable and locatable victims of the offense contained in the referral.

(b) The victim shall be responsible to provide to [~~the probation department~~] the juvenile probation officer upon request:

(i) invoices, bills, receipts, and any other evidence of injury, loss of earnings, and out-of-pocket loss;

(ii) documentation and evidence of compensation or reimbursement from an insurance company or an agency of the state, any other state, or the federal government received as a direct result of the crime for injury, loss of earnings, or out-of-pocket loss; and

(iii) proof of identification, including home and work address and telephone numbers.

(c) The inability, failure, or refusal of the victim to provide all or part of the requested information shall result in [~~the probation department~~] the juvenile probation officer determining restitution based on the best information available.

[~~(10)~~] (8) (a) The [~~court's probation department~~] juvenile probation officer may not predicate acceptance of an offer of a nonjudicial adjustment on an admission of guilt.

(b) The [~~court's probation department~~] juvenile probation officer may not deny a minor an offer of a nonjudicial adjustment due to a minor's inability to pay a financial penalty under Subsection [~~(8)~~] (6).

(c) The [~~court's probation department~~] juvenile probation officer shall base a fee, fine, or the restitution for a nonjudicial adjustment under Subsection [~~(8)~~] (6) upon the ability of the minor's family to pay as determined by a statewide sliding scale developed in accordance with Section 63M-7-208 [~~on or after July 1, 2018~~].

(d) A nonjudicial adjustment may not extend for more than 90 days, unless a juvenile court judge extends the nonjudicial adjustment for an additional 90 days.

(e) (i) Notwithstanding Subsection [~~(10)~~] (8)(d), a juvenile court judge may extend a nonjudicial adjustment beyond the 180 days permitted under Subsection [~~(10)~~] (8)(d) for a minor who is offered a nonjudicial adjustment under Subsection [~~(7)~~] (5)(b) for a sexual offense under Title 76, Chapter 5, Part 4, Sexual Offenses, or is referred under Subsection [~~(11)~~] (9)(b)(ii) for a sexual offense under Title 76, Chapter 5, Part 4, Sexual Offenses, that the minor committed before the minor was 12 years old, if the judge determines that:

(A) the nonjudicial adjustment requires specific treatment for the sexual offense;

(B) the treatment cannot be completed within 180 days after the day on which the minor entered into the nonjudicial adjustment; and

(C) the treatment is necessary based on a clinical assessment that is developmentally appropriate for the minor.

(ii) If a juvenile court judge extends a minor's nonjudicial adjustment under Subsection [~~(10)~~] (8)(e)(i), the judge may extend the nonjudicial adjustment until the minor completes the treatment under this Subsection [~~(10)~~] (8)(e), but the judge may only grant each extension for 90 days at a time.

(f) If a minor violates Section 76-10-105, the minor may be required to pay a fine or penalty and participate in a court-approved tobacco education program with a participation fee.

[~~(11)~~] (9) If a prosecuting attorney is requested to review a referral in accordance with Subsection [~~(5) or (6)~~] (3) or (4), a minor fails to substantially comply with a condition agreed upon as part of the nonjudicial adjustment, or a minor is not offered or declines a nonjudicial adjustment in accordance with Subsection [~~(7)~~] (5), the prosecuting attorney shall:

(a) review the case; and

(b) (i) dismiss the case;

(ii) refer the case back to the [~~probation department~~] juvenile probation officer for a new attempt at nonjudicial adjustment; or

(iii) except as provided in Subsections [~~(12)~~] (10)(b), [~~(13)~~] (11), and [~~78A-6-602.5(2)~~] 80-6-305(2), file a petition with the juvenile court.

[~~(12)~~] (10) (a) A prosecuting attorney may file a petition only upon reasonable belief that:

(i) the charges are supported by probable cause;

(ii) admissible evidence will be sufficient to support adjudication beyond a reasonable doubt; and

(iii) the decision to charge is in the interests of justice.

(b) Failure to pay a fine or fee may not serve as a basis for filing of a petition under Subsection [~~(11)~~] (9)(b)(iii) if the minor has substantially complied with the other conditions agreed upon in accordance with Subsection [~~(8)~~] (6) or conditions imposed through any other court diversion program.

[~~(13)~~] (11) A prosecuting attorney may not file a petition against a minor unless:

(a) the prosecuting attorney has statutory authority to file the petition under Section [~~78A-6-602.5~~] 80-6-305; and

(b) (i) the minor does not qualify for a nonjudicial adjustment under Subsection [~~(7)~~] (5);

(ii) the minor declines a nonjudicial adjustment;

(iii) the minor fails to substantially comply with the conditions agreed upon as part of the nonjudicial adjustment;

(iv) the minor fails to respond to the [~~probation department's~~] juvenile probation officer's inquiry regarding eligibility for or an offer of a nonjudicial adjustment after being provided with notice for preliminary inquiry; or

(v) the prosecuting attorney is acting under Subsection [~~(11)~~] (9).

[~~(14)~~] (12) If the prosecuting attorney files a petition in a juvenile court, or a proceeding is commenced against a minor under Section [~~78A-6-603~~] 80-6-302, the juvenile court may refer the case to [~~the probation department~~] the juvenile probation officer for another offer of nonjudicial adjustment.

Section 155. Section 80-6-305, which is renumbered from Section 78A-6-602.5 is renumbered and amended to read:

[~~78A-6-602.5~~]. 80-6-305. Petition for a delinquency proceeding -- Amending a petition -- Continuance.

(1) A prosecuting attorney shall file a petition, in accordance with Utah Rules of Juvenile Procedure, Rule 17, to commence a proceeding against a minor for an adjudication of an alleged offense, except as provided in:

(a) Subsection (2);

(b) Section [~~78A-6-603~~] 80-6-302;

(c) Section [~~78A-6-703.2~~] 80-6-502; and

(d) Section [~~78A-6-703.3~~] 80-6-503.

(2) A prosecuting attorney may not file a petition under Subsection (1) against an individual for an offense alleged to have occurred before the individual was 12 years old, unless:

(a) the individual is alleged to have committed a felony violation of:

(i) Section 76-5-103, aggravated assault resulting in serious bodily injury to another;

(ii) Section 76-5-202, aggravated murder or attempted aggravated murder;

(iii) Section 76-5-203, murder or attempted murder;

(iv) Section 76-5-302, aggravated kidnapping;

(v) Section 76-5-405, aggravated sexual assault;

(vi) Section 76-6-103, aggravated arson;

(vii) Section 76-6-203, aggravated burglary;

(viii) Section 76-6-302, aggravated robbery; or

(ix) Section 76-10-508.1, felony discharge of a firearm; or

(b) an offer for a nonjudicial adjustment is made under Section [~~78A-6-602~~] 80-6-304 and the minor:

(i) declines to accept the offer for the nonjudicial adjustment; or

(ii) fails to substantially comply with the conditions agreed upon as part of the nonjudicial adjustment.

(3) A juvenile court may dismiss a petition under this section at any stage of the proceedings.

(4) (a) When evidence is presented during any proceeding in a minor's case that points to material facts not alleged in the petition, the juvenile court may consider the additional or different material facts raised by the evidence if the parties consent.

(b) The juvenile court, on a motion from any interested party or on the court's own motion, shall direct that the petition be amended to conform to the evidence.

(c) If an amended petition under Subsection (4)(b) results in a substantial departure from the material facts originally alleged, the juvenile court shall grant a continuance as justice may require in accordance with Utah Rules of Juvenile Procedure, Rule 54.

Section 156. Section 80-6-306 is enacted to read:

80-6-306. Plea -- Withdrawal of a plea.

(1) If a minor is facing a delinquency proceeding under this chapter, the minor may enter:

(a) a denial of the alleged offense;

(b) an admission of the alleged offense; or

(c) with the consent of the juvenile court, a plea of no contest as described in Section 77-13-2.

(2) (a) If a minor enters an admission under Subsection (1), the juvenile court may:

(i) delay in entering the admission for a defined period of time; and

(ii) impose conditions on the minor for the period of time under Subsection (2)(a)(i).

(b) If the minor successfully completes the conditions imposed under Subsection (2)(a)(ii), the juvenile court shall dismiss the petition filed under this chapter.

(c) If the minor fails to complete the conditions imposed under Subsection (2)(a)(ii), the juvenile court shall:

(i) enter the minor's admission; and

(ii) proceed with ordering a disposition in accordance with Section 80-6-701.

(3) If a minor declines to enter a plea, the juvenile court shall enter a denial.

(4) A minor's counsel may enter a denial in the absence of the minor or the minor's parent, guardian, or custodian.

(5) The minor may enter an admission to:

(a) a lesser included offense;

(b) an offense of a lesser degree; or

(c) a different offense for which the juvenile court may enter after amending the petition.

(6) A plea under this section shall be conducted in accordance with Utah Rules of Juvenile Procedure, Rule 25.

(7) A minor may withdraw a denial of an offense at any time before an adjudication under Section 80-6-701.

(8) A minor may only withdraw an admission or a plea of no contest upon:

(a) leave of the court; and

(b) a showing that the admission or plea was not knowingly and voluntarily made.

(9) (a) Even if the juvenile court has ordered a disposition under Part 7, Adjudication and Disposition, a minor shall make a request to withdraw an admission, or a plea of no contest, within 30 days after the day on which the minor entered the admission or plea.

(b) If the juvenile court has not entered a disposition, the juvenile court may not announce a disposition until the motion to withdraw under Subsection (9)(a) is denied.

Section 157. Section 80-6-307, which is renumbered from Section 78A-6-605 is renumbered and amended to read:

[~~78A-6-605~~]. 80-6-307. Dispositional report required in minors' cases -- Exceptions.

(1) [~~The probation department~~] A juvenile probation officer, or other agency designated by the juvenile court, shall make a dispositional report in writing in all [~~minor's~~] minors' cases in which a petition has been filed, except [~~that the court may dispense with the study and report~~] in cases involving violations of traffic laws or ordinances, violations of wildlife laws[,] and boating laws, and other minor cases.

(2) When preparing a dispositional report and recommendation in [~~a delinquency action, the probation department~~] a minor's case, the juvenile probation officer, or other agency designated by the juvenile court, shall consider the juvenile [~~sentencing guidelines developed in accordance with Section 63M-7-404 and any aggravating or mitigating circumstances~~] disposition guidelines developed in accordance with Section 63M-7-404 and any other factors relevant to the disposition designated in the juvenile disposition guidelines.

(3) Where the allegations of a petition filed under [~~Subsection 78A-6-103(1)~~] Section 80-6-305 are denied, the investigation may not be made until the juvenile court has made an adjudication.

Section 158. Section 80-6-401, which is renumbered from Section 78A-6-1301 is renumbered and amended to read:

Part 4. Competency

[~~78A-6-1301~~]. 80-6-401. Competency to proceed.

(1) [~~In a case alleging that a minor has violated any federal, state, or local law~~] If a petition is filed under Section 80-6-305, or a criminal information is filed under Section 80-6-503, in the juvenile court, a written motion may be filed alleging reasonable grounds to believe the minor is not competent to proceed.

(2) The written motion shall contain:

(a) a certificate that it is filed in good faith and on reasonable grounds to believe the minor is not competent to proceed due to:

(i) a mental illness;

(ii) an intellectual disability or a related condition; or

(iii) developmental immaturity;

(b) a recital of the facts, observations, and conversations with the minor that have formed the basis for the motion; and

(c) if filed by defense counsel, the motion shall contain information that can be revealed without invading the lawyer-client privilege.

(3) The motion may be:

(a) based upon knowledge or information and belief; and [~~may be~~]

(b) filed by:

[~~(a)~~] (i) the minor alleged not competent to proceed;

[~~(b)~~] (ii) any person acting on the minor's behalf;

[~~(c)~~] (iii) the prosecuting attorney;

[~~(d)~~] (iv) the attorney guardian ad litem; or

[~~(e)~~] (v) any person having custody or supervision over the minor.

(4) (a) The [~~court in which a petition is pending~~] juvenile court may raise the issue of a minor's competency at any time.

(b) If raised by the juvenile court, counsel for each party shall be permitted to address the issue of competency[~~, and the~~].

(c) The juvenile court shall state the basis for the finding that there are reasonable grounds to believe the minor is not competent to proceed.

Section 159. Section 80-6-402, which is renumbered from Section 78A-6-1302 is renumbered and amended to read:

[~~78A-6-1302~~]. 80-6-402. Procedure -- Standard.

(1) When a written motion is filed [~~pursuant to Section 78A-6-1301~~] in accordance with Section 80-6-401 raising the issue of a minor's competency to proceed, or when the juvenile court raises the issue of a minor's competency to proceed, the juvenile court [~~in which proceedings are pending~~] shall stay all [~~delinquency~~] proceedings under this chapter.

(2) (a) If a motion for inquiry is opposed by either party, the juvenile court shall, [~~prior to~~] before granting or denying the motion, hold a limited hearing solely for the purpose of determining the sufficiency of the motion.

(b) If the juvenile court finds that the allegations of incompetency raise a bona fide doubt as to the minor's competency to proceed, [~~it~~] the juvenile court shall:

(i) enter an order for an evaluation of the minor's competency to proceed[~~,~~]; and [~~shall~~]

(ii) set a date for a hearing on the issue of the minor's competency.

(3) After the granting of a motion, and [~~prior to~~] before a full competency hearing, the juvenile court may order the [~~Department of Human Services~~] department to evaluate the minor and to report to the juvenile court concerning the minor's mental condition.

(4) [~~(a)~~] The minor shall be evaluated by a forensic evaluator [~~with~~] who:

(a) has experience in juvenile forensic evaluations and juvenile brain development[~~, who~~];

(b) if it becomes apparent that the minor is not competent due to an intellectual disability or related condition, has experience in intellectual disability or related conditions; and

(c) is not involved in the current treatment of the minor.

[~~(b) If it becomes apparent that the minor may be not competent due to an intellectual disability or related condition, the forensic evaluator shall be experienced in intellectual disability or related condition evaluations of minors.~~]

(5) The petitioner or other party, as directed by the juvenile court, shall provide all information and materials relevant to a determination of the minor's competency to the department within seven days of the juvenile court's order, including:

(a) the motion;

(b) the arrest or incident reports pertaining to the charged offense;

(c) the minor's known delinquency history information;

(d) the minor's probation record relevant to competency;

(e) known prior mental health evaluations and treatments; and

(f) consistent with 20 U.S.C. Sec. 1232g (b)(1)(E)(ii)(I), records pertaining to the minor's education.

(6) (a) The minor's [~~parents or guardian~~] parent or guardian, the [~~prosecutor~~] prosecuting attorney, the defense attorney, and the attorney guardian ad litem, shall cooperate, by executing releases of information when necessary, in providing the relevant information and materials to the forensic evaluator, including:

(i) medical records;

(ii) prior mental evaluations; or

(iii) records of diagnosis or treatment of substance abuse disorders.

(b) The minor shall cooperate, by executing a release of information when necessary, in providing the relevant information and materials to the forensic evaluator regarding records of diagnosis or treatment of a substance abuse disorder.

(7) (a) In conducting the evaluation and in the report determining if a minor is competent to proceed, the forensic evaluator shall inform the juvenile court of the forensic evaluator's opinion whether:

(i) the minor has a present ability to consult with counsel with a reasonable degree of rational understanding; and [~~whether~~]

(ii) the minor has a rational as well as factual understanding of the proceedings.

(b) In evaluating the minor, the forensic evaluator shall consider the minor's present ability to:

(i) understand the charges or allegations against the minor;

(ii) communicate facts, events, and states of mind;

(iii) understand the range of possible penalties associated with the allegations against the minor;

(iv) engage in reasoned choice of legal strategies and options;

(v) understand the adversarial nature of the proceedings against the minor;

(vi) manifest behavior sufficient to allow the juvenile court to proceed;

(vii) testify relevantly; and

(viii) any other factor determined to be relevant to the forensic evaluator.

(8) (a) The forensic evaluator shall provide an initial report to the juvenile court, the prosecuting and defense attorneys, and the attorney guardian ad litem, if applicable, within 30 days of the receipt of the juvenile court's order.

(b) If the forensic evaluator informs the juvenile court that additional time is needed, the juvenile court may grant, taking into consideration the custody status of the minor, up to an additional 15 days to provide the report to the juvenile court and counsel.

(c) The forensic evaluator must provide the report within 45 days from the receipt of the juvenile court's order unless, for good cause shown, the juvenile court authorizes an additional period of time to complete the evaluation and provide the report.

(d) The report shall inform the juvenile court of the forensic evaluator's opinion concerning the minor's competency.

(9) If the forensic evaluator's opinion is that the minor is not competent to proceed, the report shall indicate:

(a) the nature of the minor's:

(i) mental illness;

(ii) intellectual disability or related condition; or

(iii) developmental immaturity;

(b) the relationship of the minor's mental illness, intellectual disability, related condition, or developmental immaturity to the minor's incompetence;

(c) whether there is a substantial likelihood that the minor may attain competency in the foreseeable future;

(d) the amount of time estimated for the minor to achieve competency if the minor undergoes competency attainment treatment, including medication;

(e) the sources of information used by the forensic evaluator; and

(f) the basis for clinical findings and opinions.

(10) Any statement made by the minor in the course of any competency evaluation, whether the evaluation is with or without the consent of the minor, any testimony by the forensic evaluator based upon any statement, and any other fruits of the statement:

(a) may not be admitted in evidence against the minor in [~~any delinquency or criminal proceeding~~] a proceeding under this chapter except on an issue respecting the mental condition on which the minor has introduced evidence; and

(b) may be admitted where relevant to a determination of the minor's competency.

(11) Before evaluating the minor, a forensic evaluator shall specifically advise the minor, and, if reasonably available, the parents or guardian, of the limits of confidentiality as provided under Subsection (10).

(12) When the report is received, the juvenile court shall set a date for a competency hearing that shall be held in not less than five and not more than 15 days, unless the juvenile court enlarges the time for good cause.

(13) (a) A minor shall be presumed competent unless the juvenile court, by a preponderance of the evidence, finds the minor not competent to proceed.

(b) The burden of proof is upon the proponent of incompetency to proceed.

(14) (a) Following the hearing, the juvenile court shall determine by a preponderance of evidence whether the minor is:

(i) competent to proceed;

(ii) not competent to proceed with a substantial probability that the minor may attain competency in the foreseeable future; or

(iii) not competent to proceed without a substantial probability that the minor may attain competency in the foreseeable future.

(b) If the juvenile court enters a finding [~~pursuant to~~] described in Subsection (14)(a)(i), the juvenile court shall proceed with [~~the delinquency~~] the proceedings in the minor's case.

(c) If the juvenile court enters a finding [~~pursuant to~~] described in Subsection (14)(a)(ii), the juvenile court shall proceed [~~consistent~~] in accordance with Section [~~78A-6-1303~~] 80-6-403.

(d) (i) If the juvenile court enters a finding [~~pursuant to~~] described in Subsection (14)(a)(iii), the juvenile court shall terminate the competency proceeding, dismiss the [~~delinquency~~] charges against the minor without prejudice, and release the minor from any custody order related to the pending [~~delinquency~~] proceeding, unless the prosecutor informs the court that commitment proceedings will be initiated [~~pursuant to~~] in accordance with:

(A) Title 62A Chapter 5, Part 3, Admission to an Intermediate Care Facility for People with an Intellectual Disability; [~~or~~]

(B) if the minor is 18 years old or older, Title 62A, Chapter 15, Part 6, Utah State Hospital and Other Mental Health Facilities; or

[~~(B)~~] (C) if the minor is a child, Title 62A Chapter 15, Part 7, Commitment of Persons Under Age 18 to Division of Substance Abuse and Mental Health.

(ii) The commitment proceedings described in Subsection (14)(d)(i) shall be initiated within seven days after the [~~court's order~~] day on which the juvenile court enters the order under Subsection (14)(a), unless the court enlarges the time for good cause shown.

(iii) The juvenile court may order the minor to remain in custody until the commitment proceedings have been concluded.

(15) If the juvenile court finds the minor not competent to proceed, the juvenile court's order shall contain findings addressing each of the factors in Subsection (7)(b).

Section 160. Section 80-6-403, which is renumbered from Section 78A-6-1303 is renumbered and amended to read:

[~~78A-6-1303~~]. 80-6-403. Disposition on finding of not competent to proceed -- Subsequent hearings -- Notice to prosecuting attorneys.

(1) If the juvenile court determines that the minor is not competent to proceed, and there is a substantial likelihood that the minor may attain competency in the foreseeable future, the juvenile court shall notify the department of the finding[~~,~~] and allow the department 30 days to develop an attainment plan for the minor.

(2) The attainment plan shall include:

(a) any services or treatment the minor has been or is currently receiving that are necessary to attain competency;

(b) any additional services or treatment the minor may require to attain competency;

(c) an assessment of the parent, custodian, or guardian's ability to access or provide any recommended treatment or services;

(d) any special conditions or supervision that may be necessary for the safety of the minor or others during the attainment period; and

(e) the likelihood that the minor will attain competency and the amount of time likely required for the minor to attain competency.

(3) The department shall provide the attainment plan to the juvenile court, [~~prosecutor~~] the prosecuting attorney, the defense attorney, and the attorney guardian ad litem at least three days [~~prior to~~] before the competency disposition hearing.

(4) (a) During the attainment period, the minor shall remain in the least restrictive appropriate setting.

(b) A finding of not competent to proceed does not grant authority for a juvenile court to place a minor in the custody of a division of the department, or create eligibility for services from the Division of Services for People With Disabilities.

(c) If the juvenile court orders the minor to be held in detention during the attainment period, the juvenile court shall make the following findings on the record:

(i) the placement is the least restrictive appropriate setting;

(ii) the placement is in the best interest of the minor;

(iii) the minor will have access to the services and treatment required by the attainment plan in the placement; and

(iv) the placement is necessary for the safety of the minor or others.

(d) A juvenile court shall terminate an order of detention related to the pending [~~delinquency~~] proceeding for a minor who is not competent to proceed in that matter if:

(i) the most severe allegation against the minor if committed by an adult is a class B misdemeanor;

(ii) more than 60 days have passed after the day on which the juvenile court adjudicated the minor not competent to proceed; and

(iii) the minor has not attained competency.

(5) (a) At any time that the minor becomes competent to proceed during the attainment period, the department shall notify the juvenile court, [~~prosecutor~~] the prosecuting attorney, the defense attorney, and the attorney guardian ad litem.

(b) The juvenile court shall hold a hearing with 15 business days of notice from the department described in Subsection (5)(a).

(6) (a) If at any time during the attainment period the juvenile court finds that there is not a substantial probability that the minor will attain competency in the foreseeable future, the juvenile court shall terminate the competency proceeding, dismiss the [~~delinquency charges without prejudice~~] petition or information without prejudice, and release the minor from any custody order related to the pending [~~delinquency~~] proceeding, unless the [~~prosecutor~~] prosecuting attorney or any other individual informs the juvenile court that commitment proceedings will be initiated [~~pursuant to~~] in accordance with:

(i) Title 62A Chapter 5, Part 3, Admission to an Intermediate Care Facility for People with an Intellectual Disability; [~~or~~]

(ii) if the minor is 18 years old or older, Title 62A, Chapter 15, Part 6, Utah State Hospital and Other Mental Health Facilities; or

[~~(ii)~~] (iii) if the minor is a child, Title 62A, Chapter 15, Part 7, Commitment of Persons Under Age 18 to Division of Substance Abuse and Mental Health.

(b) The [~~prosecutor~~] prosecuting attorney shall initiate the proceedings described in Subsection (6)(a) within seven days after the juvenile court's order, unless the juvenile court enlarges the time for good cause shown.

(7) During the attainment period, the juvenile court may order a hearing or rehearing at anytime on [~~its~~] the juvenile court's own motion or upon recommendation of any interested party or the department.

(8) (a) Within three months of the juvenile court's approval of the attainment plan, the department shall provide a report on the minor's progress towards competence.

(b) The report described in Subsection (8)(a) shall address the minor's:

(i) compliance with the attainment plan;

(ii) progress towards competency based on the issues identified in the original competency evaluation; and

(iii) current mental illness, intellectual disability or related condition, or developmental immaturity, and need for treatment, if any, and whether there is substantial likelihood of the minor attaining competency within six months.

(9) (a) Within 30 days of receipt of the report, the juvenile court shall hold a hearing to determine the minor's current status.

(b) At the hearing, the burden of proving the minor is competent is on the proponent of competency.

(c) The juvenile court shall determine by a preponderance of the evidence whether the minor is competent to proceed.

(10) If the minor has not attained competency after the initial three month attainment period but is showing reasonable progress towards attainment of competency, the juvenile court may extend the attainment period up to an additional three months.

(11) The department shall provide an updated juvenile competency evaluation at the conclusion of the six month attainment period to advise the juvenile court on the minor's current competency status.

(12) If the minor does not attain competency within six months after the juvenile court initially finds the minor not competent to proceed, the court shall terminate the competency proceedings and dismiss the [~~delinquency charges~~] petition or information filed without prejudice, unless good cause is shown that there is a substantial likelihood the minor will attain competency within one year from the initial finding of not competent to proceed.

(13) In the event a minor has an unauthorized leave lasting more than 24 hours, the attainment period shall toll until the minor returns.

Section 161. Section 80-6-501, which is renumbered from Section 78A-6-703.1 is renumbered and amended to read:

Part 5. Transfer to District Court

[~~78A-6-703.1~~]. 80-6-501. Definitions.

As used in this part:

(1) "Qualifying offense" means an offense described in Subsection [~~78A-6-703.3~~] 80-6-503(1) or (2)(b).

(2) "Separate offense" means any offense that is not a qualifying offense.

Section 162. Section 80-6-502, which is renumbered from Section 78A-6-703.2 is renumbered and amended to read:

[~~78A-6-703.2~~]. 80-6-502. Criminal information for a minor in district court.

(1) If a prosecuting attorney charges a minor with aggravated murder under Section 76-5-202 or murder under Section 76-5-203, the prosecuting attorney shall file a criminal information in the district court if the minor was the principal actor in an offense and the information alleges:

(a) the minor was 16 or 17 years old at the time of the offense; and

(b) the offense for which the minor is being charged is:

(i) Section 76-5-202, aggravated murder; or

(ii) Section 76-5-203, murder.

(2) If the prosecuting attorney files a criminal information in the district court in accordance with Subsection (1), the district court shall try the minor as an adult, except:

(a) the minor is not subject to a sentence of death in accordance with Subsection 76-3-206(2)(b); and

(b) the minor is not subject to a sentence of life without parole in accordance with Subsection 76-3-206(2)(b) or 76-3-207.5(3) or Section 76-3-209.

(3) Except for a minor who is subject to the authority of the Board of Pardons and Parole, a minor shall be held in a [~~juvenile~~] detention facility until the district court determines where the minor will be held until the time of trial if:

(a) the minor is 16 or 17 years old; and

(b) the minor is arrested for aggravated murder or murder.

(4) In considering where a minor will be detained until the time of trial, the district court shall consider:

(a) the age of the minor;

(b) the nature, seriousness, and circumstances of the alleged offense;

(c) the minor's history of prior criminal acts;

(d) whether [~~detention~~] the minor being detained in a [~~juvenile~~] detention facility will adequately serve the need for community protection pending the outcome of any criminal proceedings;

(e) the relative ability of the facility to meet the needs of the minor and protect the public;

(f) the physical maturity of the minor;

(g) the current mental state of the minor as evidenced by relevant mental health or a psychological assessment or screening that is made available to the district court; and

(h) any other factors that the district court considers relevant.

(5) A minor ordered to a [~~juvenile~~] detention facility under Subsection (4) shall remain in the facility:

(a) until released by the district court; or

(b) if convicted, until sentencing.

(6) If a minor is held in a [~~juvenile~~] detention facility under Subsection (4), the district court shall:

(a) advise the minor of the right to bail; and

(b) set initial bail in accordance with Title 77, Chapter 20, Bail.

(7) If the minor ordered to a [~~juvenile~~] detention facility under Subsection (4) attains the age of 18 years, the minor shall be transferred within 30 days to an adult jail until:

(a) released by the district court [~~judge~~]; or

(b) if convicted, sentencing.

(8) If a minor is ordered to a [~~juvenile~~] detention facility under Subsection (4) and the minor's conduct or condition endangers the safety or welfare of others in the [~~juvenile~~] detention facility, the district court may find that the minor shall be detained in another place of confinement considered appropriate by the district court, including a jail or an adult facility for pretrial confinement.

(9) If a minor is charged for aggravated murder or murder in the district court under this section, and all charges for aggravated murder or murder result in an acquittal, a finding of not guilty, or a dismissal:

(a) the juvenile court gains jurisdiction over all other offenses committed by the minor; and

(b) the [~~Division of Juvenile Justice Services~~] division gains jurisdiction over the minor.

Section 163. Section 80-6-503, which is renumbered from Section 78A-6-703.3 is renumbered and amended to read:

[~~78A-6-703.3~~]. 80-6-503. Criminal information for a minor in juvenile court -- Extending juvenile court jurisdiction.

[~~Notwithstanding Section 78A-6-602.5, if~~]

(1) If a prosecuting attorney charges a minor with a felony, the prosecuting attorney may file a criminal information in the juvenile court if the minor was a principal actor in an offense and the information alleges:

[~~(1) (a)~~] (a) (i) the minor was 16 or 17 years old at the time of the offense; and

[~~(b)~~] (ii) the offense for which the minor is being charged is a felony violation of:

[~~(i)~~] (A) Section 76-5-103, aggravated assault resulting in serious bodily injury to another;

[~~(ii)~~] (B) Section 76-5-202, attempted aggravated murder;

[~~(iii)~~] (C) Section 76-5-203, attempted murder;

[~~(iv)~~] (D) Section 76-5-302, aggravated kidnapping;

[~~(v)~~] (E) Section 76-5-405, aggravated sexual assault;

[~~(vi)~~] (F) Section 76-6-103, aggravated arson;

[~~(vii)~~] (G) Section 76-6-203, aggravated burglary;

[~~(viii)~~] (H) Section 76-6-302, aggravated robbery;

[~~(ix)~~] (I) Section 76-10-508.1, felony discharge of a firearm; or

[~~(x)~~] (J) an offense other than an offense listed in Subsections [~~(1)(b)(i)~~] (1)(a)(ii)(A) through [~~(ix)~~] (I) involving the use of a dangerous weapon[~~;(A)~~] if the offense would be a felony had an adult committed the offense[~~;~~], and [~~(B)~~] the minor has been previously adjudicated or convicted of an offense involving the use of a dangerous weapon that would have been a felony if committed by an adult; or

[~~(2) (a)~~] (b) (i) the minor was 14 or 15 years old at the time of the offense; and

[~~(b)~~] (ii) the offense for which the minor is being charged is a felony violation of:

[~~(i)~~] (A) Section 76-5-202, aggravated murder or attempted aggravated murder; or

[~~(ii)~~] (B) Section 76-5-203, murder or attempted murder.

(2) At the time that a prosecuting attorney files an information under this section, a party may file a motion to extend the juvenile court's continuing jurisdiction in accordance with Section 80-6-605.

Section 164. Section 80-6-504, which is renumbered from Section 78A-6-703.5 is renumbered and amended to read:

[~~78A-6-703.5~~]. 80-6-504. Preliminary hearing -- Grounds for transfer -- Detention of a minor bound over to the district court.

(1) If a prosecuting attorney files a criminal information in accordance with Section [~~78A-6-703.3~~] 80-6-503, the juvenile court shall conduct a preliminary hearing to determine whether a minor should be bound over to the district court for a qualifying offense.

(2) At the preliminary hearing under Subsection (1), the prosecuting attorney shall have the burden of establishing:

(a) probable cause to believe that a qualifying offense was committed and the minor committed that offense; and

(b) by a preponderance of the evidence, that it is contrary to the best interests of the minor and the public for the juvenile court to retain jurisdiction over the offense.

(3) In making a determination under Subsection (2)(b), the juvenile court shall consider and make findings on:

(a) the seriousness of the qualifying offense and whether the protection of the community requires that the minor is detained beyond the amount of time allowed under Subsection [~~78A-6-117(2)(h)~~] 80-6-802(1), or beyond the age of continuing jurisdiction that the juvenile court may exercise under Section [~~78A-6-703.4~~] 80-6-605;

(b) the extent to which the minor's actions in the qualifying offense were committed in an aggressive, violent, premeditated, or willful manner;

(c) the minor's mental, physical, educational, trauma, and social history;

(d) the criminal record or history of the minor; and

(e) the likelihood of the minor's rehabilitation by the use of services and facilities that are available to the juvenile court.

(4) The amount of weight that each factor in Subsection (3) is given is in the juvenile court's discretion.

(5) (a) The juvenile court may consider any written report or other material that relates to the minor's mental, physical, educational, trauma, and social history.

(b) Upon request by the minor, the minor's parent, guardian, or other interested party, the juvenile court shall require the person preparing the report, or other material, under Subsection (5)(a) to appear and be subject to direct and cross-examination.

(6) At the preliminary hearing under Subsection (1), a minor may testify under oath, call witnesses, cross-examine witnesses, and present evidence on the factors described in Subsection (3).

(7) (a) A proceeding before the juvenile court related to a charge filed under this part shall be conducted in conformity with the Utah Rules of Juvenile Procedure.

(b) [~~Title 78B, Chapter 22, Indigent Defense Act, and Section 78A-6-115~~] Sections 80-6-602, 80-6-603, and 80-6-604 are applicable to the preliminary hearing under this section.

(8) If the juvenile court finds that the prosecuting attorney has met the burden of proof under Subsection (2), the juvenile court shall bind the minor over to the district court to be held for trial.

(9) (a) If the juvenile court finds that a qualifying offense has been committed by a minor, but the prosecuting attorney has not met the burden of proof under Subsection (2)(b), the juvenile court shall:

(i) proceed upon the criminal information as if the information were a petition under Section [~~78A-6-602.5~~] 80-6-305;

(ii) release or detain the minor in accordance with [~~Section 78A-6-113~~] Section 80-6-207; and

(iii) proceed with an adjudication for the minor in accordance with this chapter.

(b) If the juvenile court finds that the prosecuting attorney has not met the burden under Subsection (2) to bind a minor over to the district court, the prosecuting attorney may file a motion to extend the juvenile court's continuing jurisdiction over the minor's case until the minor is 25 years old in accordance with Section [~~78A-6-703.4~~] 80-6-605.

(10) (a) A prosecuting attorney may charge a minor with a separate offense in the same criminal information as the qualifying offense if the qualifying offense and separate offense arise from a single criminal episode.

(b) If the prosecuting attorney charges a minor with a separate offense as described in Subsection (10)(a):

(i) the prosecuting attorney shall have the burden of establishing probable cause to believe that the separate offense was committed and the minor committed the separate offense; and

(ii) if the prosecuting attorney establishes probable cause for the separate offense under Subsection (10)(b)(i) and the juvenile court binds the minor over to the district court for the qualifying offense, the juvenile court shall also bind the minor over for the separate offense to the district court.

(11) If a grand jury indicts a minor for a qualifying offense:

(a) the prosecuting attorney does not need to establish probable cause under Subsection (2)(a) for the qualifying offense and any separate offense included in the indictment; and

(b) the juvenile court shall proceed with determining whether the minor should be bound over to the district court for the qualifying offense and any separate offense included in the indictment in accordance with Subsections (2)(b) and (3).

(12) If a minor is bound over to the district court, the juvenile court shall:

(a) issue a criminal warrant of arrest;

(b) advise the minor of the right to bail; and

(c) set initial bail in accordance with Title 77, Chapter 20, Bail.

(13) (a) At the time that a minor is bound over to the district court, the juvenile court shall make an initial determination on where the minor is held until the time of trial.

(b) In determining where a minor is held until the time of trial, the juvenile court shall consider:

(i) the age of the minor;

(ii) the minor's history of prior criminal acts;

(iii) whether [~~detention~~] the minor being detained in a [~~juvenile~~] detention facility will adequately serve the need for community protection pending the outcome of any criminal proceedings;

(iv) the relative ability of the facility to meet the needs of the minor and protect the public;

(v) the physical maturity of the minor;

(vi) the current mental state of the minor as evidenced by relevant mental health or psychological assessments or screenings that are made available to the juvenile court; and

(vii) any other factors that the court considers relevant.

(14) If the juvenile court orders a minor to be detained in a [~~juvenile~~] detention facility under Subsection (13), the minor shall remain in the detention facility:

(a) until released by a district court; or

(b) if convicted, until sentencing.

(15) If the juvenile court orders the minor to be detained in a [~~juvenile~~] detention facility under Subsection (13) and the minor attains the age of 18 while detained at the facility, the minor shall be transferred within 30 days to an adult jail to remain:

(a) until released by the district court; or

(b) if convicted, until sentencing.

(16) Except as provided in Subsection (17) and Section [~~78A-6-705~~] 80-6-507, if a minor is bound over to the district court under this section, the jurisdiction of the [~~Division of Juvenile Justice Services~~] division and the juvenile court over the minor is terminated for the qualifying offense and any other separate offense for which the minor is bound over.

(17) If a minor is bound over to the district court for a qualifying offense and the qualifying offense results in an acquittal, a finding of not guilty, or a dismissal:

(a) the juvenile court regains jurisdiction over any separate offense committed by the minor; and

(b) the [~~Division of Juvenile Justice Services~~] division regains jurisdiction over the minor.

Section 165. Section 80-6-505, which is renumbered from Section 78A-6-703.6 is renumbered and amended to read:

[~~78A-6-703.6~~]. 80-6-505. Criminal proceedings for a minor bound over to district court.

(1) If the juvenile court binds a minor over to the district court in accordance with Section [~~78A-6-703.5~~] 80-6-504, the prosecuting attorney shall try the minor as if the minor is an adult in the district court except:

(a) the minor is not subject to a sentence of death in accordance with Subsection 76-3-206(2)(b); and

(b) the minor is not subject to a sentence of life without parole in accordance with Subsection 76-3-206(2)(b) or 76-3-207.5(3) or Section 76-3-209.

(2) A minor who is bound over to the district court to answer as an adult is not entitled to a preliminary hearing in the district court.

(3) (a) If a minor is bound over to the district court by the juvenile court, the district court may reconsider the juvenile court's decision under Subsection [~~78A-6-703.5~~] 80-6-504(13) as to where the minor is being held until trial.

(b) If the district court reconsiders the juvenile court's decision as to where the minor is held, the district court shall consider and make findings on:

(i) the age of the minor;

(ii) the minor's history of prior criminal acts;

(iii) whether [~~detention~~] the minor being detained in a [~~juvenile~~] detention facility will adequately serve the need for community protection pending the outcome of any criminal proceedings;

(iv) the relative ability of the detention facility to meet the needs of the minor and protect the public;

(v) the physical maturity of the minor;

(vi) the current mental state of the minor as evidenced by relevant mental health or psychological assessments or screenings that are made available to the district court; and

(vii) any other factors the district court considers relevant.

(4) A minor who is ordered to a [~~juvenile~~] detention facility under Subsection (3) shall remain in the facility:

(a) until released by a district court; or

(b) if convicted, until sentencing.

(5) If the district court orders the minor to be detained in a [~~juvenile~~] detention facility under Subsection (3) and the minor attains the age of 18 while detained at the detention facility, the minor shall be transferred within 30 days to an adult jail to remain:

(a) until released by the district court; or

(b) if convicted, until sentencing.

(6) If a minor is bound over to the district court and detained in a [~~juvenile~~] detention facility, the district court may order the minor be detained in another place of confinement that is considered appropriate by the district court, including a jail or other place of pretrial confinement for adults if the minor's conduct or condition endangers the safety and welfare of others in the detention facility.

(7) If the district court obtains jurisdiction over a minor under Section [~~78A-6-703.5~~] 80-6-504, the district court is not divested of jurisdiction for a qualifying offense or a separate offense listed in the criminal information when the minor is allowed to enter a plea to, or is found guilty of, another offense in the same criminal information.

Section 166. Section 80-6-506, which is renumbered from Section 78A-6-704 is renumbered and amended to read:

[~~78A-6-704~~]. 80-6-506. Appeals from bind over proceedings.

(1) A minor may, as a matter of right, appeal from an order of the juvenile court binding the minor over to the district court under Section [~~78A-6-703.5~~] 80-6-504.

(2) The prosecuting attorney may, as a matter of right, appeal an order of the juvenile court that a minor charged in accordance with Section [~~78A-6-703.3~~] 80-6-503 will be adjudicated in the juvenile court.

Section 167. Section 80-6-507, which is renumbered from Section 78A-6-705 is renumbered and amended to read:

[~~78A-6-705~~]. 80-6-507. Commitment of a minor by a district court.

(1) (a) Before sentencing a minor, who was bound over to the district court under Section [~~78A-6-703.5~~] 80-6-504 to be tried as an adult, to prison, the district court shall request a report from the [~~Division of Juvenile Justice Services~~] division regarding the potential risk to other minors if the minor were to be committed to the [~~custody of the Division of Juvenile Justice Services~~] division.

(b) The [~~Division of Juvenile Justice Services~~] division shall submit the requested report to the district court as part of the [~~pre-sentence~~] presentence report or as a separate report.

(2) If, after receiving the report described in Subsection (1), the district court determines that probation is not appropriate and commitment to prison is an appropriate sentence, the district court shall order the minor committed to prison and the minor shall be provisionally housed [~~in a secure facility operated by the Division of Juvenile Justice Services~~] in a secure care facility until the minor reaches 18 years old, unless released earlier from incarceration by the Board of Pardons and Parole.

(3) The district court may order the minor committed directly to the legal and physical custody of the Department of Corrections if the district court finds that:

(a) the minor would present an unreasonable risk to others while in the custody of the [~~Division of Juvenile Justice Services~~] division;

(b) the minor has previously been committed to a prison for adult offenders; or

(c) housing the minor in [~~a secure facility operated by the Division of Juvenile Justice Services~~] a secure care facility would be contrary to the interests of justice.

(4) (a) The [~~Division of Juvenile Justice Services~~] division shall adopt procedures by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, regarding the transfer of a minor provisionally housed in [~~a division facility~~] a secure care facility under Subsection (2) to the custody of the Department of Corrections.

(b) If, in accordance with the rules adopted under Subsection (4)(a), the [~~Division of Juvenile Justice Services~~] division determines that housing the minor in [~~a division facility~~] a secure care facility presents an unreasonable risk to others or that it is not in the best interest of the minor, the [~~Division of Juvenile Justice Services~~] division shall transfer the physical custody of the minor to the Department of Corrections.

(5) (a) When a minor is committed to prison but ordered by a district court to be housed in [~~a Division of Juvenile Justice Services facility~~] a secure care facility under this section, the district court and the [~~Division of Juvenile Justice Services~~] division shall immediately notify the Board of Pardons and Parole so that the minor may be scheduled for a hearing according to board procedures.

(b) If a minor who is provisionally housed in [~~a Division of Juvenile Justice Services facility~~] a secure care facility under this section has not been paroled or otherwise released from incarceration by the time the minor reaches 18 years old, the [~~Division of Juvenile Justice Services~~] division shall as soon as reasonably possible, but not later than when the minor reaches 18 years and 6 months old, transfer the minor to the physical custody of the Department of Corrections.

(6) Upon the commitment of a minor to the custody of the [~~Division of Juvenile Justice Services~~] division or the Department of Corrections under this section, the Board of Pardons and Parole has authority over the minor for purposes of parole, pardon, commutation, termination of sentence, remission of fines or forfeitures, orders of restitution, and all other purposes authorized by law.

(7) The [~~Youth Parole Authority~~] authority may hold hearings, receive reports, or otherwise keep informed of the progress of a minor in the custody of the [~~Division of Juvenile Justice Services~~] division under this section and may forward to the Board of Pardons and Parole any information or recommendations concerning the minor.

(8) Commitment of a minor under this section is a prison commitment for all sentencing purposes.

Section 168. Section 80-6-601, which is renumbered from Section 78A-6-116 is renumbered and amended to read:

Part 6. Delinquency Proceedings

[~~78A-6-116~~]. 80-6-601. Minors' cases considered civil proceedings -- Minor not to be charged with crime -- Exception for a prior adjudication -- Traffic violation cases.

(1) Except as provided in [~~Section 78A-6-703.2, 78A-6-703.5, or 78A-6-703.6~~] Part 5, Transfer to District Court, a proceeding in a minor's case under this chapter is a civil proceeding with the juvenile court exercising equitable powers.

(2) (a) An adjudication by a juvenile court of a minor under [~~Section 78A-6-117~~] this chapter is not considered a conviction of a crime, except in cases involving traffic violations.

(b) An adjudication may not:

(i) operate to impose any civil disabilities upon the minor; or

(ii) disqualify the minor for any civil service or military service or appointment.

(3) (a) Except in cases involving traffic violations, and as provided in [~~Section 78A-6-703.2, 78A-6-703.3, or 78A-6-703.5~~] Part 5, Transfer to District Court, a minor may not be charged with a crime and convicted in any court.

(b) Except as provided in Section [~~78A-6-703.5~~] 80-6-504, if a petition is filed in the juvenile court, the minor may not later be subject to criminal prosecution based on the same facts.

(c) Except as provided in Section [~~78A-6-602~~] 80-6-305, an individual may not be subject to a [~~delinquency~~] proceeding under this chapter for an offense that the individual is alleged to have committed before the individual was 12 years old.

(4) (a) An adjudication by a juvenile court of a minor under [~~Section 78A-6-117~~] this chapter is considered a conviction for the purposes of determining the level of offense for which a minor may be charged and enhancing the level of an offense in the juvenile court.

(b) A prior adjudication may be used to enhance the level or degree of an offense committed by an adult only as otherwise specifically provided.

[~~(5) Abstracts of court records for all adjudications of traffic violations shall be submitted to the Department of Public Safety as provided in Section 53-3-218.~~]

[~~(6) A court or state agency with custody of an individual's record related to an offense that the individual is alleged to have committed, or an offense that the individual committed, before the individual was 18 years old may not disclose the record to a federal agency that is responsible for criminal justice research or proceedings unless the court or state agency is required to share the record under state or federal law.~~]

[~~(7) Information necessary to collect unpaid fines, fees, assessments, bail, or restitution may be forwarded to employers, financial institutions, law enforcement, constables, the Office of Recovery Services, or other agencies for purposes of enforcing the order as provided in Section 78A-6-117.~~]

Section 169. Section 80-6-602 is enacted to read:

80-6-602. Hearings or proceedings for minors -- Prosecuting attorney -- Order for indigent defense -- Custody in the Division of Child and Family Services.

(1) In a hearing or proceeding under this chapter, the juvenile court:

(a) shall admit any person who has a direct interest in the case;

(b) may admit any person whose presence is requested by the minor's parent or guardian; and

(c) shall exclude any other person except as provided in Subsection (2).

(2) In a hearing or proceeding under this chapter for a minor who is 14 years old or older, the juvenile court shall admit any person, unless the hearing or proceeding is closed by the juvenile court upon findings, on the record, for good cause if:

(a) the minor has been charged with an offense that would be a felony if committed by an adult; or

(b) the minor is charged with an offense that would be a class A or B misdemeanor if committed by an adult and the minor has been previously charged with an offense that would be a misdemeanor or felony if committed by an adult.

(3) If more than one minor is alleged to be involved in a violation of a law or ordinance, the proceedings for the violation may be consolidated, except a separate hearing may be held with respect to a disposition for a minor.

(4) The county attorney, or the district attorney if within a prosecution district, shall represent the state in a proceeding under this chapter.

(5) If a minor is facing a proceeding under this chapter, a juvenile court shall:

(a) appoint an indigent defense service provider for the minor in accordance with Title 78B, Chapter 22, Part 2, Appointment of Counsel; and

(b) order indigent defense services for the minor in accordance with Title 78B, Chapter 22, Part 2, Appointment of Counsel.

(6) A juvenile court may appoint an attorney guardian ad litem under Section 78A-2-803, or as otherwise provided by law, to represent a child under this chapter.

(7) A juvenile court may not vest custody of a minor facing a delinquency proceeding under this chapter in the Division of Child and Family Services, except as provided in Chapter 3, Abuse, Neglect, and Dependency Proceedings.

Section 170. Section 80-6-603 is enacted to read:

80-6-603. Rights of minors facing delinquency proceedings.

If a minor is facing a delinquency proceeding under this chapter, the minor has the right to:

(1) appear in person in the proceeding for the petition or the criminal information;

(2) defend, in person or by counsel, against the allegations in the petition or the criminal information;

(3) receive a copy of the petition or the criminal information;

(4) testify on the minor's own behalf;

(5) confront the witnesses against the minor;

(6) secure the attendance of witnesses on the minor's behalf under Section 78A-6-351;

(7) be represented by counsel at all stages of the proceedings;

(8) be appointed an indigent defense service provider and be provided indigent defense services in accordance with Title 78B, Chapter 22, Part 2, Appointment of Counsel;

(9) remain silent and be advised that anything the minor says can and will be used against the minor in any court proceedings; and

(10) appeal any adjudication under this chapter.

Section 171. Section 80-6-604 is enacted to read:

80-6-604. Victim's rights -- Access to juvenile court records.

(1) (a) If a minor is charged in a petition or information under this chapter for an offense that if committed by an adult would be a felony or a class A or class B misdemeanor, a victim of any act charged in the petition or information shall, upon request, be afforded all rights afforded to victims in:

(i) Title 77, Chapter 36, Cohabitant Abuse Procedures Act;

(ii) Title 77, Chapter 37, Victims' Rights;

(iii) Title 77, Chapter 38, Rights of Crime Victims Act; and

(iv) Title 78B, Chapter 7, Part 8, Criminal Protective Orders.

(b) The notice provisions in Section 77-38-3 do not apply to important juvenile justice hearings as defined in Section 77-38-2.

(2) A victim, upon request to the appropriate juvenile court personnel, shall have the right to inspect and duplicate juvenile court records related to the offense against the victim that have not been expunged under Part 10, Juvenile Records and Expungement, concerning:

(a) the scheduling of any juvenile court hearings on a petition or information filed under this chapter;

(b) any findings made by the juvenile court; and

(c) any order or disposition imposed by the juvenile court.

Section 172. Section 80-6-605, which is renumbered from Section 78A-6-703.4 is renumbered and amended to read:

[~~78A-6-703.4~~]. 80-6-605. Extension of juvenile court jurisdiction -- Procedure.

(1) At the time that a prosecuting attorney [~~charges~~] files a petition under Section 80-6-305, or a criminal information under Section 80-6-503, for a felony offense alleged to have been committed by a minor who is 14 years old or older [~~with a felony~~], either party may file a motion to extend the juvenile court's continuing jurisdiction over the minor's case until the minor is 25 years old if:

(a) the minor was the principal actor in the offense; and

(b) the petition or [~~criminal~~] information alleges a felony violation of:

(i) Section 76-5-103, aggravated assault resulting in serious bodily injury to another;

(ii) Section 76-5-202, aggravated murder or attempted aggravated murder;

(iii) Section 76-5-203, murder or attempted murder;

(iv) Section 76-5-302, aggravated kidnapping;

(v) Section 76-5-405, aggravated sexual assault;

(vi) Section 76-6-103, aggravated arson;

(vii) Section 76-6-203, aggravated burglary;

(viii) Section 76-6-302, aggravated robbery;

(ix) Section 76-10-508.1, felony discharge of a firearm; or

(x) (A) an offense other than the offenses listed in Subsections (1)(b)(i) through (ix) involving the use of a dangerous weapon that would be a felony if committed by an adult; and

(B) the minor has been previously adjudicated or convicted of an offense involving the use of a dangerous weapon that would have been a felony if committed by an adult.

(2) (a) Notwithstanding Subsection (1), either party may file a motion to extend the juvenile court's continuing jurisdiction after a determination by the juvenile court that the minor will not be bound over to the district court under Section [~~78A-6-703.5~~] 80-6-504.

(3) The juvenile court shall make a determination on a motion under Subsection (1) or (2) at the time of disposition.

(4) The juvenile court shall extend the continuing jurisdiction over the minor's case until the minor is 25 years old if the juvenile court finds, by a preponderance of the evidence, that extending continuing jurisdiction is in the best interest of the minor and the public.

(5) In considering whether it is in the best interest of the minor and the public for the court to extend jurisdiction over the minor's case until the minor is 25 years old, the juvenile court shall consider and base the juvenile court's decision on:

(a) whether the protection of the community requires an extension of jurisdiction beyond the age of 21;

(b) the extent to which the minor's actions in the offense were committed in an aggressive, violent, premeditated, or willful manner;

(c) the minor's mental, physical, educational, trauma, and social history; and

(d) the criminal record and previous history of the minor.

(6) The amount of weight that each factor in Subsection (5) is given is in the juvenile court's discretion.

(7) (a) The juvenile court may consider written reports and other materials relating to the minor's mental, physical, educational, trauma, and social history.

(b) Upon request by the minor, the minor's parent, guardian, or other interested party, the juvenile court shall require the person preparing the report or other material to appear and be subject to both direct and cross-examination.

(8) A minor may testify under oath, call witnesses, cross-examine witnesses, and present evidence on the factors described in Subsection (5).

Section 173. Section 80-6-606 is enacted to read:

80-6-606. Validated risk and needs assessment -- Examination of minor or minor's parent or guardian.

(1) (a) If a minor is adjudicated for an offense under this chapter, the minor shall undergo a risk screening or, if indicated, a validated risk and needs assessment.

(b) If a minor undergoes a risk screening or a validated risk and needs assessment, the results of the screening or assessment shall be used to inform the juvenile court's disposition and any case planning for the minor.

(c) If a minor undergoes a validated risk and needs assessment, the results of the assessment may not be shared with the juvenile court before the adjudication of the minor.

(2) If the juvenile court's continuing jurisdiction over a minor's case is terminated, the minor shall undergo a validated risk and needs assessment within seven days of the day on which an order terminating the juvenile court's continuing jurisdiction is issued if:

(a) the minor is adjudicated under this chapter; and

(b) the minor underwent a validated risk and needs assessment under Subsection (1).

(3) (a) If a petition under this chapter has been filed for a minor, a juvenile court may:

(i) order that the minor be examined by a physician, surgeon, psychiatrist, or psychologist; and

(ii) place the minor in a hospital or other facility for examination.

(b) After notice and a hearing set for the specific purpose, the juvenile court may order an examination of a minor's parent or guardian whose ability to care for a minor is at issue if the juvenile court finds from the evidence presented at the hearing that the parent's or guardian's physical, mental, or emotional condition may be a factor in causing the delinquency of the minor.

(c) An examination conducted in accordance with this Subsection (3) is not a privileged communication under Utah Rules of Evidence, Rule 506(d)(3), and is exempt from the general rule of privilege.

Section 174. Section 80-6-607, which is renumbered from Section 78A-6-123 is renumbered and amended to read:

[~~78A-6-123~~]. 80-6-607. Case planning and appropriate responses.

(1) For a minor adjudicated and placed on probation under Section 80-6-702 or [~~into the custody of the Division of Juvenile Justice Services~~] committed to the division under Section [~~78A-6-117~~] 80-6-703, a case plan shall be created and [~~shall be~~]:

(a) developed in collaboration with the minor and the minor's family;

(b) individualized to the minor;

(c) informed by the results of a validated risk and needs assessment under Section 80-6-606; and

(d) tailored to the minor's offense and history.

(2) (a) The Administrative Office of the Courts and the[~~Division of Juvenile Justice Services~~] division shall develop a statewide system of appropriate responses to guide responses to the behaviors of minors:

(i) undergoing nonjudicial adjustments;

(ii) whose case is under the jurisdiction of the juvenile court; and

(iii) in the custody of the [~~Division of Juvenile Justice Services~~] division.

(b) The system of responses shall include both sanctions and incentives that:

(i) are swift and certain;

(ii) include a continuum of community based responses for minors living at home;

(iii) target a minor's criminogenic risks and needs, as determined by the results of a validated risk and needs assessment under Section 80-6-606, and the severity of the violation; and

(iv) authorize earned discharge credits as one incentive for compliance.

(c) After considering the juvenile disposition guidelines established by the Sentencing Commission, [~~pursuant to~~] in accordance with Section 63M-7-404, the system of appropriate responses under Subsections (2)(a) and (b) shall be developed.

(3) (a) A response to [~~a~~] compliant or noncompliant behavior under Subsection (2) shall be documented in the minor's case plan.

(b) Documentation under Subsection (3)(a) shall include:

[~~(a)~~] (i) positive behaviors and incentives offered;

[~~(b)~~] (ii) violations and corresponding sanctions; and

[~~(c)~~] (iii) whether the minor has a subsequent violation after a sanction.

(4) Before referring a minor to a juvenile court for judicial review, or to the [~~Youth Parole Authority~~] authority if the minor is under the jurisdiction of the [~~Youth Parole Authority~~] authority, in response to [~~a violation, either through~~] a contempt filing under Section [~~78A-6-1101~~] 78A-6-353 or an order to show cause, [~~pursuant to Subsections (2)(a) and (b),~~] a pattern of appropriate responses shall be documented in the minor's case plan in accordance with Subsections (3)(a) and (b).

(5) Notwithstanding Subsection (4), [~~violations of protective orders or ex parte protective orders~~] if a minor violates a protective order or an ex parte protective order listed in Section 78B-7-803 [~~with victims and violations that constitute new delinquency offenses~~], the violation may be filed directly with the juvenile court.

Section 175. Section 80-6-608, which is renumbered from Section 78A-6-1104 is renumbered and amended to read:

[~~78A-6-1104~~]. 80-6-608. When photographs, fingerprints, or HIV infection tests may be taken -- Distribution -- DNA collection -- Reimbursement.

(1) The[~~- Division of Juvenile Justice Services~~] division shall take a photograph and fingerprints of [~~all minors~~] a minor who is:

(a) 14 years [~~of age~~] old or older [~~who are~~] at the time of the alleged commission of an offense that would be a felony if the minor were 18 years old or older; and

(b) admitted to a detention facility [~~operated by the Division of Juvenile Justice Services for the alleged commission of an offense that would be a felony if the minor were 18 years of age or older~~] for the alleged commission of the offense.

(2) The [~~Juvenile Court~~] juvenile court shall order a minor who is 14 years [~~of age~~] old or older at the time that the minor is alleged to have committed an offense described in Subsection (2)(a) or (b) to have the minor's fingerprints taken at a detention facility [~~operated by the Division of Juvenile Justice Services~~] or a local law enforcement agency if the minor is:

(a) adjudicated for an offense that would be a class A misdemeanor if the minor were 18 years [~~of age~~] old or older; or

(b) adjudicated for an offense that would be a felony if the minor were 18 years [~~of age~~] old or older and the minor was not admitted to a detention facility [~~operated by the Division of Juvenile Justice Services~~].

(3) The [~~Juvenile Court~~] juvenile court shall take a photograph of [~~all minors~~] a minor who is:

(a) 14 years [~~of age~~] old or older [~~who are~~] at the time the minor was alleged to have committed an offense that would be a felony or a class A misdemeanor if the minor were 18 years old or older; and

(b) adjudicated for [~~an offense that would be a felony or a class A misdemeanor if the minor were 18 years of age or older~~] the offense described in Subsection (3)(a).

(4) [~~Fingerprints~~] If a minor's fingerprints are taken under this section, the minor's fingerprints shall be forwarded to the Bureau of Criminal Identification and may be stored by electronic medium.

(5) HIV testing shall be conducted on a minor who is taken into custody after having been adjudicated [~~to have violated state law prohibiting~~] for a sexual offense under Title 76, Chapter 5, Part 4, Sexual Offenses, upon the request of:

(a) the victim[~~,~~];

(b) the parent or guardian of a victim who is younger than 14 years [~~of age,~~] old; or

(c) the [~~legal~~] guardian of the alleged victim if the victim is a vulnerable adult as defined in Section 62A-3-301.

(6) HIV testing shall be conducted on a minor against whom a petition has been filed or a pickup order has been issued for the commission of any offense under Title 76, Chapter 5, Part 4, Sexual Offenses[~~,~~]:

(a) upon the request of:

(i) the victim[~~,~~];

(ii) the parent or guardian of a victim who is younger than 14 years [~~of age,~~] old; or

(iii) the [~~legal~~] guardian of the alleged victim if the victim is a vulnerable adult as defined in Section 62A-3-301[~~, and regarding which:~~]; and

(b) in which:

[~~(a) a judge~~] (i) the juvenile court has signed an accompanying arrest warrant, pickup order, or any other order based upon probable cause regarding the alleged offense; and

[~~(b) the judge~~] (ii) the juvenile court has found probable cause to believe that the alleged victim has been exposed to HIV infection as a result of the alleged offense.

(7) HIV tests, photographs, and fingerprints may not be taken of a child who is younger than 14 years [~~of age~~] old without the consent of the juvenile court.

(8) (a) Photographs taken under this section may be distributed or disbursed to [~~the following individuals or agencies~~]:

(i) state and local law enforcement agencies;

(ii) the judiciary; and

(iii) the [~~Division of Juvenile Justice Services~~] division.

(b) Fingerprints may be distributed or disbursed to [~~the following individuals or agencies~~]:

(i) state and local law enforcement agencies;

(ii) the judiciary;

(iii) the [~~Division of Juvenile Justice Services~~] division; and

(iv) agencies participating in the Western Identification Network.

[~~(9) When a minor's juvenile record is expunged, all photographs and other records as ordered shall upon court order be destroyed by the law enforcement agency. Fingerprint records may not be destroyed.~~]

(9) (a) A DNA specimen shall be obtained from a minor who is under the jurisdiction of the juvenile court as described in Subsection 53-10-403(3).

(b) The DNA specimen shall be obtained, in accordance with Subsection 53-10-404(4), by:

(i) designated employees of the juvenile court; or

(ii) if the minor is committed to the division, designated employees of the division.

(c) The responsible agency under Subsection (9)(b) shall ensure that an employee designated to collect the saliva DNA specimens receives appropriate training and that the specimens are obtained in accordance with accepted protocol.

(d) Reimbursements paid under Subsection 53-10-404(2)(a) shall be placed in the DNA Specimen Restricted Account created in Section 53-10-407.

(e) Payment of the reimbursement is second in priority to payments the minor is ordered to make for restitution under Section 80-6-710 and for treatment ordered under Section 80-3-403.

Section 176. Section 80-6-609, which is renumbered from Section 78A-6-122 is renumbered and amended to read:

[~~78A-6-122~~]. 80-6-609. Restraint of a minor.

(1) As used in this section, "restrained" means the use of handcuffs, chains, shackles, zip ties, irons, straightjackets, and any other device or method [~~which may be~~] that is used to immobilize a [~~juvenile~~] minor.

(2) (a) The Judicial Council shall adopt rules that address the circumstances under which a [~~juvenile~~] minor may be restrained while appearing in juvenile court.

(b) The Judicial Council shall ensure that the rules consider both the welfare of the [~~juvenile~~] minor and the safety of the juvenile court.

(c) A [~~juvenile~~] minor may not be restrained during a juvenile court proceeding unless restraint is authorized by rules of the Judicial Council.

Section 177. Section 80-6-610, which is renumbered from Section 78A-6-1113 is renumbered and amended to read:

[~~78A-6-1113~~]. 80-6-610. Property damage caused by a minor -- Liability of parent or guardian.

(1) [~~The parent or legal guardian having~~] A parent or guardian with legal custody of [~~the~~] a minor is liable for damages sustained to property not to exceed $2,000 when:

(a) the minor intentionally damages, defaces, destroys, or takes the property of another;

(b) the minor recklessly or willfully shoots or propels a missile, or other object at or against a motor vehicle, bus, airplane, boat, locomotive, train, railway car, or caboose, whether moving or standing; or

(c) the minor intentionally and unlawfully tampers with the property of another and thereby recklessly endangers human life or recklessly causes or threatens a substantial interruption or impairment of any public utility service.

(2) [~~The parent or legal guardian having~~] A parent or guardian with legal custody of [~~the~~] a minor is liable for damages sustained to property not to exceed $5,000 when the minor [~~commits an~~] is adjudicated for an offense under [~~Section~~] Subsection (1):

(a) for the benefit of, at the direction of, or in association with any criminal street gang as defined in Section 76-9-802; or

(b) to gain recognition, acceptance, membership, or increased status with a criminal street gang.

(3) [~~The~~] A juvenile court may make an order for [~~the~~] restitution [~~authorized in this section~~] under Subsection (1) or (2) to be paid by the minor's parent or guardian [~~as part of the minor's disposition order~~] if the minor is adjudicated for an offense.

(4) As used in this section, property damage described under Subsection (1)(a) or (c), or Subsection (2), includes graffiti, as defined in Section 76-6-107.

(5) A court may waive part or all of the liability for damages under this section by the [~~parent or legal guardian if the offender is adjudicated in the juvenile court under Section 78A-6-117 only upon stating on the record that the court finds~~] minor's parent or guardian if, after the minor is adjudicated, the court finds, upon the record:

(a) good cause; or

(b) the parent or [~~legal~~] guardian:

(i) made a reasonable effort to restrain the wrongful conduct; and

(ii) reported the conduct to the property owner involved or the law enforcement agency having primary jurisdiction after the parent or guardian knew of the minor's unlawful act.

(6) A report is not required under Subsection (5)(b) from a parent or [~~legal~~] guardian if the minor was arrested or apprehended by a peace officer or by anyone acting on behalf of the property owner involved.

(7) A conviction for criminal mischief under Section 76-6-106, criminal trespass under Section 76-6-206, or an adjudication under Section [~~78A-6-117~~] 80-6-701 is not a condition precedent to a civil action authorized under Subsection (1) or (2).

(8) A parent or guardian is not liable under Subsection (1) or (2) if the parent or guardian made a reasonable effort to supervise and direct [~~their minor child~~] the minor, or, in the event the parent or guardian knew in advance of the possible taking, injury, or destruction by [~~their minor child~~] the minor, made a reasonable effort to restrain the [~~child~~] minor.

Section 178. Section 80-6-701 is enacted to read:

Part 7. Adjudication and Disposition

80-6-701. Adjudication of an offense.

(1) (a) If the juvenile court finds, by beyond a reasonable doubt, that the allegations in a petition under Section 80-6-305, or a criminal information under Section 80-6-503, are true at the adjudication hearing, the juvenile court may order a disposition for a minor under this part.

(b) In determining the proper disposition for a minor under Subsection (1), the juvenile court may consider written reports and materials in accordance with Utah Rules of Juvenile Procedure, Rule 45.

(c) Except as otherwise provided by this chapter, the juvenile court may combine the dispositions under this part if the dispositions are compatible.

(d) If the juvenile court orders any disposition under this part, including an order for secure detention under Section 80-6-704, the disposition shall be served concurrently with any other disposition for detention or secure care.

(2) The juvenile court shall adjudicate a minor's case in accordance with the Utah Rules of Juvenile Procedure.

(3) (a) If an offense committed by a minor comes within the juvenile court's jurisdiction, the juvenile court is not required to make findings of fact upon which the juvenile court bases the juvenile court's jurisdiction for an offense described in Subsection 78A-6-103(1).

(b) For an offense not described in Subsection 78A-6-103(1), the juvenile court shall make findings of fact upon which the juvenile court bases the juvenile court's jurisdiction.

Section 179. Section 80-6-702 is enacted to read:

80-6-702. Probation or protective supervision -- Conditions for probation.

(1) If a minor is adjudicated under Section 80-6-701, the juvenile court may place the minor on probation, or under protective supervision in accordance with Subsection (3) if the minor is a child, in the minor's own home and upon conditions determined by the juvenile court, including community or compensatory service.

(2) (a) If the juvenile court orders a condition under Subsection (1), the condition shall be:

(i) individualized and address a specific risk or need;

(ii) based on information provided to the juvenile court, including the results of a validated risk and needs assessment conducted under Section 80-6-606; and

(iii) if the juvenile court orders substance abuse treatment or an educational series, based on a validated risk and needs assessment conducted under Section 80-6-606.

(b) A juvenile court may not issue a standard order that contains control-oriented conditions.

(c) If the juvenile court orders a prohibition on weapon possession as a condition under Subsection (1), the prohibition shall be specific to the minor and not the minor's family.

(3) If the juvenile court orders protective supervision, the Division of Child and Family Services may not provide protective supervision unless there is a petition filed under Section 80-3-201 that requests that the Division of Child and Family Services provide protective supervision.

(4) (a) If the juvenile court places a minor on probation, the juvenile court shall establish the period of time that a minor is on probation in accordance with Section 80-6-712.

(b) An order for probation or protective supervision shall include a date for review and presumptive termination of the case by the juvenile court in accordance with Section 80-6-712.

(c) For each review of a minor's case under Subsection (4)(b), the juvenile court shall set a new date for a review and presumptive termination of the minor's case.

(5) (a) If a minor is adjudicated under this chapter, the juvenile court may order a minor's parent, guardian, or custodian, or any other person who has been made a party to the proceedings, to comply with reasonable conditions, including:

(i) parent-time by the minor's parent;

(ii) restrictions on the individuals that the minor associates with;

(iii) restrictions on the minor's occupation and any other activity; and

(iv) requirements to be observed by the minor's parent, guardian, or custodian.

(b) If a minor's parent, guardian, or custodian successfully completes a family or other counseling program, the minor may be credited by the juvenile court for time spent in detention, in secure care, or on probation.

Section 180. Section 80-6-703 is enacted to read:

80-6-703. Placement of a child -- Commitment of a minor to the division -- Limitations.

(1) (a) If a child is adjudicated for an offense under Section 80-6-701, the juvenile court may:

(i) place the child in the legal custody of a relative or other suitable individual regardless of whether the minor is placed on probation under Subsection 80-6-702(1); or

(ii) appoint a guardian for the child if it appears that a guardian is necessary in the interest of the child.

(b) The juvenile court may not assume the function of developing foster home services in placing a child in the legal custody of a relative or other suitable individual under Subsection (1)(a).

(c) (i) If the juvenile court appoints a guardian for a child under Subsection (1)(a)(ii), the juvenile court:

(A) may appoint a public or private institution or agency as the guardian of the child; and

(B) may not appoint a nonsecure residential placement provider for which legal custody of the child is vested.

(d) In placing a child under the guardianship or legal custody of an individual or private agency or institution under Subsection (1)(a)(ii), the juvenile court:

(i) shall give primary consideration to the welfare of the child; and

(ii) may take into consideration the religious preferences of the child and the child's parent.

(2) If a minor is adjudicated under Section 80-6-701, the juvenile court shall only commit the minor to the division and order the division to provide recommendations and services if:

(a) nonresidential treatment options have been exhausted or nonresidential treatment options are not appropriate; and

(b) the minor is adjudicated under this chapter for:

(i) a felony;

(ii) a misdemeanor when the minor has five prior misdemeanors or felony adjudications arising from separate criminal episodes; or

(iii) a misdemeanor involving the use of a dangerous weapon as defined in Section 76-1-601.

(3) A juvenile court may not commit a minor to the division:

(a) for residential observation and evaluation or residential observation and assessment;

(b) for contempt of court, except to the extent permitted under Section 78A-6-353;

(c) for a violation of probation;

(d) for failure to pay a fine, fee, restitution, or other financial obligation;

(e) for unfinished compensatory or community service hours;

(f) for an infraction; or

(g) for a status offense.

(4) If the juvenile court commits a minor to the division, the juvenile court shall:

(a) find whether the minor is being committed to the division for placement in a community-based program, secure detention under Section 80-6-704, or secure care under Section 80-6-705;

(b) specify the criteria under Subsection (3) for which the juvenile court is committing the minor to the division; and

(c) establish the period of time that the minor is committed to the division in accordance with Section 80-6-712.

(5) (a) Except for an order for secure care under Section 80-6-705, if the juvenile court commits a minor to the division, or places the minor with an individual under this section, the juvenile court shall include in the order a date for a review and presumptive termination of the minor's case by the juvenile court in accordance with Section 80-6-712.

(b) For each review of a minor's case under Subsection (5)(a), the juvenile court shall set a new date for a review and presumptive termination of the minor's case.

(6) If a minor is adjudicated for an offense under Section 80-6-701, a juvenile court may not commit a minor to:

(a) except as provided in Subsection (7), the Division of Child and Family Services; or

(b) a correctional facility.

(7) The juvenile court may not commit a minor to the Division of Child and Family Services to address the minor's ungovernable or other behavior, mental health, or disability, unless the Division of Child and Family Services:

(a) engages other relevant divisions of the department in conducting an assessment of the minor and the minor's family's needs;

(b) based on an assessment under Subsection (7)(a), determines that committing the minor to the Division of Child and Family Services is the least restrictive intervention for the minor that meets the minor's needs; and

(c) consents to the minor being committed to the Division of Child and Family Services.

(8) If a minor is committed to the division under this section, the division may not transfer custody of the minor to a correctional facility.

Section 181. Section 80-6-704 is enacted to read:

80-6-704. Detention or alternative to detention -- Limitations.

(1) (a) The juvenile court may order a minor to detention, or an alternative to detention, if the minor is adjudicated for:

(i) an offense under Section 80-6-701; or

(ii) contempt of court under Section 78A-6-353.

(b) Except as provided in Subsection 78A-6-353(3), and subject to the juvenile court retaining continuing jurisdiction over a minor's case, the juvenile court may order a minor to detention, or an alternative to detention, under Subsection (1) for a period not to exceed 30 cumulative days for an adjudication.

(c) If a minor is held in detention before an adjudication, the time spent in detention before the adjudication shall be credited toward the 30 cumulative days eligible as a disposition under Subsection (1)(a).

(d) If a minor spent more than 30 days in detention before a disposition under Subsection (1), the juvenile court may not order the minor to detention under this section.

(2) An order for detention under Subsection (1) may not be suspended upon conditions ordered by the juvenile court.

(3) A juvenile court may not order a minor to detention for:

(a) contempt of court, except to the extent permitted under Section 78A-6-353;

(b) a violation of probation;

(c) failure to pay a fine, fee, restitution, or other financial obligation;

(d) unfinished compensatory or community service hours;

(e) an infraction; or

(f) a status offense.

(4) (a) If a minor is held in detention under this section, the minor is eligible to receive credit for good behavior against the period of detention.

(b) The rate of credit is one day of credit for good behavior for every three days spent in detention.

(5) (a) A minor may not be held in secure detention following a disposition by the juvenile court:

(i) under Chapter 3, Abuse, Neglect, and Dependency Proceedings; or

(ii) except as provided in Subsection (5)(b), for a community-based program.

(b) If a minor is awaiting placement by the division under Section 80-6-703, a minor may not be held in secure detention for longer than 72 hours, excluding weekends and holidays.

(c) The period of detention under Subsection (5)(b) may be extended by the juvenile court for a cumulative total of seven calendar days if:

(i) the division, or another agency responsible for placement, files a written petition with the juvenile court requesting the extension and setting forth good cause; and

(ii) the juvenile court enters a written finding that it is in the best interests of both the minor and the community to extend the period of detention.

(d) The juvenile court may extend the period of detention beyond the seven calendar days if the juvenile court finds, by clear and convincing evidence, that:

(i) the division, or another agency responsible for placement, does not have space for the minor; and

(ii) the safety of the minor and community requires an extension of the period of detention.

(e) The division, or the agency with custody of the minor, shall report to the juvenile court every 48 hours, excluding weekends and holidays, regarding whether the division, or another agency responsible for placement, has space for the minor.

(f) The division, or agency, requesting an extension shall promptly notify the detention facility that a written petition has been filed.

(g) The juvenile court shall promptly notify the detention facility regarding the juvenile court's initial disposition and any ruling on a petition for an extension, whether granted or denied.

Section 182. Section 80-6-705 is enacted to read:

80-6-705. Secure care -- Limitations -- Order for therapy for parent with minor in secure care.

(1) If a minor is adjudicated for an offense under Section 80-6-701, the juvenile court may order the minor to secure care if the juvenile court finds that:

(a) (i) the minor poses a risk of harm to others; or

(ii) the minor's conduct resulted in the victim's death; and

(b) the minor is adjudicated for:

(i) a felony offense;

(ii) a misdemeanor offense if the minor has five prior misdemeanor or felony adjudications arising from separate criminal episodes; or

(iii) a misdemeanor offense involving use of a dangerous weapon as defined in Section 76-1-601.

(2) A juvenile court may not order a minor to secure care for:

(a) contempt of court;

(b) a violation of probation;

(c) failure to pay a fine, fee, restitution, or other financial obligation;

(d) unfinished compensatory or community service hours;

(e) an infraction; or

(f) a status offense.

(3) The juvenile court may, on the recommendation of the division, order a parent of a minor in secure care to undergo group

rehabilitation therapy under the direction of a therapist, who has supervision of the minor in secure care, or any other therapist for a period recommended by the division.

Section 183. Section 80-6-706 is enacted to read:

80-6-706. Treatment -- Commitment to local mental health authority or Utah State Developmental Center.

(1) If a minor is adjudicated under Section 80-6-701, the juvenile court may order:

(a) a nonresidential, diagnostic assessment for the minor, including a risk assessment for substance use disorder, mental health, psychological, or sexual behavior;

(b) the minor to be examined or treated by a physician, surgeon, psychiatrist, or psychologist; or

(c) other care for the minor.

(2) For purposes of receiving the examination, treatment, or care described in Subsection (1), the juvenile court may place the minor in a hospital or other suitable facility that is not secure care or secure detention.

(3) In determining whether to order the examination, treatment, or care described in Subsection (1), the juvenile court shall consider:

(a) the desires of the minor;

(b) if the minor is a child, the desires of the minor's parent or guardian; and

(c) whether the potential benefits of the examination, treatment, or care outweigh the potential risks and side-effects, including behavioral disturbances, suicidal ideation, brain function impairment, or emotional or physical harm resulting from the compulsory nature of the examination, treatment, or care.

(4) (a) If the juvenile court orders examination, treatment, or care for a child under Subsection (1) and the child is committed to the division under Subsection 80-6-703(2), the division shall:

(i) take reasonable measures to notify the child's parent or guardian of any non-emergency health treatment or care scheduled for the child;

(ii) include the child's parent or guardian as fully as possible in making health care decisions for the child; and

(iii) defer to the child's parent's or guardian's reasonable and informed decisions regarding the child's health care to the extent that the child's health and well-being are not unreasonably compromised by the parent's or guardian's decision.

(b) The division shall notify the parent or guardian of a child within five business days after a child committed to the division receives emergency health care or treatment.

(c) The division shall use the least restrictive means to accomplish the care and treatment of a child described under Subsection (1).

(5) If a child is adjudicated for an offense under Section 80-6-701, the juvenile court may commit the child to the physical custody, as defined in Section 62A-15-701, of a local mental health authority in accordance with the procedures and requirements in Title 62A, Chapter 15, Part 7, Commitment of Persons Under Age 18 to Division of Substance Abuse and Mental Health.

(6) (a) If a minor is adjudicated for an offense under Section 80-6-701, and the minor has an intellectual disability, the juvenile court may commit the minor to the Utah State Developmental Center in accordance with Title 62A, Chapter 5, Part 3, Admission to an Intermediate Care Facility for People with an Intellectual Disability.

(b) The juvenile court shall follow the procedure applicable in the district courts with respect to judicial commitments to the Utah State Developmental Center when ordering a commitment under Subsection (6)(a).

Section 184. Section 80-6-707, which is renumbered from Section 78A-6-606 is renumbered and amended to read:

[~~78A-6-606~~]. 80-6-707. Suspension of driving privileges.

[~~(1) This section applies to a minor who is at least the age eligible for a driver license under Section 53-3-204 when found by the court to be within its jurisdiction by the commission of an offense under:~~]

[~~(a) Section 32B-4-409;~~]

[~~(b) Section 32B-4-410;~~]

[~~(c) Section 32B-4-411;~~]

[~~(d) Section 58-37-8;~~]

[~~(e) Title 58, Chapter 37a, Utah Drug Paraphernalia Act;~~]

[~~(f) Title 58, Chapter 37b, Imitation Controlled Substances Act; or~~]

[~~(g) Subsection 76-9-701(1).~~]

[~~(2) This section only applies when the minor is found by the court to be in actual physical control of a motor vehicle during the commission of one of the offenses under Subsection (1).~~]

[~~(3) If the court hearing the case determines that the minor committed an offense under Section 58-37-8 or Title 58, Chapter 37a, Utah Drug Paraphernalia Act, or Chapter 37b, Imitation Controlled Substances Act, the court may prepare and send to the Driver License Division of the Department of Public Safety an order to suspend that minor's driving privileges.~~]

[~~(4) (a) The court hearing the case may suspend the minor's driving privileges if the minor violated Section 32B-4-409, Section 32B-4-410, or Subsection 76-9-701(1).~~]

(1) This section applies to a minor who:

(a) at the time that the minor is adjudicated under Section 80-6-701, is at least the age eligible for a driver license under Section 53-3-204; and

(b) is found by the juvenile court to be in actual physical control of a motor vehicle during the commission of the offense for which the minor is adjudicated.

(2) (a) Except as otherwise provided by this section, if a minor is adjudicated for a violation of a traffic law by the juvenile court under Section 80-6-701, the juvenile court may:

(i) suspend the minor's driving privileges; and

(ii) take possession of the minor's driver license.

(b) The juvenile court may order any other eligible disposition under Subsection (1), except for a disposition under Section 80-6-703 or 80-6-705.

(c) If a juvenile court suspends a minor's driving privileges under Subsection (2)(a):

(i) the juvenile court shall prepare and send the order to the Driver License Division of the Department of Public Safety; and

(ii) the minor's license shall be suspended under Section 53-3-219.

[~~(b)~~] (3) The juvenile court may reduce a suspension period imposed under Section 53-3-219 if:

(a) (i) the violation is the minor's first violation of:

(A) Section 32B-4-409;

(B) Section 32B-4-410;

(C) Section 58-37-8;

(D) Title 58, Chapter 37a, Utah Drug Paraphernalia Act;

(E) Title 58, Chapter 37b, Imitation Controlled Substances Act; or

(F) Subsection 76-9-701(1); and

(ii) (A) the minor completes an educational series as defined in Section 41-6a-501; or

(B) the minor demonstrates substantial progress in substance use disorder treatment[~~.~~]; or

[~~(c) The court may reduce the suspension period required under Section 53-3-219 if:~~]

(b) (i) the violation is the minor's second or subsequent violation of:

(A) Section 32B-4-409;

(B) Section 32B-4-410;

(C) Section 58-37-8;

(D) Title 58, Chapter 37a, Utah Drug Paraphernalia Act;

(E) Title 58, Chapter 37b, Imitation Controlled Substances Act; or

(F) Subsection 76-9-701(1);

(ii) the minor has completed an educational series as defined in Section 41-6a-501 or demonstrated substantial progress in substance use disorder treatment; and

(iii) (A) the [~~person is 18 years of age~~] minor is 18 years old or older and provides a sworn statement to the juvenile court that the [~~person~~] minor has not unlawfully consumed alcohol or drugs for at least a one-year consecutive period during the suspension period imposed under [~~Subsection (4)(a)~~] Section 53-3-219; or

(B) the [~~person is under 18 years of age and has the person's~~] minor is under 18 years old and the minor's parent or legal guardian [~~provide~~] provides an affidavit or sworn statement to the juvenile court certifying that to the parent or [~~legal~~] guardian's knowledge the [~~person~~] minor has not unlawfully consumed alcohol or drugs for at least a one-year consecutive period during the suspension period imposed under [~~Subsection (4)(a)~~] Section 53-3-219.

[~~(d)~~] (4) (a) If a minor [~~commits~~] is adjudicated under Section 80-6-701 for a proof of age violation, as defined in Section 32B-4-411:

(i) the juvenile court may forward a record of adjudication to the Department of Public Safety for a first or subsequent violation; and

(ii) the minor's driving privileges will be suspended:

(A) for a period of at least one year under Section 53-3-220 for a first conviction for a violation of Section 32B-4-411; or

(B) for a period of two years for a second or subsequent conviction for a violation of Section 32B-4-411.

[~~(e)~~] (b) The juvenile court may reduce the suspension period imposed under Subsection [~~(4)(d)~~] (4)(a)(ii)(A) if:

(i) the violation is the minor's first violation of Section 32B-4-411; and

(ii) (A) the minor completes an educational series as defined in Section 41-6a-501; or

(B) the minor demonstrates substantial progress in substance use disorder treatment.

[~~(f)~~] (c) The juvenile court may reduce the suspension period imposed under Subsection [~~(4)(d)~~] (4)(a)(ii)(B) if:

(i) the violation is the minor's second or subsequent violation of Section 32B-4-411;

(ii) the minor has completed an educational series as defined in Section 41-6a-501 or demonstrated substantial progress in substance use disorder treatment; and

(iii) (A) the [~~person is 18 years of age~~] minor is 18 years old or older and provides a sworn statement to the court that the [~~person~~] minor has not unlawfully consumed alcohol or drugs for at least a one-year consecutive period during the suspension period imposed under Subsection [~~(4)(d)~~] (4)(a)(ii)(B); or

(B) the [~~person is under 18 years of age~~] minor is under 18 years old and has the [~~person's~~] minor's parent or [~~legal~~] guardian provide an affidavit or sworn statement to the court certifying that to the parent or [~~legal~~] guardian's knowledge the [~~person~~] minor has not unlawfully consumed alcohol or drugs for at least a one-year consecutive period during the suspension period imposed under Subsection [~~(4)(d)~~] (4)(a)(ii)(B).

[~~(5) A minor's license shall be suspended under Section 53-3-219 when a court issues an order suspending the minor's driving privileges in accordance with Subsection (2) for a violation of:~~]

[~~(a) Section 32B-4-409;~~]

[~~(b) Section 32B-4-410;~~]

[~~(c) Section 58-37-8;~~]

[~~(d) Title 58, Chapter 37a, Utah Drug Paraphernalia Act, or Chapter 37b, Imitation Controlled Substances Act; or~~]

[~~(e) Subsection 76-9-701(1).~~]

[~~(6)~~] (5) When the Department of Public Safety receives the arrest or conviction record of a [~~person~~] minor for a driving offense committed while the [~~person's~~] minor's license is suspended under this section, the Department of Public Safety shall extend the suspension for a like period of time.

Section 185. Section 80-6-708 is enacted to read:

80-6-708. Service in National Guard.

If a minor is adjudicated under Section 80-6-701, the minor may be given a choice by the juvenile court to serve in the National Guard in lieu of other sanctions described in this part if:

(1) the minor meets the current entrance qualifications for service in the National Guard as determined by a recruiter, whose determination is final;

(2) the offense:

(a) would be a felony if committed by an adult;

(b) is a violation of Title 58, Chapter 37, Utah Controlled Substances Act; or

(c) was committed with a weapon; and

(3) the juvenile court retains jurisdiction over the minor's case under conditions set by the juvenile court and agreed upon by the recruiter or the unit commander to which the minor is eventually assigned.

Section 186. Section 80-6-709 is enacted to read:

80-6-709. Payment of fines, fees, restitution, or other costs -- Community or compensatory service -- Property damage -- Unpaid balances.

(1) (a) If a minor is adjudicated for an offense under Section 80-6-701, the juvenile court may order a minor to:

(i) pay a fine, fee, or other cost;

(ii) pay restitution in accordance with Section 80-6-710; or

(iii) complete community or compensatory service hours.

(b) (i) If the juvenile court orders the minor to pay restitution under Subsection (1)(a), a juvenile probation officer may permit the minor to complete a work program in lieu of paying part or all of the restitution by the juvenile court.

(ii) If the juvenile court orders the minor to complete community or compensatory service hours, a juvenile probation officer may permit the minor to complete a work program to help the minor complete the community or compensatory service hours.

(c) The juvenile court may, through a juvenile probation officer, encourage the development of nonresidential employment or a work program to enable a minor to fulfill the minor's obligations under Subsection (1)(a).

(d) Notwithstanding this section, a juvenile court may not place a minor on a ranch, forestry camp, or other residential work program for care or work.

(2) If the juvenile court orders a minor to pay a fine, fee, restitution, or other cost, or to complete community or compensatory service hours, the juvenile court shall consider the dispositions collectively to ensure that an order:

(a) is reasonable;

(b) prioritizes restitution; and

(c) takes into account the minor's ability to satisfy the order within the presumptive period of supervision under Section 80-6-712, or Section 80-6-802 if the minor is ordered to secure care.

(3) (a) If the juvenile court orders a minor to pay a fine, fee, or other cost, or complete community or compensatory service hours, the cumulative order shall be limited per criminal episode as follows:

(i) for a minor under 16 years old at the time of adjudication, the juvenile court may impose up to $190 or up to 24 hours of community or compensatory service; and

(ii) for a minor 16 years old or older at the time of adjudication, the juvenile court may impose up to $280 or up to 36 hours of community or compensatory service.

(b) The cumulative order under Subsection (3)(a) does not include restitution.

(4) (a) If the juvenile court converts a fine, fee, or restitution amount to compensatory service hours, the rate of conversion shall be no less than the minimum wage.

(b) If the juvenile court orders a minor to complete community service, the presumptive service order shall include between five and 10 hours of service.

(c) If a minor completes an approved substance use disorder prevention or treatment program or

other court-ordered condition, the minor may be credited with compensatory service hours for the completion of the program or condition by the juvenile court.

(5) (a) If a minor commits an offense involving the use of graffiti under Section 76-6-106 or 76-6-206, the juvenile court may order the minor to clean up graffiti created by the minor or any other individual at a time and place within the jurisdiction of the juvenile court.

(b) The minor may complete the order of the juvenile court under Subsection (5)(a) in the presence and under the direct supervision of the minor's parent, guardian, or custodian.

(c) The minor's parent, guardian, or custodian shall report completion of the order to the juvenile court.

(d) The juvenile court may also require the minor to perform other alternative forms of restitution or repair to the damaged property in accordance with Section 80-6-710.

(6) (a) Except as provided in Subsection (6)(b), the juvenile court may issue orders necessary for the collection of restitution and fines ordered under this section, including garnishments, wage withholdings, and executions.

(b) The juvenile court may not issue an order under Subsection (6)(a) if the juvenile court orders a disposition that changes custody of a minor, including detention, secure care, or any other secure or nonsecure residential placement.

(7) Any information necessary to collect unpaid fines, fees, assessments, bail, or restitution may be forwarded to employers, financial institutions, law enforcement, constables, the Office of Recovery Services, or other agencies for purposes of enforcing an order under this section.

(8) (a) If, before the entry of any order terminating the juvenile court's continuing jurisdiction over a minor's case, there remains an unpaid balance for any fine, fee, or restitution ordered by the juvenile court, the juvenile court shall record all pertinent information for the unpaid balance in the minor's file.

(b) The juvenile court may not transfer responsibility to collect unpaid fines, fees, surcharges, and restitution for a minor's case to the Office of State Debt Collection created in Section 63A-3-502.

(c) The juvenile court shall reduce a restitution order to a judgment and list the victim, or the estate of the victim, as the judgment creditor in the judgment.

Section 187. Section 80-6-710 is enacted to read:

80-6-710. Restitution -- Requirements.

(1) If a minor is adjudicated under Section 80-6-701, the juvenile court may order the minor to repair, replace, or otherwise make restitution for:

(a) material loss caused by an offense listed in the petition; or

(b) conduct for which the minor agrees to make restitution.

(2) Within seven days after the day on which a petition is filed under this chapter, the prosecuting attorney or a juvenile probation officer shall provide notification of the restitution process to all reasonably identifiable and locatable victims of an offense listed in the petition.

(3) A victim that receives notice under Subsection (2) is responsible for providing the prosecutor with:

(a) all invoices, bills, receipts, and any other evidence of the injury or out-of-pocket loss;

(b) all documentation of any compensation or reimbursement from an insurance company or a local, state, or federal agency that is related to the injury or out-of-pocket loss;

(c) if available, the victim's proof of identification, including the victim's date of birth, social security number, or driver license number; and

(d) the victim's contact information, including the victim's current home and work address and telephone number.

(4) A prosecuting attorney or victim shall submit a request for restitution to the juvenile court:

(a) if feasible, at the time of disposition; or

(b) within 90 days after disposition.

(5) The juvenile court shall order a financial disposition that prioritizes the payment of restitution.

(6) To determine whether restitution, or the amount of restitution, is appropriate under Subsection (1), the juvenile court:

(a) shall only order restitution for the victim's material loss;

(b) may not order restitution if the juvenile court finds that the minor is unable to pay or acquire the means to pay;

(c) shall credit any amount paid by the minor to the victim in a civil suit against restitution owed by the minor;

(d) shall take into account the presumptive period of supervision for the minor's case under Section 80-6-712, or the presumptive period of commitment for secure care under Section 80-6-804 if the minor is ordered to secure care, in determining the minor's ability to satisfy the restitution order within that presumptive term; and

(e) shall credit any amount paid to the victim in restitution against liability in a civil suit.

(7) If the minor and the victim of the adjudicated offense agree to participate, the juvenile court may refer the minor's case to a restorative justice program, such as victim offender mediation, to address how loss resulting from the adjudicated offense may be addressed.

(8) The juvenile court may require a minor to reimburse an individual, entity, or governmental agency who offered and paid a reward to a person for providing information resulting in an adjudication of a minor for the commission of an offense.

(9) If a minor is returned to this state in accordance with Title 55, Chapter 12, Interstate Compact for Juveniles, the juvenile court may order the minor to make restitution for costs expended by any governmental entity for the return of the minor.

Section 188. Section 80-6-711 is enacted to read:

80-6-711. Suspending a disposition.

(1) Except as otherwise provided in Subsection (2), a juvenile court may not suspend a disposition ordered under this part.

(2) (a) If a minor qualifies for secure care under Section 80-6-705, the juvenile court may suspend a disposition for commitment to the division under Section 80-6-703 in lieu of immediate commitment, upon the condition that the minor commit no new misdemeanor or felony offense within 90 days after the day on which the juvenile court suspends the disposition for commitment.

(b) The duration of a suspended disposition under Subsection (2)(a) may not:

(i) exceed 90 days after the day on which the juvenile court suspends the disposition for commitment; and

(ii) be extended under any circumstance.

(3) The juvenile court may only lift a suspension of a disposition under Subsection (2)(a):

(a) following adjudication of a new misdemeanor or felony offense committed by the minor during the period of suspension set out under Subsection (2)(a);

(b) if a new assessment or evaluation has been completed and the assessment or evaluation recommends that a higher level of care is needed and nonresidential treatment options have been exhausted or nonresidential treatment options are not appropriate; or

(c) if, after a notice and a hearing, the juvenile court finds:

(i) a new or previous evaluation recommends a higher level of treatment; and

(ii) the minor willfully failed to comply with a lower level of treatment and has been unsuccessfully discharged from treatment.

(4) A suspended disposition under Subsection (1) may not be imposed without:

(a) notice to the minor and the minor's counsel; and

(b) a hearing.

Section 189. Section 80-6-712 is enacted to read:

80-6-712. Time periods for supervision of probation or placement -- Termination of continuing jurisdiction.

(1) If the juvenile court places a minor on probation under Section 80-6-702, the juvenile court shall establish a period of time for supervision for the minor that is:

(a) if the minor is placed on intake probation, no more than three months; or

(b) if the minor is placed on formal probation, from four to six months, but may not exceed six months.

(2) (a) If the juvenile court commits a minor to the division under Section 80-6-703, and the minor's case is under the jurisdiction of the court, the juvenile court shall establish:

(i) for a minor placed out of the home, a period of custody from three to six months, but may not exceed six months; and

(ii) for aftercare services if the minor was placed out of the home, a period of supervision from three to four months, but may not exceed four months.

(b) A minor may be supervised for aftercare under Subsection (2)(a)(ii) in the home of a qualifying relative or guardian, or at an independent living program contracted or operated by the division.

(3) If the juvenile court orders a minor to secure care, the authority shall:

(a) have jurisdiction over the minor's case; and

(b) apply the provisions of Part 8, Commitment and Parole.

(4) (a) In accordance with Section 80-6-711 and Subsections (1) and (2), the juvenile court shall terminate continuing jurisdiction over a minor's case at the end of the time period described in Subsection (1) for probation, or Subsection (2) for commitment to the division, unless:

(i) termination would interrupt the completion of the treatment program determined to be necessary by the results of a validated risk and needs assessment under Section 80-6-606;

(ii) the minor commits a new misdemeanor or felony offense;

(iii) community or compensatory service hours have not been completed;

(iv) there is an outstanding fine; or

(v) there is a failure to pay restitution in full.

(b) The juvenile court shall determine whether a minor has completed a treatment program under Subsection (4)(a)(i) by considering:

(i) the recommendations of the licensed service provider for the treatment program;

(ii) the minor's record in the treatment program; and

(iii) the minor's completion of the goals of the treatment program.

(5) Subject to Subsection (8), if one of the circumstances under Subsection (4) exists the juvenile court may extend supervision for the time needed to address the specific circumstance.

(6) If a circumstance under Subsection (4)(a)(iii), (iv), or (v) exists, the juvenile court may extend supervision for no more than three months.

(7) If the juvenile court extends supervision under this section, the grounds for the extension and the length of any extension shall be recorded in the court records and tracked in the data system used by the Administrative Office of the Courts and the division.

(8) For a minor who is under the continuing jurisdiction of the juvenile court and whose supervision is extended under Subsection (4)(a)(iii), (iv), or (v), supervision may only be extended as intake probation.

(9) If a minor leaves supervision without authorization for more than 24 hours, the supervision period for the minor shall toll until the minor returns.

(10) This section does not apply to any minor adjudicated under this chapter for:

(a) Section 76-5-103, aggravated assault resulting in serious bodily injury to another;

(b) Section 76-5-202, aggravated murder or attempted aggravated murder;

(c) Section 76-5-203, murder or attempted murder;

(d) Section 76-5-205, manslaughter;

(e) Section 76-5-206, negligent homicide;

(f) Section 76-5-207, automobile homicide;

(g) Section 76-5-207.5, automobile homicide involving handheld wireless communication device;

(h) Section 76-5-208, child abuse homicide;

(i) Section 76-5-209, homicide by assault;

(j) Section 76-5-302, aggravated kidnapping;

(k) Section 76-5-405, aggravated sexual assault;

(l) a felony violation of Section 76-6-103, aggravated arson;

(m) Section 76-6-203, aggravated burglary;

(n) Section 76-6-302, aggravated robbery;

(o) Section 76-10-508.1, felony discharge of a firearm;

(p) (i) an offense other than an offense listed in Subsections (9)(a) through (o) involving the use of a dangerous weapon, as defined in Section 76-1-601, that is a felony; and

(ii) the minor has been previously adjudicated or convicted of an offense involving the use of a dangerous weapon; or

(q) a felony offense other than an offense listed in Subsections (9)(a) through (p) and the minor has been previously committed to the division for secure care.

Section 190. Section 80-6-801 is enacted to read:

Part 8. Commitment and Parole

80-6-801. Commitment to local mental health authority or Utah State Developmental Center.

(1) If a child is committed by the juvenile court to the physical custody, as defined in Section 62A-15-701, of a local mental health authority, or the local mental health authority's designee, Title 62A, Chapter 15, Part 7, Commitment of Persons Under Age 18 to Division of Substance Abuse and Mental Health, shall govern the commitment and release of the minor.

(2) If a minor is committed to the Utah State Developmental Center, Title 62A, Chapter 5, Services for People with Disabilities, shall govern the commitment and release of the minor.

Section 191. Section 80-6-802, which is renumbered from Section 62A-7-404 is renumbered and amended to read:

[~~62A-7-404~~]. 80-6-802. Commitment to secure care -- Rights of juvenile offenders in secure care.

(1) If a youth offender [~~has been committed to a secure facility~~] is ordered to secure care under Section [~~78A-6-117~~] 80-6-705, the youth offender shall remain [~~at the secure facility~~] in secure care until the youth offender is:

(a) 21 years old;

(b) paroled; or

(c) discharged.

(2) If a serious youth offender [~~has been committed to a secure facility~~] is ordered to secure care under Section [~~78A-6-117~~] 80-6-705, the serious youth offender shall remain [~~at the secure facility~~] in secure care until the serious youth offender is:

(a) 25 years old;

(b) paroled; or

(c) discharged.

(3) (a) Subject to Subsection (3)(b), a juvenile offender in secure care has the right to:

(i) phone the juvenile offender's parent, guardian, or an attorney while the juvenile offender is in secure care; and

(ii) confer in private, at any time, with an attorney, cleric, parent, guardian, or custodian.

(b) The division may:

(i) establish a schedule for which a juvenile offender may visit or phone a person described in Subsection (3)(a);

(ii) allow a juvenile offender to visit or call persons described in Subsection (3)(a) in special circumstances;

(iii) limit the number and length of calls and visits for a juvenile offender to persons described in Subsection (3)(a) on account of scheduling, facility, or personnel constraints; or

(iv) limit the juvenile's rights under Subsection (3)(a) if a compelling reason exists to limit the juvenile's rights.

Section 192. Section 80-6-803, which is renumbered from Section 62A-7-111.5 is renumbered and amended to read:

[~~62A-7-111.5~~]. 80-6-803. Cost of support and maintenance of a juvenile offender -- Responsibility.

On commitment of a juvenile offender to the division, and on recommendation of the division to the juvenile court, the juvenile court may order the juvenile offender, or the juvenile offender's parent, guardian, or custodian in accordance with Section 78A-6-356, to share in the costs of support and maintenance for the juvenile offender during the juvenile offender's term of commitment.

Section 193. Section 80-6-804, which is renumbered from Section 62A-7-404.5 is renumbered and amended to read:

[~~62A-7-404.5~~]. 80-6-804. Review and termination of secure care.

(1) If a juvenile offender [~~has been committed to a secure facility~~] is ordered to secure care under Section 80-6-705, the juvenile offender shall appear before the authority within 45 days after the day on which the juvenile offender [~~is committed to a secure facility~~] is ordered to secure care for review of a treatment plan and to establish parole release guidelines.

(2) (a) If a juvenile offender is [~~committed to a secure facility~~] ordered to secure care under Section 80-6-705, the authority shall set a presumptive term of commitment for the juvenile offender [~~that does not exceed three to six months~~] from three to six months, but the presumptive term may not exceed six months.

(b) The authority shall release the juvenile offender on parole at the end of the presumptive term of commitment unless [~~at least one the following circumstances exists~~]:

(i) termination would interrupt the completion of a [~~necessary~~] treatment program determined to be necessary by the results of a validated risk and needs assessment under Section 80-6-606; or

(ii) the juvenile offender commits a new misdemeanor or felony offense.

(c) The authority shall determine whether a juvenile offender has completed a treatment program under Subsection (2)(b)(i) by considering:

(i) the recommendations of the licensed service provider[~~,~~] for the treatment program;

(ii) the juvenile offender's [~~consistent attendance record,~~] record in the treatment program; and

(iii) the juvenile offender's completion of the goals of the [~~necessary~~] treatment program.

(d) The authority may extend the length of commitment and delay parole release for the time needed to address the specific circumstance if one of the circumstances under Subsection (2)(b) exists.

(e) The authority shall:

(i) record the length of the extension and the grounds for the extension; and

(ii) report annually the length and grounds of extension to the commission.

(f) Records under Subsection (2)(e) shall be tracked in the data system used by the juvenile court and the division.

(3) (a) If a juvenile offender is committed to [~~a secure facility~~] secure care, the authority shall set a presumptive term of parole supervision [~~that does not exceed three to four months.~~], including aftercare services, from three to four months, but the presumptive term may not exceed four months.

(b) If the authority determines that a juvenile offender is unable to return home immediately upon release, the juvenile offender may serve the term of parole in the home of a qualifying relative or guardian or at an independent living program contracted or operated by the division.

(c) The authority shall release a juvenile offender from parole and terminate the authority's jurisdiction at the end of the presumptive term of parole, unless [~~at least one the following circumstances exists~~]:

(i) termination would interrupt the completion of a [~~necessary~~] treatment program that is determined to be necessary by the results of a validated risk and needs assessment under Section 80-6-606;

(ii) the juvenile offender commits a new misdemeanor or felony offense; or

(iii) restitution has not been completed.

(d) The authority shall determine whether a juvenile offender has completed a treatment program under Subsection (2)(c)(i) by considering:

(i) the recommendations of the licensed service provider[~~,~~];

(ii) the juvenile offender's [~~consistent attendance record,~~] record in the treatment program; and

(iii) the juvenile offender's completion of the goals of the [~~necessary~~] treatment program.

(e) If one of the circumstances under Subsection (3)(c) exists, the authority may delay parole release

only for the time needed to address the specific circumstance.

(f) The authority shall:

(i) record the grounds for extension of the presumptive length of parole and the length of the extension; and

(ii) report annually the extension and the length of the extension to the commission.

(g) Records under Subsection (3)(f) shall be tracked in the data system used by the juvenile court and the division.

[~~(g) In the event of an unauthorized leave lasting more than 24 hours~~]

(h) If a juvenile offender leaves parole supervision without authorization for more than 24 hours, the term of parole shall toll until the juvenile offender returns.

(4) Subsections (2) and (3) do not apply to a juvenile offender committed to [~~a secure facility~~] secure care for a felony violation of:

(a) Section 76-5-103, aggravated assault resulting in serious bodily injury to another;

(b) Section 76-5-202, aggravated murder or attempted aggravated murder;

(c) Section 76-5-203, murder or attempted murder;

(d) Section 76-5-302, aggravated kidnapping;

(e) Section 76-5-405, aggravated sexual assault;

(f) Section 76-6-103, aggravated arson;

(g) Section 76-6-203, aggravated burglary;

(h) Section 76-6-302, aggravated robbery;

(i) Section 76-10-508.1, felony discharge of a firearm;

(j) an offense other than an offense listed in Subsections (4)(a) through (i) involving the use of a dangerous weapon:

(i) if the offense would be a felony had an adult committed the offense; and

(ii) the juvenile offender has been previously adjudicated or convicted of an offense involving the use of a dangerous weapon that would have been a felony had an adult committed the offense; or

(k) an offense other than an offense listed in Subsections (4)(a) through (j) and the minor has been previously committed to [~~the custody of the Division of Juvenile Justice Services for secure confinement~~] the division for secure care.

(5) (a) The division may continue to have responsibility over a juvenile offender, who is discharged under this section from parole, to participate in a specific educational or rehabilitative program:

(i) until the juvenile offender is:

(A) if the juvenile offender is a youth offender, 21 years old; or

(B) if the juvenile offender is a serious youth offender, 25 years old; and

(ii) under an agreement by the division and the juvenile offender that the program has certain conditions.

(b) The division and the juvenile offender may terminate participation in a program under Subsection (5)(a) at any time.

(c) The division shall offer an educational or rehabilitative program before a juvenile offender's discharge date in accordance with this section.

(d) A juvenile offender may request the services described in this Subsection (5), even if the offender has been previously declined services or services were terminated for noncompliance.

(e) Notwithstanding Subsection (5)(c), the division:

(i) shall consider a request by a juvenile offender under Subsection (5)(d) for the services described in this Subsection (5) for up to 365 days after the juvenile offender's effective date of discharge, even if the juvenile offender has previously declined services or services were terminated for noncompliance; and

(ii) may reach an agreement with the juvenile offender to provide the services described in this Subsection (5) until the juvenile offender is:

(A) if the juvenile offender is a youth offender, 21 years old; or

(B) if the juvenile offender is a serious youth offender, 25 years old.

(f) The division and the juvenile offender may terminate an agreement for services under this Subsection (5) at any time.

Section 194. Section 80-6-805, which is renumbered from Section 62A-7-502 is renumbered and amended to read:

[~~62A-7-502~~]. 80-6-805. Parole procedures -- Conditions of parole.

[~~(1) The authority has responsibility for parole release, rescission, revocation, and termination for juvenile offenders who have been committed to the division for secure confinement. The authority shall determine when and under what conditions juvenile offenders who have been committed to a secure facility are eligible for parole.~~]

[~~(2)~~] (1) (a) A juvenile offender shall be served with notice of parole hearings and has the right to personally appear before the authority for parole consideration.

[~~(3) Orders and decisions~~]

(b) An order or decision of the authority shall be in writing[~~, and a~~].

(c) A juvenile offender shall be provided written notice of the authority's reasoning and decision in the juvenile offender's case.

[~~(4) The authority shall establish policies and procedures for the authority's governance, meetings, hearings, the conduct of proceedings before the authority, the parole of juvenile offenders, and the general conditions under which parole may be granted, rescinded, revoked, modified, and terminated.~~]

(2) A juvenile offender may be paroled to the juvenile offender's home, to an independent living program contracted or operated by the division, to an approved independent living setting, or to other appropriate residences of qualifying relatives or guardians, but shall remain on parole until parole is terminated by the authority in accordance with Section 80-6-804.

(3) (a) Any condition of parole shall be specified in writing, and agreed to, by the juvenile offender.

(b) An agreement under Subsection (3)(a) shall be evidenced by the signature of the juvenile offender, which shall be affixed to the agreement.

(4) The authority may require a juvenile offender to pay restitution ordered by the juvenile court as a condition of release, placement, or parole.

Section 195. Section 80-6-806, which is renumbered from Section 62A-7-504 is renumbered and amended to read:

[~~62A-7-504~~]. 80-6-806. Parole revocation -- Hearing -- Procedures.

(1) (a) The authority may only revoke the parole of a juvenile offender [~~only~~] after a hearing and upon determination that there has been a violation of law or of a condition of parole by the juvenile offender that warrants the juvenile offender's return to [~~a secure facility~~] secure care.

(b) The parole revocation hearing shall be held at [~~a secure facility~~] the secure care facility.

(2) (a) Before returning a juvenile offender to [~~a secure facility~~] secure care for a parole revocation or rescission hearing, the division shall provide a prerevocation or prerescission hearing within the vicinity of the alleged violation, to determine whether there is probable cause to believe that the juvenile offender violated the conditions of the juvenile offender's parole.

(b) Upon a finding of probable cause, the juvenile offender may be remanded to [~~a secure facility~~] secure care, pending a revocation hearing.

(3) The authority shall only proceed with the parole revocation or rescission process in accordance with the system of appropriate responses developed in accordance with Section [~~78A-6-123 on or after July 1, 2018~~] 80-6-607.

(4) A paroled juvenile offender is entitled to legal representation at the parole revocation hearing, and if the juvenile offender or the juvenile offender's family has requested but cannot afford legal representation, the authority shall appoint legal counsel.

[~~(5) The authority and the administrative officer have power to issue subpoenas, compel attendance of witnesses, compel production of books, papers and other documents, administer oaths, and take testimony under oath for the purposes of conducting the hearings.~~]

[~~(6)~~] (5) (a) A juvenile offender:

(i) shall receive timely advance notice of the date, time, place, and reason for the hearing[~~,~~]; and

(ii) has the right to appear at the hearing.

(b) The authority shall provide the juvenile offender an opportunity to be heard, to present witnesses and evidence, and to confront and cross-examine adverse witnesses, unless there is good cause for disallowing that confrontation.

[~~(7)~~] (6) Decisions in parole revocation or rescission hearings shall be reached by a majority vote of the present members of the authority.

[~~(8) The administrative officer shall maintain summary records of all hearings and provide written notice to the juvenile offender of the decision and reason for the decision.~~]

[~~(9)~~] (7) (a) The authority may issue a warrant to order any peace officer or division employee to take into custody a juvenile offender alleged to be in violation of parole conditions in accordance with Section [~~78A-6-123 on or after July 1, 2018~~] 80-6-607.

(b) The division may issue a warrant to any peace officer or division employee to retake a juvenile offender who has escaped from [~~a secure facility~~] secure care.

(c) Based upon the warrant issued under this Subsection (9), a juvenile offender may be held in a local detention facility for no longer than 48 hours, excluding weekends and legal holidays, to allow time for a prerevocation or [~~prerecission~~] prerescission hearing of the alleged parole violation, or in the case of an escapee, arrangement for transportation to [~~the secure facility~~] secure care.

Section 196. Section 80-6-807, which is renumbered from Section 62A-7-506 is renumbered and amended to read:

[~~62A-7-506~~]. 80-6-807. Discharge of juvenile offender.

(1) A juvenile offender may be discharged from the jurisdiction of the division at any time, by written order of the authority, upon a finding that no further purpose would be served by [~~secure confinement~~] secure care or supervision in a community setting.

(2) A juvenile offender shall be discharged in accordance with Section [~~62A-7-404.5~~] 80-6-804.

(3) Discharge of a juvenile offender is a complete release of all penalties incurred by adjudication of the offense for which the juvenile offender was committed to secure care.

Section 197. Section 80-6-808, which is renumbered from Section 62A-7-507 is renumbered and amended to read:

[~~62A-7-507~~]. 80-6-808. Appeal regarding parole release or revocation.

(1) A juvenile offender, or the parent or [~~legal~~] guardian of a juvenile offender, may appeal to the executive director of the department, or [~~his~~] the executive director's designee, any decision of the authority regarding parole release, rescission, or revocation.

(2) The executive director, or the executive director's designee, may set aside or remand the authority's decision only if the authority's decision is arbitrary, capricious, an abuse of discretion, or contrary to law.

Section 198. Section 80-6-901, which is renumbered from Section 78A-6-1202 is renumbered and amended to read:

Part 9. Youth Court

[~~78A-6-1202~~]. 80-6-901. Definitions.

As used in this part:

(1) "Adult" means [~~a person 18 years of age~~] an individual who is 18 years old or older.

(2) (a) "Gang activity" means any criminal activity that is conducted as part of an organized youth gang. [~~It~~]

(b) "Gang activity" includes any criminal activity that is done in concert with other gang members, or done alone if [~~it~~] the criminal activity is to fulfill gang purposes.

[~~(b)~~] (c) "Gang activity" does not include graffiti.

(3) "Minor" means an individual who is:

(a) under 18 years old; or

(b) 18 years old and still attending high school.

[~~(3)~~] (4) (a) "Minor offense" means any unlawful act that is a status offense or [~~would~~] an offense that would be a misdemeanor, infraction, or violation of a municipal or county ordinance if [~~the youth were~~] committed by an adult.

(b) "Minor offense" does not include:

(i) a class A misdemeanor; or

(ii) a felony of any degree.

[~~(4)~~] (5) "Sponsoring entity" means any political subdivision of the state, including a school or school district, juvenile court, law enforcement agency, prosecutor's office, county, city, or town.

[~~(5)~~] (6) "Status offense" means a violation of the law that would not be a violation but for the age of the offender.

[~~(6) "Youth" means a person under the age of 18 years or who is 18 but still attending high school.~~]

(7) "Youth court" means a diversion program that is an alternative disposition for cases involving minors who have committed minor offenses.

(8) "Youth Court Board" means the board created under Subsection 80-6-907(1).

Section 199. Section 80-6-902, which is renumbered from Section 78A-6-1203 is renumbered and amended to read:

[~~78A-6-1203~~]. 80-6-902. Youth court -- Authorization -- Referral.

(1) [~~Youth court is a diversion program that provides an alternative disposition for cases involving juvenile offenders in which youth participants~~] A minor may serve in a youth court, under the supervision of an adult coordinator, [~~may serve~~] in various capacities within the courtroom, acting in the role of jurors, lawyers, bailiffs, clerks, and judges.

(a) [~~Youth who appear before youth courts have been~~] A minor who appears before a youth court has been identified by law enforcement personnel, school officials, a prosecuting attorney, or the juvenile court as having committed [~~acts which indicate~~] an act, including a minor offense or eligible offense under Section 53G-8-211, that indicates a need for intervention to prevent further development toward juvenile delinquency, but which appear to be acts that can be appropriately addressed outside the juvenile court process.

(b) [~~Youth courts~~] A youth court may only hear cases as provided for in this part.

(c) [~~Youth court is a diversion program and~~] A youth court is not a court established under the Utah Constitution, Article VIII.

(2) A youth court may not accept referrals from law enforcement, schools, prosecuting attorneys, or a juvenile court unless the youth court is certified by the [~~Utah~~] Youth Court Board.

(3) (a) Any person may refer [~~youth~~] a minor to a youth court for [~~minor offenses~~] a minor offense or for any other eligible offense under Section 53G-8-211.

(b) Once a referral is made, the case shall be screened by an adult coordinator to determine whether [~~it~~] the minor offense or other eligible offense qualifies as a youth court case.

(4) [~~Youth courts have authority over youth~~] A youth court has authority over a minor:

(a) referred for one or more minor offenses or who are referred for other eligible offenses under Section 53G-8-211, or who are granted permission for referral under this part;

(b) who, along with a parent, guardian, or [~~legal~~] custodian, voluntarily and in writing, request youth court involvement; and

(c) who, along with a parent, guardian, or [~~legal~~] custodian, agree to follow the youth [~~court~~] court's disposition of the case.

(5) (a) Except with permission granted under Subsection (6), or [~~pursuant to~~] in accordance with

Section 53G-8-211, [~~youth courts~~] a youth court may not exercise authority over [~~youth who are~~] a minor whose case is under the continuing jurisdiction of the juvenile court [~~for law violations~~] for an offense, including any [~~youth who may have a matter pending which~~] minor who has a matter pending that has not yet been adjudicated. [~~Youth courts~~]

(b) Notwithstanding Subsection (5)(a), a youth court may[~~, however,~~] exercise authority over [~~youth who are under~~] a minor who is involved in a proceeding under the continuing jurisdiction of the juvenile court [~~as set forth in this Subsection (5)~~] if the offense before the youth court is not a law violation[~~,~~] and the referring agency has notified the juvenile court of the referral.

(6) [~~Youth courts~~] A youth court may exercise authority over [~~youth~~] a minor described in Subsection (5), and over any other offense with the permission of the juvenile court and the prosecuting attorney in the county or district that would have jurisdiction if the matter were referred to juvenile court.

(7) Permission of the juvenile court may be granted by a [~~probation officer of the court~~] juvenile probation officer in the district that would have jurisdiction over the offense being referred to a youth court.

(8) [~~Youth courts~~] A youth court may:

(a) decline to accept a [~~youth~~] minor for youth court disposition for any reason; and [~~may~~]

(b) terminate a youth from youth court participation at any time.

(9) (a) A [~~youth or the youth's~~] minor, or the minor's parent, guardian, or [~~legal~~] custodian may withdraw from the youth court process at any time.

(b) The youth court shall immediately notify the referring source of the withdrawal.

(10) The youth court may transfer a case back to the referring source for alternative handling at any time.

(11) Referral of a case to youth court may not, if otherwise eligible, prohibit the subsequent referral of the case to any court.

(12) Proceedings and dispositions of a youth court may only be shared with the referring agency, juvenile court, and victim.

(13) When a [~~person~~] minor does not complete the terms ordered by a youth court, and if the case is referred to a juvenile court, the youth court shall provide the case file to the juvenile court.

Section 200. Section 80-6-903, which is renumbered from Section 78A-6-1204 is renumbered and amended to read:

[~~78A-6-1204~~]. 80-6-903. Parental involvement -- Victims -- Restitution.

(1) [~~Every youth~~] A minor appearing before the youth court shall be accompanied by a parent, guardian, or [~~legal~~] custodian.

(2) [~~Victims~~] A victim shall have the right to attend hearings and be heard.

(3) (a) Any restitution due to a victim of an offense shall be made in full prior to the time the case is completed by the youth court.

(b) Restitution shall be agreed upon between the [~~youth~~] minor and the victim.

Section 201. Section 80-6-904, which is renumbered from Section 78A-6-1205 is renumbered and amended to read:

[~~78A-6-1205~~]. 80-6-904. Dispositions.

(1) [~~Youth court dispositional options include~~] A youth court may order a disposition for:

(a) compensatory service;

(b) participation in law-related educational classes, appropriate counseling, treatment, or other educational programs;

(c) providing periodic reports to the youth court;

(d) participating in mentoring programs;

(e) participation by the [~~youth~~] minor as a member of a youth court;

(f) letters of apology;

(g) essays; and

(h) any other disposition considered appropriate by the youth court and adult coordinator.

(2) [~~Youth courts~~] A youth court may not:

(a) impose a term of imprisonment or detention [~~and may not~~]; or

(b) impose fines.

(3) [~~Youth court dispositions~~] A disposition by a youth court shall be completed within 180 days from the date of referral.

(4) [~~Youth court dispositions~~] A disposition by a youth court shall be reduced to writing and signed by the [~~youth and a~~] minor and the minor's parent, guardian, or [~~legal~~] custodian indicating [~~their~~] acceptance of the [~~disposition terms~~] terms of the disposition.

(5) (a) [~~Youth court~~] A youth court shall notify the referring source if a [~~participant~~] minor fails to successfully complete the youth [~~court~~] court's disposition.

(b) The referring source may then take any action [~~it~~] the referring source considers appropriate.

Section 202. Section 80-6-905, which is renumbered from Section 78A-6-1206 is renumbered and amended to read:

[~~78A-6-1206~~]. 80-6-905. Liability.

(1) A person [~~or entity~~] associated with the referral, evaluation, adjudication, disposition, or supervision of matters under this part may not be held civilly liable for any injury occurring to [~~any person~~] a minor performing compensatory service or any other activity associated with a certified youth court, unless the person causing the injury acted in a willful or wanton manner.

(2) [~~Persons~~] A person participating in a certified youth court shall be considered [~~to be volunteers~~] a volunteer for purposes of Workers' Compensation and other risk-related issues.

Section 203. Section 80-6-906, which is renumbered from Section 78A-6-1207 is renumbered and amended to read:

[~~78A-6-1207~~]. 80-6-906. Fees.

(1) (a) [~~Youth courts~~] A youth court may require that [~~the youth~~] a minor pay a reasonable fee, not to exceed $50, to participate in the youth court. [~~This fee~~]

(b) A fee under Subsection (1) may be reduced or waived by the youth court in exigent circumstances. [~~This fee~~]

(c) A fee under Subsection (1) shall be paid to and accounted for by the sponsoring entity. [~~The~~]

(d) Any fees collected shall be used for supplies and any training requirements.

(2) [~~Youth court participants are~~] A minor who participates in youth court is responsible for the all expenses of any classes, counseling, treatment, or other educational programs that are the disposition of the youth court.

Section 204. Section 80-6-907, which is renumbered from Section 78A-6-1208 is renumbered and amended to read:

[~~78A-6-1208~~]. 80-6-907. Youth Court Board -- Membership -- Responsibilities.

(1) [~~The Utah attorney general's office shall provide staff support and assistance to a Youth Court Board comprised of the following:~~] The Youth Court Board shall be comprised of the following members:

(a) the Utah attorney general or the attorney general's designee;

(b) one prosecuting attorney appointed by the Utah Prosecution Council;

(c) one criminal defense attorney appointed by the Utah Association of Criminal Defense Attorneys;

[~~(c)~~] (d) one juvenile court judge appointed by the Board of Juvenile Court Judges;

[~~(d)~~] (e) the juvenile court administrator or the administrator's designee;

[~~(e)~~] (f) the executive director of the [~~Utah Commission on Criminal and Juvenile Justice~~] commission or the executive director's designee;

[~~(f)~~] (g) the state superintendent of education or the state superintendent's designee;

[~~(g)~~] (h) two representatives, appointed by the Utah Youth Court Association, from youth courts based primarily in schools;

[~~(h)~~] (i) two representatives, appointed by the Utah Youth Court Association, from youth courts based primarily in communities;

[~~(i)~~] (j) one member from the law enforcement community appointed by the Youth Court Board;

[~~(j)~~] (k) one member from the community at large appointed by the Youth Court Board; and

[~~(k)~~] (l) the president of the Utah Youth Court Association.

(2) The Office of the Attorney General shall provide staff support and assistance to the Youth Court Board.

[~~(2)~~] (3) The members selected to fill the positions in Subsections (1)(a) through [~~(f)~~] (g) shall jointly select the members to fill the positions in Subsections [~~(1)(g) through (j)~~] (1)(h) through (k).

[~~(3)~~] (4) Members shall serve two-year staggered terms beginning July 1, 2012, except the initial terms of the members designated by Subsections (1)(b), (c), [~~(i), and (j)~~] (d), (j), and (k) and one of the members from Subsections [~~(1)(g) and (h)~~] (1)(h) and (i) shall serve two-year terms, but may be reappointed for a full four-year term upon the expiration of [~~their~~] the member's initial term.

[~~(4)~~] (5) The Youth Court Board shall meet at least quarterly to:

(a) set minimum standards for the establishment of [~~youth courts~~] a youth court, including an application process, membership and training requirements, and the qualifications for the adult coordinator;

(b) review certification applications; and

(c) provide for a process to recertify each youth court every three years.

[~~(5)~~] (6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the Youth Court Board shall make rules to accomplish the requirements of Subsection [~~(3)~~] (4).

[~~(6)~~] (7) The Youth Court Board may deny certification, recertification, or withdraw the certification of any youth court for failure to comply with program requirements.

[~~(7)~~] (8) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

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

(c) rules made by the Division of Finance [~~pursuant to~~] in accordance with Sections 63A-3-106 and 63A-3-107.

[~~(8)~~] (9) The Youth Court Board shall provide a list of certified youth courts to the Board of Juvenile Court Judges, all law enforcement agencies in the state, all school districts, and the Utah Prosecution Council by October 1 of each year.

Section 205. Section 80-6-908, which is renumbered from Section 78A-6-1209 is renumbered and amended to read:

[~~78A-6-1209~~]. 80-6-908. Establishing a youth court -- Sponsoring entity responsibilities.

(1) [~~Youth courts~~] A youth court may be established by a sponsoring entity or by a private nonprofit entity [~~which~~] that contracts with a sponsoring entity.

(2) The sponsoring entity shall:

(a) oversee the formation of the youth court;

(b) provide assistance with the application for certification from the Youth Court Board; and

(c) provide assistance for the training of youth court members.

Section 206. Section 80-6-909, which is renumbered from Section 78A-6-1210 is renumbered and amended to read:

[~~78A-6-1210~~]. 80-6-909. School credit.

[~~Local school boards~~] A local school board may provide school credit for participation [~~as~~] to a member of a youth court.

Section 207. Section 80-6-1001, which is renumbered from Section 78A-6-1502 is renumbered and amended to read:

Part 10. Juvenile Records and Expungement

[~~78A-6-1502~~]. 80-6-1001. Definitions.

As used in this part:

(1) "Abstract" means a copy or summary of a court's disposition.

[~~(1)~~] (2) "Agency" means a state, county, or local government entity that generates or maintains records relating to a nonjudicial adjustment or an adjudication for which expungement may be ordered under this part.

[~~(2)~~] (3) "Expunge" means to seal or otherwise restrict access to an individual's record held by a court or an agency when the record relates to a nonjudicial adjustment or an adjudication of an offense in the juvenile court.

Section 208. Section 80-6-1002, which is renumbered from Section 78A-6-1114 is renumbered and amended to read:

[~~78A-6-1114~~]. 80-6-1002. Vacatur of adjudications.

(1) (a) [~~A person~~] An individual who has been adjudicated under this chapter may petition the juvenile court for vacatur of the [~~person's~~] individual's juvenile court records and any related records in the custody of [~~a state agency~~] an agency if the record relates to:

(i) [~~a delinquency~~] an adjudication under Section 76-10-1302, [~~prostitution, Section~~] 76-10-1304, [~~aiding prostitution, or Section~~] or 76-10-1313[~~, sex solicitation~~]; or

(ii) an adjudication that was based on [~~delinquent conduct~~] an offense that the petitioner engaged in while subject to force, fraud, or coercion, as defined in Section 76-5-308.

(b) The petitioner shall include in the petition the relevant juvenile court incident number and any agencies known or alleged to have any documents related to the offense for which vacatur is being sought.

(c) The petitioner shall include with the petition the original criminal history report obtained from the Bureau of Criminal Identification in accordance with the provisions of Section 53-10-108.

(d) The petitioner shall send a copy of the petition to the county attorney or, if within a prosecution district, the district attorney.

[~~(e) (i)~~] (2) (a) Upon the filing of a petition, the juvenile court shall:

[~~(A)~~] (i) set a date for a hearing;

[~~(B)~~] (ii) notify the county attorney or district attorney and the agency with custody of the records at least 30 days prior to the hearing of the pendency of the petition; and

[~~(C)~~] (iii) notify the county attorney or district attorney and the agency with records the petitioner is asking the juvenile court to vacate of the date of the hearing.

[~~(ii)~~] (b) (i) The juvenile court shall provide a victim with the opportunity to request notice of a petition for vacatur.

(ii) A victim shall receive notice of a petition for vacatur at least 30 days [~~prior to~~] before the hearing if, [~~prior to~~] before the entry of [~~a vacatur order~~] vacatur, the victim or, in the case of a child or [~~a person~~] an individual who is incapacitated or deceased, the victim's next of kin or authorized representative, submits a written and signed request for notice to the court in the judicial district in which the crime occurred or judgment was entered.

(iii) The notice shall include a copy of the petition and statutes and rules applicable to the petition.

[~~(2)~~] (3) (a) At the hearing the petitioner, the county attorney or district attorney, a victim, and any other person who may have relevant information about the petitioner may testify.

(b) (i) In deciding whether to grant a petition for vacatur, the juvenile court shall consider whether the petitioner acted subject to force, fraud, or coercion, as defined in Section 76-5-308, at the time of the conduct giving rise to the adjudication.

(ii) (A) If the juvenile court finds by a preponderance of the evidence that the petitioner was subject to force, fraud, or coercion, as defined in Section 76-5-308 at the time of the conduct giving rise to the adjudication, the juvenile court shall grant vacatur.

(B) If the court does not find sufficient evidence, the juvenile court shall deny vacatur.

(iii) If the petition is for vacatur of any adjudication under Section 76-10-1302, [~~prostitution, Section~~] 76-10-1304, [~~aiding prostitution, or Section~~] or 76-10-1313, [~~sex solicitation,~~] the juvenile court shall presumptively grant vacatur unless the petitioner acted as a purchaser of any sexual activity.

(c) If vacatur is granted, the juvenile court shall order sealed all of the petitioner's records under the control of the juvenile court and any of the petitioner's records under the control of any other agency or official pertaining to the incident identified in the petition, including relevant related records contained in the Management Information System created by Section 62A-4a-1003 and the Licensing Information System created by Section 62A-4a-1005.

[~~(3)~~] (4) (a) The petitioner shall be responsible for service of the order of vacatur to all affected state, county, and local entities, agencies, and officials.

(b) To avoid destruction or sealing of the records in whole or in part, the agency or entity receiving the vacatur order shall only vacate all references to the petitioner's name in the records pertaining to the relevant adjudicated juvenile court incident.

[~~(4)~~] (5) (a) Upon the entry of [~~the order granting~~] vacatur, the proceedings in the incident identified in the petition shall be considered never to have occurred and the petitioner may properly reply accordingly upon any inquiry in the matter.

(b) Inspection of the records may thereafter only be permitted by the juvenile court upon petition by the [~~person~~] individual who is the subject of the records, and only to persons named in the petition.

[~~(5)~~] (6) The juvenile court may not vacate a juvenile court record if the record contains an adjudication of:

(a) Section 76-5-202, aggravated murder; or

(b) Section 76-5-203, murder.

Section 209. Section 80-6-1003 is enacted to read:

80-6-1003. Court records -- Abstracts.

(1) (a) Except as otherwise provided in this part, if a minor's juvenile record is expunged, and upon a court order, all photographs or records under Section 80-6-608 shall be destroyed by an agency.

(b) A record of a minor's fingerprints may not be destroyed by an agency.

(2) A court or agency with custody of an individual's record related to an offense that the individual is alleged to have committed, or an offense that the individual committed, before the individual was 18 years old may not disclose the record to a federal agency that is responsible for criminal justice research or proceedings unless the court or the agency is required to share the record under state or federal law.

(3) An abstract of a juvenile court record for an adjudication of a traffic offense shall be submitted to the Department of Public Safety as provided in Section 53-3-218.

Section 210. Section 80-6-1004, which is renumbered from Section 78A-6-1503 is renumbered and amended to read:

[~~78A-6-1503~~]. 80-6-1004. Requirements to apply to expunge an adjudication.

(1) (a) An individual who has been adjudicated by a juvenile court may petition the juvenile court for an order to expunge the individual's juvenile court record and any related records in the custody of an agency if:

(i) the individual has reached 18 years old; and

(ii) at least one year has passed from the date of:

(A) termination of the continuing jurisdiction of the juvenile court; or

(B) the individual's unconditional release from the custody of the [~~Division of Juvenile Justice Services~~] division if the individual was committed to [~~a secure youth corrections facility~~] secure care.

(b) The juvenile court may waive the requirements in Subsection (1)(a) if the juvenile court finds, and states on the record, the reason why the waiver is appropriate.

(c) The petitioner shall include in the petition described in Subsection (1)(a):

(i) any agency known or alleged to have any records related to the offense for which expungement is being sought; and

(ii) the original criminal history report obtained from the Bureau of Criminal Identification in accordance with Section 53-10-108.

(d) The petitioner shall send a copy of the petition described in Subsection (1)(a) to the county attorney or, if within a prosecution district, the district attorney.

(e) (i) Upon the filing of a petition described in Subsection (1)(a), the juvenile court shall:

(A) set a date for a hearing;

(B) notify the county attorney or district attorney and the agency with custody of the records at least 30 days before the day on which the hearing of the pendency of the petition is scheduled; and

(C) notify the county attorney or district attorney and the agency with records that the petitioner is asking the court to expunge of the date of the hearing.

(ii) (A) The juvenile court shall provide a victim with the opportunity to request notice of a petition described in Subsection (1)(a).

(B) Upon the victim's request under Subsection (1)(e)(ii)(A), the victim shall receive notice of the petition at least 30 days before the day on which the hearing is scheduled if, before the day on which an expungement order is made, the victim or, in the case of a child or an individual who is incapacitated

or deceased, the victim's next of kin or authorized representative submits a written and signed request for notice to the juvenile court in the judicial district in which the offense occurred or judgment is entered.

(C) The notice described in Subsection (1)(e)(ii)(B) shall include a copy of the petition described in Subsection (1)(a) and any statutes and rules applicable to the petition.

(2) (a) At the hearing described in Subsection (1)(e)(i), the county attorney or district attorney, a victim, and any other individual who may have relevant information about the petitioner may testify.

(b) In deciding whether to grant a petition described in Subsection (1)(a) for expungement, the juvenile court shall consider whether the rehabilitation of the petitioner has been attained to the satisfaction of the juvenile court, including the petitioner's response to programs and treatment, the petitioner's behavior subsequent to the adjudication, and the nature and seriousness of the conduct.

(c) The juvenile court may order [~~sealed~~] expunged all of the petitioner's records under the control of the juvenile court and an agency or an official, including any record contained in the Management Information System created in Section 62A-4a-1003 and the Licensing Information System created in Section 62A-4a-1005, if the juvenile court finds that:

(i) the petitioner has not, in the five years preceding the day on which the petition described in Subsection (1)(a) is filed, been convicted of a violent felony[~~, as defined in Section 76-3-203.5~~];

(ii) there are no delinquency or criminal proceedings pending against the petitioner; and

(iii) a judgment for restitution entered by the juvenile court on the [~~conviction~~] adjudication for which the expungement is sought has been satisfied.

(3) (a) The petitioner is responsible for service of the expungement order issued under Subsection (2) to any affected agency or official.

(b) To avoid destruction or sealing of the records in whole or in part, the agency or the official receiving the expungement order described in Subsection (3)(a) shall only expunge all references to the petitioner's name in the records pertaining to the petitioner's juvenile court record.

(4) The juvenile court may not expunge a record if the record contains an adjudication of:

(a) Section 76-5-202, aggravated murder; or

(b) Section 76-5-203, murder.

Section 211. Section 80-6-1005, which is renumbered from Section 78A-6-1504 is renumbered and amended to read:

[~~78A-6-1504~~]. 80-6-1005. Nonjudicial adjustment expungement.

(1) An individual whose record consists solely of one or more nonjudicial adjustments may petition the juvenile court for an order to expunge the individual's juvenile court record if the individual:

(a) has reached 18 years old; and

(b) has completed the conditions of each nonjudicial adjustment.

(2) (a) The petitioner shall include in the petition described in Subsection (1) any agency known or alleged to have any records related to the nonjudicial adjustment for which expungement is being sought.

(b) The petitioner is not required to include in the petition described in Subsection (1) an original criminal history report obtained from the Bureau of Criminal Identification in accordance with Section 53-10-108.

(3) Upon the filing of the petition described in Subsection (1), the juvenile court shall, without a hearing, order expungement of all of the petitioner's records under the control of the juvenile court, an agency, or an official.

(4) (a) The petitioner is responsible for service of the expungement order issued under Subsection (3) to any affected agency or official.

(b) To avoid destruction or sealing of the records in whole or in part, the agency or the official receiving the expungement order shall expunge only the references to the individual's name in the records relating to the petitioner's nonjudicial adjustment.

Section 212. Section 80-6-1006, which is renumbered from Section 78A-6-1505 is renumbered and amended to read:

[~~78A-6-1505~~]. 80-6-1006. Effect of an expunged record -- Agency duties.

(1) Upon receipt of an expungement order under this part, an agency shall expunge all records described in the expungement order that are under the control of the agency in accordance with Subsection [~~78A-6-1504~~] 80-6-1005(4)(b).

(2) Upon the entry of the expungement order under this part:

(a) an adjudication or a nonjudicial adjustment in a petitioner's case is considered to have never occurred; and

(b) the petitioner may reply to an inquiry on the matter as though there never was an adjudication or nonjudicial adjustment.

(3) The following persons may inspect an expunged record upon a petition by an individual who is the subject of the record:

(a) the individual who is the subject of the record; and

(b) a person that is named in the petition.

(4) An agency named in an expungement order under this part shall mail an affidavit to the petitioner verifying the agency has complied with the expungement order.

Section 213. Section 80-6-1007, which is renumbered from Section 78A-6-1506 is renumbered and amended to read:

[~~78A-6-1506~~]. 80-6-1007. Fees.

(1) Except for a filing fee for a petition under this part, the juvenile court may not charge a fee for:

(a) an issuance of an expungement order under this part; or

(b) an expungement of a record under this part.

(2) An agency may not charge a fee for the expungement of a record under this part.

Section 214. Section 80-7-101 is enacted to read:

CHAPTER 7. EMANCIPATION

80-7-101. Title.

This chapter is known as "Emancipation."

Section 215. Section 80-7-102, which is renumbered from Section 78A-6-802 is renumbered and amended to read:

[~~78A-6-802~~]. 80-7-102. Definitions.

As used in this [~~part~~] chapter:

(1) "Emancipation" or "emancipated" means a legal status created by court order that allows a minor to:

(a) live independent of the minor's parents or guardian; and

(b) exercise the same rights as an adult under Subsection 80-7-105(1).

[~~(1)~~] (2) "Guardian" has the same meaning as in Section 75-1-201.

[~~(2)~~] (3) "Minor" means [~~a person~~] an individual who is 16 years [~~of age~~] old or older.

[~~(3)~~] (4) "Parent" means a natural parent as defined in Section [~~78A-6-105~~] 80-1-102.

Section 216. Section 80-7-103, which is renumbered from Section 78A-6-803 is renumbered and amended to read:

[~~78A-6-803~~]. 80-7-103. Petition for emancipation -- Amending a petition -- Continuance.

(1) A minor may petition the juvenile court on [~~his or her~~] the minor's own behalf [~~in the district in which he or she resides~~] for a declaration of emancipation.

(2) The petition under Subsection (1) shall:

(a) be on a form provided by the clerk of the juvenile court[~~,~~]; and

(b) state that the minor is:

[~~(a)~~] (i) 16 years [~~of age~~] old or older;

[~~(b)~~] (ii) capable of living independently of [~~his or her~~] the minor's parents or guardian; and

[~~(c)~~] (iii) capable of managing [~~his or her~~] the minor's own financial affairs.

[~~(2)~~] (3) Notice of the petition shall be served on the minor's parents, guardian, any other person or agency with custody of the minor, and the Child and Family Support Division of the Office of the Attorney General, unless the juvenile court determines that service is impractical.

(4) (a) When it appears in a proceeding under this chapter that evidence presented points to material facts not alleged in the petition described in Subsection (1), the juvenile court may consider the additional or different material facts raised by the evidence if the parties consent.

(b) The juvenile court, on a motion from any interested party or on the court's own motion, shall direct that the petition be amended to conform to the evidence.

(c) If an amended petition under Subsection (4)(b) results in a substantial departure from the material facts originally alleged, the juvenile court shall grant a continuance as justice may require in accordance with Utah Rules of Juvenile Procedure, Rule 54.

Section 217. Section 80-7-104, which is renumbered from Section 78A-6-804 is renumbered and amended to read:

[~~78A-6-804~~]. 80-7-104. Procedure for emancipation.

(1) (a) Upon the filing of a petition in accordance with Section [~~78A-6-803~~] 80-7-103, the juvenile court shall review the petition for completeness and whether the petitioner meets the age requirement for filing the petition.

[~~(a)~~] (b) If the petition is incomplete or the petitioner does not meet the age requirement, the juvenile court may dismiss the action immediately.

[~~(b)~~] (c) If the petition is complete and the petitioner meets the age requirement, the juvenile court shall schedule a pretrial hearing on the matter within 30 days.

(2) The juvenile court may appoint [~~a~~] an attorney guardian ad litem in accordance with Section [~~78A-6-902~~] 78A-2-803 to represent the minor.

(3) At the hearing, the juvenile court shall consider the best interests of the minor according to [~~the following~~]:

(a) whether the minor is capable of assuming adult responsibilities;

(b) whether the minor is capable of living independently of [~~his or her~~] the minor's parents, guardian, or custodian;

(c) opinions and recommendations from the attorney guardian ad litem, parents, guardian, or custodian, and any other evidence; and

(d) whether emancipation will create a risk of harm to the minor.

(4) If the juvenile court determines, by clear and convincing evidence, that emancipation is in the

best interests of the minor, [~~it~~] the juvenile court shall issue a declaration of emancipation for the minor.

(5) A juvenile court may modify or set aside any order or decree made by the court in accordance with Section 78A-6-357.

Section 218. Section 80-7-105, which is renumbered from Section 78A-6-805 is renumbered and amended to read:

[~~78A-6-805~~]. 80-7-105. Emancipation.

(1) [~~An emancipated minor~~] A minor who is emancipated may:

(a) enter into contracts;

(b) buy and sell property;

(c) sue or be sued;

(d) retain [~~his or her~~] the minor's own earnings;

(e) borrow money for any purpose, including for education; and

(f) obtain healthcare without parental consent.

(2) [~~An emancipated minor~~] A minor who is emancipated may not be considered an adult:

(a) under the criminal laws of the state, unless the requirements of [~~Part 7, Transfer of Jurisdiction,~~] Chapter 6, Part 5, Transfer to District Court, have been met;

(b) under the criminal laws of the state when [~~he or she~~] the minor is a victim and the age of the victim is an element of the offense; and

(c) for specific constitutional and statutory age requirements regarding voting, use of alcoholic beverages, possession of tobacco or firearms, and other health and safety regulations relevant to the minor because of the minor's age.

(3) (a) An order of emancipation prospectively terminates parental responsibilities that accrue based on the minor's status as a minor under the custody and control of a parent, guardian, or custodian, including parental tort liability for the acts of the minor.

(b) Nothing in this chapter shall be construed to interfere with the integrity of the family or to minimize the rights of parents or children.

Section 219. Repealer.

This bill repeals:

Section 62A-4a-203.5, Mandatory petition for termination of parental rights.

Section 62A-7-101, Definitions.

Section 62A-7-503, Administrative officer of Youth Parole Authority.

Section 62A-7-505, Conditions of parole.

Section 78A-6-106, Search warrants and subpoenas -- Authority to issue -- Protective custody -- Expedited hearing.

Section 78A-6-108, Title of petition and other court documents -- Form and contents of petition -- Order for temporary custody or protective services -- Physical or psychological examination of minor, parent, or guardian -- Dismissal of petition.

Section 78A-6-117, Adjudication of jurisdiction of juvenile court -- Disposition of cases -- Enumeration of possible court orders -- Considerations of court.

Section 78A-6-119, Modification of order or decree -- Requirements for changing or terminating custody, probation, or protective supervision.

Section 78A-6-121, Entry of judgment for fine, fee, surcharge, or restitution.

Section 78A-6-310, Notice of adjudication hearing.

Section 78A-6-604, Minor held in detention -- Credit for good behavior.

Section 78A-6-801, Purpose.

Section 78A-6-1102, Amendment of petition -- When authorized -- Continuance of proceedings.

Section 78A-6-1103, Modification or termination of custody order or decree -- Grounds -- Procedure.

Section 78A-6-1107, Transfer of continuing jurisdiction to other district.

Section 78A-6-1108, New hearings authorized -- Grounds and procedure.

Section 78A-6-1111, Order for indigent defense service or guardian ad litem.

Section 78A-6-1201, Title.

Section 78A-6-1401, Title.

Section 78A-6-1402, Definitions.

Section 78A-6-1501, Title.

Section 220. Effective date.

This bill takes effect on September 1, 2021.

Section 221. Coordinating H.B. 285 with H.B. 37 -- Substantive and technical amendment.

If this H.B. 285 and H.B. 37, Child Protection Unit Amendments, both pass and become law, the Legislature intends that, on September 1, 2021, the Office of Legislative Research and General Counsel shall prepare the Utah Code database for publication by:

(1) amending Section 80-3-102 to read:

"[~~78A-6-301~~] 80-3-102. Definitions.

As used in this [~~part~~] chapter:

(1) "Abuse, neglect, or dependency petition" means a petition filed in accordance with this chapter to commence proceedings in a juvenile court alleging a child is:

(a) abused;

(b) neglected; or

(c) dependent.

(2) "Child protection team" means the same as that term is defined in Section 62A-4a-101.

[~~(1)~~] (3) "Custody" means the same as that term is defined in Section 62A-4a-101.

(4) "Division" means the Division of Child and Family Services created in Section 62A-4a-103.

(5) "Friend" means an adult who:

(a) has an established relationship with the child or a family member of the child; and

(b) is not the natural parent of the child.

[~~(2)~~] (6) "Immediate family member" means a spouse, child, parent, sibling, grandparent, or grandchild.

[~~(3) "Protective custody" means the shelter of a child by the division from the time the child is removed from home until the earlier of:~~]

[~~(a) the shelter hearing; or~~]

[~~(b) the child's return home.~~]

(7) "Relative" means an adult who:

(a) is the child's grandparent, great grandparent, aunt, great aunt, uncle, great uncle, brother-in-law, sister-in-law, stepparent, first cousin, stepsibling, or sibling;

(b) is a first cousin of the child's parent;

(c) is an adoptive parent of the child's sibling; or

(d) in the case of a child who is an Indian child, is an extended family member as defined in 25 U.S.C. Sec. 1903.

(8) "Shelter care" means the same as that term is defined in Section 62A-4a-101.

[~~(4)~~] (9) "Sibling" means the same as that term is defined in Section 62A-4a-101.

[~~(5)~~] (10) "Sibling visitation" means the same as that term is defined in Section 62A-4a-101.

(11) "Substitute care" means the same as that term is defined in Section 62A-4a-101.

[~~(6)~~] (12) "Temporary custody" means [~~the custody of a child in the division from the date of the shelter hearing until disposition.~~] the same as that term is defined in Section 62A-4a-101."; and

(2) amending Subsection 80-3-205(4) to read:

"(4) [~~Members of a child protection unit, established under Section 10-3-913 or 17-22-2,~~] A member of a child protection team may coordinate with the attorney general's office, [~~Division of Child and Family Services~~] division personnel, the appointed guardian ad litem, pretrial services personnel, and corrections personnel as appropriate under this section.".

Section 222. Coordinating H.B. 285 with H.B. 37 and S.B. 99 -- Substantive amendment.

If this H.B. 285 and H.B. 37, Child Protection Unit Amendments, and S.B. 99, Child Welfare Amendments, all pass and become law, the Legislature intends that, on September 1, 2021, the amendments to the definition of "minor" in Section 62A-4a-101 of this bill supersede the amendments to the definition of "minor" in Section 62A-4a-101 in H.B. 37 and S.B. 99 when the Office of Legislative Research and General Counsel prepares the Utah Code database for publication..

Section 223. Coordinating H.B. 285 with H.B. 67 -- Substantive and technical amendment.

If this H.B. 285 and H.B. 67, Juvenile Sentencing Amendments, both pass and become law, the Legislature intends that on September 1, 2021, the Office of Legislative Research and General Counsel prepare the Utah Code database for publication by:

(1) changing the cross-reference in Subsection 76-3-401.5(1)(a) from Section 62A-7-501 to Section 80-5-701;

(2) changing the cross-reference in Subsection 76-3-401.5(1)(c) from Section 62A-7-102 to Section 80-5-103;

(3) amending Subsection 76-3-401.5(1)(d) to read:

"(d) (i) "Juvenile disposition" means an order for commitment to the custody of the division under Subsection 80-6-703(2).

(ii) "Juvenile disposition" includes an order for secure care under Subsection 80-6-705(1).";

(4) amending Subsection 76-3-401.5(1)(f) to read:

"(f) "Secure care" means the same as that term is defined in Section 80-1-102.";

(5) amending Subsection 76-3-401.5(4) to read:

"(4) If a court orders a sentence for imprisonment to run concurrently with a juvenile disposition for secure care, the defendant shall serve the sentence in secure care until the juvenile disposition is terminated by the authority in accordance with Section 80-6-804.";

(6) amending Subsection 76-3-401.5(5) to read:

"(5) If a court orders a sentence for imprisonment in a county jail to run concurrently with a juvenile disposition for secure care and the disposition is terminated before the defendant's sentence for imprisonment in the county jail is terminated, the division shall:

(a) notify the county jail at least 14 days before the day on which the defendant's disposition is terminated or the defendant is released from secure care; and

(b) facilitate the transfer or release of the defendant in accordance with the order of judgment and commitment imposed by the court."; and

(7) amending Subsection 76-3-401.5(6) to read:

"(6) (a) If a court orders a sentence for imprisonment in a secure correctional facility to run concurrently with a juvenile disposition for secure care:

(i) the board has authority over the defendant for purposes of ordering parole, pardon, commutation, termination of sentence, remission of fines or forfeitures, restitution, and any other authority granted by law; and

(ii) the court and the division shall immediately notify the board that the defendant will remain in secure care as described in Subsection (4) for the board to schedule a hearing for the defendant in accordance with board procedures.

(b) If a court orders a sentence for imprisonment in a secure correctional facility to run concurrently with a juvenile disposition for secure care and the juvenile disposition is terminated before the defendant's sentence is terminated, the division shall:

(i) notify the board and the Department of Corrections at least 14 days before the day on which the defendant's disposition is terminated or the defendant is released from the secure care; and

(ii) facilitate a release or transfer of the defendant in accordance with the order of judgment and commitment imposed by the court.".

Section 224. Coordinating H.B. 285 with H.B. 73 -- Technical amendment.

If this H.B. 285 and H.B. 73, Drug Testing Amendments, both pass and become law, the Legislature intends that, on September 1, 2021, the Office of Legislative Research and General Counsel prepare the Utah Code database for publication by:

(1) replacing the words "Part 3, Abuse, Neglect, and Dependency Proceedings" in Subsection 80-3-110(6) with the words "this chapter"; and

(2) changing the reference in Subsection 80-3-406(12)(b)(i) from Subsection 78A-6-115(8) to Subsection 80-3-110(6)..

Section 225. Coordinating H.B. 285 with H.B. 158 -- Substantive and technical amendment.

If this H.B. 285 and H.B. 158, Juvenile Interrogation Amendments, both pass and become law, the Legislature intends that, on September 1, 2021, the Office of Legislative Research and General Counsel prepare the Utah Code database for publication by:

(1) repealing Section 80-6-206 enacted by H.B. 285;

(2) renumbering Section 78A-6-112.5 enacted by H.B. 158 to Section 80-6-206;

(3) changing the reference in Subsection 80-6-206(4)(a) of the renumbered section from Section 78A-6-805 to Section 80-7-105;

(4) amending Subsection 80-6-206(5)(a) of the renumbered section to read:

"(5) (a) If a minor is admitted to a detention facility under Section 80-6-205, or the minor is committed to secure care or a correctional facility, and is subject to interrogation for an offense, the minor may not be interrogated unless:

(i) the minor has had a meaningful opportunity to consult with the minor's appointed or retained attorney;

(ii) the minor waives the minor's constitutional rights after consultation with the minor's appointed or retained attorney; and

(iii) the minor's appointed or retained attorney is present for the interrogation."; and

(5) replacing the words "legal guardian" in Subsections 80-6-206(1), (2), (3), and (4) of the renumbered section with the word "guardian".

Section 226. Coordinating H.B. 285 with H.B. 260 -- Technical amendment.

If this H.B. 285 and H.B. 260, Criminal Justice Modifications, both pass and become law, the Legislature intends that, on September 1, 2021, the Office of Legislative Research and General Counsel prepare the Utah Code database for publication by:

(1) changing the reference in Subsection 76-3-201(1)(a)(ii) from Section 78A-6-117 to Section 80-6-701; and

(2) changing the reference in Subsection 77-38b-102(1)(b)(iii) from Section 78A-6-117 to Section 80-6-701.

Section 227. Coordinating H.B. 285 with S.B. 50 -- Technical amendment.

If this H.B. 285 and S.B. 50, Juvenile Offender Penalty Amendments, both pass and become law, the Legislature intends that, on September 1, 2021, the Office of Legislative Research and General Counsel prepare the Utah Code database for publication by:

(1) changing the reference in Subsection 77-40-105(3)(a) from Section 78A-6-703.2 to Section 80-6-502;

(2) changing the reference in Subsection 77-40-105(3)(a) from Section 78A-6-703.3 to Section 80-6-503; and

(3) changing the reference in Subsection 77-40-105(3)(b) from Section 78A-6-703.5 to Section 80-6-504.

CHAPTER 262
H. B. 286
Passed March 5, 2021
Approved March 17, 2021
Effective September 1, 2021

JUVENILE CODE RECODIFICATION CROSS REFERENCES

Chief Sponsor: V. Lowry Snow
Senate Sponsor: Todd D. Weiler

LONG TITLE

General Description:

This bill makes technical cross reference changes to provisions related to juveniles.

Highlighted Provisions:

This bill:

- makes technical cross reference changes to provisions related to juveniles; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

This bill provides coordination clauses.

Utah Code Sections Affected:

AMENDS:

17-18a-404, as last amended by Laws of Utah 2020, Chapters 214 and 312
26-2-22 (Superseded 11/01/21), as last amended by Laws of Utah 2020, Chapter 201
26-2-22 (Effective 11/01/21), as last amended by Laws of Utah 2020, Chapters 201 and 323
26-8a-310, as last amended by Laws of Utah 2020, Chapter 150
26-10-9, as last amended by Laws of Utah 2018, Chapter 415
26-21-204, as last amended by Laws of Utah 2018, Chapter 47
30-5a-103, as last amended by Laws of Utah 2020, Chapter 48
32B-4-409, as last amended by Laws of Utah 2017, Chapter 330
32B-4-410, as last amended by Laws of Utah 2017, Chapters 330 and 455
32B-4-411, as last amended by Laws of Utah 2017, Chapter 330
51-9-401, as last amended by Laws of Utah 2020, Chapter 230
51-9-408, as last amended by Laws of Utah 2019, Chapter 136
53-3-204, as last amended by Laws of Utah 2015, Chapter 422
53-3-219, as last amended by Laws of Utah 2019, Chapter 136
53-3-220, as last amended by Laws of Utah 2020, Chapter 177
53-10-404, as last amended by Laws of Utah 2020, Chapter 108
53-10-407, as last amended by Laws of Utah 2018, Chapter 86
53B-8d-102, as last amended by Laws of Utah 2017, Chapter 382
53E-3-513, as last amended by Laws of Utah 2019, Chapter 186
53E-9-305, as last amended by Laws of Utah 2020, Chapter 388
53G-4-402, as last amended by Laws of Utah 2020, Chapter 347
53G-6-206, as last amended by Laws of Utah 2020, Chapter 20
53G-6-208, as last amended by Laws of Utah 2020, Chapter 20
53G-8-211, as last amended by Laws of Utah 2020, Chapters 20 and 214
53G-8-212, as last amended by Laws of Utah 2019, Chapter 293
53G-8-402, as last amended by Laws of Utah 2020, Chapter 354
53G-8-405, as last amended by Laws of Utah 2020, Chapter 354
53G-9-209, as enacted by Laws of Utah 2018, Chapter 285
53G-11-410, as last amended by Laws of Utah 2018, Chapter 70 and renumbered and amended by Laws of Utah 2018, Chapter 3
58-37-6, as last amended by Laws of Utah 2020, Chapter 81
62A-1-108.5, as last amended by Laws of Utah 2018, Chapter 147
62A-1-111, as last amended by Laws of Utah 2020, Chapter 303
62A-2-108.8, as enacted by Laws of Utah 2014, Chapter 312
62A-2-117.5, as last amended by Laws of Utah 2008, Chapter 3
62A-2-120, as last amended by Laws of Utah 2020, Chapters 176, 225, 250 and last amended by Coordination Clause, Laws of Utah 2020, Chapter 225
62A-2-121, as last amended by Laws of Utah 2016, Chapter 348
62A-4a-102, as last amended by Laws of Utah 2019, Chapter 335
62A-4a-103, as last amended by Laws of Utah 2017, Chapter 323
62A-4a-105, as last amended by Laws of Utah 2020, Chapters 108 and 250
62A-4a-113, as last amended by Laws of Utah 2020, Chapter 250
62A-4a-114, as last amended by Laws of Utah 2013, Chapter 416
62A-4a-118, as last amended by Laws of Utah 2019, Chapter 335
62A-4a-201, as last amended by Laws of Utah 2020, Chapter 214
62A-4a-202.3, as last amended by Laws of Utah 2017, Chapter 459
62A-4a-202.4, as last amended by Laws of Utah 2009, Chapter 32
62A-4a-202.8, as last amended by Laws of Utah 2017, Chapter 459
62A-4a-203, as last amended by Laws of Utah 2008, Chapters 3 and 299
62A-4a-205, as last amended by Laws of Utah 2019, Chapter 335
62A-4a-205.5, as last amended by Laws of Utah 2010, Chapter 237

62A-4a-205.6, as last amended by Laws of Utah 2017, Chapter 148
62A-4a-206, as last amended by Laws of Utah 2018, Chapter 285
62A-4a-206.5, as enacted by Laws of Utah 2018, Chapter 285
62A-4a-207, as last amended by Laws of Utah 2014, Chapter 387
62A-4a-209, as last amended by Laws of Utah 2020, Chapter 250
62A-4a-409, as last amended by Laws of Utah 2020, Fifth Special Session, Chapter 20
62A-4a-412, as last amended by Laws of Utah 2020, Chapters 193 and 258
62A-4a-607, as last amended by Laws of Utah 2017, Chapter 148
62A-4a-711, as last amended by Laws of Utah 2019, Chapters 335 and 388
62A-4a-802, as last amended by Laws of Utah 2020, Chapter 170
62A-4a-1005, as last amended by Laws of Utah 2008, Chapters 3, 59, and 299
62A-4a-1006, as last amended by Laws of Utah 2020, Chapter 66
62A-4a-1009, as last amended by Laws of Utah 2008, Chapters 87, 299, and 382
62A-4a-1010, as last amended by Laws of Utah 2011, Chapter 366
62A-11-304.2, as last amended by Laws of Utah 2008, Chapters 3 and 382
62A-15-204, as last amended by Laws of Utah 2008, Chapter 3
62A-15-626, as last amended by Laws of Utah 2019, Chapter 419
62A-15-703, as last amended by Laws of Utah 2019, Chapter 256
63G-4-402, as last amended by Laws of Utah 2019, Chapter 335
63M-7-208, as enacted by Laws of Utah 2017, Chapter 330
67-25-201, as last amended by Laws of Utah 2013, Chapter 433
75-5-209, as last amended by Laws of Utah 2008, Chapter 3
76-3-406, as last amended by Laws of Utah 2020, Chapter 214
76-5-107.1, as enacted by Laws of Utah 2020, Chapter 426
76-5-108, as last amended by Laws of Utah 2020, Chapter 142
76-5-110, as last amended by Laws of Utah 2019, Chapters 136 and 335
76-5-401.3, as last amended by Laws of Utah 2020, Chapter 214
76-5-413, as last amended by Laws of Utah 2019, Chapter 211
76-5b-201, as last amended by Laws of Utah 2020, Chapter 296
76-7-301, as last amended by Laws of Utah 2019, Chapters 124 and 208
76-7a-101 (Contingently Effective), as enacted by Laws of Utah 2020, Chapter 279
76-8-306, as last amended by Laws of Utah 2009, Chapter 213
76-9-701, as last amended by Laws of Utah 2017, Chapter 330
76-10-105, as last amended by Laws of Utah 2020, Chapters 214, 302, 312, 347 and last amended by Coordination Clause, Laws of Utah 2020, Chapter 214
76-10-503, as last amended by Laws of Utah 2017, Chapter 288
76-10-1315, as enacted by Laws of Utah 2020, Chapter 108
77-2-9, as last amended by Laws of Utah 2020, Chapter 214
77-16b-102, as last amended by Laws of Utah 2014, Chapter 121
77-37-3, as last amended by Laws of Utah 2014, Chapter 232
77-38-5, as last amended by Laws of Utah 2008, Chapter 3
77-38-14, as last amended by Laws of Utah 2020, Chapters 54 and 218
77-38a-102, as last amended by Laws of Utah 2020, Chapter 214
77-40-101.5, as enacted by Laws of Utah 2020, Chapter 218
77-41-112, as last amended by Laws of Utah 2019, Chapter 382
78A-2-104, as last amended by Laws of Utah 2020, Chapter 389
78A-2-301, as last amended by Laws of Utah 2020, Chapter 230
78A-2-601, as last amended by Laws of Utah 2020, Chapter 230
78A-2-702, as enacted by Laws of Utah 2014, Chapter 267
78A-5-102, as last amended by Laws of Utah 2020, Chapter 214
78A-7-106, as last amended by Laws of Utah 2020, Chapters 214 and 312
78B-3-406, as last amended by Laws of Utah 2019, Chapter 346
78B-6-112, as last amended by Laws of Utah 2020, Chapters 371, 392, and 395
78B-6-117, as last amended by Laws of Utah 2020, Chapter 250
78B-6-121, as last amended by Laws of Utah 2015, Chapter 194
78B-6-131, as last amended by Laws of Utah 2012, Chapter 293
78B-6-133, as last amended by Laws of Utah 2020, Chapter 354
78B-6-138, as last amended by Laws of Utah 2018, Chapter 43
78B-6-141 (Superseded 11/01/21), as last amended by Laws of Utah 2018, Chapter 30
78B-6-141 (Effective 11/01/21), as last amended by Laws of Utah 2020, Chapter 323
78B-6-203, as renumbered and amended by Laws of Utah 2008, Chapter 3
78B-6-207, as renumbered and amended by Laws of Utah 2008, Chapter 3
78B-7-102, as last amended by Laws of Utah 2020, Chapters 142 and 287
78B-7-108, as last amended by Laws of Utah 2018, Chapter 255
78B-7-201, as last amended by Laws of Utah 2020, Chapter 142
78B-7-202, as last amended by Laws of Utah 2020, Chapter 142

78B-7-203, as last amended by Laws of Utah 2020, Chapter 142
78B-7-204, as last amended by Laws of Utah 2020, Chapter 142
78B-7-409, as last amended by Laws of Utah 2020, Chapter 142
78B-7-603, as renumbered and amended by Laws of Utah 2020, Chapter 142
78B-7-702, as renumbered and amended by Laws of Utah 2020, Chapter 142
78B-11-121, as renumbered and amended by Laws of Utah 2008, Chapter 3
78B-12-219, as renumbered and amended by Laws of Utah 2008, Chapter 3
78B-15-612, as last amended by Laws of Utah 2015, Chapter 258
78B-22-102, as last amended by Laws of Utah 2020, Chapters 371, 392, and 395
78B-22-201, as last amended by Laws of Utah 2020, Chapters 371, 392, and 395
78B-22-406, as last amended by Laws of Utah 2020, Chapters 371, 392, and 395
78B-22-801, as enacted by Laws of Utah 2020, Chapter 395
78B-22-803, as renumbered and amended by Laws of Utah 2020, Chapter 395 and last amended by Coordination Clause, Laws of Utah 2020, Chapter 395

Utah Code Sections Affected by Coordination Clause:
77-37-3, as last amended by Laws of Utah 2014, Chapter 232
78B-22-102, as last amended by Laws of Utah 2020, Chapters 371, 392, and 395
78B-22-801, as enacted by Laws of Utah 2020, Chapter 395

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

Section 1. Section 17-18a-404 is amended to read:

17-18a-404. Juvenile proceedings.

For a proceeding involving an offense committed by a minor as defined in Section [~~78A-6-105, a~~] 80-1-102, a public prosecutor shall:

(1) review cases in accordance with [~~Sections 78A-6-602, 78A-6-602.5, and 78A-6-603~~] Title 80, Chapter 6, Juvenile Justice; and

(2) appear and prosecute for the state in the juvenile court of the county.

Section 2. Section 26-2-22 (Superseded 11/01/21) is amended to read:

26-2-22 (Superseded 11/01/21). Inspection of vital records.

(1) As used in this section:

(a) "Designated legal representative" means an attorney, physician, funeral service director, genealogist, or other agent of the subject, or an immediate family member of the subject, who has been delegated the authority to access vital records.

(b) "Drug use intervention or suicide prevention effort" means a program that studies or promotes the prevention of drug overdose deaths or suicides in the state.

(c) "Immediate family member" means a spouse, child, parent, sibling, grandparent, or grandchild.

(2) (a) The vital records shall be open to inspection, but only in compliance with the provisions of this chapter, department rules, and Sections 78B-6-141 and 78B-6-144.

(b) It is unlawful for any state or local officer or employee to disclose data contained in vital records contrary to this chapter, department rule, Section 78B-6-141, or Section 78B-6-144.

(c) (i) An adoption document is open to inspection as provided in Section 78B-6-141 or Section 78B-6-144.

(ii) A birth parent may not access an adoption document under Subsection 78B-6-141(3).

(d) A custodian of vital records may permit inspection of a vital record or issue a certified copy of a record or a part of a record when the custodian is satisfied that the applicant has demonstrated a direct, tangible, and legitimate interest.

(3) Except as provided in Subsection (4), a direct, tangible, and legitimate interest in a vital record is present only if:

(a) the request is from:

(i) the subject;

(ii) an immediate family member of the subject;

(iii) the guardian of the subject;

(iv) a designated legal representative of the subject; or

(v) a person, including a child-placing agency as defined in Section 78B-6-103, with whom a child has been placed pending finalization of an adoption of the child;

(b) the request involves a personal or property right of the subject of the record;

(c) the request is for official purposes of a public health authority or a state, local, or federal governmental agency;

(d) the request is for a drug use intervention or suicide prevention effort or a statistical or medical research program and prior consent has been obtained from the state registrar; or

(e) the request is a certified copy of an order of a court of record specifying the record to be examined or copied.

(4) (a) Except as provided in Title 78B, Chapter 6, Part 1, Utah Adoption Act, a parent, or an immediate family member of a parent, who does not have legal or physical custody of or visitation or parent-time rights for a child because of the termination of parental rights [~~pursuant to Title 78A, Chapter 6, Juvenile Court Act~~] under Title 80, Chapter 4, Termination and Restoration of Parental Rights, or by virtue of consenting to or relinquishing a child for adoption pursuant to Title

78B, Chapter 6, Part 1, Utah Adoption Act, may not be considered as having a direct, tangible, and legitimate interest under this section.

(b) Except as provided in Subsection (2)(d), a commercial firm or agency requesting names, addresses, or similar information may not be considered as having a direct, tangible, and legitimate interest under this section.

(5) Upon payment of a fee established in accordance with Section 63J-1-504, the office shall make the following records available to the public:

(a) except as provided in Subsection 26-2-10(4)(b), a birth record, excluding confidential information collected for medical and health use, if 100 years or more have passed since the date of birth;

(b) a death record if 50 years or more have passed since the date of death; and

(c) a vital record not subject to Subsection (5)(a) or (b) if 75 years or more have passed since the date of the event upon which the record is based.

(6) Upon payment of a fee established in accordance with Section 63J-1-504, the office shall make an adoption document available as provided in Sections 78B-6-141 and 78B-6-144.

(7) The office shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establishing procedures and the content of forms as follows:

(a) for a birth parent's election to permit identifying information about the birth parent to be made available under Section 78B-6-141;

(b) for the release of information by the mutual-consent, voluntary adoption registry, under Section 78B-6-144;

(c) for collecting fees and donations under Section 78B-6-144.5; and

(d) for the review and approval of a request described in Subsection (3)(d).

Section 3. Section 26-2-22 (Effective 11/01/21) is amended to read:

26-2-22 (Effective 11/01/21). Inspection of vital records.

(1) As used in this section:

(a) "Designated legal representative" means an attorney, physician, funeral service director, genealogist, or other agent of the subject, or an immediate family member of the subject, who has been delegated the authority to access vital records.

(b) "Drug use intervention or suicide prevention effort" means a program that studies or promotes the prevention of drug overdose deaths or suicides in the state.

(c) "Immediate family member" means a spouse, child, parent, sibling, grandparent, or grandchild.

(2) (a) The vital records shall be open to inspection, but only in compliance with the provisions of this chapter, department rules, and Sections 78B-6-141 and 78B-6-144.

(b) It is unlawful for any state or local officer or employee to disclose data contained in vital records contrary to this chapter, department rule, Section 78B-6-141, or Section 78B-6-144.

(c) (i) An adoption document is open to inspection as provided in Section 78B-6-141 or Section 78B-6-144.

(ii) A birth parent may not access an adoption document under Subsection 78B-6-141(3).

(d) A custodian of vital records may permit inspection of a vital record or issue a certified copy of a record or a part of a record when the custodian is satisfied that the applicant has demonstrated a direct, tangible, and legitimate interest.

(3) Except as provided in Subsection (4), a direct, tangible, and legitimate interest in a vital record is present only if:

(a) the request is from:

(i) the subject;

(ii) an immediate family member of the subject;

(iii) the guardian of the subject;

(iv) a designated legal representative of the subject; or

(v) a person, including a child-placing agency as defined in Section 78B-6-103, with whom a child has been placed pending finalization of an adoption of the child;

(b) the request involves a personal or property right of the subject of the record;

(c) the request is for official purposes of a public health authority or a state, local, or federal governmental agency;

(d) the request is for a drug use intervention or suicide prevention effort or a statistical or medical research program and prior consent has been obtained from the state registrar; or

(e) the request is a certified copy of an order of a court of record specifying the record to be examined or copied.

(4) (a) Except as provided in Title 78B, Chapter 6, Part 1, Utah Adoption Act, a parent, or an immediate family member of a parent, who does not have legal or physical custody of or visitation or parent-time rights for a child because of the termination of parental rights [~~pursuant to Title 78A, Chapter 6, Juvenile Court Act~~] under Title 80, Chapter 4, Termination and Restoration of Parental Rights, or by virtue of consenting to or relinquishing a child for adoption pursuant to Title 78B, Chapter 6, Part 1, Utah Adoption Act, may not be considered as having a direct, tangible, and legitimate interest under this section.

(b) Except as provided in Subsection (2)(d), a commercial firm or agency requesting names, addresses, or similar information may not be considered as having a direct, tangible, and legitimate interest under this section.

(5) Upon payment of a fee established in accordance with Section 63J-1-504, the office shall make the following records available to the public:

(a) except as provided in Subsection 26-2-10(4)(b), a birth record, excluding confidential information collected for medical and health use, if 100 years or more have passed since the date of birth;

(b) a death record if 50 years or more have passed since the date of death; and

(c) a vital record not subject to Subsection (5)(a) or (b) if 75 years or more have passed since the date of the event upon which the record is based.

(6) Upon payment of a fee established in accordance with Section 63J-1-504, the office shall make an adoption document available as provided in Sections 78B-6-141 and 78B-6-144.

(7) The office shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establishing procedures and the content of forms as follows:

(a) for the inspection of adoption documents under Subsection 78B-6-141(4);

(b) for a birth parent's election to permit identifying information about the birth parent to be made available, under Section 78B-6-141;

(c) for the release of information by the mutual-consent, voluntary adoption registry, under Section 78B-6-144;

(d) for collecting fees and donations under Section 78B-6-144.5; and

(e) for the review and approval of a request described in Subsection (3)(d).

Section 4. Section 26-8a-310 is amended to read:

26-8a-310. Background clearance for emergency medical service personnel.

(1) The department shall determine whether to grant background clearance for an individual seeking licensure under Section 26-8a-302 from whom it receives:

(a) the individual's social security number, fingerprints, and other personal identification information specified by the department under Subsection (4); and

(b) any fees established by the department under Subsection (10).

(2) The department shall determine whether to deny or revoke background clearance for individuals for whom it has previously granted background clearance.

(3) The department shall determine whether to grant, deny, or revoke background clearance for an individual based on an initial and ongoing evaluation of information the department obtains under Subsections (5) and (11), which, at a minimum, shall include an initial criminal background check of state, regional, and national databases using the individual's fingerprints.

(4) The department shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that specify:

(a) the criteria the department will use under Subsection (3) to determine whether to grant, deny, or revoke background clearance; and

(b) the other personal identification information an individual seeking licensure under Section 26-8a-302 must submit under Subsection (1).

(5) To determine whether to grant, deny, or revoke background clearance, the department may access and evaluate any of the following:

(a) Department of Public Safety arrest, conviction, and disposition records described in Title 53, Chapter 10, Criminal Investigations and Technical Services Act, including information in state, regional, and national records files;

(b) adjudications by a juvenile court of committing an act that if committed by an adult would be a felony or misdemeanor, if:

(i) the applicant is under 28 years [~~of age~~] old; or

(ii) the applicant:

(A) is over 28 years [~~of age~~] old; and

(B) has been convicted of, has pleaded no contest to, or is currently subject to a plea in abeyance or diversion agreement for a felony or misdemeanor;

(c) juvenile court arrest, adjudication, and disposition records, other than those under Subsection (5)(b), as allowed under Section 78A-6-209;

(d) child abuse or neglect findings described in Section [~~78A-6-323~~] 80-3-404;

(e) the Department of Human Services' Division of Child and Family Services Licensing Information System described in Section 62A-4a-1006;

(f) the Department of Human Services' Division of Aging and Adult Services database of reports of vulnerable adult abuse, neglect, or exploitation, described in Section 62A-3-311.1;

(g) Division of Occupational and Professional Licensing records of licensing and certification under Title 58, Occupations and Professions;

(h) records in other federal criminal background databases available to the state; and

(i) any other records of arrests, warrants for arrest, convictions, pleas in abeyance, pending diversion agreements, or dispositions.

(6) Except for the Department of Public Safety, an agency may not charge the department for information accessed under Subsection (5).

(7) When evaluating information under Subsection (3), the department shall classify a crime committed in another state according to the closest matching crime under Utah law, regardless of how the crime is classified in the state where the crime was committed.

(8) The department shall adopt measures to protect the security of information it accesses under Subsection (5), which shall include limiting access by department employees to those responsible for acquiring, evaluating, or otherwise processing the information.

(9) The department may disclose personal identification information it receives under Subsection (1) to the Department of Human Services to verify that the subject of the information is not identified as a perpetrator or offender in the information sources described in Subsections (5)(d) through (f).

(10) The department may charge fees, in accordance with Section 63J-1-504, to pay for:

(a) the cost of obtaining, storing, and evaluating information needed under Subsection (3), both initially and on an ongoing basis, to determine whether to grant, deny, or revoke background clearance; and

(b) other department costs related to granting, denying, or revoking background clearance.

(11) The Criminal Investigations and Technical Services Division within the Department of Public Safety shall:

(a) retain, separate from other division records, personal information under Subsection (1), including any fingerprints sent to it by the Department of Health; and

(b) notify the Department of Health upon receiving notice that an individual for whom personal information has been retained is the subject of:

(i) a warrant for arrest;

(ii) an arrest;

(iii) a conviction, including a plea in abeyance; or

(iv) a pending diversion agreement.

(12) The department shall use the Direct Access Clearance System database created under Section 26-21-209 to manage information about the background clearance status of each individual for whom the department is required to make a determination under Subsection (1).

(13) Clearance granted for an individual licensed under Section 26-8a-302 is valid until two years after the day on which the individual is no longer licensed in Utah as emergency medical service personnel.

Section 5. Section 26-10-9 is amended to read:

26-10-9. Immunizations -- Consent of minor to treatment.

(1) This section:

(a) is not intended to interfere with the integrity of the family or to minimize the rights of parents or children; and

(b) applies to a minor, who at the time care is sought is:

(i) married or has been married;

(ii) emancipated as provided for in Section [~~78A-6-805~~] 80-7-105;

(iii) a parent with custody of a minor child; or

(iv) pregnant.

(2) (a) A minor described in Subsections (1)(b)(i) and (ii) may consent to:

(i) vaccinations against epidemic infections and communicable diseases as defined in Section 26-6-2; and

(ii) examinations and vaccinations required to attend school as provided in Title 53G, Public Education System -- Local Administration.

(b) A minor described in Subsections (1)(b)(iii) and (iv) may consent to the vaccinations described in Subsections (2)(a)(i) and (ii), and the vaccine for human papillomavirus only if:

(i) the minor represents to the health care provider that the minor is an abandoned minor as defined in Section 76-5-109; and

(ii) the health care provider makes a notation in the minor's chart that the minor represented to the health care provider that the minor is an abandoned minor under Section 76-5-109.

(c) Nothing in Subsection (2)(a) or (b) requires a health care provider to immunize a minor.

(3) The consent of the minor pursuant to this section:

(a) is not subject to later disaffirmance because of the minority of the person receiving the medical services;

(b) is not voidable because of minority at the time the medical services were provided;

(c) has the same legal effect upon the minor and the same legal obligations with regard to the giving of consent as consent given by a person of full age and capacity; and

(d) does not require the consent of any other person or persons to authorize the medical services described in Subsections (2)(a) and (b).

(4) A health care provider who provides medical services to a minor in accordance with the provisions of this section is not subject to civil or criminal liability for providing the services described in Subsections (2)(a) and (b) without obtaining the consent of another person prior to rendering the medical services.

(5) This section does not remove the requirement for parental consent or notice when required by Section 76-7-304 or 76-7-304.5.

(6) The parents, parent, or legal guardian of a minor who receives medical services pursuant to Subsections (2)(a) and (b) are not liable for the payment for those services unless the parents,

parent, or legal guardian consented to the medical services.

Section 6. Section 26-21-204 is amended to read:

26-21-204. Clearance.

(1) The department shall determine whether to grant clearance for each applicant for whom it receives:

(a) the personal identification information specified by the department under Subsection 26-21-204(4)(b); and

(b) any fees established by the department under Subsection 26-21-204(9).

(2) The department shall establish a procedure for obtaining and evaluating relevant information concerning covered individuals, including fingerprinting the applicant and submitting the prints to the Criminal Investigations and Technical Services Division of the Department of Public Safety for checking against applicable state, regional, and national criminal records files.

(3) The department may review the following sources to determine whether an individual should be granted or retain clearance, which may include:

(a) Department of Public Safety arrest, conviction, and disposition records described in Title 53, Chapter 10, Criminal Investigations and Technical Services Act, including information in state, regional, and national records files;

(b) juvenile court arrest, adjudication, and disposition records, as allowed under Section 78A-6-209;

(c) federal criminal background databases available to the state;

(d) the Department of Human Services' Division of Child and Family Services Licensing Information System described in Section 62A-4a-1006;

(e) child abuse or neglect findings described in Section [~~78A-6-323~~] 80-3-404;

(f) the Department of Human Services' Division of Aging and Adult Services vulnerable adult abuse, neglect, or exploitation database described in Section 62A-3-311.1;

(g) registries of nurse aids described in 42 C.F.R. Sec. 483.156;

(h) licensing and certification records of individuals licensed or certified by the Division of Occupational and Professional Licensing under Title 58, Occupations and Professions; and

(i) the List of Excluded Individuals and Entities database maintained by the United States Department of Health and Human Services' Office of Inspector General.

(4) The department shall adopt rules that:

(a) specify the criteria the department will use to determine whether an individual is granted or retains clearance:

(i) based on an initial evaluation and ongoing review of information under Subsection (3); and

(ii) including consideration of the relationship the following may have to patient and resident protection:

(A) warrants for arrest;

(B) arrests;

(C) convictions, including pleas in abeyance;

(D) pending diversion agreements;

(E) adjudications by a juvenile court [~~of committing an act that if committed by an adult would be a felony or misdemeanor,~~] under Section 80-6-701 if the individual is over 28 years [~~of age~~] old and has been convicted, has pleaded no contest, or is subject to a plea in abeyance or diversion agreement for a felony or misdemeanor, or the individual is under 28 years [~~of age~~] old; and

(F) any other findings under Subsection (3); and

(b) specify the personal identification information that must be submitted by an individual or covered body with an application for clearance, including:

(i) the applicant's Social Security number; and

(ii) fingerprints.

(5) For purposes of Subsection (4)(a), the department shall classify a crime committed in another state according to the closest matching crime under Utah law, regardless of how the crime is classified in the state where the crime was committed.

(6) The Department of Public Safety, the Administrative Office of the Courts, the Department of Human Services, the Division of Occupational and Professional Licensing, and any other state agency or political subdivision of the state:

(a) shall allow the department to review the information the department may review under Subsection (3); and

(b) except for the Department of Public Safety, may not charge the department for access to the information.

(7) The department shall adopt measures to protect the security of the information it reviews under Subsection (3) and strictly limit access to the information to department employees responsible for processing an application for clearance.

(8) The department may disclose personal identification information specified under Subsection (4)(b) to the Department of Human Services to verify that the subject of the information is not identified as a perpetrator or offender in the information sources described in Subsections (3)(d) through (f).

(9) The department may establish fees, in accordance with Section 63J-1-504, for an application for clearance, which may include:

(a) the cost of obtaining and reviewing information under Subsection (3);

(b) a portion of the cost of creating and maintaining the Direct Access Clearance System database under Section 26-21-209; and

(c) other department costs related to the processing of the application and the ongoing review of information pursuant to Subsection (4)(a) to determine whether clearance should be retained.

Section 7. Section 30-5a-103 is amended to read:

30-5a-103. Custody and visitation for individuals other than a parent.

(1) (a) In accordance with Section 62A-4a-201, it is the public policy of this state that a parent retain the fundamental right and duty to exercise primary control over the care, supervision, upbringing, and education of the parent's children.

(b) There is a rebuttable presumption that a parent's decisions are in the child's best interests.

(2) A court may find the presumption in Subsection (1) rebutted and grant custodial or visitation rights to an individual other than a parent who, by clear and convincing evidence, establishes that:

(a) the individual has intentionally assumed the role and obligations of a parent;

(b) the individual and the child have formed a substantial emotional bond and created a parent-child type relationship;

(c) the individual substantially contributed emotionally or financially to the child's well being;

(d) the assumption of the parental role is not the result of a financially compensated surrogate care arrangement;

(e) the continuation of the relationship between the individual and the child is in the child's best interest;

(f) the loss or cessation of the relationship between the individual and the child would substantially harm the child; and

(g) the parent:

(i) is absent; or

(ii) is found by a court to have abused or neglected the child.

(3) A proceeding under this chapter may be commenced by filing a verified petition, or petition supported by an affidavit, in the juvenile court if a matter is pending, or in the district court in the county where the child:

(a) currently resides; or

(b) lived with a parent or an individual other than a parent who acted as a parent within six months before the commencement of the action.

(4) A proceeding under this chapter may be filed in a pending divorce, parentage action, or other proceeding, including a proceeding in the juvenile court involving custody of or visitation with a child.

(5) The petition shall include detailed facts supporting the petitioner's right to file the petition including the criteria set forth in Subsection (2) and residency information as set forth in Section 78B-13-209.

(6) A proceeding under this chapter may not be filed against a parent who is actively serving outside the state in any branch of the military.

(7) Notice of a petition filed pursuant to this chapter shall be served in accordance with the rules of civil procedure on all of the following:

(a) the child's biological, adopted, presumed, declarant, and adjudicated parents;

(b) any individual who has court-ordered custody or visitation rights;

(c) the child's guardian;

(d) the guardian ad litem, if one has been appointed;

(e) an individual or agency that has physical custody of the child or that claims to have custody or visitation rights; and

(f) any other individual or agency that has previously appeared in any action regarding custody of or visitation with the child.

(8) The court may order a custody evaluation to be conducted in any action brought under this chapter.

(9) The court may enter temporary orders in an action brought under this chapter pending the entry of final orders.

(10) Except as provided in Subsection (11), a court may not grant custody of a child under this section to an individual who is not the parent of the child and who, before a custody order is issued, is convicted, pleads guilty, or pleads no contest to a felony or attempted felony involving conduct that constitutes any of the following:

(a) child abuse, as described in Section 76-5-109;

(b) child abuse homicide, as described in Section 76-5-208;

(c) child kidnapping, as described in Section 76-5-301.1;

(d) human trafficking of a child, as described in Section 76-5-308.5;

(e) sexual abuse of a minor, as described in Section 76-5-401.1;

(f) rape of a child, as described in Section 76-5-402.1;

(g) object rape of a child, as described in Section 76-5-402.3;

(h) sodomy on a child, as described in Section 76-5-403.1;

(i) sexual abuse of a child or aggravated sexual abuse of a child, as described in Section 76-5-404.1;

(j) sexual exploitation of a minor, as described in Section 76-5b-201; or

(k) an offense in another state that, if committed in this state, would constitute an offense described in this Subsection (10).

(11) (a) As used in this Subsection (11), "disqualifying offense" means an offense listed in Subsection (10) that prevents a court from granting custody except as provided in this Subsection (11).

(b) An individual described in Subsection (10) may only be considered for custody of a child if the following criteria are met by clear and convincing evidence:

(i) the individual is a relative, as defined in Section [~~78A-6-307~~] 80-3-102, of the child;

(ii) at least 10 years have elapsed from the day on which the individual is successfully released from prison, jail, parole, or probation related to a disqualifying offense;

(iii) during the 10 years before the day on which the individual files a petition with the court seeking custody the individual has not been convicted, plead guilty, or plead no contest to an offense greater than an infraction or traffic violation that would likely impact the health, safety, or well-being of the child;

(iv) the individual can provide evidence of successful treatment or rehabilitation directly related to the disqualifying offense;

(v) the court determines that the risk related to the disqualifying offense is unlikely to cause harm, as defined in Section [~~78A-6-105~~] 80-1-102, or potential harm to the child currently or at any time in the future when considering all of the following:

(A) the child's age;

(B) the child's gender;

(C) the child's development;

(D) the nature and seriousness of the disqualifying offense;

(E) the preferences of a child 12 years old or older;

(F) any available assessments, including custody evaluations, parenting assessments, psychological or mental health assessments, and bonding assessments; and

(G) any other relevant information;

(vi) the individual can provide evidence of the following:

(A) the relationship with the child is of long duration;

(B) that an emotional bond exists with the child; and

(C) that custody by the individual who has committed the disqualifying offense ensures the best interests of the child are met;

(vii) (A) there is no other responsible relative known to the court who has or likely could develop an emotional bond with the child and does not have a disqualifying offense; or

(B) if there is a responsible relative known to the court that does not have a disqualifying offense, Subsection (11)(d) applies; and

(viii) that the continuation of the relationship between the individual with the disqualifying offense and the child could not be sufficiently maintained through any type of visitation if custody were given to the relative with no disqualifying offense described in Subsection (11)(d).

(c) The individual with the disqualifying offense bears the burden of proof regarding why placement with that individual is in the best interest of the child over another responsible relative or equally situated individual who does not have a disqualifying offense.

(d) If, as provided in Subsection (11)(b)(vii)(B), there is a responsible relative known to the court who does not have a disqualifying offense:

(i) preference for custody is given to a relative who does not have a disqualifying offense; and

(ii) before the court may place custody with the individual who has the disqualifying offense over another responsible, willing, and able relative:

(A) an impartial custody evaluation shall be completed; and

(B) a guardian ad litem shall be assigned.

(12) Subsections (10) and (11) apply to a case pending on March 25, 2017, for which a final decision on custody has not been made and to a case filed on or after March 25, 2017.

Section 8. Section 32B-4-409 is amended to read:

32B-4-409. Unlawful purchase, possession, consumption by minor -- Measurable amounts in body.

(1) Unless specifically authorized by this title, it is unlawful for a minor to:

(a) purchase an alcoholic product;

(b) attempt to purchase an alcoholic product;

(c) solicit another person to purchase an alcoholic product;

(d) possess an alcoholic product;

(e) consume an alcoholic product; or

(f) have measurable blood, breath, or urine alcohol concentration in the minor's body.

(2) It is unlawful for the purpose of purchasing or otherwise obtaining an alcoholic product for a minor for:

(a) a minor to misrepresent the minor's age; or

(b) any other person to misrepresent the age of a minor.

(3) It is unlawful for a minor to possess or consume an alcoholic product while riding in a limousine or chartered bus.

(4) (a) If a minor is found by a court to have violated this section and the violation is the minor's first violation of this section, the court may:

(i) order the minor to complete a screening as defined in Section 41-6a-501;

(ii) order the minor to complete an assessment as defined in Section 41-6a-501 if the screening indicates an assessment to be appropriate; and

(iii) order the minor to complete an educational series as defined in Section 41-6a-501 or substance use disorder treatment as indicated by an assessment.

(b) If a minor is found by a court to have violated this section and the violation is the minor's second or subsequent violation of this section, the court shall:

(i) order the minor to complete a screening as defined in Section 41-6a-501;

(ii) order the minor to complete an assessment as defined in Section 41-6a-501 if the screening indicates an assessment to be appropriate; and

(iii) order the minor to complete an educational series as defined in Section 41-6a-501 or substance use disorder treatment as indicated by an assessment.

(5) (a) When a minor who is at least 18 years old, but younger than 21 years old, is found by a court to have violated this section, except as provided in Section 32B-4-411, the court hearing the case shall suspend the minor's driving privileges under Section 53-3-219.

(b) Notwithstanding the provision in Subsection (5)(a), the court may reduce the suspension period required under Section 53-3-219 if:

(i) the violation is the minor's first violation of this section; and

(ii) (A) the minor completes an educational series as defined in Section 41-6a-501; or

(B) the minor demonstrates substantial progress in substance use disorder treatment.

(c) Notwithstanding the requirement in Subsection (5)(a) and in accordance with the requirements of Section 53-3-219, the court may reduce the suspension period required under Section 53-3-219 if:

(i) the violation is the minor's second or subsequent violation of this section;

(ii) the minor has completed an educational series as defined in Section 41-6a-501 or demonstrated substantial progress in substance use disorder treatment; and

(iii) (A) the person is 18 years [~~of age~~] old or older and provides a sworn statement to the court that the person has not unlawfully consumed alcohol or drugs for at least a one-year consecutive period during the suspension period imposed under Subsection (5)(a); or

(B) the person is under 18 years [~~of age~~] old and has the person's parent or legal guardian provide an affidavit or sworn statement to the court certifying that to the parent or legal guardian's knowledge the person has not unlawfully consumed alcohol or drugs for at least a one-year consecutive period during the suspension period imposed under Subsection (5)(a).

(6) When a minor who is younger than 18 years old is found by the court to have violated this section, Section [~~78A-6-606~~] 80-6-707 applies to the violation.

(7) Notwithstanding Subsections (5)(a) and (b), if a minor is adjudicated under Section [~~78A-6-117~~] 80-6-701, the court may only order substance use disorder treatment or an educational series if the minor has an assessed need for the intervention on the basis of the results of a validated assessment.

(8) When a court issues an order suspending a person's driving privileges for a violation of this section, the Driver License Division shall suspend the person's license under Section 53-3-219.

(9) When the Department of Public Safety receives the arrest or conviction record of a person for a driving offense committed while the person's license is suspended pursuant to this section, the Department of Public Safety shall extend the suspension for an additional like period of time.

(10) This section does not apply to a minor's consumption of an alcoholic product in accordance with this title:

(a) for medicinal purposes if:

(i) the minor is at least 18 years old; or

(ii) the alcoholic product is furnished by:

(A) the parent or guardian of the minor; or

(B) the minor's health care practitioner, if the health care practitioner is authorized by law to write a prescription; or

(b) as part of a religious organization's religious services.

Section 9. Section 32B-4-410 is amended to read:

32B-4-410. Unlawful admittance or attempt to gain admittance by minor.

(1) It is unlawful for a minor to gain admittance or attempt to gain admittance to the premises of:

(a) a tavern; or

(b) a bar licensee, except to the extent authorized by Section 32B-6-406.1.

(2) A minor who violates this section is guilty of a class C misdemeanor.

(3) (a) If a minor is found by a court to have violated this section and the violation is the minor's first violation of this section, the court may:

(i) order the minor to complete a screening as defined in Section 41-6a-501;

(ii) order the minor to complete an assessment as defined in Section 41-6a-501 if the screening indicates an assessment to be appropriate; and

(iii) order the minor to complete an educational series as defined in Section 41-6a-501 or substance

use disorder treatment as indicated by an assessment.

(b) If a minor is found by a court to have violated this section and the violation is the minor's second or subsequent violation of this section, the court shall:

(i) order the minor to complete a screening as defined in Section 41-6a-501;

(ii) order the minor to complete an assessment as defined in Section 41-6a-501 if the screening indicates an assessment to be appropriate; and

(iii) order the minor to complete an educational series as defined in Section 41-6a-501 or substance use disorder treatment as indicated by an assessment.

(4) (a) When a minor who is at least 18 years old, but younger than 21 years old, is found by a court to have violated this section, except as provided in Section 32B-4-411, the court hearing the case shall suspend the minor's driving privileges under Section 53-3-219.

(b) Notwithstanding Subsection (4)(a), the court may reduce the suspension period required under Section 53-3-219 if:

(i) the violation is the minor's first violation of this section; and

(ii) (A) the minor completes an educational series as defined in Section 41-6a-501; or

(B) the minor demonstrates substantial progress in substance use disorder treatment.

(c) Notwithstanding Subsection (4)(a) and in accordance with Section 53-3-219, the court may reduce the suspension period required under Section 53-3-219 if:

(i) the violation is the minor's second or subsequent violation of this section;

(ii) the minor has completed an educational series as defined in Section 41-6a-501 or demonstrated substantial progress in substance use disorder treatment; and

(iii) (A) the person is 18 years [~~of age~~] old or older and provides a sworn statement to the court that the person has not unlawfully consumed alcohol or drugs for at least a one-year consecutive period during the suspension period imposed under Subsection (4)(a); or

(B) the person is under 18 years [~~of age~~] old and has the person's parent or legal guardian provide an affidavit or sworn statement to the court certifying that to the parent or legal guardian's knowledge the person has not unlawfully consumed alcohol or drugs for at least a one-year consecutive period during the suspension period imposed under Subsection (4)(a).

(5) When a minor who is younger than 18 years old is found by a court to have violated this section, Section [~~78A-6-606~~] 80-6-707 applies to the violation.

(6) Notwithstanding Subsections (3)(a) and (b), if a minor is adjudicated under Section [~~78A-6-117~~] 80-6-701, the court may only order substance use disorder treatment or an educational series if the minor has an assessed need for the intervention on the basis of the results of a validated assessment.

(7) When a court issues an order suspending a person's driving privileges for a violation of this section, the Driver License Division shall suspend the person's license under Section 53-3-219.

(8) When the Department of Public Safety receives the arrest or conviction record of a person for a driving offense committed while the person's license is suspended pursuant to this section, the Department of Public Safety shall extend the suspension for an additional like period of time.

Section 10. Section 32B-4-411 is amended to read:

32B-4-411. Minor's unlawful use of proof of age.

(1) As used in this section, "proof of age violation" means a violation by a minor of:

(a) Chapter 1, Part 4, Proof of Age Act; or

(b) if as part of the violation the minor uses a proof of age in violation of Chapter 1, Part 4, Proof of Age Act:

(i) Section 32B-4-409; or

(ii) Section 32B-4-410.

(2) If a court finds a minor engaged in a proof of age violation, notwithstanding the penalties provided for in Subsection (1):

(a) (i) for a first violation, the minor is guilty of a class B misdemeanor;

(ii) for a second violation, the minor is guilty of a class A misdemeanor; and

(iii) for a third or subsequent violation, the minor is guilty of a class A misdemeanor, except that the court may impose:

(A) a fine of up to $5,000;

(B) screening, assessment, or substance use disorder treatment, as defined in Section 41-6a-501;

(C) an educational series, as defined in Section 41-6a-501;

(D) alcoholic product related community service or compensatory service work program hours;

(E) fees for restitution and treatment costs;

(F) defensive driver education courses; or

(G) a combination of these penalties;[~~and~~]

(b) (i) for a minor who is younger than 18 years old:

(A) the court may forward to the Driver License Division a record of an adjudication under [~~Title 78A, Chapter 6, Juvenile Court Act~~] Section 80-6-701, for a violation under this section; and

(B) the provisions regarding suspension of a driver license under Section [~~78A-6-606~~] 80-6-707 apply; and

(ii) for a minor who is at least 18 years old, but younger than 21 years old:

(A) the court shall forward to the Driver License Division a record of conviction for a violation under this section; and

(B) the Driver License Division shall suspend the person's license under Section 53-3-220[~~.~~]; and

(c) [~~Notwithstanding~~] notwithstanding Subsection (2)(a), if a minor is adjudicated under Section [~~78A-6-117~~] 80-6-701, the court may order:

(i) substance use disorder treatment or an educational series only if the minor has an assessed need for the intervention based on the results of a validated assessment; and

(ii) a fine, fee, service hours, or costs in accordance with Section [~~78A-6-117~~] 80-6-709.

(3) (a) Notwithstanding Subsection (2)(b), the court may reduce the suspension period under Subsection 53-3-220(1)(e) or [~~78A-6-606(4)(d)~~] 80-6-707(4)(a)(ii)(A) if:

(i) the violation is the minor's first violation of this section; and

(ii) (A) the minor completes an educational series as defined in Section 41-6a-501; or

(B) the minor demonstrates substantial progress in substance use disorder treatment.

(b) Notwithstanding the requirement in Subsection (2)(b), the court may reduce the suspension period under Subsection 53-3-220(1)(e) or [~~78A-6-606(4)(d)~~] 80-6-707(4)(a)(ii)(B) if:

(i) the violation is the minor's second or subsequent violation of this section;

(ii) the person has completed an educational series as defined in Section 41-6a-501 or demonstrated substantial progress in substance use disorder treatment; and

(iii) (A) the person is 18 years [~~of age~~] old or older and provides a sworn statement to the court that the person has not unlawfully consumed alcohol or drugs for at least a one-year consecutive period during the suspension period imposed under Subsection 53-3-220(1)(e) or [~~78A-6-606(4)(d)~~] 80-6-707(4)(b)(iii)(A); or

(B) the minor is under 18 years [~~of age~~] old and has the minor's parent or legal guardian provide an affidavit or sworn statement to the court certifying that to the parent or legal guardian's knowledge the minor has not unlawfully consumed alcohol or drugs for at least a one-year consecutive period during the suspension period imposed under Subsection 53-3-220(1)(e) or [~~78A-6-606(4)(d)~~] 80-6-707(4)(b)(iii)(B).

(4) When the Department of Public Safety receives the arrest or conviction record of an individual for a driving offense committed while the individual's license is suspended pursuant to this section, the Department of Public Safety shall extend the suspension for an additional like period of time.

(5) A court may not fail to enter a judgment of conviction under this section under a plea in abeyance agreement.

Section 11. Section 51-9-401 is amended to read:

51-9-401. Surcharge -- Application.

(1) (a) A surcharge shall be paid on all criminal fines, penalties, and forfeitures imposed by the courts.

(b) The surcharge shall be:

(i) 90% upon conviction of a:

(A) felony;

(B) class A misdemeanor;

(C) violation of Title 41, Chapter 6a, Part 5, Driving Under the Influence and Reckless Driving; or

(D) class B misdemeanor not classified within Title 41, Motor Vehicles, including violation of comparable county or municipal ordinances; or

(ii) 35% upon conviction of any other offense, including violation of county or municipal ordinances not subject to the 90% surcharge.

(c) The Division of Finance shall deposit into the General Fund an amount equal to the amount that the state retains under Section [~~51-9-402~~] 80-6-304.

(2) The surcharge may not be imposed:

(a) upon nonmoving traffic violations;

(b) upon court orders when the offender is ordered to perform compensatory service work in lieu of paying a fine; and

(c) upon penalties assessed by the juvenile court as part of the nonjudicial adjustment of a case under Section 78A-6-602.

(3) (a) The surcharge and the exceptions under Subsections (1) and (2) apply to all fines, penalties, and forfeitures imposed on juveniles for conduct that would be criminal if committed by an adult.

(b) Notwithstanding Subsection (3)(a), the surcharge does not include amounts assessed or collected separately by juvenile courts for the Juvenile Restitution Account, which is independent of this part and does not affect the imposition or collection of the surcharge.

(4) The surcharge under this section shall be imposed in addition to the fine charged for a civil or criminal offense, and no reduction may be made in the fine charged due to the surcharge imposition.

(5) Fees, assessments, and surcharges related to criminal or traffic offenses shall be authorized and managed by this part rather than attached to particular offenses.

Section 12. Section 51-9-408 is amended to read:

51-9-408. Children's Legal Defense Account.

(1) There is created a restricted account within the General Fund known as the Children's Legal Defense Account.

(2) The purpose of the Children's Legal Defense Account is to provide for programs that protect and defend the rights, safety, and quality of life of children.

(3) (a) The Legislature shall appropriate money from the account for the administrative and related costs of the following programs:

[~~(a)~~] (i) implementing the Mandatory Educational Course on Children's Needs for Divorcing Parents relating to the effects of divorce on children as provided in Sections 30-3-4, 30-3-10.3, 30-3-11.3, and the Mediation Program - Child Custody or Parent-time;

[~~(b)~~] (ii) implementing the use of guardians ad litem [~~as provided~~] in accordance with Sections 78A-2-703, 78A-2-705, [~~78A-6-902~~] 78A-2-803, and 78B-3-102;

(iii) the training of attorney guardians ad litem and volunteers as provided in Section [~~78A-6-902; and termination of parental rights as provided in Sections 78A-6-117 and 78A-6-118, and Title 78A, Chapter 6, Part 5, Termination of Parental Rights Act. This account may not be used to supplant funding for the guardian ad litem program in the juvenile court as provided in Section 78A-6-902~~] 78A-2-803;

[~~(c)~~] (iv) implementing and administering the Expedited Parent-time Enforcement Program as provided in Section 30-3-38; and

[~~(d)~~] (v) implementing and administering the Divorce Education for Children Program.

(b) The Children's Legal Defense Account may not be used to supplant funding for the guardian ad litem program under Section 78A-2-803.

(4) The following withheld fees shall be allocated only to the Children's Legal Defense Account and used only for the purposes provided in Subsections (3)(a)(i) through [~~(d)~~] (v):

(a) the additional $10 fee withheld on every marriage license issued in the state of Utah as provided in Section 17-16-21; and

(b) a fee of $4 shall be withheld from the existing civil filing fee collected on any complaint, affidavit, or petition in a civil, probate, or adoption matter in every court of record.

(5) The Division of Finance shall allocate the money described in Subsection (4) from the General Fund to the Children's Legal Defense Account.

(6) Any funds in excess of $200,000 remaining in the restricted account as of June 30 of any fiscal year shall lapse into the General Fund.

Section 13. Section 53-3-204 is amended to read:

53-3-204. Persons who may not be licensed.

(1) (a) The division may not license a person who:

(i) is younger than 16 years [~~of age~~] old;

(ii) if the person is 18 years [~~of age~~] old or younger, has not completed a course in driver training approved by the commissioner;

(iii) if the person is 19 years [~~of age~~] old or older has not completed:

(A) a course in driver training approved by the commissioner; or

(B) the requirements under Subsection 53-3-210.5(6)(c);

(iv) if the person is a minor as defined in Section 53-3-211, has not completed the driving requirement under Section 53-3-211;

(v) is not a resident of the state, unless the person:

(A) is issued a temporary CDL under Subsection 53-3-407(2)(b) prior to July 1, 2015; or

(B) qualifies for a non-domiciled CDL as defined in 49 C.F.R. Part 383;

(vi) if the person is 17 years [~~of age~~] old or younger, has not held a learner permit issued under Section 53-3-210.5 or an equivalent by another state or branch of the United States Armed Forces for six months; or

(vii) is younger than 18 years [~~of age~~] old and applying for a CDL under 49 C.F.R. Part 383.

(b) Subsections (1)(a)(i), (ii), (iii), (iv), and (vi) do not apply to a person:

(i) who has been licensed before July 1, 1967; or

(ii) who is 16 years [~~of age~~] old or older making application for a license who has been licensed in another state or country.

(2) The division may not issue a license certificate to a person:

(a) whose license has been suspended, denied, cancelled, or disqualified during the period of suspension, denial, cancellation, or disqualification;

(b) whose privilege has been revoked, except as provided in Section 53-3-225;

(c) who has previously been adjudged mentally incompetent and who has not at the time of application been restored to competency as provided by law;

(d) who is required by this chapter to take an examination unless the person successfully passes the examination;

(e) whose driving privileges have been denied or suspended under:

(i) Section [~~78A-6-606~~] 80-6-707 by an order of the juvenile court; or

(ii) Section 53-3-231; or

(f) beginning on or after July 1, 2012, who holds an unexpired Utah identification card issued under Part 8, Identification Card Act, unless:

(i) the Utah identification card is canceled; and

(ii) if the Utah identification card is in the person's possession, the Utah identification card is surrendered to the division.

(3) (a) Except as provided in Subsection (3)(c), the division may not grant a motorcycle endorsement to a person who:

(i) has not been granted an original or provisional class D license, a CDL, or an out-of-state equivalent to an original or provisional class D license or a CDL; and

(ii) if the person is under 19 years [~~of age~~] old, has not held a motorcycle learner permit for two months unless Subsection (3)(b) applies.

(b) The division may waive the two month motorcycle learner permit holding period requirement under Subsection (3)(a)(ii) if the person proves to the satisfaction of the division that the person has completed a motorcycle rider education program that meets the requirements under Section 53-3-903.

(c) The division may grant a motorcycle endorsement to a person under 19 years [~~of age~~] old who has not held a motorcycle learner permit for two months if the person was issued a motorcycle endorsement prior to July 1, 2008.

(4) The division may grant a class D license to a person whose commercial license is disqualified under Part 4, Uniform Commercial Driver License Act, if the person is not otherwise sanctioned under this chapter.

Section 14. Section 53-3-219 is amended to read:

53-3-219. Suspension of minor's driving privileges.

(1) The division shall immediately suspend all driving privileges of any person upon receipt of an order suspending driving privileges under Section 32B-4-409, Section 32B-4-410, Subsection 76-9-701(1), or Section [~~78A-6-606~~] 80-6-707.

(2) (a) (i) Upon receipt of the first order suspending a person's driving privileges under Section 32B-4-409, Section 32B-4-410, Subsection 76-9-701(1), or Section [~~78A-6-606~~] 80-6-707, the division shall:

(A) impose a suspension for a period of one year;

(B) if the person has not been issued an operator license, deny the person's application for a license or learner's permit for a period of one year; or

(C) if the person is under the age of eligibility for a driver license, deny the person's application for a license or learner's permit beginning on the date of conviction and continuing for one year beginning on the date of eligibility for a driver license.

(ii) Upon receipt of the first order suspending a person's driving privileges under this section, the division shall reduce the suspension period under Subsection (2)(a)(i)(A), (B), or (C) if ordered by the court in accordance with Subsection 32B-4-409(5)(b), 32B-4-410(4)(b), 76-9-701(4)(b), or [~~78A-6-606(4)(b)~~] 80-6-707(3)(a).

(b) (i) Upon receipt of a second or subsequent order suspending a person's driving privileges under Section 32B-4-409, Section 32B-4-410, Subsection 76-9-701(1), or [~~Section 78A-6-606~~] Subsection 80-4-707(3)(b), the division shall:

(A) impose a suspension for a period of two years;

(B) if the person has not been issued an operator license or is under the age of eligibility for a driver license, deny the person's application for a license or learner's permit for a period of two years; or

(C) if the person is under the age of eligibility for a driver license, deny the person's application for a license or learner's permit beginning on the date of conviction and continuing for two years beginning on the date of eligibility for a driver license.

(ii) Upon receipt of the second or subsequent order suspending a person's driving privileges under Section 32B-4-409, Section 32B-4-410, Subsection 76-9-701(1), or Section [~~78A-6-606~~] 80-6-707, the division shall reduce the suspension period if ordered by the court in accordance with Subsection 32B-4-409(5)(c), 32B-4-410(4)(c), 76-9-701(4)(c), or [~~78A-6-606(4)(c)~~] 80-6-707(3)(b).

(3) The Driver License Division shall subtract from any suspension or revocation period for a conviction of a violation of Section 32B-4-409 the number of days for which a license was previously suspended under Section 53-3-231, if the previous sanction was based on the same occurrence upon which the record of conviction is based.

(4) After reinstatement of the license described in Subsection (1), a report authorized under Section 53-3-104 may not contain evidence of the suspension of a minor's license under this section if the minor has not been convicted of any other offense for which the suspension under Subsection (1) may be extended.

Section 15. Section 53-3-220 is amended to read:

53-3-220. Offenses requiring mandatory revocation, denial, suspension, or disqualification of license -- Offense requiring an extension of period -- Hearing -- Limited driving privileges.

(1) (a) The division shall immediately revoke or, when this chapter, Title 41, Chapter 6a, Traffic Code, or Section 76-5-303, specifically provides for denial, suspension, or disqualification, the division shall deny, suspend, or disqualify the license of a person upon receiving a record of the person's conviction for:

(i) manslaughter or negligent homicide resulting from driving a motor vehicle, or automobile homicide under Section 76-5-207 or 76-5-207.5;

(ii) driving or being in actual physical control of a motor vehicle while under the influence of alcohol, any drug, or combination of them to a degree that renders the person incapable of safely driving a motor vehicle as prohibited in Section 41-6a-502 or as prohibited in an ordinance that complies with the requirements of Subsection 41-6a-510(1);

(iii) driving or being in actual physical control of a motor vehicle while having a blood or breath alcohol content as prohibited in Section 41-6a-502 or as prohibited in an ordinance that complies with the requirements of Subsection 41-6a-510(1);

(iv) perjury or the making of a false affidavit to the division under this chapter, Title 41, Motor Vehicles, or any other law of this state requiring the registration of motor vehicles or regulating driving on highways;

(v) any felony under the motor vehicle laws of this state;

(vi) any other felony in which a motor vehicle is used to facilitate the offense;

(vii) failure to stop and render aid as required under the laws of this state if a motor vehicle accident results in the death or personal injury of another;

(viii) two charges of reckless driving, impaired driving, or any combination of reckless driving and impaired driving committed within a period of 12 months; but if upon a first conviction of reckless driving or impaired driving the judge or justice recommends suspension of the convicted person's license, the division may after a hearing suspend the license for a period of three months;

(ix) failure to bring a motor vehicle to a stop at the command of a law enforcement officer as required in Section 41-6a-210;

(x) any offense specified in Part 4, Uniform Commercial Driver License Act, that requires disqualification;

(xi) a felony violation of Section 76-10-508 or 76-10-508.1 involving discharging or allowing the discharge of a firearm from a vehicle;

(xii) using, allowing the use of, or causing to be used any explosive, chemical, or incendiary device from a vehicle in violation of Subsection 76-10-306(4)(b);

(xiii) operating or being in actual physical control of a motor vehicle while having any measurable controlled substance or metabolite of a controlled substance in the person's body in violation of Section 41-6a-517;

(xiv) operating or being in actual physical control of a motor vehicle while having any measurable or detectable amount of alcohol in the person's body in violation of Section 41-6a-530;

(xv) engaging in a motor vehicle speed contest or exhibition of speed on a highway in violation of Section 41-6a-606;

(xvi) operating or being in actual physical control of a motor vehicle in this state without an ignition interlock system in violation of Section 41-6a-518.2;

(xvii) custodial interference, under:

(A) Subsection 76-5-303(3), which suspension shall be for a period of 30 days, unless the court provides the division with an order of suspension for a shorter period of time;

(B) Subsection 76-5-303(4), which suspension shall be for a period of 90 days, unless the court provides the division with an order of suspension for a shorter period of time; or

(C) Subsection 76-5-303(5), which suspension shall be for a period of 180 days, unless the court provides the division with an order of suspension for a shorter period of time; or

(xviii) refusal of a chemical test under Subsection 41-6a-520(7).

(b) The division shall immediately revoke the license of a person upon receiving a record of an adjudication under [~~Title 78A, Chapter 6, Juvenile Court Act,~~] Section 80-6-701 for:

(i) a felony violation of Section 76-10-508 or 76-10-508.1 involving discharging or allowing the discharge of a firearm from a vehicle; or

(ii) using, allowing the use of, or causing to be used any explosive, chemical, or incendiary device from a vehicle in violation of Subsection 76-10-306(4)(b).

(c) Except when action is taken under Section 53-3-219 for the same offense, upon receiving a record of conviction, the division shall immediately suspend for six months the license of the convicted person if the person was convicted of one of the following offenses while the person was an operator of a motor vehicle:

(i) any violation of:

(A) Title 58, Chapter 37, Utah Controlled Substances Act;

(B) Title 58, Chapter 37a, Utah Drug Paraphernalia Act;

(C) Title 58, Chapter 37b, Imitation Controlled Substances Act;

(D) Title 58, Chapter 37c, Utah Controlled Substance Precursor Act; or

(E) Title 58, Chapter 37d, Clandestine Drug Lab Act; or

(ii) any criminal offense that prohibits:

(A) possession, distribution, manufacture, cultivation, sale, or transfer of any substance that is prohibited under the acts described in Subsection (1)(c)(i); or

(B) the attempt or conspiracy to possess, distribute, manufacture, cultivate, sell, or transfer

any substance that is prohibited under the acts described in Subsection (1)(c)(i).

(d) (i) The division shall immediately suspend a person's driver license for conviction of the offense of theft of motor vehicle fuel under Section 76-6-404.7 if the division receives:

(A) an order from the sentencing court requiring that the person's driver license be suspended; and

(B) a record of the conviction.

(ii) An order of suspension under this section is at the discretion of the sentencing court, and may not be for more than 90 days for each offense.

(e) (i) The division shall immediately suspend for one year the license of a person upon receiving a record of:

(A) conviction for the first time for a violation under Section 32B-4-411; or

(B) an adjudication under [~~Title 78A, Chapter 6, Juvenile Court Act,~~] Section 80-6-701 for a violation under Section 32B-4-411.

(ii) The division shall immediately suspend for a period of two years the license of a person upon receiving a record of:

(A) (I) conviction for a second or subsequent violation under Section 32B-4-411; and

(II) the violation described in Subsection (1)(e)(ii)(A)(I) is within 10 years of a prior conviction for a violation under Section 32B-4-411; or

(B) (I) a second or subsequent adjudication under [~~Title 78A, Chapter 6, Juvenile Court Act of 1996,~~] Section 80-6-701 for a violation under Section 32B-4-411; and

(II) the adjudication described in Subsection (1)(e)(ii)(B)(I) is within 10 years of a prior adjudication under [~~Title 78A, Chapter 6, Juvenile Court Act of 1996,~~] Section 80-6-701 for a violation under Section 32B-4-411.

(iii) Upon receipt of a record under Subsection (1)(e)(i) or (ii), the division shall:

(A) for a conviction or adjudication described in Subsection (1)(e)(i):

(I) impose a suspension for one year beginning on the date of conviction; or

(II) if the person is under the age of eligibility for a driver license, impose a suspension that begins on the date of conviction and continues for one year beginning on the date of eligibility for a driver license; or

(B) for a conviction or adjudication described in Subsection (1)(e)(ii):

(I) impose a suspension for a period of two years; or

(II) if the person is under the age of eligibility for a driver license, impose a suspension that begins on the date of conviction and continues for two years beginning on the date of eligibility for a driver license.

(iv) Upon receipt of the first order suspending a person's driving privileges under Section 32B-4-411, the division shall reduce the suspension period under Subsection (1)(e)(i) if ordered by the court in accordance with Subsection 32B-4-411(3)(a).

(v) Upon receipt of the second or subsequent order suspending a person's driving privileges under Section 32B-4-411, the division shall reduce the suspension period under Subsection (1)(e)(ii) if ordered by the court in accordance with Subsection 32B-4-411(3)(b).

(2) The division shall extend the period of the first denial, suspension, revocation, or disqualification for an additional like period, to a maximum of one year for each subsequent occurrence, upon receiving:

(a) a record of the conviction of any person on a charge of driving a motor vehicle while the person's license is denied, suspended, revoked, or disqualified;

(b) a record of a conviction of the person for any violation of the motor vehicle law in which the person was involved as a driver;

(c) a report of an arrest of the person for any violation of the motor vehicle law in which the person was involved as a driver; or

(d) a report of an accident in which the person was involved as a driver.

(3) When the division receives a report under Subsection (2)(c) or (d) that a person is driving while the person's license is denied, suspended, disqualified, or revoked, the person is entitled to a hearing regarding the extension of the time of denial, suspension, disqualification, or revocation originally imposed under Section 53-3-221.

(4) (a) The division may extend to a person the limited privilege of driving a motor vehicle to and from the person's place of employment or within other specified limits on recommendation of the judge in any case where a person is convicted of any of the offenses referred to in Subsections (1) and (2) except:

(i) automobile homicide under Subsection (1)(a)(i);

(ii) those offenses referred to in Subsections (1)(a)(ii), (iii), (xi), (xii), (xiii), (1)(b), and (1)(c); and

(iii) those offenses referred to in Subsection (2) when the original denial, suspension, revocation, or disqualification was imposed because of a violation of Section 41-6a-502, 41-6a-517, a local ordinance which complies with the requirements of Subsection 41-6a-510(1), Section 41-6a-520, or Section 76-5-207, or a criminal prohibition that the person was charged with violating as a result of a plea bargain after having been originally charged with violating one or more of these sections or ordinances, unless:

(A) the person has had the period of the first denial, suspension, revocation, or disqualification extended for a period of at least three years;

(B) the division receives written verification from the person's primary care physician that:

(I) to the physician's knowledge the person has not used any narcotic drug or other controlled substance except as prescribed by a licensed medical practitioner within the last three years; and

(II) the physician is not aware of any physical, emotional, or mental impairment that would affect the person's ability to operate a motor vehicle safely; and

(C) for a period of one year prior to the date of the request for a limited driving privilege:

(I) the person has not been convicted of a violation of any motor vehicle law in which the person was involved as the operator of the vehicle;

(II) the division has not received a report of an arrest for a violation of any motor vehicle law in which the person was involved as the operator of the vehicle; and

(III) the division has not received a report of an accident in which the person was involved as an operator of a vehicle.

(b) (i) Except as provided in Subsection (4)(b)(ii), the discretionary privilege authorized in this Subsection (4):

(A) is limited to when undue hardship would result from a failure to grant the privilege; and

(B) may be granted only once to any person during any single period of denial, suspension, revocation, or disqualification, or extension of that denial, suspension, revocation, or disqualification.

(ii) The discretionary privilege authorized in Subsection (4)(a)(iii):

(A) is limited to when the limited privilege is necessary for the person to commute to school or work; and

(B) may be granted only once to any person during any single period of denial, suspension, revocation, or disqualification, or extension of that denial, suspension, revocation, or disqualification.

(c) A limited CDL may not be granted to a person disqualified under Part 4, Uniform Commercial Driver License Act, or whose license has been revoked, suspended, cancelled, or denied under this chapter.

Section 16. Section 53-10-404 is amended to read:

53-10-404. DNA specimen analysis -- Requirement to obtain the specimen.

(1) As used in this section, "person" refers to any person as described under Section 53-10-403.

(2) (a) A person under Section 53-10-403 or any person required to register as a sex offender under Title 77, Chapter 41, Sex and Kidnap Offender Registry, shall provide a DNA specimen and shall reimburse the agency responsible for obtaining the DNA specimen $150 for the cost of obtaining the DNA specimen unless:

(i) the person was booked under Section 53-10-403 and is not required to reimburse the agency under Section 53-10-404.5; or

(ii) the agency determines the person lacks the ability to pay.

(b) (i) (A) The responsible agencies shall establish guidelines and procedures for determining if the person is able to pay the fee.

(B) An agency's implementation of Subsection (2)(b)(i) meets an agency's obligation to determine an inmate's ability to pay.

(ii) An agency's guidelines and procedures may provide for the assessment of $150 on the inmate's county trust fund account and may allow a negative balance in the account until the $150 is paid in full.

(3) (a) (i) All fees collected under Subsection (2) shall be deposited in the DNA Specimen Restricted Account created in Section 53-10-407, except that the agency collecting the fee may retain not more than $25 per individual specimen for the costs of obtaining the saliva DNA specimen.

(ii) The agency collecting the $150 fee may not retain from each separate fee more than $25, and no amount of the $150 fee may be credited to any other fee or agency obligation.

(b) The responsible agency shall determine the method of collecting the DNA specimen. Unless the responsible agency determines there are substantial reasons for using a different method of collection or the person refuses to cooperate with the collection, the preferred method of collection shall be obtaining a saliva specimen.

(c) The responsible agency may use reasonable force, as established by its guidelines and procedures, to collect the DNA sample if the person refuses to cooperate with the collection.

(d) If the judgment places the person on probation, the person shall submit to the obtaining of a DNA specimen as a condition of the probation.

(e) (i) Under this section a person is required to provide one DNA specimen and pay the collection fee as required under this section.

(ii) The person shall provide an additional DNA specimen only if the DNA specimen previously provided is not adequate for analysis.

(iii) The collection fee is not imposed for a second or subsequent DNA specimen collected under this section.

(f) Any agency that is authorized to obtain a DNA specimen under this part may collect any outstanding amount of a fee due under this section from any person who owes any portion of the fee and deposit the amount in the DNA Specimen Restricted Account created in Section 53-10-407.

(4) (a) The responsible agency shall cause a DNA specimen to be obtained as soon as possible and transferred to the Department of Public Safety:

(i) after a conviction or a finding of jurisdiction by the juvenile court;

(ii) on and after January 1, 2011, through December 31, 2014, after the booking of a person for any offense under Subsection 53-10-403(1)(c); and

(iii) on and after January 1, 2015, after the booking of a person for any felony offense, as provided under Subsection 53-10-403(1)(d)(ii).

(b) On and after May 13, 2014, through December 31, 2014, the responsible agency may cause a DNA specimen to be obtained and transferred to the Department of Public Safety after the booking of a person for any felony offense, as provided under Subsection 53-10-403(1)(d)(i).

(c) If notified by the Department of Public Safety that a DNA specimen is not adequate for analysis, the agency shall, as soon as possible:

(i) obtain and transmit an additional DNA specimen; or

(ii) request that another agency that has direct access to the person and that is authorized to collect DNA specimens under this section collect the necessary second DNA specimen and transmit it to the Department of Public Safety.

(d) Each agency that is responsible for collecting DNA specimens under this section shall establish:

(i) a tracking procedure to record the handling and transfer of each DNA specimen it obtains; and

(ii) a procedure to account for the management of all fees it collects under this section.

(5) (a) The Department of Corrections is the responsible agency whenever the person is committed to the custody of or is under the supervision of the Department of Corrections.

(b) The juvenile court is the responsible agency regarding a minor under Subsection 53-10-403(3), but if the minor has been committed to the legal custody of the Division of Juvenile Justice Services, that division is the responsible agency if a DNA specimen of the minor has not previously been obtained by the juvenile court under Section [~~78A-6-117~~] 80-6-608.

(c) The sheriff operating a county jail is the responsible agency regarding the collection of DNA specimens from persons who:

(i) have pled guilty to or have been convicted of an offense listed under Subsection 53-10-403(2) but who have not been committed to the custody of or are not under the supervision of the Department of Corrections;

(ii) are incarcerated in the county jail:

(A) as a condition of probation for a felony offense; or

(B) for a misdemeanor offense for which collection of a DNA specimen is required;

(iii) on and after January 1, 2011, through May 12, 2014, are booked at the county jail for any offense under Subsection 53-10-403(1)(c).; and

(iv) are booked at the county jail:

(A) by a law enforcement agency that is obtaining a DNA specimen for any felony offense on or after May 13, 2014, through December 31, 2014, under Subsection 53-10-404(4)(b); or

(B) on or after January 1, 2015, for any felony offense.

(d) Each agency required to collect a DNA specimen under this section shall:

(i) designate employees to obtain the saliva DNA specimens required under this section; and

(ii) ensure that employees designated to collect the DNA specimens receive appropriate training and that the specimens are obtained in accordance with generally accepted protocol.

(6) (a) As used in this Subsection (6), "department" means the Department of Corrections.

(b) Priority of obtaining DNA specimens by the department is:

(i) first, to obtain DNA specimens of persons who as of July 1, 2002, are in the custody of or under the supervision of the department before these persons are released from incarceration, parole, or probation, if their release date is prior to that of persons under Subsection (6)(b)(ii), but in no case later than July 1, 2004; and

(ii) second, the department shall obtain DNA specimens from persons who are committed to the custody of the department or who are placed under the supervision of the department after July 1, 2002, within 120 days after the commitment, if possible, but not later than prior to release from incarceration if the person is imprisoned, or prior to the termination of probation if the person is placed on probation.

(c) The priority for obtaining DNA specimens from persons under Subsection (6)(b)(ii) is:

(i) first, persons on probation;

(ii) second, persons on parole; and

(iii) third, incarcerated persons.

(d) Implementation of the schedule of priority under Subsection (6)(c) is subject to the priority of Subsection (6)(b)(i), to ensure that the Department of Corrections obtains DNA specimens from persons in the custody of or under the supervision of the Department of Corrections as of July 1, 2002, prior to their release.

(7) (a) As used in this Subsection (7):

(i) "Court" means the juvenile court.

(ii) "Division" means the Division of Juvenile Justice Services.

(b) Priority of obtaining DNA specimens by the court from minors under Section 53-10-403 [~~who~~

~~are under the jurisdiction of the court~~] whose cases are under the jurisdiction of the court but who are not in the legal custody of the division shall be:

(i) first, to obtain specimens from minors [~~who as of July 1, 2002, are within the court's jurisdiction, prior to termination of the court's jurisdiction over these minors~~] whose cases, as of July 1, 2002, are under the court's jurisdiction, before the court's jurisdiction over the minors' cases terminates; and

(ii) second, to obtain specimens from minors [~~who are found to be within the court's jurisdiction~~] whose cases are under the jurisdiction of the court after July 1, 2002, within 120 days of the minor's case being found to be within the court's jurisdiction, if possible, but [~~not~~] no later than [~~prior to termination of the court's jurisdiction over the minor.~~] before the court's jurisdiction over the minor's case terminates.

(c) Priority of obtaining DNA specimens by the division from minors under Section 53-10-403 who are committed to the legal custody of the division shall be:

(i) first, to obtain specimens from minors who as of July 1, 2002, are within the division's legal custody and who have not previously provided a DNA specimen under this section, [~~prior to~~] before termination of the division's legal custody of these minors; and

(ii) second, to obtain specimens from minors who are placed in the legal custody of the division after July 1, 2002, within 120 days of the minor's being placed in the custody of the division, if possible, but [~~not later than prior to~~] no later than before the termination of the court's jurisdiction over the [~~minor~~] minor's case.

(8) (a) The Department of Corrections, the juvenile court, the Division of Juvenile Justice Services, and all law enforcement agencies in the state shall by policy establish procedures for obtaining saliva DNA specimens, and shall provide training for employees designated to collect saliva DNA specimens.

(b) (i) The department may designate correctional officers, including those employed by the adult probation and parole section of the department, to obtain the saliva DNA specimens required under this section.

(ii) The department shall ensure that the designated employees receive appropriate training and that the specimens are obtained in accordance with accepted protocol.

(c) Blood DNA specimens shall be obtained in accordance with Section 53-10-405.

Section 17. Section 53-10-407 is amended to read:

53-10-407. DNA Specimen Restricted Account.

(1) There is created the DNA Specimen Restricted Account, which is referred to in this section as "the account."

(2) The sources of money for the account are:

(a) DNA collection fees paid under Section 53-10-404;

(b) any appropriations made to the account by the Legislature; and

(c) all federal money provided to the state for the purpose of funding the collection or analysis of DNA specimens collected under Section 53-10-403.

(3) The account shall earn interest, and this interest shall be deposited in the account.

(4) The Legislature may appropriate money from the account solely for the following purposes:

(a) to the Department of Corrections for the costs of collecting DNA specimens as required under Section 53-10-403;

(b) to the juvenile court for the costs of collecting DNA specimens as required under Sections 53-10-403 and [~~78A-6-117~~] 80-6-608;

(c) to the Division of Juvenile Justice Services for the costs of collecting DNA specimens as required under Sections 53-10-403 and [~~62A-7-104~~] 80-5-201; and

(d) to the Department of Public Safety for the costs of:

(i) storing and analyzing DNA specimens in accordance with the requirements of this part;

(ii) DNA testing which cannot be performed by the Utah State Crime Lab, as provided in Subsection 78B-9-301(7); and

(iii) reimbursing sheriffs for collecting the DNA specimens as provided under Sections 53-10-404 and 53-10-404.5.

(5) Appropriations from the account to the Department of Corrections, the juvenile court, the Division of Juvenile Justice Services, and to the Department of Public Safety are nonlapsing.

Section 18. Section 53B-8d-102 is amended to read:

53B-8d-102. Definitions.

As used in this chapter:

(1) "Division" means the Division of Child and Family Services.

(2) "Long-term foster care" means an individual who remains in the custody of the division, whether or not the individual resides:

(a) with licensed foster parents; or

(b) in independent living arrangements under the supervision of the division.

(3) "State institution of higher education" means:

(a) an institution designated in Section 53B-1-102; or

(b) a public institution that offers postsecondary education in consideration of the payment of tuition or fees for the attainment of educational or vocational objectives leading to a degree or certificate, including:

(i) a business school;

(ii) a technical school;

(iii) a trade school; or

(iv) an institution offering related apprenticeship programs.

(4) "Tuition" means tuition at the rate for residents of the state.

(5) "Ward of the state" means an individual:

(a) who is:

(i) at least 17 years [~~of age~~] old; and

(ii) not older than 26 years [~~of age~~] old;

(b) who had a permanency goal in the individual's child and family plan, as described in Sections 62A-4a-205 and [~~78A-6-314~~] 80-3-409, of long-term foster care while in the custody of the division; and

(c) for whom the custody of the division was not terminated as a result of adoption.

Section 19. Section 53E-3-513 is amended to read:

53E-3-513. Parental permission required for specified in-home programs -- Exceptions.

(1) The state board, local school boards, school districts, and public schools are prohibited from requiring infant or preschool in-home literacy or other educational or parenting programs without obtaining parental permission in each individual case.

(2) This section does not prohibit the Division of Child and Family Services, within the Department of Human Services, from providing or arranging for family preservation or other statutorily provided services in accordance with Title 62A, Chapter 4a, Child and Family Services, or any other in-home services that have been court ordered, [~~pursuant to~~] in accordance with Title 62A, Chapter 4a, Child and Family Services, or [~~Title 78A, Chapter 6, Juvenile Court Act~~] Title 80, Chapter 3, Abuse, Neglect, and Dependency Proceedings, or Chapter 4, Termination and Restoration of Parental Rights.

Section 20. Section 53E-9-305 is amended to read:

53E-9-305. Collecting student data -- Prohibition -- Student data collection notice -- Written consent.

(1) An education entity may not collect a student's:

(a) social security number; or

(b) except as required in Section [~~78A-6-112~~] 80-6-103, criminal record.

(2) Except as provided in Subsection (3), an education entity that collects student data shall, in accordance with this section, prepare and distribute to parents and students a student data collection notice statement that:

(a) is a prominent, stand-alone document;

(b) is annually updated and published on the education entity's website;

(c) states the student data that the education entity collects;

(d) states that the education entity will not collect the student data described in Subsection (1);

(e) states the student data described in Section 53E-9-308 that the education entity may not share without written consent;

(f) includes the following statement:

"The collection, use, and sharing of student data has both benefits and risks. Parents and students should learn about these benefits and risks and make choices regarding student data accordingly.";

(g) describes in general terms how the education entity stores and protects student data; and

(h) states a student's rights under this part.

(3) The state board may publicly post the state board's collection notice described in Subsection (2).

(4) An education entity may collect the necessary student data of a student if the education entity provides a student data collection notice to:

(a) the student, if the student is an adult student; or

(b) the student's parent, if the student is not an adult student.

(5) An education entity may collect optional student data if the education entity:

(a) provides, to an individual described in Subsection (4), a student data collection notice that includes a description of:

(i) the optional student data to be collected; and

(ii) how the education entity will use the optional student data; and

(b) obtains written consent to collect the optional student data from an individual described in Subsection (4).

(6) An education entity may collect a student's biometric identifier or biometric information if the education entity:

(a) provides, to an individual described in Subsection (4), a biometric information collection notice that is separate from a student data collection notice, which states:

(i) the biometric identifier or biometric information to be collected;

(ii) the purpose of collecting the biometric identifier or biometric information; and

(iii) how the education entity will use and store the biometric identifier or biometric information; and

(b) obtains written consent to collect the biometric identifier or biometric information from an individual described in Subsection (4).

(7) Except under the circumstances described in Subsection 53G-8-211(2), an education entity may not refer a student to an evidence-based alternative intervention described in Subsection 53G-8-211(3) without written consent.

(8) Nothing in this section prohibits an education entity from including additional information related to student and parent privacy in the notice described in Subsection (2).

Section 21. Section 53G-4-402 is amended to read:

53G-4-402. Powers and duties generally.

(1) A local school board shall:

(a) implement the core standards for Utah public schools using instructional materials that best correlate to the core standards for Utah public schools and graduation requirements;

(b) administer tests, required by the state board, which measure the progress of each student, and coordinate with the state superintendent and state board to assess results and create plans to improve the student's progress, which shall be submitted to the state board for approval;

(c) use progress-based assessments as part of a plan to identify schools, teachers, and students that need remediation and determine the type and amount of federal, state, and local resources to implement remediation;

(d) develop early warning systems for students or classes failing to make progress;

(e) work with the state board to establish a library of documented best practices, consistent with state and federal regulations, for use by the local districts;

(f) implement training programs for school administrators, including basic management training, best practices in instructional methods, budget training, staff management, managing for learning results and continuous improvement, and how to help every child achieve optimal learning in basic academic subjects; and

(g) ensure that the local school board meets the data collection and reporting standards described in Section 53E-3-501.

(2) Local school boards shall spend Minimum School Program funds for programs and activities for which the state board has established minimum standards or rules under Section 53E-3-501.

(3) (a) A local school board may purchase, sell, and make improvements on school sites, buildings, and equipment and construct, erect, and furnish school buildings.

(b) School sites or buildings may only be conveyed or sold on local school board resolution affirmed by at least two-thirds of the members.

(4) (a) A local school board may participate in the joint construction or operation of a school attended by children residing within the district and children residing in other districts either within or outside the state.

(b) Any agreement for the joint operation or construction of a school shall:

(i) be signed by the president of the local school board of each participating district;

(ii) include a mutually agreed upon pro rata cost; and

(iii) be filed with the state board.

(5) A local school board may establish, locate, and maintain elementary, secondary, and applied technology schools.

(6) Except as provided in Section 53E-3-905, a local school board may enroll children in school who are at least five years [~~of age~~] old before September 2 of the year in which admission is sought.

(7) A local school board may establish and support school libraries.

(8) A local school board may collect damages for the loss, injury, or destruction of school property.

(9) A local school board may authorize guidance and counseling services for children and their parents before, during, or following enrollment of the children in schools.

(10) (a) A local school board shall administer and implement federal educational programs in accordance with Title 53E, Chapter 3, Part 8, Implementing Federal or National Education Programs.

(b) Federal funds are not considered funds within the school district budget under Chapter 7, Part 3, Budgets.

(11) (a) A local school board may organize school safety patrols and adopt policies under which the patrols promote student safety.

(b) A student appointed to a safety patrol shall be at least 10 years old and have written parental consent for the appointment.

(c) Safety patrol members may not direct vehicular traffic or be stationed in a portion of a highway intended for vehicular traffic use.

(d) Liability may not attach to a school district, its employees, officers, or agents or to a safety patrol member, a parent of a safety patrol member, or an authorized volunteer assisting the program by virtue of the organization, maintenance, or operation of a school safety patrol.

(12) (a) A local school board may on its own behalf, or on behalf of an educational institution for which the local school board is the direct governing body, accept private grants, loans, gifts, endowments, devises, or bequests that are made for educational purposes.

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

(13) (a) A local school board may appoint and fix the compensation of a compliance officer to issue citations for violations of Subsection 76-10-105(2)(b).

(b) A person may not be appointed to serve as a compliance officer without the person's consent.

(c) A teacher or student may not be appointed as a compliance officer.

(14) A local school board shall adopt bylaws and policies for the local school board's own procedures.

(15) (a) A local school board shall make and enforce policies necessary for the control and management of the district schools.

(b) Local school board policies shall be in writing, filed, and referenced for public access.

(16) A local school board may hold school on legal holidays other than Sundays.

(17) (a) A local school board shall establish for each school year a school traffic safety committee to implement this Subsection (17).

(b) The committee shall be composed of one representative of:

(i) the schools within the district;

(ii) the Parent Teachers' Association of the schools within the district;

(iii) the municipality or county;

(iv) state or local law enforcement; and

(v) state or local traffic safety engineering.

(c) The committee shall:

(i) receive suggestions from school community councils, parents, teachers, and others and recommend school traffic safety improvements, boundary changes to enhance safety, and school traffic safety program measures;

(ii) review and submit annually to the Department of Transportation and affected municipalities and counties a child access routing plan for each elementary, middle, and junior high school within the district;

(iii) consult the Utah Safety Council and the Division of Family Health Services and provide training to all school children in kindergarten through grade 6, within the district, on school crossing safety and use; and

(iv) help ensure the district's compliance with rules made by the Department of Transportation under Section 41-6a-303.

(d) The committee may establish subcommittees as needed to assist in accomplishing its duties under Subsection (17)(c).

(18) (a) A local school board shall adopt and implement a comprehensive emergency response plan to prevent and combat violence in the local school board's public schools, on school grounds, on its school vehicles, and in connection with school-related activities or events.

(b) The plan shall:

(i) include prevention, intervention, and response components;

(ii) be consistent with the student conduct and discipline policies required for school districts under Chapter 11, Part 2, Miscellaneous Requirements;

(iii) require professional learning for all district and school building staff on what their roles are in the emergency response plan;

(iv) provide for coordination with local law enforcement and other public safety representatives in preventing, intervening, and responding to violence in the areas and activities referred to in Subsection (18)(a); and

(v) include procedures to notify a student, to the extent practicable, who is off campus at the time of a school violence emergency because the student is:

(A) participating in a school-related activity; or

(B) excused from school for a period of time during the regular school day to participate in religious instruction at the request of the student's parent.

(c) The state board, through the state superintendent, shall develop comprehensive emergency response plan models that local school boards may use, where appropriate, to comply with Subsection (18)(a).

(d) A local school board shall, by July 1 of each year, certify to the state board that its plan has been practiced at the school level and presented to and reviewed by its teachers, administrators, students, and their parents and local law enforcement and public safety representatives.

(19) (a) A local school board may adopt an emergency response plan for the treatment of sports-related injuries that occur during school sports practices and events.

(b) The plan may be implemented by each secondary school in the district that has a sports program for students.

(c) The plan may:

(i) include emergency personnel, emergency communication, and emergency equipment components;

(ii) require professional learning on the emergency response plan for school personnel who are involved in sports programs in the district's secondary schools; and

(iii) provide for coordination with individuals and agency representatives who:

(A) are not employees of the school district; and

(B) would be involved in providing emergency services to students injured while participating in sports events.

(d) The local school board, in collaboration with the schools referred to in Subsection (19)(b), may

review the plan each year and make revisions when required to improve or enhance the plan.

(e) The state board, through the state superintendent, shall provide local school boards with an emergency plan response model that local school boards may use to comply with the requirements of this Subsection (19).

(20) A local school board shall do all other things necessary for the maintenance, prosperity, and success of the schools and the promotion of education.

(21) (a) Before closing a school or changing the boundaries of a school, a local school board shall:

(i) at least 120 days before approving the school closure or school boundary change, provide notice to the following that the local school board is considering the closure or boundary change:

(A) parents of students enrolled in the school, using the same form of communication the local school board regularly uses to communicate with parents;

(B) parents of students enrolled in other schools within the school district that may be affected by the closure or boundary change, using the same form of communication the local school board regularly uses to communicate with parents; and

(C) the governing council and the mayor of the municipality in which the school is located;

(ii) provide an opportunity for public comment on the proposed school closure or school boundary change during at least two public local school board meetings; and

(iii) hold a public hearing as defined in Section 10-9a-103 and provide public notice of the public hearing as described in Subsection (21)(b).

(b) The notice of a public hearing required under Subsection (21)(a)(iii) shall:

(i) indicate the:

(A) school or schools under consideration for closure or boundary change; and

(B) the date, time, and location of the public hearing;

(ii) at least 10 days before the public hearing, be:

(A) published:

(I) in a newspaper of general circulation in the area; and

(II) on the Utah Public Notice Website created in Section 63F-1-701; and

(B) posted in at least three public locations within the municipality in which the school is located on the school district's official website, and prominently at the school; and

(iii) at least 30 days before the public hearing described in Subsection (21)(a)(iii), be provided as described in Subsections (21)(a)(i)(A), (B), and (C).

(22) A local school board may implement a facility energy efficiency program established under Title 11, Chapter 44, Performance Efficiency Act.

(23) A local school board may establish or partner with a certified youth court [~~program, in accordance with Section 78A-6-1203,~~] in accordance with Section 80-6-902 or establish or partner with a comparable restorative justice program, in coordination with schools in that district. A school may refer a student to a youth court or a comparable restorative justice program in accordance with Section 53G-8-211.

Section 22. Section 53G-6-206 is amended to read:

53G-6-206. Duties of a local school board, charter school governing board, or school district in resolving attendance problems -- Parental involvement -- Liability not imposed -- Report to state board.

(1) (a) Subject to Subsection (1)(b), a local school board, charter school governing board, or school district shall make efforts to resolve the school attendance problems of each school-age child who is, or should be, enrolled in the school district.

(b) A school-age child exempt from school attendance under Section 53G-6-204 or 53G-6-702 is not considered to be a school-age child who is or should be enrolled in a school district or charter school under Subsection (1)(a).

(2) The efforts described in Subsection (1) shall include, as reasonably feasible:

(a) counseling of the school-age child by school authorities;

(b) (i) issuing a notice of truancy to the school-age child in accordance with Section 53G-6-203; or

(ii) issuing a notice of compulsory education violation to the school-age child's parent in accordance with Section 53G-6-202;

(c) making any necessary adjustment to the curriculum and schedule to meet special needs of the school-age child;

(d) considering alternatives proposed by the school-age child's parent;

(e) monitoring school attendance of the school-age child;

(f) voluntary participation in truancy mediation, if available; and

(g) providing the school-age child's parent, upon request, with a list of resources available to assist the parent in resolving the school-age child's attendance problems.

(3) In addition to the efforts described in Subsection (2), the local school board, charter school governing board, or school district may enlist the assistance of community and law enforcement agencies as appropriate and reasonably feasible in accordance with Section 53G-8-211.

(4) This section does not impose civil liability on boards of education, local school boards, charter

school governing boards, school districts, or their employees.

(5) Proceedings initiated under this part do not obligate or preclude action by the Division of Child and Family Services under Section [~~78A-6-319~~] 53G-6-210.

(6) Each LEA shall annually report the following data separately to the state board:

(a) absences with a valid excuse; and

(b) absences without a valid excuse.

Section 23. Section 53G-6-208 is amended to read:

53G-6-208. Taking custody of a person believed to be a truant minor -- Disposition -- Reports -- Immunity from liability.

(1) A peace officer or public school administrator may take a minor into temporary custody if there is reason to believe the minor is a truant minor.

(2) An individual taking a presumed truant minor into custody under Subsection (1) shall, without unnecessary delay, release the minor to:

(a) the principal of the minor's school;

(b) a person who has been designated by the local school board or charter school governing board to receive and return the minor to school; or

(c) a truancy center established under Subsection (5).

(3) If the minor refuses to return to school or go to the truancy center, the officer or administrator shall, without unnecessary delay, notify the minor's parents and release the minor to their custody.

(4) If the parents cannot be reached or are unable or unwilling to accept custody and none of the options in Subsection (2) are available, the minor shall be referred to the Division of Child and Family Services.

(5) (a) (i) A local school board or charter school governing board, singly or jointly with another school board, may establish or designate truancy centers within existing school buildings and staff the centers with existing teachers or staff to provide educational guidance and counseling for truant minors.

(ii) Upon receipt of a truant minor, the center shall, without unnecessary delay, notify and direct the minor's parents to come to the center, pick up the minor, and return the minor to the school in which the minor is enrolled.

(b) (i) If the parents cannot be reached or are unable or unwilling to comply with the request within a reasonable time, the center shall take such steps as are reasonably necessary to insure the safety and well being of the minor, including, when appropriate, returning the minor to school or referring the minor to the Division of Child and Family Services.

(ii) A minor taken into custody under this section may not be placed in a detention center or other secure confinement facility.

(6) (a) Action taken under this section shall be reported to the appropriate school district.

(b) The district shall promptly notify the minor's parents of the action taken.

(7) The Utah Governmental Immunity Act applies to all actions taken under this section.

(8) Nothing in this section may be construed to grant authority to a public school administrator to place a minor in the custody of the Division of Child and Family Services, without complying with Title 62A, Chapter 4a, Part 2, Child Welfare Services, and [~~Title 78A, Chapter 6, Part 3, Abuse, Neglect, and Dependency Proceedings~~] Title 80, Chapter 3, Abuse, Neglect, and Dependency Proceedings.

Section 24. Section 53G-8-211 is amended to read:

53G-8-211. Responses to school-based behavior.

(1) As used in this section:

(a) "Evidence-based" means a program or practice that has:

(i) had multiple randomized control studies or a meta-analysis demonstrating that the program or practice is effective for a specific population;

(ii) been rated as effective by a standardized program evaluation tool; or

(iii) been approved by the state board.

(b) "Habitual truant" means a school-age child who:

(i) is in grade 7 or above, unless the school-age child is less than 12 years old;

(ii) is subject to the requirements of Section 53G-6-202; and

(iii) (A) is truant at least 10 times during one school year; or

(B) fails to cooperate with efforts on the part of school authorities to resolve the school-age child's attendance problem as required under Section 53G-6-206.

(c) "Minor" means the same as that term is defined in Section [~~78A-6-105~~] 80-1-102.

(d) "Mobile crisis outreach team" means the same as that term is defined in Section [~~78A-6-105~~] 62A-15-102.

(e) "Prosecuting attorney" means the same as that term is defined in Subsections [~~78A-6-105(46)(b) and (c)~~] 80-1-102(58)(b) and (c).

(f) "Restorative justice program" means a school-based program or a program used or adopted by a local education agency that is designed:

(i) to enhance school safety, reduce school suspensions, and limit referrals to law enforcement agencies and courts; and

(ii) to help minors take responsibility for and repair harmful behavior that occurs in school.

(g) "School administrator" means a principal of a school.

(h) "School is in session" means a day during which the school conducts instruction for which student attendance is counted toward calculating average daily membership.

(i) "School resource officer" means a law enforcement officer, as defined in Section 53-13-103, who contracts with, is employed by, or whose law enforcement agency contracts with a local education agency to provide law enforcement services for the local education agency.

(j) "School-age child" means the same as that term is defined in Section 53G-6-201.

(k) (i) "School-sponsored activity" means an activity, fundraising event, club, camp, clinic, or other event or activity that is authorized by a specific local education agency or public school, according to LEA governing board policy, and satisfies at least one of the following conditions:

(A) the activity is managed or supervised by a local education agency or public school, or local education agency or public school employee;

(B) the activity uses the local education agency's or public school's facilities, equipment, or other school resources; or

(C) the activity is supported or subsidized, more than inconsequentially, by public funds, including the public school's activity funds or Minimum School Program dollars.

(ii) "School-sponsored activity" includes preparation for and involvement in a public performance, contest, athletic competition, demonstration, display, or club activity.

(l) (i) "Status offense" means an offense that would not be an offense but for the age of the offender.

(ii) "Status offense" does not mean an offense that by statute is a misdemeanor or felony.

(2) This section applies to a minor enrolled in school who is alleged to have committed an offense at the school where the student is enrolled:

(a) on school property where the student is enrolled:

(i) when school is in session; or

(ii) during a school-sponsored activity; or

(b) that is truancy.

(3) (a) Except as provided in Subsections (3)(e) and (5), if a minor is alleged to have committed an offense that is a class C misdemeanor, an infraction, a status offense on school property, or an offense that is truancy:

(i) a school district or school may not refer the minor to a law enforcement officer or agency or a court; and

(ii) a law enforcement officer or agency may not refer the minor to a prosecuting attorney or a court.

(b) Except as provided in Subsection (3)(e), if a minor is alleged to have committed an offense that is a class C misdemeanor, an infraction, a status offense on school property, or an offense that is truancy, a school district, school, or law enforcement officer or agency may refer the minor to evidence-based alternative interventions, including:

(i) a mobile crisis outreach team[~~, as defined in Section 78A-6-105~~];

(ii) a youth services center [~~operated by the Division of Juvenile Justice Services in accordance with Section 62A-7-104~~] as defined in Section 80-5-102;

(iii) a youth court or comparable restorative justice program;

(iv) evidence-based interventions created and developed by the school or school district; and

(v) other evidence-based interventions that may be jointly created and developed by a local education agency, the state board, the juvenile court, local counties and municipalities, the Department of Health, or the Department of Human Services.

(c) Notwithstanding Subsection (3)(a), a school resource officer may:

(i) investigate possible criminal offenses and conduct, including conducting probable cause searches;

(ii) consult with school administration about the conduct of a minor enrolled in a school;

(iii) transport a minor enrolled in a school to a location if the location is permitted by law;

(iv) take temporary custody of a minor in accordance with [~~Subsection~~] Section [~~78A-6-112(1)~~] 80-6-201; or

(v) protect the safety of students and the school community, including the use of reasonable and necessary physical force when appropriate based on the totality of the circumstances.

(d) Notwithstanding other provisions of this section, if a law enforcement officer has cause to believe a minor has committed an offense on school property when school is not in session and not during a school-sponsored activity, the law enforcement officer may refer the minor to:

(i) a prosecuting attorney or a court; or

(ii) evidence-based alternative interventions at the discretion of the law enforcement officer.

(e) If a minor is alleged to have committed a traffic offense that is an infraction, a school district, a school, or a law enforcement officer or agency may

refer the minor to a prosecuting attorney or a court for the traffic offense.

(4) A school district or school shall refer a minor for prevention and early intervention youth services, as described in Section [~~62A-7-104~~] 80-5-201, by the Division of Juvenile Justice Services for a class C misdemeanor committed on school property or for being a habitual truant if the minor refuses to participate in an evidence-based alternative intervention described in Subsection (3)(b).

(5) A school district or school may refer a minor to a court or a law enforcement officer or agency for an alleged class C misdemeanor committed on school property or for allegedly being a habitual truant[~~, as defined in Section 53G-6-201,~~] if the minor:

(a) refuses to participate in an evidence-based alternative intervention under Subsection (3)(b); and

(b) fails to participate in prevention and early intervention youth services provided by the Division of Juvenile Justice Services under Subsection (4).

(6) (a) If a minor is referred to a court or a law enforcement officer or agency under Subsection (5), the school shall appoint a school representative to continue to engage with the minor and the minor's family through the court process.

(b) A school representative appointed under Subsection (6)(a) may not be a school resource officer.

(c) A school district or school shall include the following in the school district's or school's referral to the court or the law enforcement officer or agency:

(i) attendance records for the minor;

(ii) a report of evidence-based alternative interventions used by the school before the referral, including outcomes;

(iii) the name and contact information of the school representative assigned to actively participate in the court process with the minor and the minor's family;

(iv) a report from the Division of Juvenile Justice Services that demonstrates the minor's failure to complete or participate in prevention and early intervention youth services under Subsection (4); and

(v) any other information that the school district or school considers relevant.

(d) A minor referred to a court under Subsection (5) may not be ordered to or placed in secure detention, including for a contempt charge or violation of a valid court order under Section [~~78A-6-1101~~] 78A-6-353, when the underlying offense is a class C misdemeanor occurring on school property or habitual truancy.

(e) If a minor is referred to a court under Subsection (5), the court may use, when available, the resources of the Division of Juvenile Justice Services or the Division of Substance Abuse and Mental Health to address the minor.

(7) If the alleged offense is a class B misdemeanor or a class A misdemeanor, the school administrator, the school administrator's designee, or a school resource officer may refer the minor directly to a juvenile court or to the evidence-based alternative interventions in Subsection (3)(b).

Section 25. Section 53G-8-212 is amended to read:

53G-8-212. Defacing or damaging school property -- Student's liability -- Work program alternative.

(1) A student who willfully defaces or otherwise damages any school property may be suspended or otherwise disciplined.

(2) (a) If a school's property has been lost or willfully cut, defaced, or otherwise damaged, the school may withhold the issuance of an official written grade report, diploma, or transcript of the student responsible for the damage or loss until the student or the student's parent has paid for the damages.

(b) The student's parent is liable for damages as otherwise provided in Section [~~78A-6-1113~~] 80-6-610.

(3) (a) If the student and the student's parent are unable to pay for the damages or if it is determined by the school in consultation with the student's parent that the student's interests would not be served if the parent were to pay for the damages, the school shall provide for a program of work the student may complete in lieu of the payment.

(b) The school shall release the official grades, diploma, and transcripts of the student upon completion of the work.

(4) Before any penalties are assessed under this section, the school shall adopt procedures to ensure that the student's right to due process is protected.

(5) No penalty may be assessed for damages which may be reasonably attributed to normal wear and tear.

(6) If the Department of Human Services or a licensed child-placing agency has been granted custody of the student, the student's records, if requested by the department or agency, may not be withheld from the department or agency for nonpayment of damages under this section.

Section 26. Section 53G-8-402 is amended to read:

53G-8-402. Notification by juvenile court and law enforcement agencies.

(1) Notifications received from the juvenile court or law enforcement agencies by the school district [~~pursuant to Subsections 78A-6-112(3)(b) and 78A-6-117(1)(c)~~] under Section 80-6-103 are governed by this part.

(2) School districts may enter into agreements with law enforcement agencies for notification under Subsection (1).

Section 27. Section 53G-8-405 is amended to read:

53G-8-405. Liability for release of information.

(1) The district superintendent, principal, and any staff member notified by the principal may not be held liable for information which may become public knowledge unless it can be shown by clear and convincing evidence that the information became public knowledge through an intentional act of the superintendent, principal, or a staff member.

(2) A person receiving information under [~~Subsection 78A-6-112(3)(b) or 78A-6-117(1)(c), or~~] Section 53G-8-403 or 80-6-103 is immune from any liability, civil or criminal, for acting or failing to act in response to the information unless the person acts or fails to act due to malice, gross negligence, or deliberate indifference to the consequences.

Section 28. Section 53G-9-209 is amended to read:

53G-9-209. Child abuse or neglect reporting requirement.

(1) As used in this section:

(a) "Educational neglect" means the same as that term is defined in Section [~~78A-6-105~~] 80-1-102.

(b) "School personnel" means the same as that term is defined in Section 53G-9-203.

(2) School personnel shall comply with the child abuse and neglect reporting requirements described in Section 62A-4a-403.

(3) When school personnel have reason to believe that a child may be subject to educational neglect, school personnel shall submit the report described in Subsection 53G-6-202(8) to the Division of Child and Family Services.

(4) When school personnel have reason to believe that a child is subject to both educational neglect and another form of neglect or abuse, school personnel may not wait to report the other form of neglect or abuse pending preparation of a report regarding educational neglect.

(5) School personnel shall cooperate with the Division of Child and Family Services and share all information with the division that is relevant to the division's investigation of an allegation of abuse or neglect.

Section 29. Section 53G-11-410 is amended to read:

53G-11-410. Reference check requirements for LEA applicants and volunteers.

(1) As used in this section:

(a) "Child" means an individual who is younger than 18 years old.

(b) "LEA applicant" means an applicant for employment by an LEA.

(c) "Physical abuse" means the same as that term is defined in Section [~~78A-6-105~~] 80-1-102.

(d) "Potential volunteer" means an individual who:

(i) has volunteered for but not yet fulfilled an unsupervised volunteer assignment; and

(ii) during the last three years, has worked in a qualifying position.

(e) "Qualifying position" means paid employment that requires the employee to directly care for, supervise, control, or have custody of a child.

(f) "Sexual abuse" means the same as that term is defined in Section [~~78A-6-105~~] 80-1-102.

(g) "Student" means an individual who:

(i) is enrolled in an LEA in any grade from preschool through grade 12; or

(ii) receives special education services from an LEA under the Individuals with Disabilities Education Act, 20 U.S.C. Sec. 1400 et seq.

(h) "Unsupervised volunteer assignment" means a volunteer assignment at an LEA that allows the volunteer significant unsupervised access to a student.

(2) (a) Before hiring an LEA applicant or giving an unsupervised volunteer assignment to a potential volunteer, an LEA shall:

(i) require the LEA applicant or potential volunteer to sign a release authorizing the LEA applicant or potential volunteer's previous qualifying position employers to disclose information regarding any employment action taken or discipline imposed for the physical abuse or sexual abuse of a child or student by the LEA applicant or potential volunteer;

(ii) for an LEA applicant, request that the LEA applicant's most recent qualifying position employer disclose information regarding any employment action taken or discipline imposed for the physical abuse or sexual abuse of a child or student by the LEA applicant;

(iii) for a potential volunteer, request that the potential volunteer's most recent qualifying position employer disclose information regarding any employment action taken or discipline imposed for the physical abuse or sexual abuse of a child or student by the potential volunteer; and

(iv) document the efforts taken to make a request described in Subsection (2)(a)(ii) or (iii).

(b) An LEA may not hire an LEA applicant who does not sign a release described in Subsection (2)(a)(i).

(c) An LEA may not give an unsupervised volunteer assignment to a potential volunteer who does not sign a release described in Subsection (2)(a)(i).

(d) An LEA shall request information under Subsection (2)(a)(ii) or (iii) before:

(i) hiring an LEA applicant; or

(ii) giving an unsupervised volunteer assignment to a potential volunteer.

(e) In accordance with state and federal law, an LEA may request from an LEA applicant or potential volunteer other information the LEA determines is relevant.

(3) (a) An LEA that receives a request described in Subsection (2)(a)(ii) or (iii) shall respond to the request within 20 business days after the day on which the LEA received the request.

(b) If an LEA or other employer in good faith discloses information that is within the scope of a request described in Subsection (2)(a)(ii) or (iii), the LEA or other employer is immune from civil and criminal liability for the disclosure.

Section 30. Section 58-37-6 is amended to read:

58-37-6. License to manufacture, produce, distribute, dispense, administer, or conduct research -- Issuance by division -- Denial, suspension, or revocation -- Records required -- Prescriptions.

(1) (a) The division may adopt rules relating to the licensing and control of the manufacture, distribution, production, prescription, administration, dispensing, conducting of research with, and performing of laboratory analysis upon controlled substances within this state.

(b) The division may assess reasonable fees to defray the cost of issuing original and renewal licenses under this chapter pursuant to Section 63J-1-504.

(2) (a) (i) Every person who manufactures, produces, distributes, prescribes, dispenses, administers, conducts research with, or performs laboratory analysis upon any controlled substance in Schedules I through V within this state, or who proposes to engage in manufacturing, producing, distributing, prescribing, dispensing, administering, conducting research with, or performing laboratory analysis upon controlled substances included in Schedules I through V within this state shall obtain a license issued by the division.

(ii) The division shall issue each license under this chapter in accordance with a two-year renewal cycle established by rule. The division may by rule extend or shorten a renewal period by as much as one year to stagger the renewal cycles it administers.

(b) Persons licensed to manufacture, produce, distribute, prescribe, dispense, administer, conduct research with, or perform laboratory analysis upon controlled substances in Schedules I through V within this state may possess, manufacture, produce, distribute, prescribe, dispense, administer, conduct research with, or perform laboratory analysis upon those substances to the extent authorized by their license and in conformity with this chapter.

(c) The following persons are not required to obtain a license and may lawfully possess controlled substances included in Schedules II through V under this section:

(i) an agent or employee, except a sales representative, of any registered manufacturer, distributor, or dispenser of any controlled substance, if the agent or employee is acting in the usual course of the agent or employee's business or employment; however, nothing in this subsection shall be interpreted to permit an agent, employee, sales representative, or detail man to maintain an inventory of controlled substances separate from the location of the person's employer's registered and licensed place of business;

(ii) a motor carrier or warehouseman, or an employee of a motor carrier or warehouseman, who possesses a controlled substance in the usual course of the person's business or employment; and

(iii) an ultimate user, or a person who possesses any controlled substance pursuant to a lawful order of a practitioner.

(d) The division may enact rules waiving the license requirement for certain manufacturers, producers, distributors, prescribers, dispensers, administrators, research practitioners, or laboratories performing analysis if waiving the license requirement is consistent with public health and safety.

(e) A separate license is required at each principal place of business or professional practice where the applicant manufactures, produces, distributes, dispenses, conducts research with, or performs laboratory analysis upon controlled substances.

(f) The division may enact rules providing for the inspection of a licensee or applicant's establishment, and may inspect the establishment according to those rules.

(3) (a) (i) Upon proper application, the division shall license a qualified applicant to manufacture, produce, distribute, conduct research with, or perform laboratory analysis upon controlled substances included in Schedules I through V, unless it determines that issuance of a license is inconsistent with the public interest.

(ii) The division may not issue a license to any person to prescribe, dispense, or administer a Schedule I controlled substance except under Subsection (3)(a)(i).

(iii) In determining public interest under this Subsection (3)(a), the division shall consider whether the applicant has:

(A) maintained effective controls against diversion of controlled substances and any Schedule I or II substance compounded from any controlled substance into channels other than legitimate medical, scientific, or industrial channels;

(B) complied with applicable state and local law;

(C) been convicted under federal or state laws relating to the manufacture, distribution, or dispensing of substances;

(D) past experience in the manufacture of controlled dangerous substances;

(E) established effective controls against diversion; and

(F) complied with any other factors that the division establishes that promote the public health and safety.

(b) Licenses granted under Subsection (3)(a) do not entitle a licensee to manufacture, produce, distribute, conduct research with, or perform laboratory analysis upon controlled substances in Schedule I other than those specified in the license.

(c) (i) Practitioners shall be licensed to administer, dispense, or conduct research with substances in Schedules II through V if they are authorized to administer, dispense, or conduct research under the laws of this state.

(ii) The division need not require a separate license for practitioners engaging in research with nonnarcotic controlled substances in Schedules II through V where the licensee is already licensed under this chapter in another capacity.

(iii) With respect to research involving narcotic substances in Schedules II through V, or where the division by rule requires a separate license for research of nonnarcotic substances in Schedules II through V, a practitioner shall apply to the division prior to conducting research.

(iv) Licensing for purposes of bona fide research with controlled substances by a practitioner considered qualified may be denied only on a ground specified in Subsection (4), or upon evidence that the applicant will abuse or unlawfully transfer or fail to safeguard adequately the practitioner's supply of substances against diversion from medical or scientific use.

(v) Practitioners registered under federal law to conduct research in Schedule I substances may conduct research in Schedule I substances within this state upon providing the division with evidence of federal registration.

(d) Compliance by manufacturers, producers, and distributors with the provisions of federal law respecting registration, excluding fees, entitles them to be licensed under this chapter.

(e) The division shall initially license those persons who own or operate an establishment engaged in the manufacture, production, distribution, dispensation, or administration of controlled substances prior to April 3, 1980, and who are licensed by the state.

(4) (a) Any license issued pursuant to Subsection (2) or (3) may be denied, suspended, placed on probation, or revoked by the division upon finding that the applicant or licensee has:

(i) materially falsified any application filed or required pursuant to this chapter;

(ii) been convicted of an offense under this chapter or any law of the United States, or any state, relating to any substance defined as a controlled substance;

(iii) been convicted of a felony under any other law of the United States or any state within five years of the date of the issuance of the license;

(iv) had a federal registration or license denied, suspended, or revoked by competent federal authority and is no longer authorized to manufacture, distribute, prescribe, or dispense controlled substances;

(v) had the licensee's license suspended or revoked by competent authority of another state for violation of laws or regulations comparable to those of this state relating to the manufacture, distribution, or dispensing of controlled substances;

(vi) violated any division rule that reflects adversely on the licensee's reliability and integrity with respect to controlled substances;

(vii) refused inspection of records required to be maintained under this chapter by a person authorized to inspect them; or

(viii) prescribed, dispensed, administered, or injected an anabolic steroid for the purpose of manipulating human hormonal structure so as to:

(A) increase muscle mass, strength, or weight without medical necessity and without a written prescription by any practitioner in the course of the practitioner's professional practice; or

(B) improve performance in any form of human exercise, sport, or game.

(b) The division may limit revocation or suspension of a license to a particular controlled substance with respect to which grounds for revocation or suspension exist.

(c) (i) Proceedings to deny, revoke, or suspend a license shall be conducted pursuant to this section and in accordance with the procedures set forth in Title 58, Chapter 1, Division of Occupational and Professional Licensing Act, and conducted in conjunction with the appropriate representative committee designated by the director of the department.

(ii) Nothing in this Subsection (4)(c) gives the Division of Occupational and Professional Licensing exclusive authority in proceedings to deny, revoke, or suspend licenses, except where the division is designated by law to perform those functions, or, when not designated by law, is designated by the executive director of the Department of Commerce to conduct the proceedings.

(d) (i) The division may suspend any license simultaneously with the institution of proceedings under this section if it finds there is an imminent danger to the public health or safety.

(ii) Suspension shall continue in effect until the conclusion of proceedings, including judicial review, unless withdrawn by the division or dissolved by a court of competent jurisdiction.

(e) (i) If a license is suspended or revoked under this Subsection (4), all controlled substances owned or possessed by the licensee may be placed under seal in the discretion of the division.

(ii) Disposition may not be made of substances under seal until the time for taking an appeal has lapsed, or until all appeals have been concluded, unless a court, upon application, orders the sale of perishable substances and the proceeds deposited with the court.

(iii) If a revocation order becomes final, all controlled substances shall be forfeited.

(f) The division shall notify promptly the Drug Enforcement Administration of all orders suspending or revoking a license and all forfeitures of controlled substances.

(g) If an individual's Drug Enforcement Administration registration is denied, revoked, surrendered, or suspended, the division shall immediately suspend the individual's controlled substance license, which shall only be reinstated by the division upon reinstatement of the federal registration, unless the division has taken further administrative action under Subsection (4)(a)(iv), which would be grounds for the continued denial of the controlled substance license.

(5) (a) A person licensed under Subsection (2) or (3) shall maintain records and inventories in conformance with the record keeping and inventory requirements of federal and state law and any additional rules issued by the division.

(b) (i) A physician, dentist, naturopathic physician, veterinarian, practitioner, or other individual who is authorized to administer or professionally use a controlled substance shall keep a record of the drugs received by the individual and a record of all drugs administered, dispensed, or professionally used by the individual otherwise than by a prescription.

(ii) An individual using small quantities or solutions or other preparations of those drugs for local application has complied with this Subsection (5)(b) if the individual keeps a record of the quantity, character, and potency of those solutions or preparations purchased or prepared by the individual, and of the dates when purchased or prepared.

(6) Controlled substances in Schedules I through V may be distributed only by a licensee and pursuant to an order form prepared in compliance with division rules or a lawful order under the rules and regulations of the United States.

(7) (a) An individual may not write or authorize a prescription for a controlled substance unless the individual is:

(i) a practitioner authorized to prescribe drugs and medicine under the laws of this state or under the laws of another state having similar standards; and

(ii) licensed under this chapter or under the laws of another state having similar standards.

(b) An individual other than a pharmacist licensed under the laws of this state, or the pharmacist's licensed intern, as required by Sections 58-17b-303 and 58-17b-304, may not dispense a controlled substance.

(c) (i) A controlled substance may not be dispensed without the written prescription of a practitioner, if the written prescription is required by the federal Controlled Substances Act.

(ii) That written prescription shall be made in accordance with Subsection (7)(a) and in conformity with Subsection (7)(d).

(iii) In emergency situations, as defined by division rule, controlled substances may be dispensed upon oral prescription of a practitioner, if reduced promptly to writing on forms designated by the division and filed by the pharmacy.

(iv) Prescriptions reduced to writing by a pharmacist shall be in conformity with Subsection (7)(d).

(d) Except for emergency situations designated by the division, an individual may not issue, fill, compound, or dispense a prescription for a controlled substance unless the prescription is signed by the prescriber in ink or indelible pencil or is signed with an electronic signature of the prescriber as authorized by division rule, and contains the following information:

(i) the name, address, and registry number of the prescriber;

(ii) the name, address, and age of the person to whom or for whom the prescription is issued;

(iii) the date of issuance of the prescription; and

(iv) the name, quantity, and specific directions for use by the ultimate user of the controlled substance.

(e) A prescription may not be written, issued, filled, or dispensed for a Schedule I controlled substance unless:

(i) the individual who writes the prescription is licensed under Subsection (2); and

(ii) the prescribed controlled substance is to be used in research.

(f) Except when administered directly to an ultimate user by a licensed practitioner, controlled substances are subject to the restrictions of this Subsection (7)(f).

(i) A prescription for a Schedule II substance may not be refilled.

(ii) A Schedule II controlled substance may not be filled in a quantity to exceed a one-month's supply, as directed on the daily dosage rate of the prescriptions.

(iii) (A) Except as provided in Subsection (7)(f)(iii)(B), a prescription for a Schedule II or Schedule III controlled substance that is an opiate and that is issued for an acute condition shall be completely or partially filled in a quantity not to exceed a seven-day supply as directed on the daily dosage rate of the prescription.

(B) Subsection (7)(f)(iii)(A) does not apply to a prescription issued for a surgery when the practitioner determined that a quantity exceeding seven days is needed, in which case the practitioner may prescribe up to a 30-day supply, with a partial fill at the discretion of the practitioner.

(C) Subsection (7)(f)(iii)(A) does not apply to prescriptions issued for complex or chronic conditions which are documented as being complex or chronic in the medical record.

(D) A pharmacist is not required to verify that a prescription is in compliance with Subsection (7)(f)(iii).

(iv) A Schedule III or IV controlled substance may be filled only within six months of issuance, and may not be refilled more than six months after the date of its original issuance or be refilled more than five times after the date of the prescription unless renewed by the practitioner.

(v) All other controlled substances in Schedule V may be refilled as the prescriber's prescription directs, but they may not be refilled one year after the date the prescription was issued unless renewed by the practitioner.

(vi) Any prescription for a Schedule II substance may not be dispensed if it is not presented to a pharmacist for dispensing by a pharmacist or a pharmacy intern within 30 days after the date the prescription was issued, or 30 days after the dispensing date, if that date is specified separately from the date of issue.

(vii) A practitioner may issue more than one prescription at the same time for the same Schedule II controlled substance, but only under the following conditions:

(A) no more than three prescriptions for the same Schedule II controlled substance may be issued at the same time;

(B) no one prescription may exceed a 30-day supply; and

(C) a second or third prescription shall include the date of issuance and the date for dispensing.

(g) (i) Beginning January 1, 2022, each prescription issued for a controlled substance shall be transmitted electronically as an electronic prescription unless the prescription is:

(A) for a patient residing in an assisted living facility as that term is defined in Section 26-21-2, a long-term care facility as that term is defined in Section 58-31b-102, or a correctional facility as that term is defined in Section 64-13-1;

(B) issued by a veterinarian licensed under Title 58, Chapter 28, Veterinary Practice Act;

(C) dispensed by a Department of Veterans Affairs pharmacy;

(D) issued during a temporary technical or electronic failure at the practitioner's or pharmacy's location; or

(E) issued in an emergency situation.

(ii) The division, in collaboration with the appropriate boards that govern the licensure of the licensees who are authorized by the division to prescribe or to dispense controlled substances, shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act to:

(A) require that controlled substances prescribed or dispensed under Subsection (7)(g)(i)(D) indicate on the prescription that the prescribing practitioner or the [~~pharamacy~~] pharmacy is experiencing a technical difficulty or an electronic failure;

(B) define an emergency situation for purposes of Subsection (7)(g)(i)(E);

(C) establish additional exemptions to the electronic prescription requirements established in this Subsection (7)(g);

(D) establish guidelines under which a prescribing practitioner or a pharmacy may obtain an extension of up to two additional years to comply with Subsection (7)(g)(i);

(E) establish a protocol to follow if the pharmacy that receives the electronic prescription is not able to fill the prescription; and

(F) establish requirements that comply with federal laws and regulations for software used to issue and dispense electronic prescriptions.

(h) An order for a controlled substance in Schedules II through V for use by an inpatient or an outpatient of a licensed hospital is exempt from all requirements of this Subsection (7) if the order is:

(i) issued or made by a prescribing practitioner who holds an unrestricted registration with the federal Drug Enforcement Administration, and an active Utah controlled substance license in good standing issued by the division under this section, or a medical resident who is exempted from licensure under Subsection 58-1-307(1)(c);

(ii) authorized by the prescribing practitioner treating the patient and the prescribing practitioner designates the quantity ordered;

(iii) entered upon the record of the patient, the record is signed by the prescriber affirming the prescriber's authorization of the order within 48 hours after filling or administering the order, and the patient's record reflects the quantity actually administered; and

(iv) filled and dispensed by a pharmacist practicing the pharmacist's profession within the physical structure of the hospital, or the order is taken from a supply lawfully maintained by the hospital and the amount taken from the supply is administered directly to the patient authorized to receive it.

(i) A practitioner licensed under this chapter may not prescribe, administer, or dispense a controlled substance to a child, without first obtaining the consent required in Section 78B-3-406 of a parent, guardian, or person standing in loco parentis of the

child except in cases of an emergency. For purposes of Subsection (7)(i), "child" has the same meaning as defined in Section [~~78A-6-105~~] 80-1-102, and "emergency" means any physical condition requiring the administration of a controlled substance for immediate relief of pain or suffering.

(j) A practitioner licensed under this chapter may not prescribe or administer dosages of a controlled substance in excess of medically recognized quantities necessary to treat the ailment, malady, or condition of the ultimate user.

(k) A practitioner licensed under this chapter may not prescribe, administer, or dispense any controlled substance to another person knowing that the other person is using a false name, address, or other personal information for the purpose of securing the controlled substance.

(l) A person who is licensed under this chapter to manufacture, distribute, or dispense a controlled substance may not manufacture, distribute, or dispense a controlled substance to another licensee or any other authorized person not authorized by this license.

(m) A person licensed under this chapter may not omit, remove, alter, or obliterate a symbol required by this chapter or by a rule issued under this chapter.

(n) A person licensed under this chapter may not refuse or fail to make, keep, or furnish any record notification, order form, statement, invoice, or information required under this chapter.

(o) A person licensed under this chapter may not refuse entry into any premises for inspection as authorized by this chapter.

(p) A person licensed under this chapter may not furnish false or fraudulent material information in any application, report, or other document required to be kept by this chapter or willfully make any false statement in any prescription, order, report, or record required by this chapter.

(8) (a) (i) Any person licensed under this chapter who is found by the division to have violated any of the provisions of Subsections (7)(k) through (o) or Subsection (10) is subject to a penalty not to exceed $5,000. The division shall determine the procedure for adjudication of any violations in accordance with Sections 58-1-106 and 58-1-108.

(ii) The division shall deposit all penalties collected under Subsection (8)(a)(i) in the General Fund as a dedicated credit to be used by the division under Subsection 58-37f-502(1).

(iii) The director may collect a penalty that is not paid by:

(A) referring the matter to a collection agency; or

(B) bringing an action in the district court of the county where the person against whom the penalty is imposed resides or in the county where the office of the director is located.

(iv) A county attorney or the attorney general of the state shall provide legal assistance and advice to the director in an action to collect a penalty.

(v) A court shall award reasonable attorney fees and costs to the prevailing party in an action brought by the division to collect a penalty.

(b) Any person who knowingly and intentionally violates Subsections (7)(h) through (j) or Subsection (10) is:

(i) upon first conviction, guilty of a class B misdemeanor;

(ii) upon second conviction, guilty of a class A misdemeanor; and

(iii) on third or subsequent conviction, guilty of a third degree felony.

(c) Any person who knowingly and intentionally violates Subsections (7)(k) through (o) shall upon conviction be guilty of a third degree felony.

(9) Any information communicated to any licensed practitioner in an attempt to unlawfully procure, or to procure the administration of, a controlled substance is not considered to be a privileged communication.

(10) A person holding a valid license under this chapter who is engaged in medical research may produce, possess, administer, prescribe, or dispense a controlled substance for research purposes as licensed under Subsection (2) but may not otherwise prescribe or dispense a controlled substance listed in Section 58-37-4.2.

Section 31. Section 62A-1-108.5 is amended to read:

62A-1-108.5. Mental illness and intellectual disability examinations -- Responsibilities of the department.

(1) In accomplishing the department's duties to conduct a competency evaluation under Title 77, Utah Code of Criminal Procedure, and a juvenile competency evaluation under [~~Title 78A, Chapter 6, Juvenile Court Act~~] Section 80-6-402, the department shall proceed as outlined in this section and within appropriations authorized by the Legislature.

(2) When the department is ordered by a court to conduct a competency evaluation, the department shall designate a forensic evaluator, selected under Subsection (4), to evaluate the defendant in the defendant's current custody or status.

(3) When the department is ordered by the juvenile court to conduct a juvenile competency evaluation under [~~Title 78A, Chapter 6, Juvenile Court Act~~] Section 80-6-402, the department shall:

(a) designate an examiner selected pursuant to Subsection (4) to evaluate the minor; and

(b) upon a finding of good cause and order of the court, designate a second examiner to evaluate the minor.

(4) The department shall establish criteria, in consultation with the Commission on Criminal and

Juvenile Justice, and shall contract with persons to conduct competency evaluations and juvenile competency evaluations under Subsections (2) and (3)(b). In making this selection, the department shall follow the provisions of Title 63G, Chapter 6a, Utah Procurement Code.

(5) Nothing in this section prohibits the department, at the request of defense counsel or a prosecuting attorney in a criminal proceeding under Title 77, Utah Code of Criminal Procedure, and for good cause shown, from proposing a person who has not been previously selected under Subsection (4) to contract with the department to conduct the evaluation. In selecting that person, the criteria of the department established under Subsection (4) and the provisions of Title 63G, Chapter 6a, Utah Procurement Code, shall be met.

Section 32. Section 62A-1-111 is amended to read:

62A-1-111. Department authority.

The department may, in addition to all other authority and responsibility granted to the department by law:

(1) adopt rules, not inconsistent with law, as the department may consider necessary or desirable for providing social services to the people of this state;

(2) establish and manage client trust accounts in the department's institutions and community programs, at the request of the client or the client's legal guardian or representative, or in accordance with federal law;

(3) purchase, as authorized or required by law, services that the department is responsible to provide for legally eligible persons;

(4) conduct adjudicative proceedings for clients and providers in accordance with the procedures of Title 63G, Chapter 4, Administrative Procedures Act;

(5) establish eligibility standards for its programs, not inconsistent with state or federal law or regulations;

(6) take necessary steps, including legal action, to recover money or the monetary value of services provided to a recipient who was not eligible;

(7) set and collect fees for the department's services;

(8) license agencies, facilities, and programs, except as otherwise allowed, prohibited, or limited by law;

(9) acquire, manage, and dispose of any real or personal property needed or owned by the department, not inconsistent with state law;

(10) receive gifts, grants, devises, and donations; gifts, grants, devises, donations, or the proceeds thereof, may be credited to the program designated by the donor, and may be used for the purposes requested by the donor, as long as the request conforms to state and federal policy; all donated funds shall be considered private, nonlapsing funds and may be invested under guidelines established by the state treasurer;

(11) accept and employ volunteer labor or services; the department is authorized to reimburse volunteers for necessary expenses, when the department considers that reimbursement to be appropriate;

(12) carry out the responsibility assigned in the workforce services plan by the State Workforce Development Board;

(13) carry out the responsibility assigned by Section 35A-8-602 with respect to coordination of services for the homeless;

(14) carry out the responsibility assigned by Section 62A-5a-105 with respect to coordination of services for students with a disability;

(15) provide training and educational opportunities for the department's staff;

(16) collect child support payments and any other money due to the department;

(17) apply the provisions of Title 78B, Chapter 12, Utah Child Support Act, to parents whose child lives out of the home in a department licensed or certified setting;

(18) establish policy and procedures, within appropriations authorized by the Legislature, in cases where [~~the department~~] the Division of Child and Family Services or the Division of Juvenile Justice Services is given custody of a minor by the juvenile court under [~~Section 78A-6-117~~] Title 80, Utah Juvenile Code, or the department is ordered to prepare an attainment plan for a minor found not competent to proceed under Section [~~78A-6-1301~~] 80-6-403; any policy and procedures shall include:

(a) designation of interagency teams for each juvenile court district in the state;

(b) delineation of assessment criteria and procedures;

(c) minimum requirements, and timeframes, for the development and implementation of a collaborative service plan for each minor placed in department custody; and

(d) provisions for submittal of the plan and periodic progress reports to the court;

(19) carry out the responsibilities assigned to the department by statute;

(20) examine and audit the expenditures of any public funds provided to local substance abuse authorities, local mental health authorities, local area agencies on aging, and any person, agency, or organization that contracts with or receives funds from those authorities or agencies. Those local authorities, area agencies, and any person or entity that contracts with or receives funds from those authorities or area agencies, shall provide the department with any information the department considers necessary. The department is further authorized to issue directives resulting from any examination or audit to local authorities, area agencies, and persons or entities that contract with

or receive funds from those authorities with regard to any public funds. If the department determines that it is necessary to withhold funds from a local mental health authority or local substance abuse authority based on failure to comply with state or federal law, policy, or contract provisions, it may take steps necessary to ensure continuity of services. For purposes of this Subsection (20) "public funds" means the same as that term is defined in Section 62A-15-102;

(21) pursuant to Subsection 62A-2-106(1)(d), accredit one or more agencies and persons to provide intercountry adoption services;

(22) within appropriations authorized by the Legislature, promote and develop a system of care and stabilization services:

(a) in compliance with Title 63G, Chapter 6a, Utah Procurement Code; and

(b) that encompasses the department, department contractors, and the divisions, offices, or institutions within the department, to:

(i) navigate services, funding resources, and relationships to the benefit of the children and families whom the department serves;

(ii) centralize department operations, including procurement and contracting;

(iii) develop policies that govern business operations and that facilitate a system of care approach to service delivery;

(iv) allocate resources that may be used for the children and families served by the department or the divisions, offices, or institutions within the department, subject to the restrictions in Section 63J-1-206;

(v) create performance-based measures for the provision of services; and

(vi) centralize other business operations, including data matching and sharing among the department's divisions, offices, and institutions; and

(23) ensure that any training or certification required of a public official or public employee, as those terms are defined in Section 63G-22-102, complies with Title 63G, Chapter 22, State Training and Certification Requirements, if the training or certification is required:

(a) under this title;

(b) by the department; or

(c) by an agency or division within the department.

Section 33. Section 62A-2-108.8 is amended to read:

62A-2-108.8. Residential support program -- Temporary homeless youth shelter.

In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office shall make rules that establish age-appropriate and gender-appropriate sleeping quarters in temporary homeless youth shelters, as defined in Section [~~62A-4a-501~~] 80-5-102, that provide overnight shelter to minors.

Section 34. Section 62A-2-117.5 is amended to read:

62A-2-117.5. Foster care by a child's relative.

(1) In accordance with state and federal law, the division shall provide for licensure of a child's relative for foster or substitute care, when the child is in the temporary custody or custody of the Division of Child and Family Services. If it is determined that, under federal law, allowance is made for an approval process requiring less than full foster parent licensure proceedings for a child's relative, the division shall establish an approval process to accomplish that purpose.

(2) For purposes of this section:

(a) "Custody" and "temporary custody" mean the same as those terms are defined in Section 62A-4a-101.

(b) "Relative" means the same as that term is defined in Section [~~78A-6-307~~] 80-3-102.

Section 35. Section 62A-2-120 is amended to read:

62A-2-120. Background check -- Direct access to children or vulnerable adults.

(1) As used in this section:

(a) (i) "Applicant" means:

(A) the same as that term is defined in Section 62A-2-101;

(B) an individual who is associated with a licensee and has or will likely have direct access to a child or a vulnerable adult;

(C) an individual who provides respite care to a foster parent or an adoptive parent on more than one occasion;

(D) a department contractor;

(E) a guardian submitting an application on behalf of an individual, other than the child or vulnerable adult who is receiving the service, if the individual is 12 years [~~of age~~] old or older and resides in a home, that is licensed or certified by the office, with the child or vulnerable adult who is receiving services; or

(F) a guardian submitting an application on behalf of an individual, other than the child or vulnerable adult who is receiving the service, if the individual is 12 years [~~of age~~] old or older and is a person described in Subsection (1)(a)(i)(A), (B), (C), or (D).

(ii) "Applicant" does not mean an individual, including an adult, who is in the custody of the Division of Child and Family Services or the Division of Juvenile Justice Services.

(b) "Application" means a background screening application to the office.

(c) "Bureau" means the Bureau of Criminal Identification within the Department of Public Safety, created in Section 53-10-201.

(d) "Incidental care" means occasional care, not in excess of five hours per week and never overnight, for a foster child.

(e) "Personal identifying information" means:

(i) current name, former names, nicknames, and aliases;

(ii) date of birth;

(iii) physical address and email address;

(iv) telephone number;

(v) driver license or other government-issued identification;

(vi) social security number;

(vii) only for applicants who are 18 years [~~of age~~] old or older, fingerprints, in a form specified by the office; and

(viii) other information specified by the office by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(2) (a) Except as provided in Subsection (13), an applicant or a representative shall submit the following to the office:

(i) personal identifying information;

(ii) a fee established by the office under Section 63J-1-504; and

(iii) a disclosure form, specified by the office, for consent for:

(A) an initial background check upon submission of the information described under this Subsection (2)(a);

(B) ongoing monitoring of fingerprints and registries until no longer associated with a licensee for 90 days;

(C) a background check when the office determines that reasonable cause exists; and

(D) retention of personal identifying information, including fingerprints, for monitoring and notification as described in Subsections (3)(d) and (4).

(b) In addition to the requirements described in Subsection (2)(a), if an applicant resided outside of the United States and its territories during the five years immediately preceding the day on which the information described in Subsection (2)(a) is submitted to the office, the office may require the applicant to submit documentation establishing whether the applicant was convicted of a crime during the time that the applicant resided outside of the United States or its territories.

(3) The office:

(a) shall perform the following duties as part of a background check of an applicant:

(i) check state and regional criminal background databases for the applicant's criminal history by:

(A) submitting personal identifying information to the bureau for a search; or

(B) using the applicant's personal identifying information to search state and regional criminal background databases as authorized under Section 53-10-108;

(ii) submit the applicant's personal identifying information and fingerprints to the bureau for a criminal history search of applicable national criminal background databases;

(iii) search the Department of Human Services, Division of Child and Family Services' Licensing Information System described in Section 62A-4a-1006;

(iv) search the Department of Human Services, Division of Aging and Adult Services' vulnerable adult abuse, neglect, or exploitation database described in Section 62A-3-311.1;

(v) search the juvenile court records for substantiated findings of severe child abuse or neglect described in Section [~~78A-6-323~~] 80-6-404; and

(vi) search the juvenile court arrest, adjudication, and disposition records, as provided under Section 78A-6-209;

(b) shall conduct a background check of an applicant for an initial background check upon submission of the information described under Subsection (2)(a);

(c) may conduct all or portions of a background check of an applicant, as provided by rule, made by the office in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(i) for an annual renewal; or

(ii) when the office determines that reasonable cause exists;

(d) may submit an applicant's personal identifying information, including fingerprints, to the bureau for checking, retaining, and monitoring of state and national criminal background databases and for notifying the office of new criminal activity associated with the applicant;

(e) shall track the status of an approved applicant under this section to ensure that an approved applicant is not required to duplicate the submission of the applicant's fingerprints if the applicant applies for:

(i) more than one license;

(ii) direct access to a child or a vulnerable adult in more than one human services program; or

(iii) direct access to a child or a vulnerable adult under a contract with the department;

(f) shall track the status of each license and each individual with direct access to a child or a vulnerable adult and notify the bureau within 90 days after the day on which the license expires or

the individual's direct access to a child or a vulnerable adult ceases;

(g) shall adopt measures to strictly limit access to personal identifying information solely to the individuals responsible for processing and entering the applications for background checks and to protect the security of the personal identifying information the office reviews under this Subsection (3);

(h) as necessary to comply with the federal requirement to check a state's child abuse and neglect registry regarding any individual working in a congregate care setting that serves children, shall:

(i) search the Department of Human Services, Division of Child and Family Services' Licensing Information System described in Section 62A-4a-1006; and

(ii) require the child abuse and neglect registry be checked in each state where an applicant resided at any time during the five years immediately preceding the day on which the applicant submits the information described in Subsection (2)(a) to the office; and

(i) shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement the provisions of this Subsection (3) relating to background checks.

(4) (a) With the personal identifying information the office submits to the bureau under Subsection (3), the bureau shall check against state and regional criminal background databases for the applicant's criminal history.

(b) With the personal identifying information and fingerprints the office submits to the bureau under Subsection (3), the bureau shall check against national criminal background databases for the applicant's criminal history.

(c) Upon direction from the office, and with the personal identifying information and fingerprints the office submits to the bureau under Subsection (3)(d), the bureau shall:

(i) maintain a separate file of the fingerprints for search by future submissions to the local and regional criminal records databases, including latent prints; and

(ii) monitor state and regional criminal background databases and identify criminal activity associated with the applicant.

(d) The bureau is authorized to submit the fingerprints to the Federal Bureau of Investigation Next Generation Identification System, to be retained in the Federal Bureau of Investigation Next Generation Identification System for the purpose of:

(i) being searched by future submissions to the national criminal records databases, including the Federal Bureau of Investigation Next Generation Identification System and latent prints; and

(ii) monitoring national criminal background databases and identifying criminal activity associated with the applicant.

(e) The Bureau shall notify and release to the office all information of criminal activity associated with the applicant.

(f) Upon notice from the office that a license has expired or an individual's direct access to a child or a vulnerable adult has ceased for 90 days, the bureau shall:

(i) discard and destroy any retained fingerprints; and

(ii) notify the Federal Bureau of Investigation when the license has expired or an individual's direct access to a child or a vulnerable adult has ceased, so that the Federal Bureau of Investigation will discard and destroy the retained fingerprints from the Federal Bureau of Investigation Next Generation Identification System.

(5) (a) After conducting the background check described in Subsections (3) and (4), the office shall deny an application to an applicant who, within three years before the day on which the applicant submits information to the office under Subsection (2) for a background check, has been convicted of any of the following, regardless of whether the offense is a felony, a misdemeanor, or an infraction:

(i) an offense identified as domestic violence, lewdness, voyeurism, battery, cruelty to animals, or bestiality;

(ii) a violation of any pornography law, including sexual exploitation of a minor;

(iii) prostitution;

(iv) an offense included in:

(A) Title 76, Chapter 5, Offenses Against the Person;

(B) Section 76-5b-201, Sexual Exploitation of a Minor; or

(C) Title 76, Chapter 7, Offenses Against the Family;

(v) aggravated arson, as described in Section 76-6-103;

(vi) aggravated burglary, as described in Section 76-6-203;

(vii) aggravated robbery, as described in Section 76-6-302;

(viii) identity fraud crime, as described in Section 76-6-1102; or

(ix) a felony or misdemeanor offense committed outside of the state that, if committed in the state, would constitute a violation of an offense described in Subsections (5)(a)(i) through (viii).

(b) If the office denies an application to an applicant based on a conviction described in Subsection (5)(a), the applicant is not entitled to a comprehensive review described in Subsection (6).

(c) If the applicant will be working in a program serving only adults whose only impairment is a mental health diagnosis, including that of a serious mental health disorder, with or without co-occurring substance use disorder, the denial provisions of Subsection (5)(a) do not apply, and the office shall conduct a comprehensive review as described in Subsection (6).

(6) (a) The office shall conduct a comprehensive review of an applicant's background check if the applicant:

(i) has an open court case or a conviction for any felony offense, not described in Subsection (5)(a), with a date of conviction that is no more than 10 years before the date on which the applicant submits the application;

(ii) has an open court case or a conviction for a misdemeanor offense, not described in Subsection (5)(a), and designated by the office, by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, if the conviction is within three years before the day on which the applicant submits information to the office under Subsection (2) for a background check;

(iii) has a conviction for any offense described in Subsection (5)(a) that occurred more than three years before the day on which the applicant submitted information under Subsection (2)(a);

(iv) is currently subject to a plea in abeyance or diversion agreement for any offense described in Subsection (5)(a);

(v) has a listing in the Department of Human Services, Division of Child and Family Services' Licensing Information System described in Section 62A-4a-1006;

(vi) has a listing in the Department of Human Services, Division of Aging and Adult Services' vulnerable adult abuse, neglect, or exploitation database described in Section 62A-3-311.1;

(vii) has a record in the juvenile court of a substantiated finding of severe child abuse or neglect described in Section [~~78A-6-323~~] 80-3-404;

(viii) has a record of an adjudication in juvenile court for an act that, if committed by an adult, would be a felony or misdemeanor, if the applicant is:

(A) under 28 years [~~of age~~] old; or

(B) 28 years [~~of age~~] old or older and has been convicted of, has pleaded no contest to, or is currently subject to a plea in abeyance or diversion agreement for a felony or a misdemeanor offense described in Subsection (5)(a);

(ix) has a pending charge for an offense described in Subsection (5)(a); or

(x) is an applicant described in Subsection (5)(c).

(b) The comprehensive review described in Subsection (6)(a) shall include an examination of:

(i) the date of the offense or incident;

(ii) the nature and seriousness of the offense or incident;

(iii) the circumstances under which the offense or incident occurred;

(iv) the age of the perpetrator when the offense or incident occurred;

(v) whether the offense or incident was an isolated or repeated incident;

(vi) whether the offense or incident directly relates to abuse of a child or vulnerable adult, including:

(A) actual or threatened, nonaccidental physical, mental, or financial harm;

(B) sexual abuse;

(C) sexual exploitation; or

(D) negligent treatment;

(vii) any evidence provided by the applicant of rehabilitation, counseling, psychiatric treatment received, or additional academic or vocational schooling completed;

(viii) the applicant's risk of harm to clientele in the program or in the capacity for which the applicant is applying; and

(ix) any other pertinent information presented to or publicly available to the committee members.

(c) At the conclusion of the comprehensive review described in Subsection (6)(a), the office shall deny an application to an applicant if the office finds that approval would likely create a risk of harm to a child or a vulnerable adult.

(d) At the conclusion of the comprehensive review described in Subsection (6)(a), the office may not deny an application to an applicant solely because the applicant was convicted of an offense that occurred 10 or more years before the day on which the applicant submitted the information required under Subsection (2)(a) if:

(i) the applicant has not committed another misdemeanor or felony offense after the day on which the conviction occurred; and

(ii) the applicant has never been convicted of an offense described in Subsection (14)(c).

(e) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office may make rules, consistent with this chapter, to establish procedures for the comprehensive review described in this Subsection (6).

(7) Subject to Subsection (10), the office shall approve an application to an applicant who is not denied under Subsection (5), (6), or (13).

(8) (a) The office may conditionally approve an application of an applicant, for a maximum of 60 days after the day on which the office sends written notice to the applicant under Subsection (12), without requiring that the applicant be directly supervised, if the office:

(i) is awaiting the results of the criminal history search of national criminal background databases; and

(ii) would otherwise approve an application of the applicant under Subsection (7).

(b) The office may conditionally approve an application of an applicant, for a maximum of one year after the day on which the office sends written notice to the applicant under Subsection (12), without requiring that the applicant be directly supervised if the office:

(i) is awaiting the results of an out-of-state registry for providers other than foster and adoptive parents; and

(ii) would otherwise approve an application of the applicant under Subsection (7).

(c) Upon receiving the results of the criminal history search of a national criminal background database, the office shall approve or deny the application of the applicant in accordance with Subsections (5) through (7).

(9) A licensee or department contractor may not permit an individual to have direct access to a child or a vulnerable adult unless, subject to Subsection (10):

(a) the individual is associated with the licensee or department contractor and:

(i) the individual's application is approved by the office under this section;

(ii) the individual's application is conditionally approved by the office under Subsection (8); or

(iii) (A) the individual has submitted the background check information described in Subsection (2) to the office;

(B) the office has not determined whether to approve the applicant's application; and

(C) the individual is directly supervised by an individual who has a current background screening approval issued by the office under this section and is associated with the licensee or department contractor;

(b) (i) the individual is associated with the licensee or department contractor;

(ii) the individual has a current background screening approval issued by the office under this section;

(iii) one of the following circumstances, that the office has not yet reviewed under Subsection (6), applies to the individual:

(A) the individual was charged with an offense described in Subsection (5)(a);

(B) the individual is listed in the Licensing Information System, described in Section 62A-4a-1006;

(C) the individual is listed in the vulnerable adult abuse, neglect, or exploitation database, described in Section 62A-3-311.1;

(D) the individual has a record in the juvenile court of a substantiated finding of severe child abuse or neglect, described in Section [~~78A-6-323~~] 80-3-404; or

(E) the individual has a record of an adjudication in juvenile court for an act that, if committed by an adult, would be a felony or a misdemeanor as described in Subsection (5)(a) or (6); and

(iv) the individual is directly supervised by an individual who:

(A) has a current background screening approval issued by the office under this section; and

(B) is associated with the licensee or department contractor;

(c) the individual:

(i) is not associated with the licensee or department contractor; and

(ii) is directly supervised by an individual who:

(A) has a current background screening approval issued by the office under this section; and

(B) is associated with the licensee or department contractor;

(d) the individual is the parent or guardian of the child, or the guardian of the vulnerable adult;

(e) the individual is approved by the parent or guardian of the child, or the guardian of the vulnerable adult, to have direct access to the child or the vulnerable adult;

(f) the individual is only permitted to have direct access to a vulnerable adult who voluntarily invites the individual to visit; or

(g) the individual only provides incidental care for a foster child on behalf of a foster parent who has used reasonable and prudent judgment to select the individual to provide the incidental care for the foster child.

(10) An individual may not have direct access to a child or a vulnerable adult if the individual is prohibited by court order from having that access.

(11) Notwithstanding any other provision of this section, an individual for whom the office denies an application may not have direct access to a child or vulnerable adult unless the office approves a subsequent application by the individual.

(12) (a) Within 30 days after the day on which the office receives the background check information for an applicant, the office shall give notice of the clearance status to:

(i) the applicant, and the licensee or department contractor, of the office's decision regarding the background check and findings; and

(ii) the applicant of any convictions and potentially disqualifying charges and adjudications found in the search.

(b) With the notice described in Subsection (12)(a), the office shall also give the applicant the details of any comprehensive review conducted under Subsection (6).

(c) If the notice under Subsection (12)(a) states that the applicant's application is denied, the notice shall further advise the applicant that the applicant may, under Subsection 62A-2-111(2), request a hearing in the department's Office of Administrative Hearings, to challenge the office's decision.

(d) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office shall make rules, consistent with this chapter:

(i) defining procedures for the challenge of the office's background check decision described in Subsection (12)(c); and

(ii) expediting the process for renewal of a license under the requirements of this section and other applicable sections.

(13) An individual or a department contractor who provides services in an adults only substance use disorder program, as defined by rule, is exempt from this section. This exemption does not extend to a program director or a member, as defined by Section 62A-2-108, of the program.

(14) (a) Except as provided in Subsection (14)(b), in addition to the other requirements of this section, if the background check of an applicant is being conducted for the purpose of giving clearance status to an applicant seeking a position in a congregate care facility, an applicant for a one-time adoption, an applicant seeking to provide a prospective foster home, or an applicant seeking to provide a prospective adoptive home, the office shall:

(i) check the child abuse and neglect registry in each state where each applicant resided in the five years immediately preceding the day on which the applicant applied to be a foster parent or adoptive parent, to determine whether the prospective foster parent or prospective adoptive parent is listed in the registry as having a substantiated or supported finding of child abuse or neglect; and

(ii) check the child abuse and neglect registry in each state where each adult living in the home of the applicant described in Subsection (14)(a)(i) resided in the five years immediately preceding the day on which the applicant applied to be a foster parent or adoptive parent, to determine whether the adult is listed in the registry as having a substantiated or supported finding of child abuse or neglect.

(b) The requirements described in Subsection (14)(a) do not apply to the extent that:

(i) federal law or rule permits otherwise; or

(ii) the requirements would prohibit the Division of Child and Family Services or a court from placing a child with:

(A) a noncustodial parent under Section 62A-4a-209, [~~78A-6-307, or 78A-6-307.5~~] 80-3-302, or 80-3-303; or

(B) a relative, other than a noncustodial parent, under Section 62A-4a-209, [~~78A-6-307, or 78A-6-307.5~~] 80-3-302, or 80-3-303, pending completion of the background check described in Subsection (5).

(c) Notwithstanding Subsections (5) through (9), the office shall deny a clearance to an applicant seeking a position in a congregate care facility, an applicant for a one-time adoption, an applicant to become a prospective foster parent, or an applicant to become a prospective adoptive parent if the applicant has been convicted of:

(i) a felony involving conduct that constitutes any of the following:

(A) child abuse, as described in Section 76-5-109;

(B) commission of domestic violence in the presence of a child, as described in Section 76-5-109.1;

(C) abuse or neglect of a child with a disability, as described in Section 76-5-110;

(D) endangerment of a child or vulnerable adult, as described in Section 76-5-112.5;

(E) aggravated murder, as described in Section 76-5-202;

(F) murder, as described in Section 76-5-203;

(G) manslaughter, as described in Section 76-5-205;

(H) child abuse homicide, as described in Section 76-5-208;

(I) homicide by assault, as described in Section 76-5-209;

(J) kidnapping, as described in Section 76-5-301;

(K) child kidnapping, as described in Section 76-5-301.1;

(L) aggravated kidnapping, as described in Section 76-5-302;

(M) human trafficking of a child, as described in Section 76-5-308.5;

(N) an offense described in Title 76, Chapter 5, Part 4, Sexual Offenses;

(O) sexual exploitation of a minor, as described in Section 76-5b-201;

(P) aggravated arson, as described in Section 76-6-103;

(Q) aggravated burglary, as described in Section 76-6-203;

(R) aggravated robbery, as described in Section 76-6-302; or

(S) domestic violence, as described in Section 77-36-1; or

(ii) an offense committed outside the state that, if committed in the state, would constitute a violation of an offense described in Subsection (14)(c)(i).

(d) Notwithstanding Subsections (5) through (9), the office shall deny a license or license renewal to a prospective foster parent or a prospective adoptive parent if, within the five years immediately

preceding the day on which the individual's application or license would otherwise be approved, the applicant was convicted of a felony involving conduct that constitutes a violation of any of the following:

(i) aggravated assault, as described in Section 76-5-103;

(ii) aggravated assault by a prisoner, as described in Section 76-5-103.5;

(iii) mayhem, as described in Section 76-5-105;

(iv) an offense described in Title 58, Chapter 37, Utah Controlled Substances Act;

(v) an offense described in Title 58, Chapter 37a, Utah Drug Paraphernalia Act;

(vi) an offense described in Title 58, Chapter 37b, Imitation Controlled Substances Act;

(vii) an offense described in Title 58, Chapter 37c, Utah Controlled Substance Precursor Act; or

(viii) an offense described in Title 58, Chapter 37d, Clandestine Drug Lab Act.

(e) In addition to the circumstances described in Subsection (6)(a), the office shall conduct the comprehensive review of an applicant's background check pursuant to this section if the registry check described in Subsection (14)(a) indicates that the individual is listed in a child abuse and neglect registry of another state as having a substantiated or supported finding of a severe type of child abuse or neglect as defined in Section 62A-4a-1002.

Section 36. Section 62A-2-121 is amended to read:

62A-2-121. Access to abuse and neglect information.

(1) [~~For purposes of this section~~] As used in this section:

(a) "Direct service worker" means the same as that term is defined in Section 62A-5-101.

(b) "Personal care attendant" means the same as that term is defined in Section 62A-3-101.

(2) With respect to a licensee, a direct service worker, or a personal care attendant, the department may access only the Licensing Information System of the Division of Child and Family Services created by Section 62A-4a-1006 and juvenile court records under Subsection [~~78A-6-323~~] 80-3-404(6), for the purpose of:

(a) (i) determining whether a person associated with a licensee, with direct access to children:

(A) is listed in the Licensing Information System; or

(B) has a substantiated finding by a juvenile court of a severe type of child abuse or neglect under Subsections [~~78A-6-323~~] 80-3-404(1) and (2); and

(ii) informing a licensee that a person associated with the licensee:

(A) is listed in the Licensing Information System; or

(B) has a substantiated finding by a juvenile court of a severe type of child abuse or neglect under Subsections [~~78A-6-323~~] 80-3-404(1) and (2);

(b) (i) determining whether a direct service worker:

(A) is listed in the Licensing Information System; or

(B) has a substantiated finding by a juvenile court of a severe type of child abuse or neglect under Subsections [~~78A-6-323~~] 80-3-404(1) and (2); and

(ii) informing a direct service worker or the direct service worker's employer that the direct service worker:

(A) is listed in the Licensing Information System; or

(B) has a substantiated finding by a juvenile court of a severe type of child abuse or neglect under Subsections [~~78A-6-323~~] 80-3-404(1) and (2); or

(c) (i) determining whether a personal care attendant:

(A) is listed in the Licensing Information System; or

(B) has a substantiated finding by a juvenile court of a severe type of child abuse or neglect under Subsections [~~78A-6-323~~] 80-3-404(1) and (2); and

(ii) informing a person described in Subsections 62A-3-101(9)(a)(i) through (iv) that a personal care attendant:

(A) is listed in the Licensing Information System; or

(B) has a substantiated finding by a juvenile court of a severe type of child abuse or neglect under Subsections [~~78A-6-323~~] 80-3-404(1) and (2).

(3) Notwithstanding Subsection (2), the department may access the Division of Child and Family Services' Management Information System under Section 62A-4a-1003:

(a) for the purpose of licensing and monitoring foster parents;

(b) for the purposes described in Subsection 62A-4a-1003(1)(d); and

(c) for the purpose described in Section 62A-1-118.

(4) The department shall receive and process personal identifying information under Subsection 62A-2-120(1) for the purposes described in Subsection (2).

(5) The department shall adopt rules under Title 63G, Chapter 3, Utah Administrative Rulemaking Act, consistent with this chapter, defining the circumstances under which a person may have direct access or provide services to children when:

(a) the person is listed in the Licensing Information System of the Division of Child and

Family Services created by Section 62A-4a-1006; or

(b) juvenile court records show that a court made a substantiated finding under Section [~~78A-6-323~~] 80-3-404, that the person committed a severe type of child abuse or neglect.

Section 37. Section 62A-4a-102 is amended to read:

62A-4a-102. Rulemaking responsibilities of division.

(1) The Division of Child and Family Services, created in Section 62A-4a-103, is responsible for establishing division rules under Title 63G, Chapter 3, Utah Administrative Rulemaking Act, in accordance with the requirements of this chapter and [~~Title 78A, Chapter 6, Juvenile Court Act~~] Title 80, Chapter 3, Abuse, Neglect, and Dependency Proceedings, regarding abuse, neglect, and dependency proceedings, and domestic violence services. The division is responsible to see that the legislative purposes for the division are carried out.

(2) The division shall:

(a) approve fee schedules for programs within the division;

(b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establish rules to ensure that private citizens, consumers, foster parents, private contract providers, allied state and local agencies, and others are provided with an opportunity to comment and provide input regarding any new rule or proposed revision of an existing rule; and

(c) provide a mechanism for:

(i) systematic and regular review of existing rules, including an annual review of all division rules to ensure that rules comply with the Utah Code; and

(ii) consideration of rule changes proposed by the persons and agencies described in Subsection (2)(b).

(3) (a) The division shall establish rules for the determination of eligibility for services offered by the division in accordance with this chapter.

(b) The division may, by rule, establish eligibility standards for consumers.

(4) The division shall adopt and maintain rules regarding placement for adoption or foster care that are consistent with, and no more restrictive than, applicable statutory provisions.

Section 38. Section 62A-4a-103 is amended to read:

62A-4a-103. Division -- Creation -- Purpose.

(1) (a) There is created the Division of Child and Family Services within the department, under the administration and general supervision of the executive director.

(b) The division is the child, youth, and family services authority of the state and has all functions, powers, duties, rights, and responsibilities created in accordance with this chapter, except those assumed by the department.

(2) (a) The primary purpose of the division is to provide child welfare services.

(b) The division shall, when possible and appropriate, provide in-home services for the preservation of families in an effort to protect the child from the trauma of separation from the child's family, protect the integrity of the family, and the constitutional rights of parents. In keeping with its ultimate goal and purpose of protecting children, however, when a child's welfare is endangered or reasonable efforts to maintain or reunify a child with the child's family have failed, the division shall act in a timely fashion in accordance with the requirements of this chapter and [~~Title 78A, Chapter 6, Part 3, Abuse, Neglect, and Dependency Proceedings~~] Title 80, Chapter 3, Abuse, Neglect, and Dependency Proceedings, to provide the child with a stable, permanent environment.

(3) The division shall also provide domestic violence services in accordance with federal law.

Section 39. Section 62A-4a-105 is amended to read:

62A-4a-105. Division responsibilities.

(1) The division shall:

(a) administer services to minors and families, including:

(i) child welfare services;

(ii) domestic violence services; and

(iii) all other responsibilities that the Legislature or the executive director may assign to the division;

(b) provide the following services:

(i) financial and other assistance to an individual adopting a child with special needs under Part 9, Adoption Assistance, not to exceed the amount the division would provide for the child as a legal ward of the state;

(ii) non-custodial and in-home services, including:

(A) services designed to prevent family break-up; and

(B) family preservation services;

(iii) reunification services to families whose children are in substitute care in accordance with the requirements of this chapter and [~~Title 78A, Chapter 6, Juvenile Court Act~~] Title 80, Chapter 3, Abuse, Neglect, and Dependency Proceedings;

(iv) protective supervision of a family, upon court order, in an effort to eliminate abuse or neglect of a child in that family;

(v) shelter care in accordance with the requirements of this chapter and [~~Title 78A, Chapter 6, Juvenile Court Act~~] Title 80, Chapter 3, Abuse, Neglect, and Dependency Proceedings;

(vi) domestic violence services, in accordance with the requirements of federal law;

(vii) protective services to victims of domestic violence, as defined in Section 77-36-1, and their children, in accordance with the provisions of this chapter and [~~Title 78A, Chapter 6, Part~~] Title 80, Chapter 3, Abuse, Neglect, and Dependency Proceedings;

(viii) substitute care for dependent, abused, and neglected children;

(ix) services for minors who are victims of human trafficking or human smuggling as described in Sections 76-5-308 through 76-5-310 or who have engaged in prostitution or sexual solicitation as defined in Sections 76-10-1302 and 76-10-1313; and

(x) training for staff and providers involved in the administration and delivery of services offered by the division in accordance with this chapter;

(c) establish standards for all:

(i) contract providers of out-of-home care for minors and families;

(ii) facilities that provide substitute care for dependent, abused, and neglected children placed in the custody of the division; and

(iii) direct or contract providers of domestic violence services described in Subsection (1)(b)(vi);

(d) have authority to:

(i) contract with a private, nonprofit organization to recruit and train foster care families and child welfare volunteers in accordance with Section 62A-4a-107.5; and

(ii) approve facilities that meet the standards established under Subsection (1)(c) to provide substitute care for dependent, abused, and neglected children placed in the custody of the division;

(e) cooperate with the federal government in the administration of child welfare and domestic violence programs and other human service activities assigned by the department;

(f) if there is a privacy agreement with an Indian tribe to protect the confidentiality of division records to the same extent that the division is required to protect division records, cooperate with and share all appropriate information in the division's possession regarding an Indian child, the Indian child's parent or guardian, or a proposed placement for the Indian child with the Indian tribe that is affiliated with the Indian child;

(g) in accordance with Subsection (2)(a), promote and enforce state and federal laws enacted for the protection of abused, neglected, and dependent children, in accordance with the requirements of this chapter, unless administration is expressly vested in another division or department of the state;

(h) cooperate with the Workforce Development Division within the Department of Workforce Services in meeting the social and economic needs of an individual who is eligible for public assistance;

(i) compile relevant information, statistics, and reports on child and family service matters in the state;

(j) prepare and submit to the department, the governor, and the Legislature reports of the operation and administration of the division in accordance with the requirements of Sections 62A-4a-117 and 62A-4a-118;

(k) within appropriations from the Legislature, provide or contract for a variety of domestic violence services and treatment methods;

(l) ensure regular, periodic publication, including electronic publication, regarding the number of children in the custody of the division who:

(i) have a permanency goal of adoption; or

(ii) have a final plan of termination of parental rights, pursuant to Section [~~78A-6-314~~] 80-3-409, and promote adoption of those children;

(m) subject to Subsection (2)(b), refer an individual receiving services from the division to the local substance abuse authority or other private or public resource for a court-ordered drug screening test;

(n) report before November 30, 2020, and every third year thereafter, to the Social Services Appropriations Subcommittee regarding:

(i) the daily reimbursement rate that is provided to licensed foster parents based on level of care;

(ii) the amount of money spent on daily reimbursements for licensed foster parents in the state during the previous fiscal year; and

(iii) any recommended changes to the division's budget to support the daily reimbursement rates described in Subsection (1)(n)(i); and

(o) perform other duties and functions required by law.

(2) (a) In carrying out the requirements of Subsection (1)(g), the division shall:

(i) cooperate with the juvenile courts, the Division of Juvenile Justice Services, and with all public and private licensed child welfare agencies and institutions to develop and administer a broad range of services and support;

(ii) take the initiative in all matters involving the protection of abused or neglected children, if adequate provisions have not been made or are not likely to be made; and

(iii) make expenditures necessary for the care and protection of the children described in this Subsection (2)(a), within the division's budget.

(b) When an individual is referred to a local substance abuse authority or other private or public resource for court-ordered drug screening under Subsection (1)(m), the court shall order the individual to pay all costs of the tests unless:

(i) the cost of the drug screening is specifically funded or provided for by other federal or state programs;

(ii) the individual is a participant in a drug court; or

(iii) the court finds that the individual is impecunious.

(3) Except to the extent provided by rule, the division is not responsible for investigating domestic violence in the presence of a child, as described in Section 76-5-109.1.

(4) The division may not require a parent who has a child in the custody of the division to pay for some or all of the cost of any drug testing the parent is required to undergo.

Section 40. Section 62A-4a-113 is amended to read:

62A-4a-113. Division's enforcement authority -- Responsibility of attorney general to represent division.

(1) The division shall take legal action that is necessary to enforce the provisions of this chapter.

(2) (a) Subject to Section 67-5-17 and the attorney general's prosecutorial discretion in civil enforcement actions, the attorney general shall enforce all provisions of this chapter, in addition to the requirements of [~~Title 78A, Chapter 6, Juvenile Court Act of 1996,~~] Title 80, Chapter 3, Abuse, Neglect, and Dependency Proceedings, and Chapter 4, Termination and Restoration of Parental Rights, relating to protection, custody, and parental rights termination for abused, neglected, or dependent minors.

(b) The attorney general may contract with the local county attorney to enforce the provisions of this chapter and [~~Title 78A, Chapter 6, Juvenile Court Act of 1996~~] Title 80, Chapter 3, Abuse, Neglect, and Dependency Proceedings, and Chapter 4, Termination and Restoration of Parental Rights.

(c) It is the responsibility of the attorney general's office to:

(i) advise the division regarding decisions to remove a minor from the minor's home;

(ii) represent the division in all court and administrative proceedings related to abuse, neglect, and dependency including, but not limited to, shelter hearings, dispositional hearings, dispositional review hearings, periodic review hearings, and petitions for termination of parental rights; and

(iii) be available to and advise caseworkers on an ongoing basis.

(d) (i) The attorney general shall designate no less than 16 full-time attorneys to advise and represent the division in abuse, neglect, and dependency proceedings, including petitions for termination of parental rights.

(ii) The attorneys described in Subsection (2)(d)(i) shall devote their full time and attention to the representation described in Subsection (2)(d)(i) and, insofar as it is practicable, shall be housed in or near various offices of the division statewide.

(3) (a) The attorney general's office shall represent the division with regard to actions involving minors who have not been adjudicated as abused or neglected, but who are otherwise committed to the custody of the division by the juvenile court, and who are placed in custody of the division primarily on the basis of delinquent behavior or a status offense.

(b) Nothing in this section may be construed to affect the responsibility of the county attorney or district attorney to represent the state in the matters described in Subsection (3)(a) in accordance with [~~Section 78A-6-115~~] Sections 80-3-104 and 80-4-106.

Section 41. Section 62A-4a-114 is amended to read:

62A-4a-114. Financial reimbursement by parent or legal guardian.

(1) Except as provided in Subsection (5), the division shall seek reimbursement of funds it has expended on behalf of a child in the protective custody, temporary custody, or custody of the division, from the child's parents or legal guardians in accordance with an order for child support under Section [~~78A-6-1106~~] 78A-6-356.

(2) A parent or any other obligated person is not responsible for support for periods of time that a child is removed upon a finding by the juvenile court that there were insufficient grounds for that removal and that child is returned to the home of the parent, parents, or legal guardians based upon that finding.

(3) In the event that the juvenile court finds that there were insufficient grounds for the initial removal, but that the child is to remain in the custody of the state, the juvenile court shall order that the parents or any other obligated persons are responsible for support from the point at which it became improper to return the child to the home of the child's parent, parents, or legal guardians.

(4) The attorney general shall represent the division in any legal action taken to enforce this section.

(5) (a) A parent or any other obligated person is not responsible for support if:

(i) the parent or other obligated person's only source of income is a government-issued disability benefit; and

(ii) the benefit described in Subsection (5)(a)(i) is issued because of the parent or other person's disability, and not the child's disability.

(b) A person who seeks to be excused from providing support under Subsection (5)(a) shall provide the division and the Office of Recovery Services with evidence that the person meets the requirements of Subsection (5)(a).

Section 42. Section 62A-4a-118 is amended to read:

62A-4a-118. Annual review of child welfare referrals and cases by executive director -- Accountability to the Legislature -- Review by legislative auditor general.

(1) The division shall use principles of quality management systems, including statistical measures of processes of service, and the routine reporting of performance data to employees.

(2) (a) In addition to development of quantifiable outcome measures and performance measures in accordance with Section 62A-4a-117, the executive director, or the executive director's designee, shall annually review a randomly selected sample of child welfare referrals to and cases handled by the division. The purpose of that review shall be to assess whether the division is adequately protecting children and providing appropriate services to families, in accordance with the provisions of Title 62A, Chapter 4a, Child and Family Services, and [~~Title 78A, Chapter 6, Part 3, Abuse, Neglect, and Dependency Proceedings, and Part 5, Termination of Parental Rights Act~~] Title 80, Chapter 3, Abuse, Neglect, and Dependency Proceedings, and Chapter 4, Termination and Restoration of Parental Rights. The review shall focus directly on the outcome of cases to children and families, and not simply on procedural compliance with specified criteria.

(b) The executive director shall report on the executive director's review to the legislative auditor general and the Child Welfare Legislative Oversight Panel.

(c) Information obtained as a result of the review shall be provided to caseworkers, supervisors, and division personnel involved in the respective cases, for purposes of education, training, and performance evaluation.

(3) The executive director's review and report to the legislative auditor general and the Child Welfare Legislative Oversight Panel shall include:

(a) the criteria used by the executive director, or the executive director's designee, in making the evaluation;

(b) findings regarding whether state statutes, division rule, legislative policy, and division policy were followed in each sample case;

(c) findings regarding whether, in each sample case, referrals, removals, or cases were appropriately handled by the division and its employees, and whether children were adequately and appropriately protected and appropriate services provided to families, in accordance with the provisions of Title 62A, Chapter 4a, Child and Family Services, [~~Title 78A, Chapter 6, Part 3, Abuse, Neglect, and Dependency Proceedings, and Part 5, Termination of Parental Rights Act~~] Title 80, Chapter 3, Abuse, Neglect, and Dependency Proceedings, and Chapter 4, Termination and Restoration of Parental Rights, and division rule;

(d) an assessment of the division's intake procedures and decisions, including an assessment of the appropriateness of decisions not to accept referrals; and

(e) an assessment of the appropriateness of the division's assignment of priority.

(4) (a) In addition to the executive director's review under Subsection (2), the legislative auditor general shall audit, subject to the prioritization of the Legislative Audit Subcommittee, a sample of child welfare referrals to and cases handled by the division and report the findings to the Child Welfare Legislative Oversight Panel.

(b) An audit under Subsection (4)(a) may be initiated by:

(i) the Audit Subcommittee of the Legislative Management Committee;

(ii) the Child Welfare Legislative Oversight Panel; or

(iii) the legislative auditor general, based on the results of the executive director's review under Subsection (2).

(c) With regard to the sample of referrals, removals, and cases, the Legislative Auditor General's report may include:

(i) findings regarding whether state statutes, division rule, legislative policy, and division policy were followed by the division and its employees;

(ii) a determination regarding whether referrals, removals, and cases were appropriately handled by the division and its employees, and whether children were adequately and appropriately protected and appropriate services provided for families, in accordance with the provisions of Title 62A, Chapter 4a, Child and Family Services, [~~Title 78A, Chapter 6, Part 3, Abuse, Neglect, and Dependency Proceedings, and Part 5, Termination of Parental Rights Act~~] Title 80, Chapter 3, Abuse, Neglect, and Dependency Proceedings, and Chapter 4, Termination and Restoration of Parental Rights, and division rule;

(iii) an assessment of the division's intake procedures and decisions, including an assessment of the appropriateness of decisions not to accept referrals;

(iv) an assessment of the appropriateness of the division's assignment of priority;

(v) a determination regarding whether the department's review process is effecting beneficial change within the division and accomplishing the mission established by the Legislature and the department for that review process; and

(vi) findings regarding any other issues identified by the auditor or others under this Subsection (4).

Section 43. Section 62A-4a-201 is amended to read:

62A-4a-201. Rights of parents -- Children's rights -- Interest and responsibility of state.

(1) (a) Under both the United States Constitution and the constitution of this state, a parent possesses a fundamental liberty interest in the care, custody, and management of the parent's children. A fundamentally fair process must be provided to parents if the state moves to challenge or interfere with parental rights. A governmental entity must support any actions or allegations made in opposition to the rights and desires of a parent regarding the parent's children by sufficient evidence to satisfy a parent's constitutional entitlement to heightened protection against government interference with the parent's fundamental rights and liberty interests and, concomitantly, the right of the child to be reared by the child's natural parent.

(b) The fundamental liberty interest of a parent concerning the care, custody, and management of the parent's children is recognized, protected, and does not cease to exist simply because a parent may fail to be a model parent or because the parent's child is placed in the temporary custody of the state. At all times, a parent retains a vital interest in preventing the irretrievable destruction of family life. Prior to an adjudication of unfitness, government action in relation to parents and their children may not exceed the least restrictive means or alternatives available to accomplish a compelling state interest. Until the state proves parental unfitness, and the child suffers, or is substantially likely to suffer, serious detriment as a result, the child and the child's parents share a vital interest in preventing erroneous termination of their natural relationship and the state cannot presume that a child and the child's parents are adversaries.

(c) It is in the best interest and welfare of a child to be raised under the care and supervision of the child's natural parents. A child's need for a normal family life in a permanent home, and for positive, nurturing family relationships is usually best met by the child's natural parents. Additionally, the integrity of the family unit and the right of parents to conceive and raise their children are constitutionally protected. The right of a fit, competent parent to raise the parent's child without undue government interference is a fundamental liberty interest that has long been protected by the laws and Constitution and is a fundamental public policy of this state.

(d) The state recognizes that:

(i) a parent has the right, obligation, responsibility, and authority to raise, manage, train, educate, provide and care for, and reasonably discipline the parent's children; and

(ii) the state's role is secondary and supportive to the primary role of a parent.

(e) It is the public policy of this state that parents retain the fundamental right and duty to exercise primary control over the care, supervision, upbringing, and education of their children.

(f) Subsections (2) through (7) shall be interpreted and applied consistent with this Subsection (1).

(2) It is also the public policy of this state that children have the right to protection from abuse and neglect, and that the state retains a compelling interest in investigating, prosecuting, and punishing abuse and neglect[~~, as defined in this chapter, and in Title 78A, Chapter 6, Juvenile Court Act~~]. Therefore, the state, as parens patriae, has an interest in and responsibility to protect children whose parents abuse them or do not adequately provide for their welfare. There may be circumstances where a parent's conduct or condition is a substantial departure from the norm and the parent is unable or unwilling to render safe and proper parental care and protection. Under those circumstances, the state may take action for the welfare and protection of the parent's children.

(3) When the division intervenes on behalf of an abused, neglected, or dependent child, it shall take into account the child's need for protection from immediate harm and the extent to which the child's extended family may provide needed protection. Throughout its involvement, the division shall utilize the least intrusive and least restrictive means available to protect a child, in an effort to ensure that children are brought up in stable, permanent families, rather than in temporary foster placements under the supervision of the state.

(4) When circumstances within the family pose a threat to the child's immediate safety or welfare, the division may seek custody of the child for a planned, temporary period and place the child in a safe environment, subject to the requirements of this section and in accordance with the requirements of [~~Title 78A, Chapter 6, Part 3, Abuse, Neglect, and Dependency Proceedings~~] Title 80, Chapter 3, Abuse, Neglect, and Dependency Proceedings, and:

(a) when safe and appropriate, return the child to the child's parent; or

(b) as a last resort, pursue another permanency plan.

(5) In determining and making "reasonable efforts" with regard to a child, pursuant to the provisions of Section 62A-4a-203, both the division's and the court's paramount concern shall be the child's health, safety, and welfare. The desires of a parent for the parent's child, and the constitutionally protected rights of a parent, as described in this section, shall be given full and serious consideration by the division and the court.

(6) In cases where actual sexual abuse, sexual exploitation, abandonment, severe abuse, or severe neglect are established, the state has no duty to make "reasonable efforts" or to, in any other way, attempt to maintain a child in the child's home, provide reunification services, or to attempt to rehabilitate the offending parent or parents. This Subsection (6) does not exempt the division from providing court-ordered services.

(7) (a) In accordance with Subsection (1), the division shall strive to achieve appropriate permanency for children who are abused, neglected, or dependent. The division shall provide

in-home services, where appropriate and safe, in an effort to help a parent to correct the behavior that resulted in abuse, neglect, or dependency of the parent's child. The division may pursue a foster placement only if in-home services fail or are otherwise insufficient or inappropriate, kinship placement is not safe or appropriate, or in-home services and kinship placement fail and cannot be corrected. The division shall also seek qualified extended family support or a kinship placement to maintain a sense of security and stability for the child.

(b) If the use or continuation of "reasonable efforts," as described in Subsections (5) and (6), is determined to be inconsistent with the permanency plan for a child, then measures shall be taken, in a timely manner, to place the child in accordance with the permanency plan, and to complete whatever steps are necessary to finalize the permanent placement of the child.

(c) Subject to the parental rights recognized and protected under this section, if, because of a parent's conduct or condition, the parent is determined to be unfit or incompetent based on the grounds for termination of parental rights described in [~~Title 78A, Chapter 6, Part 5, Termination of Parental Rights Act~~] Title 80, Chapter 3, Abuse, Neglect, and Dependency Proceedings, the continuing welfare and best interest of the child is of paramount importance, and shall be protected in determining whether that parent's rights should be terminated.

(8) The state's right to direct or intervene in the provision of medical or mental health care for a child is subject to [~~Subsections 78A-6-105(40)(b)(i) through (iii) and 78A-6-117(2) and Section 78A-6-301.5.~~] Subsections 80-1-102(51)(b)(i) through (iii) and Sections 80-3-109 and 80-3-304.

Section 44. Section 62A-4a-202.3 is amended to read:

62A-4a-202.3. Investigation -- Supported or unsupported reports -- Child in protective custody.

(1) When a child is taken into protective custody in accordance with Section 62A-4a-202.1[~~, 78A-6-106, or 78A-6-302,~~] or 80-3-204 or when the division takes any other action that would require a shelter hearing under Subsection [~~78A-6-306~~] 80-3-301(1), the division shall immediately initiate an investigation of the:

(a) circumstances of the child; and

(b) grounds upon which the decision to place the child into protective custody was made.

(2) The division's investigation shall conform to reasonable professional standards, and shall include:

(a) a search for and review of any records of past reports of abuse or neglect involving:

(i) the same child;

(ii) any sibling or other child residing in the same household as the child; and

(iii) the alleged perpetrator;

(b) with regard to a child who is five years [~~of age~~] old or older, a personal interview with the child:

(i) outside of the presence of the alleged perpetrator; and

(ii) conducted in accordance with the requirements of Subsection (7);

(c) if a parent or guardian can be located, an interview with at least one of the child's parents or guardian;

(d) an interview with the person who reported the abuse, unless the report was made anonymously;

(e) where possible and appropriate, interviews with other third parties who have had direct contact with the child, including:

(i) school personnel; and

(ii) the child's health care provider;

(f) an unscheduled visit to the child's home, unless:

(i) there is a reasonable basis to believe that the reported abuse was committed by a person who:

(A) is not the child's parent; and

(B) does not:

(I) live in the child's home; or

(II) otherwise have access to the child in the child's home; or

(ii) an unscheduled visit is not necessary to obtain evidence for the investigation; and

(g) if appropriate and indicated in any case alleging physical injury, sexual abuse, or failure to meet the child's medical needs, a medical examination, obtained no later than 24 hours after the child is placed in protective custody.

(3) The division may rely on a written report of a prior interview rather than conducting an additional interview, if:

(a) law enforcement:

(i) previously conducted a timely and thorough investigation regarding the alleged abuse, neglect, or dependency; and

(ii) produced a written report;

(b) the investigation described in Subsection (3)(a)(i) included one or more of the interviews required by Subsection (2); and

(c) the division finds that an additional interview is not in the best interest of the child.

(4) (a) The division's determination of whether a report is supported or unsupported may be based on the child's statements alone.

(b) Inability to identify or locate the perpetrator may not be used by the division as a basis for:

(i) determining that a report is unsupported; or

(ii) closing the case.

(c) The division may not determine a case to be unsupported or identify a case as unsupported solely because the perpetrator was an out-of-home perpetrator.

(d) Decisions regarding whether a report is supported, unsupported, or without merit shall be based on the facts of the case at the time the report was made.

(5) The division should maintain protective custody of the child if it finds that one or more of the following conditions exist:

(a) the child does not have a natural parent, guardian, or responsible relative who is able and willing to provide safe and appropriate care for the child;

(b) (i) shelter of the child is a matter of necessity for the protection of the child; and

(ii) there are no reasonable means by which the child can be protected in:

(A) the child's home; or

(B) the home of a responsible relative;

(c) there is substantial evidence that the parent or guardian is likely to flee the jurisdiction of the court; or

(d) the child has left a previously court ordered placement.

(6) (a) Within 24 hours after receipt of a child into protective custody, excluding weekends and holidays, the division shall:

(i) convene a child protection team to review the circumstances regarding removal of the child from the child's home or school; and

(ii) prepare the testimony and evidence that will be required of the division at the shelter hearing, in accordance with Section [~~78A-6-306~~] 80-3-301.

(b) The child protection team may include members of a child protection unit.

(c) At the 24-hour meeting, the division shall have available for review and consideration the complete child protective services and foster care history of the child and the child's parents and siblings.

(7) (a) After receipt of a child into protective custody and prior to the adjudication hearing, all investigative interviews with the child that are initiated by the division shall be:

(i) except as provided in Subsection (7)(b), audio or video taped; and

(ii) except as provided in Subsection (7)(c), conducted with a support person of the child's choice present.

(b) (i) Subject to Subsection (7)(b)(ii), an interview described in Subsection (7)(a) may be conducted without being taped if the child:

(A) is at least nine years old;

(B) refuses to have the interview audio taped; and

(C) refuses to have the interview video taped.

(ii) If, pursuant to Subsection (7)(b)(i), an interview is conducted without being taped, the child's refusal shall be documented, as follows:

(A) the interviewer shall attempt to get the child's refusal on tape, including the reasons for the refusal; or

(B) if the child does not allow the refusal, or the reasons for the refusal, to be taped, the interviewer shall:

(I) state on the tape that the child is present, but has refused to have the interview, refusal, or the reasons for the refusal taped; or

(II) if complying with Subsection (7)(b)(ii)(B)(I) will result in the child, who would otherwise consent to be interviewed, to refuse to be interviewed, the interviewer shall document, in writing, that the child refused to allow the interview to be taped and the reasons for that refusal.

(iii) The division shall track the number of interviews under this Subsection (7) that are not taped, and the number of refusals that are not taped, for each interviewer, in order to determine whether a particular interviewer has a higher incidence of refusals, or taped refusals, than other interviewers.

(c) (i) Notwithstanding Subsection (7)(a)(ii), the support person who is present for an interview of a child may not be an alleged perpetrator.

(ii) Subsection (7)(a)(ii) does not apply if the child refuses to have a support person present during the interview.

(iii) If a child described in Subsection (7)(c)(ii) refuses to have a support person present in the interview, the interviewer shall document, in writing, the refusal and the reasons for the refusal.

(iv) The division shall track the number of interviews under this Subsection (7) where a child refuses to have a support person present for each interviewer, in order to determine whether a particular interviewer has a higher incidence of refusals than other interviewers.

(8) The division shall cooperate with law enforcement investigations and with a child protection unit, if applicable, regarding the alleged perpetrator.

(9) The division may not close an investigation solely on the grounds that the division investigator is unable to locate the child until all reasonable efforts have been made to locate the child and family members including:

(a) visiting the home at times other than normal work hours;

(b) contacting local schools;

(c) contacting local, county, and state law enforcement agencies; and

(d) checking public assistance records.

Section 45. Section 62A-4a-202.4 is amended to read:

62A-4a-202.4. Access to criminal background information.

(1) For purposes of background screening and investigation of abuse or neglect under this chapter and [~~Title 78A, Chapter 6, Part 3, Abuse, Neglect, and Dependency Proceedings,~~] Title 80, Chapter 3, Abuse, Neglect, and Dependency Proceedings, the division shall have direct access to criminal background information maintained pursuant to Title 53, Chapter 10, Part 2, Bureau of Criminal Identification.

(2) The division and the Office of Guardian Ad Litem are authorized to request the Department of Public Safety to conduct a complete Federal Bureau of Investigation criminal background check through the national criminal history system (NCIC).

Section 46. Section 62A-4a-202.8 is amended to read:

62A-4a-202.8. Child protection team meeting -- Timing.

(1) Subject to Subsection (2), if the division files a petition under Section [~~78A-6-304~~] 80-3-201, the division shall convene a child protection team meeting to:

(a) review the circumstances of the filing of the petition; and

(b) develop or review implementation of a safety plan to protect the child from further abuse, neglect, or dependency.

(2) The child protection team meeting required under Subsection (1) shall be held within the shorter of:

(a) 14 days of the day on which the petition is filed under Section [~~78A-6-304~~] 80-3-201 if the conditions of Subsection (2)(b) or (c) are not met;

(b) 24 hours of the filing of the petition under Section [~~78A-6-304~~] 80-3-201, excluding weekends and holidays, if the child who is the subject of the petition will likely be taken into protective custody unless there is an expedited hearing and services ordered under the protective supervision of the court; or

(c) 24 hours after receipt of a child into protective custody, excluding weekends and holidays, if the child is taken into protective custody as provided in Section 62A-4a-202.3.

(3) The child protection team may include members of a child protection unit.

(4) At its meeting the child protection team shall review the complete child protective services and foster care history of the child and the child's parents and siblings.

Section 47. Section 62A-4a-203 is amended to read:

62A-4a-203. Removal of a child from home -- Reasonable efforts to maintain child in home -- Exception -- Reasonable efforts for reunification.

(1) Because removal of a child from the child's home affects protected, constitutional rights of the parent and has a dramatic, long-term impact on a child, the division shall:

(a) when possible and appropriate, without danger to the child's welfare, make reasonable efforts to prevent or eliminate the need for removal of a child from the child's home prior to placement in substitute care;

(b) determine whether there is substantial cause to believe that a child has been or is in danger of abuse or neglect, in accordance with the guidelines described in [~~Title 78A, Chapter 6, Part 3, Abuse, Neglect, and Dependency Proceedings, prior to~~] Title 80, Chapter 3, Abuse, Neglect, and Dependency Proceedings, before removing the child from the child's home; and

(c) when it is possible and appropriate, and in accordance with the limitations and requirements of Sections [~~78A-6-312 and 78A-6-314~~] 80-3-406 and 80-3-409, make reasonable efforts to make it possible for a child in substitute care to return to the child's home.

(2) (a) In determining the reasonableness of efforts needed to maintain a child in the child's home or to return a child to the child's home, in accordance with Subsection (1)(a) or (c), the child's health, safety, and welfare shall be the paramount concern.

(b) The division shall consider whether the efforts described in Subsections (1) and (2) are likely to prevent abuse or continued neglect of the child.

(3) When removal and placement in substitute care is necessary to protect a child, the efforts described in Subsections (1) and (2):

(a) are not reasonable or appropriate; and

(b) should not be utilized.

(4) Subject to Subsection (5), in cases where sexual abuse, sexual exploitation, abandonment, severe abuse, or severe neglect are involved, the state has no duty to make reasonable efforts to, in any way, attempt to:

(a) maintain a child in the child's home;

(b) provide reunification services; or

(c) rehabilitate the offending parent or parents.

(5) Nothing in Subsection (4) exempts the division from providing court ordered services.

Section 48. Section 62A-4a-205 is amended to read:

62A-4a-205. Child and family plan -- Parent-time and relative visitation.

(1) No more than 45 days after a child enters the temporary custody of the division, the child's child and family plan shall be finalized.

(2) (a) The division may use an interdisciplinary team approach in developing each child and family plan.

(b) The interdisciplinary team described in Subsection (2)(a) may include representatives from the following fields:

(i) mental health;

(ii) education; and

(iii) if appropriate, law enforcement.

(3) (a) The division shall involve all of the following in the development of a child's child and family plan:

(i) both of the child's natural parents, unless the whereabouts of a parent are unknown;

(ii) the child;

(iii) the child's foster parents; and

(iv) if appropriate, the child's stepparent.

(b) Subsection (3)(a) does not prohibit any other party not listed in Subsection (3)(a) or a party's counsel from being involved in the development of a child's child and family plan if the party or counsel's participation is otherwise permitted by law.

(c) In relation to all information considered by the division in developing a child and family plan, additional weight and attention shall be given to the input of the child's natural and foster parents upon their involvement pursuant to Subsections (3)(a)(i) and (iii).

(d) (i) The division shall make a substantial effort to develop a child and family plan with which the child's parents agree.

(ii) If a parent does not agree with a child and family plan:

(A) the division shall strive to resolve the disagreement between the division and the parent; and

(B) if the disagreement is not resolved, the division shall inform the court of the disagreement.

(4) A copy of the child and family plan shall, immediately upon completion, or as soon as reasonably possible thereafter, be provided to the:

(a) guardian ad litem;

(b) child's natural parents; and

(c) child's foster parents.

(5) Each child and family plan shall:

(a) specifically provide for the safety of the child, in accordance with federal law; and

(b) clearly define what actions or precautions will, or may be, necessary to provide for the health, safety, protection, and welfare of the child.

(6) The child and family plan shall set forth, with specificity, at least the following:

(a) the reason the child entered into the custody of the division;

(b) documentation of the:

(i) reasonable efforts made to prevent placement of the child in the custody of the division; or

(ii) emergency situation that existed and that prevented the reasonable efforts described in Subsection (6)(b)(i), from being made;

(c) the primary permanency plan for the child and the reason for selection of that plan;

(d) the concurrent permanency plan for the child and the reason for the selection of that plan;

(e) if the plan is for the child to return to the child's family:

(i) specifically what the parents must do in order to enable the child to be returned home;

(ii) specifically how the requirements described in Subsection (6)(e)(i) may be accomplished; and

(iii) how the requirements described in Subsection (6)(e)(i) will be measured;

(f) the specific services needed to reduce the problems that necessitated placing the child in the division's custody;

(g) the name of the person who will provide for and be responsible for case management;

(h) subject to Subsection (10), a parent-time schedule between the natural parent and the child;

(i) subject to Subsection (7), the health and mental health care to be provided to address any known or diagnosed mental health needs of the child;

(j) if residential treatment rather than a foster home is the proposed placement, a requirement for a specialized assessment of the child's health needs including an assessment of mental illness and behavior and conduct disorders;

(k) social summaries that include case history information pertinent to case planning; and

(l) subject to Subsection (12), a sibling visitation schedule.

(7) (a) Subject to Subsection (7)(b), in addition to the information required under Subsection (6)(i), the plan shall include a specialized assessment of the medical and mental health needs of a child, if the child:

(i) is placed in residential treatment; and

(ii) has medical or mental health issues that need to be addressed.

(b) Notwithstanding Subsection (7)(a), a parent shall retain the right to seek a separate medical or mental health diagnosis of the parent's child from a licensed practitioner of the parent's choice.

(8) (a) Each child and family plan shall be specific to each child and the child's family, rather than general.

(b) The division shall train its workers to develop child and family plans that comply with:

(i) federal mandates; and

(ii) the specific needs of the particular child and the child's family.

(c) All child and family plans and expectations shall be individualized and contain specific time frames.

(d) Subject to Subsection (8)(h), child and family plans shall address problems that:

(i) keep a child in placement; and

(ii) keep a child from achieving permanence in the child's life.

(e) Each child and family plan shall be designed to minimize disruption to the normal activities of the child's family, including employment and school.

(f) In particular, the time, place, and amount of services, hearings, and other requirements ordered by the court in the child and family plan shall be designed, as much as practicable, to help the child's parents maintain or obtain employment.

(g) The child's natural parents, foster parents, and where appropriate, stepparents, shall be kept informed of and supported to participate in important meetings and procedures related to the child's placement.

(h) For purposes of Subsection (8)(d), a child and family plan may only include requirements that:

(i) address findings made by the court; or

(ii) (A) are requested or consented to by a parent or guardian of the child; and

(B) are agreed to by the division and the guardian ad litem.

(9) (a) Except as provided in Subsection (9)(b), with regard to a child who is three years [~~of age~~] old or younger, if the plan is not to return the child home, the primary permanency plan for that child shall be adoption.

(b) Notwithstanding Subsection (9)(a), if the division documents to the court that there is a compelling reason that adoption, reunification, guardianship, and a placement described in Subsection [~~78A-6-306~~] 80-3-301(6)(e) are not in the child's best interest, the court may order another planned permanent living arrangement in accordance with federal law.

(10) (a) Except as provided in Subsection (10)(b), parent-time may only be denied by a court order issued [~~pursuant to Subsections 78A-6-312(3), (6), and (7)~~] in accordance with Subsection 80-3-406(9).

(b) Notwithstanding Subsection (10)(a), the person designated by the division or a court to supervise a parent-time session may deny parent-time for that session if the supervising person determines that, based on the parent's condition, it is necessary to deny parent-time in order to:

(i) protect the physical safety of the child;

(ii) protect the life of the child; or

(iii) consistent with Subsection (10)(c), prevent the child from being traumatized by contact with the parent.

(c) In determining whether the condition of the parent described in Subsection (10)(b) will traumatize a child, the person supervising the parent-time session shall consider the impact that the parent's condition will have on the child in light of:

(i) the child's fear of the parent; and

(ii) the nature of the alleged abuse or neglect.

(11) The division shall consider visitation with their grandparents for children in state custody if the division determines visitation to be in the best interest of the child and:

(a) there are no safety concerns regarding the behavior or criminal background of the grandparents;

(b) allowing visitation would not compete with or undermine the reunification plan;

(c) there is a substantial relationship between the grandparents and children; and

(d) the visitation will not unduly burden the foster parents.

(12) The child and family plan shall incorporate reasonable efforts to:

(a) provide sibling visitation when:

(i) siblings are separated due to foster care or adoptive placement;

(ii) visitation is in the best interest of the child for whom the plan is developed; and

(iii) the division has consent for sibling visitation from the legal guardian of the sibling; and

(b) obtain consent for sibling visitation from the sibling's legal guardian when the criteria of Subsections (12)(a)(i) and (ii) are met.

Section 49. Section 62A-4a-205.5 is amended to read:

62A-4a-205.5. Prohibition of discrimination based on race, color, or ethnicity.

(1) As used in this section, "adoptable children" means children:

(a) who are in the custody of the division; and

(b) (i) who have permanency goals of adoption; or

(ii) for whom a final plan for pursuing termination of parental rights has been approved in accordance with Section [~~78A-6-314~~] 80-3-409.

(2) Except as required under the Indian Child Welfare Act, 25 U.S.C. Secs. 1901-1963, the division may not base its decision for placement of adoptable children on the race, color, ethnicity, or national origin of either the child or the prospective adoptive parents.

(3) The basis of a decision for placement of an adoptable child shall be the best interest of the child.

Section 50. Section 62A-4a-205.6 is amended to read:

62A-4a-205.6. Adoptive placement time frame -- Contracting with agencies.

(1) With regard to a child who has a primary permanency plan of adoption or for whom a final plan for pursuing termination of parental rights has been approved in accordance with Section [~~78A-6-314~~] 80-3-409, the division shall make intensive efforts to place the child in an adoptive home within 30 days of the earlier of:

(a) approval of the final plan; or

(b) establishment of the primary permanency plan.

(2) If within the time periods described in Subsection (1) the division is unable to locate a suitable adoptive home, it shall contract with licensed child-placing agencies to search for an appropriate adoptive home for the child, and to place the child for adoption. The division shall comply with the requirements of Section 62A-4a-607 and contract with a variety of child placing agencies licensed under [~~Title 62A, Chapter 4a,~~] Part 6, Child Placing. In accordance with federal law, the division shall develop plans for the effective use of cross-jurisdictional resources to facilitate timely adoptive or permanent placements for waiting children.

(3) The division shall ensure that children who are adopted and were previously in its custody, continue to receive the medical and mental health coverage that they are entitled to under state and federal law.

(4) The division may not consider a prospective adoptive parent's willingness or unwillingness to enter a postadoption contact agreement under Section 78B-6-146 as a condition of placing a child with the prospective adoptive parent.

Section 51. Section 62A-4a-206 is amended to read:

62A-4a-206. Process for removal of a child from foster family -- Procedural due process.

(1) (a) The Legislature finds that, except with regard to a child's natural parent or legal guardian, a foster family has a very limited but recognized interest in its familial relationship with a foster child who has been in the care and custody of that family. In making determinations regarding removal of a child from a foster home, the division may not dismiss the foster family as a mere collection of unrelated individuals.

(b) The Legislature finds that children in the temporary custody and custody of the division are experiencing multiple changes in foster care placements with little or no documentation, and that numerous studies of child growth and development emphasize the importance of stability in foster care living arrangements.

(c) For the reasons described in Subsections (1)(a) and (b), the division shall provide procedural due process for a foster family prior to removal of a foster child from their home, regardless of the length of time the child has been in that home, unless removal is for the purpose of:

(i) returning the child to the child's natural parent or legal guardian;

(ii) immediately placing the child in an approved adoptive home;

(iii) placing the child with a relative, as defined in [~~Subsection 78A-6-307(1)~~] Section 80-3-102, who obtained custody or asserted an interest in the child within the preference period described in Subsection [~~78A-6-307(18)(a)~~] 80-3-302(8); or

(iv) placing an Indian child in accordance with [~~preplacement~~] placement preferences and other requirements described in the Indian Child Welfare Act, 25 U.S.C. Sec. 1915.

(2) (a) The division shall maintain and utilize due process procedures for removal of a foster child from a foster home, in accordance with the procedures and requirements of Title 63G, Chapter 4, Administrative Procedures Act.

(b) Those procedures shall include requirements for:

(i) personal communication with, and a written explanation of the reasons for the removal to, the foster parents prior to removal of the child; and

(ii) an opportunity for foster parents to present their information and concerns to the division and to:

(A) request a review, to be held before removal of the child, by a third party neutral fact finder; or

(B) if the child has been placed with the foster parents for a period of at least two years, request a review, to be held before removal of the child, by:

(I) the juvenile court judge currently assigned to the child's case; or

(II) if the juvenile court judge currently assigned to the child's case is not available, another juvenile court judge.

(c) If the division determines that there is a reasonable basis to believe that the child is in danger or that there is a substantial threat of danger to the health or welfare of the child, it shall place the child in emergency foster care during the pendency of the procedures described in this subsection, instead of making another foster care placement.

(3) If the division removes a child from a foster home based upon the child's statement alone, the division shall initiate and expedite the processes described in Subsection (2). The division may take no formal action with regard to that foster parent's license until after those processes, in addition to any other procedure or hearing required by law, have been completed.

(4) When a complaint is made to the division by a foster child against a foster parent, the division shall, within 30 business days, provide the foster parent with information regarding the specific nature of the complaint, the time and place of the alleged incident, and who was alleged to have been involved.

(5) Whenever the division places a child in a foster home, it shall provide the foster parents with:

(a) notification of the requirements of this section;

(b) a written description of the procedures enacted by the division pursuant to Subsection (2) and how to access those processes; and

(c) written notification of the foster parents' ability to petition the juvenile court directly for review of a decision to remove a foster child who has been in their custody for 12 months or longer, in accordance with the limitations and requirements of Section [~~78A-6-318~~] 80-3-502.

(6) The requirements of this section do not apply to the removal of a child based on a foster parent's request for that removal.

(7) It is unlawful for a person, with the intent to avoid compliance with the requirements of this section, to:

(a) take action, or encourage another to take action, against the license of a foster parent; or

(b) remove a child from a foster home before the child has been placed with the foster parents for two years.

(8) The division may not remove a foster child from a foster parent who is a relative, as defined in [~~Subsection 78A-6-307(1)~~] Section 80-3-102, of the child on the basis of the age or health of the foster parent without determining by:

(a) clear and convincing evidence that the foster parent is incapable of caring for the foster child, if the alternative foster parent would not be another relative of the child; or

(b) a preponderance of the evidence that the foster parent is incapable of caring for the foster child, if the alternative foster parent would be another relative of the child.

Section 52. Section 62A-4a-206.5 is amended to read:

62A-4a-206.5. Child missing from state custody.

(1) When the division receives information that a child in the custody of the division is missing, has been abducted, or has run away, the division shall:

(a) within 24 hours after the time when the division has reason to believe that the information is accurate, notify the National Center for Missing and Exploited Children; and

(b) pursue a warrant under Subsection [~~78A-6-106(6)~~] 62A-4a-202.1(8).

(2) When the division locates a child described in Subsection (1), the division shall:

(a) determine the primary factors that caused or contributed to the child's absence from care;

(b) determine the child's experiences while absent from care, including screening the child to determine if the child is a sex trafficking victim;

(c) to the extent possible, select a placement for the child that accommodates the child's needs and takes into consideration the factors and experiences described in Subsections (2)(a) and (b); and

(d) follow the requirements in Section [~~78A-6-307.5~~] 80-3-303 for determining an ongoing placement of the child.

Section 53. Section 62A-4a-207 is amended to read:

62A-4a-207. Legislative Oversight Panel -- Responsibilities.

(1) (a) There is created the Child Welfare Legislative Oversight Panel composed of the following members:

(i) two members of the Senate, one from the majority party and one from the minority party, appointed by the president of the Senate; and

(ii) three members of the House of Representatives, two from the majority party and one from the minority party, appointed by the speaker of the House of Representatives.

(b) Members of the panel shall serve for two-year terms, or until their successors are appointed.

(c) A vacancy exists whenever a member ceases to be a member of the Legislature, or when a member resigns from the panel. Vacancies shall be filled by the appointing authority, and the replacement shall fill the unexpired term.

(2) The president of the Senate shall designate one of the senators appointed to the panel under Subsection (1) as the Senate chair of the panel. The speaker of the House of Representatives shall designate one of the representatives appointed to the panel under Subsection (1) as the House chair of the panel.

(3) The panel shall follow the interim committee rules established by the Legislature.

(4) The panel shall:

(a) examine and observe the process and execution of laws governing the child welfare system by the executive branch and the judicial branch;

(b) upon request, receive testimony from the public, the juvenile court, and from all state agencies involved with the child welfare system, including the division, other offices and agencies within the department, the attorney general's office, the Office of Guardian Ad Litem, and school districts;

(c) before October 1 of each year, receive a report from the judicial branch identifying the cases not in compliance with the time limits established in the following sections, and the reasons for noncompliance:

(i) Subsection [~~78A-6-306(1)(a)~~] 80-3-301(1), regarding shelter hearings;

(ii) Section [~~78A-6-309~~] 80-3-401, regarding pretrial and adjudication hearings;

(iii) Section [~~78A-6-312~~] 80-3-406, regarding dispositional hearings and reunification services; and

(iv) Section [~~78A-6-314~~] 80-3-409, regarding permanency hearings and petitions for termination;

(d) receive recommendations from, and make recommendations to the governor, the Legislature, the attorney general, the division, the Office of Guardian Ad Litem, the juvenile court, and the public;

(e) (i) receive reports from the executive branch and the judicial branch on budgetary issues impacting the child welfare system; and

(ii) recommend, as the panel considers advisable, budgetary proposals to the Social Services Appropriations Subcommittee and the Executive Offices and Criminal Justice Appropriations Subcommittee, which recommendation should be made before December 1 of each year;

(f) study and recommend proposed changes to laws governing the child welfare system;

(g) study actions the state can take to preserve, unify, and strengthen the child's family ties whenever possible in the child's best interest, including recognizing the constitutional rights and claims of parents whenever those family ties are severed or infringed;

(h) perform such other duties related to the oversight of the child welfare system as the panel considers appropriate; and

(i) annually report the panel's findings and recommendations to the president of the Senate, the speaker of the House of Representatives, the Health and Human Services Interim Committee, and the Judiciary Interim Committee.

(5) (a) The panel has authority to review and discuss individual cases.

(b) When an individual case is discussed, the panel's meeting may be closed pursuant to Title 52, Chapter 4, Open and Public Meetings Act.

(c) When discussing an individual case, the panel shall make reasonable efforts to identify and consider the concerns of all parties to the case.

(6) (a) The panel has authority to make recommendations to the Legislature, the governor, the Board of Juvenile Court Judges, the division, and any other statutorily created entity related to the policies and procedures of the child welfare system. The panel does not have authority to make recommendations to the court, the division, or any other public or private entity regarding the disposition of any individual case.

(b) The panel may hold public hearings, as it considers advisable, in various locations within the state in order to afford all interested persons an opportunity to appear and present their views regarding the child welfare system in this state.

(7) (a) All records of the panel regarding individual cases shall be classified private, and may be disclosed only in accordance with federal law and the provisions of Title 63G, Chapter 2, Government Records Access and Management Act.

(b) The panel shall have access to all of the division's records, including those regarding individual cases. In accordance with Title 63G, Chapter 2, Government Records Access and Management Act, all documents and information received by the panel shall maintain the same classification that was designated by the division.

(8) In order to accomplish its oversight functions, the panel has:

(a) all powers granted to legislative interim committees in Section 36-12-11; and

(b) legislative subpoena powers under Title 36, Chapter 14, Legislative Subpoena Powers.

(9) Compensation and expenses of a member of the panel who is a legislator are governed by Section 36-2-2 and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.

(10) (a) The Office of Legislative Research and General Counsel shall provide staff support to the panel.

(b) The panel is authorized to employ additional professional assistance and other staff members as it considers necessary and appropriate.

Section 54. Section 62A-4a-209 is amended to read:

62A-4a-209. Emergency placement.

(1) As used in this section:

(a) "Friend" means the same as that term is defined in [~~Subsection 78A-6-307(1)~~] Section 80-3-102.

(b) "Nonrelative" means an individual, other than a noncustodial parent or a relative.

(c) "Relative" means the same as that term is defined in [~~Subsection 78A-6-307(1)~~] Section 80-3-102.

(2) The division may use an emergency placement under Subsection 62A-4a-202.1[~~(4)(b)(ii)~~](7)(b) when:

(a) the case worker has made the determination that:

(i) the child's home is unsafe;

(ii) removal is necessary under the provisions of Section 62A-4a-202.1; and

(iii) the child's custodial parent or guardian will agree to not remove the child from the home of the individual that serves as the placement and not have any contact with the child until after the shelter hearing required by Section [~~78A-6-306~~] 80-3-301;

(b) an individual, with preference being given in accordance with Subsection (4), can be identified who has the ability and is willing to provide care for the child who would otherwise be placed in shelter care, including:

(i) taking the child to medical, mental health, dental, and educational appointments at the request of the division; and

(ii) making the child available to division services and the guardian ad litem; and

(c) the individual described in Subsection (2)(b) agrees to care for the child on an emergency basis under the following conditions:

(i) the individual meets the criteria for an emergency placement under Subsection (3);

(ii) the individual agrees to not allow the custodial parent or guardian to have any contact with the child until after the shelter hearing unless authorized by the division in writing;

(iii) the individual agrees to contact law enforcement and the division if the custodial parent or guardian attempts to make unauthorized contact with the child;

(iv) the individual agrees to allow the division and the child's guardian ad litem to have access to the child;

(v) the individual has been informed and understands that the division may continue to search for other possible placements for long-term care, if needed;

(vi) the individual is willing to assist the custodial parent or guardian in reunification efforts at the request of the division, and to follow all court orders; and

(vii) the child is comfortable with the individual.

(3) Except as otherwise provided in Subsection (5), before the division places a child in an emergency placement, the division:

(a) may request the name of a reference and may contact the reference to determine the answer to the following questions:

(i) would the individual identified as a reference place a child in the home of the emergency placement; and

(ii) are there any other relatives or friends to consider as a possible emergency or long-term placement for the child;

(b) shall have the custodial parent or guardian sign an emergency placement agreement form during the investigation;

(c) (i) if the emergency placement will be with a relative, shall comply with the background check provisions described in Subsection (7); or

(ii) if the emergency placement will be with an individual other than a noncustodial parent or a relative, shall comply with the background check provisions described in Subsection (8) for adults living in the household where the child will be placed;

(d) shall complete a limited home inspection of the home where the emergency placement is made; and

(e) shall have the emergency placement approved by a family service specialist.

(4) (a) The following order of preference shall be applied when determining the individual with whom a child will be placed in an emergency placement described in this section, provided that the individual is willing, and has the ability, to care for the child:

(i) a noncustodial parent of the child in accordance with Section [~~78A-6-307~~] 80-3-302;

(ii) a relative;

(iii) subject to Subsection (4)(b), a friend designated by the custodial parent, guardian, or the child, if the child is of sufficient maturity to articulate the child's wishes in relation to a placement;

(iv) a former foster placement designated by the division;

(v) a foster placement, that is not a former foster placement, designated by the division; and

(vi) a shelter facility designated by the division.

(b) In determining whether a friend is a willing and appropriate temporary emergency placement for a child, the division:

(i) subject to Subsections (4)(b)(ii) through (iv), shall consider the child's preferences or level of comfort with the friend;

(ii) is required to consider no more than one friend designated by each parent or legal guardian of the child and one friend designated by the child, if the child is of sufficient maturity to articulate the child's wishes in relation to a placement;

(iii) may limit the number of designated friends to two, one of whom shall be a friend designated by the child, if the child is of sufficient maturity to articulate the child's wishes in relation to a placement; and

(iv) shall give preference to a friend designated by the child, if:

(A) the child is of sufficient maturity to articulate the child's wishes; and

(B) the division's basis for removing the child under Section 62A-4a-202.1 is sexual abuse of the child.

(5) (a) The division may, pending the outcome of the investigation described in Subsections (5)(b) and (c), place a child in emergency placement with the child's noncustodial parent if, based on a limited investigation, prior to making the emergency placement, the division:

(i) determines that the noncustodial parent has regular, unsupervised visitation with the child that is not prohibited by law or court order;

(ii) determines that there is not reason to believe that the child's health or safety will be endangered during the emergency placement; and

(iii) has the custodial parent or guardian sign an emergency placement agreement.

(b) Either before or after making an emergency placement with the noncustodial parent of the child, the division may conduct the investigation described in Subsection (3)(a) in relation to the noncustodial parent.

(c) Before, or within one day, excluding weekends and holidays, after a child is placed in an emergency placement with the noncustodial parent of the child, the division shall conduct a limited:

(i) background check of the noncustodial parent, pursuant to Subsection (7); and

(ii) inspection of the home where the emergency placement is made.

(6) After an emergency placement, the division caseworker must:

(a) respond to the emergency placement's calls within one hour if the custodial parents or guardians attempt to make unauthorized contact with the child or attempt to remove the child;

(b) complete all removal paperwork, including the notice provided to the custodial parents and guardians under Section [~~78A-6-306~~] 80-3-301;

(c) contact the attorney general to schedule a shelter hearing;

(d) complete the placement procedures required in Section [~~78A-6-307~~] 80-3-302; and

(e) continue to search for other relatives as a possible long-term placement, if needed.

(7) (a) The background check described in Subsection (3)(c)(i) shall include completion of:

(i) a name-based, Utah Bureau of Criminal Identification background check; and

(ii) a search of the Management Information System described in Section 62A-4a-1003.

(b) The division shall determine whether an individual passes the background check described in this Subsection (7) pursuant to the provisions of Subsection 62A-2-120(14).

(c) Notwithstanding Subsection (7)(b), the division may not place a child with an individual who is prohibited by court order from having access to that child.

(8) (a) The background check described in Subsection (3)(c)(ii) shall include completion of:

(i) a name-based, Utah Bureau of Criminal Identification background check;

(ii) a federal name-based criminal background check; and

(iii) a search of the Management Information System described in Section 62A-4a-1003.

(b) The division shall determine whether an individual passes the background checks described in this Subsection (8) pursuant to the provisions of Section 62A-2-120.

(c) If the division denies placement of a child as a result of a name-based criminal background check described in Subsection (8)(a), and the individual contests that denial, the individual shall submit a complete set of fingerprints with written permission to the Utah Bureau of Criminal Identification for submission to the Federal Bureau of Investigation for a fingerprint-based criminal background check.

(d) (i) Within 15 calendar days of the name-based background checks, the division shall require an individual to provide a complete set of fingerprints with written permission to the Utah Bureau of Criminal Identification for submission to the Federal Bureau of Investigation for a fingerprint-based criminal background check.

(ii) If an individual fails to provide the fingerprints and written permission described in Subsection (8)(d)(i), the child shall immediately be removed from the home.

Section 55. Section 62A-4a-409 is amended to read:

62A-4a-409. Investigation by division -- Temporary protective custody -- Preremoval interviews of children.

(1) (a) Except as provided in Subsection (1)(c), the division shall conduct a thorough preremoval investigation upon receiving either an oral or written report of alleged abuse or neglect, or an oral or written report under Subsection 62A-4a-404(2), when there is reasonable cause to suspect that a situation of abuse, neglect, or the circumstances described under Subsection 62A-4a-404(2) exist.

(b) The primary purpose of the investigation described in Subsection (1)(a) shall be protection of the child.

(c) The division is not required to conduct an investigation under Subsection (1)(a) if the division determines the person responsible for the child's care:

(i) is not the alleged perpetrator; and

(ii) is willing and able to ensure the alleged perpetrator does not have access to the child.

(2) The preremoval investigation described in Subsection (1)(a) shall include the same investigative requirements described in Section 62A-4a-202.3.

(3) The division shall make a written report of its investigation that shall include a determination regarding whether the alleged abuse or neglect is supported, unsupported, or without merit.

(4) (a) The division shall use an interdisciplinary approach when appropriate in dealing with reports made under this part.

(b) The division shall convene a child protection team to assist the division in the division's protective, diagnostic, assessment, treatment, and coordination services.

(c) The division may include members of a child protection unit in the division's protective, diagnostic, assessment, treatment, and coordination services.

(d) A representative of the division shall serve as the team's coordinator and chair. Members of the team shall serve at the coordinator's invitation. Whenever possible, the team shall include representatives of:

(i) health, mental health, education, and law enforcement agencies;

(ii) the child;

(iii) parent and family support groups unless the parent is alleged to be the perpetrator; and

(iv) other appropriate agencies or individuals.

(5) If a report of neglect is based upon or includes an allegation of educational neglect, the division shall immediately consult with school authorities to verify the child's status in accordance with Sections 53G-6-201 through 53G-6-206.

(6) When the division completes the division's initial investigation under this part, the division shall give notice of that completion to the person who made the initial report.

(7) Division workers or other child protection team members have authority to enter upon public or private premises, using appropriate legal processes, to investigate reports of alleged abuse or neglect, upon notice to parents of their rights under the Child Abuse Prevention and Treatment Act, 42 U.S.C. Sec. 5106, or any successor thereof.

(8) With regard to any interview of a child prior to removal of that child from the child's home:

(a) except as provided in Subsection (8)(b) or (c), the division shall inform a parent of the child prior to the interview of:

(i) the specific allegations concerning the child; and

(ii) the time and place of the interview;

(b) if a child's parent or stepparent, or a parent's paramour has been identified as the alleged perpetrator, the division is not required to comply with Subsection (8)(a);

(c) if the perpetrator is unknown, or if the perpetrator's relationship to the child's family is unknown, the division may conduct a minimal interview or conversation, not to exceed 15 minutes, with the child prior to complying with Subsection (8)(a);

(d) in all cases described in Subsection (8)(b) or (c), a parent of the child shall be notified as soon as practicable after the child has been interviewed, but in no case later than 24 hours after the interview has taken place;

(e) a child's parents shall be notified of the time and place of all subsequent interviews with the child; and

(f) the child shall be allowed to have a support person of the child's choice present, who:

(i) may include:

(A) a school teacher;

(B) an administrator;

(C) a guidance counselor;

(D) a child care provider;

(E) a family member;

(F) a family advocate; or

(G) a member of the clergy; and

(ii) may not be an individual who is alleged to be, or potentially may be, the perpetrator.

(9) In accordance with the procedures and requirements of Sections 62A-4a-202.1 through 62A-4a-202.3, a division worker or child protection team member may take a child into protective custody and deliver the child to a law enforcement officer, or place the child in an emergency shelter facility approved by the juvenile court, at the earliest opportunity subsequent to the child's removal from the child's original environment. Control and jurisdiction over the child is determined by the provisions of [~~Title 78A, Chapter 6, Juvenile Court Act~~] Title 78A, Chapter 6, Juvenile Court, and Title 80, Utah Juvenile Code, and as otherwise provided by law.

(10) With regard to cases in which law enforcement has or is conducting an investigation of alleged abuse or neglect of a child:

(a) the division shall coordinate with law enforcement to ensure that there is an adequate safety plan to protect the child from further abuse or neglect; and

(b) the division is not required to duplicate an aspect of the investigation that, in the division's determination, has been satisfactorily completed by law enforcement.

(11) With regard to a mutual case in which a child protection unit was involved in the investigation of

alleged abuse or neglect of a child, the division shall consult with the child protection unit before closing the case.

Section 56. Section 62A-4a-412 is amended to read:

62A-4a-412. Reports, information, and referrals confidential.

(1) Except as otherwise provided in this chapter, reports made under this part, as well as any other information in the possession of the division obtained as the result of a report are private, protected, or controlled records under Title 63G, Chapter 2, Government Records Access and Management Act, and may only be made available to:

(a) a police or law enforcement agency investigating a report of known or suspected abuse or neglect, including members of a child protection unit;

(b) a physician who reasonably believes that a child may be the subject of abuse or neglect;

(c) an agency that has responsibility or authority to care for, treat, or supervise a minor who is the subject of a report;

(d) a contract provider that has a written contract with the division to render services to a minor who is the subject of a report;

(e) except as provided in Subsection 63G-2-202(10), a subject of the report, the natural parents of the child, and the guardian ad litem;

(f) a court, upon a finding that access to the records may be necessary for the determination of an issue before the court, provided that in a divorce, custody, or related proceeding between private parties, the record alone is:

(i) limited to objective or undisputed facts that were verified at the time of the investigation; and

(ii) devoid of conclusions drawn by the division or any of the division's workers on the ultimate issue of whether or not a person's acts or omissions constituted any level of abuse or neglect of another person;

(g) an office of the public prosecutor or its deputies in performing an official duty;

(h) a person authorized by a Children's Justice Center, for the purposes described in Section 67-5b-102;

(i) a person engaged in bona fide research, when approved by the director of the division, if the information does not include names and addresses;

(j) the State Board of Education, acting on behalf of itself or on behalf of a local education agency, as defined in Section 63J-5-102, for the purpose of evaluating whether an individual should be permitted to obtain or retain a license as an educator or serve as an employee or volunteer in a school, limited to information with substantiated or supported findings involving an alleged sexual offense, an alleged felony or class A misdemeanor drug offense, or any alleged offense against the person under Title 76, Chapter 5, Offenses Against the Person, and with the understanding that the office must provide the subject of a report received under Subsection (1)(k) with an opportunity to respond to the report before making a decision concerning licensure or employment;

(k) any person identified in the report as a perpetrator or possible perpetrator of abuse or neglect, after being advised of the screening prohibition in Subsection (2);

(l) except as provided in Subsection 63G-2-202(10), a person filing a petition for a child protective order on behalf of a child who is the subject of the report;

(m) a licensed child-placing agency or person who is performing a preplacement adoptive evaluation in accordance with the requirements of Sections 78B-6-128 and 78B-6-130;

(n) an Indian tribe to:

(i) certify or license a foster home;

(ii) render services to a subject of a report; or

(iii) investigate an allegation of abuse, neglect, or dependency; or

(o) the Division of Substance Abuse and Mental Health, the Department of Health, or a local substance abuse authority, described in Section 17-43-201, for the purpose of providing substance abuse treatment to a pregnant woman, or the services described in Subsection 62A-15-103(2)(o).

(2) (a) A person, unless listed in Subsection (1), may not request another person to obtain or release a report or any other information in the possession of the division obtained as a result of the report that is available under Subsection (1)(k) to screen for potential perpetrators of abuse or neglect.

(b) A person who requests information knowing that the request is a violation of Subsection (2)(a) is subject to the criminal penalty in Subsection (4).

(3) (a) Except as provided in Section 62A-4a-1007 and Subsection (3)(b), the division and law enforcement officials shall ensure the anonymity of the person or persons making the initial report and any others involved in its subsequent investigation.

(b) Notwithstanding any other provision of law, excluding Section [~~78A-6-317~~] 80-3-107, but including this chapter and Title 63G, Chapter 2, Government Records Access and Management Act, when the division makes a report or other information in the division's possession available under Subsection (1)(e) to a subject of the report or a parent of a child, the division shall remove from the report or other information only the names, addresses, and telephone numbers of individuals or specific information that could:

(i) identify the referent;

(ii) impede a criminal investigation; or

(iii) endanger a person's safety.

(4) Any person who [~~wilfully~~] willfully permits, or aides and abets the release of data or information obtained as a result of this part, in the possession of the division or contained on any part of the Management Information System, in violation of this part or Sections 62A-4a-1003 through 62A-4a-1007, is guilty of a class C misdemeanor.

(5) The physician-patient privilege is not a ground for excluding evidence regarding a child's injuries or the cause of those injuries, in any proceeding resulting from a report made in good faith pursuant to this part.

(6) A child-placing agency or person who receives a report in connection with a preplacement adoptive evaluation pursuant to Sections 78B-6-128 and 78B-6-130:

(a) may provide this report to the person who is the subject of the report; and

(b) may provide this report to a person who is performing a preplacement adoptive evaluation in accordance with the requirement of Sections 78B-6-128 and 78B-6-130, or to a licensed child-placing agency or to an attorney seeking to facilitate an adoption.

Section 57. Section 62A-4a-607 is amended to read:

62A-4a-607. Promotion of adoption -- Agency notice to potential adoptive parents.

(1) (a) The division and all child-placing agencies licensed under this part shall promote adoption when that is a possible and appropriate alternative for a child. Specifically, in accordance with Section 62A-4a-205.6, the division shall actively promote the adoption of all children in its custody who have a final plan for termination of parental rights pursuant to Section [~~78A-6-314~~] 80-3-409 or a primary permanency plan of adoption.

(b) Beginning May 1, 2000, the division may not place a child for adoption, either temporarily or permanently, with any individual or individuals who do not qualify for adoptive placement pursuant to the requirements of Sections 78B-6-117, 78B-6-102, and 78B-6-137.

(2) The division shall obtain or conduct research of prior adoptive families to determine what families may do to be successful with their adoptive children and shall make this research available to potential adoptive parents.

(3) (a) A child-placing agency licensed under this part shall inform each potential adoptive parent with whom it is working that:

(i) children in the custody of the state are available for adoption;

(ii) Medicaid coverage for medical, dental, and mental health services may be available for these children;

(iii) tax benefits, including the tax credit provided for in Section 59-10-1104, and financial assistance may be available to defray the costs of adopting these children;

(iv) training and ongoing support may be available to the adoptive parents of these children; and

(v) information about individual children may be obtained by contacting the division's offices or its Internet site as explained by the child-placing agency.

(b) A child-placing agency shall:

(i) provide the notice required by Subsection (3)(a) at the earliest possible opportunity; and

(ii) simultaneously distribute a copy of the pamphlet prepared by the division in accordance with Subsection (3)(d).

(c) As a condition of licensure, the child-placing agency shall certify to the Office of Licensing at the time of license renewal that it has complied with the provisions of this section.

(d) Before July 1, 2000, the division shall:

(i) prepare a pamphlet that explains the information that is required by Subsection (3)(a); and

(ii) regularly distribute copies of the pamphlet described in Subsection (3)(d)(i) to child-placing agencies.

(e) The division shall respond to any inquiry made as a result of the notice provided in Subsection (3)(a).

Section 58. Section 62A-4a-711 is amended to read:

62A-4a-711. Penalty.

An individual or entity that knowingly engages in an unregulated custody transfer, as defined in Section [~~78A-6-105~~] 80-1-102, is guilty of a class B misdemeanor.

Section 59. Section 62A-4a-802 is amended to read:

62A-4a-802. Safe relinquishment of a newborn child.

(1) (a) A parent or a parent's designee may safely relinquish a newborn child at a hospital in accordance with the provisions of this part and retain complete anonymity, so long as the newborn child has not been subject to abuse or neglect.

(b) Safe relinquishment of a newborn child who has not otherwise been subject to abuse or neglect shall not, in and of itself, constitute neglect [~~as defined in Section 78A-6-105~~], and the newborn child shall not be considered a neglected child, as defined in Section [~~78A-6-105~~] 80-1-102, so long as the relinquishment is carried out in substantial compliance with the provisions of this part.

(2) (a) Personnel employed by a hospital shall accept a newborn child who is relinquished pursuant to the provisions of this part, and may presume that the individual relinquishing is the newborn child's parent or the parent's designee.

(b) The person receiving the newborn child may request information regarding the parent and newborn child's medical histories, and identifying information regarding the nonrelinquishing parent of the newborn child.

(c) If the newborn child's parent or the parent's designee provides the person receiving the newborn child with any of the information described in Subsection (2)(b) or any other personal items, the person shall provide the information or personal items to the division.

(d) Personnel employed by the hospital shall:

(i) provide any necessary medical care to the newborn child;

(ii) notify the division of receipt of the newborn child as soon as possible, but no later than 24 hours after receipt of the newborn child; and

(iii) prepare a birth certificate or foundling birth certificate if parentage is unknown for the newborn child and file the certificate with the Office of Vital Records and Statistics within the Department of Health.

(e) A hospital and personnel employed by a hospital are immune from any civil or criminal liability arising from accepting a newborn child if the personnel employed by the hospital substantially comply with the provisions of this part and medical treatment is administered according to standard medical practice.

(3) The division shall assume care and custody of the newborn child immediately upon notice from the hospital.

(4) So long as the division determines there is no abuse or neglect of the newborn child, neither the newborn child nor the child's parents are subject to:

(a) the provisions of Part 2, Child Welfare Services;

(b) the investigation provisions contained in Section 62A-4a-409; or

(c) the provisions of [~~Title 78A, Chapter 6, Part~~] Title 80, Chapter 3, Abuse, Neglect, and Dependency Proceedings.

(5) (a) Unless identifying information relating to the nonrelinquishing parent of the newborn child has been provided, the division shall:

(i) work with local law enforcement and the Bureau of Criminal Identification within the Department of Public Safety in an effort to ensure that the newborn child has not been identified as a missing child;

(ii) immediately place or contract for placement of the newborn child in a potential adoptive home and, within 10 days after the day on which the child is received, file a petition for termination of parental rights in accordance with [~~Title 78A, Chapter 6, Part 5, Termination of Parental Rights Act~~] Title 80, Chapter 4, Termination and Restoration of Parental Rights;

(iii) direct the Office of Vital Records and Statistics within the Department of Health to conduct a search for:

(A) a birth certificate for the newborn child; and

(B) unmarried biological fathers in the registry maintained by the Office of Vital Records and Statistics in accordance with Title 78B, Chapter 15, Part 4, Registry; and

(iv) provide notice to each potential father identified on the registry described in Subsection (5)(a)(iii) in accordance with Title 78B, Chapter 15, Part 4, Registry.

(b) (i) If no individual has affirmatively identified himself or herself within two weeks after the day on which notice under Subsection (5)(a)(iv) is complete and established paternity by scientific testing within as expeditious a time frame as practicable, a hearing on the petition for termination of parental rights shall be scheduled and notice provided in accordance with [~~Title 78A, Chapter 6, Part 5, Termination of Parental Rights Act~~] Title 80, Chapter 4, Termination and Restoration of Parental Rights.

(ii) If a nonrelinquishing parent is not identified, relinquishment of a newborn child pursuant to the provisions of this part shall be considered grounds for termination of parental rights of both the relinquishing and nonrelinquishing parents under Section [~~78A-6-507~~] 80-4-301.

(6) If at any time prior to the adoption, a court finds it is in the best interest of the newborn child, the court shall deny the petition for termination of parental rights.

(7) The division shall provide for, or contract with a licensed child-placing agency to provide for expeditious adoption of the newborn child.

(8) So long as the individual relinquishing a newborn child is the newborn child's parent or designee, and there is no abuse or neglect, safe relinquishment of a newborn child in substantial compliance with the provisions of this part is an affirmative defense to any potential criminal liability for abandonment or neglect relating to that relinquishment.

Section 60. Section 62A-4a-1005 is amended to read:

62A-4a-1005. Supported finding of a severe type of child abuse or neglect -- Notation in Licensing Information System -- Juvenile court petition or notice to alleged perpetrator -- Rights of alleged perpetrator -- Juvenile court finding.

(1) If the division makes a supported finding that a person committed a severe type of child abuse or neglect, the division shall:

(a) serve notice of the finding on the alleged perpetrator;

(b) enter the following information into the Licensing Information System created in Section 62A-4a-1006:

(i) the name and other identifying information of the perpetrator with the supported finding, without identifying the person as a perpetrator or alleged perpetrator; and

(ii) a notation to the effect that an investigation regarding the person is pending; and

(c) if the division considers it advisable, file a petition for substantiation within one year of the supported finding.

(2) The notice referred to in Subsection (1)(a):

(a) shall state that:

(i) the division has conducted an investigation regarding alleged abuse or neglect;

(ii) the division has made a supported finding that the alleged perpetrator described in Subsection (1) committed a severe type of child abuse or neglect;

(iii) facts gathered by the division support the supported finding;

(iv) as a result of the supported finding, the alleged perpetrator's name and other identifying information have been listed in the Licensing Information System in accordance with Subsection (1)(b);

(v) the alleged perpetrator may be disqualified from adopting a child, receiving state funds as a child care provider, or being licensed by:

(A) the department;

(B) a human services licensee;

(C) a child care provider or program; or

(D) a covered health care facility;

(vi) the alleged perpetrator has the rights described in Subsection (3); and

(vii) failure to take either action described in Subsection (3)(a) within one year after service of the notice will result in the action described in Subsection (3)(b);

(b) shall include a general statement of the nature of the findings; and

(c) may not include:

(i) the name of a victim or witness; or

(ii) any privacy information related to the victim or a witness.

(3) (a) Upon receipt of the notice described in Subsection (2), the alleged perpetrator has the right to:

(i) file a written request asking the division to review the findings made under Subsection (1);

(ii) except as provided in Subsection (3)(c), immediately petition the juvenile court under Section [~~78A-6-323~~] 80-3-404; or

(iii) sign a written consent to:

(A) the supported finding made under Subsection (1); and

(B) entry into the Licensing Information System of:

(I) the alleged perpetrator's name; and

(II) other information regarding the supported finding made under Subsection (1).

(b) Except as provided in Subsection (3)(e), the alleged perpetrator's name and the information described in Subsection (1)(b) shall remain in the Licensing Information System:

(i) if the alleged perpetrator fails to take the action described in Subsection (3)(a) within one year after service of the notice described in Subsections (1)(a) and (2);

(ii) during the time that the division awaits a response from the alleged perpetrator pursuant to Subsection (3)(a); and

(iii) until a court determines that the severe type of child abuse or neglect upon which the Licensing Information System entry was based is unsubstantiated or without merit.

(c) The alleged perpetrator has no right to petition the juvenile court under Subsection (3)(a)(ii) if the court previously held a hearing on the same alleged incident of abuse or neglect pursuant to the filing of a petition under Section [~~78A-6-304~~] 80-3-201 by some other party.

(d) Consent under Subsection (3)(a)(iii) by a child shall be given by the child's parent or guardian.

(e) Regardless of whether an appeal on the matter is pending:

(i) the division shall remove an alleged perpetrator's name and the information described in Subsection (1)(b) from the Licensing Information System if the severe type of child abuse or neglect upon which the Licensing Information System entry was based:

(A) is found to be unsubstantiated or without merit by the juvenile court under Section [~~78A-6-323~~] 80-3-404; or

(B) is found to be substantiated, but is subsequently reversed on appeal; and

(ii) the division shall place back on the Licensing Information System an alleged perpetrator's name and information that is removed from the Licensing Information System under Subsection (3)(e)(i) if the court action that was the basis for removing the alleged perpetrator's name and information is subsequently reversed on appeal.

(4) Upon the filing of a petition under Subsection (1)(c), the juvenile court shall make a finding of substantiated, unsubstantiated, or without merit as provided in Subsections [~~78A-6-323~~] 80-3-404(1) and (2).

(5) Service of the notice described in Subsections (1)(a) and (2):

(a) shall be personal service in accordance with Utah Rules of Civil Procedure, Rule 4; and

(b) does not preclude civil or criminal action against the alleged perpetrator.

Section 61. Section 62A-4a-1006 is amended to read:

62A-4a-1006. Licensing Information System -- Contents -- Juvenile court finding -- Protected record -- Access -- Criminal penalty.

(1) (a) The division shall maintain a sub-part of the Management Information System established pursuant to Section 62A-4a-1003, to be known as the Licensing Information System, to be used:

(i) for licensing purposes; or

(ii) as otherwise specifically provided for by law.

(b) The Licensing Information System shall include only the following information:

(i) the information described in Subsections 62A-4a-1005(1)(b) and (3)(b);

(ii) consented-to supported findings by alleged perpetrators under Subsection 62A-4a-1005(3)(a)(iii); and

(iii) the information in the licensing part of the division's Management Information System as of May 6, 2002.

(2) Notwithstanding Subsection (1), the department's access to information in the Management Information System for the licensure and monitoring of foster parents is governed by Sections 62A-4a-1003 and 62A-2-121.

(3) Subject to Subsection 62A-4a-1005(3)(e), upon receipt of a finding from the juvenile court under Section [~~78A-6-323~~] 80-3-404, the division shall:

(a) promptly amend the Licensing Information System; and

(b) enter the information in the Management Information System.

(4) (a) Information contained in the Licensing Information System is classified as a protected record under Title 63G, Chapter 2, Government Records Access and Management Act.

(b) Notwithstanding the disclosure provisions of Title 63G, Chapter 2, Government Records Access and Management Act, the information contained in the Licensing Information System may only be used or disclosed as specifically provided in this chapter and Section 62A-2-121.

(c) The information described in Subsection (4)(b) is accessible only to:

(i) the Office of Licensing within the department:

(A) for licensing purposes; or

(B) as otherwise specifically provided for by law;

(ii) the division to:

(A) screen an individual at the request of the Office of Guardian Ad Litem:

(I) at the time that individual seeks a paid or voluntary position with the Office of Guardian Ad Litem; and

(II) on an annual basis, throughout the time that the individual remains with the Office of Guardian Ad Litem; and

(B) respond to a request for information from a person whose name is listed in the Licensing Information System;

(iii) persons designated by the Department of Health and approved by the Department of Human Services, only for the following purposes:

(A) licensing a child care program or provider;

(B) determining whether an individual associated with a child care facility, program, or provider, who is exempt from being licensed or certified by the Department of Health under Title 26, Chapter 39, Utah Child Care Licensing Act, has a supported finding of a severe type of child abuse or neglect; or

(C) determining whether an individual who is seeking an emergency medical services license has a supported finding of a severe type of child abuse or neglect;

(iv) persons designated by the Department of Workforce Services and approved by the Department of Human Services for the purpose of qualifying child care providers under Section 35A-3-310.5; and

(v) the department, as specifically provided in this chapter.

(5) The persons designated by the Department of Health under Subsection (4)(c)(iii) and the persons designated by the Department of Workforce Services under Subsection (4)(c)(iv) shall adopt measures to:

(a) protect the security of the Licensing Information System; and

(b) strictly limit access to the Licensing Information System to those persons designated by statute.

(6) All persons designated by statute as having access to information contained in the Licensing Information System shall be approved by the Department of Human Services and receive training from the department with respect to:

(a) accessing the Licensing Information System;

(b) maintaining strict security; and

(c) the criminal provisions of Sections 62A-4a-412 and 63G-2-801 pertaining to the improper release of information.

(7) (a) A person, except those authorized by this chapter, may not request another person to obtain or release any other information in the Licensing Information System to screen for potential perpetrators of abuse or neglect.

(b) A person who requests information knowing that the request is a violation of this Subsection (7) is subject to the criminal penalty described in Sections 62A-4a-412 and 63G-2-801.

Section 62. Section 62A-4a-1009 is amended to read:

62A-4a-1009. Notice and opportunity to challenge supported finding in Management Information System -- Right of judicial review.

(1) (a) Except as provided in Subsection (2), the division shall send a notice of agency action to a person with respect to whom the division makes a supported finding. In addition, if the alleged perpetrator is under the age of 18, the division shall:

(i) make reasonable efforts to identify the alleged perpetrator's parent or guardian; and

(ii) send a notice to each parent or guardian identified under Subsection (1)(a)(i) that lives at a different address, unless there is good cause, as defined by rule, for not sending a notice to a parent or guardian.

(b) Nothing in this section may be construed as affecting:

(i) the manner in which the division conducts an investigation; or

(ii) the use or effect, in any other setting, of a supported finding by the division at the completion of an investigation for any purpose other than for notification under Subsection (1) (a).

(2) Subsection (1) does not apply to a person who has been served with notice under Subsection 62A-4a-1005(1)(a).

(3) The notice described in Subsection (1) shall state:

(a) that the division has conducted an investigation regarding alleged abuse, neglect, or dependency;

(b) that the division has made a supported finding of abuse, neglect, or dependency;

(c) that facts gathered by the division support the supported finding;

(d) that the person has the right to request:

(i) a copy of the report; and

(ii) an opportunity to challenge the supported finding by the division; and

(e) that failure to request an opportunity to challenge the supported finding within 30 days of receiving the notice will result in an unappealable supported finding of abuse, neglect, or dependency unless the person can show good cause for why compliance within the 30-day requirement was virtually impossible or unreasonably burdensome.

(4) (a) A person may make a request to challenge a supported finding within 30 days of a notice being received under this section.

(b) Upon receipt of a request under Subsection (4)(a), the Office of Administrative Hearings shall hold an adjudicative proceeding pursuant to Title 63G, Chapter 4, Administrative Procedures Act.

(5) (a) In an adjudicative proceeding held pursuant to this section, the division shall have the burden of proving, by a preponderance of the evidence, that abuse, neglect, or dependency occurred and that the alleged perpetrator was substantially responsible for the abuse or neglect that occurred.

(b) Any party shall have the right of judicial review of final agency action, in accordance with Title 63G, Chapter 4, Administrative Procedures Act.

(c) Proceedings for judicial review of a final agency action under this section shall be closed to the public.

(d) The Judicial Council shall make rules that ensure the confidentiality of the proceedings described in Subsection (5)(c) and the records related to the proceedings.

(6) Except as otherwise provided in this chapter, an alleged perpetrator who, after receiving notice, fails to challenge a supported finding in accordance with this section:

(a) may not further challenge the finding; and

(b) shall have no right to:

(i) agency review of the finding;

(ii) an adjudicative hearing on the finding; or

(iii) judicial review of the finding.

(7) (a) Except as provided in Subsection (7)(b), an alleged perpetrator may not make a request under Subsection (4) to challenge a supported finding if a court of competent jurisdiction entered a finding, in a proceeding in which the alleged perpetrator was a party, that the alleged perpetrator is substantially responsible for the abuse, neglect, or dependency which was also the subject of the supported finding.

(b) Subsection (7)(a) does not apply to pleas in abeyance or diversion agreements.

(c) An adjudicative proceeding under Subsection (5) may be stayed during the time a judicial action on the same matter is pending.

(8) Pursuant to Section [~~78A-6-323~~] 80-3-404, an adjudicative proceeding on a supported finding of a type of abuse or neglect that does not constitute a severe type of child abuse or neglect may be joined in the juvenile court with an adjudicative proceeding on a supported finding of a severe type of child abuse or neglect.

Section 63. Section 62A-4a-1010 is amended to read:

62A-4a-1010. Notice and opportunity for court hearing for persons listed in Licensing Information System.

(1) Persons whose names were listed on the Licensing Information System as of May 6, 2002

and who have not been the subject of a court determination with respect to the alleged incident of abuse or neglect may at any time:

(a) request review by the division of their case and removal of their name from the Licensing Information System pursuant to Subsection (3); or

(b) file a petition for an evidentiary hearing and a request for a finding of unsubstantiated or without merit.

(2) Subsection (1) does not apply to an individual who has been the subject of any of the following court determinations with respect to the alleged incident of abuse or neglect:

(a) conviction;

(b) adjudication under [~~Title 78A, Chapter 6, Juvenile Court Act of 1996~~] Section 80-3-402 or 80-6-701;

(c) plea of guilty;

(d) plea of guilty with a mental illness; or

(e) no contest.

(3) If an alleged perpetrator listed on the Licensing Information System prior to May 6, 2002, requests removal of the alleged perpetrator's name from the Licensing Information System, the division shall, within 30 days:

(a) (i) review the case to determine whether the incident of alleged abuse or neglect qualifies as:

(A) a severe type of child abuse or neglect;

(B) chronic abuse; or

(C) chronic neglect; and

(ii) if the alleged abuse or neglect does not qualify as a type of abuse or neglect described in Subsections (3)(a)(i)(A) through (C), remove the alleged perpetrator's name from the Licensing Information System; or

(b) determine whether to file a petition for substantiation.

(4) If the division decides to file a petition, that petition must be filed no more than 14 days after the decision.

(5) The juvenile court shall act on the petition as provided in Subsection [~~78A-6-323~~] 80-3-404(3).

(6) If a person whose name appears on the Licensing Information System prior to May 6, 2002 files a petition pursuant to Section [~~78A-6-323~~] 80-3-404 during the time that an alleged perpetrator's application for clearance to work with children or vulnerable adults is pending, the court shall hear the matter on an expedited basis.

Section 64. Section 62A-11-304.2 is amended to read:

62A-11-304.2. Issuance or modification of administrative order -- Compliance with court order -- Authority of office -- Stipulated agreements -- Notification requirements.

(1) Through an adjudicative proceeding the office may issue or modify an administrative order that:

(a) determines paternity;

(b) determines whether an obligor owes support;

(c) determines temporary orders of child support upon clear and convincing evidence of paternity in the form of genetic test results or other evidence;

(d) requires an obligor to pay a specific or determinable amount of present and future support;

(e) determines the amount of past-due support;

(f) orders an obligor who owes past-due support and is obligated to support a child receiving public assistance to participate in appropriate work activities if the obligor is unemployed and is not otherwise incapacitated;

(g) imposes a penalty authorized under this chapter;

(h) determines an issue that may be specifically contested under this chapter by a party who timely files a written request for an adjudicative proceeding with the office; and

(i) renews an administrative judgment.

(2) (a) An abstract of a final administrative order issued under this section or a notice of judgment-lien under Section 62A-11-312.5 may be filed with the clerk of any district court.

(b) Upon a filing under Subsection (2)(a), the clerk of the court shall:

(i) docket the abstract or notice in the judgment docket of the court and note the time of receipt on the abstract or notice and in the judgment docket; and

(ii) at the request of the office, place a copy of the abstract or notice in the file of a child support action involving the same parties.

(3) If a judicial order has been issued, the office may not issue an order under Subsection (1) that is not based on the judicial order, except:

(a) the office may establish a new obligation in those cases in which the juvenile court has ordered the parties to meet with the office to determine the support pursuant to Section [~~78A-6-1106~~] 78A-6-356; or

(b) the office may issue an order of current support in accordance with the child support guidelines if the conditions of Subsection 78B-14-207(2)(c) are met.

(4) The office may proceed under this section in the name of this state, another state under Section 62A-11-305, any department of this state, the office, or the obligee.

(5) The office may accept voluntary acknowledgment of a support obligation and enter into stipulated agreements providing for the issuance of an administrative order under this part.

(6) The office may act in the name of the obligee in endorsing and cashing any drafts, checks, money orders, or other negotiable instruments received by the office for support.

(7) The obligor shall, after a notice of agency action has been served on the obligor in accordance with Section 63G-4-201, keep the office informed of:

(a) the obligor's current address;

(b) the name and address of current payors of income;

(c) availability of or access to health insurance coverage; and

(d) applicable health insurance policy information.

Section 65. Section 62A-15-204 is amended to read:

62A-15-204. Court order to attend substance abuse school -- Assessments.

(1) In addition to any other disposition ordered by the juvenile court [~~pursuant to Section 78A-6-117~~] under Section 80-3-405 or 80-6-701, the court may order a juvenile and his parents or legal guardians to attend a teen substance abuse school, and order payment of an assessment in addition to any other fine imposed.

(2) All assessments collected shall be forwarded to the county treasurer of the county where the juvenile resides, to be used exclusively for the operation of a teen substance abuse program.

Section 66. Section 62A-15-626 is amended to read:

62A-15-626. Release from commitment.

(1) (a) Subject to Subsection (1)(b), a local mental health authority or the mental health authority's designee shall release from commitment any individual who, in the opinion of the local mental health authority or the mental health authority's designee, has recovered or no longer meets the criteria specified in Section 62A-15-631.

(b) A local mental health authority's inability to locate a committed individual may not be the basis for the individual's release, unless the court orders the release of the individual after a hearing.

(2) A local mental health authority or the mental health authority's designee may release from commitment any patient whose commitment is determined to be no longer advisable except as provided by [~~Section 78A-6-120~~] Section 62A-15-705, but an effort shall be made to assure that any further supportive services required to meet the patient's needs upon release will be provided.

(3) When a patient has been committed to a local mental health authority by judicial process, the local mental health authority shall follow the procedures described in Sections 62A-15-636 and 62A-15-637.

Section 67. Section 62A-15-703 is amended to read:

62A-15-703. Residential and inpatient settings -- Commitment proceeding -- Child in physical custody of local mental health authority.

(1) A child may receive services from a local mental health authority in an inpatient or residential setting only after a commitment proceeding, for the purpose of transferring physical custody, has been conducted in accordance with the requirements of this section.

(2) That commitment proceeding shall be initiated by a petition for commitment, and shall be a careful, diagnostic inquiry, conducted by a neutral and detached fact finder, pursuant to the procedures and requirements of this section. If the findings described in Subsection (4) exist, the proceeding shall result in the transfer of physical custody to the appropriate local mental health authority, and the child may be placed in an inpatient or residential setting.

(3) The neutral and detached fact finder who conducts the inquiry:

(a) shall be a designated examiner, as defined in Section 62A-15-602; and

(b) may not profit, financially or otherwise, from the commitment or physical placement of the child in that setting.

(4) Upon determination by a fact finder that the following circumstances clearly exist, the fact finder may order that the child be committed to the physical custody of a local mental health authority:

(a) the child has a mental illness, as defined in Section 62A-15-602;

(b) the child demonstrates a reasonable fear of the risk of substantial danger to self or others;

(c) the child will benefit from care and treatment by the local mental health authority; and

(d) there is no appropriate less-restrictive alternative.

(5) (a) The commitment proceeding before the neutral and detached fact finder shall be conducted in as informal manner as possible and in a physical setting that is not likely to have a harmful effect on the child.

(b) The child, the child's parent or legal guardian, the petitioner, and a representative of the appropriate local mental health authority:

(i) shall receive informal notice of the date and time of the proceeding; and

(ii) may appear and address the petition for commitment.

(c) The neutral and detached fact finder may, in the fact finder's discretion, receive the testimony of any other person.

(d) The fact finder may allow a child to waive the child's right to be present at the commitment

proceeding, for good cause shown. If that right is waived, the purpose of the waiver shall be made a matter of record at the proceeding.

(e) At the time of the commitment proceeding, the appropriate local mental health authority, its designee, or the psychiatrist who has been in charge of the child's care prior to the commitment proceeding, shall provide the neutral and detached fact finder with the following information, as it relates to the period of current admission:

(i) the petition for commitment;

(ii) the admission notes;

(iii) the child's diagnosis;

(iv) physicians' orders;

(v) progress notes;

(vi) nursing notes; and

(vii) medication records.

(f) The information described in Subsection (5)(e) shall also be provided to the child's parent or legal guardian upon written request.

(g) (i) The neutral and detached fact finder's decision of commitment shall state the duration of the commitment. Any commitment to the physical custody of a local mental health authority may not exceed 180 days. Prior to expiration of the commitment, and if further commitment is sought, a hearing shall be conducted in the same manner as the initial commitment proceeding, in accordance with the requirements of this section.

(ii) At the conclusion of the hearing and subsequently in writing, when a decision for commitment is made, the neutral and detached fact finder shall inform the child and the child's parent or legal guardian of that decision and of the reasons for ordering commitment.

(iii) The neutral and detached fact finder shall state in writing the basis of the decision, with specific reference to each of the criteria described in Subsection (4), as a matter of record.

(6) A child may be temporarily committed for a maximum of 72 hours, excluding Saturdays, Sundays, and legal holidays, to the physical custody of a local mental health authority in accordance with the procedures described in Section 62A-15-629 and upon satisfaction of the risk factors described in Subsection (4). A child who is temporarily committed shall be released at the expiration of the 72 hours unless the procedures and findings required by this section for the commitment of a child are satisfied.

(7) A local mental health authority shall have physical custody of each child committed to it under this section. The parent or legal guardian of a child committed to the physical custody of a local mental health authority under this section, retains legal custody of the child, unless legal custody has been otherwise modified by a court of competent jurisdiction. In cases when the Division of Child and Family Services or the Division of Juvenile Justice Services has legal custody of a child, that division shall retain legal custody for purposes of this part.

(8) The cost of caring for and maintaining a child in the physical custody of a local mental health authority shall be assessed to and paid by the child's parents, according to their ability to pay. For purposes of this section, the Division of Child and Family Services or the Division of Juvenile Justice Services shall be financially responsible, in addition to the child's parents, if the child is in the legal custody of either of those divisions at the time the child is committed to the physical custody of a local mental health authority under this section, unless Medicaid regulation or contract provisions specify otherwise. The Office of Recovery Services shall assist those divisions in collecting the costs assessed pursuant to this section.

(9) Whenever application is made for commitment of a minor to a local mental health authority under any provision of this section by a person other than the child's parent or guardian, the local mental health authority or its designee shall notify the child's parent or guardian. The parents shall be provided sufficient time to prepare and appear at any scheduled proceeding.

(10) (a) Each child committed pursuant to this section is entitled to an appeal within 30 days after any order for commitment. The appeal may be brought on the child's own petition or on petition of the child's parent or legal guardian, to the juvenile court in the district where the child resides or is currently physically located. With regard to a child in the custody of the Division of Child and Family Services or the Division of Juvenile Justice Services, the attorney general's office shall handle the appeal, otherwise the appropriate county attorney's office is responsible for appeals brought pursuant to this Subsection (10)(a).

(b) Upon receipt of the petition for appeal, the court shall appoint a designated examiner previously unrelated to the case, to conduct an examination of the child in accordance with the criteria described in Subsection (4), and file a written report with the court. The court shall then conduct an appeal hearing to determine whether the findings described in Subsection (4) exist by clear and convincing evidence.

(c) Prior to the time of the appeal hearing, the appropriate local mental health authority, its designee, or the mental health professional who has been in charge of the child's care prior to commitment, shall provide the court and the designated examiner for the appeal hearing with the following information, as it relates to the period of current admission:

(i) the original petition for commitment;

(ii) admission notes;

(iii) diagnosis;

(iv) physicians' orders;

(v) progress notes;

(vi) nursing notes; and

(vii) medication records.

(d) Both the neutral and detached fact finder and the designated examiner appointed for the appeal hearing shall be provided with an opportunity to review the most current information described in Subsection (10)(c) prior to the appeal hearing.

(e) The child, the child's parent or legal guardian, the person who submitted the original petition for commitment, and a representative of the appropriate local mental health authority shall be notified by the court of the date and time of the appeal hearing. Those persons shall be afforded an opportunity to appear at the hearing. In reaching its decision, the court shall review the record and findings of the neutral and detached fact finder, the report of the designated examiner appointed pursuant to Subsection (10)(b), and may, in its discretion, allow or require the testimony of the neutral and detached fact finder, the designated examiner, the child, the child's parent or legal guardian, the person who brought the initial petition for commitment, or any other person whose testimony the court deems relevant. The court may allow the child to waive the right to appear at the appeal hearing, for good cause shown. If that waiver is granted, the purpose shall be made a part of the court's record.

(11) Each local mental health authority has an affirmative duty to conduct periodic evaluations of the mental health and treatment progress of every child committed to its physical custody under this section, and to release any child who has sufficiently improved so that the criteria justifying commitment no longer exist.

(12) (a) A local mental health authority or its designee, in conjunction with the child's current treating mental health professional may release an improved child to a less restrictive environment, as they determine appropriate. Whenever the local mental health authority or its designee, and the child's current treating mental health professional, determine that the conditions justifying commitment no longer exist, the child shall be discharged and released to the child's parent or legal guardian. With regard to a child who is in the physical custody of the State Hospital, the treating psychiatrist or clinical director of the State Hospital shall be the child's current treating mental health professional.

(b) A local mental health authority or its designee, in conjunction with the child's current treating mental health professional, is authorized to issue a written order for the immediate placement of a child not previously released from an order of commitment into a more restrictive environment, if the local authority or its designee and the child's current treating mental health professional has reason to believe that the less restrictive environment in which the child has been placed is exacerbating the child's mental illness, or increasing the risk of harm to self or others.

(c) The written order described in Subsection (12)(b) shall include the reasons for placement in a more restrictive environment and shall authorize any peace officer to take the child into physical custody and transport the child to a facility designated by the appropriate local mental health authority in conjunction with the child's current treating mental health professional. Prior to admission to the more restrictive environment, copies of the order shall be personally delivered to the child, the child's parent or legal guardian, the administrator of the more restrictive environment, or the administrator's designee, and the child's former treatment provider or facility.

(d) If the child has been in a less restrictive environment for more than 30 days and is aggrieved by the change to a more restrictive environment, the child or the child's representative may request a review within 30 days of the change, by a neutral and detached fact finder as described in Subsection (3). The fact finder shall determine whether:

(i) the less restrictive environment in which the child has been placed is exacerbating the child's mental illness or increasing the risk of harm to self or others; or

(ii) the less restrictive environment in which the child has been placed is not exacerbating the child's mental illness or increasing the risk of harm to self or others, in which case the fact finder shall designate that the child remain in the less restrictive environment.

(e) Nothing in this section prevents a local mental health authority or its designee, in conjunction with the child's current mental health professional, from discharging a child from commitment or from placing a child in an environment that is less restrictive than that designated by the neutral and detached fact finder.

(13) Each local mental health authority or its designee, in conjunction with the child's current treating mental health professional shall discharge any child who, in the opinion of that local authority, or its designee, and the child's current treating mental health professional, no longer meets the criteria specified in Subsection (4), except as provided by Section [~~78A-6-120~~] 62A-15-705. The local authority and the mental health professional shall assure that any further supportive services required to meet the child's needs upon release will be provided.

(14) Even though a child has been committed to the physical custody of a local mental health authority under this section, the child is still entitled to additional due process proceedings, in accordance with Section 62A-15-704, before any treatment that may affect a constitutionally protected liberty or privacy interest is administered. Those treatments include, but are not limited to, antipsychotic medication, electroshock therapy, and psychosurgery.

Section 68. Section 63G-4-402 is amended to read:

63G-4-402. Judicial review -- Informal adjudicative proceedings.

(1) (a) The district courts have jurisdiction to review by trial de novo all final agency actions

resulting from informal adjudicative proceedings, except that the juvenile courts have jurisdiction over all final agency actions relating to:

(i) the removal or placement of children in state custody;

(ii) the support of children under Subsection (1)(a)(i) as determined administratively under Section [~~78A-6-1106~~] 78A-6-356; and

(iii) supported findings of abuse or neglect made by the Division of Child and Family Services.

(b) Venue for judicial review of informal adjudicative proceedings shall be as provided in the statute governing the agency or, in the absence of such a venue provision, in the county where the petitioner resides or maintains the petitioner's principal place of business.

(2) (a) The petition for judicial review of informal adjudicative proceedings shall be a complaint governed by the Utah Rules of Civil Procedure and shall include:

(i) the name and mailing address of the party seeking judicial review;

(ii) the name and mailing address of the respondent agency;

(iii) the title and date of the final agency action to be reviewed, together with a copy, summary, or brief description of the agency action;

(iv) identification of the persons who were parties in the informal adjudicative proceedings that led to the agency action;

(v) a copy of the written agency order from the informal proceeding;

(vi) facts demonstrating that the party seeking judicial review is entitled to obtain judicial review;

(vii) a request for relief, specifying the type and extent of relief requested; and

(viii) a statement of the reasons why the petitioner is entitled to relief.

(b) All additional pleadings and proceedings in the district court are governed by the Utah Rules of Civil Procedure.

(3) (a) The court, without a jury, shall determine all questions of fact and law and any constitutional issue presented in the pleadings.

(b) The Utah Rules of Evidence apply in judicial proceedings under this section.

Section 69. Section 63M-7-208 is amended to read:

63M-7-208. Juvenile justice oversight -- Delegation -- Effective dates.

(1) The Commission on Criminal and Juvenile Justice shall:

(a) support implementation and expansion of evidence-based juvenile justice programs and practices, including assistance regarding implementation fidelity, quality assurance, and ongoing evaluation;

(b) examine and make recommendations on the use of third-party entities or an intermediary organization to assist with implementation and to support the performance-based contracting system authorized in Subsection (1)(m);

(c) oversee the development of performance measures to track juvenile justice reforms, and ensure early and ongoing stakeholder engagement in identifying the relevant performance measures;

(d) evaluate currently collected data elements throughout the juvenile justice system and contract reporting requirements to streamline reporting, reduce redundancies, eliminate inefficiencies, and ensure a focus on recidivism reduction;

(e) review averted costs from reductions in out-of-home placements for juvenile justice youth placed with the Division of Juvenile Justice Services and the Division of Child and Family Services, and make recommendations to prioritize the reinvestment and realignment of resources into community-based programs for youth living at home, including the following:

(i) statewide expansion of:

(A) juvenile receiving centers, as defined in Section 80-1-102;

(B) mobile crisis outreach teams, as defined in Section [~~78A-6-105~~] 62A-15-102;

(C) youth courts; and

(D) victim-offender mediation;

(ii) statewide implementation of nonresidential diagnostic assessment;

(iii) statewide availability of evidence-based programs and practices including cognitive behavioral and family therapy programs for minors assessed by a validated risk and needs assessment as moderate or high risk;

(iv) implementation and infrastructure to support the sustainability and fidelity of evidence-based juvenile justice programs, including resources for staffing, transportation, and flexible funds; and

(v) early intervention programs such as family strengthening programs, family wraparound services, and proven truancy interventions;

(f) assist the Administrative Office of the Courts in the development of a statewide sliding scale for the assessment of fines, fees, and restitution, based on the ability of the minor's family to pay;

(g) analyze the alignment of resources and the roles and responsibilities of agencies, such as the operation of early intervention services, receiving centers, and diversion, and make recommendations to reallocate functions as appropriate, in accordance with Section [~~62A-7-601~~] 80-5-401;

(h) ensure that data reporting is expanded and routinely review data in additional areas, including:

(i) referral and disposition data by judicial district;

(ii) data on the length of time minors spend in the juvenile justice system, including the total time spent under court jurisdiction, on community supervision, and in each out-of-home placement;

(iii) recidivism data for [~~diversion types pursuant to Section 78A-6-602 and disposition types pursuant to Section 78A-6-117~~] minors who are diverted to a nonjudicial adjustment under Section 80-6-304 and minors for whom dispositions are ordered under Section 80-6-701, including tracking minors into the adult corrections system;

(iv) change in aggregate risk levels from the time minors receive services, are under supervision, and are in out-of-home placement; and

(v) dosage of programming;

(i) develop a reasonable timeline within which all programming delivered to minors in the juvenile justice system must be evidence-based or consist of practices that are rated as effective for reducing recidivism by a standardized program evaluation tool;

(j) provide guidelines to be considered by the Administrative Office of the Courts and the Division of Juvenile Justice Services in developing tools considered by the Administrative Office of the Courts and the Division of Juvenile Justice Services in developing or selecting tools to be used for the evaluation of juvenile justice programs;

(k) develop a timeline to support improvements to juvenile justice programs to achieve reductions in recidivism and review reports from relevant state agencies on progress toward reaching that timeline;

(l) subject to Subsection (2), assist in the development of training for juvenile justice stakeholders, including educators, law enforcement officers, probation staff, judges, Division of Juvenile Justice Services staff, Division of Child and Family Services staff, and program providers;

(m) subject to Subsection (3), assist in the development of a performance-based contracting system, which shall be developed by the Administrative Office of the Courts and the Division of Juvenile Justice Services for contracted services in the community and contracted out-of-home placement providers;

(n) assist in the development of a validated detention risk assessment tool that shall be developed or adopted and validated by the Administrative Office of the Courts and the Division of Juvenile Justice Services as provided in Section [~~78A-6-124~~] 80-5-203 on and after July 1, 2018; and

(o) annually issue and make public a report to the governor, president of the Senate, speaker of the House of Representatives, and chief justice of the Utah Supreme Court on the progress of the reforms and any additional areas in need of review.

(2) Training described in Subsection (1)(l) should include instruction on evidence-based programs and principles of juvenile justice, such as risk, needs, responsivity, and fidelity, and shall be supplemented by the following topics:

(a) adolescent development;

(b) identifying and using local behavioral health resources;

(c) implicit bias;

(d) cultural competency;

(e) graduated responses;

(f) Utah juvenile justice system data and outcomes; and

(g) gangs.

(3) The system described in Subsection (1)(m) shall provide incentives for:

(a) the use of evidence-based juvenile justice programs and practices rated as effective by the tools selected in accordance with Subsection (1)(j);

(b) the use of three-month timelines for program completion; and

(c) evidence-based programs and practices for minors living at home in rural areas.

(4) The Commission on Criminal and Juvenile Justice may delegate the duties imposed under this section to a subcommittee or board established by the Commission on Criminal and Juvenile Justice in accordance with Subsection 63M-7-204(2).

(5) Subsections (1)(a) through (c) take effect August 1, 2017. The remainder of this section takes effect July 1, 2018.

Section 70. Section 67-25-201 is amended to read:

67-25-201. State agency work week.

(1) Except as provided in Subsection (2), and subject to Subsection (3):

(a) a state agency with five or more employees shall, at least nine hours per day on Monday, Tuesday, Wednesday, Thursday, and Friday to provide a service required by statute to another entity of the state, a political subdivision, or the public:

(i) in person;

(ii) online; or

(iii) by telephone; and

(b) a state agency with fewer than five employees shall, at least eight hours per day on Monday, Tuesday, Wednesday, Thursday, and Friday, provide a service required by statute to another entity of the state, a political subdivision, or the public:

(i) in person;

(ii) online; or

(iii) by telephone.

(2) (a) Subsection (1) does not require a state agency to operate a physical location, or provide a service, on a holiday established under Section 63G-1-301.

(b) Except for a legal holiday established under Section 63G-1-301, the following state agencies shall operate at least one physical location, and as many physical locations as necessary, at least nine hours per day on Monday, Tuesday, Wednesday, Thursday, and Friday to provide a service required by statute to another entity of the state, a political subdivision, or the public:

(i) the Department of Technology Services, created in Section 63F-1-103;

(ii) the Division of Child and Family Services, created in Section 62A-4a-103; and

(iii) the Office of Guardian Ad Litem, created in Section [~~78A-6-901~~] 78A-2-802.

(3) A state agency shall make staff available, as necessary, to provide:

(a) services incidental to a court or administrative proceeding, during the hours of operation of a court or administrative body, including:

(i) testifying;

(ii) the production of records or evidence; and

(iii) other services normally available to a court or administrative body;

(b) security services; and

(c) emergency services.

(4) This section does not limit the days or hours a state agency may operate.

(5) To provide a service as required by Subsection (1), the chief administrative officer of a state agency may determine:

(a) the number of physical locations, if any are required by this section, operating each day;

(b) the daily hours of operation of a physical location;

(c) the number of state agency employees who work per day; and

(d) the hours a state agency employee works per day.

(6) To provide a service as required by Subsection (2)(b), the chief administrative officer of a state agency, or a person otherwise designated by law, may determine:

(a) the number of physical locations operating each day;

(b) the daily hours of operation, as required by Subsection (2)(b), of each physical location;

(c) the number of state agency employees who work per day; and

(d) the hours a state agency employee works per day.

(7) A state agency shall:

(a) provide information, accessible from a conspicuous link on the home page of the state agency's website, on a method that a person may use to schedule an in-person meeting with a representative of the state agency; and

(b) except as provided in Subsection (8), as soon as reasonably possible:

(i) contact a person who makes a request for an in-person meeting; and

(ii) when appropriate, schedule and hold an in-person meeting with the person that requests an in-person meeting.

(8) A state agency is not required to comply with Subsection (7)(b) to the extent that the contact or meeting:

(a) would constitute a conflict of interest;

(b) would conflict or interfere with a procurement governed by Title 63G, Chapter 6a, Utah Procurement Code;

(c) would violate an ethical requirement of the state agency or an employee of the state agency; or

(d) would constitute a violation of law.

Section 71. Section 75-5-209 is amended to read:

75-5-209. Powers and duties of guardian of minor -- Residual parental rights and duties -- Adoption of a ward.

(1) For purposes of this section, "residual parental rights and duties" is as defined in Section [~~78A-6-105~~] 80-1-102.

(2) Except as provided in Subsection (4)(a), a guardian of a minor has the powers and responsibilities of a parent who has not been deprived of custody of the parent's unemancipated minor, including the powers and responsibilities described in Subsection (3).

(3) A guardian of a minor:

(a) must take reasonable care of the personal effects of the guardian's ward;

(b) must commence protective proceedings if necessary to protect other property of the guardian's ward;

(c) subject to Subsection (4)(b), may receive money payable for the support of the ward to the ward's parent, guardian, or custodian under the terms of a:

(i) statutory benefit or insurance system;

(ii) private contract;

(iii) devise;

(iv) trust;

(v) conservatorship; or

(vi) custodianship;

(d) subject to Subsection (4)(b), may receive money or property of the ward paid or delivered by virtue of Section 75-5-102;

(e) except as provided in Subsection (4)(c), must exercise due care to conserve any excess money or property described in Subsection (3)(d) for the ward's future needs;

(f) unless otherwise provided by statute, may institute proceedings to compel the performance by any person of a duty to:

(i) support the ward; or

(ii) pay sums for the welfare of the ward;

(g) is empowered to:

(i) facilitate the ward's education, social, or other activities; and

(ii) subject to Subsection (4)(d), authorize medical or other professional care, treatment, or advice;

(h) may consent to the:

(i) marriage of the guardian's ward, if specifically authorized by a court to give this consent; or

(ii) adoption of the guardian's ward if the:

(A) guardian of the ward is specifically authorized by a court to give this consent; and

(B) parental rights of the ward's parents have been terminated; and

(i) must report the condition of the minor and of the minor's estate that has been subject to the guardian's possession or control:

(i) as ordered by court on petition of any person interested in the minor's welfare; or

(ii) as required by court rule.

(4) (a) Notwithstanding Subsection (2), a guardian of a minor is not:

(i) legally obligated to provide from the guardian's own funds for the ward; and

(ii) liable to third persons by reason of the guardian's relationship for acts of the ward.

(b) Sums received under Subsection (3)(c) or (d):

(i) may not be used for compensation for the services of a guardian, except as:

(A) approved by court order; or

(B) determined by a duly appointed conservator other than the guardian; and

(ii) shall be applied to the ward's current needs for support, care, and education.

(c) Notwithstanding Subsection (3)(e), if a conservator is appointed for the estate of the ward, the excess shall be paid over at least annually to the conservator.

(d) A guardian of a minor is not, by reason of giving the authorization described in Subsection (3)(g)(ii), liable for injury to the minor resulting from the negligence or acts of third persons, unless it would have been illegal for a parent to have given the authorization.

(5) A parent of a minor for whom a guardian is appointed retains residual parental rights and duties.

(6) If a parent of a minor for whom a guardian is appointed consents to the adoption of the minor, the guardian is entitled to:

(a) receive notice of the adoption proceeding pursuant to Section 78B-6-110;

(b) intervene in the adoption; and

(c) present evidence to the court relevant to the best interest of the child pursuant to Subsection 78B-6-110(11).

(7) If a minor for whom a guardian is appointed is adopted subsequent to the appointment, the guardianship shall terminate when the adoption is finalized.

Section 72. Section 76-3-406 is amended to read:

76-3-406. Crimes for which probation, suspension of sentence, lower category of offense, or hospitalization may not be granted.

(1) Notwithstanding Sections 76-3-201 and 77-18-1 and Title 77, Chapter 16a, Commitment and Treatment of Persons with a Mental Illness, except as provided in Section 76-5-406.5, probation may not be granted, the execution or imposition of sentence may not be suspended, the court may not enter a judgment for a lower category of offense, and hospitalization may not be ordered, the effect of which would in any way shorten the prison sentence for an individual who commits a capital felony or a first degree felony involving:

(a) Section 76-5-202, aggravated murder;

(b) Section 76-5-203, murder;

(c) Section 76-5-301.1, child kidnaping;

(d) Section 76-5-302, aggravated kidnaping;

(e) Section 76-5-402, rape, if the individual is sentenced under Subsection 76-5-402(3)(b), (3)(c), or (4);

(f) Section 76-5-402.1, rape of a child;

(g) Section 76-5-402.2, object rape, if the individual is sentenced under Subsection 76-5-402.2(1)(b), (1)(c), or (2);

(h) Section 76-5-402.3, object rape of a child;

(i) Section 76-5-403, forcible sodomy, if the individual is sentenced under Subsection 76-5-403(3)(b), (3)(c), or (4);

(j) Section 76-5-403.1, sodomy on a child;

(k) Section 76-5-404, forcible sexual abuse, if the individual is sentenced under Subsection 76-5-404(2)(b) or (3);

(l) Subsections 76-5-404.1(4) and (5), aggravated sexual abuse of a child;

(m) Section 76-5-405, aggravated sexual assault; or

(n) any attempt to commit a felony listed in Subsection (1)(f), (h), or (j).

(2) Except for an offense before the district court in accordance with Section [~~78A-6-703.2 or 78A-6-703.5~~] 80-6-502 or 80-6-504, the provisions of this section do not apply if the sentencing court finds that the defendant:

(a) was under 18 years old at the time of the offense; and

(b) could have been adjudicated in the juvenile court but for the delayed reporting or delayed filing of the information.

Section 73. Section 76-5-107.1 is amended to read:

76-5-107.1. Threats against schools.

(1) As used in this section, "school" means a preschool or a public or private elementary or secondary school.

(2) An individual is guilty of making a threat against a school if the individual threatens in person or via electronic means, either with real intent or as an intentional hoax, to commit any offense involving bodily injury, death, or substantial property damage, and:

(a) threatens the use of a firearm or weapon or hoax weapon of mass destruction, as defined in Section 76-10-401;

(b) acts with intent to:

(i) disrupt the regular schedule of the school or influence or affect the conduct of students, employees, or the general public at the school;

(ii) prevent or interrupt the occupancy of the school or a portion of the school, or a facility or vehicle used by the school; or

(iii) intimidate or coerce students or employees of the school; or

(c) causes an official or volunteer agency organized to deal with emergencies to take action due to the risk to the school or general public.

(3) (a) A violation of Subsection (2)(a), (b)(i), or (b)(iii) is a class A misdemeanor.

(b) A violation of Subsection (2)(b)(ii) is a class B misdemeanor.

(c) A violation of Subsection (2)(c) is a class C misdemeanor.

(4) Counseling for the minor and the minor's family may be made available through state and local health department programs.

(5) It is not a defense to this section that the individual did not attempt to carry out or was incapable of carrying out the threat.

(6) In addition to any other penalty authorized by law, a court shall order an individual convicted of a violation of this section to pay restitution to any federal, state, or local unit of government, or any private business, organization, individual, or entity for expenses and losses incurred in responding to the threat, unless the court states on the record the reasons why the reimbursement would be inappropriate. Restitution ordered in the case of a minor adjudicated for a violation of this section shall be determined in accordance with [~~Subsection 78A-6-117(2)(j)~~] Section 80-6-710.

(7) A violation of this section shall be reported to the local law enforcement agency. If the individual alleged to have violated this section is a minor, the minor may be referred to the juvenile court.

Section 74. Section 76-5-108 is amended to read:

76-5-108. Protective orders restraining abuse of another -- Violation.

(1) Any person who is the respondent or defendant subject to a protective order, child protective order, ex parte protective order, or ex parte child protective order issued under the following who intentionally or knowingly violates that order after having been properly served or having been present, in person or through court video conferencing, when the order was issued, is guilty of a class A misdemeanor, except as a greater penalty may be provided in Title 77, Chapter 36, Cohabitant Abuse Procedures Act:

(a) [~~Title 78A, Chapter 6, Juvenile Court Act~~] Title 80, Utah Juvenile Code;

(b) Title 78B, Chapter 7, Part 6, Cohabitant Abuse Protective Orders;

(c) Title 78B, Chapter 7, Part 8, Criminal Protective Orders; or

(d) a foreign protection order enforceable under Title 78B, Chapter 7, Part 3, Uniform Interstate Enforcement of Domestic Violence Protection Orders Act.

(2) Violation of an order as described in Subsection (1) is a domestic violence offense under Section 77-36-1 and subject to increased penalties in accordance with Section 77-36-1.1.

Section 75. Section 76-5-110 is amended to read:

76-5-110. Abuse or neglect of a child with a disability.

(1) As used in this section:

(a) "Abuse" means:

(i) inflicting physical injury, as that term is defined in Section 76-5-109;

(ii) having the care or custody of a child with a disability, causing or permitting another to inflict physical injury, as that term is defined in Section 76-5-109; or

(iii) unreasonable confinement.

(b) "Caretaker" means:

(i) any parent, legal guardian, or other person having under that person's care and custody a child with a disability; or

(ii) any person, corporation, or public institution that has assumed by contract or court order the responsibility to provide food, shelter, clothing, medical, and other necessities to a child with a disability.

(c) "Child with a disability" means any person under 18 years [~~of age~~] old who is impaired because of mental illness, mental deficiency, physical illness or disability, or other cause, to the extent that the person is unable to care for the person's own personal safety or to provide necessities such as food, shelter, clothing, and medical care.

(d) "Neglect" means failure by a caretaker to provide care, nutrition, clothing, shelter, supervision, or medical care.

(2) Any caretaker who intentionally, knowingly, or recklessly abuses or neglects a child with a disability is guilty of a third degree felony.

(3) (a) A parent or legal guardian who provides a child with treatment by spiritual means alone through prayer, in lieu of medical treatment, in accordance with the tenets and practices of an established church or religious denomination of which the parent or legal guardian is a member or adherent shall not, for that reason alone, be considered to be in violation under this section.

(b) Subject to [~~Subsection 78A-6-117(2)(m)~~] Section 80-3-109, the exception under Subsection (3)(a) does not preclude a court from ordering medical services from a physician licensed to engage in the practice of medicine to be provided to the child where there is substantial risk of harm to the child's health or welfare if the treatment is not provided.

(c) A caretaker of a child with a disability does not violate this section by selecting a treatment option for a medical condition of a child with a disability, if the treatment option is one that a reasonable caretaker would believe to be in the best interest of the child with a disability.

Section 76. Section 76-5-401.3 is amended to read:

76-5-401.3. Unlawful adolescent sexual activity.

(1) As used in this section:

(a) "Adolescent" means an individual in the transitional phase of human physical and psychological growth and development between childhood and adulthood who is 12 years old or older, but under 18 years old.

(b) "Unlawful adolescent sexual activity" means sexual activity between adolescents under circumstances not amounting to:

(i) rape, in violation of Section 76-5-402;

(ii) rape of a child, in violation of Section 76-5-402.1;

(iii) object rape, in violation of Section 76-5-402.2;

(iv) object rape of a child, in violation of Section 76-5-402.3;

(v) forcible sodomy, in violation of Section 76-5-403;

(vi) sodomy on a child, in violation of Section 76-5-403.1;

(vii) sexual abuse of a child, in violation of Section 76-5-404;

(viii) aggravated sexual assault, in violation of Section 76-5-405; or

(ix) incest, in violation of Section 76-7-102.

(2) Unlawful adolescent sexual activity is punishable as a:

(a) third degree felony if an adolescent who is 17 years old engages in unlawful adolescent sexual activity with an adolescent who is 12 or 13 years old;

(b) third degree felony if an adolescent who is 16 years old engages in unlawful adolescent sexual activity with an adolescent who is 12 years old;

(c) class A misdemeanor if an adolescent who is 16 years old engages in unlawful adolescent sexual activity with an adolescent who is 13 years old;

(d) class A misdemeanor if an adolescent who is 14 or 15 years old engages in unlawful adolescent sexual activity with an adolescent who is 12 years old;

(e) class B misdemeanor if an adolescent who is 17 years old engages in unlawful adolescent sexual activity with an adolescent who is 14 years old;

(f) class B misdemeanor if an adolescent who is 15 years old engages in unlawful adolescent sexual activity with an adolescent who is 13 years old;

(g) class C misdemeanor if an adolescent who is 12 or 13 years old engages in unlawful adolescent sexual activity with an adolescent who is 12 or 13 years old; and

(h) class C misdemeanor if an adolescent who is 14 years old engages in unlawful adolescent sexual activity with an adolescent who is 13 years old.

(3) An offense under this section is not eligible for a nonjudicial adjustment under Section [~~78A-6-602~~] 80-6-304 or a referral to a youth court under Section [~~78A-6-1203~~] 80-6-902.

(4) Except for an offense that is transferred to a district court by the juvenile court in accordance with Section [~~78A-6-703.5~~] 80-6-504, the district court may enter any sentence or combination of sentences that would have been available in juvenile court but for the delayed reporting or delayed filing of the information in the district court.

(5) An offense under this section is not subject to registration under Subsection 77-41-102(17).

Section 77. Section 76-5-413 is amended to read:

76-5-413. Custodial sexual relations or misconduct with youth receiving state services -- Definitions -- Penalties -- Defenses.

(1) As used in this section:

(a) "Actor" means:

(i) an individual employed by the Department of Human Services, as created in Section 62A-1-102, or an employee of a private provider or contractor; or

(ii) an individual employed by the juvenile court of the state, or an employee of a private provider or contractor.

(b) "Department" means the Department of Human Services created in Section 62A-1-102.

(c) "Juvenile court" means the juvenile court of the state created in Section 78A-6-102.

(d) "Private provider or contractor" means any individual or entity that contracts with the:

(i) department to provide services or functions that are part of the operation of the department; or

(ii) juvenile court to provide services or functions that are part of the operation of the juvenile court.

(e) "Youth receiving state services" means an individual:

(i) younger than 18 years [~~of age~~] old, except as provided under Subsection (1)(e)(ii), who is:

(A) in the custody of the department under [~~Subsection 78A-6-117(2)(c)~~] Section 80-6-703; or

(B) receiving services from any division of the department if any portion of the costs of these services is covered by public money; or

(ii) younger than 21 years [~~of age who is~~] old:

(A) who is in the custody of the Division of Juvenile Justice Services, or the Division of Child and Family Services; or

(B) whose case is under the jurisdiction of the juvenile court.

(2) (a) An actor commits custodial sexual relations with a youth receiving state services if the actor commits any of the acts under Subsection (3):

(i) under circumstances not amounting to commission of, or an attempt to commit, an offense under Subsection (6); and

(ii) (A) the actor knows that the individual is a youth receiving state services; or

(B) a reasonable person in the actor's position should have known under the circumstances that the individual was a youth receiving state services.

(b) A violation of Subsection (2)(a) is a third degree felony, but if the youth receiving state services is younger than 18 years [~~of age~~] old, a violation of Subsection (2)(a) is a second degree felony.

(c) If the act committed under this Subsection (2) amounts to an offense subject to a greater penalty under another provision of state law than is provided under this Subsection (2), this Subsection (2) does not prohibit prosecution and sentencing for the more serious offense.

(3) Acts referred to in Subsection (2)(a) are:

(a) having sexual intercourse with a youth receiving state services;

(b) engaging in any sexual act with a youth receiving state services involving the genitals of one individual and the mouth or anus of another individual, regardless of the sex of either participant; or

(c) causing the penetration, however slight, of the genital or anal opening of a youth receiving state services by any foreign object, substance, instrument, or device, including a part of the human body, with the intent to cause substantial emotional or bodily pain to any individual, regardless of the sex of any participant or with the intent to arouse or gratify the sexual desire of any individual, regardless of the sex of any participant.

(4) (a) An actor commits custodial sexual misconduct with a youth receiving state services if the actor commits any of the acts under Subsection (5):

(i) under circumstances not amounting to commission of, or an attempt to commit, an offense under Subsection (6); and

(ii) (A) the actor knows that the individual is a youth receiving state services; or

(B) a reasonable person in the actor's position should have known under the circumstances that the individual was a youth receiving state services.

(b) A violation of Subsection (4)(a) is a class A misdemeanor, but if the youth receiving state services is younger than 18 years [~~of age~~] old, a violation of Subsection (4)(a) is a third degree felony.

(c) If the act committed under this Subsection (4) amounts to an offense subject to a greater penalty under another provision of state law than is provided under this Subsection (4), this Subsection (4) does not prohibit prosecution and sentencing for the more serious offense.

(5) Acts referred to in Subsection (4)(a) are the following acts when committed with the intent to cause substantial emotional or bodily pain to any individual or with the intent to arouse or gratify the sexual desire of any individual, regardless of the sex of any participant:

(a) touching the anus, buttocks, pubic area, or any part of the genitals of a youth receiving state services;

(b) touching the breast of a female youth receiving state services; or

(c) otherwise taking indecent liberties with a youth receiving state services.

(6) The offenses referred to in Subsections (2)(a)(i) and (4)(a)(i) are:

(a) Section 76-5-401, unlawful sexual activity with a minor;

(b) Section 76-5-402, rape;

(c) Section 76-5-402.1, rape of a child;

(d) Section 76-5-402.2, object rape;

(e) Section 76-5-402.3, object rape of a child;

(f) Section 76-5-403, forcible sodomy;

(g) Section 76-5-403.1, sodomy on a child;

(h) Section 76-5-404, forcible sexual abuse;

(i) Section 76-5-404.1, sexual abuse of a child or aggravated sexual abuse of a child; or

(j) Section 76-5-405, aggravated sexual assault.

(7) (a) It is not a defense to the commission of the offense of custodial sexual relations with a youth receiving state services under Subsection (2) or custodial sexual misconduct with a youth receiving state services under Subsection (4), or an attempt to commit either of these offenses, if the youth receiving state services is younger than 18 years [~~of age~~] old, that the actor:

(i) mistakenly believed the youth receiving state services to be 18 years [~~of age~~] old or older at the time of the alleged offense; or

(ii) was unaware of the true age of the youth receiving state services.

(b) Consent of the youth receiving state services is not a defense to any violation or attempted violation of Subsection (2) or (4).

(8) It is a defense that the commission by the actor of an act under Subsection (2) or (4) is the result of compulsion, as the defense is described in Subsection 76-2-302(1).

Section 78. Section 76-5b-201 is amended to read:

76-5b-201. Sexual exploitation of a minor -- Offenses.

(1) A person is guilty of sexual exploitation of a minor:

(a) when the person:

(i) knowingly produces, possesses, or possesses with intent to distribute child pornography; or

(ii) intentionally distributes or views child pornography; or

(b) if the person is a minor's parent or legal guardian and knowingly consents to or permits the minor to be sexually exploited as described in Subsection (1)(a).

(2) (a) Except as provided in Subsection (2)(b), sexual exploitation of a minor is a second degree felony.

(b) A violation of Subsection (1) for knowingly producing child pornography is a first degree felony if the person produces original child pornography depicting a first degree felony that involves:

(i) the person or another person engaging in conduct with the minor that is a violation of:

(A) Section 76-5-402.1, rape of a child;

(B) Section 76-5-402.3, object rape of a child;

(C) Section 76-5-403.1, sodomy on a child; or

(D) Section 76-5-404.1, aggravated sexual abuse of a child; or

(ii) the minor being physically abused, as defined in Section [~~78A-6-105~~] 80-1-102.

(3) It is a separate offense under this section:

(a) for each minor depicted in the child pornography; and

(b) for each time the same minor is depicted in different child pornography.

(4) (a) It is an affirmative defense to a charge of violating this section that no minor was actually depicted in the visual depiction or used in producing or advertising the visual depiction.

(b) For a charge of violating this section for knowingly possessing or intentionally viewing child pornography, it is an affirmative defense that:

(i) the defendant:

(A) did not solicit the child pornography from the minor depicted in the child pornography;

(B) is not more than two years older than the minor depicted in the child pornography; and

(C) upon request of a law enforcement agent or the minor depicted in the child pornography, removes from an electronic device or destroys the child pornography and all copies of the child pornography in the defendant's possession; and

(ii) the child pornography does not depict an offense under Title 76, Chapter 5, Part 4, Sexual Offenses.

(5) In proving a violation of this section in relation to an identifiable minor, proof of the actual identity of the identifiable minor is not required.

(6) This section may not be construed to impose criminal or civil liability on:

(a) an entity or an employee, director, officer, or agent of an entity when acting within the scope of employment, for the good faith performance of:

(i) reporting or data preservation duties required under federal or state law; or

(ii) implementing a policy of attempting to prevent the presence of child pornography on tangible or intangible property, or of detecting and reporting the presence of child pornography on the property;

(b) a law enforcement officer acting within the scope of a criminal investigation;

(c) an employee of a court who may be required to view child pornography during the course of and within the scope of the employee's employment;

(d) a juror who may be required to view child pornography during the course of the individual's service as a juror;

(e) an attorney or employee of an attorney who is required to view child pornography during the course of a judicial process and while acting within the scope of employment;

(f) an employee of the Department of Human Services who is required to view child pornography within the scope of the employee's employment; or

(g) an attorney who is required to view child pornography within the scope of the attorney's responsibility to represent the Department of Human Services, including the divisions and offices within the Department of Human Services.

Section 79. Section 76-7-301 is amended to read:

76-7-301. Definitions.

As used in this part:

(1) (a) "Abortion" means:

(i) the intentional termination or attempted termination of human pregnancy after implantation of a fertilized ovum through a medical procedure carried out by a physician or through a substance used under the direction of a physician;

(ii) the intentional killing or attempted killing of a live unborn child through a medical procedure carried out by a physician or through a substance used under the direction of a physician; or

(iii) the intentional causing or attempted causing of a miscarriage through a medical procedure carried out by a physician or through a substance used under the direction of a physician.

(b) "Abortion" does not include:

(i) removal of a dead unborn child;

(ii) removal of an ectopic pregnancy; or

(iii) the killing or attempted killing of an unborn child without the consent of the pregnant woman, unless:

(A) the killing or attempted killing is done through a medical procedure carried out by a physician or through a substance used under the direction of a physician; and

(B) the physician is unable to obtain the consent due to a medical emergency.

(2) "Abortion clinic" means the same as that term is defined in Section 26-21-2.

(3) "Abuse" means the same as that term is defined in Section [~~78A-6-105~~] 80-1-102.

(4) "Department" means the Department of Health.

(5) "Down syndrome" means a genetic condition associated with an extra chromosome 21, in whole or in part, or an effective trisomy for chromosome 21.

(6) "Gestational age" means the age of an unborn child as calculated from the first day of the last menstrual period of the pregnant woman.

(7) "Hospital" means:

(a) a general hospital licensed by the department according to Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act; and

(b) a clinic or other medical facility to the extent that such clinic or other medical facility is certified by the department as providing equipment and personnel sufficient in quantity and quality to provide the same degree of safety to the pregnant woman and the unborn child as would be provided for the particular medical procedures undertaken by a general hospital licensed by the department.

(8) "Information module" means the pregnancy termination information module prepared by the department.

(9) "Medical emergency" means that condition which, on the basis of the physician's good faith clinical judgment, so threatens the life of a pregnant woman as to necessitate the immediate abortion of her pregnancy to avert her death, or for which a delay will create serious risk of substantial and irreversible impairment of major bodily function.

(10) "Minor" means an individual who is:

(a) under 18 years [~~of age~~] old;

(b) unmarried; and

(c) not emancipated.

(11) (a) "Partial birth abortion" means an abortion in which the person performing the abortion:

(i) deliberately and intentionally vaginally delivers a living fetus until, in the case of a head first presentation, the entire fetal head is outside the body of the mother, or, in the case of breech presentation, any part of the fetal trunk past the navel is outside the body of the mother, for the purpose of performing an overt act that the person knows will kill the partially delivered living fetus; and

(ii) performs the overt act, other than completion of delivery, that kills the partially living fetus.

(b) "Partial birth abortion" does not include the dilation and evacuation procedure involving dismemberment prior to removal, the suction curettage procedure, or the suction aspiration procedure for abortion.

(12) "Physician" means:

(a) a medical doctor licensed to practice medicine and surgery under Title 58, Chapter 67, Utah Medical Practice Act;

(b) an osteopathic physician licensed to practice osteopathic medicine under Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; or

(c) a physician employed by the federal government who has qualifications similar to a person described in Subsection (12)(a) or (b).

(13) (a) "Severe brain abnormality" means a malformation or defect that causes an individual to live in a mentally vegetative state.

(b) "Severe brain abnormality" does not include:

(i) Down syndrome;

(ii) spina bifida;

(iii) cerebral palsy; or

(iv) any other malformation, defect, or condition that does not cause an individual to live in a mentally vegetative state.

Section 80. Section 76-7a-101 (Contingently Effective) is amended to read:

76-7a-101 (Contingently Effective). Definitions.

As used in this chapter:

(1) (a) "Abortion" means:

(i) the intentional termination or attempted termination of human pregnancy after implantation of a fertilized ovum through a medical procedure carried out by a physician or through a substance used under the direction of a physician;

(ii) the intentional killing or attempted killing of a live unborn child through a medical procedure carried out by a physician or through a substance used under the direction of a physician; or

(iii) the intentional causing or attempted causing of a miscarriage through a medical procedure carried out by a physician or through a substance used under the direction of a physician.

(b) "Abortion" does not include:

(i) removal of a dead unborn child;

(ii) removal of an ectopic pregnancy; or

(iii) the killing or attempted killing of an unborn child without the consent of the pregnant woman, unless:

(A) the killing or attempted killing is done through a medical procedure carried out by a physician or through a substance used under the direction of a physician; and

(B) the physician is unable to obtain the consent due to a medical emergency.

(2) "Abortion clinic" means a type I abortion clinic licensed by the state or a type II abortion clinic licensed by the state.

(3) "Department" means the Department of Health.

(4) "Down syndrome" means a genetic condition associated with an extra chromosome 21, in whole or in part, or an effective trisomy for chromosome 21.

(5) "Hospital" means:

(a) a general hospital licensed by the department; or

(b) a clinic or other medical facility to the extent the clinic or other medical facility is certified by the department as providing equipment and personnel sufficient in quantity and quality to provide the same degree of safety to a pregnant woman and an unborn child as would be provided for the particular medical procedure undertaken by a general hospital licensed by the department.

(6) "Incest" means the same as that term is defined in [~~Title 78A, Chapter 6, Juvenile Court Act~~] Section 80-1-102.

(7) "Medical emergency" means a condition which, on the basis of the physician's good faith clinical judgment, so threatens the life of a pregnant woman as to necessitate the immediate abortion of her pregnancy to avert her death, or for which a delay will create serious risk of substantial and irreversible impairment of major bodily function.

(8) "Physician" means:

(a) a medical doctor licensed to practice medicine and surgery in the state;

(b) an osteopathic physician licensed to practice osteopathic medicine in the state; or

(c) a physician employed by the federal government who has qualifications similar to an individual described in Subsection (8)(a) or (b).

(9) "Rape" means the same as that term is defined in Title 76, Utah Criminal Code.

(10) (a) "Severe brain abnormality" means a malformation or defect that causes an individual to live in a mentally vegetative state.

(b) "Severe brain abnormality" does not include:

(i) Down syndrome;

(ii) spina bifida;

(iii) cerebral palsy; or

(iv) any other malformation, defect, or condition that does not cause an individual to live in a mentally vegetative state.

Section 81. Section 76-8-306 is amended to read:

76-8-306. Obstruction of justice in criminal investigations or proceedings -- Elements -- Penalties -- Exceptions.

(1) An actor commits obstruction of justice if the actor, with intent to hinder, delay, or prevent the investigation, apprehension, prosecution, conviction, or punishment of any person regarding conduct that constitutes a criminal offense:

(a) provides any person with a weapon;

(b) prevents by force, intimidation, or deception, any person from performing any act that might aid in the discovery, apprehension, prosecution, conviction, or punishment of any person;

(c) alters, destroys, conceals, or removes any item or other thing;

(d) makes, presents, or uses any item or thing known by the actor to be false;

(e) harbors or conceals a person;

(f) provides a person with transportation, disguise, or other means of avoiding discovery or apprehension;

(g) warns any person of impending discovery or apprehension;

(h) warns any person of an order authorizing the interception of wire communications or of a pending application for an order authorizing the interception of wire communications;

(i) conceals information that is not privileged and that concerns the offense, after a judge or magistrate has ordered the actor to provide the information; or

(j) provides false information regarding a suspect, a witness, the conduct constituting an offense, or any other material aspect of the investigation.

(2) (a) As used in this section, "conduct that constitutes a criminal offense" means conduct that would be punishable as a crime and is separate from a violation of this section, and includes:

(i) any violation of a criminal statute or ordinance of this state, its political subdivisions, any other state, or any district, possession, or territory of the United States; and

(ii) conduct committed by a juvenile which would be a crime if committed by an adult.

(b) A violation of a criminal statute that is committed in another state, or any district, possession, or territory of the United States, is a:

(i) capital felony if the penalty provided includes death or life imprisonment without parole;

(ii) a first degree felony if the penalty provided includes life imprisonment with parole or a maximum term of imprisonment exceeding 15 years;

(iii) a second degree felony if the penalty provided exceeds five years;

(iv) a third degree felony if the penalty provided includes imprisonment for any period exceeding one year; and

(v) a misdemeanor if the penalty provided includes imprisonment for any period of one year or less.

(3) Obstruction of justice is:

(a) a second degree felony if the conduct which constitutes an offense would be a capital felony or first degree felony;

(b) a third degree felony if:

(i) the conduct that constitutes an offense would be a second or third degree felony and the actor violates Subsection (1)(b), (c), (d), (e), or (f);

(ii) the conduct that constitutes an offense would be any offense other than a capital or first degree felony and the actor violates Subsection (1)(a);

(iii) the obstruction of justice is presented or committed before a court of law; or

(iv) a violation of Subsection (1)(h); or

(c) a class A misdemeanor for any violation of this section that is not enumerated under Subsection (3)(a) or (b).

(4) It is not a defense that the actor was unaware of the level of penalty for the conduct constituting an offense.

(5) Subsection (1)(e) does not apply to harboring [~~a youth offender, which is governed by Section 62A-7-402~~] a juvenile offender, as defined in Section 80-1-102, which is governed by Section 76-8-311.5.

(6) Subsection (1)(b) does not apply to:

(a) tampering with a juror, which is governed by Section 76-8-508.5;

(b) influencing, impeding, or retaliating against a judge or member of the Board of Pardons and Parole, which is governed by Section 76-8-316;

(c) tampering with a witness or soliciting or receiving a bribe, which is governed by Section 76-8-508;

(d) retaliation against a witness, victim, or informant, which is governed by Section 76-8-508.3; or

(e) extortion or bribery to dismiss a criminal proceeding, which is governed by Section 76-8-509.

(7) Notwithstanding Subsection (1), (2), or (3), an actor commits a third degree felony if the actor harbors or conceals an offender who has escaped from official custody as defined in Section 76-8-309.

Section 82. Section 76-9-701 is amended to read:

76-9-701. Intoxication -- Release of arrested person or placement in detoxification center.

(1) A person is guilty of intoxication if the person is under the influence of alcohol, a controlled substance, or any substance having the property of releasing toxic vapors, to a degree that the person may endanger the person or another, in a public place or in a private place where the person unreasonably disturbs other persons.

(2) (a) A peace officer or a magistrate may release from custody a person arrested under this section if the peace officer or magistrate believes imprisonment is unnecessary for the protection of the person or another.

(b) A peace officer may take the arrested person to a detoxification center or other special facility as an alternative to incarceration or release from custody.

(3) (a) If a minor is found by a court to have violated this section and the violation is the minor's first violation of this section, the court may:

(i) order the minor to complete a screening as defined in Section 41-6a-501;

(ii) order the minor to complete an assessment as defined in Section 41-6a-501 if the screening indicates an assessment to be appropriate; and

(iii) order the minor to complete an educational series as defined in Section 41-6a-501 or substance use disorder treatment as indicated by an assessment.

(b) If a minor is found by a court to have violated this section and the violation is the minor's second or subsequent violation of this section, the court shall:

(i) order the minor to complete a screening as defined in Section 41-6a-501;

(ii) order the minor to complete an assessment as defined in Section 41-6a-501 if the screening indicates an assessment to be appropriate; and

(iii) order the minor to complete an educational series as defined in Section 41-6a-501 or substance use disorder treatment as indicated by an assessment.

(4) (a) When a minor who is at least 18 years old, but younger than 21 years old, is found by a court to have violated this section, the court hearing the case shall suspend the minor's driving privileges under Section 53-3-219.

(b) Notwithstanding the requirement in Subsection (4)(a), the court may reduce the suspension period required under Section 53-3-219 if:

(i) the violation is the minor's first violation of this section; and

(ii) (A) the minor completes an educational series as defined in Section 41-6a-501; or

(B) the minor demonstrates substantial progress in substance use disorder treatment.

(c) Notwithstanding the requirement in Subsection (4)(a) and in accordance with the requirements of Section 53-3-219, the court may reduce the suspension period required under Section 53-3-219 if:

(i) the violation is the minor's second or subsequent violation of this section;

(ii) the minor has completed an educational series as defined in Section 41-6a-501 or demonstrated substantial progress in substance use disorder treatment; and

(iii) (A) the person is 18 years [~~of age~~] old or older and provides a sworn statement to the court that the person has not unlawfully consumed alcohol or drugs for at least a one-year consecutive period during the suspension period imposed under Subsection (4)(a); or

(B) the person is under 18 years [~~of age~~] old and has the person's parent or legal guardian provide an affidavit or sworn statement to the court certifying that to the parent or legal guardian's knowledge the person has not unlawfully consumed alcohol or drugs for at least a one-year consecutive period during the suspension period imposed under Subsection (4)(a).

(5) When a person who is younger than 18 years old is found by a court to have violated this section, the provisions regarding suspension of the driver's license under Section [~~78A-6-606~~] 80-6-707 apply to the violation.

(6) Notwithstanding Subsections (3)(a) and (b), if a minor is adjudicated under Section [~~78A-6-117~~] 80-6-701, the court may only order substance use disorder treatment or an educational series if the minor has an assessed need for the intervention based on the results of a validated assessment.

(7) When the court issues an order suspending a person's driving privileges for a violation of this section, the person's driver license shall be suspended under Section 53-3-219.

(8) An offense under this section is a class C misdemeanor.

Section 83. Section 76-10-105 is amended to read:

76-10-105. Buying or possessing a tobacco product or an electronic cigarette product by a minor -- Penalty -- Compliance officer authority -- Juvenile court jurisdiction.

(1) An individual who is 18 years old or older, but younger than 21 years old, and who buys or attempts to buy, accepts, or has in the individual's possession a tobacco product, an electronic cigarette product, or a nicotine product is:

(a) guilty of an infraction; and

(b) subject to:

(i) a minimum fine or penalty of $60; and

(ii) participation in a court-approved tobacco education or cessation program, which may include a participation fee.

(2) (a) An individual who is under 18 years old and who buys or attempts to buy, accepts, or has in the individual's possession a tobacco product, an electronic cigarette product, or a nicotine product is subject to a citation under Section [~~78A-6-603~~] 80-6-302, unless the violation is committed on school property under Section 53G-8-211.

(b) If a violation under this section is adjudicated under Section [~~78A-6-117~~] 80-6-701, the minor may be subject to the following:

(i) a fine or penalty, in accordance with Section [~~78A-6-117~~] 80-6-709; and

(ii) participation in a court-approved tobacco education program, which may include a participation fee.

(3) (a) A compliance officer appointed by a board of education under Section 53G-4-402 may not issue a citation for a violation of this section committed on school property.

(b) A cited violation committed on school property shall be addressed in accordance with Section 53G-8-211.

Section 84. Section 76-10-503 is amended to read:

76-10-503. Restrictions on possession, purchase, transfer, and ownership of dangerous weapons by certain persons -- Exceptions.

(1) For purposes of this section:

(a) A Category I restricted person is a person who:

(i) has been convicted of any violent felony as defined in Section 76-3-203.5;

(ii) is on probation or parole for any felony;

(iii) is on parole from [~~a secure facility as defined in Section 62A-7-101~~] secure care, as defined in Section 80-1-102;

(iv) within the last 10 years has been adjudicated [~~delinquent~~] under Section 80-6-701 for an offense which if committed by an adult would have been a violent felony as defined in Section 76-3-203.5;

(v) is an alien who is illegally or unlawfully in the United States; or

(vi) is on probation for a conviction of possessing:

(A) a substance classified in Section 58-37-4 as a Schedule I or II controlled substance;

(B) a controlled substance analog; or

(C) a substance listed in Section 58-37-4.2.

(b) A Category II restricted person is a person who:

(i) has been convicted of any felony;

(ii) within the last seven years has been adjudicated delinquent for an offense which if committed by an adult would have been a felony;

(iii) is an unlawful user of a controlled substance as defined in Section 58-37-2;

(iv) is in possession of a dangerous weapon and is knowingly and intentionally in unlawful possession of a Schedule I or II controlled substance as defined in Section 58-37-2;

(v) has been found not guilty by reason of insanity for a felony offense;

(vi) has been found mentally incompetent to stand trial for a felony offense;

(vii) has been adjudicated as mentally defective as provided in the Brady Handgun Violence Prevention Act, Pub. L. No. 103-159, 107 Stat. 1536 (1993), or has been committed to a mental institution;

(viii) has been dishonorably discharged from the armed forces;

(ix) has renounced the individual's citizenship after having been a citizen of the United States;

(x) is a respondent or defendant subject to a protective order or child protective order that is issued after a hearing for which the respondent or defendant received actual notice and at which the respondent or defendant has an opportunity to participate, that restrains the respondent or defendant from harassing, stalking, threatening, or engaging in other conduct that would place an intimate partner, as defined in 18 U.S.C. Sec. 921, or a child of the intimate partner, in reasonable fear of bodily injury to the intimate partner or child of the intimate partner, and that:

(A) includes a finding that the respondent or defendant represents a credible threat to the physical safety of an individual who meets the definition of an intimate partner in 18 U.S.C. Sec. 921 or the child of the individual; or

(B) explicitly prohibits the use, attempted use, or threatened use of physical force that would reasonably be expected to cause bodily harm against an intimate partner or the child of an intimate partner; or

(xi) has been convicted of the commission or attempted commission of assault under Section 76-5-102 or aggravated assault under Section 76-5-103 against a current or former spouse, parent, guardian, individual with whom the restricted person shares a child in common, individual who is cohabitating or has cohabitated with the restricted person as a spouse, parent, or guardian, or against an individual similarly situated to a spouse, parent, or guardian of the restricted person.

(c) As used in this section, a conviction of a felony or adjudication of delinquency for an offense which would be a felony if committed by an adult does not include:

(i) a conviction or an adjudication [~~of delinquency~~] under Section 80-6-701 for an offense pertaining to antitrust violations, unfair trade practices, restraint of trade, or other similar offenses relating to the regulation of business practices not involving theft or fraud; or

(ii) a conviction or an adjudication [~~of delinquency~~] under Section 80-6-701 which, according to the law of the jurisdiction in which it occurred, has been expunged, set aside, reduced to a misdemeanor by court order, pardoned or regarding which the person's civil rights have been restored unless the pardon, reduction, expungement, or restoration of civil rights expressly provides that the person may not ship, transport, possess, or receive firearms.

(d) It is the burden of the defendant in a criminal case to provide evidence that a conviction or [~~adjudication of delinquency~~] an adjudication under Section 80-6-701 is subject to an exception provided in Subsection (1)(c), after which it is the burden of the state to prove beyond a reasonable

doubt that the conviction or the adjudication [~~of delinquency~~] is not subject to that exception.

(2) A Category I restricted person who intentionally or knowingly agrees, consents, offers, or arranges to purchase, transfer, possess, use, or have under the person's custody or control, or who intentionally or knowingly purchases, transfers, possesses, uses, or has under the person's custody or control:

(a) any firearm is guilty of a second degree felony; or

(b) any dangerous weapon other than a firearm is guilty of a third degree felony.

(3) A Category II restricted person who intentionally or knowingly purchases, transfers, possesses, uses, or has under the person's custody or control:

(a) any firearm is guilty of a third degree felony; or

(b) any dangerous weapon other than a firearm is guilty of a class A misdemeanor.

(4) A person may be subject to the restrictions of both categories at the same time.

(5) If a higher penalty than is prescribed in this section is provided in another section for one who purchases, transfers, possesses, uses, or has under this custody or control any dangerous weapon, the penalties of that section control.

(6) It is an affirmative defense to a charge based on the definition in Subsection (1)(b)(iv) that the person was:

(a) in possession of a controlled substance pursuant to a lawful order of a practitioner for use of a member of the person's household or for administration to an animal owned by the person or a member of the person's household; or

(b) otherwise authorized by law to possess the substance.

(7) (a) It is an affirmative defense to transferring a firearm or other dangerous weapon by a person restricted under Subsection (2) or (3) that the firearm or dangerous weapon:

(i) was possessed by the person or was under the person's custody or control before the person became a restricted person;

(ii) was not used in or possessed during the commission of a crime or subject to disposition under Section 24-3-103;

(iii) is not being held as evidence by a court or law enforcement agency;

(iv) was transferred to a person not legally prohibited from possessing the weapon; and

(v) unless a different time is ordered by the court, was transferred within 10 days of the person becoming a restricted person.

(b) Subsection (7)(a) is not a defense to the use, purchase, or possession on the person of a firearm or other dangerous weapon by a restricted person.

(8) (a) A person may not sell, transfer, or otherwise dispose of any firearm or dangerous weapon to any person, knowing that the recipient is a person described in Subsection (1)(a) or (b).

(b) A person who violates Subsection (8)(a) when the recipient is:

(i) a person described in Subsection (1)(a) and the transaction involves a firearm, is guilty of a second degree felony;

(ii) a person described in Subsection (1)(a) and the transaction involves any dangerous weapon other than a firearm, and the transferor has knowledge that the recipient intends to use the weapon for any unlawful purpose, is guilty of a third degree felony;

(iii) a person described in Subsection (1)(b) and the transaction involves a firearm, is guilty of a third degree felony; or

(iv) a person described in Subsection (1)(b) and the transaction involves any dangerous weapon other than a firearm, and the transferor has knowledge that the recipient intends to use the weapon for any unlawful purpose, is guilty of a class A misdemeanor.

(9) (a) A person may not knowingly solicit, persuade, encourage or entice a dealer or other person to sell, transfer or otherwise dispose of a firearm or dangerous weapon under circumstances which the person knows would be a violation of the law.

(b) A person may not provide to a dealer or other person any information that the person knows to be materially false information with intent to deceive the dealer or other person about the legality of a sale, transfer or other disposition of a firearm or dangerous weapon.

(c) "Materially false information" means information that portrays an illegal transaction as legal or a legal transaction as illegal.

(d) A person who violates this Subsection (9) is guilty of:

(i) a third degree felony if the transaction involved a firearm; or

(ii) a class A misdemeanor if the transaction involved a dangerous weapon other than a firearm.

Section 85. Section 76-10-1315 is amended to read:

76-10-1315. Safe harbor for children as victims in commercial sex or sexual solicitation.

(1) As used in this section:

(a) "Child engaged in commercial sex" means a child who:

(i) engages, offers, or agrees to engage in any sexual activity with another individual for a fee, or the functional equivalent of a fee;

(ii) takes steps in arranging a meeting through any form of advertising, agreeing to meet, and meeting at an arranged place for the purpose of sexual activity in exchange for a fee or the functional equivalent of a fee; or

(iii) loiters in or within view of any public place for the purpose of being hired to engage in sexual activity.

(b) "Child engaged in sexual solicitation" means a child who offers or agrees to commit or engage in any sexual activity with another person for a fee or the functional equivalent of a fee under Subsection 76-10-1313(1)(a) or (c).

(c) "Division" means the Division of Child and Family Services created in Section 62A-4a-103.

(d) [~~"Receiving~~] "Juvenile receiving center" means the same as that term is defined in Section [~~62A-7-101~~] 80-1-102.

(2) Upon encountering a child engaged in commercial sex or sexual solicitation, a law enforcement officer shall:

(a) conduct an investigation regarding possible human trafficking of the child pursuant to Sections 76-5-308 and 76-5-308.5;

(b) refer the child to the division;

(c) bring the child to a juvenile receiving center, if available; and

(d) contact the child's parent or guardian, if practicable.

(3) When law enforcement refers a child to the division under Subsection (2)(b) the division shall provide services to the child under Title 62A, Chapter 4a, Child and Family Services.

(4) A child may not be subjected to delinquency proceedings for prostitution under Section 76-10-1302, or sex solicitation under Section 76-10-1313.

Section 86. Section 77-2-9 is amended to read:

77-2-9. Offenses ineligible for diversion.

(1) A magistrate may not grant a diversion for:

(a) a capital felony;

(b) a felony in the first degree;

(c) any case involving a sexual offense against a victim who is under 14 years old;

(d) any motor vehicle related offense involving alcohol or drugs;

(e) any case involving using a motor vehicle in the commission of a felony;

(f) driving a motor vehicle or commercial motor vehicle on a revoked or suspended license;

(g) any case involving operating a commercial motor vehicle in a negligent manner causing the death of another including the offenses of:

(i) manslaughter under Section 76-5-205; or

(ii) negligent homicide under Section 76-5-206; or

(h) a crime of domestic violence as defined in Section 77-36-1.

(2) When an individual is alleged to have committed any violation of Title 76, Chapter 5, Part 4, Sexual Offenses, while under 16 years old, the court may enter a diversion in the matter if the court enters on the record the court's findings that:

(a) the offenses could have been adjudicated in juvenile court but for the delayed reporting or delayed filing of the information in the district court, unless the offenses are before the court in accordance with Section [~~78A-6-703.2 or 78A-6-703.5~~] 80-6-502 or 80-6-504;

(b) the individual did not use coercion or force;

(c) there is no more than three years' difference between the ages of the participants; and

(d) it would be in the best interest of the person to grant diversion.

Section 87. Section 77-16b-102 is amended to read:

77-16b-102. Definitions.

As used in this chapter:

(1) "Correctional facility" means:

(a) a county jail;

(b) a secure correctional facility as defined by Section 64-13-1; or

(c) a secure [~~facility as defined by Section 62A-7-101~~] care facility as defined in Section 80-1-102.

(2) "Correctional facility administrator" means:

(a) a county sheriff in charge of a county jail;

(b) a designee of the executive director of the Utah Department of Corrections; or

(c) a designee of the director of the Division of Juvenile Justice Services.

(3) "Medical supervision" means under the direction of a licensed physician, physician assistant, or nurse practitioner.

(4) "Mental health therapist" [~~has the same definition as~~] means the same as that term is defined in Section 58-60-102.

(5) "Prisoner" means:

(a) any [~~person~~] individual who is a pretrial detainee or who has been committed to the custody of a sheriff or the Utah Department of Corrections, and who is physically in a correctional facility; and

(b) any [~~person older than 18 years of age and younger than 21 years of age~~] individual who is 18 years old or older and younger than 21 years old, and who has been committed to the custody of the Division of Juvenile Justice Services.

Section 88. Section 77-37-3 is amended to read:

77-37-3. Bill of rights.

(1) The bill of rights for victims and witnesses is:

(a) Victims and witnesses have a right to be informed as to the level of protection from intimidation and harm available to them, and from what sources, as they participate in criminal justice proceedings as designated by Section 76-8-508, regarding witness tampering, and Section 76-8-509, regarding threats against a victim. Law enforcement, prosecution, and corrections personnel have the duty to timely provide this information in a form which is useful to the victim.

(b) Victims and witnesses, including children and their guardians, have a right to be informed and assisted as to their role in the criminal justice process. All criminal justice agencies have the duty to provide this information and assistance.

(c) Victims and witnesses have a right to clear explanations regarding relevant legal proceedings; these explanations shall be appropriate to the age of child victims and witnesses. All criminal justice agencies have the duty to provide these explanations.

(d) Victims and witnesses should have a secure waiting area that does not require them to be in close proximity to defendants or the family and friends of defendants. Agencies controlling facilities shall, whenever possible, provide this area.

(e) Victims may seek restitution or reparations, including medical costs, as provided in Title 63M, Chapter 7, Criminal Justice and Substance Abuse, and Sections [~~62A-7-109.5,~~] 77-38a-302, [~~and~~] 77-27-6, and 80-6-710. State and local government agencies that serve victims have the duty to have a functional knowledge of the procedures established by the Crime Victim Reparations Board and to inform victims of these procedures.

(f) Victims and witnesses have a right to have any personal property returned as provided in Sections 77-24a-1 through 77-24a-5. Criminal justice agencies shall expeditiously return the property when it is no longer needed for court law enforcement or prosecution purposes.

(g) Victims and witnesses have the right to reasonable employer intercession services, including pursuing employer cooperation in minimizing employees' loss of pay and other benefits resulting from their participation in the criminal justice process. Officers of the court shall provide these services and shall consider victims' and witnesses' schedules so that activities which conflict can be avoided. Where conflicts cannot be avoided, the victim may request that the responsible agency intercede with employers or other parties.

(h) Victims and witnesses, particularly children, should have a speedy disposition of the entire criminal justice process. All involved public agencies shall establish policies and procedures to encourage speedy disposition of criminal cases.

(i) Victims and witnesses have the right to timely notice of judicial proceedings they are to attend and timely notice of cancellation of any proceedings. Criminal justice agencies have the duty to provide these notifications. Defense counsel and others have the duty to provide timely notice to prosecution of any continuances or other changes that may be required.

(j) Victims of sexual offenses have the following rights:

(i) the right to request voluntary testing for themselves for HIV infection as provided in Section 76-5-503 and to request mandatory testing of the alleged sexual offender for HIV infection as provided in Section 76-5-502;

(ii) the right to be informed whether a DNA profile was obtained from the testing of the rape kit evidence or from other crime scene evidence;

(iii) the right to be informed whether a DNA profile developed from the rape kit evidence or other crime scene evidence has been entered into the Utah Combined DNA Index System;

(iv) the right to be informed whether there is a match between a DNA profile developed from the rape kit evidence or other crime scene evidence and a DNA profile contained in the Utah Combined DNA Index System, provided that disclosure would not impede or compromise an ongoing investigation; and

(v) the right to designate a person of the victim's choosing to act as a recipient of the information provided under this Subsection (1)(j) and under Subsections (2) and (3).

(k) Subsections (1)(j)(ii) through (iv) do not require that the law enforcement agency communicate with the victim or the victim's designee regarding the status of DNA testing, absent a specific request received from the victim or the victim's designee.

(2) The law enforcement agency investigating a sexual offense may:

(a) release the information indicated in Subsections (1)(j)(ii) through (iv) upon the request of a victim or the victim's designee and is the designated agency to provide that information to the victim or the victim's designee;

(b) require that the victim's request be in writing; and

(c) respond to the victim's request with verbal communication, written communication, or by email, if an email address is available.

(3) The law enforcement agency investigating a sexual offense has the following authority and responsibilities:

(a) If the law enforcement agency determines that DNA evidence will not be analyzed in a case where the identity of the perpetrator has not been

confirmed, the law enforcement agency shall notify the victim or the victim's designee.

(b) (i) If the law enforcement agency intends to destroy or dispose of rape kit evidence or other crime scene evidence from an unsolved sexual assault case, the law enforcement agency shall provide written notification of that intention and information on how to appeal the decision to the victim or the victim's designee of that intention.

(ii) Written notification under this Subsection (3) shall be made not fewer than 60 days prior to the destruction or disposal of the rape kit evidence or other crime scene evidence.

(c) A law enforcement agency responsible for providing information under Subsections (1)(j)(ii) through (iv), (2), and (3) shall do so in a timely manner and, upon request of the victim or the victim's designee, shall advise the victim or the victim's designee of any significant changes in the information of which the law enforcement agency is aware.

(d) The law enforcement agency investigating the sexual offense is responsible for informing the victim or the victim's designee of the rights established under Subsections (1)(j)(ii) through (iv) and (2), and this Subsection (3).

(4) Informational rights of the victim under this chapter are based upon the victim providing the current name, address, telephone number, and email address, if an email address is available, of the person to whom the information should be provided to the criminal justice agencies involved in the case.

Section 89. Section 77-38-5 is amended to read:

77-38-5. Application to felonies and misdemeanors of the declaration of the rights of crime victims.

The provisions of this chapter shall apply to:

(1) any felony filed in the courts of the state;

(2) to any class A and class B misdemeanor filed in the courts of the state; and

(3) to cases in the juvenile court as provided in Section [~~78A-6-114~~] 80-6-604.

Section 90. Section 77-38-14 is amended to read:

77-38-14. Notice of expungement petition -- Victim's right to object.

(1) (a) The Department of Corrections or the Juvenile Probation Department shall prepare a document explaining the right of a victim or a victim's representative to object to a petition for expungement under Section 77-40-107 or [~~78A-6-1503~~] 80-6-1004 and the procedures for obtaining notice of the petition.

(b) The department or division shall provide each trial court a copy of the document that has jurisdiction over delinquencies or criminal offenses subject to expungement.

(2) The prosecuting attorney in any case leading to a conviction, a charge dismissed in accordance with a plea in abeyance agreement, or an adjudication subject to expungement shall provide a copy of the document to each person who would be entitled to notice of a petition for expungement under Sections 77-40-107 and [~~78A-6-1503~~] 80-6-1004.

Section 91. Section 77-38a-102 is amended to read:

77-38a-102. Definitions.

As used in this chapter:

(1) "Conviction" includes a:

(a) judgment of guilt;

(b) a plea of guilty; or

(c) a plea of no contest.

(2) "Criminal activities" means:

(a) any misdemeanor or felony offense of which the defendant is convicted; or

(b) any other criminal conduct for which the defendant admits responsibility to the sentencing court with or without an admission of committing the criminal conduct.

(3) (a) "Defendant" means an individual who has been convicted of, or entered into a plea disposition for, a criminal activity.

(b) "Defendant" does not include a minor, as defined in Section [~~78A-6-105~~] 80-1-102, who is adjudicated, or enters into a nonjudicial adjustment, for any offense under [~~Title 78A, Chapter 6, Juvenile Court Act~~] Title 80, Chapter 6, Juvenile Justice.

(4) "Department" means the Department of Corrections.

(5) "Diversion" means suspending criminal proceedings prior to conviction on the condition that a defendant agree to participate in a rehabilitation program, make restitution to the victim, or fulfill some other condition.

(6) "Party" means the prosecutor, defendant, or department involved in a prosecution.

(7) "Pecuniary damages" means all demonstrable economic injury, whether or not yet incurred, including those which a person could recover in a civil action arising out of the facts or events constituting the defendant's criminal activities and includes the fair market value of property taken, destroyed, broken, or otherwise harmed, and losses, including lost earnings, including those and other travel expenses reasonably incurred as a result of participation in criminal proceedings, and medical and other expenses, but excludes punitive or exemplary damages and pain and suffering.

(8) "Plea agreement" means an agreement entered between the prosecution and defendant

setting forth the special terms and conditions and criminal charges upon which the defendant will enter a plea of guilty or no contest.

(9) "Plea disposition" means an agreement entered into between the prosecution and defendant including diversion, plea agreement, plea in abeyance agreement, or any agreement by which the defendant may enter a plea in any other jurisdiction or where charges are dismissed without a plea.

(10) "Plea in abeyance" means an order by a court, upon motion of the prosecution and the defendant, accepting a plea of guilty or of no contest from the defendant but not, at that time, entering judgment of conviction against him nor imposing sentence upon him on condition that he comply with specific conditions as set forth in a plea in abeyance agreement.

(11) "Plea in abeyance agreement" means an agreement entered into between the prosecution and the defendant setting forth the specific terms and conditions upon which, following acceptance of the agreement by the court, a plea may be held in abeyance.

(12) "Restitution" means full, partial, or nominal payment for pecuniary damages to a victim, including prejudgment interest, the accrual of interest from the time of sentencing, insured damages, reimbursement for payment of a reward, and payment for expenses to a governmental entity for extradition or transportation and as may be further defined by law.

(13) (a) "Reward" means a sum of money:

(i) offered to the public for information leading to the arrest and conviction of an offender; and

(ii) that has been paid to a person or persons who provide this information, except that the person receiving the payment may not be a codefendant, an accomplice, or a bounty hunter.

(b) "Reward" does not include any amount paid in excess of the sum offered to the public.

(14) "Screening" means the process used by a prosecuting attorney to terminate investigative action, proceed with prosecution, move to dismiss a prosecution that has been commenced, or cause a prosecution to be diverted.

(15) (a) "Victim" means an individual or entity, including the Utah Office for Victims of Crime, that the court determines has suffered pecuniary damages as a result of the defendant's criminal activities.

(b) "Victim" may not include a codefendant or accomplice.

Section 92. Section 77-40-101.5 is amended to read:

77-40-101.5. Applicability to juvenile court records.

This chapter does not apply to an expungement of a record for an adjudication under Section 80-6-701 or a nonjudicial adjustment, as that term is defined in Section [~~78A-6-105~~] 80-1-102, of an offense in the juvenile court.

Section 93. Section 77-41-112 is amended to read:

77-41-112. Removal from registry -- Requirements -- Procedure.

(1) An offender who is required to register with the Sex and Kidnap Offender Registry may petition the court for an order removing the offender from the Sex and Kidnap Offender Registry if:

(a) (i) the offender is convicted of an offense described in Subsection (2);

(ii) at least five years have passed after the day on which the offender's sentence for the offense terminates;

(iii) the offense is the only offense for which the offender is required to register;

(iv) the offender is not convicted of another offense, excluding a traffic offense, after the day on which the offender is convicted of the offense for which the offender is required to register, as evidenced by a certificate of eligibility issued by the bureau;

(v) the offender successfully completes all treatment ordered by the court or the Board of Pardons and Parole relating to the offense;

(vi) the offender pays all restitution ordered by the court or the Board of Pardons and Parole relating to the offense; and

(vii) the offender complies with all registration requirements required under this chapter at all times; or

(b) (i) if the offender is required to register in accordance with Subsection 77-41-105(3)(a);

(ii) at least 10 years have passed after the later of:

(A) the day on which the offender is placed on probation;

(B) the day on which the offender is released from incarceration to parole;

(C) the day on which the offender's sentence is terminated without parole;

(D) the day on which the offender enters a community-based residential program; or

(E) for a minor, as defined in Section [~~78A-6-105~~] 80-1-102, the day on which the division's custody of the offender is terminated;

(iii) the offender is not convicted of another offense that is a class A misdemeanor, felony, or capital felony within the most recent 10-year period after the date described in Subsection (1)(b)(ii), as evidenced by a certificate of eligibility issued by the bureau;

(iv) the offender successfully completes all treatment ordered by the court or the Board of Pardons and Parole relating to the offense;

(v) the offender pays all restitution ordered by the court or the Board of Pardons and Parole relating to the offense; and

(vi) the offender complies with all registration requirements required under this chapter at all times.

(2) The offenses referred to in Subsection (1)(a)(i) are:

(a) Section 76-4-401, enticing a minor, if the offense is a class A misdemeanor;

(b) Section 76-5-301, kidnapping;

(c) Section 76-5-304, unlawful detention, if the conviction of violating Section 76-5-304 is the only conviction for which the offender is required to register;

(d) Section 76-5-401, unlawful sexual activity with a minor if, at the time of the offense, the offender is not more than 10 years older than the victim;

(e) Section 76-5-401.1, sexual abuse of a minor, if, at the time of the offense, the offender is not more than 10 years older than the victim;

(f) Section 76-5-401.2, unlawful sexual conduct with a 16 or 17 year old, and at the time of the offense, the offender is not more than 15 years older than the victim; or

(g) Section 76-9-702.7, voyeurism, if the offense is a class A misdemeanor.

(3) (a) (i) An offender seeking removal from the Sex and Kidnap Offender Registry under this section shall apply for a certificate of eligibility from the bureau.

(ii) An offender who intentionally or knowingly provides false or misleading information to the bureau when applying for a certificate of eligibility is guilty of a class B misdemeanor and subject to prosecution under Section 76-8-504.6.

(iii) Regardless of whether the offender is prosecuted, the bureau may deny a certificate of eligibility to an offender who provides false information on an application.

(b) (i) The bureau shall perform a check of records of governmental agencies, including national criminal databases, to determine whether an offender is eligible to receive a certificate of eligibility.

(ii) If the offender meets the requirements described in Subsection (1)(a) or (b), the bureau shall issue a certificate of eligibility to the offender, which is valid for a period of 90 days after the day on which the bureau issues the certificate.

(iii) The bureau shall request information from the department regarding whether the offender meets the requirements.

(iv) Upon request from the bureau under Subsection (3)(b)(iii), the department shall issue a document that states whether the offender meets the requirements described in Subsection (1)(a) or (b), which may be used by the bureau to determine if a certificate of eligibility is appropriate.

(v) The bureau shall provide a copy of the document provided to the bureau under Subsection (3)(b)(iv) to the offender upon issuance of a certificate of eligibility.

(4) (a) (i) The bureau shall charge application and issuance fees for a certificate of eligibility in accordance with the process in Section 63J-1-504.

(ii) The application fee shall be paid at the time the offender submits an application for a certificate of eligibility to the bureau.

(iii) If the bureau determines that the issuance of a certificate of eligibility is appropriate, the offender will be charged an additional fee for the issuance of a certificate of eligibility.

(b) Funds generated under this Subsection (4) shall be deposited into the General Fund as a dedicated credit by the department to cover the costs incurred in determining eligibility.

(5) (a) The offender shall file the petition, including original information, the court docket, the certificate of eligibility from the bureau, and the document from the department described in Subsection (3)(b)(iv) with the court, and deliver a copy of the petition to the office of the prosecutor.

(b) Upon receipt of a petition for removal from the Sex and Kidnap Offender Registry, the office of the prosecutor shall provide notice of the petition by first-class mail to the victim at the most recent address of record on file or, if the victim is still a minor under 18 years [~~of age~~] old, to the parent or guardian of the victim.

(c) The notice described in Subsection (5)(b) shall include a copy of the petition, state that the victim has a right to object to the removal of the offender from the registry, and provide instructions for registering an objection with the court.

(d) The office of the prosecutor shall provide the following, if available, to the court within 30 days after the day on which the office receives the petition:

(i) presentencing report;

(ii) an evaluation done as part of sentencing; and

(iii) any other information the office of the prosecutor feels the court should consider.

(e) The victim, or the victim's parent or guardian if the victim is a minor under 18 years [~~of age~~] old, may respond to the petition by filing a recommendation or objection with the court within 45 days after the day on which the petition is mailed to the victim.

(6) (a) The court shall:

(i) review the petition and all documents submitted with the petition; and

(ii) hold a hearing if requested by the prosecutor or the victim.

(b) The court may grant the petition and order removal of the offender from the registry if the court determines that the offender has met the requirements described in Subsection (1)(a) or (b)

and removal is not contrary to the interests of the public.

(c) If the court grants the petition, the court shall forward a copy of the order directing removal of the offender from the registry to the department and the office of the prosecutor.

(d) If the court denies the petition, the offender may not submit another petition for three years.

(7) The court shall notify the victim and the Sex and Kidnap Offender Registry office in the department of the court's decision within three days after the day on which the court issues the court's decision in the same manner described in Subsection (5).

Section 94. Section 78A-2-104 is amended to read:

78A-2-104. Judicial Council -- Creation -- Members -- Terms and election -- Responsibilities -- Reports -- Guardian Ad Litem Oversight Committee.

(1) The Judicial Council, established by Article VIII, Section 12, Utah Constitution, shall be composed of:

(a) the chief justice of the Supreme Court;

(b) one member elected by the justices of the Supreme Court;

(c) one member elected by the judges of the Court of Appeals;

(d) six members elected by the judges of the district courts;

(e) three members elected by the judges of the juvenile courts;

(f) three members elected by the justice court judges; and

(g) a member or ex officio member of the Board of Commissioners of the Utah State Bar who is an active member of the Bar in good standing at the time of election by the Board of Commissioners.

(2) The Judicial Council shall have a seal.

(3) (a) The chief justice of the Supreme Court shall act as presiding officer of the council and chief administrative officer for the courts. The chief justice shall vote only in the case of a tie.

(b) All members of the council shall serve for three-year terms.

(i) If a council member should die, resign, retire, or otherwise fail to complete a term of office, the appropriate constituent group shall elect a member to complete the term of office.

(ii) In courts having more than one member, the members shall be elected to staggered terms.

(iii) The person elected by the Board of Commissioners may complete a three-year term of office on the Judicial Council even though the person ceases to be a member or ex officio member of the Board of Commissioners. The person shall be an active member of the Bar in good standing for the entire term of the Judicial Council.

(c) Elections shall be held under rules made by the Judicial Council.

(4) The council is responsible for the development of uniform administrative policy for the courts throughout the state. The presiding officer of the Judicial Council is responsible for the implementation of the policies developed by the council and for the general management of the courts, with the aid of the state court administrator. The council has authority and responsibility to:

(a) establish and assure compliance with policies for the operation of the courts, including uniform rules and forms; and

(b) publish and submit to the governor, the chief justice of the Supreme Court, and the Legislature an annual report of the operations of the courts, which shall include financial and statistical data and may include suggestions and recommendations for legislation.

(5) The council shall establish standards for the operation of the courts of the state including, but not limited to, facilities, court security, support services, and staff levels for judicial and support personnel.

(6) The council shall by rule establish the time and manner for destroying court records, including computer records, and shall establish retention periods for these records.

(7) (a) Consistent with the requirements of judicial office and security policies, the council shall establish procedures to govern the assignment of state vehicles to public officers of the judicial branch.

(b) The vehicles shall be marked in a manner consistent with Section 41-1a-407 and may be assigned for unlimited use, within the state only.

(8) (a) The council shall advise judicial officers and employees concerning ethical issues and shall establish procedures for issuing informal and formal advisory opinions on these issues.

(b) Compliance with an informal opinion is evidence of good faith compliance with the Code of Judicial Conduct.

(c) A formal opinion constitutes a binding interpretation of the Code of Judicial Conduct.

(9) (a) The council shall establish written procedures authorizing the presiding officer of the council to appoint judges of courts of record by special or general assignment to serve temporarily in another level of court in a specific court or generally within that level. The appointment shall be for a specific period and shall be reported to the council.

(b) These procedures shall be developed in accordance with Subsection 78A-2-107(10) regarding temporary appointment of judges.

(10) The Judicial Council may by rule designate municipalities in addition to those designated by

statute as a location of a trial court of record. There shall be at least one court clerk's office open during regular court hours in each county. Any trial court of record may hold court in any municipality designated as a location of a court of record.

(11) The Judicial Council shall by rule determine whether the administration of a court shall be the obligation of the Administrative Office of the Courts or whether the Administrative Office of the Courts should contract with local government for court support services.

(12) The Judicial Council may by rule direct that a district court location be administered from another court location within the county.

(13) (a) The Judicial Council shall:

(i) establish the Office of Guardian Ad Litem, in accordance with Title 78A, [~~Chapter 6, Part 9~~] Chapter 2, Part 8, Guardian Ad Litem; and

(ii) establish and supervise a Guardian Ad Litem Oversight Committee.

(b) The Guardian Ad Litem Oversight Committee described in Subsection (13)(a)(ii) shall oversee the Office of Guardian Ad Litem, established under Subsection (13)(a)(i), and assure that the Office of Guardian Ad Litem complies with state and federal law, regulation, policy, and court rules.

(14) The Judicial Council shall establish and maintain, in cooperation with the Office of Recovery Services within the Department of Human Services, the part of the state case registry that contains records of each support order established or modified in the state on or after October 1, 1998, as is necessary to comply with the Social Security Act, 42 U.S.C. Sec. 654a.

Section 95. Section 78A-2-301 is amended to read:

78A-2-301. Civil fees of the courts of record -- Courts complex design.

(1) (a) The fee for filing any civil complaint or petition invoking the jurisdiction of a court of record not governed by another subsection is $375.

(b) The fee for filing a complaint or petition is:

(i) $90 if the claim for damages or amount in interpleader exclusive of court costs, interest, and attorney fees is $2,000 or less;

(ii) $200 if the claim for damages or amount in interpleader exclusive of court costs, interest, and attorney fees is greater than $2,000 and less than $10,000;

(iii) $375 if the claim for damages or amount in interpleader is $10,000 or more;

(iv) $325 if the petition is filed under Title 30, Chapter 3, Divorce, or Title 30, Chapter 4, Separate Maintenance;

(v) $35 for a motion for temporary separation order filed under Section 30-3-4.5;

(vi) $125 if the petition is for removal from the Sex Offender and Kidnap Offender Registry under Section 77-41-112; and

(vii) $35 if the petition is for guardianship and the prospective ward is the biological or adoptive child of the petitioner.

(c) The fee for filing a small claims affidavit is:

(i) $60 if the claim for damages or amount in interpleader exclusive of court costs, interest, and attorney fees is $2,000 or less;

(ii) $100 if the claim for damages or amount in interpleader exclusive of court costs, interest, and attorney fees is greater than $2,000, but less than $7,500; and

(iii) $185 if the claim for damages or amount in interpleader exclusive of court costs, interest, and attorney fees is $7,500 or more.

(d) The fee for filing a counter claim, cross claim, complaint in intervention, third party complaint, or other claim for relief against an existing or joined party other than the original complaint or petition is:

(i) $55 if the claim for relief exclusive of court costs, interest, and attorney fees is $2,000 or less;

(ii) $165 if the claim for relief exclusive of court costs, interest, and attorney fees is greater than $2,000 and less than $10,000;

(iii) $170 if the original petition is filed under Subsection (1)(a), the claim for relief is $10,000 or more, or the party seeks relief other than monetary damages; and

(iv) $130 if the original petition is filed under Title 30, Chapter 3, Divorce, or Title 30, Chapter 4, Separate Maintenance.

(e) The fee for filing a small claims counter affidavit is:

(i) $50 if the claim for relief exclusive of court costs, interest, and attorney fees is $2,000 or less;

(ii) $70 if the claim for relief exclusive of court costs, interest, and attorney fees is greater than $2,000, but less than $7,500; and

(iii) $120 if the claim for relief exclusive of court costs, interest, and attorney fees is $7,500 or more.

(f) The fee for depositing funds under Section 57-1-29 when not associated with an action already before the court is determined under Subsection (1)(b) based on the amount deposited.

(g) The fee for filing a petition is:

(i) $240 for trial de novo of an adjudication of the justice court or of the small claims department; and

(ii) $80 for an appeal of a municipal administrative determination in accordance with Section 10-3-703.7.

(h) The fee for filing a notice of appeal, petition for appeal of an interlocutory order, or petition for writ of certiorari is $240.

(i) The fee for filing a petition for expungement is $150.

(j) (i) Fifteen dollars of the fees established by Subsections (1)(a) through (i) shall be allocated to and between the Judges' Contributory Retirement Trust Fund and the Judges' Noncontributory Retirement Trust Fund, as provided in Title 49, Chapter 17, Judges' Contributory Retirement Act, and Title 49, Chapter 18, Judges' Noncontributory Retirement Act.

(ii) Four dollars of the fees established by Subsections (1)(a) through (i) shall be allocated by the state treasurer to be deposited in the restricted account, Children's Legal Defense Account, as provided in Section 51-9-408.

(iii) Three dollars of the fees established under Subsections (1)(a) through (e), (1)(g), and (1)(s) shall be allocated to and deposited with the Dispute Resolution Account as provided in Section 78B-6-209.

(iv) Thirty dollars of the fees established by Subsections (1)(a), (1)(b)(iii) and (iv), (1)(d)(iii) and (iv), (1)(g)(ii), (1)(h), and (1)(i) shall be allocated by the state treasurer to be deposited in the restricted account, Court Security Account, as provided in Section 78A-2-602.

(v) Twenty dollars of the fees established by Subsections (1)(b)(i) and (ii), (1)(d)(ii) and (1)(g)(i) shall be allocated by the state treasurer to be deposited in the restricted account, Court Security Account, as provided in Section 78A-2-602.

(k) The fee for filing a judgment, order, or decree of a court of another state or of the United States is $35.

(l) The fee for filing a renewal of judgment in accordance with Section 78B-6-1801 is 50% of the fee for filing an original action seeking the same relief.

(m) The fee for filing probate or child custody documents from another state is $35.

(n) (i) The fee for filing an abstract or transcript of judgment, order, or decree of the State Tax Commission is $30.

(ii) The fee for filing an abstract or transcript of judgment of a court of law of this state or a judgment, order, or decree of an administrative agency, commission, board, council, or hearing officer of this state or of its political subdivisions other than the State Tax Commission, is $50.

(o) The fee for filing a judgment by confession without action under Section 78B-5-205 is $35.

(p) The fee for filing an award of arbitration for confirmation, modification, or vacation under Title 78B, Chapter 11, Utah Uniform Arbitration Act, that is not part of an action before the court is $35.

(q) The fee for filing a petition or counter-petition to modify a domestic relations order other than a protective order or stalking injunction is $100.

(r) The fee for filing any accounting required by law is:

(i) $15 for an estate valued at $50,000 or less;

(ii) $30 for an estate valued at $75,000 or less but more than $50,000;

(iii) $50 for an estate valued at $112,000 or less but more than $75,000;

(iv) $90 for an estate valued at $168,000 or less but more than $112,000; and

(v) $175 for an estate valued at more than $168,000.

(s) The fee for filing a demand for a civil jury is $250.

(t) The fee for filing a notice of deposition in this state concerning an action pending in another state under Utah Rules of Civil Procedure, Rule 30 is $35.

(u) The fee for filing documents that require judicial approval but are not part of an action before the court is $35.

(v) The fee for a petition to open a sealed record is $35.

(w) The fee for a writ of replevin, attachment, execution, or garnishment is $50 in addition to any fee for a complaint or petition.

(x) (i) The fee for a petition for authorization for a minor to marry required by Section 30-1-9 is $5.

(ii) The fee for a petition for emancipation of a minor provided in [~~Title 78A, Chapter 6, Part 8, Emancipation~~] Title 80, Chapter 7, Emancipation, is $50.

(y) The fee for a certificate issued under Section 26-2-25 is $8.

(z) The fee for a certified copy of a document is $4 per document plus 50 cents per page.

(aa) The fee for an exemplified copy of a document is $6 per document plus 50 cents per page.

(bb) The Judicial Council shall by rule establish a schedule of fees for copies of documents and forms and for the search and retrieval of records under Title 63G, Chapter 2, Government Records Access and Management Act. Fees under this Subsection (1)(bb) shall be credited to the court as a reimbursement of expenditures.

(cc) There is no fee for services or the filing of documents not listed in this section or otherwise provided by law.

(dd) Except as provided in this section, all fees collected under this section are paid to the General Fund. Except as provided in this section, all fees shall be paid at the time the clerk accepts the pleading for filing or performs the requested service.

(ee) The filing fees under this section may not be charged to the state, its agencies, or political subdivisions filing or defending any action. In judgments awarded in favor of the state, its agencies, or political subdivisions, except the Office

of Recovery Services, the court shall order the filing fees and collection costs to be paid by the judgment debtor. The sums collected under this Subsection (1)(ee) shall be applied to the fees after credit to the judgment, order, fine, tax, lien, or other penalty and costs permitted by law.

(2) (a) (i) From March 17, 1994, until June 30, 1998, the state court administrator shall transfer all revenues representing the difference between the fees in effect after May 2, 1994, and the fees in effect before February 1, 1994, as dedicated credits to the Division of Facilities Construction and Management Capital Projects Fund.

(ii) (A) Except as provided in Subsection (2)(a)(ii)(B), the Division of Facilities Construction and Management shall use up to $3,750,000 of the revenue deposited in the Capital Projects Fund under this Subsection (2)(a) to design and take other actions necessary to initiate the development of a courts complex in Salt Lake City.

(B) If the Legislature approves funding for construction of a courts complex in Salt Lake City in the 1995 Annual General Session, the Division of Facilities Construction and Management shall use the revenue deposited in the Capital Projects Fund under this Subsection (2)(a)(ii) to construct a courts complex in Salt Lake City.

(C) After the courts complex is completed and all bills connected with its construction have been paid, the Division of Facilities Construction and Management shall use any money remaining in the Capital Projects Fund under this Subsection (2)(a)(ii) to fund the Vernal District Court building.

(iii) The Division of Facilities Construction and Management may enter into agreements and make expenditures related to this project before the receipt of revenues provided for under this Subsection (2)(a)(iii).

(iv) The Division of Facilities Construction and Management shall:

(A) make those expenditures from unexpended and unencumbered building funds already appropriated to the Capital Projects Fund; and

(B) reimburse the Capital Projects Fund upon receipt of the revenues provided for under this Subsection (2).

(b) After June 30, 1998, the state court administrator shall ensure that all revenues representing the difference between the fees in effect after May 2, 1994, and the fees in effect before February 1, 1994, are transferred to the Division of Finance for deposit in the restricted account.

(c) The Division of Finance shall deposit all revenues received from the state court administrator into the restricted account created by this section.

(d) (i) From May 1, 1995, until June 30, 1998, the state court administrator shall transfer $7 of the amount of a fine or bail forfeiture paid for a violation of Title 41, Motor Vehicles, in a court of record to the Division of Facilities Construction and Management Capital Projects Fund. The division of money pursuant to Section 78A-5-110 shall be calculated on the balance of the fine or bail forfeiture paid.

(ii) After June 30, 1998, the state court administrator or a municipality shall transfer $7 of the amount of a fine or bail forfeiture paid for a violation of Title 41, Motor Vehicles, in a court of record to the Division of Finance for deposit in the restricted account created by this section. The division of money pursuant to Section 78A-5-110 shall be calculated on the balance of the fine or bail forfeiture paid.

(3) (a) There is created within the General Fund a restricted account known as the State Courts Complex Account.

(b) The Legislature may appropriate money from the restricted account to the state court administrator for the following purposes only:

(i) to repay costs associated with the construction of the court complex that were funded from sources other than revenues provided for under this Subsection (3)(b)(i); and

(ii) to cover operations and maintenance costs on the court complex.

Section 96. Section 78A-2-601 is amended to read:

78A-2-601. Security surcharge -- Application and exemptions -- Deposit in restricted account.

(1) In addition to any fine, penalty, forfeiture, or other surcharge, a security surcharge of $53 shall be assessed in all courts of record on all criminal convictions and juvenile delinquency judgments.

(2) The security surcharge may not be imposed upon:

(a) nonmoving traffic violations;

(b) community service; and

(c) penalties assessed by the juvenile court as part of the nonjudicial adjustment of a case under Section [~~78A-6-602~~] 80-6-304.

(3) The security surcharge shall be collected after the surcharge under Section 51-9-401, but before any fine, and deposited with the state treasurer. A fine that would otherwise have been charged may not be reduced due to the imposition of the security surcharge.

(4) The state treasurer shall deposit the collected security surcharge in the restricted account, Court Security Account, as provided in Section 78A-2-602.

Section 97. Section 78A-2-702 is amended to read:

78A-2-702. Definitions.

As used in this part:

(1) "Attorney guardian ad litem" means an attorney employed by the office.

(2) "Director" means the director of the office.

(3) "Guardian ad litem" means [~~either~~] an attorney guardian ad litem or a private attorney guardian ad litem.

(4) "Office" means the Office of Guardian ad Litem, created in Section [~~78A-6-901~~] 78A-2-802.

(5) "Private attorney guardian ad litem" means an attorney designated by the office [~~pursuant to~~] in accordance with Section 78A-2-705 who is not an employee of the office.

Section 98. Section 78A-5-102 is amended to read:

78A-5-102. Jurisdiction -- Appeals.

(1) As used in this section:

(a) "Qualifying offense" means an offense described in Subsection [~~78A-6-703.2~~] 80-6-502(1)(b).

(b) "Separate offense" means any offense that is not a qualifying offense.

(c) "Single criminal episode" means the same as that term is defined in Section 76-1-401.

(2) Except as otherwise provided by the Utah Constitution or by statute, the district court has original jurisdiction in all matters civil and criminal.

(3) A district court judge may issue all extraordinary writs and other writs necessary to carry into effect the district court judge's orders, judgments, and decrees.

(4) The district court has jurisdiction over matters of lawyer discipline consistent with the rules of the Supreme Court.

(5) The district court has jurisdiction over all matters properly filed in the circuit court prior to July 1, 1996.

(6) The district court has appellate jurisdiction over judgments and orders of the justice court as outlined in Section 78A-7-118 and small claims appeals filed in accordance with Section 78A-8-106.

(7) Jurisdiction over appeals from the final orders, judgments, and decrees of the district court is described in Sections 78A-3-102 and 78A-4-103.

(8) The district court has jurisdiction to review:

(a) agency adjudicative proceedings as set forth in Title 63G, Chapter 4, Administrative Procedures Act, and shall comply with the requirements of that chapter in its review of agency adjudicative proceedings; and

(b) municipal administrative proceedings in accordance with Section 10-3-703.7.

(9) Notwithstanding Section 78A-7-106, the district court has original jurisdiction over:

(a) a class B misdemeanor, a class C misdemeanor, an infraction, or a violation of an ordinance for which a justice court has original jurisdiction under Section 78A-7-106 if:

(i) there is no justice court with territorial jurisdiction;

(ii) the offense occurred within the boundaries of the municipality in which the district courthouse is located and that municipality has not formed, or has not formed and then dissolved, a justice court; or

(iii) the offense is included in an indictment or information covering a single criminal episode alleging the commission of a felony or a class A misdemeanor by an individual who is 18 years old or older; or

(b) a qualifying offense committed by an individual who is 16 or 17 years old.

(10) (a) Notwithstanding Subsection 78A-7-106(2), the district court has exclusive jurisdiction over any separate offense:

(i) committed by an individual who is 16 or 17 years old; and

(ii) arising from a single criminal episode containing a qualifying offense for which the district court has original jurisdiction under Subsection (9)(b).

(b) If an individual who is charged with a qualifying offense enters a plea to, or is found guilty of, a separate offense other than the qualifying offense, the district court shall have jurisdiction over the separate offense.

(c) If an individual who is 16 or 17 years old is charged with a qualifying offense and the qualifying offense results in an acquittal, a finding of not guilty, or a dismissal, the exclusive jurisdiction of the district court over any separate offense is terminated.

(11) If a district court has jurisdiction in accordance with Subsection (6), (9)(a)(i), or (9)(a)(ii), the district court has jurisdiction over an offense listed in Subsection 78A-7-106(2) even if the offense is committed by an individual who is 16 or 17 years old.

(12) The district court has subject matter jurisdiction over an offense for which the juvenile court has original jurisdiction if the juvenile court transfers jurisdiction over the offense to the district court in accordance with Section [~~78A-6-703.5~~] 80-6-504.

(13) The district court has subject matter jurisdiction over an action under Title 78B, Chapter 7, Part 2, Child Protective Orders, if the juvenile court transfers the action to the district court.

Section 99. Section 78A-7-106 is amended to read:

78A-7-106. Jurisdiction.

(1) Except as otherwise provided by Subsection 78A-5-102(8), a justice court has original jurisdiction over class B and C misdemeanors, violation of ordinances, and infractions committed

within the justice court's territorial jurisdiction by an individual who is 18 years old or older.

(2) Except for an offense for which the juvenile court or the district court has exclusive jurisdiction under Subsection 78A-5-102(10) or [~~78A-6-103(3)~~] Section 78A-6-103.5, a justice court has original jurisdiction over the following offenses committed within the justice court's territorial jurisdiction by an individual who is 16 or 17 years old:

(a) class C misdemeanor and infraction violations of Title 53, Chapter 3, Part 2, Driver Licensing Act; and

(b) class B and C misdemeanor and infraction violations of:

(i) Title 23, Wildlife Resources Code of Utah;

(ii) Title 41, Chapter 1a, Motor Vehicle Act;

(iii) Title 41, Chapter 6a, Traffic Code, except Title 41, Chapter 6a, Part 5, Driving Under the Influence and Reckless Driving;

(iv) Title 41, Chapter 12a, Financial Responsibility of Motor Vehicle Owners and Operators Act;

(v) Title 41, Chapter 22, Off-Highway Vehicles;

(vi) Title 73, Chapter 18, State Boating Act, except Section 73-18-12;

(vii) Title 73, Chapter 18a, Boating - Litter and Pollution Control;

(viii) Title 73, Chapter 18b, Water Safety; and

(ix) Title 73, Chapter 18c, Financial Responsibility of Motorboat Owners and Operators Act.

(3) An offense is committed within the territorial jurisdiction of a justice court if:

(a) conduct constituting an element of the offense or a result constituting an element of the offense occurs within the court's jurisdiction, regardless of whether the conduct or result is itself unlawful;

(b) either an individual committing an offense or a victim of an offense is located within the court's jurisdiction at the time the offense is committed;

(c) either a cause of injury occurs within the court's jurisdiction or the injury occurs within the court's jurisdiction;

(d) an individual commits any act constituting an element of an inchoate offense within the court's jurisdiction, including an agreement in a conspiracy;

(e) an individual solicits, aids, or abets, or attempts to solicit, aid, or abet another individual in the planning or commission of an offense within the court's jurisdiction;

(f) the investigation of the offense does not readily indicate in which court's jurisdiction the offense occurred, and:

(i) the offense is committed upon or in any railroad car, vehicle, watercraft, or aircraft passing within the court's jurisdiction;

(ii) (A) the offense is committed on or in any body of water bordering on or within this state if the territorial limits of the justice court are adjacent to the body of water; and

(B) as used in Subsection (3)(f)(ii)(A), "body of water" includes any stream, river, lake, or reservoir, whether natural or man-made;

(iii) an individual who commits theft exercises control over the affected property within the court's jurisdiction; or

(iv) the offense is committed on or near the boundary of the court's jurisdiction;

(g) the offense consists of an unlawful communication that was initiated or received within the court's jurisdiction; or

(h) jurisdiction is otherwise specifically provided by law.

(4) If in a criminal case the defendant is 16 or 17 years old, a justice court judge may transfer the case to the juvenile court for further proceedings if the justice court judge determines and the juvenile court concurs that the best interests of the defendant would be served by the continuing jurisdiction of the juvenile court.

(5) Justice courts have jurisdiction of small claims cases under Title 78A, Chapter 8, Small Claims Courts, if a defendant resides in or the debt arose within the territorial jurisdiction of the justice court.

Section 100. Section 78B-3-406 is amended to read:

78B-3-406. Failure to obtain informed consent -- Proof required of patient -- Defenses -- Consent to health care.

(1) (a) When a person submits to health care rendered by a health care provider, it is presumed that actions taken by the health care provider are either expressly or impliedly authorized to be done.

(b) For a patient to recover damages from a health care provider in an action based upon the provider's failure to obtain informed consent, the patient must prove the following:

(i) that a provider-patient relationship existed between the patient and health care provider;

(ii) the health care provider rendered health care to the patient;

(iii) the patient suffered personal injuries arising out of the health care rendered;

(iv) the health care rendered carried with it a substantial and significant risk of causing the patient serious harm;

(v) the patient was not informed of the substantial and significant risk;

(vi) a reasonable, prudent person in the patient's position would not have consented to the health

care rendered after having been fully informed as to all facts relevant to the decision to give consent; and

(vii) the unauthorized part of the health care rendered was the proximate cause of personal injuries suffered by the patient.

(2) In determining what a reasonable, prudent person in the patient's position would do under the circumstances, the finder of fact shall use the viewpoint of the patient before health care was provided and before the occurrence of any personal injuries alleged to have arisen from said health care.

(3) It shall be a defense to any malpractice action against a health care provider based upon alleged failure to obtain informed consent if:

(a) the risk of the serious harm which the patient actually suffered was relatively minor;

(b) the risk of serious harm to the patient from the health care provider was commonly known to the public;

(c) the patient stated, prior to receiving the health care complained of, that he would accept the health care involved regardless of the risk; or that he did not want to be informed of the matters to which he would be entitled to be informed;

(d) the health care provider, after considering all of the attendant facts and circumstances, used reasonable discretion as to the manner and extent to which risks were disclosed, if the health care provider reasonably believed that additional disclosures could be expected to have a substantial and adverse effect on the patient's condition; or

(e) the patient or the patient's representative executed a written consent which sets forth the nature and purpose of the intended health care and which contains a declaration that the patient accepts the risk of substantial and serious harm, if any, in hopes of obtaining desired beneficial results of health care and which acknowledges that health care providers involved have explained the patient's condition and the proposed health care in a satisfactory manner and that all questions asked about the health care and its attendant risks have been answered in a manner satisfactory to the patient or the patient's representative.

(4) The written consent shall be a defense to an action against a health care provider based upon failure to obtain informed consent unless the patient proves that the person giving the consent lacked capacity to consent or shows by clear and convincing evidence that the execution of the written consent was induced by the defendant's affirmative acts of fraudulent misrepresentation or fraudulent omission to state material facts.

(5) This act may not be construed to prevent any person 18 years [~~of age~~] old or over from refusing to consent to health care for the patient's own person upon personal or religious grounds.

(6) Except as provided in Section 76-7-304.5, the following persons are authorized and empowered to consent to any health care not prohibited by law:

(a) any parent, whether an adult or a minor, for the parent's minor child;

(b) any married person, for a spouse;

(c) any person temporarily standing in loco parentis, whether formally serving or not, for the minor under that person's care and any guardian for the guardian's ward;

(d) any person 18 years [~~of age~~] old or over for that person's parent who is unable by reason of age, physical or mental condition, to provide such consent;

(e) any patient 18 years [~~of age~~] old or over;

(f) any female regardless of age or marital status, when given in connection with her pregnancy or childbirth;

(g) in the absence of a parent, any adult for the adult's minor brother or sister;

(h) in the absence of a parent, any grandparent for the grandparent's minor grandchild;

(i) an emancipated minor as provided in Section [~~78A-6-805~~] 80-7-105;

(j) a minor who has contracted a lawful marriage; and

(k) an unaccompanied homeless minor, as that term is defined in the McKinney-Vento Homeless Assistance Act of 1987, Pub. L. 100-77, as amended, who is 15 years [~~of age~~] old or older.

(7) A person who in good faith consents or authorizes health care treatment or procedures for another as provided by this act may not be subject to civil liability.

(8) Notwithstanding any other provision of this section, if a health care provider fails to comply with the requirement in Section 58-1-509, the health care provider is presumed to have lacked informed consent with respect to the patient examination, as defined in Section 58-1-509.

Section 101. Section 78B-6-112 is amended to read:

78B-6-112. District court jurisdiction over termination of parental rights proceedings.

(1) A district court has jurisdiction to terminate parental rights in a child if the party that filed the petition is seeking to terminate parental rights in the child for the purpose of facilitating the adoption of the child.

(2) A petition to terminate parental rights under this section may be:

(a) joined with a proceeding on an adoption petition; or

(b) filed as a separate proceeding before or after a petition to adopt the child is filed.

(3) A court may enter a final order terminating parental rights before a final decree of adoption is entered.

(4) (a) Nothing in this section limits the jurisdiction of a juvenile court relating to

proceedings to terminate parental rights as described in Section 78A-6-103.

(b) This section does not grant jurisdiction to a district court to terminate parental rights in a child if the child is under the jurisdiction of the juvenile court in a pending abuse, neglect, dependency, or termination of parental rights proceeding.

(5) The district court may terminate an individual's parental rights in a child if:

(a) the individual executes a voluntary consent to adoption, or relinquishment for adoption, of the child, in accordance with:

(i) the requirements of this chapter; or

(ii) the laws of another state or country, if the consent is valid and irrevocable;

(b) the individual is an unmarried biological father who is not entitled to consent to adoption, or relinquishment for adoption, under Section 78B-6-120 or 78B-6-121;

(c) the individual:

(i) received notice of the adoption proceeding relating to the child under Section 78B-6-110; and

(ii) failed to file a motion for relief, under Subsection 78B-6-110(6), within 30 days after the day on which the individual was served with notice of the adoption proceeding;

(d) the court finds, under Section 78B-15-607, that the individual is not a parent of the child; or

(e) the individual's parental rights are terminated on grounds described in [~~Title 78A, Chapter 6, Part 5, Termination of Parental Rights Act~~] Title 80, Chapter 4, Termination and Restoration of Parental Rights, and termination is in the best interests of the child.

(6) The court shall appoint an indigent defense service provider in accordance with Title 78B, Chapter 22, Indigent Defense Act, to represent an individual who faces any action initiated by a private party under [~~Title 78A, Chapter 6, Part 5, Termination of Parental Rights Act,~~] Title 80, Chapter 4, Termination and Restoration of Parental Rights, or whose parental rights are subject to termination under this section.

(7) If a county incurs expenses in providing indigent defense services to an indigent individual facing any action initiated by a private party under [~~Title 78A, Chapter 6, Part 5, Termination of Parental Rights Act,~~] Title 80, Chapter 4, Termination and Restoration of Parental Rights, or termination of parental rights under this section, the county may apply for reimbursement from the Utah Indigent Defense Commission in accordance with Section 78B-22-406.

(8) A petition filed under this section is subject to the procedural requirements of this chapter.

Section 102. Section 78B-6-117 is amended to read:

78B-6-117. Who may adopt -- Adoption of minor.

(1) A minor child may be adopted by an adult individual, in accordance with this section and this part.

(2) A child may be adopted by:

(a) adults who are legally married to each other in accordance with the laws of this state, including adoption by a stepparent; or

(b) subject to Subsections (3) and (4), a single adult.

(3) A child may not be adopted by an individual who is cohabiting in a relationship that is not a legally valid and binding marriage under the laws of this state unless the individual is a relative of the child or a recognized placement under the Indian Child Welfare Act, 25 U.S.C. Sec. 1901 et seq.

(4) To provide a child who is in the custody of the division with the most beneficial family structure, when a child in the custody of the division is placed for adoption, the division or child-placing agency shall place the child with a married couple, unless:

(a) there are no qualified married couples who:

(i) have applied to adopt a child;

(ii) are willing to adopt the child; and

(iii) are an appropriate placement for the child;

(b) the child is placed with a relative of the child;

(c) the child is placed with an individual who has already developed a substantial relationship with the child;

(d) the child is placed with an individual who:

(i) is selected by a parent or former parent of the child, if the parent or former parent consented to the adoption of the child; and

(ii) the parent or former parent described in Subsection (4)(d)(i):

(A) knew the individual with whom the child is placed before the parent consented to the adoption; or

(B) became aware of the individual with whom the child is placed through a source other than the division or the child-placing agency that assists with the adoption of the child; or

(e) it is in the best interests of the child to place the child with a single adult.

(5) Except as provided in Subsection (6), an adult may not adopt a child if, before adoption is finalized, the adult has been convicted of, pleaded guilty to, or pleaded no contest to a felony or attempted felony involving conduct that constitutes any of the following:

(a) child abuse, as described in Section 76-5-109;

(b) child abuse homicide, as described in Section 76-5-208;

(c) child kidnapping, as described in Section 76-5-301.1;

(d) human trafficking of a child, as described in Section 76-5-308.5;

(e) sexual abuse of a minor, as described in Section 76-5-401.1;

(f) rape of a child, as described in Section 76-5-402.1;

(g) object rape of a child, as described in Section 76-5-402.3;

(h) sodomy on a child, as described in Section 76-5-403.1;

(i) sexual abuse of a child or aggravated sexual abuse of a child, as described in Section 76-5-404.1;

(j) sexual exploitation of a minor, as described in Section 76-5b-201; or

(k) an offense in another state that, if committed in this state, would constitute an offense described in this Subsection (5).

(6) (a) For purpose of this Subsection (6), "disqualifying offense" means an offense listed in Subsection (5) that prevents a court from considering an individual for adoption of a child except as provided in this Subsection (6).

(b) An individual described in Subsection (5) may only be considered for adoption of a child if the following criteria are met by clear and convincing evidence:

(i) at least 10 years have elapsed from the day on which the individual is successfully released from prison, jail, parole, or probation related to a disqualifying offense;

(ii) during the 10 years before the day on which the individual files a petition with the court seeking adoption, the individual has not been convicted, pleaded guilty, or pleaded no contest to an offense greater than an infraction or traffic violation that would likely impact the health, safety, or well-being of the child;

(iii) the individual can provide evidence of successful treatment or rehabilitation directly related to the disqualifying offense;

(iv) the court determines that the risk related to the disqualifying offense is unlikely to cause harm, as defined in Section [~~78A-6-105~~] 80-1-102, or potential harm to the child currently or at any time in the future when considering all of the following:

(A) the child's age;

(B) the child's gender;

(C) the child's development;

(D) the nature and seriousness of the disqualifying offense;

(E) the preferences of a child 12 years [~~of age~~] old or older;

(F) any available assessments, including custody evaluations, home studies, pre-placement adoptive evaluations, parenting assessments, psychological or mental health assessments, and bonding assessments; and

(G) any other relevant information;

(v) the individual can provide evidence of all of the following:

(A) the relationship with the child is of long duration;

(B) that an emotional bond exists with the child; and

(C) that adoption by the individual who has committed the disqualifying offense ensures the best interests of the child are met; and

(vi) the adoption is by:

(A) a stepparent whose spouse is the adoptee's parent and consents to the adoption; or

(B) subject to Subsection (6)(d), a relative of the child as defined in Section [~~78A-6-307~~] 80-3-102 and there is not another relative without a disqualifying offense filing an adoption petition.

(c) The individual with the disqualifying offense bears the burden of proof regarding why adoption with that individual is in the best interest of the child over another responsible relative or equally situated individual who does not have a disqualifying offense.

(d) If there is an alternative responsible relative who does not have a disqualifying offense filing an adoption petition, the following applies:

(i) preference for adoption shall be given to a relative who does not have a disqualifying offense; and

(ii) before the court may grant adoption to the individual who has the disqualifying offense over another responsible, willing, and able relative:

(A) an impartial custody evaluation shall be completed; and

(B) a guardian ad litem shall be assigned.

(7) Subsections (5) and (6) apply to a case pending on March 25, 2017, for which a final decision on adoption has not been made and to a case filed on or after March 25, 2017.

Section 103. Section 78B-6-121 is amended to read:

78B-6-121. Consent of unmarried biological father.

(1) Except as provided in Subsections (2)(a) and 78B-6-122(1), and subject to Subsections (5) and (6), with regard to a child who is placed with prospective adoptive parents more than six months after birth, consent of an unmarried biological father is not required unless the unmarried biological father:

(a) (i) developed a substantial relationship with the child by:

(A) visiting the child monthly, unless the unmarried biological father was physically or financially unable to visit the child on a monthly basis; or

(B) engaging in regular communication with the child or with the person or authorized agency that has lawful custody of the child;

(ii) took some measure of responsibility for the child and the child's future; and

(iii) demonstrated a full commitment to the responsibilities of parenthood by financial support of the child of a fair and reasonable sum in accordance with the father's ability; or

(b) (i) openly lived with the child:

(A) (I) for a period of at least six months during the one-year period immediately preceding the day on which the child is placed with prospective adoptive parents; or

(II) if the child is less than one year old, for a period of at least six months during the period of time beginning on the day on which the child is born and ending on the day on which the child is placed with prospective adoptive parents; and

(B) immediately preceding placement of the child with prospective adoptive parents; and

(ii) openly held himself out to be the father of the child during the six-month period described in Subsection (1)(b)(i)(A).

(2) (a) If an unmarried biological father was prevented from complying with a requirement of Subsection (1) by the person or authorized agency having lawful custody of the child, the unmarried biological father is not required to comply with that requirement.

(b) The subjective intent of an unmarried biological father, whether expressed or otherwise, that is unsupported by evidence that the requirements in Subsection (1) have been met, shall not preclude a determination that the father failed to meet the requirements of Subsection (1).

(3) Except as provided in Subsections (6) and 78B-6-122(1), and subject to Subsection (5), with regard to a child who is six months ~~[of age]~~ old or less at the time the child is placed with prospective adoptive parents, consent of an unmarried biological father is not required unless, prior to the time the mother executes her consent for adoption or relinquishes the child for adoption, the unmarried biological father:

(a) initiates proceedings in a district court of Utah to establish paternity under Title 78B, Chapter 15, Utah Uniform Parentage Act;

(b) files with the court that is presiding over the paternity proceeding a sworn affidavit:

(i) stating that he is fully able and willing to have full custody of the child;

(ii) setting forth his plans for care of the child; and

(iii) agreeing to a court order of child support and the payment of expenses incurred in connection with the mother's pregnancy and the child's birth;

(c) consistent with Subsection (4), files notice of the commencement of paternity proceedings, described in Subsection (3)(a), with the state registrar of vital statistics within the Department of Health, in a confidential registry established by the department for that purpose; and

(d) offered to pay and paid, during the pregnancy and after the child's birth, a fair and reasonable amount of the expenses incurred in connection with the mother's pregnancy and the child's birth, in accordance with his financial ability, unless:

(i) he did not have actual knowledge of the pregnancy;

(ii) he was prevented from paying the expenses by the person or authorized agency having lawful custody of the child; or

(iii) the mother refused to accept the unmarried biological father's offer to pay the expenses described in this Subsection (3)(d).

(4) (a) The notice described in Subsection (3)(c) is considered filed when received by the state registrar of vital statistics.

(b) If the unmarried biological father fully complies with the requirements of Subsection (3), and an adoption of the child is not completed, the unmarried biological father shall, without any order of the court, be legally obligated for a reasonable amount of child support, pregnancy expenses, and child birth expenses, in accordance with his financial ability.

(5) Unless his ability to assert the right to consent has been lost for failure to comply with Section 78B-6-110.1, or lost under another provision of Utah law, an unmarried biological father shall have at least one business day after the child's birth to fully and strictly comply with the requirements of Subsection (3).

(6) Consent of an unmarried biological father is not required under this section if:

(a) the court determines, in accordance with the requirements and procedures of ~~[Title 78A, Chapter 6, Part 5, Termination of Parental Rights Act,]~~ Title 80, Chapter 4, Termination and Restoration of Parental Rights, that the unmarried biological father's rights should be terminated, based on the petition of any interested party;

(b) (i) a declaration of paternity declaring the unmarried biological father to be the father of the child is rescinded under Section 78B-15-306; and

(ii) the unmarried biological father fails to comply with Subsection (3) within 10 business days after the day that notice of the rescission described in Subsection (6)(b)(i) is mailed by the Office of Vital Records within the Department of Health as provided in Section 78B-15-306; or

(c) the unmarried biological father is notified under Section 78B-6-110.1 and fails to preserve his

rights in accordance with the requirements of that section.

(7) Unless the adoptee is conceived or born within a marriage, the petitioner in an adoption proceeding shall, prior to entrance of a final decree of adoption, file with the court a certificate from the state registrar of vital statistics within the Department of Health, stating:

(a) that a diligent search has been made of the registry of notices from unmarried biological fathers described in Subsection (3)(d); and

(b) (i) that no filing has been found pertaining to the father of the child in question; or

(ii) if a filing is found, the name of the putative father and the time and date of filing.

Section 104. Section 78B-6-131 is amended to read:

78B-6-131. Child in custody of state -- Placement.

(1) Notwithstanding Sections 78B-6-128 through 78B-6-130, and except as provided in Subsection (2), a child who is in the legal custody of the state may not be placed with a prospective foster parent or a prospective adoptive parent, unless, before the child is placed with the prospective foster parent or the prospective adoptive parent:

(a) a fingerprint based FBI national criminal history records check is conducted on the prospective foster parent, prospective adoptive parent, and any other adult residing in the household;

(b) the Department of Human Services conducts a check of the child abuse and neglect registry in each state where the prospective foster parent or prospective adoptive parent resided in the five years immediately preceding the day on which the prospective foster parent or prospective adoptive parent applied to be a foster parent or adoptive parent, to determine whether the prospective foster parent or prospective adoptive parent is listed in the registry as having a substantiated or supported finding of child abuse or neglect;

(c) the Department of Human Services conducts a check of the child abuse and neglect registry of each state where each adult living in the home of the prospective foster parent or prospective adoptive parent described in Subsection (1)(b) resided in the five years immediately preceding the day on which the prospective foster parent or prospective adoptive parent applied to be a foster parent or adoptive parent, to determine whether the adult is listed in the registry as having a substantiated or supported finding of child abuse or neglect; and

(d) each person required to undergo a background check described in this section passes the background check, pursuant to the provisions of Section 62A-2-120.

(2) The requirements under Subsection (1) do not apply to the extent that:

(a) federal law or rule permits otherwise; or

(b) the requirements would prohibit the division or a court from placing a child with:

(i) a noncustodial parent, under Section 62A-4a-209, [~~78A-6-307, or 78A-6-307.5~~] 80-3-302, or 80-3-303; or

(ii) a relative, under Section 62A-4a-209, [~~78A-6-307, or 78A-6-307.5~~] 80-3-302, or 80-3-303, pending completion of the background check described in Subsection (1).

Section 105. Section 78B-6-133 is amended to read:

78B-6-133. Contested adoptions -- Rights of parties -- Determination of custody.

(1) If a person whose consent for an adoption is required pursuant to Subsection 78B-6-120(1)(b), (c), (d), (e), or (f) refused to consent, the court shall determine whether proper grounds exist for the termination of that person's rights pursuant to the provisions of this chapter or [~~Title 78A, Chapter 6, Part 5, Termination of Parental Rights Act~~] Title 80, Chapter 4, Termination and Restoration of Parental Rights.

(2) (a) If there are proper grounds to terminate the person's parental rights, the court shall order that the person's rights be terminated.

(b) If there are not proper grounds to terminate the person's parental rights, the court shall:

(i) dismiss the adoption petition;

(ii) conduct an evidentiary hearing to determine who should have custody of the child; and

(iii) award custody of the child in accordance with the child's best interest.

(c) Termination of a person's parental rights does not terminate the right of a relative of the parent to seek adoption of the child.

(3) Evidence considered at the custody hearing may include:

(a) evidence of psychological or emotional bonds that the child has formed with a third person, including the prospective adoptive parent; and

(b) any detriment that a change in custody may cause the child.

(4) If the court dismisses the adoption petition, the fact that a person relinquished a child for adoption or consented to the adoption may not be considered as evidence in a custody proceeding described in this section, or in any subsequent custody proceeding, that it is not in the child's best interest for custody to be awarded to such person or that:

(a) the person is unfit or incompetent to be a parent;

(b) the person has neglected or abandoned the child;

(c) the person is not interested in having custody of the child; or

(d) the person has forfeited the person's parental presumption.

(5) Any custody order entered pursuant to this section may also:

(a) include provisions for:

(i) parent-time; or

(ii) visitation by an interested third party; and

(b) provide for the financial support of the child.

(6) (a) If a person or entity whose consent is required for an adoption under Subsection 78B-6-120(1)(a) or (g) refuses to consent, the court shall proceed with an evidentiary hearing and award custody as set forth in Subsection (2).

(b) The court may also finalize the adoption if doing so is in the best interest of the child.

(7) (a) A person may not contest an adoption after the final decree of adoption is entered, if that person:

(i) was a party to the adoption proceeding;

(ii) was served with notice of the adoption proceeding; or

(iii) executed a consent to the adoption or relinquishment for adoption.

(b) No person may contest an adoption after one year from the day on which the final decree of adoption is entered.

(c) The limitations on contesting an adoption action, described in this Subsection (7), apply to all attempts to contest an adoption:

(i) regardless of whether the adoption is contested directly or collaterally; and

(ii) regardless of the basis for contesting the adoption, including claims of fraud, duress, undue influence, lack of capacity or competency, mistake of law or fact, or lack of jurisdiction.

(d) The limitations on contesting an adoption action, described in this Subsection (7), do not prohibit a timely appeal of:

(i) a final decree of adoption; or

(ii) a decision in an action challenging an adoption, if the action was brought within the time limitations described in Subsections (7)(a) and (b).

(8) A court that has jurisdiction over a child for whom more than one petition for adoption is filed shall grant a hearing only under the following circumstances:

(a) to a petitioner:

(i) with whom the child is placed;

(ii) who has custody or guardianship of the child;

(iii) who has filed a written statement with the court within 120 days after the day on which the shelter hearing is held:

(A) requesting immediate placement of the child with the petitioner; and

(B) expressing the petitioner's intention of adopting the child;

(iv) who is a relative with whom the child has a significant and substantial relationship and who was unaware, within the first 120 days after the day on which the shelter hearing is held, of the child's removal from the child's parent; or

(v) who is a relative with whom the child has a significant and substantial relationship and, in a case where the child is not placed with a relative or is placed with a relative that is unable or unwilling to adopt the child:

(A) was actively involved in the child's child welfare case with the division or the juvenile court while the child's parent engaged in reunification services; and

(B) filed a written statement with the court that includes the information described in Subsections (8)(a)(iii)(A) and (B) within 30 days after the day on which the court terminated reunification services; or

(b) if the child:

(i) has been in the current placement for less than 180 days before the day on which the petitioner files the petition for adoption; or

(ii) is placed with, or is in the custody or guardianship of, an individual who previously informed the division or the court that the individual is unwilling or unable to adopt the child.

(9) (a) If the court grants a hearing on more than one petition for adoption, there is a rebuttable presumption that it is in the best interest of a child to be placed for adoption with a petitioner:

(i) who has fulfilled the requirements described in Title 78B, Chapter 6, Part 1, Utah Adoption Act; and

(ii) (A) with whom the child has continuously resided for six months;

(B) who has filed a written statement with the court within 120 days after the day on which the shelter hearing is held, as described in Subsection (8)(a)(iii); or

(C) who is a relative described in Subsection (8)(a)(iv).

(b) The court may consider other factors relevant to the best interest of the child to determine whether the presumption is rebutted.

(c) The court shall weigh the best interest of the child uniformly between petitioners if more than one petitioner satisfies a rebuttable presumption condition described in Subsection (9)(a).

(10) Nothing in this section shall be construed to prevent the division or the child's guardian ad litem from appearing or participating in any proceeding for a petition for adoption.

(11) The division shall use best efforts to provide a known relative with timely information relating to the relative's rights or duties under this section.

Section 106. Section 78B-6-138 is amended to read:

78B-6-138. Pre-existing parent's rights and duties dissolved.

(1) A pre-existing parent of an adopted child is released from all parental rights and duties toward and all responsibilities for the adopted child, including residual parental rights and duties, as defined in Section [~~78A-6-105~~] 80-1-102, and has no further parental rights or duties with regard to that adopted child at the earlier of:

(a) the time the pre-existing parent's parental rights are terminated; or

(b) except as provided in Subsection (2), and subject to Subsections (3) and (4), the time the final decree of adoption is entered.

(2) The parental rights and duties of a pre-existing parent who, at the time the child is adopted, is lawfully married to the person adopting the child are not released under Subsection (1)(b).

(3) The parental rights and duties of a pre-existing parent who, at the time the child is adopted, is not lawfully married to the person adopting the child are released under Subsection (1)(b).

(4) (a) Notwithstanding the provisions of this section, the court may allow a prospective adoptive parent to adopt a child without releasing the pre-existing parent from parental rights and duties under Subsection (1)(b), if:

(i) the pre-existing parent and the prospective adoptive parent were lawfully married at some time during the child's life;

(ii) the pre-existing parent consents to the prospective adoptive parent's adoption of the child, or is unable to consent because the pre-existing parent is deceased or incapacitated;

(iii) notice of the adoption proceeding is provided in accordance with Section 78B-6-110;

(iv) consent to the adoption is provided in accordance with Section 78B-6-120; and

(v) the court finds that it is in the best interest of the child to grant the adoption without releasing the pre-existing parent from parental rights and duties.

(b) This Subsection (4) does not permit a child to have more than two natural parents, as that term is defined in Section [~~78A-6-105~~] 80-1-102.

(5) This section may not be construed as terminating any child support obligation of a parent incurred before the adoption.

Section 107. Section 78B-6-141 (Superseded 11/01/21) is amended to read:

78B-6-141 (Superseded 11/01/21). Court hearings may be closed -- Petition and documents sealed -- Exceptions.

(1) Notwithstanding Section [~~78A-6-114~~] 80-4-106, court hearings in adoption cases may be closed to the public upon request of a party to the adoption petition and upon court approval. In a closed hearing, only the following individuals may be admitted:

(a) a party to the proceeding;

(b) the adoptee;

(c) a representative of an agency having custody of the adoptee;

(d) in a hearing to relinquish parental rights, the individual whose rights are to be relinquished and invitees of that individual to provide emotional support;

(e) in a hearing on the termination of parental rights, the individual whose rights may be terminated;

(f) in a hearing on a petition to intervene, the proposed intervenor;

(g) in a hearing to finalize an adoption, invitees of the petitioner; and

(h) other individuals for good cause, upon order of the court.

(2) An adoption document and any other documents filed in connection with a petition for adoption are sealed.

(3) The documents described in Subsection (2) may only be open to inspection and copying:

(a) in accordance with Subsection (5)(a), by a party to the adoption proceeding:

(i) while the proceeding is pending; or

(ii) within six months after the day on which the adoption decree is entered;

(b) subject to Subsection (5)(b), if a court enters an order permitting access to the documents by an individual who has appealed the denial of that individual's motion to intervene;

(c) upon order of the court expressly permitting inspection or copying, after good cause has been shown;

(d) as provided under Section 78B-6-144;

(e) when the adoption document becomes public on the one hundredth anniversary of the date the final decree of adoption was entered;

(f) when the birth certificate becomes public on the one hundredth anniversary of the date of birth;

(g) to a mature adoptee or a parent who adopted the mature adoptee, without a court order, unless the final decree of adoption is entered by the juvenile court under Subsection 78B-6-115(3)(b); or

(h) to an adult adoptee, to the extent permitted under Subsection (4).

(4) (a) For an adoption finalized on or after January 1, 2016, a birth parent may elect, on a written consent form provided by the office, to permit identifying information about the birth parent to be made available for inspection by an adult adoptee.

(b) A birth parent may, at any time, file a written document with the office to:

(i) change the election described in Subsection (4)(a); or

(ii) elect to make other information about the birth parent, including an updated medical history, available for inspection by an adult adoptee.

(c) A birth parent may not access any identifying information or an adoption document under this Subsection (4).

(5) (a) An individual who files a motion to intervene in an adoption proceeding:

(i) is not a party to the adoption proceeding, unless the motion to intervene is granted; and

(ii) may not be granted access to the documents described in Subsection (2), unless the motion to intervene is granted.

(b) An order described in Subsection (3)(b) shall:

(i) prohibit the individual described in Subsection (3)(b) from inspecting a document described in Subsection (2) that contains identifying information of the adoptive or prospective adoptive parent; and

(ii) permit the individual described in Subsection (5)(b)(i) to review a copy of a document described in Subsection (5)(b)(i) after the identifying information described in Subsection (5)(b)(i) is redacted from the document.

Section 108. Section 78B-6-141 (Effective 11/01/21) is amended to read:

78B-6-141 (Effective 11/01/21). Court hearings may be closed -- Petition and documents sealed -- Exceptions.

(1) (a) Notwithstanding Section [~~78A-6-114~~] 80-4-106, court hearings in adoption cases may be closed to the public upon request of a party to the adoption petition and upon court approval.

(b) In a closed hearing, only the following individuals may be admitted:

(i) a party to the proceeding;

(ii) the adoptee;

(iii) a representative of an agency having custody of the adoptee;

(iv) in a hearing to relinquish parental rights, the individual whose rights are to be relinquished and invitees of that individual to provide emotional support;

(v) in a hearing on the termination of parental rights, the individual whose rights may be terminated;

(vi) in a hearing on a petition to intervene, the proposed intervenor;

(vii) in a hearing to finalize an adoption, invitees of the petitioner; and

(viii) other individuals for good cause, upon order of the court.

(2) An adoption document and any other documents filed in connection with a petition for adoption are sealed.

(3) The documents described in Subsection (2) may only be open to inspection and copying:

(a) in accordance with Subsection (5)(a), by a party to the adoption proceeding:

(i) while the proceeding is pending; or

(ii) within six months after the day on which the adoption decree is entered;

(b) subject to Subsection (5)(b), if a court enters an order permitting access to the documents by an individual who has appealed the denial of that individual's motion to intervene;

(c) upon order of the court expressly permitting inspection or copying, after good cause has been shown;

(d) as provided under Section 78B-6-144;

(e) when the adoption document becomes public on the one hundredth anniversary of the date the final decree of adoption was entered;

(f) when the birth certificate becomes public on the one hundredth anniversary of the date of birth;

(g) to a mature adoptee or a parent who adopted the mature adoptee, without a court order, unless the final decree of adoption is entered by the juvenile court under Subsection 78B-6-115(3)(b); or

(h) to an adult adoptee, to the extent permitted under Subsection (4).

(4) (a) An adult adoptee that was born in the state may access an adoption document associated with the adult adoptee's adoption without a court order:

(i) to the extent that a birth parent consents under Subsection (4)(b); or

(ii) if the birth parents listed on the original birth certificate are deceased.

(b) A birth parent may:

(i) provide consent to allow the access described in Subsection (4)(a) by electing, electronically or on a written form provided by the office, allowing the birth parent to elect to:

(A) allow the office to provide the adult adoptee with the contact information of the birth parent that the birth parent indicates;

(B) allow the office to provide the adult adoptee with the contact information of an intermediary that the birth parent indicates;

(C) prohibit the office from providing any contact information to the adult adoptee;

(D) allow the office to provide the adult adoptee with a noncertified copy of the original birth certificate; and

(ii) at any time, file, electronically or on a written document with the office, to:

(A) change the election described in Subsection (4)(b); or

(B) elect to make other information about the birth parent, including an updated medical history, available for inspection by an adult adoptee.

(c) A birth parent may not access any identifying information or an adoption document under this Subsection (4).

(d) If two birth parents are listed on the original birth certificate and only one birth parent consents under Subsection (4)(b) or is deceased, the office may redact the name of the other birth parent.

(5) (a) An individual who files a motion to intervene in an adoption proceeding:

(i) is not a party to the adoption proceeding, unless the motion to intervene is granted; and

(ii) may not be granted access to the documents described in Subsection (2), unless the motion to intervene is granted.

(b) An order described in Subsection (3)(b) shall:

(i) prohibit the individual described in Subsection (3)(b) from inspecting a document described in Subsection (2) that contains identifying information of the adoptive or prospective adoptive parent; and

(ii) permit the individual described in Subsection (5)(b)(i) to review a copy of a document described in Subsection (5)(b)(i) after the identifying information described in Subsection (5)(b)(i) is redacted from the document.

Section 109. Section 78B-6-203 is amended to read:

78B-6-203. Purpose and findings.

(1) The purpose of this part is to offer an alternative or supplement to the formal processes associated with a court trial and to promote the efficient and effective operation of the courts of this state by authorizing and encouraging the use of alternative methods of dispute resolution to secure the just, speedy, and inexpensive determination of civil actions filed in the courts of this state.

(2) The Legislature finds that:

(a) the use of alternative methods of dispute resolution authorized by this part will secure the purposes of Article I, Section 11, Utah Constitution, by providing supplemental or complementary means for the just, speedy, and inexpensive resolution of disputes;

(b) preservation of the confidentiality of ADR procedures will significantly aid the successful resolution of civil actions in a just, speedy, and inexpensive manner;

(c) ADR procedures will reduce the need for judicial resources and the time and expense of the parties;

(d) mediation has, in pilot programs, resulted in the just and equitable settlement of petitions for the protection of children under Section [~~78A-6-304~~] 80-3-201 and petitions for the terminations of parental rights under Section [~~78A-6-505~~] 80-4-201; and

(e) the purpose of this part will be promoted by authorizing the Judicial Council to establish rules to promote the use of ADR procedures by the courts of this state as an alternative or supplement to court trial.

Section 110. Section 78B-6-207 is amended to read:

78B-6-207. Minimum procedures for mediation.

(1) A judge or court commissioner may refer to mediation any case for which the Judicial Council and Supreme Court have established a program or procedures. A party may file with the court an objection to the referral which may be granted for good cause.

(2) (a) Unless all parties and the neutral or neutrals agree only parties, their representatives, and the neutral may attend the mediation sessions.

(b) If the mediation session is [~~pursuant to~~] in accordance with a referral under [~~Subsection 78A-6-108(9)~~] Section 80-3-206 or 80-4-206, the ADR provider or ADR organization shall notify all parties to the proceeding and any person designated by a party. The ADR provider may notify any person whose rights may be affected by the mediated agreement or who may be able to contribute to the agreement. A party may request notice be provided to a person who is not a party.

(3) (a) Except as provided in Subsection (3)(b), any settlement agreement between the parties as a result of mediation may be executed in writing, filed with the clerk of the court, and enforceable as a judgment of the court. If the parties stipulate to dismiss the action, any agreement to dismiss shall not be filed with the court.

(b) With regard to mediation affecting any petition filed under Section [~~78A-6-304 or 78A-6-505~~] 80-3-201 or 80-4-201:

(i) all settlement agreements and stipulations of the parties shall be filed with the court;

(ii) all timelines, requirements, and procedures described in [~~Title 78A, Chapter 6, Part 3, Abuse, Neglect, and Dependency Proceedings, and Part 5, Termination of Parental Rights Act,~~] Title 80, Chapter 3, Abuse, Neglect, and Dependency Proceedings, and Chapter 4, Termination and Restoration of Parental Rights, and in Title 62A, Chapter 4a, Child and Family Services, shall be complied with; and

(iii) the parties to the mediation may not agree to a result that could not have been ordered by the court in accordance with the procedures and requirements of [~~Title 78A, Chapter 6, Part 3, Abuse, Neglect, and Dependency Proceedings and Part 5, Termination of Parental Rights Act,~~] Title 80, Chapter 3, Abuse, Neglect, and Dependency

Proceedings, and Chapter 4, Termination and Restoration of Parental Rights, and Title 62A, Chapter 4a, Child and Family Services.

Section 111. Section 78B-7-102 is amended to read:

78B-7-102. Definitions.

As used in this chapter:

(1) "Abuse" means, except as provided in Section 78B-7-201, intentionally or knowingly causing or attempting to cause another individual physical harm or intentionally or knowingly placing another individual in reasonable fear of imminent physical harm.

(2) "Affinity" means the same as that term is defined in Section 76-1-601.

(3) "Civil protective order" means an order issued, subsequent to a hearing on the petition, of which the petitioner and respondent have been given notice, under:

(a) Part 2, Child Protective Orders;

(b) Part 4, Dating Violence Protective Orders;

(c) Part 5, Sexual Violence Protective Orders; or

(d) Part 6, Cohabitant Abuse Protective Orders.

(4) "Civil stalking injunction" means a stalking injunction issued under Part 7, Civil Stalking Injunctions.

(5) (a) "Cohabitant" means an emancipated individual under Section 15-2-1 or an individual who is 16 years [~~of age~~] old or older who:

(i) is or was a spouse of the other party;

(ii) is or was living as if a spouse of the other party;

(iii) is related by blood or marriage to the other party as the individual's parent, grandparent, sibling, or any other individual related to the individual by consanguinity or affinity to the second degree;

(iv) has or had one or more children in common with the other party;

(v) is the biological parent of the other party's unborn child;

(vi) resides or has resided in the same residence as the other party; or

(vii) is or was in a consensual sexual relationship with the other party.

(b) "Cohabitant" does not include:

(i) the relationship of natural parent, adoptive parent, or step-parent to a minor; or

(ii) the relationship between natural, adoptive, step, or foster siblings who are under 18 years [~~of age~~] old.

(6) "Consanguinity" means the same as that term is defined in Section 76-1-601.

(7) "Criminal protective order" means an order issued under Part 8, Criminal Protective Orders.

(8) "Criminal stalking injunction" means a stalking injunction issued under Part 9, Criminal Stalking Injunctions.

(9) "Court clerk" means a district court clerk.

(10) (a) "Dating partner" means an individual who:

(i) (A) is an emancipated individual under Section 15-2-1 or [~~Title 78A, Chapter 6, Part 8, Emancipation~~] Title 80, Chapter 7, Emancipation; or

(B) is 18 years [~~of age~~] old or older; and

(ii) is, or has been, in a dating relationship with the other party.

(b) "Dating partner" does not include an intimate partner.

(11) (a) "Dating relationship" means a social relationship of a romantic or intimate nature, or a relationship which has romance or intimacy as a goal by one or both parties, regardless of whether the relationship involves sexual intimacy.

(b) "Dating relationship" does not include casual fraternization in a business, educational, or social context.

(c) In determining, based on a totality of the circumstances, whether a dating relationship exists:

(i) all relevant factors shall be considered, including:

(A) whether the parties developed interpersonal bonding above a mere casual fraternization;

(B) the length of the parties' relationship;

(C) the nature and the frequency of the parties' interactions, including communications indicating that the parties intended to begin a dating relationship;

(D) the ongoing expectations of the parties, individual or jointly, with respect to the relationship;

(E) whether, by statement or conduct, the parties demonstrated an affirmation of their relationship to others; and

(F) whether other reasons exist that support or detract from a finding that a dating relationship exists; and

(ii) it is not necessary that all, or a particular number, of the factors described in Subsection (11)(c)(i) are found to support the existence of a dating relationship.

(12) "Domestic violence" means the same as that term is defined in Section 77-36-1.

(13) "Ex parte civil protective order" means an order issued without notice to the respondent under:

(a) Part 2, Child Protective Orders;

(b) Part 4, Dating Violence Protective Orders;

(c) Part 5, Sexual Violence Protective Orders; or

(d) Part 6, Cohabitant Abuse Protective Orders.

(14) "Ex parte civil stalking injunction" means a stalking injunction issued without notice to the respondent under Part 7, Civil Stalking Injunctions.

(15) "Foreign protection order" means the same as that term is defined in Section 78B-7-302.

(16) "Intimate partner" means the same as that term is defined in 18 U.S.C. Sec. 921.

(17) "Law enforcement unit" or "law enforcement agency" means any public agency having general police power and charged with making arrests in connection with enforcement of the criminal statutes and ordinances of this state or any political subdivision.

(18) "Peace officer" means those individuals specified in Title 53, Chapter 13, Peace Officer Classifications.

(19) "Qualifying domestic violence offense" means the same as that term is defined in Section 77-36-1.1.

(20) "Respondent" means the individual against whom enforcement of a protective order is sought.

(21) "Stalking" means the same as that term is defined in Section 76-5-106.5.

Section 112. Section 78B-7-108 is amended to read:

78B-7-108. Mutual protective orders.

(1) A court may not grant a mutual order or mutual orders for protection to opposing parties, unless each party:

(a) files an independent petition against the other for a protective order, and both petitions are served;

(b) makes a showing at a due process protective order hearing of abuse or domestic violence committed by the other party; and

(c) demonstrates the abuse or domestic violence did not occur in self-defense.

(2) If the court issues mutual protective orders, the court shall include specific findings of all elements of Subsection (1) in the court order justifying the entry of the court order.

(3) A court may not grant an order for protection to a civil petitioner who is the respondent or defendant subject to a protective order, child protective order, or ex parte child protective order:

(a) issued under:

(i) a foreign protection order enforceable under Chapter 7, Part 3, Uniform Interstate Enforcement of Domestic Violence Protection Orders Act;

(ii) Title 77, Chapter 36, Cohabitant Abuse Procedures Act;

(iii) [~~Title 78A, Chapter 6, Juvenile Court Act~~] Title 80, Utah Juvenile Code; or

(iv) Chapter 7, Part 1, Cohabitant Abuse Act; and

(b) unless the court determines that the requirements of Subsection (1) are met, and:

(i) the same court issued the order for protection against the respondent; or

(ii) if the matter is before a subsequent court, the subsequent court:

(A) determines it would be impractical for the original court to consider the matter; or

(B) confers with the court that issued the order for protection.

Section 113. Section 78B-7-201 is amended to read:

78B-7-201. Definitions.

As used in this chapter:

(1) "Abuse" means:

(a) physical abuse;

(b) sexual abuse;

(c) any sexual offense described in Title 76, Chapter 5b, Part 2, Sexual Exploitation; or

(d) human trafficking of a child for sexual exploitation under Section 76-5-308.5.

(2) "Child protective order" means an order issued under this part after a hearing on the petition, of which the petitioner and respondent have been given notice.

(3) "Court" means the district court or juvenile court.

(4) "Ex parte child protective order" means an order issued without notice to the respondent under this part.

(5) "Protective order" means:

(a) a child protective order; or

(b) an ex parte child protective order.

(6) All other terms have the same meaning as defined in Section [~~78A-6-105~~] 80-1-102.

Section 114. Section 78B-7-202 is amended to read:

78B-7-202. Abuse or danger of abuse -- Child protective orders -- Ex parte child protective orders -- Guardian ad litem -- Referral to division.

(1) (a) Any interested person may file a petition for a protective order:

(i) on behalf of a child who is being abused or is in imminent danger of being abused by any individual; or

(ii) on behalf of a child who has been abused by an individual who is not the child's parent, stepparent, guardian, or custodian.

(b) Before filing a petition under Subsection (1)(a), the interested person shall make a referral to the division.

(2) Upon the filing of a petition described in Subsection (1), the clerk of the court shall:

(a) review the records of the juvenile court, the district court, and the management information system of the division to find any petitions, orders, or investigations related to the child or the parties to the case;

(b) request the records of any law enforcement agency identified by the petitioner as having investigated abuse of the child; and

(c) identify and obtain any other background information that may be of assistance to the court.

(3) If it appears from a petition for a protective order filed under Subsection (1)(a)(i) that the child is being abused or is in imminent danger of being abused, or it appears from a petition for a protective order filed under Subsection (1)(a)(ii) that the child has been abused, the court may:

(a) without notice, immediately issue an ex parte child protective order against the respondent if necessary to protect the child; or

(b) upon notice to the respondent, issue a child protective order after a hearing in accordance with Subsection 78B-7-203(5).

(4) The court may appoint an attorney guardian ad litem under Sections 78A-2-703 and [~~78A-6-902~~] 78A-2-803.

(5) This section does not prohibit a protective order from being issued against a respondent who is a child.

Section 115. Section 78B-7-203 is amended to read:

78B-7-203. Hearings.

(1) If an ex parte child protective order is granted, the court shall schedule a hearing to be held within 20 days after the day on which the court makes the ex parte determination. If an ex parte child protective order is denied, the court, upon the request of the petitioner made within five days after the day on which the court makes the ex parte determination, shall schedule a hearing to be held within 20 days after the day on which the petitioner makes the request.

(2) The petition, ex parte child protective order, and notice of hearing shall be served on the respondent, the child's parent or guardian, and, if appointed, the guardian ad litem. The notice shall contain:

(a) the name and address of the individual to whom the notice is directed;

(b) the date, time, and place of the hearing;

(c) the name of the child on whose behalf a petition is being brought; and

(d) a statement that an individual is entitled to have an attorney present at the hearing.

(3) The court shall provide an opportunity for any person having relevant knowledge to present evidence or information and may hear statements by counsel.

(4) An agent of the division served with a subpoena in compliance with the Utah Rules of Civil Procedure shall testify in accordance with the Utah Rules of Evidence.

(5) The court shall issue a child protective order if the court determines, based on a preponderance of the evidence, that:

(a) for a petition for a child protective order filed under Subsection 78B-7-202(1)(a)(i), the child is being abused or is in imminent danger of being abused; or

(b) for a petition for a protective order filed under Subsection 78B-7-202(1)(a)(ii), the child has been abused and the child protective order is necessary to protect the child.

(6) With the exception of the provisions of Section [~~78A-6-323~~] 80-3-404, a child protective order is not an adjudication of abuse, neglect, or dependency under [~~Title 78A, Chapter 6, Part 3, Abuse, Neglect, and Dependency Proceedings~~] Title 80, Chapter 3, Abuse, Neglect, and Dependency Proceedings.

Section 116. Section 78B-7-204 is amended to read:

78B-7-204. Content of orders -- Modification of orders -- Penalties.

(1) A child protective order or an ex parte child protective order may contain the following provisions the violation of which is a class A misdemeanor under Section 76-5-108:

(a) enjoin the respondent from threatening to commit or committing abuse of the child;

(b) prohibit the respondent from harassing, telephoning, contacting, or otherwise communicating with the child, directly or indirectly;

(c) prohibit the respondent from entering or remaining upon the residence, school, or place of employment of the child and the premises of any of these or any specified place frequented by the child;

(d) upon finding that the respondent's use or possession of a weapon may pose a serious threat of harm to the child, prohibit the respondent from purchasing, using, or possessing a firearm or other specified weapon; and

(e) determine ownership and possession of personal property and direct the appropriate law enforcement officer to attend and supervise the petitioner's or respondent's removal of personal property.

(2) A child protective order or an ex parte child protective order may contain the following provisions the violation of which is contempt of court:

(a) determine temporary custody of the child who is the subject of the petition;

(b) determine parent-time with the child who is the subject of the petition, including denial of

parent-time if necessary to protect the safety of the child, and require supervision of parent-time by a third party;

(c) determine support in accordance with Title 78B, Chapter 12, Utah Child Support Act; and

(d) order any further relief the court considers necessary to provide for the safety and welfare of the child.

(3) (a) If the child who is the subject of the child protective order attends the same school or place of worship as the respondent, or is employed at the same place of employment as the respondent, the court:

(i) may not enter an order under Subsection (1)(c) that excludes the respondent from the respondent's school, place of worship, or place of employment; and

(ii) may enter an order governing the respondent's conduct at the respondent's school, place of worship, or place of employment.

(b) A violation of an order under Subsection (3)(a) is contempt of court.

(4) (a) A respondent may petition the court to modify or vacate a child protective order after notice and a hearing.

(b) At the hearing described in Subsection (4)(a):

(i) the respondent shall have the burden of proving by clear and convincing evidence that modification or vacation of the child protective order is in the best interest of the child; and

(ii) the court shall consider:

(A) the nature and duration of the abuse;

(B) the pain and trauma inflicted on the child as a result of the abuse;

(C) if the respondent is a parent of the child, any reunification services provided in accordance with [~~Title 78A, Chapter 6, Part 3, Abuse, Neglect, and Dependency Proceedings~~] Title 80, Chapter 3, Abuse, Neglect, and Dependency Proceedings; and

(D) any other evidence the court finds relevant to the determination of the child's best interests, including recommendations by the other parent or a guardian of the child, or a mental health professional.

(c) The child is not required to attend the hearing described in Subsection (4)(a).

Section 117. Section 78B-7-409 is amended to read:

78B-7-409. Mutual dating violence protective orders.

(1) A court may not grant a mutual order or mutual dating violence protective orders to opposing parties, unless each party:

(a) files an independent petition against the other for a dating violence protective order, and both petitions are served;

(b) makes a showing at a due process dating violence protective order hearing of abuse or dating violence committed by the other party; and

(c) demonstrates the abuse or dating violence did not occur in self-defense.

(2) If the court issues mutual dating violence protective orders, the court shall include specific findings of all elements of Subsection (1) in the court order justifying the entry of the court order.

(3) (a) Except as provided in Subsection (3)(b), a court may not grant a protective order to a civil petitioner who is the respondent or defendant subject to:

(i) a civil protective order that is issued under:

(A) this part;

(B) Part 2, Child Protective Orders;

(C) Part 6, Cohabitant Abuse Protective Orders;

(D) Part 8, Criminal Protective Orders; or

(E) [~~Title 78A, Chapter 6, Juvenile Court Act~~] Title 80, Utah Juvenile Code;

(ii) an ex parte civil protective order issued under Part 2, Child Protective Orders; or

(iii) a foreign protection order enforceable under Part 3, Uniform Interstate Enforcement of Domestic Violence Protection Orders Act.

(b) The court may issue a protective order to a civil petitioner described in Subsection (3)(a) if:

(i) the court determines that the requirements of Subsection (1) are met; and

(ii) (A) the same court issued the protective order against the respondent; or

(B) the subsequent court determines it would be impractical for the original court to consider the matter or confers with the court that issued the protective order described in Subsection (3)(a)(i) or (ii).

Section 118. Section 78B-7-603 is amended to read:

78B-7-603. Cohabitant abuse protective orders -- Ex parte cohabitant abuse protective orders -- Modification of orders -- Service of process -- Duties of the court.

(1) If it appears from a petition for a protective order or a petition to modify a protective order that domestic violence or abuse has occurred, that there is a substantial likelihood domestic violence or abuse will occur, or that a modification of a protective order is required, a court may:

(a) without notice, immediately issue an ex parte cohabitant abuse protective order or modify a protective order ex parte as the court considers necessary to protect the petitioner and all parties named to be protected in the petition; or

(b) upon notice, issue a protective order or modify an order after a hearing, regardless of whether the respondent appears.

(2) A court may grant the following relief without notice in a protective order or a modification issued ex parte:

(a) enjoin the respondent from threatening to commit domestic violence or abuse, committing domestic violence or abuse, or harassing the petitioner or any designated family or household member;

(b) prohibit the respondent from telephoning, contacting, or otherwise communicating with the petitioner or any designated family or household member, directly or indirectly, with the exception of any parent-time provisions in the ex parte order;

(c) subject to Subsection (2)(e), prohibit the respondent from being within a specified distance of the petitioner;

(d) subject to Subsection (2)(e), order that the respondent is excluded from and is to stay away from the following places and their premises:

(i) the petitioner's residence or any designated family or household member's residence;

(ii) the petitioner's school or any designated family or household member's school;

(iii) the petitioner's or any designated family or household member's place of employment;

(iv) the petitioner's place of worship or any designated family or household member's place of worship; or

(v) any specified place frequented by the petitioner or any designated family or household member;

(e) if the petitioner or designated family or household member attends the same school as the respondent, is employed at the same place of employment as the respondent, or attends the same place of worship, the court:

(i) may not enter an order under Subsection (2)(c) or (d) that excludes the respondent from the respondent's school, place of employment, or place of worship; and

(ii) may enter an order governing the respondent's conduct at the respondent's school, place of employment, or place of worship;

(f) upon finding that the respondent's use or possession of a weapon may pose a serious threat of harm to the petitioner, prohibit the respondent from purchasing, using, or possessing a firearm or other weapon specified by the court;

(g) order possession and use of an automobile and other essential personal effects, and direct the appropriate law enforcement officer to accompany the petitioner to the residence of the parties to ensure that the petitioner is safely restored to possession of the residence, automobile, and other essential personal effects, or to supervise the petitioner's or respondent's removal of personal belongings;

(h) order the respondent to maintain an existing wireless telephone contract or account;

(i) grant to the petitioner or someone other than the respondent temporary custody of a minor child of the parties;

(j) order the appointment of an attorney guardian ad litem under Sections 78A-2-703 and [~~78A-6-902~~] 78A-2-803;

(k) order any further relief that the court considers necessary to provide for the safety and welfare of the petitioner and any designated family or household member; and

(l) if the petition requests child support or spousal support, at the hearing on the petition order both parties to provide verification of current income, including year-to-date pay stubs or employer statements of year-to-date or other period of earnings, as specified by the court, and complete copies of tax returns from at least the most recent year.

(3) A court may grant the following relief in a cohabitant abuse protective order or a modification of an order after notice and hearing, regardless of whether the respondent appears:

(a) grant the relief described in Subsection (2); and

(b) specify arrangements for parent-time of any minor child by the respondent and require supervision of that parent-time by a third party or deny parent-time if necessary to protect the safety of the petitioner or child.

(4) In addition to the relief granted under Subsection (3), the court may order the transfer of a wireless telephone number in accordance with Section 78B-7-117.

(5) Following the cohabitant abuse protective order hearing, the court shall:

(a) as soon as possible, deliver the order to the county sheriff for service of process;

(b) make reasonable efforts to ensure that the cohabitant abuse protective order is understood by the petitioner, and the respondent, if present;

(c) transmit electronically, by the end of the next business day after the order is issued, a copy of the cohabitant abuse protective order to the local law enforcement agency or agencies designated by the petitioner;

(d) transmit a copy of the order to the statewide domestic violence network described in Section 78B-7-113; and

(e) if the individual is a respondent or defendant subject to a court order that meets the qualifications outlined in 18 U.S.C. Sec. 922(g)(8), transmit within 48 hours, excluding Saturdays, Sundays, and legal holidays, a record of the order to the Bureau of Criminal Identification that includes:

(i) an agency record identifier;

(ii) the individual's name, sex, race, and date of birth;

(iii) the issue date, conditions, and expiration date for the protective order; and

(iv) if available, the individual's social security number, government issued driver license or identification number, alien registration number, government passport number, state identification number, or FBI number.

(6) Each protective order shall include two separate portions, one for provisions, the violation of which are criminal offenses, and one for provisions, the violation of which are civil violations, as follows:

(a) criminal offenses are those under Subsections (2)(a) through (g), and under Subsection (3)(a) as it refers to Subsections (2)(a) through (g); and

(b) civil offenses are those under Subsections (2)(h), (j), (k), and (l), and Subsection (3)(a) as it refers to Subsections (2)(h), (j), (k), and (l).

(7) Child support and spouse support orders issued as part of a protective order are subject to mandatory income withholding under Title 62A, Chapter 11, Part 4, Income Withholding in IV-D Cases, and Title 62A, Chapter 11, Part 5, Income Withholding in Non IV-D Cases, except when the protective order is issued ex parte.

(8) (a) The county sheriff that receives the order from the court, under Subsection (6), shall provide expedited service for protective orders issued in accordance with this part, and shall transmit verification of service of process, when the order has been served, to the statewide domestic violence network described in Section 78B-7-113.

(b) This section does not prohibit any law enforcement agency from providing service of process if that law enforcement agency:

(i) has contact with the respondent and service by that law enforcement agency is possible; or

(ii) determines that under the circumstances, providing service of process on the respondent is in the best interests of the petitioner.

(9) (a) When an order is served on a respondent in a jail or other holding facility, the law enforcement agency managing the facility shall make a reasonable effort to provide notice to the petitioner at the time the respondent is released from incarceration.

(b) Notification of the petitioner shall consist of a good faith reasonable effort to provide notification, including mailing a copy of the notification to the last-known address of the victim.

(10) A court may modify or vacate a protective order or any provisions in the protective order after notice and hearing, except that the criminal provisions of a cohabitant abuse protective order may not be vacated within two years of issuance unless the petitioner:

(a) is personally served with notice of the hearing, as provided in the Utah Rules of Civil Procedure, and the petitioner personally appears, in person or through court video conferencing, before the court and gives specific consent to the vacation of the criminal provisions of the cohabitant abuse protective order; or

(b) submits a verified affidavit, stating agreement to the vacation of the criminal provisions of the cohabitant abuse protective order.

(11) A protective order may be modified without a showing of substantial and material change in circumstances.

(12) A civil provision of a cohabitant abuse protective order described in Subsection (6) may be modified in a divorce proceeding that is pending between the parties to the cohabitant abuse protective order action after 150 days after the day on which the cohabitant abuse protective order is issued if:

(a) the parties stipulate in writing or on the record to dismiss a civil provision of the cohabitant abuse protective order; or

(b) the court in the divorce proceeding finds good cause to modify the civil provision.

Section 119. Section 78B-7-702 is amended to read:

78B-7-702. Mutual civil stalking injunctions.

(1) A court may not grant a mutual order or mutual civil stalking injunction to opposing parties, unless each party:

(a) files an independent petition against the other for a civil stalking injunction, and both petitions are served;

(b) makes a showing at an evidentiary hearing on the civil stalking injunction that stalking has occurred by the other party; and

(c) demonstrates the alleged act did not occur in self-defense.

(2) If the court issues mutual civil stalking injunctions, the court shall include specific findings of all elements of Subsection (1) in the court order justifying the entry of the court orders.

(3) (a) Except as provided in Subsection (3)(b), a court may not grant a protective order to a civil petitioner who is the respondent or defendant subject to:

(i) a civil stalking injunction;

(ii) a civil protective order that is issued under:

(A) this part;

(B) Part 2, Child Protective Orders;

(C) Part 6, Cohabitant Abuse Protective Orders;

(D) Part 8, Criminal Protective Orders; or

(E) [~~Title 78A, Chapter 6, Juvenile Court Act~~] Title 80, Utah Juvenile Code;

(iii) an ex parte civil protective order issued under Part 2, Child Protective Orders; or

(iv) a foreign protection order enforceable under Part 3, Uniform Interstate Enforcement of Domestic Violence Protection Orders Act.

(b) The court may issue a protective order to a civil petitioner described in Subsection (3)(a) if:

(i) the court determines that the requirements of Subsection (1) are met; and

(ii) (A) the same court issued the protective order against the respondent; or

(B) the subsequent court determines it would be impractical for the original court to consider the matter or confers with the court that issued the protective order described in Subsection (3)(a)(ii) or (iii).

Section 120. Section 78B-11-121 is amended to read:

78B-11-121. Change of award by arbitrator.

(1) On motion to an arbitrator by a party to an arbitration proceeding, the arbitrator may modify or correct an award:

(a) on any grounds stated in Subsection 78B-11-125(1)(a) or (c);

(b) if the arbitrator has not made a final and definite award upon a claim submitted by the parties to the arbitration proceeding; or

(c) to clarify the award.

(2) A motion under Subsection (1) must be made and notice given to all parties within 20 days after the movant receives notice of the award.

(3) A party to the arbitration proceeding must give notice of any objection to the motion within 10 days after receipt of the notice.

(4) If a motion to the court is pending under Section 78B-11-123, 78B-11-124, or 78B-11-125, the court may submit the claim to the arbitrator to consider whether to modify or correct the award:

(a) on any grounds stated in Subsection 78B-11-125(1)(a) or (c);

(b) if the arbitrator has not made a final and definite award upon a claim submitted by the parties to the arbitration proceeding; or

(c) to clarify the award.

(5) An award modified or corrected pursuant to this section is subject to [~~Subsection 78A-6-119(1) and~~] Sections 78A-6-357, 78B-11-123, 78B-11-124, and 78B-11-125.

Section 121. Section 78B-12-219 is amended to read:

78B-12-219. Adjustment when child becomes emancipated.

(1) When a child becomes 18 years [~~of age~~] old or graduates from high school during the child's normal and expected year of graduation, whichever occurs later, or if the child dies, marries, becomes a member of the armed forces of the United States, or is emancipated in accordance with [~~Title 78A, Chapter 6, Part 8, Emancipation~~] Title 80, Chapter 7, Emancipation, the base child support award is automatically adjusted to the base combined child support obligation for the remaining number of children due child support, shown in the table that was used to establish the most recent order, using the incomes of the parties as specified in that order or the worksheets, unless otherwise provided in the child support order.

(2) The award may not be reduced by a per child amount derived from the base child support award originally ordered.

(3) If the incomes of the parties are not specified in the most recent order or the worksheets, the information regarding the incomes is not consistent, or the order deviates from the guidelines, automatic adjustment of the order does not apply and the order will continue until modified by the issuing tribunal. If the order is deviated and the parties subsequently obtain a judicial order that adjusts the support back to the date of the emancipation of the child, the Office of Recovery Services may not be required to repay any difference in the support collected during the interim.

Section 122. Section 78B-15-612 is amended to read:

78B-15-612. Minor as party -- Representation.

(1) A minor is a permissible party, but is not a necessary party to a proceeding under this part.

(2) The tribunal may appoint an attorney guardian ad litem under Sections 78A-2-703 and [~~78A-6-902~~] 78A-2-803, or a private attorney guardian ad litem under Section 78A-2-705, to represent a minor or incapacitated child if the child is a party.

Section 123. Section 78B-22-102 is amended to read:

78B-22-102. Definitions.

As used in this chapter:

(1) "Account" means the Indigent Defense Resources Restricted Account created in Section 78B-22-405.

(2) "Board" means the Indigent Defense Funds Board created in Section 78B-22-501.

(3) "Commission" means the Utah Indigent Defense Commission created in Section 78B-22-401.

(4) "Director" means the director of the Office of Indigent Defense Services, created in Section 78B-22-451, who is appointed in accordance with Section 78B-22-453.

(5) (a) "Indigent defense resources" means the resources necessary to provide an effective defense

for an indigent individual, including the costs for a competent investigator, expert witness, scientific or medical testing, transcripts, and printing briefs.

(b) "Indigent defense resources" does not include an indigent defense service provider.

(6) "Indigent defense service provider" means an attorney or entity appointed to represent an indigent individual pursuant to:

(a) a contract with an indigent defense system to provide indigent defense services; or

(b) an order issued by the court under Subsection 78B-22-203(2)(a).

(7) "Indigent defense services" means:

(a) the representation of an indigent individual by an indigent defense service provider; and

(b) the provision of indigent defense resources for an indigent individual.

(8) "Indigent defense system" means:

(a) a city or town that is responsible for providing indigent defense services;

(b) a county that is responsible for providing indigent defense services in the district court, juvenile court, and the county's justice courts; or

(c) an interlocal entity, created pursuant to Title 11, Chapter 13, Interlocal Cooperation Act, that is responsible for providing indigent defense services according to the terms of an agreement between a county, city, or town.

(9) "Indigent individual" means:

(a) a minor who is:

(i) arrested and admitted into detention for an offense under Section 78A-6-103;

(ii) charged by petition or information in the juvenile or district court; or

(iii) described in this Subsection (9)(a), who is appealing an adjudication or other final court action; and

(b) an individual listed in Subsection 78B-22-201(1) who is found indigent pursuant to Section 78B-22-202.

(10) "Minor" means the same as that term is defined in Section [~~78A-6-105~~] 80-1-102.

(11) "Office" means the Office of Indigent Defense Services created in Section 78B-22-451.

(12) "Participating county" means a county that complies with this chapter for participation in the Indigent Aggravated Murder Defense Trust Fund as provided in Sections 78B-22-702 and 78B-22-703.

Section 124. Section 78B-22-201 is amended to read:

78B-22-201. Right to counsel.

(1) A court shall advise the following of the individual's right to counsel when the individual first appears before the court:

(a) an adult charged with a criminal offense the penalty for which includes the possibility of incarceration regardless of whether actually imposed;

(b) a parent or legal guardian facing an action initiated by the state under:

[~~(i) Title 78A, Chapter 6, Part 3, Abuse, Neglect, and Dependency Proceedings;~~]

[~~(ii) Title 78A, Chapter 6, Part 5, Termination of Parental Rights Act; or~~]

[~~(iii) Title 78A, Chapter 6, Part 10, Adult Offenses;~~]

(i) Title 80, Chapter 3, Abuse, Neglect, and Dependency Proceedings;

(ii) Title 80, Chapter 4, Termination and Restoration of Parental Rights; or

(iii) Title 78A, Chapter 6, Part 4a, Adult Criminal Proceedings;

(c) a parent or legal guardian facing an action initiated by any party under:

[~~(i) Title 78A, Chapter 6, Part 5, Termination of Parental Rights Act; or~~]

(i) Title 80, Chapter 4, Termination and Restoration of Parental Rights; or

(ii) Section 78B-6-112; or

(d) an individual described in this Subsection (1), who is appealing a conviction or other final court action.

(2) If an individual described in Subsection (1) does not knowingly and voluntarily waive the right to counsel, the court shall determine whether the individual is indigent under Section 78B-22-202.

Section 125. Section 78B-22-406 is amended to read:

78B-22-406. Indigent defense services grant program.

(1) The commission may award grants:

(a) to supplement local spending by an indigent defense system for indigent defense services; and

(b) for contracts to provide indigent defense services for appeals from juvenile court proceedings in a county of the third, fourth, fifth, or sixth class.

(2) The commission may use grant money:

(a) to assist an indigent defense system to provide indigent defense services that meet the commission's core principles for the effective representation of indigent individuals;

(b) to establish and maintain local indigent defense data collection systems;

(c) to provide indigent defense services in addition to indigent defense services that are currently being provided by an indigent defense system;

(d) to provide training and continuing legal education for indigent defense service providers;

(e) to assist indigent defense systems with appeals from juvenile court proceedings;

(f) to pay for indigent defense resources and costs and expenses for parental defense attorneys as described in Subsection 78B-22-804(2); and

(g) to reimburse an indigent defense system for the cost of providing indigent defense services in an action initiated by a private party under [~~Title 78A, Chapter 6, Part 5, Termination of Parental Rights~~] Title 80, Chapter 4, Termination and Restoration of Parental Rights, if the indigent defense system has complied with the commission's policies and procedures for reimbursement.

(3) To receive a grant from the commission, an indigent defense system shall demonstrate to the commission's satisfaction that:

(a) the indigent defense system has incurred or reasonably anticipates incurring expenses for indigent defense services that are in addition to the indigent defense system's average annual spending on indigent defense services in the three fiscal years immediately preceding the grant application; and

(b) a grant from the commission is necessary for the indigent defense system to meet the commission's core principles for the effective representation of indigent individuals.

(4) The commission may revoke a grant if an indigent defense system fails to meet requirements of the grant or any of the commission's core principles for the effective representation of indigent individuals.

Section 126. Section 78B-22-801 is amended to read:

78B-22-801. Definitions.

As used in this part:

(1) "Child welfare case" means a proceeding under [~~Title 78A, Chapter 6, Part 3, Abuse, Neglect, and Dependency Proceedings, or Part 5, Termination of Parental Rights Act~~] Title 80, Chapter 3, Abuse, Neglect, or Dependency Proceedings, or Chapter 4, Termination and Restoration of Parental Rights.

(2) "Contracted parental defense attorney" means an attorney who represents an indigent individual who is a parent in a child welfare case under a contract with the office or a contributing county.

(3) "Contributing county" means a county that complies with this part for participation in the Child Welfare Parental Defense Fund described in Section 78B-22-804.

(4) "Fund" means the Child Welfare Parental Defense Fund created in Section 78B-22-804.

(5) "Program" means the Child Welfare Parental Defense Program created in Section 78B-22-802.

Section 127. Section 78B-22-803 is amended to read:

78B-22-803. Child welfare parental defense contracts.

(1) (a) The office may enter into a contract with an attorney to provide indigent defense services for a parent who is the subject of a petition alleging abuse, neglect, or dependency, and requires indigent defense services under Section [~~78A-6-1111~~] 80-3-104.

(b) The office shall make payment for the representation, costs, and expenses of a contracted parental defense attorney from the Child Welfare Parental Defense Fund in accordance with Section 78B-22-804.

(2) (a) Except as provided in Subsection (2)(b), a contracted parental defense attorney shall:

(i) complete a basic training course provided by the office;

(ii) provide parental defense services consistent with the commission's core principles described in Section 78B-22-404;

(iii) have experience in child welfare cases; and

(iv) participate each calendar year in continuing legal education courses providing no fewer than eight hours of instruction in child welfare law.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may, by rule, exempt from the requirements of Subsection (2)(a) an attorney who has equivalent training or adequate experience.

Section 128. Effective date.

This bill takes effect on September 1, 2021.

Section 129. Coordinating H.B. 286 with H.B. 260 -- Substantive change.

If this H.B. 286 and H.B. 260, Criminal Justice Modifications, both pass and become law, the Legislature intends that, on September 1, 2021, the Office of Legislative Research and General Counsel, prepare the Utah Code database for publication amending Subsection 77-37-3(1)(e) to read:

"(e) Victims may seek restitution or reparations, including medical costs, as provided in Title 63M, Chapter 7, Criminal Justice and Substance Abuse, [~~and Sections 62A-7-109.5, 77-38a-302, and 77-27-6.~~] Title 77, Chapter 38b, Crime Victims Restitution Act, and Section 80-6-710. State and local government agencies that serve victims have the duty to have a functional knowledge of the procedures established by the Crime Victim Reparations Board and to inform victims of these procedures.".

Section 130. Coordinating H.B. 286 with S.B. 90 -- Technical amendments.

If this H.B. 286 and S.B. 90, Parental Defense Amendments, both pass and become law, the Legislature intends that, on September 1, 2021, the Office of Legislative Research and General Counsel shall prepare the Utah Code database for publication as follows:

(1) Subsection 78B-22-102(4) is amended to read:

"(4) "Child welfare case" means a proceeding under Title 80, Chapter 3, Abuse, Neglect, or Dependency Proceedings, or Chapter 4, Termination and Restoration of Parental Rights."; and

(2) the amendments to Section 78B-22-801 in S.B. 90 supersede the amendments to Section 78B-22-801 in this bill.

CHAPTER 263
H. B. 287
Passed March 5, 2021
Approved March 17, 2021
Effective May 5, 2021

NURSE PRACTICE ACT AMENDMENTS

Chief Sponsor: Douglas R. Welton
Senate Sponsor: Curtis S. Bramble
Cosponsors: Kera Birkeland
Walt Brooks
Jefferson S. Burton
Jennifer Dailey-Provost
James A. Dunnigan
Marsha Judkins
Steven J. Lund
Phil Lyman
A. Cory Maloy
Carol Spackman Moss
Candice B. Pierucci
Paul Ray
Travis M. Seegmiller
V. Lowry Snow
Andrew Stoddard
Norman K. Thurston
Christine F. Watkins
Mike Winder

LONG TITLE

General Description:

This bill modifies the Nurse Practice Act.

Highlighted Provisions:

This bill:

- modifies the requirements a nurse practitioner must meet before prescribing a Schedule II controlled substance; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

58-31b-102, as last amended by Laws of Utah 2020, Chapter 314
58-31b-502, as last amended by Laws of Utah 2020, Fifth Special Session, Chapter 4
58-31b-803, as last amended by Laws of Utah 2020, Chapter 339
62A-4a-213, as last amended by Laws of Utah 2019, Chapter 257

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

Section 1. Section 58-31b-102 is amended to read:

58-31b-102. Definitions.

In addition to the definitions in Section 58-1-102, as used in this chapter:

(1) "Administrative penalty" means a monetary fine or citation imposed by the division for acts or omissions determined to be unprofessional or unlawful conduct in accordance with a fine schedule established by division rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and as a result of an adjudicative proceeding conducted in accordance with Title 63G, Chapter 4, Administrative Procedures Act.

(2) "Applicant" means an individual who applies for licensure or certification under this chapter by submitting a completed application for licensure or certification and the required fees to the department.

(3) "Approved education program" means a nursing education program that is accredited by an accrediting body for nursing education that is approved by the United States Department of Education.

(4) "Board" means the Board of Nursing created in Section 58-31b-201.

[~~(5) "Consultation and referral plan" means a written plan jointly developed by an advanced practice registered nurse and, except as provided in Subsection 58-31b-803(4), a consulting physician that permits the advanced practice registered nurse to prescribe Schedule II controlled substances in consultation with the consulting physician.~~]

[~~(6) "Consulting physician" means a physician and surgeon or osteopathic physician and surgeon licensed in accordance with this title who has agreed to consult with an advanced practice registered nurse with a controlled substance license, a DEA registration number, and who will be prescribing Schedule II controlled substances.~~]

[~~(7)~~] (5) "Diagnosis" means the identification of and discrimination between physical and psychosocial signs and symptoms essential to the effective execution and management of health care.

[~~(8)~~] (6) "Examinee" means an individual who applies to take or does take any examination required under this chapter for licensure.

[~~(9)~~] (7) "Licensee" means an individual who is licensed or certified under this chapter.

[~~(10)~~] (8) "Long-term care facility" means any of the following facilities licensed by the Department of Health pursuant to Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act:

(a) a nursing care facility;

(b) a small health care facility;

(c) an intermediate care facility for people with an intellectual disability;

(d) an assisted living facility Type I or II; or

(e) a designated swing bed unit in a general hospital.

[~~(11)~~] (9) "Medication aide certified" means a certified nurse aide who:

(a) has a minimum of 2,000 hours experience working as a certified nurse aide;

(b) has received a minimum of 60 hours of classroom and 40 hours of practical training that is

approved by the division in collaboration with the board, in administering routine medications to patients or residents of long-term care facilities; and

(c) is certified by the division as a medication aide certified.

[~~(12) "Pain clinic" means the same as that term is defined in Section 58-1-102.~~]

[~~(13)~~] (10) (a) "Practice as a medication aide certified" means the limited practice of nursing under the supervision, as defined by the division by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, of a licensed nurse, involving routine patient care that requires minimal or limited specialized or general knowledge, judgment, and skill, to an individual who:

(i) is ill, injured, infirm, has a physical, mental, developmental, or intellectual disability; and

(ii) is in a regulated long-term care facility.

(b) "Practice as a medication aide certified":

(i) includes:

(A) providing direct personal assistance or care; and

(B) administering routine medications to patients in accordance with a formulary and protocols to be defined by the division by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(ii) does not include assisting a resident of an assisted living facility, a long term care facility, or an intermediate care facility for people with an intellectual disability to self administer a medication, as regulated by the Department of Health by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

[~~(14)~~] (11) "Practice of advanced practice registered nursing" means the practice of nursing within the generally recognized scope and standards of advanced practice registered nursing as defined by rule and consistent with professionally recognized preparation and education standards of an advanced practice registered nurse by a person licensed under this chapter as an advanced practice registered nurse. "Practice of advanced practice registered nursing" includes:

(a) maintenance and promotion of health and prevention of disease;

(b) diagnosis, treatment, correction, consultation, and referral [~~for common health problems~~];

(c) prescription or administration of prescription drugs or devices including:

(i) local anesthesia;

(ii) Schedule III-V controlled substances; and

(iii) Subject to Section 58-31b-803, Schedule II controlled substances; or

(d) the provision of preoperative, intraoperative, and postoperative anesthesia care and related services upon the request of a licensed health care professional by an advanced practice registered nurse specializing as a certified registered nurse anesthetist, including:

(i) preanesthesia preparation and evaluation including:

(A) performing a preanesthetic assessment of the patient;

(B) ordering and evaluating appropriate lab and other studies to determine the health of the patient; and

(C) selecting, ordering, or administering appropriate medications;

(ii) anesthesia induction, maintenance, and emergence, including:

(A) selecting and initiating the planned anesthetic technique;

(B) selecting and administering anesthetics and adjunct drugs and fluids; and

(C) administering general, regional, and local anesthesia;

(iii) postanesthesia follow-up care, including:

(A) evaluating the patient's response to anesthesia and implementing corrective actions; and

(B) selecting, ordering, or administering the medications and studies listed in this Subsection [~~(14)~~] (11)(d); and

(iv) other related services within the scope of practice of a certified registered nurse anesthetist, including:

(A) emergency airway management;

(B) advanced cardiac life support; and

(C) the establishment of peripheral, central, and arterial invasive lines; and

(v) for purposes of this Subsection [~~(14)~~] (11)(d), "upon the request of a licensed health care professional":

(A) means a health care professional practicing within the scope of the health care professional's license, requests anesthesia services for a specific patient; and

(B) does not require an advanced practice registered nurse specializing as a certified registered nurse anesthetist to [~~enter into a consultation and referral plan or~~] obtain additional authority to select, administer, or provide preoperative, intraoperative, or postoperative anesthesia care and services.

[~~(15)~~] (12) "Practice of nursing" means assisting individuals or groups to maintain or attain optimal health, implementing a strategy of care to

accomplish defined goals and evaluating responses to care and treatment, and requires substantial specialized or general knowledge, judgment, and skill based upon principles of the biological, physical, behavioral, and social sciences. "Practice of nursing" includes:

(a) initiating and maintaining comfort measures;

(b) promoting and supporting human functions and responses;

(c) establishing an environment conducive to well-being;

(d) providing health counseling and teaching;

(e) collaborating with health care professionals on aspects of the health care regimen;

(f) performing delegated procedures only within the education, knowledge, judgment, and skill of the licensee;

(g) delegating nursing tasks that may be performed by others, including an unlicensed assistive personnel; and

(h) supervising an individual to whom a task is delegated under Subsection [~~(15)~~] (12)(g) as the individual performs the task.

[~~(16)~~] (13) "Practice of practical nursing" means the performance of nursing acts in the generally recognized scope of practice of licensed practical nurses as defined by division rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and as provided in this Subsection [~~(16)~~] (13) by an individual licensed under this chapter as a licensed practical nurse and under the direction of a registered nurse, licensed physician, or other specified health care professional as defined by division rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act. Practical nursing acts include:

(a) contributing to the assessment of the health status of individuals and groups;

(b) participating in the development and modification of the strategy of care;

(c) implementing appropriate aspects of the strategy of care;

(d) maintaining safe and effective nursing care rendered to a patient directly or indirectly; and

(e) participating in the evaluation of responses to interventions.

[~~(17)~~] (14) "Practice of registered nursing" means performing acts of nursing as provided in this Subsection [~~(17)~~] (14) by an individual licensed under this chapter as a registered nurse within the generally recognized scope of practice of registered nurses as defined by division rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act. Registered nursing acts include:

(a) assessing the health status of individuals and groups;

(b) identifying health care needs;

(c) establishing goals to meet identified health care needs;

(d) planning a strategy of care;

(e) prescribing nursing interventions to implement the strategy of care;

(f) implementing the strategy of care;

(g) maintaining safe and effective nursing care that is rendered to a patient directly or indirectly;

(h) evaluating responses to interventions;

(i) teaching the theory and practice of nursing; and

(j) managing and supervising the practice of nursing.

[~~(18)~~] (15) "Routine medications":

(a) means established medications administered to a medically stable individual as determined by a licensed health care practitioner or in consultation with a licensed medical practitioner; and

(b) is limited to medications that are administered by the following routes:

(i) oral;

(ii) sublingual;

(iii) buccal;

(iv) eye;

(v) ear;

(vi) nasal;

(vii) rectal;

(viii) vaginal;

(ix) skin ointments, topical including patches and transdermal;

(x) premeasured medication delivered by aerosol/nebulizer; and

(xi) medications delivered by metered hand-held inhalers.

[~~(19)~~] (16) "Unlawful conduct" means the same as that term is defined in Sections 58-1-501 and 58-31b-501.

[~~(20)~~] (17) "Unlicensed assistive personnel" means any unlicensed individual, regardless of title, who is delegated a task by a licensed nurse as permitted by division rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and the standards of the profession.

[~~(21)~~] (18) "Unprofessional conduct" means the same as that term is defined in Sections 58-1-501 and 58-31b-502 and as may be further defined by division rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Section 2. Section 58-31b-502 is amended to read:

58-31b-502. Unprofessional conduct.

(1) "Unprofessional conduct" includes:

(a) failure to safeguard a patient's right to privacy as to the patient's person, condition, diagnosis, personal effects, or any other matter about which the licensee is privileged to know because of the licensee's or person with a certification's position or practice as a nurse or practice as a medication aide certified;

(b) failure to provide nursing service or service as a medication aide certified in a manner that demonstrates respect for the patient's human dignity and unique personal character and needs without regard to the patient's race, religion, ethnic background, socioeconomic status, age, sex, or the nature of the patient's health problem;

(c) engaging in sexual relations with a patient during any:

(i) period when a generally recognized professional relationship exists between the person licensed or certified under this chapter and the patient; or

(ii) extended period when a patient has reasonable cause to believe a professional relationship exists between the person licensed or certified under the provisions of this chapter and the patient;

(d) (i) as a result of any circumstance under Subsection (1)(c), exploiting or using information about a patient or exploiting the licensee's or the person with a certification's professional relationship between the licensee or holder of a certification under this chapter and the patient; or

(ii) exploiting the patient by use of the licensee's or person with a certification's knowledge of the patient obtained while acting as a nurse or a medication aide certified;

(e) unlawfully obtaining, possessing, or using any prescription drug or illicit drug;

(f) unauthorized taking or personal use of nursing supplies from an employer;

(g) unauthorized taking or personal use of a patient's personal property;

(h) unlawful or inappropriate delegation of nursing care;

(i) failure to exercise appropriate supervision of persons providing patient care services under supervision of the licensed nurse;

(j) employing or aiding and abetting the employment of an unqualified or unlicensed person to practice as a nurse;

(k) failure to file or record any medical report as required by law, impeding or obstructing the filing or recording of such a report, or inducing another to fail to file or record such a report;

(l) breach of a statutory, common law, regulatory, or ethical requirement of confidentiality with respect to a person who is a patient, unless ordered by a court;

(m) failure to pay a penalty imposed by the division;

(n) prescribing a Schedule II controlled substance without complying with the requirements in Section 58-31b-803, if applicable;

(o) violating Section 58-31b-801;

(p) violating the dispensing requirements of Section 58-17b-309 or Chapter 17b, Part 8, Dispensing Medical Practitioner and Dispensing Medical Practitioner Clinic Pharmacy, if applicable; or

[~~(q) establishing or operating a pain clinic without a consultation and referral plan for Schedule II or III controlled substances; or~~]

[~~(r)~~] (q) falsely making an entry in, or altering, a medical record with the intent to conceal:

(i) a wrongful or negligent act or omission of an individual licensed under this chapter or an individual under the direction or control of an individual licensed under this chapter; or

(ii) conduct described in Subsections (1)(a) through [~~(q)~~] (o) or Subsection 58-1-501(1).

(2) "Unprofessional conduct" does not include, in accordance with Title 26, Chapter 61a, Utah Medical Cannabis Act, when registered as a qualified medical provider, as that term is defined in Section 26-61a-102, recommending the use of medical cannabis.

(3) Notwithstanding Subsection (2), the division, in consultation with the board and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, shall define unprofessional conduct for an advanced practice registered nurse described in Subsection (2).

Section 3. Section 58-31b-803 is amended to read:

58-31b-803. Limitations on prescriptive authority for advanced practice registered nurses.

(1) This section does not apply to an advanced practice registered nurse specializing as a certified registered nurse anesthetist under Subsection 58-31b-102(14)(d).

(2) Except as provided in [~~Subsections (3) and 58-31b-502(1)(q)~~] Subsection (3), an advanced practice registered nurse may prescribe or administer a Schedule II controlled substance [~~without a consultation and referral plan~~].

(3) An advanced practice registered nurse described in Subsection (4) may not prescribe or administer a Schedule II controlled substance unless the advanced practice registered nurse [~~prescribes or administers Schedule II controlled substances in accordance with a consultation and referral plan.~~]:

(a) receives a board certification from a nationally recognized organization;

(b) completes at least 30 hours of instruction, or the equivalent number of credit hours, pertaining to advanced pharmacology during a graduate education program;

(c) when obtaining licensure with the division, demonstrates completion of at least seven hours of continuing education pertaining to prescribing opioids; and

(d) participates in a prescribing mentorship under which the advanced practice registered nurse:

(i) is mentored by:

(A) a physician licensed in accordance with this title; or

(B) an advance practice registered nurse who has been licensed at least three years; and

(ii) periodically provides the mentor described in Subsection (4)(d)(i) timesheets that, in total, demonstrate 1,000 hours of clinical experience.

(4) Subsection (3) applies to an advanced practice registered nurse who:

(a) [~~(i)~~] is engaged in independent solo practice; and

[~~(ii) (A)~~] (b) (i) has been licensed as an advanced practice registered nurse for less than one year; or

[~~(B)~~] (ii) has less than 2,000 hours of experience practicing as a licensed advanced practice registered nurse[~~; or~~].

[~~(b) owns or operates a pain clinic.~~]

[~~(5) Notwithstanding Subsection 58-31b-102(5), an advanced practice registered nurse with at least three years of experience as a licensed advanced practice registered nurse may supervise a consultation and referral plan for an advanced practice registered nurse described in Subsection (4)(a).~~]

Section 4. Section 62A-4a-213 is amended to read:

62A-4a-213. Psychotropic medication oversight pilot program.

(1) As used in this section, "psychotropic medication" means medication prescribed to affect or alter thought processes, mood, or behavior, including antipsychotic, antidepressant, anxiolytic, or behavior medication.

(2) The division shall, through contract with the Department of Health, establish and operate a psychotropic medication oversight pilot program for children in foster care to ensure that foster children are being prescribed psychotropic medication consistent with their needs.

(3) The division shall establish an oversight team to manage the psychotropic medication oversight program, composed of at least the following individuals:

(a) an "advanced practice registered nurse," as defined in [~~Subsection~~] Section 58-31b-102[~~(14)~~], employed by the Department of Health; and

(b) a child psychiatrist.

(4) The oversight team shall monitor foster children:

(a) six years old or younger who are being prescribed one or more psychotropic medications; and

(b) seven years old or older who are being prescribed two or more psychotropic medications.

(5) The oversight team shall, upon request, be given information or records related to the foster child's health care history, including psychotropic medication history and mental and behavioral health history, from:

(a) the foster child's current or past caseworker;

(b) the foster child; or

(c) the foster child's:

(i) current or past health care provider;

(ii) natural parents; or

(iii) foster parents.

(6) The oversight team may review and monitor the following information about a foster child:

(a) the foster child's history;

(b) the foster child's health care, including psychotropic medication history and mental or behavioral health history;

(c) whether there are less invasive treatment options available to meet the foster child's needs;

(d) the dosage or dosage range and appropriateness of the foster child's psychotropic medication;

(e) the short-term or long-term risks associated with the use of the foster child's psychotropic medication; or

(f) the reported benefits of the foster child's psychotropic medication.

(7) (a) The oversight team may make recommendations to the foster child's health care providers concerning the foster child's psychotropic medication or the foster child's mental or behavioral health.

(b) The oversight team shall provide the recommendations made in Subsection (7)(a) to the foster child's parent or guardian after discussing the recommendations with the foster child's current health care providers.

(8) The division may adopt administrative rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, necessary to administer this section.

(9) The division shall report to the Child Welfare Legislative Oversight Panel regarding the psychotropic medication oversight pilot program by October 1 of each even numbered year.

CHAPTER 264
H. B. 300
Passed March 3, 2021
Approved March 17, 2021
Effective May 5, 2021

REPORTING REQUIREMENTS FOR LOCAL EDUCATION AGENCIES

Chief Sponsor: Susan Pulsipher
Senate Sponsor: Lincoln Fillmore

LONG TITLE

General Description:

This bill requires the State Board of Education (state board) to review reports required in statute and rule.

Highlighted Provisions:

This bill:

- requires the State Board of Education (state board) to:
  - work with local education agencies to develop a process to review reports required in statute and state board rule; and
  - in reviewing required reports, take into consideration several factors, including the time and cost to complete a required report, and whether the information, accountability, or transparency the required report provides could be obtained or achieved by other means;
- permits the state board to make recommendations to the Legislature for legislation; and
- defines terms.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:
53E-3-523, Utah Code Annotated 1953

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

Section 1. Section 53E-3-523 is enacted to read:

53E-3-523. State board to review reporting requirements.

(1) As used in this section, "required report" means a report that statute or state board rule requires an LEA or the state board to make.

(2) (a) The state board shall work with LEAs to develop a process to review required reports.

(b) The process described in Subsection (2)(a) shall include the following considerations for each required report:

(i) (A) the required report's purpose; and

(B) the report's effectiveness in accomplishing the report's purpose;

(ii) which entity requires the required report;

(iii) which entity created the report requirements;

(iv) which entity or individual reviews the required report;

(v) whether the information in the required report is otherwise available or could be obtained another way;

(vi) whether the required report is the least burdensome way to collect the information in the required report;

(vii) whether accountability or transparency could be achieved through a means other than the required report;

(viii) whether and how the Utah Schools Information Management System affects the required report;

(ix) the estimated time and cost required to complete the required report for:

(A) an LEA; or

(B) the state board; and

(x) the amount of appropriated program funding available for program purposes after program money is expended for completing a required report for the program.

(3) After reviewing required reports as described in Subsection (2), the state board may make recommendations for legislation to the Legislature.

CHAPTER 265
H. B. 303
Passed March 4, 2021
Approved March 17, 2021
Effective May 5, 2021

EMERGENCY MEDICAL SERVICES REVISIONS

Chief Sponsor: Dan N. Johnson
Senate Sponsor: Curtis S. Bramble

LONG TITLE

General Description:

This bill amends provisions related to emergency medical services.

Highlighted Provisions:

This bill:

- defines terms;
- requires municipalities and counties to ensure at least a minimum level of 911 ambulance services are provided within the municipality or county;
- extends certain requirements for the selection of ambulance and paramedic providers to all other municipalities, counties, local districts, and special service districts;
- requires the State Emergency Medical Services Committee to adopt rules establishing the minimum level of 911 ambulance services provided within municipalities and counties;
- allows the Department of Health to align the boundaries of an ambulance or paramedic provider's exclusive geographic service area with the boundaries of a political subdivision in certain circumstances;
- allows a political subdivision to terminate a contract with a 911 ambulance services provider in certain circumstances;
- modifies provisions related to the Department of Health's renewal of certain licenses; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

11-48-102, as enacted by Laws of Utah 2011, Chapter 230
26-8a-102, as last amended by Laws of Utah 2019, Chapter 265
26-8a-104, as last amended by Laws of Utah 2017, Chapter 326
26-8a-401, as enacted by Laws of Utah 1999, Chapter 141
26-8a-402, as last amended by Laws of Utah 2000, Chapter 1
26-8a-405.1, as last amended by Laws of Utah 2010, Chapter 187
26-8a-405.4, as last amended by Laws of Utah 2019, Chapter 265
26-8a-405.5, as last amended by Laws of Utah 2012, Chapter 347
26-8a-413, as last amended by Laws of Utah 2011, Chapter 297

ENACTS:

11-48-101.5, Utah Code Annotated 1953
11-48-103, Utah Code Annotated 1953

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

Section 1. Section 11-48-101.5 is enacted to read:

11-48-101.5. Definitions.

As used in this chapter:

(1) (a) "911 ambulance services" means ambulance services rendered in response to a 911 call received by a designated dispatch center that receives 911 or E911 calls.

(b) "911 ambulance services" does not mean a seven or ten digit telephone call received directly by an ambulance provider licensed under Title 26, Chapter 8a, Utah Emergency Medical Services System Act.

(2) "Municipality" means a city, town, or metro township.

(3) "Political subdivision" means a county, city, town, local district, or special district.

Section 2. Section 11-48-102 is amended to read:

11-48-102. Prohibition of response fees.

[~~(1) As used in this section, "political subdivision" means a county, city, town, local district, or special district.~~]

[~~(2)~~] (1) A political subdivision, or a person who contracts with a political subdivision to provide emergency services:

(a) may not impose a flat fee, or collect a flat fee, from an individual involved in a traffic incident; and

(b) may only charge the individual for the actual cost of services provided in responding to the traffic incident, limited to:

(i) medical costs for:

(A) transporting an individual from the scene of a traffic accident; or

(B) treatment of [~~a person~~] an individual injured in a traffic accident;

(ii) repair to damaged public property, if the individual is legally liable for the damage;

(iii) the cost of materials used in cleaning up the traffic accident, if the individual is legally liable for the traffic accident; and

(iv) towing costs.

[~~(3)~~] (2) If a political subdivision, or a person who contracts with a political subdivision to provide emergency services, imposes a charge on more than one individual for the actual cost of responding to a traffic incident, the political subdivision or person contracting with the political subdivision shall apportion the charges so that [~~it~~] the political subdivision or person contracting with the political subdivision does not receive more for responding to the traffic incident than the actual response cost.

Section 3. Section 11-48-103 is enacted to read:

11-48-103. Provision of 911 ambulance services in municipalities and counties.

(1) The governing body of each municipality and county shall, subject to Title 26, Chapter 8a, Part 4, Ambulance and Paramedic Providers, ensure at least a minimum level of 911 ambulance services are provided:

(a) within the territorial limits of the municipality or county;

(b) by a ground ambulance provider, licensed by the Department of Health under Title 26, Chapter 8a, Part 4, Ambulance and Paramedic Providers; and

(c) in accordance with rules established by the State Emergency Medical Services Committee under Subsection 26-8a-104(8).

(2) A municipality or county may:

(a) subject to Subsection (3), maintain and support 911 ambulance services for the municipality's or county's own jurisdiction; or

(b) contract to:

(i) provide 911 ambulance services to any county, municipal corporation, local district, special service district, interlocal entity, private corporation, nonprofit corporation, state agency, or federal agency;

(ii) receive 911 ambulance services from any county, municipal corporation, local district, special service district, interlocal entity, private corporation, nonprofit corporation, state agency, or federal agency;

(iii) jointly provide 911 ambulance services with any county, municipal corporation, local district, special service district, interlocal entity, private corporation, nonprofit corporation, state agency, or federal agency; or

(iv) contribute toward the support of 911 ambulance services in any county, municipal corporation, local district, special service district, interlocal entity, private corporation, nonprofit corporation, state agency, or federal agency in return for 911 ambulance services.

(3) (a) A municipality or county that maintains and supports 911 ambulance services for the municipality's or county's own jurisdiction under Subsection (2)(a) shall obtain a license as a ground ambulance provider from the Department of Health under Title 26, Chapter 8a, Part 4, Ambulance and Paramedic Providers.

(b) Subsections 26-8a-405 through 26-8a-405.3 do not apply to a license described in Subsection (3)(a).

Section 4. Section 26-8a-102 is amended to read:

26-8a-102. Definitions.

As used in this chapter:

(1) (a) "911 ambulance or paramedic services" means:

(i) either:

(A) 911 ambulance service;

(B) 911 paramedic service; or

(C) both 911 ambulance and paramedic service; and

(ii) a response to a 911 call received by a designated dispatch center that receives 911 or E911 calls.

(b) "911 ambulance or paramedic [~~service~~] services" does not mean a seven or ten digit telephone call received directly by an ambulance provider licensed under this chapter.

(2) "Ambulance" means a ground, air, or water vehicle that:

(a) transports patients and is used to provide emergency medical services; and

(b) is required to obtain a permit under Section 26-8a-304 to operate in the state.

(3) "Ambulance provider" means an emergency medical service provider that:

(a) transports and provides emergency medical care to patients; and

(b) is required to obtain a license under Part 4, Ambulance and Paramedic Providers.

(4) "Committee" means the State Emergency Medical Services Committee created by Section 26-1-7.

(5) "Direct medical observation" means in-person observation of a patient by a physician, registered nurse, physician's assistant, or individual licensed under Section 26-8a-302.

(6) "Emergency medical condition" means:

(a) a medical condition that manifests itself by symptoms of sufficient severity, including severe pain, that a prudent layperson, who possesses an average knowledge of health and medicine, could reasonably expect the absence of immediate medical attention to result in:

(i) placing the individual's health in serious jeopardy;

(ii) serious impairment to bodily functions; or

(iii) serious dysfunction of any bodily organ or part; or

(b) a medical condition that in the opinion of a physician or [~~his~~] the physician's designee requires direct medical observation during transport or may require the intervention of an individual licensed under Section 26-8a-302 during transport.

(7) "Emergency medical service personnel":

(a) means an individual who provides emergency medical services to a patient and is required to be licensed under Section 26-8a-302; and

(b) includes a paramedic, medical director of a licensed emergency medical service provider,

emergency medical service instructor, and other categories established by the committee.

(8) "Emergency medical service providers" means:

(a) licensed ambulance providers and paramedic providers;

(b) a facility or provider that is required to be designated under Subsection 26-8a-303(1)(a); and

(c) emergency medical service personnel.

(9) "Emergency medical services" means medical services, transportation services, or both rendered to a patient.

(10) "Emergency medical service vehicle" means a land, air, or water vehicle that is:

(a) maintained and used for the transportation of emergency medical personnel, equipment, and supplies to the scene of a medical emergency; and

(b) required to be permitted under Section 26-8a-304.

(11) "Governing body":

(a) [~~is as~~] means the same as that term is defined in Section 11-42-102; and

(b) for purposes of a "special service district" under Section 11-42-102, means a special service district that has been delegated the authority to select a provider under this chapter by the special service district's legislative body or administrative control board.

(12) "Interested party" means:

(a) a licensed or designated emergency medical services provider that provides emergency medical services within or in an area that abuts an exclusive geographic service area that is the subject of an application submitted pursuant to Part 4, Ambulance and Paramedic Providers;

(b) any municipality, county, or fire district that lies within or abuts a geographic service area that is the subject of an application submitted pursuant to Part 4, Ambulance and Paramedic Providers; or

(c) the department when acting in the interest of the public.

(13) "Medical control" means a person who provides medical supervision to an emergency medical service provider.

(14) "Non-911 service" means transport of a patient that is not 911 transport under Subsection (1).

(15) "Nonemergency secured behavioral health transport" means an entity that:

(a) provides nonemergency secure transportation services for an individual who:

(i) is not required to be transported by an ambulance under Section 26-8a-305; and

(ii) requires behavioral health observation during transport between any of the following facilities:

(A) a licensed acute care hospital;

(B) an emergency patient receiving facility;

(C) a licensed mental health facility; and

(D) the office of a licensed health care provider; and

(b) is required to be designated under Section 26-8a-303.

(16) "Paramedic provider" means an entity that:

(a) employs emergency medical service personnel; and

(b) is required to obtain a license under Part 4, Ambulance and Paramedic Providers.

(17) "Patient" means an individual who, as the result of illness or injury, meets any of the criteria in Section 26-8a-305.

(18) "Political subdivision" means:

(a) a city [~~or~~], town [~~located in a county of the first or second class as defined in Section 17-50-501~~], or metro township;

(b) a county [~~of the first or second class~~];

[~~(c) the following districts located in a county of the first or second class:~~]

[~~(i)~~] (c) a special service district created under Title 17D, Chapter 1, Special Service District Act, for the purpose of providing fire protection services under Subsection 17D-1-201(9); [~~or~~]

[~~(ii)~~] (d) a local district created under Title 17B, Limited Purpose Local Government Entities - Local Districts, for the purpose of providing fire protection, paramedic, and emergency services;

[~~(d)~~] (e) areas coming together as described in Subsection 26-8a-405.2(2)(b)(ii); or

[~~(e)~~] (f) an interlocal entity under Title 11, Chapter 13, Interlocal Cooperation Act[~~; or~~].

[~~(f) a special service district for fire protection service under Subsection 17D-1-201(9).~~]

(19) "Trauma" means an injury requiring immediate medical or surgical intervention.

(20) "Trauma system" means a single, statewide system that:

(a) organizes and coordinates the delivery of trauma care within defined geographic areas from the time of injury through transport and rehabilitative care; and

(b) is inclusive of all prehospital providers, hospitals, and rehabilitative facilities in delivering care for trauma patients, regardless of severity.

(21) "Triage" means the sorting of patients in terms of disposition, destination, or priority. For prehospital trauma victims, triage requires a determination of injury severity to assess the

appropriate level of care according to established patient care protocols.

(22) "Triage, treatment, transportation, and transfer guidelines" means written procedures that:

(a) direct the care of patients; and

(b) are adopted by the medical staff of an emergency patient receiving facility, trauma center, or an emergency medical service provider.

Section 5. Section 26-8a-104 is amended to read:

26-8a-104. Committee advisory duties.

The committee shall adopt rules, with the concurrence of the department, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

(1) establish licensure and reciprocity requirements under Section 26-8a-302;

(2) establish designation requirements under Section 26-8a-303;

(3) promote the development of a statewide emergency medical services system under Section 26-8a-203;

(4) establish insurance requirements for ambulance providers;

(5) provide guidelines for requiring patient data under Section 26-8a-203;

(6) establish criteria for awarding grants under Section 26-8a-207;

(7) establish requirements for the coordination of emergency medical services and the medical supervision of emergency medical service providers under Section 26-8a-306; [~~and~~]

(8) establish the minimum level of service for 911 ambulance services provided under Section 11-48-103; and

[~~(8)~~] (9) are necessary to carry out the responsibilities of the committee as specified in other sections of this chapter.

Section 6. Section 26-8a-401 is amended to read:

26-8a-401. State regulation of emergency medical services market -- License term.

(1) To ensure emergency medical service quality and minimize unnecessary duplication, the department shall regulate the emergency medical [~~service~~] services market [~~after October 1, 1999,~~] by creating and operating a statewide system that:

(a) consists of exclusive geographic service areas as provided in Section 26-8a-402; and

(b) establishes maximum rates as provided in Section 26-8a-403.

[~~(2) (a) All licenses issued prior to July 1, 1996, shall expire as stated in the license.~~]

[~~(b) If no expiration date is stated on a license issued before July 1, 1996, the license shall expire on October 1, 1999, unless:~~]

[~~(i) the license holder requests agency action before August 1, 1999; and~~]

[~~(ii) before October 1, 1999, the department:~~]

[~~(A) finds the license has been used as the basis for responding to requests for ambulance or paramedic services during the past five years;~~]

[~~(B) identifies one or more specific geographic areas covered by the license in which the license holder has actively and adequately responded as the primary provider to requests for ambulance or paramedic services during the past five years; and~~]

[~~(C) determines that the continuation of a license in a specific geographic area identified in Subsection (2)(b)(ii)(B) satisfies:~~]

[~~(I) the standards established pursuant to Subsection 26-8a-404(2); and~~]

[~~(II) the requirement of public convenience and necessity.~~]

[~~(c) If the department finds that a license meets the requirements of Subsection (2)(b), the department shall amend the license to reflect:~~]

[~~(i) the specific geographic area of the license; and~~]

[~~(ii) a four-year term extension.~~]

[~~(d) Before July 1, 1999, the department shall publish notice once a week for four consecutive weeks of the expiration of licenses pursuant to Subsection (2)(b) in a newspaper of general circulation in the state.~~]

[~~(e) Nothing in this Subsection (2) may be construed as restricting the authority of the department to amend overlapping licenses pursuant to Section 26-8a-416.~~]

[~~(3) After October 1, 1999, new licenses and license renewals shall be for a four-year term.~~]

(2) A license issued or renewed under this part is valid for four years.

Section 7. Section 26-8a-402 is amended to read:

26-8a-402. Exclusive geographic service areas.

(1) Each ground ambulance provider license issued under this part shall be for an exclusive geographic service area as described in the license. Only the licensed ground ambulance provider may respond to an ambulance request that originates within the provider's exclusive geographic service area, except as provided in Subsection (5) and Section 26-8a-416.

(2) Each paramedic provider license issued under this part shall be for an exclusive geographic service area as described in the license. Only the licensed paramedic provider may respond to a paramedic request that originates within the exclusive geographic service area, except as provided in Subsection (6) and Section 26-8a-416.

(3) Nothing in this section may be construed as either requiring or prohibiting that the formation of boundaries in a given location be the same for a licensed paramedic provider [~~as it is for~~] and a licensed ambulance provider.

(4) (a) A licensed ground ambulance or paramedic provider may, as necessary, enter into a mutual aid agreement to allow another licensed provider to give assistance in times of unusual demand, as that term is defined by the committee in rule.

(b) A mutual aid agreement shall include a formal written plan detailing the type of assistance and the circumstances under which it would be given.

(c) The parties to a mutual aid agreement shall submit a copy of the agreement to the department.

(d) Notwithstanding this Subsection (4), a licensed provider may not subcontract with another entity to provide services in the licensed provider's exclusive geographic service area.

(5) Notwithstanding Subsection (1), a licensed ground ambulance provider may respond to an ambulance request that originates from the exclusive geographic area of another provider:

(a) pursuant to a mutual aid agreement;

(b) to render assistance on a case-by-case basis to that provider; and

(c) as necessary to meet needs in time of disaster or other major emergency.

(6) Notwithstanding Subsection (2), a licensed paramedic provider may respond to a paramedic request that originates from the exclusive geographic area of another provider:

(a) pursuant to a mutual aid agreement;

(b) to render assistance on a case-by-case basis to that provider; and

(c) as necessary to meet needs in time of disaster or other major emergency.

(7) The department may, upon the renewal of a license, align the boundaries of an exclusive geographic area with the boundaries of a political subdivision:

(a) if the alignment is practical and in the public interest;

(b) if each licensed provider that would be affected by the alignment agrees to the alignment; and

(c) taking into consideration the requirements of:

(i) Section 11-48-103; and

(ii) Section 26-8a-408.

Section 8. Section 26-8a-405.1 is amended to read:

26-8a-405.1. Selection of provider by political subdivision.

(1) (a) Only an applicant approved under Section 26-8a-405 may respond to a request for a proposal issued in accordance with Section 26-8a-405.2 or Section 26-8a-405.4 by a political subdivision.

(b) A response to a request for proposal is subject to the maximum rates established by the department under Section 26-8a-403.

(c) A political subdivision may award a contract to an applicant in response to a request for proposal:

(i) in accordance with Section 26-8a-405.2; and

(ii) subject to [~~Subsection (2)~~] Subsections (2) and (3).

(2) (a) The department shall issue a license to an applicant selected by a political subdivision under Subsection (1) unless the department finds that issuing a license to that applicant would jeopardize the health, safety, and welfare of the citizens of the geographic service area.

(b) A license issued under this Subsection (2):

(i) is for the exclusive geographic service area approved by the department in accordance with Subsection 26-8a-405.2(2);

(ii) is valid for four years;

(iii) is not subject to a request for license from another applicant under the provisions of Sections 26-8a-406 through 26-8a-409 during the four-year term, unless the applicant's license is revoked under Section 26-8a-504; [~~and~~]

(iv) is subject to revocation or revision under Subsection (3)(d); and

[~~(iv)~~] (v) is subject to supervision by the department under Sections 26-8a-503 and 26-8a-504.

(3) Notwithstanding Subsection (2)(b), a political subdivision may terminate a contract described in Subsection (1)(c), with or without cause, if:

(a) the contract:

(i) is entered into on or after May 5, 2021; and

(ii) allows an applicant to provide 911 ambulance services;

(b) the political subdivision provides written notice to the applicant described in Subsection (3)(a)(ii) and the department:

(i) at least 18 months before the day on which the contract is terminated; or

(ii) within a period of time shorter than 18 months before the day on which the contract is terminated, if otherwise agreed to by the applicant and the department;

(c) the political subdivision selects another applicant to provide 911 ambulance services for the political subdivision in accordance with Section 26-8a-405.2;

(d) the department:

(i) revokes the license of the applicant described in Subsection (3)(a)(ii), or issues a new or revised

license for the applicant described in Subsection (3)(a)(ii):

(A) in order to remove the area that is subject to the contract from the applicant's exclusive geographic service area; and

(B) to take effect the day on which the contract is terminated; and

(ii) issues a new or revised license for the applicant described in Subsection (3)(c):

(A) in order to allow the applicant to provide 911 ambulance services for the area described in Subsection (3)(d)(i)(A); and

(B) to take effect the day on which the contract is terminated; and

(e) the termination does not create an orphaned area.

[~~(3)~~] (4) Except as provided in Subsection 26-8a-405.3(4)(a), the provisions of Sections 26-8a-406 through 26-8a-409 do not apply to a license issued under this section.

Section 9. Section 26-8a-405.4 is amended to read:

26-8a-405.4. Non-911 provider -- Finding of meritorious complaint -- Request for proposals.

[~~(1) Notwithstanding Subsection 26-8a-102(18), for purposes of this section, political subdivision includes:~~]

[~~(a) a county of any class; and~~]

[~~(b) a city or town located in a county of any class.~~]

[~~(2)~~] (1) (a) This section applies to a non-911 provider license under this chapter.

(b) The department shall, in accordance with Subsections (3) and (4) [~~and (5)~~]:

(i) receive a complaint about a non-911 provider;

(ii) determine whether the complaint has merit;

(iii) issue a finding of:

(A) a meritorious complaint; or

(B) a non-meritorious complaint; and

(iv) forward a finding of a meritorious complaint to the governing body of the political subdivision:

(A) in which the non-911 provider is licensed; or

(B) that provides the non-911 services, if different from Subsection [~~(2)~~] (1)(b)(iv)(A).

[~~(3)~~] (2) (a) A political subdivision that receives a finding of a meritorious complaint from the department:

(i) shall take corrective action that the political subdivision determines is appropriate; and

(ii) shall, if the political subdivision determines corrective action will not resolve the complaint or is not appropriate:

(A) issue a request for proposal for non-911 service in the geographic service area if the political subdivision will not respond to the request for proposal; or

(B) (I) make a finding that a request for proposal for non-911 services is appropriate and the political subdivision intends to respond to a request for proposal; and

(II) submit the political subdivision's findings to the department with a request that the department issue a request for proposal in accordance with Section 26-8a-405.5.

(b) (i) If Subsection [~~(3)~~] (2)(a)(ii)(A) applies, the political subdivision shall issue the request for proposal in accordance with Sections 26-8a-405.1 through 26-8a-405.3.

(ii) If Subsection [~~(3)~~] (2)(a)(ii)(B) applies, the department shall issue a request for proposal for non-911 services in accordance with Section 26-8a-405.5.

[~~(4)~~] (3) The department shall make a determination under Subsection [~~(2)~~] (1)(b) if:

(a) the department receives a written complaint from any of the following in the geographic service area:

(i) a hospital;

(ii) a health care facility;

(iii) a political subdivision; or

(iv) an individual; and

(b) the department determines, in accordance with Subsection [~~(2)~~] (1)(b), that the complaint has merit.

[~~(5)~~] (4) (a) If the department receives a complaint under Subsection [~~(2)~~] (1)(b), the department shall request a written response from the non-911 provider concerning the complaint.

(b) The department shall make a determination under Subsection [~~(2)~~] (1)(b) based on:

(i) the written response from the non-911 provider; and

(ii) other information that the department may have concerning the quality of service of the non-911 provider.

(c) (i) The department's determination under Subsection [~~(2)~~] (1)(b) is not subject to an adjudicative proceeding under Title 63G, Chapter 4, Administrative Procedures Act.

(ii) The department shall adopt administrative rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement the provisions of Subsection [~~(2)~~] (1)(b).

Section 10. Section 26-8a-405.5 is amended to read:

26-8a-405.5. Use of competitive sealed proposals -- Procedure -- Appeal rights.

(1) (a) The department shall issue a request for proposal for non-911 services in a geographic

service area if the department receives a request from a political subdivision under Subsection 26-8a-405.4[~~(3)~~](2)(a)(ii)(B) to issue a request for proposal for non-911 services.

(b) Competitive sealed proposals for non-911 services under Subsection (1)(a) shall be solicited through a request for proposal and the provisions of this section.

(c) (i) Notice of the request for proposals shall be published:

(A) at least once a week for three consecutive weeks in a newspaper of general circulation published in the county; or

(B) if there is no such newspaper, then notice shall be posted for at least 20 days in at least five public places in the county; and

(ii) in accordance with Section 45-1-101 for at least 20 days.

(2) (a) Proposals shall be opened so as to avoid disclosure of contents to competing offerors during the process of negotiations.

(b) (i) Subsequent to the published notice, and prior to selecting an applicant, the department shall hold a presubmission conference with interested applicants for the purpose of assuring full understanding of, and responsiveness to, solicitation requirements.

(ii) The department shall allow at least 90 days from the presubmission conference for the proposers to submit proposals.

(c) Subsequent to the presubmission conference, the department may issue addenda to the request for proposals. An addenda to a request for proposal shall be finalized and posted by the department at least 45 days before the day on which the proposal must be submitted.

(d) Offerors to the request for proposals shall be accorded fair and equal treatment with respect to any opportunity for discussion and revisions of proposals, and revisions may be permitted after submission and before a contract is awarded for the purpose of obtaining best and final offers.

(e) In conducting discussions, there shall be no disclosures of any information derived from proposals submitted by competing offerors.

(3) (a) (i) The department may select an applicant approved by the department under Section 26-8a-404 to provide non-911 services by contract to the most responsible offeror as defined in Section 63G-6a-103.

(ii) An award under Subsection (3)(a)(i) shall be made to the responsible offeror whose proposal is determined in writing to be the most advantageous to the public, taking into consideration price and the evaluation factors set forth in the request for proposal.

(b) The applicants who are approved under Section 26-8a-405 and who are selected under this section may be the political subdivision responding to the request for competitive sealed proposals, or any other public entity or entities, any private person or entity, or any combination thereof.

(c) The department may reject all of the competitive proposals.

(4) In seeking competitive sealed proposals and awarding contracts under this section, the department:

(a) shall consider the public convenience and necessity factors listed in Subsections 26-8a-408(2) through (6);

(b) shall require the applicant responding to the proposal to disclose how the applicant will meet performance standards in the request for proposal;

(c) may not require or restrict an applicant to a certain method of meeting the performance standards, including:

(i) requiring ambulance medical personnel to also be a firefighter; or

(ii) mandating that offerors use fire stations or dispatch services of the political subdivision;

(d) shall require an applicant to submit the proposal:

(i) based on full cost accounting in accordance with generally accepted accounting principals; and

(ii) if the applicant is a governmental entity, in addition to the requirements of Subsection (4)(e)(i), in accordance with generally accepted government auditing standards and in compliance with the State of Utah Legal Compliance Audit Guide; and

(e) shall set forth in the request for proposal:

(i) the method for determining full cost accounting in accordance with generally accepted accounting principles, and require an applicant to submit the proposal based on such full cost accounting principles;

(ii) guidelines established to further competition and provider accountability; and

(iii) a list of the factors that will be considered by the department in the award of the contract, including by percentage, the relative weight of the factors established under this Subsection (4)(e), which may include [~~such things as~~]:

(A) response times;

(B) staging locations;

(C) experience;

(D) quality of care; and

(E) cost, consistent with the cost accounting method in Subsection (4)(e)(i).

(5) A license issued under this section:

(a) is for the exclusive geographic service area approved by the department;

(b) is valid for four years;

(c) is not subject to a request for license from another applicant under the provisions of Sections 26-8a-406 through 26-8a-409 during the four-year term, unless the applicant's license is revoked under Section 26-8a-504;

(d) is subject to supervision by the department under Sections 26-8a-503 and 26-8a-504; and

(e) except as provided in Subsection (4)(a), is not subject to the provisions of Sections 26-8a-406 through 26-8a-409.

Section 11. Section 26-8a-413 is amended to read:

26-8a-413. License renewals.

(1) A licensed provider desiring to renew its license shall meet the renewal requirements established by department rule.

(2) The department shall issue a renewal license for a ground ambulance provider or a paramedic provider upon the licensee's application for a renewal and without a public hearing if [~~there has been~~]:

(a) the applicant was licensed under the provisions of Sections 26-8a-406 through 26-8a-409; and

(b) there has been:

[~~(a)~~] (i) no change in controlling interest in the ownership of the licensee as defined in Section 26-8a-415;

[~~(b)~~] (ii) no serious, substantiated public complaints filed with the department against the licensee during the term of the previous license;

[~~(c)~~] (iii) no material or substantial change in the basis upon which the license was originally granted;

[~~(d)~~] (iv) no reasoned objection from the committee or the department; and

[~~(e) if the applicant was licensed under the provisions of Sections 26-8a-406 through 26-8a-409, no conflicting license application.~~]

(v) no change to the license type.

(3) (a) (i) The provisions of this Subsection (3) apply to a provider licensed under the provisions of Sections 26-8a-405.1 and 26-8a-405.2.

(ii) A provider may renew its license if the provisions of Subsections (1), (2)(a) through (d), and this Subsection (3) are met.

(b) (i) The department shall issue a renewal license to a provider upon the provider's application for renewal for one additional four-year term if the political subdivision certifies to the department that the provider has met all of the specifications of the original bid.

(ii) If the political subdivision does not certify to the department that the provider has met all of the specifications of the original bid, the department may not issue a renewal license and the political subdivision shall enter into a public bid process under Sections 26-8a-405.1 and 26-8a-405.2.

(c) (i) The department shall issue an additional renewal license to a provider who has already been issued a one-time renewal license under the provisions of Subsection (3)(b)(i) if the department and the political subdivision do not receive, prior to the expiration of the provider's license, written notice from an approved applicant informing the political subdivision of the approved applicant's desire to submit a bid for ambulance or paramedic service.

(ii) If the department and the political subdivision receive the notice in accordance with Subsection (3)(c)(i), the department may not issue a renewal license and the political subdivision shall enter into a public bid process under Sections 26-8a-405.1 and 26-8a-405.2.

(4) The department shall issue a renewal license for an air ambulance provider upon the licensee's application for renewal and completion of the renewal requirements established by department rule.

CHAPTER 266
H. B. 321
Passed March 3, 2021
Approved March 17, 2021
Effective May 5, 2021

DIVISION OF CONSUMER PROTECTION AMENDMENTS

Chief Sponsor: James A. Dunnigan
Senate Sponsor: Curtis S. Bramble

LONG TITLE

General Description:

This bill amends and enacts provisions under the administration and enforcement of the Division of Consumer Protection.

Highlighted Provisions:

This bill:

- defines terms;
- amends the statutes that the Division of Consumer Protection administers and enforces;
- amends provisions regarding contracts for health spa services;
- amends provisions regarding a consumer's right to rescind a health spa service contract;
- amends provisions regarding the registration of a health spa facility;
- amends provisions related to bond, letter of credit, or certificate of deposit requirements for a health spa facility;
- amends provisions under the Utah Postsecondary Proprietary School Act; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

13-2-1, as last amended by Laws of Utah 2020, Chapter 118
13-23-2, as last amended by Laws of Utah 2006, Chapter 47
13-23-3, as last amended by Laws of Utah 2005, Chapter 18
13-23-4, as enacted by Laws of Utah 1987, Chapter 105
13-23-5, as last amended by Laws of Utah 2014, Chapter 189
13-23-6, as last amended by Laws of Utah 2006, Chapter 47
13-23-7, as last amended by Laws of Utah 2005, Chapter 18
13-34-105, as last amended by Laws of Utah 2018, Chapter 276
13-34a-102, as last amended by Laws of Utah 2017, Chapter 98
13-34a-204, as last amended by Laws of Utah 2017, Chapter 98

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

Section 1. Section 13-2-1 is amended to read:

13-2-1. Consumer protection division established -- Functions.

(1) There is established within the Department of Commerce the Division of Consumer Protection.

(2) The division shall administer and enforce the following:

(a) Chapter 5, Unfair Practices Act;

(b) Chapter 10a, Music Licensing Practices Act;

(c) Chapter 11, Utah Consumer Sales Practices Act;

(d) Chapter 15, Business Opportunity Disclosure Act;

[~~(e) Chapter 20, New Motor Vehicle Warranties Act;~~]

(e) Chapter 20, New Motor Vehicles Warranties Act;

(f) Chapter 21, Credit Services Organizations Act;

(g) Chapter 22, Charitable Solicitations Act;

(h) Chapter 23, Health Spa Services Protection Act;

(i) Chapter 25a, Telephone and Facsimile Solicitation Act;

(j) Chapter 26, Telephone Fraud Prevention Act;

(k) Chapter 28, Prize Notices Regulation Act;

(l) Chapter 32a, Pawnshop and Secondhand Merchandise Transaction Information Act;

(m) Chapter 34, Utah Postsecondary Proprietary School Act;

(n) Chapter 34a, Utah Postsecondary School State Authorization Act;

[~~(o) Chapter 39, Child Protection Registry;~~]

[~~(p)~~] (o) Chapter 41, Price Controls During Emergencies Act;

[~~(q)~~] (p) Chapter 42, Uniform Debt-Management Services Act;

[~~(r)~~] (q) Chapter 49, Immigration Consultants Registration Act;

[~~(s)~~] (r) Chapter 51, Transportation Network Company Registration Act;

[~~(t)~~] (s) Chapter 52, Residential Solar Energy Disclosure Act;

[~~(u)~~] (t) Chapter 53, Residential, Vocational and Life Skills Program Act;

[~~(v)~~] (u) Chapter 54, Ticket Website Sales Act;

[~~(w)~~] (v) Chapter 56, Ticket Transferability Act; and

[~~(x)~~] (w) Chapter 57, Maintenance Funding Practices Act.

Section 2. Section 13-23-2 is amended to read:

13-23-2. Definitions.

As used in this chapter:

(1) "Business enterprise" means a sole proprietorship, partnership, association, joint venture, corporation, limited liability company, or other entity used in carrying on a business.

[~~(1)~~] (2) "Consumer" means a purchaser of health spa services for [~~valuable~~] consideration.

(3) "Consumer's primary location" means the health spa facility that a health spa designates in a contract for health spa services as the health spa facility the consumer will primarily use for health spa services.

[~~(2)~~] (4) "Division" means the Division of Consumer Protection.

[~~(3)~~] (5) (a) "Health spa" means [~~any person, partnership, joint venture, corporation, association, or other entity that, for a charge or fee, provides as one of its primary purposes services or facilities that are purported to assist patrons to improve their physical condition or appearance through~~] a business enterprise that provides access to a facility:

(i) for a charge or a fee; and

(ii) for the development or preservation of physical fitness or well-being, through exercise, weight control, or athletics.

[~~(i) aerobic conditioning;~~]

[~~(ii) strength training;~~]

[~~(iii) fitness training; or~~]

[~~(iv) other exercise.~~]

[~~(b) "Health spa" includes any establishment designated:~~]

[~~(i) as a "health spa";~~]

[~~(ii) as a "spa";~~]

[~~(iii) as an "exercise gym";~~]

[~~(iv) as a "health studio";~~]

[~~(v) as a "health club";~~]

[~~(vi) as a "personal training facility"; or~~]

[~~(vii) with any other similar terms.~~]

[~~(c)~~] (b) "Health spa" does not include:

(i) [~~any facility operated by~~] a licensed physician who operates a facility at which the physician engages in the practice of medicine;

(ii) [~~any facility operated by~~] a hospital, intermediate care facility, or skilled nursing care facility;

(iii) [~~any~~] a public or private school, college, or university;

[~~(iv) any facility owned or operated by the state or its political subdivisions;~~]

[~~(v) any facility owned or operated by the United States or its political subdivisions; or~~]

[~~(vi) instruction offered by an individual if:~~]

(iv) the state or a political subdivision of the state;

(v) the United States or a political subdivision of the United States;

(vi) a person offering instruction if the person does not:

(A) [~~the individual offering the instruction does not~~] utilize [~~another individual as~~] an employee or independent contractor; [~~and~~] or

(B) [~~a patron is not granted~~] grant a consumer the use of a facility containing exercise equipment[~~.~~];

[~~(4) "Health spa services" means any service provided by a health spa, including athletic facilities, equipment, and instruction.~~]

(vii) a business enterprise, the primary operation of which is to teach self-defense or a martial art, including kickboxing, judo, or karate;

(viii) a business enterprise, the primary operation of which is to teach or allow an individual to develop a specific skill rather than develop or preserve physical fitness, including gymnastics, tennis, rock climbing, or a winter sport;

(ix) a business enterprise, the primary operation of which is to teach or allow an individual to practice yoga or Pilates;

(x) a private employer who owns and operates a facility exclusively for the benefit of the employer's employees, retirees, or family members, if the operation of the facility:

(A) is only incidental to the overall function and purpose of the employer's business; and

(B) is offered on a nonprofit basis;

(xi) an individual providing professional services within the scope of the individual's license with the Division of Occupational and Professional Licensing;

(xii) a country club;

(xiii) a nonprofit religious, ethnic, or community organization;

(xiv) a residential weight reduction center;

(xv) a business enterprise that only offers virtual services;

(xvi) a business enterprise that only offers a credit for a service that a separate business enterprise offers;

(xvii) the owner of a lodging establishment, as defined in Section 29-2-102, if the owner only provides access to the lodging establishment's facility to:

(A) a guest, as defined in Section 29-2-102; or

(B) an operator or employee of the lodging establishment;

(xviii) an association, declarant, owner, lessor, or developer of a residential housing complex, planned community, or development, if at least 80% of the individuals accessing the facility reside in the housing complex, planned community, or development; or

(xix) a person offering a personal training service exclusively as an employee or independent contractor of a health spa.

(6) "Health spa facility" means a facility to which a business entity provides access:

(a) for a charge or a fee; and

(b) for the development or preservation of physical fitness or well-being, through exercise, weight control, or athletics.

(7) (a) "Health spa service" means instruction, a service, a privilege, or a right that a health spa offers for sale.

(b) "Health spa service" includes a personal training service.

(8) "Personal training service" means the personalized instruction, training, supervision, or monitoring of an individual's physical fitness or well-being, through exercise, weight control, or athletics.

Section 3. Section 13-23-3 is amended to read:

13-23-3. Contracts for health spa services.

(1) (a) [~~Any~~] A contract for the [~~sale of health spa services~~] purchase of a health spa service shall be in writing.

(b) The written contract described in Subsection (1)(a) shall constitute the entire agreement between the consumer and the health spa.

(2) (a) The health spa shall provide the consumer with a fully completed copy of the contract required by Subsection (1):

(i) at the time of [~~its~~] the contract's execution[~~.~~]; and

(ii) at any time, upon the consumer's request.

(b) The copy described in Subsection (2)(a) shall show:

[~~(a)~~] (i) the date of the transaction;

[~~(b)~~] (ii) the name and address of the health spa; [~~and~~]

[~~(c)~~] (iii) the name, address, and telephone number of the consumer[~~.~~]; and

(iv) the consumer's primary location.

(3) (a) A contract described in Subsection (1):

(i) may not have a term in excess of 36 months[~~, but the contract may provide that the consumer may exercise an option to renew the term after its expiration.~~]; and

(ii) may include an automatic renewal provision, if notice of the automatic renewal provision is provided to the consumer no sooner than 60 days before, and no later than 30 days before, the day on which the contract automatically renews.

(b) Except for a lifetime membership sold [~~prior to~~] before May 1, 1995, a health spa may not offer a lifetime membership.

(4) [~~The~~] A contract described in Subsection (1) or an attachment to [~~it~~] the contract shall clearly state [~~any rules~~] each rule of the health spa that [~~apply~~] applies to:

(a) the consumer's use of [~~its~~] the health spa's facilities and services; and

(b) cancellation and refund policies of the health spa.

(5) [~~The~~] A contract described in Subsection (1) shall specify which equipment or facility of the health spa:

(a) is omitted from the contract's coverage; or

(b) may be changed at the health spa's discretion.

(6) [~~The~~] A contract described in Subsection (1) shall clearly [~~state that the consumer has a three-day period after the day on which the contract is executed to rescind the contract.~~]:

(a) state the consumer's rescission rights under Section 13-23-4; and

(b) provide an email address and a mailing address where the consumer can send the health spa a notice of intent to rescind the contract.

(7) A health spa may not assign a contract for a health spa service unless the health spa:

(a) provides the consumer the option to cancel the contract; and

(b) receives approval from the consumer to assign the contract.

(8) Before a health spa changes a consumer's primary location, the health spa shall provide the consumer the option to:

(a) cancel the contract for health spa services; or

(b) (i) continue the contract at the new location; and

(ii) designate the newly located health spa facility as the consumer's primary location.

Section 4. Section 13-23-4 is amended to read:

13-23-4. Rescission.

[~~(1) A consumer may rescind a contract for the purchase of health spa services if he enters into the contract and gives value at a time when the health spa is not fully operational and available for use, and if the health spa does not become fully operational and available for use within 60 days after the date of the contract.~~]

[~~(2) A consumer's right to rescind his contract under this section continues for three business days after the health spa becomes fully operational and available for use.~~]

(1) A consumer may rescind a contract for the purchase of a health spa service by emailing or mailing written notice of the consumer's intent to rescind:

(a) to the email address or mailing address the health spa provided in the contract, as described in Subsection 13-23-4(6)(b); and

(b) (i) before midnight of the third business day after the day on which the consumer and health spa execute the contract, as recorded by timestamp or postmark; or

(ii) if a consumer and health spa execute the contract when the consumer's primary location is not fully operational and available for use, before midnight of the third business day after the day on which the consumer's primary location becomes fully operational and available for use, as recorded by timestamp or postmark.

[~~(3)~~] (2) (a) A consumer who rescinds [~~his~~] a contract under this section is entitled to a refund of [~~any payments he has~~] every payment the consumer made, less the reasonable value of any health spa [~~services he~~] service the consumer actually received [~~or $25, whichever is less~~].

(b) The preparation and processing of the contract [~~and other documents are not considered to be health spa services that are deductible under this subsection~~] or another document is not a health spa service that is deductible under Subsection (2)(a) from any refundable amount.

(c) In an enforcement action that the division initiates, a health spa has the burden of proving that any value the health spa retains under Subsection (2)(a) is reasonable.

[~~(4)~~] (3) (a) [~~Any~~] The rescission of a contract under this section is effective upon the health spa's receipt of written notice of the consumer's intent to rescind the contract. [~~The notice may be delivered by hand or mailed by certified mail postmarked no later than midnight of the third day after the health spa becomes fully operational and available for use.~~]

Section 5. Section 13-23-5 is amended to read:

13-23-5. Registration -- Bond, letter of credit, or certificate of deposit required -- Penalties.

(1) (a) (i) [~~It is unlawful for any health spa facility to operate~~] A health spa may not operate a health spa facility in this state unless the [~~facility is registered~~] health spa registers the health spa facility with the division in accordance with this section.

(ii) Registration of a health spa facility under this chapter is effective for one year. [~~If the health spa facility renews its registration, the registration shall be renewed at least 30 days prior to its expiration.~~]

[~~(iii) The division shall provide by rule for the form, content, application process, and renewal process of the registration.~~]

(iii) To renew a health spa facility registration under this section, the health spa shall submit a registration renewal application to the division at least 30 days before the day on which the health spa facility's registration expires.

(iv) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division may establish:

(A) the initial health spa facility registration process, including the content of any forms;

(B) the health spa facility registration renewal process, including the content of any forms; and

(C) a surety exemption process, including the content of any forms.

(b) Each health spa registering a health spa facility in this state shall designate a registered agent for receiving service of process.

(c) [~~The~~] A health spa's registered agent shall be reasonably available from 8 a.m. until 5 p.m. during normal working days.

[~~(c)~~] (d) The division shall charge and collect a fee for registration and registration renewal under guidelines provided in Section 63J-1-504.

[~~(d) If an applicant fails to file a registration application or renewal by the due date, or files an incomplete registration application or renewal, the applicant shall pay a fee of $25 for each month or part of a month after the date on which the registration application or renewal were due to be filed, in addition to the registration fee described in Subsection (1)(c).~~]

(e) If a health spa fails to submit a complete registration renewal application before the day on which a health spa facility's registration expires, the health spa shall pay a fee of $25 for each month or part of a month that passes:

(i) after the day on which the registration expires; and

(ii) before the day on which the health spa submits a complete registration renewal application.

(f) The fee described in Subsection (1)(e) is in addition to the registration renewal fee described in Subsection (1)(d).

[~~(e)~~] (g) A health spa registering or renewing a registration shall provide the division a copy of the liability insurance policy that:

(i) covers the health spa; and

(ii) is in effect at the time of the registration or registration renewal.

(h) If information in an application to register or renew the registration of a health spa facility

materially changes or becomes incorrect or incomplete, the applicant shall, within 30 days after the day on which the information changes or becomes incorrect or incomplete, correct the application or submit the correct information to the division in a manner that the division establishes by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(2) (a) [~~Each~~] Except as provided in Section 13-23-6, for each health spa facility a health spa operates, the health spa shall obtain and maintain:

(i) a performance bond issued by a surety authorized to transact surety business in this state;

(ii) an irrevocable letter of credit issued by a financial institution authorized to do business in this state; or

(iii) a certificate of deposit.

(b) The bond, letter of credit, or certificate of deposit described in Subsection (2)(a) shall be payable to the division for the benefit of [~~any~~] a consumer who incurs damages as the result of the health spa:

[~~(i) the health spa's violation of this chapter; or~~]

(i) violating this chapter; or

(ii) [~~the health spa's~~] going out of business [~~or relocating and failing to offer an alternate location within five miles.~~].

(c) (i) [~~The~~] After each consumer has fully recovered damages, the division may recover from the bond, letter of credit, or certificate of deposit described in Subsection (2)(a) the costs of collecting and distributing funds under this section, in an amount up to 10% of the face value of the bond, letter of credit, or certificate of deposit [~~but only if the consumers have fully recovered their damages first~~].

(ii) The total liability of the issuer of the bond, letter of credit, or certificate of deposit described in this Subsection (2) may not exceed the amount of the bond, letter of credit, or certificate of deposit.

(iii) [~~The~~] A health spa shall maintain a bond, letter of credit, or certificate of deposit described in this Subsection (2) in force for one year after [~~it~~] the day on which the health spa notifies the division in writing that [~~it~~] the health spa has ceased all activities regulated [~~by~~] under this chapter at the health spa facility.

[~~(d) A health spa providing services at more than one location shall comply with the requirements of Subsection (2)(a) for each separate location.~~]

[~~(e)~~] (d) (i) The division may impose a fine against a health spa that fails to comply with the requirements of this Subsection (2)[~~(a)~~] of up to $100 per day that the health spa remains out of compliance.

(ii) [~~All penalties received shall be deposited~~] The division shall deposit each fine the division collects under this Subsection (2)(d) into the Consumer Protection Education and Training Fund created in Section 13-2-8.

(3) (a) [~~The~~] In accordance with the schedule established in Subsection (3)(b), a health spa shall base the minimum principal amount of the bond, letter of credit, or certificate of [~~credit~~] deposit required under Subsection (2) [~~shall be based~~] on:

(i) the number of unexpired contracts for a health spa [~~services to which the health spa is a party, in accordance with the following schedule:~~] service, at the time the health spa submits the health spa facility registration or registration renewal application, that designate the health spa facility as the consumer's primary location; or

(ii) if at the time the health spa submits the health spa facility registration application the health spa has not executed a contract for a health spa service that designates the health spa facility as a consumer's primary location, the number of contracts for a health spa service designating the health spa facility as a consumer's primary location that the health spa reasonably expects to execute during the health spa facility's first year of registration.

(b)

Principal Amount of Bond, Letter of Credit, or Certificate of Deposit	Number of Contracts
$5,000	100 or fewer
$10,000	101 to 250
$15,000	[~~500 or fewer~~] 251 to 500
35,000	501 to 1,500
50,000	1,501 to 3,000
75,000	3,001 or more

[~~(b)~~] (c) A health spa that is not exempt under Section 13-23-6 shall comply with [~~Subsection~~] Subsections (3)(a) and (b) with respect to all of the health spa's unexpired contracts for a health spa [~~services~~] service, regardless of whether a portion of those contracts satisfies the criteria in Section 13-23-6.

(4) [~~Each~~] A health spa shall [~~obtain the bond, letter of credit, or certificate of deposit and~~] furnish a [~~certified~~] copy of the current bond, letter of credit, or certificate of deposit to the division [~~prior to~~] before selling, offering or attempting to sell, soliciting the sale of, or becoming a party to any contract to provide a health spa [~~services~~] service. [~~A health spa is considered to be in compliance with this section only if the proof provided to the division shows that the bond, letter of credit, or certificate of credit is current.~~]

(5) [~~Each~~] A health spa shall:

(a) maintain accurate records of:

(i) the bond, letter of credit, or certificate of [~~credit~~] deposit; and

(ii) of [~~any payments~~] each payment made, due, or to become due to the issuer; and

(b) open the records described in Subsection (5)(a) to inspection by the division at any time during normal business hours.

[~~(6) If a health spa changes ownership, ceases operation, discontinues facilities, or relocates and fails to offer an alternate location within five miles within 30 days after its closing, the health spa is subject to the requirements of this section as if it were a new health spa coming into being at the time the health spa changed ownership.~~]

(6) (a) A health spa with a health spa facility registered under this section shall submit a new initial registration for the health spa facility, if the health spa:

(i) changes ownership;

(ii) permanently ceases and then again commences operation at the health spa facility; or

(iii) relocates the health spa facility.

(b) The former owner of a health spa may not release, cancel, or terminate the owner's liability under any bond, letter of credit, or certificate of deposit previously filed with the division, unless:

[~~(a)~~] (i) the new owner has filed a new bond, letter of credit, or certificate of deposit for the benefit of consumers covered under the previous owner's bond, letter of credit, or certificate of deposit; or

[~~(b)~~] (ii) the former owner has refunded all unearned payments to consumers.

(7) If a health spa permanently ceases operation or relocates [~~and fails to offer an alternative location within five miles~~] a health spa facility, the health spa shall provide the division [~~with 45 days prior~~] notice at least 45 days before the day on which health spa permanently ceases operation or relocates the health spa facility.

Section 6. Section 13-23-6 is amended to read:

13-23-6. Exemptions from bond, letter of credit, or certificate of deposit requirement.

(1) A health spa [~~that offers no paid-in-full membership, but only memberships paid for by installment contracts~~] is exempt from [~~the application of~~] Subsections 13-23-5(2) through (5) [~~if:~~] for a health spa facility, if the health spa only offers access to a health spa service at the health spa facility through:

(a) the purchase of an individual class or session;

(b) the purchase of a package:

(i) with a defined number of classes or sessions; and

(ii) for which the health spa may not hold more than $150 worth of a consumer's unused credit;

(c) the purchase of a monthly membership or pass, payment for which the health spa does not collect from a consumer more than two months in advance;

(d) an installment contract that:

(i) provides for the consumer to make all payments due under the contract, including a down payment, an enrollment fee, a membership fee, or any other payment to the health spa, in equal monthly installments spread over the entire term of the contract; and

(ii) contains the following clause: "If this health spa ceases operations at or relocates the consumer's primary location, no further payments under this contract shall be due to anyone, including any assignee of the contract or purchaser of any note associated with or contained in this contract, unless the consumer has been presented with the option to cancel the contract and has agreed to the assignment or sale of the consumer's contract."; or

(e) a combination of health spa services described in Subsections (1)(a) through (d).

(2) A health spa that claims exemption from Subsections 13-23-5(2) through (5) bears the burden of proving to the division that the health spa meets the exemption criteria described in Subsection (1).

[~~(1) each contract contains the following clause: "If this health spa ceases operation and fails to offer an alternate location within five miles, no further payments under this contract shall be due to anyone, including any purchaser of any note associated with or contained in this contract.";~~]

[~~(2) all payments due under each contract, including down payments, enrollment fees, membership fees, or any other payments to the health spa, are in equal monthly installments spread over the entire term of the contract; and~~]

[~~(3) the term of each contract is clearly stated and is not capable of being extended.~~]

Section 7. Section 13-23-7 is amended to read:

13-23-7. Enforcement -- Costs and attorney's fees -- Penalties.

(1) (a) The division may, on behalf of [~~any~~] a consumer or on [~~its~~] the division's own behalf, file an action for injunctive relief, damages, or both to enforce this chapter.

(b) In addition to any relief granted, the division is entitled to an award for reasonable attorney's fees, court costs, and reasonable investigative expenses.

(2) (a) A person who willfully violates [~~any~~] a provision of this chapter, either by failing to comply with any requirement or by doing any act prohibited in this chapter, is guilty of a class B misdemeanor.

(b) Each day [~~the~~] a violation described in Subsection (2)(a) is committed or permitted to continue constitutes a separate punishable offense.

[~~(b)~~] (c) In the case of a second offense, the person is guilty of a class A misdemeanor.

[~~(c)~~] (d) In the case of [~~three or more offenses~~] a third or subsequent offense, the person is guilty of a third degree felony.

(3) (a) In addition to any other penalty available under this chapter, a person who violates this chapter is subject to:

(i) a cease and desist order; and

(ii) an administrative fine of up to $2,500 for each separate violation that is not a violation described in Subsection 13-23-5(2)[~~(c)~~](d) up to $10,000 for any series of violations arising out of the same operative facts.

(b) [~~All~~] The division shall deposit all administrative fines collected under this chapter [~~shall be deposited in~~] into the Consumer Protection Education and Training Fund created in Section 13-2-8.

Section 8. Section 13-34-105 is amended to read:

13-34-105. Exempted institutions.

(1) The following institutions are exempt from the provisions of this chapter, if the institution establishes an exemption with the division in accordance with Subsection 13-34-107(1)(b)(ii):

(a) a Utah institution directly supported, to a substantial degree, with funds provided by:

(i) the state;

(ii) a local school district; or

(iii) any other Utah governmental subdivision;

(b) a lawful enterprise that offers only professional review programs, including C.P.A. and bar examination review and preparation courses;

(c) a private institution that:

(i) provides postsecondary education; and

(ii) is owned, controlled, operated, or maintained by a bona fide church or religious denomination, that is exempted from property taxation under the laws of this state;

(d) an institution that is accredited by [~~a regional or national~~] an accrediting agency recognized by the United States Department of Education;

(e) subject to Subsection (4), a business organization, trade or professional association, fraternal society, or labor union that:

(i) sponsors or conducts courses of instruction or study predominantly for bona fide employees or members; and

(ii) does not advertise as a school;

(f) an institution that, with regard to postsecondary education, exclusively offers one or more of the following:

(i) general education:

(A) that is remedial, avocational, nonvocational, or recreational in nature; and

(B) for which the institution does not advertise occupation objectives or grant a degree, diploma, or other educational credential commensurate with a degree or diploma;

(ii) preparation for individuals to teach courses or instruction described in Subsection (1)(f)(i)(A);

(iii) courses in English as a second language;

(iv) instruction at or below the 12th grade level;

(v) nurse aide training programs that are approved by:

(A) the Bureau of Health Facility Licensing and Certification; or

(B) an entity authorized by the Bureau of Health Facility Licensing and Certification to approve nurse aide certification programs; [~~or~~]

(vi) content:

(A) that is exclusively available on the Internet;

(B) for which the institution charges $1,000 or less in a 12-month period; and

(C) for which the institution does not grant educational credentials other than a certificate that indicates completion and that does not represent achievement or proficiency;

(vii) instruction to advance personal development or general professional skills:

(A) that is not independently sufficient to be a program of training for employment or a specific field; and

(B) for which the institution does not grant a degree, diploma, or other educational credential commensurate with a degree or diploma; or

(viii) instruction designed to prepare an individual to run for political office, for which the institution does not grant a degree, diploma, or other educational credential commensurate with a degree or diploma;

(g) an institution that offers only workshops or seminars:

(i) lasting no longer than three calendar days; and

(ii) for which academic credit is not awarded;

(h) an institution that offers programs:

(i) in barbering, cosmetology, real estate, or insurance; and

(ii) that are regulated and approved by a state or federal governmental agency;

(i) an education provider certified by the Division of Real Estate under Section 61-2c-204.1;

(j) an institution that offers aviation training if the institution:

(i) (A) is approved under Federal Aviation Regulations, 14 C.F.R. Part 141; or

(B) provides aviation training under Federal Aviation Regulations, 14 C.F.R. Part 61; and

(ii) does not collect tuition, fees, membership dues, or other payment more than 24 hours before the student receives the aviation training; and

(k) an institution that provides emergency medical services training if all of the institution's instructors, course coordinators, and courses are approved by the Department of Health.

(2) An institution that no longer qualifies for an exemption that the institution established with the division under Subsection 13-34-107(1)(b)(ii) shall comply with the other provisions of Section 13-34-107.

(3) An institution, branch, extension, or facility operating within the state that is affiliated with an institution operating in another state shall be separately approved by the affiliate's [~~regional or national~~] accrediting agency to qualify for the exemption described in Subsection (1)(d).

(4) For purposes of Subsection (1)(e), a business organization, trade or professional association, fraternal society, or labor union is considered to be conducting the course predominantly for bona fide employees or members if the entity hires a majority of the individuals who:

(a) successfully complete the course of instruction or study with a reasonable degree of proficiency; and

(b) apply for employment with that same entity.

(5) If the United States Department of Education no longer recognizes an institution's accrediting agency, the institution remains exempt under Subsection (1)(d):

(a) during any grace period provided by the United States Department of Education for obtaining new accreditation, if the institution demonstrates to the division that the institution is within the grace period; or

(b) if the institution demonstrates to the division that the United States Department of Education otherwise considers the institution to have recognized accreditation.

Section 9. Section 13-34a-102 is amended to read:

13-34a-102. Definitions.

As used in this chapter:

(1) "Accredited institution" means a postsecondary school that is accredited by an accrediting agency.

(2) "Accrediting agency" means a [~~regional or national~~] private educational association that:

(a) is recognized by the United States Department of Education;

(b) develops evaluation criteria; and

(c) conducts peer evaluations to assess whether a postsecondary school meets the criteria described in Subsection (2)(b).

(3) "Agent" means a person who:

(a) (i) owns an interest in a postsecondary school; or

(ii) is employed by a postsecondary school; and

(b) (i) enrolls or attempts to enroll a Utah resident in a postsecondary school;

(ii) offers to award an educational credential for remuneration on behalf of a postsecondary school; or

(iii) holds oneself out to Utah residents as representing a postsecondary school for any purpose.

(4) "Certificate of postsecondary state authorization" means a certificate issued by the division to a postsecondary school in accordance with the provisions of this chapter.

(5) "Division" means the Division of Consumer Protection.

(6) "Educational credential" means a degree, diploma, certificate, transcript, report, document, letter of designation, mark, or series of letters, numbers, or words that represent enrollment, attendance, or satisfactory completion of the requirements or prerequisites of an educational program.

(7) "Intentional violation" means a violation of a provision of this chapter that occurs or continues after the division, the attorney general, a county attorney, or a district attorney gives the violator written notice, delivered by certified mail, that the violator is or has been in violation of the provision.

(8) "Operate" means to:

(a) maintain a place of business in the state;

(b) conduct significant educational activities within the state; or

(c) provide postsecondary education to a Utah resident that:

(i) is intended to lead to a postsecondary degree or certificate; and

(ii) is provided from a location outside the state by correspondence or telecommunications or electronic media technology.

(9) "Operating history" means a report, written evaluation, publication, or other documentation regarding:

(a) the current accreditation status of a postsecondary school with an accrediting agency; and

(b) an action taken by an accrediting agency that:

(i) places the postsecondary school on probation;

(ii) imposes disciplinary action against the postsecondary school;

(iii) requires the postsecondary school to take corrective action; or

(iv) provides the postsecondary school with a warning or directive to show cause.

(10) "Ownership" means:

(a) the controlling interest in a postsecondary school; or

(b) if an entity holds the controlling interest in the postsecondary school, the controlling interest in the entity that holds the controlling interest in the postsecondary school.

(11) "Postsecondary education" means education or educational services offered primarily to individuals who:

(a) have completed or terminated their secondary or high school education; or

(b) are beyond the age of compulsory school attendance.

(12) (a) "Postsecondary school" means a person that provides or offers educational services to individuals who:

(i) have completed or terminated secondary or high school education; or

(ii) are beyond the age of compulsory school attendance.

(b) "Postsecondary school" does not include an institution that is part of the state system of higher education under Section 53B-1-102.

(13) "Private postsecondary school" means a postsecondary school that is not a public postsecondary school.

(14) "Public postsecondary school" means a postsecondary school:

(a) established by a state or other governmental entity; and

(b) substantially supported with government funds.

Section 10. Section 13-34a-204 is amended to read:

13-34a-204. Postsecondary school -- Procedure to obtain certificate of postsecondary state authorization.

(1) The division shall, in accordance with the provisions of this section, issue a certificate of postsecondary state authorization to a postsecondary school.

(2) To obtain a certificate of postsecondary state authorization under this section, a postsecondary school shall:

(a) submit a completed registration form to the division that includes:

(i) proof of current accreditation from the postsecondary school's accrediting agency;

(ii) proof that the postsecondary school is fiscally responsible and can reasonably fulfill the postsecondary school's financial obligations, including:

(A) a copy of an audit of the postsecondary school's financial statements, with all applicable footnotes, including a balance sheet, an income statement, a statement of retained earnings, and a statement of cash flow, that was performed by a certified public accountant;

(B) at the postsecondary school's election, a copy of an audit of the postsecondary school's parent company's financial statements, with all applicable footnotes, including a balance sheet, an income statement, a statement of retained earnings, and a statement of cash flow, that was performed by a certified public accountant; and

(C) a copy of all other financial documentation that the postsecondary school provided to the postsecondary school's accrediting agency since the postsecondary school's last registration with the division under this chapter or within the 12 months before the day on which the postsecondary school submits a completed registration form under this section, whichever is longer;

(iii) proof of good standing in the state where the postsecondary school is organized;

(iv) the postsecondary school's operating history with the postsecondary school's accrediting agency since the postsecondary school's last registration with the division under this chapter or within the 12 months before the day on which the postsecondary school submits a completed registration form under this section, whichever is longer;

(v) the number of Utah residents who enrolled in the postsecondary school since the postsecondary school's last registration with the division under this chapter or within the 12 months before the day on which the postsecondary school submits a completed registration form under this section, whichever is longer;

(vi) satisfactory documentation that the postsecondary school has complied with the complaint process requirements described in Section 13-34a-206;

(vii) (A) the number of complaints that a Utah resident has filed against the postsecondary school since the postsecondary school's last registration with the division under this chapter or within the 12 months before the day on which the postsecondary school submits a completed registration form under this section, whichever is longer; and

(B) upon request, [~~includes~~] copies of the complaints described in Subsection (2)(a)(vii)(A);

(viii) a disclosure that states whether the postsecondary school or an owner, officer, director, or administrator of the postsecondary school has been:

(A) convicted of a crime;

(B) subject to an order issued by a court; or

(C) subject to an order issued by an administrative agency that imposed disciplinary action; and

(ix) a [~~notarized~~] personal verification by the owner or a responsible officer of the postsecondary school that the information provided under this Subsection (2)(a) is complete and accurate; and

(b) pay a nonrefundable fee, established by the division, in accordance with Subsection 13-34a-103(2)(c) to pay for the cost of processing

the registration form and issuing the certificate of postsecondary state authorization.

(3) If a postsecondary school's accreditor loses its recognition by the United States Department of Education, the postsecondary school may satisfy the requirement of Subsection (2)(a)(i) by demonstrating to the division that the postsecondary school is within a grace period provided by the United States Department of Education for obtaining new accreditation or is otherwise considered by the United States Department of Education to have recognized accreditation.

(4) The division shall develop and make available to the public a registration form described in Subsection (2)(a).

(5) The division shall deposit money that the division receives under Subsection (2)(b) into the Commerce Service Account, created in Section 13-1-2.

(6) If a postsecondary school maintains more than one physical campus in the state, the postsecondary school shall file a separate registration form for each physical campus in the state.

(7) (a) A certificate of postsecondary state authorization issued under this section is not transferrable.

(b) (i) If a postsecondary school's ownership or governing body changes after the postsecondary school obtains a certificate of postsecondary state authorization under this section, the postsecondary school shall submit a new completed registration form in accordance with Subsection (2) within 60 days after the day on which the change in ownership or governing body occurs.

(ii) If a postsecondary school fails to timely comply with the requirements described in Subsection (7)(b)(i), the postsecondary school's certificate of postsecondary state authorization immediately and automatically expires.

(c) If there is a change in circumstance that may affect a postsecondary school's status under this section, the postsecondary school shall notify the division in writing of the change within 30 days after the day on which the change occurs.

(8) (a) A certificate of postsecondary state authorization issued under this section expires one year after the day on which the certificate of postsecondary state authorization is issued.

(b) Notwithstanding Subsection (8)(a), the division may extend the period for which the [~~exemption~~] certificate of postsecondary state authorization is effective so that expiration dates are staggered throughout the year.

CHAPTER 267
H. B. 322
Passed March 2, 2021
Approved March 17, 2021
Effective May 5, 2021

AMUSEMENT RIDE SAFETY AMENDMENTS

Chief Sponsor: Timothy D. Hawkes
Senate Sponsor: Michael K. McKell

LONG TITLE

General Description:

This bill amends provisions and deadlines related to the Utah Amusement Ride Safety Committee.

Highlighted Provisions:

This bill:

- amends provisions related to the required initiation of certain rulemaking required of the Utah Amusement Ride Safety Committee;
- extends the deadline of implementation of certain requirements related to the operation of an amusement ride; and
- amends a provision related to notification regarding the operation of an amusement ride at an additional location.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

72-16-203, as last amended by Laws of Utah 2020, Chapter 423
72-16-301, as last amended by Laws of Utah 2020, Chapter 423

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

Section 1. Section 72-16-203 is amended to read:

72-16-203. Rulemaking.

(1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and the provisions of this chapter the committee may make rules:

(a) establishing:

(i) the form of an application and a renewal application for:

(A) a qualified safety inspector certification;

(B) an annual amusement ride permit; and

(C) a multi-ride annual amusement ride permit;

(ii) the procedure to apply for and renew:

(A) a qualified safety inspector certification;

(B) an annual amusement ride permit; and

(C) a multi-ride annual amusement ride permit;

(iii) standards for a daily inspection under Section 72-16-302;

(iv) the form of a report of a reportable serious injury to the director;

(v) the procedure for reporting a reportable serious injury to the director;

(vi) the procedure to suspend and revoke:

(A) a qualified safety inspector certification;

(B) an annual amusement ride permit; and

(C) a multi-ride annual amusement ride permit;

(vii) a retention schedule that applies to each qualified safety inspector for records related to a qualified safety inspector's duties under this chapter;

(viii) a retention schedule that applies to each owner-operator for records related to an owner-operator's duties under this chapter;

(ix) fees;

(x) minimum insurance requirements for certified inspectors; and

(xi) fines or administrative penalties for lack of compliance with this chapter.

(b) regarding the experience required to obtain a qualified safety inspector certification under Subsection 72-16-303(3)(a); and

(c) adopting nationally recognized:

(i) amusement ride inspection standards; and

(ii) qualified safety inspector qualification standards.

(2) Notwithstanding Subsection 63G-3-301(13), no later than December 1, 2020, the committee shall initiate rulemaking proceedings, as defined in Section 63G-3-301, to make rules under this section [~~no later than December 1, 2020~~].

Section 2. Section 72-16-301 is amended to read:

72-16-301. Requirements for amusement ride operation.

(1) Beginning on April 1, [~~2022~~] 2023, a person may not operate an amusement ride in the state that is open to the public, unless the person obtains:

(a) an annual amusement ride permit for the amusement ride in accordance with this section; or

(b) a multi-ride annual amusement ride permit that includes the amusement ride, in accordance with this section.

(2) To obtain or renew an annual amusement ride permit for a mobile amusement ride, the owner-operator shall submit an application to the director that contains the following and is in a form prescribed by the director:

(a) the owner-operator's name and address;

(b) a description of the mobile amusement ride, including the manufacturer's name, the serial number, and the model number;

(c) each known location in the state where the owner-operator intends to operate the mobile amusement ride during the 12-month period for which the annual amusement ride permit is valid, updated in accordance with Subsection (5);

(d) for each location identified under Subsection (2)(c), the name and contact information of the fair, show, landlord, or property owner;

(e) the date on which the owner-operator intends to set up the mobile amusement ride at each location identified under Subsection (2)(c);

(f) the dates on which the owner-operator intends to operate the mobile amusement ride for use by the general public at each location identified under Subsection (2)(c);

(g) proof of compliance with the insurance requirement described in Section 72-16-305;

(h) a safety inspection certification dated no more than 30 days before the day on which the owner-operator submits the application; and

(i) a fee established by the committee in accordance with Section 63J-1-504.

(3) To obtain or renew an annual amusement ride permit for a permanent amusement ride, the owner-operator shall submit an application to the director that contains the following information and is in a form prescribed by the director:

(a) the owner-operator's name and address;

(b) a description of the permanent amusement ride, including the manufacturer's name, the serial number, and the model number;

(c) the location in the state where the owner-operator will operate the permanent amusement ride;

(d) the first date on which the owner-operator intends to operate the permanent amusement ride for use by the general public;

(e) proof of compliance with the insurance requirement described in Section 72-16-305;

(f) a safety inspection certification dated no more than 30 days before the day on which the owner-operator submits the application; and

(g) a fee established by the committee in accordance with Section 63J-1-504.

(4) To obtain or renew a multi-ride annual amusement ride permit for all amusement rides located at an amusement park that employs more than 1,000 individuals in a calendar year, the amusement park shall submit an application to the director that contains the following information and is in a form prescribed by the director:

(a) the amusement park's name and address;

(b) a list of each amusement ride located at the amusement park, including a description of each amusement ride;

(c) the first date on which the amusement park will operate each amusement ride identified in Subsection (4)(b);

(d) proof of compliance with the insurance requirement described in Section 72-16-305;

(e) a safety inspection certification for each amusement ride identified in Subsection (4)(b) that is dated no more than 30 days before the day on which the amusement park submits the application; and

(f) a fee for each amusement ride identified under Subsection (4)(b) established by the committee in accordance with Section 63J-1-504.

(5) (a) In accordance with committee rule, an owner-operator of a mobile amusement ride shall update the information described in Subsection (2)(c) if the owner-operator learns of a new location where the owner-operator intends to operate the mobile amusement ride during the 12-month period for which the annual amusement ride permit is valid.

(b) An owner-operator may not operate a mobile amusement ride that is open to the public at a location in the state, unless the owner-operator includes the location:

(i) in the owner-operator's application or renewal for an annual amusement ride permit for the mobile amusement ride in accordance with Subsection (2)(c); or

(ii) in an update described in Subsection (5)(a) that the owner-operator submits to the director [~~at least 30 days before the day on which the owner-operator sets up~~] before operation of the mobile amusement ride at the location.

(6) The director shall issue:

(a) an annual amusement ride permit for each amusement ride for which the owner-operator submits a complete application or renewal application that satisfies the requirements of this chapter and any applicable rules and fees; and

(b) a multi-ride annual amusement ride permit to each amusement park that employs more than 1,000 individuals in a calendar year and submits a complete application or renewal application that satisfies the requirements of this chapter and any applicable rules and fees.

(7) An annual amusement ride permit or a multi-ride annual amusement ride permit expires one year after the day on which the director issues the annual amusement ride permit or the multi-ride annual amusement ride permit.

(8) An owner-operator or amusement park shall maintain a copy of a current annual amusement ride permit or multi-ride annual amusement ride permit and upon request, reasonable notice, and payment of reasonable copying expense, if applicable:

(a) make the copy available for examination; or

(b) provide a copy of the annual amusement ride permit or multi-ride annual amusement ride permit.

CHAPTER 268
H. B. 323
Passed March 4, 2021
Approved March 17, 2021
Effective May 5, 2021

HIGH POVERTY SCHOOLS TEACHER BONUS PROGRAM AMENDMENTS

Chief Sponsor: Mike Winder
Senate Sponsor: Kathleen A. Riebe

LONG TITLE

General Description:

This bill makes amendments related to criteria for schools and teachers eligible for the Effective Teachers in High Poverty Schools Incentive Program.

Highlighted Provisions:

This bill:

- amends the eligibility requirements for teachers in high poverty schools to receive a salary bonus in the 2020-2021 school year;
- provides that a school that qualified as a high poverty school in the 2018-2019 or 2019-2020 school year qualifies as a high poverty school for the 2020-2021 school year;
- requires the State Board of Education to publish a list of high poverty schools; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53F-2-513, as last amended by Laws of Utah 2020, Chapters 306 and 408

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

Section 1. Section 53F-2-513 is amended to read:

53F-2-513. Effective Teachers in High Poverty Schools Incentive Program -- Salary bonus -- Evaluation.

(1) As used in this section:

(a) "Cohort" means a group of students, defined by the year in which the group enters grade 1.

(b) "Eligible teacher" means a teacher who[~~:(i)~~] is employed as a teacher in grade 1 through 8 in a high poverty school at the time the teacher is considered by the state board for a salary bonus[~~;~~], and:

[~~(ii)~~] (i) a full school year before the school year the eligible teacher is being considered by the state board for a salary bonus under this section, regardless of whether the teacher was employed the previous year by a high poverty school or a different public school, either:

(A) achieves a median growth percentile of 70 or higher while teaching in grade 4 through 8 at any public school in the state a course for which a standards assessment is administered as described in Section 53E-4-303; or

(B) [~~teaches grade 1, 2, or 3, and~~] achieves at least 85% of students whose progress is assessed as typical or better at the end of the year assessment while teaching grade 1, 2, or 3 at any public school in the state at which a benchmark assessment is administered as described in Section 53F-2-503[~~.~~]; or

(ii) for a salary bonus awarded in the 2020-2021 school year, regardless of whether the teacher was employed the previous year by a high poverty school or a different public school, either:

(A) in the 2018-2019 school year, achieves a median growth percentile of 70 or higher while teaching in grade 4 through 8 at any public school in the state a course for which a standards assessment is administered as described in Section 53E-4-303; or

(B) in the 2018-2019 school year, achieves at least 85% of students whose progress is assessed as typical or better at the end of the year assessment while teaching grade 1, 2, or 3 at any public school in the state at which a benchmark assessment is administered as described in Section 53F-2-503; or

(iii) for a salary bonus awarded to a grade 4 teacher in the 2021-2022 school year, regardless of whether the teacher was employed the previous year by a high poverty school or a different public school, teaches grade 4 and achieves the criteria under the method that the state board creates as described in Subsection (2)(b)(iv).

(c) "High poverty school" means a public school:

(i) in which:

(A) more than 20% of the enrolled students are classified as children affected by intergenerational poverty; or

(B) 70% or more of the enrolled students qualify for free or reduced lunch; [~~or~~]

(ii) (A) that has previously met the criteria described in Subsection (1)(c)(i)(A) and for each school year since meeting that criteria at least 15% of the enrolled students at the public school have been classified as children affected by intergenerational poverty; or

(B) that has previously met the criteria described in Subsection (1)(c)(i)(B) and for each school year since meeting that criteria at least 60% of the enrolled students at the public school have qualified for free or reduced lunch[~~.~~];

(iii) for the 2020-2021 school year, that met the criteria described in Subsection (1)(c)(i) or (ii) in the 2018-2019 school year; or

(iv) for the 2021-2022 school year, that met the criteria described in Subsection (1)(c)(i) or (ii) in the 2019-2020 school year.

(d) "Intergenerational poverty" means the same as that term is defined in Section 35A-9-102.

(e) "Median growth percentile" means a number that describes the comparative effectiveness of a

teacher in helping the teacher's students achieve growth in a year by identifying the median student growth percentile of all the students a teacher instructs.

(f) "Program" means the Effective Teachers in High Poverty Schools Incentive Program created in Subsection (2).

(g) "Student growth percentile" is a number that describes where a student ranks in comparison to the student's cohort.

(2) (a) The Effective Teachers in High Poverty Schools Incentive Program is created to provide an annual salary bonus for an eligible teacher.

(b) The state board shall, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules for:

(i) the administration of the program;

(ii) payment of a salary bonus; [~~and~~]

(iii) application requirements[~~.~~]; and

(iv) a method for:

(A) norm-referencing available reading assessment data for grade 4; and

(B) for using the data described in Subsection (2)(b)(iv)(A) to set criteria for the purpose of determining teacher eligibility for salary bonuses awarded in the 2021-2022 school year for teachers in grade 4.

(c) The state board shall make an annual salary bonus payment in a fiscal year that begins on July 1, 2017, and each fiscal year thereafter in which money is appropriated for the program.

(3) (a) Subject to future budget constraints, the Legislature shall annually appropriate money to fund the program.

(b) Money appropriated for the program shall include money for the following employer-paid benefits:

(i) social security; and

(ii) Medicare.

(4) (a) (i) A charter school or school district school shall annually apply to the state board on behalf of an eligible teacher for an eligible teacher to receive an annual salary bonus each year that the teacher is an eligible teacher.

(ii) A teacher need not be an eligible teacher in consecutive years to receive the increased annual salary bonus described in Subsection (4)(b).

(b) The annual salary bonus for an eligible teacher is $7,000.

(c) A public school that applies on behalf of an eligible teacher under Subsection (4)(a)(i) shall pay half of the salary bonus described in Subsection (4)(b) each year the eligible teacher is awarded the salary bonus.

(d) The state board shall award a salary bonus to an eligible teacher based on the order that an application from a public school on behalf of the eligible teacher is received.

(5) The state board shall:

(a) determine if a teacher is an eligible teacher; [~~and~~]

(b) verify, as needed, the determinations made under Subsection (5)(a) with the school district and school district administrators[~~.~~]; and

(c) publish a list of high poverty schools.

(6) The state board shall:

(a) distribute money from the program to school districts and charter schools in accordance with this section and state board rule; and

(b) include the employer-paid benefits described in Subsection (3)(b) in addition to the salary bonus amount described in Subsection (4)(b).

(7) Money received from the program shall be used by a school district or charter school to provide an annual salary bonus equal to the amount specified in Subsection (4)(b) for each eligible teacher and to pay affiliated employer-paid benefits described in Subsection (3)(b).

(8) (a) After the third year salary bonus payments are made, and each succeeding year, the state board shall evaluate the extent to which a salary bonus described in this section improves recruitment and retention of effective teachers in high poverty schools by [~~at least: (i) surveying teachers who receive the salary bonus; and (ii)~~] examining turnover rates of teachers who receive the salary bonus compared to teachers who do not receive the salary bonus.

(b) Each year that the state board conducts an evaluation described in Subsection (8)(a), the state board shall, in accordance with Section 68-3-14, submit a report on the results of the evaluation to the Education Interim Committee on or before November 30.

(9) A public school shall annually notify a teacher:

(a) of the teacher's median growth percentile; and

(b) how the teacher's median growth percentile is calculated.

(10) Notwithstanding this section, if the appropriation for the program is insufficient to cover the costs associated with salary bonuses, the state board may limit or reduce a salary bonus.

CHAPTER 269
H. B. 324
Passed March 5, 2021
Approved March 17, 2021
Effective May 5, 2021

ALIMONY AMENDMENTS

Chief Sponsor: Jordan D. Teuscher
Senate Sponsor: Todd D. Weiler

LONG TITLE

General Description:

This bill amends provisions relating to alimony.

Highlighted Provisions:

This bill:

- amends provisions relating to the continuing jurisdiction of the court to make changes and new orders regarding alimony; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

30-3-5, as last amended by Laws of Utah 2020, Chapter 337

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

Section 1. Section 30-3-5 is amended to read:

30-3-5. Disposition of property -- Maintenance and health care of parties and children -- Division of debts -- Court to have continuing jurisdiction -- Custody and parent-time -- Determination of alimony -- Nonmeritorious petition for modification.

(1) When a decree of divorce is rendered, the court may include in the decree of divorce equitable orders relating to the children, property, debts or obligations, and parties.

(2) The court shall include the following in every decree of divorce:

(a) an order assigning responsibility for the payment of reasonable and necessary medical and dental expenses of a dependent child, including responsibility for health insurance out-of-pocket expenses such as co-payments, co-insurance, and deductibles;

(b) (i) if coverage is or becomes available at a reasonable cost, an order requiring the purchase and maintenance of appropriate health, hospital, and dental care insurance for a dependent child; and

(ii) a designation of which health, hospital, or dental insurance plan is primary and which health, hospital, or dental insurance plan is secondary in accordance with Section 30-3-5.4 that will take effect if at any time a dependent child is covered by both parents' health, hospital, or dental insurance plans;

(c) in accordance with Section 15-4-6.5:

(i) an order specifying which party is responsible for the payment of joint debts, obligations, or liabilities of the parties contracted or incurred during marriage;

(ii) an order requiring the parties to notify respective creditors or obligees, regarding the court's division of debts, obligations, or liabilities and regarding the parties' separate, current addresses; and

(iii) provisions for the enforcement of these orders;

(d) provisions for income withholding in accordance with Title 62A, Chapter 11, Recovery Services; and

(e) if either party owns a life insurance policy or an annuity contract, an acknowledgment by the court that the owner:

(i) has reviewed and updated, where appropriate, the list of beneficiaries;

(ii) has affirmed that those listed as beneficiaries are in fact the intended beneficiaries after the divorce becomes final; and

(iii) understands that if no changes are made to the policy or contract, the beneficiaries currently listed will receive any funds paid by the insurance company under the terms of the policy or contract.

(3) (a) The court may include, in an order determining child support, an order assigning financial responsibility for all or a portion of child care expenses incurred on behalf of a dependent child, necessitated by the employment or training of the custodial parent.

(b) If the court determines that the circumstances are appropriate and that the dependent child would be adequately cared for, the court may include an order allowing the noncustodial parent to provide child care for the dependent child, necessitated by the employment or training of the custodial parent.

(4) The court has continuing jurisdiction to make subsequent changes or new orders for the custody of a child and the child's support, maintenance, health, and dental care, and for distribution of the property and obligations for debts as is reasonable and necessary.

(5) Child support, custody, visitation, and other matters related to a child born to the parents after entry of the decree of divorce may be added to the decree by modification.

(6) (a) In determining parent-time rights of parents and visitation rights of grandparents and other members of the immediate family, the court shall consider the best interest of the child.

(b) Upon a specific finding by the court of the need for peace officer enforcement, the court may include in an order establishing a parent-time or visitation schedule a provision, among other things,

authorizing any peace officer to enforce a court-ordered parent-time or visitation schedule entered under this chapter.

(7) If a petition for modification of child custody or parent-time provisions of a court order is made and denied, the court shall order the petitioner to pay the reasonable attorney fees expended by the prevailing party in that action, if the court determines that the petition was without merit and not asserted or defended against in good faith.

(8) If a motion or petition alleges noncompliance with a parent-time order by a parent, or a visitation order by a grandparent or other member of the immediate family where a visitation or parent-time right has been previously granted by the court, the court may award to the prevailing party:

(a) actual attorney fees incurred;

(b) the costs incurred by the prevailing party because of the other party's failure to provide or exercise court-ordered visitation or parent-time, which may include:

(i) court costs;

(ii) child care expenses;

(iii) transportation expenses actually incurred;

(iv) lost wages, if ascertainable; and

(v) counseling for a child or parent if ordered or approved by the court;

(c) make-up parent time consistent with the best interest of the child; and

(d) any other appropriate equitable remedy.

(9) (a) The court shall consider at least the following factors in determining alimony:

(i) the financial condition and needs of the recipient spouse;

(ii) the recipient's earning capacity or ability to produce income, including the impact of diminished workplace experience resulting from primarily caring for a child of the payor spouse;

(iii) the ability of the payor spouse to provide support;

(iv) the length of the marriage;

(v) whether the recipient spouse has custody of a minor child requiring support;

(vi) whether the recipient spouse worked in a business owned or operated by the payor spouse; and

(vii) whether the recipient spouse directly contributed to any increase in the payor spouse's skill by paying for education received by the payor spouse or enabling the payor spouse to attend school during the marriage.

(b) The court may consider the fault of the parties in determining whether to award alimony and the terms of the alimony.

(c) "Fault" means any of the following wrongful conduct during the marriage that substantially contributed to the breakup of the marriage relationship:

(i) engaging in sexual relations with an individual other than the party's spouse;

(ii) knowingly and intentionally causing or attempting to cause physical harm to the other party or a minor child;

(iii) knowingly and intentionally causing the other party or a minor child to reasonably fear life-threatening harm; or

(iv) substantially undermining the financial stability of the other party or the minor child.

(d) The court may, when fault is at issue, close the proceedings and seal the court records.

(e) As a general rule, the court should look to the standard of living, existing at the time of separation, in determining alimony in accordance with Subsection (9)(a). However, the court shall consider all relevant facts and equitable principles and may, in the court's discretion, base alimony on the standard of living that existed at the time of trial. In marriages of short duration, when no child has been conceived or born during the marriage, the court may consider the standard of living that existed at the time of the marriage.

(f) The court may, under appropriate circumstances, attempt to equalize the parties' respective standards of living.

(g) When a marriage of long duration dissolves on the threshold of a major change in the income of one of the spouses due to the collective efforts of both, that change shall be considered in dividing the marital property and in determining the amount of alimony. If one spouse's earning capacity has been greatly enhanced through the efforts of both spouses during the marriage, the court may make a compensating adjustment in dividing the marital property and awarding alimony.

(h) In determining alimony when a marriage of short duration dissolves, and no child has been conceived or born during the marriage, the court may consider restoring each party to the condition which existed at the time of the marriage.

(10) (a) The court has continuing jurisdiction to make substantive changes and new orders regarding alimony based on a substantial material change in circumstances not [~~foreseeable at the time of the divorce~~] expressly stated in the divorce decree or in the findings that the court entered at the time of the divorce decree.

(b) [~~Regardless of whether a party's retirement is foreseeable, the~~] A party's retirement is a substantial material change in circumstances that is subject to a petition to modify alimony, unless the divorce decree, or the findings that the court entered at the time of the divorce decree, expressly states otherwise.

(c) The court may not modify alimony or issue a new order for alimony to address needs of the

recipient that did not exist at the time the decree was entered, unless the court finds extenuating circumstances that justify that action.

(d) (i) In determining alimony, the income of any subsequent spouse of the payor may not be considered, except as provided in Subsection (9) or this Subsection (10).

(ii) The court may consider the subsequent spouse's financial ability to share living expenses.

(iii) The court may consider the income of a subsequent spouse if the court finds that the payor's improper conduct justifies that consideration.

(e) The court may not order alimony for a duration longer than the number of years that the marriage existed unless, at any time before termination of alimony, the court finds extenuating circumstances that justify the payment of alimony for a longer period of time.

(11) Unless a decree of divorce specifically provides otherwise, any order of the court that a party pay alimony to a former spouse automatically terminates upon the remarriage or death of that former spouse. However, if the remarriage is annulled and found to be void ab initio, payment of alimony shall resume if the party paying alimony is made a party to the action of annulment and the payor party's rights are determined.

(12) (a) Subject to Subsection (12)(b), an order of the court that a party pay alimony to a former spouse terminates upon establishment by the party paying alimony that the former spouse, after the order for alimony is issued, cohabits with another individual, even if the former spouse is not cohabiting with another person when the party paying alimony files the motion to terminate alimony.

(b) A party paying alimony to a former spouse may not seek termination of alimony under Subsection (12)(a), later than one year from the day on which the party knew or should have known that the former spouse has cohabited with another individual.

CHAPTER 270
H. B. 327
Passed March 4, 2021
Approved March 17, 2021
Effective May 5, 2021

CIVIC THOUGHT AND LEADERSHIP INITIATIVE

Chief Sponsor: Jefferson S. Burton
Senate Sponsor: Kirk A. Cullimore
Cosponsors: Brady Brammer
Steve R. Christiansen
Matthew H. Gwynn
Jefferson Moss
Val L. Peterson
Candice B. Pierucci
Jordan D. Teuscher
Norman K. Thurston
Steve Waldrip
Ryan D. Wilcox

LONG TITLE

General Description:

This bill requires Utah Valley University to establish the Civic Thought and Leadership Initiative.

Highlighted Provisions:

This bill:

- defines terms; and
- requires Utah Valley University to establish the Civic Thought and Leadership Initiative.

Monies Appropriated in this Bill:

This bill appropriates in fiscal year 2022:

- to Utah Valley University –– Civic Thought and Leadership Initiative –– Civic Thought and Leadership Initiative, as a one–time appropriation:
  - from Education Fund, One–time, $1,000,000.

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:
53B–29–301, Utah Code Annotated 1953
53B–29–302, Utah Code Annotated 1953
53B–29–303, Utah Code Annotated 1953

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

Section 1. Section 53B-29-301 is enacted to read:

Part 3. Civic Thought and Leadership Initiative

53B-29-301. Definitions.

As used in this part:

(1) "Initiative" means the Civic Thought and Leadership Initiative described in Section 53B–29–302.

(2) "University" means Utah Valley University.

Section 2. Section 53B-29-302 is enacted to read:

53B-29-302. Civic Thought and Leadership Initiative.

(1) The university shall establish the Civic Thought and Leadership Initiative within the Center for Constitutional Studies to facilitate nonpartisan political discussion and provide civic education and research.

(2) The initiative shall:

(a) provide courses in and related to philosophy, history, economics, and political science;

(b) provide resources to students, outside academic institutions, government agencies, and other persons regarding civic affairs; and

(c) foster thoughtful civic engagement in Utah and the surrounding region.

Section 3. Section 53B-29-303 is enacted to read:

53B-29-303. Acceptance of gifts.

The university is authorized to receive gifts, contributions, and donations of all kinds, for development or support of the initiative.

Section 4. Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2021, and ending June 30, 2022. These are additions to amounts previously appropriated for fiscal year 2022. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 1

To Utah Valley University –– Civic Thought and Leadership Initiative

From Education Fund, One–time	$1,000,000
Schedule of Programs:	
Civic Thought and Leadership Initiative	$1,000,000

CHAPTER 271
H. B. 328
Passed March 4, 2021
Approved March 17, 2021
Effective May 5, 2021

ADULT LEARNERS GRANT PROGRAM

Chief Sponsor: V. Lowry Snow
Senate Sponsor: Ann Millner

LONG TITLE

General Description:

This bill creates the Adult Learners Grant Program to provide financial assistance to adult students pursuing online education.

Highlighted Provisions:

This bill:

- creates the Adult Learners Grant Program (program) to provide financial assistance to students who:
  - are at least 26 years old;
  - are financially needy; and
  - are pursuing an online degree or certificate in a field with an industry need;
- requires the Utah Board of Higher Education (board) to:
  - make rules to administer the program;
  - distribute grant money to eligible students; and
  - prioritize grants to students from rural areas, minority students, low income students, and first generation students; and
- defines terms.

Monies Appropriated in this Bill:

This bill appropriates in fiscal year 2022:

- to the Utah Board of Higher Education – Student Assistance – Adult Learner Grant Program as an ongoing appropriation:
  - from the Education Fund, $1,000,000.

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:
53B-13c-101, Utah Code Annotated 1953
53B-13c-102, Utah Code Annotated 1953

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

Section 1. Section 53B-13c-101 is enacted to read:

CHAPTER 13c. ADULT LEARNERS GRANT PROGRAM

53B-13c-101. Definitions.

As used in this chapter:

(1) (a) "Cost of attendance" means the estimated costs associated with taking an online course, as established by an eligible institution in accordance with board policies.

(b) "Cost of attendance" includes tuition, costs payable to the eligible institution, and other direct educational expenses related to taking an online course.

(2) "Eligible institution" means an institution that offers a postsecondary level course of instruction using digital technology.

(3) "Eligible student" means a financially needy student who is:

(a) at least 26 years old;

(b) enrolled in an online course at an eligible institution;

(c) pursuing:

(i) an online postsecondary degree program in a field where there is a demonstrated industry need; or

(ii) an online non-degree program that is designed to meet industry needs and leads to a certificate or another recognized educational credential; and

(d) a resident student under Section 53B-8-102 and rules the board establishes.

(4) "Financially needy student" means a student who demonstrates the financial inability to meet all or a portion of the cost of attendance at an eligible institution as defined by the board, after utilizing family and personal resources, federal assistance, and scholarships.

(5) "Fiscal year" means the fiscal year of the state.

(6) "Institution" means:

(a) an institution described in Section 53B-1-102; or

(b) a Utah private, nonprofit postsecondary institution that is accredited by a regional accrediting organization that the board recognizes.

(7) "Online course" means a postsecondary level course of instruction offered by an eligible institution using digital technology.

(8) "Program" means the Adult Learners Grant Program established in Section 53B-13c-102.

(9) "Tuition" means tuition and fees at the rate charged for residents of the state.

Section 2. Section 53B-13c-102 is enacted to read:

53B-13c-102. Adult Learners Grant Program established -- Guidelines for administration of the program.

(1) There is created the Adult Learners Grant Program to provide financial assistance to eligible students.

(2) (a) The board shall, in accordance with the guidelines in this section, develop and administer the program.

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

(i) how an individual establishes financial need for purposes of receiving a grant under the program;

(ii) a requirement that an applicant complete the Free Application for Federal Student Aid;

(iii) how to determine whether an individual is a Utah resident;

(iv) a process and requirements for an individual to apply for a grant under the program;

(v) a formula to allocate money appropriated for the program to eligible students, prioritizing:

(A) students from rural areas;

(B) minority students;

(C) low income students;

(D) first generation students; and

(E) students pursuing education that aligns with industry needs; and

(vi) a method of identifying industry needs for purposes of determining student eligibility to receive a grant under this section.

(c) The board may not use more than 3% of money appropriated for the program for administrative costs or overhead.

(3) To be eligible for a grant under this section, a student shall demonstrate, in accordance with rules the board makes under Subsection (2)(b):

(a) that the student has completed the Free Application for Federal Student Aid; and

(b) that the student is financially needy.

(4) The board shall:

(a) annually establish the minimum and maximum amount for a grant;

(b) (i) award grants to eligible students on an annual basis; and

(ii) distribute grant money on a quarter or semester basis; and

(c) except as provided in Subsection (2)(b)(v), award all money appropriated for the program without regard to an applicant's race, creed, color, religion, sex, or ancestry.

(5) The total sum of program grant money, financial aid from any source, and family or personal contribution may not exceed the cost of attendance for an eligible student at an eligible institution for a fiscal year.

(6) An eligible student that receives a grant under the program shall apply the grant money to the cost of attendance.

(7) The board shall annually report program outcomes to the Higher Education Appropriations Subcommittee, including:

(a) number of grant recipients at each eligible institution;

(b) average amount of grant money provided per grant recipient;

(c) benefits in fulfillment of the purposes for the program described in this chapter; and

(d) recommendations for program modification, including recommended funding levels.

Section 3. Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2021, and ending June 30, 2022. These are additions to amounts previously appropriated for fiscal year 2022. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

To Utah Board of Higher Education - Student Assistance

From Education Fund	$1,000,000
Schedule of Programs:	
Adult Learner Grant Program	$1,000,000

CHAPTER 272
H. B. 329
Passed March 2, 2021
Approved March 17, 2021
Effective May 5, 2021

EXPUNGEMENT REVISIONS

Chief Sponsor: Candice B. Pierucci
Senate Sponsor: Daniel McCay

LONG TITLE

General Description:
This bill allows for the de-linking of certain court records when cases are dismissed.

Highlighted Provisions:
This bill:

- allows a person to have the link between their personal identifying information and a court case that has been dismissed eliminated.

Monies Appropriated in this Bill:
None

Other Special Clauses:
None

Utah Code Sections Affected:

AMENDS:
77-40-104.1, as last amended by Laws of Utah 2019, Chapter 448

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

Section 1. Section 77-40-104.1 is amended to read:

77-40-104.1. Eligibility for removing the link between personal identifying information and court case dismissed.

(1) As used in this section:

(a) "Domestic violence offense" means the same as that term is defined in Section 77-36-1.

(b) "Personal identifying information" means:

(i) a current name, former name, nickname, or alias; and

(ii) date of birth.

(2) An individual whose criminal case is dismissed, or civil case filed in accordance with Title 78B, Chapter 7, Protective Orders and Stalking Injunctions, is [~~dismissed~~] denied, may move the court for an order to remove the link between the individual's personal identifying information from the dismissed case in any publicly searchable database of the Utah state courts and the court shall grant that relief if:

(a) 30 days have passed from the day on which the case is dismissed or denied;

(b) no appeal is filed for the dismissed or denied case within the 30-day period described in Subsection (2)(a); and

(c) no charge in the case was a domestic violence offense.

(3) Removing the link to personal identifying information of a court record under Subsection (2) does not affect a prosecuting, arresting, or other agency's records.

(4) A case history, unless expunged under this chapter, remains public and accessible through a search by case number.

CHAPTER 273
H. B. 332
Passed March 2, 2021
Approved March 17, 2021
Effective May 5, 2021

MEDICAID FRAUD CONTROL UNIT AMENDMENTS

Chief Sponsor: Bradley G. Last
Senate Sponsor: Todd D. Weiler

LONG TITLE

General Description:

This bill amends provisions relating to the Office of the Attorney General.

Highlighted Provisions:

This bill:

- amends the general duties of the Attorney General relating to the Medicaid Fraud Control Unit; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

67-5-1, as last amended by Laws of Utah 2020, Chapter 343

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

Section 1. Section 67-5-1 is amended to read:

67-5-1. General duties.

The attorney general shall:

(1) perform all duties in a manner consistent with the attorney-client relationship under Section 67-5-17;

(2) except as provided in Sections 10-3-928 and 17-18a-403, attend the Supreme Court and the Court of Appeals of this state, and all courts of the United States, and prosecute or defend all causes to which the state or any officer, board, or commission of the state in an official capacity is a party, and take charge, as attorney, of all civil legal matters in which the state is interested;

(3) after judgment on any cause referred to in Subsection (2), direct the issuance of process as necessary to execute the judgment;

(4) account for, and pay over to the proper officer, all money that comes into the attorney general's possession that belongs to the state;

(5) keep a file of all cases in which the attorney general is required to appear, including any documents and papers showing the court in which the cases have been instituted and tried, and whether they are civil or criminal, and:

(a) if civil, the nature of the demand, the stage of proceedings, and, when prosecuted to judgment, a memorandum of the judgment and of any process issued if satisfied, and if not satisfied, documentation of the return of the sheriff;

(b) if criminal, the nature of the crime, the mode of prosecution, the stage of proceedings, and, when prosecuted to sentence, a memorandum of the sentence and of the execution, if the sentence has been executed, and, if not executed, the reason for the delay or prevention; and

(c) deliver this information to the attorney general's successor in office;

(6) exercise supervisory powers over the district and county attorneys of the state in all matters pertaining to the duties of the district and county attorneys' offices, including the authority to:

(a) require a district or county attorney of the state to, upon request, report on the status of public business entrusted to the district or county attorney's charge; or

(b) review investigation results de novo and file criminal charges, if warranted, in any case involving a first degree felony, if:

(i) a law enforcement agency submits investigation results to the county or district attorney of the jurisdiction where the incident occurred and the county or district attorney:

(A) declines to file criminal charges; or

(B) fails to screen the case for criminal charges within six months of the law enforcement agency's submission of the investigation results; and

(ii) after consultation with the county or district attorney of the jurisdiction where the incident occurred, the attorney general reasonably believes action by the attorney general would not interfere with an ongoing investigation or prosecution by the county or district attorney of the jurisdiction where the incident occurred;

(7) give the attorney general's opinion in writing and without fee, when required, upon any question of law relating to the office of the requester:

(a) in accordance with Section 67-5-1.1, to the Legislature or either house;

(b) to any state officer, board, or commission; and

(c) to any county attorney or district attorney;

(8) when required by the public service or directed by the governor, assist any county, district, or city attorney in the discharge of county, district, or city attorney's duties;

(9) purchase in the name of the state, under the direction of the state Board of Examiners, any property offered for sale under execution issued upon judgments in favor of or for the use of the state, and enter satisfaction in whole or in part of the judgments as the consideration of the purchases;

(10) when the property of a judgment debtor in any judgment mentioned in Subsection (9) has been sold under a prior judgment, or is subject to any judgment, lien, or encumbrance taking precedence of the judgment in favor of the state, redeem the

property, under the direction of the state Board of Examiners, from the prior judgment, lien, or encumbrance, and pay all money necessary for the redemption, upon the order of the state Board of Examiners, out of any money appropriated for these purposes;

(11) when in the attorney general's opinion it is necessary for the collection or enforcement of any judgment, institute and prosecute on behalf of the state any action or proceeding necessary to set aside and annul all conveyances fraudulently made by the judgment debtors, and pay the cost necessary to the prosecution, when allowed by the state Board of Examiners, out of any money not otherwise appropriated;

(12) discharge the duties of a member of all official boards of which the attorney general is or may be made a member by the Utah Constitution or by the laws of the state, and other duties prescribed by law;

(13) institute and prosecute proper proceedings in any court of the state or of the United States to restrain and enjoin corporations organized under the laws of this or any other state or territory from acting illegally or in excess of their corporate powers or contrary to public policy, and in proper cases forfeit their corporate franchises, dissolve the corporations, and wind up their affairs;

(14) institute investigations for the recovery of all real or personal property that may have escheated or should escheat to the state, and for that purpose, subpoena any persons before any of the district courts to answer inquiries and render accounts concerning any property, examine all books and papers of any corporations, and when any real or personal property is discovered that should escheat to the state, institute suit in the district court of the county where the property is situated for its recovery, and escheat that property to the state;

(15) administer the Children's Justice Center as a program to be implemented in various counties pursuant to Sections 67-5b-101 through 67-5b-107;

(16) assist the Constitutional Defense Council as provided in Title 63C, Chapter 4a, Constitutional and Federalism Defense Act;

(17) pursue any appropriate legal action to implement the state's public lands policy established in Section 63C-4a-103;

(18) investigate and prosecute violations of all applicable state laws relating to fraud in connection with the state Medicaid program and any other medical assistance program administered by the state, including violations of Title 26, Chapter 20, Utah False Claims Act;

(19) investigate and prosecute complaints of abuse, neglect, or exploitation of patients [~~at~~]:

(a) in health care facilities that receive payments under the state Medicaid program; [~~and~~]

(b) in board and care facilities, as defined in the federal Social Security Act, 42 U.S.C. Sec. 1396b(q)(4)(B), regardless of the source of payment to the board and care facility; and

(c) who are receiving medical assistance under the Medicaid program as defined in Section 26-18-2 in a noninstitutional or other setting;

(20) (a) report at least twice per year to the Legislative Management Committee on any pending or anticipated lawsuits, other than eminent domain lawsuits, that might:

(i) cost the state more than $500,000; or

(ii) require the state to take legally binding action that would cost more than $500,000 to implement; and

(b) if the meeting is closed, include an estimate of the state's potential financial or other legal exposure in that report;

(21) (a) submit a written report to the committees described in Subsection (21)(b) that summarizes any lawsuit or decision in which a court or the Office of the Attorney General has determined that a state statute is unconstitutional or unenforceable since the attorney general's last report under this Subsection (21), including any:

(i) settlements reached;

(ii) consent decrees entered;

(iii) judgments issued;

(iv) preliminary injunctions issued;

(v) temporary restraining orders issued; or

(vi) formal or informal policies of the Office of the Attorney General to not enforce a law; and

(b) at least 30 days before the Legislature's May and November interim meetings, submit the report described in Subsection (21)(a) to:

(i) the Legislative Management Committee;

(ii) the Judiciary Interim Committee; and

(iii) the Law Enforcement and Criminal Justice Interim Committee;

(22) if the attorney general operates the Office of the Attorney General or any portion of the Office of the Attorney General as an internal service fund agency in accordance with Section 67-5-4, submit to the rate committee established in Section 67-5-34:

(a) a proposed rate and fee schedule in accordance with Subsection 67-5-34(4); and

(b) any other information or analysis requested by the rate committee;

(23) before the end of each calendar year, create an annual performance report for the Office of the Attorney General and post the report on the attorney general's website;

(24) ensure that any training required under this chapter complies with Title 63G, Chapter 22, State Training and Certification Requirements;

(25) notify the legislative general counsel in writing within three business days after the day on

which the attorney general is officially notified of a claim, regardless of whether the claim is filed in state or federal court, that challenges:

(a) the constitutionality of a state statute;

(b) the validity of legislation; or

(c) any action of the Legislature; and

(26) (a) notwithstanding Title 63G, Chapter 6a, Utah Procurement Code, provide a special advisor to the Office of the Governor and the Office of the Attorney General in matters relating to Native American and tribal issues to:

(i) establish outreach to the tribes and affected counties and communities; and

(ii) foster better relations and a cooperative framework; and

(b) annually report to the Executive Offices and Criminal Justice Appropriations Subcommittee regarding:

(i) the status of the work of the special advisor described in Subsection (26)(a); and

(ii) whether the need remains for the ongoing appropriation to fund the special advisor described in Subsection (26)(a).

CHAPTER 274
H. B. 333
Passed March 5, 2021
Approved March 17, 2021
Effective May 5, 2021

MEDICAID AMENDMENTS

Chief Sponsor: Steve Eliason
Senate Sponsor: Michael K. McKell

LONG TITLE

General Description:

This bill amends provisions relating to the certification of beds by the Medicaid program for intermediate care facilities for individuals with intellectual disabilities.

Highlighted Provisions:

This bill:

- creates limitations on the number of beds that can be certified by the Medicaid program at intermediate care facilities for individuals with intellectual disabilities;
- creates an exception for certain time limits in a state or national emergency that affects an intermediate care facility for individuals with intellectual disabilities; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

26-18-502, as last amended by Laws of Utah 2016, Chapter 276
26-18-503, as last amended by Laws of Utah 2019, Chapters 136 and 393

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

Section 1. Section 26-18-502 is amended to read:

26-18-502. Purpose -- Medicaid certification of nursing care facilities.

(1) The Legislature finds:

(a) that an oversupply of nursing care facilities in the state adversely affects the state Medicaid program and the health of the people in the state;

(b) it is in the best interest of the state to prohibit nursing care facilities from receiving Medicaid certification, except as provided by this part; and

(c) it is in the best interest of the state to encourage aging nursing care facilities with Medicaid certification to renovate the nursing care facilities' physical facilities so that the quality of life and clinical services for Medicaid residents are preserved.

(2) Medicaid reimbursement of nursing care facility programs is limited to:

(a) the number of nursing care facility programs with Medicaid certification as of May 9, 2016; and

(b) additional nursing care facility programs approved for Medicaid certification under the provisions of Subsections 26-18-503(5) and (7).

(3) The division may not:

(a) except as authorized by Section 26-18-503:

(i) process initial applications for Medicaid certification or execute provider agreements with nursing care facility programs; or

(ii) reinstate Medicaid certification for a nursing care facility whose certification expired or was terminated by action of the federal or state government; or

(b) execute a Medicaid provider agreement with a certified program that moves to a different physical facility, except as authorized by Subsection 26-18-503(3).

(4) Notwithstanding Section 26-18-503, beginning May 4, 2021, the division may not approve a new or additional bed in an intermediate care facility for individuals with an intellectual disability for Medicaid certification, unless certification of the bed by the division does not increase the total number in the state of Medicaid-certified beds in intermediate care facilities for individuals with an intellectual disability.

Section 2. Section 26-18-503 is amended to read:

26-18-503. Authorization to renew, transfer, or increase Medicaid certified programs -- Reimbursement methodology.

(1) (a) The division may renew Medicaid certification of a certified program if the program, without lapse in service to Medicaid recipients, has its nursing care facility program certified by the division at the same physical facility as long as the licensed and certified bed capacity at the facility has not been expanded, unless the director has approved additional beds in accordance with Subsection (5).

(b) The division may renew Medicaid certification of a nursing care facility program that is not currently certified if:

(i) since the day on which the program last operated with Medicaid certification:

(A) the physical facility where the program operated has functioned solely and continuously as a nursing care facility; and

(B) the owner of the program has not, under this section or Section 26-18-505, transferred to another nursing care facility program the license for any of the Medicaid beds in the program; and

(ii) except as provided in Subsection 26-18-502(4), the number of beds granted renewed Medicaid certification does not exceed the number of beds certified at the time the program last operated with Medicaid certification, excluding a

period of time where the program operated with temporary certification under Subsection 26-18-504(3).

(2) (a) The division may issue a Medicaid certification for a new nursing care facility program if a current owner of the Medicaid certified program transfers its ownership of the Medicaid certification to the new nursing care facility program and the new nursing care facility program meets all of the following conditions:

(i) the new nursing care facility program operates at the same physical facility as the previous Medicaid certified program;

(ii) the new nursing care facility program gives a written assurance to the director in accordance with Subsection (4);

(iii) the new nursing care facility program receives the Medicaid certification within one year of the date the previously certified program ceased to provide medical assistance to a Medicaid recipient; and

(iv) the licensed and certified bed capacity at the facility has not been expanded, unless the director has approved additional beds in accordance with Subsection (5).

(b) A nursing care facility program that receives Medicaid certification under the provisions of Subsection (2)(a) does not assume the Medicaid liabilities of the previous nursing care facility program if the new nursing care facility program:

(i) is not owned in whole or in part by the previous nursing care facility program; or

(ii) is not a successor in interest of the previous nursing care facility program.

(3) The division may issue a Medicaid certification to a nursing care facility program that was previously a certified program but now resides in a new or renovated physical facility if the nursing care facility program meets all of the following:

(a) the nursing care facility program met all applicable requirements for Medicaid certification at the time of closure;

(b) the new or renovated physical facility is in the same county or within a five-mile radius of the original physical facility;

(c) the time between which the certified program ceased to operate in the original facility and will begin to operate in the new physical facility is not more than three years[;], unless:

(i) an emergency is declared by the president of the United States or the governor, affecting the building or renovation of the physical facility;

(ii) the director approves an exception to the three-year requirement for any nursing care facility program within the three-year requirement;

(iii) the provider submits documentation supporting a request for an extension to the director that demonstrates a need for an extension; and

(iv) the exception does not extend for more than two years beyond the three-year requirement;

(d) if Subsection (3)(c) applies, the certified program notifies the department within 90 days after ceasing operations in its original facility, of its intent to retain its Medicaid certification;

(e) the provider gives written assurance to the director in accordance with Subsection (4) that no third party has a legitimate claim to operate a certified program at the previous physical facility; and

(f) the bed capacity in the physical facility has not been expanded unless the director has approved additional beds in accordance with Subsection (5).

(4) (a) The entity requesting Medicaid certification under Subsections (2) and (3) shall give written assurances satisfactory to the director or the director's designee that:

(i) no third party has a legitimate claim to operate the certified program;

(ii) the requesting entity agrees to defend and indemnify the department against any claims by a third party who may assert a right to operate the certified program; and

(iii) if a third party is found, by final agency action of the department after exhaustion of all administrative and judicial appeal rights, to be entitled to operate a certified program at the physical facility the certified program shall voluntarily comply with Subsection (4)(b).

(b) If a finding is made under the provisions of Subsection (4)(a)(iii):

(i) the certified program shall immediately surrender its Medicaid certification and comply with division rules regarding billing for Medicaid and the provision of services to Medicaid patients; and

(ii) the department shall transfer the surrendered Medicaid certification to the third party who prevailed under Subsection (4)(a)(iii).

(5) (a) [~~As provided in Subsection 26-18-502(2)(b), the~~] The director may approve additional nursing care facility programs for Medicaid certification, or additional beds for Medicaid certification within an existing nursing care facility program, if a nursing care facility or other interested party requests Medicaid certification for a nursing care facility program or additional beds within an existing nursing care facility program, and the nursing care facility program or other interested party complies with this section.

(b) The nursing care facility or other interested party requesting Medicaid certification for a nursing care facility program or additional beds within an existing nursing care facility program under Subsection (5)(a) shall submit to the director:

(i) proof of the following as reasonable evidence that bed capacity provided by Medicaid certified programs within the county or group of counties impacted by the requested additional Medicaid certification is insufficient:

(A) nursing care facility occupancy levels for all existing and proposed facilities will be at least 90% for the next three years;

(B) current nursing care facility occupancy is 90% or more; or

(C) there is no other nursing care facility within a 35-mile radius of the nursing care facility requesting the additional certification; and

(ii) an independent analysis demonstrating that at projected occupancy rates the nursing care facility's after-tax net income is sufficient for the facility to be financially viable.

(c) Any request for additional beds as part of a renovation project are limited to the maximum number of beds allowed in Subsection (7).

(d) The director shall determine whether to issue additional Medicaid certification by considering:

(i) whether bed capacity provided by certified programs within the county or group of counties impacted by the requested additional Medicaid certification is insufficient, based on the information submitted to the director under Subsection (5)(b);

(ii) whether the county or group of counties impacted by the requested additional Medicaid certification is underserved by specialized or unique services that would be provided by the nursing care facility;

(iii) whether any Medicaid certified beds are subject to a claim by a previous certified program that may reopen under the provisions of Subsections (2) and (3);

(iv) how additional bed capacity should be added to the long-term care delivery system to best meet the needs of Medicaid recipients; and

(v) (A) whether the existing certified programs within the county or group of counties have provided services of sufficient quality to merit at least a two-star rating in the Medicare Five-Star Quality Rating System over the previous three-year period; and

(B) information obtained under Subsection (9).

(6) The department shall adopt administrative rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to adjust the Medicaid nursing care facility property reimbursement methodology to:

(a) only pay that portion of the property component of rates, representing actual bed usage by Medicaid clients as a percentage of the greater of:

(i) actual occupancy; or

(ii) (A) for a nursing care facility other than a facility described in Subsection (6)(a)(ii)(B), 85% of total bed capacity; or

(B) for a rural nursing care facility, 65% of total bed capacity; and

(b) not allow for increases in reimbursement for property values without major renovation or replacement projects as defined by the department by rule.

(7) (a) [~~Notwithstanding Subsection 26-18-504(3)~~] Except as provided in Subsection 26-18-502(3)(c), if a nursing care facility does not seek Medicaid certification for a bed under Subsections (1) through (6), the department shall, notwithstanding Subsections 26-18-504(3)(a) and (b), grant Medicaid certification for additional beds in an existing Medicaid certified nursing care facility that has 90 or fewer licensed beds, including Medicaid certified beds, in the facility if:

(i) the nursing care facility program was previously a certified program for all beds but now resides in a new facility or in a facility that underwent major renovations involving major structural changes, with 50% or greater facility square footage design changes, requiring review and approval by the department;

(ii) the nursing care facility meets the quality of care regulations issued by CMS; and

(iii) the total number of additional beds in the facility granted Medicaid certification under this section does not exceed 10% of the number of licensed beds in the facility.

(b) The department may not revoke the Medicaid certification of a bed under this Subsection (7) as long as the provisions of Subsection (7)(a)(ii) are met.

(8) (a) If a nursing care facility or other interested party indicates in its request for additional Medicaid certification under Subsection (5)(a) that the facility will offer specialized or unique services, but the facility does not offer those services after receiving additional Medicaid certification, the director shall revoke the additional Medicaid certification.

(b) The nursing care facility program shall obtain Medicaid certification for any additional Medicaid beds approved under Subsection (5) or (7) within three years of the date of the director's approval, or the approval is void.

(9) (a) If the director makes an initial determination that quality standards under Subsection (5)(d)(v) have not been met in a rural county or group of rural counties over the previous three-year period, the director shall, before approving certification of additional Medicaid beds in the rural county or group of counties:

(i) notify the certified program that has not met the quality standards in Subsection (5)(d)(v) that the director intends to certify additional Medicaid beds under the provisions of Subsection (5)(d)(v); and

(ii) consider additional information submitted to the director by the certified program in a rural county that has not met the quality standards under Subsection (5)(d)(v).

(b) The notice under Subsection (9)(a) does not give the certified program that has not met the quality standards under Subsection (5)(d)(v), the right to legally challenge or appeal the director's decision to certify additional Medicaid beds under Subsection (5)(d)(v).

CHAPTER 275
H. B. 334
Passed March 4, 2021
Approved March 17, 2021
Effective May 5, 2021

SPECIAL NEEDS TRAINING FOR LAW ENFORCEMENT AMENDMENTS

Chief Sponsor: Steve Eliason
Senate Sponsor: Daniel W. Thatcher

LONG TITLE

General Description:

This bill requires peace officer training to include training on autism spectrum disorder and other mental illnesses.

Highlighted Provisions:

This bill:

- requires that peace officers have training in intervention responses to autism spectrum disorder and other mental illnesses.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53-6-202, as last amended by Laws of Utah 2020, Fifth Special Session, Chapter 6

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

Section 1. Section 53-6-202 is amended to read:

53-6-202. Basic training course -- Completion required -- Annual training -- Prohibition from exercising powers -- Reinstatement.

(1) (a) The director shall:

(i) (A) suggest and prepare subject material; and

(B) schedule instructors for basic training courses; or

(ii) review the material and instructor choices submitted by a certified academy.

(b) The subject material, instructors, and schedules shall be approved or disapproved by a majority vote of the council.

(2) The materials shall be reviewed and approved by the council on or before July 1st of each year and may from time to time be changed or amended by majority vote of the council.

(3) The basic training in a certified academy:

(a) shall be appropriate for the basic training of peace officers in the techniques of law enforcement in the discretion of the director; and

(b) may not include the use of chokeholds, carotid restraints, or any act that impedes the breathing or circulation of blood likely to produce a loss of consciousness, as a valid method of restraint.

(4) (a) All peace officers [~~must~~] shall satisfactorily complete the basic training course or the waiver process provided for in this chapter as well as annual certified training of not less than 40 hours as the director, with the advice and consent of the council, directs.

(b) A peace officer who fails to satisfactorily complete the annual training shall automatically be prohibited from exercising peace officer powers until any deficiency is made up.

(5) The director shall ensure that annual training covers intervention responses for mental illnesses, autism spectrum disorder, and other neurological and developmental disorders.

CHAPTER 276
H. B. 335
Passed March 5, 2021
Approved March 17, 2021
Effective May 5, 2021

INVESTMENT FEES AMENDMENTS

Chief Sponsor: Adam Robertson
Senate Sponsor: Curtis S. Bramble
Cosponsor: Travis M. Seegmiller

LONG TITLE

General Description:

This bill concerns the filing fee for certain notice filings with the Utah Division of Securities.

Highlighted Provisions:

This bill:

- waives the notice filing fee for the timely filing of United States Securities Exchange Commission Form D when the total offering amount does not exceed $500,000; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

61-1-15.5, as last amended by Laws of Utah 2020, Chapter 77

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

Section 1. Section 61-1-15.5 is amended to read:

61-1-15.5. Federal covered securities.

(1) The division by rule or order may require the filing of any of the following documents with respect to a covered security under Section 18(b)(2) of the Securities Act of 1933:

(a) before the initial offer of federal covered security in this state, a notice form as prescribed by the division or all documents that are part of a federal registration statement filed with the Securities and Exchange Commission under the Securities Act of 1933, together with a consent to service of process signed by the issuer and a filing fee as determined under Section 61-1-18.4;

(b) after the initial offer of such federal covered security in this state, all documents that are part of an amendment to a federal registration statement filed with the U.S. Securities and Exchange Commission under the Securities Act of 1933, which shall be filed concurrently with the division;

(c) a report of the value of federal covered securities offered or sold in this state, together with a filing fee as determined under Section 61-1-18.4; and

(d) a notice filing under this section shall be effective for one year and shall be renewed annually in order to continue to offer or sell the federal covered securities for which the notice was filed.

(2) (a) With respect to a security that is a covered security under Section 18(b)(4)(F) of the Securities Act of 1933, the division by rule or order may require the issuer to file a notice on SEC Form D and a consent to service of process signed by the issuer no later than 15 days after the [~~first sale of such~~] day on which the issuer sells the covered security in this state, together with a filing fee as determined under Section 61-1-18.4.

(b) The division shall waive the filing fee described in Subsection (2)(a) if:

(i) the filing is timely; and

(ii) the total offering amount listed on SEC Form D does not exceed $500,000.

(3) The division by rule or order may require the filing of a document filed with the Securities and Exchange Commission under the Securities Act of 1933, with respect to a covered security under Securities Act of 1933, Section 18(b)(3) or (4), together with a filing fee as determined under Section 61-1-18.4.

(4) With the concurrence of the commission, the director, by means of an adjudicative proceeding conducted in accordance with Title 63G, Chapter 4, Administrative Procedures Act, may issue a stop order suspending the offer and sale of a federal covered security, except a covered security under Section 18(b)(1) of the Securities Act of 1933, if the director finds that the order is in the public interest and there is a failure to comply with any condition established under this section.

(5) The division by rule or order may waive any or all of the provisions of this section.

CHAPTER 277
H. B. 336
Passed March 3, 2021
Approved March 17, 2021
Effective May 5, 2021

SUICIDE PREVENTION AMENDMENTS

Chief Sponsor: Steve Eliason
Senate Sponsor: Michael S. Kennedy

LONG TITLE

General Description:

This bill amends and creates programs to address suicide.

Highlighted Provisions:

This bill:

- defines terms;
- creates a reporting requirement regarding youth suicides;
- allows the Utah medical examiner to obtain certain information;
- changes a program that helps Utah residents purchase a firearm safe from a coupon program to a rebate program;
- requires the Division of Substance Abuse and Mental Health to administer a program to provide training to health care organizations related to reducing suicides;
- eliminates a grant application requirement for an individual to receive funds for clean-up and bereavement services; and
- makes technical changes.

Monies Appropriated in this Bill:

This bill appropriates in fiscal year 2022:

- to the Department of Human Services -- Division of Substance Abuse and Mental Health, as an ongoing appropriation:
  - from the General Fund, $350,000.

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:
26-33a-109, as last amended by Laws of Utah 2020, Chapter 90
53-5-707, as last amended by Laws of Utah 2019, Chapter 440
62A-15-103, as last amended by Laws of Utah 2020, Chapter 193
62A-15-1501, as enacted by Laws of Utah 2019, Chapter 447
62A-15-1502, as enacted by Laws of Utah 2019, Chapter 447
63I-2-226, as last amended by Laws of Utah 2020, Chapters 154, 187, 215, and 354
76-10-526, as last amended by Laws of Utah 2019, Chapters 386 and 440

ENACTS:
26-4-6.1, Utah Code Annotated 1953
62A-15-120, Utah Code Annotated 1953

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

Section 1. Section 26-4-6.1 is enacted to read:

26-4-6.1. Youth suicide report.

(1) Before September 30, 2021, the medical examiner shall report to the Health and Human Services Interim Committee regarding:

(a) any data obtained from the past 10 years pertaining to youth suicides in the state, including any demographic data the medical examiner has obtained;

(b) insights learned from studying and investigating youth suicide;

(c) possible explanations for why youth in the state die by suicide; and

(d) recommendations to inform public health and legislative policy for reducing youth suicide in the future.

(2) The medical examiner may not disclose data described in Subsection (1)(a) if the medical examiner determines that disclosing specific data would lead to harm.

Section 2. Section 26-33a-109 is amended to read:

26-33a-109. Exceptions to prohibition on disclosure of identifiable health data.

(1) The committee may not disclose any identifiable health data unless:

(a) the individual has authorized the disclosure;

(b) the disclosure is to the department or a public health authority in accordance with Subsection (2); or

(c) the disclosure complies with the provisions of:

(i) Subsection (3);

(ii) insurance enrollment and coordination of benefits under Subsection 26-33a-106.1(1)(d); or

(iii) risk adjusting under Subsection 26-33a-106.1(1)(b).

(2) The committee may disclose identifiable health data to the department or a public health authority under Subsection (1)(b) if:

(a) the department or the public health authority has clear statutory authority to possess the identifiable health data; and

(b) the disclosure is solely for use [~~in~~]:

(i) in the Utah Statewide Immunization Information System operated by the department; [~~or~~]

(ii) in the Utah Cancer Registry operated by the University of Utah, in collaboration with the department[~~.~~]; or

(iii) by the medical examiner, as defined in Section 26-4-2, or the medical examiner's designee.

(3) The committee shall consider the following when responding to a request for disclosure of

information that may include identifiable health data:

(a) whether the request comes from a person after that person has received approval to do the specific research or statistical work from an institutional review board; and

(b) whether the requesting entity complies with the provisions of Subsection (4).

(4) A request for disclosure of information that may include identifiable health data shall:

(a) be for a specified period; or

(b) be solely for bona fide research or statistical purposes as determined in accordance with administrative rules adopted by the department in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, which shall require:

(i) the requesting entity to demonstrate to the department that the data is required for the research or statistical purposes proposed by the requesting entity; and

(ii) the requesting entity to enter into a written agreement satisfactory to the department to protect the data in accordance with this chapter or other applicable law.

(5) A person accessing identifiable health data pursuant to Subsection (4) may not further disclose the identifiable health data:

(a) without prior approval of the department; and

(b) unless the identifiable health data is disclosed or identified by control number only.

(6) Identifiable health data that has been designated by a data supplier as being subject to regulation under 42 C.F.R. Part 2, Confidentiality of Substance Use Disorder Patient Records, may only be used or disclosed in accordance with applicable federal regulations.

Section 3. Section 53-5-707 is amended to read:

53-5-707. Concealed firearm permit -- Fees -- Concealed Weapons Account.

(1) (a) An applicant for a concealed firearm permit shall pay a fee of $25 at the time of filing an application.

(b) A nonresident applicant shall pay an additional $10 for the additional cost of processing a nonresident application.

(c) The bureau shall waive the initial fee for an applicant who is a law enforcement officer under Section 53-13-103.

(d) Concealed firearm permit renewal fees for active duty service members and the spouse of an active duty service member shall be waived.

(2) The renewal fee for the permit is $20. A nonresident shall pay an additional $5 for the additional cost of processing a nonresidential renewal.

(3) The replacement fee for the permit is $10.

(4) (a) The late fee for the renewal permit is $7.50.

(b) As used in this section, "late fee" means the fee charged by the bureau for a renewal submitted on a permit that has been expired for more than 30 days but less than one year.

(5) (a) There is created a restricted account within the General Fund known as the "Concealed Weapons Account."

(b) The account shall be funded from fees collected under this section and Section 53-5-707.5.

(c) Funds in the account may only be used to cover costs relating to:

(i) the issuance of concealed firearm permits under this part; or

(ii) the programs described in [~~Subsections~~] Subsection 62A-15-103(3) and [~~76-10-526(15) and~~] Section 62A-15-1101.

(6) (a) The bureau may collect any fees charged by an outside agency for additional services required by statute as a prerequisite for issuance of a permit.

(b) The bureau shall promptly forward any fees collected under Subsection (6)(a) to the appropriate agency.

(7) The bureau shall make an annual report in writing to the Legislature's Law Enforcement and Criminal Justice Interim Committee on the amount and use of the fees collected under this section and Section 53-5-707.5.

Section 4. Section 62A-15-103 is amended to read:

62A-15-103. Division -- Creation -- Responsibilities.

(1) (a) There is created the Division of Substance Abuse and Mental Health within the department, under the administration and general supervision of the executive director.

(b) The division is the substance abuse authority and the mental health authority for this state.

(2) The division shall:

(a) (i) educate the general public regarding the nature and consequences of substance abuse by promoting school and community-based prevention programs;

(ii) render support and assistance to public schools through approved school-based substance abuse education programs aimed at prevention of substance abuse;

(iii) promote or establish programs for the prevention of substance abuse within the community setting through community-based prevention programs;

(iv) cooperate with and assist treatment centers, recovery residences, and other organizations that provide services to individuals recovering from a substance abuse disorder, by identifying and

disseminating information about effective practices and programs;

(v) except as provided in Section 62A-15-103.5, make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to develop, in collaboration with public and private programs, minimum standards for public and private providers of substance abuse and mental health programs licensed by the department under Title 62A, Chapter 2, Licensure of Programs and Facilities;

(vi) promote integrated programs that address an individual's substance abuse, mental health, physical health, and criminal risk factors;

(vii) establish and promote an evidence-based continuum of screening, assessment, prevention, treatment, and recovery support services in the community for individuals with substance use disorder and mental illness that addresses criminal risk factors;

(viii) evaluate the effectiveness of programs described in this Subsection (2);

(ix) consider the impact of the programs described in this Subsection (2) on:

(A) emergency department utilization;

(B) jail and prison populations;

(C) the homeless population; and

(D) the child welfare system; and

(x) promote or establish programs for education and certification of instructors to educate persons convicted of driving under the influence of alcohol or drugs or driving with any measurable controlled substance in the body;

(b) (i) collect and disseminate information pertaining to mental health;

(ii) provide direction over the state hospital including approval of the state hospital's budget, administrative policy, and coordination of services with local service plans;

(iii) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to educate families concerning mental illness and promote family involvement, when appropriate, and with patient consent, in the treatment program of a family member; and

(iv) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to direct that an individual receiving services through a local mental health authority or the Utah State Hospital be informed about and, if desired by the individual, provided assistance in the completion of a declaration for mental health treatment in accordance with Section 62A-15-1002;

(c) (i) consult and coordinate with local substance abuse authorities and local mental health authorities regarding programs and services;

(ii) provide consultation and other assistance to public and private agencies and groups working on substance abuse and mental health issues;

(iii) promote and establish cooperative relationships with courts, hospitals, clinics, medical and social agencies, public health authorities, law enforcement agencies, education and research organizations, and other related groups;

(iv) promote or conduct research on substance abuse and mental health issues, and submit to the governor and the Legislature recommendations for changes in policy and legislation;

(v) receive, distribute, and provide direction over public funds for substance abuse and mental health services;

(vi) monitor and evaluate programs provided by local substance abuse authorities and local mental health authorities;

(vii) examine expenditures of local, state, and federal funds;

(viii) monitor the expenditure of public funds by:

(A) local substance abuse authorities;

(B) local mental health authorities; and

(C) in counties where they exist, a private contract provider that has an annual or otherwise ongoing contract to provide comprehensive substance abuse or mental health programs or services for the local substance abuse authority or local mental health authority;

(ix) contract with local substance abuse authorities and local mental health authorities to provide a comprehensive continuum of services that include community-based services for individuals involved in the criminal justice system, in accordance with division policy, contract provisions, and the local plan;

(x) contract with private and public entities for special statewide or nonclinical services, or services for individuals involved in the criminal justice system, according to division rules;

(xi) review and approve each local substance abuse authority's plan and each local mental health authority's plan in order to ensure:

(A) a statewide comprehensive continuum of substance abuse services;

(B) a statewide comprehensive continuum of mental health services;

(C) services result in improved overall health and functioning;

(D) a statewide comprehensive continuum of community-based services designed to reduce criminal risk factors for individuals who are determined to have substance abuse or mental illness conditions or both, and who are involved in the criminal justice system;

(E) compliance, where appropriate, with the certification requirements in Subsection (2)(j); and

(F) appropriate expenditure of public funds;

(xii) review and make recommendations regarding each local substance abuse authority's contract with the local substance abuse authority's provider of substance abuse programs and services and each local mental health authority's contract with the local mental health authority's provider of mental health programs and services to ensure compliance with state and federal law and policy;

(xiii) monitor and ensure compliance with division rules and contract requirements; and

(xiv) withhold funds from local substance abuse authorities, local mental health authorities, and public and private providers for contract noncompliance, failure to comply with division directives regarding the use of public funds, or for misuse of public funds or money;

(d) ensure that the requirements of this part are met and applied uniformly by local substance abuse authorities and local mental health authorities across the state;

(e) require each local substance abuse authority and each local mental health authority, in accordance with Subsections 17-43-201(5)(b) and 17-43-301(6)(a)(ii), to submit a plan to the division on or before May 15 of each year;

(f) conduct an annual program audit and review of each local substance abuse authority and each local substance abuse authority's contract provider, and each local mental health authority and each local mental health authority's contract provider, including:

(i) a review and determination regarding whether:

(A) public funds allocated to the local substance abuse authority or the local mental health authorities are consistent with services rendered by the authority or the authority's contract provider, and with outcomes reported by the authority's contract provider; and

(B) each local substance abuse authority and each local mental health authority is exercising sufficient oversight and control over public funds allocated for substance use disorder and mental health programs and services; and

(ii) items determined by the division to be necessary and appropriate; [~~and~~]

(g) define "prevention" by rule as required under Title 32B, Chapter 2, Part 4, Alcoholic Beverage and Substance Abuse Enforcement and Treatment Restricted Account Act;

(h) (i) train and certify an adult as a peer support specialist, qualified to provide peer supports services to an individual with:

(A) a substance use disorder;

(B) a mental health disorder; or

(C) a substance use disorder and a mental health disorder;

(ii) certify a person to carry out, as needed, the division's duty to train and certify an adult as a peer support specialist;

(iii) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

(A) establish training and certification requirements for a peer support specialist;

(B) specify the types of services a peer support specialist is qualified to provide;

(C) specify the type of supervision under which a peer support specialist is required to operate; and

(D) specify continuing education and other requirements for maintaining or renewing certification as a peer support specialist; and

(iv) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

(A) establish the requirements for a person to be certified to carry out, as needed, the division's duty to train and certify an adult as a peer support specialist; and

(B) specify how the division shall provide oversight of a person certified to train and certify a peer support specialist;

(i) except as provided in Section 62A-15-103.5, establish by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, minimum standards and requirements for the provision of substance use disorder and mental health treatment to an individual who is incarcerated or who is required to participate in treatment by a court or by the Board of Pardons and Parole, including:

(i) collaboration with the Department of Corrections and the Utah Substance Use and Mental Health Advisory Council to develop and coordinate the standards, including standards for county and state programs serving individuals convicted of class A and class B misdemeanors;

(ii) determining that the standards ensure available treatment, including the most current practices and procedures demonstrated by recognized scientific research to reduce recidivism, including focus on the individual's criminal risk factors; and

(iii) requiring that all public and private treatment programs meet the standards established under this Subsection (2)(i) in order to receive public funds allocated to the division, the Department of Corrections, or the Commission on Criminal and Juvenile Justice for the costs of providing screening, assessment, prevention, treatment, and recovery support;

(j) except as provided in Section 62A-15-103.5, establish by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the requirements and procedures for the certification of licensed public and private providers, including individuals licensed by the

Division of Occupational and Professional Licensing, programs licensed by the department, and health care facilities licensed by the Department of Health, who provide, as part of their practice, substance use disorder and mental health treatment to an individual involved in the criminal justice system, including:

(i) collaboration with the Department of Corrections, the Utah Substance Use and Mental Health Advisory Council, and the Utah Association of Counties to develop, coordinate, and implement the certification process;

(ii) basing the certification process on the standards developed under Subsection (2)(i) for the treatment of an individual involved in the criminal justice system; and

(iii) the requirement that a public or private provider of treatment to an individual involved in the criminal justice system shall obtain certification on or before July 1, 2016, and shall renew the certification every two years, in order to qualify for funds allocated to the division, the Department of Corrections, or the Commission on Criminal and Juvenile Justice on or after July 1, 2016;

(k) collaborate with the Commission on Criminal and Juvenile Justice to analyze and provide recommendations to the Legislature regarding:

(i) pretrial services and the resources needed to reduce recidivism;

(ii) county jail and county behavioral health early-assessment resources needed for an offender convicted of a class A or class B misdemeanor; and

(iii) the replacement of federal dollars associated with drug interdiction law enforcement task forces that are reduced;

(l) (i) establish performance goals and outcome measurements for all treatment programs for which minimum standards are established under Subsection (2)(i), including recidivism data and data regarding cost savings associated with recidivism reduction and the reduction in the number of inmates, that are obtained in collaboration with the Administrative Office of the Courts and the Department of Corrections; and

(ii) collect data to track and determine whether the goals and measurements are being attained and make this information available to the public;

(m) in the division's discretion, use the data to make decisions regarding the use of funds allocated to the division, the Administrative Office of the Courts, and the Department of Corrections to provide treatment for which standards are established under Subsection (2)(i);

(n) annually, on or before August 31, submit the data collected under Subsection (2)(k) to the Commission on Criminal and Juvenile Justice, which shall compile a report of findings based on the data and provide the report to the Judiciary Interim Committee, the Health and Human Services Interim Committee, the Law Enforcement and Criminal Justice Interim Committee, and the related appropriations subcommittees; and

(o) consult and coordinate with the Department of Health and the Division of Child and Family Services to develop and manage the operation of a program designed to reduce substance abuse during pregnancy that includes:

(i) providing education and resources to health care providers and individuals in the state regarding prevention of substance abuse during pregnancy;

(ii) providing training to health care providers in the state regarding screening of a pregnant woman or pregnant minor to identify a substance abuse disorder; and

(iii) providing referrals to pregnant women or pregnant minors in need of substance use treatment services to a facility that has the capacity to provide the treatment services.

(3) In addition to the responsibilities described in Subsection (2), the division shall, within funds appropriated by the Legislature for this purpose, implement and manage the operation of a firearm safety and suicide prevention program, in consultation with the Bureau of Criminal Identification created in Section 53-10-201, including:

(a) coordinating with the Department of Health, local mental health and substance abuse authorities, a nonprofit behavioral health advocacy group, and a representative from a Utah-based nonprofit organization with expertise in the field of firearm use and safety that represents firearm owners, to:

(i) produce and periodically review and update a firearm safety brochure and other educational materials with information about the safe handling and use of firearms that includes:

(A) information on safe handling, storage, and use of firearms in a home environment;

(B) information about at-risk individuals and individuals who are legally prohibited from possessing firearms;

(C) information about suicide prevention awareness; and

(D) information about the availability of firearm safety packets;

(ii) procure cable-style gun locks for distribution pursuant to this section;

(iii) produce a firearm safety packet that includes the firearm safety brochure and the cable-style gun lock described in this Subsection (3); and

(iv) create a suicide prevention education course that:

(A) provides information for distribution regarding firearm safety education;

(B) incorporates current information on how to recognize suicidal behaviors and identify individuals who may be suicidal; and

(C) provides information regarding crisis intervention resources;

(b) distributing, free of charge, the firearm safety packet to the following persons, who shall make the firearm safety packet available free of charge:

(i) health care providers, including emergency rooms;

(ii) mobile crisis outreach teams;

(iii) mental health practitioners;

(iv) other public health suicide prevention organizations;

(v) entities that teach firearm safety courses;

(vi) school districts for use in the seminar, described in Section 53G-9-702, for parents of students in the school district; and

(vii) firearm dealers to be distributed in accordance with Section 76-10-526;

(c) creating and administering a [~~redeemable coupon program described in this Subsection (3) and Section 76-10-526 that includes: (i) producing a redeemable coupon~~] rebate program that includes a rebate that offers between $10 and $200 off the purchase price of a firearm safe from a participating firearms dealer or a person engaged in the business of selling firearm safes in Utah, by a Utah resident [~~who has filed an application for a concealed firearm permit; and~~];

[~~(ii) collecting the receipts described in Section 76-10-526 from the participating dealers and persons and reimbursing the dealers and persons;~~]

(d) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, making rules that establish procedures for:

(i) producing and distributing the suicide prevention education course and the firearm safety brochures and packets;

(ii) procuring the cable-style gun locks for distribution; and

(iii) administering the [~~redeemable coupon~~] rebate program; and

(e) reporting to the Health and Human Services Interim Committee regarding implementation and success of the firearm safety program and suicide prevention education course at or before the November meeting each year.

(4) (a) The division may refuse to contract with and may pursue legal remedies against any local substance abuse authority or local mental health authority that fails, or has failed, to expend public funds in accordance with state law, division policy, contract provisions, or directives issued in accordance with state law.

(b) The division may withhold funds from a local substance abuse authority or local mental health authority if the authority's contract provider of substance abuse or mental health programs or services fails to comply with state and federal law or policy.

(5) (a) Before reissuing or renewing a contract with any local substance abuse authority or local mental health authority, the division shall review and determine whether the local substance abuse authority or local mental health authority is complying with the oversight and management responsibilities described in Sections 17-43-201, 17-43-203, 17-43-303, and 17-43-309.

(b) Nothing in this Subsection (5) may be used as a defense to the responsibility and liability described in Section 17-43-303 and to the responsibility and liability described in Section 17-43-203.

(6) In carrying out the division's duties and responsibilities, the division may not duplicate treatment or educational facilities that exist in other divisions or departments of the state, but shall work in conjunction with those divisions and departments in rendering the treatment or educational services that those divisions and departments are competent and able to provide.

(7) The division may accept in the name of and on behalf of the state donations, gifts, devises, or bequests of real or personal property or services to be used as specified by the donor.

(8) The division shall annually review with each local substance abuse authority and each local mental health authority the authority's statutory and contract responsibilities regarding:

(a) use of public funds;

(b) oversight of public funds; and

(c) governance of substance use disorder and mental health programs and services.

(9) The Legislature may refuse to appropriate funds to the division upon the division's failure to comply with the provisions of this part.

(10) If a local substance abuse authority contacts the division under Subsection 17-43-201(10) for assistance in providing treatment services to a pregnant woman or pregnant minor, the division shall:

(a) refer the pregnant woman or pregnant minor to a treatment facility that has the capacity to provide the treatment services; or

(b) otherwise ensure that treatment services are made available to the pregnant woman or pregnant minor.

(11) The division shall employ a school-based mental health specialist to be housed at the State Board of Education who shall work with the State Board of Education to:

(a) provide coordination between a local education agency and local mental health authority;

(b) recommend evidence-based and evidence informed mental health screenings and intervention assessments for a local education agency; and

(c) coordinate with the local community, including local departments of health, to enhance and expand mental health related resources for a local education agency.

Section 5. Section 62A-15-120 is enacted to read:

62A-15-120. (Codified as 62A-15-121) Suicide technical assistance program.

(1) As used in this section, "technical assistance" means training for the prevention of suicide.

(2) (a) Before July 1, 2021, and each subsequent July 1, the division shall solicit applications from health care organizations to receive technical assistance provided by the division.

(b) The division shall approve at least one but not more than six applications each year.

(c) The division shall determine which applicants receive the technical assistance before December 31 of each year.

(3) An application for technical assistance under this section shall:

(a) identify the population to whom the health care organization will provide suicide prevention services;

(b) identify how the health care organization plans to implement the skills and knowledge gained from the technical assistance;

(c) identify the health care organization's current resources used for the prevention of suicide;

(d) explain how the population described in Subsection (3)(a) will benefit from the health care organization receiving technical assistance;

(e) provide details regarding:

(i) how the health care organization will provide timely and effective suicide prevention services;

(ii) any existing or planned contracts or partnerships between the health care organization and other persons that are related to suicide prevention;

(iii) the methods the health care organization will use to:

(A) protect the privacy of each individual to whom the health care organization provides suicide prevention services; and

(B) collect non-identifying data; and

(f) provide other information requested by the division for the division to evaluate the application.

(4) In evaluating an application for technical assistance, the division shall consider:

(a) the extent to which providing technical assistance to the health care organization will fulfill the purpose of preventing suicides in the state;

(b) the extent to which the population described in Subsection (3)(a) is likely to benefit from the health care organization receiving the technical assistance;

(c) the cost of providing the technical assistance to the health care organization; and

(d) the extent to which any of the following are likely to benefit the heath care organization's ability to assist in preventing suicides in the state:

(i) existing or planned contracts or partnerships between the applicant and other persons to develop and implement other initiatives; or

(ii) additional funding sources available to the applicant for suicide prevention services.

(5) Before June 30, 2022, and each subsequent June 30, the division shall submit a written report to the Health and Human Services Interim Committee regarding each health care organization the division provided technical assistance to in the preceding year under this section.

(6) Before June 30, 2024, the division shall submit a written report to the Health and Human Services Interim Committee regarding:

(a) data gathered in relation to providing technical assistance to a health care organization;

(b) knowledge gained relating to providing technical assistance;

(c) recommendations for the future regarding how the state can better prevent suicides; and

(d) obstacles encountered when providing technical assistance.

Section 6. Section 62A-15-1501 is amended to read:

62A-15-1501. Definitions.

As used in this part:

(1) "Account" means the Survivors of Suicide Loss Account created in Section 62A-15-1502.

(2) (a) "Cohabitant" means an individual who lives with another individual.

(b) "Cohabitant" does not include a relative.

[~~(2)~~] (3) "Relative" means father, mother, husband, wife, son, daughter, sister, brother, grandfather, grandmother, uncle, aunt, nephew, niece, grandson, granddaughter, first cousin, mother-in-law, father-in-law, brother-in-law, sister-in-law, son-in-law, or daughter-in-law.

Section 7. Section 62A-15-1502 is amended to read:

62A-15-1502. Survivors of Suicide Loss Account.

(1) There is created a restricted account within the General Fund known as the "Survivors of Suicide Loss Account."

(2) The division shall administer the account in accordance with this part.

(3) The account shall consist of:

(a) money appropriated to the account by the Legislature; and

(b) interest earned on money in the account.

(4) Upon appropriation, the division shall award grants from the account to[~~:(a) a relative, legal guardian, or cohabitant of an individual who dies by suicide as reimbursement for costs incurred by the relative, legal guardian, or cohabitant for mental health treatment or therapy as a result of the suicide; and (b)~~] a person who provides, for no or minimal cost:

[~~(i)~~] (a) clean-up of property affected or damaged by an individual's suicide, as reimbursement for the costs incurred for the clean-up; and

[~~(ii)~~] (b) bereavement services to a relative, legal guardian, or cohabitant of an individual who dies by suicide.

[~~(5) The division shall establish a grant application and review process for the expenditure of money from the account.~~]

[~~(6) The grant application and review process shall describe:~~]

[~~(a) requirements to complete the grant application;~~]

[~~(b) requirements for receiving funding;~~]

[~~(c) criteria for the approval of a grant application; and~~]

[~~(d) support offered by the division to complete a grant application.~~]

[~~(7) Upon receipt of a grant application, the division shall:~~]

[~~(a) review the grant application for completeness;~~]

[~~(b) make a determination regarding the grant application;~~]

[~~(c) inform the grant applicant of the division's determination regarding the grant application; and~~]

[~~(d) if approved, award grants from the account to the grant applicant.~~]

[~~(8)~~] (5) Before November 30 of each year, the division shall report to the Health and Human Services Interim Committee regarding the status of the account and expenditures made from the account.

Section 8. Section 63I-2-226 is amended to read:

63I-2-226. Repeal dates, Title 26.

(1) Subsection 26-1-7(1)(c), in relation to the Air Ambulance Committee, is repealed July 1, 2024.

(2) Section 26-4-6.1 is repealed January 1, 2022.

[~~(2)~~] (3) Subsection 26-7-8(3) is repealed January 1, 2027.

[~~(3)~~] (4) Section 26-8a-107 is repealed July 1, 2024.

[~~(4)~~] (5) Subsection 26-8a-203(3)(a)(i) is repealed January 1, 2023.

[~~(5)~~] (6) Section 26-8a-211 is repealed July 1, 2023.

[~~(6)~~] (7) In relation to the Air Ambulance Committee, on July 1, 2024, Subsection 26-8a-602(1)(a) is amended to read:

"(a) provide the patient or the patient's representative with the following information before contacting an air medical transport provider:

(i) which health insurers in the state the air medical transport provider contracts with;

(ii) if sufficient data is available, the average charge for air medical transport services for a patient who is uninsured or out of network; and

(iii) whether the air medical transport provider balance bills a patient for any charge not paid by the patient's health insurer; and".

[~~(7)~~] (8) Subsection 26-18-2.4(3)(e) is repealed January 1, 2023.

[~~(8)~~] (9) Subsection 26-18-411(8), related to reporting on the health coverage improvement program, is repealed January 1, 2023.

[~~(9)~~] (10) Subsection 26-18-420(5), related to reporting on coverage for in vitro fertilization and genetic testing, is repealed July 1, 2030.

[~~(10)~~] (11) Subsection 26-21-28(2)(b) is repealed January 1, 2021.

[~~(11)~~] (12) In relation to the Air Ambulance Committee, July 1, 2024, Subsection 26-21-32(1)(a) is amended to read:

"(a) provide the patient or the patient's representative with the following information before contacting an air medical transport provider:

(i) which health insurers in the state the air medical transport provider contracts with;

(ii) if sufficient data is available, the average charge for air medical transport services for a patient who is uninsured or out of network; and

(iii) whether the air medical transport provider balance bills a patient for any charge not paid by the patient's health insurer; and".

[~~(12)~~] (13) Subsection 26-33a-106.1(2)(a) is repealed January 1, 2023.

[~~(13)~~] (14) Title 26, Chapter 46, Utah Health Care Workforce Financial Assistance Program, is repealed July 1, 2027.

[~~(14)~~] (15) Subsection 26-55-107(8) is repealed January 1, 2021.

[~~(15)~~] (16) Subsection 26-61-202(4)(b) is repealed January 1, 2022.

[~~(16)~~] (17) Subsection 26-61-202(5) is repealed January 1, 2022.

Section 9. Section 76-10-526 is amended to read:

76-10-526. Criminal background check prior to purchase of a firearm -- Fee -- Exemption for concealed firearm permit holders and law enforcement officers.

(1) For purposes of this section, "valid permit to carry a concealed firearm" does not include a temporary permit issued under Section 53-5-705.

(2) (a) To establish personal identification and residence in this state for purposes of this part, a dealer shall require an individual receiving a firearm to present one photo identification on a form issued by a governmental agency of the state.

(b) A dealer may not accept a driving privilege card issued under Section 53-3-207 as proof of identification for the purpose of establishing personal identification and residence in this state as required under this Subsection (2).

(3) (a) A criminal history background check is required for the sale of a firearm by a licensed firearm dealer in the state.

(b) Subsection (3)(a) does not apply to the sale of a firearm to a Federal Firearms Licensee.

(4) (a) An individual purchasing a firearm from a dealer shall consent in writing to a criminal background check, on a form provided by the bureau.

(b) The form shall contain the following information:

(i) the dealer identification number;

(ii) the name and address of the individual receiving the firearm;

(iii) the date of birth, height, weight, eye color, and hair color of the individual receiving the firearm; and

(iv) the social security number or any other identification number of the individual receiving the firearm.

(5) (a) The dealer shall send the information required by Subsection (4) to the bureau immediately upon its receipt by the dealer.

(b) A dealer may not sell or transfer a firearm to an individual until the dealer has provided the bureau with the information in Subsection (4) and has received approval from the bureau under Subsection (7).

(6) The dealer shall make a request for criminal history background information by telephone or other electronic means to the bureau and shall receive approval or denial of the inquiry by telephone or other electronic means.

(7) When the dealer calls for or requests a criminal history background check, the bureau shall:

(a) review the criminal history files, including juvenile court records, to determine if the individual is prohibited from purchasing, possessing, or transferring a firearm by state or federal law;

(b) inform the dealer that:

(i) the records indicate the individual is prohibited; or

(ii) the individual is approved for purchasing, possessing, or transferring a firearm;

(c) provide the dealer with a unique transaction number for that inquiry; and

(d) provide a response to the requesting dealer during the call for a criminal background check, or by return call, or other electronic means, without delay, except in case of electronic failure or other circumstances beyond the control of the bureau, the bureau shall advise the dealer of the reason for the delay and give the dealer an estimate of the length of the delay.

(8) (a) The bureau may not maintain any records of the criminal history background check longer than 20 days from the date of the dealer's request, if the bureau determines that the individual receiving the firearm is not prohibited from purchasing, possessing, or transferring the firearm under state or federal law.

(b) However, the bureau shall maintain a log of requests containing the dealer's federal firearms number, the transaction number, and the transaction date for a period of 12 months.

(9) (a) If the criminal history background check discloses information indicating that the individual attempting to purchase the firearm is prohibited from purchasing, possessing, or transferring a firearm, the bureau shall inform the law enforcement agency in the jurisdiction where the individual resides.

(b) A law enforcement agency that receives information from the bureau under Subsection (9)(a) shall provide a report before August 1 of each year to the bureau that includes:

(i) based on the information the bureau provides to the law enforcement agency under Subsection (9)(a), the number of cases that involve an individual who is prohibited from purchasing, possessing, or transferring a firearm as a result of a conviction for an offense involving domestic violence; and

(ii) of the cases described in Subsection (9)(b)(i):

(A) the number of cases the law enforcement agency investigates; and

(B) the number of cases the law enforcement agency investigates that result in a criminal charge.

(c) The bureau shall:

(i) compile the information from the reports described in Subsection (9)(b);

(ii) omit or redact any identifying information in the compilation; and

(iii) submit the compilation to the Law Enforcement and Criminal Justice Interim Committee before November 1 of each year.

(10) If an individual is denied the right to purchase a firearm under this section, the individual may review the individual's criminal history information and may challenge or amend the information as provided in Section 53-10-108.

(11) The bureau shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to ensure the identity, confidentiality, and security of all records provided by the bureau under this part are in conformance with the requirements of the Brady Handgun Violence Prevention Act, Pub. L. No. 103-159, 107 Stat. 1536 (1993).

(12) (a) A dealer shall collect a criminal history background check fee for the sale of a firearm under this section.

(b) The fee described under Subsection (12)(a) remains in effect until changed by the bureau through the process described in Section 63J-1-504.

(c) (i) The dealer shall forward at one time all fees collected for criminal history background checks performed during the month to the bureau by the last day of the month following the sale of a firearm.

(ii) The bureau shall deposit the fees in the General Fund as dedicated credits to cover the cost of administering and conducting the criminal history background check program.

(13) An individual with a concealed firearm permit issued under Title 53, Chapter 5, Part 7, Concealed Firearm Act, is exempt from the background check and corresponding fee required in this section for the purchase of a firearm if:

(a) the individual presents the individual's concealed firearm permit to the dealer prior to purchase of the firearm; and

(b) the dealer verifies with the bureau that the individual's concealed firearm permit is valid.

(14) (a) A law enforcement officer, as defined in Section 53-13-103, is exempt from the background check fee required in this section for the purchase of a personal firearm to be carried while off-duty if the law enforcement officer verifies current employment by providing a letter of good standing from the officer's commanding officer and current law enforcement photo identification.

(b) Subsection (14)(a) may only be used by a law enforcement officer to purchase a personal firearm once in a 24-month period.

[~~(15) (a) A dealer or a person engaged in the business of selling firearm safes in Utah may participate in the redeemable coupon program described in this Subsection (15) and Subsection 62A-15-103(3).~~]

[~~(b) A participating dealer or person shall:~~]

[~~(i) apply the coupon only toward the purchase of a gun safe;~~]

[~~(ii) collect the receipts from the purchase of a firearm safe using the redeemable coupons and send the receipts to the Division of Substance Abuse and Mental Health for redemption; and~~]

[~~(iii) make the firearm safety brochure described in Subsection 62A-15-103(3) available to a customer free of charge.~~]

[~~(16)~~] (15) A dealer engaged in the business of selling, leasing, or otherwise transferring any firearm shall:

(a) make the firearm safety brochure described in Subsection 62A-15-103(3) available to a customer free of charge; and

(b) at the time of purchase, distribute a cable-style gun lock provided to the dealer under Subsection 62A-15-103(3) to a customer purchasing a shotgun, short barreled shotgun, short barreled rifle, rifle, or another firearm that federal law does not require be accompanied by a gun lock at the time of purchase.

Section 10. Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2021, and ending June 30, 2022. These are additions to amounts previously appropriated for fiscal year 2022. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 1

To Department of Human Services -- Division of Substance Abuse and Mental Health

From General Fund	$350,000
Schedule of Programs:	
Community Mental Health Services	$350,000

The Legislature intends that the Division of Substance Abuse and Mental Health expend appropriations provided under this item for providing suicide prevention training to health care organizations under Section 62A-15-120.

CHAPTER 278
H. B. 337
Passed March 3, 2021
Approved March 17, 2021
Effective May 5, 2021

CHILD MENTAL HEALTH AMENDMENTS

Chief Sponsor: Steve Eliason
Senate Sponsor: Ann Millner
Cosponsors: Jennifer Dailey-Provost
Suzanne Harrison
Karen Kwan
Mike Winder

LONG TITLE

General Description:

This bill relates to mental health services provided to a child.

Highlighted Provisions:

This bill:

- defines terms;
- requires the Office of Child Care to:
  - collaborate with the Division of Substance Abuse and Mental Health to deliver early childhood programs and child care throughout the state; and
  - coordinate services for training and education regarding child behavioral health;
- requires the Division of Substance Abuse and Mental Health to administer a grant program for the purpose of providing education regarding best practices for early childhood mental health support and interventions;
- changes the name of the "Psychiatric Consultation Program Account" to the "Psychiatric and Psychotherapeutic Consultation Program Account";
- amends the purposes for which the Psychiatric and Psychotherapeutic Consultation Program Account may be used to include early childhood mental health support and interventions; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

This bill appropriates in fiscal year 2022:

- to Department of Human Services -- Division of Substance Abuse and Mental Health, Community Mental Health Services, as a one-time appropriation:
  - From General Fund, One-time, $500,000.
- to Department of Human Services -- Division of Substance Abuse and Mental Health, Community Mental Health Services, as an ongoing appropriation:
  - From General Fund, $500,000.
- to Department of Human Services -- Executive Director Operations, Executive Director's Office, as an ongoing appropriation:
  - From General Fund, $1,000,000.

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

35A-3-203, as last amended by Laws of Utah 2020, Chapter 354
62A-15-1601, as enacted by Laws of Utah 2019, Chapter 447
62A-15-1602, as enacted by Laws of Utah 2019, Chapter 447
63I-2-262, as last amended by Laws of Utah 2020, Chapter 212

ENACTS:

62A-15-120, Utah Code Annotated 1953

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

Section 1. Section 35A-3-203 is amended to read:

35A-3-203. Functions and duties of office -- Annual report.

The office shall:

(1) assess critical child care needs throughout the state on an ongoing basis and focus its activities on helping to meet the most critical needs;

(2) provide child care subsidy services for income-eligible children through age 12 and for income-eligible children with disabilities through age 18;

(3) provide information:

(a) to employers for the development of options for child care in the work place; and

(b) for educating the public in obtaining quality child care;

(4) coordinate services for quality:

(a) child care training [~~and~~];

(b) child care resource and referral core services; and

(c) training and education regarding child behavioral health interventions and competencies;

(5) apply for, accept, or expend gifts or donations from public or private sources;

(6) provide administrative support services to the committee;

(7) work collaboratively with the following for the delivery of quality child care, early childhood programs, and school age programs throughout the state:

(a) the State Board of Education; [~~and~~]

(b) the Department of Health; and

(c) the Division of Substance Abuse and Mental Health within the Department of Human Services;

(8) research child care programs and public policy to improve the quality and accessibility of child care, early childhood programs, and school age programs in the state;

(9) provide planning and technical assistance for the development and implementation of programs in communities that lack child care, early childhood programs, and school age programs;

(10) provide organizational support for the establishment of nonprofit organizations approved

by the Child Care Advisory Committee, created in Section 35A-3-205;

(11) coordinate with the department to include in the annual written report described in Section 35A-1-109 information regarding the status of child care in Utah; and

(12) make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and consistent with state and federal law, establishing the eligibility requirements for a child care provider to receive a grant or subsidy, including for the following:

(a) providing child care for an income-eligible child [~~age 12~~] who is 12 years old or younger; and

(b) providing child care for an income-eligible child with disabilities [~~age 18~~] who is 18 years old or younger.

Section 2. Section 62A-15-120 is enacted to read:

62A-15-120. (Codified as 62A-15-122) Early childhood mental health support grant program.

(1) As used in this section:

(a) "Child care" means the child care services defined in Section 35A-3-102 for a child during early childhood.

(b) "Child care provider" means a person who provides child care or mental health support or interventions to a child during early childhood.

(c) "Early childhood" means the time during which a child is zero to six years old.

(d) "Project" means a project to provide education and training to child care providers regarding evidence-based best practices for delivery of mental health support and interventions during early childhood.

(2) On or before July 1, 2021, the division shall issue a request for proposals in accordance with this section to award a grant to a public or nonprofit entity to implement a project.

(3) The purpose of a project is to facilitate education about early childhood mental health support and interventions.

(4) An application for a grant under this section shall provide details regarding:

(a) the education and training regarding early childhood mental health support and interventions that the proposed project will provide to child care providers;

(b) how the proposed project plans to provide the education and training to child care providers;

(c) the number of child care providers served by the proposed project;

(d) how the proposed project will ensure the education and training is effectively provided to child care providers;

(e) the cost of the proposed project; and

(f) the sustainability of the proposed project.

(5) In evaluating a project proposal for a grant under this section, the division shall consider:

(a) the extent to which the proposed project will fulfill the purpose described in Subsection (3);

(b) the extent to which child care providers that will be served by the proposed project are likely to benefit from the proposed project;

(c) the cost of the proposed project; and

(d) the viability of the proposed project.

(6) Before June 30, 2022, the division shall report to the Health and Human Services Interim Committee regarding:

(a) each entity awarded a grant under this section; and

(b) the details of each project.

(7) Before June 30, 2024, the division shall report to the Health and Human Services Interim Committee regarding:

(a) any knowledge gained from providing the education and training regarding early childhood mental health support to child care providers;

(b) data gathered in relation to each project;

(c) recommendations for the future use of the education and training provided to child care providers; and

(d) obstacles encountered in providing the education and training to child care providers.

Section 3. Section 62A-15-1601 is amended to read:

Part 16. Psychiatric and Psychotherapeutic Consultation Program Account

62A-15-1601. Definitions.

As used in this part:

(1) "Account" means the Psychiatric and Psychotherapeutic Consultation Program Account created in Section 62A-15-1602.

(2) "Child care" means the child care services defined in Section 35A-3-102 for a child during early childhood.

(3) "Child care provider" means a person who provides child care or mental health support or interventions to a child during early childhood.

(4) "Child mental health therapist" means a mental health therapist who:

(a) is knowledgeable and trained in early childhood mental health; and

(b) provides mental health services to children during early childhood.

(5) "Child mental health care facility" means a facility that provides licensed mental health care programs and services to children and families and employs a child mental health therapist.

(6) "Early childhood" means the time during which a child is zero to six years old.

(7) "Early childhood psychotherapeutic telehealth consultation" means a consultation regarding a child's mental health care during the child's early childhood between a child care provider or a mental health therapist and a child mental health therapist that is focused on psychotherapeutic and psychosocial interventions and is completed through the use of electronic or telephonic communication.

[~~(2)~~] (8) "Health care facility" means a facility that provides licensed health care programs and services and employs at least two psychiatrists, at least one of whom is a child psychiatrist.

(9) "Mental health therapist" means the same as that term is defined in Section 58-60-102.

[~~(3)~~] (10) "Nurse practitioner" means an individual who is licensed to practice as an advanced practice registered nurse under Title 58, Chapter 31b, Nurse Practice Act.

[~~(4)~~] (11) "Physician" means an individual licensed to practice as a physician or osteopath under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act.

[~~(5)~~] (12) "Physician assistant" means an individual who is licensed to practice as a physician assistant under Title 58, Chapter 70a, Utah Physician Assistant Act.

[~~(6)~~] (13) "Primary care provider" means a nurse practitioner, physician, or physician assistant.

[~~(7)~~] (14) "Psychiatrist" means an individual who:

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

(b) is board eligible for a psychiatry specialization recognized by the American Board of Medical Specialists or the American Osteopathic Association's Bureau of Osteopathic Specialists.

[~~(8)~~] (15) "Telehealth psychiatric consultation" means a consultation regarding a patient's mental health care, including diagnostic clarification, medication adjustment, or treatment planning, between a primary care provider and a psychiatrist that is completed through the use of electronic or telephonic communication.

Section 4. Section 62A-15-1602 is amended to read:

62A-15-1602. Psychiatric and Psychotherapeutic Consultation Program Account.

(1) There is created a restricted account within the General Fund known as the "Psychiatric and Psychotherapeutic Consultation Program Account."

(2) The division shall administer the account in accordance with this part.

(3) The account shall consist of:

(a) money appropriated to the account by the Legislature; and

(b) interest earned on money in the account.

(4) Upon appropriation, the division shall award grants from the account to [~~one or more health care facilities~~]:

(a) at least one health care facility to implement a program that provides a primary care provider access to a telehealth psychiatric consultation when the primary care provider is evaluating a patient for or providing a patient mental health treatment[~~.~~]; and

(b) at least one child mental health care facility to implement a program that provides access to an early childhood psychotherapeutic telehealth consultation to:

(i) a mental health therapist when the mental health therapist is evaluating a child for or providing a child mental health treatment; or

(ii) a child care provider when the child care provider is providing child care to a child.

(5) The division may award and distribute grant money to a health care facility or child mental health care facility only if the health care facility or child mental health care facility:

(a) is located in the state; and

(b) submits an application in accordance with Subsection (6).

(6) An application for a grant under this section shall include:

(a) the number of psychiatrists employed by the health care facility or the number of child mental health therapists employed by the child mental health care facility;

(b) the health care facility's or child mental health care facility's plan to implement the telehealth psychiatric consultation program or the early childhood psychotherapeutic telehealth consultation program described in Subsection (4);

(c) the estimated cost to implement the telehealth psychiatric consultation program or the early childhood psychotherapeutic telehealth consultation program described in Subsection (4);

(d) any plan to use one or more funding sources in addition to a grant under this section to implement the telehealth psychiatric consultation program or the early childhood psychotherapeutic telehealth consultation program described in Subsection (4);

(e) the amount of grant money requested to fund the telehealth psychiatric consultation program or the early childhood psychotherapeutic telehealth consultation program described in Subsection (4); and

(f) any existing or planned contract or partnership between the health care facility and another person to implement the telehealth psychiatric consultation program or the early

childhood psychotherapeutic telehealth consultation program described in Subsection (4).

(7) A health care facility or child mental health care facility that receives grant money under this section shall file a report with the division before October 1 of each year that details for the immediately preceding calendar year:

(a) the type and effectiveness of each service provided in the telehealth psychiatric program or the early childhood psychotherapeutic telehealth consultation program;

(b) the utilization of the telehealth psychiatric program or the early childhood psychotherapeutic telehealth consultation program based on metrics or categories determined by the division;

(c) the total amount expended from the grant money; and

(d) the intended use for grant money that has not been expended.

(8) Before November 30 of each year, the division shall report to the Health and Human Services Interim Committee regarding:

(a) the status of the account and expenditures made from the account; and

(b) a summary of any report provided to the division under Subsection (7).

Section 5. Section 63I-2-262 is amended to read:

63I-2-262. Repeal dates -- Title 62A.

(1) Subsection 62A-5-103.1(6) is repealed January 1, 2023.

[~~(2) Section 62A-5-111 is repealed January 1, 2021.~~]

(2) Section 62A-15-120 is repealed January 2, 2025.

Section 6. Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2021, and ending June 30, 2022. These are additions to amounts previously appropriated for fiscal year 2022. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 1

To Department of Human Services -- Division of Substance Abuse and Mental Health

From General Fund, One-time	$500,000
From General Fund	$500,000
Schedule of Programs:	
Community Mental Health Services	$1,000,000

The Legislature intends that:

(1) the one-time appropriation under this item be used to create a public education campaign for early childhood mental health intervention in the state;

(2) the ongoing appropriations under this item be used to award grants for the early childhood mental health support grant program under Section 62A-15-120; and

(3) under Section 63J-1-603, the one-time appropriation under this item not lapse at the close of fiscal year 2022 and the use of any nonlapsing funds is limited to the purpose described in Subsection (1) of this item.

ITEM 2

To Department of Human Services - Executive Director Operations

From General Fund	$1,000,000
Schedule of Programs:	
Executive Director's Office	$1,000,000

The Legislature intends that the appropriations under this item be used to support stabilization services for children and families in the state.

CHAPTER 279
H. B. 345
Passed March 4, 2021
Approved March 17, 2021
Effective May 5, 2021

SCHOOL RESOURCE OFFICERS AMENDMENTS

Chief Sponsor: Sandra Hollins
Senate Sponsor: Daniel W. Thatcher

LONG TITLE

General Description:

This bill amends provisions relating to a local education agency's ability to contract with a law enforcement agency for school resource officer services.

Highlighted Provisions:

This bill:

- amends provisions related to a training that statute requires the State Board of Education to prepare and make available, including:
  - broadening the intended audience; and
  - adding certain additional content; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53G-8-702, as last amended by Laws of Utah 2020, Chapter 408

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

Section 1. Section 53G-8-702 is amended to read:

53G-8-702. School resource officer training -- Curriculum.

(1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board shall make rules that prepare and make available a training program for school principals, school personnel, and school resource officers to attend.

(2) To create the curriculum and materials for the training program described in Subsection (1), the state board shall:

(a) work in conjunction with the State Commission on Criminal and Juvenile Justice created in Section 63M-7-201;

(b) solicit input from local school boards, charter school governing boards, and the Utah Schools for the Deaf and the Blind;

(c) solicit input from local law enforcement and other interested community stakeholders; and

(d) consider the current United States Department of Education recommendations on school discipline and the role of a school resource officer.

(3) The training program described in Subsection (1) may include training on the following:

(a) childhood and adolescent development;

(b) responding age-appropriately to students;

(c) working with disabled students;

(d) techniques to de-escalate and resolve conflict;

(e) cultural awareness;

(f) restorative justice practices;

(g) identifying a student exposed to violence or trauma and referring the student to appropriate resources;

(h) student privacy rights;

(i) negative consequences associated with youth involvement in the juvenile and criminal justice systems;

(j) strategies to reduce juvenile justice involvement; [~~and~~]

(k) roles of and distinctions between a school resource officer and other school staff who help keep a school secure[~~.~~];

(l) developing and supporting successful relationships with students; and

(m) legal parameters of searching and questioning students on school property.

(4) The state board shall work together with the Department of Public Safety, the State Commission on Criminal and Juvenile Justice, and state and local law enforcement to establish policies and procedures that govern [~~student~~] school resource officers.

CHAPTER 280
H. B. 346
Passed March 4, 2021
Approved March 17, 2021
Effective July 1, 2021

NATURAL RESOURCES ENTITIES AMENDMENTS

Chief Sponsor: Casey Snider
Senate Sponsor: Scott D. Sandall

LONG TITLE

General Description:

This bill addresses the state entities that involve natural resources.

Highlighted Provisions:

This bill:

- creates a coordination council;
- moves the Office of Energy Development to within the Department of Natural Resources;
- divides the Division of Parks and Recreation into two divisions and transfers certain grants administered by the Utah Office of Outdoor Recreation to the new division;
- addresses the Outdoor Adventure Commission;
- addresses the Utah Office of Outdoor Recreation and its powers and duties;
- removes certain outdated provisions;
- includes a transition and study provision and repeal of the provision; and
- makes technical changes.

Monies Appropriated in this Bill:

This bill provides appropriations necessary to merge the Office of Energy Development into the Department of Natural Resources and to divide the Division of Parks and Recreation into two divisions.

Other Special Clauses:

This bill provides a special effective date.

This bill provides coordination clauses.

This bill provides revisor instructions.

Utah Code Sections Affected:

AMENDS:

9-9-408, as last amended by Laws of Utah 2019, Chapter 246
11-42a-102, as last amended by Laws of Utah 2020, Chapter 244
11-45-102, as last amended by Laws of Utah 2012, Chapter 37
32B-6-702, as last amended by Laws of Utah 2020, Chapter 219
41-1a-418, as last amended by Laws of Utah 2020, Chapters 120, 322, and 405
41-1a-422, as last amended by Laws of Utah 2020, Chapters 120, 322, 354, and 405
41-6a-1509, as last amended by Laws of Utah 2019, Chapter 421
41-22-2, as last amended by Laws of Utah 2018, Chapter 166
41-22-3, as last amended by Laws of Utah 2015, Chapter 412
41-22-5.1, as last amended by Laws of Utah 2008, Chapter 382
41-22-5.5, as last amended by Laws of Utah 2018, Chapter 166
41-22-8, as last amended by Laws of Utah 2018, Chapter 373
41-22-10, as last amended by Laws of Utah 2007, Chapter 299
41-22-10.7, as last amended by Laws of Utah 2015, Chapter 412
41-22-19.5, as last amended by Laws of Utah 2011, Chapter 303
41-22-30, as last amended by Laws of Utah 2017, Chapter 38
41-22-31, as last amended by Laws of Utah 2017, Chapter 38
41-22-33, as last amended by Laws of Utah 2017, Chapter 38
41-22-35, as last amended by Laws of Utah 2019, Chapter 44
54-4-41, as enacted by Laws of Utah 2020, Chapter 217
57-14-204, as renumbered and amended by Laws of Utah 2013, Chapter 212
59-5-102, as last amended by Laws of Utah 2019, First Special Session, Chapter 3
59-7-614, as last amended by Laws of Utah 2019, Chapter 247
59-7-614.7, as last amended by Laws of Utah 2016, Third Special Session, Chapter 1
59-7-619, as last amended by Laws of Utah 2016, Third Special Session, Chapter 1
59-10-1014, as last amended by Laws of Utah 2019, Chapter 247
59-10-1024, as last amended by Laws of Utah 2019, Chapter 247
59-10-1029, as last amended by Laws of Utah 2016, Third Special Session, Chapter 1
59-10-1034, as last amended by Laws of Utah 2016, Third Special Session, Chapter 1
59-10-1106, as last amended by Laws of Utah 2016, Third Special Session, Chapter 1
59-12-104, as last amended by Laws of Utah 2020, Chapters 44, 91, 354, 412, and 438
59-13-201, as last amended by Laws of Utah 2017, Chapter 234
59-21-2, as last amended by Laws of Utah 2018, Chapter 28
59-28-103, as last amended by Laws of Utah 2019, Chapter 290
63A-4-104, as enacted by Laws of Utah 1998, Chapter 225
63B-3-301, as last amended by Laws of Utah 2019, Chapter 61
63B-4-301, as last amended by Laws of Utah 2013, Chapter 310
63B-5-201, as last amended by Laws of Utah 2018, Chapter 25
63B-6-501, as last amended by Laws of Utah 2008, Chapter 382
63B-6-502, as last amended by Laws of Utah 2008, Chapter 250
63B-7-102, as last amended by Laws of Utah 2014, Chapter 196
63B-10-302, as last amended by Laws of Utah 2008, Chapter 382
63C-21-201, as enacted by Laws of Utah 2020, Chapter 199
63C-21-202, as enacted by Laws of Utah 2020, Chapter 199

63H-2-102, as last amended by Laws of Utah 2014, Chapter 301
63H-2-202, as last amended by Laws of Utah 2016, Chapter 337
63H-4-102, as last amended by Laws of Utah 2020, Chapter 352
63H-4-110, as renumbered and amended by Laws of Utah 2011, Chapter 370
63H-5-110, as renumbered and amended by Laws of Utah 2011, Chapter 370
63I-1-263, as last amended by Laws of Utah 2020, Chapters 82, 152, 154, 199, 230, 303, 322, 336, 354, 360, 375, 405 and last amended by Coordination Clause, Laws of Utah 2020, Chapter 360
63I-1-279, as enacted by Laws of Utah 2020, Chapter 154
63I-2-263, as last amended by Laws of Utah 2020, Fifth Special Session, Chapter 12
63J-1-601, as last amended by Laws of Utah 2018, Chapters 76 and 469
63J-1-602.1, as last amended by Laws of Utah 2020, Fifth Special Session, Chapter 4
63J-4-502, as last amended by Laws of Utah 2015, Chapter 451
63J-4-608, as last amended by Laws of Utah 2020, Chapter 354
63L-2-301, as last amended by Laws of Utah 2020, Chapter 168
63L-7-104, as enacted by Laws of Utah 2014, Chapter 323
63N-9-102, as last amended by Laws of Utah 2019, Chapter 506
63N-9-106, as last amended by Laws of Utah 2019, Chapter 506
63N-9-202, as enacted by Laws of Utah 2016, Chapter 88
65A-3-1, as last amended by Laws of Utah 2018, Chapter 420
65A-10-2, as last amended by Laws of Utah 1994, Chapter 294
72-1-216, as enacted by Laws of Utah 2020, Chapter 104
72-4-302, as last amended by Laws of Utah 2019, Chapter 246
72-11-204, as last amended by Laws of Utah 2010, Chapter 286
73-3-30, as last amended by Laws of Utah 2020, Chapter 421
73-3-31, as last amended by Laws of Utah 2014, Chapter 420
73-10e-1, as last amended by Laws of Utah 2009, Chapter 344
73-18-2, as last amended by Laws of Utah 2015, Chapter 113
73-18-3.5, as enacted by Laws of Utah 1987, Chapter 99
73-18-4, as last amended by Laws of Utah 2011, Chapter 386
73-18-7, as last amended by Laws of Utah 2016, Chapter 303
73-18-8, as last amended by Laws of Utah 2016, Chapter 303
73-18-9, as last amended by Laws of Utah 2008, Chapter 94
73-18-11, as last amended by Laws of Utah 1986, Chapter 197
73-18-13, as last amended by Laws of Utah 2015, Chapter 412
73-18-13.5, as last amended by Laws of Utah 2011, Chapter 386
73-18-15, as last amended by Laws of Utah 2012, Chapter 411
73-18-15.2, as last amended by Laws of Utah 2016, Chapter 303
73-18-16, as last amended by Laws of Utah 2016, Chapter 303
73-18-17, as last amended by Laws of Utah 1987, Chapter 99
73-18-20, as last amended by Laws of Utah 2019, Chapter 75
73-18a-1, as last amended by Laws of Utah 1986, Chapter 197
73-18a-4, as last amended by Laws of Utah 2008, Chapter 382
73-18a-5, as last amended by Laws of Utah 2008, Chapter 382
73-18a-12, as last amended by Laws of Utah 2008, Chapter 382
73-18b-1, as last amended by Laws of Utah 2007, Chapter 136
73-18b-4, as last amended by Laws of Utah 1997, Chapter 276
73-18c-102, as last amended by Laws of Utah 2007, Chapter 113
73-18c-201, as last amended by Laws of Utah 2008, Chapter 382
76-6-206.2, as last amended by Laws of Utah 2009, Chapter 344
77-2-4.3, as enacted by Laws of Utah 2011, Chapter 386
78A-5-110, as last amended by Laws of Utah 2017, Chapters 144, 150, and 186
78A-7-120, as last amended by Laws of Utah 2020, Chapter 230
79-2-201, as last amended by Laws of Utah 2020, Chapters 190 and 309
79-4-101, as enacted by Laws of Utah 2009, Chapter 344
79-4-102, as enacted by Laws of Utah 2009, Chapter 344
79-4-201, as renumbered and amended by Laws of Utah 2009, Chapter 344
79-4-202, as renumbered and amended by Laws of Utah 2009, Chapter 344
79-4-203, as last amended by Laws of Utah 2015, Chapter 163
79-4-204, as renumbered and amended by Laws of Utah 2009, Chapter 344
79-4-301, as renumbered and amended by Laws of Utah 2009, Chapter 344
79-4-302, as last amended by Laws of Utah 2020, Chapters 352 and 373
79-4-401, as renumbered and amended by Laws of Utah 2009, Chapter 344
79-4-502, as renumbered and amended by Laws of Utah 2009, Chapter 344 and repealed and reenacted by Laws of Utah 2009, Chapter 347
79-5-102, as last amended by Laws of Utah 2019, Chapter 428
79-5-201, as renumbered and amended by Laws of Utah 2009, Chapter 344

79-5-501, as renumbered and amended by Laws of Utah 2009, Chapter 344

ENACTS:
63I-2-279, Utah Code Annotated 1953
79-1-103, Utah Code Annotated 1953
79-2-206, Utah Code Annotated 1953
79-7-101, Utah Code Annotated 1953
79-7-102, Utah Code Annotated 1953
79-7-201, Utah Code Annotated 1953
79-7-202, Utah Code Annotated 1953
79-7-203, Utah Code Annotated 1953
79-7-204, Utah Code Annotated 1953
79-7-205, Utah Code Annotated 1953
79-7-301, Utah Code Annotated 1953
79-7-401, Utah Code Annotated 1953
79-7-402, Utah Code Annotated 1953
79-8-101, Utah Code Annotated 1953
79-8-102, Utah Code Annotated 1953
79-8-103, Utah Code Annotated 1953
79-8-104, Utah Code Annotated 1953

RENUMBERS AND AMENDS:
79-6-101, (Renumbered from 63M-4-101, as renumbered and amended by Laws of Utah 2008, Chapter 382)
79-6-102, (Renumbered from 63M-4-102, as last amended by Laws of Utah 2012, Chapter 37)
79-6-201, (Renumbered from 63M-4-201, as last amended by Laws of Utah 2013, Chapter 295)
79-6-202, (Renumbered from 63M-4-202, as renumbered and amended by Laws of Utah 2008, Chapter 382)
79-6-203, (Renumbered from 63M-4-203, as last amended by Laws of Utah 2015, Chapter 378)
79-6-301, (Renumbered from 63M-4-301, as last amended by Laws of Utah 2019, Chapter 415)
79-6-302, (Renumbered from 63M-4-302, as last amended by Laws of Utah 2016, Chapter 13)
79-6-401, (Renumbered from 63M-4-401, as last amended by Laws of Utah 2019, Chapter 247)
79-6-402, (Renumbered from 63M-4-402, as enacted by Laws of Utah 2014, Chapter 294)
79-6-501, (Renumbered from 63M-4-501, as enacted by Laws of Utah 2012, Chapter 410)
79-6-502, (Renumbered from 63M-4-502, as enacted by Laws of Utah 2012, Chapter 410)
79-6-503, (Renumbered from 63M-4-503, as last amended by Laws of Utah 2018, Chapter 149)
79-6-504, (Renumbered from 63M-4-504, as enacted by Laws of Utah 2012, Chapter 410)
79-6-505, (Renumbered from 63M-4-505, as last amended by Laws of Utah 2016, Chapters 13 and 135)
79-6-601, (Renumbered from 63M-4-601, as enacted by Laws of Utah 2015, Chapter 356)
79-6-602, (Renumbered from 63M-4-602, as last amended by Laws of Utah 2019, Chapter 501)
79-6-603, (Renumbered from 63M-4-603, as last amended by Laws of Utah 2018, Chapter 149)
79-6-604, (Renumbered from 63M-4-604, as enacted by Laws of Utah 2015, Chapter 356)
79-6-605, (Renumbered from 63M-4-605, as last amended by Laws of Utah 2016, Chapter 13)
79-6-606, (Renumbered from 63M-4-606, as enacted by Laws of Utah 2016, Chapter 337)
79-6-701, (Renumbered from 63M-4-701, as last amended by Laws of Utah 2020, Chapter 412)
79-6-702, (Renumbered from 63M-4-702, as last amended by Laws of Utah 2020, Chapter 412)
79-6-801, (Renumbered from 63M-4-801, as enacted by Laws of Utah 2020, Chapter 430)
79-6-802, (Renumbered from 63M-4-802, as enacted by Laws of Utah 2020, Chapter 430)
79-6-803, (Renumbered from 63M-4-803, as enacted by Laws of Utah 2020, Chapter 430)
79-6-804, (Renumbered from 63M-4-804, as enacted by Laws of Utah 2020, Chapter 430)
79-6-805, (Renumbered from 63M-4-805, as enacted by Laws of Utah 2020, Chapter 430)
79-7-302, (Renumbered from 79-2-402, as last amended by Laws of Utah 2010, Chapter 218)
79-8-105, (Renumbered from 63N-9-204, as last amended by Laws of Utah 2019, Chapter 290)
79-8-106, (Renumbered from 63N-9-205, as last amended by Laws of Utah 2019, Chapter 290)
79-8-201, (Renumbered from 63N-9-301, as enacted by Laws of Utah 2019, Chapter 290)
79-8-202, (Renumbered from 63N-9-302, as enacted by Laws of Utah 2019, Chapter 290)
79-8-203, (Renumbered from 63N-9-303, as enacted by Laws of Utah 2019, Chapter 290)
79-8-301, (Renumbered from 63N-9-401, as enacted by Laws of Utah 2019, Chapter 506)
79-8-302, (Renumbered from 63N-9-402, as enacted by Laws of Utah 2019, Chapter 506)
79-8-303, (Renumbered from 63N-9-403, as enacted by Laws of Utah 2019, Chapter 506)
79-8-304, (Renumbered from 63N-9-404, as enacted by Laws of Utah 2019, Chapter 506)

Utah Code Sections Affected by Coordination Clause:
9-9-112, Utah Code Annotated 1953
59-10-1034, as last amended by Laws of Utah 2016, Third Special Session, Chapter 1
79-8-303, (Renumbered from 63N-9-403 as enacted by Laws of Utah 2019, Chapter 506)Utah Code Sections Affected by Revisor Instructions:
79-2-206, Utah Code Annotated 1953

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

Section 1. Section 9-9-408 is amended to read:

9-9-408. Burial of ancient Native American remains in state parks.

(1) As used in this section:

(a) "Ancient Native American remains" means ancient human remains, as defined in Section 9-8-302, that are Native American remains, as defined in Section 9-9-402.

(b) "Antiquities Section" means the Antiquities Section of the Division of State History created in Section 9-8-304.

(2) (a) The division, the Antiquities Section, and the Division of State Parks [~~and Recreation~~] shall cooperate in a study of the feasibility of burying ancient Native American remains in state parks.

(b) The study shall include:

(i) the process and criteria for determining which state parks would have land sufficient and appropriate to reserve a portion of the land for the burial of ancient Native American remains;

(ii) the process for burying the ancient Native American remains on the lands within state parks, including the responsibilities of state agencies and the assurance of cultural sensitivity;

(iii) how to keep a record of the locations in which specific ancient Native American remains are buried;

(iv) how to account for the costs of:

(A) burying the ancient Native American remains on lands found within state parks; and

(B) securing and maintaining burial sites in state parks; and

(v) any issues related to burying ancient Native American remains in state parks.

Section 2. Section 11-42a-102 is amended to read:

11-42a-102. Definitions.

(1) "Air quality standards" means that a vehicle's emissions are equal to or cleaner than the standards established in bin 4 Table S04-1, of 40 C.F.R. 86.1811-04(c)(6).

(2) (a) "Assessment" means the assessment that a local entity or the C-PACE district levies on private property under this chapter to cover the costs of an energy efficiency upgrade, a renewable energy system, or an electric vehicle charging infrastructure.

(b) "Assessment" does not constitute a property tax but shares the same priority lien as a property tax.

(3) "Assessment fund" means a special fund that a local entity establishes under Section 11-42a-206.

(4) "Benefitted property" means private property within an energy assessment area that directly benefits from improvements.

(5) "Bond" means an assessment bond and a refunding assessment bond.

(6) (a) "Commercial or industrial real property" means private real property used directly or indirectly or held for one of the following purposes or activities, regardless of whether the purpose or activity is for profit:

(i) commercial;

(ii) mining;

(iii) agricultural;

(iv) industrial;

(v) manufacturing;

(vi) trade;

(vii) professional;

(viii) a private or public club;

(ix) a lodge;

(x) a business; or

(xi) a similar purpose.

(b) "Commercial or industrial real property" includes:

(i) private real property that is used as or held for dwelling purposes and contains:

(A) more than four rental units; or

(B) one or more owner-occupied or rental condominium units affiliated with a hotel; and

(ii) real property owned by:

(A) the military installation development authority, created in Section 63H-1-201; or

(B) the Utah Inland Port Authority, created in Section 11-58-201.

(7) "Contract price" means:

(a) up to 100% of the cost of installing, acquiring, refinancing, or reimbursing for an improvement, as determined by the owner of the property benefitting from the improvement; or

(b) the amount payable to one or more contractors for the assessment, design, engineering, inspection, and construction of an improvement.

(8) "C-PACE" means commercial property assessed clean energy.

(9) "C-PACE district" means the statewide authority established in Section 11-42a-106 to

implement the C-PACE Act in collaboration with governing bodies, under the direction of OED.

(10) "Electric vehicle charging infrastructure" means equipment that is:

(a) permanently affixed to commercial or industrial real property; and

(b) designed to deliver electric energy to a qualifying electric vehicle or a qualifying plug-in hybrid vehicle.

(11) "Energy assessment area" means an area:

(a) within the jurisdictional boundaries of a local entity that approves an energy assessment area or, if the C-PACE district or a state interlocal entity levies the assessment, the C-PACE district or the state interlocal entity;

(b) containing only the commercial or industrial real property of owners who have voluntarily consented to an assessment under this chapter for the purpose of financing the costs of improvements that benefit property within the energy assessment area; and

(c) in which the proposed benefitted properties in the area are:

(i) contiguous; or

(ii) located on one or more contiguous or adjacent tracts of land that would be contiguous or adjacent property but for an intervening right-of-way, including a sidewalk, street, road, fixed guideway, or waterway.

(12) "Energy assessment bond" means a bond:

(a) issued under Section 11-42a-401; and

(b) payable in part or in whole from assessments levied in an energy assessment area.

(13) "Energy assessment lien" means a lien on property within an energy assessment area that arises from the levy of an assessment in accordance with Section 11-42a-301.

(14) "Energy assessment ordinance" means an ordinance that a local entity adopts under Section 11-42a-201 that:

(a) designates an energy assessment area;

(b) levies an assessment on benefitted property within the energy assessment area; and

(c) if applicable, authorizes the issuance of energy assessment bonds.

(15) "Energy assessment resolution" means one or more resolutions adopted by a local entity under Section 11-42a-201 that:

(a) designates an energy assessment area;

(b) levies an assessment on benefitted property within the energy assessment area; and

(c) if applicable, authorizes the issuance of energy assessment bonds.

(16) "Energy efficiency upgrade" means an improvement that is:

(a) permanently affixed to commercial or industrial real property; and

(b) designed to reduce energy or water consumption, including:

(i) insulation in:

(A) a wall, roof, floor, or foundation; or

(B) a heating and cooling distribution system;

(ii) a window or door, including:

(A) a storm window or door;

(B) a multiglazed window or door;

(C) a heat-absorbing window or door;

(D) a heat-reflective glazed and coated window or door;

(E) additional window or door glazing;

(F) a window or door with reduced glass area; or

(G) other window or door modifications;

(iii) an automatic energy control system;

(iv) in a building or a central plant, a heating, ventilation, or air conditioning and distribution system;

(v) caulk or weatherstripping;

(vi) a light fixture that does not increase the overall illumination of a building, unless an increase is necessary to conform with the applicable building code;

(vii) an energy recovery system;

(viii) a daylighting system;

(ix) measures to reduce the consumption of water, through conservation or more efficient use of water, including installation of:

(A) low-flow toilets and showerheads;

(B) timer or timing systems for a hot water heater; or

(C) rain catchment systems;

(x) a modified, installed, or remodeled fixture that is approved as a utility cost-saving measure by the governing body or executive of a local entity;

(xi) measures or other improvements to effect seismic upgrades;

(xii) structures, measures, or other improvements to provide automated parking or parking that reduces land use;

(xiii) the extension of an existing natural gas distribution company line;

(xiv) an energy efficient elevator, escalator, or other vertical transport device;

(xv) any other improvement that the governing body or executive of a local entity approves as an energy efficiency upgrade; or

(xvi) any improvement that relates physically or functionally to any of the improvements listed in Subsections (16)(b)(i) through (xv).

(17) "Governing body" means:

(a) for a county, city, town, or metro township, the legislative body of the county, city, town, or metro township;

(b) for a local district, the board of trustees of the local district;

(c) for a special service district:

(i) if no administrative control board has been appointed under Section 17D-1-301, the legislative body of the county, city, town, or metro township that established the special service district; or

(ii) if an administrative control board has been appointed under Section 17D-1-301, the administrative control board of the special service district;

(d) for the military installation development authority created in Section 63H-1-201, the board, as that term is defined in Section 63H-1-102; and

(e) for the Utah Inland Port Authority, created in Section 11-58-201, the board, as defined in Section 11-58-102.

(18) "Improvement" means a publicly or privately owned energy efficiency upgrade, renewable energy system, or electric vehicle charging infrastructure that:

(a) a property owner has requested; or

(b) has been or is being installed on a property for the benefit of the property owner.

(19) "Incidental refunding costs" means any costs of issuing a refunding assessment bond and calling, retiring, or paying prior bonds, including:

(a) legal and accounting fees;

(b) charges of financial advisors, escrow agents, certified public accountant verification entities, and trustees;

(c) underwriting discount costs, printing costs, and the costs of giving notice;

(d) any premium necessary in the calling or retiring of prior bonds;

(e) fees to be paid to the local entity to issue the refunding assessment bond and to refund the outstanding prior bonds;

(f) any other costs that the governing body determines are necessary and proper to incur in connection with the issuance of a refunding assessment bond; and

(g) any interest on the prior bonds that is required to be paid in connection with the issuance of the refunding assessment bond.

(20) "Installment payment date" means the date on which an installment payment of an assessment is payable.

(21) "Jurisdictional boundaries" means:

(a) for the C-PACE district or any state interlocal entity, the boundaries of the state; and

(b) for each local entity, the boundaries of the local entity.

(22) "Local district" means a local district under Title 17B, Limited Purpose Local Government Entities - Local Districts.

(23) (a) "Local entity" means:

(i) a county, city, town, or metro township;

(ii) a special service district, a local district, or an interlocal entity as that term is defined in Section 11-13-103;

(iii) a state interlocal entity;

(iv) the military installation development authority, created in Section 63H-1-201;

(v) the Utah Inland Port Authority, created in Section 11-58-201; or

(vi) any political subdivision of the state.

(b) "Local entity" includes the C-PACE district solely in connection with:

(i) the designation of an energy assessment area;

(ii) the levying of an assessment; and

(iii) the assignment of an energy assessment lien to a third-party lender under Section 11-42a-302.

(24) "Local entity obligations" means energy assessment bonds and refunding assessment bonds that a local entity issues.

(25) "OED" means the Office of Energy Development created in Section [~~63M-4-401~~] 79-6-401.

(26) "OEM vehicle" means the same as that term is defined in Section 19-1-402.

(27) "Overhead costs" means the actual costs incurred or the estimated costs to be incurred in connection with an energy assessment area, including:

(a) appraisals, legal fees, filing fees, facilitation fees, and financial advisory charges;

(b) underwriting fees, placement fees, escrow fees, trustee fees, and paying agent fees;

(c) publishing and mailing costs;

(d) costs of levying an assessment;

(e) recording costs; and

(f) all other incidental costs.

(28) "Parameters resolution" means a resolution or ordinance that a local entity adopts in accordance with Section 11-42a-201.

(29) "Prior bonds" means the energy assessment bonds refunded in part or in whole by a refunding assessment bond.

(30) "Prior energy assessment ordinance" means the ordinance levying the assessments from which the prior bonds are payable.

(31) "Prior energy assessment resolution" means the resolution levying the assessments from which the prior bonds are payable.

(32) "Property" includes real property and any interest in real property, including water rights and leasehold rights.

(33) "Public electrical utility" means a large-scale electric utility as that term is defined in Section 54-2-1.

(34) "Qualifying electric vehicle" means a vehicle that:

(a) meets air quality standards;

(b) is not fueled by natural gas;

(c) draws propulsion energy from a battery with at least 10 kilowatt hours of capacity; and

(d) is an OEM vehicle except that the vehicle is fueled by a fuel described in Subsection (34)(c).

(35) "Qualifying plug-in hybrid vehicle" means a vehicle that:

(a) meets air quality standards;

(b) is not fueled by natural gas or propane;

(c) has a battery capacity that meets or exceeds the battery capacity described in Subsection 30D(b)(3), Internal Revenue Code; and

(d) is fueled by a combination of electricity and:

(i) diesel fuel;

(ii) gasoline; or

(iii) a mixture of gasoline and ethanol.

(36) "Reduced payment obligation" means the full obligation of an owner of property within an energy assessment area to pay an assessment levied on the property after the local entity has reduced the assessment because of the issuance of a refunding assessment bond, in accordance with Section 11-42a-403.

(37) "Refunding assessment bond" means an assessment bond that a local entity issues under Section 11-42a-403 to refund, in part or in whole, energy assessment bonds.

(38) (a) "Renewable energy system" means a product, system, device, or interacting group of devices that is permanently affixed to commercial or industrial real property not located in the certified service area of a distribution electrical cooperative, as that term is defined in Section 54-2-1, and:

(i) produces energy from renewable resources, including:

(A) a photovoltaic system;

(B) a solar thermal system;

(C) a wind system;

(D) a geothermal system, including a generation system, a direct-use system, or a ground source heat pump system;

(E) a microhydro system;

(F) a biofuel system; or

(G) any other renewable source system that the governing body of the local entity approves;

(ii) stores energy, including:

(A) a battery storage system; or

(B) any other energy storing system that the governing body or chief executive officer of a local entity approves; or

(iii) any improvement that relates physically or functionally to any of the products, systems, or devices listed in Subsection (38)(a)(i) or (ii).

(b) "Renewable energy system" does not include a system described in Subsection (38)(a)(i) if the system provides energy to property outside the energy assessment area, unless the system:

(i) (A) existed before the creation of the energy assessment area; and

(B) beginning before January 1, 2017, provides energy to property outside of the area that became the energy assessment area; or

(ii) provides energy to property outside the energy assessment area under an agreement with a public electrical utility that is substantially similar to agreements for other renewable energy systems that are not funded under this chapter.

(39) "Special service district" means the same as that term is defined in Section 17D-1-102.

(40) "State interlocal entity" means:

(a) an interlocal entity created under Chapter 13, Interlocal Cooperation Act, by two or more counties, cities, towns, or metro townships that collectively represent at least a majority of the state's population; or

(b) an entity that another state authorized, before January 1, 2017, to issue bonds, notes, or other obligations or refunding obligations to finance or refinance projects in the state.

(41) "Third-party lender" means a trust company, savings bank, savings and loan association, bank, credit union, or any other entity that provides loans directly to property owners for improvements authorized under this chapter.

Section 3. Section 11-45-102 is amended to read:

11-45-102. Definitions.

As used in this [~~section~~] chapter:

(1) "Energy code" means the energy efficiency code adopted under Section 15A-1-204.

(2) (a) "Energy efficiency project" means:

(i) for an existing building, a retrofit to improve energy efficiency; or

(ii) for a new building, an enhancement to improve energy efficiency beyond the minimum required by the energy code.

(b) "Energy efficiency projects" include the following expenses:

(i) construction;

(ii) engineering;

(iii) energy audit; or

(iv) inspection.

(3) "Fund" means the Energy Efficiency Fund created in Part 2, Energy Efficiency Fund.

(4) "Office" means the Office of Energy Development created in Section [~~63M-4-401~~] 79-6-401.

(5) "Political subdivision" means a county, city, town, or school district.

Section 4. Section 32B-6-702 is amended to read:

32B-6-702. Definitions.

As used in this part:

(1) "Commission-approved activity" means a leisure activity that:

(a) the commission approves by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(b) does not involve the use of a dangerous weapon.

(2) (a) "Recreational amenity" means:

(i) a billiard parlor;

(ii) a pool parlor;

(iii) a bowling facility;

(iv) a golf course;

(v) miniature golf;

(vi) a golf driving range;

(vii) a tennis club;

(viii) a sports facility that hosts professional sporting events and has a seating capacity equal to or greater than 6,500;

(ix) a concert venue that has a seating capacity equal to or greater than 6,500;

(x) one of the following if owned by a government agency:

(A) a convention center;

(B) a fair facility;

(C) an equestrian park;

(D) a theater; or

(E) a concert venue;

(xi) an amusement park:

(A) with one or more permanent amusement rides; and

(B) located on at least 50 acres;

(xii) a ski resort;

(xiii) a venue for live entertainment if the venue:

(A) is not regularly open for more than five hours on any day;

(B) is operated so that food is available whenever beer is sold, offered for sale, or furnished at the venue; and

(C) is operated so that no more than 15% of its total annual receipts are from the sale of beer;

(xiv) concessions operated within the boundary of a park administered by the:

(A) Division of State Parks [~~and Recreation~~]; or

(B) National Parks Service;

(xv) a facility or venue that is a recreational amenity for a person licensed under this part before May 12, 2020;

(xvi) a venue for karaoke; or

(xvii) an enterprise developed around a commission-approved activity.

(b) "Recreational amenity" does not include an item described in Subsection (2)(a), if the item is tangential to an enterprise or activity that is not included in Subsection (2)(a).

Section 5. Section 41-1a-418 is amended to read:

41-1a-418. Authorized special group license plates.

(1) The division shall only issue special group license plates in accordance with this section through Section 41-1a-422 to a person who is specified under this section within the categories listed as follows:

(a) disability special group license plates issued in accordance with Section 41-1a-420;

(b) honor special group license plates, as in a war hero, which plates are issued for a:

(i) survivor of the Japanese attack on Pearl Harbor;

(ii) former prisoner of war;

(iii) recipient of a Purple Heart;

(iv) disabled veteran;

(v) recipient of a gold star award issued by the United States Secretary of Defense; or

(vi) recipient of a campaign or combat theater award determined by the Department of Veterans and Military Affairs;

(c) unique vehicle type special group license plates, as for historical, collectors value, or other unique vehicle type, which plates are issued for:

(i) a special interest vehicle;

(ii) a vintage vehicle;

(iii) a farm truck; or

(iv) (A) until Subsection (1)(c)(iv)(B) or (4) applies, a vehicle powered by clean fuel as defined in Section 59-13-102; or

(B) beginning on the effective date of rules made by the Department of Transportation authorized under Subsection 41-6a-702(5)(b) and until Subsection (4) applies, a vehicle powered by clean fuel that meets the standards established by the Department of Transportation in rules authorized under Subsection 41-6a-702(5)(b);

(d) recognition special group license plates, which plates are issued for:

(i) a current member of the Legislature;

(ii) a current member of the United States Congress;

(iii) a current member of the National Guard;

(iv) a licensed amateur radio operator;

(v) a currently employed, volunteer, or retired firefighter until June 30, 2009;

(vi) an emergency medical technician;

(vii) a current member of a search and rescue team;

(viii) a current honorary consulate designated by the United States Department of State;

(ix) an individual supporting commemoration and recognition of women's suffrage;

(x) an individual supporting a fraternal, initiatic order for those sharing moral and metaphysical ideals, and designed to teach ethical and philosophical matters of brotherly love, relief, and truth;

(xi) an individual supporting the Utah Wing of the Civil Air Patrol; or

(xii) an individual supporting the recognition and continuation of the work and life of Dr. Martin Luther King, Jr.; or

(e) support special group license plates, as for a contributor to an institution or cause, which plates are issued for a contributor to:

(i) an institution's scholastic scholarship fund;

(ii) the Division of Wildlife Resources;

(iii) the Department of Veterans and Military Affairs;

(iv) the Division of [~~Parks and~~] State Parks or the Division of Recreation;

(v) the Department of Agriculture and Food;

(vi) the Guardian Ad Litem Services Account and the Children's Museum of Utah;

(vii) the Boy Scouts of America;

(viii) spay and neuter programs through No More Homeless Pets in Utah;

(ix) the Boys and Girls Clubs of America;

(x) Utah public education;

(xi) programs that provide support to organizations that create affordable housing for those in severe need through the Division of Real Estate;

(xii) the Department of Public Safety;

(xiii) programs that support Zion National Park;

(xiv) beginning on July 1, 2009, programs that provide support to firefighter organizations;

(xv) programs that promote bicycle operation and safety awareness;

(xvi) programs that conduct or support cancer research;

(xvii) programs that create or support autism awareness;

(xviii) programs that create or support humanitarian service and educational and cultural exchanges;

(xix) until September 30, 2017, programs that conduct or support prostate cancer awareness, screening, detection, or prevention;

(xx) programs that support and promote adoptions;

(xxi) programs that support issues affecting women and children through an organization affiliated with a national professional men's basketball organization;

(xxii) programs that strengthen youth soccer, build communities, and promote environmental sustainability through an organization affiliated with a professional men's soccer organization;

(xxiii) programs that support children with heart disease;

(xxiv) programs that support the operation and maintenance of the Utah Law Enforcement Memorial;

(xxv) programs that provide assistance to children with cancer;

(xxvi) programs that promote leadership and career development through agricultural education;

(xxvii) the Utah State Historical Society;

(xxviii) programs to transport veterans to visit memorials honoring the service and sacrifices of veterans;

(xxix) programs that promote motorcycle safety awareness;

(xxx) organizations that promote clean air through partnership, education, and awareness; or

(xxxi) programs dedicated to strengthening the state's Latino community through education, mentoring, and leadership opportunities.

(2) (a) The division may not issue a new type of special group license plate or decal unless the division receives:

(i) (A) a private donation for the start-up fee established under Section 63J-1-504 for the production and administrative costs of providing the new special group license plates or decals; or

(B) a legislative appropriation for the start-up fee provided under Subsection (2)(a)(i)(A); and

(ii) beginning on January 1, 2012, and for the issuance of a support special group license plate authorized in Section 41-1a-422, at least 500 completed applications for the new type of support special group license plate or decal to be issued with all fees required under this part for the support special group license plate or decal issuance paid by each applicant.

(b) (i) Beginning on January 1, 2012, each participating organization shall collect and hold applications for support special group license plates or decals authorized in Section 41-1a-422 on or after January 1, 2012, until it has received at least 500 applications.

(ii) Once a participating organization has received at least 500 applications, it shall submit the applications, along with the necessary fees, to the division for the division to begin working on the design and issuance of the new type of support special group license plate or decal to be issued.

(iii) Beginning on January 1, 2012, the division may not work on the issuance or design of a new support special group license plate or decal authorized in Section 41-1a-422 until the applications and fees required under this Subsection (2) have been received by the division.

(iv) The division shall begin issuance of a new support special group license plate or decal authorized in Section 41-1a-422 on or after January 1, 2012, no later than six months after receiving the applications and fees required under this Subsection (2).

(c) (i) Beginning on July 1, 2009, the division may not renew a motor vehicle registration of a motor vehicle that has been issued a firefighter recognition special group license plate unless the applicant is a contributor as defined in Subsection 41-1a-422(1)(a)(ii)(D) to the Firefighter Support Restricted Account.

(ii) A registered owner of a vehicle that has been issued a firefighter recognition special group license plate prior to July 1, 2009, upon renewal of the owner's motor vehicle registration shall:

(A) be a contributor to the Firefighter Support Restricted Account as required under Subsection (2)(c)(i); or

(B) replace the firefighter recognition special group license plate with a new license plate.

(3) Beginning on July 1, 2011, if a support special group license plate or decal type authorized in Section 41-1a-422 and issued on or after January 1, 2012, has fewer than 500 license plates issued each year for a three consecutive year time period that begins on July 1, the division may not issue that type of support special group license plate or decal to a new applicant beginning on January 1 of the following calendar year after the three consecutive year time period for which that type of support special group license plate or decal has fewer than 500 license plates issued each year.

(4) Beginning on July 1, 2011, the division may not issue to an applicant a unique vehicle type license plate for a vehicle powered by clean fuel under Subsection (1)(c)(iv).

(5) (a) Beginning on October 1, 2017, the division may not issue a new prostate cancer support special group license plate.

(b) A registered owner of a vehicle that has been issued a prostate cancer support special group license plate before October 1, 2017, may renew the owner's motor vehicle registration, with the contribution allocated as described in Section 41-1a-422.

Section 6. Section 41-1a-422 is amended to read:

41-1a-422. Support special group license plates -- Contributor -- Voluntary contribution collection procedures.

(1) As used in this section:

(a) (i) Except as provided in Subsection (1)(a)(ii), "contributor" means a person who has donated or in whose name at least $25 has been donated to:

(A) a scholastic scholarship fund of a single named institution;

(B) the Department of Veterans and Military Affairs for veterans programs;

(C) the Division of Wildlife Resources for the Wildlife Resources Account created in Section 23-14-13, for conservation of wildlife and the enhancement, preservation, protection, access, and management of wildlife habitat;

(D) the Department of Agriculture and Food for the benefit of conservation districts;

(E) the Division of [~~Parks and~~] Recreation for the benefit of snowmobile programs;

(F) the Guardian Ad Litem Services Account and the Children's Museum of Utah, with the donation evenly divided between the two;

(G) the Boy Scouts of America for the benefit of a Utah Boy Scouts of America council as specified by the contributor;

(H) No More Homeless Pets in Utah for distribution to organizations or individuals that provide spay and neuter programs that subsidize the sterilization of domestic animals;

(I) the Utah Alliance of Boys and Girls Clubs, Inc. to provide and enhance youth development programs;

(J) the Utah Association of Public School Foundations to support public education;

(K) the Utah Housing Opportunity Restricted Account created in Section 61-2-204 to assist people who have severe housing needs;

(L) the Public Safety Honoring Heroes Restricted Account created in Section 53-1-118 to support the families of fallen Utah Highway Patrol troopers and other Department of Public Safety employees;

(M) the Division of State Parks [~~and Recreation~~] for distribution to organizations that provide support for Zion National Park;

(N) the Firefighter Support Restricted Account created in Section 53-7-109 to support firefighter organizations;

(O) the Share the Road Bicycle Support Restricted Account created in Section 72-2-127 to support bicycle operation and safety awareness programs;

(P) the Cancer Research Restricted Account created in Section 26-21a-302 to support cancer research programs;

(Q) Autism Awareness Restricted Account created in Section 53F-9-401 to support autism awareness programs;

(R) Humanitarian Service and Educational and Cultural Exchange Restricted Account created in Section 9-17-102 to support humanitarian service and educational and cultural programs;

(S) Upon renewal of a prostate cancer support special group license plate, to the Cancer Research Restricted Account created in Section 26-21a-302 to support cancer research programs;

(T) the Choose Life Adoption Support Restricted Account created in Section 62A-4a-608 to support programs that promote adoption;

(U) the National Professional Men's Basketball Team Support of Women and Children Issues Restricted Account created in Section 62A-1-202;

(V) the Utah Law Enforcement Memorial Support Restricted Account created in Section 53-1-120;

(W) the Children with Cancer Support Restricted Account created in Section 26-21a-304 for programs that provide assistance to children with cancer;

(X) the National Professional Men's Soccer Team Support of Building Communities Restricted Account created in Section 9-19-102;

(Y) the Children with Heart Disease Support Restricted Account created in Section 26-58-102;

(Z) the Utah Intracurricular Student Organization Support for Agricultural Education and Leadership Restricted Account created in Section 4-42-102;

(AA) the Division of Wildlife Resources for the Support for State-Owned Shooting Ranges Restricted Account created in Section 23-14-13.5, for the creation of new, and operation and maintenance of existing, state-owned firearm shooting ranges;

(BB) the Utah State Historical Society to further the mission and purpose of the Utah State Historical Society;

(CC) the Motorcycle Safety Awareness Support Restricted Account created in Section 72-2-130; [~~or~~]

(DD) the Transportation of Veterans to Memorials Support Restricted Account created in Section 71-14-102;

(EE) clean air support causes, with half of the donation deposited into the Clean Air Support Restricted Account created in Section 19-1-109, and half of the donation deposited into the Clean Air Fund created in Section 59-10-1319; or

(FF) the Latino Community Support Restricted Account created in Section 13-1-16.

(ii) (A) For a veterans special group license plate described in Subsection 41-1a-421(1)(a)(v) or 41-1a-422(4), "contributor" means a person who has donated or in whose name at least a $25 donation at the time of application and $10 annual donation thereafter has been made.

(B) For a Utah Housing Opportunity special group license plate, "contributor" means a person who:

(I) has donated or in whose name at least $30 has been donated at the time of application and annually after the time of application; and

(II) is a member of a trade organization for real estate licensees that has more than 15,000 Utah members.

(C) For an Honoring Heroes special group license plate, "contributor" means a person who has donated or in whose name at least $35 has been donated at the time of application and annually thereafter.

(D) For a firefighter support special group license plate, "contributor" means a person who:

(I) has donated or in whose name at least $15 has been donated at the time of application and annually after the time of application; and

(II) is a currently employed, volunteer, or retired firefighter.

(E) For a cancer research special group license plate, "contributor" means a person who has donated or in whose name at least $35 has been donated at the time of application and annually after the time of application.

(F) For a Utah Law Enforcement Memorial Support special group license plate, "contributor" means a person who has donated or in whose name at least $35 has been donated at the time of application and annually thereafter.

(b) "Institution" means a state institution of higher education as defined under Section

53B-3-102 or a private institution of higher education in the state accredited by a regional or national accrediting agency recognized by the United States Department of Education.

(2) (a) An applicant for original or renewal collegiate special group license plates under Subsection (1)(a)(i) must be a contributor to the institution named in the application and present the original contribution verification form under Subsection (2)(b) or make a contribution to the division at the time of application under Subsection (3).

(b) An institution with a support special group license plate shall issue to a contributor a verification form designed by the commission containing:

(i) the name of the contributor;

(ii) the institution to which a donation was made;

(iii) the date of the donation; and

(iv) an attestation that the donation was for a scholastic scholarship.

(c) The state auditor may audit each institution to verify that the money collected by the institutions from contributors is used for scholastic scholarships.

(d) After an applicant has been issued collegiate license plates or renewal decals, the commission shall charge the institution whose plate was issued, a fee determined in accordance with Section 63J-1-504 for management and administrative expenses incurred in issuing and renewing the collegiate license plates.

(e) If the contribution is made at the time of application, the contribution shall be collected, treated, and deposited as provided under Subsection (3).

(3) (a) An applicant for original or renewal support special group license plates under this section must be a contributor to the sponsoring organization associated with the license plate.

(b) This contribution shall be:

(i) unless collected by the named institution under Subsection (2), collected by the division;

(ii) considered a voluntary contribution for the funding of the activities specified under this section and not a motor vehicle registration fee;

(iii) deposited into the appropriate account less actual administrative costs associated with issuing the license plates; and

(iv) for a firefighter special group license plate, deposited into the appropriate account less:

(A) the costs of reordering firefighter special group license plate decals; and

(B) the costs of replacing recognition special group license plates with new license plates under Subsection 41-1a-1211(13).

(c) The donation described in Subsection (1)(a) must be made in the 12 months prior to registration or renewal of registration.

(d) The donation described in Subsection (1)(a) shall be a one-time donation made to the division when issuing original:

(i) snowmobile license plates; or

(ii) conservation license plates.

(4) Veterans license plates shall display one of the symbols representing the Army, Navy, Air Force, Marines, Coast Guard, or American Legion.

Section 7. Section 41-6a-1509 is amended to read:

41-6a-1509. Street-legal all-terrain vehicle -- Operation on highways -- Registration and licensing requirements -- Equipment requirements.

(1) (a) Except as provided in Subsection (1)(b), an individual may operate an all-terrain type I vehicle, all-terrain type II vehicle, or all-terrain type III vehicle, that meets the requirements of this section as a street-legal ATV on a street or highway.

(b) An individual may not operate an all-terrain type I vehicle, all-terrain type II vehicle, or all-terrain type III vehicle as a street-legal ATV on a highway if:

(i) the highway is an interstate system as defined in Section 72-1-102; or

(ii) the highway is in a county of the first class and both of the following criterion is met:

(A) the highway is near a grade separated portion of the highway; and

(B) the highway has a posted speed limit higher than 50 miles per hour.

(c) Nothing in this section authorizes the operation of a street-legal ATV in an area that is not open to motor vehicle use.

(2) A street-legal ATV shall comply with Section 59-2-405.2, Subsection 41-1a-205(1), Subsection 53-8-205(1)(b), and the same requirements as:

(a) a motorcycle for:

(i) traffic rules under Title 41, Chapter 6a, Traffic Code;

(ii) titling, odometer statement, vehicle identification, license plates, and registration, excluding registration fees, under Title 41, Chapter 1a, Motor Vehicle Act; and

(iii) the county motor vehicle emissions inspection and maintenance programs under Section 41-6a-1642;

(b) a motor vehicle for:

(i) driver licensing under Title 53, Chapter 3, Uniform Driver License Act; and

(ii) motor vehicle insurance under Title 41, Chapter 12a, Financial Responsibility of Motor Vehicle Owners and Operators Act; and

(c) an all-terrain type I or type II vehicle for off-highway vehicle provisions under Title 41, Chapter 22, Off-Highway Vehicles, and Title 41, Chapter 3, Motor Vehicle Business Regulation Act, unless otherwise specified in this section.

(3) (a) The owner of an all-terrain type I vehicle being operated as a street-legal ATV shall ensure that the vehicle is equipped with:

(i) one or more headlamps that meet the requirements of Section 41-6a-1603;

(ii) one or more tail lamps;

(iii) a tail lamp or other lamp constructed and placed to illuminate the registration plate with a white light;

(iv) one or more red reflectors on the rear;

(v) one or more stop lamps on the rear;

(vi) amber or red electric turn signals, one on each side of the front and rear;

(vii) a braking system, other than a parking brake, that meets the requirements of Section 41-6a-1623;

(viii) a horn or other warning device that meets the requirements of Section 41-6a-1625;

(ix) a muffler and emission control system that meets the requirements of Section 41-6a-1626;

(x) rearview mirrors on the right and left side of the driver in accordance with Section 41-6a-1627;

(xi) a windshield, unless the operator wears eye protection while operating the vehicle;

(xii) a speedometer, illuminated for nighttime operation;

(xiii) for vehicles designed by the manufacturer for carrying one or more passengers, a seat designed for passengers; and

(xiv) tires that:

(A) are not larger than the tires that the all-terrain vehicle manufacturer made available for the all-terrain vehicle model; and

(B) have at least 2/32 inches or greater tire tread.

(b) The owner of an all-terrain type II vehicle or all-terrain type III vehicle being operated as a street-legal all-terrain vehicle shall ensure that the vehicle is equipped with:

(i) two headlamps that meet the requirements of Section 41-6a-1603;

(ii) two tail lamps;

(iii) a tail lamp or other lamp constructed and placed to illuminate the registration plate with a white light;

(iv) one or more red reflectors on the rear;

(v) two stop lamps on the rear;

(vi) amber or red electric turn signals, one on each side of the front and rear;

(vii) a braking system, other than a parking brake, that meets the requirements of Section 41-6a-1623;

(viii) a horn or other warning device that meets the requirements of Section 41-6a-1625;

(ix) a muffler and emission control system that meets the requirements of Section 41-6a-1626;

(x) rearview mirrors on the right and left side of the driver in accordance with Section 41-6a-1627;

(xi) a windshield, unless the operator wears eye protection while operating the vehicle;

(xii) a speedometer, illuminated for nighttime operation;

(xiii) for vehicles designed by the manufacturer for carrying one or more passengers, a seat designed for passengers;

(xiv) for vehicles with side-by-side or tandem seating, seatbelts for each vehicle occupant;

(xv) a seat with a height between 20 and 40 inches when measured at the forward edge of the seat bottom; and

(xvi) tires that:

(A) do not exceed 44 inches in height; and

(B) have at least 2/32 inches or greater tire tread.

(c) The owner of a street-legal all-terrain vehicle is not required to equip the vehicle with wheel covers, mudguards, flaps, or splash aprons.

(4) (a) Subject to the requirements of Subsection (4)(b), an operator of a street-legal all-terrain vehicle, when operating a street-legal all-terrain vehicle on a highway, may not exceed the lesser of:

(i) the posted speed limit; or

(ii) 50 miles per hour.

(b) An operator of a street-legal all-terrain vehicle, when operating a street-legal all-terrain vehicle on a highway with a posted speed limit higher than 50 miles per hour, shall:

(i) operate the street-legal all-terrain vehicle on the extreme right hand side of the roadway; and

(ii) equip the street-legal all-terrain vehicle with a reflector or reflective tape to the front and back of both sides of the vehicle.

(5) (a) A nonresident operator of an off-highway vehicle that is authorized to be operated on the highways of another state has the same rights and privileges as a street-legal ATV that is granted operating privileges on the highways of this state, subject to the restrictions under this section and rules made by the [~~Board of Parks and~~] Division of Recreation, after consulting the Outdoor Adventure Commission, if the other state offers reciprocal operating privileges to Utah residents.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the [~~Board of Parks and~~] Division of Recreation, after consultation with the Outdoor Adventure

Commission, shall establish eligibility requirements for reciprocal operating privileges for nonresident users granted under Subsection (5)(a).

(6) Nothing in this chapter restricts the owner of an off-highway vehicle from operating the off-highway vehicle in accordance with Section 41-22-10.5.

(7) A violation of this section is an infraction.

Section 8. Section 41-22-2 is amended to read:

41-22-2. Definitions.

As used in this chapter:

(1) "Advisory council" means the Off-highway Vehicle Advisory Council appointed by the [~~Board of Parks and~~] Division of Recreation.

(2) "All-terrain type I vehicle" means any motor vehicle 52 inches or less in width, having an unladen dry weight of 1,500 pounds or less, traveling on three or more low pressure tires, having a seat designed to be straddled by the operator, and designed for or capable of travel over unimproved terrain.

(3) (a) "All-terrain type II vehicle" means any motor vehicle 80 inches or less in width, traveling on four or more low pressure tires, having a steering wheel, non-straddle seating, a rollover protection system, and designed for or capable of travel over unimproved terrain, and is:

(i) an electric-powered vehicle; or

(ii) a vehicle powered by an internal combustion engine and has an unladen dry weight of 2,500 pounds or less.

(b) "All-terrain type II vehicle" does not include golf carts, any vehicle designed to carry a person with a disability, any vehicle not specifically designed for recreational use, or farm tractors as defined under Section 41-1a-102.

(4) (a) "All-terrain type III vehicle" means any other motor vehicle, not defined in Subsection (2), (3), (12), or (22), designed for or capable of travel over unimproved terrain.

(b) "All-terrain type III vehicle" does not include golf carts, any vehicle designed to carry a person with a disability, any vehicle not specifically designed for recreational use, or farm tractors as defined under Section 41-1a-102.

[~~(5) "Board" means the Board of Parks and Recreation.~~]

(5) "Commission" means the Outdoor Adventure Commission.

(6) "Cross-country" means across natural terrain and off an existing highway, road, route, or trail.

(7) "Dealer" means a person engaged in the business of selling off-highway vehicles at wholesale or retail.

(8) "Division" means the Division of [~~Parks and~~] Recreation.

(9) "Low pressure tire" means any pneumatic tire six inches or more in width designed for use on wheels with rim diameter of 14 inches or less and utilizing an operating pressure of 10 pounds per square inch or less as recommended by the vehicle manufacturer.

(10) "Manufacturer" means a person engaged in the business of manufacturing off-highway vehicles.

(11) (a) "Motor vehicle" means every vehicle which is self-propelled.

(b) "Motor vehicle" includes an off-highway vehicle.

(12) "Motorcycle" means every motor vehicle having a saddle for the use of the operator and designed to travel on not more than two tires.

(13) "Off-highway implement of husbandry" means every all-terrain type I vehicle, all-terrain type II vehicle, all-terrain type III vehicle, motorcycle, or snowmobile that is used by the owner or the owner's agent for agricultural operations.

(14) "Off-highway vehicle" means any snowmobile, all-terrain type I vehicle, all-terrain type II vehicle, all-terrain type III vehicle, or motorcycle.

(15) "Operate" means to control the movement of or otherwise use an off-highway vehicle.

(16) "Operator" means the person who is in actual physical control of an off-highway vehicle.

(17) "Organized user group" means an off-highway vehicle organization incorporated as a nonprofit corporation in the state under Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act, for the purpose of promoting the interests of off-highway vehicle recreation.

(18) "Owner" means a person, other than a person with a security interest, having a property interest or title to an off-highway vehicle and entitled to the use and possession of that vehicle.

(19) "Public land" means land owned or administered by any federal or state agency or any political subdivision of the state.

(20) "Register" means the act of assigning a registration number to an off-highway vehicle.

(21) "Roadway" is used as defined in Section 41-6a-102.

(22) "Snowmobile" means any motor vehicle designed for travel on snow or ice and steered and supported in whole or in part by skis, belts, cleats, runners, or low pressure tires.

(23) "Street or highway" means the entire width between boundary lines of every way or place of whatever nature, when any part of it is open to the use of the public for vehicular travel.

(24) "Street-legal all-terrain vehicle" or "street-legal ATV" has the same meaning as defined in Section 41-6a-102.

Section 9. Section 41-22-3 is amended to read:

41-22-3. Registration of vehicles -- Application -- Issuance of sticker and card

-- Proof of property tax payment -- Records.

(1) (a) Unless exempted under Section 41-22-9, a person may not operate or transport and an owner may not give another person permission to operate or transport any off-highway vehicle on any public land, trail, street, or highway in this state unless the off-highway vehicle is registered under this chapter for the current year.

(b) Unless exempted under Section 41-22-9, a dealer may not sell an off-highway vehicle which can be used or transported on any public land, trail, street, or highway in this state, unless the off-highway vehicle is registered or is in the process of being registered under this chapter for the current year.

(2) The owner of an off-highway vehicle subject to registration under this chapter shall apply to the Motor Vehicle Division for registration on forms approved by the Motor Vehicle Division.

(3) Each application for registration of an off-highway vehicle shall be accompanied by:

(a) evidence of ownership, a title, or a manufacturer's certificate of origin, and a bill of sale showing ownership, make, model, horsepower or displacement, and serial number;

(b) the past registration card; or

(c) the fee for a duplicate.

(4) (a) Upon each annual registration, the Motor Vehicle Division shall issue a registration sticker and a registration card for each off-highway vehicle registered.

(b) The registration sticker shall:

(i) contain a unique number using numbers, letters, or combination of numbers and letters to identify the off-highway vehicle for which it is issued;

(ii) be affixed to the off-highway vehicle for which it is issued in a plainly visible position as prescribed by rule of the [~~board~~] division under Section 41-22-5.1; and

(iii) be maintained free of foreign materials and in a condition to be clearly legible.

(c) At all times, a registration card shall be kept with the off-highway vehicle and shall be available for inspection by a law enforcement officer.

(5) (a) Except as provided by Subsection (5)(c), an applicant for a registration card and registration sticker shall provide the Motor Vehicle Division a certificate, described under Subsection (5)(b), from the county assessor of the county in which the off-highway vehicle has situs for taxation.

(b) The certificate required under Subsection (5)(a) shall state one of the following:

(i) the property tax on the off-highway vehicle for the current year has been paid;

(ii) in the county assessor's opinion, the tax is a lien on real property sufficient to secure the payment of the tax; or

(iii) the off-highway vehicle is exempt by law from payment of property tax for the current year.

(c) An off-highway vehicle for which an off-highway implement of husbandry sticker has been issued in accordance with Section 41-22-5.5 is exempt from the requirement under this Subsection (5).

(6) (a) All records of the division made or kept under this section shall be classified by the Motor Vehicle Division in the same manner as motor vehicle records are classified under Section 41-1a-116.

(b) Division records are available for inspection in the same manner as motor vehicle records under Section 41-1a-116.

(7) A violation of this section is an infraction.

Section 10. Section 41-22-5.1 is amended to read:

41-22-5.1. Rules of division relating to display of registration stickers.

In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the [~~board~~] division, after consultation with the commission, shall make rules for the display of a registration sticker on an off-highway vehicle in accordance with Section 41-22-3.

Section 11. Section 41-22-5.5 is amended to read:

41-22-5.5. Off-highway husbandry vehicles.

(1) (a) (i) The owner of an all-terrain type I vehicle, motorcycle, all-terrain type II vehicle, all-terrain type III vehicle, or snowmobile used for agricultural purposes may apply to the Motor Vehicle Division for an off-highway implement of husbandry sticker.

(ii) Each application under Subsection (1)(a)(i) shall be accompanied by:

(A) evidence of ownership;

(B) a title or a manufacturer's certificate of origin; and

(C) a signed statement certifying that the off-highway vehicle is used for agricultural purposes.

(iii) The owner shall receive an off-highway implement of husbandry sticker upon production of:

(A) the documents required under this Subsection (1); and

(B) payment of an off-highway implement of husbandry sticker fee established by the [~~board~~] division, after consultation with the commission, not to exceed $10.

(b) If the vehicle is also used for recreational purposes on public lands, trails, streets, or highways, it shall also be registered under Section 41-22-3.

(c) The off-highway implement of husbandry sticker shall be displayed in a manner prescribed by the [~~board~~] division and shall identify the all-terrain type I vehicle, motorcycle, all-terrain type II vehicle, all-terrain type III vehicle, or snowmobile as an off-highway implement of husbandry.

(2) The off-highway implement of husbandry sticker is valid only for the life of the ownership of the all-terrain type I vehicle, motorcycle, all-terrain type II vehicle, all-terrain type III vehicle, or snowmobile and is not transferable.

(3) The off-highway implement of husbandry sticker is valid for an all-terrain type I vehicle, motorcycle, all-terrain type II vehicle, all-terrain type III vehicle, or snowmobile that is being operated adjacent to a roadway:

(a) when the all-terrain type I vehicle, motorcycle, all-terrain type II vehicle, all-terrain type III vehicle, or snowmobile is only being used to travel from one parcel of land owned, operated, permitted, or leased for agricultural purposes by the owner of the vehicle to another parcel of land owned, operated, permitted, or leased for agricultural purposes by the owner; and

(b) when this operation is necessary for the furtherance of agricultural purposes.

(4) If the operation of an off-highway implement of husbandry adjacent to a roadway is impractical, it may be operated on the roadway if the operator exercises due care towards conventional motor vehicle traffic.

(5) It is unlawful to operate an off-highway implement of husbandry along, across, or within the boundaries of an interstate freeway.

(6) A violation of this section is an infraction.

Section 12. Section 41-22-8 is amended to read:

41-22-8. Registration fees.

(1) The [~~board~~] division, after consultation with the commission, shall establish the fees which shall be paid in accordance with this chapter, subject to the following:

(a) (i) Except as provided in Subsection (1)(a)(ii) or (iii), the fee for each off-highway vehicle registration may not exceed $35.

(ii) The fee for each snowmobile registration may not exceed $26.

(iii) The fee for each street-legal all-terrain vehicle may not exceed $72.

(b) The fee for each duplicate registration card may not exceed $3.

(c) The fee for each duplicate registration sticker may not exceed $5.

(2) A fee may not be charged for an off-highway vehicle that is owned and operated by the United States Government, this state, or its political subdivisions.

(3) (a) In addition to the fees under this section, Section 41-22-33, and Section 41-22-34, the Motor Vehicle Division shall require a person to pay one dollar to register an off-highway vehicle under Section 41-22-3.

(b) The Motor Vehicle Division shall deposit the fees the Motor Vehicle Division collects under Subsection (3)(a) into the Spinal Cord and Brain Injury Rehabilitation Fund described in Section 26-54-102.

Section 13. Section 41-22-10 is amended to read:

41-22-10. Powers of division relating to off-highway vehicles.

(1) The [~~board~~] division may:

(a) appoint and seek recommendations from the Off-highway Vehicle Advisory Council representing the various off-highway vehicle, conservation, and other appropriate interests; and

(b) adopt a uniform marker and sign system for use by agents of appropriate federal, state, county, and city agencies in areas of off-highway vehicle use.

(2) The [~~board~~] division shall receive and distribute voluntary contributions collected under Section 41-1a-230.6 in accordance with Section 41-22-19.5.

Section 14. Section 41-22-10.7 is amended to read:

41-22-10.7. Vehicle equipment requirements -- Rulemaking -- Exceptions.

(1) Except as provided under Subsection (3), an off-highway vehicle shall be equipped with:

(a) brakes adequate to control the movement of and to stop and hold the vehicle under normal operating conditions;

(b) headlights and taillights when operated between sunset and sunrise;

(c) a noise control device and except for a snowmobile, a spark arrestor device; and

(d) when operated on sand dunes designated by the [~~board~~] division, a safety flag that is:

(i) red or orange in color;

(ii) a minimum of six by 12 inches; and

(iii) attached to:

(A) the off-highway vehicle so that the safety flag is at least eight feet above the surface of level ground; or

(B) the protective headgear of a person operating a motorcycle so that the safety flag is at least 18 inches above the top of the person's head.

(2) A violation of Subsection (1) is an infraction.

(3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the [~~board~~] division may make rules, after consultation with

the commission, which set standards for the equipment and which designate sand dunes where safety flags are required under Subsection (1).

(4) An off-highway implement of husbandry used only in agricultural operations and not operated on a highway, is exempt from the provisions of this section.

Section 15. Section 41-22-19.5 is amended to read:

41-22-19.5. Off-highway Access and Education Restricted Account -- Creation -- Funding -- Distribution of funds.

(1) There is created in the General Fund a restricted account known as the Off-highway Access and Education Restricted Account.

(2) The account shall be funded by:

(a) contributions deposited into the Off-highway Access and Education Restricted Account in accordance with Section 41-1a-230.6;

(b) private contributions; and

(c) donations or grants from public or private entities.

(3) The Legislature shall appropriate money in the account to the [~~board~~] division.

(4) (a) The state treasurer shall invest money in the account according to Title 51, Chapter 7, State Money Management Act.

(b) The Division of Finance shall deposit interest or other earnings derived from investment of account money into the General Fund.

(5) The [~~board~~] division may expend up to 10% of the money appropriated under Subsection (3) to:

(a) administer account distributions in accordance with Subsections (6) through (9); and

(b) administer off-highway vehicle provisions under this chapter.

(6) The [~~board~~] division shall distribute the funds to a charitable organization that:

(a) qualifies as being tax exempt under Section 501(c)(3) of the Internal Revenue Code;

(b) has at least one full-time employee; and

(c) has as a primary part of [~~its~~] the charitable organization's mission to:

(i) protect access to public lands by motor vehicle and off-highway vehicle operators; and

(ii) educate the public about appropriate off-highway vehicle use.

(7) The [~~board~~] division may only consider proposals that are:

(a) proposed by a charitable organization under Subsection (6); and

(b) designed to:

(i) protect access to public lands by motor vehicle and off-highway vehicle operators; and

(ii) educate the public about appropriate off-highway vehicle use.

(8) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the [~~board~~] division, after consulting with the commission, shall make rules providing procedures for an organization to apply to receive funds under this section.

(9) The [~~board~~] division may not:

(a) require matching funds from a charitable organization as a condition of receiving funds; or

(b) prohibit the use of funds to cover litigation expenses incurred in protecting access to public lands by motor vehicle and off-highway vehicle operators.

Section 16. Section 41-22-30 is amended to read:

41-22-30. Supervision, safety certificate, or driver license required -- Penalty.

(1) As used in this section, "direct supervision" means oversight at a distance:

(a) of no more than 300 feet; and

(b) within which:

(i) visual contact is maintained; and

(ii) advice and assistance can be given and received.

(2) A person may not operate and an owner may not give that person permission to operate an off-highway vehicle on any public land, trail, street, or highway of this state unless the person:

(a) is under the direct supervision of an off-highway vehicle safety instructor during a scheduled safety training course approved by the [~~board~~] division pursuant to Section 41-22-32;

(b) (i) has in the person's possession the appropriate safety certificate issued or approved by the division; and

(ii) if under 18 years of age, is under the direct supervision of a person who is at least 18 years of age if operating on a public highway that is:

(A) open to motor vehicles; and

(B) not exclusively reserved for off-highway vehicle use; or

(c) has in the person's immediate possession a valid motor vehicle operator's license, as provided in Title 53, Chapter 3, Uniform Driver License Act.

(3) (a) A person convicted of a violation of this section is guilty of an infraction and shall be fined not more than $100 per offense.

(b) It is a defense to a charge under this section, if the person charged:

(i) produces in court a license or an appropriate safety certificate that was:

(A) valid at the time of the citation or arrest; and

(B) issued to the person operating the off-highway vehicle; and

(ii) can show that the direct supervision requirement under Subsection (2)(b) was not violated at the time of citation or arrest.

(4) The requirements of this section do not apply to an operator of an off-highway implement of husbandry.

Section 17. Section 41-22-31 is amended to read:

41-22-31. Division to set standards for safety program -- Safety certificates issued -- Cooperation with public and private entities -- State immunity from suit.

(1) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the [~~board~~] division shall make rules, after consultation with the commission, that establish curriculum standards for a comprehensive off-highway vehicle safety education and training program and shall implement this program.

(b) The program shall be designed to develop and instill the knowledge, attitudes, habits, and skills necessary for the safe operation of an off-highway vehicle.

(c) Components of the program shall include the preparation and dissemination of off-highway vehicle information and safety advice to the public and the training of off-highway vehicle operators.

(d) Off-highway vehicle safety certificates shall be issued to those who successfully complete training or pass the knowledge and skills test established under the program.

(2) The division shall cooperate with appropriate private organizations and associations, private and public corporations, and local government units to implement the program established under this section.

(3) In addition to the governmental immunity granted in Title 63G, Chapter 7, Governmental Immunity Act of Utah, the state is immune from suit for any act, or failure to act, in any capacity relating to the off-highway vehicle safety education and training program. The state is also not responsible for any insufficiency or inadequacy in the quality of training provided by this program.

Section 18. Section 41-22-33 is amended to read:

41-22-33. Fees for safety and education program -- Penalty -- Unlawful acts.

(1) A fee set by the [~~board~~] division, after consultation with the commission, in accordance with Section 63J-1-504 shall be added to the registration fee required to register an off-highway vehicle under Section 41-22-8 to help fund the off-highway vehicle safety and education program.

(2) If the [~~board~~] division modifies the fee under Subsection (1), the modification shall take effect on the first day of the calendar quarter after 90 days from the day on which the [~~board~~] division provides the State Tax Commission:

(a) notice from the [~~board~~] division stating that the [~~board~~] division will modify the fee; and

(b) a copy of the fee modification.

Section 19. Section 41-22-35 is amended to read:

41-22-35. Off-highway vehicle user fee -- Decal -- Agents -- Penalty for fraudulent issuance of decal -- Deposit and use of fee revenue.

(1) (a) Except as provided in Subsection (1)(b), any person owning or operating a nonresident off-highway vehicle who operates or gives another person permission to operate the nonresident off-highway vehicle on any public land, trail, street, or highway in this state shall:

(i) apply for an off-highway vehicle decal issued exclusively for an off-highway vehicle owned by a nonresident of the state;

(ii) pay an annual off-highway vehicle user fee; and

(iii) provide evidence that the owner is a nonresident.

(b) The provisions of Subsection (1)(a) do not apply to an off-highway vehicle if the off-highway vehicle is:

(i) used exclusively as an off-highway implement of husbandry;

(ii) used exclusively for the purposes of a scheduled competitive event sponsored by a public or private entity or another event sponsored by a governmental entity under rules made by the [~~board~~] division, after consultation with the commission;

(iii) owned and operated by a state government agency and the operation of the off-highway vehicle within the boundaries of the state is within the course and scope of the duties of the agency; or

(iv) used exclusively for the purpose of an off-highway vehicle manufacturer sponsored event within the state under rules made by the [~~board~~] division.

(2) The off-highway vehicle user fee is $30.

(3) Upon compliance with the provisions of Subsection (1)(a), the nonresident shall:

(a) receive a nonresident off-highway vehicle user decal indicating compliance with the provisions of Subsection (1)(a); and

(b) display the decal on the off-highway vehicle in accordance with rules made by the [~~board~~] division.

(4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the [~~board~~] division, after consultation with the commission, shall make rules establishing:

(a) procedures for:

(i) the payment of off-highway vehicle user fees; and

(ii) the display of a decal on an off-highway vehicle as required under Subsection (3)(b);

(b) acceptable evidence indicating compliance with Subsection (1);

(c) eligibility for scheduled competitive events or other events under Subsection (1)(b)[~~(i)~~](ii); and

(d) eligibility for an off-highway vehicle manufacturer sponsored event under Subsection (1)(b)[~~(iii)~~](iv).

(5) (a) An off-highway vehicle user decal may be issued and the off-highway vehicle user fee may be collected by the division or agents of the division.

(b) An agent shall retain 10% of all off-highway vehicle user fees collected.

(c) The division may require agents to obtain a bond in a reasonable amount.

(d) On or before the tenth day of each month, each agent shall:

(i) report all sales to the division; and

(ii) submit all off-highway vehicle user fees collected less the remuneration provided in Subsection (5)(b).

(e) (i) If an agent fails to pay the amount due, the division may assess a penalty of 20% of the amount due.

(ii) Delinquent payments shall bear interest at the rate of 1% per month.

(iii) If the amount due is not paid because of bad faith or fraud, the division shall assess a penalty of 100% of the total amount due together with interest.

(f) All fees collected by an agent, except the remuneration provided in Subsection (5)(b), shall:

(i) be kept separate and apart from the private funds of the agent; and

(ii) belong to the state.

(g) An agent may not issue an off-highway vehicle user decal to any person unless the person furnishes evidence of compliance with the provisions of Subsection (1)(a).

(h) A violation of any provision of this Subsection (5) is a class B misdemeanor and may be cause for revocation of the agent authorization.

(6) Revenue generated by off-highway vehicle user fees shall be deposited in the Off-highway Vehicle Account created in Section 41-22-19.

Section 20. Section 54-4-41 is amended to read:

54-4-41. Recovery of investment in utility-owned vehicle charging infrastructure.

(1) As used in this section, "charging infrastructure program" means the program described in Subsection (2).

(2) The commission shall authorize a large-scale electric utility program that:

(a) allows for funding from large-scale electric utility customers for a maximum of $50,000,000 for all costs and expenses associated with:

(i) the deployment of utility-owned vehicle charging infrastructure; and

(ii) utility vehicle charging service provided by the large-scale electric utility;

(b) creates a new customer class, with a utility vehicle charging service rate structure that:

(i) is determined by the commission to be in the public interest;

(ii) is a transitional rate structure expected to allow the large-scale electric utility to recover, through charges to utility vehicle charging service customers, the large-scale electric utility's full cost of service for utility-owned vehicle charging infrastructure and utility vehicle charging service over a reasonable time frame determined by the commission; and

(iii) may allow different rates for large-scale electric utility customers to reflect contributions to investment; and

(c) includes a transportation plan that promotes:

(i) the deployment of utility-owned vehicle charging infrastructure in the public interest; and

(ii) the availability of utility vehicle charging service.

(3) Before submitting a proposed charging infrastructure program to the commission for commission approval under Subsection (2), a large-scale electric utility shall seek and consider input from:

(a) the Division of Public Utilities, established in Section 54-4a-1;

(b) the Office of Consumer Services, created in Section 54-10a-201;

(c) the Division of Air Quality, created in Section 19-1-105;

(d) the Department of Transportation, created in Section 72-1-201;

(e) the Governor's Office of Economic Development, created in Section 63N-1-201;

(f) the Office of Energy Development, created in Section [~~63M-4-401~~] 79-6-401;

(g) the board of the Utah Inland Port Authority, created in Section 11-58-201;

(h) representatives of the Point of the Mountain State Land Development Authority, created in Section 11-59-201;

(i) third-party electric vehicle battery charging service operators; and

(j) any other person who files a request for notice with the commission.

(4) The commission shall find a charging infrastructure program to be in the public interest if the commission finds that the charging infrastructure program:

(a) increases the availability of electric vehicle battery charging service in the state;

(b) enables the significant deployment of infrastructure that supports electric vehicle battery charging service and utility-owned vehicle charging infrastructure in a manner reasonably expected to increase electric vehicle adoption;

(c) includes an evaluation of investments in the areas of the authority jurisdictional land, as defined in Section 11-58-102, and the point of the mountain state land, as defined in Section 11-59-102;

(d) enables competition, innovation, and customer choice in electric vehicle battery charging services, while promoting low-cost services for electric vehicle battery charging customers; and

(e) provides for ongoing coordination with the Department of Transportation, created in Section 72-1-201.

(5) The commission may, consistent with Subsection (2), approve an amendment to the charging infrastructure program if the large-scale electric utility demonstrates that the amendment:

(a) is prudent;

(b) will provide net benefits to customers; and

(c) is otherwise consistent with the requirements of Subsection (2).

(6) The commission shall authorize recovery of a large-scale electric utility's investment in utility-owned vehicle charging infrastructure through a balancing account or other ratemaking treatment that reflects:

(a) charging infrastructure program costs associated with prudent investment, including the large-scale electric utility's pre-tax average weighted cost of capital approved by the commission in the large-scale electric utility's most recent general rate proceeding, and associated revenue and prudently incurred expenses; and

(b) a carrying charge.

(7) A large-scale electric utility's investment in utility-owned vehicle charging infrastructure is prudently made if the large-scale electric utility demonstrates in a formal adjudicative proceeding before the commission that the investment can reasonably be anticipated to:

(a) result in one or more projects that are in the public interest of the large-scale electric utility's customers to reduce transportation sector emissions over a reasonable time period as determined by the commission;

(b) provide the large-scale electric utility's customers significant benefits that may include revenue from utility vehicle charging service that offsets the large-scale electric utility's costs and expenses; and

(c) facilitate any other measure that the commission determines:

(i) promotes deployment of utility-owned vehicle charging infrastructure and utility vehicle charging service; or

(ii) creates significant benefits in the long term for customers of the large-scale electric utility.

(8) A large-scale electric utility that establishes and implements a charging infrastructure program shall annually, on or before June 1, submit a written report to the Public Utilities, Energy, and Technology Interim Committee of the Legislature about the charging infrastructure program's activities during the previous calendar year, including information on:

(a) the charging infrastructure program's status, operation, funding, and benefits;

(b) the disposition of charging infrastructure program funds; and

(c) the charging infrastructure program's impact on rates.

Section 21. Section 57-14-204 is amended to read:

57-14-204. Liability not limited where willful or malicious conduct involved or admission fee charged.

(1) Nothing in this part limits any liability that otherwise exists for:

(a) willful or malicious failure to guard or warn against a dangerous condition, use, structure, or activity;

(b) deliberate, willful, or malicious injury to persons or property; or

(c) an injury suffered where the owner of land charges a person to enter or go on the land or use the land for any recreational purpose.

(2) For purposes of Subsection (1)(c), if the land is leased to the state or a subdivision of the state, any consideration received by the owner for the lease is not a charge within the meaning of this section.

(3) Any person who hunts upon a cooperative wildlife management unit, as authorized by Title 23, Chapter 23, Cooperative Wildlife Management Units, is not considered to have paid a fee within the meaning of this section.

(4) Owners of a dam or reservoir who allow recreational use of the dam or reservoir and its surrounding area and do not themselves charge a

fee for that use, are considered not to have charged for that use within the meaning of Subsection (1)(c), even if the user pays a fee to the Division of State Parks [~~and~~] or the Division of Recreation for the use of the services and facilities at that dam or reservoir.

(5) The state or a subdivision of the state that owns property purchased for a railway corridor is considered not to have charged for use of the railway corridor within the meaning of Subsection (1)(c), even if the user pays a fee for travel on a privately owned rail car that crosses or travels over the railway corridor of the state or a subdivision of the state:

(a) allows recreational use of the railway corridor and its surrounding area; and

(b) does not charge a fee for that use.

Section 22. Section 59-5-102 is amended to read:

59-5-102. Definitions -- Severance tax -- Computation -- Rate -- Annual exemption -- Tax credits -- Tax rate reduction.

(1) As used in this section:

(a) "Division" means the Division of Oil, Gas, and Mining created in Section 40-6-15.

(b) "Office" means the Office of Energy Development created in Section [~~63M-4-401~~] 79-6-401.

(c) "Royalty rate" means the percentage of the interests described in Subsection (2)(b)(i) as defined by a contract between the United States, the state, an Indian, or an Indian tribe and the oil or gas producer.

(d) "Taxable value" means the total value of the oil or gas minus:

(i) any royalties paid to, or the value of oil or gas taken in kind by, the interest holders described in Subsection (2)(b)(i); and

(ii) the total value of oil or gas exempt from severance tax under Subsection (2)(b)(ii).

(e) "Taxable volume" means:

(i) for oil, the total volume of barrels minus:

(A) for an interest described in Subsection (2)(b)(i), the product of the royalty rate and the total volume of barrels; and

(B) the number of barrels that are exempt under Subsection (2)(b)(ii); and

(ii) for natural gas, the total volume of MCFs minus:

(A) for an interest described in Subsection (2)(b)(i), the product of the royalty rate and the total volume of MCFs; and

(B) the number of MCFs that are exempt under Subsection (2)(b)(ii).

(f) "Total value" means the value, as determined by Section 59-5-103.1, of all oil or gas that is:

(i) produced; and

(ii) (A) saved;

(B) sold; or

(C) transported from the field where the oil or gas was produced.

(g) "Total volume" means:

(i) for oil, the number of barrels:

(A) produced; and

(B) (I) saved;

(II) sold; or

(III) transported from the field where the oil was produced; and

(ii) for natural gas, the number of MCFs:

(A) produced; and

(B) (I) saved;

(II) sold; or

(III) transported from the field where the natural gas was produced.

(h) "Value of oil or gas taken in kind" means the volume of oil or gas taken in kind multiplied by the market price for oil or gas at the location where the oil or gas was produced on the date the oil or gas was taken in kind.

(2) (a) Except as provided in Subsection (2)(b), a person owning an interest in oil or gas produced from a well in the state, including a working interest, royalty interest, payment out of production, or any other interest, or in the proceeds of the production of oil or gas, shall pay to the state a severance tax on the owner's interest in the taxable value of the oil or gas:

(i) produced; and

(ii) (A) saved;

(B) sold; or

(C) transported from the field where the substance was produced.

(b) The severance tax imposed by Subsection (2)(a) does not apply to:

(i) an interest of:

(A) the United States in oil or gas or in the proceeds of the production of oil or gas;

(B) the state or a political subdivision of the state in oil or gas or in the proceeds of the production of oil or gas; and

(C) an Indian or Indian tribe as defined in Section 9-9-101 in oil or gas or in the proceeds of the production of oil or gas produced from land under the jurisdiction of the United States; and

(ii) the value of:

(A) oil or gas produced from stripper wells, unless the exemption prevents the severance tax from being treated as a deduction for federal tax purposes;

(B) oil or gas produced in the first 12 months of production for wildcat wells started after January 1, 1990; and

(C) oil or gas produced in the first six months of production for development wells started after January 1, 1990.

(3) (a) The severance tax on oil shall be calculated as follows:

(i) dividing the taxable value by the taxable volume;

(ii) (A) multiplying the rate described in Subsection (4)(a)(i) by the portion of the figure calculated in Subsection (3)(a)(i) that is subject to the rate described in Subsection (4)(a)(i); and

(B) multiplying the rate described in Subsection (4)(a)(ii) by the portion of the figure calculated in Subsection (3)(a)(i) that is subject to the rate described in Subsection (4)(a)(ii);

(iii) adding together the figures calculated in Subsections (3)(a)(ii)(A) and (B); and

(iv) multiplying the figure calculated in Subsection (3)(a)(iii) by the taxable volume.

(b) The severance tax on natural gas shall be calculated as follows:

(i) dividing the taxable value by the taxable volume;

(ii) (A) multiplying the rate described in Subsection (4)(b)(i) by the portion of the figure calculated in Subsection (3)(b)(i) that is subject to the rate described in Subsection (4)(b)(i); and

(B) multiplying the rate described in Subsection (4)(b)(ii) by the portion of the figure calculated in Subsection (3)(b)(i) that is subject to the rate described in Subsection (4)(b)(ii);

(iii) adding together the figures calculated in Subsections (3)(b)(ii)(A) and (B); and

(iv) multiplying the figure calculated in Subsection (3)(b)(iii) by the taxable volume.

(c) The severance tax on natural gas liquids shall be calculated by multiplying the taxable value of the natural gas liquids by the severance tax rate in Subsection (4)(c).

(4) Subject to Subsection (9):

(a) the severance tax rate for oil is as follows:

(i) 3% of the taxable value of the oil up to and including the first $13 per barrel for oil; and

(ii) 5% of the taxable value of the oil from $13.01 and above per barrel for oil;

(b) the severance tax rate for natural gas is as follows:

(i) 3% of the taxable value of the natural gas up to and including the first $1.50 per MCF for gas; and

(ii) 5% of the taxable value of the natural gas from $1.51 and above per MCF for gas; and

(c) the severance tax rate for natural gas liquids is 4% of the taxable value of the natural gas liquids.

(5) If oil or gas is shipped outside the state:

(a) the shipment constitutes a sale; and

(b) the oil or gas is subject to the tax imposed by this section.

(6) (a) Except as provided in Subsection (6)(b), if the oil or gas is stockpiled, the tax is not imposed until the oil or gas is:

(i) sold;

(ii) transported; or

(iii) delivered.

(b) If oil or gas is stockpiled for more than two years, the oil or gas is subject to the tax imposed by this section.

(7) (a) Subject to other provisions of this Subsection (7), a taxpayer that pays for all or part of the expenses of a recompletion or workover may claim a nonrefundable tax credit equal to the amount stated on a tax credit certificate that the office issues to the taxpayer.

(b) The maximum tax credit per taxpayer per well in a calendar year is the lesser of:

(i) 20% of the taxpayer's payment of expenses of a well recompletion or workover during the calendar year; and

(ii) $30,000.

(c) A taxpayer may carry forward a tax credit allowed under this Subsection (7) for the next three calendar years if the tax credit exceeds the taxpayer's tax liability under this part for the calendar year in which the taxpayer claims the tax credit.

(d) (i) To claim a tax credit under this Subsection (7), a taxpayer shall follow the procedures and requirements of this Subsection (7)(d).

(ii) The taxpayer shall prepare a summary of the taxpayer's expenses of a well recompletion or workover during the calendar year that the well recompletion or workover is completed.

(iii) An independent certified public accountant shall:

(A) review the summary from the taxpayer; and

(B) provide a report on the accuracy and validity of the amount of expenses of a well recompletion or workover that the taxpayer included in the summary, in accordance with the agreed upon procedures.

(iv) The taxpayer shall submit the taxpayer's summary and the independent certified public accountant's report to the division to verify that the expenses certified by the independent certified public accountant are well recompletion or workover expenses.

(v) The division shall return to the taxpayer:

(A) the taxpayer's summary;

(B) the report by the independent certified public accountant; and

(C) a report by the division that includes the amount of approved well recompletion or workover expenses.

(vi) The taxpayer shall apply to the office for a tax credit certificate to receive a written certification, on a form approved by the commission, that includes:

(A) the amount of the taxpayer's payments of expenses of a well recompletion or workover during the calendar year; and

(B) the amount of the taxpayer's tax credit.

(vii) A taxpayer that receives a tax credit certificate shall retain the tax credit certificate for the same time period that a person is required to keep books and records under Section 59-1-1406.

(e) The office shall submit to the commission an electronic list that includes:

(i) the name and identifying information of each taxpayer to which the office issues a tax credit certificate; and

(ii) for each taxpayer, the amount of the tax credit listed on the tax credit certificate.

(f) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(i) the office may make rules to govern the application process for receiving a tax credit certificate under this Subsection (7); and

(ii) the division shall make rules to establish the agreed upon procedures described in Subsection (7)(d)(iii).

(8) (a) Subject to the other provisions of this Subsection (8), a taxpayer may claim a tax credit against a severance tax owing on natural gas under this section if:

(i) the taxpayer is required to pay a severance tax on natural gas under this section;

(ii) the taxpayer owns or operates a plant in the state that converts natural gas to hydrogen fuel; and

(iii) all of the natural gas for which the taxpayer owes a severance tax under this section is used for the production in the state of hydrogen fuel for use in zero emission motor vehicles.

(b) The taxpayer may claim a tax credit equal to the lesser of:

(i) the amount of tax that the taxpayer owes under this section; and

(ii) $5,000,000.

(c) (i) To claim a tax credit under this Subsection (8), a taxpayer shall follow the procedures and requirements of this Subsection (8)(c).

(ii) The taxpayer shall request that the division verify that the taxpayer owns or operates a plant in this state:

(A) that converts natural gas to hydrogen fuel; and

(B) at which all natural gas is converted to hydrogen fuel for use in zero emission motor vehicles.

(d) The division shall submit to the commission an electronic list that includes the name and identifying information of each taxpayer for which the division completed the verification described in Subsection (8)(c).

(9) A 50% reduction in the tax rate is imposed upon the incremental production achieved from an enhanced recovery project.

(10) The taxes imposed by this section are:

(a) in addition to all other taxes provided by law; and

(b) delinquent, unless otherwise deferred, on June 1 following the calendar year when the oil or gas is:

(i) produced; and

(ii) (A) saved;

(B) sold; or

(C) transported from the field.

(11) With respect to the tax imposed by this section on each owner of an interest in the production of oil or gas or in the proceeds of the production of oil or gas in the state, each owner is liable for the tax in proportion to the owner's interest in the production or in the proceeds of the production.

(12) The tax imposed by this section shall be reported and paid by each producer that takes oil or gas in kind pursuant to an agreement on behalf of the producer and on behalf of each owner entitled to participate in the oil or gas sold by the producer or transported by the producer from the field where the oil or gas is produced.

(13) Each producer shall deduct the tax imposed by this section from the amounts due to other owners for the production or the proceeds of the production.

Section 23. Section 59-7-614 is amended to read:

59-7-614. Renewable energy systems tax credits -- Definitions -- Certification -- Rulemaking authority.

(1) As used in this section:

(a) (i) "Active solar system" means a system of equipment that is capable of:

(A) collecting and converting incident solar radiation into thermal, mechanical, or electrical energy; and

(B) transferring a form of energy described in Subsection (1)(a)(i)(A) by a separate apparatus to storage or to the point of use.

(ii) "Active solar system" includes water heating, space heating or cooling, and electrical or mechanical energy generation.

(b) "Biomass system" means a system of apparatus and equipment for use in:

(i) converting material into biomass energy, as defined in Section 59-12-102; and

(ii) transporting the biomass energy by separate apparatus to the point of use or storage.

(c) "Commercial energy system" means a system that is:

(i) (A) an active solar system;

(B) a biomass system;

(C) a direct use geothermal system;

(D) a geothermal electricity system;

(E) a geothermal heat pump system;

(F) a hydroenergy system;

(G) a passive solar system; or

(H) a wind system;

(ii) located in the state; and

(iii) used:

(A) to supply energy to a commercial unit; or

(B) as a commercial enterprise.

(d) "Commercial enterprise" means an entity, the purpose of which is to produce electrical, mechanical, or thermal energy for sale from a commercial energy system.

(e) (i) "Commercial unit" means a building or structure that an entity uses to transact business.

(ii) Notwithstanding Subsection (1)(e)(i):

(A) with respect to an active solar system used for agricultural water pumping or a wind system, each individual energy generating device is considered to be a commercial unit; or

(B) if an energy system is the building or structure that an entity uses to transact business, a commercial unit is the complete energy system itself.

(f) "Direct use geothermal system" means a system of apparatus and equipment that enables the direct use of geothermal energy to meet energy needs, including heating a building, an industrial process, and aquaculture.

(g) "Geothermal electricity" means energy that is:

(i) contained in heat that continuously flows outward from the earth; and

(ii) used as a sole source of energy to produce electricity.

(h) "Geothermal energy" means energy generated by heat that is contained in the earth.

(i) "Geothermal heat pump system" means a system of apparatus and equipment that:

(i) enables the use of thermal properties contained in the earth at temperatures well below 100 degrees Fahrenheit; and

(ii) helps meet heating and cooling needs of a structure.

(j) "Hydroenergy system" means a system of apparatus and equipment that is capable of:

(i) intercepting and converting kinetic water energy into electrical or mechanical energy; and

(ii) transferring this form of energy by separate apparatus to the point of use or storage.

(k) "Office" means the Office of Energy Development created in Section [~~63M-4-401~~] 79-6-401.

(l) (i) "Passive solar system" means a direct thermal system that utilizes the structure of a building and its operable components to provide for collection, storage, and distribution of heating or cooling during the appropriate times of the year by utilizing the climate resources available at the site.

(ii) "Passive solar system" includes those portions and components of a building that are expressly designed and required for the collection, storage, and distribution of solar energy.

(m) "Photovoltaic system" means an active solar system that generates electricity from sunlight.

(n) (i) "Principal recovery portion" means the portion of a lease payment that constitutes the cost a person incurs in acquiring a commercial energy system.

(ii) "Principal recovery portion" does not include:

(A) an interest charge; or

(B) a maintenance expense.

(o) "Residential energy system" means the following used to supply energy to or for a residential unit:

(i) an active solar system;

(ii) a biomass system;

(iii) a direct use geothermal system;

(iv) a geothermal heat pump system;

(v) a hydroenergy system;

(vi) a passive solar system; or

(vii) a wind system.

(p) (i) "Residential unit" means a house, condominium, apartment, or similar dwelling unit that:

(A) is located in the state; and

(B) serves as a dwelling for a person, group of persons, or a family.

(ii) "Residential unit" does not include property subject to a fee under:

(A) Section 59-2-405;

(B) Section 59-2-405.1;

(C) Section 59-2-405.2;

(D) Section 59-2-405.3; or

(E) Section 72-10-110.5.

(q) "Wind system" means a system of apparatus and equipment that is capable of:

(i) intercepting and converting wind energy into mechanical or electrical energy; and

(ii) transferring these forms of energy by a separate apparatus to the point of use, sale, or storage.

(2) A taxpayer may claim an energy system tax credit as provided in this section against a tax due under this chapter for a taxable year.

(3) (a) Subject to the other provisions of this Subsection (3), a taxpayer may claim a nonrefundable tax credit under this Subsection (3) with respect to a residential unit the taxpayer owns or uses if:

(i) the taxpayer:

(A) purchases and completes a residential energy system to supply all or part of the energy required for the residential unit; or

(B) participates in the financing of a residential energy system to supply all or part of the energy required for the residential unit;

(ii) the residential energy system is completed and placed in service on or after January 1, 2007; and

(iii) the taxpayer obtains a written certification from the office in accordance with Subsection (7).

(b) (i) Subject to Subsections (3)(b)(ii) through (iv) and, as applicable, Subsection (3)(c) or (d), the tax credit is equal to 25% of the reasonable costs of each residential energy system installed with respect to each residential unit the taxpayer owns or uses.

(ii) A tax credit under this Subsection (3) may include installation costs.

(iii) A taxpayer may claim a tax credit under this Subsection (3) for the taxable year in which the residential energy system is completed and placed in service.

(iv) If the amount of a tax credit under this Subsection (3) exceeds a taxpayer's tax liability under this chapter for a taxable year, the amount of the tax credit exceeding the liability may be carried forward for a period that does not exceed the next four taxable years.

(c) The total amount of tax credit a taxpayer may claim under this Subsection (3) for a residential energy system, other than a photovoltaic system, may not exceed $2,000 per residential unit.

(d) The total amount of tax credit a taxpayer may claim under this Subsection (3) for a photovoltaic system may not exceed:

(i) for a system installed on or after January 1, 2018, but on or before December 31, 2020, $1,600;

(ii) for a system installed on or after January 1, 2021, but on or before December 31, 2021, $1,200;

(iii) for a system installed on or after January 1, 2022, but on or before December 31, 2022, $800;

(iv) for a system installed on or after January 1, 2023, but on or before December 31, 2023, $400; and

(v) for a system installed on or after January 1, 2024, $0.

(e) If a taxpayer sells a residential unit to another person before the taxpayer claims the tax credit under this Subsection (3):

(i) the taxpayer may assign the tax credit to the other person; and

(ii) (A) if the other person files a return under this chapter, the other person may claim the tax credit under this section as if the other person had met the requirements of this section to claim the tax credit; or

(B) if the other person files a return under Chapter 10, Individual Income Tax Act, the other person may claim the tax credit under Section 59-10-1014 as if the other person had met the requirements of Section 59-10-1014 to claim the tax credit.

(4) (a) Subject to the other provisions of this Subsection (4), a taxpayer may claim a refundable tax credit under this Subsection (4) with respect to a commercial energy system if:

(i) the commercial energy system does not use:

(A) wind, geothermal electricity, solar, or biomass equipment capable of producing a total of 660 or more kilowatts of electricity; or

(B) solar equipment capable of producing 2,000 or more kilowatts of electricity;

(ii) the taxpayer purchases or participates in the financing of the commercial energy system;

(iii) (A) the commercial energy system supplies all or part of the energy required by commercial units owned or used by the taxpayer; or

(B) the taxpayer sells all or part of the energy produced by the commercial energy system as a commercial enterprise;

(iv) the commercial energy system is completed and placed in service on or after January 1, 2007; and

(v) the taxpayer obtains a written certification from the office in accordance with Subsection (7).

(b) (i) Subject to Subsections (4)(b)(ii) through (v), the tax credit is equal to 10% of the reasonable costs of the commercial energy system.

(ii) A tax credit under this Subsection (4) may include installation costs.

(iii) A taxpayer may claim a tax credit under this Subsection (4) for the taxable year in which the commercial energy system is completed and placed in service.

(iv) A tax credit under this Subsection (4) may not be carried forward or carried back.

(v) The total amount of tax credit a taxpayer may claim under this Subsection (4) may not exceed $50,000 per commercial unit.

(c) (i) Subject to Subsections (4)(c)(ii) and (iii), a taxpayer that is a lessee of a commercial energy system installed on a commercial unit may claim a tax credit under this Subsection (4) if the taxpayer confirms that the lessor irrevocably elects not to claim the tax credit.

(ii) A taxpayer described in Subsection (4)(c)(i) may claim as a tax credit under this Subsection (4) only the principal recovery portion of the lease payments.

(iii) A taxpayer described in Subsection (4)(c)(i) may claim a tax credit under this Subsection (4) for a period that does not exceed seven taxable years after the date the lease begins, as stated in the lease agreement.

(5) (a) Subject to the other provisions of this Subsection (5), a taxpayer may claim a refundable tax credit under this Subsection (5) with respect to a commercial energy system if:

(i) the commercial energy system uses wind, geothermal electricity, or biomass equipment capable of producing a total of 660 or more kilowatts of electricity;

(ii) (A) the commercial energy system supplies all or part of the energy required by commercial units owned or used by the taxpayer; or

(B) the taxpayer sells all or part of the energy produced by the commercial energy system as a commercial enterprise;

(iii) the commercial energy system is completed and placed in service on or after January 1, 2007; and

(iv) the taxpayer obtains a written certification from the office in accordance with Subsection (7).

(b) (i) Subject to Subsections (5)(b)(ii) and (iii), a tax credit under this Subsection (5) is equal to the product of:

(A) 0.35 cents; and

(B) the kilowatt hours of electricity produced and used or sold during the taxable year.

(ii) A tax credit under this Subsection (5) may be claimed for production occurring during a period of 48 months beginning with the month in which the commercial energy system is placed in commercial service.

(iii) A tax credit under this Subsection (5) may not be carried forward or carried back.

(c) A taxpayer that is a lessee of a commercial energy system installed on a commercial unit may claim a tax credit under this Subsection (5) if the taxpayer confirms that the lessor irrevocably elects not to claim the tax credit.

(6) (a) Subject to the other provisions of this Subsection (6), a taxpayer may claim a refundable tax credit as provided in this Subsection (6) if:

(i) the taxpayer owns a commercial energy system that uses solar equipment capable of producing a total of 660 or more kilowatts of electricity;

(ii) (A) the commercial energy system supplies all or part of the energy required by commercial units owned or used by the taxpayer; or

(B) the taxpayer sells all or part of the energy produced by the commercial energy system as a commercial enterprise;

(iii) the taxpayer does not claim a tax credit under Subsection (4);

(iv) the commercial energy system is completed and placed in service on or after January 1, 2015; and

(v) the taxpayer obtains a written certification from the office in accordance with Subsection (7).

(b) (i) Subject to Subsections (6)(b)(ii) and (iii), a tax credit under this Subsection (6) is equal to the product of:

(A) 0.35 cents; and

(B) the kilowatt hours of electricity produced and used or sold during the taxable year.

(ii) A tax credit under this Subsection (6) may be claimed for production occurring during a period of 48 months beginning with the month in which the commercial energy system is placed in commercial service.

(iii) A tax credit under this Subsection (6) may not be carried forward or carried back.

(c) A taxpayer that is a lessee of a commercial energy system installed on a commercial unit may claim a tax credit under this Subsection (6) if the taxpayer confirms that the lessor irrevocably elects not to claim the tax credit.

(7) (a) Before a taxpayer may claim a tax credit under this section, the taxpayer shall obtain a written certification from the office.

(b) The office shall issue a taxpayer a written certification if the office determines that:

(i) the taxpayer meets the requirements of this section to receive a tax credit; and

(ii) the residential energy system or commercial energy system with respect to which the taxpayer seeks to claim a tax credit:

(A) has been completely installed;

(B) is a viable system for saving or producing energy from renewable resources; and

(C) is safe, reliable, efficient, and technically feasible to ensure that the residential energy system or commercial energy system uses the state's renewable and nonrenewable energy resources in an appropriate and economic manner.

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

(i) for determining whether a residential energy system or commercial energy system meets the requirements of Subsection (7)(b)(ii); and

(ii) for purposes of a tax credit under Subsection (3) or (4), establishing the reasonable costs of a residential energy system or a commercial energy system, as an amount per unit of energy production.

(d) A taxpayer that obtains a written certification from the office shall retain the certification for the same time period a person is required to keep books and records under Section 59-1-1406.

(e) The office shall submit to the commission an electronic list that includes:

(i) the name and identifying information of each taxpayer to which the office issues a written certification; and

(ii) for each taxpayer:

(A) the amount of the tax credit listed on the written certification; and

(B) the date the renewable energy system was installed.

(8) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules to address the certification of a tax credit under this section.

(9) A tax credit under this section is in addition to any tax credits provided under the laws or rules and regulations of the United States.

Section 24. Section 59-7-614.7 is amended to read:

59-7-614.7. Nonrefundable alternative energy development tax credit.

(1) As used in this section:

(a) "Alternative energy entity" means the same as that term is defined in Section [~~63M-4-502~~] 79-6-502.

(b) "Alternative energy project" means the same as that term is defined in Section [~~63M-4-502~~] 79-6-502.

(c) "Office" means the Office of Energy Development created in Section [~~63M-4-401~~] 79-6-401.

(2) Subject to the other provisions of this section, an alternative energy entity may claim a nonrefundable tax credit for alternative energy development as provided in this section.

(3) The tax credit under this section is the amount listed as the tax credit amount on a tax credit certificate that the office issues under [~~Title 63M, Chapter 4,~~] Title 79, Chapter 6, Part 5, Alternative Energy Development Tax Credit Act, to the alternative energy entity for the taxable year.

(4) An alternative energy entity may carry forward a tax credit under this section for a period that does not exceed the next seven taxable years if:

(a) the alternative energy entity is allowed to claim a tax credit under this section for a taxable year; and

(b) the amount of the tax credit exceeds the alternative energy entity's tax liability under this chapter for that taxable year.

(5) (a) In accordance with Section 59-7-159, the Revenue and Taxation Interim Committee shall study the tax credit allowed by this section and make recommendations concerning whether the tax credit should be continued, modified, or repealed.

(b) (i) Except as provided in Subsection (5)(b)(ii), for purposes of the study required by this Subsection (5), the office shall provide the following information, if available to the office, to the Office of the Legislative Fiscal Analyst by electronic means:

(A) the amount of tax credit that the office grants to each alternative energy entity for each taxable year;

(B) the new state revenues generated by each alternative energy project;

(C) the information contained in the office's latest report under Section [~~63M-4-505~~] 79-6-505; and

(D) any other information that the Office of the Legislative Fiscal Analyst requests.

(ii) (A) In providing the information described in Subsection (5)(b)(i), the office shall redact information that identifies a recipient of a tax credit under this section.

(B) If, notwithstanding the redactions made under Subsection (5)(b)(ii)(A), reporting the information described in Subsection (5)(b)(i) might disclose the identity of a recipient of a tax credit, the office may file a request with the Revenue and Taxation Interim Committee to provide the information described in Subsection (5)(b)(i) in the aggregate for all alternative energy entities that receive the tax credit under this section.

(c) As part of the study required by this Subsection (5), the Office of the Legislative Fiscal Analyst shall report to the Revenue and Taxation Interim Committee a summary and analysis of the information provided to the Office of the Legislative Fiscal Analyst by the office under Subsection (5)(b).

(d) The Revenue and Taxation Interim Committee shall ensure that the recommendations described in Subsection (5)(a) include an evaluation of:

(i) the cost of the tax credit to the state;

(ii) the purpose and effectiveness of the tax credit; and

(iii) the extent to which the state benefits from the tax credit.

Section 25. Section 59-7-619 is amended to read:

59-7-619. Nonrefundable high cost infrastructure development tax credit.

(1) As used in this section:

(a) "High cost infrastructure project" means the same as that term is defined in Section [~~63M-4-602~~] 79-6-602.

(b) "Infrastructure cost-burdened entity" means the same as that term is defined in Section [~~63M-4-602~~] 79-6-602.

(c) "Infrastructure-related revenue" means the same as that term is defined in Section [~~63M-4-602~~] 79-6-602.

(d) "Office" means the Office of Energy Development created in Section [~~63M-4-401~~] 79-6-401.

(2) Subject to the other provisions of this section, a corporation that is an infrastructure cost-burdened entity may claim a nonrefundable tax credit for development of a high cost infrastructure project as provided in this section.

(3) The tax credit under this section is the amount listed as the tax credit amount on a tax credit certificate that the office issues under [~~Title 63M, Chapter 4,~~] Title 79, Chapter 6, Part 6, High Cost Infrastructure Development Tax Credit Act, to the infrastructure cost-burdened entity for the taxable year.

(4) An infrastructure cost-burdened entity may carry forward a tax credit under this section for a period that does not exceed the next seven taxable years if:

(a) the infrastructure cost-burdened entity is allowed to claim a tax credit under this section for a taxable year; and

(b) the amount of the tax credit exceeds the infrastructure cost-burdened entity's tax liability under this chapter for that taxable year.

(5) (a) In accordance with Section 59-7-159, the Revenue and Taxation Interim Committee shall study the tax credit allowed by this section and make recommendations concerning whether the tax credit should be continued, modified, or repealed.

(b) (i) Except as provided in Subsection (5)(b)(ii), for purposes of the study required by this Subsection (5), the office shall provide the following information, if available to the office, to the Office of the Legislative Fiscal Analyst:

(A) the amount of tax credit that the office grants to each infrastructure cost-burdened entity for each taxable year;

(B) the infrastructure-related revenue generated by each high cost infrastructure project;

(C) the information contained in the office's latest report under Section [~~63M-4-505~~] 79-6-605; and

(D) any other information that the Office of the Legislative Fiscal Analyst requests.

(ii) (A) In providing the information described in Subsection (5)(b)(i), the office shall redact information that identifies a recipient of a tax credit under this section.

(B) If, notwithstanding the redactions made under Subsection (5)(b)(ii)(A), reporting the information described in Subsection (5)(b)(i) might disclose the identity of a recipient of a tax credit, the office may file a request with the Revenue and Taxation Interim Committee to provide the information described in Subsection (5)(b)(i) in the aggregate for all infrastructure cost-burdened entities that receive the tax credit under this section.

(c) As part of the study required by this Subsection (5), the Office of the Legislative Fiscal Analyst shall report to the Revenue and Taxation Interim Committee a summary and analysis of the information provided to the Office of the Legislative Fiscal Analyst by the office under Subsection (5)(b).

(d) The Revenue and Taxation Interim Committee shall ensure that the recommendations described in Subsection (5)(a) include an evaluation of:

(i) the cost of the tax credit to the state;

(ii) the purpose and effectiveness of the tax credit; and

(iii) the extent to which the state benefits from the tax credit.

Section 26. Section 59-10-1014 is amended to read:

59-10-1014. Nonrefundable renewable energy systems tax credits -- Definitions -- Certification -- Rulemaking authority.

(1) As used in this section:

(a) (i) "Active solar system" means a system of equipment that is capable of:

(A) collecting and converting incident solar radiation into thermal, mechanical, or electrical energy; and

(B) transferring a form of energy described in Subsection (1)(a)(i)(A) by a separate apparatus to storage or to the point of use.

(ii) "Active solar system" includes water heating, space heating or cooling, and electrical or mechanical energy generation.

(b) "Biomass system" means a system of apparatus and equipment for use in:

(i) converting material into biomass energy, as defined in Section 59-12-102; and

(ii) transporting the biomass energy by separate apparatus to the point of use or storage.

(c) "Direct use geothermal system" means a system of apparatus and equipment that enables the direct use of geothermal energy to meet energy needs, including heating a building, an industrial process, and aquaculture.

(d) "Geothermal electricity" means energy that is:

(i) contained in heat that continuously flows outward from the earth; and

(ii) used as a sole source of energy to produce electricity.

(e) "Geothermal energy" means energy generated by heat that is contained in the earth.

(f) "Geothermal heat pump system" means a system of apparatus and equipment that:

(i) enables the use of thermal properties contained in the earth at temperatures well below 100 degrees Fahrenheit; and

(ii) helps meet heating and cooling needs of a structure.

(g) "Hydroenergy system" means a system of apparatus and equipment that is capable of:

(i) intercepting and converting kinetic water energy into electrical or mechanical energy; and

(ii) transferring this form of energy by separate apparatus to the point of use or storage.

(h) "Office" means the Office of Energy Development created in Section [~~63M-4-401~~] 79-6-401.

(i) (i) "Passive solar system" means a direct thermal system that utilizes the structure of a building and its operable components to provide for collection, storage, and distribution of heating or cooling during the appropriate times of the year by utilizing the climate resources available at the site.

(ii) "Passive solar system" includes those portions and components of a building that are expressly designed and required for the collection, storage, and distribution of solar energy.

(j) "Photovoltaic system" means an active solar system that generates electricity from sunlight.

(k) (i) "Principal recovery portion" means the portion of a lease payment that constitutes the cost a person incurs in acquiring a residential energy system.

(ii) "Principal recovery portion" does not include:

(A) an interest charge; or

(B) a maintenance expense.

(l) "Residential energy system" means the following used to supply energy to or for a residential unit:

(i) an active solar system;

(ii) a biomass system;

(iii) a direct use geothermal system;

(iv) a geothermal heat pump system;

(v) a hydroenergy system;

(vi) a passive solar system; or

(vii) a wind system.

(m) (i) "Residential unit" means a house, condominium, apartment, or similar dwelling unit that:

(A) is located in the state; and

(B) serves as a dwelling for a person, group of persons, or a family.

(ii) "Residential unit" does not include property subject to a fee under:

(A) Section 59-2-405;

(B) Section 59-2-405.1;

(C) Section 59-2-405.2;

(D) Section 59-2-405.3; or

(E) Section 72-10-110.5.

(n) "Wind system" means a system of apparatus and equipment that is capable of:

(i) intercepting and converting wind energy into mechanical or electrical energy; and

(ii) transferring these forms of energy by a separate apparatus to the point of use or storage.

(2) A claimant, estate, or trust may claim an energy system tax credit as provided in this section against a tax due under this chapter for a taxable year.

(3) For a taxable year beginning on or after January 1, 2007, a claimant, estate, or trust may claim a nonrefundable tax credit under this section with respect to a residential unit the claimant, estate, or trust owns or uses if:

(a) the claimant, estate, or trust:

(i) purchases and completes a residential energy system to supply all or part of the energy required for the residential unit; or

(ii) participates in the financing of a residential energy system to supply all or part of the energy required for the residential unit;

(b) the residential energy system is installed on or after January 1, 2007; and

(c) the claimant, estate, or trust obtains a written certification from the office in accordance with Subsection (5).

(4) (a) For a residential energy system, other than a photovoltaic system, the tax credit described in this section is equal to the lesser of:

(i) 25% of the reasonable costs, including installation costs, of each residential energy system installed with respect to each residential unit the claimant, estate, or trust owns or uses; and

(ii) $2,000.

(b) Subject to Subsection (5)(d), for a residential energy system that is a photovoltaic system, the tax credit described in this section is equal to the lesser of:

(i) 25% of the reasonable costs, including installation costs, of each system installed with respect to each residential unit the claimant, estate, or trust owns or uses; or

(ii) (A) for a system installed on or after January 1, 2007, but on or before December 31, 2017, $2,000;

(B) for a system installed on or after January 1, 2018, but on or before December 31, 2020, $1,600;

(C) for a system installed on or after January 1, 2021, but on or before December 31, 2021, $1,200;

(D) for a system installed on or after January 1, 2022, but on or before December 31, 2022, $800;

(E) for a system installed on or after January 1, 2023, but on or before December 31, 2023, $400; and

(F) for a system installed on or after January 1, 2024, $0.

(c) (i) The office shall determine the amount of the tax credit that a claimant, estate, or trust may claim and list that amount on the written certification that the office issues under Subsection (5).

(ii) The claimant, estate, or trust may claim the tax credit in the amount listed on the written certification that the office issues under Subsection (5).

(d) A claimant, estate, or trust may claim a tax credit under Subsection (3) for the taxable year in which the residential energy system is installed.

(e) If the amount of a tax credit listed on the written certification exceeds a claimant's, estate's, or trust's tax liability under this chapter for a taxable year, the claimant, estate, or trust may carry forward the amount of the tax credit exceeding the liability for a period that does not exceed the next four taxable years.

(f) A claimant, estate, or trust may claim a tax credit with respect to additional residential energy systems or parts of residential energy systems for a subsequent taxable year if the total amount of tax credit the claimant, estate, or trust claims does not exceed $2,000 per residential unit.

(g) (i) Subject to Subsections (4)(g)(ii) and (iii), a claimant, estate, or trust that leases a residential energy system installed on a residential unit may claim a tax credit under Subsection (3) if the claimant, estate, or trust confirms that the lessor irrevocably elects not to claim the tax credit.

(ii) A claimant, estate, or trust described in Subsection (4)(g)(i) that leases a residential energy system may claim as a tax credit under Subsection (3) only the principal recovery portion of the lease payments.

(iii) A claimant, estate, or trust described in Subsection (4)(g)(i) that leases a residential energy system may claim a tax credit under Subsection (3) for a period that does not exceed seven taxable years after the date the lease begins, as stated in the lease agreement.

(h) If a claimant, estate, or trust sells a residential unit to another person before the claimant, estate, or trust claims the tax credit under Subsection (3):

(i) the claimant, estate, or trust may assign the tax credit to the other person; and

(ii) (A) if the other person files a return under Chapter 7, Corporate Franchise and Income Taxes, the other person may claim the tax credit as if the other person had met the requirements of Section 59-7-614 to claim the tax credit; or

(B) if the other person files a return under this chapter, the other person may claim the tax credit under this section as if the other person had met the requirements of this section to claim the tax credit.

(5) (a) Before a claimant, estate, or trust may claim a tax credit under this section, the claimant, estate, or trust shall obtain a written certification from the office.

(b) The office shall issue a claimant, estate, or trust a written certification if the office determines that:

(i) the claimant, estate, or trust meets the requirements of this section to receive a tax credit; and

(ii) the office determines that the residential energy system with respect to which the claimant, estate, or trust seeks to claim a tax credit:

(A) has been completely installed;

(B) is a viable system for saving or producing energy from renewable resources; and

(C) is safe, reliable, efficient, and technically feasible to ensure that the residential energy system uses the state's renewable and nonrenewable energy resources in an appropriate and economic manner.

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

(i) for determining whether a residential energy system meets the requirements of Subsection (5)(b)(ii); and

(ii) for purposes of determining the amount of a tax credit that a claimant, estate, or trust may receive under Subsection (4), establishing the reasonable costs of a residential energy system, as an amount per unit of energy production.

(d) A claimant, estate, or trust that obtains a written certification from the office shall retain the certification for the same time period a person is required to keep books and records under Section 59-1-1406.

(e) The office shall submit to the commission an electronic list that includes:

(i) the name and identifying information of each claimant, estate, or trust to which the office issues a written certification; and

(ii) for each claimant, estate, or trust:

(A) the amount of the tax credit listed on the written certification; and

(B) the date the renewable energy system was installed.

(6) A tax credit under this section is in addition to any tax credits provided under the laws or rules and regulations of the United States.

(7) A purchaser of one or more solar units that claims a tax credit under Section 59-10-1024 for the purchase of the one or more solar units may not claim a tax credit under this section for that purchase.

Section 27. Section 59-10-1024 is amended to read:

59-10-1024. Nonrefundable tax credit for qualifying solar projects.

(1) As used in this section:

(a) "Active solar system" means the same as that term is defined in Section 59-10-1014.

(b) "Office" means the Office of Energy Development created in Section [~~63M-4-401~~] 79-6-401.

(c) "Purchaser" means a claimant, estate, or trust that purchases one or more solar units from a qualifying political subdivision.

(d) "Qualifying political subdivision" means:

(i) a city or town in this state;

(ii) an interlocal entity created under Title 11, Chapter 13, Interlocal Cooperation Act; or

(iii) a special service district created under Title 17D, Chapter 1, Special Service District Act.

(e) "Qualifying solar project" means the portion of an active solar system:

(i) that a qualifying political subdivision:

(A) constructs;

(B) controls; or

(C) owns;

(ii) with respect to which the qualifying political subdivision sells one or more solar units; and

(iii) that generates electrical output that is furnished:

(A) to one or more residential units; or

(B) for the benefit of one or more residential units.

(f) "Residential unit" means the same as that term is defined in Section 59-10-1014.

(g) "Solar unit" means a portion of the electrical output:

(i) of a qualifying solar project;

(ii) that a qualifying political subdivision sells to a purchaser; and

(iii) the purchase of which requires that the purchaser agree to bear a proportionate share of the expense of the qualifying solar project:

(A) in accordance with a written agreement between the purchaser and the qualifying political subdivision;

(B) in exchange for a credit on the purchaser's electrical bill; and

(C) as determined by a formula established by the qualifying political subdivision.

(2) (a) Subject to Subsections (2)(b) and (3), a purchaser may claim a nonrefundable tax credit equal to the amount stated on a tax credit certificate issued by the office.

(b) The maximum tax credit per taxpayer per taxable year is the lesser of:

(i) 25% of the amount that the purchaser pays to purchase one or more solar units during the taxable year; and

(ii) $2,000.

(3) (a) To claim a tax credit under this section, a purchaser shall receive a tax credit certificate from the office.

(b) The purchaser shall submit, with the purchaser's application for a tax credit certificate, proof of the purchaser's purchase of one or more solar units.

(c) If the office determines that the purchaser purchased one or more solar units during the taxable year, the office shall:

(i) determine the amount of the purchaser's tax credit; and

(ii) issue, on a form approved by the commission, a tax credit certificate to the purchaser that states the amount of the purchaser's tax credit.

(d) If the office determines that a claimant, estate, or trust requesting a tax credit certificate is not eligible for a tax credit certificate under this section but may be eligible for a tax credit certificate under Section 59-10-1014, the office shall treat the claimant, estate, or trust as applying for a written certification in accordance with Section 59-10-1014.

(e) A purchaser who receives a tax credit certificate shall retain the tax credit certificate for the same time period that a person is required to keep books and records under Section 59-1-1406.

(f) The office shall submit to the commission an electronic list that includes:

(i) the name and identifying information of each purchaser to whom the office issued a certificate; and

(ii) for each claimant, estate, or trust:

(A) the amount of the tax credit listed on the written certification; and

(B) the date or dates the claimant, estate, or trust purchased one or more solar units.

(4) A purchaser may carry forward a tax credit under this section for a period that does not exceed the next four taxable years if:

(a) the purchaser is allowed to claim a tax credit under this section for a taxable year; and

(b) the amount of the tax credit exceeds the purchaser's tax liability under this chapter for that taxable year.

(5) Subject to Section 59-10-1014, a tax credit under this section is in addition to any other tax credit allowed by this chapter.

(6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office may make rules to govern the application process for receiving a tax credit certificate.

Section 28. Section 59-10-1029 is amended to read:

59-10-1029. Nonrefundable alternative energy development tax credit.

(1) As used in this section:

(a) "Alternative energy entity" means the same as that term is defined in Section [~~63M-4-502~~] 79-6-502.

(b) "Alternative energy project" means the same as that term is defined in Section [~~63M-4-502~~] 79-6-502.

(c) "Office" means the Office of Energy Development created in Section [~~63M-4-401~~] 79-6-401.

(2) Subject to the other provisions of this section, an alternative energy entity may claim a nonrefundable tax credit for alternative energy development as provided in this section.

(3) The tax credit under this section is the amount listed as the tax credit amount on a tax credit certificate that the office issues under [~~Title 63M, Chapter 4,~~] Title 79, Chapter 6, Part 5, Alternative Energy Development Tax Credit Act, to the alternative energy entity for the taxable year.

(4) An alternative energy entity may carry forward a tax credit under this section for a period that does not exceed the next seven taxable years if:

(a) the alternative energy entity is allowed to claim a tax credit under this section for a taxable year; and

(b) the amount of the tax credit exceeds the alternative energy entity's tax liability under this chapter for that taxable year.

(5) (a) In accordance with Section 59-10-137, the Revenue and Taxation Interim Committee shall study the tax credit allowed by this section and make recommendations concerning whether the tax credit should be continued, modified, or repealed.

(b) (i) Except as provided in Subsection (5)(b)(ii), for purposes of the study required by this Subsection (5), the office shall provide the following information, if available to the office, to the Office of the Legislative Fiscal Analyst by electronic means:

(A) the amount of tax credit that the office grants to each alternative energy entity for each taxable year;

(B) the new state revenues generated by each alternative energy project;

(C) the information contained in the office's latest report under Section [~~63M-4-505~~] 79-6-505; and

(D) any other information that the Office of the Legislative Fiscal Analyst requests.

(ii) (A) In providing the information described in Subsection (5)(b)(i), the office shall redact information that identifies a recipient of a tax credit under this section.

(B) If, notwithstanding the redactions made under Subsection (5)(b)(ii)(A), reporting the information described in Subsection (5)(b)(i) might disclose the identity of a recipient of a tax credit, the office may file a request with the Revenue and Taxation Interim Committee to provide the information described in Subsection (5)(b)(i) in the aggregate for all alternative energy entities that receive the tax credit under this section.

(c) As part of the study required by this Subsection (5), the Office of the Legislative Fiscal Analyst shall report to the Revenue and Taxation Interim Committee a summary and analysis of the information provided to the Office of the Legislative Fiscal Analyst by the office under Subsection (5)(b).

(d) The Revenue and Taxation Interim Committee shall ensure that the recommendations described in Subsection (5)(a) include an evaluation of:

(i) the cost of the tax credit to the state;

(ii) the purpose and effectiveness of the tax credit; and

(iii) the extent to which the state benefits from the tax credit.

Section 29. Section 59-10-1034 is amended to read:

59-10-1034. Nonrefundable high cost infrastructure development tax credit.

(1) As used in this section:

(a) "High cost infrastructure project" means the same as that term is defined in Section [~~63M-4-602~~] 79-6-602.

(b) "Infrastructure cost-burdened entity" means the same as that term is defined in Section [~~63M-4-602~~] 79-6-602.

(c) "Infrastructure-related revenue" means the same as that term is defined in Section [~~63M-4-602~~] 79-6-602.

(d) "Office" means the Office of Energy Development created in Section [~~63M-4-401~~] 79-6-401.

(2) Subject to the other provisions of this section, a claimant, estate, or trust that is an infrastructure cost-burdened entity may claim a nonrefundable tax credit for development of a high cost infrastructure project as provided in this section.

(3) The tax credit under this section is the amount listed as the tax credit amount on a tax credit certificate that the office issues under [~~Title 63M, Chapter 4,~~] Title 79, Chapter 6, Part 6, High Cost Infrastructure Development Tax Credit Act, to the infrastructure cost-burdened entity for the taxable year.

(4) An infrastructure cost-burdened entity may carry forward a tax credit under this section for a period that does not exceed the next seven taxable years if:

(a) the infrastructure cost-burdened entity is allowed to claim a tax credit under this section for a taxable year; and

(b) the amount of the tax credit exceeds the infrastructure cost-burdened entity's tax liability under this chapter for that taxable year.

(5) (a) In accordance with Section 59-10-137, the Revenue and Taxation Interim Committee shall study the tax credit allowed by this section and make recommendations concerning whether the tax credit should be continued, modified, or repealed.

(b) (i) Except as provided in Subsection (5)(b)(ii), for purposes of the study required by this Subsection (5), the office shall provide the following information, if available to the office, to the Office of the Legislative Fiscal Analyst:

(A) the amount of tax credit that the office grants to each infrastructure cost-burdened entity for each taxable year;

(B) the infrastructure-related revenue generated by each high cost infrastructure project;

(C) the information contained in the office's latest report under Section [~~63M-4-505~~] 79-6-605; and

(D) any other information that the Office of the Legislative Fiscal Analyst requests.

(ii) (A) In providing the information described in Subsection (5)(b)(i), the office shall redact information that identifies a recipient of a tax credit under this section.

(B) If, notwithstanding the redactions made under Subsection (5)(b)(ii)(A), reporting the information described in Subsection (5)(b)(i) might disclose the identity of a recipient of a tax credit, the office may file a request with the Revenue and Taxation Interim Committee to provide the information described in Subsection (5)(b)(i) in the aggregate for all infrastructure cost-burdened entities that receive the tax credit under this section.

(c) As part of the study required by this Subsection (5), the Office of the Legislative Fiscal Analyst shall report to the Revenue and Taxation Interim Committee a summary and analysis of the information provided to the Office of the Legislative Fiscal Analyst by the office under Subsection (5)(b).

(d) The Revenue and Taxation Interim Committee shall ensure that the recommendations described in Subsection (5)(a) include an evaluation of:

(i) the cost of the tax credit to the state;

(ii) the purpose and effectiveness of the tax credit; and

(iii) the extent to which the state benefits from the tax credit.

Section 30. Section 59-10-1106 is amended to read:

59-10-1106. Refundable renewable energy systems tax credits -- Definitions -- Certification -- Rulemaking authority.

(1) As used in this section:

(a) "Active solar system" means the same as that term is defined in Section 59-10-1014.

(b) "Biomass system" means the same as that term is defined in Section 59-10-1014.

(c) "Commercial energy system" means the same as that term is defined in Section 59-7-614.

(d) "Commercial enterprise" means the same as that term is defined in Section 59-7-614.

(e) (i) "Commercial unit" means the same as that term is defined in Section 59-7-614.

(ii) Notwithstanding Subsection (1)(e)(i):

(A) with respect to an active solar system used for agricultural water pumping or a wind system, each individual energy generating device is considered to be a commercial unit; or

(B) if an energy system is the building or structure that a claimant, estate, or trust uses to transact business, a commercial unit is the complete energy system itself.

(f) "Direct use geothermal system" means the same as that term is defined in Section 59-10-1014.

(g) "Geothermal electricity" means the same as that term is defined in Section 59-10-1014.

(h) "Geothermal energy" means the same as that term is defined in Section 59-10-1014.

(i) "Geothermal heat pump system" means the same as that term is defined in Section 59-10-1014.

(j) "Hydroenergy system" means the same as that term is defined in Section 59-10-1014.

(k) "Office" means the Office of Energy Development created in Section [~~63M-4-401~~] 79-6-401.

(l) "Passive solar system" means the same as that term is defined in Section 59-10-1014.

(m) "Principal recovery portion" means the same as that term is defined in Section 59-10-1014.

(n) "Wind system" means the same as that term is defined in Section 59-10-1014.

(2) A claimant, estate, or trust may claim an energy system tax credit as provided in this section against a tax due under this chapter for a taxable year.

(3) (a) Subject to the other provisions of this Subsection (3), a claimant, estate, or trust may claim a refundable tax credit under this Subsection (3) with respect to a commercial energy system if:

(i) the commercial energy system does not use:

(A) wind, geothermal electricity, solar, or biomass equipment capable of producing a total of 660 or more kilowatts of electricity; or

(B) solar equipment capable of producing 2,000 or more kilowatts of electricity;

(ii) the claimant, estate, or trust purchases or participates in the financing of the commercial energy system;

(iii) (A) the commercial energy system supplies all or part of the energy required by commercial units owned or used by the claimant, estate, or trust; or

(B) the claimant, estate, or trust sells all or part of the energy produced by the commercial energy system as a commercial enterprise;

(iv) the commercial energy system is completed and placed in service on or after January 1, 2007; and

(v) the claimant, estate, or trust obtains a written certification from the office in accordance with Subsection (6).

(b) (i) Subject to Subsections (3)(b)(ii) through (v), the tax credit is equal to 10% of the reasonable costs of the commercial energy system.

(ii) A tax credit under this Subsection (3) may include installation costs.

(iii) A claimant, estate, or trust may claim a tax credit under this Subsection (3) for the taxable year in which the commercial energy system is completed and placed in service.

(iv) A tax credit under this Subsection (3) may not be carried forward or carried back.

(v) The total amount of tax credit a claimant, estate, or trust may claim under this Subsection (3) may not exceed $50,000 per commercial unit.

(c) (i) Subject to Subsections (3)(c)(ii) and (iii), a claimant, estate, or trust that is a lessee of a commercial energy system installed on a commercial unit may claim a tax credit under this Subsection (3) if the claimant, estate, or trust confirms that the lessor irrevocably elects not to claim the tax credit.

(ii) A claimant, estate, or trust described in Subsection (3)(c)(i) may claim as a tax credit under this Subsection (3) only the principal recovery portion of the lease payments.

(iii) A claimant, estate, or trust described in Subsection (3)(c)(i) may claim a tax credit under this Subsection (3) for a period that does not exceed seven taxable years after the date the lease begins, as stated in the lease agreement.

(4) (a) Subject to the other provisions of this Subsection (4), a claimant, estate, or trust may claim a refundable tax credit under this Subsection (4) with respect to a commercial energy system if:

(i) the commercial energy system uses wind, geothermal electricity, or biomass equipment capable of producing a total of 660 or more kilowatts of electricity;

(ii) (A) the commercial energy system supplies all or part of the energy required by commercial units owned or used by the claimant, estate, or trust; or

(B) the claimant, estate, or trust sells all or part of the energy produced by the commercial energy system as a commercial enterprise;

(iii) the commercial energy system is completed and placed in service on or after January 1, 2007; and

(iv) the claimant, estate, or trust obtains a written certification from the office in accordance with Subsection (6).

(b) (i) Subject to Subsections (4)(b)(ii) and (iii), a tax credit under this Subsection (4) is equal to the product of:

(A) 0.35 cents; and

(B) the kilowatt hours of electricity produced and used or sold during the taxable year.

(ii) A tax credit under this Subsection (4) may be claimed for production occurring during a period of 48 months beginning with the month in which the commercial energy system is placed in commercial service.

(iii) A tax credit under this Subsection (4) may not be carried forward or back.

(c) A claimant, estate, or trust that is a lessee of a commercial energy system installed on a commercial unit may claim a tax credit under this Subsection (4) if the claimant, estate, or trust confirms that the lessor irrevocably elects not to claim the tax credit.

(5) (a) Subject to the other provisions of this Subsection (5), a claimant, estate, or trust may claim a refundable tax credit as provided in this Subsection (5) if:

(i) the claimant, estate, or trust owns a commercial energy system that uses solar equipment capable of producing a total of 660 or more kilowatts of electricity;

(ii) (A) the commercial energy system supplies all or part of the energy required by commercial units owned or used by the claimant, estate, or trust; or

(B) the claimant, estate, or trust sells all or part of the energy produced by the commercial energy system as a commercial enterprise;

(iii) the claimant, estate, or trust does not claim a tax credit under Subsection (3);

(iv) the commercial energy system is completed and placed in service on or after January 1, 2015; and

(v) the claimant, estate, or trust obtains a written certification from the office in accordance with Subsection (6).

(b) (i) Subject to Subsections (5)(b)(ii) and (iii), a tax credit under this Subsection (5) is equal to the product of:

(A) 0.35 cents; and

(B) the kilowatt hours of electricity produced and used or sold during the taxable year.

(ii) A tax credit under this Subsection (5) may be claimed for production occurring during a period of 48 months beginning with the month in which the commercial energy system is placed in commercial service.

(iii) A tax credit under this Subsection (5) may not be carried forward or carried back.

(c) A claimant, estate, or trust that is a lessee of a commercial energy system installed on a commercial unit may claim a tax credit under this Subsection (5) if the claimant, estate, or trust confirms that the lessor irrevocably elects not to claim the tax credit.

(6) (a) Before a claimant, estate, or trust may claim a tax credit under this section, the claimant, estate, or trust shall obtain a written certification from the office.

(b) The office shall issue a claimant, estate, or trust a written certification if the office determines that:

(i) the claimant, estate, or trust meets the requirements of this section to receive a tax credit; and

(ii) the office determines that the commercial energy system with respect to which the claimant, estate, or trust seeks to claim a tax credit:

(A) has been completely installed;

(B) is a viable system for saving or producing energy from renewable resources; and

(C) is safe, reliable, efficient, and technically feasible to ensure that the commercial energy system uses the state's renewable and nonrenewable resources in an appropriate and economic manner.

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

(i) for determining whether a commercial energy system meets the requirements of Subsection (6)(b)(ii); and

(ii) for purposes of a tax credit under Subsection (3), establishing the reasonable costs of a commercial energy system, as an amount per unit of energy production.

(d) A claimant, estate, or trust that obtains a written certification from the office shall retain the certification for the same time period a person is required to keep books and records under Section 59-1-1406.

(7) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules to address the certification of a tax credit under this section.

(8) A tax credit under this section is in addition to any tax credits provided under the laws or rules and regulations of the United States.

(9) A purchaser of one or more solar units that claims a tax credit under Section 59-10-1024 for the purchase of the one or more solar units may not claim a tax credit under this section for that purchase.

Section 31. Section 59-12-104 is amended to read:

59-12-104. Exemptions.

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

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

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

(a) construction materials except:

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

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

(b) tangible personal property in connection with the construction, operation, maintenance, repair, or replacement of a project, as defined in Section 11-13-103, or facilities providing additional project capacity, as defined in Section 11-13-103;

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

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

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

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

(i) food and food ingredients; or

(ii) prepared food;

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

(i) alcoholic beverages;

(ii) food and food ingredients; or

(iii) prepared food;

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

(i) to a passenger;

(ii) by a commercial airline carrier; and

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

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

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

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

(II) for:

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

(Bb) renovation of an aircraft; or

(Cc) repair of an aircraft; or

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

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

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

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

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

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

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

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

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

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

(7) (a) except as provided in Subsection (85) and subject to Subsection (7)(b), sales of cleaning or washing of tangible personal property if the cleaning or washing of the tangible personal property is not assisted cleaning or washing of tangible personal property;

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

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

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

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

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

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

(a) not registered in this state; and

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

(ii) used in this state:

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

(I) 30 days in any calendar year; or

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

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

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

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

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

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

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

(A) a drug;

(B) a syringe; or

(C) a stoma supply; and

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

(A) "syringe"; or

(B) "stoma supply";

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

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

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

(A) a church; or

(B) a charitable institution; or

(ii) an institution of higher education if:

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

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

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

(i) a medical facility; or

(ii) a nursing facility; and

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

(i) food and food ingredients;

(ii) prepared food; or

(iii) alcoholic beverages;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(14) amounts paid or charged for a purchase or lease of machinery, equipment, normal operating repair or replacement parts, or materials, except for office equipment or office supplies, by:

(a) a manufacturing facility that:

(i) is located in the state; and

(ii) uses or consumes the machinery, equipment, normal operating repair or replacement parts, or materials:

(A) in the manufacturing process to manufacture an item sold as tangible personal property, as the commission may define that phrase in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or

(B) for a scrap recycler, to process an item sold as tangible personal property, as the commission may define that phrase in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(b) an establishment, as the commission defines that term in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

(i) is described in NAICS Subsector 212, Mining (except Oil and Gas), or NAICS Code 213113, Support Activities for Coal Mining, 213114, Support Activities for Metal Mining, or 213115, Support Activities for Nonmetallic Minerals (except Fuels) Mining, of the 2002 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget;

(ii) is located in the state; and

(iii) uses or consumes the machinery, equipment, normal operating repair or replacement parts, or materials in:

(A) the production process to produce an item sold as tangible personal property, as the commission may define that phrase in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(B) research and development, as the commission may define that phrase in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

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

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

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

(c) an establishment, as the commission defines that term in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

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

(ii) is located in the state; and

(iii) uses or consumes the machinery, equipment, normal operating repair or replacement parts, or materials in the operation of the web search portal;

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

(i) tooling;

(ii) special tooling;

(iii) support equipment;

(iv) special test equipment; or

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

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

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

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

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

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

(16) sales of newspapers or newspaper subscriptions;

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

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

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

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

(i) money;

(ii) electricity;

(iii) water;

(iv) gas; or

(v) steam;

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

(A) becomes part of real estate; or

(B) is installed by a:

(I) farmer;

(II) contractor; or

(III) subcontractor; or

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

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

(i) (A) subject to Subsection (18)(b)(i)(B), machinery, equipment, materials, or supplies if used in a manner that is incidental to farming; and

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

(I) hand tools; or

(II) maintenance and janitorial equipment and supplies;

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

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

(I) office equipment and supplies; or

(II) equipment and supplies used in:

(Aa) the sale or distribution of farm products;

(Bb) research; or

(Cc) transportation; or

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

(19) sales of hay;

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

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

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

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

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

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

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

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

(i) the product is:

(A) purchased outside of this state;

(B) brought into this state:

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

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

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

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

(ii) for:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(30) sales of a boat of a type required to be registered under Title 73, Chapter 18, State

Boating Act, a boat trailer, or an outboard motor if the boat, boat trailer, or outboard motor is:

(a) not registered in this state; and

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

(ii) used in this state:

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

(I) 30 days in any calendar year; or

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

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

(31) sales of aircraft manufactured in Utah;

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

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

(a) a vehicle by an authorized carrier; or

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

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

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

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

(b) 100% of the sales price of any used manufactured home;

(35) sales relating to schools and fundraising sales;

(36) sales or rentals of durable medical equipment if:

(a) a person presents a prescription for the durable medical equipment; and

(b) the durable medical equipment is used for home use only;

(37) (a) sales to a ski resort of electricity to operate a passenger ropeway as defined in Section 72-11-102; and

(b) the commission shall by rule determine the method for calculating sales exempt under Subsection (37)(a) that are not separately metered and accounted for in utility billings;

(38) sales to a ski resort of:

(a) snowmaking equipment;

(b) ski slope grooming equipment;

(c) passenger ropeways as defined in Section 72-11-102; or

(d) parts used in the repairs or renovations of equipment or passenger ropeways described in Subsections (38)(a) through (c);

(39) subject to Subsection 59-12-103(2)(j), sales of natural gas, electricity, heat, coal, fuel oil, or other fuels for industrial use;

(40) (a) subject to Subsection (40)(b), sales or rentals of the right to use or operate for amusement, entertainment, or recreation an unassisted amusement device as defined in Section 59-12-102;

(b) if a seller that sells or rents at the same business location the right to use or operate for amusement, entertainment, or recreation one or more unassisted amusement devices and one or more assisted amusement devices, the exemption described in Subsection (40)(a) applies if the seller separately accounts for the sales or rentals of the right to use or operate for amusement, entertainment, or recreation for the assisted amusement devices; and

(c) for purposes of Subsection (40)(b) and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules:

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

(ii) establishing the procedures and requirements for a seller to separately account for the sales or rentals of the right to use or operate for amusement, entertainment, or recreation for assisted amusement devices;

(41) (a) sales of photocopies by:

(i) a governmental entity; or

(ii) an entity within the state system of public education, including:

(A) a school; or

(B) the State Board of Education; or

(b) sales of publications by a governmental entity;

(42) amounts paid for admission to an athletic event at an institution of higher education that is subject to the provisions of Title IX of the Education Amendments of 1972, 20 U.S.C. Sec. 1681 et seq.;

(43) (a) sales made to or by:

(i) an area agency on aging; or

(ii) a senior citizen center owned by a county, city, or town; or

(b) sales made by a senior citizen center that contracts with an area agency on aging;

(44) sales or leases of semiconductor fabricating, processing, research, or development materials regardless of whether the semiconductor fabricating, processing, research, or development materials:

(a) actually come into contact with a semiconductor; or

(b) ultimately become incorporated into real property;

(45) an amount paid by or charged to a purchaser for accommodations and services described in Subsection 59-12-103(1)(i) to the extent the amount is exempt under Section 59-12-104.2;

(46) beginning on September 1, 2001, the lease or use of a vehicle issued a temporary sports event registration certificate in accordance with Section 41-3-306 for the event period specified on the temporary sports event registration certificate;

(47) (a) sales or uses of electricity, if the sales or uses are made under a retail tariff adopted by the Public Service Commission only for purchase of electricity produced from a new alternative energy source built after January 1, 2016, as designated in the tariff by the Public Service Commission; and

(b) for a residential use customer only, the exemption under Subsection (47)(a) applies only to the portion of the tariff rate a customer pays under the tariff described in Subsection (47)(a) that exceeds the tariff rate under the tariff described in Subsection (47)(a) that the customer would have paid absent the tariff;

(48) sales or rentals of mobility enhancing equipment if a person presents a prescription for the mobility enhancing equipment;

(49) sales of water in a:

(a) pipe;

(b) conduit;

(c) ditch; or

(d) reservoir;

(50) sales of currency or coins that constitute legal tender of a state, the United States, or a foreign nation;

(51) (a) sales of an item described in Subsection (51)(b) if the item:

(i) does not constitute legal tender of a state, the United States, or a foreign nation; and

(ii) has a gold, silver, or platinum content of 50% or more; and

(b) Subsection (51)(a) applies to a gold, silver, or platinum:

(i) ingot;

(ii) bar;

(iii) medallion; or

(iv) decorative coin;

(52) amounts paid on a sale-leaseback transaction;

(53) sales of a prosthetic device:

(a) for use on or in a human; and

(b) (i) for which a prescription is required; or

(ii) if the prosthetic device is purchased by a hospital or other medical facility;

(54) (a) except as provided in Subsection (54)(b), purchases, leases, or rentals of machinery or equipment by an establishment described in Subsection (54)(c) if the machinery or equipment is primarily used in the production or postproduction of the following media for commercial distribution:

(i) a motion picture;

(ii) a television program;

(iii) a movie made for television;

(iv) a music video;

(v) a commercial;

(vi) a documentary; or

(vii) a medium similar to Subsections (54)(a)(i) through (vi) as determined by the commission by administrative rule made in accordance with Subsection (54)(d); or

(b) purchases, leases, or rentals of machinery or equipment by an establishment described in Subsection (54)(c) that is used for the production or postproduction of the following are subject to the taxes imposed by this chapter:

(i) a live musical performance;

(ii) a live news program; or

(iii) a live sporting event;

(c) the following establishments listed in the 1997 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget, apply to Subsections (54)(a) and (b):

(i) NAICS Code 512110; or

(ii) NAICS Code 51219; and

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

(i) prescribe what constitutes a medium similar to Subsections (54)(a)(i) through (vi); or

(ii) define:

(A) "commercial distribution";

(B) "live musical performance";

(C) "live news program"; or

(D) "live sporting event";

(55) (a) leases of seven or more years or purchases made on or after July 1, 2004, but on or before June 30, 2027, of tangible personal property that:

(i) is leased or purchased for or by a facility that:

(A) is an alternative energy electricity production facility;

(B) is located in the state; and

(C) (I) becomes operational on or after July 1, 2004; or

(II) has its generation capacity increased by one or more megawatts on or after July 1, 2004, as a result of the use of the tangible personal property;

(ii) has an economic life of five or more years; and

(iii) is used to make the facility or the increase in capacity of the facility described in Subsection (55)(a)(i) operational up to the point of interconnection with an existing transmission grid including:

(A) a wind turbine;

(B) generating equipment;

(C) a control and monitoring system;

(D) a power line;

(E) substation equipment;

(F) lighting;

(G) fencing;

(H) pipes; or

(I) other equipment used for locating a power line or pole; and

(b) this Subsection (55) does not apply to:

(i) tangible personal property used in construction of:

(A) a new alternative energy electricity production facility; or

(B) the increase in the capacity of an alternative energy electricity production facility;

(ii) contracted services required for construction and routine maintenance activities; and

(iii) unless the tangible personal property is used or acquired for an increase in capacity of the facility described in Subsection (55)(a)(i)(C)(II), tangible personal property used or acquired after:

(A) the alternative energy electricity production facility described in Subsection (55)(a)(i) is operational as described in Subsection (55)(a)(iii); or

(B) the increased capacity described in Subsection (55)(a)(i) is operational as described in Subsection (55)(a)(iii);

(56) (a) leases of seven or more years or purchases made on or after July 1, 2004, but on or before June 30, 2027, of tangible personal property that:

(i) is leased or purchased for or by a facility that:

(A) is a waste energy production facility;

(B) is located in the state; and

(C) (I) becomes operational on or after July 1, 2004; or

(II) has its generation capacity increased by one or more megawatts on or after July 1, 2004, as a result of the use of the tangible personal property;

(ii) has an economic life of five or more years; and

(iii) is used to make the facility or the increase in capacity of the facility described in Subsection (56)(a)(i) operational up to the point of interconnection with an existing transmission grid including:

(A) generating equipment;

(B) a control and monitoring system;

(C) a power line;

(D) substation equipment;

(E) lighting;

(F) fencing;

(G) pipes; or

(H) other equipment used for locating a power line or pole; and

(b) this Subsection (56) does not apply to:

(i) tangible personal property used in construction of:

(A) a new waste energy facility; or

(B) the increase in the capacity of a waste energy facility;

(ii) contracted services required for construction and routine maintenance activities; and

(iii) unless the tangible personal property is used or acquired for an increase in capacity described in Subsection (56)(a)(i)(C)(II), tangible personal property used or acquired after:

(A) the waste energy facility described in Subsection (56)(a)(i) is operational as described in Subsection (56)(a)(iii); or

(B) the increased capacity described in Subsection (56)(a)(i) is operational as described in Subsection (56)(a)(iii);

(57) (a) leases of five or more years or purchases made on or after July 1, 2004, but on or before June 30, 2027, of tangible personal property that:

(i) is leased or purchased for or by a facility that:

(A) is located in the state;

(B) produces fuel from alternative energy, including:

(I) methanol; or

(II) ethanol; and

(C) (I) becomes operational on or after July 1, 2004; or

(II) has its capacity to produce fuel increase by 25% or more on or after July 1, 2004, as a result of the installation of the tangible personal property;

(ii) has an economic life of five or more years; and

(iii) is installed on the facility described in Subsection (57)(a)(i);

(b) this Subsection (57) does not apply to:

(i) tangible personal property used in construction of:

(A) a new facility described in Subsection (57)(a)(i); or

(B) the increase in capacity of the facility described in Subsection (57)(a)(i); or

(ii) contracted services required for construction and routine maintenance activities; and

(iii) unless the tangible personal property is used or acquired for an increase in capacity described in Subsection (57)(a)(i)(C)(II), tangible personal property used or acquired after:

(A) the facility described in Subsection (57)(a)(i) is operational; or

(B) the increased capacity described in Subsection (57)(a)(i) is operational;

(58) (a) subject to Subsection (58)(b) or (c), sales of tangible personal property or a product transferred electronically to a person within this state if that tangible personal property or product transferred electronically is subsequently shipped outside the state and incorporated pursuant to contract into and becomes a part of real property located outside of this state;

(b) the exemption under Subsection (58)(a) is not allowed to the extent that the other state or political entity to which the tangible personal property is shipped imposes a sales, use, gross receipts, or other similar transaction excise tax on the transaction against which the other state or political entity allows a credit for sales and use taxes imposed by this chapter; and

(c) notwithstanding the time period of Subsection 59-1-1410(8) for filing for a refund, a person may claim the exemption allowed by this Subsection (58) for a sale by filing for a refund:

(i) if the sale is made on or after July 1, 2004, but on or before June 30, 2008;

(ii) as if this Subsection (58) as in effect on July 1, 2008, were in effect on the day on which the sale is made;

(iii) if the person did not claim the exemption allowed by this Subsection (58) for the sale prior to filing for the refund;

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

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

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

(59) purchases:

(a) of one or more of the following items in printed or electronic format:

(i) a list containing information that includes one or more:

(A) names; or

(B) addresses; or

(ii) a database containing information that includes one or more:

(A) names; or

(B) addresses; and

(b) used to send direct mail;

(60) redemptions or repurchases of a product by a person if that product was:

(a) delivered to a pawnbroker as part of a pawn transaction; and

(b) redeemed or repurchased within the time period established in a written agreement between the person and the pawnbroker for redeeming or repurchasing the product;

(61) (a) purchases or leases of an item described in Subsection (61)(b) if the item:

(i) is purchased or leased by, or on behalf of, a telecommunications service provider; and

(ii) has a useful economic life of one or more years; and

(b) the following apply to Subsection (61)(a):

(i) telecommunications enabling or facilitating equipment, machinery, or software;

(ii) telecommunications equipment, machinery, or software required for 911 service;

(iii) telecommunications maintenance or repair equipment, machinery, or software;

(iv) telecommunications switching or routing equipment, machinery, or software; or

(v) telecommunications transmission equipment, machinery, or software;

(62) (a) beginning on July 1, 2006, and ending on June 30, 2027, purchases of tangible personal property or a product transferred electronically that are used in the research and development of alternative energy technology; and

(b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may, for purposes of Subsection (62)(a), make rules defining what constitutes purchases of tangible personal property or a product transferred electronically that are used in the research and development of alternative energy technology;

(63) (a) purchases of tangible personal property or a product transferred electronically if:

(i) the tangible personal property or product transferred electronically is:

(A) purchased outside of this state;

(B) brought into this state at any time after the purchase described in Subsection (63)(a)(i)(A); and

(C) used in conducting business in this state; and

(ii) for:

(A) tangible personal property or a product transferred electronically other than the tangible personal property described in Subsection (63)(a)(ii)(B), the first use of the property for a purpose for which the property is designed occurs outside of this state; or

(B) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered outside of this state and not required to be registered in this state under Section 41-1a-202 or 73-18-9 based on residency;

(b) the exemption provided for in Subsection (63)(a) does not apply to:

(i) a lease or rental of tangible personal property or a product transferred electronically; or

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

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

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

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

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

(64) sales of disposable home medical equipment or supplies if:

(a) a person presents a prescription for the disposable home medical equipment or supplies;

(b) the disposable home medical equipment or supplies are used exclusively by the person to whom the prescription described in Subsection (64)(a) is issued; and

(c) the disposable home medical equipment and supplies are listed as eligible for payment under:

(i) Title XVIII, federal Social Security Act; or

(ii) the state plan for medical assistance under Title XIX, federal Social Security Act;

(65) sales:

(a) to a public transit district under Title 17B, Chapter 2a, Part 8, Public Transit District Act; or

(b) of tangible personal property to a subcontractor of a public transit district, if the tangible personal property is:

(i) clearly identified; and

(ii) installed or converted to real property owned by the public transit district;

(66) sales of construction materials:

(a) purchased on or after July 1, 2010;

(b) purchased by, on behalf of, or for the benefit of an international airport:

(i) located within a county of the first class; and

(ii) that has a United States customs office on its premises; and

(c) if the construction materials are:

(i) clearly identified;

(ii) segregated; and

(iii) installed or converted to real property:

(A) owned or operated by the international airport described in Subsection (66)(b); and

(B) located at the international airport described in Subsection (66)(b);

(67) sales of construction materials:

(a) purchased on or after July 1, 2008;

(b) purchased by, on behalf of, or for the benefit of a new airport:

(i) located within a county of the second class; and

(ii) that is owned or operated by a city in which an airline as defined in Section 59-2-102 is headquartered; and

(c) if the construction materials are:

(i) clearly identified;

(ii) segregated; and

(iii) installed or converted to real property:

(A) owned or operated by the new airport described in Subsection (67)(b);

(B) located at the new airport described in Subsection (67)(b); and

(C) as part of the construction of the new airport described in Subsection (67)(b);

(68) sales of fuel to a common carrier that is a railroad for use in a locomotive engine;

(69) purchases and sales described in Section 63H-4-111;

(70) (a) sales of tangible personal property to an aircraft maintenance, repair, and overhaul provider for use in the maintenance, repair, overhaul, or refurbishment in this state of a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration lists a state or country other than this state as the location of registry of the fixed wing turbine powered aircraft; or

(b) sales of tangible personal property by an aircraft maintenance, repair, and overhaul provider in connection with the maintenance, repair, overhaul, or refurbishment in this state of a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration lists a state or country other than this state as the location of registry of the fixed wing turbine powered aircraft;

(71) subject to Section 59-12-104.4, sales of a textbook for a higher education course:

(a) to a person admitted to an institution of higher education; and

(b) by a seller, other than a bookstore owned by an institution of higher education, if 51% or more of that seller's sales revenue for the previous calendar quarter are sales of a textbook for a higher education course;

(72) a license fee or tax a municipality imposes in accordance with Subsection 10-1-203(5) on a purchaser from a business for which the municipality provides an enhanced level of municipal services;

(73) amounts paid or charged for construction materials used in the construction of a new or expanding life science research and development facility in the state, if the construction materials are:

(a) clearly identified;

(b) segregated; and

(c) installed or converted to real property;

(74) amounts paid or charged for:

(a) a purchase or lease of machinery and equipment that:

(i) are used in performing qualified research:

(A) as defined in Section 41(d), Internal Revenue Code; and

(B) in the state; and

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

(b) normal operating repair or replacement parts:

(i) for the machinery and equipment described in Subsection (74)(a); and

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

(75) a sale or lease of tangible personal property used in the preparation of prepared food if:

(a) for a sale:

(i) the ownership of the seller and the ownership of the purchaser are identical; and

(ii) the seller or the purchaser paid a tax under this chapter on the purchase of that tangible personal property prior to making the sale; or

(b) for a lease:

(i) the ownership of the lessor and the ownership of the lessee are identical; and

(ii) the lessor or the lessee paid a tax under this chapter on the purchase of that tangible personal property prior to making the lease;

(76) (a) purchases of machinery or equipment if:

(i) the purchaser is an establishment described in NAICS Subsector 713, Amusement, Gambling, and Recreation Industries, of the 2012 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget;

(ii) the machinery or equipment:

(A) has an economic life of three or more years; and

(B) is used by one or more persons who pay admission or user fees described in Subsection 59-12-103(1)(f) to the purchaser of the machinery and equipment; and

(iii) 51% or more of the purchaser's sales revenue for the previous calendar quarter is:

(A) amounts paid or charged as admission or user fees described in Subsection 59-12-103(1)(f); and

(B) subject to taxation under this chapter; and

(b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules for verifying that 51% of a purchaser's sales revenue for the previous calendar quarter is:

(i) amounts paid or charged as admission or user fees described in Subsection 59-12-103(1)(f); and

(ii) subject to taxation under this chapter;

(77) purchases of a short-term lodging consumable by a business that provides accommodations and services described in Subsection 59-12-103(1)(i);

(78) amounts paid or charged to access a database:

(a) if the primary purpose for accessing the database is to view or retrieve information from the database; and

(b) not including amounts paid or charged for a:

(i) digital audio work;

(ii) digital audio-visual work; or

(iii) digital book;

(79) amounts paid or charged for a purchase or lease made by an electronic financial payment service, of:

(a) machinery and equipment that:

(i) are used in the operation of the electronic financial payment service; and

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

(b) normal operating repair or replacement parts that:

(i) are used in the operation of the electronic financial payment service; and

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

(80) beginning on April 1, 2013, sales of a fuel cell as defined in Section 54-15-102;

(81) amounts paid or charged for a purchase or lease of tangible personal property or a product transferred electronically if the tangible personal property or product transferred electronically:

(a) is stored, used, or consumed in the state; and

(b) is temporarily brought into the state from another state:

(i) during a disaster period as defined in Section 53-2a-1202;

(ii) by an out-of-state business as defined in Section 53-2a-1202;

(iii) for a declared state disaster or emergency as defined in Section 53-2a-1202; and

(iv) for disaster- or emergency-related work as defined in Section 53-2a-1202;

(82) sales of goods and services at a morale, welfare, and recreation facility, as defined in Section 39-9-102, made pursuant to Title 39, Chapter 9, State Morale, Welfare, and Recreation Program;

(83) amounts paid or charged for a purchase or lease of molten magnesium;

(84) amounts paid or charged for a purchase or lease made by a qualifying data center or an occupant of a qualifying data center of machinery, equipment, or normal operating repair or replacement parts, if the machinery, equipment, or normal operating repair or replacement parts:

(a) are used in:

(i) the operation of the qualifying data center; or

(ii) the occupant's operations in the qualifying data center; and

(b) have an economic life of one or more years;

(85) sales of cleaning or washing of a vehicle, except for cleaning or washing of a vehicle that includes cleaning or washing of the interior of the vehicle;

(86) amounts paid or charged for a purchase or lease of machinery, equipment, normal operating repair or replacement parts, catalysts, chemicals, reagents, solutions, or supplies used or consumed:

(a) by a refiner who owns, leases, operates, controls, or supervises a refinery as defined in Section [~~63M-4-701~~] 79-6-701 located in the state;

(b) if the machinery, equipment, normal operating repair or replacement parts, catalysts, chemicals, reagents, solutions, or supplies are used or consumed in:

(i) the production process to produce gasoline or diesel fuel, or at which blendstock is added to gasoline or diesel fuel;

(ii) research and development;

(iii) transporting, storing, or managing raw materials, work in process, finished products, and waste materials produced from refining gasoline or diesel fuel, or adding blendstock to gasoline or diesel fuel;

(iv) developing or maintaining a road, tunnel, excavation, or similar feature used in refining; or

(v) preventing, controlling, or reducing pollutants from refining; and

(c) beginning on July 1, 2021, if the person holds a valid refiner tax exemption certification as defined in Section [~~63M-4-701~~] 79-6-701;

(87) amounts paid to or charged by a proprietor for accommodations and services, as defined in Section 63H-1-205, if the proprietor is subject to the MIDA accommodations tax imposed under Section 63H-1-205;

(88) amounts paid or charged for a purchase or lease of machinery, equipment, normal operating repair or replacement parts, or materials, except for office equipment or office supplies, by an establishment, as the commission defines that term in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

(a) is described in NAICS Code 621511, Medical Laboratories, of the 2017 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget;

(b) is located in this state; and

(c) uses the machinery, equipment, normal operating repair or replacement parts, or materials in the operation of the establishment; and

(89) amounts paid or charged for an item exempt under Section 59-12-104.10.

Section 32. Section 59-13-201 is amended to read:

59-13-201. Rate -- Tax basis -- Exemptions -- Revenue deposited into the Transportation Fund -- Restricted account for boating uses -- Refunds -- Reduction of tax in limited circumstances.

(1) (a) Subject to the provisions of this section and except as provided in Subsection (1)(e), a tax is imposed at the rate of 16.5% of the statewide average rack price of a gallon of motor fuel per gallon upon all motor fuel that is sold, used, or received for sale or used in this state.

(b) (i) Until December 31, 2018, and subject to the requirements under Subsection (1)(c), the statewide average rack price of a gallon of motor fuel under Subsection (1)(a) shall be determined by calculating the previous fiscal year statewide average rack price of a gallon of regular unleaded motor fuel, excluding federal and state excise taxes, for the 12 months ending on the previous June 30 as published by an oil pricing service.

(ii) Beginning on January 1, 2019, and subject to the requirements under Subsection (1)(c), the statewide average rack price of a gallon of motor fuel under Subsection (1)(a) shall be determined by calculating the previous three fiscal years statewide average rack price of a gallon of regular unleaded motor fuel, excluding federal and state excise taxes, for the 36 months ending on the previous June 30 as published by an oil pricing service.

(c) (i) Subject to the requirement in Subsection (1)(c)(ii), the statewide average rack price of a

gallon of motor fuel determined under Subsection (1)(b) may not be less than $1.78 per gallon.

(ii) Beginning on January 1, 2019, the commission shall, on January 1, annually adjust the minimum statewide average rack price of a gallon of motor fuel described in Subsection (1)(c)(i) by taking the minimum statewide average rack price of a gallon of motor fuel for the previous calendar year and adding an amount equal to the greater of:

(A) an amount calculated by multiplying the minimum statewide average rack price of a gallon of motor fuel for the previous calendar year by the actual percent change during the previous fiscal year in the Consumer Price Index; and

(B) 0.

(iii) The statewide average rack price of a gallon of motor fuel determined by the commission under Subsection (1)(b) may not exceed $2.43 per gallon.

(iv) The minimum statewide average rack price of a gallon of motor fuel described and adjusted under Subsections (1)(c)(i) and (ii) may not exceed the maximum statewide average rack price of a gallon of motor fuel under Subsection (1)(c)(iii).

(d) (i) The commission shall annually:

(A) determine the statewide average rack price of a gallon of motor fuel in accordance with Subsections (1)(b) and (c);

(B) adjust the fuel tax rate imposed under Subsection (1)(a), rounded to the nearest one-tenth of a cent, based on the determination under Subsection (1)(b);

(C) publish the adjusted fuel tax as a cents per gallon rate; and

(D) post or otherwise make public the adjusted fuel tax rate as determined in Subsection (1)(d)(i)(B) no later than 60 days prior to the annual effective date under Subsection (1)(d)(ii).

(ii) The tax rate imposed under this Subsection (1) and adjusted as required under Subsection (1)(d)(i) shall take effect on January 1 of each year.

(e) In lieu of the tax imposed under Subsection (1)(a) and subject to the provisions of this section, a tax is imposed at the rate of 3/19 of the rate imposed under Subsection (1)(a), rounded up to the nearest penny, upon all motor fuels that meet the definition of clean fuel in Section 59-13-102 and are sold, used, or received for sale or use in this state.

(2) Any increase or decrease in tax rate applies to motor fuel that is imported to the state or sold at refineries in the state on or after the effective date of the rate change.

(3) (a) No motor fuel tax is imposed upon:

(i) motor fuel that is brought into and sold in this state in original packages as purely interstate commerce sales;

(ii) motor fuel that is exported from this state if proof of actual exportation on forms prescribed by the commission is made within 180 days after exportation;

(iii) motor fuel or components of motor fuel that is sold and used in this state and distilled from coal, oil shale, rock asphalt, bituminous sand, or solid hydrocarbons located in this state; or

(iv) motor fuel that is sold to the United States government, this state, or the political subdivisions of this state.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules governing the procedures for administering the tax exemption provided under Subsection (3)(a)(iv).

(4) The commission may either collect no tax on motor fuel exported from the state or, upon application, refund the tax paid.

(5) (a) All revenue received by the commission under this part shall be deposited daily with the state treasurer and credited to the Transportation Fund.

(b) An appropriation from the Transportation Fund shall be made to the commission to cover expenses incurred in the administration and enforcement of this part and the collection of the motor fuel tax.

(6) (a) The commission shall determine what amount of motor fuel tax revenue is received from the sale or use of motor fuel used in motorboats registered under the provisions of the State Boating Act, and this amount shall be deposited in a restricted revenue account in the General Fund of the state.

(b) The funds from this account shall be used for the construction, improvement, operation, and maintenance of state-owned boating facilities and for the payment of the costs and expenses of the Division of [~~Parks and~~] Recreation in administering and enforcing the State Boating Act.

(7) (a) The United States government or any of its instrumentalities, this state, or a political subdivision of this state that has purchased motor fuel from a licensed distributor or from a retail dealer of motor fuel and has paid the tax on the motor fuel as provided in this section is entitled to a refund of the tax and may file with the commission for a quarterly refund.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules governing the application and refund provided for in Subsection (7)(a).

(8) (a) The commission shall refund annually into the Off-Highway Vehicle Account in the General Fund an amount equal to .5% of the motor fuel tax revenues collected under this section.

(b) This amount shall be used as provided in Section 41-22-19.

(9) (a) Beginning on April 1, 2001, a tax imposed under this section on motor fuel that is sold, used, or

received for sale or use in this state is reduced to the extent provided in Subsection (9)(b) if:

(i) a tax imposed on the basis of the sale, use, or receipt for sale or use of the motor fuel is paid to the Navajo Nation;

(ii) the tax described in Subsection (9)(a)(i) is imposed without regard to whether or not the person required to pay the tax is an enrolled member of the Navajo Nation; and

(iii) the commission and the Navajo Nation execute and maintain an agreement as provided in this Subsection (9) for the administration of the reduction of tax.

(b) (i) If but for Subsection (9)(a) the motor fuel is subject to a tax imposed by this section:

(A) the state shall be paid the difference described in Subsection (9)(b)(ii) if that difference is greater than $0; and

(B) a person may not require the state to provide a refund, a credit, or similar tax relief if the difference described in Subsection (9)(b)(ii) is less than or equal to $0.

(ii) The difference described in Subsection (9)(b)(i) is equal to the difference between:

(A) the amount of tax imposed on the motor fuel by this section; less

(B) the tax imposed and collected by the Navajo Nation on the motor fuel.

(c) For purposes of Subsections (9)(a) and (b), the tax paid to the Navajo Nation under a tax imposed by the Navajo Nation on the basis of the sale, use, or receipt for sale or use of motor fuel does not include any interest or penalties a taxpayer may be required to pay to the Navajo Nation.

(d) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules governing the procedures for administering the reduction of tax provided under this Subsection (9).

(e) The agreement required under Subsection (9)(a):

(i) may not:

(A) authorize the state to impose a tax in addition to a tax imposed under this chapter;

(B) provide a reduction of taxes greater than or different from the reduction described in this Subsection (9); or

(C) affect the power of the state to establish rates of taxation;

(ii) shall:

(A) be in writing;

(B) be signed by:

(I) the chair of the commission or the chair's designee; and

(II) a person designated by the Navajo Nation that may bind the Navajo Nation;

(C) be conditioned on obtaining any approval required by federal law;

(D) state the effective date of the agreement; and

(E) state any accommodation the Navajo Nation makes related to the construction and maintenance of state highways and other infrastructure within the Utah portion of the Navajo Nation; and

(iii) may:

(A) notwithstanding Section 59-1-403, authorize the commission to disclose to the Navajo Nation information that is:

(I) contained in a document filed with the commission; and

(II) related to the tax imposed under this section;

(B) provide for maintaining records by the commission or the Navajo Nation; or

(C) provide for inspections or audits of distributors, carriers, or retailers located or doing business within the Utah portion of the Navajo Nation.

(f) (i) If, on or after April 1, 2001, the Navajo Nation changes the tax rate of a tax imposed on motor fuel, any change in the reduction of taxes under this Subsection (9) as a result of the change in the tax rate is not effective until the first day of the calendar quarter after a 60-day period beginning on the date the commission receives notice:

(A) from the Navajo Nation; and

(B) meeting the requirements of Subsection (9)(f)(ii).

(ii) The notice described in Subsection (9)(f)(i) shall state:

(A) that the Navajo Nation has changed or will change the tax rate of a tax imposed on motor fuel;

(B) the effective date of the rate change of the tax described in Subsection (9)(f)(ii)(A); and

(C) the new rate of the tax described in Subsection (9)(f)(ii)(A).

(g) If the agreement required by Subsection (9)(a) terminates, a reduction of tax is not permitted under this Subsection (9) beginning on the first day of the calendar quarter after a 30-day period beginning on the day the agreement terminates.

(h) If there is a conflict between this Subsection (9) and the agreement required by Subsection (9)(a), this Subsection (9) governs.

Section 33. Section 59-21-2 is amended to read:

59-21-2. Mineral Bonus Account created -- Contents -- Use of Mineral Bonus Account money -- Mineral Lease Account created -- Contents -- Appropriation of money from Mineral Lease Account.

(1) (a) There is created a restricted account within the General Fund known as the "Mineral Bonus Account."

(b) The Mineral Bonus Account consists of federal mineral lease bonus payments deposited pursuant to Subsection 59-21-1(3).

(c) The Legislature shall make appropriations from the Mineral Bonus Account in accordance with Section 35 of the Mineral Lands Leasing Act of 1920, 30 U.S.C. Sec. 191.

(d) The state treasurer shall:

(i) invest the money in the Mineral Bonus Account by following the procedures and requirements of Title 51, Chapter 7, State Money Management Act; and

(ii) deposit all interest or other earnings derived from the account into the Mineral Bonus Account.

(e) The Division of Finance shall, beginning on July 1, 2017, annually deposit 30% of mineral lease bonus payments deposited under Subsection (1)(b) from the previous fiscal year into the Wildland Fire Suppression Fund created in Section 65A-8-204, up to $2,000,000 but not to exceed 20% of the amount expended in the previous fiscal year from the Wildland Fire Suppression Fund.

(2) (a) There is created a restricted account within the General Fund known as the "Mineral Lease Account."

(b) The Mineral Lease Account consists of federal mineral lease money deposited pursuant to Subsection 59-21-1(1).

(c) The Legislature shall make appropriations from the Mineral Lease Account as provided in Subsection 59-21-1(1) and this Subsection (2).

(d) (i) Except as provided in Subsections (2)(d)(ii) and (iii), the Legislature shall annually appropriate 32.5% of all deposits made to the Mineral Lease Account to the Permanent Community Impact Fund established by Section 35A-8-303.

(ii) For fiscal year 2016-17 only and from the amount required to be deposited under Subsection (2)(d)(i), the Legislature shall appropriate $26,000,000 of the deposits made to the Mineral Lease Account to the Impacted Communities Transportation Development Restricted Account established by Section 72-2-128.

(iii) For fiscal year 2017-18 only and from the amount required to be deposited under Subsection (2)(d)(i), the Legislature shall appropriate $27,000,000 of the deposits made to the Mineral Lease Account to the Impacted Communities Transportation Development Restricted Account established by Section 72-2-128.

(e) The Legislature shall annually appropriate 2.25% of all deposits made to the Mineral Lease Account to the State Board of Education, to be used for education research and experimentation in the use of staff and facilities designed to improve the quality of education in Utah.

(f) The Legislature shall annually appropriate 2.25% of all deposits made to the Mineral Lease Account to the Utah Geological Survey, to be used for activities carried on by the survey having as a purpose the development and exploitation of natural resources in the state.

(g) The Legislature shall annually appropriate 2.25% of all deposits made to the Mineral Lease Account to the Water Research Laboratory at Utah State University, to be used for activities carried on by the laboratory having as a purpose the development and exploitation of water resources in the state.

(h) (i) The Legislature shall annually appropriate to the Division of Finance 40% of all deposits made to the Mineral Lease Account to be distributed as provided in Subsection (2)(h)(ii) to:

(A) counties;

(B) special service districts established:

(I) by counties;

(II) under Title 17D, Chapter 1, Special Service District Act; and

(III) for the purpose of constructing, repairing, or maintaining roads; or

(C) special service districts established:

(I) by counties;

(II) under Title 17D, Chapter 1, Special Service District Act; and

(III) for other purposes authorized by statute.

(ii) The Division of Finance shall allocate the funds specified in Subsection (2)(h)(i):

(A) in amounts proportionate to the amount of mineral lease money generated by each county; and

(B) to a county or special service district established by a county under Title 17D, Chapter 1, Special Service District Act, as determined by the county legislative body.

(i) (i) The Legislature shall annually appropriate 5% of all deposits made to the Mineral Lease Account to the Department of Workforce Services to be distributed to:

(A) special service districts established:

(I) by counties;

(II) under Title 17D, Chapter 1, Special Service District Act; and

(III) for the purpose of constructing, repairing, or maintaining roads; or

(B) special service districts established:

(I) by counties;

(II) under Title 17D, Chapter 1, Special Service District Act; and

(III) for other purposes authorized by statute.

(ii) The Department of Workforce Services may distribute the amounts described in Subsection

(2)(i)(i) only to special service districts established under Title 17D, Chapter 1, Special Service District Act, by counties:

(A) of the third, fourth, fifth, or sixth class;

(B) in which 4.5% or less of the mineral lease money within the state is generated; and

(C) that are significantly socially or economically impacted as provided in Subsection (2)(i)(iii) by the development of minerals under the Mineral Lands Leasing Act, 30 U.S.C. Sec. 181 et seq.

(iii) The significant social or economic impact required under Subsection (2)(i)(ii)(C) shall be as a result of:

(A) the transportation within the county of hydrocarbons, including solid hydrocarbons as defined in Section 59-5-101;

(B) the employment of persons residing within the county in hydrocarbon extraction, including the extraction of solid hydrocarbons as defined in Section 59-5-101; or

(C) a combination of Subsections (2)(i)(iii)(A) and (B).

(iv) For purposes of distributing the appropriations under this Subsection (2)(i) to special service districts established by counties under Title 17D, Chapter 1, Special Service District Act, the Department of Workforce Services shall:

(A) (I) allocate 50% of the appropriations equally among the counties meeting the requirements of Subsections (2)(i)(ii) and (iii); and

(II) allocate 50% of the appropriations based on the ratio that the population of each county meeting the requirements of Subsections (2)(i)(ii) and (iii) bears to the total population of all of the counties meeting the requirements of Subsections (2)(i)(ii) and (iii); and

(B) after making the allocations described in Subsection (2)(i)(iv)(A), distribute the allocated revenues to special service districts established by the counties under Title 17D, Chapter 1, Special Service District Act, as determined by the executive director of the Department of Workforce Services after consulting with the county legislative bodies of the counties meeting the requirements of Subsections (2)(i)(ii) and (iii).

(v) The executive director of the Department of Workforce Services:

(A) shall determine whether a county meets the requirements of Subsections (2)(i)(ii) and (iii);

(B) shall distribute the appropriations under Subsection (2)(i)(i) to special service districts established by counties under Title 17D, Chapter 1, Special Service District Act, that meet the requirements of Subsections (2)(i)(ii) and (iii); and

(C) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, may make rules:

(I) providing a procedure for making the distributions under this Subsection (2)(i) to special service districts; and

(II) defining the term "population" for purposes of Subsection (2)(i)(iv).

(j) (i) The Legislature shall annually make the following appropriations from the Mineral Lease Account:

(A) an amount equal to 52 cents multiplied by the number of acres of school or institutional trust lands, lands owned by the Division of State Parks [~~and~~] or the Division of Recreation, and lands owned by the Division of Wildlife Resources that are not under an in lieu of taxes contract, to each county in which those lands are located;

(B) to each county in which school or institutional trust lands are transferred to the federal government after December 31, 1992, an amount equal to the number of transferred acres in the county multiplied by a payment per acre equal to the difference between 52 cents per acre and the per acre payment made to that county in the most recent payment under the federal payment in lieu of taxes program, 31 U.S.C. Sec. 6901 et seq., unless the federal payment was equal to or exceeded the 52 cents per acre, in which case a payment under this Subsection (2)(j)(i)(B) may not be made for the transferred lands;

(C) to each county in which federal lands, which are entitlement lands under the federal in lieu of taxes program, are transferred to the school or institutional trust, an amount equal to the number of transferred acres in the county multiplied by a payment per acre equal to the difference between the most recent per acre payment made under the federal payment in lieu of taxes program and 52 cents per acre, unless the federal payment was equal to or less than 52 cents per acre, in which case a payment under this Subsection (2)(j)(i)(C) may not be made for the transferred land; and

(D) to a county of the fifth or sixth class, an amount equal to the product of:

(I) $1,000; and

(II) the number of residences described in Subsection (2)(j)(iv) that are located within the county.

(ii) A county receiving money under Subsection (2)(j)(i) may, as determined by the county legislative body, distribute the money or a portion of the money to:

(A) special service districts established by the county under Title 17D, Chapter 1, Special Service District Act;

(B) school districts; or

(C) public institutions of higher education.

(iii) (A) Beginning in fiscal year 1994-95 and in each year after fiscal year 1994-95, the Division of Finance shall increase or decrease the amounts per acre provided for in Subsections (2)(j)(i)(A) through (C) by the average annual change in the Consumer

Price Index for all urban consumers published by the Department of Labor.

(B) For fiscal years beginning on or after fiscal year 2001-02, the Division of Finance shall increase or decrease the amount described in Subsection (2)(j)(i)(D)(I) by the average annual change in the Consumer Price Index for all urban consumers published by the Department of Labor.

(iv) Residences for purposes of Subsection (2)(j)(i)(D)(II) are residences that are:

(A) owned by:

(I) the Division of State Parks [~~and~~] or the Division of Recreation; or

(II) the Division of Wildlife Resources;

(B) located on lands that are owned by:

(I) the Division of State Parks [~~and~~] or the Division of Recreation; or

(II) the Division of Wildlife Resources; and

(C) are not subject to taxation under:

(I) Chapter 2, Property Tax Act; or

(II) Chapter 4, Privilege Tax.

(k) The Legislature shall annually appropriate to the Permanent Community Impact Fund all deposits remaining in the Mineral Lease Account after making the appropriations provided for in Subsections (2)(d) through (j).

(3) (a) Each agency, board, institution of higher education, and political subdivision receiving money under this chapter shall provide the Legislature, through the Office of the Legislative Fiscal Analyst, with a complete accounting of the use of that money on an annual basis.

(b) The accounting required under Subsection (3)(a) shall:

(i) include actual expenditures for the prior fiscal year, budgeted expenditures for the current fiscal year, and planned expenditures for the following fiscal year; and

(ii) be reviewed by the Business, Economic Development, and Labor Appropriations Subcommittee as part of its normal budgetary process under Title 63J, Chapter 1, Budgetary Procedures Act.

Section 34. Section 59-28-103 is amended to read:

59-28-103. Imposition -- Rate -- Revenue distribution.

(1) Subject to the other provisions of this chapter, the state shall impose a tax on the transactions described in Subsection 59-12-103(1)(i) at a rate of .32%.

(2) The tax imposed under this chapter is in addition to any other taxes imposed on the transactions described in Subsection 59-12-103(1)(i).

(3) (a) (i) Subject to Subsection (3)(a)(ii), the commission shall deposit 6% of the revenue the state collects from the tax under this chapter into the Hospitality and Tourism Management Education Account created in Section 53F-9-501 to fund the Hospitality and Tourism Management Career and Technical Education Pilot Program created in Section 53E-3-515.

(ii) The commission may not deposit more than $300,000 into the Hospitality and Tourism Management Education Account under Subsection (3)(a)(i) in a fiscal year.

(b) Except for the amount deposited into the Hospitality and Tourism Management Education Account under Subsection (3)(a) and the administrative charge retained under Subsection 59-28-104(4), the commission shall deposit any revenue the state collects from the tax under this chapter into the Outdoor Recreation Infrastructure Account created in Section [~~63N-9-205~~] 79-8-106 to fund the Outdoor Recreational Infrastructure Grant Program created in Section 63N-9-202 and the Recreation Restoration Infrastructure Grant Program created in Section [~~63N-9-302~~] 79-8-202.

Section 35. Section 63A-4-104 is amended to read:

63A-4-104. Course-of-construction insurance for facilities constructed by This is the Place Foundation.

The risk manager may provide course-of-construction insurance for facilities constructed by This is the Place Foundation at This is the Place State Park and bill the Division of State Parks [~~and Recreation~~] for the cost of the insurance.

Section 36. Section 63B-3-301 is amended to read:

63B-3-301. Legislative intent -- Additional projects.

(1) It is the intent of the Legislature that, for any lease purchase agreement that the Legislature may authorize the Division of Facilities Construction and Management to enter into during its 1994 Annual General Session, the State Building Ownership Authority, at the reasonable rates and amounts it may determine, and with technical assistance from the state treasurer, the director of the Division of Finance, and the executive director of the Governor's Office of Management and Budget, may seek out the most cost effective and prudent lease purchase plans available to the state and may, pursuant to Chapter 1, Part 3, State Building Ownership Authority Act, certificate out interests in, or obligations of the authority pertaining to:

(a) the lease purchase obligation; or

(b) lease rental payments under the lease purchase obligation.

(2) It is the intent of the Legislature that the Department of Transportation dispose of surplus real properties and use the proceeds from those properties to acquire or construct through the Division of Facilities Construction and Management a new District Two Complex.

(3) It is the intent of the Legislature that the State Building Board allocate funds from the Capital Improvement appropriation and donations to cover costs associated with the upgrade of the Governor's Residence that go beyond the restoration costs which can be covered by insurance proceeds.

(4) (a) It is the intent of the Legislature to authorize the State Building Ownership Authority under authority of Chapter 1, Part 3, State Building Ownership Authority Act, to issue or execute obligations or enter into or arrange for a lease purchase agreement in which participation interests may be created, to provide up to $10,600,000 for the construction of a Natural Resources Building in Salt Lake City, together with additional amounts necessary to:

(i) pay costs of issuance;

(ii) pay capitalized interest; and

(iii) fund any debt service reserve requirements.

(b) It is the intent of the Legislature that the authority seek out the most cost effective and prudent lease purchase plan available with technical assistance from the state treasurer, the director of the Division of Finance, and the executive director of the Governor's Office of Management and Budget.

(c) It is the intent of the Legislature that the operating budget for the Department of Natural Resources not be increased to fund these lease payments.

(5) (a) It is the intent of the Legislature to authorize the State Building Ownership Authority under authority of Chapter 1, Part 3, State Building Ownership Authority Act, to issue or execute obligations or enter into or arrange for a lease purchase agreement in which participation interests may be created, to provide up to $8,300,000 for the acquisition of the office buildings currently occupied by the Department of Environmental Quality and approximately 19 acres of additional vacant land at the Airport East Business Park in Salt Lake City, together with additional amounts necessary to:

(i) pay costs of issuance;

(ii) pay capitalized interest; and

(iii) fund any debt service reserve requirements.

(b) It is the intent of the Legislature that the authority seek out the most cost effective and prudent lease purchase plan available with technical assistance from the state treasurer, the director of the Division of Finance, and the executive director of the Governor's Office of Management and Budget.

(6) (a) It is the intent of the Legislature to authorize the State Building Ownership Authority under authority of Chapter 1, Part 3, State Building Ownership Authority Act, to issue or execute obligations or enter into or arrange for a lease purchase agreement in which participation interests may be created, to provide up to $9,000,000 for the acquisition or construction of up to two field offices for the Department of Human Services in the southwestern portion of Salt Lake County, together with additional amounts necessary to:

(i) pay costs of issuance;

(ii) pay capitalized interest; and

(iii) fund any debt service reserve requirements.

(b) It is the intent of the Legislature that the authority seek out the most cost effective and prudent lease purchase plan available with technical assistance from the state treasurer, the director of the Division of Finance, and the executive director of the Governor's Office of Management and Budget.

(7) (a) It is the intent of the Legislature to authorize the State Building Ownership Authority under authority of Chapter 1, Part 3, State Building Ownership Authority Act, to issue or execute obligations or enter into or arrange for lease purchase agreements in which participation interests may be created, to provide up to $5,000,000 for the acquisition or construction of up to 13 stores for the Department of Alcoholic Beverage Control, together with additional amounts necessary to:

(i) pay costs of issuance;

(ii) pay capitalized interest; and

(iii) fund any debt service reserve requirements.

(b) It is the intent of the Legislature that the authority seek out the most cost effective and prudent lease purchase plan available with technical assistance from the state treasurer, the director of the Division of Finance, and the executive director of the Governor's Office of Management and Budget.

(c) It is the intent of the Legislature that the operating budget for the Department of Alcoholic Beverage Control not be increased to fund these lease payments.

(8) (a) It is the intent of the Legislature to authorize the State Building Ownership Authority under authority of Chapter 1, Part 3, State Building Ownership Authority Act, to issue or execute obligations or enter into or arrange for a lease purchase agreement in which participation interests may be created, to provide up to $6,800,000 for the construction of a Prerelease and Parole Center for the Department of Corrections, containing a minimum of 300 beds, together with additional amounts necessary to:

(i) pay costs of issuance;

(ii) pay capitalized interest; and

(iii) fund any debt service reserve requirements.

(b) It is the intent of the Legislature that the authority seek out the most cost effective and prudent lease purchase plan available with technical assistance from the state treasurer, the director of the Division of Finance, and the

executive director of the Governor's Office of Management and Budget.

(9) If S.B. 275, 1994 General Session, which authorizes funding for a Courts Complex in Salt Lake City, becomes law, it is the intent of the Legislature that:

(a) the Legislative Management Committee, the Interim Appropriation Subcommittees for General Government and Capital Facilities and Executive Offices, Courts, and Corrections, the Office of the Legislative Fiscal Analyst, the Governor's Office of Management and Budget, and the State Building Board participate in a review of the proposed facility design for the Courts Complex no later than December 1994; and

(b) although this review will not affect the funding authorization issued by the 1994 Legislature, it is expected that Division of Facilities Construction and Management will give proper attention to concerns raised in these reviews and make appropriate design changes pursuant to the review.

(10) It is the intent of the Legislature that:

(a) the Division of Facilities Construction and Management, in cooperation with the Division of Youth Corrections renamed in 2003 to the Division of Juvenile Justice Services, develop a flexible use prototype facility for the Division of Youth Corrections renamed in 2003 to the Division of Juvenile Justice Services;

(b) the development process use existing prototype proposals unless it can be quantifiably demonstrated that the proposals cannot be used;

(c) the facility is designed so that with minor modifications, it can accommodate detention, observation and assessment, transition, and secure programs as needed at specific geographical locations;

(d) (i) funding as provided in the fiscal year 1995 bond authorization for the Division of Youth Corrections renamed in 2003 to the Division of Juvenile Justice Services is used to design and construct one facility and design the other;

(ii) the Division of Youth Corrections renamed in 2003 to the Division of Juvenile Justice Services shall:

(A) determine the location for the facility for which design and construction are fully funded; and

(B) in conjunction with the Division of Facilities Construction and Management, determine the best methodology for design and construction of the fully funded facility;

(e) the Division of Facilities Construction and Management submit the prototype as soon as possible to the Infrastructure and General Government Appropriations Subcommittee and Executive Offices, Criminal Justice, and Legislature Appropriation Subcommittee for review;

(f) the Division of Facilities Construction and Management issue a Request for Proposal for one of the facilities, with that facility designed and constructed entirely by the winning firm;

(g) the other facility be designed and constructed under the existing Division of Facilities Construction and Management process;

(h) that both facilities follow the program needs and specifications as identified by Division of Facilities Construction and Management and the Division of Youth Corrections renamed in 2003 to the Division of Juvenile Justice Services in the prototype; and

(i) the fully funded facility should be ready for occupancy by September 1, 1995.

(11) It is the intent of the Legislature that the fiscal year 1995 funding for the State Fair Park Master Study be used by the Division of Facilities Construction and Management to develop a master plan for the State Fair Park that:

(a) identifies capital facilities needs, capital improvement needs, building configuration, and other long term needs and uses of the State Fair Park and its buildings; and

(b) establishes priorities for development, estimated costs, and projected timetables.

(12) It is the intent of the Legislature that:

(a) the Division of Facilities Construction and Management, in cooperation with the Division of State Parks [~~and Recreation~~], formerly known as the Division of Parks and Recreation, and surrounding counties, develop a master plan and general program for the phased development of Antelope Island;

(b) the master plan:

(i) establish priorities for development;

(ii) include estimated costs and projected time tables; and

(iii) include recommendations for funding methods and the allocation of responsibilities between the parties; and

(c) the results of the effort be reported to the Natural Resources, Agriculture, and Environmental Quality Appropriations Subcommittee and Infrastructure and General Government Appropriations Subcommittee.

(13) It is the intent of the Legislature to authorize the University of Utah to use:

(a) bond reserves to plan, design, and construct the Kingsbury Hall renovation under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director; and

(b) donated and other nonappropriated funds to plan, design, and construct the Biology Research Building under the supervision of the director of the Division of Facilities Construction and

Management unless supervisory authority is delegated by the director.

(14) It is the intent of the Legislature to authorize Utah State University to use:

(a) federal and other funds to plan, design, and construct the Bee Lab under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director;

(b) donated and other nonappropriated funds to plan, design, and construct an Athletic Facility addition and renovation under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director;

(c) donated and other nonappropriated funds to plan, design, and construct a renovation to the Nutrition and Food Science Building under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director; and

(d) federal and private funds to plan, design, and construct the Millville Research Facility under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director.

(15) It is the intent of the Legislature to authorize Salt Lake Community College to use:

(a) institutional funds to plan, design, and construct a remodel to the Auto Trades Office and Learning Center under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director;

(b) institutional funds to plan, design, and construct the relocation and expansion of a temporary maintenance compound under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director; and

(c) institutional funds to plan, design, and construct the Alder Amphitheater under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director.

(16) It is the intent of the Legislature to authorize Southern Utah University to use:

(a) federal funds to plan, design, and construct a Community Services Building under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director; and

(b) donated and other nonappropriated funds to plan, design, and construct a stadium expansion under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director.

(17) It is the intent of the Legislature to authorize the Department of Corrections to use donated funds to plan, design, and construct a Prison Chapel at the Central Utah Correctional Facility in Gunnison under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director.

(18) If the Utah National Guard does not relocate in the Signetics Building, it is the intent of the Legislature to authorize the Guard to use federal funds and funds from Provo City to plan and design an Armory in Provo, Utah, under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director.

(19) It is the intent of the Legislature that the Utah Department of Transportation use $250,000 of the fiscal year 1995 highway appropriation to fund an environmental study in Ogden, Utah of the 2600 North Corridor between Washington Boulevard and I-15.

(20) It is the intent of the Legislature that the Ogden-Weber Applied Technology Center use the money appropriated for fiscal year 1995 to design the Metal Trades Building and purchase equipment for use in that building that could be used in metal trades or other programs in other Applied Technology Centers.

(21) It is the intent of the Legislature that the Bridgerland Applied Technology Center and the Ogden-Weber Applied Technology Center projects as designed in fiscal year 1995 be considered as the highest priority projects for construction funding in fiscal year 1996.

(22) It is the intent of the Legislature that:

(a) the Division of Facilities Construction and Management complete physical space utilization standards by June 30, 1995, for the use of technology education activities;

(b) these standards are to be developed with and approved by the State Board of Education, the Board of Regents, and the Utah State Building Board;

(c) these physical standards be used as the basis for:

(i) determining utilization of any technology space based on number of stations capable and occupied for any given hour of operation; and

(ii) requests for any new space or remodeling;

(d) the fiscal year 1995 projects at the Bridgerland Applied Technology Center and the Ogden-Weber Applied Technology Center are exempt from this process; and

(e) the design of the Davis Applied Technology Center take into account the utilization formulas established by the Division of Facilities Construction and Management.

(23) It is the intent of the Legislature that Utah Valley State College may use the money from the bond allocated to the remodel of the Signetics

building to relocate its technical education programs at other designated sites or facilities under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director.

(24) It is the intent of the Legislature that the money provided for the fiscal year 1995 project for the Bridgerland Applied Technology Center be used to design and construct the space associated with Utah State University and design the technology center portion of the project.

(25) It is the intent of the Legislature that the governor provide periodic reports on the expenditure of the funds provided for electronic technology, equipment, and hardware to the Infrastructure and General Government Appropriations Subcommittee, and the Legislative Management Committee.

Section 37. Section 63B-4-301 is amended to read:

63B-4-301. Bonds for golf course at Wasatch Mountain State Park.

(1) The State Building Ownership Authority under authority of Title 63B, Chapter 1, Part 3, State Building Ownership Authority Act, may issue or execute obligations, or enter into or arrange for a lease purchase agreement in which participation interests may be created, to provide up to $2,500,000 for a new nine-hole golf course at Wasatch Mountain State Park for the Division of State Parks [~~and Recreation~~], formerly known as the Division of Parks and Recreation, together with additional amounts necessary to:

(a) pay costs of issuance;

(b) pay capitalized interest; and

(c) fund any debt service reserve requirements.

(2) (a) The State Building Ownership Authority shall work cooperatively with the Division of State Parks [~~and Recreation~~], formerly known as the Division of Parks and Recreation, to seek out the most cost effective and prudent lease purchase plan available.

(b) The state treasurer, the director of the Division of Finance, and the executive director of the Governor's Office of Management and Budget shall provide technical assistance to accomplish the purpose specified in Subsection (2)(a).

Section 38. Section 63B-5-201 is amended to read:

63B-5-201. Legislative intent statements.

(1) If the United States Department of Defense has not provided matching funds to construct the National Guard Armory in Orem by December 31, 1997, the Division of Facilities Construction and Management shall transfer any funds received from issuance of a General Obligation Bond for benefit of the Orem Armory to the Provo Armory for capital improvements.

(2) It is the intent of the Legislature that the University of Utah use institutional funds to plan, design, and construct:

(a) the Health Science East parking structure under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director;

(b) the Health Science Office Building under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director; and

(c) the new Student Housing/Olympic Athletes Village under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director.

(3) It is the intent of the Legislature that Utah State University use institutional funds to plan, design, and construct a multipurpose facility under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director.

(4) It is the intent of the Legislature that the Utah Geologic Survey use agency internal funding to plan, design, and construct a sample library facility under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director.

(5) (a) If legislation introduced in the 1996 General Session to fund the Wasatch State Park Club House does not pass, the State Building Ownership Authority, under authority of Title 63B, Chapter 1, Part 3, State Building Ownership Authority Act, may issue or execute obligations, or enter into or arrange for a lease purchase agreement in which participation interests may be created, to provide up to $1,500,000 for the remodel and expansion of the clubhouse at Wasatch Mountain State Park for the Division of State Parks [~~and Recreation~~], formerly known as the Division of Parks and Recreation, together with additional amounts necessary to:

(i) pay costs of issuance;

(ii) pay capitalized interest; and

(iii) fund any debt service reserve requirements.

(b) The State Building Ownership Authority shall work cooperatively with the Division of State Parks [~~and Recreation~~], formerly known as the Division of Parks and Recreation, to seek out the most cost effective and prudent lease purchase plan available.

(6) (a) The State Building Ownership Authority, under authority of Title 63B, Chapter 1, Part 3, State Building Ownership Authority Act, may issue or execute obligations, or enter into or arrange for a lease purchase agreement in which participation interests may be created, to provide up to $835,300 for the construction of a liquor store in the Snyderville area, together with additional amounts necessary to:

(i) pay costs of issuance;

(ii) pay capitalized interest; and

(iii) fund any debt service reserve requirements.

(b) The State Building Ownership Authority shall work cooperatively with the Department of Alcoholic Beverage Control to seek out the most cost effective and prudent lease purchase plan available.

(7) (a) The State Building Ownership Authority, under authority of Title 63B, Chapter 1, Part 3, State Building Ownership Authority Act, may issue or execute obligations, or enter into or arrange for a lease purchase agreement in which participation interests may be created, to provide up to $15,000,000 for the construction of the Huntsman Cancer Institute, together with additional amounts necessary to:

(i) pay costs of issuance;

(ii) pay capitalized interest; and

(iii) fund any debt service reserve requirements.

(b) The State Building Ownership Authority shall work cooperatively with the University of Utah to seek out the most cost effective and prudent lease purchase plan available.

(c) It is the intent of the Legislature that the University of Utah lease land to the State Building Ownership Authority for the construction of the Huntsman Cancer Institute facility.

(8) (a) The State Building Ownership Authority, under authority of Title 63B, Chapter 1, Part 3, State Building Ownership Authority Act, may issue or execute obligations, or enter into or arrange for a lease purchase agreement in which participation interests may be created, to provide up to $857,600 for the construction of an addition to the Human Services facility in Vernal, Utah together with additional amounts necessary to:

(i) pay costs of issuance;

(ii) pay capitalized interest; and

(iii) fund any debt service reserve requirements.

(b) The State Building Ownership Authority shall work cooperatively with the Department of Human Services to seek out the most cost effective and prudent lease purchase plan available.

(9) (a) The State Building Ownership Authority, under authority of Title 63B, Chapter 1, Part 3, State Building Ownership Authority Act, may issue or execute obligations, or enter into or arrange for a lease purchase agreement in which participation interests may be created, to provide up to $3,470,200 for the construction of the Student Services Center, at Utah State University Eastern, together with additional amounts necessary to:

(i) pay costs of issuance;

(ii) pay capitalized interest; and

(iii) fund any debt service reserve requirements.

(b) The State Building Ownership Authority shall work cooperatively with Utah State University Eastern to seek out the most cost effective and prudent lease purchase plan available.

(10) (a) Notwithstanding anything to the contrary in Title 53B, Chapter 21, Revenue Bonds, which prohibits the issuance of revenue bonds payable from legislative appropriations, the State Board of Regents, on behalf of Dixie College, may issue, sell, and deliver revenue bonds or other evidences of indebtedness of Dixie College to borrow money on the credit of the income and revenues, including legislative appropriations, of Dixie College, to finance the acquisition of the Dixie Center.

(b) (i) The bonds or other evidences of indebtedness authorized by this section shall be issued in accordance with Title 53B, Chapter 21, Revenue Bonds, under terms and conditions and in amounts that the board, by resolution, determines are reasonable and necessary and may not exceed $6,000,000 together with additional amounts necessary to:

(A) pay cost of issuance;

(B) pay capitalized interest; and

(C) fund any debt service reserve requirements.

(ii) To the extent that future legislative appropriations will be required to provide for payment of debt service in full, the board shall ensure that the revenue bonds are issued containing a clause that provides for payment from future legislative appropriations that are legally available for that purpose.

(11) (a) The State Building Ownership Authority, under authority of Title 63B, Chapter 1, Part 3, State Building Ownership Authority Act, may issue or execute obligations, or enter into or arrange for a lease purchase agreement in which participation interests may be created, to provide up to $10,479,000 for the construction of a facility for the Courts – Davis County Regional Expansion, together with additional amounts necessary to:

(i) pay costs of issuance;

(ii) pay capitalized interest; and

(iii) fund any debt service reserve requirements.

(b) The State Building Ownership Authority shall work cooperatively with the Administrative Office of the Courts to seek out the most cost effective and prudent lease purchase plan available.

(12) (a) The State Building Ownership Authority, under authority of Title 63B, Chapter 1, Part 3, State Building Ownership Authority Act, may issue or execute obligations, or enter into or arrange for a lease purchase agreement in which participation interests may be created, to provide up to $4,200,000 for the purchase and remodel of the Washington County Courthouse, together with additional amounts necessary to:

(i) pay costs of issuance;

(ii) pay capitalized interest; and

(iii) fund any debt service reserve requirements.

(b) The State Building Ownership Authority shall work cooperatively with the Administrative Office of the Courts to seek out the most cost effective and prudent lease purchase plan available.

(13) (a) The State Building Ownership Authority, under authority of Title 63B, Chapter 1, Part 3, State Building Ownership Authority Act, may issue or execute obligations, or enter into or arrange for a lease purchase agreement in which participation interests may be created, to provide up to $14,299,700 for the construction of a facility for the State Library and the Division of Services for the Blind and Visually Impaired, together with additional amounts necessary to:

(i) pay costs of issuance;

(ii) pay capitalized interest; and

(iii) fund any debt service reserve requirements.

(b) The State Building Ownership Authority shall work cooperatively with the State Board of Education and the Governor's Office of Economic Development to seek out the most cost effective and prudent lease purchase plan available.

Section 39. Section 63B-6-501 is amended to read:

63B-6-501. Revenue bond authorizations.

(1) (a) It is the intent of the Legislature that:

(i) the State Board of Regents, on behalf of the University of Utah, issue, sell, and deliver revenue bonds or other evidences of indebtedness of the University of Utah to borrow money on the credit and income and revenues of the University of Utah, other than appropriations of the Legislature, to finance the cost of constructing, furnishing, and equipping a renovation and expansion of the Robert L. Rice Stadium; and

(ii) Olympic funds, University funds, and activity revenues be used as the primary revenue sources for repayment of any obligation created under the authority of this Subsection (1).

(b) The bonds or other evidences of indebtedness authorized may provide up to $50,000,000 together with other amounts necessary to pay costs of issuance, pay capitalized interest, and fund any debt service reserve requirements.

(2) (a) The State Building Ownership Authority, under authority of Title 63B, Chapter 1, Part 3, State Building Ownership Authority Act, may issue or execute obligations or enter into or arrange for a lease purchase agreement in which participation interests may be created to provide up to $350,000 for the remodeling and completion of the Wasatch Mountain State Park Clubhouse for the Division of State Parks [~~and Recreation~~], formerly known as the Division of Parks and Recreation, together with additional amounts necessary to pay costs of issuance, pay capitalized interest, and fund any debt service reserve requirements.

(b) The State Building Ownership Authority shall work cooperatively with the Division of State Parks [~~and Recreation~~], formerly known as the division of Parks and Recreation, to seek out the most cost effective and prudent lease purchase plan available.

(c) It is the intent of the Legislature that park revenues be used as the primary revenue sources for repayment of any obligation created under authority of this Subsection (2).

(3) It is the intent of the Legislature that:

(a) the State Building Ownership Authority, under the authority of Title 63B, Chapter 1, Part 3, State Building Ownership Authority Act, may issue or execute obligations, or enter into or arrange for a lease purchase agreement in which participation interests may be created, to provide up to $6,000,000 for the construction, or acquisition, or both, of liquor stores, together with additional amounts necessary to pay costs of issuance, pay capitalized interest, and fund any debt service requirements; and

(b) liquor control funds be used as the primary revenue source for the repayment of any obligation created under authority of this Subsection (3).

Section 40. Section 63B-6-502 is amended to read:

63B-6-502. Other capital facility authorizations and intent language.

(1) It is the intent of the Legislature that the University of Utah use institutional funds to plan, design, and construct:

(a) the Health Science Lab Building under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director; and

(b) the gymnastics facility under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director.

(2) It is the intent of the Legislature that Southern Utah University use institutional funds to plan, design, and construct a science center addition under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director.

(3) It is the intent of the Legislature that Utah Valley State College use institutional funds to plan, design, and construct a student center addition under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director.

(4) (a) It is the intent of the Legislature that the Division of Facilities Construction and Management lease property at the Draper Prison to an entity for the purpose of constructing recycling

and transfer facilities to employ inmates if the following conditions are satisfactorily met:

(i) the entity assures continuous employment of state inmates;

(ii) the lease with the entity provides an appropriate return to the state;

(iii) the lease has an initial term of not to exceed 20 years;

(iv) the lease protects the state from all liability;

(v) the entity guarantees that no adverse environmental impact will occur;

(vi) the state retains the right to:

(A) monitor the types of wastes that are processed; and

(B) prohibit the processing of types of wastes that are considered to be a risk to the state or surrounding property uses;

(vii) the lease provides for adequate security arrangements;

(viii) the entity assumes responsibility for any taxes or fees associated with the facility; and

(ix) the entity assumes responsibility for bringing utilities to the site and any state expenditures for roads, etc. are considered in establishing the return to the state.

(b) Except as provided in Subsections (4)(c) and (d), the facility may be constructed without direct supervision by the Division of Facilities Construction and Management.

(c) Notwithstanding Subsection (4)(b), the Division of Facilities Construction and Management shall:

(i) review the design, plans, and specifications of the project; and

(ii) approve them if they are appropriate.

(d) Notwithstanding Subsection (4)(b), the Division of Facilities Construction and Management may:

(i) require that the project be submitted to the local building official for plan review and inspection; and

(ii) inspect the project.

(5) It is the intent of the Legislature that:

(a) the $221,497.86 authorized for the Capitol Hill Day Care Center in Subsection (4) of Laws of Utah 1992, Chapter 304, Section 56, be used for general capital improvements; and

(b) the Building Board should, in allocating the $221,497.86, if appropriate under the Board's normal allocation and prioritization process, give preference to projects for the Division of State Parks [~~and Recreation~~], formerly known as the Division of Parks and Recreation.

Section 41. Section 63B-7-102 is amended to read:

63B-7-102. Maximum amount -- Projects authorized.

(1) The total amount of bonds issued under this part may not exceed $33,600,000.

(2) (a) Proceeds from the issuance of bonds shall be provided to the division to provide funds to pay all or part of the cost of acquiring and constructing the projects listed in this Subsection (2).

(b) These costs may include the cost of acquiring land, interests in land, easements and rights-of-way, improving sites, and acquiring, constructing, equipping, and furnishing facilities and all structures, roads, parking facilities, utilities, and improvements necessary, incidental, or convenient to the facilities, interest estimated to accrue on these bonds during the period to be covered by construction of the projects plus a period of six months after the end of the construction period, and all related engineering, architectural, and legal fees.

(c) For the division, proceeds shall be provided for the following:

PROJECT DESCRIPTION	AMOUNT FUNDED	ESTIMATED OPERATIONS AND MAINTENANCE
Southern Utah University Land Purchase	$4,600,000	$0
Salt Lake Community College High Tech Center – Jordan Campus	$3,980,700	$507,900
Children's Special Health Care Needs Clinic	$755,400	$247,600
Youth Corrections – 2 @ 32 beds (Vernal/Logan)	$419,500	$276,000
Corrections – Gunnison 288 bed and Lagoon Expansion	$8,425,600	$0
University of Utah – Cowles Building	$445,500	$101,700
Utah Valley State College – Technical Building	$1,166,300	$391,000
Sevier Valley Applied Technology Center – Shop Expansion	$3,014,300	$443,300
Division of State Parks [~~and Recreation~~] formerly known as the Division of Parks and Recreation, Statewide Restrooms	$1,000,000	$22,700
Murray Highway Patrol Office	$2,300,000	$81,000
Department of Workforce Services – Davis County Employment Center	$2,780,000	$128,100
State Hospital – Rampton II	$1,600,000	$462,000
Courts – 4th District Land – Provo	$1,368,000	$0
Dixie College – Land	$1,000,000	$0
TOTAL CAPITAL AND ECONOMIC DEVELOPMENT	$32,855,300	

(d) For purposes of this section, operations and maintenance costs:

(i) are estimates only;

(ii) may include any operations and maintenance costs already funded in existing agency budgets; and

(iii) are not commitments by this Legislature or future Legislatures to fund those operations and maintenance costs.

(3) (a) The amounts funded as listed in Subsection (2) are estimates only and do not constitute a limitation on the amount that may be expended for any project.

(b) The board may revise these estimates and redistribute the amount estimated for a project among the projects authorized.

(c) The commission, by resolution and in consultation with the board, may delete one or more projects from this list if the inclusion of that project or those projects in the list could be construed to violate state law or federal law or regulation.

(4) (a) The division may enter into agreements related to these projects before the receipt of proceeds of bonds issued under this chapter.

(b) The division shall make those expenditures from unexpended and unencumbered building funds already appropriated to the Capital Projects Fund.

(c) The division shall reimburse the Capital Projects Fund upon receipt of the proceeds of bonds issued under this chapter.

(d) The commission may, by resolution, make any statement of intent relating to that reimbursement that is necessary or desirable to comply with federal tax law.

(5) (a) For those projects for which only partial funding is provided in Subsection (2), it is the intent of the Legislature that the balance necessary to complete the projects be addressed by future Legislatures, either through appropriations or through the issuance or sale of bonds.

(b) For those phased projects, the division may enter into contracts for amounts not to exceed the anticipated full project funding but may not allow work to be performed on those contracts in excess of the funding already authorized by the Legislature.

(c) Those contracts shall contain a provision for termination of the contract for the convenience of the state.

(d) It is also the intent of the Legislature that this authorization to the division does not bind future Legislatures to fund projects initiated from this authorization.

Section 42. Section 63B-10-302 is amended to read:

63B-10-302. Other revenue bond authorizations.

(1) It is the intent of the Legislature that the State Building Ownership Authority, under the authority of Title 63B, Chapter 1, Part 3, State Building Ownership Authority Act, may issue or execute obligations to provide up to $12,000,000 for the construction of a 36-hole golf course at Soldier Hollow in the Wasatch Mountain State Park, including necessary facilities such as a clubhouse, restroom facilities, and maintenance facilities, together with additional amounts necessary to:

(a) pay costs of issuance;

(b) pay capitalized interest; and

(c) fund any debt service reserve requirements.

(2) The State Building Ownership Authority shall work cooperatively with the Division of State Parks [~~and Recreation~~], formerly known as the Division of Parks and Recreation, in the design and construction of the golf course at Soldier Hollow.

Section 43. Section 63C-21-201 is amended to read:

63C-21-201. Outdoor Adventure Commission created.

(1) There is created the Outdoor Adventure Commission consisting of the following [~~14~~] 15 members:

(a) one member of the Senate, appointed by the president of the Senate;

(b) one member of the House of Representatives, appointed by the speaker of the House of Representatives;

(c) the director of the Utah Office of Outdoor Recreation, or the director's designee;

(d) the managing director of the Utah Office of Tourism, or the managing director's designee;

(e) the director of the Division of [~~Parks and~~] Recreation, or the director's designee;

(f) the director of the School and Institutional Trust Lands Administration, or the director's designee;

(g) the coordinator of the Off-Highway Vehicle and Recreational Trails Program within the Division of [~~Parks and~~] Recreation;

(h) a representative of the agriculture industry appointed jointly by the president of the Senate and the speaker of the House of Representatives;

(i) a representative of the natural resources development industry appointed jointly by the president of the Senate and the speaker of the House of Representatives;

(j) one representative of the Utah League of Cities and Towns appointed by the Utah League of Cities and Towns;

(k) one representative of the Utah Association of Counties appointed by the Utah Association of Counties;

(l) one individual appointed jointly by the Utah League of Cities and Towns and the Utah Association of Counties;

(m) a representative of conservation interests appointed jointly by the president of the Senate and the speaker of the House of Representatives; [~~and~~]

(n) a representative of the outdoor recreation industry appointed jointly by the president of the Senate and the speaker of the House of Representatives[~~.~~]; and

[~~(2) (a) The senator appointed under Subsection (1)(a) is a cochair of the commission.~~]

[~~(b) The representative appointed under Subsection (1)(b) is a cochair of the commission.~~]

(o) the coordinator of the boating program within the Division of Recreation.

(2) The commission shall annually select one of its members to be the chair of the commission.

(3) (a) If a vacancy occurs in the membership of the commission appointed under Subsection (1)(a) or (b), or Subsections (1)(h) through (n), the member shall be replaced in the same manner in which the original appointment was made.

(b) A member appointed under Subsections (1)(h) through (n) [~~serves~~] shall serve a term of four years and until the member's successor is appointed and qualified.

(c) Notwithstanding the requirements of Subsection (3)(b), for members appointed under Subsections (1)(h) through (n), the division shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of commission members are staggered so that approximately half of the commission members appointed under Subsections (1)(h) through (n) are appointed every two years.

(d) An individual may be appointed to more than one term.

(4) (a) Eight commission members constitutes a quorum.

(b) The action of a majority of a quorum constitutes an action of the commission.

(5) (a) The salary and expenses of a commission member who is a legislator shall be paid in accordance with Section 36-2-2, Legislative Joint Rules, Title 5, Chapter 2, Lodging, Meal, and Transportation Expenses, and Legislative Joint Rules, Title 5, Chapter 3, Legislator Compensation.

(b) A commission member who is not a legislator may not receive compensation or benefits for the member's service on the commission, but may receive per diem and reimbursement for travel expenses incurred as a commission member at the rates established by the Division of Finance under:

(i) Sections 63A-3-106 and 63A-3-107; and

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

(6) The Department of Transportation shall serve as a technical advisor to the commission.

(7) The [~~Office of Legislative Research and General Counsel and the Office of the Legislative Fiscal Analyst~~] Division of Recreation, created in Section 79-7-201, shall provide staff support to the commission.

Section 44. Section 63C-21-202 is amended to read:

63C-21-202. Strategic plan -- Commission powers and duties -- Consultant -- Reports.

(1) (a) The commission shall gather information on recreation assets from state and local agencies and other sources and develop a strategic plan aimed at meeting the future needs of outdoor recreation within the state [~~in order~~] to enhance the quality of life of Utah residents. Asset lists received from state and local agencies shall include:

(i) common data points, to be established by the Office of Outdoor Recreation that can be uniformly compared with other recreation assets within the state, such as asset type, size, unique characteristics, vegetation, land ownership, and similar items;

(ii) any specific needs, challenges, or limitations on recreation use of the assets; and

(iii) a ranking of potential enhancements to the assets related to recreation use.

(b) The strategic plan shall address:

(i) outdoor recreation as a major contributor to residents' quality of life;

(ii) the needs and impacts of residents who engage in outdoor recreation;

(iii) the impact on local communities related to outdoor recreation, including the costs associated with emergency services and infrastructure;

(iv) outdoor recreation as a means to retain and attract an exceptional workforce to provide for a sustainable economy;

(v) impacts to the environment, wildlife, and natural resources and measures to preserve the natural beauty of the state as more people engage in outdoor recreation;

(vi) identify opportunities for sustainable revenue sources to provide for maintenance and future needs;

(vii) the interface with public lands that are federally managed and private lands; and

(viii) other items determined by the commission.

(2) The commission shall:

(a) engage one or more consultants to:

(i) manage the strategic planning process in accordance with Subsection (3); and

(ii) conduct analytical work in accordance with Subsection (3);

(b) guide the analytical work of a consultant described in Subsection (2)(a) and review the results of the work;

(c) coordinate with a consultant described in Subsection (2)(a) to engage in a process and create a strategic plan;

(d) conduct regional meetings to gather stakeholder input during the strategic planning process;

(e) seek input from federal entities including the United States Department of the Interior, the United States Department of Agriculture, and Utah's congressional delegation; and

(f) produce a final report including a strategic plan and any recommendations.

(3) The commission, by contract with a consultant engaged under Subsection (2)(a), shall direct the consultant to:

(a) conduct an inventory of existing outdoor recreation resources, programs, and information;

(b) conduct an analysis of what is needed to develop and implement an effective outdoor recreation strategy aimed at enhancing the quality of life of Utah residents;

(c) collect and analyze data related to the future projected conditions of the outdoor recreation resources, programs, and information, including the affordability and financing of outdoor recreation;

(d) develop alternatives to the projection described in Subsection (3)(c) by modeling potential changes to the outdoor recreation industry and economic growth;

(e) in coordination with the commission, engage in extensive local stakeholder involvement to better understand the needs of, concerns of, and opportunities for different communities and outdoor recreation user types;

(f) recommend accountability or performance measures to assess the effectiveness of the outdoor recreation system;

(g) based on the data described in this Subsection (3), make comparisons between outdoor recreation in Utah and outdoor recreation in other states or countries;

(h) in coordination with the commission, conduct the regional meetings described in Subsection (2)(d) to share information and seek input from a range of stakeholders;

(i) recommend changes to the governance system for outdoor recreation that would facilitate implementation of the strategic plan;

(j) engage in any other data collection or analysis requested by the commission; and

(k) produce for the commission:

(i) a draft report of findings, observations, and strategic priorities, including:

(A) a statewide vision and strategy for outdoor recreation;

(B) a strategy for how to meaningfully engage stakeholders throughout the state;

(C) funding needs related to outdoor recreation; and

(D) recommendations for the steps the state should take to implement a statewide vision and strategy for outdoor recreation; and

(ii) a final report, incorporating feedback from the commission on the draft report described in Subsection (3)(k)(i), regarding the future of the outdoor recreation in the state.

(4) The commission shall consult with the Division of Recreation as provided by statute.

Section 45. Section 63H-2-102 is amended to read:

63H-2-102. Definitions.

As used in this chapter:

(1) "Agency" is as defined in Section 17C-1-102.

(2) "Assessment area" is as defined in Section 11-42-102.

(3) "Assessment bonds" is as defined in Section 11-42-102.

(4) "Authority" means the Utah Energy Infrastructure Authority created in Section 63H-2-201.

(5) "Authority bond" means a bond issued by the authority in accordance with Part 4, Bonding.

(6) "Board" means the board created under Section 63H-2-202.

(7) "Community" means the county, city, or town in which is located a qualifying energy delivery project financed by an authority bond.

(8) "Electric interlocal entity" has the same meaning as defined in Section 11-13-103.

(9) "Energy advisor" means the [~~governor's~~] energy advisor appointed under Section [~~63M-4-201~~] 79-6-201.

(10) "Energy delivery project" means a project that is designed to:

(a) increase the capacity for the delivery of energy to a user of energy inside or outside the state; or

(b) increase the capability of an existing energy delivery system or related facility to deliver energy to a user of energy inside or outside the state.

(11) "Independent state agency" is as defined in Section 63E-1-102.

(12) "Project area" is as defined in Section 17C-1-102.

(13) "Public entity" means:

(a) the United States or an agency of the United States;

(b) the state or an agency of the state;

(c) a political subdivision of the state or an agency of a political subdivision of the state;

(d) another state or an agency of that state; or

(e) a political subdivision of another state or an agency of that political subdivision.

(14) "Qualifying energy delivery project" means a project approved by the board in accordance with Part 3, Qualifying Energy Delivery Projects.

(15) "Record" means information that is:

(a) inscribed on a tangible medium; or

(b) (i) stored in an electronic or other medium; and

(ii) retrievable in perceivable form.

(16) "Tax increment bond" is as defined in Section 11-27-2.

Section 46. Section 63H-2-202 is amended to read:

63H-2-202. Authority board.

(1) There is created the Utah Energy Infrastructure Authority Board that consists of nine members[~~, appointed by the governor~~] as follows:

(a) members appointed by the governor:

(i) the energy advisor or the [~~executive~~] director of the Office of Energy Development, who shall serve as chair of the board;

[~~(b)~~] (ii) one member from the Governor's Office of Economic Development;

[~~(c)~~] (iii) one member from a public utility or electric interlocal entity that operates electric transmission facilities within the state;

[~~(d)~~] (iv) two members representing the economic development interests of rural communities as follows:

[~~(i)~~] (A) one member currently serving as county commissioner of a county of the third, fourth, fifth, or sixth class, as described in Section 17-50-501; and

[~~(ii)~~] (B) one member of a rural community with work experience in the energy industry;

[~~(e)~~] (v) two members of the general public with relevant industry or community experience; and

[~~(f) the director of the School and Institutional Trust Lands Administration created in Section 53C-1-201; and~~]

[~~(g)~~] (vi) one member of the general public who has experience with public finance and bonding[~~.~~]; and

(b) the director of the School and Institutional Trust Lands Administration created in Section 53C-1-201.

(2) (a) The term of [~~a~~] an appointed board member is four years.

(b) Notwithstanding Subsection (2)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of board members are staggered so that approximately half of the board is appointed every two years.

(c) The governor may remove a member of the board for cause.

(d) The governor shall fill a vacancy in the board in the same manner under this section as the appointment of the member whose vacancy is being filled.

(e) An individual appointed to fill a vacancy shall serve the remaining unexpired term of the member whose vacancy the individual is filling.

(f) A board member shall serve until a successor is appointed and qualified.

(3) (a) Five members of the board constitute a quorum for conducting board business.

(b) A majority vote of the quorum present is required for an action to be taken by the board.

(4) (a) Except as provided in Subsections (4)(b) and (4)(c), the board shall meet once each month, on a day determined by the board, to review an application referred to the board by the Office of Energy Development under [~~Title 63M, Chapter 4~~] Title 79, Chapter 6, Part 6, High Cost Infrastructure Development Tax Credit Act.

(b) Subject to Subsection (4)(c), the board may cancel the board's meeting for a given month if there are no applications described in Subsection (4)(a) pending board approval.

(c) The board shall meet no less frequently than once each quarter, on a day determined by the board.

(5) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

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

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

Section 47. Section 63H-4-102 is amended to read:

63H-4-102. Creation -- Members -- Chair -- Powers -- Quorum -- Per diem and expenses.

(1) There is created an independent state agency and a body politic and corporate known as the "Heber Valley Historic Railroad Authority."

(2) The authority is composed of eight members as follows:

(a) one member of the county legislative body of Wasatch County;

(b) the mayor of Heber City;

(c) the mayor of Midway;

(d) the executive director of the Department of Transportation or the executive director's designee;

(e) the [~~executive~~] director of the Division of State Parks [~~and Recreation~~], or the [~~executive~~] director's designee; and

(f) three public members appointed by the governor with the advice and consent of the Senate, being private citizens of the state, as follows:

(i) two people representing the tourism industry, one each from Wasatch and Utah counties; and

(ii) one person representing the public at large.

(3) All members shall be residents of the state.

(4) (a) Except as required by Subsection (4)(b), the three public members are appointed for four-year terms beginning July 1, 2010.

(b) Notwithstanding the requirements of Subsection (4)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of authority members are staggered so that approximately half of the authority is appointed every two years.

(5) Any of the three public members may be removed from office by the governor or for cause by an affirmative vote of any four members of the authority.

(6) When a vacancy occurs in the membership for any reason, the replacement is appointed for the unexpired term by the governor with advice and consent of the Senate for the unexpired term.

(7) Each public member shall hold office for the term of appointment and until a successor has been appointed and qualified.

(8) A public member is eligible for reappointment, but may not serve more than two full consecutive terms.

(9) The governor shall appoint the chair of the authority from among its members.

(10) The members shall elect from among their number a vice chair and other officers they may determine.

(11) The powers of the authority are vested in its members.

(12) (a) Four members constitute a quorum for transaction of authority business.

(b) An affirmative vote of at least four members is necessary for any action taken by the authority.

(13) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

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

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

Section 48. Section 63H-4-110 is amended to read:

63H-4-110. Lease of rails from Department of Transportation and Division of State Parks.

The Department of Transportation and the Division of State Parks [~~and Recreation~~] shall jointly lease the rails, bed, right-of-way, and related property for not more than $1 per year to the authority.

Section 49. Section 63H-5-110 is amended to read:

63H-5-110. Lease of rails or equipment from Department of Transportation and Division of State Parks.

The Department of Transportation and the Division of State Parks [~~and Recreation~~] may jointly lease the rails, bed, right-of-way, and related property for the operation of a scenic and historic railroad in and around Weber and Box Elder Counties, for not more than $1 per year to the authority.

Section 50. Section 63I-1-263 is amended to read:

63I-1-263. Repeal dates, Titles 63A to 63N.

(1) In relation to the Utah Transparency Advisory Board, on January 1, 2025:

(a) Subsection 63A-1-201(1) is repealed;

(b) Subsection 63A-1-202(2)(c), the language "using criteria established by the board" is repealed;

(c) Section 63A-1-203 is repealed;

(d) Subsections 63A-1-204(1) and (2), the language "After consultation with the board, and" is repealed; and

(e) Subsection 63A-1-204(1)(b), the language "using the standards provided in Subsection 63A-1-203(3)(c)" is repealed.

(2) Subsection 63A-5b-405(5), relating to prioritizing and allocating capital improvement funding, is repealed July 1, 2024.

(3) Section 63A-5b-1003, State Facility Energy Efficiency Fund, is repealed July 1, 2023.

(4) Sections 63A-9-301 and 63A-9-302, related to the Motor Vehicle Review Committee, are repealed July 1, 2023.

(5) Title 63C, Chapter 4a, Constitutional and Federalism Defense Act, is repealed July 1, 2028.

(6) Title 63C, Chapter 6, Utah Seismic Safety Commission, is repealed January 1, 2025.

(7) Title 63C, Chapter 12, Snake Valley Aquifer Advisory Council, is repealed July 1, 2024.

(8) Title 63C, Chapter 17, Point of the Mountain Development Commission Act, is repealed July 1, 2021.

(9) Title 63C, Chapter 18, Behavioral Health Crisis Response Commission, is repealed July 1, 2023.

[~~(10) Title 63C, Chapter 21, Outdoor Adventure Commission, is repealed July 1, 2025.~~]

[~~(11)~~] (10) Title 63F, Chapter 2, Data Security Management Council, is repealed July 1, 2025.

[~~(12)~~] (11) Section 63G-6a-805, which creates the Purchasing from Persons with Disabilities Advisory Board, is repealed July 1, 2026.

[~~(13)~~] (12) Title 63G, Chapter 21, Agreements to Provide State Services, is repealed July 1, 2025.

[~~(14)~~] (13) Title 63H, Chapter 4, Heber Valley Historic Railroad Authority, is repealed July 1, 2024.

[~~(15)~~] (14) Title 63H, Chapter 8, Utah Housing Corporation Act, is repealed July 1, 2026.

[~~(16)~~] (15) Subsection 63J-1-602.1[~~(14)~~](15), Nurse Home Visiting Restricted Account is repealed July 1, 2026.

[~~(17)~~] (16) (a) Subsection 63J-1-602.1(58), relating to the Utah Statewide Radio System Restricted Account, is repealed July 1, 2022.

(b) When repealing Subsection 63J-1-602.1(58), the Office of Legislative Research and General Counsel shall, in addition to the office's authority under Subsection 36-12-12(3), make necessary changes to subsection numbering and cross references.

[~~(18)~~] (17) Subsection 63J-1-602.2[~~(4)~~](5), referring to dedicated credits to the Utah Marriage Commission, is repealed July 1, 2023.

[~~(19)~~] (18) Subsection 63J-1-602.2[~~(5)~~](6), referring to the Trip Reduction Program, is repealed July 1, 2022.

[~~(20)~~] (19) Subsection 63J-1-602.2(25), related to the Utah Seismic Safety Commission, is repealed January 1, 2025.

[~~(21)~~] (20) Title 63J, Chapter 4, Part 5, Resource Development Coordinating Committee, is repealed July 1, 2027.

[~~(22)~~] (21) Subsection 63J-4-608(3), which creates the Federal Land Application Advisory Committee, is repealed on July 1, 2021.

[~~(23)~~] (22) In relation to the Utah Substance Use and Mental Health Advisory Council, on January 1, 2023:

(a) Sections 63M-7-301, 63M-7-302, 63M-7-303, 63M-7-304, and 63M-7-306 are repealed;

(b) Section 63M-7-305, the language that states "council" is replaced with "commission";

(c) Subsection 63M-7-305(1) is repealed and replaced with:

"(1) "Commission" means the Commission on Criminal and Juvenile Justice."; and

(d) Subsection 63M-7-305(2) is repealed and replaced with:

"(2) The commission shall:

(a) provide ongoing oversight of the implementation, functions, and evaluation of the Drug-Related Offenses Reform Act; and

(b) coordinate the implementation of Section 77-18-1.1 and related provisions in Subsections 77-18-1(5)(b)(iii) and (iv).".

[~~(24)~~] (23) The Crime Victim Reparations and Assistance Board, created in Section 63M-7-504, is repealed July 1, 2027.

[~~(25)~~] (24) Title 63M, Chapter 7, Part 6, Utah Council on Victims of Crime, is repealed July 1, 2022.

[~~(26)~~] (25) Title 63M, Chapter 11, Utah Commission on Aging, is repealed July 1, 2021.

[~~(27)~~] (26) Subsection 63N-1-301(4)(c), related to the Talent Ready Utah Board, is repealed January 1, 2023.

[~~(28)~~] (27) Title 63N, Chapter 1, Part 5, Governor's Economic Development Coordinating Council, is repealed July 1, 2024.

[~~(29)~~] (28) Title 63N, Chapter 2, Part 2, Enterprise Zone Act, is repealed July 1, 2028.

[~~(30)~~] (29) Section 63N-2-512 is repealed July 1, 2021.

[~~(31)~~] (30) (a) Title 63N, Chapter 2, Part 6, Utah Small Business Jobs Act, is repealed January 1, 2021.

(b) Section 59-9-107 regarding tax credits against premium taxes is repealed for calendar years beginning on or after January 1, 2021.

(c) Notwithstanding Subsection [~~(31)~~] (30)(b), an entity may carry forward a tax credit in accordance with Section 59-9-107 if:

(i) the person is entitled to a tax credit under Section 59-9-107 on or before December 31, 2020; and

(ii) the qualified equity investment that is the basis of the tax credit is certified under Section 63N-2-603 on or before December 31, 2023.

[~~(32)~~] (31) Subsections 63N-3-109(2)(e) and 63N-3-109(2)(f)(i) are repealed July 1, 2023.

[~~(33)~~] (32) Title 63N, Chapter 4, Part 4, Rural Employment Expansion Program, is repealed July 1, 2023.

[~~(34)~~] (33) Title 63N, Chapter 7, Part 1, Board of Tourism Development, is repealed July 1, 2025.

[~~(35)~~] (34) Title 63N, Chapter 9, Part 2, Outdoor Recreational Infrastructure Grant Program, is repealed January 1, 2023.

[~~(36)~~] (35) Title 63N, Chapter 12, Part 5, Talent Ready Utah Center, is repealed January 1, 2023.

Section 51. Section 63I-1-279 is amended to read:

63I-1-279. Repeal dates, Title 79.

(1) Subsection 79-2-201(2)[~~(n)~~](r), related to the Heritage Trees Advisory Committee, is repealed July 1, 2026.

(2) Subsection 79-2-201(2)[~~(o)~~](s), related to the Recreational Trails Advisory Council, is repealed July 1, 2027.

(3) Subsection 79-2-201(2)[~~(p)~~](t), related to the Boating Advisory Council, is repealed July 1, 2024.

(4) Subsection 79-2-201(2)[~~(q)~~](u), related to the Wildlife Board Nominating Committee, is repealed July 1, 2023.

(5) Subsection 79-2-201(2)[~~(r)~~](v), related to regional advisory councils for the Wildlife Board, is repealed July 1, 2023.

(6) Title 79, Chapter 5, Part 2, Advisory Council, which creates the Recreational Trails Advisory Council, is repealed July 1, 2027.

Section 52. Section 63I-2-263 is amended to read:

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

(1) On July 1, 2020:

(a) Subsection 63A-1-203(5)(a)(i) is repealed; and

(b) in Subsection 63A-1-203(5)(a)(ii), the language that states "appointed on or after May 8, 2018," is repealed.

(2) Section 63A-3-111 is repealed June 30, 2021.

(3) Title 63C, Chapter 19, Higher Education Strategic Planning Commission is repealed July 1, 2021.

(4) Title 63C, Chapter 22, Digital Wellness, Citizenship, and Safe Technology Commission is repealed July 1, 2023.

(5) The following sections regarding the World War II Memorial Commission are repealed on July 1, 2022:

(a) Section 63G-1-801;

(b) Section 63G-1-802;

(c) Section 63G-1-803; and

(d) Section 63G-1-804.

(6) Subsections 63G-6a-802(1)(d) and 63G-6a-802(3)(b)(iii), regarding a procurement relating to a vice presidential debate, are repealed January 1, 2021.

(7) In relation to the State Fair Park Committee, on January 1, 2021:

(a) Section 63H-6-104.5 is repealed; and

(b) Subsections 63H-6-104(8) and (9) are repealed.

(8) Section 63H-7a-303 is repealed July 1, 2024.

(9) Subsection 63J-1-206(3)(c), relating to coronavirus, is repealed July 1, 2021.

(10) In relation to the Employability to Careers Program Board, on July 1, 2022:

(a) Subsection 63J-1-602.1[~~(57)~~](59) is repealed;

(b) Subsection 63J-4-301(1)(h), related to the review of data and metrics, is repealed; and

(c) Title 63J, Chapter 4, Part 7, Employability to Careers Program, is repealed.

[~~(11) Title 63M, Chapter 4, Part 8, Voluntary Home Energy Information Pilot Program Act, is repealed January 1, 2022.~~]

[~~(12)~~] (11) Sections 63M-7-213 and 63M-7-213.5 are repealed on January 1, 2023.

[~~(13)~~] (12) Subsection 63N-12-508(3) is repealed December 31, 2021.

[~~(14)~~] (13) Title 63N, Chapter 13, Part 3, Facilitating Public-Private Partnerships Act, is repealed January 1, 2024.

[~~(15)~~] (14) Title 63N, Chapter 15, COVID-19 Economic Recovery Programs, is repealed December 31, 2021.

Section 53. Section 63I-2-279 is enacted to read:

63I-2-279. Repeal dates, Title 79.

(1) Section 79-2-206 is repealed July 1, 2022.

(2) Title 79, Chapter 6, Part 8, Voluntary Home Energy Information Pilot Program Act, is repealed January 1, 2022.

Section 54. Section 63J-1-601 is amended to read:

63J-1-601. End of fiscal year -- Unexpended balances -- Funds not to be closed out -- Pending claims -- Transfer of amounts from item of appropriation -- Nonlapsing accounts and funds -- Institutions of higher education to report unexpended balances.

(1) As used in this section:

(a) "Education grant subrecipient" means a nonfederal entity that:

(i) receives a subaward from the State Board of Education to carry out at least part of a federal or state grant program; and

(ii) does not include an individual who is a beneficiary of the federal or state grant program.

(b) "Transaction control number" means the unique numerical identifier established by the Department of Health to track each medical claim and indicates the date on which the claim is entered.

(2) On or before August 31 of each fiscal year, the director of the Division of Finance shall close out to the proper fund or account all remaining unexpended and unencumbered balances of appropriations made by the Legislature, except:

(a) those funds classified under Title 51, Chapter 5, Funds Consolidation Act, as:

(i) enterprise funds;

(ii) internal service funds;

(iii) trust and agency funds;

(iv) capital projects funds;

(v) discrete component unit funds;

(vi) debt service funds; and

(vii) permanent funds;

(b) those appropriations from a fund or account or appropriations to a program that are designated as nonlapsing under Section 63J-1-602.1 or 63J-1-602.2;

(c) expendable special revenue funds, unless specifically directed to close out the fund in the fund's enabling legislation;

(d) acquisition and development funds appropriated to the Division of State Parks [~~and Recreation~~] or the Division of Recreation;

(e) funds encumbered to pay purchase orders issued prior to May 1 for capital equipment if delivery is expected before June 30; and

(f) unexpended and unencumbered balances of appropriations that meet the requirements of Section 63J-1-603.

(3) (a) Liabilities and related expenses for goods and services received on or before June 30 shall be recognized as expenses due and payable from appropriations made prior to June 30.

(b) The liability and related expense shall be recognized within time periods established by the Division of Finance but shall be recognized not later than August 31.

(c) Liabilities and expenses not so recognized may be paid from regular departmental appropriations for the subsequent fiscal year, if these claims do not exceed unexpended and unencumbered balances of appropriations for the years in which the obligation was incurred.

(d) No amounts may be transferred from an item of appropriation of any department, institution, or agency into the Capital Projects Fund or any other fund without the prior express approval of the Legislature.

(4) (a) For purposes of this chapter, a claim processed under the authority of Title 26, Chapter 18, Medical Assistance Act:

(i) is not a liability or an expense to the state for budgetary purposes, unless the Division of Health Care Financing receives the claim within the time periods established by the Division of Finance under Subsection (3)(b); and

(ii) is not subject to Subsection (3)(c).

(b) The transaction control number that the Division of Health Care Financing records on each claim invoice is the date of receipt.

(5) (a) For purposes of this chapter, a claim processed in accordance with Title 35A, Chapter 13, Utah State Office of Rehabilitation Act:

(i) is not a liability or an expense to the state for budgetary purposes, unless the Utah State Office of Rehabilitation receives the claim within the time periods established by the Division of Finance under Subsection (3)(b); and

(ii) is not subject to Subsection (3)(c).

(b) (i) The Utah State Office of Rehabilitation shall mark each claim invoice with the date on which the Utah State Office of Rehabilitation receives the claim invoice.

(ii) The date described in Subsection (5)(b)(i) is the date of receipt for purposes of this section.

(6) (a) For purposes of this chapter, a reimbursement request received from an education grant subrecipient:

(i) is not a liability or expense to the state for budgetary purposes, unless the State Board of Education receives the claim within the time periods described in Subsection (3)(b); and

(ii) is not subject to Subsection (3)(c).

(b) The transaction control number that the State Board of Education records on a claim invoice is the date of receipt.

(7) Any balance from an appropriation to a state institution of higher education that remains unexpended at the end of the fiscal year shall be reported to the Division of Finance by the September 1 following the close of the fiscal year.

Section 55. Section 63J-1-602.1 is amended to read:

63J-1-602.1. List of nonlapsing appropriations from accounts and funds.

Appropriations made from the following accounts or funds are nonlapsing:

(1) The Utah Intracurricular Student Organization Support for Agricultural Education and Leadership Restricted Account created in Section 4-42-102.

(2) The Native American Repatriation Restricted Account created in Section 9-9-407.

(3) The Martin Luther King, Jr. Civil Rights Support Restricted Account created in Section 9-18-102.

(4) The National Professional Men's Soccer Team Support of Building Communities Restricted Account created in Section 9-19-102.

(5) Funds collected for directing and administering the C-PACE district created in Section 11-42a-106.

(6) Money received by the Utah Inland Port Authority, as provided in Section 11-58-105.

(7) The "Latino Community Support Restricted Account" created in Section 13-1-16.

(8) The Clean Air Support Restricted Account created in Section 19-1-109.

(9) The "Support for State-Owned Shooting Ranges Restricted Account" created in Section 23-14-13.5.

(10) Award money under the State Asset Forfeiture Grant Program, as provided under Section 24-4-117.

(11) Funds collected from the program fund for local health department expenses incurred in

responding to a local health emergency under Section 26-1-38.

(12) The Children with Cancer Support Restricted Account created in Section 26-21a-304.

(13) State funds for matching federal funds in the Children's Health Insurance Program as provided in Section 26-40-108.

(14) The Children with Heart Disease Support Restricted Account created in Section 26-58-102.

(15) The Nurse Home Visiting Restricted Account created in Section 26-63-601.

(16) The Technology Development Restricted Account created in Section 31A-3-104.

(17) The Criminal Background Check Restricted Account created in Section 31A-3-105.

(18) The Captive Insurance Restricted Account created in Section 31A-3-304, except to the extent that Section 31A-3-304 makes the money received under that section free revenue.

(19) The Title Licensee Enforcement Restricted Account created in Section 31A-23a-415.

(20) The Health Insurance Actuarial Review Restricted Account created in Section 31A-30-115.

(21) The Insurance Fraud Investigation Restricted Account created in Section 31A-31-108.

(22) The Underage Drinking Prevention Media and Education Campaign Restricted Account created in Section 32B-2-306.

(23) The School Readiness Restricted Account created in Section 35A-15-203.

(24) Money received by the Utah State Office of Rehabilitation for the sale of certain products or services, as provided in Section 35A-13-202.

(25) The Oil and Gas Administrative Penalties Account created in Section 40-6-11.

(26) The Oil and Gas Conservation Account created in Section 40-6-14.5.

(27) The Electronic Payment Fee Restricted Account created by Section 41-1a-121 to the Motor Vehicle Division.

(28) The Motor Vehicle Enforcement Division Temporary Permit Restricted Account created by Section 41-3-110 to the State Tax Commission.

(29) The Utah Law Enforcement Memorial Support Restricted Account created in Section 53-1-120.

(30) The State Disaster Recovery Restricted Account to the Division of Emergency Management, as provided in Section 53-2a-603.

(31) The Department of Public Safety Restricted Account to the Department of Public Safety, as provided in Section 53-3-106.

(32) The Utah Highway Patrol Aero Bureau Restricted Account created in Section 53-8-303.

(33) The DNA Specimen Restricted Account created in Section 53-10-407.

(34) The Canine Body Armor Restricted Account created in Section 53-16-201.

(35) The Technical Colleges Capital Projects Fund created in Section 53B-2a-118.

(36) The Higher Education Capital Projects Fund created in Section 53B-22-202.

(37) A certain portion of money collected for administrative costs under the School Institutional Trust Lands Management Act, as provided under Section 53C-3-202.

(38) The Public Utility Regulatory Restricted Account created in Section 54-5-1.5, subject to Subsection 54-5-1.5(4)(d).

(39) Funds collected from a surcharge fee to provide certain licensees with access to an electronic reference library, as provided in Section 58-3a-105.

(40) Certain fines collected by the Division of Occupational and Professional Licensing for violation of unlawful or unprofessional conduct that are used for education and enforcement purposes, as provided in Section 58-17b-505.

(41) Funds collected from a surcharge fee to provide certain licensees with access to an electronic reference library, as provided in Section 58-22-104.

(42) Funds collected from a surcharge fee to provide certain licensees with access to an electronic reference library, as provided in Section 58-55-106.

(43) Funds collected from a surcharge fee to provide certain licensees with access to an electronic reference library, as provided in Section 58-56-3.5.

(44) Certain fines collected by the Division of Occupational and Professional Licensing for use in education and enforcement of the Security Personnel Licensing Act, as provided in Section 58-63-103.

(45) The Relative Value Study Restricted Account created in Section 59-9-105.

(46) The Cigarette Tax Restricted Account created in Section 59-14-204.

(47) Funds paid to the Division of Real Estate for the cost of a criminal background check for a mortgage loan license, as provided in Section 61-2c-202.

(48) Funds paid to the Division of Real Estate for the cost of a criminal background check for principal broker, associate broker, and sales agent licenses, as provided in Section 61-2f-204.

(49) Certain funds donated to the Department of Human Services, as provided in Section 62A-1-111.

(50) The National Professional Men's Basketball Team Support of Women and Children Issues Restricted Account created in Section 62A-1-202.

(51) Certain funds donated to the Division of Child and Family Services, as provided in Section 62A-4a-110.

(52) The Choose Life Adoption Support Restricted Account created in Section 62A-4a-608.

(53) Funds collected by the Office of Administrative Rules for publishing, as provided in Section 63G-3-402.

(54) The Immigration Act Restricted Account created in Section 63G-12-103.

(55) Money received by the military installation development authority, as provided in Section 63H-1-504.

(56) The Computer Aided Dispatch Restricted Account created in Section 63H-7a-303.

(57) The Unified Statewide 911 Emergency Service Account created in Section 63H-7a-304.

(58) The Utah Statewide Radio System Restricted Account created in Section 63H-7a-403.

(59) The Employability to Careers Program Restricted Account created in Section 63J-4-703.

(60) The Motion Picture Incentive Account created in Section 63N-8-103.

(61) Certain money payable for expenses of the Pete Suazo Utah Athletic Commission, as provided under Section 63N-10-301.

(62) Funds collected by the housing of state probationary inmates or state parole inmates, as provided in Subsection 64-13e-104(2).

(63) Certain forestry and fire control funds utilized by the Division of Forestry, Fire, and State Lands, as provided in Section 65A-8-103.

(64) The Transportation of Veterans to Memorials Support Restricted Account created in Section 71-14-102.

(65) The Amusement Ride Safety Restricted Account, as provided in Section 72-16-204.

(66) Certain funds received by the Office of the State Engineer for well drilling fines or bonds, as provided in Section 73-3-25.

(67) The Water Resources Conservation and Development Fund, as provided in Section 73-23-2.

(68) Funds donated or paid to a juvenile court by private sources, as provided in Subsection 78A-6-203(1)(c).

(69) Fees for certificate of admission created under Section 78A-9-102.

(70) Funds collected for adoption document access as provided in Sections 78B-6-141, 78B-6-144, and 78B-6-144.5.

(71) Funds collected for indigent defense as provided in Title 78B, Chapter 22, Part 4, Utah Indigent Defense Commission.

(72) Revenue for golf user fees at the Wasatch Mountain State Park, Palisades State Park, [~~Jordan River State Park,~~] and Green River State Park, as provided under Section 79-4-403.

(73) Certain funds received by the Division of State Parks [~~and Recreation~~] from the sale or disposal of buffalo, as provided under Section 79-4-1001.

(74) The Drinking While Pregnant Prevention Media and Education Campaign Restricted Account created in Section 32B-2-308.

Section 56. Section 63J-4-502 is amended to read:

63J-4-502. Membership -- Terms -- Chair -- Expenses.

(1) The Resource Development Coordinating Committee shall consist of the following [~~24~~] 25 members:

(a) the state science advisor;

(b) a representative from the Department of Agriculture and Food appointed by the executive director;

(c) a representative from the Department of Heritage and Arts appointed by the executive director;

(d) a representative from the Department of Environmental Quality appointed by the executive director;

(e) a representative from the Department of Natural Resources appointed by the executive director;

(f) a representative from the Department of Transportation appointed by the executive director;

(g) a representative from the Governor's Office of Economic Development appointed by the director;

(h) a representative from the Housing and Community Development Division appointed by the director;

(i) a representative from the Division of State History appointed by the director;

(j) a representative from the Division of Air Quality appointed by the director;

(k) a representative from the Division of Drinking Water appointed by the director;

(l) a representative from the Division of Environmental Response and Remediation appointed by the director;

(m) a representative from the Division of Waste Management and Radiation Control appointed by the director;

(n) a representative from the Division of Water Quality appointed by the director;

(o) a representative from the Division of Oil, Gas, and Mining appointed by the director;

(p) a representative from the Division of State Parks [~~and Recreation~~] appointed by the director;

(q) a representative from the Division of Recreation appointed by the director;

[~~(q)~~] (r) a representative from the Division of Forestry, Fire, and State Lands appointed by the director;

[~~(r)~~] (s) a representative from the Utah Geological Survey appointed by the director;

[~~(s)~~] (t) a representative from the Division of Water Resources appointed by the director;

[~~(t)~~] (u) a representative from the Division of Water Rights appointed by the director;

[~~(u)~~] (v) a representative from the Division of Wildlife Resources appointed by the director;

[~~(v)~~] (w) a representative from the School and Institutional Trust Lands Administration appointed by the director;

[~~(w)~~] (x) a representative from the Division of Facilities Construction and Management appointed by the director; and

[~~(x)~~] (y) a representative from the Division of Emergency Management appointed by the director.

(2) (a) As particular issues require, the committee may, by majority vote of the members present, and with the concurrence of the state planning coordinator, appoint additional temporary members to serve as ex officio voting members.

(b) Those ex officio members may discuss and vote on the issue or issues for which they were appointed.

(3) A chair shall be selected by a majority vote of committee members with the concurrence of the state planning coordinator.

(4) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

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

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

Section 57. Section 63J-4-608 is amended to read:

63J-4-608. Facilitating the acquisition of federal land -- Advisory committee.

(1) As used in this section:

(a) "Advisory committee" means the committee established under Subsection (3).

(b) "Federal land" means land that the secretary is authorized to dispose of under the federal land disposal law.

(c) "Federal land disposal law" means the Recreation and Public Purposes Act, 43 U.S.C. Sec. 869 et seq.

(d) "Government entity" means any state or local government entity allowed to submit a land application under the federal land disposal law.

(e) "Land application" means an application under the federal land disposal law requesting the secretary to sell or lease federal land.

(f) "Land application process" means all actions involved in the process of submitting and obtaining a final decision on a land application.

(g) "Secretary" means the Secretary of the Interior of the United States.

(2) The coordinator and the office shall:

(a) develop expertise:

(i) in the land application process; and

(ii) concerning the factors that tend to increase the chances that a land application will result in the secretary selling or leasing federal land as requested in the land application;

(b) work to educate government entities concerning:

(i) the availability of federal land pursuant to the federal land disposal law; and

(ii) the land application process;

(c) advise and consult with a government entity that requests assistance from the coordinator or the office to formulate and submit a land application and to pursue a decision on the land application;

(d) advise and consult with a government entity that requests assistance from the coordinator or the office to identify and quantify the amount of any funds needed to provide the public use described in a land application;

(e) with the advice and recommendations of the advisory committee:

(i) adopt a list of factors to be considered in determining the degree to which a land application or potential land application is in the public interest; and

(ii) recommend a prioritization of all land applications or potential land applications in the state according to the extent to which the land applications are in the public interest, based on the factors adopted under Subsection [~~(2)(f)(i)~~] (2)(e)(i);

(f) prepare and submit a written report of land applications:

(i) to the Natural Resources, Agriculture, and Environment Interim Committee and the Federalism Commission;

(ii) (A) annually no later than August 31; and

(B) at other times, if and as requested by the committee or commission; and

(iii) (A) on the activities of the coordinator and the office under this section;

(B) on the land applications and potential land applications in the state; and

(C) on the decisions of the secretary on land applications submitted by government entities in the state and the quantity of land acquired under the land applications;

(g) present a summary of information contained in the report described in Subsection (3)(f):

(i) at a meeting of the Natural Resources, Agriculture, and Environment Interim Committee and at a meeting of the Federalism Commission;

(ii) annually no later than August 31; and

(iii) at other times, if and as requested by the committee or commission; and

(h) report to the Executive Appropriations Committee of the Legislature, as frequently as the coordinator considers appropriate or as requested by the committee, on the need for legislative appropriations to provide funds for the public purposes described in land applications.

(3) (a) There is created a committee comprised of:

(i) an individual designated by the chairs of the Federalism Commission;

(ii) an individual designated by the director of the Division of Facilities Construction and Management;

(iii) a representative of the Antiquities Section, created in Section 9-8-304, designated by the director of the Division of State History;

(iv) a representative of municipalities designated by the Utah League of Cities and Towns;

(v) a representative of counties designated by the Utah Association of Counties;

(vi) an individual designated by the Governor's Office of Economic Development; and

(vii) an individual designated by the director of the Division of State Parks [~~and Recreation~~], created in Section 79-4-201.

(b) The seven members of the advisory committee under Subsection (3)(a) may, by majority vote, appoint up to four additional volunteer members of the advisory committee.

(c) The advisory committee shall advise and provide recommendations to the coordinator and the office on:

(i) factors the coordinator and office should consider in determining the degree to which a land application or potential land application is in the public interest; and

(ii) the prioritization of land applications or potential land applications in the state according to the extent to which the land applications are in the public interest, based on the factors adopted under Subsection [~~(2)(f)(i)~~] (2)(e)(i).

(d) A member of the advisory committee may not receive compensation, benefits, or expense reimbursement for the member's service on the advisory committee.

(e) The advisory committee may:

(i) select a chair from among the advisory committee members; and

(ii) meet as often as necessary to perform the advisory committee's duties under this section.

(f) The coordinator shall facilitate the convening of the first meeting of the advisory committee.

Section 58. Section 63L-2-301 is amended to read:

63L-2-301. Promoting or lobbying for a federal designation within the state.

(1) As used in this section:

(a) "Federal designation" means the designation of a:

(i) national monument;

(ii) national conservation area;

(iii) wilderness area or wilderness study area;

(iv) area of critical environmental concern;

(v) research natural area; or

(vi) national recreation area.

(b) (i) "Governmental entity" means:

(A) a state-funded institution of higher education or public education;

(B) a political subdivision of the state;

(C) an office, agency, board, bureau, committee, department, advisory board, or commission that the government funds or establishes to carry out the public's business, regardless of whether the office, agency board, bureau, committee, department, advisory board, or commission is composed entirely of public officials or employees;

(D) an interlocal entity as defined in Section 11-13-103 or a joint or cooperative undertaking as defined in Section 11-13-103;

(E) a governmental nonprofit corporation as defined in Section 11-13a-102; or

(F) an association as defined in Section 53G-7-1101.

(ii) "Governmental entity" does not mean:

(A) the School and Institutional Trust Lands Administration created in Section 53C-1-201;

(B) the School and Institutional Trust Lands Board of Trustees created in Section 53C-1-202;

(C) the Office of the Governor;

(D) the Governor's Office of Management and Budget created in Section 63J-4-201;

(E) the Public Lands Policy Coordinating Office created in Section 63J-4-602;

(F) the Office of Energy Development created in Section [~~63M-4-401; or~~] 79-6-401; or

(G) the Governor's Office of Economic Development created in Section 63N-1-201,

including the Office of Tourism and the Utah Office of Outdoor Recreation created in Section 63N-9-104.

(2) (a) A governmental entity, or a person a governmental entity employs and designates as a representative, may investigate the possibility of a federal designation within the state.

(b) A governmental entity that intends to advocate for a federal designation within the state shall:

(i) notify the chairs of the following committees before the introduction of federal legislation:

(A) the Natural Resources, Agriculture, and Environment Interim Committee, if constituted, and the Federalism Commission; or

(B) if the notice is given during a General Session, the House and Senate Natural Resources, Agriculture, and Environment Standing Committees; and

(ii) upon request of the chairs, meet with the relevant committee to review the proposal.

(3) This section does not apply to a political subdivision supporting a federal designation if the federal designation:

(a) applies to 5,000 acres or less; and

(b) has an economical or historical benefit to the political subdivision.

Section 59. Section 63L-7-104 is amended to read:

63L-7-104. Identification of a potential wilderness area.

(1) (a) Subject to Subsection (1)(b), the director of PLPCO, within one year of the acquisition date, shall identify within a parcel of acquired land any conservation areas.

(b) Before identifying a parcel of land as a conservation area, the director of PLPCO shall:

(i) inform the School and Institutional Trust Lands Administration that a parcel is being considered for designation as a conservation area; and

(ii) provide the School and Institutional Trust Lands Administration with the opportunity to trade out land owned by the School and Institutional Trust Lands Administration for the parcel in question subject to reaching an exchange agreement with the agency that manages the parcel.

(2) The director of PLPCO shall:

(a) file a map and legal description of each identified conservation area with the governor, the Senate, and the House of Representatives;

(b) maintain, and make available to the public, records pertaining to identified conservation areas, including:

(i) maps;

(ii) legal descriptions;

(iii) copies of proposed regulations governing the conservation area; and

(iv) copies of public notices of, and reports submitted to the Legislature, regarding pending additions, eliminations, or modifications to a conservation area; and

(c) within five years of the date of acquisition:

(i) review each identified conservation area for its suitability to be classified as a protected wilderness area; and

(ii) report the findings under Subsection (2)(c)(i) to the governor.

(3) The records described in Subsection (2)(b) shall be available for inspection at:

(a) the PLPCO office;

(b) the main office of DNR;

(c) a regional office of the Division of Forestry, Fire, and State Lands for any record that deals with an identified conservation area in that region; and

(d) the Division of State Parks [~~and~~] or the Division of Recreation.

(4) A conservation area may be designated as a protected wilderness area as described in Section 63L-7-105.

(5) A conservation area identified under Subsection (1) shall be managed by DNR, in coordination with the county government having jurisdiction over the area, without the conservation area being designated as a protected wilderness area unless otherwise provided by the Legislature.

Section 60. Section 63N-9-102 is amended to read:

63N-9-102. Definitions.

As used in this chapter:

(1) "Accessible to the general public," in relation to the awarding of an infrastructure grant, means:

(a) the public may use the infrastructure in accordance with federal and state regulations; and

(b) no community or group retains exclusive rights to access the infrastructure.

[~~(2) "Children," in relation to the awarding of a UCORE grant, means individuals who are six years of age or older, and 18 years of age or younger.~~]

(2) "Advisory committee" means the Utah Outdoor Recreation Grant Advisory Committee created in Section 79-8-105.

(3) "Director" means the director of the [~~outdoor recreation office~~] Utah Office of Outdoor Recreation.

(4) "Executive director" means the executive director of GOED.

(5) "Infrastructure grant" means an outdoor recreational infrastructure grant described in Section 63N-9-202.

(6) "Outdoor recreation office" means the Utah Office of Outdoor Recreation created in Section 63N-9-104.

(7) (a) "Recreational infrastructure project" means an undertaking to build or improve the approved facilities and installations needed for the public to access and enjoy the state's outdoors.

(b) "Recreational infrastructure project" may include the:

(i) establishment, construction, or renovation of a trail, trail infrastructure, or trail facilities;

(ii) construction of a project for water-related outdoor recreational activities;

(iii) development of a project for wildlife watching opportunities, including bird watching;

(iv) development of a project that provides winter recreation amenities;

(v) construction or improvement of a community park that has amenities for outdoor recreation; and

(vi) construction or improvement of a naturalistic and accessible playground.

[~~(8) "UCORE grant" means a children's outdoor recreation and education grant described in Section 63N-9-402.~~]

[~~(9)~~] (8) (a) "Underserved or underprivileged community" means a group of people, including a municipality, county, or American Indian tribe, that is economically disadvantaged.

(b) "Underserved or underprivileged community" includes an economically disadvantaged community where[~~: (i)~~] in relation to awarding an infrastructure grant, the people of the community have limited access to or have demonstrated a low level of use of recreational infrastructure[~~; and~~].

[~~(ii) in relation to awarding a UCORE grant, the children of the community, including children with disabilities, have limited access to outdoor recreation or education programs.~~]

Section 61. Section 63N-9-106 is amended to read:

63N-9-106. Annual report.

The executive director shall include in the annual written report described in Section 63N-1-301 a report from the director on the activities of the outdoor recreation office, including a description and the amount of any awarded infrastructure grants [~~and any awarded UCORE grants~~].

Section 62. Section 63N-9-202 is amended to read:

63N-9-202. Creation and purpose of infrastructure grant program.

(1) There is created the Outdoor Recreational Infrastructure Grant Program administered by the outdoor recreation office.

(2) The outdoor recreation office may seek to accomplish the following objectives in administering the infrastructure grant program:

(a) build, maintain, and promote recreational infrastructure to provide greater access to low-cost outdoor recreation for the state's citizens;

(b) encourage residents and nonresidents of the state to take advantage of the beauty of Utah's outdoors;

(c) encourage individuals and businesses to relocate to the state;

(d) promote outdoor exercise; and

(e) provide outdoor recreational opportunities to an underserved or underprivileged community in the state.

(3) The advisory committee shall advise and make recommendations to the outdoor recreation office regarding infrastructure grants.

Section 63. Section 65A-3-1 is amended to read:

65A-3-1. Trespassing on state lands -- Penalties.

(1) As used in this section:

(a) "Anchored" means the same as that term is defined in Section 73-18-2.

(b) "Beached" means the same as that term is defined in Section 73-18-2.

(c) "Motorboat" means the same as that term is defined in Section 73-18-2.

(d) "Vessel" means the same as that term is defined in Section 73-18-2.

(2) A person is guilty of a class B misdemeanor and liable for the civil damages prescribed in Subsection (4) if, without written authorization from the division, the person:

(a) removes, extracts, uses, consumes, or destroys any mineral resource, gravel, sand, soil, vegetation, or improvement on state lands;

(b) grazes livestock on state lands;

(c) uses, occupies, or constructs improvements or structures on state lands;

(d) uses or occupies state lands for more than 30 days after the cancellation or expiration of written authorization;

(e) knowingly and willfully uses state lands for commercial gain;

(f) appropriates, alters, injures, or destroys any historical, prehistorical, archaeological, or paleontological resource on state lands;

(g) starts or maintains a fire on state lands except in a posted and designated area;

(h) camps on state lands, except in posted or designated areas;

(i) camps on state lands for longer than 15 consecutive days at the same location or within one mile of the same location;

(j) camps on state lands for 15 consecutive days, and then returns to camp at the same location before 15 consecutive days have elapsed after the day on which the person left that location;

(k) leaves an anchored or beached vessel unattended for longer than 48 hours on state lands;

(l) anchors or beaches a vessel on state lands at the same location for longer than 72 hours or within two miles of the same location for longer than 72 hours;

(m) anchors or beaches a vessel on state lands at the same location for 72 hours, and then returns to anchor or beach the vessel at the same location or within two miles of the same location before 72 hours have elapsed after the day on which the person left that location;

(n) posts a sign claiming state land as private property;

(o) prohibits, prevents, or obstructs public entry to state land where public entry is authorized by the division; or

(p) parks or operates a motor vehicle on the bed of a navigable lake or river except in those areas:

(i) supervised by the Division of State Parks [~~and Recreation~~], the Division of Recreation, or another state or local enforcement entity; and

(ii) which are posted as open to vehicle use.

(3) A person is guilty of a class C misdemeanor and liable for civil damages described in Subsection (4) if, on state lands surrounding Bear Lake and without written authorization of the division, the person:

(a) parks or operates a motor vehicle in an area on the exposed lake bed that is specifically posted by the division as closed for usage;

(b) camps, except in an area that is posted and designated as open to camping;

(c) exceeds a speed limit of 10 miles per hour while operating a motor vehicle;

(d) drives recklessly while operating a motor vehicle;

(e) parks or operates a motor vehicle within an area between the water's edge and 100 feet of the water's edge except as necessary to:

(i) launch or retrieve a motorboat, if the person is permitted to launch or retrieve a motorboat;

(ii) transport an individual with limited mobility; or

(iii) deposit or retrieve equipment to a beach site;

(f) travels in a motor vehicle parallel to the water's edge:

(i) in areas designated by the division as closed;

(ii) a distance greater than 500 yards; or

(iii) for purposes other than travel to or from a beach site;

(g) parks or operates a motor vehicle between the hours of 10 p.m. and 7 a.m.; or

(h) starts a campfire or uses fireworks.

(4) A person who commits any act described in Subsection (2) or (3) is liable for damages in the amount of:

(a) three times the value of the mineral or other resource removed, destroyed, or extracted;

(b) three times the value of damage committed; or

(c) three times the consideration which would have been charged by the division for use of the land during the period of trespass.

(5) In addition to the damages described in Subsection (4), a person found guilty of a misdemeanor under Subsection (2) or (3) is subject to the penalties provided in Section 76-3-204.

(6) Money collected under this section shall be deposited in the fund in which similar revenues from that land would be deposited.

Section 64. Section 65A-10-2 is amended to read:

65A-10-2. Recreational use of sovereign lands.

(1) The division, with the approval of the executive director of the Department of Natural Resources and the governor, may set aside for public or recreational use any part of the lands claimed by the state as the beds of lakes or streams.

(2) Management of those lands may be delegated to the Division of State Parks [~~and~~], the Division of Recreation, the Division of Wildlife Resources, or any other state agency.

Section 65. Section 72-1-216 is amended to read:

72-1-216. Statewide electric vehicle charging network plan -- Report.

(1) (a) The department, in consultation with relevant entities in the private sector, shall develop a statewide electric vehicle charging network plan.

(b) To develop the statewide electric vehicle charging network plan, the department shall consult with political subdivisions and other relevant state agencies, divisions, and entities, including:

(i) the Department of Environmental Quality created in Section 19-1-104;

(ii) the Division of Facilities Construction and Management created in Section 63A-5b-301;

(iii) the Office of Energy Development created in Section [~~63M-4-401; and~~] 79-6-401; and

(iv) the Department of Natural Resources created in Section 79-2-201.

(2) The statewide electric vehicle charging network plan shall provide implementation

strategies to ensure that electric vehicle charging stations are available:

(a) at strategic locations as determined by the department by June 30, 2021;

(b) at incremental distances no greater than every 50 miles along the state's interstate highway system by December 31, 2025; and

(c) along other major highways within the state as the department finds appropriate.

(3) The department shall provide a report before November 30, 2020, to the Transportation Interim Committee to outline the statewide electric vehicle charging network plan.

Section 66. Section 72-4-302 is amended to read:

72-4-302. Utah State Scenic Byway Committee -- Creation -- Membership -- Meetings -- Expenses.

(1) There is created the Utah State Scenic Byway Committee.

(2) (a) The committee shall consist of the following 13 members:

(i) a representative from each of the following entities appointed by the governor:

(A) the Governor's Office of Economic Development;

(B) the Utah Department of Transportation;

(C) the Department of Heritage and Arts;

(D) the Division of State Parks [~~and Recreation~~];

(E) the Federal Highway Administration;

(F) the National Park Service;

(G) the National Forest Service; and

(H) the Bureau of Land Management;

(ii) one local government tourism representative appointed by the governor;

(iii) a representative from the private business sector appointed by the governor; and

(iv) three local elected officials from a county, city, or town within the state appointed by the governor.

(b) Except as provided in Subsection (2)(c), the members appointed in this Subsection (2) shall be appointed for a four-year term of office.

(c) The governor shall, at the time of appointment or reappointment for appointments made under Subsection (2)(a)(i), (ii), (iii), or (iv) adjust the length of terms to ensure that the terms of committee members are staggered so that approximately half of the committee is appointed every two years.

(3) (a) The representative from the Governor's Office of Economic Development shall chair the committee.

(b) The members appointed under Subsections (2)(a)(i)(E) through (H) serve as nonvoting, ex officio members of the committee.

(4) The Governor's Office of Economic Development and the department shall provide staff support to the committee.

(5) (a) The chair may call a meeting of the committee only with the concurrence of the department.

(b) A majority of the voting members of the committee constitute a quorum.

(c) Action by a majority vote of a quorum of the committee constitutes action by the committee.

(6) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses as allowed in:

(a) Section 63A-3-106;

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

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

Section 67. Section 72-11-204 is amended to read:

72-11-204. Vacancies -- Expenses -- Reimbursement -- Use of facilities of Department of Transportation -- Functions, powers, duties, rights, and responsibilities.

(1) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.

(2) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

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

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

(3) Reimbursement shall be made from fees collected by the committee for services rendered by it.

(4) The Department of Transportation shall supply the committee with office accommodation, space, equipment, and secretarial assistance the executive director considers adequate for the committee.

(5) In addition to the functions, powers, duties, rights, and responsibilities granted to it under this chapter, the committee shall assume and have all of the functions, powers, duties, rights, and responsibilities of the [~~Board of Parks and~~] Division of Recreation [~~created in Section 79-4-301~~] in relation to passenger ropeway systems pursuant to that chapter.

Section 68. Section 73-3-30 is amended to read:

73-3-30. Change application for an instream flow.

(1) As used in this section:

(a) "Division" means the Division of Wildlife Resources, created in Section 23-14-1, or the Division of State Parks [~~and Recreation~~], created in Section 79-4-201.

(b) "Fishing group" means an organization that:

(i) is exempt from taxation under Section 501(c)(3), Internal Revenue Code; and

(ii) promotes fishing opportunities in the state.

(2) (a) A division may file a change application, as provided by Section 73-3-3, for the purpose of providing water for an instream flow, within a specified section of a natural or altered stream channel, necessary within the state for:

(i) the propagation of fish;

(ii) public recreation; or

(iii) the reasonable preservation or enhancement of the natural stream environment.

(b) A division may file a change application on:

(i) a perfected water right:

(A) presently owned by the division;

(B) purchased by the division for the purpose of providing water for an instream flow, through funding provided for that purpose by legislative appropriation; or

(C) acquired by lease, agreement, gift, exchange, or contribution; or

(ii) an appurtenant water right acquired with the acquisition of real property by the division.

(c) A division may:

(i) purchase a water right for the purposes provided in Subsection (2)(a) only with funds specifically appropriated by the Legislature for water rights purchases; or

(ii) accept a donated water right without legislative approval.

(d) A division may not acquire water rights by eminent domain for an instream flow or for any other purpose.

(3) (a) A fishing group may file a fixed time change application on a perfected, consumptive water right for the purpose of providing water for an instream flow, within a specified section of a natural or altered stream channel, to protect or restore habitat for three native trout:

(i) the Bonneville cutthroat;

(ii) the Colorado River cutthroat; or

(iii) the Yellowstone cutthroat.

(b) Before filing an application authorized by Subsection (3)(a) to change a shareholder's proportionate share of water, the water company shall submit the decision to approve or deny the change request required by Subsection 73-3-3.5(3) to a vote of the shareholders:

(i) in a manner outlined in the water company's articles of incorporation or bylaws;

(ii) at an annual or regular meeting described in Section 16-6a-701; or

(iii) at a special meeting convened under Section 16-6a-702.

(c) The specified section of the natural or altered stream channel for the instream flow may not be further upstream than the water right's original point of diversion nor extend further downstream than the next physical point of diversion made by another person.

(d) The fishing group shall receive the Division of Wildlife Resources' director's approval of the proposed change before filing the fixed time change application with the state engineer.

(e) The director of the Division of Wildlife Resources may approve a proposed change if:

(i) the specified section of the stream channel is historic or current habitat for a species listed in Subsections (3)(a)(i) through (iii);

(ii) the proposed purpose of use is consistent with an existing state management or recovery plan for that species; and

(iii) the fishing group has:

(A) entered into a programmatic Candidate Conservation Agreement with Assurances with the United States Fish and Wildlife Service, as authorized by 16 U.S.C. Secs. 1531(a)(5) and 1536(a)(1), that gives the water right holder the option to receive an enhancement of survival permit, as authorized by 16 U.S.C. Sec. 1539(a)(1)(A), or a certificate of inclusion, for a fixed time change application that benefits a candidate species of trout; or

(B) until a programmatic Candidate Conservation Agreement with Assurances described in Subsection (3)(e)(iii)(A) becomes valid and enforceable, entered into a contract with the water right holder agreeing to defend and indemnify the water right holder for liability under Section 1538(a) of the Endangered Species Act, 16 U.S.C. Secs. 1531 through 1544, for an action taken by the water right holder under the terms of the water right holder's agreement with the fishing group for a fixed time change application.

(f) The director may deny a proposed change if the proposed change would not be in the public's interest.

(g) (i) In considering a fixed time change application, the state engineer shall follow the same procedures as provided in this title for an application to appropriate water.

(ii) The rights and the duties of a fixed time change applicant are the same as provided in this title for an applicant to appropriate water.

(h) A fishing group may refile a fixed time change application by filing a written request with the state engineer no later than 60 days before the application expires.

(i) (i) The water right for which the state engineer has approved a fixed time change application will automatically revert to the point of diversion and place and purpose of use that existed before the approved fixed time change application when the fixed time change application expires or is terminated.

(ii) The applicant shall give written notice to the state engineer and the lessor, if applicable, if the applicant wishes to terminate a fixed time change application before the fixed time change application expires.

(4) In addition to the requirements of Section 73-3-3, an application authorized by this section shall:

(a) set forth the legal description of the points on the stream channel between which the instream flow will be provided by the change application; and

(b) include appropriate studies, reports, or other information required by the state engineer demonstrating the necessity for the instream flow in the specified section of the stream and the projected benefits to the public resulting from the change.

(5) (a) For a permanent change application or a fixed time change application filed according to this section, 60 days before the date on which proof of change for an instream flow is due, the state engineer shall notify the applicant by mail or by any form of communication through which receipt is verifiable of the date when proof of change is due.

(b) Before the date when proof of change is due, the applicant must either:

(i) file a verified statement with the state engineer that the instream flow uses have been perfected, setting forth:

(A) the legal description of the points on the stream channel between which the instream flow is provided;

(B) detailed measurements of the flow of water in second-feet changed;

(C) the period of use; and

(D) any additional information required by the state engineer; or

(ii) apply for a further extension of time as provided for in Section 73-3-12.

(c) (i) Upon acceptance of the verified statement required under Subsection (5)(b)(i), the state engineer shall issue a certificate of change for instream flow use in accordance with Section 73-3-17.

(ii) The certificate expires at the same time the fixed time change application expires.

(6) A person may not appropriate unappropriated water under Section 73-3-2 for the purpose of providing an instream flow.

(7) Water used in accordance with this section is considered to be beneficially used, as required by Section 73-3-1.

(8) A physical structure or physical diversion from the stream is not required to implement a change for instream flow use.

(9) This section does not allow enlargement of the water right that the applicant seeks to change.

(10) A change application authorized by this section may not impair a vested water right, including a water right used to generate hydroelectric power.

(11) The state engineer or the water commissioner shall distribute water under an approved or a certificated instream flow change application according to the change application's priority date relative to the other water rights located within the stream section specified in the change application for instream flow.

(12) An approved fixed time change application does not create a right of access across private property or allow any infringement of a private property right.

Section 69. Section 73-3-31 is amended to read:

73-3-31. Water right for watering livestock on public land.

(1) As used in this section:

(a) "Acquire" means to gain the right to use water through obtaining:

(i) an approved application to appropriate water; or

(ii) a perfected water right.

(b) "Allotment" means a designated area of public land available for livestock grazing.

(c) "Animal unit month (AUM)" is the amount of forage needed to sustain one cow and her calf, one horse, or five sheep and goats for one month.

(d) (i) "Beneficial user" means the person that has the right to use the grazing permit.

(ii) "Beneficial user" does not mean the public land agency issuing the grazing permit.

(e) "Grazing permit" means a document authorizing livestock to graze on an allotment.

(f) "Livestock" means a domestic animal raised or kept for profit or personal use.

(g) "Livestock watering right" means a right for:

(i) livestock to consume water:

(A) directly from the water source located on public land; or

(B) from an impoundment located on public land into which the water is diverted; and

(ii) associated uses of water related to the raising and care of livestock on public land.

(h) (i) "Public land" means land owned or managed by the United States or the state.

(ii) "Public land" does not mean land owned by:

(A) the Division of Wildlife Resources;

(B) the School and Institutional Trust Lands Administration; or

(C) the Division of State Parks [~~and Recreation~~] or the Division of Recreation.

(i) "Public land agency" means the agency that owns or manages the public land.

(2) A public land agency may not:

(a) condition the issuance, renewal, amendment, or extension of any permit, approval, license, allotment, easement, right-of-way, or other land use occupancy agreement regarding livestock on the transfer of any water right directly to the public land agency;

(b) require any water user to apply for, or acquire a water right in the name of, the public land agency as a condition for the issuance, renewal, amendment, or extension of any permit, approval, license, allotment, easement, right-of-way, or other land use occupancy agreement regarding livestock; or

(c) acquire a livestock watering right if the public land agency is not a beneficial user.

(3) The state engineer may not approve a change application under Section 73-3-3 for a livestock watering right without the consent of the beneficial user.

(4) A beneficial user may file a nonuse application under Section 73-1-4 on a livestock watering right or a portion of a livestock watering right that the beneficial user puts to beneficial use.

(5) A livestock watering right is appurtenant to the allotment on which the livestock is watered.

(6) (a) (i) A beneficial user or a public land agency may file a request with the state engineer for a livestock water use certificate.

(ii) The state engineer shall:

(A) provide the livestock water use certificate application form on the Internet; and

(B) allow electronic submission of the livestock water use certificate application.

(b) The state engineer shall grant a livestock water use certificate to a beneficial user if the beneficial user:

(i) demonstrates that the beneficial user has a right to use a grazing permit for the allotment to which the livestock watering right is appurtenant; and

(ii) pays the fee set in accordance with Section 73-2-14.

(c) A livestock water use certificate is valid as long as the livestock watering right is:

(i) held by a beneficial user who has the right to use the grazing permit and graze livestock on the allotment;

(ii) put to beneficial use within a seven-year time period; or

(iii) subject to a nonuse application approved under Section 73-1-4.

(7) A beneficial user may access or improve an allotment as necessary for the beneficial user to beneficially use, develop, and maintain the beneficial user's water right appurtenant to the allotment.

(8) If a federal land management agency reduces livestock grazing AUMs on federal grazing allotments, and the reduction results in the partial forfeiture of an appropriated water right, the amount of water in question for nonuse as a livestock water right shall be held in trust by the state engineer until such water may be appropriated for livestock watering, consistent with this act and state law.

(9) Nothing in this section affects a livestock watering right or a livestock water use certificate held by a public land agency on May 13, 2014.

Section 70. Section 73-10e-1 is amended to read:

73-10e-1. Creation of Water Development and Flood Mitigation Reserve Account -- Appropriation.

(1) There is created within the General Fund a restricted account known as the "Water Development and Flood Mitigation Reserve Account."

(2) There is appropriated for fiscal year 1984-85 $55,000,000 from the General Fund and $6,000,000 from certificates of participation to the Water Development and Flood Mitigation Reserve Account. This appropriation may not lapse and shall carry over to fiscal year 1985-86.

(3) There is appropriated for fiscal year 1985-86 $35,000,000 from the General Fund to the Water Development and Flood Mitigation Reserve Account.

(4) There is appropriated for fiscal year 1984-85 $4,050,000 from the Water Development and Flood Mitigation Reserve Account to the Division of Water Resources to use for all of the following:

(a) $2,000,000 for final engineering studies for west desert pumping;

(b) $500,000 for implementation of the State Water Plan, including, but not limited to, engineering studies on Bear River upstream diversion and storage projects and Hatch Town Reservoir;

(c) (i) $750,000 to prepare final design reports and cost estimates for the following:

(A) Option A - No. Davis WWTP, West Kaysville, Centerville, Bard, West Bountiful, So. Davis No. WWTP, Phillips, Woods Cross, Jordan River

WWTP, and the Salt Lake International Airport; and

(B) Option B – Antelope Island roadway dikes.

(ii) It is the intent of the Legislature to choose between Options A and B after the final design reports are completed. The final design reports for Option B shall be completed by consultants other than those who prepared the original report. The reports for both Options A and B shall clearly indicate the following for each alternative:

(A) estimated construction costs;

(B) estimated costs of operation and maintenance;

(C) estimated time necessary for completion;

(D) benefits with respect to flood control, tourism, recreation, long-term second use, and new access to Antelope Island and marsh lands; and

(E) impact on roads and esthetic land features during construction.

(d) $250,000 to prepare final design reports for the following projects: Corrine-WWTP, Plain City-WWTP, Perry-WWTP, and Little Mtn.-WWTP;

(e) $500,000 to construct the South Shore project; and

(f) $50,000 to reevaluate inter-island diking between South Shore, Antelope Island, Fremont Island, and Promontory Point.

(5) There is appropriated for fiscal year 1984-85 $16,300,000 from the Water Development and Flood Mitigation Reserve Account to the Community Development/Disaster Relief Board for the following:

(a) $4,000,000 to use as a match on diking projects built by the Army Corps of Engineers; and

(b) (i) $12,300,000 to provide grants to appropriate governmental entities to increase the carrying capacity of the Jordan River. The grants shall be made without requiring matching funds from any other governmental entity and shall only be made if an agreement is entered into by the affected governmental entities resolving disputed issues of responsibility. It is the intent of the Legislature to consider the distribution of the 1/8% sales and use tax increase as the contribution from the affected governmental entities.

(ii) Any portion of the $12,300,000 appropriated under Subsection (5)(b)(i) which is not used for the purposes described in that subsection shall be transferred to the Division of State Parks [~~and Recreation~~] for the purposes described in Section 79-4-802. After this money is transferred to the Division of State Parks [~~and Recreation~~], the money is nonlapsing. The money may not be used for any project specified by the Division of State Parks [~~and Recreation~~] until the political subdivision having jurisdiction over the appropriate area contributes 50% of the costs of the project to the state. This contribution may be in the form of money, property, or services, or any combination of these, which can be used for the specified project.

(6) Interest accrued on the money appropriated into the Water Development and Flood Mitigation Reserve Account shall be deposited into the Water Resources Conservation and Development Fund as the interest accrues.

(7) All money not appropriated from the Water Development and Flood Mitigation Reserve Account by September 1, 1985, shall be deposited into the Water Resources Conservation and Development Fund.

Section 71. Section 73-18-2 is amended to read:

73-18-2. Definitions.

As used in this chapter:

(1) "Anchored" means a vessel that is temporarily attached to the bed or shoreline of a waterbody by any method and the hull of the vessel is not touching the bed or shoreline.

(2) "Beached" means that a vessel's hull is resting on the bed or shoreline of a waterbody.

[~~(3) "Board" means the Board of Parks and Recreation.~~]

[~~(4)~~] (3) "Boat livery" means a person that holds a vessel for renting or leasing.

[~~(5)~~] (4) "Carrying passengers for hire" means to transport persons on vessels or to lead persons on vessels for consideration.

(5) "Commission" means the Outdoor Adventure Commission.

(6) "Consideration" means something of value given or done in exchange for something given or done by another.

(7) "Dealer" means any person who is licensed by the appropriate authority to engage in and who is engaged in the business of buying and selling vessels or of manufacturing them for sale.

(8) "Derelict vessel":

(a) means a vessel that is left, stored, or abandoned upon the waters of this state in a wrecked, junked, or substantially dismantled condition; and

(b) includes:

(i) a vessel left at a Utah port or marina without consent of the agency or other entity administering the port or marine area; and

(ii) a vessel left docked or grounded upon a property without the property owner's consent.

(9) "Division" means the Division of [~~Parks and~~] Recreation.

(10) "Moored" means long term, on the water vessel storage in an area designated and properly marked by the division or other applicable managing agency.

(11) "Motorboat" means any vessel propelled by machinery, whether or not the machinery is the principal source of propulsion.

(12) "Operate" means to navigate, control, or otherwise use a vessel.

(13) "Operator" means the person who is in control of a vessel while it is in use.

(14) "Outfitting company" means any person who, for consideration:

(a) provides equipment to transport persons on all waters of this state; and

(b) supervises a person who:

(i) operates a vessel to transport passengers; or

(ii) leads a person on a vessel.

(15) (a) "Owner" means a person, other than a lien holder, holding a proprietary interest in or the title to a vessel.

(b) "Owner" includes a person entitled to the use or possession of a vessel subject to an interest by another person, reserved or created by agreement and securing payment or performance of an obligation.

(c) "Owner" does not include a lessee under a lease not intended as security.

(16) "Personal watercraft" means a motorboat that is:

(a) less than 16 feet in length;

(b) propelled by a water jet pump; and

(c) designed to be operated by a person sitting, standing, or kneeling on the vessel, rather than sitting or standing inside the vessel.

(17) "Racing shell" means a long, narrow watercraft:

(a) outfitted with long oars and sliding seats; and

(b) specifically designed for racing or exercise.

(18) "Sailboat" means any vessel having one or more sails and propelled by wind.

(19) "Vessel" means every type of watercraft, other than a seaplane on the water, used or capable of being used as a means of transportation on water.

(20) "Wakeless speed" means an operating speed at which the vessel does not create or make a wake or white water trailing the vessel. This speed is not in excess of five miles per hour.

(21) "Waters of this state" means any waters within the territorial limits of this state.

Section 72. Section 73-18-3.5 is amended to read:

73-18-3.5. Advisory council.

The [~~board~~] division, after consultation with the commission, may appoint an advisory council representing various boating interests to seek recommendations on state boating policies.

Section 73. Section 73-18-4 is amended to read:

73-18-4. Division may promulgate rules and set fees.

(1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the [~~board~~] division, after consultation with the commission, shall promulgate rules:

(a) creating a uniform waterway marking system which shall be obeyed by all vessel operators;

(b) regulating the placement of waterway markers and other permanent or anchored objects on the waters of this state;

(c) zoning certain waters of this state for the purpose of prohibiting the operation of vessels or motors for safety and health purposes only;

(d) regulating vessel operators who carry passengers for hire, boat liveries, and outfitting companies; and

(e) regulating anchored, beached, moored, or abandoned vessels to minimize health, safety, and environmental concerns.

(2) (a) The [~~board~~] division, after consultation with the commission, may set fees in accordance with Section 63J-1-504 for:

(i) licensing vessel operators who carry passengers for hire; and

(ii) registering:

(A) outfitting companies; and

(B) boat liveries.

(b) The license and registration fees imposed pursuant to Subsection (2)(a) shall be deposited into the Boating Account created in Section 73-18-22.

Section 74. Section 73-18-7 is amended to read:

73-18-7. Registration requirements -- Exemptions -- Fee -- Agents -- Records -- Period of registration and renewal -- Expiration -- Notice of transfer of interest or change of address -- Duplicate registration card -- Invalid registration -- Powers of division.

(1) (a) Except as provided by Section 73-18-9, the owner of each motorboat and sailboat on the waters of this state shall register it with the division as provided in this chapter.

(b) A person may not place, give permission for the placement of, operate, or give permission for the operation of a motorboat or sailboat on the waters of this state, unless the motorboat or sailboat is registered as provided in this chapter.

(2) (a) The owner of a motorboat or sailboat required to be registered shall file an application for registration with the division on forms approved by the division.

(b) The owner of the motorboat or sailboat shall sign the application and pay the fee set by the

[~~board~~] division, after consultation with the commission, in accordance with Section 63J-1-504.

(c) Before receiving a registration card and registration decals, the applicant shall provide the division with a certificate from the county assessor of the county in which the motorboat or sailboat has situs for taxation, stating that:

(i) the property tax on the motorboat or sailboat for the current year has been paid;

(ii) in the county assessor's opinion, the property tax is a lien on real property sufficient to secure the payment of the property tax; or

(iii) the motorboat or sailboat is exempt by law from payment of property tax for the current year.

(d) If the [~~board~~] division modifies the fee under Subsection (2)(b), the modification shall take effect on the first day of the calendar quarter after 90 days from the day on which the [~~board~~] division provides the State Tax Commission:

(i) notice from the [~~board~~] division stating that the [~~board~~] division will modify the fee; and

(ii) a copy of the fee modification.

(3) (a) Upon receipt of the application in the approved form, the division shall record the receipt and issue to the applicant registration decals and a registration card that state the number assigned to the motorboat or sailboat and the name and address of the owner.

(b) The registration card shall be available for inspection on the motorboat or sailboat for which it was issued, whenever that motorboat or sailboat is in operation.

(4) The assigned number shall:

(a) be painted or permanently attached to each side of the forward half of the motorboat or sailboat;

(b) consist of plain vertical block characters not less than three inches in height;

(c) contrast with the color of the background and be distinctly visible and legible;

(d) have spaces or hyphens equal to the width of a letter between the letter and numeral groupings; and

(e) read from left to right.

(5) A motorboat or sailboat with a valid marine document issued by the United States Coast Guard is exempt from the number display requirements of Subsection (4).

(6) The nonresident owner of any motorboat or sailboat already covered by a valid number that has been assigned to it according to federal law or a federally approved numbering system of the owner's resident state is exempt from registration while operating the motorboat or sailboat on the waters of this state unless the owner is operating in excess of the reciprocity period provided for in Subsection 73-18-9(1).

(7) (a) If the ownership of a motorboat or sailboat changes, the new owner shall file a new application form and fee with the division, and the division shall issue a new registration card and registration decals in the same manner as provided for in Subsections (2) and (3).

(b) The division shall reassign the current number assigned to the motorboat or sailboat to the new owner to display on the motorboat or sailboat.

(8) If the United States Coast Guard has in force an overall system of identification numbering for motorboats or sailboats within the United States, the numbering system employed under this chapter by the [~~board~~] division shall conform with that system.

(9) (a) The division may authorize any person to act as its agent for the registration of motorboats and sailboats.

(b) A number assigned, a registration card, and registration decals issued by an agent of the division in conformity with this chapter and rules of the [~~board~~] division are valid.

(10) (a) The Motor Vehicle Division shall classify all records of the division made or kept according to this section in the same manner that motor vehicle records are classified under Section 41-1a-116.

(b) Division records are available for inspection in the same manner as motor vehicle records pursuant to Section 41-1a-116.

(11) (a) (i) Each registration, registration card, and decal issued under this chapter shall continue in effect for 12 months, beginning with the first day of the calendar month of registration.

(ii) A registration may be renewed by the owner in the same manner provided for in the initial application.

(iii) The division shall reassign the current number assigned to the motorboat or sailboat when the registration is renewed.

(b) Each registration, registration card, and registration decal expires the last day of the month in the year following the calendar month of registration.

(c) If the last day of the registration period falls on a day in which the appropriate state or county offices are not open for business, the registration of the motorboat or sailboat is extended to 12 midnight of the next business day.

(d) The division may receive applications for registration renewal and issue new registration cards at any time before the expiration of the registration, subject to the availability of renewal materials.

(e) The new registration shall retain the same expiration month as recorded on the original registration even if the registration has expired.

(f) The year of registration shall be changed to reflect the renewed registration period.

(g) If the registration renewal application is an application generated by the division through its

automated system, the owner is not required to surrender the last registration card or duplicate.

(12) (a) An owner shall notify the division of:

(i) the transfer of all or any part of the owner's interest, other than creation of a security interest, in a motorboat or sailboat registered in this state under Subsections (2) and (3); and

(ii) the destruction or abandonment of the owner's motorboat or sailboat.

(b) Notification must take place within 15 days of the transfer, destruction, or abandonment.

(c) (i) The transfer, destruction, or abandonment of a motorboat or sailboat terminates its registration.

(ii) Notwithstanding Subsection (12)(c)(i), a transfer of a part interest that does not affect the owner's right to operate a motorboat or sailboat does not terminate the registration.

(13) (a) A registered owner shall notify the division within 15 days if the owner's address changes from the address appearing on the registration card and shall, as a part of this notification, furnish the division with the owner's new address.

(b) The [~~board~~] division may provide in [~~its~~] the division's rules for:

(i) the surrender of the registration card bearing the former address; and

(ii) (A) the replacement of the card with a new registration card bearing the new address; or

(B) the alteration of an existing registration card to show the owner's new address.

(14) (a) If a registration card is lost or stolen, the division may collect a fee of $4 for the issuance of a duplicate card.

(b) If a registration decal is lost or stolen, the division may collect a fee of $3 for the issuance of a duplicate decal.

(15) A number other than the number assigned to a motorboat or sailboat or a number for a motorboat or sailboat granted reciprocity under this chapter may not be painted, attached, or otherwise displayed on either side of the bow of a motorboat or sailboat.

(16) A motorboat or sailboat registration and number are invalid if obtained by knowingly falsifying an application for registration.

(17) The [~~board~~] division may designate the suffix to assigned numbers, and by following the procedures and requirements of Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules for:

(a) the display of registration decals;

(b) the issuance and display of dealer numbers and registrations; and

(c) the issuance and display of temporary registrations.

(18) A violation of this section is an infraction.

Section 75. Section 73-18-8 is amended to read:

73-18-8. Safety equipment required to be on board vessels -- Penalties.

(1) (a) Except as provided in Subsection (1)(c), each vessel shall have, for each person on board, one wearable personal flotation device that is approved for the type of use by the commandant of the United States Coast Guard.

(b) Each personal flotation device shall be:

(i) in serviceable condition;

(ii) legally marked with the United States Coast Guard approval number; and

(iii) of an appropriate size for the person for whom it is intended.

(c) (i) Sailboards and racing shells are exempt from the provisions of Subsections (1)(a) and (e).

(ii) The [~~board~~] division, after consultation with the commission, may exempt certain types of vessels from the provisions of Subsection (1)(a) under certain conditions or upon certain waters.

(d) The [~~board~~] division may require by rule, after consultation with the commission, for personal flotation devices to be worn:

(i) while a person is on board a certain type of vessel;

(ii) by a person under a certain age; or

(iii) on certain waters of the state.

(e) For vessels 16 feet or more in length, there shall also be on board one throwable personal flotation device which is approved for this use by the commandant of the United States Coast Guard.

(2) The operator of a vessel operated between sunset and sunrise shall display lighted navigation lights approved by the division.

(3) If a vessel is not entirely open and it carries or uses any flammable or toxic fluid in any enclosure for any purpose, the vessel shall be equipped with an efficient natural or mechanical ventilation system that is capable of removing resulting gases before and during the time the vessel is occupied by any person.

(4) Each vessel shall have fire extinguishing equipment on board.

(5) Any inboard gasoline engine shall be equipped with a carburetor backfire flame control device.

(6) The [~~board~~] division may:

(a) require additional safety equipment by rule made in consultation with the commission; and

(b) adopt rules conforming with the requirements of this section which govern specifications for and the use of safety equipment.

(7) A person may not operate or give permission for the operation of a vessel that is not equipped as required by this section or rules promulgated under this section.

(8) A violation of this section is an infraction.

Section 76. Section 73-18-9 is amended to read:

73-18-9. Exemptions from registration.

Registration under this chapter is not required for any of the following:

(1) a motorboat or sailboat that:

(a) is already covered by a valid registration issued by its nonresident owner's resident state; and

(b) has not been within this state in excess of 60 days for the calendar year;

(2) a motorboat or sailboat from a country other than the United States temporarily using the waters of this state;

(3) a motorboat or sailboat whose owner is the United States, a state or subdivision thereof;

(4) a ship's lifeboat; or

(5) a motorboat or sailboat belonging to a class of vessels which is exempted from registration by the [~~board~~] division after the [~~board~~] division finds:

(a) that the registration of motorboats or sailboats of this class will not materially aid in their identification; and

(b) that the United States Coast Guard has a numbering system applicable to the class of motorboats or sailboats to which the motorboat or sailboat in question belongs, and the motorboat or sailboat would also be exempt from numbering if it were subject to federal law.

Section 77. Section 73-18-11 is amended to read:

73-18-11. Regulation of muffling devices.

The [~~board~~] division, after consultation with the commission, shall adopt rules for the regulating of muffling devices on all vessels.

Section 78. Section 73-18-13 is amended to read:

73-18-13. Duties of operator involved in accident -- Notification and reporting procedures -- Use of accident reports -- Giving false information as misdemeanor.

(1) As used in this section, "agent" has the same meaning as provided in Section 41-6a-404.

(2) (a) It is the duty of the operator of a vessel involved in an accident, if the operator can do so without seriously endangering the operator's own vessel, crew, or passengers, to render aid to those affected by the accident as may be practicable.

(b) The operator shall also give the operator's name, address, and identification of the operator's vessel in writing to:

(i) any person injured; or

(ii) the owner of any property damaged in the accident.

(c) A violation of this Subsection (2) is a class B misdemeanor.

(3) (a) The [~~board~~] division, after consultation with the commission, shall adopt rules governing the notification and reporting procedure for vessels involved in accidents.

(b) The rules shall be consistent with federal requirements.

(4) (a) Except as provided in Subsection (4)(b), all accident reports:

(i) are protected and shall be for the confidential use of the division or other state, local, or federal agencies having use for the records for official governmental statistical, investigative, and accident prevention purposes; and

(ii) may be disclosed only in a statistical form that protects the privacy of any person involved in the accident.

(b) The division shall disclose a written accident report and its accompanying data to:

(i) a person involved in the accident, excluding a witness to the accident;

(ii) a person suffering loss or injury in the accident;

(iii) an agent, parent, or legal guardian of a person described in Subsections (4)(b)(i) and (ii);

(iv) a member of the press or broadcast news media;

(v) a state, local, or federal agency that uses the records for official governmental, investigative, or accident prevention purposes;

(vi) law enforcement personnel when acting in their official governmental capacity; and

(vii) a licensed private investigator.

(c) Information provided to a member of the press or broadcast news media under Subsection (4)(b)(iv) may only include:

(i) the name, age, sex, and city of residence of each person involved in the accident;

(ii) the make and model year of each vehicle involved in the accident;

(iii) whether or not each person involved in the accident was covered by a vehicle insurance policy;

(iv) the location of the accident; and

(v) a description of the accident that excludes personal identifying information not listed in Subsection (4)(c)(i).

(5) (a) Except as provided in Subsection (5)(c), an accident report may not be used as evidence in any civil or criminal trial, arising out of an accident.

(b) Upon demand of any person who has, or claims to have, made the report, or upon demand of any court, the division shall furnish a certificate showing that a specified accident report has or has not been made to the division solely to prove a compliance or a failure to comply with the requirement that a report be made to the division.

(c) Accident reports may be used as evidence when necessary to prosecute charges filed in connection with a violation of Subsection (6).

(6) Any person who gives false information, knowingly or having reason to believe it is false, in an oral or written report as required in this chapter, is guilty of a class B misdemeanor.

Section 79. Section 73-18-13.5 is amended to read:

73-18-13.5. Motorboat accidents -- Investigation and report of operator security -- Agency action if no security -- Surrender of registration materials.

(1) Upon request of a peace officer investigating an accident involving a motorboat as defined in Section 73-18c-102, the operator of the motorboat shall provide evidence of the owner's or operator's security required under Section 73-18c-301.

(2) The peace officer shall record on a form approved by the division:

(a) the information provided by the operator;

(b) whether the operator provided insufficient or no information; and

(c) whether the peace officer finds reasonable cause to believe that any information given is not correct.

(3) The peace officer shall deposit all completed forms with the peace officer's agency, which shall forward the forms to the division no later than 10 days after receipt.

(4) (a) The division shall revoke the registration of a motorboat as defined in Section 73-18c-102 involved in an accident unless the owner or operator can demonstrate to the division compliance with the owner's or operator's security requirement of Section 73-18c-301 at the time of the accident.

(b) Any registration revoked shall be renewed in accordance with Section 73-18-7.

(5) A person may appeal a revocation issued under Subsection (4) in accordance with procedures established by the [~~board~~] division, after consultation with the commission, by rule that are consistent with Title 63G, Chapter 4, Administrative Procedures Act.

(6) (a) Any person whose registration is revoked under Subsection (4) shall return the registration card and decals for the motorboat to the division.

(b) If the person fails to return the registration materials as required, they shall be confiscated under Section 73-18-13.6.

(7) The [~~board~~] division may, after consultation with the commission, make rules for the enforcement of this section.

(8) In this section, "evidence of owner's or operator's security" includes any one of the following:

(a) the operator's:

(i) insurance policy;

(ii) binder notice;

(iii) renewal notice; or

(iv) card issued by an insurance company as evidence of insurance;

(b) a copy of a surety bond, certified by the surety, which conforms to Section 73-18c-102;

(c) a certificate of the state treasurer issued under Section 73-18c-305; or

(d) a certificate of self-funded coverage issued under Section 73-18c-306.

Section 80. Section 73-18-15 is amended to read:

73-18-15. Division to adopt rules concerning water skiing and aquaplane riding and use of other devices towed behind a vessel.

The [~~board~~] division, after consultation with the commission, shall adopt rules for the regulation and safety of water skiing and aquaplane riding, and the use of other devices that are towed behind a vessel pursuant to this section and in accordance with Section 73-18-16.

Section 81. Section 73-18-15.2 is amended to read:

73-18-15.2. Minimum age of operators -- Boating safety course for youth to operate personal watercraft.

(1) (a) A person under 16 years of age may not operate a motorboat on the waters of this state unless the person is under the on-board and direct supervision of a person who is at least 18 years of age.

(b) A person under 16 years of age may operate a sailboat, if the person is under the direct supervision of a person who is at least 18 years of age.

(2) A person who is at least 12 years of age or older but under 16 years of age may operate a personal watercraft provided he:

(a) is under the direct supervision of a person who is at least 18 years of age;

(b) completes a boating safety course approved by the division; and

(c) has in his possession a boating safety certificate issued by the boating safety course provider.

(3) A person who is at least 16 years of age but under 18 years of age may operate a personal watercraft, if the person:

(a) completes a boating safety course approved by the division; and

(b) has in his possession a boating safety certificate issued by the boating safety course provider.

(4) A person required to attend a boating safety course under Subsection (3)(a) need not be accompanied by a parent or legal guardian while completing a boating safety course.

(5) A person may not give permission to another person to operate a vessel in violation of this section.

(6) As used in this section, "direct supervision" means oversight at a distance within which visual contact is maintained.

(7) (a) The division may collect fees set by the [~~board~~] division in accordance with Section 63J-1-504 from each person who takes the division's boating safety course to help defray the cost of the boating safety course.

(b) Money collected from the fees collected under Subsection (7)(a) shall be deposited in the Boating Account.

(8) A violation of this section is an infraction.

Section 82. Section 73-18-16 is amended to read:

73-18-16. Regattas, races, exhibitions -- Rules.

(1) The division may authorize the holding of regattas, motorboat or other boat races, marine parades, tournaments, or exhibitions on any waters of this state.

(2) The [~~board~~] division, after consultation with the commission, may adopt rules concerning the safety of vessels and persons, either as observers or participants, that do not conflict with the provisions of Subsections (3) and (4).

(3) A person may elect, at the person's own risk, to wear a non-Coast Guard approved personal floatation device if the person is on an American Water Ski Association regulation tournament slalom course and is:

(a) engaged in barefoot water skiing;

(b) water skiing in an American Water Ski Association regulation competition;

(c) a performer participating in a professional exhibition or other tournament; or

(d) practicing for an event described in Subsection (3)(b) or (c).

(4) If a person is water skiing in an American Water Ski Association regulation tournament slalom course, an observer and flag are not required if the vessel is:

(a) equipped with a wide angle mirror with a viewing surface of at least 48 square inches; and

(b) operated by a person who is at least 18 years of age.

(5) A violation of this section is an infraction.

Section 83. Section 73-18-17 is amended to read:

73-18-17. Scope of application of chapter -- Identical local ordinances authorized -- Application for special local rules.

(1) This chapter, and other applicable laws of this state govern the operation, equipment, and numbering of vessels whenever any vessel is operated on the waters of this state, or when any activity regulated by this chapter takes place on the waters of this state. Nothing in this chapter prevents the adoption of any ordinance or local law relating to operation and equipment of vessels, the provisions of which are identical to the provisions of this chapter, amendments to this chapter, and rules promulgated under this chapter. Ordinances or local laws shall be operative only so long as and to the extent that they continue to be identical to provisions of this chapter, amendments to this chapter, and rules promulgated under this chapter.

(2) Any political subdivision of this state may, at any time, but only after public notice, formally apply to the [~~board~~] division for special rules concerning the operation of vessels on any waters within its territorial limits. The political subdivision shall set forth in the application the reasons which make special rules necessary or appropriate.

Section 84. Section 73-18-20 is amended to read:

73-18-20. Enforcement of chapter -- Authority to stop and board vessels -- Disregarding law enforcement signal to stop as misdemeanor -- Procedure for arrest.

(1) A law enforcement officer authorized under Title 53, Chapter 13, Peace Officer Classifications, may enforce this chapter, the rules made under this chapter, and the maintenance inspection program for vessels carrying passengers for hire implemented under this chapter.

(2) A law enforcement officer authorized under Title 53, Chapter 13, Peace Officer Classifications, has the authority to stop and board a vessel subject to this chapter, whether the vessel is on water or land. If that law enforcement officer determines the vessel is overloaded, unseaworthy, or the safety equipment required by this chapter or rules of the [~~board~~] division is not on the vessel, that law enforcement officer may prohibit the launching of the vessel or stop the vessel from operating.

(3) An operator who, having received a visual or audible signal from a law enforcement officer authorized under Title 53, Chapter 13, Peace Officer Classifications, to bring the operator's vessel to a stop, operates the vessel in willful or wanton disregard of the signal so as to interfere with or endanger the operation of a vessel or endanger an individual, or who attempts to flee or elude the law enforcement officer whether by vessel or otherwise is guilty of a class A misdemeanor.

(4) Whenever an individual is arrested for a violation of this chapter or a rule made under this

chapter, the procedure for arrest is the same as described in Sections 77-7-23 and 77-7-24.

Section 85. Section 73-18a-1 is amended to read:

73-18a-1. Definitions.

As used in this chapter:

[~~(1) "Board" means the Board of Parks and Recreation.~~]

(1) "Commission" means the Outdoor Adventure Commission.

(2) "Division" means the Division of [~~Parks and~~] Recreation.

(3) "Human body waste" means excrement, feces, or other waste material discharged from the human body.

(4) "Litter" means any bottles, glass, crockery, cans, scrap metal, junk, paper, garbage, rubbish, or similar refuse discarded as no longer useful.

(5) "Marine toilet" means any toilet or other receptacle permanently installed on or within any vessel for the purpose of receiving human body waste. This term does not include portable toilets which may be removed from a vessel in order to empty its contents.

(6) "Operate" means to navigate, control, or otherwise use a vessel.

(7) "Operator" means the person who is in control of a vessel while it is in use.

(8) "Owner" means a person, other than a lien holder, holding a proprietary interest in or the title to a vessel. The term does not include a lessee under a lease not intended as security.

(9) "Vessel" means every type of watercraft, other than a seaplane on the water, used or capable of being used as a means of transportation on water.

(10) "Waters of this state" means all waters within the territorial limits of this state except those used exclusively for private purposes.

Section 86. Section 73-18a-4 is amended to read:

73-18a-4. Marine toilets -- Pollution control devices required -- Rules established by division.

(1) Every marine toilet on a vessel used or operated upon the waters of this state shall be equipped with an approved pollution control device in operative condition.

(2) The [~~board~~] division, after consultation with the commission, shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, as provided in this chapter, establishing criteria or standards for definition and approval of acceptable pollution control devices for vessels.

Section 87. Section 73-18a-5 is amended to read:

73-18a-5. Chemical treatment of marine toilet contents -- Rules established by division and Department of Environmental Quality.

The [~~board~~] division, after consultation with the commission, shall establish by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, with approval by the Department of Environmental Quality, as provided in this chapter, standards relating to chemical treatment of marine toilet contents.

Section 88. Section 73-18a-12 is amended to read:

73-18a-12. Rules promulgated -- Subject to approval by Department of Environmental Quality.

The [~~board~~] division, after consultation with the commission, may promulgate rules under Title 63G, Chapter 3, Utah Administrative Rulemaking Act, which are necessary for the carrying out of duties, obligations, and powers conferred on the division by this chapter. These rules shall be subject to review and approval by the Department of Environmental Quality. This approval shall be recorded as part of the rules.

Section 89. Section 73-18b-1 is amended to read:

73-18b-1. Water safety rules and regulations -- Adoption.

(1) The [~~Board of Parks and~~] Division of Recreation, after consulting with the Outdoor Adventure Commission, may make rules necessary to promote safety in swimming, scuba diving, and related activities on any waters where public boating is permitted.

(2) The [~~Board of Parks and~~] Division of Recreation may consider recommendations of and cooperate with other state agencies and the owners or operators of those waters.

Section 90. Section 73-18b-4 is amended to read:

73-18b-4. Enforcement of regulations.

[~~(1) The Board of Parks and Recreation shall designate officers to enforce board~~] A law enforcement officer authorized under Title 53, Chapter 13, Peace Officer Classifications, may enforce this chapter and rules made under the authority of this chapter.

[~~(2) Those officers have the same authority in making arrests and responsibility in arrest procedures as they have in their other enforcement activities.~~]

Section 91. Section 73-18c-102 is amended to read:

73-18c-102. Definitions.

As used in this chapter:

(1) "Airboat" means a vessel propelled by air pressure caused by an airplane type propeller

mounted above the stern and driven by an internal combustion engine.

[~~(2) "Board" means the Board of Parks and Recreation.~~]

(2) "Commission" means the Outdoor Adventure Commission.

(3) "Division" means the Division of [~~Parks and~~] Recreation.

(4) "Judgment" means any judgment that is final by:

(a) expiration without appeal of the time within which an appeal might have been perfected; or

(b) final affirmation on appeal, rendered by a court of competent jurisdiction of any state or of the United States, upon a cause of action for damages:

(i) arising out of the ownership, maintenance, or use of any personal watercraft, including damages for care and loss of services because of bodily injury to or death of any person, or because of injury to or destruction of property including the loss of use of the property; or

(ii) on a settlement agreement.

(5) (a) "Motorboat" has the same meaning as defined in Section 73-18-2.

(b) "Motorboat" includes personal watercraft regardless of the manufacturer listed horsepower.

(c) "Motorboat" does not include:

(i) a boat with a manufacturer listed horsepower of 50 horsepower or less; or

(ii) an airboat.

(6) "Nonresident" means any person who is not a resident of Utah.

(7) "Operator" means the person who is in control of a motorboat while it is in use.

(8) (a) "Owner" means a person, other than a lien holder, holding a proprietary interest in or the title to a motorboat.

(b) "Owner" includes a person entitled to the use or possession of a motorboat subject to an interest by another person, reserved or created by agreement and securing payment or performance of an obligation.

(c) "Owner" does not include a lessee under a lease not intended as security.

(9) "Owner's or operator's security," "owner's security," or "operator's security" means any of the following:

(a) an insurance policy or combination of policies conforming to Sections 31A-22-1502 and 31A-22-1503, which is issued by an insurer authorized to do business in Utah;

(b) a surety bond issued by an insurer authorized to do a surety business in Utah in which the surety is subject to the minimum coverage limits and other requirements of policies conforming to Sections 31A-22-1502 and 31A-22-1503, which names the division as a creditor under the bond for the use of persons entitled to the proceeds of the bond;

(c) a deposit with the state treasurer of cash or securities complying with Section 73-18c-305;

(d) a certificate of self-funded coverage issued under Section 73-18c-306; or

(e) a policy conforming to Sections 31A-22-1502 and 31A-22-1503 issued by the Risk Management Fund created in Section 63A-4-201.

(10) "Personal watercraft" has the same meaning as provided in Section 73-18-2.

(11) "Registration" means the issuance of the registration cards and decals issued under the laws of Utah pertaining to the registration of motorboats.

(12) "Registration materials" means the evidences of motorboat registration, including all registration cards and decals.

(13) "Self-insurance" has the same meaning as provided in Section 31A-1-301.

(14) "Waters of the state" means any waters within the territorial limits of this state.

Section 92. Section 73-18c-201 is amended to read:

73-18c-201. Division to administer and enforce chapter -- Division may adopt rules.

(1) (a) The division shall administer [~~and enforce the provisions of~~] this chapter.

(b) A law enforcement officer authorized under Title 53, Chapter 13, Peace Officer Classifications, may enforce this chapter in the rules made under this chapter.

(2) The [~~board~~] division, after consultation with the commission, may adopt rules as necessary for the administration of this chapter in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Section 93. Section 76-6-206.2 is amended to read:

76-6-206.2. Criminal trespass on state park lands -- Penalties.

(1) For purposes of this section:

(a) "Authorization" means specific written permission by, or contractual agreement with, the Division of State Parks [~~and Recreation~~].

(b) "Criminal trespass" means the elements of the crime of criminal trespass, as set forth in Section 76-6-206.

(c) "Division" means the Division of State Parks [~~and Recreation~~], created in Section 79-4-201.

(d) "State park lands" means all lands administered by the division.

(2) A person is guilty of criminal trespass on state park lands and is liable for the civil damages prescribed in Subsection (5) if, under circumstances not amounting to a greater offense, and without authorization, the person:

(a) constructs improvements or structures on state park lands;

(b) uses or occupies state park lands for more than 30 days after the cancellation or expiration of authorization;

(c) knowingly or intentionally uses state park lands for commercial gain;

(d) intentionally or knowingly grazes livestock on state park lands, except as provided in Section 72-3-112; or

(e) remains, after being ordered to leave by someone with actual authority to act for the division, or by a law enforcement officer.

(3) A person is not guilty of criminal trespass if that person enters onto state park lands:

(a) without first paying the required fee; and

(b) for the sole purpose of pursuing recreational activity.

(4) A violation of Subsection (2) is a class B misdemeanor.

(5) In addition to restitution, as provided in Section 76-3-201, a person who commits any act described in Subsection (2) may also be liable for civil damages in the amount of three times the value of:

(a) damages resulting from a violation of Subsection (2);

(b) the water, mineral, vegetation, improvement, or structure on state park lands that is removed, destroyed, used, or consumed without authorization;

(c) the historical, prehistorical, archaeological, or paleontological resource on state park lands that is removed, destroyed, used, or consumed without authorization; or

(d) the consideration which would have been charged by the division for unauthorized use of the land and resources during the period of trespass.

(6) Civil damages under Subsection (5) may be collected in a separate action by the division, and shall be deposited in the State Parks Fees Restricted Account as established in Section 79-4-402.

Section 94. Section 77-2-4.3 is amended to read:

77-2-4.3. Compromise of boating violations -- Limitations.

(1) As used in this section:

(a) "Compromise" means referral of a person charged with a boating violation to a boating safety course approved by the Division of [~~Parks and~~] Recreation.

(b) "Boating violation" means any charge for which bail may be forfeited in lieu of appearance, by citation or information, of a violation of Title 73, Chapter 18, State Boating Act, amounting to:

(i) a class B misdemeanor;

(ii) a class C misdemeanor; or

(iii) an infraction.

(2) Any compromise of a boating violation shall be done pursuant to a plea in abeyance agreement as provided in Title 77, Chapter 2a, Pleas in Abeyance, except:

(a) when the criminal prosecution is dismissed pursuant to Section 77-2-4; or

(b) when there is a plea by the defendant to and entry of a judgment by a court for the offense originally charged or for an amended charge.

(3) In all cases which are compromised pursuant to the provisions of Subsection (2):

(a) the court, taking into consideration the offense charged, shall collect a plea in abeyance fee which shall:

(i) be subject to the same surcharge as if imposed on a criminal fine;

(ii) be allocated subject to the surcharge as if paid as a criminal fine under Section 78A-5-110 and a surcharge under Title 51, Chapter 9, Part 4, Criminal Conviction Surcharge Allocation; and

(iii) be not more than $25 greater than the bail designated in the Uniform Bail Schedule; or

(b) if no plea in abeyance fee is collected, a surcharge on the fee charged for the boating safety course shall be collected, which surcharge shall:

(i) be computed, assessed, collected, and remitted in the same manner as if the boating safety course fee and surcharge had been imposed as a criminal fine and surcharge; and

(ii) be subject to the financial requirements contained in Title 51, Chapter 9, Part 4, Criminal Conviction Surcharge Allocation.

(4) If a written plea in abeyance agreement is provided, or the defendant requests a written accounting, an itemized statement of all amounts assessed by the court shall be provided, including:

(a) the Uniform Bail Schedule amount;

(b) the amount of any surcharges being assessed; and

(c) the amount of the plea in abeyance fee.

Section 95. Section 78A-5-110 is amended to read:

78A-5-110. Allocation of district court fees and forfeitures.

(1) Except as provided in this section, district court fines and forfeitures collected for violation of state statutes shall be paid to the state treasurer.

(2) Fines and forfeitures collected by the court for violation of a state statute or county or municipal ordinance constituting a misdemeanor or an infraction shall be remitted 1/2 to the state treasurer and 1/2 to the treasurer of the state or local governmental entity which prosecutes or which would prosecute the violation.

(3) (a) Fines and forfeitures collected for violations of Title 23, Wildlife Resources Code of Utah, Title 41, Chapter 22, Off-Highway Vehicles, or Title 73, Chapter 18, State Boating Act, shall be paid to the state treasurer.

(b) For violations of Title 23, Wildlife Resources Code of Utah, the state treasurer shall allocate 85% to the Division of Wildlife Resources and 15% to the General Fund.

(c) For violations of Title 41, Chapter 22, Off-Highway Vehicles, or Title 73, Chapter 18, State Boating Act, the state treasurer shall allocate 85% to the Division of [~~Parks and~~] Recreation and 15% to the General Fund.

(4) (a) The state treasurer shall allocate fines and forfeitures collected for a violation of Section 72-7-404 or 72-7-406, less fees established by the Judicial Council, to the Department of Transportation for use on class B and class C roads.

(b) Fees established by the Judicial Council shall be deposited in the state General Fund.

(c) Money allocated for class B and class C roads is supplemental to the money appropriated under Section 72-2-107 but shall be expended in the same manner as other class B and class C road funds.

(5) (a) Fines and forfeitures collected by the court for a second or subsequent violation under Section 41-6a-1713 or Subsection 72-7-409(6)(c) shall be remitted:

(i) 60% to the state treasurer to be deposited in the Transportation Fund; and

(ii) 40% in accordance with Subsection (2).

(b) Fines and forfeitures collected by the court for a second or subsequent violation under Subsection 72-7-409(6)(d) shall be remitted:

(i) 50% to the state treasurer to be deposited in the Transportation Fund; and

(ii) 50% in accordance with Subsection (2).

(6) For fines and forfeitures collected by the court for a violation of Section 41-6a-1302 in instances where evidence of the violation was obtained by an automated traffic enforcement safety device as described in Section 41-6a-1310, the court shall allocate 20% to the school district or private school that owns or contracts for the use of the bus, and the state treasurer shall allocate 40% to the treasurer of the state or local governmental entity that prosecutes or that would prosecute the violation, and 40% to the General Fund.

(7) Fines and forfeitures collected for any violations not specified in this chapter or otherwise provided for by law shall be paid to the state treasurer.

(8) Fees collected in connection with civil actions filed in the district court shall be paid to the state treasurer.

(9) The court shall remit money collected in accordance with Title 51, Chapter 7, State Money Management Act.

Section 96. Section 78A-7-120 is amended to read:

78A-7-120. Disposition of fines.

(1) Except as otherwise specified by this section, fines and forfeitures collected by a justice court shall be remitted, 1/2 to the treasurer of the local government responsible for the court and 1/2 to the treasurer of the local government which prosecutes or which would prosecute the violation. An interlocal agreement created pursuant to Title 11, Chapter 13, Interlocal Cooperation Act, related to justice courts may alter the ratio provided in this section if the parties agree.

(2) (a) For violation of Title 23, Wildlife Resources Code of Utah, the court shall allocate 85% to the Division of Wildlife Resources and 15% to the general fund of the city or county government responsible for the justice court.

(b) For violation of Title 41, Chapter 22, Off-Highway Vehicles, or Title 73, Chapter 18, State Boating Act, the court shall allocate 85% to the Division of [~~Parks and~~] Recreation and 15% to the general fund of the city or county government responsible for the justice court.

(c) Fines and forfeitures collected by the court for a violation of Section 41-6a-1302 in instances where evidence of the violation was obtained by an automated traffic enforcement safety device as described in Section 41-6a-1310 shall be remitted:

(i) 20% to the school district or private school that owns or contracts for the use of the school bus; and

(ii) 80% in accordance with Subsection (1).

(3) The surcharge established by Section 51-9-401 shall be paid to the state treasurer and deposited into the General Fund.

(4) Fines, fees, court costs, and forfeitures collected by a municipal or county justice court for a violation of Section 72-7-404 or 72-7-406 regarding maximum weight limitations and overweight permits, minus court costs not to exceed the schedule adopted by the Judicial Council, shall be paid to the state treasurer and allocated to the Department of Transportation for class B and class C roads.

(5) Revenue allocated for class B and class C roads pursuant to Subsection (4) is supplemental to the money appropriated under Section 72-2-107 but shall be expended in the same manner as other class B and class C road funds.

(6) (a) Fines and forfeitures collected by the court for a second or subsequent violation under Section

41-6a-1713 or Subsection 72-7-409(6)(c) shall be remitted:

(i) 60% to the state treasurer to be deposited in the Transportation Fund; and

(ii) 40% in accordance with Subsection (1).

(b) Fines and forfeitures collected by the court for a second or subsequent violation under Subsection 72-7-409(6)(d) shall be remitted:

(i) 50% to the state treasurer to be deposited in the Transportation Fund; and

(ii) 50% in accordance with Subsection (1).

Section 97. Section 79-1-103 is enacted to read:

79-1-103. Coordination council.

(1) There is created a coordination council that consists of:

(a) the executive director of the department;

(b) the executive director of the Department of Environmental Quality;

(c) the commissioner of the Department of Agriculture and Food;

(d) the director of the Public Lands Policy Coordinating Office; and

(e) the director of the Office of Energy Development.

(2) The coordination council shall:

(a) rotate the position of chair among the members; and

(b) meet at least monthly.

(3) The coordination council shall discuss methods to enhance the coordination of regulation and services of the five entities.

Section 98. Section 79-2-201 is amended to read:

79-2-201. Department of Natural Resources created.

(1) There is created the Department of Natural Resources.

(2) The department comprises the following:

(a) Board of Water Resources, created in Section 73-10-1.5;

(b) Board of Oil, Gas, and Mining, created in Section 40-6-4;

(c) Board of State Parks [~~and Recreation~~], created in Section 79-4-301;

(d) Office of Energy Development, created in Section 79-6-401.

[~~(d)~~] (e) Wildlife Board, created in Section 23-14-2;

[~~(e)~~] (f) Board of the Utah Geological Survey, created in Section 79-3-301;

[~~(f)~~] (g) Water Development Coordinating Council, created in Section 73-10c-3;

(h) Utah Outdoor Recreation Grant Advisory Committee, created in Section 79-8-105;

(i) Home Energy Information Advisory Committee, created in Section 79-6-805;

[~~(g)~~] (j) Division of Water Rights, created in Section 73-2-1.1;

[~~(h)~~] (k) Division of Water Resources, created in Section 73-10-18;

[~~(i)~~] (l) Division of Forestry, Fire, and State Lands, created in Section 65A-1-4;

[~~(j)~~] (m) Division of Oil, Gas, and Mining, created in Section 40-6-15;

[~~(k)~~] (n) Division of State Parks [~~and Recreation~~], created in Section 79-4-201;

(o) Division of Recreation, created in Section 79-7-201;

[~~(l)~~] (p) Division of Wildlife Resources, created in Section 23-14-1;

[~~(m)~~] (q) Utah Geological Survey, created in Section 79-3-201;

[~~(n)~~] (r) Heritage Trees Advisory Committee, created in Section 65A-8-306;

[~~(o)~~] (s) Recreational Trails Advisory Council, authorized by Section 79-5-201;

[~~(p)~~] (t) Boating Advisory Council, authorized by Section 73-18-3.5;

[~~(q)~~] (u) Wildlife Board Nominating Committee, created in Section 23-14-2.5;

[~~(r)~~] (v) Wildlife Regional Advisory Councils, created in Section 23-14-2.6;

[~~(s)~~] (w) Utah Watersheds Council, created in Section 73-10g-304; and

[~~(t)~~] (x) Utah Natural Resources Legacy Fund Board, created in Section 23-31-202.

Section 99. Section 79-2-206 is enacted to read:

79-2-206. Transition -- Study.

(1) In accordance with this bill, the Department of Natural Resources assumes the policymaking functions, regulatory, and enforcement powers, rights, and duties of the Office of Energy Development existing on June 30, 2021.

(2) (a) Rules issued by the Office of Energy Development that are in effect on June 30, 2021, are not modified by this bill and remain in effect until modified by the Department of Natural Resources, except that the agency administrating the rule shall be transferred to the Department of Natural Resources in the same manner as the statutory responsibility is transferred under this bill.

(b) Rules issued by the Board of Parks and Recreation that are in effect on June 30, 2021, are not modified by this bill and remain in effect until

modified by the appropriate entity within the Department of Natural Resources, except that the agency administrating the rule shall be transferred to the appropriate entity within the Department of Natural Resources in the same manner as the statutory responsibility is transferred under this bill.

(3) A grant, contract, or agreement in effect on June 30, 2021, that is entered into by or issued by the Office of Energy Development remains in effect, except that:

(a) the agency administrating the grant, contract, or agreement shall be transferred to the Department of Natural Resources in the same manner as the statutory responsibility is transferred under this bill; and

(b) the grant, contract, or agreement may be terminated under the terms of the grant, contract, or agreement.

(4) A grant that is entered into or issued by the Utah Office of Outdoor Recreation remains in effect, except that:

(a) except for an outdoor recreational infrastructure grant, the agency administrating the grant shall be transferred to the Division of Recreation in the same manner as the statutory responsibility is transferred under this bill; and

(b) the grant may be terminated under the terms of the grant.

(5) (a) The Governor's Office of Management and Budget shall submit recommendations to the Natural Resources, Agriculture, and Environment Interim Committee by no later than the November 2021 interim meeting of the committee regarding possible restructuring to improve coordination between the Department of Natural Resources and the following:

(i) the Department of Environmental Quality;

(ii) the Division of Public Utilities;

(iii) the Office of Consumer Services; and

(iv) the Office of Rural Development.

(b) In conducting the study under this Subsection (5), the Governor's Office of Management and Budget shall incorporate public feedback into forming the recommendations, including:

(i) holding at least two public meetings and listening sessions; and

(ii) publishing draft recommendations a minimum of 30 days before the November 2021 interim meeting to provide a comment period on the draft recommendations with adequate time for considering feedback and revisions to the recommendations.

Section 100. Section 79-4-101 is amended to read:

CHAPTER 4. STATE PARKS

Part 1. General Provisions

79-4-101. Title.

This chapter is known as "State Parks [~~and Recreation~~]."

Section 101. Section 79-4-102 is amended to read:

79-4-102. Definitions.

(1) "Board" means the Board of State Parks [~~and Recreation~~].

(2) "Division" means the Division of State Parks [~~and Recreation~~].

Section 102. Section 79-4-201 is amended to read:

79-4-201. Division of State Parks -- Creation -- Powers and authority.

(1) There is created within the department the Division of State Parks [~~and Recreation~~].

(2) The division is under:

(a) the administration and general supervision of the executive director; and

(b) the policy direction of the board.

(3) The division is the state parks [~~and recreation~~] authority for the state.

Section 103. Section 79-4-202 is amended to read:

79-4-202. Director -- Qualifications -- Duties.

(1) The director is the executive and administrative head of the division.

(2) The director shall demonstrate:

(a) executive ability; and

(b) actual experience and training in the conduct of park [~~and recreational~~] systems involving both physical development and program.

(3) The director shall:

(a) enforce the policies and rules of the board; and

(b) perform the duties necessary to:

(i) properly care for and maintain any property under the jurisdiction of the division; and

(ii) carry out this chapter.

(4) The director shall acquire, plan, protect, develop, operate, use, and maintain park area and facilities in accordance with the policies and rules of the board.

Section 104. Section 79-4-203 is amended to read:

79-4-203. Powers and duties of division.

(1) As used in this section, "real property" includes land under water, upland, and all other

property commonly or legally defined as real property.

(2) The Division of Wildlife Resources shall retain the power and jurisdiction conferred upon [~~it~~] the Division of Wildlife Resources by law within state parks and on property controlled by the Division of State Parks [~~and Recreation~~] with reference to fish and game.

(3) The division shall permit multiple use of state parks and property controlled by [~~it~~] the division for purposes such as grazing, fishing, hunting, camping, mining, and the development and utilization of water and other natural resources.

(4) (a) The division may acquire real and personal property in the name of the state by all legal and proper means, including purchase, gift, devise, eminent domain, lease, exchange, or otherwise, subject to the approval of the executive director and the governor.

(b) In acquiring any real or personal property, the credit of the state may not be pledged without the consent of the Legislature.

(5) (a) Before acquiring any real property, the division shall notify the county legislative body of the county where the property is situated of its intention to acquire the property.

(b) If the county legislative body requests a hearing within 10 days of receipt of the notice, the division shall hold a public hearing in the county concerning the matter.

(6) Acceptance of gifts or devises of land or other property is at the discretion of the division, subject to the approval of the executive director and the governor.

(7) The division shall acquire property by eminent domain in the manner authorized by Title 78B, Chapter 6, Part 5, Eminent Domain.

(8) (a) The division may make charges for special services and use of facilities, the income from which is available for park [~~and recreation~~] purposes.

(b) The division may conduct and operate those services necessary for the comfort and convenience of the public.

(9) (a) The division may lease or rent concessions of all lawful kinds and nature in state parks and property to persons, partnerships, and corporations for a valuable consideration upon the recommendation of the board.

(b) The division shall comply with Title 63G, Chapter 6a, Utah Procurement Code, in selecting concessionaires.

(10) The division shall proceed without delay to negotiate with the federal government concerning the Weber Basin and other recreation and reclamation projects.

(11) The division shall receive and distribute voluntary contributions collected under Section 41-1a-422 in accordance with Section 79-4-404.

Section 105. Section 79-4-204 is amended to read:

79-4-204. Division authorized to enter into contracts and agreements.

(1) The division, with the approval of the executive director and the governor, may enter into contracts and agreements with the United States, a United States agency, any other department or agency of the state, semipublic organizations, and with private individuals to:

(a) improve and maintain state parks [~~and recreational grounds~~] and the areas administered by the division; and

(b) secure labor, quarters, materials, services, or facilities according to procedures established by the Division of Finance.

(2) All departments, agencies, officers, and employees of the state shall give to the division the consultation and assistance that the division may reasonably request.

Section 106. Section 79-4-301 is amended to read:

79-4-301. Board of State Parks -- Creation -- Functions.

(1) There is created within the department a Board of State Parks [~~and Recreation~~].

(2) The board is the policy-making body of the division.

Section 107. Section 79-4-302 is amended to read:

79-4-302. Board appointment and terms of members -- Expenses.

(1) (a) The board is composed of nine members appointed in accordance with Title 63G, Chapter 24, Part 2, Vacancies, by the governor, with the advice and consent of the Senate, to four-year terms.

(b) In addition to the requirements of Section 79-2-203, the governor shall:

(i) appoint one member from each judicial district and one member from the public at large;

(ii) ensure that not more than five members are from the same political party; and

(iii) appoint persons who have an understanding of and demonstrated interest in parks [~~and recreation~~].

(c) Notwithstanding the term requirements of Subsection (1)(a), the governor may adjust the length of terms to ensure that the terms of board members are staggered so that approximately half of the board is appointed every two years.

(2) When vacancies occur because of death, resignation, or other cause, the governor, with the consent of the Senate, shall:

(a) appoint a person to complete the unexpired term of the person whose office was vacated; and

(b) if the person was appointed from a judicial district, appoint the replacement from the judicial district from which the person whose office has become vacant was appointed.

(3) The board shall appoint its chair from its membership.

(4) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

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

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

(5) A member shall comply with the conflict of interest provisions described in Title 63G, Chapter 24, Part 3, Conflicts of Interest.

Section 108. Section 79-4-401 is amended to read:

79-4-401. Funds to be appropriated -- Boating account expenses.

[~~(1)~~] The Legislature shall appropriate [~~such funds~~] the money as from time to time necessary to carry out the purposes of this chapter to the division to be used by the division in the administration of the powers and duties and in carrying out the objective and purposes prescribed by this chapter.

[~~(2) It is the intent of the Legislature that all departmental operating and administrative expenses for the administration of the boating account of the division shall be charged against that account.~~]

Section 109. Section 79-4-502 is amended to read:

79-4-502. Violations of rules.

Unless otherwise provided in this title, a violation of [~~any~~] a rule of the Board of State Parks [~~and Recreation~~] is an infraction.

Section 110. Section 79-5-102 is amended to read:

79-5-102. Definitions.

As used in this chapter:

[~~(1) "Board" means the Board of Parks and Recreation.~~]

(1) "Commission" means the Outdoor Adventure Commission.

(2) "Council" means the Recreational Trails Advisory Council.

(3) "Division" means the Division of [~~Parks and~~] Recreation.

(4) "Recreational trail" or "trail" means a multi-use path used for:

(a) muscle-powered activities, including:

(i) bicycling;

(ii) cross-country skiing;

(iii) walking;

(iv) jogging; and

(v) horseback riding; and

(b) uses compatible with the uses described in Subsection (4)(a), including the use of an electric assisted bicycle or motor assisted scooter, as defined in Section 41-6a-102.

Section 111. Section 79-5-201 is amended to read:

79-5-201. Recreational Trails Advisory Council.

(1) The division shall establish a Recreational Trails Advisory Council.

(2) The council shall advise and make recommendations to the [~~board and~~] division regarding:

(a) trails to be established;

(b) facilities to be constructed;

(c) development costs;

(d) modes of travel permitted;

(e) law enforcement;

(f) selection of rights-of-way;

(g) interlocal agreements;

(h) selection of signs and markers;

(i) the general administration of trails;

(j) distribution of matching funds pursuant to Section 79-5-501; and

(k) future funding mechanisms for trail development.

Section 112. Section 79-5-501 is amended to read:

79-5-501. Grants -- Matching funds requirements -- Rules.

(1) (a) The [~~board~~] division, after consultation with the commission, may give grants to federal government agencies, state agencies, or local governments for the planning, acquisition, and development of trails within the state's recreational trail system with funds appropriated by the Legislature for that purpose.

(b) (i) Each grant recipient must provide matching funds having a value that is equal to or greater than the grant funds received.

(ii) The [~~board~~] division may allow a grant recipient to provide property, material, or labor in lieu of money, provided the grant recipient's contribution has a value that is equal to or greater than the grant funds received.

(2) The [~~board~~] division, after consultation with the commission, shall:

(a) make rules setting forth procedures and criteria for the awarding of grants for recreational trails; and

(b) determine to whom grant funds shall be awarded after considering the recommendations of and after consulting with the council and the division.

(3) Rules for the awarding of grants for recreational trails shall provide that:

(a) each grant applicant must solicit public comment on the proposed recreational trail and submit a summary of that comment to the division;

(b) each trail project for which grant funds are awarded must conform to the criteria and guidelines specified in Sections 79-5-103, 79-5-301, and 79-5-302; and

(c) trail proposals that include a plan to provide employment opportunities for youth, including at-risk youth, in the development of the trail is encouraged.

(4) As used in this section, "at-risk youth" means youth who:

(a) are subject to environmental forces, such as poverty or family dysfunction, that may make them vulnerable to family, school, or community problems;

(b) perform poorly in school or have failed to complete high school;

(c) exhibit behaviors that have the potential to harm themselves or others in the community, such as truancy, use of alcohol or drugs, and associating with delinquent peers; or

(d) have already engaged in behaviors harmful to themselves or others in the community.

Section 113. Section 79-6-101, which is renumbered from Section 63M-4-101 is renumbered and amended to read:

CHAPTER 6. UTAH ENERGY ACT

Part 1. General Provisions

[~~63M-4-101~~]. 79-6-101. Title.

This chapter is known as the "Utah Energy Act."

Section 114. Section 79-6-102, which is renumbered from Section 63M-4-102 is renumbered and amended to read:

[~~63M-4-102~~]. 79-6-102. Definitions.

As used in this chapter:

(1) "Appointing authority" means:

(a) on and before June 30, 2029, the governor; and

(b) on and after July 1, 2029, the executive director.

[~~(1)~~] (2) (a) [~~"Energy~~] On and before June 30, 2029, "energy advisor" means the governor's energy advisor appointed under Section [~~63M-4-401~~] 79-6-401.

(b) On and after July 1, 2029, "energy advisor" means the energy advisor appointed by the executive director under Section 79-6-401.

[~~(2)~~] (3) "Office" means the Office of Energy Development created in Section [~~63M-4-401~~] 79-6-401.

[~~(3)~~] (4) "State agency" means an executive branch:

(a) department;

(b) agency;

(c) board;

(d) commission;

(e) division; or

(f) state educational institution.

Section 115. Section 79-6-201, which is renumbered from Section 63M-4-201 is renumbered and amended to read:

Part 2. Energy Advisor

[~~63M-4-201~~]. 79-6-201. Advisor -- Duties.

(1) (a) (i) [~~The~~] On and before June 30, 2029, the governor shall appoint an energy advisor.

(ii) On and after July 1, 2029, the executive director shall appoint an energy advisor.

(b) (i) The [~~governor's~~] energy advisor appointed by the governor serves at the pleasure of the governor.

(ii) On and after July 1, 2029, the energy advisor serves at the pleasure of the executive director.

(2) The [~~governor's~~] energy advisor shall:

(a) advise the [~~governor~~] appointing authority on energy-related matters;

(b) annually review and propose updates to the state's energy policy, as contained in Section [~~63M-4-301~~] 79-6-301;

(c) promote as the [~~governor's energy advisor~~] appointing authority considers necessary:

(i) the development of cost-effective energy resources both renewable and nonrenewable; and

(ii) educational programs, including programs supporting conservation and energy efficiency measures;

(d) coordinate across state agencies to assure consistency with state energy policy, including:

(i) working with the State Energy Program to promote access to federal assistance for energy-related projects for state agencies and members of the public;

(ii) working with the Division of Emergency Management to assist the governor in carrying out the governor's energy emergency powers under Title 53, Chapter 2a, Part 10, Energy Emergency Powers of the Governor Act;

(iii) participating in the annual review of the energy emergency plan and the maintenance of the energy emergency plan and a current list of contact persons required by Section 53-2a-902; and

(iv) identifying and proposing measures necessary to facilitate low-income consumers' access to energy services;

(e) coordinate with the Division of Emergency Management ongoing activities designed to test an energy emergency plan to ensure coordination and information sharing among state agencies and political subdivisions in the state, public utilities and other energy suppliers, and other relevant public sector persons as required by Sections 53-2a-902, 53-2a-1004, 53-2a-1008, and 53-2a-1010;

(f) coordinate with requisite state agencies to study:

(i) the creation of a centralized state repository for energy-related information;

(ii) methods for streamlining state review and approval processes for energy-related projects; and

(iii) the development of multistate energy transmission and transportation infrastructure;

(g) coordinate energy-related regulatory processes within the state;

(h) compile, and make available to the public, information about federal, state, and local approval requirements for energy-related projects;

(i) act as the state's advocate before federal and local authorities for energy-related infrastructure projects or coordinate with the appropriate state agency; and

(j) help promote the Division of Facilities Construction and Management's measures to improve energy efficiency in state buildings.

(3) The [~~governor's~~] energy advisor has standing to testify on behalf of the governor at the Public Service Commission created in Section 54-1-1.

Section 116. Section 79-6-202, which is renumbered from Section 63M-4-202 is renumbered and amended to read:

[~~63M-4-202~~]. 79-6-202. Agency cooperation.

A state agency shall provide the [~~state~~] energy [~~officer~~] advisor with any energy-related information requested by the [~~governor's~~] energy advisor if the [~~governor's~~] energy advisor's request is consistent with other law.

Section 117. Section 79-6-203, which is renumbered from Section 63M-4-203 is renumbered and amended to read:

[~~63M-4-203~~]. 79-6-203. Reports.

(1) The [~~governor's~~] energy advisor shall report annually to:

(a) the [~~governor~~] appointing authority; and

(b) the Natural Resources, Agriculture, and Environment Interim Committee.

(2) The report required in Subsection (1) shall:

(a) summarize the status and development of the state's energy resources;

(b) summarize the activities and accomplishments of the Office of Energy Development;

(c) address the [~~governor's~~] energy advisor's activities under this part; and

(d) recommend any energy-related executive or legislative action the [~~governor's~~] energy advisor considers beneficial to the state, including updates to the state energy policy under Section [~~63M-4-301~~] 79-6-301.

Section 118. Section 79-6-301, which is renumbered from Section 63M-4-301 is renumbered and amended to read:

Part 3. State Energy Policy

[~~63M-4-301~~]. 79-6-301. State energy policy.

(1) It is the policy of the state that:

(a) Utah shall have adequate, reliable, affordable, sustainable, and clean energy resources;

(b) Utah will promote the development of:

(i) nonrenewable energy resources, including natural gas, coal, oil, oil shale, and oil sands;

(ii) renewable energy resources, including geothermal, solar, wind, biomass, biofuel, and hydroelectric;

(iii) nuclear power generation technologies certified for use by the United States Nuclear Regulatory Commission including molten salt reactors producing medical isotopes;

(iv) alternative transportation fuels and technologies;

(v) infrastructure to facilitate energy development, diversified modes of transportation, greater access to domestic and international markets for Utah's resources, and advanced transmission systems;

(vi) energy storage and other advanced energy systems; and

(vii) increased refinery capacity;

(c) Utah will promote the development of resources and infrastructure sufficient to meet the state's growing demand, while contributing to the regional and national energy supply, thus reducing dependence on international energy sources;

(d) Utah will allow market forces to drive prudent use of energy resources, although incentives and other methods may be used to ensure the state's optimal development and use of energy resources in the short- and long-term;

(e) Utah will pursue energy conservation, energy efficiency, and environmental quality;

(f) (i) state regulatory processes should be streamlined to balance economic costs with the level of review necessary to ensure protection of the state's various interests; and

(ii) where federal action is required, Utah will encourage expedited federal action and will collaborate with federal agencies to expedite review;

(g) Utah will maintain an environment that provides for stable consumer prices that are as low

as possible while providing producers and suppliers a fair return on investment, recognizing that:

(i) economic prosperity is linked to the availability, reliability, and affordability of consumer energy supplies; and

(ii) investment will occur only when adequate financial returns can be realized; and

(h) Utah will promote training and education programs focused on developing a comprehensive understanding of energy, including:

(i) programs addressing:

(A) energy conservation;

(B) energy efficiency;

(C) supply and demand; and

(D) energy related workforce development; and

(ii) energy education programs in grades K-12.

(2) State agencies are encouraged to conduct agency activities consistent with Subsection (1).

(3) A person may not file suit to challenge a state agency's action that is inconsistent with Subsection (1).

Section 119. Section 79-6-302, which is renumbered from Section 63M-4-302 is renumbered and amended to read:

[~~63M-4-302~~]. 79-6-302. Legislative committee review.

The Natural Resources, Agriculture, and Environment Interim Committee and the Public Utilities, Energy, and Technology Interim Committee shall review the state energy policy annually and propose any changes to the Legislature.

Section 120. Section 79-6-401, which is renumbered from Section 63M-4-401 is renumbered and amended to read:

Part 4. Office of Energy Development

[~~63M-4-401~~]. 79-6-401. Office of Energy Development -- Creation -- Director -- Purpose -- Rulemaking regarding confidential information -- Fees -- Transition for employees.

(1) There is created an Office of Energy Development in the Department of Natural Resources.

(2) (a) The [~~governor's~~] energy advisor shall serve as the director of the office or, on or before June 30, 2029, appoint a director of the office.

(b) The director:

(i) shall, if the [~~governor's~~] energy advisor appoints a director under Subsection (2)(a), report to the [~~governor's~~] energy advisor; and

(ii) may appoint staff as funding within existing budgets allows.

(c) The office may consolidate energy staff and functions existing in the state energy program.

(3) The purposes of the office are to:

(a) serve as the primary resource for advancing energy and mineral development in the state;

(b) implement:

(i) the state energy policy under Section [~~63M-4-301~~] 79-6-301; and

(ii) the governor's energy and mineral development goals and objectives;

(c) advance energy education, outreach, and research, including the creation of elementary, higher education, and technical college energy education programs;

(d) promote energy and mineral development workforce initiatives; and

(e) support collaborative research initiatives targeted at Utah-specific energy and mineral development.

(4) By following the procedures and requirements of Title 63J, Chapter 5, Federal Funds Procedures Act, the office may:

(a) seek federal grants or loans;

(b) seek to participate in federal programs; and

(c) in accordance with applicable federal program guidelines, administer federally funded state energy programs.

(5) The office shall perform the duties required by Sections 11-42a-106, 59-5-102, 59-7-614.7, 59-10-1029, Part 5, Alternative Energy Development Tax Credit Act, and Part 6, High Cost Infrastructure Development Tax Credit Act.

(6) (a) For purposes of administering this section, the office may make rules, by following [~~the procedures and requirements of~~] Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to maintain as confidential, and not as a public record, information that the office receives from any source.

(b) The office shall maintain information the office receives from any source at the level of confidentiality assigned by the source.

(7) The office may charge application, filing, and processing fees in amounts determined by the office in accordance with Section 63J-1-504 as dedicated credits for performing office duties described in this part.

(8) (a) An employee of the office is an at-will employee.

(b) For an employee of the office on July 1, 2021, the employee shall have the same salary and benefit options the employee had when the office was part of the office of the governor.

Section 121. Section 79-6-402, which is renumbered from Section 63M-4-402 is renumbered and amended to read:

[~~63M-4-402~~]. 79-6-402. In-state generator need -- Merchant electric transmission line.

(1) As used in this section:

(a) "Capacity allocation process" means the process outlined by the Federal Energy Regulatory Commission in its final policy statement dated January 17, 2013, "Allocation of Capacity on New Merchant Transmission Projects and New Cost-Based, Participant-Funded Transmission Projects, Priority Rights to New Participant-Funded Transmission," 142 F.E.R.C. P61,038 (2013).

(b) "Certificate of in-state need" means a certificate issued by the office in accordance with this section identifying an in-state generator that meets the requirements and qualifications of this section.

(c) "Expression of need" means a document prepared and submitted to the office by an in-state merchant generator that describes or otherwise documents the transmission needs of the in-state merchant generator in conformance with the requirements of this section.

(d) "In-state merchant generator" means an electric power provider that generates power in Utah and does not provide service to retail customers within the boundaries of Utah.

(e) "Merchant electric transmission line" means a transmission line that does not provide electricity to retail customers within the boundaries of Utah.

(f) "Office" means the Office of Energy Development established in Section [~~63M-4-401~~] 79-6-401.

(g) "Open solicitation notice" means a document prepared and submitted to the office by a merchant electric transmission line regarding the commencement of the line's open solicitation in compliance with 142 F.E.R.C. P61,038 (2013).

(2) As part of the capacity allocation process, a merchant electric transmission line shall file an open solicitation notice with the office containing a description of the merchant electric transmission line, including:

(a) the proposed capacity;

(b) the location of potential interconnection for in-state merchant generators;

(c) the planned date for commencement of construction; and

(d) the planned commercial operations date.

(3) Upon receipt of the open solicitation notice, the office shall:

(a) publish the notice on the Utah Public Notice Website created under Section 63F-1-701;

(b) include in the notice contact information; and

(c) provide the deadline date for submission of an expression of need.

(4) (a) In response to the open solicitation notice published by the office, and no later than 30 days after publication of the notice, an in-state merchant generator may submit an expression of need to the office.

(b) An expression of need submitted under Subsection (4)(a) shall include:

(i) a description of the in-state merchant generator; and

(ii) a schedule of transmission capacity requirement provided in megawatts, by point of receipt and point of delivery and by operating year.

(5) No later than 60 days after notice is published under Subsection (3), the office shall prepare a certificate of in-state need identifying the in-state merchant generators.

(6) Within five days of preparing the certificate of in-state need, the office shall:

(a) publish the certificate on the Utah Public Notice Website created under Section 63F-1-701; and

(b) provide the certificate to the merchant electric transmission line for consideration in the capacity allocation process.

(7) The merchant electric transmission line shall:

(a) provide the Federal Energy Regulatory Commission with a copy of the certificate of in-state need; and

(b) certify that the certificate is being provided to the Federal Energy Regulatory Commission in accordance with the requirements of this section, including a citation to this section.

(8) At the conclusion of the capacity allocation process, and unless prohibited by a contractual obligation of confidentiality, the merchant electric transmission line shall report to the office whether a merchant in-state generator reflected on the certificate of in-state need has entered into a transmission service agreement with the merchant electric transmission line.

(9) This section may not be interpreted to:

(a) create an obligation of a merchant electric transmission line to pay for, or construct any portion of, the transmission line on behalf of an in-state merchant generator; or

(b) preempt, supersede, or otherwise conflict with Federal Energy Regulatory Commission rules and regulations applicable to a commercial transmission agreement, including agreements, or terms of agreements, as to cost, terms, transmission capacity, or key rates.

(10) Subsections (2) through (9) do not apply to a project entity as defined in Section 11-13-103.

Section 122. Section 79-6-501, which is renumbered from Section 63M-4-501 is renumbered and amended to read:

Part 5. Alternative Energy Development Tax Credit Act

[~~63M-4-501~~]. 79-6-501. Title.

This part is known as the "Alternative Energy Development Tax Credit Act."

Section 123. Section 79-6-502, which is renumbered from Section 63M-4-502 is renumbered and amended to read:

[~~63M-4-502~~]. 79-6-502. Definitions.

As used in this part:

(1) "Alternative energy" [~~is as~~] means the same as that term is defined in Section 59-12-102.

(2) (a) "Alternative energy entity" means a person that:

(i) conducts business within the state; and

(ii) enters into an agreement with the office that qualifies the person to receive a tax credit.

(b) "Alternative energy entity" includes a pass-through entity taxpayer, as defined in Section 59-10-1402, of a person described in Subsection (2)(a).

(3) "Alternative energy project" means a project produced by an alternative energy entity if that project involves:

(a) a new or expanding operation in the state; and

(b) (i) utility-scale alternative energy generation; or

(ii) the extraction of alternative fuels.

(4) "New incremental job within the state" means, with respect to an alternative energy entity, an employment position that:

(a) did not exist within the state before:

(i) the alternative energy entity entered into an agreement with the office in accordance with Section [~~63M-4-503~~] 79-6-503; and

(ii) the alternative energy project began;

(b) is not shifted from one location in the state to another location in the state; and

(c) is established to the satisfaction of the office, including by amounts paid or withheld by the alternative energy entity under Title 59, Chapter 10, Individual Income Tax Act.

(5) "New state revenues" means an increased amount of tax revenues generated as a result of an alternative energy project by an alternative energy entity or a new incremental job within the state under the following:

(a) Title 59, Chapter 7, Corporate Franchise and Income Taxes;

(b) Title 59, Chapter 10, Individual Income Tax Act; and

(c) Title 59, Chapter 12, Sales and Use Tax Act.

(6) "Office" [~~is as defined~~] means the Office of Energy Development created in Section [~~63M-4-401~~] 79-6-401.

(7) "Tax credit" means a tax credit under Section 59-7-614.7 or 59-10-1029.

(8) "Tax credit applicant" means an alternative energy entity that applies to the office to receive a tax credit certificate under this part.

(9) "Tax credit certificate" means a certificate issued by the office that:

(a) lists the name of the tax credit certificate recipient;

(b) lists the tax credit certificate recipient's taxpayer identification number;

(c) lists the amount of the tax credit certificate recipient's tax credits authorized under this part for a taxable year; and

(d) includes other information as determined by the office.

(10) "Tax credit certificate recipient" means an alternative energy entity that receives a tax credit certificate for a tax credit in accordance with this part.

Section 124. Section 79-6-503, which is renumbered from Section 63M-4-503 is renumbered and amended to read:

[~~63M-4-503~~]. 79-6-503. Tax credits.

(1) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office shall make rules establishing standards an alternative energy entity shall meet to qualify for a tax credit.

(b) Before the office enters into an agreement described in Subsection (2) with an alternative energy entity, the office, in consultation with other state agencies as necessary, shall certify:

(i) that the alternative energy entity plans to produce in the state at least:

(A) two megawatts of electricity;

(B) 1,000 barrels per day if the alternative energy project is a crude oil equivalent production; or

(C) 250 barrels per day if the alternative energy project is a biomass energy fuel production;

(ii) that the alternative energy project will generate new state revenues;

(iii) the economic life of the alternative energy project produced by the alternative energy entity;

(iv) that the alternative energy entity meets the requirements of Section [~~63M-4-504~~] 79-6-504; and

(v) that the alternative energy entity has received a certificate of existence from the Division of Corporations and Commercial Code.

(2) If an alternative energy entity meets the requirements of this part to receive a tax credit, the office shall enter into an agreement with the alternative energy entity to authorize the tax credit in accordance with Subsection (3).

(3) (a) Subject to Subsection (3)(b), if the office expects that the time from the commencement of

construction until the end of the economic life of the alternative energy project is 20 years or more:

(i) the office shall grant a tax credit for the lesser of:

(A) the economic life of the alternative energy project; or

(B) 20 years; and

(ii) the tax credit is equal to 75% of new state revenues generated by the alternative energy project.

(b) For a taxable year, a tax credit under this section may not exceed the new state revenues generated by an alternative energy project during that taxable year.

(4) An alternative energy entity that seeks to receive a tax credit or has entered into an agreement described in Subsection (2) with the office shall:

(a) annually file a report with the office showing the new state revenues generated by the alternative energy project during the taxable year for which the alternative energy entity seeks to receive a tax credit under Section 59-7-614.7 or 59-10-1029;

(b) subject to Subsection (5), annually file a report with the office prepared by an independent certified public accountant verifying the new state revenue described in Subsection (4)(a);

(c) subject to Subsection (5), file a report with the office at least every four years prepared by an independent auditor auditing the new state revenue described in Subsection (4)(a);

(d) provide the office with information required by the office to certify the economic life of the alternative energy project produced by the alternative energy entity, which may include a power purchase agreement, a lease, or a permit; and

(e) retain records supporting a claim for a tax credit for at least four years after the alternative energy entity claims a tax credit under Section 59-7-614.7 or 59-10-1029.

(5) An alternative energy entity for which a report is prepared under Subsection (4)(b) or (c) shall pay the costs of preparing the report.

(6) The office shall annually certify the new state revenues generated by an alternative energy project for a taxable year for which an alternative energy entity seeks to receive a tax credit under Section 59-7-614.7 or 59-10-1029.

Section 125. Section 79-6-504, which is renumbered from Section 63M-4-504 is renumbered and amended to read:

[~~63M-4-504~~]. 79-6-504. Qualifications for tax credit -- Procedure.

(1) The office shall certify an alternative energy entity's eligibility for a tax credit as provided in this section.

(2) A tax credit applicant shall provide the office with:

(a) an application for a tax credit certificate;

(b) documentation that the tax credit applicant meets the standards and requirements described in Section [~~63M-4-503~~] 79-6-503 to the satisfaction of the office for the taxable year for which the tax credit applicant seeks to claim a tax credit; and

(c) documentation that expressly directs and authorizes the State Tax Commission to disclose to the office the tax credit applicant's returns and other information concerning the tax credit applicant that would otherwise be subject to confidentiality under Section 59-1-403 or Section 6103, Internal Revenue Code.

(3) (a) The office shall submit the documentation described in Subsection (2)(c) to the State Tax Commission.

(b) Upon receipt of the documentation described in Subsection (2)(c), the State Tax Commission shall provide the office with the documentation described in Subsection (2)(c) requested by the office that the tax credit applicant directed and authorized the State Tax Commission to provide to the office.

(4) If, after the office reviews the documentation described in Subsections (2) and (3), the office determines that the documentation supporting the tax credit applicant's claim for a tax credit is not substantially accurate, the office shall:

(a) deny the tax credit; or

(b) inform the tax credit applicant that the documentation supporting the tax credit applicant's claim for a tax credit was inadequate and ask the tax credit applicant to submit new documentation.

(5) If, after the office reviews the documentation described in Subsections (2) and (3), the office determines that the documentation supporting the tax credit applicant's claim for a tax credit is substantially accurate, the office shall, on the basis of that documentation:

(a) enter into the agreement described in Section [~~63M-4-503~~] 79-6-503;

(b) issue a tax credit certificate to the tax credit applicant; and

(c) provide a duplicate copy of the tax credit certificate described in Subsection (5)(b) to the State Tax Commission.

(6) An alternative energy entity may not claim a tax credit under this part unless the alternative energy entity is a tax credit certificate recipient.

(7) A tax credit certificate recipient that claims a tax credit shall retain the tax credit certificate in

accordance with Subsection [~~63M-4-503~~] 79-6-503(4).

Section 126. Section 79-6-505, which is renumbered from Section 63M-4-505 is renumbered and amended to read:

[~~63M-4-505~~]. 79-6-505. Report to the Legislature.

The office shall annually provide an electronic report to the Public Utilities, Energy, and Technology Interim Committee, the Natural Resources, Agriculture, and Environment Interim Committee, and the Revenue and Taxation Interim Committee describing:

(1) its success in attracting alternative energy projects to the state and the resulting increase in new state revenues under this part;

(2) the amount of tax credits the office has granted or will grant and the time period during which the tax credits have been or will be granted; and

(3) the economic impact on the state by comparing new state revenues to tax credits that have been or will be granted under this part.

Section 127. Section 79-6-601, which is renumbered from Section 63M-4-601 is renumbered and amended to read:

Part 6. High Cost Infrastructure Development Tax Credit Act

[~~63M-4-601~~]. 79-6-601. Title.

This part is known as the "High Cost Infrastructure Development Tax Credit Act."

Section 128. Section 79-6-602, which is renumbered from Section 63M-4-602 is renumbered and amended to read:

[~~63M-4-602~~]. 79-6-602. Definitions.

As used in this part:

(1) "Applicant" means a person that conducts business in the state and that applies for a tax credit under this part.

(2) "Fuel standard compliance project" means a project designed to retrofit a fuel refinery in order to make the refinery capable of producing fuel that complies with the United States Environmental Protection Agency's Tier 3 gasoline sulfur standard described in 40 C.F.R. Sec. 79.54.

(3) "High cost infrastructure project" means a project:

(a) (i) that expands or creates new industrial, mining, manufacturing, or agriculture activity in the state, not including a retail business;

(ii) that involves new investment of at least $50,000,000 in an existing industrial, mining, manufacturing, or agriculture entity, by the entity; or

(iii) for the construction of a plant or other facility, including a fueling station, for the storage, production, or distribution of hydrogen fuel used for transportation, electricity generation, or industrial use;

(b) that requires or is directly facilitated by infrastructure construction; and

(c) for which the cost of infrastructure construction to the entity creating the project is greater than:

(i) 10% of the total cost of the project; or

(ii) $10,000,000.

(4) "Infrastructure" means:

(a) an energy delivery project as defined in Section 63H-2-102;

(b) a railroad as defined in Section 54-2-1;

(c) a fuel standard compliance project;

(d) a road improvement project;

(e) a water self-supply project;

(f) a water removal system project;

(g) a solution-mined subsurface salt cavern; or

(h) a project that is designed to:

(i) increase the capacity for water delivery to a water user in the state; or

(ii) increase the capability of an existing water delivery system or related facility to deliver water to a water user in the state.

(5) (a) "Infrastructure cost-burdened entity" means an applicant that enters into an agreement with the office that qualifies the applicant to receive a tax credit as provided in this part.

(b) "Infrastructure cost-burdened entity" includes a pass-through entity taxpayer, as defined in Section 59-10-1402, of a person described in Subsection (5)(a).

(6) "Infrastructure-related revenue" means an amount of tax revenue, for an entity creating a high cost infrastructure project, in a taxable year, that is directly attributable to a high cost infrastructure project, under:

(a) Title 59, Chapter 7, Corporate Franchise and Income Taxes;

(b) Title 59, Chapter 10, Individual Income Tax Act; and

(c) Title 59, Chapter 12, Sales and Use Tax Act.

(7) "Office" means the Office of Energy Development created in Section [~~63M-4-401~~] 79-6-401.

(8) "Tax credit" means a tax credit under Section 59-7-619 or 59-10-1034.

(9) "Tax credit certificate" means a certificate issued by the office to an infrastructure cost-burdened entity that:

(a) lists the name of the infrastructure cost-burdened entity;

(b) lists the infrastructure cost-burdened entity's taxpayer identification number;

(c) lists, for a taxable year, the amount of the tax credit authorized for the infrastructure cost-burdened entity under this part; and

(d) includes other information as determined by the office.

Section 129. Section 79-6-603, which is renumbered from Section 63M-4-603 is renumbered and amended to read:

[~~63M-4-603~~]. 79-6-603. Tax credit -- Amount -- Eligibility -- Reporting.

(1) Before the office enters into an agreement described in Subsection (3) with an applicant regarding a project, the office, in consultation with the Utah Energy Infrastructure Authority Board created in Section 63H-2-202, and other state agencies as necessary, shall, in accordance with the procedures described in Section [~~63M-4-604~~] 79-6-604, certify:

(a) that the project meets the definition of a high cost infrastructure project under this part;

(b) that the high cost infrastructure project will generate infrastructure-related revenue;

(c) the economic life of the high cost infrastructure project; and

(d) that the applicant has received a certificate of existence from the Division of Corporations and Commercial Code.

(2) (a) Before the office enters into an agreement described in Subsection (3) with an applicant regarding a project, the Utah Energy Infrastructure Authority Board shall evaluate the project's benefit to the state, based on whether the project:

(i) is likely to increase the property tax revenue for the municipality or county where the project will be located;

(ii) would provide new infrastructure for an area where the type of infrastructure the project would create is underdeveloped;

(iii) would have a positive environmental impact on the state;

(iv) would upgrade or improve an existing entity in order to ensure the entity's continued operation and economic viability; and

(v) is less likely to be completed without a tax credit issued to the applicant under this part.

(b) The Utah Energy Infrastructure Authority Board may recommend that the office deny an applicant a tax credit if the applicant's project does not, as determined by the Utah Energy Infrastructure Authority Board, sufficiently benefit the state based on the criteria described in Subsection (2)(a).

(3) Subject to the procedures described in Section [~~63M-4-604~~] 79-6-604, if an applicant meets the requirements of Subsection (1) to receive a tax credit, and the applicant's project receives a favorable recommendation from the Utah Energy Infrastructure Authority Board under Subsection (2), the office shall enter into an agreement with the applicant to authorize the tax credit in accordance with this part.

(4) The office shall grant a tax credit to an infrastructure cost-burdened entity, for a high cost infrastructure project, under an agreement described in Subsection (3):

(a) for the lesser of:

(i) the economic life of the high cost infrastructure project;

(ii) 20 years; or

(iii) a time period, the first taxable year of which is the taxable year when the construction of the high cost infrastructure project begins and the last taxable year of which is the taxable year in which the infrastructure cost-burdened entity has recovered, through the tax credit, an amount equal to:

(A) 50% of the cost of the infrastructure construction associated with the high cost infrastructure project; or

(B) if the high cost infrastructure project is a fuel standard compliance project, 30% of the cost of the infrastructure construction associated with the high cost infrastructure project.

(b) except as provided in Subsections (4)(a) and (d), in a total amount equal to 30% of the high cost infrastructure project's total infrastructure-related revenue over the time period described in Subsection (4)(a);

(c) for a taxable year, in an amount that does not exceed the high cost infrastructure project's infrastructure-related revenue during that taxable year; and

(d) if the high cost infrastructure project is a fuel standard compliance project, in a total amount that is:

(i) determined by the Utah Energy Infrastructure Authority Board, based on:

(A) the applicant's likelihood of completing the high cost infrastructure project without a tax credit; and

(B) how soon the applicant plans to complete the high cost infrastructure project; and

(ii) equal to or less than 30% of the high cost infrastructure project's total infrastructure-related revenue over the time period described in Subsection (4)(a).

(5) An infrastructure cost-burdened entity shall, for each taxable year:

(a) file a report with the office showing the high cost infrastructure project's infrastructure-related revenue during the taxable year;

(b) subject to Subsection (7), file a report with the office that is prepared by an independent certified

public accountant that verifies the infrastructure-related revenue described in Subsection (5)(a); and

(c) provide the office with information required by the office to certify the economic life of the high cost infrastructure project.

(6) An infrastructure cost-burdened entity shall retain records supporting a claim for a tax credit for the same period of time during which a person is required to keep books and records under Section 59-1-1406.

(7) An infrastructure cost-burdened entity for which a report is prepared under Subsection (5)(b) shall pay the costs of preparing the report.

(8) The office shall certify, for each taxable year, the infrastructure-related revenue generated by an infrastructure cost-burdened entity.

Section 130. Section 79-6-604, which is renumbered from Section 63M-4-604 is renumbered and amended to read:

[~~63M-4-604~~]. 79-6-604. Tax credit -- Application procedure.

(1) An applicant shall provide the office with:

(a) an application for a tax credit certificate;

(b) documentation that the applicant meets the requirements described in Subsection [~~63M-4-603~~] 79-6-603(1), to the satisfaction of the office, for the taxable year for which the applicant seeks to claim a tax credit; and

(c) documentation that expressly directs and authorizes the State Tax Commission to disclose to the office the applicant's returns and other information concerning the applicant that would otherwise be subject to confidentiality under Section 59-1-403 or Section 6103, Internal Revenue Code.

(2) (a) The office shall, for an applicant, submit the documentation described in Subsection (1)(c) to the State Tax Commission.

(b) Upon receipt of the documentation described in Subsection (1)(c), the State Tax Commission shall provide the office with the documentation described in Subsection (1)(c).

(3) If, after the office reviews the documentation from the State Tax Commission under Subsection (2)(b) and the information the applicant submits to the office under Section [~~63M-4-603~~] 79-6-603, the office, in consultation with the Utah Energy Infrastructure Authority Board created in Section 63H-2-202, determines that the applicant is not eligible for the tax credit under Section [~~63M-4-603~~] 79-6-603, or that the applicant's documentation is inadequate, the office shall:

(a) deny the tax credit; or

(b) inform the applicant that the documentation supporting the applicant's claim for a tax credit was inadequate and request that the applicant supplement the applicant's documentation.

(4) Except as provided in Subsection (5), if, after the office reviews the documentation described in Subsection (2)(b) and the information described in Subsection [~~63M-4-603~~] 79-6-603(6), the office, in consultation with the Utah Energy Infrastructure Authority Board created in Section 63H-2-202, determines that the documentation supporting an applicant's claim for a tax credit adequately demonstrates that the applicant is eligible for the tax credit under Section [~~63M-4-603~~] 79-6-603, the office shall, on the basis of the documentation:

(a) enter, with the applicant, into the agreement described in Subsection [~~63M-4-603~~] 79-6-603(3);

(b) issue a tax credit certificate to the applicant; and

(c) provide a duplicate copy of the tax credit certificate described in Subsection (4)(b) to the State Tax Commission.

(5) The office may deny an applicant a tax credit based on the recommendation of the Utah Energy Infrastructure Authority Board, as provided in Subsection [~~63M-4-603~~] 79-6-603(2).

(6) An infrastructure cost-burdened entity may not claim a tax credit under Section 59-7-619 or 59-10-1034 unless the infrastructure cost-burdened entity receives a tax credit certificate from the office.

(7) An infrastructure cost-burdened entity that claims a tax credit shall retain the tax credit certificate in accordance with Subsection [~~63M-4-603~~] 79-6-603(7).

(8) Except for the information that is necessary for the office to disclose in order to make the report described in Section [~~63M-4-605~~] 79-6-605, the office shall treat a document an applicant or infrastructure cost-burdened entity provides to the office as a protected record under Section 63G-2-305.

Section 131. Section 79-6-605, which is renumbered from Section 63M-4-605 is renumbered and amended to read:

[~~63M-4-605~~]. 79-6-605. Report to the Legislature.

The office shall report annually to the Public Utilities, Energy, and Technology Interim Committee, the Natural Resources, Agriculture, and Environment Interim Committee, and the Revenue and Taxation Interim Committee describing:

(1) the office's success in attracting high cost infrastructure projects to the state and the resulting increase in infrastructure-related revenue under this part;

(2) the amount of tax credits the office has granted or will grant and the time period during which the tax credits have been or will be granted; and

(3) the economic impact on the state by comparing infrastructure-related revenue to tax credits that have been or will be granted under this part.

Section 132. Section 79-6-606, which is renumbered from Section 63M-4-606 is renumbered and amended to read:

[~~63M-4-606~~]. 79-6-606. Administrative rules.

The office may establish, by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, requirements and procedures for the implementation of this part.

Section 133. Section 79-6-701, which is renumbered from Section 63M-4-701 is renumbered and amended to read:

Part 7. Refiner Gasoline Sulfur Standard Sales and Use Tax Exemption Reporting

[~~63M-4-701~~]. 79-6-701. Definitions.

As used in this part:

(1) "Blending stock," "blendstock," or "component" means any liquid compound that is blended with other liquid compounds to produce gasoline.

(2) "Refiner" means any person who owns, leases, operates, controls, or supervises a refinery.

(3) "Refiner tax exemption certification" means a certification issued by the office in accordance with Section [~~63M-4-702~~] 79-6-702.

(4) "Refinery" means a facility where gasoline or diesel fuel is produced, including a facility at which blendstocks are combined to produce gasoline or diesel fuel, or at which blendstock is added to gasoline or diesel fuel.

Section 134. Section 79-6-702, which is renumbered from Section 63M-4-702 is renumbered and amended to read:

[~~63M-4-702~~]. 79-6-702. Refiner gasoline standard reporting -- Office of Energy Development certification of sales and use tax exemption eligibility.

(1) (a) A refiner that seeks to be eligible for a sales and use tax exemption under Subsection 59-12-104(86) on or after July 1, 2021, shall annually report to the office whether the refiner's facility that is located within the state:

(i) had an average gasoline sulfur level of 10 parts per million (ppm) or less using the formulas prescribed in 40 C.F.R. Sec. 80.1603, excluding the offset for credit use and transfer as prescribed in 40 C.F.R. Sec. 80.1616, during the previous calendar year; or

(ii) for an annual report covering a period before January 1, 2023, if a refiner's facility did not have an average gasoline sulfur level described in Subsection (1)(a)(i) during the previous calendar year, the progress the refiner made during the previous calendar year toward complying with the average gasoline sulfur level described in Subsection (1)(a)(i).

(b) Fuels for which a final destination outside Utah can be demonstrated or that are not subject to the standards and requirements of 40 C.F.R. Sec. 80.1603 as specified in 40 C.F.R. Sec. 80.1601 are not subject to the reporting provisions under Subsection (1)(a).

(2) The office shall issue a refiner tax exemption certification to a refiner on a form prescribed by the State Tax Commission:

(a) beginning July 1, 2021, and ending December 31, 2022, if:

(i) the refiner's refinery that is located within the state had an average gasoline sulfur level described in Subsection (1)(a)(i) during the previous calendar year; or

(ii) (A) on or before July 1, 2021, the refiner certifies in writing to the office that the refiner's refinery that is located within the state will have an average gasoline sulfur level described in Subsection (1)(a)(i) after December 31, 2024; and

(B) the office determines that the refiner made satisfactory progress during the previous calendar year toward satisfying the refiner's certification described in Subsection (2)(a)(ii)(A); or

(b) after December 31, 2022, if the refiner's refinery that is located within the state had an average gasoline sulfur level described in Subsection (1)(a)(i) during the previous calendar year.

(3) (a) Within 30 days after the day on which the office receives a complete annual report described in Subsection (1)(a), the office shall:

(i) issue a refiner tax exemption certification to the refiner; or

(ii) notify the refiner in writing that the office has determined the refiner does not qualify for a refiner tax exemption certification and the basis for the office's determination.

(b) A refiner tax exemption certification is valid for one year after the day on which the office issues the refiner tax exemption certification.

(4) The office:

(a) shall accept a copy of a report submitted by a refiner to the Environmental Protection Agency under 40 C.F.R. Sec. 80.1652 as sufficient evidence of the refiner's average gasoline sulfur level; or

(b) may establish another reporting mechanism through rules made under Subsection (5).

(5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office may make rules to implement this section.

Section 135. Section 79-6-801, which is renumbered from Section 63M-4-801 is renumbered and amended to read:

Part 8. Voluntary Home Energy Information Pilot Program Act

[~~63M-4-801~~]. 79-6-801. Title.

This part is known as the "Voluntary Home Energy Information Pilot Program Act."

Section 136. Section 79-6-802, which is renumbered from Section 63M-4-802 is renumbered and amended to read:

[~~63M-4-802~~]. 79-6-802. Definitions.

As used in this part:

(1) "Advisory committee" means the committee created in Subsection [~~63M-4-805~~] 79-6-805(1).

(2) "Asset rating" means a representation of a residential building's energy efficiency or energy use generated by modeling under standardized weather and occupancy conditions.

(3) "Home" means a single-family detached or single-family attached enclosed structure created for permanent use as a residence.

(4) "Home energy assessment" means the evaluation or testing of components or systems in a residential building for the purpose of identifying options for increasing energy conservation and energy efficiency.

(5) "Home energy assessor" means a qualified person who:

(a) conducts home energy assessments on residential buildings;

(b) assigns residential buildings a home energy performance score; and

(c) prepares a home energy performance report for residential buildings.

(6) "Home energy performance report" means a report prepared by a home energy assessor that identifies a residential building's home energy performance score, an explanation of the score, an estimate of the total energy used in the home, and other information required to be included in the report under Section [~~63M-4-804~~] 79-6-804.

(7) "Home energy performance score" means a score assigned to a residential building using the home energy performance score system created by the office pursuant to Section [~~63M-4-804~~] 79-6-804.

(8) "Home energy performance score system" means a technical and administrative framework for producing and reporting metrics that describe the energy consumption, generation, and efficiency of a building.

(9) "Program" means the voluntary home energy information pilot program for which model rules are created in Section [~~63M-4-803~~] 79-6-803.

(10) "Residential building" means a home.

Section 137. Section 79-6-803, which is renumbered from Section 63M-4-803 is renumbered and amended to read:

[~~63M-4-803~~]. 79-6-803. Voluntary Home Energy Information Pilot Program.

(1) The office shall develop model rules for a voluntary home energy information pilot program.

(2) The model rules shall be designed to:

(a) provide widespread information to home buyers and sellers about a home's energy efficiency, cost savings, and air quality impacts; and

(b) empower consumers to ask about the energy efficiency performance of homes and increase market demand for energy efficient homes and home energy efficiency upgrades.

(3) The office may use appropriated funds to develop model rules for a home energy performance score system described in Section [~~63M-4-804~~] 79-6-804 for homes.

(4) Model rules to implement the program may include:

(a) proposed application procedures to receive a reimbursement from the program for a home energy assessment and home energy performance report;

(b) the criteria used by the office to determine whether a reimbursement request is approved;

(c) the administratively best method and form for making a reimbursement;

(d) the criteria used by the office to determine the amount of a reimbursement;

(e) the information that an applicant or applicant's designee will be required to report to the office to receive a reimbursement;

(f) specifications for the procedures and requirements for conducting a home energy assessment;

(g) the requirements for a home energy performance report; and

(h) the qualifications for home energy assessors.

(5) The office shall administer or contract for the administration of the advisory committee and the development of model rules.

[~~(6) The office shall provide a report to the Legislature's Business and Labor Interim Committee and Public Utilities, Energy, and Technology Interim Committee no later than November 30, 2020 on:~~]

[~~(a) the status of the model rules; and~~]

[~~(b) recommendations for implementing a pilot program based on the model rules.~~]

Section 138. Section 79-6-804, which is renumbered from Section 63M-4-804 is renumbered and amended to read:

[~~63M-4-804~~]. 79-6-804. Home energy performance score system.

(1) In consultation with the advisory committee, the office shall create a home energy performance score system that shall:

(a) have the capability to generate a home energy performance score that meets the requirements of Subsection (2);

(b) have the capability to generate a home energy performance report that meets the requirements of Subsection (3);

(c) have the capability to incorporate building energy assessment software, the output of which is to be used to derive the information presented on the home energy performance report; and

(d) specify training requirements for home energy assessors.

(2) A home energy performance score under Subsection (1)(a) shall:

(a) be an asset rating that is based on physical inspection of the home or design documents used for the home's construction; and

(b) use one or a combination of the following approaches for home energy scoring:

(i) the issuance of a home energy score by the United States Department of Energy; or

(ii) the issuance of a home energy rating system by the Residential Energy Services Network.

(3) A home energy performance report described in Subsection (1)(b) shall include:

(a) the home energy performance score described in Subsection (1)(a) and an explanation of the score;

(b) an estimate of the total energy used in the home in retail units of energy, by fuel type;

(c) an estimate of the annual energy costs for operating the home;

(d) an estimate of the annual emissions resulting from energy used in the home;

(e) a list of recommended home improvements to reduce energy use in the home; and

(f) other information the office, in consultation with the advisory committee, determines is appropriate to include in the model rules.

Section 139. Section 79-6-805, which is renumbered from Section 63M-4-805 is renumbered and amended to read:

[~~63M-4-805~~]. 79-6-805. Home energy information advisory committee.

(1) There is created a home energy information advisory committee.

(2) The advisory committee shall be composed of the following 12 members:

(a) an individual who is an expert in residential real estate, as recommended by the Utah Association of Realtors;

(b) an individual who is an expert in residential construction as recommended by the Utah Home Builders Association;

(c) an individual who is an expert in land development for residential communities but is not a home builder;

(d) an individual who is a nonprofit energy efficiency or air quality advocate;

(e) an individual who is an expert in residential home energy assessments;

(f) an individual who is an expert in residential home inspections;

(g) an individual who is an expert in public education and marketing;

(h) an individual who is an expert in residential appraisals, as recommended by the Utah Association of Appraisers;

(i) an individual who is an expert in electric utility energy efficiency programs;

(j) an individual who is an expert in natural gas utility energy efficiency programs;

(k) an individual who is an expert in residential architecture, as recommended by the Utah Chapter of the American Institute of Architects; and

(l) the director of the [~~Governor's~~] Office of Energy Development or the director's designee.

(3) The director of the office shall appoint the members of the advisory committee which shall assist the director in developing model rules for a home energy performance score system described in Section [~~63M-4-804~~] 79-6-804.

(4) The director of the office, or the director's designee, shall act as chair of the advisory committee.

(5) An advisory committee member may not receive compensation or benefits for the member's service on the advisory committee.

Section 140. Section 79-7-101 is enacted to read:

CHAPTER 7. RECREATION ACT

Part 1. General Provisions

79-7-101. Title.

This chapter is known as "Recreation Act."

Section 141. Section 79-7-102 is enacted to read:

79-7-102. Definitions.

As used in this chapter:

(1) "Commission" means the Outdoor Adventure Commission created in Section 63C-21-201.

(2) "Division" means the Division of Recreation.

Section 142. Section 79-7-201 is enacted to read:

Part 2. Division Creation and Administration

79-7-201. Division of Recreation -- Creation -- Powers and authority.

(1) (a) There is created within the department the Division of Recreation.

(b) The division has the purpose of providing, maintaining, and coordinating motorized and nonmotorized recreation within the state.

(2) (a) The division is under the administration and general supervision of the executive director.

(b) The division shall consult with the commission.

(3) The division is the recreation authority for the state.

(4) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division may make rules, after consulting with the commission, when expressly authorized by this chapter.

(b) The division shall make rules governing the collection of charges under Subsection 79-7-203(8).

Section 143. Section 79-7-202 is enacted to read:

79-7-202. Director -- Qualifications -- Duties.

(1) The director is the executive and administrative head of the division.

(2) The director shall demonstrate:

(a) executive ability; and

(b) actual experience and training in the conduct of recreational systems involving both physical development and program.

(3) The director shall:

(a) enforce the policies and rules of the division; and

(b) perform the duties necessary to:

(i) properly care for and maintain any property under the jurisdiction of the division; and

(ii) carry out this chapter.

Section 144. Section 79-7-203 is enacted to read:

79-7-203. Powers and duties of division.

(1) As used in this section, "real property" includes land under water, upland, and all other property commonly or legally defined as real property.

(2) The Division of Wildlife Resources shall retain the power and jurisdiction conferred upon the Division of Wildlife Resources by law on property controlled by the division with reference to fish and game.

(3) The division shall permit multiple use of property controlled by the division for purposes such as grazing, fishing, hunting, camping, mining, and the development and use of water and other natural resources.

(4) (a) The division may acquire real and personal property in the name of the state by legal and proper means, including purchase, gift, devise, eminent domain, lease, exchange, or otherwise, subject to the approval of the executive director and the governor.

(b) In acquiring real or personal property, the credit of the state may not be pledged without the consent of the Legislature.

(5) (a) Before acquiring any real property, the division shall notify the county legislative body of the county where the property is situated of the division's intention to acquire the property.

(b) If the county legislative body requests a hearing within 10 days of receipt of the notice, the division shall hold a public hearing in the county concerning the matter.

(6) Acceptance of gifts or devises of land or other property is at the discretion of the division, subject to the approval of the executive director and the governor.

(7) The division shall acquire property by eminent domain in the manner authorized by Title 78B, Chapter 6, Part 5, Eminent Domain.

(8) (a) The division may make charges for special services and use of facilities, the income from which is available for recreation purposes.

(b) The division may conduct and operate those services necessary for the comfort and convenience of the public.

(9) (a) The division may lease or rent concessions of lawful kinds and nature on property to persons, partnerships, and corporations for a valuable consideration after consulting with the commission.

(b) The division shall comply with Title 63G, Chapter 6a, Utah Procurement Code, in selecting concessionaires.

(10) The division shall proceed without delay to negotiate with the federal government concerning the Weber Basin and other recreation and reclamation projects.

(11) The division shall coordinate with and annually report to the following regarding land acquisition and development and grants administered under Chapter 8, Outdoor Recreation Grants:

(a) the Utah Office of Outdoor Recreation;

(b) the Division of State Parks; and

(c) the Office of Rural Development.

Section 145. Section 79-7-204 is enacted to read:

79-7-204. Division authorized to enter into contracts and agreements.

(1) The division, with the approval of the executive director and the governor, may enter into contracts and agreements with the United States, a United States agency, any other department or agency of the state, semipublic organizations, and with private individuals to:

(a) improve and maintain recreational grounds and the areas administered by the division; and

(b) secure labor, quarters, materials, services, or facilities according to procedures established by the Division of Finance.

(2) A department, agency, officer, or employee of the state shall give to the division the consultation

and assistance that the division may reasonably request.

Section 146. Section 79-7-205 is enacted to read:

79-7-205. Support of a nonprofit corporation or foundation.

The division may provide administrative support to a nonprofit corporation or foundation that assists the division in attaining the objectives outlined in the strategic or operational plan.

Section 147. Section 79-7-301 is enacted to read:

Part 3. Finances

79-7-301. Money to be appropriated -- Boating account expenses.

(1) The Legislature shall appropriate the money from time to time necessary to carry out the purposes of this chapter to the division to be used by the division in the administration of the powers and duties and in carrying out the objective and purposes prescribed by this chapter.

(2) Departmental operating and administrative expenses for the administration of the boating account of the division shall be charged against that account.

Section 148. Section 79-7-302, which is renumbered from Section 79-2-402 is renumbered and amended to read:

[~~79-2-402~~]. 79-7-302. Outdoor recreation facilities -- Participation in federal programs -- Comprehensive plan.

(1) The executive director may, by following the procedures and requirements of Title 63J, Chapter 5, Federal Funds Procedures Act, seek a federal grant or loan or participation in a federal program to plan and develop an outdoor recreation resource, including:

(a) acquiring land or water; or

(b) acquiring an interest in land or water.

(2) (a) The executive director, in cooperation with the state planning coordinator and the state agency or political subdivision responsible for planning, acquisition, and development of outdoor recreation resources, may prepare, maintain, and update a comprehensive plan for the outdoor recreation resources of the state.

(b) The executive director shall submit the plan and any plan amendment to the governor for the governor's review and approval.

(3) By following the procedures and requirements of Title 63J, Chapter 5, Federal Funds Procedures Act, the executive director may:

(a) apply to a United States agency for participation in or the receipt of aid from a federal program regarding outdoor recreation;

(b) in cooperation with other state agencies, enter into a contract or agreement with the United States or a United States agency;

(c) keep financial and other records; and

(d) furnish necessary reports to the United States official or agency.

(4) In connection with obtaining the benefits of an outdoor recreation program, the executive director shall coordinate the department's activities with and represent the interests of all state agencies and political subdivisions having an interest in the planning, development, and maintenance of the outdoor recreation resource or facility.

(5) The department may act as the agent of the state or a political subdivision to receive and to disburse federal money in accordance with the comprehensive plan.

(6) The executive director may not make a commitment or enter into an agreement as authorized by this section and neither shall the governor approve a commitment or agreement unless sufficient funds are available to the department for meeting the state's share, if any, of project costs.

(7) To the extent necessary to assure the proper operation and maintenance of areas and facilities acquired or developed pursuant to a program participated in by the state under this section, the areas and facilities shall be publicly maintained for outdoor recreation purposes.

(8) The executive director may enter into and administer an agreement with the United States or a United States agency with the governor's approval for planning, acquisition, and development projects involving participating federal-aid funds on behalf of a political subdivision, if the political subdivision gives necessary assurance to the executive director that:

(a) the political subdivision has available sufficient funds to meet the political subdivision's share, if any, of the cost of the project; and

(b) the political subdivision will operate and maintain an acquired or developed area at the expense of the political subdivision for public outdoor recreation use.

Section 149. Section 79-7-401 is enacted to read:

Part 4. Enforcement

79-7-401. Enforcement in general.

(1) The division may:

(a) protect recreation property under the division's jurisdiction from misuse or damage; and

(b) preserve the peace on property within the division's jurisdiction.

(2) The division may coordinate with other government entities to accomplish Subsection (1).

(3) An employee of the division who is a POST certified peace officer, and who is designated by the

division director, are law enforcement officers under Section 53-13-103 and have all the powers of law enforcement officers in the state, with the exception of the power to serve civil process.

(4) The division may deputize persons who are peace officers or special function officers to assist the division on a seasonal temporary basis.

Section 150. Section 79-7-402 is enacted to read:

79-7-402. Violations of rules.

Unless otherwise provided in this title, a violation of a rule of the division is an infraction.

Section 151. Section 79-8-101 is enacted to read:

CHAPTER 8. OUTDOOR RECREATION GRANTS

Part 1. General Provisions

79-8-101. Title.

This chapter is known as "Outdoor Recreation Grants."

Section 152. Section 79-8-102 is enacted to read:

79-8-102. Definitions.

As used in this chapter:

(1) "Children," in relation to the awarding of a UCORE grant, means individuals who are six years old or older and 18 years old or younger.

(2) "Director" means the director of the Division of Recreation.

(3) "Division" means the Division of Recreation.

(4) "Executive director" means the executive director of the Department of Natural Resources.

(5) "UCORE grant" means a children's outdoor recreation and education grant described in Section 79-8-402.

(6) (a) "Underserved or underprivileged community" means a group of people, including a municipality, county, or American Indian tribe, that is economically disadvantaged.

(b) "Underserved or underprivileged community" includes an economically disadvantaged community where in relation to awarding a UCORE grant, the children of the community, including children with disabilities, have limited access to outdoor recreation or education programs.

Section 153. Section 79-8-103 is enacted to read:

79-8-103. Outdoor recreation grants.

To the extent money is available, the division shall administer outdoor recreation grants for the state, including grants that address:

(1) outdoor recreation in general;

(2) recreational trails;

(3) off-highway vehicle incentives;

(4) boat access and clean vessels; and

(5) land, water, and conservation.

Section 154. Section 79-8-104 is enacted to read:

79-8-104. Annual report.

The director shall prepare an annual written report on the activities of the division under this chapter, including a description and the amount of any awarded UCORE grants.

Section 155. Section 79-8-105, which is renumbered from Section 63N-9-204 is renumbered and amended to read:

[~~63N-9-204~~]. 79-8-105. Utah Outdoor Recreation Grant Advisory Committee -- Membership -- Duties -- Expenses.

(1) As used in this section, "advisory committee" means the Utah Outdoor Recreation Grant Advisory Committee created in Subsection (2).

(2) There is created in the [~~outdoor recreation office~~] division the Utah Outdoor Recreation Grant Advisory Committee, composed of the following 14 members:

(a) five members representing state or federal government as follows:

(i) the director;

(ii) the director of the Division of State Parks [~~and Recreation~~] created in Section 79-4-201 or the director's designee;

[~~(iii) one member who is an employee of the outdoor recreation office engaged in the duties described in Section 63N-7-201, appointed by the executive director;~~]

(iii) the director of the Utah Office of Outdoor Recreation, or the director's designee;

(iv) one member representing the Bureau of Land Management, appointed by the executive director; and

(v) one member representing the National Park Service Rivers, Trails, and Conservation Assistance Program, appointed by the executive director;

(b) nine members representing local government, the private sector, or the public that are knowledgeable about outdoor recreation activities or tourism-based economic development, appointed by the executive director as follows:

(i) one member representing municipal government, recommended by the Utah League of Cities and Towns;

(ii) one member representing county government, recommended by the Utah Association of Counties;

(iii) two members representing the outdoor industry;

(iv) one member representing the Utah Tourism Industry Association;

(v) one member representing the [~~Utah Hotel and Lodging Association~~] hotel and lodging industry;

(vi) one member representing the health care industry;

(vii) one member representing multi-ability groups or programs; and

(viii) one member representing a university outdoor recreation, parks, or tourism department; and

(c) one of the members appointed under Subsection (2)(b)(i) or (ii) shall represent rural interests.

(3) The advisory committee shall advise and make recommendations to:

(a) the outdoor recreation office regarding [~~infrastructure grants and~~] the Outdoor Recreational Infrastructure Grant Program, created in Section 63N-9-202;

(b) the division regarding grants issued under Part [~~3~~] 2, Restoration Recreation Infrastructure Grant Program[~~.~~]; and

(c) the division regarding the administration of the fund created in Section 79-8-304.

(4) (a) Except as required by Subsection (4)(b), as terms of appointed advisory committee members expire, the executive director shall appoint each new member or reappointed member to a four-year term.

(b) Notwithstanding the requirements of Subsection (4)(a), the executive director shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of appointed advisory committee members are staggered so that approximately half of the appointed advisory committee members are appointed every two years.

(5) The director shall serve as chair of the advisory committee.

(6) The advisory committee shall elect annually a vice chair from the advisory committee's members.

(7) When a vacancy occurs in the membership for any reason, the executive director shall appoint the replacement for the unexpired term.

(8) A majority of the advisory committee constitutes a quorum for the purpose of conducting advisory committee business and the action of a majority of a quorum constitutes the action of the advisory committee.

(9) The [~~outdoor recreation office~~] division shall provide administrative staff support for the advisory committee.

(10) A member may not receive compensation or benefits for the member's service, but a member appointed under Subsection (2)(b) may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

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

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

(11) The advisory committee, as a governmental entity, has all the rights, privileges, and immunities of a governmental entity of the state and the advisory committee meetings are subject to Title 52, Chapter 4, Open and Public Meetings Act.

Section 156. Section 79-8-106, which is renumbered from Section 63N-9-205 is renumbered and amended to read:

[~~63N-9-205~~]. 79-8-106. Utah Outdoor Recreation Infrastructure Account -- Uses -- Costs.

(1) There is created an expendable special revenue fund known as the "Outdoor Recreation Infrastructure Account," which:

(a) the outdoor recreation office shall use to fund the Outdoor Recreational Infrastructure Grant Program created in Section 63N-9-202; and

(b) the division shall use to fund the Recreation Restoration Infrastructure Grant Program created in Section [~~63N-9-302~~] 79-8-202.

(2) The account consists of:

(a) distributions to the account under Section 59-28-103;

(b) interest earned on the account;

(c) appropriations made by the Legislature;

(d) money from a cooperative agreement entered into with the United States Department of Agriculture or the United States Department of the Interior; and

(e) private donations, grants, gifts, bequests, or money made available from any other source to implement this part.

(3) The [~~outdoor recreation office~~] division shall, with the advice of the Utah Outdoor Recreation Grant Advisory Committee created in Section [~~63N-9-204~~] 79-8-105, administer the account.

(4) (a) The cost of administering the account shall be paid from money in the account.

(b) The cost of two full-time positions in the Utah Office of Outdoor Recreation in an amount agreed to by the division and the Utah Office of Outdoor Recreation shall be paid from money in the account.

(5) Interest accrued from investment of money in the account shall remain in the account.

Section 157. Section 79-8-201, which is renumbered from Section 63N-9-301 is renumbered and amended to read:

Part 2. Recreation Restoration Infrastructure Grant Program

[~~63N-9-301~~]. 79-8-201. Definitions.

As used in this part:

(1) "Advisory committee" means the Utah Outdoor Recreation Grant Advisory Committee created in Section [~~63N-9-204~~] 79-8-105.

(2) "Grant program" means the Recreation Restoration Infrastructure Grant Program created in Section [~~63N-9-302~~] 79-8-202.

(3) "High demand outdoor recreation amenity" means infrastructure necessary for a campground, picnic area, or water recreation structure such as a dock, pier, or boat ramp that receives or has received heavy use by the public.

(4) "High priority trail" means a motorized or nonmotorized recreation summer-use trail and related infrastructure that is prioritized by the advisory committee for restoration or rehabilitation to maintain usability and sustainability of trails that receive or have received high use by the public.

(5) "Public lands" includes local, state, and federal lands.

(6) "Rehabilitation or restoration" means returning an outdoor recreation structure or trail that has been degraded, damaged, or destroyed to its previously useful state by means of repair, modification, or alteration.

Section 158. Section 79-8-202, which is renumbered from Section 63N-9-302 is renumbered and amended to read:

[~~63N-9-302~~]. 79-8-202. Creation of grant program.

(1) (a) There is created [~~a supplemental grant program within the Outdoor Recreational Infrastructure Grant Program, created in Section 63N-9-202, known as~~] the "Recreation Restoration Infrastructure Grant Program" administered by the [~~outdoor recreation office~~] division.

(b) Subject to Subsection (1)(c), 5% percent of the unencumbered amount in the Utah Outdoor Recreation Account, created in Section [~~63N-9-205~~] 79-8-106, at the beginning of each fiscal year may be used for the grant program.

(c) The percentage outlined in Subsection (1)(b) may be increased or decreased at the beginning of a fiscal year if approved by the executive director after consultation with the director and the advisory committee.

(2) The [~~outdoor recreation office~~] division may seek to accomplish the following objectives in administering the grant program:

(a) rehabilitate or restore high priority trails for both motorized and nonmotorized uses;

(b) rehabilitate or restore high demand recreation areas on public lands; and

(c) encourage the public land entities to engage with volunteer groups to aid with portions of needed trail work.

(3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the [~~outdoor recreation office~~] division shall make rules, after consulting with the Outdoor Adventure Commission, establishing the eligibility and reporting criteria for an entity to receive a recreation restoration infrastructure grant, including:

(a) the form and process of submitting annual project proposals to the [~~outdoor recreation office~~] division for a recreation restoration infrastructure grant;

(b) which entities are eligible to apply for a recreation restoration infrastructure grant;

(c) specific categories of recreation restoration projects that are eligible for a recreation restoration infrastructure grant;

(d) the method and formula for determining recreation restoration infrastructure grant amounts; and

(e) the reporting requirements of a recipient of a recreation restoration infrastructure grant.

Section 159. Section 79-8-203, which is renumbered from Section 63N-9-303 is renumbered and amended to read:

[~~63N-9-303~~]. 79-8-203. Award of recreation restoration infrastructure grants.

(1) In determining the award of a recreation restoration infrastructure grant, the advisory committee shall prioritize projects that the advisory committee considers to be high demand outdoor recreation amenities or high priority trails.

(2) The [~~outdoor recreation office~~] division may give special consideration to projects from qualified applicants within rural counties to ensure geographic parity of the awarded money.

(3) (a) An applicant shall use a recreation restoration infrastructure grant to leverage private and other nonstate public money and the [~~outdoor recreation office~~] division may give priority to projects that exceed a 50% match from the applicant.

(b) Leverage includes cash, resources, goods, or services necessary to complete a project.

(c) The [~~outdoor recreation office~~] division shall apply money from a cooperative agreement entered into with the United States Department of Agriculture or the United States Department of the Interior as a portion of the applicant's match.

(4) A recreation restoration infrastructure grant may only be awarded by the executive director after consultation with the director and the advisory committee.

(5) A recreation restoration infrastructure grant is available for rehabilitation or restoration projects for high demand outdoor recreation amenities and high priority trails that relate directly to the visitor including:

(a) a trail, trail head infrastructure, signage, and crossing infrastructure, for both nonmotorized and motorized recreation;

(b) a campground or picnic area;

(c) water recreation infrastructure, including a pier, dock, or boat ramp; and

(d) recreation facilities that are accessible to visitors with disabilities.

(6) The following are not eligible for a recreation restoration infrastructure grant:

(a) general facility operations and administrative costs;

(b) land acquisitions;

(c) visitor facilities, as defined by the [~~outdoor recreation office~~] division by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(d) water and utility systems; and

(e) employee housing.

(7) The [~~outdoor recreation office~~] division shall compile data and report to the Business, Economic Development, and Labor Appropriations Subcommittee on the:

(a) effectiveness of the grant program in addressing the deferred maintenance and repair backlog of trails, campgrounds, and other recreation amenities on public lands;

(b) estimated value of the rehabilitation or restoration projects;

(c) number of miles of trails that are rehabilitated or restored; and

(d) leverage of state money to federal and private money and in-kind services such as volunteer labor.

Section 160. Section 79-8-301, which is renumbered from Section 63N-9-401 is renumbered and amended to read:

Part 3. Utah Children's Outdoor Recreation and Education Grant Program

[~~63N-9-401~~]. 79-8-301. Title.

This part is known as the "Utah Children's Outdoor Recreation and Education Grant Program."

Section 161. Section 79-8-302, which is renumbered from Section 63N-9-402 is renumbered and amended to read:

[~~63N-9-402~~]. 79-8-302. Creation and purpose of the UCORE grant program.

(1) There is created the Utah Children's Outdoor Recreation and Education Grant Program administered by the [~~outdoor recreation office~~] division.

(2) The [~~outdoor recreation office~~] division may seek to accomplish the following objectives in administering the UCORE grant program:

(a) promote the health and social benefits of outdoor recreation to the state's children;

(b) encourage children to develop the skills and confidence to be physically active for life;

(c) provide outdoor recreational opportunities to underserved or underprivileged communities in the state; and

(d) encourage hands-on outdoor or nature-based learning and play to prepare children for achievement in science, technology, engineering, and math.

Section 162. Section 79-8-303, which is renumbered from Section 63N-9-403 is renumbered and amended to read:

[~~63N-9-403~~]. 79-8-303. Rulemaking and requirements for awarding a UCORE grant.

(1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the [~~outdoor recreation office~~] division, after consulting with the Outdoor Adventure Commission, shall make rules establishing the eligibility and reporting criteria for an entity to receive a UCORE grant, including:

(a) the form and process of submitting an application to the [~~outdoor recreation office~~] division for a UCORE grant;

(b) which entities are eligible to apply for a UCORE grant;

(c) specific categories of children's programs that are eligible for a UCORE grant;

(d) the method and formula for determining grant amounts; and

(e) the reporting requirements of grant recipients.

(2) In determining the award of a UCORE grant, the [~~outdoor recreation office~~] division may prioritize a children's program that will serve an underprivileged or underserved community in the state.

(3) A UCORE grant may only be awarded by the executive director after consultation with the director and the [~~board~~] Outdoor Adventure Commission.

(4) The following entities may not receive a UCORE grant under this part:

(a) a federal government entity;

(b) a state agency, except for public schools and institutions of higher education; and

(c) a for-profit entity.

(5) In awarding UCORE grants, consideration shall be given to entities that implement programs that:

(a) contribute to healthy and active lifestyles through outdoor recreation; and

(b) include one or more of the following attributes in their programs or initiatives:

(i) serve children with the greatest needs in rural, suburban, and urban areas of the state;

(ii) provide students with opportunities to directly experience nature;

(iii) maximize the number of children who can participate;

(iv) commit matching and in-kind resources;

(v) create partnerships with public and private entities;

(vi) include ongoing program evaluation and assessment;

(vii) utilize veterans in program implementation;

(viii) include outdoor or nature-based programming that incorporates concept learning in science, technology, engineering, or math; or

(ix) utilize educated volunteers in program implementation.

Section 163. Section 79-8-304, which is renumbered from Section 63N-9-404 is renumbered and amended to read:

[~~63N-9-404~~]. 79-8-304. Utah Children's Outdoor Recreation and Education Fund -- Uses -- Costs.

(1) There is created an expendable special revenue fund known as the "Utah Children's Outdoor Recreation and Education Fund," which the [~~office~~] division shall use to fund the Utah Children's Outdoor Recreation and Education Grant Program created in Section [~~63N-9-402~~] 79-8-302.

(2) The fund consists of:

(a) appropriations made by the Legislature;

(b) interest earned on the account; and

(c) private donations, grants, gifts, bequests, or money made available from any other source to implement this part.

(3) The [~~office~~] division shall, with the advice of the Utah Outdoor Recreation Grant Advisory Committee created in Section [~~63N-9-204~~] 79-8-105, administer the [~~account~~] fund.

(4) The cost of administering the [~~account~~] fund shall be paid from money in the [~~account~~] fund.

(5) Interest accrued from investment of money in the [~~account~~] fund shall remain in the [~~account~~] fund.

Section 164. Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2021, and ending on June 30, 2022. These are additions to amounts previously appropriated for fiscal year 2022. Under the terms and conditions of Title 63J, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 1

To Department of Natural Resources - Parks and Recreation

From General Fund	(4,416,200)
From General Fund, One-time	(7,100)
From Federal Fund	(1,598,800)
From Federal Funds, One-time	(4,600)
From General Fund Restricted - Boating	(4,929,900)
From General Fund Restricted - Boating, One-time	(11,700)
From Dedicated Credits Revenue	(1,097,800)
From Dedicated Credits Revenue, One-time	(2,800)
From General Fund Restricted - Off-highway Access and Education	(19,000)
From General Fund Restricted - Off-highway Access and Education, One-time	(100)
From General Fund Restricted - Off-highway Vehicle	(6,487,100)
From General Fund Restricted - Off-highway Vehicle, One-time	(15,500)
From General Fund Restricted - State Park Fees	(23,793,200)
From General Fund Restricted - State Park Fees, One-time	(54,900)
From Revenue Transfers	(36,600)
From General Fund Restricted - Zion National Park Support Programs	(4,000)
Schedule of Programs:	
Executive Management	(894,100)
Park Management Contracts	(1,036,800)
Park Operation Management	(35,241,800)
Planning and Design	(912,200)
Recreation Services	(2,155,700)
Support Services	(2,238,700)

ITEM 2

To Department of Natural Resources - Parks and Recreation Capital Budget

From Federal Funds	(3,119,700)
From General Fund Restricted - Boating	(575,000)
From Dedicated Credits Revenue	(175,000)
From General Fund Restricted - Off-highway Vehicle	(3,900,000)
From General Fund Restricted - State Park Fees	(472,700)
Schedule of Programs:	
Boat Access Grants	(350,000)
Donated Capital Projects	(175,000)
Land and Water Conservation	(447,600)
Major Renovation	(458,500)

Off-highway Vehicle Grants (3,675,000)
Region Renovation (100,000)
Renovation and Development (546,700)
Trails Program (2,489,600)

ITEM 3

To Department of Natural Resources - State Parks

From General Fund 4,411,400
From General Fund, One-time 7,100
From Federal Funds 85,600
From Dedicated Credits Revenue 1,097,800
From Dedicated Credits Revenue, One-time 2,800
From General Fund Restricted - State Park Fees 23,793,200
From General Fund Restricted - State Park Fees, One-time 54,900
From Transfers Revenues 36,600
From General Fund Restricted - Zion National Park Support Programs 4,000

Schedule of Programs:

Executive Management 285,100
Park Management Contracts 1,000,000
Park Operation Management 26,418,800
Planning and Design 699,000
Support Services 1,090,500

ITEM 4

To Department of Natural Resources - Parks Capital Budget

From Federal Funds 212,500
From Dedicated Credits Revenue 175,000
From General Fund Restricted - State Park Fees 472,700

Schedule of Programs:

Donated Capital Projects 175,000
Major Renovation 8,500
Region Renovation 100,000
Renovation and Development 576,700

ITEM 5

To Department of Natural Resources - Recreation

From General Fund 4,800
From Federal Funds 1,513,200
From Federal Funds, One-time 4,600
From General Fund Restricted - Boating 5,038,600
From General Fund Restricted - Boating, One-time 11,700
From General Fund Restricted - Off-highway Access and Education 19,000
From General Fund Restricted - Off-highway Access and Education, One-time 100
From General Fund Restricted - Off-highway Vehicle 6,595,800
From General Fund Restricted - Off-highway Vehicle, One-time 15,500

Schedule of Programs:

Recreation Management 609,000
Recreation Agreements 36,800
Recreation Oversight 9,161,200
Recreation Construction 213,200
Recreation Services 2,116,500
Recreation Administration 1,066,600

ITEM 6

To Department of Natural Resources - Recreation Capital Budget

From Federal Funds2,907,200
From General Fund Restricted - Boating 575,000
From General Fund Restricted - Off-highway Vehicle 3,900,000

Schedule of Programs:

Boat Access Grants 350,000
Land and Water Conservation 447,600
Recreation Capital 420,000
Off-highway Vehicle Grants 3,675,000
Trails Program 2,489,600

ITEM 7

To Governor's Office - Office of Energy Development

From General Fund (1,626,600)
From General Fund, One-time (4,900)
From Federal Funds (842,200)
From Federal Funds, One-time (2,500)
From Dedicated Credits Revenue (51,600)
From Dedicated Credits Revenue, One-time (200)
From Expendable Receipts (180,300)
From Expendable Receipts, One-time (500)
From Ut. S. Energy Program Rev. Loan Fund (ARRA) (223,000)
From Ut. S. Energy Program Rev. Loan Fund (ARRA), One-time (700)

From Beginning Nonlapsing	(1,205,200)
Schedule of Programs:	
Office of Energy Development	(4,137,700)

ITEM 8

To Department of Natural Resources - Office of Energy Development

From General Fund	1,626,600
From General Fund, One-time	4,900
From Federal Funds	842,200
From Federal Funds, One-time	2,500
From Dedicated Credits Revenue	51,600
From Dedicated Credits Revenue, One-time	200
From Expendable Receipts	180,300
From Expendable Receipts, One-time	500
From Ut. S. Energy Program Rev. Loan Fund (ARRA)	223,000
From Ut. S. Energy Program Rev. Loan Fund (ARRA), One-time	700
From Beginning Nonlapsing	1,205,200
Schedule of Programs:	
Office of Energy Development	4,137,700

Notwithstanding the effective date, the Legislature intends that the affected agencies have until July 1, 2022, to update the financial and information systems necessary to come into full compliance with the provisions of this bill.

The Legislature intends that, in closing out the fiscal year 2021 budget, the Division of Finance reflect all closing nonlapsing appropriation balances from Parks and Recreation Capital Budget line item as fiscal year 2022 beginning nonlapsing appropriation balances as follows: $15,205,000 in the new Parks Capital line item and $9,374,000 in the new Recreation Capital line item.

The Legislature intends that, in closing out the fiscal year 2021 budget, the Division of Finance transfer all closing nonlapsing appropriation balances from Governor's Office - Office of Energy Development line item as fiscal year 2022 beginning nonlapsing appropriation balances in the Department of Natural Resources -- Office of Energy Development line item.

Section 165. Effective date.

This bill takes effect on July 1, 2021.

Section 166. Coordinating H.B. 346 with H.B. 176 -- Technical amendment.

If this H.B. 346 and H.B. 176, Revisor's Technical Corrections to Utah Code, both pass and become law, the Legislature intends that the Office of Legislative Research and General Counsel shall prepare the Utah Code database for publication by changing the reference in Subsection 59-10-1034(5)(b)(i)(C) from Section 63M-4-505 to Section 79-6-605..

Section 167. Coordinating H.B. 346 with H.B. 341 -- Substantive amendment.

If this H.B. 346 and H.B. 341, Bears Ears Visitor Center Advisory Committee, both pass and become law, the Legislature intends that the Office of Legislative Research and General Counsel shall prepare the Utah Code database for publication by amending Subsection 9-9-112(9) enacted in H.B. 341 to read:

"(9) The advisory committee may invite the United States Forest Service, the Bureau of Land Management, the Division of State Parks, the Division of Recreation, and the Utah Office of Tourism within the Governor's Office of Economic Development, to serve as technical advisors to the advisory committee."..

Section 168. Coordinating H.B. 346 with H.B. 348 -- Substantive amendment.

If this H.B. 346 and H.B. 348, Economic Development Amendments, both pass and become law, the Legislature intends that the Office of Legislative Research and General Counsel shall prepare the Utah Code database for publication by amending Subsection 79-8-303(3) to read:

"(3) A UCORE grant may only be awarded by the executive director after consultation with the director and the [~~board~~] Outdoor Adventure Commission."..

Section 169. Revisor instructions.

(1) The Legislature intends that the Office of Legislative Research and General Counsel, in preparing the Utah Code database for publication, replace the references in Section 79-2-206 from "this bill" to the bill's designated chapter number in the Laws of Utah.

(2) The Legislature intends that the Office of Legislative Research and General Counsel, in preparing the Utah Code database for publication, replace cross references to sections renumbered by this bill that are added to the Utah Code by legislation passed during the 2021 General Session that become law.

CHAPTER 281
H. B. 347
Passed March 4, 2021
Approved March 17, 2021
Effective July 1, 2021
(Exception clause in Section 25)

HOMELESS SERVICES AMENDMENTS

Chief Sponsor: Steve Eliason
Senate Sponsor: Jacob L. Anderegg

LONG TITLE

General Description:

This bill modifies provisions related to the oversight and provision of services for individuals experiencing homelessness.

Highlighted Provisions:

This bill:

- defines terms;
- creates within the Governor's Office of Management and Budget, the state homelessness coordinator, who is appointed by the governor and serves as an advisor to the governor on homelessness issues;
- creates the Office of Homeless Services (office) within the Department of Workforce Services;
- provides that the office is under the direction of the state homelessness coordinator;
- describes the responsibilities of the state homelessness coordinator;
- creates the Utah Homelessness Council (homelessness council);
- describes the responsibilities of the homelessness council;
- transfers the administration of existing state homelessness services programs and funds to the office and to the homelessness council; and
- makes technical changes.

Monies Appropriated in this Bill:

This bill appropriates in fiscal year 2021:

- to the Governor's Office -- Office of Management and Budget, as a one-time appropriation:
  - from the General Fund, One-time, $125,000.

This bill transfers money previously appropriated for fiscal year 2022:

- to the Department of Workforce Services -- Office of Homeless Services:
  - from the Department of Workforce Services -- Housing and Community Development, $41,045,700.

This bill appropriates in fiscal year 2022:

- to the Governor's Office -- Office of Management and Budget, as an ongoing appropriation:
  - from the General Fund, One-time, $225,000.

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

35A-1-202, as last amended by Laws of Utah 2016, Chapters 271 and 296
35A-8-101, as last amended by Laws of Utah 2020, Chapter 414
35A-8-202, as renumbered and amended by Laws of Utah 2012, Chapter 212
59-10-1306, as last amended by Laws of Utah 2012, Chapter 212
59-12-205, as last amended by Laws of Utah 2019, Chapters 17, 136, and 399
63J-1-801, as last amended by Laws of Utah 2019, Chapters 17 and 136
63J-1-802, as enacted by Laws of Utah 2018, Chapter 312
63J-4-202, as last amended by Laws of Utah 2013, Chapters 12 and 310

ENACTS:

35A-16-101, Utah Code Annotated 1953
35A-16-102, Utah Code Annotated 1953
35A-16-201, Utah Code Annotated 1953
35A-16-202, Utah Code Annotated 1953
35A-16-203, Utah Code Annotated 1953
35A-16-204, Utah Code Annotated 1953
35A-16-205, Utah Code Annotated 1953

RENUMBERS AND AMENDS:

35A-16-301, (Renumbered from 35A-8-603, as renumbered and amended by Laws of Utah 2012, Chapter 212)
35A-16-302, (Renumbered from 35A-8-604, as last amended by Laws of Utah 2020, Chapters 226 and 387)
35A-16-303, (Renumbered from 35A-8-605, as last amended by Laws of Utah 2020, Chapter 226)
35A-16-304, (Renumbered from 35A-8-606, as enacted by Laws of Utah 2018, Chapter 312)
35A-16-305, (Renumbered from 35A-8-607, as enacted by Laws of Utah 2018, Chapter 312)
35A-16-306, (Renumbered from 35A-8-608, as last amended by Laws of Utah 2019, Chapters 17, 53, and 136)
35A-16-307, (Renumbered from 35A-8-609, as last amended by Laws of Utah 2019, Chapters 17 and 136)

REPEALS:

35A-8-203, as enacted by Laws of Utah 2020, Chapter 414
35A-8-601, as last amended by Laws of Utah 2018, Chapters 251 and 312
35A-8-602, as last amended by Laws of Utah 2020, Chapter 387

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

Section 1. Section 35A-1-202 is amended to read:

35A-1-202. Divisions -- Creation -- Duties -- Workforce Appeals Board, councils, Child Care Advisory Committee, and economic service areas.

(1) There is created within the department the following divisions:

(a) the Workforce Development Division to administer the development and implementation of employment assistance programs;

(b) the Workforce Research and Analysis Division;

(c) the Unemployment Insurance Division to administer Chapter 4, Employment Security Act;

(d) the Eligibility Services Division to administer public assistance eligibility;

(e) the Division of Adjudication to adjudicate claims or actions in accordance with this title;

(f) the Housing and Community Development Division, which is described in Sections 35A-8-201 and 35A-8-202; [~~and~~]

(g) the Utah State Office of Rehabilitation, which is described in Section 35A-13-103[~~.~~]; and

(h) the Office of Homeless Services, which is described in Section 35A-16-202.

(2) In addition to the divisions created under Subsection (1), within the department are the following:

(a) the Workforce Appeals Board created in Section 35A-1-205;

(b) the State Workforce Development Board created in Section 35A-1-206;

(c) the Employment Advisory Council created in Section 35A-4-502;

(d) the Child Care Advisory Committee created in Section 35A-3-205; and

(e) the economic service areas created in accordance with Chapter 2, Economic Service Areas.

Section 2. Section 35A-8-101 is amended to read:

35A-8-101. Definitions.

As used in this chapter:

(1) "Accessible housing" means housing which has been constructed or modified to be accessible, as described in the State Construction Code or an approved code under Title 15A, State Construction and Fire Codes Act.

(2) "Director" means the director of the division.

(3) "Division" means the Housing and Community Development Division.

[~~(4) "Homeless Management Information System" or "HMIS" means an information technology system that:~~]

[~~(a) is used to collect client-level data and data on the provision of housing and services to homeless individuals and families and individuals at risk of homelessness in the state; and~~]

[~~(b) meets the requirements of the United States Department of Housing and Urban Development.~~]

Section 3. Section 35A-8-202 is amended to read:

35A-8-202. Powers and duties of division.

(1) The division shall:

(a) assist local governments and citizens in the planning, development, and maintenance of necessary public infrastructure and services;

(b) cooperate with, and provide technical assistance to, counties, cities, towns, regional planning commissions, area-wide clearinghouses, zoning commissions, parks or recreation boards, community development groups, community action agencies, and other agencies created for the purpose of aiding and encouraging an orderly, productive, and coordinated development of the state and its political subdivisions;

(c) assist the governor in coordinating the activities of state agencies which have an impact on the solution of community development problems and the implementation of community plans;

(d) serve as a clearinghouse for information, data, and other materials which may be helpful to local governments in discharging their responsibilities and provide information on available federal and state financial and technical assistance;

(e) carry out continuing studies and analyses of the problems faced by communities within the state and develop such recommendations for administrative or legislative action as appear necessary;

(f) assist in funding affordable housing [~~and addressing problems of homelessness~~];

(g) support economic development activities through grants, loans, and direct programs financial assistance;

(h) certify project funding at the local level in conformance with federal, state, and other requirements;

(i) utilize the capabilities and facilities of public and private universities and colleges within the state in carrying out its functions; and

(j) assist and support local governments, community action agencies, and citizens in the planning, development, and maintenance of home weatherization, energy efficiency, and antipoverty activities.

(2) The division may:

(a) by following the procedures and requirements of Title 63J, Chapter 5, Federal Funds Procedures Act, seek federal grants, loans, or participation in federal programs;

(b) if any federal program requires the expenditure of state funds as a condition to participation by the state in any fund, property, or service, with the governor's approval, expend whatever funds are necessary out of the money provided by the Legislature for the use of the department;

(c) in accordance with Part 9, Domestic Violence Shelters, assist in developing, constructing, and improving shelters for victims of domestic violence, as described in Section 77-36-1, through loans and grants to nonprofit and governmental entities; and

(d) assist, when requested by a county or municipality, in the development of accessible housing.

Section 4. Section 35A-16-101 is enacted to read:

CHAPTER 16. OFFICE OF HOMELESS SERVICES

Part 1. General Provisions

35A-16-101. Title.

This chapter is known as the "Office of Homeless Services."

Section 5. Section 35A-16-102 is enacted to read:

35A-16-102. Definitions.

As used in this chapter:

(1) "Coordinator" means the state homelessness coordinator appointed under Section 63J-4-202.

(2) "Executive committee" means the executive committee of the homelessness council described in Section 35A-16-204.

(3) "Homeless Management Information System" or "HMIS" means an information technology system that:

(a) is used to collect client-level data and data on the provision of housing and services to homeless individuals and individuals at risk of homelessness in the state; and

(b) meets the requirements of the United States Department of Housing and Urban Development.

(4) "Homeless services budget" means the comprehensive annual budget and overview of all homeless services available in the state described in Subsection 35A-16-203(1)(b).

(5) "Homelessness council" means the Utah Homelessness Council created in Section 35A-16-204.

(6) "Office" means the Office of Homeless Services.

(7) "Strategic plan" means the statewide strategic plan to minimize homelessness in the state described in Subsection 35A-16-203(1)(c).

Section 6. Section 35A-16-201 is enacted to read:

Part 2. Office of Homeless Services

35A-16-201. Office of Homeless Services.

(1) The Office of Homeless Services is under the direction of the state homelessness coordinator appointed under Section 63J-4-202.

(2) The coordinator shall serve as:

(a) an advisor to the governor on homelessness issues; and

(b) subject to Subsection (3), the chief administrative officer of the Office of Homeless Services created in Section 35A-1-202.

(3) The executive director has administrative oversight over the office.

Section 7. Section 35A-16-202 is enacted to read:

35A-16-202. Powers and duties of the office.

(1) The office shall, under the direction of the coordinator:

(a) assist in providing homeless services in the state;

(b) coordinate the provision of homeless services in the state; and

(c) manage, with the concurrence of Continuum of Care organizations approved by the United States Department of Housing and Urban Development, a Homeless Management Information System for the state that:

(i) shares client-level data between state agencies, local governments, and private organizations that provide services to homeless individuals and families and individuals at risk of homelessness in the state;

(ii) is effective as a case management system;

(iii) except for individuals receiving services who are victims of domestic violence, includes an effective authorization protocol for encouraging individuals who are provided with any homeless services in the state to provide accurate information to providers for inclusion in the HMIS; and

(iv) meets the requirements of the United States Department of Housing and Urban Development and other federal requirements.

(2) The office may:

(a) by following the procedures and requirements of Title 63J, Chapter 5, Federal Funds Procedures Act, seek federal grants, loans, or participation in federal programs; and

(b) for any federal program that requires the expenditure of state funds as a condition for participation by the state in a fund, property, or service, with the governor's approval, expend whatever funds are necessary out of the money provided by the Legislature for the use of the office.

Section 8. Section 35A-16-203 is enacted to read:

35A-16-203. Powers and duties of the coordinator.

(1) The coordinator shall:

(a) coordinate the provision of homeless services in the state;

(b) in cooperation with the homelessness council, develop and maintain a comprehensive annual budget and overview of all homeless services available in the state, which homeless services budget shall receive final approval by the homelessness council;

(c) in cooperation with the homelessness council, create a statewide strategic plan to minimize homelessness in the state, which strategic plan shall receive final approval by the homelessness council;

(d) in cooperation with the homelessness council, oversee funding provided for the provision of homeless services, which funding shall receive final approval by the homelessness council, including funding from the:

(i) Pamela Atkinson Homeless Account created in Section 35A-16-301;

(ii) Homeless to Housing Reform Restricted Account created in Section 35A-16-303; and

(iii) Homeless Shelter Cities Mitigation Restricted Account created in Section 35A-16-304;

(e) provide administrative support to and serve as a member of the homelessness council;

(f) at the governor's request, report directly to the governor on issues regarding homelessness in the state and the provision of homeless services in the state; and

(g) report directly to the president of the Senate and the speaker of the House of Representatives at least twice each year on issues regarding homelessness in the state and the provision of homeless services in the state.

(2) The coordinator, in cooperation with the homelessness council, shall ensure that the homeless services budget described in Subsection (1)(b) includes an overview and coordination plan for all funding sources for homeless services in the state, including from state agencies, Continuum of Care organizations, housing authorities, local governments, federal sources, and private organizations.

(3) The coordinator, in cooperation with the homelessness council, shall ensure that the strategic plan described in Subsection (1)(c):

(a) outlines specific goals and measurable benchmarks for minimizing homelessness in the state and for coordinating services for individuals experiencing homelessness among all service providers in the state;

(b) identifies best practices and recommends improvements to the provision of services to individuals experiencing homelessness in the state to ensure the services are provided in a safe, cost-effective, and efficient manner;

(c) identifies best practices and recommends improvements in coordinating the delivery of services to the variety of populations experiencing homelessness in the state, including through the use of electronic databases and improved data sharing among all service providers in the state; and

(d) identifies gaps and recommends solutions in the delivery of services to the variety of populations experiencing homelessness in the state.

(4) In overseeing funding for the provision of homeless services as described in Subsection (1)(d), the coordinator:

(a) shall prioritize the funding of programs and providers that have a documented history of successfully reducing the number of individuals experiencing homelessness, reducing the time individuals spend experiencing homelessness, moving individuals experiencing homelessness to permanent housing, or reducing the number of individuals who return to experiencing homelessness; and

(b) except for a program or provider providing services to victims of domestic violence, may not approve funding to a program or provider that does not enter into a written agreement with the office to collect and share HMIS data regarding the provision of services to individuals experiencing homelessness so that the provision of services can be coordinated among state agencies, local governments, and private organizations.

(5) In cooperation with the homelessness council, the coordinator shall update the annual statewide budget and the strategic plan described in this section on an annual basis.

(6) (a) On or before October 1, the coordinator shall provide a written report to the department for inclusion in the department's annual written report described in Section 35A-1-109.

(b) The written report shall include:

(i) the homeless services budget;

(ii) the strategic plan; and

(iii) recommendations regarding improvements to coordinating and providing services to individuals experiencing homelessness in the state.

Section 9. Section 35A-16-204 is enacted to read:

35A-16-204. Utah Homelessness Council.

(1) There is created within the office the Utah Homelessness Council.

(2) The homelessness council shall consist of the following members:

(a) a representative of the public sector with expertise in homelessness issues, appointed by the Legislature;

(b) a representative of the private sector, appointed by the Utah Impact Partnership or the partnership's successor organization;

(c) a representative of the private sector with expertise in homelessness issues, appointed by the governor;

(d) a statewide philanthropic leader, appointed by the governor;

(e) a statewide philanthropic leader, appointed by the Utah Impact Partnership or the partnership's successor organization;

(f) the mayor of Salt Lake County;

(g) the mayor of Salt Lake City;

(h) the mayor of Midvale;

(i) the mayor of South Salt Lake;

(j) the mayor of Ogden;

(k) the mayor of St. George;

(l) the executive director of the Department of Human Services, or the executive director's designee;

(m) the executive director of the Department of Health, or the executive director's designee;

(n) the executive director of the Department of Corrections, or the executive director's designee;

(o) the executive director of the Department of Workforce Services, or the executive director's designee;

(p) the executive director of the Governor's Office of Management and Budget, or the executive director's designee;

(q) a member of the Senate, appointed by the president of the Senate;

(r) a member of the House of Representatives, appointed by the speaker of the House of Representatives;

(s) the state superintendent of public instruction or the superintendent's designee;

(t) a faith-based leader in the state, appointed by the governor;

(u) five local representatives, including at least two private providers of services for people experiencing homelessness, appointed by the Utah Homeless Network;

(v) one individual who has experienced homelessness, appointed by the governor; and

(w) the coordinator.

(3) The member appointed under Subsection (2)(a) and the member appointed under Subsection (2)(b) shall serve as the cochairs of the homelessness council.

(4) The following eight members of the homelessness council shall serve as the executive committee of the homelessness council:

(a) the cochairs of the homelessness council as described in Subsection (3);

(b) the private sector representative appointed under Subsection (2)(c);

(c) the statewide philanthropic leader appointed under Subsection (2)(d);

(d) the statewide philanthropic leader appointed under Subsection (2)(e);

(e) the mayor of Salt Lake County;

(f) a mayor chosen among the member mayors described in Subsections (2)(g) through (2)(k), appointed by the member mayors; and

(g) the coordinator.

(5) The cochairs and the executive committee may call homelessness council meetings and set agendas for committee meetings.

(6) The homelessness council shall meet at least four times per year.

(7) A majority of members of the homelessness council constitutes a quorum of the homelessness council at any meeting, and the action of the majority of members present constitutes the action of the homelessness council.

(8) A majority of members of the executive committee constitutes a quorum of the executive committee at any meeting, and the action of the majority of members present constitutes the action of the executive committee.

(9) (a) Except as required by Subsection (9)(b), appointed members of the homelessness council shall serve a term of four years.

(b) Notwithstanding the requirements of Subsection (9)(a), the appointing authority, at the time of appointment or reappointment, may adjust the length of terms to ensure that the terms of homelessness council members are staggered so that approximately half of appointed homelessness council members are appointed every two years.

(10) When a vacancy occurs in the appointed membership for any reason, the replacement is appointed for the unexpired term.

(11) (a) Except as described in Subsection (11)(b), a member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(i) Section 63A-3-106;

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

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

(b) Compensation and expenses of a commission member who is a legislator are governed by Section 36-2-2 and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.

(12) The office and the department shall provide administrative support to the homelessness council.

Section 10. Section 35A-16-205 is enacted to read:

35A-16-205. Duties of the homelessness council.

The homelessness council:

(1) shall provide final approval for:

(a) the homeless services budget;

(b) the strategic plan; and

(c) the awarding of funding for the provision of homeless services as described in Subsection 35A-16-203(1)(d);

(2) in cooperation with the coordinator, shall:

(a) develop and maintain the homeless services budget;

(b) develop and maintain the strategic plan; and

(c) review applications and approve funding for the provision of homeless services in the state as described in Subsection 35A-16-203(1)(d);

(3) shall review local and regional plans for providing services to individuals experiencing homelessness;

(4) shall cooperate with local homeless councils as designated by the Utah Homeless Network to:

(a) develop a common agenda and vision for reducing homelessness in each local oversight body's respective region;

(b) as part of the homeless services budget, develop a spending plan that coordinates the funding supplied to local stakeholders; and

(c) align local funding to projects that improve outcomes and target specific needs in each community;

(5) shall coordinate gap funding with private entities for providing services to individuals experiencing homelessness;

(6) shall recommend performance and accountability measures for service providers, including the support of collecting consistent and transparent data; and

(7) when reviewing and giving final approval for requests as described in Subsection 35A-16-203(1)(d):

(a) may only recommend funding if the proposed recipient has a policy to share client-level service information with other entities in accordance with state and federal law to enhance the coordination of services for individuals who are experiencing homelessness; and

(b) shall identify specific targets and benchmarks that align with the strategic plan for each recommended award.

Section 11. Section 35A-16-301, which is renumbered from Section 35A-8-603 is renumbered and amended to read:

Part 3. Services for Individuals Experiencing Homelessness

[~~35A-8-603~~]. 35A-16-301. Creation of Pamela Atkinson Homeless Account.

(1) There is created a restricted account within the General Fund known as the "Pamela Atkinson Homeless Account."

(2) Private contributions received under this section and Section 59-10-1306 shall be deposited into the restricted account to be used only for programs described in [~~Section 35A-8-602~~] this chapter.

(3) Money shall be appropriated from the restricted account to the [~~State Homeless Coordinating Committee~~] homelessness council in accordance with Title 63J, Chapter 1, Budgetary Procedures Act.

(4) The [~~State Homeless Coordinating Committee~~] homelessness council may accept transfers, grants, gifts, bequests, or money made available from any source to implement this part.

Section 12. Section 35A-16-302, which is renumbered from Section 35A-8-604 is renumbered and amended to read:

[~~35A-8-604~~]. 35A-16-302. Uses of Homeless to Housing Reform Restricted Account.

(1) [~~With the concurrence of the division and in accordance with this section, the Homeless Coordinating Committee members designated in Subsection 35A-8-601(2)~~] The homelessness council may award ongoing or one-time grants or contracts funded from the Homeless to Housing Reform Restricted Account created in Section [~~35A-8-605~~] 35A-16-303.

(2) Before final approval of a grant or contract awarded under this section, the [~~Homeless Coordinating Committee and the division~~] homelessness council and the coordinator shall provide written information regarding the grant or contract to, and shall consider the recommendations of, the Executive Appropriations Committee.

(3) As a condition of receiving money, including any ongoing money, from the restricted account, an entity awarded a grant or contract under this section shall provide detailed and accurate reporting on at least an annual basis to the [~~division and the Homeless Coordinating Committee~~] homelessness council and the coordinator that describes:

(a) how money provided from the restricted account has been spent by the entity; and

(b) the progress towards measurable outcome-based benchmarks agreed to between the entity and the [~~Homeless Coordinating Committee~~] homelessness council before the awarding of the grant or contract.

(4) In determining the awarding of a grant or contract under this section, [~~the Homeless Coordinating Committee, with the concurrence of the division,~~] the homelessness council and the coordinator shall:

(a) ensure that the services to be provided through the grant or contract will be provided in a cost-effective manner;

[~~(b) consider the advice of committee members designated in Subsection 35A-8-601(3);~~]

[~~(c)~~] (b) give priority to a project or contract that will include significant additional or matching

funds from a private organization, nonprofit organization, or local government entity;

[~~(d)~~] (c) ensure that the project or contract will target the distinct housing needs of one or more at-risk or homeless subpopulations, which may include:

(i) families with children;

(ii) transitional-aged youth;

(iii) single men or single women;

(iv) veterans;

(v) victims of domestic violence;

(vi) individuals with behavioral health disorders, including mental health or substance use disorders;

(vii) individuals who are medically frail or terminally ill;

(viii) individuals exiting prison or jail; or

(ix) individuals who are homeless without shelter;

[~~(e)~~] (d) consider whether the project will address one or more of the following goals:

(i) diverting homeless or imminently homeless individuals and families from emergency shelters by providing better housing-based solutions;

(ii) meeting the basic needs of homeless individuals and families in crisis;

(iii) providing homeless individuals and families with needed stabilization services;

(iv) decreasing the state's homeless rate;

(v) implementing a coordinated entry system with consistent assessment tools to provide appropriate and timely access to services for homeless individuals and families;

(vi) providing access to caseworkers or other individualized support for homeless individuals and families;

(vii) encouraging employment and increased financial stability for individuals and families being diverted from or exiting homelessness;

(viii) creating additional affordable housing for state residents;

(ix) providing services and support to prevent homelessness among at-risk individuals and adults;

(x) providing services and support to prevent homelessness among at-risk children, adolescents, and young adults;

(xi) preventing the reoccurrence of homelessness among individuals and families exiting homelessness; and

(xii) providing medical respite care for homeless individuals where the homeless individuals can access medical care and other supportive services; and

[~~(f)~~] (e) address the needs identified in the strategic plan described in [~~Subsection 35A-8-602(2)~~] Section 35A-16-203 for inclusion in the annual written report described in Section 35A-1-109.

(5) In addition to the other provisions of this section, in determining the awarding of a grant or contract under this section to design, build, create, or renovate a facility that will provide shelter or other resources for the homeless, [~~the Homeless Coordinating Committee, with the concurrence of the division~~] of the homelessness council, with the concurrence of the coordinator, may consider whether the facility will be:

(a) located near mass transit services;

(b) located in an area that meets or will meet all zoning regulations before a final dispersal of funds;

(c) safe and welcoming both for individuals using the facility and for members of the surrounding community; and

(d) located in an area with access to employment, job training, and positive activities.

(6) In accordance with Subsection (5), and subject to the approval [~~of the Homeless Coordinating Committee with the concurrence of the division~~] the homelessness council, with the concurrence of the coordinator, the following may recommend a site location, acquire a site location, and hold title to real property, buildings, fixtures, and appurtenances of a facility that provides or will provide shelter or other resources for the homeless:

(a) the county executive of a county of the first class on behalf of the county of the first class, if the facility is or will be located in the county of the first class in a location other than Salt Lake City;

(b) the state;

(c) a nonprofit entity approved by the [~~Homeless Coordinating Committee with the concurrence of the division~~] homelessness council, with the concurrence of the coordinator; and

(d) a mayor of a municipality on behalf of the municipality where a facility is or will be located.

(7) (a) If a homeless shelter commits to provide matching funds equal to the total grant awarded under this Subsection (7), [~~the Homeless Coordinating Committee, with the concurrence of the division~~] the homelessness council, with the concurrence of the coordinator, may award a grant for the ongoing operations of the homeless shelter.

(b) In awarding a grant under this Subsection (7), [~~the Homeless Coordinating Committee, with the concurrence of the division~~] the homelessness council, with the concurrence of the coordinator, shall consider the number of beds available at the homeless shelter and the number and quality of the homeless services provided by the homeless shelter.

(8) The [~~division~~] office may expend money from the restricted account to offset actual [~~division and Homeless Coordinating Committee~~] office and homelessness council expenses related to administering this section.

(9) In addition to other provisions of this section, the [~~Homeless Coordinating Committee, with the concurrence of the division~~] homelessness council, with the concurrence of the coordinator, may award one-time money from the state's sale of the land at 210 South Rio Grande Street, Salt Lake City, which was the location of a former emergency homeless shelter, to a nonprofit entity that owns three or more homeless shelters in a county of the first class to assist the entity in paying off a loan taken out by the entity to build a homeless shelter located in a county of the first class in a location other than Salt Lake City.

Section 13. Section 35A-16-303, which is renumbered from Section 35A-8-605 is renumbered and amended to read:

[~~35A-8-605~~]. 35A-16-303. Homeless to Housing Reform Restricted Account.

(1) There is created a restricted account within the General Fund known as the Homeless to Housing Reform Restricted Account.

(2) The restricted account shall be administered by the [~~division~~] office for the purposes described in Section [~~35A-8-604~~] 35A-16-302.

(3) The state treasurer shall invest the money in the restricted account according to the procedures and requirements of Title 51, Chapter 7, State Money Management Act, except that interest and other earnings derived from the restricted account shall be deposited in the restricted account.

(4) The restricted account shall be funded by:

(a) appropriations made to the account by the Legislature; and

(b) private donations, grants, gifts, bequests, or money made available from any other source to implement this section and Section [~~35A-8-604~~] 35A-16-302.

(5) Subject to appropriation, the [~~director~~] coordinator shall use restricted account money as described in Section [~~35A-8-604~~] 35A-16-302.

(6) The [~~Homeless Coordinating Committee, in cooperation with the division~~] coordinator, in cooperation with the homelessness council, shall submit an annual written report to the department that gives a complete accounting of the use of money from the restricted account for inclusion in the annual report described in Section 35A-1-109.

(7) In addition to the funding sources described in Subsection (4), the restricted account shall be funded by the one-time deposit of the proceeds of the state's sale of land located at 210 South Rio Grande Street, Salt Lake City, on or after March 1, 2020, which was the former location of an emergency homeless shelter.

Section 14. Section 35A-16-304, which is renumbered from Section 35A-8-606 is renumbered and amended to read:

[~~35A-8-606~~]. 35A-16-304. Homeless Shelter Cities Mitigation Restricted Account.

(1) As used in this section:

(a) "Annual local contribution" means:

(i) for a participating local government, the lesser of $200,000 or an amount equal to 1.8% of the participating local government's tax revenue distribution amount under Subsection 59-12-205(2)(a) for the previous fiscal year; or

(ii) for an eligible municipality or a grant eligible entity that is certified in accordance with Section 35A-8-609, $0.

(b) "Eligible municipality" means the same as that term is defined in Section [~~35A-8-607~~] 35A-16-305.

(c) "Grant eligible entity" means the same as that term is defined in Section [~~35A-8-608~~] 35A-16-306.

(d) "Participating local government" means a county or municipality, as defined in Section 10-1-104, that is not an eligible municipality or grant eligible entity as certified by the department in accordance with Section [~~35A-8-609~~] 35A-16-307.

(2) There is created a restricted account within the General Fund known as the Homeless Shelter Cities Mitigation Restricted Account.

(3) The account shall be funded by:

(a) local sales and use tax revenue deposited into the account in accordance with Section 59-12-205; and

(b) interest earned on the account.

(4) (a) The [~~department~~] office shall administer the account.

(b) Subject to appropriation, the [~~department~~] office shall disburse funds from the account to:

(i) eligible municipalities in accordance with Sections [~~35A-8-607~~] 35A-16-305 and 63J-1-802; and

(ii) grant eligible entities in accordance with Sections [~~35A-8-608~~] 35A-16-306 and 63J-1-802.

Section 15. Section 35A-16-305, which is renumbered from Section 35A-8-607 is renumbered and amended to read:

[~~35A-8-607~~]. 35A-16-305. Eligible municipality application process for Homeless Shelter Cities Mitigation Restricted Account funds.

(1) As used in this section:

(a) "Account" means the restricted account created in Section [~~35A-8-606~~] 35A-16-304.

[~~(b) "Committee" means the Homeless Coordinating Committee created in this part.~~]

[~~(c)~~] (b) "Eligible municipality" means a city of the third, fourth, or fifth class, a town, or a metro township that:

(i) has, or is proposed to have, a homeless shelter within the city's, town's, or metro township's geographic boundaries;

(ii) due to the location of a homeless shelter within the city's, town's, or metro township's geographic boundaries, needs more public safety services than the city, town, or metro township needed before the location of the homeless shelter within the city's, town's, or metro township's geographic boundaries; and

(iii) is certified as an eligible municipality in accordance with Section [~~35A-8-609~~] 35A-16-307.

[~~(d)~~] (c) "Homeless shelter" means a facility that:

(i) provides or is proposed to provide temporary shelter to homeless individuals;

(ii) has or is proposed to have the capacity to provide temporary shelter to at least 200 individuals per night; and

(iii) operates year-round and is not subject to restrictions that limit the hours, days, weeks, or months of operation.

[~~(e)~~] (d) "Public safety services" means law enforcement, emergency medical services, and fire protection.

(2) (a) An eligible municipality may request account funds to employ and equip additional personnel to provide public safety services in and around a homeless shelter within the eligible municipality's geographic boundaries.

(b) (i) An eligible municipality that builds or has proposed to build a homeless shelter on or after July 1, 2018, shall be eligible to receive at least 40% of the account funds, if the eligible municipality meets the requirements of this section.

(ii) An eligible municipality that built a homeless shelter on or before June 30, 2018, shall be eligible to receive at least 20% of the account funds, if the eligible municipality meets the requirements of this section.

[~~(3) (a) This Subsection (3) applies to an eligible municipality's request for account funds for the fiscal year beginning on July 1, 2018, only.~~]

[~~(b) An eligible municipality may make a request for account funds by:~~]

[~~(i) sending an electronic copy of the request to the committee before the first meeting of the committee on or after July 1, 2018; and~~]

[~~(ii) appearing at the first meeting of the committee on or after July 1, 2018, to present the request.~~]

[~~(c) The request described in Subsection (3)(b) shall contain:~~]

[~~(i) data relating to the eligible municipality's public safety services for the last fiscal year before a homeless shelter was located or proposed to be located within the eligible municipality's boundaries, including:~~]

[~~(A) crime statistics; and~~]

[~~(B) calls for public safety services;~~]

[~~(ii) data showing the eligible municipality's need for public safety services in the next fiscal year;~~]

[~~(iii) a summary of the eligible municipality's proposed use of account funds; and~~]

[~~(iv) a copy of the eligible municipality's budget, which includes a request in a specific amount for additional personnel to provide public safety services.~~]

[~~(d) The committee shall evaluate a request made in accordance with this Subsection (3) using the following factors:~~]

[~~(i) the strength and reliability of the data that the eligible municipality provides to support the request;~~]

[~~(ii) the availability of alternative funding for the eligible municipality to address the eligible municipality's need for public safety services; and~~]

[~~(iii) any other considerations identified by the committee.~~]

[~~(e) (i) After making the evaluation described in Subsection (3)(d) and subject to appropriation, the committee shall vote to:~~]

[~~(A) fund the eligible municipality's request; or~~]

[~~(B) fund the eligible municipality's request at a reduced level, as determined by the committee.~~]

[~~(ii) The committee shall support the vote described in Subsection (3)(e)(i) with findings on each of the factors described in Subsection (3)(d).~~]

[~~(f) (i) An eligible municipality that receives an award of account funds under this Subsection (3) shall submit an invoice of the eligible municipality's expenses, with supporting documentation, to the department monthly for reimbursement.~~]

[~~(ii) Each month, beginning in January 2019, the department shall disburse the revenue in the account to reimburse the eligible municipality that submits the information described in Subsection (3)(f)(i) for the amount on the invoice or contract.~~]

[~~(4)~~] (3) (a) This Subsection [~~(4)~~] (3) applies to a fiscal year beginning on or after July 1, 2019.

(b) (i) The [~~committee~~] homelessness council shall set aside time on [~~an~~] the agenda of a [~~committee~~] homelessness council meeting that occurs on or after July 1 and on or before November 30 to allow an eligible municipality to present a request for account funds for the next fiscal year.

(ii) An eligible municipality may present a request for account funds by:

(A) sending an electronic copy of the request to the [~~committee~~] homelessness council before the meeting; and

(B) appearing at the meeting to present the request.

(c) The request described in Subsection [~~(4)~~] (3)(b) shall contain:

(i) data relating to the eligible municipality's public safety services for the last fiscal year before a

homeless shelter was located or proposed to be located within the eligible municipality's boundaries, including:

(A) crime statistics; and

(B) calls for public safety services;

(ii) data showing the eligible municipality's need for public safety services in the next fiscal year;

(iii) a summary of the eligible municipality's proposed use of account funds; and

(iv) a copy of the eligible municipality's budget, which includes a request in a specific amount for additional personnel to provide public safety services.

(d) (i) On or before November 30, an eligible municipality that received account funds during the previous fiscal year shall file electronically with the [~~committee~~] homelessness council a report that includes:

(A) a summary of the amount of account funds that the eligible municipality expended and the eligible municipality's specific use of those funds;

(B) an evaluation of the eligible municipality's effectiveness in using the account funds to address the eligible municipality's public safety needs; and

(C) any proposals for improving the eligible municipality's effectiveness in using account funds that the eligible municipality may receive in future fiscal years.

(ii) The [~~committee~~] homelessness council may request additional information as needed to make the evaluation described in Subsection [~~(4)~~] (3)(e).

(e) The [~~committee~~] homelessness council shall evaluate a request made in accordance with this Subsection [~~(4)~~] (3) using the following factors:

(i) the strength and reliability of the data that the eligible municipality provided to support the request;

(ii) if the eligible municipality received account funds during the previous fiscal year, the efficiency with which the eligible municipality used any account funds during the previous fiscal year;

(iii) the availability of alternative funding for the eligible municipality to address the eligible municipality's need for public safety services; and

(iv) any other considerations identified by the [~~committee~~] homelessness council.

(f) (i) After making the evaluation described in Subsection [~~(4)~~] (3)(e) and subject to other provisions of this Subsection [~~(4)~~] (3)(f), the [~~committee~~] homelessness council shall vote to recommend that an eligible municipality's request be:

(A) funded as requested; or

(B) funded at a reduced level, as determined by the [~~committee~~] homelessness council.

(ii) The [~~committee~~] homelessness council shall support the recommendation described in Subsection [~~(4)~~] (3)(f)(i) with findings on each of the factors described in Subsection [~~(4)~~] (3)(e).

(g) The committee shall submit the recommendation described in Subsection [~~(4)~~] (3)(f) to:

(i) the governor for inclusion in the governor's budget to be submitted to the Legislature; and

(ii) the Social Services Appropriations [~~Subcommitee~~] Subcommittee of the Legislature for approval in accordance with Section 63J-1-802.

(h) (i) An eligible municipality that is approved to receive account funds under Section 63J-1-802 shall submit an invoice of the eligible municipality's expenses, with supporting documentation, to the [~~department~~] office monthly for reimbursement.

(ii) Each month, the [~~department~~] office shall disburse the revenue in the account to reimburse an eligible municipality that submits the information described in Subsection [~~(4)~~] (3)(h)(i) for the amount on the invoice or contract.

[~~(5)~~] (4) On or before October 1, the [~~department~~] coordinator, in cooperation with the [~~committee~~] homelessness council, shall:

(a) submit an annual written report electronically to the Social Services Appropriations Subcommittee of the Legislature that gives a complete accounting of the [~~department's~~] office's disbursement of the money from the account under this section for the previous fiscal year; and

(b) include information regarding the disbursement of money from the account under this section in the annual report described in Section 35A-1-109.

Section 16. Section 35A-16-306, which is renumbered from Section 35A-8-608 is renumbered and amended to read:

[~~35A-8-608~~]. 35A-16-306. Grant eligible entity application process for Homeless Shelter Cities Mitigation Restricted Account funds.

(1) As used in this section:

(a) "Account" means the restricted account created in Section [~~35A-8-606~~] 35A-16-304.

[~~(b) "Committee" means the Homeless Coordinating Committee created in this part.~~]

[~~(c)~~] (b) "Grant" means an award of funds from the account.

[~~(d)~~] (c) "Grant eligible entity" means:

(i) the Department of Public Safety; or

(ii) a city, town, or metro township that:

(A) has a homeless shelter within the city's, town's, or metro township's geographic boundaries;

(B) has increased community, social service, or public safety service needs due to the location of a

homeless shelter within the city's, town's, or metro township's geographic boundaries; and

(C) is certified as a grant eligible entity in accordance with Section [~~35A-8-609~~] 35A-16-307.

[~~(e)~~] (d) "Homeless shelter" means a facility that:

(i) provides temporary shelter to homeless individuals;

(ii) has the capacity to provide temporary shelter to:

(A) for a county of the first or second class, at least 60 individuals per night; or

(B) for a county of the third, fourth, fifth, or sixth class, at least 25 individuals per night; and

(iii) operates year-round and is not subject to restrictions that limit the hours, days, weeks, or months of operation.

[~~(f)~~] (e) "Public safety services" means law enforcement, emergency medical services, and fire protection.

(2) Subject to the availability of funds, a grant eligible entity may request a grant to mitigate the impacts of the location of a homeless shelter:

(a) through employment of additional personnel to provide public safety services in and around a homeless shelter; or

(b) for a grant eligible entity that is a city, town, or metro township, through:

(i) development of a community and neighborhood program within the city's, town's, or metro township's boundaries; or

(ii) provision of social services within the city's, town's, or metro township's boundaries.

(3) (a) In accordance with Title 63G, Chapter 4, Administrative Procedures Act, the [~~department~~] office shall make rules governing:

(i) the process for determining whether there is sufficient revenue to the account to offer a grant program for the next fiscal year; and

(ii) the process for notifying grant eligible entities about the availability of grants for the next fiscal year.

(b) (i) If the [~~committee~~] homelessness council offers a grant program for the next fiscal year, the [~~committee~~] homelessness council shall set aside time on the agenda of a [~~committee~~] homelessness council meeting that occurs on or after July 1 and on or before November 30 to allow a grant eligible entity to present a request for account funds for the next fiscal year.

(ii) A grant eligible entity may present a request for account funds by:

(A) sending an electronic copy of the request to the [~~committee~~] homelessness council before the meeting; and

(B) appearing at the meeting to present the request.

(c) The request described in Subsection (3)(b) shall contain:

(i) for a grant request to develop a community and neighborhood program:

(A) a proposal outlining the components of a community and neighborhood program;

(B) a summary of the grant eligible entity's proposed use of any grant awarded; and

(C) the amount requested;

(ii) for a grant request to provide social services:

(A) a proposal outlining the need for additional social services;

(B) a summary of the grant eligible entity's proposed use of any grant awarded; and

(C) the amount requested;

(iii) for a grant request to employ additional personnel to provide public safety services:

(A) data relating to the grant eligible entity's public safety services for the current fiscal year, including crime statistics and calls for public safety services;

(B) data showing an increase in the grant eligible entity's need for public safety services in the next fiscal year;

(C) a summary of the grant eligible entity's proposed use of any grant awarded; and

(D) the amount requested; or

(iv) for a grant request to provide some combination of the activities described in Subsections (3)(c)(i) through (iii), the information required by this Subsection (3) for each activity for which the grant eligible entity requests a grant.

(d) (i) On or before November 30, a grant eligible entity that received a grant during the previous fiscal year shall file electronically with the [~~committee~~] homelessness council a report that includes:

(A) a summary of the amount of the grant that the grant eligible entity received and the grant eligible entity's specific use of those funds;

(B) an evaluation of the grant eligible entity's effectiveness in using the grant to address the grant eligible entity's increased needs due to the location of a homeless shelter; and

(C) any proposals for improving the grant eligible entity's effectiveness in using a grant that the grant eligible entity may receive in future fiscal years.

(ii) The [~~committee~~] homelessness council may request additional information as needed to make the evaluation described in Subsection (3)(e).

(e) The [~~committee~~] homelessness council shall evaluate a grant request made in accordance with this Subsection (3) using the following factors:

(i) the strength of the proposal that the grant eligible entity provides to support the request;

(ii) if the grant eligible entity received a grant during the previous fiscal year, the efficiency with which the grant eligible entity used the grant during the previous fiscal year;

(iii) the availability of alternative funding for the grant eligible entity to address the grant eligible entity's needs due to the location of a homeless shelter; and

(iv) any other considerations identified by the committee.

(f) (i) After making the evaluation described in Subsection (3)(e) for each grant eligible entity that makes a grant request and subject to other provisions of this Subsection (3)(f), the [~~committee~~] homelessness council shall vote to:

(A) prioritize the grant requests; and

(B) recommend a grant amount for each grant eligible entity.

(ii) The [~~committee~~] homelessness council shall support the prioritization and recommendation described in Subsection (3)(f)(i) with findings on each of the factors described in Subsection (3)(e).

(g) The [~~committee~~] homelessness council shall submit a list that prioritizes the grant requests and recommends a grant amount for each grant eligible entity that requested a grant to:

(i) the governor for inclusion in the governor's budget to be submitted to the Legislature; and

(ii) the Social Services Appropriations [~~Subcommitee~~] Subcommittee of the Legislature for approval in accordance with Section 63J-1-802.

(4) (a) Subject to Subsection (4)(b), the [~~department~~] office shall disburse the revenue in the account as a grant to a grant eligible entity:

(i) after making the disbursements required by Section [~~35A-8-607~~] 35A-16-305; and

(ii) subject to the availability of funds in the account:

(A) in the order of priority that the Legislature gives to each eligible grant entity under Section 63J-1-802; and

(B) in the amount that the Legislature approves to a grant eligible entity under Section 63J-1-802.

(b) In accordance with Title 63G, Chapter 4, Administrative Procedures Act, the [~~department~~] office shall make rules governing the process for the [~~department~~] office to determine the timeline within the fiscal year for funding the grants.

(5) On or before October 1, the [~~department~~] office, in cooperation with the [~~committee~~] homelessness council, shall:

(a) submit an annual written report electronically to the Social Services Appropriations Subcommittee of the Legislature that gives a complete accounting of the [~~department's~~] office's disbursement of the money from the account under this section for the previous fiscal year; and

(b) include information regarding the disbursement of money from the account under this section in the annual report described in Section 35A-1-109.

Section 17. Section 35A-16-307, which is renumbered from Section 35A-8-609 is renumbered and amended to read:

[~~35A-8-609~~]. 35A-16-307. Certification of eligible municipality or grant eligible entity.

(1) The [~~department~~] office shall certify each year, on or after July 1 and before the first meeting of the [~~Homeless Coordinating Committee~~] homelessness council after July 1, the cities or towns that meet the requirements of an eligible municipality or a grant eligible entity as of July 1.

(2) On or before October 1, the [~~department~~] office shall provide a list of the cities, towns, or metro townships that the [~~department~~] office has certified as meeting the requirements of an eligible municipality or a grant eligible entity for the year to the State Tax Commission.

Section 18. Section 59-10-1306 is amended to read:

59-10-1306. Homeless contribution -- Credit to Pamela Atkinson Homeless Account.

(1) Except as provided in Section 59-10-1304, a resident or nonresident individual that files an individual income tax return under this chapter may designate on the resident or nonresident individual's individual income tax return a contribution to the Pamela Atkinson Homeless Account as provided in this part.

(2) The commission shall:

(a) determine annually the total amount of contributions designated in accordance with this section; and

(b) credit the amount described in Subsection (2)(a) to the Pamela Atkinson Homeless Account created by Section [~~35A-8-603~~] 35A-16-301.

Section 19. Section 59-12-205 is amended to read:

59-12-205. Ordinances to conform with statutory amendments -- Distribution of tax revenue -- Determination of population.

(1) To maintain in effect sales and use tax ordinances adopted pursuant to Section 59-12-204, a county, city, or town shall adopt amendments to the county's, city's, or town's sales and use tax ordinances:

(a) within 30 days of the day on which the state makes an amendment to an applicable provision of Part 1, Tax Collection; and

(b) as required to conform to the amendments to Part 1, Tax Collection.

(2) Except as provided in Subsections (3) through (5) and subject to Subsection (6):

(a) 50% of each dollar collected from the sales and use tax authorized by this part shall be distributed to each county, city, and town on the basis of the percentage that the population of the county, city, or town bears to the total population of all counties, cities, and towns in the state; and

(b) (i) except as provided in Subsections (2)(b)(ii) and (iii), 50% of each dollar collected from the sales and use tax authorized by this part shall be distributed to each county, city, and town on the basis of the location of the transaction as determined under Sections 59-12-211 through 59-12-215;

(ii) 50% of each dollar collected from the sales and use tax authorized by this part within a project area described in a project area plan adopted by the military installation development authority under Title 63H, Chapter 1, Military Installation Development Authority Act, shall be distributed to the military installation development authority created in Section 63H-1-201; and

(iii) 50% of each dollar collected from the sales and use tax authorized by this part within a project area under Title 11, Chapter 58, Utah Inland Port Authority Act, shall be distributed to the Utah Inland Port Authority, created in Section 11-58-201.

(3) (a) Beginning on July 1, 2017, and ending on June 30, 2022, the commission shall distribute annually to a county, city, or town the distribution required by this Subsection (3) if:

(i) the county, city, or town is a:

(A) county of the third, fourth, fifth, or sixth class;

(B) city of the fifth class; or

(C) town;

(ii) the county, city, or town received a distribution under this section for the calendar year beginning on January 1, 2008, that was less than the distribution under this section that the county, city, or town received for the calendar year beginning on January 1, 2007;

(iii) (A) for a county described in Subsection (3)(a)(i)(A), the county had located within the unincorporated area of the county for one or more days during the calendar year beginning on January 1, 2008, an establishment described in NAICS Industry Group 2121, Coal Mining, or NAICS Code 213113, Support Activities for Coal Mining, of the 2002 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget; or

(B) for a city described in Subsection (3)(a)(i)(B) or a town described in Subsection (3)(a)(i)(C), the city or town had located within the city or town for one or more days during the calendar year beginning on January 1, 2008, an establishment described in NAICS Industry Group 2121, Coal Mining, or NAICS Code 213113, Support Activities for Coal Mining, of the 2002 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget; and

(iv) (A) for a county described in Subsection (3)(a)(i)(A), at least one establishment described in Subsection (3)(a)(iii)(A) located within the unincorporated area of the county for one or more days during the calendar year beginning on January 1, 2008, was not the holder of a direct payment permit under Section 59-12-107.1; or

(B) for a city described in Subsection (3)(a)(i)(B) or a town described in Subsection (3)(a)(i)(C), at least one establishment described in Subsection (3)(a)(iii)(B) located within a city or town for one or more days during the calendar year beginning on January 1, 2008, was not the holder of a direct payment permit under Section 59-12-107.1.

(b) The commission shall make the distribution required by this Subsection (3) to a county, city, or town described in Subsection (3)(a):

(i) from the distribution required by Subsection (2)(a); and

(ii) before making any other distribution required by this section.

(c) (i) For purposes of this Subsection (3), the distribution is the amount calculated by multiplying the fraction calculated under Subsection (3)(c)(ii) by $333,583.

(ii) For purposes of Subsection (3)(c)(i):

(A) the numerator of the fraction is the difference calculated by subtracting the distribution a county, city, or town described in Subsection (3)(a) received under this section for the calendar year beginning on January 1, 2008, from the distribution under this section that the county, city, or town received for the calendar year beginning on January 1, 2007; and

(B) the denominator of the fraction is $333,583.

(d) A distribution required by this Subsection (3) is in addition to any other distribution required by this section.

(4) (a) As used in this Subsection (4):

(i) "Eligible county, city, or town" means a county, city, or town that:

(A) for fiscal year 2012-13, received a tax revenue distribution under Subsection (4)(b) equal to the amount described in Subsection (4)(b)(ii); and

(B) does not impose a sales and use tax under Section 59-12-2103 on or before July 1, 2016.

(ii) "Minimum tax revenue distribution" means the total amount of tax revenue distributions an eligible county, city, or town received from a tax imposed in accordance with this part for fiscal year 2004-05.

(b) An eligible county, city, or town shall receive a tax revenue distribution for a tax imposed in accordance with this part equal to the greater of:

(i) the payment required by Subsection (2); or

(ii) the minimum tax revenue distribution.

(5) (a) For purposes of this Subsection (5):

(i) "Annual local contribution" means the lesser of $200,000 or an amount equal to 1.8% of the participating local government's tax revenue distribution amount under Subsection (2)(a) for the previous fiscal year.

(ii) "Participating local government" means a county or municipality, as defined in Section 10-1-104, that is not an eligible municipality or grant eligible entity certified in accordance with Section [~~35A-8-609~~] 35A-16-307.

(b) For revenue collected from the tax authorized by this part that is distributed on or after January 1, 2019, the commission, before making a tax revenue distribution under Subsection (2)(a) to a participating local government, shall:

(i) subtract one-twelfth of the annual local contribution for each participating local government from the participating local government's tax revenue distribution under Subsection (2)(a); and

(ii) deposit the amount described in Subsection (5)(b)(i) into the Homeless Shelter Cities Mitigation Restricted Account created in Section [~~35A-8-606~~] 35A-16-304.

(c) For a participating local government that qualifies to receive a distribution described in Subsection (3) or (4), the commission shall apply the provisions of this Subsection (5) after the commission applies the provisions of Subsections (3) and (4).

(6) (a) Population figures for purposes of this section shall be based on the most recent official census or census estimate of the United States Bureau of the Census.

(b) If a needed population estimate is not available from the United States Bureau of the Census, population figures shall be derived from the estimate from the Utah Population Committee.

(c) The population of a county for purposes of this section shall be determined only from the unincorporated area of the county.

Section 20. Section 63J-1-801 is amended to read:

63J-1-801. Definitions.

As used in this part:

(1) [~~"Committee"~~] "Council" means the [~~Homeless Coordinating Committee~~] Utah Homelessness Council created in Section [~~35A-8-601~~] 35A-16-204.

(2) "Eligible municipality" means a city of the third, fourth, or fifth class, a town, or a metro township that:

(a) has, or is proposed to have, a homeless shelter within the city's, town's, or metro township's geographic boundaries that:

(i) provides or is proposed to provide temporary shelter to homeless individuals;

(ii) has or is proposed to have the capacity to provide temporary shelter to at least 200 individuals per night; and

(iii) operates year-round and is not subject to restrictions that limit the hours, days, weeks, or months of operation; and

(b) due to the location of a homeless shelter within the city's, town's, or metro township's geographic boundaries, needs more public safety services than the city, town, or metro township needed before the location of the homeless shelter within the city's, town's, or metro township's geographic boundaries.

(3) "Grant eligible entity" means:

(a) the Department of Public Safety; or

(b) a city, town, or metro township that has:

(i) a homeless shelter within the city's, town's, or metro township's geographic boundaries that:

(A) provides temporary shelter to homeless individuals;

(B) has the capacity to provide temporary shelter to at least 60 individuals per night; and

(C) operates year-round and is not subject to restrictions that limit the hours, days, weeks, or months of operation; and

(ii) increased community, social service, or public safety service needs due to the location of a homeless shelter within the city's, town's, or metro township's geographic boundaries.

Section 21. Section 63J-1-802 is amended to read:

63J-1-802. Submission of council recommendations -- Adoption, procedure, and approval -- Appropriation.

(1) (a) On or before December 31, the [~~committee~~] council shall submit the [~~committee's~~] council's recommendation under [~~Subsection 35A-8-607(4)~~] Section 35A-16-305 for each eligible municipality that made a request:

(i) to the Social Services Appropriations Subcommittee of the Legislature; and

(ii) as an appropriations request.

(b) For each recommendation that the [~~committee~~] council submits, the Social Services Appropriations Subcommittee shall:

(i) approve the amount as recommended;

(ii) increase or decrease the amount and then approve the modified amount; or

(iii) reject the amount.

(2) (a) On or before December 31, the [~~committee~~] council shall submit the [~~committee's~~] council's list

prioritizing the grant requests and recommending a grant amount for each grant eligible entity that requested a grant:

(i) to the Social Services Appropriations Subcommittee of the Legislature; and

(ii) as an appropriations request.

(b) The Social Services Appropriations Subcommittee shall:

(i) approve the [~~committee's~~] council's list;

(ii) modify the [~~committee's~~] council's list and then approve the modified list; or

(iii) reject the [~~committee's~~] council's list.

(3) The Social Services Appropriations Subcommittee may submit the subcommittee's approvals under this section from the Homeless Shelter Cities Mitigation Restricted Account for inclusion in an appropriations act to be considered by the full Legislature.

Section 22. Section 63J-4-202 is amended to read:

63J-4-202. Appointment of executive director, state planning coordinator, and state homelessness coordinator.

(1) (a) The governor shall appoint, to serve at the governor's pleasure:

(i) an executive director of the Governor's Office of Management and Budget; [~~and~~]

(ii) a state planning coordinator[~~.~~]; and

(iii) a state homelessness coordinator.

(b) The state planning coordinator is considered part of the office for purposes of administration.

(c) The state homelessness coordinator shall serve as:

(i) an advisor to the governor on homelessness issues; and

(ii) the chief administrative officer of the Office of Homeless Services created in Section 35A-1-202.

(2) The governor shall establish the executive director's salary within the salary range fixed by the Legislature in Title 67, Chapter 22, State Officer Compensation.

Section 23. Repealer.

This bill repeals:

Section 35A-8-203, Duties of director.

Section 35A-8-601, Creation.

Section 35A-8-602, Purposes of Homeless Coordinating Committee -- Uses of Pamela Atkinson Homeless Account.

Section 24. Appropriation.

Subsection 24(a). Fiscal Year 2021 Appropriations.

The following sums of money are appropriated for the fiscal year beginning July 1, 2020, and ending June 30, 2021. These are additions to amounts otherwise appropriated for fiscal year 2021. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 1

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

From General Fund, One-time	$125,000

Schedule of Programs:

Administration	$125,000

Subsection 24(b). Fiscal Year 2022 Appropriations.

The following sums of money are appropriated for the fiscal year beginning July 1, 2021, and ending June 30, 2022. These are additions to amounts previously appropriated for fiscal year 2022. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 2

To Department of Workforce Services -- Housing and Community Development

From General Fund	($1,710,000)
From General Fund, One-time	($500)
From Federal Funds	($4,659,400)
From Federal Funds, One-time	($900)
From Federal Funds — CARES Act, One-time	($14,149,300)
From Dedicated Credits Revenue	($19,600)
From General Fund Restricted — Pamela Atkinson Homeless Account	($2,397,800)
From General Fund Restricted — Pamela Atkinson Homeless Account, One-time	($500)
From General Fund Restricted — Homeless Housing Reform Restricted Account	($12,797,400)
From General Fund Restricted — Homeless Housing UReform Restricted Account, One-time	($2,500)
From General Fund Restricted — Homeless Shelter Cities Mitigation Restricted Account	($5,306,700)
From General Fund Restricted — Homeless Shelter Cities Mitigation Restricted Account, One-time	($1,100)

Schedule of Programs:

Homeless Committee	($41,631,500)

Housing Development	$405,300
Community Services	$180,500

ITEM 3

To Department of Workforce Services -- Office of Homeless Services

From General Fund	$1,710,000
From General Fund, One-time	$500
From Federal Funds	$4,659,400
From Federal Funds, One-time	$900
From Federal Funds — CARES Act, One-time	$14,149,300
From Dedicated Credits Revenue	$19,600
From General Fund Restricted — Pamela Atkinson Homeless Account	$2,397,800
From General Fund Restricted — Pamela Atkinson Homeless Account, One-time	$500
From General Fund Restricted — Homeless Housing Reform Restricted Account	$12,797,400
From General Fund Restricted — Homeless Housing Reform Restricted Account, One-time	$2,500
From General Fund Restricted — Homeless Shelter Cities Mitigation Restricted Account	$5,306,700
From General Fund Restricted — Homeless Shelter Cities Mitigation Restricted Account, One-time	$1,100

Schedule of Programs:

Homeless Services	$41,045,700

The Legislature intends that:

(1) all the nonlapsing authority approved for retaining funds in fiscal year 2022 that were appropriated in fiscal year 2021 for the Department of Workforce Services' Housing and Community Development line item related to homelessness services, projects, and activities be authorized for use in the new line item for the Homeless Services Office in the Department of Workforce Services in fiscal year 2022;

(2) under Section 63J-1-603, up to $500,000 of General Fund appropriations provided in Item 72 of Chapter 5, Laws of Utah 2020, for the Department of Workforce Services' Housing and Community Development line item, not lapse at the close of fiscal year 2021;

(3) the use of any nonlapsing funds described in Subsection (2) is limited to the purchase of equipment and software, one-time studies, one-time projects, time-limited, temporary personnel or contractor costs, and one-time training; and

(4) in accordance with Section 63J-1-201, the Department of Workforce Services report performance measures for the Office of Homeless Services line item, including that the Department of Workforce Services shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget the current status of the following performance measure for fiscal year 2022: (1) Homelessness Programs -- reduce the average length of stay in emergency shelters (target 10%).

ITEM 4

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

From General Fund	$225,000

Schedule of Programs:

Administration	$225,000

Section 25. Effective date.

(1) The amendments to Section 63J-4-202 and the appropriations described in Section 24, Subsection 24(a), Fiscal Year 2021 Appropriations, in this bill take effect on May 5, 2021.

(2) Except as provided in Subsection (1), this bill takes effect on July 1, 2021.

CHAPTER 282
H. B. 348
Passed March 3, 2021
Approved March 17, 2021
Effective July 1, 2021

ECONOMIC DEVELOPMENT AMENDMENTS

Chief Sponsor: Timothy D. Hawkes
Senate Sponsor: Ann Millner

LONG TITLE

General Description:

This bill modifies provisions related to economic development.

Highlighted Provisions:

This bill:

- defines terms;
- renames the Governor's Office of Economic Development as the Governor's Office of Economic Opportunity (GO Utah office);
- extends the deadline by which the GO Utah office must create a database to track certain information related to community reinvestment agencies;
- modifies Utah Futures by renaming the program, moving the program under the Utah Board of Higher Education, and modifying certain requirements;
- establishes the Unified Economic Opportunity Commission (commission) to develop, direct, and coordinate a statewide economic development strategy;
- modifies the duties of the GO Utah office to include implementing the statewide economic development strategy developed by the commission;
- provides the commission authority to create one or more subcommittees related to specified issues;
- creates the following commission subcommittees:
  - the Business and Economic Development Subcommittee, formerly called the Board of Business and Economic Development; and
  - the Talent, Education, and Industry Alignment Subcommittee, formerly the Talent Ready Utah Board;
- modifies provisions related to economic development tax increment financing;
- requires the GO Utah office to submit an annual report to certain state entities that gives an overview of the implementation and efficacy of the statewide economic development strategy;
- creates a talent development grant program for businesses that create new incremental high paying jobs in the state;
- directs the Utah Office of Outdoor Recreation to promote all forms of outdoor recreation, including vehicular and non-vehicular;
- creates the Utah Broadband Center and addresses its operations and duties;
- establishes the Broadband Access Grant Program;
- repeals the Governor's Rural Partnership Board;
- repeals the Governor's Economic Development Coordinating Council;
- repeals the Technology Commercialization and Innovation Act;
- repeals the Utah Business Resource Centers Act; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

This bill appropriates in fiscal year 2022:

- to Economic Development - Business Development - Corporate Recruitment and Business Services as an ongoing appropriation:
  - from the General Fund, $767,100;
- to Economic Development - Business Development - Outreach and International Trade as an ongoing appropriation:
  - from the General Fund, $75,000;
- to Economic Development - Administration - Administration as an ongoing appropriation:
  - from the General Fund, $75,000;
- to the Legislature - Senate - Administration as an ongoing appropriation:
  - from the General Fund, $3,200; and
- to the Legislature - House of Representatives - Administration as an ongoing appropriation:
  - from the General Fund, $3,200.

Other Special Clauses:

This bill provides a special effective date.

This bill provides revisor instructions.

This bill provides a coordination clause.

Utah Code Sections Affected:

AMENDS:

9-6-903, as enacted by Laws of Utah 2020, Fifth Special Session, Chapter 12
9-9-104.6, as last amended by Laws of Utah 2020, Chapters 236 and 365
9-22-102, as renumbered and amended by Laws of Utah 2019, Chapter 487
11-17-18, as last amended by Laws of Utah 2005, Chapter 148
11-58-901, as enacted by Laws of Utah 2018, Chapter 179
11-59-302, as last amended by Laws of Utah 2020, Chapters 152 and 365
11-59-304, as last amended by Laws of Utah 2020, Chapter 152
11-59-501, as last amended by Laws of Utah 2020, Chapter 152
17-31-5.5, as last amended by Laws of Utah 2020, Chapter 315
17-31-9, as last amended by Laws of Utah 2015, Chapter 283
17-54-102, as enacted by Laws of Utah 2020, Chapter 360
17-54-103, as enacted by Laws of Utah 2020, Chapter 360
17C-1-603, as last amended by Laws of Utah 2019, Chapter 21
17D-1-507, as enacted by Laws of Utah 2008, Chapter 360
35A-1-104.5, as last amended by Laws of Utah 2020, Chapter 354
35A-1-109, as last amended by Laws of Utah 2018, Chapter 423
35A-1-201, as last amended by Laws of Utah 2020, Chapter 352

35A-6-105, as last amended by Laws of Utah 2020, Chapter 365
41-6a-1626, as last amended by Laws of Utah 2019, Chapter 461
49-11-406, as last amended by Laws of Utah 2020, Chapter 24
53B-1-114, as last amended by Laws of Utah 2020, Chapter 365
53B-1-301, as last amended by Laws of Utah 2020, Chapters 365 and 403
53B-7-702, as last amended by Laws of Utah 2020, Chapter 365
53B-7-704, as enacted by Laws of Utah 2017, Chapter 365
53B-8-304, as enacted by Laws of Utah 2019, Chapter 444
53B-10-201, as last amended by Laws of Utah 2020, Chapter 365
53B-10-203, as enacted by Laws of Utah 2018, Chapter 402
53B-26-102, as last amended by Laws of Utah 2019, Chapters 136 and 357
53B-26-103, as last amended by Laws of Utah 2020, Chapter 365
53B-26-303, as enacted by Laws of Utah 2020, Chapter 361
54-4-41, as enacted by Laws of Utah 2020, Chapter 217
59-1-403, as last amended by Laws of Utah 2020, Chapter 294
59-7-159, as last amended by Laws of Utah 2019, Chapters 247 and 465
59-7-614.2, as last amended by Laws of Utah 2016, Third Special Session, Chapter 1
59-7-614.5, as last amended by Laws of Utah 2016, Third Special Session, Chapter 1
59-7-614.10, as last amended by Laws of Utah 2020, Chapter 354
59-7-621, as enacted by Laws of Utah 2017, Chapter 274
59-7-624, as last amended by Laws of Utah 2020, Chapter 354
59-10-137, as last amended by Laws of Utah 2019, Chapters 247 and 465
59-10-1037, as last amended by Laws of Utah 2020, Chapter 354
59-10-1038, as enacted by Laws of Utah 2017, Chapter 274
59-10-1107, as last amended by Laws of Utah 2016, Third Special Session, Chapter 1
59-10-1108, as last amended by Laws of Utah 2016, Third Special Session, Chapter 1
59-10-1112, as last amended by Laws of Utah 2020, Chapter 354
63A-3-111, as enacted by Laws of Utah 2020, Fifth Special Session, Chapter 12
63B-18-401, as last amended by Laws of Utah 2019, Chapters 327, 479, and 497
63B-24-201, as last amended by Laws of Utah 2018, Chapter 406
63C-17-103, as enacted by Laws of Utah 2016, Chapter 156
63C-17-105, as enacted by Laws of Utah 2016, Chapter 156
63G-21-102, as last amended by Laws of Utah 2018, Chapter 281
63G-21-201, as last amended by Laws of Utah 2018, Chapter 261
63H-1-801, as last amended by Laws of Utah 2009, Chapters 92 and 388
63H-2-204, as last amended by Laws of Utah 2012, Chapter 37
63I-1-235, as last amended by Laws of Utah 2020, Chapters 154 and 417
63I-1-263, as last amended by Laws of Utah 2020, Chapters 82, 152, 154, 199, 230, 303, 322, 336, 354, 360, 375, 405 and last amended by Coordination Clause, Laws of Utah 2020, Chapter 360
63I-2-263, as last amended by Laws of Utah 2020, Fifth Special Session, Chapter 12
63J-4-301, as last amended by Laws of Utah 2018, Chapters 423 and 469
63J-4-708, as last amended by Laws of Utah 2018, Chapter 423
63L-2-301, as last amended by Laws of Utah 2020, Chapter 168
63M-5-306, as renumbered and amended by Laws of Utah 2008, Chapter 382
63M-6-201, as renumbered and amended by Laws of Utah 2008, Chapter 382
63M-6-202, as renumbered and amended by Laws of Utah 2008, Chapter 382
63M-6-203, as renumbered and amended by Laws of Utah 2008, Chapter 382
63M-11-201, as last amended by Laws of Utah 2019, Chapter 246
63N-2-103, as last amended by Laws of Utah 2019, Chapters 399, 465, 498 and last amended by Coordination Clause, Laws of Utah 2019, Chapter 465
63N-2-104, as last amended by Laws of Utah 2018, Chapter 281
63N-2-105, as last amended by Laws of Utah 2016, Chapter 350
63N-2-106, as last amended by Laws of Utah 2016, Third Special Session, Chapter 1
63N-2-107, as last amended by Laws of Utah 2016, Chapter 350
63N-2-203, as last amended by Laws of Utah 2020, Chapter 360
63N-2-213, as last amended by Laws of Utah 2020, Chapter 360
63N-2-303, as last amended by Laws of Utah 2017, Chapter 352
63N-2-503, as last amended by Laws of Utah 2019, Chapter 136
63N-2-504, as last amended by Laws of Utah 2019, Chapter 136
63N-2-510, as last amended by Laws of Utah 2015, Chapter 417 and renumbered and amended by Laws of Utah 2015, Chapter 283
63N-2-512, as last amended by Laws of Utah 2016, Chapter 291
63N-2-808, as last amended by Laws of Utah 2016, Chapter 354
63N-2-810, as last amended by Laws of Utah 2016, Third Special Session, Chapter 1
63N-3-102, as last amended by Laws of Utah 2018, Chapter 428

63N-3-103, as last amended by Laws of Utah 2018, Chapters 204 and 428
63N-3-105, as last amended by Laws of Utah 2019, Chapter 325
63N-3-106, as last amended by Laws of Utah 2016, Chapters 34 and 183
63N-3-109, as last amended by Laws of Utah 2020, Chapter 265
63N-3-111, as last amended by Laws of Utah 2018, Chapter 182
63N-3-204, as last amended by Laws of Utah 2018, Chapter 453
63N-4-101, as renumbered and amended by Laws of Utah 2015, Chapter 283
63N-4-102, as renumbered and amended by Laws of Utah 2015, Chapter 283
63N-4-103, as renumbered and amended by Laws of Utah 2015, Chapter 283
63N-4-104, as last amended by Laws of Utah 2020, Chapter 360
63N-4-105, as renumbered and amended by Laws of Utah 2015, Chapter 283
63N-4-106, as renumbered and amended by Laws of Utah 2015, Chapter 283
63N-4-205, as renumbered and amended by Laws of Utah 2015, Chapter 283
63N-4-403, as enacted by Laws of Utah 2018, Chapter 340
63N-4-704, as enacted by Laws of Utah 2020, Chapter 360
63N-7-201, as renumbered and amended by Laws of Utah 2015, Chapter 283
63N-8-102, as renumbered and amended by Laws of Utah 2015, Chapter 283
63N-8-103, as last amended by Laws of Utah 2019, First Special Session, Chapter 3
63N-8-104, as last amended by Laws of Utah 2020, Chapter 357
63N-8-105, as renumbered and amended by Laws of Utah 2015, Chapter 283
63N-9-104, as last amended by Laws of Utah 2016, Chapter 88
63N-9-106, as last amended by Laws of Utah 2019, Chapter 506
63N-9-203, as last amended by Laws of Utah 2017, Chapter 166
63N-9-403, as enacted by Laws of Utah 2019, Chapter 506
63N-13-101, as renumbered and amended by Laws of Utah 2015, Chapter 283
63N-15-103, as last amended by Laws of Utah 2020, Sixth Special Session, Chapter 19
72-1-209, as last amended by Laws of Utah 2005, Chapter 148
72-4-302, as last amended by Laws of Utah 2019, Chapter 246
72-7-504, as last amended by Laws of Utah 2017, Chapter 260
79-4-1103, as last amended by Laws of Utah 2015, Chapter 283

ENACTS:
53B-30-101, Utah Code Annotated 1953
53B-30-102, Utah Code Annotated 1953
63N-1a-103, Utah Code Annotated 1953
63N-1a-201, Utah Code Annotated 1953
63N-1a-202, Utah Code Annotated 1953
63N-1b-101, Utah Code Annotated 1953
63N-1b-102, Utah Code Annotated 1953
63N-3-112, Utah Code Annotated 1953
63N-16-101, Utah Code Annotated 1953
63N-16-102, Utah Code Annotated 1953
63N-16-201, Utah Code Annotated 1953
63N-16-301, Utah Code Annotated 1953
63N-16-302, Utah Code Annotated 1953

RENUMBERS AND AMENDS:
53B-30-201, (Renumbered from 63N-12-509, as renumbered and amended by Laws of Utah 2019, Chapter 246)
63N-1a-101, (Renumbered from 63N-1-101, as renumbered and amended by Laws of Utah 2015, Chapter 283)
63N-1a-102, (Renumbered from 63N-1-102, as last amended by Laws of Utah 2019, Chapter 465)
63N-1a-301, (Renumbered from 63N-1-201, as last amended by Laws of Utah 2019, Chapter 246)
63N-1a-302, (Renumbered from 63N-1-202, as last amended by Laws of Utah 2020, Chapter 352)
63N-1a-303, (Renumbered from 63N-1-203, as last amended by Laws of Utah 2018, Chapter 423)
63N-1a-304, (Renumbered from 63N-1-204, as renumbered and amended by Laws of Utah 2015, Chapter 283)
63N-1a-305, (Renumbered from 63N-1-205, as enacted by Laws of Utah 2020, Chapter 154)
63N-1a-306, (Renumbered from 63N-1-301, as last amended by Laws of Utah 2020, Chapter 365)
63N-1b-201, (Renumbered from 63N-1-401, as last amended by Laws of Utah 2020, Chapters 352 and 373)
63N-1b-202, (Renumbered from 63N-1-402, as renumbered and amended by Laws of Utah 2015, Chapter 283)
63N-1b-301, (Renumbered from 63N-12-503, as last amended by Laws of Utah 2020, Chapter 365)
63N-1b-302, (Renumbered from 63N-12-502, as enacted by Laws of Utah 2018, Chapter 423)
63N-1b-303, (Renumbered from 63N-12-504, as last amended by Laws of Utah 2019, Chapter 427)
63N-1b-304, (Renumbered from 63N-12-505, as last amended by Laws of Utah 2020, Chapter 164 and last amended by Coordination Clause, Laws of Utah 2020, Chapter 365)
63N-1b-305, (Renumbered from 63N-12-506, as last amended by Laws of Utah 2020, Sixth Special Session, Chapter 19)
63N-1b-306, (Renumbered from 63N-12-507, as last amended by Laws of Utah 2020, Chapter 164 and last amended by Coordination Clause, Laws of Utah 2020, Chapter 365)

63N-1b-307, (Renumbered from 63N-12-508, as last amended by Laws of Utah 2020, Sixth Special Session, Chapter 19)
63N-16-202, (Renumbered from 63N-3-501, as enacted by Laws of Utah 2018, Chapter 182)

REPEALS:
63C-10-101, as enacted by Laws of Utah 2004, Chapter 73
63C-10-102, as last amended by Laws of Utah 2014, Chapter 259
63C-10-103, as last amended by Laws of Utah 2020, Chapter 360
63N-1-501, as last amended by Laws of Utah 2020, Chapters 352, 354, and 360
63N-1-502, as renumbered and amended by Laws of Utah 2015, Chapter 283
63N-3-108, as renumbered and amended by Laws of Utah 2015, Chapter 283
63N-3-109.5, as enacted by Laws of Utah 2016, Chapter 34
63N-3-201, as renumbered and amended by Laws of Utah 2015, Chapter 283
63N-3-202, as renumbered and amended by Laws of Utah 2015, Chapter 283
63N-3-203, as renumbered and amended by Laws of Utah 2015, Chapter 283
63N-3-205, as renumbered and amended by Laws of Utah 2015, Chapter 283
63N-3-301, as renumbered and amended by Laws of Utah 2015, Chapter 283
63N-3-302, as renumbered and amended by Laws of Utah 2015, Chapter 283
63N-3-303, as renumbered and amended by Laws of Utah 2015, Chapter 283
63N-3-304, as last amended by Laws of Utah 2016, Chapter 253
63N-3-305, as last amended by Laws of Utah 2016, Chapter 253
63N-3-306, as last amended by Laws of Utah 2016, Chapter 253
63N-3-307, as last amended by Laws of Utah 2016, Chapter 253
63N-12-501, as last amended by Laws of Utah 2020, Chapter 164

Utah Code Sections Affected by Coordination Clause:
63N-2-104, as last amended by Laws of Utah 2018, Chapter 281

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

Section 1. Section 9-6-903 is amended to read:

9-6-903. Duties of the division.

(1) As soon as is practicable but on or before July 31, 2020, the division shall:

(a) establish an application process by which a qualified organization may apply for a grant under this part, which application shall include:

(i) a declaration, signed under penalty of perjury, that the application is complete, true, and correct and any estimates about the net costs to provide the cultural, artistic, botanical, recreational, or zoological activity are made in good faith;

(ii) an acknowledgment that the qualified organization is subject to audit; and

(iii) a plan for providing the activity described in Subsection 9-6-902(2)(a);

(b) establish a method for the office, in consultation with the Governor's Office of Economic [~~Development~~] Opportunity for recreational applicants, to determine which applicants are eligible to receive a grant;

(c) establish a formula to award grant funds; and

(d) report the information described in Subsections (1)(a) through (c) to the director of the Division of Finance.

(2) The division shall:

(a) participate in the presentation that the director of the Division of Finance provides to the legislative committee under Section 63A-3-111; and

(b) consider any recommendations for adjustments to the grant program from the legislative committee.

(3) Subject to appropriation, beginning on August 5, 2020, the division shall:

(a) collect applications for grant funds from qualified organizations;

(b) determine, in consultation with the Governor's Office of Economic [~~Development~~] Opportunity for recreational applicants, which applicants meet the eligibility requirements for receiving a grant; and

(c) award the grant funds:

(i) (A) after an initial application period that ends on or before August 31, 2020; and

(B) if funds remain after the initial application period, on a rolling basis until the earlier of funds being exhausted or December 30, 2020; and

(ii) in accordance with the process established under Subsection (1) and the limit described in Subsection 9-6-902(3).

(4) The division shall encourage any qualified organization that receives grant funds to commit to following best practices to protect the health and safety of the qualified organization's employees and customers.

(5) (a) The division may audit a qualified organization's reported net cost to provide a cultural, artistic, botanical, recreational, or zoological activity.

(b) The division may recapture grant funds if, after audit, the division determines that:

(i) if a qualified organization made representations about the qualified organization's actual net cost to provide the cultural, artistic, botanical, recreational, or zoological activity, the representations are not complete, true, and correct; or

(ii) if a qualified organization made representations about the qualified organization's

estimated net cost to provide the cultural, artistic, botanical, recreational, or zoological activity, the representations are not made in good faith.

(c) (i) A qualified organization that is subject to recapture shall pay to the Division of Finance a penalty equal to the amount of the grant recaptured multiplied by the applicable income tax rate in Section 59-7-104 or 59-10-104.

(ii) The Division of Finance shall deposit the penalty into the Education Fund.

(6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division may make rules to administer the grant program.

Section 2. Section 9-9-104.6 is amended to read:

9-9-104.6. Participation of state agencies in meetings with tribal leaders -- Contact information.

(1) For at least three of the joint meetings described in Subsection 9-9-104.5(2)(a), the division shall coordinate with representatives of tribal governments and the entities listed in Subsection (2) to provide for the broadest participation possible in the joint meetings.

(2) The following may participate in all meetings described in Subsection (1):

(a) the chairs of the Native American Legislative Liaison Committee created in Section 36-22-1;

(b) the governor or the governor's designee;

(c) the American Indian-Alaska Native Health Liaison appointed in accordance with Section 26-7-2.5;

(d) the American Indian-Alaska Native Public Education Liaison appointed in accordance with Section 53F-5-604; and

(e) a representative appointed by the chief administrative officer of the following:

(i) the Department of Human Services;

(ii) the Department of Natural Resources;

(iii) the Department of Workforce Services;

(iv) the Governor's Office of Economic [~~Development~~] Opportunity;

(v) the State Board of Education; and

(vi) the Utah Board of Higher Education.

(3) (a) The chief administrative officer of the agencies listed in Subsection (3)(b) shall:

(i) designate the name of a contact person for that agency that can assist in coordinating the efforts of state and tribal governments in meeting the needs of the Native Americans residing in the state; and

(ii) notify the division:

(A) who is the designated contact person described in Subsection (3)(a)(i); and

(B) of any change in who is the designated contact person described in Subsection (3)(a)(i).

(b) This Subsection (3) applies to:

(i) the Department of Agriculture and Food;

(ii) the Department of Heritage and Arts;

(iii) the Department of Corrections;

(iv) the Department of Environmental Quality;

(v) the Department of Public Safety;

(vi) the Department of Transportation;

(vii) the Office of the Attorney General;

(viii) the State Tax Commission; and

(ix) any agency described in Subsections (2)(c) through (e).

(c) At the request of the division, a contact person listed in Subsection (3)(b) may participate in a meeting described in Subsection (1).

(4) (a) A participant under this section who is not a legislator may not receive compensation or benefits for the participant's service, but may receive per diem and travel expenses as allowed in:

(i) Section 63A-3-106;

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

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

(b) Compensation and expenses of a participant who is a legislator are governed by Section 36-2-2 and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.

Section 3. Section 9-22-102 is amended to read:

9-22-102. Definitions.

As used in this chapter:

(1) "Computing partnerships" means a set of skills, knowledge, and aptitudes used in computer science, information technology, or computer engineering courses and career options.

(2) "Director" means the director appointed by the STEM board to oversee the administration of the STEM Action Center.

(3) "Educator" means the same as that term is defined in Section 53E-6-102.

(4) "Foundation" means a foundation established as described in Subsections 9-22-104(3) and (4).

(5) "Fund" means the STEM Action Center Foundation Fund created in Section 9-22-105.

(6) "Grant program" means the Computing Partnerships Grants program created in this part.

(7) "High quality professional development" means professional development that meets high quality standards developed by the State Board of Education.

(8) "Institution of higher education" means an institution listed in Section 53B-1-102.

(9) "K-16" means kindergarten through grade 12 and post-secondary education programs.

(10) "Provider" means a provider selected on behalf of the STEM board by the staff of the STEM board and the staff of the State Board of Education:

(a) through a request for proposals process; or

(b) through a direct award or sole source procurement process for a pilot described in Section 9-22-107.

(11) "Review committee" means the committee established under Section 9-22-114.

(12) "Stacked credentials" means credentials that:

(a) an individual can build upon to access an advanced job or higher wage;

(b) are part of a career pathway system;

(c) provide a pathway culminating in the equivalent of an associate's or bachelor's degree;

(d) facilitate multiple exit and entry points; and

(e) recognize sub-goals or momentum points.

(13) "STEM" means science, technology, engineering, and mathematics.

(14) "STEM Action Center" means the center described in Section 9-22-106.

(15) "STEM board" means the STEM Action Center Board created in Section 9-22-103.

(16) "Talent Ready [~~Utah~~] Program" means the Talent Ready Utah [~~Center~~] Program created in Section [~~63N-12-502~~] 63N-1b-302.

Section 4. Section 11-17-18 is amended to read:

11-17-18. Powers of Governor's Office of Economic Opportunity.

For purposes of this chapter and for the purposes of the Utah Interlocal Cooperation Act, the Governor's Office of Economic [~~Development~~] Opportunity has all the powers set out in this chapter of, and is subject to the same limitations as, a municipality as though the office were defined as a municipality for purposes of this chapter, but it shall have such powers with respect to economic development or new venture investment fund projects only. It is not authorized to exercise such powers in any manner which will create general obligations of the state or any agency, department, division, or political subdivision thereof.

Section 5. Section 11-58-901 is amended to read:

11-58-901. Dissolution of port authority -- Restrictions -- Notice of dissolution -- Disposition of port authority property -- Port authority records -- Dissolution expenses.

(1) The authority may not be dissolved unless the authority has no outstanding bonded indebtedness, other unpaid loans, indebtedness, or advances, and no legally binding contractual obligations with persons or entities other than the state.

(2) Upon the dissolution of the authority:

(a) the Governor's Office of Economic [~~Development~~] Opportunity shall publish a notice of dissolution:

(i) in a newspaper of general circulation in the county in which the dissolved authority is located; and

(ii) as required in Section 45-1-101; and

(b) all title to property owned by the authority vests in the state.

(3) The books, documents, records, papers, and seal of each dissolved authority shall be deposited for safekeeping and reference with the state auditor.

(4) The authority shall pay all expenses of the deactivation and dissolution.

Section 6. Section 11-59-302 is amended to read:

11-59-302. Number of board members -- Appointment -- Vacancies -- Chairs.

(1) The board shall consist of 11 members as provided in Subsection (2).

(2) (a) The president of the Senate shall appoint two members of the Senate to serve as members of the board.

(b) The speaker of the House of Representatives shall appoint two members of the House of Representatives to serve as members of the board.

(c) The governor shall appoint four individuals to serve as members of the board:

(i) one of whom shall be a member of the board of or employed by the Governor's Office of Economic [~~Development~~] Opportunity, created in Section [~~63N-1-201~~] 63N-1a-301; and

(ii) one of whom shall be an employee of the Division of Facilities Construction and Management, created in Section 63A-5b-301.

(d) The Salt Lake County mayor shall appoint one board member, who shall be an elected Salt Lake County government official.

(e) The mayor of Draper, or a member of the Draper city council that the mayor designates, shall serve as a board member.

(f) The commissioner of higher education, appointed under Section 53B-1-408, or the commissioner's designee, shall serve as a board member.

(3) (a) (i) Subject to Subsection (3)(a)(ii), a vacancy on the board shall be filled in the same manner under this section as the appointment of the member whose vacancy is being filled.

(ii) If the mayor of Draper or commissioner of higher education is removed as a board member under Subsection (5), the mayor of Draper or

commissioner of higher education, as the case may be, shall designate an individual to serve as a member of the board, as provided in Subsection (2)(e) or (f), respectively.

(b) Each person appointed or designated to fill a vacancy shall serve the remaining unexpired term of the member whose vacancy the person is filling.

(4) A member of the board appointed by the governor, president of the Senate, or speaker of the House of Representatives serves at the pleasure of and may be removed and replaced at any time, with or without cause, by the governor, president of the Senate, or speaker of the House of Representatives, respectively.

(5) A member of the board may be removed by a vote of two-thirds of all members of the board.

(6) (a) The governor shall appoint one board member to serve as cochair of the board.

(b) The president of the Senate and speaker of the House of Representatives shall jointly appoint one legislative member of the board to serve as cochair of the board.

Section 7. Section 11-59-304 is amended to read:

11-59-304. Staff and other support services -- Cooperation from state and local government entities.

(1) As used in this section:

(a) "Division" means the Division of Facilities Construction and Management, created in Section 63A-5b-301.

(b) "Office" means the Governor's Office of Economic [~~Development~~] Opportunity, created in Section [~~63N-1-201~~] 63N-1a-301.

(2) If and as requested by the board:

(a) the division shall:

(i) provide staff support to the board; and

(ii) make available to the board existing division resources and expertise to assist the board in the development, marketing, and disposition of the point of the mountain state land; and

(b) the office shall cooperate with and provide assistance to the board in the board's:

(i) formulation of a development plan for the point of the mountain state land; and

(ii) management and implementation of a development plan, including the marketing of property and recruitment of businesses and others to locate on the point of the mountain state land.

(3) A department, division, or other agency of the state and a political subdivision of the state shall cooperate with the authority and the board to the fullest extent possible to provide whatever support, information, or other assistance the board requests that is reasonably necessary to help the authority fulfill its duties and responsibilities under this chapter.

Section 8. Section 11-59-501 is amended to read:

11-59-501. Dissolution of authority -- Restrictions -- Publishing notice of dissolution -- Authority records -- Dissolution expenses.

(1) The authority may not be dissolved unless:

(a) the authority board first receives approval from the Legislative Management Committee of the Legislature to dissolve the authority; and

(b) the authority has no outstanding bonded indebtedness, other unpaid loans, indebtedness, or advances, and no legally binding contractual obligations with persons or entities other than the state.

(2) To dissolve the authority, the board shall:

(a) obtain the approval of the Legislative Management Committee of the Legislature; and

(b) adopt a resolution dissolving the authority, to become effective as provided in the resolution.

(3) Upon the dissolution of the authority:

(a) the Governor's Office of Economic [~~Development~~] Opportunity shall publish a notice of dissolution:

(i) in a newspaper of general circulation in the county in which the dissolved authority is located; and

(ii) as required in Section 45-1-101; and

(b) all title to property owned by the authority vests in the Division of Facilities Construction and Management, created in Section 63A-5b-301, for the benefit of the state.

(4) The board shall deposit all books, documents, records, papers, and seal of the dissolved authority with the state auditor for safekeeping and reference.

(5) The authority shall pay all expenses of the deactivation and dissolution.

Section 9. Section 17-31-5.5 is amended to read:

17-31-5.5. Report to county legislative body -- Content.

(1) The legislative body of each county that imposes a transient room tax under Section 59-12-301 or a tourism, recreation, cultural, convention, and airport facilities tax under Section 59-12-603 shall prepare annually a report in accordance with Subsection (2).

(2) The report described in Subsection (1) shall include a breakdown of expenditures into the following categories:

(a) for the transient room tax, identification of expenditures for:

(i) establishing and promoting:

(A) recreation;

(B) tourism;

(C) film production; and

(D) conventions;

(ii) acquiring, leasing, constructing, furnishing, or operating:

(A) convention meeting rooms;

(B) exhibit halls;

(C) visitor information centers;

(D) museums; and

(E) related facilities;

(iii) acquiring or leasing land required for or related to the purposes listed in Subsection (2)(a)(ii);

(iv) mitigation costs as identified in Subsection 17-31-2(2)(d); and

(v) making the annual payment of principal, interest, premiums, and necessary reserves for any or the aggregate of bonds issued to pay for costs referred to in Subsections 17-31-2(2)(e) and (5)(a); and

(b) for the tourism, recreation, cultural, convention, and airport facilities tax, identification of expenditures for:

(i) financing tourism promotion, which means an activity to develop, encourage, solicit, or market tourism that attracts transient guests to the county, including planning, product development, and advertising;

(ii) the development, operation, and maintenance of the following facilities as defined in Section 59-12-602:

(A) an airport facility;

(B) a convention facility;

(C) a cultural facility;

(D) a recreation facility; and

(E) a tourist facility; and

(iii) a pledge as security for evidences of indebtedness under Subsection 59-12-603(3).

(3) For the transient room tax, the report described in Subsection (1) shall include a breakdown of each expenditure described in Subsection (2)(a)(i), including:

(a) whether the expenditure was used for in-state and out-of-state promotion efforts;

(b) an explanation of how the expenditure targeted a cost created by tourism; and

(c) an accounting of the expenditure showing that the expenditure was used only for costs directly related to a cost created by tourism.

(4) A county legislative body shall provide a copy of the report described in Subsection (1) to:

(a) the Utah Office of Tourism within the Governor's Office of Economic [~~Development~~] Opportunity;

(b) its tourism tax advisory board; and

(c) the Office of the Legislative Fiscal Analyst.

Section 10. Section 17-31-9 is amended to read:

17-31-9. Payment to Stay Another Day and Bounce Back Fund and Hotel Impact Mitigation Fund.

A county in which a qualified hotel, as defined in Section 63N-2-502, is located shall:

(1) make an annual payment to the Division of Finance:

(a) for deposit into the Stay Another Day and Bounce Back Fund, established in Section 63N-2-511;

(b) for any year in which the Governor's Office of Economic [~~Development issues a tax credit certificate~~] Opportunity provides a convention incentive, as defined in Section 63N-2-502; and

(c) in the amount of 5% of the state portion, as defined in Section 63N-2-502; and

(2) make payments to the Division of Finance:

(a) for deposit into the Hotel Impact Mitigation Fund, created in Section 63N-2-512;

(b) for each year described in Subsection 63N-2-512(5)(a)(ii) during which the balance of the Hotel Impact Mitigation Fund, defined in Section 63N-2-512, is less than $2,100,000 before any payment for that year under Subsection 63N-2-512(5)(a); and

(c) in the amount of the difference between $2,100,000 and the balance of the Hotel Impact Mitigation Fund, defined in Section 63N-2-512, before any payment for that year under Subsection 63N-2-512(5)(a).

Section 11. Section 17-54-102 is amended to read:

17-54-102. Definitions.

(1) "CED board" means a County Economic Development Advisory Board as described in Section 17-54-104.

(2) "Center for Rural Development" means the Center for Rural Development created in Section 63N-4-102.

(3) "GO Utah board" means the Business and Economic Development Subcommittee created in Section 63N-1b-202.

[~~(2)~~] (4) "Grant" means a grant available under the Rural County Grant Program created in Section 17-54-103.

[~~(3)~~] (5) "Grant program" means the Rural County Grant Program created in Section 17-54-103.

[~~(4) "Office of Rural Development" means the Office of Rural Development created within the Governor's Office of Economic Development in Section 63N-4-102.~~]

[~~(5)~~] (6) "Rural county" means a county of the third, fourth, fifth, or sixth class.

[~~(6) "Rural partnership board" means the Governor's Rural Partnership Board created in Section 63C-10-102.~~]

Section 12. Section 17-54-103 is amended to read:

17-54-103. Rural County Grant Program.

(1) There is created the Rural County Grant Program.

(2) The grant program shall be overseen by the [~~rural partnership~~] GO Utah board and administered by the [~~Office of~~] Center for Rural Development.

(3) (a) In overseeing the grant program, the [~~rural partnership~~] GO Utah board shall recommend the awarding of grants to rural counties to address the economic development needs of rural counties, in accordance with the provisions of this chapter, which needs may include:

(i) business recruitment, development, and expansion;

(ii) workforce training and development; and

(iii) infrastructure, industrial building development, and capital facilities improvements for business development.

(b) After reviewing the recommendations of the [~~rural partnership~~] GO Utah board, the executive director of the Governor's Office of Economic [~~Development~~] Opportunity shall award grants to rural counties in accordance with the provisions of this chapter.

(4) Subject to appropriations from the Legislature and subject to the reporting and other requirements of this chapter, grant money shall be distributed:

(a) equally between all rural counties that have created a CED board, in an amount up to and including $200,000 annually per county; and

(b) for grant money that is available after $200,000 has been provided annually to each eligible rural county, through the process described in Subsection (6).

(5) Beginning in 2021, a rural county may not receive an additional grant under this chapter unless the rural county:

(a) demonstrates a funding match, which may include a funding match provided by any combination of a community reinvestment agency, redevelopment agency, community development and renewal agency, private-sector entity, nonprofit entity, federal matching grant, county or municipality general fund match, or in-kind match, and that totals:

(i) a 10% match for a county of the sixth class;

(ii) a 20% match for a county of the fifth class;

(iii) a 30% match for a county of the fourth class; and

(iv) a 40% match for a county of the third class; and

(b) has complied with the reporting requirements required by the [~~rural partnership~~] GO Utah board and the reporting requirements described in Subsection (9) for all previous years that the county has received a grant.

(6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the [~~Office of~~] Center for Rural Development in collaboration with the [~~rural partnership~~] GO Utah board shall make rules establishing the eligibility and reporting criteria for a rural county to receive grant money under Subsection (4)(b), including:

(a) the form and process for a county to submit an application to the [~~rural partnership~~] GO Utah board for a grant;

(b) the method of scoring and prioritizing grant program applications from rural counties;

(c) the reporting, auditing, and post-performance requirements for a rural county that receives grant money; and

(d) any deadlines that shall be met by a rural county when applying for a grant.

(7) In determining the award of grant money under Subsection (4)(b), the [~~rural partnership~~] GO Utah board may not recommend the awarding of more than $800,000 annually to a rural county.

(8) In determining the recommended award of grant money under Subsection (4)(b), the [~~rural partnership~~] GO Utah board may prioritize applications that demonstrate any combination of the following:

(a) that the county has or is actively pursuing the creation of an effective strategic economic development plan;

(b) consistency with local economic development priorities;

(c) economic need;

(d) utilization of local financial or in-kind resources in combination with a grant;

(e) evidence that jobs will be created; and

(f) evidence that there will be a positive return on investment.

(9) On or before September 1 of each year, a county that has received a grant under this chapter in the previous 12 months shall provide a written report to the [~~rural partnership~~] GO Utah board that describes:

(a) the amount of grant money the county has received;

(b) how grant money has been distributed by the county, including what companies or entities have

utilized grant money, how much grant money each company or entity has received, and how each company or entity has used the money;

(c) an evaluation of the effectiveness of awarded grants in improving economic development in the county, including the number of jobs created, infrastructure that has been created, and capital improvements in the county;

(d) how much matching money has been utilized by the county and what entities have provided the matching money; and

(e) any other reporting, auditing, or post-performance requirements established by the [~~Office of~~] Center for Rural Development in collaboration with the [~~rural partnership~~] GO Utah board under Subsection (6).

(10) The [~~Office of~~] Center for Rural Development shall compile the reported information and provide a written report to the Governor's Office of Economic [~~Development~~] Opportunity for inclusion in the Governor's Office of Economic [~~Development's~~] Opportunity's annual written report described in Section [~~63N-1-301~~] 63N-1a-306.

Section 13. Section 17C-1-603 is amended to read:

17C-1-603. Reporting requirements -- Governor's Office of Economic Opportunity to maintain a database.

(1) On or before [~~June 30, 2021~~] June 1, 2022, the Governor's Office of Economic [~~Development~~] Opportunity shall:

(a) create a database to track information for each agency located within the state; and

(b) make the database publicly accessible from the office's website.

(2) (a) The Governor's Office of Economic [~~Development~~] Opportunity may:

(i) contract with a third party to create and maintain the database described in Subsection (1); and

(ii) charge a fee for a county, city, or agency to provide information to the database described in Subsection (1).

(b) The Governor's Office of Economic [~~Development~~] Opportunity shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish a fee schedule for the fee described in Subsection (2)(a)(ii).

(3) Beginning in [~~2021~~] 2022, on or before [~~December 31~~] June 30 of each calendar year, an agency shall, for each active project area for which the project area funds collection period has not expired, provide to the database described in Subsection (1) the following information:

(a) an assessment of the change in marginal value, including:

(i) the base year;

(ii) the base taxable value;

(iii) the prior year's assessed value;

(iv) the estimated current assessed value;

(v) the percentage change in marginal value; and

(vi) a narrative description of the relative growth in assessed value;

(b) the amount of project area funds the agency received for each year of the project area funds collection period, including:

(i) a comparison of the actual project area funds received for each year to the amount of project area funds forecasted for each year when the project area was created, if available;

(ii) (A) the agency's historical receipts of project area funds, including the tax year for which the agency first received project area funds from the project area; or

(B) if the agency has not yet received project area funds from the project area, the year in which the agency expects each project area funds collection period to begin;

(iii) a list of each taxing entity that levies or imposes a tax within the project area and a description of the benefits that each taxing entity receives from the project area; and

(iv) the amount paid to other taxing entities under Section 17C-1-410, if applicable;

(c) a description of current and anticipated project area development, including:

(i) a narrative of any significant project area development, including infrastructure development, site development, participation agreements, or vertical construction; and

(ii) other details of development within the project area, including:

(A) the total developed acreage;

(B) the total undeveloped acreage;

(C) the percentage of residential development; and

(D) the total number of housing units authorized, if applicable;

(d) the project area budget, if applicable, or other project area funds analyses, including:

(i) each project area funds collection period, including:

(A) the start and end date of the project area funds collection period; and

(B) the number of years remaining in each project area funds collection period;

(ii) the amount of project area funds the agency is authorized to receive from the project area cumulatively and from each taxing entity, including:

(A) the total dollar amount; and

(B) the percentage of the total amount of project area funds generated within the project area;

(iii) the remaining amount of project area funds the agency is authorized to receive from the project area cumulatively and from each taxing entity; and

(iv) the amount of project area funds the agency is authorized to use to pay for the agency's administrative costs, as described in Subsection 17C-1-409(1), including:

(A) the total dollar amount; and

(B) the percentage of the total amount of all project area funds;

(e) the estimated amount of project area funds that the agency is authorized to receive from the project area for the current calendar year;

(f) the estimated amount of project area funds to be paid to the agency for the next calendar year;

(g) a map of the project area; and

(h) any other relevant information the agency elects to provide.

(4) (a) Until the Governor's Office of Economic [~~Development~~] Opportunity creates a database as required in Subsection (1), an agency shall, on or before November 1 of each calendar year, electronically submit a report to:

(i) the community in which the agency operates;

(ii) the county auditor;

(iii) the State Tax Commission;

(iv) the State Board of Education; and

(v) each taxing entity from which the agency receives project area funds.

(b) An agency shall ensure that the report described in Subsection (4)(a):

(i) contains the same information described in Subsection (3); and

(ii) is posted on the website of the community in which the agency operates.

(5) Any information an agency submits in accordance with this section:

(a) is for informational purposes only; and

(b) does not alter the amount of project area funds that an agency is authorized to receive from a project area.

(6) The provisions of this section apply regardless of when the agency or project area is created.

Section 14. Section 17D-1-507 is amended to read:

17D-1-507. Guaranteed bonds.

(1) Before a special service district may issue guaranteed bonds:

(a) the special service district shall:

(i) obtain a report:

(A) prepared by:

(I) a qualified, registered architect or engineer; or

(II) a person qualified by experience appropriate to the project proposed to be funded by the proceeds from the guaranteed bonds;

(B) setting forth:

(I) a description of the project proposed to be funded by the proceeds from the guaranteed bonds;

(II) the estimated or, if available, the actual cost of the project;

(III) the principal amount and date and amount of each stated maturity of:

(Aa) the guaranteed bonds to be issued; and

(Bb) any outstanding guaranteed bonds of the special service district;

(IV) the interest rate or rates of any outstanding guaranteed bonds of the special service district;

(V) the amount of the annual debt service for each year during the life of all outstanding guaranteed bonds issued by the special service district;

(VI) the estimated amount of the annual debt service for each year during the life of all guaranteed bonds that the special service district intends to issue to finance all or any part of the project; and

(VII) the date or estimated date that the project will be complete; and

(ii) submit to the Governor's Office of Economic [~~Development~~] Opportunity:

(A) the report described in Subsection (1)(a)(i);

(B) a copy of each proposed guarantee of the guaranteed bonds, certified by the special service district;

(C) a legal opinion indicating that each guarantee, when executed, will be the legal and binding obligation of the taxpayer executing the guarantee in accordance with the terms of the guarantee; and

(D) evidence satisfactory to the Governor's Office of Economic [~~Development~~] Opportunity from each taxpayer executing a guarantee of the guaranteed bonds as to the financial ability of the taxpayer to perform under the guarantee;

(b) the Governor's Office of Economic [~~Development~~] Opportunity shall, if it approves the issuance of the guaranteed bonds, deliver to the special service district governing body a written statement of its approval; and

(c) the special service district governing body shall file the written approval statement under Subsection (1)(b) with the recorder of the county in which the special service district is located.

(2) The issuance of guaranteed bonds is conditioned upon the approval of special service district voters at an election held for that purpose as

provided in Title 11, Chapter 14, Local Government Bonding Act.

(3) Guaranteed bonds that have been issued and remain outstanding shall be included in the determination of the debt limit under Subsection 17D-1-502(4) if the bonds by their terms no longer enjoy the benefit of the guarantee.

(4) On July 1 of each year, the governing body shall file with the department of community affairs a report certifying:

(a) the total amount of bonds issued by the special service district and other debt then outstanding and subject to the debt limit of Subsection 17D-1-502(4);

(b) the total amount of guaranteed bonds then outstanding and not subject to the debt limit of Subsection 17D-1-502(4); and

(c) the total amount of guaranteed bonds that, during the preceding 12 months, discontinued to enjoy the benefit of the guarantee.

Section 15. Section 35A-1-104.5 is amended to read:

35A-1-104.5. Other department duties -- Strategic plan for health system reform -- Reporting suspected misuse of a Social Security number.

(1) The department shall work with the Department of Health, the Insurance Department, the Governor's Office of Economic [~~Development~~] Opportunity, and the Legislature to develop the health system reform.

(2) In the process of determining an individual's eligibility for a public benefit or service under this title or under federal law, if the department determines that a valid social security number is being used by an unauthorized individual, the department shall:

(a) inform the individual who the department determines to be the likely actual owner of the social security number or, if the likely actual owner is a minor, the minor's parent or guardian, of the suspected misuse; and

(b) subject to federal law, provide information of the suspected misuse to an appropriate law enforcement agency responsible for investigating identity fraud.

(3) If the department learns or determines that providing information under Subsection (2)(b) is prohibited by federal law, the department shall notify the Legislative Management Committee.

Section 16. Section 35A-1-109 is amended to read:

35A-1-109. Annual report -- Content -- Format.

(1) The department shall prepare and submit to the governor and the Legislature, by October 1 of each year, an annual written report of the operations, activities, programs, and services of the department, including its divisions, offices, boards, commissions, councils, and committees, for the preceding fiscal year.

(2) For each operation, activity, program, or service provided by the department, the annual report shall include:

(a) a description of the operation, activity, program, or service;

(b) data and metrics:

(i) selected and used by the department to measure progress, performance, effectiveness, and scope of the operation, activity, program, or service, including summary data; and

(ii) that are consistent and comparable for each state operation, activity, program, or service that primarily involves employment training or placement as determined by the executive directors of the department, the Governor's Office of Economic [~~Development~~] Opportunity, and the Governor's Office of Management and Budget;

(c) budget data, including the amount and source of funding, expenses, and allocation of full-time employees for the operation, activity, program, or service;

(d) historical data from previous years for comparison with data reported under Subsections (2)(b) and (c);

(e) goals, challenges, and achievements related to the operation, activity, program, or service;

(f) relevant federal and state statutory references and requirements;

(g) contact information of officials knowledgeable and responsible for each operation, activity, program, or service; and

(h) other information determined by the department that:

(i) may be needed, useful, or of historical significance; or

(ii) promotes accountability and transparency for each operation, activity, program, or service with the public and elected officials.

(3) The annual report shall be designed to provide clear, accurate, and accessible information to the public, the governor, and the Legislature.

(4) The department shall:

(a) submit the annual report in accordance with Section 68-3-14;

(b) make the annual report, and previous annual reports, accessible to the public by placing a link to the reports on the department's website; and

(c) provide the data and metrics described in Subsection (2)(b) to the [~~Talent Ready Utah Board created in Section 63N-12-503~~] Talent, Education, and Industry Alignment Subcommittee created in Section 63N-1b-301.

Section 17. Section 35A-1-201 is amended to read:

35A-1-201. Executive director -- Appointment -- Removal -- Compensation

-- Qualifications -- Responsibilities -- Deputy directors.

(1) (a) The chief administrative officer of the department is the executive director, who is appointed by the governor with the advice and consent of the Senate.

(b) The executive director serves at the pleasure of the governor.

(c) The executive director shall receive a salary established by the governor within the salary range fixed by the Legislature in Title 67, Chapter 22, State Officer Compensation.

(d) The executive director shall be experienced in administration, management, and coordination of complex organizations.

(2) The executive director shall:

(a) administer and supervise the department in compliance with Title 67, Chapter 19, Utah State Personnel Management Act;

(b) supervise and coordinate between the economic service areas and directors created under Chapter 2, Economic Service Areas;

(c) coordinate policies and program activities conducted through the divisions and economic service areas of the department;

(d) approve the proposed budget of each division, the Workforce Appeals Board, and each economic service area within the department;

(e) approve all applications for federal grants or assistance in support of any department program;

(f) coordinate with the executive directors of the Governor's Office of Economic [~~Development~~] Opportunity and the Governor's Office of Management and Budget to review data and metrics to be reported to the Legislature as described in Subsection 35A-1-109(2)(b); and

(g) fulfill such other duties as assigned by the Legislature or as assigned by the governor that are not inconsistent with this title.

(3) The executive director may appoint deputy or assistant directors to assist the executive director in carrying out the department's responsibilities.

(4) The executive director shall at least annually provide for the sharing of information between the advisory councils established under this title.

Section 18. Section 35A-6-105 is amended to read:

35A-6-105. Commissioner of Apprenticeship Programs.

(1) There is created the position of Commissioner of Apprenticeship Programs within the department.

(2) The commissioner shall be appointed by the executive director and chosen from one or more recommendations provided by a majority vote of the State Workforce Development Board.

(3) The commissioner may be terminated without cause by the executive director.

(4) The commissioner shall:

(a) promote and educate the public, including high school guidance counselors and potential participants in apprenticeship programs, about apprenticeship programs offered in the state, including apprenticeship programs offered by private sector businesses, trade groups, labor unions, partnerships with educational institutions, and other associations in the state;

(b) coordinate with the department and other stakeholders, including union and nonunion apprenticeship programs, the Office of Apprenticeship, the State Board of Education, the Utah system of higher education, the Department of Commerce, the Division of Occupational and Professional Licensing, and the Governor's Office of Economic [~~Development~~] Opportunity to improve and promote apprenticeship opportunities in the state; and

(c) provide an annual written report to:

(i) the department for inclusion in the department's annual written report described in Section 35A-1-109;

(ii) the Business, Economic Development, and Labor Appropriations Subcommittee; and

(iii) the Higher Education Appropriations Subcommittee.

(5) The annual written report described in Subsection (4)(c) shall provide information concerning:

(a) the number of available apprenticeship programs in the state;

(b) the number of apprentices participating in each program;

(c) the completion rate of each program;

(d) the cost of state funding for each program; and

(e) recommendations for improving apprenticeship programs.

Section 19. Section 41-6a-1626 is amended to read:

41-6a-1626. Mufflers -- Prevention of noise, smoke, and fumes -- Air pollution control devices.

(1) (a) A vehicle shall be equipped, maintained, and operated to prevent excessive or unusual noise.

(b) A motor vehicle shall be equipped with a muffler or other effective noise suppressing system in good working order and in constant operation.

(c) A person may not use a muffler cut-out, bypass, or similar device on a vehicle.

(2) (a) Except while the engine is being warmed to the recommended operating temperature, the engine and power mechanism of a gasoline-powered motor vehicle may not emit visible contaminants during operation.

(b) (i) As used in this Subsection (2)(b), "heavy tow" means a tow that exceeds the vehicle's maximum tow weight.

(ii) A diesel engine manufactured on or after January 1, 2008, may not emit visible contaminants during operation:

(A) except while the engine is being warmed to the recommended operating temperature or under a heavy tow; or

(B) unless the diesel engine is in a vehicle with a manufacturer's gross vehicle weight rating in excess of 26,000 pounds.

(iii) A diesel engine manufactured before January 1, 2008, may not emit visible contaminants of a shade or density that obscures a contrasting background by more than 20%, for more than five consecutive seconds:

(A) except while the engine is being warmed to the recommended operating temperature or under a heavy tow; or

(B) unless the diesel engine is in a vehicle with a manufacturer's gross vehicle weight rating in excess of 26,000 pounds.

(c) A person who violates the provisions of Subsection (2)(a) is guilty of an infraction and shall be fined:

(i) not less than $50 for a violation; or

(ii) not less than $100 for a second or subsequent violation within three years of a previous violation of this section.

(d) A person who violates the provisions of Subsection (2)(b) is guilty of an infraction and shall be fined:

(i) not less than $100 for a violation; or

(ii) not less than $500 for a second or subsequent violation within three years of a previous violation of this section.

(e) (i) As used in this section:

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

(B) "Nonattainment area" means [~~the same as that term is defined in Section 63N-3-102~~] a part of the state where air quality is determined to exceed the National Ambient Air Quality Standards, as defined in the Clean Air Act Amendments of 1970, Pub. L. No. 91-604, Sec. 109, for fine particulate matter (PM 2.5).

(ii) Within a nonattainment area, for a second or subsequent violation of Subsection (2)(a) or (2)(b), the court shall report the violations to the local health department at a regular interval.

(iii) If the local health department receives a notification as described in Subsection (2)(e)(ii), and the local health department determines that the registered vehicle is unable to meet state or local air emission standards, the local health department shall send notification to the Motor Vehicle Division.

(3) (a) If a motor vehicle is equipped by a manufacturer with air pollution control devices, the devices shall be maintained in good working order and in constant operation.

(b) For purposes of the first sale of a vehicle at retail, an air pollution control device may be substituted for the manufacturer's original device if the substituted device is at least as effective in the reduction of emissions from the vehicle motor as the air pollution control device furnished by the manufacturer of the vehicle as standard equipment for the same vehicle class.

(c) A person who renders inoperable an air pollution control device on a motor vehicle is guilty of an infraction.

(4) Subsection (3) does not apply to a motor vehicle altered and modified to use clean fuel, as defined under Section 59-13-102, when the emissions from the modified or altered motor vehicle are at levels that comply with existing state or federal standards for the emission of pollutants from a motor vehicle of the same class.

(5) A violation of Subsection (1), (2), or (3) is an infraction.

Section 20. Section 49-11-406 is amended to read:

49-11-406. Governor's appointed executives and senior staff -- Appointed legislative employees -- Transfer of value of accrued defined benefit -- Procedures.

(1) As used in this section:

(a) "Defined benefit balance" means the total amount of the contributions made on behalf of a member to a defined benefit system plus refund interest.

(b) "Senior staff" means an at-will employee who reports directly to an elected official, executive director, or director and includes a deputy director and other similar, at-will employee positions designated by the governor, the speaker of the House, or the president of the Senate and filed with the Department of Human Resource Management and the Utah State Retirement Office.

(2) In accordance with this section and subject to requirements under federal law and rules made by the board, a member who has service credit from a system may elect to be exempt from coverage under a defined benefit system and to have the member's defined benefit balance transferred from the defined benefit system or plan to a defined contribution plan in the member's own name if the member is:

(a) the state auditor;

(b) the state treasurer;

(c) an appointed executive under Subsection 67-22-2(1)(a);

(d) an employee in the Governor's Office;

(e) senior staff in the Governor's Office of Management and Budget;

(f) senior staff in the Governor's Office of Economic [~~Development~~] Opportunity;

(g) senior staff in the Commission on Criminal and Juvenile Justice;

(h) a legislative employee appointed under Subsection 36-12-7(3)(a); or

(i) a legislative employee appointed by the speaker of the House of Representatives, the House of Representatives minority leader, the president of the Senate, or the Senate minority leader[~~; or~~].

[~~(j) senior staff of the Utah Science Technology and Research Initiative created under Title 63M, Chapter 2, Utah Science Technology and Research Governing Authority Act.~~]

(3) An election made under Subsection (2):

(a) is final, and no right exists to make any further election;

(b) is considered a request to be exempt from coverage under a defined benefits system; and

(c) shall be made on forms provided by the office.

(4) The board shall adopt rules to implement and administer this section.

Section 21. Section 53B-1-114 is amended to read:

53B-1-114. Coordination for education.

(1) At least quarterly, in order to coordinate education services, the commissioner and the state superintendent of public instruction shall convene a meeting of individuals who have responsibilities related to Utah's education system, including:

(a) the state superintendent of public instruction;

(b) the commissioner;

(c) the executive director of the Department of Workforce Services described in Section 35A-1-201;

(d) the executive director of the Governor's Office of Economic [~~Development~~] Opportunity described in Section [~~63N-1-202~~] 63N-1a-302;

(e) the chair of the State Board of Education;

(f) the chair of the Utah Board of Higher Education;

(g) a member of the governor's staff; and

(h) the chairs of the Education Interim Committee.

(2) The coordinating group described in this section shall, for the State Board of Education and the Utah Board of Higher Education:

(a) coordinate strategic planning efforts;

(b) encourage alignment of strategic plans; and

(c) report on the State Board of Education's strategic plan to the Utah Board of Higher Education and the Utah Board of Higher Education's strategic plan to the State Board of Education.

(3) A meeting described in Subsection (1) is not subject to Title 52, Chapter 4, Open and Public Meetings Act.

Section 22. Section 53B-1-301 is amended to read:

53B-1-301. Reports to and actions of the Higher Education Appropriations Subcommittee.

(1) In accordance with applicable provisions and Section 68-3-14, the following recurring reports are due to the Higher Education Appropriations Subcommittee:

(a) the reports described in Sections 34A-2-202.5, 53B-17-804, and 59-9-102.5 by the Rocky Mountain Center for Occupational and Environmental Health;

(b) the report described in Section 53B-7-101 by the board on recommended appropriations for higher education institutions, including the report described in Section 53B-8-104 by the board on the effects of offering nonresident partial tuition scholarships;

(c) the report described in Section 53B-7-704 by the Department of Workforce Services and the Governor's Office of Economic [~~Development~~] Opportunity on targeted jobs;

(d) the reports described in Section 53B-7-705 by the board on performance;

(e) the report described in Section 53B-8-201 by the board on the Regents' Scholarship Program;

(f) the report described in Section 53B-8-303 by the board regarding Access Utah promise scholarships;

(g) the report described in Section 53B-8d-104 by the Division of Child and Family Services on tuition waivers for wards of the state;

(h) the report described in Section 53B-12-107 by the Utah Higher Education Assistance Authority;

(i) the report described in Section 53B-13a-104 by the board on the Success Stipend Program;

(j) the report described in Section 53B-17-201 by the University of Utah regarding the Miners' Hospital for Disabled Miners;

(k) the report described in Section 53B-26-103 by the Governor's Office of Economic [~~Development~~] Opportunity on high demand technical jobs projected to support economic growth;

(l) the report described in Section 53B-26-202 by the Medical Education Council on projected demand for nursing professionals; and

(m) the report described in Section 53E-10-308 by the State Board of Education and board on

student participation in the concurrent enrollment program.

(2) In accordance with applicable provisions and Section 68-3-14, the following occasional reports are due to the Higher Education Appropriations Subcommittee:

(a) upon request, the information described in Section 53B-8a-111 submitted by the Utah Educational Savings Plan;

(b) as described in Section 53B-26-103, a proposal by an eligible partnership related to workforce needs for technical jobs projected to support economic growth;

(c) a proposal described in Section 53B-26-202 by an eligible program to respond to projected demand for nursing professionals;

(d) a report in 2023 from Utah Valley University and the Utah Fire Prevention Board on the fire and rescue training program described in Section 53B-29-202; and

(e) the reports described in Section 63C-19-202 by the Higher Education Strategic Planning Commission on the commission's progress.

(3) In accordance with applicable provisions, the Higher Education Appropriations Subcommittee shall complete the following:

(a) as required by Section 53B-7-703, the review of performance funding described in Section 53B-7-703;

(b) the review described in Section 53B-7-705 of the implementation of performance funding;

(c) an appropriation recommendation described in Section 53B-26-103 to fund a proposal responding to workforce needs of a strategic industry cluster;

(d) an appropriation recommendation described in Section 53B-26-202 to fund a proposal responding to projected demand for nursing professionals; and

(e) review of the report described in Section 63B-10-301 by the University of Utah on the status of a bond and bond payments specified in Section 63B-10-301.

Section 23. Section 53B-7-702 is amended to read:

53B-7-702. Definitions.

As used in this part:

(1) "Account" means the Performance Funding Restricted Account created in Section 53B-7-703.

(2) "Estimated revenue growth from targeted jobs" means the estimated increase in individual income tax revenue generated by individuals employed in targeted jobs, determined by the Department of Workforce Services in accordance with Section 53B-7-704.

(3) "Full new performance funding amount" means the maximum amount of new performance funding that a degree-granting institution or technical college may qualify for in a fiscal year, determined by the Legislature in accordance with Section 53B-7-705.

(4) "Full-time" means the number of credit hours the board determines is full-time enrollment for a student.

(5) [~~"GOED"~~] "GO Utah office" means the Governor's Office of Economic [~~Development~~] Opportunity created in Section [~~63N-1-201~~] 63N-1a-301.

(6) "Job" means an occupation determined by the Department of Workforce Services.

(7) "Membership hour" means 60 minutes of scheduled instruction provided by a technical college to a student enrolled in the technical college.

(8) "New performance funding" means the difference between the total amount of money in the account and the amount of money appropriated from the account for performance funding in the current fiscal year.

(9) "Performance" means total performance across the metrics described in:

(a) Section 53B-7-706 for a degree-granting institution; or

(b) Section 53B-7-707 for a technical college.

(10) "Research university" means the University of Utah or Utah State University.

(11) "Targeted job" means a job designated by the Department of Workforce Services or [~~GOED~~] the GO Utah office in accordance with Section 53B-7-704.

(12) "Technical college graduate" means an individual who:

(a) has earned a certificate from an accredited program at a technical college; and

(b) is no longer enrolled in the technical college.

Section 24. Section 53B-7-704 is amended to read:

53B-7-704. Designation of targeted jobs -- Determination of estimated revenue growth from targeted jobs -- Reporting.

(1) As used in this section, "baseline amount" means the average annual wages for targeted jobs over calendar years 2014, 2015, and 2016, as determined by the Department of Workforce Services using the best available information.

(2) (a) The Department of Workforce Services shall designate, as a targeted job, a job that:

(i) has a base employment level of at least 100 individuals;

(ii) ranks in the top 20% of jobs for outlook based on:

(A) projected number of openings; and

(B) projected rate of growth;

(iii) ranks in the top 20% of jobs for median annual wage; and

(iv) requires postsecondary training.

(b) The Department of Workforce Services shall designate targeted jobs every other year.

(c) [~~GOED~~] The GO Utah office may, after consulting with the Department of Workforce Services and industry representatives, designate a job that has significant industry importance as a targeted job.

(d) Annually, the Department of Workforce Services and [~~GOED~~] the GO Utah office shall report to the Higher Education Appropriations Subcommittee on targeted jobs, including:

(i) the method used to determine which jobs are targeted jobs;

(ii) changes to which jobs are targeted jobs; and

(iii) the reasons for each change described in Subsection (2)(d)(ii).

(3) Based on the targeted jobs described in Subsection (2), the Department of Workforce Services shall annually determine the estimated revenue growth from targeted jobs by:

(a) determining the total estimated wages for targeted jobs for the year:

(i) based on the average wages for targeted jobs, calculated using the most recently available wage data and data from each of the two years before the most recently available data; and

(ii) using the best available information;

(b) determining the change in estimated wages for targeted jobs by subtracting the baseline amount from the total wages for targeted jobs described in Subsection (3)(a); and

(c) multiplying the change in estimated wages for targeted jobs described in Subsection (3)(b) by 3.6%.

(4) Annually, at least 30 days before the first day of the legislative general session, the Department of Workforce Services shall report the estimated revenue growth from targeted jobs to:

(a) the Office of the Legislative Fiscal Analyst; and

(b) the Division of Finance.

Section 25. Section 53B-8-304 is amended to read:

53B-8-304. Utah promise partners.

(1) In consultation with the Talent Ready Utah [~~Center~~] Program created in Section [~~63N-12-502~~] 63N-1b-302, and in accordance with Subsection (2), the board shall select employers to be promise partners.

(2) The board may select an employer as a promise partner if the employer:

(a) applies to the board to be a promise partner; and

(b) meets other requirements established by the board in the rules described in Subsection (5).

(3) An individual employed by a promise partner is eligible to receive a partner award if the individual:

(a) applies for a partner award;

(b) is admitted to and enrolled in an institution;

(c) is a Utah resident;

(d) does not have an associate or higher postsecondary degree;

(e) meets requirements established by the promise partner related to a partner award; and

(f) maintains the eligibility requirements described in this Subsection (3) for the full length of time the individual receives the partner award.

(4) (a) Subject to legislative appropriations and Subsection (4)(b), the board shall award a partner award to an individual who meets the requirements described in Subsection (3).

(b) The board may:

(i) award a partner award for up to the portion of tuition and fees for a program at an institution that is not covered by an employer reimbursement described in Subsection (5)(b); and

(ii) prioritize awarding partner awards if an appropriation for partner awards is not sufficient to provide a partner award to each individual who is eligible under Subsection (3).

(c) The board may continue to award a partner award to a recipient who meets the requirements described in Subsection (3) until the earliest of the following:

(i) two years after the individual initially receives a partner award;

(ii) the recipient uses a partner award to attend an institution for four semesters;

(iii) the recipient completes the requirements for an associate degree; or

(iv) if the recipient attends an institution that does not offer associate degrees, the recipient has 60 earned credit hours.

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

(a) requirements for an employer to seek and receive approval from the board for the employer's employees to receive partner awards;

(b) requirements related to an employer providing reimbursement to an employee who receives a partner award for a portion of the employee's tuition and fees;

(c) a process for an individual to apply for a partner award;

(d) criteria for the board to prioritize awarding partner awards; and

(e) a requirement that an institution shall, for a recipient of a partner award:

(i) evaluate the recipient's knowledge, skills, and competencies acquired through formal or informal education outside the traditional postsecondary academic environment; and

(ii) award credit, as applicable, for the recipient's prior learning described in Subsection (5)(e)(i).

Section 26. Section 53B-10-201 is amended to read:

53B-10-201. Definitions.

As used in this part:

(1) "Full-time" means the number of credit hours the board determines is full-time enrollment for a student.

(2) [~~"GOED"~~] "GO Utah office" means the Governor's Office of Economic [~~Development~~] Opportunity created in Section [~~63N-1-201~~] 63N-1a-301.

(3) "Incentive loan" means a loan described in Section 53B-10-202.

(4) "Institution" means an institution of higher education described in Subsection 53B-1-102(1)(a).

(5) "Program" means the Talent Development Incentive Loan Program created in Section 53B-10-202.

(6) "Qualifying degree" means an associate's or a bachelor's degree that qualifies an individual to work in a qualifying job, as determined by [~~GOED~~] the GO Utah office under Section 53B-10-203.

(7) "Qualifying job" means a job:

(a) described in Section 53B-10-203 for which an individual may receive an incentive loan for the current two-year period; or

(b) (i) that was selected in accordance with Section 53B-10-203 at the time a recipient received an incentive loan; and

(ii) (A) for which the recipient is pursuing a qualifying degree;

(B) for which the recipient completed a qualifying degree; or

(C) in which the recipient is working.

(8) "Recipient" means an individual who receives an incentive loan.

Section 27. Section 53B-10-203 is amended to read:

53B-10-203. Selection of qualifying jobs and qualifying degrees.

(1) Every other year, [~~GOED~~] the GO Utah office shall select:

(a) five qualifying jobs that:

(i) have the highest demand for new employees; and

(ii) offer high wages; and

(b) the qualifying degrees for each qualifying job.

(2) [~~GOED~~] The GO Utah office shall:

(a) ensure that each qualifying job:

(i) ranks in the top 40% of jobs based on an employment index that considers the job's growth rate and total openings;

(ii) ranks in the top 40% of jobs for wages; and

(iii) requires an associate's degree or a bachelor's degree; and

(b) report the five qualifying jobs and qualifying degrees to the board.

Section 28. Section 53B-26-102 is amended to read:

53B-26-102. Definitions.

As used in this part:

(1) "CTE" means career and technical education.

(2) "CTE region" means an economic service area created in Section 35A-2-101.

(3) "Eligible partnership" means:

(a) a regional partnership; or

(b) a statewide partnership.

(4) "Employer" means a private employer, public employer, industry association, the military, or a union.

(5) "Industry advisory group" means:

(a) a group of at least five employers that represent the workforce needs to which a proposal submitted under Section 53B-26-103 responds; and

(b) a representative of the Governor's Office of Economic [~~Development~~] Opportunity, appointed by the executive director of the Governor's Office of Economic [~~Development~~] Opportunity.

(6) "Institution of higher education" means the University of Utah, Utah State University, Southern Utah University, Weber State University, Snow College, Dixie State University, Utah Valley University, or Salt Lake Community College.

(7) "Regional partnership" means a partnership that:

(a) provides educational services within one CTE region; and

(b) is between at least two of the following located in the CTE region:

(i) a technical college;

(ii) a school district or charter school; or

(iii) an institution of higher education.

(8) "Stackable sequence of credentials" means a sequence of credentials that:

(a) an individual can build upon to access an advanced job or higher wage;

(b) is part of a career pathway system;

(c) provides a pathway culminating in the equivalent of an associate's or bachelor's degree;

(d) facilitates multiple exit and entry points; and

(e) recognizes sub-goals or momentum points.

(9) "Statewide partnership" means a partnership between at least two regional partnerships.

(10) "Technical college" means:

(a) a college described in Section 53B-2a-105;

(b) the School of Applied Technology at Salt Lake Community College established under Section 53B-16-209;

(c) Utah State University Eastern established under Section 53B-18-1201;

(d) Utah State University Blanding established under Section 53B-18-1202; or

(e) the Snow College Richfield campus established under Section 53B-16-205.

Section 29. Section 53B-26-103 is amended to read:

53B-26-103. GO Utah office reporting requirement -- Proposals -- Funding.

(1) Every other year, the Governor's Office of Economic [~~Development~~] Opportunity shall report to the Higher Education Appropriations Subcommittee and the board on the high demand technical jobs projected to support economic growth in the following high need strategic industry clusters:

(a) aerospace and defense;

(b) energy and natural resources;

(c) financial services;

(d) life sciences;

(e) outdoor products;

(f) software development and information technology; and

(g) any other strategic industry cluster designated by the Governor's Office of Economic [~~Development~~] Opportunity.

(2) To receive funding under this section, an eligible partnership shall submit a proposal containing the elements described in Subsection (3) to the Higher Education Appropriations Subcommittee on or before January 5 for fiscal year 2018 and any succeeding fiscal year.

(3) A proposal described in Subsection (2) shall include:

(a) a program of instruction that:

(i) is responsive to the workforce needs of a strategic industry cluster described in Subsection (1):

(A) in one CTE region, for a proposal submitted by a regional partnership; or

(B) in at least two CTE regions, for a proposal submitted by a statewide partnership;

(ii) leads to the attainment of a stackable sequence of credentials; and

(iii) includes a non-duplicative progression of courses that include both academic and CTE content;

(b) expected student enrollment, attainment rates, and job placement rates;

(c) evidence of input and support for the proposal from an industry advisory group;

(d) a description of any financial or in-kind contributions for the program from an industry advisory group;

(e) a description of the job opportunities available at each exit point in the stackable sequence of credentials;

(f) evidence of an official action in support of the proposal from the board;

(g) if the program of instruction described in Subsection (3)(a) requires board approval under Section 53B-16-102, evidence of board approval of the program of instruction; and

(h) a funding request, including justification for the request.

(4) The Higher Education Appropriations Subcommittee shall:

(a) review a proposal submitted under this section using the following criteria:

(i) the proposal contains the elements described in Subsection (3);

(ii) for a proposal from a regional partnership, support for the proposal is widespread within the CTE region; and

(iii) the proposal expands the capacity to meet state or regional workforce needs;

(b) determine the extent to which to fund the proposal; and

(c) make a recommendation to the Legislature for funding the proposal through the appropriations process.

(5) An eligible partnership that receives funding under this section:

(a) shall use the money to deliver the program of instruction described in the eligible partnership's proposal; and

(b) may not use the money for administration.

Section 30. Section 53B-26-303 is amended to read:

53B-26-303. Deep Technology Talent Advisory Council.

(1) There is created the Deep Technology Talent Advisory Council to make recommendations to the board in the board's administration of the deep technology talent initiative described in Section 53B-26-302.

(2) The advisory council shall consist of the following members:

(a) two members who have extensive experience in deep technology in the private sector appointed by the president of the Senate;

(b) two members who have extensive experience in deep technology in the private sector appointed by the speaker of the House of Representatives;

(c) a representative of the board appointed by the chair of the board;

(d) a representative of the Governor's Office of Economic [~~Development~~] Opportunity appointed by the executive director of the Governor's Office of Economic [~~Development~~] Opportunity;

(e) one member of the Senate appointed by the president of the Senate;

(f) one member of the House of Representatives appointed by the speaker of the House of Representatives; and

(g) other specialized industry experts who may be invited by a majority of the advisory council to participate as needed as nonvoting members.

(3) The board shall provide staff support for the advisory council.

(4) (a) One of the advisory council members appointed under Subsection (2)(a) shall serve an initial term of two years and one of the advisory council members appointed under Subsection (2)(b) shall serve an initial term of two years.

(b) Except as described in Subsection (4)(a), all other advisory council members shall serve an initial term of four years.

(c) Successor advisory council members upon appointment or reappointment shall each serve a term of four years.

(d) When a vacancy occurs in the membership for any reason, the replacement shall be appointed by the initial appointing authority for the unexpired term.

(e) An advisory council member may not serve more than two consecutive terms.

(5) A vote of a majority of the advisory council members is necessary to take action on behalf of the advisory council.

(6) The duties of the advisory council include reviewing, prioritizing, and making recommendations to the board regarding proposals for funding under the deep technology talent initiative described in Section 53B-26-302.

(7) A member may not receive compensation or benefits for the member's service, but a member who is not a legislator may receive per diem and travel expenses in accordance with:

(a) Sections 63A-3-106 and 63A-3-107; and

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

Section 31. Section 53B-30-101 is enacted to read:

CHAPTER 32. CAREER READINESS ACT

Part 1. General Provisions

53B-30-101. (Codified as 53B-32-101) Title.

This chapter is known as the "Career Readiness Act."

Section 32. Section 53B-30-102 is enacted to read:

53B-30-102. (Codified as 53B-32-102) Definitions.

As used in this chapter:

(1) "Education provider" means:

(a) an institution of higher education listed in Section 53B-2-101; or

(b) a nonprofit Utah provider of postsecondary education.

(2) "Student user" means:

(a) a Utah student in kindergarten through grade 12;

(b) a Utah postsecondary education student;

(c) a parent or guardian of a Utah public education student; or

(d) a Utah potential postsecondary education student.

Section 33. Section 53B-30-201, which is renumbered from Section 63N-12-509 is renumbered and amended to read:

Part 2. State Online Career Counseling

[~~63N-12-509~~]. 53B-30-201. (Codified as 53B-32-201) State online career counseling program.

[~~(1) As used in this section:~~]

[~~(a) "Education provider" means:~~]

[~~(i) a Utah institution of higher education as defined in Section 53B-2-101; or~~]

[~~(ii) a nonprofit Utah provider of postsecondary education.~~]

[~~(b) "Student user" means:~~]

[~~(i) a Utah student in kindergarten through grade 12;~~]

[~~(ii) a Utah post secondary education student;~~]

[~~(iii) a parent or guardian of a Utah public education student; or~~]

[~~(iv) a Utah potential post secondary education student.~~]

[~~(c) "Utah Futures" means a career planning program developed and administered by the talent ready board.~~]

(1) The board shall develop and administer a state online career counseling program in accordance with this section.

(2) The [~~talent ready~~] board shall ensure, as funding allows and is feasible, that [~~Utah Futures will~~] the program:

(a) [~~allow~~] allows a student user to:

(i) access, subject to Subsection (3), information about an education provider or a scholarship provider;

(ii) access information about different career opportunities and understand the related educational requirements to enter that career;

(iii) access information about education providers;

(iv) access up to date information about entrance requirements to education providers; and

[~~(v) apply for entrance to multiple schools without having to fully replicate the application process;~~]

[~~(vi) apply for loans, scholarships, or grants from multiple education providers in one location without having to fully replicate the application process for multiple education providers; and~~]

[~~(vii)~~] (v) research open jobs from different companies within the user's career interest and apply for those jobs without having to leave the website to do so;

(b) [~~allow~~] allows all users to:

(i) access information about different career opportunities and understand the related educational requirements to enter that career;

(ii) access information about education providers; and

(iii) access up-to-date information about entrance requirements to education providers;

[~~(iv) apply for entrance to multiple schools without having to fully replicate the application process;~~]

[~~(v) apply for loans, scholarships, or grants from multiple education providers in one location without having to fully replicate the application process for multiple education providers; and~~]

[~~(vi) research open jobs from different companies within the user's career interest and apply for those jobs without having to leave the website to do so;~~]

(c) [~~allow~~] allows an education provider to:

(i) request that [~~Utah Futures~~] the program send information to student users who are interested in various educational opportunities;

(ii) promote the education provider's programs and schools to student users; and

(iii) connect with student users within the [~~Utah Futures~~] program's website;

(d) [~~allow~~] allows a Utah business to:

(i) request that [~~Utah Futures~~] the program send information to student users who are pursuing educational opportunities that are consistent with jobs the Utah business is trying to fill now or in the future; and

(ii) market jobs and communicate with student users through the [~~Utah Futures~~] program's website as allowed by law; and

(e) provide analysis and reporting on student user interests and education paths within the education system[~~; and~~].

[~~(f) allow all users of the Utah Futures' system to communicate and interact through social networking tools within the Utah Futures website as allowed by law.~~]

(3) A student may access information described in Subsection (2)(a)(i) only if [~~Utah Futures~~] the program obtains written consent:

(a) of a student's parent or legal guardian through the student's school or LEA; or

(b) for a student who is age 18 or older or an emancipated minor, from the student.

(4) The [~~talent ready~~] board:

(a) may charge a fee to a Utah business for services provided by [~~Utah Futures~~] the program under this section; and

(b) shall establish a fee described in Subsection (4)(a) in accordance with Section 63J-1-504.

Section 34. Section 54-4-41 is amended to read:

54-4-41. Recovery of investment in utility-owned vehicle charging infrastructure.

(1) As used in this section, "charging infrastructure program" means the program described in Subsection (2).

(2) The commission shall authorize a large-scale electric utility program that:

(a) allows for funding from large-scale electric utility customers for a maximum of $50,000,000 for all costs and expenses associated with:

(i) the deployment of utility-owned vehicle charging infrastructure; and

(ii) utility vehicle charging service provided by the large-scale electric utility;

(b) creates a new customer class, with a utility vehicle charging service rate structure that:

(i) is determined by the commission to be in the public interest;

(ii) is a transitional rate structure expected to allow the large-scale electric utility to recover, through charges to utility vehicle charging service customers, the large-scale electric utility's full cost of service for utility-owned vehicle charging infrastructure and utility vehicle charging service over a reasonable time frame determined by the commission; and

(iii) may allow different rates for large-scale electric utility customers to reflect contributions to investment; and

(c) includes a transportation plan that promotes:

(i) the deployment of utility-owned vehicle charging infrastructure in the public interest; and

(ii) the availability of utility vehicle charging service.

(3) Before submitting a proposed charging infrastructure program to the commission for commission approval under Subsection (2), a large-scale electric utility shall seek and consider input from:

(a) the Division of Public Utilities, established in Section 54-4a-1;

(b) the Office of Consumer Services, created in Section 54-10a-201;

(c) the Division of Air Quality, created in Section 19-1-105;

(d) the Department of Transportation, created in Section 72-1-201;

(e) the Governor's Office of Economic [~~Development~~] Opportunity, created in Section [~~63N-1-201~~] 63N-1a-301;

(f) the Office of Energy Development, created in Section 63M-4-401;

(g) the board of the Utah Inland Port Authority, created in Section 11-58-201;

(h) representatives of the Point of the Mountain State Land Development Authority, created in Section 11-59-201;

(i) third-party electric vehicle battery charging service operators; and

(j) any other person who files a request for notice with the commission.

(4) The commission shall find a charging infrastructure program to be in the public interest if the commission finds that the charging infrastructure program:

(a) increases the availability of electric vehicle battery charging service in the state;

(b) enables the significant deployment of infrastructure that supports electric vehicle battery charging service and utility-owned vehicle charging infrastructure in a manner reasonably expected to increase electric vehicle adoption;

(c) includes an evaluation of investments in the areas of the authority jurisdictional land, as defined in Section 11-58-102, and the point of the mountain state land, as defined in Section 11-59-102;

(d) enables competition, innovation, and customer choice in electric vehicle battery charging services, while promoting low-cost services for electric vehicle battery charging customers; and

(e) provides for ongoing coordination with the Department of Transportation, created in Section 72-1-201.

(5) The commission may, consistent with Subsection (2), approve an amendment to the charging infrastructure program if the large-scale electric utility demonstrates that the amendment:

(a) is prudent;

(b) will provide net benefits to customers; and

(c) is otherwise consistent with the requirements of Subsection (2).

(6) The commission shall authorize recovery of a large-scale electric utility's investment in utility-owned vehicle charging infrastructure through a balancing account or other ratemaking treatment that reflects:

(a) charging infrastructure program costs associated with prudent investment, including the large-scale electric utility's pre-tax average weighted cost of capital approved by the commission in the large-scale electric utility's most recent general rate proceeding, and associated revenue and prudently incurred expenses; and

(b) a carrying charge.

(7) A large-scale electric utility's investment in utility-owned vehicle charging infrastructure is prudently made if the large-scale electric utility demonstrates in a formal adjudicative proceeding before the commission that the investment can reasonably be anticipated to:

(a) result in one or more projects that are in the public interest of the large-scale electric utility's customers to reduce transportation sector emissions over a reasonable time period as determined by the commission;

(b) provide the large-scale electric utility's customers significant benefits that may include revenue from utility vehicle charging service that offsets the large-scale electric utility's costs and expenses; and

(c) facilitate any other measure that the commission determines:

(i) promotes deployment of utility-owned vehicle charging infrastructure and utility vehicle charging service; or

(ii) creates significant benefits in the long term for customers of the large-scale electric utility.

(8) A large-scale electric utility that establishes and implements a charging infrastructure program shall annually, on or before June 1, submit a written report to the Public Utilities, Energy, and Technology Interim Committee of the Legislature about the charging infrastructure program's activities during the previous calendar year, including information on:

(a) the charging infrastructure program's status, operation, funding, and benefits;

(b) the disposition of charging infrastructure program funds; and

(c) the charging infrastructure program's impact on rates.

Section 35. Section 59-1-403 is amended to read:

59-1-403. Confidentiality -- Exceptions -- Penalty -- Application to property tax.

(1) (a) Any of the following may not divulge or make known in any manner any information gained by that person from any return filed with the commission:

(i) a tax commissioner;

(ii) an agent, clerk, or other officer or employee of the commission; or

(iii) a representative, agent, clerk, or other officer or employee of any county, city, or town.

(b) An official charged with the custody of a return filed with the commission is not required to produce the return or evidence of anything contained in the return in any action or proceeding in any court, except:

(i) in accordance with judicial order;

(ii) on behalf of the commission in any action or proceeding under:

(A) this title; or

(B) other law under which persons are required to file returns with the commission;

(iii) on behalf of the commission in any action or proceeding to which the commission is a party; or

(iv) on behalf of any party to any action or proceeding under this title if the report or facts shown by the return are directly involved in the action or proceeding.

(c) Notwithstanding Subsection (1)(b), a court may require the production of, and may admit in evidence, any portion of a return or of the facts shown by the return, as are specifically pertinent to the action or proceeding.

(2) This section does not prohibit:

(a) a person or that person's duly authorized representative from receiving a copy of any return or report filed in connection with that person's own tax;

(b) the publication of statistics as long as the statistics are classified to prevent the identification of particular reports or returns; and

(c) the inspection by the attorney general or other legal representative of the state of the report or return of any taxpayer:

(i) who brings action to set aside or review a tax based on the report or return;

(ii) against whom an action or proceeding is contemplated or has been instituted under this title; or

(iii) against whom the state has an unsatisfied money judgment.

(3) (a) Notwithstanding Subsection (1) and for purposes of administration, the commission may by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, provide for a reciprocal exchange of information with:

(i) the United States Internal Revenue Service; or

(ii) the revenue service of any other state.

(b) Notwithstanding Subsection (1) and for all taxes except individual income tax and corporate franchise tax, the commission may by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, share information gathered from returns and other written statements with the federal government, any other state, any of the political subdivisions of another state, or any political subdivision of this state, except as limited by Sections 59-12-209 and 59-12-210, if the political subdivision, other state, or the federal government grant substantially similar privileges to this state.

(c) Notwithstanding Subsection (1) and for all taxes except individual income tax and corporate franchise tax, the commission may by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, provide for the issuance of information concerning the identity and other information of taxpayers who have failed to file tax returns or to pay any tax due.

(d) Notwithstanding Subsection (1), the commission shall provide to the director of the Division of Environmental Response and Remediation, as defined in Section 19-6-402, as requested by the director of the Division of Environmental Response and Remediation, any records, returns, or other information filed with the commission under Chapter 13, Motor and Special Fuel Tax Act, or Section 19-6-410.5 regarding the environmental assurance program participation fee.

(e) Notwithstanding Subsection (1), at the request of any person the commission shall provide that person sales and purchase volume data reported to the commission on a report, return, or other information filed with the commission under:

(i) Chapter 13, Part 2, Motor Fuel; or

(ii) Chapter 13, Part 4, Aviation Fuel.

(f) Notwithstanding Subsection (1), upon request from a tobacco product manufacturer, as defined in Section 59-22-202, the commission shall report to the manufacturer:

(i) the quantity of cigarettes, as defined in Section 59-22-202, produced by the manufacturer and reported to the commission for the previous calendar year under Section 59-14-407; and

(ii) the quantity of cigarettes, as defined in Section 59-22-202, produced by the manufacturer for which a tax refund was granted during the previous calendar year under Section 59-14-401 and reported to the commission under Subsection 59-14-401(1)(a)(v).

(g) Notwithstanding Subsection (1), the commission shall notify manufacturers, distributors, wholesalers, and retail dealers of a

tobacco product manufacturer that is prohibited from selling cigarettes to consumers within the state under Subsection 59-14-210(2).

(h) Notwithstanding Subsection (1), the commission may:

(i) provide to the Division of Consumer Protection within the Department of Commerce and the attorney general data:

(A) reported to the commission under Section 59-14-212; or

(B) related to a violation under Section 59-14-211; and

(ii) upon request, provide to any person data reported to the commission under Subsections 59-14-212(1)(a) through (c) and Subsection 59-14-212(1)(g).

(i) Notwithstanding Subsection (1), the commission shall, at the request of a committee of the Legislature, the Office of the Legislative Fiscal Analyst, or the Governor's Office of Management and Budget, provide to the committee or office the total amount of revenues collected by the commission under Chapter 24, Radioactive Waste Facility Tax Act, for the time period specified by the committee or office.

(j) Notwithstanding Subsection (1), the commission shall make the directory required by Section 59-14-603 available for public inspection.

(k) Notwithstanding Subsection (1), the commission may share information with federal, state, or local agencies as provided in Subsection 59-14-606(3).

(l) (i) Notwithstanding Subsection (1), the commission shall provide the Office of Recovery Services within the Department of Human Services any relevant information obtained from a return filed under Chapter 10, Individual Income Tax Act, regarding a taxpayer who has become obligated to the Office of Recovery Services.

(ii) The information described in Subsection (3)(l)(i) may be provided by the Office of Recovery Services to any other state's child support collection agency involved in enforcing that support obligation.

(m) (i) Notwithstanding Subsection (1), upon request from the state court administrator, the commission shall provide to the state court administrator, the name, address, telephone number, county of residence, and social security number on resident returns filed under Chapter 10, Individual Income Tax Act.

(ii) The state court administrator may use the information described in Subsection (3)(m)(i) only as a source list for the master jury list described in Section 78B-1-106.

(n) (i) As used in this Subsection (3)(n):

(A) [~~"GOED"~~] "GO Utah office" means the Governor's Office of Economic [~~Development~~] Opportunity created in Section [~~63N-1-201~~] 63N-1a-301.

(B) "Income tax information" means information gained by the commission that is required to be attached to or included in a return filed with the commission under Chapter 7, Corporate Franchise and Income Taxes, or Chapter 10, Individual Income Tax Act.

(C) "Other tax information" means information gained by the commission that is required to be attached to or included in a return filed with the commission except for a return filed under Chapter 7, Corporate Franchise and Income Taxes, or Chapter 10, Individual Income Tax Act.

(D) "Tax information" means income tax information or other tax information.

(ii) (A) Notwithstanding Subsection (1) and except as provided in Subsection (3)(n)(ii)(B) or (C), the commission shall at the request of [~~GOED~~] the GO Utah office provide to [~~GOED~~] the GO Utah office all income tax information.

(B) For purposes of a request for income tax information made under Subsection (3)(n)(ii)(A), [~~GOED~~] the GO Utah office may not request and the commission may not provide to [~~GOED~~] the GO Utah office a person's address, name, social security number, or taxpayer identification number.

(C) In providing income tax information to [~~GOED~~] the GO Utah office, the commission shall in all instances protect the privacy of a person as required by Subsection (3)(n)(ii)(B).

(iii) (A) Notwithstanding Subsection (1) and except as provided in Subsection (3)(n)(iii)(B), the commission shall at the request of [~~GOED~~] the GO Utah office provide to [~~GOED~~] the GO Utah office other tax information.

(B) Before providing other tax information to [~~GOED~~] the GO Utah office, the commission shall redact or remove any name, address, social security number, or taxpayer identification number.

(iv) [~~GOED~~] The GO Utah office may provide tax information received from the commission in accordance with this Subsection (3)(n) only:

(A) as a fiscal estimate, fiscal note information, or statistical information; and

(B) if the tax information is classified to prevent the identification of a particular return.

(v) (A) A person may not request tax information from [~~GOED~~] the GO Utah office under Title 63G, Chapter 2, Government Records Access and Management Act, or this section, if [~~GOED~~] the GO Utah office received the tax information from the commission in accordance with this Subsection (3)(n).

(B) [~~GOED~~] The GO Utah office may not provide to a person that requests tax information in accordance with Subsection (3)(n)(v)(A) any tax information other than the tax information [~~GOED~~] the GO Utah office provides in accordance with Subsection (3)(n)(iv).

(o) Notwithstanding Subsection (1), the commission may provide to the governing board of the agreement or a taxing official of another state, the District of Columbia, the United States, or a territory of the United States:

(i) the following relating to an agreement sales and use tax:

(A) information contained in a return filed with the commission;

(B) information contained in a report filed with the commission;

(C) a schedule related to Subsection (3)(o)(i)(A) or (B); or

(D) a document filed with the commission; or

(ii) a report of an audit or investigation made with respect to an agreement sales and use tax.

(p) Notwithstanding Subsection (1), the commission may provide information concerning a taxpayer's state income tax return or state income tax withholding information to the Driver License Division if the Driver License Division:

(i) requests the information; and

(ii) provides the commission with a signed release form from the taxpayer allowing the Driver License Division access to the information.

(q) Notwithstanding Subsection (1), the commission shall provide to the Utah Communications Authority, or a division of the Utah Communications Authority, the information requested by the authority under Sections 63H-7a-302, 63H-7a-402, and 63H-7a-502.

(r) Notwithstanding Subsection (1), the commission shall provide to the Utah Educational Savings Plan information related to a resident or nonresident individual's contribution to a Utah Educational Savings Plan account as designated on the resident or nonresident's individual income tax return as provided under Section 59-10-1313.

(s) Notwithstanding Subsection (1), for the purpose of verifying eligibility under Sections 26-18-2.5 and 26-40-105, the commission shall provide an eligibility worker with the Department of Health or its designee with the adjusted gross income of an individual if:

(i) an eligibility worker with the Department of Health or its designee requests the information from the commission; and

(ii) the eligibility worker has complied with the identity verification and consent provisions of Sections 26-18-2.5 and 26-40-105.

(t) Notwithstanding Subsection (1), the commission may provide to a county, as determined by the commission, information declared on an individual income tax return in accordance with Section 59-10-103.1 that relates to eligibility to claim a residential exemption authorized under Section 59-2-103.

(u) Notwithstanding Subsection (1), the commission shall provide a report regarding any access line provider that is over 90 days delinquent in payment to the commission of amounts the access line provider owes under Title 69, Chapter 2, Part 4, Prepaid Wireless Telecommunications Service Charges, to the board of the Utah Communications Authority created in Section 63H-7a-201.

(v) Notwithstanding Subsection (1), the commission shall provide the Department of Environmental Quality a report on the amount of tax paid by a radioactive waste facility for the previous calendar year under Section 59-24-103.5.

(w) Notwithstanding Subsection (1), the commission may, upon request, provide to the Department of Workforce Services any information received under Chapter 10, Part 4, Withholding of Tax, that is relevant to the duties of the Department of Workforce Services.

(x) Notwithstanding Subsection (1), the commission may provide the Public Service Commission or the Division of Public Utilities information related to a seller that collects and remits to the commission a charge described in Subsection 69-2-405(2), including the seller's identity and the number of charges described in Subsection 69-2-405(2) that the seller collects.

(4) (a) Each report and return shall be preserved for at least three years.

(b) After the three-year period provided in Subsection (4)(a) the commission may destroy a report or return.

(5) (a) Any individual who violates this section is guilty of a class A misdemeanor.

(b) If the individual described in Subsection (5)(a) is an officer or employee of the state, the individual shall be dismissed from office and be disqualified from holding public office in this state for a period of five years thereafter.

(c) Notwithstanding Subsection (5)(a) or (b), [~~GOED~~] the GO Utah office, when requesting information in accordance with Subsection (3)(n)(iii), or an individual who requests information in accordance with Subsection (3)(n)(v):

(i) is not guilty of a class A misdemeanor; and

(ii) is not subject to:

(A) dismissal from office in accordance with Subsection (5)(b); or

(B) disqualification from holding public office in accordance with Subsection (5)(b).

(6) Except as provided in Section 59-1-404, this part does not apply to the property tax.

Section 36. Section 59-7-159 is amended to read:

59-7-159. Review of credits allowed under this chapter.

(1) As used in this section, "committee" means the Revenue and Taxation Interim Committee.

(2) (a) The committee shall review the tax credits described in this chapter as provided in Subsection (3) and make recommendations concerning whether the tax credits should be continued, modified, or repealed.

(b) In conducting the review required under Subsection (2)(a), the committee shall:

(i) schedule time on at least one committee agenda to conduct the review;

(ii) invite state agencies, individuals, and organizations concerned with the tax credit under review to provide testimony;

(iii) (A) invite the Governor's Office of Economic [~~Development~~] Opportunity to present a summary and analysis of the information for each tax credit regarding which the Governor's Office of Economic [~~Development~~] Opportunity is required to make a report under this chapter; and

(B) invite the Office of the Legislative Fiscal Analyst to present a summary and analysis of the information for each tax credit regarding which the Office of the Legislative Fiscal Analyst is required to make a report under this chapter;

(iv) ensure that the committee's recommendations described in this section include an evaluation of:

(A) the cost of the tax credit to the state;

(B) the purpose and effectiveness of the tax credit; and

(C) the extent to which the state benefits from the tax credit; and

(v) undertake other review efforts as determined by the committee chairs or as otherwise required by law.

(3) (a) On or before November 30, 2017, and every three years after 2017, the committee shall conduct the review required under Subsection (2) of the tax credits allowed under the following sections:

(i) Section 59-7-601;

(ii) Section 59-7-607;

(iii) Section 59-7-612;

(iv) Section 59-7-614.1; and

(v) Section 59-7-614.5.

(b) On or before November 30, 2018, and every three years after 2018, the committee shall conduct the review required under Subsection (2) of the tax credits allowed under the following sections:

(i) Section 59-7-609;

(ii) Section 59-7-614.2;

(iii) Section 59-7-614.10;

(iv) Section 59-7-619;

(v) Section 59-7-620; and

(vi) Section 59-7-624.

(c) On or before November 30, 2019, and every three years after 2019, the committee shall conduct the review required under Subsection (2) of the tax credits allowed under the following sections:

(i) Section 59-7-610;

(ii) Section 59-7-614; and

(iii) Section 59-7-614.7[~~; and~~].

[~~(iv) Section 59-7-618.~~]

(d) (i) In addition to the reviews described in this Subsection (3), the committee shall conduct a review of a tax credit described in this chapter that is enacted on or after January 1, 2017.

(ii) The committee shall complete a review described in this Subsection (3)(d) three years after the effective date of the tax credit and every three years after the initial review date.

Section 37. Section 59-7-614.2 is amended to read:

59-7-614.2. Refundable economic development tax credit.

(1) As used in this section:

(a) "Business entity" means a taxpayer that meets the definition of "business entity" as defined in Section 63N-2-103.

(b) "Community reinvestment agency" means the same as that term is defined in Section 17C-1-102.

(c) "Incremental job" means the same as that term is defined in Section 63N-1a-102.

[~~(c)~~] (d) "Local government entity" means the same as that term is defined in Section 63N-2-103.

[~~(d) "New incremental jobs" means the same as that term is defined in Section 63N-2-103.~~]

(e) "New state [~~revenues~~] revenue" means the same as that term is defined in Section [~~63N-2-103~~] 63N-1a-102.

(f) "Office" means the Governor's Office of Economic [~~Development~~] Opportunity.

(2) Subject to the other provisions of this section, a business entity, local government entity, or community reinvestment agency may claim a refundable tax credit for economic development.

(3) The tax credit under this section is the amount listed as the tax credit amount on the tax credit certificate that the office issues to the business entity, local government entity, or community reinvestment agency for the taxable year.

(4) A community reinvestment agency may claim a tax credit under this section only if a local government entity assigns the tax credit to the community reinvestment agency in accordance with Section 63N-2-104.

(5) (a) In accordance with any rules prescribed by the commission under Subsection (5)(b), the commission shall make a refund to the following that claim a tax credit under this section:

(i) a local government entity;

(ii) a community reinvestment agency; or

(iii) a business entity if the amount of the tax credit exceeds the business entity's tax liability for a taxable year.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules providing procedures for making a refund to a business entity, local government entity, or community reinvestment agency as required by Subsection (5)(a).

(6) (a) In accordance with Section 59-7-159, the Revenue and Taxation Interim Committee shall study the tax credit allowed by this section and make recommendations concerning whether the tax credit should be continued, modified, or repealed.

(b) Except as provided in Subsection (6)(c), for purposes of the study required by this Subsection (6), the office shall provide the following information, if available to the office, to the Revenue and Taxation Interim Committee by electronic means:

(i) the amount of tax credit that the office grants to each business entity, local government entity, or community reinvestment agency for each calendar year;

(ii) the criteria that the office uses in granting a tax credit;

(iii) (A) for a business entity, the new state [~~revenues~~] revenue generated by the business entity for the calendar year; or

(B) for a local government entity, regardless of whether the local government entity assigns the tax credit in accordance with Section 63N-2-104, the new state [~~revenues~~] revenue generated as a result of a new commercial project within the local government entity for each calendar year;

(iv) estimates for each of the next three calendar years of the following:

(A) the amount of tax credits that the office will grant;

(B) the amount of new state [~~revenues~~] revenue that will be generated; and

(C) the number of new incremental jobs within the state that will be generated;

(v) the information contained in the office's latest report under Section 63N-2-106; and

(vi) any other information that the Revenue and Taxation Interim Committee requests.

(c) (i) In providing the information described in Subsection (6)(b), the office shall redact information that identifies a recipient of a tax credit under this section.

(ii) If, notwithstanding the redactions made under Subsection (6)(c)(i), reporting the information described in Subsection (6)(b) might disclose the identity of a recipient of a tax credit, the office may file a request with the Revenue and Taxation Interim Committee to provide the information described in Subsection (6)(b) in the aggregate for all entities and agencies that receive the tax credit under this section.

(d) The Revenue and Taxation Interim Committee shall ensure that the recommendations described in Subsection (6)(a) include an evaluation of:

(i) the cost of the tax credit to the state;

(ii) the purpose and effectiveness of the tax credit; and

(iii) the extent to which the state benefits from the tax credit.

Section 38. Section 59-7-614.5 is amended to read:

59-7-614.5. Refundable motion picture tax credit.

(1) As used in this section:

(a) "Motion picture company" means a taxpayer that meets the definition of a motion picture company under Section 63N-8-102.

(b) "Office" means the Governor's Office of Economic [~~Development~~] Opportunity created in Section [~~63N-1-201~~] 63N-1a-301.

(c) "State-approved production" means the same as that term is defined in Section 63N-8-102.

(2) For a taxable year beginning on or after January 1, 2009, a motion picture company may claim a refundable tax credit for a state-approved production.

(3) The tax credit under this section is the amount listed as the tax credit amount on the tax credit certificate that the office issues to a motion picture company under Section 63N-8-103 for the taxable year.

(4) (a) In accordance with any rules prescribed by the commission under Subsection (4)(b), the commission shall make a refund to a motion picture company that claims a tax credit under this section if the amount of the tax credit exceeds the motion picture company's tax liability for a taxable year.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules providing procedures for making a refund to a motion picture company as required by Subsection (4)(a).

(5) (a) In accordance with Section 59-7-159, the Revenue and Taxation Interim Committee shall study the tax credit allowed by this section and make recommendations concerning whether the tax credit should be continued, modified, or repealed.

(b) (i) Except as provided in Subsection (5)(b)(ii), for purposes of the study required by this Subsection (5), the office shall provide the following information, if available to the office, to the Office of the Legislative Fiscal Analyst by electronic means:

(A) the amount of tax credit that the office grants to each motion picture company for each calendar year;

(B) estimates of the amount of tax credit that the office will grant for each of the next three calendar years;

(C) the criteria that the office uses in granting the tax credit;

(D) the dollars left in the state, as defined in Section 63N-8-102, by each motion picture company for each calendar year;

(E) the information contained in the office's latest report under Section [~~63N-8-105~~] 63N-1a-306; and

(F) any other information that the Office of the Legislative Fiscal Analyst requests.

(ii) (A) In providing the information described in Subsection (5)(b)(i), the office shall redact information that identifies a recipient of a tax credit under this section.

(B) If, notwithstanding the redactions made under Subsection (5)(b)(ii)(A), reporting the information described in Subsection (5)(b)(i) might disclose the identity of a recipient of a tax credit, the office may file a request with the Revenue and Taxation Interim Committee to provide the information described in Subsection (5)(b)(i) in the aggregate for all motion picture companies that receive the tax credit under this section.

(c) As part of the study required by this Subsection (5), the Office of the Legislative Fiscal Analyst shall report to the Revenue and Taxation Interim Committee a summary and analysis of the information provided to the Office of the Legislative Fiscal Analyst by the office under Subsection (5)(b).

(d) The Revenue and Taxation Interim Committee shall ensure that the recommendations described in Subsection (5)(a) include an evaluation of:

(i) the cost of the tax credit to the state;

(ii) the effectiveness of the tax credit; and

(iii) the extent to which the state benefits from the tax credit.

Section 39. Section 59-7-614.10 is amended to read:

59-7-614.10. Nonrefundable enterprise zone tax credit.

(1) As used in this section:

(a) "Business entity" means a corporation that meets the definition of "business entity" as that term is defined in Section 63N-2-202.

(b) "Office" means the Governor's Office of Economic [~~Development~~] Opportunity created in Section [~~63N-1-201~~] 63N-1a-301.

(2) Subject to the provisions of this section, a business entity may claim a nonrefundable enterprise zone tax credit as described in Section 63N-2-213.

(3) The enterprise zone tax credit under this section is the amount listed as the tax credit amount on the tax credit certificate that the office issues to the business entity for the taxable year.

(4) A business entity may carry forward a tax credit under this section for a period that does not exceed the next three taxable years, if the amount of the tax credit exceeds the business entity's tax liability under this chapter for that taxable year.

(5) A business entity may not claim or carry forward a tax credit under this part for a taxable year during which the business entity has claimed the targeted business income tax credit under Section 59-7-624.

(6) (a) In accordance with Section 59-7-159, the Revenue and Taxation Interim Committee shall study the tax credit allowed by this section and make recommendations concerning whether the tax credit should be continued, modified, or repealed.

(b) (i) Except as provided in Subsection (6)(b)(ii), for purposes of the study required by this Subsection (6), the office shall provide by electronic means the following information for each calendar year to the Office of the Legislative Fiscal Analyst:

(A) the amount of tax credits provided in each development zone;

(B) the number of new full-time employee positions reported to obtain tax credits in each development zone;

(C) the amount of tax credits awarded for rehabilitating a building in each development zone;

(D) the amount of tax credits awarded for investing in a plant, equipment, or other depreciable property in each development zone;

(E) the information related to the tax credit contained in the office's latest report under Section 63N-1-301; and

(F) any other information that the Office of the Legislative Fiscal Analyst requests.

(ii) (A) In providing the information described in Subsection (6)(b)(i), the office shall redact information that identifies a recipient of a tax credit under this section.

(B) If, notwithstanding the redactions made under Subsection (6)(b)(ii)(A), reporting the information described in Subsection (6)(b)(i) might disclose the identity of a recipient of a tax credit, the office may file a request with the Revenue and Taxation Interim Committee to provide the information described in Subsection (6)(b)(i) in the aggregate for all development zones that receive the tax credit under this section.

(c) As part of the study required by this Subsection (6), the Office of the Legislative Fiscal Analyst shall report to the Revenue and Taxation Interim Committee a summary and analysis of the

information provided to the Office of the Legislative Fiscal Analyst by the office under Subsection (6)(b).

(d) The Revenue and Taxation Interim Committee shall ensure that the recommendations described in Subsection (6)(a) include an evaluation of:

(i) the cost of the tax credit to the state;

(ii) the purpose and effectiveness of the tax credit; and

(iii) the extent to which the state benefits from the tax credit.

Section 40. Section 59-7-621 is amended to read:

59-7-621. Nonrefundable rural job creation tax credit.

(1) As used in this section, "office" means the Governor's Office of Economic [~~Development~~] Opportunity created in Section [~~63N-1-201~~] 63N-1a-301.

(2) Subject to the other provisions of this section, a taxpayer may claim a nonrefundable tax credit for rural job creation as provided in this section.

(3) The tax credit under this section is the amount listed as the tax credit amount on a tax credit certificate that the office issues under Title 63N, Chapter 4, Part 3, Utah Rural Jobs Act, to the taxpayer for the taxable year.

(4) A taxpayer may carry forward a tax credit under this section for the next seven taxable years if the amount of the tax credit exceeds the taxpayer's tax liability under this chapter for the taxable year in which the taxpayer claims the tax credit.

Section 41. Section 59-7-624 is amended to read:

59-7-624. Targeted business income tax credit.

(1) As used in this section, "business applicant" means the same as that term is defined in Section 63N-2-302.

(2) A business applicant that is certified and issued a targeted business income tax eligibility certificate by the Governor's Office of Economic [~~Development~~] Opportunity under Section 63N-2-304 may claim a refundable tax credit in the amount specified on the targeted business income tax eligibility certificate.

(3) For a taxable year for which a business applicant claims a targeted business income tax credit under this section, the business applicant may not claim or carry forward a tax credit under Section 59-7-610, Section 59-10-1007, or Title 63N, Chapter 2, Part 2, Enterprise Zone Act.

Section 42. Section 59-10-137 is amended to read:

59-10-137. Review of credits allowed under this chapter.

(1) As used in this section, "committee" means the Revenue and Taxation Interim Committee.

(2) (a) The committee shall review the tax credits described in this chapter as provided in Subsection (3) and make recommendations concerning whether the tax credits should be continued, modified, or repealed.

(b) In conducting the review required under Subsection (2)(a), the committee shall:

(i) schedule time on at least one committee agenda to conduct the review;

(ii) invite state agencies, individuals, and organizations concerned with the tax credit under review to provide testimony;

(iii) (A) invite the Governor's Office of Economic [~~Development~~] Opportunity to present a summary and analysis of the information for each tax credit regarding which the Governor's Office of Economic [~~Development~~] Opportunity is required to make a report under this chapter; and

(B) invite the Office of the Legislative Fiscal Analyst to present a summary and analysis of the information for each tax credit regarding which the Office of the Legislative Fiscal Analyst is required to make a report under this chapter;

(iv) ensure that the committee's recommendations described in this section include an evaluation of:

(A) the cost of the tax credit to the state;

(B) the purpose and effectiveness of the tax credit; and

(C) the extent to which the state benefits from the tax credit; and

(v) undertake other review efforts as determined by the committee chairs or as otherwise required by law.

(3) (a) On or before November 30, 2017, and every three years after 2017, the committee shall conduct the review required under Subsection (2) of the tax credits allowed under the following sections:

(i) Section 59-10-1004;

(ii) Section 59-10-1010;

(iii) Section 59-10-1015;

(iv) Section 59-10-1025;

(v) Section 59-10-1027;

(vi) Section 59-10-1031;

(vii) Section 59-10-1032;

(viii) Section 59-10-1035;

(ix) Section 59-10-1104;

(x) Section 59-10-1105; and

(xi) Section 59-10-1108.

(b) On or before November 30, 2018, and every three years after 2018, the committee shall conduct

the review required under Subsection (2) of the tax credits allowed under the following sections:

(i) Section 59-10-1005;

(ii) Section 59-10-1006;

(iii) Section 59-10-1012;

(iv) Section 59-10-1022;

(v) Section 59-10-1023;

(vi) Section 59-10-1028;

(vii) Section 59-10-1034;

(viii) Section 59-10-1037;

(ix) Section 59-10-1107; and

(x) Section 59-10-1112.

(c) On or before November 30, 2019, and every three years after 2019, the committee shall conduct the review required under Subsection (2) of the tax credits allowed under the following sections:

(i) Section 59-10-1007;

(ii) Section 59-10-1014;

(iii) Section 59-10-1017;

(iv) Section 59-10-1018;

(v) Section 59-10-1019;

(vi) Section 59-10-1024;

(vii) Section 59-10-1029;

[~~(viii) Section 59-10-1033;~~]

[~~(ix)~~] (viii) Section 59-10-1036;

[~~(x)~~] (ix) Section 59-10-1106; and

[~~(xi)~~] (x) Section 59-10-1111.

(d) (i) In addition to the reviews described in this Subsection (3), the committee shall conduct a review of a tax credit described in this chapter that is enacted on or after January 1, 2017.

(ii) The committee shall complete a review described in this Subsection (3)(d) three years after the effective date of the tax credit and every three years after the initial review date.

Section 43. Section 59-10-1037 is amended to read:

59-10-1037. Nonrefundable enterprise zone tax credit.

(1) As used in this section:

(a) "Business entity" means a claimant, estate, or trust that meets the definition of "business entity" as that term is defined in Section 63N-2-202.

(b) "Office" means the Governor's Office of Economic [~~Development~~] Opportunity created in Section [~~63N-1-201~~] 63N-1a-301.

(2) Subject to the provisions of this section, a business entity may claim a nonrefundable enterprise zone tax credit as described in Section 63N-2-213.

(3) The enterprise zone tax credit under this section is the amount listed as the tax credit amount on the tax credit certificate that the office issues to the business entity for the taxable year.

(4) A business entity may carry forward a tax credit under this section for a period that does not exceed the next three taxable years, if the amount of the tax credit exceeds the business entity's tax liability under this chapter for that taxable year.

(5) A business entity may not claim or carry forward a tax credit under this part for a taxable year during which the business entity has claimed the targeted business income tax credit under Section 59-10-1112.

(6) (a) In accordance with Section 59-10-137, the Revenue and Taxation Interim Committee shall study the tax credit allowed by this section and make recommendations concerning whether the tax credit should be continued, modified, or repealed.

(b) (i) Except as provided in Subsection (6)(b)(ii), for purposes of the study required by this Subsection (6), the office shall provide by electronic means the following information, if available to the office, for each calendar year to the Office of the Legislative Fiscal Analyst:

(A) the amount of tax credits provided in each development zone;

(B) the number of new full-time employee positions reported to obtain tax credits in each development zone;

(C) the amount of tax credits awarded for rehabilitating a building in each development zone;

(D) the amount of tax credits awarded for investing in a plant, equipment, or other depreciable property in each development zone;

(E) the information related to the tax credit contained in the office's latest report under Section [~~63N-1-301~~] 63N-1a-306; and

(F) other information that the Office of the Legislative Fiscal Analyst requests.

(ii) (A) In providing the information described in Subsection (6)(b)(i), the office shall redact information that identifies a recipient of a tax credit under this section.

(B) If, notwithstanding the redactions made under Subsection (6)(b)(ii)(A), reporting the information described in Subsection (6)(b)(i) might disclose the identity of a recipient of a tax credit, the office may file a request with the Revenue and Taxation Interim Committee to provide the information described in Subsection (6)(b)(i) in the aggregate for all development zones that receive the tax credit under this section.

(c) As part of the study required by this Subsection (6), the Office of the Legislative Fiscal Analyst shall report to the Revenue and Taxation

Interim Committee a summary and analysis of the information provided to the Office of the Legislative Fiscal Analyst by the office under Subsection (6)(b).

(d) The Revenue and Taxation Interim Committee shall ensure that the recommendations described in Subsection (6)(a) include an evaluation of:

(i) the cost of the tax credit to the state;

(ii) the purpose and effectiveness of the tax credit; and

(iii) the extent to which the state benefits from the tax credit.

Section 44. Section 59-10-1038 is amended to read:

59-10-1038. Nonrefundable rural job creation tax credit.

(1) As used in this section, "office" means the Governor's Office of Economic [~~Development~~] Opportunity created in Section [~~63N-1-201~~] 63N-1a-301.

(2) Subject to the other provisions of this section, a taxpayer may claim a nonrefundable tax credit for rural job creation as provided in this section.

(3) The tax credit under this section is the amount listed as the tax credit amount on a tax credit certificate that the office issues under Title 63N, Chapter 4, Part 3, Utah Rural Jobs Act, to the taxpayer for the taxable year.

(4) A taxpayer may carry forward a tax credit under this section for the next seven taxable years if the amount of the tax credit exceeds the taxpayer's tax liability under this chapter for the taxable year in which the taxpayer claims the tax credit.

Section 45. Section 59-10-1107 is amended to read:

59-10-1107. Refundable economic development tax credit.

(1) As used in this section:

(a) "Business entity" means a claimant, estate, or trust that meets the definition of "business entity" as defined in Section 63N-2-103.

[~~(b) "New incremental jobs" means the same as that term is defined in Section 63N-2-103.~~]

(b) "Incremental job" means the same as that term is defined in Section 63N-1a-102.

(c) "New state [~~revenues~~] revenue" means the same as that term is defined in Section [~~63N-2-103~~] 63N-1a-102.

(d) "Office" means the Governor's Office of Economic [~~Development~~] Opportunity.

(2) Subject to the other provisions of this section, a business entity may claim a refundable tax credit for economic development.

(3) The tax credit under this section is the amount listed as the tax credit amount on the tax credit certificate that the office issues to the business entity for the taxable year.

(4) (a) In accordance with any rules prescribed by the commission under Subsection (4)(b), the commission shall make a refund to a business entity that claims a tax credit under this section if the amount of the tax credit exceeds the business entity's tax liability for a taxable year.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules providing procedures for making a refund to a business entity as required by Subsection (4)(a).

(5) (a) In accordance with Section 59-10-137, the Revenue and Taxation Interim Committee shall study the tax credit allowed by this section and make recommendations concerning whether the tax credit should be continued, modified, or repealed.

(b) Except as provided in Subsection (5)(c), for purposes of the study required by this Subsection (5), the office shall provide the following information, if available to the office, to the Revenue and Taxation Interim Committee by electronic means:

(i) the amount of tax credit the office grants to each taxpayer for each calendar year;

(ii) the criteria the office uses in granting a tax credit;

(iii) the new state [~~revenues~~] revenue generated by each taxpayer for each calendar year;

(iv) estimates for each of the next three calendar years of the following:

(A) the amount of tax credits that the office will grant;

(B) the amount of new state [~~revenues~~] revenue that will be generated; and

(C) the number of new incremental jobs within the state that will be generated;

(v) the information contained in the office's latest report under Section 63N-2-106; and

(vi) any other information that the Revenue and Taxation Interim Committee requests.

(c) (i) In providing the information described in Subsection (5)(b), the office shall redact information that identifies a recipient of a tax credit under this section.

(ii) If, notwithstanding the redactions made under Subsection (5)(c)(i), reporting the information described in Subsection (5)(b) might disclose the identity of a recipient of a tax credit, the office may file a request with the Revenue and Taxation Interim Committee to provide the information described in Subsection (5)(b) in the aggregate for all taxpayers that receive the tax credit under this section.

(d) The Revenue and Taxation Interim Committee shall ensure that the recommendations

described in Subsection (5)(a) include an evaluation of:

(i) the cost of the tax credit to the state;

(ii) the purpose and effectiveness of the tax credit; and

(iii) the extent to which the state benefits from the tax credit.

Section 46. Section 59-10-1108 is amended to read:

59-10-1108. Refundable motion picture tax credit.

(1) As used in this section:

(a) "Motion picture company" means a claimant, estate, or trust that meets the definition of a motion picture company under Section 63N-8-102.

(b) "Office" means the Governor's Office of Economic [~~Development~~] Opportunity created in Section [~~63N-1-201~~] 63N-1a-301.

(c) "State-approved production" means the same as that term is defined in Section 63N-8-102.

(2) For a taxable year beginning on or after January 1, 2009, a motion picture company may claim a refundable tax credit for a state-approved production.

(3) The tax credit under this section is the amount listed as the tax credit amount on the tax credit certificate that the office issues to a motion picture company under Section 63N-8-103 for the taxable year.

(4) (a) In accordance with any rules prescribed by the commission under Subsection (4)(b), the commission shall make a refund to a motion picture company that claims a tax credit under this section if the amount of the tax credit exceeds the motion picture company's tax liability for the taxable year.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules providing procedures for making a refund to a motion picture company as required by Subsection (4)(a).

(5) (a) In accordance with Section 59-10-137, the Revenue and Taxation Interim Committee shall study the tax credit allowed by this section and make recommendations concerning whether the tax credit should be continued, modified, or repealed.

(b) (i) Except as provided in Subsection (5)(b)(ii), for purposes of the study required by this Subsection (5), the office shall provide the following information, if available to the office, to the Office of the Legislative Fiscal Analyst by electronic means:

(A) the amount of tax credit the office grants to each taxpayer for each calendar year;

(B) estimates of the amount of tax credit that the office will grant for each of the next three calendar years;

(C) the criteria the office uses in granting a tax credit;

(D) the dollars left in the state, as defined in Section 63N-8-102, by each motion picture company for each calendar year;

(E) the information contained in the office's latest report under Section 63N-8-105; and

(F) any other information that the Office of the Legislative Fiscal Analyst requests.

(ii) (A) In providing the information described in Subsection (5)(b)(i), the office shall redact information that identifies a recipient of a tax credit under this section.

(B) If, notwithstanding the redactions made under Subsection (5)(b)(ii)(A), reporting the information described in Subsection (5)(b)(i) might disclose the identity of a recipient of a tax credit, the office may file a request with the Revenue and Taxation Interim Committee to provide the information described in Subsection (5)(b)(i) in the aggregate for all taxpayers that receive the tax credit under this section.

(c) As part of the study required by this Subsection (5), the Office of the Legislative Fiscal Analyst shall report to the Revenue and Taxation Interim Committee a summary and analysis of the information provided to the Office of the Legislative Fiscal Analyst by the office under Subsection (5)(b).

(d) The Revenue and Taxation Interim Committee shall ensure that the recommendations described in Subsection (5)(a) include an evaluation of:

(i) the cost of the tax credit to the state;

(ii) the effectiveness of the tax credit; and

(iii) the extent to which the state benefits from the tax credit.

Section 47. Section 59-10-1112 is amended to read:

59-10-1112. Targeted business income tax credit.

(1) As used in this section, "business applicant" means the same as that term is defined in Section 63N-2-302.

(2) A business applicant that is certified and issued a targeted business income tax eligibility certificate by the Governor's Office of Economic [~~Development~~] Opportunity under Section 63N-2-304 may claim a refundable tax credit in the amount specified on the targeted business income tax eligibility certificate.

(3) For a taxable year for which a business applicant claims a targeted business income tax credit under this section, the business applicant may not claim or carry forward a tax credit under Section 59-7-610, Section 59-10-1007, or Title 63N, Chapter 2, Part 2, Enterprise Zone Act.

Section 48. Section 63A-3-111 is amended to read:

63A-3-111. COVID-19 economic recovery programs reports.

(1) As used in this section:

(a) "COVID-19 economic recovery programs" means the programs created in:

(i) Title 9, Chapter 6, Part 9, COVID-19 Cultural Assistance Grant Program;

(ii) Subsection [~~63N-12-508~~] 63N-1b-307(3); and

(iii) Title 63N, Chapter 15, COVID-19 Economic Recovery Programs.

(b) "Legislative committee" means:

(i) the president of the Senate;

(ii) the speaker of the House of Representatives;

(iii) the minority leader of the Senate; and

(iv) the minority leader of the House of Representatives.

(2) Upon receiving the reports required by Sections 9-6-903, 63N-15-202, and 63N-15-302 and Subsection [~~63N-12-508~~] 63N-1b-307(3), the director, in conjunction with the Division of Arts and Museums and the Governor's Office of Economic [~~Development~~] Opportunity, shall present to the legislative committee the COVID-19 economic recovery programs.

(3) The legislative committee may make recommendations for adjustments to the COVID-19 economic recovery programs.

Section 49. Section 63B-18-401 is amended to read:

63B-18-401. Highway bonds -- Maximum amount -- Use of proceeds for highway projects.

(1) (a) The total amount of bonds issued under this section may not exceed $2,077,000,000.

(b) When the Department of Transportation certifies to the commission that the requirements of Subsection 72-2-124(7) have been met and certifies the amount of bond proceeds that it needs to provide funding for the projects described in Subsection (2) for the next fiscal year, the commission may issue and sell general obligation bonds in an amount equal to the certified amount plus costs of issuance.

(2) Except as provided in Subsections (3) and (4), proceeds from the issuance of bonds shall be provided to the Department of Transportation to pay all or part of the costs of the following state highway construction or reconstruction projects:

(a) Interstate 15 reconstruction in Utah County;

(b) the Mountain View Corridor;

(c) the Southern Parkway; and

(d) state and federal highways prioritized by the Transportation Commission through:

(i) the prioritization process for new transportation capacity projects adopted under Section 72-1-304; or

(ii) the state highway construction program.

(3) (a) Except as provided in Subsection (5), the bond proceeds issued under this section shall be provided to the Department of Transportation.

(b) The Department of Transportation shall use bond proceeds and the funds provided to it under Section 72-2-124 to pay for the costs of right-of-way acquisition, construction, reconstruction, renovations, or improvements to the following highways:

(i) $35 million to add highway capacity on I-15 south of the Spanish Fork Main Street interchange to Payson;

(ii) $28 million for improvements to Riverdale Road in Ogden;

(iii) $1 million for intersection improvements on S.R. 36 at South Mountain Road;

(iv) $2 million for capacity enhancements on S.R. 248 between Sidewinder Drive and Richardson Flat Road;

(v) $12 million for Vineyard Connector from 800 North Geneva Road to Lake Shore Road;

(vi) $7 million for 2600 South interchange modifications in Woods Cross;

(vii) $9 million for reconfiguring the 1100 South interchange on I-15 in Box Elder County;

(viii) $18 million for the Provo west-side connector;

(ix) $8 million for interchange modifications on I-15 in the Layton area;

(x) $3,000,000 for an energy corridor study and environmental review for improvements in the Uintah Basin;

(xi) $2,000,000 for highway improvements to Harrison Boulevard in Ogden City;

(xii) $2,500,000 to be provided to Tooele City for roads around the Utah State University campus to create improved access to an institution of higher education;

(xiii) $3,000,000 to be provided to the Utah Office of Tourism within the Governor's Office of Economic [~~Development~~] Opportunity for transportation infrastructure improvements associated with annual tourism events that have:

(A) a significant economic development impact within the state; and

(B) significant needs for congestion mitigation;

(xiv) $4,500,000 to be provided to the Governor's Office of Economic [~~Development~~] Opportunity for transportation infrastructure acquisitions and improvements that have a significant economic development impact within the state;

(xv) $125,000,000 to pay all or part of the costs of state and federal highway construction or reconstruction projects prioritized by the Transportation Commission through the prioritization process for new transportation capacity projects adopted under Section 72-1-304;

(xvi) $10,000,000 for the Transportation Fund to pay all or part of the costs of state and federal highway construction or reconstruction projects as prioritized by the Transportation Commission;

(xvii) $13,000,000 for corridor preservation and land acquisition for a transit hub at the mouth of Big Cottonwood Canyon;

(xviii) $10,000,000 to be provided to the Governor's Office of Economic [~~Development~~] Opportunity for transportation infrastructure and right-of-way acquisitions in a project area created by the military installation development authority created in Section 63H-1-201;

(xix) $28,000,000 for right-of-way or land acquisition, design, engineering, and construction of infrastructure related to the Inland Port Authority created in Section 11-58-201;

(xx) $6,000,000 for right-of-way acquisition, design, engineering, and construction related to Shepard Lane in Davis County; and

(xxi) $4,000,000 for right-of-way acquisition, design, engineering, and construction costs related to 1600 North in Orem City.

(4) (a) The Department of Transportation shall use bond proceeds and the funds under Section 72-2-121 to pay for, or to provide funds to, a municipality, county, or political subdivision to pay for the costs of right-of-way acquisition, construction, reconstruction, renovations, or improvements to the following highway or transit projects in Salt Lake County:

(i) $4,000,000 to Taylorsville City for bus rapid transit planning on 4700 South;

(ii) $4,200,000 to Taylorsville City for highway improvements on or surrounding 6200 South and pedestrian crossings and system connections;

(iii) $2,250,000 to Herriman City for highway improvements to the Salt Lake Community College Road;

(iv) $5,300,000 to West Jordan City for highway improvements on 5600 West from 6200 South to 8600 South;

(v) $4,000,000 to West Jordan City for highway improvements to 7800 South from 1300 West to S.R. 111;

(vi) $7,300,000 to Sandy City for highway improvements on Monroe Street;

(vii) $3,000,000 to Draper City for highway improvements to 13490 South from 200 West to 700 West;

(viii) $5,000,000 to Draper City for highway improvements to Suncrest Road;

(ix) $1,200,000 to Murray City for highway improvements to 5900 South from State Street to 900 East;

(x) $1,800,000 to Murray City for highway improvements to 1300 East;

(xi) $3,000,000 to South Salt Lake City for intersection improvements on West Temple, Main Street, and State Street;

(xii) $2,000,000 to Salt Lake County for highway improvements to 5400 South from 5600 West to Mountain View Corridor;

(xiii) $3,000,000 to West Valley City for highway improvements to 6400 West from Parkway Boulevard to SR-201 Frontage Road;

(xiv) $4,300,000 to West Valley City for highway improvements to 2400 South from 4800 West to 7200 West and pedestrian crossings;

(xv) $4,000,000 to Salt Lake City for highway improvements to 700 South from 2800 West to 5600 West;

(xvi) $2,750,000 to Riverton City for highway improvements to 4570 West from 12600 South to Riverton Boulevard;

(xvii) $1,950,000 to Cottonwood Heights for improvements to Union Park Avenue from I-215 exit south to Creek Road and Wasatch Boulevard and Big Cottonwood Canyon;

(xviii) $1,300,000 to Cottonwood Heights for highway improvements to BengalBoulevard;

(xix) $1,500,000 to Midvale City for highway improvements to 7200 South from I-15 to 1000 West;

(xx) $1,000,000 to Bluffdale City for an environmental impact study on Porter Rockwell Boulevard;

(xxi) $2,900,000 to the Utah Transit Authority for the following public transit studies:

(A) a circulator study; and

(B) a mountain transport study; and

(xxii) $1,000,000 to South Jordan City for highway improvements to 2700 West.

(b) (i) Before providing funds to a municipality or county under this Subsection (4), the Department of Transportation shall obtain from the municipality or county:

(A) a written certification signed by the county or city mayor or the mayor's designee certifying that the municipality or county will use the funds provided under this Subsection (4) solely for the projects described in Subsection (4)(a); and

(B) other documents necessary to protect the state and the bondholders and to ensure that all legal requirements are met.

(ii) Except as provided in Subsection (4)(c), by January 1 of each year, the municipality or county receiving funds described in this Subsection (4) shall submit to the Department of Transportation a statement of cash flow for the next fiscal year detailing the funds necessary to pay project costs for the projects described in Subsection (4)(a).

(iii) After receiving the statement required under Subsection (4)(b)(ii) and after July 1, the

Department of Transportation shall provide funds to the municipality or county necessary to pay project costs for the next fiscal year based upon the statement of cash flow submitted by the municipality or county.

(iv) Upon the financial close of each project described in Subsection (4)(a), the municipality or county receiving funds under this Subsection (4) shall submit a statement to the Department of Transportation detailing the expenditure of funds received for each project.

(c) For calendar year 2012 only:

(i) the municipality or county shall submit to the Department of Transportation a statement of cash flow as provided in Subsection (4)(b)(ii) as soon as possible; and

(ii) the Department of Transportation shall provide funds to the municipality or county necessary to pay project costs based upon the statement of cash flow.

(5) Twenty million dollars of the bond proceeds issued under this section and funds available under Section 72-2-124 shall be provided to the State Infrastructure Bank Fund created by Section 72-2-202 to make funds available for transportation infrastructure loans and transportation infrastructure assistance under Title 72, Chapter 2, Part 2, State Infrastructure Bank Fund.

(6) The costs under Subsections (2), (3), and (4) may include the costs of studies necessary to make transportation infrastructure improvements, the cost of acquiring land, interests in land, easements and rights-of-way, improving sites, and making all improvements necessary, incidental, or convenient to the facilities, interest estimated to accrue on these bonds during the period to be covered by construction of the projects plus a period of six months after the end of the construction period, interest estimated to accrue on any bond anticipation notes issued under the authority of this title, and all related engineering, architectural, and legal fees.

(7) The commission or the state treasurer may make any statement of intent relating to a reimbursement that is necessary or desirable to comply with federal tax law.

(8) The Department of Transportation may enter into agreements related to the projects described in Subsections (2), (3), and (4) before the receipt of proceeds of bonds issued under this section.

(9) The Department of Transportation may enter into a new or amend an existing interlocal agreement related to the projects described in Subsections (3) and (4) to establish any necessary covenants or requirements not otherwise provided for by law.

Section 50. Section 63B-24-201 is amended to read:

63B-24-201. Authorizations to design and construct capital facilities using institutional or agency funds.

(1) The Legislature intends that:

(a) the University of Utah may, subject to the requirements of Title 63A, Chapter 5b, Administration of State Facilities, use up to $8,200,000 in institutional funds to plan, design, and construct the William C. Browning Building Addition with up to 24,000 square feet;

(b) the university may not use state funds for any portion of this project; and

(c) the university may use state funds for operation and maintenance costs or capital improvements.

(2) The Legislature intends that:

(a) Utah State University may, subject to the requirements of Title 63A, Chapter 5b, Administration of State Facilities, use up to $10,000,000 in institutional funds to plan, design, and construct the Fine Arts Complex Addition/Renovation with up to 17,000 square feet;

(b) the university may not use state funds for any portion of this project; and

(c) the university may use state funds for operation and maintenance costs or capital improvements.

(3) The Legislature intends that:

(a) Salt Lake Community College may, subject to the requirements of Title 63A, Chapter 5b, Administration of State Facilities, use up to $3,900,000 in institutional funds to plan, design, and construct a Strength and Conditioning Center with up to 11,575 square feet;

(b) the college may not use state funds for any portion of this project; and

(c) the college may not request state funds for operation and maintenance costs or capital improvements.

(4) The Legislature intends that:

(a) the Governor's Office of Economic [~~Development~~] Opportunity may, subject to the requirements of Title 63A, Chapter 5b, Administration of State Facilities, use up to $1,800,000 in nonlapsing balances and donations to plan, design, and construct or lease a Southern Utah Welcome Center with up to 5,000 square feet;

(b) the office may request additional state funds for the project, unless the office receives donations and begins design or construction of the project; and

(c) the office may use state funds for operation and maintenance costs or capital improvements.

Section 51. Section 63C-17-103 is amended to read:

63C-17-103. Creation of Point of the Mountain Development Commission -- Members.

(1) There is created the Point of the Mountain Development Commission consisting of the following 15 members:

(a) two members shall be members of the Senate appointed by the president of the Senate;

(b) two members shall be members of the House of Representatives appointed by the speaker of the House of Representatives;

(c) one member shall be the mayor of Lehi City, Utah, or the mayor's designee;

(d) one member shall be the mayor of Draper City, Utah, or the mayor's designee;

(e) one member shall be the mayor of Salt Lake County, or the mayor's designee;

(f) one member shall be an appointee of the Utah County Commission;

(g) two members shall be mayors of communities in or close to the project area who shall be appointed by the Utah League of Cities and Towns;

(h) one member shall be an appointee of the Economic Development Corporation of Utah;

(i) one member, who is a member of the Board of the Governor's Office of Economic [~~Development~~] Opportunity, shall be appointed by the governor;

(j) one member, who is an employee of the Governor's Office of Economic [~~Development~~] Opportunity, shall be an appointee of the governor;

(k) one member shall be a member of the public, representing the school boards in or close to the project area, jointly appointed by the president of the Senate and the speaker of the House of Representatives; and

(l) one member shall be a member of the public, representing the information technology sector with a physical presence within the project area, jointly appointed by the president of the Senate and the speaker of the House of Representatives.

(2) (a) The president of the Senate and the speaker of the House of Representatives shall jointly designate a member of the Legislature appointed under Subsection (1)(a) or (b) as a cochair of the commission.

(b) The governor shall designate a representative from the Governor's Office of Economic [~~Development~~] Opportunity appointed under Subsection (1)(i) or (j) as a cochair of the commission.

(3) Any vacancy shall be filled in the same manner under this section as the appointment of the member whose vacancy is being filled.

(4) Each member of the commission shall serve until a successor is appointed and qualified.

(5) A majority of members constitutes a quorum. The action of a majority of a quorum constitutes the action of the commission.

Section 52. Section 63C-17-105 is amended to read:

63C-17-105. Commission staff and expenses.

The Office of Legislative Research and General Counsel, in coordination with the Governor's Office of Economic [~~Development~~] Opportunity, shall provide staff support for the commission.

Section 53. Section 63G-21-102 is amended to read:

63G-21-102. Definitions.

As used in this chapter:

(1) "Designated agency" means:

(a) the Governor's Office of Economic [~~Development~~] Opportunity;

(b) the Division of Wildlife Resources;

(c) the Department of Public Safety;

(d) the Department of Technology Services; or

(e) the Department of Workforce Services.

(2) (a) "State service" means a service or benefit regularly provided to the public by a designated agency.

(b) "State service" includes:

(i) for the Governor's Office of Economic [~~Development~~] Opportunity or the Department of Technology Services, public high-speed Internet access;

(ii) for the Division of Wildlife Resources, fishing, hunting, and trapping licenses;

(iii) for the Department of Public Safety, fingerprinting, an online driver license renewal, online appointment scheduling, an online motor vehicle record request, and an online change of address with the Driver License Division; and

(iv) for the Department of Workforce Services, online job searches, verification of submission for benefits administered by the Department of Workforce Services, online unemployment applications, online food stamp applications, and online appointment scheduling.

(3) "USPS" means the United States Postal Service.

Section 54. Section 63G-21-201 is amended to read:

63G-21-201. Limited authorization to provide state services at post office locations.

(1) If allowed by federal law, a designated agency may negotiate and enter into an agreement with USPS that allows USPS to provide one or more state services at one or more post office locations within the state.

(2) The designated agency shall ensure that the agreement described in Subsection (1) includes:

(a) the term of the agreement, which may not extend beyond July 1, 2025;

(b) provisions to ensure the security of state data and resources;

(c) provisions to provide training to USPS employees on how to provide each state service in the agreement;

(d) except as provided in Subsection (2)(e), provisions authorizing compensation to USPS for at least 100% of attributable costs of all property and services that USPS provides under the agreement; and

(e) if the agreement is between USPS and the Division of Wildlife Resources to sell fishing, hunting, or trapping licenses, provisions requiring compliance with Section 23-19-15 regarding wildlife license agents, including remuneration for services rendered.

(3) After one or more designated agencies enter into an agreement described in Subsection (1), the Governor's Office of Economic [~~Development~~] Opportunity shall create a marketing campaign to advertise and promote the availability of state services at each selected USPS location.

Section 55. Section 63H-1-801 is amended to read:

63H-1-801. Dissolution of authority -- Restrictions -- Filing copy of ordinance -- Authority records -- Dissolution expenses.

(1) The authority may not be dissolved unless the authority has no outstanding bonded indebtedness, other unpaid loans, indebtedness, or advances, and no legally binding contractual obligations with persons or entities other than the state.

(2) Upon the dissolution of the authority:

(a) the Governor's Office of Economic [~~Development~~] Opportunity shall publish a notice of dissolution:

(i) in a newspaper of general circulation in the county in which the dissolved authority is located; and

(ii) as required in Section 45-1-101; and

(b) all title to property owned by the authority vests in the state.

(3) The books, documents, records, papers, and seal of each dissolved authority shall be deposited for safekeeping and reference with the state auditor.

(4) The authority shall pay all expenses of the deactivation and dissolution.

Section 56. Section 63H-2-204 is amended to read:

63H-2-204. Dissolution of authority.

(1) Subject to the other provisions of this section, the board may dissolve the authority:

(a) if the board determines that the authority can no longer comply with the requirements of this chapter; and

(b) by a vote of at least five members of the board.

(2) The authority may not be dissolved if the authority has any of the following:

(a) an outstanding bonded indebtedness;

(b) an unpaid loan, indebtedness, or advance; or

(c) a legally binding contractual obligation with a person other than the state.

(3) Upon the dissolution of the authority:

(a) the Governor's Office of Economic [~~Development~~] Opportunity shall publish a notice of dissolution:

(i) in a newspaper of general circulation in each county in which a qualifying energy delivery project is located; and

(ii) electronically, in accordance with Section 45-1-101;

(b) the authority shall deposit its records with the state auditor, to be retained for the time period determined by the state auditor; and

(c) the assets of the authority shall revert to the state.

(4) The authority shall pay the expenses of dissolution and winding up the affairs of the authority.

(5) If a dissolution under this section is part of a privatization of the authority, the dissolution is subject to Title 63E, Chapter 1, Part 4, Privatization of Independent Entities.

Section 57. Section 63I-1-235 is amended to read:

63I-1-235. Repeal dates, Title 35A.

[~~(1) Subsection 35A-1-109(4)(c), related to the Talent Ready Utah Board, is repealed January 1, 2023.~~]

[~~(2)~~] (1) Subsection 35A-1-202(2)(d), related to the Child Care Advisory Committee, is repealed July 1, 2021.

[~~(3)~~] (2) Section 35A-3-205, which creates the Child Care Advisory Committee, is repealed July 1, 2021.

[~~(4)~~] (3) Subsection 35A-4-312(5)(p), describing information that may be disclosed to the federal Wage and Hour Division, is repealed July 1, 2022.

[~~(5)~~] (4) Subsection 35A-4-502(5), which creates the Employment Advisory Council, is repealed July 1, 2022.

[~~(6)~~] (5) Title 35A, Chapter 8, Part 22, Commission on Housing Affordability, is repealed July 1, 2023.

[~~(7)~~] (6) Section 35A-9-501 is repealed January 1, 2023.

[~~(8)~~] (7) Title 35A, Chapter 11, Women in the Economy Commission Act, is repealed January 1, 2025.

[~~(9)~~] (8) Sections 35A-13-301 and 35A-13-302, which create the Governor's Committee on

Employment of People with Disabilities, are repealed July 1, 2023.

[~~(10)~~] (9) Section 35A-13-303, which creates the State Rehabilitation Advisory Council, is repealed July 1, 2024.

[~~(11)~~] (10) Section 35A-13-404, which creates the advisory council for the Division of Services for the Blind and Visually Impaired, is repealed July 1, 2025.

[~~(12)~~] (11) Sections 35A-13-603 and 35A-13-604, which create the Interpreter Certification Board, are repealed July 1, 2026.

Section 58. Section 63I-1-263 is amended to read:

63I-1-263. Repeal dates, Titles 63A to 63N.

(1) In relation to the Utah Transparency Advisory Board, on January 1, 2025:

(a) Subsection 63A-1-201(1) is repealed;

(b) Subsection 63A-1-202(2)(c), the language "using criteria established by the board" is repealed;

(c) Section 63A-1-203 is repealed;

(d) Subsections 63A-1-204(1) and (2), the language "After consultation with the board, and" is repealed; and

(e) Subsection 63A-1-204(1)(b), the language "using the standards provided in Subsection 63A-1-203(3)(c)" is repealed.

(2) Subsection 63A-5b-405(5), relating to prioritizing and allocating capital improvement funding, is repealed July 1, 2024.

(3) Section 63A-5b-1003, State Facility Energy Efficiency Fund, is repealed July 1, 2023.

(4) Sections 63A-9-301 and 63A-9-302, related to the Motor Vehicle Review Committee, are repealed July 1, 2023.

(5) Title 63C, Chapter 4a, Constitutional and Federalism Defense Act, is repealed July 1, 2028.

(6) Title 63C, Chapter 6, Utah Seismic Safety Commission, is repealed January 1, 2025.

(7) Title 63C, Chapter 12, Snake Valley Aquifer Advisory Council, is repealed July 1, 2024.

(8) Title 63C, Chapter 17, Point of the Mountain Development Commission Act, is repealed July 1, 2021.

(9) Title 63C, Chapter 18, Behavioral Health Crisis Response Commission, is repealed July 1, 2023.

(10) Title 63C, Chapter 21, Outdoor Adventure Commission, is repealed July 1, 2025.

(11) Title 63F, Chapter 2, Data Security Management Council, is repealed July 1, 2025.

(12) Section 63G-6a-805, which creates the Purchasing from Persons with Disabilities Advisory Board, is repealed July 1, 2026.

(13) Title 63G, Chapter 21, Agreements to Provide State Services, is repealed July 1, 2025.

(14) Title 63H, Chapter 4, Heber Valley Historic Railroad Authority, is repealed July 1, 2024.

(15) Title 63H, Chapter 8, Utah Housing Corporation Act, is repealed July 1, 2026.

(16) Subsection 63J-1-602.1(14), Nurse Home Visiting Restricted Account is repealed July 1, 2026.

(17) (a) Subsection 63J-1-602.1(58), relating to the Utah Statewide Radio System Restricted Account, is repealed July 1, 2022.

(b) When repealing Subsection 63J-1-602.1(58), the Office of Legislative Research and General Counsel shall, in addition to the office's authority under Subsection 36-12-12(3), make necessary changes to subsection numbering and cross references.

(18) Subsection 63J-1-602.2(4), referring to dedicated credits to the Utah Marriage Commission, is repealed July 1, 2023.

(19) Subsection 63J-1-602.2(5), referring to the Trip Reduction Program, is repealed July 1, 2022.

(20) Subsection 63J-1-602.2(25), related to the Utah Seismic Safety Commission, is repealed January 1, 2025.

(21) Title 63J, Chapter 4, Part 5, Resource Development Coordinating Committee, is repealed July 1, 2027.

(22) Subsection 63J-4-608(3), which creates the Federal Land Application Advisory Committee, is repealed on July 1, 2021.

(23) In relation to the Utah Substance Use and Mental Health Advisory Council, on January 1, 2023:

(a) Sections 63M-7-301, 63M-7-302, 63M-7-303, 63M-7-304, and 63M-7-306 are repealed;

(b) Section 63M-7-305, the language that states "council" is replaced with "commission";

(c) Subsection 63M-7-305(1) is repealed and replaced with:

"(1) "Commission" means the Commission on Criminal and Juvenile Justice."; and

(d) Subsection 63M-7-305(2) is repealed and replaced with:

"(2) The commission shall:

(a) provide ongoing oversight of the implementation, functions, and evaluation of the Drug-Related Offenses Reform Act; and

(b) coordinate the implementation of Section 77-18-1.1 and related provisions in Subsections 77-18-1(5)(b)(iii) and (iv).".

(24) The Crime Victim Reparations and Assistance Board, created in Section 63M-7-504, is repealed July 1, 2027.

(25) Title 63M, Chapter 7, Part 6, Utah Council on Victims of Crime, is repealed July 1, 2022.

(26) Title 63M, Chapter 11, Utah Commission on Aging, is repealed July 1, 2021.

[~~(27) Subsection 63N-1-301(4)(c), related to the Talent Ready Utah Board, is repealed January 1, 2023.~~]

[~~(28)~~] (27) Title 63N, Chapter 1, Part 5, Governor's Economic Development Coordinating Council, is repealed July 1, 2024.

[~~(29)~~] (28) Title 63N, Chapter 2, Part 2, Enterprise Zone Act, is repealed July 1, 2028.

[~~(30)~~] (29) Section 63N-2-512 is repealed July 1, 2021.

[~~(31)~~] (30) (a) Title 63N, Chapter 2, Part 6, Utah Small Business Jobs Act, is repealed January 1, 2021.

(b) Section 59-9-107 regarding tax credits against premium taxes is repealed for calendar years beginning on or after January 1, 2021.

(c) Notwithstanding Subsection [~~(31)~~] (30)(b), an entity may carry forward a tax credit in accordance with Section 59-9-107 if:

(i) the person is entitled to a tax credit under Section 59-9-107 on or before December 31, 2020; and

(ii) the qualified equity investment that is the basis of the tax credit is certified under Section 63N-2-603 on or before December 31, 2023.

[~~(32) Subsections 63N-3-109(2)(e) and 63N-3-109(2)(f)(i) are repealed July 1, 2023.~~]

[~~(33)~~] (31) Title 63N, Chapter 4, Part 4, Rural Employment Expansion Program, is repealed July 1, 2023.

[~~(34)~~] (32) Title 63N, Chapter 7, Part 1, Board of Tourism Development, is repealed July 1, 2025.

[~~(35)~~] (33) Title 63N, Chapter 9, Part 2, Outdoor Recreational Infrastructure Grant Program, is repealed January 1, [~~2023~~] 2028.

[~~(36) Title 63N, Chapter 12, Part 5, Talent Ready Utah Center, is repealed January 1, 2023.~~]

Section 59. Section 63I-2-263 is amended to read:

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

(1) On July 1, 2020:

(a) Subsection 63A-1-203(5)(a)(i) is repealed; and

(b) in Subsection 63A-1-203(5)(a)(ii), the language that states "appointed on or after May 8, 2018," is repealed.

(2) Section 63A-3-111 is repealed June 30, 2021.

(3) Title 63C, Chapter 19, Higher Education Strategic Planning Commission is repealed July 1, 2021.

(4) Title 63C, Chapter 22, Digital Wellness, Citizenship, and Safe Technology Commission is repealed July 1, 2023.

(5) The following sections regarding the World War II Memorial Commission are repealed on July 1, 2022:

(a) Section 63G-1-801;

(b) Section 63G-1-802;

(c) Section 63G-1-803; and

(d) Section 63G-1-804.

(6) Subsections 63G-6a-802(1)(d) and 63G-6a-802(3)(b)(iii), regarding a procurement relating to a vice presidential debate, are repealed January 1, 2021.

(7) In relation to the State Fair Park Committee, on January 1, 2021:

(a) Section 63H-6-104.5 is repealed; and

(b) Subsections 63H-6-104(8) and (9) are repealed.

(8) Section 63H-7a-303 is repealed July 1, 2024.

(9) Subsection 63J-1-206(3)(c), relating to coronavirus, is repealed July 1, 2021.

(10) In relation to the Employability to Careers Program Board, on July 1, 2022:

(a) Subsection 63J-1-602.1(57) is repealed;

(b) Subsection 63J-4-301(1)(h), related to the review of data and metrics, is repealed; and

(c) Title 63J, Chapter 4, Part 7, Employability to Careers Program, is repealed.

(11) Title 63M, Chapter 4, Part 8, Voluntary Home Energy Information Pilot Program Act, is repealed January 1, 2022.

(12) Sections 63M-7-213 and 63M-7-213.5 are repealed on January 1, 2023.

(13) Subsection [~~63N-12-508(3)~~] 63N-1b-307(3), which allows the Governor's Office of Economic Opportunity to respond to the COVID-19 pandemic by directing financial grants to institutions of higher education, is repealed December 31, 2021.

(14) Title 63N, Chapter 13, Part 3, Facilitating Public-Private Partnerships Act, is repealed January 1, 2024.

(15) Title 63N, Chapter 15, COVID-19 Economic Recovery Programs, is repealed December 31, 2021.

Section 60. Section 63J-4-301 is amended to read:

63J-4-301. Duties of the executive director and office.

(1) The executive director and the office shall:

(a) comply with the procedures and requirements of Title 63J, Chapter 1, Budgetary Procedures Act;

(b) under the direct supervision of the governor, assist the governor in the preparation of the governor's budget recommendations;

(c) review agency budget execution plans as specified in Section 63J-1-209;

(d) establish benchmarking practices for measuring operational costs, quality of service, and effectiveness across all state agencies and programs;

(e) assist agencies with the development of an operational plan that uses continuous improvement tools and operational metrics to increase statewide capacity and improve interagency integration;

(f) review and assess agency budget requests and expenditures using a clear set of goals and measures;

(g) develop and maintain enterprise portfolio and electronic information systems to select and oversee the execution of projects, ensure a return on investment, and trace and report performance metrics;

(h) coordinate with the executive directors of the Department of Workforce Services and the Governor's Office of Economic [~~Development~~] Opportunity to review data and metrics to be reported to the Legislature as described in Subsection 63J-4-708(2)(d); and

(i) perform other duties and responsibilities as assigned by the governor.

(2) (a) The executive director of the Governor's Office of Management and Budget or the executive director's designee is the Federal Assistance Management Officer.

(b) In acting as the Federal Assistance Management Officer, the executive director or designee shall:

(i) study the administration and effect of federal assistance programs in the state and advise the governor and the Legislature, through the Office of Legislative Fiscal Analyst and the Executive Appropriations Committee, of alternative recommended methods and procedures for the administration of these programs;

(ii) assist in the coordination of federal assistance programs that involve or are administered by more than one state agency; and

(iii) analyze and advise on applications for new federal assistance programs submitted to the governor for approval as required by Chapter 5, Federal Funds Procedures Act.

Section 61. Section 63J-4-708 is amended to read:

63J-4-708. Reporting.

(1) On or before October 1, the board shall provide an annual written report to the Social Services Appropriations Subcommittee, the Economic Development and Workforce Services Interim Committee, and the [~~Talent Ready Utah Board created in Section 63N-12-503~~] Talent, Education, and Industry Alignment Subcommittee created in Section 63N-1b-301.

(2) The written report shall include:

(a) information regarding the fiscal intermediary, the programmatic intermediary, the eligible program provider, and the independent evaluator that have been selected;

(b) the results of the feasibility analysis conducted in accordance with Section 63J-4-706;

(c) information regarding how many eligible participants have been served by the education, employability training, and workforce placement program;

(d) data and metrics:

(i) used to measure the progress, performance, effectiveness, and scope of the Employability to Careers Program, including summary data; and

(ii) that are consistent and comparable for each state operation, activity, program, or service that primarily involves employment training or placement as determined by the executive directors of the office, the Department of Workforce Services, and the Governor's Office of Economic [~~Development~~] Opportunity;

(e) a description of program expenses, including what payments have been made to the intermediary and the cost to the state for each successful eligible participant outcome; and

(f) recommendations to the Legislature on any potential improvements to the Employability to Careers Program, including whether the program should continue to receive funding from the state.

Section 62. Section 63L-2-301 is amended to read:

63L-2-301. Promoting or lobbying for a federal designation within the state.

(1) As used in this section:

(a) "Federal designation" means the designation of a:

(i) national monument;

(ii) national conservation area;

(iii) wilderness area or wilderness study area;

(iv) area of critical environmental concern;

(v) research natural area; or

(vi) national recreation area.

(b) (i) "Governmental entity" means:

(A) a state-funded institution of higher education or public education;

(B) a political subdivision of the state;

(C) an office, agency, board, bureau, committee, department, advisory board, or commission that the government funds or establishes to carry out the public's business, regardless of whether the office, agency board, bureau, committee, department, advisory board, or commission is composed entirely of public officials or employees;

(D) an interlocal entity as defined in Section 11-13-103 or a joint or cooperative undertaking as defined in Section 11-13-103;

(E) a governmental nonprofit corporation as defined in Section 11-13a-102; or

(F) an association as defined in Section 53G-7-1101.

(ii) "Governmental entity" does not mean:

(A) the School and Institutional Trust Lands Administration created in Section 53C-1-201;

(B) the School and Institutional Trust Lands Board of Trustees created in Section 53C-1-202;

(C) the Office of the Governor;

(D) the Governor's Office of Management and Budget created in Section 63J-4-201;

(E) the Public Lands Policy Coordinating Office created in Section 63J-4-602;

(F) the Office of Energy Development created in Section 63M-4-401; or

(G) the Governor's Office of Economic [~~Development~~] Opportunity created in Section [~~63N-1-201~~] 63N-1a-301, including the [~~Office of Tourism and the Utah Office of Outdoor Recreation created in Section 63N-9-104~~] Talent, Education, and Industry Alignment Subcommittee created in Section 63N-1b-301.

(2) (a) A governmental entity, or a person a governmental entity employs and designates as a representative, may investigate the possibility of a federal designation within the state.

(b) A governmental entity that intends to advocate for a federal designation within the state shall:

(i) notify the chairs of the following committees before the introduction of federal legislation:

(A) the Natural Resources, Agriculture, and Environment Interim Committee, if constituted, and the Federalism Commission; or

(B) if the notice is given during a General Session, the House and Senate Natural Resources, Agriculture, and Environment Standing Committees; and

(ii) upon request of the chairs, meet with the relevant committee to review the proposal.

(3) This section does not apply to a political subdivision supporting a federal designation if the federal designation:

(a) applies to 5,000 acres or less; and

(b) has an economical or historical benefit to the political subdivision.

Section 63. Section 63M-5-306 is amended to read:

63M-5-306. Financial impact statement -- Alleviation plan -- Filing required -- Contents -- Payments credited against tax -- Provisions neither exclusive nor mandatory.

(1) (a) A developer desiring to prepay ad valorem property taxes under Section 63M-5-201 shall first prepare and file with the Governor's Office of Economic [~~Development~~] Opportunity and all units of local government likely to be affected with a significant financial impact due to a natural resource or industrial facility a financial impact statement together with a plan for alleviating these impacts.

(b) The impact statement and the alleviation plan shall be prepared in cooperation with and after consultation with the Governor's Office of Economic [~~Development~~] Opportunity and the affected units of local government.

(c) The financial impact statement shall assess the projected financial impact on state agencies and units of local government, including the impact on transportation systems, culinary water systems, waste treatment facilities, public safety, schools, public health, housing, planning and zoning, and general government administration.

(d) The alleviation plan shall set out proposals for alleviating the impact and may include payments to local units of government or direct expenditures by the developer to alleviate the impact.

(e) The impact statement and the alleviation plan may be amended by the developer in cooperation with and after consultation with the Governor's Office of Economic [~~Development~~] Opportunity and those units of local government affected by the amendment.

(2) At least 90 days prior to commencement of construction of an industrial facility or natural resources facility by a major developer, an impact statement and alleviation plan as described in Subsection (1) shall be filed by the major developer whether or not the major developer desires to prepay ad valorem property taxes.

(3) (a) Upon the filing of the financial impact statement and alleviation plan, a developer may apply to the governing body of the affected unit of local government for authorization to prepay a portion of the anticipated ad valorem property taxes to be expended consistent with the alleviation plan.

(b) This authorization may provide that only a portion of the amounts so prepaid can be applied against the ad valorem property taxes due in any given year.

(c) In addition to payments directly to the affected unit of local government, an affected unit of local government may authorize a tax credit on anticipated ad valorem property taxes for

expenditures made by the developer to other persons so long as the expenditure is consistent with the alleviation plan.

(4) (a) This chapter is designed to provide an additional mechanism for the alleviation of impacts on units of local government and is not intended to discourage the use of other mechanisms as may be available.

(b) Nothing in this chapter requires a developer to prepay ad valorem property taxes or to make any other expenditure not otherwise required by law.

Section 64. Section 63M-6-201 is amended to read:

63M-6-201. Acquisition of easements -- Restrictions -- Resale.

(1) (a) The Governor's Office of Economic [~~Development~~] Opportunity shall acquire, by purchase or condemnation, easements for the establishment, maintenance, and operation of a restrictive use area for the operation of aircraft to and from Hill Air Force Base because:

(i) Hill Air Force Base is a military installation of vital importance to security of the United States of America and to the economic well-being of the citizens of Utah;

(ii) there are certain portions of land around the entire base that are being developed for residential and other uses that are incompatible with current and future operations of the base because of noise, health, safety, and accident reasons; and

(iii) it is the purpose of this chapter for the state to acquire those easements restricting the use of those lands and the air space above them in order to assure the continued operation of Hill Air Force Base as an active military base and to protect the health, safety, and economic well-being of the citizens of Utah.

(b) The Governor's Office of Economic [~~Development~~] Opportunity may delegate its power to purchase or condemn easements under this subsection to other state agencies if the department ensures that those agencies comply with the procedures and requirements of this chapter.

(2) (a) The Governor's Office of Economic [~~Development~~] Opportunity shall ensure that the easements restrict the land from those uses identified in the Hill Air Force Base AICUZ Land Use Compatibility Guidelines Study, as amended, dated October, 1982, as not being acceptable.

(b) The Governor's Office of Economic [~~Development~~] Opportunity may allow certain other uses not prohibited by those guidelines if those uses are consistent with the purpose of this chapter.

(c) Nothing in this chapter may be construed to authorize the Governor's Office of Economic [~~Development~~] Opportunity or any other state agency to:

(i) acquire any ownership interest in real property other than an easement restricting the land from future uses inconsistent with the Hill Air Force Base AICUZ Land Use Compatibility Guidelines Study, as amended, dated October 1982;

(ii) purchase businesses; or

(iii) require people to relocate or move from their property.

(d) To calculate the purchase price for the easements, the Governor's Office of Economic [~~Development~~] Opportunity shall subtract the market value of the real property and its improvements after the acquisition of the easements from the market value of the real property and its improvements before the acquisition of the easements.

(e) When the Hill Air Force Base runways have not been used for seven years to accommodate the arrival and departure of airplanes, the Governor's Office of Economic [~~Development~~] Opportunity shall:

(i) notify by certified mail each current owner of the property to which each easement is attached;

(ii) inform that owner that the owner may purchase the easement from the state for the same price that the state paid for it originally or for the market value of the easement at the time of the buyback, whichever is smaller; and

(iii) sell the easement to the owner of the property to which the easement is attached if the owner tenders the purchase price.

(f) In addition to purchasing the easements required by this chapter, the Governor's Office of Economic [~~Development~~] Opportunity may provide reasonable relocation expenses to all churches, businesses, and schools that, as of March 1, 1994, were located either within the north Hill Air Force Base accident potential zone (APZ) identified in Subsection 63M-6-202(1)(a) or within the south Hill Air Force Base accident potential zone (APZ) identified in Subsection 63M-6-202(1)(b) if those churches, businesses, and schools can reasonably demonstrate that expansion of the use would have been permitted before acquisition of the easements but is now prohibited because of the easement.

(3) (a) The Governor's Office of Economic [~~Development~~] Opportunity may take action to enforce the provisions of this chapter.

(b) The attorney general shall represent the Governor's Office of Economic [~~Development~~] Opportunity in that action.

Section 65. Section 63M-6-202 is amended to read:

63M-6-202. Location of easements.

(1) The Governor's Office of Economic [~~Development~~] Opportunity or its designees may acquire easements on the land within the following boundaries:

(a) beginning on the north Hill Air Force Base accident potential zone (APZ) at a point which is North 1,089,743.170 meters and East 459,346.946 meters based on the North zone, State of Utah, NAD

83 coordinates and runs north to North 63 degrees 10 minutes 44 seconds, East 457.109 meters, North 26 degrees 49 minutes 16 seconds, West 3,352.129 meters, South 63 degrees 10 minutes 44 seconds, West 914.217 meters, South 26 degrees 49 minutes 16 seconds, East 3,352.129 meters, North 63 degrees 10 minutes 44 seconds, East 457.109 meters back to the point of beginning; and

(b) beginning on the south Hill Air Force Base APZ which is North 1,086,065.786 meters and East 461,206.222 meters based on the North zone, State of Utah, NAD 83 coordinates and runs South 63 degrees 10 minutes 44 seconds, West 457.109 meters, South 26 degrees 49 minutes 16 seconds, East 502.179 meters, South 0 degrees 20 minutes 35 seconds, West 1,722.227 meters, South 89 degrees 39 minutes 25 seconds, East 883.743 meters, North 63 degrees 10 minutes 44 seconds, East 914.217 meters, North 26 degrees 49 minutes 16 seconds, West 2,437.912 meters, South 63 degrees 10 minutes 44 seconds, West 457.109 meters back to the point of beginning.

(2) The Governor's Office of Economic [~~Development~~] Opportunity or its designees may acquire easements on the following land that is located inside the 75 and 80 level day-night (LDN) noise contour as identified in the Hill Air Force Base AICUZ Land Use Compatibility Guidelines Study, as amended, dated October, 1982:

(a) in the west half of Section 3, T4NR1W;

(b) in the east half of Section 4, T4NR1W;

(c) in the northeast quarter of Section 8, T4NR1W;

(d) within all of Section 9, T4NR1W;

(e) in the northwest quarter of Section 10, T4NR1W;

(f) within the southwest quarter of Section 19, T5NR1W;

(g) in the south half of Section 20, T5NR1W;

(h) within the southwest quarter of Section 28, T5NR1W; and

(i) within Section 29, T5NR1W.

Section 66. Section 63M-6-203 is amended to read:

63M-6-203. Certain improvements, alterations, and expansions prohibited.

(1) A person or entity may not begin to develop, or authorize development, on any land identified in this chapter until the Governor's Office of Economic [~~Development~~] Opportunity has affirmatively authorized the development of the land because the development is consistent with those uses identified in the Hill Air Force Base AICUZ Land Use Compatibility Guidelines Study, as amended, dated October 1982.

(2) Nothing in this chapter prohibits any property owner from improving, altering, or expanding any existing residential or commercial use of the property owner's property so long as the improvement, alteration, or expansion does not materially increase the human density of that present use.

Section 67. Section 63M-11-201 is amended to read:

63M-11-201. Composition -- Appointments -- Terms -- Removal.

(1) The commission shall be composed of 20 voting members as follows:

(a) the executive director of the Department of Health;

(b) the executive director of the Department of Human Services;

(c) the executive director of the Governor's Office of Economic [~~Development~~] Opportunity;

(d) the executive director of the Department of Workforce Services; and

(e) 16 voting members, appointed by the governor, representing each of the following:

(i) the Utah Association of Area Agencies on Aging;

(ii) higher education in Utah;

(iii) the business community;

(iv) the Utah Association of Counties;

(v) the Utah League of Cities and Towns;

(vi) charitable organizations;

(vii) the health care provider industry;

(viii) financial institutions;

(ix) the legal profession;

(x) the public safety sector;

(xi) public transportation;

(xii) ethnic minorities;

(xiii) the industry that provides long-term care for the elderly;

(xiv) organizations or associations that advocate for the aging population;

(xv) the Alzheimer's Association; and

(xvi) the general public.

(2) (a) A member appointed under Subsection (1)(e) shall serve a two-year term.

(b) Notwithstanding the term requirements of Subsection (2)(a), the governor may adjust the length of the initial commission members' terms to ensure that the terms are staggered so that approximately 1/2 of the members appointed under Subsection (1)(e) are appointed each year.

(c) When, for any reason, a vacancy occurs in a position appointed by the governor under Subsection (1)(e), the governor shall appoint a person to fill the vacancy for the unexpired term of the commission member being replaced.

(d) Members appointed under Subsection (1)(e) may be removed by the governor for cause.

(e) A member appointed under Subsection (1)(e) shall be removed from the commission and replaced by the governor if the member is absent for three consecutive meetings of the commission without being excused by the chair of the commission.

(3) In appointing the members under Subsection (1)(e), the governor shall:

(a) take into account the geographical makeup of the commission; and

(b) strive to appoint members who are knowledgeable or have an interest in issues relating to the aging population.

Section 68. Section 63N-1a-101, which is renumbered from Section 63N-1-101 is renumbered and amended to read:

TITLE 63N. ECONOMIC OPPORTUNITY ACT

CHAPTER 1a. ECONOMIC OPPORTUNITY ORGANIZATION

Part 1. General Provisions

[~~63N-1-101~~]. 63N-1a-101. Title.

(1) This title is known as the[~~"Governor's Office of Economic Development."~~] "Economic Opportunity Act."

(2) This chapter is known as[~~"GOED General Provisions."~~] "Economic Opportunity Organization."

Section 69. Section 63N-1a-102, which is renumbered from Section 63N-1-102 is renumbered and amended to read:

[~~63N-1-102~~]. 63N-1a-102. Definitions.

As used in this title:

(1) "Baseline jobs" means the number of full-time employee positions that existed within a business entity in the state before the date on which a project related to the business entity is approved by the office or by the GO Utah board.

(2) "Baseline state revenue" means the amount of state tax revenue collected from a business entity or the employees of a business entity during the year before the date on which a project related to the business entity is approved by the office or by the GO Utah board.

[~~(3) "Board" means the Board of Business and Economic Development created in Section 63N-1-401.~~]

[~~(4) "Council" means the Governor's Economic Development Coordinating Council created in Section 63N-1-501.~~]

(3) "Commission" means the Unified Economic Opportunity Commission created in Section 63N-1a-201.

(4) "Economic opportunity agency" includes:

(a) the Department of Workforce Services;

(b) the Department of Heritage and Arts;

(c) the Department of Commerce;

(d) the Department of Natural Resources;

(e) the Office of Energy Development;

(f) the State Board of Education;

(g) institutions of higher education;

(h) the Utah Multicultural Commission;

(i) the World Trade Center Utah;

(j) local government entities;

(k) associations of governments;

(l) the Utah League of Cities and Towns;

(m) the Utah Association of Counties;

(n) the Economic Development Corporation of Utah;

(o) the Small Business Administration;

(p) chambers of commerce;

(q) industry associations;

(r) small business development centers; and

(s) other entities identified by the commission or the executive director.

(5) "Executive director" means the executive director of the office.

(6) "Full-time employee" means an employment position that is filled by an employee who works at least 30 hours per week and:

(a) may include an employment position filled by more than one employee, if each employee who works less than 30 hours per week is provided benefits comparable to a full-time employee; and

(b) may not include an employment position that is shifted from one jurisdiction in the state to another jurisdiction in the state.

(7) "GO Utah board" means the Business and Economic Development Subcommittee created in Section 63N-1b-202.

[~~(7)~~] (8) "High paying job" means a newly created full-time employee position where the aggregate average annual gross wage of the employment position, not including health care or other paid or unpaid benefits, is [~~at least~~]:

(a) at least 110% of the average wage of the county in which the employment position exists[~~.~~]; or

(b) for an employment position related to a project described in Chapter 2, Part 1, Economic Development Tax Increment Financing, and that is located within the boundary of a county of the third, fourth, fifth, or sixth class, or located within a municipality in a county of the second class and where the municipality has a population of 10,000 or less:

(i) at least 100% of the average wage of the county in which the employment position exists; or

(ii) an amount determined by rule made by the office in accordance with Title 63G, Chapter 3, Utah

Administrative Rulemaking Act, if the office determines the project is in a county experiencing economic distress.

[~~(8)~~] (9) (a) "Incremental job" means a full-time employment position in the state that:

[~~(a)~~] (i) did not exist within a business entity in the state before the beginning of a project related to the business entity; and

[~~(b)~~] (ii) is created in addition to the number of baseline jobs that existed within a business entity.

(b) "Incremental job" includes a full-time employment position where the employee is hired:

(i) directly by a business entity; or

(ii) by a professional employer organization, as defined in Section 31A-40-102, on behalf of a business entity.

[~~(9)~~] (10) "New state revenue" means the state revenue collected from a business entity or a business entity's employees during a calendar year minus the baseline state revenue calculation.

[~~(10)~~] (11) "Office" or[~~ "GOED"~~] "GO Utah office" means the Governor's Office of Economic [~~Development~~] Opportunity.

[~~(11)~~] (12) "State revenue" means state tax liability paid by a business entity or a business entity's employees under any combination of the following provisions:

(a) Title 59, Chapter 7, Corporate Franchise and Income Taxes;

(b) Title 59, Chapter 10, Part 1, Determination and Reporting of Tax Liability and Information;

(c) Title 59, Chapter 10, Part 2, Trusts and Estates;

(d) Title 59, Chapter 10, Part 4, Withholding of Tax; and

(e) Title 59, Chapter 12, Sales and Use Tax Act.

(13) "State strategic goals" means the strategic goals listed in Section 63N-1a-103.

(14) "Statewide economic development strategy" means the economic development strategy developed by the commission in accordance with Section 63N-1a-202.

Section 70. Section 63N-1a-103 is enacted to read:

63N-1a-103. Purpose.

(1) The mission of the Economic Opportunity Act and the entities established herein is to catalyze strategic economic opportunities for all residents of the state with a vision of creating economically thriving communities, businesses, and families throughout the state.

(2) The mission and vision are realized through targeted efforts that demonstrably improve quality of life, measured by the extent to which the efforts accomplish the following strategic goals:

(a) catalyzing targeted industry growth;

(b) supporting economically thriving communities;

(c) empowering students and workers with market-relevant skills;

(d) stimulating economic growth in rural and multicultural communities through household level efforts; and

(e) securing healthy and resilient ecosystems for current and future generations.

Section 71. Section 63N-1a-201 is enacted to read:

Part 2. Creation of Unified Economic Opportunity Commission

63N-1a-201. Creation of commission.

(1) There is created in the office the Unified Economic Opportunity Commission, established to carry out the mission described in Section 63N-1a-103 and direct the office and other appropriate entities in fulfilling the state's strategic goals.

(2) The commission consists of:

(a) the following voting members:

(i) the governor, who shall serve as the chair of the commission;

(ii) the executive director, who shall serve as the vice chair of the commission;

(iii) the executive director of the Department of Workforce Services;

(iv) the executive director of the Department of Transportation;

(v) the executive director of the Department of Natural Resources;

(vi) the executive director of the Department of Commerce;

(vii) the commissioner of the Department of Agriculture and Food;

(viii) the executive director of the Governor's Office of Management and Budget;

(ix) the commissioner of higher education;

(x) the state superintendent of public instruction;

(xi) the president of the Senate or the president's designee;

(xii) the speaker of the House of Representatives or the speaker's designee;

(xiii) one individual who is knowledgeable about housing needs in the state, including housing density and land use, appointed by the governor;

(xiv) one individual who represents the interests of urban cities, appointed by the Utah League of Cities and Towns; and

(xv) one individual who represents the interests of rural counties, appointed by the Utah Association of Counties; and

(b) the following non-voting members:

(i) the chief executive officer of World Trade Center Utah;

(ii) the chief executive officer of the Economic Development Corporation of Utah; and

(iii) a senior advisor to the chair of the commission with expertise in rural affairs of the state, appointed by the chair of the commission.

(3) A majority of commission members constitutes a quorum for the purposes of conducting commission business and the action of a majority of a quorum constitutes the action of the commission.

(4) The executive director of the office, or the executive director's designee, is the executive director of the commission.

(5) The office shall provide:

(a) office space and administrative staff support for the commission; and

(b) the central leadership and coordination of the commission's efforts in the field of economic development.

(6) (a) A member may not receive compensation or benefits for the member's service on the commission, but may receive per diem and travel expenses in accordance with:

(i) Sections 63A-3-106 and 63A-3-107; and

(ii) rules made by the Division of Finance in accordance with Sections 63A-3-106 and 63A-3-107.

(b) Compensation and expenses of a commission member who is a legislator are governed by Section 36-2-2 and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.

Section 72. Section 63N-1a-202 is enacted to read:

63N-1a-202. Commission duties.

(1) The commission shall:

(a) develop, coordinate, and lead a comprehensive statewide economic development strategy that:

(i) unifies and coordinates economic development efforts in the state;

(ii) includes key performance indicators for long-term progress toward the state strategic goals;

(iii) establishes reporting and accountability processes for the key performance indicators; and

(iv) ensures the success of the statewide economic development strategy is shared among the urban and rural areas of the state;

(b) receive feedback, input, and reports from economic opportunity agencies regarding programs related to the statewide economic development strategy;

(c) develop the statewide economic strategy in view of the state water policy described in Section 73-1-21, including the state's commitment to appropriate conservation, efficient and optimal use of water resources, infrastructure development and improvement, optimal agricultural use, water quality, reasonable access to recreational activities, effective wastewater treatment, and protecting and restoring healthy ecosystems;

(d) direct and facilitate changes to or recommend elimination of economic development programs to ensure alignment with the mission and vision described in Section 63N-1a-103;

(e) at least once every five years, identify industry clusters on which the commission recommends the state focus recruiting and expansion efforts;

(f) establish strategies for the recruitment and retention of targeted industry clusters while respecting the different needs of rural and urban areas throughout the state;

(g) establish strategies for supporting entrepreneurship and small business development in the state;

(h) analyze the state's projected long-term population and economic growth and plan for the anticipated impacts of the projected growth in a manner that improves quality of life and is consistent with the statewide economic development strategy and state strategic goals;

(i) identify gaps and potential solutions related to improving infrastructure, especially as related to the state's projected long-term population growth;

(j) support the development of a prepared workforce that can support critical industries and industry clusters identified by the commission;

(k) coordinate and develop strategies that assist education providers and industry to cooperate in supporting students in developing market relevant skills to meet industry needs;

(l) develop strategies and plans to ensure comprehensive economic development efforts are targeted to the unique needs of rural areas of the state;

(m) study the unique needs of multicultural communities throughout the state and develop household-level plans to ensure residents of the state can participate in economic opportunities in the state;

(n) ensure the commission's efforts are, to the extent practicable, data-driven and evidence-based;

(o) support an integrated international trade strategy for the state;

(p) facilitate coordination among public, private, and nonprofit economic opportunity agencies; and

(q) in performing the commission's duties, consider the recommendations of the subcommittees described in Chapter 1b, Commission Subcommittees.

(2) The commission shall provide a report to the office for inclusion in the office's annual written report described in Section 63N-1a-306, that includes:

(a) the statewide economic development strategy;

(b) a description of how the commission fulfilled the commission's statutory purposes and duties during the year, including any relevant findings;

(c) the key performance indicators included in the statewide economic development strategy, including data showing the extent to which the indicators are being met; and

(d) any legislative recommendations.

Section 73. Section 63N-1a-301, which is renumbered from Section 63N-1-201 is renumbered and amended to read:

Part 3. Creation of Governor's Office of Economic Opportunity

[~~63N-1-201~~]. 63N-1a-301. Creation of office -- Responsibilities.

(1) There is created the Governor's Office of Economic [~~Development~~] Opportunity.

(2) The office is:

(a) responsible for [~~economic development and economic development planning in the state~~] implementing the statewide economic development strategy developed by the commission; and

(b) the industrial and business promotion authority of the state.

(3) The office shall:

(a) consistent with the statewide economic development strategy, coordinate and align into a single effort the activities of the economic opportunity agencies in the field of economic development;

(b) provide support and direction to economic opportunity agencies in establishing goals, metrics, and activities that align with the statewide economic development strategy;

[~~(a)~~] (c) administer and coordinate state and federal economic development grant programs;

[~~(b)~~] (d) promote and encourage the economic, commercial, financial, industrial, agricultural, and civic welfare of the state;

[~~(c)~~] (e) promote and encourage the employment of workers in the state and the purchase of goods and services produced in the state by local businesses;

[~~(d)~~] (f) act to create, develop, attract, and retain business, industry, and commerce in the state, in accordance with the statewide economic development plan and commission directives;

[~~(e)~~] (g) act to enhance the state's economy;

[~~(f) administer programs over which the office is given administrative supervision by the governor;~~]

(h) act to assist strategic industries that are likely to drive future economic growth;

(i) assist communities in the state in developing economic development capacity and coordination with other communities;

(j) identify areas of education and workforce development in the state that can be improved to support economic and business development;

(k) consistent with direction from the commission, develop core strategic priorities for the office, which may include:

(i) enhancing statewide access to entrepreneurship opportunities and small business support;

(ii) focusing industry recruitment and expansion on strategically chosen clusters of industries;

(iii) ensuring that in awarding competitive economic development incentives the office accurately measures the benefits and costs of the incentives; and

(iv) assisting communities with technical support to aid those communities in improving economic development opportunities;

[~~(g)~~] (l) submit an annual written report as described in Section [~~63N-1-301~~] 63N-1a-306; and

[~~(h)~~] (m) perform other duties as provided by the Legislature.

(4) In order to perform its duties under this title, the office may:

(a) enter into a contract or agreement with, or make a grant to, a public or private entity, including a municipality, if the contract or agreement is not in violation of state statute or other applicable law;

(b) except as provided in Subsection (4)(c), receive and expend funds from a public or private source for any lawful purpose that is in the state's best interest; and

(c) solicit and accept a contribution of money, services, or facilities from a public or private donor, but may not use the contribution for publicizing the exclusive interest of the donor.

(5) Money received under Subsection (4)(c) shall be deposited in the General Fund as dedicated credits of the office.

(6) (a) The office shall:

(i) obtain the advice of the GO Utah board before implementing a change to a policy, priority, or objective under which the office operates[~~.~~]; and

(ii) provide periodic updates to the commission regarding the office's efforts under Subsections (3)(a) and (b).

(b) Subsection (6)(a)(i) does not apply to the routine administration by the office of money or services related to the assistance, retention, or recruitment of business, industry, or commerce in the state.

Section 74. Section 63N-1a-302, which is renumbered from Section 63N-1-202 is renumbered and amended to read:

[~~63N-1-202~~]. 63N-1a-302. Executive director of office -- Appointment -- Removal -- Compensation.

(1) The office shall be administered, organized, and managed by an executive director appointed by the governor, with the advice and consent of the Senate.

(2) The executive director serves at the pleasure of the governor.

(3) The salary of the executive director shall be established by the governor within the salary range fixed by the Legislature in Title 67, Chapter 22, State Officer Compensation.

Section 75. Section 63N-1a-303, which is renumbered from Section 63N-1-203 is renumbered and amended to read:

[~~63N-1-203~~]. 63N-1a-303. Powers and duties of executive director.

(1) Unless otherwise expressly provided by statute, the executive director may organize the office in any appropriate manner, including the appointment of deputy directors of the office.

(2) The executive director may consolidate personnel and service functions for efficiency and economy in the office.

(3) The executive director, with the approval of the governor:

(a) may, by following the procedures and requirements of Title 63J, Chapter 5, Federal Funds Procedures Act, seek federal grants, loans, or participation in federal programs;

(b) may enter into a lawful contract or agreement with another state, a chamber of commerce organization, a service club, or a private entity; and

(c) shall annually prepare and submit to the governor a budget of the office's financial requirements.

(4) With the governor's approval, if a federal program requires the expenditure of state funds as a condition for the state to participate in a fund, property, or service, the executive director may expend necessary funds from money provided by the Legislature for the use of the office.

(5) The executive director shall coordinate with the executive directors of the Department of Workforce Services and the Governor's Office of Management and Budget to review data and metrics to be reported to the Legislature as described in Subsection [~~63N-1-301~~] 63N-1a-306(2)(b).

Section 76. Section 63N-1a-304, which is renumbered from Section 63N-1-204 is renumbered and amended to read:

[~~63N-1-204~~]. 63N-1a-304. Executive director and the Public Service Commission.

(1) The executive director or the executive director's designee shall:

(a) become generally informed of significant rate cases and policy proceedings before the Public Service Commission; and

(b) monitor and study the potential economic development impact of these proceedings.

(2) In the discretion of the executive director or the executive director's designee, the office may appear in a proceeding before the Public Service Commission to testify, advise, or present argument regarding the economic development impact of a matter that is the subject of the proceeding.

Section 77. Section 63N-1a-305, which is renumbered from Section 63N-1-205 is renumbered and amended to read:

[~~63N-1-205~~]. 63N-1a-305. Incentive review process.

The Legislature intends that the [~~Governor's Office of Economic Development~~] office will develop an incentives review process under the direction of the speaker of the House and the president of the Senate.

Section 78. Section 63N-1a-306, which is renumbered from Section 63N-1-301 is renumbered and amended to read:

[~~63N-1-301~~]. 63N-1a-306. Annual report -- Content -- Format.

(1) The office shall prepare and submit to the governor and the Legislature, by October 1 of each year, an annual written report of the operations, activities, programs, and services of the office, including the divisions, sections, boards, commissions, councils, and committees established under this title, for the preceding fiscal year.

(2) For each operation, activity, program, or service provided by the office, the annual report shall include:

(a) a description of the operation, activity, program, or service;

(b) data and metrics:

(i) selected and used by the office to measure progress, performance, effectiveness, and scope of the operation, activity, program, or service, including summary data; and

(ii) that are consistent and comparable for each state operation, activity, program, or service that primarily involves employment training or placement as determined by the executive directors of the office, the Department of Workforce Services, and the Governor's Office of Management and Budget;

(c) budget data, including the amount and source of funding, expenses, and allocation of full-time employees for the operation, activity, program, or service;

(d) historical data from previous years for comparison with data reported under Subsections (2)(b) and (c);

(e) goals, challenges, and achievements related to the operation, activity, program, or service;

(f) relevant federal and state statutory references and requirements;

(g) contact information of officials knowledgeable and responsible for each operation, activity, program, or service; and

(h) other information determined by the office that:

(i) may be needed, useful, or of historical significance; or

(ii) promotes accountability and transparency for each operation, activity, program, or service with the public and elected officials.

(3) The annual report shall be designed to provide clear, accurate, and accessible information to the public, the governor, and the Legislature.

(4) The office shall:

(a) submit the annual report in accordance with Section 68-3-14;

(b) make the annual report, and previous annual reports, accessible to the public by placing a link to the reports on the office's website; and

(c) provide the data and metrics described in Subsection (2)(b) to the [~~Talent Ready Utah Board created in Section 63N-12-503~~] Talent, Education, and Industry Alignment Subcommittee created in Section 63N-1b-301.

[~~(5) (a) On or before October 1, 2019, the office shall:~~]

[~~(i) in consultation with the organizations described in Subsection (5)(c), coordinate the development of a written strategic plan that contains a coordinated economic development strategy for the state; and~~]

[~~(ii) provide the strategic plan to the president of the Senate, the speaker of the House of Representatives, and the Economic Development and Workforce Services Interim Committee.~~]

[~~(b) The strategic plan shall:~~]

[~~(i) establish a statewide economic development strategy that consists of a limited set of clear, concise, and defined principles and goals;~~]

[~~(ii) recommend targeted economic development policies that will further the implementation of the economic development strategy described in this section;~~]

[~~(iii) identify each of the relevant state-level economic development agencies, including the agencies described in Subsection (5)(c);~~]

[~~(iv) outline the functional role in furthering the state's economic development strategy for each relevant state-level economic development agency;~~]

[~~(v) establish specific principles and make specific recommendations to decrease competition and increase communication and cooperation among state-level economic development agencies, providers and administrators of economic development programs in the state, nonprofit entities that participate in economic development in the state, and local governments;~~]

[~~(vi) recommend a fundamental realignment of economic development programs in the state to ensure each program's purpose is congruent with the mission of the organization within which the program is located;~~]

[~~(vii) address rural economic development by:~~]

[~~(A) establishing goals and principles to ensure the state's economic development strategy works for both urban and rural areas of the state; and~~]

[~~(B) providing recommendations on how existing rural economic development programs should be restructured or realigned;~~]

[~~(viii) assess the effectiveness of the state's economic development incentives and make recommendations regarding:~~]

[~~(A) how incentive policies could be improved; and~~]

[~~(B) how incentives could be better coordinated among state-level economic development agencies and local governments;~~]

[~~(ix) make recommendations regarding how to align the state's economic development strategy and policies in order to take advantage of the strengths and address the weaknesses of the state's current and projected urban and rural workforce;~~]

[~~(x) make recommendations regarding how to monitor and assess whether certain economic development policies further the statewide economic development strategy described in this section, including recommendations on performance metrics to measure results; and~~]

[~~(xi) align the strategic plan with each element of the statewide economic development strategy.~~]

[~~(c) The office shall coordinate the development of the strategic plan by working in coordination with and obtaining information from other state agencies, including:~~]

[~~(i) the Department of Workforce Services;~~]

[~~(ii) the Office of Energy Development;~~]

[~~(iii) the State Board of Education; and~~]

[~~(iv) the Utah Board of Higher Education.~~]

[~~(d) If contacted by the office, other state agencies, including those described in Subsection~~

~~(5)(c), shall, in accordance with state and federal law, share information and cooperate with the office in coordinating the development of the strategic plan.~~]

Section 79. Section 63N-1b-101 is enacted to read:

CHAPTER 1b. COMMISSION SUBCOMMITTEES

Part 1. General Provisions

63N-1b-101. Definitions.

As used in this chapter:

(1) "Apprenticeship program" means a program that:

(a) combines paid on-the-job learning with formal classroom instruction to prepare students for careers; and

(b) includes:

(i) structured on-the-job learning for students under the supervision of a skilled employee;

(ii) classroom instruction for students related to the on-the-job learning;

(iii) ongoing student assessments using established competency and skills standards; and

(iv) the student receiving an industry-recognized credential or degree upon completion of the program.

(2) "Career and technical education region" means an economic service area created in Section 35A-2-101.

(3) "High quality professional learning" means the professional learning standards for teachers and principals described in Section 53G-11-303.

(4) "Institution of higher education" means the University of Utah, Utah State University, Southern Utah University, Weber State University, Snow College, Dixie State University, Utah Valley University, or Salt Lake Community College.

(5) "Local education agency" means a school district, a charter school, or the Utah Schools for the Deaf and the Blind.

(6) "Master plan" means the computer science education master plan described in Section 63N-1b-304.

(7) "Participating employer" means an employer that:

(a) partners with an educational institution on a curriculum for an apprenticeship program or work-based learning program; and

(b) provides an apprenticeship or work-based learning program for students.

(8) "State board" means the State Board of Education.

(9) "Talent program" means the Talent Ready Utah Program created in Section 63N-1b-302.

(10) "Talent subcommittee" means the Talent, Education, and Industry Alignment Subcommittee created in Section 63N-1b-301.

(11) "Technical college" means:

(a) a technical college described in Section 53B-2a-105;

(b) the School of Applied Technology at Salt Lake Community College established in Section 53B-16-209;

(c) Utah State University Eastern established in Section 53B-18-1201;

(d) Utah State University Blanding established in Section 53B-18-1202; or

(e) the Snow College Richfield campus established in Section 53B-16-205.

(12) (a) "Work-based learning program" means a program that combines structured and supervised learning activities with authentic work experiences and that is implemented through industry and education partnerships.

(b) "Work-based learning program" includes the following objectives:

(i) providing students an applied workplace experience using knowledge and skills attained in a program of study that includes an internship, externship, or work experience;

(ii) providing an educational institution with objective input from a participating employer regarding the education requirements of the current workforce; and

(iii) providing funding for programs that are associated with high-wage, in-demand, or emerging occupations.

(13) "Workforce programs" means education or industry programs that facilitate training the state's workforce to meet industry demand.

Section 80. Section 63N-1b-102 is enacted to read:

63N-1b-102. Subcommittees generally.

(1) Each subcommittee created under this part or by the commission in accordance with this section serves under the direction of the commission and shall assist the commission in performing the commission's duties.

(2) In addition to the subcommittees created under this part, the commission may establish one or more subcommittees to assist and advise the commission on specified topics or issues relevant to the commission's duties, including:

(a) rural economic growth;

(b) sustainable community growth;

(c) small business and entrepreneurism;

(d) multicultural economic empowerment; and

(e) international relations, trade, and immigration.

(3) When establishing a subcommittee under Subsection (2), the commission shall:

(a) appoint members to the subcommittee that represent a range of views and expertise; and

(b) adopt subcommittee procedures and directives.

(4) (a) A member of a subcommittee may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(i) Section 63A-3-106;

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

(iii) rules made by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

(b) Compensation and expenses of a subcommittee member who is a legislator are governed by Section 36-2-2 and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.

Section 81. Section 63N-1b-201, which is renumbered from Section 63N-1-401 is renumbered and amended to read:

Part 2. Business and Economic Development Subcommittee

[~~63N-1-401~~]. 63N-1b-201. Business and Economic Development -- Subcommittee -- Creation -- Membership -- Expenses.

(1) (a) There is created [~~within the office the Board of Business and Economic Development~~] a subcommittee of the commission, called the Business and Economic Development Subcommittee, consisting of 15 members appointed by the [~~governor~~] chair of the commission, in consultation with the executive director, to four-year terms of office with the advice and consent of the Senate in accordance with Title 63G, Chapter 24, Part 2, Vacancies[~~.~~], including:

(i) a representative from a rural association of governments;

(ii) a rural representative of agriculture;

(iii) a rural representative of the travel industry;

(iv) a representative of rural utilities; and

(v) a representative from the oil, gas, or mineral extraction industry.

(b) Notwithstanding the requirements of Subsection (1)(a), the [~~governor~~] chair of the commission shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of board members are staggered so that approximately half of the [~~board~~] subcommittee is appointed every two years.

(c) The members may not serve more than two full consecutive terms except where the [~~governor~~] chair of the commission determines that an additional term is in the best interest of the state.

(2) In appointing members of the committee, the [~~governor~~] chair of the commission shall ensure that:

(a) no more than eight members of the [~~board~~] subcommittee are from one political party; and

(b) members represent a variety of geographic areas and economic interests of the state.

(3) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term in accordance with Title 63G, Chapter 24, Part 2, Vacancies.

(4) Eight members of the [~~board~~] subcommittee constitute a quorum for conducting board business and exercising board power.

(5) The [~~governor~~] chair of the commission shall select one [~~board~~] subcommittee member as the [~~board's~~] subcommittee's chair and one member as the subcommittee's vice chair.

(6) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

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

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

(7) A member shall comply with the conflict of interest provisions described in Title 63G, Chapter 24, Part 3, Conflicts of Interest.

(8) Nothing in this section prohibits an individual who, on May 4, 2021, is a member of a board within the office known as the Board of Business and Economic Development from serving as a member of the GO Utah board.

Section 82. Section 63N-1b-202, which is renumbered from Section 63N-1-402 is renumbered and amended to read:

[~~63N-1-402~~]. 63N-1b-202. Business and Economic Development Subcommittee duties and powers.

(1) The [~~board~~] Business and Economic Development Subcommittee shall advise and assist the [~~office~~] commission to:

(a) promote and encourage the economic, commercial, financial, industrial, agricultural, and civic welfare of the state;

(b) promote and encourage the development, attraction, expansion, and retention of businesses, industries, and commerce in the state;

(c) support the efforts of local government and regional nonprofit economic development organizations to encourage expansion or retention of businesses, industries, and commerce in the state;

(d) act to enhance the state's economy;

(e) work in conjunction with companies and individuals located or doing business in the state to secure favorable rates, fares, tolls, charges, and classification for transportation of persons or property by:

(i) railroad;

(ii) motor carrier; or

(iii) other common carriers;

(f) [~~recommend~~] develop policies, priorities, and objectives [~~to the office~~] regarding the assistance, retention, or recruitment of business, industries, and commerce in the state;

(g) [~~recommend how the office should~~] administer programs for the assistance, retention, or recruitment of businesses, industries, and commerce in the state;

(h) [~~help~~] ensure that [~~economic development~~] economic development programs are available to all areas of the state in accordance with federal and state law; [~~and~~]

(i) identify local, regional, and statewide rural economic development and planning priorities;

(j) understand, through study and input, issues relating to local, regional, and statewide rural economic development, including challenges, opportunities, best practices, policy, planning, and collaboration; and

[~~(i)~~] (k) maintain ethical and conflict of interest standards consistent with those imposed on a public officer under Title 67, Chapter 16, Utah Public Officers' and Employees' Ethics Act.

(2) The subcommittee shall:

(a) serve as an advisory board to the commission on rural economic development issues;

(b) prepare an annual strategic plan that:

(i) identifies rural economic development, planning, and leadership training challenges, opportunities, priorities, and objectives; and

(ii) includes a work plan for accomplishing the objectives referred to in Subsection (1)(b)(i); and

(c) oversee the Rural County Grant Program created in Section 17-54-103.

[~~(2)~~] (3) The [~~board~~] subcommittee may:

(a) in accordance with Subsection (1)(e), appear as a party litigant on behalf of an individual or a company located or doing business in the state in a proceeding before a regulatory commission of the state, another state, or the federal government; and

(b) in consultation with the executive director, make, amend, or repeal rules for the conduct of its business consistent with this part and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Section 83. Section 63N-1b-301, which is renumbered from Section 63N-12-503 is renumbered and amended to read:

Part 3. Talent, Education, and Industry Alignment Subcommittee

[~~63N-12-503~~]. 63N-1b-301. Talent, Education, and Industry Alignment Subcommittee -- Creation -- Membership -- Expenses -- Duties.

[~~(1) There is created within GOED the Talent Ready Utah Board composed of the following 14 members:~~]

(1) There is created a subcommittee of the commission called the Talent, Education, and Industry Alignment Subcommittee composed of the following members:

(a) the state superintendent of public instruction or the superintendent's designee;

(b) the commissioner of higher education or the commissioner of higher education's designee;

(c) the chair of the State Board of Education or the chair's designee;

(d) the executive director of the Department of Workforce Services or the executive director of the department's designee;

(e) the executive director of [~~GOED~~] the GO Utah office or the executive director's designee;

(f) the director of the Division of Occupational and Professional Licensing or the director's designee;

(g) the governor's education advisor or the advisor's designee;

(h) one member of the Senate, appointed by the president of the Senate;

(i) one member of the House of Representatives, appointed by the speaker of the House of Representatives;

(j) the president of the Salt Lake Chamber or the president's designee;

(k) three representatives of private industry chosen by the [~~talent ready board; and~~] commission;

(l) a representative of the technology industry chosen by the [~~talent ready board.~~] commission;

(m) the lieutenant governor or the lieutenant governor's designee; and

(n) any additional individuals appointed by the commission who represent:

(i) one or more individual educational institutions; or

(ii) education or industry professionals.

(2) The [~~talent ready board~~] commission shall select a chair and vice chair from among the members of the talent [~~ready board~~] subcommittee.

(3) The talent [~~ready board~~] subcommittee shall meet at least quarterly.

(4) Attendance of a majority of the members of the talent [~~ready board~~] subcommittee constitutes a quorum for the transaction of official talent [~~ready board~~] subcommittee business.

(5) Formal action by the talent [~~ready board~~] subcommittee requires the majority vote of a quorum.

(6) A member of the talent [~~ready board~~] subcommittee:

(a) may not receive compensation or benefits for the member's service; and

(b) who is not a legislator may receive per diem and travel expenses in accordance with:

(i) Section 63A-3-106;

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

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

(7) The talent [~~ready board~~] subcommittee shall:

(a) (i) review and develop metrics to measure the progress, performance, effectiveness, and scope of any state operation, activity, program, or service that primarily involves employment training or placement; and

(ii) ensure that the metrics described in Subsection (7)(a) are consistent and comparable for each state operation, activity, program, or service that primarily involves employment training or placement;

(b) make recommendations to the [~~center~~] commission regarding how to better align training and education in the state with industry demand;

(c) make recommendations to the [~~center~~] commission regarding how to better align technical education with current and future workforce needs; and

(d) coordinate with the [~~center~~] commission to meet the responsibilities described in Subsection [~~63N-12-502(4)~~] 63N-1b-302(4).

Section 84. Section 63N-1b-302, which is renumbered from Section 63N-12-502 is renumbered and amended to read:

[~~63N-12-502~~]. 63N-1b-302. Talent Ready Utah Program.

(1) There is created within [~~GOED~~] the office the Talent Ready Utah [~~Center~~] Program.

(2) The executive director shall appoint a director of the [~~center~~] talent program.

(3) The director of the [~~center~~] talent program may appoint staff with the approval of the executive director.

(4) The [~~center~~] talent program shall coordinate with the talent [~~ready board~~] subcommittee to:

(a) further education and industry alignment in the state;

(b) coordinate the development of new education programs that align with industry demand;

(c) coordinate or partner with other state agencies to administer grant programs;

(d) promote the inclusion of industry partners in education;

(e) provide outreach and information to employers regarding workforce programs and initiatives;

(f) develop and analyze stackable credential programs;

(g) determine efficiencies among workforce providers;

(h) map available workforce programs focusing on programs that successfully create high-paying jobs; and

(i) support initiatives of the talent [~~ready board~~] subcommittee.

Section 85. Section 63N-1b-303, which is renumbered from Section 63N-12-504 is renumbered and amended to read:

[~~63N-12-504~~]. 63N-1b-303. Reporting.

The [~~center~~] talent program shall prepare an annual report describing the [~~center's~~] talent program's operations and recommendations for inclusion in [~~GOED's~~] the office's annual written report described in Section [~~63N-1-301~~] 63N-1a-306, including the results of the apprenticeship pilot program described in Section [~~63N-12-507~~] 63N-1b-306.

Section 86. Section 63N-1b-304, which is renumbered from Section 63N-12-505 is renumbered and amended to read:

[~~63N-12-505~~]. 63N-1b-304. Computer science education master plan.

[~~On or before August 30, 2019, the talent ready board~~] The talent subcommittee, in consultation with the state board and the [~~center~~] talent program, shall develop a computer science education master plan that:

(1) includes a statement of the objectives and goals of the master plan;

(2) describes how the talent [~~ready board~~] subcommittee and the state board will administer the Computer Science for Utah Grant Program created in Section [~~63N-12-506~~] 63N-1b-305;

(3) provides guidance for local education agencies in implementing computer science education opportunities for students in high school, middle school, and elementary school;

(4) integrates recommendations and best practices from private and public entities that are seeking to improve and expand the opportunities for computer science education, including the Expanding Computer Education Pathways Alliance; and

(5) makes recommendations to assist a local education agency in creating a local education agency computer science plan described in Subsection [~~63N-12-506~~] 63N-1b-305(7), including:

(a) providing recommendations regarding course offerings in computer science;

(b) providing recommendations regarding professional development opportunities in computer science for licensed teachers;

(c) providing recommendations regarding curriculum software for computer science courses;

(d) providing recommendations regarding assessment solutions to measure the learning

outcomes of students in computer science courses; and

(e) providing information regarding how a local education agency can receive technical support from the talent [~~ready board~~] subcommittee in providing computer science education opportunities for students.

Section 87. Section 63N-1b-305, which is renumbered from Section 63N-12-506 is renumbered and amended to read:

[~~63N-12-506~~]. 63N-1b-305. Computer Science for Utah Grant Program.

(1) As used in this section, "grant program" means the Computer Science for Utah Grant Program created in Subsection (2).

(2) The Computer Science for Utah Grant Program is created to provide grants to eligible local education agencies for improving computer science learning outcomes and course offerings as demonstrated by:

(a) the creation and implementation of a local education agency computer science plan as described in Subsection (7); and

(b) the effective implementation of approved courses and the provision of effective training opportunities for licensed teachers.

(3) Subject to appropriations from the Legislature, and subject to the approval of the talent [~~ready board~~] subcommittee, the state board shall distribute to local education agencies money appropriated for the grant program in accordance with this section.

(4) The state board shall:

(a) solicit applications from local education agency boards to receive grant money under the grant program;

(b) make recommendations to the talent [~~ready board~~] subcommittee regarding the awarding of grant money to a local education agency board on behalf of a local education agency based on the criteria described in Subsection (6); and

(c) obtain final approval from the talent [~~ready board~~] subcommittee before awarding grant money.

(5) In administering the Computer Science for Utah Grant Program, the state board and the office, in consultation with the talent [~~ready board~~] subcommittee, may make rules, in accordance with this part and Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

(a) describe the form and deadlines for a grant application by a local education agency under this section; and

(b) describe the reporting requirements required by a local education agency after receiving a grant under this section.

(6) In awarding a grant under Subsection (3), the state board shall consider the effectiveness of the local education agency in creating and implementing a local education agency computer science plan as described in Subsection (7).

(7) Each local education agency that seeks a grant as described in this section shall submit a written computer science plan, in a form approved by the state board and the talent [~~ready board~~] subcommittee, that:

(a) covers at least four years;

(b) addresses the recommendations of the talent [~~ready board's~~] subcommittee's computer science education master plan described in Section [~~63N-12-505~~] 63N-1b-304;

(c) identifies targets for improved computer science offerings, student learning, and licensed teacher training;

(d) describes a computer science professional development program and other opportunities for high quality professional learning for licensed teachers or individuals training to become licensed teachers;

(e) provides a detailed budget, communications, and reporting structure for implementing the computer science plan;

(f) commits to provide one computer science course offering, approved by the talent [~~ready board~~] subcommittee, in every middle and high school within the local education agency;

(g) commits to integrate computer science education into the curriculum of each elementary school within the local education agency; and

(h) includes any other requirement established by the state board or the office by rule, in consultation with the talent [~~ready board~~] subcommittee, in accordance with this part and Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(8) Each local education agency that receives a grant as described in this section shall provide an annual written assessment to the state board and the talent [~~ready board~~] subcommittee for each year that the local education agency receives a grant or expends grant money that includes:

(a) how the grant money was used;

(b) any improvements in the number and quality of computer science offerings provided by the local education agency and any increase in the number of licensed teachers providing computer science teaching to students;

(c) any difficulties encountered during implementation of the local education agency's written computer science plan and steps that will be taken to address the difficulties; and

(d) any other requirement established by the state board or the office by rule, in consultation with the talent [~~ready board~~] subcommittee, in accordance with this part and Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(9) (a) The state board and the talent [~~ready board~~] subcommittee shall review each annual written assessment described in Subsection (8).

(b) As a result of the review described in Subsection (9)(a):

(i) the state board or the talent [~~ready board~~] subcommittee may provide recommendations to improve the progress of the local education agency in meeting the objectives of the written computer science plan;

(ii) the state board may determine not to renew or extend a grant under this section; or

(iii) the state board or the talent [~~ready board~~] subcommittee may take other action to assist the local education agency.

Section 88. Section 63N-1b-306, which is renumbered from Section 63N-12-507 is renumbered and amended to read:

[~~63N-12-507~~]. 63N-1b-306. Apprenticeships and work-based learning.

(1) The [~~center~~] talent program in collaboration with the talent [~~ready board~~] subcommittee may partner with one or more of the following to facilitate and encourage apprenticeship opportunities and work-based learning opportunities for Utah students:

(a) the state board;

(b) the Utah system of higher education; and

(c) a participating employer in the state.

(2) Subject to appropriations from the Legislature and in accordance with the proposal process and other provisions of this section, the talent [~~ready board~~] subcommittee, with the concurrence of the executive director, may provide funding for approved apprenticeship opportunities and work-based learning opportunities.

(3) To receive funding under this section, an entity described in Subsection (1) seeking to partner with the [~~center~~] talent program shall submit a proposal through the [~~center~~] talent program, in a form approved by the [~~center~~] talent program and in accordance with deadlines determined by the [~~center~~] talent program, that contains the following elements:

(a) the proposal shall include:

(i) a description of the proposed apprenticeship program or work-based learning program that demonstrates the program will be:

(A) responsive to the workforce needs of a high demand industry or occupation; and

(B) a partnership between at least one participating employer and at least one public high school, technical college, or institution of higher education;

(ii) an estimate of:

(A) student enrollment in the program;

(B) what school credit, credentials, certifications, or other workforce attainments will be provided by the program; and

(C) job-placement rates for students who complete the program;

(iii) a description of any financial contributions or in-kind contributions that will be provided by each participating employer in the program;

(iv) if the program would require state board approval under the provisions of Section 53B-16-102, evidence that the state board has approved the program; and

(v) the amount of funding requested for the program, including justification for the funding; and

(b) while not required, a preference may be given to a proposal that includes:

(i) a description of a stackable credentialing pathway for participating students that will be created by the program between at least two of the following:

(A) a public high school;

(B) a technical college; and

(C) an institution of higher education; or

(ii) the potential for participating students to obtain full-time employment with the participating employer upon completion of the program.

(4) The talent [~~ready board~~] subcommittee shall review and prioritize each proposal received and determine whether the proposal should be funded, using the following criteria:

(a) the quality and completeness of the elements of the proposal described in Subsection (3)(a);

(b) the quality of the optional elements of the proposal described in Subsection (3)(b);

(c) to what extent the proposal would expand the capacity to meet state or regional workforce needs; and

(d) other relevant criteria as determined by the talent [~~ready board~~] subcommittee.

(5) A partnership that receives funding under this section:

(a) shall use the money to accomplish the proposed apprenticeship program or work-based learning program;

(b) may use the money to offset a participating employer's direct operational costs associated with employing students as part of an approved apprenticeship program or work-based learning program;

(c) except as provided in Subsection (5)(d), may not use the money for educational administration; and

(d) may use the money to support one full-time employee within a career and technical education region if:

(i) each participating local education agency, public high school, technical college, and institution

of higher education agree on which entity will house the full-time employee;

(ii) the full-time employee spends all of the employee's time working exclusively to develop apprentice programs or work-based learning programs; and

(iii) the full-time employee is responsible for regular reporting to and receiving training from the director of the [~~center~~] talent program.

(6) The [~~center~~] talent program shall be responsible for the administration of apprenticeship programs and work-based learning programs described in this section, including:

(a) working with and providing technical assistance to the participating partners that establish apprentice programs and work-based learning programs and that receive funding under the provisions of this section;

(b) establishing reporting requirements for participating partners that establish apprentice programs and work-based learning programs and that receive funding under the provisions of this section;

(c) providing outreach and marketing to encourage more employers to participate; and

(d) annually providing information to [~~GOED~~] the office regarding the activities, successes, and challenges of the center related to administering apprentice programs and work-based learning programs for inclusion in [~~GOED's~~] the office's annual written report described in Section [~~63N-1-301~~] 63N-1a-306, including:

(i) specific entities that received funding under this section;

(ii) the amount of funding provided to each entity; and

(iii) the number of participating students in each apprentice program and work-based learning program.

(7) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and the provisions of this section, the [~~center~~] talent program may make rules regarding:

(a) the method and deadlines for applying for funding under this section;

(b) the distribution of funding under this section; and

(c) the reporting requirements of each entity receiving funding under this section.

Section 89. Section 63N-1b-307, which is renumbered from Section 63N-12-508 is renumbered and amended to read:

[~~63N-12-508~~]. 63N-1b-307. Utah Works Program.

(1) There is created [~~within the center~~] the Utah Works Program.

(2) The program, under the direction of [~~the center and~~] the talent [~~ready board~~] subcommittee, shall coordinate and partner with the entities described below to develop short-term pre-employment training and short-term early employment training for student and workforce participants that meet the needs of businesses that are creating jobs and economic growth in the state by:

(a) partnering with the office, the Department of Workforce Services, and the Utah system of higher education;

(b) partnering with businesses that have significant hiring demands for primarily newly created jobs in the state;

(c) coordinating with the Department of Workforce Services, education agencies, and employers to create effective recruitment initiatives to attract student and workforce participants and business participants to the program;

(d) coordinating with the Utah system of higher education to develop educational and training resources to provide student participants in the program qualifications to be hired by business participants in the program; and

(e) coordinating with the State Board of Education and local education agencies when appropriate to develop educational and training resources to provide student participants in the program qualifications to be hired by business participants in the program.

(3) (a) Subject to appropriation, beginning on August 5, 2020, the office, in consultation with the talent [~~ready board~~] subcommittee, may respond to the COVID-19 pandemic by directing financial grants to institutions of higher education described in Section 53B-2-101 to offer short-term programs to:

(i) provide training to furloughed, laid off, dislocated, underserved, or other populations affected by COVID-19 to fill employment gaps in the state;

(ii) provide training and education related to industry needs; and

(iii) provide students with certificates or other recognition after completion of training.

(b) (i) As soon as is practicable but on or before July 31, 2020, the office shall report to the director of the Division of Finance about the grant program under this Subsection (3), including:

(A) the process by which the office shall determine which institutions of higher education shall receive financial grants; and

(B) the formula for awarding financial grants.

(ii) The office shall:

(A) participate in the presentation that the director of the Division of Finance provides to the president of the Senate, the speaker of the House of Representatives, the minority leader of the Senate,

and the minority leader of the House of Representatives under Section 63A-3-111; and

(B) consider any recommendations for adjustments to the grant program from the president of the Senate, the speaker of the House of Representatives, the minority leader of the Senate, and the minority leader of the House of Representatives.

(c) To implement Subsection (3)(a), an institution of higher education that receives grant funds:

(i) may use grant funds for:

(A) costs associated with developing a new program; or

(B) costs associated with expanding an existing program; and

(ii) shall demonstrate industry needs and opportunities for partnership with industry.

(d) (i) The office shall award grant funds:

(A) after an initial application period that ends on or before August 31, 2020; and

(B) if funds remain after the initial application period, on a rolling basis until the earlier of funds being exhausted or November 30, 2020.

(ii) An institution of higher education that receives grant funds shall expend the grant funds on or before December 1, 2020.

(e) The [~~center~~] office shall conduct outreach, including education about career guidance, training, and workforce programs, to the targeted populations.

(4) The office, in consultation with the talent [~~ready board~~] subcommittee, may, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and in accordance with the provisions of this section, make rules regarding the development and administration of the Utah Works Program.

(5) The [~~center~~] Utah Works Program shall report the following metrics to the office for inclusion in the office's annual report described in Section [~~63N-1-301~~] 63N-1a-306:

(a) the number of participants in the program;

(b) how program participants learned about or were referred to the program, including the number of participants who learned about or were referred to the program by:

(i) the Department of Workforce Services;

(ii) marketing efforts of the [~~center~~] office or talent [~~ready board~~] subcommittee;

(iii) a school counselor; and

(iv) other methods;

(c) the number of participants who have completed training offered by the program; and

(d) the number of participants who have been hired by a business participating in the program.

Section 90. Section 63N-2-103 is amended to read:

63N-2-103. Definitions.

As used in this part:

(1) "Authority" means:

(a) the Utah Inland Port Authority, created in Section 11-58-201; or

(b) the Military Installation Development Authority, created in Section 63H-1-201.

(2) "Authority project area" means a project area of:

(a) the Utah Inland Port Authority, created in Section 11-58-201; or

(b) the Military Installation Development Authority, created in Section 63H-1-201.

(3) "Business entity" means a person that enters into an agreement with the office to initiate a new commercial project in Utah that will qualify the person to receive a tax credit under Section 59-7-614.2 or 59-10-1107.

(4) "Community reinvestment agency" has the same meaning as that term is defined in Section 17C-1-102.

(5) "Development zone" means an economic development zone created under Section 63N-2-104.

(6) "Local government entity" means a county, city, town, or authority that enters into an agreement with the office to have a new commercial project that:

(a) is initiated within:

(i) the boundary of the county, city, or town; or

(ii) an authority project area; and

(b) qualifies the county, city, town, or authority to receive a tax credit under Section 59-7-614.2.

(7) (a) "New commercial project" means an economic development opportunity that:

(i) involves new or expanded industrial, manufacturing, distribution, or business services in [~~Utah.~~] the state; and

(ii) advances the statewide economic development strategy.

(b) "New commercial project" does not include retail business.

(8) "Significant capital investment" means an amount of at least $10,000,000 to purchase capital or fixed assets, which may include real property, personal property, and other fixtures related to a new commercial project:

(a) that represents an expansion of existing operations in the state; or

(b) that maintains or increases the business entity's existing work force in the state.

(9) "Tax credit" means an economic development tax credit created by Section 59-7-614.2 or 59-10-1107.

(10) "Tax credit amount" means the amount the office lists as a tax credit on a tax credit certificate for a taxable year.

(11) "Tax credit certificate" means a certificate issued by the office that:

(a) lists the name of the business entity, local government entity, or community development and renewal agency to which the office authorizes a tax credit;

(b) lists the business entity's, local government entity's, or community development and renewal agency's taxpayer identification number;

(c) lists the amount of tax credit that the office authorizes the business entity, local government entity, or community development and renewal agency for the taxable year; and

(d) may include other information as determined by the office.

Section 91. Section 63N-2-104 is amended to read:

63N-2-104. Creation of economic development zones -- Tax credits -- Assignment of tax credit.

(1) The office[~~, with advice from the board,~~] may create an economic development zone in the state if the following requirements are satisfied:

(a) the area is zoned commercial, industrial, manufacturing, business park, research park, or other appropriate business related use in a community-approved master plan that contemplates future growth;

(b) the request to create a development zone has first been approved by an appropriate local government entity; and

(c) local incentives have been or will be committed to be provided within the area in accordance with the community's approved incentive policy and application process.

(2) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office shall make rules establishing the requirements for a business entity or local government entity to qualify for a tax credit for a new commercial project in a development zone under this part.

(b) The office shall ensure that the requirements described in Subsection (2)(a) include the following:

(i) the new commercial project is within the development zone;

(ii) the new commercial project includes direct investment within the geographic boundaries of the development zone;

(iii) the new commercial project brings new incremental jobs to Utah;

(iv) the new commercial project includes the creation of high paying jobs in the state, significant capital investment in the state, or significant purchases from vendors, contractors, or service providers in the state, or a combination of these three economic factors;

(v) the new commercial project generates new state revenues; [~~and~~]

(vi) a business entity, a local government entity, or a community reinvestment agency to which a local government entity assigns a tax credit under this section meets the requirements of Section 63N-2-105[~~.~~]; and

(vii) unless otherwise advisable in light of economic circumstances, the new commercial project relates to the industry clusters identified by the commission under Section 63N-1a-202.

(3) (a) The office, after consultation with the [~~board~~] GO Utah board, may enter into a written agreement with a business entity or local government entity authorizing a tax credit to the business entity or local government entity if the business entity or local government entity meets the requirements described in this section.

(b) (i) With respect to a new commercial project, the office may authorize a tax credit to a business entity or a local government entity, but not both.

(ii) In determining whether to authorize a tax credit with respect to a new commercial project to a business entity or a local government entity, the office shall authorize the tax credit in a manner that the office determines will result in providing the most effective incentive for the new commercial project.

[~~(c) (i) Except as provided in Subsection (3)(c)(ii), the~~]

(c) The office may not authorize or commit to authorize a tax credit that exceeds:

[~~(A)~~] (i) 50% of the new state revenues from the new commercial project in any given year; or

[~~(B)~~] (ii) 30% of the new state revenues from the new commercial project over the lesser of the life of a new commercial project or 20 years.

[~~(ii) If the eligible business entity makes capital expenditures in the state of $1,500,000,000 or more associated with a new commercial project, the office may:~~]

[~~(A) authorize or commit to authorize a tax credit not exceeding 60% of new state revenues over the lesser of the life of the project or 20 years, if the other requirements of this part are met;~~]

[~~(B) establish the year that state revenues and incremental jobs baseline data are measured for purposes of an incentive under this Subsection (3)(c)(ii); and~~]

[~~(C) offer an incentive under this Subsection (3)(c)(ii) or modify an existing incentive previously granted under Subsection (3)(c)(i) that is based on the baseline measurements described in Subsection (3)(c)(ii)(B), except that the incentive may not authorize or commit to authorize a tax credit of more than 60% of new state revenues in any one year.~~]

(d) (i) A local government entity may by resolution assign a tax credit authorized by the office to a community reinvestment agency.

(ii) The local government entity shall provide a copy of the resolution described in Subsection (3)(d)(i) to the office.

(iii) If a local government entity assigns a tax credit to a community reinvestment agency, the written agreement described in Subsection (3)(a) shall:

(A) be between the office, the local government entity, and the community reinvestment agency;

(B) establish the obligations of the local government entity and the community reinvestment agency; and

(C) establish the extent to which any of the local government entity's obligations are transferred to the community reinvestment agency.

(iv) If a local government entity assigns a tax credit to a community reinvestment agency:

(A) the community reinvestment agency shall retain records as described in Subsection (4)(d); and

(B) a tax credit certificate issued in accordance with Section 63N-2-105 shall list the community reinvestment agency as the named applicant.

(4) The office shall ensure that the written agreement described in Subsection (3):

(a) specifies the requirements that the business entity or local government entity shall meet to qualify for a tax credit under this part;

(b) specifies the maximum amount of tax credit that the business entity or local government entity may be authorized for a taxable year and over the life of the new commercial project;

(c) establishes the length of time the business entity or local government entity may claim a tax credit;

(d) requires the business entity or local government entity to retain records supporting a claim for a tax credit for at least four years after the business entity or local government entity claims a tax credit under this part; and

(e) requires the business entity or local government entity to submit to audits for verification of the tax credit claimed.

(5) The office may attribute an incremental job or a high paying job to a new commercial project regardless of whether the job is performed in person, within the development zone or remotely from elsewhere in the state.

Section 92. Section 63N-2-105 is amended to read:

63N-2-105. Qualifications for tax credit -- Procedure.

(1) The office shall certify a business entity's or local government entity's eligibility for a tax credit as provided in this part.

(2) A business entity or local government entity seeking to receive a tax credit as provided in this part shall provide the office with:

(a) an application for a tax credit certificate, including a certification, by an officer of the business entity, of any signature on the application;

(b) (i) for a business entity, documentation of the new state revenues from the business entity's new commercial project that were paid during [~~the preceding~~] a calendar year; or

(ii) for a local government entity, documentation of the new state revenues from the new commercial project within the area of the local government entity that were paid during [~~the preceding~~] a calendar year;

(c) known or expected detriments to the state or existing businesses in the state;

(d) if a local government entity seeks to assign the tax credit to a community reinvestment agency as described in Section 63N-2-104, a statement providing the name and taxpayer identification number of the community reinvestment agency to which the local government entity seeks to assign the tax credit;

[~~(e) (i) with respect to a business entity, a document that expressly directs and authorizes the State Tax Commission to disclose to the office the business entity's returns and other information that would otherwise be subject to confidentiality under Section 59-1-403 or Section 6103, Internal Revenue Code;~~]

(e) (i) with respect to a business entity that seeks to claim a tax credit:

(A) a document that expressly directs and authorizes the State Tax Commission to disclose to the office the business entity's returns and other information that would otherwise be subject to confidentiality under Section 59-1-403 or Section 6103, Internal Revenue Code; and

(B) a document that expressly directs and authorizes the Department of Workforce Services to disclose to the office the business entity's unemployment insurance contribution reports that would otherwise be subject to confidentiality under Section 35A-4-312;

(ii) with respect to a local government entity that seeks to claim the tax credit:

(A) a document that expressly directs and authorizes the State Tax Commission to disclose to the office the local government entity's returns and other information that would otherwise be subject to confidentiality under Section 59-1-403 or Section 6103, Internal Revenue Code; and

(B) if the new state revenues collected as a result of a new commercial project are attributable in whole or in part to a new or expanded industrial, manufacturing, distribution, or business service within a new commercial project within the area of the local government entity, a document signed by an authorized representative of the new or

expanded industrial, manufacturing, distribution, or business service that:

(I) expressly directs and authorizes the State Tax Commission to disclose to the office the returns of the new or expanded industrial, manufacturing, distribution, or business service and other information that would otherwise be subject to confidentiality under Section 59-1-403 or Section 6103, Internal Revenue Code; and

(II) lists the taxpayer identification number of the new or expanded industrial, manufacturing, distribution, or business service; or

(iii) with respect to a local government entity that seeks to assign the tax credit to a community reinvestment agency:

(A) a document signed by the members of the governing body of the community reinvestment agency that expressly directs and authorizes the State Tax Commission to disclose to the office the returns of the community reinvestment agency and other information that would otherwise be subject to confidentiality under Section 59-1-403 or Section 6103, Internal Revenue Code; and

(B) if the new state revenues collected as a result of a new commercial project are attributable in whole or in part to a new or expanded industrial, manufacturing, distribution, or business service within a new commercial project within the community reinvestment agency, a document signed by an authorized representative of the new or expanded industrial, manufacturing, distribution, or business service that:

(I) expressly directs and authorizes the State Tax Commission to disclose to the office the returns of the new or expanded industrial, manufacturing, distribution, or business service and other information that would otherwise be subject to confidentiality under Section 59-1-403 or Section 6103, Internal Revenue Code; and

(II) lists the taxpayer identification number of the new or expanded industrial, manufacturing, distribution, or business service; and

(f) for a business entity only, documentation that the business entity has satisfied the performance benchmarks outlined in the written agreement described in Subsection 63N-2-104(3)(a), [~~including~~] and as defined by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, including the creation of new:

[~~(i) the creation of new incremental jobs that are also high paying jobs;~~]

[~~(ii) significant capital investment;~~]

[~~(iii) significant purchases from Utah vendors and providers; or~~]

[~~(iv) a combination of these benchmarks.~~]

(i) incremental jobs;

(ii) high paying jobs; and

(iii) state revenue.

(3) (a) The office shall submit the documents described in Subsection (2)(e) to the State Tax Commission.

(b) Upon receipt of a document described in Subsection (2)(e), the State Tax Commission shall provide the office with the returns and other information requested by the office that the State Tax Commission is directed or authorized to provide to the office in accordance with Subsection (2)(e).

(4) If, with respect to an agreement described in Subsection 63N-2-104(3)(a) between the office and a business entity, the office identifies one of the following events, the office and the business entity shall amend or the office may terminate the agreement:

(a) a change in the business entity's organization resulting from a merger with or acquisition of another entity located in the state;

(b) a material increase in the business entity's retail operations that results in new state revenue not subject to the incentive; or

(c) an increase in the business entity's operations that:

(i) is outside the scope of the agreement or outside the boundaries of a development zone; and

(ii) results in new state revenue not subject to the incentive.

[~~(4)~~] (5) If, after review of the returns and other information provided by the State Tax Commission, or after review of the ongoing performance of the business entity or local government entity, the office determines that the returns and other information are inadequate to provide a reasonable justification for authorizing or continuing a tax credit, the office shall:

(a) (i) deny the tax credit; or

(ii) terminate the agreement described in Subsection 63N-2-104(3)(a) for failure to meet the performance standards established in the agreement; or

(b) inform the business entity or local government entity that the returns or other information were inadequate and ask the business entity or local government entity to submit new documentation.

[~~(5)~~] (6) If after review of the returns and other information provided by the State Tax Commission, the office determines that the returns and other information provided by the business entity or local government entity provide reasonable justification for authorizing a tax credit, the office shall, based upon the returns and other information:

(a) determine the amount of the tax credit to be granted to the business entity, local government entity, or if the local government entity assigns the tax credit as described in Section 63N-2-104, to the community reinvestment agency to which the local government entity assigns the tax credit;

(b) issue a tax credit certificate to the business entity, local government entity, or if the local government entity assigns the tax credit as described in Section 63N-2-104, to the community reinvestment agency to which the local government entity assigns the tax credit; and

(c) provide a [~~duplicate copy~~] digital record of the tax credit certificate to the State Tax Commission.

(7) (a) For purposes of determining the amount of a business entity's tax credit in accordance with this section, the office may establish by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, a process by which the office closely approximates the amount of taxes the business entity paid under Title 59, Chapter 12, Sales and Use Tax Act, for a capital project.

(b) The office may apply a process described in Subsection (7)(a) to a business entity only with respect to a new agreement described in Subsection 63N-2-104(3)(a) that takes effect on or after January 1, 2022.

[~~(6)~~] (8) A business entity, local government entity, or community reinvestment agency may not claim a tax credit unless the business entity, local government entity, or community reinvestment agency has a tax credit certificate issued by the office.

[~~(7)~~] (9) (a) A business entity, local government entity, or community reinvestment agency may claim a tax credit in the amount listed on the tax credit certificate on its tax return.

(b) A business entity, local government entity, or community reinvestment agency that claims a tax credit under this section shall retain the tax credit certificate in accordance with Section 59-7-614.2 or 59-10-1107.

Section 93. Section 63N-2-106 is amended to read:

63N-2-106. Reports -- Posting monthly and annual reports -- Audit and study of tax credits.

(1) The office shall include the following information in the annual written report described in Section [~~63N-1-301~~] 63N-1a-306:

(a) the office's success in attracting new commercial projects to development zones under this part and the corresponding increase in new incremental jobs;

(b) how many new incremental jobs and high paying jobs are employees of a company that received tax credits under this part, including the number of employees who work for a third-party rather than directly for a company, receiving the tax credits under this part;

(c) the estimated amount of tax credit commitments made by the office and the period of time over which tax credits will be paid;

(d) the economic impact on the state from new state revenues and the provision of tax credits under this part;

(e) the estimated costs and economic benefits of the tax credit commitments made by the office;

(f) the actual costs and economic benefits of the tax credit commitments made by the office; and

(g) tax credit commitments made by the office, with the associated calculation.

(2) Each month, the office shall post on its website and on a state website:

(a) the new tax credit commitments made by the office during the previous month; and

(b) the estimated costs and economic benefits of those tax credit commitments.

(3) (a) On or before November 1, 2014, and every three years after November 1, 2014, the office shall:

(i) conduct an audit of the tax credits allowed under Section 63N-2-105;

(ii) study the tax credits allowed under Section 63N-2-105; and

(iii) make recommendations concerning whether the tax credits should be continued, modified, or repealed.

(b) The audit shall include an evaluation of:

(i) the cost of the tax credits;

(ii) the purposes and effectiveness of the tax credits;

(iii) the extent to which the state benefits from the tax credits; and

(iv) the state's return on investment under this part measured by new state revenues, compared with the costs of tax credits provided and GOED's expenses in administering this part.

(c) The office shall provide the results of the audit described in this Subsection (3):

(i) in the written annual report described in Subsection (1); and

(ii) as part of the reviews described in Sections 59-7-159 and 59-10-137.

Section 94. Section 63N-2-107 is amended to read:

63N-2-107. Reports of new state revenues, partial rebates, and tax credits.

(1) Before October 1 of each year, the office shall submit a report to the Governor's Office of Management and Budget, the Office of Legislative Fiscal Analyst, and the Division of Finance identifying:

(a) (i) the total estimated amount of new state revenues created from new commercial projects in development zones;

(ii) the estimated amount of new state revenues from new commercial projects in development zones that will be generated from:

(A) sales tax;

(B) income tax; and

(C) corporate franchise and income tax; and

(iii) the minimum number of new incremental jobs and high paying jobs that will be created before any tax credit is awarded; and

(b) the total estimated amount of tax credits that the office projects that business entities, local government entities, or community reinvestment agencies will qualify to claim under this part.

(2) By the first business day of each month, the office shall submit a report to the Governor's Office of Management and Budget, the Office of Legislative Fiscal Analyst, and the Division of Finance identifying:

(a) each new agreement entered into by the office since the last report;

(b) the estimated amount of new state revenues that will be generated under each agreement;

(c) the estimated maximum amount of tax credits that a business entity, local government entity, or community reinvestment agency could qualify for under each agreement; and

(d) the minimum number of new incremental jobs and high paying jobs that will be created before any tax credit is awarded.

(3) At the reasonable request of the Governor's Office of Management and Budget, the Office of Legislative Fiscal Analyst, or the Division of Finance, the office shall provide additional information about the tax credit, new incremental jobs and high paying jobs, costs, and economic benefits related to this part, if the information is part of a public record as defined in Section 63G-2-103.

(4) By June 30, the office shall submit to the Economic Development and Workforce Services Interim Committee, the Business, Economic Development, and Labor Appropriations Subcommittee, and the governor, a written report that provides an overview of the implementation and efficacy of the statewide economic development strategy, including an analysis of the extent to which the office's programs are aligned with the prevailing economic conditions expected in the next fiscal year.

Section 95. Section 63N-2-203 is amended to read:

63N-2-203. Powers of the office.

The office shall:

(1) monitor the implementation and operation of this part and conduct a continuing evaluation of the progress made in the enterprise zones;

(2) evaluate an application for designation as an enterprise zone from a county applicant or a municipal applicant and determine if the applicant qualifies for that designation;

(3) provide technical assistance to county applicants and municipal applicants in developing applications for designation as enterprise zones;

(4) assist county applicants and municipal applicants designated as enterprise zones in obtaining assistance from the federal government and agencies of the state;

(5) assist a qualified business entity in obtaining the benefits of an incentive or inducement program authorized by this part; and

(6) as part of the annual written report described in Section [~~63N-1-301~~] 63N-1a-306, prepare an annual evaluation that provides:

(a) based on data from the State Tax Commission, the total amount of tax credits claimed under this part;

(b) the total amount awarded in tax credits for each development zone;

(c) the number of new full-time employee positions reported to obtain tax credits in each development zone;

(d) the amount of tax credits awarded for rehabilitating a building in each development zone;

(e) the amount of tax credits awarded for investing in a plant, equipment, or other depreciable property in each development zone; and

(f) recommendations regarding the effectiveness of the program and any suggestions for legislation.

Section 96. Section 63N-2-213 is amended to read:

63N-2-213. State tax credits.

(1) The office shall certify a business entity's eligibility for a tax credit described in this section.

(2) A business entity seeking to receive a tax credit as provided in this section shall provide the office with:

(a) an application for a tax credit certificate in a form approved by the office, including a certification, by an officer of the business entity, of a signature on the application; and

(b) documentation that demonstrates the business entity has met the requirements to receive the tax credit.

(3) If, after review of an application and documentation provided by a business entity as described in Subsection (2), the office determines that the application and documentation are inadequate to provide a reasonable justification for authorizing the tax credit, the office shall:

(a) deny the tax credit; or

(b) inform the business entity that the application or documentation was inadequate and ask the business entity to submit additional documentation.

(4) If, after review of an application and documentation provided by a business entity as described in Subsection (2), the office determines that the application and documentation provide reasonable justification for authorizing a tax credit, the office shall:

(a) determine the amount of the tax credit to be granted to the business entity;

(b) issue a tax credit certificate to the business entity; and

(c) provide a [~~duplicate copy~~] digital record of the tax credit certificate to the State Tax Commission.

(5) A business entity may not claim a tax credit under this section unless the business entity has a tax credit certificate issued by the office.

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

(a) the form and content of an application for a tax credit under this section;

(b) the documentation requirements for a business entity to receive a tax credit certificate under this section; and

(c) administration of the program, including relevant timelines and deadlines.

(7) Subject to the limitations of Subsections (8) through (10), and if the requirements of this part are met, the following nonrefundable tax credits against a tax under Title 59, Chapter 7, Corporate Franchise and Income Taxes, or Title 59, Chapter 10, Individual Income Tax Act, are applicable in an enterprise zone:

(a) a tax credit of $750 may be claimed by a business entity for each new full-time employee position created within the enterprise zone;

(b) an additional $500 tax credit may be claimed if the new full-time employee position created within the enterprise zone pays at least 125% of:

(i) the county average monthly nonagricultural payroll wage for the respective industry as determined by the Department of Workforce Services; or

(ii) if the county average monthly nonagricultural payroll wage is not available for the respective industry, the total average monthly nonagricultural payroll wage in the respective county where the enterprise zone is located;

(c) an additional tax credit of $750 may be claimed if the new full-time employee position created within the enterprise zone is in a business entity that adds value to agricultural commodities through manufacturing or processing;

(d) an additional tax credit of $200 may be claimed for each new full-time employee position created within the enterprise zone that is filled by an employee who is insured under an employer-sponsored health insurance program if the employer pays at least 50% of the premium cost for the year for which the credit is claimed;

(e) a tax credit of 25% of the first $200,000 spent on rehabilitating a building in the enterprise zone that has been vacant for two years or more, including that the building has had or contained no occupants, tenants, furniture, or personal property for two years or more, in the time period immediately before the rehabilitation; and

(f) an annual investment tax credit may be claimed in an amount equal to 5% of the first $750,000 qualifying investment in plant, equipment, or other depreciable property.

(8) (a) Subject to the limitations of Subsection (8)(b), a business entity claiming a tax credit under Subsections (7)(a) through (d) may claim the tax credit for no more than 30 full-time employee positions in a taxable year.

(b) A business entity that received a tax credit for one or more new full-time employee positions under Subsections (7)(a) through (d) in a prior taxable year may claim a tax credit for a new full-time employee position in a subsequent taxable year under Subsections (7)(a) through (d) if:

(i) the business entity has created a new full-time position within the enterprise zone; and

(ii) the total number of employee positions at the business entity at any point during the tax year for which the tax credit is being claimed is greater than the highest number of employee positions that existed at the business entity in the previous taxable year.

(c) Construction jobs are not eligible for the tax credits under Subsections (7)(a) through (d).

(9) If the amount of a tax credit under this section exceeds a business entity's tax liability under this chapter for a taxable year, the business entity may carry forward the amount of the tax credit exceeding the liability for a period that does not exceed the next three taxable years.

(10) Tax credits under Subsections (7)(a) through (f) may not be claimed by a business entity primarily engaged in retail trade, residential rental property, or by a public utilities business.

(11) A business entity that has no employees:

(a) may not claim tax credits under Subsections (7)(a) through (d); and

(b) may claim tax credits under Subsections (7)(e) through (f).

(12) (a) A business entity may not claim or carry forward a tax credit available under this part for a taxable year during which the business entity has claimed the targeted business income tax credit available under Section 63N-2-304.

(b) A business entity may not claim or carry forward a tax credit available under this section for a taxable year during which the business entity claims or carries forward a tax credit available under Section 59-7-610 or 59-10-1007.

(13) (a) On or before November 30, 2018, and every three years after 2018, the Revenue and Taxation Interim Committee shall review the tax credits provided by this section and make recommendations concerning whether the tax credits should be continued, modified, or repealed.

(b) In conducting the review required by Subsection (13)(a), the Revenue and Taxation Interim Committee shall:

(i) schedule time on at least one committee agenda to conduct the review;

(ii) invite state agencies, individuals, and organizations concerned with the credits under review to provide testimony;

(iii) ensure that the recommendations described in this section include an evaluation of:

(A) the cost of the tax credits to the state;

(B) the purpose and effectiveness of the tax credits; and

(C) the extent to which the state benefits from the tax credits; and

(iv) undertake other review efforts as determined by the chairs of the Revenue and Taxation Interim Committee.

Section 97. Section 63N-2-303 is amended to read:

63N-2-303. Duties of the office.

The office shall:

(1) monitor the implementation and operation of this part and conduct a continuing evaluation of the effectiveness of the targeted business income tax credit in bringing significant new employment and significant new capital development to rural communities;

(2) determine a business entity's eligibility for a targeted business income tax credit award;

(3) ensure that tax credits are only awarded under this part to a business applicant that has satisfied performance benchmarks as determined by the office;

(4) ensure that the amount of targeted business income tax credit awarded to a business applicant through a targeted business income tax credit eligibility certificate is no more than $100,000 for the business applicant's taxable year;

(5) ensure that the aggregate amount of targeted business income tax credits awarded to business applicants through targeted business income tax credit eligibility certificates is no more than $300,000 for each fiscal year;

(6) as part of the annual written report described in Section [~~63N-1-301~~] 63N-1a-306, prepare an annual evaluation that provides:

(a) the identity of each business applicant that was provided a targeted business income tax credit eligibility certificate by the office during the year of the annual report; and

(b) the total amount awarded in targeted business income tax credit for each development zone; and

(7) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and in accordance with the provisions of this part, make rules regarding:

(a) the determination of what constitutes:

(i) significant new employment;

(ii) significant new capital development; and

(iii) a community investment project;

(b) the form and content of an application for a targeted business income tax credit eligibility certificate under this part;

(c) documentation or other requirements for a business applicant to receive a targeted business income tax credit eligibility certificate under this part; and

(d) administration of targeted business income tax credit awards and the issuing of targeted business income tax credit eligibility certificates, including relevant timelines and deadlines.

Section 98. Section 63N-2-503 is amended to read:

63N-2-503. Agreement for development of new convention hotel -- Convention incentive authorized -- Agreement requirements.

(1) The office, with the board's advice, may enter into an agreement with a qualified hotel owner or a host local government:

(a) for the development of a qualified hotel; and

(b) to authorize a convention incentive:

(i) to the qualified hotel owner or host local government, but not both;

(ii) for a period not to exceed the eligibility period;

(iii) in the amount of new tax revenue, subject to Subsection (2) and notwithstanding any other restriction provided by law;

(iv) if:

(A) the county in which the qualified hotel is proposed to be located has issued an endorsement letter endorsing the qualified hotel owner; and

(B) all applicable requirements of this part and the agreement are met; and

(v) that is reduced by $1,900,000 per year during the first two years of the eligibility period, as described in Subsection (2)(c).

(2) An agreement under Subsection (1) shall:

(a) specify the requirements for the qualified hotel owner or host local government to qualify for a convention incentive;

(b) require compliance with the terms of the endorsement letter issued by the county in which the qualified hotel is proposed to be located;

(c) require the amount of certified claims for the first two years of the eligibility period to be reduced by $1,900,000 per year;

(d) with respect to the state portion of the convention incentive:

(i) specify the maximum dollar amount that the qualified hotel owner or host local government may receive, subject to a maximum of:

(A) for any calendar year, the amount of the state portion in that calendar year; and

(B) $75,000,000 in the aggregate for the qualified hotel owner or host local government during an eligibility period, calculated as though the two $1,900,000 reductions of the [~~tax credit~~] convention incentive amount under Subsection (1)(b)(iv) had not occurred; and

(ii) specify the maximum percentage of the state portion that may be used in calculating the portion of the convention incentive that the qualified hotel owner or host local government may receive during the eligibility period for each calendar year and in the aggregate;

(e) establish a shorter period of time than the period described in Subsection 63N-2-502(10)(a) during which the qualified hotel owner or host local government may claim the convention incentive or that the host agency may be paid incremental property tax revenue, if the office and qualified hotel owner or host local government agree to a shorter period of time;

(f) require the qualified hotel owner to retain books and records supporting a claim for the convention incentive as required by Section 59-1-1406;

(g) allow the transfer of the agreement to a third party if the third party assumes all liabilities and responsibilities in the agreement;

(h) limit the expenditure of funds received under the convention incentive as provided in Section 63N-2-512; and

(i) require the qualified hotel owner or host local government to submit to any audit and to provide any audit level [~~attestation~~] review or other level of review the office considers appropriate for verification of any claim.

(3) Notwithstanding any other provision of law, a county or city in which a qualified hotel is located may contribute property to the qualified hotel owner or host local government without consideration, to be used as provided in Subsection 63N-2-508(3)(a).

Section 99. Section 63N-2-504 is amended to read:

63N-2-504. Independent review committee.

(1) In accordance with rules adopted by the office under Section 63N-2-509, the [~~board~~] GO Utah board shall establish a separate, independent review committee to provide recommendations to the office regarding the terms and conditions of an agreement and to consult with the office as provided in this part or in rule.

(2) The review committee shall consist of:

(a) one member appointed by the executive director to represent the office;

(b) two members appointed by the mayor or chief executive of the county in which the qualified hotel is located or proposed to be located;

(c) two members appointed by:

(i) the mayor of the municipality in which the qualified hotel is located or proposed to be located, if the qualified hotel is located or proposed to be located within the boundary of a municipality; or

(ii) the mayor or chief executive of the county in which the qualified hotel is located or proposed to be located, in addition to the two members appointed under Subsection (2)(b), if the qualified hotel is located or proposed to be located outside the boundary of a municipality;

(d) an individual representing the hotel industry, appointed by the Utah Hotel and Lodging Association;

(e) an individual representing the commercial development and construction industry, appointed by the president or chief executive officer of the local chamber of commerce;

(f) an individual representing the convention and meeting planners industry, appointed by the president or chief executive officer of the local convention and visitors bureau; and

(g) one member appointed by the [~~board~~] GO Utah board.

(3) (a) A member serves an indeterminate term and may be removed from the review committee by the appointing authority at any time.

(b) A vacancy may be filled in the same manner as an appointment under Subsection (2).

(4) A member of the review committee may not be paid for serving on the review committee and may not receive per diem or expense reimbursement.

(5) The office shall provide any necessary staff support to the review committee.

Section 100. Section 63N-2-510 is amended to read:

63N-2-510. Report by office -- Posting of report.

(1) The office shall include the following information in the office's annual written report described in Section [~~63N-1-301~~] 63N-1a-306:

(a) the state's success in attracting new conventions and corresponding new state revenue;

(b) the estimated amount of convention incentive commitments and the associated calculation made by the office and the period of time over which convention incentives are expected to be paid;

(c) the economic impact on the state related to generating new state revenue and providing convention incentives; and

(d) the estimated and actual costs and economic benefits of the convention incentive commitments that the office made.

(2) Upon the commencement of the construction of a qualified hotel, the office shall send a written notice to the Division of Finance:

(a) referring to the two annual deposits required under Subsection 59-12-103(11); and

(b) notifying the Division of Finance that construction on the qualified hotel has begun.

Section 101. Section 63N-2-512 is amended to read:

63N-2-512. Hotel Impact Mitigation Fund.

(1) As used in this section:

(a) "Affected hotel" means a hotel built in the state before July 1, 2014.

(b) "Direct losses" means affected hotels' losses of hotel guest business attributable to the qualified hotel room supply being added to the market in the state.

(c) "Mitigation fund" means the Hotel Impact Mitigation Fund, created in Subsection (2).

(2) There is created an expendable special revenue fund known as the Hotel Impact Mitigation Fund.

(3) The mitigation fund shall:

(a) be administered by the [~~board~~] GO Utah board;

(b) earn interest; and

(c) be funded by:

(i) payments required to be deposited into the mitigation fund by the Division of Finance under Subsection 59-12-103(11);

(ii) money required to be deposited into the mitigation fund under Subsection 17-31-9(2) by the county in which a qualified hotel is located; and

(iii) any money deposited into the mitigation fund under Subsection (6).

(4) Interest earned by the mitigation fund shall be deposited into the mitigation fund.

(5) (a) In accordance with office rules, the [~~board~~] GO Utah board shall annually pay up to $2,100,000 of money in the mitigation fund:

(i) to affected hotels;

(ii) for four consecutive years, beginning 12 months after the date of initial occupancy of the qualified hotel occurs; and

(iii) to mitigate direct losses.

(b) (i) If the amount the [~~board~~] GO Utah board pays under Subsection (5)(a) in any year is less than $2,100,000, the [~~board~~] GO Utah board shall pay to the Stay Another Day and Bounce Back Fund, created in Section 63N-2-511, the difference between $2,100,000 and the amount paid under Subsection (5)(a).

(ii) The [~~board~~] GO Utah board shall make any required payment under Subsection (5)(b)(i) within 90 days after the end of the year for which a determination is made of how much the [~~board~~] GO Utah board is required to pay to affected hotels under Subsection (5)(a).

(6) A host local government or qualified hotel owner may make payments to the Division of Finance for deposit into the mitigation fund.

(7) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office shall, in consultation with the Utah Hotel and Lodging Association and the county in which the qualified hotel is located, make rules establishing procedures and criteria governing payments under Subsection (5)(a) to affected hotels.

Section 102. Section 63N-2-808 is amended to read:

63N-2-808. Agreements between office and tax credit applicant and life science establishment -- Tax credit certificate.

(1) (a) The office, with advice from the [~~board~~] GO Utah board, may enter into an agreement to grant a tax credit certificate to a tax credit applicant selected in accordance with this part, if the tax credit applicant meets the conditions established in the agreement and under this part.

(b) The agreement described in Subsection (1)(a) shall:

(i) detail the requirements that the tax credit applicant shall meet prior to receiving a tax credit certificate;

(ii) require the tax credit certificate recipient to retain records supporting a claim for a tax credit for at least four years after the tax credit certificate recipient claims a tax credit under this part; and

(iii) require the tax credit certificate recipient to submit to audits for verification of the tax credit claimed, including audits by the office and by the State Tax Commission.

(2) (a) The office, with advice from the [~~board~~] GO Utah board, shall enter into an agreement with the life science establishment in which the tax credit applicant invested for purposes of claiming a tax credit.

(b) The agreement described in Subsection (2)(a):

(i) shall provide the office with a document that expressly and directly authorizes the State Tax Commission to disclose to the office the life science establishment's tax returns and other information that would otherwise be subject to confidentiality under Section 59-1-403 or Section 6103, Internal Revenue Code;

(ii) shall authorize the Department of Workforce Services to disclose to the office the employment data that the life science establishment submits to the Department of Workforce Services;

(iii) shall require the life science establishment to provide the office with the life science establishment's current capitalization tables; and

(iv) may require the life science establishment to provide the office with other data that:

(A) ensure compliance with the requirements of this chapter; and

(B) demonstrate the economic impact of the tax credit applicant's investment in the life science establishment.

Section 103. Section 63N-2-810 is amended to read:

63N-2-810. Reports on tax credit certificates.

The office shall include the following information in the annual written report described in Section [~~63N-1-301~~] 63N-4-106:

(1) the total amount listed on tax credit certificates the office issues under this part;

(2) the criteria that the office uses in prioritizing the issuance of tax credits amongst tax credit applicants under this part; and

(3) the economic impact on the state related to providing tax credits under this part.

Section 104. Section 63N-3-102 is amended to read:

63N-3-102. Definitions.

As used in this part:

(1) "Administrator" means the executive director or the executive director's designee.

[~~(2) "Best available control technology" means a pollution control method that is approved by the United States Environmental Protection Agency or the Department of Environmental Quality to control a certain pollutant type to a specified degree.~~]

[~~(3) "Company creating an economic impediment" means a company that discourages economic development within a reasonable radius of its location because of:~~]

[~~(a) odors;~~]

[~~(b) noise;~~]

[~~(c) pollution;~~]

[~~(d) health hazards; or~~]

[~~(e) other activities similar to those described in Subsections (3)(a) through (d).~~]

[~~(4)~~] (2) "Economic opportunities" means unique business situations or community circumstances, including the development of recreation infrastructure and the promotion of the high tech sector in the state, which lend themselves to the furtherance of the economic interests of the state by providing a catalyst or stimulus to the growth or retention, or both, of commerce and industry in the state, including retention of companies whose relocation outside the state would have a significant detrimental economic impact on the state as a whole, regions of the state, or specific components of the state as determined by the [~~board~~] GO Utah board.

[~~(5) "Economically disadvantaged rural area" means a geographic area designated by the board under Section 63N-3-111.~~]

[~~(6) "Nonattainment area" means a part of the state where air quality is determined to exceed the National Ambient Air Quality Standards, as defined in the Clean Air Act Amendments of 1970, Pub. L. No. 91-604, Sec. 109, for fine particulate matter (PM 2.5).~~]

[~~(7) "Replacement company" means a company locating its business or part of its business in a location vacated by a company creating an economic impediment.~~]

[~~(8)~~] (3) "Restricted Account" means the restricted account known as the Industrial Assistance Account created in Section 63N-3-103.

[~~(9)~~] (4) "Targeted industry" means an industry or group of industries targeted by the [~~board~~] GO Utah board under Section 63N-3-111, for economic development in the state.

(5) "Talent development grant" means a grant awarded under Section 63N-3-112.

Section 105. Section 63N-3-103 is amended to read:

63N-3-103. Industrial Assistance Account created -- Uses -- Administrator duties -- Costs.

(1) There is created a restricted account within the General Fund known as the "Industrial Assistance Account" [~~of which annually:~~].

[~~(a) up to 50% of the unencumbered money in the account may be used in economically disadvantaged rural areas; and~~]

[~~(b) up to the greater of $250,000 or 25% of the unencumbered money in the account may be used to take timely advantage of economic opportunities as they arise.~~]

(2) The administrator shall administer the restricted account [~~created under Subsection (1) under the policy direction of the board~~].

(3) The administrator may hire appropriate support staff to perform the duties required under this section.

(4) The cost of administering the restricted account shall be paid from money in the restricted account.

(5) Interest accrued from investment of money in the restricted account shall remain in the restricted account.

(6) The office shall review the activities and progress of grant recipients under this chapter on a regular basis and, as part of the office's annual written report described in Section [~~63N-1-301~~] 63N-1a-306, report on the economic impact of activities funded by [~~the grants~~] each grant.

Section 106. Section 63N-3-105 is amended to read:

63N-3-105. Qualification for assistance.

(1) (a) Except as provided in [~~Section 63N-3-108, 63N-3-109, or 63N-3-109.5,~~] Section 63N-3-109, the administrator shall determine which

industries, companies, and individuals qualify to receive money from the Industrial Assistance Account.

(b) Except as provided by Subsection (2), to qualify for financial assistance from the restricted account, an applicant shall:

[~~(a)~~] (i) demonstrate to the satisfaction of the administrator that the applicant will expend funds in [~~Utah~~] the state with employees, vendors, subcontractors, or other businesses in an amount proportional with money provided from the restricted account at a minimum ratio of [~~2 to 1~~] one to one per year or other more stringent requirements as established [~~from time to time by the board for a minimum period of five years beginning with the date the loan or grant was approved~~] on a per project basis by the administrator;

[~~(b)~~] (ii) demonstrate to the satisfaction of the administrator the applicant's ability to sustain economic activity in the state sufficient to repay, by means of cash or appropriate credits, the loan provided by the restricted account; and

[~~(c)~~] (iii) satisfy other criteria the administrator considers appropriate.

(2) (a) The administrator may exempt an applicant from the requirements of Subsection (1)(a) or (b) if:

[~~(i) the financial assistance is provided to an applicant for the purpose of locating all or any portion of its operations to an economically disadvantaged rural area;~~]

[~~(ii)~~] (i) the applicant is part of a targeted industry;

[~~(iii)~~] (ii) the applicant is a quasi-public corporation organized under Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act, or Title 63E, Chapter 2, Independent Corporations Act, and its operations, as demonstrated to the satisfaction of the administrator, will provide significant economic stimulus to the growth of commerce and industry in the state; or

[~~(iv)~~] (iii) the applicant is an entity offering an economic opportunity under Section 63N-3-109.

(b) The administrator may not exempt the applicant from the requirement under Subsection 63N-3-106(2)(b) that the loan be structured so that the repayment or return to the state equals at least the amount of the assistance together with an annual interest charge.

(3) The administrator shall:

(a) for applicants not described in Subsection (2)(a):

(i) make findings as to whether or not each applicant has satisfied each of the conditions set forth in Subsection (1); and

(ii) monitor the continued compliance by each applicant with each of the conditions set forth in Subsection (1) for five years;

[~~(b) for applicants described in Subsection (2)(a), make findings as to whether the economic activities of each applicant has resulted in the creation of new jobs on a per capita basis in the economically disadvantaged rural area or targeted industry in which the applicant is located;~~]

[~~(c)~~] (b) monitor the compliance by each applicant with the provisions of any contract or agreement entered into between the applicant and the state as provided in Section 63N-3-107; and

[~~(d)~~] (c) make funding decisions based upon appropriate findings and compliance.

Section 107. Section 63N-3-106 is amended to read:

63N-3-106. Loans, grants, and assistance -- Repayment -- Earned credits.

(1) (a) A company that qualifies under Section 63N-3-105 may receive loans, grants, or other financial assistance from the Industrial Assistance Account for expenses related to establishment, relocation, or development of industry in Utah.

[~~(b) A company creating an economic impediment that qualifies under Section 63N-3-108 may in accordance with this part receive loans, grants, or other financial assistance from the restricted account for the expenses of the company creating an economic impediment related to:~~]

[~~(i) relocation to a rural area in Utah of the company creating an economic impediment; and~~]

[~~(ii) the siting of a replacement company.~~]

[~~(c)~~] (b) An entity offering an economic opportunity that qualifies under Section 63N-3-109 may:

(i) receive loans, grants, or other financial assistance from the restricted account for expenses related to the establishment, relocation, retention, or development of industry in the state; and

(ii) include infrastructure or other economic development precursor activities that act as a catalyst and stimulus for economic activity likely to lead to the maintenance or enlargement of the state's tax base.

[~~(d) An entity located in a nonattainment area that qualifies for assistance under Section 63N-3-109.5 may receive loans, grants, or other financial assistance from the restricted account for expenses related to the purchase and installation of best available control technology for air quality, including related financing and interest costs at the discretion of the administrator.~~]

(2) (a) Subject to Subsection (2)(b), the administrator has authority to determine the structure, amount, and nature of any loan, grant, or other financial assistance from the restricted account.

(b) Loans made under Subsection (2)(a) shall be structured so the intended repayment or return to the state, including cash or credit, equals at least the amount of the assistance together with an annual interest charge as negotiated by the administrator.

(c) Payments resulting from grants awarded from the restricted account shall be made only after the administrator has determined that the company has satisfied the conditions upon which the payment or earned credit was based.

(3) (a) (i) Except as provided in Subsection (3)(b), the administrator may provide for a system of earned credits that may be used to support grant payments or in lieu of cash repayment of a restricted account loan obligation.

(ii) The value of the credits described in Subsection (3)(a)(i) shall be based on factors determined by the administrator, including:

(A) the number of Utah jobs created;

(B) the increased economic activity in Utah; or

(C) other events and activities that occur as a result of the restricted account assistance.

(b) (i) The administrator shall provide for a system of credits to be used to support grant payments or in lieu of cash repayment of a restricted account loan when loans are made to a company creating an economic impediment.

(ii) The value of the credits described in Subsection (3)(b)(i) shall be based on factors determined by the administrator, including:

(A) the number of Utah jobs created;

(B) the increased economic activity in Utah; or

(C) other events and activities that occur as a result of the restricted account assistance.

(4) (a) A cash loan repayment or other cash recovery from a company receiving assistance under this section, including interest, shall be deposited into the restricted account.

(b) The administrator and the Division of Finance shall determine the manner of recognizing and accounting for the earned credits used in lieu of loan repayments or to support grant payments as provided in Subsection (3).

(5) (a) (i) At the end of each fiscal year, the Division of Finance shall set aside the balance of the General Fund revenue surplus as defined in Section 63J-1-312 after the transfers of General Fund revenue surplus described in Subsection (5)(b) to the Industrial Assistance Account in an amount equal to any credit that has accrued under this part.

(ii) The set aside under Subsection (5)(a)(i) shall be capped at $50,000,000, at which time no subsequent contributions may be made and any interest accrued above the $50,000,000 cap shall be deposited into the General Fund.

(b) The set aside required by Subsection (5)(a) shall be made after the transfer of surplus General Fund revenue surplus is made:

(i) to the Medicaid Growth Reduction and Budget Stabilization Restricted Account, as provided in Section 63J-1-315;

(ii) to the General Fund Budget Reserve Account, as provided in Section 63J-1-312; and

(iii) to the Wildland Fire Suppression Fund or State Disaster Recovery Restricted Account, as provided in Section 63J-1-314.

(c) These credit amounts may not be used for purposes of the restricted account as provided in this part until appropriated by the Legislature.

Section 108. Section 63N-3-109 is amended to read:

63N-3-109. Financial assistance to entities offering economic opportunities.

(1) Subject to the duties and powers of the [~~board under Section 63N-1-402~~] GO Utah board under Section 63N-1b-202, the administrator may provide money from the Industrial Assistance Account to an entity offering an economic opportunity if that entity:

(a) applies to the administrator in a form approved by the administrator; and

(b) meets the qualifications of Subsection (2).

(2) As part of an application for receiving money under this section, an applicant shall:

(a) demonstrate to the satisfaction of the administrator the nature of the economic opportunity and the related benefit to the economic well-being of the state by providing evidence documenting the logical and compelling linkage, either direct or indirect, between the expenditure of money necessitated by the economic opportunity and the likelihood that the state's tax base, regions of the state's tax base, or specific components of the state's tax base will not be reduced but will be maintained or enlarged;

(b) demonstrate how the funding request will act in concert with other state, federal, or local agencies to achieve the economic benefit;

(c) demonstrate how the funding request will act in concert with free market principles; and

(d) satisfy other criteria the administrator considers appropriate[~~;~~].

[~~(e) if the applicant meets the requirements of Subsection (2)(f)(i):~~]

[~~(i) demonstrate that the funding request will be used primarily to reimburse an applicant for expenses related to a program of marketing and branding for an annual conference or festival with at least 10,000 attendees that is held on or after January 1, 2019; and~~]

[~~(ii) demonstrate that an annual conference or festival described in Subsection (2)(f)(i) has met post-performance requirements designated by the administrator, in coordination with the organizer of an annual conference or festival, which shall include metrics and reporting requirements related to:~~]

[~~(A) attendance;~~]

[~~(B) revenue;~~]

[~~(C) expenses;~~]

[~~(D) economic impact to the state;~~]

[~~(E) sponsorships; and~~]

[~~(F) conference or festival objectives; and~~]

[~~(f) be either:~~]

[~~(i) an entity whose purpose is to exclusively or substantially promote, develop, or maintain the economic welfare and prosperity of the state as a whole, regions of the state, or specific components of the state, including an entity that hosts an annual conference or festival with at least 10,000 attendees; or~~]

[~~(ii) a company or individual that meets the requirements of Subsections (2)(a) through (d) but does not otherwise qualify under Section 63N-3-105.~~]

(3) [~~Subject to the duties and powers of the board under Section 63N-1-402~~] Before awarding any money under this section, the administrator shall:

(a) make findings as to whether an applicant has satisfied [~~each of the conditions described in~~] the requirements of Subsection (2);

(b) establish benchmarks and timeframes in which progress toward the completion of the agreed upon activity is to occur;

(c) monitor compliance by an applicant with any contract or agreement entered into by the applicant and the state as provided by Section 63N-3-107; and

(d) make funding decisions based upon appropriate findings and compliance[~~; and~~].

[~~(e) in cooperation with each entity that has received money from the Industrial Assistance Account in accordance with Subsection (2)(e), provide a written report on or before October 1 of each year describing the total amount of money provided by the state for each annual conference or festival during the year and the total cost from all sources of holding each annual conference or festival during the year to the:~~]

[~~(i) office for inclusion in the office's annual report described in Section 63N-1-301; and~~]

[~~(ii) Economic Development and Workforce Services Interim Committee.~~]

Section 109. Section 63N-3-111 is amended to read:

63N-3-111. Annual policy considerations.

(1) (a) The [~~board~~] GO Utah board shall determine annually which industries or groups of industries shall be targeted industries as defined in Section 63N-3-102.

(b) The office shall make recommendations to state and federal agencies, local governments, the governor, and the Legislature regarding policies and initiatives that promote the economic development of targeted industries.

(c) The office may create one or more voluntary advisory committees that may include public and private stakeholders to solicit input on policy guidance and best practices in encouraging the economic development of targeted industries.

[~~(2) In designating an economically disadvantaged rural area, the board shall consider the average agricultural and nonagricultural wage, personal income, unemployment, and employment in the area.~~]

[~~(3)~~] (2) In evaluating the economic impact of applications for assistance, the [~~board~~] GO Utah board shall use an econometric cost-benefit model [~~or models adopted by the Governor's Office of Management and Budget~~].

[~~(4)~~] (3) The [~~board~~] GO Utah board may establish:

(a) minimum interest rates to be applied to loans granted that reflect a fair social rate of return to the state comparable to prevailing market-based rates such as the prime rate, U.S. Government T-bill rate, or bond coupon rate as paid by the state, adjusted by social indicators such as the rate of unemployment; and

(b) minimum applicant expense ratios, as long as they are at least equal to those required under Subsection 63N-3-105(1)[~~(a)~~](b) [~~or 63N-3-108(1)(b)(i)(A)~~].

Section 110. Section 63N-3-112 is enacted to read:

63N-3-112. Talent development grants.

(1) A for-profit business that is creating new incremental high paying jobs in the state, may apply to receive a talent development grant from the restricted account.

(2) In accordance with the provisions of this section and in consultation with the board, the administrator may award up to $10,000 per new job created.

(3) The administrator shall designate an application process for a business to apply for the grant.

(4) A business may apply to receive a grant only after each employee has been employed at qualifying wage levels for at least 12 consecutive months.

(5) Money granted for a talent development grant under this section shall be deducted from any other money or incentive awarded by the office to the business.

(6) Grants awarded under this section are only to reimburse a business for the costs incurred to recruit, hire, train, and otherwise employ an employee in a newly created job.

(7) A business shall submit a hiring and training plan detailing what the grant money will be used for as part of the application process.

(8) The administrator may only grant an award up to an amount that is no more than 25% of the

estimated costs to be incurred by the business for the costs in the hiring and training plan.

Section 111. Section 63N-3-204 is amended to read:

63N-3-204. Administration -- Grants and loans.

(1) The office shall administer this part.

(2) (a) (i) The office may award Technology Commercialization and Innovation Program grants or issue loans under this part to an applicant that is:

(A) an institution of higher education;

(B) a licensee; or

(C) a small business.

(ii) If loans are issued under Subsection (2)(a)(i), the Division of Finance may set up a fund or account as necessary for the proper accounting of the loans.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office shall make rules for a process to determine whether an institution of higher education that receives a grant under this part must return the grant proceeds or a portion of the grant proceeds if the technology that is developed with the grant proceeds is licensed to a licensee that:

(i) does not maintain a manufacturing or service location in the state from which the licensee or a sublicensee exploits the technology; or

(ii) initially maintains a manufacturing or service location in the state from which the licensee or a sublicensee exploits the technology, but within five years after issuance of the license the licensee or sublicensee transfers the manufacturing or service location for the technology to a location out of the state.

(c) A repayment by an institution of higher education of grant proceeds or a portion of the grant proceeds may only come from the proceeds of the license established between the licensee and the institution of higher education.

(d) (i) An applicant that is a licensee or small business that receives a grant under this part shall return the grant proceeds or a portion of the grant proceeds to the office if the applicant:

(A) does not maintain a manufacturing or service location in the state from which the applicant exploits the technology; or

(B) initially maintains a manufacturing or service location in the state from which the applicant exploits the technology, but within five years after issuance of the grant, the applicant transfers the manufacturing or service location for the technology to an out-of-state location.

(ii) A repayment by an applicant shall be prorated based on the number of full years the applicant operated in the state from the date of the awarded grant.

(iii) A repayment by a licensee that receives a grant may only come from the proceeds of the license to that licensee.

(3) (a) Funding allocations shall be made by the office with the advice of the [~~board~~] GO Utah board.

(b) Each proposal shall receive the best available outside review.

(4) (a) In considering each proposal, the office shall weigh technical merit, the level of matching funds from private and federal sources, and the potential for job creation and economic development.

(b) Proposals or consortia that combine and coordinate related research at two or more institutions of higher education shall be encouraged.

(5) The office shall review the activities and progress of grant recipients on a regular basis and, as part of the office's annual written report described in Section [~~63N-1-301~~] 63N-1a-306, report on the accomplishments and direction of the Technology Commercialization and Innovation Program.

(6) (a) On or before August 1, 2018, the office shall provide a written analysis and recommendations concerning the usefulness of the Technology Commercialization and Innovation Program described in this part, including whether:

(i) the program is beneficial to the state and should continue; and

(ii) other office programs or programs in other agencies could provide similar benefits to the state more effectively or at a lower cost.

(b) The written analysis and recommendations described in this Subsection (6) shall be provided to:

(i) the Business, Economic Development, and Labor Appropriations Subcommittee;

(ii) the Economic Development and Workforce Services Interim Committee;

(iii) the Business and Labor Interim Committee; and

(iv) the governor.

Section 112. Section 63N-4-101 is amended to read:

Part 1. Center for Rural Development

63N-4-101. Title -- Definitions.

(1) This chapter is known as the "Rural Development Act."

[~~(2) This part is known as the "Office of Rural Development."~~]

[~~(3) As used in this part:~~]

[~~(a) "Office" or "GOED" means the Governor's Office of Economic Development.~~]

[~~(b) "Program" means the Rural Development Program.~~]

(2) As used in this part, "program" means the Rural Development Program created in Section 63N-4-102.

Section 113. Section 63N-4-102 is amended to read:

63N-4-102. Rural Development Program -- Supervision by office.

(1) There is created within the [~~Governor's Office of Economic Development~~] office the [~~Office of~~] Center for Rural Development.

(2) The [~~Office of~~] Center for Rural Development is under the administration and general supervision of the [~~Governor's Office of Economic Development~~] office.

Section 114. Section 63N-4-103 is amended to read:

63N-4-103. Purpose of the Center for Rural Development.

The [~~Office of~~] Center for Rural Development is established to:

(1) foster and support economic development programs and activities for the benefit of rural counties and communities;

(2) foster and support community, county, and resource management planning programs and activities for the benefit of rural counties and communities;

(3) foster and support leadership training programs and activities for the benefit of:

(a) rural leaders in both the public and private sectors;

(b) economic development and planning personnel; and

(c) rural government officials;

(4) foster and support efforts to coordinate and focus the technical and other resources of appropriate institutions of higher education, local governments, private sector interests, associations, nonprofit organizations, federal agencies, and others, in ways that address the economic development, planning, and leadership challenges [~~and priorities of rural Utah as identified in the strategic plan required under Subsection 63C-10-103(1)(b)~~];

(5) work to enhance the capacity of GOED to address rural economic development, planning, and leadership training challenges and opportunities by establishing partnerships and positive working relationships with appropriate public and private sector entities, individuals, and institutions; and

(6) foster government-to-government collaboration and good working relations between state and rural government regarding economic development and planning issues.

Section 115. Section 63N-4-104 is amended to read:

63N-4-104. Duties.

(1) The [~~Office of~~] Center for Rural Development shall:

[~~(a) provide staff support to the Governor's Rural Partnership Board in accordance with Subsection 63C-10-102(6);~~]

[~~(b) facilitate within GOED the implementation of the strategic plan prepared under Subsection 63C-10-103(1)(b);~~]

[~~(c)~~] (a) work to enhance the capacity of [~~GOED~~] the office to address rural economic development, planning, and leadership training challenges and opportunities by establishing partnerships and positive working relationships with appropriate public and private sector entities, individuals, and institutions;

[~~(d)~~] (b) work with the [~~Governor's Rural Partnership Board~~] GO Utah board to coordinate and focus available resources in ways that address the economic development, planning, and leadership training challenges and priorities in rural Utah;

[~~(e)~~] (c) assist [~~the Governor's Rural Partnership Board~~] in administering the Rural County Grant Program created in Section 17-54-103, including, as described in Subsection 17-54-103(10), compiling reported information regarding the program for inclusion in [~~GOED's~~] the office's annual written report described in Section [~~63N-1-301~~] 63N-1a-306; and

[~~(f)~~] (d) in accordance with economic development and planning policies set by state government, coordinate relations between:

(i) the state;

(ii) rural governments;

(iii) other public and private groups engaged in rural economic planning and development; and

(iv) federal agencies.

(2) (a) The [~~Office of~~] Center for Rural Development may:

(i) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules necessary to carry out its duties;

(ii) accept gifts, grants, devises, and property, in cash or in kind, for the benefit of rural Utah citizens; and

(iii) use those gifts, grants, devises, and property received under Subsection (2)(a)(ii) for the use and benefit of rural citizens within the state.

(b) All resources received under Subsection (2)(a)(ii) shall be deposited in the General Fund as dedicated credits to be used as directed in Subsection (2)(a)(iii).

Section 116. Section 63N-4-105 is amended to read:

63N-4-105. Program manager.

(1) The executive director [~~of GOED~~] shall appoint a director for the [~~Office of~~] Center for Rural Development with the approval of the governor.

(2) The director of the [~~Office of~~] Center for Rural Development shall be a person knowledgeable in the field of rural economic development and planning and experienced in administration.

(3) Upon change of the executive director [~~of GOED~~], the director of the [~~Office of~~] Center for Rural Development may not be dismissed without cause for at least 180 days.

[~~(4) The director of the Office of Rural Development shall serve as staff to the Governor's Rural Partnership Board and to the executive committee of the Governor's Rural Partnership Board in accordance with Subsection 63C-10-102(6).~~]

Section 117. Section 63N-4-106 is amended to read:

63N-4-106. Annual report.

[~~GOED~~] The office shall include in the annual written report described in Section [~~63N-1-301~~] 63N-1a-306, a report of the program's operations and recommendations.

Section 118. Section 63N-4-205 is amended to read:

63N-4-205. Report on amount of grants and loans, projects, and outstanding debt.

The board shall annually provide the following information to the office for inclusion in the office's annual written report described in Section [~~63N-1-301~~] 63N-1a-306:

(1) the total amount of grants and loans the board awarded to eligible counties under this part during the fiscal year that ended on the June 30 immediately preceding the November interim meeting;

(2) a description of the projects with respect to which the board awarded a grant or loan under this part;

(3) the total amount of outstanding debt service that is being repaid by a grant or loan awarded under this part;

(4) whether the grants and loans awarded under this part have resulted in economic development within project areas; and

(5) whether the board recommends:

(a) that the grants and loans authorized by this part should be continued; or

(b) any modifications to this part.

Section 119. Section 63N-4-403 is amended to read:

63N-4-403. Duties of the office.

(1) The office shall:

(a) review a business entity's application for a rural employment expansion grant under this part in the order in which the application is received by the office;

(b) ensure that a rural employment expansion grant is only awarded to a business entity that meets the requirements of this part; and

(c) as part of the annual written report described in Section [~~63N-1-301~~] 63N-1a-306, prepare an annual evaluation that provides:

(i) the identity of each business entity that was provided a rural employment expansion grant by the office during the year of the annual report;

(ii) the total amount awarded in rural employment expansion grants for each county; and

(iii) an evaluation of the effectiveness of the rural employment expansion grant in bringing significant new employment to rural communities.

(2) The office may:

(a) authorize a rural employment expansion grant for a business entity under this part;

(b) audit a business entity to ensure:

(i) eligibility for a rural employment expansion grant; and

(ii) compliance with this part; and

(c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and in accordance with the provisions of this part, make rules regarding the:

(i) form and content of an application for a rural employment expansion grant;

(ii) documentation or other requirements for a business entity to receive a rural employment expansion grant; and

(iii) administration of rural employment expansion grants, including an appeal process and relevant timelines and deadlines.

Section 120. Section 63N-4-704 is amended to read:

63N-4-704. Requirements for entering into a lease.

(1) In accordance with the provisions of this part and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office shall make rules establishing the eligibility and reporting criteria for an applicant to participate in the program as a lessor of a rural speculative industrial building, including:

(a) the form and process of submitting an application to the office;

(b) the eligibility requirements of an applicant;

(c) the method and formula for determining lease terms between the office and a lessor of a rural speculative industrial building; and

(d) the reporting requirements of participants in the program.

(2) In determining whether to approve an application for participation in the program, the office may prioritize a project:

(a) that will serve underprivileged or underserved communities, including communities with high unemployment or low median incomes;

(b) where an applicant demonstrates comprehensive planning of the project, including a business case;

(c) where the applicant, as determined by the office, is likely to have success in attracting a tenant to assume the office's lease of a rural speculative industrial building in a short amount of time; and

(d) that maximizes economic development opportunities in accordance with the economic development needs or plans of a county or a municipality.

(3) Subject to legislative appropriation, a lease may only be entered into by the office if:

(a) the executive director, after consultation with the [~~board~~] GO Utah board, approves entering into the lease;

(b) the local municipal entity supports the program through the provision of local incentives, reduced impact fees, or other monetary support for the rural speculative industrial building; and

(c) the lease terms are not more than $100,000 per year with a maximum five-year lease term.

(4) The office shall include in the annual written report described in Section [~~63N-1-301~~] 63N-1a-306:

(a) an overview of each lease entered into under this program; and

(b) the success of this program in attracting new or expanding businesses into rural areas.

Section 121. Section 63N-7-201 is amended to read:

63N-7-201. Powers and duties of office related to tourism development plan -- Annual report and survey.

(1) The office shall:

(a) be the tourism development authority of the state;

(b) develop a tourism advertising, marketing, and branding program for the state;

(c) receive approval from the Board of Tourism Development under Subsection 63N-7-103(1)(a) before implementing the out-of-state advertising, marketing, and branding campaign;

(d) develop a plan to increase the economic contribution by tourists visiting the state;

(e) plan and conduct a program of information, advertising, and publicity relating to the recreational, scenic, historic, and tourist advantages and attractions of the state at large; and

(f) encourage and assist in the coordination of the activities of persons, firms, associations, corporations, travel regions, counties, and governmental agencies engaged in publicizing, developing, and promoting the scenic attractions and tourist advantages of the state.

(2) Any plan provided for under Subsection (1) shall address, but not be limited to, enhancing the state's image, promoting Utah as a year-round destination, encouraging expenditures by visitors to the state, and expanding the markets where the state is promoted.

(3) The office shall:

(a) conduct a regular and ongoing research program to identify statewide economic trends and conditions in the tourism sector of the economy; and

(b) include in the annual written report described in Section [~~63N-1-301~~] 63N-1a-306, a report on the economic efficiency of the advertising and branding campaigns conducted under this part.

Section 122. Section 63N-8-102 is amended to read:

63N-8-102. Definitions.

As used in this chapter:

(1) "Digital media company" means a company engaged in the production of a digital media project.

(2) "Digital media project" means all or part of a production of interactive entertainment or animated production that is produced for distribution in commercial or educational markets, which shall include projects intended for Internet or wireless distribution.

(3) "Dollars left in the state" means expenditures made in the state for a state-approved production, including:

(a) an expenditure that is subject to:

(i) a corporate franchise or income tax under Title 59, Chapter 7, Corporate Franchise and Income Taxes;

(ii) an individual income tax under Title 59, Chapter 10, Individual Income Tax Act; and

(iii) a sales and use tax under Title 59, Chapter 12, Sales and Use Tax Act, notwithstanding any sales and use tax exemption allowed by law; or

(iv) a combination of Subsections (3)(a)(i), (ii), and (iii);

(b) payments made to a nonresident only to the extent of the income tax paid to the state on the payments, the amount of per diems paid in the state, and other direct reimbursements transacted in the state; and

(c) payments made to a payroll company or loan-out corporation that is registered to do business in the state, only to the extent of the amount of withholding under Section 59-10-402.

(4) "Loan-out corporation" means a corporation owned by one or more artists that provides services of the artists to a third party production company.

(5) "Motion picture company" means a company engaged in the production of:

(a) motion pictures;

(b) television series; or

(c) made-for-television movies.

(6) "Motion picture incentive" means either a cash rebate from the Motion Picture Incentive Account or a refundable tax credit under Section 59-7-614.5 or 59-10-1108.

(7) "New state revenues" means:

(a) incremental new state sales and use tax revenues generated as a result of a digital media project that a digital media company pays under Title 59, Chapter 12, Sales and Use Tax Act;

(b) incremental new state tax revenues that a digital media company pays as a result of a digital media project under:

(i) Title 59, Chapter 7, Corporate Franchise and Income Taxes;

(ii) Title 59, Chapter 10, Part 1, Determination and Reporting of Tax Liability and Information;

(iii) Title 59, Chapter 10, Part 2, Trusts and Estates;

(iv) Title 59, Chapter 10, Part 4, Withholding of Tax; or

(v) a combination of Subsections (7)(b)(i), (ii), (iii), and (iv);

(c) incremental new state revenues generated as individual income taxes under Title 59, Chapter 10, Part 1, Determination and Reporting of Tax Liability and Information, paid by employees of the new digital media project as evidenced by payroll records from the digital media company; or

(d) a combination of Subsections (7)(a), (b), and (c).

(8) "Payroll company" means a business entity that handles the payroll and becomes the employer of record for the staff, cast, and crew of a motion picture production.

(9) "Refundable tax credit" means a refundable motion picture tax credit authorized under Section 63N-8-103 and claimed under Section 59-7-614.5 or 59-10-1108.

(10) "Restricted account" means the Motion Picture Incentive Account created in Section 63N-8-103.

(11) "State-approved production" means a production under Subsections (2) and (5) that is:

(a) approved by the office and ratified by the [~~board~~] GO Utah board; and

(b) produced in the state by a motion picture company.

(12) "Tax credit amount" means the amount the office lists as a tax credit on a tax credit certificate for a taxable year.

(13) "Tax credit certificate" means a certificate issued by the office that:

(a) lists the name of the applicant;

(b) lists the applicant's taxpayer identification number;

(c) lists the amount of tax credit that the office awards the applicant for the taxable year; and

(d) may include other information as determined by the office.

Section 123. Section 63N-8-103 is amended to read:

63N-8-103. Motion Picture Incentive Account created -- Cash rebate incentives -- Refundable tax credit incentives.

(1) (a) There is created within the General Fund a restricted account known as the Motion Picture Incentive Account, which the office shall use to provide cash rebate incentives for state-approved productions by a motion picture company.

(b) All interest generated from investment of money in the restricted account shall be deposited in the restricted account.

(c) The restricted account shall consist of an annual appropriation by the Legislature.

(d) The office shall:

(i) with the advice of the [~~board~~] GO Utah board, administer the restricted account; and

(ii) make payments from the restricted account as required under this section.

(e) The cost of administering the restricted account shall be paid from money in the restricted account.

(2) (a) A motion picture company or digital media company seeking disbursement of an incentive allowed under an agreement with the office shall follow the procedures and requirements of this Subsection (2).

(b) The motion picture company or digital media company shall provide the office with an incentive request form, provided by the office, identifying and documenting the dollars left in the state and new state revenues generated by the motion picture company or digital media company for state-approved production, including any related tax returns by the motion picture company, payroll company, digital media company, or loan-out corporation under Subsection (2)(d).

(c) For a motion picture company, an independent certified public accountant shall:

(i) review the incentive request form submitted by the motion picture company; and

(ii) provide a report on the accuracy and validity of the incentive request form, including the amount of dollars left in the state, in accordance with the agreed upon procedures established by the office by rule.

(d) The motion picture company, digital media company, payroll company, or loan-out corporation

shall provide the office with a document that expressly directs and authorizes the State Tax Commission to disclose the entity's tax returns and other information concerning the entity that would otherwise be subject to confidentiality under Section 59-1-403 or Section 6103, Internal Revenue Code, to the office.

(e) The office shall submit the document described in Subsection (2)(d) to the State Tax Commission.

(f) Upon receipt of the document described in Subsection (2)(d), the State Tax Commission shall provide the office with the information requested by the office that the motion picture company, digital media company, payroll company, or loan-out corporation directed or authorized the State Tax Commission to provide to the office in the document described in Subsection (2)(d).

(g) Subject to Subsection (3), for a motion picture company the office shall:

(i) review the incentive request form from the motion picture company described in Subsection (2)(b) and verify that the incentive request form was reviewed by an independent certified public accountant as described in Subsection (2)(c); and

(ii) based upon the independent certified public accountant's report under Subsection (2)(c), determine the amount of the incentive that the motion picture company is entitled to under the motion picture company's agreement with the office.

(h) Subject to Subsection (3), for a digital media company, the office shall:

(i) ensure the digital media project results in new state revenues; and

(ii) based upon review of new state revenues, determine the amount of the incentive that a digital media company is entitled to under the digital media company's agreement with the office.

(i) Subject to Subsection (3), if the incentive is in the form of a cash rebate, the office shall pay the incentive from the restricted account to the motion picture company, notwithstanding Subsections 51-5-3(23)(b) and 63J-1-105(6).

(j) If the incentive is in the form of a refundable tax credit under Section 59-7-614.5 or 59-10-1108, the office shall:

(i) issue a tax credit certificate to the motion picture company or digital media company; and

(ii) provide a [~~duplicate copy~~] digital record of the tax credit certificate to the State Tax Commission.

(k) A motion picture company or digital media company may not claim a motion picture tax credit under Section 59-7-614.5 or 59-10-1108 unless the motion picture company or digital media company has received a tax credit certificate for the claim issued by the office under Subsection (2)(j)(i).

(l) A motion picture company or digital media company may claim a motion picture tax credit on the motion picture company's or the digital media company's tax return for the amount listed on the tax credit certificate issued by the office.

(m) A motion picture company or digital media company that claims a tax credit under Subsection (2)(l) shall retain the tax credit certificate and all supporting documentation in accordance with Subsection 63N-8-104(6).

(3) (a) Subject to Subsection (3)(b), the office may issue $6,793,700 in tax credit certificates under this part in a fiscal year.

(b) If the office does not issue tax credit certificates in a fiscal year totaling the amount authorized under Subsection (3)(a), the office may carry over that amount for issuance in subsequent fiscal years.

Section 124. Section 63N-8-104 is amended to read:

63N-8-104. Motion picture incentives -- Standards to qualify for an incentive -- Limitations -- Content of agreement between office and motion picture company or digital media company.

(1) In addition to the requirements for receiving a motion picture incentive as set forth in this part, the office, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, shall make rules establishing:

(a) the standards that a motion picture company or digital media company must meet to qualify for the motion picture incentive; and

(b) criteria for determining the amount of the incentive.

(2) The office shall ensure that those standards include the following:

(a) an incentive may only be issued for a state-approved production by a motion picture company or digital media company;

(b) financing has been obtained and is in place for the production; and

(c) the economic impact of the production on the state represents new incremental economic activity in the state as opposed to existing economic activity.

(3) With respect to a digital media project, the office shall consider economic modeling, including the costs and benefits of the digital media project to state and local governments in determining the motion picture incentive amount.

(4) The office may also consider giving preference to a production that stimulates economic activity in rural areas of the state or that has Utah content, such as recognizing that the production was made in the state or uses Utah as Utah in the production.

(5) (a) The office, with advice from the [~~board~~] GO Utah board, may enter into an agreement with a motion picture company or digital media company that meets the standards established under this section and satisfies the other qualification requirements under this part.

(b) Subject to Subsection 63N-8-103(3), the office may commit or authorize a motion picture incentive:

(i) to a motion picture company of up to 20% of the dollars left in the state by the motion picture company, and a motion picture company can receive an additional 5%, not to exceed 25% of the dollars left in the state by the motion picture company if the company fulfills certain requirements determined by the office including:

(A) employing a significant percentage of cast and crew from Utah;

(B) highlighting the state of Utah and the Utah Film Commission in the motion picture credits; or

(C) other promotion opportunities as agreed upon by the office and the motion picture company; and

(ii) to a digital media company, if the incentive does not exceed 100% of the new state revenue less the considerations under Subsection (3), but not to exceed 20% of the dollars left in the state by the digital media company.

(c) The office may not give a cash rebate incentive from the Motion Picture Incentive Restricted Account for a digital media project.

(6) The office shall ensure that the agreement entered into with a motion picture company or digital media company under Subsection (5)(a):

(a) details the requirements that the motion picture company or digital media company must meet to qualify for an incentive under this part;

(b) specifies:

(i) the nature of the incentive; and

(ii) the maximum amount of the motion picture incentive that the motion picture company or digital media company may earn for a taxable year and over the life of the production;

(c) establishes the length of time over which the motion picture company or digital media company may claim the motion picture incentive;

(d) requires the motion picture company or digital media company to retain records supporting its claim for a motion picture incentive for at least four years after the motion picture company or digital media company claims the incentive under this part; and

(e) requires the motion picture company or digital media company to submit to audits for verification of the claimed motion picture incentive.

Section 125. Section 63N-8-105 is amended to read:

63N-8-105. Annual report.

The office shall include the following information in the annual written report described in Section [~~63N-1-301~~] 63N-1a-306:

(1) the office's success in attracting within-the-state production of television series, made-for-television movies, and motion pictures, including feature films and independent films;

(2) the amount of incentive commitments made by the office under this part and the period of time over which the incentives will be paid; and

(3) the economic impact on the state related to:

(a) dollars left in the state; and

(b) providing motion picture incentives under this part.

Section 126. Section 63N-9-104 is amended to read:

63N-9-104. Creation of outdoor recreation office and appointment of director -- Responsibilities of outdoor recreation office.

(1) There is created within the [~~Governor's Office of Economic Development~~] office the Utah Office of Outdoor Recreation.

(2) (a) The executive director shall appoint a director of the outdoor recreation office.

(b) The director [~~shall report to the executive director and~~] may appoint staff.

(3) The outdoor recreation office shall:

(a) coordinate outdoor recreation policy, management, and promotion:

(i) among state and federal agencies and local government entities in the state; [~~and~~]

(ii) with the Public Lands Policy Coordinating Office created in Section 63J-4-602, if public land is involved; and

(iii) on a quarterly basis, with the executive director and the executive director of the Department of Natural Resources;

(b) promote economic development in the state by:

(i) coordinating with outdoor recreation stakeholders;

(ii) improving recreational opportunities; and

(iii) recruiting outdoor recreation business;

(c) promote all forms of outdoor recreation, including vehicular and non-vehicular outdoor recreation;

[~~(c)~~] (d) recommend to the governor and Legislature policies and initiatives to enhance recreational amenities and experiences in the state and help implement those policies and initiatives;

(e) in performing the outdoor recreation office's duties, seek to ensure safe and adequate access to outdoor recreation for all user groups and for all forms of recreation;

[~~(d)~~] (f) develop data regarding the impacts of outdoor recreation in the state; and

[~~(e)~~] (g) promote the health and social benefits of outdoor recreation, especially to young people.

(4) By following the procedures and requirements of Title 63J, Chapter 5, Federal Funds Procedures Act, the outdoor recreation office may:

(a) seek federal grants or loans;

(b) seek to participate in federal programs; and

(c) in accordance with applicable federal program guidelines, administer federally funded outdoor recreation programs.

(5) For purposes of administering this part, the outdoor recreation office may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Section 127. Section 63N-9-106 is amended to read:

63N-9-106. Annual report.

The executive director shall include in the annual written report described in Section [~~63N-1-301~~] 63N-1a-306 a report from the director on the activities of the outdoor recreation office, including a description and the amount of any awarded infrastructure grants and any awarded UCORE grants.

Section 128. Section 63N-9-203 is amended to read:

63N-9-203. Rulemaking and requirements for awarding an infrastructure grant.

(1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the outdoor recreation office shall make rules establishing the eligibility and reporting criteria for an entity to receive an infrastructure grant, including:

(a) the form and process of submitting an application to the outdoor recreation office for an infrastructure grant;

(b) which entities are eligible to apply for an infrastructure grant;

(c) specific categories of recreational infrastructure projects that are eligible for an infrastructure grant;

(d) the method and formula for determining grant amounts; and

(e) the reporting requirements of grant recipients.

(2) In determining the award of an infrastructure grant, the outdoor recreation office may prioritize a recreational infrastructure project that will serve an underprivileged or underserved community.

(3) An infrastructure grant may only be awarded by the executive director after consultation with the director and the [~~board~~] GO Utah board.

(4) The following entities may not receive an infrastructure grant under this part:

(a) a federal government entity;

(b) a state agency; and

(c) a for-profit entity.

(5) An infrastructure grant may only be awarded under this part:

(a) for a recreational infrastructure project that is accessible to the general public; and

(b) subject to Subsections (6) and (7), if the grant recipient agrees to provide matching funds having a value equal to or greater than the amount of the infrastructure grant.

(6) Up to 50% of the grant recipient match described in Subsection (5)(b) may be provided through an in-kind contribution by the grant recipient, if:

(a) approved by the executive director after consultation with the director and the [~~board~~] GO Utah board; and

(b) the in-kind donation does not include real property.

(7) An infrastructure grant may not be awarded under this part if the grant, or the grant recipient match described in Subsection (5)(b), will be used for the purchase of real property or for the purchase or transfer of a conservation easement.

Section 129. Section 63N-9-403 is amended to read:

63N-9-403. Rulemaking and requirements for awarding a UCORE grant.

(1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the outdoor recreation office shall make rules establishing the eligibility and reporting criteria for an entity to receive a UCORE grant, including:

(a) the form and process of submitting an application to the outdoor recreation office for a UCORE grant;

(b) which entities are eligible to apply for a UCORE grant;

(c) specific categories of children's programs that are eligible for a UCORE grant;

(d) the method and formula for determining grant amounts; and

(e) the reporting requirements of grant recipients.

(2) In determining the award of a UCORE grant, the outdoor recreation office may prioritize a children's program that will serve an underprivileged or underserved community in the state.

(3) A UCORE grant may only be awarded by the executive director after consultation with the director and the [~~board~~] GO Utah board.

(4) The following entities may not receive a UCORE grant under this part:

(a) a federal government entity;

(b) a state agency, except for public schools and institutions of higher education; and

(c) a for-profit entity.

(5) In awarding UCORE grants, consideration shall be given to entities that implement programs that:

(a) contribute to healthy and active lifestyles through outdoor recreation; and

(b) include one or more of the following attributes in their programs or initiatives:

(i) serve children with the greatest needs in rural, suburban, and urban areas of the state;

(ii) provide students with opportunities to directly experience nature;

(iii) maximize the number of children who can participate;

(iv) commit matching and in-kind resources;

(v) create partnerships with public and private entities;

(vi) include ongoing program evaluation and assessment;

(vii) utilize veterans in program implementation;

(viii) include outdoor or nature-based programming that incorporates concept learning in science, technology, engineering, or math; or

(ix) utilize educated volunteers in program implementation.

Section 130. Section 63N-13-101 is amended to read:

63N-13-101. Title -- Projects to assist companies to secure new business with federal, state, and local governments.

(1) This chapter is known as "Procurement Programs."

(2) The Legislature recognizes that:

(a) many Utah companies provide products and services which are routinely procured by a myriad of governmental entities at all levels of government, but that attempting to understand and comply with the numerous certification, registration, proposal, and contract requirements associated with government procurement often raises significant barriers for those companies with no government contracting experience;

(b) the costs associated with obtaining a government contract for products or services often prevent most small businesses from working in the governmental procurement market;

(c) currently a majority of federal procurement opportunities are contracted to businesses located outside of the state;

(d) the [~~Governor's Office of Economic Development~~] office currently administers programs and initiatives that help create and grow companies in Utah and recruit companies to Utah through the use of state employees, public-private partnerships, and contractual services; and

(e) there exists a significant opportunity for Utah companies to secure new business with federal, state, and local governments.

(3) The office, through its executive director:

(a) shall manage and direct the administration of state and federal programs and initiatives whose purpose is to procure federal, state, and local governmental contracts;

(b) may require program accountability measures; and

(c) may receive and distribute legislative appropriations and public and private grants for projects and programs that:

(i) are focused on growing Utah companies and positively impacting statewide revenues by helping these companies secure new business with federal, state, and local governments;

(ii) provide guidance to Utah companies interested in obtaining new business with federal, state, and local governmental entities;

(iii) would facilitate marketing, business development, and expansion opportunities for Utah companies in cooperation with the [~~Governor's Office of Economic Development's~~] office's Procurement Technical Assistance Center Program and with public, nonprofit, or private sector partners such as local chambers of commerce, trade associations, or private contractors as determined by the office's director to successfully match Utah businesses with government procurement opportunities; and

(iv) may include the following components:

(A) recruitment, individualized consultation, and an introduction to government contracting;

(B) specialized contractor training for companies located in Utah;

(C) a Utah contractor matching program for government requirements;

(D) experienced proposal and bid support; and

(E) specialized support services.

(4) (a) The office, through its executive director, shall make any distribution referred to in Subsection (3) on a semiannual basis.

(b) A recipient of money distributed under this section shall provide the office with a set of standard monthly reports, the content of which shall be determined by the office to include at least the following information:

(i) consultive meetings with Utah companies;

(ii) seminars or training meetings held;

(iii) government contracts awarded to Utah companies;

(iv) increased revenues generated by Utah companies from new government contracts;

(v) jobs created;

(vi) salary ranges of new jobs; and

(vii) the value of contracts generated.

Section 131. Section 63N-15-103 is amended to read:

63N-15-103. Reporting and use of appropriations.

(1) The office shall include in the office's 2020 and 2021 annual reports to the governor and the Legislature under Section [~~63N-1-301~~] 63N-1a-306 the following information about each of the grant programs established under this chapter:

(a) the number of applications submitted under the grant program;

(b) the number of grants awarded under the grant program;

(c) the aggregate amount of grant funds awarded under the grant program; and

(d) any other information the office considers relevant to evaluating the success of the grant program.

(2) After providing notice to members of the legislative committee, the executive director, in cooperation with the director of the Division of Finance, may move funds among the following programs to make efficient and full use of CARES Act funding:

(a) the COVID-19 Commercial Rental and Mortgage Assistance Program described in Chapter 14, COVID-19 Commercial Rental and Mortgage Assistance Program;

(b) any of the programs described in this chapter;

(c) after consultation with the commissioner of the Department of Agriculture and Food, the COVID-19 Agricultural Operations Grant Program described in Section 4-18-106.1;

(d) after consultation with the executive director of the Department of Heritage and Arts, the COVID-19 Cultural Assistance Grant Program described in Title 9, Chapter 6, Part 9, COVID-19 Cultural Assistance Grant Program; and

(e) after consultation with the executive director of the Department of Workforce Services, COVID-19 Residential Housing Assistance described in Title 35A, Chapter 8, Part 23, COVID-19 Residential Housing Assistance.

Section 132. Section 63N-16-101 is enacted to read:

CHAPTER 17. UTAH BROADBAND CENTER AND ACCESS ACT

Part 1. General Provisions

63N-16-101. (Codified as 63N-17-101) Title.

This chapter is known as the "Utah Broadband Center and Access Act."

Section 133. Section 63N-16-102 is enacted to read:

63N-16-102. (Codified as 63N-17-102) Definitions.

As used in this chapter:

(1) "Broadband center" means the Utah Broadband Center created in Section 63N-16-201.

(2) "Eligible applicant" means:

(a) a telecommunications provider or an Internet service provider;

(b) a local government entity and one or more private entities, collectively, who are parties to a public-private partnership established for the purpose of expanding affordable broadband access in the state; or

(c) a tribal government.

(3) "Public-private partnership" means an arrangement or agreement between a government entity and one or more private persons to fund and provide for a public need through the development or operation of a public project in which the private person or persons share with the government entity the responsibility or risk of developing, owning, maintaining, financing, or operating the project.

(4) "Underserved area" means an area of the state that is underserved in terms of the area's access to broadband service, as further defined by rule made by the broadband center.

(5) "Unserved area" means an area of the state that is rural and unserved in terms of the area's access to broadband service, as further defined by rule made by the broadband center.

Section 134. Section 63N-16-201 is enacted to read:

Part 2. Utah Broadband Center

63N-16-201. (Codified as 63N-17-201) Utah Broadband Center -- Creation -- Director -- Duties.

(1) There is created within the office the Utah Broadband Center.

(2) The executive director shall appoint a director of the broadband center to oversee the operations of the broadband center.

(3) The broadband center shall:

(a) ensure that publicly funded broadband projects continue to be publicly accessible and provide a public benefit;

(b) develop a statewide digital connectivity plan;

(c) carry out the duties described in Section 63N-16-202; and

(d) administer the Broadband Access Grant Program in accordance with Part 3, Broadband Access Grant Program.

Section 135. Section 63N-16-202, which is renumbered from Section 63N-3-501 is renumbered and amended to read:

[~~63N-3-501~~]. 63N-16-202. (Codified as 63N-17-202) Infrastructure and broadband coordination.

(1) The [~~office~~] broadband center shall partner with the Automated Geographic Reference Center created in Section 63F-1-506 to collect and maintain a database and interactive map that displays economic development data statewide, including:

(a) voluntarily submitted broadband availability, speeds, and other broadband data;

(b) voluntarily submitted public utility data;

(c) workforce data, including information regarding:

(i) enterprise zones designated under Section 63N-2-206;

[~~(ii) business resource centers;~~]

[~~(iii)~~] (ii) public institutions of higher education; and

[~~(iv)~~] (iii) procurement technical assistance centers;

(d) transportation data, which may include information regarding railway routes, commuter rail routes, airport locations, and major highways;

(e) lifestyle data, which may include information regarding state parks, national parks and monuments, United States Forest Service boundaries, ski areas, golf courses, and hospitals; and

(f) other relevant economic development data as determined by the office, including data provided by partner organizations.

(2) The [~~office~~] broadband center may:

(a) make recommendations to state and federal agencies, local governments, the governor, and the Legislature regarding policies and initiatives that promote the development of broadband-related infrastructure in the state and help implement those policies and initiatives;

(b) facilitate coordination between broadband providers and public and private entities;

(c) collect and analyze data on broadband availability and usage in the state, including Internet speed, capacity, the number of unique visitors, and the availability of broadband infrastructure throughout the state;

(d) create a voluntary broadband advisory committee, which shall include broadband providers and other public and private stakeholders, to solicit input on broadband-related policy guidance, best practices, and adoption strategies;

(e) work with broadband providers, state and local governments, and other public and private stakeholders to facilitate and encourage the expansion and maintenance of broadband infrastructure throughout the state; and

(f) in accordance with the requirements of Title 63J, Chapter 5, Federal Funds Procedures Act, and in accordance with federal requirements:

(i) apply for federal grants;

(ii) participate in federal programs; and

(iii) administer federally funded broadband-related programs.

Section 136. Section 63N-16-301 is enacted to read:

Part 3. Broadband Access Grant Program

63N-16-301. (Codified as 63N-17-301) Creation of Broadband Access Grant Program.

(1) There is established a grant program known as the Broadband Access Grant Program that is administered by the broadband center in accordance with this part.

(2) (a) The broadband center may award a grant under this part to an eligible applicant who submits to the broadband center an application that includes a proposed project to extend broadband service to individuals and businesses in an unserved area or an underserved area by providing last-mile connections to end users.

(b) Subsection (2)(a) does not prohibit the broadband center from awarding a grant for a proposed project that also includes middle-mile elements that are necessary for the last-mile connections.

(3) In awarding grants under this part, the broadband center shall:

(a) based on the following criteria and in the order provided, prioritize proposed projects:

(i) located in unserved areas;

(ii) located in underserved areas;

(iii) (A) that the eligible applicant developed after meaningful engagement with the impacted community to identify the community's needs and innovative means of providing a public benefit that addresses the community's needs; and

(B) that include, as a component of the proposed project, a long-term public benefit to the impacted community developed in response to the eligible applicant's engagement with the community;

(iv) located in an economically distressed area of the state, as measured by indices of unemployment, poverty, or population loss;

(v) that make the greatest investment in last-mile connections;

(vi) that provide higher speed broadband access to end users; and

(vii) for which the eligible applicant provides at least 25% of the money needed for the proposed

project, with higher priority to proposed projects for which the eligible applicant provides a greater percentage of the money needed for the proposed project; and

(b) consider the impact of available funding for the proposed project from other sources, including money from matching federal grant programs.

(4) The broadband center may not award a grant under this part that exceeds $7,500,000.

(5) For a project that the eligible applicant cannot complete in a single fiscal year, the broadband center may distribute grant proceeds for the project over the course of the project's construction.

(6) In awarding grants under this part, the broadband center shall ensure that grant funds are not used in a manner that causes competition among projects that are substantially supported by state funds, as determined in accordance with rule made by the broadband center.

(7) As provided in and subject to the requirements of Title 63G, Chapter 2, Government Records Access and Management Act, a record submitted to the broadband center that contains a trade secret or confidential commercial information described in Subsection 63G-2-305(2) is a protected record.

Section 137. Section 63N-16-302 is enacted to read:

63N-16-302. (Codified as 63N-17-302) Duties of the broadband center.

(1) The broadband center shall:

(a) establish an application process by which an eligible applicant may apply for a grant under this part, which application shall include:

(i) a declaration, signed under penalty of perjury, that the application is complete, true, and correct; and

(ii) an acknowledgment that the eligible applicant is subject to audit;

(b) establish a method for the broadband center to determine which eligible applicants qualify to receive a grant;

(c) establish a formula to award grant funds; and

(d) report the information described in Subsections (1)(a) through (c) to the director of the Division of Finance.

(2) Subject to appropriation, the broadband center shall:

(a) collect applications for grant funds from eligible applicants;

(b) determine which applicants qualify for receiving a grant; and

(c) award the grant funds in accordance with the process established under Subsection (1) and in accordance with Section 63N-16-301.

(3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the broadband center may make rules to administer the grant program.

Section 138. Section 72-1-209 is amended to read:

72-1-209. Department to cooperate in programs relating to scenic centers.

The department shall cooperate in planning and promoting road-building programs into the scenic centers of the state and in providing camping grounds and facilities in scenic centers for tourists with:

(1) the Governor's Office of Economic [~~Development~~] Opportunity;

(2) other states;

(3) all national, state, and local planning and zoning agencies and boards;

(4) municipal and county officials; and

(5) other agencies.

Section 139. Section 72-4-302 is amended to read:

72-4-302. Utah State Scenic Byway Committee -- Creation -- Membership -- Meetings -- Expenses.

(1) There is created the Utah State Scenic Byway Committee.

(2) (a) The committee shall consist of the following 13 members:

(i) a representative from each of the following entities appointed by the governor:

(A) the Governor's Office of Economic [~~Development~~] Opportunity;

(B) the Utah Department of Transportation;

(C) the Department of Heritage and Arts;

(D) the Division of Parks and Recreation;

(E) the Federal Highway Administration;

(F) the National Park Service;

(G) the National Forest Service; and

(H) the Bureau of Land Management;

(ii) one local government tourism representative appointed by the governor;

(iii) a representative from the private business sector appointed by the governor; and

(iv) three local elected officials from a county, city, or town within the state appointed by the governor.

(b) Except as provided in Subsection (2)(c), the members appointed in this Subsection (2) shall be appointed for a four-year term of office.

(c) The governor shall, at the time of appointment or reappointment for appointments made under Subsection (2)(a)(i), (ii), (iii), or (iv) adjust the length of terms to ensure that the terms of committee

members are staggered so that approximately half of the committee is appointed every two years.

(3) (a) The representative from the Governor's Office of Economic [~~Development~~] Opportunity shall chair the committee.

(b) The members appointed under Subsections (2)(a)(i)(E) through (H) serve as nonvoting, ex officio members of the committee.

(4) The Governor's Office of Economic [~~Development~~] Opportunity and the department shall provide staff support to the committee.

(5) (a) The chair may call a meeting of the committee only with the concurrence of the department.

(b) A majority of the voting members of the committee constitute a quorum.

(c) Action by a majority vote of a quorum of the committee constitutes action by the committee.

(6) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses as allowed in:

(a) Section 63A-3-106;

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

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

Section 140. Section 72-7-504 is amended to read:

72-7-504. Advertising prohibited near interstate or primary system -- Exceptions -- Logo advertising -- Department rules.

(1) As used in this section, "specific service trailblazer sign" means a guide sign that provides users with business identification or directional information for services and eligible activities that are advertised on a logo advertising sign authorized under Subsection (3)(a)(i).

(2) Outdoor advertising that is capable of being read or comprehended from any place on the main-traveled way of an interstate or primary system may not be erected or maintained, except:

(a) directional and other official signs and notices authorized or required by law, including signs and notices pertaining to natural wonders and scenic and historic attractions, informational or directional signs regarding utility service, emergency telephone signs, buried or underground utility markers, and above ground utility closure signs;

(b) on-premise signs advertising the sale or lease of property upon which the on-premise signs are located;

(c) on-premise signs advertising major activities conducted on the property where the on-premise signs are located;

(d) public assembly facility signs;

(e) unified commercial development signs that have received a waiver as described in Section 72-7-504.6;

(f) signs located in a commercial or industrial zone;

(g) signs located in unzoned industrial or commercial areas as determined from actual land uses; and

(h) logo advertising under Subsection (3).

(3) (a) The department may itself or by contract erect, administer, and maintain informational signs:

(i) on the main-traveled way of an interstate or primary system, as it existed on June 1, 1991, specific service signs for the display of logo advertising and information of interest, excluding specific service trailblazer signs as defined in rules adopted in accordance with Section 41-6a-301, to the traveling public if:

(A) the department complies with Title 63G, Chapter 6a, Utah Procurement Code, in the lease or other contract agreement with a private party for the sign or sign space; and

(B) the private party for the lease of the sign or sign space pays an amount set by the department to be paid to the department or the party under contract with the department under this Subsection (3); and

(ii) only on rural conventional roads as defined in rules adopted in accordance with Section 41-6a-301 in a county of the fourth, fifth, or sixth class for tourist-oriented directional signs that display logo advertising and information of interest to the traveling public if:

(A) the department complies with Title 63G, Chapter 6a, Utah Procurement Code, in the lease or other contract agreement with a private party for the tourist-oriented directional sign or sign space; and

(B) the private party for the lease of the sign or sign space pays an amount set by the department to be paid to the department or the party under contract with the department under this Subsection (3).

(b) The amount shall be sufficient to cover the costs of erecting, administering, and maintaining the signs or sign spaces.

(c) (i) Any sign erected pursuant to this Subsection (3) which was existing as of March 1, 2015, shall be permitted as if it were in compliance with this Subsection (3).

(ii) A noncompliant sign shall only be permitted for the contract period of the advertising contract.

(iii) A new advertising contract may not be issued for a noncompliant sign.

(d) The department may consult the Governor's Office of Economic [~~Development~~] Opportunity in carrying out this Subsection (3).

(4) (a) Revenue generated under Subsection (3) shall be:

(i) applied first to cover department costs under Subsection (3); and

(ii) deposited [~~in~~] into the Transportation Fund.

(b) Revenue in excess of costs under Subsection (3)(a) shall be deposited [~~in~~] into the General Fund as a dedicated credit for use by the Governor's Office of Economic [~~Development~~] Opportunity no later than the following fiscal year.

(5) Outdoor advertising under Subsections (2)(a), (f), (g), and (h) shall conform to the rules made by the department under Sections 72-7-506 and 72-7-507.

Section 141. Section 79-4-1103 is amended to read:

79-4-1103. Governor's duties -- Priority of federal property.

(1) During a fiscal emergency, the governor shall:

(a) if financially practicable, work with the federal government to open and maintain the operation of one or more national parks, national monuments, national forests, and national recreation areas in the state, in the order established under this section; and

(b) report to the speaker of the House and the president of the Senate on the need, if any, for additional appropriations to assist the division in opening and operating one or more national parks, national monuments, national forests, and national recreation areas in the state.

(2) The director of the Outdoor Recreation Office, created in Section 63N-9-104, in consultation with the executive director of the Governor's Office of Economic [~~Development~~] Opportunity, shall determine, by rule, the priority of national parks, national monuments, national forests, and national recreation areas in the state.

(3) In determining the priority described in Subsection (2), the director of the Outdoor Recreation Office shall consider the:

(a) economic impact of the national park, national monument, national forest, or national recreation area in the state; and

(b) recreational value offered by the national park, national monument, national forest, or national recreation area.

(4) The director of the Outdoor Recreation Office shall:

(a) report the priority determined under Subsection (2) to the Natural Resources, Agriculture, and Environment Interim Committee by November 30, 2014; and

(b) annually review the priority set under Subsection (2) to determine whether the priority list should be amended.

Section 142. Repealer.

This bill repeals:

Section 63C-10-101, Title.

Section 63C-10-102, Governor's Rural Partnership Board -- Creation -- Membership -- Vacancies -- Chairs -- Expenses.

Section 63C-10-103, Duties.

Section 63N-1-501, Governor's Economic Development Coordinating Council -- Membership -- Expenses.

Section 63N-1-502, Council powers and duties.

Section 63N-3-108, Financial assistance to companies that create economic impediments.

Section 63N-3-109.5, Financial assistance to entities offering economic opportunities in the nonattainment area.

Section 63N-3-201, Title.

Section 63N-3-202, Purpose.

Section 63N-3-203, Definitions.

Section 63N-3-205, Business team consultants.

Section 63N-3-301, Title.

Section 63N-3-302, Purpose.

Section 63N-3-303, Definitions.

Section 63N-3-304, Establishment and administration of business resource centers -- Components.

Section 63N-3-305, Duties and responsibilities of a business resource center.

Section 63N-3-306, Advisory group.

Section 63N-3-307, Office duties.

Section 63N-12-501, Definitions.

Section 143. Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2021, and ending June 30, 2022. These are additions to amounts previously appropriated for fiscal year 2022. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 1

To Economic Development - Business Development

From General Fund	$842,100
Schedule of Programs:	
Corporate Recruitment and Business Services	$767,100
Outreach and International Trade	$75,000

ITEM 2

To Economic Development – Administration

From General Fund, One–time $75,000

Schedule of Programs:

Administration $75,000

ITEM 3

To Legislature – Senate

From General Fund $3,200

Schedule of Programs:

Administration $3,200

ITEM 4

To Legislature – House of Representatives

From General Fund $3,200

Schedule of Programs:

Administration $3,200

Section 144. Effective date.

This bill takes effect July 1, 2021.

Section 145. Revisor instructions.

The Legislature intends that the Office of Legislative Research and General Counsel, in preparing the Utah Code database for publication, make the following changes in any new language added to the Utah Code by legislation passed during the 2021 General Session:

(1) replace "Governor's Office of Economic Development" with "Governor's Office of Economic Opportunity"; and

(2) replace "GOED" with "the GO Utah office".

Section 146. Coordinating H.B. 348 with H.B. 356 -- Superseding technical and substantive amendments.

If this H.B. 348 and H.B. 356, Rural Economic Development Tax Increment Financing, both pass and become law, it is the intent of the Legislature that the amendments to Subsection 63N–2–104(3)(c) in H.B. 356 supersede the amendments to Subsection 63N–2–104(3)(c) in this bill when the Office of Legislative Research and General Counsel prepares the Utah Code database for publication.

CHAPTER 283
H. B. 350
Passed March 5, 2021
Approved March 17, 2021
Effective May 5, 2021

MENTAL HEALTH RECORDS CONFIDENTIALITY AMENDMENTS

Chief Sponsor: Steve Eliason
Senate Sponsor: Keith Grover

LONG TITLE

General Description:

This bill amends provisions related to the disclosure of certain confidential communications.

Highlighted Provisions:

This bill:

- amends provisions related to the disclosure of confidential communications with mental health therapists, psychologists, behavior analysts, and behavior specialists; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

58-60-114, as last amended by Laws of Utah 2011, Chapter 366
58-61-602, as last amended by Laws of Utah 2011, Chapter 366
58-61-713, as enacted by Laws of Utah 2015, Chapter 367
63G-2-103, as last amended by Laws of Utah 2020, Chapter 365

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

Section 1. Section 58-60-114 is amended to read:

58-60-114. Confidentiality -- Exemptions.

(1) [~~A~~] Notwithstanding Title 63G, Chapter 2, Government Records Access and Management Act, a mental health therapist under this chapter may not disclose any confidential communication with a client or patient without the express written consent of:

(a) the client or patient;

(b) the parent or legal guardian of a minor client or patient; or

[~~(c) the authorized agent of a client or patient.~~]

(c) a person authorized to consent to the disclosure of the confidential communication by the client or patient in a written document:

(i) that is signed by the client or the patient; and

(ii) in which the client's or the patient's signature is reasonably verifiable.

(2) A mental health therapist under this chapter is not subject to Subsection (1) if:

(a) the mental health therapist is permitted or required by state or federal law, rule, regulation, or order to report or disclose any confidential communication, including:

(i) reporting under Title 62A, Chapter 3, Part 3, Abuse, Neglect, or Exploitation of a Vulnerable Adult;

(ii) reporting under Title 62A, Chapter 4a, Part 4, Child Abuse or Neglect Reporting Requirements;

(iii) reporting under Title 78B, Chapter 3, Part 5, Limitation of Therapist's Duty to Warn; or

(iv) reporting of a communicable disease as required under Section 26-6-6;

(b) the disclosure is part of an administrative, civil, or criminal proceeding and is made under an exemption from evidentiary privilege under Rule 506, Utah Rules of Evidence; or

(c) the disclosure is made under a generally recognized professional or ethical standard that authorizes or requires the disclosure.

Section 2. Section 58-61-602 is amended to read:

58-61-602. Confidentiality -- Exemptions.

(1) [~~A~~] Notwithstanding Title 63G, Chapter 2, Government Records Access and Management Act, a psychologist under this chapter may not disclose any confidential communication with a client or patient without the express written consent of:

(a) the client or patient;

(b) the parent or legal guardian of a minor client or patient; or

[~~(c) the authorized agent of a client or patient.~~]

(c) a person authorized to consent to the disclosure of the confidential communication by the client or patient in a written document:

(i) that is signed by the client or the patient; and

(ii) in which the client's or the patient's signature is reasonably verifiable.

(2) A psychologist under this chapter is not subject to Subsection (1) if:

(a) the psychologist is permitted or required by state or federal law, rule, regulation, or order to report or disclose any confidential communication, including:

(i) reporting under Title 62A, Chapter 3, Part 3, Abuse, Neglect, or Exploitation of a Vulnerable Adult;

(ii) reporting under Title 62A, Chapter 4a, Part 4, Child Abuse or Neglect Reporting Requirements;

(iii) reporting under Title 78B, Chapter 3, Part 5, Limitation of Therapist's Duty to Warn; or

(iv) reporting of a communicable disease as required under Section 26-6-6;

(b) the disclosure is part of an administrative, civil, or criminal proceeding and is made under an exemption from evidentiary privilege under Rule 506, Utah Rules of Evidence; or

(c) the disclosure is made under a generally recognized professional or ethical standard that authorizes or requires the disclosure.

Section 3. Section 58-61-713 is amended to read:

58-61-713. Confidentiality -- Exemptions.

(1) A behavior analyst or behavior specialist under this chapter may not disclose any confidential communication with a client or patient without the express written consent of:

(a) the client or patient;

(b) the parent or legal guardian of a minor client or patient; or

[~~(c) the authorized agent of a client or patient.~~]

(c) a person authorized to consent to the disclosure of the confidential communication by the client or patient in a written document:

(i) that is signed by the client or the patient; and

(ii) in which the client's or the patient's signature is reasonably verifiable.

(2) A behavior analyst or behavior specialist is not subject to Subsection (1) if:

(a) the behavior analyst or behavior specialist is permitted or required by state or federal law, rule, regulation, or order to report or disclose any confidential communication, including:

(i) reporting under Title 62A, Chapter 3, Part 3, Abuse, Neglect, or Exploitation of a Vulnerable Adult;

(ii) reporting under Title 62A, Chapter 4a, Part 4, Child Abuse or Neglect Reporting Requirements;

(iii) reporting under Title 78B, Chapter 3, Part 5, Limitation of Therapist's Duty to Warn; or

(iv) reporting of a communicable disease as required under Section 26-6-6;

(b) the disclosure is part of an administrative, civil, or criminal proceeding and is made under an exemption from evidentiary privilege under Utah Rules of Evidence, Rule 506; or

(c) the disclosure is made under a generally recognized professional or ethical standard that authorizes or requires the disclosure.

Section 4. Section 63G-2-103 is amended to read:

63G-2-103. Definitions.

As used in this chapter:

(1) "Audit" means:

(a) a systematic examination of financial, management, program, and related records for the purpose of determining the fair presentation of financial statements, adequacy of internal controls, or compliance with laws and regulations; or

(b) a systematic examination of program procedures and operations for the purpose of determining their effectiveness, economy, efficiency, and compliance with statutes and regulations.

(2) "Chronological logs" mean the regular and customary summary records of law enforcement agencies and other public safety agencies that show:

(a) the time and general nature of police, fire, and paramedic calls made to the agency; and

(b) any arrests or jail bookings made by the agency.

(3) "Classification," "classify," and their derivative forms mean determining whether a record series, record, or information within a record is public, private, controlled, protected, or exempt from disclosure under Subsection 63G-2-201(3)(b).

(4) (a) "Computer program" means:

(i) a series of instructions or statements that permit the functioning of a computer system in a manner designed to provide storage, retrieval, and manipulation of data from the computer system; and

(ii) any associated documentation and source material that explain how to operate the computer program.

(b) "Computer program" does not mean:

(i) the original data, including numbers, text, voice, graphics, and images;

(ii) analysis, compilation, and other manipulated forms of the original data produced by use of the program; or

(iii) the mathematical or statistical formulas, excluding the underlying mathematical algorithms contained in the program, that would be used if the manipulated forms of the original data were to be produced manually.

(5) (a) "Contractor" means:

(i) any person who contracts with a governmental entity to provide goods or services directly to a governmental entity; or

(ii) any private, nonprofit organization that receives funds from a governmental entity.

(b) "Contractor" does not mean a private provider.

(6) "Controlled record" means a record containing data on individuals that is controlled as provided by Section 63G-2-304.

(7) "Designation," "designate," and their derivative forms mean indicating, based on a governmental entity's familiarity with a record series or based on a governmental entity's review of a reasonable sample of a record series, the primary classification that a majority of records in a record

series would be given if classified and the classification that other records typically present in the record series would be given if classified.

(8) "Elected official" means each person elected to a state office, county office, municipal office, school board or school district office, local district office, or special service district office, but does not include judges.

(9) "Explosive" means a chemical compound, device, or mixture:

(a) commonly used or intended for the purpose of producing an explosion; and

(b) that contains oxidizing or combustive units or other ingredients in proportions, quantities, or packing so that:

(i) an ignition by fire, friction, concussion, percussion, or detonator of any part of the compound or mixture may cause a sudden generation of highly heated gases; and

(ii) the resultant gaseous pressures are capable of:

(A) producing destructive effects on contiguous objects; or

(B) causing death or serious bodily injury.

(10) "Government audit agency" means any governmental entity that conducts an audit.

(11) (a) "Governmental entity" means:

(i) executive department agencies of the state, the offices of the governor, lieutenant governor, state auditor, attorney general, and state treasurer, the Board of Pardons and Parole, the Board of Examiners, the National Guard, the Career Service Review Office, the State Board of Education, the Utah Board of Higher Education, and the State Archives;

(ii) the Office of the Legislative Auditor General, Office of the Legislative Fiscal Analyst, Office of Legislative Research and General Counsel, the Legislature, and legislative committees, except any political party, group, caucus, or rules or sifting committee of the Legislature;

(iii) courts, the Judicial Council, the Administrative Office of the Courts, and similar administrative units in the judicial branch;

(iv) any state-funded institution of higher education or public education; or

(v) any political subdivision of the state, but, if a political subdivision has adopted an ordinance or a policy relating to information practices pursuant to Section 63G-2-701, this chapter shall apply to the political subdivision to the extent specified in Section 63G-2-701 or as specified in any other section of this chapter that specifically refers to political subdivisions.

(b) "Governmental entity" also means:

(i) every office, agency, board, bureau, committee, department, advisory board, or commission of an entity listed in Subsection (11)(a) that is funded or established by the government to carry out the public's business;

(ii) as defined in Section 11-13-103, an interlocal entity or joint or cooperative undertaking;

(iii) as defined in Section 11-13a-102, a governmental nonprofit corporation;

(iv) an association as defined in Section 53G-7-1101;

(v) the Utah Independent Redistricting Commission; and

(vi) a law enforcement agency, as defined in Section 53-1-102, that employs one or more law enforcement officers, as defined in Section 53-13-103.

(c) "Governmental entity" does not include the Utah Educational Savings Plan created in Section 53B-8a-103.

(12) "Gross compensation" means every form of remuneration payable for a given period to an individual for services provided including salaries, commissions, vacation pay, severance pay, bonuses, and any board, rent, housing, lodging, payments in kind, and any similar benefit received from the individual's employer.

(13) "Individual" means a human being.

(14) (a) "Initial contact report" means an initial written or recorded report, however titled, prepared by peace officers engaged in public patrol or response duties describing official actions initially taken in response to either a public complaint about or the discovery of an apparent violation of law, which report may describe:

(i) the date, time, location, and nature of the complaint, the incident, or offense;

(ii) names of victims;

(iii) the nature or general scope of the agency's initial actions taken in response to the incident;

(iv) the general nature of any injuries or estimate of damages sustained in the incident;

(v) the name, address, and other identifying information about any person arrested or charged in connection with the incident; or

(vi) the identity of the public safety personnel, except undercover personnel, or prosecuting attorney involved in responding to the initial incident.

(b) Initial contact reports do not include follow-up or investigative reports prepared after the initial contact report. However, if the information specified in Subsection (14)(a) appears in follow-up or investigative reports, it may only be treated confidentially if it is private, controlled, protected, or exempt from disclosure under Subsection 63G-2-201(3)(b).

(15) "Legislative body" means the Legislature.

(16) "Notice of compliance" means a statement confirming that a governmental entity has complied with an order of the State Records Committee.

(17) "Person" means:

(a) an individual;

(b) a nonprofit or profit corporation;

(c) a partnership;

(d) a sole proprietorship;

(e) other type of business organization; or

(f) any combination acting in concert with one another.

(18) "Private provider" means any person who contracts with a governmental entity to provide services directly to the public.

(19) "Private record" means a record containing data on individuals that is private as provided by Section 63G-2-302.

(20) "Protected record" means a record that is classified protected as provided by Section 63G-2-305.

(21) "Public record" means a record that is not private, controlled, or protected and that is not exempt from disclosure as provided in Subsection 63G-2-201(3)(b).

(22) (a) "Record" means a book, letter, document, paper, map, plan, photograph, film, card, tape, recording, electronic data, or other documentary material regardless of physical form or characteristics:

(i) that is prepared, owned, received, or retained by a governmental entity or political subdivision; and

(ii) where all of the information in the original is reproducible by photocopy or other mechanical or electronic means.

(b) "Record" does not mean:

(i) a personal note or personal communication prepared or received by an employee or officer of a governmental entity:

(A) in a capacity other than the employee's or officer's governmental capacity; or

(B) that is unrelated to the conduct of the public's business;

(ii) a temporary draft or similar material prepared for the originator's personal use or prepared by the originator for the personal use of an individual for whom the originator is working;

(iii) material that is legally owned by an individual in the individual's private capacity;

(iv) material to which access is limited by the laws of copyright or patent unless the copyright or patent is owned by a governmental entity or political subdivision;

(v) proprietary software;

(vi) junk mail or a commercial publication received by a governmental entity or an official or employee of a governmental entity;

(vii) a book that is cataloged, indexed, or inventoried and contained in the collections of a library open to the public;

(viii) material that is cataloged, indexed, or inventoried and contained in the collections of a library open to the public, regardless of physical form or characteristics of the material;

(ix) a daily calendar or other personal note prepared by the originator for the originator's personal use or for the personal use of an individual for whom the originator is working;

(x) a computer program that is developed or purchased by or for any governmental entity for its own use;

(xi) a note or internal memorandum prepared as part of the deliberative process by:

(A) a member of the judiciary;

(B) an administrative law judge;

(C) a member of the Board of Pardons and Parole; or

(D) a member of any other body, other than an association or appeals panel as defined in Section 53G-7-1101, charged by law with performing a quasi-judicial function;

(xii) a telephone number or similar code used to access a mobile communication device that is used by an employee or officer of a governmental entity, provided that the employee or officer of the governmental entity has designated at least one business telephone number that is a public record as provided in Section 63G-2-301;

(xiii) information provided by the Public Employees' Benefit and Insurance Program, created in Section 49-20-103, to a county to enable the county to calculate the amount to be paid to a health care provider under Subsection 17-50-319(2)(e)(ii);

(xiv) information that an owner of unimproved property provides to a local entity as provided in Section 11-42-205;

(xv) a video or audio recording of an interview, or a transcript of the video or audio recording, that is conducted at a Children's Justice Center established under Section 67-5b-102;

(xvi) child pornography, as defined by Section 76-5b-103; [~~or~~]

(xvii) before final disposition of an ethics complaint occurs, a video or audio recording of the closed portion of a meeting or hearing of:

(A) a Senate or House Ethics Committee;

(B) the Independent Legislative Ethics Commission;

(C) the Independent Executive Branch Ethics Commission, created in Section 63A-14-202; or

(D) the Political Subdivisions Ethics Review Commission established in Section 63A-15-201[.]; or

(xviii) confidential communication described in Section 58-60-102, 58-61-102, or 58-61-702.

(23) "Record series" means a group of records that may be treated as a unit for purposes of designation, description, management, or disposition.

(24) "Records officer" means the individual appointed by the chief administrative officer of each governmental entity, or the political subdivision to work with state archives in the care, maintenance, scheduling, designation, classification, disposal, and preservation of records.

(25) "Schedule," "scheduling," and their derivative forms mean the process of specifying the length of time each record series should be retained by a governmental entity for administrative, legal, fiscal, or historical purposes and when each record series should be transferred to the state archives or destroyed.

(26) "Sponsored research" means research, training, and other sponsored activities as defined by the federal Executive Office of the President, Office of Management and Budget:

(a) conducted:

(i) by an institution within the state system of higher education defined in Section 53B-1-102; and

(ii) through an office responsible for sponsored projects or programs; and

(b) funded or otherwise supported by an external:

(i) person that is not created or controlled by the institution within the state system of higher education; or

(ii) federal, state, or local governmental entity.

(27) "State archives" means the Division of Archives and Records Service created in Section 63A-12-101.

(28) "State archivist" means the director of the state archives.

(29) "State Records Committee" means the State Records Committee created in Section 63G-2-501.

(30) "Summary data" means statistical records and compilations that contain data derived from private, controlled, or protected information but that do not disclose private, controlled, or protected information.

CHAPTER 284
H. B. 352
Passed March 5, 2021
Approved March 17, 2021
Effective May 5, 2021

STATE IDENTIFICATION AMENDMENTS

Chief Sponsor: Rosemary T. Lesser
Senate Sponsor: Todd D. Weiler
Cosponsors: Cheryl K. Acton
Gay Lynn Bennion
Clare Collard
Jennifer Dailey-Provost
James A. Dunnigan
Steve Eliason
Suzanne Harrison
Sandra Hollins
Marsha Judkins
Ashlee Matthews
Carol Spackman Moss
Calvin R. Musselman
Doug Owens
Angela Romero
Robert M. Spendlove
Andrew Stoddard
Steve Waldrip
Elizabeth Weight
Mark A. Wheatley

LONG TITLE

General Description:

This bill amends provisions related to fees and application processes for a state-issued identification credential by a person who is homeless.

Highlighted Provisions:

This bill:

- waives the application fee for an individual to receive or renew a state-issued identification card if the person provides certain information indicating that the individual is homeless;
- requires the Department of Workforce Services to verify certain homeless service providers for purposes of address verification and receiving certain fee waivers;
- requires the Driver License Division to make rules regarding homeless service facilities as verified by the Department of Workforce Services for purposes of providing proof of residency and obtaining a fee waiver; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

26-2-12.6, as last amended by Laws of Utah 2019, Chapter 242
53-3-104, as last amended by Laws of Utah 2019, Chapter 459
53-3-105, as last amended by Laws of Utah 2019, Chapters 242, 381, and 382
53-3-205, as last amended by Laws of Utah 2019, Chapters 381 and 382

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

Section 1. Section 26-2-12.6 is amended to read:

26-2-12.6. Fee waived for certified copy of birth certificate.

(1) Notwithstanding Section 26-1-6 and Section 26-2-12.5, the department shall waive a fee that would otherwise be charged for a certified copy of a birth certificate, if the individual whose birth is confirmed by the birth certificate is:

(a) the individual requesting the certified copy of the birth certificate; and

(b) (i) homeless, as defined in Section 26-18-411;

(ii) a person who is homeless, as defined in Section 35A-5-302;

(iii) an individual whose primary nighttime residence is a location that is not designed for or ordinarily used as a sleeping accommodation for an individual; [~~or~~]

(iv) a homeless service provider as verified by the Department of Workforce Services; or

[~~(iv)~~] (v) a homeless child or youth, as defined in 42 U.S.C. Sec. 11434a.

(2) To satisfy the requirement in Subsection (1)(b), the department shall accept written verification that the individual is homeless or a person, child, or youth who is homeless from:

(a) a homeless shelter, as defined in Section 10-9a-526;

(b) a permanent housing, permanent, supportive, or transitional facility, as defined in Section 35A-5-302;

(c) the Department of Workforce Services;

(d) a homeless service provider as verified by the Department of Workforce Services; or

[~~(d) a facility that serves an individual described in Subsection (1)(b) and maintains data on an individual described in Subsection (1)(b) through the Homeless Management Information System; or~~]

(e) a local educational agency liaison for homeless children and youth designated under 42 U.S.C. Sec. 11432(g)(1)(J)(ii).

Section 2. Section 53-3-104 is amended to read:

53-3-104. Division duties.

The division shall:

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

(a) for examining applicants for a license, as necessary for the safety and welfare of the traveling public;

(b) for acceptable documentation of an applicant's identity, Social Security number, Utah resident

status, Utah residence address, proof of legal presence, proof of citizenship in the United States, honorable or general discharge from the United States military, and other proof or documentation required under this chapter;

(c) for acceptable documentation to verify that an individual is homeless as verified by the Department of Workforce Services, for purposes of residency, address verification, and obtaining a fee waiver;

[~~(c)~~] (d) regarding the restrictions to be imposed on an individual driving a motor vehicle with a temporary learner permit or learner permit;

[~~(d)~~] (e) for exemptions from licensing requirements as authorized in this chapter;

[~~(e)~~] (f) establishing procedures for the storage and maintenance of applicant information provided in accordance with Section 53-3-205, 53-3-410, or 53-3-804; and

[~~(f)~~] (g) to provide educational information to each applicant for a license, which information shall be based on data provided by the Division of Air Quality, including:

(i) ways drivers can improve air quality; and

(ii) the harmful effects of vehicle emissions;

(2) examine each applicant according to the class of license applied for;

(3) license motor vehicle drivers;

(4) file every application for a license received by the division and shall maintain indices containing:

(a) all applications denied and the reason each was denied;

(b) all applications granted; and

(c) the name of every licensee whose license has been suspended, disqualified, or revoked by the division and the reasons for the action;

(5) suspend, revoke, disqualify, cancel, or deny any license issued in accordance with this chapter;

(6) file all accident reports and abstracts of court records of convictions received by the division under state law;

(7) maintain a record of each licensee showing the licensee's convictions and the traffic accidents in which the licensee has been involved where a conviction has resulted;

(8) consider the record of a licensee upon an application for renewal of a license and at other appropriate times;

(9) search the license files, compile, and furnish a report on the driving record of any individual licensed in the state in accordance with Section 53-3-109;

(10) develop and implement a record system as required by Section 41-6a-604;

(11) in accordance with Section 53G-10-507, establish:

(a) procedures and standards to certify teachers of driver education classes to administer knowledge and skills tests;

(b) minimal standards for the tests; and

(c) procedures to enable school districts to administer or process any tests for students to receive a class D operator's license;

(12) in accordance with Section 53-3-510, establish:

(a) procedures and standards to certify licensed instructors of commercial driver training school courses to administer the skills test;

(b) minimal standards for the test; and

(c) procedures to enable licensed commercial driver training schools to administer or process skills tests for students to receive a class D operator's license;

(13) provide administrative support to the Driver License Medical Advisory Board created in Section 53-3-303;

(14) upon request by the lieutenant governor, provide the lieutenant governor with a digital copy of the driver license or identification card signature of an individual who is an applicant for voter registration under Section 20A-2-206; and

(15) in accordance with Section 53-3-407.1, establish:

(a) procedures and standards to license a commercial driver license third party tester or commercial driver license third party examiner to administer the commercial driver license skills tests;

(b) minimum standards for the commercial driver license skills test; and

(c) procedures to enable a licensed commercial driver license third party tester or commercial driver license third party examiner to administer a commercial driver license skills test for an applicant to receive a commercial driver license.

Section 3. Section 53-3-105 is amended to read:

53-3-105. Fees for licenses, renewals, extensions, reinstatements, rescheduling, and identification cards.

The following fees apply under this chapter:

(1) An original class D license application under Section 53-3-205 is $52.

(2) An original provisional license application for a class D license under Section 53-3-205 is $39.

(3) An original limited term license application under Section 53-3-205 is $32.

(4) An original application for a motorcycle endorsement under Section 53-3-205 is $18.

(5) An original application for a taxicab endorsement under Section 53-3-205 is $14.

(6) A learner permit application under Section 53-3-210.5 is $19.

(7) A renewal of a class D license under Section 53-3-214 is $52 unless Subsection (12) applies.

(8) A renewal of a provisional license application for a class D license under Section 53-3-214 is $52.

(9) A renewal of a limited term license application under Section 53-3-214 is $32.

(10) A renewal of a motorcycle endorsement under Section 53-3-214 is $18.

(11) A renewal of a taxicab endorsement under Section 53-3-214 is $14.

(12) A renewal of a class D license for an individual 65 and older under Section 53-3-214 is $27.

(13) An extension of a class D license under Section 53-3-214 is $42 unless Subsection (17) applies.

(14) An extension of a provisional license application for a class D license under Section 53-3-214 is $42.

(15) An extension of a motorcycle endorsement under Section 53-3-214 is $18.

(16) An extension of a taxicab endorsement under Section 53-3-214 is $14.

(17) An extension of a class D license for an individual 65 and older under Section 53-3-214 is $22.

(18) An original or renewal application for a commercial class A, B, or C license or an original or renewal of a provisional commercial class A or B license under Part 4, Uniform Commercial Driver License Act, is $52.

(19) A commercial class A, B, or C license skills test is $78.

(20) Each original CDL endorsement for passengers, hazardous material, double or triple trailers, or tankers is $9.

(21) An original CDL endorsement for a school bus under Part 4, Uniform Commercial Driver License Act, is $9.

(22) A renewal of a CDL endorsement under Part 4, Uniform Commercial Driver License Act, is $9.

(23) (a) A retake of a CDL knowledge test provided for in Section 53-3-205 is $26.

(b) A retake of a CDL skills test provided for in Section 53-3-205 is $52.

(24) A retake of a CDL endorsement test provided for in Section 53-3-205 is $9.

(25) A duplicate class A, B, C, or D license certificate under Section 53-3-215 is $23.

(26) (a) A license reinstatement application under Section 53-3-205 is $40.

(b) A license reinstatement application under Section 53-3-205 for an alcohol, drug, or combination of alcohol and any drug-related offense is $45 in addition to the fee under Subsection (26)(a).

(27) (a) An administrative fee for license reinstatement after an alcohol, drug, or combination of alcohol and any drug-related offense under Section 41-6a-520, 53-3-223, or 53-3-231 or an alcohol, drug, or combination of alcohol and any drug-related offense under Part 4, Uniform Commercial Driver License Act, is $255.

(b) This administrative fee is in addition to the fees under Subsection (26).

(28) (a) An administrative fee for providing the driving record of a driver under Section 53-3-104 or 53-3-420 is $8.

(b) The division may not charge for a report furnished under Section 53-3-104 to a municipal, county, state, or federal agency.

(29) A rescheduling fee under Section 53-3-205 or 53-3-407 is $25.

(30) (a) Except as provided under Subsections (30)(b) and (c), an identification card application under Section 53-3-808 is $23.

(b) An identification card application under Section 53-3-808 for a person with a disability, as defined in 42 U.S.C. Sec. 12102, is $17.

(c) A fee may not be charged for an identification card application if the individual applying:

(i) (A) has not been issued a Utah driver license;

(B) is indigent; and

(C) is at least 18 years of age; or

(ii) submits written verification that the individual is homeless, as defined in Section 26-18-411, a person who is homeless, as defined in Section 35A-5-302, or a child or youth who is homeless, as defined in 42 U.S.C. Sec. 11434a(2), from:

(A) a homeless shelter, as defined in Section 10-9a-526;

(B) a permanent housing, permanent, supportive, or transitional facility, as defined in Section 35A-5-302;

(C) the Department of Workforce Services; or

(D) a local educational agency liaison for homeless children and youth designated under 42 U.S.C. Sec. 11432(g)(1)(J)(ii).

(31) (a) An extension of a regular identification card under Subsection 53-3-807(4) for a person with a disability, as defined in 42 U.S.C. Sec. 12102, is $17.

(b) The fee described in Subsection (31)(a) is waived if the applicant submits written verification that the individual is homeless, as defined in Section 26-18-411, or a person who is homeless, as defined in Section 35A-5-302, or a child or youth

who is homeless, as defined in 42 U.S.C. Sec. 11434a(2), from:

(i) a homeless shelter, as defined in Section 10-9a-526;

(ii) a permanent housing, permanent, supportive, or transitional facility, as defined in Section 35A-5-302;

(iii) the Department of Workforce Services; [~~or~~]

(iv) a homeless service provider as verified by the Department of Workforce Services as described in Section 26-2-12.6; or

[~~(iv)~~] (v) a local educational agency liaison for homeless children and youth designated under 42 U.S.C. Sec. 11432(g)(1)(J)(ii).

(32) (a) An extension of a regular identification card under Subsection 53-3-807(5) is $23.

(b) The fee described in Subsection (32)(a) is waived if the applicant submits written verification that the individual is homeless, as defined in Section 26-18-411, or a person who is homeless, as defined in Section 35A-5-302, from:

(i) a homeless shelter, as defined in Section 10-9a-526;

(ii) a permanent housing, permanent, supportive, or transitional facility, as defined in Section 35A-5-302; [~~or~~]

(iii) the Department of Workforce Services[~~.~~]; or

(iv) a homeless service provider as verified by the Department of Workforce Services as described in Section 26-2-12.6.

(33) In addition to any license application fees collected under this chapter, the division shall impose on individuals submitting fingerprints in accordance with Section 53-3-205.5 the fees that the Bureau of Criminal Identification is authorized to collect for the services the Bureau of Criminal Identification provides under Section 53-3-205.5.

(34) An original mobility vehicle permit application under Section 41-6a-1118 is $30.

(35) A renewal of a mobility vehicle permit under Section 41-6a-1118 is $30.

(36) A duplicate mobility vehicle permit under Section 41-6a-1118 is $12.

Section 4. Section 53-3-205 is amended to read:

53-3-205. Application for license or endorsement -- Fee required -- Tests -- Expiration dates of licenses and endorsements -- Information required -- Previous licenses surrendered -- Driving record transferred from other states -- Reinstatement -- Fee required -- License agreement.

(1) An application for an original license, provisional license, or endorsement shall be:

(a) made upon a form furnished by the division; and

(b) accompanied by a nonrefundable fee set under Section 53-3-105.

(2) An application and fee for an original provisional class D license or an original class D license entitle the applicant to:

(a) not more than three attempts to pass both the knowledge and the skills tests for a class D license within six months after the date of the application;

(b) a learner permit if needed pending completion of the application and testing process; and

(c) an original class D license and license certificate after all tests are passed and requirements are completed.

(3) An application and fee for a motorcycle or taxicab endorsement entitle the applicant to:

(a) not more than three attempts to pass both the knowledge and skills tests within six months after the date of the application;

(b) a motorcycle learner permit after the motorcycle knowledge test is passed; and

(c) a motorcycle or taxicab endorsement when all tests are passed.

(4) An application for a commercial class A, B, or C license entitles the applicant to:

(a) not more than two attempts to pass a knowledge test when accompanied by the fee provided in Subsection 53-3-105(18);

(b) not more than two attempts to pass a skills test when accompanied by a fee in Subsection 53-3-105(19) within six months after the date of application;

(c) both a commercial driver instruction permit and a temporary license permit for the license class held before the applicant submits the application if needed after the knowledge test is passed; and

(d) an original commercial class A, B, or C license and license certificate when all applicable tests are passed.

(5) An application and fee for a CDL endorsement entitle the applicant to:

(a) not more than two attempts to pass a knowledge test and not more than two attempts to pass a skills test within six months after the date of the application; and

(b) a CDL endorsement when all tests are passed.

(6) (a) If a CDL applicant does not pass a knowledge test, skills test, or an endorsement test within the number of attempts provided in Subsection (4) or (5), each test may be taken two additional times within the six months for the fee provided in Section 53-3-105.

(b) (i) Beginning July 1, 2015, an out-of-state resident who holds a valid CDIP issued by a state or jurisdiction that is compliant with 49 C.F.R. Part 383 may take a skills test administered by the

division if the out-of-state resident pays the fee provided in Subsection 53-3-105(19).

(ii) The division shall:

(A) electronically transmit skills test results for an out-of-state resident to the licensing agency in the state or jurisdiction in which the out-of-state resident has obtained a valid CDIP; and

(B) provide the out-of-state resident with documentary evidence upon successful completion of the skills test.

(7) (a) (i) Except as provided under Subsections (7)(a)(ii), (f), and (g), an original class D license expires on the birth date of the applicant in the eighth year after the year the license certificate was issued.

(ii) An original provisional class D license expires on the birth date of the applicant in the fifth year following the year the license certificate was issued.

(iii) Except as provided in Subsection (7)(f), a limited term class D license expires on the birth date of the applicant in the fifth year the license certificate was issued.

(b) Except as provided under Subsections (7)(f) and (g), a renewal or an extension to a license expires on the birth date of the licensee in the eighth year after the expiration date of the license certificate renewed or extended.

(c) Except as provided under Subsections (7)(f) and (g), a duplicate license expires on the same date as the last license certificate issued.

(d) An endorsement to a license expires on the same date as the license certificate regardless of the date the endorsement was granted.

(e) (i) A regular license certificate and an endorsement to the regular license certificate held by an individual described in Subsection (7)(e)(ii), that expires during the time period the individual is stationed outside of the state, is valid until 90 days after the individual's orders are terminated, the individual is discharged, or the individual's assignment is changed or terminated, unless:

(A) the license is suspended, disqualified, denied, or has been cancelled or revoked by the division; or

(B) the licensee updates the information or photograph on the license certificate.

(ii) The provisions in Subsection (7)(e)(i) apply to an individual:

(A) ordered to active duty and stationed outside of Utah in any of the armed forces of the United States;

(B) who is an immediate family member or dependent of an individual described in Subsection (7)(e)(ii)(A) and is residing outside of Utah;

(C) who is a civilian employee of the United States State Department or United States Department of Defense and is stationed outside of the United States; or

(D) who is an immediate family member or dependent of an individual described in Subsection (7)(e)(ii)(C) and is residing outside of the United States.

(f) (i) Except as provided in Subsection (7)(f)(ii), a limited-term license certificate or a renewal to a limited-term license certificate expires:

(A) on the expiration date of the period of time of the individual's authorized stay in the United States or on the date provided under this Subsection (7), whichever is sooner; or

(B) on the date of issuance in the first year following the year that the limited-term license certificate was issued if there is no definite end to the individual's period of authorized stay.

(ii) A limited-term license certificate or a renewal to a limited-term license certificate issued to an approved asylee or a refugee expires on the birth date of the applicant in the fifth year following the year that the limited-term license certificate was issued.

(g) A driving privilege card issued or renewed under Section 53-3-207 expires on the birth date of the applicant in the first year following the year that the driving privilege card was issued or renewed.

(8) (a) In addition to the information required by Title 63G, Chapter 4, Administrative Procedures Act, for requests for agency action, an applicant shall:

(i) provide:

(A) the applicant's full legal name;

(B) the applicant's birth date;

(C) the applicant's gender;

(D) (I) documentary evidence of the applicant's valid social security number;

(II) written proof that the applicant is ineligible to receive a social security number;

(III) the applicant's temporary identification number (ITIN) issued by the Internal Revenue Service for an individual who:

(Aa) does not qualify for a social security number; and

(Bb) is applying for a driving privilege card; or

(IV) other documentary evidence approved by the division;

(E) the applicant's Utah residence address as documented by a form or forms acceptable under rules made by the division under Section 53-3-104, unless the application is for a temporary CDL issued under Subsection 53-3-407(2)(b); and

(F) fingerprints and a photograph in accordance with Section 53-3-205.5 if the applicant is applying for a driving privilege card;

(ii) provide evidence of the applicant's lawful presence in the United States by providing documentary evidence:

(A) that the applicant is:

(I) a United States citizen;

(II) a United States national; or

(III) a legal permanent resident alien; or

(B) of the applicant's:

(I) unexpired immigrant or nonimmigrant visa status for admission into the United States;

(II) pending or approved application for asylum in the United States;

(III) admission into the United States as a refugee;

(IV) pending or approved application for temporary protected status in the United States;

(V) approved deferred action status;

(VI) pending application for adjustment of status to legal permanent resident or conditional resident; or

(VII) conditional permanent resident alien status;

(iii) provide a description of the applicant;

(iv) state whether the applicant has previously been licensed to drive a motor vehicle and, if so, when and by what state or country;

(v) state whether the applicant has ever had a license suspended, cancelled, revoked, disqualified, or denied in the last 10 years, or whether the applicant has ever had a license application refused, and if so, the date of and reason for the suspension, cancellation, revocation, disqualification, denial, or refusal;

(vi) state whether the applicant intends to make an anatomical gift under Title 26, Chapter 28, Revised Uniform Anatomical Gift Act, in compliance with Subsection (15);

(vii) state whether the applicant is required to register as a sex offender in accordance with Title 77, Chapter 41, Sex and Kidnap Offender Registry;

(viii) state whether the applicant is a veteran of the United States military, provide verification that the applicant was granted an honorable or general discharge from the United States Armed Forces, and state whether the applicant does or does not authorize sharing the information with the Department of Veterans and Military Affairs;

(ix) provide all other information the division requires; and

(x) sign the application which signature may include an electronic signature as defined in Section 46-4-102.

(b) [~~An~~] Unless the applicant provides acceptable verification of homelessness as described in rules made by the division, an applicant shall have a Utah residence address, unless the application is for a temporary CDL issued under Subsection 53-3-407(2)(b).

(c) An applicant shall provide evidence of lawful presence in the United States in accordance with Subsection (8)(a)(ii), unless the application is for a driving privilege card.

(d) The division shall maintain on the division's computerized records an applicant's:

(i) (A) social security number;

(B) temporary identification number (ITIN); or

(C) other number assigned by the division if Subsection (8)(a)(i)(D)(IV) applies; and

(ii) indication whether the applicant is required to register as a sex offender in accordance with Title 77, Chapter 41, Sex and Kidnap Offender Registry.

(9) The division shall require proof of an applicant's name, birth date, and birthplace by at least one of the following means:

(a) current license certificate;

(b) birth certificate;

(c) Selective Service registration; or

(d) other proof, including church records, family Bible notations, school records, or other evidence considered acceptable by the division.

(10) (a) Except as provided in Subsection (10)(c), if an applicant receives a license in a higher class than what the applicant originally was issued:

(i) the license application is treated as an original application; and

(ii) license and endorsement fees is assessed under Section 53-3-105.

(b) An applicant that receives a downgraded license in a lower license class during an existing license cycle that has not expired:

(i) may be issued a duplicate license with a lower license classification for the remainder of the existing license cycle; and

(ii) shall be assessed a duplicate license fee under Subsection 53-3-105(25) if a duplicate license is issued under Subsection (10)(b)(i).

(c) An applicant who has received a downgraded license in a lower license class under Subsection (10)(b):

(i) may, when eligible, receive a duplicate license in the highest class previously issued during a license cycle that has not expired for the remainder of the existing license cycle; and

(ii) shall be assessed a duplicate license fee under Subsection 53-3-105(25) if a duplicate license is issued under Subsection (10)(c)(i).

(11) (a) When an application is received from an applicant previously licensed in another state to drive a motor vehicle, the division shall request a copy of the driver's record from the other state.

(b) When received, the driver's record becomes part of the driver's record in this state with the same effect as though entered originally on the driver's record in this state.

(12) An application for reinstatement of a license after the suspension, cancellation, disqualification, denial, or revocation of a previous license is accompanied by the additional fee or fees specified in Section 53-3-105.

(13) An individual who has an appointment with the division for testing and fails to keep the appointment or to cancel at least 48 hours in advance of the appointment shall pay the fee under Section 53-3-105.

(14) An applicant who applies for an original license or renewal of a license agrees that the individual's license is subject to a suspension or revocation authorized under this title or Title 41, Motor Vehicles.

(15) (a) A licensee shall authenticate the indication of intent under Subsection (8)(a)(vi) in accordance with division rule.

(b) (i) Notwithstanding Title 63G, Chapter 2, Government Records Access and Management Act, the division may, upon request, release to an organ procurement organization, as defined in Section 26-28-102, the names and addresses of all applicants who, under Subsection (8)(a)(vi), indicate that they intend to make an anatomical gift.

(ii) An organ procurement organization may use released information only to:

(A) obtain additional information for an anatomical gift registry; and

(B) inform licensees of anatomical gift options, procedures, and benefits.

(16) Notwithstanding Title 63G, Chapter 2, Government Records Access and Management Act, the division may release to the Department of Veterans and Military Affairs the names and addresses of all applicants who indicate their status as a veteran under Subsection (8)(a)(viii).

(17) Notwithstanding Title 63G, Chapter 2, Government Records Access and Management Act, the division shall, upon request, release to the Sex and Kidnap Offender Registry office in the Department of Corrections, the names and addresses of all applicants who, under Subsection (8)(a)(vii), indicate they are required to register as a sex offender in accordance with Title 77, Chapter 41, Sex and Kidnap Offender Registry.

(18) The division and its employees are not liable, as a result of false or inaccurate information provided under Subsection (8)(a)(vi) or (viii), for direct or indirect:

(a) loss;

(b) detriment; or

(c) injury.

(19) An applicant who knowingly fails to provide the information required under Subsection (8)(a)(vii) is guilty of a class A misdemeanor.

(20) A person may not hold both an unexpired Utah license certificate and an unexpired identification card.

(21) (a) An applicant who applies for an original motorcycle endorsement to a regular license certificate is exempt from the requirement to pass the knowledge and skills test to be eligible for the motorcycle endorsement if the applicant:

(i) is a resident of the state of Utah;

(ii) (A) is ordered to active duty and stationed outside of Utah in any of the armed forces of the United States; or

(B) is an immediate family member or dependent of an individual described in Subsection (21)(a)(ii)(A) and is residing outside of Utah;

(iii) has a digitized driver license photo on file with the division;

(iv) provides proof to the division of the successful completion of a certified Motorcycle Safety Foundation rider training course; and

(v) provides the necessary information and documentary evidence required under Subsection (8).

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

(i) establishing the procedures for an individual to obtain a motorcycle endorsement under this Subsection (21); and

(ii) identifying the applicable restrictions for a motorcycle endorsement issued under this Subsection (21).

CHAPTER 285
H. B. 353
Passed March 5, 2021
Approved March 17, 2021
Effective May 5, 2021

BARBER LICENSING AMENDMENTS

Chief Sponsor: Phil Lyman
Senate Sponsor: Michael K. McKell
Cosponsor: Kera Birkeland

LONG TITLE

General Description:

This bill modifies the Cosmetology and Associated Professions Licensing Act.

Highlighted Provisions:

This bill:

- modifies the testing requirements of obtaining a barber license; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

58-11a-302, as last amended by Laws of Utah 2020, Chapter 339

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

Section 1. Section 58-11a-302 is amended to read:

58-11a-302. Qualifications for licensure.

(1) Each applicant for licensure as a barber shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

(c) provide satisfactory documentation of:

(i) graduation from a licensed or recognized barber school, or a licensed or recognized cosmetology/barber school, whose curriculum consists of a minimum of 1,000 hours of instruction, or the equivalent number of credit hours, over a period of not less than 25 weeks;

(ii) (A) graduation from a recognized barber school located in a state other than Utah whose curriculum consists of less than 1,000 hours of instruction or the equivalent number of credit hours; and

(B) practice as a licensed barber in a state other than Utah for not less than the number of hours required to equal 1,000 total hours when added to the hours of instruction described in Subsection (1)(c)(ii)(A); or

(iii) completion of an approved barber apprenticeship; and

(d) meet [~~the examination requirement~~] one of the following requirements established by rule[~~.~~]:

(i) pass an examination that consists of a written theory portion and a practical portion; or

(ii) pass a practical examination and provide the written attestation of a licensed barber or cosmetologist/barber instructor who participated in the school or training under Subsection (1)(c), stating that the applicant has the necessary training and skill to be a licensed barber.

(2) Each applicant for licensure as a barber instructor shall:

(a) submit an application in a form prescribed by the division;

(b) subject to Subsection (24), pay a fee determined by the department under Section 63J-1-504;

(c) provide satisfactory documentation that the applicant is currently licensed as a barber;

(d) provide satisfactory documentation of completion of:

(i) an instructor training program conducted by a licensed or recognized school, as defined by rule, consisting of a minimum of 250 hours or the equivalent number of credit hours;

(ii) on-the-job instructor training conducted by a licensed instructor at a licensed or recognized school, as defined by rule, consisting of a minimum of 250 hours or the equivalent number of credit hours; or

(iii) a minimum of 2,000 hours of experience as a barber; and

(e) meet the examination requirement established by rule.

(3) Each applicant for licensure as a barber school shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee determined by the department under Section 63J-1-504; and

(c) provide satisfactory documentation:

(i) of appropriate registration with the Division of Corporations and Commercial Code;

(ii) of business licensure from the city, town, or county in which the school is located;

(iii) that the applicant's physical facilities comply with the requirements established by rule; and

(iv) that the applicant meets:

(A) the standards for barber schools, including staff and accreditation requirements, established by rule; and

(B) the requirements for recognition as an institution of postsecondary study as described in Subsection (22).

(4) Each applicant for licensure as a cosmetologist/barber shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

(c) provide satisfactory documentation of:

(i) graduation from a licensed or recognized cosmetology/barber school whose curriculum consists of a minimum of 1,600 hours of instruction, or the equivalent number of credit hours, with full flexibility within those hours;

(ii) (A) graduation from a recognized cosmetology/barber school located in a state other than Utah whose curriculum consists of less than 1,600 hours of instruction, or the equivalent number of credit hours, with full flexibility within those hours; and

(B) practice as a licensed cosmetologist/barber in a state other than Utah for not less than the number of hours required to equal 1,600 total hours when added to the hours of instruction described in Subsection (4)(c)(ii)(A); or

(iii) completion of an approved cosmetology/barber apprenticeship; and

(d) meet the examination requirement established by rule.

(5) Each applicant for licensure as a cosmetologist/barber instructor shall:

(a) submit an application in a form prescribed by the division;

(b) subject to Subsection (24), pay a fee determined by the department under Section 63J-1-504;

(c) provide satisfactory documentation that the applicant is currently licensed as a cosmetologist/barber;

(d) provide satisfactory documentation of completion of:

(i) an instructor training program conducted by a licensed or recognized school, as defined by rule, consisting of a minimum of 400 hours or the equivalent number of credit hours;

(ii) on-the-job instructor training conducted by a licensed instructor at a licensed or recognized school, as defined by rule, consisting of a minimum of 400 hours or the equivalent number of credit hours; or

(iii) a minimum of 3,000 hours of experience as a cosmetologist/barber; and

(e) meet the examination requirement established by rule.

(6) Each applicant for licensure as a cosmetologist/barber school shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee determined by the department under Section 63J-1-504; and

(c) provide satisfactory documentation:

(i) of appropriate registration with the Division of Corporations and Commercial Code;

(ii) of business licensure from the city, town, or county in which the school is located;

(iii) that the applicant's physical facilities comply with the requirements established by rule; and

(iv) that the applicant meets:

(A) the standards for cosmetology schools, including staff and accreditation requirements, established by rule; and

(B) the requirements for recognition as an institution of postsecondary study as described in Subsection (22).

(7) Each applicant for licensure as an electrologist shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

(c) provide satisfactory documentation of having graduated from a licensed or recognized electrology school after completing a curriculum of 600 hours of instruction or the equivalent number of credit hours; and

(d) meet the examination requirement established by rule.

(8) Each applicant for licensure as an electrologist instructor shall:

(a) submit an application in a form prescribed by the division;

(b) subject to Subsection (24), pay a fee determined by the department under Section 63J-1-504;

(c) provide satisfactory documentation that the applicant is currently licensed as an electrologist;

(d) provide satisfactory documentation of completion of:

(i) an instructor training program conducted by a licensed or recognized school, as defined by rule, consisting of a minimum of 150 hours or the equivalent number of credit hours;

(ii) on-the-job instructor training conducted by a licensed instructor at a licensed or recognized school, as defined by rule, consisting of a minimum of 150 hours or the equivalent number of credit hours; or

(iii) a minimum of 1,000 hours of experience as an electrologist; and

(e) meet the examination requirement established by rule.

(9) Each applicant for licensure as an electrologist school shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee determined by the department under Section 63J-1-504; and

(c) provide satisfactory documentation:

(i) of appropriate registration with the Division of Corporations and Commercial Code;

(ii) of business licensure from the city, town, or county in which the school is located;

(iii) that the applicant's facilities comply with the requirements established by rule; and

(iv) that the applicant meets:

(A) the standards for electrologist schools, including staff, curriculum, and accreditation requirements, established by rule; and

(B) the requirements for recognition as an institution of postsecondary study as described in Subsection (22).

(10) Each applicant for licensure as an esthetician shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

(c) provide satisfactory documentation of one of the following:

(i) graduation from a licensed or recognized esthetic school or a licensed or recognized cosmetology/barber school whose curriculum consists of not less than 15 weeks of esthetic instruction with a minimum of 600 hours or the equivalent number of credit hours;

(ii) completion of an approved esthetician apprenticeship; or

(iii) (A) graduation from a recognized cosmetology/barber school located in a state other than Utah whose curriculum consists of less than 1,600 hours of instruction, or the equivalent number of credit hours, with full flexibility within those hours; and

(B) practice as a licensed cosmetologist/barber for not less than the number of hours required to equal 1,600 total hours when added to the hours of instruction described in Subsection (10)(c)(iii)(A); and

(d) meet the examination requirement established by division rule.

(11) Each applicant for licensure as a master esthetician shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

(c) provide satisfactory documentation of:

(i) completion of at least 1,200 hours of training, or the equivalent number of credit hours, at a licensed or recognized esthetics school, except that up to 600 hours toward the 1,200 hours may have been completed:

(A) at a licensed or recognized cosmetology/barbering school, if the applicant graduated from the school and its curriculum consisted of at least 1,600 hours of instruction, or the equivalent number of credit hours, with full flexibility within those hours; or

(B) at a licensed or recognized cosmetology/barber school located in a state other than Utah, if the applicant graduated from the school and its curriculum contained full flexibility within its hours of instruction; or

(ii) completion of an approved master esthetician apprenticeship;

(d) if the applicant will practice lymphatic massage, provide satisfactory documentation to show completion of 200 hours of training, or the equivalent number of credit hours, in lymphatic massage as defined by division rule; and

(e) meet the examination requirement established by division rule.

(12) Each applicant for licensure as an esthetician instructor shall:

(a) submit an application in a form prescribed by the division;

(b) subject to Subsection (24), pay a fee determined by the department under Section 63J-1-504;

(c) provide satisfactory documentation that the applicant is currently licensed as a master esthetician;

(d) provide satisfactory documentation of completion of:

(i) an instructor training program conducted by a licensed or recognized school, as defined by rule, consisting of a minimum of 300 hours or the equivalent number of credit hours;

(ii) on-the-job instructor training conducted by a licensed instructor at a licensed or recognized school, as defined by rule, consisting of a minimum of 300 hours or the equivalent number of credit hours; or

(iii) a minimum of 1,000 hours of experience in esthetics; and

(e) meet the examination requirement established by rule.

(13) Each applicant for licensure as an esthetics school shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee determined by the department under Section 63J-1-504; and

(c) provide satisfactory documentation:

(i) of appropriate registration with the Division of Corporations and Commercial Code;

(ii) of business licensure from the city, town, or county in which the school is located;

(iii) that the applicant's physical facilities comply with the requirements established by rule; and

(iv) that the applicant meets:

(A) the standards for esthetics schools, including staff, curriculum, and accreditation requirements, established by division rule made in collaboration with the board; and

(B) the requirements for recognition as an institution of postsecondary study as described in Subsection (22).

(14) Each applicant for licensure as a hair designer shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

(c) provide satisfactory documentation of:

(i) graduation from a licensed or recognized cosmetology/barber, hair design, or barbering school whose curriculum consists of a minimum of 1,200 hours of instruction, or the equivalent number of credit hours, with full flexibility within those hours;

(ii) (A) graduation from a recognized cosmetology/barber, hair design, or barbering school located in a state other than Utah whose curriculum consists of less than 1,200 hours of instruction, or the equivalent number of credit hours, with full flexibility within those hours; and

(B) practice as a licensed cosmetologist/barber or hair designer in a state other than Utah for not less than the number of hours required to equal 1,200 total hours when added to the hours of instruction described in Subsection (14)(c)(ii)(A);

(iii) being a state licensed cosmetologist/barber; or

(iv) completion of an approved hair designer apprenticeship; and

(d) meet the examination requirements established by rule.

(15) Each applicant for licensure as a hair designer instructor shall:

(a) submit an application in a form prescribed by the division;

(b) subject to Subsection (24), pay a fee determined by the department under Section 63J-1-504;

(c) provide satisfactory documentation that the applicant is currently licensed as a hair designer or as a cosmetologist/barber;

(d) provide satisfactory documentation of completion of:

(i) an instructor training program conducted by a licensed or recognized school, as defined by rule, consisting of a minimum of 300 hours or the equivalent number of credit hours;

(ii) on-the-job instructor training conducted by a licensed instructor at a licensed or recognized school, as defined by rule, consisting of a minimum of 300 hours or the equivalent number of credit hours; or

(iii) a minimum of 2,500 hours of experience as a hair designer or as a cosmetologist/barber; and

(e) meet the examination requirement established by rule.

(16) Each applicant for licensure as a hair design school shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee determined by the department under Section 63J-1-504; and

(c) provide satisfactory documentation:

(i) of appropriate registration with the Division of Corporations and Commercial Code;

(ii) of business licensure from the city, town, or county in which the school is located;

(iii) that the applicant's physical facilities comply with the requirements established by rule; and

(iv) that the applicant meets:

(A) the standards for a hair design school, including staff and accreditation requirements, established by rule; and

(B) the requirements for recognition as an institution of postsecondary study as described in Subsection (22).

(17) Each applicant for licensure as a nail technician shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

(c) provide satisfactory documentation of:

(i) graduation from a licensed or recognized nail technology school, or a licensed or recognized cosmetology/barber school, whose curriculum consists of not less than 300 hours of instruction, or the equivalent number of credit hours;

(ii) (A) graduation from a recognized nail technology school located in a state other than Utah whose curriculum consists of less than 300 hours of instruction or the equivalent number of credit hours; and

(B) practice as a licensed nail technician in a state other than Utah for not less than the number of hours required to equal 300 total hours when added to the hours of instruction described in Subsection (17)(c)(ii)(A); or

(iii) completion of an approved nail technician apprenticeship; and

(d) meet the examination requirement established by division rule.

(18) Each applicant for licensure as a nail technician instructor shall:

(a) submit an application in a form prescribed by the division;

(b) subject to Subsection (24), pay a fee determined by the department under Section 63J-1-504;

(c) provide satisfactory documentation that the applicant is currently licensed as a nail technician;

(d) provide satisfactory documentation of completion of:

(i) an instructor training program conducted by a licensed or recognized school, as defined by rule, consisting of a minimum of 75 hours or the equivalent number of credit hours;

(ii) an on-the-job instructor training program conducted by a licensed instructor at a licensed or recognized school, as defined by rule, consisting of a minimum of 75 hours or the equivalent number of credit hours; or

(iii) a minimum of 600 hours of experience in nail technology; and

(e) meet the examination requirement established by rule.

(19) Each applicant for licensure as a nail technology school shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee determined by the department under Section 63J-1-504; and

(c) provide satisfactory documentation:

(i) of appropriate registration with the Division of Corporations and Commercial Code;

(ii) of business licensure from the city, town, or county in which the school is located;

(iii) that the applicant's facilities comply with the requirements established by rule; and

(iv) that the applicant meets:

(A) the standards for nail technology schools, including staff, curriculum, and accreditation requirements, established by rule; and

(B) the requirements for recognition as an institution of postsecondary study as described in Subsection (22).

(20) Each applicant for licensure under this chapter whose education in the field for which a license is sought was completed at a foreign school may satisfy the educational requirement for licensure by demonstrating, to the satisfaction of the division, the educational equivalency of the foreign school education with a licensed school under this chapter.

(21) (a) A licensed or recognized school under this section shall accept credit hours towards graduation for documented, relevant, and substantially equivalent coursework previously completed by:

(i) a student that did not complete the student's education while attending a different school; or

(ii) a licensee of any other profession listed in this section, based on the licensee's schooling, apprenticeship, or experience.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and consistent with this section, the division may make rules governing the acceptance of credit hours under Subsection (21)(a).

(22) A school licensed or applying for licensure under this chapter shall maintain recognition as an institution of postsecondary study by meeting the following conditions:

(a) the school shall admit as a regular student only an individual who has earned a recognized high school diploma or the equivalent of a recognized high school diploma, or who is beyond the age of compulsory high school attendance as prescribed by Title 53G, Chapter 6, Part 2, Compulsory Education; and

(b) the school shall be licensed by name, or in the case of an applicant, shall apply for licensure by name, under this chapter to offer one or more training programs beyond the secondary level.

(23) A person seeking to qualify for licensure under this chapter by apprenticing in an approved apprenticeship shall register with the division as described in Section 58-11a-306.

(24) The department may only charge a fee to a person applying for licensure as any type of instructor under this chapter if the person is not a licensed instructor in any other profession under this chapter.

(25) In order to encourage economic development in the state in accordance with Subsection 63G-1-201(4)(e), the department may offer any required examination under this section, which is prepared by a national testing organization, in languages in addition to English.

CHAPTER 286
H. B. 355
Passed March 4, 2021
Approved March 17, 2021
Effective May 5, 2021

WORKERS' COMPENSATION REVISIONS

Chief Sponsor: Timothy D. Hawkes
Senate Sponsor: Kirk A. Cullimore

LONG TITLE

General Description:

This bill amends provisions of the Workers' Compensation Act.

Highlighted Provisions:

This bill:

- amends provisions related to an eligible employer;
- amends third parties against whom an action may be brought for the injury or death of an employee; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

34A-2-103, as last amended by Laws of Utah 2017, Chapter 363
34A-2-106, as last amended by Laws of Utah 2008, Chapter 3

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

Section 1. Section 34A-2-103 is amended to read:

34A-2-103. Employers enumerated and defined -- Regularly employed -- Statutory employers -- Exceptions.

(1) (a) The state, and each county, city, town, and school district in the state are considered employers under this chapter and Chapter 3, Utah Occupational Disease Act.

(b) For the purposes of the exclusive remedy in this chapter and Chapter 3, Utah Occupational Disease Act, prescribed in Sections 34A-2-105 and 34A-3-102, the state is considered to be a single employer and includes any office, department, agency, authority, commission, board, institution, hospital, college, university, or other instrumentality of the state.

(2) (a) Subject to the other provisions of this section, each person, including each public utility and each independent contractor, who regularly employs one or more workers or operatives in the same business, or in or about the same establishment, under any contract of hire, express or implied, oral or written, is considered an employer under this chapter and Chapter 3, Utah Occupational Disease Act.

(b) As used in this Subsection (2):

(i) "Independent contractor" means any person engaged in the performance of any work for another who, while so engaged, is:

(A) independent of the employer in all that pertains to the execution of the work;

(B) not subject to the routine rule or control of the employer;

(C) engaged only in the performance of a definite job or piece of work; and

(D) subordinate to the employer only in effecting a result in accordance with the employer's design.

(ii) "Regularly" includes all employments in the usual course of the trade, business, profession, or occupation of the employer, whether continuous throughout the year or for only a portion of the year.

(3) (a) The client under a professional employer organization agreement regulated under Title 31A, Chapter 40, Professional Employer Organization Licensing Act:

(i) is considered the employer of a covered employee; and

(ii) subject to Section 31A-40-209, shall secure workers' compensation benefits for a covered employee by complying with Subsection 34A-2-201(1) and commission rules.

(b) The division shall promptly inform the Insurance Department if the division has reason to believe that a professional employer organization is not in compliance with Subsection 34A-2-201(1) and commission rules.

(4) A domestic employer who does not employ one employee or more than one employee at least 40 hours per week is not considered an employer under this chapter and Chapter 3, Utah Occupational Disease Act.

(5) (a) As used in this Subsection (5):

(i) (A) "Agricultural employer" means a person who employs agricultural labor as defined in Subsections 35A-4-206(1) and (2) and does not include employment as provided in Subsection 35A-4-206(3).

(B) Notwithstanding Subsection (5)(a)(i)(A), only for purposes of determining who is a member of the employer's immediate family under Subsection (5)(a)(ii), if the agricultural employer is a corporation, partnership, or other business entity, "agricultural employer" means an officer, director, or partner of the business entity.

(ii) "Employer's immediate family" means:

(A) an agricultural employer's:

(I) spouse;

(II) grandparent;

(III) parent;

(IV) sibling;

(V) child;

(VI) grandchild;

(VII) nephew; or

(VIII) niece;

(B) a spouse of any person provided in Subsections (5)(a)(ii)(A)(II) through (VIII); or

(C) an individual who is similar to those listed in Subsection (5)(a)(ii)(A) or (B) as defined by rules of the commission.

(iii) "Nonimmediate family" means a person who is not a member of the employer's immediate family.

(b) For purposes of this chapter and Chapter 3, Utah Occupational Disease Act, an agricultural employer is not considered an employer of a member of the employer's immediate family.

(c) For purposes of this chapter and Chapter 3, Utah Occupational Disease Act, an agricultural employer is not considered an employer of a nonimmediate family employee if:

(i) for the previous calendar year the agricultural employer's total annual payroll for all nonimmediate family employees was less than $8,000; or

(ii) (A) for the previous calendar year the agricultural employer's total annual payroll for all nonimmediate family employees was equal to or greater than $8,000 but less than $50,000; and

(B) the agricultural employer maintains insurance that covers job-related injuries of the employer's nonimmediate family employees in at least the following amounts:

(I) $300,000 liability insurance, as defined in Section 31A-1-301; and

(II) $5,000 for health care benefits similar to benefits under health care insurance as defined in Section 31A-1-301.

(d) For purposes of this chapter and Chapter 3, Utah Occupational Disease Act, an agricultural employer is considered an employer of a nonimmediate family employee if:

(i) for the previous calendar year the agricultural employer's total annual payroll for all nonimmediate family employees is equal to or greater than $50,000; or

(ii) (A) for the previous year the agricultural employer's total payroll for nonimmediate family employees was equal to or exceeds $8,000 but is less than $50,000; and

(B) the agricultural employer fails to maintain the insurance required under Subsection (5)(c)(ii)(B).

(6) An employer of agricultural laborers or domestic servants who is not considered an employer under this chapter and Chapter 3, Utah Occupational Disease Act, may come under this chapter and Chapter 3, Utah Occupational Disease Act, by complying with:

(a) this chapter and Chapter 3, Utah Occupational Disease Act; and

(b) the rules of the commission.

(7) (a) (i) As used in this Subsection (7)(a), "employer" includes any of the following persons that procures work to be done by a contractor notwithstanding whether or not the person directly employs a person:

(A) a sole proprietorship;

(B) a corporation;

(C) a partnership;

(D) a limited liability company; or

(E) a person similar to one described in Subsections (7)(a)(i)(A) through (D).

(ii) If an employer procures any work to be done wholly or in part for the employer by a contractor over whose work the employer retains supervision or control, and this work is a part or process in the trade or business of the employer, the contractor, all persons employed by the contractor, all subcontractors under the contractor, and all persons employed by any of these subcontractors, are considered employees of the original employer for the purposes of this chapter and Chapter 3, Utah Occupational Disease Act.

(b) Any person who is engaged in constructing, improving, repairing, or remodeling a residence that the person owns or is in the process of acquiring as the person's personal residence may not be considered an employee or employer solely by operation of Subsection (7)(a).

(c) A partner in a partnership or an owner of a sole proprietorship is not considered an employee under Subsection (7)(a) if the employer who procures work to be done by the partnership or sole proprietorship obtains and relies on either:

(i) a valid certification of the partnership's or sole proprietorship's compliance with Section 34A-2-201 indicating that the partnership or sole proprietorship secured the payment of workers' compensation benefits pursuant to Section 34A-2-201; or

(ii) if a partnership or sole proprietorship with no employees other than a partner of the partnership or owner of the sole proprietorship, a workers' compensation coverage waiver issued pursuant to Part 10, Workers' Compensation Coverage Waivers Act, stating that:

(A) the partnership or sole proprietorship is customarily engaged in an independently established trade, occupation, profession, or business; and

(B) the partner or owner personally waives the partner's or owner's entitlement to the benefits of this chapter and Chapter 3, Utah Occupational Disease Act, in the operation of the partnership or sole proprietorship.

(d) A director or officer of a corporation is not considered an employee under Subsection (7)(a) if the director or officer is excluded from coverage under Subsection 34A-2-104(4).

(e) A contractor or subcontractor is not an employee of the employer under Subsection (7)(a), if

the employer who procures work to be done by the contractor or subcontractor obtains and relies on either:

(i) a valid certification of the contractor's or subcontractor's compliance with Section 34A-2-201; or

(ii) if a partnership, corporation, or sole proprietorship with no employees other than a partner of the partnership, officer of the corporation, or owner of the sole proprietorship, a workers' compensation coverage waiver issued pursuant to Part 10, Workers' Compensation Coverage Waivers Act, stating that:

(A) the partnership, corporation, or sole proprietorship is customarily engaged in an independently established trade, occupation, profession, or business; and

(B) the partner, corporate officer, or owner personally waives the partner's, corporate officer's, or owner's entitlement to the benefits of this chapter and Chapter 3, Utah Occupational Disease Act, in the operation of the partnership's, corporation's, or sole proprietorship's enterprise under a contract of hire for services.

(f) (i) For purposes of this Subsection (7)(f), "eligible employer" means a person who:

(A) is an employer; and

(B) procures work to be done wholly or in part for the employer by a contractor, including:

(I) all persons employed by the contractor;

(II) all subcontractors under the contractor; and

(III) all persons employed by any of these subcontractors.

(ii) Notwithstanding the other provisions in this Subsection (7), if the conditions of Subsection (7)(f)(iii) are met, an eligible employer is considered an employer for purposes of Section 34A-2-105 of the contractor, subcontractor, and all persons employed by the contractor or subcontractor described in Subsection (7)(f)(i)(B).

(iii) Subsection (7)(f)(ii) applies if the eligible employer:

(A) under Subsection (7)(a) is liable for and pays workers' compensation benefits as an original employer under Subsection (7)(a) because the contractor or subcontractor fails to comply with Section 34A-2-201;

(B) (I) secures, in accordance with Section 34A-2-201, the payment of workers' compensation [~~benefits~~] coverage for the contractor or subcontractor [~~pursuant to Section 34A-2-201~~];

(II) procures work to be done that is part or process of the trade or business of the eligible employer; and

(III) does the following with regard to a written workplace accident and injury reduction program that meets the requirements of Subsection 34A-2-111(3)(d):

(Aa) adopts the workplace accident and injury reduction program;

(Bb) posts the workplace accident and injury reduction program at the work site at which the eligible employer procures work; and

(Cc) enforces the workplace accident and injury reduction program according to the terms of the workplace accident and injury reduction program; or

(C) (I) obtains and relies on:

(Aa) a valid certification described in Subsection (7)(c)(i) or (7)(e)(i);

(Bb) a workers' compensation coverage waiver described in Subsection (7)(c)(ii) or (7)(e)(ii); or

(Cc) proof that a director or officer is excluded from coverage under Subsection 34A-2-104(4);

(II) is liable under Subsection (7)(a) for the payment of workers' compensation benefits if the contractor or subcontractor fails to comply with Section 34A-2-201;

(III) procures work to be done that is part or process in the trade or business of the eligible employer; and

(IV) does the following with regard to a written workplace accident and injury reduction program that meets the requirements of Subsection 34A-2-111(3)(d):

(Aa) adopts the workplace accident and injury reduction program;

(Bb) posts the workplace accident and injury reduction program at the work site at which the eligible employer procures work; and

(Cc) enforces the workplace accident and injury reduction program according to the terms of the workplace accident and injury reduction program.

(8) (a) For purposes of this Subsection (8), "unincorporated entity" means an entity organized or doing business in the state that is not:

(i) an individual;

(ii) a corporation; or

(iii) publicly traded.

(b) For purposes of this chapter and Chapter 3, Utah Occupational Disease Act, an unincorporated entity that is required to be licensed under Title 58, Chapter 55, Utah Construction Trades Licensing Act, is presumed to be the employer of each individual who holds, directly or indirectly, an ownership interest in the unincorporated entity. Notwithstanding Subsection (7)(c) and Subsection 34A-2-104(3), the unincorporated entity shall provide the individual who holds the ownership interest workers' compensation coverage under this chapter and Chapter 3, Utah Occupational Disease Act, unless the presumption is rebutted under Subsection (8)(c).

(c) Pursuant to rules made by the commission in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, an unincorporated entity may rebut the presumption under Subsection (8)(b) for an individual by establishing by clear and convincing evidence that the individual:

(i) is an active manager of the unincorporated entity;

(ii) directly or indirectly holds at least an 8% ownership interest in the unincorporated entity; or

(iii) is not subject to supervision or control in the performance of work by:

(A) the unincorporated entity; or

(B) a person with whom the unincorporated entity contracts.

(d) As part of the rules made under Subsection (8)(c), the commission may define:

(i) "active manager";

(ii) "directly or indirectly holds at least an 8% ownership interest"; and

(iii) "subject to supervision or control in the performance of work."

(9) (a) As used in this Subsection (9), "home and community based services" means one or more of the following services provided to an individual with a disability or to the individual's family that helps prevent the individual with a disability from being placed in a more restrictive setting:

(i) respite care;

(ii) skilled nursing;

(iii) nursing assistant services;

(iv) home health aide services;

(v) personal care and attendant services;

(vi) other in-home care, such as support for the daily activities of the individual with a disability;

(vii) specialized in-home training for the individual with a disability or a family member of the individual with a disability;

(viii) specialized in-home support, coordination, and other supported living services; and

(ix) other home and community based services unique to the individual with a disability or the family of the individual with a disability that help prevent the individual with a disability from being placed in a more restrictive setting.

(b) Notwithstanding Subsection (4) and subject to Subsection (9)(c), an individual with a disability or designated representative of the individual with a disability is considered an employer under this chapter and Chapter 3, Utah Occupational Disease Act, of an individual who provides home and community based services if the individual with a disability or designated representative of the individual with a disability:

(i) employs the individual to provide home and community based services for seven hours per week or more; and

(ii) pays the individual providing the home and community based services from state or federal money received by the individual with a disability or designated representative of the individual with a disability to fund home and community based services, including through a person designated by the Secretary of the Treasury in accordance with Section 3504, Internal Revenue Code, as a fiduciary, agent, or other person who has the control, receipt, custody, or disposal of, or pays the wages of, the individual providing the home and community based services.

(c) The state and federal money received by an individual with a disability or designated representative of an individual with a disability shall include the cost of the workers' compensation coverage required by this Subsection (9) in addition to the money necessary to fund the home and community based services that the individual with a disability or family of the individual with a disability is eligible to receive so that the home and community based services are not reduced in order to pay for the workers' compensation coverage required by this Subsection (9).

(10) (a) For purposes of this Subsection (10), "federal executive agency" means an executive agency, as defined in 5 U.S.C. Sec. 105, of the federal government.

(b) For purposes of determining whether two or more persons are considered joint employers under this chapter or Chapter 3, Utah Occupational Disease Act, an administrative ruling of a federal executive agency may not be considered a generally applicable law unless that administrative ruling is determined to be generally applicable by a court of law, or adopted by statute or rule.

(11) (a) As used in this Subsection (11):

(i) "Franchise" means the same as that term is defined in 16 C.F.R. Sec. 436.1.

(ii) "Franchisee" means the same as that term is defined in 16 C.F.R. Sec. 436.1.

(iii) "Franchisor" means the same as that term is defined in 16 C.F.R. Sec. 436.1.

(b) For purposes of this chapter, a franchisor is not considered to be an employer of:

(i) a franchisee; or

(ii) a franchisee's employee.

(c) With respect to a specific claim for relief under this chapter made by a franchisee or a franchisee's employee, this Subsection (11) does not apply to a franchisor under a franchise that exercises a type or degree of control over the franchisee or the franchisee's employee not customarily exercised by a franchisor for the purpose of protecting the franchisor's trademarks and brand.

Section 2. Section 34A-2-106 is amended to read:

34A-2-106. Injuries or death caused by wrongful acts of persons other than

employer, officer, agent, or employee of employer -- Rights of employer or insurance carrier in cause of action -- Maintenance of action -- Notice of intention to proceed against third party -- Right to maintain action not involving employee-employer relationship -- Disbursement of proceeds of recovery -- Exclusive remedy.

(1) When any injury or death for which compensation is payable under this chapter or Chapter 3, Utah Occupational Disease Act is caused by the wrongful act or neglect of a person other than an employer, officer, agent, or employee of the employer:

(a) the injured employee, or in case of death, the employee's dependents, may claim compensation; and

(b) the injured employee or the employee's heirs or personal representative may have an action for damages against the third person.

(2) (a) If compensation is claimed and the employer or insurance carrier becomes obligated to pay compensation, the employer or insurance carrier:

(i) shall become trustee of the cause of action against the third party; and

(ii) may bring and maintain the action either in [~~its~~] the employer or insurance carrier's own name or in the name of the injured employee, or the employee's heirs or the personal representative of the deceased.

(b) Notwithstanding Subsection (2)(a), an employer or insurance carrier may not settle and release a cause of action of which [~~it~~] the employer or insurance carrier is a trustee under Subsection (2)(a) without the consent of the commission.

(3) (a) Before proceeding against a third party, to give a person described in Subsections (3)(a)(i) and (ii) a reasonable opportunity to enter an appearance in the proceeding, the injured employee or, in case of death, the employee's heirs, shall give written notice of the intention to bring an action against the third party to:

(i) the carrier; and

(ii) any other person obligated for the compensation payments.

(b) The injured employee, or, in case of death, the employee's heirs, shall give written notice to the carrier and other person obligated for the compensation payments of any known attempt to attribute fault to the employer, officer, agent, or employee of the employer:

(i) by way of settlement; or

(ii) in a proceeding brought by the injured employee, or, in case of death, the employee's heirs.

(4) For the purposes of this section and [~~notwithstanding~~] subject to Section 34A-2-103, the injured employee or the employee's heirs or personal representative may also maintain an action for damages against any of the following persons who do not occupy an employee-employer relationship with the injured or deceased employee at the time of the employee's injury or death and who are not considered eligible employers under Section 34A-2-103:

(a) a subcontractor;

(b) a general contractor;

(c) an independent contractor;

(d) a property owner; or

(e) a lessee or assignee of a property owner.

(5) If any recovery is obtained against a third person, it shall be disbursed in accordance with Subsections (5)(a) through (c).

(a) (i) The reasonable expense of the action, including attorney fees, shall be paid and charged proportionately against the parties as their interests may appear.

(ii) Any fee chargeable to the employer or carrier is to be a credit upon any fee payable by the injured employee or, in the case of death, by the dependents, for any recovery had against the third party.

(b) The person liable for compensation payments shall be reimbursed, less the proportionate share of costs and attorney fees provided for in Subsection (5)(a), for the payments made as follows:

(i) without reduction based on fault attributed to the employer, officer, agent, or employee of the employer in the action against the third party if the combined percentage of fault attributed to persons immune from suit is determined to be less than 40% prior to any reallocation of fault under Subsection 78B-5-819(2); or

(ii) less the amount of payments made multiplied by the percentage of fault attributed to the employer, officer, agent, or employee of the employer in the action against the third party if the combined percentage of fault attributed to persons immune from suit is determined to be 40% or more prior to any reallocation of fault under Subsection 78B-5-819(2).

(c) The balance shall be paid to the injured employee, or the employee's heirs in case of death, to be applied to reduce or satisfy in full any obligation thereafter accruing against the person liable for compensation.

(6) (a) The apportionment of fault to the employer in a civil action against a third party is not an action at law and does not impose any liability on the employer.

(b) The apportionment of fault does not alter or diminish the exclusiveness of the remedy provided to [~~employees, their~~] an employee, the employee's heirs, or the employee's personal representatives, or the immunity provided [~~employers~~] an employer pursuant to Section 34A-2-105 or 34A-3-102 for injuries sustained by an employee, whether resulting in death or not.

(c) Any court in which a civil action is pending shall issue a partial summary judgment to an

employer with respect to the employer's immunity as provided in Section 34A-2-105 or 34A-3-102, even though the conduct of the employer may be considered in allocating fault to the employer in a [~~third party~~] third-party action in the manner provided in Sections 78B-5-817 through 78B-5-823.

CHAPTER 287
H. B. 358
Passed March 5, 2021
Approved March 17, 2021
Effective May 5, 2021

GUARDIANSHIP AMENDMENTS

Chief Sponsor: Robert M. Spendlove
Senate Sponsor: Michael S. Kennedy

LONG TITLE

General Description:

This bill amends provisions related to court appointed guardians for minors.

Highlighted Provisions:

This bill:

- adds situations for when a court may appoint a guardian for an unemancipated minor;
- establishes preponderance of the evidence as the burden of proof for appointing a guardian for a minor; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

75-5-204, as last amended by Laws of Utah 1985, Chapter 41
75-5-207, as last amended by Laws of Utah 1995, Chapter 156

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

Section 1. Section 75-5-204 is amended to read:

75-5-204. Court appointment of guardian of minor -- Conditions for appointment.

(1) [~~The~~] In accordance with Subsection (2), the court may appoint a guardian for an unemancipated minor if:

(a) each parent of the minor acknowledges that the parent understands the legal effect of the guardianship and consents;

(b) all parental rights [~~of custody~~] have been terminated [~~or suspended by circumstances or prior court order.~~]; or

(c) each parent is unwilling or unable to exercise the parent's parental rights for any reason, including a court order suspending the parent's parental rights.

(2) (a) A guardian appointed by will under Section 75-5-202, or by written instrument under Section 75-5-202.5, whose appointment has not been prevented or nullified under Section 75-5-203 has priority over any court appointed guardian [~~who may be appointed by the court, but the~~].

(b) Notwithstanding Subsection (2)(a), the court may proceed with [~~an~~] a court appointment upon a finding that the testamentary or instrumental guardian has failed to accept the testamentary appointment within 30 days after notice of the guardianship proceeding.

Section 2. Section 75-5-207 is amended to read:

75-5-207. Court appointment of guardian of minor -- Procedure.

(1) Notice of the time and place of hearing of a petition for the appointment of a guardian of a minor is to be given by the petitioner in the manner prescribed by Section 75-1-401 to:

(a) the minor, if the minor is 14 years [~~of age~~] old or older;

(b) the person who has had the principal care and custody of the minor during the 60 days preceding the date of the petition;

(c) any living parent of the minor;

(d) any guardian appointed by the will or written instrument of the parent of the minor who died last; and

(e) the school district in which the petitioner resides and a representative of the school district may participate in the hearing.

(2) (a) [~~Upon hearing,~~] After a hearing, a court may appoint a guardian if the court finds by preponderance of the evidence that:

(i) a qualified person seeks appointment[~~,~~];

(ii) venue is proper[~~,~~];

(iii) the required notices have been given[~~,~~];

(iv) the requirements of Sections 75-5-204 and 75-5-206 have been met[~~,~~]; and

(v) the welfare and best interests of the minor will be served by the requested appointment[~~, it may make the appointment~~].

(b) In other cases the court may dismiss the proceedings or make any other disposition of the matter that will best serve the interest of the minor.

(3) (a) If necessary, the court may appoint a temporary guardian, with the status of an ordinary guardian of a minor.

(b) The authority of a temporary guardian may not last longer than six months.

(4) If, at any time in the proceeding, the court determines that the interests of the minor are or may be inadequately represented, it may appoint an attorney to represent the minor, giving consideration to the preference of the minor if the minor is 14 years [~~of age~~] old or older.

CHAPTER 288
H. B. 359
Passed March 3, 2021
Approved March 17, 2021
Effective May 5, 2021

DENTAL BILLING AMENDMENTS

Chief Sponsor: James A. Dunnigan
Senate Sponsor: Karen Mayne

LONG TITLE

General Description:

This bill regulates dental claims and dental leasing contracts.

Highlighted Provisions:

This bill:

- defines terms;
- describes when an insurer may use bundling and downcoding;
- describes when a third party may lease a dental plan network;
- describes requirements for a dental lease contract; and
- allows a dental provider to opt out of a lease if leased by an insurer.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:
31A-22-646.1, Utah Code Annotated 1953
31A-26-301.7, Utah Code Annotated 1953

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

Section 1. Section 31A-22-646.1 is enacted to read:

31A-22-646.1. Leasing requirements for dental plans.

(1) As used in this section:

(a) "Contracting entity" means a person that enters into a direct contract with a provider for the delivery of dental services in the ordinary course of business, including a third party administrator or a dental carrier.

(b) "Dental carrier" means a dental insurance company, dental service corporation, or dental plan organization authorized to provide a dental plan.

(c) "Dental plan" means the same as that term is defined in Section 31A-22-646.

(d) (i) "Dental services" means services for the diagnosis, prevention, treatment, or cure of a dental condition, illness, injury, or disease.

(ii) "Dental services" does not include services that a provider delivers and bills as medical expenses under a health benefit plan.

(e) (i) "Dental service contractor" means an individual who:

(A) accepts prepayment for dental services; or

(B) for the benefit of another individual, accepts payment for providing to the individual the opportunity to receive dental services in the future.

(ii) "Dental service contractor" does not include a provider or professional dental corporation that accepts prepayment on a fee-for-service basis for providing specific dental services to individual patients for whom the services have been pre-diagnosed.

(f) (i) "Provider" means a person who, acting within the scope of licensure or certification, provides dental services or supplies defined by the dental plan.

(ii) "Provider" does not include a physician organization or physician hospital organization that leases or rents the physician organization's or physician hospital organization's network to a third party.

(g) "Provider network contract" means a contract between a contracting entity and a provider that:

(i) specifies the rights and responsibilities of the contracting entity; and

(ii) provides for the delivery and payment of dental services to an enrollee.

(h) (i) "Third party" means a person that enters into a contract with a contracting entity or with another third party to gain access to the dental services or contractual discounts of a provider network contract.

(ii) "Third party" does not include an employer or other group for whom the dental carrier or contracting entity provides administrative services.

(2) A contracting entity may grant a third party access to a provider network contract regarding dental services, including a provider's dental services, or a contractual discount provided under a provider network contract for dental services if:

(a) if the contracting entity is an insurer, the insurer complies with Subsection (3);

(b) the contract between the contracting entity and a person subject to the third-party access complies with Subsection (4); and

(c) the contracting entity complies with Subsection (5).

(3) An insurer shall:

(a) at the time a contract is entered into or renewed, or when there is a material modification to a contract that is relevant to third-party access to a provider network contract, allow a provider which is part of the insurer's provider network to:

(i) choose to not participate in third-party access; or

(ii) enter into a contract directly with the third party that acquired the provider network;

(b) allow a provider to opt out of lease arrangements without canceling or ending a contractual relationship with the insurer; and

(c) when initially contracting with a provider, accept a qualified provider even if a provider rejects a network lease provision.

(4) A contracting entity described in Subsection (2) shall ensure that the contract described in Subsection (2)(b) includes the following:

(a) a provision indicating the contracting entity may enter into an agreement with a third party to allow the third party to obtain the contracting entity's rights and responsibilities as if the third party were the contracting entity;

(b) if the contracting entity is a dental carrier, a provision indicating that the provider chose to participate in third-party access at the time the provider network contract was entered into or renewed; and

(c) if the contracting entity is an insurer, a provision indicating:

(i) that the contract grants a third party access to the provider network; and

(ii) for a contract with a dental carrier, the dentist has the right to choose not to participate in third-party access.

(5) A contracting entity shall:

(a) provide a provider, in writing or electronic form, each third party in existence as of the date the contract is entered into;

(b) maintain a list of each third party in existence on the contracting entity's website that is updated at least once every 90 days;

(c) require a third party to identify the source of the discount on all remittance advices or explanations of payment under which a discount is taken unless the transaction is an electronic transaction mandated by the Health Insurance Portability and Accountability Act;

(d) notify a third party of the termination of a provider network contract no later than 30 days after the day on which the contract terminates with the contracting entity;

(e) at least 30 days before the day on which a third party begins leasing a network provider, notify each network provider subject to the lease;

(f) make available to a participating provider, within 30 days after the day on which the provider makes a request, a copy of the provider network contract at issue in the adjudication of a claim; and

(g) maintain a list of the contracting entity's affiliates on the contracting entity's website.

(6) A third party that gains access to a contract under this section:

(a) shall comply with each term of the contract to which the third party gains access; and

(b) loses all rights to a provider's discounted rate as of the termination date of the provider network contract.

(7) A contracting entity or third party may not require a provider to perform services under a provider network contract if a third party gains access to a contract in violation of this section.

(8) This section does not apply to:

(a) a contracting entity granting access to a provider network contract to:

(i) an entity that operates in accordance with the brand licensee program of the contracting entity; or

(ii) an entity that is an affiliate of the contracting entity; and

(b) a provider network contract for dental services provided to beneficiaries of a state sponsored health program, including Medicaid and the Children's Health Insurance Program.

(9) A contract executed or renewed on or after January 1, 2022:

(a) may not waive the provisions of this section; and

(b) is null and void if the contract contains provisions that conflict with the provisions of this section or that purports to waive a requirement of this section.

Section 2. Section 31A-26-301.7 is enacted to read:

31A-26-301.7. Dental claim transparency.

(1) As used in this section:

(a) "Bundling" means the practice of combining distinct dental procedures into one procedure for billing purposes.

(b) "Dental plan" means the same as that term is defined in Section 31A-22-646.

(c) "Downcoding" means the adjustment of a claim submitted to a dental plan to a less complex or lower cost procedure code.

(d) "Covered services" means the same as that term is defined in Section 31A-22-646.

(e) "Material change" means a change to:

(i) a dental plan's rules, guidelines, policies, or procedures concerning payment for dental services;

(ii) the general policies of the dental plan that affect a reimbursement paid to providers; or

(iii) the manner by which a dental plan adjudicates and pays a claim for services.

(2) An insurer that contracts or renews a contract with a dental provider shall:

(a) make a copy of the insurer's current dental plan policies available online; and

(b) if requested by a provider, send a copy of the policies to the provider through mail or electronic mail.

(3) Dental policies described in Subsection (2) shall include:

(a) a summary of all material changes made to a dental plan since the policies were last updated;

(b) the downcoding and bundling policies that the insurer reasonably expects to be applied to the dental provider or provider's services as a matter of policy; and

(c) a description of the dental plan's utilization review procedures, including:

(i) a procedure for an enrollee of the dental plan to obtain review of an adverse determination in accordance with Section 31A-22-629; and

(ii) a statement of a provider's rights and responsibilities regarding the procedures described in Subsection (3)(c)(i).

(4) An insurer may not maintain a dental plan that:

(a) based on the provider's contracted fee for covered services, uses downcoding in a manner that prevents a dental provider from collecting the fee for the actual service performed from either the plan or the patient; or

(b) uses bundling in a manner where a procedure code is labeled as nonbillable to the patient unless, under generally accepted practice standards, the procedure code is for a procedure that may be provided in conjunction with another procedure.

(5) An insurer shall ensure that an explanation of benefits for a dental plan includes the reason for any downcoding or bundling result.

CHAPTER 289
H. B. 360
Passed March 5, 2021
Approved March 17, 2021
Effective May 5, 2021

TELEPHONE SOLICITATION AMENDMENTS

Chief Sponsor: Stewart E. Barlow
Senate Sponsor: Lincoln Fillmore

LONG TITLE

General Description:

This bill amends penalties in the Telephone and Facsimile Solicitation Act.

Highlighted Provisions:

This bill:

- defines terms; and
- enhances penalties for a violator of the Telephone and Facsimile Solicitation Act if the violator solicits an on-call emergency provider while the on-call emergency provider is on call.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

13-25a-102, as last amended by Laws of Utah 2003, Chapter 263
13-25a-105, as last amended by Laws of Utah 2005, Chapter 18
13-25a-107, as last amended by Laws of Utah 2020, Chapter 79

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

Section 1. Section 13-25a-102 is amended to read:

13-25a-102. Definitions.

As used in this chapter:

(1) "Advertisement" means material offering for sale, or advertising the availability or quality of, any property, goods, or services.

(2) (a) "Automated telephone dialing system" means equipment used to:

(i) store or produce telephone numbers;

(ii) call a stored or produced number; and

(iii) connect the number called with a recorded message or artificial voice.

(b) "Automated telephone dialing system" does not include equipment used with a burglar alarm system, voice messaging system, fire alarm system, or other system used in an emergency involving the immediate health or safety of a person.

(3) "Division" means the Division of Consumer Protection in the Department of Commerce.

(4) (a) "Established business relationship" means a relationship that:

(i) is based on inquiry, application, purchase, or transaction regarding products or services offered;

(ii) is formed by a voluntary two-way communication between a person making a telephone solicitation and a person to whom a telephone solicitation is made; and

(iii) has not been terminated by:

(A) an act by either party; or

(B) the passage of 18 months since the most recent inquiry, application, purchase, transaction, or voluntary two-way communication.

(b) "Established business relationship" includes a relationship with an affiliate as defined in Section 16-10a-102.

(5) "Facsimile machine" means equipment used for:

(a) scanning or encoding text or images for conversion into electronic signals for transmission; or

(b) receiving electronic signals and reproducing them as a duplicate of the original text or image.

(6) "Negative response" means a statement from a party stating the party does not wish to listen to the sales presentation or participate in the solicitation presented in the telephone call.

(7) "On-call emergency provider" means an individual who is required by an employer to be on call to respond to a medical emergency.

[~~(7)~~] (8) "Telephone solicitation" means the initiation of a telephone call or message for a commercial purpose or to seek a financial donation, including calls:

(a) encouraging the purchase or rental of, or investment in, property, goods, or services, regardless of whether the transaction involves a nonprofit organization;

(b) soliciting a sale of or extension of credit for property or services to the person called;

(c) soliciting information that will be used for:

(i) the direct solicitation of a sale of property or services to the person called; or

(ii) an extension of credit to the person called for a sale of property or services; or

(d) soliciting a charitable donation involving the exchange of any premium, prize, gift, ticket, subscription, or other benefit in connection with any appeal made for a charitable purpose.

[~~(8)~~] (9) "Telephone solicitor" means any natural person, firm, organization, partnership, association, or corporation who makes or causes to be made an unsolicited telephone call, including calls made by use of an automated telephone dialing system.

[~~(9)~~] (10) "Unsolicited telephone call" means a telephone call for a commercial purpose or to seek a financial donation other than a call made:

(a) in response to an express request of the person called;

(b) primarily in connection with an existing debt or contract, payment or performance of which has not been completed at the time of the call;

(c) to any person with whom the telephone solicitor has an established business relationship; or

(d) as required by law for a medical purpose.

Section 2. Section 13-25a-105 is amended to read:

13-25a-105. Penalties -- Administrative and criminal.

(1) Any person who violates this chapter is subject to:

(a) a cease and desist order; and

(b) an administrative fine of not less than $100 or more than $2,500 for each separate violation.

(2) Any person who violates this chapter by soliciting an on-call emergency provider while the on-call emergency provider is on call is subject to:

(a) a cease and desist order; and

(b) an administrative fine of not less than $1,000 or more than $2,500 for each separate violation.

[~~(2)~~] (3) All administrative fines collected under this chapter shall be deposited in the Consumer Protection Education and Training Fund created in Section 13-2-8.

[~~(3)~~] (4) Any person who intentionally violates this chapter is guilty of a class A misdemeanor and may be fined up to $2,500.

(5) A person intentionally violates this chapter if the violation occurs after the division, attorney general, or a district or county attorney notifies the person by certified mail that [~~he~~] the person is in violation of this chapter.

Section 3. Section 13-25a-107 is amended to read:

13-25a-107. Private action.

(1) In addition to any other remedies, a person may bring an action in any state court of competent jurisdiction if:

(a) (i) the person has received two or more telephone solicitations or facsimile advertisements from the same individual or entity that:

(A) violates this chapter; or

(B) violates Title 47 U.S.C. 227; and

(ii) the person, following the first telephone solicitation or facsimile advertisement, notified the sender of the person's objection to receiving the telephone solicitation or facsimile advertisement; or

(b) the person has received one telephone solicitation or facsimile advertisement in violation of:

(i) Subsection 13-25a-103(1);

(ii) Subsection 13-25a-103(3);

(iii) Subsection 13-25a-103(5);

(iv) Subsection 13-25a-103(6); or

(v) Subsection 13-25a-104(1).

(2) In a suit brought under Subsection (1):

(a) a person may:

(i) recover the greater of $500 or the amount of the pecuniary loss, if any;

(ii) recover court costs and reasonable attorneys' fees as determined by the court; and

(iii) seek to enjoin any conduct in violation of this chapter; and

(b) [~~the court may award a person treble the amount of the person's pecuniary loss,~~] if the court finds that a violation was knowing and willful[~~.~~]:

(i) the court may award an individual treble the amount of the individual's pecuniary loss; or

(ii) the court may award an individual the greater of $1,000 or treble the amount of the individual's pecuniary loss if:

(A) the individual who received the solicitation is an on-call emergency provider;

(B) the individual was on call at the time the violation occurred; and

(C) the individual had notified the sender that the individual is an on-call emergency provider.

CHAPTER 290
H. B. 369
Passed March 4, 2021
Approved March 17, 2021
Effective May 5, 2021

SCHOOL BUS INSPECTION AMENDMENTS

Chief Sponsor: Calvin R. Musselman
Senate Sponsor: David G. Buxton

LONG TITLE

General Description:

This bill requires certain local education agency governing boards to establish written policies regarding school bus inspections.

Highlighted Provisions:

This bill:

- requires certain local education agency (LEA) governing boards to establish a written policy that:
  - mandates that a school bus driver inspect the entire interior of a school bus at the end of every route; and
  - requires disciplinary action for failure to perform the inspection.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:
53G-7-220, Utah Code Annotated 1953

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

Section 1. Section 53G-7-220 is enacted to read:

53G-7-220. School bus inspection policy.

An LEA governing board that provides transportation shall establish a written policy that:

(1) requires a school bus driver to inspect the entire length of the interior of a school bus at the end of every route; and

(2) requires disciplinary action pursuant to LEA policies and practices for failure to perform the inspection described in Subsection (1).

CHAPTER 291
H. B. 371
Passed March 3, 2021
Approved March 17, 2021
Effective May 5, 2021

ALCOHOLIC BEVERAGE CONTROL AMENDMENTS

Chief Sponsor: Steve Waldrip
Senate Sponsor: Jerry W. Stevenson

LONG TITLE

General Description:

This bill amends provisions of and related to the Alcoholic Beverage Control Act.

Highlighted Provisions:

This bill:

- amends the definitions of "hotel," "room service," and "small brewer";
- defines "controlled group of breweries";
- amends and enacts provisions related to proximity to a community location;
- amends the calculation of ratio of gross receipts of food to alcoholic product for spirituous liquor;
- amends the qualifications for a special use permittee;
- amends provisions regarding reduced markups for certain manufacturers;
- amends the percentage of the total gross revenue from sales of liquor deposited in the Underage Drinking Prevention Media and Education Campaign Restricted Account;
- requires a package agent who has a consignment liquor inventory owned by the state to post a cash or surety bond;
- amends the operational requirements of a package agency;
- amends provisions related to the unlawful sale, offer for sale, or furnishing to a minor or to an intoxicated person;
- enacts provisions related to late applications for retail license renewal;
- amends provisions related to a conditional retail license;
- amends provisions related to bringing an alcoholic product on or carrying an alcoholic product from licensed premises;
- requires a retail licensee to notify the department within 60 days of certain changes;
- amends operational requirements for an on-premise banquet license;
- amends provisions related to an on-premise beer retailer license;
- requires the commission to approve an additional location for a hospitality amenity licensee;
- amends provisions of the Transfer of Alcohol License Act regarding:
  - the definitions "transferor" and "transferee";
  - the transferability of an alcohol license;
  - the effect of transfer of ownership of a business entity;
  - operational requirements for a transferee;
  - application and approval process; and
  - transfer fees;
- repeals from the Transfer of Alcohol License Act, Part 4, Protection of Creditors;
- amends the general operational requirements of a sublicense to a hotel or resort regarding bringing an alcoholic product onto and carrying an alcoholic product from the licensed premises;
- allows certain actions without a manufacturing license;
- enacts provisions regarding the department's authority regarding small-brewer status;
- enacts provisions related to a change of location for a warehousing facility;
- exempts the director's emergency action suspending operations of a package agency, licensee, or permittee under certain circumstances from Title 63G, Chapter 4, Administrative Procedures Act;
- amends provisions related to the investigation of sales of alcohol, tobacco products, electronic cigarette products, and nicotine products to underage individuals; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

32B-1-102, as last amended by Laws of Utah 2020, Fifth Special Session, Chapters 3 and 4
32B-1-202, as last amended by Laws of Utah 2020, Chapter 219
32B-1-207, as last amended by Laws of Utah 2017, Chapter 455
32B-1-304, as last amended by Laws of Utah 2020, Chapter 219
32B-1-607, as last amended by Laws of Utah 2020, Chapter 219
32B-2-304, as last amended by Laws of Utah 2020, Chapters 21 and 178
32B-2-306, as last amended by Laws of Utah 2020, Fifth Special Session, Chapter 20
32B-2-604, as last amended by Laws of Utah 2011, Chapter 307
32B-2-605, as last amended by Laws of Utah 2020, Chapter 219
32B-4-403, as enacted by Laws of Utah 2010, Chapter 276
32B-4-404, as enacted by Laws of Utah 2010, Chapter 276
32B-5-202, as last amended by Laws of Utah 2020, Sixth Special Session, Chapter 6
32B-5-205, as last amended by Laws of Utah 2013, Chapter 349
32B-5-307, as last amended by Laws of Utah 2020, Chapter 219
32B-5-310, as last amended by Laws of Utah 2019, Chapter 403
32B-6-605, as last amended by Laws of Utah 2020, Chapter 219
32B-6-703, as last amended by Laws of Utah 2019, Chapter 403
32B-6-1004, as enacted by Laws of Utah 2020, Chapter 219
32B-8-501, as last amended by Laws of Utah 2020, Chapter 219

32B-8a-102, as last amended by Laws of Utah 2020, Chapter 219
32B-8a-201, as last amended by Laws of Utah 2020, Chapter 219
32B-8a-202, as last amended by Laws of Utah 2020, Chapter 219
32B-8a-203, as last amended by Laws of Utah 2020, Chapter 219
32B-8a-302, as last amended by Laws of Utah 2020, Chapter 219
32B-8a-303, as last amended by Laws of Utah 2020, Chapter 219
32B-8a-501, as last amended by Laws of Utah 2020, Chapter 219
32B-8d-104, as enacted by Laws of Utah 2020, Chapter 219
32B-11-202, as enacted by Laws of Utah 2010, Chapter 276
32B-12-205, as enacted by Laws of Utah 2010, Chapter 276
63G-4-102, as last amended by Laws of Utah 2019, Chapter 431
63I-2-232, as last amended by Laws of Utah 2020, Sixth Special Session, Chapter 6
77-39-101, as last amended by Laws of Utah 2020, Chapters 302 and 347

ENACTS:
32B-1-202.1, Utah Code Annotated 1953
32B-11-504, Utah Code Annotated 1953
32B-12-207, Utah Code Annotated 1953

REPEALS:
32B-8a-401, as last amended by Laws of Utah 2020, Chapter 219
32B-8a-402, as last amended by Laws of Utah 2020, Chapter 219
32B-8a-404, as last amended by Laws of Utah 2020, Chapter 219

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

Section 1. Section 32B-1-102 is amended to read:

32B-1-102. Definitions.

As used in this title:

(1) "Airport lounge" means a business location:

(a) at which an alcoholic product is sold at retail for consumption on the premises; and

(b) that is located at an international airport.

(2) "Airport lounge license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 5, Airport Lounge License.

(3) "Alcoholic beverage" means the following:

(a) beer; or

(b) liquor.

(4) (a) "Alcoholic product" means a product that:

(i) contains at least .5% of alcohol by volume; and

(ii) is obtained by fermentation, infusion, decoction, brewing, distillation, or other process that uses liquid or combinations of liquids, whether drinkable or not, to create alcohol in an amount equal to or greater than .5% of alcohol by volume.

(b) "Alcoholic product" includes an alcoholic beverage.

(c) "Alcoholic product" does not include any of the following common items that otherwise come within the definition of an alcoholic product:

(i) except as provided in Subsection (4)(d), an extract;

(ii) vinegar;

(iii) preserved nonintoxicating cider;

(iv) essence;

(v) tincture;

(vi) food preparation; or

(vii) an over-the-counter medicine.

(d) "Alcoholic product" includes an extract containing alcohol obtained by distillation when it is used as a flavoring in the manufacturing of an alcoholic product.

(5) "Alcohol training and education seminar" means a seminar that is:

(a) required by Chapter 1, Part 7, Alcohol Training and Education Act; and

(b) described in Section 62A-15-401.

(6) "Arena" means an enclosed building:

(a) that is managed by:

(i) the same person who owns the enclosed building;

(ii) a person who has a majority interest in each person who owns or manages a space in the enclosed building; or

(iii) a person who has authority to direct or exercise control over the management or policy of each person who owns or manages a space in the enclosed building;

(b) that operates as a venue; and

(c) that has an occupancy capacity of at least 12,500.

(7) "Arena license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 8c, Arena License Act.

(8) "Banquet" means an event:

(a) that is a private event or a privately sponsored event;

(b) that is held at one or more designated locations approved by the commission in or on the premises of:

(i) a hotel;

(ii) a resort facility;

(iii) a sports center;

(iv) a convention center;

(v) a performing arts facility; or

(vi) an arena;

(c) for which there is a contract:

(i) between a person operating a facility listed in Subsection (8)(b) and another person that has common ownership of less than 20% with the person operating the facility; and

(ii) under which the person operating a facility listed in Subsection (8)(b) is required to provide an alcoholic product at the event; and

(d) at which food and alcoholic products may be sold, offered for sale, or furnished.

(9) "Bar structure" means a surface or structure on a licensed premises if on or at any place of the surface or structure an alcoholic product is:

(a) stored; or

(b) dispensed.

(10) (a) "Bar establishment license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 4, Bar Establishment License.

(b) "Bar establishment license" includes:

(i) a dining club license;

(ii) an equity license;

(iii) a fraternal license; or

(iv) a bar license.

(11) "Bar license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 4, Bar Establishment License.

(12) (a) Subject to Subsection (12)(d), "beer" means a product that:

(i) contains at least .5% of alcohol by volume, but not more than 5% of alcohol by volume or 4% by weight; and

(ii) is obtained by fermentation, infusion, or decoction of malted grain.

(b) "Beer" may or may not contain hops or other vegetable products.

(c) "Beer" includes a product that:

(i) contains alcohol in the percentages described in Subsection (12)(a); and

(ii) is referred to as:

(A) beer;

(B) ale;

(C) porter;

(D) stout;

(E) lager; or

(F) a malt or malted beverage.

(d) "Beer" does not include a flavored malt beverage.

(13) "Beer-only restaurant license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 9, Beer-Only Restaurant License.

(14) "Beer retailer" means a business that:

(a) is engaged, primarily or incidentally, in the retail sale of beer to a patron, whether for consumption on or off the business premises; and

(b) is licensed as:

(i) an off-premise beer retailer, in accordance with Chapter 7, Part 2, Off-Premise Beer Retailer Local Authority; or

(ii) an on-premise beer retailer, in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 7, On-Premise Beer Retailer License.

(15) "Beer wholesaling license" means a license:

(a) issued in accordance with Chapter 13, Beer Wholesaling License Act; and

(b) to import for sale, or sell beer in wholesale or jobbing quantities to one or more retail licensees or off-premise beer retailers.

(16) "Billboard" means a public display used to advertise, including:

(a) a light device;

(b) a painting;

(c) a drawing;

(d) a poster;

(e) a sign;

(f) a signboard; or

(g) a scoreboard.

(17) "Brewer" means a person engaged in manufacturing:

(a) beer;

(b) heavy beer; or

(c) a flavored malt beverage.

(18) "Brewery manufacturing license" means a license issued in accordance with Chapter 11, Part 5, Brewery Manufacturing License.

(19) "Certificate of approval" means a certificate of approval obtained from the department under Section 32B-11-201.

(20) "Chartered bus" means a passenger bus, coach, or other motor vehicle provided by a bus company to a group of persons pursuant to a common purpose:

(a) under a single contract;

(b) at a fixed charge in accordance with the bus company's tariff; and

(c) to give the group of persons the exclusive use of the passenger bus, coach, or other motor vehicle,

and a driver to travel together to one or more specified destinations.

(21) "Church" means a building:

(a) set apart for worship;

(b) in which religious services are held;

(c) with which clergy is associated; and

(d) that is tax exempt under the laws of this state.

(22) "Commission" means the Alcoholic Beverage Control Commission created in Section 32B-2-201.

(23) "Commissioner" means a member of the commission.

(24) "Community location" means:

(a) a public or private school;

(b) a church;

(c) a public library;

(d) a public playground; or

(e) a public park.

(25) "Community location governing authority" means:

(a) the governing body of the community location; or

(b) if the commission does not know who is the governing body of a community location, a person who appears to the commission to have been given on behalf of the community location the authority to prohibit an activity at the community location.

(26) "Container" means a receptacle that contains an alcoholic product, including:

(a) a bottle;

(b) a vessel; or

(c) a similar item.

(27) "Controlled group of breweries" means as the commission defines by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

[~~(27)~~] (28) "Convention center" means a facility that is:

(a) in total at least 30,000 square feet; and

(b) otherwise defined as a "convention center" by the commission by rule.

[~~(28)~~] (29) (a) "Counter" means a surface or structure in a dining area of a licensed premises where seating is provided to a patron for service of food.

(b) "Counter" does not include a dispensing structure.

[~~(29)~~] (30) "Crime involving moral turpitude" is as defined by the commission by rule.

[~~(30)~~] (31) "Department" means the Department of Alcoholic Beverage Control created in Section 32B-2-203.

[~~(31)~~] (32) "Department compliance officer" means an individual who is:

(a) an auditor or inspector; and

(b) employed by the department.

[~~(32)~~] (33) "Department sample" means liquor that is placed in the possession of the department for testing, analysis, and sampling.

[~~(33)~~] (34) "Dining club license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 4, Bar Establishment License, that is designated by the commission as a dining club license.

[~~(34)~~] (35) "Director," unless the context requires otherwise, means the director of the department.

[~~(35)~~] (36) "Disciplinary proceeding" means an adjudicative proceeding permitted under this title:

(a) against a person subject to administrative action; and

(b) that is brought on the basis of a violation of this title.

[~~(36)~~] (37) (a) Subject to Subsection [~~(36)~~] (37)(b), "dispense" means:

(i) drawing an alcoholic product; and

(ii) using the alcoholic product at the location from which it was drawn to mix or prepare an alcoholic product to be furnished to a patron of the retail licensee.

(b) The definition of "dispense" in this Subsection [~~(36)~~] (37) applies only to:

(i) a full-service restaurant license;

(ii) a limited-service restaurant license;

(iii) a reception center license;

(iv) a beer-only restaurant license;

(v) a bar license;

(vi) an on-premise beer retailer;

(vii) an airport lounge license;

(viii) an on-premise banquet license; and

(ix) a hospitality amenity license.

[~~(37)~~] (38) "Dispensing structure" means a surface or structure on a licensed premises:

(a) where an alcoholic product is dispensed; or

(b) from which an alcoholic product is served.

[~~(38)~~] (39) "Distillery manufacturing license" means a license issued in accordance with Chapter 11, Part 4, Distillery Manufacturing License.

[~~(39)~~] (40) "Distressed merchandise" means an alcoholic product in the possession of the

department that is saleable, but for some reason is unappealing to the public.

[~~(40)~~] (41) "Equity license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 4, Bar Establishment License, that is designated by the commission as an equity license.

[~~(41)~~] (42) "Event permit" means:

(a) a single event permit; or

(b) a temporary beer event permit.

[~~(42)~~] (43) "Exempt license" means a license exempt under Section 32B-1-201 from being considered in determining the total number of retail licenses that the commission may issue at any time.

[~~(43)~~] (44) (a) "Flavored malt beverage" means a beverage:

(i) that contains at least .5% alcohol by volume;

(ii) that is treated by processing, filtration, or another method of manufacture that is not generally recognized as a traditional process in the production of a beer as described in 27 C.F.R. Sec. 25.55;

(iii) to which is added a flavor or other ingredient containing alcohol, except for a hop extract; and

(iv) (A) for which the producer is required to file a formula for approval with the federal Alcohol and Tobacco Tax and Trade Bureau pursuant to 27 C.F.R. Sec. 25.55; or

(B) that is not exempt under Subdivision (f) of 27 C.F.R. Sec. 25.55.

(b) "Flavored malt beverage" is considered liquor for purposes of this title.

[~~(44)~~] (45) "Fraternal license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 4, Bar Establishment License, that is designated by the commission as a fraternal license.

[~~(45)~~] (46) "Full-service restaurant license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 2, Full-Service Restaurant License.

[~~(46)~~] (47) (a) "Furnish" means by any means to provide with, supply, or give an individual an alcoholic product, by sale or otherwise.

(b) "Furnish" includes to:

(i) serve;

(ii) deliver; or

(iii) otherwise make available.

[~~(47)~~] (48) "Guest" means an individual who meets the requirements of Subsection 32B-6-407(9).

[~~(48)~~] (49) "Hard cider" means the same as that term is defined in 26 U.S.C. Sec. 5041.

[~~(49)~~] (50) "Health care practitioner" means:

(a) a podiatrist licensed under Title 58, Chapter 5a, Podiatric Physician Licensing Act;

(b) an optometrist licensed under Title 58, Chapter 16a, Utah Optometry Practice Act;

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

(d) a physical therapist licensed under Title 58, Chapter 24b, Physical Therapy Practice Act;

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

(f) a recreational therapist licensed under Title 58, Chapter 40, Recreational Therapy Practice Act;

(g) an occupational therapist licensed under Title 58, Chapter 42a, Occupational Therapy Practice Act;

(h) a nurse midwife licensed under Title 58, Chapter 44a, Nurse Midwife Practice Act;

(i) a mental health professional licensed under Title 58, Chapter 60, Mental Health Professional Practice Act;

(j) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act;

(k) an osteopath licensed under Title 58, Chapter 68, Utah Osteopathic Medical Practice Act;

(l) a dentist or dental hygienist licensed under Title 58, Chapter 69, Dentist and Dental Hygienist Practice Act; and

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

[~~(50)~~] (51) (a) "Heavy beer" means a product that:

(i) contains more than 5% alcohol by volume; and

(ii) is obtained by fermentation, infusion, or decoction of malted grain.

(b) "Heavy beer" is considered liquor for the purposes of this title.

[~~(51)~~] (52) "Hospitality amenity license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 10, Hospitality Amenity License.

[~~(52)~~] (53) (a) "Hotel" means a commercial lodging establishment that:

[~~(a)~~] (i) offers at least 40 rooms as temporary sleeping accommodations for compensation;

[~~(b)~~] (ii) is capable of hosting conventions, conferences, and food and beverage functions under a banquet contract; and

[~~(c) (i)~~] (iii) (A) has adequate kitchen or culinary facilities on the premises to provide complete meals; [~~or~~]

[~~(ii) (A)~~] (B) has at least 1,000 square feet of function space consisting of meeting or dining rooms that can be reserved for private use under a

banquet contract and can accommodate at least 75 individuals; or

[~~(B)~~] (C) if the establishment is located in a small or unincorporated locality, has an appropriate amount of function space consisting of meeting or dining rooms that can be reserved for private use under a banquet contract, as determined by the commission.

(b) "Hotel" includes a commercial lodging establishment that:

(i) meets the requirements under Subsection (53)(a); and

(ii) has one or more privately owned dwelling units.

[~~(53)~~] (54) "Hotel license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 8b, Hotel License Act.

[~~(54)~~] (55) "Identification card" means an identification card issued under Title 53, Chapter 3, Part 8, Identification Card Act.

[~~(55)~~] (56) "Industry representative" means an individual who is compensated by salary, commission, or other means for representing and selling an alcoholic product of a manufacturer, supplier, or importer of liquor.

[~~(56)~~] (57) "Industry representative sample" means liquor that is placed in the possession of the department for testing, analysis, and sampling by a local industry representative on the premises of the department to educate the local industry representative of the quality and characteristics of the product.

[~~(57)~~] (58) "Interdicted person" means a person to whom the sale, offer for sale, or furnishing of an alcoholic product is prohibited by:

(a) law; or

(b) court order.

[~~(58)~~] (59) "International airport" means an airport:

(a) with a United States Customs and Border Protection office on the premises of the airport; and

(b) at which international flights may enter and depart.

[~~(59)~~] (60) "Intoxicated" means that a person:

(a) is significantly impaired as to the person's mental or physical functions as a result of the use of:

(i) an alcoholic product;

(ii) a controlled substance;

(iii) a substance having the property of releasing toxic vapors; or

(iv) a combination of Subsections [~~(59)~~] (60)(a)(i) through (iii); and

(b) exhibits plain and easily observed outward manifestations of behavior or physical signs produced by the overconsumption of an alcoholic product.

[~~(60)~~] (61) "Investigator" means an individual who is:

(a) a department compliance officer; or

(b) a nondepartment enforcement officer.

[~~(61)~~] (62) "License" means:

(a) a retail license;

(b) a sublicense;

(c) a license issued in accordance with Chapter 11, Manufacturing and Related Licenses Act;

(d) a license issued in accordance with Chapter 12, Liquor Warehousing License Act;

(e) a license issued in accordance with Chapter 13, Beer Wholesaling License Act; or

(f) a license issued in accordance with Chapter 17, Liquor Transport License Act.

[~~(62)~~] (63) "Licensee" means a person who holds a license.

[~~(63)~~] (64) "Limited-service restaurant license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 3, Limited-Service Restaurant License.

[~~(64)~~] (65) "Limousine" means a motor vehicle licensed by the state or a local authority, other than a bus or taxicab:

(a) in which the driver and a passenger are separated by a partition, glass, or other barrier;

(b) that is provided by a business entity to one or more individuals at a fixed charge in accordance with the business entity's tariff; and

(c) to give the one or more individuals the exclusive use of the limousine and a driver to travel to one or more specified destinations.

[~~(65)~~] (66) (a) (i) "Liquor" means a liquid that:

(A) is:

(I) alcohol;

(II) an alcoholic, spirituous, vinous, fermented, malt, or other liquid;

(III) a combination of liquids a part of which is spirituous, vinous, or fermented; or

(IV) other drink or drinkable liquid; and

(B) (I) contains at least .5% alcohol by volume; and

(II) is suitable to use for beverage purposes.

(ii) "Liquor" includes:

(A) heavy beer;

(B) wine; and

(C) a flavored malt beverage.

(b) "Liquor" does not include beer.

[~~(66)~~] (67) "Liquor Control Fund" means the enterprise fund created by Section 32B-2-301.

[~~(67)~~] (68) "Liquor transport license" means a license issued in accordance with Chapter 17, Liquor Transport License Act.

[~~(68)~~] (69) "Liquor warehousing license" means a license that is issued:

(a) in accordance with Chapter 12, Liquor Warehousing License Act; and

(b) to a person, other than a licensed manufacturer, who engages in the importation for storage, sale, or distribution of liquor regardless of amount.

[~~(69)~~] (70) "Local authority" means:

(a) for premises that are located in an unincorporated area of a county, the governing body of a county;

(b) for premises that are located in an incorporated city, town, or metro township, the governing body of the city, town, or metro township; or

(c) for premises that are located in a project area as defined in Section 63H-1-102 and in a project area plan adopted by the Military Installation Development Authority under Title 63H, Chapter 1, Military Installation Development Authority Act, the Military Installation Development Authority.

[~~(70)~~] (71) "Lounge or bar area" is as defined by rule made by the commission.

[~~(71)~~] (72) "Manufacture" means to distill, brew, rectify, mix, compound, process, ferment, or otherwise make an alcoholic product for personal use or for sale or distribution to others.

[~~(72)~~] (73) "Member" means an individual who, after paying regular dues, has full privileges in an equity licensee or fraternal licensee.

[~~(73)~~] (74) (a) "Military installation" means a base, air field, camp, post, station, yard, center, or homeport facility for a ship:

(i) (A) under the control of the United States Department of Defense; or

(B) of the National Guard;

(ii) that is located within the state; and

(iii) including a leased facility.

(b) "Military installation" does not include a facility used primarily for:

(i) civil works;

(ii) a rivers and harbors project; or

(iii) a flood control project.

[~~(74)~~] (75) "Minibar" means an area of a hotel guest room where one or more alcoholic products are kept and offered for self-service sale or consumption.

[~~(75)~~] (76) "Minor" means an individual under the age of 21 years.

[~~(76)~~] (77) "Nondepartment enforcement agency" means an agency that:

(a) (i) is a state agency other than the department; or

(ii) is an agency of a county, city, town, or metro township; and

(b) has a responsibility to enforce one or more provisions of this title.

[~~(77)~~] (78) "Nondepartment enforcement officer" means an individual who is:

(a) a peace officer, examiner, or investigator; and

(b) employed by a nondepartment enforcement agency.

[~~(78)~~] (79) (a) "Off-premise beer retailer" means a beer retailer who is:

(i) licensed in accordance with Chapter 7, Off-Premise Beer Retailer Act; and

(ii) engaged in the retail sale of beer to a patron for consumption off the beer retailer's premises.

(b) "Off-premise beer retailer" does not include an on-premise beer retailer.

[~~(79)~~] (80) "Off-premise beer retailer state license" means a state license issued in accordance with Chapter 7, Part 4, Off-Premise Beer Retailer State License.

[~~(80)~~] (81) "On-premise banquet license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 6, On-Premise Banquet License.

[~~(81)~~] (82) "On-premise beer retailer" means a beer retailer who is:

(a) authorized to sell, offer for sale, or furnish beer under a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 7, On-Premise Beer Retailer License; and

(b) engaged in the sale of beer to a patron for consumption on the beer retailer's premises:

(i) regardless of whether the beer retailer sells beer for consumption off the licensed premises; and

(ii) on and after March 1, 2012, operating:

(A) as a tavern; or

(B) in a manner that meets the requirements of Subsection 32B-6-703(2)(e)(i).

[~~(82)~~] (83) "Opaque" means impenetrable to sight.

[~~(83)~~] (84) "Package agency" means a retail liquor location operated:

(a) under an agreement with the department; and

(b) by a person:

(i) other than the state; and

(ii) who is authorized by the commission in accordance with Chapter 2, Part 6, Package

Agency, to sell packaged liquor for consumption off the premises of the package agency.

[~~(84)~~] (85) "Package agent" means a person who holds a package agency.

[~~(85)~~] (86) "Patron" means an individual to whom food, beverages, or services are sold, offered for sale, or furnished, or who consumes an alcoholic product including:

(a) a customer;

(b) a member;

(c) a guest;

(d) an attendee of a banquet or event;

(e) an individual who receives room service;

(f) a resident of a resort; or

(g) a hospitality guest, as defined in Section 32B-6-1002, under a hospitality amenity license.

[~~(86)~~] (87) (a) "Performing arts facility" means a multi-use performance space that:

(i) is primarily used to present various types of performing arts, including dance, music, and theater;

(ii) contains over 2,500 seats;

(iii) is owned and operated by a governmental entity; and

(iv) is located in a city of the first class.

(b) "Performing arts facility" does not include a space that is used to present sporting events or sporting competitions.

[~~(87)~~] (88) "Permittee" means a person issued a permit under:

(a) Chapter 9, Event Permit Act; or

(b) Chapter 10, Special Use Permit Act.

[~~(88)~~] (89) "Person subject to administrative action" means:

(a) a licensee;

(b) a permittee;

(c) a manufacturer;

(d) a supplier;

(e) an importer;

(f) one of the following holding a certificate of approval:

(i) an out-of-state brewer;

(ii) an out-of-state importer of beer, heavy beer, or flavored malt beverages; or

(iii) an out-of-state supplier of beer, heavy beer, or flavored malt beverages; or

(g) staff of:

(i) a person listed in Subsections [~~(88)~~] (89)(a) through (f); or

(ii) a package agent.

[~~(89)~~] (90) "Premises" means a building, enclosure, or room used in connection with the storage, sale, furnishing, consumption, manufacture, or distribution, of an alcoholic product, unless otherwise defined in this title or rules made by the commission.

[~~(90)~~] (91) "Prescription" means an order issued by a health care practitioner when:

(a) the health care practitioner is licensed under Title 58, Occupations and Professions, to prescribe a controlled substance, other drug, or device for medicinal purposes;

(b) the order is made in the course of that health care practitioner's professional practice; and

(c) the order is made for obtaining an alcoholic product for medicinal purposes only.

[~~(91)~~] (92) (a) "Primary spirituous liquor" means the main distilled spirit in a beverage.

(b) "Primary spirituous liquor" does not include a secondary flavoring ingredient.

[~~(92)~~] (93) "Principal license" means:

(a) a resort license;

(b) a hotel license; or

(c) an arena license.

[~~(93)~~] (94) (a) "Private event" means a specific social, business, or recreational event:

(i) for which an entire room, area, or hall is leased or rented in advance by an identified group; and

(ii) that is limited in attendance to people who are specifically designated and their guests.

(b) "Private event" does not include an event to which the general public is invited, whether for an admission fee or not.

[~~(94)~~] (95) "Privately sponsored event" means a specific social, business, or recreational event:

(a) that is held in or on the premises of an on-premise banquet licensee; and

(b) to which entry is restricted by an admission fee.

[~~(95)~~] (96) (a) "Proof of age" means:

(i) an identification card;

(ii) an identification that:

(A) is substantially similar to an identification card;

(B) is issued in accordance with the laws of a state other than Utah in which the identification is issued;

(C) includes date of birth; and

(D) has a picture affixed;

(iii) a valid driver license certificate that:

(A) includes date of birth;

(B) has a picture affixed; and

(C) is issued:

(I) under Title 53, Chapter 3, Uniform Driver License Act; or

(II) in accordance with the laws of the state in which it is issued;

(iv) a military identification card that:

(A) includes date of birth; and

(B) has a picture affixed; or

(v) a valid passport.

(b) "Proof of age" does not include a driving privilege card issued in accordance with Section 53-3-207.

[~~(96)~~] (97) "Provisions applicable to a sublicense" means:

(a) for a full-service restaurant sublicense, the provisions applicable to a full-service restaurant license under Chapter 6, Part 2, Full-Service Restaurant License;

(b) for a limited-service restaurant sublicense, the provisions applicable to a limited-service restaurant license under Chapter 6, Part 3, Limited-Service Restaurant License;

(c) for a bar establishment sublicense, the provisions applicable to a bar establishment license under Chapter 6, Part 4, Bar Establishment License;

(d) for an on-premise banquet sublicense, the provisions applicable to an on-premise banquet license under Chapter 6, Part 6, On-Premise Banquet License;

(e) for an on-premise beer retailer sublicense, the provisions applicable to an on-premise beer retailer license under Chapter 6, Part 7, On-Premise Beer Retailer License;

(f) for a beer-only restaurant sublicense, the provisions applicable to a beer-only restaurant license under Chapter 6, Part 9, Beer-Only Restaurant License;

(g) for a hospitality amenity license, the provisions applicable to a hospitality amenity license under Chapter 6, Part 10, Hospitality Amenity License; and

(h) for a resort spa sublicense, the provisions applicable to the sublicense under Chapter 8d, Part 2, Resort Spa Sublicense.

[~~(97)~~] (98) (a) "Public building" means a building or permanent structure that is:

(i) owned or leased by:

(A) the state; or

(B) a local government entity; and

(ii) used for:

(A) public education;

(B) transacting public business; or

(C) regularly conducting government activities.

(b) "Public building" does not include a building owned by the state or a local government entity when the building is used by a person, in whole or in part, for a proprietary function.

[~~(98)~~] (99) "Public conveyance" means a conveyance that the public or a portion of the public has access to and a right to use for transportation, including an airline, railroad, bus, boat, or other public conveyance.

[~~(99)~~] (100) "Reception center" means a business that:

(a) operates facilities that are at least 5,000 square feet; and

(b) has as its primary purpose the leasing of the facilities described in Subsection [~~(99)~~] (100)(a) to a third party for the third party's event.

[~~(100)~~] (101) "Reception center license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 8, Reception Center License.

[~~(101)~~] (102) (a) "Record" means information that is:

(i) inscribed on a tangible medium; or

(ii) stored in an electronic or other medium and is retrievable in a perceivable form.

(b) "Record" includes:

(i) a book;

(ii) a book of account;

(iii) a paper;

(iv) a contract;

(v) an agreement;

(vi) a document; or

(vii) a recording in any medium.

[~~(102)~~] (103) "Residence" means a person's principal place of abode within Utah.

[~~(103)~~] (104) "Resident," in relation to a resort, means the same as that term is defined in Section 32B-8-102.

[~~(104)~~] (105) "Resort" means the same as that term is defined in Section 32B-8-102.

[~~(105)~~] (106) "Resort facility" is as defined by the commission by rule.

[~~(106)~~] (107) "Resort spa sublicense" means a resort license sublicense issued in accordance with Chapter 8d, Part 2, Resort Spa Sublicense.

[~~(107)~~] (108) "Resort license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 8, Resort License Act.

[~~(108)~~] (109) "Responsible alcohol service plan" means a written set of policies and procedures that outlines measures to prevent employees from:

(a) over-serving alcoholic beverages to customers;

(b) serving alcoholic beverages to customers who are actually, apparently, or obviously intoxicated; and

(c) serving alcoholic beverages to minors.

[~~(109)~~] (110) "Restaurant" means a business location:

(a) at which a variety of foods are prepared;

(b) at which complete meals are served; and

(c) that is engaged primarily in serving meals.

[~~(110)~~] (111) "Restaurant license" means one of the following licenses issued under this title:

(a) a full-service restaurant license;

(b) a limited-service restaurant license; or

(c) a beer-only restaurant license.

[~~(111)~~] (112) "Retail license" means one of the following licenses issued under this title:

(a) a full-service restaurant license;

(b) a master full-service restaurant license;

(c) a limited-service restaurant license;

(d) a master limited-service restaurant license;

(e) a bar establishment license;

(f) an airport lounge license;

(g) an on-premise banquet license;

(h) an on-premise beer license;

(i) a reception center license;

(j) a beer-only restaurant license;

(k) a hospitality amenity license;

(l) a resort license;

(m) a hotel license; or

(n) an arena license.

[~~(112)~~] (113) "Room service" means furnishing an alcoholic product to a person in a guest room or privately owned dwelling unit of a:

(a) hotel; or

(b) resort facility.

[~~(113)~~] (114) (a) "School" means a building in which any part is used for more than three hours each weekday during a school year as a public or private:

(i) elementary school;

(ii) secondary school; or

(iii) kindergarten.

(b) "School" does not include:

(i) a nursery school;

(ii) a day care center;

(iii) a trade and technical school;

(iv) a preschool; or

(v) a home school.

[~~(114)~~] (115) "Secondary flavoring ingredient" means any spirituous liquor added to a beverage for additional flavoring that is different in type, flavor, or brand from the primary spirituous liquor in the beverage.

[~~(115)~~] (116) "Sell" or "offer for sale" means a transaction, exchange, or barter whereby, for consideration, an alcoholic product is either directly or indirectly transferred, solicited, ordered, delivered for value, or by a means or under a pretext is promised or obtained, whether done by a person as a principal, proprietor, or as staff, unless otherwise defined in this title or the rules made by the commission.

[~~(116)~~] (117) "Serve" means to place an alcoholic product before an individual.

[~~(117)~~] (118) "Sexually oriented entertainer" means a person who while in a state of seminudity appears at or performs:

(a) for the entertainment of one or more patrons;

(b) on the premises of:

(i) a bar licensee; or

(ii) a tavern;

(c) on behalf of or at the request of the licensee described in Subsection [~~(117)~~] (118)(b);

(d) on a contractual or voluntary basis; and

(e) whether or not the person is designated as:

(i) an employee;

(ii) an independent contractor;

(iii) an agent of the licensee; or

(iv) a different type of classification.

[~~(118)~~] (119) "Shared seating area" means the licensed premises of two or more restaurant licensees that the restaurant licensees share as an area for alcoholic beverage consumption in accordance with Subsection 32B-5-207(3).

[~~(119)~~] (120) "Single event permit" means a permit issued in accordance with Chapter 9, Part 3, Single Event Permit.

[~~(120)~~] (121) "Small brewer" means a brewer who manufactures less than 60,000 barrels of beer, heavy beer, and flavored malt [~~beverages~~] beverage per year, as the department calculates by:

(a) if the brewer is part of a controlled group of breweries, including the combined volume totals of production for all breweries that constitute the controlled group of breweries; and

(b) excluding beer, heavy beer, or flavored malt beverage the brewer:

(i) manufactures that is unfit for consumption as, or in, a beverage, as the commission determines by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(ii) does not sell for consumption as, or in, a beverage.

[~~(121)~~] (122) "Small or unincorporated locality" means:

(a) a city of the third, fourth, or fifth class, as classified under Section 10-2-301;

(b) a town, as classified under Section 10-2-301; or

(c) an unincorporated area in a county of the third, fourth, or fifth class, as classified under Section 17-50-501.

[~~(122)~~] (123) "Special use permit" means a permit issued in accordance with Chapter 10, Special Use Permit Act.

[~~(123)~~] (124) (a) "Spirituous liquor" means liquor that is distilled.

(b) "Spirituous liquor" includes an alcoholic product defined as a "distilled spirit" by 27 U.S.C. Sec. 211 and 27 C.F.R. Sec. 5.11 through 5.23.

[~~(124)~~] (125) "Sports center" is as defined by the commission by rule.

[~~(125)~~] (126) (a) "Staff" means an individual who engages in activity governed by this title:

(i) on behalf of a business, including a package agent, licensee, permittee, or certificate holder;

(ii) at the request of the business, including a package agent, licensee, permittee, or certificate holder; or

(iii) under the authority of the business, including a package agent, licensee, permittee, or certificate holder.

(b) "Staff" includes:

(i) an officer;

(ii) a director;

(iii) an employee;

(iv) personnel management;

(v) an agent of the licensee, including a managing agent;

(vi) an operator; or

(vii) a representative.

[~~(126)~~] (127) "State of nudity" means:

(a) the appearance of:

(i) the nipple or areola of a female human breast;

(ii) a human genital;

(iii) a human pubic area; or

(iv) a human anus; or

(b) a state of dress that fails to opaquely cover:

(i) the nipple or areola of a female human breast;

(ii) a human genital;

(iii) a human pubic area; or

(iv) a human anus.

[~~(127)~~] (128) "State of seminudity" means a state of dress in which opaque clothing covers no more than:

(a) the nipple and areola of the female human breast in a shape and color other than the natural shape and color of the nipple and areola; and

(b) the human genitals, pubic area, and anus:

(i) with no less than the following at its widest point:

(A) four inches coverage width in the front of the human body; and

(B) five inches coverage width in the back of the human body; and

(ii) with coverage that does not taper to less than one inch wide at the narrowest point.

[~~(128)~~] (129) (a) "State store" means a facility for the sale of packaged liquor:

(i) located on premises owned or leased by the state; and

(ii) operated by a state employee.

(b) "State store" does not include:

(i) a package agency;

(ii) a licensee; or

(iii) a permittee.

[~~(129)~~] (130) (a) "Storage area" means an area on licensed premises where the licensee stores an alcoholic product.

(b) "Store" means to place or maintain in a location an alcoholic product.

[~~(130)~~] (131) "Sublicense" means:

(a) any of the following licenses issued as a subordinate license to, and contingent on the issuance of, a principal license:

(i) a full-service restaurant license;

(ii) a limited-service restaurant license;

(iii) a bar establishment license;

(iv) an on-premise banquet license;

(v) an on-premise beer retailer license;

(vi) a beer-only restaurant license; or

(vii) a hospitality amenity license; or

(b) a resort spa sublicense.

[~~(131)~~] (132) "Supplier" means a person who sells an alcoholic product to the department.

[~~(132)~~] (133) "Tavern" means an on-premise beer retailer who is:

(a) issued a license by the commission in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 7, On-Premise Beer Retailer License; and

(b) designated by the commission as a tavern in accordance with Chapter 6, Part 7, On-Premise Beer Retailer License.

[~~(133)~~] (134) "Temporary beer event permit" means a permit issued in accordance with Chapter 9, Part 4, Temporary Beer Event Permit.

[~~(134)~~] (135) "Temporary domicile" means the principal place of abode within Utah of a person who does not have a present intention to continue residency within Utah permanently or indefinitely.

[~~(135)~~] (136) "Translucent" means a substance that allows light to pass through, but does not allow an object or person to be seen through the substance.

[~~(136)~~] (137) "Unsaleable liquor merchandise" means a container that:

(a) is unsaleable because the container is:

(i) unlabeled;

(ii) leaky;

(iii) damaged;

(iv) difficult to open; or

(v) partly filled;

(b) (i) has faded labels or defective caps or corks;

(ii) has contents that are:

(A) cloudy;

(B) spoiled; or

(C) chemically determined to be impure; or

(iii) contains:

(A) sediment; or

(B) a foreign substance; or

(c) is otherwise considered by the department as unfit for sale.

[~~(137)~~] (138) (a) "Wine" means an alcoholic product obtained by the fermentation of the natural sugar content of fruits, plants, honey, or milk, or other like substance, whether or not another ingredient is added.

(b) "Wine" includes:

(i) an alcoholic beverage defined as wine under 27 U.S.C. Sec. 211 and 27 C.F.R. Sec. 4.10; and

(ii) hard cider.

(c) "Wine" is considered liquor for purposes of this title, except as otherwise provided in this title.

[~~(138)~~] (139) "Winery manufacturing license" means a license issued in accordance with Chapter 11, Part 3, Winery Manufacturing License.

Section 2. Section 32B-1-202 is amended to read:

32B-1-202. Proximity to community location.

(1) As used in this section:

(a) (i) "Outlet" means:

(A) a state store;

(B) a package agency; or

(C) a retail licensee.

(ii) "Outlet" does not include:

(A) an airport lounge licensee; or

(B) a restaurant.

(b) "Restaurant" means:

(i) a full-service restaurant licensee;

(ii) a limited-service restaurant licensee; or

(iii) a beer-only restaurant licensee.

(2) (a) [~~The~~] Except as otherwise provided in this section or Section 32B-1-202.1, the commission may not issue a license for an outlet if, on the date the commission takes final action to approve or deny the application, there is a community location:

(i) within 600 feet of the proposed outlet, as measured from the nearest patron entrance of the proposed outlet by following the shortest route of ordinary pedestrian travel to the property boundary of the community location; or

(ii) within 200 feet of the proposed outlet, measured in a straight line from the nearest patron entrance of the proposed outlet to the nearest property boundary of the community location.

(b) [~~The~~] Except as otherwise provided in this section or Section 32B-1-202.1, the commission may not issue a license for a restaurant if, on the date the commission takes final action to approve or deny the application, there is a community location:

(i) within 300 feet of the proposed restaurant, as measured from the nearest patron entrance of the proposed restaurant by following the shortest route of ordinary pedestrian travel to the property boundary of the community location; or

(ii) within 200 feet of the proposed restaurant, measured in a straight line from the nearest patron entrance of the proposed restaurant to the nearest property boundary of the community location.

(3) (a) For an outlet or a restaurant that holds a license on May 9, 2017, and operates under a previously approved variance to one or more proximity requirements in effect before May 9, 2017, subject to the other provisions of this title, that outlet or restaurant, or another outlet or restaurant with the same type of license as that outlet or restaurant, may operate under the previously approved variance regardless of whether:

(i) the outlet or restaurant changes ownership;

(ii) the property on which the outlet or restaurant is located changes ownership; or

(iii) there is a lapse in the use of the property as an outlet or a restaurant with the same type of license, unless during the lapse, the property is used for a different purpose.

(b) An outlet or a restaurant that has continuously operated at a location since before January 1, 2007, is considered to have a previously approved variance.

(4) An outlet or restaurant that holds a license on May 12, 2020, and operates in accordance with the proximity requirements in effect at the time the commission issued the license or operates under a previously approved variance described in Subsection (3), subject to the other provisions of this title, that outlet or restaurant or an outlet or a restaurant with the same type of license as that outlet or restaurant may operate at the premises regardless of whether:

(a) the outlet or restaurant changes ownership;

(b) the property on which the outlet or restaurant is located changes ownership; or

(c) there is a lapse of one year or less in the use of the property as an outlet or a restaurant with the same type of license, unless during the lapse the property is used for a different purpose.

(5) (a) If, after an outlet or a restaurant obtains a license under this title, a person establishes a community location on a property that puts the outlet or restaurant in violation of the proximity requirements in effect at the time the license is issued or a previously approved variance described in Subsection (3), subject to the other provisions of this title, that outlet or restaurant, or an outlet or a restaurant with the same type of license as that outlet or restaurant, may operate at the premises regardless of whether:

(i) the outlet or restaurant changes ownership;

(ii) the property on which the outlet or restaurant is located changes ownership; or

(iii) there is a lapse in the use of the property as an outlet or a restaurant with the same type of license, unless during the lapse the property is used for a different purpose.

(b) The provisions of this Subsection (5) apply regardless of when the outlet's or restaurant's license is issued.

(6) Nothing in this section prevents the commission from considering the proximity of an educational, religious, and recreational facility, or any other relevant factor in reaching a decision on a proposed location of an outlet.

Section 3. Section 32B-1-202.1 is enacted to read:

32B-1-202.1. Proximity for certain hotel licensees.

(1) As used in this section, "hotel" means the same as that term is defined in Section 32B-8b-102.

(2) The commission may issue a hotel license for a proposed location that does not meet the proximity requirements under Section 32B-1-202, if:

(a) the proposed hotel is:

(i) located in a city classified as a city of the first class under Section 10-2-301;

(ii) within 600 feet of two community locations, as measured from the nearest patron entrance of the proposed hotel by following the shortest route of ordinary pedestrian travel to the property boundary of each community location;

(iii) not within 300 feet of a community location, as measured from the nearest patron entrance of the proposed hotel by following the shortest route of ordinary pedestrian travel to the property boundary of the community location; and

(iv) not within 200 feet of a community location, as measured in a straight line from the nearest patron entrance of the proposed hotel to the nearest property boundary of the community location;

(b) the proposed sublicensed premises of a bar establishment sublicense under the hotel license:

(i) is on the second or higher floor of a hotel;

(ii) is not accessible at street level; and

(iii) is only accessible to an individual who passes through another area of the hotel in which the bar establishment sublicense is located; and

(c) the applicant meets all other criteria under this title for the hotel license.

(3) The commission may issue authority to operate as a package agency to a hotel licensee who meets the requirements described in Subsection (2).

Section 4. Section 32B-1-207 is amended to read:

32B-1-207. Calculation of ratio of gross receipts of food to alcoholic product.

In calculating the annual gross receipts of a retail license or sublicense for purposes of determining the percentage of gross receipts from the sale, offer for sale, or furnishing of food or an alcoholic product, a retail licensee may not include in the calculation the money from the sale of:

(1) a bottle of wine by the retail licensee or under a sublicense that is in excess of $175; [~~or~~]

(2) an individual portion of wine, as described in Subsection 32B-5-304(2)(a), by the retail licensee or under a sublicense that is in excess of $30[~~.~~]; or

(3) an individual portion of spirituous liquor, as described in Subsection 32B-5-304(1), by the retail licensee or under a sublicense that is in excess of $30.

Section 5. Section 32B-1-304 is amended to read:

32B-1-304. Qualifications for a package agency, license, or permit -- Minors.

(1) (a) Except as provided in Subsection (7), the commission may not issue a package agency,

license, or permit to a person who has been convicted of:

(i) within seven years before the day on which the commission issues the package agency, license, or permit, a felony under a federal law or state law;

(ii) within four years before the day on which the commission issues the package agency, license, or permit:

(A) a violation of a federal law, state law, or local ordinance concerning the sale, offer for sale, warehousing, manufacture, distribution, transportation, or adulteration of an alcoholic product; or

(B) a crime involving moral turpitude; or

(iii) on two or more occasions within the five years before the day on which the package agency, license, or permit is issued, driving under the influence of alcohol, drugs, or the combined influence of alcohol and drugs.

(b) If the person is a partnership, corporation, or limited liability company, the proscription under Subsection (1)(a) applies if any of the following has been convicted of an offense described in Subsection (1)(a):

(i) a partner;

(ii) a managing agent;

(iii) a manager;

(iv) an officer;

(v) a director;

(vi) a stockholder who holds at least 20% of the total issued and outstanding stock of the corporation; or

(vii) a member who owns at least 20% of the limited liability company.

(c) Except as provided in Subsection (7), the proscription under Subsection (1)(a) applies if a person who is employed to act in a supervisory or managerial capacity for a package agency, licensee, or permittee has been convicted of an offense described in Subsection (1)(a).

(2) Except as described in Section 32B-8-501, the commission may immediately suspend or revoke a package agency, license, or permit, and terminate a package agency agreement, if a person described in Subsection (1):

(a) after the day on which the package agency, license, or permit is issued, is found to have been convicted of an offense described in Subsection (1)(a) before the package agency, license, or permit is issued; or

(b) on or after the day on which the package agency, license, or permit is issued:

(i) is convicted of an offense described in Subsection (1)(a)(i) or (ii); or

(ii) (A) is convicted of driving under the influence of alcohol, drugs, or the combined influence of alcohol and drugs; and

(B) was convicted of driving under the influence of alcohol, drugs, or the combined influence of alcohol and drugs within five years before the day on which the person is convicted of the offense described in Subsection (2)(b)(ii)(A).

(3) Except as described in Section 32B-8-501, the director may take emergency action by immediately suspending the operation of the package agency, licensee, or permittee for the period during which a criminal matter is being adjudicated if a person described in Subsection (1):

(a) is arrested on a charge for an offense described in Subsection (1)(a)(i) or (ii); or

(b) (i) is arrested on a charge for the offense of driving under the influence of alcohol, drugs, or the combined influence of alcohol and drugs; and

(ii) was convicted of driving under the influence of alcohol, drugs, or the combined influence of alcohol and drugs within five years before the day on which the person is arrested on a charge described in Subsection (3)(b)(i).

(4) (a) (i) The commission may not issue a package agency, license, or permit to a person who has had any type of agency, license, or permit issued under this title revoked within the last three years.

(ii) The commission may not issue a package agency, license, or permit to a partnership, corporation, or limited liability company if a partner, managing agent, manager, officer, director, stockholder who holds at least 20% of the total issued and outstanding stock of the corporation, or member who owns at least 20% of the limited liability company is or was:

(A) a partner or managing agent of a partnership that had any type of agency, license, or permit issued under this title revoked within the last three years;

(B) a managing agent, officer, director, or stockholder who holds or held at least 20% of the total issued and outstanding stock of any corporation that had any type of agency, license, or permit issued under this title revoked within the last three years; or

(C) a manager or member who owns or owned at least 20% of a limited liability company that had any type of agency, license, or permit issued under this title revoked within the last three years.

(b) The commission may not issue a package agency, licence, or permit to a partnership, corporation, or limited liability company if any of the following had any type of agency, license, or permit issued under this title revoked while acting in that person's individual capacity within the last three years:

(i) a partner or managing agent of a partnership;

(ii) a managing agent, officer, director, or stockholder who holds at least 20% of the total issued and outstanding stock of a corporation; or

(iii) a manager or member who owns at least 20% of a limited liability company.

(c) The commission may not issue a package agency, license, or permit to a person acting in an individual capacity if that person was:

(i) a partner or managing agent of a partnership that had any type of agency, license, or permit issued under this title revoked within the last three years;

(ii) a managing agent, officer, director, or stockholder who held at least 20% of the total issued and outstanding stock of a corporation that had any type of agency, license, or permit issued under this title revoked within the last three years; or

(iii) a manager or member who owned at least 20% of the limited liability company that had any type of agency, license, or permit issued under this title revoked within the last three years.

(5) (a) The commission may not issue a package agency, license, or permit to a minor.

(b) The commission may not issue a package agency, license, or permit to a partnership, corporation, or limited liability company if any of the following is a minor:

(i) a partner or managing agent of the partnership;

(ii) a managing agent, officer, director, or stockholder who holds at least 20% of the total issued and outstanding stock of the corporation; or

(iii) a manager or member who owns at least 20% of the limited liability company.

(6) Except as described in Section 32B-8-501, if a package agent, licensee, or permittee no longer possesses the qualifications required by this title for obtaining a package agency, license, or permit, the commission may terminate the package agency agreement, or revoke the license or permit.

(7) (a) If the licensee is a resort licensee:

[~~(a)~~] (i) Subsection (1)(a) only applies if an individual listed in Subsection (1)(b) engages in the management of the resort, as the commission defines in rule; and

[~~(b)~~] (ii) Subsection (1)(c) only applies to an individual employed to act in a supervisory or managerial capacity for the resort licensee or in relation to a sublicense of the resort license.

(b) If the permittee is a public service permittee under Chapter 10, Special Use Permit Act:

(i) Subsection (1)(a) only applies if an individual listed in Subsection (1)(b) engages in the management of the airline, railroad, or other public conveyance, as the commission defines in rule; and

(ii) Subsection (1)(c) only applies to an individual employed to act in a supervisory or managerial capacity for the public service permittee.

Section 6. Section 32B-1-607 is amended to read:

32B-1-607. Rulemaking authority.

(1) The commission may adopt rules necessary to implement this part.

(2) Notwithstanding Subsections 32B-1-102(12) and [~~(50)~~] (51), in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules that allow for a tolerance in the alcohol content of beer or heavy beer as follows:

(a) up to 0.18% above or below when measured by volume; or

(b) up to 0.15% above or below when measured by weight.

Section 7. Section 32B-2-304 is amended to read:

32B-2-304. Liquor price -- School lunch program -- Remittance of markup.

(1) For purposes of this section:

(a) (i) "Landed case cost" means:

(A) the cost of the product; and

(B) inbound shipping costs incurred by the department.

(ii) "Landed case cost" does not include the outbound shipping cost from a warehouse of the department to a state store.

(b) "Proof gallon" means the same as that term is defined in 26 U.S.C. Sec. 5002.

[~~(c) Notwithstanding Section 32B-1-102, "small brewer" means a brewer who manufactures in a calendar year less than 40,000 barrels of beer, heavy beer, and flavored malt beverage.~~]

(2) Except as provided in Subsections (3) and (4):

(a) spirituous liquor sold by the department within the state shall be marked up in an amount not less than 88% above the landed case cost to the department;

(b) wine sold by the department within the state shall be marked up in an amount not less than 88% above the landed case cost to the department;

(c) heavy beer sold by the department within the state shall be marked up in an amount not less than 66.5% above the landed case cost to the department; and

(d) a flavored malt beverage sold by the department within the state shall be marked up in an amount not less than 88% above the landed case cost to the department.

(3) (a) Liquor sold by the department to a military installation in Utah shall be marked up in an amount not less than 17% above the landed case cost to the department.

(b) Except for spirituous liquor sold by the department to a military installation in Utah, spirituous liquor that is sold by the department

within the state shall be marked up 49% above the landed case cost to the department if:

(i) the spirituous liquor is manufactured by a manufacturer producing less than 30,000 proof gallons of spirituous liquor in a calendar year; and

(ii) the manufacturer applies to the department for a reduced markup.

(c) Except for wine sold by the department to a military installation in Utah, wine that is sold by the department within the state shall be marked up 49% above the landed case cost to the department if:

(i) (A) except as provided in Subsection (3)(c)(i)(B), the wine is manufactured by a manufacturer producing less than 20,000 gallons of wine in a calendar year; or

(B) for hard cider, the hard cider is manufactured by a manufacturer producing less than 620,000 gallons of hard cider in a calendar year; and

(ii) the manufacturer applies to the department for a reduced markup.

(d) Except for heavy beer sold by the department to a military installation in Utah, heavy beer that is sold by the department within the state shall be marked up 32% above the landed case cost to the department if:

(i) a small brewer manufactures the heavy beer; and

(ii) the small brewer applies to the department for a reduced markup.

(e) The department shall verify an amount described in Subsection (3)(b), (c), or (d) pursuant to a federal or other verifiable production report.

(f) For purposes of determining whether an alcoholic product qualifies for a markup under this Subsection (3), the department shall evaluate whether the manufacturer satisfies the applicable production requirement without considering the manufacturer's production of any other type of alcoholic product.

(g) The department may, at any time, revoke a reduced markup granted to a manufacturer under Subsection (3)(b), (c), or (d), if the department determines the manufacturer no longer qualifies for the reduced markup.

(4) Wine the department purchases on behalf of a subscriber through the wine subscription program established in Section 32B-2-702 shall be marked up not less than 88% above the cost of the subscription for the interval in which the wine is purchased.

(5) The department shall deposit 10% of the total gross revenue from sales of liquor with the state treasurer to be credited to the Uniform School Fund and used to support the school meals program administered by the State Board of Education under Section 53E-3-510.

(6) This section does not prohibit the department from selling discontinued items at a discount.

Section 8. Section 32B-2-306 is amended to read:

32B-2-306. Underage drinking prevention media and education campaign.

(1) As used in this section:

(a) "Advisory council" means the Utah Substance Use and Mental Health Advisory Council created in Section 63M-7-301.

(b) "Restricted account" means the Underage Drinking Prevention Media and Education Campaign Restricted Account created in this section.

(2) (a) There is created a restricted account within the General Fund known as the "Underage Drinking Prevention Media and Education Campaign Restricted Account."

(b) The restricted account consists of:

(i) deposits made under Subsection (3); and

(ii) interest earned on the restricted account.

(3) The department shall deposit [~~0.468%~~] 0.6% of the total gross revenue from sales of liquor with the state treasurer, as determined by the total gross revenue collected for the fiscal year two years preceding the fiscal year for which the deposit is made, to be credited to the restricted account and to be used by the department as provided in Subsection (5).

(4) The advisory council shall:

(a) provide ongoing oversight of a media and education campaign funded under this section;

(b) create an underage drinking prevention workgroup consistent with guidelines proposed by the advisory council related to the membership and duties of the underage drinking prevention workgroup;

(c) create guidelines for how money appropriated for a media and education campaign can be used;

(d) include in the guidelines established pursuant to this Subsection (4) that a media and education campaign funded under this section is carefully researched and developed, and appropriate for target groups; and

(e) approve plans submitted by the department in accordance with Subsection (5).

(5) (a) Subject to appropriation from the Legislature, the department shall expend money from the restricted account to direct and fund one or more media and education campaigns designed to reduce underage drinking in cooperation with the advisory council.

(b) The department shall:

(i) in cooperation with the underage drinking prevention workgroup created under Subsection (4), prepare and submit a plan to the advisory council detailing the intended use of the money appropriated under this section;

(ii) upon approval of the plan by the advisory council, conduct the media and education campaign

in accordance with the guidelines made by the advisory council; and

(iii) submit to the advisory council annually by no later than October 1, a written report detailing the use of the money for the media and education campaigns conducted under this Subsection (5) and the impact and results of the use of the money during the prior fiscal year ending June 30.

Section 9. Section 32B-2-604 is amended to read:

32B-2-604. Bond related to package agency.

(1) (a) A package agent who has a consignment liquor inventory owned by the state shall post a:

(i) consignment surety bond:

(A) payable to the department; and

(B) in the amount of the consignment inventory[.]; and

(ii) cash or surety bond:

(A) payable to the department; and

(B) in the penal amount of at least $1,000, as the department determines.

(b) A package agent who has a consignment liquor inventory shall ensure that a consignment surety bond [~~shall be~~] is conditioned upon a package agent's return of the unsold consignment liquor inventory at the termination of a package agency agreement.

(2) [~~(a)~~] A package agent that owns the package agency's liquor inventory shall post a cash bond or surety bond:

[~~(i)~~] (a) in the penal amount [~~fixed by the department, except that the penal amount shall be~~] of at least $1,000, as the department determines; and

[~~(ii)~~] (b) payable to the department.

(3) A package agent shall procure and maintain the bond required under this section for as long as the package agent continues to operate as a package agent.

(4) A bond required under this section shall be:

(a) in a form approved by the attorney general; and

(b) conditioned upon the package agent's faithful compliance with this title, the rules of the commission, and the package agency agreement.

(5) (a) If a surety bond posted by a package agency under this section is canceled due to the package agent's or package agency's negligence, the department may assess a $300 reinstatement fee.

(b) No part of a bond posted by a package agent under this section may be withdrawn:

(i) during the period the package agency is in effect; or

(ii) while a revocation of the package agency is pending against the package agent.

(6) (a) A bond posted under this section by a package agent may be forfeited if the package agency is revoked.

(b) Notwithstanding Subsection (6)(a), the department may make a claim against a bond posted by a package agent for money owed the department under this title without the commission first revoking the package agency.

Section 10. Section 32B-2-605 is amended to read:

32B-2-605. Operational requirements for package agency.

(1) (a) A person may not operate a package agency until a package agency agreement is entered into by the package agent and the department.

(b) A package agency agreement shall state the conditions of operation by which the package agent and the department are bound.

(c) (i) If a package agent or staff of the package agent violates this title, rules under this title, or the package agency agreement, the department may take any action against the package agent that is allowed by the package agency agreement.

(ii) An action against a package agent is governed solely by its package agency agreement and may include suspension or revocation of the package agency.

(iii) A package agency agreement shall provide procedures to be followed if a package agent fails to pay money owed to the department including a procedure for replacing the package agent or operator of the package agency.

(iv) A package agency agreement shall provide that the package agency is subject to covert investigations for selling an alcoholic product to a minor.

(v) Notwithstanding that this part refers to "package agency" or "package agent," staff of the package agency or package agent is subject to the same requirement or prohibition.

(2) (a) A package agency shall be operated by an individual who is either:

(i) the package agent; or

(ii) an individual designated by the package agent.

(b) An individual who is a designee under this Subsection (2) shall be:

(i) an employee of the package agent; and

(ii) responsible for the operation of the package agency.

(c) The conduct of the designee is attributable to the package agent.

(d) A package agent shall submit the name of the person operating the package agency to the department for the department's approval.

(e) A package agent shall state the name and title of a designee on the application for a package agency.

(f) A package agent shall:

(i) inform the department of a proposed change in the individual designated to operate a package agency; and

(ii) receive prior approval from the department before implementing the change described in this Subsection (2)(f).

(g) Failure to comply with the requirements of this Subsection (2) may result in the immediate termination of a package agency agreement.

(3) (a) A package agent shall display in a prominent place in the package agency the record issued by the commission that designates the package agency.

(b) A package agent that displays or stores liquor at a location visible to the public shall display in a prominent place in the package agency a sign in large letters that consists of text in the following order:

(i) a header that reads: "WARNING";

(ii) a warning statement that reads: "Drinking alcoholic beverages during pregnancy can cause birth defects and permanent brain damage for the child.";

(iii) a statement in smaller font that reads: "Call the Utah Department of Health at [insert most current toll-free number] with questions or for more information.";

(iv) a header that reads: "WARNING"; and

(v) a warning statement that reads: "Driving under the influence of alcohol or drugs is a serious crime that is prosecuted aggressively in Utah."

(c) (i) The text described in Subsections (3)(b)(i) through (iii) shall be in a different font style than the text described in Subsections (3)(b)(iv) and (v).

(ii) The warning statements in the sign described in Subsection (3)(b) shall be in the same font size.

(d) The Department of Health shall work with the commission and department to facilitate consistency in the format of a sign required under this section.

(4) A package agency may not display liquor or a price list in a window or showcase that is visible to passersby.

(5) (a) A package agency may not purchase liquor from a person except from the department.

(b) At the discretion of the department, the department may provide liquor to a package agency for sale on consignment.

(6) A package agency may not store, sell, offer for sale, or furnish liquor in a place other than as designated in the package agent's application, unless the package agent first applies for and receives approval from the department for a change of location within the package agency premises.

(7) (a) Except as provided in Subsection (7)(b), a package agency may not sell, offer for sale, or furnish liquor except at a price fixed by the commission.

(b) A package agency may provide as room service one alcoholic product free of charge per guest reservation, per guest room, if:

(i) the package agency is the type of package agency that authorizes the package agency to sell, offer for sale, or furnish an alcoholic product as part of room service;

(ii) staff of the package agency provides the alcoholic product:

(A) in person; and

(B) only to an adult guest in the guest room;

(iii) staff of the package agency does not leave the alcoholic product outside a guest room for retrieval by a guest; and

(iv) the alcoholic product:

(A) is not a spirituous liquor; and

(B) is in an unopened container not to exceed 750 milliliters.

(8) A package agency may not sell, offer for sale, or furnish liquor to:

(a) a minor;

(b) a person actually, apparently, or obviously intoxicated;

(c) a known interdicted person; or

(d) a known habitual drunkard.

(9) (a) A package agency may not employ a minor to handle liquor.

(b) (i) Staff of a package agency may not:

(A) consume an alcoholic product on the premises of a package agency; or

(B) allow any person to consume an alcoholic product on the premises of a package agency.

(ii) Violation of this Subsection (9)(b) is a class B misdemeanor.

(10) (a) A package agency may not close or cease operation for a period longer than 72 hours, unless:

(i) the package agency notifies the department in writing at least seven days before the day on which the package agency closes or ceases operation; and

(ii) the closure or cessation of operation is first approved by the department.

(b) Notwithstanding Subsection (10)(a), in the case of emergency closure, a package agency shall immediately notify the department by telephone.

(c) (i) The department may authorize a closure or cessation of operation for a period not to exceed 60 days.

(ii) The department may extend the initial period described in Subsection (10)(c)(i) an additional 30 days upon written request of the package agency and upon a showing of good cause.

(iii) A closure or cessation of operation may not exceed a total of 90 days without commission approval.

(d) The notice required by Subsection (10)(a) shall include:

(i) the dates of closure or cessation of operation;

(ii) the reason for the closure or cessation of operation; and

(iii) the date on which the package agency will reopen or resume operation.

(e) Failure of a package agency to provide notice and to obtain department authorization before closure or cessation of operation results in an automatic termination of the package agency agreement effective immediately.

(f) Failure of a package agency to reopen or resume operation by the approved date results in an automatic termination of the package agency agreement effective on that date.

(11) A package agency may not transfer the package agency's operations from one location to another location without prior written approval of the commission.

(12) (a) A person, having been issued a package agency, may not sell, transfer, assign, exchange, barter, give, or attempt in any way to dispose of the package agency to another person, whether for monetary gain or not.

(b) A package agency has no monetary value for any type of disposition.

(13) (a) Subject to the other provisions of this Subsection (13):

(i) sale or delivery of liquor may not be made on or from the premises of a package agency, and a package agency may not be kept open for the sale of liquor:

(A) on Sunday; or

(B) on a state or federal legal holiday[~~.~~]; and

(ii) [~~Sale~~] sale or delivery of liquor may be made on or from the premises of a package agency, and a package agency may be open for the sale of liquor, only on a day and during hours that the commission directs by rule or order.

(b) A package agency located at a manufacturing facility is not subject to Subsection (13)(a) if:

(i) the package agency is located at a manufacturing facility licensed in accordance with Chapter 11, Manufacturing and Related Licenses Act;

(ii) the manufacturing facility licensed in accordance with Chapter 11, Manufacturing and Related Licenses Act, holds:

(A) a full-service restaurant license;

(B) a limited-service restaurant license;

(C) a beer-only restaurant license;

(D) a dining club license; or

(E) a bar license;

(iii) the restaurant, dining club, or bar is located at the manufacturing facility;

(iv) the restaurant, dining club, or bar sells an alcoholic product produced at the manufacturing facility;

(v) the manufacturing facility:

(A) owns the restaurant, dining club, or bar; or

(B) operates the restaurant, dining club, or bar;

(vi) the package agency only sells an alcoholic product produced at the manufacturing facility; and

(vii) the package agency's days and hours of sale are the same as the days and hours of sale at the restaurant, dining club, or bar.

(c) (i) Subsection (13)(a) does not apply to a package agency held by the following if the package agent that holds the package agency to sell liquor at a resort or hotel does not sell liquor in a manner similar to a state store:

(A) a resort licensee; or

(B) a hotel licensee.

(ii) The commission may by rule define what constitutes a package agency that sells liquor "in a manner similar to a state store."

(14) (a) Except to the extent authorized by commission rule, a minor may not be admitted into, or be on the premises of, a package agency unless accompanied by a person who is:

(i) 21 years of age or older; and

(ii) the minor's parent, legal guardian, or spouse.

(b) A package agent or staff of a package agency that has reason to believe that a person who is on the premises of a package agency is under the age of 21 and is not accompanied by a person described in Subsection (14)(a) may:

(i) ask the suspected minor for proof of age;

(ii) ask the person who accompanies the suspected minor for proof of age; and

(iii) ask the suspected minor or the person who accompanies the suspected minor for proof of parental, guardianship, or spousal relationship.

(c) A package agent or staff of a package agency shall refuse to sell liquor to the suspected minor and to the person who accompanies the suspected minor into the package agency if the minor or person fails to provide any information specified in Subsection (14)(b).

(d) A package agent or staff of a package agency shall require the suspected minor and the person

who accompanies the suspected minor into the package agency to immediately leave the premises of the package agency if the minor or person fails to provide information specified in Subsection (14)(b).

(15) (a) A package agency shall sell, offer for sale, or furnish liquor in a sealed container.

(b) A person may not open a sealed container on the premises of a package agency.

(c) Notwithstanding Subsection (15)(a), a package agency may sell, offer for sale, or furnish liquor in other than a sealed container:

(i) if the package agency is the type of package agency that authorizes the package agency to sell, offer for sale, or furnish the liquor as part of room service;

(ii) if the liquor is sold, offered for sale, or furnished as part of room service; and

(iii) subject to:

(A) staff of the package agency providing the liquor in person only to an adult guest in the guest room or privately owned dwelling unit;

(B) staff of the package agency not leaving the liquor outside a guest room or privately owned dwelling unit for retrieval by a guest or resident; and

(C) the same limits on the portions in which an alcoholic product may be sold by a retail licensee under Section 32B-5-304.

(16) [~~On or after October 1, 2011, a~~] A package agency may not sell, offer for sale, or furnish heavy beer in a sealed container that exceeds two liters.

(17) The department may pay or otherwise remunerate a package agent on any basis, including sales or volume of business done by the package agency.

(18) The commission may prescribe by policy or rule general operational requirements of a package agency that are consistent with this title and relate to:

(a) physical facilities;

(b) conditions of operation;

(c) hours of operation;

(d) inventory levels;

(e) payment schedules;

(f) methods of payment;

(g) premises security; and

(h) any other matter considered appropriate by the commission.

(19) A package agency may not maintain a minibar.

Section 11. Section 32B-4-403 is amended to read:

32B-4-403. Unlawful sale, offer for sale, or furnishing to minor.

(1) A person may not sell, offer for sale, or furnish an alcoholic product to a minor.

(2) (a) (i) Except as provided in Subsection (3), a person is guilty of a class B misdemeanor if the person who violates Subsection (1) negligently or recklessly fails to determine whether the recipient of the alcoholic product is a minor.

(ii) As used in this Subsection (2)(a), "negligently" means with simple negligence.

(b) Except as provided in Subsection (3), a person is guilty of a class A misdemeanor if the person who violates Subsection (1) knows the [~~recipient~~] purchaser of the alcoholic product is a minor.

(3) This section does not apply to the furnishing of an alcoholic product to a minor in accordance with this title:

(a) for medicinal purposes by:

(i) the parent or guardian of the minor; or

(ii) the health care practitioner of the minor, if the health care practitioner is authorized by law to write a prescription; or

(b) as part of a religious organization's religious services.

Section 12. Section 32B-4-404 is amended to read:

32B-4-404. Unlawful sale, offer for sale, or furnishing to intoxicated person.

(1) A person may not sell, offer for sale, or furnish an alcoholic product directly to:

(a) a person who is actually or apparently intoxicated; or

(b) a person whom the person furnishing the alcoholic product knows or should know from the circumstances is actually or apparently intoxicated.

(2) (a) A person who negligently or recklessly violates Subsection (1) is guilty of a class B misdemeanor.

(b) A person who knowingly violates Subsection (1) is guilty of a class A misdemeanor.

(3) As used in Subsection (2)(a), "negligently" means with simple negligence.

Section 13. Section 32B-5-202 is amended to read:

32B-5-202. Renewal requirements.

(1) A retail license expires each year on the day specified in the relevant chapter or part for that type of retail license.

(2) (a) To renew a person's retail license, a retail licensee shall[~~, by no later than the day specified in the relevant chapter or part for the type of retail license that the person seeks to renew,~~] submit:

(i) a completed renewal application in a form prescribed by the department; [~~and~~]

(ii) a renewal fee in the amount specified in the relevant chapter or part for the type of retail license that the person seeks to renew[~~.~~]; and

[~~(b) A retail licensee shall submit~~] (iii) a responsible alcohol service plan [~~as part of the retail licensee's renewal application~~] if, since the retail licensee's most recent application or renewal, the retail licensee:

[~~(i)~~] (A) made substantial changes to the retail licensee's responsible alcohol service plan; or

[~~(ii)~~] (B) violated a provision of this chapter.

(b) (i) Except as provided for in Subsection (2)(b)(ii), a retail licensee shall fulfill the renewal requirements under Subsection (2)(a) on or before the day specified in the relevant chapter or part for the type of retail license that the person seeks to renew.

(ii) The commission may:

(A) make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, permitting and establishing the parameters of late retail license renewals; and

(B) establish a fee, in accordance with Section 63J-1-504, for late retail license renewals.

(c) The department may audit a retail licensee's responsible alcohol service plan.

(3) Failure to meet the renewal requirements results in an automatic forfeiture of the retail license effective on the day on which the existing retail license expires.

Section 14. Section 32B-5-205 is amended to read:

32B-5-205. Conditional retail license.

(1) As used in this section:

(a) "Conditional retail license" means a retail license that:

(i) conditions the holder's ability to sell, offer for sale, furnish, or allow the consumption of an alcoholic product on its licensed premises on the person submitting to the department a copy of the holder's current business license before obtaining a valid retail license; and

(ii) provides that the holder will be issued a valid retail license if the holder complies with the requirements of Subsection (3).

(b) "Valid retail license" means a retail license issued pursuant to this part under which the holder is permitted to sell, offer for sale, furnish, or allow the consumption of an alcoholic product on its licensed premises.

(2) Subject to the requirements of this section, the commission may issue a conditional retail license to a person if the person:

(a) meets the requirements to obtain the retail license for which the person is applying except the requirement to submit a copy of the person's current business license; and

(b) agrees not to sell, offer for sale, furnish, or allow the consumption of an alcoholic product on its licensed premises before obtaining a valid retail license.

(3) (a) A conditional retail license becomes a valid retail license on the day on which the department notifies the person who holds the conditional retail license that the department finds that the person has complied with Subsection (3)(b).

(b) For a conditional retail license to become a valid retail license, a person who holds the conditional retail license shall:

(i) submit to the department a copy of the person's current business license; and

(ii) provide to the department evidence satisfactory to the department that:

(A) there has been no change in the information submitted to the commission as part of the person's application for a retail license; and

(B) the person continues to qualify for the retail license.

(4) (a) A conditional retail license expires [~~nine~~] 18 months after the day on which the commission issues the conditional retail license, unless the conditional retail license becomes a valid retail license before that day.

(b) Notwithstanding Subsection (4)(a), the commission may extend the time period of a conditional retail license an additional [~~three~~] six months if the holder of the conditional license can show to the satisfaction of the commission that the holder of the conditional license:

(i) has an active building permit related to the licensed premises; and

(ii) is engaged in a good faith effort to pursue completion within the [~~three~~] six-month period.

Section 15. Section 32B-5-307 is amended to read:

32B-5-307. Bringing alcoholic product onto or removing alcoholic product from premises.

(1) Except as provided in Subsections (3) [~~through (5)~~] and (4):

(a) [~~A~~] a person may not bring onto the licensed premises of a retail licensee an alcoholic product for on-premise consumption[~~.~~];

(b) [~~A~~] a retail licensee may not allow a person to:

(i) bring onto licensed premises an alcoholic product for on-premise consumption; or

(ii) consume an alcoholic product brought onto the licensed premises by a person other than the retail licensee[~~.~~]; and

(c) [~~A~~] a retail licensee may not sell, offer for sale, or furnish an alcoholic product through a window or

door to a location off the licensed premises or to a vehicular traffic area.

(2) Except as provided in Subsections (3) [~~through (5)~~] and (4) and Subsection 32B-4-415(5):

(a) a person may not carry from a licensed premises of a retail licensee an open container that:

(i) is used primarily for drinking purposes; and

(ii) contains an alcoholic product;

(b) a retail licensee may not permit a patron to carry from the licensed premises an open container described in Subsection (2)(a); and

(c) (i) a person may not carry from a licensed premises of a retail licensee a sealed container of liquor that has been purchased from the retail licensee; and

(ii) a retail licensee may not permit a patron to carry from the licensed premises a sealed container of liquor that has been purchased from the retail licensee.

(3) (a) A patron may bring a bottled wine onto the premises of a retail licensee for on-premise consumption if:

(i) permitted by the retail licensee; and

(ii) the retail licensee is authorized to sell, offer for sale, or furnish wine.

(b) If a patron carries bottled wine onto the licensed premises of a retail licensee, the patron shall deliver the bottled wine to a server or other representative of the retail licensee upon entering the licensed premises.

(c) A retail licensee authorized to sell, offer for sale, or furnish wine, may provide a wine service for a bottled wine carried onto the licensed premises in accordance with this Subsection (3) or a bottled wine purchased at the licensed premises.

(d) A patron may remove from a licensed premises the unconsumed contents of a bottle of wine purchased at the licensed premises, or brought onto the licensed premises in accordance with this Subsection (3), only if before removal the bottle is recorked or recapped.

[~~(4) A patron may transport beer between the sublicensed premises of an arena licensee's accompanying sublicenses, if the patron transports the beer from and to an area of each sublicensed premises:~~]

[~~(a) that is adjacent to the other; and~~]

[~~(b) where the consumption of beer is permitted.~~]

[~~(5)~~] (4) Neither a patron nor a retail licensee violates this section if:

(a) the patron is in shared seating; and

(b) the patron purchased the patron's alcoholic beverage from a restaurant licensee whose licensed premises include the shared seating area the patron is in.

Section 16. Section 32B-5-310 is amended to read:

32B-5-310. Notifying department of change in ownership -- Inventory transfers -- Interim alcoholic beverage management agreements.

(1) The commission may suspend or revoke a retail license if the retail licensee does not [~~immediately~~] notify the department, within 60 days after the day on which the change occurs, of a change in:

(a) ownership of the retail license;

(b) the entity that manages the retail licensee or a premises licensed under this chapter;

(c) for a corporate owner, the:

(i) corporate officers or directors of the retail licensee; or

(ii) shareholders holding at least 20% of the total issued and outstanding stock of the corporation; or

(d) for a limited liability company:

(i) managers of the limited liability company; or

(ii) members owning at least 20% of the limited liability company.

(2) Notwithstanding any other provision of this title, in connection with an event described in Section 32B-8a-202 or an asset sale of a retail licensee, the parties to the transaction may enter into an inventory transfer agreement.

(3) A retail licensee may enter into an interim alcoholic beverage management agreement that provides:

(a) all proceeds, less cost of goods sold, from the sale of alcohol shall accrue to the current retail licensee; and

(b) for the duration of the agreement, the current retail licensee:

(i) shall comply with the requirements of this title that are applicable to the retail license; and

(ii) in accordance with this title, is subject to disciplinary action by the commission for any violation of this title.

(4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department may make rules governing the requirements of:

(a) an inventory transfer agreement; and

(b) an interim alcoholic beverage management agreement.

Section 17. Section 32B-6-605 is amended to read:

32B-6-605. Specific operational requirements for on-premise banquet license.

(1) (a) In addition to complying with Chapter 5, Part 3, Retail Licensee Operational Requirements, an on-premise banquet licensee and staff of the on-premise banquet licensee shall comply with this section.

(b) Failure to comply as provided in Subsection (1)(a) may result in disciplinary action in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:

(i) an on-premise banquet licensee;

(ii) individual staff of an on-premise banquet licensee; or

(iii) both an on-premise banquet licensee and staff of the on-premise banquet licensee.

(2) An on-premise banquet licensee shall comply with Subsections 32B-5-301(4) and (5) for the entire premises of the hotel, resort facility, sports center, convention center, or performing arts facility that is the basis for the on-premise banquet license.

(3) (a) For the purpose described in Subsection (3)(b), an on-premise banquet licensee shall provide the department with advance notice of a scheduled banquet in accordance with rules made by the commission.

(b) Any of the following may conduct a random inspection of a banquet:

(i) an authorized representative of the commission or the department; or

(ii) a law enforcement officer.

(4) (a) An on-premise banquet licensee is not subject to Section 32B-5-302, but shall make and maintain the records the commission or department requires.

(b) Section 32B-1-205 applies to a record required to be made or maintained in accordance with this Subsection (4).

(5) (a) Except as otherwise provided in this title, an on-premise banquet licensee may sell, offer for sale, or furnish an alcoholic product at a banquet only for consumption at the location of the banquet.

(b) Except as provided in [~~Subsections~~] Subsection 32B-5-307(4) [~~and (5)~~], a host of a banquet, a patron, or a person other than the on-premise banquet licensee or staff of the on-premise banquet licensee, may not remove an alcoholic product from the premises of the banquet.

(c) Notwithstanding Subsection 32B-5-307(3) and except as provided in [~~Subsections~~] Subsection 32B-5-307(4) [~~and (5)~~], a patron at a banquet may not bring an alcoholic product into or onto, or remove an alcoholic product from, the premises of a banquet.

(6) (a) An on-premise banquet licensee may not leave an unsold alcoholic product at the banquet following the conclusion of the banquet.

(b) At the conclusion of a banquet, an on-premise banquet licensee shall:

(i) destroy an opened and unused alcoholic product that is not saleable, under conditions established by the department; and

(ii) return to the on-premise banquet licensee's approved locked storage area any:

(A) opened and unused alcoholic product that is saleable; and

(B) unopened container of an alcoholic product.

(c) Except as provided in Subsection (6)(b) with regard to an open or sealed container of an alcoholic product not sold or consumed at a banquet, an on-premise banquet licensee:

(i) shall store the alcoholic product in the on-premise banquet licensee's approved locked storage area; and

(ii) may use the alcoholic product at more than one banquet.

(7) Notwithstanding Section 32B-5-308, an on-premise banquet licensee may not employ a minor to sell, furnish, or dispense an alcoholic product in connection with the on-premise banquet licensee's banquet and room service activities.

(8) An on-premise banquet licensee:

(a) may provide room service in portions described in Section 32B-5-304;

(b) may not sell, offer for sale, or furnish an alcoholic product at a banquet or in connection with room service any day during a period that:

(i) begins at 1 a.m.; and

(ii) ends at 9:59 a.m.; and

(c) notwithstanding Section 32B-5-305, may provide as room service one alcoholic product free of charge per guest reservation, per guest room, if the alcoholic product:

(i) is not a spirituous liquor; and

(ii) is in an unopened container not to exceed 750 milliliters.

(9) (a) Subject to the other provisions of this Subsection (9), a patron may not have more than two alcoholic products of any kind at a time before the patron.

(b) A patron may not have more than one spirituous liquor drink at a time before the patron.

(c) An individual portion of wine is considered to be one alcoholic product under Subsection (9)(a).

(10) (a) An on-premise banquet licensee shall supervise and direct a person involved in the sale, offer for sale, or furnishing of an alcoholic product.

(b) A person involved in the sale, offer for sale, or furnishing of an alcoholic product shall complete an alcohol training and education seminar.

(11) A staff person of an on-premise banquet licensee shall remain at the banquet at all times when an alcoholic product is sold, offered for sale, furnished, or consumed at the banquet.

(12) (a) Room service of an alcoholic product to a guest room or privately owned dwelling unit of a hotel or resort facility shall be provided in person by staff of an on-premise banquet licensee only to an

adult guest in the guest room or privately owned dwelling unit.

(b) An alcoholic product may not be left outside a guest room or privately owned dwelling unit for retrieval by a guest or resident.

(13) An on-premise banquet licensee may not maintain a minibar.

Section 18. Section 32B-6-703 is amended to read:

32B-6-703. Commission's power to issue on-premise beer retailer license.

(1) Before a person may store, sell, offer for sale, furnish, or allow the consumption of beer on the premises as an on-premise beer retailer, the person shall first obtain an on-premise beer retailer license from the commission in accordance with this part.

(2) (a) The commission may issue an on-premise beer retailer license to establish on-premise beer retailer licensed premises at places and in numbers as the commission considers proper for the storage, sale, offer for sale, furnishing, and consumption of beer on premises operated as an on-premise beer retailer.

(b) At the time that the commission issues an on-premise beer retailer license, the commission shall designate whether the on-premise beer retailer is a tavern.

(c) The commission may change its designation of whether an on-premise beer retailer is a tavern in accordance with rules made by the commission.

(d) (i) In determining whether an on-premise beer retailer is a tavern, the commission shall determine whether the on-premise beer retailer will engage primarily in the retail sale of beer for consumption on the establishment's premises.

(ii) In making a determination under this Subsection (2)(d), the commission shall consider:

(A) whether the on-premise beer retailer will operate as one of the following:

(I) a beer bar;

(II) a parlor;

(III) a lounge;

(IV) a cabaret; or

(V) a nightclub;

(B) if the on-premise beer retailer will operate as described in Subsection (2)(d)(ii)(A):

(I) whether the on-premise beer retailer will sell food in the establishment; and

(II) if the on-premise beer retailer sells food, whether the revenue from the sale of beer will exceed the revenue of the sale of food;

(C) whether full meals including appetizers, main courses, and desserts will be served;

(D) the square footage and seating capacity of the premises;

(E) what portion of the square footage and seating capacity will be used for a dining area in comparison to the portion that will be used as a lounge or bar area;

(F) whether the person will maintain adequate on-premise culinary facilities to prepare full meals, except a person that is located on the premises of a hotel or resort facility may use the culinary facilities of the hotel or resort facility;

(G) whether the entertainment provided on the premises of the beer retailer will be suitable for minors; and

(H) the beer retailer management's ability to manage and operate an on-premise beer retailer license including:

(I) management experience;

(II) past beer retailer management experience; and

(III) the type of management scheme that will be used by the beer retailer.

[~~(e) On or after March 1, 2012:~~]

(e) (i) To be licensed as an on-premise beer retailer that is not a tavern, a person shall:

(A) own or operate a recreational amenity and maintain at least 70% of the person's total gross revenues from business directly related to [~~a~~] the recreational amenity on or directly adjoining the licensed premises of the beer retailer, except that a person may include gross revenue from business directly related to a recreational amenity that is owned or operated by a political subdivision if the person has a contract meeting the requirements of Subsection (2)(e)(iv) with the political subdivision; [~~or~~]

(B) [~~have~~] own or operate a recreational amenity on or directly adjoining the licensed premises of the beer retailer and maintain at least 70% of the person's total gross revenues from the sale of food[~~.~~]; or

(C) if the licensed premises of the on-premise beer retailer is on or directly adjoining a ski resort on January 1, 2021, obtain the consent of the ski resort to operate as an on-premise beer retailer that is not a tavern and maintain at least 70% of the person's total gross revenues from the sale of food.

(ii) The commission may not license a person as an on-premise beer retailer if the person does not:

(A) meet the requirements of Subsection (2)(e)(i); or

(B) operate as a tavern.

(iii) A person who[~~, after August 1, 2011,~~] applies for an on-premise beer retailer license that is not a tavern and does not meet the requirements of Subsection (2)(e)(i), may not have or construct facilities for the dispensing or storage of an alcoholic product that do not meet the requirements of Subsection 32B-6-905(11)(a)(ii).

(iv) A contract described in Subsection (2)(e)(i)(A) shall:

(A) allow the beer retailer to include the total gross revenue from operations of the recreational amenity in the beer retailer's total gross receipts for purposes of Subsection (2)(e)(i)(A); and

(B) give the department the authority to audit financial information of the political subdivision to the extent necessary to confirm that the requirements of Subsection (2)(e)(i)(A) are met.

(3) Subject to Section 32B-1-201:

(a) [~~The~~] the commission may not issue a total number of on-premise beer retailer licenses that are taverns that at any time exceeds the number determined by dividing the population of the state by 73,666[~~.~~]; and

(b) [~~The~~] the commission may issue a seasonal on-premise beer retailer license for a tavern in accordance with Section 32B-5-206.

(4) (a) Unless otherwise provided in Subsection (4)(b):

(i) only one on-premise beer retailer license is required for each building or resort facility owned or leased by the same person; and

(ii) a separate license is not required for each retail beer dispensing location in the same building or on the same resort premises owned or operated by the same person.

(b) (i) Subsection (4)(a) applies only if each retail beer dispensing location in the building or resort facility operates in the same manner.

(ii) If each retail beer dispensing location does not operate in the same manner:

(A) one on-premise beer retailer license designated as a tavern is required for the locations in the same building or on the same resort premises that operate as a tavern; and

(B) one on-premise beer retailer license is required for the locations in the same building or on the same resort premises that do not operate as a tavern.

Section 19. Section 32B-6-1004 is amended to read:

32B-6-1004. Specific licensing requirements for a hospitality amenity license.

(1) To obtain a hospitality amenity license a person shall comply with Chapter 5, Part 2, Retail Licensing Process.

(2) (a) A hospitality amenity license expires on October 31 of each year.

(b) To renew a person's hospitality amenity license, a person shall comply with the renewal requirements of Chapter 5, Part 2, Retail Licensing Process, by no later than September 30.

(3) (a) The nonrefundable application fee for a hospitality amenity license is $330.

(b) The initial license fee for a hospitality amenity license is $2,000.

(c) The renewal fee for a hospitality amenity license is $1,000.

(4) The bond amount required for a hospitality amenity license is the penal sum of $10,000.

(5) Notwithstanding Subsection 32B-5-303(3), the [~~department~~] commission may approve an additional location in or on the licensed premises of a hospitality amenity licensee from which the hospitality amenity licensee may store, sell, offer for sale, furnish, or allow the consumption of an alcoholic product that is not included in the person's original application only:

(a) upon proper application by a hospitality amenity licensee; and

(b) in accordance with guidelines the commission approves.

Section 20. Section 32B-8-501 is amended to read:

32B-8-501. Enforcement of qualifications for resort license or sublicense.

(1) The commission or department may not take an action described in Subsection (2) with regard to a resort license unless the person who is found not to meet the qualifications of Subsection 32B-1-304(1) is one of the following who is engaged in the management of the resort:

(a) a partner;

(b) a managing agent;

(c) a manager;

(d) an officer;

(e) a director;

(f) a stockholder who holds at least 20% of the total issued and outstanding stock of the corporation;

(g) a member who owns at least 20% of the limited liability company; or

(h) a person employed to act in a supervisory or managerial capacity for the resort licensee.

(2) Subsection (1) applies to:

(a) the commission immediately suspending or revoking a resort license, if after the day on which the resort license is issued, a person described in Subsection 32B-1-304(7)(a)(i):

(i) is found to have been convicted of an offense described in Subsection 32B-1-304(1)(a) before the commission issues the resort license; or

(ii) on or after the day on which the commission issues the resort license:

(A) is convicted of an offense described in Subsection 32B-1-304(1)(a)(i) or (ii); or

(B) (I) is convicted of driving under the influence of alcohol, a drug, or the combined influence of alcohol and a drug; and

(II) was convicted of driving under the influence of alcohol, a drug, or the combined influence of alcohol and a drug within five years before the day on which the person is convicted of the offense described in Subsection (2)(b)(ii)(A);

(b) the director taking an emergency action by immediately suspending the operation of a resort license in accordance with Title 63G, Chapter 4, Administrative Procedures Act, for the period during which the criminal matter is being adjudicated if a person described in Subsection 32B-1-304(7)(a):

(i) is arrested on a charge for an offense described in Subsection 32B-1-304(1)(a)(i) or (ii); or

(ii) (A) is arrested on a charge for the offense of driving under the influence of alcohol, a drug, or the combined influence of alcohol and a drug; and

(B) was convicted of driving under the influence of alcohol, a drug, or the combined influence of alcohol and a drug within five years before the day on which the person is arrested on a charge described in Subsection (2)(b)(ii)(A); and

(c) the commission suspending or revoking a resort license because a person to whom the commission issues a resort license under this chapter no longer possesses the qualifications required by this title for obtaining the resort license.

(3) This section does not prevent the commission from suspending or revoking a sublicense that is part of a resort license if a person employed to act in a supervisory or managerial capacity for a sublicense no longer meets the qualification requirements in the provisions applicable to the sublicense.

Section 21. Section 32B-8a-102 is amended to read:

32B-8a-102. Definitions.

As used in this chapter:

(1) (a) "Alcohol license" means:

[~~(a)~~] (i) a retail license;

[~~(b)~~] (ii) an off-premise beer retailer state license;

[~~(c)~~] (iii) a brewery manufacturing license;

[~~(d)~~] (iv) a distillery manufacturing license;

[~~(e)~~] (v) a winery manufacturing license; and

[~~(f)~~] (vi) a special use permit that is an industrial or manufacturing use permit.

(b) "Alcohol license" does not include a:

(i) master full-service restaurant license;

(ii) master limited-service restaurant license; or

(iii) master off-premise beer retailer state license.

(2) "Business entity" means a corporation, partnership, limited liability company, sole proprietorship, or similar entity.

(3) "Transfer fee" means a fee described in Section 32B-8a-303.

(4) "Transferee or buyer" means a person who intends to hold an alcohol license after the transfer of the alcohol license if the transfer is approved by the commission under this chapter.

(5) "Transferor or seller" means an alcohol licensee who intends to transfer an alcohol license held by the alcohol licensee if the commission approves the transfer under this chapter.

Section 22. Section 32B-8a-201 is amended to read:

32B-8a-201. Transferability of alcohol license.

(1) (a) An alcohol license is separate from other property of an alcohol licensee.

(b) Notwithstanding Subsection (1)(a), the Legislature may terminate or modify the existence of any type of alcohol license.

(c) Except as provided in this chapter, a person may not:

(i) transfer an alcohol license from one location to another location; or

(ii) sell, transfer, assign, exchange, barter, give, or attempt in any way to dispose of the alcohol license to another person whether for monetary gain or not.

(d) If approved by the commission and subject to the requirements of this chapter, an alcohol licensee may transfer the alcohol license:

(i) from the alcohol licensee to another person, regardless of whether the alcohol license is for the same premises; and

(ii) from one premises of the alcohol licensee to another premises of the alcohol licensee.

(2) (a) The commission may not approve the transfer of an alcohol license that results in a transferee or buyer holding a different type of alcohol license than is held by the transferor or seller.

(b) Unless the alcohol license is a bar establishment license, the commission may not approve the transfer of an alcohol license from one location to another location, if the location of the premises to which the alcohol license would be transferred is in a different county than the location of the licensed premises of the alcohol license being transferred.

(3) The commission may not approve the transfer of an alcohol license if the transferee[~~: (a)~~] or buyer is not eligible to hold the same type of alcohol license as the alcohol license to be transferred at the premises to which the alcohol license would be transferred[~~; or~~].

[~~(b) is delinquent in the payment of any of the following that arises in full or in part out of the operation of a alcohol license:~~]

[~~(i) a tax, fee, or charge due under this title or Title 59, Revenue and Taxation; or~~]

[~~(ii) an amount due under Title 35A, Chapter 4, Employment Security Act.~~]

[~~(4) This chapter does not apply to a:~~]

[~~(a) master full-service restaurant license;~~]

[~~(b) master limited-service restaurant license; or~~]

[~~(c) master off-premise beer retailer state license.~~]

(4) The commission may not approve the transfer of an alcohol license unless the transferee or buyer attests, subject to the penalty for making a false material statement under Section 32B-4-504, that the transferee or buyer is in compliance with:

(a) federal tax laws;

(b) Title 35A, Chapter 4, Employment Security Act; and

(c) Title 59, Revenue and Taxation.

(5) The commission may not approve the transfer of an alcohol license unless the transferor or seller attests, subject to the penalty for making a false material statement under Section 32B-4-504, that the transferor or seller is not delinquent on any lease obligation related to the licensed premises for the alcohol license the transferor or seller is transferring.

Section 23. Section 32B-8a-202 is amended to read:

32B-8a-202. Effect of transfer of ownership of business entity.

(1) (a) When the ownership of 51% or more of the shares of stock of a corporation is acquired by or transferred to one or more persons who did not hold the ownership of 51% of those shares of stock on the date an alcohol license is issued to the corporation, the corporation shall comply with this chapter to transfer the alcohol license to the corporation as if the corporation is newly constituted.

(b) When there is a new general partner or when the ownership of 51% or more of the capital or profits of a limited partnership is acquired by or transferred to one or more persons as general or limited partners and who did not hold ownership of 51% or more of the capital or profits of the limited partnership on the date an alcohol license is issued to the limited partnership, the limited partnership shall comply with this chapter to transfer the alcohol license to the limited partnership as if the limited partnership is newly constituted.

(c) When the ownership of 51% or more of the interests in a limited liability company is acquired by or transferred to one or more persons as members who did not hold ownership of 51% or more of the interests in the limited liability company on the date an alcohol license is issued to the limited liability company, the limited liability company shall comply with this chapter to transfer the alcohol license to the limited liability company as if the limited liability company is newly constituted.

(2) A business entity shall comply with this section within 60 days after the day on which [~~the event~~] a sale or transfer described in Subsection (1) occurs.

Section 24. Section 32B-8a-203 is amended to read:

32B-8a-203. Operational requirements for transferee or buyer.

(1) (a) A transferee or buyer shall begin operations of the alcohol license within 30 days after the day on which a transfer is approved by the commission, except that:

(i) the department may grant an extension of this time period not to exceed 30 days; and

(ii) after the extension is authorized by the department under Subsection (1)(a)(i), the commission may grant one or more additional extensions not to exceed, in the aggregate, seven months from the day on which the commission approves the transfer, if the transferee or buyer can demonstrate to the commission that the transferee or buyer:

(A) cannot begin operations because the transferee or buyer is improving the licensed premises;

(B) has obtained a building permit for the improvements described in Subsection (1)(a)(ii)(A), if the respective local government entity requires a building permit for the improvements; and

(C) is working expeditiously to complete the improvements to the licensed premises.

(b) A transferee or buyer is considered to have begun operations of the alcohol license if the transferee or buyer:

(i) has a licensed premises that is open for business;

(ii) (A) sells, offers for sale, or furnishes alcoholic products to a patron on the licensed premises described in Subsection (1)(b)(i);

(B) manufactures an alcoholic product on the licensed premises described in Subsection (1)(b)(i); or

(C) engages in an industrial or manufacturing pursuit containing alcohol on the licensed premises described in Subsection (1)(b)(i); and

(iii) has a valid business license.

(2) If a transferee or buyer fails to begin operations of the alcohol license within the time period required by Subsection (1), the following are automatically forfeited effective immediately:

(a) the alcohol license; and

(b) the alcohol license fee.

(3) A transferee or buyer shall begin operations of the alcohol license at the location to which the transfer applies before the transferee or buyer may

seek a transfer of the alcohol license to a different location.

(4) Notwithstanding Subsection (1), the commission may not issue a conditional license unless the requirements of Section 32B-5-205 are met, except that the time periods required by this section supersede the time period provided in Section 32B-5-205.

Section 25. Section 32B-8a-302 is amended to read:

32B-8a-302. Application -- Approval process.

(1) To obtain the transfer of an alcohol license from an alcohol licensee, the transferee or buyer shall file a transfer application with the department that includes:

(a) an application in the form provided by the department;

(b) a statement as to whether the consideration, if any, to be paid to the transferor or seller includes payment for transfer of the alcohol license; and

[~~(c) a statement executed under penalty of perjury that the consideration as set forth in the escrow agreement required by Section 32B-8a-401 is deposited with the escrow holder; and~~]

[~~(d)~~] (c) (i) an application fee of $300; and

(ii) a transfer fee determined in accordance with Section 32B-8a-303.

[~~(2) If the intended transfer of an alcohol license involves consideration, at least 10 days before the commission may approve the transfer, the department shall post a notice of the intended transfer on the Public Notice Website created in Section 63F-1-701 that states the following:~~]

[~~(a) the name of the transferor;~~]

[~~(b) the name and address of the business currently associated with the alcohol license;~~]

[~~(c) instructions for filing a claim with the escrow holder; and~~]

[~~(d) the projected date that the commission may consider the transfer application.~~]

[~~(3)~~] (2) (a) (i) Before the commission may approve the transfer of an alcohol license, the department shall conduct an investigation and may hold public hearings to gather information and make recommendations to the commission as to whether the transfer of the alcohol license should be approved.

(ii) The department shall forward the information and recommendations described in this Subsection [~~(3)(a)~~] (2)(a) to the commission to aid in the commission's determination.

(b) Before approving a transfer, the commission shall:

(i) determine that the transferee or buyer filed a complete application;

(ii) determine that the transferee or buyer is eligible to hold the type of alcohol license that is to be transferred at the premises to which the alcohol license would be transferred;

(iii) determine that the transferee [~~is not delinquent in the payment of an amount described in~~] or buyer has made the attestation described in Subsection 32B-8a-201[~~(3)~~](4);

(iv) determine that the transferee is not disqualified under Section 32B-1-304;

(v) consider the locality within which the proposed licensed premises is located, including:

(A) the factors listed in Section 32B-5-203 for the issuance of a retail license;

(B) the factors listed in Section 32B-7-404 for the issuance of an off-premise beer retailer state license;

(C) the factors listed in Section 32B-11-206 for the issuance of a manufacturing license; and

(D) the factors listed in Section 32B-10-204 for the issuance of a special use permit that is an industrial and manufacturing use permit;

(vi) consider the [~~transferee's~~] transferee or buyer's ability to manage and operate the retail license to be transferred, including:

(A) the factors listed in Section 32B-5-203 for the issuance of a retail license;

(B) the factors listed in Section 32B-7-404 for the issuance of an off-premise beer retailer state license;

(C) the factors listed in Section 32B-11-206 for the issuance of a manufacturing license; and

(D) the factors listed in Section 32B-10-204 for the issuance of a special use permit that is an industrial and manufacturing use permit;

(vii) consider the nature or type of alcohol licensee operation of the transferee or buyer, including:

(A) the factors listed in Section 32B-5-203 for the issuance of a retail license;

(B) the factors listed in Section 32B-7-404 for the issuance of an off-premise beer retailer state license;

(C) the factors listed in Section 32B-11-206 for the issuance of a manufacturing license; and

(D) the factors listed in Section 32B-10-204 for the issuance of a special use permit that is an industrial and manufacturing use permit; and

[~~(viii) if the transfer involves consideration, determine that the transferee and transferor have complied with Part 4, Protection of Creditors; and~~]

[~~(ix)~~] (viii) consider any other factor the commission considers necessary.

[~~(4)~~] (3) Except as otherwise provided in Section 32B-1-202, the commission may not approve the transfer of an alcohol license to premises that do not

meet the proximity requirements of Subsection 32B-1-202(2), Section 32B-7-201, or Section 32B-11-210, as applicable.

Section 26. Section 32B-8a-303 is amended to read:

32B-8a-303. Transfer fees.

(1) Except as otherwise provided in this section, the department shall charge the following transfer fees:

(a) for a transfer of an alcohol license from an alcohol licensee to another person, the transfer fee equals the initial license fee amount specified in the relevant chapter or part for the type of alcohol license that is being transferred;

(b) for the transfer of an alcohol license from one premises to another premises of the same alcohol licensee, the transfer fee [~~equals the renewal fee amount specified in the relevant chapter or part for the type of alcohol license that is being transferred~~] is $300;

(c) subject to Subsections (1)(d) and (2), for a transfer described in Section 32B-8a-202, the transfer fee equals the renewal fee amount specified in the relevant chapter or part for the type of alcohol license that is being transferred;

(d) for a transfer of an alcohol license to include the parent or adult child of an alcohol licensee, when no consideration is given for the transfer, the transfer fee is one-half of the amount described in Subsection (1)(a); and

(e) for one of the following transfers, the transfer fee is one-half of the amount described in Subsection (1)(a):

(i) an alcohol license of one spouse to the other spouse when the transfer application is made before the entry of a final decree of divorce;

(ii) an alcohol license of a deceased alcohol licensee to:

(A) the one or more surviving partners of the deceased alcohol licensee;

(B) the executor, administrator, or conservator of the estate of the deceased alcohol licensee; or

(C) the surviving spouse of the deceased alcohol licensee, if the deceased alcohol licensee leaves no estate to be administered;

(iii) an alcohol license of an incompetent person or conservatee by or to the conservator or guardian for the incompetent person or conservatee who is the alcohol licensee;

(iv) an alcohol license of a debtor in a bankruptcy case by or to the trustee of a bankrupt estate of the alcohol licensee;

(v) an alcohol license of a person for whose estate a receiver is appointed may be transferred by or to a receiver of the estate of the alcohol licensee;

(vi) an alcohol license of an assignor for the benefit of creditors by or to an assignee for the benefit of creditors of a licensee with the consent of the assignor;

(vii) an alcohol license transferred to a revocable living trust if the alcohol licensee is the trustee of the revocable living trust;

(viii) an alcohol license transferred between partners when no new partner is being licensed;

(ix) an alcohol license transferred between corporations whose outstanding shares of stock are owned by the same individuals;

(x) upon compliance with Section 32B-8a-202, an alcohol license to a corporation whose entire stock is owned by:

(A) the transferor or seller; or

(B) the spouse of the transferor or seller;

(xi) upon compliance with Section 32B-8a-202, an alcohol license to a limited liability company whose entire membership consists of:

(A) the transferor or seller; or

(B) the spouse of the transferor or seller; or

(xii) an alcohol license transferred from a corporation to a person who owns, or whose spouse owns, the entire stock of the corporation.

(2) If there are multiple and simultaneous transfers of alcohol licenses under Section 32B-8a-202, a transfer fee described in Subsection (1)(c) is required for only one of the alcohol licenses being transferred.

(3) (a) Except as provided in Subsection (3)(b), a transfer fee required under Subsection (1) is due for a transfer subsequent to a transfer under Subsection (1)(e)(xii) if the subsequent transfer is of 51% of the stock in a corporation to which an alcohol license is transferred by an alcohol licensee or the spouse of an alcohol licensee.

(b) If the transfer of stock described in Subsection (3)(a) is from a parent to the parent's adult child or adult grandchild, the transfer fee is one-half of the amount described in Subsection (1)(a).

(4) Money collected from a transfer fee shall be deposited in the Liquor Control Fund.

Section 27. Section 32B-8a-501 is amended to read:

32B-8a-501. License not to be pledged as security -- Prohibited transfers.

(1) An alcohol licensee may not enter into any agreement under which the alcohol licensee pledges the alcohol license as security for a loan or as security for the fulfillment of any agreement.

(2) An alcohol licensee may not transfer an alcohol license if the transfer is to:

(a) satisfy a loan or to fulfill an agreement entered into more than 90 days before the day on which the transfer application is filed;

(b) gain or establish a preference to or for any creditor of the transferor or seller, except as provided by Section 32B-8a-202; or

(c) defraud or injure a creditor of the transferor or seller.

(3) An alcohol licensee may not transfer a bar establishment license in a manner that circumvents the limitations of Subsection 32B-8d-103(3)(b) or (c).

(4) An alcohol licensee may not transfer an alcohol license except in accordance with this chapter.

Section 28. Section 32B-8d-104 is amended to read:

32B-8d-104. General operational requirements for a sublicense.

(1) Except as provided in Subsections (2) [~~and (3)~~] through (4), a person operating under a sublicense is subject to the operational requirements under the provisions applicable to the sublicense.

(2) Notwithstanding a requirement in the provisions applicable to the sublicense, a person operating under the sublicense is not subject to a requirement that a certain percentage of the gross receipts for the sublicense be from the sale of food, except to the extent that the gross receipts for the sublicense are included in calculating the percentages under Subsections 32B-8-401(3), 32B-8b-301(5), and 32B-8c-301(3).

(3) Notwithstanding Sections 32B-6-202 and 32B-6-302, a bar structure in a sublicensed premises operated under a full-service restaurant sublicense or a limited-service restaurant sublicense is considered a grandfathered bar structure if the sublicense is a sublicense to a resort license issued on or before December 31, 2010.

(4) Notwithstanding Section 32B-5-307:

(a) a patron may transport beer between the sublicensed premises of an arena licensee's accompanying sublicenses, if the patron transports the beer from and to an area of each sublicensed premises:

(i) that is adjacent to the other; and

(ii) where the consumption of beer is permitted; and

(b) staff of a sublicensee or person otherwise operating under a sublicense of a hotel licensee or a resort licensee may transport an alcoholic beverage from and to sublicensed premises of the hotel license or resort license, if:

(i) the sublicensee is:

(A) a full-service restaurant sublicensee;

(B) a limited-service restaurant sublicensee;

(C) a bar establishment sublicensee;

(D) a beer-only restaurant sublicensee; or

(E) an on-premise beer retailer sublicensee;

(ii) the individual staff carries the alcoholic beverage:

(A) from the sublicensed premises of a sublicensee described in Subsection (4)(b)(i);

(B) briefly through an unlicensed area or briefly through sublicensed premises on which the type of alcoholic beverage that the individual staff carries is permitted; and

(C) to the sublicensed premises of a sublicensee described in Subsection (4)(b)(i); and

(iii) the individual staff at all times stays within:

(A) the boundary of the hotel, as defined in Section 32B-8b-102; or

(B) the boundary of the resort building, as defined in Section 32B-8-102.

[~~(4)~~] (5) Except as provided in Section 32B-8-502, for purposes of interpreting an operational requirement imposed by the provisions applicable to a sublicense:

(a) a requirement imposed on a sublicensee or person operating under a sublicense applies to the principal licensee; and

(b) a requirement imposed on staff of a sublicensee or person operating under a sublicense applies to staff of the principal licensee.

Section 29. Section 32B-11-202 is amended to read:

32B-11-202. Exemption for manufacture of fermented beverage.

(1) As used in this section, "fermented alcoholic beverage" means:

(a) beer;

(b) heavy beer; or

(c) wine.

(2) An individual may without being licensed under this chapter manufacture [~~in the individual's personal residence~~] a fermented alcoholic beverage if:

(a) the individual ferments the alcoholic beverage:

(i) in the individual's personal residence; or

(ii) (A) on the premises of a winery manufacturing license or brewery manufacturing license; and

(B) under the supervision of a winery manufacturing licensee or brewery manufacturing licensee;

(b) the individual is 21 years [~~of age~~] old or older;

[~~(b)~~] (c) the individual manufactures no more than:

(i) 100 gallons in a calendar year, if there is one individual that is 21 years [~~of age~~] old or older residing in the household; or

(ii) 200 gallons in a calendar year, if there are two or more individuals who are 21 years [~~of age~~] old or older residing in the household;

[~~(c)~~] (d) the fermented alcoholic beverage is manufactured and used for personal or family use and consumption, including use at an organized event where fermented alcoholic beverages are judged as to taste and quality; and

[~~(d)~~] (e) the fermented alcoholic beverage is not for:

(i) sale or offering for sale; or

(ii) consumption on a licensed premise.

(3) An individual may store a fermented alcoholic beverage manufactured as provided in Subsection (2) in the individual's personal residence.

(4) A fermented alcoholic beverage manufactured in accordance with Subsection (2) may be removed from the premises where it is manufactured:

(a) for personal or family use, including use at an organized event where fermented alcoholic beverages are judged as to taste and quality;

(b) if the fermented alcoholic beverage is transported in compliance with Section 41-6a-526; and

(c) if the fermented alcoholic beverage is removed only in the following quantities:

(i) for personal and family use that is unrelated to an organized event where fermented alcoholic beverages are judged as to taste and quality, the quantity that may be possessed at one time is:

(A) one liter of wine for each individual who is 21 years [~~of age~~] old or older residing in the household;

(B) 72 ounces of heavy beer for each individual who is 21 years [~~of age~~] old or older residing in the household; or

(C) 72 ounces of beer for each individual who is 21 years [~~of age~~] old or older residing in the household; and

(ii) for on-premise consumption at an organized event where fermented alcoholic beverages are judged as to taste and quality, the quantity that may be removed for each organized event is:

(A) one liter of wine for each wine category in which the individual enters, except that the individual may not remove wine for more than three categories for the same organized event;

(B) 72 ounces of heavy beer for each heavy beer category in which the individual enters, except that the individual may not remove heavy beer for more than three categories for the same organized event; or

(C) 72 ounces of beer for each beer category in which the individual enters, except that the individual may not remove beer for more than three categories for the same organized event.

(5) A partnership, corporation, or association may not manufacture a fermented alcoholic beverage under this section for personal or family use and consumption without obtaining a license under this chapter, except that an individual who operates a brewery under this chapter as an individual owner or in partnership with others, may remove beer from the brewery for personal or family use in the amounts described in Subsection (2)[~~(b)~~](c).

Section 30. Section 32B-11-504 is enacted to read:

32B-11-504. Department's authority regarding small-brewer status.

(1) A brewer seeking to obtain small-brewer status shall provide to the department any documentation or information the department determines necessary to determine if the brewer is part of a controlled group of breweries.

(2) The department may revoke a brewer's small-brewer status at any time, if the department determines the brewer does not qualify as a small brewer.

Section 31. Section 32B-12-205 is amended to read:

32B-12-205. Duties of commission and department before issuing liquor warehousing license.

(1) (a) Before the commission may issue a warehousing license or approve a change of location for a licensee's warehouse facility, the department shall conduct an investigation and may hold public hearings to gather information and make recommendations to the commission as to whether a liquor warehousing license should be issued or a change of location granted.

(b) The department shall forward the information and recommendations described in Subsection (1)(a) to the commission to aid in the commission's determination.

(2) Before issuing a liquor warehousing license, the commission shall:

(a) determine that the person filed a complete application and has complied with Sections 32B-12-202 and 32B-12-204;

(b) determine that the person is not disqualified under Section 32B-1-304;

(c) consider the physical characteristics of the premises where [~~it is proposed that liquor be warehoused, such as~~] the person proposes to warehouse liquor, including:

(i) location;

(ii) proximity to transportation; and

(iii) condition, size, and security of the licensed premises;

(d) consider the person's ability to properly use the liquor warehousing license within the requirements of this title and the commission rules including:

(i) the types of products other than liquor that the person is warehousing;

(ii) the brands of liquor the person intends to warehouse; and

(iii) the means the person intends to use to distribute the liquor; and

(e) consider any other factor the commission considers necessary.

(3) Before approving a liquor warehousing licensee's request to change the location of the licensee's warehouse facility, the commission shall:

(a) determine that the licensee filed a complete change of location application;

(b) consider the physical characteristics of the premises where the licensee proposes to warehouse liquor, including:

(i) location;

(ii) proximity to transportation; and

(iii) condition, size, and security of the licensed premises; and

(c) consider any other factor the commission considers necessary.

Section 32. Section 32B-12-207 is enacted to read:

32B-12-207. Changing location of a warehousing facility.

A liquor warehousing licensee may change the location of the licensee's warehousing facility, if the licensee:

(1) submits to the department:

(a) a completed change of location application in a form prescribed by the department;

(b) a nonrefundable $300 application fee;

(c) written consent of the local authority;

(d) a floor plan of the licensee's proposed new warehouse, including the area in which the licensee proposes to store liquor; and

(e) any other information the commission or department may require; and

(2) begins operation at the new facility within 30 days after the day on which the commission approves the requested change in location.

Section 33. Section 63G-4-102 is amended to read:

63G-4-102. Scope and applicability of chapter.

(1) Except as set forth in Subsection (2), and except as otherwise provided by a statute superseding provisions of this chapter by explicit reference to this chapter, the provisions of this chapter apply to every agency of the state and govern:

(a) state agency action that determines the legal rights, duties, privileges, immunities, or other legal interests of an identifiable person, including agency action to grant, deny, revoke, suspend, modify, annul, withdraw, or amend an authority, right, or license; and

(b) judicial review of the action.

(2) This chapter does not govern:

(a) the procedure for making agency rules, or judicial review of the procedure or rules;

(b) the issuance of a notice of a deficiency in the payment of a tax, the decision to waive a penalty or interest on taxes, the imposition of and penalty or interest on taxes, or the issuance of a tax assessment, except that this chapter governs an agency action commenced by a taxpayer or by another person authorized by law to contest the validity or correctness of the action;

(c) state agency action relating to extradition, to the granting of a pardon or parole, a commutation or termination of a sentence, or to the rescission, termination, or revocation of parole or probation, to the discipline of, resolution of a grievance of, supervision of, confinement of, or the treatment of an inmate or resident of a correctional facility, the Utah State Hospital, the Utah State Developmental Center, or a person in the custody or jurisdiction of the Division of Substance Abuse and Mental Health, or a person on probation or parole, or judicial review of the action;

(d) state agency action to evaluate, discipline, employ, transfer, reassign, or promote a student or teacher in a school or educational institution, or judicial review of the action;

(e) an application for employment and internal personnel action within an agency concerning its own employees, or judicial review of the action;

(f) the issuance of a citation or assessment under Title 34A, Chapter 6, Utah Occupational Safety and Health Act, and Title 58, Occupations and Professions, except that this chapter governs an agency action commenced by the employer, licensee, or other person authorized by law to contest the validity or correctness of the citation or assessment;

(g) state agency action relating to management of state funds, the management and disposal of school and institutional trust land assets, and contracts for the purchase or sale of products, real property, supplies, goods, or services by or for the state, or by or for an agency of the state, except as provided in those contracts, or judicial review of the action;

(h) state agency action under Title 7, Chapter 1, Part 3, Powers and Duties of Commissioner of Financial Institutions, Title 7, Chapter 2, Possession of Depository Institution by Commissioner, Title 7, Chapter 19, Acquisition of Failing Depository Institutions or Holding Companies, and Title 63G, Chapter 7, Governmental Immunity Act of Utah, or judicial review of the action;

(i) the initial determination of a person's eligibility for unemployment benefits, the initial determination of a person's eligibility for benefits under Title 34A, Chapter 2, Workers' Compensation Act, and Title 34A, Chapter 3, Utah Occupational Disease Act, or the initial determination of a person's unemployment tax liability;

(j) state agency action relating to the distribution or award of a monetary grant to or between

governmental units, or for research, development, or the arts, or judicial review of the action;

(k) the issuance of a notice of violation or order under Title 26, Chapter 8a, Utah Emergency Medical Services System Act, Title 19, Chapter 2, Air Conservation Act, Title 19, Chapter 3, Radiation Control Act, Title 19, Chapter 4, Safe Drinking Water Act, Title 19, Chapter 5, Water Quality Act, Title 19, Chapter 6, Part 1, Solid and Hazardous Waste Act, Title 19, Chapter 6, Part 4, Underground Storage Tank Act, or Title 19, Chapter 6, Part 7, Used Oil Management Act, or Title 19, Chapter 6, Part 10, Mercury Switch Removal Act, except that this chapter governs an agency action commenced by a person authorized by law to contest the validity or correctness of the notice or order;

(l) state agency action, to the extent required by federal statute or regulation, to be conducted according to federal procedures;

(m) the initial determination of a person's eligibility for government or public assistance benefits;

(n) state agency action relating to wildlife licenses, permits, tags, and certificates of registration;

(o) a license for use of state recreational facilities;

(p) state agency action under Title 63G, Chapter 2, Government Records Access and Management Act, except as provided in Section 63G-2-603;

(q) state agency action relating to the collection of water commissioner fees and delinquency penalties, or judicial review of the action;

(r) state agency action relating to the installation, maintenance, and repair of headgates, caps, values, or other water controlling works and weirs, flumes, meters, or other water measuring devices, or judicial review of the action;

(s) the issuance and enforcement of an initial order under Section 73-2-25;

(t) (i) a hearing conducted by the Division of Securities under Section 61-1-11.1; and

(ii) an action taken by the Division of Securities under a hearing conducted under Section 61-1-11.1, including a determination regarding the fairness of an issuance or exchange of securities described in Subsection 61-1-11.1(1);

(u) state agency action relating to water well driller licenses, water well drilling permits, water well driller registration, or water well drilling construction standards, or judicial review of the action;

(v) the issuance of a determination and order under Title 34A, Chapter 5, Utah Antidiscrimination Act; [~~or~~]

(w) state environmental studies and related decisions by the Department of Transportation approving state or locally funded projects, or judicial review of the action[~~.~~]; or

(x) the suspension of operations under Subsection 32B-1-304(3).

(3) This chapter does not affect a legal remedy otherwise available to:

(a) compel an agency to take action; or

(b) challenge an agency's rule.

(4) This chapter does not preclude an agency, prior to the beginning of an adjudicative proceeding, or the presiding officer during an adjudicative proceeding from:

(a) requesting or ordering a conference with parties and interested persons to:

(i) encourage settlement;

(ii) clarify the issues;

(iii) simplify the evidence;

(iv) facilitate discovery; or

(v) expedite the proceeding; or

(b) granting a timely motion to dismiss or for summary judgment if the requirements of Rule 12(b) or Rule 56 of the Utah Rules of Civil Procedure are met by the moving party, except to the extent that the requirements of those rules are modified by this chapter.

(5) (a) A declaratory proceeding authorized by Section 63G-4-503 is not governed by this chapter, except as explicitly provided in that section.

(b) Judicial review of a declaratory proceeding authorized by Section 63G-4-503 is governed by this chapter.

(6) This chapter does not preclude an agency from enacting a rule affecting or governing an adjudicative proceeding or from following the rule, if the rule is enacted according to the procedures outlined in Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and if the rule conforms to the requirements of this chapter.

(7) (a) If the attorney general issues a written determination that a provision of this chapter would result in the denial of funds or services to an agency of the state from the federal government, the applicability of the provision to that agency shall be suspended to the extent necessary to prevent the denial.

(b) The attorney general shall report the suspension to the Legislature at its next session.

(8) Nothing in this chapter may be interpreted to provide an independent basis for jurisdiction to review final agency action.

(9) Nothing in this chapter may be interpreted to restrict a presiding officer, for good cause shown, from lengthening or shortening a time period prescribed in this chapter, except the time period established for judicial review.

(10) Notwithstanding any other provision of this section, this chapter does not apply to a special adjudicative proceeding, as defined in Section 19-1-301.5, except to the extent expressly provided in Section 19-1-301.5.

(11) Subsection (2)(w), regarding action taken based on state environmental studies and policies of the Department of Transportation, applies to any claim for which a court of competent jurisdiction has not issued a final unappealable judgment or order before May 14, 2019.

Section 34. Section 63I-2-232 is amended to read:

63I-2-232. Repeal dates -- Title 32B.

(1) Subsection 32B-1-102(9) is repealed July 1, 2022.

(2) Subsection 32B-1-407(3)(d) is repealed July 1, 2022.

[~~(3) Section 32B-2-211.1 is repealed November 1, 2020.~~]

[~~(4) Subsection 32B-5-202(4), which addresses license renewal during 2020, is repealed January 1, 2021.~~]

[~~(5)~~] (3) Subsections 32B-6-202(3) and (4) are repealed July 1, 2022.

[~~(6)~~] (4) Section 32B-6-205 is repealed July 1, 2022.

[~~(7)~~] (5) Subsection 32B-6-205.2(16) is repealed July 1, 2022.

[~~(8)~~] (6) Section 32B-6-205.3 is repealed July 1, 2022.

[~~(9)~~] (7) Subsections 32B-6-302(3) and (4) are repealed July 1, 2022.

[~~(10)~~] (8) Section 32B-6-305 is repealed July 1, 2022.

[~~(11)~~] (9) Subsection 32B-6-305.2(15) is repealed July 1, 2022.

[~~(12)~~] (10) Section 32B-6-305.3 is repealed July 1, 2022.

[~~(13)~~] (11) Section 32B-6-404.1 is repealed July 1, 2022.

[~~(14)~~] (12) Section 32B-6-409 is repealed July 1, 2022.

[~~(15)~~] (13) Subsection 32B-6-703(2)(e)[~~(iv)~~](iii) is repealed July 1, 2022.

[~~(16)~~] (14) Subsections 32B-6-902(1)(c), (1)(d), and (2) are repealed July 1, 2022.

[~~(17)~~] (15) Section 32B-6-905 is repealed July 1, 2022.

[~~(18)~~] (16) Subsection 32B-6-905.1(15) is repealed July 1, 2022.

[~~(19)~~] (17) Section 32B-6-905.2 is repealed July 1, 2022.

[~~(20)~~] (18) Subsection 32B-8d-104(3) is repealed July 1, 2022.

Section 35. Section 77-39-101 is amended to read:

77-39-101. Investigation of sales of alcohol, tobacco products, electronic cigarette products, and nicotine products to underage individuals.

(1) As used in this section:

(a) "Electronic cigarette product" means the same as that term is defined in Section 76-10-101.

(b) "Nicotine product" means the same as that term is defined in Section 76-10-101.

(c) "Peace officer" means the same as the term is described in Section 53-13-109.

[~~(c)~~] (d) "Tobacco product" means the same as that term is defined in Section 76-10-101.

(2) (a) A peace officer[~~, as defined by Title 53, Chapter 13, Peace Officer Classifications,~~] may investigate the possible violation of:

(i) Section 32B-4-403 by requesting an individual under 21 years old to enter into and attempt to purchase or make a purchase of alcohol from a retail establishment; or

(ii) Section 76-10-114 by requesting an individual under 21 years old to enter into and attempt to purchase or make a purchase from a retail establishment of:

(A) a tobacco product;

(B) an electronic cigarette product; or

(C) a nicotine product.

(b) A peace officer who is present at the site of a proposed purchase shall direct, supervise, and monitor the individual requested to make the purchase.

(c) Immediately following a purchase or attempted purchase or as soon as practical the supervising peace officer shall inform the cashier and the proprietor or manager of the retail establishment that the attempted purchaser was under the legal age to purchase:

(i) alcohol; or

(ii) (A) a tobacco product;

(B) an electronic cigarette product; or

(C) a nicotine product.

(d) If a citation or information is issued, the citation or information shall be issued within seven days [~~of the purchase~~] after the day on which the purchase occurs.

(3) (a) If an individual under 18 years old is requested to attempt a purchase, a written consent of that individual's parent or guardian shall be obtained [~~prior to that individual participating~~] before the individual participates in any attempted purchase.

(b) An individual requested by the peace officer to attempt a purchase may:

(i) be a trained volunteer; or

(ii) receive payment, but may not be paid based on the number of successful purchases of alcohol, tobacco products, electronic cigarette products, or nicotine products.

(4) The individual requested by the peace officer to attempt a purchase and anyone accompanying the individual attempting a purchase [~~may not during the attempted purchase misrepresent the age of the individual by false or misleading identification documentation in attempting the purchase.~~] may use false identification in attempting the purchase if:

(a) the Department of Public Safety created in Section 53-1-103 provides the false identification;

(b) the false identification:

(i) accurately represents the individual's age; and

(ii) displays a current photo of the individual; and

(c) the peace officer maintains possession of the false identification at all times outside the attempt to purchase.

(5) An individual requested to attempt to purchase or make a purchase pursuant to this section is immune from prosecution, suit, or civil liability for the purchase of, attempted purchase of, or possession of alcohol, a tobacco product, an electronic cigarette product, or a nicotine product if a peace officer directs, supervises, and monitors the individual.

(6) (a) Except as provided in Subsection (6)(b), a purchase attempted under this section shall be conducted within a 12-month period:

(i) on a random basis at any one retail establishment location, not more often than four times for the attempted purchase of alcohol; and

(ii) a minimum of two times at a retail establishment that sells tobacco products, electronic cigarette products, or nicotine products for the attempted purchase of a tobacco product, an electronic cigarette product, or a nicotine product.

(b) This section does not prohibit an investigation or an attempt to purchase alcohol, a tobacco product, an electronic cigarette product, or a nicotine product under this section if:

(i) there is reasonable suspicion to believe the retail establishment has sold alcohol, a tobacco product, an electronic cigarette product, or a nicotine product to an individual under the age established by Section 32B-4-403 or 76-10-114; and

(ii) the supervising peace officer makes a written record of the grounds for the reasonable suspicion.

(7) (a) The peace officer exercising direction, supervision, and monitoring of the attempted purchase shall make a report of the attempted purchase, whether or not a purchase was made.

(b) The report required by this Subsection (7) shall include:

(i) the name of the supervising peace officer;

(ii) the name of the individual attempting the purchase;

(iii) a photograph of the individual attempting the purchase showing how that individual appeared at the time of the attempted purchase;

(iv) the name and description of the cashier or proprietor from whom the individual attempted the purchase;

(v) the name and address of the retail establishment; and

(vi) the date and time of the attempted purchase.

Section 36. Repealer.

This bill repeals:

Section 32B-8a-401, Notification of creditors -- Escrow -- Priority of payments.

Section 32B-8a-402, Duties of escrow holder.

Section 32B-8a-404, When escrow not required.

CHAPTER 292
H. B. 372
Passed March 5, 2021
Approved March 17, 2021
Effective May 5, 2021

START SMART UTAH BREAKFAST PROGRAM AMENDMENTS

Chief Sponsor: Dan N. Johnson
Senate Sponsor: Lincoln Fillmore
Cosponsor: Elizabeth Weight

LONG TITLE

General Description:

This bill delays the dates by which certain public schools are required to serve breakfast to a student after the instructional day begins.

Highlighted Provisions:

This bill:

- delays the dates by which certain public schools are required to serve breakfast to a student after the instructional day begins.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53G-9-205.1, as enacted by Laws of Utah 2020, Chapter 96

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

Section 1. Section 53G-9-205.1 is amended to read:

53G-9-205.1. Start Smart Utah Program.

(1) As used in this section:

(a) "Alternative breakfast service model" means a method of serving breakfast to a student after the instructional day begins.

(b) "National School Lunch Program" means the same as that term is defined in 7 C.F.R. Sec. 210.2.

(c) "Public school" means:

(i) a school under the control of a school district;

(ii) a charter school; or

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

(d) "School Breakfast Program" means the same as that term is defined in 7 C.F.R. Sec. 220.2.

(e) "Start Smart Utah Program" or "program" means the Start Smart Utah Program created in Subsection (2).

(f) "Traditional breakfast service model" means a method of serving breakfast to a student before the instructional day begins.

(2) (a) There is created the Start Smart Utah Program.

(b) Except as provided in Subsection (3), a public school that participates in the National School Lunch Program shall participate in the School Breakfast Program.

(c) (i) Beginning with the [~~2020-21~~] 2021-22 school year, a public school in which 70% or more of the students qualify for free or reduced lunch shall use an alternative breakfast service model.

(ii) Beginning with the [~~2021-22~~] 2022-23 school year, a public school in which 50% or more of the students qualify for free or reduced lunch shall use an alternative breakfast service model.

(iii) Beginning with the [~~2022-23~~] 2023-24 school year, a public school in which 30% or more of the students qualify for free or reduced lunch shall use an alternative breakfast service model.

(d) Notwithstanding Subsection (2)(c):

(i) a public school that is subject to the requirements described in Subsection (2)(c) may use a traditional breakfast service model in addition to an alternative breakfast service model; and

(ii) a public school in which 70% or more of the students who qualify for free or reduced lunch participate in the School Breakfast Program is exempt from the requirements described in Subsection (2)(c).

(3) (a) A public school may apply to the state board for a waiver of the requirements described in Subsection (2), if the requirements cause undue hardship.

(b) The state board shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to create a waiver application, submission, review, and approval process.

(4) The state board shall:

(a) administer the program in accordance with this section and in conjunction with the state board's duties as the administering agency of federal child nutrition programs;

(b) track implementation of alternative breakfast service models in public schools; and

(c) provide guidance and technical assistance to public schools related to implementing the Start Smart Utah Program in accordance with the requirements of this section, including assistance with soliciting parent feedback on the program.

(5) The requirements of this section shall be nullified by the termination of the entitlement status of the School Breakfast Program by the federal government.

CHAPTER 293
H. B. 373
Passed March 3, 2021
Approved March 17, 2021
Effective May 5, 2021

CONVICTION REDUCTION AMENDMENTS

Chief Sponsor: Jordan D. Teuscher
Senate Sponsor: Todd D. Weiler

LONG TITLE

General Description:

This bill amends provisions relating to the reduction of the degree of a criminal offense.

Highlighted Provisions:

This bill:

- allows for the reduction of the degree of a criminal offense for a defendant who has been successfully discharged from parole;
- provides for the court's jurisdiction to consider a motion for reduction;
- establishes the burden of proof; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

76-3-402, as last amended by Laws of Utah 2020, Chapter 151

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

Section 1. Section 76-3-402 is amended to read:

76-3-402. Conviction of lower degree of offense -- Procedure and limitations.

(1) As used in this section, "lower degree of offense" includes an offense for which:

(a) a statutory enhancement is charged in the information or indictment that would increase either the maximum or the minimum sentence; and

(b) the court removes the statutory enhancement in accordance with this section.

(2) The court may enter a judgment of conviction for a lower degree of offense than established by statute and impose a sentence at the time of sentencing for the lower degree of offense if the court:

(a) takes into account:

(i) the nature and circumstances of the offense of which the defendant was found guilty; and

(ii) the history and character of the defendant;

(b) gives any victim present at the sentencing and the prosecuting attorney an opportunity to be heard; and

(c) concludes that the degree of offense established by statute would be unduly harsh to record as a conviction on the record for the defendant.

(3) (a) [~~If the court suspends the execution of a defendant's sentence and places the defendant on probation, regardless~~] Regardless of whether the defendant is committed to jail as a condition of probation or sentenced to prison, the court [~~may~~] has jurisdiction to consider and enter a judgment of conviction for a lower degree of offense:

(i) after the defendant has been successfully discharged from probation or parole;

(ii) upon motion and notice to either party;

(iii) after reasonable effort has been made by the prosecuting attorney to provide notice to any victims;

(iv) after a hearing if requested by either party; and

(v) if the court finds entering a judgment of conviction for the lower degree of offense is in the interest of justice.

(b) In making the finding in Subsection (3)(a)(v), the court shall consider as a factor in favor of granting the reduction, after the defendant's conviction, whether the level of the offense has been reduced by law.

(c) In both the initial motion and at a requested hearing described in Subsection (3)(a), the moving party has the burden to provide evidence sufficient to demonstrate:

(i) that the defendant has been successfully discharged from probation or parole; and

(ii) that the reduction is in the interest of justice.

(4) (a) An offense may be reduced only one degree under this section, whether the reduction is entered under Subsection (2) or (3), unless the prosecuting attorney specifically agrees in writing or on the court record that the offense may be reduced two degrees.

(b) An offense may not be reduced under this section by more than two degrees.

(5) This section does not preclude an individual from obtaining or being granted an expungement of the individual's record in accordance with Title 77, Chapter 40, Utah Expungement Act.

(6) The court may not enter judgment for a conviction for a lower degree of offense if:

(a) the reduction is specifically precluded by law; or

(b) if any unpaid balance remains on court ordered restitution for the offense for which the reduction is sought.

(7) When the court enters judgment for a lower degree of offense under this section, the actual title of the offense for which the reduction is made may not be altered.

(8) (a) An individual may not obtain a reduction under this section of a conviction that requires the

individual to register as a sex offender until the registration requirements under Title 77, Chapter 41, Sex and Kidnap Offender Registry, have expired.

(b) An individual required to register as a sex offender for the individual's lifetime under Subsection 77-41-105(3)(c) may not be granted a reduction of the conviction for the offense or offenses that require the individual to register as a sex offender.

(9) (a) An individual may not obtain a reduction under this section of a conviction that requires the individual to register as a child abuse offender until the registration requirements under Title 77, Chapter 43, Child Abuse Offender Registry, have expired.

(b) An individual required to register as a child abuse offender for the individual's lifetime under Subsection 77-43-105(3)(c) may not be granted a reduction of the conviction for the offense or offenses that require the individual to register as a child abuse offender.

CHAPTER 294
H. B. 374
Passed March 5, 2021
Approved March 17, 2021
Effective May 5, 2021

RESTRICTIVE COVENANTS AMENDMENTS

Chief Sponsor: Mike Winder
Senate Sponsor: Jani Iwamoto

LONG TITLE

General Description:

This bill enacts provisions regarding certain restrictive covenants relating to real property.

Highlighted Provisions:

This bill:

- defines terms;
- prohibits the enforcement of a restrictive covenant in a previously recorded written instrument relating to real property;
- allows a property owner to record a modification document declaring a restrictive covenant void;
- allows a condominium or community association to amend the association's governing documents to remove a discriminatory restrictive covenant; and
- prevents a county recorder from charging a fee for recording a modification document.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

57-21-6.1, Utah Code Annotated 1953

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

Section 1. Section 57-21-6.1 is enacted to read:

57-21-6.1. Discriminatory housing practices regarding real estate -- Existing real property contract provisions.

(1) As used in this section:

(a) "Association" means the same as that term is defined in Section 57-8-3 or 57-8a-102.

(b) "Board" means:

(i) a management committee as defined in Section 57-8-3; or

(ii) the same as that term is defined in Section 57-8a-102.

(c) "Governing documents" means the same as that term is defined in Section 57-8-3 or 57-8a-102.

(2) Any provision in a previously recorded written instrument relating to real property that expresses any preference, limitation, or discrimination based on race, color, religion, sex, national origin, familial status, source of income, disability, sexual orientation, or gender identity is void.

(3) It is a discriminatory housing practice to enforce a provision described in Subsection (2).

(4) Except as provided in Subsection (5), a person with a fee simple interest in the real property that is subject to the recorded written instrument described in Subsection (2) may record with the county recorder a modification document on the real property in the following form:

"Any provision in a previously recorded written instrument that expresses any preference, limitation, or discrimination based on race, color, religion, sex, national origin, familial status, source of income, disability, sexual orientation, or gender identity is void under Utah Code Section 57-21-6.1.".

(5) (a) If a written instrument described in Subsection (2) is a governing document, an association may, in accordance with this section, amend the association's governing documents to remove a provision described in Subsection (2).

(b) (i) If an owner believes an association's governing documents include a provision described in Subsection (2), the owner may submit a written request to remove the provision.

(ii) Within 90 days after the day on which the board receives a written request, the board:

(A) shall investigate a claim that the association's governing documents include a provision described in Subsection (2); and

(B) if the board determines the association's governing documents include a provision described in Subsection (2), may remove the provision from the governing documents by amending the association's governing documents through a majority vote of the board, regardless of any contrary provision in the association's governing documents.

(c) Any association officer may execute the amendment to remove the provision described in Subsection (2) from the governing documents.

(d) Notwithstanding any contrary provision in the association's governing documents, an amendment under this subsection does not require approval of the association's members.

(6) A provision in a recorded written instrument that is void under this section does not affect the validity of the remainder of the previously recorded written instrument.

(7) An owner who records or causes to be recorded a modification document under Subsection (4) that contains modifications not authorized by this section is solely liable for the recordation.

(8) A county recorder may not charge a fee for recording a modification document under this section.

CHAPTER 295
H. B. 375
Passed March 5, 2021
Approved March 17, 2021
Effective May 5, 2021

AGRICULTURE AMENDMENTS

Chief Sponsor: Stephen G. Handy
Senate Sponsor: Curtis S. Bramble

LONG TITLE

General Description:

This bill addresses the regulation of agriculture.

Highlighted Provisions:

This bill:

- addresses the regulation of bedding, upholstered furniture, quilted clothing, or filling material;
- addresses the Utah Dairy Commission;
- removes regulation of marks apart from brands;
- modifies regulation of brands;
- updates language related to websites promoting the sale of livestock;
- modifies language related to travel permits;
- modifies provisions related to contagious or infectious disease, epidemic, or poisoning;
- modifies provisions related to aquaculture or fee fishing facilities, including addressing inspections and stocking; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

4-10-102, as renumbered and amended by Laws of Utah 2017, Chapter 345
4-10-104, as last amended by Laws of Utah 2020, Chapter 316
4-10-106, as last amended by Laws of Utah 2020, Chapters 316 and 354
4-10-107, as renumbered and amended by Laws of Utah 2017, Chapter 345
4-10-112, as renumbered and amended by Laws of Utah 2017, Chapter 345
4-22-103, as last amended by Laws of Utah 2020, Chapter 6
4-24-102, as last amended by Laws of Utah 2018, Chapter 355
4-24-201, as renumbered and amended by Laws of Utah 2017, Chapter 345
4-24-202, as renumbered and amended by Laws of Utah 2017, Chapter 345
4-24-203, as renumbered and amended by Laws of Utah 2017, Chapter 345
4-24-204, as renumbered and amended by Laws of Utah 2017, Chapter 345
4-24-205, as renumbered and amended by Laws of Utah 2017, Chapter 345
4-24-303, as last amended by Laws of Utah 2018, Chapter 355
4-24-305, as renumbered and amended by Laws of Utah 2017, Chapter 345
4-24-306, as renumbered and amended by Laws of Utah 2017, Chapter 345
4-24-401, as renumbered and amended by Laws of Utah 2017, Chapter 345
4-24-402, as renumbered and amended by Laws of Utah 2017, Chapter 345
4-24-403, as renumbered and amended by Laws of Utah 2017, Chapter 345
4-24-405, as renumbered and amended by Laws of Utah 2017, Chapter 345
4-24-502, as last amended by Laws of Utah 2018, Chapter 355
4-24-504, as renumbered and amended by Laws of Utah 2017, Chapter 345
4-31-115, as last amended by Laws of Utah 2017, Chapter 345
4-37-104, as last amended by Laws of Utah 2017, Chapter 412
4-37-204, as last amended by Laws of Utah 2017, Chapter 412
4-37-502, as last amended by Laws of Utah 2010, Chapter 378
4-37-503, as last amended by Laws of Utah 2010, Chapters 286 and 378
4-39-108, as last amended by Laws of Utah 2017, Chapter 345

ENACTS:

4-10-114, Utah Code Annotated 1953

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

Section 1. Section 4-10-102 is amended to read:

4-10-102. Definitions.

As used in this chapter:

(1) "Article" means [~~a~~] bedding, upholstered furniture, quilted clothing, or filling material.

(2) "Bedding" means a:

(a) quilted, packing, mattress, or hammock pad; or

(b) mattress, boxspring, comforter, quilt, sleeping bag, studio couch, pillow, or cushion made with a filling material that can be used for sleeping or reclining.

(3) "Consumer" means a person who purchases, rents, or leases an article for the article's intended, everyday use.

(4) "Filling material" means cotton, wool, kapok, feathers, down, shoddy, hair, or other material, or a combination of materials, whether loose or in bags, bales, batting, pads, or other prefabricated form that is, or can be, used in bedding, upholstered furniture, or quilted clothing.

(5) "Label" means the display of written, printed, or graphic matter upon a tag or upon the immediate container of a bedding, upholstered furniture, quilted clothing, or filling material.

(6) (a) "Manufacture" means to make, process, or prepare from new or secondhand material, in whole or in part, a bedding, upholstered furniture, quilted clothing, or filling material for sale.

(b) "Manufacture" does not include making, processing, or preparing an article described in Subsection (6)(a) if:

(i) a person sells three or fewer of the articles per year; and

(ii) the articles are sold by persons who are not primarily engaged in the making, processing, or preparation of the articles.

(7) (a) "New material" means material that has not previously been used in the manufacture of another article used for any purpose.

(b) "New material" includes:

(i) by-products from a textile mill using only new raw material synthesized from a product that has been melted, liquified, and re-extruded[.]; and

(ii) down and feather that has been sterilized in accordance with the department's rules made under Sections 4-10-103 and 4-10-113.

(8) "Owner's own material" means an article owned or in the possession of a person for the person's own or a tenant's use that is sent to another person for manufacture or repair.

(9) "Quilted clothing" means a filled garment or apparel, exclusive of trim used for aesthetic effect, or a stiffener, shoulder pad, interfacing, or other material that is made in whole or in part from filling material and sold or offered for sale.

(10) "Reclaimed" or "reclaimed material" means material that would have otherwise been disposed of as waste or used for energy recovery, but instead is collected and used as a material input, in lieu of new primary material, as defined by rule by the department in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(11) "Recycled" or "recycled material" means material that has been reprocessed from reclaimed material by means of an accepted manufacturing process and made into a final product or into a component for incorporation into a product as defined by rule by the department in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

[~~(10)~~] (12) "Repair" means to restore, recover, alter, or renew bedding or upholstered furniture for a consideration.

[~~(11)~~] (13) "Retailer" means a person who sells bedding, upholstered furniture, quilted clothing, or filling material to a consumer for use primarily for personal, family, household, or business purposes.

[~~(12)~~] (14) (a) "Sale" or "sell" means to offer or expose for sale, barter, trade, deliver, consign, lease, or give away any bedding, upholstered furniture, quilted clothing, or filling material.

(b) "Sale" or "sell" does not include a judicial, executor's, administrator's, or guardian's sale of an item described in Subsection [~~(12)~~] (14)(a).

[~~(13)~~] (15) "Secondhand" means an article or filling material, or portion of an article or filling material, that has previously been used.

[~~(14)~~] (16) "Sterilize" means to disinfect, decontaminate, sanitize, cleanse, or purify as required by Section 4-10-113.

[~~(15)~~] (17) "Tag" means a card, flap, or strip attached to an article for the purpose of displaying information required by this chapter or under rule made pursuant to it.

[~~(16)~~] (18) (a) "Used" means an article that has been sold to a consumer and has left the store.

(b) "Used" does not include an article returned to the store:

(i) with [~~its~~] the article's original tags; and

(ii) in [~~its~~] the article's original packaging.

[~~(17)~~] (19) "Upholstered furniture" means portable or fixed furniture, except fixed seats in motor vehicles, boats, or aircraft, that is made in whole or in part with filling material, exclusive of trim used for aesthetic effect.

[~~(18)~~] (20) "Wholesaler" means a person who offers an article for resale to a retailer or institution rather than a final consumer.

Section 2. Section 4-10-104 is amended to read:

4-10-104. Manufacture, repair, or wholesale sale of bedding, upholstered furniture, quilted clothing, or filling material -- Permit required.

(1) It is unlawful for [~~any~~] a person to engage in the manufacture, repair, or wholesale sale of [~~any~~] bedding, upholstered furniture, quilted clothing, or filling material without a permit issued by the department.

(2) Notwithstanding Subsection (1), a person may engage in the repair of quilted clothing without a permit issued by the department if that person is not otherwise required to obtain a permit issued by the department under this chapter or by department rule.

Section 3. Section 4-10-106 is amended to read:

4-10-106. Unlawful acts specified.

It is unlawful for [~~any~~] a person to:

(1) sell bedding, upholstered furniture, quilted clothing, or filling material as new unless it is made from new material and properly tagged;

(2) sell bedding, upholstered furniture, quilted clothing or filling material made from secondhand material [~~which~~] that is not properly tagged;

(3) label or sell a used or secondhand article as if it were a new article;

(4) use burlap or other material [~~which~~] that has been used for packing or baling, or to use any unsanitary, filthy, or vermin or insect infested

filling material in the manufacture or repair of [~~any~~] an article;

(5) sell bedding, upholstered furniture, quilted clothing or filling material [~~which~~] that is not properly tagged regardless of point of origin;

(6) use [~~any~~] a false or misleading statement, term, or designation on [~~any~~] a tag;

(7) use [~~any~~] a false or misleading label;

(8) sell new bedding, upholstered furniture, or quilted clothing with filling material made of down, feather, wool, or hair that has not been properly sterilized; or

(9) engage in the manufacture, repair, sterilization, or wholesale sale of bedding, upholstered furniture, quilted clothing, or filling material without a permit issued by the department as required by this chapter, unless otherwise exempt under Section 4-10-104 with respect to the repair of quilted clothing.

Section 4. Section 4-10-107 is amended to read:

4-10-107. Tagging requirements for bedding, upholstered furniture, and filling material.

(1) (a) [~~All bedding~~] The manufacturer, retailer, or repairer shall securely tag bedding, upholstered furniture, and filling material [~~shall be securely tagged by the manufacturer, retailer, or repairer~~].

(b) [~~Tags~~] A tag shall be at least six square inches and plainly and indelibly labeled with:

(i) information as the department requires by rule;

(ii) according to the filling material type, the words "All New Material," "Secondhand Material," or "Owner's Material," stamped or printed on the label; and

(iii) the word "USED" stamped or printed on the label of a used mattress.

(c) [~~Each~~] A label shall be placed on the article in such a position as to facilitate ease of examination.

(2) (a) If more than one type of filling material is used in an item, the percentage, by weight, of each component part shall be listed in order of predominance.

(b) If a descriptive [~~statements are~~] statement is made about the frame, cover, or style of the article, [~~such statements~~] the statement shall, in fact, be true.

(c) [~~All quilted~~] Quilted clothing shall be tagged and labeled in conformity with the Federal Textile Fiber Products Identification Act, 15 U.S.C. Secs. 70 through [~~70k~~] 70i.

(3) [~~No~~] A person, except the purchaser, may not remove, deface, or alter a tag attached according to this chapter.

(4) A used mattress shall be tagged with the word "USED," in accordance with rules established by the department.

(5) The retailer of a used mattress shall display the mattress so that the "USED" tag is clearly visible to a customer.

(6) (a) For items containing down or feather, a manufacturer, retailer, or repairer may use the terms "reclaimed," "reclaimed material," "recycled," or "recycled material" on a tag attached to the item if the item contains reclaimed or recycled material as defined in Section 4-10-102.

(b) If a term allowed under this Subsection (6) is included on a tag, a manufacturer, retailer, or repairer shall:

(i) indicate whether an item is "new" or "used" as defined in this chapter; and

(ii) comply with Subsection (2).

Section 5. Section 4-10-112 is amended to read:

4-10-112. Stop sale, use, or removal order authorized -- Conditions for release specified -- Condemnation or seizure -- Procedure specified -- Award of costs authorized.

(1) (a) The department may issue a "stop sale, use, or removal order" to [~~any~~] a manufacturer, repairer, wholesaler, or retailer of any designated article or articles [~~which it~~] that the department finds or has reason to believe violates this chapter.

(b) The order shall be in writing and no article subject to [~~it~~] the order shall be removed, offered, or exposed for sale, except upon subsequent written release by the department.

(c) Before a release is issued, the department may require the manufacturer, repairer, wholesaler, or retailer of the "stopped" article to pay the expense incurred by the department in connection with the withdrawal of the article from the market or for any other expense incurred in enforcing this chapter and the department's rules made under this chapter.

(2) (a) The department [~~is authorized~~] may seek in a court of competent jurisdiction [~~to seek~~] an order of seizure or condemnation of [~~any~~] an article [~~which~~] that violates this chapter or, upon proper grounds, to obtain a temporary restraining order or permanent injunction to prevent violation of this chapter.

(b) [~~No bond shall~~] A bond may not be required of the department in an injunctive proceeding brought under this section.

(3) (a) Except as provided in Subsection (3)(b), if condemnation is ordered, the article shall be disposed of as the court directs.

(b) The court may not order condemnation without giving the claimant of the article an opportunity to apply to the court for permission to bring the article into conformance, or for permission to remove [~~it~~] the article from the state.

(4) If the court orders condemnation, court costs, fees, storage, and other costs shall be awarded against the claimant of the article.

Section 6. Section 4-10-114 is enacted to read:

4-10-114. Use of reclaimed or recycled material.

(1) A person may advertise an item filled with down, down and feather, or feather as "new" if it is manufactured using 100% reclaimed or recycled material, provided that the tag clearly discloses that the item is manufactured using 100% reclaimed or recycled material.

(2) The department may, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules governing the use of reclaimed or recycled material under this chapter.

Section 7. Section 4-22-103 is amended to read:

4-22-103. Utah Dairy Commission created.

(1) There is created an independent state agency known as the Utah Dairy Commission.

(2) Subject to Subsection (5), the Utah Dairy Commission consists of 11 members as follows:

(a) nine voting members as follows:

(i) two from District 1, which consists of Cache and Rich Counties;

(ii) four members from District 2, which consists of Box Elder, Weber, Morgan, Salt Lake, Davis, Utah, [~~and~~] Tooele, Wasatch, Summit, Duchesne, Uintah, and Daggett Counties; and

(iii) three members from District 3, which consists of Millard, Beaver, Iron, Washington, Sanpete, Carbon, Emery, Grand, Juab, San Juan, Piute, Wayne, Kane, Garfield, and Sevier Counties; and

(b) two nonvoting members as follows:

(i) the commissioner or the commissioner's designee; and

(ii) the dean of the College of Agriculture at Utah State University, or the dean's designee.

(3) The voting members listed in Subsection (2)(a) shall be elected to four-year terms of office as provided in Section 4-22-105.

(4) A voting member shall enter office on July 1 of the year in which the member is elected. The commission shall stagger the voting members' terms so that no more than three voting members' terms expire in a given year.

(5) (a) To maintain equitable representation of active milk producers on the commission, the commission may, by a two-thirds vote:

(i) alter the boundaries comprising the districts established in Subsection (2)(a); or

(ii) increase or decrease the number of voting members in each district without altering the total number of commission members.

(b) If the commission increases the number of voting members in a district under this Subsection (5), a new member will be elected as provided in Section 4-22-105.

(c) If the commission decreases the number of voting members in a district under this Subsection (5), each member representing the district will continue in office through the end of the member's term and the member whose term expires first will not be replaced or reelected upon expiration of the member's term.

(d) If the commission acts under this Subsection (5), it shall report the changes to the Natural Resources, Agriculture, and Environment Interim Committee.

(6) A member shall be:

(a) a citizen of the United States;

(b) 21 years [~~of age~~] old or older;

(c) an active milk producer with five consecutive years of experience in milk production within this state immediately preceding election; and

(d) a resident of Utah and the district represented.

Section 8. Section 4-24-102 is amended to read:

4-24-102. Definitions.

As used in this chapter:

(1) "Brand" means [~~any~~] an identifiable mark, including a tattoo or cutting and shaping of the ears or brisket area, applied to livestock that is intended to show ownership and the mark's location.

(2) "Carcass" means any part of the body of an animal, including entrails and edible meats.

(3) "Domesticated elk" means the same as that term is defined in Section 4-39-102.

(4) "Hide" means any skins or wool removed from livestock.

(5) "Livestock" means cattle, calves, horses, mules, sheep, goats, or hogs.

(6) (a) "Livestock market" means a public market place consisting of pens or other enclosures where cattle, calves, horses, or mules are received on consignment and kept for subsequent sale, either through public auction or private sale.

(b) "Livestock market" does not mean:

(i) a place used solely for liquidation of livestock by a farmer, dairyman, livestock breeder, or feeder who is going out of business; or

(ii) a place where an association of livestock breeders under the association's own management:

(A) offers registered livestock or breeding sires for sale[~~,~~];

(B) assumes [~~all~~] the responsibility for the sale[~~,~~];

(C) guarantees title to the livestock or sires sold[,]; and

(D) arranges with the department for brand inspection of [~~all~~] the animals sold.

[~~(7) "Mark" means any cutting and shaping of the ears or brisket area of livestock that is intended to show ownership.~~]

[~~(8)~~] (7) "Open range" means land upon which cattle, sheep, or other domestic animals are grazed or permitted to roam by custom, license, lease, or permit.

[~~(9)~~] (8) "Slaughterhouse" means [~~any~~] a building, plant, or establishment where animals are harvested, dressed, or processed and [~~their~~] the animals' meat or meat products produced for human consumption.

Section 9. Section 4-24-201 is amended to read:

Part 2. Brand

4-24-201. Central Brand Registry -- Division of state into brand districts -- Identical or confusingly similar brands -- Publication of registered brands.

(1) The department shall maintain a central Brand [~~and Mark~~] Registry [~~which shall list~~] that lists each brand [~~or mark~~] recorded in this state. For each brand [~~or mark~~] registered the list shall specify:

(a) the name and address of the registrant;

(b) a facsimile or diagram of the brand recorded [~~or a diagram showing the kind of mark recorded~~];

(c) the location of the brand [~~or mark~~] upon the animal; and

(d) the date the brand [~~or mark~~] is filed in the [~~registry~~] central Brand Registry.

(2) The commissioner may divide the state into districts for the purpose of recording [~~marks~~] brands, but [~~no mark~~] a brand that is identical or confusingly similar to a [~~mark~~] brand previously recorded in a district [~~shall~~] may not be recorded.

(3) (a) [~~No~~] A brand that is identical or confusingly similar to a brand previously filed in the central [~~brand and mark registry shall~~] Brand Registry may not be recorded.

(b) If two or more brands [~~or marks~~] appear identical or confusingly similar:

(i) the brand [~~or mark~~] first recorded shall prevail over a later conflicting brand [~~or mark~~]; and

(ii) the later brand [~~or mark~~] shall be cancelled and [~~all~~] the recording fees refunded to the owner.

(4) (a) The commissioner shall publish from time to time a list of all brands [~~and marks~~] recorded in the central Brand [~~and Mark~~] Registry and may issue supplements to [~~such~~] that publication containing additional brands [~~and marks~~] or changes in ownership of brands [~~and marks~~] recorded after the last publication.

(b) The [~~brand book~~] publication published under Subsection (4)(a) shall contain a facsimile or diagram of all brands [~~and marks~~] recorded together with the owner's name and address.

(c) The commissioner shall, upon request, send one copy of the [~~brand book~~] publication published under Subsection (4)(a) and each supplement to each brand inspector, county clerk, county sheriff, livestock organization, [~~and~~] or any other person [~~deemed~~] considered appropriate.

(d) [~~Brand books and supplements shall be~~] The department shall make publications under this Subsection (4) available to the public at the cost of printing and distribution per [~~book or supplement~~] publication.

Section 10. Section 4-24-202 is amended to read:

4-24-202. Recordation of brand.

(1) (a) Application for a recorded brand [~~or mark~~] shall be made to the department upon forms prescribed and furnished by the department.

(b) The application shall contain [~~such~~] the information [~~as~~] the commissioner prescribes.

(c) [~~No~~] An application [~~shall~~] may not be approved without payment of the appropriate recording fee.

(d) Upon receipt of a proper application, payment of the recording fee, and recordation of the brand [~~or mark~~] in the central Brand [~~or Mark~~] Registry of the department, the commissioner shall issue the applicant a certified copy of recording that entitles the applicant to the exclusive use of the brand [~~or mark~~] recorded.

(2) (a) [~~Each~~] A recorded brand [~~or mark~~] filed with the central Brand [~~and Mark~~] Registry [~~shall expire~~] expires during the calendar year 1980, and during each fifth year thereafter.

(b) (i) The department shall give notice in writing to all persons who are owners of recorded brands [~~and marks~~] within a reasonable time [~~prior to~~] before the date of expiration of recordation.

(ii) The notice required by this Subsection (2)(b) may be provided by email or regular mail at the department's discretion.

(iii) The holder of a registered brand has an affirmative duty to inform the department of a change to the contact information provided on the initial application for a recorded brand.

(c) Brand [~~or mark~~] renewal is [~~effected~~] affected by filing an appropriate application with the department together with payment of the renewal fee.

(d) A recorded brand [~~or mark~~], not timely renewed, shall lapse and be removed from the central Brand [~~and Mark~~] Registry.

Section 11. Section 4-24-203 is amended to read:

4-24-203. Fees for recordation, transfer, renewal, and certified copies of brands.

(1) The department, with the approval of the Livestock Brand Board, shall charge and collect fees for the recordation, transfer, and renewal of [~~any~~] a brand [~~or mark~~] in each position, and may charge a fee for a certified copy of the recordation.

(2) The fees shall be determined by the department pursuant to Subsection 4-2-103(2).

Section 12. Section 4-24-204 is amended to read:

4-24-204. Effect of recorded brand -- Transfer -- Reservation of certain brands.

(1) Except as provided in Subsection (2), the owner of a recorded brand [~~or mark~~] has a vested property right in the brand [~~or mark~~] that is transferable by a duly acknowledged instrument, provided that a transferee has no rights in the brand [~~or mark~~] until the instrument of transfer is recorded with the department.

(2) Notwithstanding any other provision of this chapter:

(a) no person other than a member of the Ute Indian Tribe has any vested property right in the brand "ID" which is reserved exclusively for use by members of the Ute Indian Tribe on the Uintah and Ouray Reservation; and

(b) no person other than a member of the Navajo Indian Tribe has any vested right in the brand "– N" (Bar N) which is reserved exclusively for use by members of the Navajo Indian Tribe on the Navajo Indian Reservation as long as it appears on the left shoulder of the animal branded.

(3) The left jaw of cattle is reserved exclusively for use by the department to identify diseased cattle.

Section 13. Section 4-24-205 is amended to read:

4-24-205. Livestock on open range or outside enclosure to be branded -- Cattle upon transfer of ownership to be branded -- Exceptions.

(1) (a) [~~Except as provided in~~] Subject to Subsections (1)(b) and (c), [~~no~~] livestock [~~shall~~] may not forage upon an open range in this state or outside an enclosure unless [~~they bear~~] the livestock bears a brand [~~or mark~~] recorded in accordance with this chapter.

(b) Swine, goats, and unweaned calves or colts are not required to bear a brand [~~or mark~~] to forage upon open range or outside an enclosure.

(c) Domesticated elk may not forage upon open range or outside an enclosure under any circumstances as provided in Chapter 39, Domesticated Elk Act.

(2) (a) Except as provided in Subsection (2)(b), [~~all~~] cattle, upon sale or other transfer of ownership, shall be branded [~~or marked~~] with the recorded brand [~~or mark~~] of the new owner within 30 days after transfer of ownership.

(b) [~~No branding or marking~~] Branding, upon change of ownership, is not required within the 30–day period for:

(i) unweaned calves;

(ii) registered or certified cattle;

(iii) youth project calves, if the number transferred is less than five; or

(iv) dairy cattle held on farms.

Section 14. Section 4-24-303 is amended to read:

4-24-303. Livestock -- Verification of ownership through brand inspection -- Issuance of certificate of brand inspection -- Brand inspector may demand evidence of ownership -- Brand inspection of livestock seized by the federal government prohibited -- Exception.

(1) A brand inspector, as an agent of the department, shall verify livestock ownership by conducting a brand inspection during daylight hours.

(2) After conducting the brand inspection, the brand inspector, if satisfied that the livestock subject to inspection bears registered brands [~~or marks~~] owned by the owner of the livestock, shall issue a brand inspection certificate to the owner or owner's agent.

(3) The brand inspector shall record the number, sex, breed, and brand [~~or mark~~] on each animal inspected together with the owner's name.

(4) If any livestock subject to inspection bears a brand [~~or mark~~] other than that of the owner, or if no brand [~~or mark~~] appears on the livestock, or if the ownership of the livestock is disputed, the brand inspector may demand evidence of ownership before issuing a brand inspection certificate or may decline to issue a brand inspection certificate until the ownership dispute is resolved.

(5) A brand inspector may not issue a brand inspection certificate for [~~any~~] privately owned livestock seized by the federal government unless the:

(a) brand inspector receives consent from the livestock's owner;

(b) owner is unknown; or

(c) brand inspector receives a copy of a court order authorizing the seizure.

(6) Breed papers alone do not constitute proof of ownership, but may be considered as a factor in determining ownership.

Section 15. Section 4-24-305 is amended to read:

4-24-305. Transportation by air or rail -- Brand inspection required -- Application for brand inspection -- Time and place of inspection.

(1) Except as provided in Subsection (2), [~~no~~] a person may not offer, [~~or~~] and a railroad or airline company may not accept, [~~any~~] cattle, calves, horses, domesticated elk, or mules for transport until [~~they have~~] the animal has been brand inspected.

(2) Before cattle, calves, horses, domesticated elk, or mules are transported by rail or air, the shipper shall:

(a) request the department to inspect the brands [~~and marks~~] of the animals being transported; and

(b) specify the time and place where the animals may be inspected.

Section 16. Section 4-24-306 is amended to read:

4-24-306. Movement across state line -- Brand inspection required -- Exception -- Request for brand inspection -- Time and place of inspection.

(1) Except as provided in Subsection (2), a person may not drive or transport any cattle, calves, horses, domesticated elk, or mules from any place within this state to a place outside this state until [~~they have~~] the animal has been brand inspected.

(2) Subsection (1) does not apply if the animals specified in Subsection (1) customarily forage on an open range which transgresses the Utah state line and that of an adjoining state.

(3) The owner or person responsible for driving or transporting the animals shall request the department to inspect the brands [~~and marks~~] of the animals to be moved.

(4) The department shall conduct the inspection at the time and place determined by the department.

Section 17. Section 4-24-401 is amended to read:

4-24-401. Hides and pelts -- Bill of sale to accompany purchase -- Purchaser to maintain records -- Hides and records examination and inspection.

(1) (a) [~~Any~~] A person who buys a hide or pelt shall secure a bill of sale from the seller.

(b) The bill of sale shall be executed in duplicate with one copy being retained by the seller and the other by the buyer.

(c) The bill of sale shall specify the number of hides or pelts sold and the brand [~~or mark~~] borne by each hide or pelt.

(2) (a) [~~Each~~] A hide buyer within this state shall maintain a record specifying the name and address of the seller, date of purchase, and the brands or other identification found on the hides and pelts purchased.

(b) The hides and records of any hide buyer are subject to examination and inspection by the department at reasonable times and places.

Section 18. Section 4-24-402 is amended to read:

4-24-402. Livestock markets -- Records to be maintained -- Retention of records -- Schedule of fees and charges to be posted.

(1) [~~Each~~] An owner or operator of a livestock market shall keep a record of:

(a) the date [~~each~~] a consignment of livestock is received for sale together with the number of each type of livestock within [~~such~~] the consignment;

(b) the name and address of [~~each~~] the buyer;

(c) the date of sale and the number and species of livestock purchased by [~~each~~] the buyer; and

(d) the description and brand [~~or mark~~] appearing on each animal at the time of sale to the buyer.

(2) [~~The~~] An owner or operator of a livestock market shall retain the records mandated by this section [~~shall be retained~~] for a period of two years from the date on which the livestock market sold the livestock.

(3) A schedule of [~~all~~] the fees and commission rates charged by the livestock market shall be posted in a conspicuous place on the premises of each market.

(4) A statement of the gross sales price, commission, and other fees charged for the sale of [~~each~~] a consignment shall be available for inspection by the department, and a copy furnished the owner or consignor of the livestock.

Section 19. Section 4-24-403 is amended to read:

4-24-403. Websites promoting the sale of livestock.

(1) A website, created and maintained within the state, that markets the sale of livestock shall have the following statement clearly visible on each web page that displays advertised livestock: "Legality of Sales and Purchase, Health Laws. If you sell or purchase livestock on this site, you shall comply with all applicable legal requirements governing the transfer and shipment of livestock, including Title 4, Chapter 24, Utah Livestock Brand and Anti-Theft Act, and Title 4, Chapter 31, Control of Animal Disease. Please contact the Utah Department of Agriculture and Food at [~~801-538-7137~~] 801-982-2200 with any questions.".

(2) A person who violates this section [~~shall be~~] is subject to the penalties described in Section 4-24-506.

Section 20. Section 4-24-405 is amended to read:

4-24-405. Travel permit in lieu of brand inspection certificate -- Fees.

(1) The department may issue a permit upon the payment of a fee determined by the department pursuant to Subsection 4-2-103(2), in lieu of a certificate of brand inspection, for the transport of [~~any~~] a show horse, show mule, or show cattle

transported from [~~any~~] a place within this state to a place outside the state.

(2) The words "travel permit" shall be stamped or printed on the permit.

(3) A permit:

(a) shall accompany [~~each~~] a show animal while the show animal is in transit and shall identify the show animal to which the permit applies by age, sex, color, brand, [~~mark,~~] and scars; and

(b) is valid for the calendar year of the date of issuance, which date shall appear on the permit.

Section 21. Section 4-24-502 is amended to read:

4-24-502. Unlawful acts specified -- Allegation concerning evidence of ownership relative to hides.

(1) It is unlawful for [~~any~~] a person to:

(a) permit [~~any~~] cattle, calves, horses, mules, or sheep, except unweaned calves or colts, that are not branded [~~or marked~~] in accordance with this chapter, to forage upon an open range in this state or outside an enclosure;

(b) brand [~~or mark any~~] livestock with a brand [~~or mark~~] that is not a matter of record on the central [~~brand and mark registry~~] Brand Registry;

(c) obliterate, change, or remove a recorded brand [~~or mark~~];

(d) destroy, mutilate, or conceal [~~any~~] a hide with intent to, or for the purpose of, removing evidence of ownership of the hide, or ownership of the animal from which the hide was removed;

(e) hold or ship an estray or livestock owned by another without notifying the owner, a brand inspector, or law enforcement; or

(f) offer for sale an estray or the livestock owned by another.

(2) In [~~any~~] a prosecution for violation of this section:

(a) the state does not need to allege the ownership of the hide or the animal or carcass from which the hide was removed; and

(b) the complaint or information is sufficient if the complaint or information alleges that ownership is unknown and that the hide is not the property of the defendant.

Section 22. Section 4-24-504 is amended to read:

4-24-504. Enforcement -- Brand inspector's powers delineated.

(1) A brand inspector [~~is empowered with~~] has the authority of a special function officer for the purpose of enforcing this chapter and [~~such an~~] the brand inspector may, if proper, stop [~~any~~] a vehicle carrying livestock or livestock carcasses for the purpose of examining brands, [~~marks,~~] certificates of brand inspection, and bills of lading or bills of sale relating to the livestock in transit.

(2) (a) [~~Brand inspectors~~] A brand inspector may enter [~~any~~] premises where livestock are kept or maintained for the purpose of examining brands [~~or marks~~].

(b) If admittance is refused, the department may proceed immediately to obtain an ex parte warrant from the nearest court of competent jurisdiction to allow entry upon the premises for the purpose of examining brands [~~or marks~~] or other evidence of ownership.

Section 23. Section 4-31-115 is amended to read:

4-31-115. Contagious or infectious disease, or any epidemic or poisoning -- Duties of department.

(1) (a) The department shall investigate and may quarantine [~~any~~] a reported case of contagious or infectious disease, or any epidemic or poisoning, affecting a domestic animal or an animal that the department believes may jeopardize the health of animals within the state.

(b) The department shall make a prompt and thorough examination of [~~all~~] the circumstances surrounding the disease, epidemic, or poisoning and may order quarantine, care, or any necessary remedies.

(c) The department may also order immunization or testing and sanitary measures to prevent the spread of disease.

(d) An investigation involving fish or wildlife shall be conducted under a cooperative agreement with the Division of Wildlife Resources.

(2) (a) If the owner or person in possession of [~~such~~] an animal with a contagious or infectious disease, epidemic, or poisoning, after written notice from the department, fails to take the action ordered, the commissioner [~~is authorized to~~] may seize and hold the animal and take action necessary to prevent the spread of disease, including immunization, testing, dipping, or spraying.

(b) An animal seized for testing or treatment under this section may be sold by the commissioner at public sale to reimburse the department for [~~all~~] the costs incurred in the seizure, testing, treatment, maintenance, and sale of the animal unless the owner, before the sale, tenders payment for the costs incurred by the department.

(c) (i) [~~No~~] The commissioner may not sell a seized animal [~~shall be sold~~] until the owner or person in possession of the animal is served with a notice specifying the itemized costs incurred by the department, the time, place, and purpose of sale, and the number of animals to be sold.

(ii) The notice shall be served at least three days in advance of sale in the manner:

(A) prescribed for personal service in Rule 4(d)(1), Utah Rules of Civil Procedure; or

(B) if the owner cannot be found after due diligence, prescribed for service by publication in Rule 4(d)(4), Utah Rules of Civil Procedure.

(3) (a) Any amount realized from the sale of the animal over the total charges shall be paid to the owner of the animal if the owner is known or can by reasonable diligence be found.

(b) If the owner is unknown and cannot be found by reasonable diligence, as described in Subsection (3)(a), the excess shall remain in the General Fund.

(c) If the total cost incurred is greater than the amount realized, the owner shall pay the difference.

Section 24. Section 4-37-104 is amended to read:

4-37-104. Department's responsibilities.

(1) The department is responsible for enforcing laws and rules made by the Wildlife Board governing species of aquatic animals [~~which~~] that may be imported into the state or possessed or transported within the state that are applicable to aquaculture or fee fishing facilities [~~and the promotion of the state's aquaculture industry~~].

(2) Subject to the policies and rules of the Fish Health Policy Board, the department shall:

(a) act to prevent the outbreak and act to control the spread of disease-causing pathogens among aquatic animals in aquaculture and fee fishing facilities; and

(b) act to prevent the spread of disease-causing pathogens from aquatic animals in, to be deposited in, or harvested from aquaculture or fee fishing facilities to wild aquatic animals, other animals, and humans.

Section 25. Section 4-37-204 is amended to read:

4-37-204. Sale of aquatic animals from aquaculture facilities.

(1) (a) Except as provided by Subsection [~~(1)(b)~~] (1)(c) and subject to Subsection (1)(b), a person holding a certificate of registration for an aquaculture facility may take an aquatic animal as approved on the certificate of registration from the facility at any time and offer the aquatic animal for sale[~~, however,~~].

(b) A live aquatic [~~animals~~] animal may be sold within Utah only to a person who:

(i) has been issued a certificate of registration to possess the aquatic animal; or

(ii) is eligible to receive the aquatic animal without a certificate of registration under [~~Division of Wildlife Resources~~] Wildlife Board rules.

[~~(b)~~] (c) A person who owns or operates an aquaculture facility may [~~stock a live fish in a private fish pond or at a short-term fishing event~~] sell live aquatic animals if the person:

(i) obtains a health approval number for the aquaculture facility;

[~~(ii) provides the buyer with a brochure published by the Division of Wildlife Resources that summarizes the statutes and rules related to a private fish pond or short-term fishing event and the possession of fish;~~]

[~~(iii)~~] (ii) inspects the pond or holding facility to verify that the pond or facility is in compliance with Subsections 23-15-10(2) and (3)(c); and

[~~(iv)~~] (iii) stocks the species[~~, strain,~~] and reproductive capability of [~~fish~~] aquatic animals authorized by the Wildlife Board in accordance with Section 23-15-10 for stocking in the area where the pond or holding facility is located.

(2) An aquatic animal sold or transferred by the owner or operator of an aquaculture facility shall be accompanied by the seller's receipt that contains the following information:

(a) date of transaction;

(b) name, address, certificate of registration number, and health approval number[~~, and signature of seller~~];

(c) number and weight of aquatic animal by:

(i) species; and

[~~(ii) strain; and~~]

[~~(iii)~~] (ii) reproductive capability; and

(d) name and address of the receiver.

(3) (a) A person holding a certificate of registration for an aquaculture facility shall submit to the department an annual report of each sale of live aquatic animals or each transfer of live aquatic animals [~~to:~~] in Utah. The department shall forward the report to the Division of Wildlife Resources. The department or Division of Wildlife Resources may request copies of receipts from an aquaculture facility.

[~~(i) another aquaculture facility; or~~]

[~~(ii) a fee fishing facility.~~]

(b) The report shall contain the following information:

(i) name, address, and certificate of registration number of the seller or supplier;

(ii) number and weight [~~by species~~] of aquatic animals by species and reproductive capacity;

(iii) date of sale or transfer; and

(iv) name, address, phone number, and certificate of registration number of the receiver.

[~~(4) (a) A person who owns or operates an aquaculture facility shall submit to the Division of Wildlife Resources an annual report of each sale or transfer of a live fish to a private fish pond or short-term fishing event.~~]

[~~(b) The report shall contain:~~]

[~~(i) the name, address, and health approval number of the person;~~]

[~~(ii) the name, address, and phone number of the private fish pond's owner or short-term fishing event's operator;~~]

[~~(iii) the number and weight of fish by:~~]

[~~(A) species;~~]

[~~(B) strain; and~~]

[~~(C) reproductive capability;~~]

[~~(iv) date of sale or transfer;~~]

[~~(v) the location of the private fish pond's or short-term fishing event's holding facility; and~~]

[~~(vi) verification that the private fish pond or short-term fishing event's holding facility was inspected and is in compliance with Subsections 23-15-10(2) and (3)(e).~~]

(4) Geographic coordinates of the stocking location shall be provided if the receiver is eligible to stock the aquatic animal without a certificate of registration under Wildlife Board rules.

(5) [~~The reports required by Subsections (3) and (4)~~] A report required by Subsection (3) shall be submitted before:

(a) a certificate of registration is renewed or a subsequent certificate of registration is issued [~~for an aquaculture facility in the state~~]; or

(b) a health approval number is issued [~~for an out-of-state source~~].

Section 26. Section 4-37-502 is amended to read:

4-37-502. Inspections -- Health approval report -- Report for quarantine facility -- Qualifications of inspectors -- Notification of department.

(1) [~~(a) Except as provided by Subsection (1)(b), approval~~] Approval shall be based upon inspections carried out in accordance with standards and rules of the Fish Health Policy Board made pursuant to Section 4-37-503.

[~~(b) An owner or operator of an aquaculture facility that is under quarantine or whose health approval has been canceled or denied prior to July 1, 2007 may seek health approval without submitting or complying with a biosecurity plan required by rule by submitting a new health inspection report to the department.~~]

[~~(2) (a) The inspections shall be done by an individual who has received certification from the American Fisheries Society as a fish health inspector.~~]

(2) (a) An inspection shall be conducted under the direction of an individual certified by the American Fisheries Society as an aquatic animal health inspector or fish pathologist. A sample may be collected by a federally accredited veterinarian, a state or federal animal health official, or an American Fisheries Society certified aquatic animal health inspector or fish pathologist.

(b) An inspection of an aquaculture facility may not be done by an inspector who is employed by, or has pecuniary interest in, the facility being inspected.

(c) The department shall post on its website a current list of:

(i) certified fish health inspectors; and

(ii) approved laboratories to which a fish health inspector may send the samples collected during the inspections required by this section.

(d) (i) If the fish health inspector conducting the inspection is not an employee of the department, the owner or operator of the aquaculture facility shall notify the department of the date and time of the inspection at least five business days before the date on which the inspection will occur.

(ii) The department may be present for the inspection.

(3) To receive a health approval number, inspection reports and other evidence of the disease status of a source facility shall be submitted to the agency responsible for certifying the source as health approved pursuant to Section 4-37-501.

Section 27. Section 4-37-503 is amended to read:

4-37-503. Fish Health Policy Board.

(1) There is created within the department the Fish Health Policy Board [~~which~~] that shall establish policies designed to prevent the outbreak of, control the spread of, and eradicate pathogens that cause disease in aquatic animals.

(2) The Fish Health Policy Board shall:

(a) in accordance with Subsection (6)(b), determine procedures and requirements for certifying a source of aquatic animals as health approved, including:

(i) the pathogens for which inspection is required to receive health approval;

(ii) the pathogens that may not be present to receive health approval; and

(iii) standards and procedures required for the inspection of aquatic animals;

(b) establish procedures for the timely reporting of the presence of a pathogen and disease threat;

(c) create policies and procedures for, and appoint, an emergency response team to:

(i) investigate a serious disease threat;

(ii) develop and monitor a plan of action; and

(iii) report to:

(A) the commissioner of agriculture and food;

(B) the director of the Division of Wildlife Resources; and

(C) the chair of the Fish Health Policy Board; and

(d) develop a unified statewide aquaculture disease control plan.

(3) The Fish Health Policy Board shall advise the commissioner of agriculture and food and the executive director of the Department of Natural Resources regarding:

(a) educational programs and information systems to educate and inform the public about practices that the public may employ to prevent the spread of disease; and

(b) communication and interaction between the department and the Division of Wildlife Resources regarding fish health policies and procedures.

(4) (a) (i) The governor shall appoint the following seven members to the Fish Health Policy Board:

(A) one member from names submitted by the Department of Natural Resources;

(B) one member from names submitted by the Department of Agriculture and Food;

(C) one member from names submitted by a nonprofit corporation that promotes sport fishing;

(D) one member from names submitted by a nonprofit corporation that promotes the aquaculture industry;

(E) one member from names submitted by the Department of Natural Resources and the Department of Agriculture and Food;

(F) one member from names submitted by a nonprofit corporation that promotes sport fishing; and

(G) one member from names submitted by a nonprofit corporation that promotes the aquaculture industry.

(ii) The members appointed under Subsections (4)(a)(i)(E) through (G) shall be:

(A) (I) faculty members of an institution of higher education; or

(II) qualified professionals; and

(B) have education and knowledge in:

(I) fish pathology;

(II) business;

(III) ecology; or

(IV) parasitology.

(iii) At least one member appointed under Subsections (4)(a)(i)(E) through (G) shall have education and knowledge about fish pathology.

(iv) (A) A nominating person shall submit at least three names to the governor.

(B) If the governor rejects all the names submitted for a member, the recommending person shall submit additional names.

(b) Except as required by Subsection (4)(c), the term of office of board members shall be four years.

(c) Notwithstanding the requirements of Subsection (4)(b), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of board members are staggered so that approximately half of the board is appointed every two years.

(d) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.

(e) The board members shall elect a chair of the board from the board's membership.

(f) The board shall meet upon the call of the chair or a majority of the board members.

(g) An action of the board shall be adopted upon approval of the majority of voting members.

(5) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

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

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

(6) (a) The board shall make rules consistent with its responsibilities and duties specified in this section.

(b) Except as provided by this chapter, [~~all~~] rules adopted by the Fish Health Policy Board [~~shall~~] may be consistent with the suggested procedures for the detection and identification of pathogens published by the American Fisheries Society's Fish Health Section or the World Organisation for Animal Health, Manual for Diagnostic Tests for Aquatic Animals.

(c) (i) Rules of the department and Fish Health Policy Board pertaining to the control of disease shall remain in effect until the Fish Health Policy Board enacts rules to replace those provisions.

(ii) The Fish Health Policy Board [~~shall~~] may promptly amend rules that are inconsistent with the current suggested procedures published by the American Fisheries Society or the World Organisation for Animal Health, Manual for Diagnostic Tests for Aquatic Animals.

(d) The Fish Health Policy Board may waive a requirement established by the Fish Health Policy Board's rules if:

(i) the rule specifies the waiver criteria and procedures; and

(ii) the waiver will not threaten other aquaculture facilities or wild aquatic animal populations.

Section 28. Section 4-39-108 is amended to read:

4-39-108. Deposit of fees.

The department shall deposit all fees collected under this chapter into the Utah Livestock Brand and Anti-Theft Account created in Section [~~4-24-502~~] 4-24-501.

CHAPTER 296
H. B. 378
Passed March 5, 2021
Approved March 17, 2021
Effective May 5, 2021

EDUCATION STANDARDS REVIEW COMMITTEE AMENDMENTS

Chief Sponsor: Bradley G. Last
Senate Sponsor: Ann Millner

LONG TITLE

General Description:

This bill amends provisions related to the appointment of members of a committee that reviews core standards for Utah public schools.

Highlighted Provisions:

This bill:

- requires the State Board of Education (state board) to notify the speaker of the House of Representatives and the president of the Senate before establishing a standards review committee;
- permits the chair of the state board, instead of the speaker of the House of Representatives or the president of the Senate, to appoint certain members of a standards review committee if the speaker of the House of Representatives or the president of the Senate does not make the appointments within a certain time frame; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53E-4-203, as last amended by Laws of Utah 2019, Chapter 186

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

Section 1. Section 53E-4-203 is amended to read:

53E-4-203. Standards review committee.

(1) Subject to Subsection (4), the state board shall establish:

(a) a time line for the review by a standards review committee of the core standards for Utah public schools for:

(i) English language arts;

(ii) mathematics;

(iii) science;

(iv) social studies;

(v) fine arts;

(vi) physical education and health; and

(vii) early childhood education; and

(b) a separate standards review committee for each subject area [~~specified~~] described in Subsection (1)(a) to review, and recommend to the state board revisions to, the core standards for Utah public schools for the subject area.

(2) (a) At least one year before the state board takes formal action to adopt new core standards for Utah public schools, the state board shall establish a standards review committee [~~as required by Subsection (1)(b)~~].

(b) The state board shall notify the speaker of the House of Representatives and the president of the Senate at least 30 business days before establishing a standards review committee.

(3) A standards review committee shall meet at least twice during the time period described in Subsection (2)(a).

(4) In establishing a time line for the review of core standards for Utah public schools by a standards review committee, the state board shall give priority to establishing a standards review committee to review, and recommend revisions to, the mathematics core standards for Utah public schools.

(5) (a) The membership of a standards review committee consists of:

[~~(a)~~] (i) seven individuals, with expertise in the subject of the core standards being reviewed, appointed by the state board chair, including teachers, business representatives, faculty of higher education institutions in Utah, and others as determined by the state board chair;

[~~(b)~~] (ii) except as provided in Subsection (5)(b)(i), five parents of public education students appointed by the speaker of the House of Representatives; and

[~~(c)~~] (iii) except as provided in Subsection (5)(b)(ii), five parents of public education students appointed by the president of the Senate.

(b) The state board chair may appoint a parent of a public education student to a standards review committee in place of:

(i) an appointment described in Subsection (5)(a)(ii), if the speaker of the House of Representatives does not make the appointment within 30 days of the state board providing the notification described in Subsection (2)(b); or

(ii) an appointment described in Subsection (5)(a)(iii), if the president of the Senate does not make the appointment within 30 days of the state board providing the notification described in Subsection (2)(b).

(6) The state board shall provide staff support to [~~the~~] a standards review committee.

(7) A member of [~~the~~] a standards review committee may not receive compensation or benefits for the member's service on the standards review committee.

(8) Among the criteria a standards review committee shall consider when reviewing the core standards for Utah public schools is giving students an adequate foundation to successfully pursue college, technical education, a career, or other life pursuits.

(9) A standards review committee shall submit, to the state board, comments and recommendations for revision of the core standards for Utah public schools.

(10) The state board shall take into consideration the comments and recommendations of a standards review committee in adopting the core standards for Utah public schools.

(11) (a) Nothing in this section prohibits the state board from amending or adding individual core standards for Utah public schools as the need arises in the state board's ongoing responsibilities.

(b) If the state board makes changes as described in Subsection (11)(a), the state board shall include the changes in the annual report the state board submits to the Education Interim Committee [~~under~~] described in Section 53E-4-202.

CHAPTER 297
H. B. 380
Passed March 4, 2021
Approved March 17, 2021
Effective May 5, 2021

MEDICAL EXAMINER REVISIONS

Chief Sponsor: Raymond P. Ward
Senate Sponsor: Derrin R. Owens

LONG TITLE

General Description:

This bill amends the Utah Medical Examiner Act.

Highlighted Provisions:

This bill:

- defines terms;
- extends the amount of time before a death is considered an unattended death;
- limits who can designate a place where a body can be moved;
- limits who may request an autopsy for an unattended death;
- limits who may sign a death certificate once a body is in the medical examiner's custody;
- clarifies when the medical examiner may refuse to perform an autopsy; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

26-2-13, as last amended by Laws of Utah 2009, Chapters 66 and 68
26-4-2, as last amended by Laws of Utah 2019, Chapter 349
26-4-9, as last amended by Laws of Utah 2011, Chapter 297
26-4-14, as last amended by Laws of Utah 2019, Chapter 349

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

Section 1. Section 26-2-13 is amended to read:

26-2-13. Certificate of death -- Execution and registration requirements.

(1) (a) A certificate of death for each death that occurs in this state shall be filed with the local registrar of the district in which the death occurs, or as otherwise directed by the state registrar, within five days after death and prior to the decedent's interment, any other disposal, or removal from the registration district where the death occurred.

(b) A certificate of death shall be registered if the certificate of death is completed and filed in accordance with this chapter.

(2) (a) If the place of death is unknown but the dead body is found in this state:

(i) the certificate of death shall be completed and filed in accordance with this section; and

(ii) the place where the dead body is found shall be shown as the place of death.

(b) If the date of death is unknown, the date shall be determined by approximation.

(3) (a) When death occurs in a moving conveyance in the United States and the decedent is first removed from the conveyance in this state:

(i) the certificate of death shall be filed with:

(A) the local registrar of the district where the decedent is removed; or

(B) a person designated by the state registrar; and

(ii) the place where the decedent is removed shall be considered the place of death.

(b) When a death occurs on a moving conveyance outside the United States and the decedent is first removed from the conveyance in this state:

(i) the certificate of death shall be filed with:

(A) the local registrar of the district where the decedent is removed; or

(B) a person designated by the state registrar; and

(ii) the certificate of death shall show the actual place of death to the extent it can be determined.

(4) (a) Subject to Subsections (4)(d) and (10), a custodial funeral service director or, if a funeral service director is not retained, a dispositioner shall sign the certificate of death.

(b) The custodial funeral service director, an agent of the custodial funeral service director, or, if a funeral service director is not retained, a dispositioner shall:

(i) file the certificate of death prior to any disposition of a dead body or fetus; and

(ii) obtain the decedent's personal data from the next of kin or the best qualified person or source available, including the decedent's Social Security number, if known.

(c) The certificate of death may not include the decedent's Social Security number.

(d) A dispositioner may not sign a certificate of death, unless the signature is witnessed by the state registrar or a local registrar.

(5) (a) Except as provided in Section 26-2-14, fetal death certificates, the medical section of the certificate of death shall be completed, signed, and returned to the funeral service director, or, if a funeral service director is not retained, a dispositioner, within 72 hours after death by the health care professional who was in charge of the decedent's care for the illness or condition which resulted in death, except when inquiry is required by Title 26, Chapter 4, Utah Medical Examiner Act.

(b) In the absence of the health care professional or with the health care professional's approval, the certificate of death may be completed and signed by an associate physician, the chief medical officer of

the institution in which death occurred, or a physician who performed an autopsy upon the decedent, if:

(i) the person has access to the medical history of the case;

(ii) the person views the decedent at or after death; and

(iii) the death is not due to causes required to be investigated by the medical examiner.

(6) When death occurs more than [~~30~~] 365 days after the day on which the decedent was last treated by a health care professional, the case shall be referred to the medical examiner for investigation to determine and certify the cause, date, and place of death.

(7) When inquiry is required by Title 26, Chapter 4, Utah Medical Examiner Act, the medical examiner shall make an investigation and complete and sign the medical section of the certificate of death within 72 hours after taking charge of the case.

(8) If the cause of death cannot be determined within 72 hours after death:

(a) the medical section of the certificate of death shall be completed as provided by department rule;

(b) the attending health care professional or medical examiner shall give the funeral service director, or, if a funeral service director is not retained, a dispositioner, notice of the reason for the delay; and

(c) final disposition of the decedent may not be made until authorized by the attending health care professional or medical examiner.

(9) (a) When a death is presumed to have occurred within this state but the dead body cannot be located, a certificate of death may be prepared by the state registrar upon receipt of an order of a Utah district court.

(b) The order described in Subsection (9)(a) shall include a finding of fact stating the name of the decedent, the date of death, and the place of death.

(c) A certificate of death prepared under Subsection (9)(a) shall:

(i) show the date of registration; and

(ii) identify the court and the date of the order.

(10) It is unlawful for a dispositioner to charge for or accept any remuneration for:

(a) signing a certificate of death; or

(b) performing any other duty of a dispositioner, as described in this section.

Section 2. Section 26-4-2 is amended to read:

26-4-2. Definitions.

As used in this chapter:

(1) "Dead body" is as defined in Section 26-2-2.

(2) "Death by violence" means death that resulted by the decedent's exposure to physical, mechanical, or chemical forces, and includes death which appears to have been due to homicide, death which occurred during or in an attempt to commit rape, mayhem, kidnapping, robbery, burglary, housebreaking, extortion, or blackmail accompanied by threats of violence, assault with a dangerous weapon, assault with intent to commit any offense punishable by imprisonment for more than one year, arson punishable by imprisonment for more than one year, or any attempt to commit any of the foregoing offenses.

(3) "Immediate relative" means an individual's spouse, child, parent, sibling, grandparent, or grandchild.

(4) "Health care professional" means any of the following while acting in a professional capacity:

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

(b) a physician assistant licensed under Title 58, Chapter 70a, Utah Physician Assistant Act; or

(c) an advance practice registered nurse licensed under Subsection 58-31b-301(2)(d).

[~~(4)~~] (5) "Medical examiner" means the state medical examiner appointed pursuant to Section 26-4-4 or a deputy appointed by the medical examiner.

[~~(5)~~] (6) "Medical examiner record" means:

(a) all information that the medical examiner obtains regarding a decedent; and

(b) reports that the medical examiner makes regarding a decedent.

[~~(6)~~] (7) "Regional pathologist" means a trained pathologist licensed to practice medicine and surgery in the state, appointed by the medical examiner pursuant to Subsection 26-4-4(3).

[~~(7)~~] (8) "Sudden death while in apparent good health" means apparently instantaneous death without obvious natural cause, death during or following an unexplained syncope or coma, or death during an acute or unexplained rapidly fatal illness.

[~~(8)~~] (9) "Sudden infant death syndrome" means the death of a child who was thought to be in good health or whose terminal illness appeared to be so mild that the possibility of a fatal outcome was not anticipated.

[~~(9)~~] (10) "Suicide" means death caused by an intentional and voluntary act of [~~a person~~] an individual who understands the physical nature of the act and intends by such act to accomplish self-destruction.

[~~(10) "Unattended death" means the death of a person who has not been seen by a physician or physician assistant within the scope of the physician's or physician assistant's professional capacity within 30 days immediately prior to the date of death. This definition does not require an investigation, autopsy, or inquest in any case where~~

~~death occurred without medical attendance solely because the deceased was under treatment by prayer or spiritual means alone in accordance with the tenets and practices of a well-recognized church or religious denomination.~~]

(11) "Unattended death" means a death that occurs more than 365 days after the day on which a health care professional examined or treated the deceased individual for any purpose, including writing a prescription.

[~~(11)~~] (12) (a) "Unavailable for postmortem investigation" means that a dead body is:

(i) transported out of state;

(ii) buried at sea;

(iii) cremated;

(iv) processed by alkaline hydrolysis; or

(v) otherwise made unavailable to the medical examiner for postmortem investigation or autopsy.

(b) "Unavailable for postmortem investigation" does not include embalming or burial of a dead body pursuant to the requirements of law.

[~~(12)~~] (13) "Within the scope of the decedent's employment" means all acts reasonably necessary or incident to the performance of work, including matters of personal convenience and comfort not in conflict with specific instructions.

Section 3. Section 26-4-9 is amended to read:

26-4-9. Custody of dead body and personal effects -- Examination of scene of death -- Preservation of body -- Autopsies.

(1) (a) Upon notification of a death under Section 26-4-8, the medical examiner shall assume custody of the deceased body, clothing on the body, biological samples taken, and any article on or near the body which may aid the medical examiner in determining the cause of death except those articles which will assist the investigative agency to proceed without delay with the investigation.

(b) In all cases the scene of the event may not be disturbed until authorization is given by the senior ranking peace officer from the law enforcement agency having jurisdiction of the case and conducting the investigation.

(c) Where death appears to have occurred under circumstances listed in Section 26-4-7, the person or persons finding or having custody of the body, or jurisdiction over the investigation of the death, shall take reasonable precautions to preserve the body and body fluids so that minimum deterioration takes place. [~~The body may not be moved without permission of the medical examiner, district attorney, or county attorney having criminal jurisdiction, or his authorized deputy except in cases of affront to public decency or circumstances where it is not practical to leave the body where found, or in such cases where the cause of death is clearly due to natural causes.~~]

(d) A person may not move a body in the custody of the medical examiner unless:

(i) the medical examiner, or district attorney or county attorney that has criminal jurisdiction, authorizes the person to move the body;

(ii) a designee of an individual listed in Subsection (1)(d) authorizes the person to move the body;

(iii) not moving the body would be an affront to public decency or impractical; or

(iv) the medical examiner determines the cause of death is likely due to natural causes.

(e) The body can under direction of [~~a licensed physician or~~] the medical examiner or [~~his designated representative~~] the medical examiner's designee be moved to a place specified by [~~a funeral director, the attending physician,~~] the medical examiner[~~, or his representative~~] or the medical examiner's designee.

[~~(2) In the event the body, where referred to the medical examiner, is moved, no cleansing or embalming of the body shall occur without the permission of the medical examiner.~~]

(2) (a) If the medical examiner has custody of a body, a person may not clean or embalm the body without first obtaining the medical examiner's permission.

(b) An intentional or knowing violation of [~~this~~] Subsection (2)(a) is a class B misdemeanor.

(3) (a) When the medical examiner assumes lawful custody of a body under Subsection 26-4-7(3) solely because the death was unattended, an autopsy may not be performed unless requested by the district attorney, county attorney having criminal jurisdiction, or law enforcement agency having jurisdiction of the place where the body is found[~~, or a licensed physician, or a spouse, child, parent or guardian of the deceased, and a licensed physician~~].

(b) The county attorney or district attorney and law enforcement agency having jurisdiction shall consult with the medical examiner to determine the need for an autopsy. [~~In any such case concerning unattended deaths qualifying as exempt from autopsy, a death certificate may be certified by a licensed physician. In this case the physician may be established as the medical examiner's designated representative. Requested autopsies may not be performed when the medical examiner or the medical examiner's designated representative determines the autopsy to be unnecessary, provided that an autopsy requested by a district or county attorney or law enforcement agency may only be determined to be unnecessary if the cause of death can be ascertained without an autopsy being performed.~~]

(c) If the deceased chose not to be seen or treated by a health care professional for a spiritual or religious reason, a district attorney, county attorney, or law enforcement agency, may not request an autopsy or inquest under Subsection (3)(a) solely because of the deceased's choice.

(d) The medical examiner or medical examiner's designee may not conduct a requested autopsy described in Subsection (3)(a) if the medical examiner or medical examiner's designee determines:

(i) the request violates Subsection (3)(c); or

(ii) the cause of death can be determined without performing an autopsy.

Section 4. Section 26-4-14 is amended to read:

26-4-14. Certification of death by attending health care professional -- Deaths without medical attendance -- Cause of death uncertain -- Notice requirements.

[~~The physician or physician assistant in attendance at the last illness of a deceased person who, in the judgment of the physician or physician assistant, does not appear to have died in a manner described in Section 26-4-7, shall certify the cause of death to his best knowledge and belief. When there is no physician or physician assistant in attendance during the last illness or when an attending physician or physician assistant is unable to determine with reasonable certainty the cause of death, the physician, physician assistant, or person with custody of the body shall so notify the medical examiner.~~]

(1) (a) A health care professional who treats or examines an individual within 365 days from the day on which the individual dies, shall certify the individual's cause of death to the best of the health care professional's knowledge and belief unless the health care professional determines the individual may have died in a manner described in Section 26-4-7.

(b) If a health care professional is unable to determine an individual's cause of death in accordance with Subsection (1)(a), the health care professional shall notify the medical examiner.

(2) For an unattended death, the person with custody of the body shall notify the medical examiner of the death.

(3) If the medical examiner [~~has reason to believe~~] determines there may be criminal responsibility for [~~the~~] a death, [~~he shall~~] the medical examiner shall notify:

(a) the district attorney or county attorney [~~having~~] that has criminal jurisdiction; or

(b) the head of the law enforcement agency [~~having jurisdiction to make further investigation of the death~~] that has jurisdiction to investigate the death.

CHAPTER 298
H. B. 381
Passed March 4, 2021
Approved March 17, 2021
Effective May 5, 2021

GROW YOUR OWN TEACHER AND SCHOOL COUNSELOR PIPELINE PROGRAM

Chief Sponsor: Jefferson Moss
Senate Sponsor: Ann Millner
Cosponsor: Elizabeth Weight

LONG TITLE

General Description:

This bill creates the Grow Your Own Teacher and School Counselor Pipeline Program to provide scholarships to certain school employees.

Highlighted Provisions:

This bill:

- defines terms;
- creates the Grow Your Own Teacher and School Counselor Pipeline Program (program) to provide scholarships to certain school employees;
- establishes eligibility criteria and allowed uses for the program; and
- requires the State Board of Education to make rules and administer the program.

Monies Appropriated in this Bill:

This bill appropriates in fiscal year 2022:

- to the State Board of Education – Minimum School Program – Related to Basic School Programs, as a one-time appropriation:
  - from the Uniform School Fund, One-time, $9,200,000.

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:
53F-5-218, Utah Code Annotated 1953

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

Section 1. Section 53F-5-218 is enacted to read:

53F-5-218. Grow Your Own Teacher and School Counselor Pipeline Program.

(1) As used in this section:

(a) "Paraprofessional" means an individual who:

(i) works with students in an LEA as a paraprofessional or in a similar teaching assistant position; and

(ii) is not licensed to teach.

(b) "Program" means the Grow Your Own Teacher and School Counselor Pipeline Program that this section creates.

(c) "School counselor" means an educator who is:

(i) licensed as a school counselor in accordance with state board rule; and

(ii) assigned to provide direct and indirect services to students in accordance with a school counseling program model that the state board provides.

(d) "School counselor assistant" means a student who is:

(i) enrolled in an accredited bachelor's degree program in a related field; and

(ii) completing the student's practicum experience in a school counseling department under the supervision of a licensed school counselor.

(e) "School counselor intern" means a student who is:

(i) enrolled in an accredited school counselor master's degree program; and

(ii) completing the student's hours of a supervised counseling internship by applying appropriate school counseling techniques under the supervision of a licensed school counselor.

(2) The Grow Your Own Teacher and School Counselor Pipeline Program is a competitive grant program created to provide funding to LEAs to award scholarships to paraprofessionals, school counselor assistants, and school counselor interns within the LEA for education and training to become licensed teachers or licensed school counselors.

(3) The state board shall use money appropriated for the program to provide funding to LEAs that are awarded grants under the program to award scholarships to eligible candidates whom principals within the LEA nominate, in an amount that the state board determines.

(4) An LEA that participates in the program may select a candidate for a scholarship award if:

(a) the candidate is a resident of the state; and

(b) (i) for a paraprofessional:

(A) a school district or charter school has employed the candidate as a paraprofessional for at least one year before entering the program; or

(B) subject to Subsection (5), the candidate has experience outside the school district, charter school, or state that is equivalent to the experience described in Subsection (4)(b)(ii);

(ii) for a school counselor assistant, the candidate:

(A) is enrolled in a bachelor's degree program in a related field; and

(B) demonstrates a commitment to continue the school counselor assistant's education after graduation in school counseling; or

(iii) for a school counselor intern, the candidate is enrolled in an accredited school counselor master's degree program accredited by:

(A) the Council for Accreditation of Counseling and Related Educational Programs; or

(B) another regionally recognized accrediting body that meets the state board's standards for school counselor education programs.

(5) The percentage of an LEA's paraprofessional scholarship recipients who are eligible for a scholarship using equivalent experience under Subsection (4)(b)(i)(B) may not exceed 20%.

(6) A scholarship award under the program may only be used for:

(a) tuition, books, fees, and certification tests for required coursework and licensure;

(b) stipends for mentors; and

(c) if the LEA pays 0.15 of a full-time equivalent and all employee benefits, payment of a 0.35 full-time equivalent for:

(i) a paraprofessional, up to one semester of student teaching; or

(ii) a school counselor assistant or school counselor intern, up to two semesters of practicum or internship hours.

(7) A paraprofessional scholarship recipient must be continuously employed as a paraprofessional by the paraprofessional's LEA while pursuing a degree using scholarship money under the program.

(8) The state board shall make rules in accordance with this section and Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to administer the program, including rules regarding:

(a) grant and scholarship application procedures;

(b) procedures for distributing scholarship money;

(c) assignment and eligibility of qualified mentors;

(d) stipends for mentors;

(e) administrative costs for regional education service agencies, as that term is defined in Section 53G-4-410; and

(f) eligibility requirements for potential candidates for scholarships regarding the completion of the Free Application for Federal Student Aid and the acceptance of other grants, tuition or fee waivers, and scholarships offered to the candidate.

Section 2. Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2021, and ending June 30, 2022. These are additions to amounts previously appropriated for fiscal year 2022. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 1

To State Board of Education - Minimum School Program - Related to Basic School Programs

From Uniform School Fund, One-time 9,200,000

Schedule of Programs:

Grow Your Own Teacher and Counselor Pipeline 9,200,000

The Legislature intends that the State Board of Education:

(1) use the appropriated funds for two cohorts of scholarship recipients under Section 53F-5-218; and

(2) report to the Public Education Appropriations Subcommittee during the 2023 interim regarding whether the Legislature should provide ongoing funding for additional cohorts.

CHAPTER 299
H. B. 383
Passed March 4, 2021
Approved March 17, 2021
Effective May 5, 2021

FLAG DISPLAY AMENDMENTS

Chief Sponsor: Matthew H. Gwynn
Senate Sponsor: David G. Buxton

LONG TITLE

General Description:

This bill amends provisions related to the display of the POW/MIA flag at the capitol hill complex.

Highlighted Provisions:

This bill:

- provides an exception to the display of the POW/MIA flag at the capitol hill complex.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63G-1-703, as last amended by Laws of Utah 2018, Chapters 39 and 134

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

Section 1. Section 63G-1-703 is amended to read:

63G-1-703. Display of POW/MIA flag.

(1) In any place at the capitol hill complex, with the exception of the Utah Law Enforcement Memorial, where the United States flag is displayed out of doors, the entity responsible for the display of the United States flag shall display the POW/MIA flag, in the manner described in Subsection (3), from sunrise to sunset on the following days:

(a) Armed Forces Day, the third Saturday in May;

(b) Memorial Day, the last Monday in May;

(c) Flag Day, June 14;

(d) Independence Day, July 4;

(e) Veterans Day, November 11; and

(f) National POW/MIA Recognition Day, the third Friday in September.

(2) The Department of Veterans and Military Affairs shall ensure that, in any place where the United States flag is displayed out of doors at a cemetery that is operated by the Department of Veterans and Military Affairs, the POW/MIA flag is displayed in the manner described in Subsection (3).

(3) When displaying the POW/MIA flag under Subsection (1) or (2), the entity responsible to display the flag shall fly or hang the POW/MIA flag as follows:

(a) if the United States flag and the POW/MIA flag are attached to the same flag pole, by placing the POW/MIA flag directly under the United States flag; or

(b) if the United States flag and the POW/MIA flag are displayed near each other, but not on the same flag pole, by placing the top of the POW/MIA flag below the top of the United States flag.

CHAPTER 300
H. B. 389
Passed March 4, 2021
Approved March 17, 2021
Effective May 5, 2021

MEDICAID RECOVERY AMENDMENTS

Chief Sponsor: Kera Birkeland
Senate Sponsor: Ann Millner

LONG TITLE

General Description:

This bill addresses recovery of Medicaid funds from certain third-party obligors.

Highlighted Provisions:

This bill:

- prohibits the Department of Health (department) from recovering Medicaid funds from a third-party obligor that is required to pay for injuries to a child in foster care if certain conditions are met;
- provides that the department is responsible for repayment to the federal government for the Medicaid funds the department is prohibited from recovering; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

26-19-201, as renumbered and amended by Laws of Utah 2018, Chapter 443
26-19-401, as renumbered and amended by Laws of Utah 2018, Chapter 443

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

Section 1. Section 26-19-201 is amended to read:

26-19-201. Assignment of rights to benefits.

(1) (a) [~~To~~] Except as provided in Subsection 26-19-401(1), to the extent that medical assistance is actually provided to a recipient, all benefits for medical services or payments from a [~~third-party~~] third-party otherwise payable to or on behalf of a recipient are assigned by operation of law to the department if the department provides, or becomes obligated to provide, medical assistance, regardless of who made application for the benefits on behalf of the recipient.

(b) The assignment:

(i) authorizes the department to submit its claim to the [~~third-party~~] third-party and authorizes payment of benefits directly to the department; and

(ii) is effective for all medical assistance.

(2) The department may recover the assigned benefits or payments in accordance with Section 26-19-401 and as otherwise provided by law.

(3) (a) The assignment of benefits includes medical support and [~~third-party~~] third-party payments ordered, decreed, or adjudged by any court of this state or any other state or territory of the United States. [~~That~~]

(b) The assignment is not in lieu of, and does not supersede or alter any other court order, decree, or judgment.

(4) When an assignment takes effect, the recipient is entitled to receive medical assistance, and the benefits paid to the department are a reimbursement to the department.

Section 2. Section 26-19-401 is amended to read:

26-19-401. Recovery of medical assistance from third party -- Lien -- Notice -- Action -- Compromise or waiver -- Recipient's right to action protected.

(1) (a) [~~When~~] Except as provided in Subsection (1)(c), if the department provides or becomes obligated to provide medical assistance to a recipient that a third-party is obligated to pay for, the department may recover the medical assistance directly from [~~that~~] the third-party.

(b) (i) [~~Any~~] A claim [~~arising~~] under Subsection (1)(a) or Section 26-19-201 to recover medical assistance provided to a recipient is a lien against any proceeds payable to or on behalf of the recipient by [~~that~~] the third-party. [~~This~~]

(ii) The lien described in Subsection (1)(b)(i) has priority over all other claims to the proceeds, except claims for attorney fees and costs authorized under Subsection 26-19-403(2)(c)(ii).

(c) (i) The department may not recover medical assistance under Subsection (1)(a) if:

(A) the third-party is obligated to pay the recipient for an injury to the recipient's child that occurred while the child was in the physical custody of the child's foster parent;

(B) the child's injury is a physical or mental impairment that requires ongoing medical attention, or limits activities of daily living, for at least one year;

(C) the third-party's payment to the recipient is placed in a trust, annuity, financial account, or other financial instrument for the benefit of the child; and

(D) the recipient makes reasonable efforts to mitigate any other medical assistance costs for the recipient to the state.

(ii) The department is responsible for any repayment to the federal government related to the medical assistance the department is prohibited from recovering under Subsection (1)(c)(i).

(2) (a) The department shall mail or deliver written notice of [~~its~~] the department's claim or lien to the third-party at [~~its~~] the third-party's principal place of business or last-known address.

(b) The notice shall include:

(i) the recipient's name;

(ii) the approximate date of illness or injury;

(iii) a general description of the type of illness or injury; and

(iv) if applicable, the general location where the injury is alleged to have occurred.

(3) The department may commence an action on [~~its~~] the department's claim or lien in [~~its own~~] the department's name, but [~~that~~] the claim or lien is not enforceable as to a third-party unless:

(a) the third-party receives written notice of the department's claim or lien before [~~it~~] the third-party settles with the recipient; or

(b) the department has evidence that the third party had knowledge that the department provided or was obligated to provide medical assistance.

(4) The department may:

(a) waive a claim or lien against a third party in whole or in part; or

(b) compromise, settle, or release a claim or lien.

(5) An action commenced under this section does not bar an action by a recipient or a dependent of a recipient for loss or damage not included in the department's action.

(6) [~~The~~] Except as provided in Subsection (1)(c), the department's claim or lien on proceeds under this section is not affected by the transfer of the proceeds to a trust, annuity, financial account, or other financial instrument.

CHAPTER 301
H. B. 391
Passed March 5, 2021
Approved March 17, 2021
Effective May 5, 2021

APPRENTICESHIP NOMENCLATURE ACT

Chief Sponsor: Mike Winder
Senate Sponsor: Karen Mayne

LONG TITLE

General Description:

This bill modifies provisions of the Apprenticeship Act.

Highlighted Provisions:

This bill:

- defines terms, including apprenticeship, pre-apprenticeship, and youth apprenticeship;
- modifies the responsibilities of the Commissioner of Apprenticeship Programs; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

35A-6-102, as last amended by Laws of Utah 2019, Chapter 224
35A-6-105, as last amended by Laws of Utah 2020, Chapter 365

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

Section 1. Section 35A-6-102 is amended to read:

35A-6-102. Definitions.

As used in this chapter and in Title 34, Labor in General:

(1) "Apprentice" means an individual who has entered into:

(a) a written agreement approved by the Office of Apprenticeship with an employer or the employer's agent, an association of employers, an organization of employees, or a joint committee representing employers and employees;

(b) an apprenticeship that meets Office of Apprenticeship standards; or

(c) an apprenticeship that can be completed at no charge to the participant where the participant learns and works with registered standards to learn a set of skills that result in the participant qualifying for a state license or certification or earning industry recognized credentials at the completion of the apprenticeship.

(2) "Apprenticeship" means an industry-driven, high-quality career pathway where employers can develop and prepare their future workforce, and individuals can obtain paid work experience, classroom instruction, and a portable, nationally recognized credential.

[~~(2)~~] (3) "Commissioner" means the Commissioner of Apprenticeship Programs described in Section 35A-6-105.

[~~(3)~~] (4) "Office of Apprenticeship" means the federal agency designated by the United States Department of Labor to oversee apprenticeship programs.

(5) "Pre-apprenticeship" means a program or set of strategies that is designed to prepare individuals to enter and succeed in an apprenticeship program with registered standards.

(6) "Youth apprenticeship" means a program or set of strategies that combines academic and technical classroom instruction with work experience through an apprenticeship program and which provides the foundation for youth in high school to choose among multiple pathways, including enrolling in college, beginning full-time employment, or a combination of college and employment.

Section 2. Section 35A-6-105 is amended to read:

35A-6-105. Commissioner of Apprenticeship Programs.

(1) There is created the position of Commissioner of Apprenticeship Programs within the department.

(2) The commissioner shall be appointed by the executive director and chosen from one or more recommendations provided by a majority vote of the State Workforce Development Board.

(3) The commissioner may be terminated without cause by the executive director.

(4) The commissioner shall:

(a) promote and educate the public, including high school guidance counselors and potential participants in apprenticeship programs, about apprenticeship [~~programs~~], youth apprenticeship, and pre-apprenticeship programs offered in the state, including apprenticeship [~~programs~~], youth apprenticeship, and pre-apprenticeship programs offered by private sector businesses, trade groups, labor unions, partnerships with educational institutions, and other associations in the state;

(b) coordinate with the department and other stakeholders, including union and nonunion apprenticeship programs, the Office of Apprenticeship, the State Board of Education, the Utah system of higher education, the Department of Commerce, the Division of Occupational and Professional Licensing, and the Governor's Office of Economic Development to improve and promote apprenticeship opportunities in the state; and

(c) provide an annual written report to:

(i) the department for inclusion in the department's annual written report described in Section 35A-1-109;

(ii) the Business, Economic Development, and Labor Appropriations Subcommittee; and

(iii) the Higher Education Appropriations Subcommittee.

(5) The annual written report described in Subsection (4)(c) shall provide information concerning:

(a) the number of available apprenticeship, youth apprenticeship, and pre-apprenticeship programs in the state;

(b) the number of [~~apprentices participating~~] apprentice participants in each program;

(c) the completion rate of each program;

(d) the cost of state funding for each program; and

(e) recommendations for improving apprenticeship, youth apprenticeship, and pre-apprenticeship programs.

CHAPTER 302
H. B. 399
Passed March 5, 2021
Approved March 17, 2021
Effective May 5, 2021

APPROVAL OF NONHAZARDOUS SOLID OR HAZARDOUS WASTE FACILITIES

Chief Sponsor: Timothy D. Hawkes
Senate Sponsor: Scott D. Sandall

LONG TITLE

General Description:

This bill addresses process of obtaining approval of nonhazardous solid or hazardous waste facilities.

Highlighted Provisions:

This bill:

- addresses legislative approval and automatic revocation of that approval; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

19-6-108, as last amended by Laws of Utah 2020, Chapter 256

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

Section 1. Section 19-6-108 is amended to read:

19-6-108. New nonhazardous solid or hazardous waste operation plans for facility or site -- Approval required -- Exemptions from legislative and gubernatorial approval -- Time periods for review -- Information required -- Other conditions -- Automatic revocation of approval -- Periodic review.

(1) For purposes of this section, the following items shall be treated as submission of a new operation plan:

(a) the submission of a revised operation plan specifying a different geographic site than a previously submitted plan;

(b) an application for modification of a commercial hazardous waste incinerator if the construction or the modification would increase the hazardous waste incinerator capacity above the capacity specified in the operation plan as of January 1, 1990, or the capacity specified in the operation plan application as of January 1, 1990, if no operation plan approval has been issued as of January 1, 1990;

(c) an application for modification of a commercial nonhazardous solid waste incinerator if the construction of the modification would cost 50% or more of the cost of construction of the original incinerator or the modification would result in an increase in the capacity or throughput of the incinerator of a cumulative total of 50% above the total capacity or throughput that was approved in the operation plan as of January 1, 1990, or the initial approved operation plan if the initial approval is subsequent to January 1, 1990;

(d) an application for modification of a commercial nonhazardous solid or hazardous waste treatment, storage, or disposal facility, other than an incinerator, if the modification would be outside the boundaries of the property owned or controlled by the applicant, as shown in the application or approved operation plan as of January 1, 1990, or the initial approved operation plan if the initial approval is subsequent to January 1, 1990; or

(e) a submission of an operation plan to construct a facility, if previous approvals of the operation plan to construct the facility have been revoked pursuant to Subsection (3)(c)(iv) or (v).

(2) Capacity under Subsection (1)(b) shall be calculated based on the throughput tonnage specified for the trial burn in the operation plan or the operation plan application if no operation plan approval has been issued as of January 1, 1990, and on annual operations of 7,000 hours.

(3) (a) (i) Except as specified in Subsection (3)(a)(ii)(C), a person may not own, construct, modify, or operate a facility or site for the purpose of transferring, treating, or disposing of nonhazardous solid waste or treating, storing, or disposing of hazardous waste without first submitting and receiving the approval of the director for an operation plan for that facility or site.

(ii) (A) A permittee who is the current owner of a facility or site that is subject to an operation plan may submit to the director information, a report, a plan, or other request for approval for a proposed activity under an operation plan:

(I) after obtaining the consent of any other permittee who is a current owner of the facility or site; and

(II) without obtaining the consent of any other permittee who is not a current owner of the facility or site.

(B) The director may not:

(I) withhold an approval of an operation plan requested by a permittee who is a current owner of the facility or site on the grounds that another permittee who is not a current owner of the facility or site has not consented to the request; or

(II) give an approval of an operation plan requested by a permittee who is not a current owner before receiving consent of the current owner of the facility or site.

(C) A facility referred to in Subsection (3)(a)(i) does not include a facility when the waste from the extraction, beneficiation, and processing of ores and minerals listed in 40 C.F.R. Sec. 261.4(b)(7)(ii), or cement kiln dust, is generated and the disposal occurs at an on-site location owned and operated by the generator of the waste.

(b) (i) Except for a facility that receives the following wastes solely for the purpose of recycling,

reuse, or reprocessing, a person may not own, construct, modify, or operate any commercial facility that accepts for treatment or disposal, with the intent to make a profit, any of the wastes listed in Subsection (3)(b)(ii) without first submitting a request to and receiving the approval of the director for an operation plan for that facility site.

(ii) Wastes referred to in Subsection (3)(b)(i) are:

(A) fly ash waste, bottom ash waste, slag waste, or flue gas emission control waste generated primarily from the combustion of coal or other fossil fuels;

(B) wastes from the extraction, beneficiation, and processing of ores and minerals; or

(C) cement kiln dust wastes.

(c) (i) A person may not construct a facility listed under Subsection (3)(c)(ii) until the person receives:

(A) local government approval and the approval described in Subsection (3)(a);

(B) approval from the Legislature that, on and after May 5, 2021, is required to be obtained after the person submits an application under this section; and

(C) after receiving the approvals described in Subsections (3)(c)(i)(A) and (B), approval from the governor.

(ii) A facility referred to in Subsection (3)(c)(i) is:

(A) a commercial nonhazardous solid waste disposal facility;

(B) except for a facility that receives a waste listed in Subsection (3)(c)(iii), solely for the purpose of recycling, reuse, or reprocessing, any commercial facility that accepts for treatment or disposal, with the intent to make a profit; or

(C) a commercial hazardous waste treatment, storage, or disposal facility.

(iii) Subsection (3)(c)(ii)(B) applies to the following wastes:

(A) fly ash waste, bottom ash waste, slag waste, or flue gas emission control waste generated primarily from the combustion of coal or other fossil fuels;

(B) wastes from the extraction, beneficiation, and processing of ores and minerals; or

(C) cement kiln dust wastes.

(iv) The required approvals described in Subsection (3)(c)(i) for a facility described in Subsection (3)(c)(ii)(A) or (B) are automatically revoked if:

(A) the governor's approval is received on or after May 10, 2011, and the facility is not operational within five years after the day on which the governor's approval is received; or

(B) the governor's approval is received before May 10, 2011, and the facility is not operational on or before May 10, 2016.

(v) For legislative approval described in Subsection (3)(c)(i)(B), the required legislative approval for a facility described in Subsection (3)(c)(ii) is automatically revoked if:

(A) after receiving the legislative approval, the person seeking to construct the facility withdraws the application submitted under this section by providing the division a written statement of withdrawal for the facility that is the basis of the legislative approval; or

(B) after five years from the day on which the required legislative approval takes effect, the application for the facility is not approved by the division.

[~~(v)~~] (vi) The required approvals described in Subsection (3)(c)(i) for a facility described in Subsection (3)(c)(ii)(A) or (B), including the approved operation plan, are not transferrable to another person for five years after the day on which the governor's approval is received.

(d) A person need not obtain gubernatorial or legislative approval for the construction of a hazardous waste facility for which an operating plan has been approved by or submitted for approval to the executive secretary of the board under this section before April 24, 1989, and which has been determined, on or before December 31, 1990, by the executive secretary of the board to be complete, in accordance with state and federal requirements for operating plans for hazardous waste facilities even if a different geographic site is subsequently submitted.

(e) A person need not obtain gubernatorial and legislative approval for the construction of a commercial nonhazardous solid waste disposal facility for which an operation plan has been approved by or submitted for approval to the executive secretary of the board under this section on or before January 1, 1990, and which, on or before December 31, 1990, the executive secretary of the board determines to be complete, in accordance with state and federal requirements applicable to operation plans for nonhazardous solid waste facilities.

(f) A person owning or operating a facility or site on or before November 19, 1980, who has given timely notification as required by Section 3010 of the Resource Conservation and Recovery Act of 1976, 42 U.S.C. Sec. 6921, et seq., and who has submitted a proposed hazardous waste plan under this section for that facility or site, may continue to operate that facility or site without violating this section until the plan is approved or disapproved under this section.

(g) (i) The director shall suspend acceptance of further applications for a commercial nonhazardous solid or hazardous waste facility upon a finding that the director cannot adequately oversee existing and additional facilities for permit compliance, monitoring, and enforcement.

(ii) The director shall report any suspension to the Natural Resources, Agriculture, and Environment Interim Committee.

(4) The director shall review a proposed nonhazardous solid or hazardous waste operation plan to determine whether that plan complies with this part and the applicable rules of the board.

(5) (a) If the facility is a class I or class II facility, the director shall approve or disapprove that plan within 270 days from the date the plan is submitted.

(b) Within 60 days after receipt of the plans, specifications, or other information required by this section for a class I or II facility, the director shall determine whether the plan is complete and contains the information necessary to process the plan for approval.

(c) (i) If the plan for a class I or II facility is determined to be complete, the director shall issue a notice of completeness.

(ii) If the plan is determined by the director to be incomplete, the director shall issue a notice of deficiency, listing the additional information to be provided by the owner or operator to complete the plan.

(d) The director shall review information submitted in response to a notice of deficiency within 30 days after receipt.

(e) The following time periods may not be included in the 270 day plan review period for a class I or II facility:

(i) time awaiting response from the owner or operator to requests for information issued by the director;

(ii) time required for public participation and hearings for issuance of plan approvals; and

(iii) time for review of the permit by other federal or state government agencies.

(6) (a) If the facility is a class III or class IV facility, the director shall approve or disapprove that plan within 365 days from the date the plan is submitted.

(b) The following time periods may not be included in the 365 day review period:

(i) time awaiting response from the owner or operator to requests for information issued by the director;

(ii) time required for public participation and hearings for issuance of plan approvals; and

(iii) time for review of the permit by other federal or state government agencies.

(7) If, within 365 days after receipt of a modification request or closure plan for any facility, the director determines that the proposed plan or request, or any part of the proposed plan or request, will not comply with applicable rules, the director shall issue an order prohibiting any action under the proposed plan or request for modification or closure in whole or in part.

(8) A person who owns or operates a facility or site required to have an approved hazardous waste operation plan under this section and who has pending a permit application before the United States Environmental Protection Agency shall be treated as having an approved plan until final administrative disposition of the permit application is made under this section, unless the director determines that final administrative disposition of the application has not been made because of the failure of the owner or operator to furnish any information requested, or the facility's interim status has terminated under Section 3005 (e) of the Resource Conservation and Recovery Act, 42 U.S.C. Sec. 6925 (e).

(9) The director may not approve a proposed nonhazardous solid or hazardous waste operation plan unless the plan contains the information that the board requires, including:

(a) estimates of the composition, quantities, and concentrations of any hazardous waste identified under this part and the proposed treatment, storage, or disposal of the hazardous waste;

(b) evidence that the transfer, treatment, or disposal of nonhazardous solid waste or treatment, storage, or disposal of hazardous waste will not be done in a manner that may cause or significantly contribute to an increase in mortality, an increase in serious irreversible or incapacitating reversible illness, or pose a substantial present or potential hazard to human health or the environment;

(c) consistent with the degree and duration of risks associated with the transfer, treatment, or disposal of nonhazardous solid waste or treatment, storage, or disposal of specified hazardous waste, evidence of financial responsibility in whatever form and amount that the director determines is necessary to ensure continuity of operation and that upon abandonment, cessation, or interruption of the operation of the facility or site, the reasonable measures consistent with the available knowledge will be taken to ensure that the waste subsequent to being treated, stored, or disposed of at the site or facility will not present a hazard to the public or the environment;

(d) evidence that the personnel employed at the facility or site have education and training for the safe and adequate handling of nonhazardous solid or hazardous waste;

(e) plans, specifications, and other information that the director considers relevant to determine whether the proposed nonhazardous solid or hazardous waste operation plan will comply with this part and the rules of the board;

(f) compliance schedules, when applicable, including schedules for corrective action or other response measures for releases from a solid waste management unit at the facility, regardless of the time the waste was placed in the unit;

(g) for a proposed operation plan submitted on or after July 1, 2013, for a new solid or hazardous waste facility other than a water treatment facility that treats, stores, or disposes site-generated solid or hazardous waste onsite, a traffic impact study that:

(i) takes into consideration the safety, operation, and condition of roadways serving the proposed facility; and

(ii) is reviewed and approved by the Department of Transportation or a local highway authority, whichever has jurisdiction over each road serving the proposed facility, with the cost of the review paid by the person who submits the proposed operation plan; and

(h) for a proposed operation plan submitted on or after July 1, 2013, for a new nonhazardous solid waste facility owned or operated by a local government, financial information that discloses the costs of establishing and operating the facility, including:

(i) land acquisition and leasing;

(ii) construction;

(iii) estimated annual operation;

(iv) equipment;

(v) ancillary structures;

(vi) roads;

(vii) transfer stations; and

(viii) using other operations that are not contiguous to the proposed facility but are necessary to support the facility's construction and operation.

(10) The director may not approve a commercial nonhazardous solid or hazardous waste operation plan that meets the requirements of Subsection (9) unless the operation plan contains the information required by the board, including:

(a) evidence that the proposed commercial facility has a proven market of nonhazardous solid or hazardous waste, including:

(i) information on the source, quantity, and price charged for treating, storing, and disposing of potential nonhazardous solid or hazardous waste in the state and regionally;

(ii) a market analysis of the need for a commercial facility given existing and potential generation of nonhazardous solid or hazardous waste in the state and regionally; and

(iii) a review of other existing and proposed commercial nonhazardous solid or hazardous waste facilities regionally and nationally that would compete for the treatment, storage, or disposal of the nonhazardous solid or hazardous waste;

(b) a description of the public benefits of the proposed facility, including:

(i) the need in the state for the additional capacity for the management of nonhazardous solid or hazardous waste;

(ii) the energy and resources recoverable by the proposed facility;

(iii) the reduction of nonhazardous solid or hazardous waste management methods, that are less suitable for the environment, that would be made possible by the proposed facility; and

(iv) whether any other available site or method for the management of hazardous waste would be less detrimental to the public health or safety or to the quality of the environment; and

(c) compliance history of an owner or operator of a proposed commercial nonhazardous solid or hazardous waste treatment, storage, or disposal facility, that may be applied by the director in a nonhazardous solid or hazardous waste operation plan decision, including any plan conditions.

(11) The director may not approve a commercial nonhazardous solid or hazardous waste facility operation plan unless based on the application, and in addition to the determination required in Subsections (9) and (10), the director determines that:

(a) the probable beneficial environmental effect of the facility to the state outweighs the probable adverse environmental effect; and

(b) there is a need for the facility to serve industry within the state.

(12) Approval of a nonhazardous solid or hazardous waste operation plan may be revoked, in whole or in part, if the person to whom approval of the plan has been given fails to comply with that plan.

(13) The director shall review approved nonhazardous solid and hazardous waste operation plans at least once every five years.

(14) Subsections (10) and (11) do not apply to a hazardous waste facility in existence or to an application filed or pending in the department before April 24, 1989, that are determined by the executive secretary of the board on or before December 31, 1990, to be complete, in accordance with state and federal requirements applicable to operation plans for hazardous waste facilities.

(15) Subsections (9), (10), and (11) do not apply to a nonhazardous solid waste facility in existence or to an application filed or pending in the department before January 1, 1990, that is determined by the director, on or before December 31, 1990, to be complete in accordance with state and federal requirements applicable to operation plans for nonhazardous solid waste facilities.

(16) Nonhazardous solid waste generated outside of this state that is defined as hazardous waste in the state where the nonhazardous solid waste is generated and that is received for disposal in this state may not be disposed of at a nonhazardous waste disposal facility owned and operated by local government or a facility under contract with a local government solely for disposal of nonhazardous solid waste generated within the boundaries of the local government, unless disposal is approved by the director.

(17) This section may not be construed to exempt a facility from applicable regulation under the

federal Atomic Energy Act, 42 U.S.C. Sec. 2014 and 2021 through 2114.

CHAPTER 303
H. B. 402
Passed March 5, 2021
Approved March 17, 2021
Effective May 5, 2021

SCHOOL TRANSPORTATION FUNDING AMENDMENTS

Chief Sponsor: Dan N. Johnson
Senate Sponsor: Lincoln Fillmore

LONG TITLE

General Description:

This bill amends provisions related to funding for student transportation to and from school.

Highlighted Provisions:

This bill:

- requires the State Board of Education to use fiscal year 2019 data for purposes of:
  - distributing fiscal year 2021 and 2022 state appropriations for student transportation; and
  - determining the percentage of students who qualify for free or reduced price lunch in order to determine whether a local education agency is eligible for the rural school transportation reimbursement.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53F-2-403, as last amended by Laws of Utah 2019, Chapters 186 and 408
53F-2-520, as last amended by Laws of Utah 2020, Chapter 408

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

Section 1. Section 53F-2-403 is amended to read:

53F-2-403. Eligibility for state-supported transportation -- Approved bus routes.

(1) A student eligible for state-supported transportation means:

(a) a student enrolled in kindergarten through grade 6 who lives at least 1-1/2 miles from school;

(b) a student enrolled in grades 7 through 12 who lives at least two miles from school; and

(c) a student enrolled in a special program offered by a school district and approved by the state board for trainable, motor, multiple-disability, or other students with severe disabilities who are incapable of walking to school or where it is unsafe for students to walk because of their disabling condition, without reference to distance from school.

(2) If a school district implements double sessions as an alternative to new building construction, with the approval of the state board, those affected elementary school students residing less than 1-1/2 miles from school may be transported one way to or from school because of safety factors relating to darkness or other hazardous conditions as determined by the local school board.

(3) (a) The state board shall distribute transportation money to school districts based on:

(i) an allowance per mile for approved bus routes;

(ii) an allowance per hour for approved bus routes; and

(iii) a minimum allocation for each school district eligible for transportation funding.

(b) (i) [~~The~~] Except as provided in Subsection (3)(b)(ii), the state board shall distribute appropriated transportation funds based on the prior year's eligible transportation costs as legally reported under Subsection 53F-2-402(3).

(ii) The state board shall distribute state appropriations for transportation for fiscal years 2021 and 2022 using fiscal year 2019 eligible transportation costs described in Subsection 53F-2-402(3).

(c) The state board shall annually review the allowance per mile and the allowance per hour and adjust the allowances to reflect current economic conditions.

(4) (a) Approved bus routes for funding purposes shall be determined on fall data collected by October 1.

(b) Approved route funding shall be determined on the basis of the most efficient and economic routes.

(5) A Transportation Advisory Committee with representation from school district superintendents, business officials, school district transportation supervisors, and state board employees shall serve as a review committee for addressing school transportation needs, including recommended approved bus routes.

(6) A local school board may provide for the transportation of students regardless of the distance from school, from general funds of the school district.

Section 2. Section 53F-2-520 is amended to read:

53F-2-520. Rural school transportation reimbursement.

(1) As used in this section:

(a) "Eligible LEA" means a school district or a charter school:

(i) that is located in a county of the fourth, fifth, or sixth class, as defined in Section 17-50-501; and

(ii) in which:

(A) for a fiscal year other than fiscal year 2021 or 2022, at least 65% of the students enrolled in the school district or charter school qualify for free or reduced price lunch[~~.~~]; or

(B) for fiscal year 2021 or 2022, at least 65% of the students enrolled in the school district or charter school qualified for free or reduced price lunch in fiscal year 2019.

(b) "Eligible school" means a school:

(i) in an eligible LEA; and

(ii) that the eligible LEA has provided transportation to and from for a regular school day for students for at least five years.

(c) "LEA governing board" means:

(i) the local school board of a school district that is an eligible LEA; or

(ii) the charter school governing board of a charter school that is an eligible LEA.

(2) An LEA governing board may annually submit a request to the state board to receive reimbursement for an expense that:

(a) the LEA governing board incurs transporting a student to or from an eligible school for the regular school day; and

(b) the LEA governing board does not pay using state funding for pupil transportation described in Section 53F-2-402 or 53F-2-403.

(3) (a) Subject to legislative appropriations, and except as provided in Subsection (3)(b), the state board shall reimburse an LEA governing board for an expense included in a request described in Subsection (2).

(b) If the legislative appropriation for this section is insufficient to fund an expense in a request received under Subsection (2), the state board may reduce an LEA governing board's reimbursement in accordance with the rules described in Subsection (4).

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

(a) requirements for information an LEA governing board shall include in a reimbursement request described in Subsection (2);

(b) a deadline by which an LEA governing board shall submit a request described in Subsection (2); and

(c) a formula for reducing an LEA governing board's allocation under Subsection (3).

(5) Nothing in this section affects a school district's allocation for pupil transportation under Sections 53F-2-402 and 53F-2-403.

CHAPTER 304
H. B. 404
Passed March 3, 2021
Approved March 17, 2021
Effective May 5, 2021

UTAH IMMIGRATION ASSISTANCE CENTER

Chief Sponsor: Joel Ferry
Senate Sponsor: Curtis S. Bramble

LONG TITLE

General Description:

This bill creates the Utah Immigration Assistance Center.

Highlighted Provisions:

This bill:

- defines terms;
- creates the Utah Immigration Assistance Center (center) in the Governor's Office of Economic Development (GOED);
- establishes the responsibilities of the center; and
- requires GOED to include the center's activities in GOED's annual report.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:
63N-16-101, Utah Code Annotated 1953
63N-16-102, Utah Code Annotated 1953
63N-16-103, Utah Code Annotated 1953
63N-16-104, Utah Code Annotated 1953

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

Section 1. Section 63N-16-101 is enacted to read:

CHAPTER 18. UTAH IMMIGRATION ASSISTANCE CENTER

Part 1. Utah Immigration Assistance Center

63N-16-101. (Codified as 63N-18-101) Title.

This chapter is known as the "Utah Immigration Assistance Center."

Section 2. Section 63N-16-102 is enacted to read:

63N-16-102. (Codified as 63N-18-102) Definitions.

As used in this chapter:

(1) "Center" means the Utah Immigration Assistance Center.

(2) "Foreign labor" means one or more individuals from a nation other than the United States who are eligible to participate in visa programs established by the federal government to work in the state.

(3) "Foreign labor programs" means programs established by the United States Department of Labor to bring eligible foreign individuals to the United States for employment opportunities.

Section 3. Section 63N-16-103 is enacted to read:

63N-16-103. (Codified as 63N-18-103) Creation of the Utah Immigration Assistance Center -- Responsibilities of the Utah Immigration Assistance Center.

(1) There is created within the Governor's Office of Economic Development the Utah Immigration Assistance Center.

(2) The center shall:

(a) coordinate and provide technical support for businesses in the state that intend to utilize federal foreign labor programs;

(b) provide outreach and information to businesses that could benefit from foreign labor programs;

(c) coordinate with state and federal government partners to facilitate the successful use of foreign labor programs on behalf of businesses in the state; and

(d) coordinate with other entities engaged in international efforts.

(3) The center may not encourage a business to bypass state residents for the business's workforce needs.

(4) The center may, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules to carry out the center's responsibilities under this chapter.

Section 4. Section 63N-16-104 is enacted to read:

63N-16-104. (Codified as 63N-18-104) Annual report.

The office shall include in the annual written report described in Section 63N-1-301, a report of the center's operations, including:

(1) the number of businesses that received assistance in utilizing foreign labor programs;

(2) the number of individuals who were able to work in the state as a result of foreign labor programs; and

(3) recommendations regarding changes that would improve the center.

CHAPTER 305
H. B. 406
Passed March 5, 2021
Approved March 17, 2021
Effective May 5, 2021

MARRIAGE REVISIONS

Chief Sponsor: Melissa G. Ballard
Senate Sponsor: Todd D. Weiler

LONG TITLE

General Description:

This bill amends provisions pertaining to the marriage of a minor.

Highlighted Provisions:

This bill:

- extends the expiration date of a marriage license;
- describes the requirements for the form a minor and the minor's parent or guardian must submit to a county clerk;
- describes appropriate documentation a minor and the minor's parent or guardian must submit to validate certain information; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

30-1-7, as last amended by Laws of Utah 2004, Chapter 289
30-1-8, as last amended by Laws of Utah 2019, Chapters 300 and 317
30-1-9, as last amended by Laws of Utah 2019, Chapters 300 and 317

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

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

30-1-7. Marriage licenses -- Use within state -- Expiration.

(1) No marriage may be solemnized in this state without a license issued by the county clerk of any county of this state.

(2) A license issued within this state by a county clerk may only be used within this state.

(3) A license that is not used within [~~30 days of the date of issuance~~] 32 days after the day on which the licensed is issued is void.

Section 2. Section 30-1-8 is amended to read:

30-1-8. Application for license -- Contents.

(1) As used in this section, "minor" means the same as that term is defined in Section 30-1-9.

[~~(1)~~] (2) A county clerk may issue a marriage license only after an application is filed with the county clerk's office, requiring the following information:

(a) the full names of the applicants, including the maiden or bachelor name of each applicant;

(b) the social security numbers of the applicants, unless an applicant has not been assigned a number;

(c) the current address of each applicant;

(d) the date and place of birth, including the town or city, county, state or country, if possible;

(e) the names of the applicants' respective parents, including the maiden name of a mother; and

(f) the birthplaces of the applicants' respective parents, including the town or city, county, state or country, if possible.

[~~(2)~~] (3) (a) If one or both of the applicants is [~~16 or 17 years of age~~] a minor, the clerk shall provide [~~the parties~~] each minor with a standard petition on a form [~~approved~~] provided by the Judicial Council to be presented to the juvenile court to obtain the authorization required by Section 30-1-9.

(b) The form described in Subsection (3)(a) shall include:

(i) all information described in Subsection (2);

(ii) in accordance with Subsection 30-1-9(2)(a), a place for the parent or legal guardian to indicate the parent or legal guardian's relationship to the minor;

(iii) an affidavit for the parent or legal guardian to acknowledge the penalty described in Section 30-1-9.1 signed under penalty of perjury;

(iv) an affidavit for each applicant regarding the accuracy of the information contained in the marriage application signed under penalty of perjury; and

(v) a place for the clerk to sign that indicates that the following have provided documentation to support the information contained in the form:

(A) each applicant; and

(B) the minor's parent or legal guardian.

[~~(3)~~] (4) (a) The social security numbers obtained under the authority of this section may not be recorded on the marriage license, and are not open to inspection as a part of the vital statistics files.

(b) The Department of Health, Bureau of Vital Records and Health Statistics shall, upon request, supply the social security numbers to the Office of Recovery Services within the Department of Human Services.

(c) The Office of Recovery Services may not use a social security number obtained under the authority of this section for any reason other than the administration of child support services.

Section 3. Section 30-1-9 is amended to read:

30-1-9. Marriage by minors -- Consent of parent or guardian -- Juvenile court authorization.

(1) For purposes of this section, "minor" means an individual that is 16 or 17 years old.

(2) (a) If at the time of applying for a license the applicant is a minor, and not before the minor is married, a license may not be issued without the signed consent of the minor's parent or legal guardian given in person to the clerk, except that:

(i) if the parents of the minor are divorced, consent shall be given by the parent having legal custody of the minor as evidenced by an oath of affirmation to the clerk;

(ii) if the parents of the minor are divorced and have been awarded joint custody of the minor, consent shall be given by the parent having physical custody of the minor the majority of the time as evidenced by an oath of affirmation to the clerk; or

(iii) if the minor is not in the custody of a parent, the legal guardian shall provide the consent and provide proof of guardianship by court order as well as an oath of affirmation.

[~~(b) The minor and the parent or guardian of the minor shall obtain a written authorization to marry from:~~]

[~~(i) a judge of the court exercising juvenile jurisdiction in the county where either party to the marriage resides; or~~]

[~~(ii) a court commissioner as permitted by rule of the Judicial Council.~~]

(b) Each applicant and if an applicant is a minor, the minor's consenting parent or legal guardian, shall appear in person before the clerk and provide legal documentation to establish the following information:

(i) the legal relationship between the minor and the minor's parent or legal guardian;

(ii) the legal name and identity of the minor; and

(iii) the birth date of each applicant.

(c) An individual may present the following documents to satisfy a requirement described in Subsection (2)(b):

(i) for verifying the legal relationship between the minor and the minor's parent or legal guardian, one of the following:

(A) the minor's certified birth certificate with the name of the parent, and an official translation if the birth certificate is in a language other than English;

(B) a report of a birth abroad with the name of the minor and the parent;

(C) a certified adoption decree with the name of the minor and the parent; or

(D) a certified court order establishing custody or guardianship between the minor and the parent or legal guardian;

(ii) for verifying the legal name and identity of the minor, one of the following:

(A) an expired or current passport;

(B) a driver's license;

(C) a certificate of naturalization;

(D) a military identification; or

(E) a government employee identification card from a federal, state, or municipal government; and

(iii) for verifying the birth date of each applicant, one of the following for each applicant:

(A) a certified birth certificate;

(B) a report of a birth abroad;

(C) a certificate of naturalization;

(D) a certificate of citizenship;

(E) a passport;

(F) a driver's license; or

(G) a state identification card.

(d) An individual may not use a temporary or altered document to satisfy a requirement described in Subsection (2)(b).

(3) (a) The minor and the parent or legal guardian of the minor shall obtain a written authorization to marry from:

(i) a judge of the court exercising juvenile jurisdiction in the county where either party to the marriage resides; or

(ii) a court commissioner as permitted by rule of the Judicial Council.

[~~(3) (a)~~] (b) Before issuing written authorization for a minor to marry, the judge or court commissioner shall determine:

(i) that the minor is entering into the marriage voluntarily; and

(ii) the marriage is in the best interests of the minor under the circumstances.

[~~(b)~~] (c) The judge or court commissioner shall require that both parties to the marriage complete premarital counseling, except the requirement for premarital counseling may be waived if premarital counseling is not reasonably available.

[~~(c)~~] (d) The judge or court commissioner may require:

(i) that the minor continue to attend school, unless excused under Section 53G-6-204; and

(ii) any other conditions that the court deems reasonable under the circumstances.

[~~(d)~~] (e) The judge or court commissioner may not issue a written authorization to the minor if the age difference between both parties to the marriage is more than seven years.

(4) (a) The determination required in Subsection (3) shall be made on the record.

(b) Any inquiry conducted by the judge or commissioner may be conducted in chambers.

CHAPTER 306
H. B. 413
Passed March 5, 2021
Approved March 17, 2021
Effective May 5, 2021

REDISTRICTING REVISIONS

Chief Sponsor: Paul Ray
Senate Sponsor: Scott D. Sandall

LONG TITLE

General Description:

This bill modifies deadlines relating to the Independent Redistricting Commission necessitated by the late provision of census data.

Highlighted Provisions:

This bill:

- modifies deadlines relating to the Independent Redistricting Commission necessitated by the late provision of census data.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

20A-20-301, as enacted by Laws of Utah 2020, Chapter 288
20A-20-302, as enacted by Laws of Utah 2020, Chapter 288
20A-20-303, as enacted by Laws of Utah 2020, Chapter 288

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

Section 1. Section 20A-20-301 is amended to read:

20A-20-301. Public hearings -- Private conversations.

(1) (a) The commission shall, by majority vote, determine the number, locations, and dates of public hearings to be held by the commission, but shall hold no fewer than seven public hearings throughout the state to discuss maps, as follows:

(i) one in the Bear River region, which includes Box Elder, Cache, and Rich counties;

(ii) one in the Southwest region, which includes Beaver, Garfield, Iron, Kane, and Washington counties;

(iii) one in the Mountain region, which includes Summit, Utah, and Wasatch counties;

(iv) one in the Central region, which includes Juab, Millard, Piute, Sanpete, Sevier, and Wayne counties;

(v) one in the Southeast region, which includes Carbon, Emery, Grand, and San Juan counties;

(vi) one in the Uintah Basin region, which includes Daggett, Duchesne, and Uintah counties; and

(vii) one in the Wasatch Front region, which includes Davis, Morgan, Salt Lake, Tooele, and Weber counties.

(b) The commission shall hold at least two public hearings in a first or second class county but not in the same county.

(c) The committee and the commission may coordinate hearing times and locations to:

(i) avoid holding hearings at, or close to, the same time in the same area of the state; and

(ii) to the extent practical, hold hearings in different cities within the state.

(2) Each public hearing must provide those in attendance a reasonable opportunity to submit written and oral comments to the commission and to propose redistricting maps for the commission's consideration.

(3) The commission shall hold the public hearings described in Subsection (1) no later than [~~August~~] November 1 of the year following a decennial year.

(4) (a) A member of the commission may not engage in any private communication with any individual other than other members of the commission or commission staff, including consultants retained by the commission, that is material to any redistricting map or element of a map pending before the commission or intended to be proposed for commission consideration, without making the communication, or a detailed and accurate description of the communication including the names of all parties to the communication and the map or element of the map, available to the commission and to the public.

(b) A member of the commission shall make the disclosure required by Subsection (4)(a) before the redistricting map or element of a map is considered by the commission.

(5) The committee chairs and the chair of the commission shall, no later than two business days after the day on which the Legislature appoints a committee, under Subsection 20A-20-201(3)(a)(ii), for a special redistricting, jointly agree on a schedule for the commission that:

(a) reasonably ensures that the commission may complete the commission's duties in a timely manner, consistent with the time frame applicable to the committee and the Legislature;

(b) establishes deadlines for the following:

(i) holding the public hearings described in Subsection (1);

(ii) preparing and recommending maps under Subsection 20A-20-302(2);

(iii) submitting the maps and written report described in Subsection 20A-20-303(1); and

(iv) holding the public meeting described in Subsection 20A-20-303(2); and

(c) provides that the commission dissolves upon approval of the Legislature's redistricting maps by the governor, or the day following the constitutional

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

Section 2. Section 20A-20-302 is amended to read:

20A-20-302. Selection of recommended maps -- Map requirements and standards.

(1) As used in this section:

(a) "Map type" means one of four map types, as follows:

(i) a map of all Utah congressional districts;

(ii) a map of all state Senate districts;

(iii) a map of all state House of Representatives districts; and

(iv) a map of all State School Board districts.

(b) "Total population deviation" means a percentage determined as follows:

(i) calculating the ideal district population by dividing the total population by the number of districts;

(ii) calculating the percentage difference between the population of the district with the greatest population and the ideal district population;

(iii) calculating the percentage difference between the population of the district with the lowest population and the ideal district population; and

(iv) combining the percentage differences described in Subsections (1)(b)(ii) and (iii).

(2) The commission shall, no later than [~~20~~] 14 days after the day of the final public hearing described in Subsection 20A-20-301(1), prepare and recommend three different maps for each map type, as follows:

(a) three different maps for congressional districts, with the number of congressional districts apportioned to Utah;

(b) three different maps for state Senate districts, with 29 Senate districts;

(c) three different maps for state House of Representatives districts, with 75 House of Representative districts; and

(d) three different maps for State School Board districts, with 15 State School Board districts.

(3) (a) To the extent possible, each map recommended by the commission shall be approved by at least five members of the commission.

(b) If the commission is unable to obtain the approval of at least five members for all maps required under Subsection (2) for a particular map type, the commission shall, for that map type:

(i) if possible, recommend one map that is approved by at least five members of the commission; and

(ii) recommend two additional maps that are approved by a majority of commission members, as follows:

(A) one of the maps shall be approved by a majority that includes the commission member described in Subsection 20A-20-201(2)(f); and

(B) one of the maps shall be approved by a majority that includes the commission member described in Subsection 20A-20-201(2)(g).

(4) The commission shall ensure that:

(a) each map recommended by the commission:

(i) is drawn using the official population enumeration of the most recent decennial census;

(ii) for congressional districts, has a total population deviation that does not exceed 1%;

(iii) for Senate, House of Representatives, and State School Board districts, has a total population deviation of less than 10%;

(iv) does not use race as a predominant factor in drawing district lines; and

(v) complies with the United States Constitution and all applicable federal laws, including Section 2 of the Voting Rights Act; and

(b) each district in each map is:

(i) drawn based on total population;

(ii) a single member district; and

(iii) contiguous and reasonably compact.

(5) The commission shall define and adopt redistricting standards for use by the commission that require that maps adopted by the commission, to the extent practicable, comply with the following, as defined by the commission:

(a) preserving communities of interest;

(b) following natural, geographic, or man-made features, boundaries, or barriers;

(c) preserving cores of prior districts;

(d) minimizing the division of municipalities and counties across multiple districts;

(e) achieving boundary agreement among different types of districts; and

(f) prohibiting the purposeful or undue favoring or disfavoring of:

(i) an incumbent elected official;

(ii) a candidate or prospective candidate for elected office; or

(iii) a political party.

(6) The commission may adopt a standard that prohibits the commission from using any of the following, except for the purpose of conducting an assessment described in Subsection (8):

(a) partisan political data;

(b) political party affiliation information;

(c) voting records;

(d) partisan election results; or

(e) residential addresses of incumbents, candidates, or prospective candidates.

(7) The commission may adopt redistricting standards for use by the commission that require a smaller total population deviation than the total population deviation described in Subsection (4)(a)(iii) if the committee or the Legislature adopts a smaller total population deviation than 10% for Senate, House of Representatives, or State School Board districts.

(8) (a) Three members of the commission may, by affirmative vote, require that commission staff evaluate any map drawn by, or presented to, the commission as a possible map for recommendation by the commission to determine whether the map complies with the redistricting standards adopted by the commission.

(b) In conducting an evaluation described in Subsection (8)(a), commission staff shall use judicial standards and, as determined by the commission, the best available data and scientific methods.

Section 3. Section 20A-20-303 is amended to read:

20A-20-303. Submission of maps to Legislature -- Consideration by Legislature.

(1) The commission shall, [~~within 10 days after the day on which the commission complies with Subsection 20A-20-302(2)~~] no later than 14 days after the day of the final public hearing described in Subsection 20A-20-301(1), submit to the director of the Office of Legislative Research and General Counsel, for distribution to the committee, and make available to the public, the redistricting maps recommended under Section 20A-20-302 and a detailed written report describing each map's adherence to the commission's redistricting standards and requirements.

(2) The commission shall submit the maps recommended under Section 20A-20-302 to the committee in a public meeting of the committee as described in this section.

(3) The committee shall:

(a) hold the public meeting described in Subsection (2):

(i) for the sole purpose of considering each map recommended under Section 20A-20-302; and

(ii) for a year immediately following a decennial year, [~~on or before September 15~~] no later than 15 days after the day on which the commission complies with Subsection (1); and

(b) at the public meeting described in Subsection (2), provide reasonable time for:

(i) the commission to present and explain the maps described in Subsection (1);

(ii) the public to comment on the maps; and

(iii) the committee to discuss the maps.

(4) The Legislature may not enact a redistricting plan before complying with Subsections (2) and (3).

(5) The committee or the Legislature may, but is not required to, vote on or adopt a map submitted to the committee or the Legislature by the commission.

CHAPTER 307
H. B. 421
Passed March 4, 2021
Approved March 17, 2021
Effective May 5, 2021

INTENSIVE SERVICES PILOT PROGRAM

Chief Sponsor: Marsha Judkins
Senate Sponsor: Jerry W. Stevenson

LONG TITLE

General Description:

This bill creates the Intensive Services Special Education Pilot Program to provide funding to local education agencies to supplement the cost of educating a student with intensive special education needs.

Highlighted Provisions:

This bill:

- creates the Intensive Services Special Education Pilot Program (program) to provide funding to local education agencies to supplement the cost of educating a student who:
  - has an Individualized Education Plan (IEP); and
  - for whom the cost of the special education services described in the student's IEP exceeds three times the statewide average per-pupil expenditures;
- requires the State Board of Education to make rules establishing a distribution formula to allocate money appropriated under the program; and
- provides a sunset date.

Monies Appropriated in this Bill:

This bill appropriates in Fiscal Year 2022:

- to the State Board of Education - Minimum School Program - Related to Basic School Program - Special Education - Intensive Services as a one-time appropriation:
  - from the Education Fund, $1,000,000.

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63I-1-253, as last amended by Laws of Utah 2020, Chapters 154, 174, 214, 234, 242, 269, 335, and 354

ENACTS:

53F-2-418, Utah Code Annotated 1953

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

Section 1. Section 53F-2-418 is enacted to read:

53F-2-418. (Codified as 53F-2-420) Intensive Services Special Education Pilot Program.

(1) As used in this section:

(a) "Eligible student" means a student:

(i) who has an IEP; and

(ii) for whom the cost of special education services described in the student's IEP exceeds three times the statewide average per-pupil expenditures.

(b) "Intensive Services Special Education Pilot Program" or "program" means the three-year pilot program created in Subsection (2).

(c) "Special education services" means the same as that term is defined in Section 53E-7-201.

(2) There is created a three-year pilot program known as the Intensive Services Special Education Pilot Program to, subject to appropriations from the Legislature, provide funding to an LEA to supplement the other funding for educating an eligible student.

(3) An LEA shall use a distribution under this section to fund special education services for an eligible student.

(4) The state board shall, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules establishing a distribution formula to allocate money appropriated to the state board under this section to LEAs for the program.

Section 2. Section 63I-1-253 is amended to read:

63I-1-253. Repeal dates, Titles 53 through 53G.

(1) Section 53-2a-105, which creates the Emergency Management Administration Council, is repealed July 1, 2021.

(2) Sections 53-2a-1103 and 53-2a-1104, which create the Search and Rescue Advisory Board, are repealed July 1, 2022.

(3) Section 53-5-703, which creates the Concealed Firearm Review Board, is repealed July 1, 2023.

(4) Subsection 53-6-203(1)(b)(ii), regarding being 19 years old at certification, is repealed July 1, 2027.

(5) Subsection 53-13-104(6)(a), regarding being 19 years old at certification, is repealed July 1, 2027.

(6) Section 53B-6-105.5, which creates the Technology Initiative Advisory Board, is repealed July 1, 2024.

(7) Title 53B, Chapter 17, Part 11, USTAR Researchers, is repealed July 1, 2028.

(8) Section 53B-17-1203, which creates the SafeUT and School Safety Commission, is repealed January 1, 2025.

(9) Section 53B-18-1501 is repealed July 1, 2021.

(10) Title 53B, Chapter 18, Part 16, USTAR Researchers, is repealed July 1, 2028.

(11) Title 53B, Chapter 24, Part 4, Rural Residency Training Program, is repealed July 1, 2025.

(12) Subsection 53C-3-203(4)(b)(vii), which provides for the distribution of money from the Land Exchange Distribution Account to the

Geological Survey for test wells and other hydrologic studies in the West Desert, is repealed July 1, 2030.

(13) Section 53E-3-515 is repealed January 1, 2023.

(14) In relation to a standards review committee, on January 1, 2023:

(a) in Subsection 53E-4-202(8), the language "by a standards review committee and the recommendations of a standards review committee established under Section 53E-4-203" is repealed; and

(b) Section 53E-4-203 is repealed.

(15) Subsections 53E-3-503(5) and (6), which create coordinating councils for youth in custody, are repealed July 1, 2027.

(16) Section 53E-4-402, which creates the State Instructional Materials Commission, is repealed July 1, 2022.

(17) Title 53E, Chapter 6, Part 5, Utah Professional Practices Advisory Commission, is repealed July 1, 2023.

(18) Subsection 53E-8-204(4), which creates the advisory council for the Utah Schools for the Deaf and the Blind, is repealed July 1, 2021.

[~~(19) Section 53F-2-514 is repealed July 1, 2020.~~]

(19) Section 53F-2-418, which creates the Intensive Services Special Education Pilot Program, is repealed July 1, 2024.

(20) Section 53F-5-203 is repealed July 1, 2024.

(21) Section 53F-5-212 is repealed July 1, 2024.

(22) Section 53F-5-213 is repealed July 1, 2023.

(23) Section 53F-5-214, in relation to a grant for professional learning, is repealed July 1, 2025.

(24) Section 53F-5-215, in relation to an elementary teacher preparation grant is repealed July 1, 2025.

(25) Subsection 53F-9-203(7), which creates the Charter School Revolving Account Committee, is repealed July 1, 2024.

(26) Section 53F-9-501 is repealed January 1, 2023.

(27) Subsections 53G-4-608(2)(b) and (4)(b), related to the Utah Seismic Safety Commission, are repealed January 1, 2025.

(28) Subsection 53G-8-211(5), regarding referrals of a minor to court for a class C misdemeanor, is repealed July 1, 2022.

Section 3. Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2021 and ending June 30, 2022. These are additions to amounts previously appropriated for fiscal year 2022. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 1

To State Board of Education - Minimum School Program - Related to Basic School Program

From Education Fund, One-time	$1,000,000

Schedule of Programs:

Special Education - Intensive Services	$1,000,000

The Legislature intends that the State Board of Education use money appropriated under this item for the Intensive Services Special Education Pilot Program described in Section 53F-2-418 in fiscal years 2022, 2023, and 2024.

CHAPTER 308
H. B. 425
Passed March 3, 2021
Approved March 17, 2021
Effective May 5, 2021

EDUCATION MONITORING AND FUNDS MANAGEMENT AMENDMENTS

Chief Sponsor: V. Lowry Snow
Senate Sponsor: Jerry W. Stevenson

LONG TITLE

General Description:

This bill amends provisions related to the monitoring and management of the use of state funds.

Highlighted Provisions:

This bill:

- creates the Charter School Closure Reserve Account to pay outstanding debts of a charter school upon closure in certain circumstances;
- requires the State Board of Education to use certain standards when monitoring a local education agency's use of state education funds;
- defines terms; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

This bill appropriates:

- to the State Board of Education – Charter School Closure Reserve Account, as a one-time appropriation:
  - from the Education Fund, One-time, $1,000,000.

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53E-3-501, as last amended by Laws of Utah 2020, Chapter 400

ENACTS:

53F-1-104, Utah Code Annotated 1953
53F-9-307, Utah Code Annotated 1953

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

Section 1. Section 53E-3-501 is amended to read:

53E-3-501. State board to establish miscellaneous minimum standards for public schools.

(1) The state board shall establish rules and minimum standards for the public schools that are consistent with this public education code, including rules and minimum standards governing the following:

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

(ii) required school administrative and supervisory services; and

(iii) the evaluation of instructional personnel;

(b) (i) access to programs;

(ii) attendance;

(iii) competency levels;

(iv) graduation requirements; and

(v) discipline and control;

(c) (i) school accreditation;

(ii) the academic year;

(iii) alternative and pilot programs;

(iv) curriculum and instruction requirements;

(v) school libraries; and

(vi) services to:

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

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

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

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

(B) other special groups;

(d) (i) state reimbursed bus routes;

(ii) bus safety and operational requirements; and

(iii) other transportation needs;

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

(ii) federal programs;

(iii) school budget formats; and

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

(f) data collection and reporting by LEAs.

(2) The state board shall determine if:

(a) the minimum standards have been met; and

(b) required reports are properly submitted.

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

(4) (a) A technical college listed in Section 53B-2a-105 shall provide competency-based career and technical education courses that fulfill high school graduation requirements, as requested and authorized by the state board.

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

(5) (a) As used in this Subsection (5), "generally accepted accounting principles" means a common framework of accounting rules and standards for financial reporting promulgated by [~~either the~~

~~Financial Accounting Standards Board or~~] the Governmental Accounting Standards Board[~~, as applicable to the reporting entity~~].

(b) Subject to Subsections (5)(c) and (d), the state board shall ensure that the rules and standards described in Subsections (1)(e) and (f) allow for an LEA to make adjustments to the LEA's general entry ledger, in accordance with generally accepted accounting principles, to accurately reflect the LEA's use of funds for allowable costs and activities:

(i) during a fiscal year; and

(ii) at the close of a fiscal year.

(c) If the state board determines under Subsection (2) that an LEA has not met the minimum standards described in Subsection (1)(e) or (f) or has not properly submitted a required report, the state board shall allow the LEA an opportunity to cure the relevant defect through an adjustment described in Subsection (5)(b).

(d) An LEA may not, in an adjustment described in Subsection (5)(b), reflect the use of restricted federal or state funds for a cost or activity that is not an allowable cost or activity for the restricted funds.

Section 2. Section 53F-1-104 is enacted to read:

53F-1-104. Education monitoring and funds management.

(1) As used in this section:

(a) "Allocable cost" means a cost for goods or services that are chargeable or assignable to a state award or cost objective in accordance with relative benefits an LEA receives.

(b) "Reasonable cost" means a cost that, in nature and amount, does not exceed an amount that a prudent person would incur under the circumstances prevailing at the time the decision was made to incur the cost.

(c) "State award" means:

(i) money that the Legislature appropriates to state education programs for an LEA's use; or

(ii) a grant that the state board awards to an LEA as part of a state education program.

(2) Except as otherwise provided in this public education code, the state board shall monitor state-funded education programs and the expenditure of state funds in accordance with this section.

(3) Except as otherwise authorized by statute, the state board shall not allow a cost under state awards, unless:

(a) the cost is necessary and reasonable for, and allocable to, the performance of the state award;

(b) the cost conforms to any limitations or exclusions that apply uniformly to the LEA's other activities;

(c) the LEA accorded the cost consistent treatment among programs;

(d) the LEA determined the cost in accordance with generally accepted accounting principles;

(e) the LEA adequately documented the cost; and

(f) the LEA incurred the cost during the approved budget period.

(4) In determining whether a cost is a reasonable cost, the state board shall consider:

(a) whether the cost is of a type generally recognized as ordinary for:

(i) the operation of the LEA; or

(ii) the proper and efficient performance of the state award;

(b) the restraints or requirements imposed by:

(i) sound business practices;

(ii) arm's length bargaining;

(iii) federal, state, local, tribal, or other laws and regulations; and

(iv) the state award's restrictions and conditions;

(c) market prices for comparable goods or services in the geographic area;

(d) whether an individual involved in a decision to incur the cost acted with prudence in the circumstances considering the individual's responsibilities to:

(i) the LEA;

(ii) the LEA's employees;

(iii) the LEA's students;

(iv) the public; and

(v) the state government; and

(e) whether the LEA significantly deviated from the LEA's established practices and policies concerning incurring costs so that the costs the LEA incurs for the performance of the state award are unjustifiably increased.

(5) The state board shall determine that a cost is an allocable cost if:

(a) the LEA incurred the cost specifically for the state award;

(b) the cost:

(i) benefits both the state award and the LEA's other work; and

(ii) can be distributed in proportions that may be approximated using reasonable methods; and

(c) the cost is necessary to the overall operation of the LEA and is assignable in part to the state award.

Section 3. Section 53F-9-307 is enacted to read:

53F-9-307. Charter School Closure Reserve Account.

(1) As used in this section:

(a) "Account" means the Charter School Closure Reserve Account created in this section.

(b) "Charter school authorizer" or "authorizer" means an entity listed in Section 53G-5-205 that authorizes a charter school.

(2) There is created within the Education Fund a special revenue fund known as the "Charter School Closure Reserve Account."

(3) The account consists of:

(a) appropriations of the Legislature;

(b) amounts deposited into the account in accordance with this section; and

(c) interest earned on money in the account.

(4) (a) The account shall earn interest.

(b) Interest earned on the account shall be deposited into the account.

(5) (a) In a fiscal year that begins on or after July 1, 2021, a charter school shall annually contribute to the account $2 per student enrolled in the charter school until the account balance reaches $3,000,000.

(b) (i) Beginning with the fiscal year following the first fiscal year in which the account balance reaches $3,000,000, except as provided in Subsections (5)(b)(ii) and (iii), in any fiscal year in which the account balance is less than $3,000,000, a charter school shall contribute to the account a prorated amount, not to exceed $2 per student enrolled in a charter school, in accordance with Subsection (6).

(ii) Except as provided in Subsection (5)(b)(iii), if no funds have been withdrawn from the account due to a charter school closure, in a fiscal year that begins on or after July 1, 2024, in which the account balance is less than $2,500,000, a charter school shall contribute to the account a prorated amount, not to exceed $2 per student enrolled in a charter school, in accordance with Subsection (6).

(iii) If no funds have been withdrawn from the account due to a charter school closure, in a fiscal year that begins on or after July 1, 2026, in which the account balance is less than $2,000,000, a charter school shall contribute to the account a prorated amount, not to exceed $2 per student enrolled in a charter school, in accordance with Subsection (6).

(c) The state board shall ensure that the total contribution from charter schools described in Subsection (5)(b) equals the lesser of:

(i) (A) in a fiscal year after the first fiscal year in which the account balance reaches $3,000,000, an amount sufficient to maintain an account balance of $3,000,000;

(B) in a fiscal year that begins on or after July 1, 2024, if no funds have been withdrawn from the account due to charter school closure, an amount sufficient to maintain an account balance of $2,500,000; or

(C) in a fiscal year that begins on or after July 1, 2026, if no funds have been withdrawn from the account due to charter school closure, an amount sufficient to maintain an account balance of $2,000,000; and

(ii) $2 per student enrolled in a charter school.

(6) The state board of education shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for:

(a) calculating the amounts described in Subsections (5)(b) and (c);

(b) a process for collecting charter school contributions to the account described in this section; and

(c) a process for depositing charter school contributions to the account described in this section into the account.

(7) Money in the account may only be used upon closure of a charter school that closes on or after January 1, 2021:

(a) to pay debts that the charter school owes to:

(i) the state board; or

(ii) the state or federal government;

(b) after the charter school has made other reasonable attempts to resolve debts the charter school owes to:

(i) the state board; or

(ii) the state or federal government; and

(c) after a charter school liquidates all of the charter school's assets.

(8) Money in the account may not be used to pay bond debt.

(9) The state board, in partnership with a charter school authorizer:

(a) may authorize the use of money in the account, subject to the restrictions described in Subsections (7) and (8); and

(b) before authorizing the use of funds in the account as described in Subsection (9)(a), shall investigate all reasonable alternatives for a charter school to pay debt that the charter school owes to:

(i) the state board; and

(ii) the state or federal government.

Section 4. Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2021, and ending June 30, 2022. These are additions to amounts previously appropriated for fiscal year 2022. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 1

To State Board of Education -- Charter School Closure Reserve Account

From Education Fund, One-time	$1,000,000
Schedule of Programs:	
Charter School Closure Reserve Account	$1,000,000

CHAPTER 309
H. B. 426
Passed March 5, 2021
Approved March 17, 2021
Effective May 5, 2021

THERAPY ANIMALS AMENDMENTS

Chief Sponsor: Marsha Judkins
Senate Sponsor: Curtis S. Bramble

LONG TITLE

General Description:

This bill addresses therapy animals in schools.

Highlighted Provisions:

This bill:

- defines terms;
- requires a local education agency to create a policy for the handling of a therapy animal if a school within the local education agency provides animal-assisted interventions through therapy animals; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

53G-9-210, Utah Code Annotated 1953

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

Section 1. Section 53G-9-210 is enacted to read:

53G-9-210. (Codified as 53G-9-211) Therapy animal handling -- Policy.

(1) As used in this section:

(a) "Animal-assisted intervention" means an intervention designed to promote improvement in an individual's physical, social, emotional, or cognitive functioning through interactions with a specially trained animal.

(b) "Local education agency" means a school district or charter school.

(c) (i) "Therapy animal" means an animal that:

(A) provides affection and comfort to an individual for emotional support;

(B) is accompanied by a therapy animal handler; and

(C) is trained to provide animal-assisted intervention.

(ii) "Therapy animal" does not include a service animal or support animal as those terms are defined in Section 62A-5b-102.

(d) "Therapy animal handler" means an individual who is trained to handle a therapy animal for animal-assisted interventions.

(2) (a) If a school within a local education agency provides animal-assisted interventions through therapy animals, the local education agency shall adopt a policy for proper handling of a therapy animal on school grounds.

(b) The policy described in Subsection (2)(a) shall include:

(i) local or national certification or registration requirements for a therapy animal and therapy animal handler;

(ii) guidelines for when a therapy animal and therapy animal handler are allowed on school grounds;

(iii) notice requirements for parents, students, and school faculty and staff regarding the use of a therapy animal on school grounds; and

(iv) guidelines to prevent students and staff who have an animal allergy or are uncomfortable around animals from interacting with a therapy animal on school grounds.

(3) This section does not require a school to allow the use of a therapy animal.

CHAPTER 310
H. B. 450
Passed March 5, 2021
Approved March 17, 2021
Effective March 17, 2021

SUPPLEMENTAL EDUCATOR COVID-19 STIPEND AMENDMENTS

Chief Sponsor: Bradley G. Last
Senate Sponsor: Ann Millner

LONG TITLE

General Description:

This bill reenacts the Supplemental Educator COVID-19 Stipend in S.B. 1, Public Education Base Budget Amendments, with the removal of an exclusion for certain contracted employees of a local education agency.

Highlighted Provisions:

This bill:

- defines terms;
- reenacts the Supplemental Educator COVID-19 Stipend in S.B. 1, Public Education Base Budget Amendments;
- removes an exclusion for contracted employees of a local education agency whose contracts are funded using federal money from the Coronavirus Relief Fund described in the Coronavirus Aid, Relief, and Economic Security Act; and
- ensures that teachers whom an LEA assigns to teach in an online setting or who work in an online-only district or charter school are eligible for the stipend.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

This bill provides a coordination clause.

Utah Code Sections Affected:

ENACTS:

53F-2-418, Utah Code Annotated 1953

Utah Code Sections Affected by Coordination Clause:

53F-2-418, Utah Code Annotated 1953

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

Section 1. Section 53F-2-418 is enacted to read:

53F-2-418. Supplemental Educator COVID-19 Stipend.

(1) As used in this section:

(a) (i) "Classified school-level employee" means an individual:

(A) whom an LEA or RESA employs and directly pays; and

(B) who is assigned to work in a school setting.

(ii) "Classified school-level employee" includes the following categories that an LEA reports to the state board:

(A) instructional paraprofessionals;

(B) library paraprofessionals;

(C) student support; and

(D) school and other support, including employees like custodians, bus drivers, and food service; and

(iii) "Classified school-level employee" also includes an individual in LEA or RESA administration or administration support if the individual works exclusively in a school setting supporting students.

(b) "COVID-19 pandemic" means the spread of COVID-19 that the World Health Organization declared a pandemic on March 11, 2020.

(c) "Employer-paid benefits" means a proportionate contribution toward retirement, workers' compensation, Social Security, and Medicare.

(d) (i) "Licensed school-level educator" means an individual whom:

(A) the state board licenses or who holds a license that the state board recognizes; and

(B) an LEA or RESA employs, directly pays, and assigns to work in an in-person or online school setting.

(ii) "Licensed school-level educator" includes the following categories that an LEA reports to the state board:

(A) teachers, including preschool, kindergarten, elementary, secondary, and special education teachers;

(B) support staff, including librarians, instructional leaders or specialists, counselors, and other support staff including employees like psychologists and social workers; and

(C) administrators, including principals, assistant principals, and directors.

(e) (i) "Qualifying employee" means a licensed school-level educator or a classified school-level employee who was employed by an LEA or RESA as of December 1, 2020, and is employed by:

(A) an LEA that provides a broad-based in-person learning option for all students in kindergarten through grade 12 by February 8, 2021, or an RESA that works with LEAs that provide a broad-based in-person learning option for all students in kindergarten through grade 12 by February 8, 2021; or

(B) an online-only charter school.

(ii) "Qualifying employee" does not include:

(A) school district employees who are assigned to work in the central administration of the school district, including superintendents, deputy and assistant superintendents, area and regional directors, curriculum specialists, and support staff; or

(B) individuals with whom an LEA contracts but does not directly pay the individual or report the

individual to the state board in annual employment reports.

(f) "Regional education service agency" or "RESA" means the same as that term is defined in Section 53G-4-410.

(g) "Stipend" means the one-time Supplemental Educator COVID-19 Stipend.

(2) There is created a one-time Supplemental Educator COVID-19 Stipend in appreciation of work during the COVID-19 pandemic.

(3) (a) Subject to legislative appropriations, the state board shall allocate funds to a qualifying education entity by March 30, 2021, to provide the stipend to qualifying employees as follows:

(i) (A) for a licensed school-level educator, $1,500; or

(B) for a classified school-level employee, $1,000; and

(ii) employer paid benefits.

(b) The stipend shall be prorated for each employee based on full-time equivalent status.

(c) Notwithstanding Subsection (3)(a), in the event that an allocation to an LEA or RESA is insufficient to provide the full stipend to each qualifying employee whom the LEA or RESA employs, the LEA or RESA shall reduce the amount of the stipend on a prorated basis.

(4) An LEA or RESA that receives an allocation from the state board under Subsection (3) shall return any unexpended amounts to the state no later than June 30, 2021.

Section 2. Effective date.

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

Section 3. Coordinating H.B. 450 with S.B. 1 -- Superseding amendments.

If this H.B. 450 and S.B. 1, Public Education Base Budget Amendments, both pass and become law, it is the intent of the Legislature that the amendments to Section 53F-2-418 in this bill supersede the amendments to Section 53F-2-418 in S.B. 1 when the Office of Legislative Research and General Counsel prepares the Utah Code database for publication.

CHAPTER 311
S. B. 13
Passed February 11, 2021
Approved March 17, 2021
Effective May 5, 2021

LAW ENFORCEMENT INTERNAL INVESTIGATION REQUIREMENTS

Chief Sponsor: Jani Iwamoto
House Sponsor: Ryan D. Wilcox

LONG TITLE

General Description:

This bill adjusts requirements for law enforcement agencies to conduct internal investigations regarding law enforcement officers.

Highlighted Provisions:

This bill:

- requires an employing law enforcement agency or training academy to provide information to a prospective employer upon request;
- requires law enforcement agencies to report certain investigations to POST; and
- makes conforming and technical corrections.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53-6-209, as renumbered and amended by Laws of Utah 1993, Chapter 234
53-6-211, as last amended by Laws of Utah 2020, Chapter 35
53-14-101, as last amended by Laws of Utah 2004, Chapter 62

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

Section 1. Section 53-6-209 is amended to read:

53-6-209. Termination of employment -- Change of status form.

(1) When a peace officer's employment terminates, the employing agency shall submit a change of status form noting the termination of the peace officer to the division.

(2) The change of status form shall:

(a) be completed and submitted within [~~seven~~] 30 days of the peace officer's termination date;

(b) identify the circumstances of the peace officer's status change by indicating that the peace officer has resigned, retired, terminated, transferred, deceased, or that the peace officer's name has changed;

(c) indicate the effective date of action; and

(d) indicate the name of the new employer, if the status change is due to a transfer.

(3) If a peace officer's employment terminates during an open internal investigation regarding that peace officer and involving an alleged violation of Subsection 53-6-211(1), the employing agency shall notify the division of the investigation in accordance with Subsection 53-6-211(6) within 30 days of the peace officer's termination date and provide a reasonable estimated date of completion for the investigation.

(4) If an employing agency receives credible allegations and opens an internal investigation within two years after a peace officer's employment has been terminated, the employing agency shall notify the division within 30 days of the date of the opening of the investigation and provide a reasonable estimated date of completion for the investigation. If the allegations involve alleged violations of Subsection 53-6-211(1), the agency shall report the allegations to the division in accordance with Subsection 53-6-211(6) whether or not the employing agency opens an internal investigation.

[~~(3)~~] (5) Any person or agency who intentionally falsifies, misrepresents, or fails to give notice of the change of status of a peace officer is liable to the division for any damages that may be sustained by the failure to make the notification.

Section 2. Section 53-6-211 is amended to read:

53-6-211. Suspension or revocation of certification -- Right to a hearing -- Grounds -- Notice to employer -- Reporting -- Judicial appeal.

(1) The council has the authority to issue a Letter of Caution, or suspend or revoke the certification of a peace officer, if the peace officer:

(a) willfully falsifies any information to obtain certification;

(b) has any physical or mental disability affecting the peace officer's ability to perform duties;

[~~(c) is addicted to alcohol or any controlled substance, unless the peace officer reports the addiction to the employer and to the director as part of a departmental early intervention process;~~]

[~~(d)~~] (c) engages in conduct constituting a state or federal criminal offense, but not including a traffic offense that is a class C misdemeanor or infraction;

[~~(e)~~] (d) refuses to respond, or fails to respond truthfully, to questions after having been issued a warning issued based on Garrity v. New Jersey, 385 U.S. 493 (1967);

[~~(f)~~] (e) engages in sexual conduct while on duty; or

[~~(g)~~] (f) is certified as a law enforcement peace officer, as defined in Section 53-13-102, and is unable to possess a firearm under state or federal law.

(2) The council may not issue a Letter of Caution, or suspend or revoke the certification of a peace officer for a violation of a law enforcement agency's

policies, general orders, or guidelines of operation that do not amount to a cause of action under Subsection (1).

(3) (a) The division is responsible for investigating officers who are alleged to have engaged in conduct in violation of Subsection (1).

(b) The division shall initiate all adjudicative proceedings under this section by providing to the peace officer involved notice and an opportunity for a hearing before an administrative law judge.

(c) All adjudicative proceedings under this section are civil actions, notwithstanding whether the issue in the adjudicative proceeding is a violation of statute that may be prosecuted criminally.

(d) (i) The burden of proof on the division in an adjudicative proceeding under this section is by clear and convincing evidence.

(ii) If a peace officer asserts an affirmative defense, the peace officer has the burden of proof to establish the affirmative defense by a preponderance of the evidence.

(e) If the administrative law judge issues findings of fact and conclusions of law stating there is sufficient evidence to demonstrate that the officer engaged in conduct that is in violation of Subsection (1), the division shall present the finding and conclusions issued by the administrative law judge to the council.

(f) The division shall notify the chief, sheriff, or administrative officer of the police agency which employs the involved peace officer of the investigation and shall provide any information or comments concerning the peace officer received from that agency regarding the peace officer to the council before a Letter of Caution is issued, or a peace officer's certification may be suspended or revoked.

(g) If the administrative law judge finds that there is insufficient evidence to demonstrate that the officer is in violation of Subsection (1), the administrative law judge shall dismiss the adjudicative proceeding.

(4) (a) The council shall:

(i) accept the administrative law judge's findings of fact and conclusions of law, and the information concerning the peace officer provided by the officer's employing agency; and

(ii) choose whether to issue a Letter of Caution, or suspend or revoke the officer's certification.

(b) Before making a decision, the council may consider aggravating and mitigating circumstances.

(c) A member of the council shall recuse him or herself from consideration of an issue that is before the council if the council member:

(i) has a personal bias for or against the officer;

(ii) has a substantial pecuniary interest in the outcome of the proceeding and may gain or lose some benefit from the outcome; or

(iii) employs, supervises, or works for the same law enforcement agency as the officer whose case is before the council.

(5) (a) Termination of a peace officer, whether voluntary or involuntary, does not preclude suspension or revocation of a peace officer's certification by the council if the peace officer was terminated for any of the reasons under Subsection (1).

(b) Employment by another agency, or reinstatement of a peace officer by the original employing agency after termination by that agency, whether the termination was voluntary or involuntary, does not preclude suspension or revocation of a peace officer's certification by the council if the peace officer was terminated for any of the reasons under Subsection (1).

(6) (a) A chief, sheriff, or administrative officer of a law enforcement agency who is made aware of an allegation against a peace officer employed by that agency that involves conduct in violation of Subsection (1) shall [~~investigate~~] conduct an administrative or internal investigation into the allegation and report the findings of the investigation to the division if the allegation is [~~found to be true~~] substantiated.

(b) If a peace officer who is the subject of an internal or administrative investigation into allegations that include any of the conditions or circumstances outlined in Subsection (1) resigns, retires, or otherwise separates from the investigating law enforcement agency before the conclusion of the investigation, the chief, sheriff, or administrative officer of that law enforcement agency shall complete the investigation and report the [~~allegations and any investigation results~~] findings to the division.

(7) The council's issuance of a Letter of Caution, or suspension or revocation of an officer's certification under Subsection (4) may be appealed under Title 63G, Chapter 4, Part 4, Judicial Review.

Section 3. Section 53-14-101 is amended to read:

53-14-101. Law enforcement and training academy applicants -- Employer background information.

(1) As used in this section:

(a) "Director" means the director of a certified law enforcement officer training academy.

(b) "Employer" includes a public employer and a private employer and includes the human resource officer for the employer.

(c) "Law enforcement agency" has the same definition as in Section 53-1-102.

(d) "Law enforcement officer" has the same definition as in Section 53-13-103, and includes those officers in administrative positions.

(e) "Training academy" means a peace officer training institution certified in accordance with the standards developed under Section 53-6-105.

(2) A current or former employer and the director of any training academy an applicant has attended or graduated from shall provide all available information in accordance with this section regarding an applicant if the request complies with Subsection (3) and is submitted by:

(a) a law enforcement agency regarding an applicant for an employment position; or

(b) the director of a law enforcement training academy for which the applicant requests admission under Section 53-6-203.

(3) The request for information pursuant to Subsection (2) shall be:

(a) in writing;

(b) accompanied by an authorization signed by the applicant and notarized by a notary public, in which the applicant consents to the release of the requested information and releases the employer or training academy providing the information from liability; and

(c) addressed to the employer or director and signed by a sworn officer or other authorized representative of the requesting law enforcement agency or the academy.

(4) The information that a law enforcement agency or the director of an academy [~~may~~] shall request pursuant to Subsection (2) includes:

(a) the date on which the [~~applicant began his~~] applicant's employment commenced and, if applicable, the date on which [~~the employment of the applicant~~] applicant's employment was terminated;

(b) a list of the compensation that the employer provided to the applicant during the course of the employment;

(c) a copy of the application for a position of employment that the applicant submitted to the employer;

(d) a written evaluation of the performance of the applicant;

(e) a record of the attendance of the applicant;

(f) a record of disciplinary action taken against the applicant;

(g) a statement regarding whether the employer would rehire the applicant and, if the employer would not rehire the applicant, the reasons why;

(h) if applicable, a record setting forth the reason that the employment of the applicant was terminated and whether the termination was voluntary or involuntary;

(i) the record of any final action regarding an applicant's peace officer certification that is based on an investigation concerning the applicant's qualification for certification; and

(j) notice of any pending or ongoing investigation regarding the applicant's certification as a peace officer.

(5) (a) In the absence of fraud or malice, an employer or training academy is not subject to any civil liability for any relevant cause of action by releasing employment information requested under this section.

(b) This section does not in any way or manner abrogate or lessen the existing common law or statutory privileges and immunities of an employer.

(c) An employer or training academy may not provide information pursuant to Subsection (2) if the disclosure of the information is prohibited pursuant to federal or state law.

(6) An employer's refusal to disclose information to a law enforcement agency in accordance with this section constitutes grounds for a civil action by the requesting agency for injunctive relief requiring disclosure on the part of an employer.

(7) (a) (i) A law enforcement agency may use the information received pursuant to this section only to determine the suitability of an applicant for employment.

(ii) A director may use the information received pursuant to this section only to determine the suitability of an applicant for acceptance at the training academy.

(b) Except as otherwise provided in Subsection (7)(c), [~~a~~] the recipient law enforcement agency and [~~a~~] director shall maintain the confidentiality of information received pursuant to this section.

(c) (i) A law enforcement agency [~~may~~] shall share information regarding an applicant that it receives pursuant to this section with another law enforcement agency if:

(A) the information is requested by the other law enforcement agency in accordance with this section;

[~~(A)~~] (B) the applicant is also an applicant for any employment position with the other law enforcement agency; and

[~~(B)~~] (C) the confidentiality of the information is otherwise maintained.

(ii) A director [~~may~~] shall share information regarding an applicant that is received pursuant to this section with another training academy if:

(A) the information is requested by the other training academy in accordance with this section;

[~~(A)~~] (B) the applicant is an applicant for acceptance at the other training academy; and

[~~(B)~~] (C) the confidentiality of the information is otherwise maintained.

(iii) A director [~~may~~] shall share information regarding an applicant, attendee, or graduate of a training academy that is received pursuant to this section with a law enforcement agency if:

(A) the information is requested by the law enforcement agency in accordance with this section;

[~~(A)~~] (B) the applicant is applying for a position as a peace officer with the law enforcement agency; and

[~~(B)~~] (C) the confidentiality of the information is otherwise maintained.

(8) This section applies to requests submitted to employers on and after July 1, [~~2003~~] 2020 for employment information under this section.

CHAPTER 312
S. B. 27
Passed March 2, 2021
Approved March 17, 2021
Effective May 5, 2021

PHYSICIAN ASSISTANT ACT AMENDMENTS

Chief Sponsor: Curtis S. Bramble
House Sponsor: James A. Dunnigan

LONG TITLE

General Description:

This bill amends provisions relating to the practice of a physician assistant.

Highlighted Provisions:

This bill:

- amends the scope of practice for a physician assistant;
- removes the requirement that a physician assistant maintain a specific relationship with a physician or any other health care provider;
- enacts and amends provisions relating to practice as a physician assistant;
- creates requirements for newly graduated physician assistants;
- permits a physician assistant to respond during a health care emergency or disaster; and
- makes technical and corresponding changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

58-70a-102, as last amended by Laws of Utah 2017, Chapter 309
58-70a-201, as last amended by Laws of Utah 2010, Chapter 37
58-70a-302, as last amended by Laws of Utah 2020, Chapter 339
58-70a-305, as last amended by Laws of Utah 2019, Chapter 349
58-70a-306, as last amended by Laws of Utah 2020, Chapter 339
58-70a-501, as last amended by Laws of Utah 2017, Chapter 309
58-70a-502, as last amended by Laws of Utah 2014, Chapter 72
58-70a-503, as last amended by Laws of Utah 2020, Chapter 25

ENACTS:

58-70a-307, Utah Code Annotated 1953
58-70a-507, Utah Code Annotated 1953

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

Section 1. Section 58-70a-102 is amended to read:

58-70a-102. Definitions.

In addition to the definitions in Section 58-1-102, as used in this chapter:

(1) "Board" means the Physician Assistant Licensing Board created in Section 58-70a-201.

[~~(2) (a) "Delegation of services agreement" means written criteria jointly developed by a physician assistant's supervising physician and substitute supervising physicians and the physician assistant, that permits a physician assistant, working under the direction or review of the supervising physician, to assist in the management of common illnesses and injuries.~~]

[~~(b) The agreement defines the working relationship and delegation of duties between the supervising physician and the physician assistant as specified by division rule and shall include:~~]

[~~(i) the prescribing of controlled substances;~~]

[~~(ii) the degree and means of supervision;~~]

[~~(iii) the frequency and mechanism of quality review, including the mechanism for review of patient data and documentation of the review, as determined by the supervising physician and the physician assistant;~~]

[~~(iv) procedures addressing situations outside the scope of practice of the physician assistant; and~~]

[~~(v) procedures for providing backup for the physician assistant in emergency situations.~~]

[~~(3) "Direct supervision" means the supervising physician is:~~]

[~~(a) physically present at the point of patient treatment on site where the physician assistant he is supervising is practicing; and~~]

[~~(b) immediately available for consultation with the physician assistant.~~]

(2) "Competence" means possessing the requisite cognitive, non-cognitive, and communicative abilities and qualities to perform effectively within the scope of practice of the physician assistant's practice while adhering to professional and ethical standards.

(3) "Health care facility" means the same as that term is defined in Section 26-21-2.

(4) "Physician" means the same as that term is defined in Section 58-67-102.

(5) "Physician assistant" means an individual who is licensed to practice under this chapter.

[~~(4)~~] (6) "Practice as a physician assistant" means[~~:(a)~~] the professional activities and conduct of a physician assistant, also known as a PA, in diagnosing, treating, advising, or prescribing for any human disease, ailment, injury, infirmity, deformity, pain, or other condition[~~, dependent upon and under the supervision of a supervising physician or substitute supervising physician in accordance with a delegation of services agreement; and~~] under the provisions of this chapter.

[~~(b) the physician assistant acts as the agent of the supervising physician or substitute supervising physician when acting in accordance with a delegation of services agreement.~~]

[~~(5) "Substitute supervising physician" means an individual who meets the requirements of a supervising physician under this chapter and acts as the supervising physician in the absence of the supervising physician.~~]

[~~(6) "Supervising physician" means an individual who:~~]

[~~(a) is currently licensed to practice under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act;~~]

[~~(b) acts as the primary supervisor of a physician assistant and takes responsibility for the professional practice and conduct of a physician assistant in accordance with this chapter; and~~]

[~~(c) is not an employee of the physician assistant whom the individual supervises.~~]

[~~(7) "Supervision" means the supervising physician is available for consultation with the physician assistant, either personally or by other means permitting direct verbal communication between the physician and the physician assistant.~~]

[~~(8)~~] (7) "Unlawful conduct" means the same as that term is [~~as~~] defined in Sections 58-1-501 and 58-70a-502.

[~~(9)~~] (8) "Unprofessional conduct" [~~is~~] means "unprofessional conduct":

(a) as defined in Sections 58-1-501 and 58-70a-503; and [~~as may be further defined by rule.~~]

(b) as further defined by the division by rule.

Section 2. Section 58-70a-201 is amended to read:

58-70a-201. Board.

(1) There is created the Physician Assistant Licensing Board, which consists of seven members:

(a) three licensed physicians[~~, at least two of whom are individuals who are supervising or who have supervised a physician assistant~~] who currently work or have previously worked collaboratively with a physician assistant;

(b) three physician assistants, one of whom is involved in the administration of an approved physician assistant education program within the state; and

(c) one person from the general public.

(2) The board shall be appointed and serve in accordance with Section 58-1-201.

(3) (a) The duties and responsibilities of the board are in accordance with Sections 58-1-202 and 58-1-203. [~~In addition, the~~]

(b) The board shall designate one of its members on a permanent or rotating basis to:

[~~(a)~~] (i) assist the division in reviewing complaints concerning the unlawful or unprofessional conduct of a licensee; and

[~~(b)~~] (ii) advise the division in [~~its~~] the division's investigation of these complaints.

(4) (a) A board member who has, under Subsection (3), reviewed a complaint or advised in its investigation may be disqualified from participating with the board when the board serves as a presiding officer in an adjudicative proceeding concerning the complaint.

(b) The board member described in Subsection (4)(a) may be disqualified:

[~~(a)~~] (i) on the member's own motion, due to actual or perceived bias or lack of objectivity; or

[~~(b)~~] (ii) upon challenge for cause raised on the record by any party to the adjudicative proceeding.

Section 3. Section 58-70a-302 is amended to read:

58-70a-302. Qualifications for licensure.

Each applicant for licensure as a physician assistant shall:

(1) submit an application in a form prescribed by the division;

(2) pay a fee determined by the department under Section 63J-1-504;

(3) have successfully completed a physician assistant program accredited by [~~the~~]:

(a) the Accreditation Review Commission on Education for the Physician Assistant; or

(b) if prior to January 1, 2001, either the:

(i) Committee on Accreditation of Allied Health Education Programs; or

(ii) Committee on Allied Health Education and Accreditation;

(4) have passed the licensing examinations required by division rule made in collaboration with the board; and

(5) meet with the board and representatives of the division, if requested, for the purpose of evaluating the applicant's qualifications for licensure[~~; and~~].

[~~(6) (a) if the applicant desires to practice in Utah, complete a form provided by the division indicating:~~]

[~~(i) the applicant has completed a delegation of services agreement signed by the physician assistant and the supervising physician; and~~]

[~~(ii) the agreement is on file at the Utah practice sites; or~~]

[~~(b) complete a form provided by the division indicating the applicant is not practicing in Utah and, prior to practicing in Utah, the applicant will meet the requirements of Subsection (6)(a).~~]

Section 4. Section 58-70a-305 is amended to read:

58-70a-305. Exemptions from licensure.

(1) In addition to the exemptions from licensure in Section 58-1-307,[~~- the following persons~~] an

individual described in Subsection (2) may engage in acts included within the definition of practice as a physician assistant, subject to the stated circumstances and limitations, without being licensed under this chapter[~~:~~].

[~~(1)~~] (2) Subsection (1) applies to a student enrolled in an accredited physician assistant education program while engaged in activities as a physician assistant:

(a) that are a part of the education program;

(b) that are conducted at an affiliated medical facility under the direct supervision of a:

(i) physician associated with the program; or

(ii) licensed physician assistant associated with the medical faculty; and

(c) for which the program accepts in writing the responsibility for the student[~~; and~~].

[~~(2) a "medical assistant," as defined in Sections 58-67-102 and 58-68-102, who:~~]

[~~(a) does not diagnose, advise, independently treat, or prescribe to or on behalf of any person; and~~]

[~~(b) for whom the supervising physician accepts responsibility.~~]

Section 5. Section 58-70a-306 is amended to read:

58-70a-306. Temporary license.

(1) An applicant for licensure as a physician assistant who has met all qualifications for licensure except passing an examination component as required in Section 58-70a-302, may apply for and be granted a temporary license to practice under Subsection (2).

(2) (a) The applicant shall submit to the division evidence of completion of a physician assistant program as defined in Subsection 58-70a-302(3).

(b) (i) The temporary license shall be issued for a period not to exceed 120 days to allow the applicant to pass the Physician Assistant National Certifying Examination.

(ii) The temporary license may not be renewed or extended.

[~~(c) A physician assistant holding a temporary license may work only under the direct supervision of an approved supervising or substitute supervising physician in accordance with a delegation of services agreement, and all patient charts shall be reviewed and countersigned by the supervising or substitute supervising physician.~~]

(c) A temporary license holder shall work under the direct supervision of a physician.

Section 6. Section 58-70a-307 is enacted to read:

58-70a-307. Collaboration requirements -- Clinical practice experience -- Requirements for independent practice in a new specialty.

(1) As used in this section, "collaboration" means the interaction and relationship that a physician assistant has with one or more physicians in which:

(a) the physician assistant and physician are cognizant of the physician assistant's qualifications and limitations in caring for patients;

(b) the physician assistant, while responsible for care that the physician assistant provides, consults with the physician or physicians regarding patient care; and

(c) the physician or physicians give direction and guidance to the physician assistant.

(2) A physician assistant with less than 10,000 hours of post-graduate clinical practice experience shall:

(a) practice under written policies and procedures established at a practice level that:

(i) describe how collaboration will occur in accordance with this section and Subsections 58-70a-501(2) and (3);

(ii) describe methods for evaluating the physician assistant's competency, knowledge, and skills;

(b) provide a copy of the written policies and procedures and documentation of compliance with this Subsection (2) to the board upon the board's request; and

(c) engage in collaboration with a physician for the first 4,000 hours of the physician assistant's post-graduate clinical practice experience.

(3) (a) A physician assistant who has more than 4,000 hours of practice experience and less than 10,000 hours of practice experience shall enter into a written collaborative agreement with:

(i) a physician; or

(ii) a licensed physician assistant with more than 10,000 hours of practice experience in the same specialty as the physician assistant.

(b) The collaborative agreement described in Subsection (3)(a) shall:

(i) describe how collaboration under this section and Subsections 58-70a-501(2) and (3) will occur;

(ii) be kept on file at the physician assistant's practice location; and

(iii) be provided by the physician assistant to the board upon the board's request.

(4) A physician assistant who wishes to change specialties to another specialty in which the PA has less than 4,000 hours of experience shall engage in collaboration for a minimum of 4,000 hours with a physician who is trained and experienced in the specialty to which the physician assistant is changing.

Section 7. Section 58-70a-501 is amended to read:

58-70a-501. Scope of practice.

(1) A physician assistant may provide any medical services that are not specifically prohibited under this chapter or rules adopted under this chapter, and that are[~~:(a)~~] within the physician assistant's skills and scope of competence[~~;~~].

[~~(b) within the usual scope of practice of the physician assistant's supervising physician; and~~]

[~~(c) provided under the supervision of a supervising physician and in accordance with a delegation of services agreement.~~]

(2) A physician assistant shall consult, collaborate with, and refer to appropriate members of the health care team:

(a) as indicated by the patient's condition;

(b) based on the physician assistant's education, experience, and competencies;

(c) the applicable standard of care; and

(d) if applicable, in accordance with the requirements described in Section 58-70a-307.

(3) Subject to Section 58-70a-307, the degree of collaboration under Subsection (2):

(a) shall be determined at the physician assistant's practice, including decisions made by the physician assistant's:

(i) employer;

(ii) group;

(iii) hospital service; or

(iv) health care facility credentialing and privileging system; and

(b) may also be determined by a managed care organization with whom the physician assistant is a network provider.

(4) A physician assistant may only provide healthcare services:

(a) for which the physician assistant has been trained and credentialed, privileged, or authorized to perform; and

(b) that are within the physician assistant's practice specialty.

(5) A physician assistant may authenticate through a signature, certification, stamp, verification, affidavit, or endorsement any document that may be authenticated by a physician and that is within the physician assistant's scope of practice.

(6) A physician assistant is responsible for the care that the physician assistant provides.

(7) (a) As used in this Subsection (7):

(i) "ALS/ACLS certification" means a certification:

(A) in advanced life support by the American Red Cross;

(B) in advanced cardiac life support by the American Heart Association; or

(C) that is equivalent to a certification described in Subsection (7)(a)(i)(A) or (B).

(ii) "Minimal sedation anxiolysis" means creating a drug induced state:

(A) during which a patient responds normally to verbal commands;

(B) which may impair cognitive function and physical coordination; and

(C) which does not affect airway, reflexes, or ventilatory and cardiovascular function.

(b) Except as provided in Subsections (c) through (e), a physician assistant may not administer general anesthetics.

(c) A physician assistant may perform minimal sedation anxiolysis if the procedure is within the physician assistant's scope of practice.

(d) A physician assistant may perform rapid sequence induction for intubation of a patient if:

(i) the procedure is within the physician assistant's scope of practice;

(ii) the physician assistant holds a valid ALS/ACLS certification and is credentialed and privileged at the hospital where the procedure is performed; and

(iii) (A) a qualified physician is not available and able to perform the procedure; or

(B) the procedure is performed by the physician assistant under supervision of or delegation by a physician.

(e) Subsection (7)(b) does not apply to anesthetics administered by a physician assistant:

(i) in an intensive care unit of a hospital;

(ii) for the purpose of enabling a patient to tolerate ventilator support or intubation; and

(iii) under supervision of or delegation by a physician whose usual scope of practice includes the procedure.

[~~(2)~~] (8) (a) A physician assistant[~~, in accordance with a delegation of services agreement,~~] may prescribe or administer an appropriate controlled substance that is within the physician assistant's scope of practice if[~~: (a)~~] the physician assistant holds a Utah controlled substance license and a DEA registration[~~; and~~].

[~~(b) the prescription or administration of the controlled substance is within the prescriptive practice of the supervising physician and also within the delegated prescribing stated in the delegation of services agreement.~~]

(b) A physician assistant may prescribe, order, administer, and procure a drug or medical device that is within the physician assistant's scope of practice.

(c) A physician assistant may dispense a drug if dispensing the drug:

(i) is permitted under Title 58, Chapter 17b, Pharmacy Practice Act; and

(ii) is within the physician assistant's scope of practice.

(9) A physician assistant practicing independently may only perform or provide a health care service that:

(a) is appropriate to perform or provide outside of a health care facility; and

(b) the physician assistant has been trained and credentialed or authorized to provide or perform independently without physician supervision.

[~~(3)~~] (10) A physician assistant [~~shall~~], while practicing as a physician assistant[~~,~~]:

(a) shall wear an identification badge showing the physician assistant's license classification as a physician assistant[~~.~~];

[~~(4) A physician assistant may not:~~]

[~~(a) independently charge or bill a patient, or others on behalf of the patient, for services rendered;~~]

[~~(b) identify himself or herself~~]

(b) shall identify themselves to a patient as a physician assistant; and

(c) may not identify themselves to any person in connection with activities allowed under this chapter other than as a physician assistant[~~;~~] or PA.

[~~(c) use the title "doctor" or "physician," or by any knowing act or omission lead or permit anyone to believe the physician assistant is a physician.~~]

Section 8. Section 58-70a-502 is amended to read:

58-70a-502. Unlawful conduct.

[~~"Unlawful conduct" includes engaging in practice as a licensed physician assistant while not under the supervision of a supervising physician or substitute supervising physician.~~]

Reserved.

Section 9. Section 58-70a-503 is amended to read:

58-70a-503. Unprofessional conduct.

(1) "Unprofessional conduct" includes:

(a) violation of a patient confidence to any person who does not have a legal right and a professional need to know the information concerning the patient;

(b) knowingly prescribing, selling, giving away, or directly or indirectly administering, or offering to prescribe, sell, furnish, give away, or administer any prescription drug except for a legitimate medical purpose upon a proper diagnosis indicating use of that drug in the amounts prescribed or provided;

(c) prescribing prescription drugs for oneself or administering prescription drugs to oneself, except those that have been legally prescribed for the physician assistant by a licensed practitioner and that are used in accordance with the prescription order for the condition diagnosed;

[~~(d) failure to maintain at the practice site a delegation of services agreement that accurately reflects current practices;~~]

[~~(e) failure to make the delegation of services agreement available to the division for review upon request;~~]

[~~(f)~~] (d) in a practice that has physician assistant ownership interests, failure to allow [~~the supervising~~] a physician the independent final decision making authority on [~~patient~~] treatment decisions[~~, as set forth in the delegation of services agreement or as defined by rule~~] for the physician's patient;

[~~(g)~~] (e) violating the dispensing requirements of Chapter 17b, Part 8, Dispensing Medical Practitioner and Dispensing Medical Practitioner Clinic Pharmacy, if applicable; [~~or~~] and

[~~(h)~~] (f) falsely making an entry in, or altering, a medical record with the intent to conceal:

(i) a wrongful or negligent act or omission of an individual licensed under this chapter or an individual under the direction or control of an individual licensed under this chapter; or

(ii) conduct described in Subsections (1)(a) through [~~(g)~~] (e) or Subsection 58-1-501(1).

(2) (a) "Unprofessional conduct" does not include, in accordance with Title 26, Chapter 61a, Utah Medical Cannabis Act, when registered as a qualified medical provider, as that term is defined in Section 26-61a-102, recommending the use of medical cannabis.

[~~(3)~~] (b) Notwithstanding Subsection (2)(a), the division, in consultation with the board and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, shall define unprofessional conduct for a physician assistant described in Subsection (2)(a).

Section 10. Section 58-70a-507 is enacted to read:

58-70a-507. Volunteer health care services.

(1) A physician assistant may provide health care services as a volunteer for a charitable organization or at a public or private event, including a religious event, youth camp, community event, or health fair, if the physician assistant:

(a) receives no compensation for such services; and

(b) provides the health care services in a manner that is consistent with the physician assistant's education, experience, and scope of practice.

(2) Notwithstanding Subsection 58-70a-501(8), a physician assistant who is providing volunteer health services under this section may not issue a prescription to a patient for a controlled substance.

CHAPTER 313
S. B. 28
Passed March 5, 2021
Approved March 17, 2021
Effective May 5, 2021

PHYSICIAN ASSISTANT MENTAL HEALTH PRACTICE AMENDMENTS

Chief Sponsor: Curtis S. Bramble
House Sponsor: James A. Dunnigan

LONG TITLE

General Description:

This bill allows a physician assistant to specialize in mental health care and defines the requirements and scope of practice for this specialization.

Highlighted Provisions:

This bill:

- defines terms;
- amends the Mental Health Professional Practice Act to allow a physician assistant who specializes in mental health to engage in the practice of mental health therapy;
- describes the qualifications for a physician assistant to specialize in mental health care;
- defines the additional scope of practice for a physician assistant specializing in mental health care; and
- makes technical and corresponding changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a coordination clause.

Utah Code Sections Affected:

AMENDS:

58-60-102, as last amended by Laws of Utah 2013, Chapters 16 and 123
58-60-103, as last amended by Laws of Utah 2015, Chapter 258
58-60-107, as last amended by Laws of Utah 2013, Chapter 16
58-70a-102, as last amended by Laws of Utah 2017, Chapter 309
58-70a-201, as last amended by Laws of Utah 2010, Chapter 37

ENACTS:

58-70a-501.1, Utah Code Annotated 1953
58-70a-501.2, Utah Code Annotated 1953

Utah Code Sections Affected by Coordination Clause:

58-70a-307, Utah Code Annotated 1953
58-70a-501.1, Utah Code Annotated 1953

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

Section 1. Section 58-60-102 is amended to read:

58-60-102. Definitions.

In addition to the definitions in Section 58-1-102, as used in this chapter:

(1) "Client" or "patient" means an individual who consults or is examined or interviewed by an individual licensed under this chapter who is acting in the individual's professional capacity.

(2) "Confidential communication" means information obtained by an individual licensed under this chapter, including information obtained by the individual's examination of the client or patient, which is:

(a) (i) transmitted between the client or patient and an individual licensed under this chapter in the course of that relationship; or

(ii) transmitted among the client or patient, an individual licensed under this chapter, and individuals who are participating in the diagnosis or treatment under the direction of an individual licensed under this chapter, including members of the client's or patient's family; and

(b) made in confidence, for the diagnosis or treatment of the client or patient by the individual licensed under this chapter, and by a means not intended to be disclosed to third persons other than those individuals:

(i) present to further the interest of the client or patient in the consultation, examination, or interview;

(ii) reasonably necessary for the transmission of the communications; or

(iii) participating in the diagnosis and treatment of the client or patient under the direction of the mental health therapist.

(3) "Hypnosis" means, when referring to individuals exempted from licensure under this chapter, a process by which an individual induces or assists another individual into a hypnotic state without the use of drugs or other substances and for the purpose of increasing motivation or to assist the individual to alter lifestyles or habits.

(4) "Individual" means a natural person.

(5) "Mental health therapist" means an individual who is practicing within the scope of practice defined in the individual's respective licensing act and is licensed under this title as:

(a) a physician and surgeon, or osteopathic physician engaged in the practice of mental health therapy;

(b) an advanced practice registered nurse, specializing in psychiatric mental health nursing;

(c) an advanced practice registered nurse intern, specializing in psychiatric mental health nursing;

(d) a psychologist qualified to engage in the practice of mental health therapy;

(e) a certified psychology resident qualifying to engage in the practice of mental health therapy;

(f) a physician assistant specializing in mental health care under Section 58-70a-501.1;

[~~(f)~~] (g) a clinical social worker;

[~~(g)~~] (h) a certified social worker;

[~~(h)~~] (i) a marriage and family therapist;

[~~(i)~~] (j) an associate marriage and family therapist;

[~~(j)~~] (k) a clinical mental health counselor; or

[~~(k)~~] (l) an associate clinical mental health counselor.

(6) "Mental illness" means a mental or emotional condition defined in an approved diagnostic and statistical manual for mental disorders generally recognized in the professions of mental health therapy listed under Subsection (5).

(7) "Practice of mental health therapy" means treatment or prevention of mental illness, whether in person or remotely, including:

(a) conducting a professional evaluation of an individual's condition of mental health, mental illness, or emotional disorder consistent with standards generally recognized in the professions of mental health therapy listed under Subsection (5);

(b) establishing a diagnosis in accordance with established written standards generally recognized in the professions of mental health therapy listed under Subsection (5);

(c) prescribing a plan for the prevention or treatment of a condition of mental illness or emotional disorder; and

(d) engaging in the conduct of professional intervention, including psychotherapy by the application of established methods and procedures generally recognized in the professions of mental health therapy listed under Subsection (5).

(8) "Remotely" means communicating via Internet, telephone, or other electronic means that facilitate real-time audio or visual interaction between individuals when they are not physically present in the same room at the same time.

(9) "Unlawful conduct" is as defined in Sections 58-1-501 and 58-60-109.

(10) "Unprofessional conduct" is as defined in Sections 58-1-501 and 58-60-110, and may be further defined by division rule.

Section 2. Section 58-60-103 is amended to read:

58-60-103. Licensure required.

(1) (a) An individual shall be licensed under:

(i) this chapter;

(ii) Chapter 67, Utah Medical Practice Act;

(iii) Chapter 68, Utah Osteopathic Medical Practice Act;

(iv) Chapter 31b, Nurse Practice Act;

(v) Chapter 61, Psychologist Licensing Act;

(vi) Chapter 70a, Utah Physician Assistant Act; or

(vii) exempted from licensure under this chapter [~~in order to:~~].

(b) Only an individual described in Subsection (1)(a) may:

[~~(a)~~] (i) engage in, or represent that the individual will engage in, the practice of mental health therapy, clinical social work, certified social work, marriage and family therapy, or clinical mental health counseling; or

[~~(b)~~] (ii) practice as, or represent that the individual is, a mental health therapist, clinical social worker, certified social worker, marriage and family therapist, clinical mental health counselor, psychiatrist, psychologist, registered psychiatric mental health nurse specialist, certified psychology resident, associate marriage and family therapist, or associate clinical mental health counselor.

(2) An individual shall be licensed under this chapter or exempted from licensure under this chapter in order to:

(a) engage in, or represent that the individual is engaged in, practice as a social service worker; or

(b) represent that the individual is, or use the title of, a social service worker.

(3) An individual shall be licensed under this chapter or exempted from licensure under this chapter in order to:

(a) engage in, or represent that the individual is engaged in, practice as a substance use disorder counselor; or

(b) represent that the individual is, or use the title of, a substance use disorder counselor.

(4) Notwithstanding the provisions of Subsection 58-1-307(1)(c), an individual shall be certified under this chapter, or otherwise exempted from licensure under this chapter, in order to engage in an internship or residency program of supervised clinical training necessary to meet the requirements for licensure as:

(a) a marriage and family therapist under Part 3, Marriage and Family Therapist Licensing Act; or

(b) a clinical mental health counselor under Part 4, Clinical Mental Health Counselor Licensing Act.

Section 3. Section 58-60-107 is amended to read:

58-60-107. Exemptions from licensure.

(1) Except as modified in Section 58-60-103, the exemptions from licensure in Section 58-1-307 apply to this chapter.

(2) In addition to the exemptions from licensure in Section 58-1-307, the following may engage in acts included within the definition of practice as a mental health therapist, subject to the stated circumstances and limitations, without being licensed under this chapter:

(a) the following when practicing within the scope of the license held:

(i) a physician and surgeon or osteopathic physician and surgeon licensed under Chapter 67,

Utah Medical Practice Act, or Chapter 68, Utah Osteopathic Medical Practice Act;

(ii) an advanced practice registered nurse, specializing in psychiatric mental health nursing, licensed under Chapter 31b, Nurse Practice Act; [~~and~~]

(iii) a psychologist licensed under Chapter 61, Psychologist Licensing Act; and

(iv) a physician assistant licensed under Chapter 70a, Utah Physician Assistant Act, and specializing in mental health care under Section 58-70a-501.1;

(b) a recognized member of the clergy while functioning in a ministerial capacity as long as the member of the clergy does not represent that the member of the clergy is, or use the title of, a license classification in Subsection 58-60-102(5);

(c) an individual who is offering expert testimony in a proceeding before a court, administrative hearing, deposition upon the order of a court or other body having power to order the deposition, or a proceeding before a master, referee, or alternative dispute resolution provider;

(d) an individual engaged in performing hypnosis who is not licensed under this title in a profession which includes hypnosis in its scope of practice, and who:

(i) (A) induces a hypnotic state in a client for the purpose of increasing motivation or altering lifestyles or habits, such as eating or smoking, through hypnosis;

(B) consults with a client to determine current motivation and behavior patterns;

(C) prepares the client to enter hypnotic states by explaining how hypnosis works and what the client will experience;

(D) tests clients to determine degrees of suggestibility;

(E) applies hypnotic techniques based on interpretation of consultation results and analysis of client's motivation and behavior patterns; and

(F) trains clients in self-hypnosis conditioning;

(ii) may not:

(A) engage in the practice of mental health therapy;

(B) use the title of a license classification in Subsection 58-60-102(5); or

(C) use hypnosis with or treat a medical, psychological, or dental condition defined in generally recognized diagnostic and statistical manuals of medical, psychological, or dental disorders;

(e) an individual's exemption from licensure under Subsection 58-1-307(1)(b) terminates when the student's training is no longer supervised by qualified faculty or staff and the activities are no longer a defined part of the degree program;

(f) an individual holding an earned doctoral degree or master's degree in social work, marriage and family therapy, or clinical mental health counseling, who is employed by an accredited institution of higher education and who conducts research and teaches in that individual's professional field, but only if the individual does not engage in providing or supervising professional services regulated under this chapter to individuals or groups regardless of whether there is compensation for the services;

(g) an individual in an on-the-job training program approved by the division while under the supervision of qualified persons;

(h) an individual providing general education in the subjects of alcohol, drug use, or substance use disorders, including prevention;

(i) an individual providing advice or counsel to another individual in a setting of their association as friends or relatives and in a nonprofessional and noncommercial relationship, if there is no compensation paid for the advice or counsel; and

(j) an individual who is licensed, in good standing, to practice mental health therapy or substance use disorder counseling in a state or territory of the United States outside of Utah may provide short term transitional mental health therapy remotely or short term transitional substance use disorder counseling remotely to a client in Utah only if:

(i) the individual is present in the state or territory where the individual is licensed to practice mental health therapy or substance use disorder counseling;

(ii) the client relocates to Utah;

(iii) the client is a client of the individual immediately before the client relocates to Utah;

(iv) the individual provides the short term transitional mental health therapy or short term transitional substance use disorder counseling remotely to the client only during the 45 day period beginning on the day on which the client relocates to Utah;

(v) within 10 days after the day on which the client relocates to Utah, the individual provides written notice to the division of the individual's intent to provide short term transitional mental health therapy or short term transitional substance use disorder counseling remotely to the client; and

(vi) the individual does not engage in unlawful conduct or unprofessional conduct.

Section 4. Section 58-70a-102 is amended to read:

58-70a-102. Definitions.

In addition to the definitions in Section 58-1-102, as used in this chapter:

(1) "Board" means the Physician Assistant Licensing Board created in Section 58-70a-201.

(2) (a) "Delegation of services agreement" means written criteria jointly developed by a physician

assistant's supervising physician and substitute supervising physicians and the physician assistant, that permits a physician assistant, working under the direction or review of the supervising physician, to assist in the management of common illnesses and injuries.

(b) The agreement defines the working relationship and delegation of duties between the supervising physician and the physician assistant as specified by division rule and shall include:

(i) the prescribing of controlled substances;

(ii) the degree and means of supervision;

(iii) the frequency and mechanism of quality review, including the mechanism for review of patient data and documentation of the review, as determined by the supervising physician and the physician assistant;

(iv) procedures addressing situations outside the scope of practice of the physician assistant; and

(v) procedures for providing backup for the physician assistant in emergency situations.

(3) "Direct supervision" means the supervising physician is:

(a) physically present at the point of patient treatment on site where the physician assistant he is supervising is practicing; and

(b) immediately available for consultation with the physician assistant.

(4) "Mental health therapist" means the same as that term is defined in Section 58-60-102.

[~~(4)~~] (5) "Practice as a physician assistant" means:

(a) the professional activities and conduct of a physician assistant, also known as a PA, in diagnosing, treating, advising, or prescribing for any human disease, ailment, injury, infirmity, deformity, pain, or other condition, dependent upon and under the supervision of a supervising physician or substitute supervising physician in accordance with a delegation of services agreement; and

(b) the physician assistant acts as the agent of the supervising physician or substitute supervising physician when acting in accordance with a delegation of services agreement.

(6) "Practice of mental health therapy" means the same as that term is defined in Section 58-60-102.

[~~(5)~~] (7) "Substitute supervising physician" means an individual who meets the requirements of a supervising physician under this chapter and acts as the supervising physician in the absence of the supervising physician.

[~~(6)~~] (8) "Supervising physician" means an individual who:

(a) is currently licensed to practice under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act;

(b) acts as the primary supervisor of a physician assistant and takes responsibility for the professional practice and conduct of a physician assistant in accordance with this chapter; and

(c) is not an employee of the physician assistant whom the individual supervises.

[~~(7)~~] (9) "Supervision" means the supervising physician is available for consultation with the physician assistant, either personally or by other means permitting direct verbal communication between the physician and the physician assistant.

[~~(8)~~] (10) "Unlawful conduct" means the same as that term is [~~as~~] defined in Sections 58-1-501 and 58-70a-502.

[~~(9)~~] (11) "Unprofessional conduct" [~~is~~] means "unprofessional conduct":

(a) as defined in Sections 58-1-501 and 58-70a-503; and [~~as may be further defined by rule.~~]

(b) as further defined by the division by rule.

Section 5. Section 58-70a-201 is amended to read:

58-70a-201. Board.

(1) There is created the Physician Assistant Licensing Board, which consists of seven members:

(a) three licensed physicians[~~, at least two of whom are individuals who are supervising or who have supervised a physician assistant~~], including at least one board certified psychiatrist, who currently work or have previously worked collaboratively with a physician assistant;

(b) three physician assistants, one of whom is involved in the administration of an approved physician assistant education program within the state; and

(c) one person from the general public.

(2) The board shall be appointed and serve in accordance with Section 58-1-201.

(3) The duties and responsibilities of the board are in accordance with Sections 58-1-202 and 58-1-203. In addition, the board shall designate one of its members on a permanent or rotating basis to:

(a) assist the division in reviewing complaints concerning the unlawful or unprofessional conduct of a licensee; and

(b) advise the division in its investigation of these complaints.

(4) A board member who has, under Subsection (3), reviewed a complaint or advised in its investigation may be disqualified from participating with the board when the board serves as a presiding officer in an adjudicative proceeding concerning the complaint. The board member may be disqualified:

(a) on the member's own motion, due to actual or perceived bias or lack of objectivity; or

(b) upon challenge for cause raised on the record by any party to the adjudicative proceeding.

Section 6. Section 58-70a-501.1 is enacted to read:

58-70a-501.1. Qualifications for a physician assistant specializing in mental health care -- Rulemaking.

(1) A physician assistant specializing in mental health care under this section shall:

(a) hold a valid license as a physician assistant under this chapter;

(b) obtain and maintain a Certification of Added Qualification in psychiatry issued by the National Commission on Certification of Physician Assistants;

(c) complete:

(i) an accredited doctorate level academic program for physician assistants approved by the division in collaboration with the board;

(ii) a post-graduate certificate program for physician assistants to practice within psychiatric and mental health care that is approved by the division in collaboration with the board; or

(iii) a post-graduate residency in psychiatry and additional clinical practice or coursework in accordance with requirements approved by the division in collaboration with the board; and

(d) complete the clinical practice requirement described in Subsection (4).

(2) The division, in collaboration with the board, may approve a program under Subsections (1)(c)(i) and (ii), if the program:

(a) is an accredited doctoral level or post-graduate academic program;

(b) includes at least 1,600 hours of accredited instructional hours that results in:

(i) a doctorate degree or equivalent; or

(ii) a graduate level certification in psychiatric mental health; and

(c) provides graduate level instruction in:

(i) at least 2 credit hours or equivalent of neuroscience;

(ii) health care law and ethics;

(iii) health care delivery;

(iv) evidence-based mental health medicine;

(v) evidence-based mental health research;

(vi) at least 3 credit hours or equivalent of psychotherapy;

(vii) psychiatric assessment;

(viii) crisis intervention;

(ix) group and family therapy;

(x) suicide risk assessment;

(xi) violence risk assessment;

(xii) at least 3 credit hours or equivalent of psychopharmacology;

(xiii) a comprehensive review of mental disorders as characterized by the current Diagnostic and Statistical Manual of Mental Disorders, including diagnostic criteria and prevalence; and

(xiv) medical and therapeutic management of each condition across the lifespan in diverse populations and in a variety of clinical settings.

(3) The division, in collaboration with the board, may:

(a) approve and accept the completion of a post-graduate residency in psychiatry under Subsection (1)(c)(iii) if the residency includes clinical and academic training that is substantially equivalent to the training described in Subsections (2)(b) and (c); and

(b) require the completion of additional coursework or clinical hours for an individual who meets the training requirement under Subsection (1)(c) through a post-graduate residency in psychiatry.

(4) (a) A physician assistant specializing in mental health care under this section shall complete 10,000 hours of clinical practice in mental health.

(b) The clinical practice hours described in Subsection (4)(a) shall be completed after the individual passes the Physician Assistant National Certifying Exam administered by the National Commission on Certification of Physician Assistants.

(c) Up to 1,000 hours of clinical practice under Subsection (4)(a) may be completed as part of an approved education program in mental health if the clinical practice hours meet the requirements described in Subsection (4)(d).

(d) (i) At least the first 4,000 hours of the clinical practice hours described in Subsection (4)(a) shall be completed under the supervision of a psychiatrist.

(ii) At least 2,000 hours of the clinical practice hours described in Subsection (4)(a) shall be completed in psychotherapy under the supervision of a mental health therapist or a psychiatrist who has been trained in and has at least two years of practice experience in psychotherapy.

(iii) The remaining clinical practice hours required under Subsection (4)(a) and not received under Subsections (4)(d)(i) and (ii) shall be completed in collaboration with a psychiatrist.

(5) The division, in collaboration with the board, shall establish continuing education requirements for a physician assistant specializing in mental health care under this section.

Section 7. Section 58-70a-501.2 is enacted to read:

58-70a-501.2. Scope of practice for a physician assistant specializing in mental health care.

(1) (a) A physician assistant specializing in mental health care under Section 58-70a-501.1 may engage in the practice of mental health therapy consistent with the physician assistant's education, experience, and competence.

(b) Section 58-70a-501 applies to a physician assistant specializing in mental health care in addition to this section.

(2) A physician assistant specializing in mental health care is responsible for meeting the local standards of care in the provision of services, including mental health therapy and psychopharmacology.

(3) (a) Except as provided in Subsection (3)(b), a physician assistant specializing in mental health care may administer a behavioral health screening instrument.

(b) A physician assistant specializing in mental health care may not perform a psychological or neuropsychological assessment or evaluation, including:

(i) an intellectual assessment;

(ii) a forensic assessment or evaluation; and

(iii) administration of a psychological or neuropsychological test or instrument that requires qualification level B or qualification level C under the Standards for Educational and Psychological Testing approved as policy by the American Psychological Association.

(4) (a) A physician assistant may not administer neurostimulation or neuromodulation.

(b) Subsection (4)(a) does not apply to neurostimulation or neuromodulation administered by a physician assistant:

(i) in a health care facility; and

(ii) under supervision of a physician whose usual scope of practice includes neurostimulation or neuromodulation.

(5) As a condition of probation or reinstatement of a license, the division may require that, for a specified duration, a physician assistant specializing in mental health care collaborate with or practice under the supervision of a physician who is board certified in psychiatry.

(6) A physician assistant who is in the process of completing the clinical training requirement in Subsection 58-70a-501.1(1)(d), may engage in the practice of mental health therapy if the physician assistant:

(a) meets the requirements described in Subsections 58-70a-501.1(1)(a) through (c);

(b) engages in the practice of mental health therapy under the supervision of:

(i) a mental health therapist who has been trained in and has at least two years of practice experience in psychotherapy; or

(ii) a physician who is board certified in psychiatry; and

(c) engages in the practice of mental health therapy in accordance with rules made by the division regarding the supervision described in Subsection (6)(b).

Section 8. Coordinating S.B. 28 with S.B. 27 -- Omitting substantive changes -- Substantive amendments.

(1) It is the intent of the Legislature that this S.B. 28 shall only take effect if S.B. 27, Physician Assistant Act Amendments, passes and becomes law.

(2) If this S.B. 28 and S.B. 27, Physician Assistant Act Amendments, both pass and become law, it is the intent of the Legislature that:

(a) Subsection 58-70a-307(2)(c) shall be amended to read:

"(c) except as provided in Subsection 58-70a-501.1(4)(d) for a physician assistant specializing in mental health care, engage in collaboration with a physician for the first 4,000 hours of the physician assistant's post-graduate clinical practice experience.";

(b) Subsection 58-70a-307(3)(a) shall be amended to read:

"(3) (a) Except as provided in Subsection 58-70a-501.1(4)(d) for a physician assistant specializing in mental health care, a physician assistant who has more than 4,000 hours of practice experience and less than 10,000 hours of practice experience shall enter into a written collaborative agreement with:

(i) a physician; or

(ii) a licensed physician assistant with more than 10,000 hours of practice experience in the same specialty as the physician assistant.";

(c) Subsection 58-70a-501.1(4)(d)(iii) shall be amended to read:

"(iii) The remaining clinical practice hours required under Subsection (4)(a) and not received under Subsections (4)(d)(i) and (ii) shall be completed in collaboration as defined in Section 58-70a-307 with a psychiatrist."; and

(d) the Office of Legislative Research and General Counsel prepare the Utah Code database for publication in accordance with Subsections (1) and (2) of this coordination clause.

CHAPTER 314
S. B. 37
Passed March 4, 2021
Approved March 17, 2021
Effective May 5, 2021

PUBLIC INFRASTRUCTURE DISTRICT REVISIONS

Chief Sponsor: Daniel McCay
House Sponsor: James A. Dunnigan

LONG TITLE

General Description:

This bill modifies provisions related to public infrastructure districts.

Highlighted Provisions:

This bill:

- renumbers provisions related to public infrastructure districts; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

11-42-102, as last amended by Laws of Utah 2020, Chapter 282
11-42-106, as last amended by Laws of Utah 2020, Chapter 282
11-42-201, as last amended by Laws of Utah 2019, Chapter 490
11-42-411, as last amended by Laws of Utah 2020, Chapter 282
17B-1-102, as last amended by Laws of Utah 2019, Chapter 490
17B-1-1102, as last amended by Laws of Utah 2019, Chapter 490
59-2-102, as last amended by Laws of Utah 2020, Chapters 38, 40, and 86
59-2-1317, as last amended by Laws of Utah 2019, Chapters 207 and 490
63H-1-102, as last amended by Laws of Utah 2020, Chapter 282

RENUMBERS AND AMENDS:

17D-4-101, (Renumbered from 17B-2a-1201, as enacted by Laws of Utah 2019, Chapter 490)
17D-4-102, (Renumbered from 17B-2a-1202, as last amended by Laws of Utah 2020, Chapters 282 and 397)
17D-4-103, (Renumbered from 17B-2a-1203, as enacted by Laws of Utah 2019, Chapter 490)
17D-4-201, (Renumbered from 17B-2a-1204, as last amended by Laws of Utah 2020, Chapters 282 and 397)
17D-4-202, (Renumbered from 17B-2a-1205, as last amended by Laws of Utah 2020, Chapters 282 and 397)
17D-4-203, (Renumbered from 17B-2a-1206, as last amended by Laws of Utah 2020, Chapter 282)
17D-4-204, (Renumbered from 17B-2a-1211, as enacted by Laws of Utah 2019, Chapter 490)
17D-4-205, (Renumbered from 17B-2a-1212, as enacted by Laws of Utah 2019, Chapter 490)
17D-4-301, (Renumbered from 17B-2a-1207, as last amended by Laws of Utah 2020, Chapters 354 and 397)
17D-4-302, (Renumbered from 17B-2a-1208, as enacted by Laws of Utah 2019, Chapter 490)
17D-4-303, (Renumbered from 17B-2a-1209, as enacted by Laws of Utah 2019, Chapter 490)
17D-4-304, (Renumbered from 17B-2a-1210, as enacted by Laws of Utah 2019, Chapter 490)
17D-4-305, (Renumbered from 17B-2a-1213, as enacted by Laws of Utah 2019, Chapter 490)

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

Section 1. Section 11-42-102 is amended to read:

11-42-102. Definitions.

(1) As used in this chapter:

(a) "Adequate protests" means, for all proposed assessment areas except sewer assessment areas, timely filed, written protests under Section 11-42-203 that represent at least 40% of the frontage, area, taxable value, fair market value, lots, number of connections, or equivalent residential units of the property proposed to be assessed, according to the same assessment method by which the assessment is proposed to be levied, after eliminating:

(i) protests relating to:

(A) property that has been deleted from a proposed assessment area; or

(B) an improvement that has been deleted from the proposed improvements to be provided to property within the proposed assessment area; and

(ii) protests that have been withdrawn under Subsection 11-42-203(3).

(b) "Adequate protests" means, for a proposed sewer assessment area, timely filed, written protests under Section 11-42-203 that represent at least 70% of the frontage, area, taxable value, fair market value, lots, number of connections, or equivalent residential units of the property proposed to be assessed, according to the same assessment method by which the assessment is proposed to be levied, after eliminating adequate protests under Subsection (1)(a).

(2) "Assessment area" means an area, or, if more than one area is designated, the aggregate of all areas within a local entity's jurisdictional boundaries that is designated by a local entity under Part 2, Designating an Assessment Area, for the purpose of financing the costs of improvements, operation and maintenance, or economic promotion activities that benefit property within the area.

(3) "Assessment bonds" means bonds that are:

(a) issued under Section 11-42-605; and

(b) payable in part or in whole from assessments levied in an assessment area, improvement revenues, and a guaranty fund or reserve fund.

(4) "Assessment fund" means a special fund that a local entity establishes under Section 11-42-412.

(5) "Assessment lien" means a lien on property within an assessment area that arises from the levy of an assessment, as provided in Section 11-42-501.

(6) "Assessment method" means the method:

(a) by which an assessment is levied against benefitted property, whether by frontage, area, taxable value, fair market value, lot, parcel, number of connections, equivalent residential unit, any combination of these methods, or any other method; and

(b) that, when applied to a benefitted property, accounts for an assessment that meets the requirements of Section 11-42-409.

(7) "Assessment ordinance" means an ordinance adopted by a local entity under Section 11-42-404 that levies an assessment on benefitted property within an assessment area.

(8) "Assessment resolution" means a resolution adopted by a local entity under Section 11-42-404 that levies an assessment on benefitted property within an assessment area.

(9) "Benefitted property" means property within an assessment area that directly or indirectly benefits from improvements, operation and maintenance, or economic promotion activities.

(10) "Bond anticipation notes" means notes issued under Section 11-42-602 in anticipation of the issuance of assessment bonds.

(11) "Bonds" means assessment bonds and refunding assessment bonds.

(12) "Commercial area" means an area in which at least 75% of the property is devoted to the interchange of goods or commodities.

(13) (a) "Commercial or industrial real property" means real property used directly or indirectly or held for one of the following purposes or activities, regardless of whether the purpose or activity is for profit:

(i) commercial;

(ii) mining;

(iii) industrial;

(iv) manufacturing;

(v) governmental;

(vi) trade;

(vii) professional;

(viii) a private or public club;

(ix) a lodge;

(x) a business; or

(xi) a similar purpose.

(b) "Commercial or industrial real property" includes real property that:

(i) is used as or held for dwelling purposes; and

(ii) contains more than four rental units.

(14) "Connection fee" means a fee charged by a local entity to pay for the costs of connecting property to a publicly owned sewer, storm drainage, water, gas, communications, or electrical system, whether or not improvements are installed on the property.

(15) "Contract price" means:

(a) the cost of acquiring an improvement, if the improvement is acquired; or

(b) the amount payable to one or more contractors for the design, engineering, inspection, and construction of an improvement.

(16) "Designation ordinance" means an ordinance adopted by a local entity under Section 11-42-206 designating an assessment area.

(17) "Designation resolution" means a resolution adopted by a local entity under Section 11-42-206 designating an assessment area.

(18) "Economic promotion activities" means activities that promote economic growth in a commercial area of a local entity, including:

(a) sponsoring festivals and markets;

(b) promoting business investment or activities;

(c) helping to coordinate public and private actions; and

(d) developing and issuing publications designed to improve the economic well-being of the commercial area.

(19) "Environmental remediation activity" means a surface or subsurface enhancement, effort, cost, initial or ongoing maintenance expense, facility, installation, system, earth movement, or change to grade or elevation that improves the use, function, aesthetics, or environmental condition of publicly owned property.

(20) "Equivalent residential unit" means a dwelling, unit, or development that is equal to a single-family residence in terms of the nature of its use or impact on an improvement to be provided in the assessment area.

(21) "Governing body" means:

(a) for a county, city, or town, the legislative body of the county, city, or town;

(b) for a local district, the board of trustees of the local district;

(c) for a special service district:

(i) the legislative body of the county, city, or town that established the special service district, if no administrative control board has been appointed under Section 17D-1-301; or

(ii) the administrative control board of the special service district, if an administrative control board has been appointed under Section 17D-1-301;

(d) for the military installation development authority created in Section 63H-1-201, the board, as defined in Section 63H-1-102; [~~and~~]

(e) for the Utah Inland Port Authority, created in Section 11-58-201, the board, as defined in Section 11-58-102[~~.~~]; and

(f) for a public infrastructure district, the board of the public infrastructure district as defined in Section 17D-4-102.

(22) "Guaranty fund" means the fund established by a local entity under Section 11-42-701.

(23) "Improved property" means property upon which a residential, commercial, or other building has been built.

(24) "Improvement":

(a) (i) means a publicly owned infrastructure, facility, system, or environmental remediation activity that:

(A) a local entity is authorized to provide;

(B) the governing body of a local entity determines is necessary or convenient to enable the local entity to provide a service that the local entity is authorized to provide; or

(C) a local entity is requested to provide through an interlocal agreement in accordance with Chapter 13, Interlocal Cooperation Act; and

(ii) includes facilities in an assessment area, including a private driveway, an irrigation ditch, and a water turnout, that:

(A) can be conveniently installed at the same time as an infrastructure, system, or other facility described in Subsection (24)(a)(i); and

(B) are requested by a property owner on whose property or for whose benefit the infrastructure, system, or other facility is being installed; or

(b) for a local district created to assess groundwater rights in accordance with Section 17B-1-202, means a system or plan to regulate groundwater withdrawals within a specific groundwater basin in accordance with Sections 17B-1-202 and 73-5-15.

(25) "Improvement revenues":

(a) means charges, fees, impact fees, or other revenues that a local entity receives from improvements; and

(b) does not include revenue from assessments.

(26) "Incidental refunding costs" means any costs of issuing refunding assessment bonds and calling, retiring, or paying prior bonds, including:

(a) legal and accounting fees;

(b) charges of financial advisors, escrow agents, certified public accountant verification entities, and trustees;

(c) underwriting discount costs, printing costs, the costs of giving notice;

(d) any premium necessary in the calling or retiring of prior bonds;

(e) fees to be paid to the local entity to issue the refunding assessment bonds and to refund the outstanding prior bonds;

(f) any other costs that the governing body determines are necessary and proper to incur in connection with the issuance of refunding assessment bonds; and

(g) any interest on the prior bonds that is required to be paid in connection with the issuance of the refunding assessment bonds.

(27) "Installment payment date" means the date on which an installment payment of an assessment is payable.

(28) "Interim warrant" means a warrant issued by a local entity under Section 11-42-601.

(29) "Jurisdictional boundaries" means:

(a) for a county, the boundaries of the unincorporated area of the county; and

(b) for each other local entity, the boundaries of the local entity.

(30) "Local district" means a local district under Title 17B, Limited Purpose Local Government Entities - Local Districts.

(31) "Local entity" means:

(a) a county, city, town, special service district, or local district;

(b) an interlocal entity as defined in Section 11-13-103;

(c) the military installation development authority, created in Section 63H-1-201;

(d) a public infrastructure district under Title 17D, Chapter 4, Public Infrastructure District Act, including a public infrastructure district created by the military installation development authority [~~under Title 17B, Chapter 2a, Part 12, Public Infrastructure District Act~~];

(e) the Utah Inland Port Authority, created in Section 11-58-201; or

(f) any other political subdivision of the state.

(32) "Local entity obligations" means assessment bonds, refunding assessment bonds, interim warrants, and bond anticipation notes issued by a local entity.

(33) "Mailing address" means:

(a) a property owner's last-known address using the name and address appearing on the last completed real property assessment roll of the county in which the property is located; and

(b) if the property is improved property:

(i) the property's street number; or

(ii) the post office box, rural route number, or other mailing address of the property, if a street number has not been assigned.

(34) "Net improvement revenues" means all improvement revenues that a local entity has received since the last installment payment date, less all amounts payable by the local entity from those improvement revenues for operation and maintenance costs.

(35) "Operation and maintenance costs":

(a) means the costs that a local entity incurs in operating and maintaining improvements in an assessment area, whether or not those improvements have been financed under this chapter; and

(b) includes service charges, administrative costs, ongoing maintenance charges, and tariffs or other charges for electrical, water, gas, or other utility usage.

(36) "Overhead costs" means the actual costs incurred or the estimated costs to be incurred by a local entity in connection with an assessment area for appraisals, legal fees, filing fees, financial advisory charges, underwriting fees, placement fees, escrow, trustee, and paying agent fees, publishing and mailing costs, costs of levying an assessment, recording costs, and all other incidental costs.

(37) "Prior assessment ordinance" means the ordinance levying the assessments from which the prior bonds are payable.

(38) "Prior assessment resolution" means the resolution levying the assessments from which the prior bonds are payable.

(39) "Prior bonds" means the assessment bonds that are refunded in part or in whole by refunding assessment bonds.

(40) "Project engineer" means the surveyor or engineer employed by or the private consulting engineer engaged by a local entity to perform the necessary engineering services for and to supervise the construction or installation of the improvements.

(41) "Property" includes real property and any interest in real property, including water rights and leasehold rights.

(42) "Property price" means the price at which a local entity purchases or acquires by eminent domain property to make improvements in an assessment area.

(43) "Provide" or "providing," with reference to an improvement, includes the acquisition, construction, reconstruction, renovation, maintenance, repair, operation, and expansion of an improvement.

(44) "Public agency" means:

(a) the state or any agency, department, or division of the state; and

(b) a political subdivision of the state.

(45) "Reduced payment obligation" means the full obligation of an owner of property within an assessment area to pay an assessment levied on the property after the assessment has been reduced because of the issuance of refunding assessment bonds, as provided in Section 11-42-608.

(46) "Refunding assessment bonds" means assessment bonds that a local entity issues under Section 11-42-607 to refund, in part or in whole, assessment bonds.

(47) "Reserve fund" means a fund established by a local entity under Section 11-42-702.

(48) "Service" means:

(a) water, sewer, storm drainage, garbage collection, library, recreation, communications, or electric service;

(b) economic promotion activities; or

(c) any other service that a local entity is required or authorized to provide.

(49) (a) "Sewer assessment area" means an assessment area that has as the assessment area's primary purpose the financing and funding of public improvements to provide sewer service where there is, in the opinion of the local board of health, substantial evidence of septic system failure in the defined area due to inadequate soils, high water table, or other factors proven to cause failure.

(b) "Sewer assessment area" does not include property otherwise located within the assessment area:

(i) on which an approved conventional or advanced wastewater system has been installed during the previous five calendar years;

(ii) for which the local health department has inspected the system described in Subsection (49)(b)(i) to ensure that the system is functioning properly; and

(iii) for which the property owner opts out of the proposed assessment area for the earlier of a period of 10 calendar years or until failure of the system described in Subsection (49)(b)(i).

(50) "Special service district" means the same as that term is defined in Section 17D-1-102.

(51) "Unassessed benefitted government property" means property that a local entity may not assess in accordance with Section 11-42-408 but is benefitted by an improvement, operation and maintenance, or economic promotion activities.

(52) "Unimproved property" means property upon which no residential, commercial, or other building has been built.

(53) "Voluntary assessment area" means an assessment area that contains only property whose owners have voluntarily consented to an assessment.

Section 2. Section 11-42-106 is amended to read:

11-42-106. Action to contest assessment or proceeding -- Requirements -- Exclusive remedy -- Bonds and assessment incontestable.

(1) A person who contests an assessment or any proceeding to designate an assessment area or levy an assessment may commence a civil action against the local entity to:

(a) set aside a proceeding to designate an assessment area; or

(b) enjoin the levy or collection of an assessment.

(2) (a) Each action under Subsection (1) shall be commenced in the district court with jurisdiction in the county in which the assessment area is located.

(b) (i) Except as provided in Subsection (2)(b)(ii), an action under Subsection (1) may not be commenced against and a summons relating to the action may not be served on the local entity more than 60 days after the effective date of the:

(A) designation resolution or designation ordinance, if the challenge is to the designation of an assessment area;

(B) assessment resolution or ordinance, if the challenge is to an assessment; or

(C) amended resolution or ordinance, if the challenge is to an amendment.

(ii) The period for commencing an action and serving a summons under Subsection (2)(b)(i) is 30 days if the designation resolution, assessment resolution, or amended resolution was:

(A) adopted by the military installation development authority, created in Section 63H-1-201, or a public infrastructure district created by the military installation development authority under [~~Title 17B, Chapter 2a, Part 12~~] Title 17D, Chapter 4, Public Infrastructure District Act; and

(B) all owners of property within the assessment area or proposed assessment area consent in writing to the designation resolution, assessment resolution, or amended resolution.

(3) (a) An action under Subsection (1) is the exclusive remedy of a person who:

(i) claims an error or irregularity in an assessment or in any proceeding to designate an assessment area or levy an assessment; or

(ii) challenges a bondholder's right to repayment.

(b) A court may not hear any complaint under Subsection (1) that a person was authorized to make but did not make in a protest under Section 11-42-203 or at a hearing under Section 11-42-204.

(c) (i) If a person has not brought a claim for which the person was previously authorized to bring but is otherwise barred from making under Subsection (2)(b), the claim may not be brought later because of an amendment to the resolution or ordinance unless the claim arises from the amendment itself.

(ii) In an action brought pursuant to Subsection (1), a person may not contest a previous decision, proceeding, or determination for which the service deadline described in Subsection (2)(b) has expired by challenging a subsequent decision, proceeding, or determination.

(4) An assessment or a proceeding to designate an assessment area or to levy an assessment may not be declared invalid or set aside in part or in whole because of an error or irregularity that does not go to the equity or justice of the proceeding or the assessment meeting the requirements of Section 11-42-409.

(5) After the expiration of the period referred to in Subsection (2)(b):

(a) assessment bonds and refunding assessment bonds issued or to be issued with respect to an assessment area and assessments levied on property in the assessment area become at that time incontestable against all persons who have not commenced an action and served a summons as provided in this section; and

(b) a suit to enjoin the issuance or payment of assessment bonds or refunding assessment bonds, the levy, collection, or enforcement of an assessment, or to attack or question in any way the legality of assessment bonds, refunding assessment bonds, or an assessment may not be commenced, and a court may not inquire into those matters.

(6) (a) This section may not be interpreted to insulate a local entity from a claim of misuse of assessment funds after the expiration of the period described in Subsection (2)(b).

(b) (i) Except as provided in Subsection (6)(b)(ii), an action in the nature of mandamus is the sole form of relief available to a party challenging the misuse of assessment funds.

(ii) The limitation in Subsection (6)(b)(i) does not prohibit the filing of criminal charges against or the prosecution of a party for the misuse of assessment funds.

Section 3. Section 11-42-201 is amended to read:

11-42-201. Resolution or ordinance designating an assessment area -- Classifications within an assessment area -- Preconditions to adoption of a resolution or ordinance.

(1) (a) Subject to the requirements of this part, a governing body of a local entity intending to levy an assessment on property to pay some or all of the cost of providing improvements benefitting the property, performing operation and maintenance benefitting the property, or conducting economic promotion activities benefitting the property shall adopt a resolution or ordinance designating an assessment area.

(b) A designation resolution or designation ordinance described in Subsection (1)(a) may divide

the assessment area into multiple classifications to allow the governing body to:

(i) levy a different level of assessment; or

(ii) use a different assessment method in each classification to reflect more fairly the benefits that property within the different classifications is expected to receive because of the proposed improvement, operation and maintenance, or economic promotion activities.

(c) The boundaries of a proposed assessment area:

(i) may include property that is not intended to be assessed; and

(ii) except for an assessment area within a public infrastructure district [~~as defined in Section 17B-1-102~~] created under Title 17D, Chapter 4, Public Infrastructure District Act, may not be coextensive or substantially coterminous with the boundaries of the local entity.

(2) Before adopting a designation resolution or designation ordinance described in Subsection (1)(a), the governing body of the local entity shall:

(a) give notice as provided in Section 11-42-202;

(b) receive and consider all protests filed under Section 11-42-203; and

(c) hold a public hearing as provided in Section 11-42-204.

Section 4. Section 11-42-411 is amended to read:

11-42-411. Installment payment of assessments.

(1) (a) In an assessment resolution or ordinance, the governing body may, subject to Subsection (1)(b), provide that some or all of the assessment be paid in installments over a period:

(i) not to exceed 20 years from the effective date of the resolution or ordinance, except as provided in Subsection (1)(a)(ii); or

(ii) not to exceed 30 years from the effective date of the resolution, for a resolution adopted by:

(A) the military installation development authority, created in Section 63H-1-201; or

(B) a public infrastructure district created by the military installation development authority under [~~Title 17B, Chapter 2a, Part 12~~] Title 17D, Chapter 4, Public Infrastructure District Act.

(b) If an assessment resolution or ordinance provides that some or all of the assessment be paid in installments for a period exceeding 10 years from the effective date of the resolution or ordinance, the governing body:

(i) shall make a determination that:

(A) the improvement for which the assessment is made has a reasonable useful life for the full period during which installments are to be paid; or

(B) it would be in the best interests of the local entity and the property owners for installments to be paid for more than 10 years; and

(ii) may provide in the resolution or ordinance that no assessment is payable during some or all of the period ending three years after the effective date of the resolution or ordinance.

(2) An assessment resolution or ordinance that provides for the assessment to be paid in installments may provide that the unpaid balance be paid over the period of time that installments are payable:

(a) in substantially equal installments of principal; or

(b) in substantially equal installments of principal and interest.

(3) (a) Each assessment resolution or ordinance that provides for the assessment to be paid in installments shall, subject to Subsections (3)(b) and (c), provide that the unpaid balance of the assessment bear interest at a fixed rate, variable rate, or a combination of fixed and variable rates, as determined by the governing body, from the effective date of the resolution or ordinance or another date specified in the resolution or ordinance.

(b) If the assessment is for operation and maintenance costs or for the costs of economic promotion activities:

(i) a local entity may charge interest only from the date each installment is due; and

(ii) the first installment of an assessment shall be due 15 days after the effective date of the assessment resolution or ordinance.

(c) If an assessment resolution or ordinance provides for the unpaid balance of the assessment to bear interest at a variable rate, the assessment resolution or ordinance shall specify:

(i) the basis upon which the rate is to be determined from time to time;

(ii) the manner in which and schedule upon which the rate is to be adjusted; and

(iii) a maximum rate that the assessment may bear.

(4) Interest payable on assessments may include:

(a) interest on assessment bonds;

(b) ongoing local entity costs incurred for administration of the assessment area; and

(c) any costs incurred with respect to:

(i) securing a letter of credit or other instrument to secure payment or repurchase of bonds; or

(ii) retaining a marketing agent or an indexing agent.

(5) Interest imposed in an assessment resolution or ordinance shall be paid in addition to the amount of each installment annually or at more frequent

intervals as provided in the assessment resolution or ordinance.

(6) (a) Except for an assessment for operation and maintenance costs or for the costs of economic promotion activities, a property owner may pay some or all of the entire assessment without interest if paid within 25 days after the assessment resolution or ordinance takes effect.

(b) After the 25-day period stated in Subsection (6)(a), a property owner may at any time prepay some or all of the assessment levied against the owner's property.

(c) A local entity may require a prepayment of an installment to include:

(i) an amount equal to the interest that would accrue on the assessment to the next date on which interest is payable on bonds issued in anticipation of the collection of the assessment; and

(ii) the amount necessary, in the governing body's opinion or the opinion of the officer designated by the governing body, to assure the availability of money to pay:

(A) interest that becomes due and payable on those bonds; and

(B) any premiums that become payable on bonds that are called in order to use the money from the prepaid assessment installment.

Section 5. Section 17B-1-102 is amended to read:

17B-1-102. Definitions.

As used in this title:

(1) "Appointing authority" means the person or body authorized to make an appointment to the board of trustees.

(2) "Basic local district":

(a) means a local district that is not a specialized local district; and

(b) includes an entity that was, under the law in effect before April 30, 2007, created and operated as a local district, as defined under the law in effect before April 30, 2007.

(3) "Bond" means:

(a) a written obligation to repay borrowed money, whether denominated a bond, note, warrant, certificate of indebtedness, or otherwise; and

(b) a lease agreement, installment purchase agreement, or other agreement that:

(i) includes an obligation by the district to pay money; and

(ii) the district's board of trustees, in its discretion, treats as a bond for purposes of Title 11, Chapter 14, Local Government Bonding Act, or Title 11, Chapter 27, Utah Refunding Bond Act.

(4) "Cemetery maintenance district" means a local district that operates under and is subject to the provisions of this chapter and Chapter 2a, Part 1, Cemetery Maintenance District Act, including an entity that was created and operated as a cemetery maintenance district under the law in effect before April 30, 2007.

(5) "Drainage district" means a local district that operates under and is subject to the provisions of this chapter and Chapter 2a, Part 2, Drainage District Act, including an entity that was created and operated as a drainage district under the law in effect before April 30, 2007.

(6) "Facility" or "facilities" includes any structure, building, system, land, water right, water, or other real or personal property required to provide a service that a local district is authorized to provide, including any related or appurtenant easement or right-of-way, improvement, utility, landscaping, sidewalk, road, curb, gutter, equipment, or furnishing.

(7) "Fire protection district" means a local district that operates under and is subject to the provisions of this chapter and Chapter 2a, Part 3, Fire Protection District Act, including an entity that was created and operated as a fire protection district under the law in effect before April 30, 2007.

(8) "General obligation bond":

(a) means a bond that is directly payable from and secured by ad valorem property taxes that are:

(i) levied:

(A) by the district that issues the bond; and

(B) on taxable property within the district; and

(ii) in excess of the ad valorem property taxes of the district for the current fiscal year; and

(b) does not include:

(i) a short-term bond;

(ii) a tax and revenue anticipation bond; or

(iii) a special assessment bond.

(9) "Improvement assurance" means a surety bond, letter of credit, cash, or other security:

(a) to guarantee the proper completion of an improvement;

(b) that is required before a local district may provide a service requested by a service applicant; and

(c) that is offered to a local district to induce the local district before construction of an improvement begins to:

(i) provide the requested service; or

(ii) commit to provide the requested service.

(10) "Improvement assurance warranty" means a promise that the materials and workmanship of an improvement:

(a) comply with standards adopted by a local district; and

(b) will not fail in any material respect within an agreed warranty period.

(11) "Improvement district" means a local district that operates under and is subject to the provisions of this chapter and Chapter 2a, Part 4, Improvement District Act, including an entity that was created and operated as a county improvement district under the law in effect before April 30, 2007.

(12) "Irrigation district" means a local district that operates under and is subject to the provisions of this chapter and Chapter 2a, Part 5, Irrigation District Act, including an entity that was created and operated as an irrigation district under the law in effect before April 30, 2007.

(13) "Local district" means a limited purpose local government entity, as described in Section 17B-1-103, that operates under, is subject to, and has the powers set forth in:

(a) this chapter; or

(b) (i) this chapter; and

(ii) (A) Chapter 2a, Part 1, Cemetery Maintenance District Act;

(B) Chapter 2a, Part 2, Drainage District Act;

(C) Chapter 2a, Part 3, Fire Protection District Act;

(D) Chapter 2a, Part 4, Improvement District Act;

(E) Chapter 2a, Part 5, Irrigation District Act;

(F) Chapter 2a, Part 6, Metropolitan Water District Act;

(G) Chapter 2a, Part 7, Mosquito Abatement District Act;

(H) Chapter 2a, Part 8, Public Transit District Act;

(I) Chapter 2a, Part 9, Service Area Act;

(J) Chapter 2a, Part 10, Water Conservancy District Act; or

(K) Chapter 2a, Part 11, Municipal Services District Act[~~; or~~].

[~~(L) Chapter 2a, Part 12, Public Infrastructure District Act.~~]

(14) "Metropolitan water district" means a local district that operates under and is subject to the provisions of this chapter and Chapter 2a, Part 6, Metropolitan Water District Act, including an entity that was created and operated as a metropolitan water district under the law in effect before April 30, 2007.

(15) "Mosquito abatement district" means a local district that operates under and is subject to the provisions of this chapter and Chapter 2a, Part 7, Mosquito Abatement District Act, including an entity that was created and operated as a mosquito abatement district under the law in effect before April 30, 2007.

(16) "Municipal" means of or relating to a municipality.

(17) "Municipality" means a city, town, or metro township.

(18) "Municipal services district" means a local district that operates under and is subject to the provisions of this chapter and Chapter 2a, Part 11, Municipal Services District Act.

(19) "Person" means an individual, corporation, partnership, organization, association, trust, governmental agency, or other legal entity.

(20) "Political subdivision" means a county, city, town, metro township, local district under this title, special service district under Title 17D, Chapter 1, Special Service District Act, an entity created by interlocal cooperation agreement under Title 11, Chapter 13, Interlocal Cooperation Act, or any other governmental entity designated in statute as a political subdivision of the state.

(21) "Private," with respect to real property, means not owned by the United States or any agency of the federal government, the state, a county, or a political subdivision.

(22) "Public entity" means:

(a) the United States or an agency of the United States;

(b) the state or an agency of the state;

(c) a political subdivision of the state or an agency of a political subdivision of the state;

(d) another state or an agency of that state; or

(e) a political subdivision of another state or an agency of that political subdivision.

[~~(23) "Public infrastructure district" means a local district that operates under and is subject to the provisions of this chapter and Chapter 2a, Part 12, Public Infrastructure District Act.~~]

[~~(24)~~] (23) "Public transit district" means a local district that operates under and is subject to the provisions of this chapter and Chapter 2a, Part 8, Public Transit District Act, including an entity that was created and operated as a public transit district under the law in effect before April 30, 2007.

[~~(25)~~] (24) "Revenue bond":

(a) means a bond payable from designated taxes or other revenues other than the local district's ad valorem property taxes; and

(b) does not include:

(i) an obligation constituting an indebtedness within the meaning of an applicable constitutional or statutory debt limit;

(ii) a tax and revenue anticipation bond; or

(iii) a special assessment bond.

[~~(26)~~] (25) "Rules of order and procedure" means a set of rules that govern and prescribe in a public meeting:

(a) parliamentary order and procedure;

(b) ethical behavior; and

(c) civil discourse.

[~~(27)~~] (26) "Service applicant" means a person who requests that a local district provide a service that the local district is authorized to provide.

[~~(28)~~] (27) "Service area" means a local district that operates under and is subject to the provisions of this chapter and Chapter 2a, Part 9, Service Area Act, including an entity that was created and operated as a county service area or a regional service area under the law in effect before April 30, 2007.

[~~(29)~~] (28) "Short-term bond" means a bond that is required to be repaid during the fiscal year in which the bond is issued.

[~~(30)~~] (29) "Special assessment" means an assessment levied against property to pay all or a portion of the costs of making improvements that benefit the property.

[~~(31)~~] (30) "Special assessment bond" means a bond payable from special assessments.

[~~(32)~~] (31) "Specialized local district" means a local district that is a cemetery maintenance district, a drainage district, a fire protection district, an improvement district, an irrigation district, a metropolitan water district, a mosquito abatement district, a public transit district, a service area, a water conservancy district, a municipal services district, or a public infrastructure district.

[~~(33)~~] (32) "Taxable value" means the taxable value of property as computed from the most recent equalized assessment roll for county purposes.

[~~(34)~~] (33) "Tax and revenue anticipation bond" means a bond:

(a) issued in anticipation of the collection of taxes or other revenues or a combination of taxes and other revenues; and

(b) that matures within the same fiscal year as the fiscal year in which the bond is issued.

[~~(35)~~] (34) "Unincorporated" means not included within a municipality.

[~~(36)~~] (35) "Water conservancy district" means a local district that operates under and is subject to the provisions of this chapter and Chapter 2a, Part 10, Water Conservancy District Act, including an entity that was created and operated as a water conservancy district under the law in effect before April 30, 2007.

[~~(37)~~] (36) "Works" includes a dam, reservoir, well, canal, conduit, pipeline, drain, tunnel, power plant, and any facility, improvement, or property necessary or convenient for supplying or treating water for any beneficial use, and for otherwise accomplishing the purposes of a local district.

Section 6. Section 17B-1-1102 is amended to read:

17B-1-1102. General obligation bonds.

(1) Except as provided in Subsection (3), if a district intends to issue general obligation bonds, the district shall first obtain the approval of district voters for issuance of the bonds at an election held for that purpose as provided in Title 11, Chapter 14, Local Government Bonding Act.

(2) General obligation bonds shall be secured by a pledge of the full faith and credit of the district, subject to[~~: (a)~~], for a water conservancy district, the property tax levy limits of Section 17B-2a-1006[~~; and~~].

[~~(b) for a limited tax bond as defined in Section 17B-2a-1202 that a public infrastructure district issues, the property tax levy limits of Section 17B-2a-1209.~~]

(3) A district may issue refunding general obligation bonds, as provided in Title 11, Chapter 27, Utah Refunding Bond Act, without obtaining voter approval.

(4) (a) A local district may not issue general obligation bonds if the issuance of the bonds will cause the outstanding principal amount of all of the district's general obligation bonds to exceed the amount that results from multiplying the fair market value of the taxable property within the district, as determined under Subsection 11-14-301(3)(b), by a number that is:

(i) .05, for a basic local district;

(ii) .004, for a cemetery maintenance district;

(iii) .002, for a drainage district;

(iv) .004, for a fire protection district;

(v) .024, for an improvement district;

(vi) .1, for an irrigation district;

(vii) .1, for a metropolitan water district;

(viii) .0004, for a mosquito abatement district;

(ix) .03, for a public transit district;

(x) .12, for a service area; or

(xi) .05 for a municipal services district[~~; or~~].

[~~(xii) except for a limited tax bond as defined in Section 17B-2a-1202, .15 for a public infrastructure district.~~]

(b) Bonds or other obligations of a local district that are not general obligation bonds are not included in the limit stated in Subsection (4)(a).

(5) A district may not be considered to be a municipal corporation for purposes of the debt limitation of the Utah Constitution, Article XIV, Section 4.

(6) Bonds issued by an administrative or legal entity created under Title 11, Chapter 13, Interlocal Cooperation Act, may not be considered to be bonds of a local district that participates in the agreement creating the administrative or legal entity.

Section 7. Section 17D-4-101, which is renumbered from Section 17B-2a-1201 is renumbered and amended to read:

CHAPTER 4. PUBLIC INFRASTRUCTURE DISTRICT ACT

Part 1. General Provisions

[~~17B-2a-1201~~]. 17D-4-101. Title.

This [~~part~~] chapter is known as the "Public Infrastructure District Act."

Section 8. Section 17D-4-102, which is renumbered from Section 17B-2a-1202 is renumbered and amended to read:

[~~17B-2a-1202~~]. 17D-4-102. Definitions.

As used in this [~~part~~] chapter:

(1) "Board" means the board of trustees of a public infrastructure district.

(2) "Creating entity" means the county, municipality, or development authority that approves the creation of [~~the~~] a public infrastructure district.

(3) "Development authority" means the military installation development authority created in Section 63H-1-201.

(4) "District applicant" means the person proposing the creation of [~~the~~] a public infrastructure district.

(5) "Division" means a division of a public infrastructure district:

(a) that is relatively equal in number of eligible voters or potential eligible voters to all other divisions within the public infrastructure district, taking into account existing or potential developments which, when completed, would increase or decrease the population within the public infrastructure district; and

(b) which a member of the board represents.

(6) "Governing document" means the document governing [~~the~~] a public infrastructure district to which the creating entity agrees before the creation of the public infrastructure district, as amended from time to time, and subject to the limitations of Title 17B, Chapter 1, Provisions Applicable to All Local Districts, and this [~~part~~] chapter.

(7) (a) "Limited tax bond" means a bond:

(i) that is directly payable from and secured by ad valorem property taxes that are levied:

(A) by [~~the~~] a public infrastructure district that issues the bond; and

(B) on taxable property within the district;

(ii) that is a general obligation of the public infrastructure district; and

(iii) for which the ad valorem property tax levy for repayment of the bond does not exceed the property tax levy rate limit established under Section [~~17B-2a-1209~~] 17D-4-303 for any fiscal year, except as provided in Subsection [~~17B-2a-1207(8)~~] 17D-4-301(8).

(b) "Limited tax bond" does not include:

(i) a short-term bond;

(ii) a tax and revenue anticipation bond; or

(iii) a special assessment bond.

Section 9. Section 17D-4-103, which is renumbered from Section 17B-2a-1203 is renumbered and amended to read:

[~~17B-2a-1203~~]. 17D-4-103. Provisions applicable to public infrastructure districts.

(1) Each public infrastructure district is governed by and has the powers stated in:

(a) this [~~part~~] chapter; and

(b) Title 17B, Chapter 1, Provisions Applicable to All Local Districts.

(2) This [~~part~~] chapter applies only to a public infrastructure district.

[~~(3) A public infrastructure district is not subject to the provisions of any other part of this chapter.~~]

(3) Except as modified or exempted by this chapter, a public infrastructure district is, to the same extent as if the public infrastructure district were a local district, subject to the provisions in:

(a) Title 17B, Chapter 1, Provisions Applicable to All Local Districts; and

(b) Title 20A, Election Code.

(4) If there is a conflict between a provision in Title 17B, Chapter 1, Provisions Applicable to All Local Districts, and a provision in this [~~part~~] chapter, the provision in this [~~part governs~~] chapter supersedes the conflicting provision in Title 17B, Chapter 1, Provisions Applicable to All Local Districts.

(5) The annexation of an unincorporated area by a municipality or the adjustment of a boundary shared by more than one municipality does not affect the boundaries of a public infrastructure district.

Section 10. Section 17D-4-201, which is renumbered from Section 17B-2a-1204 is renumbered and amended to read:

Part 2. Creation, Governance, and Powers of a Public Infrastructure District

[~~17B-2a-1204~~]. 17D-4-201. Creation -- Annexation or withdrawal of property.

(1) (a) Except as provided in Subsection (1)(b), Subsection (2), and in addition to the provisions regarding creation of a local district in Title 17B, Chapter 1, Provisions Applicable to All Local Districts, a public infrastructure district may not be created unless:

(i) if there are any registered voters within the applicable area, a petition is filed with the creating entity that contains the signatures of 100% of

registered voters within the applicable area approving the creation of the public infrastructure district; and

(ii) a petition is filed with the creating entity that contains the signatures of 100% of surface property owners within the applicable area consenting to the creation of the public infrastructure district.

(b) Notwithstanding Title 17B, Chapter 1, Part 2, Creation of a Local District, and any other provision of this [~~part~~] chapter, the development authority may adopt a resolution creating a public infrastructure district as a subsidiary of the development authority if all owners of surface property proposed to be included within the public infrastructure district consent in writing to the creation of the public infrastructure district.

(2) (a) The following do not apply to the creation of a public infrastructure district:

(i) Section 17B-1-203;

(ii) Section 17B-1-204;

(iii) Subsection 17B-1-208(2);

(iv) Section 17B-1-212; or

(v) Section 17B-1-214.

(b) The protest period described in Section 17B-1-213 may be waived in whole or in part with the consent of:

(i) 100% of registered voters within the applicable area approving the creation of the public infrastructure district; and

(ii) 100% of the surface property owners within the applicable area approving the creation of the public infrastructure district.

(c) If the protest period is waived under Subsection (2)(b), a resolution approving the creation of the public infrastructure district may be adopted in accordance with Subsection 17B-1-213(5).

(d) A petition meeting the requirements of Subsection (1):

(i) may be certified under Section 17B-1-209; and

(ii) shall be filed with the lieutenant governor in accordance with Subsection 17B-1-215(1)(b)(iii).

(3) (a) Notwithstanding Title 17B, Chapter 1, Part 4, Annexation, an area outside of the boundaries of a public infrastructure district may be annexed into the public infrastructure district [~~after~~] if the following requirements are met:

(i) (A) adoption of resolutions of the board and the creating entity, each approving of the annexation; or

(B) adoption of a resolution of the board to annex the area, provided that the governing document [~~that~~] or creation resolution for the public infrastructure district authorizes the board to annex an area outside of the boundaries of the public infrastructure district without [~~the~~] future consent of the creating entity;

(ii) if there are any registered voters within the area proposed to be annexed, a petition is filed with the creating entity that contains the signatures of 100% of registered voters within the area [~~and approves of~~], demonstrating that the registered voters approve of the annexation into the public infrastructure district; and

(iii) a petition is filed with the creating entity that contains the signatures of 100% of surface property owners within the area proposed to be annexed [~~and consents~~], demonstrating the surface property owners' consent to the annexation into the public infrastructure district.

(b) [~~Upon~~] Within 30 days of meeting the requirements of Subsection (3)(a), the board shall [~~comply with the resolution and filing requirements of Subsections 17B-1-414(1) and (2).~~] file with the lieutenant governor:

(i) a copy of a notice of impending boundary action, as defined in Section 67-1a-6.5, that meets the requirements of Subsection 67-1a-6.5(3); and

(ii) a copy of an approved final local entity plat, as defined in Section 67-1a-6.5.

(4) (a) Notwithstanding Title 17B, Chapter 1, Part 5, Withdrawal, property may be withdrawn from a public infrastructure district [~~after~~] if the following requirements are met:

(i) (A) adoption of resolutions of the board and the creating entity, each approving of the withdrawal; or

(B) adoption of a resolution of the board to withdraw the property, provided that the governing document [~~that~~] or creation resolution for the public infrastructure district authorizes the board to withdraw property from the public infrastructure district without [~~the consent of~~] further consent from the creating entity;

(ii) if there are any registered voters within the area proposed to be withdrawn, a petition is filed with the creating entity that contains the signatures of 100% of registered voters within the area [~~and approves~~], demonstrating that the registered voters approve of the withdrawal from the public infrastructure district; and

(iii) a petition is filed with the creating entity that contains the signatures of 100% of surface property owners within the area proposed to be withdrawn [~~and consents~~], demonstrating that the surface property owners consent to the withdrawal from the public infrastructure district.

(b) If any bonds that the public infrastructure district issues are allocable to the area to be withdrawn remain unpaid at the time of the proposed withdrawal, the property remains subject to any taxes, fees, or assessments that the public infrastructure district imposes until the bonds or any associated refunding bonds are paid.

(c) Upon meeting the requirements of Subsections (4)(a) and (b), the board shall comply with the requirements of Section 17B-1-512.

(5) [~~The~~] A creating entity may impose limitations on the powers of [~~the~~] a public infrastructure district through the governing document.

(6) (a) A public infrastructure district is separate and distinct from the creating entity.

(b) (i) Except as provided in Subsection (6)(b)(ii), any financial burden of a public infrastructure district:

(A) is borne solely by the public infrastructure district; and

(B) is not borne by the creating entity, by the state, or by any municipality, county, or other political subdivision.

(ii) Notwithstanding Subsection (6)(b)(i) and Section 17B-1-216, the governing document may require:

(A) the district applicant to bear the initial costs of the public infrastructure district; and

(B) the public infrastructure district to reimburse the district applicant for the initial costs the creating entity bears.

(c) Any liability, judgment, or claim against a public infrastructure district:

(i) is the sole responsibility of the public infrastructure district; and

(ii) does not constitute a liability, judgment, or claim against the creating entity, the state, or any municipality, county, or other political subdivision.

(d) (i) (A) The public infrastructure district solely bears the responsibility of any collection, enforcement, or foreclosure proceeding with regard to any tax, fee, or assessment the public infrastructure district imposes.

(B) The creating entity does not bear the responsibility described in Subsection (6)(d)(i)(A).

(ii) A public infrastructure district, and not the creating entity, shall undertake the enforcement responsibility described in, as applicable, Subsection (6)(d)(i) in accordance with Title 59, Chapter 2, Property Tax Act, or Title 11, Chapter 42, Assessment Area Act.

(7) [~~The~~] A creating entity may establish criteria in determining whether to approve or disapprove of the creation of a public infrastructure district, including:

(a) historical performance of the district applicant;

(b) compliance with the creating entity's master plan;

(c) credit worthiness of the district applicant;

(d) plan of finance of the public infrastructure district; and

(e) proposed development within the public infrastructure district.

(8) (a) The creation of a public infrastructure district is subject to the sole discretion of the creating entity responsible for approving or rejecting the creation of the public infrastructure district.

(b) The proposed creating entity bears no liability for rejecting the proposed creation of a public infrastructure district.

Section 11. Section 17D-4-202, which is renumbered from Section 17B-2a-1205 is renumbered and amended to read:

[~~17B-2a-1205~~]. 17D-4-202. Public infrastructure district board -- Governing document.

(1) The legislative body or board of the creating entity shall appoint the members of the board of a public infrastructure district, in accordance with the governing document.

(2) (a) Unless otherwise limited in the governing document and except as provided in Subsection (2)(b), the initial term of each member of the board is four years.

(b) Notwithstanding Subsection (2)(a), approximately half of the members of the initial board shall serve a six-year term so that, after the expiration of the initial term, the term of approximately half the board members expires every two years.

(c) A board may elect that a majority of the board serve an initial term of six years.

(d) After the initial term, the term of each member of the board is four years.

(3) (a) Notwithstanding Subsection 17B-1-302(1)(b), a board member is not required to be a resident within the boundaries of the public infrastructure district if:

(i) all of the surface property owners consent to the waiver of the residency requirement;

(ii) there are no residents within the boundaries of the public infrastructure district;

(iii) no qualified candidate timely files to be considered for appointment to the board; or

(iv) no qualified individual files a declaration of candidacy for a board position in accordance with Subsection 17B-1-306(4).

(b) Except under the circumstances described in Subsection (3)(a)(iii) or (iv), the residency requirement in Subsection 17B-1-302(1)(b) is applicable to any board member elected for a division or board position that has transitioned from an appointed to an elected board member in accordance with this section.

(c) An individual who is not a resident within the boundaries of the public infrastructure district may not serve as a board member unless the individual is:

(i) an owner of land or an agent or officer of the owner of land within the boundaries of the public infrastructure district; and

(ii) a registered voter at the individual's primary residence.

(4) (a) A governing document may provide for a transition from legislative body appointment under Subsection (1) to a method of election by registered voters based upon milestones or events that the governing document identifies, including a milestone for each division or individual board position providing that when the milestone is reached:

(i) for a division, the registered voters of the division elect a member of the board in place of an appointed member at the next municipal general election for the board position; or

(ii) for an at large board position established in the governing document, the registered voters of the public infrastructure district elect a member of the board in place of an appointed member at the next municipal general election for the board position.

(b) Regardless of whether a board member is elected under Subsection (4)(a), the position of each remaining board member shall continue to be appointed under Subsection (1) until the member's respective division or board position surpasses the density milestone described in the governing document.

(5) (a) Subject to Subsection (5)(c), the board may, in the board's discretion but no more frequently than every four years, reestablish the boundaries of each division so that each division that has reached a milestone specified in the governing document, as described in Subsection (4)(a), has, as nearly as possible, the same number of eligible voters.

(b) In reestablishing division boundaries under Subsection (5)(a), the board shall consider existing or potential developments within the divisions [~~which~~] that, when completed, would increase or decrease the number of eligible voters within the division.

(c) The governing document may prohibit the board from reestablishing, without the consent of the creating entity, the division boundaries as described in Subsection (5)(a).

(6) [~~The~~] A public infrastructure district may not compensate a board member for the member's service on the board under Section 17B-1-307 unless the board member is a resident within the boundaries of the public infrastructure district.

(7) [~~The~~] A governing document shall:

(a) include a boundary description and a map of the public infrastructure district;

(b) state the number of board members;

(c) describe any divisions of the public infrastructure district;

(d) establish any applicable property tax levy rate limit for the public infrastructure district;

(e) establish any applicable limitation on the principal amount of indebtedness for the public infrastructure district; and

(f) include other information that the public infrastructure district or the creating entity determines to be necessary or advisable.

(8) (a) Except as provided in Subsection (8)(b), the board and the governing body of the creating entity may amend a governing document by each adopting a resolution that approves the amended governing document.

(b) Notwithstanding Subsection (8)(a), any amendment to a property tax levy rate limitation requires the consent of:

(i) 100% of surface property owners within the boundaries of the public infrastructure district; and

(ii) 100% of the registered voters, if any, within the boundaries of the public infrastructure district.

(9) A board member is not in violation of Section 67-16-9 if the board member:

(a) discloses a business relationship in accordance with Sections 67-16-7 and 67-16-8 and files the disclosure with the creating entity:

(i) before any appointment or election; and

(ii) upon any significant change in the business relationship; and

(b) conducts the affairs of the public infrastructure district in accordance with this title and any parameters described in the governing document.

(10) Notwithstanding any other provision of this section, the governing document governs the number, appointment, and terms of board members of a public infrastructure district created by the development authority.

Section 12. Section 17D-4-203, which is renumbered from Section 17B-2a-1206 is renumbered and amended to read:

[~~17B-2a-1206~~]. 17D-4-203. Public infrastructure district powers.

[~~In addition to the powers conferred on a public infrastructure district under Section 17B-1-103, a public infrastructure district may:~~]

A public infrastructure district shall have all of the authority conferred upon a local district under Section 17B-1-103, and in addition a public infrastructure district may:

(1) issue negotiable bonds to pay:

(a) all or part of the costs of acquiring, acquiring an interest in, improving, or extending any of the improvements, facilities, or property allowed under Section 11-14-103;

(b) capital costs of improvements in an energy assessment area, as defined in Section 11-42a-102, and other related costs, against the funds that the public infrastructure district will receive because of an assessment in an energy assessment area, as defined in Section 11-42a-102;

(c) public improvements related to the provision of housing;

(d) capital costs related to public transportation; and

(e) for a public infrastructure district created by the development authority, the cost of acquiring or financing publicly owned infrastructure and improvements;

(2) enter into an interlocal agreement in accordance with Title 11, Chapter 13, Interlocal Cooperation Act, provided that the interlocal agreement may not expand the powers of the public infrastructure district, within the limitations of Title 11, Chapter 13, Interlocal Cooperation Act, without the consent of the creating entity;

(3) acquire completed or partially completed improvements for fair market value as reasonably determined by:

(a) the board;

(b) the creating entity, if required in the governing document; or

(c) a surveyor or engineer that a public infrastructure district employs or engages to perform the necessary engineering services for and to supervise the construction or installation of the improvements;

(4) contract with the creating entity for the creating entity to provide administrative services on behalf of the public infrastructure district, when agreed to by both parties, in order to achieve cost savings and economic efficiencies, at the discretion of the creating entity; and

(5) for a public infrastructure district created by a development authority:

(a) (i) operate and maintain publicly owned infrastructure and improvements the district acquires or finances; and

(ii) use fees, assessments, or taxes to pay for the operation and maintenance of those publicly owned infrastructure and improvements; and

(b) issue bonds under Title 11, Chapter 42, Assessment Area Act.

Section 13. Section 17D-4-204, which is renumbered from Section 17B-2a-1211 is renumbered and amended to read:

[~~17B-2a-1211~~]. 17D-4-204. Relation to other local entities.

(1) Notwithstanding the creation of [~~the~~] a public infrastructure district, the creating entity and any other public entity, as applicable, retains all of the entity's authority over all zoning, planning, design specifications and approvals, and permitting within the public infrastructure district.

(2) The inclusion of property within the boundaries of a public infrastructure district does not preclude the inclusion of the property within any other local district.

(3) (a) All infrastructure that is connected to another public entity's system:

(i) belongs to that public entity, regardless of inclusion within the boundaries of a public infrastructure district, unless the public infrastructure district and the public entity otherwise agree; and

(ii) shall comply with the design, inspection requirements, and other standards of the public entity.

(b) [~~The~~] A public infrastructure district shall convey or transfer the infrastructure described in Subsection (3)(a) free of liens or financial encumbrances to the public entity at no cost to the public entity.

Section 14. Section 17D-4-205, which is renumbered from Section 17B-2a-1212 is renumbered and amended to read:

[~~17B-2a-1212~~]. 17D-4-205. Transparency.

A public infrastructure district shall file annual reports with the creating entity regarding the public infrastructure district's actions as provided in the governing document.

Section 15. Section 17D-4-301, which is renumbered from Section 17B-2a-1207 is renumbered and amended to read:

Part 3. Bond Issuance, Fee Collection, and Property Tax Levy Authority for aPublic Infrastructure District

[~~17B-2a-1207~~]. 17D-4-301. Public infrastructure district bonds.

(1) A public infrastructure district may issue negotiable bonds for the purposes described in Section [~~17B-2a-1206~~] 17D-4-203, as provided in, as applicable:

(a) Title 11, Chapter 14, Local Government Bonding Act;

(b) Title 11, Chapter 27, Utah Refunding Bond Act;

(c) Title 11, Chapter 42, Assessment Area Act; and

(d) this section.

(2) A public infrastructure district bond:

(a) shall mature within 40 years of the date of issuance; and

(b) may not be secured by any improvement or facility paid for by the public infrastructure district.

(3) (a) A public infrastructure district may issue a limited tax bond, in the same manner as a general obligation bond:

(i) with the consent of 100% of surface property owners within the boundaries of the public infrastructure district and 100% of the registered voters, if any, within the boundaries of the proposed public infrastructure district; or

(ii) upon approval of a majority of the registered voters within the boundaries of the public

infrastructure district voting in an election held for that purpose under Title 11, Chapter 14, Local Government Bonding Act.

(b) A limited tax bond described in Subsection (3)(a):

(i) is not subject to the limitation on a general obligation bond described in Subsection 17B-1-1102(4)(a)(xii); and

(ii) is subject to a limitation, if any, on the principal amount of indebtedness as described in the governing document.

(c) Unless limited tax bonds are initially purchased exclusively by one or more qualified institutional buyers as defined in Rule 144A, 17 C.F.R. Sec. 230.144A, the public infrastructure district may only issue limited tax bonds in denominations of not less than $500,000, and in integral multiples above $500,000 of not less than $1,000 each.

(d) (i) Without any further election or consent of property owners or registered voters, a public infrastructure district may convert a limited tax bond described in Subsection (3)(a) to a general obligation bond if the principal amount of the related limited tax bond together with the principal amount of other related outstanding general obligation bonds of the public infrastructure district does not exceed 15% of the fair market value of taxable property in the public infrastructure district securing the general obligation bonds, determined by:

(A) an appraisal from an appraiser who is a member of the Appraisal Institute that is addressed to the public infrastructure district or a financial institution; or

(B) the most recent market value of the property from the assessor of the county in which the property is located.

(ii) The consent to the issuance of a limited tax bond described in Subsection (3)(a) is sufficient to meet any statutory or constitutional election requirement necessary for the issuance of the limited tax bond and any general obligation bond to be issued in place of the limited tax bond upon meeting the requirements of this Subsection (3)(d).

(iii) A general obligation bond resulting from a conversion of a limited tax bond under this Subsection (3)(d) is not subject to the limitation on general obligation bonds described in Subsection 17B-1-1102(4)(a)(xii).

(e) A public infrastructure district that levies a property tax for payment of debt service on a limited tax bond issued under this section is not required to comply with the notice and hearing requirements of Section 59-2-919 unless the rate exceeds the rate established in:

(i) Section [~~17B-2a-1209~~] 17D-4-303, except as provided in Subsection (8);

(ii) the governing document; or

(iii) the documents relating to the issuance of the limited tax bond.

(4) There is no limitation on the duration of revenues that a public infrastructure district may receive to cover any shortfall in the payment of principal of and interest on a bond that the public infrastructure district issues.

(5) A public infrastructure district is not a municipal corporation for purposes of the debt limitation of Utah Constitution, Article XIV, Section 4.

(6) The board may, by resolution, delegate to one or more officers of the public infrastructure district the authority to:

(a) in accordance and within the parameters set forth in a resolution adopted in accordance with Section 11-14-302, approve the final interest rate, price, principal amount, maturity, redemption features, and other terms of the bond;

(b) approve and execute any document relating to the issuance of a bond; and

(c) approve any contract related to the acquisition and construction of the improvements, facilities, or property to be financed with a bond.

(7) (a) Any person may contest the legality of the issuance of a public infrastructure district bond or any provisions for the security and payment of the bond for a period of 30 days after:

(i) publication of the resolution authorizing the bond; or

(ii) publication of a notice of bond containing substantially the items required under Subsection 11-14-316(2).

(b) After the 30-day period described in Subsection (7)(a), no person may bring a lawsuit or other proceeding contesting the regularity, formality, or legality of the bond for any reason.

(8) (a) In the event of any statutory change in the methodology of assessment or collection of property taxes in a manner that reduces the amounts which are devoted or pledged to the repayment of limited tax bonds, a public infrastructure district may charge a rate sufficient to receive the amount of property taxes or assessment the public infrastructure district would have received before the statutory change in order to pay the debt service on outstanding limited tax bonds.

(b) The rate increase described in Subsection (8)(a) may exceed the limit described in Section [~~17B-2a-1209~~] 17D-4-303.

(c) The public infrastructure district may charge the rate increase described in Subsection (8)(a) until the bonds, including any associated refunding bonds, or other securities, together with applicable interest, are fully met and discharged.

Section 16. Section 17D-4-302, which is renumbered from Section 17B-2a-1208 is renumbered and amended to read:

[~~17B-2a-1208~~]. 17D-4-302. Fees.

A public infrastructure district may charge a fee or other charge for an administrative service that the public infrastructure district provides, to pay some or all of the public infrastructure district's:

(1) costs of acquiring, improving, or extending improvements, facilities, or property; or

(2) costs associated with the enforcement of a legal remedy.

Section 17. Section 17D-4-303, which is renumbered from Section 17B-2a-1209 is renumbered and amended to read:

[~~17B-2a-1209~~]. 17D-4-303. Limits on public infrastructure district property tax levy -- Notice requirements.

(1) The property tax levy of a public infrastructure district, for all purposes, including payment of debt service on limited tax bonds, may not exceed .015 per dollar of taxable value of taxable property in the district.

(2) The limitation described in Subsection (1) does not apply to the levy by the public infrastructure district to pay principal of and interest on a general obligation bond that the public infrastructure district issues.

(3) (a) Within 30 days after the day on which [~~the creating entity adopts the resolution creating the public infrastructure district~~] the lieutenant governor issues a certificate of incorporation under Section 67-1a-6.5, the board shall record a notice with the recorder of the county in which property within the public infrastructure district is located.

(b) The notice described in Subsection (3)(a) shall:

(i) contain a description of the boundaries of the public infrastructure district;

(ii) state that a copy of the governing document is on file at the office of the creating entity;

(iii) state that the public infrastructure district may finance and repay infrastructure and other improvements through the levy of a property tax; and

(iv) state the maximum rate that the public infrastructure district may levy.

Section 18. Section 17D-4-304, which is renumbered from Section 17B-2a-1210 is renumbered and amended to read:

[~~17B-2a-1210~~]. 17D-4-304. Property tax penalty for nonpayment.

In the event of nonpayment of any tax, fee, or charge that a public infrastructure district imposes, the public infrastructure district may impose a property tax penalty at an annual rate of .07, in addition to any other lawful penalty for nonpayment of property tax.

Section 19. Section 17D-4-305, which is renumbered from Section 17B-2a-1213 is renumbered and amended to read:

[~~17B-2a-1213~~]. 17D-4-305. Action to contest tax, fee, or proceeding -- Requirements -- Exclusive remedy -- Bonds, taxes, and fees incontestable.

(1) A person who contests a tax or fee or any proceeding to create a public infrastructure district, levy a tax, or impose a fee may bring a civil action against the public infrastructure district or the creating entity to:

(a) set aside the proceeding; or

(b) enjoin the levy, imposition, or collection of a tax or fee.

(2) The person bringing an action described in Subsection (1):

(a) shall bring the action in the district court with jurisdiction in the county in which the public infrastructure district is located; and

(b) may not bring the action against or serve a summons relating to the action on the public infrastructure district more than 30 days after the effective date of the:

(i) creation of the public infrastructure district, if the challenge is to the creation of the public infrastructure district; or

(ii) tax or fee, if the challenge is to a tax or fee.

(3) An action under Subsection (1) is the exclusive remedy of a person who:

(a) claims an error or irregularity in a tax or fee or in any proceeding to create a public infrastructure district, levy a tax, or impose a fee; or

(b) challenges a bondholder's right to repayment.

(4) After the expiration of the 30-day period described in Subsection (2)(b):

(a) a bond issued or to be issued with respect to a public infrastructure district and any tax levied or fee imposed becomes incontestable against any person who has not brought an action and served a summons in accordance with this section;

(b) a person may not bring a suit to:

(i) enjoin the issuance or payment of a bond or the levy, imposition, collection, or enforcement of a tax or fee; or

(ii) attack or question in any way the legality of a bond, tax, or fee; and

(c) a court may not inquire into the matters described in Subsection (4)(b).

(5) (a) This section does not insulate a public infrastructure district from a claim of misuse of funds after the expiration of the 30-day period described in Subsection (2)(b).

(b) (i) Except as provided in Subsection (5)(b)(ii), an action in the nature of mandamus is the sole form of relief available to a party challenging the misuse of funds.

(ii) The limitation in Subsection (5)(b)(i) does not prohibit the filing of criminal charges against or the prosecution of a party for the misuse of funds.

Section 20. Section 59-2-102 is amended to read:

59-2-102. Definitions.

As used in this chapter:

(1) (a) "Acquisition cost" means any cost required to put an item of tangible personal property into service.

(b) "Acquisition cost" includes:

(i) the purchase price of a new or used item;

(ii) the cost of freight, shipping, loading at origin, unloading at destination, crating, skidding, or any other applicable cost of shipping;

(iii) the cost of installation, engineering, rigging, erection, or assembly, including foundations, pilings, utility connections, or similar costs; and

(iv) sales and use taxes.

(2) "Aerial applicator" means aircraft or rotorcraft used exclusively for the purpose of engaging in dispensing activities directly affecting agriculture or horticulture with an airworthiness certificate from the Federal Aviation Administration certifying the aircraft or rotorcraft's use for agricultural and pest control purposes.

(3) "Air charter service" means an air carrier operation that requires the customer to hire an entire aircraft rather than book passage in whatever capacity is available on a scheduled trip.

(4) "Air contract service" means an air carrier operation available only to customers that engage the services of the carrier through a contractual agreement and excess capacity on any trip and is not available to the public at large.

(5) "Aircraft" means the same as that term is defined in Section 72-10-102.

(6) (a) Except as provided in Subsection (6)(b), "airline" means an air carrier that:

(i) operates:

(A) on an interstate route; and

(B) on a scheduled basis; and

(ii) offers to fly one or more passengers or cargo on the basis of available capacity on a regularly scheduled route.

(b) "Airline" does not include an:

(i) air charter service; or

(ii) air contract service.

(7) "Assessment roll" or "assessment book" means a permanent record of the assessment of property as assessed by the county assessor and the commission and may be maintained manually or as a computerized file as a consolidated record or as multiple records by type, classification, or categories.

(8) "Base parcel" means a parcel of property that was legally:

(a) subdivided into two or more lots, parcels, or other divisions of land; or

(b) (i) combined with one or more other parcels of property; and

(ii) subdivided into two or more lots, parcels, or other divisions of land.

(9) (a) "Certified revenue levy" means a property tax levy that provides an amount of ad valorem property tax revenue equal to the sum of:

(i) the amount of ad valorem property tax revenue to be generated statewide in the previous year from imposing a multicounty assessing and collecting levy, as specified in Section 59-2-1602; and

(ii) the product of:

(A) eligible new growth, as defined in Section 59-2-924; and

(B) the multicounty assessing and collecting levy certified by the commission for the previous year.

(b) For purposes of this Subsection (9), "ad valorem property tax revenue" does not include property tax revenue received by a taxing entity from personal property that is:

(i) assessed by a county assessor in accordance with Part 3, County Assessment; and

(ii) semiconductor manufacturing equipment.

(c) For purposes of calculating the certified revenue levy described in this Subsection (9), the commission shall use:

(i) the taxable value of real property assessed by a county assessor contained on the assessment roll;

(ii) the taxable value of real and personal property assessed by the commission; and

(iii) the taxable year end value of personal property assessed by a county assessor contained on the prior year's assessment roll.

(10) "County-assessed commercial vehicle" means:

(a) any commercial vehicle, trailer, or semitrailer that is not apportioned under Section 41-1a-301 and is not operated interstate to transport the vehicle owner's goods or property in furtherance of the owner's commercial enterprise;

(b) any passenger vehicle owned by a business and used by its employees for transportation as a company car or vanpool vehicle; and

(c) vehicles that are:

(i) especially constructed for towing or wrecking, and that are not otherwise used to transport goods, merchandise, or people for compensation;

(ii) used or licensed as taxicabs or limousines;

(iii) used as rental passenger cars, travel trailers, or motor homes;

(iv) used or licensed in this state for use as ambulances or hearses;

(v) especially designed and used for garbage and rubbish collection; or

(vi) used exclusively to transport students or their instructors to or from any private, public, or religious school or school activities.

(11) "Eligible judgment" means a final and unappealable judgment or order under Section 59-2-1330:

(a) that became a final and unappealable judgment or order no more than 14 months before the day on which the notice described in Section 59-2-919.1 is required to be provided; and

(b) for which a taxing entity's share of the final and unappealable judgment or order is greater than or equal to the lesser of:

(i) $5,000; or

(ii) 2.5% of the total ad valorem property taxes collected by the taxing entity in the previous fiscal year.

(12) (a) "Escaped property" means any property, whether personal, land, or any improvements to the property, that is subject to taxation and is:

(i) inadvertently omitted from the tax rolls, assigned to the incorrect parcel, or assessed to the wrong taxpayer by the assessing authority;

(ii) undervalued or omitted from the tax rolls because of the failure of the taxpayer to comply with the reporting requirements of this chapter; or

(iii) undervalued because of errors made by the assessing authority based upon incomplete or erroneous information furnished by the taxpayer.

(b) "Escaped property" does not include property that is undervalued because of the use of a different valuation methodology or because of a different application of the same valuation methodology.

(13)(a) "Fair market value" means the amount at which property would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or sell and both having reasonable knowledge of the relevant facts.

(b) For purposes of taxation, "fair market value" shall be determined using the current zoning laws applicable to the property in question, except in cases where there is a reasonable probability of a change in the zoning laws affecting that property in the tax year in question and the change would have an appreciable influence upon the value.

(14) "Geothermal fluid" means water in any form at temperatures greater than 120 degrees centigrade naturally present in a geothermal system.

(15) "Geothermal resource" means:

(a) the natural heat of the earth at temperatures greater than 120 degrees centigrade; and

(b) the energy, in whatever form, including pressure, present in, resulting from, created by, or which may be extracted from that natural heat, directly or through a material medium.

(16) (a) "Goodwill" means:

(i) acquired goodwill that is reported as goodwill on the books and records that a taxpayer maintains for financial reporting purposes; or

(ii) the ability of a business to:

(A) generate income that exceeds a normal rate of return on assets and that results from a factor described in Subsection (16)(b); or

(B) obtain an economic or competitive advantage resulting from a factor described in Subsection (16)(b).

(b) The following factors apply to Subsection (16)(a)(ii):

(i) superior management skills;

(ii) reputation;

(iii) customer relationships;

(iv) patronage; or

(v) a factor similar to Subsections (16)(b)(i) through (iv).

(c) "Goodwill" does not include:

(i) the intangible property described in Subsection (19)(a) or (b);

(ii) locational attributes of real property, including:

(A) zoning;

(B) location;

(C) view;

(D) a geographic feature;

(E) an easement;

(F) a covenant;

(G) proximity to raw materials;

(H) the condition of surrounding property; or

(I) proximity to markets;

(iii) value attributable to the identification of an improvement to real property, including:

(A) reputation of the designer, builder, or architect of the improvement;

(B) a name given to, or associated with, the improvement; or

(C) the historic significance of an improvement; or

(iv) the enhancement or assemblage value specifically attributable to the interrelation of the existing tangible property in place working together as a unit.

(17) "Governing body" means:

(a) for a county, city, or town, the legislative body of the county, city, or town;

(b) for a local district under Title 17B, Limited Purpose Local Government Entities - Local Districts, the local district's board of trustees;

(c) for a school district, the local board of education; [~~or~~]

(d) for a special service district under Title 17D, Chapter 1, Special Service District Act:

(i) the legislative body of the county or municipality that created the special service district, to the extent that the county or municipal legislative body has not delegated authority to an administrative control board established under Section 17D-1-301; or

(ii) the administrative control board, to the extent that the county or municipal legislative body has delegated authority to an administrative control board established under Section 17D-1-301[.]; or

(e) for a public infrastructure district under Title 17D, Chapter 4, Public Infrastructure District Act, the public infrastructure district's board of trustees.

(18) (a) Except as provided in Subsection (18)(c), "improvement" means a building, structure, fixture, fence, or other item that is permanently attached to land, regardless of whether the title has been acquired to the land, if:

(i) (A) attachment to land is essential to the operation or use of the item; and

(B) the manner of attachment to land suggests that the item will remain attached to the land in the same place over the useful life of the item; or

(ii) removal of the item would:

(A) cause substantial damage to the item; or

(B) require substantial alteration or repair of a structure to which the item is attached.

(b) "Improvement" includes:

(i) an accessory to an item described in Subsection (18)(a) if the accessory is:

(A) essential to the operation of the item described in Subsection (18)(a); and

(B) installed solely to serve the operation of the item described in Subsection (18)(a); and

(ii) an item described in Subsection (18)(a) that is temporarily detached from the land for repairs and remains located on the land.

(c) "Improvement" does not include:

(i) an item considered to be personal property pursuant to rules made in accordance with Section 59-2-107;

(ii) a moveable item that is attached to land for stability only or for an obvious temporary purpose;

(iii) (A) manufacturing equipment and machinery; or

(B) essential accessories to manufacturing equipment and machinery;

(iv) an item attached to the land in a manner that facilitates removal without substantial damage to the land or the item; or

(v) a transportable factory-built housing unit as defined in Section 59-2-1502 if that transportable factory-built housing unit is considered to be personal property under Section 59-2-1503.

(19) "Intangible property" means:

(a) property that is capable of private ownership separate from tangible property, including:

(i) money;

(ii) credits;

(iii) bonds;

(iv) stocks;

(v) representative property;

(vi) franchises;

(vii) licenses;

(viii) trade names;

(ix) copyrights; and

(x) patents;

(b) a low-income housing tax credit;

(c) goodwill; or

(d) a renewable energy tax credit or incentive, including:

(i) a federal renewable energy production tax credit under Section 45, Internal Revenue Code;

(ii) a federal energy credit for qualified renewable electricity production facilities under Section 48, Internal Revenue Code;

(iii) a federal grant for a renewable energy property under American Recovery and Reinvestment Act of 2009, Pub. L. No. 111-5, Section 1603; and

(iv) a tax credit under Subsection 59-7-614(5).

(20) "Livestock" means:

(a) a domestic animal;

(b) a fish;

(c) a fur-bearing animal;

(d) a honeybee; or

(e) poultry.

(21) "Low-income housing tax credit" means:

(a) a federal low-income housing tax credit under Section 42, Internal Revenue Code; or

(b) a low-income housing tax credit under Section 59-7-607 or Section 59-10-1010.

(22) "Metalliferous minerals" includes gold, silver, copper, lead, zinc, and uranium.

(23) "Mine" means a natural deposit of either metalliferous or nonmetalliferous valuable mineral.

(24) "Mining" means the process of producing, extracting, leaching, evaporating, or otherwise removing a mineral from a mine.

(25) (a) "Mobile flight equipment" means tangible personal property that is owned or operated by an air charter service, air contract service, or airline and:

(i) is capable of flight or is attached to an aircraft that is capable of flight; or

(ii) is contained in an aircraft that is capable of flight if the tangible personal property is intended to be used:

(A) during multiple flights;

(B) during a takeoff, flight, or landing; and

(C) as a service provided by an air charter service, air contract service, or airline.

(b) (i) "Mobile flight equipment" does not include a spare part other than a spare engine that is rotated at regular intervals with an engine that is attached to the aircraft.

(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules defining the term "regular intervals."

(26) "Nonmetalliferous minerals" includes, but is not limited to, oil, gas, coal, salts, sand, rock, gravel, and all carboniferous materials.

(27) "Part-year residential property" means property that is not residential property on January 1 of a calendar year but becomes residential property after January 1 of the calendar year.

(28) "Personal property" includes:

(a) every class of property as defined in Subsection (29) that is the subject of ownership and is not real estate or an improvement;

(b) any pipe laid in or affixed to land whether or not the ownership of the pipe is separate from the ownership of the underlying land, even if the pipe meets the definition of an improvement;

(c) bridges and ferries;

(d) livestock; and

(e) outdoor advertising structures as defined in Section 72-7-502.

(29) (a) "Property" means property that is subject to assessment and taxation according to its value.

(b) "Property" does not include intangible property as defined in this section.

(30) "Public utility" means:

(a) for purposes of this chapter, the operating property of a railroad, gas corporation, oil or gas transportation or pipeline company, coal slurry pipeline company, electrical corporation, telephone corporation, sewerage corporation, or heat corporation where the company performs the service for, or delivers the commodity to, the public generally or companies serving the public generally, or in the case of a gas corporation or an electrical corporation, where the gas or electricity is sold or furnished to any member or consumers within the state for domestic, commercial, or industrial use; and

(b) the operating property of any entity or person defined under Section 54-2-1 except water corporations.

(31) (a) Subject to Subsection (31)(b), "qualifying exempt primary residential rental personal property" means household furnishings, furniture, and equipment that:

(i) are used exclusively within a dwelling unit that is the primary residence of a tenant;

(ii) are owned by the owner of the dwelling unit that is the primary residence of a tenant; and

(iii) after applying the residential exemption described in Section 59-2-103, are exempt from taxation under this chapter in accordance with Subsection 59-2-1115(2).

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "dwelling unit" for purposes of this Subsection (31) and Subsection (34).

(32) "Real estate" or "real property" includes:

(a) the possession of, claim to, ownership of, or right to the possession of land;

(b) all mines, minerals, and quarries in and under the land, all timber belonging to individuals or corporations growing or being on the lands of this state or the United States, and all rights and privileges appertaining to these; and

(c) improvements.

(33) (a) "Relationship with an owner of the property's land surface rights" means a relationship described in Subsection 267(b), Internal Revenue Code, except that the term 25% shall be substituted for the term 50% in Subsection 267(b), Internal Revenue Code.

(b) For purposes of determining if a relationship described in Subsection 267(b), Internal Revenue Code, exists, the ownership of stock shall be determined using the ownership rules in Subsection 267(c), Internal Revenue Code.

(34) (a) "Residential property," for purposes of the reductions and adjustments under this chapter, means any property used for residential purposes as a primary residence.

(b) "Residential property" includes:

(i) except as provided in Subsection (34)(b)(ii), includes household furnishings, furniture, and equipment if the household furnishings, furniture, and equipment are:

(A) used exclusively within a dwelling unit that is the primary residence of a tenant; and

(B) owned by the owner of the dwelling unit that is the primary residence of a tenant; and

(ii) if the county assessor determines that the property will be used for residential purposes as a primary residence:

(A) property under construction; or

(B) unoccupied property.

(c) "Residential property" does not include property used for transient residential use.

(d) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "dwelling unit" for purposes of Subsection (31) and this Subsection (34).

(35) "Split estate mineral rights owner" means a person that:

(a) has a legal right to extract a mineral from property;

(b) does not hold more than a 25% interest in:

(i) the land surface rights of the property where the wellhead is located; or

(ii) an entity with an ownership interest in the land surface rights of the property where the wellhead is located;

(c) is not an entity in which the owner of the land surface rights of the property where the wellhead is located holds more than a 25% interest; and

(d) does not have a relationship with an owner of the land surface rights of the property where the wellhead is located.

(36) (a) "State-assessed commercial vehicle" means:

(i) any commercial vehicle, trailer, or semitrailer that operates interstate or intrastate to transport passengers, freight, merchandise, or other property for hire; or

(ii) any commercial vehicle, trailer, or semitrailer that operates interstate and transports the vehicle owner's goods or property in furtherance of the owner's commercial enterprise.

(b) "State-assessed commercial vehicle" does not include vehicles used for hire that are specified in Subsection (10)(c) as county-assessed commercial vehicles.

(37) "Subdivided lot" means a lot, parcel, or other division of land, that is a division of a base parcel.

(38) "Tax area" means a geographic area created by the overlapping boundaries of one or more taxing entities.

(39) "Taxable value" means fair market value less any applicable reduction allowed for residential property under Section 59-2-103.

(40) "Taxing entity" means any county, city, town, school district, special taxing district, local district under Title 17B, Limited Purpose Local Government Entities - Local Districts, or other political subdivision of the state with the authority to levy a tax on property.

(41) (a) "Tax roll" means a permanent record of the taxes charged on property, as extended on the assessment roll, and may be maintained on the same record or records as the assessment roll or may be maintained on a separate record properly indexed to the assessment roll.

(b) "Tax roll" includes tax books, tax lists, and other similar materials.

Section 21. Section 59-2-1317 is amended to read:

59-2-1317. Tax notice -- Contents of notice -- Procedures and requirements for providing notice.

(1) As used in this section, "political subdivision lien" means the same as that term is defined in Section 11-60-102.

(2) Subject to the other provisions of this section, the county treasurer shall:

(a) collect the taxes and tax notice charges; and

(b) provide a notice to each taxpayer that contains the following:

(i) the kind and value of property assessed to the taxpayer;

(ii) the street address of the property, if available to the county;

(iii) that the property may be subject to a detailed review in the next year under Section 59-2-303.1;

(iv) the amount of taxes levied;

(v) a separate statement of the taxes levied only on a certain kind or class of property for a special purpose;

(vi) property tax information pertaining to taxpayer relief, options for payment of taxes, and collection procedures;

(vii) any tax notice charges applicable to the property, including:

(A) if applicable, a political subdivision lien for road damage that a railroad company causes, as described in Section 10-7-30;

(B) if applicable, a political subdivision lien for municipal water distribution, as described in Section 10-8-17, or a political subdivision lien for an increase in supply from a municipal water distribution, as described in Section 10-8-19;

(C) if applicable, a political subdivision lien for unpaid abatement fees as described in Section 10-11-4;

(D) if applicable, a political subdivision lien for the unpaid portion of an assessment assessed in accordance with Title 11, Chapter 42, Assessment Area Act, or Title 11, Chapter 42a, Commercial Property Assessed Clean Energy Act, including unpaid costs, charges, and interest as of the date the local entity certifies the unpaid amount to the county treasurer;

(E) if applicable, for a local district in accordance with Section 17B-1-902, a political subdivision lien for an unpaid fee, administrative cost, or interest;

(F) if applicable, a political subdivision lien for an unpaid irrigation district use charge as described in Section 17B-2a-506;

(G) if applicable, a political subdivision lien for a contract assessment under a water contract, as described in Section 17B-2a-1007; and

(H) if applicable, a property tax penalty that a public infrastructure district imposes, as described in Section [~~17B-2a-1210~~] 17D-4-304;

(viii) if a county's tax notice includes an assessment area charge, a statement that, due to potentially ongoing assessment area charges, costs, penalties, and interest, payment of a tax notice charge may not:

(A) pay off the full amount the property owner owes to the tax notice entity; or

(B) cause a release of the lien underlying the tax notice charge;

(ix) the date the taxes and tax notice charges are due;

(x) the street address at which the taxes and tax notice charges may be paid;

(xi) the date on which the taxes and tax notice charges are delinquent;

(xii) the penalty imposed on delinquent taxes and tax notice charges;

(xiii) a statement that explains the taxpayer's right to direct allocation of a partial payment in accordance with Subsection (9);

(xiv) other information specifically authorized to be included on the notice under this chapter; and

(xv) other property tax information approved by the commission.

(3) (a) Unless expressly allowed under this section or another statutory provision, the treasurer may not add an amount to be collected to the property tax notice.

(b) If the county treasurer adds an amount to be collected to the property tax notice under this section or another statutory provision that expressly authorizes the item's inclusion on the property tax notice:

(i) the amount constitutes a tax notice charge; and

(ii) (A) the tax notice charge has the same priority as property tax; and

(B) a delinquency of the tax notice charge triggers a tax sale, in accordance with Section 59-2-1343.

(4) For any property for which property taxes or tax notice charges are delinquent, the notice described in Subsection (2) shall state, "Prior taxes or tax notice charges are delinquent on this parcel."

(5) Except as provided in Subsection (6), the county treasurer shall:

(a) mail the notice required by this section, postage prepaid; or

(b) leave the notice required by this section at the taxpayer's residence or usual place of business, if known.

(6) (a) Subject to the other provisions of this Subsection (6), a county treasurer may, at the county treasurer's discretion, provide the notice required by this section by electronic mail if a taxpayer makes an election, according to procedures determined by the county treasurer, to receive the notice by electronic mail.

(b) A taxpayer may revoke an election to receive the notice required by this section by electronic mail if the taxpayer provides written notice to the treasurer on or before October 1.

(c) A revocation of an election under this section does not relieve a taxpayer of the duty to pay a tax or tax notice charge due under this chapter on or before the due date for paying the tax or tax notice charge.

(d) A county treasurer shall provide the notice required by this section using a method described in Subsection (5), until a taxpayer makes a new election in accordance with this Subsection (6), if:

(i) the taxpayer revokes an election in accordance with Subsection (6)(b) to receive the notice required by this section by electronic mail; or

(ii) the county treasurer finds that the taxpayer's electronic mail address is invalid.

(e) A person is considered to be a taxpayer for purposes of this Subsection (6) regardless of whether the property that is the subject of the notice required by this section is exempt from taxation.

(7) (a) The county treasurer shall provide the notice required by this section to a taxpayer on or before November 1.

(b) The county treasurer shall keep on file in the county treasurer's office the information set forth in the notice.

(c) The county treasurer is not required to mail a tax receipt acknowledging payment.

(8) This section does not apply to property taxed under Section 59-2-1302 or 59-2-1307.

(9) (a) A taxpayer who pays less than the full amount due on the taxpayer's property tax notice may, on a form provided by the county treasurer, direct how the county treasurer allocates the partial payment between:

(i) the total amount due for property tax;

(ii) the amount due for assessments, past due local district fees, and other tax notice charges; and

(iii) any other amounts due on the property tax notice.

(b) The county treasurer shall comply with a direction submitted to the county treasurer in accordance with Subsection (9)(a).

(c) The provisions of this Subsection (9) do not:

(i) affect the right or ability of a local entity to pursue any available remedy for non-payment of any item listed on a taxpayer's property tax notice; or

(ii) toll or otherwise change any time period related to a remedy described in Subsection (9)(c)(i).

Section 22. Section 63H-1-102 is amended to read:

63H-1-102. Definitions.

As used in this chapter:

(1) "Authority" means the Military Installation Development Authority, created under Section 63H-1-201.

(2) "Base taxable value" means:

(a) for military land or other land that was exempt from a property tax at the time that a project area was created that included the military land or other land, a taxable value of zero; or

(b) for private property that is included in a project area, the taxable value of the property within any portion of the project area, as designated by board resolution, from which the property tax allocation will be collected, as shown upon the assessment roll last equalized:

(i) before the year in which the authority creates the project area; or

(ii) before the year in which the project area plan is amended, for property added to a project area by an amendment to a project area plan.

(3) "Board" means the governing body of the authority created under Section 63H-1-301.

(4) (a) "Dedicated tax collections" means the property tax that remains after the authority is paid the property tax allocation the authority is entitled to receive under Subsection 63H-1-501(1), for a property tax levied by:

(i) a county, including a district the county has established under Subsection 17-34-3(2) to levy a property tax under Title 17, Chapter 34, Municipal-Type Services to Unincorporated Areas; or

(ii) an included municipality.

(b) "Dedicated tax collections" does not include a county additional property tax or multicounty assessing and collecting levy imposed in accordance with Section 59-2-1602.

(5) (a) "Development" means an activity occurring:

(i) on land within a project area that is owned or operated by the military, the authority, another public entity, or a private entity; or

(ii) on military land associated with a project area.

(b) "Development" includes the demolition, construction, reconstruction, modification, expansion, or improvement of a building, facility, utility, landscape, parking lot, park, trail, or recreational amenity.

(6) "Development project" means a project to develop land within a project area.

(7) "Elected member" means a member of the authority board who:

(a) is a mayor or member of a legislative body appointed under Subsection 63H-1-302(2)(b); or

(b) (i) is appointed to the authority board under Subsection 63H-1-302(2)(a) or (3); and

(ii) concurrently serves in an elected state, county, or municipal office.

(8) "Included municipality" means a municipality, some or all of which is included within a project area.

(9) (a) "Military" means a branch of the armed forces of the United States, including the Utah National Guard.

(b) "Military" includes, in relation to property, property that is occupied by the military and is owned by the government of the United States or the state.

(10) "Military Installation Development Authority accommodations tax" or "MIDA accommodations tax" means the tax imposed under Section 63H-1-205.

(11) "Military Installation Development Authority energy tax" or "MIDA energy tax" means the tax levied under Section 63H-1-204.

(12) "Military land" means land or a facility, including leased land or a leased facility, that is part of or affiliated with a base, camp, post, station, yard, center, or installation under the jurisdiction of the United States Department of Defense, the United States Department of Veterans Affairs, or the Utah National Guard.

(13) "Municipal energy tax" means a municipal energy sales and use tax under Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act.

(14) "Municipal services revenue" means revenue that the authority:

(a) collects from the authority's:

(i) levy of a municipal energy tax;

(ii) levy of a MIDA energy tax;

(iii) levy of a telecommunications tax;

(iv) imposition of a transient room tax; and

(v) imposition of a resort communities tax;

(b) receives under Subsection 59-12-205(2)(b)(ii); and

(c) receives as dedicated tax collections.

(15) "Municipal tax" means a municipal energy tax, MIDA energy tax, MIDA accommodations tax,

telecommunications tax, transient room tax, or resort communities tax.

(16) "Project area" means the land, including military land, whether consisting of a single contiguous area or multiple noncontiguous areas, described in a project area plan or draft project area plan, where the development project set forth in the project area plan or draft project area plan takes place or is proposed to take place.

(17) "Project area budget" means a multiyear projection of annual or cumulative revenues and expenses and other fiscal matters pertaining to a project area that includes:

(a) the base taxable value of property in the project area;

(b) the projected property tax allocation expected to be generated within the project area;

(c) the amount of the property tax allocation expected to be shared with other taxing entities;

(d) the amount of the property tax allocation expected to be used to implement the project area plan, including the estimated amount of the property tax allocation to be used for land acquisition, public improvements, infrastructure improvements, and loans, grants, or other incentives to private and public entities;

(e) the property tax allocation expected to be used to cover the cost of administering the project area plan;

(f) if the property tax allocation is to be collected at different times or from different portions of the project area, or both:

(i) (A) the tax identification numbers of the parcels from which the property tax allocation will be collected; or

(B) a legal description of the portion of the project area from which the property tax allocation will be collected; and

(ii) an estimate of when other portions of the project area will become subject to collection of the property tax allocation; and

(g) for property that the authority owns or leases and expects to sell or sublease, the expected total cost of the property to the authority and the expected selling price or lease payments.

(18) "Project area plan" means a written plan that, after the plan's effective date, guides and controls the development within a project area.

(19) (a) "Property tax" includes a privilege tax imposed under Title 59, Chapter 4, Privilege Tax, except as described in Subsection (19)(b), and each levy on an ad valorem basis on tangible or intangible personal or real property.

(b) "Property tax" does not include a privilege tax on the taxable value:

(i) attributable to a portion of a facility leased to the military for a calendar year when:

(A) a lessee of military land has constructed a facility on the military land that is part of a project area;

(B) the lessee leases space in the facility to the military for the entire calendar year; and

(C) the lease rate paid by the military for the space is $1 or less for the entire calendar year, not including any common charges that are reimbursements for actual expenses; or

(ii) of the following property owned by the authority, regardless of whether the authority enters into a long-term operating agreement with a privately owned entity under which the privately owned entity agrees to operate the property:

(A) a hotel;

(B) a hotel condominium unit in a condominium project, as defined in Section 57-8-3; and

(C) a commercial condominium unit in a condominium project, as defined in Section 57-8-3.

(20) "Property tax allocation" means the difference between:

(a) the amount of property tax revenues generated each tax year by all taxing entities from the area within a project area designated in the project area plan as the area from which the property tax allocation is to be collected, using the current assessed value of the property; and

(b) the amount of property tax revenues that would be generated from that same area using the base taxable value of the property.

(21) "Public entity" means:

(a) the state, including each department or agency of the state; or

(b) a political subdivision of the state, including a county, city, town, school district, local district, special service district, or interlocal cooperation entity.

(22) (a) "Publicly owned infrastructure and improvements" means infrastructure, improvements, facilities, or buildings that benefit the public, the authority, the military, or military-related entities and are:

(i) publicly owned by the military, the authority, a public infrastructure district under [~~Title 17B, Chapter 2a, Part 12~~] Title 17D, Chapter 4, Public Infrastructure District Act, or another public entity;

(ii) owned by a utility; or

(iii) publicly maintained or operated by the military, the authority, or another public entity.

(b) "Publicly owned infrastructure and improvements" includes:

(i) facilities, lines, or systems that harness geothermal energy or provide water, chilled water, steam, sewer, storm drainage, natural gas, electricity, or telecommunications;

(ii) streets, roads, curb, gutter, sidewalk, walkways, solid waste facilities, parking facilities, public transportation facilities, and parks, trails, and other recreational facilities;

(iii) snowmaking equipment and related improvements that can also be used for water storage or fire suppression purposes; and

(iv) a building and related improvements for occupancy by the public, the authority, the military, or military-related entities.

(23) "Remaining municipal services revenue" means municipal services revenue that the authority has not:

(a) spent during the authority's fiscal year for municipal services as provided in Subsection 63H-1-503(1); or

(b) redirected to use in accordance with Subsection 63H-1-502(3).

(24) "Resort communities tax" means a sales and use tax imposed under Section 59-12-401.

(25) "Taxable value" means the value of property as shown on the last equalized assessment roll.

(26) "Taxing entity":

(a) means a public entity that levies a tax on property within a project area; and

(b) does not include a public infrastructure district that the authority creates under [~~Title 17B, Chapter 2a, Part 12~~] Title 17D, Chapter 4, Public Infrastructure District Act.

(27) "Telecommunications tax" means a telecommunications license tax under Title 10, Chapter 1, Part 4, Municipal Telecommunications License Tax Act.

(28) "Transient room tax" means a tax under Section 59-12-352.

CHAPTER 315
S. B. 76
Passed February 25, 2021
Approved March 17, 2021
Effective May 5, 2021

CONTROLLED SUBSTANCE DATABASE ACCESS

Chief Sponsor: Todd D. Weiler
House Sponsor: Paul Ray

LONG TITLE

General Description:

This bill provides access to the controlled substance database to the Utah Medicaid Fraud Control Unit.

Highlighted Provisions:

This bill:

- provides access to the controlled substance database to the Utah Medicaid Fraud Control Unit; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

58-37f-301, as last amended by Laws of Utah 2020, Chapters 107, 147, and 339

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

Section 1. Section 58-37f-301 is amended to read:

58-37f-301. Access to database.

(1) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:

(a) effectively enforce the limitations on access to the database as described in this part; and

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

(2) The division shall make information in the database and information obtained from other state or federal prescription monitoring programs by means of the database available only to the following individuals, in accordance with the requirements of this chapter and division rules:

(a) (i) personnel of the division specifically assigned to conduct investigations related to controlled substance laws under the jurisdiction of the division; and

(ii) the following law enforcement officers, but the division may only provide nonidentifying information, limited to gender, year of birth, and postal ZIP code, regarding individuals for whom a controlled substance has been prescribed or to whom a controlled substance has been dispensed:

(A) a law enforcement agency officer who is engaged in a joint investigation with the division; and

(B) a law enforcement agency officer to whom the division has referred a suspected criminal violation of controlled substance laws;

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

(c) a board member if:

(i) the board member is assigned to monitor a licensee on probation; and

(ii) the board member is limited to obtaining information from the database regarding the specific licensee on probation;

(d) a person the division authorizes to obtain that information on behalf of the Utah Professionals Health Program established in Subsection 58-4a-103(1) if:

(i) the person the division authorizes is limited to obtaining information from the database regarding the person whose conduct is the subject of the division's consideration; and

(ii) the conduct that is the subject of the division's consideration includes a violation or a potential violation of Chapter 37, Utah Controlled Substances Act, or another relevant violation or potential violation under this title;

(e) in accordance with a written agreement entered into with the department, employees of the Department of Health:

(i) whom the director of the Department of Health assigns to conduct scientific studies regarding the use or abuse of controlled substances, if the identity of the individuals and pharmacies in the database are confidential and are not disclosed in any manner to any individual who is not directly involved in the scientific studies;

(ii) when the information is requested by the Department of Health in relation to a person or provider whom the Department of Health suspects may be improperly obtaining or providing a controlled substance; or

(iii) in the medical examiner's office;

(f) in accordance with a written agreement entered into with the department, a designee of the director of the Department of Health, who is not an employee of the Department of Health, whom the director of the Department of Health assigns to conduct scientific studies regarding the use or abuse of controlled substances pursuant to an application process established in rule by the Department of Health, if:

(i) the designee provides explicit information to the Department of Health regarding the purpose of the scientific studies;

(ii) the scientific studies to be conducted by the designee:

(A) fit within the responsibilities of the Department of Health for health and welfare;

(B) are reviewed and approved by an Institutional Review Board that is approved for human subject research by the United States Department of Health and Human Services;

(C) are not conducted for profit or commercial gain; and

(D) are conducted in a research facility, as defined by division rule, that is associated with a university or college accredited by one or more regional or national accrediting agencies recognized by the United States Department of Education;

(iii) the designee protects the information as a business associate of the Department of Health; and

(iv) the identity of the prescribers, patients, and pharmacies in the database are de-identified, confidential, not disclosed in any manner to the designee or to any individual who is not directly involved in the scientific studies;

(g) in accordance with the written agreement entered into with the department and the Department of Health, authorized employees of a managed care organization, as defined in 42 C.F.R. Sec. 438, if:

(i) the managed care organization contracts with the Department of Health under the provisions of Section 26-18-405 and the contract includes provisions that:

(A) require a managed care organization employee who will have access to information from the database to submit to a criminal background check; and

(B) limit the authorized employee of the managed care organization to requesting either the division or the Department of Health to conduct a search of the database regarding a specific Medicaid enrollee and to report the results of the search to the authorized employee; and

(ii) the information is requested by an authorized employee of the managed care organization in relation to a person who is enrolled in the Medicaid program with the managed care organization, and the managed care organization suspects the person may be improperly obtaining or providing a controlled substance;

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

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

(B) is provided to or sought by the practitioner for the purpose of:

(I) prescribing or considering prescribing any controlled substance to the current or prospective patient;

(II) diagnosing the current or prospective patient;

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

(IV) determining whether the current or prospective patient:

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

(Bb) has fraudulently obtained, or attempted to fraudulently obtain, a controlled substance from the practitioner;

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

(B) is provided to or sought by the practitioner for the purpose of determining whether the former patient has fraudulently obtained, or has attempted to fraudulently obtain, a controlled substance from the practitioner;

(iii) relates specifically to an individual who has access to the practitioner's Drug Enforcement Administration identification number, and the practitioner suspects that the individual may have used the practitioner's Drug Enforcement Administration identification number to fraudulently acquire or prescribe a controlled substance;

(iv) relates to the practitioner's own prescribing practices, except when specifically prohibited by the division by administrative rule;

(v) relates to the use of the controlled substance database by an employee of the practitioner, described in Subsection (2)(i); or

(vi) relates to any use of the practitioner's Drug Enforcement Administration identification number to obtain, attempt to obtain, prescribe, or attempt to prescribe, a controlled substance;

(i) in accordance with Subsection (3)(a), an employee of a practitioner described in Subsection (2)(h), for a purpose described in Subsection (2)(h)(i) or (ii), if:

(i) the employee is designated by the practitioner as an individual authorized to access the information on behalf of the practitioner;

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

(iii) the division:

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

(B) provides the employee with a password that is unique to that employee to access the database in order to permit the division to comply with the requirements of Subsection 58-37f-203(5) with respect to the employee;

(j) an employee of the same business that employs a licensed practitioner under Subsection (2)(h) if:

(i) the employee is designated by the practitioner as an individual authorized to access the information on behalf of the practitioner;

(ii) the practitioner and the employing business provide written notice to the division of the identity of the designated employee; and

(iii) the division:

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

(B) provides the employee with a password that is unique to that employee to access the database in order to permit the division to comply with the requirements of Subsection 58-37f-203(5) with respect to the employee;

(k) a licensed pharmacist having authority to dispense a controlled substance, or a licensed pharmacy intern or pharmacy technician working under the general supervision of a licensed pharmacist, to the extent the information is provided or sought for the purpose of:

(i) dispensing or considering dispensing any controlled substance;

(ii) determining whether a person:

(A) is attempting to fraudulently obtain a controlled substance from the pharmacy, practitioner, or health care facility; or

(B) has fraudulently obtained, or attempted to fraudulently obtain, a controlled substance from the pharmacy, practitioner, or health care facility;

(iii) reporting to the controlled substance database; or

(iv) verifying the accuracy of the data submitted to the controlled substance database on behalf of a pharmacy where the licensed pharmacist, pharmacy intern, or pharmacy technician is employed;

(l) pursuant to a valid search warrant, federal, state, and local law enforcement officers and state and local prosecutors who are engaged in an investigation related to:

(i) one or more controlled substances; and

(ii) a specific person who is a subject of the investigation;

(m) subject to Subsection (7), a probation or parole officer, employed by the Department of Corrections or by a political subdivision, to gain access to database information necessary for the officer's supervision of a specific probationer or parolee who is under the officer's direct supervision;

(n) employees of the Office of Internal Audit and Program Integrity within the Department of Health who are engaged in their specified duty of ensuring Medicaid program integrity under Section 26-18-2.3;

(o) a mental health therapist, if:

(i) the information relates to a patient who is:

(A) enrolled in a licensed substance abuse treatment program; and

(B) receiving treatment from, or under the direction of, the mental health therapist as part of the patient's participation in the licensed substance abuse treatment program described in Subsection (2)(o)(i)(A);

(ii) the information is sought for the purpose of determining whether the patient is using a controlled substance while the patient is enrolled in the licensed substance abuse treatment program described in Subsection (2)(o)(i)(A); and

(iii) the licensed substance abuse treatment program described in Subsection (2)(o)(i)(A) is associated with a practitioner who:

(A) is a physician, a physician assistant, an advance practice registered nurse, or a pharmacist; and

(B) is available to consult with the mental health therapist regarding the information obtained by the mental health therapist, under this Subsection (2)(o), from the database;

(p) an individual who is the recipient of a controlled substance prescription entered into the database, upon providing evidence satisfactory to the division that the individual requesting the information is in fact the individual about whom the data entry was made;

(q) an individual under Subsection (2)(p) for the purpose of obtaining a list of the persons and entities that have requested or received any information from the database regarding the individual, except if the individual's record is subject to a pending or current investigation as authorized under this Subsection (2);

(r) the inspector general, or a designee of the inspector general, of the Office of Inspector General of Medicaid Services, for the purpose of fulfilling the duties described in Title 63A, Chapter 13, Part 2, Office and Powers;

(s) the following licensed physicians for the purpose of reviewing and offering an opinion on an individual's request for workers' compensation benefits under Title 34A, Chapter 2, Workers' Compensation Act, or Title 34A, Chapter 3, Utah Occupational Disease Act:

(i) a member of the medical panel described in Section 34A-2-601;

(ii) a physician employed as medical director for a licensed workers' compensation insurer or an approved self-insured employer; or

(iii) a physician offering a second opinion regarding treatment; [~~and~~]

(t) members of Utah's Opioid Fatality Review Committee, for the purpose of reviewing a specific fatality due to opioid use and recommending policies to reduce the frequency of opioid use fatalities[~~.~~]; and

(u) the Utah Medicaid Fraud Control Unit of the attorney general's office for the purpose of investigating active cases, in exercising the unit's authority to investigate and prosecute Medicaid fraud, abuse, neglect, or exploitation under 42 U.S.C. Sec. 1396b(q).

(3) (a) A practitioner described in Subsection (2)(h) may designate one or more employees to access information from the database under Subsection (2)(i), (2)(j), or (4)(c).

(b) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:

(i) establish background check procedures to determine whether an employee designated under Subsection (2)(i), (2)(j), or (4)(c) should be granted access to the database;

(ii) establish the information to be provided by an emergency department employee under Subsection (4); and

(iii) facilitate providing controlled substance prescription information to a third party under Subsection (5).

(c) The division shall grant an employee designated under Subsection (2)(i), (2)(j), or (4)(c) access to the database, unless the division determines, based on a background check, that the employee poses a security risk to the information contained in the database.

(4) (a) An individual who is employed in the emergency department of a hospital may exercise access to the database under this Subsection (4) on behalf of a licensed practitioner if the individual is designated under Subsection (4)(c) and the licensed practitioner:

(i) is employed or privileged to work in the emergency department;

(ii) is treating an emergency department patient for an emergency medical condition; and

(iii) requests that an individual employed in the emergency department and designated under Subsection (4)(c) obtain information regarding the patient from the database as needed in the course of treatment.

(b) The emergency department employee obtaining information from the database shall, when gaining access to the database, provide to the database the name and any additional identifiers regarding the requesting practitioner as required by division administrative rule established under Subsection (3)(b).

(c) An individual employed in the emergency department under this Subsection (4) may obtain information from the database as provided in Subsection (4)(a) if:

(i) the employee is designated by the hospital as an individual authorized to access the information on behalf of the emergency department practitioner;

(ii) the hospital operating the emergency department provide written notice to the division of the identity of the designated employee; and

(iii) the division:

(A) grants the employee access to the database; and

(B) provides the employee with a password that is unique to that employee to access the database.

(d) The division may impose a fee, in accordance with Section 63J-1-504, on a practitioner who designates an employee under Subsection (2)(i), (2)(j), or (4)(c) to pay for the costs incurred by the division to conduct the background check and make the determination described in Subsection (3)(b).

(5) (a) (i) An individual may request that the division provide the information under Subsection (5)(b) to a third party who is designated by the individual each time a controlled substance prescription for the individual is dispensed.

(ii) The division shall upon receipt of the request under this Subsection (5)(a) advise the individual in writing that the individual may direct the division to discontinue providing the information to a third party and that notice of the individual's direction to discontinue will be provided to the third party.

(b) The information the division shall provide under Subsection (5)(a) is:

(i) the fact a controlled substance has been dispensed to the individual, but without identifying the controlled substance; and

(ii) the date the controlled substance was dispensed.

(c) (i) An individual who has made a request under Subsection (5)(a) may direct that the division discontinue providing information to the third party.

(ii) The division shall:

(A) notify the third party that the individual has directed the division to no longer provide information to the third party; and

(B) discontinue providing information to the third party.

(6) (a) An individual who is granted access to the database based on the fact that the individual is a licensed practitioner or a mental health therapist shall be denied access to the database when the individual is no longer licensed.

(b) An individual who is granted access to the database based on the fact that the individual is a designated employee of a licensed practitioner shall be denied access to the database when the practitioner is no longer licensed.

(7) A probation or parole officer is not required to obtain a search warrant to access the database in accordance with Subsection (2)(m).

(8) The division shall review and adjust the database programming which automatically logs off an individual who is granted access to the database under Subsections (2)(h), (2)(i), (2)(j), and (4)(c) to maximize the following objectives:

(a) to protect patient privacy;

(b) to reduce inappropriate access; and

(c) to make the database more useful and helpful to a person accessing the database under Subsections (2)(h), (2)(i), (2)(j), and (4)(c), especially in high usage locations such as an emergency department.

(9) Any person who knowingly and intentionally accesses the database without express authorization under this section is guilty of a class A misdemeanor.

CHAPTER 316
S. B. 106
Passed March 5, 2021
Approved March 17, 2021
Effective May 5, 2021

USE OF FORCE AMENDMENTS

Chief Sponsor: Daniel W. Thatcher
House Sponsor: Sandra Hollins

LONG TITLE

General Description:

This bill addresses statewide use of force standards for peace officers.

Highlighted Provisions:

This bill:

- requires the Peace Officer Standards and Training Council to establish statewide minimum use of force standards and consider changes to the standards based on an annual review; and
- requires peace officers and law enforcement agencies to comply with and enforce the statewide minimum use of force standards.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53-6-107, as last amended by Laws of Utah 2020, Chapter 35

ENACTS:

53-6-109, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53-6-107 is amended to read:

53-6-107. General duties of council.

(1) The council shall:

(a) advise the director regarding:

(i) the approval, certification, or revocation of certification of any certified academy established in the state;

(ii) minimum courses of study, attendance requirements, and the equipment and facilities to be required at a certified academy;

(iii) minimum qualifications for instructors at a certified academy;

(iv) the minimum basic training requirements that peace officers shall complete before receiving certification;

(v) the minimum basic training requirements that dispatchers shall complete before receiving certification; and

(vi) categories or classifications of advanced in-service training programs and minimum courses of study and attendance requirements for the categories or classifications;

(b) recommend that studies, surveys, or reports, or all of them be made by the director concerning the implementation of the objectives and purposes of this chapter;

(c) make recommendations and reports to the commissioner and governor from time to time;

[~~(d) perform other acts as necessary to carry out the duties of the council in this chapter; and~~]

[~~(e)~~] (d) choose from the sanctions to be imposed against certified peace officers as provided in Section 53-6-211, and dispatchers as provided in Section 53-6-309[~~.~~];

(e) establish minimum use of force standards for all peace officers in the state and annually review and update the standards based on the most current information and best practices; and

(f) perform other acts as necessary to carry out the duties of the council in this chapter.

(2) The council may approve special function officers for membership in the Public Safety Retirement System in accordance with Sections 49-14-201 and 49-15-201.

Section 2. Section 53-6-109 is enacted to read:

53-6-109. Mandatory compliance with minimum use of force standards.

Peace officers and the agencies that employ peace officers shall comply with, and enforce compliance with, the minimum use of force standards described in Subsection 53-6-107(1)(e).

CHAPTER 317
S. B. 140
Passed March 3, 2021
Approved March 17, 2021
Effective May 5, 2021

PHARMACY BENEFIT AMENDMENTS

Chief Sponsor: Evan J. Vickers
House Sponsor: Steve Eliason

LONG TITLE

General Description:

This bill amends provisions relating to pharmacies that are operated by or contract with a federally qualified health center.

Highlighted Provisions:

This bill:

- defines terms; and
- prohibits certain actions by a pharmacy benefit manager or third party with respect to a federally qualified health center that participates in the 340B discount drug program.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

31A-46-310, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 31A-46-310 is enacted to read:

31A-46-310. Prohibited actions with respect to a federally qualified health center.

(1) As used in this section, "federally qualified health center":

(a) means the same as that term is defined in 42 U.S.C. Sec. 1395x(aa)(4); and

(b) includes the pharmacy or pharmacies that are operated by or contract with a federally qualified health center described in Subsection (1)(a) to dispense drugs purchased through the federally qualified health center.

(2) This section applies to a contract entered into or renewed on or after January 1, 2022, between an insurer and a pharmacy described in Subsection (1)(b).

(3) An insurer may not vary the amount that the insurer reimburses to a federally qualified health center for a drug on the basis of whether:

(a) the drug is a 340B drug; or

(b) the pharmacy is a 340B entity.

(4) Subsection (3) does not apply to a drug reimbursed, directly or indirectly, by the Medicaid program.

(5) An insurer or an insurer's pharmacy service entity may not:

(a) on the basis that a federally qualified health center participates, directly or through a contractual arrangement, in the 340B drug discount program:

(i) assess a fee, charge-back, or other adjustment on a federally qualified health center;

(ii) restrict access to the insurer's pharmacy network;

(iii) require the federally qualified health center to enter into a contract with a specific pharmacy to participate in the insurer's pharmacy network;

(iv) create a restriction or an additional charge on a patient who chooses to receive drugs from a federally qualified health center; or

(v) create any additional requirements or restrictions on the federally qualified health center; or

(b) require a claim for a drug to include a modifier to indicate that the drug is a 340B drug unless the claim is for payment, directly or indirectly, by the Medicaid program.

CHAPTER 318
S. B. 141
Passed March 5, 2021
Approved March 17, 2021
Effective May 5, 2021

TASK FORCE ON FOOD SECURITY

Chief Sponsor: Luz Escamilla
House Sponsor: Melissa G. Ballard

LONG TITLE

General Description:

This bill creates the Task Force on Food Security.

Highlighted Provisions:

This bill:

- defines terms;
- creates the Task Force on Food Security (the task force) to develop a plan for establishing food security in the state;
- establishes membership, quorum, meeting, and reporting requirements for the task force; and
- schedules the repeal of the task force.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63I-2-235, as last amended by Laws of Utah 2020, Chapter 354

ENACTS:

35A-1-104.6, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 35A-1-104.6 is enacted to read:

35A-1-104.6. Task force on food security.

(1) As used in this section:

(a) "Food security" means access to sufficient, affordable, safe, and nutritious food that meets an individual's food preferences and dietary needs.

(b) "Task force" means the Task Force on Food Security created in this section.

(2) There is created within the department the "Task Force on Food Security," consisting of the following members:

(a) the executive director, or the executive director's designee, from each of the following:

(i) the Department of Health;

(ii) the Department of Human Services;

(iii) the Department of Workforce Services; and

(iv) the Governor's Office of Economic Development;

(b) the chair of the State Board of Education or the chair's designee;

(c) the commissioner of the Department of Agriculture and Food or the commissioner's designee;

(d) one individual appointed by the executive director of the Utah Association of Counties to represent county government;

(e) one individual appointed by the executive director of the Utah League of Cities and Towns to represent municipal government;

(f) the chair of the Utah Board of Higher Education or the chair's designee; and

(g) seven individuals, appointed by the governor, including:

(i) one individual who works with a refugee or an immigrant community;

(ii) one individual with expertise on issues related to food security in rural Utah;

(iii) one individual who works with individuals experiencing a lack of food security;

(iv) one individual from the business community;

(v) one individual from a food assistance organization;

(vi) one individual from an advocacy group that addresses hunger issues; and

(vii) one individual from the agriculture community.

(3) The task force shall select two members to serve as cochairs.

(4) (a) If a vacancy occurs in the membership of the task force appointed under Subsection (2)(d), (e), or (g), the member shall be replaced in the same manner in which the original appointment was made.

(b) A member of the task force serves until the member's successor is appointed and qualified.

(5) (a) A majority of the task force members constitutes a quorum.

(b) The action of a majority of a quorum constitutes an action of the task force.

(6) A task force member may not receive compensation or benefits for the member's service on the task force but may receive per diem and reimbursement for travel expenses incurred as a member of the task force at the rates established by the Division of Finance under:

(a) Sections 63A-3-106 and 63A-3-107; and

(b) rules made in accordance with Sections 63A-3-106 and 63A-3-107.

(7) The department shall provide staff support to the task force.

(8) (a) The task force shall develop an evidence-based plan for establishing food security in this state.

(b) The plan shall include recommendations for:

(i) increasing economic security for all individuals in the state;

(ii) increasing public awareness and understanding that ending hunger is vital to the health and well-being of the state's residents, economy, and communities;

(iii) increasing access to affordable, nutritious, and culturally appropriate food within the community where an individual lives;

(iv) increasing the number of individuals who can access nutritious food assistance through community-based organizations;

(v) maximizing enrollment in the Supplemental Nutrition Assistance Program to improve food access and nutrition education;

(vi) improving children's health by optimizing participation in federal child nutrition programs; and

(vii) removing barriers for senior citizens to access food security.

(9) (a) The task force shall meet three times.

(b) The three meetings shall occur before October 1, 2021.

(10) On or before October 1, 2021, the task force shall submit electronically the plan for increasing food security in this state to:

(a) the Executive Appropriations Committee;

(b) the Social Services Appropriations Subcommittee;

(c) the Business, Economic Development, and Labor Appropriations Subcommittee;

(d) the Health and Human Services Interim Committee; and

(e) the Economic Development and Workforce Services Interim Committee.

Section 2. Section 63I-2-235 is amended to read:

63I-2-235. Repeal dates -- Title 35A.

[~~Subsection 35A-8-604(6) is repealed October 1, 2020.~~]

Section 35A-1-104.6 is repealed June 30, 2022.

CHAPTER 319
S. B. 142
Passed March 3, 2021
Approved March 17, 2021
Effective May 5, 2021

PUBLIC EDUCATION FUNDING AMENDMENTS

Chief Sponsor: Lincoln Fillmore
House Sponsor: Bradley G. Last

LONG TITLE

General Description:

This bill requires the Public Education Appropriations Subcommittee to complete an evaluation and make recommendations for future legislation regarding public education funding and addresses funding for students who are at risk.

Highlighted Provisions:

This bill:

- requires the Public Education Appropriations Subcommittee to:
  - complete an evaluation of public education funding;
  - make recommendations for future legislation; and
  - report to the Executive Appropriations Committee;
- amends dates regarding certain reviews or evaluations required of the Public Education Appropriations Subcommittee;
- enacts a weighted pupil unit add-on for students who are at risk using weighting based on:
  - students who receive free or reduced price lunch; and
  - students who are English language learners;
- requires the Utah State Board of Education to monitor learning outcomes related to the WPU add-on;
- repeals the Enhancement for At-Risk Students Program while reenacting the portion related to the gang prevention and intervention program;
- establishes a certain repeal date; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53E-1-202, as last amended by Laws of Utah 2020, Chapters 330 and 354
53F-2-206, as last amended by Laws of Utah 2020, Chapter 378
53F-2-208, as last amended by Laws of Utah 2020, Fifth Special Session, Chapter 14
53F-2-301, as last amended by Laws of Utah 2020, Chapter 167
53F-2-601, as last amended by Laws of Utah 2020, Fifth Special Session, Chapter 14
63I-2-253, as last amended by Laws of Utah 2020, Sixth Special Session, Chapter 13

ENACTS:

53E-1-202.2, Utah Code Annotated 1953
53F-2-314, Utah Code Annotated 1953

REPEALS AND REENACTS:

53F-2-410, as last amended by Laws of Utah 2019, Chapters 181, 186, and 408

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53E-1-202 is amended to read:

53E-1-202. Reports to and action required of the Public Education Appropriations Subcommittee.

(1) In accordance with applicable provisions and Section 68-3-14, the following recurring reports are due to the Public Education Appropriations Subcommittee:

(a) the State Superintendent's Annual Report by the state board described in Section 53E-1-203;

(b) the report described in Section 53E-10-703 by the Utah Leading through Effective, Actionable, and Dynamic Education director on research and other activities; and

(c) the report by the STEM Action Center Board described in Section 9-22-109, including the information described in Section 9-22-113 on the status of the computer science initiative.

(2) (a) The one-time report by the state board regarding cost centers and implementing activity based costing is due to the Public Education Appropriations Subcommittee in accordance with Section 53E-3-520.

(b) The occasional report, described in Section 53F-2-502 by the state board on the program evaluation of the dual language immersion program, is due to the Public Education Appropriations Subcommittee and in accordance with Section 68-3-14.

(3) In accordance with applicable provisions, the Public Education Appropriations Subcommittee shall complete the following:

[~~(a) the evaluation described in Section 53F-2-410 of funding for at-risk students; and~~]

(a) the review described in Section 53E-2-301 of the WPU value rate; and

(b) if required, the study described in Section 53F-4-304 of scholarship payments.

Section 2. Section 53E-1-202.2 is enacted to read:

53E-1-202.2. Public education funding evaluation -- Recommendations.

(1) As used in this section:

(a) "Basic Program" means the same as that term is defined in Section 53F-2-102.

(b) "WPU" means the same as that term is defined in Section 53F-2-102.

(2) In lieu of the accountable budget reviews required in legislative rule, the Public Education

Appropriations Subcommittee shall, in order to continue and build upon the public education funding study that the state board completed during the 2021 fiscal year, complete an evaluation of the funding structure for public education, including by developing recommendations for future legislation to:

(a) during the first phase:

(i) evaluate and recommend the rate at which the weightings described in Subsection 53F-2-314(2)(a) should grow for the WPU add-ons for students who are at risk; and

(ii) address distribution of revenues to school districts of differing sizes and property values to ensure adequate long-term equalization of public education funds through tested or new approaches to equalization;

(b) during the second phase:

(i) consider additional issues raised under the evaluation and recommendations described in Subsection (2)(a);

(ii) address the related to basic programs described in Title 53F, Chapter 2, State Funding -- Minimum School Program, to optimize coherence, stability, continuous improvement, and balance with Basic Program funds; and

(iii) address methods to support schools in developing and implementing effective practices, possibly through a competitive grant program.

(3) The Public Education Appropriations Subcommittee shall report the following to the Executive Appropriations Committee:

(a) no later than December 1, 2021, the evaluation and recommendations described in Subsection (2)(a); and

(b) no later than December 1, 2022, the evaluation and recommendations described in Subsection (2)(b).

Section 3. Section 53F-2-206 is amended to read:

53F-2-206. Flexibility in the use of certain related to basic program funds.

(1) As used in this section, "qualifying program" means:

[~~(a) the Enhancement for At-Risk Students Program created in Section 53F-2-410;~~]

[~~(b)~~] (a) the Enhancement for Accelerated Students Program created in Section 53F-2-408;

[~~(c)~~] (b) the early college programs described in Section 53F-2-408.5; and

[~~(d)~~] (c) the concurrent enrollment program established in Section 53E-10-302.

(2) If a school district or charter school receives an allocation of state funds for a qualifying program that is less than $10,000, the LEA governing board of the receiving school district or charter school may:

(a) (i) combine the funds with one or more qualifying program fund allocations each of which is less than $10,000; and

(ii) use the combined funds in accordance with the program requirements for any of the qualifying programs that are combined; or

(b) (i) transfer the funds to a qualifying program for which the school district or charter school received an allocation of funds that is greater than or equal to $10,000; and

(ii) use the combined funds in accordance with the program requirements for the qualifying program to which the funds are transferred.

Section 4. Section 53F-2-208 is amended to read:

53F-2-208. Cost of adjustments for growth and inflation.

(1) In accordance with Subsection (2), the Legislature shall annually determine:

(a) the estimated state cost of adjusting for inflation in the next fiscal year, based on a rolling five-year average ending in the current fiscal year, ongoing state tax fund appropriations to the following programs:

(i) education for youth in custody, described in Section 53E-3-503;

(ii) the Basic Program, described in Title 53F, Chapter 2, Part 3, Basic Program (Weighted Pupil Units);

(iii) the Adult Education Program, described in Section 53F-2-401;

(iv) state support of pupil transportation, described in Section 53F-4-402;

[~~(v) the Enhancement for Accelerated Students Program, described in Section 53F-2-408;~~]

[~~(vi)~~] (v) the Concurrent Enrollment Program, described in Section 53F-2-409; and

[~~(vii)~~] (vi) the Enhancement for At-Risk Students Program, described in Section 53F-2-410; and

(b) the estimated state cost of adjusting for enrollment growth, in the next fiscal year, the current fiscal year's ongoing state tax fund appropriations to the following programs:

(i) a program described in Subsection (1)(a);

(ii) educator salary adjustments, described in Section 53F-2-405;

(iii) the Teacher Salary Supplement Program, described in Section 53F-2-504;

(iv) the Voted and Board Local Levy Guarantee programs, described in Section 53F-2-601; and

(v) charter school local replacement funding, described in Section 53F-2-702.

(2) (a) In or before December each year, the Executive Appropriations Committee shall determine:

(i) the cost of the inflation adjustment described in Subsection (1)(a); and

(ii) the cost of the enrollment growth adjustment described in Subsection (1)(b).

(b) The Executive Appropriations Committee shall make the determinations described in Subsection (2)(a) based on recommendations developed by the Office of the Legislative Fiscal Analyst, in consultation with the state board and the Governor's Office of Management and Budget.

Section 5. Section 53F-2-301 is amended to read:

53F-2-301. Minimum basic tax rate for a fiscal year that begins after July 1, 2022.

(1) The provisions of this section are not in effect for a fiscal year that begins on July 1, 2018, 2019, 2020, 2021, or 2022.

(2) As used in this section:

(a) "Basic levy increment rate" means a tax rate that will generate an amount of revenue equal to $75,000,000.

(b) "Combined basic rate" means a rate that is the sum of:

(i) the minimum basic tax rate; and

(ii) the WPU value rate.

(c) "Commission" means the State Tax Commission.

(d) "Equity pupil tax rate" means the tax rate that will generate an amount of revenue equal to the amount generated by the equity pupil tax rate as defined in Section 53F-2-301.5 in the fiscal year that begins July 1, 2022.

(e) "Minimum basic local amount" means an amount that is:

(i) equal to the sum of:

(A) the school districts' contribution to the basic school program the previous fiscal year;

(B) the amount generated by the basic levy increment rate;

(C) the amount generated by the equity pupil tax rate; and

(D) the eligible new growth, as defined in Section 59-2-924 and rules of the State Tax Commission multiplied by the minimum basic rate; and

(ii) set annually by the Legislature in Subsection (3)(a).

(f) "Minimum basic tax rate" means a tax rate certified by the commission that will generate an amount of revenue equal to the minimum basic local amount described in Subsection (3)(a).

(g) "Weighted pupil unit value" or "WPU value" means the amount established each year in the enacted public education budget that is multiplied by the number of weighted pupil units to yield the funding level for the basic school program.

(h) "WPU value amount" means an amount:

(i) that is equal to the product of:

(A) the WPU value increase limit; and

(B) the percentage share of local revenue to the cost of the basic school program in the immediately preceding fiscal year; and

(ii) set annually by the Legislature in Subsection (4)(a).

(i) "WPU value increase limit" means the lesser of:

(i) the total cost to the basic school program to increase the WPU value over the WPU value in the prior fiscal year; or

(ii) the total cost to the basic school program to increase the WPU value by 4% over the WPU value in the prior fiscal year.

(j) "WPU value rate" means a tax rate certified by the commission that will generate an amount of revenue equal to the WPU value amount described in Subsection (4)(a).

(3) (a) The minimum basic local amount for the fiscal year that begins on July 1, 2018, is $408,073,800 in revenue statewide.

(b) The preliminary estimate of the minimum basic tax rate for a fiscal year that begins on July 1, 2018, is .001498.

(4) (a) The WPU value amount for the fiscal year that begins on July 1, 2018, is $18,650,000 in revenue statewide.

(b) The preliminary estimate of the WPU value rate for the fiscal year that begins on July 1, 2018, is .000069.

(5) (a) On or before June 22, the commission shall certify for the year:

(i) the minimum basic tax rate; and

(ii) the WPU value rate.

(b) The estimate of the minimum basic tax rate provided in Subsection (3)(b) and the estimate of the WPU value rate provided in Subsection (4)(b) are based on a forecast for property values for the next calendar year.

(c) The certified minimum basic tax rate described in Subsection (5)(a)(i) and the certified WPU value rate described in Subsection (5)(a)(ii) are based on property values as of January 1 of the current calendar year, except personal property, which is based on values from the previous calendar year.

(6) (a) To qualify for receipt of the state contribution toward the basic school program and as a school district's contribution toward the cost of the basic school program for the school district, each local school board shall impose the combined basic rate.

(b) (i) The state is not subject to the notice requirements of Section 59-2-926 before imposing the tax rates described in this Subsection (6).

(ii) (A) Except as provided in Subsection (6)(b)(ii)(B), the state is subject to the notice requirements of Section 59-2-926 if the state authorizes a tax rate that exceeds the tax rates described in this Subsection (6).

(B) For a calendar year that begins on January 1, 2018, the state is not subject to the notice and public hearing requirements of Section 59-2-926 if the state authorizes a combined basic rate that exceeds the tax rates authorized in this section.

(7) (a) The state shall contribute to each school district toward the cost of the basic school program in the school district an amount of money that is the difference between the cost of the school district's basic school program and the sum of revenue generated by the school district by the following:

(i) the combined basic rate;

(ii) the basic levy increment rate; and

(iii) the equity pupil tax rate.

(b) (i) If the difference described in Subsection (7)(a) equals or exceeds the cost of the basic school program in a school district, no state contribution shall be made to the basic school program for the school district.

(ii) The proceeds of the difference described in Subsection (7)(a) that exceed the cost of the basic school program shall be paid into the Uniform School Fund as provided by law and by the close of the fiscal year in which the proceeds were calculated.

(8) Upon appropriation by the Legislature, the Division of Finance shall deposit an amount equal to the proceeds generated statewide:

(a) by the basic levy increment rate into the Minimum Basic Growth Account created in Section 53F-9-302;

(b) by the equity pupil tax rate into the Local Levy Growth Account created in Section 53F-9-305; and

(c) by the WPU value rate into the Teacher and Student Success Account created in Section 53F-9-306.

(9) After July 1, [~~2022~~] 2021, but before November 30, 2022, the Public Education Appropriations Subcommittee:

(a) shall review the WPU value rate, the impact of revenues generated by the WPU value rate on public education funding, and whether local school boards should continue to levy the WPU value rate; and

(b) may recommend an increase, repeal, or continuance of the WPU value rate.

Section 6. Section 53F-2-314 is enacted to read:

53F-2-314. Weighted pupil units for students who are at-risk.

(1) As used in this section:

(a) "At risk" means that a public education student:

(i) scores below proficient on a state board or LEA approved assessment; or

(ii) meets an LEA governing board's approved definition of an at-risk student.

(b) "Limited English proficiency" means that an English learner student received a score of 1-4 on an English language proficiency assessment.

(2) (a) Additional weighted pupil units for students who are at-risk are computed based on the number of students within each LEA on October 1 of the previous school year as follows, added to a base of five WPUs for each LEA:

(i) for the fiscal year beginning on July 1, 2021:

(A) for each student who is eligible to receive free or reduced price lunch, .05 additional weighted pupil units; and

(B) for each student with limited English proficiency, .025 additional weighted pupil units; and

(ii) for each fiscal year after the fiscal year described in Subsection (2)(a)(i), the additional weighed pupil units shall increase, subject to the approval of the Executive Appropriations Committee, by amounts that the Public Education Appropriations Subcommittee recommends in the subcommittee's evaluation and recommendations described in Section 53E-1-202.2, up to:

(A) for each student who is eligible to receive free or reduced price lunch, .3 total weighted pupil units; and

(B) for each student with limited English proficiency, up to .1 total weighted pupil units.

(b) Funding for a student who falls within both Subsections (2)(a)(i)(A) and (B) shall be computed under both weighting factors.

(3) An LEA governing board shall use money distributed under this section to improve the academic achievement of students who are at-risk.

(4) For a year in which an allocation to an LEA under this section is less than the allocation to the LEA under the Enhancement for At-Risk Students Program in the 2021 fiscal year, the Executive Appropriations Committee shall include a one-time appropriation in the public education budget to supplement the difference between the two amounts.

(5) (a) Annually, an LEA shall provide the following information to the state board:

(i) a report of the LEA's use of funds allocated under this section through the annual financial reporting process; and

(ii) the LEA's outcome data or a report of intervention effectiveness related to the use of the LEA's use of funds allocated under this section.

(b) The state board shall monitor the learning outcomes resulting from the LEA's use of funds under this section.

Section 7. Section 53F-2-410 is repealed and reenacted to read:

53F-2-410. Gang prevention and intervention program.

Subject to legislative appropriations, the state board shall distribute money for a gang prevention and intervention program:

(1) that is designed to help students at risk for gang involvement stay in school; and

(2) to school districts and charter schools through a request for proposals process.

Section 8. Section 53F-2-601 is amended to read:

53F-2-601. State guaranteed local levy increments -- Appropriation to increase number of guaranteed local levy increments -- No effect of change of minimum basic tax rate -- Voted and board local levy funding balance -- Use of guaranteed local levy increment funds.

(1) As used in this section:

(a) "Board local levy" means a local levy described in Section 53F-8-302.

(b) "Guaranteed local levy increment" means a local levy increment guaranteed by the state:

(i) for the board local levy, described in Subsections (2)(a)(ii)(A) and (2)(b)(ii)(B); or

(ii) for the voted local levy, described in Subsections (2)(a)(ii)(B) and (2)(b)(ii)(A).

(c) "Local levy increment" means .0001 per dollar of taxable value.

(d) (i) "Voted and board local levy funding balance" means the difference between:

(A) the amount appropriated for the guaranteed local levy increments in a fiscal year; and

(B) the amount necessary to fund in the same fiscal year the guaranteed local levy increments as determined under this section.

(ii) "Voted and board local levy funding balance" does not include appropriations described in Subsection (2)(b)(i).

(e) "Voted local levy" means a local levy described in Section 53F-8-301.

(2) (a) (i) In addition to the revenue collected from the imposition of a voted local levy or a board local levy, the state shall guarantee that a school district receives, subject to Subsections (2)(b)(ii)(C) and (3)(a), for each guaranteed local levy increment, an amount sufficient to guarantee for a fiscal year that begins on July 1, 2018, $43.10 per weighted pupil unit.

(ii) Except as provided in Subsection (2)(b)(ii), the number of local levy increments that are subject to the guarantee amount described in Subsection (2)(a)(i) are:

(A) for a board local levy, the first four local levy increments a local school board imposes under the board local levy; and

(B) for a voted local levy, the first 16 local levy increments a local school board imposes under the voted local levy.

(b) (i) Subject to future budget constraints and Subsection (2)(c), the Legislature shall annually appropriate money from the Local Levy Growth Account established in Section 53F-9-305 for purposes described in Subsection (2)(b)(ii).

(ii) The state board shall, for a fiscal year beginning on or after July 1, 2018, and subject to Subsection (2)(c), allocate funds appropriated under Subsection (2)(b)(i) and the amount described in Subsection (3)(c) in the following order of priority by increasing:

(A) by up to four increments the number of voted local levy guaranteed local levy increments above 16;

(B) by up to 16 increments the number of board local levy guaranteed local levy increments above four; and

(C) the guaranteed amount described in Subsection (2)(a)(i).

(c) The number of guaranteed local levy increments under this Subsection (2) for a school district may not exceed 20 guaranteed local levy increments, regardless of whether the guaranteed local levy increments are from the imposition of a voted local levy, a board local levy, or a combination of the two.

(3) (a) The guarantee described in Subsection (2)(a)(i) is indexed each year to the value of the weighted pupil unit by making the value of the guarantee equal to .011962 times the value of the prior year's weighted pupil unit.

(b) The guarantee shall increase by .0005 times the value of the prior year's weighted pupil unit for each year subject to the Legislature appropriating funds for an increase in the guarantee.

(c) If the indexing and growth described in Subsections (3)(a) and (b) result in a cost to the state in a given fiscal year that is less than the amount the Legislature appropriated, the state board shall dedicate the difference to the allocation described in Subsection (2)(b)(ii).

(4) (a) The amount of state guarantee money that a school district would otherwise be entitled to receive under this section may not be reduced for the sole reason that the school district's board local levy or voted local levy is reduced as a consequence of changes in the certified tax rate under Section 59-2-924 pursuant to changes in property valuation.

(b) Subsection (4)(a) applies for a period of five years following a change in the certified tax rate as described in Subsection (4)(a).

(5) The guarantee provided under this section does not apply to the portion of a voted local levy rate that exceeds the voted local levy rate that was in effect for the previous fiscal year, unless an increase in the voted local levy rate was authorized in an election conducted on or after July 1 of the previous fiscal year and before December 2 of the previous fiscal year.

(6) (a) If a voted and board local levy funding balance exists for the prior fiscal year, the state board shall:

(i) use the voted and board local levy funding balance to increase the value of the state guarantee per weighted pupil unit described in Subsection (3)(a) in the current fiscal year; and

(ii) distribute guaranteed local levy increment funds to school districts based on the increased value of the state guarantee per weighted pupil unit described in Subsection (6)(a)(i).

(b) The state board shall report action taken under Subsection (6)(a) to the Office of the Legislative Fiscal Analyst and the Governor's Office of Management and Budget.

(7) A local school board of a school district that receives funds described in this section shall budget and expend the funds for public education purposes.

Section 9. Section 63I-2-253 is amended to read:

63I-2-253. Repeal dates -- Titles 53 through 53G.

(1) (a) Section 53-2a-217, regarding procurement during an epidemic or pandemic emergency, is repealed on December 31, 2021.

(b) When repealing Section 53-2a-217, the Office of Legislative Research and General Counsel shall, in addition to the office's authority under Subsection 36-12-12(3), make necessary changes to subsection numbering and cross references.

(2) Section 53B-2a-103 is repealed July 1, 2021.

(3) Section 53B-2a-104 is repealed July 1, 2021.

(4) (a) Subsection 53B-2a-108(5), regarding exceptions to the composition of a technical college board of trustees, is repealed July 1, 2022.

(b) When repealing Subsection 53B-2a-108(5), the Office of Legislative Research and General Counsel shall, in addition to its authority under Subsection 36-12-12(3), make necessary changes to subsection numbering and cross references.

(5) Section 53B-6-105.7 is repealed July 1, 2024.

(6) (a) Subsection 53B-7-705(6)(b)(ii)(A), the language that states "Except as provided in Subsection (6)(b)(ii)(B)," is repealed July 1, 2021.

(b) Subsection 53B-7-705(6)(b)(ii)(B), regarding comparing a technical college's change in performance with the technical college's average performance, is repealed July 1, 2021.

(7) (a) Subsection 53B-7-707(3)(a)(ii), the language that states "Except as provided in Subsection (3)(b)," is repealed July 1, 2021.

(b) Subsection 53B-7-707(3)(b), regarding performance data of a technical college during a fiscal year before fiscal year 2020, is repealed July 1, 2021.

(8) Section 53B-8-114 is repealed July 1, 2024.

(9) (a) The following sections, regarding the Regents' scholarship program, are repealed on July 1, 2023:

(i) Section 53B-8-202;

(ii) Section 53B-8-203;

(iii) Section 53B-8-204; and

(iv) Section 53B-8-205.

(b) (i) Subsection 53B-8-201(2), regarding the Regents' scholarship program for students who graduate from high school before fiscal year 2019, is repealed on July 1, 2023.

(ii) When repealing Subsection 53B-8-201(2), the Office of Legislative Research and General Counsel shall, in addition to its authority under Subsection 36-12-12(3), make necessary changes to subsection numbering and cross references.

(10) Section 53B-10-101 is repealed on July 1, 2027.

(11) Title 53B, Chapter 18, Part 14, Uintah Basin Air Quality Research Project, is repealed July 1, 2023.

(12) Section 53E-1-202.2, regarding a Public Education Appropriations Subcommittee evaluation and recommendations, is repealed January 1, 2024.

[~~(12)~~] (13) Section 53E-3-519 regarding school counselor services is repealed July 1, 2020.

[~~(13)~~] (14) Section 53E-3-520 is repealed July 1, 2021.

[~~(14)~~] (15) Subsection 53E-5-306(3)(b)(ii)(B), related to improving school performance and continued funding relating to the School Recognition and Reward Program, is repealed July 1, 2020.

[~~(15)~~] (16) Section 53E-5-307 is repealed July 1, 2020.

[~~(16)~~] (17) Subsection 53E-10-309(7), related to the PRIME pilot program, is repealed July 1, 2024.

[~~(17)~~] (18) In Subsections 53F-2-205(4) and (5), regarding the State Board of Education's duties if contributions from the minimum basic tax rate are overestimated or underestimated, the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

[~~(18)~~] (19) Subsection 53F-2-301(1), relating to the years the section is not in effect, is repealed July 1, 2023.

(20) Subsection 53F-2-314(4), relating to a one-time expenditure between the at-risk WPU add-on funding and previous at-risk funding, is repealed January 1, 2024.

[~~(19)~~] (21) In Subsection 53F-2-515(1), the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

[~~(20)~~] (22) Section 53F-4-207 is repealed July 1, 2022.

[~~(21)~~] (23) In Subsection 53F-9-302(3), the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

[~~(22)~~] (24) In Subsection 53F-9-305(3)(a), the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

[~~(23)~~] (25) In Subsection 53F-9-306(3)(a), the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

[~~(24)~~] (26) In Subsection 53G-3-304(1)(c)(i), the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

[~~(25)~~] (27) Subsections 53G-10-204(1)(c) through (e), and Subsection 53G-10-204(7), related to the civics engagement pilot program, are repealed on July 1, 2023.

[~~(26)~~] (28) On July 1, 2023, when making changes in this section, the Office of Legislative Research and General Counsel shall, in addition to the office's authority under Subsection 36-12-12(3), make corrections necessary to ensure that sections and subsections identified in this section are complete sentences and accurately reflect the office's perception of the Legislature's intent.

CHAPTER 320
S. B. 143
Passed March 3, 2021
Approved March 17, 2021
Effective May 5, 2021

REVENUE BOND AND CAPITAL FACILITIES AMENDMENTS

Chief Sponsor: Chris H. Wilson
House Sponsor: Douglas V. Sagers

LONG TITLE

General Description:

This bill enacts provisions relating to 2021 revenue bonds and capital facility design and construction authorizations.

Highlighted Provisions:

This bill:

- expresses the Legislature's intent relating to the Utah Board of Higher Education's issuance, sale, and delivery of revenue bonds to finance:
  - the construction of West Village Graduate and Family Student Housing at the University of Utah;
  - the construction of the Impact – Epicenter building at the University of Utah;
  - an expansion of the Electric Vehicle and Roadway building at Utah State University;
  - the construction of the Stewart Stadium east bleachers at Weber State University; and
  - the construction of the Noorda Engineering and Applied Science building at Weber State University; and
- expresses the Legislature's intent relating to the State Building Ownership Authority's issuance of obligations to finance:
  - a new state liquor store in the Sugarhouse area of Salt Lake City; and
  - a new state liquor store in east Sandy.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:
63B-31-201, Utah Code Annotated 1953
63B-31-202, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63B-31-201 is enacted to read:

CHAPTER 31. 2021 BONDING AND FINANCING AUTHORIZATIONS

Part 2. 2021 Revenue Bond Authorizations

63B-31-201. Revenue bond authorizations -- Utah Board of Higher Education.

(1) The Legislature intends that:

(a) the Utah Board of Higher Education, on behalf of the University of Utah, may issue, sell, and deliver revenue bonds or other evidences of indebtedness of the University of Utah to borrow money on the credit, revenues, and reserves of the university, other than appropriations of the Legislature, to finance the cost of constructing the West Village Graduate and Family Student Housing;

(b) the University of Utah use student housing rental fees and other auxiliary revenue as the primary revenue sources for repayment of any obligation created under authority of this Subsection (1);

(c) the amount of revenue bonds or evidences of indebtedness authorized by this Subsection (1) may not exceed $125,800,000 for acquisition and construction proceeds, together with other amounts necessary to pay costs of issuance, pay capitalized interest, and fund any debt service reserve requirements;

(d) the university may plan, design, and construct the West Village Graduate and Family Student Housing, subject to the requirements of Title 63A, Chapter 5b, Administration of State Facilities; and

(e) the university may not request state funds for operation and maintenance costs or capital improvements.

(2) The Legislature intends that:

(a) the Utah Board of Higher Education, on behalf of the University of Utah, may issue, sell, and deliver revenue bonds or other evidences of indebtedness of the University of Utah to borrow money on the credit, revenues, and reserves of the university, other than appropriations of the Legislature, to finance the cost of constructing the Impact – Epicenter building;

(b) the University of Utah use donations, student housing rental fees, and other auxiliary revenue as the primary revenue sources for repayment of any obligation created under authority of this Subsection (2);

(c) the amount of revenue bonds or evidences of indebtedness authorized by this Subsection (2) may not exceed $85,700,000 for acquisition and construction proceeds, together with other amounts necessary to pay costs of issuance, pay capitalized interest, and fund any debt service reserve requirements;

(d) the university may plan, design, and construct the Impact – Epicenter building, subject to the requirements of Title 63A, Chapter 5b, Administration of State Facilities; and

(e) the university may not request state funds for operation and maintenance costs or capital improvements.

(3) The Legislature intends that:

(a) the Utah Board of Higher Education, on behalf of Utah State University, may issue, sell, and deliver revenue bonds or other evidences of indebtedness of Utah State University to borrow money on the credit, revenues, and reserves of the university, other than appropriations of the Legislature, to finance the cost of constructing an

expansion of the Electric Vehicle and Roadway building;

(b) Utah State University use research revenue, donations, and institutional funds as the primary revenue sources for repayment of any obligation created under authority of this Subsection (3);

(c) the amount of revenue bonds or evidences of indebtedness authorized by this Subsection (3) may not exceed $9,200,000 for acquisition and construction proceeds, together with other amounts necessary to pay costs of issuance, pay capitalized interest, and fund any debt service reserve requirements;

(d) the university may plan, design, and construct the expansion of the Electric Vehicle and Roadway building, subject to the requirements of Title 63A, Chapter 5b, Administration of State Facilities; and

(e) the university may not request state funds for operation and maintenance costs or capital improvements.

(4) The Legislature intends that:

(a) the Utah Board of Higher Education, on behalf of Weber State University, may issue, sell, and deliver revenue bonds or other evidences of indebtedness of Weber State University to borrow money on the credit, revenues, and reserves of the university, other than appropriations of the Legislature, to finance the cost of constructing the Stewart Stadium east bleachers;

(b) Weber State University use student fees and institutional funds as the primary revenue sources for repayment of any obligation created under authority of this Subsection (4);

(c) the amount of revenue bonds or evidences of indebtedness authorized by this Subsection (4) may not exceed $4,000,000 for acquisition and construction proceeds, together with other amounts necessary to pay costs of issuance, pay capitalized interest, and fund any debt service reserve requirements;

(d) the university may plan, design, and construct the Stewart Stadium east bleachers, subject to the requirements of Title 63A, Chapter 5b, Administration of State Facilities; and

(e) the university may not request additional state funds for operation and maintenance costs or capital improvements.

(5) The Legislature intends that:

(a) the Utah Board of Higher Education, on behalf of Weber State University, may issue, sell, and deliver revenue bonds or other evidences of indebtedness of Weber State University to borrow money on the credit, revenues, and reserves of the university, other than appropriations of the Legislature, to finance the cost of constructing the Noorda Engineering and Applied Science building;

(b) Weber State University use lease payments as the primary revenue sources for repayment of any obligation created under authority of this Subsection (5);

(c) the amount of revenue bonds or evidences of indebtedness authorized by this Subsection (5) may not exceed $8,500,000 for acquisition and construction proceeds, together with other amounts necessary to pay costs of issuance, pay capitalized interest, and fund any debt service reserve requirements;

(d) the university may plan, design, and construct the Noorda Engineering and Applied Science building, subject to the requirements of Title 63A, Chapter 5b, Administration of State Facilities; and

(e) the university may not request additional state funds for operation and maintenance costs or capital improvements.

Section 2. Section 63B-31-202 is enacted to read:

63B-31-202. State Building Ownership Authority obligations for new state liquor stores.

(1) The Legislature intends that:

(a) the State Building Ownership Authority, under the authority of Title 63B, Chapter 1, Part 3, State Building Ownership Authority Act, may issue or execute obligations or may enter into or arrange for a lease-purchase agreement in which participation interests may be created, to provide up to $11,725,700 for a Salt Lake City market area liquor store in Sugarhouse, together with additional amounts necessary to pay costs of issuance, pay capitalized interest, and fund any existing debt service reserve requirements;

(b) the Department of Alcoholic Beverage Control use sales revenues as the primary revenue source for repayment of any obligation created under authority of this Subsection (1);

(c) the Department of Alcoholic Beverage Control may request operation and maintenance funding from sales revenues; and

(d) the Department of Alcoholic Beverage Control use up to $5,000,000 to repay the State Store Land Acquisition Fund under Section 32B-2-307.

(2) The Legislature intends that:

(a) the State Building Ownership Authority, under the authority of Title 63B, Chapter 1, Part 3, State Building Ownership Authority Act, may issue or execute obligations or may enter into or arrange for a lease-purchase agreement in which participation interests may be created, to provide up to $5,524,000 for a Salt Lake City area market liquor store in east Sandy, together with additional amounts necessary to pay costs of issuance, pay capitalized interest, and fund any existing debt service reserve requirements;

(b) the Department of Alcoholic Beverage Control use sales revenues as the primary revenue source for repayment of any obligation created under authority of this Subsection (2); and

(c) the Department of Alcoholic Beverage Control may request operation and maintenance funding from sales revenues.

CHAPTER 321
S. B. 145
Passed February 24, 2021
Approved March 17, 2021
Effective May 5, 2021

MILITARY FAMILY EDUCATION AMENDMENTS

Chief Sponsor: Ann Millner
House Sponsor: Val L. Peterson

LONG TITLE

General Description:

This bill expands opportunities for children of military families to enroll in Utah public schools.

Highlighted Provisions:

This bill:

- requires a local education agency (LEA) to permit a student who is the child of a member of uniformed services who is relocating to the state or out of the state to:
  - before the student resides in the state, enroll in a public school within the LEA at the same time and in the same manner as individuals residing in the state; and
  - remain enrolled after the student's parent relocates out of the state;
- defines terms; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53G-6-306, as last amended by Laws of Utah 2019, Chapter 293

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53G-6-306 is amended to read:

53G-6-306. Permitting attendance by nonresident of the state -- Tuition.

(1) As used in this section:

(a) "Armed forces" means the same as that term is defined in Section 68-3-12.5.

(b) "Eligible student" means a student who is a dependent child of a member of uniformed services who is:

(i) (A) relocating to the state and does not reside in the state during an LEA's enrollment period; or

(B) relocating out of the state during the school year; and

(ii) on permanent change of station orders.

(c) "Nonresident child" means a child residing outside the state.

(d) "Provisional enrollment" means enrollment in a public school by an eligible student:

(i) before the eligible student relocates to the state; or

(ii) after the eligible student's parent relocates out of the state, but before the eligible student relocates out of the state.

(e) "Uniformed services" means:

(i) the same as that term is defined in Section 68-3-12.5;

(ii) the reserve components of the armed forces; and

(iii) the national guard of a state.

[~~(1) A local school board~~] (2) (a) An LEA may permit a [~~child residing outside the state~~] nonresident child to attend school within the district.

(b) With the exception of a child enrolled under Section 53G-6-707, [~~the~~] a nonresident child is not included for the purpose of apportionment of state funds.

[~~(2) The local school board~~] (3) (a) An LEA shall charge [~~the~~] a nonresident child who enrolls in a school within the LEA tuition in an amount at least equal to the per capita cost of the school program in which the nonresident child enrolls unless the [~~local school board~~] LEA, in open meeting, determines to waive the charge for that nonresident child in whole or in part.

(b) The official minutes of the meeting described in Subsection (3)(a) shall reflect the LEA's determination to waive the charge described in Subsection (3)(a).

(4) (a) Notwithstanding anything to the contrary in Subsection (3), an LEA shall allow an eligible student to:

(i) provisionally enroll in a public school in the LEA at the same time and in the same manner as individuals who reside in the state; or

(ii) provisionally enroll in virtual education options that the LEA provides in the same manner as an individual residing in the state.

(b) An LEA may not require proof of residency from an eligible student at the time the eligible student applies to enroll in a public school in the LEA.

(c) An LEA shall require proof of residence within 10 days after the eligible student's first day of residence in the state.

CHAPTER 322
S. B. 146
Passed February 18, 2021
Approved March 17, 2021
Effective May 5, 2021

EMISSIONS TESTING AMENDMENTS

Chief Sponsor: Curtis S. Bramble
House Sponsor: Suzanne Harrison

LONG TITLE

General Description:

This bill removes the end date of a pilot program requiring emissions inspections of certain diesel-powered motor vehicles, making the requirement permanent.

Highlighted Provisions:

This bill:

- updates a pilot program to make permanent a pilot emissions inspection program, which requires counties to have an emissions inspection program for certain diesel-powered vehicles.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

41-6a-1642, as last amended by Laws of Utah 2020, Chapter 83

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 41-6a-1642 is amended to read:

41-6a-1642. Emissions inspection -- County program.

(1) The legislative body of each county required under federal law to utilize a motor vehicle emissions inspection and maintenance program or in which an emissions inspection and maintenance program is necessary to attain or maintain any national ambient air quality standard shall require:

(a) a certificate of emissions inspection, a waiver, or other evidence the motor vehicle is exempt from emissions inspection and maintenance program requirements be presented:

(i) as a condition of registration or renewal of registration; and

(ii) at other times as the county legislative body may require to enforce inspection requirements for individual motor vehicles, except that the county legislative body may not routinely require a certificate of emissions inspection, or waiver of the certificate, more often than required under Subsection (9); and

(b) compliance with this section for a motor vehicle registered or principally operated in the county and owned by or being used by a department, division, instrumentality, agency, or employee of:

(i) the federal government;

(ii) the state and any of its agencies; or

(iii) a political subdivision of the state, including school districts.

(2) A vehicle owner subject to Subsection (1) shall obtain a motor vehicle emissions inspection and maintenance program certificate of emissions inspection as described in Subsection (1), but the program may not deny vehicle registration based solely on the presence of a defeat device covered in the Volkswagen partial consent decrees or a United States Environmental Protection Agency-approved vehicle modification in the following vehicles:

(a) a 2.0-liter diesel engine motor vehicle in which its lifetime nitrogen oxide emissions are mitigated in the state pursuant to a partial consent decree, including:

(i) Volkswagen Jetta, model years 2009, 2010, 2011, 2012, 2013, 2014, and 2015;

(ii) Volkswagen Jetta Sportwagen, model years 2009, 2010, 2011, 2012, 2013, and 2014;

(iii) Volkswagen Golf, model years 2010, 2011, 2012, 2013, 2014, and 2015;

(iv) Volkswagen Golf Sportwagen, model year 2015;

(v) Volkswagen Passat, model years 2012, 2013, 2014, and 2015;

(vi) Volkswagen Beetle, model years 2013, 2014, and 2015;

(vii) Volkswagen Beetle Convertible, model years 2013, 2014, and 2015; and

(viii) Audi A3, model years 2010, 2011, 2012, 2013, and 2015; and

(b) a 3.0-liter diesel engine motor vehicle in which its lifetime nitrogen oxide emissions are mitigated in the state to a settlement, including:

(i) Volkswagen Touareg, model years 2009, 2010, 2011, 2012, 2013, 2014, 2015, and 2016;

(ii) Audi Q7, model years 2009, 2010, 2011, 2012, 2013, 2014, 2015, and 2016;

(iii) Audi A6 Quattro, model years 2014, 2015, and 2016;

(iv) Audi A7 Quattro, model years 2014, 2015, and 2016;

(v) Audi A8, model years 2014, 2015, and 2016;

(vi) Audi A8L, model years 2014, 2015, and 2016;

(vii) Audi Q5, model years 2014, 2015, and 2016; and

(viii) Porsche Cayenne Diesel, model years 2013, 2014, 2015, and 2016.

(3) (a) The legislative body of a county identified in Subsection (1), in consultation with the Air Quality Board created under Section 19-1-106, shall make regulations or ordinances regarding:

(i) emissions standards;

(ii) test procedures;

(iii) inspections stations;

(iv) repair requirements and dollar limits for correction of deficiencies; and

(v) certificates of emissions inspections.

(b) In accordance with Subsection (3)(a), a county legislative body:

(i) shall make regulations or ordinances to attain or maintain ambient air quality standards in the county, consistent with the state implementation plan and federal requirements;

(ii) may allow for a phase-in of the program by geographical area; and

(iii) shall comply with the analyzer design and certification requirements contained in the state implementation plan prepared under Title 19, Chapter 2, Air Conservation Act.

(c) The county legislative body and the Air Quality Board shall give preference to an inspection and maintenance program that:

(i) is decentralized, to the extent the decentralized program will attain and maintain ambient air quality standards and meet federal requirements;

(ii) is the most cost effective means to achieve and maintain the maximum benefit with regard to ambient air quality standards and to meet federal air quality requirements as related to vehicle emissions; and

(iii) provides a reasonable phase-out period for replacement of air pollution emission testing equipment made obsolete by the program.

(d) The provisions of Subsection (3)(c)(iii) apply only to the extent the phase-out:

(i) may be accomplished in accordance with applicable federal requirements; and

(ii) does not otherwise interfere with the attainment and maintenance of ambient air quality standards.

(4) The following vehicles are exempt from an emissions inspection program and the provisions of this section:

(a) an implement of husbandry as defined in Section 41-1a-102;

(b) a motor vehicle that:

(i) meets the definition of a farm truck under Section 41-1a-102; and

(ii) has a gross vehicle weight rating of 12,001 pounds or more;

(c) a vintage vehicle as defined in Section 41-21-1;

(d) a custom vehicle as defined in Section 41-6a-1507;

(e) to the extent allowed under the current federally approved state implementation plan, in accordance with the federal Clean Air Act, 42 U.S.C. Sec. 7401, et seq., a motor vehicle that is less than two years old on January 1 based on the age of the vehicle as determined by the model year identified by the manufacturer;

(f) a pickup truck, as defined in Section 41-1a-102, with a gross vehicle weight rating of 12,000 pounds or less, if the registered owner of the pickup truck provides a signed statement to the legislative body stating the truck is used:

(i) by the owner or operator of a farm located on property that qualifies as land in agricultural use under Sections 59-2-502 and 59-2-503; and

(ii) exclusively for the following purposes in operating the farm:

(A) for the transportation of farm products, including livestock and its products, poultry and its products, floricultural and horticultural products; and

(B) in the transportation of farm supplies, including tile, fence, and every other thing or commodity used in agricultural, floricultural, horticultural, livestock, and poultry production and maintenance;

(g) a motorcycle as defined in Section 41-1a-102;

(h) an electric motor vehicle as defined in Section 41-1a-102; and

(i) a motor vehicle with a model year of 1967 or older.

(5) The county shall issue to the registered owner who signs and submits a signed statement under Subsection (4)(f) a certificate of exemption from emissions inspection requirements for purposes of registering the exempt vehicle.

(6) A legislative body of a county described in Subsection (1) may exempt from an emissions inspection program a diesel-powered motor vehicle with a:

(a) gross vehicle weight rating of more than 14,000 pounds; or

(b) model year of 1997 or older.

[~~(7) (a) The legislative body of a county described in Subsection (1) that does not require an emissions inspection for diesel-powered motor vehicles as of December 31, 2017, shall implement a three-year pilot program as described in Subsection (7)(b).~~]

[~~(b) Beginning on January 1, 2019, and ending on December 31, 2021, the legislative body of a county described in Subsection (7)(a) shall require:~~]

(7) The legislative body of a county required under federal law to utilize a motor vehicle emissions inspection program shall require:

[~~(i)~~] (a) a computerized emissions inspection for a diesel-powered motor vehicle that has:

[~~(A)~~] (i) a model year of 2007 or newer;

[~~(B)~~] (ii) a gross vehicle weight rating of 14,000 pounds or less; and

[~~(C)~~] (iii) a model year that is five years old or older; and

[~~(ii)~~] (b) a visual inspection of emissions equipment for a diesel-powered motor vehicle:

[~~(A)~~] (i) with a gross vehicle weight rating of 14,000 pounds or less;

[~~(B)~~] (ii) that has a model year of 1998 or newer; and

[~~(C)~~] (iii) that has a model year that is five years old or older.

[~~(c) (i) The legislative body of a county that participates in the pilot program described in this Subsection (7) shall prepare a report including:~~]

[~~(A) the total number of diesel-powered vehicles inspected as part of the pilot program using computerized technology;~~]

[~~(B) the passage and failure rates of the diesel-powered motor vehicles inspected as part of the pilot program using computerized technology, shown by model year;~~]

[~~(C) the total number of diesel-powered vehicles visually inspected as part of the pilot program;~~]

[~~(D) the passage and failure rates of the diesel-powered motor vehicles visually inspected as part of the pilot program, shown by model year;~~]

[~~(E) the total number of diesel-powered vehicles visually inspected as part of the pilot program where tampering with emissions equipment was found, shown by model year; and~~]

[~~(F) any other information the executive body or individual considers relevant.~~]

[~~(ii) The legislative body of a county that participates in the pilot program described in this Subsection (7) shall present the report described in Subsection (7)(c)(i) to the Natural Resources, Agriculture, and Environment Interim Committee:~~]

[~~(A) one time after January 1, 2020, but before August 31, 2020; and~~]

[~~(B) one time after January 1, 2021, but before August 31, 2021.~~]

[~~(d) After each report described in Subsection (7)(c), the Division of Air Quality created in Section 19-1-105 shall provide to the Natural Resources, Agriculture, and Environment Interim Committee and the legislative body of a county participating in the pilot program an estimate of the tons of pollution emitted due to the failure rate of the diesel-powered motor vehicles in the pilot program.~~]

(8) (a) Subject to Subsection (8)(c), the legislative body of each county required under federal law to utilize a motor vehicle emissions inspection and maintenance program or in which an emissions inspection and maintenance program is necessary to attain or maintain any national ambient air quality standard may require each college or university located in a county subject to this section to require its students and employees who park a motor vehicle not registered in a county subject to this section to provide proof of compliance with an emissions inspection accepted by the county legislative body if the motor vehicle is parked on the college or university campus or property.

(b) College or university parking areas that are metered or for which payment is required per use are not subject to the requirements of this Subsection (8).

(c) The legislative body of a county shall make the reasons for implementing the provisions of this Subsection (8) part of the record at the time that the county legislative body takes its official action to implement the provisions of this Subsection (8).

(9) (a) An emissions inspection station shall issue a certificate of emissions inspection for each motor vehicle that meets the inspection and maintenance program requirements established in rules made under Subsection (3).

(b) The frequency of the emissions inspection shall be determined based on the age of the vehicle as determined by model year and shall be required annually subject to the provisions of Subsection (9)(c).

(c) (i) To the extent allowed under the current federally approved state implementation plan, in accordance with the federal Clean Air Act, 42 U.S.C. Sec. 7401 et seq., the legislative body of a county identified in Subsection (1) shall only require the emissions inspection every two years for each vehicle.

(ii) The provisions of Subsection (9)(c)(i) apply only to a vehicle that is less than six years old on January 1.

(iii) For a county required to implement a new vehicle emissions inspection and maintenance program on or after December 1, 2012, under Subsection (1), but for which no current federally approved state implementation plan exists, a vehicle shall be tested at a frequency determined by the county legislative body, in consultation with the Air Quality Board created under Section 19-1-106, that is necessary to comply with federal law or attain or maintain any national ambient air quality standard.

(iv) If a county legislative body establishes or changes the frequency of a vehicle emissions inspection and maintenance program under Subsection (9)(c)(iii), the establishment or change shall take effect on January 1 if the State Tax Commission receives notice meeting the requirements of Subsection (9)(c)(v) from the county before October 1.

(v) The notice described in Subsection (9)(c)(iv) shall:

(A) state that the county will establish or change the frequency of the vehicle emissions inspection and maintenance program under this section;

(B) include a copy of the ordinance establishing or changing the frequency; and

(C) if the county establishes or changes the frequency under this section, state how frequently the emissions testing will be required.

(d) If an emissions inspection is only required every two years for a vehicle under Subsection(9)(c), the inspection shall be required for the vehicle in:

(i) odd-numbered years for vehicles with odd-numbered model years; or

(ii) in even-numbered years for vehicles with even-numbered model years.

(10) (a) Except as provided in Subsections (9)(b), (c), and (d), the emissions inspection required under this section may be made no more than two months before the renewal of registration.

(b) (i) If the title of a used motor vehicle is being transferred, the owner may use an emissions inspection certificate issued for the motor vehicle during the previous 11 months to satisfy the requirement under this section.

(ii) If the transferor is a licensed and bonded used motor vehicle dealer, the owner may use an emissions inspection certificate issued for the motor vehicle in a licensed and bonded motor vehicle dealer's name during the previous 11 months to satisfy the requirement under this section.

(c) If the title of a leased vehicle is being transferred to the lessee of the vehicle, the lessee may use an emissions inspection certificate issued during the previous 11 months to satisfy the requirement under this section.

(d) If the motor vehicle is part of a fleet of 101 or more vehicles, the owner may not use an emissions inspection made more than 11 months before the renewal of registration to satisfy the requirement under this section.

(e) If the application for renewal of registration is for a six-month registration period under Section 41-1a-215.5, the owner may use an emissions inspection certificate issued during the previous eight months to satisfy the requirement under this section.

(11) (a) A county identified in Subsection (1) shall collect information about and monitor the program.

(b) A county identified in Subsection (1) shall supply this information to an appropriate legislative committee, as designated by the Legislative Management Committee, at times determined by the designated committee to identify program needs, including funding needs.

(12) If approved by the county legislative body, a county that had an established emissions inspection fee as of January 1, 2002, may increase the established fee that an emissions inspection station may charge by $2.50 for each year that is exempted from emissions inspections under Subsection (9)(c) up to a $7.50 increase.

(13) (a) Except as provided in Subsection 41-1a-1223(1)(c), a county identified in Subsection (1) may impose a local emissions compliance fee on each motor vehicle registration within the county in accordance with the procedures and requirements of Section 41-1a-1223.

(b) A county that imposes a local emissions compliance fee may use revenues generated from the fee for the establishment and enforcement of an emissions inspection and maintenance program in accordance with the requirements of this section.

(c) A county that imposes a local emissions compliance fee may use revenues generated from the fee to promote programs to maintain a local, state, or national ambient air quality standard.

CHAPTER 323
S. B. 147
Passed March 5, 2021
Approved March 17, 2021
Effective May 5, 2021

CONFINEMENT OF EGG-LAYING HENS

Chief Sponsor: Scott D. Sandall
House Sponsor: Joel Ferry

LONG TITLE

General Description:

This bill makes changes to the Agricultural Code regarding the confinement of egg-laying hens.

Highlighted Provisions:

This bill:

- defines terms;
- beginning January 1, 2025, prohibits farm owners and operators from confining egg-laying hens in an enclosure that is not a cage-free housing system or that has less usable floor space per hen than required by specific industry guidelines, with certain exceptions;
- designates the Department of Agriculture and Food as the entity to enforce the provisions of this bill; and
- requires the Department of Agriculture and Food to provide a report to the Business and Labor Interim Committee.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:
4-4a-101, Utah Code Annotated 1953
4-4a-102, Utah Code Annotated 1953
4-4a-103, Utah Code Annotated 1953
4-4a-104, Utah Code Annotated 1953
4-4a-105, Utah Code Annotated 1953
4-4a-106, Utah Code Annotated 1953
4-4a-107, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 4-4a-101 is enacted to read:

CHAPTER 4a. CONFINEMENT OF EGG-LAYING HENS

4-4a-101. Title.

This chapter is known as "Confinement of Egg-Laying Hens."

Section 2. Section 4-4a-102 is enacted to read:

4-4a-102. Definitions.

As used in this chapter:

(1) (a) "Cage-free housing system" means an indoor or outdoor controlled environment for egg-laying hens where:

(i) for an indoor environment, the egg-laying hens are free to roam unrestricted except by the following:

(A) exterior walls; or

(B) interior fencing used to contain the entire egg-laying hen flock within the building or subdivide flocks into smaller groups if farm employees can walk through each contained or subdivided area to provide care to egg-laying hens and if each egg-laying hen has at least the amount of usable floor space per hen required by the 2017 edition of the United Egg Producers' Animal Husbandry Guidelines for U.S. Egg-Laying Flocks: Guidelines for Cage-Free Housing;

(ii) egg-laying hens are provided enrichments that allow them to exhibit natural behaviors including, at a minimum, scratch areas, perches, nest boxes, and dust bathing areas; and

(iii) farm employees can provide care while standing within the egg-laying hens' usable floor space.

(b) "Cage-free housing system" includes, to the extent the system is a system described in Subsection (1)(a) and is not excluded by Subsection (1)(c), a multi-tiered aviary, partially slatted system, single-level all-litter floor system, and any future system that is a system described in Subsection (1)(a) and is not excluded by Subsection (1)(c).

(c) "Cage-free housing system" does not include systems commonly described as battery cages, colony cages, enriched cages, enriched colony cages, modified cages, convertible cages, furnished cages, or similar cage systems.

(2) "Egg-laying hen" means a female domesticated chicken kept for the purpose of commercial egg production.

(3) "Enclosure" means a structure used to confine an egg-laying hen.

(4) (a) "Farm" means the land, buildings, support facilities, and other equipment that are wholly or partially used for the commercial production of animals or animal products used for food.

(b) "Farm" does not include live animal markets or official plants at which mandatory inspection is maintained under the federal Egg Products Inspection Act, 21 U.S.C. Sec. 1031 et seq.

(5) "Farm owner or operator" means a person that owns a controlling interest in a farm or controls the operations of a farm.

(6) "Multi-tiered aviary" means a cage-free housing system where egg-laying hens have unfettered access to multiple elevated flat platforms that provide the egg-laying hens with usable floor space both on top of and underneath the platforms.

(7) "Partially slatted system" means a cage-free housing system where egg-laying hens have unfettered access to elevated flat platforms under which manure drops through the flooring to a pit or litter removal belt below.

(8) "Shell egg" means a whole egg of an egg-laying hen in the egg's shell form, intended for use as human food.

(9) "Single-level all-litter floor system" means a cage-free housing system bedded with litter where egg-laying hens have limited or no access to elevated flat platforms.

(10) (a) "Usable floor space" means the total square footage of floor space provided to each egg-laying hen, as calculated by dividing the total square footage of floor space provided to egg-laying hens in an enclosure by the total number of egg-laying hens in that enclosure.

(b) "Usable floor space" includes both ground space and elevated level or nearly level flat platforms upon which hens can roost, but does not include perches or ramps.

Section 3. Section 4-4a-103 is enacted to read:

4-4a-103. Prohibitions.

Beginning on January 1, 2025, a farm owner or operator may not knowingly confine an egg-laying hen in an enclosure:

(1) that is not a cage-free housing system; or

(2) that has less than the amount of usable floor space per hen as required by the 2017 edition of the United Egg Producers' Animal Husbandry Guidelines for U.S. Egg-Laying Flocks: Guidelines for Cage-Free Housing.

Section 4. Section 4-4a-104 is enacted to read:

4-4a-104. Confinement exemptions.

Section 4-4a-103 does not apply to an egg-laying hen:

(1) used for medical research;

(2) during examination, testing, individual treatment, or operation for veterinary purposes, but only if performed by or under the direct supervision of a licensed veterinarian;

(3) during transportation;

(4) at state or county fair exhibitions, 4-H programs, and similar exhibitions;

(5) during slaughter conducted in accordance with applicable laws, rules, and regulations; or

(6) kept for temporary animal husbandry purposes of no more than six hours in any 24-hour period and no more than 24 hours total in any 30-day period.

Section 5. Section 4-4a-105 is enacted to read:

4-4a-105. De minimis exemptions for shell eggs.

This chapter does not apply to the production of shell eggs in the state by a farm with fewer than 3,000 egg-laying hens.

Section 6. Section 4-4a-106 is enacted to read:

4-4a-106. Enforcement.

(1) The department shall enforce this chapter.

(2) A person subject to this chapter shall allow the department access during regular business hours to facilities and records pertinent to activities subject to this chapter.

(3) The department shall, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules governing the inspection of farms to ensure compliance with this chapter.

(4) (a) The department may use an inspection provider or process verification provider to ensure compliance with this chapter.

(b) To rely on an inspection provider or process verification provider, the department must approve the specific inspection provider or process verification provider as competent to ensure compliance with this chapter.

(5) (a) If the department determines that a person subject to this chapter is in violation of a provision of this chapter or a rule adopted under this chapter, the department shall provide the person with a written notice that:

(i) describes each violation identified by the department; and

(ii) states a reasonable deadline by which the person is required to cure the violation.

(b) If a person who receives a notice issued under Subsection (5)(a) does not cure a violation identified in the notice before the deadline stated in the notice, the department may impose a civil fine of $100 per written notice, regardless of the number of violations identified in the notice.

(c) If a violation is not cured after the department provides a person with written notice of the violation and a reasonable opportunity to cure, the department may seek a temporary restraining order or permanent injunction to prevent further violation of this chapter.

Section 7. Section 4-4a-107 is enacted to read:

4-4a-107. Report.

(1) The department shall provide a report on this chapter to the Business and Labor Interim Committee during or before the November interim meeting in 2023.

(2) The report described in Subsection (1) shall include an update on:

(a) efforts taken by farm owners and operators to come into compliance with Section 4-4a-103; and

(b) the retail demand for and conditions related to the sale of cage-free eggs.

CHAPTER 324
S. B. 148
Passed March 5, 2021
Approved March 17, 2021
Effective May 5, 2021

PUBLIC EDUCATION MODIFICATIONS

Chief Sponsor: Keith Grover
House Sponsor: Adam Robertson

LONG TITLE

General Description:

This bill amends provisions related to public education.

Highlighted Provisions:

This bill:

- defines terms;
- requires a local education agency to:
  - provide parents with access to curriculum that the local education agency uses; and
  - for each grading period, provide a student a grade or performance report for each course in which the student is enrolled that reflects the student's work, including the student's progress based on mastery, during the grading period;
- requires a local education agency to provide a student enrolled in an online course and the student's parent with access to certain information;
- repeals requirements related to the State Charter School Board reviewing the application for a charter school seeking authorization from an institution of higher education board of trustees; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53G-4-402, as last amended by Laws of Utah 2020, Chapter 347
53G-5-306, as last amended by Laws of Utah 2020, Chapter 365
53G-5-404, as last amended by Laws of Utah 2020, Chapters 30 and 192

ENACTS:

53G-6-804, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53G-4-402 is amended to read:

53G-4-402. Powers and duties generally.

(1) A local school board shall:

(a) implement the core standards for Utah public schools using instructional materials that best correlate to the core standards for Utah public schools and graduation requirements;

(b) administer tests, required by the state board, which measure the progress of each student, and coordinate with the state superintendent and state board to assess results and create plans to improve the student's progress, which shall be submitted to the state board for approval;

(c) use progress-based assessments as part of a plan to identify schools, teachers, and students that need remediation and determine the type and amount of federal, state, and local resources to implement remediation;

(d) for each grading period and for each course in which a student is enrolled, issue a grade or performance report to the student:

(i) that reflects the student's work, including the student's progress based on mastery, for the grading period; and

(ii) in accordance with the local school board's adopted grading or performance standards and criteria;

[~~(d)~~] (e) develop early warning systems for students or classes failing to make progress;

[~~(e)~~] (f) work with the state board to establish a library of documented best practices, consistent with state and federal regulations, for use by the local districts;

[~~(f)~~] (g) implement training programs for school administrators, including basic management training, best practices in instructional methods, budget training, staff management, managing for learning results and continuous improvement, and how to help every child achieve optimal learning in basic academic subjects; and

[~~(g)~~] (h) ensure that the local school board meets the data collection and reporting standards described in Section 53E-3-501.

(2) Local school boards shall spend Minimum School Program funds for programs and activities for which the state board has established minimum standards or rules under Section 53E-3-501.

(3) (a) A local school board may purchase, sell, and make improvements on school sites, buildings, and equipment and construct, erect, and furnish school buildings.

(b) School sites or buildings may only be conveyed or sold on local school board resolution affirmed by at least two-thirds of the members.

(4) (a) A local school board may participate in the joint construction or operation of a school attended by children residing within the district and children residing in other districts either within or outside the state.

(b) Any agreement for the joint operation or construction of a school shall:

(i) be signed by the president of the local school board of each participating district;

(ii) include a mutually agreed upon pro rata cost; and

(iii) be filed with the state board.

(5) A local school board may establish, locate, and maintain elementary, secondary, and applied technology schools.

(6) Except as provided in Section 53E-3-905, a local school board may enroll children in school who are at least five years of age before September 2 of the year in which admission is sought.

(7) A local school board may establish and support school libraries.

(8) A local school board may collect damages for the loss, injury, or destruction of school property.

(9) A local school board may authorize guidance and counseling services for children and their parents before, during, or following enrollment of the children in schools.

(10) (a) A local school board shall administer and implement federal educational programs in accordance with Title 53E, Chapter 3, Part 8, Implementing Federal or National Education Programs.

(b) Federal funds are not considered funds within the school district budget under Chapter 7, Part 3, Budgets.

(11) (a) A local school board may organize school safety patrols and adopt policies under which the patrols promote student safety.

(b) A student appointed to a safety patrol shall be at least 10 years old and have written parental consent for the appointment.

(c) Safety patrol members may not direct vehicular traffic or be stationed in a portion of a highway intended for vehicular traffic use.

(d) Liability may not attach to a school district, its employees, officers, or agents or to a safety patrol member, a parent of a safety patrol member, or an authorized volunteer assisting the program by virtue of the organization, maintenance, or operation of a school safety patrol.

(12) (a) A local school board may on its own behalf, or on behalf of an educational institution for which the local school board is the direct governing body, accept private grants, loans, gifts, endowments, devises, or bequests that are made for educational purposes.

(b) These contributions are not subject to appropriation by the Legislature.

(13) (a) A local school board may appoint and fix the compensation of a compliance officer to issue citations for violations of Subsection 76-10-105(2)(b).

(b) A person may not be appointed to serve as a compliance officer without the person's consent.

(c) A teacher or student may not be appointed as a compliance officer.

(14) A local school board shall adopt bylaws and policies for the local school board's own procedures.

(15) (a) A local school board shall make and enforce policies necessary for the control and management of the district schools.

(b) Local school board policies shall be in writing, filed, and referenced for public access.

(16) A local school board may hold school on legal holidays other than Sundays.

(17) (a) A local school board shall establish for each school year a school traffic safety committee to implement this Subsection (17).

(b) The committee shall be composed of one representative of:

(i) the schools within the district;

(ii) the Parent Teachers' Association of the schools within the district;

(iii) the municipality or county;

(iv) state or local law enforcement; and

(v) state or local traffic safety engineering.

(c) The committee shall:

(i) receive suggestions from school community councils, parents, teachers, and others and recommend school traffic safety improvements, boundary changes to enhance safety, and school traffic safety program measures;

(ii) review and submit annually to the Department of Transportation and affected municipalities and counties a child access routing plan for each elementary, middle, and junior high school within the district;

(iii) consult the Utah Safety Council and the Division of Family Health Services and provide training to all school children in kindergarten through grade 6, within the district, on school crossing safety and use; and

(iv) help ensure the district's compliance with rules made by the Department of Transportation under Section 41-6a-303.

(d) The committee may establish subcommittees as needed to assist in accomplishing [~~its~~] the committee's duties under Subsection (17)(c).

(18) (a) A local school board shall adopt and implement a comprehensive emergency response plan to prevent and combat violence in the local school board's public schools, on school grounds, on its school vehicles, and in connection with school-related activities or events.

(b) The plan shall:

(i) include prevention, intervention, and response components;

(ii) be consistent with the student conduct and discipline policies required for school districts under Chapter 11, Part 2, Miscellaneous Requirements;

(iii) require professional learning for all district and school building staff on what their roles are in the emergency response plan;

(iv) provide for coordination with local law enforcement and other public safety representatives in preventing, intervening, and responding to violence in the areas and activities referred to in Subsection (18)(a); and

(v) include procedures to notify a student, to the extent practicable, who is off campus at the time of a school violence emergency because the student is:

(A) participating in a school-related activity; or

(B) excused from school for a period of time during the regular school day to participate in religious instruction at the request of the student's parent.

(c) The state board, through the state superintendent, shall develop comprehensive emergency response plan models that local school boards may use, where appropriate, to comply with Subsection (18)(a).

(d) A local school board shall, by July 1 of each year, certify to the state board that its plan has been practiced at the school level and presented to and reviewed by its teachers, administrators, students, and their parents and local law enforcement and public safety representatives.

(19) (a) A local school board may adopt an emergency response plan for the treatment of sports-related injuries that occur during school sports practices and events.

(b) The plan may be implemented by each secondary school in the district that has a sports program for students.

(c) The plan may:

(i) include emergency personnel, emergency communication, and emergency equipment components;

(ii) require professional learning on the emergency response plan for school personnel who are involved in sports programs in the district's secondary schools; and

(iii) provide for coordination with individuals and agency representatives who:

(A) are not employees of the school district; and

(B) would be involved in providing emergency services to students injured while participating in sports events.

(d) The local school board, in collaboration with the schools referred to in Subsection (19)(b), may review the plan each year and make revisions when required to improve or enhance the plan.

(e) The state board, through the state superintendent, shall provide local school boards with an emergency plan response model that local school boards may use to comply with the requirements of this Subsection (19).

(20) A local school board shall do all other things necessary for the maintenance, prosperity, and success of the schools and the promotion of education.

(21) (a) Before closing a school or changing the boundaries of a school, a local school board shall:

(i) at least 120 days before approving the school closure or school boundary change, provide notice to the following that the local school board is considering the closure or boundary change:

(A) parents of students enrolled in the school, using the same form of communication the local school board regularly uses to communicate with parents;

(B) parents of students enrolled in other schools within the school district that may be affected by the closure or boundary change, using the same form of communication the local school board regularly uses to communicate with parents; and

(C) the governing council and the mayor of the municipality in which the school is located;

(ii) provide an opportunity for public comment on the proposed school closure or school boundary change during at least two public local school board meetings; and

(iii) hold a public hearing as defined in Section 10-9a-103 and provide public notice of the public hearing as described in Subsection (21)(b).

(b) The notice of a public hearing required under Subsection (21)(a)(iii) shall:

(i) indicate the:

(A) school or schools under consideration for closure or boundary change; and

(B) the date, time, and location of the public hearing;

(ii) at least 10 days before the public hearing, be:

(A) published:

(I) in a newspaper of general circulation in the area; and

(II) on the Utah Public Notice Website created in Section 63F-1-701; and

(B) posted in at least three public locations within the municipality in which the school is located on the school district's official website, and prominently at the school; and

(iii) at least 30 days before the public hearing described in Subsection (21)(a)(iii), be provided as described in Subsections (21)(a)(i)(A), (B), and (C).

(22) A local school board may implement a facility energy efficiency program established under Title 11, Chapter 44, Performance Efficiency Act.

(23) A local school board may establish or partner with a certified youth court program, in accordance with Section 78A-6-1203, or establish or partner with a comparable restorative justice program, in coordination with schools in that district. A school may refer a student to youth court or a comparable restorative justice program in accordance with Section 53G-8-211.

(24) A local school board shall:

(a) make curriculum that the school district uses readily accessible and available for a parent to view;

(b) annually notify a parent of a student enrolled in the school district of how to access the information described in Subsection (24)(a); and

(c) include on the school district's website information about how to access the information described in Subsection (24)(a).

Section 2. Section 53G-5-306 is amended to read:

53G-5-306. Charter schools authorized by a board of trustees of a higher education institution -- Application process -- Board of trustees responsibilities.

(1) Except as provided in Subsection (6), an applicant identified in Section 53G-5-302 may enter into an agreement with a board of trustees of a higher education institution authorizing the applicant to establish and operate a charter school.

(2) (a) An applicant applying for authorization from a board of trustees to establish and operate a charter school shall provide a copy of the application to [~~the State Charter School Board and~~] the local school board of the school district in which the proposed charter school will be located either before or at the same time the applicant files the application with the board of trustees.

(b) The [~~State Charter School Board and the~~] local school board may review the application and offer suggestions or recommendations to the applicant or the board of trustees before acting on the application.

(c) The board of trustees shall give due consideration to suggestions or recommendations made by [~~the State Charter School Board or~~] the local school board under Subsection (2)(b).

(3) The state board shall make a rule providing a timeline for the opening of a charter school following the approval of a charter school application by a board of trustees.

(4) After approval of a charter school application, the applicant and the board of trustees shall set forth the terms and conditions for the operation of the charter school in a written charter agreement.

(5) (a) The school's charter agreement may include a provision that the charter school pay an annual fee for the board of trustees' costs in providing oversight of, and technical support to, the charter school in accordance with Section 53G-5-205.

(b) In the first two years that a charter school is in operation, an annual fee described in Subsection (5)(a) may not exceed the product of 3% of the revenue the charter school receives from the state in the current fiscal year.

(c) Beginning with the third year that a charter school is in operation, an annual fee described in Subsection (5)(a) may not exceed the product of 1% of the revenue a charter school receives from the state in the current fiscal year.

(d) An annual fee described in Subsection (5)(a) shall be:

(i) paid to the board of trustees' higher education institution; and

(ii) expended as directed by the board of trustees.

(6) (a) In addition to complying with the requirements of this section, a technical college board of trustees described in Section 53B-2a-108 shall obtain the approval of the Utah Board of Higher Education before entering into an agreement to establish and operate a charter school.

(b) If a technical college board of trustees approves an application to establish and operate a charter school, the technical college board of trustees shall submit the application to the Utah Board of Higher Education.

(c) The Utah Board of Higher Education shall, by majority vote, within 60 days of receipt of an application described in Subsection (6)(b), approve or deny the application.

(d) The Utah Board of Higher Education may deny an application approved by a technical college board of trustees if the proposed charter school does not accomplish a purpose of charter schools as provided in Section 53G-5-104.

(e) A charter school application may not be denied on the basis that the establishment of the charter school will have any or all of the following impacts on a public school, including another charter school:

(i) an enrollment decline;

(ii) a decrease in funding; or

(iii) a modification of programs or services.

(7) (a) Subject to the requirements of this chapter and other related provisions, a technical college board of trustees may establish:

(i) procedures for submitting applications to establish and operate a charter school; or

(ii) criteria for approval of an application to establish and operate a charter school.

(b) The Utah Board of Higher Education may not establish policy governing the procedures or criteria described in Subsection (7)(a).

(8) Before a technical college board of trustees accepts a charter school application, the technical college board of trustees shall, in accordance with state board rules, establish and make public:

(a) application requirements, in accordance with Section 53G-5-302;

(b) the application process, including timelines, in accordance with this section; and

(c) minimum academic, financial, and enrollment standards.

Section 3. Section 53G-5-404 is amended to read:

53G-5-404. Requirements for charter schools.

(1) A charter school shall be nonsectarian in its programs, admission policies, employment practices, and operations.

(2) A charter school may not charge tuition or fees, except those fees normally charged by other public schools.

(3) A charter school shall meet all applicable federal, state, and local health, safety, and civil rights requirements.

(4) (a) A charter school shall:

(i) make the same annual reports required of other public schools under this public education code, including an annual financial audit report described in Section 53G-4-404;

(ii) ensure that the charter school meets the data and reporting standards described in Section 53E-3-501; and

(iii) use fund and program accounting methods and standardized account codes capable of producing financial reports that comply with:

(A) generally accepted accounting principles;

(B) the financial reporting requirements applicable to LEAs established by the state board under Section 53E-3-501; and

(C) accounting report standards established by the state auditor as described in Section 51-2a-301.

(b) Before, and as a condition for opening a charter school:

(i) a charter school shall:

(A) certify to the authorizer that the charter school's accounting methods meet the requirements described in Subsection (4)(a)(iii); or

(B) if the authorizer requires, conduct a performance demonstration to verify that the charter school's accounting methods meet the requirements described in Subsection (4)(a)(iii); and

(ii) the authorizer shall certify to the state board that the charter school's accounting methods meet the requirements described in Subsection (4)(a)(iii).

(c) A charter school shall file the charter school's annual financial audit report with the Office of the State Auditor within six months of the end of the fiscal year.

(d) For the limited purpose of compliance with federal and state law governing use of public education funds, including restricted funds, and making annual financial audit reports under this section, a charter school is a government entity governed by the public education code.

(5) (a) A charter school shall be accountable to the charter school's authorizer for performance as provided in the school's charter agreement.

(b) To measure the performance of a charter school, an authorizer may use data contained in:

(i) the charter school's annual financial audit report;

(ii) a report submitted by the charter school as required by statute; or

(iii) a report submitted by the charter school as required by its charter agreement.

(c) A charter school authorizer may not impose performance standards, except as permitted by statute, that limit, infringe, or prohibit a charter school's ability to successfully accomplish the purposes of charter schools as provided in Section 53G-5-104 or as otherwise provided in law.

(6) A charter school may not advocate unlawful behavior.

(7) Except as provided in Section 53G-5-305, a charter school shall be organized and managed under Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act, after its authorization.

(8) A charter school shall provide adequate liability and other appropriate insurance, including:

(a) general liability, errors and omissions, and directors and officers liability coverage through completion of the closure of a charter school under Section 53G-5-504; and

(b) tail coverage or closeout insurance covering at least one year after closure of the charter school.

(9) Beginning on July 1, 2014, a charter school, including a charter school that has not yet opened, shall submit any lease, lease-purchase agreement, or other contract or agreement relating to the charter school's facilities or financing of the charter school's facilities to the school's authorizer and an attorney for review and advice before the charter school enters the lease, agreement, or contract.

(10) A charter school may not employ an educator whose license is suspended or revoked by the state board under Section 53E-6-604.

(11) (a) Each charter school shall register and maintain the charter school's registration as a limited purpose entity, in accordance with Section 67-1a-15.

(b) A charter school that fails to comply with Subsection (11)(a) or Section 67-1a-15 is subject to enforcement by the state auditor, in accordance with Section 67-3-1.

(c) If a charter school is an operating charter school with affiliated satellite charter schools, as defined in Section 53G-5-303:

(i) the operating charter school shall register as a limited purpose entity as defined in Section 67-1a-15;

(ii) each affiliated satellite charter school is not required to register separately from the operating charter school; and

(iii) the operating charter school shall:

(A) register on behalf of each affiliated satellite charter school; and

(B) when submitting entity registry information under Section 67-1a-15 on behalf of each affiliated satellite charter school, identify and distinguish registry information for each affiliated satellite, including the address of each affiliated satellite

charter school and the name and contact information of a primary contact for each affiliated satellite charter school.

(12) (a) As used in this Subsection (12), "contracting entity" means a person with which a charter school contracts.

(b) A charter school shall provide to the charter school's authorizer any information or documents requested by the authorizer, including documents held by a subsidiary of the charter school or a contracting entity:

(i) to confirm the charter school's compliance with state or federal law governing the charter school's finances or governance; or

(ii) to carry out the authorizer's statutory obligations, including liquidation and assignment of assets, and payment of debt in accordance with state board rule, as described in Section 53G-5-504.

(c) A charter school shall comply with a request described in Subsection (12)(b), including after an authorizer recommends closure of the charter school or terminates the charter school's contract.

(d) Documents held by a contracting entity or subsidiary of a charter school that are necessary to demonstrate the charter school's compliance with state or federal law are the property of the charter school.

(e) A charter school shall include in an agreement with a subsidiary of the charter school or a contracting entity a provision that stipulates that documents held by the subsidiary or a contracting entity, that are necessary to demonstrate the charter school's financial compliance with federal or state law, are the property of the charter school.

(13) For each grading period and for each course in which a student is enrolled, a charter school shall issue a grade or performance report to the student:

(a) that reflects the student's work, including the student's progress based on mastery, for the grading period; and

(b) in accordance with the charter school's adopted grading or performance standards and criteria.

(14) A charter school shall:

(a) make curriculum that the charter school uses readily accessible and available for a parent to view;

(b) annually notify a parent of a student enrolled in the charter school of how to access the information described in Subsection (14)(a); and

(c) include on the charter school's website information about how to access the information described in Subsection (14)(a).

Section 4. Section 53G-6-804 is enacted to read:

53G-6-804. Parent access to learning management system for online courses -- Training.

(1) As used in this section:

(a) "Learning management system" means a software application for the administration, documentation, tracking, reporting, automation, or delivery of an online course.

(b) "Online course" means a course that an LEA provides to a student over the Internet.

(2) An LEA that uses a learning management system for an online course shall provide:

(a) to the parent of a student enrolled in the online course, access to the learning management system, including, at a minimum:

(i) the curriculum used for the course; and

(ii) information about the progress and learning of the parent's student, including assessment results; and

(b) to a student enrolled in the course and the student's parent, training or orientation to help the student and student's parent understand how to access:

(i) the learning management system;

(ii) the online course; and

(iii) any online tools used to deliver the online course or instruction.

CHAPTER 325
S. B. 150
Passed March 5, 2021
Approved March 17, 2021
Effective May 5, 2021

GOVERNMENT RECORDS ACCESS AND MANAGEMENT ACT JUDICIAL REVIEW AMENDMENTS

Chief Sponsor: Todd D. Weiler
House Sponsor: Steve R. Christiansen

LONG TITLE

General Description:

This bill modifies a provision relating to judicial review of State Records Committee decisions.

Highlighted Provisions:

This bill:

- allows a court to remand a petition for judicial review to the State Records Committee under certain circumstances.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63G-2-404, as last amended by Laws of Utah 2019, Chapter 254

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63G-2-404 is amended to read:

63G-2-404. Judicial review.

(1) (a) A petition for judicial review of an order or decision, as allowed under this part or in Subsection 63G-2-701(6)(a)(ii), shall be filed no later than 30 days after the date of the order or decision.

(b) The State Records Committee is a necessary party to a petition for judicial review of a State Records Committee order.

(c) The executive secretary of the State Records Committee shall be served with notice of a petition for judicial review of a State Records Committee order, in accordance with the Utah Rules of Civil Procedure.

(2) A petition for judicial review is a complaint governed by the Utah Rules of Civil Procedure and shall contain:

(a) the petitioner's name and mailing address;

(b) a copy of the State Records Committee order from which the appeal is taken, if the petitioner is seeking judicial review of an order of the State Records Committee;

(c) the name and mailing address of the governmental entity that issued the initial determination with a copy of that determination;

(d) a request for relief specifying the type and extent of relief requested; and

(e) a statement of the reasons why the petitioner is entitled to relief.

(3) If the appeal is based on the denial of access to a protected record based on a claim of business confidentiality, the court shall allow the claimant of business confidentiality to provide to the court the reasons for the claim of business confidentiality.

(4) All additional pleadings and proceedings in the district court are governed by the Utah Rules of Civil Procedure.

(5) The district court may review the disputed records. The review shall be in camera.

(6) (a) The court shall:

(i) make the court's decision de novo, but, for a petition seeking judicial review of a State Records Committee order, allow introduction of evidence presented to the State Records Committee;

(ii) determine all questions of fact and law without a jury; and

(iii) decide the issue at the earliest practical opportunity.

[~~(b) In a court's review and decision of a petition seeking judicial review of a State Records Committee order, the court may not remand the petition to the State Records Committee for any additional proceedings.~~]

(b) A court may remand a petition for judicial review to the State Records Committee if:

(i) the remand is to allow the State Records Committee to decide an issue that:

(A) involves access to a record; and

(B) the State Records Committee has not previously addressed in the proceeding that led to the petition for judicial review; and

(ii) the court determines that remanding to the State Records Committee is in the best interests of justice.

(7) (a) Except as provided in Section 63G-2-406, the court may, upon consideration and weighing of the various interests and public policies pertinent to the classification and disclosure or nondisclosure, order the disclosure of information properly classified as private, controlled, or protected if the interest favoring access is greater than or equal to the interest favoring restriction of access.

(b) The court shall consider and, where appropriate, limit the requester's use and further disclosure of the record in order to protect privacy interests in the case of private or controlled records, business confidentiality interests in the case of records protected under Subsections 63G-2-305(1) and (2), and privacy interests or the public interest in the case of other protected records.

CHAPTER 326
S. B. 151
Passed March 5, 2021
Approved March 17, 2021
Effective May 5, 2021

GOVERNMENTAL IMMUNITY ACT NOTICE OF CLAIM AMENDMENTS

Chief Sponsor: Todd D. Weiler
House Sponsor: Nelson T. Abbott

LONG TITLE

General Description:

This bill modifies provisions relating to notices of claim under the Governmental Immunity Act of Utah.

Highlighted Provisions:

This bill:

- allows, for a notice of claim, the use of any form of signature recognized by law as binding;
- allows a notice of claim to be sent by email;
- requires a governmental entity to provide an email address; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63G-7-401, as last amended by Laws of Utah 2019, Chapter 229

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63G-7-401 is amended to read:

63G-7-401. When a claim arises -- Notice of claim requirements -- Governmental entity statement -- Limits on challenging validity or timeliness of notice of claim.

(1) (a) Except as provided in Subsection (1)(b), a claim arises when the statute of limitations that would apply if the claim were against a private person begins to run.

(b) The statute of limitations does not begin to run until a claimant knew, or with the exercise of reasonable diligence should have known:

(i) that the claimant had a claim against the governmental entity or the governmental entity's employee; and

(ii) the identity of the governmental entity or the name of the employee.

(c) The burden to prove the exercise of reasonable diligence is upon the claimant.

(2) Any person having a claim against a governmental entity, or against the governmental entity's employee for an act or omission occurring during the performance of the employee's duties, within the scope of employment, or under color of authority shall file a written notice of claim with the entity before maintaining an action, regardless of whether or not the function giving rise to the claim is characterized as governmental.

(3) (a) The notice of claim shall set forth:

(i) a brief statement of the facts;

(ii) the nature of the claim asserted;

(iii) the damages incurred by the claimant so far as the damages are known; and

(iv) if the claim is being pursued against a governmental employee individually as provided in Subsection 63G-7-202(3)(c), the name of the employee.

(b) The notice of claim shall be:

(i) signed by the person making the claim or that person's agent, attorney, parent, or legal guardian, using any form of signature recognized by law as binding; and

(ii) [~~directed and delivered by hand or by mail according to the requirements of Section 68-3-8.5~~] delivered, transmitted, or sent, as provided in Subsection (3)(c), to the office of:

(A) the city or town clerk, when the claim is against an incorporated city or town;

(B) the county clerk, when the claim is against a county;

(C) the superintendent or business administrator of the board, when the claim is against a school district or board of education;

(D) the presiding officer or secretary or clerk of the board, when the claim is against a local district or special service district;

(E) the attorney general, when the claim is against the state;

(F) a member of the governing board, the executive director, or executive secretary, when the claim is against any other public board, commission, or body; or

(G) the agent authorized by a governmental entity to receive the notice of claim by the governmental entity under Subsection (5)(e).

(c) A notice of claim shall be:

(i) delivered by hand to the physical address provided under Subsection (5)(a)(iii)(A);

(ii) transmitted by mail to the physical address provided under Subsection (5)(a)(iii)(A), according to the requirements of Section 68-3-8.5; or

(iii) sent by electronic mail to the email address provided under Subsection (5)(a)(iii)(B).

(d) A claimant who submits a notice of claim by electronic mail under Subsection (3)(c)(iii) shall contemporaneously send a copy of the notice of claim by electronic mail to the city attorney, district attorney, county attorney, attorney general, or other attorney, as the case may be, who represents the governmental entity.

(4) (a) If an injury that may reasonably be expected to result in a claim against a governmental

entity is sustained by a claimant who is under the age of majority or mentally incompetent, that governmental entity may file a request with the court for the appointment of a guardian ad litem for the potential claimant.

(b) If a guardian ad litem is appointed, the time for filing a claim under Section 63G-7-402 begins when the order appointing the guardian ad litem is issued.

(5) (a) A governmental entity subject to suit under this chapter shall file a statement with the Division of Corporations and Commercial Code within the Department of Commerce containing:

(i) the name and address of the governmental entity;

(ii) the office or agent designated to receive a notice of claim; and

(iii) (A) the physical address [~~at which the~~] to which a notice of claim is to be [~~directed and~~] delivered by hand or transmitted by mail, for a notice of claim that a claimant chooses to hand deliver or transmit by mail; and

(B) the email address to which a notice of claim is to be sent, for a notice of claim that a claimant chooses to send by email, and the email address of the city attorney, district attorney, county attorney, attorney general, or other attorney, as the case may be, who represents the governmental entity.

(b) A governmental entity shall update the governmental entity's statement as necessary to ensure that the information is accurate.

(c) The Division of Corporations and Commercial Code shall develop a form for governmental entities to complete that provides the information required by Subsection (5)(a).

(d) (i) A newly incorporated municipality shall file the statement required by Subsection (5)(a) promptly after the lieutenant governor issues a certificate of incorporation under Section 67-1a-6.5.

(ii) A newly incorporated local district shall file the statement required by Subsection (5)(a) at the time that the written notice is filed with the lieutenant governor under Section 17B-1-215.

(e) A governmental entity may, in the governmental entity's statement, identify an agent authorized to accept notices of claim on behalf of the governmental entity.

(6) The Division of Corporations and Commercial Code shall:

(a) maintain an index of the statements required by this section arranged both alphabetically by entity and by county of operation; and

(b) make the indices available to the public both electronically and via hard copy.

(7) A governmental entity may not challenge the validity of a notice of claim on the grounds that it was not directed and delivered to the proper office or agent if the error is caused by the governmental entity's failure to file or update the statement required by Subsection (5).

(8) A governmental entity may not challenge the timeliness, under Section 63G-7-402, of a notice of claim if:

(a) (i) the claimant files a notice of claim with the governmental entity:

(A) in accordance with the requirements of this section; and

(B) within 30 days after the expiration of the time for filing a notice of claim under Section 63G-7-402;

(ii) the claimant demonstrates that the claimant previously filed a notice of claim:

(A) in accordance with the requirements of this section;

(B) with an incorrect governmental entity;

(C) in the good faith belief that the claimant was filing the notice of claim with the correct governmental entity;

(D) within the time for filing a notice of claim under Section 63G-7-402; and

(E) no earlier than 30 days before the expiration of the time for filing a notice of claim under Section 63G-7-402; and

(iii) the claimant submits with the notice of claim:

(A) a copy of the previous notice of claim that was filed with a governmental entity other than the correct governmental entity; and

(B) proof of the date the previous notice of claim was filed; or

(b) (i) the claimant delivers by hand [~~or~~], transmits by mail, or sends by email a notice of claim:

(A) to an elected official or executive officer of the correct governmental entity but not to the correct office under Subsection (3)(b)(ii); and

(B) that otherwise meets the requirements of Subsection (3); and

(ii) (A) the claimant contemporaneously sends a hard copy or electronic copy of the notice of claim to the office of the city attorney, district attorney, county attorney, attorney general, or other attorney, as the case may be, representing the correct governmental entity; or

(B) the governmental entity does not, within 60 days after the claimant delivers the notice of claim under Subsection (8)(b)(i), provide written notification to the claimant of the delivery defect and of the identity of the correct office to which the claimant is required to deliver the notice of claim.

CHAPTER 327
S. B. 152
Passed February 25, 2021
Approved March 17, 2021
Effective May 5, 2021

VEHICLE LOAD PENALTIES AMENDMENTS

Chief Sponsor: Jani Iwamoto
House Sponsor: Mike Winder

LONG TITLE

General Description:

This bill amends provisions related to penalties for operating a vehicle with an unsecured load.

Highlighted Provisions:

This bill:

- extends the time period for which a subsequent violation is subject to an increased fine.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

72-7-409, as last amended by Laws of Utah 2017, Chapter 150

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 72-7-409 is amended to read:

72-7-409. Loads on vehicles -- Limitations -- Confining, securing, and fastening load required -- Penalty.

(1) As used in this section:

(a) "Agricultural product" means any raw product which is derived from agriculture, including silage, hay, straw, grain, manure, and other similar product.

(b) (i) "Unsecured load" means the contents of a vehicle, operated on a highway, not sufficiently covered, confined, fastened, or otherwise secured in a way to prevent the contents from escaping the vehicle.

(ii) "Unsecured load" includes materials such as dirt, sand, gravel, rock fragments, pebbles, crushed base, aggregate, any other similar material, or scrap metal or other loose material on any portion of the vehicle not designed to carry the material.

(c) "Vehicle" means the same as that term is defined in Section 41-1a-102.

(2) Except as provided in Subsections (3) through (5), a person may not:

(a) operate a vehicle with an unsecured load on any highway; or

(b) operate a vehicle carrying trash or garbage without a covering over the entire load.

(3) (a) A vehicle carrying dirt, sand, gravel, rock fragments, pebbles, crushed base, aggregate, any other similar material, or scrap metal shall have a covering over the entire load unless:

(i) the highest point of the load does not extend above the top of any exterior wall or sideboard of the cargo compartment of the vehicle; and

(ii) the outer edges of the load are at least six inches below the top inside edges of the exterior walls or sideboards of the cargo compartment of the vehicle.

(b) The following material is exempt from the provisions of Subsection (3)(a):

(i) hot mix asphalt;

(ii) construction debris or scrap metal if the debris or scrap metal is a size and in a form not susceptible to being blown out of the vehicle;

(iii) material being transported across a highway between two parcels of property that would be contiguous but for the highway that is being crossed; and

(iv) material listed under Subsection (3)(a) that is enclosed on all sides by containers, bags, or packaging.

(c) A chemical substance capable of coating or bonding a load so that the load is confined on a vehicle, may be considered a covering for purposes of Subsection (3)(a) so long as the chemical substance remains effective at confining the load.

(4) Subsection (2) does not apply to a vehicle or implement of husbandry carrying an agricultural product, if the agricultural product is:

(a) being transported in a manner which is not a hazard or a potential hazard to the safe operation of the vehicle or to other highway users; and

(b) loaded in a manner that only allows minimal spillage.

(5) (a) An authorized vehicle performing snow removal services on a highway is exempt from the requirements of this section.

(b) This section does not prohibit the necessary spreading of any substance connected with highway maintenance, construction, securing traction, or snow removal.

(6) (a) Any person suspected of operating a vehicle with an unsecured load on a highway may be issued a warning.

(b) Any person who violates this section is guilty of:

(i) an infraction, if the violation creates a hazard but does not lead to a motor vehicle accident;

(ii) a class B misdemeanor, if the violation creates a hazard that leads to a motor vehicle accident; or

(iii) a class A misdemeanor, if the violation creates a hazard that leads to a motor vehicle accident that results in the serious bodily injury or death of a person.

(c) A person who violates a provision of this section shall be fined not less than:

(i) $200 for a violation; or

(ii) $500 for a second or subsequent violation [~~within three years of a previous violation~~] within six years of a previous violation of this section.

(d) A person who violates a provision of this section while operating a commercial vehicle as defined in Section 72-9-102 shall be fined:

(i) not less than $500 for a violation; or

(ii) $1,000 for a second or subsequent violation [~~within three years of a previous violation~~] within six years of a previous violation of this section.

(7) As resources and opportunities allow, the department shall implement programs or activities that increase public awareness on the importance of properly securing loads.

CHAPTER 328
S. B. 154
Passed March 3, 2021
Approved March 17, 2021
Effective May 5, 2021

TEACHER SALARY SUPPLEMENT PROGRAM AMENDMENTS

Chief Sponsor: Scott D. Sandall
House Sponsor: Dan N. Johnson

LONG TITLE

General Description:

This bill amends provisions relating to the Teacher Salary Supplement Program.

Highlighted Provisions:

This bill:

- allows a teacher with a professional deaf education license issued by the State Board of Education to be eligible for the Teacher Salary Supplement Program; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53F-2-504, as last amended by Laws of Utah 2020, Chapters 308, 330, 338, and 354

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53F-2-504 is amended to read:

53F-2-504. Teacher Salary Supplement Program.

(1) As used in this section:

(a) "Eligible teacher" means a teacher who:

(i) has a qualifying educational background or qualifying teaching background;

(ii) has a supplement-approved assignment that corresponds to the teacher's qualifying educational background or qualifying teaching background;

(iii) qualifies for the teacher's supplement-approved assignment in accordance with state board rule; and

(iv) is a new employee or received at least a satisfactory rating on the teacher's most recent evaluation.

(b) "Field of computer science" means:

(i) computer science; or

(ii) computer information technology.

(c) "Field of science" means:

(i) integrated science;

(ii) chemistry;

(iii) physics;

(iv) physical science; or

(v) general science.

(d) "Qualifying educational background" means:

(i) for a teacher who is assigned a secondary school level mathematics course:

(A) a bachelor's degree major, master's degree, or doctoral degree in mathematics; or

(B) a bachelor's degree major, master's degree, or doctoral degree that has course requirements that are substantially equivalent to the course requirements for a bachelor's degree major, master's degree, or doctoral degree in mathematics;

(ii) for a teacher who is assigned a grade 7 or 8 integrated science course, chemistry course, or physics course:

(A) a bachelor's degree major, master's degree, or doctoral degree in a field of science; or

(B) a bachelor's degree major, master's degree, or doctoral degree that has course requirements that are substantially equivalent to the course requirements of those required for a bachelor's degree major, master's degree, or doctoral degree in a field of science;

(iii) for a teacher who is assigned a computer science course:

(A) a bachelor's degree major, master's degree, or doctoral degree in a field of computer science; or

(B) a bachelor's degree major, master's degree, or doctoral degree that has course requirements that are substantially equivalent to the course requirements of those required for a bachelor's degree major, master's degree, or doctoral degree in a field of computer science; or

(iv) for a teacher who is assigned to teach special education, a bachelor's degree major, master's degree, or doctoral degree in special education.

(e) "Qualifying teaching background" means:

(i) the teacher has been teaching the same supplement-approved assignment in Utah public schools for at least 10 years[.]; or

(ii) the teacher has a professional deaf education license issued by the state board.

(f) "Supplement-approved assignment" means an assignment to teach:

(i) a secondary school level mathematics course;

(ii) integrated science in grade 7 or 8;

(iii) chemistry;

(iv) physics;

(v) computer science; [~~or~~]

(vi) special education[.]; or

(vii) deaf education.

(2) (a) Subject to future budget constraints, the Legislature shall:

(i) annually appropriate money to the Teacher Salary Supplement Program to maintain annual salary supplements for eligible teachers provided in previous years; and

(ii) provide salary supplements to new recipients.

(b) Money appropriated for the Teacher Salary Supplement Program shall include money for the following employer-paid benefits:

(i) retirement;

(ii) workers' compensation;

(iii) Social Security; and

(iv) Medicare.

(3) (a) The annual salary supplement for an eligible teacher who is assigned full-time to a supplement-approved assignment is $4,100 and funded through an appropriation described in Subsection (2).

(b) An eligible teacher who is assigned part-time to a supplement-approved assignment shall receive a partial salary supplement based on the number of hours worked in the supplement-approved assignment.

(4) The state board shall:

(a) create an online application system for a teacher to apply to receive a salary supplement through the Teacher Salary Supplement Program;

(b) determine if a teacher is an eligible teacher;

(c) verify, as needed, the determinations made under Subsection (4)(b) with school district and school administrators; and

(d) certify a list of eligible teachers.

(5) An eligible teacher shall apply to the state board, as provided by the board to receive the salary supplement authorized in this section in accordance with state board rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(6) (a) The state board shall establish and administer an appeal process for a teacher to follow if the teacher applies for a salary supplement and does not receive a salary supplement under Subsection (8).

(b) (i) The appeal process established in Subsection (6)(a) shall allow a teacher to appeal eligibility as an eligible teacher with a qualifying educational background on the basis that the teacher has a degree or degree major with course requirements that are substantially equivalent to the qualifying educational background associated with the teacher's supplement-approved assignment.

(ii) A teacher shall provide transcripts and other documentation to the state board in order for the state board to determine if the teacher has a degree or degree major with course requirements that are substantially equivalent to the qualifying educational background associated with the teacher's supplement-approved assignment.

(c) (i) The appeal process established under Subsection (6)(a) shall allow a teacher to appeal eligibility as an eligible teacher with a qualifying teaching background on the basis that the teacher has a qualifying teaching background.

(ii) The teacher shall provide to the state board evidence to verify that the teacher has a qualifying teaching background.

(7) (a) The state board shall distribute money appropriated to the Teacher Salary Supplement Program to school districts and charter schools for the Teacher Salary Supplement Program in accordance with the provisions of this section.

(b) The state board shall include the employer-paid benefits described under Subsection (2)(b) in the amount of each salary supplement.

(c) The employer-paid benefits described under Subsection (2)(b) are an addition to the salary supplement limits described under Subsection (3).

(8) (a) Money received from the Teacher Salary Supplement Program shall be used by a school district or charter school to provide a salary supplement equal to the amount specified in Subsection (3) for each eligible teacher.

(b) The salary supplement is part of an eligible teacher's base pay, subject to eligible teacher's qualification as an eligible teacher every year, semester, or trimester.

(9) Notwithstanding the provisions of this section, if the appropriation for the program is insufficient to cover the costs associated with salary supplements, the state board may distribute the funds in the Teacher Salary Supplement Program on a pro rata basis.

CHAPTER 329
S. B. 156
Passed March 3, 2021
Approved March 17, 2021
Effective May 5, 2021

CRIMINAL OFFENSE AMENDMENTS

Chief Sponsor: Gene Davis
House Sponsor: Walt Brooks

LONG TITLE

General Description:

This bill addresses offenses against property.

Highlighted Provisions:

This bill:

- expands, in relation to offenses against property, the definition of the postal service to include private common mail carriers.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

76-6-1001, as last amended by Laws of Utah 2020, Chapter 223

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 76-6-1001 is amended to read:

76-6-1001. Definitions.

As used in this part:

(1) "Common mail carrier" means a person engaged in or transacting the business of collecting, transporting, or delivering mail, other than the United States Postal Service.

(2) "Key" means any instrument used by the postal service and postal customer, and which is designed to operate the lock on a mail receptacle.

(3) "Mail" means any letter, card, parcel, or other material, along with its contents, that:

(a) has postage affixed by the postal customer or postal service;

(b) has been accepted for delivery by the postal service;

(c) the postal customer leaves for collection by the postal service; or

(d) the postal service delivers to the postal customer.

(4) "Mail receptacle" means a mail box, post office box, rural box, or any place or area intended or used by postal customers or a postal service for the collection or delivery of mail.

(5) "Personal identifying information" means the same as that term is defined in Section 76-6-1102.

(6) "Postage" means a postal service stamp, permit imprint, meter strip, or other indication of either prepayment for postal service provided or authorization by the postal service for collection and delivery of mail.

(7) "Postal service" means the United States Postal Service [~~and any~~] or a private common mail carrier.

CHAPTER 330
S. B. 159
Passed March 4, 2021
Approved March 17, 2021
Effective May 5, 2021

LAW ENFORCEMENT DATA MANAGEMENT REQUIREMENTS

Chief Sponsor: Jacob L. Anderegg
House Sponsor: Paul Ray

LONG TITLE

General Description:

This bill addresses issues with the collection and sharing of law enforcement data.

Highlighted Provisions:

This bill:

- defines terms;
- requires the Utah Commission on Criminal and Juvenile Justice to assemble a panel of professionals and experts to study and make recommendations regarding the collection and management of public safety data throughout the state;
- requires the Utah Commission on Criminal and Juvenile Justice to report on the panel's findings and recommendations to the Law Enforcement and Criminal Justice Interim Committee; and
- provides a repeal date.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63I-2-263, as last amended by Laws of Utah 2020, Fifth Special Session, Chapter 12

ENACTS:

63M-7-217, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63I-2-263 is amended to read:

63I-2-263. Repeal dates, Title 63A to Title 63N.

(1) On July 1, 2020:

(a) Subsection 63A-1-203(5)(a)(i) is repealed; and

(b) in Subsection 63A-1-203(5)(a)(ii), the language that states "appointed on or after May 8, 2018," is repealed.

(2) Section 63A-3-111 is repealed June 30, 2021.

(3) Title 63C, Chapter 19, Higher Education Strategic Planning Commission is repealed July 1, 2021.

(4) Title 63C, Chapter 22, Digital Wellness, Citizenship, and Safe Technology Commission is repealed July 1, 2023.

(5) The following sections regarding the World War II Memorial Commission are repealed on July 1, 2022:

(a) Section 63G-1-801;

(b) Section 63G-1-802;

(c) Section 63G-1-803; and

(d) Section 63G-1-804.

(6) Subsections 63G-6a-802(1)(d) and 63G-6a-802(3)(b)(iii), regarding a procurement relating to a vice presidential debate, are repealed January 1, 2021.

(7) In relation to the State Fair Park Committee, on January 1, 2021:

(a) Section 63H-6-104.5 is repealed; and

(b) Subsections 63H-6-104(8) and (9) are repealed.

(8) Section 63H-7a-303 is repealed July 1, 2024.

(9) Subsection 63J-1-206(3)(c), relating to coronavirus, is repealed July 1, 2021.

(10) In relation to the Employability to Careers Program Board, on July 1, 2022:

(a) Subsection 63J-1-602.1(57) is repealed;

(b) Subsection 63J-4-301(1)(h), related to the review of data and metrics, is repealed; and

(c) Title 63J, Chapter 4, Part 7, Employability to Careers Program, is repealed.

(11) Title 63M, Chapter 4, Part 8, Voluntary Home Energy Information Pilot Program Act, is repealed January 1, 2022.

(12) Sections 63M-7-213 and 63M-7-213.5 are repealed on January 1, 2023.

(13) Section 63M-7-217 is repealed on July 1, 2022.

[~~(13)~~] (14) Subsection 63N-12-508(3) is repealed December 31, 2021.

[~~(14)~~] (15) Title 63N, Chapter 13, Part 3, Facilitating Public-Private Partnerships Act, is repealed January 1, 2024.

[~~(15)~~] (16) Title 63N, Chapter 15, COVID-19 Economic Recovery Programs, is repealed December 31, 2021.

Section 2. Section 63M-7-217 is enacted to read:

63M-7-217. Public safety data collection.

(1) As used in this section:

(a) "Commission" means the State Commission on Criminal and Juvenile Justice created in Section 63M-7-201.

(b) "Committee" means the Law Enforcement and Criminal Justice Interim Committee.

(c) "Executive director" means the executive director of the commission appointed under Section 63M-7-203.

(d) "Records system" means a records management system that is used to create, store, retrieve, retain, archive, or view information, records, documents, or files pertaining to public safety.

(2) The commission shall assemble a panel of professionals and experts in the areas of law enforcement, public safety, records management technology, and county and municipal government.

(3) Under the direction of the executive director or the executive director's designee, the panel described in Subsection (2) shall study and make recommendations regarding:

(a) the various records systems that are being used by public safety entities throughout the state;

(b) the data that public safety entities are collecting throughout the state and what data should be collected to inform public safety policymaking decisions and achieve the goals of the Justice Reinvestment Initiative;

(c) possible ways to connect the various records systems used throughout the state so that public safety data can be shared between public safety entities and with policymakers;

(d) possible statewide policies for public safety data collection, including a uniform data coding system;

(e) the estimated cost of implementing the options identified by the panel under Subsections (3)(b) through (d); and

(f) a projected timeline for implementing the options identified by the panel under Subsections (3)(b) through (d).

(4) On or before the November 2021 interim meeting, the commission shall provide a report to the committee that includes the findings and recommendations of the panel described in Subsection (3).

CHAPTER 331
S. B. 160
Passed February 24, 2021
Approved March 17, 2021
Effective May 5, 2021

STATE AUDIT AMENDMENTS

Chief Sponsor: David G. Buxton
House Sponsor: James A. Dunnigan

LONG TITLE

General Description:

This bill modifies provisions on legislative budget and appropriation audits.

Highlighted Provisions:

This bill:

- authorizes the legislative auditor general to perform appropriation audits of executive branch entities and local education agencies; and
- clarifies requirements for audit content and procedures.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

36-12-15.1, as last amended by Laws of Utah 2015, Chapter 118

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 36-12-15.1 is amended to read:

36-12-15.1. Budget and appropriation audits.

(1) As used in this section, "entity" means:

(a) an entity in the executive branch that receives an ongoing line item appropriation in an appropriations act; and

(b) any local education agency, as defined in Section 53E-1-102, that receives public funds.

[~~(2) The Office of Legislative Auditor General shall:~~]

[~~(a) each year perform an audit of at least one entity's appropriations, in addition to other audits performed by the Office of Legislative Auditor General, that evaluates:~~]

(2) (a) Each year, subject to the availability of work capacity and the discretion of the Legislative Audit Committee, the Office of Legislative Auditor General may, in addition to other audits performed by the office, perform:

(i) an audit of one or more executive branch entity's appropriations; and

(ii) an audit of one or more local education agency's appropriations.

(b) An audit performed pursuant to Subsection (2)(a) shall, as is appropriate for each individual audit:

(i) evaluate the extent to which the entity has efficiently and effectively used the appropriation by identifying:

(A) the entity's appropriation history;

(B) the entity's spending and efficiency history; and

(C) historic trends in the entity's operational performance effectiveness;

(ii) evaluate whether the entity's size and operation are commensurate with the entity's spending history; [~~and~~]

(iii) evaluate whether the entity is diligent in its stewardship of state resources;

(iv) provide an in-depth analysis review of the entity's operations performance improvements;

[~~(b)~~] (v) if possible, incorporate the audit methodology [~~described in Subsection (2)(a) in~~] of other audits performed by the Office of Legislative Auditor General; and

[~~(c)~~] (vi) [~~conduct the audits described in Subsection (2)(a) according~~] be conducted according to the process established for the Audit Subcommittee created in Section 36-12-8[~~;~~].

[~~(d) after release of~~] (c) After releasing an audit report [~~by~~] pursuant to Subsection (2)(a), the Audit Subcommittee[~~,~~] shall make the audit report available to:

(i) each member of the Senate and the House of Representatives; and

(ii) the governor or the governor's designee[~~; and~~].

[~~(e)~~] (d) The Office of Legislative Auditor General shall summarize the findings of an audit described in Subsection (2)(a) in:

(i) a unique section of the legislative auditor general's annual report; and

(ii) a format that the legislative fiscal analyst may use in preparation of the annual appropriations no later than 30 days before the day on which the Legislature convenes.

(3) The Office of Legislative Auditor General shall consult with the legislative fiscal analyst in preparing the summary required by Subsection (2)[~~(e)~~](d).

(4) The Legislature, in evaluating an entity's request for an increase in its base budget, shall:

(a) review the audit report required by this section and any relevant audits; and

(b) consider the entity's request for an increase in its base budget in light of the entity's prior history of savings and efficiencies as evidenced by the audit report required by this section.

CHAPTER 332
S. B. 163
Passed March 5, 2021
Approved March 17, 2021
Effective May 5, 2021

CAMPUS SAFETY AMENDMENTS

Chief Sponsor: Jani Iwamoto
House Sponsor: V. Lowry Snow

LONG TITLE

General Description:

This bill amends provisions related to campus safety.

Highlighted Provisions:

This bill:

- requires campus law enforcement to share a report of a crime that occurs outside campus law enforcement's jurisdiction with the local law enforcement agency that has jurisdiction;
- requires an institution of higher education to:
  - create a report of crime statistics aggregated by type of housing facility; and
  - include the report in the institution's annual campus safety report to the Education Interim Committee and the Law Enforcement and Criminal Justice Interim Committee;
- defines terms; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53B-28-401, as last amended by Laws of Utah 2020, Chapter 365

ENACTS:

53B-28-403, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53B-28-401 is amended to read:

53B-28-401. Campus safety plans and training -- Institution duties -- Governing board duties.

(1) As used in this section:

(a) "Covered offense" means:

(i) sexual assault;

(ii) domestic violence;

(iii) dating violence; or

(iv) stalking.

(b) "Institution" means an institution of higher education described in Section 53B-1-102.

(c) "Student organization" means a club, group, sports team, fraternity or sorority, or other organization:

(i) of which the majority of members is composed of students enrolled in an institution; and

(ii) (A) that is officially recognized by the institution; or

(B) seeks to be officially recognized by the institution.

(2) An institution shall develop a campus safety plan that addresses:

(a) where an individual can locate the institution's policies and publications related to a covered offense;

(b) institution and community resources for a victim of a covered offense;

(c) the rights of a victim of a covered offense, including the measures the institution takes to ensure, unless otherwise provided by law, victim confidentiality throughout all steps in the reporting and response to a covered offense;

(d) how the institution informs the campus community of a crime that presents a threat to the campus community;

(e) availability, locations, and methods for requesting assistance of security personnel on the institution's campus;

(f) guidance on how a student may contact law enforcement for incidents that occur off campus;

(g) institution efforts related to increasing campus safety, including efforts related to the institution's increased response in providing services to victims of a covered offense, that:

(i) the institution made in the preceding 18 months; and

(ii) the institution expects to make in the upcoming 24 months;

(h) coordination and communication between institution resources and organizations, including campus law enforcement;

(i) institution coordination with local law enforcement or community resources, including coordination related to a student's safety at an off-campus location; and

(j) how the institution requires a student organization to provide the campus safety training as described in Subsection (5).

(3) An institution shall:

(a) prominently post the institution's campus safety plan on the institution's website and each of the institution's campuses; and

(b) annually update the institution's campus safety plan.

(4) An institution shall develop a campus safety training curriculum that addresses:

(a) awareness and prevention of covered offenses, including information on institution and community resources for a victim of a covered offense;

(b) bystander intervention; and

(c) sexual consent.

(5) An institution shall require a student organization, in order for the student organization to receive or maintain official recognition by the institution, to annually provide campus safety training, using the curriculum described in Subsection (4), to the student organization's members.

(6) The board shall:

(a) on or before July 1, 2019, establish minimum requirements for an institution's campus safety plan described in Subsection (2);

(b) identify resources an institution may use to develop a campus safety training curriculum as described in Subsection (4); and

(c) report annually to the Education Interim Committee and the Law Enforcement and Criminal Justice Interim Committee, at or before the committees' November meetings, on:

(i) the implementation of the requirements described in this section[.]; and

(ii) crime statistics aggregated by housing facility as described in Subsection 53B-28-403(2).

Section 2. Section 53B-28-403 is enacted to read:

53B-28-403. Student housing crime reporting.

(1) As used in this section:

(a) "Campus law enforcement" means an institution's police department.

(b) "Crime statistics" means the number of each of the crimes in 34 C.F.R. Sec. 668.46(c)(1) that are reported to a local police agency or campus law enforcement, listed by type of crime.

(c) "Institution" means an institution of higher education described in Section 53B-2-101.

(d) (i) "Institution noncampus housing facility" means a building or property that:

(A) is used for housing students;

(B) is not part of the institution's campus; and

(C) the institution owns, manages, controls, or leases;

(ii) "Institution noncampus housing facility" includes real property that is adjacent to, and is used in direct support of, the building or property described in Subsection (1)(d)(i).

(e) "Local law enforcement agency" means a state or local law enforcement agency other than campus law enforcement.

(f) (i) "On-campus housing facility" means a building or property that is:

(A) used for housing students; and

(B) part of the institution's campus.

(ii) "On-campus housing facility" includes real property that is:

(A) adjacent to the on-campus housing facility; and

(B) used in direct support of the on-campus housing facility.

(g) "Student housing" means:

(i) an institution noncampus housing facility;

(ii) an on-campus housing facility; or

(iii) a student organization noncampus housing facility.

(h) "Student organization" means the same as that term is defined in Section 53B-28-401.

(i) "Student organization noncampus housing facility" means a building or property that:

(i) is used for housing students;

(ii) is not part of the institution's campus; and

(iii) (A) a student organization owns, manages, controls, or leases; or

(B) is real property that is adjacent to the student organization noncampus housing facility and is used in direct support of the noncampus housing facility.

(2) An institution shall:

(a) create a report of crime statistics aggregated by:

(i) on-campus housing facility, identified and listed individually using the institution's system for inventorying institution facilities;

(ii) institution noncampus housing facility, identified and listed individually using the institution's system for inventorying institution facilities; and

(iii) student organization noncampus housing facilities, identified and listed individually using the institution's system for identifying student organization noncampus housing facilities; and

(b) include the report described in Subsection (2)(a) in the report described in Subsection 53B-28-401(6).

(3) Upon request from an institution, a local law enforcement agency shall provide to the institution crime statistics for each student housing facility over which the local law enforcement agency has jurisdiction.

(4) Except as provided in Section 53B-28-303, when campus law enforcement receives a complaint or report of a crime that campus law enforcement reasonably determines occurred outside of campus law enforcement's jurisdiction, campus law

enforcement shall share any record of the complaint or report with the local law enforcement agency with jurisdiction.

CHAPTER 333
S. B. 164
Passed March 4, 2021
Approved March 17, 2021
Effective May 5, 2021

UTAH HOUSING AFFORDABILITY AMENDMENTS

Chief Sponsor: Jacob L. Anderegg
House Sponsor: Steve Waldrip

LONG TITLE

General Description:

This bill modifies provisions related to affordable housing and the provision of services related to affordable housing.

Highlighted Provisions:

This bill:

- provides that a political subdivision may grant real property that will be used for affordable housing units;
- describes additional activities that may receive funding from the Olene Walker Housing Loan Fund, including a mediation program and predevelopment grants;
- modifies the responsibilities of the Automated Geographic Reference Center; and
- makes technical changes.

Monies Appropriated in this Bill:

This bill appropriates in fiscal year 2022:

- to the Department of Workforce Services -- Olene Walker Housing Loan Fund as a one-time appropriation:
  - from the General Fund, One-time, $800,000.

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

10-9a-401, as last amended by Laws of Utah 2019, Chapters 136 and 327
10-9a-404, as last amended by Laws of Utah 2020, Chapter 434
10-9a-408, as last amended by Laws of Utah 2020, Chapter 434
35A-8-505, as last amended by Laws of Utah 2020, Chapter 241
63F-1-507, as last amended by Laws of Utah 2019, Chapter 35

ENACTS:

10-8-501, Utah Code Annotated 1953
35A-8-507.5, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 10-8-501 is enacted to read:

Part 5. Grants for Affordable Housing

10-8-501. Grant of real property for affordable housing.

(1) As used in this part, "affordable housing unit" means a rental housing unit where a household whose income is no more than 50% of the area median income for households where the housing unit is located is able to occupy the housing unit paying no more than 31% of the household's income for gross housing costs including utilities.

(2) Subject to the requirements of this section, and for a municipality, Subsection 10-8-2(4), a political subdivision may grant real property owned by the political subdivision to an entity for the development of one or more affordable housing units on the real property that will serve households at various income levels whereby at least 20% of the housing units are affordable housing units.

(3) A political subdivision shall ensure that real property granted as described in Subsection (2) is deed restricted for affordable housing for at least 30 years after the day on which each affordable housing unit is completed and occupied.

(4) If applicable, a political subdivision granting real property under this section shall comply with the provisions of Title 78B, Chapter 6, Part 5, Eminent Domain.

(5) A municipality granting real property under this section is not subject to the provisions of Subsection 10-8-2(3).

Section 2. Section 10-9a-401 is amended to read:

10-9a-401. General plan required -- Content.

(1) In order to accomplish the purposes of this chapter, each municipality shall prepare and adopt a comprehensive, long-range general plan for:

(a) present and future needs of the municipality; and

(b) growth and development of all or any part of the land within the municipality.

(2) The general plan may provide for:

(a) health, general welfare, safety, energy conservation, transportation, prosperity, civic activities, aesthetics, and recreational, educational, and cultural opportunities;

(b) the reduction of the waste of physical, financial, or human resources that result from either excessive congestion or excessive scattering of population;

(c) the efficient and economical use, conservation, and production of the supply of:

(i) food and water; and

(ii) drainage, sanitary, and other facilities and resources;

(d) the use of energy conservation and solar and renewable energy resources;

(e) the protection of urban development;

(f) if the municipality is a town, the protection or promotion of moderate income housing;

(g) the protection and promotion of air quality;

(h) historic preservation;

(i) identifying future uses of land that are likely to require an expansion or significant modification of

services or facilities provided by each affected entity; and

(j) an official map.

(3) (a) The general plan of a municipality, other than a town, shall plan for moderate income housing growth.

(b) On or before December 1, 2019, each of the following that have a general plan that does not comply with Subsection (3)(a) shall amend the general plan to comply with Subsection (3)(a):

(i) a city of the first, second, third, or fourth class;

(ii) a city of the fifth class with a population of 5,000 or more, if the city is located within a county of the first, second, or third class; and

(iii) a metro township with a population of 5,000 or more.

(c) The population figures described in Subsections (3)(b)(ii) and (iii) shall be derived from:

(i) the most recent official census or census estimate of the United States Census Bureau; or

(ii) if a population figure is not available under Subsection (3)(c)(i), an estimate of the Utah Population Committee.

(4) Subject to Subsection 10-9a-403[~~(2)~~](3), the municipality may determine the comprehensiveness, extent, and format of the general plan.

Section 3. Section 10-9a-404 is amended to read:

10-9a-404. Public hearing by planning commission on proposed general plan or amendment -- Notice -- Revisions to general plan or amendment -- Adoption or rejection by legislative body.

(1) (a) After completing its recommendation for a proposed general plan, or proposal to amend the general plan, the planning commission shall schedule and hold a public hearing on the proposed plan or amendment.

(b) The planning commission shall provide notice of the public hearing, as required by Section 10-9a-204.

(c) After the public hearing, the planning commission may modify the proposed general plan or amendment.

(2) The planning commission shall forward the proposed general plan or amendment to the legislative body.

(3) (a) The legislative body may adopt, reject, or make any revisions to the proposed general plan or amendment that it considers appropriate.

(b) If the municipal legislative body rejects the proposed general plan or amendment, it may provide suggestions to the planning commission for the planning commission's review and recommendation.

(4) The legislative body shall adopt:

(a) a land use element as provided in Subsection 10-9a-403[~~(2)~~](3)(a)(i);

(b) a transportation and traffic circulation element as provided in Subsection 10-9a-403[~~(2)~~](3)(a)(ii); and

(c) for a municipality, other than a town, after considering the factors included in Subsection 10-9a-403[~~(2)(b)(ii)~~](3)(b)(iii), a plan to provide a realistic opportunity to meet the need for additional moderate income housing within the next five years.

Section 4. Section 10-9a-408 is amended to read:

10-9a-408. Reporting requirements and civil action regarding moderate income housing element of general plan.

(1) The legislative body of a municipality described in Subsection 10-9a-401(3)(b) shall annually:

(a) review the moderate income housing plan element of the municipality's general plan and implementation of that element of the general plan;

(b) prepare a report on the findings of the review described in Subsection (1)(a); and

(c) post the report described in Subsection (1)(b) on the municipality's website.

(2) The report described in Subsection (1) shall include:

(a) a revised estimate of the need for moderate income housing in the municipality for the next five years;

(b) a description of progress made within the municipality to provide moderate income housing, demonstrated by analyzing and publishing data on the number of housing units in the municipality that are at or below:

(i) 80% of the adjusted median family income;

(ii) 50% of the adjusted median family income; and

(iii) 30% of the adjusted median family income;

(c) a description of any efforts made by the municipality to utilize a moderate income housing set-aside from a community reinvestment agency, redevelopment agency, or community development and renewal agency; and

(d) a description of how the municipality has implemented any of the recommendations related to moderate income housing described in Subsection 10-9a-403[~~(2)~~](3)(b)(iii).

(3) The legislative body of each municipality described in Subsection (1) shall send a copy of the report under Subsection (1) to the Department of Workforce Services, the association of governments in which the municipality is located, and, if located within the boundaries of a metropolitan planning organization, the appropriate metropolitan planning organization.

(4) In a civil action seeking enforcement or claiming a violation of this section or of Subsection 10-9a-404(4)(c), a plaintiff may not recover damages but may be awarded only injunctive or other equitable relief.

Section 5. Section 35A-8-505 is amended to read:

35A-8-505. Activities authorized to receive fund money -- Powers of the executive director.

At the direction of the board, the executive director may:

(1) provide fund money to any of the following activities:

(a) the acquisition, rehabilitation, or new construction of low-income housing units;

(b) matching funds for social services projects directly related to providing housing for special-need renters in assisted projects;

(c) the development and construction of accessible housing designed for low-income persons;

(d) the construction or improvement of a shelter or transitional housing facility that provides services intended to prevent or minimize homelessness among members of a specific homeless subpopulation;

(e) the purchase of an existing facility to provide temporary or transitional housing for the homeless in an area that does not require rezoning before providing such temporary or transitional housing;

(f) the purchase of land that will be used as the site of low-income housing units;

(g) the preservation of existing affordable housing units for low-income persons; [~~and~~]

(h) the award of predevelopment grants in accordance with Section 35A-8-507.5;

(i) the creation or financial support of a mediation program for landlords and tenants designed to minimize the loss of housing for low-income persons, which program may include:

(i) funding for the hiring or training of mediators;

(ii) connecting landlords and tenants with mediation services; and

(iii) providing a limited amount of gap funding to assist a tenant in making a good faith payment towards attorney fees, damages, or other costs associated with eviction proceedings or avoiding eviction proceedings; and

[~~(h)~~] (j) other activities that will assist in minimizing homelessness or improving the availability or quality of housing in the state for low-income persons; and

(2) do any act necessary or convenient to the exercise of the powers granted by this part or reasonably implied from those granted powers, including:

(a) making or executing contracts and other instruments necessary or convenient for the performance of the executive director and board's duties and the exercise of the executive director and board's powers and functions under this part, including contracts or agreements for the servicing and originating of mortgage loans;

(b) procuring insurance against a loss in connection with property or other assets held by the fund, including mortgage loans, in amounts and from insurers it considers desirable;

(c) entering into agreements with a department, agency, or instrumentality of the United States or this state and with mortgagors and mortgage lenders for the purpose of planning and regulating and providing for the financing and refinancing, purchase, construction, reconstruction, rehabilitation, leasing, management, maintenance, operation, sale, or other disposition of residential housing undertaken with the assistance of the department under this part;

(d) proceeding with a foreclosure action, to own, lease, clear, reconstruct, rehabilitate, repair, maintain, manage, operate, assign, encumber, sell, or otherwise dispose of real or personal property obtained by the fund due to the default on a mortgage loan held by the fund in preparation for disposition of the property, taking assignments of leases and rentals, proceeding with foreclosure actions, and taking other actions necessary or incidental to the performance of its duties; and

(e) selling, at a public or private sale, with public bidding, a mortgage or other obligation held by the fund.

Section 6. Section 35A-8-507.5 is enacted to read:

35A-8-507.5. Predevelopment grants.

(1) The executive director under the direction of the board may:

(a) award one or more predevelopment grants to nonprofit or for-profit entities in preparation for the construction of low-income housing units;

(b) award a predevelopment grant in an amount of no more than $50,000 per project;

(c) may only award a predevelopment grant in relation to a project in:

(i) a city of the fifth or sixth class, or a town, in a rural area of the state; or

(ii) any municipality or unincorporated area in a county of the fourth, fifth, or sixth class.

(2) The executive director under the direction of the board shall award each predevelopment grant in accordance with the provisions of this section and the provisions related to grant applications, grant awards, and reporting requirements in this part.

(3) A predevelopment grant:

(a) may be used by a recipient for offsetting the predevelopment funds needed to prepare for the construction of low-income housing units,

including market studies, surveys, environmental and impact studies, technical assistance, and preliminary architecture, engineering, or legal work; and

(b) may not be used by a recipient for staff salaries of a grant recipient or construction costs.

(4) The executive director under the direction of the board shall prioritize the awarding of a predevelopment grant for a project in a county of the fifth or sixth class and where the municipality or unincorporated area has underdeveloped infrastructure as demonstrated by at least two of the following:

(a) limited or no availability of natural gas;

(b) limited or no availability of a sewer system;

(c) limited or no availability of broadband Internet;

(d) unpaved residential streets; or

(e) limited local construction professionals, vendors, or services.

Section 7. Section 63F-1-507 is amended to read:

63F-1-507. State Geographic Information Database.

(1) There is created a State Geographic Information Database to be managed by the center.

(2) The database shall:

(a) serve as the central reference for all information contained in any GIS database by any state agency;

(b) serve as a clearing house and repository for all data layers required by multiple users;

(c) serve as a standard format for geographic information acquired, purchased, or produced by any state agency;

(d) include an accurate representation of all civil subdivision boundaries of the state; and

(e) for each public highway, as defined in Section 72-1-102, in the state, include an accurate representation of the highway's centerline, physical characteristics, and associated street address ranges.

(3) The center shall, in coordination with municipalities, counties, emergency communications centers, and the Department of Transportation:

(a) develop the information described in Subsection (2)(e); and

(b) update the information described in Subsection (2)(e) in a timely manner after a county recorder records a final plat.

(4) The center, in coordination with county assessors and metropolitan planning organizations:

(a) shall inventory existing housing units and their general characteristics within each county of the first or second class to support infrastructure planning and economic development in each of those counties; and

(b) may inventory existing housing units and their general characteristics within one or more counties of the third, fourth, fifth, or sixth class to support infrastructure planning and economic development in one or more of those counties.

[~~(4)~~] (5) Each state agency that acquires, purchases, or produces digital geographic information data shall:

(a) inform the center of the existence of the data layers and their geographic extent;

(b) allow the center access to all data classified public; and

(c) comply with any database requirements established by the center.

[~~(5)~~] (6) At least annually, the State Tax Commission shall deliver to the center information the State Tax Commission receives under Section 67-1a-6.5 relating to the creation or modification of the boundaries of political subdivisions.

[~~(6)~~] (7) The boundary of a political subdivision within the State Geographic Information Database is the official boundary of the political subdivision for purposes of meeting the needs of the United States Bureau of the Census in identifying the boundary of the political subdivision.

Section 8. Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2021, and ending June 30, 2022. These are additions to amounts previously appropriated for fiscal year 2022. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 1

To Department of Worforce Services -- Olene Walker Housing Loan Fund

From General Fund, One-time	$800,000
Schedule of Programs:	
Olene Walker Housing Loan Fund	$800,000

The Legislature intends that:

(1) up to $300,000 of the appropriation in ITEM 1 be used for financing a mediation program for landlords and tenants of low-income housing units;

(2) up to $500,000 of the appropriation in ITEM 1 be used for financing predevelopment grants in advance of the construction of low-income housing units; and

(3) under Section 63J-1-603, appropriations under Subsections (1) and (2) not lapse at the close of fiscal year 2022.

CHAPTER 334
S. B. 165
Passed March 5, 2021
Approved March 17, 2021
Effective May 5, 2021

SEX OFFENDER REGISTRY REVISIONS

Chief Sponsor: Todd D. Weiler
House Sponsor: Craig Hall

LONG TITLE

General Description:

This bill makes changes to the process and requirements for individuals who petition for removal from the Sex and Kidnap Offender Registry.

Highlighted Provisions:

This bill:

- requires that the Department of Corrections automatically remove individuals from the Sex and Kidnap Offender Registry who qualify;
- provides that the department shall notify an individual who is removed that the individual has been removed;
- allows for an individual who has not been automatically removed from the registry by the Department of Corrections but believes their offense is no longer registrable to request removal;
- removes the authority of the Department of Corrections to charge a fee to process a request for removal;
- removes the requirement that registrants must comply with all registration requirements in order to be eligible for removal through petition; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a coordination clause.

Utah Code Sections Affected:

AMENDS:

77-41-112, as last amended by Laws of Utah 2019, Chapter 382
77-41-113, as enacted by Laws of Utah 2020, Chapter 237

Utah Code Sections Affected by Coordination Clause:

77-41-112, as last amended by Laws of Utah 2019, Chapter 382

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 77-41-112 is amended to read:

77-41-112. Removal from registry -- Requirements -- Procedure.

(1) An offender who is required to register with the Sex and Kidnap Offender Registry may petition the court for an order removing the offender from the Sex and Kidnap Offender Registry if:

(a) (i) the offender [~~is~~] was convicted of an offense described in Subsection (2);

(ii) at least five years have passed after the day on which the offender's sentence for the offense [~~terminates~~] terminated;

(iii) the offense is the only offense for which the offender [~~is~~] was required to register;

(iv) the offender [~~is~~] has not been convicted of another offense, excluding a traffic offense, [~~after~~] since the day on which the offender [~~is~~] was convicted of the offense for which the offender is required to register, as evidenced by a certificate of eligibility issued by the bureau;

(v) the offender successfully [~~completes~~] completed all treatment ordered by the court or the Board of Pardons and Parole relating to the offense; and

(vi) the offender [~~pays~~] has paid all restitution ordered by the court or the Board of Pardons and Parole relating to the offense; [~~and~~] or

[~~(vii) the offender complies with all registration requirements required under this chapter at all times; or~~]

(b) (i) if the offender is required to register in accordance with Subsection 77-41-105(3)(a);

(ii) at least 10 years have passed after the later of:

(A) the day on which the offender [~~is~~] was placed on probation;

(B) the day on which the offender [~~is~~] was released from incarceration to parole;

(C) the day on which the offender's sentence [~~is~~] was terminated without parole;

(D) the day on which the offender [~~enters~~] entered a community-based residential program; or

(E) for a minor, as defined in Section 78A-6-105, the day on which the division's custody of the offender [~~is~~] was terminated;

(iii) the offender [~~is~~] has not been convicted of another offense that is a class A misdemeanor, felony, or capital felony within the most recent 10-year period after the date described in Subsection (1)(b)(ii), as evidenced by a certificate of eligibility issued by the bureau;

(iv) the offender successfully [~~completes~~] completed all treatment ordered by the court or the Board of Pardons and Parole relating to the offense; and

(v) the offender [~~pays~~] has paid all restitution ordered by the court or the Board of Pardons and Parole relating to the offense[~~; and~~].

[~~(vi) the offender complies with all registration requirements required under this chapter at all times.~~]

(2) The offenses referred to in Subsection (1)(a)(i) are:

(a) Section 76-4-401, enticing a minor, if the offense is a class A misdemeanor;

(b) Section 76-5-301, kidnapping;

(c) Section 76-5-304, unlawful detention, if the conviction of violating Section 76-5-304 is the only

conviction for which the offender is required to register;

(d) Section 76-5-401, unlawful sexual activity with a minor if, at the time of the offense, the offender is not more than 10 years older than the victim;

(e) Section 76-5-401.1, sexual abuse of a minor, if, at the time of the offense, the offender is not more than 10 years older than the victim;

(f) Section 76-5-401.2, unlawful sexual conduct with a 16 or 17 year old, and at the time of the offense, the offender is not more than 15 years older than the victim; or

(g) Section 76-9-702.7, voyeurism, if the offense is a class A misdemeanor.

(3) (a) (i) An offender seeking removal from the Sex and Kidnap Offender Registry under this section shall apply for a certificate of eligibility from the bureau.

(ii) An offender who intentionally or knowingly provides false or misleading information to the bureau when applying for a certificate of eligibility is guilty of a class B misdemeanor and subject to prosecution under Section 76-8-504.6.

(iii) Regardless of whether the offender is prosecuted, the bureau may deny a certificate of eligibility to an offender who provides false information on an application.

(b) (i) The bureau shall perform a check of records of governmental agencies, including national criminal databases, to determine whether an offender is eligible to receive a certificate of eligibility.

(ii) If the offender meets the requirements described in Subsection (1)(a) or (b), the bureau shall issue a certificate of eligibility to the offender, which is valid for a period of 90 days after the day on which the bureau issues the certificate.

(iii) The bureau shall request information from the department regarding whether the offender meets the requirements.

(iv) (A) Upon request from the bureau under Subsection (3)(b)(iii), the department shall issue a document [~~that states whether the offender meets the requirements described in Subsection (1)(a) or (b), which may be used by the bureau to determine if a certificate of eligibility is appropriate~~] on whether the offender meets the requirements described in Subsection (1)(a) or (b), which shall be used by the bureau to determine if a certificate of eligibility is appropriate.

(B) The document from the department shall also include a statement regarding the offender's compliance with all registration requirements under this chapter.

(v) The bureau shall provide a copy of the document provided to the bureau under Subsection (3)(b)(iv) to the offender upon issuance of a certificate of eligibility.

(4) (a) (i) The bureau shall charge application and issuance fees for a certificate of eligibility in accordance with the process in Section 63J-1-504.

(ii) The application fee shall be paid at the time the offender submits an application for a certificate of eligibility to the bureau.

(iii) If the bureau determines that the issuance of a certificate of eligibility is appropriate, the offender will be charged an additional fee for the issuance of a certificate of eligibility.

(b) Funds generated under this Subsection (4) shall be deposited into the General Fund as a dedicated credit by the department to cover the costs incurred in determining eligibility.

(5) (a) The offender shall file the petition, including original information, the court docket, the certificate of eligibility from the bureau, and the document from the department described in Subsection (3)(b)(iv) with the court, and deliver a copy of the petition to the office of the prosecutor.

(b) Upon receipt of a petition for removal from the Sex and Kidnap Offender Registry, the office of the prosecutor shall provide notice of the petition by first-class mail to the victim at the most recent address of record on file or, if the victim is still a minor under 18 years of age, to the parent or guardian of the victim.

(c) The notice described in Subsection (5)(b) shall include a copy of the petition, state that the victim has a right to object to the removal of the offender from the registry, and provide instructions for registering an objection with the court.

(d) The office of the prosecutor shall provide the following, if available, to the court within 30 days after the day on which the office receives the petition:

(i) presentencing report;

(ii) an evaluation done as part of sentencing; and

(iii) any other information the office of the prosecutor feels the court should consider.

(e) The victim, or the victim's parent or guardian if the victim is a minor under 18 years of age, may respond to the petition by filing a recommendation or objection with the court within 45 days after the day on which the petition is mailed to the victim.

(6) (a) The court shall:

(i) review the petition and all documents submitted with the petition; and

(ii) hold a hearing if requested by the prosecutor or the victim.

(b) The court may grant the petition and order removal of the offender from the registry if the court determines that the offender has met the requirements described in Subsection (1)(a) or (b) and removal is not contrary to the interests of the public.

(c) In determining whether removal is contrary to the interests of the public, the court may not consider removal unless the offender has

substantially complied with all registration requirements under this chapter at all times.

[~~(c)~~] (d) If the court grants the petition, the court shall forward a copy of the order directing removal of the offender from the registry to the department and the office of the prosecutor.

[~~(d)~~] (e) If the court denies the petition, the offender may not submit another petition for three years.

(7) The court shall notify the victim and the Sex and Kidnap Offender Registry office in the department of the court's decision within three days after the day on which the court issues the court's decision in the same manner described in Subsection (5).

Section 2. Section 77-41-113 is amended to read:

77-41-113. Removal for offenses for which registration is no longer required.

(1) An individual who is currently on the Sex and Kidnap Offender Registry because of a conviction for any of the following offenses [~~may contact the department and request removal~~] shall be automatically removed from the registry by the department if the only offense or offenses for which the individual is on the registry is listed in Subsection (2).

(2) This section applies to a conviction for the following offenses:

(a) a class B or class C misdemeanor for enticing a minor, Section 76-4-401;

(b) kidnapping, based upon Subsection 76-5-301(1)(a) or (b);

(c) child kidnapping, Section 76-5-301.1, if the offender was the natural parent of the child victim;

(d) unlawful detention, Section 76-5-304;

(e) a third degree felony for unlawful sexual intercourse before 1986, or a class B misdemeanor for unlawful sexual intercourse, Section 76-5-401; or

(f) sodomy, but not forcible sodomy, Section 76-5-403.

(3) The department shall notify any individual who has been removed from the registry in accordance with Subsection (1). The notice shall include a statement that the individual is no longer required to register as a sex offender.

(4) An individual who is currently on the Sex and Kidnap Offender Registry may submit a request to the department to be removed from the registry.

[~~(3)~~] (5) The department, upon receipt of a request for removal from the registry shall:

(a) check the registry for the individual's current status;

(b) determine whether the individual qualifies for removal based upon this section; and

(c) notify the individual in writing of the department's determination and whether the individual:

(i) qualifies for removal from the registry; or

(ii) does not qualify for removal.

[~~(4)~~] (6) If the department determines that the individual qualifies for removal from the registry, the department shall remove the offender from the registry.

[~~(5)~~] (7) If the department determines that the individual does not qualify for removal from the registry, the department shall provide an explanation in writing for the department's determination. The department's determination is final and not subject to administrative review.

[~~(6)~~] (8) Neither the department nor any employee may be civilly liable for a determination made in good faith in accordance with this section.

[~~(7)~~] (9) The department shall provide a response to a request for removal within 30 days of receipt of the request [~~and payment of the fee~~]. If the response cannot be provided within 30 days, the department shall notify the individual that the response may be delayed up to 30 additional days.

[~~(8) The department may charge a fee, not to exceed $25, for a request for removal.~~]

Section 3. Coordinating S.B. 165 with S.B. 215 -- Technical amendment.

If this S.B. 165 and S.B. 215, Sex Offender Registry Amendments, both pass and become law, the Legislature intends that the Office of Legislative Research and General Counsel, when preparing the Utah Code database for publication, amend Subsection 77-41-112(3)(b)(iv)(A) in S.B. 165 to read:

(A) Upon request from the bureau under Subsection (3)(b)(iii), the department shall issue a document [~~that states whether the offender meets the requirements described in Subsection (1)(a) or (b), which may be used by the bureau to determine if a certificate of eligibility is appropriate~~] on whether the offender meets the requirements described in Subsection (1)(a), (b), or (c), which shall be used by the bureau to determine if a certificate of eligibility is appropriate.

CHAPTER 335
S. B. 166
Passed February 25, 2021
Approved March 17, 2021
Effective May 5, 2021

STATE HOLIDAY AMENDMENTS

Chief Sponsor: Ann Millner
House Sponsor: Val L. Peterson

LONG TITLE

General Description:

This bill modifies a provision relating to state holidays.

Highlighted Provisions:

This bill:

- excludes Sunday from being considered a state holiday for purposes of legislative annual general sessions; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63G-1-301, as last amended by Laws of Utah 2018, Chapter 39

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63G-1-301 is amended to read:

63G-1-301. Legal holidays -- Personal preference day -- Governor authorized to declare additional days.

(1) (a) The following-named days are legal holidays in this state:

(i) every Sunday, except as provided in Subsection (1)(e);

(ii) January 1, called New Year's Day;

(iii) the third Monday of January, called Dr. Martin Luther King, Jr. Day;

(iv) the third Monday of February, called Washington and Lincoln Day;

(v) the last Monday of May, called Memorial Day;

(vi) July 4, called Independence Day;

(vii) July 24, called Pioneer Day;

(viii) the first Monday of September, called Labor Day;

(ix) the second Monday of October, called Columbus Day;

(x) November 11, called Veterans Day;

(xi) the fourth Thursday of November, called Thanksgiving Day;

(xii) December 25, called Christmas; and

(xiii) all days which may be set apart by the President of the United States, or the governor of this state by proclamation as days of fast or thanksgiving.

(b) If any of the holidays under [~~Subsection (1)(a), except the first mentioned, namely Sunday,~~] Subsections (1)(a)(ii) through (xiii) falls on Sunday, then the following Monday shall be the holiday.

(c) If any of the holidays under [~~Subsection (1)(a)~~] Subsections (1)(a)(ii) through (xiii) falls on Saturday, then the preceding Friday shall be the holiday.

(d) Each employee may select one additional day, called Personal Preference Day, to be scheduled pursuant to rules adopted by the Department of Human Resource Management.

(e) For purposes of Utah Constitution Article VI, Section 16, Subsection (1), regarding the exclusion of state holidays from the 45-day legislative general session, Sunday is not considered a state holiday.

(2) (a) Whenever in the governor's opinion extraordinary conditions exist justifying the action, the governor may:

(i) declare, by proclamation, legal holidays in addition to those holidays under Subsection (1); and

(ii) limit the holidays to certain classes of business and activities to be designated by the governor.

(b) A holiday may not extend for a longer period than 60 consecutive days.

(c) Any holiday may be renewed for one or more periods not exceeding 30 days each as the governor may consider necessary, and any holiday may, by like proclamation, be terminated before the expiration of the period for which it was declared.

CHAPTER 336
S. B. 169
Passed March 5, 2021
Approved March 17, 2021
Effective May 5, 2021

SCHOOL AND INSTITUTIONAL TRUST FUND OFFICE AMENDMENTS

Chief Sponsor: Chris H. Wilson
House Sponsor: Jefferson Moss

LONG TITLE

General Description:

This bill amends provisions related to the School and Institutional Trust Fund Board of Trustees and trust funds managed by the School and Institutional Trust Fund Office.

Highlighted Provisions:

This bill:

- allows the School and Institutional Trust Fund Board of Trustees to close a meeting under certain circumstances;
- increases the length of time used to determine the average value of the trust funds for purposes of determining the annual trust distribution amount;
- reduces the number of annually required meetings of the School and Institutional Trust Fund Board of Trustees;
- exempts certain information that the School and Institutional Trust Fund Office provides to the Land Trusts Protection and Advocacy Office from the Government Records Access and Management Act; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53C-3-102, as last amended by Laws of Utah 2016, Chapters 172 and 389
53D-1-304, as last amended by Laws of Utah 2019, Chapter 191
53D-2-201, as enacted by Laws of Utah 2018, Chapter 448
53F-9-201, as last amended by Laws of Utah 2020, Chapters 207 and 354

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53C-3-102 is amended to read:

53C-3-102. Deposit and allocation of money received.

(1) (a) The director shall pay to the School and Institutional Trust Fund Office, created in Section 53D-1-201, all money received, accompanied by a statement showing the respective sources of this money.

(b) The administration and the School and Institutional Trust Fund Office shall enter into a memorandum of understanding detailing:

(i) the classification of sources of money; and

(ii) other relevant information, as determined by the administration and the School and Institutional Trust Fund Office.

(2) All money received from the sale of lands granted by Section 6 of the Utah Enabling Act for the support of the common schools, all money received from the sale of lands selected in lieu of those lands, all money received from the United States under Section 9 of the Utah Enabling Act, all money received from the sale of lands or other securities acquired by the state from the investment of those funds, all sums paid for fees, all forfeitures, and all penalties paid in connection with these sales shall be deposited in the Permanent State School Fund.

(3) All money received from the sale and all net proceeds from other contractual arrangements of institutional trust lands granted to the state by the United States under Section 7, 8, or 12 of the Utah Enabling Act shall be deposited into the respective permanent funds established for the benefit of those institutions under the Utah Enabling Act and the Utah Constitution.

(4) (a) All lands acquired by the state through foreclosure of mortgages securing school or institutional trust funds or through deeds from mortgagors or owners of those lands shall become a part of the respective school or institutional trust lands.

(b) All money received from these lands shall be treated as money received from school or institutional trust lands.

(5) All money received from the sale of lands acquired by the state through foreclosure of mortgages securing trust funds or through deeds from mortgagors or owners of such lands, whether a profit is realized or a loss sustained on the principal invested, shall be regarded as principal and shall go into the principal or permanent fund from which it was originally taken in reimbursement of that fund, with profits being used to offset losses.

(6) (a) All money received by the director as a first or down payment on applications to purchase, permit, or lease trust lands or minerals shall be paid to the state treasurer and held in suspense pending final action on those applications.

(b) After final action the payments received under Subsection (6)(a) shall either be credited to the appropriate fund or account, or refunded to the applicant in accordance with the action taken.

(7) Distributions to the respective institutions from the associated permanent funds created from lands granted in Sections 8 and 12 of the Utah Enabling Act shall consist of 4% of the average market value of each institutional permanent fund over the past [~~12~~] 20 consecutive quarters.

Section 2. Section 53D-1-304 is amended to read:

53D-1-304. Board meetings -- Closed meetings.

(1) The board shall hold at least [~~six~~] four meetings per year to conduct business.

(2) The board chair or two board members:

(a) may call a board meeting; and

(b) if calling a board meeting, shall provide as much advance notice as is reasonable under the circumstances to all board members, the director, and the advocacy office director.

(3) Any board member may place an item on a board meeting agenda.

(4) The board shall adopt a set of parliamentary procedures to govern board meetings.

(5) The board may establish an attendance policy to govern the attendance of board members at board meetings.

(6) (a) Notwithstanding Subsection 52-4-204(2) or 52-4-205(1), and in addition to the reasons to close a meeting described in Section 52-4-205, the board may hold a closed meeting to discuss the sale or purchase of identifiable securities, investment funds, or investment contracts if:

(i) the board, the director, or the office has entered into a confidentiality agreement related to the identifiable securities, investment funds, or investment contracts; and

(ii) two-thirds of the members present when a quorum is present vote to close the meeting for the purpose described in this Subsection (6)(a).

(b) If the board closes a meeting in accordance with Subsection (6)(a), the board shall comply with the requirements for closed meetings described in Title 52, Chapter 4, Open and Public Meetings Act.

Section 3. Section 53D-2-201 is amended to read:

53D-2-201. Land Trusts Protection and Advocacy Office -- State treasurer oversight and rulemaking -- Advocacy office duties -- Applicability of Government Access and Records Management Act.

(1) There is created the Land Trusts Protection and Advocacy Office to represent the beneficiary interests of the school and institutional trust in advocating for:

(a) distribution of trust revenue to current beneficiaries; and

(b) generation of trust revenue for future beneficiaries.

(2) The state treasurer shall:

(a) acting in a fiduciary capacity to trust beneficiaries, oversee and support the advocacy of the advocacy office, including:

(i) determining reporting requirements for the advocacy director and advocacy office; and

(ii) submitting an advocacy office budget to the Legislature; and

(b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and this chapter, make rules to administer the advocacy office, including the duties described in Subsection (2)(a).

(3) The advocacy office shall have an advocacy director, as described in Section 53D-2-203.

(4) In accordance with the Utah Enabling Act, the Utah Constitution, and state law, the advocacy office shall act with undivided loyalty to the trust beneficiaries, advocating against the state using a trust asset to pursue a state goal that is inconsistent with a purpose of the trust associated with that asset.

(5) To protect current and future beneficiary rights and interests as described in Subsection (1), the advocacy office shall advocate for:

(a) productive use of and optimal revenue from school and institutional trust lands by the School and Institutional Trust Lands Administration, as described in Title 53C, School and Institutional Trust Lands Management Act;

(b) prudent and profitable investment of trust funds by the School and Institutional Trust Fund Office, as described in Title 53D, Chapter 1, School and Institutional Trust Fund Management Act;

(c) effective distribution of funds to public schools through the School LAND Trust Program described in Sections 53F-2-404 and 53G-7-1206; and

(d) optimization of revenue to all trust beneficiaries.

(6) To fulfill the advocacy office's duties to trust beneficiaries, the advocacy office shall:

(a) stay informed on the administration of the trust and trust assets, including:

(i) major School and Institutional Trust Land Administration transactions; and

(ii) the School and Institutional Trust Fund Office investments and investment policy statements;

(b) fulfill advocacy office responsibilities and manage advocacy office activities in a prudent and professional manner;

(c) promote efficient use of trust budgets for trust beneficiaries; and

(d) properly account to trust beneficiaries and the Legislature, as described in Section 53D-2-203.

(7) (a) Except as provided in Subsection (7)(b), the advocacy office and the advocacy committee are subject to Title 63G, Chapter 2, Government Records and Management Act.

(b) The advocacy office and the advocacy committee are not subject to Title 63G, Chapter 2, Government Records and Management Act,

regarding a record described in Subsection 53D-1-103(3)(a) that the School and Institutional Trust Fund Office provides to the advocacy office or advocacy committee.

Section 4. Section 53F-9-201 is amended to read:

53F-9-201. Uniform School Fund -- Contents -- Trust Distribution Account.

(1) As used in this section:

(a) "Annual distribution calculation" means, for a given fiscal year, the average of:

(i) 4% of the average market value of the State School Fund for that fiscal year; and

(ii) the distribution amount for the prior fiscal year, multiplied by the sum of:

(A) one;

(B) the percent change in student enrollment from the school year two years prior to the prior school year; and

(C) the actual total percent change of the consumer price index during the last 12 months as measured in June of the prior fiscal year.

(b) "Average market value of the State School Fund" means the results of a calculation completed by the SITFO director each fiscal year that averages the value of the State School Fund for the past [~~12~~] 20 consecutive quarters ending in the prior fiscal year.

(c) "Consumer price index" means the Consumer Price Index for All Urban Consumers: All Items Less Food & Energy, as published by the Bureau of Labor Statistics of the United States Department of Labor.

(d) "SITFO director" means the director of the School and Institutional Trust Fund Office appointed under Section 53D-1-401.

(e) "State School Fund investment earnings distribution amount" or "distribution amount" means, for a fiscal year, the lesser of:

(i) the annual distribution calculation; or

(ii) 4% of the average market value of the State School Fund.

(2) The Uniform School Fund, a special revenue fund within the Education Fund, established by Utah Constitution, Article X, Section 5, consists of:

(a) distributions derived from the investment of money in the permanent State School Fund established by Utah Constitution, Article X, Section 5;

(b) money transferred to the fund pursuant to Title 67, Chapter 4a, Revised Uniform Unclaimed Property Act; and

(c) all other constitutional or legislative allocations to the fund, including:

(i) appropriations for the Minimum School Program, enrollment growth, and inflation under Section 53F-9-201.1; and

(ii) revenues received by donation.

(3) (a) There is created within the Uniform School Fund a restricted account known as the Trust Distribution Account.

(b) The Trust Distribution Account consists of:

(i) in accordance with Subsection (4), quarterly deposits of the State School Fund investment earnings distribution amount from the prior fiscal year;

(ii) all interest earned on the Trust Distribution Account in the prior fiscal year; and

(iii) any unused appropriation for the administration of the School LAND Trust Program, as described in Subsection 53F-2-404(1)(c).

(4) If, at the end of a fiscal year, the Trust Distribution Account has a balance remaining after subtracting the appropriation amount described in Subsection 53F-2-404(1)(a) for the next fiscal year, the SITFO director shall, during the next fiscal year, apply the amount of the remaining balance from the prior fiscal year toward the current fiscal year's distribution amount by reducing a quarterly deposit to the Trust Distribution Account by the amount of the remaining balance from the prior fiscal year.

(5) On or before October 1 of each year, the SITFO director shall:

(a) in accordance with this section, determine the distribution amount for the following fiscal year; and

(b) report the amount described in Subsection (5)(a) as the funding amount, described in Subsection 53F-2-404(1)(c), for the School LAND Trust Program, to:

(i) the State Treasurer;

(ii) the Legislative Fiscal Analyst;

(iii) the Division of Finance;

(iv) the director of the Land Trusts Protection and Advocacy Office, appointed under Section 53D-2-203;

(v) the School and Institutional Trust Lands Administration created in Section 53C-1-201;

(vi) the state board; and

(vii) the Governor's Office of Management and Budget.

(6) The School and Institutional Trust Fund Board of Trustees created in Section 53D-1-301 shall:

(a) annually review the distribution amount; and

(b) make recommendations, if necessary, to the Legislature for changes to the formula for calculating the distribution amount.

(7) Upon appropriation by the Legislature, the SITFO director shall place in the Trust Distribution

Account funds for the School LAND Trust Program as described in Subsections 53F-2-404(1)(a) and (c).

CHAPTER 337
S. B. 170
Passed March 5, 2021
Approved March 17, 2021
Effective March 17, 2021

CONSUMER PROTECTION FOR CANNABIS PATIENTS

Chief Sponsor: Luz Escamilla
House Sponsor: Raymond P. Ward

LONG TITLE

General Description:

This bill amends provisions relating to patient access to medical cannabis recommendations from medical providers.

Highlighted Provisions:

This bill:

- defines terms;
- amends a labeling requirement for consistency;
- allows a licensed podiatrist to recommend medical cannabis within the course and scope of a practice of podiatry;
- requires the state electronic verification system to allow a medical cannabis pharmacy to record a medical cannabis recommendation from a limited medical provider;
- allows certain medical providers to operate as limited medical providers to recommend cannabis to a limited number of the provider's patients without registering with the Department of Health (department) as a qualified medical provider (QMP);
- requires QMPs, entities that employ QMPs, and applicants for a QMP registration to provide certain information to the department regarding fees charged to a patient for a medical cannabis recommendation;
- requires the department to provide certain information, in coordination with a health care transparency tool that the state auditor maintains, regarding fees charged to a patient for a medical cannabis recommendation;
- amends provisions to accommodate the allowance for limited medical providers;
- allows a licensed podiatrist to become a qualified medical provider;
- requires the department to issue an electronic conditional medical cannabis card to allow certain medical cannabis card applicants access to medical cannabis;
- requires medical cannabis pharmacies to record information in an order from a limited medical provider in the state electronic verification system;
- imposes certain verification requirements on a medical cannabis pharmacy before entering certain orders from a limited medical provider or processing a transaction for certain conditional medical cannabis cardholders;
- requires a medical cannabis component in required continuing education for controlled substance prescribers;
- extends a deadline that imposes a limitation on an individual's use or possession of medical cannabis from outside the state; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

This bill provides revisor instructions.

Utah Code Sections Affected:

AMENDS:

4-41a-102, as last amended by Laws of Utah 2020, Chapters 12, 148 and last amended by Coordination Clause, Laws of Utah 2020, Chapter 148

4-41a-602, as last amended by Laws of Utah 2020, Chapter 12

26-61a-102, as last amended by Laws of Utah 2020, Chapters 12, 148 and last amended by Coordination Clause, Laws of Utah 2020, Chapter 148

26-61a-103, as last amended by Laws of Utah 2020, Chapter 12

26-61a-106, as last amended by Laws of Utah 2020, Chapter 12

26-61a-107, as last amended by Laws of Utah 2020, Chapters 12, 148 and last amended by Coordination Clause, Laws of Utah 2020, Chapter 148

26-61a-201, as last amended by Laws of Utah 2020, Chapters 12 and 148

26-61a-202, as last amended by Laws of Utah 2020, Chapter 12

26-61a-401, as last amended by Laws of Utah 2019, First Special Session, Chapter 5

26-61a-403, as last amended by Laws of Utah 2019, First Special Session, Chapter 5

26-61a-501, as last amended by Laws of Utah 2020, Chapter 12

26-61a-502, as last amended by Laws of Utah 2020, Chapters 12, 148 and last amended by Coordination Clause, Laws of Utah 2020, Chapter 148

26-61a-503, as last amended by Laws of Utah 2019, First Special Session, Chapter 5

26-61a-601, as last amended by Laws of Utah 2020, Chapter 12

58-5a-102, as last amended by Laws of Utah 2020, Chapter 25

58-31b-502, as last amended by Laws of Utah 2020, Fifth Special Session, Chapter 4

58-37-3.7, as last amended by Laws of Utah 2020, Chapter 12

58-37-6.5, as last amended by Laws of Utah 2018, Chapter 318

58-67-502, as last amended by Laws of Utah 2020, Chapter 25

58-68-502, as last amended by Laws of Utah 2020, Chapter 25

58-70a-503, as last amended by Laws of Utah 2020, Chapter 25

62A-4a-404, as last amended by Laws of Utah 2020, Chapter 193

67-3-11, as enacted by Laws of Utah 2019, Chapter 370

78A-2-231, as last amended by Laws of Utah 2020, Chapter 12

78A-6-115, as last amended by Laws of Utah 2020, Chapters 12, 132, 250, and 354Utah Code Sections Affected by Revisor Instructions:

26-61a-201, as last amended by Laws of Utah 2020, Chapters 12 and 148
58-37-3.7, as last amended by Laws of Utah 2020, Chapter 12

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 4-41a-102 is amended to read:

4-41a-102. Definitions.

As used in this chapter:

(1) "Active tetrahydrocannabinol" means delta-9-tetrahydrocannabinol and tetrahydrocannabinolic acid.

(2) "Cannabis" means the same as that term is defined in Section 26-61a-102.

(3) "Cannabis cultivation facility" means a person that:

(a) possesses cannabis;

(b) grows or intends to grow cannabis; and

(c) sells or intends to sell cannabis to a cannabis cultivation facility, a cannabis processing facility, or a medical cannabis research licensee.

(4) "Cannabis cultivation facility agent" means an individual who:

(a) is an employee of a cannabis cultivation facility; and

(b) holds a valid cannabis production establishment agent registration card.

(5) "Cannabis processing facility" means a person that:

(a) acquires or intends to acquire cannabis from a cannabis production establishment;

(b) possesses cannabis with the intent to manufacture a cannabis product;

(c) manufactures or intends to manufacture a cannabis product from unprocessed cannabis or a cannabis extract; and

(d) sells or intends to sell a cannabis product to a medical cannabis pharmacy or a medical cannabis research licensee.

(6) "Cannabis processing facility agent" means an individual who:

(a) is an employee of a cannabis processing facility; and

(b) holds a valid cannabis production establishment agent registration card.

(7) "Cannabis product" means the same as that term is defined in Section 26-61a-102.

(8) "Cannabis production establishment" means a cannabis cultivation facility, a cannabis processing facility, or an independent cannabis testing laboratory.

(9) "Cannabis production establishment agent" means a cannabis cultivation facility agent, a cannabis processing facility agent, or an independent cannabis testing laboratory agent.

(10) "Cannabis production establishment agent registration card" means a registration card that the department issues that:

(a) authorizes an individual to act as a cannabis production establishment agent; and

(b) designates the type of cannabis production establishment for which an individual is authorized to act as an agent.

(11) "Community location" means a public or private elementary or secondary school, a church, a public library, a public playground, or a public park.

(12) "Cultivation space" means, quantified in square feet, the horizontal area in which a cannabis cultivation facility cultivates cannabis, including each level of horizontal area if the cannabis cultivation facility hangs, suspends, stacks, or otherwise positions plants above other plants in multiple levels.

(13) "Department" means the Department of Agriculture and Food.

(14) "Family member" means a parent, step-parent, spouse, child, sibling, step-sibling, uncle, aunt, nephew, niece, first cousin, mother-in-law, father-in-law, brother-in-law, sister-in-law, son-in-law, daughter-in-law, grandparent, or grandchild.

(15) (a) "Independent cannabis testing laboratory" means a person that:

(i) conducts a chemical or other analysis of cannabis or a cannabis product; or

(ii) acquires, possesses, and transports cannabis or a cannabis product with the intent to conduct a chemical or other analysis of the cannabis or cannabis product.

(b) "Independent cannabis testing laboratory" includes a laboratory that the department operates in accordance with Subsection 4-41a-201(14).

(16) "Independent cannabis testing laboratory agent" means an individual who:

(a) is an employee of an independent cannabis testing laboratory; and

(b) holds a valid cannabis production establishment agent registration card.

(17) "Inventory control system" means a system described in Section 4-41a-103.

(18) "Medical cannabis" means the same as that term is defined in Section 26-61a-102.

(19) "Medical cannabis card" means the same as that term is defined in Section 26-61a-102.

(20) "Medical cannabis pharmacy" means the same as that term is defined in Section 26-61a-102.

(21) "Medical cannabis pharmacy agent" means the same as that term is defined in Section 26-61a-102.

(22) "Medical cannabis research license" means a license that the department issues to a research

university for the purpose of obtaining and possessing medical cannabis for academic research.

(23) "Medical cannabis research licensee" means a research university that the department licenses to obtain and possess medical cannabis for academic research, in accordance with Section 4-41a-901.

(24) "Medical cannabis treatment" means the same as that term is defined in Section 26-61a-102.

(25) "Medicinal dosage form" means the same as that term is defined in Section 26-61a-102.

(26) "Qualified medical provider" means the same as that term is defined in Section 26-61a-102.

(27) "Qualified Production Enterprise Fund" means the fund created in Section 4-41a-104.

(28) "Recommending medical provider" means the same as that term is defined in Section 26-61a-102.

[~~(28)~~] (29) "Research university" means the same as that term is defined in Section 53B-7-702 and a private, nonprofit college or university in the state that:

(a) is accredited by the Northwest Commission on Colleges and Universities;

(b) grants doctoral degrees; and

(c) has a laboratory containing or a program researching a schedule I controlled substance described in Section 58-37-4.

[~~(29)~~] (30) "State electronic verification system" means the system described in Section 26-61a-103.

[~~(30)~~] (31) "Tetrahydrocannabinol" means a substance derived from cannabis or a synthetic equivalent as described in Subsection 58-37-4(2)(a)(iii)(AA).

[~~(31)~~] (32) "Total composite tetrahydrocannabinol" means all detectable forms of tetrahydrocannabinol.

Section 2. Section 4-41a-602 is amended to read:

4-41a-602. Cannabis product -- Labeling and child-resistant packaging.

(1) For any cannabis product that a cannabis processing facility processes or produces and for any raw cannabis that the facility packages, the facility shall:

(a) label the cannabis or cannabis product with a label that:

(i) clearly and unambiguously states that the cannabis product or package contains cannabis;

(ii) clearly displays the amount of total composite tetrahydrocannabinol and cannabidiol in the labeled container;

(iii) has a unique identification number that:

(A) is connected to the inventory control system; and

(B) identifies the unique cannabis product manufacturing process the cannabis processing facility used to manufacture the cannabis product;

(iv) identifies the cannabinoid extraction process that the cannabis processing facility used to create the cannabis product;

(v) does not display an image, word, or phrase that the facility knows or should know appeals to children; and

(vi) discloses each active or potentially active ingredient, in order of prominence, and possible allergen; and

(b) package the raw cannabis or cannabis product in a medicinal dosage form in a container that:

(i) is tamper evident and tamper resistant;

(ii) does not appeal to children;

(iii) does not mimic a candy container;

(iv) is opaque;

(v) complies with child-resistant effectiveness standards that the United States Consumer Product Safety Commission establishes; and

(vi) includes a warning label that states:

(A) for a container labeled before July 1, 2021, "WARNING: Cannabis has intoxicating effects and may be addictive. Do not operate a vehicle or machinery under its influence. KEEP OUT OF REACH OF CHILDREN. This product is for medical use only. Use only as directed by a qualified medical provider."; or

(B) for a container labeled on or after July 1, 2021, "WARNING: Cannabis has intoxicating effects and may be addictive. Do not operate a vehicle or machinery under its influence. KEEP OUT OF REACH OF CHILDREN. This product is for medical use only. Use only as directed by a recommending medical provider.".

(2) For any cannabis or cannabis product that the cannabis processing facility processes into a gelatinous cube, gelatinous rectangular cuboid, or lozenge in a cube or rectangular cuboid shape, the facility shall:

(a) ensure that the label described in Subsection (1)(a) does not contain a photograph or other image of the content of the container; and

(b) include on the label described in Subsection (1)(a) a warning about the risks of over-consumption.

(3) The department shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act to establish:

(a) a standard labeling format that:

(i) complies with the requirements of this section; and

(ii) ensures inclusion of a pharmacy label; and

(b) additional requirements on packaging for cannabis and cannabis products to ensure safety and product quality.

Section 3. Section 26-61a-102 is amended to read:

26-61a-102. Definitions.

As used in this chapter:

(1) "Cannabis" means marijuana.

(2) "Cannabis cultivation facility" means the same as that term is defined in Section 4-41a-102.

(3) "Cannabis processing facility" means the same as that term is defined in Section 4-41a-102.

(4) "Cannabis product" means a product that:

(a) is intended for human use; and

(b) contains cannabis or tetrahydrocannabinol.

(5) "Cannabis production establishment" means the same as that term is defined in Section 4-41a-102.

(6) "Cannabis production establishment agent" means the same as that term is defined in Section 4-41a-102.

(7) "Cannabis production establishment agent registration card" means the same as that term is defined in Section 4-41a-102.

(8) "Community location" means a public or private elementary or secondary school, a church, a public library, a public playground, or a public park.

(9) "Conditional medical cannabis card" means an electronic medical cannabis card that the department issues in accordance with Subsection 26-61a-201(1)(b) to allow an applicant for a medical cannabis card to access medical cannabis during the department's review of the application.

[~~(9)~~] (10) "Department" means the Department of Health.

[~~(10)~~] (11) "Designated caregiver" means:

(a) an individual:

(i) whom an individual with a medical cannabis patient card or a medical cannabis guardian card designates as the patient's caregiver; and

(ii) who registers with the department under Section 26-61a-202; or

(b) (i) a facility that an individual designates as a designated caregiver in accordance with Subsection 26-61a-202(1)(b); or

(ii) an assigned employee of the facility described in Subsection 26-61a-202(1)(b)(ii).

[~~(11)~~] (12) "Directions of use" means recommended routes of administration for a medical cannabis treatment and suggested usage guidelines.

[~~(12)~~] (13) "Dosing guidelines" means a quantity range and frequency of administration for a recommended treatment of medical cannabis.

[~~(13)~~] (14) "Financial institution" means a bank, trust company, savings institution, or credit union, chartered and supervised under state or federal law.

[~~(14)~~] (15) "Home delivery medical cannabis pharmacy" means a medical cannabis pharmacy that the department authorizes, as part of the pharmacy's license, to deliver medical cannabis shipments to a medical cannabis cardholder's home address to fulfill electronic orders that the state central patient portal facilitates.

[~~(15)~~] (16) "Inventory control system" means the system described in Section 4-41a-103.

[~~(16)~~] (17) "Legal dosage limit" means an amount that:

(a) is sufficient to provide 30 days of treatment based on the dosing guidelines that the relevant [~~qualified~~] recommending medical provider or the pharmacy medical provider, in accordance with Subsection 26-61a-201(4) or (5), recommends; and

(b) may not exceed:

(i) for unprocessed cannabis in a medicinal dosage form, 113 grams by weight; and

(ii) for a cannabis product in a medicinal dosage form, a quantity that contains, in total, greater than 20 grams of active tetrahydrocannabinol.

[~~(17)~~] (18) "Legal use termination date" means a date on the label of a container of unprocessed cannabis flower:

(a) that is 60 days after the date of purchase of the cannabis; and

(b) after which, the cannabis is no longer in a medicinal dosage form outside of the primary residence of the relevant medical cannabis patient cardholder.

(19) "Limited medical provider" means an individual who:

(a) meets the recommending qualifications; and

(b) has no more than 15 patients with a valid medical cannabis patient card or provisional patient card as a result of the individual's recommendation, in accordance with Subsection 26-61a-106(1)(b).

[~~(18)~~] (20) "Marijuana" means the same as that term is defined in Section 58-37-2.

[~~(19)~~] (21) "Medical cannabis" means cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form.

[~~(20)~~] (22) "Medical cannabis card" means a medical cannabis patient card, a medical cannabis guardian card, [~~or~~] a medical cannabis caregiver card, or a conditional medical cannabis card.

[~~(21)~~] (23) "Medical cannabis cardholder" means:

(a) a holder of a medical cannabis card; or

(b) a facility or assigned employee, described in Subsection [~~(10)~~] (11)(b), only:

(i) within the scope of the facility's or assigned employee's performance of the role of a medical cannabis patient cardholder's caregiver designation under Subsection 26-61a-202(1)(b); and

(ii) while in possession of documentation that establishes:

(A) a caregiver designation described in Subsection 26-61a-202(1)(b);

(B) the identity of the individual presenting the documentation; and

(C) the relation of the individual presenting the documentation to the caregiver designation.

[~~(22)~~] (24) "Medical cannabis caregiver card" means an electronic document that a cardholder may print or store on an electronic device or a physical card or document that:

(a) the department issues to an individual whom a medical cannabis patient cardholder or a medical cannabis guardian cardholder designates as a designated caregiver; and

(b) is connected to the electronic verification system.

(25) "Medical cannabis courier agent" means an individual who:

(a) is an employee of a medical cannabis courier; and

(b) who holds a valid medical cannabis courier agent registration card.

[~~(23)~~] (26) "Medical cannabis courier" means a courier that:

(a) the department licenses in accordance with Section 26-61a-604; and

(b) contracts with a home delivery medical cannabis pharmacy to deliver medical cannabis shipments to fulfill electronic orders that the state central patient portal facilitates.

[~~(24)~~] (27) (a) "Medical cannabis device" means a device that an individual uses to ingest or inhale cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form.

(b) "Medical cannabis device" does not include a device that:

(i) facilitates cannabis combustion; or

(ii) an individual uses to ingest substances other than cannabis.

[~~(25)~~] (28) "Medical cannabis guardian card" means an electronic document that a cardholder may print or store on an electronic device or a physical card or document that:

(a) the department issues to the parent or legal guardian of a minor with a qualifying condition; and

(b) is connected to the electronic verification system.

[~~(26)~~] (29) "Medical cannabis patient card" means an electronic document that a cardholder may print or store on an electronic device or a physical card or document that:

(a) the department issues to an individual with a qualifying condition; and

(b) is connected to the electronic verification system.

[~~(27)~~] (30) "Medical cannabis pharmacy" means a person that:

(a) (i) acquires or intends to acquire:

(A) cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form from a cannabis processing facility; or

(B) a medical cannabis device; or

(ii) possesses cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device; and

(b) sells or intends to sell cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device to a medical cannabis cardholder.

[~~(28)~~] (31) "Medical cannabis pharmacy agent" means an individual who:

(a) is an employee of a medical cannabis pharmacy; and

(b) who holds a valid medical cannabis pharmacy agent registration card.

[~~(29)~~] (32) "Medical cannabis pharmacy agent registration card" means a registration card issued by the department that authorizes an individual to act as a medical cannabis pharmacy agent.

[~~(30)~~] (33) "Medical cannabis shipment" means a shipment of medical cannabis or a medical cannabis product that a home delivery medical cannabis pharmacy or a medical cannabis courier delivers to a medical cannabis cardholder's home address to fulfill an electronic medical cannabis order that the state central patient portal facilitates.

[~~(31)~~] (34) "Medical cannabis treatment" means cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device.

[~~(32)~~] (35) (a) "Medicinal dosage form" means:

(i) for processed medical cannabis or a medical cannabis product, the following with a specific and consistent cannabinoid content:

(A) a tablet;

(B) a capsule;

(C) a concentrated liquid or viscous oil;

(D) a liquid suspension;

(E) a topical preparation;

(F) a transdermal preparation;

(G) a sublingual preparation;

(H) a gelatinous cube, gelatinous rectangular cuboid, or lozenge in a cube or rectangular cuboid shape; or

(I) a resin or wax;

(ii) for unprocessed cannabis flower, a container described in Section 4-41a-602 that:

(A) contains cannabis flowers in a quantity that varies by no more than 10% from the stated weight at the time of packaging;

(B) at any time the medical cannabis cardholder transports or possesses the container in public, is contained within an opaque, child-resistant bag that the medical cannabis pharmacy provides; and

(C) is labeled with the container's content and weight, the date of purchase, the legal use termination date, and after December 31, 2020, a barcode that provides information connected to an inventory control system; and

(iii) a form measured in grams, milligrams, or milliliters.

(b) "Medicinal dosage form" includes a portion of unprocessed cannabis flower that:

(i) the medical cannabis cardholder has recently removed from the container described in Subsection [~~(32)~~] (35)(a)(ii) for use; and

(ii) does not exceed the quantity described in Subsection [~~(32)~~] (35)(a)(ii).

(c) "Medicinal dosage form" does not include:

(i) any unprocessed cannabis flower outside of the container described in Subsection [~~(32)~~] (35)(a)(ii), except as provided in Subsection [~~(32)~~] (35)(b);

(ii) any unprocessed cannabis flower in a container described in Subsection [~~(32)~~] (35)(a)(ii) after the legal use termination date; or

(iii) a process of vaporizing and inhaling concentrated cannabis by placing the cannabis on a nail or other metal object that is heated by a flame, including a blowtorch.

[~~(33)~~] (36) "Nonresident patient" means an individual who:

(a) is not a resident of Utah or has been a resident of Utah for less than 45 days;

(b) has a currently valid medical cannabis card or the equivalent of a medical cannabis card under the laws of another state, district, territory, commonwealth, or insular possession of the United States; and

(c) has been diagnosed with a qualifying condition as described in Section 26-61a-104.

[~~(34)~~] (37) "Payment provider" means an entity that contracts with a cannabis production establishment or medical cannabis pharmacy to facilitate transfers of funds between the establishment or pharmacy and other businesses or individuals.

[~~(35)~~] (38) "Pharmacy medical provider" means the medical provider required to be on site at a medical cannabis pharmacy under Section 26-61a-403.

[~~(36)~~] (39) "Provisional patient card" means a card that:

(a) the department issues to a minor with a qualifying condition for whom:

(i) a [~~qualified~~] recommending medical provider has recommended a medical cannabis treatment; and

(ii) the department issues a medical cannabis guardian card to the minor's parent or legal guardian; and

(b) is connected to the electronic verification system.

[~~(37)~~] (40) "Qualified medical provider" means an individual [~~who is qualified~~]:

(a) who meets the recommending qualifications; and

(b) whom the department registers to recommend treatment with cannabis in a medicinal dosage form under Section 26-61a-106.

[~~(38)~~] (41) "Qualified Patient Enterprise Fund" means the enterprise fund created in Section 26-61a-109.

[~~(39)~~] (42) "Qualifying condition" means a condition described in Section 26-61a-104.

[~~(40)~~] (43) "Recommend" or "recommendation" means, for a [~~qualified~~] recommending medical provider, the act of suggesting the use of medical cannabis treatment, which:

(a) certifies the patient's eligibility for a medical cannabis card; and

(b) may include, at the [~~qualified~~] recommending medical provider's discretion, directions of use, with or without dosing guidelines.

(44) "Recommending medical provider" means a qualified medical provider or a limited medical provider.

(45) "Recommending qualifications" means that an individual:

(a) (i) has the authority to write a prescription;

(ii) is licensed to prescribe a controlled substance under Title 58, Chapter 37, Utah Controlled Substances Act; and

(iii) possesses the authority, in accordance with the individual's scope of practice, to prescribe a Schedule II controlled substance; and

(b) is licensed as:

(i) a podiatrist under Title 58, Chapter 5a, Podiatric Physician Licensing Act;

(ii) an advanced practice registered nurse under Title 58, Chapter 31b, Nurse Practice Act;

(iii) a physician under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; or

(iv) a physician assistant under Title 58, Chapter 70a, Utah Physician Assistant Act.

[~~(41)~~] (46) "State central patient portal" means the website the department creates, in accordance with Section 26-61a-601, to facilitate patient safety, education, and an electronic medical cannabis order.

[~~(42)~~] (47) "State central patient portal medical provider" means a physician or pharmacist that the department employs in relation to the state central patient portal to consult with medical cannabis cardholders in accordance with Section 26-61a-602.

[~~(43)~~] (48) "State electronic verification system" means the system described in Section 26-61a-103.

[~~(44)~~] (49) "Valid form of photo identification" means any of the following forms of identification that is either current or has expired within the previous six months:

(a) a valid state-issued driver license or identification card;

(b) a valid United States [~~federal- or state-issued~~] federal-issued photo identification, including:

[~~(a) a driver license;~~]

[~~(b)~~] (i) a United States passport;

[~~(c)~~] (ii) a United States passport card; [~~or~~]

[~~(d)~~] (iii) a United States military identification card[~~.~~]; or

(iv) a permanent resident card or alien registration receipt card; or

(c) a passport that another country issued.

Section 4. Section 26-61a-103 is amended to read:

26-61a-103. Electronic verification system.

(1) The Department of Agriculture and Food, the department, the Department of Public Safety, and the Department of Technology Services shall:

(a) enter into a memorandum of understanding in order to determine the function and operation of the state electronic verification system in accordance with Subsection (2);

(b) coordinate with the Division of Purchasing, under Title 63G, Chapter 6a, Utah Procurement Code, to develop a request for proposals for a third-party provider to develop and maintain the state electronic verification system in coordination with the Department of Technology Services; and

(c) select a third-party provider who:

(i) meets the requirements contained in the request for proposals issued under Subsection (1)(b); and

(ii) may not have any commercial or ownership interest in a cannabis production establishment or a medical cannabis pharmacy.

(2) The Department of Agriculture and Food, the department, the Department of Public Safety, and the Department of Technology Services shall ensure that, on or before March 1, 2020, the state electronic verification system described in Subsection (1):

(a) allows an individual to apply for a medical cannabis patient card or, if applicable, a medical cannabis guardian card, provided that the card may not become active until:

(i) the relevant qualified medical provider completes the associated medical cannabis recommendation; or

(ii) for a medical cannabis card related to a limited medical provider's recommendation, the medical cannabis pharmacy completes the recording described in Subsection (2)(d);

(b) allows an individual to apply to renew a medical cannabis patient card or a medical cannabis guardian card in accordance with Section 26-61a-201;

(c) allows a qualified medical provider, or an employee described in Subsection (3) acting on behalf of the qualified medical provider, to:

(i) access dispensing and card status information regarding a patient:

(A) with whom the qualified medical provider has a provider-patient relationship; and

(B) for whom the qualified medical provider has recommended or is considering recommending a medical cannabis card;

(ii) electronically recommend, after an initial face-to-face visit with a patient described in Subsection 26-61a-201(4)(b), treatment with cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form and optionally recommend dosing guidelines;

(iii) electronically renew a recommendation to a medical cannabis patient cardholder or medical cannabis guardian cardholder:

(A) using telehealth services, for the qualified medical provider who originally recommended a medical cannabis treatment during a face-to-face visit with the patient; or

(B) during a face-to-face visit with the patient, for a qualified medical provider who did not originally recommend the medical cannabis treatment during a face-to-face visit; and

(iv) notate a determination of physical difficulty or undue hardship, described in Subsection 26-61a-202(1), to qualify a patient to designate a caregiver;

(d) beginning on the earlier of September 1, 2021, or the date on which the electronic verification system is functionally capable of facility medical cannabis pharmacy recording, allows a medical cannabis pharmacy medical provider or medical cannabis pharmacy agent, in accordance with Subsection 26-61a-501(11)(a), to record:

(i) a patient's recommendation from a limited medical provider, including any directions of use,

dosing guidelines, or caregiver indications from the limited medical provider; and

(ii) a limited medical provider's renewal of the provider's previous recommendation;

[~~(d)~~] (e) connects with:

(i) an inventory control system that a medical cannabis pharmacy uses to track in real time and archive purchases of any cannabis in a medicinal dosage form, cannabis product in a medicinal dosage form, or a medical cannabis device, including:

(A) the time and date of each purchase;

(B) the quantity and type of cannabis, cannabis product, or medical cannabis device purchased;

(C) any cannabis production establishment, any medical cannabis pharmacy, or any medical cannabis courier associated with the cannabis, cannabis product, or medical cannabis device; and

(D) the personally identifiable information of the medical cannabis cardholder who made the purchase; and

(ii) any commercially available inventory control system that a cannabis production establishment utilizes in accordance with Section 4-41a-103 to use data that the Department of Agriculture and Food requires by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, from the inventory tracking system that a licensee uses to track and confirm compliance;

[~~(e)~~] (f) provides access to:

(i) the department to the extent necessary to carry out the department's functions and responsibilities under this chapter;

(ii) the Department of Agriculture and Food to the extent necessary to carry out the functions and responsibilities of the Department of Agriculture and Food under Title 4, Chapter 41a, Cannabis Production Establishments; and

(iii) the Division of Occupational and Professional Licensing to the extent necessary to carry out the functions and responsibilities related to the participation of the following in the recommendation and dispensing of medical cannabis:

(A) a podiatrist licensed under Title 58, Chapter 5a, Podiatric Physician Licensing Act;

[~~(A)~~] (B) a pharmacist licensed under Title 58, Chapter 17b, Pharmacy Practice Act;

[~~(B)~~] (C) an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse Practice Act;

[~~(C)~~] (D) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; or

[~~(D)~~] (E) a physician assistant licensed under Title 58, Chapter 70a, Utah Physician Assistant Act;

[~~(f)~~] (g) provides access to and interaction with the state central patient portal;

[~~(g)~~] (h) provides access to state or local law enforcement:

(i) during a law enforcement encounter, without a warrant, using the individual's driver license or state ID, only for the purpose of determining if the individual subject to the law enforcement encounter has a valid medical cannabis card; or

(ii) after obtaining a warrant; and

[~~(h)~~] (i) creates a record each time a person accesses the database that identifies the person who accesses the database and the individual whose records the person accesses.

(3) (a) Beginning on the earlier of January 1, 2021, or the date on which the electronic verification system is functionally capable of allowing employee access under this Subsection (3), an employee of a qualified medical provider may access the electronic verification system for a purpose described in Subsection (2)(c) on behalf of the qualified medical provider if:

(i) the qualified medical provider has designated the employee as an individual authorized to access the electronic verification system on behalf of the qualified medical provider;

(ii) the qualified medical provider provides written notice to the department of the employee's identity and the designation described in Subsection (3)(a)(i); and

(iii) the department grants to the employee access to the electronic verification system.

(b) An employee of a business that employs a qualified medical provider may access the electronic verification system for a purpose described in Subsection (2)(c) on behalf of the qualified medical provider if:

(i) the qualified medical provider has designated the employee as an individual authorized to access the electronic verification system on behalf of the qualified medical provider;

(ii) the qualified medical provider and the employing business jointly provide written notice to the department of the employee's identity and the designation described in Subsection (3)(b)(i); and

(iii) the department grants to the employee access to the electronic verification system.

(4) (a) As used in this Subsection (4), "prescribing provider" means:

(i) a podiatrist licensed under Title 58, Chapter 5a, Podiatric Physician Licensing Act;

[~~(i)~~] (ii) an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse Practice Act;

[~~(ii)~~] (iii) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58,

Chapter 68, Utah Osteopathic Medical Practice Act; or

[~~(iii)~~] (iv) a physician assistant licensed under Title 58, Chapter 70a, Utah Physician Assistant Act.

(b) Beginning on the earlier of January 1, 2021, or the date on which the electronic verification system is functionally capable of allowing provider access under this Subsection (4), a prescribing provider may access information in the electronic verification system regarding a patient the prescribing provider treats.

(5) The department may release limited data that the system collects for the purpose of:

(a) conducting medical and other department approved research;

(b) providing the report required by Section 26-61a-703; and

(c) other official department purposes.

(6) The department shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish:

(a) the limitations on access to the data in the state electronic verification system as described in this section; and

(b) standards and procedures to ensure accurate identification of an individual requesting information or receiving information in this section.

(7) (a) Any person who knowingly and intentionally releases any information in the state electronic verification system in violation of this section is guilty of a third degree felony.

(b) Any person who negligently or recklessly releases any information in the state electronic verification system in violation of this section is guilty of a class C misdemeanor.

(8) (a) Any person who obtains or attempts to obtain information from the state electronic verification system by misrepresentation or fraud is guilty of a third degree felony.

(b) Any person who obtains or attempts to obtain information from the state electronic verification system for a purpose other than a purpose this chapter authorizes is guilty of a third degree felony.

(9) (a) Except as provided in Subsection (9)(e), a person may not knowingly and intentionally use, release, publish, or otherwise make available to any other person information obtained from the state electronic verification system for any purpose other than a purpose specified in this section.

(b) Each separate violation of this Subsection (9) is:

(i) a third degree felony; and

(ii) subject to a civil penalty not to exceed $5,000.

(c) The department shall determine a civil violation of this Subsection (9) in accordance with Title 63G, Chapter 4, Administrative Procedures Act.

(d) Civil penalties assessed under this Subsection (9) shall be deposited into the General Fund.

(e) This Subsection (9) does not prohibit a person who obtains information from the state electronic verification system under Subsection (2)(a), (c), or (f) from:

(i) including the information in the person's medical chart or file for access by a person authorized to review the medical chart or file;

(ii) providing the information to a person in accordance with the requirements of the Health Insurance Portability and Accountability Act of 1996; or

(iii) discussing or sharing that information about the patient with the patient.

Section 5. Section 26-61a-106 is amended to read:

26-61a-106. Qualified medical provider registration -- Continuing education -- Treatment recommendation -- Limited medical provider.

(1) (a) (i) Except as provided in Subsection (1)(b), an individual may not recommend a medical cannabis treatment unless the department registers the individual as a qualified medical provider in accordance with this section.

(ii) Notwithstanding Subsection (1)(a)(i), a qualified medical provider who is podiatrist licensed under Title 58, Chapter 5a, Podiatric Physician Licensing Act, may not recommend a medical cannabis treatment except within the course and scope of a practice of podiatry, as that term is defined in Section 58-5a-102.

(b) [~~An~~] Beginning on the earlier of September 1, 2021, or the date on which the department gives notice that the electronic verification system is functionally capable as described in Subsection 26-61a-103(2)(d), an individual who meets the recommending qualifications [~~in Subsections 26-61a-106(2)(a)(iii) and (iv)~~] may recommend a medical cannabis treatment as a limited medical provider without registering under Subsection (1)(a) [~~until January 1, 2021.~~] if:

(i) the individual recommends the use of medical cannabis to the patient through an order described in Subsection (1)(c) after:

(A) a face-to-face visit for an initial recommendation or the renewal of a recommendation for a patient for whom the limited medical provider did not make the patient's original recommendation; or

(B) a visit using telehealth services for a renewal of a recommendation for a patient for whom the limited medical provider made the patient's original recommendation; and

(ii) the individual's recommendation or renewal would not cause the total number of the individual's patients who have a valid medical cannabis patient

card or provisional patient card resulting from the individual's recommendation to exceed 15.

(c) The individual described in Subsection (1)(b) shall communicate the individual's recommendation through an order for the medical cannabis pharmacy to record the individual's recommendation or renewal in the state electronic verification system under the individual's recommendation that:

(i) (A) that the individual or the individual's employee sends electronically to a medical cannabis pharmacy; or

(B) that the individual gives to the patient in writing for the patient to deliver to a medical cannabis pharmacy; and

(ii) may include:

(A) directions of use or dosing guidelines; and

(B) an indication of a need for a caregiver in accordance with Subsection 26-61a-201(3)(c).

(d) If the limited medical provider gives the patient a written recommendation to deliver to a medical cannabis pharmacy under Subsection (1)(c)(i)(B), the limited medical provider shall ensure that the document includes all of the information that is included on a prescription the provider would issue for a controlled substance, including:

(i) the date of issuance;

(ii) the provider's name, address and contact information, controlled substance license information, and signature; and

(iii) the patient's name, address and contact information, age, and diagnosed qualifying condition.

(e) In considering making a recommendation as a limited medical provider, an individual may consult information that the department makes available on the department's website for recommending providers.

(2) (a) The department shall, within 15 days after the day on which the department receives an application from an individual, register and issue a qualified medical provider registration card to the individual if the individual:

(i) provides to the department the individual's name and address;

(ii) provides to the department a report detailing the individual's completion of the applicable continuing education requirement described in Subsection (3);

(iii) provides to the department evidence that the individual[~~:~~] meets the recommending qualifications;

[~~(A) has the authority to write a prescription;~~]

[~~(B) is licensed to prescribe a controlled substance under Title 58, Chapter 37, Utah Controlled Substances Act; and~~]

[~~(C) possesses the authority, in accordance with the individual's scope of practice, to prescribe a Schedule II controlled substance;~~]

[~~(iv) provides to the department evidence that the individual is:~~]

[~~(A) an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse Practice Act;~~]

[~~(B) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; or~~]

[~~(C) a physician assistant licensed under Title 58, Chapter 70a, Utah Physician Assistant Act, whose declaration of services agreement, as that term is defined in Section 58-70a-102, includes the recommending of medical cannabis, and whose supervising physician is a qualified medical provider; and~~]

(iv) for an applicant on or after November 1, 2021, provides to the department the information described in Subsection (10)(a); and

(v) pays the department a fee in an amount that:

(A) the department sets, in accordance with Section 63J-1-504; and

(B) does not exceed $300 for an initial registration.

(b) The department may not register an individual as a qualified medical provider if the individual is:

(i) a pharmacy medical provider; or

(ii) an owner, officer, director, board member, employee, or agent of a cannabis production establishment, a medical cannabis pharmacy, or a medical cannabis courier.

(3) (a) An individual shall complete the continuing education described in this Subsection (3) in the following amounts:

(i) for an individual as a condition precedent to registration, four hours; and

(ii) for a qualified medical provider as a condition precedent to renewal, four hours every two years.

(b) In accordance with Subsection (3)(a), a qualified medical provider shall:

(i) complete continuing education:

(A) regarding the topics described in Subsection (3)(d); and

(B) offered by the department under Subsection (3)(c) or an accredited or approved continuing education provider that the department recognizes as offering continuing education appropriate for the recommendation of cannabis to patients; and

(ii) make a continuing education report to the department in accordance with a process that the department establishes by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and in collaboration with the

Division of Occupational and Professional Licensing and:

(A) for a podiatrist licensed under Title 58, Chapter 5a, Podiatric Physician Licensing Act, the Podiatric Physician Board;

[~~(A)~~] (B) for an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse Practice Act, the Board of Nursing;

[~~(B)~~] (C) for a qualified medical provider licensed under Title 58, Chapter 67, Utah Medical Practice Act, the Physicians Licensing Board;

[~~(C)~~] (D) for a qualified medical provider licensed under Title 58, Chapter 68, Utah Osteopathic Medical Practice Act, the Osteopathic Physician and Surgeon's Licensing Board; and

[~~(D)~~] (E) for a physician assistant licensed under Title 58, Chapter 70a, Utah Physician Assistant Act, the Physician Assistant Licensing Board.

(c) The department may, in consultation with the Division of Occupational and Professional Licensing, develop the continuing education described in this Subsection (3).

(d) The continuing education described in this Subsection (3) may discuss:

(i) the provisions of this chapter;

(ii) general information about medical cannabis under federal and state law;

(iii) the latest scientific research on the endocannabinoid system and medical cannabis, including risks and benefits;

(iv) recommendations for medical cannabis as it relates to the continuing care of a patient in pain management, risk management, potential addiction, or palliative care; and

(v) best practices for recommending the form and dosage of medical cannabis products based on the qualifying condition underlying a medical cannabis recommendation.

(4) (a) Except as provided in Subsection (4)(b), a qualified medical provider may not recommend a medical cannabis treatment to more than 275 of the qualified medical provider's patients at the same time, as determined by the number of medical cannabis cards under the qualified medical provider's name in the state electronic verification system.

(b) A qualified medical provider may recommend a medical cannabis treatment to up to 600 of the qualified medical provider's patients at any given time, as determined by the number of medical cannabis cards under the qualified medical provider's name in the state electronic verification system, if:

(i) the appropriate American medical board has certified the qualified medical provider in the specialty of anesthesiology, gastroenterology, neurology, oncology, pain, hospice and palliative medicine, physical medicine and rehabilitation, rheumatology, endocrinology, or psychiatry; or

(ii) a licensed business employs or contracts with the qualified medical provider for the specific purpose of providing hospice and palliative care.

(5) A [~~qualified~~] recommending medical provider may recommend medical cannabis to an individual under this chapter only in the course of a [~~qualified medical~~] provider-patient relationship after the [~~qualifying~~] recommending medical provider has completed and documented in the patient's medical record a thorough assessment of the patient's condition and medical history based on the appropriate standard of care for the patient's condition.

(6) (a) Except as provided in Subsection (6)(b), an individual may not advertise that the individual recommends medical cannabis treatment in accordance with this chapter.

(b) For purposes of Subsection (6)(a), the communication of the following, through a website, by [~~an individual described in Subsection (6)(c)~~] a qualified medical provider, does not constitute advertising:

(i) a green cross;

(ii) a qualifying condition that the qualified medical provider treats; or

(iii) a scientific study regarding medical cannabis use.

[~~(c) The following are subject to Subsection (6)(b):~~]

[~~(i) before the department begins registering qualified medical providers:~~]

[~~(A) an advanced practice registered nurse described in Subsection (2)(a)(iv)(A);~~]

[~~(B) a physician described in Subsection (2)(a)(iv)(B); or~~]

[~~(C) a physician assistant described in Subsection (2)(a)(iv)(C); and~~]

[~~(ii) after the department begins registering qualified medical providers, a qualified medical provider.~~]

(7) (a) A qualified medical provider registration card expires two years after the day on which the department issues the card.

(b) The department shall renew a qualified medical provider's registration card if the provider:

(i) applies for renewal;

(ii) is eligible for a qualified medical provider registration card under this section, including maintaining an unrestricted license [~~as described in Subsection (2)(a)(iii)~~] under the recommending qualifications;

(iii) certifies to the department in a renewal application that the information in Subsection (2)(a) is accurate or updates the information;

(iv) submits a report detailing the completion of the continuing education requirement described in Subsection (3); and

(v) pays the department a fee in an amount that:

(A) the department sets, in accordance with Section 63J-1-504; and

(B) does not exceed $50 for a registration renewal.

(8) The department may revoke the registration of a qualified medical provider who fails to maintain compliance with the requirements of this section.

(9) A [~~qualified~~] recommending medical provider may not receive any compensation or benefit for the qualified medical provider's medical cannabis treatment recommendation from:

(a) a cannabis production establishment or an owner, officer, director, board member, employee, or agent of a cannabis production establishment;

(b) a medical cannabis pharmacy or an owner, officer, director, board member, employee, or agent of a medical cannabis pharmacy; or

(c) a [~~qualified~~] recommending medical provider or pharmacy medical provider.

(10) (a) On or before November 1, 2021, a qualified medical provider shall report to the department, in a manner designated by the department:

(i) if applicable, that the qualified medical provider or the entity that employs the qualified medical provider represents online or on printed material that the qualified medical provider is a qualified medical provider or offers medical cannabis recommendations to patients; and

(ii) the fee amount that the qualified medical provider or the entity that employs the qualified medical provider charges a patient for a medical cannabis recommendation, either as an actual cash rate or, if the provider or entity bills insurance, an average cash rate.

(b) The department shall:

(i) ensure that the following information related to qualified medical providers and entities described in Subsection (10)(a)(i) is available on the department's website or on the health care price transparency tool under Subsection (10)(b)(ii):

(A) the name of the qualified medical provider and, if applicable, the name of the entity that employs the qualified medical provider;

(B) the address of the qualified medical provider's office or, if applicable, the entity that employs the qualified medical provider; and

(C) the fee amount described in Subsection (10)(a)(ii); and

(ii) share data collected under this Subsection (10) with the state auditor for use in the health care price transparency tool described in Section 67-3-11.

Section 6. Section 26-61a-107 is amended to read:

26-61a-107. Standard of care -- Physicians and pharmacists not liable -- No private right of action.

(1) An individual described in Subsection (2) is not subject to the following solely for violating a federal law or regulation that would otherwise prohibit recommending, prescribing, or dispensing medical cannabis, a medical cannabis product, or a cannabis-based drug that the United States Food and Drug Administration has not approved:

(a) civil or criminal liability; or

(b) licensure sanctions under Title 58, Chapter 17b, Pharmacy Practice Act, Title 58, Chapter 31b, Nurse Practice Act, Title 58, Chapter 67, Utah Medical Practice Act, Title 58, Chapter 68, Utah Osteopathic Medical Practice Act, or Title 58, Chapter 70a, Utah Physician Assistant Act.

(2) The limitations of liability described in Subsection (1) apply to:

(a) a podiatrist licensed under Title 58, Chapter 5a, Podiatric Physician Licensing Act, an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse Practice Act, a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act, or a physician assistant licensed under Title 58, Chapter 70a, Utah Physician Assistant Act:

(i) (A) whom the department has registered as a qualified medical provider; [~~and~~] or

(B) who makes a recommendation as a limited medical provider; and

[~~(B)~~] (ii) who recommends treatment with cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form to a patient in accordance with this chapter; [~~or~~] and

[~~(ii) before January 1, 2021, who:~~]

[~~(A) has the authority to write a prescription; and~~]

[~~(B) recommends a medical cannabis treatment to a patient who has a qualifying condition; and~~]

(b) a pharmacist licensed under Title 58, Chapter 17b, Pharmacy Practice Act:

(i) whom the department has registered as a pharmacy medical provider; and

(ii) who dispenses, in a medical cannabis pharmacy, treatment with cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form to a medical cannabis cardholder in accordance with this chapter.

(3) Nothing in this section or chapter reduces or in any way negates the duty of an individual described in Subsection (2) to use reasonable and ordinary care in the treatment of a patient:

(a) who may have a qualifying condition; and

(b) (i) for whom the individual described in Subsection (2)(a)(i) or (ii) has recommended or might consider recommending a treatment with cannabis or a cannabis product; or

(ii) with whom the pharmacist described in Subsection (2)(b) has interacted in the dosing or dispensing of cannabis or a cannabis product.

(4) (a) As used in this Subsection (4), "healthcare facility" means the same as that term is defined in Section 26-21-2.

(b) A healthcare facility may adopt restrictions on the possession, use, and storage of medical cannabis on the premises of the healthcare facility by a medical cannabis cardholder who resides at or is actively receiving treatment or care at the healthcare facility.

(c) An employee or agent of a healthcare facility described in this Subsection (4) is not subject to civil or criminal liability for carrying out employment duties, including:

(i) providing or supervising care to a medical cannabis cardholder; or

(ii) in accordance with a caregiver designation under Section [~~26-61a-201~~] 26-61a-202 for a medical cannabis cardholder residing at the healthcare facility, purchasing, transporting, or possessing medical cannabis for the relevant patient and in accordance with the designation.

(d) Nothing in this section requires a healthcare facility to adopt a restriction under Subsection (4)(b).

Section 7. Section 26-61a-201 is amended to read:

26-61a-201. Medical cannabis patient card -- Medical cannabis guardian card -- Conditional medical cannabis card -- Application -- Fees -- Studies.

(1) (a) [~~On or before March 1, 2020, the~~] The department shall, within 15 days after the day on which an individual who satisfies the eligibility criteria in this section or Section 26-61a-202 submits an application in accordance with this section or Section 26-61a-202:

[~~(a)~~] (i) issue a medical cannabis patient card to an individual described in Subsection (2)(a);

[~~(b)~~] (ii) issue a medical cannabis guardian card to an individual described in Subsection (2)(b);

[~~(c)~~] (iii) issue a provisional patient card to a minor described in Subsection (2)(c); and

[~~(d)~~] (iv) issue a medical cannabis caregiver card to an individual described in Subsection 26-61a-202(4).

(b) (i) Beginning on the earlier of September 1, 2021, or the date on which the electronic verification system is functionally capable of facilitating a conditional medical cannabis card under this Subsection (1)(b), upon the entry of a recommending medical provider's medical cannabis recommendation for a patient in the state electronic verification system, either by the provider or the provider's employee or by a medical cannabis pharmacy medical provider or medical cannabis pharmacy in accordance with Subsection 26-61a-501(11)(a), the department shall issue to the patient an electronic conditional medical cannabis card, in accordance with this Subsection (1)(b).

(ii) A conditional medical cannabis card is valid for the lesser of:

(A) 60 days; or

(B) the day on which the department completes the department's review and issues a medical cannabis card under Subsection (1)(a), denies the patient's medical cannabis card application, or revokes the conditional medical cannabis card under Subsection (8).

(iii) The department may issue a conditional medical cannabis card to an individual applying for a medical cannabis patient card for which approval of the Compassionate Use Board is not required.

(iv) An individual described in Subsection (1)(b)(iii) has the rights, restrictions, and obligations under law applicable to a holder of the medical cannabis card for which the individual applies and for which the department issues the conditional medical cannabis card.

(2) (a) An individual is eligible for a medical cannabis patient card if:

(i) (A) the individual is at least 21 years old; or

(B) the individual is 18, 19, or 20 years old, the individual petitions the Compassionate Use Board under Section 26-61a-105, and the Compassionate Use Board recommends department approval of the petition;

(ii) the individual is a Utah resident;

(iii) the individual's [~~qualified~~] recommending medical provider recommends treatment with medical cannabis in accordance with Subsection (4);

(iv) the individual signs an acknowledgment stating that the individual received the information described in Subsection (8); and

(v) the individual pays to the department a fee in an amount that, subject to Subsection 26-61a-109(5), the department sets in accordance with Section 63J-1-504.

(b) (i) An individual is eligible for a medical cannabis guardian card if the individual:

(A) is at least 18 years old;

(B) is a Utah resident;

(C) is the parent or legal guardian of a minor for whom the minor's qualified medical provider recommends a medical cannabis treatment, the individual petitions the Compassionate Use Board under Section 26-61a-105, and the Compassionate Use Board recommends department approval of the petition;

(D) the individual signs an acknowledgment stating that the individual received the information described in Subsection [~~(8)~~] (9);

(E) pays to the department a fee in an amount that, subject to Subsection 26-61a-109(5), the department sets in accordance with Section 63J-1-504, plus the cost of the criminal background check described in Section 26-61a-203; and

(F) the individual has not been convicted of a misdemeanor or felony drug distribution offense under either state or federal law, unless the individual completed any imposed sentence six months or more before the day on which the individual applies for a medical cannabis guardian card.

(ii) The department shall notify the Department of Public Safety of each individual that the department registers for a medical cannabis guardian card.

(c) (i) A minor is eligible for a provisional patient card if:

(A) the minor has a qualifying condition;

(B) the minor's qualified medical provider recommends a medical cannabis treatment to address the minor's qualifying condition;

(C) the minor's parent or legal guardian petitions the Compassionate Use Board under Section 26-61a-105, and the Compassionate Use Board recommends department approval of the petition; and

(D) the minor's parent or legal guardian is eligible for a medical cannabis guardian card under Subsection (2)(b) or designates a caregiver under Subsection (2)(d) who is eligible for a medical cannabis caregiver card under Section 26-61a-202.

(ii) The department shall automatically issue a provisional patient card to the minor described in Subsection (2)(c)(i) at the same time the department issues a medical cannabis guardian card to the minor's parent or legal guardian.

(d) Beginning on the earlier of January 1, 2021, or the date on which the electronic verification system is functionally capable of servicing the designation, if the parent or legal guardian of a minor described in Subsections (2)(c)(i)(A) through (C) does not qualify for a medical cannabis guardian card under Subsection (2)(b), the parent or legal guardian may designate up to two caregivers in accordance with Subsection 26-61a-202(1)(c) to ensure that the minor has adequate and safe access to the recommended medical cannabis treatment.

(3) (a) An individual who is eligible for a medical cannabis card described in Subsection (2)(a) or (b) shall submit an application for a medical cannabis card to the department:

(i) through an electronic application connected to the state electronic verification system;

(ii) with the recommending [~~qualified~~] medical provider; and

(iii) with information including:

(A) the applicant's name, gender, age, and address;

(B) the number of the applicant's valid form of photo identification;

(C) for a medical cannabis guardian card, the name, gender, and age of the minor receiving a medical cannabis treatment under the cardholder's medical cannabis guardian card; and

(D) for a provisional patient card, the name of the minor's parent or legal guardian who holds the associated medical cannabis guardian card.

(b) The department shall ensure that a medical cannabis card the department issues under this section contains the information described in Subsection (3)(a)(iii).

(c) (i) If a [~~qualified~~] recommending medical provider determines that, because of age, illness, or disability, a medical cannabis patient cardholder requires assistance in administering the medical cannabis treatment that the [~~qualified~~] recommending medical provider recommends, the [~~qualified~~] recommending medical provider may indicate the cardholder's need in the state electronic verification system, either directly or, for a limited medical provider, through the order described in Subsections 26-61a-106(1)(c) and (d).

(ii) If a [~~qualified~~] recommending medical provider makes the indication described in Subsection (3)(c)(i):

(A) the department shall add a label to the relevant medical cannabis patient card indicating the cardholder's need for assistance; and

(B) any adult who is 18 years old or older and who is physically present with the cardholder at the time the cardholder needs to use the recommended medical cannabis treatment may handle the medical cannabis treatment and any associated medical cannabis device as needed to assist the cardholder in administering the recommended medical cannabis treatment; and

(C) an individual of any age who is physically present with the cardholder in the event of an emergency medical condition, as that term is defined in Section 31A-22-627, may handle the medical cannabis treatment and any associated medical cannabis device as needed to assist the cardholder in administering the recommended medical cannabis treatment.

(iii) A non-cardholding individual acting under Subsection (3)(c)(ii)(B) or (C) may not:

(A) ingest or inhale medical cannabis;

(B) possess, transport, or handle medical cannabis or a medical cannabis device outside of the immediate area where the cardholder is present or with an intent other than to provide assistance to the cardholder; or

(C) possess, transport, or handle medical cannabis or a medical cannabis device when the cardholder is not in the process of being dosed with medical cannabis.

(4) To recommend a medical cannabis treatment to a patient or to renew a recommendation, a [~~qualified~~] recommending medical provider shall:

(a) before recommending cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form:

(i) verify the patient's and, for a minor patient, the minor patient's parent or legal guardian's valid form of identification described in Subsection (3)(a);

(ii) review any record related to the patient and, for a minor patient, the patient's parent or legal guardian in:

(A) for a qualified medical provider, the state electronic verification system; and

(B) the controlled substance database created in Section 58-37f-201; and

(iii) consider the recommendation in light of the patient's qualifying condition and history of medical cannabis and controlled substance use during an initial face-to-face visit with the patient; and

(b) state in the [~~qualified~~] recommending medical provider's recommendation that the patient:

(i) suffers from a qualifying condition, including the type of qualifying condition; and

(ii) may benefit from treatment with cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form.

(5) (a) Except as provided in Subsection (5)(b), a medical cannabis card that the department issues under this section is valid for the lesser of:

(i) an amount of time that the [~~qualified~~] recommending medical provider determines; or

(ii) (A) six months for the first issuance, [~~90 days; (B)~~] and, except as provided in Subsection (5)(a)(ii)[~~(C)~~](B), for a renewal[~~, six months~~]; or

[~~(C)~~] (B) for a renewal, one year if, after at least one year following the issuance of the original medical cannabis card, the [~~qualified~~] recommending medical provider determines that the patient has been stabilized on the medical cannabis treatment and a one-year renewal period is justified.

(b) (i) A medical cannabis card that the department issues in relation to a terminal illness described in Section 26-61a-104 does not expire.

(ii) The recommending [~~qualified~~] medical provider may revoke a recommendation that the provider made in relation to a terminal illness described in Section 26-61a-104 if the medical cannabis cardholder no longer has the terminal illness.

(6) (a) A medical cannabis patient card or a medical cannabis guardian card is renewable if:

(i) at the time of renewal, the cardholder meets the requirements of Subsection (2)(a) or (b); or

(ii) the cardholder received the medical cannabis card through the recommendation of the Compassionate Use Board under Section 26-61a-105.

(b) A cardholder described in Subsection (6)(a) may renew the cardholder's card:

(i) using the application process described in Subsection (3); or

(ii) through phone or video conference with the [~~qualified~~] recommending medical provider who made the recommendation underlying the card, at the qualifying medical provider's discretion.

(c) A cardholder under Subsection (2)(a) or (b) who renews the cardholder's card shall pay to the department a renewal fee in an amount that:

(i) subject to Subsection 26-61a-109(5), the department sets in accordance with Section 63J-1-504; and

(ii) may not exceed the cost of the relatively lower administrative burden of renewal in comparison to the original application process.

(d) If a minor meets the requirements of Subsection (2)(c), the minor's provisional patient card renews automatically at the time the minor's parent or legal guardian renews the parent or legal guardian's associated medical cannabis guardian card.

(e) The department may revoke a medical cannabis guardian card if the cardholder under Subsection (2)(b) is convicted of a misdemeanor or felony drug distribution offense under either state or federal law.

(7) (a) A cardholder under this section shall carry the cardholder's valid medical cannabis card with the patient's name.

(b) (i) A medical cannabis patient cardholder or a provisional patient cardholder may purchase, in accordance with this chapter and the recommendation underlying the card, cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device.

(ii) A cardholder under this section may possess or transport, in accordance with this chapter and the recommendation underlying the card, cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device.

(iii) To address the qualifying condition underlying the medical cannabis treatment recommendation:

(A) a medical cannabis patient cardholder or a provisional patient cardholder may use cannabis in a medicinal dosage form, a medical cannabis product in a medicinal dosage form, or a medical cannabis device; and

(B) a medical cannabis guardian cardholder may assist the associated provisional patient cardholder with the use of cannabis in a medicinal dosage form,

a medical cannabis product in a medicinal dosage form, or a medical cannabis device.

(c) If a licensed medical cannabis pharmacy is not operating within the state after January 1, 2021, a cardholder under this section:

(i) may possess:

(A) up to the legal dosage limit of unprocessed cannabis in a medicinal dosage form;

(B) up to the legal dosage limit of a cannabis product in a medicinal dosage form; and

(C) marijuana drug paraphernalia; and

(ii) is not subject to prosecution for the possession described in Subsection (7)(c)(i).

(8) The department may revoke a medical cannabis card that the department issues under this section if the cardholder:

(a) violates this chapter; or

(b) is convicted under state or federal law of:

(i) a felony; or

(ii) after the effective date of this bill, a misdemeanor for drug distribution.

[~~(8)~~] (9) The department shall establish by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, a process to provide information regarding the following to an individual receiving a medical cannabis card:

(a) risks associated with medical cannabis treatment;

(b) the fact that a condition's listing as a qualifying condition does not suggest that medical cannabis treatment is an effective treatment or cure for that condition, as described in Subsection 26-61a-104(1); and

(c) other relevant warnings and safety information that the department determines.

[~~(9)~~] (10) The department may establish procedures by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement the application and issuance provisions of this section.

[~~(10)~~] (11) (a) On or before January 1, 2021, the department shall establish by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, a process to allow an individual from another state to register with the Department of Health in order to purchase medical cannabis or a medical cannabis device from a medical cannabis pharmacy while the individual is visiting the state.

(b) The department may only provide the registration process described in Subsection [~~(10)~~] (11)(a):

(i) to a nonresident patient; and

(ii) for no more than two visitation periods per calendar year of up to 21 calendar days per visitation period.

[~~(11)~~] (12) (a) A person may submit to the department a request to conduct a research study using medical cannabis cardholder data that the state electronic verification system contains.

(b) The department shall review a request described in Subsection [~~(11)~~] (12)(a) to determine whether an institutional review board, as that term is defined in Section 26-61-102, could approve the research study.

(c) At the time an individual applies for a medical cannabis card, the department shall notify the individual:

(i) of how the individual's information will be used as a cardholder;

(ii) that by applying for a medical cannabis card, unless the individual withdraws consent under Subsection [~~(11)~~] (12)(d), the individual consents to the use of the individual's information for external research; and

(iii) that the individual may withdraw consent for the use of the individual's information for external research at any time, including at the time of application.

(d) An applicant may, through the medical cannabis card application, and a medical cannabis cardholder may, through the state central patient portal, withdraw the applicant's or cardholder's consent to participate in external research at any time.

(e) The department may release, for the purposes of a study described in this Subsection [~~(11)~~] (12), information about a cardholder under this section who consents to participate under Subsection [~~(11)~~] (12)(c).

(f) If an individual withdraws consent under Subsection [~~(11)~~] (12)(d), the withdrawal of consent:

(i) applies to external research that is initiated after the withdrawal of consent; and

(ii) does not apply to research that was initiated before the withdrawal of consent.

(g) The department may establish standards for a medical research study's validity, by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Section 8. Section 26-61a-202 is amended to read:

26-61a-202. Medical cannabis caregiver card -- Registration -- Renewal -- Revocation.

(1) (a) (i) A cardholder described in Section 26-61a-201 may designate, through the state central patient portal, up to two individuals, or an individual and a facility in accordance with Subsection (1)(b), to serve as a designated caregiver for the cardholder [~~if a qualified medical provider notates in~~].

(ii) The designation described in Subsection (1)(a)(i) takes effect if the state electronic verification system reflects a recommending

medical provider's indication that the provider determines that, due to physical difficulty or undue hardship, including concerns of distance to a medical cannabis pharmacy, the cardholder needs assistance to obtain the medical cannabis treatment that the [~~qualified~~] recommending medical provider recommends.

(b) (i) Beginning on the earlier of January 1, 2021, or the date on which the electronic verification system is functionally capable of servicing the designation, a cardholder described in Section 26-61a-201 who is a patient in one of the following types of facilities may designate the facility as one of the caregivers described in Subsection (1)(a):

(A) an assisted living facility, as that term is defined in Section 26-21-2;

(B) a nursing care facility, as that term is defined in Section 26-21-2; or

(C) a general acute hospital, as that term is defined in Section 26-21-2.

(ii) A facility may assign one or more employees to assist patients with medical cannabis treatment under the caregiver designation described in this Subsection (1)(b).

(iii) The department shall make rules to regulate the practice of facilities and facility employees serving as designated caregivers under this Subsection (1)(b).

(c) A parent or legal guardian described in Subsection 26-61a-201(2)(d), in consultation with the minor and the minor's qualified medical provider, may designate, through the state central patient portal, up to two individuals to serve as a designated caregiver for the minor, if the department determines that the parent or legal guardian is not eligible for a medical cannabis guardian card under Section 26-61a-201.

(2) An individual that the department registers as a designated caregiver under this section and a facility described in Subsection (1)(b):

(a) for an individual designated caregiver, may carry a valid medical cannabis caregiver card;

(b) in accordance with this chapter, may purchase, possess, transport, or assist the patient in the use of cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device on behalf of the designating medical cannabis cardholder;

(c) may not charge a fee to an individual to act as the individual's designated caregiver or for a service that the designated caregiver provides in relation to the role as a designated caregiver;

(d) may accept reimbursement from the designating medical cannabis cardholder for direct costs the designated caregiver incurs for assisting with the designating cardholder's medicinal use of cannabis; and

(e) if a licensed medical cannabis pharmacy is not operating within the state after January 1, 2021:

(i) may possess up to the legal dosage limit of:

(A) unprocessed medical cannabis in a medicinal dosage form; and

(B) a cannabis product in a medicinal dosage form; [~~and~~]

(ii) may possess marijuana drug paraphernalia; and

(iii) is not subject to prosecution for the possession described in Subsection (2)(e)(i).

(3) (a) The department shall:

(i) within 15 days after the day on which an individual submits an application in compliance with this section, issue a medical cannabis card to the applicant if the applicant:

(A) is designated as a caregiver under Subsection (1);

(B) is eligible for a medical cannabis caregiver card under Subsection (4); and

(C) complies with this section; and

(ii) notify the Department of Public Safety of each individual that the department registers as a designated caregiver.

(b) The department shall ensure that a medical cannabis caregiver card contains the information described in Subsection (5)(b).

(4) An individual is eligible for a medical cannabis caregiver card if the individual:

(a) is at least 21 years old;

(b) is a Utah resident;

(c) pays to the department a fee in an amount that, subject to Subsection 26-61a-109(5), the department sets in accordance with Section 63J-1-504, plus the cost of the criminal background check described in Section 26-61a-203;

(d) signs an acknowledgment stating that the applicant received the information described in Subsection 26-61a-201[~~(8)~~](9); and

(e) has not been convicted of a misdemeanor or felony drug distribution offense that is a felony under either state or federal law, unless the individual completes any imposed sentence two or more years before the day on which the individual submits the application.

(5) An eligible applicant for a medical cannabis caregiver card shall:

(a) submit an application for a medical cannabis caregiver card to the department through an electronic application connected to the state electronic verification system; and

(b) submit the following information in the application described in Subsection (5)(a):

(i) the applicant's name, gender, age, and address;

(ii) the name, gender, age, and address of the cardholder described in Section 26-61a-201 who designated the applicant; and

(iii) if a medical cannabis guardian cardholder designated the caregiver, the name, gender, and age of the minor receiving a medical cannabis treatment in relation to the medical cannabis guardian cardholder.

(6) Except as provided in Subsection (6)(b), a medical cannabis caregiver card that the department issues under this section is valid for the lesser of:

(a) an amount of time that the cardholder described in Section 26-61a-201 who designated the caregiver determines; or

(b) the amount of time remaining before the card of the cardholder described in Section 26-61a-201 expires.

(7) (a) If a designated caregiver meets the requirements of Subsection (4), the designated caregiver's medical cannabis caregiver card renews automatically at the time the cardholder described in Section 26-61a-201 who designated the caregiver:

(i) renews the cardholder's card; and

(ii) renews the caregiver's designation, in accordance with Subsection (7)(b).

(b) The department shall provide a method in the card renewal process to allow a cardholder described in Section 26-61a-201 who has designated a caregiver to:

(i) signify that the cardholder renews the caregiver's designation;

(ii) remove a caregiver's designation; or

(iii) designate a new caregiver.

(8) The department may revoke a medical cannabis caregiver card if the designated caregiver:

(a) violates this chapter; or

(b) is convicted under state or federal law of:

(i) a felony; or

(ii) after December 3, 2018, a misdemeanor for drug distribution.

Section 9. Section 26-61a-401 is amended to read:

26-61a-401. Medical cannabis pharmacy agent -- Registration.

(1) An individual may not serve as a medical cannabis pharmacy agent of a medical cannabis pharmacy unless the department registers the individual as a medical cannabis pharmacy agent.

(2) [~~Except as provided in Section 26-61a-403, a qualified~~] A recommending medical provider may not act as a medical cannabis pharmacy agent, have a financial or voting interest of 2% or greater in a medical cannabis pharmacy, or have the power to direct or cause the management or control of a medical cannabis pharmacy.

(3) (a) The department shall, within 15 days after the day on which the department receives a complete application from a medical cannabis pharmacy on behalf of a prospective medical cannabis pharmacy agent, register and issue a medical cannabis pharmacy agent registration card to the prospective agent if the medical cannabis pharmacy:

(i) provides to the department:

(A) the prospective agent's name and address;

(B) the name and location of the licensed medical cannabis pharmacy where the prospective agent seeks to act as the medical cannabis pharmacy agent; and

(C) the submission required under Subsection (3)(b); and

(ii) pays a fee to the department in an amount that, subject to Subsection 26-61a-109(5), the department sets in accordance with Section 63J-1-504.

(b) Except for an applicant reapplying for a medical cannabis pharmacy agent registration card within less than one year after the expiration of the applicant's previous medical cannabis pharmacy agent registration card, each prospective agent described in Subsection (3)(a) shall:

(i) submit to the department:

(A) a fingerprint card in a form acceptable to the Department of Public Safety; and

(B) a signed waiver in accordance with Subsection 53-10-108(4) acknowledging the registration of the prospective agent's fingerprints in the Federal Bureau of Investigation Next Generation Identification System's Rap Back Service; and

(ii) consent to a fingerprint background check by:

(A) the Bureau of Criminal Identification; and

(B) the Federal Bureau of Investigation.

(c) The Bureau of Criminal Identification shall:

(i) check the fingerprints the prospective agent submits under Subsection (3)(b) against the applicable state, regional, and national criminal records databases, including the Federal Bureau of Investigation Next Generation Identification System;

(ii) report the results of the background check to the department;

(iii) maintain a separate file of fingerprints that prospective agents submit under Subsection (3)(b) for search by future submissions to the local and regional criminal records databases, including latent prints;

(iv) request that the fingerprints be retained in the Federal Bureau of Investigation Next Generation Identification System's Rap Back Service for search by future submissions to national criminal records databases, including the Next Generation Identification System and latent prints; and

(v) establish a privacy risk mitigation strategy to ensure that the department only receives

notifications for an individual with whom the department maintains an authorizing relationship.

(d) The department shall:

(i) assess an individual who submits fingerprints under Subsection (3)(b) a fee in an amount that the department sets in accordance with Section 63J-1-504 for the services that the Bureau of Criminal Identification or another authorized agency provides under this section; and

(ii) remit the fee described in Subsection (3)(d)(i) to the Bureau of Criminal Identification.

(4) The department shall designate, on an individual's medical cannabis pharmacy agent registration card the name of the medical cannabis pharmacy where the individual is registered as an agent.

(5) A medical cannabis pharmacy agent shall comply with a certification standard that the department develops in collaboration with the Division of Occupational and Professional Licensing and the Board of Pharmacy, or a third-party certification standard that the department designates by rule, in collaboration with the Division of Occupational and Professional Licensing and the Board of Pharmacy and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(6) The department shall ensure that the certification standard described in Subsection (5) includes training in:

(a) Utah medical cannabis law; and

(b) medical cannabis pharmacy best practices.

(7) The department may revoke the medical cannabis pharmacy agent registration card of, or refuse to issue a medical cannabis pharmacy agent registration card to, an individual who:

(a) violates the requirements of this chapter; or

(b) is convicted under state or federal law of:

(i) a felony; or

(ii) after December 3, 2018, a misdemeanor for drug distribution.

(8) (a) A medical cannabis pharmacy agent registration card expires two years after the day on which the department issues or renews the card.

(b) A medical cannabis pharmacy agent may renew the agent's registration card if the agent:

(i) is eligible for a medical cannabis pharmacy agent registration card under this section;

(ii) certifies to the department in a renewal application that the information in Subsection (3)(a) is accurate or updates the information; and

(iii) pays to the department a renewal fee in an amount that:

(A) subject to Subsection 26-61a-109(5), the department sets in accordance with Section 63J-1-504; and

(B) may not exceed the cost of the relatively lower administrative burden of renewal in comparison to the original application process.

Section 10. Section 26-61a-403 is amended to read:

26-61a-403. Pharmacy medical providers -- Registration -- Continuing education.

(1) (a) A medical cannabis pharmacy:

(i) shall employ a pharmacist who is licensed under Title 58, Chapter 17b, Pharmacy Practice Act, as a pharmacy medical provider;

(ii) may employ a physician who has the authority to write a prescription and is licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act, as a pharmacy medical provider;

(iii) shall ensure that a pharmacy medical provider described in Subsection (1)(a)(i) works onsite during all business hours; and

(iv) shall designate one pharmacy medical provider described in Subsection (1)(a)(i) as the pharmacist-in-charge to oversee the operation of and generally supervise the medical cannabis pharmacy.

(b) An individual may not serve as a pharmacy medical provider unless the department registers the individual as a pharmacy medical provider in accordance with Subsection (2).

(2) (a) The department shall, within 15 days after the day on which the department receives an application from a medical cannabis pharmacy on behalf of a prospective pharmacy medical provider, register and issue a pharmacy medical provider registration card to the prospective pharmacy medical provider if the medical cannabis pharmacy:

(i) provides to the department:

(A) the prospective pharmacy medical provider's name and address;

(B) the name and location of the licensed medical cannabis pharmacy where the prospective pharmacy medical provider seeks to act as a pharmacy medical provider;

(C) a report detailing the completion of the continuing education requirement described in Subsection (3); and

(D) evidence that the prospective pharmacy medical provider is a pharmacist who is licensed under Title 58, Chapter 17b, Pharmacy Practice Act, or a physician who has the authority to write a prescription and is licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; and

(ii) pays a fee to the department in an amount that, subject to Subsection 26-61a-109(5), the

department sets in accordance with Section 63J-1-504.

(b) The department may not register a [~~qualified~~] recommending medical provider or a state central patient portal medical provider as a pharmacy medical provider.

(3) (a) A pharmacy medical provider shall complete the continuing education described in this Subsection (3) in the following amounts:

(i) as a condition precedent to registration, four hours; and

(ii) as a condition precedent to renewal of the registration, four hours every two years.

(b) In accordance with Subsection (3)(a), the pharmacy medical provider shall:

(i) complete continuing education:

(A) regarding the topics described in Subsection (3)(d); and

(B) offered by the department under Subsection (3)(c) or an accredited or approved continuing education provider that the department recognizes as offering continuing education appropriate for the medical cannabis pharmacy practice; and

(ii) make a continuing education report to the department in accordance with a process that the department establishes by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and in collaboration with the Division of Occupational and Professional Licensing and:

(A) for a pharmacy medical provider who is licensed under Title 58, Chapter 17b, Pharmacy Practice Act, the Board of Pharmacy;

(B) for a pharmacy medical provider licensed under Title 58, Chapter 67, Utah Medical Practice Act, the Physicians Licensing Board; and

(C) for a pharmacy medical provider licensed under Title 58, Chapter 68, Utah Osteopathic Medical Practice Act, the Osteopathic Physician and Surgeon's Licensing Board.

(c) The department may, in consultation with the Division of Occupational and Professional Licensing, develop the continuing education described in this Subsection (3).

(d) The continuing education described in this Subsection (3) may discuss:

(i) the provisions of this chapter;

(ii) general information about medical cannabis under federal and state law;

(iii) the latest scientific research on the endocannabinoid system and medical cannabis, including risks and benefits;

(iv) recommendations for medical cannabis as it relates to the continuing care of a patient in pain management, risk management, potential addiction, and palliative care; or

(v) best practices for recommending the form and dosage of a medical cannabis product based on the qualifying condition underlying a medical cannabis recommendation.

(4) (a) A pharmacy medical provider registration card expires two years after the day on which the department issues or renews the card.

(b) A pharmacy medical provider may renew the provider's registration card if the provider:

(i) is eligible for a pharmacy medical provider registration card under this section;

(ii) certifies to the department in a renewal application that the information in Subsection (2)(a) is accurate or updates the information;

(iii) submits a report detailing the completion of the continuing education requirement described in Subsection (3); and

(iv) pays to the department a renewal fee in an amount that:

(A) subject to Subsection 26-61a-109(5), the department sets in accordance with Section 63J-1-504; and

(B) may not exceed the cost of the relatively lower administrative burden of renewal in comparison to the original application process.

Section 11. Section 26-61a-501 is amended to read:

26-61a-501. Operating requirements -- General.

(1) (a) A medical cannabis pharmacy shall operate:

(i) at the physical address provided to the department under Section 26-61a-301; and

(ii) in accordance with the operating plan provided to the department under Section 26-61a-301 and, if applicable, 26-61a-304.

(b) A medical cannabis pharmacy shall notify the department before a change in the medical cannabis pharmacy's physical address or operating plan.

(2) An individual may not enter a medical cannabis pharmacy unless the individual:

(a) is at least 18 years old; and

(b) except as provided in Subsection (5), possesses a valid:

(i) medical cannabis pharmacy agent registration card;

(ii) pharmacy medical provider registration card; or

(iii) medical cannabis card.

(3) A medical cannabis pharmacy may not employ an individual who is younger than 21 years old.

(4) A medical cannabis pharmacy may not employ an individual who has been convicted of a felony under state or federal law.

(5) Notwithstanding Subsection (2), a medical cannabis pharmacy may authorize an individual who is not a medical cannabis pharmacy agent or pharmacy medical provider to access the medical cannabis pharmacy if the medical cannabis pharmacy tracks and monitors the individual at all times while the individual is at the medical cannabis pharmacy and maintains a record of the individual's access.

(6) A medical cannabis pharmacy shall operate in a facility that has:

(a) a single, secure public entrance;

(b) a security system with a backup power source that:

(i) detects and records entry into the medical cannabis pharmacy; and

(ii) provides notice of an unauthorized entry to law enforcement when the medical cannabis pharmacy is closed; and

(c) a lock on each area where the medical cannabis pharmacy stores cannabis or a cannabis product.

(7) A medical cannabis pharmacy shall post, both clearly and conspicuously in the medical cannabis pharmacy, the limit on the purchase of cannabis described in Subsection 26-61a-502(2).

(8) A medical cannabis pharmacy may not allow any individual to consume cannabis on the property or premises of the medical cannabis pharmacy.

(9) A medical cannabis pharmacy may not sell cannabis or a cannabis product without first indicating on the cannabis or cannabis product label the name of the medical cannabis pharmacy.

(10) (a) Each medical cannabis pharmacy shall retain in the pharmacy's records the following information regarding each recommendation underlying a transaction:

(i) the [~~qualified~~] recommending medical provider's name, address, and telephone number;

(ii) the patient's name and address;

(iii) the date of issuance;

(iv) directions of use and dosing guidelines or an indication that the [~~qualified~~] recommending medical provider did not recommend specific directions of use or dosing guidelines; and

(v) if the patient did not complete the transaction, the name of the medical cannabis cardholder who completed the transaction.

(b) (i) Except as provided in Subsection (10)(b)(ii), a medical cannabis pharmacy may not sell medical cannabis unless the medical cannabis has a label securely affixed to the container indicating the following minimum information:

(A) the name, address, and telephone number of the medical cannabis pharmacy;

(B) the unique identification number that the medical cannabis pharmacy assigns;

(C) the date of the sale;

(D) the name of the patient;

(E) the name of the [~~qualified~~] recommending medical provider who recommended the medical cannabis treatment;

(F) directions for use and cautionary statements, if any;

(G) the amount dispensed and the cannabinoid content;

(H) the suggested use date;

(I) for unprocessed cannabis flower, the legal use termination date; and

(J) any other requirements that the department determines, in consultation with the Division of Occupational and Professional Licensing and the Board of Pharmacy.

(ii) A medical cannabis pharmacy may sell medical cannabis to another medical cannabis pharmacy without a label described in Subsection (10)(b)(i).

(11) A pharmacy medical provider or medical cannabis pharmacy agent shall:

(a) upon receipt of an order from a limited medical provider in accordance with Subsections 26-61a-106(1)(b) and (c):

(i) for a written order, contact the limited medical provider or the limited medical provider's office to verify the validity of the recommendation; and

(ii) for a written order that the pharmacy medical provider or medical cannabis pharmacy agent verifies under Subsection (11)(a)(i) or an electronic order, enter the limited medical provider's recommendation or renewal, including any associated directions of use, dosing guidelines, or caregiver indication, in the state electronic verification system;

(b) in processing an order for a holder of a conditional medical cannabis card described in Subsection 26-61a-201(1)(b) that appears irregular or suspicious in the judgment of the pharmacy medical provider or medical cannabis pharmacy agent, contact the recommending medical provider or the recommending medical provider's office to verify the validity of the recommendation before processing the cardholder's order;

[~~(a)~~] (c) unless the medical cannabis cardholder has had a consultation under Subsection 26-61a-502(4) or (5), verbally offer to a medical cannabis cardholder at the time of a purchase of cannabis, a cannabis product, or a medical cannabis device, personal counseling with the pharmacy medical provider; and

[~~(b)~~] (d) provide a telephone number or website by which the cardholder may contact a pharmacy medical provider for counseling.

(12) (a) A medical cannabis pharmacy may create a medical cannabis disposal program that allows an individual to deposit unused or excess medical cannabis, cannabis residue from a medical cannabis device, or medical cannabis product in a locked box or other secure receptacle within the medical cannabis pharmacy.

(b) A medical cannabis pharmacy with a disposal program described in Subsection (12)(a) shall ensure that only a medical cannabis pharmacy agent or pharmacy medical provider can access deposited medical cannabis or medical cannabis products.

(c) A medical cannabis pharmacy shall dispose of any deposited medical cannabis or medical cannabis products by:

(i) rendering the deposited medical cannabis or medical cannabis products unusable and unrecognizable before transporting deposited medical cannabis or medical cannabis products from the medical cannabis pharmacy; and

(ii) disposing of the deposited medical cannabis or medical cannabis products in accordance with:

(A) federal and state law, rules, and regulations related to hazardous waste;

(B) the Resource Conservation and Recovery Act, 42 U.S.C. Sec. 6991 et seq.;

(C) Title 19, Chapter 6, Part 5, Solid Waste Management Act; and

(D) other regulations that the department makes in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(13) The department shall establish by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, protocols for a recall of cannabis and cannabis products by a medical cannabis pharmacy.

Section 12. Section 26-61a-502 is amended to read:

26-61a-502. Dispensing -- Amount a medical cannabis pharmacy may dispense -- Reporting -- Form of cannabis or cannabis product.

(1) (a) A medical cannabis pharmacy may not sell a product other than, subject to this chapter:

(i) cannabis in a medicinal dosage form that the medical cannabis pharmacy acquired from a cannabis processing facility that is licensed under Section 4-41a-201;

(ii) a cannabis product in a medicinal dosage form that the medical cannabis pharmacy acquired from a cannabis processing facility that is licensed under Section 4-41a-201;

(iii) a medical cannabis device; or

(iv) educational material related to the medical use of cannabis.

(b) A medical cannabis pharmacy may only sell an item listed in Subsection (1)(a) to an individual with:

(i) (A) a medical cannabis card;

(B) a department registration described in [~~Subsection 26-61a-202(10)~~] Section 26-61a-201; or

(C) until December 31, 2020, a letter from a medical provider in accordance with Subsection (10); and

(ii) a corresponding valid form of photo identification.

(c) Notwithstanding Subsection (1)(a), a medical cannabis pharmacy may not sell a cannabis-based drug that the United States Food and Drug Administration has approved.

(d) Notwithstanding Subsection (1)(b), a medical cannabis pharmacy may not sell a medical cannabis device to an individual described in Subsection 26-61a-201(2)(a)(i)(B) or to a minor described in Subsection 26-61a-201(2)(c) unless the individual or minor has the approval of the Compassionate Use Board in accordance with Subsection 26-61a-105(5).

(2) A medical cannabis pharmacy:

(a) may dispense to a medical cannabis cardholder or to an individual described in Subsection (10)(b), in any one 28-day period, up to the legal dosage limit of:

(i) unprocessed cannabis that:

(A) is in a medicinal dosage form; and

(B) carries a label clearly displaying the amount of tetrahydrocannabinol and cannabidiol in the cannabis; and

(ii) a cannabis product that is in a medicinal dosage form; and

(b) may not dispense:

(i) more medical cannabis than described in Subsection (2)(a); or

(ii) to an individual whose [~~qualified~~] recommending medical provider[~~, or for an individual described in Subsection (10)(a), the medical professional described in Subsection (10)(a)(i),~~] did not recommend directions of use and dosing guidelines, until the individual consults with the pharmacy medical provider in accordance with Subsection (4), any medical cannabis.

(3) An individual with a medical cannabis card [~~or an individual described in Subsection (10)(a)~~]:

(a) may purchase, in any one 28-day period, up to the legal dosage limit of:

(i) unprocessed cannabis in a medicinal dosage form; and

(ii) a cannabis product in a medicinal dosage form;

(b) may not purchase:

(i) more medical cannabis than described in Subsection (3)(a); or

(ii) if the relevant [~~qualified~~] recommending medical provider did not recommend directions of use and dosing guidelines, until the individual consults with the pharmacy medical provider in accordance with Subsection (4), any medical cannabis; and

(c) may not use a route of administration that the relevant [~~qualified~~] recommending medical provider or the pharmacy medical provider, in accordance with Subsection (4) or (5), has not recommended.

(4) If a [~~qualified~~] recommending medical provider recommends treatment with medical cannabis but does not provide directions of use and dosing guidelines:

(a) the qualified medical provider or the medical cannabis pharmacy recording a recommendation under the order of a limited medical provider, shall document in the recommendation:

(i) an evaluation of the qualifying condition underlying the recommendation;

(ii) prior treatment attempts with medical cannabis; and

(iii) the patient's current medication list; and

(b) before the relevant medical cannabis cardholder may obtain medical cannabis, the pharmacy medical provider shall:

(i) review pertinent medical records, including the [~~qualified~~] recommending medical provider documentation described in Subsection (4)(a); and

(ii) unless the pertinent medical records show directions of use and dosing guidelines from a state central patient portal medical provider in accordance with Subsection (5), after completing the review described in Subsection (4)(b)(i) and consulting with the recommending [~~qualified~~] medical provider as needed, determine the best course of treatment through consultation with the cardholder regarding:

(A) the patient's qualifying condition underlying the recommendation from the [~~qualified~~] recommending medical provider;

(B) indications for available treatments;

(C) directions of use and dosing guidelines; and

(D) potential adverse reactions.

(5) (a) A state central patient portal medical provider may provide the consultation and make the determination described in Subsection (4)(b) for a medical cannabis patient cardholder regarding an electronic order that the state central patient portal facilitates.

(b) The state central patient portal medical provider described in Subsection (5)(a) shall document the directions of use and dosing guidelines, determined under Subsection (5)(a) in the pertinent medical records.

(6) A medical cannabis pharmacy shall:

(a) (i) access the state electronic verification system before dispensing cannabis or a cannabis product to a medical cannabis cardholder in order to determine if the cardholder or, where applicable, the associated patient has met the maximum amount of medical cannabis described in Subsection (2); and

(ii) if the verification in Subsection (6)(a)(i) indicates that the individual has met the maximum amount described in Subsection (2):

(A) decline the sale; and

(B) notify the [~~qualified~~] recommending medical provider who made the underlying recommendation;

(b) submit a record to the state electronic verification system each time the medical cannabis pharmacy dispenses medical cannabis to a medical cannabis cardholder;

(c) package any medical cannabis that is in a container that:

(i) complies with Subsection 4-41a-602(2) or, if applicable, [~~26-61a-102(32)(a)(ii)~~] provisions related to a container for unprocessed cannabis flower in the definition of "medicinal dosage form" in Section 26-61a-102;

(ii) is tamper-resistant and tamper-evident; and

(iii) opaque; and

(d) for a product that is a cube that is designed for ingestion through chewing or holding in the mouth for slow dissolution, include a separate, off-label warning about the risks of over-consumption.

(7) (a) Except as provided in Subsection (7)(b), a medical cannabis pharmacy may not sell medical cannabis in the form of a cigarette or a medical cannabis device that is intentionally designed or constructed to resemble a cigarette.

(b) A medical cannabis pharmacy may sell a medical cannabis device that warms cannabis material into a vapor without the use of a flame and that delivers cannabis to an individual's respiratory system.

(8) A medical cannabis pharmacy may not give, at no cost, a product that the medical cannabis pharmacy is allowed to sell under Subsection (1).

(9) The department may impose a uniform fee on each medical cannabis transaction in a medical cannabis pharmacy in an amount that, subject to Subsection 26-61a-109(5), the department sets in accordance with Section 63J-1-504.

[~~(10) (a) Except as provided in Subsection (10)(b), until December 31, 2020, an individual may purchase up to the legal dosage limit of an item listed in Subsection (1)(a) from a licensed medical cannabis pharmacy if:~~]

[~~(i) the individual presents to the medical cannabis pharmacy a letter from the medical professional described in Subsection 58-37-3.7(2)(a)(i)(B) that indicates the medical~~

~~professional's medical cannabis recommendation for the individual;~~]

[~~(ii) the medical cannabis pharmacy receives independent confirmation from the medical professional described in Subsection (10)(a)(i) or an employee of the medical professional that the letter is valid;~~]

[~~(iii) the medical cannabis pharmacy:~~]

[~~(A) scans or photocopies the individual's letter and the individual's valid form of photo identification;~~]

[~~(B) creates a record of the transaction, including the documents described in Subsection (10)(a)(iii)(A), the date of purchase, and the type and quantity of medical cannabis the individual purchased; and~~]

[~~(C) provides information to the individual about obtaining a medical cannabis card; and~~]

[~~(iv) unless the medical professional recommends specific directions of using and dosing guidelines in the letter, the pharmacy medical provider determines the best course of treatment through consultation with the individual regarding:~~]

[~~(A) the individual's qualifying condition underlying the recommendation from the medical professional;~~]

[~~(B) indications for available treatments;~~]

[~~(C) directions of use and dosing guidelines; and~~]

[~~(D) potential adverse reactions.~~]

[~~(b) (i) An individual who purchases medical cannabis from a medical cannabis pharmacy under Subsection (10)(a) may not purchase medical cannabis from a different medical cannabis pharmacy under Subsection (10)(a).~~]

[~~(ii) If the department notifies a medical cannabis pharmacy, in accordance with Subsection (10)(c), of an individual purchasing medical cannabis under Subsection (10)(a) from more than one medical cannabis pharmacy, a medical cannabis pharmacy may not sell an item listed in Subsection (1)(a) to the individual under Subsection (10)(a).~~]

[~~(iii) An individual may not purchase medical cannabis under Subsection (10)(a) if the individual is a medical cannabis cardholder.~~]

[~~(c) (i) Until December 31, 2020, on or before the first day of each month, each medical cannabis pharmacy shall provide to the department, in a secure manner, information identifying each individual who has purchased medical cannabis from the medical cannabis pharmacy under Subsection (10)(a).~~]

[~~(ii) The department shall review information the department receives under Subsection (10)(c)(i) to identify any individuals who:~~]

[~~(A) have purchased medical cannabis under Subsection (10)(a) from more than one pharmacy; or~~]

[~~(B) hold a medical cannabis card.~~]

[~~(iii) If the department identifies an individual described in Subsection (10)(c)(ii), the department shall notify each medical cannabis pharmacy regarding:~~]

[~~(A) the identification of the individual; and~~]

[~~(B) the individual's ineligibility to purchase medical cannabis for a reason described in Subsection (10)(b).~~]

[~~(11)~~] (10) A medical cannabis pharmacy may purchase and store medical cannabis devices regardless of whether the seller has a cannabis-related license under this title or Title 4, Chapter 41a, Cannabis Production Establishments.

Section 13. Section 26-61a-503 is amended to read:

26-61a-503. Partial filling.

(1) As used in this section, "partially fill" means to provide less than the full amount of cannabis or cannabis product that the [~~qualified~~] recommending medical provider recommends, if the [~~qualified~~] recommending medical provider recommended specific dosing parameters.

(2) A pharmacy medical provider may partially fill a recommendation for a medical cannabis treatment at the request of the [~~qualified~~] recommending medical provider who issued the medical cannabis treatment recommendation or the medical cannabis cardholder.

(3) The department shall make rules, in collaboration with the Division of Occupational and Professional Licensing and the Board of Pharmacy and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, specifying how to record the date, quantity supplied, and quantity remaining of a partially filled medical cannabis treatment recommendation.

(4) A pharmacy medical provider who is a pharmacist may, upon the request of a medical cannabis cardholder, determine different dosing parameters, subject to the dosing limits in Subsection 26-61a-502(2), to fill the quantity remaining of a partially filled medical cannabis treatment recommendation if:

(a) the pharmacy medical provider determined dosing parameters for the partial fill under Subsection 26-61a-502(4) or (5); and

(b) the medical cannabis cardholder reports that:

(i) the partial fill did not substantially affect the qualifying condition underlying the medical cannabis recommendation; or

(ii) the patient experienced an adverse reaction to the partial fill or was otherwise unable to successfully use the partial fill.

Section 14. Section 26-61a-601 is amended to read:

26-61a-601. State central patient portal -- Department duties.

(1) On or before July 1, 2020, the department shall establish or contract to establish, in accordance with Title 63G, Chapter 6a, Utah Procurement Code, a state central patient portal as described in this section.

(2) The state central patient portal shall:

(a) authenticate each user to ensure the user is a valid medical cannabis patient cardholder;

(b) allow a medical cannabis patient cardholder to:

(i) obtain and download the cardholder's medical cannabis card;

(ii) review the cardholder's medical cannabis purchase history; and

(iii) manage the cardholder's personal information, including withdrawing consent for the use of the cardholder's information for a study described in Subsection 26-61a-201[~~(11)~~](12);

(c) if the cardholder's [~~qualified~~] recommending medical provider recommended the use of medical cannabis without providing directions of use and dosing guidelines and the cardholder has not yet received the counseling or consultation required in Subsection 26-61a-502(4):

(i) alert the cardholder of the outstanding need for consultation; and

(ii) provide the cardholder with access to the contact information for each state central patient portal medical provider and each pharmacy medical provider;

(d) except as provided in Subsection (2)(e), facilitate an electronic medical cannabis order:

(i) to a home delivery medical cannabis pharmacy for a medical cannabis shipment; or

(ii) to a medical cannabis pharmacy for a medical cannabis cardholder to obtain in person from the pharmacy;

(e) prohibit a patient from completing an electronic medical cannabis order described in Subsection (2)(d) if the purchase would exceed the limitations described in Subsection 26-61a-502(2)(a) or (b);

(f) provide educational information to medical cannabis patient cardholders regarding the state's medical cannabis laws and regulatory programs and other relevant information regarding medical cannabis; and

(g) allow the patient to designate up to two caregivers who may receive a medical cannabis caregiver card to purchase and transport medical cannabis on behalf of the patient in accordance with this chapter.

(3) The department may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement the state central patient portal.

Section 15. Section 58-5a-102 is amended to read:

58-5a-102. Definitions.

In addition to the definitions under Section 58-1-102, as used in this chapter:

(1) "Board" means the Podiatric Physician Board created in Section 58-5a-201.

(2) "Indirect supervision" means the same as that term is defined by the division by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(3) "Medical assistant" means an unlicensed individual working under the indirect supervision of a licensed podiatric physician and engaging in specific tasks assigned by the licensed podiatric physician in accordance with the standards and ethics of the podiatry profession.

(4) "Practice of podiatry" means the diagnosis and treatment of conditions affecting the human foot and ankle and their manifestations of systemic conditions by all appropriate and lawful means, subject to Section 58-5a-103.

(5) "Unlawful conduct" includes:

(a) the conduct that constitutes unlawful conduct under Section 58-1-501; and

(b) for an individual who is not licensed under this chapter:

(i) using the title or name podiatric physician, podiatrist, podiatric surgeon, foot doctor, foot specialist, or D.P.M.; or

(ii) implying or representing that the individual is qualified to practice podiatry.

(6) (a) "Unprofessional conduct" includes, for an individual licensed under this chapter:

[~~(a)~~] (i) the conduct that constitutes unprofessional conduct under Section 58-1-501;

[~~(b)~~] (ii) communicating to a third party, without the consent of the patient, information the individual acquires in treating the patient, except as necessary for professional consultation regarding treatment of the patient;

[~~(c)~~] (iii) allowing the individual's name or license to be used by an individual who is not licensed to practice podiatry under this chapter;

[~~(d)~~] (iv) except as described in Section 58-5a-306, employing, directly or indirectly, any unlicensed individual to practice podiatry;

[~~(e)~~] (v) using alcohol or drugs, to the extent the individual's use of alcohol or drugs impairs the individual's ability to practice podiatry;

[~~(f)~~] (vi) unlawfully prescribing, selling, or giving away any prescription drug, including controlled substances, as defined in Section 58-37-2;

[~~(g)~~] (vii) gross incompetency in the practice of podiatry;

[~~(h)~~] (viii) willfully and intentionally making a false statement or entry in hospital records, medical records, or reports;

[~~(i)~~] (ix) willfully making a false statement in reports or claim forms to governmental agencies or insurance companies with the intent to secure payment not rightfully due;

[~~(j)~~] (x) willfully using false or fraudulent advertising;

[~~(k)~~] (xi) conduct the division defines as unprofessional conduct by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or

[~~(l)~~] (xii) falsely making an entry in, or altering, a medical record with the intent to conceal:

[~~(i)~~] (A) a wrongful or negligent act or omission of an individual licensed under this chapter or an individual under the direction or control of an individual licensed under this chapter; or

[~~(ii)~~] (B) conduct described in Subsections (6)(a)(i) through [~~(k)~~] (xi) or Subsection 58-1-501(1).

(b) "Unprofessional conduct" does not include, in accordance with Title 26, Chapter 61a, Utah Medical Cannabis Act, when registered as a qualified medical provider or acting as a limited medical provider, as those terms are defined in Section 26-61a-102, recommending the use of medical cannabis within the scope of a practice of podiatry.

Section 16. Section 58-31b-502 is amended to read:

58-31b-502. Unprofessional conduct.

(1) "Unprofessional conduct" includes:

(a) failure to safeguard a patient's right to privacy as to the patient's person, condition, diagnosis, personal effects, or any other matter about which the licensee is privileged to know because of the licensee's or person with a certification's position or practice as a nurse or practice as a medication aide certified;

(b) failure to provide nursing service or service as a medication aide certified in a manner that demonstrates respect for the patient's human dignity and unique personal character and needs without regard to the patient's race, religion, ethnic background, socioeconomic status, age, sex, or the nature of the patient's health problem;

(c) engaging in sexual relations with a patient during any:

(i) period when a generally recognized professional relationship exists between the person licensed or certified under this chapter and the patient; or

(ii) extended period when a patient has reasonable cause to believe a professional relationship exists between the person licensed or certified under the provisions of this chapter and the patient;

(d) (i) as a result of any circumstance under Subsection (1)(c), exploiting or using information about a patient or exploiting the licensee's or the person with a certification's professional relationship between the licensee or holder of a certification under this chapter and the patient; or

(ii) exploiting the patient by use of the licensee's or person with a certification's knowledge of the patient obtained while acting as a nurse or a medication aide certified;

(e) unlawfully obtaining, possessing, or using any prescription drug or illicit drug;

(f) unauthorized taking or personal use of nursing supplies from an employer;

(g) unauthorized taking or personal use of a patient's personal property;

(h) unlawful or inappropriate delegation of nursing care;

(i) failure to exercise appropriate supervision of persons providing patient care services under supervision of the licensed nurse;

(j) employing or aiding and abetting the employment of an unqualified or unlicensed person to practice as a nurse;

(k) failure to file or record any medical report as required by law, impeding or obstructing the filing or recording of such a report, or inducing another to fail to file or record such a report;

(l) breach of a statutory, common law, regulatory, or ethical requirement of confidentiality with respect to a person who is a patient, unless ordered by a court;

(m) failure to pay a penalty imposed by the division;

(n) prescribing a Schedule II controlled substance without complying with the requirements in Section 58-31b-803, if applicable;

(o) violating Section 58-31b-801;

(p) violating the dispensing requirements of Section 58-17b-309 or Chapter 17b, Part 8, Dispensing Medical Practitioner and Dispensing Medical Practitioner Clinic Pharmacy, if applicable;

(q) establishing or operating a pain clinic without a consultation and referral plan for Schedule II or III controlled substances; or

(r) falsely making an entry in, or altering, a medical record with the intent to conceal:

(i) a wrongful or negligent act or omission of an individual licensed under this chapter or an individual under the direction or control of an individual licensed under this chapter; or

(ii) conduct described in Subsections (1)(a) through (q) or Subsection 58-1-501(1).

(2) "Unprofessional conduct" does not include, in accordance with Title 26, Chapter 61a, Utah Medical Cannabis Act, when registered as a qualified medical provider or acting as a limited medical provider, as [~~that term is~~] those terms are defined in Section 26-61a-102, recommending the use of medical cannabis.

(3) Notwithstanding Subsection (2), the division, in consultation with the board and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, shall define unprofessional conduct for an advanced practice registered nurse described in Subsection (2).

Section 17. Section 58-37-3.7 is amended to read:

58-37-3.7. Medical cannabis decriminalization.

(1) As used in this section:

(a) "Cannabis" means the same as that term is defined in Section 26-61a-102.

(b) "Cannabis product" means the same as that term is defined in Section 26-61a-102.

(c) "Legal dosage limit" means the same as that term is defined in Section 26-61a-102.

(d) "Medical cannabis card" means the same as that term is defined in Section 26-61a-102.

(e) "Medical cannabis device" means the same as that term is defined in Section 26-61a-102.

(f) "Medicinal dosage form" means the same as that term is defined in Section 26-61a-102.

(g) "Nonresident patient" means the same as that term is defined in Section 26-61a-102.

(h) "Qualifying condition" means the same as that term is defined in Section 26-61a-102.

(i) "Tetrahydrocannabinol" means the same as that term is defined in Section 58-37-3.9.

(2) Before [~~January~~] July 1, 2021, including during the period between January 1, 2021, and the effective date of this bill, an individual is not guilty under this chapter for the use or possession of marijuana, tetrahydrocannabinol, or marijuana drug paraphernalia if:

(a) at the time of the arrest or citation, the individual:

[~~(i) (A) had been diagnosed with a qualifying condition; and~~]

[~~(B) had a pre-existing provider-patient relationship with an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse Practice Act, a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, a physician licensed under Title 58, Chapter 68, Utah Osteopathic Medical Practice Act, or a physician assistant licensed under Title 58, Chapter 70a, Utah Physician Assistant Act, who believed that the individual's illness described in Subsection (2)(a)(i)(A) could benefit from the use in question;~~]

[~~(ii) for possession, was:~~]

[~~(A) the parent or legal guardian of an individual described in Subsection (2)(a)(i) who is a minor; or~~]

[~~(B) the spouse of an individual described in Subsection (2)(a)(i); or~~]

[~~(iii) (A)~~] (i) for possession, was a medical cannabis cardholder; or

[~~(B)~~] (ii) for use, was a medical cannabis patient cardholder or a minor with a [~~qualifying condition~~] provisional patient card under the supervision of a medical cannabis guardian cardholder; and

(b) (i) for use or possession of marijuana or tetrahydrocannabinol, the marijuana or tetrahydrocannabinol is one of the following in an amount that does not exceed the legal dosage limit:

(A) unprocessed cannabis in a medicinal dosage form; or

(B) a cannabis product in a medicinal dosage form; and

(ii) for use or possession of marijuana drug paraphernalia, the paraphernalia is a medical cannabis device.

(3) A nonresident patient is not guilty under this chapter for the use or possession of marijuana, tetrahydrocannabinol, or marijuana drug paraphernalia under this chapter if:

(a) for use or possession of marijuana or tetrahydrocannabinol, the marijuana or tetrahydrocannabinol is one of the following in an amount that does not exceed the legal dosage limit:

(i) unprocessed cannabis in a medicinal dosage form; or

(ii) a cannabis product in a medicinal dosage form; and

(b) for use or possession of marijuana drug paraphernalia, the paraphernalia is a medical cannabis device.

(4) (a) There is a rebuttable presumption against an allegation of use or possession of marijuana or tetrahydrocannabinol if:

(i) an individual fails a drug test based on the presence of [~~tetahyrdrocannabinol~~] tetrahydrocannabinol in the sample; and

(ii) the individual provides evidence that the individual possessed or used cannabidiol or a cannabidiol product.

(b) The presumption described in Subsection (4)(a) may be rebutted with evidence that the individual purchased or possessed marijuana or tetrahydrocannabinol that is not authorized under:

(i) Section 4-41-402; or

(ii) Title 26, Chapter 61a, Utah Medical Cannabis Act.

Section 18. Section 58-37-6.5 is amended to read:

58-37-6.5. Continuing education for controlled substance prescribers.

(1) For the purposes of this section:

(a) "Controlled substance prescriber" means an individual, other than a veterinarian, who:

(i) is licensed to prescribe a controlled substance under Title 58, Chapter 37, Utah Controlled Substances Act; and

(ii) possesses the authority, in accordance with the individual's scope of practice, to prescribe schedule II controlled substances and schedule III controlled substances that are applicable to opioid narcotics, hypnotic depressants, or psychostimulants.

(b) "D.O." means an osteopathic physician and surgeon licensed under Title 58, Chapter 68, Utah Osteopathic Medical Practice Act.

(c) "FDA" means the United States Food and Drug Administration.

(d) "M.D." means a physician and surgeon licensed under Title 58, Chapter 67, Utah Medical Practice Act.

(e) "SBIRT" means the Screening, Brief Intervention, and Referral to Treatment approach used by the federal Substance Abuse and Mental Health Services Administration or defined by the division, in consultation with the Division of Substance Abuse and Mental Health, by administrative rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(2) (a) Beginning with the licensing period that begins after January 1, 2014, as a condition precedent for license renewal, each controlled substance prescriber shall complete at least 3.5 continuing education hours per licensing period that satisfy the requirements of Subsection (3).

(b) (i) Beginning with the licensing period that begins after January 1, 2024, as a condition precedent for license renewal, each controlled substance prescriber shall complete at least 3.5 continuing education hours in an SBIRT-training class that satisfies the requirements of Subsection (4).

(ii) Completion of the SBIRT-training class, in compliance with Subsection (2)(b)(i), fulfills the continuing education hours requirement in Subsection (3) for the licensing period in which the class was completed.

(iii) A controlled substance prescriber:

(A) need only take the SBIRT-training class once during the controlled substance prescriber's licensure in the state; and

(B) shall provide a completion record of the SBIRT-training class in order to be reimbursed for SBIRT services to patients, in accordance with [~~Section~~] Sections 26-18-22 and [~~Section~~] 49-20-416.

(3) A controlled substance prescriber shall complete at least 3.5 hours of continuing education in one or more controlled substance prescribing classes, except dentists who shall complete at least two hours, that satisfy the requirements of Subsections (4) and (6).

(4) A controlled substance prescribing class shall:

(a) satisfy the division's requirements for the continuing education required for the renewal of the controlled substance prescriber's respective license type;

(b) be delivered by an accredited or approved continuing education provider recognized by the division as offering continuing education appropriate for the controlled substance prescriber's respective license type; and

(c) include a postcourse knowledge assessment.

(5) An M.D. or D.O. completing continuing professional education hours under Subsection (4) shall complete those hours in classes that qualify for the American Medical Association Physician's Recognition Award Category 1 Credit.

(6) The 3.5 hours of the controlled substance prescribing classes under Subsection (4) shall include educational content covering the following:

(a) the scope of the controlled substance abuse problem in Utah and the nation;

(b) all elements of the FDA Blueprint for Prescriber Education under the FDA's Extended-Release and Long-Acting Opioid Analgesics Risk Evaluation and Mitigation Strategy, as published July 9, 2012, or as it may be subsequently revised;

(c) the national and Utah-specific resources available to prescribers to assist in appropriate controlled substance and opioid prescribing;

(d) patient record documentation for controlled substance and opioid prescribing; [~~and~~]

(e) office policies, procedures, and implementation[~~.~~]; and

(f) some training regarding medical cannabis, as that term is defined in Section 26-61a-102.

(7) (a) The division, in consultation with the Utah Medical Association Foundation, shall determine whether a particular controlled substance prescribing class satisfies the educational content requirements of Subsections (4) and (6) for an M.D. or D.O.

(b) The division, in consultation with the applicable professional licensing boards, shall determine whether a particular controlled substance prescribing class satisfies the educational content requirements of Subsections (4) and (6) for a controlled substance prescriber other than an M.D. or D.O.

(c) The division may by rule establish a committee that may audit compliance with the Utah Risk Evaluation and Mitigation Strategy (REMS) Educational Programming Project grant, that satisfies the educational content requirements of Subsections (4) and (6) for a controlled substance prescriber.

(d) The division shall consult with the Department of Health regarding the medical cannabis training described in Subsection (6)(f).

(8) A controlled substance prescribing class required under this section:

(a) may be held:

(i) in conjunction with other continuing professional education programs; and

(ii) online; and

(b) does not increase the total number of state-required continuing professional education hours required for prescriber licensing.

(9) The division may establish rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement this section.

(10) A controlled substance prescriber who, on or after July 1, 2017, obtains a waiver to treat opioid dependency with narcotic medications, in accordance with the Drug Addiction Treatment Act of 2000, 21 U.S.C. Sec. 823 et seq., may use the waiver to satisfy the 3.5 hours of the continuing education requirement under Subsection (3) for two consecutive licensing periods.

Section 19. Section 58-67-502 is amended to read:

58-67-502. Unprofessional conduct.

(1) "Unprofessional conduct" includes, in addition to the definition in Section 58-1-501:

(a) using or employing the services of any individual to assist a licensee in any manner not in accordance with the generally recognized practices, standards, or ethics of the profession, state law, or division rule;

(b) making a material misrepresentation regarding the qualifications for licensure under Section 58-67-302.7 or Section 58-67-302.8;

(c) violating the dispensing requirements of Chapter 17b, Part 8, Dispensing Medical Practitioner and Dispensing Medical Practitioner Clinic Pharmacy, if applicable;

(d) violating the requirements of Title 26, Chapter 61a, Utah Medical Cannabis Act; or

(e) falsely making an entry in, or altering, a medical record with the intent to conceal:

(i) a wrongful or negligent act or omission of an individual licensed under this chapter or an individual under the direction or control of an individual licensed under this chapter; or

(ii) conduct described in Subsections (1)(a) through (d) or Subsection 58-1-501(1).

(2) "Unprofessional conduct" does not include:

(a) in compliance with Section 58-85-103:

(i) obtaining an investigational drug or investigational device;

(ii) administering the investigational drug to an eligible patient; or

(iii) treating an eligible patient with the investigational drug or investigational device; or

(b) in accordance with Title 26, Chapter 61a, Utah Medical Cannabis Act:

(i) when registered as a qualified medical provider or acting as a limited medical provider, as [~~that term is~~] those terms are defined in Section 26-61a-102, recommending the use of medical cannabis;

(ii) when registered as a pharmacy medical provider, as that term is defined in Section 26-61a-102, providing pharmacy medical provider services in a medical cannabis pharmacy; or

(iii) when registered as a state central patient portal medical provider, as that term is defined in Section 26-61a-102, providing state central patient portal medical provider services.

(3) Notwithstanding Subsection (2)(b), the division, in consultation with the board and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, shall define unprofessional conduct for a physician described in Subsection (2)(b).

Section 20. Section 58-68-502 is amended to read:

58-68-502. Unprofessional conduct.

(1) "Unprofessional conduct" includes, in addition to the definition in Section 58-1-501:

(a) using or employing the services of any individual to assist a licensee in any manner not in accordance with the generally recognized practices, standards, or ethics of the profession, state law, or division rule;

(b) violating the dispensing requirements of Chapter 17b, Part 8, Dispensing Medical Practitioner and Dispensing Medical Practitioner Clinic Pharmacy, if applicable;

(c) making a material misrepresentation regarding the qualifications for licensure under Section 58-68-302.5;

(d) violating the requirements of Title 26, Chapter 61a, Utah Medical Cannabis Act; or

(e) falsely making an entry in, or altering, a medical record with the intent to conceal:

(i) a wrongful or negligent act or omission of an individual licensed under this chapter or an individual under the direction or control of an individual licensed under this chapter; or

(ii) conduct described in Subsections (1)(a) through (d) or Subsection 58-1-501(1).

(2) "Unprofessional conduct" does not include:

(a) in compliance with Section 58-85-103:

(i) obtaining an investigational drug or investigational device;

(ii) administering the investigational drug to an eligible patient; or

(iii) treating an eligible patient with the investigational drug or investigational device; or

(b) in accordance with Title 26, Chapter 61a, Utah Medical Cannabis Act:

(i) when registered as a qualified medical provider or acting as a limited medical provider, as [~~that term is~~] those terms are defined in Section 26-61a-102, recommending the use of medical cannabis;

(ii) when registered as a pharmacy medical provider, as that term is defined in Section 26-61a-102, providing pharmacy medical provider services in a medical cannabis pharmacy; or

(iii) when registered as a state central patient portal medical provider, as that term is defined in Section 26-61a-102, providing state central patient portal medical provider services.

(3) Notwithstanding Subsection (2)(b), the division, in consultation with the board and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, shall define unprofessional conduct for a physician described in Subsection (2)(b).

Section 21. Section 58-70a-503 is amended to read:

58-70a-503. Unprofessional conduct.

(1) "Unprofessional conduct" includes:

(a) violation of a patient confidence to any person who does not have a legal right and a professional need to know the information concerning the patient;

(b) knowingly prescribing, selling, giving away, or directly or indirectly administering, or offering to prescribe, sell, furnish, give away, or administer any prescription drug except for a legitimate medical purpose upon a proper diagnosis indicating use of that drug in the amounts prescribed or provided;

(c) prescribing prescription drugs for oneself or administering prescription drugs to oneself, except those that have been legally prescribed for the physician assistant by a licensed practitioner and that are used in accordance with the prescription order for the condition diagnosed;

(d) failure to maintain at the practice site a delegation of services agreement that accurately reflects current practices;

(e) failure to make the delegation of services agreement available to the division for review upon request;

(f) in a practice that has physician assistant ownership interests, failure to allow the supervising physician the independent final decision making authority on patient treatment decisions, as set forth in the delegation of services agreement or as defined by rule;

(g) violating the dispensing requirements of Chapter 17b, Part 8, Dispensing Medical Practitioner and Dispensing Medical Practitioner Clinic Pharmacy, if applicable; or

(h) falsely making an entry in, or altering, a medical record with the intent to conceal:

(i) a wrongful or negligent act or omission of an individual licensed under this chapter or an individual under the direction or control of an individual licensed under this chapter; or

(ii) conduct described in Subsections (1)(a) through (g) or Subsection 58-1-501(1).

(2) "Unprofessional conduct" does not include, in accordance with Title 26, Chapter 61a, Utah Medical Cannabis Act, when registered as a qualified medical provider or acting as a limited medical provider, as [~~that term is~~] those terms are defined in Section 26-61a-102, recommending the use of medical cannabis.

(3) Notwithstanding Subsection (2), the division, in consultation with the board and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, shall define unprofessional conduct for a physician assistant described in Subsection (2).

Section 22. Section 62A-4a-404 is amended to read:

62A-4a-404. Fetal alcohol syndrome or spectrum disorder and drug dependency -- Reporting requirements.

(1) As used in this section:

(a) "Health care provider" means:

(i) an individual licensed under:

(A) Title 58, Chapter 31b, Nurse Practice Act;

(B) Title 58, Chapter 44a, Nurse Midwife Practice Act;

(C) Title 58, Chapter 67, Utah Medical Practice Act;

(D) Title 58, Chapter 68, Utah Osteopathic Medical Practice Act;

(E) Title 58, Chapter 70a, Utah Physician Assistant Act; or

(F) Title 58, Chapter 77, Direct-Entry Midwife Act; or

(ii) an unlicensed individual who practices midwifery.

(b) "Newborn child" means a child who is 30 days of age or younger.

(c) "[~~Qualified~~] Recommending medical provider" means the same as that term is defined in Section 26-61a-102.

(d) (i) "Substance abuse" means the misuse or excessive use of alcohol or other drugs or substances.

(ii) "Substance abuse" does not include use of drugs or other substances that are:

(A) obtained by lawful prescription and used as prescribed; or

(B) obtained in accordance with Title 26, Chapter 61a, Utah Medical Cannabis Act, and used as

recommended by a [~~qualified~~] recommending medical provider.

(2) A health care provider who attends the birth of a newborn child or cares for a newborn child and determines any of the following, shall report the determination to the division as soon as possible:

(a) the newborn child:

(i) is adversely affected by the child's mother's substance abuse during pregnancy;

(ii) has fetal alcohol syndrome or fetal alcohol spectrum disorder; or

(iii) demonstrates drug or alcohol withdrawal symptoms; or

(b) the parent of the newborn child or a person responsible for the child's care demonstrates functional impairment or an inability to care for the child as a result of the parent's or person's substance abuse.

Section 23. Section 67-3-11 is amended to read:

67-3-11. Health care price transparency tool -- Transparency tool requirements.

(1) The state auditor shall create a health care price transparency tool:

(a) subject to appropriations from the Legislature and any available funding from third-party sources;

(b) with technical support from the Public Employees' Benefit and Insurance Program created in Section 49-20-103, the Department of Health, and the Insurance Department; and

(c) in accordance with the requirements in Subsection (2).

(2) A health care price transparency tool created by the state auditor under this section shall:

(a) present health care price information for consumers in a manner that is clear and accurate;

(b) be available to the public in a user-friendly manner;

(c) incorporate existing data collected under Section 26-33a-106.1;

(d) incorporate data collected under Section 26-61a-106, regarding fees for qualified medical providers recommending medical cannabis, as those terms are defined in Section 26-61a-102;

[~~(d)~~] (e) group billing codes for common health care procedures;

[~~(e)~~] (f) be updated on a regular basis; and

[~~(f)~~] (g) be created and operated in accordance with all applicable state and federal laws.

(3) The state auditor may make the health care pricing data from the health care price transparency tool available to the public through an application program interface format if the data meets state and federal data privacy requirements.

(4) (a) Before making a health care price transparency tool available to the public, the state auditor shall:

(i) seek input from the Health Data Committee created in Section 26-1-7 on the overall accuracy and effectiveness of the reports provided by the health care price transparency tool; and

(ii) establish procedures to give data providers a 30-day period to review pricing information before the state auditor publishes the information on the health care price transparency tool.

(b) If the state auditor complies with the requirements of Subsection (4)(a), the health care price transparency tool is not subject to the requirements of Section 26-33a-107.

(5) Each year in which a health care price transparency tool is operational, the state auditor shall report to the Health and Human Services Interim Committee before November 1 of that year:

(a) the utilization of the health care price transparency tool; and

(b) policy options for improving access to health care price transparency data.

Section 24. Section 78A-2-231 is amended to read:

78A-2-231. Consideration of lawful use or possession of medical cannabis.

(1) As used in this section:

(a) "Cannabis product" means the same as that term is defined in Section 26-61a-102.

(b) "Directions of use" means the same as that term is defined in Section 26-61a-102.

(c) "Dosing guidelines" means the same as that term is defined in Section 26-61a-102.

(d) "Medical cannabis" means the same as that term is defined in Section 26-61a-102.

(e) "Medical cannabis card" means the same as that term is defined in Section 26-61a-102.

(f) "Medical cannabis device" means the same as that term is defined in Section 26-61a-102.

(g) "[~~Q~~qualified] Recommending medical provider" means the same as that term is defined in Section 26-61a-102.

(2) In any judicial proceeding in which a judge, panel, jury, or court commissioner makes a finding, determination, or otherwise considers an individual's possession or use of medical cannabis, a cannabis product, or a medical cannabis device, the judge, panel, jury, or court commissioner may not consider or treat the individual's possession or use any differently than the lawful possession or use of any prescribed controlled substance if:

(a) the individual's possession complies with Title 4, Chapter 41a, Cannabis Production Establishments;

(b) the individual's possession or use complies with Subsection 58-37-3.7(2) or (3); or

(c) (i) the individual's possession or use complies with Title 26, Chapter 61a, Utah Medical Cannabis Act; and

(ii) the individual reasonably complies with the directions of use and dosing guidelines determined by the individual's [~~qualified~~] recommending medical provider or through a consultation described in Subsection 26-61a-502(4) or (5).

(3) Notwithstanding Sections 77-18-1 and 77-2a-3, for probation, release, a plea in abeyance agreement, a diversion agreement, or a tendered admission under Utah Rules of Juvenile Procedure, Rule 25, a term or condition may not require that an individual abstain from the use or possession of medical cannabis, a cannabis product, or a medical cannabis device, either directly or through a general prohibition on violating federal law, without an exception related to medical cannabis use, if the individual's use or possession complies with:

(a) Title 26, Chapter 61a, Utah Medical Cannabis Act; or

(b) Subsection 58-37-3.7(2) or (3).

Section 25. Section 78A-6-115 is amended to read:

78A-6-115. Hearings -- Record -- County attorney or district attorney responsibilities -- Attorney general responsibilities -- Disclosure -- Admissibility of evidence -- Cannabis.

(1) (a) A verbatim record of the proceedings shall be taken in all cases that might result in deprivation of custody as defined in this chapter. In all other cases a verbatim record shall also be made unless dispensed with by the court.

(b) (i) For purposes of this Subsection (1)(b):

(A) "Record of a proceeding" does not include documentary materials of any type submitted to the court as part of the proceeding, including items submitted under Subsection (4)(a).

(B) "Subjects of the record" includes the child's guardian ad litem, the child's legal guardian, the Division of Child and Family Services, and any other party to the proceeding.

(ii) Notwithstanding any other provision, including Title 63G, Chapter 2, Government Records Access and Management Act, the court shall release a record of a proceeding made under Subsection (1)(a) to any person upon a finding on the record for good cause.

(iii) Following a petition for a record of a proceeding made under Subsection (1)(a), the court shall:

(A) provide notice to all subjects of the record that a request for release of the record has been made; and

(B) allow sufficient time for the subjects of the record to respond before making a finding on the petition.

(iv) A record of a proceeding may not be released under this Subsection (1)(b) if the court's jurisdiction over the subjects of the proceeding ended more than 12 months before the day on which the request is made.

(2) (a) Except as provided in Subsection (2)(b), the county attorney or, if within a prosecution district, the district attorney shall represent the state in any proceeding in a minor's case.

(b) Subject to the attorney general's prosecutorial discretion in civil enforcement actions, the attorney general shall enforce all provisions of Title 62A, Chapter 4a, Child and Family Services, and this chapter, relating to:

(i) protection or custody of an abused, neglected, or dependent child; and

(ii) petitions for termination of parental rights.

(3) The board may adopt special rules of procedure to govern proceedings involving violations of traffic laws or ordinances, wildlife laws, and boating laws. However, proceedings involving offenses under Section 78A-6-606 are governed by that section regarding suspension of driving privileges.

(4) (a) For the purposes of determining proper disposition of the minor in dispositional hearings and establishing the fact of abuse, neglect, or dependency in adjudication hearings and in hearings upon petitions for termination of parental rights, written reports and other material relating to the minor's mental, physical, and social history and condition may be received in evidence and may be considered by the court along with other evidence. The court may require that the individual who wrote the report or prepared the material appear as a witness if the individual is reasonably available.

(b) For the purpose of determining proper disposition of a minor alleged to be or adjudicated as abused, neglected, or dependent, dispositional reports prepared by the division under Section 78A-6-315 may be received in evidence and may be considered by the court along with other evidence. The court may require any individual who participated in preparing the dispositional report to appear as a witness, if the individual is reasonably available.

(5) (a) Except as provided in Subsections (5)(c) through (e), in an abuse, neglect, or dependency proceeding occurring after the commencement of a shelter hearing under Section 78A-6-306 or the filing of a petition under Section 78A-6-304, each party to the proceeding shall provide in writing to the other parties or their counsel any information which the party:

(i) plans to report to the court at the proceeding; or

(ii) could reasonably expect would be requested of the party by the court at the proceeding.

(b) The disclosure required under Subsection (5)(a) shall be made:

(i) for dispositional hearings under Sections 78A-6-311 and 78A-6-312, no less than five days before the day on which the proceeding is held;

(ii) for proceedings under Chapter 6, Part 5, Termination of Parental Rights Act, in accordance with Utah Rules of Civil Procedure; and

(iii) for all other proceedings, no less than five days before the day on which the proceeding is held.

(c) The division is not required to provide a court report or a child and family plan to each party to the proceeding if:

(i) the information is electronically filed with the court; and

(ii) each party to the proceeding has access to the electronically filed information.

(d) If a party to a proceeding obtains information after the deadline in Subsection (5)(b), the information is exempt from the disclosure required under Subsection (5)(a) if the party certifies to the court that the information was obtained after the deadline.

(e) Subsection (5)(a) does not apply to:

(i) pretrial hearings; and

(ii) the frequent, periodic review hearings held in a dependency drug court case to assess and promote the parent's progress in substance use disorder treatment.

(6) For the purpose of establishing the fact of abuse, neglect, or dependency, the court may, in the court's discretion, consider evidence of statements made by a child under eight years of age to an individual in a trust relationship.

(7) (a) As used in this Subsection (7):

(i) "Cannabis" means the same as that term is defined in Section 26-61a-102.

(ii) "Cannabis product" means the same as that term is defined in Section 26-61a-102.

(iii) (A) "Chronic" means repeated or patterned.

(B) "Chronic" does not mean an isolated incident.

(iv) "Directions of use" means the same as that term is defined in Section 26-61a-102.

(v) "Dosing guidelines" means the same as that term is defined in Section 26-61a-102.

(vi) "Medical cannabis" means the same as that term is defined in Section 26-61a-102.

(vii) "Medical cannabis cardholder" means the same as that term is defined in Section 26-61a-102.

(viii) "[~~Qualified~~] Recommending medical provider" means the same as that term is defined in Section 26-61a-102.

(b) In any child welfare proceeding in which the court makes a finding, determination, or otherwise considers an individual's possession or use of medical cannabis, a cannabis product, or a medical cannabis device, the court may not consider or treat the individual's possession or use any differently than the lawful possession or use of any prescribed controlled substance if:

(i) the individual's possession or use complies with Title 4, Chapter 41a, Cannabis Production Establishments;

(ii) the individual's possession or use complies with Subsection 58-37-3.7(2) or (3); or

(iii) (A) the individual's possession or use complies with Title 26, Chapter 61a, Utah Medical Cannabis Act; and

(B) the individual reasonably complies with the directions of use and dosing guidelines determined by the individual's [~~qualified~~] recommending medical provider or through a consultation described in Subsection 26-61a-502(4) or (5).

(c) In a child welfare proceeding, a parent's or guardian's use of cannabis or a cannabis product is not abuse or neglect of a child under Section 78A-6-105 unless there is evidence showing that:

(i) the child is harmed because of the child's inhalation or ingestion of cannabis, or because of cannabis being introduced to the child's body in another manner; or

(ii) the child is at an unreasonable risk of harm because of chronic inhalation or ingestion of cannabis or chronic introduction of cannabis to the child's body in another manner.

(d) Unless there is harm or an unreasonable risk of harm to the child as described in Subsection (7)(c), in a child welfare proceeding a parent's or guardian's use of medical cannabis or a cannabis product is not contrary to the best interests of a child if:

(i) for a medical cannabis cardholder after January 1, 2021, the parent's or guardian's possession or use complies with Title 26, Chapter 61a, Utah Medical Cannabis Act, and there is no evidence that the parent's or guardian's use of medical cannabis unreasonably deviates from the directions of use and dosing guidelines determined by the parent's or guardian's [~~qualified~~] recommending medical provider or through a consultation described in Subsection 26-61a-502(4) or (5); or

(ii) before January 1, 2021, the parent's or guardian's possession or use complies with Subsection 58-37-3.7(2) or (3).

(e) Subsection (7)(c) does not prohibit a finding of abuse or neglect of a child under Section 78A-6-105, and Subsection (7)(d) does not prohibit a finding that a parent's or guardian's use of medical cannabis or a cannabis product is contrary to the best interests of a child, if there is evidence showing a nexus between the parent's or guardian's use of cannabis or a cannabis product and behavior that would separately constitute abuse or neglect of the child.

Section 26. Effective date.

If approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

Section 27. Revisor instructions.

The Legislature intends that the Office of Legislative Research and General Counsel, in preparing the Utah Code database for publication, replace the language "the effective date of this bill" in Subsections 26-61a-201(8)(b)(ii) and 58-37-3.7(2) to the bill's actual effective date.

CHAPTER 338
S. B. 173
Passed March 5, 2021
Approved March 17, 2021
Effective May 5, 2021

MEDICAL RECORDS AMENDMENTS

Chief Sponsor: Karen Mayne
House Sponsor: Nelson T. Abbott

LONG TITLE

General Description:

This bill amends provisions relating to access to medical records.

Highlighted Provisions:

This bill:

- clarifies certain provisions relating to access to medical records;
- enacts new requirements relating to requests for medical records in an electronic format; and
- requires a health care provider to waive certain fees for a request for medical records for an indigent individual and an individual making a qualified claim.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

78B-5-618, as last amended by Laws of Utah 2015, Chapter 217

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 78B-5-618 is amended to read:

78B-5-618. Patient access to medical records -- Third party access to medical records.

(1) Pursuant to Standards for Privacy of Individually Identifiable Health Information, 45 C.F.R., Parts 160 and 164, a patient or a patient's personal representative may inspect or receive a copy of the patient's records from a health care provider as defined in Section 78B-3-403, when that health care provider is governed by the provisions of 45 C.F.R., Parts 160 and 164.

(2) When a health care provider as defined in Section 78B-3-403 is not governed by Standards for Privacy of Individually Identifiable Health Information, 45 C.F.R., Parts 160 and 164, a patient or a patient's personal representative may inspect or receive a copy of the patient's records unless access to the records is restricted by law or judicial order.

(3) A health care provider who provides a paper or electronic copy of a patient's records to the patient or the patient's personal representative:

(a) shall provide the copy within the deadlines required by the Health Insurance Portability and Accountability Act of 1996, Administrative Simplification rule, 45 C.F.R. Sec. 164.524(b); and

(b) may charge a reasonable cost-based fee provided that the fee includes only the cost of:

(i) copying, including the cost of supplies for and labor of copying; and

(ii) postage, when the patient or [~~patient~~] patient's personal representative has requested the copy be mailed.

(4) Except for records provided by a health care provider under Section 26-1-37, a health care provider who provides a copy of a patient's records to a patient's attorney, legal representative, or other third party authorized to receive records:

(a) shall provide the copy within 30 days after receipt of notice; and

(b) may charge a reasonable fee for paper or electronic copies, but may not exceed the following rates:

(i) [~~$21.16~~] $30 per request for locating a patient's records[~~, per request~~];

(ii) reproduction charges may not exceed 53 cents per page for the first 40 pages and 32 cents per page for each additional page;

(iii) the cost of postage when the [~~third party~~] requester has requested the copy be mailed; [~~and~~]

(iv) if requested, the health care provider will certify the record as a duplicate of the original for a fee of $20; and

[~~(iv)~~] (v) any sales tax owed under Title 59, Chapter 12, Sales and Use Tax Act.

(5) Except for records provided under Section 26-1-37, a contracted third party service which provides medical records, other than a health care provider under Subsections (3) and (4), who provides a copy of a patient's records to a patient's attorney, legal representative, or other third party authorized to receive records:

(a) shall provide the copy within 30 days after the request; and

(b) may charge a reasonable fee for paper or electronic copies, but may not exceed the following rates:

(i) [~~$21.16~~] $30 per request for locating a patient's records;

(ii) reproduction charges may not exceed 53 cents per page for the first 40 pages and 32 cents per page for each additional page;

(iii) the cost of postage when the [~~third party~~] requester has requested the copy be mailed; [~~and~~]

(iv) if requested, the health care provider or the health care provider's contracted third party service will certify the record as a duplicate of the original for a fee of $20; and

[~~(iv)~~] (v) any sales tax owed under Title 59, Chapter 12, Sales and Use Tax Act.

(6) A health care provider or [~~its~~] the health care provider's contracted third party service shall deliver the medical records in the [~~digital or~~] electronic medium customarily used by the health care provider or [~~its~~] the health care provider's contracted third party service or in a universally readable image such as portable document format:

(a) if the patient, patient's personal representative, or a third party authorized to receive the records requests the records be delivered in [~~a digital or~~] an electronic medium; and

(b) the original medical record is readily producible in [~~a digital or~~] an electronic medium.

(7) (a) [~~The~~] Except as provided in Subsections (7)(b) and (c), the per page fee in Subsections (3), (4), and (5) applies to medical records reproduced electronically or on paper.

[~~(b) For record requests made on or before June 30, 2018, the per page fee for producing a copy of records on a digital or electronic medium shall be 60% of the per page fee otherwise provided in this section, regardless of whether the original medical records are stored in electronic format.~~]

[~~(c)~~] (b) For record requests made on or after July 1, 2018, the per page fee for producing a copy of records [~~on a digital or~~] in an electronic medium shall be 50% of the per page fee otherwise provided in this section, regardless of whether the original medical records are stored in electronic format.

(c) (i) For electronic record requests made on or after July 1, 2021, a health care provider or a health care provider's contracted third party service shall deliver the medical records in the electronic medium customarily used by the health care provider or the health care provider's contracted third party service or in a universally readable image, such as portable document format, if the patient, patient's personal representative, patient's attorney, legal representative, or a third party authorized to receive the records, requests the records be delivered in an electronic medium.

(ii) An entity providing requested information under Subsection (7)(c)(i):

(A) shall provide the requested information within 30 days; and

(B) may not charge a fee for the electronic copy that exceeds $150 regardless of the number of pages and regardless of whether the original medical records are stored in electronic format.

(8) (a) [~~Beginning January 1, 2016, the fee for providing patient's records shall be adjusted annually as specified in this section based on the most recent changes to the~~] As used in this section, "inflation" means the unadjusted Consumer Price Index, as published by the Bureau of Labor Statistics of the United States Department of Labor, that measures the average changes in prices of goods and services purchased by urban wage earners[~~, clerical workers' families, and single workers living alone~~] and clerical workers.

(b) Beginning January 1, 2022, and on January 1 of each year thereafter, the state treasurer shall adjust the following fees for inflation:

(i) the fee for providing patient's records under:

(A) Subsections (4)(b)(i) through (ii); and

(B) Subsections (5)(b)(i) through (ii); and

(ii) the maximum amount that may be charged for an electronic copy under Subsection (7)(c)(ii)(B).

(c) On or before January 30, 2022, and on or before January 30 of each year thereafter, the state treasurer shall:

(i) certify the inflation-adjusted fees and maximum amounts calculated under this section; and

(ii) notify the Administrative Office of the Courts of the information described in Subsection (8)(c)(i) for posting on the court's website.

(9) (a) As used in this Subsection (9), "qualified claim or appeal" means a claim or appeal under any:

(i) provision of the Social Security Act as defined in Section 67-11-2; or

(ii) federal or state financial needs-based benefit program.

(b) Notwithstanding Subsections (3) through (5), if a request for a medical record is accompanied by documentation of a qualified claim or appeal, a health care provider or the health care provider's contracted third party service:

(i) may not charge a fee for the first copy of the record for each date of service that is necessary to support the qualified claim or appeal in each calendar year;

(ii) for a second or subsequent copy in a calendar year of a date of service that is necessary to support the qualified claim or appeal, may charge a reasonable fee that may not:

(A) exceed 60 cents per page for paper photocopies;

(B) exceed a reasonable cost for copies of X-ray photographs and other health care records produced by similar processes;

(C) include an administrative fee or additional service fee related to the production of the medical record; or

(D) exceed the fee provisions for an electronic copy under Subsection (7)(c); and

(iii) shall provide the health record within 30 days after the day on which the request is received by the health care provider.

(10) (a) As used in this Subsection (10), "indigent individual" means an individual whose household income is at or below 100% of the federal poverty level as defined in Section 26-18-3.9.

(b) Except as otherwise provided in Subsections (3) through (5), a health care provider or the health care provider's contracted third party service shall

waive all fees under this section for an indigent individual.

(c) A health care provider or the health care provider's contracted third party service may require the indigent individual or the indigent individual's authorized representative to provide proof that the individual is an indigent individual by executing an affidavit.

(d) (i) An indigent individual that receives copies of a medical record at no charge under this Subsection (10) is limited to one copy for each date of service for each health care provider, or the health care provider's contracted third party service, in each calendar year.

(ii) Any request for additional copies in addition to the one copy allowed under Subsection (10)(d)(i) is subject to the fee provisions described in Subsection (9).

CHAPTER 339
S. B. 176
Passed March 5, 2021
Approved March 17, 2021
Effective May 5, 2021

MINERAL LEASE FUNDS AMENDMENTS

Chief Sponsor: Ronald M. Winterton
House Sponsor: Francis D. Gibson

LONG TITLE

General Description:

This bill modifies provisions related to the expenditure of federal mineral lease revenues.

Highlighted Provisions:

This bill:

- defines terms;
- addresses the legislative intent and purpose of the Community Impact Fund Act;
- allows the Permanent Community Impact Fund Board to make a grant or loan regardless of whether the project results in more than one impact or outcome;
- makes the provisions of this bill retroactive; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides revisor instructions.

Utah Code Sections Affected:

AMENDS:

17B-1-612, as last amended by Laws of Utah 2019, Chapter 37
17D-1-201, as last amended by Laws of Utah 2020, Chapter 354
35A-8-301, as renumbered and amended by Laws of Utah 2012, Chapter 212
35A-8-302, as last amended by Laws of Utah 2019, Chapter 501
35A-8-305, as last amended by Laws of Utah 2019, Chapter 89
35A-8-307, as last amended by Laws of Utah 2014, Chapter 371
59-21-1, as last amended by Laws of Utah 2018, Chapter 28

ENACTS:

35A-8-310, Utah Code Annotated 1953Utah Code Sections Affected by Revisor Instructions:
35A-8-310, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 17B-1-612 is amended to read:

17B-1-612. Accumulated fund balances -- Limitations -- Excess balances -- Unanticipated excess of revenues -- Reserves for capital projects.

(1) (a) A local district may accumulate retained earnings or fund balances, as appropriate, in any fund.

(b) For the general fund only, a local district may only use an accumulated fund balance to:

(i) provide working capital to finance expenditures from the beginning of the budget year until general property taxes or other applicable revenues are collected, subject to Subsection (1)(c);

(ii) provide a resource to meet emergency expenditures under Section 17B-1-623; and

(iii) cover a pending year-end excess of expenditures over revenues from an unavoidable shortfall in revenues, subject to Subsection (1)(d).

(c) Subsection (1)(b)(i) does not authorize a local district to appropriate a fund balance for budgeting purposes, except as provided in Subsection (4).

(d) Subsection (1)(b)(iii) does not authorize a local district to appropriate a fund balance to avoid an operating deficit during a budget year except:

(i) as provided under Subsection (4); or

(ii) for emergency purposes under Section 17B-1-623.

(2) (a) Except as provided in Subsection (2)(b), the accumulation of a fund balance in the general fund may not exceed the most recently adopted general fund budget, plus 100% of the current year's property tax.

(b) Notwithstanding Subsection (2)(a), a local district may accumulate in the general fund mineral lease revenue that the local district receives from the United States under the Mineral Lands Leasing Act, 30 U.S.C. Sec. 181 et seq., through a distribution under:

(i) Title 35A, Chapter 8, Part 3, Community Impact [~~Alleviation~~] Fund Act; or

(ii) Title 59, Chapter 21, Mineral Lease Funds.

(3) If the fund balance at the close of any fiscal year exceeds the amount permitted under Subsection (2), the district shall appropriate the excess in accordance with Section 17B-1-613.

(4) A local district may utilize any fund balance in excess of 5% of the total revenues of the general fund for budget purposes.

(5) (a) Within a capital projects fund, the board of trustees may, in any budget year, appropriate from estimated revenue or fund balance to a reserve for capital projects for the purpose of financing future specific capital projects, including new construction, capital repairs, replacement, and maintenance, under a formal long-range capital plan that the board of trustees adopts.

(b) A local district may allow a reserve amount under Subsection (5)(a) to accumulate from year to year until the accumulated total is sufficient to permit economical expenditure for the specified purposes.

(c) A local district may disburse from a reserve account under Subsection (5)(a) only by a budget appropriation that the local district adopts in accordance with this part.

(d) A local district shall ensure that the expenditures from the appropriation budget accounts described in this Subsection (5) conform to all requirements of this part relating to execution and control of budgets.

Section 2. Section 17D-1-201 is amended to read:

17D-1-201. Services that a special service district may be created to provide.

As provided in this part, a county or municipality may create a special service district to provide any combination of the following services:

(1) water;

(2) sewerage;

(3) drainage;

(4) flood control;

(5) garbage collection and disposal;

(6) health care;

(7) transportation, including the receipt of federal secure rural school funds under Section 51-9-603 for the purposes of constructing, improving, repairing, or maintaining public roads;

(8) recreation;

(9) fire protection, including:

(a) emergency medical services, ambulance services, and search and rescue services, if fire protection service is also provided;

(b) Firewise Communities programs and the development of community wildfire protection plans; and

(c) the receipt of federal secure rural school funds as provided under Section 51-9-603 for the purposes of carrying out Firewise Communities programs, developing community wildfire protection plans, and performing emergency services, including firefighting on federal land and other services authorized under this Subsection (9);

(10) providing, operating, and maintaining correctional and rehabilitative facilities and programs for municipal, state, and other detainees and prisoners;

(11) street lighting;

(12) consolidated 911 and emergency dispatch;

(13) animal shelter and control;

(14) receiving federal mineral lease funds under Title 59, Chapter 21, Mineral Lease Funds, and expending those funds to [~~provide construction and maintenance of public facilities, traditional governmental services, and planning, as a means for mitigating impacts from extractive mineral industries~~] be used in accordance with state and federal law;

(15) in a county of the first class, extended police protection;

(16) control or abatement of earth movement or a landslide;

(17) an energy efficiency upgrade, a renewable energy system, or electric vehicle charging infrastructure as defined in Section 11-42a-102, in accordance with Title 11, Chapter 42a, Commercial Property Assessed Clean Energy Act; or

(18) cemetery.

Section 3. Section 35A-8-301 is amended to read:

Part 3. Community Impact Fund Act

35A-8-301. Legislative intent -- Purpose and policy.

(1) It is the intent of the Legislature to make available funds received by the state from federal mineral lease revenues under Section 59-21-2, bonus payments on federal oil shale lease tracts U-A and U-B, and all other bonus payments on federal mineral leases to be used for [~~the alleviation of social, economic, and public finance impacts resulting from the development of natural resources in this state~~] planning, construction and maintenance of public facilities, and provision of public service, subject to the limitations provided for in Section 35 of the Mineral Leasing Act of 1920 (41 Stat. 450, 30 U.S.C. Sec. 191).

(2) To the extent allowed under the Mineral Leasing Act, any ambiguity as to whether a particular use of the lease revenue and bonus payments described in Subsection (1) is a permissible use under this part shall be resolved in favor of upholding the use.

[~~(2)~~] (3) The purpose of this part is to maximize the long term benefit of funds derived from these lease revenues and bonus payments by fostering funding mechanisms which will, consistent with sound financial practices, result in the greatest use of financial resources for the greatest number of citizens of this state, with priority given to those communities designated as impacted by the development of natural resources covered by the Mineral Leasing Act.

[~~(3)~~] (4) The policy of this state is to promote cooperation and coordination between the state and [~~its~~] the state's agencies and political subdivisions with individuals, firms, and business organizations engaged in the development of the natural resources of this state. [~~The purpose of such efforts include private sector participation, financial and otherwise, in the alleviation of impacts associated with resources development activities.~~]

Section 4. Section 35A-8-302 is amended to read:

35A-8-302. Definitions.

As used in this part:

(1) "Bonus payments" means that portion of the bonus payments received by the United States government under the Leasing Act paid to the state under Section 35 of the Leasing Act, 30 U.S.C. Sec. 191, together with any interest that had accrued on those payments.

(2) "Impact board" means the Permanent Community Impact Fund Board created under Section 35A-8-304.

(3) "Impact fund" means the Permanent Community Impact Fund established by this chapter.

(4) "Interlocal agency" means a legal or administrative entity created by a subdivision or combination of subdivisions under the authority of Title 11, Chapter 13, Interlocal Cooperation Act.

(5) "Leasing Act" means the Mineral Lands Leasing Act of 1920, 30 U.S.C. Sec. 181 et seq.

(6) "Qualifying sales and use tax distribution reduction" means that, for the calendar year beginning on January 1, 2008, the total sales and use tax distributions a city received under Section 59-12-205 were reduced by at least 15% from the total sales and use tax distributions the city received under Section 59-12-205 for the calendar year beginning on January 1, 2007.

(7) (a) "Planning" means any of the following performed by or on behalf of the state, a subdivision, or an interlocal entity:

(i) a study, analysis, plan, or survey; or

(ii) activities necessary to obtain a permit or land use approval, including review to determine the need, cost, or feasibility of obtaining a permit or land use approval.

(b) "Planning" includes:

(i) the preparation of maps and guidelines;

(ii) land use planning;

(iii) a study or analysis of:

(A) the social or economic impacts associated with natural resource development;

(B) the demand for the transportation of individuals or goods;

(C) state, regional, and local development and growth;

(D) population and employment;

(E) development related to natural resources; and

(F) as related to any other activity described in this Subsection (7), engineering, financial analysis, legal analysis, or any other analysis helpful to the state, subdivision, or interlocal agency; and

(iv) any activity described in this Subsection (7) regardless of whether the activity is for a public facility or a public service.

(8) "Public facility" means a facility:

(a) in whole or in part, owned, controlled, or operated by the state, a subdivision, or an interlocal agency; and

(b) that serves a public purpose.

(9) (a) "Public service" means a service that:

(i) is provided, in whole or in part, by or on behalf of the state, a subdivision, or an interlocal agency; and

(ii) serves a public purpose.

(b) "Public service" includes:

(i) a service described in Subsection (9)(a) regardless of whether the service is provided in connection with a public facility;

(ii) the cost of providing a service described in Subsection (9)(a), including administrative costs, wages, and legal fees; and

(iii) a contract with a public postsecondary institution to fund research, education, or a public service program.

[~~(7)~~] (10) "Subdivision" means a county, city, town, county service area, special service district, special improvement district, water conservancy district, water improvement district, sewer improvement district, housing authority, building authority, school district, or public postsecondary institution organized under the laws of this state.

[~~(8)~~] (11) (a) "Throughput infrastructure project" means the following facilities, whether located within, partially within, or outside of the state:

(i) a bulk commodities ocean terminal;

(ii) a pipeline for the transportation of liquid or gaseous hydrocarbons;

(iii) electric transmission lines and ancillary facilities;

(iv) a shortline freight railroad and ancillary facilities;

(v) a plant or facility for storing, distributing, or producing hydrogen, including the liquification of hydrogen, for use as a fuel in zero emission motor vehicles, for electricity generation, or for industrial use; or

(vi) a plant for the production of zero emission hydrogen fueled trucks.

(b) "Throughput infrastructure project" includes:

(i) an ownership interest or a joint or undivided ownership interest in a facility;

(ii) a membership interest in the owner of a facility; or

(iii) a contractual right, whether secured or unsecured, to use all or a portion of the throughput, transportation, or transmission capacity of a facility.

Section 5. Section 35A-8-305 is amended to read:

35A-8-305. Duties -- Loans -- Interest.

(1) The impact board shall:

(a) make grants and loans from the amounts appropriated by the Legislature out of the impact fund to state agencies, subdivisions, and interlocal agencies that are or may be socially or economically impacted, directly or indirectly, by mineral resource development for:

(i) planning;

(ii) construction and maintenance of public facilities; and

(iii) provision of public services;

(b) establish the criteria by which the loans and grants will be made;

(c) determine the order in which projects will be funded;

(d) in conjunction with other agencies of the state, subdivisions, or interlocal agencies, conduct studies, investigations, and research into the effects of proposed mineral resource development projects upon local communities;

(e) sue and be sued in accordance with applicable law;

(f) qualify for, accept, and administer grants, gifts, loans, or other funds from:

(i) the federal government; and

(ii) other sources, public or private; and

(g) perform other duties assigned to it under Sections 11-13-306 and 11-13-307.

(2) Money, including all loan repayments and interest, in the impact fund derived from bonus payments may be used for any of the purposes set forth in Subsection (1)(a) but may only be given in the form of interest bearing loans to be paid back into the impact fund by the agency, subdivision, or interlocal agency.

[~~(3) (a) "Provision of public services" under Subsection (1)(a) includes contracts with public postsecondary institutions to fund research, education, or public service programs that benefit impacted counties or political subdivisions of the counties.~~]

[~~(b) Each contract under Subsection (3)(a) shall be:~~]

[~~(i) based on an application to the impact board from the impacted county; and~~]

[~~(ii) approved by the county legislative body.~~]

[~~(c) For purposes of this section, a land use plan is a public service program.~~]

(3) The impact board may make a grant or loan under Subsection (1) regardless of whether the activity results in more than one impact or outcome, including an increase in natural resource development or an increase in economic development.

(4) If the public service described in Subsection (1)(a) is a contract with a public postsecondary institution described in Subsection 35A-3-302(9)(b)(iii), the contract shall be:

(a) based on an application to the impact board from the impacted county; and

(b) approved by the county legislative body.

Section 6. Section 35A-8-307 is amended to read:

35A-8-307. Impact fund administered by impact board -- Eligibility for assistance -- Review by board -- Administration costs -- Annual report.

(1) (a) The impact board shall:

(i) administer the impact fund in a manner that will keep a portion of the impact fund revolving;

(ii) determine provisions for repayment of loans;

(iii) establish criteria for determining eligibility for assistance under this part; and

(iv) consider recommendations from the School and Institutional Trust Lands Administration when awarding a grant described in Subsection 35A-8-303(6).

(b) (i) The criteria for awarding loans or grants made from funds described in Subsection 35A-8-303(5) shall be consistent with the requirements of Subsection 35A-8-303(5).

(ii) The criteria for awarding grants made from funds described in Subsection 35A-8-303(2)(c) shall be consistent with the requirements of Subsection 35A-8-303(6).

(c) In order to receive assistance under this part, subdivisions and interlocal agencies shall submit formal applications containing the information that the impact board requires.

(2) In determining eligibility for loans and grants under this part, the impact board shall consider the following:

(a) the subdivision's or interlocal agency's current mineral lease production;

(b) the feasibility of the actual development or the increased development of a resource that may impact the subdivision or interlocal agency directly or indirectly;

(c) current taxes being paid by the subdivision's or interlocal agency's residents;

(d) the borrowing capacity of the subdivision or interlocal agency, including:

(i) [~~its~~] the subdivision's or interlocal agency's ability and willingness to sell bonds or other securities in the open market; and

(ii) [~~its~~] the subdivision's or interlocal agency's current and authorized indebtedness;

(e) all possible additional sources of state and local revenue, including utility user charges;

(f) the availability of federal assistance funds;

(g) probable growth of population due to actual or prospective natural resource development in an area;

(h) existing public facilities and services;

(i) the extent of the expected direct or indirect impact upon public facilities and public services of

the actual or prospective natural resource development in an area; and

(j) the extent of industry participation in an impact alleviation plan, either as specified in Title 63M, Chapter 5, Resource Development Act, or otherwise.

(3) The impact board may not fund an education project that could otherwise have reasonably been funded by a school district through a program of annual budgeting, capital budgeting, bonded indebtedness, or special assessments.

(4) The impact board may restructure all or part of the agency's or subdivision's liability to repay loans for extenuating circumstances.

(5) The impact board shall:

(a) review the proposed uses of the impact fund for loans or grants before approving them and may condition its approval on whatever assurances the impact board considers necessary to ensure that proceeds of the loan or grant will be used in accordance with the Leasing Act and this part; and

(b) ensure that each loan specifies the terms for repayment and is evidenced by general obligation, special assessment, or revenue bonds, notes, or other obligations of the appropriate subdivision or interlocal agency issued to the impact board under whatever authority for the issuance of those bonds, notes, or obligations exists at the time of the loan.

(6) The impact board shall allocate from the impact fund to the department those funds that are appropriated by the Legislature for the administration of the impact fund, but this amount may not exceed 2% of the annual receipts to the impact fund.

(7) The department shall include in the annual written report described in Section 35A-1-109, the number and type of loans and grants made as well as a list of subdivisions and interlocal agencies that received this assistance.

Section 7. Section 35A-8-310 is enacted to read:

35A-8-310. Application -- Retroactivity.

(1) The provisions of this bill apply to any claim for which a court of competent jurisdiction has not issued a final unappealable judgment or order.

(2) The Legislature finds that the provisions of this bill:

(a) do not enlarge, eliminate, or destroy vested rights; and

(b) clarify legislative intent.

Section 8. Section 59-21-1 is amended to read:

59-21-1. Disposition of federal mineral lease money -- Priority to political subdivisions impacted by mineral development -- Disposition of mineral bonus payments -- Appropriation of money attributable to royalties from extraction of minerals on federal land located within boundaries of Grand Staircase-Escalante National Monument.

(1) Except as provided in Subsections (2) through (4), all money received from the United States under the provisions of the Mineral Lands Leasing Act, 30 U.S.C. Sec. 181 et seq., shall:

(a) be deposited in the Mineral Lease Account of the General Fund; and

(b) be appropriated by the Legislature giving priority to those subdivisions of the state socially or economically impacted by development of minerals leased under the Mineral Lands Leasing Act, for:

(i) planning;

(ii) construction and maintenance of public facilities; and

(iii) provision of public services.

(2) Seventy percent of money received from federal mineral lease bonus payments shall be deposited into the Permanent Community Impact Fund and shall be used as provided in Title 35A, Chapter 8, Part 3, Community Impact [~~Alleviation~~] Fund Act.

(3) Thirty percent of money received from federal mineral lease bonus payments shall be deposited in the Mineral Bonus Account created by Subsection 59-21-2(1) and appropriated as provided in that subsection.

(4) (a) For purposes of this Subsection (4):

(i) the "boundaries of the Grand Staircase-Escalante National Monument" means the boundaries:

(A) established by Presidential Proclamation No. 6920, 61 Fed. Reg. 50,223 (1996); and

(B) modified by:

(I) Pub. L. No. 105-335, 112 Stat. 3139; and

(II) Pub. L. No. 105-355, 112 Stat. 3247; and

(ii) a special service district, school district, or federal land is considered to be located within the boundaries of the Grand Staircase-Escalante National Monument if a portion of the special service district, school district, or federal land is located within the boundaries described in Subsection (4)(a)(i).

(b) Beginning on July 1, 1999, the Legislature shall appropriate, as provided in Subsections (4)(c) through (g), money received from the United States that is attributable to royalties from the extraction of minerals on federal land that, on September 18, 1996, was located within the boundaries of the Grand Staircase-Escalante National Monument.

(c) The Legislature shall annually appropriate 40% of the money described in Subsection (4)(b) to the Division of Finance to be distributed by the Division of Finance to special service districts that are:

(i) established by counties under Title 17D, Chapter 1, Special Service District Act;

(ii) socially or economically impacted by the development of minerals under the Mineral Lands Leasing Act; and

(iii) located within the boundaries of the Grand Staircase-Escalante National Monument.

(d) The Division of Finance shall distribute the money described in Subsection (4)(c) in amounts proportionate to the amount of federal mineral lease money generated by the county in which a special service district is located.

(e) The Legislature shall annually appropriate 40% of the money described in Subsection (4)(b) to the State Board of Education to be distributed equally to school districts that are:

(i) socially or economically impacted by the development of minerals under the Mineral Lands Leasing Act; and

(ii) located within the boundaries of the Grand Staircase-Escalante National Monument.

(f) The Legislature shall annually appropriate 2.25% of the money described in Subsection (4)(b) to the Utah Geological Survey to facilitate the development of energy and mineral resources in counties that are:

(i) socially or economically impacted by the development of minerals under the Mineral Lands Leasing Act; and

(ii) located within the boundaries of the Grand Staircase-Escalante National Monument.

(g) Seventeen and three-fourths percent of the money described in Subsection (4)(b) shall be deposited annually into the State School Fund established by Utah Constitution Article X, Section 5.

Section 9. Revisor instructions.

The Legislature intends that the Office of Legislative Research and General Counsel, in preparing the Utah Code database for publication, replace the phrase "this bill" in Subsections 35A-8-310(1) and (2) with this bill's designated chapter number in the Laws of Utah.

CHAPTER 340
S. B. 177
Passed March 5, 2021
Approved March 17, 2021
Effective May 5, 2021

PHARMACY PRACTICE REVISIONS

Chief Sponsor: Evan J. Vickers
House Sponsor: Paul Ray

LONG TITLE

General Description:

This bill amends provisions related to pharmacy.

Highlighted Provisions:

This bill:

- amends definitions;
- amends requirements for licensure as a pharmacy technician trainee;
- amends provisions governing the dispensing of opiate medication assisted treatment at an opioid treatment program;
- amends provisions governing the audit of pharmacy records by or on behalf of an entity that finances or reimburses the cost of health care services or pharmaceutical products;
- amends provisions governing the administration of injectables by pharmacists;
- addresses corrections to data submitted to the controlled substance database; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

49-20-502, as enacted by Laws of Utah 2011, Chapter 83
58-17b-102, as last amended by Laws of Utah 2019, Chapter 343
58-17b-305.1, as last amended by Laws of Utah 2020, Chapter 339
58-17b-309.7, as enacted by Laws of Utah 2019, Chapter 311
58-17b-610, as last amended by Laws of Utah 2012, Chapter 320
58-17b-622, as last amended by Laws of Utah 2018, Chapter 39
58-17b-625, as last amended by Laws of Utah 2019, Chapter 343
58-37f-203, as last amended by Laws of Utah 2020, Chapters 147, 339, and 372
58-37f-303, as last amended by Laws of Utah 2020, Chapters 147 and 339

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 49-20-502 is amended to read:

49-20-502. Definitions.

As used in this part:

(1) "Health benefit plan" means:

(a) a health benefit plan as defined in Section 31A-1-301; or

(b) a health, dental, medical, Medicare supplement, or conversion program offered under Title 49, Chapter 20, Public Employees' Benefit and Insurance Program Act.

(2) "Pharmacist" is as defined in Section 58-17b-102.

(3) "Pharmacy" is as defined in Section 58-17b-102.

(4) "Pharmacy benefits management service" means [~~any of the following services provided to a health benefit plan, or to a participant of the health benefit plan:~~] the same as that term is defined in Section 31A-46-102.

[~~(a) negotiating the amount to be paid by a health benefit plan for a prescription drug; or~~]

[~~(b) administering or managing prescription drug benefits provided by the health benefit plan for the benefit of a participant of the health benefit plan, including:~~]

[~~(i) mail service pharmacy;~~]

[~~(ii) specialty pharmacy;~~]

[~~(iii) claims processing;~~]

[~~(iv) payment of a claim;~~]

[~~(v) retail network management;~~]

[~~(vi) clinical formulary development;~~]

[~~(vii) clinical formulary management services;~~]

[~~(viii) rebate contracting;~~]

[~~(ix) rebate administration;~~]

[~~(x) a participant compliance program;~~]

[~~(xi) a therapeutic intervention program;~~]

[~~(xii) a disease management program; or~~]

[~~(xiii) a service that is similar to, or related to, a service described in Subsection (4)(a) or (4)(b)(i) through (xii).~~]

(5) "Pharmacy benefits manager" means a person that provides a pharmacy benefits management service to [~~a health benefit plan~~] the program.

(6) "Pharmacy service" means a product, good, or service provided by a pharmacy or pharmacist to an individual.

Section 2. Section 58-17b-102 is amended to read:

58-17b-102. Definitions.

In addition to the definitions in Section 58-1-102, as used in this chapter:

(1) "Administering" means:

(a) the direct application of a prescription drug or device, whether by injection, inhalation, ingestion, or by any other means, to the body of a human patient or research subject by another person; or

(b) the placement by a veterinarian with the owner or caretaker of an animal or group of animals

of a prescription drug for the purpose of injection, inhalation, ingestion, or any other means directed to the body of the animal by the owner or caretaker in accordance with written or verbal directions of the veterinarian.

(2) "Adulterated drug or device" means a drug or device considered adulterated under 21 U.S.C. Sec. 351 (2003).

(3) (a) "Analytical laboratory" means a facility in possession of prescription drugs for the purpose of analysis.

(b) "Analytical laboratory" does not include a laboratory possessing prescription drugs used as standards and controls in performing drug monitoring or drug screening analysis if the prescription drugs are prediluted in a human or animal body fluid, human or animal body fluid components, organic solvents, or inorganic buffers at a concentration not exceeding one milligram per milliliter when labeled or otherwise designated as being for in vitro diagnostic use.

(4) "Animal euthanasia agency" means an agency performing euthanasia on animals by the use of prescription drugs.

(5) "Automated pharmacy systems" includes mechanical systems which perform operations or activities, other than compounding or administration, relative to the storage, packaging, dispensing, or distribution of medications, and which collect, control, and maintain all transaction information.

(6) "Beyond use date" means the date determined by a pharmacist and placed on a prescription label at the time of dispensing that indicates to the patient or caregiver a time beyond which the contents of the prescription are not recommended to be used.

(7) "Board of pharmacy" or "board" means the Utah State Board of Pharmacy created in Section 58-17b-201.

(8) "Branch pharmacy" means a pharmacy or other facility in a rural or medically underserved area, used for the storage and dispensing of prescription drugs, which is dependent upon, stocked by, and supervised by a pharmacist in another licensed pharmacy designated and approved by the division as the parent pharmacy.

(9) "Centralized prescription processing" means the processing by a pharmacy of a request from another pharmacy to fill or refill a prescription drug order or to perform processing functions such as dispensing, drug utilization review, claims adjudication, refill authorizations, and therapeutic interventions.

(10) "Class A pharmacy" means a pharmacy located in Utah that is authorized as a retail pharmacy to compound or dispense a drug or dispense a device to the public under a prescription order.

(11) "Class B pharmacy":

(a) means a pharmacy located in Utah:

(i) that is authorized to provide pharmaceutical care for patients in an institutional setting; and

(ii) whose primary purpose is to provide a physical environment for patients to obtain health care services; and

(b) (i) includes closed-door, hospital, clinic, nuclear, and branch pharmacies; and

(ii) pharmaceutical administration and sterile product preparation facilities.

(12) "Class C pharmacy" means a pharmacy that engages in the manufacture, production, wholesale, or distribution of drugs or devices in Utah.

(13) "Class D pharmacy" means a nonresident pharmacy.

(14) "Class E pharmacy" means all other pharmacies.

(15) (a) "Closed-door pharmacy" means a pharmacy that:

(i) provides pharmaceutical care to a defined and exclusive group of patients who have access to the services of the pharmacy because they are treated by or have an affiliation with a specific entity, including a health maintenance organization or an infusion company; or

(ii) engages exclusively in the practice of telepharmacy and does not serve walk-in retail customers.

(b) "Closed-door pharmacy" does not include a hospital pharmacy, a retailer of goods to the general public, or the office of a practitioner.

(16) "Collaborative pharmacy practice" means a practice of pharmacy whereby one or more pharmacists have jointly agreed, on a voluntary basis, to work in conjunction with one or more practitioners under protocol whereby the pharmacist may perform certain pharmaceutical care functions authorized by the practitioner or practitioners under certain specified conditions or limitations.

(17) "Collaborative pharmacy practice agreement" means a written and signed agreement between one or more pharmacists and one or more practitioners that provides for collaborative pharmacy practice for the purpose of drug therapy management of patients and prevention of disease of human subjects.

(18) (a) "Compounding" means the preparation, mixing, assembling, packaging, or labeling of a limited quantity drug, sterile product, or device:

(i) as the result of a practitioner's prescription order or initiative based on the practitioner, patient, or pharmacist relationship in the course of professional practice;

(ii) for the purpose of, or as an incident to, research, teaching, or chemical analysis and not for sale or dispensing; or

(iii) in anticipation of prescription drug orders based on routine, regularly observed prescribing patterns.

(b) "Compounding" does not include:

(i) the preparation of prescription drugs by a pharmacist or pharmacy intern for sale to another pharmacist or pharmaceutical facility;

(ii) the preparation by a pharmacist or pharmacy intern of any prescription drug in a dosage form which is regularly and commonly available from a manufacturer in quantities and strengths prescribed by a practitioner; or

(iii) the preparation of a prescription drug, sterile product, or device which has been withdrawn from the market for safety reasons.

(19) "Confidential information" has the same meaning as "protected health information" under the Standards for Privacy of Individually Identifiable Health Information, 45 C.F.R. Parts 160 and 164.

(20) "Controlled substance" means the same as that term is defined in Section 58-37-2.

(21) "Dietary supplement" has the same meaning as Public Law Title 103, Chapter 417, Sec. 3a(ff) which is incorporated by reference.

(22) "Dispense" means the interpretation, evaluation, and implementation of a prescription drug order or device or nonprescription drug or device under a lawful order of a practitioner in a suitable container appropriately labeled for subsequent administration to or use by a patient, research subject, or an animal.

(23) "Dispensing medical practitioner" means an individual who is:

(a) currently licensed as:

(i) a physician and surgeon under Chapter 67, Utah Medical Practice Act;

(ii) an osteopathic physician and surgeon under Chapter 68, Utah Osteopathic Medical Practice Act;

(iii) a physician assistant under Chapter 70a, Utah Physician Assistant Act;

(iv) a nurse practitioner under Chapter 31b, Nurse Practice Act; or

(v) an optometrist under Chapter 16a, Utah Optometry Practice Act, if the optometrist is acting within the scope of practice for an optometrist; and

(b) licensed by the division under the Pharmacy Practice Act to engage in the practice of a dispensing medical practitioner.

(24) "Dispensing medical practitioner clinic pharmacy" means a closed-door pharmacy located within a licensed dispensing medical practitioner's place of practice.

(25) "Distribute" means to deliver a drug or device other than by administering or dispensing.

(26) (a) "Drug" means:

(i) a substance recognized in the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, or official National Formulary, or any supplement to any of them, intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in humans or animals;

(ii) a substance that is required by any applicable federal or state law or rule to be dispensed by prescription only or is restricted to administration by practitioners only;

(iii) a substance other than food intended to affect the structure or any function of the body of humans or other animals; and

(iv) substances intended for use as a component of any substance specified in Subsections (26)(a)(i), (ii), (iii), and (iv).

(b) "Drug" does not include dietary supplements.

(27) "Drug regimen review" includes the following activities:

(a) evaluation of the prescription drug order and patient record for:

(i) known allergies;

(ii) rational therapy-contraindications;

(iii) reasonable dose and route of administration; and

(iv) reasonable directions for use;

(b) evaluation of the prescription drug order and patient record for duplication of therapy;

(c) evaluation of the prescription drug order and patient record for the following interactions:

(i) drug-drug;

(ii) drug-food;

(iii) drug-disease; and

(iv) adverse drug reactions; and

(d) evaluation of the prescription drug order and patient record for proper utilization, including over- or under-utilization, and optimum therapeutic outcomes.

(28) "Drug sample" means a prescription drug packaged in small quantities consistent with limited dosage therapy of the particular drug, which is marked "sample", is not intended to be sold, and is intended to be provided to practitioners for the immediate needs of patients for trial purposes or to provide the drug to the patient until a prescription can be filled by the patient.

(29) "Electronic signature" means a trusted, verifiable, and secure electronic sound, symbol, or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record.

(30) "Electronic transmission" means transmission of information in electronic form or the transmission of the exact visual image of a document by way of electronic equipment.

(31) "Hospital pharmacy" means a pharmacy providing pharmaceutical care to inpatients of a general acute hospital or specialty hospital licensed

by the Department of Health under Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act.

(32) "Legend drug" has the same meaning as prescription drug.

(33) "Licensed pharmacy technician" means an individual licensed with the division, that may, under the supervision of a pharmacist, perform the activities involved in the technician practice of pharmacy.

(34) "Manufacturer" means a person or business physically located in Utah licensed to be engaged in the manufacturing of drugs or devices.

(35) (a) "Manufacturing" means:

(i) the production, preparation, propagation, conversion, or processing of a drug or device, either directly or indirectly, by extraction from substances of natural origin or independently by means of chemical or biological synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container; and

(ii) the promotion and marketing of such drugs or devices.

(b) "Manufacturing" includes the preparation and promotion of commercially available products from bulk compounds for resale by pharmacies, practitioners, or other persons.

(c) "Manufacturing" does not include the preparation or compounding of a drug by a pharmacist, pharmacy intern, or practitioner for that individual's own use or the preparation, compounding, packaging, labeling of a drug, or incident to research, teaching, or chemical analysis.

(36) "Medical order" means a lawful order of a practitioner which may include a prescription drug order.

(37) "Medication profile" or "profile" means a record system maintained as to drugs or devices prescribed for a pharmacy patient to enable a pharmacist or pharmacy intern to analyze the profile to provide pharmaceutical care.

(38) "Misbranded drug or device" means a drug or device considered misbranded under 21 U.S.C. Sec. 352 (2003).

(39) (a) "Nonprescription drug" means a drug which:

(i) may be sold without a prescription; and

(ii) is labeled for use by the consumer in accordance with federal law.

(b) "Nonprescription drug" includes homeopathic remedies.

(40) "Nonresident pharmacy" means a pharmacy located outside of Utah that sells to a person in Utah.

(41) "Nuclear pharmacy" means a pharmacy providing radio-pharmaceutical service.

(42) "Out-of-state mail service pharmacy" means a pharmaceutical facility located outside the state that is licensed and in good standing in another state, that:

(a) ships, mails, or delivers by any lawful means a dispensed legend drug to a patient in this state pursuant to a lawfully issued prescription;

(b) provides information to a patient in this state on drugs or devices which may include, but is not limited to, advice relating to therapeutic values, potential hazards, and uses; or

(c) counsels pharmacy patients residing in this state concerning adverse and therapeutic effects of drugs.

(43) "Patient counseling" means the written and oral communication by the pharmacist or pharmacy intern of information, to the patient or caregiver, in order to ensure proper use of drugs, devices, and dietary supplements.

(44) "Pharmaceutical administration facility" means a facility, agency, or institution in which:

(a) prescription drugs or devices are held, stored, or are otherwise under the control of the facility or agency for administration to patients of that facility or agency;

(b) prescription drugs are dispensed to the facility or agency by a licensed pharmacist or pharmacy intern with whom the facility has established a prescription drug supervising relationship under which the pharmacist or pharmacy intern provides counseling to the facility or agency staff as required, and oversees drug control, accounting, and destruction; and

(c) prescription drugs are professionally administered in accordance with the order of a practitioner by an employee or agent of the facility or agency.

(45) (a) "Pharmaceutical care" means carrying out the following in collaboration with a prescribing practitioner, and in accordance with division rule:

(i) designing, implementing, and monitoring a therapeutic drug plan intended to achieve favorable outcomes related to a specific patient for the purpose of curing or preventing the patient's disease;

(ii) eliminating or reducing a patient's symptoms; or

(iii) arresting or slowing a disease process.

(b) "Pharmaceutical care" does not include prescribing of drugs without consent of a prescribing practitioner.

(46) "Pharmaceutical facility" means a business engaged in the dispensing, delivering, distributing, manufacturing, or wholesaling of prescription drugs or devices within or into this state.

(47) (a) "Pharmaceutical wholesaler or distributor" means a pharmaceutical facility

engaged in the business of wholesale vending or selling of a prescription drug or device to other than a consumer or user of the prescription drug or device that the pharmaceutical facility has not produced, manufactured, compounded, or dispensed.

(b) "Pharmaceutical wholesaler or distributor" does not include a pharmaceutical facility carrying out the following business activities:

(i) intracompany sales;

(ii) the sale, purchase, or trade of a prescription drug or device, or an offer to sell, purchase, or trade a prescription drug or device, if the activity is carried out between one or more of the following entities under common ownership or common administrative control, as defined by division rule:

(A) hospitals;

(B) pharmacies;

(C) chain pharmacy warehouses, as defined by division rule; or

(D) other health care entities, as defined by division rule;

(iii) the sale, purchase, or trade of a prescription drug or device, or an offer to sell, purchase, or trade a prescription drug or device, for emergency medical reasons, including supplying another pharmaceutical facility with a limited quantity of a drug, if:

(A) the facility is unable to obtain the drug through a normal distribution channel in sufficient time to eliminate the risk of harm to a patient that would result from a delay in obtaining the drug; and

(B) the quantity of the drug does not exceed an amount reasonably required for immediate dispensing to eliminate the risk of harm;

(iv) the distribution of a prescription drug or device as a sample by representatives of a manufacturer; and

(v) the distribution of prescription drugs, if:

(A) the facility's total distribution-related sales of prescription drugs does not exceed 5% of the facility's total prescription drug sales; and

(B) the distribution otherwise complies with 21 C.F.R. Sec. 1307.11.

(48) "Pharmacist" means an individual licensed by this state to engage in the practice of pharmacy.

(49) "Pharmacist-in-charge" means a pharmacist currently licensed in good standing who accepts responsibility for the operation of a pharmacy in conformance with all laws and rules pertinent to the practice of pharmacy and the distribution of drugs, and who is personally in full and actual charge of the pharmacy and all personnel.

(50) "Pharmacist preceptor" means a licensed pharmacist in good standing with one or more years of licensed experience. The preceptor serves as a teacher, example of professional conduct, and supervisor of interns in the professional practice of pharmacy.

(51) "Pharmacy" means any place where:

(a) drugs are dispensed;

(b) pharmaceutical care is provided;

(c) drugs are processed or handled for eventual use by a patient; or

(d) drugs are used for the purpose of analysis or research.

(52) "Pharmacy benefits manager or coordinator" means a person or entity that provides a pharmacy benefits management service as defined in Section [~~49-20-502~~] 31A-46-102 on behalf of a self-insured employer, insurance company, health maintenance organization, or other plan sponsor, as defined by rule.

(53) "Pharmacy intern" means an individual licensed by this state to engage in practice as a pharmacy intern.

(54) "Pharmacy technician training program" means an approved technician training program providing education for pharmacy technicians.

(55) (a) "Practice as a dispensing medical practitioner" means the practice of pharmacy, specifically relating to the dispensing of a prescription drug in accordance with Part 8, Dispensing Medical Practitioner and Dispensing Medical Practitioner Clinic Pharmacy, and division rule adopted after consultation with the Board of pharmacy and the governing boards of the practitioners described in Subsection (23)(a).

(b) "Practice as a dispensing medical practitioner" does not include:

(i) using a vending type of dispenser as defined by the division by administrative rule; or

(ii) except as permitted by Section 58-17b-805, dispensing of a controlled substance as defined in Section 58-37-2.

(56) "Practice as a licensed pharmacy technician" means engaging in practice as a pharmacy technician under the general supervision of a licensed pharmacist and in accordance with a scope of practice defined by division rule made in collaboration with the board.

(57) "Practice of pharmacy" includes the following:

(a) providing pharmaceutical care;

(b) collaborative pharmacy practice in accordance with a collaborative pharmacy practice agreement;

(c) compounding, packaging, labeling, dispensing, administering, and the coincident distribution of prescription drugs or devices, provided that the administration of a prescription drug or device is:

(i) pursuant to a lawful order of a practitioner when one is required by law; and

(ii) in accordance with written guidelines or protocols:

(A) established by the licensed facility in which the prescription drug or device is to be administered on an inpatient basis; or

(B) approved by the division, in collaboration with the board and, when appropriate, the Physicians Licensing Board, created in Section 58-67-201, if the prescription drug or device is to be administered on an outpatient basis solely by a licensed pharmacist;

(d) participating in drug utilization review;

(e) ensuring proper and safe storage of drugs and devices;

(f) maintaining records of drugs and devices in accordance with state and federal law and the standards and ethics of the profession;

(g) providing information on drugs or devices, which may include advice relating to therapeutic values, potential hazards, and uses;

(h) providing drug product equivalents;

(i) supervising pharmacist's supportive personnel, pharmacy interns, and pharmacy technicians;

(j) providing patient counseling, including adverse and therapeutic effects of drugs;

(k) providing emergency refills as defined by rule;

(l) telepharmacy;

(m) formulary management intervention; and

(n) prescribing and dispensing a self-administered hormonal contraceptive in accordance with Title 26, Chapter 64, Family Planning Access Act.

(58) "Practice of telepharmacy" means the practice of pharmacy through the use of telecommunications and information technologies.

(59) "Practice of telepharmacy across state lines" means the practice of pharmacy through the use of telecommunications and information technologies that occurs when the patient is physically located within one jurisdiction and the pharmacist is located in another jurisdiction.

(60) "Practitioner" means an individual currently licensed, registered, or otherwise authorized by the appropriate jurisdiction to prescribe and administer drugs in the course of professional practice.

(61) "Prescribe" means to issue a prescription:

(a) orally or in writing; or

(b) by telephone, facsimile transmission, computer, or other electronic means of communication as defined by division rule.

(62) "Prescription" means an order issued:

(a) by a licensed practitioner in the course of that practitioner's professional practice or by collaborative pharmacy practice agreement; and

(b) for a controlled substance or other prescription drug or device for use by a patient or an animal.

(63) "Prescription device" means an instrument, apparatus, implement, machine, contrivance, implant, in vitro reagent, or other similar or related article, and any component part or accessory, which is required under federal or state law to be prescribed by a practitioner and dispensed by or through a person or entity licensed under this chapter or exempt from licensure under this chapter.

(64) "Prescription drug" means a drug that is required by federal or state law or rule to be dispensed only by prescription or is restricted to administration only by practitioners.

(65) "Repackage":

(a) means changing the container, wrapper, or labeling to further the distribution of a prescription drug; and

(b) does not include:

(i) Subsection (65)(a) when completed by the pharmacist responsible for dispensing the product to a patient; or

(ii) changing or altering a label as necessary for a dispensing practitioner under Part 8, Dispensing Medical Practitioner and Dispensing Medical Practitioner Clinic Pharmacy, for dispensing a product to a patient.

(66) "Research using pharmaceuticals" means research:

(a) conducted in a research facility, as defined by division rule, that is associated with a university or college in the state accredited by the Northwest Commission on Colleges and Universities;

(b) requiring the use of a controlled substance, prescription drug, or prescription device;

(c) that uses the controlled substance, prescription drug, or prescription device in accordance with standard research protocols and techniques, including, if required, those approved by an institutional review committee; and

(d) that includes any documentation required for the conduct of the research and the handling of the controlled substance, prescription drug, or prescription device.

(67) "Retail pharmacy" means a pharmaceutical facility dispensing prescription drugs and devices to the general public.

(68) (a) "Self-administered hormonal contraceptive" means a self-administered hormonal contraceptive that is approved by the United States Food and Drug Administration to prevent pregnancy.

(b) "Self-administered hormonal contraceptive" includes an oral hormonal contraceptive, a

hormonal vaginal ring, and a hormonal contraceptive patch.

(c) "Self-administered hormonal contraceptive" does not include any drug intended to induce an abortion, as that term is defined in Section 76-7-301.

(69) "Self-audit" means an internal evaluation of a pharmacy to determine compliance with this chapter.

(70) "Supervising pharmacist" means a pharmacist who is overseeing the operation of the pharmacy during a given day or shift.

(71) "Supportive personnel" means unlicensed individuals who:

(a) may assist a pharmacist, pharmacist preceptor, pharmacy intern, or licensed pharmacy technician in nonjudgmental duties not included in the definition of the practice of pharmacy, practice of a pharmacy intern, or practice of a licensed pharmacy technician, and as those duties may be further defined by division rule adopted in collaboration with the board; and

(b) are supervised by a pharmacist in accordance with rules adopted by the division in collaboration with the board.

(72) "Unlawful conduct" means the same as that term is defined in Sections 58-1-501 and 58-17b-501.

(73) "Unprofessional conduct" means the same as that term is defined in Sections 58-1-501 and 58-17b-502 and may be further defined by rule.

(74) "Veterinary pharmaceutical facility" means a pharmaceutical facility that dispenses drugs intended for use by animals or for sale to veterinarians for the administration for animals.

Section 3. Section 58-17b-305.1 is amended to read:

58-17b-305.1. Qualifications for licensure of pharmacy technician trainee.

(1) An applicant for licensure as a pharmacy technician trainee shall:

(a) submit an application to the division on a form created by the division;

(b) pay a fee established by the division in accordance with Section 63J-1-504;

(c) unless exempted by the division, submit a completed criminal background check;

(d) demonstrate, as determined by the division, that the applicant does not have a physical or mental condition that would prevent the applicant from engaging in practice as a pharmacy technician with reasonable skill, competency, and safety to the public; [~~and~~]

(e) submit evidence that the applicant is enrolled in a training program approved by the division[~~.~~]; and

(f) satisfy any other criteria established by division rule made in collaboration with the board.

(2) A pharmacist whose license has been denied, revoked, suspended, or restricted for disciplinary purposes is not eligible to be licensed as a pharmacy technician trainee during division probation.

Section 4. Section 58-17b-309.7 is amended to read:

58-17b-309.7. Opioid treatment program.

(1) As used in this section:

[~~(a) "Dispense" means to prepare, package, or label for subsequent use.~~]

[~~(b) "Nurse practitioner" means an individual who is licensed to practice as an advanced practice registered nurse under Chapter 31b, Nurse Practice Act.~~]

(a) "Covered provider" means an individual who is licensed to engage in:

(i) the practice of advanced practice registered nursing as defined in Section 58-31b-102;

(ii) the practice of registered nursing as defined in Section 58-31b-102; or

(iii) practice as a physician assistant as defined in Section 58-70a-102.

[~~(c)~~] (b) "Opioid treatment program" means a program or practitioner that is:

(i) engaged in [~~opioid treatment of an individual using~~] dispensing an opiate [~~agonist~~] medication assisted treatment for opioid use disorder;

(ii) registered under 21 U.S.C. Sec. 823(g)(1);

(iii) licensed by the Office of Licensing[~~,~~] within the Department of Human Services[~~,~~] created in Section 62A-2-103; and

(iv) certified by the Substance Abuse and Mental Health Services Administration in accordance with 42 C.F.R. 8.11.

[~~(d) "Physician" means an individual licensed to practice as a physician or osteopath in this state under Chapter 67, Utah Medical Practice Act, or Chapter 68, Utah Osteopathic Medical Practice Act.~~]

[~~(e) "Physician assistant" means an individual who is licensed to practice as a physician assistant under Chapter 70a, Utah Physician Assistant Act.~~]

[~~(f) "Practitioner" means a nurse practitioner, physician's assistant, or a registered nurse.~~]

[~~(g) "Registered nurse" means the same as that term is defined in Section 78B-3-403.~~]

(2) A [~~practitioner~~] covered provider may dispense [~~methadone~~] opiate medication assisted treatment at an opioid treatment program [~~regardless of whether the practitioner is licensed to dispense methadone under this chapter if the practitioner~~] if the covered provider:

(a) is operating under the direction of a pharmacist;

(b) dispenses the [~~methadone~~] opiate medication assisted treatment under the direction of a pharmacist; and

(c) acts in accordance with division rule made under Subsection (3).

(3) The division shall, in consultation with [~~pharmacies, physicians, and~~] practitioners who work in an opioid treatment program, make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish guidelines under which a [~~practitioner~~] covered provider may dispense [~~methadone~~] opiate medication assisted treatment to a patient in an opioid treatment program under this section.

Section 5. Section 58-17b-610 is amended to read:

58-17b-610. Patients' immediate needs -- Dispensing drug samples.

(1) This chapter may not be construed to prevent the personal administration of drugs or medicines by practitioners licensed to prescribe in order to supply the immediate needs of the practitioner's patients.

(2) Immediate need for a patient includes giving out drug samples that:

(a) are not Schedule II drugs, [~~opiods, or Benzodiazepines~~] opioids, or benzodiazepines;

(b) are prepackaged by the original manufacturer;

(c) are provided to the prescribing practitioner free of charge and provided to the patient free of any direct or indirect charge;

(d) do not exceed a 30-day supply for:

(i) controlled substances; or

(ii) non-controlled substances, unless a prescribing practitioner documents that providing more than a 30-day supply is medically necessary; and

(e) (i) are marked on the immediate container to indicate that the drug is a sample; or

(ii) are recorded in the patient's chart with the name and number of samples provided.

(3) A prescribing practitioner who provides samples for a patient shall comply with Subsection (2).

Section 6. Section 58-17b-622 is amended to read:

58-17b-622. Pharmacy benefit management services -- Auditing of pharmacy records -- Appeals.

(1) For purposes of this section:

(a) "Audit" means a review of the records of a pharmacy by or on behalf of an entity that finances or reimburses the cost of health care services or pharmaceutical products.

(b) "Audit completion date" means:

(i) for an audit that does not require an on-site visit at the pharmacy, the date on which the pharmacy, in response to the initial audit request, submits records or other documents to the entity conducting the audit, as determined by:

(A) postmark or other evidence of the date of mailing; or

(B) the date of transmission if the records or other documents are transmitted electronically; and

(ii) for an audit that requires an on-site visit at a pharmacy, the date on which the auditing entity completes the on-site visit, including any follow-up visits or analysis which shall be completed within 60 days after the day on which the on-site visit begins.

[~~(b)~~] (c) "Entity" includes:

(i) a pharmacy benefits manager or coordinator;

(ii) a health benefit plan;

(iii) a third party administrator as defined in Section 31A-1-301;

(iv) a state agency; or

(v) a company, group, or agent that represents, or is engaged by, one of the entities described in Subsections (1)[~~(b)~~](c)(i) through (iv).

[~~(c)~~] (d) "Fraud" means an intentional act of deception, misrepresentation, or concealment in order to gain something of value.

[~~(d)~~] (e) "Health benefit plan" means:

(i) a health benefit plan as defined in Section 31A-1-301; or

(ii) a health, dental, medical, Medicare supplement, or conversion program offered under Title 49, Chapter 20, Public Employees' Benefit and Insurance Program Act.

(2) (a) Except as provided in Subsection (2)(b), this section applies to:

(i) a contract for the audit of a pharmacy entered into, amended, or renewed on or after July 1, 2012; and

(ii) an entity that conducts an audit of the pharmacy records of a pharmacy licensed under this chapter.

(b) This section does not apply to an audit of pharmacy records:

(i) for a federally funded prescription drug program, including:

(A) the state Medicaid program;

(B) the Medicare Part D program;

(C) a Department of Defense prescription drug program; and

(D) a Veterans Affairs prescription drug program; or

(ii) when fraud or other intentional and willful misrepresentation is alleged and the pharmacy audit entity has evidence that the pharmacy's actions reasonably indicate fraud or intentional and willful misrepresentation.

(3) (a) An audit that involves clinical or professional judgment shall be conducted by or in consultation with a pharmacist who is employed by or working with the auditing entity and who is licensed in the state or another state.

(b) If an audit is conducted on site at a pharmacy, the entity conducting the audit:

(i) shall give the pharmacy 10 days advanced written notice of:

(A) the audit; and

(B) the range of prescription numbers or a date range included in the audit; and

(ii) may not audit a pharmacy during the first five business days of the month, unless the pharmacy agrees to the timing of the audit.

(c) An entity may not audit claims:

(i) submitted more than 18 months prior to the audit, unless:

(A) required by federal law; or

(B) the originating prescription is dated in the preceding six months; or

(ii) that exceed 200 selected prescription claims.

(4) (a) An entity may not:

(i) include dispensing fees in the calculations of overpayments unless the prescription is considered a misfill;

(ii) recoup funds for prescription clerical or recordkeeping errors, including typographical errors, scrivener's errors, and computer errors on a required document or record unless the audit entity is alleging fraud or other intentional or willful misrepresentation and the audit entity has evidence that the pharmacy's actions reasonably indicate fraud or intentional and willful misrepresentation;

(iii) recoup funds for refills dispensed in accordance with Section 58-17b-608.1, unless the health benefit plan does not cover the prescription drug dispensed by the pharmacy; [~~or~~]

(iv) collect any funds, charge-backs, or penalties until the audit and all appeals are final, unless the audit entity is alleging fraud or other intentional or willful misrepresentation and the audit entity has evidence that the pharmacy's actions reasonably indicate fraud or intentional and willful misrepresentation[~~.~~]; or

(v) recoup funds or collect any funds, charge-backs, or penalties from a pharmacy in response to a request for audit unless the pharmacy confirms to the entity the date on which the pharmacy received the request for audit.

(b) Auditors shall only have access to previous audit reports on a particular pharmacy if the previous audit was conducted by the same entity except as required for compliance with state or federal law.

(5) A pharmacy subject to an audit:

(a) may use one or more of the following [~~records~~] to validate a claim for a prescription, refill, or change in a prescription:

[~~(a)~~] (i) electronic or physical copies of records of a health care facility, or a health care provider with prescribing authority; [~~and~~]

[~~(b)~~] (ii) any prescription that complies with state law[~~.~~];

(iii) the pharmacy's own physical or electronic records; or

(iv) the physical or electronic records, or valid copies of the physical or electronic records, of a practitioner or health care facility as defined in Section 26-21-2; and

(b) may not be required to provide the following records to validate a claim for a prescription, refill, or change in a prescription:

(i) if the prescription was handwritten, the physical handwritten version of the prescription; or

(ii) a note from the practitioner regarding the patient or the prescription that is not otherwise required for a prescription under state or federal law.

(6) (a) (i) An entity that audits a pharmacy shall establish:

(A) a maximum time for the pharmacy to submit records or other documents to the entity following receipt of an audit request for records or documents; and

(B) a maximum time for the entity to provide the pharmacy with a preliminary audit report following submission of records under Subsection (6)(a)(i)(A).

(ii) The time limits established under Subsections (6)(a)(i)(A) and (B):

(A) shall be identical; and

(B) may not be less than seven days or more than 60 days.

(iii) An entity that audits a pharmacy may not, after the audit completion date, request additional records or other documents from the pharmacy to complete the preliminary audit report described in Subsection (6)(b).

[~~(6) (a)~~] (b) An entity that audits a pharmacy shall provide the pharmacy with a preliminary audit report, delivered to the pharmacy or its corporate office of record, within [~~60 days after completion of the audit~~] the time limit established under Subsection (6)(a)(i)(B).

[~~(b)~~] (c) (i) [~~A~~] Except as provided in Subsection (6)(c)(ii), a pharmacy has 30 days following receipt of the preliminary audit report to respond to

questions, provide additional documentation, and comment on and clarify findings of the audit.

(ii) An entity may grant a reasonable extension under Subsection (6)(c)(i) upon request by the pharmacy.

(iii) Receipt of the report under Subsection (6)(c)(i) shall be [~~based on the~~] determined by:

(A) postmark [~~date~~] or other evidence of the date of mailing; or

(B) the date of [~~a computer~~] transmission if [~~transferred~~] the report is transmitted electronically.

(iv) If a dispute exists between the records of the auditing entity and the pharmacy, the records maintained by the pharmacy shall be presumed valid for the purpose of the audit.

(7) If an audit results in the dispute or denial of a claim, the entity conducting the audit shall allow:

(a) the pharmacy to resubmit a claim using any commercially reasonable method, including fax, mail, or electronic claims submission provided that the period of time when a claim may be resubmitted has not expired under the rules of the plan sponsor[~~.~~]; and

(b) the health benefit plan or other entity that finances or reimburses the cost of health care services or pharmaceutical products to rerun the claim if the health benefit plan or other entity chooses to rerun the claim at no cost to the pharmacy.

(8) (a) Within [~~120~~] 60 days after the completion of the appeals process under Subsection (9), a final audit report shall be delivered to the pharmacy or its corporate office of record.

(b) The final audit report shall include a disclosure of any money recovered by the entity that conducted the audit.

(9) (a) An entity that audits a pharmacy shall establish a written appeals process for appealing a preliminary audit report and a final audit report, and shall provide the pharmacy with notice of the written appeals process.

(b) If the pharmacy benefit manager's contract or provider manual contains the information required by this Subsection (9), the requirement for notice is met.

Section 7. Section 58-17b-625 is amended to read:

58-17b-625. Administration of a long-acting injectable and naloxone.

(1) A pharmacist may, in accordance with this section, administer a drug described in Subsection (2).

(2) Notwithstanding the provisions of Subsection 58-17b-102(57)(c)(ii)(B), the division shall make rules[~~,~~] in collaboration with the board and, when appropriate, the Physicians Licensing Board created in Section 58-67-201, and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, [~~establishing~~] to establish training for a pharmacist to administer [~~the following~~] naloxone and long-acting injectables intramuscularly[~~:~~].

[~~(a) aripiprazole;~~]

[~~(b) aripiprazole lauroxil;~~]

[~~(c) paliperidone;~~]

[~~(d) risperidone;~~]

[~~(e) olanzapine;~~]

[~~(f) naltrexone;~~]

[~~(g) naloxone; and~~]

[~~(h) drugs approved and regulated by the United States Food and Drug Administration for the treatment of the Human Immunodeficiency Virus.~~]

(3) A pharmacist may not administer [~~a drug listed under Subsection (2)~~] naloxone or a long-acting injectable intramuscularly unless the pharmacist:

(a) completes the training described in Subsection (2);

(b) administers the drug at a clinic or community pharmacy, as those terms are defined by the division, by administrative rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(c) is directed by the physician, as that term is defined in Section 58-67-102 or Section 58-68-102, who issues the prescription to administer the drug.

Section 8. Section 58-37f-203 is amended to read:

58-37f-203. Submission, collection, and maintenance of data.

(1) (a) The division shall implement on a statewide basis, including non-resident pharmacies as defined in Section 58-17b-102, the following two options for a pharmacist to submit information:

(i) real-time submission of the information required to be submitted under this part to the controlled substance database; and

(ii) 24-hour daily or next business day, whichever is later, batch submission of the information required to be submitted under this part to the controlled substance database.

(b) A pharmacist shall comply with either:

(i) the submission time requirements established by the division under Subsection (1)(a)(i); or

(ii) the submission time requirements established by the division under Subsection (1)(a)(ii).

(c) Notwithstanding the time requirements described in Subsection (1)(a), a pharmacist may submit corrections to data that the pharmacist has submitted to the controlled substance database within seven business days after the day on which

the division notifies the pharmacist that data is incomplete or corrections to the data are otherwise necessary.

[~~(c)~~] (d) The division shall comply with Title 63G, Chapter 6a, Utah Procurement Code.

(2) (a) The pharmacist-in-charge and the pharmacist of the drug outlet where a controlled substance is dispensed shall submit the data described in this section to the division in accordance with:

(i) the requirements of this section;

(ii) the procedures established by the division;

(iii) additional types of information or data fields established by the division; and

(iv) the format established by the division.

(b) A dispensing medical practitioner licensed under Chapter 17b, Part 8, Dispensing Medical Practitioner and Dispensing Medical Practitioner Clinic Pharmacy, shall comply with the provisions of this section and the dispensing medical practitioner shall assume the duties of the pharmacist under this chapter.

(3) (a) Except as provided in Subsection (3)(b), the pharmacist-in-charge and the pharmacist described in Subsection (2)(a) shall, for each controlled substance dispensed by a pharmacist under the pharmacist's supervision, submit to the division any type of information or data field established by the division by rule in accordance with Subsection (6) regarding:

(i) each controlled substance that is dispensed by the pharmacist or under the pharmacist's supervision; and

(ii) each noncontrolled substance that is:

(A) designated by the division under Subsection (8)(a); and

(B) dispensed by the pharmacist or under the pharmacist's supervision.

(b) Subsection (3)(a) does not apply to a drug that is dispensed for administration to, or use by, a patient at a health care facility, including a patient in an outpatient setting at the health care facility.

(4) An individual whose records are in the database may obtain those records upon submission of a written request to the division.

(5) (a) A patient whose record is in the database may contact the division in writing to request correction of any of the patient's database information that is incorrect.

(b) The division shall grant or deny the request within 30 days from receipt of the request and shall advise the requesting patient of its decision within 35 days of receipt of the request.

(c) If the division denies a request under this Subsection (5) or does not respond within 35 days, the patient may submit an appeal to the Department of Commerce, within 60 days after the patient's written request for a correction under this Subsection (5).

(6) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish submission requirements under this part, including:

(a) electronic format;

(b) submission procedures; and

(c) required information and data fields.

(7) The division shall ensure that the database system records and maintains for reference:

(a) the identification of each individual who requests or receives information from the database;

(b) the information provided to each individual; and

(c) the date and time that the information is requested or provided.

(8) (a) The division, in collaboration with the Utah Controlled Substance Advisory Committee created in Section 58-38a-201, shall designate a list of noncontrolled substances described in Subsection (8)(b) by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(b) To determine whether a prescription drug should be designated in the schedules of controlled substances under this chapter, the division may collect information about a prescription drug as defined in Section 58-17b-102 that is not designated in the schedules of controlled substances under this chapter.

Section 9. Section 58-37f-303 is amended to read:

58-37f-303. Access to opioid prescription information via an electronic data system.

(1) As used in this section:

(a) "Dispense" means the same as that term is defined in Section 58-17b-102.

(b) "EDS user":

(i) means:

(A) a prescriber;

(B) a pharmacist;

(C) a pharmacy intern;

(D) a pharmacy technician; or

(E) an individual granted access to the database under Subsection 58-37f-301(3)(c); and

(ii) does not mean an individual whose access to the database has been revoked by the division pursuant to Subsection 58-37f-301(5)(c).

(c) "Electronic data system" means a software product or an electronic service used by:

(i) a prescriber to manage electronic health records; or

(ii) a pharmacist, pharmacy intern, or pharmacy technician working under the general supervision

of a licensed pharmacist [~~to manage~~], for the purpose of:

(A) managing the dispensing of prescription drugs[~~.~~]; or

(B) providing pharmaceutical care as defined in Section 58-17b-102 to a patient.

(d) "Opioid" means any substance listed in Subsection 58-37-4(2)(b)(i) or (2)(b)(ii).

(e) "Pharmacist" means the same as that term is defined in Section 58-17b-102.

(f) "Prescriber" means a practitioner, as that term is defined in Section 58-37-2, who is licensed under Section 58-37-6 to prescribe an opioid.

(g) "Prescription drug" means the same as that term is defined in Section 58-17b-102.

(2) Subject to Subsections (3) through (6), no later than January 1, 2017, the division shall make opioid prescription information in the database available to an EDS user via the user's electronic data system.

(3) An electronic data system may be used to make opioid prescription information in the database available to an EDS user only if the electronic data system complies with rules established by the division under Subsection (4).

(4) (a) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, specifying:

(i) an electronic data system's:

(A) allowable access to and use of opioid prescription information in the database; and

(B) minimum actions that must be taken to ensure that opioid prescription information accessed from the database is protected from inappropriate disclosure or use; and

(ii) an EDS user's:

(A) allowable access to opioid prescription information in the database via an electronic data system; and

(B) allowable use of the information.

(b) The rules shall establish:

(i) minimum user identification requirements that in substance are the same as the database identification requirements in Section 58-37f-301;

(ii) user access restrictions that in substance are the same as the database identification requirements in Section 58-37f-301; and

(iii) any other requirements necessary to ensure that in substance the provisions of Sections 58-37f-301 and 58-37f-302 apply to opioid prescription information in the database that has been made available to an EDS user via an electronic data system.

(5) The division may not make opioid prescription information in the database available to an EDS user via the user's electronic data system if:

(a) the electronic data system does not comply with the rules established by the division under Subsection (4); or

(b) the EDS user does not comply with the rules established by the division under Subsection (4).

(6) (a) The division shall periodically audit the use of opioid prescription information made available to an EDS user via the user's electronic data system.

(b) The audit shall review compliance by:

(i) the electronic data system with rules established by the division under Subsection (4); and

(ii) the EDS user with rules established by the division under Subsection (4).

(c) (i) If the division determines by audit or other means that an electronic data system is not in compliance with rules established by the division under Subsection (4), the division shall immediately suspend or revoke the electronic data system's access to opioid prescription information in the database.

(ii) If the division determines by audit or other means that an EDS user is not in compliance with rules established by the division under Subsection (4), the division shall immediately suspend or revoke the EDS user's access to opioid prescription information in the database via an electronic data system.

(iii) If the division suspends or revokes access to opioid prescription information in the database under Subsection (6)(c)(i) or (6)(c)(ii), the division shall also take any other appropriate corrective or disciplinary action authorized by this chapter or title.

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Effective May 5, 2021

EDUCATION DEADLINE AND FISCAL FLEXIBILITY

Chief Sponsor: Lincoln Fillmore
House Sponsor: Jefferson Moss

LONG TITLE

General Description:

This bill extends or provides flexibility regarding certain education deadlines and spending restrictions.

Highlighted Provisions:

This bill:

- delays the date after which the State Board of Education may enter into an agreement with additional scholarship granting organizations;
- allows a local education agency (LEA) to transfer a portion of state restricted funds in the LEA's general fund to be used without the state restrictions under certain conditions;
- extends certain expenditure deadlines by one fiscal year;
- delays by one year a requirement that a student fee be equal to or less than the cost to the LEA of providing an activity, course, or program;
- establishes a repeal date; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53E-7-404, as enacted by Laws of Utah 2020, Fourth Special Session, Chapter 3
53G-7-503, as last amended by Laws of Utah 2020, Chapters 51 and 408
63I-2-253, as last amended by Laws of Utah 2020, Sixth Special Session, Chapter 13

ENACTS:

53F-2-209, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53E-7-404 is amended to read:

53E-7-404. State board to administer the program.

(1) The state board shall administer the program.

(2) The state board shall:

(a) provide a tax credit certificate form, for use by a scholarship granting organization as described in Section 53E-7-407, that includes:

(i) the name, address, and social security number or federal employer identification number of the person that makes a donation under Section 53E-7-405;

(ii) the date of the donation;

(iii) the amount of the donation;

(iv) the amount of the tax credit; and

(v) any other relevant information;

(b) conduct a financial review or audit of a scholarship granting organization, if the state board receives evidence of fraudulent practice by the scholarship granting organization;

(c) conduct a criminal background check on each scholarship granting organization employee and scholarship granting organization officer;

(d) establish uniform financial accounting standards for scholarship granting organizations;

(e) annually calculate the amount of the program donations cap described in Section 53E-7-407; and

(f) beginning in 2021, in accordance with Section 53E-1-202.1, annually submit a report on the program to the Public Education Appropriations Subcommittee that includes:

(i) for the 2020-21, 2021-22, 2022-23, and 2023-24 school years, the amount of tuition and fees a qualifying school charges;

(ii) administrative costs of the program;

(iii) the number of scholarship students from each school district;

(iv) standards used by the scholarship granting organization to determine whether a student is an eligible student; and

(v) savings to the state and LEAs as a result of scholarship students exiting the public school system.

(3) (a) In accordance with Subsection (4) and Title 63G, Chapter 6a, Utah Procurement Code, the state board shall issue a request for proposals and enter into at least one agreement with an organization that is qualified as tax exempt under Section 501(c)(3), Internal Revenue Code, to be recognized by the state board as a scholarship granting organization.

(b) An organization that responds to a request for proposals described in Subsection (3)(a) shall submit the following information in the organization's response:

(i) a copy of the organization's incorporation documents;

(ii) a copy of the organization's Internal Revenue Service determination letter qualifying the organization as being tax exempt under Section 501(c)(3), Internal Revenue Code;

(iii) a description of the methodology the organization will use to verify that a student is an eligible student under this part; and

(iv) a description of the organization's proposed scholarship application process.

(4) (a) The state board shall enter into an agreement described in Subsection (3)(a) with one scholarship granting organization on or before January 1, 2021.

(b) The state board may enter into an agreement described in Subsection (3)(a) with additional scholarship granting organizations after January 1, [~~2022~~] 2023, if the state board makes rules regarding how multiple scholarship granting organizations may issue tax credit certificates in accordance with Section 53E-7-407.

(c) (i) No later than 10 days after the day on which the state board enters into anagreement with a scholarship granting organization, the state board shall forward the name and contact information of the scholarship granting organization to the State Tax Commission.

(ii) If, under Subsection (5)(c)(i), the state board bars a scholarship granting organization from further participation in the program, the state board shall, no later than 10 days after the day on which the state board bars the scholarship granting organization, forward the name and contact information of the barred scholarship granting organization to the State Tax Commission.

(5) (a) If the state board determines that a scholarship granting organization has violated a provision of this part or state board rule, the state board shall send written notice to the scholarship granting organization explaining the violation and the remedial action required to correct the violation.

(b) A scholarship granting organization that receives a notice described in Subsection (5)(a) shall, no later than 60 days after the day on which the scholarship granting organization receives the notice, correct the violation and report the correction to the state board.

(c) (i) If a scholarship granting organization that receives a notice described in Subsection (5)(a) fails to correct a violation in the time period described in Subsection (5)(b), the state board may bar the scholarship granting organization from further participation in the program.

(ii) A scholarship granting organization may appeal a decision made by the state board under Subsection (5)(c)(i) in accordance with Title 63G, Chapter 4, Administrative Procedures Act.

(d) A scholarship granting organization may not accept program donations while the scholarship granting organization:

(i) is barred from participating in the program under Subsection (5)(c)(i); or

(ii) has an appeal pending under Subsection (5)(c)(ii).

(e) A scholarship granting organization that has an appeal pending under Subsection (5)(c)(ii) may continue to administer scholarships from previously donated program donations during the pending appeal.

(6) The state board shall provide for a process for a scholarship granting organization to report information as required under Section 53E-7-405.

(7) The state board shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to administer the program, including rules for:

(a) a scholarship granting organization's acceptance of program donations;

(b) the administration of scholarships to a qualifying school receiving scholarship money from a scholarship granting organization that is barred from participating in the program under Subsection (5)(c)(i);

(c) payment of scholarship money to qualifying schools by a scholarship granting organization;

(d) granting scholarship awards and disbursing scholarship money for nontuition scholarship expenses by a scholarship granting organization;

(e) when an eligible student does not continue in enrollment at a qualifying school:

(i) requiring the scholarship granting organization to:

(A) notify the state board; and

(B) obtain reimbursement of scholarship money from the qualifying school in which the eligible student is no longer enrolled; and

(ii) requiring the qualifying school in which the eligible student is no longer enrolled to reimburse scholarship money to the scholarship granting organization;

(f) audit and report requirements as described in Section 53E-7-405; and

(g) requiring the scholarship granting organization, in accordance with the Family Educational Rights and Privacy Act, 20 U.S.C. Sec. 1232g, to submit to the state board:

(i) for the 2020-21, 2021-22, 2022-23, and 2023-24 school years, the amount of tuition and fees a qualifying school charges;

(ii) the number of scholarship students from each school district;

(iii) standards used to determine whether a student is an eligible student; and

(iv) any other information requested by the state board for the purpose of completing the annual report described in Section 53E-1-202.1.

Section 2. Section 53F-2-209 is enacted to read:

53F-2-209. Limited LEA budgetary flexibility.

(1) Notwithstanding any other provision of the Utah Code, for fiscal year 2021:

(a) except as provided in Subsection (1)(b), an LEA may:

(i) use up to 35% of the LEA's state restricted funding for each formula-based program to flexibly and without restriction respond to changing circumstances and student needs resulting from the COVID-19 emergency, as that term is defined in Section 53-2c-102;

(ii) transfer fund balances between funds as necessary to flexibly expend funds as described in Subsection (1)(a)(i); and

(b) an LEA may not:

(i) transfer funds under Subsection (1)(a)(i) related to the school LAND Trust Program, established in Section 53G-7-1206, or a qualified grant program; or

(ii) expend the transferred funds for capital projects or improvements.

(2) Notwithstanding any other provision of the Utah Code, for any funds for which the state imposes restrictions on the use of the funds:

(a) any expenditure that would have been required to be made before the end of fiscal year 2021 without the application of this section is extended to fiscal year 2022; and

(b) any expenditure that would have been required to be made before the end of fiscal year 2022 without the application of this section is extended to fiscal year 2023.

(3) (a) Nothing in this section authorizes an LEA to violate federal law or federal restrictions on the LEA's funds.

(b) An LEA that takes an action that this section authorizes shall ensure that the LEA continues to meet federal maintenance of effort requirements.

Section 3. Section 53G-7-503 is amended to read:

53G-7-503. Fees -- Prohibitions -- Voluntary supplies -- Enforcement -- Reporting.

(1) An LEA may only charge a fee if the fee is authorized and noticed by the LEA governing board in accordance with Section 53G-7-505.

(2) (a) An LEA may not require a fee for elementary school activities that are part of the regular school day or for supplies used during the regular school day.

(b) An elementary school or elementary school teacher may compile and provide to a student's parent a suggested list of supplies for use during the regular school day so that a parent may furnish on a voluntary basis those supplies for student use.

(c) A list provided to an elementary student's parent in accordance with Subsection (2)(b) shall include and be preceded by the following language:

"NOTICE: THE ITEMS ON THIS LIST WILL BE USED DURING THE REGULAR SCHOOL DAY. THEY MAY BE BROUGHT FROM HOME ON A VOLUNTARY BASIS, OTHERWISE, THEY WILL BE FURNISHED BY THE SCHOOL."

(3) (a) Beginning with or after the [~~2021-2022~~] 2022-2023 school year, if an LEA imposes a fee, the fee shall be equal to or less than the expense incurred by the LEA in providing for a student the activity, course, or program for which the LEA imposes the fee.

(b) An LEA may not impose an additional fee or increase a fee to supplant or subsidize another fee.

(4) (a) Beginning with or after the 2021-2022 school year, and notwithstanding Section 53E-3-401, if the state board finds that an LEA has violated a provision of this part or Part 6, Textbook Fees, the state board shall impose corrective action against the LEA, which may include:

(i) requiring an LEA to repay improperly charged fees;

(ii) withholding state funds; and

(iii) suspending the LEA's authority to charge fees for an amount of time specified by the state board.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board shall make rules:

(i) that require notice and an opportunity to be heard for an LEA affected by a state board action described in Subsection (4)(a); and

(ii) to administer this Subsection (4).

(5) (a) For each fee on an LEA's fee schedule described in Section 53G-7-505, the LEA shall:

(i) by July 1, 2020, determine whether the fee is curricular, co-curricular, or extracurricular;

(ii) for the 2020-2021 school year, measure the total number of:

(A) students who pay each fee; and

(B) money received for each fee;

(iii) for the 2020-2021 school year, measure the total:

(A) number of students who receive a fee waiver; and

(B) value of each waiver for each waived fee; and

(iv) by July 1, 2021, report the separate categories of data gathered under Subsections (5)(a)(ii) and (iii) to the state board.

(b) The state board shall report on the data the board receives under Subsection (5)(a) to the Education Interim Committee on or before the date of the November interim meeting in 2021.

Section 4. Section 63I-2-253 is amended to read:

63I-2-253. Repeal dates -- Titles 53 through 53G.

(1) (a) Section 53-2a-217, regarding procurement during an epidemic or pandemic emergency, is repealed on December 31, 2021.

(b) When repealing Section 53-2a-217, the Office of Legislative Research and General Counsel shall,

in addition to the office's authority under Subsection 36-12-12(3), make necessary changes to subsection numbering and cross references.

(2) Section 53B-2a-103 is repealed July 1, 2021.

(3) Section 53B-2a-104 is repealed July 1, 2021.

(4) (a) Subsection 53B-2a-108(5), regarding exceptions to the composition of a technical college board of trustees, is repealed July 1, 2022.

(b) When repealing Subsection 53B-2a-108(5), the Office of Legislative Research and General Counsel shall, in addition to its authority under Subsection 36-12-12(3), make necessary changes to subsection numbering and cross references.

(5) Section 53B-6-105.7 is repealed July 1, 2024.

(6) (a) Subsection 53B-7-705(6)(b)(ii)(A), the language that states "Except as provided in Subsection (6)(b)(ii)(B)," is repealed July 1, 2021.

(b) Subsection 53B-7-705(6)(b)(ii)(B), regarding comparing a technical college's change in performance with the technical college's average performance, is repealed July 1, 2021.

(7) (a) Subsection 53B-7-707(3)(a)(ii), the language that states "Except as provided in Subsection (3)(b)," is repealed July 1, 2021.

(b) Subsection 53B-7-707(3)(b), regarding performance data of a technical college during a fiscal year before fiscal year 2020, is repealed July 1, 2021.

(8) Section 53B-8-114 is repealed July 1, 2024.

(9) (a) The following sections, regarding the Regents' scholarship program, are repealed on July 1, 2023:

(i) Section 53B-8-202;

(ii) Section 53B-8-203;

(iii) Section 53B-8-204; and

(iv) Section 53B-8-205.

(b) (i) Subsection 53B-8-201(2), regarding the Regents' scholarship program for students who graduate from high school before fiscal year 2019, is repealed on July 1, 2023.

(ii) When repealing Subsection 53B-8-201(2), the Office of Legislative Research and General Counsel shall, in addition to its authority under Subsection 36-12-12(3), make necessary changes to subsection numbering and cross references.

(10) Section 53B-10-101 is repealed on July 1, 2027.

(11) Title 53B, Chapter 18, Part 14, Uintah Basin Air Quality Research Project, is repealed July 1, 2023.

(12) Section 53E-3-519 regarding school counselor services is repealed July 1, 2020.

(13) Section 53E-3-520 is repealed July 1, 2021.

(14) Subsection 53E-5-306(3)(b)(ii)(B), related to improving school performance and continued funding relating to the School Recognition and Reward Program, is repealed July 1, 2020.

(15) Section 53E-5-307 is repealed July 1, 2020.

(16) Subsection 53E-10-309(7), related to the PRIME pilot program, is repealed July 1, 2024.

(17) In Subsections 53F-2-205(4) and (5), regarding the State Board of Education's duties if contributions from the minimum basic tax rate are overestimated or underestimated, the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

(18) Section 53F-2-209, regarding local education agency budgetary flexibility, is repealed July 1, 2024.

[~~(18)~~] (19) Subsection 53F-2-301(1), relating to the years the section is not in effect, is repealed July 1, 2023.

[~~(19)~~] (20) In Subsection 53F-2-515(1), the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

[~~(20)~~] (21) Section 53F-4-207 is repealed July 1, 2022.

[~~(21)~~] (22) In Subsection 53F-9-302(3), the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

[~~(22)~~] (23) In Subsection 53F-9-305(3)(a), the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

[~~(23)~~] (24) In Subsection 53F-9-306(3)(a), the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

[~~(24)~~] (25) In Subsection 53G-3-304(1)(c)(i), the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

[~~(25)~~] (26) Subsections 53G-10-204(1)(c) through (e), and Subsection 53G-10-204(7), related to the civics engagement pilot program, are repealed on July 1, 2023.

[~~(26)~~] (27) On July 1, 2023, when making changes in this section, the Office of Legislative Research and General Counsel shall, in addition to the office's authority under Subsection 36-12-12(3), make corrections necessary to ensure that sections and subsections identified in this section are complete sentences and accurately reflect the office's perception of the Legislature's intent.

CHAPTER 342
S. B. 179
Passed March 4, 2021
Approved March 17, 2021
Effective May 5, 2021

DUI PROBATION AMENDMENTS

Chief Sponsor: Karen Mayne
House Sponsor: Ryan D. Wilcox

LONG TITLE

General Description:

This bill allows a court to order supervised probation for certain DUI offenses to be provided by Adult Probation and Parole in certain circumstances.

Highlighted Provisions:

This bill:

- allows a court to order supervised probation for certain DUI offenses to be provided by Adult Probation and Parole if the individual is already subject to supervised probation from Adult Probation and Parole for a different offense; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

41-6a-507, as enacted by Laws of Utah 2005, Chapter 2

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 41-6a-507 is amended to read:

41-6a-507. Supervised probation for certain driving under the influence violations.

(1) If supervised probation is ordered under Section 41-6a-505 or 41-6a-517:

(a) the court shall specify the period of the probation;

(b) the person shall pay all of the costs of the probation; and

(c) the court may order any other conditions of the probation.

(2) (a) [~~The~~] Subject to Subsection (2)(b), the court shall provide the probation described in this section by contract with a probation monitoring agency or a private probation provider.

(b) If a court determines that a person is subject to supervised probation provided by Adult Probation and Parole for an offense other than the offense for which probation is ordered under Section 41-6a-505 or 41-6a-517, the court may order supervised probation to be provided by Adult Probation and Parole.

(3) The probation provider described in Subsection (2) shall monitor the person's compliance with all conditions of the person's sentence, conditions of probation, and court orders received under this part and shall notify the court of any failure to comply with or complete that sentence or those conditions or orders.

(4) (a) The court may waive all or part of the costs associated with probation if the person is determined to be indigent by the court.

(b) The probation provider described in Subsection (2) shall cover the costs of waivers by the court under Subsection (4)(a).

CHAPTER 343
S. B. 180
Passed March 5, 2021
Approved March 17, 2021
Effective May 5, 2021

DRIVER LICENSE SUSPENSION REVISIONS

Chief Sponsor: Karen Mayne
House Sponsor: Ryan D. Wilcox

LONG TITLE

General Description:

This bill limits suspension of an individual's driver license for certain offenses.

Highlighted Provisions:

This bill:

- amends driver license suspension for certain drug related offenses to circumstances in which the court finds that a driver license suspension is likely to reduce recidivism and is in the interest of public safety;
- removes driver license suspension requirements for certain offenses related to custodial interference; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53-3-220, as last amended by Laws of Utah 2020, Chapter 177
76-5-303, as last amended by Laws of Utah 2017, Chapter 181

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53-3-220 is amended to read:

53-3-220. Offenses requiring mandatory revocation, denial, suspension, or disqualification of license -- Offense requiring an extension of period -- Hearing -- Limited driving privileges.

(1) (a) The division shall immediately revoke or, when this chapter, Title 41, Chapter 6a, Traffic Code, or Section 76-5-303, specifically provides for denial, suspension, or disqualification, the division shall deny, suspend, or disqualify the license of a person upon receiving a record of the person's conviction for:

(i) manslaughter or negligent homicide resulting from driving a motor vehicle, or automobile homicide under Section 76-5-207 or 76-5-207.5;

(ii) driving or being in actual physical control of a motor vehicle while under the influence of alcohol, any drug, or combination of them to a degree that renders the person incapable of safely driving a motor vehicle as prohibited in Section 41-6a-502 or as prohibited in an ordinance that complies with the requirements of Subsection 41-6a-510(1);

(iii) driving or being in actual physical control of a motor vehicle while having a blood or breath alcohol content as prohibited in Section 41-6a-502 or as prohibited in an ordinance that complies with the requirements of Subsection 41-6a-510(1);

(iv) perjury or the making of a false affidavit to the division under this chapter, Title 41, Motor Vehicles, or any other law of this state requiring the registration of motor vehicles or regulating driving on highways;

(v) any felony under the motor vehicle laws of this state;

(vi) any other felony in which a motor vehicle is used to facilitate the offense;

(vii) failure to stop and render aid as required under the laws of this state if a motor vehicle accident results in the death or personal injury of another;

(viii) two charges of reckless driving, impaired driving, or any combination of reckless driving and impaired driving committed within a period of 12 months; but if upon a first conviction of reckless driving or impaired driving the judge or justice recommends suspension of the convicted person's license, the division may after a hearing suspend the license for a period of three months;

(ix) failure to bring a motor vehicle to a stop at the command of a law enforcement officer as required in Section 41-6a-210;

(x) any offense specified in Part 4, Uniform Commercial Driver License Act, that requires disqualification;

(xi) a felony violation of Section 76-10-508 or 76-10-508.1 involving discharging or allowing the discharge of a firearm from a vehicle;

(xii) using, allowing the use of, or causing to be used any explosive, chemical, or incendiary device from a vehicle in violation of Subsection 76-10-306(4)(b);

(xiii) operating or being in actual physical control of a motor vehicle while having any measurable controlled substance or metabolite of a controlled substance in the person's body in violation of Section 41-6a-517;

(xiv) operating or being in actual physical control of a motor vehicle while having any measurable or detectable amount of alcohol in the person's body in violation of Section 41-6a-530;

(xv) engaging in a motor vehicle speed contest or exhibition of speed on a highway in violation of Section 41-6a-606;

(xvi) operating or being in actual physical control of a motor vehicle in this state without an ignition interlock system in violation of Section 41-6a-518.2; or

[~~(xvii) custodial interference, under:~~]

[~~(A) Subsection 76-5-303(3), which suspension shall be for a period of 30 days, unless the court provides the division with an order of suspension for a shorter period of time;~~]

[~~(B) Subsection 76-5-303(4), which suspension shall be for a period of 90 days, unless the court provides the division with an order of suspension for a shorter period of time; or~~]

[~~(C) Subsection 76-5-303(5), which suspension shall be for a period of 180 days, unless the court provides the division with an order of suspension for a shorter period of time; or~~]

[~~(xviii)~~] (xvii) refusal of a chemical test under Subsection 41-6a-520(7).

(b) The division shall immediately revoke the license of a person upon receiving a record of an adjudication under Title 78A, Chapter 6, Juvenile Court Act, for:

(i) a felony violation of Section 76-10-508 or 76-10-508.1 involving discharging or allowing the discharge of a firearm from a vehicle; or

(ii) using, allowing the use of, or causing to be used any explosive, chemical, or incendiary device from a vehicle in violation of Subsection 76-10-306(4)(b).

(c) Except when action is taken under Section 53-3-219 for the same offense, upon receiving a record of conviction, the division shall immediately suspend for six months the license of the convicted person if the person was convicted of one of the following offenses while the person was an operator of a motor vehicle, and the court finds that a driver license suspension is likely to reduce recidivism and is in the interest of public safety:

(i) any violation of:

(A) Title 58, Chapter 37, Utah Controlled Substances Act;

(B) Title 58, Chapter 37a, Utah Drug Paraphernalia Act;

(C) Title 58, Chapter 37b, Imitation Controlled Substances Act;

(D) Title 58, Chapter 37c, Utah Controlled Substance Precursor Act; or

(E) Title 58, Chapter 37d, Clandestine Drug Lab Act; or

(ii) any criminal offense that prohibits:

(A) possession, distribution, manufacture, cultivation, sale, or transfer of any substance that is prohibited under the acts described in Subsection (1)(c)(i); or

(B) the attempt or conspiracy to possess, distribute, manufacture, cultivate, sell, or transfer any substance that is prohibited under the acts described in Subsection (1)(c)(i).

(d) (i) The division shall immediately suspend a person's driver license for conviction of the offense of theft of motor vehicle fuel under Section 76-6-404.7 if the division receives:

(A) an order from the sentencing court requiring that the person's driver license be suspended; and

(B) a record of the conviction.

(ii) An order of suspension under this section is at the discretion of the sentencing court, and may not be for more than 90 days for each offense.

(e) (i) The division shall immediately suspend for one year the license of a person upon receiving a record of:

(A) conviction for the first time for a violation under Section 32B-4-411; or

(B) an adjudication under Title 78A, Chapter 6, Juvenile Court Act, for a violation under Section 32B-4-411.

(ii) The division shall immediately suspend for a period of two years the license of a person upon receiving a record of:

(A) (I) conviction for a second or subsequent violation under Section 32B-4-411; and

(II) the violation described in Subsection (1)(e)(ii)(A)(I) is within 10 years of a prior conviction for a violation under Section 32B-4-411; or

(B) (I) a second or subsequent adjudication under Title 78A, Chapter 6, Juvenile Court Act [~~of 1996~~], for a violation under Section 32B-4-411; and

(II) the adjudication described in Subsection (1)(e)(ii)(B)(I) is within 10 years of a prior adjudication under Title 78A, Chapter 6, Juvenile Court Act [~~of 1996~~], for a violation under Section 32B-4-411.

(iii) Upon receipt of a record under Subsection (1)(e)(i) or (ii), the division shall:

(A) for a conviction or adjudication described in Subsection (1)(e)(i):

(I) impose a suspension for one year beginning on the date of conviction; or

(II) if the person is under the age of eligibility for a driver license, impose a suspension that begins on the date of conviction and continues for one year beginning on the date of eligibility for a driver license; or

(B) for a conviction or adjudication described in Subsection (1)(e)(ii):

(I) impose a suspension for a period of two years; or

(II) if the person is under the age of eligibility for a driver license, impose a suspension that begins on the date of conviction and continues for two years beginning on the date of eligibility for a driver license.

(iv) Upon receipt of the first order suspending a person's driving privileges under Section 32B-4-411, the division shall reduce the suspension period under Subsection (1)(e)(i) if ordered by the court in accordance with Subsection 32B-4-411(3)(a).

(v) Upon receipt of the second or subsequent order suspending a person's driving privileges under Section 32B-4-411, the division shall reduce the suspension period under Subsection (1)(e)(ii) if ordered by the court in accordance with Subsection 32B-4-411(3)(b).

(2) The division shall extend the period of the first denial, suspension, revocation, or disqualification for an additional like period, to a maximum of one year for each subsequent occurrence, upon receiving:

(a) a record of the conviction of any person on a charge of driving a motor vehicle while the person's license is denied, suspended, revoked, or disqualified;

(b) a record of a conviction of the person for any violation of the motor vehicle law in which the person was involved as a driver;

(c) a report of an arrest of the person for any violation of the motor vehicle law in which the person was involved as a driver; or

(d) a report of an accident in which the person was involved as a driver.

(3) When the division receives a report under Subsection (2)(c) or (d) that a person is driving while the person's license is denied, suspended, disqualified, or revoked, the person is entitled to a hearing regarding the extension of the time of denial, suspension, disqualification, or revocation originally imposed under Section 53-3-221.

(4) (a) The division may extend to a person the limited privilege of driving a motor vehicle to and from the person's place of employment or within other specified limits on recommendation of the judge in any case where a person is convicted of any of the offenses referred to in Subsections (1) and (2) except:

(i) automobile homicide under Subsection (1)(a)(i);

(ii) those offenses referred to in Subsections (1)(a)(ii), (iii), (xi), (xii), (xiii), (1)(b), and (1)(c); and

(iii) those offenses referred to in Subsection (2) when the original denial, suspension, revocation, or disqualification was imposed because of a violation of Section 41-6a-502, 41-6a-517, a local ordinance which complies with the requirements of Subsection 41-6a-510(1), Section 41-6a-520, or Section 76-5-207, or a criminal prohibition that the person was charged with violating as a result of a plea bargain after having been originally charged with violating one or more of these sections or ordinances, unless:

(A) the person has had the period of the first denial, suspension, revocation, or disqualification extended for a period of at least three years;

(B) the division receives written verification from the person's primary care physician that:

(I) to the physician's knowledge the person has not used any narcotic drug or other controlled substance except as prescribed by a licensed medical practitioner within the last three years; and

(II) the physician is not aware of any physical, emotional, or mental impairment that would affect the person's ability to operate a motor vehicle safely; and

(C) for a period of one year prior to the date of the request for a limited driving privilege:

(I) the person has not been convicted of a violation of any motor vehicle law in which the person was involved as the operator of the vehicle;

(II) the division has not received a report of an arrest for a violation of any motor vehicle law in which the person was involved as the operator of the vehicle; and

(III) the division has not received a report of an accident in which the person was involved as an operator of a vehicle.

(b) (i) Except as provided in Subsection (4)(b)(ii), the discretionary privilege authorized in this Subsection (4):

(A) is limited to when undue hardship would result from a failure to grant the privilege; and

(B) may be granted only once to any person during any single period of denial, suspension, revocation, or disqualification, or extension of that denial, suspension, revocation, or disqualification.

(ii) The discretionary privilege authorized in Subsection (4)(a)(iii):

(A) is limited to when the limited privilege is necessary for the person to commute to school or work; and

(B) may be granted only once to any person during any single period of denial, suspension, revocation, or disqualification, or extension of that denial, suspension, revocation, or disqualification.

(c) A limited CDL may not be granted to a person disqualified under Part 4, Uniform Commercial Driver License Act, or whose license has been revoked, suspended, cancelled, or denied under this chapter.

Section 2. Section 76-5-303 is amended to read:

76-5-303. Custodial interference.

(1) As used in this section:

(a) "Child" means a person under the age of 18.

(b) "Custody" means court-ordered physical custody entered by a court of competent jurisdiction.

(c) "Visitation" means court-ordered parent-time or visitation entered by a court of competent jurisdiction.

(2) (a) A person who is entitled to custody of a child is guilty of custodial interference if, during a period of time when another person is entitled to visitation of the child, the person takes, entices, conceals, detains, or withholds the child from the person entitled to visitation of the child, with the intent to interfere with the visitation of the child.

(b) A person who is entitled to visitation of a child is guilty of custodial interference if, during a period of time when the person is not entitled to visitation of the child, the person takes, entices, conceals, detains, or withholds the child from a person who is

entitled to custody of the child, with the intent to interfere with the custody of the child.

(3) Except as provided in Subsection (4) or (5), custodial interference is a class B misdemeanor.

(4) Except as provided in Subsection (5), the actor described in Subsection (2) is guilty of a class A misdemeanor if the actor:

(a) commits custodial interference; and

(b) has been convicted of custodial interference at least twice in the two-year period immediately preceding the day on which the commission of custodial interference described in Subsection (4)(a) occurs.

(5) Custodial interference is a felony of the third degree if, during the course of the custodial interference, the actor described in Subsection (2) removes, causes the removal, or directs the removal of the child from the state.

(6) In addition to the affirmative defenses described in Section 76-5-305, it is an affirmative defense to the crime of custodial interference that:

(a) the action is consented to by the person whose custody or visitation of the child was interfered with; or

(b) (i) the action is based on a reasonable belief that the action is necessary to protect a child from abuse, including sexual abuse; and

(ii) before engaging in the action, the person reports the person's intention to engage in the action, and the basis for the belief described in Subsection (6)(b)(i), to the Division of Child and Family Services or law enforcement.

[~~(7) In addition to the other penalties described in this section, a person who is convicted of custodial interference is subject to the driver license suspension provisions of Subsection 53-3-220(1)(a)(xvii).~~]

CHAPTER 344
S. B. 181
Passed March 3, 2021
Approved March 17, 2021
Effective July 1, 2021

DEPARTMENT OF GOVERNMENT OPERATIONS

Chief Sponsor: Ann Millner
House Sponsor: Val L. Peterson

LONG TITLE

General Description:

This bill combines the Department of Administrative Services, the Department of Technology Services, and the Department of Human Resource Management into one, new department, the Department of Government Operations.

Highlighted Provisions:

This bill:

- combines the Department of Administrative Services, the Department of Technology Services, and the Department of Human Resource Management into one, new department, the Department of Government Operations;
- transfers existing divisions and offices within the Department of Administrative Services to the Department of Government Operations;
- changes the Department of Technology Services and the Department of Human Resource Management to divisions within the Department of Government Operations;
- recodifies the following:
  - Title 63F, Utah Technology Governance Act;
  - Title 67, Chapter 19, Utah State Personnel Management Act;
  - Title 67, Chapter 19e, Administrative Law Judges; and
  - Title 67, Chapter 25, General Requirements for State Officers and Employees;
- repeals a catch-all criminal provision; and
- makes conforming and technical changes.

Monies Appropriated in this Bill:

This bill provides appropriations necessary to merge the Department of Administrative Services, the Department of Human Resource Management, and the Department of Technology Services into the new Department of Government Operations.

Other Special Clauses:

This bill provides a special effective date.

This bill provides revisor instructions.

This bill provides a coordination clause.

Utah Code Sections Affected:

AMENDS:

4-41a-107, as enacted by Laws of Utah 2019, Chapter 341
10-2-703, as last amended by Laws of Utah 2019, Chapter 255
11-36a-501, as enacted by Laws of Utah 2011, Chapter 47
11-38-102, as last amended by Laws of Utah 2013, Chapter 310
13-1a-3, as last amended by Laws of Utah 2006, Chapter 139
13-2-3, as last amended by Laws of Utah 1999, Chapter 21
15A-1-203, as last amended by Laws of Utah 2020, Chapter 339
20A-20-201, as enacted by Laws of Utah 2020, Chapter 288
26-61a-103, as last amended by Laws of Utah 2020, Chapter 12
26-61a-111, as last amended by Laws of Utah 2020, Chapter 12
31A-2-113, as enacted by Laws of Utah 1985, Chapter 242
35A-1-205, as last amended by Laws of Utah 2010, Chapter 286
35A-13-302, as last amended by Laws of Utah 2017, Chapter 223
36-11-307, as last amended by Laws of Utah 2019, Chapter 339
46-1-3, as last amended by Laws of Utah 2019, Chapter 192
46-4-503, as last amended by Laws of Utah 2016, Chapter 348
46-5-102, as enacted by Laws of Utah 2018, Chapter 100
49-11-406, as last amended by Laws of Utah 2020, Chapter 24
49-14-201, as last amended by Laws of Utah 2016, Chapter 227
49-15-201, as last amended by Laws of Utah 2016, Chapter 227
49-20-401, as last amended by Laws of Utah 2019, Chapter 393
49-20-410, as last amended by Laws of Utah 2018, Chapter 155
53-1-106, as last amended by Laws of Utah 2019, Chapter 441
53-2a-105, as last amended by Laws of Utah 2020, Chapter 85
53-2a-802, as last amended by Laws of Utah 2020, Chapter 365
53-6-104, as last amended by Laws of Utah 2006, Chapter 139
53-10-108, as last amended by Laws of Utah 2019, Chapters 136, 192, and 404
53B-17-105, as last amended by Laws of Utah 2020, Chapter 365
53C-1-201, as last amended by Laws of Utah 2020, Chapter 363
53D-1-103, as last amended by Laws of Utah 2019, Chapters 370 and 456
53E-8-301, as last amended by Laws of Utah 2019, Chapter 186
54-1-6, as last amended by Laws of Utah 2006, Chapter 139
54-4a-3, as last amended by Laws of Utah 2006, Chapter 139
61-1-18, as last amended by Laws of Utah 2009, Chapter 351
61-2-201, as last amended by Laws of Utah 2016, Chapter 381
62A-1-121, as renumbered and amended by Laws of Utah 2018, Chapter 367
62A-1-122, as last amended by Laws of Utah 2019, Chapter 335

62A-15-613, as last amended by Laws of Utah 2018, Chapter 322
63A-1-101, as renumbered and amended by Laws of Utah 1993, Chapter 212
63A-1-102, as renumbered and amended by Laws of Utah 1993, Chapter 212
63A-1-103, as last amended by Laws of Utah 2016, Chapter 298
63A-1-104, as renumbered and amended by Laws of Utah 1993, Chapter 212
63A-1-109, as last amended by Laws of Utah 2016, Chapter 193
63A-1-114, as last amended by Laws of Utah 2018, Chapter 137
63A-1-201, as renumbered and amended by Laws of Utah 2019, Chapter 370
63A-1-203, as renumbered and amended by Laws of Utah 2019, Chapter 370
63A-2-101, as last amended by Laws of Utah 1997, Chapter 252
63A-4-101, as last amended by Laws of Utah 2006, Chapter 275
63A-5b-202, as enacted by Laws of Utah 2020, Chapter 152
63A-9-101, as last amended by Laws of Utah 2017, Chapter 382
63A-9-201, as enacted by Laws of Utah 1996, Chapter 334
63A-9-301, as last amended by Laws of Utah 2010, Chapter 286
63A-9-401, as last amended by Laws of Utah 2015, Chapter 179
63A-9-501, as last amended by Laws of Utah 2006, Chapter 139
63A-12-101, as last amended by Laws of Utah 2019, Chapter 254
63A-12-102, as renumbered and amended by Laws of Utah 2008, Chapter 382
63A-12-103, as last amended by Laws of Utah 2019, Chapter 254
63A-12-104, as last amended by Laws of Utah 2020, Chapter 399
63A-13-201, as last amended by Laws of Utah 2019, Chapter 286
63B-7-501, as last amended by Laws of Utah 2008, Chapter 382
63E-1-302, as last amended by Laws of Utah 2006, Chapter 46
63G-1-301, as last amended by Laws of Utah 2018, Chapter 39
63G-2-501, as last amended by Laws of Utah 2020, Chapters 352 and 373
63G-3-102, as last amended by Laws of Utah 2020, Chapter 408
63G-3-401, as last amended by Laws of Utah 2020, Chapter 408
63G-4-107, as enacted by Laws of Utah 2016, Chapter 312
63G-6a-103, as last amended by Laws of Utah 2020, Chapters 152, 257, 365 and last amended by Coordination Clause, Laws of Utah 2020, Chapter 365
63G-6a-106, as last amended by Laws of Utah 2020, Chapter 257
63G-6a-116, as last amended by Laws of Utah 2017, Chapter 348
63G-6a-202, as last amended by Laws of Utah 2020, Chapter 365
63G-6a-302, as last amended by Laws of Utah 2020, Chapter 257
63G-6a-303, as last amended by Laws of Utah 2020, Chapter 257
63G-6a-506, as last amended by Laws of Utah 2020, Chapter 257
63G-7-901, as renumbered and amended by Laws of Utah 2008, Chapter 382
63G-9-303, as last amended by Laws of Utah 2016, Chapter 118
63G-10-501, as enacted by Laws of Utah 2015, Chapter 355
63G-21-102, as last amended by Laws of Utah 2018, Chapter 281
63J-1-206, as last amended by Laws of Utah 2020, Chapters 152, 231, 402 and last amended by Coordination Clause, Laws of Utah 2020, Chapter 231
63J-1-219, as last amended by Laws of Utah 2020, Chapter 365
63J-1-602.2, as last amended by Laws of Utah 2020, Fifth Special Session, Chapters 20 and 20
67-1-8.1, as last amended by Laws of Utah 2017, Chapter 181
67-5-7, as last amended by Laws of Utah 2007, Chapter 166
67-5-22, as last amended by Laws of Utah 2008, Chapter 161
67-8-3, as last amended by Laws of Utah 2020, Chapter 365
67-8-5, as last amended by Laws of Utah 2020, Chapter 432
67-19a-101, as last amended by Laws of Utah 2020, Chapter 155
67-19a-202, as last amended by Laws of Utah 2020, Chapter 155
67-19a-205, as enacted by Laws of Utah 2018, Chapter 390
67-19a-303, as last amended by Laws of Utah 2018, Chapter 390
67-19a-501, as last amended by Laws of Utah 2020, Chapter 155
67-19d-201, as last amended by Laws of Utah 2011, Chapter 342
67-19f-102, as last amended by Laws of Utah 2015, Chapter 368
67-19f-201, as last amended by Laws of Utah 2015, Chapter 368
67-20-8, as last amended by Laws of Utah 2006, Chapter 139
67-22-2, as last amended by Laws of Utah 2018, Chapter 39
67-26-102, as enacted by Laws of Utah 2020, Chapter 155
67-26-202, as enacted by Laws of Utah 2020, Chapter 155
67-26-301, as renumbered and amended by Laws of Utah 2020, Chapter 155
72-1-202, as last amended by Laws of Utah 2020, Chapter 352
79-2-401, as renumbered and amended by Laws of Utah 2009, Chapter 344

ENACTS:
63A-17-107, Utah Code Annotated 1953
63A-17-501, Utah Code Annotated 1953

RENUMBERS AND AMENDS:
63A-16-101, (Renumbered from 63F-1-101, as enacted by Laws of Utah 2005, Chapter 169)
63A-16-102, (Renumbered from 63F-1-102, as last amended by Laws of Utah 2020, Chapter 365)
63A-16-103, (Renumbered from 63F-1-103, as last amended by Laws of Utah 2009, Chapter 183)
63A-16-104, (Renumbered from 63F-1-104, as last amended by Laws of Utah 2020, Chapter 94)
63A-16-105, (Renumbered from 63F-1-106, as last amended by Laws of Utah 2017, Chapter 238)
63A-16-106, (Renumbered from 63F-1-107, as enacted by Laws of Utah 2005, Chapter 169)
63A-16-201, (Renumbered from 63F-1-201, as last amended by Laws of Utah 2019, Chapter 61)
63A-16-202, (Renumbered from 63F-1-203, as last amended by Laws of Utah 2019, Chapter 246)
63A-16-203, (Renumbered from 63F-1-204, as last amended by Laws of Utah 2017, Chapter 238)
63A-16-204, (Renumbered from 63F-1-205, as last amended by Laws of Utah 2018, Chapter 81)
63A-16-205, (Renumbered from 63F-1-206, as last amended by Laws of Utah 2020, Chapter 365)
63A-16-206, (Renumbered from 63F-1-207, as last amended by Laws of Utah 2017, Chapter 238)
63A-16-207, (Renumbered from 63F-1-208, as last amended by Laws of Utah 2017, Chapter 238)
63A-16-208, (Renumbered from 63F-1-209, as last amended by Laws of Utah 2017, Chapter 238)
63A-16-209, (Renumbered from 63F-1-210, as last amended by Laws of Utah 2017, Chapter 238)
63A-16-210, (Renumbered from 63F-1-211, as enacted by Laws of Utah 2017, Chapter 238)
63A-16-211, (Renumbered from 63F-1-212, as last amended by Laws of Utah 2019, Chapter 61)
63A-16-212, (Renumbered from 63F-1-603, as repealed and reenacted by Laws of Utah 2017, Chapter 238)
63A-16-213, (Renumbered from 63F-1-604, as last amended by Laws of Utah 2017, Chapter 238)
63A-16-301, (Renumbered from 63F-1-301, as last amended by Laws of Utah 2009, Chapter 183)
63A-16-302, (Renumbered from 63F-1-303, as last amended by Laws of Utah 2020, Chapter 365)
63A-16-401, (Renumbered from 63F-1-402, as enacted by Laws of Utah 2005, Chapter 169)
63A-16-402, (Renumbered from 63F-1-403, as repealed and reenacted by Laws of Utah 2017, Chapter 238)
63A-16-403, (Renumbered from 63F-1-404, as last amended by Laws of Utah 2017, Chapter 238)
63A-16-501, (Renumbered from 63F-1-502, as last amended by Laws of Utah 2017, Chapter 238)
63A-16-502, (Renumbered from 63F-1-503, as repealed and reenacted by Laws of Utah 2017, Chapter 238)
63A-16-503, (Renumbered from 63F-1-504, as last amended by Laws of Utah 2017, Chapter 238)
63A-16-504, (Renumbered from 63F-1-505, as enacted by Laws of Utah 2005, Chapter 169)
63A-16-505, (Renumbered from 63F-1-506, as last amended by Laws of Utah 2009, Chapter 350)
63A-16-506, (Renumbered from 63F-1-507, as last amended by Laws of Utah 2019, Chapter 35)
63A-16-507, (Renumbered from 63F-1-508, as last amended by Laws of Utah 2013, Chapter 310)
63A-16-508, (Renumbered from 63F-1-509, as last amended by Laws of Utah 2020, Chapter 154)
63A-16-509, (Renumbered from 63F-1-510, as last amended by Laws of Utah 2016, Chapter 171)
63A-16-601, (Renumbered from 63F-1-701, as last amended by Laws of Utah 2020, Chapter 154)
63A-16-602, (Renumbered from 63F-1-702, as enacted by Laws of Utah 2007, Chapter 249)
63A-16-701, (Renumbered from 63F-2-102, as last amended by Laws of Utah 2020, Chapters 354 and 365)
63A-16-702, (Renumbered from 63F-2-103, as last amended by Laws of Utah 2016, Chapter 13)
63A-16-801, (Renumbered from 63F-3-102, as last amended by Laws of Utah 2019, Chapter 174)
63A-16-802, (Renumbered from 63F-3-103, as last amended by Laws of Utah 2020, Chapter 270)
63A-16-803, (Renumbered from 63F-3-103.5, as last amended by Laws of Utah 2020, Chapter 270)
63A-16-804, (Renumbered from 63F-3-104, as last amended by Laws of Utah 2019, Chapter 174)

63A-16-901, (Renumbered from 63F-4-102, as enacted by Laws of Utah 2018, Chapter 144)
63A-16-902, (Renumbered from 63F-4-201, as last amended by Laws of Utah 2019, Chapter 246)
63A-16-903, (Renumbered from 63F-4-202, as last amended by Laws of Utah 2019, Chapter 246)
63A-17-101, (Renumbered from 67-19-1, as enacted by Laws of Utah 1979, Chapter 139)
63A-17-102, (Renumbered from 67-19-3, as last amended by Laws of Utah 2017, Chapter 463)
63A-17-103, (Renumbered from 67-19-3.1, as last amended by Laws of Utah 2010, Chapter 249)
63A-17-104, (Renumbered from 67-19-4, as last amended by Laws of Utah 2003, Chapter 65)
63A-17-105, (Renumbered from 67-19-5, as last amended by Laws of Utah 2009, Chapter 183)
63A-17-106, (Renumbered from 67-19-6, as last amended by Laws of Utah 2018, Chapters 154 and 200)
63A-17-108, (Renumbered from 67-19-26, as last amended by Laws of Utah 2005, Chapter 181)
63A-17-201, (Renumbered from 67-19-6.1, as last amended by Laws of Utah 2010, Chapter 249)
63A-17-202, (Renumbered from 67-19-11, as last amended by Laws of Utah 2016, Chapters 228, 287 and last amended by Coordination Clause, Laws of Utah 2016, Chapter 287)
63A-17-301, (Renumbered from 67-19-15, as last amended by Laws of Utah 2020, Chapter 360)
63A-17-302, (Renumbered from 67-19-15.1, as last amended by Laws of Utah 2006, Chapter 139)
63A-17-303, (Renumbered from 67-19-15.6, as last amended by Laws of Utah 2020, Chapter 109)
63A-17-304, (Renumbered from 67-19-15.7, as last amended by Laws of Utah 2017, Chapter 463)
63A-17-305, (Renumbered from 67-19-16, as last amended by Laws of Utah 2010, Chapters 103 and 249)
63A-17-306, (Renumbered from 67-19-18, as last amended by Laws of Utah 2010, Chapter 249)
63A-17-307, (Renumbered from 67-19-12, as last amended by Laws of Utah 2017, Chapter 463)
63A-17-401, (Renumbered from 67-19-13, as last amended by Laws of Utah 2006, Chapter 139)
63A-17-402, (Renumbered from 67-19-13.5, as last amended by Laws of Utah 2016, Chapter 348)
63A-17-403, (Renumbered from 67-19-42, as enacted by Laws of Utah 2004, Chapter 130)
63A-17-502, (Renumbered from 67-19-6.7, as last amended by Laws of Utah 2018, Chapter 39)
63A-17-503, (Renumbered from 67-19-12.7, as last amended by Laws of Utah 2006, Chapter 139)
63A-17-504, (Renumbered from 67-19-12.9, as last amended by Laws of Utah 2006, Chapter 139)
63A-17-505, (Renumbered from 67-19-14, as last amended by Laws of Utah 2013, Chapter 109)
63A-17-506, (Renumbered from 67-19-14.1, as last amended by Laws of Utah 2015, Chapter 155)
63A-17-507, (Renumbered from 67-19-14.2, as last amended by Laws of Utah 2013, Chapter 277)
63A-17-508, (Renumbered from 67-19-14.4, as last amended by Laws of Utah 2016, Chapter 227)
63A-17-509, (Renumbered from 67-19-14.5, as last amended by Laws of Utah 2017, Chapter 254)
63A-17-510, (Renumbered from 67-19-14.6, as last amended by Laws of Utah 2015, Chapter 368)
63A-17-511 (Effective 07/01/21), (Renumbered from 67-19-14.7 (Effective 07/01/21), as last amended by Laws of Utah 2020, Fifth Special Session, Chapter 20)
63A-17-512, (Renumbered from 67-19-27, as last amended by Laws of Utah 2012, Chapter 159)
63A-17-601, (Renumbered from 67-19-30, as last amended by Laws of Utah 2010, Chapter 249)
63A-17-602, (Renumbered from 67-19-31, as last amended by Laws of Utah 2008, Chapter 382)
63A-17-603, (Renumbered from 67-19-32, as last amended by Laws of Utah 1997, Chapter 375)
63A-17-701, (Renumbered from 67-19e-102, as last amended by Laws of Utah 2016, Chapter 237)
63A-17-702, (Renumbered from 67-19e-103, as last amended by Laws of Utah 2016, Chapter 237)
63A-17-703, (Renumbered from 67-19e-104, as last amended by Laws of Utah 2016, Chapter 237)
63A-17-704, (Renumbered from 67-19e-104.5, as enacted by Laws of Utah 2016, Chapter 237)
63A-17-705, (Renumbered from 67-19e-105, as enacted by Laws of Utah 2013, Chapter 165)
63A-17-706, (Renumbered from 67-19e-106, as last amended by Laws of Utah 2016, Chapter 237)

63A-17-707, (Renumbered from 67-19e-107, as enacted by Laws of Utah 2013, Chapter 165)
63A-17-708, (Renumbered from 67-19e-108, as last amended by Laws of Utah 2016, Chapter 237)
63A-17-709, (Renumbered from 67-19e-109, as enacted by Laws of Utah 2013, Chapter 165)
63A-17-710, (Renumbered from 67-19e-110, as last amended by Laws of Utah 2018, Chapter 200)
63A-17-801, (Renumbered from 67-19-6.3, as last amended by Laws of Utah 2006, Chapter 139)
63A-17-802, (Renumbered from 67-19-12.2, as last amended by Laws of Utah 2010, Chapter 249)
63A-17-803, (Renumbered from 67-19-12.5, as last amended by Laws of Utah 2008, Chapter 382)
63A-17-804, (Renumbered from 67-19-14.3, as last amended by Laws of Utah 2005, Chapters 15 and 114)
63A-17-805, (Renumbered from 67-19-43, as last amended by Laws of Utah 2016, Chapter 310)
63A-17-806, (Renumbered from 67-19-45, as enacted by Laws of Utah 2020, Chapter 197)
63A-17-807, (Renumbered from 67-19c-101, as last amended by Laws of Utah 2020, Chapter 365)
63A-17-901, (Renumbered from 67-25-102, as last amended by Laws of Utah 2013, Chapter 425)
63A-17-902, (Renumbered from 67-25-201, as last amended by Laws of Utah 2013, Chapter 433)
63A-17-903, (Renumbered from 67-25-302, as enacted by Laws of Utah 2013, Chapter 425)
63A-17-904, (Renumbered from 67-19-19, as last amended by Laws of Utah 2006, Chapter 139)
63A-17-1001, (Renumbered from 67-19-33, as last amended by Laws of Utah 2018, Third Special Session, Chapter 1)
63A-17-1002, (Renumbered from 67-19-34, as last amended by Laws of Utah 2008, Chapter 382)
63A-17-1003, (Renumbered from 67-19-35, as enacted by Laws of Utah 1990, Chapter 280)
63A-17-1004, (Renumbered from 67-19-36, as last amended by Laws of Utah 2006, Chapter 139)
63A-17-1005, (Renumbered from 67-19-37, as last amended by Laws of Utah 2006, Chapter 139)
63A-17-1006, (Renumbered from 67-19-38, as last amended by Laws of Utah 2006, Chapter 139)
63A-17-1007, (Renumbered from 67-19-39, as last amended by Laws of Utah 2002, Chapter 185)

REPEALS:
63F-1-105, as last amended by Laws of Utah 2020, Chapter 352
63F-1-302, as last amended by Laws of Utah 2016, Chapter 287
63F-1-401, as repealed and reenacted by Laws of Utah 2017, Chapter 238
63F-1-501, as repealed and reenacted by Laws of Utah 2017, Chapter 238
63F-1-601, as repealed and reenacted by Laws of Utah 2017, Chapter 238
63F-2-101, as enacted by Laws of Utah 2015, Chapter 371
63F-3-101, as last amended by Laws of Utah 2019, Chapter 174
63F-4-101, as enacted by Laws of Utah 2018, Chapter 144
67-19-29, as enacted by Laws of Utah 1979, Chapter 139
67-19d-101, as enacted by Laws of Utah 2007, Chapter 99
67-19e-101, as enacted by Laws of Utah 2013, Chapter 165
67-19f-101, as last amended by Laws of Utah 2015, Chapter 368
67-25-101, as enacted by Laws of Utah 2011, Chapter 442
67-25-301, as enacted by Laws of Utah 2013, Chapter 425
67-26-101, as enacted by Laws of Utah 2020, Chapter 155

Utah Code Sections Affected by Coordination Clause:
63A-12-201, Utah Code Annotated 1953
63A-12-202, Utah Code Annotated 1953
63A-16-601, Utah Code Annotated 1953
63A-16-602, Utah Code Annotated 1953
63F-1-701, as last amended by Laws of Utah 2020, Chapter 154
63F-1-702, as enacted by Laws of Utah 2007, Chapter 249

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 4-41a-107 is amended to read:

4-41a-107. Notice to prospective and current public employees.

(1) (a) A state employer or a political subdivision employer shall take the action described in Subsection (1)(b) before:

(i) giving to a current employee an assignment or duty that arises from or directly relates to an obligation under this chapter; or

(ii) hiring a prospective employee whose assignments or duties would include an assignment or duty that arises from or directly relates to an obligation under this chapter.

(b) The employer described in Subsection (1)(a) shall give the employee or prospective employee described in Subsection (1)(a) a written notice that notifies the employee or prospective employee:

(i) that the employee's or prospective employee's job duties may require the employee or prospective

employee to engage in conduct which is in violation of the criminal laws of the United States; and

(ii) that in accepting a job or undertaking a duty described in Subsection (1)(a), although the employee or prospective employee is entitled to the protections of Title 67, Chapter 21, Utah Protection of Public Employees Act, the employee may not object or refuse to carry out an assignment or duty that may be a violation of the criminal laws of the United States with respect to the manufacture, sale, or distribution of cannabis.

(2) The [~~Department~~] Division of Human Resource Management shall create, revise, and publish the form of the notice described in Subsection (1).

(3) Notwithstanding Subsection 67-21-3(3), an employee who has signed the notice described in Subsection (1) may not:

(a) claim in good faith that the employee's actions violate or potentially violate the laws of the United States with respect to the manufacture, sale, or distribution of cannabis; or

(b) refuse to carry out a directive that the employee reasonably believes violates the criminal laws of the United States with respect to the manufacture, sale, or distribution of cannabis.

(4) An employer of an employee who has signed the notice described in Subsection (1) may not take retaliatory action as defined in Section 67-19a-101 against a current employee who refuses to sign the notice described in Subsection (1).

Section 2. Section 10-2-703 is amended to read:

10-2-703. Publication of notice of election.

(1) Immediately after setting the date for the election, the court shall order for publication notice of the:

(a) petition; and

(b) date the election is to be held to determine the question of dissolution.

(2) The notice described in Subsection (1) shall be published:

(a) (i) for at least once a week for a period of four weeks before the election in a newspaper of general circulation in the municipality;

(ii) if there is no newspaper of general circulation in the municipality, at least four weeks before the day of the election, by posting one notice, and at least one additional notice per 2,000 population of the municipality, in places within the municipality that are most likely to give notice to the voters in the municipality; or

(iii) at least one month before the day of the election, by mailing notice to each registered voter in the municipality;

(b) on the Utah Public Notice Website created in Section [~~63F-1-701~~] 63A-16-601, for four weeks before the day of the election;

(c) in accordance with Section 45-1-101, for four weeks before the day of the election; and

(d) if the municipality has a website, on the municipality's website for four weeks before the day of the election.

Section 3. Section 11-36a-501 is amended to read:

11-36a-501. Notice of intent to prepare an impact fee facilities plan.

(1) Before preparing or amending an impact fee facilities plan, a local political subdivision or private entity shall provide written notice of its intent to prepare or amend an impact fee facilities plan.

(2) A notice required under Subsection (1) shall:

(a) indicate that the local political subdivision or private entity intends to prepare or amend an impact fee facilities plan;

(b) describe or provide a map of the geographic area where the proposed impact fee facilities will be located; and

(c) subject to Subsection (3), be posted on the Utah Public Notice Website created under Section [~~63F-1-701~~] 63A-16-601.

(3) For a private entity required to post notice on the Utah Public Notice Website under Subsection (2)(c):

(a) the private entity shall give notice to the general purpose local government in which the private entity's private business office is located; and

(b) the general purpose local government described in Subsection (3)(a) shall post the notice on the Utah Public Notice Website.

Section 4. Section 11-38-102 is amended to read:

11-38-102. Definitions.

As used in this chapter:

(1) "Affordable housing" means housing occupied or reserved for occupancy by households with a gross household income equal to or less than 80% of the median gross income of the applicable municipal or county statistical area for households of the same size.

(2) "Agricultural land" has the same meaning as "land in agricultural use" under Section 59-2-502.

(3) "Brownfield sites" means abandoned, idled, or underused commercial or industrial land where expansion or redevelopment is complicated by real or perceived environmental contamination.

(4) "Commission" means the Quality Growth Commission established in Section 11-38-201.

(5) "Infill development" means residential, commercial, or industrial development on unused or underused land, excluding open land and agricultural land, within existing, otherwise developed urban areas.

(6) "Local entity" means a county, city, or town.

(7) (a) "Open land" means land that is:

(i) preserved in or restored to a predominantly natural, open, and undeveloped condition; and

(ii) used for:

(A) wildlife habitat;

(B) cultural or recreational use;

(C) watershed protection; or

(D) another use consistent with the preservation of the land in or restoration of the land to a predominantly natural, open, and undeveloped condition.

(b) (i) "Open land" does not include land whose predominant use is as a developed facility for active recreational activities, including baseball, tennis, soccer, golf, or other sporting or similar activity.

(ii) The condition of land does not change from a natural, open, and undeveloped condition because of the development or presence on the land of facilities, including trails, waterways, and grassy areas, that:

(A) enhance the natural, scenic, or aesthetic qualities of the land; or

(B) facilitate the public's access to or use of the land for the enjoyment of its natural, scenic, or aesthetic qualities and for compatible recreational activities.

(8) "Program" means the LeRay McAllister Critical Land Conservation Program established in Section 11-38-301.

(9) "Surplus land" means real property owned by the Department of [~~Administrative Services~~] Government Operations, the Department of Agriculture and Food, the Department of Natural Resources, or the Department of Transportation that the individual department determines not to be necessary for carrying out the mission of the department.

Section 5. Section 13-1a-3 is amended to read:

13-1a-3. Employment and compensation of personnel -- Compensation of director.

The director, with the approval of the executive director, may employ personnel necessary to carry out the duties and responsibilities of the division at salaries established by the executive director according to standards established by the [~~Department~~] Division of Human Resource Management. The executive director shall establish the salary of the director according to standards established by the [~~Department~~] Division of Human Resource Management.

Section 6. Section 13-2-3 is amended to read:

13-2-3. Employment of personnel -- Compensation of director.

(1) The director, with the approval of the executive director, may employ personnel necessary to carry out the duties and responsibilities of the division at salaries established by the executive director according to standards established by the [~~Department of Administrative Services~~] Division of Human Resource Management.

(2) The executive director shall establish the salary of the director according to standards established by the [~~Department of Administrative Services~~] Division of Human Resource Management.

(3) The director may employ specialists, technical experts, or investigators to participate or assist in investigations if they reasonably require expertise beyond that normally required for division personnel.

(4) An investigator employed pursuant to Subsection (3) may be designated a special function officer, as defined in Section 53-13-105, by the director, but is not eligible for retirement benefits under the Public Safety Employee's Retirement System.

Section 7. Section 15A-1-203 is amended to read:

15A-1-203. Uniform Building Code Commission -- Unified Code Analysis Council.

(1) There is created a Uniform Building Code Commission to advise the division with respect to the division's responsibilities in administering the codes.

(2) The commission shall consist of 11 members as follows:

(a) one member shall be from among candidates nominated by the Utah League of Cities and Towns and the Utah Association of Counties;

(b) one member shall be a licensed building inspector employed by a political subdivision of the state;

(c) one member shall be a licensed professional engineer;

(d) one member shall be a licensed architect;

(e) one member shall be a fire official;

(f) three members shall be contractors licensed by the state, of which one shall be a general contractor, one an electrical contractor, and one a plumbing contractor;

(g) two members shall be from the general public and have no affiliation with the construction industry or real estate development industry; and

(h) one member shall be from the Division of Facilities Construction and Management of the Department of [~~Administrative Services~~] Government Operations.

(3) (a) The executive director shall appoint each commission member after submitting a nomination to the governor for confirmation or rejection.

(b) If the governor rejects a nominee, the executive director shall submit an alternative nominee until the governor confirms the nomination. An appointment is effective after the governor confirms the nomination.

(4) (a) Except as required by Subsection (4)(b), as terms of commission members expire, the executive director shall appoint each new commission member or reappointed commission member to a four-year term.

(b) Notwithstanding the requirements of Subsection (4)(a), the executive director shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of commission members are staggered so that approximately half of the commission is appointed every two years.

(5) When a vacancy occurs in the commission membership for any reason, the executive director shall appoint a replacement for the unexpired term.

(6) (a) A commission member may not serve more than two full terms.

(b) A commission member who ceases to serve may not again serve on the commission until after the expiration of two years after the day on which service ceased.

(7) A majority of the commission members constitute a quorum and may act on behalf of the commission.

(8) A commission member may not receive compensation or benefits for the commission member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(9) (a) The commission shall annually designate one of the commission's members to serve as chair of the commission.

(b) The division shall provide a secretary to facilitate the function of the commission and to record the commission's actions and recommendations.

(10) The commission shall:

(a) in accordance with Section 15A-1-204, report to the Business and Labor Interim Committee;

(b) act as an appeals board as provided in Section 15A-1-207;

(c) establish advisory peer committees on either a standing or ad hoc basis to advise the commission with respect to matters related to a code, including a committee to advise the commission regarding health matters related to a plumbing code; and

(d) assist the division in overseeing code-related training in accordance with Section 15A-1-209.

(11) (a) In a manner consistent with Subsection (10)(c), the commission shall jointly create with the Utah Fire Prevention Board an advisory peer committee known as the "Unified Code Analysis Council" to review fire prevention and construction code issues that require definitive and specific analysis.

(b) The commission and Utah Fire Prevention Board shall jointly, by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, provide for:

(i) the appointment of members to the Unified Code Analysis Council; and

(ii) procedures followed by the Unified Code Analysis Council.

Section 8. Section 20A-20-201 is amended to read:

20A-20-201. Utah Independent Redistricting Commission -- Creation -- Membership -- Term -- Quorum -- Action -- Meetings -- Staffing -- Website.

(1) (a) There is created the Utah Independent Redistricting Commission.

(b) The commission is housed in the Department of [~~Administrative Services~~] Government Operations for budgetary purposes only.

(c) The commission is not under the direction or control of the Department of [~~Administrative Services~~] Government Operations or any executive director, director, or other employee of the Department of [~~Administrative Services~~] Government Operations or any other government entity.

(2) Except as provided in Subsection (4), the commission comprises seven members appointed as follows:

(a) one member appointed by the governor, which member shall serve as chair of the commission;

(b) one member appointed by the president of the Senate;

(c) one member appointed by the speaker of the House of Representatives;

(d) one member appointed by the legislative leader of the largest minority political party in the Senate;

(e) one member appointed by the legislative leader of the largest minority political party in the House of Representatives;

(f) one member appointed jointly by the president of the Senate and the speaker of the House of Representatives; and

(g) one member appointed jointly by the legislative leader of the largest minority political party in the Senate and the legislative leader of the largest minority political party in the House of Representatives.

(3) An appointing authority described in Subsection (2):

(a) shall make the appointments no later than:

(i) February 1 of the year immediately following a decennial year; or

(ii) if there is a change in the number of congressional, legislative, or other districts resulting from an event other than a national decennial enumeration made by the authority of the United States, the day on which the Legislature appoints a committee to draw maps in relation to the change;

(b) may remove a commission member appointed by the appointing authority, for cause; and

(c) shall, if a vacancy occurs in the position appointed by the appointing authority under Subsection (2), appoint another individual to fill the vacancy within 10 days after the day on which the vacancy occurs.

(4) (a) If the appointing authority described in Subsection (2)(a) fails to timely make the appointment, the legislative leader of the largest political party in the House of Representatives and the Senate, of which the governor is not a member, shall jointly make the appointment.

(b) If the appointing authority described in Subsection (2)(b) fails to timely make the appointment, the appointing authority described in Subsection (2)(d) shall make the appointment.

(c) If the appointing authority described in Subsection (2)(c) fails to timely make the appointment, the appointing authority described in Subsection (2)(e) shall make the appointment.

(d) If the appointing authority described in Subsection (2)(d) fails to timely make the appointment, the appointing authority described in Subsection (2)(b) shall make the appointment.

(e) If the appointing authority described in Subsection (2)(e) fails to timely make the appointment, the appointing authority described in Subsection (2)(c) shall make the appointment.

(f) If the appointing authority described in Subsection (2)(f) fails to timely make the appointment, the appointing authority described in Subsection (2)(g) shall make the appointment.

(g) If the appointing authority described in Subsection (2)(g) fails to timely make the appointment, the appointing authority described in Subsection (2)(f) shall make the appointment.

(5) A member of the commission may not, during the member's service on the commission:

(a) be a lobbyist or principal, as those terms are defined in Section 36-11-102;

(b) be a candidate for or holder of any elective office, including federal elective office, state elective office, or local government elective office;

(c) be a candidate for or holder of any office of a political party, except for delegates to a political party's convention;

(d) be an employee of, or a paid consultant for, a political party, political party committee, personal campaign committee, or any political action committee affiliated with a political party or controlled by an elected official or candidate for elective office, including any local government office;

(e) serve in public office if the member is appointed to public office by the governor or the Legislature;

(f) be employed by the United States Congress or the Legislature; or

(g) hold any position that reports directly to an elected official, including a local elected official, or to any person appointed by the governor or Legislature to any other public office.

(6) In addition to the qualifications described in Subsection (5), a member of the commission described in Subsection (2)(f) or (g):

(a) may not have, during the two-year period immediately preceding the member's appointment to the commission:

(i) been affiliated with a political party under Section 20A-2-107;

(ii) voted in the regular primary election or municipal primary election of a political party; or

(iii) been a delegate to a political party convention; and

(b) may not, in the sole determination of the appointing authority, be an individual who is affiliated with a partisan organization or cause.

(7) Each commission member shall, upon appointment to the commission, sign and file a statement with the governor certifying that the commission member:

(a) meets the qualifications for appointment to the commission;

(b) will, during the member's service on the commission, comply with the requirements described in Subsection (5);

(c) will comply with the standards, procedures, and requirements described in this chapter that are applicable to a commission member; and

(d) will faithfully discharge the duties of a commission member in an independent, impartial, honest, and transparent manner.

(8) For a regular decennial redistricting, the commission is:

(a) formed and may begin conducting business on February 1 of the year immediately following a decennial year; and

(b) dissolved upon approval of the Legislature's redistricting maps by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

(9) (a) A member of the commission may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(i) Section 63A-3-106;

(ii) Section 63A-3-107; and

(iii) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(b) A member of the commission may decline to receive per diem or travel expenses.

(10) The commission shall meet upon the request of a majority of the commission members or when the chair calls a meeting.

(11) (a) A majority of the members of the commission constitutes a quorum.

(b) The commission takes official action by a majority vote of a quorum present at a meeting of the commission.

(12) Within appropriations from the Legislature, the commission may, to fulfill the duties of the commission:

(a) contract with or employ an attorney licensed in Utah, an executive director, and other staff; and

(b) purchase equipment and other resources, in accordance with Title 63G, Chapter 6a, Utah Procurement Code, to fulfill the duties of the commission.

(13) The commission shall maintain a website where the public may:

(a) access announcements and records of commission meetings and hearings;

(b) access maps presented to, or under consideration by, the commission;

(c) access evaluations described in Subsection 20A-20-302(8);

(d) submit a map to the commission; and

(e) submit comments on a map presented to, or under consideration by, the commission.

Section 9. Section 26-61a-103 is amended to read:

26-61a-103. Electronic verification system.

(1) The Department of Agriculture and Food, the department, the Department of Public Safety, and the [~~Department~~] Division of Technology Services shall:

(a) enter into a memorandum of understanding in order to determine the function and operation of the state electronic verification system in accordance with Subsection (2);

(b) coordinate with the Division of Purchasing, under Title 63G, Chapter 6a, Utah Procurement Code, to develop a request for proposals for a third-party provider to develop and maintain the state electronic verification system in coordination with the [~~Department~~] Division of Technology Services; and

(c) select a third-party provider who:

(i) meets the requirements contained in the request for proposals issued under Subsection (1)(b); and

(ii) may not have any commercial or ownership interest in a cannabis production establishment or a medical cannabis pharmacy.

(2) The Department of Agriculture and Food, the department, the Department of Public Safety, and the [~~Department~~] Division of Technology Services shall ensure that, on or before March 1, 2020, the state electronic verification system described in Subsection (1):

(a) allows an individual to apply for a medical cannabis patient card or, if applicable, a medical cannabis guardian card, provided that the card may not become active until the relevant qualified medical provider completes the associated medical cannabis recommendation;

(b) allows an individual to apply to renew a medical cannabis patient card or a medical cannabis guardian card in accordance with Section 26-61a-201;

(c) allows a qualified medical provider, or an employee described in Subsection (3) acting on behalf of the qualified medical provider, to:

(i) access dispensing and card status information regarding a patient:

(A) with whom the qualified medical provider has a provider-patient relationship; and

(B) for whom the qualified medical provider has recommended or is considering recommending a medical cannabis card;

(ii) electronically recommend, after an initial face-to-face visit with a patient described in Subsection 26-61a-201(4)(b), treatment with cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form and optionally recommend dosing guidelines;

(iii) electronically renew a recommendation to a medical cannabis patient cardholder or medical cannabis guardian cardholder:

(A) using telehealth services, for the qualified medical provider who originally recommended a medical cannabis treatment during a face-to-face visit with the patient; or

(B) during a face-to-face visit with the patient, for a qualified medical provider who did not originally recommend the medical cannabis treatment during a face-to-face visit; and

(iv) notate a determination of physical difficulty or undue hardship, described in Subsection 26-61a-202(1), to qualify a patient to designate a caregiver;

(d) connects with:

(i) an inventory control system that a medical cannabis pharmacy uses to track in real time and

archive purchases of any cannabis in a medicinal dosage form, cannabis product in a medicinal dosage form, or a medical cannabis device, including:

(A) the time and date of each purchase;

(B) the quantity and type of cannabis, cannabis product, or medical cannabis device purchased;

(C) any cannabis production establishment, any medical cannabis pharmacy, or any medical cannabis courier associated with the cannabis, cannabis product, or medical cannabis device; and

(D) the personally identifiable information of the medical cannabis cardholder who made the purchase; and

(ii) any commercially available inventory control system that a cannabis production establishment utilizes in accordance with Section 4-41a-103 to use data that the Department of Agriculture and Food requires by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, from the inventory tracking system that a licensee uses to track and confirm compliance;

(e) provides access to:

(i) the department to the extent necessary to carry out the department's functions and responsibilities under this chapter;

(ii) the Department of Agriculture and Food to the extent necessary to carry out the functions and responsibilities of the Department of Agriculture and Food under Title 4, Chapter 41a, Cannabis Production Establishments; and

(iii) the Division of Occupational and Professional Licensing to the extent necessary to carry out the functions and responsibilities related to the participation of the following in the recommendation and dispensing of medical cannabis:

(A) a pharmacist licensed under Title 58, Chapter 17b, Pharmacy Practice Act;

(B) an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse Practice Act;

(C) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; or

(D) a physician assistant licensed under Title 58, Chapter 70a, Utah Physician Assistant Act;

(f) provides access to and interaction with the state central patient portal;

(g) provides access to state or local law enforcement:

(i) during a law enforcement encounter, without a warrant, using the individual's driver license or state ID, only for the purpose of determining if the individual subject to the law enforcement encounter has a valid medical cannabis card; or

(ii) after obtaining a warrant; and

(h) creates a record each time a person accesses the database that identifies the person who accesses the database and the individual whose records the person accesses.

(3) (a) Beginning on the earlier of January 1, 2021, or the date on which the electronic verification system is functionally capable of allowing employee access under this Subsection (3), an employee of a qualified medical provider may access the electronic verification system for a purpose described in Subsection (2)(c) on behalf of the qualified medical provider if:

(i) the qualified medical provider has designated the employee as an individual authorized to access the electronic verification system on behalf of the qualified medical provider;

(ii) the qualified medical provider provides written notice to the department of the employee's identity and the designation described in Subsection (3)(a)(i); and

(iii) the department grants to the employee access to the electronic verification system.

(b) An employee of a business that employs a qualified medical provider may access the electronic verification system for a purpose described in Subsection (2)(c) on behalf of the qualified medical provider if:

(i) the qualified medical provider has designated the employee as an individual authorized to access the electronic verification system on behalf of the qualified medical provider;

(ii) the qualified medical provider and the employing business jointly provide written notice to the department of the employee's identity and the designation described in Subsection (3)(b)(i); and

(iii) the department grants to the employee access to the electronic verification system.

(4) (a) As used in this Subsection (4), "prescribing provider" means:

(i) an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse Practice Act;

(ii) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; or

(iii) a physician assistant licensed under Title 58, Chapter 70a, Utah Physician Assistant Act.

(b) Beginning on the earlier of January 1, 2021, or the date on which the electronic verification system is functionally capable of allowing provider access under this Subsection (4), a prescribing provider may access information in the electronic verification system regarding a patient the prescribing provider treats.

(5) The department may release limited data that the system collects for the purpose of:

(a) conducting medical and other department approved research;

(b) providing the report required by Section 26-61a-703; and

(c) other official department purposes.

(6) The department shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish:

(a) the limitations on access to the data in the state electronic verification system as described in this section; and

(b) standards and procedures to ensure accurate identification of an individual requesting information or receiving information in this section.

(7) (a) Any person who knowingly and intentionally releases any information in the state electronic verification system in violation of this section is guilty of a third degree felony.

(b) Any person who negligently or recklessly releases any information in the state electronic verification system in violation of this section is guilty of a class C misdemeanor.

(8) (a) Any person who obtains or attempts to obtain information from the state electronic verification system by misrepresentation or fraud is guilty of a third degree felony.

(b) Any person who obtains or attempts to obtain information from the state electronic verification system for a purpose other than a purpose this chapter authorizes is guilty of a third degree felony.

(9) (a) Except as provided in Subsection (9)(e), a person may not knowingly and intentionally use, release, publish, or otherwise make available to any other person information obtained from the state electronic verification system for any purpose other than a purpose specified in this section.

(b) Each separate violation of this Subsection (9) is:

(i) a third degree felony; and

(ii) subject to a civil penalty not to exceed $5,000.

(c) The department shall determine a civil violation of this Subsection (9) in accordance with Title 63G, Chapter 4, Administrative Procedures Act.

(d) Civil penalties assessed under this Subsection (9) shall be deposited into the General Fund.

(e) This Subsection (9) does not prohibit a person who obtains information from the state electronic verification system under Subsection (2)(a), (c), or (f) from:

(i) including the information in the person's medical chart or file for access by a person authorized to review the medical chart or file;

(ii) providing the information to a person in accordance with the requirements of the Health Insurance Portability and Accountability Act of 1996; or

(iii) discussing or sharing that information about the patient with the patient.

Section 10. Section 26-61a-111 is amended to read:

26-61a-111. Nondiscrimination for medical care or government employment -- Notice to prospective and current public employees -- No effect on private employers.

(1) For purposes of medical care, including an organ or tissue transplant, a patient's use, in accordance with this chapter, of cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form:

(a) is considered the equivalent of the authorized use of any other medication used at the discretion of a physician; and

(b) does not constitute the use of an illicit substance or otherwise disqualify an individual from needed medical care.

(2) (a) Notwithstanding any other provision of law and except as provided in Subsection (2)(b), the state or any political subdivision shall treat an employee's use of medical cannabis in accordance with this chapter or Section 58-37-3.7 in the same way the state or political subdivision treats employee use of any prescribed controlled substance.

(b) A state or political subdivision employee who has a valid medical cannabis card is not subject to adverse action, as that term is defined in Section 67-21-2, for failing a drug test due to marijuana or tetrahydrocannabinol without evidence that the employee was impaired or otherwise adversely affected in the employee's job performance due to the use of medical cannabis.

(c) Subsections (2)(a) and (b) do not apply where the application of Subsection (2)(a) or (b) would jeopardize federal funding, a federal security clearance, or any other federal background determination required for the employee's position, or if the employee's position is dependent on a license that is subject to federal regulations.

(3) (a) (i) A state employer or a political subdivision employer shall take the action described in Subsection (3)(a)(ii) before:

(A) giving to a current employee an assignment or duty that arises from or directly relates to an obligation under this chapter; or

(B) hiring a prospective employee whose assignments or duties would include an assignment or duty that arises from or directly relates to an obligation under this chapter.

(ii) The employer described in Subsection (3)(a)(i) shall give the employee or prospective employee described in Subsection (3)(a)(i) a written notice that notifies the employee or prospective employee:

(A) that the employee's or prospective employee's job duties may require the employee or prospective employee to engage in conduct which is in violation of the criminal laws of the United States; and

(B) that in accepting a job or undertaking a duty described in Subsection (3)(a)(i), although the

employee or prospective employee is entitled to the protections of Title 67, Chapter 21, Utah Protection of Public Employees Act, the employee may not object or refuse to carry out an assignment or duty that may be a violation of the criminal laws of the United States with respect to the manufacture, sale, or distribution of cannabis.

(b) The [~~Department~~] Division of Human Resource Management shall create, revise, and publish the form of the notice described in Subsection (3)(a).

(c) Notwithstanding Subsection 67-21-3(3), an employee who has signed the notice described in Subsection (3)(a) may not:

(i) claim in good faith that the employee's actions violate or potentially violate the laws of the United States with respect to the manufacture, sale, or distribution of cannabis; or

(ii) refuse to carry out a directive that the employee reasonably believes violates the criminal laws of the United States with respect to the manufacture, sale, or distribution of cannabis.

(d) An employer may not take retaliatory action as defined in Section 67-19a-101 against a current employee who refuses to sign the notice described in Subsection (3)(a).

(4) Nothing in this section requires a private employer to accommodate the use of medical cannabis or affects the ability of a private employer to have policies restricting the use of medical cannabis by applicants or employees.

Section 11. Section 31A-2-113 is amended to read:

31A-2-113. Supporting services.

(1) The Department of [~~Administrative Services~~] Government Operations shall provide suitable offices for the Insurance Department:

(a) in Salt Lake City; and

(b) elsewhere, if approved by the governor as necessary for the efficient operation of the department.

(2) The commissioner shall, in accordance with the rules of the Department of [~~Administrative Services~~] Government Operations or other applicable laws, procure or obtain access to all materials, supplies, and equipment necessary for the efficient operation of the Insurance Department, including reasonable library facilities and books.

Section 12. Section 35A-1-205 is amended to read:

35A-1-205. Workforce Appeals Board -- Chair -- Appointment -- Compensation -- Qualifications.

(1) There is created the Workforce Appeals Board within the department consisting of one or more panels to hear and decide appeals from the decision of an administrative law judge.

(2) (a) A panel shall consist of three impartial members appointed by the governor as follows:

(i) the board chair, appointed in accordance with Subsection (5);

(ii) one member appointed to represent employers; and in making this appointment, the governor shall consider nominations from employer organizations; and

(iii) one member appointed to represent employees; and in making this appointment, the governor shall consider nominations from employee organizations.

(b) No more than two members of a panel may belong to the same political party.

(3) (a) (i) The term of a member shall be six years beginning on March 1 of the year the member is appointed, except as otherwise provided in Subsection (3)(a)(ii).

(ii) The governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of members are staggered so that approximately one third of the members are appointed every two years.

(b) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.

(c) The governor may remove a member for inefficiency, neglect of duty, malfeasance or misfeasance in office, or other good and sufficient cause.

(d) A member shall hold office until a successor is appointed and has qualified.

(4) (a) Except as provided in Subsection (4)(b), a member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(i) Section 63A-3-106;

(ii) Section 63A-3-107; and

(iii) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(b) The member appointed as board chair in accordance with Subsection (5) shall be compensated at an hourly rate determined by the [~~Department~~] Division of Human Resource Management in accordance with Title [~~67, Chapter 19~~] 63A, Chapter 17, Utah State Personnel Management Act.

(5) (a) The chief officer of the board shall be the chair, who shall serve as the executive and administrative head of the board.

(b) The chair shall be appointed by the governor to represent the public and may be removed from that position at the will of the governor.

(c) The chair shall be experienced in administration and possess any additional qualifications determined by the governor.

(6) (a) The chair shall designate an alternate from a panel appointed under this section:

(i) in the absence of a regular member or the chair; or

(ii) if the regular member or the chair has a conflict of interest.

(b) Each case shall be decided by a full three-member panel.

(7) The department shall provide the Workforce Appeals Board necessary staff support, except, the board may employ, retain, or appoint legal counsel.

Section 13. Section 35A-13-302 is amended to read:

35A-13-302. Governor's Committee on Employment of People with Disabilities.

(1) There is created the Governor's Committee on Employment of People with Disabilities, composed of the following 19 members:

(a) the director of the office;

(b) the state superintendent of public instruction or the superintendent's designee;

(c) the commissioner of higher education or the commissioner's designee;

(d) the [~~executive~~] director of the [~~Department~~] Division of Human Resource Management or the [~~executive~~] director's designee;

(e) the executive director of the Department of Human Services or the executive director's designee;

(f) the executive director of the Department of Health or the executive director's designee; and

(g) the following 13 members appointed by the governor:

(i) a representative of individuals who are blind or visually impaired;

(ii) a representative of individuals who are deaf or hard of hearing;

(iii) a representative of individuals who have disabilities;

(iv) seven representatives of business or industry;

(v) a representative experienced in job training and placement;

(vi) a representative of veterans; and

(vii) a representative experienced in medical, health, or insurance professions.

(2) (a) (i) Except as provided in Subsection (2)(a)(ii), the governor shall appoint the committee members described in Subsection (1)(g) to serve four-year terms.

(ii) In making the initial appointments to the committee, the governor shall appoint approximately one-half of the members to two-year terms and one-half of the members to four-year terms.

(b) Committee members shall serve until their successors are appointed and qualified.

(c) The governor shall fill any vacancy that occurs on the committee for any reason by appointing a person according to the procedures of this section for the unexpired term of the vacated member.

(d) The director of the office shall select a chair of the committee from the membership.

(e) Ten members of the committee are a quorum for the transaction of business.

(3) (a) The committee shall:

(i) promote employment opportunities for individuals with disabilities;

(ii) serve as the designated state liaison to the President's Committee on Employment of People with Disabilities;

(iii) provide training and technical assistance to employers in implementing the Americans with Disabilities Act;

(iv) develop and disseminate appropriate information through workshops, meetings, and other requests in response to needs to employers and others regarding employment of individuals with disabilities;

(v) establish contacts with various community representatives to identify and resolve barriers to full participation in employment and community life;

(vi) formally recognize exemplary contributions in the areas of employment, job placement, training, rehabilitation, support services, medicine, media or public relations, and personal achievements made by individuals with disabilities;

(vii) advise, encourage, and motivate individuals with disabilities who are preparing for or seeking employment to reach their full potential as qualified employees;

(viii) advocate for policies and practices that promote full and equal rights for individuals with disabilities;

(ix) advise the office, the department, and the governor on issues that affect employment and other requests for information on disability issues; and

(x) prepare an annual report on the progress, accomplishments, and future goals of the committee and present the report to the department for inclusion in the department's annual report described in Section 35A-1-109.

(b) The committee may, by following the procedures and requirements of Title 63J, Chapter 5, Federal Funds Procedures Act, receive and accept federal funds, and may receive and accept state funds, private gifts, donations, and funds from any source to carry out its purposes.

(4) The office shall staff the committee.

Section 14. Section 36-11-307 is amended to read:

36-11-307. Ethics and unlawful harassment training course for lobbyists -- Internet

availability -- Content -- Participation tracking -- Penalty.

(1) The lieutenant governor shall develop and maintain online training courses educating lobbyists about:

(a) federal workplace discrimination and harassment prohibitions and requirements;

(b) the Utah Senate's, Utah House's, and the executive branch's policies governing workplace discrimination and harassment prohibitions, policies, and procedures; and

(c) state and federal requirements governing lobbyists, including lobbyist ethical requirements.

(2) A training course described in Subsection (1) shall include training materials and exercises that are available on the Internet to lobbyists and to the public.

(3) The lieutenant governor shall design the ethics training course to assist lobbyists in understanding and complying with current ethical and campaign finance requirements under state law, legislative rules, and federal law.

(4) The lieutenant governor may enter into an agreement with the [~~Department~~] Division of Human Resource Management to assist the lieutenant governor in providing the workplace discrimination and harassment training described in this section.

(5) A training course described in this section shall include provisions for verifying when a lobbyist has successfully completed the training.

(6) (a) A lobbyist shall, within 30 days after the day on which the lobbyist applies for a lobbying license or a lobbying license renewal:

(i) successfully complete the training courses described in this section; and

(ii) provide to the lieutenant governor a document, signed by the lobbyist, certifying that the lobbyist has:

(A) completed the training courses required by this section; and

(B) received, read, understands, and will comply with the workplace discrimination and harassment policies adopted by the Utah Senate, the Utah House, and Utah's executive branch.

(b) The lieutenant governor may not issue a lobbying license, or renew a lobbying license, until the lieutenant governor has received from the lobbyist the document required by Subsection (6)(a).

(7) A signature described in Subsection (6)(b) may be an electronic signature.

Section 15. Section 46-1-3 is amended to read:

46-1-3. Qualifications -- Application for notarial commission required -- Term.

(1) Except as provided in Subsection (4), and subject to Section 46-1-3.5, the lieutenant governor shall commission as a notary any qualified person who submits an application in accordance with this chapter.

(2) To qualify for a notarial commission an individual shall:

(a) be at least 18 years old;

(b) lawfully reside in the state for at least 30 days immediately before the individual applies for a notarial commission;

(c) be able to read, write, and understand English;

(d) submit an application to the lieutenant governor containing no significant misstatement or omission of fact, that includes:

(i) the individual's:

(A) name as it will appear on the commission;

(B) residential address;

(C) business address;

(D) daytime telephone number; and

(E) date of birth;

(ii) an affirmation that the individual meets the requirements of this section;

(iii) an indication of any criminal convictions the individual has received, including a plea of admission or no contest;

(iv) all issuances, denials, revocations, suspensions, restrictions, and resignations of a notarial commission or other professional license involving the applicant in this or any other state;

(v) an indication that the individual has passed the examination described in Subsection (6); and

(vi) payment of an application fee that the lieutenant governor establishes in accordance with Section 63J-1-504;

(e) (i) be a United States citizen; or

(ii) have permanent resident status under Section 245 of the Immigration and Nationality Act; and

(f) submit to a background check described in Subsection (3).

(3) (a) The lieutenant governor shall:

(i) request the [~~Department~~] Division of Human Resource Management to perform a criminal background check under Subsection 53-10-108(16) on each individual who submits an application under this section;

(ii) require an individual who submits an application under this section to provide a signed waiver on a form provided by the lieutenant governor that complies with Subsection 53-10-108(4); and

(iii) provide the [~~Department~~] Division of Human Resource Management the personal identifying

information of each individual who submits an application under this section.

(b) The [~~Department~~] Division of Human Resource Management shall:

(i) perform a criminal background check under Subsection 53-10-108(16) on each individual described in Subsection (3)(a)(i); and

(ii) provide to the lieutenant governor all information that pertains to the individual described in Subsection (3)(a)(i) that the department identifies or receives as a result of the background check.

(4) The lieutenant governor may deny an application based on:

(a) the applicant's conviction for a crime involving dishonesty or moral turpitude;

(b) any revocation, suspension, or restriction of a notarial commission or professional license issued to the applicant by this or any other state;

(c) the applicant's official misconduct while acting in the capacity of a notary; or

(d) the applicant's failure to pass the examination described in Subsection (6).

(5) (a) An individual whom the lieutenant governor commissions as a notary:

(i) may perform notarial acts in any part of the state for a term of four years, unless the person resigns or the commission is revoked or suspended under Section 46-1-19; and

(ii) except through a remote notarization performed in accordance with this chapter, may not perform a notarial act for another individual who is outside of the state.

(b) (i) After an individual's commission expires, the individual may not perform a notarial act until the individual obtains a new commission.

(ii) An individual whose commission expires and who wishes to obtain a new commission shall submit a new application, showing compliance with the requirements of this section.

(6) (a) Each applicant for a notarial commission shall take an examination that the lieutenant governor approves and submit the examination to a testing center that the lieutenant governor designates for purposes of scoring the examination.

(b) The testing center that the lieutenant governor designates shall issue a written acknowledgment to the applicant indicating whether the applicant passed or failed the examination.

(7) (a) A notary shall maintain permanent residency in the state during the term of the notary's notarial commission.

(b) A notary who does not maintain permanent residency under Subsection (7)(a) shall resign the notary's notarial commission in accordance with Section 46-1-21.

Section 16. Section 46-4-503 is amended to read:

46-4-503. Government products and services provided electronically.

(1) Notwithstanding Section 46-4-501, a state governmental agency that administers one or more of the following transactions shall allow those transactions to be conducted electronically:

(a) an application for or renewal of a professional or occupational license issued under Title 58, Occupations and Professions;

(b) the renewal of a drivers license;

(c) an application for a hunting or fishing license;

(d) the filing of:

(i) a return under Title 59, Chapter 10, Individual Income Tax Act, or Title 59, Chapter 12, Sales and Use Tax Act;

(ii) a court document, as defined by the Judicial Council; or

(iii) a document under Title 70A, Uniform Commercial Code;

(e) a registration for:

(i) a product; or

(ii) a brand;

(f) a renewal of a registration of a motor vehicle;

(g) a registration under:

(i) Title 16, Corporations;

(ii) Title 42, Names; or

(iii) Title 48, Unincorporated Business Entity Act; or

(h) submission of an application for benefits:

(i) under Title 35A, Chapter 3, Employment Support Act;

(ii) under Title 35A, Chapter 4, Employment Security Act; or

(iii) related to accident and health insurance.

(2) The state system of public education, in coordination with the Utah Education and Telehealth Network, shall make reasonable progress toward making the following services available electronically:

(a) secure access by parents and students to student grades and progress reports;

(b) email communications with:

(i) teachers;

(ii) parent-teacher associations; and

(iii) school administrators;

(c) access to school calendars and schedules; and

(d) teaching resources that may include:

(i) teaching plans;

(ii) curriculum guides; and

(iii) media resources.

(3) A state governmental agency shall:

(a) in carrying out the requirements of this section, take reasonable steps to ensure the security and privacy of records that are private or controlled as defined by Title 63G, Chapter 2, Government Records Access and Management Act;

(b) in addition to those transactions listed in Subsections (1) and (2), determine any additional services that may be made available to the public through electronic means; and

(c) as part of the agency's information technology plan required by Section [~~63F-1-204~~] 63A-16-203, report on the progress of compliance with Subsections (1) through (3).

(4) Notwithstanding the other provisions of this part, a state governmental agency is not required by this part to conduct a transaction electronically if:

(a) conducting the transaction electronically is not required by federal law; and

(b) conducting the transaction electronically is:

(i) impractical;

(ii) unreasonable; or

(iii) not permitted by laws pertaining to privacy or security.

(5) (a) For purposes of this Subsection (5), "one-stop shop" means the consolidation of access to diverse services and agencies at one location including virtual colocation.

(b) State agencies that provide services or offer direct assistance to the business community shall participate in the establishment, maintenance, and enhancement of an integrated Utah business web portal known as Business.utah.gov. The purpose of the business web portal is to provide "one-stop shop" assistance to businesses.

(c) State agencies shall partner with other governmental and nonprofit agencies whose primary mission is to provide services or offer direct assistance to the business community in Utah in fulfilling the requirements of this section.

(d) The following state entities shall comply with the provisions of this Subsection (5):

(i) Governor's Office of Economic Development, which shall serve as the managing partner for the website;

(ii) Department of Workforce Services;

(iii) Department of Commerce;

(iv) Tax Commission;

(v) Department of [~~Administrative Services~~] Government Operations - Division of Purchasing and General Services, including other state agencies operating under a grant of authority from the division to procure goods and services in excess of $5,000;

(vi) Department of Agriculture;

(vii) Department of Natural Resources; and

(viii) other state agencies that provide services or offer direct assistance to the business sector.

(e) The business services available on the business web portal may include:

(i) business life cycle information;

(ii) business searches;

(iii) employment needs and opportunities;

(iv) motor vehicle registration;

(v) permit applications and renewal;

(vi) tax information;

(vii) government procurement bid notifications;

(viii) general business information;

(ix) business directories; and

(x) business news.

Section 17. Section 46-5-102 is amended to read:

46-5-102. Definitions.

In this chapter:

(1) "Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

(2) "Legal material" means, whether or not in effect:

(a) the Utah Constitution;

(b) the Laws of Utah;

(c) the Utah Code;

(d) the Utah Administrative Code; or

(e) the Utah State Bulletin.

(3) "Official publisher" means:

(a) for the Utah Constitution, the Office of Legislative Research and General Counsel;

(b) for the Laws of Utah, the Office of Legislative Research and General Counsel;

(c) for the Utah Code, the Office of Legislative Research and General Counsel;

(d) for the Utah Administrative Code, the Office of Administrative Rules created in Section 63G-3-401 within the Department of [~~Administrative Services~~] Government Operations; or

(e) for the Utah State Bulletin, the Office of Administrative Rules.

(4) "Publish" means to display, present, or release to the public, or cause to be displayed, presented, or released to the public, by the official publisher.

(5) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(6) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

Section 18. Section 49-11-406 is amended to read:

49-11-406. Governor's appointed executives and senior staff -- Appointed legislative employees -- Transfer of value of accrued defined benefit -- Procedures.

(1) As used in this section:

(a) "Defined benefit balance" means the total amount of the contributions made on behalf of a member to a defined benefit system plus refund interest.

(b) "Senior staff" means an at-will employee who reports directly to an elected official, executive director, or director and includes a deputy director and other similar, at-will employee positions designated by the governor, the speaker of the House, or the president of the Senate and filed with the [~~Department~~] Division of Human Resource Management and the Utah State Retirement Office.

(2) In accordance with this section and subject to requirements under federal law and rules made by the board, a member who has service credit from a system may elect to be exempt from coverage under a defined benefit system and to have the member's defined benefit balance transferred from the defined benefit system or plan to a defined contribution plan in the member's own name if the member is:

(a) the state auditor;

(b) the state treasurer;

(c) an appointed executive under Subsection 67-22-2(1)(a);

(d) an employee in the Governor's Office;

(e) senior staff in the Governor's Office of Management and Budget;

(f) senior staff in the Governor's Office of Economic Development;

(g) senior staff in the Commission on Criminal and Juvenile Justice;

(h) a legislative employee appointed under Subsection 36-12-7(3)(a);

(i) a legislative employee appointed by the speaker of the House of Representatives, the House of Representatives minority leader, the president of the Senate, or the Senate minority leader; or

(j) senior staff of the Utah Science Technology and Research Initiative created under Title 63M, Chapter 2, Utah Science Technology and Research Governing Authority Act.

(3) An election made under Subsection (2):

(a) is final, and no right exists to make any further election;

(b) is considered a request to be exempt from coverage under a defined benefits system; and

(c) shall be made on forms provided by the office.

(4) The board shall adopt rules to implement and administer this section.

Section 19. Section 49-14-201 is amended to read:

49-14-201. System membership -- Eligibility.

(1) Except as provided in Section 49-15-201, a public safety service employee of a participating employer participating in this system is eligible for service credit in this system at the earliest of:

(a) July 1, 1969, if the public safety service employee was employed by the participating employer on July 1, 1969, and the participating employer was participating in this system on that date;

(b) the date the participating employer begins participating in this system if the public safety service employee was employed by the participating employer on that date; or

(c) the date the public safety service employee is employed by the participating employer and is eligible to perform public safety service, except that a public safety service employee initially entering employment with a participating employer on or after July 1, 2011, who does not have service credit accrued before July 1, 2011, in a Tier I system or plan administered by the board, may not participate in this system.

(2) (a) (i) A participating employer that has public safety service and firefighter service employees that require cross-training and duty shall enroll those dual purpose employees in the system in which the greatest amount of time is actually worked.

(ii) The employees shall either be full-time public safety service or full-time firefighter service employees of the participating employer.

(b) (i) Prior to transferring a dual purpose employee from one system to another, the participating employer shall receive written permission from the office.

(ii) The office may request documentation to verify the appropriateness of the transfer.

(3) The board may combine or segregate the actuarial experience of participating employers in this system for the purpose of setting contribution rates.

(4) (a) (i) Each participating employer participating in this system shall annually submit to the office a schedule indicating the positions to be covered under this system in accordance with this chapter.

(ii) The office may require documentation to justify the inclusion of any position under this system.

(b) If there is a dispute between the office and a participating employer or employee over any position to be covered, the disputed position shall be submitted to the Peace Officer Standards and Training Council established under Section 53-6-106 for determination.

(c) (i) The Peace Officer Standards and Training Council's authority to decide eligibility for public safety service credit is limited to claims for coverage under this system for time periods after July 1, 1989.

(ii) A decision of the Peace Officer Standards and Training Council may not be applied to service credit earned in another system prior to July 1, 1989.

(iii) Except as provided under Subsection (4)(c)(iv), a decision of the Peace Officer Standards and Training Council granting a position coverage under this system may only be applied prospectively from the date of that decision.

(iv) A decision of the Peace Officer Standards and Training Council granting a position coverage under this system may be applied retroactively only if:

(A) the participating employer covered other similarly situated positions under this system during the time period in question; and

(B) the position otherwise meets all eligibility requirements for receiving service credit in this system during the period for which service credit is to be granted.

(5) The Peace Officer Standards and Training Council may use a subcommittee to provide a recommendation to the council in determining disputes between the office and a participating employer or employee over a position to be covered under this system.

(6) The Peace Officer Standards and Training Council shall comply with Title 63G, Chapter 4, Administrative Procedures Act, in resolving coverage disputes in this system.

(7) A public safety employee who is transferred or promoted to an administration position requiring the performance of duties that consist primarily of management or supervision of public safety service employees shall continue to earn public safety service credit in this system as long as the employee remains employed in the same department.

(8) An employee of the Department of Corrections shall continue to earn public safety service credit in this system if:

(a) the employee's position is no longer covered under this system for new employees hired on or after July 1, 2015; and

(b) the employee:

(i) remains employed by the Department of Corrections;

(ii) meets the eligibility requirements of this system;

(iii) was hired into a position covered by this system prior to July 1, 2015; and

(iv) has not had a break in service on or after July 1, 2015.

(9) An employee who is reassigned to the [~~Department~~] Division of Technology Services or to the [~~Department~~] Division of Human Resource Management, and who was a member of this system, is entitled to remain a member of this system.

(10) (a) To determine that a position is covered under this system, the office and, if a coverage dispute arises, the Peace Officer Standards and Training Council shall find that the position requires the employee to:

(i) except for a dispatcher, place the employee's life or personal safety at risk; and

(ii) complete training as provided in Section 53-6-303, 53-13-103, 53-13-104, or 53-13-105.

(b) If a position satisfies the requirements of Subsection (10)(a), the office and the Peace Officer Standards and Training Council shall consider whether or not the position requires the employee to:

(i) perform duties that consist primarily of actively preventing or detecting crime and enforcing criminal statutes or ordinances of this state or any of its political subdivisions;

(ii) perform duties that consist primarily of providing community protection; and

(iii) respond to situations involving threats to public safety and make emergency decisions affecting the lives and health of others.

(11) If a subcommittee is used to recommend the determination of disputes to the Peace Officer Standards and Training Council, the subcommittee shall comply with the requirements of Subsection (10) in making its recommendation.

(12) A final order of the Peace Officer Standards and Training Council regarding a dispute is a final agency action for purposes of Title 63G, Chapter 4, Administrative Procedures Act.

(13) Except as provided under Subsection (14), if a participating employer's public safety service employees are not covered by this system or under Chapter 15, Public Safety Noncontributory Retirement Act, as of January 1, 1998, those public safety service employees who may otherwise qualify for membership in this system shall, at the discretion of the participating employer, remain in their current retirement system.

(14) (a) A public safety service employee employed by an airport police department, which elects to cover its public safety service employees under the Public Safety Noncontributory Retirement System under Subsection (13), may elect to remain in the public safety service employee's current retirement system.

(b) The public safety service employee's election to remain in the current retirement system under Subsection (14)(a):

(i) shall be made at the time the employer elects to move its public safety service employees to a public safety retirement system;

(ii) documented by written notice to the participating employer; and

(iii) is irrevocable.

(15) (a) Subject to Subsection (16), beginning July 1, 2015, a public safety service employee who is a dispatcher employed by:

(i) the state shall be eligible for service credit in this system; and

(ii) a participating employer other than the state shall be eligible for service credit in this system if the dispatcher's participating employer elects to cover its dispatchers under this system.

(b) A participating employer's election to cover its dispatchers under this system under Subsection (15)(a)(ii) is irrevocable and shall be documented by a resolution adopted by the governing body of the participating employer in accordance with rules made by the office.

(c) A dispatcher's service before July 1, 2015, or before a date specified by resolution of a participating employer under Subsection (15)(b), is not eligible for service credit in this system.

(16) Notwithstanding any other provision of this section, a person initially entering employment with a participating employer on or after July 1, 2011, who does not have service credit accrued before July 1, 2011, in a Tier I system or plan administered by the board, may not participate in this system.

Section 20. Section 49-15-201 is amended to read:

49-15-201. System membership -- Eligibility.

(1) (a) A public safety service employee employed by the state after July 1, 1989, but before July 1, 2011, is eligible for service credit in this system.

(b) A public safety service employee employed by the state prior to July 1, 1989, may either elect to receive service credit in this system or continue to receive service credit under the system established under Chapter 14, Public Safety Contributory Retirement Act, by following the procedures established by the board under this chapter.

(2) (a) Public safety service employees of a participating employer other than the state that elected on or before July 1, 1989, to remain in the Public Safety Contributory Retirement System shall be eligible only for service credit in that system.

(b) (i) A participating employer other than the state that elected on or before July 1, 1989, to participate in this system shall, have allowed, prior to July 1, 1989, a public safety service employee to elect to participate in either this system or the Public Safety Contributory Retirement System.

(ii) Except as expressly allowed by this title, the election of the public safety service employee is final and may not be changed.

(c) A public safety service employee hired by a participating employer other than the state after July 1, 1989, but before July 1, 2011, shall become a member in this system.

(d) A public safety service employee of a participating employer other than the state who began participation in this system after July 1, 1989, but before July 1, 2011, is only eligible for service credit in this system.

(e) A person initially entering employment with a participating employer on or after July 1, 2011, who does not have service credit accrued before July 1, 2011, in a Tier I system or plan administered by the board, may not participate in this system.

(3) (a) (i) A participating employer that has public safety service and firefighter service employees that require cross-training and duty shall enroll those dual purpose employees in the system in which the greatest amount of time is actually worked.

(ii) The employees shall either be full-time public safety service or full-time firefighter service employees of the participating employer.

(b) (i) Prior to transferring a dual purpose employee from one system to another, the participating employer shall receive written permission from the office.

(ii) The office may request documentation to verify the appropriateness of the transfer.

(4) The board may combine or segregate the actuarial experience of participating employers in this system for the purpose of setting contribution rates.

(5) (a) (i) Each participating employer participating in this system shall annually submit to the office a schedule indicating the positions to be covered under this system in accordance with this chapter.

(ii) The office may require documentation to justify the inclusion of any position under this system.

(b) If there is a dispute between the office and a participating employer or employee over any position to be covered, the disputed position shall be submitted to the Peace Officer Standards and

Training Council established under Section 53-6-106 for determination.

(c) (i) The Peace Officer Standards and Training Council's authority to decide eligibility for public safety service credit is limited to claims for coverage under this system for time periods after July 1, 1989.

(ii) A decision of the Peace Officer Standards and Training Council may not be applied to service credit earned in another system prior to July 1, 1989.

(iii) Except as provided under Subsection (5)(c)(iv), a decision of the Peace Officer Standards and Training Council granting a position coverage under this system may only be applied prospectively from the date of that decision.

(iv) A decision of the Peace Officer Standards and Training Council granting a position coverage under this system may be applied retroactively only if:

(A) the participating employer covered other similarly situated positions under this system during the time period in question; and

(B) the position otherwise meets all eligibility requirements for receiving service credit in this system during the period for which service credit is to be granted.

(6) The Peace Officer Standards and Training Council may use a subcommittee to provide a recommendation to the council in determining disputes between the office and a participating employer or employee over a position to be covered under this system.

(7) The Peace Officer Standards and Training Council shall comply with Title 63G, Chapter 4, Administrative Procedures Act, in resolving coverage disputes in this system.

(8) A public safety service employee who is transferred or promoted to an administration position requiring the performance of duties that consist primarily of management or supervision of public safety service employees shall continue to earn public safety service credit in this system as long as the employee remains employed in the same department.

(9) An employee of the Department of Corrections shall continue to earn public safety service credit in this system if:

(a) the employee's position is no longer covered under this system for new employees hired on or after July 1, 2015; and

(b) the employee:

(i) remains employed by the Department of Corrections;

(ii) meets the eligibility requirements of this system;

(iii) was hired into a position covered by this system prior to July 1, 2015; and

(iv) has not had a break in service on or after July 1, 2015.

(10) Any employee who is reassigned to the [~~Department~~] Division of Technology Services or to the [~~Department~~] Division of Human Resource Management, and who was a member in this system, shall be entitled to remain a member in this system.

(11) (a) To determine that a position is covered under this system, the office and, if a coverage dispute arises, the Peace Officer Standards and Training Council shall find that the position requires the employee to:

(i) except for a dispatcher, place the employee's life or personal safety at risk; and

(ii) complete training as provided in Section 53-6-303, 53-13-103, 53-13-104, or 53-13-105.

(b) If a position satisfies the requirements of Subsection (11)(a), the office and Peace Officer Standards and Training Council shall consider whether the position requires the employee to:

(i) perform duties that consist primarily of actively preventing or detecting crime and enforcing criminal statutes or ordinances of this state or any of its political subdivisions;

(ii) perform duties that consist primarily of providing community protection; and

(iii) respond to situations involving threats to public safety and make emergency decisions affecting the lives and health of others.

(12) If a subcommittee is used to recommend the determination of disputes to the Peace Officer Standards and Training Council, the subcommittee shall comply with the requirements of Subsection (11) in making its recommendation.

(13) A final order of the Peace Officer Standards and Training Council regarding a dispute is a final agency action for purposes of Title 63G, Chapter 4, Administrative Procedures Act.

(14) Except as provided under Subsection (15), if a participating employer's public safety service employees are not covered by this system or under Chapter 14, Public Safety Contributory Retirement Act, as of January 1, 1998, those public safety service employees who may otherwise qualify for membership in this system shall, at the discretion of the participating employer, remain in their current retirement system.

(15) (a) A public safety service employee employed by an airport police department, which elects to cover its public safety service employees under the Public Safety Noncontributory Retirement System under Subsection (14), may elect to remain in the public safety service employee's current retirement system.

(b) The public safety service employee's election to remain in the current retirement system under Subsection (15)(a):

(i) shall be made at the time the employer elects to move its public safety service employees to a public safety retirement system;

(ii) shall be documented by written notice to the participating employer; and

(iii) is irrevocable.

(16) (a) Subject to Subsection (17), beginning July 1, 2015, a public safety service employee who is a dispatcher employed by:

(i) the state shall be eligible for service credit in this system; and

(ii) a participating employer other than the state shall be eligible for service credit in this system if the dispatcher's participating employer elects to cover its dispatchers under this system.

(b) A participating employer's election to cover its dispatchers under this system under Subsection (16)(a)(ii) is irrevocable and shall be documented by a resolution adopted by the governing body of the participating employer in accordance with rules made by the office.

(c) A dispatcher's service before July 1, 2015, or before a date specified by resolution of a participating employer under Subsection (16)(b), is not eligible for service credit in this system.

(17) Notwithstanding any other provision of this section, a person initially entering employment with a participating employer on or after July 1, 2011, who does not have service credit accrued before July 1, 2011, in a Tier I system or plan administered by the board, may not participate in this system.

Section 21. Section 49-20-401 is amended to read:

49-20-401. Program -- Powers and duties.

(1) The program shall:

(a) act as a self-insurer of employee benefit plans and administer those plans;

(b) enter into contracts with private insurers or carriers to underwrite employee benefit plans as considered appropriate by the program;

(c) indemnify employee benefit plans or purchase commercial reinsurance as considered appropriate by the program;

(d) provide descriptions of all employee benefit plans under this chapter in cooperation with covered employers;

(e) process claims for all employee benefit plans under this chapter or enter into contracts, after competitive bids are taken, with other benefit administrators to provide for the administration of the claims process;

(f) obtain an annual actuarial review of all health and dental benefit plans and a periodic review of all other employee benefit plans;

(g) consult with the covered employers to evaluate employee benefit plans and develop recommendations for benefit changes;

(h) annually submit a budget and audited financial statements to the governor and Legislature which includes total projected benefit costs and administrative costs;

(i) maintain reserves sufficient to liquidate the unrevealed claims liability and other liabilities of the employee benefit plans as certified by the program's consulting actuary;

(j) submit, in advance, its recommended benefit adjustments for state employees to:

(i) the Legislature; and

(ii) the [~~executive~~] director of the state [~~Department~~] Division of Human Resource Management;

(k) determine benefits and rates, upon approval of the board, for multi-employer risk pools, retiree coverage, and conversion coverage;

(l) determine benefits and rates based on the total estimated costs and the employee premium share established by the Legislature, upon approval of the board, for state employees;

(m) administer benefits and rates, upon ratification of the board, for single-employer risk pools;

(n) request proposals for provider networks or health and dental benefit plans administered by third-party carriers at least once every three years for the purposes of:

(i) stimulating competition for the benefit of covered individuals;

(ii) establishing better geographical distribution of medical care services; and

(iii) providing coverage for both active and retired covered individuals;

(o) offer proposals which meet the criteria specified in a request for proposals and accepted by the program to active and retired state covered individuals and which may be offered to active and retired covered individuals of other covered employers at the option of the covered employer;

(p) perform the same functions established in Subsections (1)(a), (b), (e), and (h) for the Department of Health if the program provides program benefits to children enrolled in the Utah Children's Health Insurance Program created in Title 26, Chapter 40, Utah Children's Health Insurance Act;

(q) establish rules and procedures governing the admission of political subdivisions or educational institutions and their employees to the program;

(r) contract directly with medical providers to provide services for covered individuals;

(s) take additional actions necessary or appropriate to carry out the purposes of this chapter;

(t) (i) require state employees and their dependents to participate in the electronic

exchange of clinical health records in accordance with Section 26-1-37 unless the enrollee opts out of participation; and

(ii) prior to enrolling the state employee, each time the state employee logs onto the program's website, and each time the enrollee receives written enrollment information from the program, provide notice to the enrollee of the enrollee's participation in the electronic exchange of clinical health records and the option to opt out of participation at any time; and

(u) at the request of a procurement unit, as that term is defined in Section 63G-6a-103, that administers benefits to program recipients who are not covered by Title 26, Utah Health Code, provide services for:

(i) drugs;

(ii) medical devices; or

(iii) other types of medical care.

(2) (a) Funds budgeted and expended shall accrue from rates paid by the covered employers and covered individuals.

(b) Administrative costs shall be approved by the board and reported to the governor and the Legislature.

(3) The [~~Department~~] Division of Human Resource Management shall include the benefit adjustments described in Subsection (1)(j) in the total compensation plan recommended to the governor required under Subsection [~~67-19-12~~] 63A-17-307(5)(a).

Section 22. Section 49-20-410 is amended to read:

49-20-410. High deductible health plan -- Health savings account -- Contributions.

(1) (a) In addition to other employee benefit plans offered under Subsection 49-20-201(1), the office shall offer at least one federally qualified high deductible health plan with a health savings account as an optional health plan.

(b) The provisions and limitations of the plan shall be:

(i) determined by the office in accordance with federal requirements and limitations; and

(ii) designed to promote appropriate health care utilization by consumers, including preventive health care services.

(c) A state employee hired on or after July 1, 2011, who is offered a plan under Subsection 49-20-202(1)(a), shall be enrolled in a federally qualified high deductible health plan unless the employee chooses a different health benefit plan during the employee's open enrollment period.

(2) The office shall:

(a) administer the high deductible health plan in coordination with a health savings account for medical expenses for each covered individual in the high deductible health plan;

(b) offer to all employees training regarding all health plans offered to employees;

(c) prepare online training as an option for the training required by Subsections (2)(b) and (4);

(d) ensure the training offered under Subsections (2)(b) and (c) includes information on changing coverages to the high deductible plan with a health savings account, including coordination of benefits with other insurances, restrictions on other insurance coverages, and general tax implications; and

(e) coordinate annual open enrollment with the [~~Department~~] Division of Human Resource Management to give state employees the opportunity to affirmatively select preferences from among insurance coverage options.

(3) (a) Contributions to the health savings account may be made by the employer.

(b) The amount of the employer contributions under Subsection (3)(a) shall be determined annually by the office, after consultation with the [~~Department~~] Division of Human Resource Management and the Governor's Office of Management and Budget so that the annual employer contribution amount is not less than the difference in the actuarial value between the program's health maintenance organization coverage and the federally qualified high deductible health plan coverage, after taking into account any difference in employee premium contribution.

(c) The office shall distribute the annual amount determined under Subsection (3)(b) to employees in two equal amounts with a pay date in January and a pay date in July of each plan year.

(d) An employee may also make contributions to the health savings account.

(e) If an employee is ineligible for a contribution to a health savings account under federal law and would otherwise be eligible for the contribution under Subsection (3)(a), the contribution shall be distributed into a health reimbursement account or other tax-advantaged arrangement authorized under the Internal Revenue Code for the benefit of the employee.

(4) (a) An employer participating in a plan offered under Subsection 49-20-202(1)(a) shall require each employee to complete training on the health plan options available to the employee.

(b) The training required by Subsection (4)(a):

(i) shall include materials prepared by the office under Subsection (2);

(ii) may be completed online; and

(iii) shall be completed:

(A) before the end of the 2012 open enrollment period for current enrollees in the program; and

(B) for employees hired on or after July 1, 2011, before the employee's selection of a plan in the program.

Section 23. Section 53-1-106 is amended to read:

53-1-106. Department duties -- Powers.

(1) In addition to the responsibilities contained in this title, the department shall:

(a) make rules and perform the functions specified in Title 41, Chapter 6a, Traffic Code, including:

(i) setting performance standards for towing companies to be used by the department, as required by Section 41-6a-1406; and

(ii) advising the Department of Transportation regarding the safe design and operation of school buses, as required by Section 41-6a-1304;

(b) make rules to establish and clarify standards pertaining to the curriculum and teaching methods of a motor vehicle accident prevention course under Section 31A-19a-211;

(c) aid in enforcement efforts to combat drug trafficking;

(d) meet with the [~~Department~~] Division of Technology Services to formulate contracts, establish priorities, and develop funding mechanisms for dispatch and telecommunications operations;

(e) provide assistance to the Crime Victim Reparations Board and the Utah Office for Victims of Crime in conducting research or monitoring victims' programs, as required by Section 63M-7-505;

(f) develop sexual assault exam protocol standards in conjunction with the Utah Hospital Association;

(g) engage in emergency planning activities, including preparation of policy and procedure and rulemaking necessary for implementation of the federal Emergency Planning and Community Right to Know Act of 1986, as required by Section 53-2a-702;

(h) implement the provisions of Section 53-2a-402, the Emergency Management Assistance Compact;

(i) ensure that any training or certification required of a public official or public employee, as those terms are defined in Section 63G-22-102, complies with Title 63G, Chapter 22, State Training and Certification Requirements, if the training or certification is required:

(i) under this title;

(ii) by the department; or

(iii) by an agency or division within the department; and

(j) employ a law enforcement officer as a public safety liaison to be housed at the State Board of Education who shall work with the State Board of Education to:

(i) support training with relevant state agencies for school resource officers as described in Section 53G-8-702;

(ii) coordinate the creation of model policies and memorandums of understanding for a local education agency and a local law enforcement agency; and

(iii) ensure cooperation between relevant state agencies, a local education agency, and a local law enforcement agency to foster compliance with disciplinary related statutory provisions, including Sections 53E-3-516 and 53G-8-211.

(2) (a) The department shall establish a schedule of fees as required or allowed in this title for services provided by the department.

(b) All fees not established in statute shall be established in accordance with Section 63J-1-504.

(3) The department may establish or contract for the establishment of an Organ Procurement Donor Registry in accordance with Section 26-28-120.

Section 24. Section 53-2a-105 is amended to read:

53-2a-105. Emergency Management Administration Council created -- Function -- Composition -- Expenses.

(1) There is created the Emergency Management Administration Council to provide advice and coordination for state and local government agencies on government emergency prevention, mitigation, preparedness, response, and recovery actions and activities.

(2) The council shall meet at the call of the chair, but at least semiannually.

(3) The council shall be made up of the:

(a) lieutenant governor, or the lieutenant governor's designee;

(b) attorney general, or the attorney general's designee;

(c) heads of the following state agencies, or their designees:

(i) Department of Public Safety;

(ii) Division of Emergency Management;

(iii) Department of Transportation;

(iv) Department of Health;

(v) Department of Environmental Quality;

(vi) Department of Workforce Services;

(vii) Department of Natural Resources;

(viii) Department of Agriculture and Food;

(ix) [~~Department~~] Division of Technology Services; and

(x) Division of Indian Affairs;

(d) adjutant general of the National Guard or the adjutant general's designee;

(e) statewide interoperability coordinator of the Utah Communications Authority or the coordinator's designee;

(f) two representatives with expertise in emergency management appointed by the Utah League of Cities and Towns;

(g) two representatives with expertise in emergency management appointed by the Utah Association of Counties;

(h) up to four additional members with expertise in emergency management, critical infrastructure, or key resources as these terms are defined under 6 U.S. Code Section 101 appointed from the private sector, by the co-chairs of the council;

(i) two representatives appointed by the Utah Emergency Management Association;

(j) one representative from the Urban Area Working Group, appointed by the council co-chairs;

(k) one representative from education, appointed by the council co-chairs; and

(l) one representative from a volunteer or faith-based organization, appointed by the council co-chairs.

(4) The commissioner and the lieutenant governor shall serve as co-chairs of the council.

(5) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(6) The council shall coordinate with existing emergency management related entities including:

(a) the Emergency Management Regional Committees established by the Department of Public Safety;

(b) the Statewide Mutual Aid Committee established under Section 53-2a-303; and

(c) the Hazardous Chemical Emergency Response Commission designated under Section 53-2a-703.

(7) The council may appoint additional members or establish other committees and task forces as determined necessary by the council to carry out the duties of the council.

Section 25. Section 53-2a-802 is amended to read:

53-2a-802. Definitions.

(1) (a) "Absent" means:

(i) not physically present or not able to be communicated with for 48 hours; or

(ii) for local government officers, as defined by local ordinances.

(b) "Absent" does not include a person who can be communicated with via telephone, radio, or telecommunications.

(2) "Department" means the Department of [~~Administrative Services~~] Government Operations, the Department of Agriculture and Food, the Alcoholic Beverage Control Commission, the Department of Commerce, the Department of Heritage and Arts, the Department of Corrections, the Department of Environmental Quality, the Department of Financial Institutions, the Department of Health, [~~the Department of Human Resource Management,~~] the Department of Workforce Services, the Labor Commission, the National Guard, the Department of Insurance, the Department of Natural Resources, the Department of Public Safety, the Public Service Commission, the Department of Human Services, the State Tax Commission, [~~the Department of Technology Services,~~] the Department of Transportation, any other major administrative subdivisions of state government, the State Board of Education, the Utah Board of Higher Education, the Utah Housing Corporation, the State Retirement Board, and each institution of higher education within the system of higher education.

(3) "Division" means the Division of Emergency Management established in Title 53, Chapter 2a, Part 1, Emergency Management Act.

(4) "Emergency interim successor" means a person designated by this part to exercise the powers and discharge the duties of an office when the person legally exercising the powers and duties of the office is unavailable.

(5) "Executive director" means the person with ultimate responsibility for managing and overseeing the operations of each department, however denominated.

(6) (a) "Office" includes all state and local offices, the powers and duties of which are defined by constitution, statutes, charters, optional plans, ordinances, articles, or by-laws.

(b) "Office" does not include the office of governor or the legislative or judicial offices.

(7) "Place of governance" means the physical location where the powers of an office are being exercised.

(8) "Political subdivision" includes counties, cities, towns, metro townships, districts, authorities, and other public corporations and entities whether organized and existing under charter or general law.

(9) "Political subdivision officer" means a person holding an office in a political subdivision.

(10) "State officer" means the attorney general, the state treasurer, the state auditor, and the executive director of each department.

(11) "Unavailable" means:

(a) absent from the place of governance during a disaster that seriously disrupts normal governmental operations, whether or not that

absence or inability would give rise to a vacancy under existing constitutional or statutory provisions; or

(b) as otherwise defined by local ordinance.

Section 26. Section 53-6-104 is amended to read:

53-6-104. Appointment of director of division -- Qualifications -- Appointment of employees -- Term of office -- Compensation.

(1) The commissioner, upon recommendation of the council and with the approval of the governor, shall appoint a director of the division.

(2) The director is the executive and administrative head of the division and shall be experienced in administration and possess additional qualifications as determined by the commissioner and as provided by law.

(3) The director shall be a full-time officer of the state.

(4) The director may appoint deputies, consultants, clerks, and other employees from eligibility lists authorized by the [~~Department~~] Division of Human Resource Management.

(5) The director may be removed from his position at the will of the commissioner.

(6) The director shall receive compensation as provided by Title [~~67~~] 63A, Chapter [~~19~~] 17, Utah State Personnel Management Act.

Section 27. Section 53-10-108 is amended to read:

53-10-108. Restrictions on access, use, and contents of division records -- Limited use of records for employment purposes -- Challenging accuracy of records -- Usage fees -- Missing children records -- Penalty for misuse of records.

(1) As used in this section:

(a) "FBI Rap Back System" means the rap back system maintained by the Federal Bureau of Investigation.

(b) "Rap back system" means a system that enables authorized entities to receive ongoing status notifications of any criminal history reported on individuals whose fingerprints are registered in the system.

(c) "WIN Database" means the Western Identification Network Database that consists of eight western states sharing one electronic fingerprint database.

(2) Dissemination of information from a criminal history record, including information obtained from a fingerprint background check, name check, warrant of arrest information, or information from division files, is limited to:

(a) criminal justice agencies for purposes of administration of criminal justice and for employment screening by criminal justice agencies;

(b) (i) agencies or individuals pursuant to a specific agreement with a criminal justice agency to provide services required for the administration of criminal justice;

(ii) the agreement shall specifically authorize access to data, limit the use of the data to purposes for which given, and ensure the security and confidentiality of the data;

(c) a qualifying entity for employment background checks for their own employees and persons who have applied for employment with the qualifying entity;

(d) noncriminal justice agencies or individuals for any purpose authorized by statute, executive order, court rule, court order, or local ordinance;

(e) agencies or individuals for the purpose of obtaining required clearances connected with foreign travel or obtaining citizenship;

(f) agencies or individuals for the purpose of a preplacement adoptive study, in accordance with the requirements of Sections 78B-6-128 and 78B-6-130;

(g) private security agencies through guidelines established by the commissioner for employment background checks for their own employees and prospective employees;

(h) state agencies for the purpose of conducting a background check for the following individuals:

(i) employees;

(ii) applicants for employment;

(iii) volunteers; and

(iv) contract employees;

(i) governor's office for the purpose of conducting a background check on the following individuals:

(i) cabinet members;

(ii) judicial applicants; and

(iii) members of boards, committees, and commissions appointed by the governor;

(j) the office of the lieutenant governor for the purpose of conducting a background check on an individual applying to be a notary public under Section 46-1-3[~~.~~];

(k) agencies and individuals as the commissioner authorizes for the express purpose of research, evaluative, or statistical activities pursuant to an agreement with a criminal justice agency; and

(l) other agencies and individuals as the commissioner authorizes and finds necessary for protection of life and property and for offender identification, apprehension, and prosecution pursuant to an agreement.

(3) An agreement under Subsection (2)(k) shall specifically authorize access to data, limit the use of data to research, evaluative, or statistical purposes, preserve the anonymity of individuals to whom the information relates, and ensure the confidentiality and security of the data.

(4) (a) Before requesting information, a qualifying entity under Subsection (2)(c), state agency, or other agency or individual described in Subsections (2)(d) through (j) shall obtain a signed waiver from the person whose information is requested.

(b) The waiver shall notify the signee:

(i) that a criminal history background check will be conducted;

(ii) who will see the information; and

(iii) how the information will be used.

(c) A qualifying entity under Subsection (2)(c), state agency, or other agency or individual described in Subsections (2)(d) through (g) that submits a request for a noncriminal justice name based background check of local databases to the bureau shall provide to the bureau:

(i) personal identifying information for the subject of the background check; and

(ii) the fee required by Subsection (15).

(d) A qualifying entity under Subsection (2)(c), state agency, or other agency or individual described in Subsections (2)(d) through (g) that submits a request for a WIN database check and a nationwide background check shall provide to the bureau:

(i) personal identifying information for the subject of the background check;

(ii) a fingerprint card for the subject of the background check; and

(iii) the fee required by Subsection (15).

(e) Information received by a qualifying entity under Subsection (2)(c), state agency, or other agency or individual described in Subsections (2)(d) through (j) may only be:

(i) available to individuals involved in the hiring or background investigation of the job applicant, employee, or notary applicant;

(ii) used for the purpose of assisting in making an employment appointment, selection, or promotion decision or for considering a notary applicant under Section 46-1-3; and

(iii) used for the purposes disclosed in the waiver signed in accordance with Subsection (4)(b).

(f) An individual who disseminates or uses information obtained from the division under Subsections (2)(c) through (j) for purposes other than those specified under Subsection (4)(e), in addition to any penalties provided under this section, is subject to civil liability.

(g) A qualifying entity under Subsection (2)(c), state agency, or other agency or individual described in Subsections (2)(d) through (j) that obtains background check information shall provide the subject of the background check an opportunity to:

(i) review the information received as provided under Subsection (9); and

(ii) respond to any information received.

(h) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division may make rules to implement this Subsection (4).

(i) The division or its employees are not liable for defamation, invasion of privacy, negligence, or any other claim in connection with the contents of information disseminated under Subsections (2)(c) through (j).

(5) (a) Any criminal history record information obtained from division files may be used only for the purposes for which it was provided and may not be further disseminated, except under Subsection (5)(b), (c), or (d).

(b) A criminal history provided to an agency pursuant to Subsection (2)(f) may be provided by the agency to the individual who is the subject of the history, another licensed child-placing agency, or the attorney for the adoptive parents for the purpose of facilitating an adoption.

(c) A criminal history of a defendant provided to a criminal justice agency under Subsection (2)(a) may also be provided by the prosecutor to a defendant's defense counsel, upon request during the discovery process, for the purpose of establishing a defense in a criminal case.

(d) A public transit district, as described in Title 17B, Chapter 2a, Part 8, Public Transit District Act, that is under contract with a state agency to provide services may, for the purposes of complying with Subsection 62A-5-103.5(5), provide a criminal history record to the state agency or the agency's designee.

(6) The division may not disseminate criminal history record information to qualifying entities under Subsection (2)(c) regarding employment background checks if the information is related to charges:

(a) that have been declined for prosecution;

(b) that have been dismissed; or

(c) regarding which a person has been acquitted.

(7) (a) This section does not preclude the use of the division's central computing facilities for the storage and retrieval of criminal history record information.

(b) This information shall be stored so it cannot be modified, destroyed, or accessed by unauthorized agencies or individuals.

(8) Direct access through remote computer terminals to criminal history record information in the division's files is limited to those agencies authorized by the commissioner under procedures designed to prevent unauthorized access to this information.

(9) (a) The commissioner shall establish procedures to allow an individual right of access to

review and receive a copy of the individual's criminal history report.

(b) A processing fee for the right of access service, including obtaining a copy of the individual's criminal history report under Subsection (9)(a) shall be set in accordance with Section 63J-1-504.

(c) (i) The commissioner shall establish procedures for an individual to challenge the completeness and accuracy of criminal history record information contained in the division's computerized criminal history files regarding that individual.

(ii) These procedures shall include provisions for amending any information found to be inaccurate or incomplete.

(10) The private security agencies as provided in Subsection (2)(g):

(a) shall be charged for access; and

(b) shall be registered with the division according to rules made by the division under Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(11) Before providing information requested under this section, the division shall give priority to criminal justice agencies needs.

(12) (a) It is a class B misdemeanor for a person to knowingly or intentionally access, use, disclose, or disseminate a record created, maintained, or to which access is granted by the division or any information contained in a record created, maintained, or to which access is granted by the division for a purpose prohibited or not permitted by statute, rule, regulation, or policy of a governmental entity.

(b) A person who discovers or becomes aware of any unauthorized use of records created or maintained, or to which access is granted by the division shall inform the commissioner and the director of the Utah Bureau of Criminal Identification of the unauthorized use.

(13) (a) Subject to Subsection (13)(b), a qualifying entity or an entity described in Subsection (2) may request that the division register fingerprints taken for the purpose of conducting current and future criminal background checks under this section with:

(i) the WIN Database rap back system, or any successor system;

(ii) the FBI Rap Back System; or

(iii) a system maintained by the division.

(b) A qualifying entity or an entity described in Subsection (2) may only make a request under Subsection (13)(a) if the entity:

(i) has the authority through state or federal statute or federal executive order;

(ii) obtains a signed waiver from the individual whose fingerprints are being registered; and

(iii) establishes a privacy risk mitigation strategy to ensure that the entity only receives notifications for individuals with whom the entity maintains an authorizing relationship.

(14) The division is authorized to submit fingerprints to the FBI Rap Back System to be retained in the FBI Rap Back System for the purpose of being searched by future submissions to the FBI Rap Back System, including latent fingerprint searches.

(15) (a) The division shall impose fees set in accordance with Section 63J-1-504 for the applicant fingerprint card, name check, and to register fingerprints under Subsection (13)(a).

(b) Funds generated under this Subsection (15) shall be deposited into the General Fund as a dedicated credit by the department to cover the costs incurred in providing the information.

(c) The division may collect fees charged by an outside agency for services required under this section.

(16) For the purposes of conducting a criminal background check authorized under Subsection (2)(h),(i), or (j), the [~~Department~~] Division of Human Resource Management, in accordance with Title [~~67, Chapter 19~~] 63A, Chapter 17, Utah State Personnel Management Act, and the governor's office shall have direct access to criminal background information maintained under Title 53, Chapter 10, Part 2, Bureau of Criminal Identification.

Section 28. Section 53B-17-105 is amended to read:

53B-17-105. Utah Education and Telehealth Network.

(1) There is created the Utah Education and Telehealth Network, or UETN.

(2) UETN shall:

(a) coordinate and support the telecommunications needs of public and higher education, public libraries, and entities affiliated with the state systems of public and higher education as approved by the Utah Education and Telehealth Network Board, including the statewide development and implementation of a network for education, which utilizes satellite, microwave, fiber-optic, broadcast, and other transmission media;

(b) coordinate the various telecommunications technology initiatives of public and higher education;

(c) provide high-quality, cost-effective Internet access and appropriate interface equipment for schools and school systems;

(d) procure, install, and maintain telecommunication services and equipment on behalf of public and higher education;

(e) develop or implement other programs or services for the delivery of distance learning and telehealth services as directed by law;

(f) apply for state and federal funding on behalf of:

(i) public and higher education; and

(ii) telehealth services;

(g) in consultation with health care providers from a variety of health care systems, explore and encourage the development of telehealth services as a means of reducing health care costs and increasing health care quality and access, with emphasis on assisting rural health care providers and special populations; and

(h) in consultation with the Utah Department of Health, advise the governor and the Legislature on:

(i) the role of telehealth in the state;

(ii) the policy issues related to telehealth;

(iii) the changing telehealth needs and resources in the state; and

(iv) state budgetary matters related to telehealth.

(3) In performing the duties under Subsection (2), UETN shall:

(a) provide services to schools, school districts, and the public and higher education systems through an open and competitive bidding process;

(b) work with the private sector to deliver high-quality, cost-effective services;

(c) avoid duplicating facilities, equipment, or services of private providers or public telecommunications service, as defined under Section 54-8b-2;

(d) utilize statewide economic development criteria in the design and implementation of the educational telecommunications infrastructure; and

(e) assure that public service entities, such as educators, public service providers, and public broadcasters, are provided access to the telecommunications infrastructure developed in the state.

(4) The University of Utah shall provide administrative support for UETN.

(5) (a) The Utah Education and Telehealth Network Board, which is the governing board for UETN, is created.

(b) The Utah Education and Telehealth Network Board shall have 13 members as follows:

(i) five members representing the state system of higher education, of which at least one member represents technical colleges, appointed by the commissioner of higher education;

(ii) four members representing the state system of public education appointed by the State Board of Education;

(iii) one member representing the state library appointed by the state librarian;

(iv) two members representing hospitals as follows:

(A) the members may not be employed by the same hospital system;

(B) one member shall represent a rural hospital;

(C) one member shall represent an urban hospital; and

(D) the chief administrator or the administrator's designee for each hospital licensed in this state shall select the two hospital representatives; and

(v) one member representing the office of the governor, appointed by the governor.

(c) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.

(d) (i) The board shall elect a chair.

(ii) The chair shall set the agenda for the board meetings.

(6) A member of the board may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(7) The board:

(a) shall hire an executive director for UETN who may hire staff for UETN as permitted by the budget;

(b) may terminate the executive director's employment or assignment;

(c) shall determine the executive director's salary;

(d) shall annually conduct a performance evaluation of the executive director;

(e) shall establish policies the board determines are necessary for the operation of UETN and the administration of UETN's duties; and

(f) shall advise UETN in:

(i) the development and operation of a coordinated, statewide, multi-option telecommunications system to assist in the delivery of educational services and telehealth services throughout the state; and

(ii) acquiring, producing, and distributing instructional content.

(8) The executive director of UETN shall be an at-will employee.

(9) UETN shall locate and maintain educational and telehealth telecommunication infrastructure throughout the state.

(10) Educational institutions shall manage site operations under policy established by UETN.

(11) Subject to future budget constraints, the Legislature shall provide an annual appropriation to operate UETN.

(12) If the network operated by the [~~Department~~] Division of Technology Services is not available, UETN may provide network connections to the central administration of counties and municipalities for the sole purpose of transferring data to a secure facility for backup and disaster recovery.

Section 29. Section 53C-1-201 is amended to read:

53C-1-201. Creation of administration -- Purpose -- Director -- Participation in Risk Management Fund -- Closed meetings.

(1) (a) There is established within state government the School and Institutional Trust Lands Administration.

(b) The administration shall manage all school and institutional trust lands and assets within the state, except as otherwise provided in Title 53C, Chapter 3, Deposit and Allocation of Revenue from Trust Lands, and Title 53D, Chapter 1, School and Institutional Trust Fund Management Act.

(2) The administration is an independent state agency and not a division of any other department.

(3) (a) The administration is subject to the usual legislative and executive department controls except as provided in this Subsection (3).

(b) (i) The director may make rules as approved by the board that allow the administration to classify a business proposal submitted to the administration as protected under Section 63G-2-305, for as long as is necessary to evaluate the proposal.

(ii) The administration shall return the proposal to the party who submitted the proposal, and incur no further duties under Title 63G, Chapter 2, Government Records Access and Management Act, if the administration determines not to proceed with the proposal.

(iii) The administration shall classify the proposal pursuant to law if the administration decides to proceed with the proposal.

(iv) Section 63G-2-403 does not apply during the review period.

(c) The director shall make rules in compliance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, except that the administration is not subject to Subsections 63G-3-301(5), (6), (7), and (13) and Section 63G-3-601, and the director, with the board's approval, may establish a procedure for the expedited approval of rules, based on written findings by the director showing:

(i) the changes in business opportunities affecting the assets of the trust;

(ii) the specific business opportunity arising out of those changes which may be lost without the rule or changes to the rule;

(iii) the reasons the normal procedures under Section 63G-3-301 cannot be met without causing the loss of the specific opportunity;

(iv) approval by at least five board members; and

(v) that the director has filed a copy of the rule and a rule analysis, stating the specific reasons and justifications for the director's findings, with the Office of Administrative Rules and notified interested parties as provided in Subsection 63G-3-301(10).

(d) (i) The administration shall comply with Title [~~67~~] 63A, Chapter [~~19~~] 17, Utah State Personnel Management Act, except as provided in this Subsection (3)(d).

(ii) (A) The board may approve, upon recommendation of the director, that exemption for specific positions under Subsections [~~67-19-12(2) and 67-19-15(1)~~] 63A-17-301(1) and 63A-17-307(2) is required in order to enable the administration to efficiently fulfill the administration's responsibilities under the law.

(B) The director shall consult with the [~~executive~~] director of the [~~Department~~] Division of Human Resource Management before making a recommendation under Subsection (3)(d)(ii)(A).

(iii) The positions of director, deputy director, associate director, assistant director, legal counsel appointed under Section 53C-1-305, administrative assistant, and public affairs officer are exempt under Subsections [~~67-19-12(2) and 67-19-15(1)~~] 63A-17-301(1) and 63A-17-307(2).

(iv) (A) The director shall set salaries for exempted positions, except for the director, after consultation with the [~~executive~~] director of the [~~Department~~] Division of Human Resource Management, within ranges approved by the board.

(B) The board and director shall consider salaries for similar positions in private enterprise and other public employment when setting salary ranges.

(v) The board may create an annual incentive and bonus plan for the director and other administration employees designated by the board, based upon the attainment of financial performance goals and other measurable criteria defined and budgeted in advance by the board.

(e) The administration shall comply with:

(i) subject to Subsection (8), Title 52, Chapter 4, Open and Public Meetings Act;

(ii) Title 63G, Chapter 2, Government Records Access and Management Act; and

(iii) Title 63G, Chapter 6a, Utah Procurement Code, except where the board approves, upon recommendation of the director, exemption from the Utah Procurement Code, and simultaneous adoption of rules under Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for procurement, that enable the administration to efficiently fulfill the administration's responsibilities under the law.

(f) (i) Except as provided in Subsection (3)(f)(ii), the administration is not subject to the fee agency requirements of Section 63J-1-504.

(ii) The following fees of the administration are subject to Section 63J-1-504:

(A) application;

(B) assignment;

(C) amendment;

(D) affidavit for lost documents;

(E) name change;

(F) reinstatement;

(G) grazing nonuse;

(H) extension of time;

(I) partial conveyance;

(J) patent reissue;

(K) collateral assignment;

(L) electronic payment; and

(M) processing.

(g) (i) Notwithstanding Subsection 63J-1-206(2)(c), the administration may transfer money between the administration's line items.

(ii) Before transferring appropriated money between line items, the administration shall submit a proposal to the board for the board's approval.

(iii) If the board gives approval to a proposal to transfer appropriated money between line items, the administration shall submit the proposal to the Legislative Executive Appropriations Committee for the Legislative Executive Appropriations Committee's review and recommendations.

(iv) The Legislative Executive Appropriations Committee may recommend:

(A) that the administration transfer the appropriated money between line items;

(B) that the administration not transfer the appropriated money between line items; or

(C) to the governor that the governor call a special session of the Legislature to supplement the appropriated budget for the administration.

(4) The administration is managed by a director of school and institutional trust lands appointed by a majority vote of the board of trustees with the consent of the governor.

(5) (a) The board of trustees shall provide policies for the management of the administration and for the management of trust lands and assets.

(b) (i) The board shall provide policies for the ownership and control of Native American remains that are discovered or excavated on school and institutional trust lands in consultation with the Division of Indian Affairs and giving due consideration to Title 9, Chapter 9, Part 4, Native American Grave Protection and Repatriation Act.

(ii) The director may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement policies provided by the board regarding Native American remains.

(6) In connection with joint ventures and other transactions involving trust lands and minerals approved under Sections 53C-1-303 and 53C-2-401, the administration, with board approval, may become a member of a limited liability company under Title 48, Chapter 3a, Utah Revised Uniform Limited Liability Company Act, as appropriate pursuant to Section 48-3a-1405 and is considered a person under Section 48-3a-102.

(7) Subject to Subsection 63E-1-304(2), the administration may participate in coverage under the Risk Management Fund created by Section 63A-4-201.

(8) (a) Notwithstanding Subsection (3), Subsection 52-4-204(2) or 52-4-205(1), and in addition to the reasons to close a meeting under Section 52-4-205, the board may hold a closed meeting if two-thirds of the members present when a quorum is present vote to close the meeting for the purpose of:

(i) conducting a strategy session to discuss market conditions relevant to the sale of particular trust assets if the terms of the sale of any trust assets are publicly disclosed before the board approves the sale and a public discussion would:

(A) disclose the appraisal or estimated value of the trust assets under consideration; or

(B) prevent the board from completing a contemplated transaction concerning the trust assets on the best possible terms; or

(ii) conducting a strategy session to evaluate the terms of a joint venture or other business arrangement authorized under Subsection 53C-1-303(3)(e) if the terms of the joint venture or other business arrangement are publicly disclosed before the board approves the transaction and a public discussion of the transaction would:

(A) disclose the appraisal or estimated value of the trust assets under consideration; or

(B) prevent the board from completing the transaction concerning the joint venture or other business arrangement on the best possible terms.

(b) The board shall comply with the procedural requirements for closing a meeting under Title 52, Chapter 4, Open and Public Meetings Act.

Section 30. Section 53D-1-103 is amended to read:

53D-1-103. Application of other law.

(1) The office, board, and nominating committee are subject to:

(a) Title 52, Chapter 4, Open and Public Meetings Act; and

(b) Title 63A, Chapter 1, Part 2, Utah Public Finance Website.

(2) Subject to Subsection 63E-1-304(2), the office may participate in coverage under the Risk Management Fund, created in Section 63A-4-201.

(3) The office and board are subject to:

(a) Title 63G, Chapter 2, Government Records Access and Management Act, except for records relating to investment activities; and

(b) Title 63G, Chapter 6a, Utah Procurement Code.

(4) (a) In making rules under this chapter, the director is subject to and shall comply with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, except as provided in Subsection (4)(b).

(b) Subsections 63G-3-301(6) and (7) and Section 63G-3-601 do not apply to the director's making of rules under this chapter.

(5) Title 63G, Chapter 7, Governmental Immunity Act of Utah, applies to a board member to the same extent as it applies to an employee, as defined in Section 63G-7-102.

(6) (a) A board member, the director, and an office employee or agent are subject to:

(i) Title 67, Chapter 16, Utah Public Officers' and Employees' Ethics Act; and

(ii) other requirements that the board establishes.

(b) In addition to any restrictions or requirements imposed under Subsection (6)(a), a board member, the director, and an office employee or agent may not directly or indirectly acquire an interest in the trust fund or receive any direct benefit from any transaction dealing with trust fund money.

(7) (a) Except as provided in Subsection (7)(b), the office shall comply with Title [~~67~~] 63A, Chapter [~~19~~] 17, Utah State Personnel Management Act.

(b) (i) Upon a recommendation from the director after the director's consultation with the [~~executive~~] director of the [~~Department~~] Division of Human Resource Management, the board may provide that specified positions in the office are exempt from Section [~~67-19-12~~] 63A-17-307 and the career service provisions of Title [~~67~~] 63A, Chapter [~~19~~] 17, Utah State Personnel Management Act, as provided in Subsection [~~67-19-15~~] 63A-17-301(1), if the board determines that exemption is required for the office to fulfill efficiently its responsibilities under this chapter.

(ii) The director position is exempt from Section [~~67-19-12~~] 63A-17-307 and the career service provisions of Title [~~67~~] 63A, Chapter [~~19~~] 17, Utah State Personnel Management Act, as provided in Subsection [~~67-19-15~~] 63A-17-301(1).

(iii) (A) After consultation with the [~~executive~~] director of the [~~Department~~] Division of Human Resource Management, the director shall set salaries for positions that are exempted under Subsection (7)(b)(i), within ranges that the board approves.

(B) In approving salary ranges for positions that are exempted under Subsection (7)(b)(i), the board shall consider salaries for similar positions in private enterprise and other public employment.

(8) The office is subject to legislative appropriation, to executive branch budgetary review and recommendation, and to legislative and executive branch review.

Section 31. Section 53E-8-301 is amended to read:

53E-8-301. Educators exempt from Division of Human Resource Management rules -- Collective bargaining agreement.

(1) Educators employed by the Utah Schools for the Deaf and the Blind are exempt from mandatory compliance with rules of the [~~Department~~] Division of Human Resource Management.

(2) The state board may enter into a collective bargaining agreement to establish compensation and other personnel policies with educators employed by the Utah Schools for the Deaf and the Blind to replace rules of the [~~Department~~] Division of Human Resource Management.

(3) A collective bargaining agreement made under Subsection (2) is subject to the same requirements that are imposed on local school boards by Section 53G-11-202.

Section 32. Section 54-1-6 is amended to read:

54-1-6. Employment of staff -- Status and compensation -- Employees not to be parties or witnesses and may not appeal commission decisions.

(1) The annual budget of the Public Service Commission shall provide sufficient funds for the commission to hire, develop, and organize an advisory staff to assist the commission in performing the powers, duties, and functions committed to it by statute.

(a) The commission may hire:

(i) economists, accountants, engineers, statisticians, lawyers, law clerks, and other professional and technical experts;

(ii) court reporters, transcribers of tape recordings, clerks, secretaries, and other administrative and support staff;

(iii) additional experts as required for a particular matter; and

(iv) administrative law judges, who shall be members of the Utah State Bar, and constitute a separate organizational unit reporting directly to the commission.

(b) The commission may provide for funds in the annual budget to acquire suitable electronic recording equipment to maintain a verbatim record of proceedings before the commission, any commissioner, or any administrative law judge.

(2) (a) With the exception of clerical workers in nonconfidential positions, all staff of the Public Service Commission are exempt employees under the State Personnel Management Act and serve at the pleasure of the commission.

(b) Administrative law judges are exempt employees under the State Personnel Management

Act and may only be removed from office upon due notice and by a unanimous vote of the commission.

(c) (i) The [~~Department~~] Division of Human Resource Management shall determine pay schedules using standard techniques for determining compensation.

(ii) The [~~Department~~] Division of Human Resource Management may make [~~its~~] the division's compensation determinations based upon compensation practices common to utility companies throughout the United States.

(3) (a) The staff or other employees of the commission may not appear as parties or witnesses in any proceeding before the commission, any commissioner, or any administrative law judge.

(b) The staff or other employees of the commission may not appeal any finding, order, or decision of the commission.

Section 33. Section 54-4a-3 is amended to read:

54-4a-3. Budget of division -- Employment of personnel.

(1) The annual budget of the Division of Public Utilities shall provide sufficient funds for the division to hire, develop, and organize a technical and professional staff to perform the duties, powers, and responsibilities committed to it by statute.

(2) The division director may:

(a) hire economists, accountants, engineers, inspectors, statisticians, lawyers, law clerks, and other technical and professional experts as may be required;

(b) retain additional experts as required for a particular matter, but only to the extent that it is necessary to supplement division staff in order to fulfill its duties; and

(c) employ necessary administrative and support staff.

(3) (a) The [~~Department~~] Division of Human Resource Management shall determine pay schedules using standard techniques for determining compensation.

(b) The [~~Department~~] Division of Human Resource Management may make [~~its~~] the division's compensation determinations based upon compensation common to utility companies throughout the United States.

Section 34. Section 61-1-18 is amended to read:

61-1-18. Division of Securities established -- Director -- Investigators.

(1) (a) There is established within the Department of Commerce a Division of Securities.

(b) The division is under the direction and control of a director. The executive director shall appoint the director with the governor's approval.

(c) Subject to Section 61-1-18.5, the division shall administer and enforce this chapter.

(d) The director shall hold office at the pleasure of the governor.

(2) The director, with the approval of the executive director, may employ the staff necessary to discharge the duties of the division or commission at salaries to be fixed by the director according to standards established by the [~~Department~~] Division of Human Resource Management.

(3) An investigator employed pursuant to Subsection (2) who meets the training requirements of Subsection 53-13-105(3) may be designated a special function officer, as defined in Section 53-13-105, by the director, but is not eligible for retirement benefits under the Public Safety Employee's Retirement System.

Section 35. Section 61-2-201 is amended to read:

61-2-201. Division of Real Estate created -- Director appointed -- Personnel.

(1) There is created within the department a Division of Real Estate. The division is responsible for the administration and enforcement of:

(a) this chapter;

(b) Title 57, Chapter 11, Utah Uniform Land Sales Practices Act;

(c) Title 57, Chapter 19, Timeshare and Camp Resort Act;

(d) Title 57, Chapter 23, Real Estate Cooperative Marketing Act;

(e) Title 57, Chapter 29, Undivided Fractionalized Long-term Estate Sales Practices Act;

(f) Chapter 2c, Utah Residential Mortgage Practices and Licensing Act;

(g) Chapter 2e, Appraisal Management Company Registration and Regulation Act;

(h) Chapter 2f, Real Estate Licensing and Practices Act; and

(i) Chapter 2g, Real Estate Appraiser Licensing and Certification Act.

(2) The division is under the direction and control of a director appointed by the executive director of the department with the approval of the governor. The director holds the office of director at the pleasure of the governor.

(3) The director, with the approval of the executive director, may employ personnel necessary to discharge the duties of the division at salaries to be fixed by the director according to standards established by the [~~Department of Administrative Services~~] Division of Human Resource Management.

Section 36. Section 62A-1-121 is amended to read:

62A-1-121. Tracking effects of abuse of alcoholic products.

(1) There is created a committee within the department known as the "Alcohol Abuse Tracking Committee" that consists of:

(a) the executive director or the executive director's designee;

(b) the executive director of the Department of Health or that executive director's designee;

(c) the commissioner of the Department of Public Safety or the commissioner's designee;

(d) the director of the Department of Alcoholic Beverage Control or that director's designee;

(e) the executive director of the Department of Workforce Services or that executive director's designee;

(f) the chair of the Utah Substance Use and Mental Health Advisory Council or the chair's designee;

(g) the state court administrator or the state court administrator's designee; and

(h) the [~~executive~~] director of the [~~Department~~] Division of Technology Services or that [~~executive~~] director's designee.

(2) The executive director or the executive director's designee shall chair the committee.

(3) (a) Four members of the committee constitute a quorum.

(b) A vote of the majority of the committee members present when a quorum is present is an action of the committee.

(4) The committee shall meet at the call of the chair, except that the chair shall call a meeting at least twice a year:

(a) with one meeting held each year to develop the report required under Subsection (7); and

(b) with one meeting held to review and finalize the report before the report is issued.

(5) The committee may adopt additional procedures or requirements for:

(a) voting, when there is a tie of the committee members;

(b) how meetings are to be called; and

(c) the frequency of meetings.

(6) The committee shall establish a process to collect for each calendar year the following information:

(a) the number of individuals statewide who are convicted of, plead guilty to, plead no contest to, plead guilty in a similar manner to, or resolve by diversion or its equivalent to a violation related to underage drinking of alcohol;

(b) the number of individuals statewide who are convicted of, plead guilty to, plead no contest to, plead guilty in a similar manner to, or resolve by diversion or its equivalent to a violation related to driving under the influence of alcohol;

(c) the number of violations statewide of Title 32B, Alcoholic Beverage Control Act, related to over-serving or over-consumption of an alcoholic product;

(d) the cost of social services provided by the state related to abuse of alcohol, including services provided by the Division of Child and Family Services;

(e) the location where the alcoholic products that result in the violations or costs described in Subsections (6)(a) through (d) are obtained; and

(f) any information the committee determines can be collected and relates to the abuse of alcoholic products.

(7) The committee shall report the information collected under Subsection (6) annually to the governor and the Legislature by no later than the July 1 immediately following the calendar year for which the information is collected.

Section 37. Section 62A-1-122 is amended to read:

62A-1-122. Child pornography.

(1) As used in this section:

(a) "Child pornography" means the same as that term is defined in Section 76-5b-103.

(b) "Secure" means to prevent and prohibit access, electronic upload, transmission, or transfer of an image.

(2) The department or a division within the department may not retain child pornography longer than is necessary to comply with the requirements of this section.

(3) When the department or a division within the department obtains child pornography as a result of an employee unlawfully viewing child pornography, the department or division shall consult with and follow the guidance of the [~~Department~~] Division of Human Resource Management regarding personnel action and local law enforcement regarding retention of the child pornography.

(4) When the department or a division within the department obtains child pornography as a result of a report or an investigation, the department or division shall immediately secure the child pornography, or the electronic device if the child pornography is digital, and contact the law enforcement office that has jurisdiction over the area where the division's case is located.

Section 38. Section 62A-15-613 is amended to read:

62A-15-613. Appointment of superintendent -- Qualifications -- Powers and responsibilities.

(1) The director, with the consent of the executive director, shall appoint a superintendent of the state hospital, who shall hold office at the will of the director.

(2) The superintendent shall have a bachelor's degree from an accredited university or college, be experienced in administration, and be knowledgeable in matters concerning mental health.

(3) The superintendent has general responsibility for the buildings, grounds, and property of the state hospital. The superintendent shall appoint, with the approval of the director, as many employees as necessary for the efficient and economical care and management of the state hospital, and shall fix the employees' compensation and administer personnel functions according to the standards of the [~~Department~~] Division of Human Resource Management.

Section 39. Section 63A-1-101 is amended to read:

TITLE 63A. UTAH GOVERNMENT OPERATIONS CODE

CHAPTER 1. DEPARTMENT OF GOVERNMENT OPERATIONS

63A-1-101. Title.

(1) This title is known as the "Utah [~~Administrative Services~~] Government Operations Code."

(2) This chapter is known as "Department of Government Operations."

Section 40. Section 63A-1-102 is amended to read:

63A-1-102. Purposes.

The department shall:

(1) provide specialized agency support services commonly needed;

(2) provide effective, coordinated management of state [~~administrative~~] government operations services;

(3) serve the public interest by providing services in a cost-effective and efficient manner, eliminating unnecessary duplication;

(4) enable administrators to respond effectively to technological improvements;

(5) emphasize the service role of state administrative service agencies in meeting the service needs of user agencies;

(6) use flexibility in meeting the service needs of state agencies; and

(7) protect the public interest by [~~insuring~~] ensuring the integrity of the fiscal accounting procedures and policies that govern the operation of agencies and institutions to assure that funds are expended properly and lawfully.

Section 41. Section 63A-1-103 is amended to read:

63A-1-103. Definitions.

As used in this title:

(1) "Agency" means a board, commission, institution, department, division, officer, council, office, committee, bureau, or other administrative unit of the state, including the agency head, agency employees, or other persons acting on behalf of or under the authority of the agency head, the Legislature, the courts, or the governor, but does not mean a political subdivision of the state, or any administrative unit of a political subdivision of the state.

(2) "Department" means the Department of [~~Administrative Services~~] Government Operations.

(3) "Executive director" means the executive director of the Department of [~~Administrative Services~~] Government Operations.

Section 42. Section 63A-1-104 is amended to read:

63A-1-104. Creation of department.

There is created within state government the Department of [~~Administrative Services~~] Government Operations, to be administered by an executive director.

Section 43. Section 63A-1-109 is amended to read:

63A-1-109. Divisions of department -- Administration.

(1) The department [~~shall be~~] is composed of:

(a) the following divisions:

[~~(i) archives and records;~~]

[~~(ii) facilities construction and management;~~]

[~~(iii) finance;~~]

[~~(iv) fleet operations;~~]

[~~(v) state purchasing and general services; and~~]

[~~(vi) risk management; and~~]

[~~(b) the Office of Administrative Rules.~~]

(i) the Division of Purchasing and General Services, created in Section 63A-2-101;

(ii) the Division of Finance, created in Section 63A-3-101;

(iii) the Division of Facilities Construction and Management, created in Section 63A-5b-301;

(iv) the Division of Fleet Operations, created in Section 63A-9-201;

(v) the Division of Archives and Records Service, created in Section 63A-12-101;

(vi) the Division of Technology Services, created in Section 63A-16-103;

(vii) the Division of Human Resource Management, created in Section 63A-17-105; and

(viii) the Division of Risk Management, created in Section 63A-4-101; and

(b) the Utah Office of Administrative Rules, created in Section 63G-3-401.

(2) Each division described in Subsection (1)(a) shall be administered and managed by a division director.

Section 44. Section 63A-1-114 is amended to read:

63A-1-114. Rate committee -- Membership -- Duties.

(1) (a) There is created a rate committee consisting of the executive directors, commissioners, or superintendents of seven state agencies, which may include the State Board of Education, that use services and pay rates to one of the department internal service funds, or their designee, that the governor appoints for a two-year term.

[~~(b) (i) Of the seven state agencies represented on the rate committee under Subsection (1)(a), only one of the following may be represented on the committee, if at all, at any one time:~~]

[~~(A) the Governor's Office of Management and Budget; or~~]

[~~(B) the Department of Technology Services.~~]

[~~(ii)~~] (b) The department may not have a representative on the rate committee.

(c) (i) The committee shall elect a chair from [~~its~~] the committee's members.

(ii) Members of the committee who are state government employees and who do not receive salary, per diem, or expenses from their agency for their service on the committee shall receive no compensation, benefits, per diem, or expenses for the members' service on the committee.

(d) The [~~Department of Administrative Services~~] department shall provide staff services to the committee.

(2) (a) A division described in Section 63A-1-109 that manages an internal service fund shall submit to the committee a proposed rate and fee schedule for services rendered by the division to an executive branch entity or an entity that subscribes to services rendered by the division.

(b) The committee shall:

(i) conduct meetings in accordance with Title 52, Chapter 4, Open and Public Meetings Act;

(ii) meet at least once each calendar year to:

(A) discuss the service performance of each internal service fund;

(B) review the proposed rate and fee schedules;

(C) at the rate committee's discretion, approve, increase, or decrease the rate and fee schedules described in Subsection (2)(b)(ii)(B); and

(D) discuss any prior or potential adjustments to the service level received by state agencies that pay rates to an internal service fund;

(iii) recommend a proposed rate and fee schedule for each internal service fund to:

(A) the Governor's Office of Management and Budget; and

(B) each legislative appropriations subcommittee that, in accordance with Section 63J-1-410, approves the internal service fund agency's rates, fees, and budget; and

(iv) review and approve, increase or decrease an interim rate, fee, or amount when an internal service fund agency begins a new service or introduces a new product between annual general sessions of the Legislature.

(c) The committee may in accordance with Subsection 63J-1-410(4), decrease a rate, fee, or amount that has been approved by the Legislature.

Section 45. Section 63A-1-201 is amended to read:

63A-1-201. Definitions.

As used in this part:

(1) "Board" means the Utah Transparency Advisory Board created under Section 63A-1-203.

[~~(2) "Department" means the Department of Administrative Services.~~]

[~~(3)~~] (2) (a) "Independent entity," except as provided in Subsection [~~(3)~~] (2)(c), means the same as that term is defined in Section 63E-1-102.

(b) "Independent entity" includes an entity that is part of an independent entity described in this Subsection [~~(3)~~] (2), if the entity is considered a component unit of the independent entity under the governmental accounting standards issued by the Governmental Accounting Standards Board.

(c) "Independent entity" does not include the Utah State Retirement Office created in Section 49-11-201.

[~~(4)~~] (3) "Participating local entity" means each of the following local entities:

(a) a county;

(b) a municipality;

(c) a local district under Title 17B, Limited Purpose Local Government Entities - Local Districts;

(d) a special service district under Title 17D, Chapter 1, Special Service District Act;

(e) a housing authority under Title 35A, Chapter 8, Part 4, Housing Authorities;

(f) a school district;

(g) a charter school;

(h) except for a taxed interlocal entity as defined in Section 11-13-602:

(i) an interlocal entity as defined in Section 11-13-103;

(ii) a joint or cooperative undertaking as defined in Section 11-13-103; and

(iii) any project, program, or undertaking entered into by interlocal agreement in accordance with Title 11, Chapter 13, Interlocal Cooperation Act;

(i) except for a taxed interlocal entity as defined in Section 11-13-602, an entity that is part of an entity described in Subsections [~~(4)~~] (3)(a) through (h), if the entity is considered a component unit of the entity described in Subsections [~~(4)~~] (3)(a) through (h) under the governmental accounting standards issued by the Governmental Accounting Standards Board; and

(j) a conservation district under Title 17D, Chapter 3, Conservation District Act.

[~~(5)~~] (4) (a) "Participating state entity" means the state of Utah, including its executive, legislative, and judicial branches, its departments, divisions, agencies, boards, commissions, councils, committees, and institutions.

(b) "Participating state entity" includes an entity that is part of an entity described in Subsection [~~(5)~~] (4)(a), if the entity is considered a component unit of the entity described in Subsection [~~(5)~~] (4)(a) under the governmental accounting standards issued by the Governmental Accounting Standards Board.

[~~(6)~~] (5) "Public financial information" means records that are required to be made available on the Utah Public Finance Website, a participating local entity's website, or an independent entity's website as required by this part, and as the term "public financial information" is defined by rule under Section 63A-1-204.

Section 46. Section 63A-1-203 is amended to read:

63A-1-203. Utah Transparency Advisory Board -- Creation -- Membership -- Duties.

(1) There is created within the department the Utah Transparency Advisory Board comprised of members knowledgeable about public finance or providing public access to public information.

(2) The board consists of:

(a) the state auditor or the state auditor's designee;

(b) an individual appointed by the executive director of the department;

(c) an individual appointed by the executive director of the Governor's Office of Management and Budget;

(d) an individual appointed by the governor on advice from the Legislative Fiscal Analyst;

(e) one member of the Senate, appointed by the governor on advice from the president of the Senate;

(f) one member of the House of Representatives, appointed by the governor on advice from the speaker of the House of Representatives;

(g) an individual appointed by the director of the [~~Department~~] Division of Technology Services;

(h) the director of the Division of Archives and Records Service created in Section 63A-12-101 or the director's designee;

(i) an individual who is a member of the State Records Committee created in Section 63G-2-501, appointed by the governor;

(j) an individual representing counties, appointed by the governor;

(k) an individual representing municipalities, appointed by the governor;

(l) an individual representing special districts, appointed by the governor;

(m) an individual representing the State Board of Education, appointed by the State Board of Education; and

(n) one individual who is a member of the public and who has knowledge, expertise, or experience in matters relating to the board's duties under Subsection (10), appointed by the board members identified in Subsections (2)(a) through (m).

(3) The board shall:

(a) advise the state auditor and the department on matters related to the implementation and administration of this part;

(b) develop plans, make recommendations, and assist in implementing the provisions of this part;

(c) determine what public financial information shall be provided by a participating state entity, independent entity, and participating local entity, if the public financial information:

(i) only includes records that:

(A) are classified as public under Title 63G, Chapter 2, Government Records Access and Management Act, or, subject to any specific limitations and requirements regarding the provision of financial information from the entity described in Section 63A-1-202, if an entity is exempt from Title 63G, Chapter 2, Government Records Access and Management Act, records that would normally be classified as public if the entity were not exempt from Title 63G, Chapter 2, Government Records Access and Management Act;

(B) are an accounting of money, funds, accounts, bonds, loans, expenditures, or revenues, regardless of the source; and

(C) are owned, held, or administered by the participating state entity, independent entity, or participating local entity that is required to provide the record; and

(ii) is of the type or nature that should be accessible to the public via a website based on considerations of:

(A) the cost effectiveness of providing the information;

(B) the value of providing the information to the public; and

(C) privacy and security considerations;

(d) evaluate the cost effectiveness of implementing specific information resources and features on the website;

(e) require participating local entities to provide public financial information in accordance with the requirements of this part, with a specified content, reporting frequency, and form;

(f) require an independent entity's website or a participating local entity's website to be accessible by link or other direct route from the Utah Public Finance Website if the independent entity or participating local entity does not use the Utah Public Finance Website;

(g) determine the search methods and the search criteria that shall be made available to the public as part of a website used by an independent entity or a participating local entity under the requirements of this part, which criteria may include:

(i) fiscal year;

(ii) expenditure type;

(iii) name of the agency;

(iv) payee;

(v) date; and

(vi) amount; and

(h) analyze ways to improve the information on the Utah Public Finance Website so the information is more relevant to citizens, including through the use of:

(i) infographics that provide more context to the data; and

(ii) geolocation services, if possible.

(4) Every two years, the board shall elect a chair and a vice chair from its members.

(5) (a) Each member shall serve a four-year term.

(b) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for a four-year term.

(6) To accomplish its duties, the board shall meet as it determines necessary.

(7) Reasonable notice shall be given to each member of the board before any meeting.

(8) A majority of the board constitutes a quorum for the transaction of business.

(9) (a) A member who is not a legislator may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses as allowed in:

(i) Section 63A-3-106;

(ii) Section 63A-3-107; and

(iii) rules made by the Division of Finance according to Sections 63A-3-106 and 63A-3-107.

(b) Compensation and expenses of a member who is a legislator are governed by Section 36-2-2 and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.

(10) (a) As used in Subsections (10) and (11):

(i) "Information website" means a single Internet website containing public information or links to public information.

(ii) "Public information" means records of state government, local government, or an independent entity that are classified as public under Title 63G, Chapter 2, Government Records Access and Management Act, or, subject to any specific limitations and requirements regarding the provision of financial information from the entity described in Section 63A-1-202, if an entity is exempt from Title 63G, Chapter 2, Government Records Access and Management Act, records that would normally be classified as public if the entity were not exempt from Title 63G, Chapter 2, Government Records Access and Management Act.

(b) The board shall:

(i) study the establishment of an information website and develop recommendations for its establishment;

(ii) develop recommendations about how to make public information more readily available to the public through the information website;

(iii) develop standards to make uniform the format and accessibility of public information posted to the information website; and

(iv) identify and prioritize public information in the possession of a state agency or political subdivision that may be appropriate for publication on the information website.

(c) In fulfilling its duties under Subsection (10)(b), the board shall be guided by principles that encourage:

(i) (A) the establishment of a standardized format of public information that makes the information more easily accessible by the public;

(B) the removal of restrictions on the reuse of public information;

(C) minimizing limitations on the disclosure of public information while appropriately safeguarding sensitive information; and

(D) balancing factors in favor of excluding public information from an information website against the public interest in having the information accessible on an information website;

(ii) (A) permanent, lasting, open access to public information; and

(B) the publication of bulk public information;

(iii) the implementation of well-designed public information systems that ensure data quality,

create a public, comprehensive list or index of public information, and define a process for continuous publication of and updates to public information;

(iv) the identification of public information not currently made available online and the implementation of a process, including a timeline and benchmarks, for making that public information available online; and

(v) accountability on the part of those who create, maintain, manage, or store public information or post it to an information website.

(d) The department shall implement the board's recommendations, including the establishment of an information website, to the extent that implementation:

(i) is approved by the Legislative Management Committee;

(ii) does not require further legislative appropriation; and

(iii) is within the department's existing statutory authority.

(11) The department shall, in consultation with the board and as funding allows, modify the information website described in Subsection (10) to:

(a) by January 1, 2015, serve as a point of access for Government Records Access and Management requests for executive agencies;

(b) by January 1, 2016, serve as a point of access for Government Records Access and Management requests for:

(i) school districts;

(ii) charter schools;

(iii) public transit districts created under Title 17B, Chapter 2a, Part 8, Public Transit District Act;

(iv) counties; and

(v) municipalities;

(c) by January 1, 2017, serve as a point of access for Government Records Access and Management requests for:

(i) local districts under Title 17B, Limited Purpose Local Government Entities – Local Districts; and

(ii) special service districts under Title 17D, Chapter 1, Special Service District Act;

(d) except as provided in Subsection (12)(a), provide link capabilities to other existing repositories of public information, including maps, photograph collections, legislatively required reports, election data, statute, rules, regulations, and local ordinances that exist on other agency and political subdivision websites;

(e) provide multiple download options in different formats, including nonproprietary, open formats where possible;

(f) provide any other public information that the board, under Subsection (10), identifies as appropriate for publication on the information website; and

(g) incorporate technical elements the board identifies as useful to a citizen using the information website.

(12) (a) The department, in consultation with the board, shall establish by rule any restrictions on the inclusion of maps and photographs, as described in Subsection (11)(d), on the website described in Subsection (10) if the inclusion would pose a potential security concern.

(b) The website described in Subsection (10) may not publish any record that is classified as private, protected, or controlled under Title 63G, Chapter 2, Government Records Access and Management Act.

Section 47. Section 63A-2-101 is amended to read:

63A-2-101. Creation.

There is created the Division of Purchasing and General Services within the [~~Department of Administrative Services~~] department.

Section 48. Section 63A-4-101 is amended to read:

63A-4-101. Risk manager -- Appointment -- Duties.

(1) (a) There is created within the department the Division of Risk Management.

(b) The executive director shall, with the approval of the governor, appoint a risk manager as the division director, who shall be qualified by education and experience in the management of general property and casualty insurance.

(2) The risk manager shall:

(a) acquire and administer the following purchased by the state:

(i) all property, casualty insurance; and

(ii) subject to Section 34A-2-203, workers' compensation insurance;

(b) recommend that the executive director make rules:

(i) prescribing reasonable and objective underwriting and risk control standards for state agencies;

(ii) prescribing the risks to be covered by the Risk Management Fund and the extent to which these risks will be covered;

(iii) prescribing the properties, risks, deductibles, and amount limits eligible for payment out of the fund;

(iv) prescribing procedures for making claims and proof of loss; and

(v) establishing procedures for the resolution of disputes relating to coverage or claims, which may include binding arbitration;

(c) implement a risk management and loss prevention program for state agencies for the purpose of reducing risks, accidents, and losses to assist state officers and employees in fulfilling their responsibilities for risk control and safety;

(d) coordinate and cooperate with any state agency having responsibility to manage and protect state properties, including:

(i) the state fire marshal;

(ii) the director of the Division of Facilities Construction and Management;

(iii) the Department of Public Safety; and

(iv) institutions of higher education;

(e) maintain records necessary to fulfill the requirements of this section;

(f) manage the fund in accordance with economically and actuarially sound principles to produce adequate reserves for the payment of contingencies, including unpaid and unreported claims, and may purchase any insurance or reinsurance considered necessary to accomplish this objective; and

(g) inform the agency's governing body and the governor when any agency fails or refuses to comply with reasonable risk control recommendations made by the risk manager.

(3) Before the effective date of any rule, the risk manager shall provide a copy of the rule to each agency affected by it.

Section 49. Section 63A-5b-202 is amended to read:

63A-5b-202. State Building Board powers and duties.

(1) The board may, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules that are necessary to discharge the board's duties.

(2) The board shall:

(a) review and approve agency master plans of structures built or contemplated;

(b) submit capital development recommendations and priorities to the Legislature as [~~set forth~~] described in Section 63A-5b-402;

(c) submit recommendations for dedicated projects and prioritize nondedicated projects as provided in Section 63A-5b-403;

(d) make a finding that the requirements of Section 53B-2a-112 are met before the board may consider a funding request from the UTech board pertaining to new capital facilities and land purchases; and

(e) fulfill the board's responsibilities under:

(i) Section 63A-5b-802, relating to the approval of leases with terms of more than 10 years;

(ii) Section 63A-5b-907, relating to vacant division-owned property; and

(iii) Section 63A-5b-1003, relating to the approval of loans from the state facility energy efficiency fund.

(3) The board may:

(a) authorize capital development projects without Legislative approval only as authorized in Section 63A-5b-404; and

(b) make rules relating to the categorical delegation of projects as provided in Subsection 63A-5b-604(4).

Section 50. Section 63A-9-101 is amended to read:

63A-9-101. Definitions.

As used in this part:

(1) (a) "Agency" means each department, commission, board, council, agency, institution, officer, corporation, fund, division, office, committee, authority, laboratory, library, unit, bureau, panel, or other administrative unit of the state.

(b) "Agency" includes the State Board of Education and each higher education institution described in Section 53B-1-102.

(c) "Agency" includes the legislative and judicial branches.

(2) "Committee" means the Motor Vehicle Review Committee created by this chapter.

(3) "Director" means the director of the division.

(4) "Division" means the Division of Fleet Operations created by this chapter.

(5) "Executive director" means the executive director of the Department of [~~Administrative Services~~] Government Operations.

(6) "Local agency" means:

(a) a county;

(b) a municipality;

(c) a school district;

(d) a local district;

(e) a special service district;

(f) an interlocal entity as defined under Section 11-13-103; or

(g) any other political subdivision of the state, including a local commission, board, or other governmental entity that is vested with the authority to make decisions regarding the public's business.

(7) (a) "Motor vehicle" means a self-propelled vehicle capable of carrying passengers.

(b) "Motor vehicle" includes vehicles used for construction and other nontransportation purposes.

(8) "State vehicle" means each motor vehicle owned, operated, or in the possession of an agency.

Section 51. Section 63A-9-201 is amended to read:

63A-9-201. Creation.

(1) There is created the Division of Fleet Operations within the [~~Department of Administrative Services~~] department.

(2) The division of fleet operations is an internal service fund agency and its financial affairs shall be accounted for as an internal service fund.

Section 52. Section 63A-9-301 is amended to read:

63A-9-301. Motor Vehicle Review Committee -- Composition.

(1) There is created a Motor Vehicle Review Committee to advise the division.

(2) The committee shall be composed of nine members as follows:

(a) the executive director of the [~~Department of Administrative Services~~] department or the director's designee;

(b) a member from a state agency other than higher education, the Department of Transportation, the Department of Public Safety, or the Department of Natural Resources, who uses the division's services;

(c) the director of the Division of Purchasing and General Services or the director's designee;

(d) one member from:

(i) higher education, designated annually by the executive director of the Department of [~~Administrative Services~~] Government Operations;

(ii) the Department of Transportation, designated annually by the executive director of the Department of [~~Administrative Services~~] Government Operations;

(iii) the Department of Public Safety, designated annually by the executive director of the Department of [~~Administrative Services~~] Government Operations; and

(iv) the Department of Natural Resources, designated annually by the executive director of the Department of [~~Administrative Services~~] Government Operations; and

(e) two public members with experience in fleet operations and maintenance appointed by the governor.

(3) (a) Except as required by Subsection (3)(b), the governor shall appoint each public member to a four-year term.

(b) Notwithstanding the requirements of Subsection (3)(a), the governor shall, at the time of appointment, adjust the length of terms to ensure that the terms of public members are staggered so that one of the public members is appointed every two years.

(c) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.

(4) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(5) Five members of the committee are a quorum.

(6) The executive director of the Department of [~~Administrative Services~~] Government Operations is chair of the committee.

Section 53. Section 63A-9-401 is amended to read:

63A-9-401. Division -- Duties.

(1) The division shall:

(a) perform all administrative duties and functions related to management of state vehicles;

(b) coordinate all purchases of state vehicles;

(c) establish one or more fleet automation and information systems for state vehicles;

(d) make rules establishing requirements for:

(i) maintenance operations for state vehicles;

(ii) use requirements for state vehicles;

(iii) fleet safety and loss prevention programs;

(iv) preventative maintenance programs;

(v) procurement of state vehicles, including:

(A) vehicle standards;

(B) alternative fuel vehicle requirements;

(C) short-term lease programs;

(D) equipment installation; and

(E) warranty recovery programs;

(vi) fuel management programs;

(vii) cost management programs;

(viii) business and personal use practices, including commute standards;

(ix) cost recovery and billing procedures;

(x) disposal of state vehicles;

(xi) reassignment of state vehicles and reallocation of vehicles throughout the fleet;

(xii) standard use and rate structures for state vehicles; and

(xiii) insurance and risk management requirements;

(e) establish a parts inventory;

(f) create and administer a fuel dispensing services program that meets the requirements of Subsection (2);

(g) emphasize customer service when dealing with agencies and agency employees;

(h) conduct an annual audit of all state vehicles for compliance with division requirements;

(i) before charging a rate, fee, or other amount to an executive branch agency, or to a subscriber of services other than an executive branch agency:

(i) submit the proposed rates, fees, and cost analysis to the Rate Committee established in Section 63A-1-114; and

(ii) obtain the approval of the Legislature as required by Section 63J-1-410; and

(j) conduct an annual market analysis of proposed rates and fees, which analysis shall include a comparison of the division's rates and fees with the fees of other public or private sector providers where comparable services and rates are reasonably available.

(2) The division shall operate a fuel dispensing services program in a manner that:

(a) reduces the risk of environmental damage and subsequent liability for leaks involving state-owned underground storage tanks;

(b) eliminates fuel site duplication and reduces overall costs associated with fuel dispensing;

(c) provides efficient fuel management and efficient and accurate accounting of fuel-related expenses;

(d) where practicable, privatizes portions of the state's fuel dispensing system;

(e) provides central planning for fuel contingencies;

(f) establishes fuel dispensing sites that meet geographical distribution needs and that reflect usage patterns;

(g) where practicable, uses alternative sources of energy; and

(h) provides safe, accessible fuel supplies in an emergency.

(3) The division shall:

(a) ensure that the state and each of its agencies comply with state and federal law and state and federal rules and regulations governing underground storage tanks;

(b) coordinate the installation of new state-owned underground storage tanks and the upgrading or retrofitting of existing underground storage tanks;

(c) by no later than June 30, 2025, ensure that an underground storage tank qualifies for a rebate, provided under Subsection 19-6-410.5(5)(d), of a portion of the environmental assurance fee described in Subsection 19-6-410.5(4), if the underground storage tank is owned by:

(i) the state;

(ii) a state agency; or

(iii) a county, municipality, school district, local district, special service district, or federal agency that has subscribed to the fuel dispensing service provided by the division under Subsection (6)(b);

(d) report to the Natural Resources, Agriculture, and Environmental Quality Appropriations Subcommittee by no later than:

(i) November 30, 2020, on the status of the requirements of Subsection (3)(c); and

(ii) November 30, 2024, on whether:

(A) the requirements of Subsection (3)(c) have been met; and

(B) additional funding is needed to accomplish the requirements of Subsection (3)(c); and

(e) ensure that counties, municipalities, school districts, local districts, and special service districts subscribing to services provided by the division sign a contract that:

(i) establishes the duties and responsibilities of the parties;

(ii) establishes the cost for the services; and

(iii) defines the liability of the parties.

(4) In fulfilling the requirements of Subsection (3)(c), the division may give priority to underground storage tanks owned by the state or a state agency under Subsections (3)(c)(i) and (ii).

(5) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the director of the Division of Fleet Operations:

(i) may make rules governing fuel dispensing; and

(ii) shall make rules establishing standards and procedures for purchasing the most economically appropriate size and type of vehicle for the purposes and driving conditions for which the vehicle will be used, including procedures for granting exceptions to the standards by the executive director of the Department of [~~Administrative Services~~] Government Operations.

(b) Rules made under Subsection (5)(a)(ii):

(i) shall designate a standard vehicle size and type that shall be designated as the statewide standard vehicle for fleet expansion and vehicle replacement;

(ii) may designate different standard vehicle size and types based on defined categories of vehicle use;

(iii) may, when determining a standard vehicle size and type for a specific category of vehicle use, consider the following factors affecting the vehicle class:

(A) size requirements;

(B) economic savings;

(C) fuel efficiency;

(D) driving and use requirements;

(E) safety;

(F) maintenance requirements;

(G) resale value; and

(H) the requirements of Section 63A-9-403; and

(iv) shall require agencies that request a vehicle size and type that is different from the standard vehicle size and type to:

(A) submit a written request for a nonstandard vehicle to the division that contains the following:

(I) the make and model of the vehicle requested, including acceptable alternate vehicle makes and models as applicable;

(II) the reasons justifying the need for a nonstandard vehicle size or type;

(III) the date of the request; and

(IV) the name and signature of the person making the request; and

(B) obtain the division's written approval for the nonstandard vehicle.

(6) (a) (i) Each state agency and each higher education institution shall subscribe to the fuel dispensing services provided by the division.

(ii) A state agency may not provide or subscribe to any other fuel dispensing services, systems, or products other than those provided by the division.

(b) Counties, municipalities, school districts, local districts, special service districts, and federal agencies may subscribe to the fuel dispensing services provided by the division if:

(i) the county or municipal legislative body, the school district, or the local district or special service district board recommends that the county, municipality, school district, local district, or special service district subscribe to the fuel dispensing services of the division; and

(ii) the division approves participation in the program by that government unit.

(7) The director, with the approval of the executive director, may delegate functions to institutions of higher education, by contract or other means authorized by law, if:

(a) the agency or institution of higher education has requested the authority;

(b) in the judgment of the director, the state agency or institution has the necessary resources and skills to perform the delegated responsibilities; and

(c) the delegation of authority is in the best interest of the state and the function delegated is accomplished according to provisions contained in law or rule.

Section 54. Section 63A-9-501 is amended to read:

63A-9-501. Complaints about misuse or illegal operation of state vehicles -- Disposition.

(1) The division shall refer complaints from the public about misuse or illegal operation of state vehicles to the agency that is the owner or lessor of the vehicle.

(2) Each agency head or his designee shall investigate all complaints about misuse or illegal operation of state vehicles and shall discipline each employee that is found to have misused or illegally operated a vehicle by following the procedures set forth in the rules adopted by the [~~Department~~] Division of Human Resource Management as authorized by Section [~~67-19-18~~] 63A-17-306.

(3) (a) Each agency shall report the findings of each investigation conducted as well as any action taken as a result of the investigation to the directors of the Divisions of Fleet Operations and Risk Management.

(b) Misuse or illegal operation of state vehicles may result in suspension or revocation of state vehicle driving privileges as governed in rule.

Section 55. Section 63A-12-101 is amended to read:

63A-12-101. Division of Archives and Records Service created -- Duties.

(1) There is created the Division of Archives and Records Service within the [~~Department of Administrative Services~~] department.

(2) The state archives shall:

(a) administer the state's archives and records management programs, including storage of records, central microphotography programs, and quality control;

(b) apply fair, efficient, and economical management methods to the collection, creation, use, maintenance, retention, preservation, disclosure, and disposal of records and documents;

(c) establish standards, procedures, and techniques for the effective management and physical care of records;

(d) conduct surveys of office operations and recommend improvements in current records management practices, including the use of space, equipment, automation, and supplies used in creating, maintaining, storing, and servicing records;

(e) establish standards for the preparation of schedules providing for the retention of records of continuing value and for the prompt and orderly disposal of state records no longer possessing sufficient administrative, historical, legal, or fiscal value to warrant further retention;

(f) establish, maintain, and operate centralized microphotography lab facilities and quality control for the state;

(g) provide staff and support services to the Records Management Committee created in Section 63A-12-112 and the State Records Committee created in Section 63G-2-501;

(h) develop training programs to assist records officers and other interested officers and employees of governmental entities to administer this chapter and Title 63G, Chapter 2, Government Records Access and Management Act;

(i) provide access to public records deposited in the archives;

(j) administer and maintain the Utah Public Notice Website established under Section [~~63F-1-701~~] 63A-16-601;

(k) provide assistance to any governmental entity in administering this chapter and Title 63G, Chapter 2, Government Records Access and Management Act;

(l) prepare forms for use by all governmental entities for a person requesting access to a record; and

(m) if the department operates the Division of Archives and Records Service as an internal service fund agency in accordance with Section 63A-1-109.5, submit to the Rate Committee established in Section 63A-1-114:

(i) the proposed rate and fee schedule as required by Section 63A-1-114; and

(ii) other information or analysis requested by the Rate Committee.

(3) The state archives may:

(a) establish a report and directives management program; and

(b) establish a forms management program.

(4) The executive director [~~of the Department of Administrative Services~~] may direct the state archives to administer other functions or services consistent with this chapter and Title 63G, Chapter 2, Government Records Access and Management Act.

Section 56. Section 63A-12-102 is amended to read:

63A-12-102. State archivist -- Duties.

(1) With the approval of the governor, the executive director [~~of the Department of Administrative Services~~] shall appoint the state archivist to serve as director of the state archives. The state archivist shall be qualified by archival training, education, and experience.

(2) The state archivist is charged with custody of the following:

(a) the enrolled copy of the Utah constitution;

(b) the acts and resolutions passed by the Legislature;

(c) all records kept or deposited with the state archivist as provided by law;

(d) the journals of the Legislature and all bills, resolutions, memorials, petitions, and claims introduced in the Senate or the House of Representatives;

(e) Indian war records; and

(f) oaths of office of all state officials.

(3) (a) The state archivist is the official custodian of all noncurrent records of permanent or historic value that are not required by law to remain in the custody of the originating governmental entity.

(b) Upon the termination of any governmental entity, its records shall be transferred to the state archives.

Section 57. Section 63A-12-103 is amended to read:

63A-12-103. Duties of governmental entities.

The chief administrative officer of each governmental entity shall:

(1) establish and maintain an active, continuing program for the economical and efficient management of the governmental entity's records as provided by this chapter and Title 63G, Chapter 2, Government Records Access and Management Act;

(2) appoint one or more records officers who will be trained to work with the state archives in the care, maintenance, scheduling, disposal, classification, designation, access, and preservation of records;

(3) ensure that officers and employees of the governmental entity that receive or process records requests receive required training on the procedures and requirements of this chapter and Title 63G, Chapter 2, Government Records Access and Management Act;

(4) make and maintain adequate and proper documentation of the organization, functions, policies, decisions, procedures, and essential transactions of the governmental entity designed to furnish information to protect the legal and financial rights of persons directly affected by the entity's activities;

(5) submit to the state archivist proposed schedules of records for final approval by the Records Management Committee created in Section 63A-12-112;

(6) cooperate with the state archivist in conducting surveys made by the state archivist;

(7) comply with rules issued by the Department of [~~Administrative Services~~] Government Operations as provided by Section 63A-12-104;

(8) report to the state archives the designation of record series that it maintains;

(9) report to the state archives the classification of each record series that is classified; and

(10) establish and report to the state archives retention schedules for objects that the governmental entity determines are not defined as a record under Section 63G-2-103, but that have historical or evidentiary value.

Section 58. Section 63A-12-104 is amended to read:

63A-12-104. Rulemaking authority.

(1) The executive director of the [~~Department of Administrative Services~~] department, with the recommendation of the state archivist, may make rules as provided by Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement provisions of this chapter and Title 63G, Chapter 2, Government Records Access and Management Act, dealing with procedures for the collection, storage, designation, classification, access, mediation for records access, and management of records.

(2) A governmental entity that includes divisions, boards, departments, committees, commissions, or other subparts that fall within the definition of a governmental entity under this chapter, may, by rule, specify at which level the requirements specified in this chapter shall be undertaken.

Section 59. Section 63A-13-201 is amended to read:

63A-13-201. Creation of office -- Inspector general -- Appointment -- Term.

(1) There is created an independent entity within the [~~Department of Administrative Services~~] department known as the "Office of Inspector General of Medicaid Services."

(2) The governor shall:

(a) appoint the inspector general of Medicaid services with the advice and consent of the Senate; and

(b) establish the salary for the inspector general of Medicaid services based upon a recommendation from the [~~Department~~] Division of Human Resource Management which shall be based on a market salary survey conducted by the [~~Department~~] Division of Human Resource Management.

(3) A person appointed as the inspector general shall have the following qualifications:

(a) a general knowledge of the type of methodology and controls necessary to audit, investigate, and identify fraud, waste, and abuse;

(b) strong management skills;

(c) extensive knowledge of performance audit methodology;

(d) the ability to oversee and execute an audit; and

(e) strong interpersonal skills.

(4) The inspector general of Medicaid services:

(a) shall serve a term of four years; and

(b) may be removed by the governor, for cause.

(5) If the inspector general is removed for cause, a new inspector general shall be appointed, with the advice and consent of the Senate, to serve the remainder of the term of the inspector general of Medicaid services who was removed for cause.

(6) The Office of Inspector General of Medicaid Services:

(a) is not under the supervision of, and does not take direction from, the executive director, except for administrative purposes;

(b) shall use the legal services of the state attorney general's office;

(c) shall submit a budget for the office directly to the [~~Department of Administrative Services~~] department;

(d) except as prohibited by federal law, is subject to:

(i) Title 51, Chapter 5, Funds Consolidation Act;

(ii) Title 51, Chapter 7, State Money Management Act;

(iii) Title 63A, Utah [~~Administrative Services~~] Government Operations Code;

(iv) Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(v) Title 63G, Chapter 4, Administrative Procedures Act;

(vi) Title 63G, Chapter 6a, Utah Procurement Code;

(vii) Title 63J, Chapter 1, Budgetary Procedures Act;

(viii) Title 63J, Chapter 2, Revenue Procedures and Control Act;

(ix) [~~Title 67, Chapter 19~~] Chapter 17, Utah State Personnel Management Act;

(x) Title 67, Chapter 16, Utah Public Officers' and Employees' Ethics Act;

(xi) Title 52, Chapter 4, Open and Public Meetings Act;

(xii) Title 63G, Chapter 2, Government Records Access and Management Act; and

(xiii) coverage under the Risk Management Fund created under Section 63A-4-201;

(e) when requested, shall provide reports to the governor, the president of the Senate, or the speaker of the House; and

(f) shall adopt administrative rules to establish policies for employees that are substantially similar to the administrative rules adopted by the [~~Department~~] Division of Human Resource Management.

Section 60. Section 63A-16-101, which is renumbered from Section 63F-1-101 is renumbered and amended to read:

CHAPTER 16. UTAH TECHNOLOGY GOVERNANCE ACT

Part 1. General Provisions

[~~63F-1-101~~]. 63A-16-101. Title.

[~~(1)~~] This [~~title~~] chapter is known as the "Utah Technology Governance Act."

[~~(2) This chapter is known as the "Department of Technology Services."~~]

Section 61. Section 63A-16-102, which is renumbered from Section 63F-1-102 is renumbered and amended to read:

[~~63F-1-102~~]. 63A-16-102. Definitions.

As used in this [~~title~~] chapter:

(1) "Chief information officer" means the chief information officer appointed under Section [~~63F-1-201~~] 63A-16-201.

(2) "Data center" means a centralized repository for the storage, management, and dissemination of data.

(3) [~~"Department" means the Department~~] "Division" means the Division of Technology Services.

(4) "Enterprise architecture" means:

(a) information technology that can be applied across state government; and

(b) support for information technology that can be applied across state government, including:

(i) technical support;

(ii) master software licenses; and

(iii) hardware and software standards.

(5) (a) "Executive branch agency" means an agency or administrative subunit of state government.

(b) "Executive branch agency" does not include:

(i) the legislative branch;

(ii) the judicial branch;

(iii) the State Board of Education;

(iv) the Utah Board of Higher Education;

(v) institutions of higher education;

(vi) independent entities as defined in Section 63E-1-102; [~~and~~] or

(vii) the following elective constitutional offices of the executive department [~~which includes~~]:

(A) the state auditor;

(B) the state treasurer; and

(C) the attorney general.

(6) "Executive branch strategic plan" means the executive branch strategic plan created under Section [~~63F-1-203~~] 63A-16-202.

(7) "Individual with a disability" means an individual with a condition that meets the definition of "disability" in 42 U.S.C. Sec. 12102.

(8) "Information technology" means all computerized and auxiliary automated information handling, including:

(a) systems design and analysis;

(b) acquisition, storage, and conversion of data;

(c) computer programming;

(d) information storage and retrieval;

(e) voice, video, and data communications;

(f) requisite systems controls;

(g) simulation; and

(h) all related interactions between people and machines.

(9) "State information architecture" means a logically consistent set of principles, policies, and standards that guide the engineering of state government's information technology and infrastructure in a way that ensures alignment with state government's business and service needs.

Section 62. Section 63A-16-103, which is renumbered from Section 63F-1-103 is renumbered and amended to read:

[~~63F-1-103~~]. 63A-16-103. Division of Technology Services.

(1) There is created within [~~state government the Department~~] the department the Division of Technology Services [~~which has all of the policymaking functions, regulatory and enforcement powers, rights, duties, and responsibilities outlined in this title~~].

(2) The [~~department~~] division has authority to operate as an internal service fund agency as provided in Section 63J-1-410.

Section 63. Section 63A-16-104, which is renumbered from Section 63F-1-104 is renumbered and amended to read:

[~~63F-1-104~~]. 63A-16-104. Duties of division.

The [~~department~~] division shall:

(1) lead state executive branch agency efforts to establish and reengineer the state's information technology architecture with the goal of coordinating central and individual agency information technology in a manner that:

(a) ensures compliance with the executive branch agency strategic plan; and

(b) ensures that cost-effective, efficient information and communication systems and resources are being used by agencies to:

(i) reduce data, hardware, and software redundancy;

(ii) improve system interoperability and data accessibility between agencies; and

(iii) meet the agency's and user's business and service needs;

(2) coordinate an executive branch strategic plan for all agencies;

(3) develop and implement processes to replicate information technology best practices and standards throughout the executive branch;

(4) at least once every odd-numbered year:

(a) evaluate the adequacy of the [~~department's~~] division's and the executive branch agencies' data and information technology system security standards through an independent third party assessment; and

(b) communicate the results of the independent third party assessment to the appropriate executive branch agencies and to the president of the Senate and the speaker of the House of Representatives;

(5) oversee the expanded use and implementation of project and contract management principles as they relate to information technology projects within the executive branch;

(6) serve as general contractor between the state's information technology users and private sector providers of information technology products and services;

(7) work toward building stronger partnering relationships with providers;

(8) develop service level agreements with executive branch departments and agencies to ensure quality products and services are delivered on schedule and within budget;

(9) develop standards for application development including a standard methodology and cost-benefit analysis that all agencies shall utilize for application development activities;

(10) determine and implement statewide efforts to standardize data elements;

(11) coordinate with executive branch agencies to provide basic website standards for agencies that address common design standards and navigation standards, including:

(a) accessibility for individuals with disabilities in accordance with:

(i) the standards of 29 U.S.C. Sec. 794d; and

(ii) Section [~~63F-1-210~~] 63A-16-209;

(b) consistency with standardized government security standards;

(c) designing around user needs with data-driven analysis influencing management and development decisions, using qualitative and quantitative data to determine user goals, needs, and behaviors, and continual testing of the website, web-based form, web-based application, or digital service to ensure that user needs are addressed;

(d) providing users of the website, web-based form, web-based application, or digital service with the option for a more customized digital experience that allows users to complete digital transactions in an efficient and accurate manner; and

(e) full functionality and usability on common mobile devices;

(12) consider, when making a purchase for an information system, cloud computing options, including any security benefits, privacy, data retention risks, and cost savings associated with cloud computing options;

(13) develop systems and methodologies to review, evaluate, and prioritize existing information technology projects within the executive branch and report to the governor and the Public Utilities, Energy, and Technology Interim Committee in accordance with [~~63F-1-201~~] Section 63A-16-201 on a semiannual basis regarding the status of information technology projects;

(14) assist the Governor's Office of Management and Budget with the development of information technology budgets for agencies; and

(15) ensure that any training or certification required of a public official or public employee, as those terms are defined in Section 63G-22-102, complies with Title 63G, Chapter 22, State Training and Certification Requirements, if the training or certification is required:

(a) under this [~~title~~] chapter;

(b) by the department; or

(c) by [~~an agency or division within the department~~] the division.

Section 64. Section 63A-16-105, which is renumbered from Section 63F-1-106 is renumbered and amended to read:

[~~63F-1-106~~]. 63A-16-105. Director -- Authority.

[~~(1) The executive director of the department:~~]

(1) The executive director shall, with the approval of the governor, appoint the director.

(2) The director:

(a) shall exercise all powers given to, and perform all duties imposed on, the division;

[~~(a)~~] (b) has administrative jurisdiction over [~~each office in the department and the director of each office~~] the division and each office within the division;

[~~(b)~~] (c) may make changes in [~~department~~] division personnel and [~~each office's~~] service functions [~~in the divisions~~] under the director's administrative jurisdiction; and

[~~(c)~~] (d) may authorize a designee to perform appropriate responsibilities.

(2) The [~~executive~~] director may, to facilitate [~~department~~] division management, establish offices and bureaus to perform division functions [~~such as budgeting, planning, and personnel administration~~].

(3) (a) The [~~executive~~] director may hire employees in the [~~department, divisions,~~] division and offices of the division as permitted by [~~department~~] division resources.

(b) Except as provided in Subsection (4), each employee of the [~~department~~] division is exempt from career service or classified service status as provided in Section [~~67-19-15~~] 63A-17-301.

(4) (a) An employee of an executive branch agency who was a career service employee as of July 1, 2005, who [~~is~~] was transferred to the division at the time it was newly created as the Department of Technology Services continues in the employee's career service status during the employee's service to the [~~Department of Technology Services~~] division if the duties of the position in the [~~new department~~] division are substantially similar to those in the employee's previous position.

(b) A career service employee transferred [~~to the new department~~] under the provisions of Subsection (4)(a), whose duties or responsibilities subsequently change, may not be converted to exempt status without the review process required by Subsection [~~67-19-15~~] 63A-17-301(3).

Section 65. Section 63A-16-106, which is renumbered from Section 63F-1-107 is renumbered and amended to read:

[~~63F-1-107~~]. 63A-16-106. Offices within the division -- Administration.

(1) The [~~department shall be composed of~~] division includes the following [~~divisions~~] offices:

(a) the [~~Division~~] Office of Enterprise Technology;

(b) the [~~Division~~] Office of Integrated Technology; and

(c) the [~~Division~~] Office of Agency Services.

(2) Each [~~division~~] office shall be administered and managed by a [~~division~~] director.

Section 66. Section 63A-16-201, which is renumbered from Section 63F-1-201 is renumbered and amended to read:

Part 2. Chief Information Officer

[~~63F-1-201~~]. 63A-16-201. Chief information officer -- Appointment -- Powers -- Reporting.

(1) The director of the [~~department~~] division shall serve as the state's chief information officer.

(2) The chief information officer shall:

(a) advise the governor on information technology policy; and

(b) perform those duties given the chief information officer by statute.

(3) (a) The chief information officer shall report annually to:

(i) the governor; and

(ii) the Public Utilities, Energy, and Technology Interim Committee.

(b) The report required under Subsection (3)(a) shall:

(i) summarize the state's current and projected use of information technology;

(ii) summarize the executive branch strategic plan including a description of major changes in the executive branch strategic plan;

(iii) provide a brief description of each state agency's information technology plan;

(iv) include the status of information technology projects described in Subsection [~~63F-1-104~~] 63A-16-104(11);

(v) include the performance report described in Section [~~63F-1-212~~] 63A-16-211; and

(vi) include the expenditure of the funds provided for electronic technology, equipment, and hardware.

Section 67. Section 63A-16-202, which is renumbered from Section 63F-1-203 is renumbered and amended to read:

[~~63F-1-203~~]. 63A-16-202. Executive branch information technology strategic plan.

(1) In accordance with this section, the chief information officer shall prepare an executive branch information technology strategic plan:

(a) that complies with this chapter; and

(b) that includes:

(i) a strategic plan for the:

(A) interchange of information related to information technology between executive branch agencies;

(B) coordination between executive branch agencies in the development and maintenance of information technology and information systems, including the coordination of agency information technology plans described in Section [~~63F-1-204~~] 63A-16-203; and

(C) protection of the privacy of individuals who use state information technology or information systems, including the implementation of industry best practices for data and system security;

(ii) priorities for the development and implementation of information technology or information systems including priorities determined on the basis of:

(A) the importance of the information technology or information system; and

(B) the time sequencing of the information technology or information system; and

(iii) maximizing the use of existing state information technology resources.

(2) In the development of the executive branch strategic plan, the chief information officer shall consult with all cabinet level officials.

(3) (a) Unless withdrawn by the chief information officer or the governor in accordance with

Subsection (3)(b), the executive branch strategic plan takes effect 30 days after the day on which the executive branch strategic plan is submitted to:

(i) the governor; and

(ii) the Public Utilities, Energy, and Technology Interim Committee.

(b) The chief information officer or the governor may withdraw the executive branch strategic plan submitted under Subsection (3)(a) if the governor or chief information officer determines that the executive branch strategic plan:

(i) should be modified; or

(ii) for any other reason should not take effect.

(c) The Public Utilities, Energy, and Technology Interim Committee may make recommendations to the governor and to the chief information officer if the commission determines that the executive branch strategic plan should be modified or for any other reason should not take effect.

(d) Modifications adopted by the chief information officer shall be resubmitted to the governor and the Public Utilities, Energy, and Technology Interim Committee for their review or approval as provided in Subsections (3)(a) and (b).

(4) (a) The chief information officer shall annually, on or before January 1, [~~2014, and each year thereafter,~~] modify the executive branch information technology strategic plan to incorporate security standards that:

(i) are identified as industry best practices in accordance with Subsections [~~63F-1-104~~] 63A-16-104(3) and (4); and

(ii) can be implemented within the budget of the department or the executive branch agencies.

(b) The chief information officer shall inform the speaker of the House of Representatives and the president of the Senate on or before January 1 of each year if best practices identified in Subsection (4)(a)(i) are not adopted due to budget issues considered under Subsection (4)(a)(ii).

(5) Each executive branch agency shall implement the executive branch strategic plan by adopting an agency information technology plan in accordance with Section [~~63F-1-204~~] 63A-16-203.

Section 68. Section 63A-16-203, which is renumbered from Section 63F-1-204 is renumbered and amended to read:

[~~63F-1-204~~]. 63A-16-203. Agency information technology plans.

(1) (a) [~~By~~] On or before July 1 [~~of~~] each year, each executive branch agency shall submit an agency information technology plan to the chief information officer at the department level, unless the governor or the chief information officer request an information technology plan be submitted by a subunit of a department, or by an executive branch agency other than a department.

(b) The information technology plans required by this section shall be in the form and level of detail required by the chief information officer, by administrative rule adopted in accordance with Section [~~63F-1-206~~] 63A-16-205, and shall include, at least:

(i) the information technology objectives of the agency;

(ii) any performance measures used by the agency for implementing the agency's information technology objectives;

(iii) any planned expenditures related to information technology;

(iv) the agency's need for appropriations for information technology;

(v) how the agency's development of information technology coordinates with other state and local governmental entities;

(vi) any efforts the agency has taken to develop public and private partnerships to accomplish the information technology objectives of the agency;

(vii) the efforts the executive branch agency has taken to conduct transactions electronically in compliance with Section 46-4-503; and

(viii) the executive branch agency's plan for the timing and method of verifying the department's security standards, if an agency intends to verify the department's security standards for the data that the agency maintains or transmits through the department's servers.

(2) (a) Except as provided in Subsection (2)(b), an agency information technology plan described in Subsection (1) shall comply with the executive branch strategic plan established in accordance with Section [~~63F-1-203~~] 63A-16-202.

(b) If the executive branch agency submitting the agency information technology plan justifies the need to depart from the executive branch strategic plan, an agency information technology plan may depart from the executive branch strategic plan to the extent approved by the chief information officer.

(3) The chief information officer shall review each agency plan to determine:

(a) (i) whether the agency plan complies with the executive branch strategic plan and state information architecture; or

(ii) to the extent that the agency plan does not comply with the executive branch strategic plan or state information architecture, whether the executive branch entity is justified in departing from the executive branch strategic plan, or state information architecture; and

(b) whether the agency plan meets the information technology and other needs of:

(i) the executive branch agency submitting the plan; and

(ii) the state.

(4) After the chief information officer conducts the review described in Subsection (3) of an agency

information technology plan, the chief information officer may:

(a) approve the agency information technology plan;

(b) disapprove the agency information technology plan; or

(c) recommend modifications to the agency information technology plan.

(5) An executive branch agency or the department may not submit a request for appropriation related to information technology or an information technology system to the governor in accordance with Section 63J-1-201 until after the executive branch agency's information technology plan is approved by the chief information officer.

Section 69. Section 63A-16-204, which is renumbered from Section 63F-1-205 is renumbered and amended to read:

[~~63F-1-205~~]. 63A-16-204. Approval of acquisitions of information technology.

(1) (a) In accordance with Subsection (2), the chief information officer shall approve the acquisition by an executive branch agency of:

(i) information technology equipment;

(ii) telecommunications equipment;

(iii) software;

(iv) services related to the items listed in Subsections (1)(a)(i) through (iii); and

(v) data acquisition.

(b) The chief information officer may negotiate the purchase, lease, or rental of private or public information technology or telecommunication services or facilities in accordance with this section.

(c) Where practical, efficient, and economically beneficial, the chief information officer shall use existing private and public information technology or telecommunication resources.

(d) Notwithstanding another provision of this section, an acquisition authorized by this section shall comply with rules made by the applicable rulemaking authority under Title 63G, Chapter 6a, Utah Procurement Code.

(2) Before negotiating a purchase, lease, or rental under Subsection (1) for an amount that exceeds the value established by the chief information officer by rule in accordance with Section [~~63F-1-206~~] 63A-16-205, the chief information officer shall:

(a) conduct an analysis of the needs of executive branch agencies and subscribers of services and the ability of the proposed information technology or telecommunications services or supplies to meet those needs; and

(b) for purchases, leases, or rentals not covered by an existing statewide contract, certify in writing to the chief procurement officer in the Division of Purchasing and General Services that:

(i) the analysis required in Subsection (2)(a) was completed; and

(ii) based on the analysis, the proposed purchase, lease, rental, or master contract of services, products, or supplies is practical, efficient, and economically beneficial to the state and the executive branch agency or subscriber of services.

(3) In approving an acquisition described in Subsections (1) and (2), the chief information officer shall:

(a) establish by administrative rule, in accordance with Section [~~63F-1-206~~] 63A-16-205, standards under which an agency must obtain approval from the chief information officer before acquiring the items listed in Subsections (1) and (2);

(b) for those acquisitions requiring approval, determine whether the acquisition is in compliance with:

(i) the executive branch strategic plan;

(ii) the applicable agency information technology plan;

(iii) the budget for the executive branch agency or department as adopted by the Legislature;

(iv) Title 63G, Chapter 6a, Utah Procurement Code; and

(v) the information technology accessibility standards described in Section [~~63F-1-210~~] 63A-16-209; and

(c) in accordance with Section [~~63F-1-207~~] 63A-16-206, require coordination of acquisitions between two or more executive branch agencies if it is in the best interests of the state.

(4) Each executive branch agency shall provide the chief information officer with complete access to all information technology records, documents, and reports:

(a) at the request of the chief information officer; and

(b) related to the executive branch agency's acquisition of any item listed in Subsection (1).

(5) (a) In accordance with administrative rules established by the department under Section [~~63F-1-206~~] 63A-16-205, an executive branch agency and the department may not initiate a new technology project unless the technology project is described in a formal project plan and a business case analysis is approved by the chief information officer and the highest ranking executive branch agency official.

(b) The project plan and business case analysis required by this Subsection (5) shall include:

(i) a statement of work to be done and existing work to be modified or displaced;

(ii) total cost of system development and conversion effort, including system analysis and programming costs, establishment of master files, testing, documentation, special equipment cost and all other costs, including overhead;

(iii) savings or added operating costs that will result after conversion;

(iv) other advantages or reasons that justify the work;

(v) source of funding of the work, including ongoing costs;

(vi) consistency with budget submissions and planning components of budgets; and

(vii) whether the work is within the scope of projects or initiatives envisioned when the current fiscal year budget was approved.

(c) The chief information officer shall determine the required form of the project plan and business case analysis described in this Subsection (5).

(6) The chief information officer and the Division of Purchasing and General Services within the [~~Department of Administrative Services~~] department shall work cooperatively to establish procedures under which the chief information officer shall monitor and approve acquisitions as provided in this section.

Section 70. Section 63A-16-205, which is renumbered from Section 63F-1-206 is renumbered and amended to read:

[~~63F-1-206~~]. 63A-16-205. Rulemaking -- Policies.

(1) (a) Except as provided in Subsection (2), the chief information officer shall, by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(i) provide standards that impose requirements on executive branch agencies that:

(A) are related to the security of the statewide area network; and

(B) establish standards for when an agency must obtain approval before obtaining items listed in Subsection [~~63F-1-205~~] 63A-16-204(1);

(ii) specify the detail and format required in an agency information technology plan submitted in accordance with Section [~~63F-1-204~~] 63A-16-203;

(iii) provide for standards related to the privacy policies of websites operated by or on behalf of an executive branch agency;

(iv) provide for the acquisition, licensing, and sale of computer software;

(v) specify the requirements for the project plan and business case analysis required by Section [~~63F-1-205~~] 63A-16-204;

(vi) provide for project oversight of agency technology projects when required by Section [~~63F-1-205~~] 63A-16-204;

(vii) establish, in accordance with Subsection [~~63F-1-205~~] 63A-16-204(2), the implementation of the needs assessment for information technology purchases;

(viii) establish telecommunications standards and specifications in accordance with Section [~~63F-1-404~~] 63A-16-403; and

(ix) establish standards for accessibility of information technology by individuals with disabilities in accordance with Section [~~63F-1-210~~] 63A-16-209.

(b) The rulemaking authority granted by this Subsection (1) is in addition to any other rulemaking authority granted [~~by this title~~] under this chapter.

(2) (a) Notwithstanding Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and subject to Subsection (2)(b), the chief information officer may adopt a policy that outlines procedures to be followed by the chief information officer in facilitating the implementation of this title by executive branch agencies if the policy:

(i) is consistent with the executive branch strategic plan; and

(ii) is not required to be made by rule under Subsection (1) or Section 63G-3-201.

(b) (i) A policy adopted by the chief information officer under Subsection (2)(a) may not take effect until 30 days after the day on which the chief information officer submits the policy to:

(A) the governor; and

(B) all cabinet level officials.

(ii) During the 30-day period described in Subsection (2)(b)(i), cabinet level officials may review and comment on a policy submitted under Subsection (2)(b)(i).

(3) (a) Notwithstanding Subsection (1) or (2) or Title 63G, Chapter 3, Utah Administrative Rulemaking Act, without following the procedures of Subsection (1) or (2), the chief information officer may adopt a security procedure to be followed by executive branch agencies to protect the statewide area network if:

(i) broad communication of the security procedure would create a significant potential for increasing the vulnerability of the statewide area network to breach or attack; and

(ii) after consultation with the chief information officer, the governor agrees that broad communication of the security procedure would create a significant potential increase in the vulnerability of the statewide area network to breach or attack.

(b) A security procedure described in Subsection (3)(a) is classified as a protected record under Title 63G, Chapter 2, Government Records Access and Management Act.

(c) The chief information officer shall provide a copy of the security procedure as a protected record to:

(i) the chief justice of the Utah Supreme Court for the judicial branch;

(ii) the speaker of the House of Representatives and the president of the Senate for the legislative branch;

(iii) the chair of the Utah Board of Higher Education; and

(iv) the chair of the State Board of Education.

Section 71. Section 63A-16-206, which is renumbered from Section 63F-1-207 is renumbered and amended to read:

[~~63F-1-207~~]. 63A-16-206. Coordination within the executive branch -- Cooperation with other branches.

(1) In accordance with the executive branch strategic plan and the requirements of this title, the chief information officer shall coordinate the development of information technology systems between two or more executive branch agencies subject to:

(a) the budget approved by the Legislature; and

(b) Title 63J, Chapter 1, Budgetary Procedures Act.

(2) In addition to the coordination described in Subsection (1), the chief information officer shall promote cooperation regarding information technology between branches of state government.

Section 72. Section 63A-16-207, which is renumbered from Section 63F-1-208 is renumbered and amended to read:

[~~63F-1-208~~]. 63A-16-207. Delegation of division functions.

(1) (a) If the conditions of Subsections (1)(b) and (2) are met and subject to the other provisions of this section, the chief information officer may delegate a function of the [~~department~~] division to another executive branch agency or an institution of higher education by contract or other means authorized by law.

(b) The chief information officer may delegate a function of the [~~department~~] division as provided in Subsection (1)(a) if in the judgment of the director of the executive branch agency and the chief information officer:

(i) the executive branch agency or institution of higher education has requested that the function be delegated;

(ii) the executive branch agency or institution of higher education has the necessary resources and skills to perform or control the function to be delegated; and

(iii) the function to be delegated is a unique or mission-critical function of the agency or institution of higher education.

(2) The chief information officer may delegate a function of the [~~department~~] division only when the delegation results in net cost savings or improved service delivery to the state as a whole or to the unique mission critical function of the executive branch agency.

(3) The delegation of a function under this section shall:

(a) be in writing;

(b) contain all of the following:

(i) a precise definition of each function to be delegated;

(ii) a clear description of the standards to be met in performing each function delegated;

(iii) a provision for periodic administrative audits by the [~~department~~] division;

(iv) a date on which the agreement shall terminate if the agreement has not been previously terminated or renewed; and

(v) any delegation of [~~department~~] division staff to the agency to support the function in-house with the agency and rates to be charged for the delegated staff; and

(c) include a cost-benefit analysis justifying the delegation.

(4) An agreement to delegate functions to an executive branch agency or an institution of higher education may be terminated by the [~~department~~] division if the results of an administrative audit conducted by the [~~department~~] division reveals a lack of compliance with the terms of the agreement by the executive branch agency or institution of higher education.

Section 73. Section 63A-16-208, which is renumbered from Section 63F-1-209 is renumbered and amended to read:

[~~63F-1-209~~]. 63A-16-208. Delegation of division staff to executive branch agencies -- Prohibition against executive branch agency information technology staff.

(1) (a) The chief information officer shall assign [~~department~~] division staff to serve an agency in-house if the chief information officer and the executive branch agency director jointly determine it is appropriate to provide information technology services to:

(i) the agency's unique mission-critical functions and applications;

(ii) the agency's participation in and use of statewide enterprise architecture; and

(iii) the agency's use of coordinated technology services with other agencies that share similar characteristics with the agency.

(b) (i) An agency may request the chief information officer to assign in-house staff support from the [~~department~~] division.

(ii) The chief information officer shall respond to the agency's request for in-house staff support in accordance with Subsection (1)(a).

(c) The [~~department~~] division shall enter into service agreements with an agency when [~~department~~] division staff is assigned in-house to the agency under the provisions of this section.

(d) An agency that receives in-house staff support assigned from the [~~department~~] division under the provision of this section is responsible for paying the rates charged by the [~~department~~] division for that staff as established under Section [~~63F-1-301~~] 63A-16-301.

(2) (a) An executive branch agency may not create a full-time equivalent position or part-time position, or request an appropriation to fund a full-time equivalent position or part-time position under the provisions of Section 63J-1-201 for the purpose of providing information technology services to the agency unless:

(i) the chief information officer has approved a delegation under Section [~~63F-1-208~~] 63A-16-207; and

(ii) the [~~department~~] division conducts an audit under Section [~~63F-1-604~~] 63A-16-213 and finds that the delegation of information technology services to the agency meets the requirements of Section [~~63F-1-208~~] 63A-16-207.

(b) The prohibition against a request for appropriation under Subsection (2)(a) does not apply to a request for appropriation needed to pay rates imposed under Subsection (1)(d).

Section 74. Section 63A-16-209, which is renumbered from Section 63F-1-210 is renumbered and amended to read:

[~~63F-1-210~~]. 63A-16-209. Accessibility standards for executive branch agency information technology.

(1) The chief information officer shall establish, by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(a) minimum standards for accessibility of executive branch agency information technology by an individual with a disability that:

(i) include accessibility criteria for:

(A) agency websites;

(B) hardware and software procured by an executive branch agency; and

(C) information systems used by executive branch agency employees;

(ii) include a protocol to evaluate the standards via testing by individuals with a variety of access limitations; and

(iii) are, at minimum, consistent with the most recent Web Content Accessibility guidelines published by the World Wide Web Consortium; and

(b) grievance procedures for an individual with a disability who is unable to access executive branch agency information technology, including:

(i) a process for an individual with a disability to report the access issue to the chief information officer; and

(ii) a mechanism through which the chief information officer can respond to the report.

(2) The chief information officer shall update the standards described in Subsection (1)(a) at least every three years to reflect advances in technology.

Section 75. Section 63A-16-210, which is renumbered from Section 63F-1-211 is renumbered and amended to read:

[~~63F-1-211~~]. 63A-16-210. Chief information security officer.

(1) The chief information officer shall appoint a chief information security officer.

(2) The chief information security officer described in Subsection (1) shall:

(a) assess cybersecurity risks;

(b) coordinate with executive branch agencies to assess the sensitivity of information; and

(c) manage cybersecurity support for the department and executive branch agencies.

Section 76. Section 63A-16-211, which is renumbered from Section 63F-1-212 is renumbered and amended to read:

[~~63F-1-212~~]. 63A-16-211. Report to the Legislature.

The [~~department~~] division shall, in accordance with Section [~~63F-1-201~~] 63F-16-201, before November 1 [~~of~~] each year, report to the Public Utilities, Energy, and Technology Interim Committee on:

(1) performance measures that the [~~department~~] division uses to assess the [~~department's~~] division's effectiveness in performing the [~~department's~~] division's duties under this [~~chapter~~] part; and

(2) the [~~department's~~] division's performance, evaluated in accordance with the performance measures described in Subsection (1).

Section 77. Section 63A-16-212, which is renumbered from Section 63F-1-603 is renumbered and amended to read:

[~~63F-1-603~~]. 63A-16-212. Agency services -- Chief information officer manages.

The chief information officer shall manage the [~~department's~~] division's duties related to agency services.

Section 78. Section 63A-16-213, which is renumbered from Section 63F-1-604 is renumbered and amended to read:

[~~63F-1-604~~]. 63A-16-213. Duties of the division -- Agency services.

The [~~department~~] division shall:

(1) be responsible for providing support to executive branch agencies for an agency's information technology assets and functions that are unique to the executive branch agency and are mission critical functions of the agency;

(2) provide in-house information technology staff support to executive branch agencies;

(3) establish a committee composed of agency user groups for the purpose of coordinating

[~~department~~] division services with agency needs; and

(4) assist executive branch agencies in complying with the requirements of any rule adopted by the chief information officer.

Section 79. Section 63A-16-301, which is renumbered from Section 63F-1-301 is renumbered and amended to read:

Part 3. Information Technology Services and Rates

[~~63F-1-301~~]. 63A-16-301. Cost based services -- Fees -- Submission to rate committee.

(1) The chief information officer shall:

(a) at the lowest practical cost, manage the delivery of efficient and cost-effective information technology and telecommunication services for:

(i) all executive branch agencies; and

(ii) entities that subscribe to the services in accordance with Section [~~63F-1-303~~] 63A-16-303; and

(b) provide priority service to public safety agencies.

(2) (a) In accordance with this Subsection (2), the chief information officer shall prescribe a schedule of fees for all services rendered by the [~~department~~] division to:

(i) an executive branch entity; or

(ii) an entity that subscribes to services rendered by the [~~department~~] division in accordance with Section [~~63F-1-303~~] 63A-16-303.

(b) Each fee included in the schedule of fees required by Subsection (2)(a):

(i) shall be equitable;

(ii) should be based upon a zero based, full cost accounting of activities necessary to provide each service for which a fee is established; and

(iii) for each service multiplied by the projected consumption of the service recovers no more or less than the full cost of each service.

(c) Before charging a fee for its services to an executive branch agency or to a subscriber of services other than an executive branch agency, the chief information officer shall:

(i) submit the proposed rates, fees, and cost analysis to the Rate Committee established in Section [~~63F-1-302~~] 63A-1-114; and

(ii) obtain the approval of the Legislature as required by Section 63J-1-410.

(d) The chief information officer shall periodically conduct a market analysis [~~by July 1, 2006, and periodically thereafter,~~] of proposed rates and fees, which analysis shall include a comparison of the [~~department's~~] division's rates with the fees of other public or private sector providers where comparable services and rates are reasonably available.

Section 80. Section 63A-16-302, which is renumbered from Section 63F-1-303 is renumbered and amended to read:

[~~63F-1-303~~]. 63A-16-302. Executive branch agencies -- Subscription by institutions.

(1) An executive branch agency in accordance with its agency information technology plan approved by the chief information officer shall:

(a) subscribe to the information technology services provided by the [~~department~~] division; or

(b) contract with one or more alternate private providers of information technology services if the chief information officer determines that the purchase of the services from a private provider will:

(i) result in:

(A) cost savings;

(B) increased efficiency; or

(C) improved quality of services; and

(ii) not impair the interoperability of the state's information technology services.

(2) An institution of higher education may subscribe to the services provided by the [~~department~~] division if:

(a) the president of the institution recommends that the institution subscribe to the services of the [~~department~~] division; and

(b) the Utah Board of Higher Education determines that subscription to the services of the [~~department~~] division will result in cost savings or increased efficiency to the institution.

(3) The following may subscribe to information technology services by requesting that the services be provided from the [~~department~~] division:

(a) the legislative branch;

(b) the judicial branch;

(c) the State Board of Education;

(d) a political subdivision of the state;

(e) an agency of the federal government;

(f) an independent entity as defined in Section 63E-1-102; and

(g) an elective constitutional officer of the executive department as defined in Subsection [~~63F-1-102~~] 63A-16-102(5)(b)(vii).

Section 81. Section 63A-16-401, which is renumbered from Section 63F-1-402 is renumbered and amended to read:

Part 4. Enterprise Technology

[~~63F-1-402~~]. 63A-16-401. Definitions.

As used in this [~~chapter~~] part, "enterprise architecture" means information technology assets

and functions that can be applied across state government and include:

(1) computing devices such as mainframes, servers, desktop devices, and peripherals;

(2) networks;

(3) enterprise wide applications;

(4) maintenance and help desk functions for common hardware and applications;

(5) standards for other computing devices, operating systems, common applications, and software; and

(6) master contracts that are available for use by agencies for various systems such as operating systems, database, enterprise resource planning and customer relationship management software, application development services, and enterprise integration.

Section 82. Section 63A-16-402, which is renumbered from Section 63F-1-403 is renumbered and amended to read:

[~~63F-1-403~~]. 63A-16-402. Enterprise technology -- Chief information officer manages.

The chief information officer shall manage the [~~department's~~] division's duties related to enterprise technology.

Section 83. Section 63A-16-403, which is renumbered from Section 63F-1-404 is renumbered and amended to read:

[~~63F-1-404~~]. 63A-16-403. Duties of the division -- Enterprise technology.

The [~~department~~] division shall:

(1) develop and implement an effective enterprise architecture governance model for the executive branch;

(2) provide oversight of information technology projects that impact statewide information technology services, assets, or functions of state government to:

(a) control costs;

(b) ensure business value to a project;

(c) maximize resources;

(d) ensure the uniform application of best practices; and

(e) avoid duplication of resources;

(3) develop a method of accountability to agencies for services provided by the department through service agreements with the agencies;

(4) serve as a project manager for enterprise architecture which includes the management of applications, standards, and procurement of enterprise architecture;

(5) coordinate the development and implementation of advanced state telecommunication systems;

(6) provide services including technical assistance:

(a) to executive branch agencies and subscribers to the services; and

(b) related to information technology or telecommunications;

(7) establish telecommunication system specifications and standards for use by:

(a) one or more executive branch agencies; or

(b) one or more entities that subscribe to the telecommunication systems in accordance with Section [~~63F-1-303~~] 63A-16-303;

(8) coordinate state telecommunication planning in cooperation with:

(a) state telecommunication users;

(b) executive branch agencies; and

(c) other subscribers to the state's telecommunication systems;

(9) cooperate with the federal government, other state entities, counties, and municipalities in the development, implementation, and maintenance of:

(a) (i) governmental information technology; or

(ii) governmental telecommunication systems; and

(b) (i) as part of a cooperative organization; or

(ii) through means other than a cooperative organization;

(10) establish, operate, manage, and maintain:

(a) one or more state data centers; and

(b) one or more regional computer centers;

(11) design, implement, and manage all state-owned, leased, or rented land, mobile, or radio telecommunication systems that are used in the delivery of services for state government or its political subdivisions; and

(12) in accordance with the executive branch strategic plan, implement minimum standards to be used by the [~~department~~] division for purposes of compatibility of procedures, programming languages, codes, and media that facilitate the exchange of information within and among telecommunication systems.

Section 84. Section 63A-16-501, which is renumbered from Section 63F-1-502 is renumbered and amended to read:

Part 5. Integrated Technology

[~~63F-1-502~~]. 63A-16-501. Definitions.

As used in this part:

(1) "Center" means the Automated Geographic Reference Center created in Section [~~63F-1-506~~] 63A-16-505.

(2) "Database" means the State Geographic Information Database created in Section [~~63F-1-507~~] 63A-16-506.

(3) "Geographic Information System" or "GIS" means a computer driven data integration and map production system that interrelates disparate layers of data to specific geographic locations.

(4) "Office" means the Office of Integrated Technology, created in Section 63A-16-502.

[~~(4)~~] (5) "State Geographic Information Database" means the database created in Section [~~63F-1-507~~] 63A-16-506.

[~~(5)~~] (6) "Statewide Global Positioning Reference Network" or "network" means the network created in Section [~~63F-1-509~~] 63A-16-508.

Section 85. Section 63A-16-502, which is renumbered from Section 63F-1-503 is renumbered and amended to read:

[~~63F-1-503~~]. 63A-16-502. Office of Integrated Technology.

(1) There is created within the division the Office of Integrated Technology.

(2) The chief information officer shall manage the [~~department's~~] division's duties related to integrated technology.

Section 86. Section 63A-16-503, which is renumbered from Section 63F-1-504 is renumbered and amended to read:

[~~63F-1-504~~]. 63A-16-503. Duties of the division -- Integrated technology.

The [~~department~~] division shall:

(1) establish standards for the information technology needs of a collection of executive branch agencies or programs that share common characteristics relative to the types of stakeholders they serve, including:

(a) project management;

(b) application development; and

(c) procurement;

(2) provide oversight of information technology standards that impact multiple executive branch agency information technology services, assets, or functions to:

(a) control costs;

(b) ensure business value to a project;

(c) maximize resources;

(d) ensure the uniform application of best practices; and

(e) avoid duplication of resources; and

(3) establish a system of accountability to user agencies through the use of service agreements.

Section 87. Section 63A-16-504, which is renumbered from Section 63F-1-505 is renumbered and amended to read:

[~~63F-1-505~~]. 63A-16-504. Information technology plan.

(1) In accordance with this section, the [~~division~~] office shall submit an information technology plan to the chief information officer.

(2) The information technology plan submitted by the [~~division~~] office under this section shall include:

(a) the information required by Section [~~63F-1-203~~] 63A-16-202;

(b) a list of the services the [~~division~~] office offers or plans to offer; and

(c) a description of the performance measures used by the [~~division~~] office to measure the quality of the services described in Subsection (2)(b).

(3) (a) In submitting [~~its~~] the information technology plan under this section, the [~~division~~] office shall comply with Section [~~63F-1-204~~] 63A-16-203.

(b) The information technology plan submitted by the [~~division~~] office under this section is subject to the approval of the chief information officer as provided in Section [~~63F-1-204~~] 63A-16-203.

Section 88. Section 63A-16-505, which is renumbered from Section 63F-1-506 is renumbered and amended to read:

[~~63F-1-506~~]. 63A-16-505. Automated Geographic Reference Center.

(1) There is created the Automated Geographic Reference Center as part of the [~~division~~] office.

(2) The center shall:

(a) provide geographic information system services to state agencies under rules adopted in accordance with Section [~~63F-1-504~~] 63A-16-503 and policies established by the [~~division~~] office;

(b) provide geographic information system services to federal government, local political subdivisions, and private persons under rules and policies established by the [~~division~~] office;

(c) manage the State Geographic Information Database; and

(d) establish standard format, lineage, and other requirements for the database.

(3) (a) There is created a position of surveyor within the center.

(b) The surveyor under this Subsection (3) shall:

(i) be licensed as a professional land surveyor under Title 58, Chapter 22, Professional Engineers and Professional Land Surveyors Licensing Act;

(ii) provide technical support to the office of lieutenant governor in the lieutenant governor's evaluation under Section 67-1a-6.5 of a proposed boundary action, as defined in Section 17-23-20;

(iii) as requested by a county surveyor, provide technical assistance to the county surveyor with respect to the county surveyor's responsibilities under Section 17-23-20;

(iv) fulfill the duties described in Section 17-50-105, if engaged to do so as provided in that section;

(v) assist the State Tax Commission in processing and quality assurance of boundary descriptions or maps into digital format for inclusion in the State Geographic Information Database;

(vi) coordinate with county recorders and surveyors to create a statewide parcel layer in the State Geographic Information Database containing parcel boundary, parcel identifier, parcel address, owner type, and county recorder contact information; and

(vii) facilitate and integrate the collection efforts of local government and federal agencies for data collection to densify and enhance the statewide Public Land Survey System reference network in the State Geographic Information Database.

(4) The [~~division~~] office may:

(a) make rules and establish policies to govern the center and its operations; and

(b) set fees for the services provided by the center.

(5) The state may not sell information obtained from counties under Subsection (3)(b)(v).

Section 89. Section 63A-16-506, which is renumbered from Section 63F-1-507 is renumbered and amended to read:

[~~63F-1-507~~]. 63A-16-506. State Geographic Information Database.

(1) There is created a State Geographic Information Database to be managed by the center.

(2) The database shall:

(a) serve as the central reference for all information contained in any GIS database by any state agency;

(b) serve as a clearing house and repository for all data layers required by multiple users;

(c) serve as a standard format for geographic information acquired, purchased, or produced by any state agency;

(d) include an accurate representation of all civil subdivision boundaries of the state; and

(e) for each public highway, as defined in Section 72-1-102, in the state, include an accurate representation of the highway's centerline, physical characteristics, and associated street address ranges.

(3) The center shall, in coordination with municipalities, counties, emergency communications centers, and the Department of Transportation:

(a) develop the information described in Subsection (2)(e); and

(b) update the information described in Subsection (2)(e) in a timely manner after a county recorder records a final plat.

(4) Each state agency that acquires, purchases, or produces digital geographic information data shall:

(a) inform the center of the existence of the data layers and their geographic extent;

(b) allow the center access to all data classified public; and

(c) comply with any database requirements established by the center.

(5) At least annually, the State Tax Commission shall deliver to the center information the State Tax Commission receives under Section 67-1a-6.5 relating to the creation or modification of the boundaries of political subdivisions.

(6) The boundary of a political subdivision within the State Geographic Information Database is the official boundary of the political subdivision for purposes of meeting the needs of the United States Bureau of the Census in identifying the boundary of the political subdivision.

Section 90. Section 63A-16-507, which is renumbered from Section 63F-1-508 is renumbered and amended to read:

[~~63F-1-508~~]. 63A-16-507. Committee to award grants to counties for inventory and mapping of R.S. 2477 rights-of-way -- Use of grants -- Request for proposals.

(1) There is created within the center a committee to award grants to counties to inventory and map R.S. 2477 rights-of-way, associated structures, and other features as provided by Subsection (5).

(2) (a) The committee shall consist of:

(i) the center manager;

(ii) a representative of the Governor's Office of Management and Budget;

(iii) a representative of Utah State University Extension;

(iv) a representative of the Utah Association of Counties; and

(v) three county commissioners.

(b) The committee members specified in Subsections (2)(a)(ii) through (2)(a)(iv) shall be selected by the organizations they represent.

(c) The committee members specified in Subsection (2)(a)(v) shall be:

(i) selected by the Utah Association of Counties;

(ii) from rural counties; and

(iii) from different regions of the state.

(3) (a) The committee shall select a chair from [~~its~~] the committee's membership.

(b) The committee shall meet upon the call of the chair or a majority of the committee members.

(c) Four members [~~shall constitute~~] of the committee constitute a quorum.

(4) (a) Committee members who are state government employees shall receive no additional compensation for their work on the committee.

(b) Committee members who are not state government employees shall receive no compensation or expenses from the state for their work on the committee.

(5) (a) The committee shall award grants to counties to:

(i) inventory and map R.S. 2477 rights-of-way using Global Positioning System (GPS) technology; and

(ii) photograph:

(A) roads and other evidence of construction of R.S. 2477 rights-of-way;

(B) structures or natural features that may be indicative of the purpose for which an R.S. 2477 right-of-way was created, such as mines, agricultural facilities, recreational facilities, or scenic overlooks; and

(C) evidence of valid and existing rights on federal lands, such as mines and agricultural facilities.

(b) (i) The committee may allow counties, while they are conducting the activities described in Subsection (5)(a), to use grant money to inventory, map, or photograph other natural or cultural resources.

(ii) Activities funded under Subsection (5)(b)(i) must be integrated with existing programs underway by state agencies, counties, or institutions of higher education.

(c) Maps and other data acquired through the grants shall become a part of the State Geographic Information Database.

(d) Counties shall provide an opportunity to interested parties to submit information relative to the mapping and photographing of R.S. 2477 rights-of-way and other structures as provided in Subsections (5)(a) and (5)(b).

(6) (a) The committee shall develop a request for proposals process and issue a request for proposals.

(b) The request for proposals shall require each grant applicant to submit an implementation plan and identify any monetary or in-kind contributions from the county.

(c) In awarding grants, the committee shall give priority to proposals to inventory, map, and photograph R.S. 2477 rights-of-way and other structures as specified in Subsection (5)(a) which are located on federal lands that:

(i) a federal land management agency proposes for special management, such as lands to be managed as an area of critical environmental concern or primitive area; or

(ii) are proposed to receive a special designation by Congress, such as lands to be designated as wilderness or a national conservation area.

(7) Each county that receives a grant under the provision of this section shall provide a copy of all data regarding inventory and mapping to the AGRC for inclusion in the state database.

Section 91. Section 63A-16-508, which is renumbered from Section 63F-1-509 is renumbered and amended to read:

[~~63F-1-509~~]. 63A-16-508. Statewide Global Positioning Reference Network created -- Rulemaking authority.

(1) (a) There is created the Statewide Global Positioning Reference Network to improve the quality of geographic information system data and the productivity, efficiency, and cost-effectiveness of government services.

(b) The network shall provide a system of permanently mounted, fully networked, global positioning system base stations that will provide real time radio navigation and establish a standard statewide coordinate reference system.

(c) The center shall administer the network.

(2) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the chief information officer shall make rules providing for operating policies and procedures for the network.

(b) When making rules under this section, the chief information officer shall consider:

(i) network development that serves a public purpose;

(ii) increased productivity and efficiency for state agencies; and

(iii) costs and longevity of the network.

Section 92. Section 63A-16-509, which is renumbered from Section 63F-1-510 is renumbered and amended to read:

[~~63F-1-510~~]. 63A-16-509. Monument Replacement and Restoration Committee.

(1) As used in this section:

(a) "Committee" means the Monument Replacement and Restoration Committee created in this section.

(b) "Corner" means the same as that term is defined in Section 17-23-17.5.

(c) "Monument" means the same as that term is defined in Section 17-23-17.5.

(2) (a) There is created the Monument Replacement and Restoration Committee composed of the following seven members:

(i) five members appointed by an organization or association that represents Utah counties:

(A) that have knowledge and understanding of the Public Land Survey System; and

(B) who each represents a different county; and

(ii) two members, appointed by the center, who have a knowledge and understanding of the Public Land Survey System.

(b) (i) Except as provided in Subsection (2)(b)(ii), a member appointed to the committee is appointed for a four-year term.

(ii) The director of the center shall, at the time an entity appoints or reappoints an individual to serve on the committee, adjust the length of the appointed individual's term, as necessary, to ensure that the terms of committee members are staggered so that approximately half of the committee members are appointed every two years.

(iii) When a vacancy occurs on the committee for any reason, the replacement appointee shall serve on the committee for the unexpired term.

(c) The committee shall elect one committee member to serve as chair of the committee for a term of two years.

(d) A majority of the committee constitutes a quorum, and the action of a majority of a quorum constitutes the action of the committee.

(e) (i) The center shall provide staff support to the committee.

(ii) An individual who is a member of the committee may not serve as staff to the committee.

(f) A member of the committee may not receive compensation for the member's service on the committee.

(g) The committee may adopt bylaws to govern the committee's operation.

(3) (a) The committee shall administer a grant program to assist counties in maintaining and protecting corners or monuments.

(b) A county wishing to receive a grant under the program described in Subsection (3)(a) shall submit to the committee an application that:

(i) identifies one or more monuments in the county that are in need of protection or rehabilitation;

(ii) establishes a plan that is consistent with federal law or rule to protect or rehabilitate each monument identified under Subsection (3)(b)(i); and

(iii) requests a specific amount of funding to complete the plan established under Subsection (3)(b)(ii).

(c) The committee shall:

(i) adopt criteria to:

(A) evaluate whether a monument identified by a county under Subsection (3)(b)(i) needs protection or rehabilitation; and

(B) identify which monuments identified by a county under Subsection (3)(b)(i) have the greatest need of protection or rehabilitation;

(ii) evaluate each application submitted by a county under Subsection (3)(b) using the criteria adopted by the committee under Subsection (3)(c)(i);

(iii) subject to sufficient funding and Subsection (3)(d), award grants to counties whose applications are most favorably evaluated under Subsection (3)(c)(ii); and

(iv) establish a date by which a county awarded a grant under Subsection (3)(c)(iii) shall report back to the committee.

(d) The committee may not award a grant to a county under this section in an amount greater than $100,000.

(4) A county that is awarded a grant under this section shall:

(a) document the work performed by the county, pursuant to the plan established by the county under Subsection (3)(b)(ii), to protect or rehabilitate a monument; and

(b) before the date established under Subsection (3)(c)(iv), report to the committee on the work performed by the county.

(5) (a) If the committee has not expended all of the funds appropriated to the committee by the Legislature for the fulfillment of the committee's duties under this section before December 31, 2017, the committee shall disburse any remaining funds equally among all counties that have established a dedicated monument preservation fund by ordinance as provided in Section 17-23-19.

(b) A county to which the center has disbursed funds under Subsection (5)(a) shall:

(i) deposit the funds into the county's monument preservation fund; and

(ii) expend the funds, in consultation with the committee, for the maintenance and preservation of monuments in the county.

Section 93. Section 63A-16-601, which is renumbered from Section 63F-1-701 is renumbered and amended to read:

Part 6. Utah Public Notice Website

[~~63F-1-701~~]. 63A-16-601. Utah Public Notice Website -- Establishment and administration.

(1) As used in this part:

[~~(a) "Division" means the Division of Archives and Records Service of the Department of Administrative Services.~~]

[~~(b)~~] (a) "Executive board" means the same as that term is defined in Section 67-1-2.5.

[~~(c)~~] (b) "Public body" means the same as that term is defined in Section 52-4-103.

[~~(d)~~] (c) "Public information" means a public body's public notices, minutes, audio recordings, and other materials that are required to be posted to the website under Title 52, Chapter 4, Open and Public Meetings Act, or other statute or state agency rule.

[~~(e)~~] (d) "Website" means the Utah Public Notice Website created [~~under~~] in this section.

(2) There is created the Utah Public Notice Website to be administered by the Division of Archives and Records Service.

(3) The website shall consist of an Internet website provided to assist the public to find posted public information.

(4) The [~~division~~] Division of Archives and Records Service, with the technical assistance of the [~~Department~~] Division of Technology Services, shall create the website that shall:

(a) allow a public body, or other certified entity, to easily post any public information, including the contact information required under Subsections 17B-1-303(9) and 17D-1-106(1)(b)(ii);

(b) allow the public to easily search the public information by:

(i) public body name;

(ii) date of posting of the notice;

(iii) date of any meeting or deadline included as part of the public information; and

(iv) any other criteria approved by the [~~division~~] Division of Archives and Records Service;

(c) allow the public to easily search and view past, archived public information;

(d) allow an individual to subscribe to receive updates and notices associated with a public body or a particular type of public information;

(e) be easily accessible by the public from the State of Utah home page;

(f) have a unique and simplified website address;

(g) be directly accessible via a link from the main page of the official state website; and

(h) include other links, features, or functionality that will assist the public in obtaining and reviewing public information posted on the website, as may be approved by the division.

(5) (a) Subject to Subsection (5)(b), the [~~division~~] Division of Archives and Records Service and the governor's office shall coordinate to ensure that the website, the database described in Section 67-1-2.5, and the website described in Section 67-1-2.5 automatically share appropriate information in order to ensure that:

(i) an individual who subscribes to receive information under Subsection (4)(d) for an executive board automatically receives notifications of vacancies on the executive board that will be publicly filled, including a link to information regarding how an individual may apply to fill the vacancy; and

(ii) an individual who accesses an executive board's information on the website has access to the following through the website:

(A) the executive board's information in the database, except an individual's physical address, e-mail address, or phone number; and

(B) the portal described in Section 67-1-2.5 through which an individual may provide input on an appointee to, or member of, the executive board.

(b) The [~~division~~] Division of Archives and Records Service and the governor's office shall comply with Subsection (5)(a) as soon as reasonably possible within existing funds appropriated to the [~~division~~] Division of Archives and Records Service and the governor's office.

(6) Before August 1 of each year, the [~~division~~] Division of Archives and Records Service shall:

(a) identify each executive board that is a public body that did not submit to the website a notice of a public meeting during the previous fiscal year; and

(b) report the name of each identified executive board to the governor's boards and commissions administrator.

(7) The [~~division~~] Division of Archives and Records Service is responsible for:

(a) establishing and maintaining the website, including the provision of equipment, resources, and personnel as is necessary;

(b) providing a mechanism for public bodies or other certified entities to have access to the website for the purpose of posting and modifying public information; and

(c) maintaining an archive of all public information posted to the website.

(8) A public body is responsible for the content the public body is required to post to the website and the timing of posting of that information.

Section 94. Section 63A-16-602, which is renumbered from Section 63F-1-702 is renumbered and amended to read:

[~~63F-1-702~~]. 63A-16-602. Notice and training by the Division of Archives and Records Service.

(1) The [~~division~~] Division of Archives and Records Service shall provide notice of the provisions and requirements of this chapter to all public bodies that are subject to the provision of Subsection 52-4-202(3)(a)(ii).

(2) The [~~division~~] Division of Archives and Records Service shall, as necessary, provide periodic training on the use of the Utah Public Notice Website to public bodies that are authorized to post notice on the website.

Section 95. Section 63A-16-701, which is renumbered from Section 63F-2-102 is renumbered and amended to read:

Part 7. Data Security Management Council

[~~63F-2-102~~]. 63A-16-701. Data Security Management Council -- Membership -- Duties.

(1) There is created the Data Security Management Council [~~composed of~~] comprising eight members as follows:

(a) the chief information officer appointed under Section [~~63F-1-201~~] 63A-16-201, or the chief information officer's designee;

(b) one individual appointed by the governor;

(c) one individual appointed by the speaker of the House of Representatives and the president of the Senate; and

(d) the highest ranking information technology official, or the highest ranking information technology official's designee, from each of:

(i) the Judicial Council;

(ii) the Utah Board of Higher Education;

(iii) the State Board of Education;

(iv) the State Tax Commission; and

(v) the Office of the Attorney General.

(2) The council shall elect a chair of the council by majority vote.

(3) (a) A majority of the members of the council constitutes a quorum.

(b) Action by a majority of a quorum of the council constitutes an action of the council.

(4) The [~~Department~~] Division of Technology Services shall provide staff to the council.

(5) The council shall meet quarterly, or as often as necessary, to:

(a) review existing state government data security policies;

(b) assess ongoing risks to state government information technology;

(c) create a method to notify state and local government entities of new risks;

(d) coordinate data breach simulation exercises with state and local government entities; and

(e) develop data security best practice recommendations for state government that include recommendations regarding:

(i) hiring and training a chief information security officer for each government entity;

(ii) continuous risk monitoring;

(iii) password management;

(iv) using the latest technology to identify and respond to vulnerabilities;

(v) protecting data in new and old systems; and

(vi) best procurement practices.

(6) A member who is not a member of the Legislature may not receive compensation or benefits for the member's service but may receive per diem and travel expenses as provided in:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

Section 96. Section 63A-16-702, which is renumbered from Section 63F-2-103 is renumbered and amended to read:

[~~63F-2-103~~]. 63A-16-702. Data Security Management Council -- Report to Legislature -- Recommendations.

(1) The council chair or the council chair's designee shall report annually no later than October 1 of each year to the Public Utilities, Energy, and Technology Interim Committee.

(2) The council's annual report shall contain:

(a) a summary of topics the council studied during the year;

(b) best practice recommendations for state government; and

(c) recommendations for implementing the council's best practice recommendations.

Section 97. Section 63A-16-801, which is renumbered from Section 63F-3-102 is renumbered and amended to read:

Part 8. Single Sign-on Portal

[~~63F-3-102~~]. 63A-16-801. Definitions.

As used in this [~~chapter~~] part:

(1) "Business data" means data collected by the state about a person doing business in the state.

(2) "Single sign-on business portal" means the web portal described in Section [~~63F-3-103~~] 63A-16-802.

(3) "Single sign-on citizen portal" means the web portal described in Section [~~63F-3-103.5~~] 63A-16-803.

(4) "Web portal" means an Internet webpage that can be accessed by a person that enters the person's unique user information in order to access secure information.

Section 98. Section 63A-16-802, which is renumbered from Section 63F-3-103 is renumbered and amended to read:

[~~63F-3-103~~]. 63A-16-802. Single sign-on business portal -- Creation.

(1) The [~~department~~] division shall, in consultation with the entities described in Subsection (4), design and create a single sign-on business portal that is:

(a) a web portal through which a person may access data described in Subsection (2), as agreed upon by the entities described in Subsection (4); and

(b) secure, centralized, and interconnected.

(2) The [~~department~~] division shall ensure that the single sign-on business portal allows a person doing business in the state to access, at a single point of entry, all relevant state-collected business data about the person, including information related to:

(a) business registration;

(b) workers' compensation;

(c) beginning December 1, 2020, tax liability and payment; and

(d) other information collected by the state that the department determines is relevant to a person doing business in the state.

(3) The [~~department~~] division shall develop the single sign-on business portal:

(a) using an open platform that:

(i) facilitates participation in the web portal by a state entity;

(ii) allows for optional participation by a political subdivision of the state; and

(iii) contains a link to the State Tax Commission website; and

(b) in a manner that anticipates the creation of the single sign-on citizen portal described in Section [~~63F-3-103.5~~] 63A-16-803.

(4) In developing the single sign-on business portal, the [~~department~~] division shall consult with:

(a) the Department of Commerce;

(b) the State Tax Commission;

(c) the Labor Commission;

(d) the Department of Workforce Services;

(e) the Governor's Office of Management and Budget;

(f) the Utah League of Cities and Towns;

(g) the Utah Association of Counties; and

(h) the business community that is likely to use the single sign-on business portal.

(5) The [~~department~~] division shall ensure that the single sign-on business portal is fully operational no later than May 1, 2021.

Section 99. Section 63A-16-803, which is renumbered from Section 63F-3-103.5 is renumbered and amended to read:

[~~63F-3-103.5~~]. 63A-16-803. Single sign-on citizen portal -- Creation.

(1) The [~~department~~] division shall, in consultation with the entities described in Subsection (4), design and create a single sign-on citizen portal that is:

(a) a web portal through which an individual may access information and services described in Subsection (2), as agreed upon by the entities described in Subsection (4); and

(b) secure, centralized, and interconnected.

(2) The [~~department~~] division shall ensure that the single sign-on citizen portal allows an individual, at a single point of entry, to:

(a) access and submit an application for:

(i) medical and support programs including:

(A) a medical assistance program administered under Title 26, Chapter 18, Medical Assistance Act, including Medicaid;

(B) the Children's Health Insurance Program under Title 26, Chapter 40, Utah Children's Health Insurance Act;

(C) the Primary Care Network as defined in Section 26-18-416; and

(D) the Women, Infants, and Children program administered under 42 U.S.C. Sec. 1786;

(ii) unemployment insurance under Title 35A, Chapter 4, Employment Security Act;

(iii) workers' compensation under Title 34A, Chapter 2, Workers' Compensation Act;

(iv) employment with a state agency;

(v) a driver license or state identification card renewal under Title 53, Chapter 3, Uniform Driver License Act;

(vi) a birth or death certificate under Title 26, Chapter 2, Utah Vital Statistics Act; and

(vii) a hunting or fishing license under Title 23, Chapter 19, Licenses, Permits, and Tags;

(b) access the individual's:

(i) transcripts from an institution of higher education described in Section 53B-2-101; and

(ii) immunization records maintained by the Utah Department of Health;

(c) register the individual's vehicle under Title 41, Chapter 1a, Part 2, Registration, with the Motor Vehicle Division of the State Tax Commission;

(d) file the individual's state income taxes under Title 59, Chapter 10, Individual Income Tax Act, beginning December 1, 2020;

(e) access information about positions available for employment with the state; and

(f) access any other service or information the department determines is appropriate in consultation with the entities described in Subsection (4).

(3) The [~~department~~] division shall develop the single sign-on citizen portal using an open platform that:

(a) facilitates participation in the portal by a state entity;

(b) allows for optional participation in the portal by a political subdivision of the state; and

(c) contains a link to the State Tax Commission website.

(4) In developing the single sign-on citizen portal, the department shall consult with:

(a) each state executive branch agency that administers a program, provides a service, or manages applicable information described in Subsection (2);

(b) the Utah League of Cities and Towns;

(c) the Utah Association of Counties; and

(d) other appropriate state executive branch agencies.

(5) The [~~department~~] division shall ensure that the single sign-on citizen portal is fully operational no later than January 1, 2025.

Section 100. Section 63A-16-804, which is renumbered from Section 63F-3-104 is renumbered and amended to read:

[~~63F-3-104~~]. 63A-16-804. Report.

(1) The [~~department~~] division shall report to the Public Utilities, Energy, and Technology Interim Committee before November 30 of each year regarding:

(a) the progress the [~~department~~] division has made in developing the single sign-on business portal and the single sign-on citizen portal and, once that development is complete, regarding the operation of the single sign-on business portal and the single sign-on citizen portal;

(b) the [~~department's~~] division's goals and plan for each of the next five years to fulfill the [~~department's~~] division's responsibilities described in this part; and

(c) whether the [~~department~~] division recommends any change to the single sign-on fee being charged under Section 13-1-2.

(2) The Public Utilities, Energy, and Technology Interim Committee shall annually:

(a) review the single sign-on fee being charged under Section 13-1-2;

(b) determine whether the revenue from the single sign-on fee is adequate for designing and developing and then, once developed, operating and maintaining the single sign-on web portal; and

(c) make any recommendation to the Legislature that the committee considers appropriate concerning:

(i) the single sign-on fee; and

(ii) the development or operation of the single sign-on business portal and the single sign-on citizen portal.

Section 101. Section 63A-16-901, which is renumbered from Section 63F-4-102 is renumbered and amended to read:

Part 9. Technology Innovation Act

[~~63F-4-102~~]. 63A-16-901. Definitions.

As used in this [~~chapter~~] part:

(1) "Executive branch agency" means a department, division, or other agency within the executive branch of state government.

(2) "Governor's budget office" means the Governor's Office of Management and Budget, created in Section 63J-4-201.

(3) "Review board" means the Architecture Review Board established within the department.

(4) "Technology innovation" means a new information technology not previously in use or a substantial adaptation or modification of an existing information technology.

(5) "Technology proposal" means a proposal to implement a technology innovation designed to result in a greater efficiency in a government process or a cost saving in the delivery of a government service, or both.

Section 102. Section 63A-16-902, which is renumbered from Section 63F-4-201 is renumbered and amended to read:

[~~63F-4-201~~]. 63A-16-902. Submitting a technology proposal -- Review process.

(1) Multiple executive branch agencies may jointly submit to the chief information officer a technology proposal, on a form or in a format specified by the [~~department~~] division.

(2) The chief information officer shall transmit to the review board each technology proposal the chief information officer determines meets the form or format requirements of the [~~department~~] division.

(3) The review board shall:

(a) conduct a technical review of a technology proposal transmitted by the chief information officer;

(b) determine whether the technology proposal merits further review and consideration by the chief information officer, based on the technology proposal's likelihood to:

(i) be capable of being implemented effectively; and

(ii) result in greater efficiency in a government process or a cost saving in the delivery of a government service, or both; and

(c) transmit a technology proposal to the chief information officer and to the governor's budget office, if the review board determines that the technology proposal merits further review and consideration by the chief information officer.

Section 103. Section 63A-16-903, which is renumbered from Section 63F-4-202 is renumbered and amended to read:

[~~63F-4-202~~]. 63A-16-903. Chief information officer review and approval of technology proposals.

(1) The chief information officer shall review and evaluate each technology proposal that the review board transmits to the chief information officer.

(2) The chief information officer may approve and recommend that the [~~department~~] division provide funding from legislative appropriations for a technology proposal if, after the chief information officer's review and evaluation of the technology proposal:

(a) the chief information officer determines that there is a reasonably good likelihood that the technology proposal:

(i) is capable of being implemented effectively; and

(ii) will result in greater efficiency in a government process or a cost saving in the delivery of a government service, or both; and

(b) the chief information officer receives approval from the governor's budget office for the technology proposal.

(3) The chief information officer may:

(a) prioritize multiple approved technology proposals based on their relative likelihood of achieving the goals described in Subsection (2); and

(b) recommend funding based on the chief information officer's prioritization under Subsection (3)(a).

(4) The [~~department~~] division shall:

(a) track the implementation and success of a technology proposal approved by the chief information officer;

(b) evaluate the level of the technology proposal's implementation effectiveness and whether the implementation results in greater efficiency in a government process or a cost saving in the delivery of a government service, or both; and

(c) report the results of the [~~department's~~] division's tracking and evaluation:

(i) to the chief information officer, as frequently as the chief information officer requests; and

(ii) at least annually to the Public Utilities, Energy, and Technology Interim Committee.

(5) The [~~department~~] division may expend money appropriated by the Legislature to pay for expenses incurred by executive branch agencies in implementing a technology proposal that the chief information officer has approved.

Section 104. Section 63A-17-101, which is renumbered from Section 67-19-1 is renumbered and amended to read:

CHAPTER 17. UTAH STATE PERSONNEL MANAGEMENT ACT

Part 1. General Provisions

[~~67-19-1~~]. 63A-17-101. Title.

This chapter [~~shall be known and may be cited~~] is known as the "Utah State Personnel Management Act."

Section 105. Section 63A-17-102, which is renumbered from Section 67-19-3 is renumbered and amended to read:

[~~67-19-3~~]. 63A-17-102. Definitions.

As used in this chapter:

(1) "Agency" means any department or unit of Utah state government with authority to employ personnel.

(2) "Career service" means positions under schedule B as defined in Section [~~67-19-15~~] 63A-17-301.

(3) "Career service employee" means an employee who has successfully completed a probationary period of service in a position covered by the career service.

(4) "Career service status" means status granted to employees who successfully complete probationary periods for competitive career service positions.

(5) "Classified service" means those positions subject to the classification and compensation provisions of Section [~~67-19-12~~] 63A-17-307.

(6) "Controlled substance" means controlled substance as defined in Section 58-37-2.

(7) (a) "Demotion" means a disciplinary action resulting in a reduction of an employee's current actual wage.

(b) "Demotion" does not mean:

(i) a nondisciplinary movement of an employee to another position without a reduction in the current actual wage; or

(ii) a reclassification of an employee's position under the provisions of Subsection [~~67-19-12~~] 63A-17-307(3) and rules made by the department.

[~~(8) "Department" means the Department of Human Resource Management.~~]

(8) "Director" means the director of the division.

(9) "Disability" means a physical or mental disability as defined and protected under the Americans with Disabilities Act, 42 U.S.C. Section 12101 et seq.

(10) "Division" means the Division of Human Resource Management, created in Section 63A-17-105.

[~~(10)~~] (11) "Employee" means any individual in a paid status covered by the career service or classified service provisions of this chapter.

[~~(11)~~] (12) "Examining instruments" means written or other types of proficiency tests.

[~~(12) "Executive director," except where otherwise specified, means the executive director of the Department of Human Resource Management.~~]

(13) "Human resource function" means those duties and responsibilities specified:

(a) under Section [~~67-19-6~~] 63A-17-106;

(b) under rules of the [~~department~~] division; and

(c) under other state or federal statute.

(14) "Market comparability adjustment" means a salary range adjustment determined necessary through a market survey of salary data and other relevant information.

(15) "Probationary employee" means an employee serving a probationary period in a career service position but who does not have career service status.

(16) "Probationary period" means that period of time determined by the [~~department~~] division that an employee serves in a career service position as part of the hiring process before career service status is granted to the employee.

(17) "Probationary status" means the status of an employee between the employee's hiring and the granting of career service status.

(18) "Structure adjustment" means a [~~department~~] division modification of salary ranges.

(19) "Temporary employee" means career service exempt employees described in Subsection [~~67-19-15~~] 63A-17-301(1)(q).

(20) "Total compensation" means salaries and wages, bonuses, paid leave, group insurance plans, retirement, and all other benefits offered to state employees as inducements to work for the state.

Section 106. Section 63A-17-103, which is renumbered from Section 67-19-3.1 is renumbered and amended to read:

[~~67-19-3.1~~]. 63A-17-103. Principles guiding interpretation of chapter and adoption of rules.

(1) The [~~department~~] division shall establish a career service system designed in a manner that will provide for the effective implementation of the following merit principles:

(a) recruiting, selecting, and advancing employees on the basis of their relative ability, knowledge, and skills, including open consideration of qualified applicants for initial appointment;

(b) providing for equitable and competitive compensation;

(c) training employees as needed to assure high-quality performance;

(d) retaining employees on the basis of the adequacy of their performance and separating employees whose inadequate performance cannot be corrected;

(e) fair treatment of applicants and employees in all aspects of human resource administration without regard to race, color, religion, sex, national origin, political affiliation, age, or disability, and with proper regard for their privacy and constitutional rights as citizens;

(f) providing information to employees regarding their political rights and the prohibited practices under the Hatch Act; and

(g) providing a formal procedure for advancing grievances of employees:

(i) without discrimination, coercion, restraint, or reprisal; and

(ii) in a manner that is fair, expeditious, and inexpensive for the employee and the agency.

(2) The principles in Subsection (1) shall govern interpretation and implementation of this chapter.

Section 107. Section 63A-17-104, which is renumbered from Section 67-19-4 is renumbered and amended to read:

[~~67-19-4~~]. 63A-17-104. Discriminatory or prohibited employment practices.

The state, [~~its~~] the state's officers, and employees shall be governed by the provisions of Section 34A-5-106 of the Utah Antidiscrimination Act concerning discriminatory or prohibited employment practices.

Section 108. Section 63A-17-105, which is renumbered from Section 67-19-5 is renumbered and amended to read:

[~~67-19-5~~]. 63A-17-105. Division of Human Resource Management created -- Director -- Staff.

(1) There is created [~~the Department~~] within the department, the Division of Human Resource Management.

(2) (a) The [~~department~~] division shall be administered by [~~an executive~~] a director appointed by the [~~governor with the consent of the Senate~~] executive director, with the approval of the governor.

(b) The [~~executive~~] director shall be a person with experience in human resource management and shall be accountable to the [~~governor for the~~] executive director for the director's performance in office.

[~~(3) The executive director may:~~]

[~~(a) appoint a personal secretary and a deputy director, both of whom shall be exempt from career service; and~~]

[~~(b) appoint division directors and program managers who may be career service exempt.~~]

[~~(4) (a) The executive director shall have full responsibility and accountability for the administration of the statewide human resource management system.~~]

[~~(b) Except as provided in Section 67-19-6.1, an agency may not perform human resource functions without the consent of the executive director.~~]

[~~(5) Statewide human resource management rules adopted by the Department of Human Resource Management in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, shall take precedence if there is a conflict with agency rules, policies, or practices.~~]

[~~(6) The department may operate as an internal service fund agency in accordance with Section 63J-1-410 for the human resource functions the department provides.~~]

(3) The director shall advise the governor on human resource matters.

Section 109. Section 63A-17-106, which is renumbered from Section 67-19-6 is renumbered and amended to read:

[~~67-19-6~~]. 63A-17-106. Responsibilities of the director.

(1) The director shall have full responsibility and accountability for the administration of the statewide human resource management system.

(2) Except as provided in Section 63A-17-201, an agency may not perform human resource functions without the consent of the director.

(3) Statewide human resource management rules adopted by the division in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, shall take precedence if there is a conflict with agency rules, policies, or practices.

(4) The division may operate as an internal service fund agency in accordance with Section 63J-1-410 for the human resource functions the division provides.

[~~(1)~~] (5) The [~~executive~~] director shall:

(a) develop, implement, and administer a statewide program of human resource management that will:

(i) aid in the efficient execution of public policy;

(ii) foster careers in public service for qualified employees; and

(iii) render assistance to state agencies in performing their missions;

(b) design and administer the state pay plan;

(c) design and administer the state classification system and procedures for determining schedule assignments;

(d) design and administer the state recruitment and selection system;

(e) administer agency human resource practices and ensure compliance with federal law, state law, and state human resource rules, including equal employment opportunity;

(f) consult with agencies on decisions concerning employee corrective action and discipline;

(g) maintain central personnel records;

(h) perform those functions necessary to implement this chapter unless otherwise assigned or prohibited;

(i) perform duties assigned by the governor, executive director, or statute;

(j) adopt rules for human resource management according to the procedures of Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(k) establish and maintain a management information system that will furnish the governor, the Legislature, and agencies with current information on authorized positions, payroll, and related matters concerning state human resources;

(l) conduct research and planning activities to:

(i) determine and prepare for future state human resource needs;

(ii) develop methods for improving public human resource management; and

(iii) propose needed policy changes to the governor;

(m) study the character, causes, and extent of discrimination in state employment and develop plans for its elimination through programs consistent with federal and state laws governing equal employment opportunity in employment;

(n) when requested by charter schools or counties, municipalities, and other political subdivisions of the state, provide technical service, training recommendations, or advice on human resource management at a charge determined by the [~~executive~~] director;

(o) establish compensation policies and procedures for early voluntary retirement;

(p) confer with the heads of other agencies about human resource policies and procedures;

(q) submit an annual report to the executive director, the governor, and the Legislature; and

(r) assist with the development of a vacant position report required under Subsection 63J-1-201(2)(b)(vi).

[~~(2)~~] (6) (a) After consultation with the executive director, the governor, and the heads of other agencies, the [~~executive~~] director shall establish and coordinate statewide training programs, including and subject to available funding, the development of manager and supervisor training.

(b) The programs developed under this Subsection [~~(2)~~] (6) shall have application to more than one agency.

(c) The [~~department~~] division may not establish training programs that train employees to perform highly specialized or technical jobs and tasks.

(d) The [~~department~~] division shall ensure that any training program described in this Subsection [~~(2)~~] (6) complies with Title 63G, Chapter 22, State Training and Certification Requirements.

[~~(3)~~] (7) (a) (i) The [~~department~~] division may collect fees for training as authorized by this Subsection [~~(3)~~] (7).

(ii) Training funded from General Fund appropriations shall be treated as a separate program within the department budget.

(iii) All money received from fees under this section will be accounted for by the department as a separate user driven training program.

(iv) The user training program includes the costs of developing, procuring, and presenting training and development programs, and other associated costs for these programs.

(b) (i) Funds remaining at the end of the fiscal year in the user training program are nonlapsing.

(ii) Each year, as part of the appropriations process, the Legislature shall review the amount of nonlapsing funds remaining at the end of the fiscal year and may, by statute, require the department to lapse a portion of the funds.

Section 110. Section 63A-17-107 is enacted to read:

63A-17-107. Services and fees -- Submission to rate committee.

The director shall, before charging a fee for services provided by the division's internal service fund to an executive branch agency:

(1) submit the proposed rates, fees, and cost analysis to the rate committee established in Section 63A-1-114; and

(2) obtain the approval of the Legislature as required under Section 63J-1-410.

Section 111. Section 63A-17-108, which is renumbered from Section 67-19-26 is renumbered and amended to read:

[~~67-19-26~~]. 63A-17-108. Severability of provisions -- Compliance with requirements for federally aided programs.

(1) If any provision of this chapter or of any regulation or order issued thereunder or the application of any provision of this chapter to any person or circumstance is held invalid, the remainder of this chapter and the application of provision of this chapter or regulation or orders issued under it to persons or circumstances other than those to which it is held invalid shall still be regarded as having the force and effect of law.

(2) If any part of this chapter is found to be in conflict with federal requirements which are a condition precedent to the allocation of federal funds to the state, the conflicting part of this chapter shall be inoperative solely to the extent of the conflict and with respect to the agencies directly affected, and such findings shall not affect the operation of the remainder of this chapter in its application to the agencies concerned.

(3) Notwithstanding any provisions in this chapter to the contrary, no regulation shall be adopted which would deprive the state or any of its departments or institutions of federal grants or other forms of financial assistance, and the rules and regulations promulgated hereunder shall include standards, provisions, terms, and conditions for personnel engaged in the administration of federally aided programs, which shall, in all respects, comply with the necessary requirements for a qualified human resource system under the standards applicable to personnel engaged in the administration of federally aided programs.

Section 112. Section 63A-17-201, which is renumbered from Section 67-19-6.1 is renumbered and amended to read:

Part 2. Offices and Facilities

[~~67-19-6.1~~]. 63A-17-201. Division field offices.

(1) The [~~executive director of the Department of Human Resource Management~~] director may establish a field office in an agency.

(2) The [~~executive~~] director may assign an employee of the [~~department~~] division to act as field office staff.

(3) The [~~executive~~] director and agency head shall sign an agreement, to be reviewed annually, that specifies:

(a) the services to be provided by the [~~department~~] division;

(b) the use of agency facilities and equipment by the field office;

(c) protocols to resolve discrepancies between agency practice and [~~Department of Human Resource Management~~] division policy; and

(d) any other issue necessary for the proper functioning of the field office.

(4) Unless otherwise provided for in the field office agreement, the agency shall:

(a) assign responsibilities and duties to its employees;

(b) conduct performance appraisals;

(c) discipline [~~its~~] the agency's employees in consultation with the [~~department~~] division; and

(d) maintain individual personnel records.

Section 113. Section 63A-17-202, which is renumbered from Section 67-19-11 is renumbered and amended to read:

[~~67-19-11~~]. 63A-17-202. Use of facilities -- Field office facilities cost allocation.

(1) [~~(a)~~] An agency or a political subdivision of the state shall allow the [~~department~~] division to use public buildings under the agency's of the political subdivision's control, and furnish heat, light, and furniture, for any examination, training, hearing, or investigation authorized by this chapter.

[~~(b)~~] (2) An agency or political subdivision that allows the [~~department~~] division to use a public building under Subsection (1)[~~(a)~~] shall pay the cost of the [~~department's~~] division's use of the public building.

[~~(2) The executive director shall:~~]

[~~(a) prepare an annual budget request for the department;~~]

[~~(b) submit the budget request to the governor and the Legislature; and~~]

[~~(c) before charging a fee for services provided by the department's internal service fund to an executive branch agency:~~]

[~~(i) submit the proposed rates, fees, and cost analysis to the Rate Committee established under Subsection (3); and~~]

[~~(ii) obtain the approval of the Legislature as required under Section 63J-1-410.~~]

[~~(3) (a) There is created a rate committee that shall consist of the executive directors of seven state agencies that use services and pay rates to one of the department internal service funds, or their designee, appointed by the governor for a two-year term.~~]

[~~(b) (i) Of the seven executive agencies represented on the rate committee under Subsection (3)(a), only one of the following may be represented on the committee, if at all, at any one time:~~]

[~~(A) the Governor's Office of Management and Budget;~~]

[~~(B) the Division of Finance;~~]

[~~(C) the Department of Administrative Services; or~~]

[~~(D) the Department of Technology Services.~~]

[~~(ii) The department may not have a representative on the rate committee.~~]

[~~(c) (i) The rate committee shall elect a chair from the rate committee's members.~~]

[~~(ii) Each member of the rate committee who is a state government employee and who does not receive salary, per diem, or expenses from the member's agency for the member's service on the rate committee shall receive no compensation, benefits, per diem, or expenses for the member's service on the rate committee.~~]

[~~(d) The department shall provide staff services to the rate committee.~~]

[~~(4) (a) The department shall submit to the rate committee a proposed rate and fee schedule for:~~]

[~~(i) human resource management services rendered; and~~]

[~~(ii) costs incurred by the Office of the Attorney General in defending the state in a grievance under review by the Career Service Review Office.~~]

[~~(b) The rate committee shall:~~]

[~~(i) conduct meetings in accordance with Title 52, Chapter 4, Open and Public Meetings Act;~~]

[~~(ii) meet at least once each calendar year to:~~]

[~~(A) discuss the service performance of each internal service fund;~~]

[~~(B) review the proposed rate and fee schedules;~~]

[~~(C) at the rate committee's discretion, approve, increase, or decrease the rate and fee schedules described in Subsection (4)(b)(ii)(B); and~~]

[~~(D) discuss any prior or potential adjustments to the service level received by state agencies that pay rates to an internal service fund;~~]

[~~(iii) recommend a proposed rate and fee schedule for the internal service fund to:~~]

[~~(A) the Governor's Office of Management and Budget; and~~]

[~~(B) each legislative appropriations subcommittee that, in accordance with Section 63J-1-410, approves the internal service fund rates, fees, and budget; and~~]

[~~(iv) review and approve, increase or decrease an interim rate, fee, or amount when the department begins a new service or introduces a new product between annual general sessions of the Legislature.~~]

[~~(c) The committee may in accordance with Subsection 63J-1-410(4) decrease a rate, fee, or amount that has been approved by the Legislature.~~]

Section 114. Section 63A-17-301, which is renumbered from Section 67-19-15 is renumbered and amended to read:

Part 3. Classification and Career Service

[~~67-19-15~~]. 63A-17-301. Career service -- Exempt positions -- Schedules for civil service positions -- Coverage of career service provisions.

(1) Except as otherwise provided by law or by rules and regulations established for federally aided programs, the following positions are exempt from the career service provisions of this chapter and are designated under the following schedules:

(a) schedule AA includes the governor, members of the Legislature, and all other elected state officers;

(b) schedule AB includes appointed executives and board or commission executives enumerated in Section 67-22-2;

(c) schedule AC includes all employees and officers in:

(i) the office and at the residence of the governor;

(ii) the Public Lands Policy Coordinating Council;

(iii) the Office of the State Auditor; and

(iv) the Office of the State Treasurer;

(d) schedule AD includes employees who:

(i) are in a confidential relationship to an agency head or commissioner; and

(ii) report directly to, and are supervised by, a department head, commissioner, or deputy director of an agency or its equivalent;

(e) schedule AE includes each employee of the State Board of Education that the State Board of Education designates as exempt from the career service provisions of this chapter;

(f) schedule AG includes employees in the Office of the Attorney General who are under their own career service pay plan under Sections 67-5-7 through 67-5-13;

(g) schedule AH includes:

(i) teaching staff of all state institutions; and

(ii) employees of the Utah Schools for the Deaf and the Blind who are:

(A) educational interpreters as classified by the [~~department~~] division; or

(B) educators as defined by Section 53E-8-102;

(h) schedule AN includes employees of the Legislature;

(i) schedule AO includes employees of the judiciary;

(j) schedule AP includes all judges in the judiciary;

(k) schedule AQ includes:

(i) members of state and local boards and councils appointed by the governor and governing bodies of agencies;

(ii) a water commissioner appointed under Section 73-5-1;

(iii) other local officials serving in an ex officio capacity; and

(iv) officers, faculty, and other employees of state universities and other state institutions of higher education;

(l) schedule AR includes employees in positions that involve responsibility:

(i) for determining policy;

(ii) for determining the way in which a policy is carried out; or

(iii) of a type not appropriate for career service, as determined by the agency head with the concurrence of the [~~executive~~] director;

(m) schedule AS includes any other employee:

(i) whose appointment is required by statute to be career service exempt;

(ii) whose agency is not subject to this chapter; or

(iii) whose agency has authority to make rules regarding the performance, compensation, and bonuses for its employees;

(n) schedule AT includes employees of the [~~Department~~] Division of Technology Services, designated as executive/professional positions by the [~~executive~~] director of the [~~Department~~] Division of Technology Services with the concurrence of the [~~executive~~] director of the division;

(o) schedule AU includes patients and inmates employed in state institutions;

(p) employees of the Department of Workforce Services, designated as schedule AW:

(i) who are temporary employees that are federally funded and are required to work under federally qualified merit principles as certified by the director; or

(ii) for whom substantially all of their work is repetitive, measurable, or transaction based, and who voluntarily apply for and are accepted by the Department of Workforce Services to work in a pay for performance program designed by the Department of Workforce Services with the concurrence of the [~~executive~~] director of the division; and

(q) for employees in positions that are temporary, seasonal, time limited, funding limited, or variable hour in nature, under schedule codes and parameters established by the [~~department~~] division by administrative rule.

(2) The civil service shall consist of two schedules as follows:

(a) (i) Schedule A is the schedule consisting of positions under Subsection (1).

(ii) Removal from any appointive position under schedule A, unless otherwise regulated by statute, is at the pleasure of the appointing officers without regard to tenure.

(b) Schedule B is the competitive career service schedule, consisting of:

(i) all positions filled through competitive selection procedures as defined by the [~~executive~~] director; or

(ii) positions filled through a [~~department~~] division approved on-the-job examination intended to appoint a qualified person with a disability, or a veteran in accordance with Title 71, Chapter 10, Veterans Preference.

(3) (a) The [~~executive~~] director, after consultation with the heads of concerned executive branch departments and agencies and with the approval of the governor, shall allocate positions to the appropriate schedules under this section.

(b) Agency heads shall make requests and obtain approval from the [~~executive~~] director before changing the schedule assignment and tenure rights of any position.

(c) Unless the [~~executive~~] director's decision is reversed by the governor, when the [~~executive~~] director denies an agency's request, the [~~executive~~] director's decision is final.

(4) (a) Compensation for employees of the Legislature shall be established by the directors of the legislative offices in accordance with Section 36-12-7.

(b) Compensation for employees of the judiciary shall be established by the state court administrator in accordance with Section 78A-2-107.

(c) Compensation for officers, faculty, and other employees of state universities and institutions of higher education shall be established as provided in Title 53B, Chapter 1, Governance, Powers, Rights, and Responsibilities, and Title 53B, Chapter 2, Institutions of Higher Education.

(d) Unless otherwise provided by law, compensation for all other schedule A employees shall be established by their appointing authorities, within ranges approved by, and after consultation

with the [~~executive~~] director [~~of the Department of Human Resource Management~~].

(5) An employee who is in a position designated schedule AC and who holds career service status on June 30, 2010, shall retain the career service status if the employee:

(a) remains in the position that the employee is in on June 30, 2010; and

(b) does not elect to convert to career service exempt status in accordance with a rule made by the [~~department~~] division.

Section 115. Section 63A-17-302, which is renumbered from Section 67-19-15.1 is renumbered and amended to read:

[~~67-19-15.1~~]. 63A-17-302. Implementation of exempt status for Schedule AD and AR employees.

(1) As used in this section, "appointee" means:

(a) a deputy director;

(b) a division director;

(c) any assistant directors and administrative assistants who report directly to a department head, deputy director, or their equivalent; and

(d) any other person whose appointment is required by law to be approved by the governor.

(2) After the effective date of this chapter, any new appointee is a merit exempt employee.

(3) Notwithstanding the requirements of this chapter, any appointee who is currently a nonexempt employee does not lose that nonexempt status because of this chapter.

(4) The [~~Department of Human Resource Management~~] division shall develop financial and other incentives to encourage appointees who are nonexempt to voluntarily convert to merit exempt status.

Section 116. Section 63A-17-303, which is renumbered from Section 67-19-15.6 is renumbered and amended to read:

[~~67-19-15.6~~]. 63A-17-303. Longevity salary increases.

(1) Except for those employees in schedules AB and AN, as provided under Section [~~67-19-15~~] 63A-17-301, and employees described in Subsection [~~67-19-15~~] 63A-17-301(1)(q), an employee shall receive an increase in salary of 2.75% if that employee:

(a) holds a position under schedule A or B as provided under Section [~~67-19-15~~] 63A-17-301;

(b) has reached the maximum of the salary range in the position classification;

(c) has been employed with the state for eight years; and

(d) is rated eligible in job performance under guidelines established by the executive director.

(2) Any employee who meets the criteria under Subsection (1) is entitled to the same increase in salary for each additional three years of employment if the employee maintains the eligibility standards established by the [~~department~~] division.

Section 117. Section 63A-17-304, which is renumbered from Section 67-19-15.7 is renumbered and amended to read:

[~~67-19-15.7~~]. 63A-17-304. Promotion -- Reclassification -- Market adjustment.

(1) (a) If an employee is promoted or the employee's position is reclassified to a higher salary range maximum, the agency shall place the employee within the new range of the position.

(b) An agency may not set an employee's salary:

(i) higher than the maximum in the new salary range; and

(ii) lower than the minimum in the new salary range of the position.

(c) Except for an employee described in Subsection [~~67-19-15~~] 63A-17-301(1)(q), the agency shall grant a salary increase of at least 5% to an employee who is promoted.

(2) An agency shall adjust the salary range for an employee whose salary range is approved by the Legislature for a market comparability adjustment consistent with Subsection [~~67-19-12~~] 63A-17-307(5)(b)(i):

(a) at the beginning of the next fiscal year; and

(b) consistent with appropriations made by the Legislature.

(3) [~~Department-initiated~~] Division-initiated revisions in the state classification system that result in consolidation or reduction of class titles or broadening of pay ranges:

(a) may not be regarded as a reclassification of the position or promotion of the employee; and

(b) are exempt from the provisions of Subsection (1).

Section 118. Section 63A-17-305, which is renumbered from Section 67-19-16 is renumbered and amended to read:

[~~67-19-16~~]. 63A-17-305. Appointments to Schedule B positions -- Examinations -- Hiring lists -- Probationary service -- Dismissal.

(1) Each appointment to a position under Schedule B shall be made from hiring lists of applicants who have been selected by competitive procedures as defined by the [~~executive~~] director.

(2) The [~~executive~~] director shall publicly announce information regarding career service positions:

(a) for periods of time to be determined by the [~~executive~~] director; and

(b) in a manner designed to attract the highest number of qualified applicants.

(3) The [~~executive~~] director shall make rules establishing standards for the development, approval, and implementation of examining processes, including establishing a department approved on the job examination to appoint a qualified person with a disability.

(4) Applicants for employment to Schedule B positions shall be eligible for appointment based upon rules established by the [~~executive~~] director.

(5) (a) The agency head shall make appointments to fill vacancies from hiring lists for probationary periods as defined by rule.

(b) The [~~executive~~] director shall make rules establishing probationary periods.

(6) A person serving a probationary period may not use the grievance procedures provided in this chapter and in Title 67, Chapter 19a, Grievance Procedures, and may be dismissed at any time by the appointing officer without hearing or appeal.

(7) Career service status shall be granted upon the successful completion of the probationary period.

Section 119. Section 63A-17-306, which is renumbered from Section 67-19-18 is renumbered and amended to read:

[~~67-19-18~~]. 63A-17-306. Dismissals and demotions -- Grounds -- Disciplinary action -- Procedure -- Reductions in force.

(1) A career service employee may be dismissed or demoted:

(a) to advance the good of the public service; or

(b) for just causes, including inefficiency, incompetency, failure to maintain skills or adequate performance levels, insubordination, disloyalty to the orders of a superior, misfeasance, malfeasance, or nonfeasance in office.

(2) An employee may not be dismissed because of race, sex, age, disability, national origin, religion, political affiliation, or other nonmerit factor including the exercise of rights under this chapter.

(3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the [~~executive~~] director shall establish rules governing the procedural and documentary requirements of disciplinary dismissals and demotions.

(4) If an agency head finds that a career service employee is charged with aggravated misconduct or that retention of a career service employee would endanger the peace and safety of others or pose a grave threat to the public interest, the employee may be suspended pending the administrative appeal to the department head as provided in Subsection (5).

(5) (a) A career service employee may not be demoted or dismissed unless the department head or designated representative has complied with this subsection.

(b) The department head or designated representative notifies the employee in writing of the reasons for the dismissal or demotion.

(c) The employee has no less than five working days to reply and have the reply considered by the department head.

(d) The employee has an opportunity to be heard by the department head or designated representative.

(e) Following the hearing, the employee may be dismissed or demoted if the department head finds adequate cause or reason.

(6) (a) Reductions in force required by inadequate funds, change of workload, or lack of work are governed by retention points established by the [~~executive~~] director.

(b) Under those circumstances:

(i) The agency head shall designate the category of work to be eliminated, subject to review by the [~~executive~~] director.

(ii) Temporary and probationary employees shall be separated before any career service employee.

(iii) (A) When more than one career service employee is affected, the employees shall be separated in the order of their retention points, the employee with the lowest points to be discharged first.

(B) Retention points for each career service employee shall be computed according to rules established by the [~~executive~~] director, allowing appropriate consideration for proficiency and seniority in state government, including any active duty military service fulfilled subsequent to original state appointment.

(c) (i) A career service employee who is separated in a reduction in force under this section shall be given preferential consideration when applying for a career service position.

(ii) Preferential consideration under Subsection (6)(c)(i) applies only until the former career service employee accepts a career service position.

(iii) The [~~executive~~] director shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, concerning the manner of granting preferential consideration under Subsection (6)(c)(i).

(d) (i) An employee separated due to a reduction in force may appeal to the department head for an administrative review.

(ii) The notice of appeal must be submitted within 20 working days after the employee's receipt of written notification of separation.

(iii) The employee may appeal the decision of the department head according to the grievance and appeals procedure of this chapter and Title 67, Chapter 19a, Grievance Procedures.

Section 120. Section 63A-17-307, which is renumbered from Section 67-19-12 is renumbered and amended to read:

[~~67-19-12~~]. 63A-17-307. State pay plans -- Applicability of section -- Exemptions -- Duties of director.

(1) (a) This section, and the rules adopted by the [~~department~~] division to implement this section, apply to each career and noncareer employee not specifically exempted under Subsection (2).

(b) If not exempted under Subsection (2), an employee is considered to be in classified service.

(2) The following employees are exempt from this section:

(a) members of the Legislature and legislative employees;

(b) members of the judiciary and judicial employees;

(c) elected members of the executive branch and employees designated as schedule AC as provided under Subsection [~~67-19-15~~] 63A-17-301(1)(c);

(d) employees of the State Board of Education;

(e) officers, faculty, and other employees of state institutions of higher education;

(f) employees in a position that is specified by statute to be exempt from this Subsection (2);

(g) employees in the Office of the Attorney General;

(h) department heads and other persons appointed by the governor under statute;

(i) schedule AS employees as provided under Subsection [~~67-19-15~~] 63A-17-301(1)(m);

(j) department deputy directors, division directors, and other employees designated as schedule AD as provided under Subsection [~~67-19-15~~] 63A-17-301(1)(d);

(k) employees that determine and execute policy designated as schedule AR as provided under Subsection [~~67-19-15~~] 63A-17-301(1)(l);

(l) teaching staff, educational interpreters, and educators designated as schedule AH as provided under Subsection [~~67-19-15~~] 63A-17-301(1)(g);

(m) temporary employees described in Subsection [~~67-19-15~~] 63A-17-301(1)(q);

(n) patients and inmates designated as schedule AU as provided under Subsection [~~67-19-15~~] 63A-17-301(1)(o) who are employed by state institutions; and

(o) members of state and local boards and councils and other employees designated as schedule AQ as provided under Subsection [~~67-19-15~~] 63A-17-301(1)(k).

(3) (a) The [~~executive~~] director shall prepare, maintain, and revise a position classification plan for each employee position not exempted under Subsection (2) to provide equal pay for equal work.

(b) Classification of positions shall be based upon similarity of duties performed and responsibilities assumed, so that the same job requirements and the same salary range may be applied equitably to each position in the same class.

(c) The [~~executive~~] director shall allocate or reallocate the position of each employee in classified service to one of the classes in the classification plan.

(d) (i) The [~~department~~] division shall conduct periodic studies and interviews to provide that the classification plan remains reasonably current and reflects the duties and responsibilities assigned to and performed by employees.

(ii) The [~~executive~~] director shall determine the need for studies and interviews after considering factors such as changes in duties and responsibilities of positions or agency reorganizations.

(4) (a) With the approval of the executive director and the governor, the [~~executive~~] director shall develop and adopt pay plans for each position in classified service.

(b) The [~~executive~~] director shall design each pay plan to achieve, to the degree that funds permit, comparability of state salary ranges to the market using data obtained from private enterprise and other public employment for similar work.

(c) The [~~executive~~] director shall adhere to the following in developing each pay plan:

(i) [~~Each~~] each pay plan shall consist of sufficient salary ranges to:

(A) permit adequate salary differential among the various classes of positions in the classification plan; and

(B) reflect the normal growth and productivity potential of employees in that class.

(ii) The [~~executive~~] director shall issue rules for the administration of pay plans.

(d) The establishing of a salary range is a nondelegable activity and is not appealable under the grievance procedures of [~~Sections 67-19-30 through 67-19-32, Chapter 19a, Grievance Procedures~~] Part 6, Grievance Provisions, Title 67, Chapter 19a, Grievance Provisions, or otherwise.

(e) The [~~executive~~] director shall issue rules providing for:

(i) agency approved salary adjustments within approved salary ranges, including an administrative salary adjustment;

(ii) legislatively approved salary adjustments within approved salary ranges, including a merit increase, subject to Subsection (4)(f), or general increase; and

(iii) structure adjustments that modify salary ranges, including a cost of living adjustment or market comparability adjustment.

(f) A merit increase shall be granted on a uniform and consistent basis to each employee who receives

a rating of "successful" or higher in an annual evaluation of the employee's productivity and performance.

(5) (a) [~~By~~] On or before October 31 of each year, the [~~executive~~] director shall submit an annual compensation plan to the executive director and the governor for consideration in the executive budget.

(b) The plan described in Subsection (5)(a) may include recommendations, including:

(i) salary increases that generally affect employees, including a general increase or merit increase;

(ii) salary increases that address compensation issues unique to an agency or occupation;

(iii) structure adjustments, including a cost of living adjustment or market comparability adjustment; or

(iv) changes to employee benefits.

(c) (i) (A) Subject to Subsection (5)(c)(i)(B) or (C), the [~~executive~~] director shall incorporate the results of a salary survey of a reasonable cross section of comparable positions in private and public employment in the state into the annual compensation plan.

(B) The salary survey for a law enforcement officer, as defined in Section 53-13-103, a correctional officer, as defined in Section 53-13-104, or a dispatcher, as defined in Section 53-6-102, shall at minimum include the three largest political subdivisions in the state that employ, respectively, comparable positions.

(C) The salary survey for an examiner or supervisor described in Title 7, Chapter 1, Part 2, Department of Financial Institutions, shall at minimum include the Federal Deposit Insurance Corporation, Federal Reserve, and National Credit Union Administration.

(ii) The [~~executive~~] director may cooperate with or participate in any survey conducted by other public and private employers.

(iii) The [~~executive~~] director shall obtain information for the purpose of constructing the survey from the Division of Workforce Information and Payment Services and shall include employer name, number of persons employed by the employer, employer contact information and job titles, county code, and salary if available.

(iv) The [~~department~~] division shall acquire and protect the needed records in compliance with the provisions of Section 35A-4-312.

(d) The [~~executive~~] director may incorporate any other relevant information in the plan described in Subsection (5)(a), including information on staff turnover, recruitment data, or external market trends.

(e) The [~~executive~~] director shall:

(i) establish criteria to assure the adequacy and accuracy of data used to make recommendations described in this Subsection (5); and

(ii) when preparing recommendations use accepted methodologies and techniques similar to and consistent with those used in the private sector.

(f) (i) Upon request and subject to Subsection (5)(f)(ii), the [~~department~~] division shall make available foundational information used by the [~~department~~] division or director in the drafting of a plan described in Subsection (5)(a), including:

(A) demographic and labor market information;

(B) information on employee turnover;

(C) salary information;

(D) information on recruitment; and

(E) geographic data.

(ii) The [~~department~~] division may not provide under Subsection (5)(f)(i) information or other data that is proprietary or otherwise protected under the terms of a contract or by law.

(g) The governor shall:

(i) consider salary and structure adjustments recommended under Subsection (5)(b) in preparing the executive budget and shall recommend the method of distributing the adjustments;

(ii) submit compensation recommendations to the Legislature; and

(iii) support the recommendation with schedules indicating the cost to individual departments and the source of funds.

(h) If funding is approved by the Legislature in a general appropriations act, the adjustments take effect on the July 1 following the enactment unless otherwise indicated.

(6) (a) The [~~executive~~] director shall issue rules for the granting of incentive awards, including awards for cost saving actions, awards for commendable actions by an employee, or a market-based award to attract or retain employees.

(b) An agency may not grant a market-based award unless the award is previously approved by the [~~department~~] division.

(c) In accordance with Subsection (6)(b), an agency requesting the [~~department's~~] division's approval of a market-based award shall submit a request and documentation, subject to Subsection (6)(d), to the [~~department~~] division.

(d) In the documentation required in Subsection (6)(c), the requesting agency shall identify for the [~~department~~] division:

(i) any benefit the market-based award would provide for the agency, including:

(A) budgetary advantages; or

(B) recruitment advantages;

(ii) a mission critical need to attract or retain unique or hard to find skills in the market; or

(iii) any other advantage the agency would gain through the utilization of a market-based award.

(7) (a) The [~~executive~~] director shall regularly evaluate the total compensation program of state employees in the classified service.

(b) The [~~department~~] division shall determine if employee benefits are comparable to those offered by other private and public employers using information from:

(i) a study conducted by a third-party consultant; or

(ii) the most recent edition of a nationally recognized benefits survey.

Section 121. Section 63A-17-401, which is renumbered from Section 67-19-13 is renumbered and amended to read:

Part 4. Payroll

[~~67-19-13~~]. 63A-17-401. Examination of payrolls and certification of employee eligibility by the director.

(1) The [~~executive~~] director may examine payrolls at any time to determine conformity with this chapter and [~~the regulations~~] administrative rules.

(2) No new employee shall be hired in a position covered by this chapter, and no employee shall be changed in pay, title or status, nor shall any employee be paid unless certified by the [~~executive~~] director as eligible under the provisions of or [~~regulations promulgated~~] rules made pursuant to this chapter.

Section 122. Section 63A-17-402, which is renumbered from Section 67-19-13.5 is renumbered and amended to read:

[~~67-19-13.5~~]. 63A-17-402. Division provides payroll services to executive branch agencies -- Report.

(1) As used in this section:

(a) (i) "Executive branch entity" means a department, division, agency, board, or office within the executive branch of state government that employs a person who is paid through the central payroll system developed by the Division of Finance as of December 31, 2011.

(ii) "Executive branch entity" does not include:

(A) the Office of the Attorney General;

(B) the Office of the State Treasurer;

(C) the Office of the State Auditor;

(D) the Department of Transportation;

(E) the [~~Department~~] Division of Technology Services;

(F) the Department of Public Safety;

(G) the Department of Natural Resources; or

(H) the Utah Schools for the Deaf and the Blind.

(b) (i) "Payroll services" means using the central payroll system as directed by the Division of Finance to:

(A) enter and validate payroll reimbursements, which include reimbursements for mileage, a service award, and other wage types;

(B) calculate, process, and validate a retirement;

(C) enter a leave adjustment; and

(D) certify payroll by ensuring an entry complies with a rule or policy adopted by the department or the Division of Finance.

(ii) "Payroll services" does not mean:

(A) a function related to payroll that is performed by an employee of the Division of Finance;

(B) a function related to payroll that is performed by an executive branch agency on behalf of a person who is not an employee of the executive branch agency;

(C) the entry of time worked by an executive branch agency employee into the central payroll system; or

(D) approval or verification by a supervisor or designee of the entry of time worked.

(2) The [~~department~~] division shall provide payroll services to all executive branch entities.

(3) After September 19, 2012, an executive branch entity, other than the [~~department~~] division or the Division of Finance, may not create a full-time equivalent position or part-time position, or request an appropriation to fund a full-time equivalent position or part-time position for the purpose of providing payroll services to the entity.

Section 123. Section 63A-17-403, which is renumbered from Section 67-19-42 is renumbered and amended to read:

[~~67-19-42~~]. 63A-17-403. Employee cost disclosure.

The Division of Finance shall, at least annually, plainly disclose to all state employees the costs of compensation and benefits that are paid by the state in dollar figures.

Section 124. Section 63A-17-501 is enacted to read:

Part 5. Hours and Leave

63A-17-501. Definitions.

As used in this part:

(1) "Continuing medical and life insurance benefits" means the state provided policy of medical insurance and the state provided portion of a policy of life insurance, each offered at the same:

(a) benefit level and the same proportion of state/member participation in the total premium costs as an active member as defined in Section 49-11-102; and

(b) coverage level for a member, two person, or family policy as provided to the member at the time of retirement.

(2) "Converted sick leave" means leave that has been converted from unused sick leave in accordance with Section 63A-17-506 which may be used by an employee in the same manner as:

(a) annual leave;

(b) sick leave; or

(c) unused accumulated sick leave after the employee's retirement for the purchase of continuing medical and life insurance benefits under Sections 63A-17-507, 63A-17-508, and 63A-17-804.

Section 125. Section 63A-17-502, which is renumbered from Section 67-19-6.7 is renumbered and amended to read:

[~~67-19-6.7~~]. 63A-17-502. Overtime policies for state employees.

(1) As used in this section:

(a) "Accrued overtime hours" means:

(i) for nonexempt employees, overtime hours earned during a fiscal year that, at the end of the fiscal year, have not been paid and have not been taken as time off by the nonexempt state employee who accrued them; and

(ii) for exempt employees, overtime hours earned during an overtime year.

(b) "Appointed official" means:

(i) each department executive director and deputy director, each division director, and each member of a board or commission; and

(ii) any other person employed by a department who is appointed by, or whose appointment is required by law to be approved by, the governor and who:

(A) is paid a salary by the state; and

(B) who exercises managerial, policy-making, or advisory responsibility.

(c) "Department" means the Department of [~~Administrative Services~~] Government Operations, the Department of Corrections, the Department of Financial Institutions, the Department of Alcoholic Beverage Control, the Insurance Department, the Public Service Commission, the Labor Commission, the Department of Agriculture and Food, the Department of Human Services, the Department of Natural Resources, [~~the Department of Technology Services,~~] the Department of Transportation, the Department of Commerce, the Department of Workforce Services, the State Tax Commission, the Department of Heritage and Arts, the Department of Health, the National Guard, the Department of Environmental Quality, the Department of Public Safety, [~~the Department of Human Resource Management,~~] the Commission on Criminal and Juvenile Justice, all merit employees except attorneys in the Office of the Attorney General, merit employees in the Office of the State Treasurer, merit employees in the Office of the State Auditor, Department of Veterans and Military Affairs, and the Board of Pardons and Parole.

(d) "Elected official" means any person who is an employee of the state because the person was elected by the registered voters of Utah to a position in state government.

(e) "Exempt employee" means a state employee who is exempt as defined by the Fair Labor Standards Act of 1978, 29 U.S.C. Sec. 201 et seq.

(f) "FLSA" means the Fair Labor Standards Act of 1978, 29 U.S.C. Sec. 201 et seq.

(g) "FLSA agreement" means the agreement authorized by the Fair Labor Standards Act of 1978, 29 U.S.C. Sec. 201 et seq., by which a nonexempt employee elects the form of compensation the nonexempt employee will receive for overtime.

(h) "Nonexempt employee" means a state employee who is nonexempt as defined by the [~~Department of Human Resource Management~~] division applying FLSA requirements.

(i) "Overtime" means actual time worked in excess of the employee's defined work period.

(j) "Overtime year" means the year determined by a department under Subsection (4)(b) at the end of which an exempt employee's accrued overtime lapses.

(k) "State employee" means every person employed by a department who is not:

(i) an appointed official;

(ii) an elected official; or

(iii) a member of a board or commission who is paid only for per diem or travel expenses.

(l) "Uniform annual date" means the date when an exempt employee's accrued overtime lapses.

(m) "Work period" means:

(i) for all nonexempt employees, except law enforcement and hospital employees, a consecutive seven day 24 hour work period of 40 hours;

(ii) for all exempt employees, a 14 day, 80 hour payroll cycle; and

(iii) for nonexempt law enforcement and hospital employees, the period established by each department by rule for those employees according to the requirements of the Fair Labor Standards Act of 1978, 29 U.S.C. Sec. 201 et seq.

(2) Each department shall compensate each state employee who works overtime by complying with the requirements of this section.

(3) (a) Each department shall negotiate and obtain a signed FLSA agreement from each nonexempt employee.

(b) In the FLSA agreement, the nonexempt employee shall elect either to be compensated for overtime by:

(i) taking time off work at the rate of one and one-half hour off for each overtime hour worked; or

(ii) being paid for the overtime worked at the rate of one and one-half times the rate per hour that the state employee receives for nonovertime work.

(c) Any nonexempt employee who elects to take time off under this Subsection (3) shall be paid for any overtime worked in excess of the cap established by the [~~Department of Human Resource Management~~] division.

(d) Before working any overtime, each nonexempt employee shall obtain authorization to work overtime from the employee's immediate supervisor.

(e) Each department shall:

(i) for employees who elect to be compensated with time off for overtime, allow overtime earned during a fiscal year to be accumulated; and

(ii) for employees who elect to be paid for overtime worked, pay them for overtime worked in the paycheck for the pay period in which the employee worked the overtime.

(f) If [~~the~~] a department pays a nonexempt employee for overtime, [~~the~~] that department shall charge that payment to [~~the~~] that department's budget.

(g) At the end of each fiscal year, the Division of Finance shall total all the accrued overtime hours for nonexempt employees and charge that total against the appropriate fund or subfund.

(4) (a) (i) Except as provided in Subsection (4)(a)(ii), each department shall compensate exempt employees who work overtime by granting them time off at the rate of one hour off for each hour of overtime worked.

(ii) The [~~executive~~] director of the [~~Department of Human Resource Management~~] division may grant limited exceptions to this requirement, where work circumstances dictate, by authorizing a department to pay employees for overtime worked at the rate per hour that the employee receives for nonovertime work, if [~~the~~] that department has funds available.

(b) (i) Each department shall:

(A) establish in its written human resource policies a uniform annual date for each division that is at the end of any pay period; and

(B) communicate the uniform annual date to its employees.

(ii) If any department fails to establish a uniform annual date as required by this Subsection (4), the [~~executive~~] director of the [~~Department of Human Resource Management~~] division, in conjunction with the director of the Division of Finance, shall establish the date for that department.

(c) (i) Any overtime earned under this Subsection (4) is not an entitlement, is not a benefit, and is not a vested right.

(ii) A court may not construe the overtime for exempt employees authorized by this Subsection (4) as an entitlement, a benefit, or as a vested right.

(d) At the end of the overtime year, upon transfer to another department at any time, and upon termination, retirement, or other situations where the employee will not return to work before the end of the overtime year:

(i) any of an exempt employee's overtime that is more than the maximum established by [~~the Department of Human Resource Management~~] division rule lapses; and

(ii) unless authorized by the [~~executive~~] director of the [~~Department of Human Resource Management~~] division under Subsection (4)(a)(ii), a department may not compensate the exempt employee for that lapsed overtime by paying the employee for the overtime or by granting the employee time off for the lapsed overtime.

(e) Before working any overtime, each exempt employee shall obtain authorization to work overtime from the exempt employee's immediate supervisor.

(f) If [~~the~~] a department pays an exempt employee for overtime under authorization from the [~~executive~~] director of the [~~Department of Human Resource Management, the~~] division, that department shall charge that payment to [~~the~~] that department's budget in the pay period earned.

(5) The [~~Department of Human Resource Management~~] division shall:

(a) ensure that the provisions of the FLSA and this section are implemented throughout state government;

(b) determine, for each state employee, whether that employee is exempt, nonexempt, law enforcement, or has some other status under the FLSA;

(c) in coordination with modifications to the systems operated by the Division of Finance, make rules:

(i) establishing procedures for recording overtime worked that comply with FLSA requirements;

(ii) establishing requirements governing overtime worked while traveling and procedures for recording that overtime that comply with FLSA requirements;

(iii) establishing requirements governing overtime worked if the employee is "on call" and procedures for recording that overtime that comply with FLSA requirements;

(iv) establishing requirements governing overtime worked while an employee is being trained and procedures for recording that overtime that comply with FLSA requirements;

(v) subject to the FLSA, establishing the maximum number of hours that a nonexempt employee may accrue before a department is required to pay the employee for the overtime worked;

(vi) subject to the FLSA, establishing the maximum number of overtime hours for an exempt employee that do not lapse; and

(vii) establishing procedures for adjudicating appeals of any FLSA determinations made by the [~~Department of Human Resource Management~~] division as required by this section;

(d) monitor departments for compliance with the FLSA; and

(e) recommend to the Legislature and the governor any statutory changes necessary because of federal government action.

(6) (a) In coordination with the procedures for recording overtime worked established in rule by the [~~Department of Human Resource Management~~] division, the Division of Finance shall modify its payroll and human resource systems to accommodate those procedures.

[~~(a)~~] (b) Notwithstanding the procedures and requirements of Title 63G, Chapter 4, Administrative Procedures Act, Section [~~67-19-31~~] 63A-17-602, and Section 67-19a-301, any employee who is aggrieved by the FLSA designation made by the [~~Department of Human Resource Management~~] division as required by this section may appeal that determination to the [~~executive~~] director of the [~~Department of Human Resource Management~~] division by following the procedures and requirements established in [~~Department of Human Resource Management~~] division rule.

[~~(b)~~] (c) Upon receipt of an appeal under this section, the [~~executive~~] director shall notify the executive director of the employee's department that the appeal has been filed.

[~~(c)~~] (d) If the employee is aggrieved by the decision of the [~~executive director of the Department of Human Resource Management~~] director, the employee shall appeal that determination to the Department of Labor, Wage and Hour Division, according to the procedures and requirements of federal law.

Section 126. Section 63A-17-503, which is renumbered from Section 67-19-12.7 is renumbered and amended to read:

[~~67-19-12.7~~]. 63A-17-503. Accumulated annual leave -- Conversion to deferred compensation plan.

(1) The [~~department~~] division shall implement a program whereby an employee may, upon termination of employment or retirement, elect to convert any unused annual leave into any of the employee's designated deferred compensation accounts that:

(a) are sponsored by the Utah State Retirement Board; and

(b) are qualified under Section 401(k) or Section 457 of the Internal Revenue Code.

(2) Any annual leave converted under Subsection (1) shall be converted into the employee's deferred compensation account at the employee's pay rate at the time of termination or retirement.

(3) No employee may convert hours of accrued annual leave to the extent that any hours so converted would exceed the maximum amount authorized by the Internal Revenue Code for each calendar year.

Section 127. Section 63A-17-504, which is renumbered from Section 67-19-12.9 is renumbered and amended to read:

[~~67-19-12.9~~]. 63A-17-504. Accumulated annual leave -- Annual conversion to deferred compensation plan.

(1) If the Legislature in an annual appropriations act with accompanying intent language specifically authorizes and fully funds the estimated costs of this use, the [~~department~~] division shall implement a program that allows an employee, in the approved calendar year, to elect to convert up to 20 hours of annual leave, in whole hour increments not to exceed $250 in value, into any of the employee's designated deferred compensation accounts that:

(a) are sponsored by the Utah State Retirement Board; and

(b) are qualified under Section 401(k) or Section 457 of the Internal Revenue Code.

(2) Any annual leave converted under Subsection (1) shall be:

(a) converted into the employee's deferred compensation account at the employee's pay rate at the time of conversion; and

(b) calculated in the last pay period of the leave year as determined by the Division of Finance.

(3) An employee may not convert hours of accrued annual leave to the extent that any hours converted would:

(a) exceed the maximum amount authorized by the Internal Revenue Code for the calendar year; or

(b) cause the employee's balance of accumulated annual leave to drop below the maximum accrual limit provided by rule.

Section 128. Section 63A-17-505, which is renumbered from Section 67-19-14 is renumbered and amended to read:

[~~67-19-14~~]. 63A-17-505. Sick leave -- Definitions -- Unused sick days retirement programs -- Rulemaking.

[~~(1) As used in this section through Section 67-19-14.4:~~]

[~~(a) "Continuing medical and life insurance benefits" means the state provided policy of medical insurance and the state provided portion of a policy of life insurance, each offered at the same:~~]

[~~(i) benefit level and the same proportion of state/member participation in the total premium costs as an active member as defined in Section 49-11-102; and~~]

[~~(ii) coverage level for a member, two person, or family policy as provided to the member at the time of retirement.~~]

[~~(b) "Converted sick leave" means leave that has been converted from unused sick leave in accordance with Section 67-19-14.1 which may be used by an employee in the same manner as:~~]

[~~(i) annual leave;~~]

[~~(ii) sick leave; or~~]

[~~(iii) unused accumulated sick leave after the employee's retirement for the purchase of continuing medical and life insurance benefits under Sections 67-19-14.2, 67-19-14.3, and 67-19-14.4.~~]

[~~(2)~~] (1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the [~~executive~~] director shall make rules:

(a) for the procedures to implement the provisions of this section through Section [~~67-19-14.4~~] 63A-17-508; and

(b) to establish the maximum number of hours of converted sick leave an employee may accrue.

[~~(3)~~] (2) The Division of Finance shall develop and maintain a system of accounting for employee sick leave and converted sick leave as necessary to implement the provisions of this section through Section [~~67-19-14.4~~] 63A-17-508.

Section 129. Section 63A-17-506, which is renumbered from Section 67-19-14.1 is renumbered and amended to read:

[~~67-19-14.1~~]. 63A-17-506. Converted sick leave.

Converted sick leave hours that are not used prior to an employee's retirement date shall be used under the:

(1) Unused Sick Leave Retirement Option Program I under Section [~~67-19-14.2~~] 63A-17-507 if earned prior to January 1, 2006, unless the transfer is made under Subsection [~~67-19-14.4~~] 63A-17-508(1)(c); or

(2) Unused Sick Leave Retirement Option Program II under Section [~~67-19-14.4~~] 63A-17-508 if earned on or after January 1, 2006.

Section 130. Section 63A-17-507, which is renumbered from Section 67-19-14.2 is renumbered and amended to read:

[~~67-19-14.2~~]. 63A-17-507. Unused Sick Leave Retirement Option Program I -- Creation -- Payout upon eligibility for allowance -- Continuing medical and life insurance benefits after retirement.

(1) (a) There is created the "Unused Sick Leave Retirement Option Program I."

(b) An agency may offer the Unused Sick Leave Retirement Option Program I to an employee who is eligible to receive a retirement allowance in accordance with Title 49, Utah State Retirement and Insurance Benefit Act.

(2) The Unused Sick Leave Retirement Option Program I provides that upon becoming eligible to receive a retirement allowance an employee who was employed by the state prior to January 1, 2006:

(a) receives a contribution under Subsection (3) for 25% of the employee's unused accumulated sick leave accrued prior to January 1, 2006, at the employee's rate of pay at the time of retirement; and

(b) may purchase additional continuing medical and life insurance benefits in accordance with Subsection (4).

(3) (a) Subject to federal requirements and limitations, the contribution under Subsection (2)(a) shall be transferred directly to the employee's defined contribution plan qualified under Section 401(k) of the Internal Revenue Code which is sponsored by the Utah State Retirement Board.

(b) If the amount calculated under Subsection (2)(a) exceeds the federal contribution limitations, the employee's unused accumulated sick leave hours representing the excess shall be used for the purchase of continuing medical and life insurance benefits under Subsection (4).

(4) (a) An employee may purchase continuing medical and life insurance benefits, at the rate of one month's coverage per policy for eight hours of unused sick leave remaining after the contribution of unused sick leave under Subsection (2)(a).

(b) The medical coverage level for member, two person, or family coverage that is provided to the member at the time of retirement is the maximum coverage level available to the member under this program.

(c) The purchase of continuing medical and life insurance benefits at the rate provided under Subsection (4)(a) may be used by the employee to extend coverage:

(i) until the employee reaches the age of eligibility for Medicare; or

(ii) if the employee has reached the age of eligibility for Medicare, continuing medical benefits for the employee's spouse may be purchased until the employee's spouse reaches the age of eligibility for Medicare.

(d) An employee and the employee's spouse who are or who later become eligible for Medicare may purchase Medicare supplemental insurance at the rate of one month's coverage for eight hours of the employee's unused sick leave per person.

(5) (a) The continuing medical and life insurance benefits purchased by an employee under Subsection (4):

(i) may not be suspended or deferred for future use; and

(ii) continues in effect until exhausted.

(b) An employer participating in the Program I benefits under this section may not provide medical or life insurance benefits to a person who is:

(i) reemployeed after retirement; and

(ii) receiving benefits under this section.

Section 131. Section 63A-17-508, which is renumbered from Section 67-19-14.4 is renumbered and amended to read:

[~~67-19-14.4~~]. 63A-17-508. Unused Sick Leave Retirement Program II -- Creation -- Remuneration upon eligibility for allowance -- Medical expense account after retirement.

(1) (a) There is created the "Unused Sick Leave Retirement Program II."

(b) An agency shall offer the Unused Sick Leave Retirement Option Program II to an employee who is eligible to receive a retirement allowance in accordance with Title 49, Utah State Retirement and Insurance Benefit Act.

(c) An employee who is participating in the Unused Sick Leave Retirement Program I under Section [~~67-19-14.2~~] 63A-17-507 may make a one-time and irrevocable election to transfer all unused sick leave hours which shall include all converted sick leave hours under Section [~~67-19-14.1~~] 63A-17-506 for use under the Unused Sick Leave Retirement Program II under this section.

(2) (a) The Unused Sick Leave Retirement Program II provides that upon becoming eligible to receive a retirement allowance an employee employed by the state between January 1, 2006, and January 3, 2014, shall receive remuneration for the employee's unused accumulated sick leave and converted sick leave accrued between January 1, 2006, and January 3, 2014, in accordance with this section as follows:

(i) subject to federal requirements and limitations, a contribution at the employee's rate of pay at the time of retirement for 25% of the employee's unused accumulated sick leave and converted sick leave shall be transferred directly to the employee's defined contribution plan qualified under Section 401(k) of the Internal Revenue Code which is sponsored by the Utah State Retirement Board; and

(ii) participation in a benefit plan that provides for reimbursement for medical expenses using money deposited at the employee's rate of pay at the time of retirement from remaining unused accumulated sick leave and converted sick leave balances.

(b) If the amount calculated under Subsection (2)(a)(i) exceeds the federal contribution limitations, the amount representing the excess shall be deposited under Subsection (2)(a)(ii).

(c) An employee's rate of pay at the time of retirement for purposes of Subsection (2)(a)(ii) may not be less than the average rate of pay of state employees who retired in the same retirement system under Title 49, Utah State Retirement and Insurance Benefit Act, during the previous calendar year.

(3) The Utah State Retirement Office shall develop and maintain a program to provide a benefit plan that provides for reimbursement for medical expenses under Subsection (2)(a)(ii) with money deposited under Subsection (2)(a)(ii).

Section 132. Section 63A-17-509, which is renumbered from Section 67-19-14.5 is renumbered and amended to read:

[~~67-19-14.5~~]. 63A-17-509. Organ donor leave.

(1) An employee who serves as a bone marrow donor shall be granted a paid leave of absence of up to seven days that are necessary for the donation and recovery from the donation.

(2) An employee who serves as a donor of a human organ shall be granted a paid leave of absence of up to 30 days that are necessary for the donation and recovery from the donation.

(3) In recognition of National Donate Life Month, 2015, created by Proclamation No. 9248, 80 F.R. 18511 (April 1, 2015), the department shall distribute an electronic message to each employee during the month of April publicizing the leave offered under this section.

Section 133. Section 63A-17-510, which is renumbered from Section 67-19-14.6 is renumbered and amended to read:

[~~67-19-14.6~~]. 63A-17-510. Annual leave -- Definitions -- Previously accrued hours -- Recognition of liability.

(1) As used in this section:

(a) (i) "Annual leave II" means leave hours an employing agency provides to an employee, beginning on the change date established in Subsection (2), as time off from work for personal use without affecting the employee's pay.

(ii) "Annual leave II" does not include:

(A) legal holidays under Section 63G-1-301;

(B) time off as compensation for actual time worked in excess of an employee's defined work period;

(C) sick leave;

(D) paid or unpaid administrative leave; or

(E) other paid or unpaid leave from work provided by state statute, administrative rule, or by federal law or regulation.

(b) "Change date" means the date established by the Division of Finance under Subsection (2) when annual leave II begins for a state agency.

(2) In accordance with the Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the Division of Finance shall establish a date that is no later than January 2, 2016, when a state agency shall offer annual leave II in lieu of annual leave to an employee who is eligible to receive paid leave.

(3) An employing agency shall allow an employee who has an unused balance of accrued annual leave before the change date, to use the annual leave

under the same rules that applied to the leave on the change date.

(4) (a) At the time of employee accrual of annual leave II, an employing agency shall set aside the cost of each hour of annual leave II for each eligible employee in an amount determined in accordance with rules made by the Division of Finance.

(b) The rules made under Subsection (4)(a) shall consider:

(i) the employee hourly rate of pay;

(ii) applicable employer paid taxes that would be required if the employee was paid for the annual leave II instead of using it for time off;

(iii) other applicable employer paid benefits; and

(iv) adjustments due to employee hourly rate changes, including the effect on accrued annual leave II balances.

(c) The Division of Finance shall provide that the amount of costs set aside under Subsection (4)(a) and deposited into the fund increase by at least the projected increase in annual leave liability for that year, until the year-end trust fund balances are reached as required under Subsection 67-19f-201(3)(b).

(5) The cost set aside under Subsection (4) shall be deposited by the Division of Finance into the State Employees' Annual Leave Trust Fund created in Section 67-19f-201.

(6) For annual leave hours accrued before the change date, an employing agency shall continue to comply with the Division of Finance requirements for contributions to the termination pool.

(7) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(a) the [~~department~~] division shall make rules for the accrual and use of annual leave II provided under this section; and

(b) the Division of Finance shall make rules for the set aside provisions under Subsections (4) and (5).

Section 134. Section 63A-17-511 (Effective 07/01/21), which is renumbered from Section 67-19-14.7 (Effective 07/01/21) is renumbered and amended to read:

[~~67-19-14.7 (Effective 07/01/21)~~]. 63A-17-511 (Effective 07/01/21). Postpartum recovery leave.

(1) As used in this section:

(a) "Eligible employee" means an employee who:

(i) is in a position that receives retirement benefits under Title 49, Utah State Retirement and Insurance Benefit Act;

(ii) accrues paid leave benefits that can be used in the current and future calendar years;

(iii) is not reemployed as defined in Section 49-11-1202; and

(iv) gives birth to a child.

(b) "Postpartum recovery leave" means leave hours a state employer provides to an eligible employee to recover from childbirth.

(c) "Retaliatory action" means to do any of the following to an employee:

(i) dismiss the employee;

(ii) reduce the employee's compensation;

(iii) fail to increase the employee's compensation by an amount that the employee is otherwise entitled to or was promised;

(iv) fail to promote the employee if the employee would have otherwise been promoted; or

(v) threaten to take an action described in Subsections (1)(c)(i) through (iv).

(d) (i) "State employer" means:

(A) a state executive branch agency, including the State Tax Commission, the National Guard, and the Board of Pardons and Parole;

(B) the legislative branch of the state; or

(C) the judicial branch of the state.

(ii) "State employer" does not include:

(A) an institute of higher education;

(B) the Utah Board of Higher Education;

(C) the State Board of Education;

(D) an independent entity as defined in Section 63E-1-102;

(E) the Attorney General's Office;

(F) the State Auditor's Office; or

(G) the State Treasurer's Office.

(2) (a) Except as provided in Subsection (3), a state employer shall allow an eligible employee to use up to 120 hours of paid postpartum recovery leave based on a 40-hour work week for recovery from childbirth.

(b) A state employer shall allow an eligible employee who is part-time or who works in excess of a 40-hour work week or its equivalent to use the amount of postpartum recovery leave available to the eligible employee under this section on a pro rata basis as adopted by rule by the [~~department~~] division under Subsection (11).

(3) (a) Postpartum recovery leave described in Subsection (2):

(i) shall be used starting on the day on which the eligible employee gives birth, unless a health care provider certifies that an earlier start date is medically necessary;

(ii) shall be used in a single continuous period; and

(iii) runs concurrently with any leave authorized under the Family and Medical Leave Act of 1993, 29 U.S.C. Sec. 2601 et seq.

(b) The amount of postpartum recovery leave authorized under Subsection (2) does not increase if an eligible employee has more than one child born from the same pregnancy.

(4) (a) Except as provided in Subsection (4)(b), an eligible employee shall give the state employer notice at least 30 days before the day on which the eligible employee plans to:

(i) begin using postpartum recovery leave under this section; and

(ii) stop using postpartum recovery leave under this section.

(b) If circumstances beyond the eligible employee's control prevent the eligible employee from giving notice in accordance with Subsection (4)(a), the eligible employee shall give each notice described in Subsection (4)(a) as soon as reasonably practicable.

(5) A state employer may not charge postpartum recovery leave under this section against sick, annual, or other leave.

(6) A state employer may not compensate an eligible employee for any unused postpartum recovery leave upon termination of employment.

(7) (a) Following the expiration of an eligible employee's postpartum recovery leave under this section, the state employer shall ensure that the eligible employee may return to:

(i) the position that the eligible employee held before using postpartum recovery leave; or

(ii) a position within the state employer that is equivalent in seniority, status, benefits, and pay to the position that the eligible employee held before using postpartum recovery leave.

(b) If during the time an eligible employee uses postpartum recovery leave under this section the state employer experiences a reduction in force and, as part of the reduction in force, the eligible employee would have been separated had the eligible employee not been using the postpartum recovery leave, the state employer may separate the eligible employee in accordance with any applicable process or procedure as if the eligible employee were not using the postpartum recovery leave.

(8) During the time an eligible employee uses postpartum recovery leave under this section, the eligible employee shall continue to receive all employment related benefits and payments at the same level that the eligible employee received immediately before beginning the postpartum leave, provided that the eligible employee pays any required employee contributions.

(9) A state employer may not:

(a) interfere with or otherwise restrain an eligible employee from using postpartum recovery leave in accordance with this section; or

(b) take retaliatory action against an eligible employee for using postpartum recovery leave in accordance with this section.

(10) A state employer shall provide each employee written information regarding an eligible employee's right to use postpartum recovery leave under this section.

(11) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the [~~department~~] division shall, by July 1, 2021, make rules for the use and administration of postpartum recovery leave under this section, including a schedule that provides paid or postpartum recovery leave for an eligible employee who is part-time or who works in excess of a 40-hour work week on a pro rata basis.

Section 135. Section 63A-17-512, which is renumbered from Section 67-19-27 is renumbered and amended to read:

[~~67-19-27~~]. 63A-17-512. Leave of absence with pay for employees with a disability who are covered under other civil service systems.

(1) As used in this section:

(a) "Eligible officer" means a person who qualifies for a benefit under this section.

(b) (i) "Law enforcement officer" means a sworn and certified peace officer who is an employee of a law enforcement agency that is part of or administered by the state, and whose primary and principal duties consist of the prevention and detection of crime and the enforcement of criminal statutes of this state.

(ii) "Law enforcement officer" specifically includes the following:

(A) the commissioner of public safety and any member of the Department of Public Safety certified as a peace officer;

(B) all persons specified in Sections 23-20-1.5 and 79-4-501;

(C) investigators for the Motor Vehicle Enforcement Division;

(D) special agents or investigators employed by the attorney general;

(E) employees of the Department of Natural Resources designated as peace officers by law;

(F) the executive director of the Department of Corrections and any correctional enforcement or investigative officer designated by the executive director and approved by the commissioner of public safety and certified by the division; and

(G) correctional enforcement, investigative, or adult probation and parole officers employed by the Department of Corrections serving on or before July 1, 1993.

(c) "State correctional officer" means a correctional officer as defined in Section 53-13-104 who is employed by the Department of Corrections.

(2) (a) A law enforcement officer or state correctional officer who is injured in the course of

employment shall be given a leave of absence with 100% of the officer's regular monthly salary and benefits during the period the employee has a temporary disability.

(b) The benefit provided under Subsection (2)(a):

(i) shall be offset as provided under Subsection (4); and

(ii) may not exceed 100% of the officer's regular monthly salary and benefits, including all offsets required under Subsection (4).

(3) (a) A law enforcement officer or state correctional officer who has a total disability as defined in Section 49-21-102, shall be given a leave of absence with 100% of the officer's regular monthly salary and benefits until the officer is eligible for an unreduced retirement under Title 49, Utah State Retirement and Insurance Benefit Act, or reaches the retirement age of 62 years, whichever occurs first, if:

(i) the disability is a result of an injury sustained while in the lawful discharge of the officer's duties; and

(ii) the injury is the result of:

(A) a criminal act upon the officer; or

(B) an aircraft, vehicle, or vessel accident and the officer was not negligent in causing the accident.

(b) The benefit provided under Subsection (3)(a):

(i) shall be offset as provided under Subsection (4); and

(ii) may not exceed 100% of the officer's regular monthly salary and benefits, including all offsets required under Subsection (4).

(4) (a) The agency shall reduce or require the reimbursement of the monthly benefit provided under this section by any amount received by, or payable to, the eligible officer for the same period of time during which the eligible officer is entitled to receive a monthly disability benefit under this section.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the [~~department~~] division shall make rules establishing policies and procedures for the reductions required under Subsection (4)(a).

Section 136. Section 63A-17-601, which is renumbered from Section 67-19-30 is renumbered and amended to read:

Part 6. Grievance Provisions

[~~67-19-30~~]. 63A-17-601. Grievance resolution -- Jurisdiction.

(1) Employees shall comply with the procedural and jurisdictional requirements of this section, Title 63G, Chapter 4, Administrative Procedures Act, and Chapter 19a, Grievance Procedures, in seeking resolution of grievances.

(2) All grievances based upon a claim or charge of injustice or oppression, including dismissal from employment, resulting from an act, occurrence, commission, or condition shall be governed by Title 67, Chapter 19a, Grievance Procedures, and Title 63G, Chapter 4, Administrative Procedures Act.

(3) All grievances involving classification shall be governed by Section [~~67-19-31~~] 63A-17-602 and are designated as informal adjudicative proceedings as defined by Title 63G, Chapter 4, Administrative Procedures Act.

(4) All grievances by applicants for positions in state government involving an alleged discriminatory or prohibited employment practice shall be governed by Section [~~67-19-32~~] 63A-17-603 and Title 63G, Chapter 4, Administrative Procedures Act.

(5) A "grievance" under this chapter is a request for agency action for purposes of Title 63G, Chapter 4, Administrative Procedures Act.

Section 137. Section 63A-17-602, which is renumbered from Section 67-19-31 is renumbered and amended to read:

[~~67-19-31~~]. 63A-17-602. Position classification grievances -- Scope -- Procedure.

(1) (a) For the purpose of position classification grievances, the process that culminates in assigning a career service position to an appropriate class specification is a matter of position classification and may be grieved.

(b) The process that culminates in assigning a salary range to the class specification is not a position classification and may not be grieved as a classification grievance.

(2) (a) Upon receipt of a position classification grievance, the [~~executive~~] director shall refer the grievance to a classification panel of three or more impartial persons trained in state classification procedures.

(b) The classification panel shall determine whether or not the classification assignment for career service positions was appropriate by applying the statutes, rules, and procedures adopted by the [~~department~~] division that were in effect at the time of the classification change.

(c) The classification panel may:

(i) obtain access to previous audits, classification decisions, and reports;

(ii) request new or additional audits by human resource analysts; and

(iii) consider new or additional information.

(d) The classification panel may sustain or modify the original decision and, if applicable, recommend a new classification.

(e) The classification panel shall report [~~its~~] the classification panel's recommendation to the [~~executive~~] director, who shall make the classification decision and notify the grievant.

(3) (a) Either party may appeal the [~~executive~~] director's decision to an impartial hearing officer trained in state classification procedures selected through a public bid process by a panel consisting of the following members:

[~~(i) the executive director of the Department of Human Resource Management;~~]

(i) a current or former government employee with experience in human resource management;

(ii) two department executive directors;

(iii) a private sector human resources executive appointed by the governor; and

(iv) a representative of the Utah Public Employees Association.

(b) The successful bid shall serve under contract for no more than three years. At the end of that time, the [~~Department of Human Resource Management~~] division shall reissue the bid.

(c) The hearing officer shall review the classification and make the final decision. The final decision is subject to judicial review pursuant to the provisions of Section 63G-4-402.

Section 138. Section 63A-17-603, which is renumbered from Section 67-19-32 is renumbered and amended to read:

[~~67-19-32~~]. 63A-17-603. Discriminatory/prohibited employment practices grievances -- Procedures.

(1) An applicant for a position in state government, a probationary employee, career service employee, or an exempt employee who alleges a discriminatory or prohibited employment practice as defined in Section 34A-5-106 may submit a written grievance to the department head where the alleged unlawful act occurred.

(2) Within 10 working days after a written grievance is submitted under Subsection (1), the department head shall issue a written response to the grievance stating his decision and the reasons for the decision.

(3) If the department head does not issue a decision within 10 days, or if the grievant is dissatisfied with the decision, the grievant may submit a complaint to the Division of Antidiscrimination and Labor, pursuant to Section 34A-5-107.

Section 139. Section 63A-17-701, which is renumbered from Section 67-19e-102 is renumbered and amended to read:

Part 7. Administrative Law Judges

[~~67-19e-102~~]. 63A-17-701. Definitions.

In addition to the definitions found in Section [~~67-19-3, the following definitions apply to this chapter~~] 63A-17-102, as used in this part:

(1) (a) "Administrative law judge" means an individual who is employed or contracted by a state agency who:

(i) presides over or conducts formal administrative hearings on behalf of an agency;

(ii) has the power to administer oaths, rule on the admissibility of evidence, take testimony, evaluate evidence, and make determinations of fact; and

(iii) issues written orders, rulings, or final decisions on behalf of an agency.

(b) "Administrative law judge" does not mean:

(i) an individual who reviews an order or ruling of an administrative law judge; or

(ii) the executive director of a state agency.

(2) "Committee" means the Administrative Law Judge Conduct Committee created in Section [~~67-19e-108~~] 63A-17-708.

[~~(3) "Department" means the Department of Human Resource Management created in Section 67-19-5.~~]

[~~(4) "Executive director" means the executive director of the department.~~]

Section 140. Section 63A-17-702, which is renumbered from Section 67-19e-103 is renumbered and amended to read:

[~~67-19e-103~~]. 63A-17-702. Administrative law judges -- Applicability -- Destruction of evidence.

(1) (a) Except as provided in Subsections (1)(b) and (2), the provisions of this [~~chapter~~] part apply to an administrative law judge who conducts formal adjudicative proceedings.

(b) Except as provided in Subsection (2), the provisions of this [~~chapter~~] part do not apply to an administrative law judge who is employed by or contracts with:

(i) the Board of Pardons and Parole;

(ii) the Department of Corrections; or

(iii) the State Tax Commission.

(2) The code of conduct established by the [~~department~~] division under Subsection [~~67-19e-104~~] 63A-17-703(4) applies to all administrative law judges.

(3) An administrative law judge who tampers with or destroys evidence submitted to the administrative law judge is subject to the provisions of Section 76-8-510.5. This section does not apply to documents destroyed in accordance with Title 63G, Chapter 2, Government Records Access and Management Act.

Section 141. Section 63A-17-703, which is renumbered from Section 67-19e-104 is renumbered and amended to read:

[~~67-19e-104~~]. 63A-17-703. Rulemaking authority.

The [~~department~~] division shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(1) establishing minimum performance standards for all administrative law judges;

(2) providing procedures for filing, addressing, and reviewing complaints against administrative law judges;

(3) providing standards for complaints against administrative law judges;

(4) promulgating a code of conduct for all administrative law judges in all state agencies; and

(5) establishing a procedural fairness training program as described in Section [~~67-19e-109~~] 63A-17-709.

Section 142. Section 63A-17-704, which is renumbered from Section 67-19e-104.5 is renumbered and amended to read:

[~~67-19e-104.5~~]. 63A-17-704. Hiring of administrative law judges.

(1) Except as provided in Subsection (6), each administrative law judge hired on or after May 10, 2016, shall be hired in accordance with this section.

(2) If an applicant for an administrative law judge position is selected for an interview in accordance with applicable law and [~~department~~] division rule, the agency shall interview the applicant by means of a hiring panel.

(3) The hiring panel described in Subsection (2) shall consist of:

(a) the head of the hiring agency;

(b) the head of another agency, appointed by the [~~executive~~] director; and

(c) the [~~executive~~] director.

(4) Each individual described in Subsection (3) may designate another individual to serve on the hiring panel on the individual's behalf.

(5) After the hiring panel completes the interviews for an administrative law judge position:

(a) the hiring panel shall select the top three applicants for the administrative law judge position; and

(b) the head of the hiring agency shall:

(i) consider any opinions or feedback from the other members of the hiring panel with respect to the top three applicants; and

(ii) (A) hire an applicant from the top three applicants to fill the administrative law judge position; or

(B) decide not to hire any of the top three applicants and restart the hiring process to fill the administrative law judge position.

(6) This section does not apply to an administrative law judge who is appointed by the governor.

Section 143. Section 63A-17-705, which is renumbered from Section 67-19e-105 is renumbered and amended to read:

[~~67-19e-105~~]. 63A-17-705. Performance evaluation of administrative law judges.

(1) [~~Beginning January 1, 2014, the department~~] The division shall prepare a performance evaluation for each administrative law judge contracted or employed by a state agency.

(2) The performance evaluation for an administrative law judge shall include:

(a) the results of the administrative law judge's performance evaluations conducted by the employing agency since the administrative law judge's last performance evaluation conducted by the [~~department~~] division in accordance with the performance evaluation procedure for the agency;

(b) information from the employing agency concerning the administrative law judge's compliance with minimum performance standards;

(c) the administrative law judge's disciplinary record, if any;

(d) the results of any performance surveys conducted since the administrative law judge's last performance review conducted by the [~~department~~] division; and

(e) any other factor that the [~~department~~] division considers relevant to evaluating the administrative law judge's performance.

(3) If an administrative law judge fails to meet the minimum performance standards the [~~department~~] division shall provide a copy of the performance evaluation and survey to the employing agency.

(4) The [~~department~~] division shall conduct performance reviews every four years for administrative law judges contracted or employed by an agency.

Section 144. Section 63A-17-706, which is renumbered from Section 67-19e-106 is renumbered and amended to read:

[~~67-19e-106~~]. 63A-17-706. Performance surveys.

(1) [~~For administrative law judges contracted or employed before July 1, 2013, performance surveys shall be conducted initially at either the two-, three-, or four-year mark beginning January 1, 2014. By July 1, 2018, all~~] All administrative law judges shall be on a four-year staggered cycle for performance evaluations.

(2) The performance survey shall include as respondents a sample of each of the following groups as applicable:

(a) attorneys who have appeared before the administrative law judge as counsel; and

(b) staff who have worked with the administrative law judge.

(3) The [~~department~~] division may include an additional classification of respondents if the [~~department~~] division:

(a) considers a survey of that classification of respondents helpful to the [~~department~~] division; and

(b) establishes the additional classification of respondents by rule made in accordance with Title

63G, Chapter 3, Utah Administrative Rulemaking Act.

(4) A survey response is anonymous, including any comment included with a survey response.

(5) If the [~~department~~] division provides any information to an administrative law judge or the committee, the information shall be provided in [~~such a way as~~] a manner to protect the confidentiality of a survey respondent.

(6) If the [~~department~~] division establishes an additional classification, in accordance with Subsection (3), a survey shall be provided to a potential survey respondent within 30 days of the day on which the case in which the person appeared before the administrative law judge is closed, exclusive of any appeal. Staff and attorneys may be surveyed at any time during the survey period.

(7) The performance survey shall include questions relating to whether the administrative law judge's behavior furthers the following elements of procedural fairness:

(a) neutrality, including:

(i) consistent and equal treatment of the individuals who appear before the administrative law judge;

(ii) concern for the individual needs of the individuals who appear before the administrative law judge; and

(iii) careful deliberation;

(b) respectful treatment of others; and

(c) providing individuals a voice and opportunity to be heard.

(8) The performance survey may include questions concerning an administrative law judge's:

(a) legal ability, including the following:

(i) demonstration of understanding of the substantive law and any relevant rules of procedure and evidence;

(ii) attentiveness to factual and legal issues before the administrative law judge;

(iii) adherence to precedent and ability to clearly explain departures from precedent;

(iv) grasp of the practical impact on the parties of the administrative law judge's rulings, including the effect of delay and increased litigation expense;

(v) ability to write clear opinions and decisions; and

(vi) ability to clearly explain the legal basis for opinions;

(b) temperament and integrity, including the following:

(i) demonstration of courtesy toward attorneys, staff, and others in the administrative law judge's department;

(ii) maintenance of decorum in the courtroom;

(iii) demonstration of judicial demeanor and personal attributes that promote public trust and confidence in the administrative law judge system;

(iv) preparedness for oral argument;

(v) avoidance of impropriety or the appearance of impropriety;

(vi) display of fairness and impartiality toward all parties; and

(vii) ability to clearly communicate, including the ability to explain the basis for written rulings, court procedures, and decisions; and

(c) administrative performance, including the following:

(i) management of workload;

(ii) sharing proportionally the workload within the [~~department~~] division; and

(iii) issuance of opinions and orders without unnecessary delay.

(9) If the [~~department~~] division determines that a certain survey question or category of questions is not appropriate for a respondent group, the [~~department~~] division may omit that question or category of questions from the survey provided to that respondent group.

(10) (a) The survey shall allow respondents to indicate responses in a manner determined by the [~~department~~] division, which shall be:

(i) on a numerical scale from one to five; or

(ii) in the affirmative or negative, with an option to indicate the respondent's inability to respond in the affirmative or negative.

(b) To supplement the responses to questions on either a numerical scale or in the affirmative or negative, the [~~department~~] division may allow respondents to provide written comments.

(11) The [~~department~~] division shall compile and make available to each administrative law judge that administrative law judge's survey results with each of the administrative law judge's performance evaluations.

Section 145. Section 63A-17-707, which is renumbered from Section 67-19e-107 is renumbered and amended to read:

[~~67-19e-107~~]. 63A-17-707. Complaints.

(1) A complaint against an administrative law judge shall be filed with the [~~department~~] division.

(2) Upon receipt of a complaint, the [~~department~~] division shall conduct an investigation.

(3) If the [~~department's~~] division's investigation determines that the complaint is frivolous or without merit, it may dismiss it without further action. A complaint that merely indicates disagreement, without further misconduct, with the administrative law judge's decision shall be treated as without merit.

(4) The contents of all complaints and subsequent investigations are classified as protected under Title 63G, Chapter 2, Government Records Access and Management Act.

Section 146. Section 63A-17-708, which is renumbered from Section 67-19e-108 is renumbered and amended to read:

[~~67-19e-108~~]. 63A-17-708. Administrative Law Judge Conduct Committee.

(1) There is created the Administrative Law Judge Conduct Committee to investigate, review, and hear complaints filed against administrative law judges.

(2) The committee shall be composed of:

(a) the [~~executive~~] director, or the [~~executive~~] director's designee, as chair; and

(b) four executive directors, or their designees, of agencies that employ or contract with administrative law judges, to be selected by the [~~executive~~] director as needed.

(3) The [~~department~~] division shall provide staff for the committee as needed.

Section 147. Section 63A-17-709, which is renumbered from Section 67-19e-109 is renumbered and amended to read:

[~~67-19e-109~~]. 63A-17-709. Procedure for review of complaint by conduct committee.

(1) Upon a determination that a complaint requires further action, the [~~executive~~] director shall select four executive directors or their designees and convene the committee. The executive director of the agency that employs or contracts with the administrative law judge who is the subject of the complaint may not be a member of the committee.

(2) The [~~department~~] division shall provide a copy of the complaint, along with the results of the [~~department's~~] division's investigation, to the committee and the administrative law judge who is the subject of the complaint. If the committee directs, a copy of the complaint and investigation may also be provided to the attorney general.

(3) The committee shall allow an administrative law judge who is the subject of a complaint to appear and speak at any committee meeting, except a closed meeting, during which the committee is deliberating the complaint.

(4) The committee may meet in a closed meeting to discuss a complaint against an administrative law judge by complying with Title 52, Chapter 4, Open and Public Meetings Act.

(5) After deliberation and discussion of the complaint and all information provided, the committee shall provide a report, with a recommendation, to the agency. The recommendation shall include:

(a) a brief description of the complaint and results of the [~~department's~~] division's investigation;

(b) the committee's findings; and

(c) a recommendation from the committee whether action should be taken against the administrative law judge.

(6) Actions recommended by the committee may include no action, disciplinary action, termination, or any other action an employer may take against an employee.

(7) The record of an individual committee member's vote on recommended actions against an administrative law judge is a protected record under Title 63G, Chapter 2, Government Records Access and Management Act.

Section 148. Section 63A-17-710, which is renumbered from Section 67-19e-110 is renumbered and amended to read:

[~~67-19e-110~~]. 63A-17-710. Required training.

(1) Each year that an administrative law judge receives a performance evaluation conducted by the [~~department~~] division under this chapter, the administrative law judge shall complete the procedural fairness training program described in this section.

(2) The [~~department~~] division shall establish a procedural fairness training program that includes training on how an administrative law judge's actions and behavior influence others' perceptions of the fairness of the adjudicative process.

(3) The procedural fairness training program shall include discussion of the following elements of procedural fairness:

(a) neutrality, including:

(i) consistent and equal treatment of the individuals who appear before the administrative law judge;

(ii) concern for the individual needs of the individuals who appear before the administrative law judge; and

(iii) unhurried and careful deliberation;

(b) respectful treatment of others; and

(c) providing individuals a voice and opportunity to be heard.

(4) The [~~department~~] division may contract with a public or private person to develop or provide the procedural fairness training program.

(5) The [~~department~~] division shall ensure that the procedural fairness training program complies with Title 63G, Chapter 22, State Training and Certification Requirements.

Section 149. Section 63A-17-801, which is renumbered from Section 67-19-6.3 is renumbered and amended to read:

Part 8. Plans and Programs

[~~67-19-6.3~~]. 63A-17-801. Equal employment opportunity plan.

(1) In conjunction with the director's duties under Section [~~67-19-6~~] 63A-17-106, and notwithstanding the general prohibition in Subsection 34A-5-106(3)(c), the [~~executive~~] director shall prepare an equal employment opportunity plan for state employment consistent with the guidelines provided in federal equal employment opportunity laws and in related federal regulations.

(2) The equal employment opportunity plan required by this section applies only to state career service employees described in Section [~~67-19-15~~] 63A-17-301.

(3) The Legislature shall review the equal employment opportunity plan required by this section before it may be implemented.

(4) Nothing in this section requires the establishment of hiring quotas or preferential treatment of any identifiable group.

Section 150. Section 63A-17-802, which is renumbered from Section 67-19-12.2 is renumbered and amended to read:

[~~67-19-12.2~~]. 63A-17-802. Education benefit plan for law enforcement and correctional officers.

[~~(1) As used in this section, "law enforcement officer" has the same meaning as in Section 53-13-103 and "correctional officer" has the same meaning as in Section 53-13-104.~~]

(1) As used in this section:

(a) "Law enforcement officer" means the same as that term is defined in Section 53-13-103.

(b) "Correctional officer" means the same as that term is defined in Section 53-13-104.

(2) The [~~executive~~] director shall establish a plan authorizing any agency to implement an educational compensation program for law enforcement officers and correctional officers employed by that agency.

(3) The program shall provide that in order for a law enforcement officer or correctional officer to qualify for education benefits for college or university education, the law enforcement officer or correctional officer shall:

(a) provide a certified transcript of grades, demonstrating a grade point average of 3.0 or greater, from an accredited college or university; and

(b) have successfully completed the probationary employment period with the employing agency.

(4) The program shall also provide that the agency may consider a law enforcement officer or correctional officer to receive additional compensation as follows for higher education degrees earned on or after April 30, 2001, in a subject area directly related to the law enforcement officer's or correctional officer's employment with the agency:

(a) 5.5% for an associate's degree;

(b) 5.5% for a bachelor's degree; and

(c) 5.5% for a master's degree.

(5) Expenses incurred by an agency to provide additional compensation under this section may be only from the agency's existing budget.

Section 151. Section 63A-17-803, which is renumbered from Section 67-19-12.5 is renumbered and amended to read:

[~~67-19-12.5~~]. 63A-17-803. Creation of Flexible Benefit Program -- Rulemaking power granted to establish program.

(1) The [~~department~~] division shall establish for calendar year 1990 and thereafter a Flexible Benefit Program under Section 125 of the Internal Revenue Code of 1986.

(2) The [~~department~~] division shall establish accounts for all employees eligible for benefits which meet the nondiscrimination requirements of the Internal Revenue Code of 1986.

(3) (a) Each account established under this section shall include employee paid premiums for health and dental services.

(b) The account may also include, at the option of the employee, out-of-pocket employee medical and dependent care expenses.

(c) Accounts may also include other expenses allowed under the Internal Revenue Code of 1986.

(4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the [~~department~~] division may make rules to implement the program established under this section.

Section 152. Section 63A-17-804, which is renumbered from Section 67-19-14.3 is renumbered and amended to read:

[~~67-19-14.3~~]. 63A-17-804. Continuation of Insurance Benefits Program -- Creation -- Coverage following death in the line of duty.

(1) There is created the "Continuation of Insurance Benefits Program" to provide a continuation of insurance to the surviving spouse and family of any state employee whose death occurs in the line of duty.

(2) The insurance coverage shall be the same coverage as provided under Section 49-20-406.

(3) The program provides that unused accumulated sick leave of a deceased employee may be used for additional medical coverage in the same manner as provided under Section [~~67-19-14.2 or 67-19-14.4~~] 63A-17-507 or 63A-17-508 as applicable.

Section 153. Section 63A-17-805, which is renumbered from Section 67-19-43 is renumbered and amended to read:

[~~67-19-43~~]. 63A-17-805. State employee matching supplemental defined contribution benefit.

(1) As used in this section:

(a) "Qualifying account" means:

(i) a defined contribution plan qualified under Section 401(k) of the Internal Revenue Code, which is sponsored by the Utah State Retirement Board; [~~or~~]

(ii) a deemed Individual Retirement Account authorized under the Internal Revenue Code, which is sponsored by the Utah State Retirement Board; or

(iii) a similar savings plan or account authorized under the Internal Revenue Code, which is sponsored by the Utah State Retirement Board.

(b) "Qualifying employee" means an employee who is:

(i) in a position that is:

(A) receiving retirement benefits under Title 49, Utah State Retirement and Insurance Benefit Act; and

(B) accruing paid leave benefits that can be used in the current and future calendar years; and

(ii) not an employee who is reemployed as that term is:

(A) defined in Section 49-11-1202; or

(B) used in Section 49-11-504.

(2) Subject to the requirements of Subsection (3) [~~and beginning on or after January 4, 2014~~], an employer shall make a biweekly matching contribution to every qualifying employee's defined contribution plan qualified under Section 401(k) of the Internal Revenue Code, subject to federal requirements and limitations, which is sponsored by the Utah State Retirement Board.

(3) (a) In accordance with the requirements of this Subsection (3), each qualifying employee shall be eligible to receive the same dollar amount for the contribution under Subsection (2).

(b) A qualifying employee:

(i) shall receive the contribution amount determined under Subsection (3)(c) if the qualifying employee makes a voluntary personal contribution to one or more qualifying accounts in an amount equal to or greater than the employer's contribution amount determined in Subsection (3)(c);

(ii) shall receive a partial contribution amount that is equal to the qualifying employee's personal contribution amount if the employee makes a voluntary personal contribution to one or more qualifying accounts in an amount less than the employer's contribution amount determined in Subsection (3)(c); or

(iii) may not receive a contribution under Subsection (2) if the qualifying employee does not make a voluntary personal contribution to a qualifying account.

(c) (i) Subject to the maximum limit under Subsection (3)(c)(iii), the Legislature shall annually determine the contribution amount that an employer shall provide to each qualifying employee under Subsection (2).

(ii) The [~~department~~] division shall make recommendations annually to the Legislature on the contribution amount required under Subsection (2), in consultation with the Governor's Office of Management and Budget and the Division of Finance.

(iii) The biweekly matching contribution amount required under Subsection (2) may not exceed $26 for each qualifying employee.

(4) A qualifying employee is eligible to receive the biweekly contribution under this section for any pay period in which the employee is in a paid status or other status protected by federal or state law.

(5) The employer and employee contributions made and related earnings under this section vest immediately upon deposit and can be withdrawn by the employee at any time, subject to Internal Revenue Code regulations on the withdrawals.

(6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the [~~executive~~] director shall make rules establishing procedures to implement the provisions of this section.

Section 154. Section 63A-17-806, which is renumbered from Section 67-19-45 is renumbered and amended to read:

[~~67-19-45~~]. 63A-17-806. Definitions -- Infant at Work Pilot Program -- Administration -- Report.

(1) As used in this section:

(a) "Eligible employee" means an employee who has been employed by the Department of Health for a minimum of:

(i) 12 consecutive months; and

(ii) 1,250 hours, excluding paid time off during the 12-month period immediately preceding the day on which the employee applies for participation in the program.

(b) "Infant" means a baby that is at least six weeks of age and no more than six months of age.

(c) "Parent" means:

(i) a biological or adoptive parent of an infant; or

(ii) an individual who has an infant placed in the individual's foster care by the Division of Child and Family Services.

(d) "Program" means the Infant at Work Pilot Program established in this section.

(2) There is created the Infant at Work Pilot Program for eligible employees.

(3) The program shall:

(a) allow an eligible employee to bring the eligible employee's infant to work subject to the provisions of this section;

(b) be administered by the [~~department~~] division; and

(c) be implemented for a minimum of one year.

(4) The [~~department~~] division shall establish an application process for eligible employees of the Department of Health to apply to the program that includes:

(a) a process for evaluating whether an eligible employee's work environment is appropriate for an infant;

(b) guidelines for infant health and safety; and

(c) guidelines regarding an eligible employee's initial and ongoing participation in the program.

(5) If the [~~department~~] division approves the eligible employee for participation in the program, the eligible employee shall have the sole responsibility for the care and safety of the infant at the workplace.

(6) The [~~department~~] division may not require the Department of Health to designate or set aside space for an eligible employee's infant other than the eligible employee's existing work space.

(7) The [~~department~~] division, in consultation with the Department of Health, shall adopt rules that the department determines necessary to establish the program in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(8) [~~By~~] On or before June 30, 2022, the [~~department~~] division, in consultation with the Department of Health, shall submit a written report to the Business and Labor Interim Committee that describes the efficacy of the program, including any recommendations for additional legislative action.

Section 155. Section 63A-17-807, which is renumbered from Section 67-19c-101 is renumbered and amended to read:

[~~67-19c-101~~]. 63A-17-807. Department award program.

(1) As used in this section:

(a) "Department" means the Department of [~~Administrative Services~~] Government Operations, the Department of Agriculture and Food, the Department of Alcoholic Beverage Control, the Department of Commerce, the Department of Heritage and Arts, the Department of Corrections, the Department of Workforce Services, the Department of Environmental Quality, the Department of Financial Institutions, the Department of Health, [~~the Department of Human Resource Management,~~] the Department of Human Services, the Insurance Department, the National Guard, the Department of Natural Resources, the Department of Public Safety, the Public Service Commission, the Labor Commission, the State Board of Education, the Utah Board of Higher Education, the State Tax Commission, [~~the Department of Technology Services,~~] and the Department of Transportation.

(b) "Department head" means the individual or body of individuals in whom the ultimate legal authority of the department is vested by law.

(2) There is created a department awards program to award an outstanding employee in each department of state government.

(3) (a) [~~By~~] On or before April 1 of each year, each department head shall solicit nominations for outstanding employee of the year for [~~his~~] that department from the employees in [~~his~~] that department.

(b) [~~By~~] On or before July 1 of each year, the department head shall:

(i) select a person from the department to receive the outstanding employee of the year award using the criteria established in Subsection (3)(c); and

(ii) announce the recipient of the award to [~~his~~] the employees of the department.

(c) Department heads shall make the award to [~~a person~~] an employee who demonstrates:

(i) extraordinary competence in performing [~~his~~] the employee's function;

(ii) creativity in identifying problems and devising workable, cost-effective solutions [~~to them~~];

(iii) excellent relationships with the public and other employees;

(iv) a commitment to serving the public as the client; and

(v) a commitment to economy and efficiency in government.

(4) (a) The [~~Department of Human Resource Management~~] division shall divide any appropriation for outstanding department employee awards that [~~it~~] the division receives from the Legislature equally among the departments.

(b) If [~~the~~] a department receives money from the [~~Department of Human Resource Management~~] division or if [~~the~~] a department budget allows, [~~the~~] that department head shall provide the employee with a bonus, a plaque, or some other suitable acknowledgement of the award.

(5) (a) [~~The~~] A department head may name the award after an exemplary present or former employee of the department.

(b) A department head may not name the award for [~~himself~~] oneself or for any relative as defined in Section 52-3-1.

[~~(c) Any awards or award programs existing in any department as of May 3, 1993, shall be modified to conform to the requirements of this section.~~]

Section 156. Section 63A-17-901, which is renumbered from Section 67-25-102 is renumbered and amended to read:

Part 9. General Requirements for State Officers and Employees

[~~67-25-102~~]. 63A-17-901. Definitions.

As used in this [~~chapter~~] part:

(1) "Career service employee" [~~is as~~] means the same as that term is defined in Section [~~67-19-3~~] 63A-17-102.

(2) "Executive branch elected official" means:

(a) the governor;

(b) the lieutenant governor;

(c) the attorney general;

(d) the state treasurer; or

(e) the state auditor.

(3) "Executive branch official" means an individual who:

(a) is a management level employee of an executive branch elected official; and

(b) is not a career service employee.

(4) "State agency" means a department, division, board, council, committee, institution, office, bureau, or other similar administrative unit of the executive branch of state government.

Section 157. Section 63A-17-902, which is renumbered from Section 67-25-201 is renumbered and amended to read:

[~~67-25-201~~]. 63A-17-902. State agency work week.

(1) Except as provided in Subsection (2), and subject to Subsection (3):

(a) a state agency with five or more employees shall, at least nine hours per day on Monday, Tuesday, Wednesday, Thursday, and Friday to provide a service required by statute to another entity of the state, a political subdivision, or the public:

(i) in person;

(ii) online; or

(iii) by telephone; and

(b) a state agency with fewer than five employees shall, at least eight hours per day on Monday, Tuesday, Wednesday, Thursday, and Friday, provide a service required by statute to another entity of the state, a political subdivision, or the public:

(i) in person;

(ii) online; or

(iii) by telephone.

(2) (a) Subsection (1) does not require a state agency to operate a physical location, or provide a service, on a holiday established under Section 63G-1-301.

(b) Except for a legal holiday established under Section 63G-1-301, the following state agencies shall operate at least one physical location, and as many physical locations as necessary, at least nine hours per day on Monday, Tuesday, Wednesday, Thursday, and Friday to provide a service required by statute to another entity of the state, a political subdivision, or the public:

(i) the [~~Department~~] Division of Technology Services, created in Section [~~63F-1-103~~] 63A-16-103;

(ii) the Division of Child and Family Services, created in Section 62A-4a-103; and

(iii) the Office of Guardian Ad Litem, created in Section 78A-6-901.

(3) A state agency shall make staff available, as necessary, to provide:

(a) services incidental to a court or administrative proceeding, during the hours of operation of a court or administrative body, including:

(i) testifying;

(ii) the production of records or evidence; and

(iii) other services normally available to a court or administrative body;

(b) security services; and

(c) emergency services.

(4) This section does not limit the days or hours a state agency may operate.

(5) To provide a service as required by Subsection (1), the chief administrative officer of a state agency may determine:

(a) the number of physical locations, if any are required by this section, operating each day;

(b) the daily hours of operation of a physical location;

(c) the number of state agency employees who work per day; and

(d) the hours a state agency employee works per day.

(6) To provide a service as required by Subsection (2)(b), the chief administrative officer of a state agency, or a person otherwise designated by law, may determine:

(a) the number of physical locations operating each day;

(b) the daily hours of operation, as required by Subsection (2)(b), of each physical location;

(c) the number of state agency employees who work per day; and

(d) the hours a state agency employee works per day.

(7) A state agency shall:

(a) provide information, accessible from a conspicuous link on the home page of the state agency's website, on a method that a person may use to schedule an in-person meeting with a representative of the state agency; and

(b) except as provided in Subsection (8), as soon as reasonably possible:

(i) contact a person who makes a request for an in-person meeting; and

(ii) when appropriate, schedule and hold an in-person meeting with the person that requests an in-person meeting.

(8) A state agency is not required to comply with Subsection (7)(b) to the extent that the contact or meeting:

(a) would constitute a conflict of interest;

(b) would conflict or interfere with a procurement governed by Title 63G, Chapter 6a, Utah Procurement Code;

(c) would violate an ethical requirement of the state agency or an employee of the state agency; or

(d) would constitute a violation of law.

Section 158. Section 63A-17-903, which is renumbered from Section 67-25-302 is renumbered and amended to read:

[~~67-25-302~~]. 63A-17-903. Restrictions on outside employment by executive branch employees.

(1) An employee who is under the direction or control of an executive branch elected official may not engage in outside employment that:

(a) constitutes a conflict of interest;

(b) interferes with the ability of the employee to fulfill the employee's job responsibilities;

(c) constitutes the provision of political services, political consultation, or lobbying;

(d) involves the provision of consulting services, legal services, or other services to a person that the employee could, within the course and scope of the employee's primary employment, provide to the person; or

(e) interferes with the hours that the employee is expected to perform work under the direction or control of an executive branch elected official, unless the employee takes authorized personal leave during the time that the person engages in the outside employment.

(2) An executive branch official shall be subject to the same restrictions on outside employment as a career service employee.

(3) This section does not prohibit an employee from advocating the position of the state office that employs the employee regarding legislative action or other government action.

Section 159. Section 63A-17-904, which is renumbered from Section 67-19-19 is renumbered and amended to read:

[~~67-19-19~~]. 63A-17-904. Political activity of employees -- Rules and regulations -- Highway patrol -- Hatch Act.

(1) Except as otherwise provided by law or by rules [~~promulgated~~] made under this section for federally aided programs, the [~~following~~] provisions of this section apply with regard to political activity of career service employees in all grades and positions[~~:~~].

[~~(1)~~] (2) Career service employees may voluntarily participate in political activity subject to the following provisions:

(a) if any career service employee is elected to any partisan or full-time nonpartisan political office, that employee shall be granted a leave of absence without pay for times when monetary compensation is received for service in political office;

(b) no officer or employee in career service may engage in any political activity during the hours of employment, nor may any person solicit political contributions from employees of the executive branch during hours of employment for political purposes; and

(c) partisan political activity may not be a basis for employment, promotion, demotion, or dismissal, except that the [~~executive~~] director shall adopt rules providing for the discipline or punishment of a state officer or employee who violates any provision of this section.

[~~(2)~~] (3) (a) Notwithstanding any other provision of this section, no member of the Utah Highway Patrol may use [~~his~~] the member's official authority or influence for the purpose of interfering with an election or affecting the results of an election.

(b) No person may induce or attempt to induce any member of the Utah Highway Patrol to participate in any activity prohibited by this Subsection [~~(2)~~] (3).

[~~(3)~~] (4) Nothing contained in this section may be construed to:

(a) preclude voluntary contributions by an employee to the party or candidate of the officer's or employee's choice; or

(b) permit partisan political activity by any employee who is prevented or restricted from engaging in the political activity by the provisions of the federal Hatch Act.

Section 160. Section 63A-17-1001, which is renumbered from Section 67-19-33 is renumbered and amended to read:

Part 10. Controlled Substances and Alcohol Use

[~~67-19-33~~]. 63A-17-1001. Controlled substances and alcohol use prohibited.

Except as provided in Title 26, Chapter 61a, Utah Medical Cannabis Act, an employee may not:

(1) manufacture, dispense, possess, use, distribute, or be under the influence of a controlled substance or alcohol during work hours or on state property except where legally permissible;

(2) manufacture, dispense, possess, use, or distribute a controlled substance or alcohol if the activity prevents:

(a) state agencies from receiving federal grants or performing under federal contracts of $25,000 or more; or

(b) the employee to perform his services or work for state government effectively as regulated by the

rules of the executive director in accordance with Section [~~67-19-34~~] 63A-17-1402; or

(3) refuse to submit to a drug or alcohol test under Section [~~67-19-36~~] 63A-17-1404.

Section 161. Section 63A-17-1002, which is renumbered from Section 67-19-34 is renumbered and amended to read:

[~~67-19-34~~]. 63A-17-1002. Rulemaking power to director.

In accordance with this [~~chapter~~] part and Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the [~~executive~~] director shall make rules regulating:

(1) disciplinary actions for employees subject to discipline under Section [~~67-19-37~~] 63A-17-1405;

(2) the testing of employees for the use of controlled substances or alcohol as provided in Section [~~67-19-36~~] 63A-17-1404;

(3) the confidentiality of drug testing and test results performed under Section [~~67-19-36~~] 63A-17-1404 in accordance with Title 63G, Chapter 2, Government Records Access and Management Act; and

(4) minimum blood levels of alcohol or drug content for work effectiveness of an employee.

Section 162. Section 63A-17-1003, which is renumbered from Section 67-19-35 is renumbered and amended to read:

[~~67-19-35~~]. 63A-17-1003. Reporting of convictions under federal and state drug laws.

(1) An employee who is convicted under a federal or state criminal statute regulating the manufacture, distribution, dispensation, possession, or use of a controlled substance shall report the conviction to the director of [~~his~~] the employee's agency within five calendar days after the date of conviction.

(2) Upon notification either under Subsection (1) or otherwise, the director of the agency shall notify the federal agency for which a contract is being performed within 10 days after receiving notice.

Section 163. Section 63A-17-1004, which is renumbered from Section 67-19-36 is renumbered and amended to read:

[~~67-19-36~~]. 63A-17-1004. Drug testing of state employees.

(1) Except as provided in Subsection (2), when there is reasonable suspicion that an employee is using a controlled substance or alcohol unlawfully during work hours, an employee may be required to submit to medically accepted testing procedures for a determination of whether the employee is using a controlled substance or alcohol in violation of this part.

(2) In highly sensitive positions, as identified in department class specifications, random drug testing of employees may be conducted by an agency in accordance with the rules of the [~~executive~~] director.

(3) All drug or alcohol testing shall be:

(a) conducted by a federally certified and licensed physician, a federally certified and licensed medical clinic, or testing facility federally certified and licensed to conduct medically accepted drug testing;

(b) conducted in accordance with the rules of the [~~executive~~] director made under Section [~~67-19-34~~] 63A-17-1402; and

(c) kept confidential in accordance with the rules of the [~~executive~~] director made in accordance with Section [~~67-19-34~~] 63A-17-1402.

(4) A physician, medical clinic, or testing facility may not be held liable in any civil action brought by a party for:

(a) performing or failing to perform a test under this section;

(b) issuing or failing to issue a test result under this section; or

(c) acting or omitting to act in any other way in good faith under this section.

Section 164. Section 63A-17-1005, which is renumbered from Section 67-19-37 is renumbered and amended to read:

[~~67-19-37~~]. 63A-17-1005. Discipline of employees.

An employee shall be subject to the rules of discipline of the [~~executive~~] director made in accordance with Section [~~67-19-34~~] 63A-17-1402, if the employee:

(1) refuses to submit to testing procedures provided in Section [~~67-19-36~~] 63A-17-1404;

(2) refuses to complete a drug rehabilitation program in accordance with Subsection [~~67-19-38~~] 63A-17-1406(3);

(3) is convicted under a federal or state criminal statute regulating the manufacture, distribution, dispensation, possession, or use of a controlled substance; or

(4) manufactures, dispenses, possesses, uses, or distributes a controlled substance in violation of state or federal law during work hours or on state property.

Section 165. Section 63A-17-1006, which is renumbered from Section 67-19-38 is renumbered and amended to read:

[~~67-19-38~~]. 63A-17-1006. Violations and penalties.

In addition to other criminal penalties provided by law, an employee who:

(1) fails to notify the employee's director under Section [~~67-19-35~~] 63A-17-1403 is subject to disciplinary proceedings as established by the [~~executive~~] director by rule in accordance with Section [~~67-19-34~~] 63A-17-1402;

(2) refuses to submit to testing procedures provided for in Section [~~67-19-36~~] 63A-17-1404,

may be suspended immediately without pay pending further disciplinary action as [~~set forth in the rules of the executive~~] provided by rule, made by the director in accordance with Section [~~67-19-34~~] 63A-17-1402; or

(3) tests positive for the presence of unlawfully used controlled substances or alcohol may be required, as part of the employee's disciplinary treatment, to complete a drug rehabilitation program at the employee's expense within 60 days after receiving the positive test results or be subject to further disciplinary procedures established by rule [~~of the executive~~] made by the director in accordance with Section [~~67-19-34~~] 63A-17-1402.

Section 166. Section 63A-17-1007, which is renumbered from Section 67-19-39 is renumbered and amended to read:

[~~67-19-39~~]. 63A-17-1007. Exemptions.

Peace officers, as defined under Title 53, Chapter 13, Peace Officer Classifications, acting in their official capacity as peace officers in undercover roles and assignments, are exempt from the provisions of this act.

Section 167. Section 63B-7-501 is amended to read:

63B-7-501. Revenue bond authorizations.

(1) (a) It is the intent of the Legislature that the State Building Ownership Authority, under the authority of Title 63B, Chapter 1, Part 3, State Building Ownership Authority Act, may issue or execute obligations, or enter into or arrange for a lease purchase agreement in which participation interests may be created, to provide up to $1,568,600 for the construction of a Utah Correctional Industries Facility at the Central Utah Correctional Facility at Gunnison, together with additional amounts necessary to pay costs of issuance, pay capitalized interest, and fund any debt service requirements.

(b) The State Building Ownership Authority shall work cooperatively with the Department of Corrections to seek out the most cost effective and prudent lease purchase plan available.

(c) It is the intent of the Legislature that program revenues be used as the primary revenue source for repayment of any obligation created under authority of this Subsection (1).

(2) It is the intent of the Legislature that:

(a) the State Board of Regents, on behalf of the University of Utah, issue, sell, and deliver revenue bonds or other evidences of indebtedness of the University of Utah to borrow money on the credit, income, and revenues of the University of Utah, other than appropriations of the Legislature, to finance the cost of constructing, furnishing, and equipping student housing;

(b) University funds and housing rental revenues be used as the primary revenue source for repayment of any obligation created under authority of this Subsection (2); and

(c) the bonds or other evidences of indebtedness authorized by this Subsection (2) may provide up to $86,000,000 together with other amounts necessary to pay costs of issuance, pay capitalized interest, and fund any debt service reserve requirements.

(3) It is the intent of the Legislature that:

(a) the State Board of Regents on behalf of the University of Utah issue, sell, and deliver revenue bonds or other evidences of indebtedness of the University of Utah to borrow money on the credit, income, and revenues of the University of Utah, other than appropriations of the Legislature, to finance the cost of constructing, furnishing, and equipping a Health Sciences Parking Structure;

(b) University funds and parking revenues be used as the primary revenue source for repayment of any obligation created under authority of this Subsection (3); and

(c) the bonds or other evidences of indebtedness authorized by this Subsection (3) may provide up to $12,000,000, together with other amounts necessary to pay costs of issuance, pay capitalized interest, and fund any debt service reserve requirements.

(4) It is the intent of the Legislature that:

(a) the State Board of Regents, on behalf of the University of Utah, issue, sell, and deliver revenue bonds or other evidences of indebtedness of the University of Utah to borrow money on the credit and income and revenues of the University of Utah, other than appropriations of the Legislature, to finance the cost of constructing, furnishing, and equipping a Southwest Campus Parking Structure;

(b) University funds and parking revenues be used as the primary revenue source for repayment of any obligation created under authority of this Subsection (4); and

(c) the bonds or other evidences of indebtedness authorized by this Subsection (4) may provide up to $7,200,000, together with other amounts necessary to pay costs of issuance, pay capitalized interest, and fund any debt service reserve requirements.

(5) It is the intent of the Legislature that:

(a) the State Board of Regents, on behalf of the University of Utah, issue, sell, and deliver revenue bonds or other evidences of indebtedness of the University of Utah to borrow money on the credit and income and revenues of the University of Utah, other than appropriations of the Legislature, to finance the cost of constructing, furnishing, and equipping an expansion of the Eccles Broadcast Center;

(b) University funds and service revenues be used as the primary revenue source for repayment of any obligation created under authority of this Subsection (5); and

(c) the bonds or other evidences of indebtedness authorized by this Subsection (5) may provide up to $5,100,000, together with other amounts necessary to pay costs of issuance, pay capitalized interest, and fund any debt service reserve requirements.

(6) It is the intent of the Legislature that:

(a) the State Board of Regents, on behalf of the University of Utah, issue, sell, and deliver revenue bonds or other evidences of indebtedness of the University of Utah to borrow money on the credit and income and revenues of the University of Utah, other than appropriations of the Legislature, to finance the cost of constructing, furnishing, equipping, and remodeling facilities for perinatal services, adult critical care services, clinical training and support, and upgrade of the University Hospital Rehabilitation Unit, and for purchase of the University Neuropsychiatric Institute and Summit Health Center in Park West;

(b) University Hospital revenues be used as the primary revenue source for repayment of any obligation created under authority of this Subsection (6); and

(c) the bonds or other evidences of indebtedness authorized by this Subsection (6) may provide up to $23,300,000 together with other amounts necessary to pay costs of issuance, pay capitalized interest, and fund any debt service reserve requirements.

(7) It is the intent of the Legislature that:

(a) the State Board of Regents, on behalf of Weber State University, issue, sell, and deliver revenue bonds or other evidences of indebtedness of Weber State University to borrow money on the credit and income and revenues of Weber State University, other than appropriations of the Legislature, to finance the cost of constructing, furnishing, and equipping student housing;

(b) University funds and housing rental revenues be used as the primary revenue source for repayment of any obligation created under authority of this Subsection (7); and

(c) the bonds or other evidences of indebtedness authorized by this Subsection (7) may provide up to $19,000,000 together with other amounts necessary to pay costs of issuance, pay capitalized interest, and fund any debt service reserve requirements.

(8) (a) It is the intent of the Legislature that the State Building Ownership Authority, under the authority of Title 63B, Chapter 1, Part 3, State Building Ownership Authority Act, may issue or execute obligations, or enter into or arrange for a lease purchase agreement in which participation interests may be created, to provide up to $1,100,000 for the construction of surplus property facilities for the Division of Fleet Operations, together with additional amounts necessary to pay costs of issuance, pay capitalized interest, and fund any debt service reserve requirements.

(b) The State Building Ownership Authority shall work cooperatively with the Department of [~~Administrative Services~~] Government Operations to seek out the most cost effective and prudent lease purchase plan available.

(c) It is the intent of the Legislature that Internal Service Fund revenues be used as the primary revenue source for repayment of any obligation created under authority of this Subsection (8).

(9) (a) Contingent upon the state of Utah receiving a perfected security interest in accordance with Senate Joint Resolution 14, 1998 Annual General Session, the State Building Ownership Authority, under authority of Title 63B, Chapter 1, Part 3, State Building Ownership Authority Act, may issue or execute obligations, or enter into or arrange for a lease purchase agreement in which participation interests may be created, to provide up to $25,000,000 for the cost of constructing, furnishing, and equipping housing facilities at the University of Utah, together with additional amounts necessary to:

(i) pay costs of issuance;

(ii) pay capitalized interest; and

(iii) fund any debt service reserve requirements.

(b) The State Building Ownership Authority and the University of Utah may enter into real estate arrangements and security arrangements that are:

(i) necessary to accomplish the purposes of this Subsection (9); and

(ii) not inconsistent with the requirements of Senate Joint Resolution 14, 1998 Annual General Session.

(10) In order to achieve a debt service savings, it is the intent of the Legislature that the State Building Ownership Authority, under authority of Title 63B, Chapter 1, Part 3, State Building Ownership Authority Act, may issue or execute obligations, or enter into or arrange for a lease purchase agreement in which participation interests may be created, to provide sufficient funding to exercise the state's option to purchase the Youth Corrections Facility in Salt Lake County currently financed by Salt Lake County.

Section 168. Section 63E-1-302 is amended to read:

63E-1-302. Review by committee required for creating an independent entity.

(1) If a government requestor proposes that the Legislature create an independent entity, that government requestor shall request that the committee review the proposal.

(2) After receiving a request for review under Subsection (1), the chairs of the committee:

(a) shall schedule a meeting of the committee to review the proposal; and

(b) may request information from executive and legislative branch entities and officers concerning the proposal including:

(i) whether or not the proposed independent entity should be exempt from any state statute;

(ii) the need for oversight of the proposed independent entity by an executive branch agency;

(iii) the need for and requirements of audits of the proposed independent entity;

(iv) the custody of the proposed independent entity's funds;

(v) the legal representation of the proposed independent entity;

(vi) whether or not the state should receive services from or provide services to the proposed independent entity; and

(vii) the legal liability, if any, to the state if the proposed independent entity is created.

(3) In requesting information from executive and legislative branch entities or officers under Subsection (2), the committee should specifically consider seeking information from:

(a) the state auditor;

(b) the state treasurer;

(c) the attorney general;

(d) the risk manager; and

(e) the executive director of the Department of [~~Administrative Services~~] Government Operations.

Section 169. Section 63G-1-301 is amended to read:

63G-1-301. Legal holidays -- Personal preference day -- Governor authorized to declare additional days.

(1) (a) The following-named days are legal holidays in this state:

(i) every Sunday;

(ii) January 1, called New Year's Day;

(iii) the third Monday of January, called Dr. Martin Luther King, Jr. Day;

(iv) the third Monday of February, called Washington and Lincoln Day;

(v) the last Monday of May, called Memorial Day;

(vi) July 4, called Independence Day;

(vii) July 24, called Pioneer Day;

(viii) the first Monday of September, called Labor Day;

(ix) the second Monday of October, called Columbus Day;

(x) November 11, called Veterans Day;

(xi) the fourth Thursday of November, called Thanksgiving Day;

(xii) December 25, called Christmas; and

(xiii) all days which may be set apart by the President of the United States, or the governor of this state by proclamation as days of fast or thanksgiving.

(b) If any of the holidays under Subsection (1)(a), except the first mentioned, namely Sunday, falls on Sunday, then the following Monday shall be the holiday.

(c) If any of the holidays under Subsection (1)(a) falls on Saturday the preceding Friday shall be the holiday.

(d) Each employee may select one additional day, called Personal Preference Day, to be scheduled pursuant to rules adopted by the [~~Department~~] Division of Human Resource Management.

(2) (a) Whenever in the governor's opinion extraordinary conditions exist justifying the action, the governor may:

(i) declare, by proclamation, legal holidays in addition to those holidays under Subsection (1); and

(ii) limit the holidays to certain classes of business and activities to be designated by the governor.

(b) A holiday may not extend for a longer period than 60 consecutive days.

(c) Any holiday may be renewed for one or more periods not exceeding 30 days each as the governor may consider necessary, and any holiday may, by like proclamation, be terminated before the expiration of the period for which it was declared.

Section 170. Section 63G-2-501 is amended to read:

63G-2-501. State Records Committee created -- Membership -- Terms -- Vacancies -- Expenses.

(1) There is created the State Records Committee within the Department of [~~Administrative Services~~] Government Operations consisting of the following seven individuals:

(a) an individual in the private sector whose profession requires the individual to create or manage records that, if created by a governmental entity, would be private or controlled;

(b) an individual with experience with electronic records and databases, as recommended by a statewide technology advocacy organization that represents the public, private, and nonprofit sectors;

(c) the director of the Division of Archives and Records Services or the director's designee;

(d) two citizen members;

(e) one person representing political subdivisions, as recommended by the Utah League of Cities and Towns; and

(f) one individual representing the news media.

(2) The governor shall appoint the members described in Subsections (1)(a), (b), (d), (e), and (f) with the advice and consent of the Senate in accordance with Title 63G, Chapter 24, Part 2, Vacancies.

(3) (a) Except as provided in Subsection (3)(b), the governor shall appoint each member to a four-year term.

(b) Notwithstanding Subsection (3)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of committee members are staggered so that approximately half of the committee is appointed every two years.

(c) Each appointed member is eligible for reappointment for one additional term.

(4) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.

(5) A member of the State Records Committee may not receive compensation or benefits for the member's service on the committee, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

(6) A member described in Subsection (1)(a), (b), (d), (e), or (f) shall comply with the conflict of interest provisions described in Chapter 24, Part 3, Conflicts of Interest.

Section 171. Section 63G-3-102 is amended to read:

63G-3-102. Definitions.

As used in this chapter:

(1) "Administrative record" means information an agency relies upon when making a rule under this chapter including:

(a) the proposed rule, change in the proposed rule, and the rule analysis form;

(b) the public comment received and recorded by the agency during the public comment period;

(c) the agency's response to the public comment;

(d) the agency's analysis of the public comment; and

(e) the agency's report of its decision-making process.

(2) "Agency" means each state board, authority, commission, institution, department, division, officer, or other state government entity other than the Legislature, its committees, the political subdivisions of the state, or the courts, which is authorized or required by law to make rules, adjudicate, grant or withhold licenses, grant or withhold relief from legal obligations, or perform other similar actions or duties delegated by law.

(3) "Bulletin" means the Utah State Bulletin.

(4) "Catchline" means a short summary of each section, part, rule, or title of the code that follows the section, part, rule, or title reference placed before the text of the rule and serves the same function as boldface in legislation as described in Section 68-3-13.

(5) "Code" means the body of all effective rules as compiled and organized by the office and entitled "Utah Administrative Code."

(6) "Department" means the Department of [~~Administrative Services~~] Government Operations created in Section 63A-1-104.

(7) "Director" means the director of the office.

(8) "Effective" means operative and enforceable.

(9) "Executive director" means the executive director of the department.

(10) "File" means to submit a document to the office as prescribed by the office.

(11) "Filing date" means the day and time the document is recorded as received by the office.

(12) "Interested person" means any person affected by or interested in a proposed rule, amendment to an existing rule, or a nonsubstantive change made under Section 63G-3-402.

(13) "Office" means the Office of Administrative Rules created in Section 63G-3-401.

(14) "Order" means an agency action that determines the legal rights, duties, privileges, immunities, or other interests of one or more specific persons, but not a class of persons.

(15) "Person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an agency.

(16) "Publication" or "publish" means making a rule available to the public by including the rule or a summary of the rule in the bulletin.

(17) "Publication date" means the inscribed date of the bulletin.

(18) "Register" may include an electronic database.

(19) (a) "Rule" means an agency's written statement that:

(i) is explicitly or implicitly required by state or federal statute or other applicable law;

(ii) implements or interprets a state or federal legal mandate; and

(iii) applies to a class of persons or another agency.

(b) "Rule" includes the amendment or repeal of an existing rule.

(c) "Rule" does not mean:

(i) orders;

(ii) an agency's written statement that applies only to internal management and that does not restrict the legal rights of a public class of persons or another agency;

(iii) the governor's executive orders or proclamations;

(iv) opinions issued by the attorney general's office;

(v) declaratory rulings issued by the agency according to Section 63G-4-503 except as required by Section 63G-3-201;

(vi) rulings by an agency in adjudicative proceedings, except as required by Subsection 63G-3-201(6); or

(vii) an agency written statement that is in violation of any state or federal law.

(20) "Rule analysis" means the format prescribed by the office to summarize and analyze rules.

(21) "Small business" means a business employing fewer than 50 persons.

(22) "Substantive change" means a change in a rule that affects the application or results of agency actions.

Section 172. Section 63G-3-401 is amended to read:

63G-3-401. Office of Administrative Rules created -- Director.

(1) There is created within the Department of [~~Administrative Services~~] Government Operations the Office of Administrative Rules, to be administered by a director.

(2) (a) The executive director shall appoint the director.

(b) The director shall hire, train, and supervise staff necessary for the office to carry out the provisions of this chapter.

Section 173. Section 63G-4-107 is amended to read:

63G-4-107. Petition to remove agency action from public access.

(1) An individual may petition the agency that maintains, on a state-controlled website available to the public, a record of administrative disciplinary action, to remove the record of administrative disciplinary action from public access on the state-controlled website, if:

(a) (i) five years have passed since:

(A) the date the final order was issued; or

(B) if no final order was issued, the date the administrative disciplinary action was commenced; or

(ii) the individual has obtained a criminal expungement order under Title 77, Chapter 40, Utah Expungement Act, for the individual's criminal records related to the same incident or conviction upon which the administrative disciplinary action was based;

(b) the individual has successfully completed all action required by the agency relating to the administrative disciplinary action within the time frame set forth in the final order, or if no time frame is specified in the final order, within the time frame set forth in Title 63G, Chapter 4, Administrative Procedures Act;

(c) from the time that the original administrative disciplinary action was filed, the individual has not violated the same statutory provisions or administrative rules related to those statutory provisions that resulted in the original administrative disciplinary action; and

(d) the individual pays an application fee determined by the agency in accordance with Section 63J-1-504.

(2) The individual petitioning the agency under Subsection (1) shall provide the agency with a written request containing the following information:

(a) the petitioner's full name, address, telephone number, and date of birth;

(b) the information the petitioner seeks to remove from public access; and

(c) an affidavit certifying that the petitioner is in compliance with the provisions of Subsection (1).

(3) Within 30 days of receiving the documents and information described in Subsection (2):

(a) the agency shall review the petition and all documents submitted with the petition to determine whether the petitioner has met the requirements of Subsections (1) and (2); and

(b) if the agency determines that the petitioner has met the requirements of Subsections (1) and (2), the agency shall immediately remove the record of administrative disciplinary action from public access on the state-controlled website.

(4) Notwithstanding the provisions of Subsection (3), an agency is not required to remove a recording, written minutes, or other electronic information from the Utah Public Notice Website, created under Section [~~63F-1-701~~] 63A-16-601, if the recording, written minutes, or other electronic information is required to be available to the public on the Utah Public Notice Website under the provisions of Title 52, Chapter 4, Open and Public Meetings Act.

Section 174. Section 63G-6a-103 is amended to read:

63G-6a-103. Definitions.

As used in this chapter:

(1) "Approved vendor" means a person who has been approved for inclusion on an approved vendor list through the approved vendor list process.

(2) "Approved vendor list" means a list of approved vendors established under Section 63G-6a-507.

(3) "Approved vendor list process" means the procurement process described in Section 63G-6a-507.

(4) "Bidder" means a person who submits a bid or price quote in response to an invitation for bids.

(5) "Bidding process" means the procurement process described in Part 6, Bidding.

(6) "Board" means the Utah State Procurement Policy Board, created in Section 63G-6a-202.

(7) "Building board" means the State Building Board, created in Section 63A-5b-201.

(8) "Change directive" means a written order signed by the procurement officer that directs the contractor to suspend work or make changes, as authorized by contract, without the consent of the contractor.

(9) "Change order" means a written alteration in specifications, delivery point, rate of delivery, period of performance, price, quantity, or other provisions of a contract, upon mutual agreement of the parties to the contract.

(10) "Chief procurement officer" means the individual appointed under [~~Subsection 63G-6a-302(1)~~] Section 63A-2-102.

(11) "Conducting procurement unit" means a procurement unit that conducts all aspects of a procurement:

(a) except:

(i) reviewing a solicitation to verify that it is in proper form; and

(ii) causing the publication of a notice of a solicitation; and

(b) including:

(i) preparing any solicitation document;

(ii) appointing an evaluation committee;

(iii) conducting the evaluation process, except the process relating to scores calculated for costs of proposals;

(iv) selecting and recommending the person to be awarded a contract;

(v) negotiating the terms and conditions of a contract, subject to the issuing procurement unit's approval; and

(vi) contract administration.

(12) "Conservation district" means the same as that term is defined in Section 17D-3-102.

(13) "Construction project":

(a) means a project for the construction, renovation, alteration, improvement, or repair of a public facility on real property, including all services, labor, supplies, and materials for the project; and

(b) does not include services and supplies for the routine, day-to-day operation, repair, or maintenance of an existing public facility.

(14) "Construction manager/general contractor":

(a) means a contractor who enters into a contract:

(i) for the management of a construction project; and

(ii) that allows the contractor to subcontract for additional labor and materials that are not included in the contractor's cost proposal submitted at the time of the procurement of the contractor's services; and

(b) does not include a contractor whose only subcontract work not included in the contractor's cost proposal submitted as part of the procurement of the contractor's services is to meet subcontracted portions of change orders approved within the scope of the project.

(15) "Construction subcontractor":

(a) means a person under contract with a contractor or another subcontractor to provide services or labor for the design or construction of a construction project;

(b) includes a general contractor or specialty contractor licensed or exempt from licensing under Title 58, Chapter 55, Utah Construction Trades Licensing Act; and

(c) does not include a supplier who provides only materials, equipment, or supplies to a contractor or subcontractor for a construction project.

(16) "Contract" means an agreement for a procurement.

(17) "Contract administration" means all functions, duties, and responsibilities associated with managing, overseeing, and carrying out a contract between a procurement unit and a contractor, including:

(a) implementing the contract;

(b) ensuring compliance with the contract terms and conditions by the conducting procurement unit and the contractor;

(c) executing change orders;

(d) processing contract amendments;

(e) resolving, to the extent practicable, contract disputes;

(f) curing contract errors and deficiencies;

(g) terminating a contract;

(h) measuring or evaluating completed work and contractor performance;

(i) computing payments under the contract; and

(j) closing out a contract.

(18) "Contractor" means a person who is awarded a contract with a procurement unit.

(19) "Cooperative procurement" means procurement conducted by, or on behalf of:

(a) more than one procurement unit; or

(b) a procurement unit and a cooperative purchasing organization.

(20) "Cooperative purchasing organization" means an organization, association, or alliance of purchasers established to combine purchasing power in order to obtain the best value for the purchasers by engaging in procurements in accordance with Section 63G-6a-2105.

(21) "Cost-plus-a-percentage-of-cost contract" means a contract under which the contractor is paid a percentage of the total actual expenses or costs in addition to the contractor's actual expenses or costs.

(22) "Cost-reimbursement contract" means a contract under which a contractor is reimbursed for costs which are allowed and allocated in accordance with the contract terms and the provisions of this chapter, and a fee, if any.

(23) "Days" means calendar days, unless expressly provided otherwise.

(24) "Definite quantity contract" means a fixed price contract that provides for a specified amount of supplies over a specified period, with deliveries scheduled according to a specified schedule.

(25) "Design professional" means:

(a) an individual licensed as an architect under Title 58, Chapter 3a, Architects Licensing Act;

(b) an individual licensed as a professional engineer or professional land surveyor under Title 58, Chapter 22, Professional Engineers and Professional Land Surveyors Licensing Act; or

(c) an individual certified as a commercial interior designer under Title 58, Chapter 86, State Certification of Commercial Interior Designers Act.

(26) "Design professional procurement process" means the procurement process described in Part 15, Design Professional Services.

(27) "Design professional services" means:

(a) professional services within the scope of the practice of architecture as defined in Section 58-3a-102;

(b) professional engineering as defined in Section 58-22-102;

(c) master planning and programming services; or

(d) services within the scope of the practice of commercial interior design, as defined in Section 58-86-102.

(28) "Design-build" means the procurement of design professional services and construction by the use of a single contract.

(29) "Division" means the Division of Purchasing and General Services, created in Section 63A-2-101.

(30) "Educational procurement unit" means:

(a) a school district;

(b) a public school, including a local school board or a charter school;

(c) the Utah Schools for the Deaf and the Blind;

(d) the Utah Education and Telehealth Network;

(e) an institution of higher education of the state described in Section 53B-1-102; or

(f) the State Board of Education.

(31) "Established catalogue price" means the price included in a catalogue, price list, schedule, or other form that:

(a) is regularly maintained by a manufacturer or contractor;

(b) is published or otherwise available for inspection by customers; and

(c) states prices at which sales are currently or were last made to a significant number of any category of buyers or buyers constituting the general buying public for the supplies or services involved.

(32) "Executive branch procurement unit" means a department, division, office, bureau, agency, or other organization within the state executive branch.

(33) "Facilities division" means the Division of Facilities Construction and Management, created in Section 63A-5b-301.

(34) "Fixed price contract" means a contract that provides a price, for each procurement item obtained under the contract, that is not subject to adjustment except to the extent that:

(a) the contract provides, under circumstances specified in the contract, for an adjustment in price that is not based on cost to the contractor; or

(b) an adjustment is required by law.

(35) "Fixed price contract with price adjustment" means a fixed price contract that provides for an upward or downward revision of price, precisely described in the contract, that:

(a) is based on the consumer price index or another commercially acceptable index, source, or formula; and

(b) is not based on a percentage of the cost to the contractor.

(36) "Grant" means an expenditure of public funds or other assistance, or an agreement to expend public funds or other assistance, for a public purpose authorized by law, without acquiring a procurement item in exchange.

(37) "Immaterial error":

(a) means an irregularity or abnormality that is:

(i) a matter of form that does not affect substance; or

(ii) an inconsequential variation from a requirement of a solicitation that has no, little, or a trivial effect on the procurement process and that is not prejudicial to other vendors; and

(b) includes:

(i) a missing signature, missing acknowledgment of an addendum, or missing copy of a professional license, bond, or insurance certificate;

(ii) a typographical error;

(iii) an error resulting from an inaccuracy or omission in the solicitation; and

(iv) any other error that the procurement official reasonably considers to be immaterial.

(38) "Indefinite quantity contract" means a fixed price contract that:

(a) is for an indefinite amount of procurement items to be supplied as ordered by a procurement unit; and

(b) (i) does not require a minimum purchase amount; or

(ii) provides a maximum purchase limit.

(39) "Independent procurement unit" means:

(a) (i) a legislative procurement unit;

(ii) a judicial branch procurement unit;

(iii) an educational procurement unit;

(iv) a local government procurement unit;

(v) a conservation district;

(vi) a local building authority;

(vii) a local district;

(viii) a public corporation;

(ix) a special service district; or

(x) the Utah Communications Authority, established in Section 63H-7a-201;

(b) the building board or the facilities division, but only to the extent of the procurement authority provided under Title 63A, Chapter 5b, Administration of State Facilities;

(c) the attorney general, but only to the extent of the procurement authority provided under Title 67, Chapter 5, Attorney General;

(d) the Department of Transportation, but only to the extent of the procurement authority provided under Title 72, Transportation Code; or

(e) any other executive branch department, division, office, or entity that has statutory procurement authority outside this chapter, but only to the extent of that statutory procurement authority.

(40) "Invitation for bids":

(a) means a document used to solicit:

(i) bids to provide a procurement item to a procurement unit; or

(ii) quotes for a price of a procurement item to be provided to a procurement unit; and

(b) includes all documents attached to or incorporated by reference in a document described in Subsection (40)(a).

(41) "Issuing procurement unit" means a procurement unit that:

(a) reviews a solicitation to verify that it is in proper form;

(b) causes the notice of a solicitation to be published; and

(c) negotiates and approves the terms and conditions of a contract.

(42) "Judicial procurement unit" means:

(a) the Utah Supreme Court;

(b) the Utah Court of Appeals;

(c) the Judicial Council;

(d) a state judicial district; or

(e) an office, committee, subcommittee, or other organization within the state judicial branch.

(43) "Labor hour contract" is a contract under which:

(a) the supplies and materials are not provided by, or through, the contractor; and

(b) the contractor is paid a fixed rate that includes the cost of labor, overhead, and profit for a specified number of labor hours or days.

(44) "Legislative procurement unit" means:

(a) the Legislature;

(b) the Senate;

(c) the House of Representatives;

(d) a staff office of the Legislature, the Senate, or the House of Representatives; or

(e) a committee, subcommittee, commission, or other organization:

(i) within the state legislative branch; or

(ii) (A) that is created by statute to advise or make recommendations to the Legislature;

(B) the membership of which includes legislators; and

(C) for which the Office of Legislative Research and General Counsel provides staff support.

(45) "Local building authority" means the same as that term is defined in Section 17D-2-102.

(46) "Local district" means the same as that term is defined in Section 17B-1-102.

(47) "Local government procurement unit" means:

(a) a county or municipality, and each office or agency of the county or municipality, unless the county or municipality adopts its own procurement code by ordinance;

(b) a county or municipality that has adopted this entire chapter by ordinance, and each office or agency of that county or municipality; or

(c) a county or municipality that has adopted a portion of this chapter by ordinance, to the extent that a term in the ordinance is used in the adopted portion of this chapter, and each office or agency of that county or municipality.

(48) "Multiple award contracts" means the award of a contract for an indefinite quantity of a procurement item to more than one person.

(49) "Multiyear contract" means a contract that extends beyond a one-year period, including a contract that permits renewal of the contract, without competition, beyond the first year of the contract.

(50) "Municipality" means a city, town, or metro township.

(51) "Nonadopting local government procurement unit" means:

(a) a county or municipality that has not adopted Part 16, Protests, Part 17, Procurement Appeals Board, Part 18, Appeals to Court and Court Proceedings, and Part 19, General Provisions Related to Protest or Appeal; and

(b) each office or agency of a county or municipality described in Subsection (51)(a).

(52) "Offeror" means a person who submits a proposal in response to a request for proposals.

(53) "Preferred bidder" means a bidder that is entitled to receive a reciprocal preference under the requirements of this chapter.

(54) "Procure" means to acquire a procurement item through a procurement.

(55) "Procurement" means the acquisition of a procurement item through an expenditure of public funds, or an agreement to expend public funds, including an acquisition through a public-private partnership.

(56) "Procurement item" means an item of personal property, a technology, a service, or a construction project.

(57) "Procurement official" means:

(a) for a procurement unit other than an independent procurement unit, the chief procurement officer;

(b) for a legislative procurement unit, the individual, individuals, or body designated in a policy adopted by the Legislative Management Committee;

(c) for a judicial procurement unit, the Judicial Council or an individual or body designated by the Judicial Council by rule;

(d) for a local government procurement unit:

(i) the legislative body of the local government procurement unit; or

(ii) an individual or body designated by the local government procurement unit;

(e) for a local district, the board of trustees of the local district or the board of trustees' designee;

(f) for a special service district, the governing body of the special service district or the governing body's designee;

(g) for a local building authority, the board of directors of the local building authority or the board of directors' designee;

(h) for a conservation district, the board of supervisors of the conservation district or the board of supervisors' designee;

(i) for a public corporation, the board of directors of the public corporation or the board of directors' designee;

(j) for a school district or any school or entity within a school district, the board of the school district or the board's designee;

(k) for a charter school, the individual or body with executive authority over the charter school or the designee of the individual or body;

(l) for an institution of higher education described in Section 53B-2-101, the president of the institution of higher education or the president's designee;

(m) for the State Board of Education, the State Board of Education or the State Board of Education's designee;

(n) for the Utah Board of Higher Education, the Commissioner of Higher Education or the designee of the Commissioner of Higher Education;

(o) for the Utah Communications Authority, established in Section 63H-7a-201, the executive director of the Utah Communications Authority or the executive director's designee; or

(p) (i) for the building board, and only to the extent of procurement activities of the building board as an independent procurement unit under the procurement authority provided under Title 63A, Chapter 5b, Administration of State Facilities, the director of the building board or the director's designee;

(ii) for the facilities division, and only to the extent of procurement activities of the facilities division as an independent procurement unit under the procurement authority provided under Title 63A, Chapter 5b, Administration of State Facilities, the director of the facilities division or the director's designee;

(iii) for the attorney general, and only to the extent of procurement activities of the attorney general as an independent procurement unit under the procurement authority provided under Title 67, Chapter 5, Attorney General, the attorney general or the attorney general's designee;

(iv) for the Department of Transportation created in Section 72-1-201, and only to the extent of procurement activities of the Department of Transportation as an independent procurement unit under the procurement authority provided under Title 72, Transportation Code, the executive director of the Department of Transportation or the executive director's designee; or

(v) for any other executive branch department, division, office, or entity that has statutory procurement authority outside this chapter, and

only to the extent of the procurement activities of the department, division, office, or entity as an independent procurement unit under the procurement authority provided outside this chapter for the department, division, office, or entity, the chief executive officer of the department, division, office, or entity or the chief executive officer's designee.

(58) "Procurement unit":

(a) means:

(i) a legislative procurement unit;

(ii) an executive branch procurement unit;

(iii) a judicial procurement unit;

(iv) an educational procurement unit;

(v) the Utah Communications Authority, established in Section 63H-7a-201;

(vi) a local government procurement unit;

(vii) a local district;

(viii) a special service district;

(ix) a local building authority;

(x) a conservation district;

(xi) a public corporation; and

(b) does not include a political subdivision created under Title 11, Chapter 13, Interlocal Cooperation Act.

(59) "Professional service" means labor, effort, or work that requires specialized knowledge, expertise, and discretion, including labor, effort, or work in the field of:

(a) accounting;

(b) administrative law judge service;

(c) architecture;

(d) construction design and management;

(e) engineering;

(f) financial services;

(g) information technology;

(h) the law;

(i) medicine;

(j) psychiatry; or

(k) underwriting.

(60) "Protest officer" means:

(a) for the division or an independent procurement unit:

(i) the procurement official;

(ii) the procurement official's designee who is an employee of the procurement unit; or

(iii) a person designated by rule made by the rulemaking authority; or

(b) for a procurement unit other than an independent procurement unit, the chief procurement officer or the chief procurement officer's designee who is an employee of the division.

(61) "Public corporation" means the same as that term is defined in Section 63E-1-102.

(62) "Public entity" means the state or any other government entity within the state that expends public funds.

(63) "Public facility" means a building, structure, infrastructure, improvement, or other facility of a public entity.

(64) "Public funds" means money, regardless of its source, including from the federal government, that is owned or held by a procurement unit.

(65) "Public transit district" means a public transit district organized under Title 17B, Chapter 2a, Part 8, Public Transit District Act.

(66) "Public-private partnership" means an arrangement or agreement, occurring on or after January 1, 2017, between a procurement unit and one or more contractors to provide for a public need through the development or operation of a project in which the contractor or contractors share with the procurement unit the responsibility or risk of developing, owning, maintaining, financing, or operating the project.

(67) "Qualified vendor" means a vendor who:

(a) is responsible; and

(b) submits a responsive statement of qualifications under Section 63G-6a-410 that meets the minimum mandatory requirements, evaluation criteria, and any applicable score thresholds set forth in the request for statement of qualifications.

(68) "Real property" means land and any building, fixture, improvement, appurtenance, structure, or other development that is permanently affixed to land.

(69) "Request for information" means a nonbinding process through which a procurement unit requests information relating to a procurement item.

(70) "Request for proposals" means a document used to solicit proposals to provide a procurement item to a procurement unit, including all other documents that are attached to that document or incorporated in that document by reference.

(71) "Request for proposals process" means the procurement process described in Part 7, Request for Proposals.

(72) "Request for statement of qualifications" means a document used to solicit information about the qualifications of a person interested in responding to a potential procurement, including all other documents attached to that document or incorporated in that document by reference.

(73) "Requirements contract" means a contract:

(a) under which a contractor agrees to provide a procurement unit's entire requirements for certain

procurement items at prices specified in the contract during the contract period; and

(b) that:

(i) does not require a minimum purchase amount; or

(ii) provides a maximum purchase limit.

(74) "Responsible" means being capable, in all respects, of:

(a) meeting all the requirements of a solicitation; and

(b) fully performing all the requirements of the contract resulting from the solicitation, including being financially solvent with sufficient financial resources to perform the contract.

(75) "Responsive" means conforming in all material respects to the requirements of a solicitation.

(76) "Rule" includes a policy or regulation adopted by the rulemaking authority, if adopting a policy or regulation is the method the rulemaking authority uses to adopt provisions that govern the applicable procurement unit.

(77) "Rulemaking authority" means:

(a) for a legislative procurement unit, the Legislative Management Committee;

(b) for a judicial procurement unit, the Judicial Council;

(c) (i) only to the extent of the procurement authority expressly granted to the procurement unit by statute:

(A) for the building board or the facilities division, the building board;

(B) for the Office of the Attorney General, the attorney general;

(C) for the Department of Transportation created in Section 72-1-201, the executive director of the Department of Transportation; and

(D) for any other executive branch department, division, office, or entity that has statutory procurement authority outside this chapter, the governing authority of the department, division, office, or entity; and

(ii) for each other executive branch procurement unit, the board;

(d) for a local government procurement unit:

(i) the governing body of the local government unit; or

(ii) an individual or body designated by the local government procurement unit;

(e) for a school district or a public school, the board, except to the extent of a school district's own nonadministrative rules that do not conflict with the provisions of this chapter;

(f) for a state institution of higher education, the Utah Board of Higher Education;

(g) for the State Board of Education or the Utah Schools for the Deaf and the Blind, the State Board of Education;

(h) for a public transit district, the chief executive of the public transit district;

(i) for a local district other than a public transit district or for a special service district, the board, except to the extent that the board of trustees of the local district or the governing body of the special service district makes its own rules:

(i) with respect to a subject addressed by board rules; or

(ii) that are in addition to board rules;

(j) for the Utah Educational Savings Plan, created in Section 53B-8a-103, the Utah Board of Higher Education;

(k) for the School and Institutional Trust Lands Administration, created in Section 53C-1-201, the School and Institutional Trust Lands Board of Trustees;

(l) for the School and Institutional Trust Fund Office, created in Section 53D-1-201, the School and Institutional Trust Fund Board of Trustees;

(m) for the Utah Communications Authority, established in Section 63H-7a-201, the Utah Communications Authority board, created in Section 63H-7a-203; or

(n) for any other procurement unit, the board.

(78) "Service":

(a) means labor, effort, or work to produce a result that is beneficial to a procurement unit;

(b) includes a professional service; and

(c) does not include labor, effort, or work provided under an employment agreement or a collective bargaining agreement.

(79) "Small purchase process" means the procurement process described in Section 63G-6a-506.

(80) "Sole source contract" means a contract resulting from a sole source procurement.

(81) "Sole source procurement" means a procurement without competition pursuant to a determination under Subsection 63G-6a-802(1)(a) that there is only one source for the procurement item.

(82) "Solicitation" means an invitation for bids, request for proposals, or request for statement of qualifications.

(83) "Solicitation response" means:

(a) a bid submitted in response to an invitation for bids;

(b) a proposal submitted in response to a request for proposals; or

(c) a statement of qualifications submitted in response to a request for statement of qualifications.

(84) "Special service district" means the same as that term is defined in Section 17D-1-102.

(85) "Specification" means any description of the physical or functional characteristics or of the nature of a procurement item included in an invitation for bids or a request for proposals, or otherwise specified or agreed to by a procurement unit, including a description of:

(a) a requirement for inspecting or testing a procurement item; or

(b) preparing a procurement item for delivery.

(86) "Standard procurement process" means:

(a) the bidding process;

(b) the request for proposals process;

(c) the approved vendor list process;

(d) the small purchase process; or

(e) the design professional procurement process.

(87) "State cooperative contract" means a contract awarded by the division for and in behalf of all public entities.

(88) "Statement of qualifications" means a written statement submitted to a procurement unit in response to a request for statement of qualifications.

(89) "Subcontractor":

(a) means a person under contract to perform part of a contractual obligation under the control of the contractor, whether the person's contract is with the contractor directly or with another person who is under contract to perform part of a contractual obligation under the control of the contractor; and

(b) includes a supplier, distributor, or other vendor that furnishes supplies or services to a contractor.

(90) "Technology" means the same as "information technology," as defined in Section 63F-1-102.

(91) "Tie bid" means that the lowest responsive bids of responsible bidders are identical in price.

(92) "Time and materials contract" means a contract under which the contractor is paid:

(a) the actual cost of direct labor at specified hourly rates;

(b) the actual cost of materials and equipment usage; and

(c) an additional amount, expressly described in the contract, to cover overhead and profit, that is not based on a percentage of the cost to the contractor.

(93) "Transitional costs":

(a) means the costs of changing:

(i) from an existing provider of a procurement item to another provider of that procurement item; or

(ii) from an existing type of procurement item to another type;

(b) includes:

(i) training costs;

(ii) conversion costs;

(iii) compatibility costs;

(iv) costs associated with system downtime;

(v) disruption of service costs;

(vi) staff time necessary to implement the change;

(vii) installation costs; and

(viii) ancillary software, hardware, equipment, or construction costs; and

(c) does not include:

(i) the costs of preparing for or engaging in a procurement process; or

(ii) contract negotiation or drafting costs.

(94) "Vendor":

(a) means a person who is seeking to enter into a contract with a procurement unit to provide a procurement item; and

(b) includes:

(i) a bidder;

(ii) an offeror;

(iii) an approved vendor;

(iv) a design professional; and

(v) a person who submits an unsolicited proposal under Section 63G-6a-712.

Section 175. Section 63G-6a-106 is amended to read:

63G-6a-106. Independent procurement units.

(1) An independent procurement unit may, without the supervision, interference, oversight, control, or involvement of the division or the chief procurement officer, but in accordance with the requirements of this chapter:

(a) engage in a standard procurement process;

(b) acquire a procurement item under an exception, as provided in this chapter, to the requirement to use a standard procurement process; or

(c) otherwise engage in an act authorized or required by this chapter.

(2) Notwithstanding Subsection (1), an independent procurement unit may agree in writing with the division to extend the authority of

the division or the chief procurement officer to the procurement unit, as provided in the agreement.

(3) With respect to a procurement or contract over which an independent procurement unit's procurement official has authority, the procurement official may:

(a) manage and supervise the procurement to ensure to the extent practicable that taxpayers receive the best value;

(b) prepare and issue standard specifications for procurement items;

(c) review contracts, coordinate contract compliance, conduct contract audits, and approve change orders;

(d) delegate duties and authority to an employee of the procurement unit, as the independent procurement unit's procurement official considers appropriate;

(e) for the procurement official of an executive branch procurement unit that is an independent procurement unit, coordinate with the [~~Department~~] Division of Technology Services, created in Section [~~63F-1-103~~] 63A-16-103, with respect to the procurement unit's procurement of information technology services;

(f) correct, amend, or cancel a procurement at any stage of the procurement process if the procurement is out of compliance with this chapter or a rule adopted by the rulemaking authority;

(g) attempt to resolve a contract dispute in coordination with the legal counsel of the independent procurement unit; and

(h) at any time during the term of a contract awarded by the independent procurement unit, correct or amend a contract to bring it into compliance or cancel the contract:

(i) if the procurement official determines that correcting, amending, or canceling the contract is in the best interest of the procurement unit; and

(ii) after consulting with, as applicable, the attorney general's office or the procurement unit's legal counsel.

(4) The attorney general may, in accordance with the provisions of this chapter, but without involvement by the division or the chief procurement officer:

(a) retain outside counsel, subject to Section 67-5-33 if the attorney general retains outside counsel under a contingent fee contract, as defined in that section; or

(b) procure litigation support services, including retaining an expert witness.

(5) An independent procurement unit that is not represented by the attorney general's office may, in accordance with the provisions of this chapter, but without involvement by the division or the chief procurement officer:

(a) retain outside counsel; or

(b) procure litigation support services, including retaining an expert witness.

(6) The state auditor's office may, in accordance with the provisions of this chapter, but without involvement by the division or the chief procurement officer, procure audit services.

(7) The state treasurer may, in accordance with the provisions of this chapter, but without involvement by the division or the chief procurement officer, procure:

(a) deposit services; and

(b) services related to issuing bonds.

Section 176. Section 63G-6a-116 is amended to read:

63G-6a-116. Procurement of administrative law judge service.

(1) As used in this section:

(a) "Administrative law judge" means the same as that term is defined in Section [~~67-19e-102~~] 63A-17-701.

(b) "Administrative law judge service" means service provided by an administrative law judge.

(2) A procurement unit shall use a standard procurement process under this chapter for the procurement of administrative law judge service.

(3) For a procurement of administrative law judge service, an evaluation committee shall consist of:

(a) the head of the conducting procurement unit, or the head's designee;

(b) the head of an executive branch procurement unit other than the conducting procurement unit, appointed by the [~~executive~~] director of the [~~Department~~] Division of Human Resource Management, or the head's designee; and

(c) the [~~executive~~] director of the [~~Department~~] Division of Human Resource Management, or the [~~executive~~] director's designee.

(4) Within 30 days after the day on which a conducting procurement unit awards a contract for administrative law judge service, the conducting procurement unit shall give written notice to the [~~Department~~] Division of Human Resource Management that states:

(a) that the conducting procurement unit awarded a contract for administrative law judge service;

(b) the name of the conducting procurement unit; and

(c) the expected term of the contract.

(5) A procurement of administrative law judge service using a small purchase process is subject to rules made pursuant to Subsection 63G-6a-506(2)(c).

Section 177. Section 63G-6a-202 is amended to read:

63G-6a-202. Creation of Utah State Procurement Policy Board.

(1) There is created the Utah State Procurement Policy Board.

(2) The board consists of up to 15 members as follows:

(a) two representatives of state institutions of higher education, appointed by the Utah Board of Higher Education;

(b) a representative of the Department of Human Services, appointed by the executive director of that department;

(c) a representative of the Department of Transportation, appointed by the executive director of that department;

(d) two representatives of school districts, appointed by the State Board of Education;

(e) a representative of the Division of Facilities Construction and Management, appointed by the director of that division;

(f) one representative of a county, appointed by the Utah Association of Counties;

(g) one representative of a city or town, appointed by the Utah League of Cities and Towns;

(h) two representatives of local districts or special service districts, appointed by the Utah Association of Special Districts;

(i) the [~~executive~~] director of the [~~Department~~] Division of Technology Services or the executive director's designee;

(j) the chief procurement officer or the chief procurement officer's designee; and

(k) two representatives of state agencies, other than a state agency already represented on the board, appointed by the executive director of the Department of [~~Administrative Services~~] Government Operations, with the approval of the executive director of the state agency that employs the employee.

(3) Members of the board shall be knowledgeable and experienced in, and have supervisory responsibility for, procurement in their official positions.

(4) A board member may serve as long as the member meets the description in Subsection (2) unless removed by the person or entity with the authority to appoint the board member.

(5) (a) The board shall:

(i) adopt rules of procedure for conducting its business; and

(ii) elect a chair to serve for one year.

(b) The chair of the board shall be selected by a majority of the members of the board and may be elected to succeeding terms.

(c) The chief procurement officer shall designate an employee of the division to serve as the nonvoting secretary to the policy board.

(6) A member of the board may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

Section 178. Section 63G-6a-302 is amended to read:

63G-6a-302. Chief procurement officer -- Qualifications -- Authority.

[~~(1) The executive director of the Department of Administrative Services, with the consent of the governor, shall appoint the chief procurement officer after considering recommendations from the board.~~]

[~~(2)~~] (1) The chief procurement officer shall:

(a) have a minimum of eight years' experience:

(i) (A) in the large-scale procurement of supplies, services, or construction; or

(B) negotiating contract terms and conditions; and

(ii) at least five years of which shall have been in public or comparable private procurement within 12 years preceding the date of appointment; and

(b) be a person with demonstrated executive and organizational ability.

[~~(3)~~] (2) The chief procurement officer [~~appointed under Subsection (1)~~] is also the director of the Division of Purchasing and General Services.

[~~(4)~~] (3) The chief procurement officer has authority over a procurement by a procurement unit, except:

(a) an independent procurement unit; or

(b) as otherwise expressly provided in this chapter.

Section 179. Section 63G-6a-303 is amended to read:

63G-6a-303. Role, duties, and authority of chief procurement officer.

(1) The chief procurement officer:

(a) is the director of the division;

(b) serves as the central procurement officer of the state;

(c) serves as a voting member of the board; and

(d) serves as the protest officer for a protest relating to a procurement of an executive branch procurement, except an executive branch procurement unit designated under Subsection 63G-6a-103(39)(b), (c), (d), or (e) as an independent

procurement unit, or a state cooperative contract procurement, unless the chief procurement officer designates another to serve as protest officer, as authorized in this chapter.

(2) Except as otherwise provided in this chapter, the chief procurement officer shall:

(a) develop procurement policies and procedures supporting ethical procurement practices, fair and open competition among vendors, and transparency within the state's procurement process;

(b) administer the state's cooperative purchasing program, including state cooperative contracts and associated administrative fees;

(c) enter into an agreement with a public entity for services provided by the division, if the agreement is in the best interest of the state;

(d) ensure the division's compliance with any applicable law, rule, or policy, including a law, rule, or policy applicable to the division's role as an issuing procurement unit or conducting procurement unit, or as the state's central procurement organization;

(e) manage the division's electronic procurement system;

(f) oversee the recruitment, training, career development, certification requirements, and performance evaluation of the division's procurement personnel;

(g) make procurement training available to procurement units and persons who do business with procurement units;

(h) provide exemplary customer service and continually improve the division's procurement operations;

(i) exercise all other authority, fulfill all other duties and responsibilities, and perform all other functions authorized under this chapter; and

(j) ensure that any training described in this Subsection (2) complies with Title 63G, Chapter 22, State Training and Certification Requirements.

(3) With respect to a procurement or contract over which the chief procurement officer has authority under this chapter, the chief procurement officer, except as otherwise provided in this chapter:

(a) shall:

(i) manage and supervise a procurement to ensure to the extent practicable that taxpayers receive the best value;

(ii) prepare and issue standard specifications for procurement items;

(iii) review contracts, coordinate contract compliance, conduct contract audits, and approve change orders;

(iv) in accordance with Section [~~63F-1-205~~] 63A-16-204, coordinate with the [~~Department~~] Division of Technology Services, created in Section [~~63F-1-103~~] 63A-16-103, with respect to the procurement of information technology services by an executive branch procurement unit;

(v) correct, amend, or cancel a procurement at any stage of the procurement process if the procurement is out of compliance with this chapter or a board rule;

(vi) after consultation with the attorney general's office, correct, amend, or cancel a contract at any time during the term of the contract if:

(A) the contract is out of compliance with this chapter or a board rule; and

(B) the chief procurement officer determines that correcting, amending, or canceling the contract is in the best interest of the state; and

(vii) make a reasonable attempt to resolve a contract dispute, in coordination with the attorney general's office; and

(b) may:

(i) delegate limited purchasing authority to a state agency, with appropriate oversight and control to ensure compliance with this chapter;

(ii) delegate duties and authority to an employee of the division, as the chief procurement officer considers appropriate;

(iii) negotiate and settle contract overcharges, undercharges, and claims, in accordance with the law and after consultation with the attorney general's office;

(iv) authorize a procurement unit to make a procurement pursuant to a regional solicitation, as defined in Subsection 63G-6a-2105(7), even if the procurement item is also offered under a state cooperative contract, if the chief procurement officer determines that the procurement pursuant to a regional solicitation is in the best interest of the acquiring procurement unit; and

(v) remove an individual from the procurement process or contract administration for:

(A) having a conflict of interest or the appearance of a conflict of interest with a person responding to a solicitation or with a contractor;

(B) having a bias or the appearance of bias for or against a person responding to a solicitation or for or against a contractor;

(C) making an inconsistent or unexplainable score for a solicitation response;

(D) having inappropriate contact or communication with a person responding to a solicitation;

(E) socializing inappropriately with a person responding to a solicitation or with a contractor;

(F) engaging in any other action or having any other association that causes the chief procurement officer to conclude that the individual cannot fairly evaluate a solicitation response or administer a contract; or

(G) any other violation of a law, rule, or policy.

(4) The chief procurement officer may not delegate to an individual outside the division the chief procurement officer's authority over a procurement described in Subsection (3)(a)(iv).

(5) The chief procurement officer has final authority to determine whether an executive branch procurement unit's anticipated expenditure of public funds, anticipated agreement to expend public funds, or provision of a benefit constitutes a procurement that is subject to this chapter.

(6) Except as otherwise provided in this chapter, the chief procurement officer shall review, monitor, and audit the procurement activities and delegated procurement authority of an executive branch procurement unit, except to the extent that an executive branch procurement unit is designated under Subsection 63G-6a-103(39)(b), (c), (d), or (e) as an independent procurement unit, to ensure compliance with this chapter, rules made by the applicable rulemaking authority, and division policies.

Section 180. Section 63G-6a-506 is amended to read:

63G-6a-506. Small purchases.

(1) As used in this section:

(a) "Annual cumulative threshold" means the maximum total annual amount, established by the rulemaking authority under Subsection (2), that a procurement unit may expend to obtain procurement items from the same source under this section.

(b) "Individual procurement threshold" means the maximum amount, established by the rulemaking authority under Subsection (2), for which a procurement unit may purchase a procurement item under this section.

(c) "Single procurement aggregate threshold" means the maximum total amount, established by the rulemaking authority under Subsection (2), that a procurement unit may expend to obtain multiple procurement items from one source at one time under this section.

(2) (a) The rulemaking authority may make rules governing small purchases of any procurement item, including construction, job order contracting, design professional services, other professional services, information technology, and goods.

(b) Rules under Subsection (2)(a) may include provisions:

(i) establishing expenditure thresholds, including:

(A) an annual cumulative threshold;

(B) an individual procurement threshold; and

(C) a single procurement aggregate threshold;

(ii) establishing procurement requirements relating to the thresholds described in Subsection (2)(b)(i); and

(iii) providing for the use of electronic, telephone, or written quotes.

(c) If a procurement unit obtains administrative law judge service through a small purchase standard procurement process, rules made under Subsection (2)(a) shall provide that the process for the procurement of administrative law judge service include an evaluation committee described in Subsection 63G-6a-116(3).

(3) Expenditures made under this section by a procurement unit may not exceed a threshold established by the rulemaking authority, unless the procurement official gives written authorization to exceed the threshold that includes the reasons for exceeding the threshold.

(4) Except as provided in Subsection (5), an executive branch procurement unit may not obtain a procurement item through a small purchase standard procurement process if the procurement item may be obtained through a state cooperative contract or a contract awarded by the chief procurement officer under Subsection 63G-6a-2105(1).

(5) Subsection (4) does not apply if:

(a) the procurement item is obtained for an unanticipated, urgent, or emergency condition, including:

(i) an item needed to avoid stopping a public construction project;

(ii) an immediate repair to a facility or equipment; or

(iii) another emergency condition; or

(b) the chief procurement officer or the procurement official of a procurement unit that is an executive branch procurement unit with independent procurement authority:

(i) determines in writing that it is in the best interest of the procurement unit to obtain an individual procurement item outside of the state contract, comparing:

(A) the contract terms and conditions applicable to the procurement item under the state contract with the contract terms and conditions applicable to the procurement item if the procurement item is obtained outside of the state contract;

(B) the maintenance and service applicable to the procurement item under the state contract with the maintenance and service applicable to the procurement item if the procurement item is obtained outside of the state contract;

(C) the warranties applicable to the procurement item under the state contract with the warranties applicable to the procurement item if the procurement item is obtained outside of the state contract;

(D) the quality of the procurement item under the state contract with the quality of the procurement item if the procurement item is obtained outside of the state contract; and

(E) the ability of the vendor under the state contract to match the quoted cost of the procurement item if the procurement item is obtained outside of the state contract;

(ii) for a procurement item that, if defective in its manufacture, installation, or performance, may result in serious physical injury, death, or substantial property damage, determines in writing that the terms and conditions, relating to liability for injury, death, or property damage, available from the source other than the contractor who holds the state contract, are similar to, or better than, the terms and conditions available under the state contract; and

(iii) grants an exception, in writing, to the requirement described in Subsection (4).

(6) Except as otherwise expressly provided in this section, a procurement unit:

(a) may not use the small purchase standard procurement process described in this section for ongoing, continuous, and regularly scheduled procurements that exceed the annual cumulative threshold; and

(b) shall make its ongoing, continuous, and regularly scheduled procurements that exceed the annual cumulative threshold through a contract awarded through another standard procurement process described in this chapter or an applicable exception to another standard procurement process, described in Part 8, Exceptions to Procurement Requirements.

(7) This section does not prohibit regularly scheduled payments for a procurement item obtained under another provision of this chapter.

(8) (a) It is unlawful for a person knowingly to divide a single procurement into multiple smaller procurements, including by dividing an invoice or purchase order into multiple invoices or purchase orders, if:

(i) the single procurement would not have qualified as a small purchase under this section;

(ii) one or more of the multiple smaller procurements qualify as a small purchase under this section; and

(iii) the division is done with the intent to:

(A) avoid having to use a standard procurement process, other than the small purchase process, that the person would otherwise be required to use for the single procurement; or

(B) make one or more of the multiple smaller procurements fall below a small purchase expenditure threshold established by rule under Subsection (2)(b) that the single procurement would not have fallen below without the division.

(b) A violation of Subsection (8)(a) is subject to penalties as provided in Subsection 63G-6a-2404.3(2).

(9) The Division of Finance within the Department of [~~Administrative Services~~] Government Operations may conduct an audit of an executive branch procurement unit to verify compliance with the requirements of this section.

(10) An executive branch procurement unit may not make a small purchase after January 1, 2014, unless the chief procurement officer certifies that the person responsible for procurements in the procurement unit has satisfactorily completed training on this section and the rules made under this section.

Section 181. Section 63G-7-901 is amended to read:

63G-7-901. Expenses of attorney general, general counsel for state judiciary, and general counsel for the Legislature in representing the state, the state's branches, members, or employees.

(1) (a) The Office of the Attorney General has primary responsibility to provide legal representation to the judicial, executive, and legislative branches of state government in cases where coverage under the Risk Management Fund created by Section 63A-4-201 applies.

(b) When the attorney general has primary responsibility to provide legal representation to the judicial or legislative branches, the attorney general shall consult with the general counsel for the state judiciary and with the general counsel for the Legislature, to solicit their assistance in defending their respective branch, and in determining strategy and making decisions concerning the disposition of those claims.

(c) Notwithstanding Subsection (1)(b), the decision for settlement of monetary claims in those cases lies with the attorney general and the state risk manager.

(2) (a) If the Judicial Council, after consultation with the general counsel for the state judiciary, determines that the Office of the Attorney General cannot adequately defend the state judiciary, its members, or employees because of a conflict of interest, separation of powers concerns, or other political or legal differences, the Judicial Council may direct its general counsel to separately represent and defend it.

(b) If the general counsel for the state judiciary undertakes independent legal representation of the state judiciary, its members, or employees, the general counsel shall notify the state risk manager and the attorney general in writing before undertaking that representation.

(c) If the state judiciary elects to be represented by its own counsel under this section, the decision for settlement of claims against the state judiciary, its members, or employees, where Risk Management Fund coverage applies, lies with the general counsel for the state judiciary and the state risk manager.

(3) (a) If the Legislative Management Committee, after consultation with the general counsel for the Legislature, determines that the Office of the Attorney General cannot adequately defend the

legislative branch, its members, or employees because of a conflict of interest, separation of powers concerns, or other political or legal differences, the Legislative Management Committee may direct its general counsel to separately represent and defend it.

(b) If the general counsel for the Legislature undertakes independent legal representation of the Legislature, its members, or employees, the general counsel shall notify the state risk manager and the attorney general in writing before undertaking that representation.

(c) If the legislative branch elects to be represented by its own counsel under this section, the decision for settlement of claims against the legislative branch, its members, or employees, where Risk Management Fund coverage applies, lies with the general counsel for the Legislature and the state risk manager.

(4) (a) Notwithstanding the provisions of Section 67-5-3 or any other provision of the Utah Code, the attorney general, the general counsel for the state judiciary, and the general counsel for the Legislature may bill the Department of [~~Administrative Services~~] Government Operations for all costs and legal fees expended by their respective offices, including attorneys' and secretarial salaries, in representing the state or any indemnified employee against any claim for which the Risk Management Fund may be liable and in advising state agencies and employees regarding any of those claims.

(b) The risk manager shall draw funds from the Risk Management Fund for this purpose.

Section 182. Section 63G-9-303 is amended to read:

63G-9-303. Meeting to examine claims -- Notice of meeting.

(1) At least 60 days preceding the annual general session of the Legislature, the board shall hold a session for the purpose of examining the claims referred to in Section 63G-9-302, and may adjourn from time to time until the work is completed.

(2) The board shall cause notice of such meeting or meetings to be published on the Utah Public Notice Website created in Section [~~63F-1-701~~] 63A-16-601.

Section 183. Section 63G-10-501 is amended to read:

63G-10-501. Definitions.

As used in this part:

(1) "Executive director" means the individual appointed under Section 63A-1-105 as the executive director of the Department of [~~Administrative Services~~] Government Operations, created in Section 63A-1-104.

(2) "Risk management fund" means the fund created in Section 63A-4-201.

(3) "Risk manager" means the state risk manager appointed under Section 63A-4-101.

Section 184. Section 63G-21-102 is amended to read:

63G-21-102. Definitions.

As used in this chapter:

(1) "Designated agency" means:

(a) the Governor's Office of Economic Development;

(b) the Division of Wildlife Resources;

(c) the Department of Public Safety;

(d) the [~~Department~~] Division of Technology Services; or

(e) the Department of Workforce Services.

(2) (a) "State service" means a service or benefit regularly provided to the public by a designated agency.

(b) "State service" includes:

(i) for the Governor's Office of Economic Development or the [~~Department~~] Division of Technology Services, public high-speed Internet access;

(ii) for the Division of Wildlife Resources, fishing, hunting, and trapping licenses;

(iii) for the Department of Public Safety, fingerprinting, an online driver license renewal, online appointment scheduling, an online motor vehicle record request, and an online change of address with the Driver License Division; and

(iv) for the Department of Workforce Services, online job searches, verification of submission for benefits administered by the Department of Workforce Services, online unemployment applications, online food stamp applications, and online appointment scheduling.

(3) "USPS" means the United States Postal Service.

Section 185. Section 63J-1-206 is amended to read:

63J-1-206. Appropriations governed by chapter -- Restrictions on expenditures -- Transfer of funds -- Exclusion.

(1) (a) Except as provided in Subsections (1)(b) and (2)(e), or where expressly exempted in the appropriating act:

(i) all money appropriated by the Legislature is appropriated upon the terms and conditions set forth in this chapter; and

(ii) any department, agency, or institution that accepts money appropriated by the Legislature does so subject to the requirements of this chapter.

(b) This section does not apply to:

(i) the Legislature and its committees; and

(ii) the Investigation Account of the Water Resources Construction Fund, which is governed by Section 73-10-8.

(2) (a) Each item of appropriation is to be expended subject to any schedule of programs and any restriction attached to the item of appropriation, as designated by the Legislature.

(b) Each schedule of programs or restriction attached to an appropriation item:

(i) is a restriction or limitation upon the expenditure of the respective appropriation made;

(ii) does not itself appropriate any money; and

(iii) is not itself an item of appropriation.

(c) (i) An appropriation or any surplus of any appropriation may not be diverted from any department, agency, institution, division, or line item to any other department, agency, institution, division, or line item.

(ii) If the money appropriated to an agency to pay lease payments under the program established in Section 63A-5b-703 exceeds the amount required for the agency's lease payments to the Division of Facilities Construction and Management, the agency may:

(A) transfer money from the lease payments line item to other line items within the agency; and

(B) retain and use the excess money for other purposes.

(d) The money appropriated subject to a schedule of programs or restriction may be used only for the purposes authorized.

(e) In order for a department, agency, or institution to transfer money appropriated to it from one program to another program within a line item, the department, agency, or institution shall revise its budget execution plan as provided in Section 63J-1-209.

(f) (i) The procedures for transferring money between programs within a line item as provided by Subsection (2)(e) do not apply to money appropriated to the State Board of Education for the Minimum School Program or capital outlay programs created in Title 53F, Chapter 3, State Funding -- Capital Outlay Programs.

(ii) The state superintendent may transfer money appropriated for the programs specified in Subsection (2)(f)(i) only as provided by Section 53F-2-205.

(3) Notwithstanding Subsection (2)(c)(i):

(a) the state superintendent may transfer money appropriated for the Minimum School Program between line items in accordance with Section 53F-2-205;

(b) the Department of [~~Administrative Services~~] Government Operations may transfer money appropriated for the purpose of paying the costs of paid employee postpartum recovery leave under Section [~~67-19-14.7~~] 63A-17-511 to another department, agency, institution, or division; and

(c) the Department of [~~Administrative Services~~] Government Operations may transfer or divert money to another department, agency, institution, or division only for the purposes of coordinating and providing a state response to the coronavirus.

Section 186. Section 63J-1-219 is amended to read:

63J-1-219. Definitions -- Federal receipts reporting requirements.

(1) As used in this section:

(a) (i) "Designated state agency" means the Department of [~~Administrative Services~~] Government Operations, the Department of Agriculture and Food, the Department of Alcoholic Beverage Control, the Department of Commerce, the Department of Heritage and Arts, the Department of Corrections, the Department of Environmental Quality, the Department of Financial Institutions, the Department of Health, [~~the Department of Human Resource Management,~~] the Department of Human Services, the Department of Insurance, the Department of Natural Resources, the Department of Public Safety, [~~the Department of Technology Services,~~] the Department of Transportation, the Department of Veterans and Military Affairs, the Department of Workforce Services, the Labor Commission, the Office of Economic Development, the Public Service Commission, the Utah Board of Higher Education, the State Board of Education, the State Tax Commission, or the Utah National Guard.

(ii) "Designated state agency" does not include the judicial branch, the legislative branch, or an office or other entity within the judicial branch or the legislative branch.

(b) "Federal receipts" means the federal financial assistance, as defined in 31 U.S.C. Sec. 7501, that is reported as part of a single audit.

(c) "Single audit" is as defined in 31 U.S.C. Sec. 7501.

(2) Subject to Subsections (3) and (4), a designated state agency shall each year, on or before October 31, prepare a report that:

(a) reports the aggregate value of federal receipts the designated state agency received for the preceding fiscal year;

(b) reports the aggregate amount of federal funds appropriated by the Legislature to the designated state agency for the preceding fiscal year;

(c) calculates the percentage of the designated state agency's total budget for the preceding fiscal year that constitutes federal receipts that the designated state agency received for that fiscal year; and

(d) develops plans for operating the designated state agency if there is a reduction of:

(i) 5% or more in the federal receipts that the designated state agency receives; and

(ii) 25% or more in the federal receipts that the designated state agency receives.

(3) (a) The report required by Subsection (2) that the Utah Board of Higher Education prepares shall include the information required by Subsections (2)(a) through (c) for each state institution of higher education listed in Section 53B-2-101.

(b) The report required by Subsection (2) that the State Board of Education prepares shall include the information required by Subsections (2)(a) through (c) for each school district and each charter school within the public education system.

(4) A designated state agency that prepares a report in accordance with Subsection (2) shall submit the report to the Division of Finance on or before November 1 of each year.

(5) (a) The Division of Finance shall, on or before November 30 of each year, prepare a report that:

(i) compiles and summarizes the reports the Division of Finance receives in accordance with Subsection (4); and

(ii) compares the aggregate value of federal receipts each designated state agency received for the previous fiscal year to the aggregate amount of federal funds appropriated by the Legislature to that designated state agency for that fiscal year.

(b) The Division of Finance shall, as part of the report required by Subsection (5)(a), compile a list of designated state agencies that do not submit a report as required by this section.

(6) The Division of Finance shall submit the report required by Subsection (5) to the Executive Appropriations Committee on or before December 1 of each year.

(7) Upon receipt of the report required by Subsection (5), the chairs of the Executive Appropriations Committee shall place the report on the agenda for review and consideration at the next Executive Appropriations Committee meeting.

(8) When considering the report required by Subsection (5), the Executive Appropriations Committee may elect to:

(a) recommend that the Legislature reduce or eliminate appropriations for a designated state agency;

(b) take no action; or

(c) take another action that a majority of the committee approves.

Section 187. Section 63J-1-602.2 is amended to read:

63J-1-602.2. List of nonlapsing appropriations to programs.

Appropriations made to the following programs are nonlapsing:

(1) The Legislature and the Legislature's committees.

(2) The State Board of Education, including all appropriations to agencies, line items, and programs under the jurisdiction of the State Board of Education, in accordance with Section 53F-9-103.

(3) The Percent-for-Art Program created in Section 9-6-404.

(4) The LeRay McAllister Critical Land Conservation Program created in Section 11-38-301.

(5) Dedicated credits accrued to the Utah Marriage Commission as provided under Subsection 17-16-21(2)(d)(ii).

(6) The Trip Reduction Program created in Section 19-2a-104.

(7) The Division of Wildlife Resources for the appraisal and purchase of lands under the Pelican Management Act, as provided in Section 23-21a-6.

(8) The emergency medical services grant program in Section 26-8a-207.

(9) The primary care grant program created in Section 26-10b-102.

(10) Sanctions collected as dedicated credits from Medicaid provider under Subsection 26-18-3(7).

(11) The Utah Health Care Workforce Financial Assistance Program created in Section 26-46-102.

(12) The Rural Physician Loan Repayment Program created in Section 26-46a-103.

(13) The Opiate Overdose Outreach Pilot Program created in Section 26-55-107.

(14) Funds that the Department of Alcoholic Beverage Control retains in accordance with Subsection 32B-2-301(8)(a) or (b).

(15) The General Assistance program administered by the Department of Workforce Services, as provided in Section 35A-3-401.

(16) A new program or agency that is designated as nonlapsing under Section 36-24-101.

(17) The Utah National Guard, created in Title 39, Militia and Armories.

(18) The State Tax Commission under Section 41-1a-1201 for the:

(a) purchase and distribution of license plates and decals; and

(b) administration and enforcement of motor vehicle registration requirements.

(19) The Search and Rescue Financial Assistance Program, as provided in Section 53-2a-1102.

(20) The Motorcycle Rider Education Program, as provided in Section 53-3-905.

(21) The Utah Board of Higher Education for teacher preparation programs, as provided in Section 53B-6-104.

(22) The Medical Education Program administered by the Medical Education Council, as provided in Section 53B-24-202.

(23) The Division of Services for People with Disabilities, as provided in Section 62A-5-102.

(24) The Division of Fleet Operations for the purpose of upgrading underground storage tanks under Section 63A-9-401.

(25) The Utah Seismic Safety Commission, as provided in Section 63C-6-104.

(26) Appropriations to the [~~Department~~] Division of Technology Services for technology innovation as provided under Section [~~63F-4-202~~] 63A-16-903.

(27) The Office of Administrative Rules for publishing, as provided in Section 63G-3-402.

(28) The Governor's Office of Economic Development to fund the Enterprise Zone Act, as provided in Title 63N, Chapter 2, Part 2, Enterprise Zone Act.

(29) Appropriations to fund the Governor's Office of Economic Development's Rural Employment Expansion Program, as described in Title 63N, Chapter 4, Part 4, Rural Employment Expansion Program.

(30) Appropriations to fund programs for the Jordan River Recreation Area as described in Section 65A-2-8.

(31) The [~~Department~~] Division of Human Resource Management user training program, as provided in Section [~~67-19-6~~] 63A-17-106.

(32) A public safety answering point's emergency telecommunications service fund, as provided in Section 69-2-301.

(33) The Traffic Noise Abatement Program created in Section 72-6-112.

(34) The Judicial Council for compensation for special prosecutors, as provided in Section 77-10a-19.

(35) A state rehabilitative employment program, as provided in Section 78A-6-210.

(36) The Utah Geological Survey, as provided in Section 79-3-401.

(37) The Bonneville Shoreline Trail Program created under Section 79-5-503.

(38) Adoption document access as provided in Sections 78B-6-141, 78B-6-144, and 78B-6-144.5.

(39) Indigent defense as provided in Title 78B, Chapter 22, Part 4, Utah Indigent Defense Commission.

(40) The program established by the Division of Facilities Construction and Management under Section 63A-5b-703 under which state agencies receive an appropriation and pay lease payments for the use and occupancy of buildings owned by the Division of Facilities Construction and Management.

Section 188. Section 67-1-8.1 is amended to read:

67-1-8.1. Executive Residence Commission -- Recommendations as to use, maintenance, and operation of executive residence.

(1) The Legislature finds and declares that:

(a) the state property known as the Thomas Kearns Mansion is a recognized state landmark possessing historical and architectural qualities that should be preserved; and

(b) the Thomas Kearns Mansion was the first building listed on the National Register of Historic Places in the state.

(2) As used in this section:

(a) "Executive residence" includes the:

(i) Thomas Kearns Mansion;

(ii) Carriage House building; and

(iii) grounds and landscaping surrounding the Thomas Kearns Mansion and the Carriage House building.

(b) "Commission" means the Executive Residence Commission established in this section.

(3) (a) An Executive Residence Commission is established to make recommendations to the State Building Board for the use, operation, maintenance, repair, rehabilitation, alteration, restoration, placement of art and monuments, or adoptive use of the executive residence.

(b) The commission shall meet at least once a year and make any recommendations to the State Building Board prior to August 1 of each year.

(4) The commission shall consist of nine voting members and one ex officio, nonvoting member representing the Governor's Mansion Foundation. The membership shall consist of:

(a) three private citizens appointed by the governor, who have demonstrated an interest in historical preservation;

(b) three additional private citizens appointed by the governor with the following background:

(i) an interior design professional with a background in historic spaces;

(ii) an architect with a background in historic preservation and restoration recommended by the Utah chapter of the American Institute of Architects; and

(iii) a landscape architect with a background and knowledge of historic properties recommended by the Utah chapter of the American Society of Landscape Architects;

(c) the director, or director's designee, of the Division of Art and Museums;

(d) the director, or director's designee, of the Division of State History; and

(e) the executive director, or executive director's designee, of the Department of [~~Administrative Services~~] Government Operations.

(5) (a) Except as required by Subsection (5)(b), as terms of current commission members expire, the

governor shall appoint each new member or reappointed member to a four-year term ending on March 1.

(b) Notwithstanding the requirements of Subsection (5)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of commission members are staggered so that approximately half of the commission is appointed every two years.

(6) (a) The governor shall appoint a chair from among the membership of the commission.

(b) Six members of the commission shall constitute a quorum, and either the chair or two other members of the commission may call meetings of the commission.

(7) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.

(8) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(9) The Division of Facilities Construction and Management shall provide the administrative support to the commission.

Section 189. Section 67-5-7 is amended to read:

67-5-7. Establishment of career service system.

(1) The purpose of this chapter is to establish a career service system for employees of the Office of the Attorney General that will attract and retain employees of proven ability and experience who will devote their full time to the service of the state.

(2) The Office of the Attorney General may adopt policies necessary to implement this chapter, including personnel and work policies different from those made by the [~~Department~~] Division of Human Resource Management.

Section 190. Section 67-5-22 is amended to read:

67-5-22. Identity theft reporting information system -- Internet website and database -- Access -- Maintenance and rulemaking -- Criminal provisions.

(1) There is created within the Office of the Attorney General the Identity Theft Reporting Information System (IRIS) Program to establish a database and Internet website to:

(a) allow persons in the state to submit reports of identity theft;

(b) assist the Office of the Attorney General in notifying state and local law enforcement agencies of reports of identity theft;

(c) provide assistance and resources to victims of identity theft;

(d) provide a centralized location where information related to incidents of identity theft may be securely stored and accessed for the benefit of victims of identity theft; and

(e) provide public education and information relating to identity theft.

(2) (a) The Internet website shall be maintained by the Office of the Attorney General and shall be made available to the public and to victims of identity-related crimes.

(b) The Internet website shall:

(i) allow a victim of an identity-related crime to report the crime on the website and have the victim's report routed to the appropriate law enforcement agency for the jurisdiction in which the crime occurred; and

(ii) provide public education and information relating to identity theft.

(c) The Internet website may be expanded to provide other identity-related services to victims according to the procedures of Subsection (4).

(3) (a) The [~~Department~~] Division of Technology Services shall administer and maintain the database established under this section in an electronic file or other format as established by the department.

(b) (i) The database shall be maintained for the purpose of identifying victims of identity theft who have filed a report with the program established under this section, and may contain the personally identifiable information for each victim, which may include the following information related to an incident of identify theft:

(A) the victim's name, address, email addresses, and telephone numbers;

(B) the victim's [~~Social Security~~] social security number and other identifying information;

(C) the victim's financial institution information, account numbers, and transaction information;

(D) the victim's benefit information;

(E) the victim's credit account information;

(F) the victim's loan information;

(G) the victim's employment information;

(H) the victim's Internal Revenue Service or tax information;

(I) the victim's utility service information;

(J) information concerning legal matters or collections related to the incident;

(K) information concerning unauthorized or illegal transactions, denied credit, stolen identification, and all other unauthorized actions related to the identity theft; and

(L) any other information related to the incident of identity theft that the victim or the Office of the Attorney General elects to include in the database.

(ii) The database shall record and maintain:

(A) identification information for each person who requests or receives information from the database;

(B) a record of the information that is requested or received by each person who requests or receives information from the database; and

(C) a record of the date and time that any information is requested or provided from the database.

(c) Information in the database is considered to be the property of the Office of the Attorney General, and retains any classification given it under Title 63G, Chapter 2, Government Records Access and Management Act.

(4) The [~~Department~~] Division of Technology Services, with the approval of the Office of the Attorney General, may make rules to:

(a) permit the following persons to have access to the database:

(i) federal, state, and local law enforcement authorities, provided that the authority is acting within a specified duty of the authority's employment in enforcing laws;

(ii) participating merchants and financial institutions, provided that the merchant or institution has entered into an access agreement with the Office of the Attorney General; and

(iii) other persons, to be established by rule, provided that the person's access to the information is necessary and reasonable to accomplish the purposes of the program as provided in Subsection (1);

(b) define and enforce limitations on access to information via the Internet website or in the database; and

(c) establish standards and procedures to ensure accurate identification of individuals that are requesting or receiving information from the Internet website or the database.

(5) (a) In addition to the penalties provided under Title 63G, Chapter 2, Government Records Access and Management Act, a person may not knowingly and intentionally release or disclose information from the database in violation of the limitations provided under Subsection (4)(a).

(b) A violation of Subsection (5)(a) is a third degree felony.

(6) (a) A person may not obtain or attempt to obtain information from the database by misrepresentation or fraud.

(b) A violation of Subsection (6)(a) is a third degree felony.

(7) (a) A person may not knowingly and intentionally use, release, publish, or otherwise make available to any other person or entity any information obtained from the database for any purpose other than those specified under Subsection (4)(a).

(b) Each separate violation of Subsection (7)(a) is a third degree felony.

Section 191. Section 67-8-3 is amended to read:

67-8-3. Compensation plan for appointive officers -- Exceptions -- Legislative approval -- Career status attorneys.

(1) (a) The [~~executive~~] director of the [~~Department~~] Division of Human Resource Management, based upon recommendations of the Executive and Judicial Compensation Commission shall, before October 31 of each year, recommend to the governor a compensation plan for appointed officers of the state except those officers whose compensation is set under Section 49-11-203, 53E-3-302, 53B-1-408, or 53C-1-301.

(b) The plan shall include salaries and wages, paid leave, group insurance plans, retirement programs, and any other benefits that may be offered to state officers.

(2) The governor shall include in each annual budget proposal to the Legislature specific recommendations on compensation for those appointed state officers in Subsection (1).

(3) (a) After consultation with the attorney general, the [~~executive~~] director of the [~~Department~~] Division of Human Resource Management shall place career status attorneys on a state salary schedule at a range comparable with salaries paid attorneys in private and other public employment.

(b) The attorney general and the executive director shall take into consideration the experience of the attorney, length of service with the Office of the Attorney General, quality of performance, and responsibility involved in legal assignments.

(c) The attorney general and the executive director shall periodically adjust the salary levels for attorneys in a career status to reasonably compensate them for full-time employment and the restrictions placed on the private practice of law.

Section 192. Section 67-8-5 is amended to read:

67-8-5. Duties of commission -- Salary recommendations.

(1) The commission shall recommend to the Legislature:

(a) salaries for the governor, the lieutenant governor, the attorney general, the state auditor, and the state treasurer; and

(b) salaries for justices of the Supreme Court and judges of the constitutional and statutory courts of record.

(2) In making the salary recommendations described in Subsection (1), the commission shall:

(a) consider:

(i) the education and experience required for the position;

(ii) the responsibility required of the position;

(iii) whether the position requires accountability for funds or staff;

(iv) wages paid for other comparable public and private employment in the state and in other similarly situated states;

(v) any increase in the Consumer Price Index since the commission's last recommendations; and

(vi) any other factors typically used to make similar recommendations;

(b) consult with the [~~Department~~] Division of Human Resource Management; and

(c) for the salary recommendations described in Subsection (1)(b), consult with the Judicial Council.

(3) No later than January 2, the commission shall submit an annual electronic report to the Executive Appropriations Committee, the president of the Senate, the speaker of the House of Representatives, and the governor that:

(a) briefly summarizes the commission's activities during the previous calendar year; and

(b) provides any recommendations to modify the salaries of:

(i) the governor, lieutenant governor, attorney general, state auditor, or state treasurer; or

(ii) the justices of the Supreme Court or judges of the constitutional and statutory courts of record.

(4) The Judicial Council shall cooperate with the commission in providing information relevant to the duties of the commission.

Section 193. Section 67-19a-101 is amended to read:

67-19a-101. Definitions.

As used in this chapter:

(1) "Abusive conduct" means the same as that term is defined in Section 67-26-102.

(2) "Administrator" means the person appointed under Section 67-19a-201 to head the Career Service Review Office.

(3) "Career service employee" means a person employed in career service as defined in Section 67-19-3.

(4) [~~"Department"~~] "Division" means the [~~Department~~] Division of Human Resource Management.

(5) "Employer" means the state of Utah and all supervisory personnel vested with the authority to implement and administer the policies of an agency.

(6) "Excusable neglect" means harmless error, mistake, inadvertence, surprise, a failure to discover evidence that, through due diligence, could not have been discovered in time to meet the applicable time period, misrepresentation or misconduct by the employer, or any other reason justifying equitable relief.

(7) "Grievance" means:

(a) a complaint by a career service employee concerning any matter touching upon the relationship between the employee and the employer;

(b) any dispute between a career service employee and the employer;

(c) a complaint by a reporting employee that a public entity has engaged in retaliatory action against the reporting employee; and

(d) a complaint that the employer subjected the employee to conditions that a reasonable person would consider intolerable, including abusive conduct.

(8) "Office" means the Career Service Review Office created under Section 67-19a-201.

(9) "Public entity" means the same as that term is defined in Section 67-21-2.

(10) "Reporting employee" means an employee of a public entity who alleges that the public entity engaged in retaliatory action against the employee.

(11) "Retaliatory action" means to do any of the following to an employee in violation of Section 67-21-3:

(a) dismiss the employee;

(b) reduce the employee's compensation;

(c) fail to increase the employee's compensation by an amount that the employee is otherwise entitled to or was promised;

(d) fail to promote the employee if the employee would have otherwise been promoted; or

(e) threaten to take an action described in Subsections (11)(a) through (d).

(12) "Supervisor" means the person:

(a) to whom an employee reports; or

(b) who assigns and oversees an employee's work.

Section 194. Section 67-19a-202 is amended to read:

67-19a-202. Powers -- Scope of authority.

(1) The office shall serve as the final administrative body to review a grievance from a career service employee and an agency of a decision regarding:

(a) a dismissal;

(b) a demotion;

(c) a suspension;

(d) a reduction in force;

(e) a dispute concerning abandonment of position;

(f) a wage grievance if an employee is not placed within the salary range of the employee's current position;

(g) a violation of a rule adopted under Title 63A, Chapter [~~19~~] 17, Utah State Personnel Management Act; or

(h) except as provided by Subsection (4), equitable administration of the following benefits:

(i) long-term disability insurance;

(ii) medical insurance;

(iii) dental insurance;

(iv) post-retirement health insurance;

(v) post-retirement life insurance;

(vi) life insurance;

(vii) defined contribution retirement;

(viii) defined benefit retirement; and

(ix) a leave benefit.

(2) The office shall serve as the final administrative body to review a grievance by a reporting employee alleging retaliatory action.

(3) The office shall serve as the final administrative body to review, without an evidentiary hearing, the findings of an abusive conduct investigation described in Section 67-26-202 of a state executive branch agency employee.

(4) The office may not review or take action on:

(a) a personnel matter not listed in Subsections (1) through (3);

(b) a personnel matter listed in Subsections (1) through (3) that alleges discrimination or retaliation related to a claim of discrimination that is a violation of a state or federal law for which review and action by the office is preempted by state or federal law; or

(c) a personnel matter related to a claim for which an administrative review process is provided by statute and administered by:

(i) the Utah State Retirement Systems under Title 49, Utah State Retirement and Insurance Benefit Act;

(ii) the Public Employees' Benefit and Insurance Program under Title 49, Chapter 20, Public Employees' Benefit and Insurance Program Act; or

(iii) the Public Employees' Long-Term Disability Program under Title 49, Chapter 21, Public Employees' Long-Term Disability Act.

(5) The time limits established in this chapter supersede the procedural time limits established in Title 63G, Chapter 4, Administrative Procedures Act.

Section 195. Section 67-19a-205 is amended to read:

67-19a-205. Employment transfer.

At any point during the grievance process, the employer and the employee may mutually agree to a transfer of the employee to another equivalent position, if and to the extent that such a position is available, in accordance with [~~department~~] division rules for transfer and reassignment.

Section 196. Section 67-19a-303 is amended to read:

67-19a-303. Employees' rights in grievance procedure.

(1) For the purpose of submitting and advancing a grievance, a career service employee, or a reporting employee alleging retaliatory action, may:

(a) obtain assistance by a representative of the employee's choice to act as an advocate at any level of the grievance procedure;

(b) request a reasonable amount of time during work hours to confer with the representative and prepare the grievance; and

(c) call other employees as witnesses at a grievance hearing.

(2) The state shall allow employees to attend and testify at the grievance hearing as witnesses if the employee has given reasonable advance notice to the employee's immediate supervisor.

(3) No person may take any reprisals against a career service employee or a reporting employee for:

(a) use of or participation in a grievance procedure described in this chapter; or

(b) representing and providing assistance to a career service employee as an advocate in accordance with Subsection (1)(a).

(4) If the individual acting as an advocate for a career service employee under Subsection (1)(a) is a state employee, the individual may not receive state compensation for the time the employee spends in the course of that representation unless the individual uses approved leave during that time.

(5) (a) The employing agency of an employee who files a grievance may not place grievance forms, grievance materials, correspondence about the grievance, agency and [~~department~~] division replies to the grievance, or other documents relating to the grievance in the employee's personnel file.

(b) The employing agency of an employee who files a grievance may place records of disciplinary action in the employee's personnel file.

(c) If any disciplinary action against an employee is rescinded through the grievance procedures described in this chapter, the agency and the [~~Department~~] Division of Human Resource Management shall remove the record of the disciplinary action from the employee's agency personnel file and central personnel file.

(d) An agency may maintain a separate grievance file relating to an employee's grievance, but shall discard the file after three years.

Section 197. Section 67-19a-501 is amended to read:

67-19a-501. Procedural steps to be followed in an administrative review of an abusive conduct investigation.

(1) An employee of a state executive branch agency, as defined in Section 67-26-102, may, under Subsection 67-19a-202(3), initiate an administrative review of the findings of an abusive conduct investigation within 10 days after the day on which the employee receives notification of the investigative findings.

(2) (a) An employee bringing an administrative review of the findings described in Subsection (1) may file the request for the administrative review directly with the office.

(b) The request for administrative review may describe the reasons for the administrative review and include any submissions the employee desires to submit.

(3) (a) When an employee initiates the review described in Subsection (2) with the office:

(i) the role of the administrative review is to review and rule upon the findings of the abusive conduct investigation; and

(ii) an evidentiary hearing is not required.

(b) The [~~department~~] division shall make the abusive conduct investigative file available for the office's in camera review.

(c) The office may:

(i) request additional relevant documents from the [~~department~~] division or the affected employee; and

(ii) interview the employee who initiated the administrative review and the investigators who conducted the investigation.

(4) (a) The office may overturn the findings of the abusive conduct investigation if the office determines that:

(i) the findings are not reasonable, rational, or sufficiently supported by the evidence; or

(ii) the facts on which the findings are based are inaccurate.

(b) The office may uphold the findings of the abusive conduct investigation if the office determines that:

(i) the findings are reasonable, rational, and sufficiently supported by the evidence; and

(ii) the facts on which the findings are based are accurate.

(5) (a) Within 30 days after the day on which an employee initiates an administrative review under this section, the office shall issue a notice stating whether the office upheld or overturned the investigative findings.

(b) The office's determination upon administrative review of the findings resulting from an abusive conduct investigation is final and not subject to appeal.

(c) The following are classified as protected under Title 63G, Chapter 2, Government Records Access and Management Act, and any other applicable confidentiality provisions:

(i) the request for administrative review and any accompanying documents;

(ii) documents that any party provides;

(iii) the contents of the administrative review file; and

(iv) the office's determination.

Section 198. Section 67-19d-201 is amended to read:

67-19d-201. Trust fund -- Creation -- Oversight -- Dissolution.

(1) There is created a post-retirement benefits trust fund entitled the "State Post-Retirement Benefits Trust Fund."

(2) The trust fund consists of:

(a) revenue provided from an ongoing labor additive as defined in Subsection 67-19d-202(2)(g);

(b) appropriations made to the fund by the Legislature, if any;

(c) income as defined in Section 67-19d-102; and

(d) other revenues received from other sources.

(3) The Division of Finance shall account for the receipt and expenditures of trust fund money.

(4) (a) The state treasurer shall invest trust fund money by following the procedures and requirements of Part 3, Trust Fund Investments.

(b) (i) The trust fund shall earn interest.

(ii) The state treasurer shall deposit all interest or other income earned from investment of the trust fund back into the trust fund.

(5) The board of trustees created in Section 67-19d-202 may expend money from the trust fund for:

(a) the employer portion of the costs of the programs established in Sections [~~67-19-14 through 67-19-14.4~~] 63A-17-505 through 63A-17-508; and

(b) reasonable administrative costs that the board of trustees incurs in performing their duties as trustees of the trust fund.

(6) The board of trustees shall ensure that:

(a) money deposited into the trust fund is irrevocable and is expended only for the employer portion of the costs of post-retirement benefits;

(b) assets of the trust fund are dedicated to providing benefits to retirees and their beneficiaries according to the terms of the

post-retirement benefit plans established by statute and rule; and

(c) creditors of the board of trustees and of employers liable for the post-retirement benefits may not seize, attach, or otherwise obtain assets of the trust fund.

(7) When all of the liabilities for which the trust fund was created are paid, the Division of Finance shall transfer any assets remaining in the state trust fund into the appropriate fund.

Section 199. Section 67-19f-102 is amended to read:

67-19f-102. Definitions.

As used in this chapter:

(1) "Annual leave II" [~~is as~~] means the same as that term is defined in Section [~~67-19-14.6~~] 63A-17-510.

(2) "Board of trustees" or "board" means the board of trustees created in Section 67-19f-202.

(3) "Income" means the revenues received by the state treasurer from investments of the trust fund principal.

(4) "Trust fund" means the State Employees' Annual Leave Trust Fund created in Section 67-19f-201.

Section 200. Section 67-19f-201 is amended to read:

67-19f-201. Trust fund -- Creation -- Oversight -- Dissolution.

(1) There is created a trust fund entitled the "State Employees' Annual Leave Trust Fund."

(2) The trust fund consists of:

(a) ongoing revenue provided from a state agency set aside for accrued annual leave II required under Section [~~67-19-14.6~~] 63A-17-510;

(b) appropriations made to the trust fund by the Legislature, if any;

(c) transfers from the termination pool described in Subsection [~~67-19-14.6~~] 63A-17-510(6) made by the Division of Finance to the trust fund for annual leave liabilities accrued before the change date established under Section [~~67-19-14.6~~] 63A-17-510;

(d) income; and

(e) revenue received from other sources.

(3) (a) The Division of Finance shall account for the receipt and expenditures of trust fund money.

(b) The Division of Finance shall make the necessary adjustments to the amount of set aside costs required under Subsection [~~67-19-14.6~~] 63A-17-510(4)(a) to provide that upon the trust fund's accrual of funding equal to 10% of the annual leave liability, year-end trust fund balances remain equal to at least 10% of the total state employee annual leave liability.

(4) (a) The state treasurer shall invest trust fund money by following the procedures and requirements of Part 3, Investment of Trust Funds.

(b) (i) The trust fund shall earn interest.

(ii) The state treasurer shall deposit all interest or other income earned from investment of the trust fund back into the trust fund.

(5) The board of trustees created in Section 67-19f-202 may expend money from the trust fund for:

(a) reimbursement to the employer of the costs paid to the trust fund in accordance with Section [~~67-19-14.6~~] 63A-17-510 as annual leave II is used by an employee;

(b) payments based on accrued annual leave and on accrued annual leave II that are made upon termination of an employee; and

(c) reasonable administrative costs that the board of trustees incurs in performing its duties as trustee of the trust fund.

(6) The board of trustees shall ensure that:

(a) money deposited into the trust fund is irrevocable and is expended only for the costs described in Subsection (5); and

(b) assets of the trust fund are dedicated to providing annual leave and annual leave II established by statute and rule.

(7) A creditor of the board of trustees or a state agency liable for annual leave benefits may not seize, attach, or otherwise obtain assets of the trust fund.

Section 201. Section 67-20-8 is amended to read:

67-20-8. Volunteer experience credit.

(1) State agencies shall designate positions for which approved volunteer experience satisfies the job requirements for purposes of employment.

(2) When evaluating applicants for those designated positions, state agencies shall consider documented approved volunteer experience in the same manner as similar paid employment.

(3) The [~~Department~~] Division of Human Resource Management shall make statewide rules governing the:

(a) designation of volunteer positions; and

(b) a uniform process to document the approval, use, and hours worked by volunteers.

Section 202. Section 67-22-2 is amended to read:

67-22-2. Compensation -- Other state officers.

(1) As used in this section:

(a) "Appointed executive" means the:

(i) commissioner of the Department of Agriculture and Food;

(ii) commissioner of the Insurance Department;

(iii) commissioner of the Labor Commission;

(iv) director, Department of Alcoholic Beverage Control;

(v) commissioner of the Department of Financial Institutions;

(vi) executive director, Department of Commerce;

(vii) executive director, Commission on Criminal and Juvenile Justice;

(viii) adjutant general;

(ix) executive director, Department of Heritage and Arts;

(x) executive director, Department of Corrections;

(xi) commissioner, Department of Public Safety;

(xii) executive director, Department of Natural Resources;

(xiii) executive director, Governor's Office of Management and Budget;

(xiv) executive director, Department of [~~Administrative Services~~] Government Operations;

[~~(xv) executive director, Department of Human Resource Management;~~]

[~~(xvi)~~] (xv) executive director, Department of Environmental Quality;

[~~(xvii)~~] (xvi) executive director, Governor's Office of Economic Development;

[~~(xviii)~~] (xvii) executive director, Utah Science Technology and Research Governing Authority;

[~~(xix)~~] (xviii) executive director, Department of Workforce Services;

[~~(xx)~~] (xix) executive director, Department of Health, Nonphysician;

[~~(xxi)~~] (xx) executive director, Department of Human Services;

[~~(xxii)~~] (xxi) executive director, Department of Transportation; and

[~~(xxiii) executive director, Department of Technology Services; and~~]

[~~(xxiv)~~] (xxii) executive director, Department of Veterans and Military Affairs.

(b) "Board or commission executive" means:

(i) members, Board of Pardons and Parole;

(ii) chair, State Tax Commission;

(iii) commissioners, State Tax Commission;

(iv) executive director, State Tax Commission;

(v) chair, Public Service Commission; and

(vi) commissioners, Public Service Commission.

(c) "Deputy" means the person who acts as the appointed executive's second in command as determined by the [~~Department~~] Division of Human Resource Management.

(2) (a) The [~~executive~~] director of the [~~Department~~] Division of Human Resource Management shall:

(i) before October 31 of each year, recommend to the governor a compensation plan for the appointed executives and the board or commission executives; and

(ii) base those recommendations on market salary studies conducted by the [~~Department~~] Division of Human Resource Management.

(b) (i) The [~~Department~~] Division of Human Resource Management shall determine the salary range for the appointed executives by:

(A) identifying the salary range assigned to the appointed executive's deputy;

(B) designating the lowest minimum salary from those deputies' salary ranges as the minimum salary for the appointed executives' salary range; and

(C) designating 105% of the highest maximum salary range from those deputies' salary ranges as the maximum salary for the appointed executives' salary range.

(ii) If the deputy is a medical doctor, the [~~Department~~] Division of Human Resource Management may not consider that deputy's salary range in designating the salary range for appointed executives.

(c) (i) Except as provided in Subsection (2)(c)(ii), in establishing the salary ranges for board or commission executives, the [~~Department~~] Division of Human Resource Management shall set the maximum salary in the salary range for each of those positions at 90% of the salary for district judges as established in the annual appropriation act under Section 67-8-2.

(ii) In establishing the salary ranges for an individual described in Subsection (1)(b)(ii) or (iii), the [~~Department~~] Division of Human Resource Management shall set the maximum salary in the salary range for each of those positions at 100% of the salary for district judges as established in the annual appropriation act under Section 67-8-2.

(3) (a) (i) Except as provided in Subsection (3)(a)(ii), the governor shall establish a specific salary for each appointed executive within the range established under Subsection (2)(b).

(ii) If the executive director of the Department of Health is a physician, the governor shall establish a salary within the highest physician salary range established by the [~~Department~~] Division of Human Resource Management.

(iii) The governor may provide salary increases for appointed executives within the range established by Subsection (2)(b) and identified in Subsection (3)(a)(ii).

(b) The governor shall apply the same overtime regulations applicable to other FLSA exempt positions.

(c) The governor may develop standards and criteria for reviewing the appointed executives.

(4) Salaries for other Schedule A employees, as defined in Section [~~67-19-15~~] 63A-17-301, that are not provided for in this chapter, or in Title 67, Chapter 8, Utah Elected Official and Judicial Salary Act, shall be established as provided in Section [~~67-19-15~~] 63A-17-301.

(5) (a) The Legislature fixes benefits for the appointed executives and the board or commission executives as follows:

(i) the option of participating in a state retirement system established by Title 49, Utah State Retirement and Insurance Benefit Act, or in a deferred compensation plan administered by the State Retirement Office in accordance with the Internal Revenue Code and its accompanying rules and regulations;

(ii) health insurance;

(iii) dental insurance;

(iv) basic life insurance;

(v) unemployment compensation;

(vi) workers' compensation;

(vii) required employer contribution to Social Security;

(viii) long-term disability income insurance;

(ix) the same additional state-paid life insurance available to other noncareer service employees;

(x) the same severance pay available to other noncareer service employees;

(xi) the same leave, holidays, and allowances granted to Schedule B state employees as follows:

(A) sick leave;

(B) converted sick leave if accrued prior to January 1, 2014;

(C) educational allowances;

(D) holidays; and

(E) annual leave except that annual leave shall be accrued at the maximum rate provided to Schedule B state employees;

(xii) the option to convert accumulated sick leave to cash or insurance benefits as provided by law or rule upon resignation or retirement according to the same criteria and procedures applied to Schedule B state employees;

(xiii) the option to purchase additional life insurance at group insurance rates according to the same criteria and procedures applied to Schedule B state employees; and

(xiv) professional memberships if being a member of the professional organization is a requirement of the position.

(b) Each department shall pay the cost of additional state-paid life insurance for its executive director from its existing budget.

(6) The Legislature fixes the following additional benefits:

(a) for the executive director of the State Tax Commission a vehicle for official and personal use;

(b) for the executive director of the Department of Transportation a vehicle for official and personal use;

(c) for the executive director of the Department of Natural Resources a vehicle for commute and official use;

(d) for the commissioner of Public Safety:

(i) an accidental death insurance policy if POST certified; and

(ii) a public safety vehicle for official and personal use;

(e) for the executive director of the Department of Corrections:

(i) an accidental death insurance policy if POST certified; and

(ii) a public safety vehicle for official and personal use;

(f) for the adjutant general a vehicle for official and personal use; and

(g) for each member of the Board of Pardons and Parole a vehicle for commute and official use.

Section 203. Section 67-26-102 is amended to read:

67-26-102. Definitions.

As used in this chapter:

(1) (a) "Abusive conduct" means verbal, nonverbal, or physical conduct of an employee to another employee of the same employer that, based on the severity, nature, or frequency of the conduct, a reasonable person would determine:

(i) is intended to cause intimidation, humiliation, or unwarranted distress;

(ii) results in substantial physical harm or substantial psychological harm as a result of intimidation, humiliation, or unwarranted distress; or

(iii) exploits an employee's known physical or psychological disability.

(b) "Abusive conduct" does not mean a single act unless the act is an especially severe and egregious act that meets the standard described in Subsection (1)(a)(i), (ii), or (iii).

(2) "Abusive conduct complaint process" means the process described in Section 67-26-202.

(3) "Administrative review process" means a process that allows an employee, in relation to the

findings of an abusive conduct investigation, to seek an administrative review that:

(a) an employer conducts in accordance with Section 67-26-202; or

(b) in relation to a state executive branch agency, the [~~office~~] Career Service Review Office conducts in accordance with Section 67-19a-501.

(4) [~~"Department"~~] "Division" means the [~~Department~~] Division of Human Resource Management.

(5) (a) "Employee" means an employee of an employer.

(b) "Employee" includes an elected or appointed official of an employer.

(6) "Employer" means:

(a) a state executive branch agency; or

(b) an independent entity, as defined in Section 63E-1-102.

(7) "Office" means the Career Service Review Office created under Section 67-19a-201.

(8) "Physical harm" means the impairment of an individual's physical health or bodily integrity, as established by competent evidence.

(9) "Psychological harm" means the impairment of an individual's mental health, as established by competent evidence.

(10) (a) "State executive branch agency" means a department, division, office, bureau, or other organization within the state executive branch.

(b) "State executive branch agency" includes an agency under the authority of the governor, lieutenant governor, state treasurer, state auditor, or attorney general.

(c) "State executive branch agency" does not include the Utah System of Higher Education or an independent entity, as defined in Section 63E-1-102.

Section 204. Section 67-26-202 is amended to read:

67-26-202. Abusive conduct complaint, investigation, administrative review process.

(1) An employee may file a written complaint of abusive conduct with the human resources department of the employee's employer if the complaint is against an employee of the same employer as the employee filing the complaint.

(2) If an employee files a written complaint of abusive conduct under Subsection (1), the human resources department of the employee's employer shall conduct an abusive conduct investigation.

(3) (a) Each employer that is not a state executive branch agency:

(i) shall provide the employer's employees a process for:

(A) filing an abusive conduct complaint, including an alternative process if the complaint involves an individual who would otherwise receive or review an abusive conduct complaint; and

(B) an administrative review of the findings of an abusive conduct investigation described in Subsection (2) that is substantially similar to the administrative review process described in Section 67-19a-501; and

(ii) may request assistance from the [~~department~~] division, at the [~~department's~~] division's current consultant rate, or the office, at a reasonable rate established by the office, in developing a process described in this Subsection (3)(a).

(b) The [~~department~~] division shall provide a process for an employee of a state executive branch agency to file an abusive conduct complaint, including an alternative process if the complaint involves an individual who would otherwise receive or review an abusive conduct complaint.

(4) The complaint described in Subsection (1) and a subsequent abusive conduct investigation are subject to:

(a) in relation to an employer other than a state executive branch agency, the administrative review process described in Subsection (3)(a); and

(b) in relation to a state executive branch agency, the office's administrative review process described in Section 67-19a-501.

Section 205. Section 67-26-301 is amended to read:

67-26-301. Abusive conduct training.

(1) (a) The [~~department~~] division shall provide biennial training to educate all state executive branch agency employees and supervisors about how to prevent abusive workplace conduct.

(b) The training described in Subsection (1)(a) shall include information on:

(i) what constitutes abusive conduct and the ramifications of abusive conduct;

(ii) resources available to employees who are subject to abusive conduct; and

(iii) the abusive conduct complaint process described in Section 67-26-202.

(2) (a) The [~~department~~] division shall create a baseline training module for employers that are not state executive branch agencies to educate the employers' respective employees and supervisors about how to prevent abusive workplace conduct.

(b) The baseline training module described in Subsection (2)(a) shall include information on what constitutes abusive conduct and the ramifications of abusive conduct.

(c) Each employer that is not a state executive branch agency shall create and provide supplemental training to educate the employer's employees and supervisors that supplements the [~~department's~~] division's baseline training module with information regarding:

(i) resources available to employees who are subject to abusive conduct; and

(ii) the employer's abusive conduct complaint process described in Section 67-26-202.

(d) An employer may request assistance from the [~~department~~] division, at the [~~department's~~] division's current consultant rate, in developing the training described in Subsection (2)(c).

(3) (a) Each employer shall provide professional development training to promote:

(i) ethical conduct;

(ii) organizational leadership practices based in principles of integrity; and

(iii) the state policy described in Section 67-26-201.

(b) An employer may request assistance from the [~~department~~] division, at the [~~department's~~] division's current consultation rate, in developing training described in this Subsection (3).

(4) (a) Employers shall provide and employees shall participate in the training described in this section:

(i) at the time the employee is hired or within a reasonable time after the employee begins employment; and

(ii) at least every other year after the employee begins employment.

(b) An employer shall, at the times described in Subsection (4)(a), provide notification to the employee of the abusive conduct complaint process.

(5) The [~~department~~] division may use money appropriated to the [~~department~~] division or access support from outside resources to:

(a) develop policies against workplace abusive conduct; and

(b) enhance professional development training on topics such as:

(i) building trust;

(ii) effective motivation;

(iii) communication;

(iv) conflict resolution;

(v) accountability;

(vi) coaching;

(vii) leadership; or

(viii) ethics.

(6) (a) Beginning in 2021, and each year after 2021, an employer that is not a state executive branch agency shall, on or before July 31, report to the [~~department~~] division regarding:

(i) the employer's implementation of this chapter, including the requirement to provide a process under Section 67-26-202; and

(ii) the total number and outcomes of abusive conduct complaints that the employer's employees filed and that the employer investigated or reviewed.

(b) The [~~department~~] division shall annually report to the Economic Development and Workforce Services Interim Committee, no later than the November interim meeting, the following:

(i) a description the [~~department's~~] division's implementation of this chapter;

(ii) the [~~department's~~] division's recommendations, if any, to:

(A) appropriately address and reduce workplace abusive conduct; or

(B) change definitions or training required by this section;

(iii) an annual report of the total number and outcomes of abusive conduct complaints that employees filed and the department investigated; and

(iv) a summary of the reports the department receives under Subsection (6)(a).

Section 206. Section 72-1-202 is amended to read:

72-1-202. Executive director of department -- Appointment -- Qualifications -- Term -- Responsibility -- Power to bring suits -- Salary.

(1) (a) The governor, with the advice and consent of the Senate, shall appoint an executive director to be the chief executive officer of the department.

(b) The executive director shall be a registered professional engineer and qualified executive with technical and administrative experience and training appropriate for the position.

(c) The executive director shall remain in office until a successor is appointed.

(d) The executive director may be removed by the governor.

(2) In addition to the other functions, powers, duties, rights, and responsibilities prescribed in this chapter, the executive director shall:

(a) have responsibility for the administrative supervision of the state transportation systems and the various operations of the department;

(b) have the responsibility for the implementation of rules, priorities, and policies established by the department and the commission;

(c) have the responsibility for the oversight and supervision of any transportation project for which state funds are expended;

(d) have full power to bring suit in courts of competent jurisdiction in the name of the department as the executive director considers reasonable and necessary for the proper attainment of the goals of this chapter;

(e) receive a salary, to be established by the governor within the salary range fixed by the Legislature in Title 67, Chapter 22, State Officer Compensation, together with actual traveling expenses while away from the executive director's office on official business;

(f) purchase all equipment, services, and supplies necessary to achieve the department's functions, powers, duties, rights, and responsibilities delegated under Section 72-1-201;

(g) have the responsibility to determine whether a purchase from, contribution to, or other participation with a public entity or association of public entities in a pooled fund program to acquire, develop, or share information, data, reports, or other services related to the department's mission are procurement items under Title 63G, Chapter 6a, Utah Procurement Code;

(h) have responsibility for administrative supervision of the Comptroller Division, the Internal Audit Division, and the Communications Division; and

(i) appoint assistants, to serve at the discretion of the executive director, to administer the divisions of the department.

(3) The executive director may employ other assistants and advisers as the executive director finds necessary and fix salaries in accordance with the salary standards adopted by the [~~Department~~] Division of Human Resource Management.

Section 207. Section 79-2-401 is amended to read:

79-2-401. Volunteer workers authorized.

(1) The department and its divisions may use volunteer workers to supplement the salaried work force.

(2) A volunteer may be reimbursed for expenses actually and necessarily incurred, including transportation, meals, lodging, uniforms, and other items as approved by the Division of Finance, in the amounts and in accordance with the rules of the Division of Finance.

(3) A volunteer is considered an employee of the state for the purposes stated in Section 67-20-3.

(4) A volunteer may not donate a service to the department or a division unless the work program in which the volunteer would serve has first been approved, in writing, by the executive director and the [~~executive~~] director of the [~~Department~~] Division of Human Resource Management.

(5) Volunteer services shall comply with the rules adopted by the [~~Department~~] Division of Human Resource Management relating to the services that are not inconsistent with this section.

Section 208. Repealer.

This bill repeals:

Section 63F-1-105, Appointment of executive director -- Compensation -- Authority.

Section 63F-1-302, Information Technology Rate Committee -- Membership -- Duties.

Section 63F-1-401, Title.

Section 63F-1-501, Title.

Section 63F-1-601, Title.

Section 63F-2-101, Title.

Section 63F-3-101, Title.

Section 63F-4-101, Title.

Section 67-19-29, Violation a misdemeanor.

Section 67-19d-101, Title.

Section 67-19e-101, Title.

Section 67-19f-101, Title.

Section 67-25-101, Title.

Section 67-25-301, Title.

Section 67-26-101, Title.

Section 209. Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2021, and ending June 30, 2022. These are additions to amounts otherwise appropriated for fiscal year 2022.

Subsection 209(a). Operating and Capital Budgets.

Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 1

To Department of Human Resource Management - Human Resource Management

From General Fund	(42,400)
From Beginning Nonlapsing Balances	(82,600)
From Closing Nonlapsing Balances	105,900
Schedule of Programs:	
Statewide Management Liability Training	(19,100)

The Legislature intends that, in closing out the fiscal year 2021 budget, the Division of Finance reflect all closing nonlapsing appropriation balances from Department of Human Resource Management - Human Resource Management as fiscal year 2022 beginning nonlapsing appropriation balances in Department of Government Operations - Human Resource Management.

ITEM 2

To Department of Government Operations - Human Resource Management

From General Fund	42,400

From Beginning Nonlapsing Balances	82,600
From Closing Nonlapsing Balances	(105,900)
Schedule of Programs:	
Statewide Management Liability Training	19,100

The Legislature intends that, in closing out the fiscal year 2021 budget, the Division of Finance reflect all closing nonlapsing appropriation balances from Department of Human Resource Management - Human Resource Management as fiscal year 2022 beginning nonlapsing appropriation balances in Department of Government Operations - Human Resource Management.

ITEM 3

To Department of Administrative Services - Administrative Rules

From General Fund	(705,500)
From General Fund, One-time	(1,900)
From Beginning Nonlapsing Balances	(261,600)
From Closing Nonlapsing Balances	324,300
Schedule of Programs:	
DAR Administration	(644,700)

The Legislature intends that, in closing out the fiscal year 2021 budget, the Division of Finance reflect all closing nonlapsing appropriation balances from Department of Administrative Services - Administrative Rules as fiscal year 2022 beginning nonlapsing appropriation balances in Department of Government Operations - Administrative Rules.

ITEM 4

To Department of Government Operations - Administrative Rules

From General Fund	705,500
From General Fund, One-time	1,900
From Beginning Nonlapsing Balances	261,600
From Closing Nonlapsing Balances	(324,300)
Schedule of Programs:	
DAR Administration	644,700

The Legislature intends that, in closing out the fiscal year 2021 budget, the Division of Finance reflect all closing nonlapsing appropriation balances from Department of Administrative Services - Administrative Rules as fiscal year 2022 beginning nonlapsing appropriation balances in Department of Government Operations - Administrative Rules.

In accordance with UCA 63J-1-201, the Legislature intends that the Department of Government Operations report performance measures for the Office of Administrative Rules line item, whose mission is "to enable citizen participation in their own government by supporting agency rulemaking and ensuring agency compliance with the Utah Administrative Rulemaking Act." The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures for FY 2021 and the current status of the following performance measures for FY 2022: 1) average number of business days to review rule filings (target: 4 days or less); and 2) average number of days from the effective date to publish the final version of an administrative rule after the rule becomes effective (target: 14 days or less).

ITEM 5

To Department of Administrative Services - DFCM Administration

From General Fund	(3,659,300)
From General Fund, One-time	(11,500)
From Education Fund	(734,600)
From Education Fund, One-time	(2,600)
From Dedicated Credits Revenue	(1,003,900)
From Dedicated Credits Revenue, One-time	(3,400)
From Capital Projects Fund	(3,858,100)
From Capital Projects Fund, One-time	(13,400)
From Beginning Nonlapsing Balances	(577,100)
From Closing Nonlapsing Balances	189,300
Schedule of Programs:	
DFCM Administration	(8,959,300)
Energy Program	(538,200)
Governor's Residence	(177,100)

The Legislature intends that, in closing out the fiscal year 2021 budget, the Division of Finance reflect all closing nonlapsing appropriation balances from Department of Administrative Services - DFCM Administration as fiscal year 2022 beginning nonlapsing appropriation balances in Department of Government Operations - DFCM Administration.

ITEM 6

To Department of Government Operations - DFCM Administration

From General Fund	3,659,300
From General Fund, One-time	11,500
From Education Fund	734,600

From Education Fund, One-time	2,600
From Dedicated Credits Revenue	1,003,900
From Dedicated Credits Revenue, One-time	3,400
From Capital Projects Fund	3,858,100
From Capital Projects Fund, One-time	13,400
From Beginning Nonlapsing Balances	577,100
From Closing Nonlapsing Balances	(189,300)
Schedule of Programs:	
DFCM Administration	8,959,300
Energy Program	538,200
Governor's Residence	177,100

The Legislature intends that, in closing out the fiscal year 2021 budget, the Division of Finance reflect all closing nonlapsing appropriation balances from Department of Administrative Services - DFCM Administration as fiscal year 2022 beginning nonlapsing appropriation balances in Department of Government Operations - DFCM Administration.

In accordance with UCA 63J-1-201, the Legislature intends that the Department of Government Operations report performance measures for the DFCM Administration line item, whose mission is "to provide professional services to assist State entities in meeting their facility needs for the benefit of the public." The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures for FY 2021 and the current status of the following performance measures for FY 2022: 1) capital improvement projects completed in the fiscal year they are funded (target: at least 86%); and 2) accuracy of Capital Budget Estimates (CBE) (baseline +/- 10%; target +/- 5%).

The Legislature intends that any excess DFCM Project Reserve Funds or Contingency Reserve Funds, as determined by DFCM's analysis of current balances and projected needs, will be transferred to the Utah State Correctional Facility project before any other uses of these funds for FY 2022.

ITEM 7

To Department of Administrative Services - Finance - Elected Official Post-Retirement Benefits Contribution

From General Fund	(1,248,800)
Schedule of Programs:	
Elected Official Post-Retirement Trust Fund	(1,248,800)

The Legislature intends that, in closing out the fiscal year 2021 budget, the Division of Finance reflect all closing nonlapsing appropriation balances from Department of Administrative Services - Finance - Elected Official Post-Retirement Benefits Contribution as fiscal year 2022 beginning nonlapsing appropriation balances in Department of Government Operations - Finance - Elected Official Post-Retirement Benefits Contribution.

ITEM 8

To Department of Government Operations - Finance - Elected Official Post-Retirement Benefits Contribution

From General Fund	1,248,800
Schedule of Programs:	
Elected Official Post-Retirement Trust Fund	1,248,800

The Legislature intends that, in closing out the fiscal year 2021 budget, the Division of Finance reflect all closing nonlapsing appropriation balances from Department of Administrative Services - Finance - Elected Official Post-Retirement Benefits Contribution as fiscal year 2022 beginning nonlapsing appropriation balances in Department of Government Operations - Finance - Elected Official Post-Retirement Benefits Contribution.

ITEM 9

To Department of Administrative Services - Executive Director

From General Fund	(1,558,300)
From General Fund, One-time	(2,700)
From Dedicated Credits Revenue	(238,700)
From Dedicated Credits Revenue, One-time	(600)
From Beginning Nonlapsing Balances	(250,000)
From Closing Nonlapsing Balances	150,000
Schedule of Programs:	
Executive Director	(1,900,300)

The Legislature intends that, in closing out the fiscal year 2021 budget, the Division of Finance reflect all closing nonlapsing appropriation balances from Department of Administrative Services - Executive Director as fiscal year 2022 beginning nonlapsing appropriation balances in Department of Government Operations - Executive Director.

ITEM 10

To Department of Government Operations - Executive Director

From General Fund	1,558,300
From General Fund, One-time	2,700
From Dedicated Credits Revenue	238,700

From Dedicated Credits Revenue, One-time	600
From Beginning Nonlapsing Balances	250,000
From Closing Nonlapsing Balances	(150,000)
Schedule of Programs:	
Executive Director	1,900,300

The Legislature intends that, in closing out the fiscal year 2021 budget, the Division of Finance reflect all closing nonlapsing appropriation balances from Department of Administrative Services - Executive Director as fiscal year 2022 beginning nonlapsing appropriation balances in Department of Government Operations - Executive Director.

In accordance with UCA 63J-1-201, the Legislature intends that the Department of Government Operations report performance measures for the Executive Director line item, whose mission is "to create innovative solutions to transform government services." The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures for FY 2021 and the current status of the following performance measures for FY 2022: 1) independent evaluation/audit of divisions/key programs (target: at least 4 annually); and 2) air quality improvement activities across state agencies (targets: 25 activities each year).

ITEM 11

To Department of Administrative Services - Finance - Mandated

From General Fund	(5,278,000)
From General Fund, One-time	4,500,000
From General Fund Restricted - Economic Incentive Restricted Account	(3,255,000)
From Gen. Fund Rest. - Land Exchange Distribution Account	(308,200)
Schedule of Programs:	
Development Zone Partial Rebates	(3,255,000)
Land Exchange Distribution	(308,200)
State Employee Benefits	(778,000)

The Legislature intends that, in closing out the fiscal year 2021 budget, the Division of Finance reflect all closing nonlapsing appropriation balances from Department of Administrative Services - Finance - Mandated as fiscal year 2022 beginning nonlapsing appropriation balances in Department of Government Operations - Finance - Mandated.

ITEM 12

To Department of Government Operations - Finance - Mandated

From General Fund	5,278,000
From General Fund, One-time	(4,500,000)
From General Fund Restricted - Economic Incentive Restricted Account	3,255,000
From Gen. Fund Rest. - Land Exchange Distribution Account	308,200
Schedule of Programs:	
Development Zone Partial Rebates	3,255,000
Land Exchange Distribution	308,200
State Employee Benefits	778,000

The Legislature intends that, in closing out the fiscal year 2021 budget, the Division of Finance reflect all closing nonlapsing appropriation balances from Department of Administrative Services - Finance - Mandated as fiscal year 2022 beginning nonlapsing appropriation balances in Department of Government Operations - Finance - Mandated.

ITEM 13

To Department of Administrative Services - Finance - Mandated - Ethics Commissions

From General Fund	(17,300)
From Beginning Nonlapsing Balances	(99,100)
From Closing Nonlapsing Balances	100,700
Schedule of Programs:	
Executive Branch Ethics Commission	(5,700)
Political Subdivisions Ethics Commission	(10,000)

The Legislature intends that, in closing out the fiscal year 2021 budget, the Division of Finance reflect all closing nonlapsing appropriation balances from Department of Administrative Services - Finance - Mandated - Ethics Commissions as fiscal year 2022 beginning nonlapsing appropriation balances in Department of Government Operations - Finance - Mandated - Ethics Commissions.

ITEM 14

To Department of Government Operations - Finance - Mandated - Ethics Commissions

From General Fund	17,300
From Beginning Nonlapsing Balances	99,100
From Closing Nonlapsing Balances	(100,700)
Schedule of Programs:	
Executive Branch Ethics Commission	5,700

Political Subdivisions Ethics Commission	10,000

The Legislature intends that, in closing out the fiscal year 2021 budget, the Division of Finance reflect all closing nonlapsing appropriation balances from Department of Administrative Services - Finance - Mandated - Ethics Commissions as fiscal year 2022 beginning nonlapsing appropriation balances in Department of Government Operations - Finance - Mandated - Ethics Commissions.

ITEM 15

To Department of Administrative Services - Finance Administration

From General Fund	(7,047,100)
From General Fund, One-time	(21,900)
From Transportation Fund	(450,000)
From Dedicated Credits Revenue	(1,844,500)
From Dedicated Credits Revenue, One-time	(7,300)
From Gen. Fund Rest. - Internal Service Fund Overhead	(1,337,600)
From Gen. Fund Rest. - Internal Service Fund Overhead, One-time	(3,000)
From Qualified Patient Enterprise Fund	(2,500)
From Beginning Nonlapsing Balances	(835,800)
From Closing Nonlapsing Balances	200,500
Schedule of Programs:	
Finance Director's Office	(550,900)
Financial Information Systems	(4,336,300)
Financial Reporting	(2,039,100)
Payables/Disbursing	(2,095,900)
Payroll	(2,027,600)
Technical Services	(299,400)

The Legislature intends that, in closing out the fiscal year 2021 budget, the Division of Finance reflect all closing nonlapsing appropriation balances from Department of Administrative Services - Finance Administration as fiscal year 2022 beginning nonlapsing appropriation balances in Department of Government Operations - Finance Administration.

ITEM 16

To Department of Government Operations - Finance Administration

From General Fund	7,047,100
From General Fund, One-time	21,900
From Transportation Fund	450,000
From Dedicated Credits Revenue	1,844,500
From Dedicated Credits Revenue, One-time	7,300
From Gen. Fund Rest. - Internal Service Fund Overhead	1,337,600
From Gen. Fund Rest. - Internal Service Fund Overhead, One-time	3,000
From Qualified Patient Enterprise Fund	2,500
From Beginning Nonlapsing Balances	835,800
From Closing Nonlapsing Balances	(200,500)
Schedule of Programs:	
Finance Director's Office	550,900
Financial Information Systems	4,336,300
Financial Reporting	2,039,100
Payables/Disbursing	2,095,900
Payroll	2,027,600
Technical Services	299,400

The Legislature intends that, in closing out the fiscal year 2021 budget, the Division of Finance reflect all closing nonlapsing appropriation balances from Department of Administrative Services - Finance Administration as fiscal year 2022 beginning nonlapsing appropriation balances in Department of Government Operations - Finance Administration.

In accordance with UCA 63J-1-201, the Legislature intends that the Department of Government Operations report performance measures for the Finance Administration line item, whose mission is "to serve Utah citizens and state agencies with fiscal leadership and quality financial systems, processes, and information." The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures for FY 2021 and the current status of the following performance measure for FY 2022: close the fiscal year within 60 days of the end of the fiscal year (baseline: 101 days after June 30; target: 60 days after June 30).

ITEM 17

To Department of Administrative Services - Inspector General of Medicaid Services

From General Fund	(1,261,500)
From General Fund, One-time	(4,300)
From Federal Funds	(8,000)
From Medicaid Expansion Fund	(36,700)
From Medicaid Expansion Fund, One-time	(100)
From Revenue Transfers	(2,499,000)

From Revenue Transfers, One-time	(8,500)
From Beginning Nonlapsing Balances	(155,200)
From Closing Nonlapsing Balances	155,200
Schedule of Programs:	
Inspector General of Medicaid Services	(3,818,100)

The Legislature intends that, in closing out the fiscal year 2021 budget, the Division of Finance reflect all closing nonlapsing appropriation balances from Department of Administrative Services - Inspector General of Medicaid Services as fiscal year 2022 beginning nonlapsing appropriation balances in Department of Government Operations - Inspector General of Medicaid Services.

ITEM 18

To Department of Government Operations - Inspector General of Medicaid Services

From General Fund	1,261,500
From General Fund, One-time	4,300
From Federal Funds	8,000
From Medicaid Expansion Fund	36,700
From Medicaid Expansion Fund, One-time	100
From Revenue Transfers	2,499,000
From Revenue Transfers, One-time	8,500
From Beginning Nonlapsing Balances	155,200
From Closing Nonlapsing Balances	(155,200)
Schedule of Programs:	
Inspector General of Medicaid Services	3,818,100

The Legislature intends that, in closing out the fiscal year 2021 budget, the Division of Finance reflect all closing nonlapsing appropriation balances from Department of Administrative Services - Inspector General of Medicaid Services as fiscal year 2022 beginning nonlapsing appropriation balances in Department of Government Operations - Inspector General of Medicaid Services.

In accordance with UCA 63J-1-201, the Legislature intends that the Office of Inspector General of Medicaid Services, whose goal is to "eliminate fraud, waste, and abuse within the Medicaid program" report its performance measures to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures for FY 2021 and the current status of the following performance measures for FY 2022: 1) cost avoidance projected over one year and three years; 2) Medicaid dollars recovered through cash collections, directed re-bills, and credit adjustments; 3) the number of credible allegations of provider and/or recipient fraud received, initial investigations conducted, and referred to an outside entity (e.g. Medicaid Fraud Control Unit, Department of Workforce Services, local law enforcement, etc.); 4) the number of fraud, waste, and abuse cases identified and evaluated; and 5) the number of recommendations for improvement made to the Department of Health.

The Legislature intends that the Inspector General of Medicaid Services retain up to an additional $60,000 of the State's share of Medicaid collections during FY 2022 to pay the Office of the Attorney General for the State costs of the one attorney FTE that the Office of the Inspector General is using.

ITEM 19

To Department of Administrative Services - Judicial Conduct Commission

From General Fund	(281,600)
From General Fund, One-time	(700)
From Beginning Nonlapsing Balances	(5,100)
From Closing Nonlapsing Balances	9,800
Schedule of Programs:	
Judicial Conduct Commission	(277,600)

The Legislature intends that, in closing out the fiscal year 2021 budget, the Division of Finance reflect all closing nonlapsing appropriation balances from Department of Administrative Services - Judicial Conduct Commission as fiscal year 2022 beginning nonlapsing appropriation balances in Department of Government Operations - Judicial Conduct Commission.

ITEM 20

To Department of Government Operations - Judicial Conduct Commission

From General Fund	281,600
From General Fund, One-time	700
From Beginning Nonlapsing Balances	5,100
From Closing Nonlapsing Balances	(9,800)
Schedule of Programs:	
Judicial Conduct Commission	277,600

The Legislature intends that, in closing out the fiscal year 2021 budget, the Division of Finance reflect all closing nonlapsing appropriation balances from Department of Administrative Services - Judicial Conduct Commission as fiscal year 2022 beginning nonlapsing appropriation balances in Department of Government Operations - Judicial Conduct Commission.

ITEM 21

To Department of Administrative Services - Post Conviction Indigent Defense

From General Fund	(33,900)
From Beginning Nonlapsing Balances	(136,500)
From Closing Nonlapsing Balances	136,500
Schedule of Programs:	
Post Conviction Indigent Defense Fund	(33,900)

The Legislature intends that, in closing out the fiscal year 2021 budget, the Division of Finance reflect all closing nonlapsing appropriation balances from Department of Administrative Services - Post Conviction Indigent Defense as fiscal year 2022 beginning nonlapsing appropriation balances in Department of Government Operations - Post Conviction Indigent Defense.

ITEM 22

To Department of Government Operations - Post Conviction Indigent Defense

From General Fund	33,900
From Beginning Nonlapsing Balances	136,500
From Closing Nonlapsing Balances	(136,500)
Schedule of Programs:	
Post Conviction Indigent Defense Fund	33,900

The Legislature intends that, in closing out the fiscal year 2021 budget, the Division of Finance reflect all closing nonlapsing appropriation balances from Department of Administrative Services - Post Conviction Indigent Defense as fiscal year 2022 beginning nonlapsing appropriation balances in Department of Government Operations - Post Conviction Indigent Defense.

ITEM 23

To Department of Administrative Services - Purchasing

From General Fund	(860,800)
From General Fund, One-time	(4,500)
Schedule of Programs:	
Purchasing and General Services	(865,300)

The Legislature intends that, in closing out the fiscal year 2021 budget, the Division of Finance reflect all closing nonlapsing appropriation balances from Department of Administrative Services - Purchasing as fiscal year 2022 beginning nonlapsing appropriation balances in Department of Government Operations - Purchasing.

ITEM 24

To Department of Government Operations - Purchasing

From General Fund	860,800
From General Fund, One-time	4,500
Schedule of Programs:	
Purchasing and General Services	865,300

The Legislature intends that, in closing out the fiscal year 2021 budget, the Division of Finance reflect all closing nonlapsing appropriation balances from Department of Administrative Services - Purchasing as fiscal year 2022 beginning nonlapsing appropriation balances in Department of Government Operations - Purchasing.

In accordance with UCA 63J-1-201, the Legislature intends that the Department of Government Operations report performance measures for the Purchasing and General Services line item, whose purpose is to ensure that the state agencies adhere to the requirement of the Utah Procurement Code when conducting procurements. The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures for FY 2021 and the current status of the following performance measures for FY 2022: 1) increase the average discount on State of Utah Best Value Cooperative Contracts (baseline: 32%, target: 40%); 2) increase the number of State of Utah Best Value Cooperative Contracts for public entities to use (baseline: 950, target: 1,000); and 3) increase the amount of total spend on State of Utah Best Value Cooperative Contracts (baseline: $550 million, target: $600 million).

ITEM 25

To Department of Administrative Services - State Archives

From General Fund	(3,322,200)
From General Fund, One-time	(11,500)
From Federal Funds	(44,100)
From Federal Funds, One-time	(500)
From Dedicated Credits Revenue	(67,600)
From Dedicated Credits Revenue, One-time	(100)
From Beginning Nonlapsing Balances	(58,300)
From Closing Nonlapsing Balances	92,800
Schedule of Programs:	
Archives Administration	(1,735,500)
Open Records	(100)
Patron Services	(702,200)
Preservation Services	(262,300)
Records Analysis	(711,500)
Records Services	100

The Legislature intends that, in closing out the fiscal year 2021 budget, the Division of Finance reflect all closing nonlapsing appropriation balances from Department of Administrative Services - State Archives as fiscal year 2022 beginning nonlapsing appropriation balances in Department of Government Operations - State Archives.

ITEM 26

To Department of Government Operations - State Archives

From General Fund	3,322,200
From General Fund, One-time	11,500
From Federal Funds	44,100
From Federal Funds, One-time	500
From Dedicated Credits Revenue	67,600
From Dedicated Credits Revenue, One-time	100
From Beginning Nonlapsing Balances	58,300
From Closing Nonlapsing Balances	(92,800)
Schedule of Programs:	
Archives Administration	1,735,500
Open Records	100
Patron Services	702,200
Preservation Services	262,300
Records Analysis	711,500
Records Services	(100)

The Legislature intends that, in closing out the fiscal year 2021 budget, the Division of Finance reflect all closing nonlapsing appropriation balances from Department of Administrative Services - State Archives as fiscal year 2022 beginning nonlapsing appropriation balances in Department of Government Operations - State Archives.

In accordance with UCA 63J-1-201, the Legislature intends that the Department of Government Operations report performance measures for the State Archives line item, whose mission is "to assist Utah government agencies in the efficient management of their records, to preserve those records of enduring value, and to provide quality access to public information." The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures for FY 2021 and the current status of the following performance measures for FY 2022: 1) percentage of reformatted records that meet or exceed estimated completion date (target: 80%); 2) percentage of reformatted records projects completed that were error-free in quality control checks (target: 90%); and 3) government employees receiving training and certified as a records officer (target: at least a 10% increase).ITEM 27

To Department of Administrative Services - Finance Mandated - Mineral Lease Special Service Districts

From General Fund Restricted - Mineral Lease	(27,797,500)
Schedule of Programs:	
Mineral Lease Payments	(24,162,700)
Mineral Lease Payments in Lieu	(3,634,800)

The Legislature intends that, in closing out the fiscal year 2021 budget, the Division of Finance reflect all closing nonlapsing appropriation balances from Department of Administrative Services - Finance Mandated - Mineral Lease Special Service Districts as fiscal year 2022 beginning nonlapsing appropriation balances in Department of Government Operations - Finance Mandated - Mineral Lease Special Service Districts.

ITEM 28

To Department of Government Operations - Finance Mandated - Mineral Lease Special Service Districts

From General Fund Restricted - Mineral Lease	27,797,500
Schedule of Programs:	
Mineral Lease Payments	24,162,700
Mineral Lease Payments in Lieu	3,634,800

The Legislature intends that, in closing out the fiscal year 2021 budget, the Division of Finance reflect all closing nonlapsing appropriation balances from Department of Administrative Services - Finance Mandated - Mineral Lease Special Service Districts as fiscal year 2022 beginning nonlapsing appropriation balances in Department of Government Operations - Finance Mandated - Mineral Lease Special Service Districts.

ITEM 29

To Department of Technology Services - Chief Information Officer

From General Fund	(668,200)
From General Fund, One-time	(700)
Schedule of Programs:	
Chief Information Officer	(668,900)

The Legislature intends that, in closing out the fiscal year 2021 budget, the Division of Finance reflect all closing nonlapsing appropriation balances from Department of Technology Services - Chief Information Officer as fiscal year 2022 beginning nonlapsing appropriation balances in Department of Government Operations - Chief Information Officer.

ITEM 30

To Department of Government Operations - Chief Information Officer

From General Fund	668,200
From General Fund, One-time	700
Schedule of Programs:	
Chief Information Officer	668,900

The Legislature intends that, in closing out the fiscal year 2021 budget, the Division of Finance reflect all closing nonlapsing appropriation balances from Department of Technology Services - Chief Information Officer as fiscal year 2022 beginning nonlapsing appropriation balances in Department of Government Operations - Chief Information Officer.

In accordance with UCA 63J-1-201, the Legislature intends that the Department of Government Operations report performance measures for the Chief Information Officer line item. The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures for FY 2021 appropriations bills and the current status of the following performance measures for FY 2022: 1) data security - ongoing systematic prioritization of high-risk areas across the state (target: score below 5,000); 2) application development - satisfaction scores on application development projects from agencies (target: average at least 83%); and 3) procurement and deployment - ensure state employees receive computers in a timely manner (target: at least 75%).ITEM 31

To Department of Technology Services - Integrated Technology Division

From General Fund	(1,245,100)
From General Fund, One-time	(2,600)
From Federal Funds	(707,200)
From Federal Funds, One-time	(1,700)
From Dedicated Credits Revenue	(1,224,300)
From Dedicated Credits Revenue, One-time	(2,500)
From Gen. Fund Rest. - Statewide Unified E-911 Emerg. Acct.	(337,100)
From Gen. Fund Rest. - Statewide Unified E-911 Emerg. Acct., One-time	(700)
Schedule of Programs:	
Automated Geographic Reference Center	(3,521,200)

The Legislature intends that, in closing out the fiscal year 2021 budget, the Division of Finance reflect all closing nonlapsing appropriation balances from Department of Technology Services - Integrated Technology Division as fiscal year 2022 beginning nonlapsing appropriation balances in Department of Government Operations - Integrated Technology Division.

ITEM 32

To Department of Government Operations - Integrated Technology Division

From General Fund	1,245,100
From General Fund, One-time	2,600
From Federal Funds	707,200
From Federal Funds, One-time	1,700
From Dedicated Credits Revenue	1,224,300
From Dedicated Credits Revenue, One-time	2,500
From Gen. Fund Rest. - Statewide Unified E-911 Emerg. Acct.	337,100
From Gen. Fund Rest. - Statewide Unified E-911 Emerg. Acct., One-time	700
Schedule of Programs:	
Automated Geographic Reference Center	3,521,200

The Legislature intends that, in closing out the fiscal year 2021 budget, the Division of Finance reflect all closing nonlapsing appropriation balances from Department of Technology Services - Integrated Technology Division as fiscal year 2022 beginning nonlapsing appropriation balances in Department of Government Operations - Integrated Technology Division.

In accordance with UCA 63J-1-201, the Legislature intends that the Department of Government Operations report performance measures for the Integrated Technology Division line item. The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures for FY 2021 and the current status of the following performance measures for FY 2022: 1) uptime for the Automated Geographic Reference Center's (AGRC) portfolio of streaming geographic data web services and State Geographic Information Database connection services (target: at least 99.5%); 2) road centerline and addressing map data layer required for Next Generation 911 services is published monthly to the State Geographic Information Database (target: at least 120 county-sourced updates including 50 updates from Utah's class I and II counties); and 3) uptime for AGRC's TURN GPS real-time, high precision geo-positioning service that provides differential correction services to paying and partner subscribers in the surveying, mapping, construction, and agricultural industries (target: at least 99.5%).

Subsection 209(b). Expendable Funds and Accounts.

The Legislature has reviewed the following expendable funds. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated. Outlays

and expenditures from the funds or accounts to which the money is transferred may be made without further legislative action, in accordance with statutory provisions relating to the funds or accounts.

ITEM 33

To Department of Administrative Services – State Archives Fund

From Beginning Fund Balance	(2,600)
From Closing Fund Balance	2,600

The Legislature intends that, in closing out the fiscal year 2021 budget, the Division of Finance reflect all closing fund balances from Department of Administrative Services – State Archives Fund as fiscal year 2022 beginning fund balances in Department of Government Operations – State Archives Fund.

ITEM 34

To Department of Government Operations – State Archives Fund

From Beginning Fund Balance	2,600
From Closing Fund Balance	(2,600)

The Legislature intends that, in closing out the fiscal year 2021 budget, the Division of Finance reflect all closing fund balances from Department of Administrative Services – State Archives Fund as fiscal year 2022 beginning fund balances in Department of Government Operations – State Archives Fund.

ITEM 35

To Department of Administrative Services – State Debt Collection Fund

From Dedicated Credits Revenue	(3,623,300)
From Dedicated Credits Revenue, One-time	(7,100)
From Other Financing Sources	(200)
From Beginning Fund Balance	(792,400)
From Closing Fund Balance	909,200
Schedule of Programs:	
State Debt Collection Fund	(3,513,800)

The Legislature intends that, in closing out the fiscal year 2021 budget, the Division of Finance reflect all closing fund balances from Department of Administrative Services – State Debt Collection Fund as fiscal year 2022 beginning fund balances in Department of Government Operations – State Debt Collection Fund.

ITEM 36

To Department of Government Operations – State Debt Collection Fund

From Dedicated Credits Revenue	3,623,300
From Dedicated Credits Revenue, One-time	7,100
From Other Financing Sources	200
From Beginning Fund Balance	792,400
From Closing Fund Balance	(909,200)
Schedule of Programs:	
State Debt Collection Fund	3,513,800

The Legislature intends that, in closing out the fiscal year 2021 budget, the Division of Finance reflect all closing fund balances from Department of Administrative Services – State Debt Collection Fund as fiscal year 2022 beginning fund balances in Department of Government Operations – State Debt Collection Fund.

ITEM 37

To Department of Administrative Services – Wire Estate Memorial Fund

From Beginning Fund Balance	(168,200)
From Closing Fund Balance	168,200

The Legislature intends that, in closing out the fiscal year 2021 budget, the Division of Finance reflect all closing fund balances from Department of Administrative Services – Wire Estate Memorial Fund as fiscal year 2022 beginning fund balances in Department of Government Operations – Wire Estate Memorial Fund.

ITEM 38

To Department of Government Operations – Wire Estate Memorial Fund

From Beginning Fund Balance	168,200
From Closing Fund Balance	(168,200)

The Legislature intends that, in closing out the fiscal year 2021 budget, the Division of Finance reflect all closing fund balances from Department of Administrative Services – Wire Estate Memorial Fund as fiscal year 2022 beginning fund balances in Department of Government Operations – Wire Estate Memorial Fund.

Subsection 209(c). **Business-like Activities.**

The Legislature has reviewed the following proprietary funds. Under the terms and conditions of Utah Code 63J-1-410, for any included Internal Service Fund, the Legislature approves budgets, full-time permanent positions, and capital acquisition amounts as indicated, and appropriates to the funds, as indicated, estimated revenue from rates, fees, and other charges. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated.

ITEM 39

To Department of Human Resource Management – Human Resources Internal Service Fund

From Dedicated Credits Revenue	(14,494,300)
From Beginning Fund Balance	(1,780,800)
From Closing Fund Balance	919,800
Schedule of Programs:	

Administration	(1,599,300)
Information Technology	(1,079,200)
ISF – Core HR Services	(246,900)
ISF – Field Services	(9,689,800)
ISF – Payroll Field Services	(674,900)
Policy	(2,065,200)
Budgeted FTE	(122.0)
Authorized Capital Outlay	(1,500,000)

The Legislature intends that, in closing out the fiscal year 2021 budget, the Division of Finance reflect all closing fund balances from Department of Human Resource Management – Human Resources Internal Service Fund as fiscal year 2022 beginning fund balances in Department of Government Operations – Human Resources Internal Service Fund.

ITEM 40

To Department of Government Operations – Human Resources Internal Service Fund

From Dedicated Credits Revenue	14,494,300
From Beginning Fund Balance	1,780,800
From Closing Fund Balance	(919,800)
Schedule of Programs:	
Administration	1,599,300
Information Technology	1,079,200
ISF – Core HR Services	246,900
ISF – Field Services	9,689,800
ISF – Payroll Field Services	674,900
Policy	2,065,200
Budgeted FTE	122.0
Authorized Capital Outlay	1,500,000

The Legislature intends that, in closing out the fiscal year 2021 budget, the Division of Finance reflect all closing fund balances from Department of Human Resource Management – Human Resources Internal Service Fund as fiscal year 2022 beginning fund balances in Department of Government Operations – Human Resources Internal Service Fund.

ITEM 41

To Department of Administrative Services Internal Service Funds – Division of Facilities Construction and Management – Facilities Management

From Dedicated Credits Revenue	(37,041,000)
From Beginning Fund Balance	(3,825,800)
From Closing Fund Balance	347,200
Schedule of Programs:	
ISF – Facilities Management	(40,519,600)
Budgeted FTE	(162.0)
Authorized Capital Outlay	(396,600)

The Legislature intends that, in closing out the fiscal year 2021 budget, the Division of Finance reflect all closing fund balances from Department of Administrative Services Internal Service Funds – Division of Facilities Construction and Management – Facilities Management as fiscal year 2022 beginning fund balances in Department of Government Operations Internal Service Funds – Division of Facilities Construction and Management – Facilities Management.

ITEM 42

To Department of Government Operations Internal Service Funds – Division of Facilities Construction and Management – Facilities Management

From Dedicated Credits Revenue	37,041,000
From Beginning Fund Balance	3,825,800
From Closing Fund Balance	(347,200)
Schedule of Programs:	
ISF – Facilities Management	40,519,600
Budgeted FTE	162.0
Authorized Capital Outlay	396,600

The Legislature intends that, in closing out the fiscal year 2021 budget, the Division of Finance reflect all closing fund balances from Department of Administrative Services Internal Service Funds – Division of Facilities Construction and Management – Facilities Management as fiscal year 2022 beginning fund balances in Department of Government Operations Internal Service Funds – Division of Facilities Construction and Management – Facilities Management.

In accordance with UCA 63J-1-201, the Legislature intends that the Department of Government Operations report performance measures for the ISF – Facilities Management line item, whose mission is "to provide professional building maintenance services to State facilities, agency customers, and the general public." The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures for FY 2021 and the current status of the following performance measure for FY 2022: average maintenance cost per square foot compared to the private sector (target: at least 18% less than the private market).

ITEM 43

To Department of Administrative Services Internal Service Funds – Division of Finance

From Dedicated Credits Revenue	(621,300)
From Beginning Fund Balance	(34,100)

From Closing Fund Balance	42,900
Schedule of Programs:	
ISF – Purchasing Card	(612,500)
Budgeted FTE	(2.5)

The Legislature intends that, in closing out the fiscal year 2021 budget, the Division of Finance reflect all closing fund balances from Department of Administrative Services Internal Service Funds – Division of Finance as fiscal year 2022 beginning fund balances in Department of Government Operations Internal Service Funds – Division of Finance.

ITEM 44

To Department of Government Operations Internal Service Funds – Division of Finance

From Dedicated Credits Revenue	621,300
From Beginning Fund Balance	34,100
From Closing Fund Balance	(42,900)
Schedule of Programs:	
ISF – Purchasing Card	612,500
Budgeted FTE	2.5

The Legislature intends that, in closing out the fiscal year 2021 budget, the Division of Finance reflect all closing fund balances from Department of Administrative Services Internal Service Funds – Division of Finance as fiscal year 2022 beginning fund balances in Department of Government Operations Internal Service Funds – Division of Finance.

ITEM 45

To Department of Administrative Services Internal Service Funds – Division of Fleet Operations

From Dedicated Credits Revenue	(60,263,700)
From Beginning Fund Balance	(50,454,400)
From Closing Fund Balance	49,713,900
Schedule of Programs:	
ISF – Fuel Network	(27,146,200)
ISF – Motor Pool	(32,688,100)
ISF – Travel Office	(496,200)
Transactions Group	(673,700)
Budgeted FTE	(41.0)
Authorized Capital Outlay	(21,000,000)

The Legislature intends that, in closing out the fiscal year 2021 budget, the Division of Finance reflect all closing fund balances from Department of Administrative Services Internal Service Funds – Division of Fleet Operations as fiscal year 2022 beginning fund balances in Department of Government Operations Internal Service Funds – Division of Fleet Operations.

ITEM 46

To Department of Government Operations Internal Service Funds – Division of Fleet Operations

From Dedicated Credits Revenue	60,263,700
From Beginning Fund Balance	50,454,400
From Closing Fund Balance	(49,713,900)
Schedule of Programs:	
ISF – Fuel Network	27,146,200
ISF – Motor Pool	32,688,100
ISF – Travel Office	496,200
Transactions Group	673,700
Budgeted FTE	41.0
Authorized Capital Outlay	21,000,000

The Legislature intends that, in closing out the fiscal year 2021 budget, the Division of Finance reflect all closing fund balances from Department of Administrative Services Internal Service Funds – Division of Fleet Operations as fiscal year 2022 beginning fund balances in Department of Government Operations Internal Service Funds – Division of Fleet Operations.

In accordance with UCA 63J–1–201, the Legislature intends that the Department of Government Operations report performance measures for the Fleet Operations line item, whose mission is "emphasizing customer service, provide safe, efficient, dependable, and responsible transportation options." The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures for FY 2021 and the current status of the following performance measures for FY 2022: 1) improve EPA emission standard certification level for the State's light duty fleet in non–attainment areas (target: reduce average fleet emission by 1 mg/mile annually); 2) maintain the financial solvency of the Division of Fleet Operations (target: 30% or less of the allowable debt); and 3) audit agency customers' mobility options and develop improvement plans for audited agencies (target: at least 4 annually).

ITEM 47

To Department of Administrative Services Internal Service Funds – Division of Purchasing and General Services

From Dedicated Credits Revenue	(20,233,000)
From Other Financing Sources	(27,500)
From Beginning Fund Balance	(9,500,600)
From Closing Fund Balance	9,499,200
Schedule of Programs:	
ISF – Central Mailing	(12,750,000)

ISF – Cooperative Contracting	(4,242,000)
ISF – Federal Surplus Property	(66,400)
ISF – Print Services	(2,543,500)
ISF – State Surplus Property	(660,000)
Budgeted FTE	(97.3)
Authorized Capital Outlay	(4,070,000)

The Legislature intends that, in closing out the fiscal year 2021 budget, the Division of Finance reflect all closing fund balances from Department of Administrative Services Internal Service Funds – Division of Purchasing and General Services as fiscal year 2022 beginning fund balances in Department of Government Operations Internal Service Funds – Division of Purchasing and General Services.

ITEM 48

To Department of Government Operations Internal Service Funds – Division of Purchasing and General Services

From Dedicated Credits Revenue	20,233,000
From Other Financing Sources	27,500
From Beginning Fund Balance	9,500,600
From Closing Fund Balance	(9,499,200)
Schedule of Programs:	
ISF – Central Mailing	12,750,000
ISF – Cooperative Contracting	4,242,000
ISF – Federal Surplus Property	66,400
ISF – Print Services	2,543,500
ISF – State Surplus Property	660,000
Budgeted FTE	97.3
Authorized Capital Outlay	4,070,000

The Legislature intends that, in closing out the fiscal year 2021 budget, the Division of Finance reflect all closing fund balances from Department of Administrative Services Internal Service Funds – Division of Purchasing and General Services as fiscal year 2022 beginning fund balances in Department of Government Operations Internal Service Funds – Division of Purchasing and General Services.

ITEM 49

To Department of Administrative Services Internal Service Funds – Risk Management

From Dedicated Credits Revenue	(610,700)
From Premiums	(54,670,700)
From Interest Income	(1,181,700)
From Other Financing Sources	(415,700)
From Beginning Fund Balance	(5,223,700)
From Closing Fund Balance	5,513,700
Schedule of Programs:	
ISF – Risk Management Administration	(1,311,000)
ISF – Workers' Compensation	(7,842,300)
Risk Management – Auto	(2,496,600)
Risk Management – Liability	(26,244,400)
Risk Management – Property	(18,694,500)
Budgeted FTE	(32.0)
Authorized Capital Outlay	(500,000)

The Legislature intends that, in closing out the fiscal year 2021 budget, the Division of Finance reflect all closing fund balances from Department of Administrative Services Internal Service Funds – Risk Management as fiscal year 2022 beginning fund balances in Department of Government Operations Internal Service Funds – Risk Management.

ITEM 50

To Department of Government Operations Internal Service Funds – Risk Management

From Dedicated Credits Revenue	610,700
From Premiums	54,670,700
From Interest Income	1,181,700
From Other Financing Sources	415,700
From Beginning Fund Balance	5,223,700
From Closing Fund Balance	(5,513,700)
Schedule of Programs:	
ISF – Risk Management Administration	1,311,000
ISF – Workers' Compensation	7,842,300
Risk Management – Auto	2,496,600
Risk Management – Liability	26,244,400
Risk Management – Property	18,694,500
Budgeted FTE	32.0
Authorized Capital Outlay	500,000

The Legislature intends that, in closing out the fiscal year 2021 budget, the Division of Finance reflect all closing fund balances from Department of Administrative Services Internal Service Funds – Risk Management as fiscal year 2022 beginning fund balances in Department of Government Operations Internal Service Funds – Risk Management.

In accordance with UCA 63J-1-201, the Legislature intends that the Department of Government Operations report performance measures for the Risk Management line item, whose mission is "to insure, restore and protect State resources through innovation and collaboration." The department shall report to the Office of the Legislative Fiscal Analyst and to the

Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures for FY 2021 and the current status of the following performance measures for FY 2022: 1) follow up on life safety findings on onsite inspections (target: 100%); 2) annual independent claims management audit (target: at least 96%); and 3) ensure liability fund reserves are actuarially and economically sound (baseline: 90.57%; target: 100% of the actuary's recommendation).

ITEM 51

To Department of Technology Services Internal Service Funds – Enterprise Technology Division

From Dedicated Credits Revenue	(127,672,400)
From Beginning Fund Balance	(26,960,600)
From Closing Fund Balance	26,636,200
Schedule of Programs:	
ISF – Enterprise Technology Division	(127,996,800)
Budgeted FTE	(730.6)
Authorized Capital Outlay	(6,000,000)

The Legislature intends that, in closing out the fiscal year 2021 budget, the Division of Finance reflect all closing fund balances from Department of Technology Services Internal Service Funds – Enterprise Technology Division as fiscal year 2022 beginning fund balances in Department of Government Operations Internal Service Funds – Enterprise Technology Division.

ITEM 52

To Department of Government Operations Internal Service Funds – Enterprise Technology Division

From Dedicated Credits Revenue	127,672,400
From Beginning Fund Balance	26,960,600
From Closing Fund Balance	(26,636,200)
Schedule of Programs:	
ISF – Enterprise Technology Division	127,996,800
Budgeted FTE	730.6
Authorized Capital Outlay	6,000,000

The Legislature intends that, in closing out the fiscal year 2021 budget, the Division of Finance reflect all closing fund balances from Department of Technology Services Internal Service Funds – Enterprise Technology Division as fiscal year 2022 beginning fund balances in Department of Government Operations Internal Service Funds – Enterprise Technology Division.

In accordance with UCA 63J–1–201, the Legislature intends that the Department of Government Operations report performance measures for the Enterprise Technology Division line item. The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures for FY 2021 and the current status of the following performance measures for FY 2022: 1) customer satisfaction – measure customers' experiences and satisfaction with IT services (target: an average of at least 4.5 out of 5); 2) application availability – monitor DTS performance and availability of key agency business applications/systems (target: at least 99%); and 3) competitive rates – ensure all DTS rates are market competitive or better (target: 100%).

Subsection 209(d). **Intent language.**

Notwithstanding the effective date of this bill, the Legislature intends that the affected agencies have until July 1, 2022, to update the financial and information systems necessary to come into full compliance with the provisions of this bill.

Section 210. Effective date.

This bill takes effect on July 1, 2021.

Section 211. Revisor instructions.

The Legislature intends that the Office of Legislative Research and General Counsel, in preparing the Utah Code database for publication, not enroll this bill if S.B. 182, Department of Government Operations – Cross Reference Changes, does not pass.

Section 212. Revisor instructions.

The Legislature intends that the Office of Legislative Research and General Counsel, in preparing the Utah Code database for publication, on July 1, 2021:

(1) replace "Department of Administrative Services" with "Department of Government Operations" in any new language added to the Utah Code by legislation passed during the 2021 General Session;

(2) replace "Department of Technology Services" with "Division of Technology Services" in any new language added to the Utah Code by legislation passed during the 2021 General Session; and

(3) replace "Department of Human Resource Management" with "Division of Human Resource Management" in any new language added to the Utah Code by legislation passed during the 2021 General Session.

Section 213. Coordinating S.B. 181 with H.B. 27 -- Technical amendments.

If this S.B. 181 and H.B. 27, Public Information Website Modifications, both pass and become law, it is the intent of the Legislature that the Office of Legislative Research and General Counsel prepare the Utah Code database for publication by:

(1) renumbering Section 63F–1–701 to 63A–16–601 instead of 63A–12–201;

(2) changing all cross-references in H.B. 27 that refer to Section 63A-12-201 to instead refer to Section 63A-16-601;

(3) renumbering Section 63F-1-702 to 63A-16-602 instead of 63A-12-202; and

(4) changing all cross-references in H.B. 27 that refer to Section 63A-12-202 to instead refer to Section 63A-16-602.

CHAPTER 345
S. B. 182
Passed March 5, 2021
Approved March 17, 2021
Effective July 1, 2021

DEPARTMENT OF GOVERNMENT OPERATIONS - CROSS REFERENCE CHANGES

Chief Sponsor: Ann Millner
House Sponsor: Val L. Peterson

LONG TITLE

General Description:

This bill modifies cross-references in conformance with 2021 General Session S.B. 181.

Highlighted Provisions:

This bill:

- modifies cross-references in conformance with 2021 General Session S.B. 181.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

This bill provides revisor instructions.

Utah Code Sections Affected:

AMENDS:

4-30-106, as last amended by Laws of Utah 2020, Chapter 154
4-21-106, as last amended by Laws of Utah 2019, Chapters 370 and 456
4-22-107, as last amended by Laws of Utah 2019, Chapters 370 and 456
7-1-706, as last amended by Laws of Utah 2010, Chapter 90
10-2-406, as last amended by Laws of Utah 2019, Chapter 255
10-2-407, as last amended by Laws of Utah 2019, Chapter 255
10-2-415, as last amended by Laws of Utah 2020, Chapter 22
10-2-418, as last amended by Laws of Utah 2020, Sixth Special Session, Chapter 7
10-2-419, as last amended by Laws of Utah 2019, Chapter 255
10-2-501, as last amended by Laws of Utah 2019, Chapter 255
10-2-502.5, as last amended by Laws of Utah 2019, Chapter 255
10-2-607, as last amended by Laws of Utah 2019, Chapter 255
10-2-708, as last amended by Laws of Utah 2020, Chapter 22
10-2a-207, as last amended by Laws of Utah 2019, Chapters 165, 255 and last amended by Coordination Clause, Laws of Utah 2019, Chapter 165
10-2a-210, as last amended by Laws of Utah 2020, Chapter 22
10-2a-213, as last amended by Laws of Utah 2020, Chapter 22
10-2a-214, as last amended by Laws of Utah 2020, Chapter 22
10-2a-215, as last amended by Laws of Utah 2020, Chapter 22
10-2a-405, as last amended by Laws of Utah 2016, Chapter 176
10-3-301, as last amended by Laws of Utah 2020, Chapter 95
10-3-818, as last amended by Laws of Utah 2010, Chapter 90
10-5-107.5, as enacted by Laws of Utah 2017, Chapter 71
10-5-108, as last amended by Laws of Utah 2017, Chapter 193
10-6-113, as last amended by Laws of Utah 2017, Chapter 193
10-6-135.5, as enacted by Laws of Utah 2017, Chapter 71
10-7-19, as last amended by Laws of Utah 2019, Chapter 255
10-8-2, as last amended by Laws of Utah 2019, Chapter 376
10-8-15, as last amended by Laws of Utah 2019, Chapter 413
10-9a-203, as last amended by Laws of Utah 2015, Chapter 202
10-9a-204, as last amended by Laws of Utah 2010, Chapter 90
10-9a-205, as last amended by Laws of Utah 2017, Chapter 84
10-9a-208, as last amended by Laws of Utah 2020, Fifth Special Session, Chapter 4
10-9a-603, as last amended by Laws of Utah 2020, Chapter 434
10-18-203, as last amended by Laws of Utah 2010, Chapter 90
10-18-302, as last amended by Laws of Utah 2014, Chapter 176
11-13-204, as last amended by Laws of Utah 2015, Chapter 265
11-13-509, as enacted by Laws of Utah 2015, Chapter 265
11-13-531, as enacted by Laws of Utah 2015, Chapter 265
11-14-202, as last amended by Laws of Utah 2020, Chapter 31
11-14-318, as last amended by Laws of Utah 2009, First Special Session, Chapter 5
11-36a-503, as enacted by Laws of Utah 2011, Chapter 47
11-36a-504, as last amended by Laws of Utah 2017, Chapter 84
11-42-202, as last amended by Laws of Utah 2020, Chapter 282
11-42-402, as last amended by Laws of Utah 2015, Chapter 396
11-58-502, as last amended by Laws of Utah 2019, Chapter 399
11-58-503, as last amended by Laws of Utah 2019, Chapter 399
11-58-801, as last amended by Laws of Utah 2018, Second Special Session, Chapter 1
11-59-401, as enacted by Laws of Utah 2018, Chapter 388
13-1-2, as last amended by Laws of Utah 2019, Chapter 174
17-27a-203, as last amended by Laws of Utah 2009, Chapter 188

17-27a-204, as last amended by Laws of Utah 2010, Chapter 90
17-27a-205, as last amended by Laws of Utah 2017, Chapter 84
17-27a-208, as last amended by Laws of Utah 2019, Chapter 384
17-27a-306, as last amended by Laws of Utah 2015, Chapter 352
17-27a-404, as last amended by Laws of Utah 2020, Chapter 434
17-27a-603, as last amended by Laws of Utah 2020, Chapter 434
17-36-12, as last amended by Laws of Utah 2017, Chapter 193
17-36-26, as last amended by Laws of Utah 2017, Chapter 193
17-41-304, as last amended by Laws of Utah 2019, Chapter 227
17-41-405, as last amended by Laws of Utah 2019, Chapter 227
17-50-105, as last amended by Laws of Utah 2009, Chapter 350
17-50-303, as last amended by Laws of Utah 2019, Chapter 376
17B-1-106, as last amended by Laws of Utah 2013, Chapter 445
17B-1-211, as last amended by Laws of Utah 2013, Chapter 265
17B-1-303, as last amended by Laws of Utah 2019, Chapters 40 and 255
17B-1-306, as last amended by Laws of Utah 2020, Chapter 31
17B-1-413, as last amended by Laws of Utah 2010, Chapter 90
17B-1-417, as last amended by Laws of Utah 2010, Chapter 90
17B-1-505.5, as enacted by Laws of Utah 2017, Chapter 404
17B-1-609, as last amended by Laws of Utah 2015, Chapter 436
17B-1-643, as last amended by Laws of Utah 2016, Chapter 273
17B-1-1204, as last amended by Laws of Utah 2010, Chapter 90
17B-1-1307, as last amended by Laws of Utah 2010, Chapter 90
17B-2a-705, as last amended by Laws of Utah 2019, Chapter 255
17B-2a-1110, as last amended by Laws of Utah 2016, Chapter 176
17C-1-207, as last amended by Laws of Utah 2019, Chapter 376
17C-1-601.5, as last amended by Laws of Utah 2018, Chapter 101
17C-1-804, as last amended by Laws of Utah 2019, Chapter 376
17C-1-806, as last amended by Laws of Utah 2018, Chapter 364
17C-2-108, as last amended by Laws of Utah 2016, Chapter 350
17C-2-109, as last amended by Laws of Utah 2016, Chapter 350
17C-3-107, as last amended by Laws of Utah 2016, Chapter 350
17C-3-108, as last amended by Laws of Utah 2016, Chapter 350
17C-4-107, as last amended by Laws of Utah 2016, Chapter 350
17C-4-109, as last amended by Laws of Utah 2016, Chapter 350
17C-4-202, as last amended by Laws of Utah 2016, Chapter 350
17C-5-110, as enacted by Laws of Utah 2016, Chapter 350
17C-5-111, as enacted by Laws of Utah 2016, Chapter 350
17C-5-113, as enacted by Laws of Utah 2016, Chapter 350
17C-5-205, as last amended by Laws of Utah 2019, Chapter 376
17D-3-305, as last amended by Laws of Utah 2020, Chapter 311
19-1-202, as last amended by Laws of Utah 2017, Chapter 246
19-1-308, as enacted by Laws of Utah 2018, Chapter 427
19-2-109, as last amended by Laws of Utah 2012, Chapter 360
20A-1-512, as last amended by Laws of Utah 2019, Chapter 40
20A-3a-604, as renumbered and amended by Laws of Utah 2020, Chapter 31
20A-4-104, as last amended by Laws of Utah 2020, Chapter 31
20A-4-304, as last amended by Laws of Utah 2019, Chapters 255 and 433
20A-5-101, as last amended by Laws of Utah 2019, Chapter 255
20A-5-303, as last amended by Laws of Utah 2011, Chapter 335
20A-5-403.5, as enacted by Laws of Utah 2020, Chapter 31
20A-5-405, as last amended by Laws of Utah 2020, Chapter 31
20A-7-204.1, as last amended by Laws of Utah 2020, Fifth Special Session, Chapter 20
20A-7-401.5, as enacted by Laws of Utah 2019, Chapter 203
20A-7-402, as last amended by Laws of Utah 2020, Chapters 22 and 354
20A-9-203, as last amended by Laws of Utah 2020, Chapter 22
20A-13-104, as last amended by Laws of Utah 2013, Chapter 383
20A-14-101.5, as last amended by Laws of Utah 2013, Chapter 455
20A-14-102.2, as last amended by Laws of Utah 2013, Chapter 455
20A-14-201, as last amended by Laws of Utah 2011, Chapter 297
20A-20-203, as enacted by Laws of Utah 2020, Chapter 288
26-6-27, as last amended by Laws of Utah 2020, Fifth Special Session, Chapter 21
26-6-32, as enacted by Laws of Utah 2020, Fifth Special Session, Chapter 21
26-61a-303, as last amended by Laws of Utah 2020, Chapter 12
31A-2-103, as last amended by Laws of Utah 1994, Chapter 128
32B-1-303, as last amended by Laws of Utah 2019, Chapter 145

32B-2-206, as last amended by Laws of Utah 2012, Chapter 365
32B-2-207, as last amended by Laws of Utah 2018, Chapter 200
32B-3-204, as last amended by Laws of Utah 2020, Chapter 219
32B-8a-302, as last amended by Laws of Utah 2020, Chapter 219
34-41-101, as last amended by Laws of Utah 2007, Chapter 329
34A-1-201, as last amended by Laws of Utah 2020, Chapter 352
34A-1-204, as enacted by Laws of Utah 1997, Chapter 375
34A-1-205, as last amended by Laws of Utah 2020, Chapters 156, 352, and 354
35A-1-201, as last amended by Laws of Utah 2020, Chapter 352
35A-1-204, as last amended by Laws of Utah 1997, Chapter 375
36-1-101.5, as last amended by Laws of Utah 2013, Chapter 454
36-1-105, as last amended by Laws of Utah 2013, Chapter 454
36-1-201.5, as last amended by Laws of Utah 2017, Chapter 243
36-1-204, as last amended by Laws of Utah 2013, Chapter 382
40-2-202, as enacted by Laws of Utah 2008, Chapter 113
45-1-101, as last amended by Laws of Utah 2019, Chapter 274
46-4-501, as last amended by Laws of Utah 2019, Chapter 254
49-11-1102, as enacted by Laws of Utah 2016, Chapter 281
49-22-403, as enacted by Laws of Utah 2011, Chapter 439
49-23-403, as enacted by Laws of Utah 2011, Chapter 439
51-5-3, as last amended by Laws of Utah 2001, Chapter 175
52-4-202, as last amended by Laws of Utah 2020, Fifth Special Session, Chapter 1
52-4-203, as last amended by Laws of Utah 2018, Chapter 425
53-1-203, as enacted by Laws of Utah 1993, Chapter 234
53-1-303, as enacted by Laws of Utah 1993, Chapter 234
53-2a-103, as renumbered and amended by Laws of Utah 2013, Chapter 295
53-3-103, as enacted by Laws of Utah 1993, Chapter 234
53-7-103, as last amended by Laws of Utah 2018, Chapter 415
53-8-103, as renumbered and amended by Laws of Utah 1993, Chapter 234
53-10-103, as renumbered and amended by Laws of Utah 1998, Chapter 263
53-10-201, as enacted by Laws of Utah 1998, Chapter 263
53-10-301, as last amended by Laws of Utah 2002, Chapter 5
53-10-401, as enacted by Laws of Utah 1998, Chapter 263
53-13-114, as last amended by Laws of Utah 2012, Chapter 196
53B-7-101.5, as last amended by Laws of Utah 2010, Chapter 90
53E-4-202, as last amended by Laws of Utah 2019, Chapters 186 and 324
53E-8-203, as renumbered and amended by Laws of Utah 2018, Chapter 1
53G-3-204, as renumbered and amended by Laws of Utah 2018, Chapter 3
53G-4-204, as last amended by Laws of Utah 2019, Chapter 293
53G-4-402, as last amended by Laws of Utah 2020, Chapter 347
53G-5-203, as last amended by Laws of Utah 2019, Chapter 293
53G-5-504, as last amended by Laws of Utah 2020, Chapters 192 and 408
53G-7-1105, as last amended by Laws of Utah 2019, Chapter 293
54-3-28, as last amended by Laws of Utah 2013, Chapter 445
54-8-10, as last amended by Laws of Utah 2010, Chapter 90
54-8-16, as last amended by Laws of Utah 2010, Chapter 90
57-11-11, as last amended by Laws of Utah 2011, Chapter 340
59-1-206, as last amended by Laws of Utah 2020, Chapter 352
59-2-919, as last amended by Laws of Utah 2020, Chapter 354
59-2-919.2, as last amended by Laws of Utah 2010, Chapter 90
59-12-1102, as last amended by Laws of Utah 2016, Chapter 364
62A-1-109, as last amended by Laws of Utah 2019, Chapter 246
63A-5b-905, as renumbered and amended by Laws of Utah 2020, Chapter 152
63D-2-102, as last amended by Laws of Utah 2020, Chapter 365
63E-2-109, as last amended by Laws of Utah 2019, Chapter 370
63G-6a-103, as last amended by Laws of Utah 2020, Chapters 152, 257, 365 and last amended by Coordination Clause, Laws of Utah 2020, Chapter 365
63G-22-102, as enacted by Laws of Utah 2018, Chapter 200
63H-1-403, as last amended by Laws of Utah 2020, Chapter 282
63H-1-701, as last amended by Laws of Utah 2018, Chapter 101
63H-2-502, as last amended by Laws of Utah 2018, Chapter 101
63H-2-504, as last amended by Laws of Utah 2012, Chapter 347
63H-4-108, as last amended by Laws of Utah 2019, Chapters 370 and 456
63H-5-108, as last amended by Laws of Utah 2019, Chapters 370 and 456
63H-6-103, as last amended by Laws of Utah 2020, Chapter 152
63H-7a-104, as enacted by Laws of Utah 2019, Chapter 456

63H-7a-304, as last amended by Laws of Utah 2020, Chapters 294 and 368
63H-7a-803, as last amended by Laws of Utah 2019, Chapters 370 and 509
63H-8-204, as last amended by Laws of Utah 2019, Chapter 370
63I-1-263, as last amended by Laws of Utah 2020, Chapters 82, 152, 154, 199, 230, 303, 322, 336, 354, 360, 375, 405 and last amended by Coordination Clause, Laws of Utah 2020, Chapter 360
63I-2-267, as last amended by Laws of Utah 2020, Chapter 197
63J-4-602, as last amended by Laws of Utah 2020, Chapter 352
63J-4-603, as last amended by Laws of Utah 2018, Chapter 411
63M-4-402, as enacted by Laws of Utah 2014, Chapter 294
63N-3-501, as enacted by Laws of Utah 2018, Chapter 182
67-1-2.5, as last amended by Laws of Utah 2020, Chapters 154, 352, and 373
67-1-14, as last amended by Laws of Utah 2005, Chapter 169
67-1a-2.2, as enacted by Laws of Utah 2011, Third Special Session, Chapter 9
67-1a-6.5, as last amended by Laws of Utah 2016, Chapter 350
67-5-11, as last amended by Laws of Utah 2007, Chapter 166
72-3-108, as last amended by Laws of Utah 2010, Chapter 90
72-5-105, as last amended by Laws of Utah 2017, First Special Session, Chapter 2
72-5-304, as last amended by Laws of Utah 2005, Chapter 169
72-16-202, as last amended by Laws of Utah 2020, Chapter 423
73-1-16, as last amended by Laws of Utah 2010, Chapter 90
73-5-1, as last amended by Laws of Utah 2017, Chapter 463
73-5-14, as last amended by Laws of Utah 2010, Chapter 90
75-1-401, as last amended by Laws of Utah 2010, Chapter 90

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 4-21-106 is amended to read:

4-21-106. Exemption from certain operational requirements.

(1) The council is exempt from:

(a) Title 51, Chapter 5, Funds Consolidation Act;

(b) Title 63A, Utah [~~Administrative Services~~] Government Operations Code, except as provided in Subsection (2)(c);

(c) Title 63G, Chapter 6a, Utah Procurement Code, but the council shall adopt procedures to ensure that the council makes purchases:

(i) in a manner that provides for fair competition between providers; and

(ii) at competitive prices;

(d) Title 63J, Chapter 1, Budgetary Procedures Act; and

(e) Title [~~67~~] 63A, Chapter [~~19~~] 17, Utah State Personnel Management Act.

(2) The council is subject to:

(a) Title 51, Chapter 7, State Money Management Act;

(b) Title 52, Chapter 4, Open and Public Meetings Act;

(c) Title 63A, Chapter 1, Part 2, Utah Public Finance Website;

(d) Title 63G, Chapter 2, Government Records Access and Management Act;

(e) other Utah Code provisions not specifically exempted under Subsection 4-21-106(1); and

(f) audit by the state auditor pursuant to Title 67, Chapter 3, Auditor, and by the legislative auditor pursuant to Section 36-12-15.

Section 2. Section 4-22-107 is amended to read:

4-22-107. Exemption from certain operational requirements.

(1) The commission is exempt from:

(a) Title 51, Chapter 5, Funds Consolidation Act;

(b) Title 51, Chapter 7, State Money Management Act;

(c) except as provided in Subsection (2)(b), Title 63A, Utah [~~Administrative Services~~] Government Operations Code;

(d) Title 63G, Chapter 6a, Utah Procurement Code, but the commission shall adopt procedures to ensure that the commission makes purchases:

(i) in a manner that provides for fair competition between providers; and

(ii) at competitive prices;

(e) Title 63J, Chapter 1, Budgetary Procedures Act; and

(f) Title [~~67~~] 63A, Chapter [~~19~~] 17, Utah State Personnel Management Act.

(2) The commission is subject to:

(a) Title 52, Chapter 4, Open and Public Meetings Act;

(b) Title 63A, Chapter 1, Part 2, Utah Public Finance Website; and

(c) Title 63G, Chapter 2, Government Records Access and Management Act.

Section 3. Section 4-30-106 is amended to read:

4-30-106. Hearing on license application -- Notice of hearing.

(1) Upon the filing of an application, the department shall set a time for hearing on the application in the city or town nearest the proposed site of the livestock market and cause notice of the time and place of the hearing together with a copy of the application to be forwarded by mail, not less than 15 days before the hearing date, to the following:

(a) each licensed livestock market operator within the state; and

(b) each livestock or other interested association or group of persons in the state that has filed written notice with the department requesting receipt of notice of such hearings.

(2) Notice of the hearing shall be published 14 days before the scheduled hearing date:

(a) in a daily or weekly newspaper of general circulation within the city or town where the hearing is scheduled; and

(b) on the Utah Public Notice Website created in Section [~~63F-1-701~~] 63A-16-601.

Section 4. Section 7-1-706 is amended to read:

7-1-706. Application to commissioner to exercise power -- Procedure.

(1) Except as provided in Sections 7-1-704 and 7-1-705, by filing a request for agency action with the commissioner, any person may request the commissioner to:

(a) issue any rule or order;

(b) exercise any powers granted to the commissioner under this title; or

(c) act on any matter that is subject to the approval of the commissioner.

(2) Within 10 days of receipt of the request, the commissioner shall, at the applicant's expense, cause a supervisor to make a careful investigation of the facts relevant or material to the request.

(3) (a) The supervisor shall submit written findings and recommendations to the commissioner.

(b) The application, any additional information furnished by the applicant, and the findings and recommendations of the supervisor may be inspected by any person at the office of the commissioner, except those portions of the application or report that the commissioner designates as confidential to prevent a clearly unwarranted invasion of privacy.

(4) (a) If a hearing is held concerning the request, the commissioner shall publish notice of the hearing at the applicant's expense:

(i) in a newspaper of general circulation within the county where the applicant is located at least once a week for three successive weeks before the date of the hearing; and

(ii) on the Utah Public Notice Website created in Section [~~63F-1-701~~] 63A-16-601, for three weeks before the date of the hearing.

(b) The notice required by Subsection (4)(a) shall include the information required by the department's rules.

(c) The commissioner shall act upon the request within 30 days after the close of the hearing, based on the record before the commissioner.

(5) (a) If no hearing is held, the commissioner shall approve or disapprove the request within 90 days of receipt of the request based on:

(i) the application;

(ii) additional information filed with the commissioner; and

(iii) the findings and recommendations of the supervisor.

(b) The commissioner shall act on the request by issuing findings of fact, conclusions, and an order, and shall mail a copy of each to:

(i) the applicant;

(ii) all persons who have filed protests to the granting of the application; and

(iii) other persons that the commissioner considers should receive copies.

(6) The commissioner may impose any conditions or limitations on the approval or disapproval of a request that the commissioner considers proper to:

(a) protect the interest of creditors, depositors, and other customers of an institution;

(b) protect its shareholders or members; and

(c) carry out the purposes of this title.

Section 5. Section 10-2-406 is amended to read:

10-2-406. Notice of certification -- Publishing and providing notice of petition.

(1) After receipt of the notice of certification from the city recorder or town clerk under Subsection 10-2-405(2)(c)(i), the municipal legislative body shall publish notice:

(a) (i) at least once a week for three successive weeks, beginning no later than 10 days after the day on which the municipal legislative body receives the notice of certification, in a newspaper of general circulation within:

(A) the area proposed for annexation; and

(B) the unincorporated area within 1/2 mile of the area proposed for annexation;

(ii) if there is no newspaper of general circulation in the combined area described in Subsections (1)(a)(i)(A) and (B), no later than 10 days after the day on which the municipal legislative body receives the notice of certification, by posting one notice, and at least one additional notice per 2,000 population within the combined area, in places

within the combined area that are most likely to give notice to the residents within, and the owners of real property located within, the combined area; or

(iii) no later than 10 days after the day on which the municipal legislative body receives the notice of certification, by mailing the notice to each residence within, and to each owner of real property located within, the combined area described in Subsections (1)(a)(i)(A) and (B);

(b) in accordance with Section 45-1-101, for three weeks, beginning no later than 10 days after the day on which the municipal legislative body receives the notice of certification;

(c) on the Utah Public Notice Website created in Section [~~63F-1-701~~] 63A-16-601, for three weeks, beginning no later than 10 days after the day on which the municipal legislative body receives the notice of certification;

(d) within 20 days after the day on which the municipal legislative body receives the notice of certification, by mailing written notice to each affected entity; and

(e) if the municipality has a website, on the municipality's website for the period of time described in Subsection (1)(c).

(2) The notice described in Subsection (1) shall:

(a) state that a petition has been filed with the municipality proposing the annexation of an area to the municipality;

(b) state the date of the municipal legislative body's receipt of the notice of certification under Subsection 10-2-405(2)(c)(i);

(c) describe the area proposed for annexation in the annexation petition;

(d) state that the complete annexation petition is available for inspection and copying at the office of the city recorder or town clerk;

(e) state in conspicuous and plain terms that the municipality may grant the petition and annex the area described in the petition unless, within the time required under Subsection 10-2-407(2)(a)(i), a written protest to the annexation petition is filed with the commission and a copy of the protest delivered to the city recorder or town clerk of the proposed annexing municipality;

(f) state the address of the commission or, if a commission has not yet been created in the county, the county clerk, where a protest to the annexation petition may be filed;

(g) state that the area proposed for annexation to the municipality will also automatically be annexed to a local district providing fire protection, paramedic, and emergency services or a local district providing law enforcement service, as the case may be, as provided in Section 17B-1-416, if:

(i) the proposed annexing municipality is entirely within the boundaries of a local district:

(A) that provides fire protection, paramedic, and emergency services or law enforcement service, respectively; and

(B) in the creation of which an election was not required because of Subsection 17B-1-214(3)(c); and

(ii) the area proposed to be annexed to the municipality is not already within the boundaries of the local district; and

(h) state that the area proposed for annexation to the municipality will be automatically withdrawn from a local district providing fire protection, paramedic, and emergency services or a local district providing law enforcement service, as the case may be, as provided in Subsection 17B-1-502(2), if:

(i) the petition proposes the annexation of an area that is within the boundaries of a local district:

(A) that provides fire protection, paramedic, and emergency services or law enforcement service, respectively; and

(B) in the creation of which an election was not required because of Subsection 17B-1-214(3)(c); and

(ii) the proposed annexing municipality is not within the boundaries of the local district.

(3) (a) The statement required by Subsection (2)(e) shall state the deadline for filing a written protest in terms of the actual date rather than by reference to the statutory citation.

(b) In addition to the requirements under Subsection (2), a notice under Subsection (1) for a proposed annexation of an area within a county of the first class shall include a statement that a protest to the annexation petition may be filed with the commission by property owners if it contains the signatures of the owners of private real property that:

(i) is located in the unincorporated area within 1/2 mile of the area proposed for annexation;

(ii) covers at least 25% of the private land area located in the unincorporated area within 1/2 mile of the area proposed for annexation; and

(iii) is equal in value to at least 15% of all real property located in the unincorporated area within 1/2 mile of the area proposed for annexation.

Section 6. Section 10-2-407 is amended to read:

10-2-407. Protest to annexation petition -- Planning advisory area planning commission recommendation -- Petition requirements -- Disposition of petition if no protest filed.

(1) A protest to an annexation petition under Section 10-2-403 may be filed by:

(a) the legislative body or governing board of an affected entity;

(b) the owner of rural real property as defined in Section 17B-2a-1107; or

(c) for a proposed annexation of an area within a county of the first class, the owners of private real property that:

(i) is located in the unincorporated area within 1/2 mile of the area proposed for annexation;

(ii) covers at least 25% of the private land area located in the unincorporated area within 1/2 mile of the area proposed for annexation; and

(iii) is equal in value to at least 15% of all real property located in the unincorporated area within 1/2 mile of the area proposed for annexation.

(2) Each protest under Subsection (1) shall:

(a) be filed:

(i) no later than 30 days after the municipal legislative body's receipt of the notice of certification under Subsection 10-2-405(2)(c)(i); and

(ii) (A) in a county that has already created a commission under Section 10-2-409, with the commission; or

(B) in a county that has not yet created a commission under Section 10-2-409, with the clerk of the county in which the area proposed for annexation is located;

(b) state each reason for the protest of the annexation petition and, if the area proposed to be annexed is located in a specified county, justification for the protest under the standards established in this chapter;

(c) if the area proposed to be annexed is located in a specified county, contain other information that the commission by rule requires or that the party filing the protest considers pertinent; and

(d) contain the name and address of a contact person who is to receive notices sent by the commission with respect to the protest proceedings.

(3) The party filing a protest under this section shall on the same date deliver or mail a copy of the protest to the city recorder or town clerk of the proposed annexing municipality.

(4) Each clerk who receives a protest under Subsection (2)(a)(ii)(B) shall:

(a) immediately notify the county legislative body of the protest; and

(b) deliver the protest to the boundary commission within five days after:

(i) receipt of the protest, if the boundary commission has previously been created; or

(ii) creation of the boundary commission under Subsection 10-2-409(1)(b), if the boundary commission has not previously been created.

(5) (a) If a protest is filed under this section:

(i) the municipal legislative body may, at its next regular meeting after expiration of the deadline under Subsection (2)(a)(i), deny the annexation petition; or

(ii) if the municipal legislative body does not deny the annexation petition under Subsection (5)(a)(i), the municipal legislative body may take no further action on the annexation petition until after receipt of the commission's notice of its decision on the protest under Section 10-2-416.

(b) If a municipal legislative body denies an annexation petition under Subsection (5)(a)(i), the municipal legislative body shall, within five days after the denial, send notice of the denial in writing to:

(i) the contact sponsor of the annexation petition;

(ii) the commission; and

(iii) each entity that filed a protest.

(6) If no timely protest is filed under this section, the municipal legislative body may, subject to Subsection (7), approve the petition.

(7) Before approving an annexation petition under Subsection (6), the municipal legislative body shall hold a public hearing and publish notice of the public hearing:

(a) (i) at least seven days before the day of the public hearing in a newspaper of general circulation within the municipality and the area proposed for annexation;

(ii) if there is no newspaper of general circulation in the combined area described in Subsection (7)(a)(i), at least seven days before the day of the public hearing, by posting one notice, and at least one additional notice per 2,000 population within the combined area, in places within the combined area that are most likely to give notice to the residents within, and the owners of real property located within, the combined area; or

(iii) at least 10 days before the day of the public hearing by mailing the notice to each residence within, and to each owner of real property located within, the combined area described in Subsection (7)(a)(i);

(b) on the Utah Public Notice Website created in Section [~~63F-1-701~~] 63A-16-601, for seven days before the day of the public hearing;

(c) in accordance with Section 45-1-101, for seven days before the day of the public hearing; and

(d) if the municipality has a website, on the municipality's website for seven days before the day of the public hearing.

Section 7. Section 10-2-415 is amended to read:

10-2-415. Public hearing -- Notice.

(1) (a) If the results of the feasibility study or supplemental feasibility study meet the requirements of Subsection 10-2-416(3) with respect to a proposed annexation of an area located in a county of the first class, the commission shall hold a public hearing within 30 days after the day on which the commission receives the feasibility study or supplemental feasibility study results.

(b) At the public hearing described in Subsection (1)(a), the commission shall:

(i) require the feasibility consultant to present the results of the feasibility study and, if applicable, the supplemental feasibility study;

(ii) allow those present to ask questions of the feasibility consultant regarding the study results; and

(iii) allow those present to speak to the issue of annexation.

(2) The commission shall publish notice of the public hearing described in Subsection (1)(a):

(a) (i) at least once a week for two successive weeks before the public hearing in a newspaper of general circulation within the area proposed for annexation, the surrounding 1/2 mile of unincorporated area, and the proposed annexing municipality;

(ii) if there is no newspaper of general circulation within the combined area described in Subsection (2)(a)(i), at least two weeks before the day of the public hearing, by posting one notice, and at least one additional notice per 2,000 population within the combined area, in places within the combined area that are most likely to give notice of the public hearing to the residents within, and the owners of real property located within, the combined area; or

(iii) by mailing notice to each residence within, and to each owner of real property located within, the combined area described in Subsection (2)(a)(i);

(b) on the Utah Public Notice Website created in Section [~~63F-1-701~~] 63A-16-601, for two weeks before the day of the public hearing;

(c) in accordance with Section 45-1-101, for two weeks before the day of the public hearing;

(d) by sending written notice of the public hearing to the municipal legislative body of the proposed annexing municipality, the contact sponsor on the annexation petition, each entity that filed a protest, and, if a protest was filed under Subsection 10-2-407(1)(c), the contact person;

(e) if the municipality has a website, on the municipality's website for two weeks before the day of the public hearing; and

(f) on the county's website for two weeks before the day of the public hearing.

(3) The notice described in Subsection (2) shall:

(a) be entitled, "notice of annexation hearing";

(b) state the name of the annexing municipality;

(c) describe the area proposed for annexation; and

(d) specify the following sources where an individual may obtain a copy of the feasibility study conducted in relation to the proposed annexation:

(i) if the municipality has a website, the municipality's website;

(ii) a municipality's physical address; and

(iii) a mailing address and telephone number.

(4) Within 30 days after the time under Subsection 10-2-407(2) for filing a protest has expired with respect to a proposed annexation of an area located in a specified county, the boundary commission shall hold a hearing on all protests that were filed with respect to the proposed annexation.

(5) At least 14 days before the date of a hearing described in Subsection (4), the commission chair shall publish notice of the hearing:

(a) (i) in a newspaper of general circulation within the area proposed for annexation;

(ii) if there is no newspaper of general circulation within the area proposed for annexation, by posting one notice, and at least one additional notice per 2,000 population within the area in places within the area that are most likely to give notice of the hearing to the residents within, and the owners of real property located within, the area; or

(iii) mailing notice to each resident within, and each owner of real property located within, the area proposed for annexation;

(b) on the Utah Public Notice Website created in Section [~~63F-1-701~~] 63A-16-601, for 14 days before the day of the hearing;

(c) in accordance with Section 45-1-101, for 14 days before the day of the hearing;

(d) if the municipality has a website, on the municipality's website for two weeks before the day of the public hearing; and

(e) on the county's website for two weeks before the day of the public hearing.

(6) Each notice described in Subsection (5) shall:

(a) state the date, time, and place of the hearing;

[~~(a)~~] (b) briefly summarize the nature of the protest; and

[~~(b)~~] (c) state that a copy of the protest is on file at the commission's office.

(7) The commission may continue a hearing under Subsection (4) from time to time, but no continued hearing may be held later than 60 days after the original hearing date.

(8) In considering protests, the commission shall consider whether the proposed annexation:

(a) complies with the requirements of Sections 10-2-402 and 10-2-403 and the annexation policy plan of the proposed annexing municipality;

(b) conflicts with the annexation policy plan of another municipality; and

(c) if the proposed annexation includes urban development, will have an adverse tax consequence on the remaining unincorporated area of the county.

(9) (a) The commission shall record each hearing under this section by electronic means.

(b) A transcription of the recording under Subsection (9)(a), the feasibility study, if applicable, information received at the hearing, and the

written decision of the commission shall constitute the record of the hearing.

Section 8. Section 10-2-418 is amended to read:

10-2-418. Annexation of an island or peninsula without a petition -- Notice -- Hearing.

(1) As used in Subsection (2)(b)(ii), for purposes of an annexation conducted in accordance with this section of an area located within a county of the first class, "municipal-type services" does not include a service provided by a municipality pursuant to a contract that the municipality has with another political subdivision as "political subdivision" is defined in Section 17B-1-102.

(2) Notwithstanding Subsection 10-2-402(2), a municipality may annex an unincorporated area under this section without an annexation petition if:

(a) for an unincorporated area within the expansion area of more than one municipality, each municipality agrees to the annexation; and

(b) (i) (A) the area to be annexed consists of one or more unincorporated islands within or unincorporated peninsulas contiguous to the municipality;

(B) the majority of each island or peninsula consists of residential or commercial development;

(C) the area proposed for annexation requires the delivery of municipal-type services; and

(D) the municipality has provided most or all of the municipal-type services to the area for more than one year;

(ii) (A) the area to be annexed consists of one or more unincorporated islands within or unincorporated peninsulas contiguous to the municipality, each of which has fewer than 800 residents; and

(B) the municipality has provided one or more municipal-type services to the area for at least one year;

(iii) the area consists of:

(A) an unincorporated island within or an unincorporated peninsula contiguous to the municipality; and

(B) for an area outside of the county of the first class proposed for annexation, no more than 50 acres; or

(iv) (A) the area to be annexed consists only of one or more unincorporated islands in a county of the second class;

(B) the area to be annexed is located in the expansion area of a municipality; and

(C) the county legislative body in which the municipality is located provides notice to each property owner within the area to be annexed that the county legislative body will hold a public hearing, no less than 15 days after the day on which the county legislative body provides the notice, and may make a recommendation of annexation to the municipality whose expansion area includes the area to be annexed after the public hearing.

(3) Notwithstanding Subsection 10-2-402(1)(b)(iii), a municipality may annex a portion of an unincorporated island or unincorporated peninsula under this section, leaving unincorporated the remainder of the unincorporated island or unincorporated peninsula, if:

(a) in adopting the resolution under Subsection (5)(a) the municipal legislative body determines that not annexing the entire unincorporated island or unincorporated peninsula is in the municipality's best interest; and

(b) for an annexation of one or more unincorporated islands under Subsection (2)(b), the entire island of unincorporated area, of which a portion is being annexed, complies with the requirement of Subsection (2)(b)(ii) relating to the number of residents.

(4) (a) This subsection applies only to an annexation within a county of the first class.

(b) A county of the first class shall agree to an annexation if the majority of private property owners within the area to be annexed give written consent to the annexation, in accordance with Subsection (4)(d), to the recorder of the annexing municipality.

(c) For purposes of Subsection (4)(b), the majority of private property owners is property owners who own:

(i) the majority of the total private land area within the area proposed for annexation; and

(ii) private real property equal to at least 1/2 the value of private real property within the area proposed for annexation.

(d) A property owner consenting to annexation shall indicate the property owner's consent on a form which includes language in substantially the following form:

"Notice: If this written consent is used to proceed with an annexation of your property in accordance with Utah Code Section 10-2-418, no public election is required by law to approve the annexation. If you sign this consent and later decide you do not want to support the annexation of your property, you may withdraw your signature by submitting a signed, written withdrawal with the recorder or clerk of [name of annexing municipality]. If you choose to withdraw your signature, you must do so no later than the close of the public hearing on the annexation conducted in accordance with Utah Code Subsection 10-2-418(4)(d).".

(e) A private property owner may withdraw the property owner's signature indicating consent by submitting a signed, written withdrawal with the recorder or clerk no later than the close of the public hearing held in accordance with Subsection (5)(b).

(5) The legislative body of each municipality intending to annex an area under this section shall:

(a) adopt a resolution indicating the municipal legislative body's intent to annex the area, describing the area proposed to be annexed; and

(b) hold a public hearing on the proposed annexation no earlier than 30 days after the adoption of the resolution described in Subsection (5)(a).

(6) A legislative body described in Subsection (5) shall publish notice of a public hearing described in Subsection (5)(b):

(a) (i) at least once a week for three successive weeks before the public hearing in a newspaper of general circulation within the municipality and the area proposed for annexation;

(ii) if there is no newspaper of general circulation in the combined area described in Subsection (6)(a)(i), at least three weeks before the day of the public hearing, by posting one notice, and at least one additional notice per 2,000 population in the combined area, in places within the combined area that are most likely to give notice to the residents within, and the owners of real property located within, the combined area; or

(iii) at least three weeks before the day of the public hearing, by mailing notice to each residence within, and each owner of real property located within, the combined area described in Subsection (6)(a)(i);

(b) on the Utah Public Notice Website created in Section [~~63F-1-701~~] 63A-16-601, for three weeks before the day of the public hearing;

(c) in accordance with Section 45-1-101, for three weeks before the day of the public hearing;

(d) by sending written notice to:

(i) the board of each local district and special service district whose boundaries contain some or all of the area proposed for annexation; and

(ii) the legislative body of the county in which the area proposed for annexation is located; and

(e) if the municipality has a website, on the municipality's website for three weeks before the day of the public hearing.

(7) The legislative body of the annexing municipality shall ensure that:

(a) each notice described in Subsection (6):

(i) states that the municipal legislative body has adopted a resolution indicating the municipality's intent to annex the area proposed for annexation;

(ii) states the date, time, and place of the public hearing described in Subsection (5)(b);

(iii) describes the area proposed for annexation; and

(iv) except for an annexation that meets the requirements of Subsection (8)(b) or (c), states in conspicuous and plain terms that the municipal legislative body will annex the area unless, at or before the public hearing described in Subsection (5)(b), written protests to the annexation are filed by the owners of private real property that:

(A) is located within the area proposed for annexation;

(B) covers a majority of the total private land area within the entire area proposed for annexation; and

(C) is equal in value to at least 1/2 the value of all private real property within the entire area proposed for annexation; and

(b) the first publication of the notice described in Subsection (6)(a) occurs within 14 days after the day on which the municipal legislative body adopts a resolution under Subsection (5)(a).

(8) (a) Except as provided in Subsections (8)(b)(i) and (8)(c)(i), upon conclusion of the public hearing described in Subsection (5)(b), the municipal legislative body may adopt an ordinance approving the annexation of the area proposed for annexation under this section unless, at or before the hearing, written protests to the annexation have been filed with the recorder or clerk of the municipality by the owners of private real property that:

(i) is located within the area proposed for annexation;

(ii) covers a majority of the total private land area within the entire area proposed for annexation; and

(iii) is equal in value to at least 1/2 the value of all private real property within the entire area proposed for annexation.

(b) (i) Notwithstanding Subsection (8)(a), upon conclusion of the public hearing described in Subsection (5)(b), a municipality may adopt an ordinance approving the annexation of the area proposed for annexation under this section without allowing or considering protests under Subsection (8)(a) if the owners of at least 75% of the total private land area within the entire area proposed for annexation, representing at least 75% of the value of the private real property within the entire area proposed for annexation, have consented in writing to the annexation.

(ii) Upon the effective date under Section 10-2-425 of an annexation approved by an ordinance adopted under Subsection (8)(b)(i), the area annexed is conclusively presumed to be validly annexed.

(c) (i) Notwithstanding Subsection (8)(a), upon conclusion of the public hearing described in Subsection (5)(b), a municipality may adopt an ordinance approving the annexation of an area that the county legislative body proposes for annexation under this section without allowing or considering protests under Subsection (8)(a) if the county legislative body has formally recommended annexation to the annexing municipality and has made a formal finding that:

(A) the area to be annexed can be more efficiently served by the municipality than by the county;

(B) the area to be annexed is not likely to be naturally annexed by the municipality in the future as the result of urban development;

(C) annexation of the area is likely to facilitate the consolidation of overlapping functions of local government; and

(D) annexation of the area is likely to result in an equitable distribution of community resources and obligations.

(ii) The county legislative body may base the finding required in Subsection (8)(c)(i)(B) on:

(A) existing development in the area;

(B) natural or other conditions that may limit the future development of the area; or

(C) other factors that the county legislative body considers relevant.

(iii) A county legislative body may make the recommendation for annexation required in Subsection (8)(c)(i) for only a portion of an unincorporated island if, as a result of information provided at the public hearing, the county legislative body makes a formal finding that it would be equitable to leave a portion of the island unincorporated.

(iv) If a county legislative body has made a recommendation of annexation under Subsection (8)(c)(i):

(A) the relevant municipality is not required to proceed with the recommended annexation; and

(B) if the relevant municipality proceeds with annexation, the municipality shall annex the entire area that the county legislative body recommended for annexation.

(v) Upon the effective date under Section 10-2-425 of an annexation approved by an ordinance adopted under Subsection (8)(c)(i), the area annexed is conclusively presumed to be validly annexed.

(9) (a) Except as provided in Subsections (8)(b)(i) and (8)(c)(i), if protests are timely filed under Subsection (8)(a), the municipal legislative body may not adopt an ordinance approving the annexation of the area proposed for annexation, and the annexation proceedings under this section shall be considered terminated.

(b) Subsection (9)(a) does not prohibit the municipal legislative body from excluding from a proposed annexation under Subsection (2)(b) the property within an unincorporated island regarding which protests have been filed and proceeding under Subsection (3) to annex some or all of the remaining portion of the unincorporated island.

Section 9. Section 10-2-419 is amended to read:

10-2-419. Boundary adjustment -- Notice and hearing -- Protest.

(1) The legislative bodies of two or more municipalities having common boundaries may adjust their common boundaries as provided in this section.

(2) The legislative body of each municipality intending to adjust a boundary that is common with another municipality shall:

(a) adopt a resolution indicating the intent of the municipal legislative body to adjust a common boundary; and

(b) hold a public hearing on the proposed adjustment no less than 60 days after the adoption of the resolution under Subsection (2)(a).

(3) A legislative body described in Subsection (2) shall publish notice of a public hearing described in Subsection (2)(b):

(a) (i) at least once a week for three successive weeks before the public hearing in a newspaper of general circulation within the municipality;

(ii) if there is no newspaper of general circulation within the municipality, at least three weeks before the day of the public hearing, by posting one notice, and at least one additional notice per 2,000 population of the municipality, in places within the municipality that are most likely to give notice to residents of the municipality; or

(iii) at least three weeks before the day of the public hearing, by mailing notice to each residence in the municipality;

(b) on the Utah Public Notice Website created in Section [~~63F-1-701~~] 63A-16-601, for three weeks before the day of the public hearing;

(c) in accordance with Section 45-1-101, for three weeks before the day of the public hearing;

(d) if the proposed boundary adjustment may cause any part of real property owned by the state to be within the geographic boundary of a different local governmental entity than before the adjustment, by providing written notice, at least 50 days before the day of the public hearing, to:

(i) the title holder of any state-owned real property described in this Subsection (3)(d); and

(ii) the Utah State Developmental Center Board, created under Section 62A-5-202, if any state-owned real property described in this Subsection (3)(d) is associated with the Utah State Developmental Center; and

(e) if the municipality has a website, on the municipality's website for three weeks before the day of the public hearing.

(4) The notice described in Subsection (3) shall:

(a) state that the municipal legislative body has adopted a resolution indicating the municipal legislative body's intent to adjust a boundary that the municipality has in common with another municipality;

(b) describe the area proposed to be adjusted;

(c) state the date, time, and place of the public hearing described in Subsection (2)(b);

(d) state in conspicuous and plain terms that the municipal legislative body will adjust the boundaries unless, at or before the public hearing

described in Subsection (2)(b), a written protest to the adjustment is filed by:

(i) an owner of private real property that:

(A) is located within the area proposed for adjustment;

(B) covers at least 25% of the total private land area within the area proposed for adjustment; and

(C) is equal in value to at least 15% of the value of all private real property within the area proposed for adjustment; or

(ii) a title holder of state-owned real property described in Subsection (3)(d);

(e) state that the area that is the subject of the boundary adjustment will, because of the boundary adjustment, be automatically annexed to a local district providing fire protection, paramedic, and emergency services or a local district providing law enforcement service, as the case may be, as provided in Section 17B-1-416, if:

(i) the municipality to which the area is being added because of the boundary adjustment is entirely within the boundaries of a local district:

(A) that provides fire protection, paramedic, and emergency services or law enforcement service, respectively; and

(B) in the creation of which an election was not required because of Subsection 17B-1-214(3)(c); and

(ii) the municipality from which the area is being taken because of the boundary adjustment is not within the boundaries of the local district; and

(f) state that the area proposed for annexation to the municipality will be automatically withdrawn from a local district providing fire protection, paramedic, and emergency services, as provided in Subsection 17B-1-502(2), if:

(i) the municipality to which the area is being added because of the boundary adjustment is not within the boundaries of a local district:

(A) that provides fire protection, paramedic, and emergency services; and

(B) in the creation of which an election was not required because of Subsection 17B-1-214(3)(c); and

(ii) the municipality from which the area is being taken because of the boundary adjustment is entirely within the boundaries of the local district.

(5) The first publication of the notice described in Subsection (3)(a)(i) shall be within 14 days after the day on which the municipal legislative body adopts a resolution under Subsection (2)(a).

(6) Upon conclusion of the public hearing described in Subsection (2)(b), the municipal legislative body may adopt an ordinance approving the adjustment of the common boundary unless, at or before the hearing described in Subsection (2)(b), a written protest to the adjustment is filed with the city recorder or town clerk by a person described in Subsection (3)(d)(i) or (ii).

(7) The municipal legislative body shall comply with the requirements of Section 10-2-425 as if the boundary adjustment were an annexation.

(8) (a) An ordinance adopted under Subsection (6) becomes effective when each municipality involved in the boundary adjustment has adopted an ordinance under Subsection (6).

(b) The effective date of a boundary adjustment under this section is governed by Section 10-2-425.

Section 10. Section 10-2-501 is amended to read:

10-2-501. Municipal disconnection -- Definitions -- Request for disconnection -- Requirements upon filing request.

(1) As used in this part "petitioner" means:

(a) one or more persons who:

(i) own title to real property within the area proposed for disconnection; and

(ii) sign a request for disconnection proposing to disconnect the area proposed for disconnection from the municipality; or

(b) the mayor of the municipality within which the area proposed for disconnection is located who signs a request for disconnection proposing to disconnect the area proposed for disconnection from the municipality.

(2) (a) A petitioner proposing to disconnect an area within and lying on the borders of a municipality shall file with that municipality's legislative body a request for disconnection.

(b) Each request for disconnection shall:

(i) contain the names, addresses, and signatures of the owners of more than 50% of any private real property in the area proposed for disconnection;

(ii) give the reasons for the proposed disconnection;

(iii) include a map or plat of the territory proposed for disconnection; and

(iv) designate between one and five persons with authority to act on the petitioner's behalf in the proceedings.

(3) Upon filing the request for disconnection, the petitioner shall publish notice of the request:

(a) (i) once a week for three consecutive weeks before the public hearing described in Section 10-2-502.5 in a newspaper of general circulation within the municipality;

(ii) if there is no newspaper of general circulation in the municipality, at least three weeks before the day of the public hearing described in Section 10-2-502.5, by posting one notice, and at least one additional notice per 2,000 population of the municipality, in places within the municipality that are most likely to give notice to the residents within, and the owners of real property located within, the

municipality, including the residents who live in the area proposed for disconnection; or

(iii) at least three weeks before the day of the public hearing described in Section 10-2-502.5, by mailing notice to each residence within, and each owner of real property located within, the municipality;

(b) on the Utah Public Notice Website created in Section [~~63F-1-701~~] 63A-16-601, for three weeks before the day of the public hearing described in Section 10-2-502.5;

(c) in accordance with Section 45-1-101, for three weeks before the day of the public hearing described in Section 10-2-502.5;

(d) by mailing notice to each owner of real property located within the area proposed to be disconnected;

(e) by delivering a copy of the request to the legislative body of the county in which the area proposed for disconnection is located; and

(f) if the municipality has a website, on the municipality's website for three weeks before the day of the public hearing.

Section 11. Section 10-2-502.5 is amended to read:

10-2-502.5. Hearing on request for disconnection -- Determination by municipal legislative body -- Petition in district court.

(1) No sooner than seven calendar days after, and no later than 30 calendar days after, the last day on which the petitioner publishes the notice required under Subsection 10-2-501(3)(a), the legislative body of the municipality in which the area proposed for disconnection is located shall hold a public hearing.

(2) The municipal legislative body shall provide notice of the public hearing:

(a) at least seven days before the hearing date, in writing to the petitioner and to the legislative body of the county in which the area proposed for disconnection is located;

(b) (i) at least seven days before the hearing date, by publishing notice in a newspaper of general circulation within the municipality;

(ii) if there is no newspaper of general circulation within the municipality, at least seven days before the hearing date, by posting one notice, and at least one additional notice per 2,000 population of the municipality, in places within the municipality that are most likely to give notice to residents within, and the owners of real property located within, the municipality; or

(iii) at least 10 days before the hearing date, by mailing notice to each residence within, and each owner of real property located within, the municipality;

(c) on the Utah Public Notice Website created in Section [~~63F-1-701~~] 63A-16-601, for seven days before the hearing date;

(d) in accordance with Section 45-1-101, for seven days before the hearing date; and

(e) if the municipality has a website, on the municipality's website for seven days before the hearing date.

(3) In the public hearing, any person may speak and submit documents regarding the disconnection proposal.

(4) Within 45 calendar days of the hearing, the municipal legislative body shall:

(a) determine whether to grant the request for disconnection; and

(b) if the municipality determines to grant the request, adopt an ordinance approving disconnection of the area from the municipality.

(5) (a) A petition against the municipality challenging the municipal legislative body's determination under Subsection (4) may be filed in district court by:

(i) the petitioner; or

(ii) the county in which the area proposed for disconnection is located.

(b) Each petition under Subsection (5)(a) shall include a copy of the request for disconnection.

Section 12. Section 10-2-607 is amended to read:

10-2-607. Notice of election.

If the county legislative bodies find that the resolution or petition for consolidation and their attachments substantially conform with the requirements of this part, the county legislative bodies shall publish notice of the election for consolidation to the voters of each municipality that would become part of the consolidated municipality:

(1) (a) in a newspaper of general circulation within the boundaries of the municipality at least once a week for four consecutive weeks before the election;

(b) if there is no newspaper of general circulation in the municipality, at least four weeks before the day of the election, by posting one notice, and at least one additional notice per 2,000 population of the municipality, in places within the municipality that are most likely to give notice to the voters in the municipality; or

(c) at least four weeks before the day of the election, by mailing notice to each registered voter in the municipality;

(2) on the Utah Public Notice Website created in Section [~~63F-1-701~~] 63A-16-601, for at least four weeks before the day of the election;

(3) in accordance with Section 45-1-101, for at least four weeks before the day of the election; and

(4) if the municipality has a website, on the municipality's website for at least four weeks before the day of the election.

Section 13. Section 10-2-708 is amended to read:

10-2-708. Notice of disincorporation -- Publication and filing.

When a municipality has been dissolved, the clerk of the court shall publish notice of the dissolution:

(1) (a) in a newspaper of general circulation in the county in which the municipality is located at least once a week for four consecutive weeks;

(b) if there is no newspaper of general circulation in the county in which the municipality is located, by posting one notice, and at least one additional notice per 2,000 population of the county in places within the county that are most likely to give notice to the residents within, and the owners of real property located within, the county, including the residents and owners within the municipality that is dissolved; or

(c) by mailing notice to each residence within, and each owner of real property located within, the county;

(2) on the Utah Public Notice Website created in Section [~~63F-1-701~~] 63A-16-601, for four weeks;

(3) in accordance with Section 45-1-101, for four weeks;

(4) if the municipality has a website, on the municipality's website for four weeks; and

(5) on the county's website for four weeks.

Section 14. Section 10-2a-207 is amended to read:

10-2a-207. Public hearings on feasibility study results -- Notice of hearings.

(1) If the results of the feasibility study or supplemental feasibility study comply with Subsection 10-2a-205(6)(a), the lieutenant governor shall, after receipt of the results of the feasibility study or supplemental feasibility study, conduct at least two public hearings:

(a) within 60 days after the day on which the lieutenant governor receives the results;

(b) at least seven days apart;

(c) except in a proposed municipality that will be a city of the fifth class or a town, in geographically diverse locations;

(d) within or near the proposed municipality;

(e) to allow the feasibility consultant to present the results of the feasibility study; and

(f) to inform the public about the results of the feasibility study.

(2) At each public hearing described in Subsection (1), the lieutenant governor shall:

(a) provide a map or plat of the boundary of the proposed municipality;

(b) provide a copy of the feasibility study for public review;

(c) allow members of the public to express views about the proposed incorporation, including views about the proposed boundaries; and

(d) allow the public to ask the feasibility consultant questions about the feasibility study.

(3) The lieutenant governor shall publish notice of the public hearings described in Subsection (1):

(a) (i) at least once a week for three consecutive weeks before the first public hearing in a newspaper of general circulation within the proposed municipality;

(ii) if there is no newspaper of general circulation in the proposed municipality, at least three weeks before the day of the first public hearing, by posting one notice, and at least one additional notice per 2,000 population of the proposed municipality, in places within the proposed municipality that are most likely to give notice to the residents within, and the owners of real property located within, the proposed municipality; or

(iii) at least three weeks before the first public hearing, by mailing notice to each residence within, and each owner of real property located within, the proposed municipality;

(b) on the Utah Public Notice Website created in Section [~~63F-1-701~~] 63A-16-601, for three weeks before the day of the first public hearing;

(c) in accordance with Section 45-1-101, for three weeks before the day of the first public hearing; and

(d) on the lieutenant governor's website for three weeks before the day of the first public hearing.

(4) The last notice required to be published under Subsection (3)(a)(i) shall be at least three days before the first public hearing required under Subsection (1).

(5) (a) Except as provided in Subsection (5)(b), the notice described in Subsection (3) shall include the feasibility study summary described in Subsection 10-2a-205(3)(c) and shall indicate that a full copy of the study is available on the lieutenant governor's website and for inspection at the Office of the Lieutenant Governor.

(b) Instead of publishing the [~~feasability~~] feasibility summary under Subsection (5)(a), the lieutenant governor may publish a statement that specifies the following sources where a resident within, or the owner of real property located within, the proposed municipality, may view or obtain a copy of the [~~feasability~~] feasibility study:

(i) the lieutenant governor's website;

(ii) the physical address of the Office of the Lieutenant Governor; and

(iii) a mailing address and telephone number.

Section 15. Section 10-2a-210 is amended to read:

10-2a-210. Incorporation election.

(1) (a) If the lieutenant governor certifies a petition under Subsection 10-2a-209(1)(b), the lieutenant governor shall schedule an incorporation election for the proposed municipality described in the petition to be held on the date of the next regular general election described in Section 20A-1-201, or the next municipal general election described in Section 20A-1-202, that is at least 65 days after the day on which the lieutenant governor certifies the petition.

(b) (i) The lieutenant governor shall direct the county legislative body of the county in which the proposed municipality is located to hold the election on the date that the lieutenant governor schedules under Subsection (1)(a).

(ii) The county shall hold the election as directed by the lieutenant governor under Subsection (1)(b)(i).

(2) The county clerk shall publish notice of the election:

(a) (i) in a newspaper of general circulation within the area proposed to be incorporated at least once a week for three successive weeks before the election;

(ii) if there is no newspaper of general circulation in the area proposed to be incorporated, at least three weeks before the day of the election, by posting one notice, and at least one additional notice per 2,000 population of the area proposed to be incorporated, in places within the area proposed to be incorporated that are most likely to give notice to the voters within the area proposed to be incorporated; or

(iii) at least three weeks before the day of the election, by mailing notice to each registered voter in the area proposed to be incorporated;

(b) on the Utah Public Notice Website created in Section [~~63F-1-701~~] 63A-16-601, for three weeks before the day of the election;

(c) in accordance with Section 45-1-101, for three weeks before the day of the election;

(d) if the proposed municipality has a website, on the proposed municipality's website for three weeks before the day of the election; and

(e) on the county's website for three weeks before the day of the election.

(3) (a) The notice required by Subsection (2) shall contain:

(i) a statement of the contents of the petition;

(ii) a description of the area proposed to be incorporated as a municipality;

(iii) a statement of the date and time of the election and the location of polling places; and

(iv) except as provided in Subsection (3)(c), the feasibility study summary described in Subsection 10-2a-205(3)(c) and a statement that a full copy of the study is available on the lieutenant governor's website and for inspection at the Office of the Lieutenant Governor.

(b) The last notice required to be published under Subsection (2)(a)(i) shall be published at least one day, but no more than seven days, before the day of the election.

(c) Instead of publishing the feasibility summary under Subsection (3)(a)(iv), the notice may include a statement that specifies the following sources where a registered voter in area proposed to be incorporated may view or obtain a copy the feasibility study:

(i) the lieutenant governor's website;

(ii) the physical address of the Office of the Lieutenant Governor; and

(iii) a mailing address and telephone number.

(4) An individual may not vote in an incorporation election under this section unless the individual is a registered voter who resides, as defined in Section 20A-1-102, within the boundaries of the proposed municipality.

(5) If a majority of those who vote in an incorporation election held under this section cast votes in favor of incorporation, the area shall incorporate.

Section 16. Section 10-2a-213 is amended to read:

10-2a-213. Determination of number of council members -- Determination of election districts -- Hearings and notice.

(1) If the incorporation proposal passes, the petition sponsors shall, within 60 days after the day on which the county conducts the canvass of the election under Section 10-2a-212:

(a) for the incorporation of a city:

(i) if the voters at the incorporation election choose the council-mayor form of government, determine the number of council members that will constitute the city council of the city; and

(ii) if the voters at the incorporation election vote to elect council members by district, determine the number of council members to be elected by district and draw the boundaries of those districts, which shall be substantially equal in population; and

(b) for the incorporation of any municipality:

(i) determine the initial terms of the mayor and members of the municipal council so that:

(A) the mayor and approximately half the members of the municipal council are elected to serve an initial term, of no less than one year, that allows the mayor's and members' successors to serve a full four-year term that coincides with the schedule established in Subsection 10-3-205(1); and

(B) the remaining members of the municipal council are elected to serve an initial term, of no less than one year, that allows the members' successors to serve a full four-year term that coincides with the schedule established in Subsection 10-3-205(2); and

(ii) submit in writing to the county legislative body the results of the determinations made by the sponsors under Subsections (1)(a) and (b)(i).

(2) A newly incorporated town shall operate under the five-member council form of government as defined in Section 10-3b-102.

(3) Before making a determination under Subsection (1)(a) or (b)(i), the petition sponsors shall hold a public hearing within the future municipality on the applicable issues described in Subsections (1)(a) and (b)(i).

(4) The petition sponsors shall publish notice of the public hearing described in Subsection (3):

(a) (i) in a newspaper of general circulation within the future municipality at least once a week for two successive weeks before the public hearing;

(ii) if there is no newspaper of general circulation in the future municipality, at least two weeks before the day of the public hearing, by posting one notice, and at least one additional notice per 2,000 population of the future municipality, in places within the future municipality that are most likely to give notice to the residents within, and the owners of real property located within, the future municipality; or

(iii) at least two weeks before the day of the public hearing, by mailing notice to each residence within, and each owner of real property located within, the future municipality;

(b) on the Utah Public Notice Website created in Section [~~63F-1-701~~] 63A-16-601, for two weeks before the day of the public hearing;

(c) in accordance with Section 45-1-101, for at least two weeks before the day of the public hearing;

(d) if the future municipality has a website, for two weeks before the day of the public hearing; and

(e) on the county's website for two weeks before the day of the public hearing.

(5) The last notice required to be published under Subsection (4)(a)(i) shall be published at least three days before the day of the public hearing described in Subsection (3).

Section 17. Section 10-2a-214 is amended to read:

10-2a-214. Notice of number of commission or council members to be elected and of district boundaries -- Declaration of candidacy for municipal office.

(1) Within 20 days after the day on which a county legislative body receives the petition sponsors' determination under Subsection 10-2a-213(1)(b)(ii), the county clerk shall publish, in accordance with Subsection (2), notice containing:

(a) the number of municipal council members to be elected for the new municipality;

(b) except as provided in Subsection (3), if some or all of the municipal council members are to be elected by district, a description of the boundaries of those districts;

(c) information about the deadline for an individual to file a declaration of candidacy to become a candidate for mayor or municipal council; and

(d) information about the length of the initial term of each of the municipal officers.

(2) The county clerk shall publish the notice described in Subsection (1):

(a) (i) in a newspaper of general circulation within the future municipality at least once a week for two consecutive weeks;

(ii) if there is no newspaper of general circulation in the future municipality, by posting one notice, and at least one additional notice per 2,000 population of the future municipality, in places within the future municipality that are most likely to give notice to the residents in the future municipality; or

(iii) by mailing notice to each residence in the future municipality;

(b) on the Utah Public Notice Website created in Section [~~63F-1-701~~] 63A-16-601, for two weeks;

(c) in accordance with Section 45-1-101, for two weeks;

(d) if the future municipality has a website, on the future municipality's website for two weeks; and

(e) on the county's website for two weeks.

(3) Instead of publishing the district boundaries described in Subsection (1)(b), the notice may include a statement that specifies the following sources where a resident of the future municipality may view or obtain a copy the district:

(a) the county website;

(b) the physical address of the county offices; and

(c) a mailing address and telephone number.

(4) Notwithstanding Subsection 20A-9-203(3)(a), each individual seeking to become a candidate for mayor or municipal council of a municipality incorporating under this part shall file a declaration of candidacy with the clerk of the county in which the future municipality is located and in accordance with:

(a) for an incorporation held on the date of a regular general election, the deadlines for filing a declaration of candidacy under Section 20A-9-202; or

(b) for an incorporation held on the date of a municipal general election, the deadlines for filing a declaration of candidacy under Section 20A-9-203.

Section 18. Section 10-2a-215 is amended to read:

10-2a-215. Election of officers of new municipality -- Primary and final election dates -- County clerk duties -- Candidate duties -- Occupation of office.

(1) For the election of municipal officers, the county legislative body shall:

(a) unless a primary election is prohibited under Subsection 20A-9-404(2), hold a primary election; and

(b) unless the election may be cancelled in accordance with Section 20A-1-206, hold a final election.

(2) Each election described in Subsection (1) shall be held:

(a) consistent with the petition sponsors' determination of the length of each council member's initial term; and

(b) for the incorporation of a city:

(i) appropriate to the form of government chosen by the voters at the incorporation election;

(ii) consistent with the voters' decision about whether to elect city council members by district and, if applicable, consistent with the boundaries of those districts as determined by the petition sponsors; and

(iii) consistent with the sponsors' determination of the number of city council members to be elected.

(3) (a) Subject to Subsection (3)(b), and notwithstanding Subsection 20A-1-201.5(2), the primary election described in Subsection (1)(a) shall be held at the earliest of the next:

(i) regular primary election described in Subsection 20A-1-201.5(1); or

(ii) municipal primary election described in Section 20A-9-404.

(b) The county shall hold the primary election, if necessary, on the next election date described in Subsection (3)(a) that is after the incorporation election conducted under Section 10-2a-210.

(4) (a) Subject to Subsection (4)(b), the county shall hold the final election described in Subsection (1)(b):

(i) on the following election date that next follows the date of the incorporation election held under Subsection 10-2a-210(1)(a);

(ii) a regular general election described in Section 20A-1-201; or

(iii) a regular municipal general election under Section 20A-1-202.

(b) The county shall hold the final election on the earliest of the next election date that is listed in Subsection (4)(a)(i), (ii), or (iii):

(i) that is after a primary election; or

(ii) if there is no primary election, that is at least:

(A) 75 days after the incorporation election under Section 10-2a-210; and

(B) 65 days after the candidate filing period.

(5) The county clerk shall publish notice of an election under this section:

(a) (i) in accordance with Subsection (6), at least once a week for two consecutive weeks before the election in a newspaper of general circulation within the future municipality;

(ii) if there is no newspaper of general circulation in the future municipality, at least two weeks before the day of the election, by posting one notice, and at least one additional notice per 2,000 population of the future municipality, in places within the future municipality that are most likely to give notice to the voters within the future municipality; or

(iii) at least two weeks before the day of the election, by mailing notice to each registered voter within the future municipality;

(b) on the Utah Public Notice Website created in Section [~~63F-1-701~~] 63A-16-601, for two weeks before the day of the election;

(c) in accordance with Section 45-1-101, for two weeks before the day of the election;

(d) if the future municipality has a website, on the future municipality's website for two weeks before the day of the election; and

(e) on the county's website for two weeks before the day of the election.

(6) The last notice required to be published under Subsection (5)(a)(i) shall be published at least one day but no more than seven days before the day of the election.

(7) Until the municipality is incorporated, the county clerk:

(a) is the election officer for all purposes related to the election of municipal officers;

(b) may, as necessary, determine appropriate deadlines, procedures, and instructions related to the election of municipal officers for a new municipality that are not otherwise contrary to law;

(c) shall require and determine deadlines for municipal office candidates to file campaign financial disclosures in accordance with Section 10-3-208; and

(d) shall ensure that the ballot for the election includes each office that is required to be included in the election for officers of the newly incorporated municipality, including the term of each office.

(8) An individual who has filed as a candidate for an office described in this section shall comply with:

(a) the campaign finance disclosure requirements described in Section 10-3-208; and

(b) the requirements and deadlines established by the county clerk under this section.

(9) Notwithstanding Section 10-3-201, the officers elected at a final election described in Subsection (4)(a) shall take office:

(a) after taking the oath of office; and

(b) at noon on the first Monday following the day on which the election official transmits a certificate of nomination or election under the officer's seal to

each elected candidate in accordance with Subsection 20A-4-304(4)(b).

Section 19. Section 10-2a-405 is amended to read:

10-2a-405. Duties of county legislative body -- Public hearing -- Notice -- Other election and incorporation issues -- Rural real property excluded.

(1) The legislative body of a county of the first class shall before an election described in Section 10-2a-404:

(a) in accordance with Subsection (3), publish notice of the public hearing described in Subsection (1)(b);

(b) hold a public hearing; and

(c) at the public hearing, adopt a resolution:

(i) identifying, including a map prepared by the county surveyor, all unincorporated islands within the county;

(ii) identifying each eligible city that will annex each unincorporated island, including whether the unincorporated island may be annexed by one eligible city or divided and annexed by multiple eligible cities, if approved by the residents at an election under Section 10-2a-404; and

(iii) identifying, including a map prepared by the county surveyor, the planning townships within the county and any changes to the boundaries of a planning township that the county legislative body proposes under Subsection (5).

(2) The county legislative body shall exclude from a resolution adopted under Subsection (1)(c) rural real property unless the owner of the rural real property provides written consent to include the property in accordance with Subsection (7).

(3) (a) The county clerk shall publish notice of the public hearing described in Subsection (1)(b):

(i) by mailing notice to each owner of real property located in an unincorporated island or planning township no later than 15 days before the day of the public hearing;

(ii) at least once a week for three successive weeks in a newspaper of general circulation within each unincorporated island, each eligible city, and each planning township; and

(iii) on the Utah Public Notice Website created in Section [~~63F-1-701~~] 63A-16-601, for three weeks before the day of the public hearing.

(b) The last publication of notice required under Subsection (3)(a)(ii) shall be at least three days before the first public hearing required under Subsection (1)(b).

(c) (i) If, under Subsection (3)(a)(ii), there is no newspaper of general circulation within an unincorporated island, an eligible city, or a planning township, the county clerk shall post at least one notice of the hearing per 1,000 population in conspicuous places within the selected unincorporated island, eligible city, or planning township, as applicable, that are most likely to give notice of the hearing to the residents of the unincorporated island, eligible city, or planning township.

(ii) The clerk shall post the notices under Subsection (3)(c)(i) at least seven days before the hearing under Subsection (1)(b).

(d) The notice under Subsection (3)(a) or (c) shall include:

(i) (A) for a resident of an unincorporated island, a statement that the property in the unincorporated island may be, if approved at an election under Section 10-2a-404, annexed by an eligible city, including divided and annexed by multiple cities if applicable, and the name of the eligible city or cities; or

(B) for residents of a planning township, a statement that the property in the planning township shall be, pending the results of the election held under Section 10-2a-404, incorporated as a city, town, or metro township;

(ii) the location and time of the public hearing; and

(iii) the county website where a map may be accessed showing:

(A) how the unincorporated island boundaries will change if annexed by an eligible city; or

(B) how the planning township area boundaries will change, if applicable under Subsection (5), when the planning township incorporates as a metro township or as a city or town.

(e) The county clerk shall publish a map described in Subsection (3)(d)(iii) on the county website.

(4) The county legislative body may, by ordinance or resolution adopted at a public meeting and in accordance with applicable law, resolve an issue that arises with an election held in accordance with this part or the incorporation and establishment of a metro township in accordance with this part.

(5) (a) The county legislative body may, by ordinance or resolution adopted at a public meeting, change the boundaries of a planning township.

(b) A change to a planning township boundary under this Subsection (5) is effective only upon the vote of the residents of the planning township at an election under Section 10-2a-404 to incorporate as a metro township or as a city or town and does not affect the boundaries of the planning township before the election.

(c) The county legislative body:

(i) may alter a planning township boundary under Subsection (5)(a) only if the alteration:

(A) affects less than 5% of the residents residing within the planning advisory area; and

(B) does not increase the area located within the planning township's boundaries; and

(ii) may not alter the boundaries of a planning township whose boundaries are entirely surrounded by one or more municipalities.

(6) After November 2, 2015, and before January 1, 2017, a person may not initiate an annexation or an incorporation process that, if approved, would change the boundaries of a planning township.

(7) (a) As used in this Subsection (7), "rural real property" means an area:

(i) zoned primarily for manufacturing, commercial, or agricultural purposes; and

(ii) that does not include residential units with a density greater than one unit per acre.

(b) Unless an owner of rural real property gives written consent to a county legislative body, rural real property described in Subsection (7)(c) may not be:

(i) included in a planning township identified under Subsection (1)(c); or

(ii) incorporated as part of a metro township, city, or town, in accordance with this part.

(c) The following rural real property is subject to an owner's written consent under Subsection (7)(b):

(i) rural real property that consists of 1,500 or more contiguous acres of real property consisting of one or more tax parcels;

(ii) rural real property that is not contiguous to, but used in connection with, rural real property that consists of 1,500 or more contiguous acres of real property consisting of one or more tax parcels;

(iii) rural real property that is owned, managed, or controlled by a person, company, or association, including a parent, subsidiary, or affiliate related to the owner of 1,500 or more contiguous acres of rural real property consisting of one or more tax parcels; or

(iv) rural real property that is located in whole or in part in one of the following as defined in Section 17-41-101:

(A) an agricultural protection area;

(B) an industrial protection area; or

(C) a mining protection area.

Section 20. Section 10-3-301 is amended to read:

10-3-301. Notice -- Eligibility and residency requirements for elected municipal office -- Mayor and recorder limitations.

(1) As used in this section:

(a) "Absent" means that an elected municipal officer fails to perform official duties, including the officer's failure to attend each regularly scheduled meeting that the officer is required to attend.

(b) "Principal place of residence" means the same as that term is defined in Section 20A-2-105.

(c) "Secondary residence" means a place where an individual resides other than the individual's principal place of residence.

(2) (a) On or before May 1 in a year in which there is a municipal general election, the municipal clerk shall publish a notice that identifies:

(i) the municipal offices to be voted on in the municipal general election; and

(ii) the dates for filing a declaration of candidacy for the offices identified under Subsection (2)(a)(i).

(b) The municipal clerk shall publish the notice described in Subsection (2)(a):

(i) on the Utah Public Notice Website established by Section [~~63F-1-701~~] 63A-16-601; and

(ii) in at least one of the following ways:

(A) at the principal office of the municipality;

(B) in a newspaper of general circulation within the municipality at least once a week for two successive weeks in accordance with Section 45-1-101;

(C) in a newsletter produced by the municipality;

(D) on a website operated by the municipality; or

(E) with a utility enterprise fund customer's bill.

(3) (a) An individual who files a declaration of candidacy for a municipal office shall comply with the requirements described in Section 20A-9-203.

(b) (i) Except as provided in Subsection (3)(b)(ii), the city recorder or town clerk of each municipality shall maintain office hours 8 a.m. to 5 p.m. on the dates described in Subsections 20A-9-203(3)(a)(i) and (c)(i) unless the date occurs on a:

(A) Saturday or Sunday; or

(B) state holiday as listed in Section 63G-1-301.

(ii) If on a regular basis a city recorder or town clerk maintains an office schedule that is less than 40 hours per week, the city recorder or town clerk may comply with Subsection (3)(b)(i) without maintaining office hours by:

(A) posting the recorder's or clerk's contact information, including a phone number and email address, on the recorder's or clerk's office door, the main door to the municipal offices, and, if available, on the municipal website; and

(B) being available from 8 a.m. to 5 p.m. on the dates described in Subsection (3)(b)(i), via the contact information described in Subsection (3)(b)(ii)(A).

(4) An individual elected to municipal office shall be a registered voter in the municipality in which the individual is elected.

(5) (a) Each elected officer of a municipality shall maintain a principal place of residence within the municipality, and within the district that the elected officer represents, during the officer's term of office.

(b) Except as provided in Subsection (6), an elected municipal office is automatically vacant if

the officer elected to the municipal office, during the officer's term of office:

(i) establishes a principal place of residence outside the district that the elected officer represents;

(ii) resides at a secondary residence outside the district that the elected officer represents for a continuous period of more than 60 days while still maintaining a principal place of residence within the district;

(iii) is absent from the district that the elected officer represents for a continuous period of more than 60 days; or

(iv) fails to respond to a request, within 30 days after the day on which the elected officer receives the request, from the county clerk or the lieutenant governor seeking information to determine the officer's residency.

(6) (a) Notwithstanding Subsection (5), if an elected municipal officer obtains the consent of the municipal legislative body in accordance with Subsection (6)(b) before the expiration of the 60-day period described in Subsection (5)(b)(ii) or (iii), the officer may:

(i) reside at a secondary residence outside the district that the elected officer represents while still maintaining a principal place of residence within the district for a continuous period of up to one year during the officer's term of office; or

(ii) be absent from the district that the elected officer represents for a continuous period of up to one year during the officer's term of office.

(b) At a public meeting, the municipal legislative body may give the consent described in Subsection (6)(a) by majority vote after taking public comment regarding:

(i) whether the legislative body should give the consent; and

(ii) the length of time to which the legislative body should consent.

(7) (a) The mayor of a municipality may not also serve as the municipal recorder or treasurer.

(b) The recorder of a municipality may not also serve as the municipal treasurer.

(c) An individual who holds a county elected office may not, at the same time, hold a municipal elected office.

(d) The restriction described in Subsection (7)(c) applies regardless of whether the individual is elected to the office or appointed to fill a vacancy in the office.

Section 21. Section 10-3-818 is amended to read:

10-3-818. Salaries in municipalities.

(1) The elective and statutory officers of municipalities shall receive such compensation for their services as the governing body may fix by ordinance adopting compensation or compensation schedules enacted after public hearing.

(2) Upon its own motion the governing body may review or consider the compensation of any officer or officers of the municipality or a salary schedule applicable to any officer or officers of the city for the purpose of determining whether or not it should be adopted, changed, or amended. In the event that the governing body decides that the compensation or compensation schedules should be adopted, changed, or amended, it shall set a time and place for a public hearing at which all interested persons shall be given an opportunity to be heard.

(3) (a) Notice of the time, place, and purpose of the meeting shall be published at least seven days before the meeting by publication:

(i) at least once in a newspaper published in the county within which the municipality is situated and generally circulated in the municipality; and

(ii) on the Utah Public Notice Website created in Section [~~63F-1-701~~] 63A-16-601.

(b) If there is not a newspaper as described in Subsection (3)(a)(i), then notice shall be given by posting this notice in three public places in the municipality.

(4) After the conclusion of the public hearing, the governing body may enact an ordinance fixing, changing, or amending the compensation of any elective or appointive officer of the municipality or adopting a compensation schedule applicable to any officer or officers.

(5) Any ordinance enacted before Laws of Utah 1977, Chapter 48, by a municipality establishing a salary or compensation schedule for its elective or appointive officers and any salary fixed prior to Laws of Utah 1977, Chapter 48, shall remain effective until the municipality has enacted an ordinance pursuant to the provisions of this chapter.

(6) The compensation of all municipal officers shall be paid at least monthly out of the municipal treasury provided that municipalities having 1,000 or fewer population may by ordinance provide for the payment of its statutory officers less frequently. None of the provisions of this chapter shall be considered as limiting or restricting the authority to any municipality that has adopted or does adopt a charter pursuant to Utah Constitution, Article XI, Section 5, to determine the salaries of its elective and appointive officers or employees.

Section 22. Section 10-5-107.5 is amended to read:

10-5-107.5. Transfer of enterprise fund money to another fund.

(1) As used in this section:

(a) "Budget hearing" means a public hearing required under Section 10-5-108.

(b) "Enterprise fund accounting data" means a detailed overview of the various enterprise funds of the town that includes:

(i) a cost accounting breakdown of how money in the enterprise fund is being used to cover, as applicable:

(A) administrative and overhead costs of the town attributable to the operation of the enterprise for which the enterprise fund was created; and

(B) other costs not associated with the enterprise for which the enterprise fund was created; and

(ii) specific enterprise fund information.

(c) "Enterprise fund hearing" means the public hearing required under Subsection (3)(d).

(d) "Specific enterprise fund information" means:

(i) the dollar amount of transfers from an enterprise fund to another fund; and

(ii) the percentage of the total enterprise fund expenditures represented by each transfer to another fund.

(2) Subject to the requirements of this section, a town may transfer money in an enterprise fund to another fund to pay for a good, service, project, venture, or other purpose that is not directly related to the goods or services provided by the enterprise for which the enterprise fund was created.

(3) The governing body of a town that intends to transfer money in an enterprise fund to another fund shall:

(a) provide notice of the intended transfer as required under Subsection (4);

(b) clearly identify in a separate section or document accompanying the town's tentative budget or, if an amendment to the town's budget includes or is based on an intended transfer, in a separate section or document accompanying the amendment to the town's budget:

(i) the enterprise fund from which money is intended to be transferred; and

(ii) the specific enterprise fund information for that enterprise fund;

(c) provide notice of an enterprise fund hearing, as required in Subsection (4); and

(d) hold an enterprise fund hearing before the adoption of the town's budget or, if applicable, the amendment to the budget.

(4) (a) At least seven days before holding an enterprise fund hearing, a governing body shall:

(i) provide the notice described in Subsection (4)(b) by:

(A) mailing a copy of the notice to users of the goods or services provided by the enterprise for which the enterprise fund was created, if the town regularly mails users a periodic billing for the goods or services;

(B) emailing a copy of the notice to users of the goods or services provided by the enterprise for which the enterprise fund was created, if the town regularly emails users a periodic billing for the goods or services;

(C) posting the notice on the Utah Public Notice Website created in Section [~~63F-1-701~~] 63A-16-601; and

(D) if the town has a website, prominently posting the notice on the town's website until the enterprise fund hearing is concluded; and

(ii) if the town communicates with the public through a social media platform, publish notice of the date, time, place, and purpose of the enterprise fund hearing using the social media platform.

(b) The notice required under Subsection (4)(a)(i) shall:

(i) explain the intended transfer of enterprise fund money to another fund;

(ii) include specific enterprise fund information for each enterprise fund from which money is intended to be transferred;

(iii) provide the date, time, and place of the enterprise fund hearing; and

(iv) explain the purpose of the enterprise fund hearing.

(5) (a) An enterprise fund hearing shall be separate and independent from a budget hearing and any other public hearing.

(b) At an enterprise fund hearing, the governing body shall:

(i) explain the intended transfer of enterprise fund money to another fund;

(ii) provide enterprise fund accounting data to the public; and

(iii) allow members of the public in attendance at the hearing to comment on:

(A) the intended transfer of enterprise fund money to another fund; and

(B) the enterprise fund accounting data.

(6) (a) If a governing body adopts a budget or a budget amendment that includes or is based on a transfer of money from an enterprise fund to another fund, the governing body shall:

(i) within 60 days after adopting the budget or budget amendment:

(A) mail a notice to users of the goods or services provided by the enterprise for which the enterprise fund was created, if the town regularly mails users a periodic billing for the goods or services; and

(B) email a notice to users of the goods or services provided by the enterprise for which the enterprise fund was created, if the town regularly emails users a periodic billing for the goods or services;

(ii) within seven days after adopting the budget or budget amendment:

(A) post enterprise fund accounting data on the town's website, if the town has a website;

(B) using the town's social media platform, publish notice of the adoption of a budget or budget amendment that includes or is based on a transfer of money from an enterprise fund to another fund, if the town communicates with the public through a social media platform; and

(iii) within 30 days after adopting the budget, submit to the state auditor the specific enterprise fund information for each enterprise fund from which money will be transferred.

(b) A notice required under Subsection (6)(a)(i) shall:

(i) announce the adoption of a budget or budget amendment that includes or is based on a transfer of money from an enterprise fund to another fund; and

(ii) include the specific enterprise fund information.

(c) The governing body shall maintain the website posting required under Subsection (6)(a)(ii)(A) continuously until another posting is required under Subsection (4)(a)(i)(C).

Section 23. Section 10-5-108 is amended to read:

10-5-108. Budget hearing -- Notice -- Adjustments.

(1) Prior to the adoption of the final budget or an amendment to a budget, a town council shall hold a public hearing to receive public comment.

(2) The town council shall provide notice of the place, purpose, and time of the public hearing by publishing notice at least seven days before the hearing:

(a) (i) at least once in a newspaper of general circulation in the town; or

(ii) if there is no newspaper of general circulation, then by posting the notice in three public places at least 48 hours before the hearing;

(b) on the Utah Public Notice Website created in Section [~~63F-1-701~~] 63A-16-601; and

(c) on the home page of the website, either in full or as a link, of the town or metro township, if the town or metro township has a publicly viewable website, until the hearing takes place.

(3) After the hearing, the town council, subject to Section 10-5-110, may adjust expenditures and revenues in conformity with this chapter.

Section 24. Section 10-6-113 is amended to read:

10-6-113. Budget -- Notice of hearing to consider adoption.

At the meeting at which each tentative budget is adopted, the governing body shall establish the time and place of a public hearing to consider its adoption and shall order that notice of the public hearing be published at least seven days prior to the hearing:

(1) (a) in at least one issue of a newspaper of general circulation published in the county in which the city is located; or

(b) if there is not a newspaper as described in Subsection (1)(a), in three public places within the city;

(2) on the Utah Public Notice Website created in Section [~~63F-1-701~~] 63A-16-601; and

(3) on the home page of the website, either in full or as a link, of the city or metro township, if the city or metro township has a publicly viewable website, until the hearing takes place.

Section 25. Section 10-6-135.5 is amended to read:

10-6-135.5. Transfer of enterprise fund money to another fund.

(1) As used in this section:

(a) "Budget hearing" means a public hearing required under Section 10-6-114.

(b) "Enterprise fund accounting data" means a detailed overview of the various enterprise funds of the city that includes:

(i) a cost accounting breakdown of how money in the enterprise fund is being used to cover, as applicable:

(A) administrative and overhead costs of the city attributable to the operation of the enterprise for which the enterprise fund was created; and

(B) other costs not associated with the enterprise for which the enterprise fund was created; and

(ii) specific enterprise fund information.

(c) "Enterprise fund hearing" means the public hearing required under Subsection (3)(d).

(d) "Specific enterprise fund information" means:

(i) the dollar amount of transfers from an enterprise fund to another fund; and

(ii) the percentage of the total enterprise fund expenditures represented by each transfer to another fund.

(2) Subject to the requirements of this section, a city may transfer money in an enterprise fund to another fund to pay for a good, service, project, venture, or other purpose that is not directly related to the goods or services provided by the enterprise for which the enterprise fund was created.

(3) The governing body of a city that intends to transfer money in an enterprise fund to another fund shall:

(a) provide notice of the intended transfer as required under Subsection (4);

(b) clearly identify in a separate section or document accompanying the city's tentative budget or, if an amendment to the city's budget includes or is based on an intended transfer, in a separate section or document accompanying the amendment to the city's budget:

(i) the enterprise fund from which money is intended to be transferred; and

(ii) the specific enterprise fund information for that enterprise fund;

(c) provide notice of an enterprise fund hearing, as required in Subsection (4); and

(d) hold an enterprise fund hearing before the adoption of the city's budget or, if applicable, the amendment to the budget.

(4) (a) At least seven days before holding an enterprise fund hearing, a governing body shall:

(i) provide the notice described in Subsection (4)(b) by:

(A) mailing a copy of the notice to users of the goods or services provided by the enterprise for which the enterprise fund was created, if the city regularly mails users a periodic billing for the goods or services;

(B) emailing a copy of the notice to users of the goods or services provided by the enterprise for which the enterprise fund was created, if the city regularly emails users a periodic billing for the goods or services;

(C) posting the notice on the Utah Public Notice Website created in Section [~~63F-1-701~~] 63A-16-601; and

(D) if the city has a website, prominently posting the notice on the city's website until the enterprise fund hearing is concluded; and

(ii) if the city communicates with the public through a social media platform, publish notice of the date, time, place, and purpose of the enterprise fund hearing using the social media platform.

(b) The notice required under Subsection (4)(a)(i) shall:

(i) explain the intended transfer of enterprise fund money to another fund;

(ii) include specific enterprise fund information for each enterprise fund from which money is intended to be transferred;

(iii) provide the date, time, and place of the enterprise fund hearing; and

(iv) explain the purpose of the enterprise fund hearing.

(5) (a) An enterprise fund hearing shall be separate and independent from a budget hearing and any other public hearing.

(b) At an enterprise fund hearing, the governing body shall:

(i) explain the intended transfer of enterprise fund money to another fund;

(ii) provide enterprise fund accounting data to the public; and

(iii) allow members of the public in attendance at the hearing to comment on:

(A) the intended transfer of enterprise fund money to another fund; and

(B) the enterprise fund accounting data.

(6) (a) If a governing body adopts a budget or a budget amendment that includes or is based on a transfer of money from an enterprise fund to another fund, the governing body shall:

(i) within 60 days after adopting the budget or budget amendment:

(A) mail a notice to users of the goods or services provided by the enterprise for which the enterprise fund was created, if the city regularly mails users a periodic billing for the goods or services; and

(B) email a notice to users of the goods or services provided by the enterprise for which the enterprise fund was created, if the city regularly emails users a periodic billing for the goods or services;

(ii) within seven days after adopting the budget or budget amendment:

(A) post enterprise fund accounting data on the city's website, if the city has a website;

(B) using the city's social media platform, publish notice of the adoption of a budget or budget amendment that includes or is based on a transfer of money from an enterprise fund to another fund, if the city communicates with the public through a social media platform; and

(iii) within 30 days after adopting the budget, submit to the state auditor the specific enterprise fund information for each enterprise fund from which money will be transferred.

(b) A notice required under Subsection (6)(a)(i) shall:

(i) announce the adoption of a budget or budget amendment that includes or is based on a transfer of money from an enterprise fund to another fund; and

(ii) include the specific enterprise fund information.

(c) The governing body shall maintain the website posting required under Subsection (6)(a)(ii)(A) continuously until another posting is required under Subsection (4)(a)(i)(C).

Section 26. Section 10-7-19 is amended to read:

10-7-19. Election to authorize -- Notice -- Ballots.

(1) Subject to Subsection (2), the board of commissioners or city council of any city, or the board of trustees of any incorporated town, may aid and encourage the building of railroads by granting to any railroad company, for depot or other railroad purposes, real property of the city or incorporated town, not necessary for municipal or public purposes, upon the limitations and conditions established by the board of commissioners, city council, or board of trustees.

(2) A board of commissioners, city council, or board of trustees may not grant real property under

Subsection (1) unless the grant is approved by the eligible voters of the city or town at the next municipal election, or at a special election called for that purpose by the board of commissioners, city council, or board of trustees.

(3) If the question is submitted at a special election, the election shall be held as nearly as practicable in conformity with the general election laws of the state.

(4) The board of commissioners, city council, or board of trustees shall publish notice of an election described in Subsections (2) and (3):

(a) (i) in a newspaper of general circulation in the city or town once a week for four weeks before the election;

(ii) if there is no newspaper of general circulation in the city or town, at least four weeks before the day of the election, by posting one notice, and at least one additional notice per 2,000 population of the city or town, in places within the city or town that are most likely to give notice to the voters in the city or town; or

(iii) at least four weeks before the day of the election, by mailing notice to each registered voter in the city or town;

(b) on the Utah Public Notice Website created in Section [~~63F-1-701~~] 63A-16-601, for four weeks before the day of the election;

(c) in accordance with Section 45-1-101, for four weeks before the day of the election; and

(d) if the municipality has a website, on the municipality's website for at least four weeks before the day of the election.

(5) The board of commissioners, city council, or board of trustees shall cause ballots to be printed and provided to the eligible voters, which shall read: "For the proposed grant for depot or other railroad purposes: Yes. No."

(6) If a majority of the votes are cast in favor of the grant, the board of commissioners, city council, or board of trustees shall convey the real property to the railroad company.

Section 27. Section 10-8-2 is amended to read:

10-8-2. Appropriations -- Acquisition and disposal of property -- Municipal authority -- Corporate purpose -- Procedure -- Notice of intent to acquire real property.

(1) (a) A municipal legislative body may:

(i) appropriate money for corporate purposes only;

(ii) provide for payment of debts and expenses of the corporation;

(iii) subject to Subsections (4) and (5), purchase, receive, hold, sell, lease, convey, and dispose of real and personal property for the benefit of the municipality, whether the property is within or without the municipality's corporate boundaries, if the action is in the public interest and complies with other law;

(iv) improve, protect, and do any other thing in relation to this property that an individual could do; and

(v) subject to Subsection (2) and after first holding a public hearing, authorize municipal services or other nonmonetary assistance to be provided to or waive fees required to be paid by a nonprofit entity, whether or not the municipality receives consideration in return.

(b) A municipality may:

(i) furnish all necessary local public services within the municipality;

(ii) purchase, hire, construct, own, maintain and operate, or lease public utilities located and operating within and operated by the municipality; and

(iii) subject to Subsection (1)(c), acquire by eminent domain, or otherwise, property located inside or outside the corporate limits of the municipality and necessary for any of the purposes stated in Subsections (1)(b)(i) and (ii), subject to restrictions imposed by Title 78B, Chapter 6, Part 5, Eminent Domain, and general law for the protection of other communities.

(c) Each municipality that intends to acquire property by eminent domain under Subsection (1)(b) shall comply with the requirements of Section 78B-6-505.

(d) Subsection (1)(b) may not be construed to diminish any other authority a municipality may claim to have under the law to acquire by eminent domain property located inside or outside the municipality.

(2) (a) Services or assistance provided pursuant to Subsection (1)(a)(v) is not subject to the provisions of Subsection (3).

(b) The total amount of services or other nonmonetary assistance provided or fees waived under Subsection (1)(a)(v) in any given fiscal year may not exceed 1% of the municipality's budget for that fiscal year.

(3) It is considered a corporate purpose to appropriate money for any purpose that, in the judgment of the municipal legislative body, provides for the safety, health, prosperity, moral well-being, peace, order, comfort, or convenience of the inhabitants of the municipality subject to this Subsection (3).

(a) The net value received for any money appropriated shall be measured on a project-by-project basis over the life of the project.

(b) (i) A municipal legislative body shall establish the criteria for a determination under this Subsection (3).

(ii) A municipal legislative body's determination of value received is presumed valid unless a person can show that the determination was arbitrary, capricious, or illegal.

(c) The municipality may consider intangible benefits received by the municipality in determining net value received.

(d) (i) Before the municipal legislative body makes any decision to appropriate any funds for a corporate purpose under this section, the municipal legislative body shall hold a public hearing.

(ii) The municipal legislative body shall publish a notice of the hearing described in Subsection (3)(d)(i):

(A) in a newspaper of general circulation at least 14 days before the date of the hearing or, if there is no newspaper of general circulation, by posting notice in at least three conspicuous places within the municipality for the same time period; and

(B) on the Utah Public Notice Website created in Section [~~63F-1-701~~] 63A-16-601, at least 14 days before the date of the hearing.

(e) (i) Before a municipality provides notice as described in Subsection (3)(d)(ii), the municipality shall perform a study that analyzes and demonstrates the purpose for an appropriation described in this Subsection (3) in accordance with Subsection (3)(e)(iii).

(ii) A municipality shall make the study described in Subsection (3)(e)(i) available at the municipality for review by interested parties at least 14 days immediately before the public hearing described in Subsection (3)(d)(i).

(iii) A municipality shall consider the following factors when conducting the study described in Subsection (3)(e)(i):

(A) what identified benefit the municipality will receive in return for any money or resources appropriated;

(B) the municipality's purpose for the appropriation, including an analysis of the way the appropriation will be used to enhance the safety, health, prosperity, moral well-being, peace, order, comfort, or convenience of the inhabitants of the municipality; and

(C) whether the appropriation is necessary and appropriate to accomplish the reasonable goals and objectives of the municipality in the area of economic development, job creation, affordable housing, elimination of a development impediment, job preservation, the preservation of historic structures and property, and any other public purpose.

(f) (i) An appeal may be taken from a final decision of the municipal legislative body, to make an appropriation.

(ii) A person shall file an appeal as described in Subsection (3)(f)(i) with the district court within 30 days after the day on which the municipal legislative body makes a decision.

(iii) Any appeal shall be based on the record of the proceedings before the legislative body.

(iv) A decision of the municipal legislative body shall be presumed to be valid unless the appealing party shows that the decision was arbitrary, capricious, or illegal.

(g) The provisions of this Subsection (3) apply only to those appropriations made after May 6, 2002.

(h) This section applies only to appropriations not otherwise approved pursuant to Title 10, Chapter 5, Uniform Fiscal Procedures Act for Utah Towns, or Title 10, Chapter 6, Uniform Fiscal Procedures Act for Utah Cities.

(4) (a) Before a municipality may dispose of a significant parcel of real property, the municipality shall:

(i) provide reasonable notice of the proposed disposition at least 14 days before the opportunity for public comment under Subsection (4)(a)(ii); and

(ii) allow an opportunity for public comment on the proposed disposition.

(b) Each municipality shall, by ordinance, define what constitutes:

(i) a significant parcel of real property for purposes of Subsection (4)(a); and

(ii) reasonable notice for purposes of Subsection (4)(a)(i).

(5) (a) Except as provided in Subsection (5)(d), each municipality intending to acquire real property for the purpose of expanding the municipality's infrastructure or other facilities used for providing services that the municipality offers or intends to offer shall provide written notice, as provided in this Subsection (5), of its intent to acquire the property if:

(i) the property is located:

(A) outside the boundaries of the municipality; and

(B) in a county of the first or second class; and

(ii) the intended use of the property is contrary to:

(A) the anticipated use of the property under the general plan of the county in whose unincorporated area or the municipality in whose boundaries the property is located; or

(B) the property's current zoning designation.

(b) Each notice under Subsection (5)(a) shall:

(i) indicate that the municipality intends to acquire real property;

(ii) identify the real property; and

(iii) be sent to:

(A) each county in whose unincorporated area and each municipality in whose boundaries the property is located; and

(B) each affected entity.

(c) A notice under this Subsection (5) is a protected record as provided in Subsection 63G-2-305(8).

(d) (i) The notice requirement of Subsection (5)(a) does not apply if the municipality previously provided notice under Section 10-9a-203 identifying the general location within the municipality or unincorporated part of the county where the property to be acquired is located.

(ii) If a municipality is not required to comply with the notice requirement of Subsection (5)(a) because of application of Subsection (5)(d)(i), the municipality shall provide the notice specified in Subsection (5)(a) as soon as practicable after its acquisition of the real property.

Section 28. Section 10-8-15 is amended to read:

10-8-15. Waterworks -- Construction -- Extraterritorial jurisdiction.

(1) As used in this section, "affected entity" means a:

(a) county that has land use authority over land subject to an ordinance or regulation described in this section;

(b) local health department, as that term is defined in Section 26A-1-102, that has jurisdiction pursuant to Section 26A-1-108 over land subject to an ordinance or regulation described in this section;

(c) municipality that has enacted or has the right to enact an ordinance or regulation described in this section over the land subject to an ordinance or regulation described in this section; and

(d) municipality that has land use authority over land subject to an ordinance or regulation described in this section.

(2) A municipality may construct or authorize the construction of waterworks within or without the municipal limits, and for the purpose of maintaining and protecting the same from injury and the water from pollution the municipality's jurisdiction shall extend over the territory occupied by such works, and over all reservoirs, streams, canals, ditches, pipes and drains used in and necessary for the construction, maintenance and operation of the same, and over the stream or other source from which the water is taken, for 15 miles above the point from which it is taken and for a distance of 300 feet on each side of such stream and over highways along such stream or watercourse within said 15 miles and said 300 feet.

(3) The jurisdiction of a city of the first class shall additionally be over the entire watershed within the county of origin of the city of the first class and subject to Subsection (6) provided that livestock shall be permitted to graze beyond 1,000 feet from any such stream or source; and provided further, that the city of the first class shall provide a highway in and through the city's corporate limits, and so far as the city's jurisdiction extends, which may not be closed to cattle, horses, sheep, hogs, or goats driven through the city, or through any territory adjacent thereto over which the city has jurisdiction, but the board of commissioners of the city may enact ordinances placing under police regulations the manner of driving such cattle, sheep, horses, hogs, and goats through the city, or any territory adjacent thereto over which the city has jurisdiction.

(4) A municipality may enact all ordinances and regulations necessary to carry the power herein conferred into effect, and is authorized and empowered to enact ordinances preventing pollution or contamination of the streams or watercourses from which the municipality derives the municipality's water supply, in whole or in part, for domestic and culinary purposes, and may enact ordinances prohibiting or regulating the construction or maintenance of any closet, privy, outhouse or urinal within the area over which the municipality has jurisdiction, and provide for permits for the construction and maintenance of the same.

(5) In granting a permit described in Subsection (4), a municipality may annex thereto such reasonable conditions and requirements for the protection of the public health as the municipality determines proper, and may, if determined advisable, require that all closets, privies and urinals along such streams shall be provided with effective septic tanks or other germ-destroying instrumentalities.

(6) A city of the first class may only exercise extraterritorial jurisdiction outside of the city's county of origin, as described in Subsection (3), pursuant to a written agreement with all municipalities and counties that have jurisdiction over the area where the watershed is located.

(7) (a) After July 1, 2019, a municipal legislative body that seeks to adopt an ordinance or regulation under the authority of this section shall:

(i) hold a public hearing on the proposed ordinance or regulation; and

(ii) give notice of the date, place, and time of the hearing, as described in Subsection (7)(b).

(b) At least ten days before the day on which the public hearing described in Subsection (7)(a)(i) is to be held, the notice described in Subsection (7)(a)(ii) shall be:

(i) mailed to:

(A) each affected entity;

(B) the director of the Division of Drinking Water; and

(C) the director of the Division of Water Quality; and

(ii) published:

(A) in a newspaper of general circulation in the county in which the land subject to the proposed ordinance or regulation is located; and

(B) on the Utah Public Notice Website created in Section [~~63F-1-701~~] 63A-16-601.

(c) An ordinance or regulation adopted under the authority of this section may not conflict with:

(i) existing federal or state statutes; or

(ii) a rule created pursuant to a federal or state statute governing drinking water or water quality.

(d) A municipality that enacts an ordinance or regulation under the authority of this section shall:

(i) provide a copy of the ordinance or regulation to each affected entity; and

(ii) include a copy of the ordinance or regulation in the municipality's drinking water source protection plan.

Section 29. Section 10-9a-203 is amended to read:

10-9a-203. Notice of intent to prepare a general plan or comprehensive general plan amendments in certain municipalities.

(1) Before preparing a proposed general plan or a comprehensive general plan amendment, each municipality within a county of the first or second class shall provide 10 calendar days notice of its intent to prepare a proposed general plan or a comprehensive general plan amendment:

(a) to each affected entity;

(b) to the Automated Geographic Reference Center created in Section [~~63F-1-506~~] 63A-16-505;

(c) to the association of governments, established pursuant to an interlocal agreement under Title 11, Chapter 13, Interlocal Cooperation Act, of which the municipality is a member; and

(d) on the Utah Public Notice Website created under Section [~~63F-1-701~~] 63A-16-601.

(2) Each notice under Subsection (1) shall:

(a) indicate that the municipality intends to prepare a general plan or a comprehensive general plan amendment, as the case may be;

(b) describe or provide a map of the geographic area that will be affected by the general plan or amendment;

(c) be sent by mail, e-mail, or other effective means;

(d) invite the affected entities to provide information for the municipality to consider in the process of preparing, adopting, and implementing a general plan or amendment concerning:

(i) impacts that the use of land proposed in the proposed general plan or amendment may have; and

(ii) uses of land within the municipality that the affected entity is considering that may conflict with the proposed general plan or amendment; and

(e) include the address of an Internet website, if the municipality has one, and the name and telephone number of a person where more information can be obtained concerning the municipality's proposed general plan or amendment.

Section 30. Section 10-9a-204 is amended to read:

10-9a-204. Notice of public hearings and public meetings to consider general plan or modifications.

(1) Each municipality shall provide:

(a) notice of the date, time, and place of the first public hearing to consider the original adoption or any modification of all or any portion of a general plan; and

(b) notice of each public meeting on the subject.

(2) Each notice of a public hearing under Subsection (1)(a) shall be at least 10 calendar days before the public hearing and shall be:

(a) (i) published in a newspaper of general circulation in the area; and

(ii) published on the Utah Public Notice Website created in Section [~~63F-1-701~~] 63A-16-601;

(b) mailed to each affected entity; and

(c) posted:

(i) in at least three public locations within the municipality; or

(ii) on the municipality's official website.

(3) Each notice of a public meeting under Subsection (1)(b) shall be at least 24 hours before the meeting and shall be:

(a) (i) submitted to a newspaper of general circulation in the area; and

(ii) published on the Utah Public Notice Website created in Section [~~63F-1-701~~] 63A-16-601; and

(b) posted:

(i) in at least three public locations within the municipality; or

(ii) on the municipality's official website.

Section 31. Section 10-9a-205 is amended to read:

10-9a-205. Notice of public hearings and public meetings on adoption or modification of land use regulation.

(1) Each municipality shall give:

(a) notice of the date, time, and place of the first public hearing to consider the adoption or any modification of a land use regulation; and

(b) notice of each public meeting on the subject.

(2) Each notice of a public hearing under Subsection (1)(a) shall be:

(a) mailed to each affected entity at least 10 calendar days before the public hearing;

(b) posted:

(i) in at least three public locations within the municipality; or

(ii) on the municipality's official website; and

(c) (i) (A) published in a newspaper of general circulation in the area at least 10 calendar days before the public hearing; and

(B) published on the Utah Public Notice Website created in Section [~~63F-1-701~~] 63A-16-601, at least 10 calendar days before the public hearing; or

(ii) mailed at least 10 days before the public hearing to:

(A) each property owner whose land is directly affected by the land use ordinance change; and

(B) each adjacent property owner within the parameters specified by municipal ordinance.

(3) Each notice of a public meeting under Subsection (1)(b) shall be at least 24 hours before the meeting and shall be posted:

(a) in at least three public locations within the municipality; or

(b) on the municipality's official website.

(4) (a) A municipality shall send a courtesy notice to each owner of private real property whose property is located entirely or partially within a proposed zoning map enactment or amendment at least 10 days before the scheduled day of the public hearing.

(b) The notice shall:

(i) identify with specificity each owner of record of real property that will be affected by the proposed zoning map or map amendments;

(ii) state the current zone in which the real property is located;

(iii) state the proposed new zone for the real property;

(iv) provide information regarding or a reference to the proposed regulations, prohibitions, and permitted uses that the property will be subject to if the zoning map or map amendment is adopted;

(v) state that the owner of real property may no later than 10 days after the day of the first public hearing file a written objection to the inclusion of the owner's property in the proposed zoning map or map amendment;

(vi) state the address where the property owner should file the protest;

(vii) notify the property owner that each written objection filed with the municipality will be provided to the municipal legislative body; and

(viii) state the location, date, and time of the public hearing described in Section 10-9a-502.

(c) If a municipality mails notice to a property owner in accordance with Subsection (2)(c)(ii) for a public hearing on a zoning map or map amendment, the notice required in this Subsection (4) may be included in or part of the notice described in Subsection (2)(c)(ii) rather than sent separately.

Section 32. Section 10-9a-208 is amended to read:

10-9a-208. Hearing and notice for petition to vacate a public street.

(1) For any petition to vacate some or all of a public street or municipal utility easement the legislative body shall:

(a) hold a public hearing; and

(b) give notice of the date, place, and time of the hearing, as provided in Subsection (2).

(2) At least 10 days before the public hearing under Subsection (1)(a), the legislative body shall ensure that the notice required under Subsection (1)(b) is:

(a) mailed to the record owner of each parcel that is accessed by the public street or municipal utility easement;

(b) mailed to each affected entity;

(c) posted on or near the public street or municipal utility easement in a manner that is calculated to alert the public; and

(d) (i) published on the website of the municipality in which the land subject to the petition is located until the public hearing concludes; and

(ii) published on the Utah Public Notice Website created in Section [~~63F-1-701~~] 63A-16-601.

Section 33. Section 10-9a-603 is amended to read:

10-9a-603. Plat required when land is subdivided -- Approval of plat -- Owner acknowledgment, surveyor certification, and underground utility facility owner verification of plat -- Recording plat.

(1) Unless exempt under Section 10-9a-605 or excluded from the definition of subdivision under Section 10-9a-103, whenever any land is laid out and platted, the owner of the land shall provide an accurate plat that describes or specifies:

(a) a subdivision name that is distinct from any subdivision name on a plat recorded in the county recorder's office;

(b) the boundaries, course, and dimensions of all of the parcels of ground divided, by their boundaries, course, and extent, whether the owner proposes that any parcel of ground is intended to be used as a street or for any other public use, and whether any such area is reserved or proposed for dedication for a public purpose;

(c) the lot or unit reference, block or building reference, street or site address, street name or coordinate address, acreage or square footage for all parcels, units, or lots, and length and width of the blocks and lots intended for sale; and

(d) every existing right-of-way and easement grant of record for an underground facility, as defined in Section 54-8a-2, and for any other utility facility.

(2) (a) Subject to Subsections (3), (5), and (6), if the plat conforms to the municipality's ordinances and this part and has been approved by the culinary water authority, the sanitary sewer authority, and the local health department, as defined in Section 26A-1-102, if the local health department and the municipality consider the local health department's approval necessary, the municipality shall approve the plat.

(b) Municipalities are encouraged to receive a recommendation from the fire authority and the public safety answering point before approving a plat.

(c) A municipality may not require that a plat be approved or signed by a person or entity who:

(i) is not an employee or agent of the municipality; or

(ii) does not:

(A) have a legal or equitable interest in the property within the proposed subdivision;

(B) provide a utility or other service directly to a lot within the subdivision;

(C) own an easement or right-of-way adjacent to the proposed subdivision who signs for the purpose of confirming the accuracy of the location of the easement or right-of-way in relation to the plat; or

(D) provide culinary public water service whose source protection zone designated as provided in Section 19-4-113 is included, in whole or in part, within the proposed subdivision.

(d) For a subdivision application that includes land located within a notification zone, as determined under Subsection (2)(f), the land use authority shall:

(i) within 20 days after the day on which a complete subdivision application is filed, provide written notice of the application to the canal owner or associated canal operator contact described in:

(A) Section 10-9a-211;

(B) Subsection 73-5-7(2); or

(C) Subsection (5)(c); and

(ii) wait to approve or reject the subdivision application for at least 20 days after the day on which the land use authority mails the notice described in Subsection (2)(d)(i) in order to receive input from the canal owner or associated canal operator, including input regarding:

(A) access to the canal;

(B) maintenance of the canal;

(C) canal protection; and

(D) canal safety.

(e) When applicable, the subdivision applicant shall comply with Section 73-1-15.5.

(f) The land use authority shall provide the notice described in Subsection (2)(d) to a canal owner or associated canal operator if:

(i) the canal's centerline is located within 100 feet of a proposed subdivision; and

(ii) the centerline alignment is available to the land use authority:

(A) from information provided by the canal company under Section 10-9a-211, using mapping-grade global positioning satellite units or digitized data from the most recent aerial photo available to the canal owner or associated canal operator;

(B) using the state engineer's inventory of canals under Section 73-5-7; or

(C) from information provided by a surveyor under Subsection (5)(c).

(3) The municipality may withhold an otherwise valid plat approval until the owner of the land provides the legislative body with a tax clearance indicating that all taxes, interest, and penalties owing on the land have been paid.

(4) (a) Within 30 days after approving a final plat under this section, a municipality shall submit to the Automated Geographic Reference Center, created in Section [~~63F-1-506~~] 63A-16-505, for inclusion in the unified statewide 911 emergency service database described in Subsection 63H-7a-304(4)(b):

(i) an electronic copy of the approved final plat; or

(ii) preliminary geospatial data that depict any new streets and situs addresses proposed for construction within the bounds of the approved plat.

(b) If requested by the Automated Geographic Reference Center, a municipality that approves a final plat under this section shall:

(i) coordinate with the Automated Geographic Reference Center to validate the information described in Subsection (4)(a); and

(ii) assist the Automated Geographic Reference Center in creating electronic files that contain the information described in Subsection (4)(a) for inclusion in the unified statewide 911 emergency service database.

(5) (a) A county recorder may not record a plat unless:

(i) prior to recordation, the municipality has approved and signed the plat;

(ii) each owner of record of land described on the plat has signed the owner's dedication as shown on the plat; and

(iii) the signature of each owner described in Subsection (5)(a)(ii) is acknowledged as provided by law.

(b) The surveyor making the plat shall certify that the surveyor:

(i) holds a license in accordance with Title 58, Chapter 22, Professional Engineers and Professional Land Surveyors Licensing Act;

(ii) has completed a survey of the property described on the plat in accordance with Section 17-23-17 and has verified all measurements; and

(iii) has placed monuments as represented on the plat.

(c) (i) To the extent possible, the surveyor shall consult with the owner or operator of an existing or proposed underground facility or utility facility within the proposed subdivision, or a representative designated by the owner or operator, to verify the accuracy of the surveyor's depiction of the:

(A) boundary, course, dimensions, and intended use of the public rights-of-way, a public or private easement, or grants of record;

(B) location of an existing underground facility and utility facility; and

(C) physical restrictions governing the location of the underground facility and utility facility within the subdivision.

(ii) The cooperation of an owner or operator under Subsection (5)(c)(i):

(A) indicates only that the plat approximates the location of the existing underground and utility facilities but does not warrant or verify their precise location; and

(B) does not affect a right that the owner or operator has under Title 54, Chapter 8a, Damage to Underground Utility Facilities, a recorded easement or right-of-way, the law applicable to prescriptive rights, or any other provision of law.

(6) (a) Except as provided in Subsection (5)(c), after the plat has been acknowledged, certified, and approved, the individual seeking to record the plat shall, within the time period and manner designated by ordinance, record the plat in the county recorder's office in the county in which the lands platted and laid out are situated.

(b) A failure to record a plat within the time period designated by ordinance renders the plat voidable by the land use authority.

Section 34. Section 10-18-203 is amended to read:

10-18-203. Feasibility study on providing cable television or public telecommunications services -- Public hearings.

(1) If a feasibility consultant is hired under Section 10-18-202, the legislative body of the municipality shall require the feasibility consultant to:

(a) complete the feasibility study in accordance with this section;

(b) submit to the legislative body by no later than 180 days from the date the feasibility consultant is hired to conduct the feasibility study:

(i) the full written results of the feasibility study; and

(ii) a summary of the results that is no longer than one page in length; and

(c) attend the public hearings described in Subsection (4) to:

(i) present the feasibility study results; and

(ii) respond to questions from the public.

(2) The feasibility study described in Subsection (1) shall at a minimum consider:

(a) (i) if the municipality is proposing to provide cable television services to subscribers, whether the municipality providing cable television services in the manner proposed by the municipality will hinder or advance competition for cable television services in the municipality; or

(ii) if the municipality is proposing to provide public telecommunications services to subscribers, whether the municipality providing public telecommunications services in the manner proposed by the municipality will hinder or advance competition for public telecommunications services in the municipality;

(b) whether but for the municipality any person would provide the proposed:

(i) cable television services; or

(ii) public telecommunications services;

(c) the fiscal impact on the municipality of:

(i) the capital investment in facilities that will be used to provide the proposed:

(A) cable television services; or

(B) public telecommunications services; and

(ii) the expenditure of funds for labor, financing, and administering the proposed:

(A) cable television services; or

(B) public telecommunications services;

(d) the projected growth in demand in the municipality for the proposed:

(i) cable television services; or

(ii) public telecommunications services;

(e) the projections at the time of the feasibility study and for the next five years, of a full-cost accounting for a municipality to purchase, lease, construct, maintain, or operate the facilities necessary to provide the proposed:

(i) cable television services; or

(ii) public telecommunications services; and

(f) the projections at the time of the feasibility study and for the next five years of the revenues to be generated from the proposed:

(i) cable television services; or

(ii) public telecommunications services.

(3) For purposes of the financial projections required under Subsections (2)(e) and (f), the feasibility consultant shall assume that the municipality will price the proposed cable television services or public telecommunications services consistent with Subsection 10-18-303(5).

(4) If the results of the feasibility study satisfy the revenue requirement of Subsection 10-18-202(3), the legislative body, at the next regular meeting after the legislative body receives the results of the feasibility study, shall schedule at least two public hearings to be held:

(a) within 60 days of the meeting at which the public hearings are scheduled;

(b) at least seven days apart; and

(c) for the purpose of allowing:

(i) the feasibility consultant to present the results of the feasibility study; and

(ii) the public to:

(A) become informed about the feasibility study results; and

(B) ask questions of the feasibility consultant about the results of the feasibility study.

(5) (a) Except as provided in Subsection (5)(b), the municipality shall publish notice of the public hearings required under Subsection (4):

(i) at least once a week for three consecutive weeks in a newspaper of general circulation in the municipality and at least three days before the first public hearing required under Subsection (4); and

(ii) on the Utah Public Notice Website created in Section [~~63F-1-701~~] 63A-16-601, for three weeks, at least three days before the first public hearing required under Subsection (4).

(b) (i) In accordance with Subsection (5)(a)(i), if there is no newspaper of general circulation in the municipality, for each 1,000 residents, the municipality shall post at least one notice of the hearings in a conspicuous place within the municipality that is likely to give notice of the hearings to the greatest number of residents of the municipality.

(ii) The municipality shall post the notices at least seven days before the first public hearing required under Subsection (4) is held.

Section 35. Section 10-18-302 is amended to read:

10-18-302. Bonding authority.

(1) In accordance with Title 11, Chapter 14, Local Government Bonding Act, the legislative body of a municipality may by resolution determine to issue one or more revenue bonds or general obligation bonds to finance the capital costs for facilities necessary to provide to subscribers:

(a) a cable television service; or

(b) a public telecommunications service.

(2) The resolution described in Subsection (1) shall:

(a) describe the purpose for which the indebtedness is to be created; and

(b) specify the dollar amount of the one or more bonds proposed to be issued.

(3) (a) A revenue bond issued under this section shall be secured and paid for:

(i) from the revenues generated by the municipality from providing:

(A) cable television services with respect to revenue bonds issued to finance facilities for the municipality's cable television services; and

(B) public telecommunications services with respect to revenue bonds issued to finance facilities for the municipality's public telecommunications services; and

(ii) notwithstanding Subsection (3)(b) and Subsection 10-18-303(3)(a), from revenues generated under Title 59, Chapter 12, Sales and Use Tax Act, if:

(A) notwithstanding Subsection 11-14-201(3) and except as provided in Subsections (4) and (5), the revenue bond is approved by the registered voters in an election held:

(I) except as provided in Subsection (3)(a)(ii)(A)(II), pursuant to the provisions of Title 11, Chapter 14, Local Government Bonding Act, that govern bond elections; and

(II) notwithstanding Subsection 11-14-203(2), at a regular general election;

(B) the revenues described in this Subsection (3)(a)(ii) are pledged as security for the revenue bond; and

(C) the municipality or municipalities annually appropriate the revenues described in this Subsection (3)(a)(ii) to secure and pay the revenue bond issued under this section.

(b) Except as provided in Subsection (3)(a)(ii), a municipality may not pay the origination, financing, or other carrying costs associated with the one or more revenue bonds issued under this section from the town or city, respectively, general funds or other enterprise funds of the municipality.

(4) (a) As used in this Subsection (4), "municipal entity" means an entity created pursuant to an agreement:

(i) under Title 11, Chapter 13, Interlocal Cooperation Act; and

(ii) to which a municipality is a party.

(b) The requirements of Subsection (3)(a)(ii)(A) do not apply to a municipality or municipal entity that issues revenue bonds, or to a municipality that is a member of a municipal entity that issues revenue bonds, if:

(i) on or before March 2, 2004, the municipality that is issuing revenue bonds or that is a member of a municipal entity that is issuing revenue bonds has published the first notice described in Subsection (4)(b)(iii);

(ii) on or before April 15, 2004, the municipality that is issuing revenue bonds or that is a member of a municipal entity that is issuing revenue bonds makes the decision to pledge the revenues described in Subsection (3)(a)(ii) as security for the revenue bonds described in this Subsection (4)(b)(ii);

(iii) the municipality that is issuing the revenue bonds or the municipality that is a member of the municipal entity that is issuing the revenue bonds has:

(A) held a public hearing for which public notice was given by publication of the notice:

(I) in a newspaper published in the municipality or in a newspaper of general circulation within the municipality for two consecutive weeks, with the first publication being not less than 14 days before the public hearing; and

(II) on the Utah Public Notice Website created in Section [~~63F-1-701~~] 63A-16-601, for two weeks before the public hearing; and

(B) the notice identifies:

(I) that the notice is given pursuant to Title 11, Chapter 14, Local Government Bonding Act;

(II) the purpose for the bonds to be issued;

(III) the maximum amount of the revenues described in Subsection (3)(a)(ii) that will be pledged in any fiscal year;

(IV) the maximum number of years that the pledge will be in effect; and

(V) the time, place, and location for the public hearing;

(iv) the municipal entity that issues revenue bonds:

(A) adopts a final financing plan; and

(B) in accordance with Title 63G, Chapter 2, Government Records Access and Management Act, makes available to the public at the time the municipal entity adopts the final financing plan:

(I) the final financing plan; and

(II) all contracts entered into by the municipal entity, except as protected by Title 63G, Chapter 2, Government Records Access and Management Act;

(v) any municipality that is a member of a municipal entity described in Subsection (4)(b)(iv):

(A) not less than 30 calendar days after the municipal entity complies with Subsection (4)(b)(iv)(B), holds a final public hearing;

(B) provides notice, at the time the municipality schedules the final public hearing, to any person who has provided to the municipality a written request for notice; and

(C) makes all reasonable efforts to provide fair opportunity for oral testimony by all interested parties; and

(vi) except with respect to a municipality that issued bonds prior to March 1, 2004, not more than 50% of the average annual debt service of all revenue bonds described in this section to provide service throughout the municipality or municipal entity may be paid from the revenues described in Subsection (3)(a)(ii).

(5) On or after July 1, 2007, the requirements of Subsection (3)(a)(ii)(A) do not apply to a municipality that issues revenue bonds if:

(a) the municipality that is issuing the revenue bonds has:

(i) held a public hearing for which public notice was given by publication of the notice:

(A) in a newspaper published in the municipality or in a newspaper of general circulation within the municipality for two consecutive weeks, with the first publication being not less than 14 days before the public hearing; and

(B) on the Utah Public Notice Website created in Section [~~63F-1-701~~] 63A-16-601, for 14 days before the public hearing; and

(ii) the notice identifies:

(A) that the notice is given pursuant to Title 11, Chapter 14, Local Government Bonding Act;

(B) the purpose for the bonds to be issued;

(C) the maximum amount of the revenues described in Subsection (3)(a)(ii) that will be pledged in any fiscal year;

(D) the maximum number of years that the pledge will be in effect; and

(E) the time, place, and location for the public hearing; and

(b) except with respect to a municipality that issued bonds prior to March 1, 2004, not more than 50% of the average annual debt service of all revenue bonds described in this section to provide service throughout the municipality or municipal entity may be paid from the revenues described in Subsection (3)(a)(ii).

(6) A municipality that issues bonds pursuant to this section may not make or grant any undue or unreasonable preference or advantage to itself or to any private provider of:

(a) cable television services; or

(b) public telecommunications services.

Section 36. Section 11-13-204 is amended to read:

11-13-204. Powers and duties of interlocal entities -- Additional powers of energy services interlocal entities -- Length of term of agreement and interlocal entity --

Notice to lieutenant governor -- Recording requirements -- Public Service Commission.

(1) (a) An interlocal entity:

(i) shall adopt bylaws, policies, and procedures for the regulation of its affairs and the conduct of its business;

(ii) may:

(A) amend or repeal a bylaw, policy, or procedure;

(B) sue and be sued;

(C) have an official seal and alter that seal at will;

(D) make and execute contracts and other instruments necessary or convenient for the performance of its duties and the exercise of its powers and functions;

(E) acquire real or personal property, or an undivided, fractional, or other interest in real or personal property, necessary or convenient for the purposes contemplated in the agreement creating the interlocal entity and sell, lease, or otherwise dispose of that property;

(F) directly or by contract with another:

(I) own and acquire facilities and improvements or an undivided, fractional, or other interest in facilities and improvements;

(II) construct, operate, maintain, and repair facilities and improvements; and

(III) provide the services contemplated in the agreement creating the interlocal entity and establish, impose, and collect rates, fees, and charges for the services provided by the interlocal entity;

(G) borrow money, incur indebtedness, and issue revenue bonds, notes, or other obligations and secure their payment by an assignment, pledge, or other conveyance of all or any part of the revenues and receipts from the facilities, improvements, or services that the interlocal entity provides;

(H) offer, issue, and sell warrants, options, or other rights related to the bonds, notes, or other obligations issued by the interlocal entity;

(I) sell or contract for the sale of the services, output, product, or other benefits provided by the interlocal entity to:

(I) public agencies inside or outside the state; and

(II) with respect to any excess services, output, product, or benefits, any person on terms that the interlocal entity considers to be in the best interest of the public agencies that are parties to the agreement creating the interlocal entity; and

(J) create a local disaster recovery fund in the same manner and to the same extent as authorized for a local government in accordance with Section 53-2a-605; and

(iii) may not levy, assess, or collect ad valorem property taxes.

(b) An assignment, pledge, or other conveyance under Subsection (1)(a)(ii)(G) may, to the extent provided by the documents under which the assignment, pledge, or other conveyance is made, rank prior in right to any other obligation except taxes or payments in lieu of taxes payable to the state or its political subdivisions.

(2) An energy services interlocal entity:

(a) except with respect to any ownership interest it has in facilities providing additional project capacity, is not subject to:

(i) Part 3, Project Entity Provisions; or

(ii) Title 59, Chapter 8, Gross Receipts Tax on Certain Corporations Not Required to Pay Corporate Franchise or Income Tax Act; and

(b) may:

(i) own, acquire, and, by itself or by contract with another, construct, operate, and maintain a facility or improvement for the generation, transmission, and transportation of electric energy or related fuel supplies;

(ii) enter into a contract to obtain a supply of electric power and energy and ancillary services, transmission, and transportation services, and supplies of natural gas and fuels necessary for the operation of generation facilities;

(iii) enter into a contract with public agencies, investor-owned or cooperative utilities, and others, whether located in or out of the state, for the sale of wholesale services provided by the energy services interlocal entity; and

(iv) adopt and implement risk management policies and strategies and enter into transactions and agreements to manage the risks associated with the purchase and sale of energy, including forward purchase and sale contracts, hedging, tolling and swap agreements, and other instruments.

(3) Notwithstanding Section 11-13-216, an agreement creating an interlocal entity or an amendment to that agreement may provide that the agreement may continue and the interlocal entity may remain in existence until the latest to occur of:

(a) 50 years after the date of the agreement or amendment;

(b) five years after the interlocal entity has fully paid or otherwise discharged all of its indebtedness;

(c) five years after the interlocal entity has abandoned, decommissioned, or conveyed or transferred all of its interest in its facilities and improvements; or

(d) five years after the facilities and improvements of the interlocal entity are no longer useful in providing the service, output, product, or other benefit of the facilities and improvements, as determined under the agreement governing the sale of the service, output, product, or other benefit.

(4) (a) Upon execution of an agreement to approve the creation of an interlocal entity, including an

electric interlocal entity and an energy services interlocal entity, the governing body of a member of the interlocal entity under Section 11-13-203 shall:

(i) within 30 days after the date of the agreement, jointly file with the lieutenant governor:

(A) a copy of a notice of an impending boundary action, as defined in Section 67-1a-6.5, that meets the requirements of Subsection 67-1a-6.5(3); and

(B) if less than all of the territory of any Utah public agency that is a party to the agreement is included within the interlocal entity, a copy of an approved final local entity plat, as defined in Section 67-1a-6.5; and

(ii) upon the lieutenant governor's issuance of a certificate of creation under Section 67-1a-6.5:

(A) if the interlocal entity is located within the boundary of a single county, submit to the recorder of that county:

(I) the original:

(Aa) notice of an impending boundary action;

(Bb) certificate of creation; and

(Cc) approved final local entity plat, if an approved final local entity plat was required to be filed with the lieutenant governor under Subsection (4)(a)(i)(B); and

(II) a certified copy of the agreement approving the creation of the interlocal entity; or

(B) if the interlocal entity is located within the boundaries of more than a single county:

(I) submit to the recorder of one of those counties:

(Aa) the original of the documents listed in Subsections (4)(a)(ii)(A)(I)(Aa), (Bb), and (Cc); and

(Bb) a certified copy of the agreement approving the creation of the interlocal entity; and

(II) submit to the recorder of each other county:

(Aa) a certified copy of the documents listed in Subsections (4)(a)(ii)(A)(I)(Aa), (Bb), and (Cc); and

(Bb) a certified copy of the agreement approving the creation of the interlocal entity.

(b) Upon the lieutenant governor's issuance of a certificate of creation under Section 67-1a-6.5, the interlocal entity is created.

(c) Until the documents listed in Subsection (4)(a)(ii) are recorded in the office of the recorder of each county in which the property is located, a newly created interlocal entity may not charge or collect a fee for service provided to property within the interlocal entity.

(5) Nothing in this section may be construed as expanding the rights of any municipality or interlocal entity to sell or provide retail service.

(6) Except as provided in Subsection (7):

(a) nothing in this section may be construed to expand or limit the rights of a municipality to sell or provide retail electric service; and

(b) an energy services interlocal entity may not provide retail electric service to customers located outside the municipal boundaries of its members.

(7) (a) An energy services interlocal entity created before July 1, 2003, that is comprised solely of Utah municipalities and that, for a minimum of 50 years before July 1, 2010, provided retail electric service to customers outside the municipal boundaries of its members, may provide retail electric service outside the municipal boundaries of its members if:

(i) the energy services interlocal entity:

(A) enters into a written agreement with each public utility holding a certificate of public convenience and necessity issued by the Public Service Commission to provide service within an agreed upon geographic area for the energy services interlocal entity to be responsible to provide electric service in the agreed upon geographic area outside the municipal boundaries of the members of the energy services interlocal entity; and

(B) obtains a franchise agreement, with the legislative body of the county or other governmental entity for the geographic area in which the energy services interlocal entity provides service outside the municipal boundaries of its members; and

(ii) each public utility described in Subsection (7)(a)(i)(A) applies for and obtains from the Public Service Commission approval of the agreement specified in Subsection (7)(a)(i)(A).

(b) (i) The Public Service Commission shall, after a public hearing held in accordance with Title 52, Chapter 4, Open and Public Meetings Act, approve an agreement described in Subsection (7)(a)(ii) if it determines that the agreement is in the public interest in that it incorporates the customer protections described in Subsection (7)(c) and the franchise agreement described in Subsection (7)(a)(i)(B) provides a reasonable mechanism using a neutral arbiter or ombudsman for resolving potential future complaints by customers of the energy services interlocal entity.

(ii) In approving an agreement, the Public Service Commission shall also amend the certificate of public convenience and necessity of any public utility described in Subsection (7)(a)(i) to delete from the geographic area specified in the certificate or certificates of the public utility the geographic area that the energy services interlocal entity has agreed to serve.

(c) In providing retail electric service to customers outside of the municipal boundaries of its members, but not within the municipal boundaries of another municipality that grants a franchise agreement in accordance with Subsection (7)(a)(i)(B), an energy services interlocal entity shall comply with the following:

(i) the rates and conditions of service for customers outside the municipal boundaries of the

members shall be at least as favorable as the rates and conditions of service for similarly situated customers within the municipal boundaries of the members;

(ii) the energy services interlocal entity shall operate as a single entity providing service both inside and outside of the municipal boundaries of its members;

(iii) a general rebate, refund, or other payment made to customers located within the municipal boundaries of the members shall also be provided to similarly situated customers located outside the municipal boundaries of the members;

(iv) a schedule of rates and conditions of service, or any change to the rates and conditions of service, shall be approved by the governing board of the energy services interlocal entity;

(v) before implementation of any rate increase, the governing board of the energy services interlocal entity shall first hold a public meeting to take public comment on the proposed increase, after providing at least 20 days and not more than 60 days' advance written notice to its customers on the ordinary billing and on the Utah Public Notice Website, created by Section [~~63F-1-701~~] 63A-16-601; and

(vi) the energy services interlocal entity shall file with the Public Service Commission its current schedule of rates and conditions of service.

(d) The Public Service Commission shall make the schedule of rates and conditions of service of the energy services interlocal entity available for public inspection.

(e) Nothing in this section:

(i) gives the Public Service Commission jurisdiction over the provision of retail electric service by an energy services interlocal entity within the municipal boundaries of its members; or

(ii) makes an energy services interlocal entity a public utility under Title 54, Public Utilities.

(f) Nothing in this section expands or diminishes the jurisdiction of the Public Service Commission over a municipality or an association of municipalities organized under Title 11, Chapter 13, Interlocal Cooperation Act, except as specifically authorized by this section's language.

(g) (i) An energy services interlocal entity described in Subsection (7)(a) retains its authority to provide electric service to the extent authorized by Sections 11-13-202 and 11-13-203 and Subsections 11-13-204(1) through (5).

(ii) Notwithstanding Subsection (7)(g)(i), if the Public Service Commission approves the agreement described in Subsection (7)(a)(i), the energy services interlocal entity may not provide retail electric service to customers located outside the municipal boundaries of its members, except for customers located within the geographic area described in the agreement.

Section 37. Section 11-13-509 is amended to read:

11-13-509. Hearing to consider adoption -- Notice.

(1) At the meeting at which the tentative budget is adopted, the governing board shall:

(a) establish the time and place of a public hearing to consider its adoption; and

(b) except as provided in Subsection (2) or (5), order that notice of the hearing:

(i) be published, at least seven days before the day of the hearing, in at least one issue of a newspaper of general circulation in a county in which the interlocal entity provides service to the public or in which its members are located, if such a newspaper is generally circulated in the county or counties; and

(ii) be published at least seven days before the day of the hearing on the Utah Public Notice Website created in Section [~~63F-1-701~~] 63A-16-601.

(2) If the budget hearing is held in conjunction with a tax increase hearing, the notice required in Subsection (1)(b):

(a) may be combined with the notice required under Section 59-2-919; and

(b) shall be published in accordance with the advertisement provisions of Section 59-2-919.

(3) Proof that notice was given in accordance with Subsection (1)(b), (2), or (5) is prima facie evidence that notice was properly given.

(4) If a notice required under Subsection (1)(b), (2), or (5) is not challenged within 30 days after the day on which the hearing is held, the notice is adequate and proper.

(5) A governing board of an interlocal entity with an annual operating budget of less than $250,000 may satisfy the notice requirements in Subsection (1)(b) by:

(a) mailing a written notice, postage prepaid, to each voter in an interlocal entity; and

(b) posting the notice in three public places within the interlocal entity's service area.

Section 38. Section 11-13-531 is amended to read:

11-13-531. Imposing or increasing a fee for service provided by interlocal entity.

(1) The governing board shall fix the rate for a service or commodity provided by the interlocal entity.

(2) (a) Before imposing a new fee or increasing an existing fee for a service provided by an interlocal entity, an interlocal entity governing board shall first hold a public hearing at which interested persons may speak for or against the proposal to impose a fee or to increase an existing fee.

(b) Each public hearing under Subsection (2)(a) shall be held on a weekday in the evening beginning no earlier than 6 p.m.

(c) A public hearing required under this Subsection (2) may be combined with a public hearing on a tentative budget required under Section 11-13-510.

(d) Except to the extent that this section imposes more stringent notice requirements, the governing board shall comply with Title 52, Chapter 4, Open and Public Meetings Act, in holding the public hearing under Subsection (2)(a).

(3) (a) An interlocal entity board shall give notice of a hearing under Subsection (2)(a):

(i) as provided in Subsection (3)(b)(i) or (c); and

(ii) for at least 20 days before the day of the hearing on the Utah Public Notice Website, created by Section [~~63F-1-701~~] 63A-16-601.

(b) (i) Except as provided by Subsection (3)(c)(i), the notice required under Subsection (2)(a) shall be published:

(A) in a newspaper or combination of newspapers of general circulation in the interlocal entity, if there is a newspaper or combination of newspapers of general circulation in the interlocal entity; or

(B) if there is no newspaper or combination of newspapers of general circulation in the interlocal entity, the interlocal entity board shall post at least one notice per 1,000 population within the interlocal entity, at places within the interlocal entity that are most likely to provide actual notice to residents within the interlocal entity.

(ii) The notice described in Subsection (3)(b)(i)(A):

(A) shall be no less than 1/4 page in size and the type used shall be no smaller than 18 point, and surrounded by a 1/4-inch border;

(B) may not be placed in that portion of the newspaper where legal notices and classified advertisements appear;

(C) whenever possible, shall appear in a newspaper that is published at least one day per week;

(D) shall be in a newspaper or combination of newspapers of general interest and readership in the interlocal entity, and not of limited subject matter; and

(E) shall be run once each week for the two weeks preceding the hearing.

(iii) The notice described in Subsections (3)(a)(ii) and (3)(b)(i) shall state that the interlocal entity board intends to impose or increase a fee for a service provided by the interlocal entity and will hold a public hearing on a certain day, time, and place fixed in the notice, which shall be not less than seven days after the day the first notice is published, for the purpose of hearing comments regarding the proposed imposition or increase of a fee and to explain the reasons for the proposed imposition or increase.

(c) (i) In lieu of providing notice under Subsection (3)(b)(i), the interlocal entity governing board may give the notice required under Subsection (2)(a) by mailing the notice to a person within the interlocal entity's service area who:

(A) will be charged the fee for an interlocal entity's service, if the fee is being imposed for the first time; or

(B) is being charged a fee, if the fee is proposed to be increased.

(ii) Each notice under Subsection (3)(c)(i) shall comply with Subsection (3)(b)(iii).

(iii) A notice under Subsection (3)(c)(i) may accompany an interlocal entity bill for an existing fee.

(d) If the hearing required under this section is combined with the public hearing required under Section 11-13-510, the notice requirements under this Subsection (3) are satisfied if a notice that meets the requirements of Subsection (3)(b)(iii) is combined with the notice required under Section 11-13-509.

(e) Proof that notice was given as provided in Subsection (3)(b) or (c) is prima facie evidence that notice was properly given.

(f) If no challenge is made to the notice given of a public hearing required by Subsection (2) within 30 days after the date of the hearing, the notice is considered adequate and proper.

(4) After holding a public hearing under Subsection (2)(a), a governing board may:

(a) impose the new fee or increase the existing fee as proposed;

(b) adjust the amount of the proposed new fee or the increase of the existing fee and then impose the new fee or increase the existing fee as adjusted; or

(c) decline to impose the new fee or increase the existing fee.

(5) This section applies to each new fee imposed and each increase of an existing fee that occurs on or after May 12, 2015.

(6) An interlocal entity that accepts an electronic payment may charge an electronic payment fee.

Section 39. Section 11-14-202 is amended to read:

11-14-202. Notice of election -- Contents -- Publication -- Mailing.

(1) The governing body shall publish notice of the election:

(a) (i) once per week for three consecutive weeks before the election in a newspaper of general circulation in the local political subdivision, in accordance with Section 11-14-316, the first publication occurring not less than 21, nor more than 35, days before the day of the election;

(ii) if there is no newspaper of general circulation in the local political subdivision, at least 21 days before the day of the election, by posting one notice, and at least one additional notice per 2,000 population of the local political subdivision, in

places within the local political subdivision that are most likely to give notice to the voters in the local political subdivision; or

(iii) at least three weeks before the day of the election, by mailing notice to each registered voter in the local political subdivision;

(b) on the Utah Public Notice Website created in Section [~~63F-1-701~~] 63A-16-601, for three weeks before the day of the election;

(c) in accordance with Section 45-1-101, for three weeks before the day of the election; and

(d) if the local political subdivision has a website, on the local political subdivision's website for at least three weeks before the day of the election.

(2) When the debt service on the bonds to be issued will increase the property tax imposed upon the average value of a residence by an amount that is greater than or equal to $15 per year, the governing body shall prepare and mail either a voter information pamphlet or a notification described in Subsection (8):

(a) at least 15 days, but not more than 45 days, before the bond election;

(b) to each household containing a registered voter who is eligible to vote on the bonds; and

(c) that includes the information required by Subsections (4) and (5).

(3) The election officer may change the location of, or establish an additional:

(a) voting precinct polling place, in accordance with Subsection (6);

(b) early voting polling place, in accordance with Subsection 20A-3a-603(2); or

(c) election day voting center, in accordance with Subsection 20A-3a-703(2).

(4) The notice described in Subsection (1) and the voter information pamphlet described in Subsection (2):

(a) shall include, in the following order:

(i) the date of the election;

(ii) the hours during which the polls will be open;

(iii) the address of the Statewide Electronic Voter Information Website and, if available, the address of the election officer's website, with a statement indicating that the election officer will post on the website the location of each polling place for each voting precinct, each early voting polling place, and each election day voting center, including any changes to the location of a polling place and the location of an additional polling place;

(iv) a phone number that a voter may call to obtain information regarding the location of a polling place; and

(v) the title and text of the ballot proposition, including the property tax cost of the bond described in Subsection 11-14-206(2)(a); and

(b) may include the location of each polling place.

(5) The voter information pamphlet required by this section shall include:

(a) the information required under Subsection (4); and

(b) an explanation of the property tax impact, if any, of the issuance of the bonds, which may be based on information the governing body determines to be useful, including:

(i) expected debt service on the bonds to be issued;

(ii) a description of the purpose, remaining principal balance, and maturity date of any outstanding general obligation bonds of the issuer;

(iii) funds other than property taxes available to pay debt service on general obligation bonds;

(iv) timing of expenditures of bond proceeds;

(v) property values; and

(vi) any additional information that the governing body determines may be useful to explain the property tax impact of issuance of the bonds.

(6) (a) Except as provided in Section 20A-1-308, the election officer may, after the deadlines described in Subsections (1) and (2):

(i) if necessary, change the location of a voting precinct polling place; or

(ii) if the election officer determines that the number of voting precinct polling places is insufficient due to the number of registered voters who are voting, designate additional voting precinct polling places.

(b) Except as provided in Section 20A-1-308, if an election officer changes the location of a voting precinct polling place or designates an additional voting precinct polling place, the election officer shall, as soon as is reasonably possible, give notice of the dates, times, and location of a changed voting precinct polling place or an additional voting precinct polling place:

(i) to the lieutenant governor, for posting on the Statewide Electronic Voter Information Website;

(ii) by posting the information on the website of the election officer, if available; and

(iii) by posting notice:

(A) of a change in the location of a voting precinct polling place, at the new location and, if possible, the old location; and

(B) of an additional voting precinct polling place, at the additional voting precinct polling place.

(7) The governing body shall pay the costs associated with the notice required by this section.

(8) (a) The governing body may mail a notice printed on a postage prepaid, preaddressed return

form that a person may use to request delivery of a voter information pamphlet by mail.

(b) The notice described in Subsection (8)(a) shall include:

(i) the website upon which the voter information pamphlet is available; and

(ii) the phone number a voter may call to request delivery of a voter information pamphlet by mail.

(9) A local school board shall comply with the voter information pamphlet requirements described in Section 53G-4-603.

Section 40. Section 11-14-318 is amended to read:

11-14-318. Public hearing required.

(1) Before issuing bonds authorized under this chapter, a local political subdivision shall:

(a) in accordance with Subsection (2), provide public notice of the local political subdivision's intent to issue bonds; and

(b) hold a public hearing:

(i) if an election is required under this chapter:

(A) no sooner than 30 days before the day on which the notice of election is published under Section 11-14-202; and

(B) no later than five business days before the day on which the notice of election is published under Section 11-14-202; and

(ii) to receive input from the public with respect to:

(A) the issuance of the bonds; and

(B) the potential economic impact that the improvement, facility, or property for which the bonds pay all or part of the cost will have on the private sector.

(2) A local political subdivision shall:

(a) publish the notice required by Subsection (1)(a):

(i) once each week for two consecutive weeks in the official newspaper described in Section 11-14-316 with the first publication being not less than 14 days before the public hearing required by Subsection (1)(b); and

(ii) on the Utah Public Notice Website, created under Section ~~[63F-1-701]~~ 63A-16-601, no less than 14 days before the public hearing required by Subsection (1)(b); and

(b) ensure that the notice:

(i) identifies:

(A) the purpose for the issuance of the bonds;

(B) the maximum principal amount of the bonds to be issued;

(C) the taxes, if any, proposed to be pledged for repayment of the bonds; and

(D) the time, place, and location of the public hearing; and

(ii) informs the public that the public hearing will be held for the purposes described in Subsection (1)(b)(ii).

Section 41. Section 11-36a-503 is amended to read:

11-36a-503. Notice of preparation of an impact fee analysis.

(1) Before preparing or contracting to prepare an impact fee analysis, each local political subdivision or, subject to Subsection (2), private entity shall post a public notice on the Utah Public Notice Website created under Section ~~[63F-1-701]~~ 63A-16-601.

(2) For a private entity required to post notice on the Utah Public Notice Website under Subsection (1):

(a) the private entity shall give notice to the general purpose local government in which the private entity's primary business is located; and

(b) the general purpose local government described in Subsection (2)(a) shall post the notice on the Utah Public Notice Website.

Section 42. Section 11-36a-504 is amended to read:

11-36a-504. Notice of intent to adopt impact fee enactment -- Hearing -- Protections.

(1) Before adopting an impact fee enactment:

(a) a municipality legislative body shall:

(i) comply with the notice requirements of Section 10-9a-205 as if the impact fee enactment were a land use regulation;

(ii) hold a hearing in accordance with Section 10-9a-502 as if the impact fee enactment were a land use regulation; and

(iii) except as provided in Subsection 11-36a-701(3)(b)(ii), receive the protections of Section 10-9a-801 as if the impact fee were a land use regulation;

(b) a county legislative body shall:

(i) comply with the notice requirements of Section 17-27a-205 as if the impact fee enactment were a land use regulation;

(ii) hold a hearing in accordance with Section 17-27a-502 as if the impact fee enactment were a land use regulation; and

(iii) except as provided in Subsection 11-36a-701(3)(b)(ii), receive the protections of Section 17-27a-801 as if the impact fee were a land use regulation;

(c) a local district or special service district shall:

(i) comply with the notice and hearing requirements of Section 17B-1-111; and

(ii) receive the protections of Section 17B-1-111;

(d) a local political subdivision shall at least 10 days before the day on which a public hearing is scheduled in accordance with this section:

(i) make a copy of the impact fee enactment available to the public; and

(ii) post notice of the local political subdivision's intent to enact or modify the impact fee, specifying the type of impact fee being enacted or modified, on the Utah Public Notice Website created under Section [~~63F-1-701~~] 63A-16-601; and

(e) a local political subdivision shall submit a copy of the impact fee analysis and a copy of the summary of the impact fee analysis prepared in accordance with Section 11-36a-303 on its website or to each public library within the local political subdivision.

(2) Subsection (1)(a) or (b) may not be construed to require involvement by a planning commission in the impact fee enactment process.

Section 43. Section 11-42-202 is amended to read:

11-42-202. Requirements applicable to a notice of a proposed assessment area designation.

(1) Each notice required under Subsection 11-42-201(2)(a) shall:

(a) state that the local entity proposes to:

(i) designate one or more areas within the local entity's jurisdictional boundaries as an assessment area;

(ii) provide an improvement to property within the proposed assessment area; and

(iii) finance some or all of the cost of improvements by an assessment on benefitted property within the assessment area;

(b) describe the proposed assessment area by any reasonable method that allows an owner of property in the proposed assessment area to determine that the owner's property is within the proposed assessment area;

(c) describe, in a general and reasonably accurate way, the improvements to be provided to the assessment area, including:

(i) the nature of the improvements; and

(ii) the location of the improvements, by reference to streets or portions or extensions of streets or by any other means that the governing body chooses that reasonably describes the general location of the improvements;

(d) state the estimated cost of the improvements as determined by a project engineer;

(e) for the version of notice mailed in accordance with Subsection (4)(b), state the estimated total assessment specific to the benefitted property for which the notice is mailed;

(f) state that the local entity proposes to levy an assessment on benefitted property within the assessment area to pay some or all of the cost of the improvements according to the estimated benefits to the property from the improvements;

(g) if applicable, state that an unassessed benefitted government property will receive improvements for which the cost will be allocated proportionately to the remaining benefitted properties within the proposed assessment area and that a description of each unassessed benefitted government property is available for public review at the location or website described in Subsection (6);

(h) state the assessment method by which the governing body proposes to calculate the proposed assessment, including, if the local entity is a municipality or county, whether the assessment will be collected:

(i) by directly billing a property owner; or

(ii) by inclusion on a property tax notice issued in accordance with Section 59-2-1317 and in compliance with Section 11-42-401;

(i) state:

(i) the date described in Section 11-42-203 and the location at which protests against designation of the proposed assessment area or of the proposed improvements are required to be filed;

(ii) the method by which the governing body will determine the number of protests required to defeat the designation of the proposed assessment area or acquisition or construction of the proposed improvements; and

(iii) in large, boldface, and conspicuous type that a property owner must protest the designation of the assessment area in writing if the owner objects to the area designation or being assessed for the proposed improvements, operation and maintenance costs, or economic promotion activities;

(j) state the date, time, and place of the public hearing required in Section 11-42-204;

(k) if the governing body elects to create and fund a reserve fund under Section 11-42-702, include a description of:

(i) how the reserve fund will be funded and replenished; and

(ii) how remaining money in the reserve fund is to be disbursed upon full payment of the bonds;

(l) if the governing body intends to designate a voluntary assessment area, include a property owner consent form that:

(i) estimates the total assessment to be levied against the particular parcel of property;

(ii) describes any additional benefits that the governing body expects the assessed property to receive from the improvements;

(iii) designates the date and time by which the fully executed consent form is required to be submitted to the governing body; and

(iv) if the governing body intends to enforce an assessment lien on the property in accordance with Subsection 11-42-502.1(2)(a)(ii)(C):

(A) appoints a trustee that satisfies the requirements described in Section 57-1-21;

(B) gives the trustee the power of sale;

(C) is binding on the property owner and all successors; and

(D) explains that if an assessment or an installment of an assessment is not paid when due, the local entity may sell the property owner's property to satisfy the amount due plus interest, penalties, and costs, in the manner described in Title 57, Chapter 1, Conveyances;

(m) if the local entity intends to levy an assessment to pay operation and maintenance costs or for economic promotion activities, include:

(i) a description of the operation and maintenance costs or economic promotion activities to be paid by assessments and the initial estimated annual assessment to be levied;

(ii) a description of how the estimated assessment will be determined;

(iii) a description of how and when the governing body will adjust the assessment to reflect the costs of:

(A) in accordance with Section 11-42-406, current economic promotion activities; or

(B) current operation and maintenance costs;

(iv) a description of the method of assessment if different from the method of assessment to be used for financing any improvement; and

(v) a statement of the maximum number of years over which the assessment will be levied for:

(A) operation and maintenance costs; or

(B) economic promotion activities;

(n) if the governing body intends to divide the proposed assessment area into classifications under Subsection 11-42-201(1)(b), include a description of the proposed classifications;

(o) if applicable, state the portion and value of the improvement that will be increased in size or capacity to serve property outside of the assessment area and how the increases will be financed; and

(p) state whether the improvements will be financed with a bond and, if so, the currently estimated interest rate and term of financing, subject to Subsection (2), for which the benefitted properties within the assessment area may be obligated.

(2) The estimated interest rate and term of financing in Subsection (1)(p) may not be interpreted as a limitation to the actual interest rate incurred or the actual term of financing as subject to the market rate at the time of the issuance of the bond.

(3) A notice required under Subsection 11-42-201(2)(a) may contain other information that the governing body considers to be appropriate, including:

(a) the amount or proportion of the cost of the improvement to be paid by the local entity or from sources other than an assessment;

(b) the estimated total amount of each type of assessment for the various improvements to be financed according to the method of assessment that the governing body chooses; and

(c) provisions for any improvements described in Subsection 11-42-102(24)(a)(ii).

(4) Each notice required under Subsection 11-42-201(2)(a) shall:

(a) (i) (A) be published in a newspaper of general circulation within the local entity's jurisdictional boundaries, once a week for four consecutive weeks, with the last publication at least five but not more than 20 days before the day of the hearing required in Section 11-42-204; or

(B) if there is no newspaper of general circulation within the local entity's jurisdictional boundaries, be posted in at least three public places within the local entity's jurisdictional boundaries at least 20 but not more than 35 days before the day of the hearing required in Section 11-42-204; and

(ii) be published on the Utah Public Notice Website described in Section [~~63F-1-701~~] 63A-16-601 for four weeks before the deadline for filing protests specified in the notice under Subsection (1)(i); and

(b) be mailed, postage prepaid, within 10 days after the first publication or posting of the notice under Subsection (4)(a) to each owner of property to be assessed within the proposed assessment area at the property owner's mailing address.

(5) (a) The local entity may record the version of the notice that is published or posted in accordance with Subsection (4)(a) with the office of the county recorder, by legal description and tax identification number as identified in county records, against the property proposed to be assessed.

(b) The notice recorded under Subsection (5)(a) expires and is no longer valid one year after the day on which the local entity records the notice if the local entity has failed to adopt the designation ordinance or resolution under Section 11-42-201 designating the assessment area for which the notice was recorded.

(6) A local entity shall make available on the local entity's website, or, if no website is available, at the local entity's place of business, the address and type of use of each unassessed benefitted government property described in Subsection (1)(g).

(7) If a governing body fails to provide actual or constructive notice under this section, the local entity may not assess a levy against a benefitted property omitted from the notice unless:

(a) the property owner gives written consent;

(b) the property owner received notice under Subsection 11-42-401(2)(a)(iii) and did not object to the levy of the assessment before the final hearing of the board of equalization; or

(c) the benefitted property is conveyed to a subsequent purchaser and, before the date of conveyance, the requirements of Subsections 11-42-206(3)(a)(i) and (ii), or, if applicable, Subsection 11-42-207(1)(d)(i) are met.

Section 44. Section 11-42-402 is amended to read:

11-42-402. Notice of assessment and board of equalization hearing.

Each notice required under Subsection 11-42-401(2)(a)(iii) shall:

(1) state:

(a) that an assessment list is completed and available for examination at the offices of the local entity;

(b) the total estimated or actual cost of the improvements;

(c) the amount of the total estimated or actual cost of the proposed improvements to be paid by the local entity;

(d) the amount of the assessment to be levied against benefitted property within the assessment area;

(e) the assessment method used to calculate the proposed assessment;

(f) the unit cost used to calculate the assessments shown on the assessment list, based on the assessment method used to calculate the proposed assessment; and

(g) the dates, times, and place of the board of equalization hearings under Subsection 11-42-401(2)(b)(i);

(2) (a) beginning at least 20 but not more than 35 days before the day on which the first hearing of the board of equalization is held:

(i) be published at least once in a newspaper of general circulation within the local entity's jurisdictional boundaries; or

(ii) if there is no newspaper of general circulation within the local entity's jurisdictional boundaries, be posted in at least three public places within the local entity's jurisdictional boundaries; and

(b) be published on the Utah Public Notice Website created in Section [~~63F-1-701~~] 63A-16-601 for 35 days immediately before the day on which the first hearing of the board of equalization is held; and

(3) be mailed, postage prepaid, within 10 days after the first publication or posting of the notice under Subsection (2) to each owner of property to be assessed within the proposed assessment area at the property owner's mailing address.

Section 45. Section 11-58-502 is amended to read:

11-58-502. Public meeting to consider and discuss draft project area plan -- Notice -- Adoption of plan.

(1) The board shall hold at least one public meeting to consider and discuss a draft project area plan.

(2) At least 10 days before holding a public meeting under Subsection (1), the board shall give notice of the public meeting:

(a) to each taxing entity;

(b) to a municipality in which the proposed project area is located or that is located within one-half mile of the proposed project area; and

(c) on the Utah Public Notice Website created in Section [~~63F-1-701~~] 63A-16-601.

(3) Following consideration and discussion of the draft project area plan, and any modification of the project area plan under Subsection 11-58-501(2)(d), the board may adopt the draft project area plan or modified draft project area plan as the project area plan.

Section 46. Section 11-58-503 is amended to read:

11-58-503. Notice of project area plan adoption -- Effective date of plan -- Time for challenging a project area plan or project area.

(1) Upon the board's adoption of a project area plan, the board shall provide notice as provided in Subsection (2) by publishing or causing to be published legal notice:

(a) in a newspaper of general circulation within or near the project area; and

(b) as required by Section 45-1-101.

(2) (a) Each notice under Subsection (1) shall include:

(i) the board resolution adopting the project area plan or a summary of the resolution; and

(ii) a statement that the project area plan is available for general public inspection and the hours for inspection.

(b) The statement required under Subsection (2)(a)(ii) may be included within the board resolution adopting the project area plan or within the summary of the resolution.

(3) The project area plan shall become effective on the date designated in the board resolution.

(4) The authority shall make the adopted project area plan available to the general public at its offices during normal business hours.

(5) Within 10 days after the day on which a project area plan is adopted that establishes a project area, or after an amendment to a project area plan is adopted under which the boundary of a project area is modified, the authority shall send notice of the

establishment or modification of the project area and an accurate map or plat of the project area to:

(a) the State Tax Commission;

(b) the Automated Geographic Reference Center created in Section [~~63F-1-506~~] 63A-16-505; and

(c) the assessor and recorder of each county where the project area is located.

(6) (a) A legal action or other challenge to a project area plan or a project area described in a project area plan is barred unless brought within 30 days after the effective date of the project area plan.

(b) A legal action or other challenge to a project area that consists of authority jurisdictional land is barred unless brought within 30 days after the board adopts a business plan under Subsection 11-58-202(1)(a) for the authority jurisdictional land.

Section 47. Section 11-58-801 is amended to read:

11-58-801. Annual port authority budget -- Fiscal year -- Public hearing required -- Auditor forms -- Requirement to file annual budget.

(1) The authority shall prepare and its board adopt an annual budget of revenues and expenditures for the authority for each fiscal year.

(2) Each annual authority budget shall be adopted before June 22, except that the authority's initial budget shall be adopted as soon as reasonably practicable after the organization of the board and the beginning of authority operations.

(3) The authority's fiscal year shall be the period from July 1 to the following June 30.

(4) (a) Before adopting an annual budget, the board shall hold a public hearing on the annual budget.

(b) The authority shall provide notice of the public hearing on the annual budget by publishing notice:

(i) at least once in a newspaper of general circulation within the state, one week before the public hearing; and

(ii) on the Utah Public Notice Website created in Section [~~63F-1-701~~] 63A-16-601, for at least one week immediately before the public hearing.

(c) The authority shall make the annual budget available for public inspection at least three days before the date of the public hearing.

(5) The state auditor shall prescribe the budget forms and the categories to be contained in each authority budget, including:

(a) revenues and expenditures for the budget year;

(b) legal fees; and

(c) administrative costs, including rent, supplies, and other materials, and salaries of authority personnel.

(6) (a) Within 30 days after adopting an annual budget, the board shall file a copy of the annual budget with the auditor of each county in which the authority jurisdictional land is located, the State Tax Commission, the state auditor, the State Board of Education, and each taxing entity that levies a tax on property from which the authority collects property tax differential.

(b) The requirement of Subsection (6)(a) to file a copy of the annual budget with the state as a taxing entity is met if the authority files a copy with the State Tax Commission and the state auditor.

Section 48. Section 11-59-401 is amended to read:

11-59-401. Annual authority budget -- Fiscal year -- Public hearing and notice required -- Auditor forms.

(1) The authority shall prepare and its board adopt an annual budget of revenues and expenditures for the authority for each fiscal year.

(2) Each annual authority budget shall be adopted before June 22.

(3) The authority's fiscal year shall be the period from July 1 to the following June 30.

(4) (a) Before adopting an annual budget, the authority board shall hold a public hearing on the annual budget.

(b) The authority shall provide notice of the public hearing on the annual budget by publishing notice:

(i) at least once in a newspaper of general circulation within the state, one week before the public hearing; and

(ii) on the Utah Public Notice Website created in Section [~~63F-1-701~~] 63A-16-601, for at least one week immediately before the public hearing.

(c) The authority shall make the annual budget available for public inspection at least three days before the date of the public hearing.

(5) The state auditor shall prescribe the budget forms and the categories to be contained in each authority budget, including:

(a) revenues and expenditures for the budget year;

(b) legal fees; and

(c) administrative costs, including rent, supplies, and other materials, and salaries of authority personnel.

Section 49. Section 13-1-2 is amended to read:

13-1-2. Creation and functions of department -- Divisions created -- Fees -- Commerce Service Account.

(1) (a) There is created the Department of Commerce.

(b) The department shall:

(i) execute and administer state laws regulating business activities and occupations affecting the public interest; and

(ii) ensure that any training or certification required of a public official or public employee, as those terms are defined in Section 63G-22-102, complies with Title 63G, Chapter 22, State Training and Certification Requirements, if the training or certification is required:

(A) under this title;

(B) by the department; or

(C) by an agency or division within the department.

(2) Within the department the following divisions are created:

(a) the Division of Occupational and Professional Licensing;

(b) the Division of Real Estate;

(c) the Division of Securities;

(d) the Division of Public Utilities;

(e) the Division of Consumer Protection; and

(f) the Division of Corporations and Commercial Code.

(3) (a) Unless otherwise provided by statute, the department may adopt a schedule of fees assessed for services provided by the department by following the procedures and requirements of Section 63J-1-504.

(b) The department shall submit each fee established in this manner to the Legislature for its approval as part of the department's annual appropriations request.

(c) (i) There is created a restricted account within the General Fund known as the "Commerce Service Account."

(ii) The restricted account created in Subsection (3)(c)(i) consists of fees collected by each division and by the department.

(iii) The undesignated account balance may not exceed $1,000,000 at the end of each fiscal year.

(iv) At the end of each fiscal year, the director of the Division of Finance shall transfer into the General Fund any undesignated funds in the account that exceed the amount necessary to maintain the undesignated account balance at $1,000,000.

(d) The department may not charge or collect a fee or expend money from the restricted account without approval by the Legislature.

(4) (a) As used in this Subsection (4):

(i) "Business entity" means a sole proprietorship, partnership, limited partnership, limited liability company, corporation, or other entity or association used to carry on a business for profit.

(ii) "Fund" means the Single Sign-On Expendable Special Revenue Fund, created in Subsection (4)(c).

(iii) "Renewal fee" means a fee that the Division of Corporations and Commercial Code, established in Section 13-1a-1, is authorized or required to charge a business entity in connection with the business entity's periodic renewal of its status with the Division of Corporations and Commercial Code.

(iv) "Single sign-on fee" means a fee described in Subsection (4)(b) to pay for the establishment and maintenance of the single sign-on business portal.

(v) "Single sign-on business portal" means the same as that term is defined in Section [~~63F-3-103~~] 63A-16-802.

(b) (i) The schedule of fees adopted by the department under Subsection (3) shall include a single sign-on fee, not to exceed $5, as part of a renewal fee.

(ii) The department shall deposit all single sign-on fee revenue into the fund.

(c) (i) There is created the Single Sign-On Expendable Special Revenue Fund.

(ii) The fund consists of:

(A) money that the department collects from the single sign-on fee; and

(B) money that the Legislature appropriates to the fund.

(d) The department shall use the money in the fund to pay for costs:

(i) to design, create, operate, and maintain the single sign-on business portal; and

(ii) incurred by:

(A) the Department of Technology Services, created in Section [~~63F-1-103~~] 63A-16-103; or

(B) a third-party vendor working under a contract with the Department of Technology Services.

(e) The department shall report on fund revenues and expenditures to the Public Utilities, Energy, and Technology Interim Committee of the Legislature annually and at any other time requested by the committee.

Section 50. Section 17-27a-203 is amended to read:

17-27a-203. Notice of intent to prepare a general plan or comprehensive general plan amendments in certain counties.

(1) Before preparing a proposed general plan or a comprehensive general plan amendment, each county of the first or second class shall provide 10 calendar days notice of its intent to prepare a proposed general plan or a comprehensive general plan amendment:

(a) to each affected entity;

(b) to the Automated Geographic Reference Center created in Section [~~63F-1-506~~] 63A-16-505;

(c) to the association of governments, established pursuant to an interlocal agreement under Title 11, Chapter 13, Interlocal Cooperation Act, of which the county is a member; and

(d) on the Utah Public Notice Website created under Section [~~63F-1-701~~] 63A-16-601.

(2) Each notice under Subsection (1) shall:

(a) indicate that the county intends to prepare a general plan or a comprehensive general plan amendment, as the case may be;

(b) describe or provide a map of the geographic area that will be affected by the general plan or amendment;

(c) be sent by mail, e-mail, or other effective means;

(d) invite the affected entities to provide information for the county to consider in the process of preparing, adopting, and implementing a general plan or amendment concerning:

(i) impacts that the use of land proposed in the proposed general plan or amendment may have; and

(ii) uses of land within the county that the affected entity is considering that may conflict with the proposed general plan or amendment; and

(e) include the address of an Internet website, if the county has one, and the name and telephone number of a person where more information can be obtained concerning the county's proposed general plan or amendment.

Section 51. Section 17-27a-204 is amended to read:

17-27a-204. Notice of public hearings and public meetings to consider general plan or modifications.

(1) A county shall provide:

(a) notice of the date, time, and place of the first public hearing to consider the original adoption or any modification of all or any portion of a general plan; and

(b) notice of each public meeting on the subject.

(2) Each notice of a public hearing under Subsection (1)(a) shall be at least 10 calendar days before the public hearing and shall be:

(a) (i) published in a newspaper of general circulation in the area; and

(ii) published on the Utah Public Notice Website created in Section [~~63F-1-701~~] 63A-16-601;

(b) mailed to each affected entity; and

(c) posted:

(i) in at least three public locations within the county; or

(ii) on the county's official website.

(3) Each notice of a public meeting under Subsection (1)(b) shall be at least 24 hours before the meeting and shall be:

(a) (i) submitted to a newspaper of general circulation in the area; and

(ii) published on the Utah Public Notice Website created in Section [~~63F-1-701~~] 63A-16-601; and

(b) posted:

(i) in at least three public locations within the county; or

(ii) on the county's official website.

Section 52. Section 17-27a-205 is amended to read:

17-27a-205. Notice of public hearings and public meetings on adoption or modification of land use regulation.

(1) Each county shall give:

(a) notice of the date, time, and place of the first public hearing to consider the adoption or modification of a land use regulation; and

(b) notice of each public meeting on the subject.

(2) Each notice of a public hearing under Subsection (1)(a) shall be:

(a) mailed to each affected entity at least 10 calendar days before the public hearing;

(b) posted:

(i) in at least three public locations within the county; or

(ii) on the county's official website; and

(c) (i) published:

(A) in a newspaper of general circulation in the area at least 10 calendar days before the public hearing; and

(B) on the Utah Public Notice Website created in Section [~~63F-1-701~~] 63A-16-601, at least 10 calendar days before the public hearing; or

(ii) mailed at least 10 days before the public hearing to:

(A) each property owner whose land is directly affected by the land use ordinance change; and

(B) each adjacent property owner within the parameters specified by county ordinance.

(3) Each notice of a public meeting under Subsection (1)(b) shall be at least 24 hours before the hearing and shall be posted:

(a) in at least three public locations within the county; or

(b) on the county's official website.

(4) (a) A county shall send a courtesy notice to each owner of private real property whose property is located entirely or partially within the proposed zoning map enactment or amendment at least 10 days before the scheduled day of the public hearing.

(b) The notice shall:

(i) identify with specificity each owner of record of real property that will be affected by the proposed zoning map or map amendments;

(ii) state the current zone in which the real property is located;

(iii) state the proposed new zone for the real property;

(iv) provide information regarding or a reference to the proposed regulations, prohibitions, and permitted uses that the property will be subject to if the zoning map or map amendment is adopted;

(v) state that the owner of real property may no later than 10 days after the day of the first public hearing file a written objection to the inclusion of the owner's property in the proposed zoning map or map amendment;

(vi) state the address where the property owner should file the protest;

(vii) notify the property owner that each written objection filed with the county will be provided to the county legislative body; and

(viii) state the location, date, and time of the public hearing described in Section 17-27a-502.

(c) If a county mails notice to a property owner in accordance with Subsection (2)(c)(ii) for a public hearing on a zoning map or map amendment, the notice required in this Subsection (4) may be included in or part of the notice described in Subsection (2)(c)(ii) rather than sent separately.

Section 53. Section 17-27a-208 is amended to read:

17-27a-208. Hearing and notice for petition to vacate a public street.

(1) For any petition to vacate some or all of a public street or county utility easement, the legislative body shall:

(a) hold a public hearing; and

(b) give notice of the date, place, and time of the hearing, as provided in Subsection (2).

(2) At least 10 days before the public hearing under Subsection (1)(a), the legislative body shall ensure that the notice required under Subsection (1)(b) is:

(a) mailed to the record owner of each parcel that is accessed by the public street or county utility easement;

(b) mailed to each affected entity;

(c) posted on or near the public street or county utility easement in a manner that is calculated to alert the public; and

(d) (i) published on the website of the county in which the land subject to the petition is located until the public hearing concludes; and

(ii) published on the Utah Public Notice Website created in Section [~~63F-1-701~~] 63A-16-601.

Section 54. Section 17-27a-306 is amended to read:

17-27a-306. Planning advisory areas.

(1) (a) A planning advisory area may be established as provided in this Subsection (1).

(b) A planning advisory area may not be established unless the area to be included within the proposed planning advisory area:

(i) is unincorporated;

(ii) is contiguous; and

(iii) (A) contains:

(I) at least 20% but not more than 80% of:

(Aa) the total private land area in the unincorporated county; or

(Bb) the total value of locally assessed taxable property in the unincorporated county; or

(II) (Aa) in a county of the second or third class, at least 5% of the total population of the unincorporated county, but not less than 300 residents; or

(Bb) in a county of the fourth, fifth, or sixth class, at least 25% of the total population of the unincorporated county; or

(B) has been declared by the United States Census Bureau as a census designated place.

(c) (i) The process to establish a planning advisory area is initiated by the filing of a petition with the clerk of the county in which the proposed planning advisory area is located.

(ii) A petition to establish a planning advisory area may not be filed if it proposes the establishment of a planning advisory area that includes an area within a proposed planning advisory area in a petition that has previously been certified under Subsection (1)(g), until after the canvass of an election on the proposed planning advisory area under Subsection (1)(j).

(d) A petition under Subsection (1)(c) to establish a planning advisory area shall:

(i) be signed by the owners of private real property that:

(A) is located within the proposed planning advisory area;

(B) covers at least 10% of the total private land area within the proposed planning advisory area; and

(C) is equal in value to at least 10% of the value of all private real property within the proposed planning advisory area;

(ii) be accompanied by an accurate plat or map showing the boundary of the contiguous area proposed to be established as a planning advisory area;

(iii) indicate the typed or printed name and current residence address of each owner signing the petition;

(iv) designate up to five signers of the petition as petition sponsors, one of whom shall be designated as the contact sponsor, with the mailing address and telephone number of each petition sponsor;

(v) authorize the petition sponsor or sponsors to act on behalf of all owners signing the petition for purposes of the petition; and

(vi) request the county legislative body to provide notice of the petition and of a public hearing, hold a public hearing, and conduct an election on the proposal to establish a planning advisory area.

(e) Subsection 10-2a-102(3) applies to a petition to establish a planning advisory area to the same extent as if it were an incorporation petition under Title 10, Chapter 2a, Municipal Incorporation.

(f) (i) Within seven days after the filing of a petition under Subsection (1)(c) proposing the establishment of a planning advisory area in a county of the second class, the county clerk shall provide notice of the filing of the petition to:

(A) each owner of real property owning more than 1% of the assessed value of all real property within the proposed planning advisory area; and

(B) each owner of real property owning more than 850 acres of real property within the proposed planning advisory area.

(ii) A property owner may exclude all or part of the property owner's property from a proposed planning advisory area in a county of the second class:

(A) if:

(I) (Aa) (Ii) the property owner owns more than 1% of the assessed value of all property within the proposed planning advisory area;

(IIii) the property is nonurban; and

(IIIiii) the property does not or will not require municipal provision of municipal-type services; or

(Bb) the property owner owns more than 850 acres of real property within the proposed planning advisory area; and

(II) exclusion of the property will not leave within the planning advisory area an island of property that is not part of the planning advisory area; and

(B) by filing a notice of exclusion within 10 days after receiving the clerk's notice under Subsection (1)(f)(i).

(iii) (A) The county legislative body shall exclude from the proposed planning advisory area the property identified in a notice of exclusion timely filed under Subsection (1)(f)(ii)(B) if the property meets the applicable requirements of Subsection (1)(f)(ii)(A).

(B) If the county legislative body excludes property from a proposed planning advisory area under Subsection (1)(f)(iii), the county legislative body shall, within five days after the exclusion, send written notice of its action to the contact sponsor.

(g) (i) Within 45 days after the filing of a petition under Subsection (1)(c), the county clerk shall:

(A) with the assistance of other county officers from whom the clerk requests assistance, determine whether the petition complies with the requirements of Subsection (1)(d); and

(B) (I) if the clerk determines that the petition complies with the requirements of Subsection (1)(d):

(Aa) certify the petition and deliver the certified petition to the county legislative body; and

(Bb) mail or deliver written notification of the certification to the contact sponsor; or

(II) if the clerk determines that the petition fails to comply with any of the requirements of Subsection (1)(d), reject the petition and notify the contact sponsor in writing of the rejection and the reasons for the rejection.

(ii) If the county clerk rejects a petition under Subsection (1)(g)(i)(B)(II), the petition may be amended to correct the deficiencies for which it was rejected and then refiled with the county clerk.

(h) (i) Within 90 days after a petition to establish a planning advisory area is certified, the county legislative body shall hold a public hearing on the proposal to establish a planning advisory area.

(ii) A public hearing under Subsection (1)(h)(i) shall be:

(A) within the boundary of the proposed planning advisory area; or

(B) if holding a public hearing in that area is not practicable, as close to that area as practicable.

(iii) At least one week before holding a public hearing under Subsection (1)(h)(i), the county legislative body shall publish notice of the petition and the time, date, and place of the public hearing:

(A) at least once in a newspaper of general circulation in the county; and

(B) on the Utah Public Notice Website created in Section [~~63F-1-701~~] 63A-16-601.

(i) Following the public hearing under Subsection (1)(h)(i), the county legislative body shall arrange for the proposal to establish a planning advisory area to be submitted to voters residing within the proposed planning advisory area at the next regular general election that is more than 90 days after the public hearing.

(j) A planning advisory area is established at the time of the canvass of the results of an election under Subsection (1)(i) if the canvass indicates that a majority of voters voting on the proposal to establish a planning advisory area voted in favor of the proposal.

(k) An area that is an established township before May 12, 2015:

(i) is, as of May 12, 2015, a planning advisory area; and

(ii) (A) shall change its name, if applicable, to no longer include the word "township"; and

(B) may use the word "planning advisory area" in its name.

(2) The county legislative body may:

(a) assign to the countywide planning commission the duties established in this part that would have been assumed by a planning advisory area planning commission designated under Subsection (2)(b); or

(b) designate and appoint a planning commission for the planning advisory area.

(3) (a) An area within the boundary of a planning advisory area may be withdrawn from the planning advisory area as provided in this Subsection (3) or in accordance with Subsection (5)(a).

(b) The process to withdraw an area from a planning advisory area is initiated by the filing of a petition with the clerk of the county in which the planning advisory area is located.

(c) A petition under Subsection (3)(b) shall:

(i) be signed by the owners of private real property that:

(A) is located within the area proposed to be withdrawn from the planning advisory area;

(B) covers at least 50% of the total private land area within the area proposed to be withdrawn from the planning advisory area; and

(C) is equal in value to at least 33% of the value of all private real property within the area proposed to be withdrawn from the planning advisory area;

(ii) state the reason or reasons for the proposed withdrawal;

(iii) be accompanied by an accurate plat or map showing the boundary of the contiguous area proposed to be withdrawn from the planning advisory area;

(iv) indicate the typed or printed name and current residence address of each owner signing the petition;

(v) designate up to five signers of the petition as petition sponsors, one of whom shall be designated as the contact sponsor, with the mailing address and telephone number of each petition sponsor;

(vi) authorize the petition sponsor or sponsors to act on behalf of all owners signing the petition for purposes of the petition; and

(vii) request the county legislative body to withdraw the area from the planning advisory area.

(d) Subsection 10-2a-102(3) applies to a petition to withdraw an area from a planning advisory area to the same extent as if it were an incorporation petition under Title 10, Chapter 2a, Municipal Incorporation.

(e) (i) Within 45 days after the filing of a petition under Subsection (3)(b), the county clerk shall:

(A) with the assistance of other county officers from whom the clerk requests assistance, determine whether the petition complies with the requirements of Subsection (3)(c); and

(B) (I) if the clerk determines that the petition complies with the requirements of Subsection (3)(c):

(Aa) certify the petition and deliver the certified petition to the county legislative body; and

(Bb) mail or deliver written notification of the certification to the contact sponsor; or

(II) if the clerk determines that the petition fails to comply with any of the requirements of Subsection (3)(c), reject the petition and notify the contact sponsor in writing of the rejection and the reasons for the rejection.

(ii) If the county clerk rejects a petition under Subsection (3)(e)(i)(B)(II), the petition may be amended to correct the deficiencies for which it was rejected and then refiled with the county clerk.

(f) (i) Within 60 days after a petition to withdraw an area from a planning advisory area is certified, the county legislative body shall hold a public hearing on the proposal to withdraw the area from the planning advisory area.

(ii) A public hearing under Subsection (3)(f)(i) shall be held:

(A) within the area proposed to be withdrawn from the planning advisory area; or

(B) if holding a public hearing in that area is not practicable, as close to that area as practicable.

(iii) Before holding a public hearing under Subsection (3)(f)(i), the county legislative body shall:

(A) publish notice of the petition and the time, date, and place of the public hearing:

(I) at least once a week for three consecutive weeks in a newspaper of general circulation in the planning advisory area; and

(II) on the Utah Public Notice Website created in Section [~~63F-1-701~~] 63A-16-601, for three consecutive weeks; and

(B) mail a notice of the petition and the time, date, and place of the public hearing to each owner of private real property within the area proposed to be withdrawn.

(g) (i) Within 45 days after the public hearing under Subsection (3)(f)(i), the county legislative body shall make a written decision on the proposal to withdraw the area from the planning advisory area.

(ii) In making its decision as to whether to withdraw the area from the planning advisory area, the county legislative body shall consider:

(A) whether the withdrawal would leave the remaining planning advisory area in a situation

where the future incorporation of an area within the planning advisory area or the annexation of an area within the planning advisory area to an adjoining municipality would be economically or practically not feasible;

(B) if the withdrawal is a precursor to the incorporation or annexation of the withdrawn area:

(I) whether the proposed subsequent incorporation or withdrawal:

(Aa) will leave or create an unincorporated island or peninsula; or

(Bb) will leave the county with an area within its unincorporated area for which the cost, requirements, or other burdens of providing municipal services would materially increase over previous years; and

(II) whether the municipality to be created or the municipality into which the withdrawn area is expected to annex would be or is capable, in a cost effective manner, of providing service to the withdrawn area that the county will no longer provide due to the incorporation or annexation;

(C) the effects of a withdrawal on adjoining property owners, existing or projected county streets or other public improvements, law enforcement, and zoning and other municipal services provided by the county; and

(D) whether justice and equity favor the withdrawal.

(h) Upon the written decision of the county legislative body approving the withdrawal of an area from a planning advisory area, the area is withdrawn from the planning advisory area and the planning advisory area continues as a planning advisory area with a boundary that excludes the withdrawn area.

(4) (a) A planning advisory area may be dissolved as provided in this Subsection (4).

(b) The process to dissolve a planning advisory area is initiated by the filing of a petition with the clerk of the county in which the planning advisory area is located.

(c) A petition under Subsection (4)(b) shall:

(i) be signed by registered voters within the planning advisory area equal in number to at least 25% of all votes cast by voters within the planning advisory area at the last congressional election;

(ii) state the reason or reasons for the proposed dissolution;

(iii) indicate the typed or printed name and current residence address of each person signing the petition;

(iv) designate up to five signers of the petition as petition sponsors, one of whom shall be designated as the contact sponsor, with the mailing address and telephone number of each petition sponsor;

(v) authorize the petition sponsors to act on behalf of all persons signing the petition for purposes of the petition; and

(vi) request the county legislative body to provide notice of the petition and of a public hearing, hold a public hearing, and conduct an election on the proposal to dissolve the planning advisory area.

(d) (i) Within 45 days after the filing of a petition under Subsection (4)(b), the county clerk shall:

(A) with the assistance of other county officers from whom the clerk requests assistance, determine whether the petition complies with the requirements of Subsection (4)(c); and

(B) (I) if the clerk determines that the petition complies with the requirements of Subsection (4)(c):

(Aa) certify the petition and deliver the certified petition to the county legislative body; and

(Bb) mail or deliver written notification of the certification to the contact sponsor; or

(II) if the clerk determines that the petition fails to comply with any of the requirements of Subsection (4)(c), reject the petition and notify the contact sponsor in writing of the rejection and the reasons for the rejection.

(ii) If the county clerk rejects a petition under Subsection (4)(d)(i)(B)(II), the petition may be amended to correct the deficiencies for which it was rejected and then refiled with the county clerk.

(e) (i) Within 60 days after a petition to dissolve the planning advisory area is certified, the county legislative body shall hold a public hearing on the proposal to dissolve the planning advisory area.

(ii) A public hearing under Subsection (4)(e)(i) shall be held:

(A) within the boundary of the planning advisory area; or

(B) if holding a public hearing in that area is not practicable, as close to that area as practicable.

(iii) Before holding a public hearing under Subsection (4)(e)(i), the county legislative body shall publish notice of the petition and the time, date, and place of the public hearing:

(A) at least once a week for three consecutive weeks in a newspaper of general circulation in the planning advisory area; and

(B) on the Utah Public Notice Website created in Section [~~63F-1-701~~] 63A-16-601, for three consecutive weeks immediately before the public hearing.

(f) Following the public hearing under Subsection (4)(e)(i), the county legislative body shall arrange for the proposal to dissolve the planning advisory area to be submitted to voters residing within the planning advisory area at the next regular general election that is more than 90 days after the public hearing.

(g) A planning advisory area is dissolved at the time of the canvass of the results of an election

under Subsection (4)(f) if the canvass indicates that a majority of voters voting on the proposal to dissolve the planning advisory area voted in favor of the proposal.

(5) (a) If a portion of an area located within a planning advisory area is annexed by a municipality or incorporates, that portion is withdrawn from the planning advisory area.

(b) If a planning advisory area in whole is annexed by a municipality or incorporates, the planning advisory area is dissolved.

Section 55. Section 17-27a-404 is amended to read:

17-27a-404. Public hearing by planning commission on proposed general plan or amendment -- Notice -- Revisions to general plan or amendment -- Adoption or rejection by legislative body.

(1) (a) After completing its recommendation for a proposed general plan, or proposal to amend the general plan, the planning commission shall schedule and hold a public hearing on the proposed plan or amendment.

(b) The planning commission shall provide notice of the public hearing, as required by Section 17-27a-204.

(c) After the public hearing, the planning commission may modify the proposed general plan or amendment.

(2) The planning commission shall forward the proposed general plan or amendment to the legislative body.

(3) (a) As provided by local ordinance and by Section 17-27a-204, the legislative body shall provide notice of its intent to consider the general plan proposal.

(b) (i) In addition to the requirements of Subsections (1), (2), and (3)(a), the legislative body shall hold a public hearing in Salt Lake City on provisions of the proposed county plan regarding Subsection 17-27a-401(4). The hearing procedure shall comply with this Subsection (3)(b).

(ii) The hearing format shall allow adequate time for public comment at the actual public hearing, and shall also allow for public comment in writing to be submitted to the legislative body for not fewer than 90 days after the date of the public hearing.

(c) (i) The legislative body shall give notice of the hearing in accordance with this Subsection (3) when the proposed plan provisions required by Subsection 17-27a-401(4) are complete.

(ii) Direct notice of the hearing shall be given, in writing, to the governor, members of the state Legislature, executive director of the Department of Environmental Quality, the state planning coordinator, the Resource Development Coordinating Committee, and any other citizens or entities who specifically request notice in writing.

(iii) Public notice shall be given by publication:

(A) in at least one major Utah newspaper having broad general circulation in the state;

(B) in at least one Utah newspaper having a general circulation focused mainly on the county where the proposed high-level nuclear waste or greater than class C radioactive waste site is to be located; and

(C) on the Utah Public Notice Website created in Section [~~63F-1-701~~] 63A-16-601.

(iv) The notice shall be published to allow reasonable time for interested parties and the state to evaluate the information regarding the provisions of Subsection 17-27a-401(4), including:

(A) in a newspaper described in Subsection (3)(c)(iii)(A), no less than 180 days before the date of the hearing to be held under this Subsection (3); and

(B) publication described in Subsection (3)(c)(iii)(B) or (C) for 180 days before the date of the hearing to be held under this Subsection (3).

(4) (a) After the public hearing required under this section, the legislative body may adopt, reject, or make any revisions to the proposed general plan that it considers appropriate.

(b) The legislative body shall respond in writing and in a substantive manner to all those providing comments as a result of the hearing required by Subsection (3).

(c) If the county legislative body rejects the proposed general plan or amendment, it may provide suggestions to the planning commission for the planning commission's review and recommendation.

(5) The legislative body shall adopt:

(a) a land use element as provided in Subsection 17-27a-403(2)(a)(i);

(b) a transportation and traffic circulation element as provided in Subsection 17-27a-403(2)(a)(ii);

(c) after considering the factors included in Subsection 17-27a-403(2)(b), a plan to provide a realistic opportunity to meet the need for additional moderate income housing; and

(d) before August 1, 2017, a resource management plan as provided by Subsection 17-27a-403(2)(a)(iv).

Section 56. Section 17-27a-603 is amended to read:

17-27a-603. Plat required when land is subdivided -- Approval of plat -- Owner acknowledgment, surveyor certification, and underground utility facility owner verification of plat -- Recording plat.

(1) Unless exempt under Section 17-27a-605 or excluded from the definition of subdivision under Section 17-27a-103, whenever any land is laid out and platted, the owner of the land shall provide an accurate plat that describes or specifies:

(a) a subdivision name that is distinct from any subdivision name on a plat recorded in the county recorder's office;

(b) the boundaries, course, and dimensions of all of the parcels of ground divided, by their boundaries, course, and extent, whether the owner proposes that any parcel of ground is intended to be used as a street or for any other public use, and whether any such area is reserved or proposed for dedication for a public purpose;

(c) the lot or unit reference, block or building reference, street or site address, street name or coordinate address, acreage or square footage for all parcels, units, or lots, and length and width of the blocks and lots intended for sale; and

(d) every existing right-of-way and easement grant of record for an underground facility, as defined in Section 54-8a-2, and for any other utility facility.

(2) (a) Subject to Subsections (3), (5), and (6), if the plat conforms to the county's ordinances and this part and has been approved by the culinary water authority, the sanitary sewer authority, and the local health department, as defined in Section 26A-1-102, if the local health department and the county consider the local health department's approval necessary, the county shall approve the plat.

(b) Counties are encouraged to receive a recommendation from the fire authority and the public safety answering point before approving a plat.

(c) A county may not require that a plat be approved or signed by a person or entity who:

(i) is not an employee or agent of the county; or

(ii) does not:

(A) have a legal or equitable interest in the property within the proposed subdivision;

(B) provide a utility or other service directly to a lot within the subdivision;

(C) own an easement or right-of-way adjacent to the proposed subdivision who signs for the purpose of confirming the accuracy of the location of the easement or right-of-way in relation to the plat; or

(D) provide culinary public water service whose source protection zone designated as provided in Section 19-4-113 is included, in whole or in part, within the proposed subdivision.

(d) For a subdivision application that includes land located within a notification zone, as determined under Subsection (2)(f), the land use authority shall:

(i) within 20 days after the day on which a complete subdivision application is filed, provide written notice of the application to the canal owner or associated canal operator contact described in:

(A) Section 17-27a-211;

(B) Subsection 73-5-7(2); or

(C) Subsection (5)(c); and

(ii) wait to approve or reject the subdivision application for at least 20 days after the day on which the land use authority mails the notice under Subsection (2)(d)(i) in order to receive input from the canal owner or associated canal operator, including input regarding:

(A) access to the canal;

(B) maintenance of the canal;

(C) canal protection; and

(D) canal safety.

(e) When applicable, the subdivision applicant shall comply with Section 73-1-15.5.

(f) The land use authority shall provide the notice described in Subsection (2)(d) to a canal owner or associated canal operator if:

(i) the canal's centerline is located within 100 feet of a proposed subdivision; and

(ii) the centerline alignment is available to the land use authority:

(A) from information provided by the canal company under Section 17-27a-211 using mapping-grade global positioning satellite units or digitized data from the most recent aerial photo available to the canal owner or canal operator;

(B) using the state engineer's inventory of canals under Section 73-5-7; or

(C) from information provided by a surveyor under Subsection (5)(c).

(3) The county may withhold an otherwise valid plat approval until the owner of the land provides the legislative body with a tax clearance indicating that all taxes, interest, and penalties owing on the land have been paid.

(4) (a) Within 30 days after approving a final plat under this section, a county shall submit to the Automated Geographic Reference Center, created in Section [~~63F-1-506~~] 63A-16-505, for inclusion in the unified statewide 911 emergency service database described in Subsection 63H-7a-304(4)(b):

(i) an electronic copy of the approved final plat; or

(ii) preliminary geospatial data that depict any new streets and situs addresses proposed for construction within the bounds of the approved plat.

(b) If requested by the Automated Geographic Reference Center, a county that approves a final plat under this section shall:

(i) coordinate with the Automated Geographic Reference Center to validate the information described in Subsection (4)(a); and

(ii) assist the Automated Geographic Reference Center in creating electronic files that contain the information described in Subsection (4)(a) for inclusion in the unified statewide 911 emergency service database.

(5) (a) A county recorder may not record a plat unless, subject to Subsection 17-27a-604(1):

(i) prior to recordation, the county has approved and signed the plat;

(ii) each owner of record of land described on the plat has signed the owner's dedication as shown on the plat; and

(iii) the signature of each owner described in Subsection (5)(a)(ii) is acknowledged as provided by law.

(b) The surveyor making the plat shall certify that the surveyor:

(i) holds a license in accordance with Title 58, Chapter 22, Professional Engineers and Professional Land Surveyors Licensing Act;

(ii) has completed a survey of the property described on the plat in accordance with Section 17-23-17 and has verified all measurements; and

(iii) has placed monuments as represented on the plat.

(c) (i) To the extent possible, the surveyor shall consult with the owner or operator of an existing or proposed underground facility or utility facility within the proposed subdivision, or a representative designated by the owner or operator, to verify the accuracy of the surveyor's depiction of the:

(A) boundary, course, dimensions, and intended use of the public rights-of-way, a public or private easement, or grants of record;

(B) location of an existing underground facility and utility facility; and

(C) physical restrictions governing the location of the underground facility and utility facility within the subdivision.

(ii) The cooperation of an owner or operator under Subsection (5)(c)(i):

(A) indicates only that the plat approximates the location of the existing underground and utility facilities but does not warrant or verify their precise location; and

(B) does not affect a right that the owner or operator has under Title 54, Chapter 8a, Damage to Underground Utility Facilities, a recorded easement or right-of-way, the law applicable to prescriptive rights, or any other provision of law.

(6) (a) Except as provided in Subsection (5)(c), after the plat has been acknowledged, certified, and approved, the individual seeking to record the plat shall, within the time period and manner designated by ordinance, record the plat in the county recorder's office in the county in which the lands platted and laid out are situated.

(b) A failure to record a plat within the time period designated by ordinance renders the plat voidable by the land use authority.

Section 57. Section 17-36-12 is amended to read:

17-36-12. Notice of budget hearing.

(1) The governing body shall determine the time and place for the public hearing on the adoption of the budget.

(2) Notice of such hearing shall be published:

(a) (i) at least seven days before the hearing in at least one newspaper of general circulation within the county, if there is such a paper; or

(ii) if there is no newspaper as described in Subsection (2)(a)(i), by posting notice in three conspicuous places within the county seven days before the hearing;

(b) on the Utah Public Notice Website created in Section [~~63F-1-701~~] 63A-16-601, for seven days before the hearing; and

(c) on the home page of the county's website, either in full or as a link, if the county has a publicly viewable website, beginning at least seven days before the hearing and until the hearing takes place.

Section 58. Section 17-36-26 is amended to read:

17-36-26. Increase in budgetary fund or county general fund -- Public hearing.

(1) Before the governing body may, by resolution, increase a budget appropriation of any budgetary fund, increase the budget of the county general fund, or make an amendment to a budgetary fund or the county general fund, the governing body shall hold a public hearing giving all interested parties an opportunity to be heard.

(2) Notice of the public hearing described in Subsection (1) shall be published at least five days before the day of the hearing:

(a) (i) in at least one issue of a newspaper generally circulated in the county; or

(ii) if there is not a newspaper generally circulated in the county, the hearing may be published by posting notice in three conspicuous places within the county;

(b) on the Utah Public Notice Website created under Section [~~63F-1-701~~] 63A-16-601; and

(c) on the home page of the county's website, either in full or as a link, if the county has a publicly viewable website, until the hearing takes place.

Section 59. Section 17-41-304 is amended to read:

17-41-304. Public hearing -- Review and action on proposal.

(1) After receipt of the written reports from the advisory committee and planning commission, or after the ~~45~~ days have expired, whichever is earlier, the county or municipal legislative body shall:

(a) schedule a public hearing;

(b) provide notice of the public hearing by:

(i) publishing notice:

(A) in a newspaper having general circulation within:

(I) the same county as the land proposed for inclusion within the agriculture protection area, industrial protection area, or critical infrastructure materials protection area, if the land is within the unincorporated part of the county; or

(II) the same city or town as the land proposed for inclusion within an agriculture protection area, industrial protection area, or critical infrastructure materials protection area, if the land is within a city or town; and

(B) on the Utah Public Notice Website created in Section [~~63F-1-701~~] 63A-16-601;

(ii) posting notice at five public places, designated by the applicable legislative body, within or near the proposed agriculture protection area, industrial protection area, or critical infrastructure materials protection area; and

(iii) mailing written notice to each owner of land within 1,000 feet of the land proposed for inclusion within an agriculture protection area, industrial protection area, or critical infrastructure materials protection area; and

(c) ensure that the notice includes:

(i) the time, date, and place of the public hearing on the proposal;

(ii) a description of the proposed agriculture protection area, industrial protection area, or critical infrastructure materials protection area;

(iii) any proposed modifications to the proposed agriculture protection area, industrial protection area, or critical infrastructure materials protection area;

(iv) a summary of the recommendations of the advisory committee and planning commission; and

(v) a statement that interested persons may appear at the public hearing and speak in favor of or against the proposal, any proposed modifications to the proposal, or the recommendations of the advisory committee and planning commission.

(2) The applicable legislative body shall:

(a) convene the public hearing at the time, date, and place specified in the notice; and

(b) take oral or written testimony from interested persons.

(3) (a) Within 120 days of the submission of the proposal, the applicable legislative body shall approve, modify and approve, or reject the proposal.

(b) The creation of an agriculture protection area, industrial protection area, or critical infrastructure materials protection area is effective at the earlier of:

(i) the applicable legislative body's approval of a proposal or modified proposal; or

(ii) 120 days after submission of a proposal complying with Subsection 17-41-301(2) if the applicable legislative body has failed to approve or reject the proposal within that time.

(c) Notwithstanding Subsection (3)(b), a critical infrastructure materials protection area is effective only if the applicable legislative body, at its discretion, approves a proposal or modified proposal.

(4) (a) To give constructive notice of the existence of the agriculture protection area, industrial protection area, or critical infrastructure materials protection area to all persons who have, may acquire, or may seek to acquire an interest in land in or adjacent to the relevant protection area within 10 days of the creation of the relevant protection area, the applicable legislative body shall file an executed document containing a legal description of the relevant protection area with:

(i) the county recorder of deeds; and

(ii) the affected planning commission.

(b) If the legal description of the property to be included in the relevant protection area is available through the county recorder's office, the applicable legislative body shall use that legal description in its executed document required in Subsection (4)(a).

(5) Within 10 days of the recording of the agriculture protection area, the applicable legislative body shall:

(a) send written notification to the commissioner of agriculture and food that the agriculture protection area has been created; and

(b) include in the notification:

(i) the number of landowners owning land within the agriculture protection area;

(ii) the total acreage of the area;

(iii) the date of approval of the area; and

(iv) the date of recording.

(6) The applicable legislative body's failure to record the notice required under Subsection (4) or to send the written notification under Subsection (5) does not invalidate the creation of an agriculture protection area.

(7) The applicable legislative body may consider the cost of recording notice under Subsection (4) and the cost of sending notification under Subsection (5) in establishing a fee under Subsection 17-41-301(4)(b).

Section 60. Section 17-41-405 is amended to read:

17-41-405. Eminent domain restrictions.

(1) A political subdivision having or exercising eminent domain powers may not condemn for any purpose any land within an agriculture protection area that is being used for agricultural production, land within an industrial protection area that is being put to an industrial use, or land within a

critical infrastructure materials protection area, unless the political subdivision obtains approval, according to the procedures and requirements of this section, from the applicable legislative body and the advisory board.

(2) Any condemnor wishing to condemn property within an agriculture protection area, industrial protection area, or critical infrastructure materials protection area shall file a notice of condemnation with the applicable legislative body and the relevant protection area's advisory board at least 30 days before filing an eminent domain complaint.

(3) The applicable legislative body and the advisory board shall:

(a) hold a joint public hearing on the proposed condemnation at a location within the county in which the relevant protection area is located;

(b) publish notice of the time, date, place, and purpose of the public hearing:

(i) in a newspaper of general circulation within the relevant protection area; and

(ii) on the Utah Public Notice Website created in Section [~~63F-1-701~~] 63A-16-601; and

(c) post notice of the time, date, place, and purpose of the public hearing in five conspicuous public places, designated by the applicable legislative body, within or near the relevant protection area.

(4) (a) If the condemnation is for highway purposes or for the disposal of solid or liquid waste materials, the applicable legislative body and the advisory board may approve the condemnation only if there is no reasonable and prudent alternative to the use of the land within the agriculture protection area, industrial protection area, or critical infrastructure materials protection area for the project.

(b) If the condemnation is for any other purpose, the applicable legislative body and the advisory board may approve the condemnation only if:

(i) the proposed condemnation would not have an unreasonably adverse effect upon the preservation and enhancement of:

(A) agriculture within the agriculture protection area;

(B) the industrial use within the industrial protection area; or

(C) critical infrastructure materials operations within the critical infrastructure materials protection area; or

(ii) there is no reasonable and prudent alternative to the use of the land within the [~~the~~] relevant protection area for the project.

(5) (a) Within 60 days after receipt of the notice of condemnation, the applicable legislative body and the advisory board shall approve or reject the proposed condemnation.

(b) If the applicable legislative body and the advisory board fail to act within the 60 days or such further time as the applicable legislative body establishes, the condemnation shall be considered rejected.

(6) The applicable legislative body or the advisory board may request the county or municipal attorney to bring an action to enjoin any condemnor from violating any provisions of this section.

Section 61. Section 17-50-105 is amended to read:

17-50-105. Disputed boundaries.

(1) As used in this section, "independent surveyor" means the surveyor whose position is established within the Automated Geographic Reference Center under Subsection [~~63F-1-506~~] 63A-16-505(3).

(2) (a) If a dispute or uncertainty arises as to the true location of a county boundary as described in the official records maintained by the office of the lieutenant governor, the surveyors of each county whose boundary is the subject of the dispute or uncertainty may determine the true location.

(b) If agreement is reached under Subsection (2)(a), the county surveyors shall provide notice, accompanied by a map, to the lieutenant governor showing the true location of the county boundary.

(3) (a) If the county surveyors fail to agree on or otherwise fail to establish the true location of the county boundary, the county executive of either or both of the affected counties shall engage the services of the independent surveyor.

(b) After being engaged under Subsection (3)(a), the independent surveyor shall notify the surveyor of each county whose boundary is the subject of the dispute or uncertainty of the procedure the independent surveyor will use to determine the true location of the boundary.

(c) With the assistance of each surveyor who chooses to participate, the independent surveyor shall determine permanently the true location of the boundary by marking surveys and erecting suitable monuments to designate the boundary.

(d) Each boundary established under this Subsection (3) shall be considered permanent until superseded by legislative enactment.

(e) The independent surveyor shall provide notice, accompanied by a map, to the lieutenant governor showing the true location of the county boundary.

(4) Nothing in this section may be construed to give the county surveyors or independent surveyor any authority other than to erect suitable monuments to designate county boundaries as they are described in the official records maintained by the office of the lieutenant governor.

Section 62. Section 17-50-303 is amended to read:

17-50-303. County may not give or lend credit -- County may borrow in

anticipation of revenues -- Assistance to nonprofit and private entities.

(1) A county may not give or lend its credit to or in aid of any person or corporation, or, except as provided in Subsection (3), appropriate money in aid of any private enterprise.

(2) (a) A county may borrow money in anticipation of the collection of taxes and other county revenues in the manner and subject to the conditions of Title 11, Chapter 14, Local Government Bonding Act.

(b) A county may incur indebtedness under Subsection (2)(a) for any purpose for which funds of the county may be expended.

(3) (a) A county may appropriate money to or provide nonmonetary assistance to a nonprofit entity, or waive fees required to be paid by a nonprofit entity, if, in the judgment of the county legislative body, the assistance contributes to the safety, health, prosperity, moral well-being, peace, order, comfort, or convenience of county residents.

(b) A county may appropriate money to a nonprofit entity from the county's own funds or from funds the county receives from the state or any other source.

(4) (a) As used in this Subsection (4):

(i) "Private enterprise" means a person that engages in an activity for profit.

(ii) "Project" means an activity engaged in by a private enterprise.

(b) A county may appropriate money in aid of a private enterprise project if:

(i) subject to Subsection (4)(c), the county receives value in return for the money appropriated; and

(ii) in the judgment of the county legislative body, the private enterprise project provides for the safety, health, prosperity, moral well-being, peace, order, comfort, or convenience of the county residents.

(c) The county shall measure the net value received by the county for money appropriated by the county to a private entity on a project-by-project basis over the life of the project.

(d) (i) Before a county legislative body may appropriate funds in aid of a private enterprise project under this Subsection (4), the county legislative body shall:

(A) adopt by ordinance criteria to determine what value, if any, the county will receive in return for money appropriated under this Subsection (4);

(B) conduct a study as described in Subsection (4)(e) on the proposed appropriation and private enterprise project; and

(C) post notice, subject to Subsection (4)(f), and hold a public hearing on the proposed appropriation and the private enterprise project.

(ii) The county legislative body may consider an intangible benefit as a value received by the county.

(e) (i) Before publishing or posting notice in accordance with Subsection (4)(f), the county shall study:

(A) any value the county will receive in return for money or resources appropriated to a private entity;

(B) the county's purpose for the appropriation, including an analysis of the way the appropriation will be used to enhance the safety, health, prosperity, moral well-being, peace, order, comfort, or convenience of the county residents; and

(C) whether the appropriation is necessary and appropriate to accomplish the reasonable goals and objectives of the county in the area of economic development, job creation, affordable housing, elimination of a development impediment, as defined in Section 17C-1-102, job preservation, the preservation of historic structures, analyzing and improving county government structure or property, or any other public purpose.

(ii) The county shall:

(A) prepare a written report of the results of the study; and

(B) make the report available to the public at least 14 days immediately prior to the scheduled day of the public hearing described in Subsection (4)(d)(i)(C).

(f) The county shall publish notice of the public hearing required in Subsection (4)(d)(i)(C):

(i) in a newspaper of general circulation at least 14 days before the date of the hearing or, if there is no newspaper of general circulation, by posting notice in at least three conspicuous places within the county for the same time period; and

(ii) on the Utah Public Notice Website created in Section [~~63F-1-701~~] 63A-16-601, at least 14 days before the date of the hearing.

(g) (i) A person may appeal the decision of the county legislative body to appropriate funds under this Subsection (4).

(ii) A person shall file an appeal with the district court within 30 days after the day on which the legislative body adopts an ordinance or approves a budget to appropriate the funds.

(iii) A court shall:

(A) presume that an ordinance adopted or appropriation made under this Subsection (4) is valid; and

(B) determine only whether the ordinance or appropriation is arbitrary, capricious, or illegal.

(iv) A determination of illegality requires a determination that the decision or ordinance violates a law, statute, or ordinance in effect at the time the decision was made or the ordinance was adopted.

(v) The district court's review is limited to:

(A) a review of the criteria adopted by the county legislative body under Subsection (4)(d)(i)(A);

(B) the record created by the county legislative body at the public hearing described in Subsection (4)(d)(i)(C); and

(C) the record created by the county in preparation of the study and the study itself as described in Subsection (4)(e).

(vi) If there is no record, the court may call witnesses and take evidence.

(h) This section applies only to an appropriation not otherwise approved in accordance with Title 17, Chapter 36, Uniform Fiscal Procedures Act for Counties.

Section 63. Section 17B-1-106 is amended to read:

17B-1-106. Notice before preparing or amending a long-range plan or acquiring certain property.

(1) As used in this section:

(a) (i) "Affected entity" means each county, municipality, local district under this title, special service district, school district, interlocal cooperation entity established under Title 11, Chapter 13, Interlocal Cooperation Act, and specified public utility:

(A) whose services or facilities are likely to require expansion or significant modification because of an intended use of land; or

(B) that has filed with the local district a copy of the general or long-range plan of the county, municipality, local district, school district, interlocal cooperation entity, or specified public utility.

(ii) "Affected entity" does not include the local district that is required under this section to provide notice.

(b) "Specified public utility" means an electrical corporation, gas corporation, or telephone corporation, as those terms are defined in Section 54-2-1.

(2) (a) If a local district under this title located in a county of the first or second class prepares a long-range plan regarding its facilities proposed for the future or amends an already existing long-range plan, the local district shall, before preparing a long-range plan or amendments to an existing long-range plan, provide written notice, as provided in this section, of its intent to prepare a long-range plan or to amend an existing long-range plan.

(b) Each notice under Subsection (2)(a) shall:

(i) indicate that the local district intends to prepare a long-range plan or to amend a long-range plan, as the case may be;

(ii) describe or provide a map of the geographic area that will be affected by the long-range plan or amendments to a long-range plan;

(iii) be:

(A) sent to each county in whose unincorporated area and each municipality in whose boundaries is located the land on which the proposed long-range plan or amendments to a long-range plan are expected to indicate that the proposed facilities will be located;

(B) sent to each affected entity;

(C) sent to the Automated Geographic Reference Center created in Section [~~63F-1-506~~] 63A-16-505;

(D) sent to each association of governments, established pursuant to an interlocal agreement under Title 11, Chapter 13, Interlocal Cooperation Act, of which a county or municipality described in Subsection (2)(b)(iii)(A) is a member; and

(E) (I) placed on the Utah Public Notice Website created under Section [~~63F-1-701~~] 63A-16-601, if the local district:

(Aa) is required under Subsection 52-4-203(3) to use that website to provide public notice of a meeting; or

(Bb) voluntarily chooses to place notice on that website despite not being required to do so under Subsection (2)(b)(iii)(E)(I)(Aa); or

(II) the state planning coordinator appointed under Section 63J-4-202, if the local district does not provide notice on the Utah Public Notice Website under Subsection (2)(b)(iii)(E)(I);

(iv) with respect to the notice to counties and municipalities described in Subsection (2)(b)(iii)(A) and affected entities, invite them to provide information for the local district to consider in the process of preparing, adopting, and implementing the long-range plan or amendments to a long-range plan concerning:

(A) impacts that the use of land proposed in the proposed long-range plan or amendments to a long-range plan may have on the county, municipality, or affected entity; and

(B) uses of land that the county, municipality, or affected entity is planning or considering that may conflict with the proposed long-range plan or amendments to a long-range plan; and

(v) include the address of an Internet website, if the local district has one, and the name and telephone number of a person where more information can be obtained concerning the local district's proposed long-range plan or amendments to a long-range plan.

(3) (a) Except as provided in Subsection (3)(d), each local district intending to acquire real property in a county of the first or second class for the purpose of expanding the district's infrastructure or other facilities used for providing the services that the district is authorized to provide shall provide written notice, as provided in this Subsection (3), of its intent to acquire the property if the intended use of the property is contrary to:

(i) the anticipated use of the property under the county or municipality's general plan; or

(ii) the property's current zoning designation.

(b) Each notice under Subsection (3)(a) shall:

(i) indicate that the local district intends to acquire real property;

(ii) identify the real property; and

(iii) be sent to:

(A) each county in whose unincorporated area and each municipality in whose boundaries the property is located; and

(B) each affected entity.

(c) A notice under this Subsection (3) is a protected record as provided in Subsection 63G-2-305(8).

(d) (i) The notice requirement of Subsection (3)(a) does not apply if the local district previously provided notice under Subsection (2) identifying the general location within the municipality or unincorporated part of the county where the property to be acquired is located.

(ii) If a local district is not required to comply with the notice requirement of Subsection (3)(a) because of application of Subsection (3)(d)(i), the local district shall provide the notice specified in Subsection (3)(a) as soon as practicable after its acquisition of the real property.

Section 64. Section 17B-1-211 is amended to read:

17B-1-211. Notice of public hearings -- Publication of resolution.

(1) Before holding a public hearing or set of public hearings under Section 17B-1-210, the legislative body of each county or municipality with which a request is filed or that adopts a resolution under Subsection 17B-1-203(1)(d) and the board of trustees of each local district that adopts a resolution under Subsection 17B-1-203(1)(e) shall:

(a) (i) (A) except as provided in Subsections (1)(a)(i)(B) and (1)(a)(ii), publish notice in a newspaper or combination of newspapers of general circulation within the applicable area in accordance with Subsection (2); or

(B) if there is no newspaper or combination of newspapers of general circulation within the applicable area, post notice in accordance with Subsection (2) at least one notice per 1,000 population of that area and at places within the area that are most likely to provide actual notice to residents of the area; and

(ii) publish notice on the Utah Public Notice Website created in Section [~~63F-1-701~~] 63A-16-601, for two weeks before the hearing or the first of the set of hearings; or

(b) mail a notice to each registered voter residing within and each owner of real property located within the proposed local district.

(2) Each published notice under Subsection (1)(a)(i)(A) shall:

(a) be no less than 1/4 page in size, use type no smaller than 18 point, and be surrounded by a 1/4-inch border;

(b) if possible, appear in a newspaper that is published at least one day per week;

(c) if possible, appear in a newspaper of general interest and readership in the area and not of limited subject matter;

(d) be placed in a portion of the newspaper other than where legal notices and classified advertisements appear; and

(e) be published once each week for four consecutive weeks, with the final publication being no fewer than five and no more than 20 days before the hearing or the first of the set of hearings.

(3) Each notice required under Subsection (1) shall:

(a) if the hearing or set of hearings is concerning a resolution:

(i) contain the entire text or an accurate summary of the resolution; and

(ii) state the deadline for filing a protest against the creation of the proposed local district;

(b) clearly identify each governing body involved in the hearing or set of hearings;

(c) state the date, time, and place for the hearing or set of hearings and the purposes for the hearing or set of hearings; and

(d) describe or include a map of the entire proposed local district.

(4) County or municipal legislative bodies may jointly provide the notice required under this section if all the requirements of this section are met as to each notice.

Section 65. Section 17B-1-303 is amended to read:

17B-1-303. Term of board of trustees members -- Oath of office -- Bond -- Notice of board member contact information.

(1) (a) Except as provided in Subsections (1)(b), (c), (d), and (e), the term of each member of a board of trustees begins at noon on the January 1 following the member's election or appointment.

(b) The term of each member of the initial board of trustees of a newly created local district begins:

(i) upon appointment, for an appointed member; and

(ii) upon the member taking the oath of office after the canvass of the election at which the member is elected, for an elected member.

(c) The term of each water conservancy district board member whom the governor appoints in accordance with Subsection 17B-2a-1005(2)(c):

(i) begins on the later of the following:

(A) the date on which the Senate consents to the appointment; or

(B) the expiration date of the prior term; and

(ii) ends on the February 1 that is approximately four years after the date described in Subsection (1)(c)(i)(A) or (B).

(d) The term of a member of a board of trustees whom an appointing authority appoints in accordance with Subsection (5)(b) begins upon the member taking the oath of office.

(e) If the member of the board of trustees fails to assume or qualify for office on January 1 for any reason, the term begins on the date the member assumes or qualifies for office.

(2) (a) (i) Except as provided in Subsection (8), and subject to Subsections (2)(a)(ii) and (iii), the term of each member of a board of trustees is four years, except that approximately half the members of the initial board of trustees, chosen by lot, shall serve a two-year term so that the term of approximately half the board members expires every two years.

(ii) If the terms of members of the initial board of trustees of a newly created local district do not begin on January 1 because of application of Subsection (1)(b), the terms of those members shall be adjusted as necessary, subject to Subsection (2)(a)(iii), to result in the terms of their successors complying with:

(A) the requirement under Subsection (1)(a) for a term to begin on January 1 following a member's election or appointment; and

(B) the requirement under Subsection (2)(a)(i) that terms be four years.

(iii) If the term of a member of a board of trustees does not begin on January 1 because of the application of Subsection (1)(e), the term is shortened as necessary to result in the term complying with the requirement under Subsection (1)(a) that the successor member's term, regardless of whether the [~~incumbant~~] incumbent is the successor, begins at noon on January 1 following the successor member's election or appointment.

(iv) An adjustment under Subsection (2)(a)(ii) may not add more than a year to or subtract more than a year from a member's term.

(b) Each board of trustees member shall serve until a successor is duly elected or appointed and qualified, unless the member earlier is removed from office or resigns or otherwise leaves office.

(c) If a member of a board of trustees no longer meets the qualifications of Subsection 17B-1-302(1), (2), or (3), or if the member's term expires without a duly elected or appointed successor:

(i) the member's position is considered vacant, subject to Subsection (2)(c)(ii); and

(ii) the member may continue to serve until a successor is duly elected or appointed and qualified.

(3) (a) (i) Before entering upon the duties of office, each member of a board of trustees shall take the oath of office specified in Utah Constitution, Article IV, Section 10.

(ii) A judge, county clerk, notary public, or the local district clerk may administer an oath of office.

(b) The member of the board of trustees taking the oath of office shall file the oath of office with the clerk of the local district.

(c) The failure of a board of trustees member to take the oath under Subsection (3)(a) does not invalidate any official act of that member.

(4) A board of trustees member may serve any number of terms.

(5) (a) Except as provided in Subsection (6), each midterm vacancy in a board of trustees position is filled in accordance with Section 20A-1-512.

(b) When the number of members of a board of trustees increases in accordance with Subsection 17B-1-302(6), the appointing authority may appoint an individual to fill a new board of trustees position in accordance with Section 17B-1-304 or 20A-1-512.

(6) (a) For purposes of this Subsection (6):

(i) "Appointed official" means a person who:

(A) is appointed as a member of a local district board of trustees by a county or municipality that is entitled to appoint a member to the board; and

(B) holds an elected position with the appointing county or municipality.

(ii) "Appointing entity" means the county or municipality that appointed the appointed official to the board of trustees.

(b) The board of trustees shall declare a midterm vacancy for the board position held by an appointed official if:

(i) during the appointed official's term on the board of trustees, the appointed official ceases to hold the elected position with the appointing entity; and

(ii) the appointing entity submits a written request to the board to declare the vacancy.

(c) Upon the board's declaring a midterm vacancy under Subsection (6)(b), the appointing entity shall appoint another person to fill the remaining unexpired term on the board of trustees.

(7) (a) Each member of a board of trustees shall give a bond for the faithful performance of the member's duties, in the amount and with the sureties that the board of trustees prescribes.

(b) The local district shall pay the cost of each bond required under Subsection (7)(a).

(8) (a) The lieutenant governor may extend the term of an elected district board member by one year in order to compensate for a change in the election year under Subsection 17B-1-306(14).

(b) When the number of members of a board of trustees increases in accordance with Subsection 17B-1-302(6), to ensure that the term of

approximately half of the board members expires every two years in accordance with Subsection (2)(a):

(i) the board shall set shorter terms for approximately half of the new board members, chosen by lot; and

(ii) the initial term of a new board member position may be less than two or four years.

(9) (a) A local district shall:

(i) post on the Utah Public Notice Website created in Section [~~63F-1-701~~] 63A-16-601 the name, phone number, and email address of each member of the local district's board of trustees;

(ii) update the information described in Subsection (9)(a)(i) when:

(A) the membership of the board of trustees changes; or

(B) a member of the board of trustees' phone number or email address changes; and

(iii) post any update required under Subsection (9)(a)(ii) within 30 days after the date on which the change requiring the update occurs.

(b) This Subsection (9) applies regardless of whether the county or municipal legislative body also serves as the board of trustees of the local district.

Section 66. Section 17B-1-306 is amended to read:

17B-1-306. Local district board -- Election procedures.

(1) Except as provided in Subsection (12), each elected board member shall be selected as provided in this section.

(2) (a) Each election of a local district board member shall be held:

(i) at the same time as the municipal general election or the regular general election, as applicable; and

(ii) at polling places designated by the local district board in consultation with the county clerk for each county in which the local district is located, which polling places shall coincide with municipal general election or regular general election polling places, as applicable, whenever feasible.

(b) The local district board, in consultation with the county clerk, may consolidate two or more polling places to enable voters from more than one district to vote at one consolidated polling place.

(c) (i) Subject to Subsections (5)(h) and (i), the number of polling places under Subsection (2)(a)(ii) in an election of board members of an irrigation district shall be one polling place per division of the district, designated by the district board.

(ii) Each polling place designated by an irrigation district board under Subsection (2)(c)(i) shall coincide with a polling place designated by the county clerk under Subsection (2)(a)(ii).

(3) The clerk of each local district with a board member position to be filled at the next municipal general election or regular general election, as applicable, shall provide notice of:

(a) each elective position of the local district to be filled at the next municipal general election or regular general election, as applicable;

(b) the constitutional and statutory qualifications for each position; and

(c) the dates and times for filing a declaration of candidacy.

(4) The clerk of the local district shall publish the notice described in Subsection (3):

(a) by posting the notice on the Utah Public Notice Website created in Section [~~63F-1-701~~] 63A-16-601, for 10 days before the first day for filing a declaration of candidacy; and

(b) (i) by posting the notice in at least five public places within the local district at least 10 days before the first day for filing a declaration of candidacy; or

(ii) publishing the notice:

(A) in a newspaper of general circulation within the local district at least three but no more than 10 days before the first day for filing a declaration of candidacy;

(B) in accordance with Section 45-1-101, for 10 days before the first day for filing a declaration of candidacy; and

(c) if the local district has a website, on the local district's website for 10 days before the first day for filing a declaration of candidacy.

(5) (a) Except as provided in Subsection (5)(c), to become a candidate for an elective local district board position, an individual shall file a declaration of candidacy in person with an official designated by the local district, during office hours, within the candidate filing period for the applicable election year in which the election for the local district board is held.

(b) When the candidate filing deadline falls on a Saturday, Sunday, or holiday, the filing time shall be extended until the close of normal office hours on the following regular business day.

(c) Subject to Subsection (5)(f), an individual may designate an agent to file a declaration of candidacy with the official designated by the local district if:

(i) the individual is located outside of the state during the entire filing period;

(ii) the designated agent appears in person before the official designated by the local district; and

(iii) the individual communicates with the official designated by the local district using an electronic device that allows the individual and official to see and hear each other.

(d) (i) Before the filing officer may accept any declaration of candidacy from an individual, the filing officer shall:

(A) read to the individual the constitutional and statutory qualification requirements for the office that the individual is seeking; and

(B) require the individual to state whether the individual meets those requirements.

(ii) If the individual does not meet the qualification requirements for the office, the filing officer may not accept the individual's declaration of candidacy.

(iii) If it appears that the individual meets the requirements of candidacy, the filing officer shall accept the individual's declaration of candidacy.

(e) The declaration of candidacy shall be in substantially the following form:

"I, (print name) _____, being first duly sworn, say that I reside at (Street) _____, City of _____, County of _____, state of Utah, (Zip Code) _____, (Telephone Number, if any)_____; that I meet the qualifications for the office of board of trustees member for _____ (state the name of the local district); that I am a candidate for that office to be voted upon at the next election; and that, if filing via a designated agent, I will be out of the state of Utah during the entire candidate filing period, and I hereby request that my name be printed upon the official ballot for that election.

(Signed)

_____

Subscribed and sworn to (or affirmed) before me by _____ on this _____ day of _____, ____.

(Signed) _____

(Clerk or Notary Public)"

(f) An agent designated under Subsection (5)(c) may not sign the form described in Subsection (5)(e).

(g) Each individual wishing to become a valid write-in candidate for an elective local district board position is governed by Section 20A-9-601.

(h) If at least one individual does not file a declaration of candidacy as required by this section, an individual shall be appointed to fill that board position in accordance with the appointment provisions of Section 20A-1-512.

(i) If only one candidate files a declaration of candidacy and there is no write-in candidate who complies with Section 20A-9-601, the board, in accordance with Section 20A-1-206, may:

(i) consider the candidate to be elected to the position; and

(ii) cancel the election.

(6) (a) A primary election may be held if:

(i) the election is authorized by the local district board; and

(ii) the number of candidates for a particular local board position or office exceeds twice the number of persons needed to fill that position or office.

(b) The primary election shall be conducted:

(i) on the same date as the municipal primary election or the regular primary election, as applicable; and

(ii) according to the procedures for primary elections provided under Title 20A, Election Code.

(7) (a) Except as provided in Subsection (7)(c), within one business day after the deadline for filing a declaration of candidacy, the local district clerk shall certify the candidate names to the clerk of each county in which the local district is located.

(b) (i) Except as provided in Subsection (7)(c) and in accordance with Section 20A-6-305, the clerk of each county in which the local district is located and the local district clerk shall coordinate the placement of the name of each candidate for local district office in the nonpartisan section of the ballot with the appropriate election officer.

(ii) If consolidation of the local district election ballot with the municipal general election ballot or the regular general election ballot, as applicable, is not feasible, the local district board of trustees, in consultation with the county clerk, shall provide for a separate local district election ballot to be administered by poll workers at polling locations designated under Subsection (2).

(c) (i) Subsections (7)(a) and (b) do not apply to an election of a member of the board of an irrigation district established under Chapter 2a, Part 5, Irrigation District Act.

(ii) (A) Subject to Subsection (7)(c)(ii)(B), the board of each irrigation district shall prescribe the form of the ballot for each board member election.

(B) Each ballot for an election of an irrigation district board member shall be in a nonpartisan format.

(C) The name of each candidate shall be placed on the ballot in the order specified under Section 20A-6-305.

(8) (a) Each voter at an election for a board of trustees member of a local district shall:

(i) be a registered voter within the district, except for an election of:

(A) an irrigation district board of trustees member; or

(B) a basic local district board of trustees member who is elected by property owners; and

(ii) meet the requirements to vote established by the district.

(b) Each voter may vote for as many candidates as there are offices to be filled.

(c) The candidates who receive the highest number of votes are elected.

(9) Except as otherwise provided by this section, the election of local district board members is governed by Title 20A, Election Code.

(10) (a) Except as provided in Subsection 17B-1-303(8), a person elected to serve on a local district board shall serve a four-year term, beginning at noon on the January 1 after the person's election.

(b) A person elected shall be sworn in as soon as practical after January 1.

(11) (a) Except as provided in Subsection (11)(b), each local district shall reimburse the county or municipality holding an election under this section for the costs of the election attributable to that local district.

(b) Each irrigation district shall bear its own costs of each election it holds under this section.

(12) This section does not apply to an improvement district that provides electric or gas service.

(13) Except as provided in Subsection 20A-3a-605(1)(b), the provisions of Title 20A, Chapter 3a, Part 6, Early Voting, do not apply to an election under this section.

(14) (a) As used in this Subsection (14), "board" means:

(i) a local district board; or

(ii) the administrative control board of a special service district that has elected members on the board.

(b) A board may hold elections for membership on the board at a regular general election instead of a municipal general election if the board submits an application to the lieutenant governor that:

(i) requests permission to hold elections for membership on the board at a regular general election instead of a municipal general election; and

(ii) indicates that holding elections at the time of the regular general election is beneficial, based on potential cost savings, a potential increase in voter turnout, or another material reason.

(c) Upon receipt of an application described in Subsection (14)(b), the lieutenant governor may approve the application if the lieutenant governor concludes that holding the elections at the regular general election is beneficial based on the criteria described in Subsection (14)(b)(ii).

(d) If the lieutenant governor approves a board's application described in this section:

(i) all future elections for membership on the board shall be held at the time of the regular general election; and

(ii) the board may not hold elections at the time of a municipal general election unless the board receives permission from the lieutenant governor to hold all future elections for membership on the board at a municipal general election instead of a regular general election, under the same procedure, and by applying the same criteria, described in this Subsection (14).

Section 67. Section 17B-1-413 is amended to read:

17B-1-413. Hearing, notice, and protest provisions do not apply for certain petitions.

(1) Section 17B-1-412 does not apply, and, except as provided in Subsection (2)(a), Sections 17B-1-409 and 17B-1-410 do not apply:

(a) if the process to annex an area to a local district was initiated by:

(i) a petition under Subsection 17B-1-403(1)(a)(i);

(ii) a petition under Subsection 17B-1-403(1)(a)(ii)(A) that was signed by the owners of private real property that:

(A) is located within the area proposed to be annexed;

(B) covers at least 75% of the total private land area within the entire area proposed to be annexed and within each applicable area; and

(C) is equal in assessed value to at least 75% of the assessed value of all private real property within the entire area proposed to be annexed and within each applicable area; or

(iii) a petition under Subsection 17B-1-403(1)(a)(ii)(B) that was signed by registered voters residing within the entire area proposed to be annexed and within each applicable area equal in number to at least 75% of the number of votes cast within the entire area proposed to be annexed and within each applicable area, respectively, for the office of governor at the last regular general election before the filing of the petition;

(b) to an annexation under Section 17B-1-415; or

(c) to a boundary adjustment under Section 17B-1-417.

(2) (a) If a petition that meets the requirements of Subsection (1)(a) is certified under Section 17B-1-405, the local district board:

(i) shall provide notice of the proposed annexation as provided in Subsection (2)(b); and

(ii) (A) may, in the board's discretion, hold a public hearing as provided in Section 17B-1-409 after giving notice of the public hearing as provided in Subsection (2)(b); and

(B) shall, after giving notice of the public hearing as provided in Subsection (2)(b), hold a public hearing as provided in Section 17B-1-409 if a written request to do so is submitted, within 20 days after the local district provides notice under Subsection (2)(a)(i), to the local district board by an owner of property that is located within or a registered voter residing within the area proposed

to be annexed who did not sign the annexation petition.

(b) The notice required under Subsections (2)(a)(i) and (ii) shall:

(i) be given:

(A) (I) for a notice under Subsection (2)(a)(i), within 30 days after petition certification; or

(II) for a notice of a public hearing under Subsection (2)(a)(ii), at least 10 but not more than 30 days before the public hearing; and

(B) by:

(I) posting written notice at the local district's principal office and in one or more other locations within or proximate to the area proposed to be annexed as are reasonable under the circumstances, considering the number of parcels included in that area, the size of the area, the population of the area, and the contiguousness of the area; and

(II) providing written notice:

(Aa) to at least one newspaper of general circulation, if there is one, within the area proposed to be annexed or to a local media correspondent; and

(Bb) on the Utah Public Notice Website created in Section [~~63F-1-701~~] 63A-16-601; and

(ii) contain a brief explanation of the proposed annexation and include the name of the local district, the service provided by the local district, a description or map of the area proposed to be annexed, a local district telephone number where additional information about the proposed annexation may be obtained, and, for a notice under Subsection (2)(a)(i), an explanation of the right of a property owner or registered voter to request a public hearing as provided in Subsection (2)(a)(ii)(B).

(c) A notice under Subsection (2)(a)(i) may be combined with the notice that is required for a public hearing under Subsection (2)(a)(ii)(A).

Section 68. Section 17B-1-417 is amended to read:

17B-1-417. Boundary adjustment -- Notice and hearing -- Protest -- Resolution adjusting boundaries -- Filing of notice and plat with the lieutenant governor -- Recording requirements -- Effective date.

(1) As used in this section, "affected area" means the area located within the boundaries of one local district that will be removed from that local district and included within the boundaries of another local district because of a boundary adjustment under this section.

(2) The boards of trustees of two or more local districts having a common boundary and providing the same service on the same wholesale or retail basis may adjust their common boundary as provided in this section.

(3) (a) The board of trustees of each local district intending to adjust a boundary that is common with another local district shall:

(i) adopt a resolution indicating the board's intent to adjust a common boundary;

(ii) hold a public hearing on the proposed boundary adjustment no less than 60 days after the adoption of the resolution under Subsection (3)(a)(i); and

(iii) (A) publish notice:

(I) (Aa) once a week for two successive weeks in a newspaper of general circulation within the local district; or

(Bb) if there is no newspaper of general circulation within the local district, post notice in at least four conspicuous places within the local district; and

(II) on the Utah Public Notice Website created in Section [~~63F-1-701~~] 63A-16-601, for two weeks; or

(B) mail a notice to each owner of property located within the affected area and to each registered voter residing within the affected area.

(b) The notice required under Subsection (3)(a)(iii) shall:

(i) state that the board of trustees of the local district has adopted a resolution indicating the board's intent to adjust a boundary that the local district has in common with another local district that provides the same service as the local district;

(ii) describe the affected area;

(iii) state the date, time, and location of the public hearing required under Subsection (3)(a)(ii);

(iv) provide a local district telephone number where additional information about the proposed boundary adjustment may be obtained;

(v) explain the financial and service impacts of the boundary adjustment on property owners or residents within the affected area; and

(vi) state in conspicuous and plain terms that the board of trustees may approve the adjustment of the boundaries unless, at or before the public hearing under Subsection (3)(a)(ii), written protests to the adjustment are filed with the board by:

(A) the owners of private real property that:

(I) is located within the affected area;

(II) covers at least 50% of the total private land area within the affected area; and

(III) is equal in assessed value to at least 50% of the assessed value of all private real property within the affected area; or

(B) registered voters residing within the affected area equal in number to at least 50% of the votes cast in the affected area for the office of governor at the last regular general election before the filing of the protests.

(c) The first publication of the notice required under Subsection (3)(a)(iii)(A) shall be within 14

days after the board's adoption of a resolution under Subsection (3)(a)(i).

(d) The boards of trustees of the local districts whose boundaries are being adjusted may jointly:

(i) publish, post, or mail the notice required under Subsection (3)(a)(iii); and

(ii) hold the public hearing required under Subsection (3)(a)(ii).

(4) After the public hearing required under Subsection (3)(a)(ii), the board of trustees may adopt a resolution approving the adjustment of the common boundary unless, at or before the public hearing, written protests to the boundary adjustment have been filed with the board by:

(a) the owners of private real property that:

(i) is located within the affected area;

(ii) covers at least 50% of the total private land area within the affected area; and

(iii) is equal in assessed value to at least 50% of the assessed value of all private real property within the affected area; or

(b) registered voters residing within the affected area equal in number to at least 50% of the votes cast in the affected area for the office of governor at the last regular general election before the filing of the protests.

(5) A resolution adopted under Subsection (4) does not take effect until the board of each local district whose boundaries are being adjusted has adopted a resolution under Subsection (4).

(6) The board of the local district whose boundaries are being adjusted to include the affected area shall:

(a) within 30 days after the resolutions take effect under Subsection (5), file with the lieutenant governor:

(i) a copy of a notice of an impending boundary action, as defined in Section 67-1a-6.5, that meets the requirements of Subsection 67-1a-6.5(3); and

(ii) a copy of an approved final local entity plat, as defined in Section 67-1a-6.5; and

(b) upon the lieutenant governor's issuance of a certificate of boundary adjustment under Section 67-1a-6.5:

(i) if the affected area is located within the boundary of a single county, submit to the recorder of that county:

(A) the original:

(I) notice of an impending boundary action;

(II) certificate of boundary adjustment; and

(III) approved final local entity plat; and

(B) a certified copy of each resolution adopted under Subsection (4); or

(ii) if the affected area is located within the boundaries of more than a single county:

(A) submit to the recorder of one of those counties:

(I) the original of the documents listed in Subsections (6)(b)(i)(A)(I), (II), and (III); and

(II) a certified copy of each resolution adopted under Subsection (4); and

(B) submit to the recorder of each other county:

(I) a certified copy of the documents listed in Subsections (6)(b)(i)(A)(I), (II), and (III); and

(II) a certified copy of each resolution adopted under Subsection (4).

(7) (a) Upon the lieutenant governor's issuance of a certificate of boundary adjustment under Section 67-1a-6.5, the affected area is annexed to the local district whose boundaries are being adjusted to include the affected area, and the affected area is withdrawn from the local district whose boundaries are being adjusted to exclude the affected area.

(b) (i) The effective date of a boundary adjustment under this section for purposes of assessing property within the affected area is governed by Section 59-2-305.5.

(ii) Until the documents listed in Subsection (6)(b) are recorded in the office of the recorder of the county in which the property is located, a local district in whose boundary an affected area is included because of a boundary adjustment under this section may not:

(A) levy or collect a property tax on property within the affected area;

(B) levy or collect an assessment on property within the affected area; or

(C) charge or collect a fee for service provided to property within the affected area.

(iii) Subsection (7)(b)(ii)(C):

(A) may not be construed to limit a local district's ability before a boundary adjustment to charge and collect a fee for service provided to property that is outside the local district's boundary; and

(B) does not apply until 60 days after the effective date, under Subsection (7)(a), of the local district's boundary adjustment, with respect to a fee that the local district was charging for service provided to property within the area affected by the boundary adjustment immediately before the boundary adjustment.

Section 69. Section 17B-1-505.5 is amended to read:

17B-1-505.5. Feasibility study for a municipality's withdrawal from a local district providing fire protection, paramedic, and emergency services or law enforcement service.

(1) As used in this section:

(a) "Feasibility consultant" means a person with expertise in:

(i) the processes and economics of local government; and

(ii) the economics of providing fire protection, paramedic, and emergency services or law enforcement service.

(b) "Feasibility study" means a study to determine the functional and financial feasibility of a municipality's withdrawal from a first responder local district.

(c) "First responder district" means a local district, other than a municipal services district, that provides:

(i) fire protection, paramedic, and emergency services; or

(ii) law enforcement service.

(d) "Withdrawing municipality" means a municipality whose legislative body has adopted a resolution under Subsection 17B-1-505(3)(a) to initiate the process of the municipality's withdrawal from a first responder district.

(2) This section applies and a feasibility study shall be conducted, as provided in this section, if:

(a) the legislative body of a municipality has adopted a resolution under Subsection 17B-1-505(3)(a) to initiate the process of the municipality's withdrawal from a first responder district;

(b) the municipality and first responder district have not agreed in writing to the withdrawal; and

(c) a feasibility study is a condition under Subsection 17B-1-505(6)(a) for an election to be held approving the withdrawal.

(3) (a) As provided in this Subsection (3), the withdrawing municipality and first responder district shall choose and engage a feasibility consultant to conduct a feasibility study.

(b) The withdrawing municipality and first responder district shall jointly choose and engage a feasibility consultant according to applicable municipal or local district procurement procedures.

(c) (i) If the withdrawing municipality and first responder district cannot agree on and have not engaged a feasibility consultant under Subsection (3)(b) within 45 days after the legislative body of the withdrawing municipality submits written notice to the first responder district under Subsection 17B-1-505(3)(c), the withdrawing municipality and first responder district shall, as provided in this Subsection (3)(c), choose a feasibility consultant from a list of at least eight feasibility consultants provided by the Utah Association of Certified Public Accountants.

(ii) A list of feasibility consultants under Subsection (3)(c)(i) may not include a feasibility consultant that has had a contract to provide services to the withdrawing municipality or first responder district at any time during the two-year period immediately preceding the date the list is provided under Subsection (3)(c)(i).

(iii) (A) Beginning with the first responder district, the first responder district and withdrawing municipality shall alternately eliminate one feasibility consultant each from the list of feasibility consultants until one feasibility consultant remains.

(B) Within five days after receiving the list of consultants from the Utah Association of Certified Public Accountants, the first responder district shall make the first elimination of a feasibility consultant from the list and notify the withdrawing municipality in writing of the elimination.

(C) After the first elimination of a feasibility consultant from the list, the withdrawing municipality and first responder district shall each, within three days after receiving the written notification of the preceding elimination, notify the other in writing of the elimination of a feasibility consultant from the list.

(d) If a withdrawing municipality and first responder district do not engage a feasibility consultant under Subsection (3)(b), the withdrawing municipality and first responder district shall engage the feasibility consultant that has not been eliminated from the list at the completion of the process described in Subsection (3)(c).

(4) A feasibility consultant that conducts a feasibility study under this section shall be independent of and unaffiliated with the withdrawing municipality and first responder district.

(5) In conducting a feasibility study under this section, the feasibility consultant shall consider:

(a) population and population density within the withdrawing municipality;

(b) current and five-year projections of demographics and economic base in the withdrawing municipality, including household size and income, commercial and industrial development, and public facilities;

(c) projected growth in the withdrawing municipality during the next five years;

(d) subject to Subsection (6)(a), the present and five-year projections of the cost, including overhead, of providing the same service in the withdrawing municipality as is provided by the first responder district, including:

(i) the estimated cost if the first responder district continues to provide service; and

(ii) the estimated cost if the withdrawing municipality provides service;

(e) subject to Subsection (6)(a), the present and five-year projections of the cost, including overhead, of the first responder district providing service with:

(i) the municipality included in the first responder district's service area; and

(ii) the withdrawing municipality excluded from the first responder district's service area;

(f) a projection of any new taxes per household that may be levied within the withdrawing municipality within five years after the withdrawal;

(g) the fiscal impact that the withdrawing municipality's withdrawal has on other municipalities and unincorporated areas served by the first responder district, including any rate increase that may become necessary to maintain required coverage ratios for the first responder district's debt;

(h) the physical and other assets that will be required by the withdrawing municipality to provide, without interruption or diminution of service, the same service that is being provided by the first responder district;

(i) the physical and other assets that will no longer be required by the first responder district to continue to provide the current level of service to the remainder of the first responder district, excluding the withdrawing municipality, and could be transferred to the withdrawing municipality;

(j) subject to Subsection (6)(b), a fair and equitable allocation of the first responder district's assets between the first responder district and the withdrawing municipality, effective upon the withdrawal of the withdrawing municipality from the first responder district;

(k) a fair and equitable allocation of the debts, liabilities, and obligations of the first responder district and any local building authority of the first responder district, between the withdrawing municipality and the remaining first responder district, taking into consideration:

(i) any requirement to maintain the excludability of interest from the income of the holder of the debt, liability, or obligation for federal income tax purposes; and

(ii) any first responder district assets that have been purchased with the proceeds of bonds issued by the first responder district that the first responder district will retain and any of those assets that will be transferred to the withdrawing municipality;

(l) the number and classification of first responder district employees who will no longer be required to serve the remaining portions of the first responder district after the withdrawing municipality withdraws from the first responder district, including the dollar amount of the wages, salaries, and benefits attributable to the employees and the estimated cost associated with termination of the employees if the withdrawing municipality does not employ the employees;

(m) maintaining as a base, for a period of three years after withdrawal, the existing schedule of pay and benefits for first responder district employees who are transferred to the employment of the withdrawing municipality; and

(n) any other factor that the feasibility consultant considers relevant to the question of the withdrawing municipality's withdrawal from the first responder district.

(6) (a) For purposes of Subsections (5)(d) and (e):

(i) the feasibility consultant shall assume a level and quality of service to be provided in the future to the withdrawing municipality that fairly and reasonably approximates the level and quality of service that the first responder district provides to the withdrawing municipality at the time of the feasibility study;

(ii) in determining the present value cost of a service that the first responder district provides, the feasibility consultant shall consider:

(A) the cost to the withdrawing municipality of providing the service for the first five years after the withdrawal; and

(B) the first responder district's present and five-year projected cost of providing the same service within the withdrawing municipality; and

(iii) the feasibility consultant shall consider inflation and anticipated growth in calculating the cost of providing service.

(b) The feasibility consultant may not consider an allocation of first responder district assets or a transfer of first responder district employees to the extent that the allocation or transfer would impair the first responder district's ability to continue to provide the current level of service to the remainder of the first responder district without the withdrawing municipality, unless the first responder district consents to the allocation or transfer.

(7) A feasibility consultant may retain an architect, engineer, or other professional, as the feasibility consultant considers prudent and as provided in the agreement with the withdrawing municipality and first responder district, to assist the feasibility consultant to conduct a feasibility study.

(8) The withdrawing municipality and first responder district shall require the feasibility consultant to:

(a) complete the feasibility study within a time established by the withdrawing municipality and first responder district;

(b) prepare and submit a written report communicating the results of the feasibility study, including a one-page summary of the results; and

(c) attend all public hearings relating to the feasibility study under Subsection (14).

(9) A written report of the results of a feasibility study under this section shall:

(a) contain a recommendation concerning whether a withdrawing municipality's withdrawal from a first responder district is functionally and financially feasible for both the first responder district and the withdrawing municipality; and

(b) include any conditions the feasibility consultant determines need to be satisfied in order

to make the withdrawal functionally and financially feasible, including:

(i) first responder district assets and liabilities to be allocated to the withdrawing municipality; and

(ii) (A) first responder district employees to become employees of the withdrawing municipality; and

(B) sick leave, vacation, and other accrued benefits and obligations relating to the first responder district employees that the withdrawing municipality needs to assume.

(10) The withdrawing municipality and first responder district shall equally share the feasibility consultant's fees and costs, as specified in the agreement between the withdrawing municipality and first responder district and the feasibility consultant.

(11) (a) Upon completion of the feasibility study and preparation of a written report, the feasibility consultant shall deliver a copy of the report to the withdrawing municipality and first responder district.

(b) (i) A withdrawing municipality or first responder district that disagrees with any aspect of a feasibility study report may, within 20 business days after receiving a copy of the report under Subsection (11)(a), submit to the feasibility consultant a written objection detailing the disagreement.

(ii) (A) A withdrawing municipality that submits a written objection under Subsection (11)(b)(i) shall simultaneously deliver a copy of the objection to the first responder district.

(B) A first responder district that submits a written objection under Subsection (11)(b)(i) shall simultaneously deliver a copy of the objection to the withdrawing municipality.

(iii) A withdrawing municipality or first responder district may, within 10 business days after receiving an objection under Subsection (11)(b)(ii), submit to the feasibility consultant a written response to the objection.

(iv) (A) A withdrawing municipality that submits a response under Subsection (11)(b)(iii) shall simultaneously deliver a copy of the response to the first responder district.

(B) A first responder district that submits a response under Subsection (11)(b)(iii) shall simultaneously deliver a copy of the response to the withdrawing municipality.

(v) If an objection is filed under Subsection (11)(b)(i), the feasibility consultant shall, within 20 business days after the expiration of the deadline under Subsection (11)(b)(iii) for submitting a response to an objection:

(A) modify the feasibility study report or explain in writing why the feasibility consultant is not modifying the feasibility study report; and

(B) deliver the modified feasibility study report or written explanation to the withdrawing municipality and first responder local district.

(12) Within seven days after the expiration of the deadline under Subsection (11)(b)(i) for submitting an objection or, if an objection is submitted, within seven days after receiving a modified feasibility study report or written explanation under Subsection (11)(b)(v), but at least 30 days before a public hearing under Subsection (14), the withdrawing municipality shall:

(a) make a copy of the report available to the public at the primary office of the withdrawing municipality; and

(b) if the withdrawing municipality has a website, post a copy of the report on the municipality's website.

(13) A feasibility study report or, if a feasibility study report is modified under Subsection (11), a modified feasibility study report may not be challenged unless the basis of the challenge is that the report results from collusion or fraud.

(14) (a) Following the expiration of the deadline under Subsection (11)(b)(i) for submitting an objection, or, if an objection is submitted under Subsection (11)(b)(i), following the withdrawing municipality's receipt of the modified feasibility study report or written explanation under Subsection (11)(b)(v), the legislative body of the withdrawing municipality shall, at the legislative body's next regular meeting, schedule at least one public hearing to be held:

(i) within the following 60 days; and

(ii) for the purpose of allowing:

(A) the feasibility consultant to present the results of the feasibility study; and

(B) the public to become informed about the feasibility study results, to ask the feasibility consultant questions about the feasibility study, and to express the public's views about the proposed withdrawal.

(b) At a public hearing under Subsection (14)(a), the legislative body of the withdrawing municipality shall:

(i) provide a copy of the feasibility study for public review; and

(ii) allow the public to:

(A) ask the feasibility consultant questions about the feasibility study; and

(B) express the public's views about the withdrawing municipality's proposed withdrawal from the first responder district.

(15) (a) The clerk or recorder of the withdrawing municipality shall publish notice of a hearing under Subsection (14):

(i) at least once a week for three successive weeks in a newspaper of general circulation within the withdrawing municipality, with the last publication occurring no less than three days before

the first public hearing held under Subsection (14); and

(ii) on the Utah Public Notice Website created in Section [~~63F-1-701~~] 63A-16-601, for three consecutive weeks immediately before the public hearing.

(b) A notice under Subsection (15)(a) shall state:

(i) the date, time, and location of the public hearing; and

(ii) that a copy of the feasibility study report may be obtained, free of charge, at the office of the withdrawing municipality or on the withdrawing municipality's website.

(16) Unless the withdrawing municipality and first responder district agree otherwise, conditions that a feasibility study report indicates are necessary to be met for a withdrawal to be functionally and financially feasible for the withdrawing municipality and first responder district are binding on the withdrawing municipality and first responder district if the withdrawal occurs.

Section 70. Section 17B-1-609 is amended to read:

17B-1-609. Hearing to consider adoption -- Notice.

(1) At the meeting at which the tentative budget is adopted, the board of trustees shall:

(a) establish the time and place of a public hearing to consider its adoption; and

(b) except as provided in Subsection (6), order that notice of the hearing:

(i) (A) be published at least seven days before the hearing in at least one issue of a newspaper of general circulation in the county or counties in which the district is located; or

(B) if no newspaper is circulated generally in the county or counties, be posted in three public places within the district; and

(ii) be published at least seven days before the hearing on the Utah Public Notice Website created in Section [~~63F-1-701~~] 63A-16-601.

(2) If the budget hearing is held in conjunction with a tax increase hearing, the notice required in Subsection (1)(b):

(a) may be combined with the notice required under Section 59-2-919; and

(b) shall be published in accordance with the advertisement provisions of Section 59-2-919.

(3) If the budget hearing is to be held in conjunction with a fee increase hearing, the notice required in Subsection (1)(b):

(a) may be combined with the notice required under Section 17B-1-643; and

(b) shall be published or mailed in accordance with the notice provisions of Section 17B-1-643.

(4) Proof that notice was given in accordance with Subsection (1)(b), (2), (3), or (6) is prima facie evidence that notice was properly given.

(5) If a notice required under Subsection (1)(b), (2), (3), or (6) is not challenged within 30 days after the day on which the hearing is held, the notice is adequate and proper.

(6) A board of trustees of a local district with an annual operating budget of less than $250,000 may satisfy the notice requirements in Subsection (1)(b) by:

(a) mailing a written notice, postage prepaid, to each voter in the local district; and

(b) posting the notice in three public places within the district.

Section 71. Section 17B-1-643 is amended to read:

17B-1-643. Imposing or increasing a fee for service provided by local district.

(1) (a) Before imposing a new fee or increasing an existing fee for a service provided by a local district, each local district board of trustees shall first hold a public hearing at which:

(i) the local district shall demonstrate its need to impose or increase the fee; and

(ii) any interested person may speak for or against the proposal to impose a fee or to increase an existing fee.

(b) Each public hearing under Subsection (1)(a) shall be held in the evening beginning no earlier than 6 p.m.

(c) A public hearing required under this Subsection (1) may be combined with a public hearing on a tentative budget required under Section 17B-1-610.

(d) Except to the extent that this section imposes more stringent notice requirements, the local district board shall comply with Title 52, Chapter 4, Open and Public Meetings Act, in holding the public hearing under Subsection (1)(a).

(2) (a) Each local district board shall give notice of a hearing under Subsection (1) as provided in Subsections (2)(b) and (c) or Subsection (2)(d).

(b) The notice required under Subsection (2)(a) shall be published:

(i) on the Utah Public Notice Website established in Section [~~63F-1-701~~] 63A-16-601; and

(ii) (A) in a newspaper or combination of newspapers of general circulation in the local district, if there is a newspaper or combination of newspapers of general circulation in the local district; or

(B) if there is no newspaper or combination of newspapers of general circulation in the local district, the local district board shall post at least one notice per 1,000 population within the local district, at places within the local district that are most likely to provide actual notice to residents within the local district.

(c) (i) The notice described in Subsection (2)(b)(ii)(A):

(A) shall be no less than 1/4 page in size and the type used shall be no smaller than 18 point, and surrounded by a 1/4-inch border;

(B) may not be placed in that portion of the newspaper where legal notices and classified advertisements appear;

(C) whenever possible, shall appear in a newspaper that is published at least one day per week;

(D) shall be in a newspaper or combination of newspapers of general interest and readership in the local district, and not of limited subject matter; and

(E) shall be run once each week for the two weeks preceding the hearing.

(ii) The notice described in Subsection (2)(b) shall state that the local district board intends to impose or increase a fee for a service provided by the local district and will hold a public hearing on a certain day, time, and place fixed in the notice, which shall be not less than seven days after the day the first notice is published, for the purpose of hearing comments regarding the proposed imposition or increase of a fee and to explain the reasons for the proposed imposition or increase.

(d) (i) In lieu of providing notice under Subsection (2)(b), the local district board of trustees may give the notice required under Subsection (2)(a) by mailing the notice to those within the district who:

(A) will be charged the fee for a district service, if the fee is being imposed for the first time; or

(B) are being charged a fee, if the fee is proposed to be increased.

(ii) Each notice under Subsection (2)(d)(i) shall comply with Subsection (2)(c)(ii).

(iii) A notice under Subsection (2)(d)(i) may accompany a district bill for an existing fee.

(e) If the hearing required under this section is combined with the public hearing required under Section 17B-1-610, the notice required under this Subsection (2):

(i) may be combined with the notice required under Section 17B-1-609; and

(ii) shall be published, posted, or mailed in accordance with the notice provisions of this section.

(f) Proof that notice was given as provided in Subsection (2)(b) or (d) is prima facie evidence that notice was properly given.

(g) If no challenge is made to the notice given of a hearing required by Subsection (1) within 30 days after the date of the hearing, the notice is considered adequate and proper.

(3) After holding a public hearing under Subsection (1), a local district board may:

(a) impose the new fee or increase the existing fee as proposed;

(b) adjust the amount of the proposed new fee or the increase of the existing fee and then impose the new fee or increase the existing fee as adjusted; or

(c) decline to impose the new fee or increase the existing fee.

(4) This section applies to each new fee imposed and each increase of an existing fee that occurs on or after July 1, 1998.

(5) (a) This section does not apply to an impact fee.

(b) The imposition or increase of an impact fee is governed by Title 11, Chapter 36a, Impact Fees Act.

Section 72. Section 17B-1-1204 is amended to read:

17B-1-1204. Notice of the hearing on a validation petition -- Amended or supplemented validation petition.

(1) Upon the entry of an order under Section 17B-1-1203 setting a hearing on a validation petition, the local district that filed the petition shall:

(a) publish notice:

(i) at least once a week for three consecutive weeks in a newspaper of general circulation in the county in which the principal office of the district is located; and

(ii) on the Utah Public Notice Website created in Section ~~[63F-1-701]~~ 63A-16-601, for three weeks immediately before the hearing; and

(b) post notice in its principal office at least 21 days before the date set for the hearing.

(2) Each notice under Subsection (1) shall:

(a) state the date, time, and place of the hearing on the validation petition;

(b) include a general description of the contents of the validation petition; and

(c) if applicable, state the location where a complete copy of a contract that is the subject of the validation petition may be examined.

(3) If a district amends or supplements a validation petition under Subsection 17B-1-1202(3) after publishing and posting notice as required under Subsection (1), the district is not required to publish or post notice again unless required by the court.

Section 73. Section 17B-1-1307 is amended to read:

17B-1-1307. Notice of public hearing and of dissolution.

(1) Before holding a public hearing required under Section 17B-1-1306, the administrative body shall:

(a) (i) publish notice of the public hearing and of the proposed dissolution:

(A) in a newspaper of general circulation within the local district proposed to be dissolved; and

(B) on the Utah Public Notice Website created in Section [~~63F-1-701~~] 63A-16-601, for 30 days before the public hearing; and

(ii) post notice of the public hearing and of the proposed dissolution in at least four conspicuous places within the local district proposed to be dissolved, no less than five and no more than 30 days before the public hearing; or

(b) mail a notice to each owner of property located within the local district and to each registered voter residing within the local district.

(2) Each notice required under Subsection (1) shall:

(a) identify the local district proposed to be dissolved and the service it was created to provide; and

(b) state the date, time, and location of the public hearing.

Section 74. Section 17B-2a-705 is amended to read:

17B-2a-705. Taxation -- Additional levy -- Election.

(1) If a mosquito abatement district board of trustees determines that the funds required during the next ensuing fiscal year will exceed the maximum amount that the district is authorized to levy under Subsection 17B-1-103(2)(g), the board of trustees may call an election on a date specified in Section 20A-1-204 and submit to district voters the question of whether the district should be authorized to impose an additional tax to raise the necessary additional funds.

(2) The board shall publish notice of the election:

(a) (i) in a newspaper of general circulation within the district at least once, no later than four weeks before the day of the election;

(ii) if there is no newspaper of general circulation in the district, at least four weeks before the day of the election, by posting one notice, and at least one additional notice per 2,000 population of the district, in places within the district that are most likely to give notice to the voters in the district; or

(iii) at least four weeks before the day of the election, by mailing notice to each registered voter in the district;

(b) on the Utah Public Notice Website created in Section [~~63F-1-701~~] 63A-16-601, for four weeks before the day of the election;

(c) in accordance with Section 45-1-101, for four weeks before the day of the election; and

(d) if the district has a website, on the district's website for four weeks before the day of the election.

(3) No particular form of ballot is required, and no informalities in conducting the election may invalidate the election, if it is otherwise fairly conducted.

(4) At the election each ballot shall contain the words, "Shall the district be authorized to impose an additional tax to raise the additional sum of $____?"

(5) The board of trustees shall canvass the votes cast at the election, and, if a majority of the votes cast are in favor of the imposition of the tax, the district is authorized to impose an additional levy to raise the additional amount of money required.

Section 75. Section 17B-2a-1110 is amended to read:

17B-2a-1110. Withdrawal from a municipal services district upon incorporation -- Feasibility study required for city or town withdrawal -- Public hearing -- Revenues transferred to municipal services district.

(1) (a) A municipality may withdraw from a municipal services district in accordance with Section 17B-1-502 or 17B-1-505, as applicable, and the requirements of this section.

(b) If a municipality engages a feasibility consultant to conduct a feasibility study under Subsection (2)(a), the 180 days described in Subsection 17B-1-502(3)(a)(iii)(B) is tolled from the day that the municipality engages the feasibility consultant to the day on which the municipality holds the final public hearing under Subsection (5).

(2) (a) If a municipality decides to withdraw from a municipal services district, the municipal legislative body shall, before adopting a resolution under Section 17B-1-502 or 17B-1-505, as applicable, engage a feasibility consultant to conduct a feasibility study.

(b) The feasibility consultant shall be chosen:

(i) by the municipal legislative body; and

(ii) in accordance with applicable municipal procurement procedures.

(3) The municipal legislative body shall require the feasibility consultant to:

(a) complete the feasibility study and submit the written results to the municipal legislative body before the council adopts a resolution under Section 17B-1-502;

(b) submit with the full written results of the feasibility study a summary of the results no longer than one page in length; and

(c) attend the public hearings under Subsection (5).

(4) (a) The feasibility study shall consider:

(i) population and population density within the withdrawing municipality;

(ii) current and five-year projections of demographics and economic base in the withdrawing municipality, including household size and income, commercial and industrial development, and public facilities;

(iii) projected growth in the withdrawing municipality during the next five years;

(iv) subject to Subsection (4)(b), the present and five-year projections of the cost, including overhead, of municipal services in the withdrawing municipality;

(v) assuming the same tax categories and tax rates as currently imposed by the municipal services district and all other current service providers, the present and five-year projected revenue for the withdrawing municipality;

(vi) a projection of any new taxes per household that may be levied within the withdrawing municipality within five years of the withdrawal; and

(vii) the fiscal impact on other municipalities serviced by the municipal services district.

(b) (i) For purposes of Subsection (4)(a)(iv), the feasibility consultant shall assume a level and quality of municipal services to be provided to the withdrawing municipality in the future that fairly and reasonably approximates the level and quality of municipal services being provided to the withdrawing municipality at the time of the feasibility study.

(ii) In determining the present cost of a municipal service, the feasibility consultant shall consider:

(A) the amount it would cost the withdrawing municipality to provide municipal services for the first five years after withdrawing; and

(B) the municipal services district's present and five-year projected cost of providing municipal services.

(iii) The costs calculated under Subsection (4)(a)(iv) shall take into account inflation and anticipated growth.

(5) If the results of the feasibility study meet the requirements of Subsection (4), the municipal legislative body shall, at its next regular meeting after receipt of the results of the feasibility study, schedule at least one public hearing to be held:

(a) within the following 60 days; and

(b) for the purpose of allowing:

(i) the feasibility consultant to present the results of the study; and

(ii) the public to become informed about the feasibility study results, including the requirement that if the municipality withdraws from the municipal services district, the municipality must comply with Subsection (9), and to ask questions about those results of the feasibility consultant.

(6) At a public hearing described in Subsection (5), the municipal legislative body shall:

(a) provide a copy of the feasibility study for public review; and

(b) allow the public to express its views about the proposed withdrawal from the municipal services district.

(7) (a) (i) The municipal clerk or recorder shall publish notice of the public hearings required under Subsection (5):

(A) at least once a week for three successive weeks in a newspaper of general circulation within the municipality; and

(B) on the Utah Public Notice Website created in Section [~~63F-1-701~~] 63A-16-601, for three weeks.

(ii) The municipal clerk or recorder shall publish the last publication of notice required under Subsection (7)(a)(i)(A) at least three days before the first public hearing required under Subsection (5).

(b) (i) If, under Subsection (7)(a)(i)(A), there is no newspaper of general circulation within the proposed municipality, the municipal clerk or recorder shall post at least one notice of the hearings per 1,000 population in conspicuous places within the municipality that are most likely to give notice of the hearings to the residents.

(ii) The municipal clerk or recorder shall post the notices under Subsection (7)(b)(i) at least seven days before the first hearing under Subsection (5).

(c) The notice under Subsections (7)(a) and (b) shall include the feasibility study summary and shall indicate that a full copy of the study is available for inspection and copying at the office of the municipal clerk or recorder.

(8) At a public meeting held after the public hearing required under Subsection (5), the municipal legislative body may adopt a resolution under Section 17B-1-502 or 17B-1-505, as applicable, if the municipality is in compliance with the other requirements of that section.

(9) The municipality shall pay revenues in excess of 5% to the municipal services district for 10 years beginning on the next fiscal year immediately following the municipal legislative body adoption of a resolution or an ordinance to withdraw under Section 17B-1-502 or 17B-1-505 if the results of the feasibility study show that the average annual amount of revenue under Subsection (4)(a)(v) exceed the average annual amount of cost under Subsection (4)(a)(iv) by more than 5%.

Section 76. Section 17C-1-207 is amended to read:

17C-1-207. Public entities may assist with project area development.

(1) In order to assist and cooperate in the planning, undertaking, construction, or operation of project area development within an area in which the public entity is authorized to act, a public entity may:

(a) (i) provide or cause to be furnished:

(A) parks, playgrounds, or other recreational facilities;

(B) community, educational, water, sewer, or drainage facilities; or

(C) any other works which the public entity is otherwise empowered to undertake;

(ii) provide, furnish, dedicate, close, vacate, pave, install, grade, regrade, plan, or replan streets, roads, roadways, alleys, sidewalks, or other places;

(iii) in any part of the project area:

(A) (I) plan or replan any property within the project area;

(II) plat or replat any property within the project area;

(III) vacate a plat;

(IV) amend a plat; or

(V) zone or rezone any property within the project area; and

(B) make any legal exceptions from building regulations and ordinances;

(iv) purchase or legally invest in any of the bonds of an agency and exercise all of the rights of any holder of the bonds;

(v) notwithstanding any law to the contrary, enter into an agreement for a period of time with another public entity concerning action to be taken pursuant to any of the powers granted in this title;

(vi) do anything necessary to aid or cooperate in the planning or implementation of the project area development;

(vii) in connection with the project area plan, become obligated to the extent authorized and funds have been made available to make required improvements or construct required structures; and

(viii) lend, grant, or contribute funds to an agency for project area development or proposed project area development, including assigning revenue or taxes in support of an agency bond or obligation; and

(b) for less than fair market value or for no consideration, and subject to Subsection (3):

(i) purchase or otherwise acquire property from an agency;

(ii) lease property from an agency;

(iii) sell, grant, convey, donate, or otherwise dispose of the public entity's property to an agency; or

(iv) lease the public entity's property to an agency.

(2) The following are not subject to Section 10-8-2, 17-50-312, or 17-50-303:

(a) project area development assistance that a public entity provides under this section; or

(b) a transfer of funds or property from an agency to a public entity.

(3) A public entity may provide assistance described in Subsection (1)(b) no sooner than 15 days after the day on which the public entity posts notice of the assistance on:

(a) the Utah Public Notice Website described in Section [~~63F-1-701~~] 63A-16-601; and

(b) the public entity's public website.

Section 77. Section 17C-1-601.5 is amended to read:

17C-1-601.5. Annual agency budget -- Fiscal year -- Public hearing required -- Auditor forms -- Requirement to file form.

(1) Each agency shall prepare an annual budget of the agency's revenues and expenditures for each fiscal year.

(2) The board shall adopt each agency budget:

(a) for an agency created by a municipality, before June 30; or

(b) for an agency created by a county, before December 15.

(3) The agency's fiscal year shall be the same as the fiscal year of the community that created the agency.

(4) (a) Before adopting an annual budget, each board shall hold a public hearing on the annual budget.

(b) Each agency shall provide notice of the public hearing on the annual budget by:

(i) (A) publishing at least one notice in a newspaper of general circulation within the agency boundaries, one week before the public hearing; or

(B) if there is no newspaper of general circulation within the agency boundaries, posting a notice of the public hearing in at least three public places within the agency boundaries; and

(ii) publishing notice on the Utah Public Notice Website created in Section [~~63F-1-701~~] 63A-16-601, at least one week before the public hearing.

(c) Each agency shall make the annual budget available for public inspection at least three days before the date of the public hearing.

(5) The state auditor shall prescribe the budget forms and the categories to be contained in each annual budget, including:

(a) revenues and expenditures for the budget year;

(b) legal fees; and

(c) administrative costs, including rent, supplies, and other materials, and salaries of agency personnel.

(6) (a) Within 90 days after adopting an annual budget, each board shall file a copy of the annual budget with the auditor of the county in which the agency is located, the State Tax Commission, the state auditor, the State Board of Education, and each taxing entity from which the agency receives project area funds.

(b) The requirement of Subsection (6)(a) to file a copy of the annual budget with the state as a taxing

entity is met if the agency files a copy with the State Tax Commission and the state auditor.

Section 78. Section 17C-1-804 is amended to read:

17C-1-804. Notice required for continued hearing.

The board shall give notice of a hearing continued under Section 17C-1-803 by announcing at the hearing:

(1) the date, time, and place the hearing will be resumed; or

(2) (a) that the hearing is being continued to a later time; and

(b) that the board will cause a notice of the continued hearing to be published on the Utah Public Notice Website created in Section [~~63F-1-701~~] 63A-16-601, at least seven days before the day on which the hearing is scheduled to resume.

Section 79. Section 17C-1-806 is amended to read:

17C-1-806. Requirements for notice provided by agency.

(1) The notice required by Section 17C-1-805 shall be given by:

(a) (i) publishing one notice, excluding the map referred to in Subsection (3)(b), in a newspaper of general circulation within the county in which the project area or proposed project area is located, at least 14 days before the hearing;

(ii) if there is no newspaper of general circulation, posting notice at least 14 days before the day of the hearing in at least three conspicuous places within the county in which the project area or proposed project area is located; or

(iii) posting notice, excluding the map described in Subsection (3)(b), at least 14 days before the day on which the hearing is held on:

(A) the Utah Public Notice Website described in Section [~~63F-1-701~~] 63A-16-601; and

(B) the public website of a community located within the boundaries of the project area; and

(b) at least 30 days before the hearing, mailing notice to:

(i) each record owner of property located within the project area or proposed project area;

(ii) the State Tax Commission;

(iii) the assessor and auditor of the county in which the project area or proposed project area is located; and

(iv) (A) if a project area is subject to a taxing entity committee, each member of the taxing entity committee and the State Board of Education; or

(B) if a project area is not subject to a taxing entity committee, the legislative body or governing board of each taxing entity within the boundaries of the project area or proposed project area.

(2) The mailing of the notice to record property owners required under Subsection (1)(b)(i) shall be conclusively considered to have been properly completed if:

(a) the agency mails the notice to the property owners as shown in the records, including an electronic database, of the county recorder's office and at the addresses shown in those records; and

(b) the county recorder's office records used by the agency in identifying owners to whom the notice is mailed and their addresses were obtained or accessed from the county recorder's office no earlier than 30 days before the mailing.

(3) The agency shall include in each notice required under Section 17C-1-805:

(a) (i) a boundary description of the project area or proposed project area; or

(ii) (A) a mailing address or telephone number where a person may request that a copy of the boundary description be sent at no cost to the person by mail, email, or facsimile transmission; and

(B) if the agency or community has an Internet website, an Internet address where a person may gain access to an electronic, printable copy of the boundary description and other related information;

(b) a map of the boundaries of the project area or proposed project area;

(c) an explanation of the purpose of the hearing; and

(d) a statement of the date, time, and location of the hearing.

(4) The agency shall include in each notice under Subsection (1)(b):

(a) a statement that property tax revenue resulting from an increase in valuation of property within the project area or proposed project area will be paid to the agency for project area development rather than to the taxing entity to which the tax revenue would otherwise have been paid if:

(i) (A) the taxing entity committee consents to the project area budget; or

(B) one or more taxing entities agree to share property tax revenue under an interlocal agreement; and

(ii) the project area plan provides for the agency to receive tax increment; and

(b) an invitation to the recipient of the notice to submit to the agency comments concerning the subject matter of the hearing before the date of the hearing.

(5) An agency may include in a notice under Subsection (1) any other information the agency considers necessary or advisable, including the public purpose achieved by the project area

development and any future tax benefits expected to result from the project area development.

Section 80. Section 17C-2-108 is amended to read:

17C-2-108. Notice of urban renewal project area plan adoption -- Effective date of plan -- Contesting the formation of the plan.

(1) (a) Upon the community legislative body's adoption of an urban renewal project area plan, or an amendment to a project area plan under Section 17C-2-110, the community legislative body shall provide notice as provided in Subsection (1)(b) by:

(i) (A) publishing or causing to be published a notice in a newspaper of general circulation within the agency's boundaries; or

(B) if there is no newspaper of general circulation within the agency's boundaries, causing a notice to be posted in at least three public places within the agency's boundaries; and

(ii) posting a notice on the Utah Public Notice Website described in Section [~~63F-1-701~~] 63A-16-601.

(b) Each notice under Subsection (1)(a) shall:

(i) set forth the community legislative body's ordinance adopting the project area plan or a summary of the ordinance; and

(ii) include a statement that the project area plan is available for general public inspection and the hours for inspection.

(2) The project area plan shall become effective on the date of:

(a) if notice was published under Subsection (1)(a), publication of the notice; or

(b) if notice was posted under Subsection (1)(a), posting of the notice.

(3) (a) For a period of 30 days after the effective date of the project area plan under Subsection (2), any person may contest the project area plan or the procedure used to adopt the project area plan if the plan or procedure fails to comply with applicable statutory requirements.

(b) After the 30-day period under Subsection (3)(a) expires, a person may not contest the project area plan or procedure used to adopt the project area plan for any cause.

(4) Upon adoption of the project area plan by the community legislative body, the agency may carry out the project area plan.

(5) Each agency shall make the project area plan available to the general public at the agency's office during normal business hours.

Section 81. Section 17C-2-109 is amended to read:

17C-2-109. Agency required to transmit and record documents after adoption of an urban renewal project area plan.

Within 30 days after the community legislative body adopts, under Section 17C-2-107, an urban renewal project area plan, the agency shall:

(1) record with the recorder of the county in which the project area is located a document containing:

(a) a description of the land within the project area;

(b) a statement that the project area plan for the project area has been adopted; and

(c) the date of adoption;

(2) transmit a copy of the description of the land within the project area and an accurate map or plat indicating the boundaries of the project area to the Automated Geographic Reference Center created under Section [~~63F-1-506~~] 63A-16-505; and

(3) for a project area plan that provides for the agency to receive tax increment, transmit a copy of the description of the land within the project area, a copy of the community legislative body ordinance adopting the project area plan, and a map or plat indicating the boundaries of the project area to:

(a) the auditor, recorder, attorney, surveyor, and assessor of each county in which any part of the project area is located;

(b) the officer or officers performing the function of auditor or assessor for each taxing entity that does not use the county assessment roll or collect the taxing entity's taxes through the county;

(c) the legislative body or governing board of each taxing entity;

(d) the State Tax Commission; and

(e) the State Board of Education.

Section 82. Section 17C-3-107 is amended to read:

17C-3-107. Notice of economic development project area plan adoption -- Effective date of plan -- Contesting the formation of the plan.

(1) (a) Upon the community legislative body's adoption of an economic development project area plan, or an amendment to the project area plan under Section 17C-3-109 that requires notice, the legislative body shall provide notice as provided in Subsection (1)(b) by:

(i) publishing or causing to be published a notice:

(A) in a newspaper of general circulation within the agency's boundaries; or

(B) if there is no newspaper of general circulation within the agency's boundaries, causing a notice to be posted in at least three public places within the agency's boundaries; and

(ii) on the Utah Public Notice Website described in Section [~~63F-1-701~~] 63A-16-601.

(b) Each notice under Subsection (1)(a) shall:

(i) set forth the community legislative body's ordinance adopting the project area plan or a summary of the ordinance; and

(ii) include a statement that the project area plan is available for public inspection and the hours for inspection.

(2) The project area plan shall become effective on the date of:

(a) if notice was published under Subsection (1)(a), publication of the notice; or

(b) if notice was posted under Subsection (1)(a), posting of the notice.

(3) (a) For a period of 30 days after the effective date of the project area plan under Subsection (2), any person may contest the project area plan or the procedure used to adopt the project area plan if the plan or procedure fails to comply with applicable statutory requirements.

(b) After the 30-day period under Subsection (3)(a) expires, a person may not contest the project area plan or procedure used to adopt the project area plan for any cause.

(4) Upon adoption of the economic development project area plan by the community legislative body, the agency may implement the project area plan.

(5) Each agency shall make the economic development project area plan available to the general public at the agency's office during normal business hours.

Section 83. Section 17C-3-108 is amended to read:

17C-3-108. Agency required to transmit and record documents after adoption of economic development project area plan.

Within 30 days after the community legislative body adopts, under Section 17C-3-106, an economic development project area plan, the agency shall:

(1) record with the recorder of the county in which the economic development project area is located a document containing:

(a) a description of the land within the project area;

(b) a statement that the project area plan for the project area has been adopted; and

(c) the date of adoption;

(2) transmit a copy of the description of the land within the project area and an accurate map or plat indicating the boundaries of the project area to the Automated Geographic Reference Center created under Section [~~63F-1-506~~] 63A-16-505; and

(3) for a project area plan that provides for the agency to receive tax increment, transmit a copy of the description of the land within the project area, a copy of the community legislative body ordinance adopting the project area plan, and a map or plat indicating the boundaries of the project area to:

(a) the auditor, recorder, attorney, surveyor, and assessor of each county in which any part of the project area is located;

(b) the officer or officers performing the function of auditor or assessor for each taxing entity that does not use the county assessment roll or collect the taxing entity's taxes through the county;

(c) the legislative body or governing board of each taxing entity;

(d) the State Tax Commission; and

(e) the State Board of Education.

Section 84. Section 17C-4-107 is amended to read:

17C-4-107. Agency required to transmit and record documents after adoption of community development project area plan.

Within 30 days after the community legislative body adopts, under Section 17C-4-105, a community development project area plan, the agency shall:

(1) record with the recorder of the county in which the project area is located a document containing:

(a) a description of the land within the project area;

(b) a statement that the project area plan for the project area has been adopted; and

(c) the date of adoption;

(2) transmit a copy of the description of the land within the project area and an accurate map or plat indicating the boundaries of the project area to the Automated Geographic Reference Center created under Section [~~63F-1-506~~] 63A-16-505; and

(3) for a project area plan that provides for the agency to receive tax increment, transmit a copy of the description of the land within the project area, a copy of the community legislative body ordinance adopting the project area plan, and a map or plat indicating the boundaries of the project area to:

(a) the auditor, recorder, attorney, surveyor, and assessor of each county in which any part of the project area is located;

(b) the officer or officers performing the function of auditor or assessor for each taxing entity that does not use the county assessment roll or collect the taxing entity's taxes through the county;

(c) the legislative body or governing board of each taxing entity;

(d) the State Tax Commission; and

(e) the State Board of Education.

Section 85. Section 17C-4-109 is amended to read:

17C-4-109. Expedited community development project area plan.

(1) As used in this section, "tax increment incentive" means the portion of tax increment awarded to an industry or business.

(2) A community development project area plan may be adopted or amended without complying with the notice and public hearing requirements of this part and Chapter 1, Part 8, Hearing and Notice Requirements, if the following requirements are met:

(a) the agency determines by resolution adopted in an open and public meeting the need to create or amend a project area plan on an expedited basis, which resolution shall include a description of why expedited action is needed;

(b) a public hearing on the amendment or adoption of the project area plan is held by the agency;

(c) notice of the public hearing is published at least 14 days before the public hearing on:

(i) the website of the community that created the agency; and

(ii) the Utah Public Notice Website created in Section [~~63F-1-701~~] 63A-16-601;

(d) written consent to the amendment or adoption of the project area plan is given by all record property owners within the existing or proposed project area;

(e) each taxing entity that will be affected by the tax increment incentive enters into or amends an interlocal agreement in accordance with Title 11, Chapter 13, Interlocal Cooperation Act, and Sections 17C-4-201, 17C-4-203, and 17C-4-204;

(f) the primary market for the goods or services that will be created by the industry or business entity that will receive a tax increment incentive from the amendment or adoption of the project area plan is outside of the state;

(g) the industry or business entity that will receive a tax increment incentive from the amendment or adoption of the project area plan is not primarily engaged in retail trade; and

(h) a tax increment incentive is only provided to an industry or business entity:

(i) on a postperformance basis as described in Subsection (3); and

(ii) on an annual basis after the tax increment is received by the agency.

(3) An industry or business entity may only receive a tax increment incentive under this section after entering into an agreement with the agency that sets postperformance targets that shall be met before the industry or business entity may receive the tax increment incentive, including annual targets for:

(a) capital investment in the project area;

(b) the increase in the taxable value of the project area;

(c) the number of new jobs created in the project area;

(d) the average wages of the jobs created, which shall be at least 110% of the prevailing wage of the county where the project area is located; and

(e) the amount of local vendor opportunity generated by the industry or business entity.

Section 86. Section 17C-4-202 is amended to read:

17C-4-202. Resolution or interlocal agreement to provide project area funds for the community development project area plan -- Notice -- Effective date of resolution or interlocal agreement -- Time to contest resolution or interlocal agreement -- Availability of resolution or interlocal agreement.

(1) The approval and adoption of each resolution or interlocal agreement under Subsection 17C-4-201(2) shall be in an open and public meeting.

(2) (a) Upon the adoption of a resolution or interlocal agreement under Section 17C-4-201, the agency shall provide notice as provided in Subsection (2)(b) by:

(i) (A) publishing or causing to be published a notice in a newspaper of general circulation within the agency's boundaries; or

(B) if there is no newspaper of general circulation within the agency's boundaries, causing a notice to be posted in at least three public places within the agency's boundaries; and

(ii) publishing or causing to be published a notice on the Utah Public Notice Website created in Section [~~63F-1-701~~] 63A-16-601.

(b) Each notice under Subsection (2)(a) shall:

(i) set forth a summary of the resolution or interlocal agreement; and

(ii) include a statement that the resolution or interlocal agreement is available for public inspection and the hours of inspection.

(3) The resolution or interlocal agreement shall become effective on the date of:

(a) if notice was published under Subsection (2)(a)(i)(A) or (2)(a)(ii), publication of the notice; or

(b) if notice was posted under Subsection (2)(a)(i)(B), posting of the notice.

(4) (a) For a period of 30 days after the effective date of the resolution or interlocal agreement under Subsection (3), any person may contest the resolution or interlocal agreement or the procedure used to adopt the resolution or interlocal agreement if the resolution or interlocal agreement or procedure fails to comply with applicable statutory requirements.

(b) After the 30-day period under Subsection (4)(a) expires, a person may not contest:

(i) the resolution or interlocal agreement;

(ii) a distribution of tax increment to the agency under the resolution or interlocal agreement; or

(iii) the agency's use of project area funds under the resolution or interlocal agreement.

(5) Each agency that is to receive project area funds under a resolution or interlocal agreement under Section 17C-4-201 and each taxing entity that approves a resolution or enters into an interlocal agreement under Section 17C-4-201 shall make the resolution or interlocal agreement, as the case may be, available at the taxing entity's offices to the public for inspection and copying during normal business hours.

Section 87. Section 17C-5-110 is amended to read:

17C-5-110. Notice of community reinvestment project area plan adoption -- Effective date of plan -- Contesting the formation of the plan.

(1) (a) Upon a community legislative body's adoption of a community reinvestment project area plan in accordance with Section 17C-5-109, or an amendment to a community reinvestment project area plan in accordance with Section 17C-5-112, the community legislative body shall provide notice of the adoption or amendment in accordance with Subsection (1)(b) by:

(i) (A) causing a notice to be published in a newspaper of general circulation within the community; or

(B) if there is no newspaper of general circulation within the community, causing a notice to be posted in at least three public places within the community; and

(ii) posting a notice on the Utah Public Notice Website described in Section [~~63F-1-701~~] 63A-16-601.

(b) A notice described in Subsection (1)(a) shall include:

(i) a copy of the community legislative body's ordinance, or a summary of the ordinance, that adopts the community reinvestment project area plan; and

(ii) a statement that the community reinvestment project area plan is available for public inspection and the hours for inspection.

(2) A community reinvestment project area plan is effective on the day on which notice of adoption is published or posted in accordance with Subsection (1)(a).

(3) A community reinvestment project area is considered created the day on which the community reinvestment project area plan becomes effective as described in Subsection (2).

(4) (a) Within 30 days after the day on which a community reinvestment project area plan is effective, a person may contest the community reinvestment project area plan or the procedure used to adopt the community reinvestment project area plan if the community reinvestment project area plan or the procedure fails to comply with a provision of this title.

(b) After the 30-day period described in Subsection (4)(a) expires, a person may not contest the community reinvestment project area plan or the procedure used to adopt the community reinvestment project area plan.

(5) Upon adoption of a community reinvestment project area plan by the community legislative body, the agency may implement the community reinvestment project area plan.

(6) The agency shall make the community reinvestment project area plan available to the public at the agency's office during normal business hours.

Section 88. Section 17C-5-111 is amended to read:

17C-5-111. Agency required to transmit and record documentation after adoption of community reinvestment project area plan.

Within 30 days after the day on which a community legislative body adopts a community reinvestment project area plan under Section 17C-5-109, the agency shall:

(1) record with the recorder of the county in which the community reinvestment project area is located a document containing:

(a) the name of the community reinvestment project area;

(b) a boundary description of the community reinvestment project area; and

(c) (i) a statement that the community legislative body adopted the community reinvestment project area plan; and

(ii) the day on which the community legislative body adopted the community reinvestment project area plan;

(2) transmit a copy of a description of the land within the community reinvestment project area and an accurate map or plat indicating the boundaries of the community reinvestment project area to the Automated Geographic Reference Center created in Section [~~63F-1-506~~] 63A-16-505; and

(3) for a community reinvestment project area plan that provides for the agency to receive tax increment, transmit a copy of a description of the land within the community reinvestment project area, a copy of the community legislative body ordinance adopting the community reinvestment project area plan, and an accurate map or plat indicating the boundaries of the community reinvestment project area to:

(a) the auditor, recorder, county or district attorney, surveyor, and assessor of each county in which any part of the community reinvestment project area is located;

(b) the officer or officers performing the function of auditor or assessor for each taxing entity that

does not use the county assessment roll or collect the taxing entity's taxes through the county;

(c) the legislative body or governing board of each taxing entity;

(d) the State Tax Commission; and

(e) the State Board of Education.

Section 89. Section 17C-5-113 is amended to read:

17C-5-113. Expedited community reinvestment project area plan.

(1) As used in this section:

(a) "Qualified business entity" means a business entity that:

(i) has a primary market for the qualified business entity's goods or services outside of the state; and

(ii) is not primarily engaged in retail sales.

(b) "Tax increment incentive" means the portion of an agency's tax increment that is paid to a qualified business entity for the purpose of implementing a community reinvestment project area plan.

(2) An agency and a qualified business entity may, in accordance with Subsection (3), enter into an agreement that allows the qualified business entity to receive a tax increment incentive.

(3) An agreement described in Subsection (2) shall set annual postperformance targets for:

(a) capital investment within the community reinvestment project area;

(b) the number of new jobs created within the community reinvestment project area;

(c) the average wage of the jobs described in Subsection (3)(b) that is at least 110% of the prevailing wage of the county within which the community reinvestment project area is located; and

(d) the amount of local vendor opportunity generated by the qualified business entity.

(4) A qualified business entity may only receive a tax increment incentive:

(a) if the qualified business entity complies with the agreement described in Subsection (3);

(b) on a postperformance basis; and

(c) on an annual basis after the agency receives tax increment from a taxing entity.

(5) An agency may create or amend a community reinvestment project area plan for the purpose of providing a tax increment incentive without complying with the requirements described in Chapter 1, Part 8, Hearing and Notice Requirements, if:

(a) the agency:

(i) holds a public hearing to consider the need to create or amend a community reinvestment project area plan on an expedited basis;

(ii) posts notice at least 14 days before the day on which the public hearing described in Subsection (5)(a)(i) is held on:

(A) the community's website; and

(B) the Utah Public Notice Website as described in Section [~~63F-1-701~~] 63A-16-601; and

(iii) at the hearing described in Subsection (5)(a)(i), adopts a resolution to create or amend the community reinvestment project area plan on an expedited basis;

(b) all record property owners within the existing or proposed community reinvestment project area plan give written consent; and

(c) each taxing entity affected by the tax increment incentive consents and enters into an interlocal agreement with the agency authorizing the agency to pay a tax increment incentive to the qualified business entity.

Section 90. Section 17C-5-205 is amended to read:

17C-5-205. Interlocal agreement to provide project area funds for the community reinvestment project area subject to interlocal agreement -- Notice -- Effective date of interlocal agreement -- Time to contest interlocal agreement -- Availability of interlocal agreement.

(1) An agency shall:

(a) approve and adopt an interlocal agreement described in Section 17C-5-204 at an open and public meeting; and

(b) provide a notice of the meeting titled "Diversion of Property Tax for a Community Reinvestment Project Area."

(2) (a) Upon the execution of an interlocal agreement described in Section 17C-5-204, the agency shall provide notice of the execution by:

(i) (A) publishing or causing to be published a notice in a newspaper of general circulation within the agency's boundaries; or

(B) if there is no newspaper of general circulation within the agency's boundaries, causing the notice to be posted in at least three public places within the agency's boundaries; and

(ii) publishing or causing the notice to be published on the Utah Public Notice Website created in Section [~~63F-1-701~~] 63A-16-601.

(b) A notice described in Subsection (2)(a) shall include:

(i) a summary of the interlocal agreement; and

(ii) a statement that the interlocal agreement:

(A) is available for public inspection and the hours for inspection; and

(B) authorizes the agency to receive all or a portion of a taxing entity's tax increment or sales and use tax revenue.

(3) An interlocal agreement described in Section 17C-5-204 is effective the day on which the notice described in Subsection (2) is published or posted in accordance with Subsection (2)(a).

(4) (a) Within 30 days after the day on which the interlocal agreement is effective, a person may contest the interlocal agreement or the procedure used to adopt the interlocal agreement if the interlocal agreement or procedure fails to comply with a provision of this title.

(b) After the 30-day period described in Subsection (4)(a) expires, a person may not contest:

(i) the interlocal agreement;

(ii) a distribution of tax increment to the agency under the interlocal agreement; or

(iii) the agency's use of project area funds under the interlocal agreement.

(5) A taxing entity that enters into an interlocal agreement under Section 17C-5-204 shall make a copy of the interlocal agreement available to the public at the taxing entity's office for inspection and copying during normal business hours.

Section 91. Section 17D-3-305 is amended to read:

17D-3-305. Setting the date of nomination of the board of supervisors -- Notice requirements.

(1) The commission shall set the date of the nomination of members of the board of supervisors of a conservation district.

(2) The commission shall publish notice of the nomination day described in Subsection (1):

(a) (i) in a newspaper of general circulation within the conservation district at least once, no later than four weeks before the day of the nomination; or

(ii) if there is no newspaper of general circulation in the conservation district, at least four weeks before the nomination day, by posting one notice, and at least one additional notice per 2,000 population of the conservation district, in places within the conservation district that are most likely to give notice to the residents in the conservation district;

(b) on the Utah Public Notice Website created in Section [~~63F-1-701~~] 63A-16-601, for four weeks before the day of the nomination;

(c) in accordance with Section 45-1-101, for four weeks before the day of the nomination; and

(d) if the conservation district has a website, on the conservation district's website for four weeks before the day of the nomination.

(3) The commissioner shall appoint the board of members by no later than six weeks after the date set by the commission for the close of nominations.

(4) The notice required under Subsection (2) shall state:

(a) the nomination date; and

(b) the number of open board member positions for the conservation district.

Section 92. Section 19-1-202 is amended to read:

19-1-202. Duties and powers of the executive director.

(1) The executive director shall:

(a) administer and supervise the department;

(b) coordinate policies and program activities conducted through boards, divisions, and offices of the department;

(c) approve the proposed budget of each board, division, and office within the department;

(d) approve all applications for federal grants or assistance in support of any department program;

(e) with the governor's specific, prior approval, expend funds appropriated by the Legislature necessary for participation by the state in any fund, property, or service provided by the federal government; and

(f) in accordance with Section 19-1-301, appoint one or more administrative law judges to hear an adjudicative proceeding within the department.

(2) The executive director may:

(a) issue orders to enforce state laws and rules established by the department except where the enforcement power is given to a board created under Section 19-1-106, unless the executive director finds that a condition exists that creates a clear and present hazard to the public health or the environment and requires immediate action, and if the enforcement power is vested with a board created under Section 19-1-106, the executive director may with the concurrence of the governor order any person causing or contributing to the condition to reduce, mitigate, or eliminate the condition;

(b) with the approval of the governor, participate in the distribution, disbursement, or administration of any fund or service, advanced, offered, or contributed by the federal government for purposes consistent with the powers and duties of the department;

(c) accept and receive funds and gifts available from private and public groups for the purposes of promoting and protecting the public health and the environment and expend the funds as appropriated by the Legislature;

(d) make policies not inconsistent with law for the internal administration and government of the department, the conduct of its employees, and the custody, use, and preservation of the records, papers, books, documents, and property of the department;

(e) create advisory committees as necessary to assist in carrying out the provisions of this title;

(f) appoint division directors who may be removed at the will of the executive director and who shall be compensated in an amount fixed by the executive director;

(g) advise, consult, and cooperate with other agencies of the state, the federal government, other states and interstate agencies, affected groups, political subdivisions, and industries in carrying out the purposes of this title;

(h) consistent with Title [~~67~~] 63A, Chapter [~~19~~] 17, Utah State Personnel Management Act, employ employees necessary to meet the requirements of this title;

(i) authorize any employee or representative of the division to conduct inspections as permitted in this title;

(j) encourage, participate in, or conduct any studies, investigations, research, and demonstrations relating to hazardous materials or substances releases necessary to meet the requirements of this title;

(k) collect and disseminate information about hazardous materials or substances releases;

(l) review plans, specifications, or other data relating to hazardous substances releases as provided in this title;

(m) maintain, update not less than annually, and make available to the public a record of sites, by name and location, at which response actions for the protection of the public health and environment under Title 19, Chapter 6, Part 3, Hazardous Substances Mitigation Act, or under Title 19, Chapter 8, Voluntary Cleanup Program, have been completed in the previous calendar year, and those that the department plans to address in the upcoming year pursuant to this title, including if upon completion of the response action the site:

(i) will be suitable for unrestricted use; or

(ii) will be suitable only for restricted use, stating the institutional controls identified in the remedy to which use of the site is subject; and

(n) for purposes of implementing environmental mitigation and response actions:

(i) accept and receive environmental mitigation and response funds from private and public groups, including as a condition of a consent decree, settlement agreement, stipulated agreement, or court order; and

(ii) administer the implementation of environmental mitigation and response actions in accordance with the terms and conditions in which funds were received, including:

(A) disbursing funds to private or public entities, governmental units, state agencies, or Native American tribes;

(B) expending funds to implement environmental mitigation and response actions; and

(C) returning unused funds to the original source of the funds as a condition of receipt of the funds, if applicable.

Section 93. Section 19-1-308 is amended to read:

19-1-308. Background checks for employees.

(1) As used in this section, "bureau" means the Bureau of Criminal Identification created in Section 53-10-201.

(2) Beginning July 1, 2018, the department shall require all appointees and applicants for the following positions to submit to a fingerprint-based local, regional, and national criminal history background check and ongoing monitoring as a condition of employment:

(a) administrative services managers;

(b) financial analysts;

(c) financial managers; and

(d) schedule AB and AD employees, in accordance with Section [~~67-19-15~~] 63A-17-301, in appointed positions.

(3) Each appointee or applicant for a position listed in Subsection (2) shall provide a completed fingerprint card to the department upon request.

(4) The department shall require that an individual required to submit to a background check under Subsection (3) provide a signed waiver on a form provided by the department that meets the requirements of Subsection 53-10-108(4).

(5) For a noncriminal justice background search and registration in accordance with Subsection 53-10-108(13), the department shall submit to the bureau:

(a) the applicant's personal identifying information and fingerprints for a criminal history search of applicable local, regional, and national databases; and

(b) a request for all information received as a result of the local, regional, and nationwide background check.

(6) The department is responsible for the payment of all fees required by Subsection 53-10-108(15) and any fees required to be submitted to the Federal Bureau of Investigation by the bureau.

(7) The department may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

(a) determine how the department will assess the employment status of an individual upon receipt of background information; and

(b) identify the appropriate privacy risk mitigation strategy to be used in accordance with Subsection 53-10-108(13)(b).

Section 94. Section 19-2-109 is amended to read:

19-2-109. Air quality standards -- Hearings on adoption -- Orders of director --

Adoption of emission control requirements.

(1) (a) The board, in adopting standards of quality for ambient air, shall conduct public hearings.

(b) Notice of any public hearing for the consideration, adoption, or amendment of air quality standards shall specify the locations to which the proposed standards apply and the time, date, and place of the hearing.

(c) The notice shall be:

(i) (A) published at least twice in any newspaper of general circulation in the area affected; and

(B) published on the Utah Public Notice Website created in Section [~~63F-1-701~~] 63A-16-601, at least 20 days before the public hearing; and

(ii) mailed at least 20 days before the public hearing to the chief executive of each political subdivision of the area affected and to other persons the director has reason to believe will be affected by the standards.

(d) The adoption of air quality standards or any modification or changes to air quality standards shall be by order of the director following formal action of the board with respect to the standards.

(e) The order shall be published:

(i) in a newspaper of general circulation in the area affected; and

(ii) as required in Section 45-1-101.

(2) (a) The board may establish emission control requirements by rule that in its judgment may be necessary to prevent, abate, or control air pollution that may be statewide or may vary from area to area, taking into account varying local conditions.

(b) In adopting these requirements, the board shall give notice and conduct public hearings in accordance with the requirements in Subsection (1).

Section 95. Section 20A-1-512 is amended to read:

20A-1-512. Midterm vacancies on local district boards.

(1) (a) Whenever a vacancy occurs on any local district board for any reason, the following shall appoint a replacement to serve out the unexpired term in accordance with this section:

(i) the local district board, if the person vacating the position was elected; or

(ii) the appointing authority, as that term is defined in Section 17B-1-102, if the appointing authority appointed the person vacating the position.

(b) Except as provided in Subsection (1)(c), before acting to fill the vacancy, the local district board or appointing authority shall:

(i) give public notice of the vacancy at least two weeks before the local district board or appointing authority meets to fill the vacancy by:

(A) if there is a newspaper of general circulation, as that term is defined in Section 45-1-201, within the district, publishing the notice in the newspaper of general circulation;

(B) posting the notice in three public places within the local district; and

(C) posting on the Utah Public Notice Website created under Section [~~63F-1-701~~] 63A-16-601; and

(ii) identify, in the notice:

(A) the date, time, and place of the meeting where the vacancy will be filled;

(B) the individual to whom an individual who is interested in an appointment to fill the vacancy may submit the individual's name for consideration; and

(C) any submission deadline.

(c) An appointing authority is not subject to Subsection (1)(b) if:

(i) the appointing authority appoints one of the appointing authority's own members; and

(ii) that member meets all applicable statutory board member qualifications.

(2) If the local district board fails to appoint an individual to complete an elected board member's term within 90 days, the legislative body of the county or municipality that created the local district shall fill the vacancy in accordance with the procedure for a local district described in Subsection (1)(b).

Section 96. Section 20A-3a-604 is amended to read:

20A-3a-604. Notice of time and place of early voting.

(1) Except as provided in Section 20A-1-308 or Subsection 20A-3a-603(2), the election officer shall, at least 19 days before the date of the election, publish notice of the dates, times, and locations of early voting:

(a) (i) in one issue of a newspaper of general circulation in the county;

(ii) if there is no newspaper of general circulation in the county, in addition to posting the notice described in Subsection (1)(b), by posting one notice, and at least one additional notice per 2,000 population of the county, in places within the county that are most likely to give notice to the residents in the county; or

(iii) by mailing notice to each registered voter in the county;

(b) by posting the notice at each early voting polling place;

(c) on the Utah Public Notice Website created in Section [~~63F-1-701~~] 63A-16-601, for 19 days before the day of the election;

(d) in accordance with Section 45-1-101, for 19 days before the date of the election; and

(e) on the county's website for 19 days before the day of the election.

(2) Instead of publishing all dates, times, and locations of early voting under Subsection (1), the election officer may publish a statement that specifies the following sources where a voter may view or obtain a copy of all dates, times, and locations of early voting:

(a) the county's website;

(b) the physical address of the county's offices; and

(c) a mailing address and telephone number.

(3) The election officer shall include in the notice described in Subsection (1):

(a) the address of the Statewide Electronic Voter Information Website and, if available, the address of the election officer's website, with a statement indicating that the election officer will post on the website the location of each early voting polling place, including any changes to the location of an early voting polling place and the location of additional early voting polling places; and

(b) a phone number that a voter may call to obtain information regarding the location of an early voting polling place.

Section 97. Section 20A-4-104 is amended to read:

20A-4-104. Counting ballots electronically.

(1) (a) Before beginning to count ballots using automatic tabulating equipment, the election officer shall test the automatic tabulating equipment to ensure that it will accurately count the votes cast for all offices and all measures.

(b) The election officer shall publish public notice of the time and place of the test:

(i) (A) at least 48 hours before the test in one or more daily or weekly newspapers of general circulation in the county, municipality, or jurisdiction where the equipment is used;

(B) if there is no daily or weekly newspaper of general circulation in the county, municipality, or jurisdiction where the equipment is used, at least 10 days before the day of the test, by posting one notice, and at least one additional notice per 2,000 population of the county, municipality, or jurisdiction, in places within the county, municipality, or jurisdiction that are most likely to give notice to the voters in the county, municipality, or jurisdiction; or

(C) at least 10 days before the day of the test, by mailing notice to each registered voter in the county, municipality, or jurisdiction where the equipment is used;

(ii) on the Utah Public Notice Website created in Section [~~63F-1-701~~] 63A-16-601, for four weeks before the day of the test;

(iii) in accordance with Section 45-1-101, for at least 10 days before the day of the test; and

(iv) if the county, municipality, or jurisdiction has a website, on the website for four weeks before the day of the test.

(c) The election officer shall conduct the test by processing a preaudited group of ballots.

(d) The election officer shall ensure that:

(i) a predetermined number of valid votes for each candidate and measure are recorded on the ballots;

(ii) for each office, one or more ballots have votes in excess of the number allowed by law in order to test the ability of the automatic tabulating equipment to reject those votes; and

(iii) a different number of valid votes are assigned to each candidate for an office, and for and against each measure.

(e) If any error is detected, the election officer shall determine the cause of the error and correct it.

(f) The election officer shall ensure that:

(i) the automatic tabulating equipment produces an errorless count before beginning the actual counting; and

(ii) the automatic tabulating equipment passes the same test at the end of the count before the election returns are approved as official.

(2) (a) The election officer or the election officer's designee shall supervise and direct all proceedings at the counting center.

(b) (i) Proceedings at the counting center are public and may be observed by interested persons.

(ii) Only those persons authorized to participate in the count may touch any ballot or return.

(c) The election officer shall deputize and administer an oath or affirmation to all persons who are engaged in processing and counting the ballots that they will faithfully perform their assigned duties.

(3) If any ballot is damaged or defective so that it cannot properly be counted by the automatic tabulating equipment, the election officer shall ensure that two counting judges jointly:

(a) make a true replication of the ballot with an identifying serial number;

(b) substitute the replicated ballot for the damaged or defective ballot;

(c) label the replicated ballot "replicated"; and

(d) record the replicated ballot's serial number on the damaged or defective ballot.

(4) The election officer may:

(a) conduct an unofficial count before conducting the official count in order to provide early unofficial returns to the public;

(b) release unofficial returns from time to time after the polls close; and

(c) report the progress of the count for each candidate during the actual counting of ballots.

(5) The election officer shall review and evaluate the provisional ballot envelopes and prepare any valid provisional ballots for counting as provided in Section 20A-4-107.

(6) (a) The election officer or the election officer's designee shall:

(i) separate, count, and tabulate any ballots containing valid write-in votes; and

(ii) complete the standard form provided by the clerk for recording valid write-in votes.

(b) In counting the write-in votes, if, by casting a valid write-in vote, a voter has cast more votes for an office than that voter is entitled to vote for that office, the poll workers shall count the valid write-in vote as being the obvious intent of the voter.

(7) (a) The election officer shall certify the return printed by the automatic tabulating equipment, to which have been added write-in and absentee votes, as the official return of each voting precinct.

(b) Upon completion of the count, the election officer shall make official returns open to the public.

(8) If for any reason it becomes impracticable to count all or a part of the ballots with tabulating equipment, the election officer may direct that they be counted manually according to the procedures and requirements of this part.

(9) After the count is completed, the election officer shall seal and retain the programs, test materials, and ballots as provided in Section 20A-4-202.

Section 98. Section 20A-4-304 is amended to read:

20A-4-304. Declaration of results -- Canvassers' report.

(1) Each board of canvassers shall:

(a) except as provided in Part 6, Municipal Alternate Voting Methods Pilot Project, declare "elected" or "nominated" those persons who:

(i) had the highest number of votes; and

(ii) sought election or nomination to an office completely within the board's jurisdiction;

(b) declare:

(i) "approved" those ballot propositions that:

(A) had more "yes" votes than "no" votes; and

(B) were submitted only to the voters within the board's jurisdiction;

(ii) "rejected" those ballot propositions that:

(A) had more "no" votes than "yes" votes or an equal number of "no" votes and "yes" votes; and

(B) were submitted only to the voters within the board's jurisdiction;

(c) certify the vote totals for persons and for and against ballot propositions that were submitted to voters within and beyond the board's jurisdiction and transmit those vote totals to the lieutenant governor; and

(d) if applicable, certify the results of each local district election to the local district clerk.

(2) As soon as the result is declared, the election officer shall prepare a report of the result, which shall contain:

(a) the total number of votes cast in the board's jurisdiction;

(b) the names of each candidate whose name appeared on the ballot;

(c) the title of each ballot proposition that appeared on the ballot;

(d) each office that appeared on the ballot;

(e) from each voting precinct:

(i) the number of votes for each candidate;

(ii) for each race conducted by instant runoff voting under Part 6, Municipal Alternate Voting Methods Pilot Project, the number of valid votes cast for each candidate for each potential ballot-counting phase and the name of the candidate excluded in each canvassing phase; and

(iii) the number of votes for and against each ballot proposition;

(f) the total number of votes given in the board's jurisdiction to each candidate, and for and against each ballot proposition;

(g) the number of ballots that were rejected; and

(h) a statement certifying that the information contained in the report is accurate.

(3) The election officer and the board of canvassers shall:

(a) review the report to ensure that it is correct; and

(b) sign the report.

(4) The election officer shall:

(a) record or file the certified report in a book kept for that purpose;

(b) prepare and transmit a certificate of nomination or election under the officer's seal to each nominated or elected candidate;

(c) publish a copy of the certified report in accordance with Subsection (5); and

(d) file a copy of the certified report with the lieutenant governor.

(5) Except as provided in Subsection (6), the election officer shall, no later than seven days after the day on which the board of canvassers declares

the election results, publish the certified report described in Subsection (2):

(a) (i) at least once in a newspaper of general circulation within the jurisdiction;

(ii) if there is no newspaper of general circulation within the jurisdiction, by posting one notice, and at least one additional notice per 2,000 population of the jurisdiction, in places within the jurisdiction that are most likely to give notice to the residents of the jurisdiction; or

(iii) by mailing notice to each residence within the jurisdiction;

(b) on the Utah Public Notice Website created in Section [~~63F-1-701~~] 63A-16-601, for one week;

(c) in accordance with Section 45-1-101, for one week; and

(d) if the jurisdiction has a website, on the jurisdiction's website for one week.

(6) Instead of publishing the entire certified report under Subsection (5), the election officer may publish a statement that:

(a) includes the following: "The Board of Canvassers for [indicate name of jurisdiction] has prepared a report of the election results for the [indicate type and date of election].": and

(b) specifies the following sources where an individual may view or obtain a copy of the entire certified report:

(i) if the jurisdiction has a website, the jurisdiction's website;

(ii) the physical address for the jurisdiction; and

(iii) a mailing address and telephone number.

(7) When there has been a regular general or a statewide special election for statewide officers, for officers that appear on the ballot in more than one county, or for a statewide or two or more county ballot proposition, each board of canvassers shall:

(a) prepare a separate report detailing the number of votes for each candidate and the number of votes for and against each ballot proposition; and

(b) transmit the separate report by registered mail to the lieutenant governor.

(8) In each county election, municipal election, school election, local district election, and local special election, the election officer shall transmit the reports to the lieutenant governor within 14 days after the date of the election.

(9) In a regular primary election and in a presidential primary election, the board shall transmit to the lieutenant governor:

(a) the county totals for multi-county races, to be telephoned or faxed to the lieutenant governor not later than the second Tuesday after the election; and

(b) a complete tabulation showing voting totals for all primary races, precinct by precinct, to be mailed to the lieutenant governor on or before the third Friday following the primary election.

Section 99. Section 20A-5-101 is amended to read:

20A-5-101. Notice of election.

(1) On or before November 15 in the year before each regular general election year, the lieutenant governor shall prepare and transmit a written notice to each county clerk that:

(a) designates the offices to be filled at the next year's regular general election;

(b) identifies the dates for filing a declaration of candidacy, and for submitting and certifying nomination petition signatures, as applicable, under Sections 20A-9-403, 20A-9-407, and 20A-9-408 for those offices; and

(c) contains a description of any ballot propositions to be decided by the voters that have qualified for the ballot as of that date.

(2) No later than seven business days after the day on which the lieutenant governor transmits the written notice described in Subsection (1), each county clerk shall publish notice, in accordance with Subsection (3):

(a) (i) in a conspicuous place most likely to give notice of the election to the voters in each voting precinct within the county; and

(ii) prepare an affidavit of the posting, showing a copy of the notice and the places where the notice was posted;

(b) (i) in a newspaper of general circulation in the county;

(ii) if there is no newspaper of general circulation within the county, in addition to the notice described in Subsection (2)(a), by posting one notice, and at least one additional notice per 2,000 population of the county, in places within the county that are most likely to give notice of the election to the voters in the county; or

(iii) by mailing notice to each registered voter in the county;

(c) on the Utah Public Notice Website created in Section [~~63F-1-701~~] 63A-16-601, for seven days before the day of the election;

(d) in accordance with Section 45-1-101, for seven days before the day of the election; and

(e) on the county's website for seven days before the day of the election.

(3) The notice described in Subsection (2) shall:

(a) designate the offices to be voted on in that election; and

(b) identify the dates for filing a declaration of candidacy for those offices.

(4) Except as provided in Subsection (6), before each election, the election officer shall give printed notice of the following information:

(a) the date of election;

(b) the hours during which the polls will be open;

(c) the polling places for each voting precinct, early voting polling place, and election day voting center;

(d) the address of the Statewide Electronic Voter Information Website and, if available, the address of the election officer's website, with a statement indicating that the election officer will post on the website any changes to the location of a polling place and the location of any additional polling place;

(e) a phone number that a voter may call to obtain information regarding the location of a polling place; and

(f) the qualifications for persons to vote in the election.

(5) To provide the printed notice described in Subsection (4), the election officer shall publish the notice:

(a) (i) in a newspaper of general circulation in the jurisdiction to which the election pertains at least two days before the day of the election;

(ii) if there is no newspaper of general circulation in the jurisdiction to which the election pertains, at least two days before the day of the election, by posting one notice, and at least one additional notice per 2,000 population of the jurisdiction, in places within the jurisdiction that are most likely to give notice of the election to the voters in the jurisdiction; or

(iii) by mailing the notice to each registered voter who resides in the jurisdiction to which the election pertains at least five days before the day of the election;

(b) on the Utah Public Notice Website created in Section [~~63F-1-701~~] 63A-16-601, for two days before the day of the election;

(c) in accordance with Section 45-1-101, for two days before the day of the election; and

(d) if the jurisdiction has a website, on the jurisdiction's website for two days before the day of the election.

(6) Instead of including the information described in Subsection (4) in the notice, the election officer may give printed notice that:

(a) is entitled "Notice of Election";

(b) includes the following: "A [indicate election type] will be held in [indicate the jurisdiction] on [indicate date of election]. Information relating to the election, including polling places, polling place hours, and qualifications of voters may be obtained from the following sources:"; and

(c) specifies the following sources where an individual may view or obtain the information described in Subsection (4):

(i) if the jurisdiction has a website, the jurisdiction's website;

(ii) the physical address of the jurisdiction offices; and

(iii) a mailing address and telephone number.

Section 100. Section 20A-5-303 is amended to read:

20A-5-303. Establishing, dividing, abolishing, and changing voting precincts -- Common polling places -- Combined voting precincts.

(1) (a) After receiving recommendations from the county clerk, the county legislative body may establish, divide, abolish, and change voting precincts.

(b) Within 30 days after the establishment, division, abolition, or change of a voting precinct under this section, the county legislative body shall file with the Automated Geographic Reference Center, created under Section [~~63F-1-506~~] 63A-16-505, a notice describing the action taken and specifying the resulting boundaries of each voting precinct affected by the action.

(2) (a) The county legislative body shall alter or divide voting precincts so that each voting precinct contains not more than 1,250 active voters.

(b) The county legislative body shall:

(i) identify those precincts that may reach the limit of active voters in a precinct under Subsection (2)(a) or that becomes too large to facilitate the election process; and

(ii) except as provided by Subsection (3), divide those precincts on or before January 1 of a general election year.

(3) A county legislative body shall divide a precinct identified under Subsection (2)(b)(i) on or before January 31 of a regular general election year that immediately follows the calendar year in which the Legislature divides the state into districts in accordance with Utah Constitution, Article IX, Section 1.

(4) Notwithstanding Subsection (2)(a) and except as provided by Subsection (5), the county legislative body may not:

(a) establish or abolish any voting precinct after January 1 of a regular general election year;

(b) alter or change the boundaries of any voting precinct after January 1 of a regular general election year; or

(c) establish, divide, abolish, alter, or change a voting precinct between January 1 of a year immediately preceding the year in which an enumeration is required by the United States Constitution and the day on which the Legislature divides the state into districts in accordance with Utah Constitution, Article IX, Section 1.

(5) A county legislative body may establish, divide, abolish, alter, or change a voting precinct on or before January 31 of a regular general election year that immediately follows the calendar year in which the Legislature divides the state into

districts in accordance with Utah Constitution, Article IX, Section 1.

(6) (a) For the purpose of voting in an election, the county legislative body may establish a common polling place for two or more whole voting precincts.

(b) At least 90 days before the election, the county legislative body shall designate:

(i) the voting precincts that will vote at the common polling place; and

(ii) the location of the common polling place.

(c) A county may use one set of election judges for the common polling place under this Subsection (6).

(7) Each county shall have at least two polling places open for voting on the date of the election.

(8) Each common polling place shall have at least one voting device that is accessible for individuals with disabilities in accordance with Public Law 107-252, the Help America Vote Act of 2002.

Section 101. Section 20A-5-403.5 is amended to read:

20A-5-403.5. Ballot drop boxes.

(1) An election officer:

(a) may designate ballot drop boxes for the election officer's jurisdiction; and

(b) shall clearly mark each ballot drop box as an official ballot drop box for the election officer's jurisdiction.

(2) Except as provided in Section 20A-1-308 or Subsection (5), the election officer shall, at least 19 days before the date of the election, publish notice of the location of each ballot drop box designated under Subsection (1):

(a) (i) in one issue of a newspaper of general circulation in the jurisdiction holding the election;

(ii) if there is no newspaper of general circulation in the jurisdiction holding the election, by posting one notice, and at least one additional notice per 2,000 population of the jurisdiction holding the election, in places within the jurisdiction that are most likely to give notice to the residents in the jurisdiction; or

(iii) by mailing notice to each registered voter in the jurisdiction holding the election;

(b) on the Utah Public Notice Website created in Section [~~63F-1-701~~] 63A-16-601, for 19 days before the day of the election;

(c) in accordance with Section 45-1-101, for 19 days before the date of the election; and

(d) on the jurisdiction's website for 19 days before the day of the election.

(3) Instead of publishing the location of ballot drop boxes under Subsection (2), the election officer may publish a statement that specifies the following sources where a voter may view or obtain a copy of all ballot drop box locations:

(a) the jurisdiction's website;

(b) the physical address of the jurisdiction's offices; and

(c) a mailing address and telephone number.

(4) The election officer shall include in the notice described in Subsection (2):

(a) the address of the Statewide Electronic Voter Information Website and, if available, the address of the election officer's website, with a statement indicating that the election officer will post on the website the location of each ballot drop box, including any changes to the location of a ballot drop box and the location of additional ballot drop boxes; and

(b) a phone number that a voter may call to obtain information regarding the location of a ballot drop box.

(5) (a) Except as provided in Section 20A-1-308, the election officer may, after the deadline described in Subsection (2):

(i) if necessary, change the location of a ballot drop box; or

(ii) if the election officer determines that the number of ballot drop boxes is insufficient due to the number of registered voters who are voting, designate additional ballot drop boxes.

(b) Except as provided in Section 20A-1-308, if an election officer changes the location of a ballot box or designates an additional ballot drop box location, the election officer shall, as soon as is reasonably possible, give notice of the changed ballot drop box location or the additional ballot drop box location:

(i) to the lieutenant governor, for posting on the Statewide Voter Information Website;

(ii) by posting the information on the website of the election officer, if available; and

(iii) by posting notice:

(A) for a change in the location of a ballot drop box, at the new location and, if possible, the old location; and

(B) for an additional ballot drop box location, at the additional ballot drop box location.

(6) An election officer may, at any time, authorize two or more poll workers to remove a ballot drop box from a location, or to remove ballots from a ballot drop box for processing.

Section 102. Section 20A-5-405 is amended to read:

20A-5-405. Election officer to provide ballots.

(1) An election officer shall:

(a) provide ballots for every election of public officers in which the voters, or any of the voters, within the election officer's jurisdiction participate;

(b) cause the name of every candidate whose nomination has been certified to or filed with the

election officer in the manner provided by law to be included on each ballot;

(c) cause any ballot proposition that has qualified for the ballot as provided by law to be included on each ballot;

(d) ensure that the ballots are prepared and in the possession of the election officer before commencement of voting;

(e) allow candidates and their agents and the sponsors of ballot propositions that have qualified for the official ballot to inspect the ballots;

(f) cause sample ballots to be printed that are in the same form as official ballots and that contain the same information as official ballots but that are printed on different colored paper than official ballots or are identified by a watermark;

(g) ensure that the sample ballots are printed and in the possession of the election officer at least seven days before commencement of voting;

(h) make the sample ballots available for public inspection by:

(i) posting a copy of the sample ballot in the election officer's office at least seven days before commencement of voting;

(ii) mailing a copy of the sample ballot to:

(A) each candidate listed on the ballot; and

(B) the lieutenant governor;

(iii) publishing a copy of the sample ballot:

(A) except as provided in Subsection (2), at least seven days before the day of the election in a newspaper of general circulation in the jurisdiction holding the election;

(B) if there is no newspaper of general circulation in the jurisdiction holding the election, at least seven days before the day of the election, by posting one copy of the sample ballot, and at least one additional copy of the sample ballot per 2,000 population of the jurisdiction, in places within the jurisdiction that are most likely to give notice to the voters in the jurisdiction; or

(C) at least 10 days before the day of the election, by mailing a copy of the sample ballot to each registered voter who resides in the jurisdiction holding the election;

(iv) publishing a copy of the sample ballot on the Utah Public Notice Website created in Section [~~63F-1-701~~] 63A-16-601, for seven days before the day of the election;

(v) in accordance with Section 45-1-101, publishing a copy of the sample ballot for at least seven days before the day of the election; and

(vi) if the jurisdiction has a website, publishing a copy of the sample ballot for at least seven days before the day of the election;

(i) deliver at least five copies of the sample ballot to poll workers for each polling place and direct them to post the sample ballots as required by Section 20A-5-102; and

(j) print and deliver, at the expense of the jurisdiction conducting the election, enough ballots, sample ballots, and instructions to meet the voting demands of the qualified voters in each voting precinct.

(2) Instead of publishing the entire sample ballot under Subsection (1)(h)(iii)(A), the election officer may publish a statement that:

(a) is entitled, "sample ballot";

(b) includes the following: "A sample ballot for [indicate name of jurisdiction] for the upcoming [indicate type and date of election] may be obtained from the following sources:"; and

(c) specifies the following sources where an individual may view or obtain a copy of the sample ballot:

(i) if the jurisdiction has a website, the jurisdiction's website;

(ii) the physical address of the jurisdiction's offices; and

(iii) a mailing address and telephone number.

(3) (a) Each election officer shall, without delay, correct any error discovered in any ballot, if the correction can be made without interfering with the timely distribution of the ballots.

(b) (i) If the election officer discovers an error or omission in a manual ballot, and it is not possible to correct the error or omission, the election officer shall direct the poll workers to make the necessary corrections on the manual ballots before the ballots are distributed.

(ii) If the election officer discovers an error or omission in an electronic ballot and it is not possible to correct the error or omission by revising the electronic ballot, the election officer shall direct the poll workers to post notice of each error or omission with instructions on how to correct each error or omission in a prominent position at each polling booth.

(c) (i) If the election officer refuses or fails to correct an error or omission in a ballot, a candidate or a candidate's agent may file a verified petition with the district court asserting that:

(A) an error or omission has occurred in:

(I) the publication of the name or description of a candidate;

(II) the preparation or display of an electronic ballot; or

(III) in the printing of sample or official manual ballots; and

(B) the election officer has failed to correct or provide for the correction of the error or omission.

(ii) The district court shall issue an order requiring correction of any error in a ballot or an order to show cause why the error should not be

corrected if it appears to the court that the error or omission has occurred and the election officer has failed to correct or provide for the correction of the error or [~~ommission~~] omission.

(iii) A party aggrieved by the district court's decision may appeal the matter to the Utah Supreme Court within five days after the day on which the district court enters the decision.

Section 103. Section 20A-7-204.1 is amended to read:

20A-7-204.1. Public hearings to be held before initiative petitions are circulated -- Changes to an initiative and initial fiscal impact estimate.

(1) (a) After issuance of the initial fiscal impact estimate by the Office of the Legislative Fiscal Analyst and before circulating initiative petitions for signature statewide, sponsors of the initiative petition shall hold at least seven public hearings throughout Utah as follows:

(i) one in the Bear River region -- Box Elder, Cache, or Rich County;

(ii) one in the Southwest region -- Beaver, Garfield, Iron, Kane, or Washington County;

(iii) one in the Mountain region -- Summit, Utah, or Wasatch County;

(iv) one in the Central region -- Juab, Millard, Piute, Sanpete, Sevier, or Wayne County;

(v) one in the Southeast region -- Carbon, Emery, Grand, or San Juan County;

(vi) one in the Uintah Basin region -- Daggett, Duchesne, or Uintah County; and

(vii) one in the Wasatch Front region -- Davis, Morgan, Salt Lake, Tooele, or Weber County.

(b) Of the seven public hearings, the sponsors of the initiative shall hold at least two of the public hearings in a first or second class county, but not in the same county.

(c) The sponsors may not hold a public hearing described in this section until the later of:

(i) one day after the day on which a sponsor receives a copy of the initial fiscal impact estimate under Subsection 20A-7-202.5(3)(b); or

(ii) if three or more sponsors file a petition challenging the accuracy of the initial fiscal impact statement under Section 20A-7-202.5, the day after the day on which the action is final.

(2) The sponsors shall:

(a) before 5 p.m. at least three calendar days before the date of the public hearing, provide written notice of the public hearing to:

(i) the lieutenant governor for posting on the state's website; and

(ii) each state senator, state representative, and county commission or county council member who is elected in whole or in part from the region where the public hearing will be held; and

(b) publish written notice of the public hearing, including the time, date, and location of the public hearing, in each county in the region where the public hearing will be held:

(i) (A) at least three calendar days before the day of the public hearing, in a newspaper of general circulation in the county;

(B) if there is no newspaper of general circulation in the county, at least three calendar days before the day of the public hearing, by posting one copy of the notice, and at least one additional copy of the notice per 2,000 population of the county, in places within the county that are most likely to give notice to the residents of the county; or

(C) at least seven days before the day of the public hearing, by mailing notice to each residence in the county;

(ii) on the Utah Public Notice Website created in Section [~~63F-1-701~~] 63A-16-601, for at least three calendar days before the day of the public hearing;

(iii) in accordance with Section 45-1-101, for at least three calendar days before the day of the public hearing; and

(iv) on the county's website for at least three calendar days before the day of the public hearing.

(3) If the initiative petition proposes a tax increase, the written notice described in Subsection (2) shall include the following statement, in bold, in the same font and point size as the largest font and point size appearing in the notice:

"This initiative petition seeks to increase the current (insert name of tax) rate by (insert the tax percentage difference) percent, resulting in a(n) (insert the tax percentage increase) percent increase in the current tax rate."

(4) (a) During the public hearing, the sponsors shall either:

(i) video tape or audio tape the public hearing and, when the hearing is complete, deposit the complete audio or video tape of the meeting with the lieutenant governor; or

(ii) take comprehensive minutes of the public hearing, detailing the names and titles of each speaker and summarizing each speaker's comments.

(b) The lieutenant governor shall make copies of the tapes or minutes available to the public.

(c) For each public hearing, the sponsors shall:

(i) during the entire time that the public hearing is held, post a copy of the initial fiscal impact statement in a conspicuous location at the entrance to the room where the sponsors hold the public hearing; and

(ii) place at least 50 copies of the initial fiscal impact statement, for distribution to public hearing attendees, in a conspicuous location at the entrance

to the room where the sponsors hold the public hearing.

(5) (a) Before 5 p.m. within 14 days after the day on which the sponsors conduct the seventh public hearing described in Subsection (1)(a), and before circulating an initiative petition for signatures, the sponsors of the initiative petition may change the text of the proposed law if:

(i) a change to the text is:

(A) germane to the text of the proposed law filed with the lieutenant governor under Section 20A-7-202; and

(B) consistent with the requirements of Subsection 20A-7-202(5); and

(ii) each sponsor signs, attested to by a notary public, an application addendum to change the text of the proposed law.

(b) (i) Within three working days after the day on which the lieutenant governor receives an application addendum to change the text of the proposed law in an initiative petition, the lieutenant governor shall submit a copy of the application addendum to the Office of the Legislative Fiscal Analyst.

(ii) The Office of the Legislative Fiscal Analyst shall update the initial fiscal impact estimate by following the procedures and requirements of Section 20A-7-202.5 to reflect a change to the text of the proposed law.

Section 104. Section 20A-7-401.5 is amended to read:

20A-7-401.5. Proposition information pamphlet.

(1) (a) (i) Within 15 days after the day on which an eligible voter files an application to circulate an initiative petition under Section 20A-7-502 or an application to circulate a referendum petition under Section 20A-7-602:

(A) the sponsors of the proposed initiative or referendum may submit a written argument in favor of the proposed initiative or referendum to the election officer of the county or municipality to which the petition relates; and

(B) the county or municipality to which the application relates may submit a written argument in favor of, or against, the proposed initiative or referendum to the county's or municipality's election officer.

(ii) If a county or municipality submits more than one written argument under Subsection (1)(a)(i)(B), the election officer shall select one of the written arguments, giving preference to a written argument submitted by a member of a local legislative body if a majority of the local legislative body supports the written argument.

(b) Within one business day after the day on which an election officer receives an argument under Subsection (1)(a)(i)(A), the election officer shall provide a copy of the argument to the county or municipality described in Subsection (1)(a)(i)(B) or (1)(a)(ii), as applicable.

(c) Within one business day after the date on which an election officer receives an argument under Subsection (1)(a)(i)(B), the election officer shall provide a copy of the argument to the first three sponsors of the proposed initiative or referendum described in Subsection (1)(a)(i)(A).

(d) The sponsors of the proposed initiative or referendum may submit a revised version of the written argument described in Subsection (1)(a)(i)(A) to the election officer of the county or municipality to which the petition relates within 20 days after the day on which the eligible voter files an application to circulate an initiative petition under Section 20A-7-502 or an application to circulate a referendum petition under Section 20A-7-602.

(e) The author of a written argument described in Subsection (1)(a)(i)(B) submitted by a county or municipality may submit a revised version of the written argument to the county's or municipality's election officer within 20 days after the day on which the eligible voter files an application to circulate an initiative petition under Section 20A-7-502 or an application to circulate a referendum petition under Section 20A-7-602.

(2) (a) A written argument described in Subsection (1) may not exceed 500 words.

(b) Except as provided in Subsection (2)(c), a person may not modify a written argument described in Subsection (1)(d) or (e) after the written argument is submitted to the election officer.

(c) The election officer and the person that submits the written argument described in Subsection (1)(d) or (e) may jointly agree to modify the written argument to:

(i) correct factual, grammatical, or spelling errors; or

(ii) reduce the number of words to come into compliance with Subsection (2)(a).

(d) An election officer shall refuse to include a written argument in the proposition information pamphlet described in this section if the person who submits the argument:

(i) fails to negotiate, in good faith, to modify the argument in accordance with Subsection (2)(c); or

(ii) does not timely submit the written argument to the election officer.

(e) An election officer shall make a good faith effort to negotiate a modification described in Subsection (2)(c) in an expedited manner.

(3) An election officer who receives a written argument described in Subsection (1) shall prepare a proposition information pamphlet for publication that includes:

(a) a copy of the application for the proposed initiative or referendum;

(b) except as provided in Subsection (2)(d), immediately after the copy described in Subsection (3)(a), the argument prepared by the sponsors of the proposed initiative or referendum, if any;

(c) except as provided in Subsection (2)(d), immediately after the argument described in Subsection (3)(b), the argument prepared by the county or municipality, if any; and

(d) a copy of the initial fiscal impact statement and legal impact statement described in Section 20A-7-502.5 or 20A-7-602.5.

(4) (a) A proposition information pamphlet is a draft for purposes of Title 63G, Chapter 2, Government Records Access and Management Act, until the earlier of when the election officer:

(i) complies with Subsection (4)(b); or

(ii) publishes the proposition information pamphlet under Subsection (5) or (6).

(b) Within 21 days after the day on which the eligible voter files an application to circulate an initiative petition under Section 20A-7-502, or an application to circulate a referendum petition under Section 20A-7-602, the election officer shall provide a copy of the proposition information pamphlet to the sponsors of the initiative or referendum and each individual who submitted an argument included in the proposition information pamphlet.

(5) An election officer for a municipality shall publish the proposition information pamphlet as follows:

(a) within the later of 10 days after the day on which the municipality or a court determines that the proposed initiative or referendum is legally referable to voters, or, if the election officer modifies an argument under Subsection (2)(c), three days after the day on which the election officer and the person that submitted the argument agree on the modification:

(i) by sending the proposition information pamphlet electronically to each individual in the municipality for whom the municipality has an email address, unless the individual has indicated that the municipality is prohibited from using the individual's email address for that purpose; and

(ii) by posting the proposition information pamphlet on the Utah Public Notice Website, created in Section [~~63F-1-701~~] 63A-16-601, and the home page of the municipality's website, if the municipality has a website, until:

(A) if the sponsors of the proposed initiative or referendum do not timely deliver any verified initiative packets under Section 20A-7-506 or any verified referendum packets under Section 20A-7-606, the day after the date of the deadline for delivery of the verified initiative packets or verified referendum packets;

(B) the local clerk determines, under Section 20A-7-507 or 20A-7-607, that the number of signatures necessary to qualify the proposed initiative or referendum for placement on the ballot is insufficient and the determination is not timely appealed or is upheld after appeal; or

(C) the day after the date of the election at which the proposed initiative or referendum appears on the ballot; and

(b) if the municipality regularly mails a newsletter, utility bill, or other material to the municipality's residents, including an Internet address, where a resident may view the proposition information pamphlet, in the next mailing, for which the municipality has not begun preparation, that falls on or after the later of:

(i) 10 days after the day on which the municipality or a court determines that the proposed initiative or referendum is legally referable to voters; or

(ii) if the election officer modifies an argument under Subsection (2)(c), three days after the day on which the election officer and the person that submitted the argument agree on the modification.

(6) An election officer for a county shall, within the later of 10 days after the day on which the county or a court determines that the proposed initiative or referendum is legally referable to voters, or, if the election officer modifies an argument under Subsection (2)(c), three days after the day on which the election officer and the person that submitted the argument agree on the modification, publish the proposition information pamphlet as follows:

(a) by sending the proposition information pamphlet electronically to each individual in the county for whom the county has an email address obtained via voter registration; and

(b) by posting the proposition information pamphlet on the Utah Public Notice Website, created in Section [~~63F-1-701~~] 63A-16-601, and the home page of the county's website, until:

(i) if the sponsors of the proposed initiative or referendum do not timely deliver any verified initiative packets under Section 20A-7-506 or any verified referendum packets under Section 20A-7-606, the day after the date of the deadline for delivery of the verified initiative packets or verified referendum packets;

(ii) the local clerk determines, under Section 20A-7-507 or 20A-7-607, that the number of signatures necessary to qualify the proposed initiative or referendum for placement on the ballot is insufficient and the determination is not timely appealed or is upheld after appeal; or

(iii) the day after the date of the election at which the proposed initiative or referendum appears on the ballot.

Section 105. Section 20A-7-402 is amended to read:

20A-7-402. Local voter information pamphlet -- Contents -- Limitations -- Preparation -- Statement on front cover.

(1) The county or municipality that is subject to a ballot proposition shall prepare a local voter

information pamphlet that complies with the requirements of this part.

(2) (a) Within the time requirements described in Subsection (2)(c)(i), a municipality that is subject to a special local ballot proposition shall provide a notice that complies with the requirements of Subsection (2)(c)(ii) to the municipality's residents by:

(i) if the municipality regularly mails a newsletter, utility bill, or other material to the municipality's residents, including the notice with a newsletter, utility bill, or other material;

(ii) posting the notice, until after the deadline described in Subsection (2)(d) has passed, on:

(A) the Utah Public Notice Website created in Section [~~63F-1-701~~] 63A-16-601; and

(B) the home page of the municipality's website, if the municipality has a website; and

(iii) sending the notice electronically to each individual in the municipality for whom the municipality has an email address.

(b) A county that is subject to a special local ballot proposition shall:

(i) send an electronic notice that complies with the requirements of Subsection (2)(c)(ii) to each individual in the county for whom the county has an email address; or

(ii) until after the deadline described in Subsection (2)(d) has passed, post a notice that complies with the requirements of Subsection (2)(c)(ii) on:

(A) the Utah Public Notice Website created in Section [~~63F-1-701~~] 63A-16-601; and

(B) the home page of the county's website.

(c) A municipality or county that mails, sends, or posts a notice under Subsection (2)(a) or (b) shall:

(i) mail, send, or post the notice:

(A) not less than 90 days before the date of the election at which a special local ballot proposition will be voted upon; or

(B) if the requirements of Subsection (2)(c)(i)(A) cannot be met, as soon as practicable after the special local ballot proposition is approved to be voted upon in an election; and

(ii) ensure that the notice contains:

(A) the ballot title for the special local ballot proposition;

(B) instructions on how to file a request under Subsection (2)(d); and

(C) the deadline described in Subsection (2)(d).

(d) To prepare a written argument for or against a special local ballot proposition, an eligible voter shall file a request with the election officer before 5 p.m. no later than 64 days before the day of the election at which the special local ballot proposition is to be voted on.

(e) If more than one eligible voter requests the opportunity to prepare a written argument for or against a special local ballot proposition, the election officer shall make the final designation in accordance with the following order of priority:

(i) sponsors have priority in preparing an argument regarding a special local ballot proposition; and

(ii) members of the local legislative body have priority over others if a majority of the local legislative body supports the written argument.

(f) The election officer shall grant a request described in Subsection (2)(d) or (e) no later than 60 days before the day of the election at which the ballot proposition is to be voted on.

(g) (i) A sponsor of a special local ballot proposition may prepare a written argument in favor of the special local ballot proposition.

(ii) Subject to Subsection (2)(e), an eligible voter opposed to the special local ballot proposition who submits a request under Subsection (2)(d) may prepare a written argument against the special local ballot proposition.

(h) An eligible voter who submits a written argument under this section in relation to a special local ballot proposition shall:

(i) ensure that the written argument does not exceed 500 words in length, not counting the information described in Subsection (2)(h)(ii) or (iv);

(ii) list, at the end of the argument, at least one, but no more than five, names as sponsors;

(iii) submit the written argument to the election officer before 5 p.m. no later than 55 days before the election day on which the ballot proposition will be submitted to the voters;

(iv) list in the argument, immediately after the eligible voter's name, the eligible voter's residential address; and

(v) submit with the written argument the eligible voter's name, residential address, postal address, email address if available, and phone number.

(i) An election officer shall refuse to accept and publish an argument submitted after the deadline described in Subsection (2)(h)(iii).

(3) (a) An election officer who timely receives the written arguments in favor of and against a special local ballot proposition shall, within one business day after the day on which the election office receives both written arguments, send, via mail or email:

(i) a copy of the written argument in favor of the special local ballot proposition to the eligible voter who submitted the written argument against the special local ballot proposition; and

(ii) a copy of the written argument against the special local ballot proposition to the eligible voter

who submitted the written argument in favor of the special local ballot proposition.

(b) The eligible voter who submitted a timely written argument in favor of the special local ballot proposition:

(i) may submit to the election officer a written rebuttal argument of the written argument against the special local ballot proposition;

(ii) shall ensure that the written rebuttal argument does not exceed 250 words in length, not counting the information described in Subsection (2)(h)(ii) or (iv); and

(iii) shall submit the written rebuttal argument before 5 p.m. no later than 45 days before the election day on which the special local ballot proposition will be submitted to the voters.

(c) The eligible voter who submitted a timely written argument against the special local ballot proposition:

(i) may submit to the election officer a written rebuttal argument of the written argument in favor of the special local ballot proposition;

(ii) shall ensure that the written rebuttal argument does not exceed 250 words in length, not counting the information described in Subsection (2)(h)(ii) or (iv); and

(iii) shall submit the written rebuttal argument before 5 p.m. no later than 45 days before the election day on which the special local ballot proposition will be submitted to the voters.

(d) An election officer shall refuse to accept and publish a written rebuttal argument in relation to a special local ballot proposition that is submitted after the deadline described in Subsection (3)(b)(iii) or (3)(c)(iii).

(4) (a) Except as provided in Subsection (4)(b), in relation to a special local ballot proposition:

(i) an eligible voter may not modify a written argument or a written rebuttal argument after the eligible voter submits the written argument or written rebuttal argument to the election officer; and

(ii) a person other than the eligible voter described in Subsection (4)(a)(i) may not modify a written argument or a written rebuttal argument.

(b) The election officer, and the eligible voter who submits a written argument or written rebuttal argument in relation to a special local ballot proposition, may jointly agree to modify a written argument or written rebuttal argument in order to:

(i) correct factual, grammatical, or spelling errors; and

(ii) reduce the number of words to come into compliance with the requirements of this section.

(c) An election officer shall refuse to accept and publish a written argument or written rebuttal argument in relation to a special local ballot proposition if the eligible voter who submits the written argument or written rebuttal argument fails to negotiate, in good faith, to modify the written argument or written rebuttal argument in accordance with Subsection (4)(b).

(5) In relation to a special local ballot proposition, an election officer may designate another eligible voter to take the place of an eligible voter described in this section if the original eligible voter is, due to injury, illness, death, or another circumstance, unable to continue to fulfill the duties of an eligible voter described in this section.

(6) Sponsors whose written argument in favor of a standard local ballot proposition is included in a proposition information pamphlet under Section 20A-7-401.5:

(a) may, if a written argument against the standard local ballot proposition is included in the proposition information pamphlet, submit a written rebuttal argument to the election officer;

(b) shall ensure that the written rebuttal argument does not exceed 250 words in length; and

(c) shall submit the written rebuttal argument no later than 45 days before the election day on which the standard local ballot proposition will be submitted to the voters.

(7) (a) A county or municipality that submitted a written argument against a standard local ballot proposition that is included in a proposition information pamphlet under Section 20A-7-401.5:

(i) may, if a written argument in favor of the standard local ballot proposition is included in the proposition information pamphlet, submit a written rebuttal argument to the election officer;

(ii) shall ensure that the written rebuttal argument does not exceed 250 words in length; and

(iii) shall submit the written rebuttal argument no later than 45 days before the election day on which the ballot proposition will be submitted to the voters.

(b) If a county or municipality submits more than one written rebuttal argument under Subsection (7)(a)(i), the election officer shall select one of the written rebuttal arguments, giving preference to a written rebuttal argument submitted by a member of a local legislative body.

(8) (a) An election officer shall refuse to accept and publish a written rebuttal argument that is submitted after the deadline described in Subsection (6)(c) or (7)(a)(iii).

(b) Before an election officer publishes a local voter information pamphlet under this section, a written rebuttal argument is a draft for purposes of Title 63G, Chapter 2, Government Records Access and Management Act.

(c) An election officer who receives a written rebuttal argument described in this section may not, before publishing the local voter information pamphlet described in this section, disclose the written rebuttal argument, or any information contained in the written rebuttal argument, to any

person who may in any way be involved in preparing an opposing rebuttal argument.

(9) (a) Except as provided in Subsection (9)(b), a person may not modify a written rebuttal argument after the written rebuttal argument is submitted to the election officer.

(b) The election officer, and the person who submits a written rebuttal argument, may jointly agree to modify a written rebuttal argument in order to:

(i) correct factual, grammatical, or spelling errors; or

(ii) reduce the number of words to come into compliance with the requirements of this section.

(c) An election officer shall refuse to accept and publish a written rebuttal argument if the person who submits the written rebuttal argument:

(i) fails to negotiate, in good faith, to modify the written rebuttal argument in accordance with Subsection (9)(b); or

(ii) does not timely submit the written rebuttal argument to the election officer.

(d) An election officer shall make a good faith effort to negotiate a modification described in Subsection (9)(b) in an expedited manner.

(10) An election officer may designate another person to take the place of a person who submits a written rebuttal argument in relation to a standard local ballot proposition if the person is, due to injury, illness, death, or another circumstance, unable to continue to fulfill the person's duties.

(11) (a) The local voter information pamphlet shall include a copy of the initial fiscal impact estimate and the legal impact statement prepared for each initiative under Section 20A-7-502.5.

(b) If the initiative proposes a tax increase, the local voter information pamphlet shall include the following statement in bold type:

"This initiative seeks to increase the current (insert name of tax) rate by (insert the tax percentage difference) percent, resulting in a(n) (insert the tax percentage increase) percent increase in the current tax rate."

(12) (a) In preparing the local voter information pamphlet, the election officer shall:

(i) ensure that the written arguments are printed on the same sheet of paper upon which the ballot proposition is also printed;

(ii) ensure that the following statement is printed on the front cover or the heading of the first page of the printed written arguments:

"The arguments for or against a ballot proposition are the opinions of the authors.";

(iii) pay for the printing and binding of the local voter information pamphlet; and

(iv) not less than 15 days before, but not more than 45 days before, the election at which the ballot proposition will be voted on, distribute, by mail or carrier, to each registered voter entitled to vote on the ballot proposition:

(A) a voter information pamphlet; or

(B) the notice described in Subsection (12)(c).

(b) (i) If the language of the ballot proposition exceeds 500 words in length, the election officer may summarize the ballot proposition in 500 words or less.

(ii) The summary shall state where a complete copy of the ballot proposition is available for public review.

(c) (i) The election officer may distribute a notice printed on a postage prepaid, preaddressed return form that a person may use to request delivery of a voter information pamphlet by mail.

(ii) The notice described in Subsection (12)(c)(i) shall include:

(A) the address of the Statewide Electronic Voter Information Website authorized by Section 20A-7-801; and

(B) the phone number a voter may call to request delivery of a voter information pamphlet by mail or carrier.

Section 106. Section 20A-9-203 is amended to read:

20A-9-203. Declarations of candidacy -- Municipal general elections.

(1) An individual may become a candidate for any municipal office if:

(a) the individual is a registered voter; and

(b) (i) the individual has resided within the municipality in which the individual seeks to hold elective office for the 12 consecutive months immediately before the date of the election; or

(ii) the territory in which the individual resides was annexed into the municipality, the individual has resided within the annexed territory or the municipality the 12 consecutive months immediately before the date of the election.

(2) (a) For purposes of determining whether an individual meets the residency requirement of Subsection (1)(b)(i) in a municipality that was incorporated less than 12 months before the election, the municipality is considered to have been incorporated 12 months before the date of the election.

(b) In addition to the requirements of Subsection (1), each candidate for a municipal council position shall, if elected from a district, be a resident of the council district from which the candidate is elected.

(c) In accordance with Utah Constitution, Article IV, Section 6, a mentally incompetent individual, an individual convicted of a felony, or an individual convicted of treason or a crime against the elective

franchise may not hold office in this state until the right to hold elective office is restored under Section 20A-2-101.3 or 20A-2-101.5.

(3) (a) An individual seeking to become a candidate for a municipal office shall, regardless of the nomination method by which the individual is seeking to become a candidate:

(i) except as provided in Subsection (3)(b) or Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project, and subject to Subsection 20A-9-404(3)(e), file a declaration of candidacy, in person with the city recorder or town clerk, during the office hours described in Section 10-3-301 and not later than the close of those office hours, between June 1 and June 7 of any odd-numbered year; and

(ii) pay the filing fee, if one is required by municipal ordinance.

(b) Subject to Subsection (5)(b), an individual may designate an agent to file a declaration of candidacy with the city recorder or town clerk if:

(i) the individual is located outside of the state during the entire filing period;

(ii) the designated agent appears in person before the city recorder or town clerk;

(iii) the individual communicates with the city recorder or town clerk using an electronic device that allows the individual and city recorder or town clerk to see and hear each other; and

(iv) the individual provides the city recorder or town clerk with an email address to which the city recorder or town clerk may send the individual the copies described in Subsection (4).

(c) Any resident of a municipality may nominate a candidate for a municipal office by:

(i) except as provided in Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project, filing a nomination petition with the city recorder or town clerk during the office hours described in Section 10-3-301 and not later than the close of those office hours, between June 1 and June 7 of any odd-numbered year that includes signatures in support of the nomination petition of the lesser of at least:

(A) 25 registered voters who reside in the municipality; or

(B) 20% of the registered voters who reside in the municipality; and

(ii) paying the filing fee, if one is required by municipal ordinance.

(4) (a) Before the filing officer may accept any declaration of candidacy or nomination petition, the filing officer shall:

(i) read to the prospective candidate or individual filing the petition the constitutional and statutory qualification requirements for the office that the candidate is seeking;

(ii) require the candidate or individual filing the petition to state whether the candidate meets the requirements described in Subsection (4)(a)(i); and

(iii) inform the candidate or the individual filing the petition that an individual who holds a municipal elected office may not, at the same time, hold a county elected office.

(b) If the prospective candidate does not meet the qualification requirements for the office, the filing officer may not accept the declaration of candidacy or nomination petition.

(c) If it appears that the prospective candidate meets the requirements of candidacy, the filing officer shall:

(i) inform the candidate that the candidate's name will appear on the ballot as it is written on the declaration of candidacy;

(ii) provide the candidate with a copy of the current campaign financial disclosure laws for the office the candidate is seeking and inform the candidate that failure to comply will result in disqualification as a candidate and removal of the candidate's name from the ballot;

(iii) provide the candidate with a copy of Section 20A-7-801 regarding the Statewide Electronic Voter Information Website Program and inform the candidate of the submission deadline under Subsection 20A-7-801(4)(a);

(iv) provide the candidate with a copy of the pledge of fair campaign practices described under Section 20A-9-206 and inform the candidate that:

(A) signing the pledge is voluntary; and

(B) signed pledges shall be filed with the filing officer; and

(v) accept the declaration of candidacy or nomination petition.

(d) If the candidate elects to sign the pledge of fair campaign practices, the filing officer shall:

(i) accept the candidate's pledge; and

(ii) if the candidate has filed for a partisan office, provide a certified copy of the candidate's pledge to the chair of the county or state political party of which the candidate is a member.

(5) (a) The declaration of candidacy shall be in substantially the following form:

"I, (print name) ____, being first sworn, say that I reside at ____ Street, City of ____, County of ____, state of Utah, Zip Code ____, Telephone Number (if any) ____; that I am a registered voter; and that I am a candidate for the office of ____ (stating the term). I will meet the legal qualifications required of candidates for this office. If filing via a designated agent, I attest that I will be out of the state of Utah during the entire candidate filing period. I will file all campaign financial disclosure reports as required by law and I understand that failure to do so will result in my disqualification as a candidate for this office and removal of my name from the ballot. I request that my name be printed upon the

applicable official ballots.
(Signed) _____

Subscribed and sworn to (or affirmed) before me by ____ on this _____(month\day\year).

(Signed) _____
(Clerk or other officer qualified to administer oath)".

(b) An agent designated under Subsection (3)(b) to file a declaration of candidacy may not sign the form described in Subsection (5)(a).

(c) (i) A nomination petition shall be in substantially the following form:

"NOMINATION PETITION

The undersigned residents of (name of municipality), being registered voters, nominate (name of nominee) for the office of (name of office) for the (length of term of office)."

(ii) The remainder of the petition shall contain lines and columns for the signatures of individuals signing the petition and each individual's address and phone number.

(6) If the declaration of candidacy or nomination petition fails to state whether the nomination is for the two-year or four-year term, the clerk shall consider the nomination to be for the four-year term.

(7) (a) The clerk shall verify with the county clerk that all candidates are registered voters.

(b) Any candidate who is not registered to vote is disqualified and the clerk may not print the candidate's name on the ballot.

(8) Immediately after expiration of the period for filing a declaration of candidacy, the clerk shall:

(a) publish a list of the names of the candidates as they will appear on the ballot:

(i) (A) in at least two successive publications of a newspaper of general circulation in the municipality;

(B) if there is no newspaper of general circulation in the municipality, by posting one copy of the list, and at least one additional copy of the list per 2,000 population of the municipality, in places within the municipality that are most likely to give notice to the voters in the municipality; or

(C) by mailing notice to each registered voter in the municipality;

(ii) on the Utah Public Notice Website created in Section [~~63F-1-701~~] 63A-16-601, for seven days;

(iii) in accordance with Section 45-1-101, for seven days; and

(iv) if the municipality has a website, on the municipality's website for seven days; and

(b) notify the lieutenant governor of the names of the candidates as they will appear on the ballot.

(9) Except as provided in Subsection (10)(c), an individual may not amend a declaration of candidacy or nomination petition filed under this section after the candidate filing period ends.

(10) (a) A declaration of candidacy or nomination petition that an individual files under this section is valid unless a person files a written objection with the clerk before 5 p.m. within five days after the last day for filing.

(b) If a person files an objection, the clerk shall:

(i) mail or personally deliver notice of the objection to the affected candidate immediately; and

(ii) decide any objection within 48 hours after the objection is filed.

(c) If the clerk sustains the objection, the candidate may, before 5 p.m. within three days after the day on which the clerk sustains the objection, correct the problem for which the objection is sustained by amending the candidate's declaration of candidacy or nomination petition, or by filing a new declaration of candidacy.

(d) (i) The clerk's decision upon objections to form is final.

(ii) The clerk's decision upon substantive matters is reviewable by a district court if prompt application is made to the district court.

(iii) The decision of the district court is final unless the Supreme Court, in the exercise of its discretion, agrees to review the lower court decision.

(11) A candidate who qualifies for the ballot under this section may withdraw as a candidate by filing a written affidavit with the municipal clerk.

Section 107. Section 20A-13-104 is amended to read:

20A-13-104. Uncertain boundaries -- How resolved.

(1) As used in this section, "affected party" means:

(a) a representative whose Congressional district boundary is uncertain because the boundary in the Congressional shapefile used to establish the district boundary has been removed, modified, or is unable to be identified or who is uncertain about whether or not the representative or another person resides in a particular Congressional district;

(b) a candidate for Congressional representative whose Congressional district boundary is uncertain because the boundary in the Congressional shapefile used to establish the district boundary has been removed, modified, or is unable to be identified or who is uncertain about whether or not the candidate or another person resides in a particular Congressional district; or

(c) a person who is uncertain about which Congressional district contains the person's residence because the boundary in the Congressional shapefile used to establish the

district boundary has been removed, modified, or is unable to be identified.

(2) (a) An affected party may file a written request petitioning the lieutenant governor to determine:

(i) the precise location of the Congressional district boundary;

(ii) the number of the Congressional district in which a person resides; or

(iii) both Subsections (2)(a)(i) and (ii).

(b) In order to make the determination required by Subsection (2)(a), the lieutenant governor shall review the Congressional shapefile and obtain and review other relevant data such as aerial photographs, aerial maps, or other data about the area.

(c) Within five days of receipt of the request, the lieutenant governor shall review the Congressional shapefile, obtain and review any relevant data, and make a determination.

(d) When the lieutenant governor determines the location of the Congressional district boundary, the lieutenant governor shall:

(i) prepare a certification identifying the appropriate boundary and attaching a map, if necessary; and

(ii) send a copy of the certification to:

(A) the affected party;

(B) the county clerk of the affected county; and

(C) the Automated Geographic Reference Center created under Section [~~63F-1-506~~] 63A-16-505.

(e) If the lieutenant governor determines the number of the Congressional district in which a particular person resides, the lieutenant governor shall send a letter identifying that district by number to:

(i) the person;

(ii) the affected party who filed the petition, if different than the person whose Congressional district number was identified; and

(iii) the county clerk of the affected county.

Section 108. Section 20A-14-101.5 is amended to read:

20A-14-101.5. State Board of Education -- Number of members -- State Board of Education district boundaries.

(1) As used in this section:

(a) "County boundary" means the county boundary's location in the database as of January 1, 2010.

(b) "Database" means the State Geographic Information Database created in Section [~~63F-1-507~~] 63A-16-506.

(c) "Local school district boundary" means the local school district boundary's location in the database as of January 1, 2010.

(d) "Municipal boundary" means the municipal boundary's location in the database as of January 1, 2010.

(2) The State Board of Education shall consist of 15 members, with one member to be elected from each State Board of Education district.

(3) The Legislature adopts the official census population figures and maps of the Bureau of the Census of the United States Department of Commerce developed in connection with the taking of the 2010 national decennial census as the official data for establishing State Board of Education district boundaries.

(4) (a) Notwithstanding Subsection (3), the Legislature enacts the district numbers and boundaries of the State Board of Education districts designated in the Board shapefile that is the electronic component of the bill that enacts this section.

(b) That Board shapefile, and the State Board of Education district boundaries generated from that Board shapefile, may be accessed via the Utah Legislature's website.

Section 109. Section 20A-14-102.2 is amended to read:

20A-14-102.2. Uncertain boundaries -- How resolved.

(1) As used in this section:

(a) "Affected party" means:

(i) a state school board member whose State Board of Education district boundary is uncertain because the feature used to establish the district boundary in the Board shapefile has been removed, modified, or is unable to be identified or who is uncertain about whether or not the member or another person resides in a particular State Board of Education district;

(ii) a candidate for state school board whose State Board of Education district boundary is uncertain because the feature used to establish the district boundary in the Board shapefile has been removed, modified, or is unable to be identified or who is uncertain about whether or not the candidate or another person resides in a particular State Board of Education district; or

(iii) a person who is uncertain about which State Board of Education district contains the person's residence because the feature used to establish the district boundary in the Board shapefile has been removed, modified, or is unable to be identified.

(b) "Feature" means a geographic or other tangible or intangible mark such as a road or political subdivision boundary that is used to establish a State Board of Education district boundary.

(2) (a) An affected party may file a written request petitioning the lieutenant governor to determine:

(i) the precise location of the State Board of Education district boundary;

(ii) the number of the State Board of Education district in which a person resides; or

(iii) both Subsections (2)(a)(i) and (ii).

(b) In order to make the determination required by Subsection (2)(a), the lieutenant governor shall review:

(i) the Board shapefile; and

(ii) other relevant data such as aerial photographs, aerial maps, or other data about the area.

(c) Within five days of receipt of the request, the lieutenant governor shall:

(i) review the Board block shapefile;

(ii) review any relevant data; and

(iii) make a determination.

(d) If the lieutenant governor determines the precise location of the State Board of Education district boundary, the lieutenant governor shall:

(i) prepare a certification identifying the appropriate State Board of Education district boundary and attaching a map, if necessary; and

(ii) send a copy of the certification to:

(A) the affected party;

(B) the county clerk of the affected county; and

(C) the Automated Geographic Reference Center created under Section [~~63F-1-506~~] 63A-16-505.

(e) If the lieutenant governor determines the number of the State Board of Education district in which a particular person resides, the lieutenant governor shall send a letter identifying that district by number to:

(i) the person;

(ii) the affected party who filed the petition, if different than the person whose State Board of Education district number was identified; and

(iii) the county clerk of the affected county.

Section 110. Section 20A-14-201 is amended to read:

20A-14-201. Boards of education -- School board districts -- Creation -- Reapportionment.

(1) (a) The county legislative body, for local school districts whose boundaries encompass more than a single municipality, and the municipal legislative body, for school districts contained completely within a municipality, shall divide the local school district into local school board districts as required under Subsection 20A-14-202(1)(a).

(b) The county and municipal legislative bodies shall divide the school district so that the local school board districts are substantially equal in population and are as contiguous and compact as practicable.

(2) (a) County and municipal legislative bodies shall reapportion district boundaries to meet the population, compactness, and contiguity requirements of this section:

(i) at least once every 10 years;

(ii) if a new district is created:

(A) within 45 days after the canvass of an election at which voters approve the creation of a new district; and

(B) at least 60 days before the candidate filing deadline for a school board election;

(iii) whenever districts are consolidated;

(iv) whenever a district loses more than 20% of the population of the entire school district to another district;

(v) whenever a district loses more than 50% of the population of a local school board district to another district;

(vi) whenever a district receives new residents equal to at least 20% of the population of the district at the time of the last reapportionment because of a transfer of territory from another district; and

(vii) whenever it is necessary to increase the membership of a board from five to seven members as a result of changes in student membership under Section 20A-14-202.

(b) If a school district receives territory containing less than 20% of the population of the transferee district at the time of the last reapportionment, the local school board may assign the new territory to one or more existing school board districts.

(3) (a) Reapportionment does not affect the right of any school board member to complete the term for which the member was elected.

(b) (i) After reapportionment, representation in a local school board district shall be determined as provided in this Subsection (3).

(ii) If only one board member whose term extends beyond reapportionment lives within a reapportioned local school board district, that board member shall represent that local school board district.

(iii) (A) If two or more members whose terms extend beyond reapportionment live within a reapportioned local school board district, the members involved shall select one member by lot to represent the local school board district.

(B) The other members shall serve at-large for the remainder of their terms.

(C) The at-large board members shall serve in addition to the designated number of board members for the board in question for the remainder of their terms.

(iv) If there is no board member living within a local school board district whose term extends

beyond reapportionment, the seat shall be treated as vacant and filled as provided in this part.

(4) (a) If, before an election affected by reapportionment, the county or municipal legislative body that conducted the reapportionment determines that one or more members shall be elected to terms of two years to meet this part's requirements for staggered terms, the legislative body shall determine by lot which of the reapportioned local school board districts will elect members to two-year terms and which will elect members to four-year terms.

(b) All subsequent elections are for four-year terms.

(5) Within 10 days after any local school board district boundary change, the county or municipal legislative body making the change shall send an accurate map or plat of the boundary change to the Automated Geographic Reference Center created under Section [~~63F-1-506~~] 63A-16-505.

Section 111. Section 20A-20-203 is amended to read:

20A-20-203. Exemptions from and applicability of certain legal requirements -- Risk management -- Code of ethics.

(1) The commission is exempt from:

(a) except as provided in Subsection (3), Title 63A, Utah [~~Administrative Services~~] Government Operations Code;

(b) Title 63G, Chapter 4, Administrative Procedures Act; and

(c) Title [~~67~~] 63A, Chapter [~~19~~] 17, Utah State Personnel Management Act.

(2) (a) The commission shall adopt budgetary procedures, accounting, and personnel and human resource policies substantially similar to those from which the commission is exempt under Subsection (1).

(b) The commission is subject to:

(i) Title 52, Chapter 4, Open and Public Meetings Act;

(ii) Title 63A, Chapter 1, Part 2, Utah Public Finance Website;

(iii) Title 63G, Chapter 2, Government Records Access and Management Act;

(iv) Title 63G, Chapter 6a, Utah Procurement Code; and

(v) Title 63J, Chapter 1, Budgetary Procedures Act.

(3) Subject to the requirements of Subsection 63E-1-304(2), the commission may participate in coverage under the Risk Management Fund created by Section 63A-4-201.

(4) (a) The commission may, by majority vote, adopt a code of ethics.

(b) The commission, and the commission's members and employees, shall comply with a code of ethics adopted under Subsection (4)(a).

(c) The executive director of the commission shall report a commission member's violation of a code of ethics adopted under Subsection (4)(a) to the appointing authority of the commission member.

(d) (i) A violation of a code of ethics adopted under Subsection (4)(a) constitutes cause to remove a member from the commission under Subsection 20A-20-201(3)(b).

(ii) An act or omission by a member of the commission need not constitute a violation of a code of ethics adopted under Subsection (4)(a) to be grounds to remove a member of the commission for cause.

Section 112. Section 26-6-27 is amended to read:

26-6-27. Information regarding communicable or reportable diseases confidentiality -- Exceptions.

(1) Information collected pursuant to this chapter in the possession of the department or local health departments relating to an individual who has or is suspected of having a disease designated by the department as a communicable or reportable disease under this chapter shall be held by the department and local health departments as strictly confidential. The department and local health departments may not release or make public that information upon subpoena, search warrant, discovery proceedings, or otherwise, except as provided by this section.

(2) The information described in Subsection (1) may be released by the department or local health departments only in accordance with the requirements of this chapter and as follows:

(a) specific medical or epidemiological information may be released with the written consent of the individual identified in that information or, if that individual is deceased, his next-of-kin;

(b) specific medical or epidemiological information may be released to medical personnel or peace officers in a medical emergency, as determined by the department in accordance with guidelines it has established, only to the extent necessary to protect the health or life of the individual identified in the information, or of the attending medical personnel or law enforcement or public safety officers;

(c) specific medical or epidemiological information may be released to authorized personnel within the department, local health departments, public health authorities, official health agencies in other states, the United States Public Health Service, the Centers for Disease Control and Prevention (CDC), or when necessary to continue patient services or to undertake public health efforts to interrupt the transmission of disease;

(d) if the individual identified in the information is under the age of 18, the information may be

released to the Division of Child and Family Services within the Department of Human Services in accordance with Section 62A-4a-403. If that information is required in a court proceeding involving child abuse or sexual abuse under Title 76, Chapter 5, Offenses Against the Person, the information shall be disclosed in camera and sealed by the court upon conclusion of the proceedings;

(e) specific medical or epidemiological information may be released to authorized personnel in the department or in local health departments, and to the courts, to carry out the provisions of this title, and rules adopted by the department in accordance with this title;

(f) specific medical or epidemiological information may be released to blood banks, organ and tissue banks, and similar institutions for the purpose of identifying individuals with communicable diseases. The department may, by rule, designate the diseases about which information may be disclosed under this subsection, and may choose to release the name of an infected individual to those organizations without disclosing the specific disease;

(g) specific medical or epidemiological information may be released in such a way that no individual is identifiable;

(h) specific medical or epidemiological information may be released to a "health care provider" as defined in Section 78B-3-403, health care personnel, and public health personnel who have a legitimate need to have access to the information in order to assist the patient, or to protect the health of others closely associated with the patient;

(i) specific medical or epidemiological information regarding a health care provider, as defined in Section 78B-3-403, may be released to the department, the appropriate local health department, and the Division of Occupational and Professional Licensing within the Department of Commerce, if the identified health care provider is endangering the safety or life of any individual by his continued practice of health care;

(j) specific medical or epidemiological information may be released in accordance with Section 26-6-31 if an individual is not identifiable; and

(k) specific medical or epidemiological information may be released to a state agency as defined in Section [~~67-25-102~~] 63A-17-901, to perform the analysis described in Subsection 26-6-32(4) if the state agency agrees to act in accordance with the requirements in this chapter.

(3) The provisions of Subsection (2)(h) do not create a duty to warn third parties, but is intended only to aid health care providers in their treatment and containment of infectious disease.

Section 113. Section 26-6-32 is amended to read:

26-6-32. Testing for COVID-19 for high-risk individuals at care facilities -- Collection and release of information regarding risk factors and comorbidities for COVID-19.

(1) As used in this section:

(a) "Care facility" means a facility described in Subsections 26-6-6(2) through (6).

(b) "COVID-19" means the same as that term is defined in Section 78B-4-517.

(2) (a) At the request of the department or a local health department, an individual who meets the criteria established by the department under Subsection (2)(b) shall submit to testing for COVID-19.

(b) The department:

(i) shall establish protocols to identify and test individuals who are present at a care facility and are at high risk for contracting COVID-19;

(ii) may establish criteria to identify care facilities where individuals are at high risk for COVID-19; and

(iii) may establish who is responsible for the costs of the testing.

(c) (i) The protocols described in Subsection (2)(b)(i) shall:

(A) notwithstanding Subsection (2)(a), permit an individual who is a resident of a care facility to refuse testing; and

(B) specify criteria for when an individual's refusal to submit to testing under Subsection (2)(c)(i)(A) endangers the health or safety of other individuals at the care facility.

(ii) Notwithstanding any other provision of state law, a care facility may discharge a resident who declines testing requested by the department under Subsection (2)(a) if:

(A) under the criteria specified by the department under Subsection (2)(c)(i)(B), the resident's refusal to submit to testing endangers the health or safety of other individuals at the care facility; and

(B) discharging the resident does not violate federal law.

(3) The department may establish protocols to collect information regarding the individual's age and relevant comorbidities from an individual who receives a positive test result for COVID-19.

(4) (a) The department shall publish deidentified information regarding comorbidities and other risk factors for COVID-19 in a manner that is accessible to the public.

(b) The department may work with a state agency as defined in Section [~~67-25-102~~] 63A-17-901, to perform the analysis or publish the information described in Subsection (4)(a).

Section 114. Section 26-61a-303 is amended to read:

26-61a-303. Renewal.

(1) The department shall renew a license under this part every year if, at the time of renewal:

(a) the licensee meets the requirements of Section 26-61a-301;

(b) the licensee pays the department a license renewal fee in an amount that, subject to Subsection 26-61a-109(5), the department sets in accordance with Section 63J-1-504; and

(c) if the medical cannabis pharmacy changes the operating plan described in Section 26-61a-304 that the department approved under Subsection 26-61a-301(2)(b)(iv), the department approves the new operating plan.

(2) (a) If a licensed medical cannabis pharmacy abandons the medical cannabis pharmacy's license, the department shall publish notice of an available license:

(i) in a newspaper of general circulation for the geographic area in which the medical cannabis pharmacy license is available; or

(ii) on the Utah Public Notice Website established in Section [~~63F-1-701~~] 63A-16-601.

(b) The department may establish criteria, in collaboration with the Division of Occupational and Professional Licensing and the Board of Pharmacy and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to identify the medical cannabis pharmacy actions that constitute abandonment of a medical cannabis pharmacy license.

Section 115. Section 31A-2-103 is amended to read:

31A-2-103. Commissioner's appointees.

(1) The commissioner may appoint up to three persons to assist the commissioner. The commissioner may designate a person appointed under this section as a "deputy," "administrative assistant," "secretary," or any other title chosen by the commissioner.

(2) Persons appointed under this section are exempt from career service status under Section [~~67-19-15~~] 63A-17-301 and serve at the pleasure of the commissioner.

Section 116. Section 32B-1-303 is amended to read:

32B-1-303. Qualifications related to employment with the department.

(1) The department may not employ a person if that person has been convicted of:

(a) within seven years before the day on which the department employs the person, a felony under a federal law or state law;

(b) within four years before the day on which the department employs the person:

(i) a violation of a federal law, state law, or local ordinance concerning the sale, offer for sale, warehousing, manufacture, distribution, transportation, or adulteration of an alcoholic product; or

(ii) a crime involving moral turpitude; or

(c) on two or more occasions within the five years before the day on which the department employs the person, driving under the influence of alcohol, drugs, or the combined influence of alcohol and drugs.

(2) The director may terminate a department employee or take other disciplinary action consistent with Title [~~67~~] 63A, Chapter [~~19~~] 17, Utah State Personnel Management Act, if:

(a) after the day on which the department employs the department employee, the department employee is found to have been convicted of an offense described in Subsection (1) before being employed by the department; or

(b) on or after the day on which the department employs the department employee, the department employee:

(i) is convicted of an offense described in Subsection (1)(a) or (b); or

(ii) (A) is convicted of driving under the influence of alcohol, drugs, or the combined influence of alcohol and drugs; and

(B) was convicted of driving under the influence of alcohol, drugs, or the combined influence of alcohol and drugs within five years before the day on which the person is convicted of the offense described in Subsection (2)(b)(ii)(A).

(3) The director may immediately suspend a department employee for the period during which a criminal matter is being adjudicated if the department employee:

(a) is arrested on a charge for an offense described in Subsection (1)(a) or (b); or

(b) (i) is arrested on a charge for the offense of driving under the influence of alcohol, drugs, or the combined influence of alcohol and drugs; and

(ii) was convicted of driving under the influence of alcohol, drugs, or the combined influence of alcohol and drugs within five years before the day on which the person is arrested on a charge described in Subsection (3)(b)(i).

Section 117. Section 32B-2-206 is amended to read:

32B-2-206. Powers and duties of the director.

Subject to the powers and responsibilities of the commission under this title, the director:

(1) (a) shall prepare and propose to the commission general policies, rules, and procedures governing the administrative activities of the department; and

(b) may submit other recommendations to the commission as the director considers in the interest of the commission's or the department's business;

(2) within the general policies, rules, and procedures of the commission, shall:

(a) provide day-to-day direction, coordination, and delegation of responsibilities in the administrative activities of the department's business; and

(b) make internal department policies and procedures relating to:

(i) department personnel matters; and

(ii) the day-to-day operation of the department;

(3) subject to Section 32B-2-207, shall appoint or employ personnel as considered necessary in the administration of this title, and with regard to the personnel shall:

(a) prescribe the conditions of employment;

(b) define the respective duties and powers; and

(c) fix the remuneration in accordance with Title [~~67~~] 63A, Chapter [~~19~~] 17, Utah State Personnel Management Act;

(4) shall establish and secure adherence to a system of reports, controls, and performance in matters relating to personnel, security, department property management, and operation of:

(a) a department office;

(b) a warehouse;

(c) a state store; and

(d) a package agency;

(5) within the policies, rules, and procedures approved by the commission and provisions of law, shall purchase, store, keep for sale, sell, import, and control the storage, sale, furnishing, transportation, or delivery of an alcoholic product;

(6) shall prepare for commission approval:

(a) recommendations regarding the location, establishment, relocation, and closure of a state store or package agency;

(b) recommendations regarding the issuance, denial, nonrenewal, suspension, or revocation of a license, permit, or certificate of approval;

(c) an annual budget, proposed legislation, and reports as required by law and sound business principles;

(d) plans for reorganizing divisions of the department and the functions of the divisions;

(e) manuals containing commission and department policies, rules, and procedures;

(f) an inventory control system;

(g) any other report or recommendation requested by the commission;

(h) rules described in Subsection 32B-2-202(1)(o) governing the credit terms of the sale of beer;

(i) rules governing the calibration, maintenance, and regulation of a calibrated metered dispensing system;

(j) rules governing the display of a list of types and brand names of liquor furnished through a calibrated metered dispensing system;

(k) price lists issued and distributed showing the price to be paid for each class, variety, or brand of liquor kept for sale at a state store, package agency, or retail licensee;

(l) policies or rules prescribing the books of account maintained by the department and by a state store, package agency, or retail licensee; and

(m) a policy prescribing the manner of giving and serving a notice required by this title or rules made under this title;

(7) shall make available through the department to any person, upon request, a copy of a policy made by the director;

(8) shall make and maintain a current copy of a manual that contains the rules and policies of the commission and department available for public inspection;

(9) (a) after consultation with the governor, shall determine whether an alcoholic product should not be sold, offered for sale, or otherwise furnished in an area of the state during a period of emergency that is proclaimed by the governor to exist in that area; and

(b) shall issue a necessary public announcement or policy with respect to the determination described in Subsection (9)(a);

(10) issue event permits in accordance with Chapter 9, Event Permit Act; and

(11) shall perform any other duty required by the commission or by law.

Section 118. Section 32B-2-207 is amended to read:

32B-2-207. Department employees -- Requirements.

(1) "Upper management" means the director, a deputy director, or other Schedule AD, AR, or AS employee of the department, as defined in Section [~~67-19-15~~] 63A-17-301, except for the director of internal audits and auditors hired by the director of internal audits under Section 32B-2-302.5.

(2) (a) Subject to this title, including the requirements of Chapter 1, Part 3, Qualifications and Background, the director may prescribe the qualifications of a department employee.

(b) The director may hire an employee who is upper management only with the approval of four commissioners voting in an open meeting.

(c) Except as provided in Section 32B-1-303, the executive director may dismiss an employee who is upper management after consultation with the chair of the commission.

(3) (a) A person who seeks employment with the department shall file with the department an

application under oath or affirmation in a form prescribed by the commission.

(b) Upon receiving an application, the department shall determine whether the individual is:

(i) of good moral character; and

(ii) qualified for the position sought.

(c) The department shall select an individual for employment or advancement with the department in accordance with Title [~~67~~] 63A, Chapter [~~19~~] 17, Utah State Personnel Management Act.

(4) The following are not considered a department employee:

(a) a package agent;

(b) a licensee;

(c) a staff member of a package agent; or

(d) staff of a licensee.

(5) The department may not employ a minor to:

(a) work in:

(i) a state store; or

(ii) a department warehouse; or

(b) engage in an activity involving the handling of an alcoholic product.

(6) The department shall ensure that any training or certification required of a public official or public employee, as those terms are defined in Section 63G-22-102, complies with Title 63G, Chapter 22, State Training and Certification Requirements, if the training or certification is required:

(a) under this title;

(b) by the department; or

(c) by an agency or division within the department.

Section 119. Section 32B-3-204 is amended to read:

32B-3-204. Disciplinary proceeding procedure.

(1) (a) Subject to Section 32B-3-202, the following may conduct an adjudicative proceeding to inquire into a matter necessary and proper for the administration of this title and rules adopted under this title:

(i) the commission;

(ii) a hearing examiner appointed by the commission to conduct a suspension, non-renewal, or revocation hearing required by law;

(iii) the director; and

(iv) the department.

(b) Except as provided in this section or Section 32B-2-605, a person described in Subsection (1)(a) shall comply with Title 63G, Chapter 4, Administrative Procedures Act, in an adjudicative proceeding.

(c) Except when otherwise provided by law, an adjudicative proceeding before the commission or a hearing examiner appointed by the commission shall be:

(i) video or audio recorded; and

(ii) subject to Subsection (3)(b), conducted in accordance with Title 52, Chapter 4, Open and Public Meetings Act.

(d) A person listed in Subsection (1)(a) shall conduct an adjudicative proceeding concerning departmental personnel in accordance with Title [~~67~~] 63A, Chapter [~~19~~] 17, Utah State Personnel Management Act.

(e) A hearing that is informational, fact gathering, and nonadversarial in nature shall be conducted in accordance with rules, policies, and procedures made by the commission, director, or department.

(2) (a) Subject to Section 32B-3-202, a disciplinary proceeding shall be conducted under the authority of the commission, which is responsible for rendering a final decision and order on a disciplinary matter.

(b) (i) The commission may appoint a necessary officer, including a hearing examiner, from within or without the department, to administer the disciplinary proceeding process.

(ii) A hearing examiner appointed by the commission:

(A) may conduct a disciplinary proceeding hearing on behalf of the commission; and

(B) shall submit to the commission a report including:

(I) findings of fact determined on the basis of a preponderance of the evidence presented at the hearing;

(II) conclusions of law; and

(III) recommendations.

(iii) A report of a hearing examiner under this Subsection (2)(b) may not recommend a penalty more severe than that initially sought by the department in the notice of agency action.

(iv) A copy of a hearing examiner report under this Subsection (2)(b) shall be served upon the respective parties.

(v) Before final commission action, the commission shall give a respondent and the department reasonable opportunity to file a written objection to a hearing examiner report.

(3) (a) The commission or an appointed hearing examiner shall preside over a disciplinary proceeding hearing.

(b) A disciplinary proceeding hearing may be closed only after the commission or hearing examiner makes a written finding that the public

interest in an open hearing is clearly outweighed by factors enumerated in the closure order.

(c) (i) The commission or an appointed hearing examiner as part of a disciplinary proceeding hearing may:

(A) administer an oath or affirmation;

(B) take evidence, including evidence provided in relation to an order to show cause the department issued in accordance with Section 32B-3-202;

(C) take a deposition within or without this state; and

(D) require by subpoena from a place within this state:

(I) the testimony of a person at a hearing; and

(II) the production of a record or other evidence considered relevant to the inquiry.

(ii) A person subpoenaed in accordance with this Subsection (3)(c) shall testify and produce a record or tangible thing as required in the subpoena.

(iii) A witness subpoenaed, called to testify, or called to produce evidence who claims a privilege against self-incrimination may not be compelled to testify, but the commission or the hearing examiner shall file a written report with the county attorney or district attorney in the jurisdiction where the privilege is claimed or where the witness resides setting forth the circumstance of the claimed privilege.

(iv) (A) A person is not excused from obeying a subpoena without just cause.

(B) A district court within the judicial district in which a person alleged to be guilty of willful contempt of court or refusal to obey a subpoena is found or resides, upon application by the party issuing the subpoena, may issue an order requiring the person to:

(I) appear before the issuing party; and

(II) (Aa) produce documentary evidence if so ordered; or

(Bb) give evidence regarding the matter in question.

(C) Failure to obey an order of the court may be punished by the court as contempt.

(d) In a case heard by the commission, the commission shall issue its final decision and order in accordance with Subsection (2).

(4) (a) The commission shall:

(i) render a final decision and order on a disciplinary action; and

(ii) cause its final order to be prepared in writing, issued, and served on all parties.

(b) An order of the commission is final on the date the order is issued.

(c) The commission, after the commission renders its final decision and order, may require the director to prepare, issue, and cause to be served on the parties the final written order on behalf of the commission.

(5) (a) If a respondent requests a disciplinary proceeding hearing, the hearing held by the commission or a hearing examiner appointed by the commission shall proceed formally in accordance with Sections 63G-4-204 through 63G-4-209 if:

(i) the alleged violation poses, or potentially poses, a grave risk to public safety, health, and welfare;

(ii) the alleged violation involves:

(A) selling or furnishing an alcoholic product to a minor;

(B) attire, conduct, or entertainment prohibited by Chapter 1, Part 5, Attire, Conduct, and Entertainment Act;

(C) fraud, deceit, willful concealment, or misrepresentation of the facts by or on behalf of the respondent;

(D) interfering or refusing to cooperate with:

(I) an authorized official of the department or the state in the discharge of the official's duties in relation to the enforcement of this title; or

(II) a peace officer in the discharge of the peace officer's duties in relation to the enforcement of this title;

(E) an unlawful trade practice under Chapter 4, Part 7, Trade Practices Act;

(F) unlawful importation of an alcoholic product; or

(G) unlawful supply of liquor by a liquor industry member, as defined in Section 32B-4-702, to a person other than the department or a military installation, except to the extent permitted by this title; or

(iii) the department determines to seek in a disciplinary proceeding hearing:

(A) an administrative fine exceeding $3,000;

(B) a suspension of a license, permit, or certificate of approval of more than 10 days; or

(C) a revocation of a license, permit, or certificate of approval.

(b) If a respondent does not request a disciplinary proceeding hearing, a hearing shall proceed informally unless it is designated as a formal proceeding pursuant to rules adopted by the commission in accordance with Subsection (5)(c).

(c) The commission shall make rules to provide a procedure to implement this Subsection (5).

(6) (a) If the department recommends nonrenewal of a license, the department shall notify the licensee of the recommendation at least 15 days before the commission takes action on the nonrenewal.

(b) Notwithstanding Subsection (2), the commission shall appoint a hearing examiner to conduct an adjudicative hearing in accordance with this section if the licensee files a request for a hearing within 10 days of receipt of the notice under Subsection (6)(a).

Section 120. Section 32B-8a-302 is amended to read:

32B-8a-302. Application -- Approval process.

(1) To obtain the transfer of an alcohol license from an alcohol licensee, the transferee shall file a transfer application with the department that includes:

(a) an application in the form provided by the department;

(b) a statement as to whether the consideration, if any, to be paid to the transferor includes payment for transfer of the alcohol license;

(c) a statement executed under penalty of perjury that the consideration as set forth in the escrow agreement required by Section 32B-8a-401 is deposited with the escrow holder; and

(d) (i) an application fee of $300; and

(ii) a transfer fee determined in accordance with Section 32B-8a-303.

(2) If the intended transfer of an alcohol license involves consideration, at least 10 days before the commission may approve the transfer, the department shall post a notice of the intended transfer on the Public Notice Website created in Section [~~63F-1-701~~] 63A-16-601 that states the following:

(a) the name of the transferor;

(b) the name and address of the business currently associated with the alcohol license;

(c) instructions for filing a claim with the escrow holder; and

(d) the projected date that the commission may consider the transfer application.

(3) (a) (i) Before the commission may approve the transfer of an alcohol license, the department shall conduct an investigation and may hold public hearings to gather information and make recommendations to the commission as to whether the transfer of the alcohol license should be approved.

(ii) The department shall forward the information and recommendations described in this Subsection (3)(a) to the commission to aid in the commission's determination.

(b) Before approving a transfer, the commission shall:

(i) determine that the transferee filed a complete application;

(ii) determine that the transferee is eligible to hold the type of alcohol license that is to be transferred at the premises to which the alcohol license would be transferred;

(iii) determine that the transferee is not delinquent in the payment of an amount described in Subsection 32B-8a-201(3);

(iv) determine that the transferee is not disqualified under Section 32B-1-304;

(v) consider the locality within which the proposed licensed premises is located, including:

(A) the factors listed in Section 32B-5-203 for the issuance of a retail license;

(B) the factors listed in Section 32B-7-404 for the issuance of an off-premise beer retailer state license;

(C) the factors listed in Section 32B-11-206 for the issuance of a manufacturing license; and

(D) the factors listed in Section 32B-10-204 for the issuance of a special use permit that is an industrial and manufacturing use permit;

(vi) consider the transferee's ability to manage and operate the retail license to be transferred, including:

(A) the factors listed in Section 32B-5-203 for the issuance of a retail license;

(B) the factors listed in Section 32B-7-404 for the issuance of an off-premise beer retailer state license;

(C) the factors listed in Section 32B-11-206 for the issuance of a manufacturing license; and

(D) the factors listed in Section 32B-10-204 for the issuance of a special use permit that is an industrial and manufacturing use permit;

(vii) consider the nature or type of alcohol licensee operation of the transferee, including:

(A) the factors listed in Section 32B-5-203 for the issuance of a retail license;

(B) the factors listed in Section 32B-7-404 for the issuance of an off-premise beer retailer state license;

(C) the factors listed in Section 32B-11-206 for the issuance of a manufacturing license; and

(D) the factors listed in Section 32B-10-204 for the issuance of a special use permit that is an industrial and manufacturing use permit;

(viii) if the transfer involves consideration, determine that the transferee and transferor have complied with Part 4, Protection of Creditors; and

(ix) consider any other factor the commission considers necessary.

(4) Except as otherwise provided in Section 32B-1-202, the commission may not approve the transfer of an alcohol license to premises that do not meet the proximity requirements of Subsection 32B-1-202(2), Section 32B-7-201, or Section 32B-11-210, as applicable.

Section 121. Section 34-41-101 is amended to read:

34-41-101. Definitions.

As used in this chapter:

(1) "Drug" means any substance recognized as a drug in the United States Pharmacopeia, the National Formulary, the Homeopathic Pharmacopeia, or other drug compendia, including Title 58, Chapter 37, Utah Controlled Substances Act, or supplement to any of those compendia.

(2) "Drug testing" means the scientific analysis for the presence of drugs or their metabolites in the human body in accordance with the definitions and terms of this chapter.

(3) "Local governmental employee" means any person or officer in the service of a local governmental entity or state institution of higher education for compensation.

(4) (a) "Local governmental entity" means any political subdivision of Utah including any county, municipality, local school district, local district, special service district, or any administrative subdivision of those entities.

(b) "Local governmental entity" does not mean Utah state government or its administrative subdivisions provided for in Sections [~~67-19-33~~] 63A-17-1001 through [~~67-19-38~~] 63A-17-1006.

(5) "Periodic testing" means preselected and preannounced drug testing of employees or volunteers conducted on a regular schedule.

(6) "Prospective employee" means any person who has made a written or oral application to become an employee of a local governmental entity or a state institution of higher education.

(7) "Random testing" means the unannounced drug testing of an employee or volunteer who was selected for testing by using a method uninfluenced by any personal characteristics other than job category.

(8) "Reasonable suspicion for drug testing" means an articulated belief based on the recorded specific facts and reasonable inferences drawn from those facts that a local government employee or volunteer is in violation of the drug-free workplace policy.

(9) "Rehabilitation testing" means unannounced but preselected drug testing done as part of a program of counseling, education, and treatment of an employee or volunteer in conjunction with the drug-free workplace policy.

(10) "Safety sensitive position" means any local governmental or state institution of higher education position involving duties which directly affects the safety of governmental employees, the general public, or positions where there is access to controlled substances, as defined in Title 58, Chapter 37, Utah Controlled Substances Act, during the course of performing job duties.

(11) "Sample" means urine, blood, breath, saliva, or hair.

(12) "State institution of higher education" means the institution as defined in Section 53B-3-102.

(13) "Volunteer" means any person who donates services as authorized by the local governmental entity or state institution of higher education without pay or other compensation except expenses actually and reasonably incurred.

Section 122. Section 34A-1-201 is amended to read:

34A-1-201. Commissioner -- Appointment -- Removal -- Compensation -- Qualifications -- Responsibilities -- Reports.

(1) (a) The chief administrative officer of the commission is the commissioner, who shall be appointed by the governor with the advice and consent of the Senate.

(b) The commissioner shall serve at the pleasure of the governor.

(c) The commissioner shall receive a salary established by the governor within the salary range fixed by the Legislature in Title 67, Chapter 22, State Officer Compensation.

(d) The commissioner shall be experienced in administration, management, and coordination of complex organizations.

(2) (a) The commissioner shall serve full-time.

(b) (i) Except as provided in Subsection (2)(b)(ii), the commissioner may not:

(A) hold any other office of this state, another state, or the federal government except in an ex officio capacity; or

(B) serve on any committee of any political party.

(ii) Notwithstanding Subsection (2)(b)(i), the commissioner may:

(A) hold a nominal position or title if it is required by law as a condition for the state participating in an appropriation or allotment of any money, property, or service that may be made or allotted for the commission; or

(B) serve as the chief administrative officer of any division, office, or bureau that is established within the commission.

(iii) If the commissioner holds a position as permitted under Subsection (2)(b)(ii), the commissioner may not be paid any additional compensation for holding the position.

(3) Before beginning the duties as a commissioner, an appointed commissioner shall take and subscribe the constitutional oath of office and file the oath with the Division of Archives.

(4) The commissioner shall:

(a) administer and supervise the commission in compliance with Title [~~67~~] 63A, Chapter [~~19~~] 17, Utah State Personnel Management Act;

(b) approve the proposed budget of each division and the Appeals Board;

(c) approve all applications for federal grants or assistance in support of any commission program; and

(d) fulfill such other duties as assigned by the Legislature or as assigned by the governor that are not inconsistent with this title or Title 34, Labor in General.

(5) (a) The commissioner shall report annually to the Legislature and the governor concerning the operations of the commission and the programs that the commission administers.

(b) If federal law requires that a report to the governor or Legislature be given concerning the commission or a program administered by the commission, the commissioner or the commissioner's designee shall make that report.

Section 123. Section 34A-1-204 is amended to read:

34A-1-204. Division directors -- Appointment -- Compensation -- Qualifications.

(1) The chief officer of each division within the commission shall be a director, who shall serve as the executive and administrative head of the division.

(2) A director shall be appointed by the commissioner with the concurrence of the governor and may be removed from that position at the will of the commissioner.

(3) A director of a division shall receive compensation as provided by Title [~~67~~] 63A, Chapter [~~19~~] 17, Utah State Personnel Management Act.

(4) (a) A director of a division shall be experienced in administration and possess such additional qualifications as determined by the commissioner.

(b) In addition to the requirements imposed under Subsection (4)(a), the director of the Division of Adjudication shall be admitted to the practice of law in this state.

Section 124. Section 34A-1-205 is amended to read:

34A-1-205. Appeals Board -- Chair -- Appointment -- Compensation -- Qualifications.

(1) (a) There is created the Appeals Board within the commission consisting of three members.

(b) The board may call and preside at adjudicative proceedings to review an order or decision that is subject to review by the Appeals Board under this title.

(2) (a) With the advice and consent of the Senate and in accordance with this section, the governor shall appoint:

(i) one member of the board to represent employers; and

(ii) one member of the board to represent employees.

(b) With the advice and consent of the Senate and in accordance with this section, the governor may appoint:

(i) one alternate member of the board to represent employers in the event that the member representing employers is unavailable; or

(ii) one alternate member of the board to represent employees in the event that the member representing employees is unavailable.

(c) In making the appointments described in this subsection, the governor shall:

(i) when appointing a member or alternate member to represent employers, consider nominations from employer organizations;

(ii) when appointing a member or alternate member to represent employees, consider nominations from employee organizations;

(iii) ensure that no more than two members belong to the same political party; and

(iv) ensure that an alternate member belongs to the same political party as the member for whom the alternate stands in.

(d) The governor shall, at the time of appointment or reappointment, make appointments to the board so that at least two of the members of the board are members of the Utah State Bar in good standing or resigned from the Utah State Bar in good standing.

(3) (a) The term of a member and an alternate member shall be six years beginning on March 1 of the year the member or alternate member is appointed, except that the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of members and alternate members are staggered so that one member and alternate member is appointed every two years.

(b) The governor may remove a member or alternate member only for inefficiency, neglect of duty, malfeasance or misfeasance in office, or other good and sufficient cause.

(c) A member or alternate member shall hold office until a successor is appointed and has qualified.

(4) A member and alternate member shall be part-time and receive compensation as provided by Title [~~67~~] 63A, Chapter [~~19~~] 17, Utah State Personnel Management Act.

(5) (a) The chief officer of the board shall be the chair, who shall serve as the executive and administrative head of the board.

(b) The governor shall appoint and may remove at will the chair from the position of chair.

(6) A majority of the board shall constitute a quorum to transact business.

(7) (a) The commission shall provide the Appeals Board necessary staff support, except as provided in Subsection (7)(b).

(b) At the request of the Appeals Board, the attorney general shall act as an impartial aid to the Appeals Board in outlining the facts and the issues.

Section 125. Section 35A-1-201 is amended to read:

35A-1-201. Executive director -- Appointment -- Removal -- Compensation

-- Qualifications -- Responsibilities -- Deputy directors.

(1) (a) The chief administrative officer of the department is the executive director, who is appointed by the governor with the advice and consent of the Senate.

(b) The executive director serves at the pleasure of the governor.

(c) The executive director shall receive a salary established by the governor within the salary range fixed by the Legislature in Title 67, Chapter 22, State Officer Compensation.

(d) The executive director shall be experienced in administration, management, and coordination of complex organizations.

(2) The executive director shall:

(a) administer and supervise the department in compliance with Title [~~67~~] 63A, Chapter [~~19~~] 17, Utah State Personnel Management Act;

(b) supervise and coordinate between the economic service areas and directors created under Chapter 2, Economic Service Areas;

(c) coordinate policies and program activities conducted through the divisions and economic service areas of the department;

(d) approve the proposed budget of each division, the Workforce Appeals Board, and each economic service area within the department;

(e) approve all applications for federal grants or assistance in support of any department program;

(f) coordinate with the executive directors of the Governor's Office of Economic Development and the Governor's Office of Management and Budget to review data and metrics to be reported to the Legislature as described in Subsection 35A-1-109(2)(b); and

(g) fulfill such other duties as assigned by the Legislature or as assigned by the governor that are not inconsistent with this title.

(3) The executive director may appoint deputy or assistant directors to assist the executive director in carrying out the department's responsibilities.

(4) The executive director shall at least annually provide for the sharing of information between the advisory councils established under this title.

Section 126. Section 35A-1-204 is amended to read:

35A-1-204. Division directors -- Appointment -- Compensation -- Qualifications.

(1) The chief officer of each division within the department shall be a director, who shall serve as the executive and administrative head of the division.

(2) A director shall be appointed by the executive director with the concurrence of the governor and may be removed from that position at the will of the executive director.

(3) A director of a division shall receive compensation as provided by Title [~~67~~] 63A, Chapter [~~19~~] 17, Utah State Personnel Management Act.

(4) (a) A director of a division shall be experienced in administration and possess such additional qualifications as determined by the executive director.

(b) In addition to the requirements of Subsection (4)(a), the director of the Division of Adjudication shall be admitted to the practice of law in Utah.

Section 127. Section 36-1-101.5 is amended to read:

36-1-101.5. Utah State Senate -- District boundaries.

(1) As used in this section:

(a) "County boundary" means the county boundary's location in the database as of January 1, 2010.

(b) "Database" means the State Geographic Information Database created in Section [~~63F-1-507~~] 63A-16-506.

(c) "Local school district boundary" means the local school district boundary's location in the database as of January 1, 2010.

(d) "Municipal boundary" means the municipal boundary's location in the database as of January 1, 2010.

(2) The Utah State Senate shall consist of 29 members, with one member to be elected from each Utah State Senate district.

(3) The Legislature adopts the official census population figures and maps of the Bureau of the Census of the United States Department of Commerce developed in connection with the taking of the 2010 national decennial census as the official data for establishing Senate district boundaries.

(4) (a) Notwithstanding Subsection (3), the Legislature enacts the district numbers and boundaries of the Senate districts designated in the Senate shapefile that is the electronic component of the bill that enacts this section.

(b) That Senate shapefile, and the Senate district boundaries generated from that Senate shapefile, may be accessed via the Utah Legislature's website.

Section 128. Section 36-1-105 is amended to read:

36-1-105. Uncertain boundaries -- How resolved.

(1) As used in this section:

(a) "Affected party" means:

(i) a senator whose Utah State Senate district boundary is uncertain because the feature used to establish the district boundary in the Senate shapefile has been removed, modified, or is unable

to be identified or who is uncertain about whether or not the senator or another person resides in a particular Senate district;

(ii) a candidate for senator whose Senate district boundary is uncertain because the feature used to establish the district boundary in the Senate shapefile has been removed, modified, or is unable to be identified or who is uncertain about whether or not the candidate or another person resides in a particular Senate district; or

(iii) a person who is uncertain about which Senate district contains the person's residence because the feature used to establish the district boundary in the Senate shapefile has been removed, modified, or is unable to be identified.

(b) "Feature" means a geographic or other tangible or intangible mark such as a road or political subdivision boundary that is used to establish a Senate district boundary.

(2) (a) An affected party may file a written request petitioning the lieutenant governor to determine:

(i) the precise location of the Senate district boundary;

(ii) the number of the Senate district in which a person resides; or

(iii) both Subsections (2)(a)(i) and (ii).

(b) In order to make the determination required by Subsection (2)(a), the lieutenant governor shall review:

(i) the Senate shapefile; and

(ii) other relevant data such as aerial photographs, aerial maps, or other data about the area.

(c) Within five days of receipt of the request, the lieutenant governor shall:

(i) review the Senate shapefile;

(ii) review any relevant data; and

(iii) make a determination.

(d) When the lieutenant governor determines the location of the Senate district boundary, the lieutenant governor shall:

(i) prepare a certification identifying the appropriate Senate district boundary and attaching a map, if necessary; and

(ii) send a copy of the certification to:

(A) the affected party;

(B) the county clerk of the affected county; and

(C) the Automated Geographic Reference Center created under Section [~~63F-1-506~~] 63A-16-505.

(e) If the lieutenant governor determines the number of the Senate district in which a particular person resides, the lieutenant governor shall send a letter identifying that district by number to:

(i) the person;

(ii) the affected party who filed the petition, if different than the person whose Senate district number was identified; and

(iii) the county clerk of the affected county.

Section 129. Section 36-1-201.5 is amended to read:

36-1-201.5. Utah House of Representatives -- House district boundaries.

(1) As used in this section:

(a) "County boundary" means the county boundary's location in the database as of January 1, 2017.

(b) "Database" means the State Geographic Information Database created in Section [~~63F-1-507~~] 63A-16-506.

(c) "Local school district boundary" means the local school district boundary's location in the database as of January 1, 2010.

(d) "Municipal boundary" means the municipal boundary's location in the database as of January 1, 2010.

(2) The Utah House of Representatives shall consist of 75 members, with one member to be elected from each Utah House of Representative district.

(3) The Legislature adopts the official census population figures and maps of the Bureau of the Census of the United States Department of Commerce developed in connection with the taking of the 2010 national decennial census as the official data for establishing House district boundaries.

(4) (a) Notwithstanding Subsection (3), and except as modified by Subsection (4)(b), the Legislature enacts the district numbers and boundaries of the House districts designated by the House shapefile that is the electronic component of 2013 General Session H.B. 366, State House Boundary Amendments.

(b) The boundary between House District 1 and House District 5 in the shapefile described in Subsection (4)(a) is changed to follow the county boundary of Box Elder County and Cache County from the intersection of Cache, Box Elder, and Weber counties, north to the intersection of House District 1, House District 3, and House District 5.

(c) That House shapefile, and the legislative boundaries generated from that shapefile, may be accessed via the Utah Legislature's website.

Section 130. Section 36-1-204 is amended to read:

36-1-204. Uncertain boundaries -- How resolved.

(1) As used in this section:

(a) "Affected party" means:

(i) a representative whose Utah House of Representatives district boundary is uncertain because the feature used to establish the district boundary in the House shapefile has been removed,

modified, or is unable to be identified or who is uncertain about whether or not the representative or another person resides in a particular House district;

(ii) a candidate for representative whose House district boundary is uncertain because the feature used to establish the district boundary in the House shapefile has been removed, modified, or is unable to be identified or who is uncertain about whether or not the candidate or another person resides in a particular House district; or

(iii) a person who is uncertain about which House district contains the person's residence because the feature used to establish the district boundary in the House shapefile has been removed, modified, or is unable to be identified.

(b) "Feature" means a geographic or other identifiable tangible or intangible object such as a road or political subdivision boundary that is used to establish a House district boundary.

(2) (a) An affected party may file a written request petitioning the lieutenant governor to determine:

(i) the precise location of the House district boundary;

(ii) the number of the House district in which a person resides; or

(iii) both Subsections (2)(a)(i) and (ii).

(b) In order to make the determination required by Subsection (2)(a), the lieutenant governor shall review:

(i) the House shapefile; and

(ii) other relevant data such as aerial photographs, aerial maps, or other data about the area.

(c) Within five days of receipt of the request, the lieutenant governor shall:

(i) review the House shapefile;

(ii) review any relevant data; and

(iii) make a determination.

(d) When the lieutenant governor determines the location of the House district boundary, the lieutenant governor shall:

(i) prepare a certification identifying the appropriate House district boundary and attaching a map, if necessary; and

(ii) send a copy of the certification to:

(A) the affected party;

(B) the county clerk of the affected county; and

(C) the Automated Geographic Reference Center created under Section [~~63F-1-506~~] 63A-16-505.

(e) If the lieutenant governor determines the number of the House district in which a particular person resides, the lieutenant governor shall send a letter identifying that district by number to:

(i) the person;

(ii) the affected party who filed the petition, if different than the person whose House district number was identified; and

(iii) the county clerk of the affected county.

Section 131. Section 40-2-202 is amended to read:

40-2-202. Appointment of director.

(1) The director is the chief officer of the office and serves as the executive and administrative head of the office.

(2) (a) The commissioner shall appoint the director.

(b) The director may be removed from that position at the will of the commissioner.

(3) The director shall receive compensation as provided by Title [~~67~~] 63A, Chapter [~~19~~] 17, Utah State Personnel Management Act.

(4) The director shall be experienced in administration and possess such additional qualifications as determined by the commissioner.

Section 132. Section 45-1-101 is amended to read:

45-1-101. Legal notice publication requirements.

(1) As used in this section:

(a) "Average advertisement rate" means:

(i) in determining a rate for publication on the public legal notice website or in a newspaper that primarily distributes publications in a county of the third, fourth, fifth, or sixth class, a newspaper's gross advertising revenue for the preceding calendar quarter divided by the gross column-inch space used in the newspaper for advertising for the previous calendar quarter; or

(ii) in determining a rate for publication in a newspaper that primarily distributes publications in a county of the first or second class, a newspaper's average rate for all qualifying advertising segments for the preceding calendar quarter for an advertisement:

(A) published in the same section of the newspaper as the legal notice; and

(B) of the same column-inch space as the legal notice.

(b) "Column-inch space" means a unit of space that is one standard column wide by one inch high.

(c) "Gross advertising revenue" means the total revenue obtained by a newspaper from all of its qualifying advertising segments.

(d) (i) "Legal notice" means:

(A) a communication required to be made public by a state statute or state agency rule; or

(B) a notice required for judicial proceedings or by judicial decision.

(ii) "Legal notice" does not include:

(A) a public notice published by a public body in accordance with the provisions of Sections 52-4-202 and [~~63F-1-701~~] 63A-16-601; or

(B) a notice of delinquency in the payment of property taxes described in Section 59-2-1332.5.

(e) "Local district" is as defined in Section 17B-1-102.

(f) "Public legal notice website" means the website described in Subsection (2)(b) for the purpose of publishing a legal notice online.

(g) (i) "Qualifying advertising segment" means, except as provided in Subsection (1)(g)(ii), a category of print advertising sold by a newspaper, including classified advertising, line advertising, and display advertising.

(ii) "Qualifying advertising segment" does not include legal notice advertising.

(h) "Special service district" is as defined in Section 17D-1-102.

(2) Except as provided in Subsections (8) and (9), notwithstanding any other legal notice provision established by law, a person required by law to publish legal notice shall publish the notice:

(a) (i) as required by the statute establishing the legal notice requirement; or

(ii) by serving legal notice, by certified mail or in person, directly on all parties for whom the statute establishing the legal notice requirement requires legal notice, if:

(A) the direct service of legal notice does not replace publication in a newspaper that primarily distributes publications in a county of the third, fourth, fifth, or sixth class;

(B) the statute clearly identifies the parties;

(C) the person can prove that the person has identified all parties for whom notice is required; and

(D) the person keeps a record of the service for at least two years; and

(b) on a public legal notice website established by the combined efforts of Utah's newspapers that collectively distribute newspapers to the majority of newspaper subscribers in the state.

(3) The public legal notice website shall:

(a) be available for viewing and searching by the general public, free of charge; and

(b) accept legal notice posting from any newspaper in the state.

(4) A person that publishes legal notice as required under Subsection (2) is not relieved from complying with an otherwise applicable requirement under Title 52, Chapter 4, Open and Public Meetings Act.

(5) If legal notice is required by law and one option for complying with the requirement is publication in a newspaper, or if a local district or a special service district publishes legal notice in a newspaper, the newspaper:

(a) may not charge more for publication than the newspaper's average advertisement rate; and

(b) shall publish the legal notice on the public legal notice website at no additional cost.

(6) If legal notice is not required by law, if legal notice is required by law and the person providing legal notice, in accordance with the requirements of law, chooses not to publish the legal notice in a newspaper, or if a local district or a special service district with an annual operating budget of less than $250,000 chooses to publish a legal notice on the public notice website without publishing the complete notice in the newspaper, a newspaper:

(a) may not charge more than an amount equal to 15% of the newspaper's average advertisement rate for publishing five column lines in the newspaper to publish legal notice on the public legal notice website;

(b) may not require that the legal notice be published in the newspaper; and

(c) at the request of the person publishing on the legal notice website, shall publish in the newspaper up to five column lines, at no additional charge, that briefly describe the legal notice and provide the web address where the full public legal notice can be found.

(7) If a newspaper offers to publish the type of legal notice described in Subsection (5), it may not refuse to publish the type of legal notice described in Subsection (6).

(8) Notwithstanding the requirements of a statute that requires the publication of legal notice, if legal notice is required by law to be published by a local district or a special service district with an annual operating budget of $250,000 or more, the local district or special service district shall satisfy its legal notice publishing requirements by:

(a) mailing a written notice, postage prepaid:

(i) to each voter in the local district or special service district; and

(ii) that contains the information required by the statute that requires the publication of legal notice; or

(b) publishing the legal notice in a newspaper and on the legal public notice website as described in Subsection (5).

(9) Notwithstanding the requirements of a statute that requires the publication of legal notice, if legal notice is required by law to be published by a local district or a special service district with an annual operating budget of less than $250,000, the local district or special service district shall satisfy its legal notice publishing requirements by:

(a) mailing a written notice, postage prepaid:

(i) to each voter in the local district or special service district; and

(ii) that contains the information required by the statute that requires the publication of legal notice; or

(b) publishing the legal notice in a newspaper and on the public legal notice website as described in Subsection (5); or

(c) publishing the legal notice on the public legal notice website as described in Subsection (6).

Section 133. Section 46-4-501 is amended to read:

46-4-501. Creation and retention of electronic records and conversion of written records by governmental agencies.

(1) A state governmental agency may, by following the procedures and requirements of Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules that:

(a) identify specific transactions that the agency is willing to conduct by electronic means;

(b) identify specific transactions that the agency will never conduct by electronic means;

(c) specify the manner and format in which electronic records must be created, generated, sent, communicated, received, and stored, and the systems established for those purposes;

(d) if law or rule requires that the electronic records must be signed by electronic means, specify the type of electronic signature required, the manner and format in which the electronic signature must be affixed to the electronic record, and the identity of, or criteria that must be met, by any third party used by a person filing a document to facilitate the process;

(e) specify control processes and procedures as appropriate to ensure adequate preservation, disposition, integrity, security, confidentiality, and auditability of electronic records; and

(f) identify any other required attributes for electronic records that are specified for corresponding nonelectronic records or that are reasonably necessary under the circumstances.

(2) A state governmental agency that makes rules under this section shall submit copies of those rules, and any amendments to those rules, to the chief information officer established by Section [~~63F-1-201~~] 63A-16-201.

(3) (a) The chief information officer may prepare model rules and standards relating to electronic transactions that encourage and promote consistency and interoperability with similar requirements adopted by other Utah government agencies, other states, the federal government, and nongovernmental persons interacting with Utah governmental agencies.

(b) In preparing those model rules and standards, the chief information officer may specify different levels of standards from which governmental agencies may choose in order to implement the most appropriate standard for a particular application.

(c) Nothing in this Subsection (3) requires a state agency to use the model rules and standards prepared by the chief information officer when making rules under this section.

(4) Except as provided in Subsection 46-4-301(6), nothing in this chapter requires any state governmental agency to:

(a) conduct transactions by electronic means; or

(b) use or permit the use of electronic records or electronic signatures.

(5) Each state governmental agency shall:

(a) establish record retention schedules for any electronic records created or received in an electronic transaction according to the standards developed by the Division of Archives under Subsection 63A-12-101(2)(e); and

(b) obtain approval of those schedules from the Records Management Committee as required by Subsection 63A-12-113(1)(b).

Section 134. Section 49-11-1102 is amended to read:

49-11-1102. Public notice of administrative board meetings -- Posting on Utah Public Notice Website.

(1) The office shall provide advance public notice of meetings and agendas on the Utah Public Notice Website established in Section [~~63F-1-701~~] 63A-16-601 for administrative board meetings.

(2) The office may post other public materials, as directed by the board, on the Utah Public Notice Website.

Section 135. Section 49-22-403 is amended to read:

49-22-403. Eligibility to receive a retirement allowance for a benefit tied to a retirement date for defined contribution members.

(1) As used in this section, "eligible to receive a retirement allowance" means the date selected by the member who is a participant under this part on which the member has ceased employment and would be qualified to receive an allowance under Section 49-22-304 if the member had been under the Tier II Hybrid Retirement System for the same period of employment.

(2) The office and a participating employer shall make an accounting of years of service credit accrued for a member who is a participant under this part in order to calculate when a member would be eligible to receive a retirement allowance for purposes of establishing when a member may be eligible for a benefit tied to a retirement date that may be provided under Section [~~67-19-14.4~~] 63A-17-508, this title, another state statute, or by a participating employer.

Section 136. Section 49-23-403 is amended to read:

49-23-403. Eligibility to receive a retirement allowance for a benefit tied to a retirement date for defined contribution members.

(1) As used in this section, "eligible to receive a retirement allowance" means the date selected by the member who is a participant under this part on which the member has ceased employment and would be qualified to receive an allowance under Section 49-23-303 if the member had been under the Tier II Hybrid Retirement System for the same period of employment.

(2) The office and a participating employer shall make an accounting of years of service credit accrued for a member who is a participant under this part in order to calculate when a member would be eligible to receive a retirement allowance for purposes of establishing when a member may be eligible for a benefit tied to a retirement date that may be provided under Section [~~67-19-14.4~~] 63A-17-508, this title, another state statute, or by a participating employer.

Section 137. Section 51-5-3 is amended to read:

51-5-3. Definitions.

As used in this chapter:

(1) "Account groups" means a self-balancing set of accounts used to establish accounting control and accountability for the state's general fixed assets and general long-term obligations.

(2) "Accrual basis" means the basis of accounting under which revenues are recorded when earned and expenditures are recorded when they result in liabilities for benefits received, even though the receipt of the revenue or payment of the expenditures may take place, in whole or in part, in another accounting period.

(3) "Activity" means a specific and distinguishable line of work performed by one or more organizational components of a governmental unit to accomplish a function for which the governmental unit is responsible.

(4) "Appropriation" means a legislative authorization to make expenditures and to incur obligations for specific purposes.

(5) "Budgetary accounts" means those accounts necessary to reflect budgetary operations and conditions, such as estimated revenues, appropriations, and encumbrances.

(6) "Cash basis" means the basis of accounting under which revenues are recorded when received in cash and expenditures are recorded when paid.

(7) "Dedicated credit" means:

(a) revenue that is required by law or by the contractual terms under which the revenue is accepted, to be expended for specified activities; and

(b) revenue that is appropriated by provisions of law to the department, institution, or agency that assessed the revenue, to be expended for the specified activities.

(8) "Encumbrances" means obligations in the form of purchase orders, contracts, or salary commitments that are chargeable to an appropriation and for which a part of the appropriation is reserved. Encumbrances cease when paid or when the actual liability is set up.

(9) (a) "Expenditures" means decreases in net financial resources from other than interfund transfers, refundings of general long-term capital debt, and other items indicated by GASB.

(b) "Expenditures" may include current operating expenses, debt service, capital outlays, employee benefits, earned entitlements, and shared revenues.

(10) (a) "Financial resources" means assets that are obtained or controlled as a result of past transactions or events that in the normal course of operations will become cash.

(b) "Financial resources" includes cash, claims to cash such as taxes receivable, and claims to goods or services such as prepaids.

(11) "Fiscal period" means any period at the end of which a governmental unit determines its financial position and the results of its operations.

(12) "Function" means a group of related activities aimed at accomplishing a major service or regulatory program for which a governmental unit is responsible.

(13) "Fund" means an independent fiscal and accounting entity with a self-balancing set of accounts, composed of financial resources and other assets, all related liabilities and residual equities or balances and changes in those resources, assets, liabilities, and equities that, when recorded, are segregated for the purpose of carrying on specific activities or attaining certain objectives, according to special regulations, restrictions, or limitations.

(14) "Fund accounts" means all accounts necessary to set forth the financial operations and financial position of a fund.

(15) "GASB" means the Governmental Accounting Standards Board that is responsible for accounting standards used by public entities.

(16) (a) "Governmental fund" means funds used to account for the acquisition, use, and balances of expendable financial resources and related liabilities using a measurement focus that emphasizes the flow of financial resources.

(b) "Governmental fund" includes the following types: General Fund, special revenue funds, debt service funds, capital projects funds, and permanent funds.

(17) "Lapse," as applied to appropriations, means the automatic termination of an unexpended appropriation.

(18) "Liabilities" are the probable future sacrifices of economic benefits, arising from present obligations of a particular entity to transfer assets or provide services to other entities in the future.

(19) "Net financial resources" means:

(a) the difference between the amount of a governmental fund's financial resources and liabilities; and

(b) the fund balance of a governmental fund.

(20) "Postemployment" means that period of time following:

(a) the last day worked by an employee as a result of his long-term disability; or

(b) the date that an employee identifies as the date on which the employee intends to retire or terminate from state employment.

(21) "Postemployment benefits" means benefits earned by employees that will not be paid until postemployment, including unused vacation leave, unused converted sick leave, sick leave payments, and health and life insurance benefits as provided in Section [~~67-19-14~~] 63A-17-501.

(22) "Proprietary funds" means those funds or subfunds that show actual financial position and the results of operations, such as actual assets, liabilities, reserves, fund balances, revenues, and expenses.

(23) "Restricted revenue" means revenue that is required by law to be expended only:

(a) for specified activities; and

(b) to the amount of the legislative appropriation.

(24) "Revenue" means the increase in ownership equity during a designated period of time that is recognized as earned.

(25) "Subfund" means a restricted account, established within an independent fund, that has a self-balancing set of accounts to restrict revenues, expenditures, or the fund balance.

(26) "Surplus" means the excess of the assets of a fund over its liabilities and restricted fund equity.

(27) "Unappropriated surplus" means that portion of the surplus of a given fund that is not segregated for specific purposes.

(28) "Unrestricted revenue" means revenue of a fund that may be expended by legislative appropriation for functions authorized in the provisions of law that establish each fund.

Section 138. Section 52-4-202 is amended to read:

52-4-202. Public notice of meetings -- Emergency meetings.

(1) (a) (i) A public body shall give not less than 24 hours' public notice of each meeting.

(ii) A specified body shall give not less than 24 hours' public notice of each meeting that the specified body holds on the capitol hill complex.

(b) The public notice required under Subsection (1)(a) shall include the meeting:

(i) agenda;

(ii) date;

(iii) time; and

(iv) place.

(2) (a) In addition to the requirements under Subsection (1), a public body which holds regular meetings that are scheduled in advance over the course of a year shall give public notice at least once each year of its annual meeting schedule as provided in this section.

(b) The public notice under Subsection (2)(a) shall specify the date, time, and place of the scheduled meetings.

(3) (a) A public body or specified body satisfies a requirement for public notice by:

(i) posting written notice:

(A) except for an electronic meeting held without an anchor location under Subsection 52-4-207(4), at the principal office of the public body or specified body, or if no principal office exists, at the building where the meeting is to be held; and

(B) on the Utah Public Notice Website created under Section [~~63F-1-701~~] 63A-16-601; and

(ii) providing notice to:

(A) at least one newspaper of general circulation within the geographic jurisdiction of the public body; or

(B) a local media correspondent.

(b) A public body or specified body is in compliance with the provisions of Subsection (3)(a)(ii) by providing notice to a newspaper or local media correspondent under the provisions of Subsection [~~63F-1-701~~] 63A-16-601(4)(d).

(c) A public body whose limited resources make compliance with Subsection (3)(a)(i)(B) difficult may request the Division of Archives and Records Service, created in Section 63A-12-101, to provide technical assistance to help the public body in its effort to comply.

(4) A public body and a specified body are encouraged to develop and use additional electronic means to provide notice of their meetings under Subsection (3).

(5) (a) The notice requirement of Subsection (1) may be disregarded if:

(i) because of unforeseen circumstances it is necessary for a public body or specified body to hold an emergency meeting to consider matters of an emergency or urgent nature; and

(ii) the public body or specified body gives the best notice practicable of:

(A) the time and place of the emergency meeting; and

(B) the topics to be considered at the emergency meeting.

(b) An emergency meeting of a public body may not be held unless:

(i) an attempt has been made to notify all the members of the public body; and

(ii) a majority of the members of the public body approve the meeting.

(6) (a) A public notice that is required to include an agenda under Subsection (1) shall provide reasonable specificity to notify the public as to the topics to be considered at the meeting. Each topic shall be listed under an agenda item on the meeting agenda.

(b) Subject to the provisions of Subsection (6)(c), and at the discretion of the presiding member of the public body, a topic raised by the public may be discussed during an open meeting, even if the topic raised by the public was not included in the agenda or advance public notice for the meeting.

(c) Except as provided in Subsection (5), relating to emergency meetings, a public body may not take final action on a topic in an open meeting unless the topic is:

(i) listed under an agenda item as required by Subsection (6)(a); and

(ii) included with the advance public notice required by this section.

(7) Except as provided in this section, this chapter does not apply to a specified body.

Section 139. Section 52-4-203 is amended to read:

52-4-203. Written minutes of open meetings -- Public records -- Recording of meetings.

(1) Except as provided under Subsection (7), written minutes and a recording shall be kept of all open meetings.

(2) (a) Written minutes of an open meeting shall include:

(i) the date, time, and place of the meeting;

(ii) the names of members present and absent;

(iii) the substance of all matters proposed, discussed, or decided by the public body which may include a summary of comments made by members of the public body;

(iv) a record, by individual member, of each vote taken by the public body;

(v) the name of each person who:

(A) is not a member of the public body; and

(B) after being recognized by the presiding member of the public body, provided testimony or comments to the public body;

(vi) the substance, in brief, of the testimony or comments provided by the public under Subsection (2)(a)(v); and

(vii) any other information that is a record of the proceedings of the meeting that any member requests be entered in the minutes or recording.

(b) A public body may satisfy the requirement under Subsection (2)(a)(iii) or (vi) that minutes include the substance of matters proposed, discussed, or decided or the substance of testimony or comments by maintaining a publicly available online version of the minutes that provides a link to the meeting recording at the place in the recording where the matter is proposed, discussed, or decided or the testimony or comments provided.

(3) A recording of an open meeting shall:

(a) be a complete and unedited record of all open portions of the meeting from the commencement of the meeting through adjournment of the meeting; and

(b) be properly labeled or identified with the date, time, and place of the meeting.

(4) (a) As used in this Subsection (4):

(i) "Approved minutes" means written minutes:

(A) of an open meeting; and

(B) that have been approved by the public body that held the open meeting.

(ii) "Electronic information" means information presented or provided in an electronic format.

(iii) "Pending minutes" means written minutes:

(A) of an open meeting; and

(B) that have been prepared in draft form and are subject to change before being approved by the public body that held the open meeting.

(iv) "Specified local public body" means a legislative body of a county, city, town, or metro township.

(v) "State public body" means a public body that is an administrative, advisory, executive, or legislative body of the state.

(vi) "State website" means the Utah Public Notice Website created under Section [~~63F-1-701~~] 63A-16-601.

(b) Pending minutes, approved minutes, and a recording of a public meeting are public records under Title 63G, Chapter 2, Government Records Access and Management Act.

(c) Pending minutes shall contain a clear indication that the public body has not yet approved the minutes or that the minutes are subject to change until the public body approves them.

(d) A state public body and a specified local public body shall require an individual who, at an open meeting of the public body, publicly presents or provides electronic information, relating to an item on the public body's meeting agenda, to provide the public body, at the time of the meeting, an electronic or hard copy of the electronic information for inclusion in the public record.

(e) A state public body shall:

(i) make pending minutes available to the public within 30 days after holding the open meeting that is the subject of the pending minutes;

(ii) within three business days after approving written minutes of an open meeting:

(A) post to the state website a copy of the approved minutes and any public materials distributed at the meeting;

(B) make the approved minutes and public materials available to the public at the public body's primary office; and

(C) if the public body provides online minutes under Subsection (2)(b), post approved minutes that comply with Subsection (2)(b) and the public materials on the public body's website; and

(iii) within three business days after holding an open meeting, post on the state website an audio recording of the open meeting, or a link to the recording.

(f) A specified local public body shall:

(i) make pending minutes available to the public within 30 days after holding the open meeting that is the subject of the pending minutes;

(ii) within three business days after approving written minutes of an open meeting, post and make available a copy of the approved minutes and any public materials distributed at the meeting, as provided in Subsection (4)(e)(ii); and

(iii) within three business days after holding an open meeting, make an audio recording of the open meeting available to the public for listening.

(g) A public body that is not a state public body or a specified local public body shall:

(i) make pending minutes available to the public within a reasonable time after holding the open meeting that is the subject of the pending minutes;

(ii) within three business days after approving written minutes, make the approved minutes available to the public; and

(iii) within three business days after holding an open meeting, make an audio recording of the open meeting available to the public for listening.

(h) A public body shall establish and implement procedures for the public body's approval of the written minutes of each meeting.

(i) Approved minutes of an open meeting are the official record of the meeting.

(5) All or any part of an open meeting may be independently recorded by any person in attendance if the recording does not interfere with the conduct of the meeting.

(6) The written minutes or recording of an open meeting that are required to be retained permanently shall be maintained in or converted to a format that meets long-term records storage requirements.

(7) Notwithstanding Subsection (1), a recording is not required to be kept of:

(a) an open meeting that is a site visit or a traveling tour, if no vote or action is taken by the public body; or

(b) an open meeting of a local district under Title 17B, Limited Purpose Local Government Entities - Local Districts, or special service district under Title 17D, Chapter 1, Special Service District Act, if the district's annual budgeted expenditures for all funds, excluding capital expenditures and debt service, are $50,000 or less.

Section 140. Section 53-1-203 is amended to read:

53-1-203. Creation of Administrative Services Division -- Appointment of director -- Qualifications -- Term -- Compensation.

(1) There is created within the department the Administrative Services Division.

(2) The division shall be administered by a director appointed by the commissioner with the approval of the governor.

(3) The director is the executive and administrative head of the division and shall be experienced in administration and possess additional qualifications as determined by the commissioner and as provided by law.

(4) The director acts under the supervision and control of the commissioner and may be removed from his position at the will of the commissioner.

(5) The director shall receive compensation as provided by Title [~~67~~] 63A, Chapter [~~19~~] 17, Utah State Personnel Management Act.

Section 141. Section 53-1-303 is amended to read:

53-1-303. Creation of Management Information Services Division -- Appointment of director -- Qualifications -- Term -- Compensation.

(1) There is created within the department the Management Information Services Division.

(2) The division shall be administered by a director appointed by the commissioner with the approval of the governor.

(3) The director is the executive and administrative head of the division and shall be experienced in administration and possess additional qualifications as determined by the commissioner and as provided by law.

(4) The director acts under the supervision and control of the commissioner and may be removed from his position at the will of the commissioner.

(5) The director shall receive compensation as provided by Title [~~67~~] 63A, Chapter [~~19~~] 17, Utah State Personnel Management Act.

Section 142. Section 53-2a-103 is amended to read:

53-2a-103. Division of Emergency Management -- Creation -- Director -- Appointment -- Term -- Compensation.

(1) There is created within the Department of Public Safety the Division of Emergency Management.

(2) The division shall be administered by a director appointed by the commissioner with the approval of the governor.

(3) The director is the executive and administrative head of the division and shall be experienced in administration and possess additional qualifications as determined by the commissioner and as provided by law.

(4) The director acts under the supervision and control of the commissioner and may be removed from the position at the will of the commissioner.

(5) The director shall receive compensation as provided by Title [~~67~~] 63A, Chapter [~~19~~] 17, Utah State Personnel Management Act.

Section 143. Section 53-3-103 is amended to read:

53-3-103. Driver License Division -- Creation -- Director -- Appointment -- Term -- Compensation.

(1) There is created within the department the Driver License Division.

(2) The division shall be administered by a director appointed by the commissioner with the approval of the governor.

(3) The director is the executive and administrative head of the division and shall be experienced in administration and possess additional qualifications as determined by the commissioner and as provided by law.

(4) The director acts under the supervision and control of the commissioner and may be removed from his position at the will of the commissioner.

(5) The director shall receive compensation as provided by Title [~~67~~] 63A, Chapter [~~19~~] 17, Utah State Personnel Management Act.

Section 144. Section 53-7-103 is amended to read:

53-7-103. State Fire Marshal Division -- Creation -- State fire marshal -- Appointment, qualifications, duties, and compensation.

(1) There is created within the department the State Fire Marshal Division.

(2) (a) The director of the division is the state fire marshal, who shall be appointed by the commissioner upon the recommendation of the Utah Fire Prevention Board created in Section 53-7-203 and with the approval of the governor.

(b) The state fire marshal is the executive and administrative head of the division, and shall be qualified by experience and education to:

(i) enforce the state fire code;

(ii) enforce rules made under this chapter; and

(iii) perform the duties prescribed by the commissioner.

(3) The state fire marshal acts under the supervision and control of the commissioner and may be removed from the position at the will of the commissioner.

(4) The state fire marshal shall:

(a) enforce the state fire code and rules made under this chapter in accordance with Section 53-7-104;

(b) complete the duties assigned by the commissioner;

(c) examine plans and specifications for school buildings, as required by Section 53E-3-706;

(d) approve criteria established by the state superintendent for building inspectors;

(e) promote and support injury prevention public education programs; and

(f) perform all other duties provided in this chapter.

(5) The state fire marshal shall receive compensation as provided by Title [~~67~~] 63A, Chapter [~~19~~] 17, Utah State Personnel Management Act.

Section 145. Section 53-8-103 is amended to read:

53-8-103. Utah Highway Patrol Division -- Creation -- Appointment of superintendent -- Powers -- Qualifications -- Term -- Compensation.

(1) There is created the Utah Highway Patrol Division.

(2) The director of the division shall be the superintendent appointed by the commissioner with the approval of the governor.

(3) The superintendent is the executive and administrative head of the division and shall be experienced in administration and possess additional qualifications as determined by the commissioner.

(4) The superintendent acts under the supervision and control of the commissioner and may be removed from his position at the will of the commissioner.

(5) The superintendent shall receive compensation as provided by Title [~~67~~] 63A, Chapter [~~19~~] 17, Utah State Personnel Management Act.

Section 146. Section 53-10-103 is amended to read:

53-10-103. Division -- Creation -- Director appointment and qualifications.

(1) There is created within the department the Criminal Investigations and Technical Services Division.

(2) The division shall be administered by a director appointed by the commissioner with the approval of the governor.

(3) The director is the executive and administrative head of the division and shall be experienced in administration and possess additional qualifications as determined by the commissioner and as provided by law.

(4) The director acts under the supervision and control of the commissioner and may be removed from his position at the will of the commissioner.

(5) The director shall receive compensation as provided by Title [~~67~~] 63A, Chapter [~~19~~] 17, Utah State Personnel Management Act.

Section 147. Section 53-10-201 is amended to read:

53-10-201. Bureau of Criminal Identification -- Creation -- Bureau Chief appointment, qualifications, and compensation.

(1) There is created within the division the Bureau of Criminal Identification.

(2) The bureau shall be administered by a bureau chief appointed by the division director with the approval of the commissioner.

(3) The bureau chief shall be experienced in administration and possess additional qualifications as determined by the commissioner or division director and as provided by law.

(4) The bureau chief acts under the supervision and control of the division director and may be removed from his position at the will of the commissioner.

(5) The bureau chief shall receive compensation as provided by Title [~~67~~] 63A, Chapter [~~19~~] 17, Utah State Personnel Management Act.

Section 148. Section 53-10-301 is amended to read:

53-10-301. State Bureau of Investigation -- Creation -- Bureau chief appointment, qualifications, and compensation.

(1) There is created within the division the State Bureau of Investigation.

(2) The bureau shall be administered by a bureau chief appointed by the division director with the approval of the commissioner.

(3) The bureau chief shall be experienced in administration and possess additional qualifications as determined by the division director and as provided by law.

(4) The bureau chief acts under the supervision and control of the division director and may be removed from his position at the will of the commissioner.

(5) The bureau chief shall receive compensation as provided by Title [~~67~~] 63A, Chapter [~~19~~] 17, Utah State Personnel Management Act.

Section 149. Section 53-10-401 is amended to read:

53-10-401. Bureau of Forensic Services -- Creation -- Bureau Chief appointment, qualifications, and compensation.

(1) There is created within the division the Bureau of Forensic Services.

(2) The bureau shall be administered by a bureau chief appointed by the division director with the approval of the commissioner.

(3) The bureau chief shall be experienced in administration of criminal justice and possess additional qualifications as determined by the commissioner or division director and as provided by law.

(4) The bureau chief acts under the supervision and control of the division director and may be removed from his position at the will of the commissioner.

(5) The bureau chief shall receive compensation as provided by [~~Title 67, Chapter 19~~] Title 63A, Chapter 17, Utah State Personnel Management Act.

Section 150. Section 53-13-114 is amended to read:

53-13-114. Off-duty peace officer working as a security officer.

A peace officer may engage in off-duty employment as a security officer under Section 58-63-304 only if:

(1) the law enforcement agency employing the peace officer:

(a) has a written policy regarding peace officer employees working while off-duty as security officers; and

(b) the policy under Subsection (1)(a) is:

(i) posted and publicly available on the appropriate city, county, or state website; or

(ii) posted on the Utah Public Notice Website created in Section [~~63F-1-701~~] 63A-16-601 if the law enforcement agency does not have access to a website under Subsection (1)(b)(i).

(2) the agency's chief administrative officer, or that officer's designee, provides written authorization for an off-duty peace officer to work as a security officer; and

(3) the business or entity employing the off-duty peace officer to work as a security officer complies with state and federal income reporting and withholding requirements regarding the off-duty officer's wages.

Section 151. Section 53B-7-101.5 is amended to read:

53B-7-101.5. Proposed tuition increases -- Notice -- Hearings.

(1) If an institution within the State System of Higher Education listed in Section 53B-1-102 considers increasing tuition rates for undergraduate students in the process of preparing or implementing its budget, it shall hold a meeting to receive public input and response on the issue.

(2) The institution shall advertise the hearing required under Subsection (1) using the following procedure:

(a) The institution shall advertise its intent to consider an increase in student tuition rates:

(i) in the institution's student newspaper twice during a period of 10 days prior to the meeting; and

(ii) on the Utah Public Notice Website created in Section [~~63F-1-701~~] 63A-16-601, for 10 days immediately before the meeting.

(b) The advertisement shall state that the institution will meet on a certain day, time, and place fixed in the advertisement, which shall not be less than seven days after the day the second advertisement is published, for the purpose of hearing comments regarding the proposed increase and to explain the reasons for the proposed increase.

(3) The form and content of the notice shall be substantially as follows:

"NOTICE OF PROPOSED TUITION INCREASE

The (name of the higher education institution) is proposing to increase student tuition rates. This would be an increase of _____ %, which is an increase of $_____ per semester for a full-time resident undergraduate student. All concerned students and citizens are invited to a public hearing on the proposed increase to be held at (meeting place) on (date) at (time)."

(4) (a) The institution shall provide the following information to those in attendance at the meeting required under Subsection (1):

(i) the current year's student enrollment for:

(A) the State System of Higher Education, if a systemwide increase is being considered; or

(B) the institution, if an increase is being considered for just a single institution;

(ii) total tuition revenues for the current school year;

(iii) projected student enrollment growth for the next school year and projected tuition revenue increases from that anticipated growth; and

(iv) a detailed accounting of how and where the increased tuition revenues would be spent.

(b) The enrollment and revenue data required under Subsection (4)(a) shall be broken down into majors or departments if the proposed tuition increases are department or major specific.

(5) If the institution does not make a final decision on the proposed tuition increase at the meeting, it shall announce the date, time, and place of the meeting where that determination shall be made.

Section 152. Section 53E-4-202 is amended to read:

53E-4-202. Core standards for Utah public schools.

(1) (a) In establishing minimum standards related to curriculum and instruction requirements under Section 53E-3-501, the state board shall, in consultation with local school boards, school superintendents, teachers, employers, and parents implement core standards for Utah public schools that will enable students to, among other objectives:

(i) communicate effectively, both verbally and through written communication;

(ii) apply mathematics; and

(iii) access, analyze, and apply information.

(b) Except as provided in this public education code, the state board may recommend but may not require a local school board or charter school governing board to use:

(i) a particular curriculum or instructional material; or

(ii) a model curriculum or instructional material.

(2) The state board shall, in establishing the core standards for Utah public schools:

(a) identify the basic knowledge, skills, and competencies each student is expected to acquire or master as the student advances through the public education system; and

(b) align with each other the core standards for Utah public schools and the assessments described in Section 53E-4-303.

(3) The basic knowledge, skills, and competencies identified pursuant to Subsection (2)(a) shall increase in depth and complexity from year to year and focus on consistent and continual progress within and between grade levels and courses in the basic academic areas of:

(a) English, including explicit phonics, spelling, grammar, reading, writing, vocabulary, speech, and listening; and

(b) mathematics, including basic computational skills.

(4) Before adopting core standards for Utah public schools, the state board shall:

(a) publicize draft core standards for Utah public schools on the state board's website and the Utah Public Notice website created under Section [~~63F-1-701~~] 63A-16-601;

(b) invite public comment on the draft core standards for Utah public schools for a period of not less than 90 days; and

(c) conduct three public hearings that are held in different regions of the state on the draft core standards for Utah public schools.

(5) LEA governing boards shall design their school programs, that are supported by generally accepted scientific standards of evidence, to focus on the core standards for Utah public schools with the expectation that each program will enhance or help achieve mastery of the core standards for Utah public schools.

(6) Except as provided in Section 53G-10-402, each school may select instructional materials and methods of teaching, that are supported by generally accepted scientific standards of evidence, that the school considers most appropriate to meet the core standards for Utah public schools.

(7) The state may exit any agreement, contract, memorandum of understanding, or consortium that cedes control of the core standards for Utah public schools to any other entity, including a federal agency or consortium, for any reason, including:

(a) the cost of developing or implementing the core standards for Utah public schools;

(b) the proposed core standards for Utah public schools are inconsistent with community values; or

(c) the agreement, contract, memorandum of understanding, or consortium:

(i) was entered into in violation of Chapter 3, Part 8, Implementing Federal or National Education Programs, or Title 63J, Chapter 5, Federal Funds Procedures Act;

(ii) conflicts with Utah law;

(iii) requires Utah student data to be included in a national or multi-state database;

(iv) requires records of teacher performance to be included in a national or multi-state database; or

(v) imposes curriculum, assessment, or data tracking requirements on home school or private school students.

(8) The state board shall submit a report in accordance with Section 53E-1-203 on the development and implementation of the core standards for Utah public schools, including the time line established for the review of the core standards for Utah public schools by a standards review committee and the recommendations of a standards review committee established under Section 53E-4-203.

Section 153. Section 53E-8-203 is amended to read:

53E-8-203. Applicability of statutes to the Utah Schools for the Deaf and the Blind.

(1) The Utah Schools for the Deaf and the Blind is subject to this public education code and other state laws applicable to public schools, except as otherwise provided by this chapter.

(2) The following provisions of this public education code do not apply to the Utah Schools for the Deaf and the Blind:

(a) provisions governing the budgets, funding, or finances of school districts or charter schools; and

(b) provisions governing school construction.

(3) Except as provided in this chapter, the Utah Schools for the Deaf and the Blind is subject to state laws governing state agencies, including:

(a) Title 51, Chapter 5, Funds Consolidation Act;

(b) Title 51, Chapter 7, State Money Management Act;

(c) Title 52, Chapter 4, Open and Public Meetings Act;

(d) Title 63A, Utah [~~Administrative Services~~] Government Operations Code;

(e) Title 63G, Chapter 2, Government Records Access and Management Act;

(f) Title 63G, Chapter 4, Administrative Procedures Act;

(g) Title 63G, Chapter 6a, Utah Procurement Code;

(h) Title 63J, Chapter 1, Budgetary Procedures Act;

(i) Title 63J, Chapter 2, Revenue Procedures and Control Act; and

(j) Title [~~67~~] 63A, Chapter [~~19~~] 17, Utah State Personnel Management Act.

Section 154. Section 53G-3-204 is amended to read:

53G-3-204. Notice before preparing or amending a long-range plan or acquiring certain property.

(1) As used in this section:

(a) "Affected entity" means each county, municipality, local district under Title 17B, Limited Purpose Local Government Entities - Local Districts, special service district under Title 17D, Chapter 1, Special Service District Act, interlocal cooperation entity established under Title 11, Chapter 13, Interlocal Cooperation Act, and specified public utility:

(i) whose services or facilities are likely to require expansion or significant modification because of an intended use of land; or

(ii) that has filed with the school district a copy of the general or long-range plan of the county, municipality, local district, special service district, school district, interlocal cooperation entity, or specified public utility.

(b) "Specified public utility" means an electrical corporation, gas corporation, or telephone corporation, as those terms are defined in Section 54-2-1.

(2) (a) If a school district located in a county of the first or second class prepares a long-range plan regarding its facilities proposed for the future or amends an already existing long-range plan, the school district shall, before preparing a long-range plan or amendments to an existing long-range plan, provide written notice, as provided in this section, of its intent to prepare a long-range plan or to amend an existing long-range plan.

(b) Each notice under Subsection (2)(a) shall:

(i) indicate that the school district intends to prepare a long-range plan or to amend a long-range plan, as the case may be;

(ii) describe or provide a map of the geographic area that will be affected by the long-range plan or amendments to a long-range plan;

(iii) be:

(A) sent to each county in whose unincorporated area and each municipality in whose boundaries is located the land on which the proposed long-range plan or amendments to a long-range plan are expected to indicate that the proposed facilities will be located;

(B) sent to each affected entity;

(C) sent to the Automated Geographic Reference Center created in Section [~~63F-1-506~~] 63A-16-505;

(D) sent to each association of governments, established pursuant to an interlocal agreement under Title 11, Chapter 13, Interlocal Cooperation Act, of which a county or municipality described in Subsection (2)(b)(iii)(A) is a member; and

(E) placed on the Utah Public Notice Website created under Section [~~63F-1-701~~] 63A-16-601;

(iv) with respect to the notice to counties and municipalities described in Subsection (2)(b)(iii)(A) and affected entities, invite them to provide information for the school district to consider in the process of preparing, adopting, and implementing the long-range plan or amendments to a long-range plan concerning:

(A) impacts that the use of land proposed in the proposed long-range plan or amendments to a long-range plan may have on the county, municipality, or affected entity; and

(B) uses of land that the county, municipality, or affected entity is planning or considering that may conflict with the proposed long-range plan or amendments to a long-range plan; and

(v) include the address of an Internet website, if the school district has one, and the name and telephone number of a person where more information can be obtained concerning the school district's proposed long-range plan or amendments to a long-range plan.

(3) (a) Except as provided in Subsection (3)(d), each school district intending to acquire real property in a county of the first or second class for the purpose of expanding the district's infrastructure or other facilities shall provide written notice, as provided in this Subsection (3), of its intent to acquire the property if the intended use of the property is contrary to:

(i) the anticipated use of the property under the county or municipality's general plan; or

(ii) the property's current zoning designation.

(b) Each notice under Subsection (3)(a) shall:

(i) indicate that the school district intends to acquire real property;

(ii) identify the real property; and

(iii) be sent to:

(A) each county in whose unincorporated area and each municipality in whose boundaries the property is located; and

(B) each affected entity.

(c) A notice under this Subsection (3) is a protected record as provided in Subsection 63G-2-305(8).

(d) (i) The notice requirement of Subsection (3)(a) does not apply if the school district previously provided notice under Subsection (2) identifying the general location within the municipality or unincorporated part of the county where the property to be acquired is located.

(ii) If a school district is not required to comply with the notice requirement of Subsection (3)(a) because of application of Subsection (3)(d)(i), the school district shall provide the notice specified in Subsection (3)(a) as soon as practicable after its acquisition of the real property.

Section 155. Section 53G-4-204 is amended to read:

53G-4-204. Compensation for services -- Additional per diem -- Approval of expenses.

(1) Each member of a local school board, except the student member, shall receive compensation for services and for necessary expenses in accordance with compensation schedules adopted by the local school board in accordance with the provisions of this section.

(2) Beginning on July 1, 2007, if a local school board decides to adopt or amend its compensation schedules, the local school board shall set a time and place for a public hearing at which all interested persons shall be given an opportunity to be heard.

(3) Notice of the time, place, and purpose of the meeting shall be provided at least seven days prior to the meeting by:

(a) (i) publication at least once in a newspaper published in the county where the school district is situated and generally circulated within the school district; and

(ii) publication on the Utah Public Notice Website created in Section [~~63F-1-701~~] 63A-16-601; and

(b) posting a notice:

(i) at each school within the school district;

(ii) in at least three other public places within the school district; and

(iii) on the Internet in a manner that is easily accessible to citizens that use the Internet.

(4) After the conclusion of the public hearing, the local school board may adopt or amend its compensation schedules.

(5) Each member shall submit an itemized account of necessary travel expenses for local school board approval.

(6) A local school board may, without following the procedures described in Subsections (2) and (3), continue to use the compensation schedule that was in effect prior to July 1, 2007, until, at the discretion of the local school board, the compensation schedule is amended or a new compensation schedule is adopted.

Section 156. Section 53G-4-402 is amended to read:

53G-4-402. Powers and duties generally.

(1) A local school board shall:

(a) implement the core standards for Utah public schools using instructional materials that best correlate to the core standards for Utah public schools and graduation requirements;

(b) administer tests, required by the state board, which measure the progress of each student, and coordinate with the state superintendent and state board to assess results and create plans to improve the student's progress, which shall be submitted to the state board for approval;

(c) use progress-based assessments as part of a plan to identify schools, teachers, and students that need remediation and determine the type and amount of federal, state, and local resources to implement remediation;

(d) develop early warning systems for students or classes failing to make progress;

(e) work with the state board to establish a library of documented best practices, consistent with state and federal regulations, for use by the local districts;

(f) implement training programs for school administrators, including basic management training, best practices in instructional methods, budget training, staff management, managing for learning results and continuous improvement, and how to help every child achieve optimal learning in basic academic subjects; and

(g) ensure that the local school board meets the data collection and reporting standards described in Section 53E-3-501.

(2) Local school boards shall spend Minimum School Program funds for programs and activities for which the state board has established minimum standards or rules under Section 53E-3-501.

(3) (a) A local school board may purchase, sell, and make improvements on school sites, buildings, and equipment and construct, erect, and furnish school buildings.

(b) School sites or buildings may only be conveyed or sold on local school board resolution affirmed by at least two-thirds of the members.

(4) (a) A local school board may participate in the joint construction or operation of a school attended by children residing within the district and children residing in other districts either within or outside the state.

(b) Any agreement for the joint operation or construction of a school shall:

(i) be signed by the president of the local school board of each participating district;

(ii) include a mutually agreed upon pro rata cost; and

(iii) be filed with the state board.

(5) A local school board may establish, locate, and maintain elementary, secondary, and applied technology schools.

(6) Except as provided in Section 53E-3-905, a local school board may enroll children in school who are at least five years of age before September 2 of the year in which admission is sought.

(7) A local school board may establish and support school libraries.

(8) A local school board may collect damages for the loss, injury, or destruction of school property.

(9) A local school board may authorize guidance and counseling services for children and their parents before, during, or following enrollment of the children in schools.

(10) (a) A local school board shall administer and implement federal educational programs in accordance with Title 53E, Chapter 3, Part 8, Implementing Federal or National Education Programs.

(b) Federal funds are not considered funds within the school district budget under Chapter 7, Part 3, Budgets.

(11) (a) A local school board may organize school safety patrols and adopt policies under which the patrols promote student safety.

(b) A student appointed to a safety patrol shall be at least 10 years old and have written parental consent for the appointment.

(c) Safety patrol members may not direct vehicular traffic or be stationed in a portion of a highway intended for vehicular traffic use.

(d) Liability may not attach to a school district, its employees, officers, or agents or to a safety patrol member, a parent of a safety patrol member, or an authorized volunteer assisting the program by

virtue of the organization, maintenance, or operation of a school safety patrol.

(12) (a) A local school board may on its own behalf, or on behalf of an educational institution for which the local school board is the direct governing body, accept private grants, loans, gifts, endowments, devises, or bequests that are made for educational purposes.

(b) These contributions are not subject to appropriation by the Legislature.

(13) (a) A local school board may appoint and fix the compensation of a compliance officer to issue citations for violations of Subsection 76-10-105(2)(b).

(b) A person may not be appointed to serve as a compliance officer without the person's consent.

(c) A teacher or student may not be appointed as a compliance officer.

(14) A local school board shall adopt bylaws and policies for the local school board's own procedures.

(15) (a) A local school board shall make and enforce policies necessary for the control and management of the district schools.

(b) Local school board policies shall be in writing, filed, and referenced for public access.

(16) A local school board may hold school on legal holidays other than Sundays.

(17) (a) A local school board shall establish for each school year a school traffic safety committee to implement this Subsection (17).

(b) The committee shall be composed of one representative of:

(i) the schools within the district;

(ii) the Parent Teachers' Association of the schools within the district;

(iii) the municipality or county;

(iv) state or local law enforcement; and

(v) state or local traffic safety engineering.

(c) The committee shall:

(i) receive suggestions from school community councils, parents, teachers, and others and recommend school traffic safety improvements, boundary changes to enhance safety, and school traffic safety program measures;

(ii) review and submit annually to the Department of Transportation and affected municipalities and counties a child access routing plan for each elementary, middle, and junior high school within the district;

(iii) consult the Utah Safety Council and the Division of Family Health Services and provide training to all school children in kindergarten through grade 6, within the district, on school crossing safety and use; and

(iv) help ensure the district's compliance with rules made by the Department of Transportation under Section 41-6a-303.

(d) The committee may establish subcommittees as needed to assist in accomplishing its duties under Subsection (17)(c).

(18) (a) A local school board shall adopt and implement a comprehensive emergency response plan to prevent and combat violence in the local school board's public schools, on school grounds, on its school vehicles, and in connection with school-related activities or events.

(b) The plan shall:

(i) include prevention, intervention, and response components;

(ii) be consistent with the student conduct and discipline policies required for school districts under Chapter 11, Part 2, Miscellaneous Requirements;

(iii) require professional learning for all district and school building staff on what their roles are in the emergency response plan;

(iv) provide for coordination with local law enforcement and other public safety representatives in preventing, intervening, and responding to violence in the areas and activities referred to in Subsection (18)(a); and

(v) include procedures to notify a student, to the extent practicable, who is off campus at the time of a school violence emergency because the student is:

(A) participating in a school-related activity; or

(B) excused from school for a period of time during the regular school day to participate in religious instruction at the request of the student's parent.

(c) The state board, through the state superintendent, shall develop comprehensive emergency response plan models that local school boards may use, where appropriate, to comply with Subsection (18)(a).

(d) A local school board shall, by July 1 of each year, certify to the state board that its plan has been practiced at the school level and presented to and reviewed by its teachers, administrators, students, and their parents and local law enforcement and public safety representatives.

(19) (a) A local school board may adopt an emergency response plan for the treatment of sports-related injuries that occur during school sports practices and events.

(b) The plan may be implemented by each secondary school in the district that has a sports program for students.

(c) The plan may:

(i) include emergency personnel, emergency communication, and emergency equipment components;

(ii) require professional learning on the emergency response plan for school personnel who

are involved in sports programs in the district's secondary schools; and

(iii) provide for coordination with individuals and agency representatives who:

(A) are not employees of the school district; and

(B) would be involved in providing emergency services to students injured while participating in sports events.

(d) The local school board, in collaboration with the schools referred to in Subsection (19)(b), may review the plan each year and make revisions when required to improve or enhance the plan.

(e) The state board, through the state superintendent, shall provide local school boards with an emergency plan response model that local school boards may use to comply with the requirements of this Subsection (19).

(20) A local school board shall do all other things necessary for the maintenance, prosperity, and success of the schools and the promotion of education.

(21) (a) Before closing a school or changing the boundaries of a school, a local school board shall:

(i) at least 120 days before approving the school closure or school boundary change, provide notice to the following that the local school board is considering the closure or boundary change:

(A) parents of students enrolled in the school, using the same form of communication the local school board regularly uses to communicate with parents;

(B) parents of students enrolled in other schools within the school district that may be affected by the closure or boundary change, using the same form of communication the local school board regularly uses to communicate with parents; and

(C) the governing council and the mayor of the municipality in which the school is located;

(ii) provide an opportunity for public comment on the proposed school closure or school boundary change during at least two public local school board meetings; and

(iii) hold a public hearing as defined in Section 10-9a-103 and provide public notice of the public hearing as described in Subsection (21)(b).

(b) The notice of a public hearing required under Subsection (21)(a)(iii) shall:

(i) indicate the:

(A) school or schools under consideration for closure or boundary change; and

(B) the date, time, and location of the public hearing;

(ii) at least 10 days before the public hearing, be:

(A) published:

(I) in a newspaper of general circulation in the area; and

(II) on the Utah Public Notice Website created in Section [~~63F-1-701~~] 63A-16-601; and

(B) posted in at least three public locations within the municipality in which the school is located on the school district's official website, and prominently at the school; and

(iii) at least 30 days before the public hearing described in Subsection (21)(a)(iii), be provided as described in Subsections (21)(a)(i)(A), (B), and (C).

(22) A local school board may implement a facility energy efficiency program established under Title 11, Chapter 44, Performance Efficiency Act.

(23) A local school board may establish or partner with a certified youth court program, in accordance with Section 78A-6-1203, or establish or partner with a comparable restorative justice program, in coordination with schools in that district. A school may refer a student to youth court or a comparable restorative justice program in accordance with Section 53G-8-211.

Section 157. Section 53G-5-203 is amended to read:

53G-5-203. State Charter School Board -- Staff director -- Facilities.

(1) (a) The State Charter School Board, with the consent of the state superintendent, shall appoint a staff director for the State Charter School Board.

(b) The State Charter School Board shall have authority to remove the staff director with the consent of the state superintendent.

(c) The position of staff director is exempt from the career service provisions of Title [~~67~~] 63A, Chapter [~~19~~] 17, Utah State Personnel Management Act.

(2) The state superintendent shall provide space for staff of the State Charter School Board in facilities occupied by the state board or the state board's employees, with costs charged for the facilities equal to those charged other sections and divisions under the state board.

Section 158. Section 53G-5-504 is amended to read:

53G-5-504. Charter school closure.

(1) As used in this section, "receiving charter school" means a charter school that an authorizer permits under Subsection (13)(a), to accept enrollment applications from students of a closing charter school.

(2) If a charter school is closed for any reason, including the termination of a charter agreement in accordance with Section 53G-5-503 or the conversion of a charter school to a private school, the provisions of this section apply.

(3) A decision to close a charter school is made:

(a) when a charter school authorizer approves a motion to terminate described in Subsection 53G-5-503(2)(c);

(b) when the state board takes final action described in Subsection 53G-5-503(2)(d)(ii); or

(c) when a charter school provides notice to the charter school's authorizer that the charter school is relinquishing the charter school's charter.

(4) (a) No later than 10 days after the day on which a decision to close a charter school is made, the charter school shall:

(i) provide notice to the following, in writing, of the decision:

(A) if the charter school made the decision to close, the charter school's authorizer;

(B) the State Charter School Board;

(C) if the state board did not make the decision to close, the state board;

(D) parents of students enrolled at the charter school;

(E) the charter school's creditors;

(F) the charter school's lease holders;

(G) the charter school's bond issuers;

(H) other entities that may have a claim to the charter school's assets;

(I) the school district in which the charter school is located and other charter schools located in that school district; and

(J) any other person that the charter school determines to be appropriate; and

(ii) post notice of the decision on the Utah Public Notice Website, created in Section [~~63F-1-701~~] 63A-16-601.

(b) The notice described in Subsection (4)(a) shall include:

(i) the proposed date of the charter school closure;

(ii) the charter school's plans to help students identify and transition into a new school; and

(iii) contact information for the charter school during the transition.

(5) No later than 10 days after the day on which a decision to close a charter school is made, the closing charter school shall:

(a) designate a custodian for the protection of student files and school business records;

(b) designate a base of operation that will be maintained throughout the charter school closing, including:

(i) an office;

(ii) hours of operation;

(iii) operational telephone service with voice messaging stating the hours of operation; and

(iv) a designated individual to respond to questions or requests during the hours of operation;

(c) assure that the charter school will maintain private insurance coverage or risk management coverage for covered claims that arise before closure, throughout the transition to closure and for a period following closure of the charter school as specified by the charter school's authorizer;

(d) assure that the charter school will complete by the set deadlines for all fiscal years in which funds are received or expended by the charter school a financial audit and any other procedure required by state board rule;

(e) inventory all assets of the charter school; and

(f) list all creditors of the charter school and specifically identify secured creditors and assets that are security interests.

(6) The closing charter school's authorizer shall oversee the closing charter school's compliance with Subsection (5).

(7) (a) A closing charter school shall return any assets remaining, after all liabilities and obligations of the closing charter school are paid or discharged, to the closing charter school's authorizer.

(b) The closing charter school's authorizer shall liquidate assets at fair market value or assign the assets to another public school.

(8) The closing charter school's authorizer shall oversee liquidation of assets and payment of debt in accordance with state board rule.

(9) The closing charter school shall:

(a) comply with all state and federal reporting requirements; and

(b) submit all documentation and complete all state and federal reports required by the closing charter school's authorizer or the state board, including documents to verify the closing charter school's compliance with procedural requirements and satisfaction of all financial issues.

(10) When the closing charter school's financial affairs are closed out and dissolution is complete, the authorizer shall ensure that a final audit of the charter school is completed.

(11) On or before January 1, 2017, the state board shall, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and after considering suggestions from charter school authorizers, make rules that:

(a) provide additional closure procedures for charter schools; and

(b) establish a charter school closure process.

(12) (a) Upon termination of the charter school's charter agreement:

(i) notwithstanding provisions to the contrary in Title 16, Chapter 6a, Part 14, Dissolution, the nonprofit corporation under which the charter school is organized and managed may be unilaterally dissolved by the authorizer; and

(ii) the net assets of the charter school shall revert to the authorizer as described in Subsection (7).

(b) The charter school and the authorizer shall mutually agree in writing on the effective date and time of the dissolution described in Subsection (12)(a).

(c) The effective date and time of dissolution described in Subsection (12)(b) may not exceed five years after the date of the termination of the charter agreement.

(13) Notwithstanding the provisions of Chapter 6, Part 5, Charter School Enrollment:

(a) an authorizer may permit a specified number of students from a closing charter school to be enrolled in another charter school, if the receiving charter school:

(i) (A) is authorized by the same authorizer as the closing charter school; or

(B) is authorized by a different authorizer and the authorizer of the receiving charter school approves the increase in enrollment; and

(ii) agrees to accept enrollment applications from students of the closing charter school;

(b) a receiving charter school shall give new enrollment preference to applications from students of the closing charter school in the first school year in which the closing charter school is not operational; and

(c) a receiving charter school's enrollment capacity is increased by the number of students enrolled in the receiving charter school from the closing charter school under this Subsection (13).

(14) A member of the governing board or staff of the receiving charter school that is also a member of the governing board of the receiving charter school's authorizer, shall recuse himself or herself from a decision regarding the enrollment of students from a closing charter school as described in Subsection (13).

Section 159. Section 53G-7-1105 is amended to read:

53G-7-1105. Association budgets.

(1) An association shall:

(a) adopt a budget in accordance with this section; and

(b) use uniform budgeting, accounting, and auditing procedures and forms, which shall be in accordance with generally accepted accounting principles or auditing standards.

(2) An association budget officer or executive director shall annually prepare a tentative budget, with supporting documentation, to be submitted to the governing body.

(3) The tentative budget and supporting documents shall include the following items:

(a) the revenues and expenditures of the preceding fiscal year;

(b) the estimated revenues and expenditures of the current fiscal year;

(c) a detailed estimate of the essential expenditures for all purposes for the next succeeding fiscal year; and

(d) the estimated financial condition of the association by funds at the close of the current fiscal year.

(4) The tentative budget shall be filed with the governing body 15 days, or earlier, before the date of the tentative budget's proposed adoption by the governing body.

(5) The governing body shall adopt a budget.

(6) Before the adoption or amendment of a budget, the governing body shall hold a public hearing on the proposed budget or budget amendment.

(7) (a) In addition to complying with Title 52, Chapter 4, Open and Public Meetings Act, in regards to the public hearing described in Subsection (6), at least 10 days before the public hearing, a governing body shall:

(i) publish a notice of the public hearing electronically in accordance with Section [~~63F-1-701~~] 63A-16-601; and

(ii) post the proposed budget on the association's Internet website.

(b) A notice of a public hearing on an association's proposed budget shall include information on how the public may access the proposed budget as provided in Subsection (7)(a).

(8) No later than September 30 of each year, the governing body shall file a copy of the adopted budget with the state auditor and the state board.

Section 160. Section 54-3-28 is amended to read:

54-3-28. Notice required of certain public utilities before preparing or amending a long-range plan or acquiring certain property.

(1) As used in this section:

(a) (i) "Affected entity" means each county, municipality, local district under Title 17B, Limited Purpose Local Government Entities - Local Districts, special service district, school district, interlocal cooperation entity established under Title 11, Chapter 13, Interlocal Cooperation Act, and specified public utility:

(A) whose services or facilities are likely to require expansion or significant modification because of expected uses of land under a proposed long-range plan or under proposed amendments to a long-range plan; or

(B) that has filed with the specified public utility a copy of the general or long-range plan of the county, municipality, local district, special service district, school district, interlocal cooperation entity, or specified public utility.

(ii) "Affected entity" does not include the specified public utility that is required under Subsection (2) to provide notice.

(b) "Specified public utility" means an electrical corporation, gas corporation, or telephone corporation, as those terms are defined in Section 54-2-1.

(2) (a) If a specified public utility prepares a long-range plan regarding its facilities proposed for the future in a county of the first or second class or amends an already existing long-range plan, the specified public utility shall, before preparing a long-range plan or amendments to an existing long-range plan, provide written notice, as provided in this section, of its intent to prepare a long-range plan or to amend an existing long-range plan.

(b) Each notice under Subsection (2) shall:

(i) indicate that the specified public utility intends to prepare a long-range plan or to amend a long-range plan, as the case may be;

(ii) describe or provide a map of the geographic area that will be affected by the long-range plan or amendments to a long-range plan;

(iii) be sent to:

(A) each county in whose unincorporated area and each municipality in whose boundaries is located the land on which the proposed long-range plan or amendments to a long-range plan are expected to indicate that the proposed facilities will be located;

(B) each affected entity;

(C) the Automated Geographic Reference Center created in Section [~~63F-1-506~~] 63A-16-505;

(D) each association of governments, established pursuant to an interlocal agreement under Title 11, Chapter 13, Interlocal Cooperation Act, of which a county or municipality described in Subsection (2)(b)(iii)(A) is a member; and

(E) the state planning coordinator appointed under Section 63J-4-202;

(iv) with respect to the notice to counties and municipalities described in Subsection (2)(b)(iii)(A) and affected entities, invite them to provide information for the specified public utility to consider in the process of preparing, adopting, and implementing the long-range plan or amendments to a long-range plan concerning:

(A) impacts that the use of land proposed in the proposed long-range plan or amendments to a long-range plan may have on the county, municipality, or affected entity; and

(B) uses of land that the county, municipality, or affected entity is planning or considering that may conflict with the proposed long-range plan or amendments to a long-range plan; and

(v) include the address of an Internet website, if the specified public utility has one, and the name and telephone number of a person where more information can be obtained concerning the specified public utility's proposed long-range plan or amendments to a long-range plan.

(3) (a) Except as provided in Subsection (3)(d), each specified public utility intending to acquire real property in a county of the first or second class for the purpose of expanding its infrastructure or other facilities used for providing the services that the specified public utility is authorized to provide shall provide written notice, as provided in this Subsection (3), of its intent to acquire the property if the intended use of the property is contrary to:

(i) the anticipated use of the property under the county or municipality's general plan; or

(ii) the property's current zoning designation.

(b) Each notice under Subsection (3)(a) shall:

(i) indicate that the specified public utility intends to acquire real property;

(ii) identify the real property; and

(iii) be sent to:

(A) each county in whose unincorporated area and each municipality in whose boundaries the property is located; and

(B) each affected entity.

(c) A notice under this Subsection (3) is a protected record as provided in Subsection 63G-2-305(8).

(d) (i) The notice requirement of Subsection (3)(a) does not apply if the specified public utility previously provided notice under Subsection (2) identifying the general location within the municipality or unincorporated part of the county where the property to be acquired is located.

(ii) If a specified public utility is not required to comply with the notice requirement of Subsection (3)(a) because of application of Subsection (3)(d)(i), the specified public utility shall provide the notice specified in Subsection (3)(a) as soon as practicable after its acquisition of the real property.

Section 161. Section 54-8-10 is amended to read:

54-8-10. Public hearing -- Notice -- Publication.

(1) Such notice shall be:

(a) (i) published:

(A) in full one time in a newspaper of general circulation in the district; or

(B) if there be no such newspaper, in a newspaper of general circulation in the county, city, or town in which the district is located; and

(ii) published on the Utah Public Notice Website created in Section [~~63F-1-701~~] 63A-16-601; and

(b) posted in not less than three public places in the district.

(2) A copy of the notice shall be mailed by certified mail to the last known address of each owner of land within the proposed district whose property will be assessed for the cost of the improvement.

(3) The address to be used for that purpose shall be that last appearing on the real property assessment rolls of the county in which the property is located.

(4) In addition, a copy of the notice shall be addressed to "Owner" and shall be so mailed addressed to the street number of each piece of improved property to be affected by the assessment.

(5) Mailed notices and the published notice shall state where a copy of the resolution creating the district will be available for inspection by any interested parties.

Section 162. Section 54-8-16 is amended to read:

54-8-16. Notice of assessment -- Publication.

(1) After the preparation of a resolution under Section 54-8-14, notice of a public hearing on the proposed assessments shall be given.

(2) The notice described in Subsection (1) shall be:

(a) published:

(i) one time in a newspaper in which the first notice of hearing was published at least 20 days before the date fixed for the hearing; and

(ii) on the Utah Public Notice Website created in Section [~~63F-1-701~~] 63A-16-601, for at least 20 days before the date fixed for the hearing; and

(b) mailed by certified mail not less than 15 days prior to the date fixed for such hearing to each owner of real property whose property will be assessed for part of the cost of the improvement at the last known address of such owner using for such purpose the names and addresses appearing on the last completed real property assessment rolls of the county wherein said affected property is located.

(3) In addition, a copy of such notice shall be addressed to "Owner" and shall be so mailed addressed to the street number of each piece of improved property to be affected by such assessment.

(4) Each notice shall state that at the specified time and place, the governing body will hold a public hearing upon the proposed assessments and shall state that any owner of any property to be assessed pursuant to the resolution will be heard on the question of whether his property will be benefited by the proposed improvement to the amount of the proposed assessment against his property and whether the amount assessed against his property constitutes more than his proper proportional share of the total cost of the improvement.

(5) The notice shall further state where a copy of the resolution proposed to be adopted levying the assessments against all real property in the district will be on file for public inspection, and that subject to such changes and corrections therein as may be made by the governing body, it is proposed to adopt the resolution at the conclusion of the hearing.

(6) A published notice shall describe the boundaries or area of the district with sufficient particularity to permit each owner of real property therein to ascertain that his property lies in the district.

(7) The mailed notice may refer to the district by name and date of creation and shall state the amount of the assessment proposed to be levied against the real property of the person to whom the notice is mailed.

Section 163. Section 57-11-11 is amended to read:

57-11-11. Rules of division -- Filing advertising material -- Injunctions -- Intervention by division in suits -- General powers of division.

(1) (a) The division shall prescribe reasonable rules which shall be adopted, amended, or repealed only after a public hearing.

(b) The division shall:

(i) publish notice of the public hearing described in Subsection (1)(a):

(A) once in a newspaper or newspapers with statewide circulation and at least 20 days before the hearing; and

(B) on the Utah Public Notice Website created in Section [~~63F-1-701~~] 63A-16-601, for at least 20 days before the hearing; and

(ii) send a notice to a nonprofit organization which files a written request for notice with the division at least 20 days prior to the hearing.

(2) The rules shall include but need not be limited to:

(a) provisions for advertising standards to assure full and fair disclosure; and

(b) provisions for escrow or trust agreements, performance bonds, or other means reasonably necessary to assure that all improvements referred to in the application for registration and advertising will be completed and that purchasers will receive the interest in land contracted for.

(3) These provisions, however, shall not be required if the city or county in which the subdivision is located requires similar means of assurance of a nature and in an amount no less adequate than is required under said rules:

(a) provisions for operating procedures;

(b) provisions for a shortened form of registration in cases where the division determines that the purposes of this act do not require a subdivision to be registered pursuant to an application containing all the information required by Section 57-11-6 or do not require that the public offering statement contain all the information required by Section 57-11-7; and

(c) other rules necessary and proper to accomplish the purpose of this chapter.

(4) The division by rule or order, after reasonable notice, may require the filing of advertising material relating to subdivided lands prior to its distribution, provided that the division must approve or reject any advertising material within 15 days from the receipt thereof or the material shall be considered approved.

(5) If it appears that a person has engaged or is about to engage in an act or practice constituting a violation of a provision of this chapter or a rule or order hereunder, the agency, with or without prior administrative proceedings, may bring an action in the district court of the district where said person maintains his residence or a place of business or where said act or practice has occurred or is about to occur, to enjoin the acts or practices and to enforce compliance with this chapter or any rule or order hereunder. Upon proper showing, injunctive relief or temporary restraining orders shall be granted, and a receiver or conservator may be appointed. The division shall not be required to post a bond in any court proceedings.

(6) The division shall be allowed to intervene in a suit involving subdivided lands, either as a party or as an amicus curiae, where it appears that the interpretation or constitutionality of any provision of law will be called into question. In any suit by or against a subdivider involving subdivided lands, the subdivider promptly shall furnish the agency notice of the suit and copies of all pleadings. Failure to do so may, in the discretion of the division, constitute grounds for the division withholding any approval required by this chapter.

(7) The division may:

(a) accept registrations filed in other states or with the federal government;

(b) contract with public agencies or qualified private persons in this state or other jurisdictions to perform investigative functions; and

(c) accept grants-in-aid from any source.

(8) The division shall cooperate with similar agencies in other jurisdictions to establish uniform filing procedures and forms, uniform public offering statements, advertising standards, rules, and common administrative practices.

Section 164. Section 59-1-206 is amended to read:

59-1-206. Appointment of staff -- Executive director -- Compensation -- Administrative secretary -- Internal audit unit -- Appeals office staff -- Division directors -- Criminal tax investigators.

(1) The commission shall appoint the following persons who are qualified, knowledgeable, and experienced in matters relating to their respective positions, exempt under Title [~~67~~] 63A, Chapter [~~19~~] 17, Utah State Personnel Management Act, to serve at the pleasure of, and who are directly accountable to, the commission:

(a) in consultation with the governor and with the advice and consent of the Senate, an executive director;

(b) an administrative secretary;

(c) an internal audit unit; and

(d) an appeals staff.

(2) The governor shall establish the executive director's salary within the salary range fixed by the Legislature in Title 67, Chapter 22, State Officer Compensation.

(3) Division directors shall be appointed by the executive director subject to the approval of the commission. The division directors are exempt employees under Title [~~67~~] 63A, Chapter [~~19~~] 17, Utah State Personnel Management Act.

(4) (a) The executive director may with the approval of the commission employ additional staff necessary to perform the duties and responsibilities of the commission. These employees are subject to Title [~~67~~] 63A, Chapter [~~19~~] 17, Utah State Personnel Management Act.

(b) (i) The executive director may under Subsection (4)(a) employ criminal tax investigators to help the commission carry out its duties and responsibilities regarding criminal provisions of the state tax laws. The executive director may not employ more than eight criminal tax investigators at one time.

(ii) The executive director may designate investigators hired under this Subsection (4)(b) as special function officers, as defined in Section 53-13-105, to enforce the criminal provisions of the state tax laws.

(iii) Notwithstanding Section 49-15-201, any special function officer designated under this Subsection (4)(b) may not become or be designated as a member of the Public Safety Retirement Systems.

(5) The internal audit unit shall provide the following:

(a) an examination to determine the honesty and integrity of fiscal affairs, the accuracy and reliability of financial statements and reports, and the adequacy and effectiveness of financial controls to properly record and safeguard the acquisition, custody, and use of public funds;

(b) an examination to determine whether commission administrators have faithfully adhered to commission policies and legislative intent;

(c) an examination to determine whether the operations of the divisions and other units of the commission have been conducted in an efficient and effective manner;

(d) an examination to determine whether the programs administered by the divisions and other units of the commission have been effective in accomplishing intended objectives; and

(e) an examination to determine whether management control and information systems are

adequate and effective in assuring that commission programs are administered faithfully, efficiently, and effectively.

(6) The appeals office shall receive and hear appeals to the commission and shall conduct the hearings in compliance with formal written rules approved by the commission. The commission has final review authority over the appeals.

Section 165. Section 59-2-919 is amended to read:

59-2-919. Notice and public hearing requirements for certain tax increases -- Exceptions.

(1) As used in this section:

(a) "Additional ad valorem tax revenue" means ad valorem property tax revenue generated by the portion of the tax rate that exceeds the taxing entity's certified tax rate.

(b) "Ad valorem tax revenue" means ad valorem property tax revenue not including revenue from:

(i) eligible new growth as defined in Section 59-2-924; or

(ii) personal property that is:

(A) assessed by a county assessor in accordance with Part 3, County Assessment; and

(B) semiconductor manufacturing equipment.

(c) "Calendar year taxing entity" means a taxing entity that operates under a fiscal year that begins on January 1 and ends on December 31.

(d) "County executive calendar year taxing entity" means a calendar year taxing entity that operates under the county executive-council form of government described in Section 17-52a-203.

(e) "Current calendar year" means the calendar year immediately preceding the calendar year for which a calendar year taxing entity seeks to levy a tax rate that exceeds the calendar year taxing entity's certified tax rate.

(f) "Fiscal year taxing entity" means a taxing entity that operates under a fiscal year that begins on July 1 and ends on June 30.

(g) "Last year's property tax budgeted revenue" does not include revenue received by a taxing entity from a debt service levy voted on by the public.

(2) A taxing entity may not levy a tax rate that exceeds the taxing entity's certified tax rate unless the taxing entity meets:

(a) the requirements of this section that apply to the taxing entity; and

(b) all other requirements as may be required by law.

(3) (a) Subject to Subsection (3)(b) and except as provided in Subsection (5), a calendar year taxing entity may levy a tax rate that exceeds the calendar year taxing entity's certified tax rate if the calendar year taxing entity:

(i) 14 or more days before the date of the regular general election or municipal general election held in the current calendar year, states at a public meeting:

(A) that the calendar year taxing entity intends to levy a tax rate that exceeds the calendar year taxing entity's certified tax rate;

(B) the dollar amount of and purpose for additional ad valorem tax revenue that would be generated by the proposed increase in the certified tax rate; and

(C) the approximate percentage increase in ad valorem tax revenue for the taxing entity based on the proposed increase described in Subsection (3)(a)(i)(B);

(ii) provides notice for the public meeting described in Subsection (3)(a)(i) in accordance with Title 52, Chapter 4, Open and Public Meetings Act, including providing a separate item on the meeting agenda that notifies the public that the calendar year taxing entity intends to make the statement described in Subsection (3)(a)(i);

(iii) meets the advertisement requirements of Subsections (6) and (7) before the calendar year taxing entity conducts the public hearing required by Subsection (3)(a)(v);

(iv) provides notice by mail:

(A) seven or more days before the regular general election or municipal general election held in the current calendar year; and

(B) as provided in Subsection (3)(c); and

(v) conducts a public hearing that is held:

(A) in accordance with Subsections (8) and (9); and

(B) in conjunction with the public hearing required by Section 17-36-13 or 17B-1-610.

(b) (i) For a county executive calendar year taxing entity, the statement described in Subsection (3)(a)(i) shall be made by the:

(A) county council;

(B) county executive; or

(C) both the county council and county executive.

(ii) If the county council makes the statement described in Subsection (3)(a)(i) or the county council states a dollar amount of additional ad valorem tax revenue that is greater than the amount of additional ad valorem tax revenue previously stated by the county executive in accordance with Subsection (3)(a)(i), the county executive calendar year taxing entity shall:

(A) make the statement described in Subsection (3)(a)(i) 14 or more days before the county executive calendar year taxing entity conducts the public hearing under Subsection (3)(a)(v); and

(B) provide the notice required by Subsection (3)(a)(iv) 14 or more days before the county executive calendar year taxing entity conducts the public hearing required by Subsection (3)(a)(v).

(c) The notice described in Subsection (3)(a)(iv):

(i) shall be mailed to each owner of property:

(A) within the calendar year taxing entity; and

(B) listed on the assessment roll;

(ii) shall be printed on a separate form that:

(A) is developed by the commission;

(B) states at the top of the form, in bold upper-case type no smaller than 18 point "NOTICE OF PROPOSED TAX INCREASE"; and

(C) may be mailed with the notice required by Section 59-2-1317;

(iii) shall contain for each property described in Subsection (3)(c)(i):

(A) the value of the property for the current calendar year;

(B) the tax on the property for the current calendar year; and

(C) subject to Subsection (3)(d), for the calendar year for which the calendar year taxing entity seeks to levy a tax rate that exceeds the calendar year taxing entity's certified tax rate, the estimated tax on the property;

(iv) shall contain the following statement:

"[Insert name of taxing entity] is proposing a tax increase for [insert applicable calendar year]. This notice contains estimates of the tax on your property and the proposed tax increase on your property as a result of this tax increase. These estimates are calculated on the basis of [insert previous applicable calendar year] data. The actual tax on your property and proposed tax increase on your property may vary from this estimate.";

(v) shall state the date, time, and place of the public hearing described in Subsection (3)(a)(v); and

(vi) may contain other property tax information approved by the commission.

(d) For purposes of Subsection (3)(c)(iii)(C), a calendar year taxing entity shall calculate the estimated tax on property on the basis of:

(i) data for the current calendar year; and

(ii) the amount of additional ad valorem tax revenue stated in accordance with this section.

(4) Except as provided in Subsection (5), a fiscal year taxing entity may levy a tax rate that exceeds the fiscal year taxing entity's certified tax rate if the fiscal year taxing entity:

(a) provides notice by meeting the advertisement requirements of Subsections (6) and (7) before the fiscal year taxing entity conducts the public meeting at which the fiscal year taxing entity's annual budget is adopted; and

(b) conducts a public hearing in accordance with Subsections (8) and (9) before the fiscal year taxing entity's annual budget is adopted.

(5) (a) A taxing entity is not required to meet the notice or public hearing requirements of Subsection (3) or (4) if the taxing entity is expressly exempted by law from complying with the requirements of this section.

(b) A taxing entity is not required to meet the notice requirements of Subsection (3) or (4) if:

(i) Section 53F-8-301 allows the taxing entity to levy a tax rate that exceeds that certified tax rate without having to comply with the notice provisions of this section; or

(ii) the taxing entity:

(A) budgeted less than $20,000 in ad valorem tax revenue for the previous fiscal year; and

(B) sets a budget during the current fiscal year of less than $20,000 of ad valorem tax revenue.

(6) (a) Subject to Subsections (6)(d) and (7)(b), the advertisement described in this section shall be published:

(i) subject to Section 45-1-101, in a newspaper or combination of newspapers of general circulation in the taxing entity;

(ii) electronically in accordance with Section 45-1-101; and

(iii) on the Utah Public Notice Website created in Section [~~63F-1-701~~] 63A-16-601.

(b) The advertisement described in Subsection (6)(a)(i) shall:

(i) be no less than 1/4 page in size;

(ii) use type no smaller than 18 point; and

(iii) be surrounded by a 1/4-inch border.

(c) The advertisement described in Subsection (6)(a)(i) may not be placed in that portion of the newspaper where legal notices and classified advertisements appear.

(d) It is the intent of the Legislature that:

(i) whenever possible, the advertisement described in Subsection (6)(a)(i) appear in a newspaper that is published at least one day per week; and

(ii) the newspaper or combination of newspapers selected:

(A) be of general interest and readership in the taxing entity; and

(B) not be of limited subject matter.

(e) (i) The advertisement described in Subsection (6)(a)(i) shall:

(A) except as provided in Subsection (6)(f), be run once each week for the two weeks before a taxing entity conducts a public hearing described under Subsection (3)(a)(v) or (4)(b); and

(B) state that the taxing entity will meet on a certain day, time, and place fixed in the advertisement, which shall be seven or more days after the day the first advertisement is published,

for the purpose of hearing comments regarding any proposed increase and to explain the reasons for the proposed increase.

(ii) The advertisement described in Subsection (6)(a)(ii) shall:

(A) be published two weeks before a taxing entity conducts a public hearing described in Subsection (3)(a)(v) or (4)(b); and

(B) state that the taxing entity will meet on a certain day, time, and place fixed in the advertisement, which shall be seven or more days after the day the first advertisement is published, for the purpose of hearing comments regarding any proposed increase and to explain the reasons for the proposed increase.

(f) If a fiscal year taxing entity's public hearing information is published by the county auditor in accordance with Section 59-2-919.2, the fiscal year taxing entity is not subject to the requirement to run the advertisement twice, as required by Subsection (6)(e)(i), but shall run the advertisement once during the week before the fiscal year taxing entity conducts a public hearing at which the taxing entity's annual budget is discussed.

(g) For purposes of Subsection (3)(a)(iii) or (4)(a), the form and content of an advertisement shall be substantially as follows:

"NOTICE OF PROPOSED TAX INCREASE

(NAME OF TAXING ENTITY)

The (name of the taxing entity) is proposing to increase its property tax revenue.

The (name of the taxing entity) tax on a (insert the average value of a residence in the taxing entity rounded to the nearest thousand dollars) residence would increase from $_____ to $_____, which is $_____ per year.

The (name of the taxing entity) tax on a (insert the value of a business having the same value as the average value of a residence in the taxing entity) business would increase from $_____ to $_____, which is $_____ per year.

If the proposed budget is approved, (name of the taxing entity) would increase its property tax budgeted revenue by ___% above last year's property tax budgeted revenue excluding eligible new growth.

All concerned citizens are invited to a public hearing on the tax increase.

PUBLIC HEARING

Date/Time: (date) (time)

Location: (name of meeting place and address of meeting place)

To obtain more information regarding the tax increase, citizens may contact the (name of the taxing entity) at (phone number of taxing entity)."

(7) The commission:

(a) shall adopt rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, governing the joint use of one advertisement described in Subsection (6) by two or more taxing entities; and

(b) subject to Section 45-1-101, may authorize:

(i) the use of a weekly newspaper:

(A) in a county having both daily and weekly newspapers if the weekly newspaper would provide equal or greater notice to the taxpayer; and

(B) if the county petitions the commission for the use of the weekly newspaper; or

(ii) the use by a taxing entity of a commission approved direct notice to each taxpayer if:

(A) the cost of the advertisement would cause undue hardship;

(B) the direct notice is different and separate from that provided for in Section 59-2-919.1; and

(C) the taxing entity petitions the commission for the use of a commission approved direct notice.

(8) (a) (i) (A) A fiscal year taxing entity shall, on or before March 1, notify the county legislative body in which the fiscal year taxing entity is located of the date, time, and place of the first public hearing at which the fiscal year taxing entity's annual budget will be discussed.

(B) A county that receives notice from a fiscal year taxing entity under Subsection (8)(a)(i)(A) shall include on the notice required by Section 59-2-919.1 the date, time, and place of the public hearing described in Subsection (8)(a)(i)(A).

(ii) A calendar year taxing entity shall, on or before October 1 of the current calendar year, notify the county legislative body in which the calendar year taxing entity is located of the date, time, and place of the first public hearing at which the calendar year taxing entity's annual budget will be discussed.

(b) (i) A public hearing described in Subsection (3)(a)(v) or (4)(b) shall be:

(A) open to the public; and

(B) held at a meeting of the taxing entity with no items on the agenda other than discussion and action on the taxing entity's intent to levy a tax rate that exceeds the taxing entity's certified tax rate, the taxing entity's budget, a local district's or special service district's fee implementation or increase, or a combination of these items.

(ii) The governing body of a taxing entity conducting a public hearing described in Subsection (3)(a)(v) or (4)(b) shall provide an interested party desiring to be heard an opportunity to present oral testimony:

(A) within reasonable time limits; and

(B) without unreasonable restriction on the number of individuals allowed to make public comment.

(c) (i) Except as provided in Subsection (8)(c)(ii), a taxing entity may not schedule a public hearing

described in Subsection (3)(a)(v) or (4)(b) at the same time as the public hearing of another overlapping taxing entity in the same county.

(ii) The taxing entities in which the power to set tax levies is vested in the same governing board or authority may consolidate the public hearings described in Subsection (3)(a)(v) or (4)(b) into one public hearing.

(d) A county legislative body shall resolve any conflict in public hearing dates and times after consultation with each affected taxing entity.

(e) (i) A taxing entity shall hold a public hearing described in Subsection (3)(a)(v) or (4)(b) beginning at or after 6 p.m.

(ii) If a taxing entity holds a public meeting for the purpose of addressing general business of the taxing entity on the same date as a public hearing described in Subsection (3)(a)(v) or (4)(b), the public meeting addressing general business items shall conclude before the beginning of the public hearing described in Subsection (3)(a)(v) or (4)(b).

(f) (i) Except as provided in Subsection (8)(f)(ii), a taxing entity may not hold the public hearing described in Subsection (3)(a)(v) or (4)(b) on the same date as another public hearing of the taxing entity.

(ii) A taxing entity may hold the following hearings on the same date as a public hearing described in Subsection (3)(a)(v) or (4)(b):

(A) a budget hearing;

(B) if the taxing entity is a local district or a special service district, a fee hearing described in Section 17B-1-643;

(C) if the taxing entity is a town, an enterprise fund hearing described in Section 10-5-107.5; or

(D) if the taxing entity is a city, an enterprise fund hearing described in Section 10-6-135.5.

(9) (a) If a taxing entity does not make a final decision on budgeting additional ad valorem tax revenue at a public hearing described in Subsection (3)(a)(v) or (4)(b), the taxing entity shall:

(i) announce at that public hearing the scheduled time and place of the next public meeting at which the taxing entity will consider budgeting the additional ad valorem tax revenue; and

(ii) if the taxing entity is a fiscal year taxing entity, hold the public meeting described in Subsection (9)(a)(i) before September 1.

(b) A calendar year taxing entity may not adopt a final budget that budgets an amount of additional ad valorem tax revenue that exceeds the largest amount of additional ad valorem tax revenue stated at a public meeting under Subsection (3)(a)(i).

(c) A public hearing on levying a tax rate that exceeds a fiscal year taxing entity's certified tax rate may coincide with a public hearing on the fiscal year taxing entity's proposed annual budget.

Section 166. Section 59-2-919.2 is amended to read:

59-2-919.2. Consolidated advertisement of public hearings.

(1) (a) Except as provided in Subsection (1)(b), on the same day on which a taxing entity provides the notice to the county required under Subsection 59-2-919(8)(a)(i), the taxing entity shall provide to the county auditor the information required by Subsection 59-2-919(8)(a)(i).

(b) A taxing entity is not required to notify the county auditor of the taxing entity's public hearing in accordance with Subsection (1)(a) if the taxing entity is exempt from the notice requirements of Section 59-2-919.

(2) If as of July 22, two or more taxing entities notify the county auditor under Subsection (1), the county auditor shall by no later than July 22 of each year:

(a) compile a list of the taxing entities that notify the county auditor under Subsection (1);

(b) include on the list described in Subsection (2)(a), the following information for each taxing entity on the list:

(i) the name of the taxing entity;

(ii) the date, time, and location of the public hearing described in Subsection 59-2-919(8)(a)(i);

(iii) the average dollar increase on a residence in the taxing entity that the proposed tax increase would generate; and

(iv) the average dollar increase on a business in the taxing entity that the proposed tax increase would generate;

(c) provide a copy of the list described in Subsection (2)(a) to each taxing entity that notifies the county auditor under Subsection (1); and

(d) in addition to the requirements of Subsection (3), if the county has a webpage, publish a copy of the list described in Subsection (2)(a) on the county's webpage until December 31.

(3) (a) At least two weeks before any public hearing included in the list under Subsection (2) is held, the county auditor shall publish:

(i) the list compiled under Subsection (2); and

(ii) a statement that:

(A) the list is for informational purposes only;

(B) the list should not be relied on to determine a person's tax liability under this chapter; and

(C) for specific information related to the tax liability of a taxpayer, the taxpayer should review the taxpayer's tax notice received under Section 59-2-919.1.

(b) Except as provided in Subsection (3)(d)(ii), the information described in Subsection (3)(a) shall be published:

(i) in no less than 1/4 page in size;

(ii) in type no smaller than 18 point; and

(iii) surrounded by a 1/4-inch border.

(c) The published information described in Subsection (3)(a) and published in accordance with Subsection (3)(d)(i) may not be placed in the portion of a newspaper where a legal notice or classified advertisement appears.

(d) A county auditor shall publish the information described in Subsection (3)(a):

(i) (A) in a newspaper or combination of newspapers that are:

(I) published at least one day per week;

(II) of general interest and readership in the county; and

(III) not of limited subject matter; and

(B) once each week for the two weeks preceding the first hearing included in the list compiled under Subsection (2); and

(ii) for two weeks preceding the first hearing included in the list compiled under Subsection (2):

(A) as required in Section 45-1-101; and

(B) on the Utah Public Notice Website created in Section [~~63F-1-701~~] 63A-16-601.

(4) A taxing entity that notifies the county auditor under Subsection (1) shall provide the list described in Subsection (2)(c) to a person:

(a) who attends the public hearing described in Subsection 59-2-919(8)(a)(i) of the taxing entity; or

(b) who requests a copy of the list.

(5) (a) A county auditor shall by no later than 30 days from the day on which the last publication of the information required by Subsection (3)(a) is made:

(i) determine the costs of compiling and publishing the list; and

(ii) charge each taxing entity included on the list an amount calculated by dividing the amount determined under Subsection (5)(a) by the number of taxing entities on the list.

(b) A taxing entity shall pay the county auditor the amount charged under Subsection (5)(a).

(6) The publication of the list under this section does not remove or change the notice requirements of Section 59-2-919 for a taxing entity.

(7) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules:

(a) relating to the publication of a consolidated advertisement which includes the information described in Subsection (2) for a taxing entity that overlaps two or more counties;

(b) relating to the payment required in Subsection (5)(b); and

(c) to oversee the administration of this section and provide for uniform implementation.

Section 167. Section 59-12-1102 is amended to read:

59-12-1102. Base -- Rate -- Imposition of tax -- Distribution of revenue -- Administration -- Administrative charge -- Commission requirement to retain an amount to be deposited into the Qualified Emergency Food Agencies Fund -- Enactment or repeal of tax -- Effective date -- Notice requirements.

(1) (a) (i) Subject to Subsections (2) through (6), and in addition to any other tax authorized by this chapter, a county may impose by ordinance a county option sales and use tax of .25% upon the transactions described in Subsection 59-12-103(1).

(ii) Notwithstanding Subsection (1)(a)(i), a county may not impose a tax under this section on the sales and uses described in Section 59-12-104 to the extent the sales and uses are exempt from taxation under Section 59-12-104.

(b) For purposes of this Subsection (1), the location of a transaction shall be determined in accordance with Sections 59-12-211 through 59-12-215.

(c) The county option sales and use tax under this section shall be imposed:

(i) upon transactions that are located within the county, including transactions that are located within municipalities in the county; and

(ii) except as provided in Subsection (1)(d) or (5), beginning on the first day of January:

(A) of the next calendar year after adoption of the ordinance imposing the tax if the ordinance is adopted on or before May 25; or

(B) of the second calendar year after adoption of the ordinance imposing the tax if the ordinance is adopted after May 25.

(d) The county option sales and use tax under this section shall be imposed:

(i) beginning January 1, 1998, if an ordinance adopting the tax imposed on or before September 4, 1997; or

(ii) beginning January 1, 1999, if an ordinance adopting the tax is imposed during 1997 but after September 4, 1997.

(2) (a) Before imposing a county option sales and use tax under Subsection (1), a county shall hold two public hearings on separate days in geographically diverse locations in the county.

(b) (i) At least one of the hearings required by Subsection (2)(a) shall have a starting time of no earlier than 6 p.m.

(ii) The earlier of the hearings required by Subsection (2)(a) shall be no less than seven days after the day the first advertisement required by Subsection (2)(c) is published.

(c) (i) Before holding the public hearings required by Subsection (2)(a), the county shall advertise:

(A) its intent to adopt a county option sales and use tax;

(B) the date, time, and location of each public hearing; and

(C) a statement that the purpose of each public hearing is to obtain public comments regarding the proposed tax.

(ii) The advertisement shall be published:

(A) in a newspaper of general circulation in the county once each week for the two weeks preceding the earlier of the two public hearings; and

(B) on the Utah Public Notice Website created in Section [~~63F-1-701~~] 63A-16-601, for two weeks preceding the earlier of the two public hearings.

(iii) The advertisement described in Subsection (2)(c)(ii)(A) shall be no less than 1/8 page in size, and the type used shall be no smaller than 18 point and surrounded by a 1/4-inch border.

(iv) The advertisement described in Subsection (2)(c)(ii)(A) may not be placed in that portion of the newspaper where legal notices and classified advertisements appear.

(v) In accordance with Subsection (2)(c)(ii)(A), whenever possible:

(A) the advertisement shall appear in a newspaper that is published at least five days a week, unless the only newspaper in the county is published less than five days a week; and

(B) the newspaper selected shall be one of general interest and readership in the community, and not one of limited subject matter.

(d) The adoption of an ordinance imposing a county option sales and use tax is subject to a local referendum election and shall be conducted as provided in Title 20A, Chapter 7, Part 6, Local Referenda - Procedures.

(3) (a) Subject to Subsection (5), if the aggregate population of the counties imposing a county option sales and use tax under Subsection (1) is less than 75% of the state population, the tax levied under Subsection (1) shall be distributed to the county in which the tax was collected.

(b) Subject to Subsection (5), if the aggregate population of the counties imposing a county option sales and use tax under Subsection (1) is greater than or equal to 75% of the state population:

(i) 50% of the tax collected under Subsection (1) in each county shall be distributed to the county in which the tax was collected; and

(ii) except as provided in Subsection (3)(c), 50% of the tax collected under Subsection (1) in each county shall be distributed proportionately among all counties imposing the tax, based on the total population of each county.

(c) Except as provided in Subsection (5), the amount to be distributed annually to a county under Subsection (3)(b)(ii), when combined with the amount distributed to the county under Subsection (3)(b)(i), does not equal at least $75,000, then:

(i) the amount to be distributed annually to that county under Subsection (3)(b)(ii) shall be increased so that, when combined with the amount distributed to the county under Subsection (3)(b)(i), the amount distributed annually to the county is $75,000; and

(ii) the amount to be distributed annually to all other counties under Subsection (3)(b)(ii) shall be reduced proportionately to offset the additional amount distributed under Subsection (3)(c)(i).

(d) The commission shall establish rules to implement the distribution of the tax under Subsections (3)(a), (b), and (c).

(4) (a) Except as provided in Subsection (4)(b) or (c), a tax authorized under this part shall be administered, collected, and enforced in accordance with:

(i) the same procedures used to administer, collect, and enforce the tax under:

(A) Part 1, Tax Collection; or

(B) Part 2, Local Sales and Use Tax Act; and

(ii) Chapter 1, General Taxation Policies.

(b) A tax under this part is not subject to Subsections 59-12-205(2) through (6).

(c) (i) Subject to Subsection (4)(c)(ii), the commission shall retain and deposit an administrative charge in accordance with Section 59-1-306 from the revenue the commission collects from a tax under this part.

(ii) Notwithstanding Section 59-1-306, the administrative charge described in Subsection (4)(c)(i) shall be calculated by taking a percentage described in Section 59-1-306 of the distribution amounts resulting after:

(A) the applicable distribution calculations under Subsection (3) have been made; and

(B) the commission retains the amount required by Subsection (5).

(5) (a) Beginning on July 1, 2009, the commission shall calculate and retain a portion of the sales and use tax collected under this part as provided in this Subsection (5).

(b) For a county that imposes a tax under this part, the commission shall calculate a percentage each month by dividing the sales and use tax collected under this part for that month within the boundaries of that county by the total sales and use tax collected under this part for that month within the boundaries of all of the counties that impose a tax under this part.

(c) For a county that imposes a tax under this part, the commission shall retain each month an amount equal to the product of:

(i) the percentage the commission determines for the month under Subsection (5)(b) for the county; and

(ii) $6,354.

(d) The commission shall deposit an amount the commission retains in accordance with this Subsection (5) into the Qualified Emergency Food Agencies Fund created by Section 35A-8-1009.

(e) An amount the commission deposits into the Qualified Emergency Food Agencies Fund shall be expended as provided in Section 35A-8-1009.

(6) (a) For purposes of this Subsection (6):

(i) "Annexation" means an annexation to a county under Title 17, Chapter 2, County Consolidations and Annexations.

(ii) "Annexing area" means an area that is annexed into a county.

(b) (i) Except as provided in Subsection (6)(c) or (d), if, on or after July 1, 2004, a county enacts or repeals a tax under this part:

(A) (I) the enactment shall take effect as provided in Subsection (1)(c); or

(II) the repeal shall take effect on the first day of a calendar quarter; and

(B) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (6)(b)(ii) from the county.

(ii) The notice described in Subsection (6)(b)(i)(B) shall state:

(A) that the county will enact or repeal a tax under this part;

(B) the statutory authority for the tax described in Subsection (6)(b)(ii)(A);

(C) the effective date of the tax described in Subsection (6)(b)(ii)(A); and

(D) if the county enacts the tax described in Subsection (6)(b)(ii)(A), the rate of the tax.

(c) (i) If the billing period for a transaction begins before the effective date of the enactment of the tax under Subsection (1), the enactment of the tax takes effect on the first day of the first billing period that begins on or after the effective date of the enactment of the tax.

(ii) The repeal of a tax applies to a billing period if the billing statement for the billing period is produced on or after the effective date of the repeal of the tax imposed under Subsection (1).

(d) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an enactment or repeal of a tax described in Subsection (6)(b)(i) takes effect:

(A) on the first day of a calendar quarter; and

(B) beginning 60 days after the effective date of the enactment or repeal under Subsection (6)(b)(i).

(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

(e) (i) Except as provided in Subsection (6)(f) or (g), if, for an annexation that occurs on or after July 1, 2004, the annexation will result in the enactment or repeal of a tax under this part for an annexing area, the enactment or repeal shall take effect:

(A) on the first day of a calendar quarter; and

(B) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (6)(e)(ii) from the county that annexes the annexing area.

(ii) The notice described in Subsection (6)(e)(i)(B) shall state:

(A) that the annexation described in Subsection (6)(e)(i) will result in an enactment or repeal of a tax under this part for the annexing area;

(B) the statutory authority for the tax described in Subsection (6)(e)(ii)(A);

(C) the effective date of the tax described in Subsection (6)(e)(ii)(A); and

(D) the rate of the tax described in Subsection (6)(e)(ii)(A).

(f) (i) If the billing period for a transaction begins before the effective date of the enactment of the tax under Subsection (1), the enactment of the tax takes effect on the first day of the first billing period that begins on or after the effective date of the enactment of the tax.

(ii) The repeal of a tax applies to a billing period if the billing statement for the billing period is produced on or after the effective date of the repeal of the tax imposed under Subsection (1).

(g) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an enactment or repeal of a tax described in Subsection (6)(e)(i) takes effect:

(A) on the first day of a calendar quarter; and

(B) beginning 60 days after the effective date of the enactment or repeal under Subsection (6)(e)(i).

(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

Section 168. Section 62A-1-109 is amended to read:

62A-1-109. Division directors -- Appointment -- Compensation -- Qualifications.

(1) The chief officer of each division and office enumerated in Section 62A-1-105 shall be a director who shall serve as the executive and administrative head of the division or office.

(2) Each division director shall be appointed by the executive director with the concurrence of the division's board, if the division has a board.

(3) The director of any division may be removed from that position at the will of the executive director after consultation with that division's board, if the division has a board.

(4) Each office director shall be appointed by the executive director.

(5) Directors of divisions and offices shall receive compensation as provided by Title [~~67~~] 63A, Chapter [~~19~~] 17, Utah State Personnel Management Act.

(6) The director of each division and office shall be experienced in administration and possess such additional qualifications as determined by the executive director, and as provided by law.

Section 169. Section 63A-5b-905 is amended to read:

63A-5b-905. Notice required before division may convey division-owned property.

(1) Before the division may convey vacant division-owned property, the division shall give notice as provided in Subsection (2).

(2) A notice required under Subsection (1) shall:

(a) identify and describe the vacant division-owned property;

(b) indicate the availability of the vacant division-owned property;

(c) invite persons interested in the vacant division-owned property to submit a written proposal to the division;

(d) indicate the deadline for submitting a written proposal;

(e) be posted on the division's website for at least 60 consecutive days before the deadline for submitting a written proposal, in a location specifically designated for notices dealing with vacant division-owned property;

(f) be posted on the Utah Public Notice Website created in Section [~~63F-1-701~~] 63A-16-601 for at least 60 consecutive days before the deadline for submitting a written proposal; and

(g) be sent by email to each person who has previously submitted to the division a written request to receive notices under this section.

Section 170. Section 63D-2-102 is amended to read:

63D-2-102. Definitions.

As used in this chapter:

(1) (a) "Collect" means the gathering of personally identifiable information:

(i) from a user of a governmental website; or

(ii) about a user of the governmental website.

(b) "Collect" includes use of any identifying code linked to a user of a governmental website.

(2) "Court website" means a website on the Internet that is operated by or on behalf of any court created in Title 78A, Chapter 1, Judiciary.

(3) "Governmental entity" means:

(a) an executive branch agency as defined in Section [~~63F-1-102~~] 63A-16-102;

(b) the legislative branch;

(c) the judicial branch;

(d) the State Board of Education;

(e) the Utah Board of Higher Education;

(f) an institution of higher education; and

(g) a political subdivision of the state:

(i) as defined in Section 17B-1-102; and

(ii) including a school district.

(4) (a) "Governmental website" means a website on the Internet that is operated by or on behalf of a governmental entity.

(b) "Governmental website" includes a court website.

(5) "Governmental website operator" means a governmental entity or person acting on behalf of the governmental entity that:

(a) operates a governmental website; and

(b) collects or maintains personally identifiable information from or about a user of that website.

(6) "Personally identifiable information" means information that identifies:

(a) a user by:

(i) name;

(ii) account number;

(iii) physical address;

(iv) email address;

(v) telephone number;

(vi) Social Security number;

(vii) credit card information; or

(viii) bank account information;

(b) a user as having requested or obtained specific materials or services from a governmental website;

(c) Internet sites visited by a user; or

(d) any of the contents of a user's data-storage device.

(7) "User" means a person who accesses a governmental website.

Section 171. Section 63E-2-109 is amended to read:

63E-2-109. State statutes.

(1) Except as specifically modified in its authorizing statute, each independent corporation shall be exempt from the statutes governing state agencies, including:

(a) Title 51, Chapter 5, Funds Consolidation Act;

(b) Title 51, Chapter 7, State Money Management Act;

(c) except as provided in Subsection (2), Title 63A, Utah [~~Administrative Services~~] Government Operations Code;

(d) Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(e) Title 63G, Chapter 4, Administrative Procedures Act;

(f) Title 63G, Chapter 6a, Utah Procurement Code;

(g) Title 63J, Chapter 1, Budgetary Procedures Act;

(h) Title 63J, Chapter 2, Revenue Procedures and Control Act; and

(i) Title [~~67~~] 63A, Chapter [~~19~~] 17, Utah State Personnel Management Act.

(2) Except as specifically modified in its authorizing statute, each independent corporation shall be subject to:

(a) Title 52, Chapter 4, Open and Public Meetings Act;

(b) Title 63A, Chapter 1, Part 2, Utah Public Finance Website; and

(c) Title 63G, Chapter 2, Government Records Access and Management Act.

(3) Each independent corporation board may adopt its own policies and procedures governing its:

(a) funds management;

(b) audits; and

(c) personnel.

Section 172. Section 63G-6a-103 is amended to read:

63G-6a-103. Definitions.

As used in this chapter:

(1) "Approved vendor" means a person who has been approved for inclusion on an approved vendor list through the approved vendor list process.

(2) "Approved vendor list" means a list of approved vendors established under Section 63G-6a-507.

(3) "Approved vendor list process" means the procurement process described in Section 63G-6a-507.

(4) "Bidder" means a person who submits a bid or price quote in response to an invitation for bids.

(5) "Bidding process" means the procurement process described in Part 6, Bidding.

(6) "Board" means the Utah State Procurement Policy Board, created in Section 63G-6a-202.

(7) "Building board" means the State Building Board, created in Section 63A-5b-201.

(8) "Change directive" means a written order signed by the procurement officer that directs the contractor to suspend work or make changes, as authorized by contract, without the consent of the contractor.

(9) "Change order" means a written alteration in specifications, delivery point, rate of delivery, period of performance, price, quantity, or other provisions of a contract, upon mutual agreement of the parties to the contract.

(10) "Chief procurement officer" means the individual appointed under Subsection 63G-6a-302(1).

(11) "Conducting procurement unit" means a procurement unit that conducts all aspects of a procurement:

(a) except:

(i) reviewing a solicitation to verify that it is in proper form; and

(ii) causing the publication of a notice of a solicitation; and

(b) including:

(i) preparing any solicitation document;

(ii) appointing an evaluation committee;

(iii) conducting the evaluation process, except the process relating to scores calculated for costs of proposals;

(iv) selecting and recommending the person to be awarded a contract;

(v) negotiating the terms and conditions of a contract, subject to the issuing procurement unit's approval; and

(vi) contract administration.

(12) "Conservation district" means the same as that term is defined in Section 17D-3-102.

(13) "Construction project":

(a) means a project for the construction, renovation, alteration, improvement, or repair of a public facility on real property, including all services, labor, supplies, and materials for the project; and

(b) does not include services and supplies for the routine, day-to-day operation, repair, or maintenance of an existing public facility.

(14) "Construction manager/general contractor":

(a) means a contractor who enters into a contract:

(i) for the management of a construction project; and

(ii) that allows the contractor to subcontract for additional labor and materials that are not included in the contractor's cost proposal submitted at the time of the procurement of the contractor's services; and

(b) does not include a contractor whose only subcontract work not included in the contractor's cost proposal submitted as part of the procurement of the contractor's services is to meet subcontracted portions of change orders approved within the scope of the project.

(15) "Construction subcontractor":

(a) means a person under contract with a contractor or another subcontractor to provide services or labor for the design or construction of a construction project;

(b) includes a general contractor or specialty contractor licensed or exempt from licensing under Title 58, Chapter 55, Utah Construction Trades Licensing Act; and

(c) does not include a supplier who provides only materials, equipment, or supplies to a contractor or subcontractor for a construction project.

(16) "Contract" means an agreement for a procurement.

(17) "Contract administration" means all functions, duties, and responsibilities associated with managing, overseeing, and carrying out a contract between a procurement unit and a contractor, including:

(a) implementing the contract;

(b) ensuring compliance with the contract terms and conditions by the conducting procurement unit and the contractor;

(c) executing change orders;

(d) processing contract amendments;

(e) resolving, to the extent practicable, contract disputes;

(f) curing contract errors and deficiencies;

(g) terminating a contract;

(h) measuring or evaluating completed work and contractor performance;

(i) computing payments under the contract; and

(j) closing out a contract.

(18) "Contractor" means a person who is awarded a contract with a procurement unit.

(19) "Cooperative procurement" means procurement conducted by, or on behalf of:

(a) more than one procurement unit; or

(b) a procurement unit and a cooperative purchasing organization.

(20) "Cooperative purchasing organization" means an organization, association, or alliance of purchasers established to combine purchasing power in order to obtain the best value for the purchasers by engaging in procurements in accordance with Section 63G-6a-2105.

(21) "Cost-plus-a-percentage-of-cost contract" means a contract under which the contractor is paid a percentage of the total actual expenses or costs in addition to the contractor's actual expenses or costs.

(22) "Cost-reimbursement contract" means a contract under which a contractor is reimbursed for costs which are allowed and allocated in accordance with the contract terms and the provisions of this chapter, and a fee, if any.

(23) "Days" means calendar days, unless expressly provided otherwise.

(24) "Definite quantity contract" means a fixed price contract that provides for a specified amount of supplies over a specified period, with deliveries scheduled according to a specified schedule.

(25) "Design professional" means:

(a) an individual licensed as an architect under Title 58, Chapter 3a, Architects Licensing Act;

(b) an individual licensed as a professional engineer or professional land surveyor under Title 58, Chapter 22, Professional Engineers and Professional Land Surveyors Licensing Act; or

(c) an individual certified as a commercial interior designer under Title 58, Chapter 86, State Certification of Commercial Interior Designers Act.

(26) "Design professional procurement process" means the procurement process described in Part 15, Design Professional Services.

(27) "Design professional services" means:

(a) professional services within the scope of the practice of architecture as defined in Section 58-3a-102;

(b) professional engineering as defined in Section 58-22-102;

(c) master planning and programming services; or

(d) services within the scope of the practice of commercial interior design, as defined in Section 58-86-102.

(28) "Design-build" means the procurement of design professional services and construction by the use of a single contract.

(29) "Division" means the Division of Purchasing and General Services, created in Section 63A-2-101.

(30) "Educational procurement unit" means:

(a) a school district;

(b) a public school, including a local school board or a charter school;

(c) the Utah Schools for the Deaf and the Blind;

(d) the Utah Education and Telehealth Network;

(e) an institution of higher education of the state described in Section 53B-1-102; or

(f) the State Board of Education.

(31) "Established catalogue price" means the price included in a catalogue, price list, schedule, or other form that:

(a) is regularly maintained by a manufacturer or contractor;

(b) is published or otherwise available for inspection by customers; and

(c) states prices at which sales are currently or were last made to a significant number of any category of buyers or buyers constituting the general buying public for the supplies or services involved.

(32) "Executive branch procurement unit" means a department, division, office, bureau, agency, or other organization within the state executive branch.

(33) "Facilities division" means the Division of Facilities Construction and Management, created in Section 63A-5b-301.

(34) "Fixed price contract" means a contract that provides a price, for each procurement item obtained under the contract, that is not subject to adjustment except to the extent that:

(a) the contract provides, under circumstances specified in the contract, for an adjustment in price that is not based on cost to the contractor; or

(b) an adjustment is required by law.

(35) "Fixed price contract with price adjustment" means a fixed price contract that provides for an upward or downward revision of price, precisely described in the contract, that:

(a) is based on the consumer price index or another commercially acceptable index, source, or formula; and

(b) is not based on a percentage of the cost to the contractor.

(36) "Grant" means an expenditure of public funds or other assistance, or an agreement to expend public funds or other assistance, for a public purpose authorized by law, without acquiring a procurement item in exchange.

(37) "Immaterial error":

(a) means an irregularity or abnormality that is:

(i) a matter of form that does not affect substance; or

(ii) an inconsequential variation from a requirement of a solicitation that has no, little, or a trivial effect on the procurement process and that is not prejudicial to other vendors; and

(b) includes:

(i) a missing signature, missing acknowledgment of an addendum, or missing copy of a professional license, bond, or insurance certificate;

(ii) a typographical error;

(iii) an error resulting from an inaccuracy or omission in the solicitation; and

(iv) any other error that the procurement official reasonably considers to be immaterial.

(38) "Indefinite quantity contract" means a fixed price contract that:

(a) is for an indefinite amount of procurement items to be supplied as ordered by a procurement unit; and

(b) (i) does not require a minimum purchase amount; or

(ii) provides a maximum purchase limit.

(39) "Independent procurement unit" means:

(a) (i) a legislative procurement unit;

(ii) a judicial branch procurement unit;

(iii) an educational procurement unit;

(iv) a local government procurement unit;

(v) a conservation district;

(vi) a local building authority;

(vii) a local district;

(viii) a public corporation;

(ix) a special service district; or

(x) the Utah Communications Authority, established in Section 63H-7a-201;

(b) the building board or the facilities division, but only to the extent of the procurement authority provided under Title 63A, Chapter 5b, Administration of State Facilities;

(c) the attorney general, but only to the extent of the procurement authority provided under Title 67, Chapter 5, Attorney General;

(d) the Department of Transportation, but only to the extent of the procurement authority provided under Title 72, Transportation Code; or

(e) any other executive branch department, division, office, or entity that has statutory procurement authority outside this chapter, but only to the extent of that statutory procurement authority.

(40) "Invitation for bids":

(a) means a document used to solicit:

(i) bids to provide a procurement item to a procurement unit; or

(ii) quotes for a price of a procurement item to be provided to a procurement unit; and

(b) includes all documents attached to or incorporated by reference in a document described in Subsection (40)(a).

(41) "Issuing procurement unit" means a procurement unit that:

(a) reviews a solicitation to verify that it is in proper form;

(b) causes the notice of a solicitation to be published; and

(c) negotiates and approves the terms and conditions of a contract.

(42) "Judicial procurement unit" means:

(a) the Utah Supreme Court;

(b) the Utah Court of Appeals;

(c) the Judicial Council;

(d) a state judicial district; or

(e) an office, committee, subcommittee, or other organization within the state judicial branch.

(43) "Labor hour contract" is a contract under which:

(a) the supplies and materials are not provided by, or through, the contractor; and

(b) the contractor is paid a fixed rate that includes the cost of labor, overhead, and profit for a specified number of labor hours or days.

(44) "Legislative procurement unit" means:

(a) the Legislature;

(b) the Senate;

(c) the House of Representatives;

(d) a staff office of the Legislature, the Senate, or the House of Representatives; or

(e) a committee, subcommittee, commission, or other organization:

(i) within the state legislative branch; or

(ii) (A) that is created by statute to advise or make recommendations to the Legislature;

(B) the membership of which includes legislators; and

(C) for which the Office of Legislative Research and General Counsel provides staff support.

(45) "Local building authority" means the same as that term is defined in Section 17D-2-102.

(46) "Local district" means the same as that term is defined in Section 17B-1-102.

(47) "Local government procurement unit" means:

(a) a county or municipality, and each office or agency of the county or municipality, unless the county or municipality adopts its own procurement code by ordinance;

(b) a county or municipality that has adopted this entire chapter by ordinance, and each office or agency of that county or municipality; or

(c) a county or municipality that has adopted a portion of this chapter by ordinance, to the extent that a term in the ordinance is used in the adopted portion of this chapter, and each office or agency of that county or municipality.

(48) "Multiple award contracts" means the award of a contract for an indefinite quantity of a procurement item to more than one person.

(49) "Multiyear contract" means a contract that extends beyond a one-year period, including a contract that permits renewal of the contract, without competition, beyond the first year of the contract.

(50) "Municipality" means a city, town, or metro township.

(51) "Nonadopting local government procurement unit" means:

(a) a county or municipality that has not adopted Part 16, Protests, Part 17, Procurement Appeals Board, Part 18, Appeals to Court and Court Proceedings, and Part 19, General Provisions Related to Protest or Appeal; and

(b) each office or agency of a county or municipality described in Subsection (51)(a).

(52) "Offeror" means a person who submits a proposal in response to a request for proposals.

(53) "Preferred bidder" means a bidder that is entitled to receive a reciprocal preference under the requirements of this chapter.

(54) "Procure" means to acquire a procurement item through a procurement.

(55) "Procurement" means the acquisition of a procurement item through an expenditure of public funds, or an agreement to expend public funds, including an acquisition through a public-private partnership.

(56) "Procurement item" means an item of personal property, a technology, a service, or a construction project.

(57) "Procurement official" means:

(a) for a procurement unit other than an independent procurement unit, the chief procurement officer;

(b) for a legislative procurement unit, the individual, individuals, or body designated in a policy adopted by the Legislative Management Committee;

(c) for a judicial procurement unit, the Judicial Council or an individual or body designated by the Judicial Council by rule;

(d) for a local government procurement unit:

(i) the legislative body of the local government procurement unit; or

(ii) an individual or body designated by the local government procurement unit;

(e) for a local district, the board of trustees of the local district or the board of trustees' designee;

(f) for a special service district, the governing body of the special service district or the governing body's designee;

(g) for a local building authority, the board of directors of the local building authority or the board of directors' designee;

(h) for a conservation district, the board of supervisors of the conservation district or the board of supervisors' designee;

(i) for a public corporation, the board of directors of the public corporation or the board of directors' designee;

(j) for a school district or any school or entity within a school district, the board of the school district or the board's designee;

(k) for a charter school, the individual or body with executive authority over the charter school or the designee of the individual or body;

(l) for an institution of higher education described in Section 53B-2-101, the president of the institution of higher education or the president's designee;

(m) for the State Board of Education, the State Board of Education or the State Board of Education's designee;

(n) for the Utah Board of Higher Education, the Commissioner of Higher Education or the designee of the Commissioner of Higher Education;

(o) for the Utah Communications Authority, established in Section 63H-7a-201, the executive director of the Utah Communications Authority or the executive director's designee; or

(p) (i) for the building board, and only to the extent of procurement activities of the building board as an independent procurement unit under the procurement authority provided under Title 63A, Chapter 5b, Administration of State Facilities, the director of the building board or the director's designee;

(ii) for the facilities division, and only to the extent of procurement activities of the facilities division as an independent procurement unit under the procurement authority provided under Title 63A, Chapter 5b, Administration of State Facilities, the director of the facilities division or the director's designee;

(iii) for the attorney general, and only to the extent of procurement activities of the attorney general as an independent procurement unit under the procurement authority provided under Title 67, Chapter 5, Attorney General, the attorney general or the attorney general's designee;

(iv) for the Department of Transportation created in Section 72-1-201, and only to the extent of procurement activities of the Department of Transportation as an independent procurement unit under the procurement authority provided under Title 72, Transportation Code, the executive director of the Department of Transportation or the executive director's designee; or

(v) for any other executive branch department, division, office, or entity that has statutory procurement authority outside this chapter, and only to the extent of the procurement activities of the department, division, office, or entity as an independent procurement unit under the procurement authority provided outside this chapter for the department, division, office, or entity, the chief executive officer of the department, division, office, or entity or the chief executive officer's designee.

(58) "Procurement unit":

(a) means:

(i) a legislative procurement unit;

(ii) an executive branch procurement unit;

(iii) a judicial procurement unit;

(iv) an educational procurement unit;

(v) the Utah Communications Authority, established in Section 63H-7a-201;

(vi) a local government procurement unit;

(vii) a local district;

(viii) a special service district;

(ix) a local building authority;

(x) a conservation district;

(xi) a public corporation; and

(b) does not include a political subdivision created under Title 11, Chapter 13, Interlocal Cooperation Act.

(59) "Professional service" means labor, effort, or work that requires specialized knowledge, expertise, and discretion, including labor, effort, or work in the field of:

(a) accounting;

(b) administrative law judge service;

(c) architecture;

(d) construction design and management;

(e) engineering;

(f) financial services;

(g) information technology;

(h) the law;

(i) medicine;

(j) psychiatry; or

(k) underwriting.

(60) "Protest officer" means:

(a) for the division or an independent procurement unit:

(i) the procurement official;

(ii) the procurement official's designee who is an employee of the procurement unit; or

(iii) a person designated by rule made by the rulemaking authority; or

(b) for a procurement unit other than an independent procurement unit, the chief procurement officer or the chief procurement officer's designee who is an employee of the division.

(61) "Public corporation" means the same as that term is defined in Section 63E-1-102.

(62) "Public entity" means the state or any other government entity within the state that expends public funds.

(63) "Public facility" means a building, structure, infrastructure, improvement, or other facility of a public entity.

(64) "Public funds" means money, regardless of its source, including from the federal government, that is owned or held by a procurement unit.

(65) "Public transit district" means a public transit district organized under Title 17B, Chapter 2a, Part 8, Public Transit District Act.

(66) "Public-private partnership" means an arrangement or agreement, occurring on or after January 1, 2017, between a procurement unit and one or more contractors to provide for a public need through the development or operation of a project in which the contractor or contractors share with the procurement unit the responsibility or risk of developing, owning, maintaining, financing, or operating the project.

(67) "Qualified vendor" means a vendor who:

(a) is responsible; and

(b) submits a responsive statement of qualifications under Section 63G-6a-410 that meets the minimum mandatory requirements, evaluation criteria, and any applicable score thresholds set forth in the request for statement of qualifications.

(68) "Real property" means land and any building, fixture, improvement, appurtenance, structure, or other development that is permanently affixed to land.

(69) "Request for information" means a nonbinding process through which a procurement unit requests information relating to a procurement item.

(70) "Request for proposals" means a document used to solicit proposals to provide a procurement item to a procurement unit, including all other documents that are attached to that document or incorporated in that document by reference.

(71) "Request for proposals process" means the procurement process described in Part 7, Request for Proposals.

(72) "Request for statement of qualifications" means a document used to solicit information about the qualifications of a person interested in responding to a potential procurement, including all other documents attached to that document or incorporated in that document by reference.

(73) "Requirements contract" means a contract:

(a) under which a contractor agrees to provide a procurement unit's entire requirements for certain procurement items at prices specified in the contract during the contract period; and

(b) that:

(i) does not require a minimum purchase amount; or

(ii) provides a maximum purchase limit.

(74) "Responsible" means being capable, in all respects, of:

(a) meeting all the requirements of a solicitation; and

(b) fully performing all the requirements of the contract resulting from the solicitation, including being financially solvent with sufficient financial resources to perform the contract.

(75) "Responsive" means conforming in all material respects to the requirements of a solicitation.

(76) "Rule" includes a policy or regulation adopted by the rulemaking authority, if adopting a policy or regulation is the method the rulemaking authority uses to adopt provisions that govern the applicable procurement unit.

(77) "Rulemaking authority" means:

(a) for a legislative procurement unit, the Legislative Management Committee;

(b) for a judicial procurement unit, the Judicial Council;

(c) (i) only to the extent of the procurement authority expressly granted to the procurement unit by statute:

(A) for the building board or the facilities division, the building board;

(B) for the Office of the Attorney General, the attorney general;

(C) for the Department of Transportation created in Section 72-1-201, the executive director of the Department of Transportation; and

(D) for any other executive branch department, division, office, or entity that has statutory procurement authority outside this chapter, the governing authority of the department, division, office, or entity; and

(ii) for each other executive branch procurement unit, the board;

(d) for a local government procurement unit:

(i) the governing body of the local government unit; or

(ii) an individual or body designated by the local government procurement unit;

(e) for a school district or a public school, the board, except to the extent of a school district's own nonadministrative rules that do not conflict with the provisions of this chapter;

(f) for a state institution of higher education, the Utah Board of Higher Education;

(g) for the State Board of Education or the Utah Schools for the Deaf and the Blind, the State Board of Education;

(h) for a public transit district, the chief executive of the public transit district;

(i) for a local district other than a public transit district or for a special service district, the board, except to the extent that the board of trustees of the local district or the governing body of the special service district makes its own rules:

(i) with respect to a subject addressed by board rules; or

(ii) that are in addition to board rules;

(j) for the Utah Educational Savings Plan, created in Section 53B-8a-103, the Utah Board of Higher Education;

(k) for the School and Institutional Trust Lands Administration, created in Section 53C-1-201, the School and Institutional Trust Lands Board of Trustees;

(l) for the School and Institutional Trust Fund Office, created in Section 53D-1-201, the School and Institutional Trust Fund Board of Trustees;

(m) for the Utah Communications Authority, established in Section 63H-7a-201, the Utah Communications Authority board, created in Section 63H-7a-203; or

(n) for any other procurement unit, the board.

(78) "Service":

(a) means labor, effort, or work to produce a result that is beneficial to a procurement unit;

(b) includes a professional service; and

(c) does not include labor, effort, or work provided under an employment agreement or a collective bargaining agreement.

(79) "Small purchase process" means the procurement process described in Section 63G-6a-506.

(80) "Sole source contract" means a contract resulting from a sole source procurement.

(81) "Sole source procurement" means a procurement without competition pursuant to a determination under Subsection 63G-6a-802(1)(a) that there is only one source for the procurement item.

(82) "Solicitation" means an invitation for bids, request for proposals, or request for statement of qualifications.

(83) "Solicitation response" means:

(a) a bid submitted in response to an invitation for bids;

(b) a proposal submitted in response to a request for proposals; or

(c) a statement of qualifications submitted in response to a request for statement of qualifications.

(84) "Special service district" means the same as that term is defined in Section 17D-1-102.

(85) "Specification" means any description of the physical or functional characteristics or of the nature of a procurement item included in an invitation for bids or a request for proposals, or otherwise specified or agreed to by a procurement unit, including a description of:

(a) a requirement for inspecting or testing a procurement item; or

(b) preparing a procurement item for delivery.

(86) "Standard procurement process" means:

(a) the bidding process;

(b) the request for proposals process;

(c) the approved vendor list process;

(d) the small purchase process; or

(e) the design professional procurement process.

(87) "State cooperative contract" means a contract awarded by the division for and in behalf of all public entities.

(88) "Statement of qualifications" means a written statement submitted to a procurement unit in response to a request for statement of qualifications.

(89) "Subcontractor":

(a) means a person under contract to perform part of a contractual obligation under the control of the contractor, whether the person's contract is with the contractor directly or with another person who is under contract to perform part of a contractual obligation under the control of the contractor; and

(b) includes a supplier, distributor, or other vendor that furnishes supplies or services to a contractor.

(90) "Technology" means the same as "information technology," as defined in Section [~~63F-1-102~~] 63A-16-102.

(91) "Tie bid" means that the lowest responsive bids of responsible bidders are identical in price.

(92) "Time and materials contract" means a contract under which the contractor is paid:

(a) the actual cost of direct labor at specified hourly rates;

(b) the actual cost of materials and equipment usage; and

(c) an additional amount, expressly described in the contract, to cover overhead and profit, that is not based on a percentage of the cost to the contractor.

(93) "Transitional costs":

(a) means the costs of changing:

(i) from an existing provider of a procurement item to another provider of that procurement item; or

(ii) from an existing type of procurement item to another type;

(b) includes:

(i) training costs;

(ii) conversion costs;

(iii) compatibility costs;

(iv) costs associated with system downtime;

(v) disruption of service costs;

(vi) staff time necessary to implement the change;

(vii) installation costs; and

(viii) ancillary software, hardware, equipment, or construction costs; and

(c) does not include:

(i) the costs of preparing for or engaging in a procurement process; or

(ii) contract negotiation or drafting costs.

(94) "Vendor":

(a) means a person who is seeking to enter into a contract with a procurement unit to provide a procurement item; and

(b) includes:

(i) a bidder;

(ii) an offeror;

(iii) an approved vendor;

(iv) a design professional; and

(v) a person who submits an unsolicited proposal under Section 63G-6a-712.

Section 173. Section 63G-22-102 is amended to read:

63G-22-102. Definitions.

As used in this chapter:

(1) "Political subdivision" means:

(a) a county;

(b) a municipality, as defined in Section 10-1-104;

(c) a local district;

(d) a special service district;

(e) an interlocal entity, as defined in Section 11-13-103;

(f) a community reinvestment agency;

(g) a local building authority; or

(h) a conservation district.

(2) (a) "Public employee" means any individual employed by or volunteering for a state agency or a political subdivision who is not a public official.

(b) "Public employee" does not include an individual employed by or volunteering for a taxed interlocal entity.

(3) (a) "Public official" means:

(i) an appointed official or an elected official as those terms are defined in Section [~~67-19-6.7~~] 63A-17-502; or

(ii) an individual elected or appointed to a county office, municipal office, school board or school district office, local district office, or special service district office.

(b) "Public official" does not include an appointed or elected official of a taxed interlocal entity.

(4) "State agency" means a department, division, board, council, committee, institution, office, bureau, or other similar administrative unit of the executive branch of state government.

(5) "Taxed interlocal entity" means the same as that term is defined in Section 11-13-602.

Section 174. Section 63H-1-403 is amended to read:

63H-1-403. Notice of project area plan adoption -- Effective date of plan -- Contesting the formation of the plan.

(1) Upon the board's adoption of a project area plan, the board shall provide notice as provided in Subsection (1)(b) by publishing or causing to be published legal notice:

(a) in a newspaper of general circulation within or near the project area; and

(b) as required by Section 45-1-101.

(2) (a) Each notice under Subsection (1) shall include:

(i) the board resolution adopting the project area plan or a summary of the resolution; and

(ii) a statement that the project area plan is available for general public inspection and the hours for inspection.

(b) The statement required under Subsection (2)(a)(ii) may be included in the board resolution or summary described in Subsection (2)(a)(i).

(3) The project area plan becomes effective on the date designated in the board resolution adopting the project area plan.

(4) The authority shall make the adopted project area plan available to the general public at its offices during normal business hours.

(5) Within 10 days after the day on which a project area plan is adopted that establishes a project area, or after an amendment to a project area plan is adopted under which the boundary of a project area is modified, the authority shall send notice of the establishment or modification of the project area and an accurate map or plat of the project area to:

(a) the State Tax Commission;

(b) the Automated Geographic Reference Center created in Section [~~63F-1-506~~] 63A-16-505; and

(c) the assessor and recorder of each county where the project area is located.

(6) (a) A legal action or other challenge to a project area plan or a project area described in a project area plan is barred unless brought within 30 days after the effective date of the project area plan.

(b) For a project area created before December 1, 2018, a legal action or other challenge is barred.

(c) For a project area created after December 1, 2018, and before May 14, 2019, a legal action or other challenge is barred after July 1, 2019.

Section 175. Section 63H-1-701 is amended to read:

63H-1-701. Annual authority budget -- Fiscal year -- Public hearing required -- Auditor forms -- Requirement to file form.

(1) The authority shall prepare and its board adopt an annual budget of revenues and expenditures for the authority for each fiscal year.

(2) Each annual authority budget shall be adopted before June 30.

(3) The authority's fiscal year shall be the period from July 1 to the following June 30.

(4) (a) Before adopting an annual budget, the authority board shall hold a public hearing on the annual budget.

(b) The authority shall provide notice of the public hearing on the annual budget by publishing notice:

(i) at least once in a newspaper of general circulation within the state, one week before the public hearing; and

(ii) on the Utah Public Notice Website created in Section [~~63F-1-701~~] 63A-16-601, for at least one week immediately before the public hearing.

(c) The authority shall make the annual budget available for public inspection at least three days before the date of the public hearing.

(5) The state auditor shall prescribe the budget forms and the categories to be contained in each authority budget, including:

(a) revenues and expenditures for the budget year;

(b) legal fees; and

(c) administrative costs, including rent, supplies, and other materials, and salaries of authority personnel.

(6) (a) Within 30 days after adopting an annual budget, the authority board shall file a copy of the annual budget with the auditor of each county in which a project area of the authority is located, the State Tax Commission, the state auditor, the State Board of Education, and each taxing entity that levies a tax on property from which the authority collects property tax allocation.

(b) The requirement of Subsection (6)(a) to file a copy of the annual budget with the state as a taxing entity is met if the authority files a copy with the State Tax Commission and the state auditor.

Section 176. Section 63H-2-502 is amended to read:

63H-2-502. Annual authority budget -- Auditor forms -- Requirement to file form.

(1) (a) The authority shall prepare an annual budget of revenues and expenditures for the authority for each fiscal year.

(b) Before June 30 of each year and subject to the other provisions of this section, the board shall adopt an annual budget of revenues and expenditures of the authority for the immediately following fiscal year.

(2) (a) Before adopting an annual budget, the board shall hold a public hearing on the annual budget.

(b) Before holding the public hearing required by this Subsection (2), the board shall post notice of the public hearing on the Utah Public Notice Website created under Section [~~63F-1-701~~] 63A-16-601 no less than 14 days before the day on which the public hearing is to be held.

(3) The state auditor shall prescribe the budget forms and the categories to be contained in each annual budget of the authority, including:

(a) revenues and expenditures for the budget year;

(b) the outstanding bonds and related expenses;

(c) legal fees; and

(d) administrative costs, including:

(i) rent;

(ii) supplies;

(iii) other materials; and

(iv) salaries of authority personnel.

(4) Within 30 days after adopting an annual budget, the board shall file a copy of the annual budget with:

(a) the State Tax Commission; and

(b) the state auditor.

(5) (a) Subject to Subsection (5)(b), the board may by resolution amend an annual budget of the authority.

(b) The board may make an amendment of an annual budget that would increase total expenditures of the authority only after:

(i) holding a public hearing; and

(ii) before holding the public hearing required by this Subsection (5)(b), posting notice of the public hearing on the Utah Public Notice Website created under Section [~~63F-1-701~~] 63A-16-601 no less than 14 days before the day on which the public hearing is to be held.

(6) The authority may not make expenditures in excess of the total expenditures established in the annual budget as it is adopted or amended.

Section 177. Section 63H-2-504 is amended to read:

63H-2-504. Relation to other state statutes.

(1) The authority is subject to review by the Retirement and Independent Entities Committee in accordance with Title 63E, Chapter 1, Independent Entities Act.

(2) The authority is subject to:

(a) Title 51, Chapter 5, Funds Consolidation Act;

(b) Title 51, Chapter 7, State Money Management Act;

(c) Title 52, Chapter 4, Open and Public Meetings Act;

(d) Title 63A, Utah [~~Administrative Services~~] Government Operations Code;

(e) Title 63G, Chapter 2, Government Records Access and Management Act;

(f) Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(g) Title 63G, Chapter 4, Administrative Procedures Act;

(h) Title 63G, Chapter 6a, Utah Procurement Code;

(i) Title 63J, Chapter 1, Budgetary Procedures Act;

(j) Title 63J, Chapter 2, Revenue Procedures and Control Act; and

(k) Title [~~67~~] 63A, Chapter [~~19~~] 17, Utah State Personnel Management Act.

Section 178. Section 63H-4-108 is amended to read:

63H-4-108. Relation to certain acts -- Participation in Risk Management Fund.

(1) The authority is exempt from:

(a) Title 51, Chapter 5, Funds Consolidation Act;

(b) except as provided in Subsection (2)(b), Title 63A, Utah [~~Administrative Services~~] Government Operations Code;

(c) Title 63J, Chapter 1, Budgetary Procedures Act; and

(d) Title [~~67~~] 63A, Chapter [~~19~~] 17, Utah State Personnel Management Act.

(2) The authority is subject to:

(a) Title 52, Chapter 4, Open and Public Meetings Act;

(b) Title 63A, Chapter 1, Part 2, Utah Public Finance Website;

(c) Title 63G, Chapter 2, Government Records Access and Management Act; and

(d) Title 63G, Chapter 6a, Utah Procurement Code.

(3) The authority is subject to audit by the state auditor pursuant to Title 67, Chapter 3, Auditor, and by the legislative auditor general pursuant to Section 36-12-15.

(4) Subject to the requirements of Subsection 63E-1-304(2), the authority may participate in coverage under the Risk Management Fund created by Section 63A-4-201.

Section 179. Section 63H-5-108 is amended to read:

63H-5-108. Relation to certain acts.

(1) The authority is exempt from:

(a) Title 51, Chapter 5, Funds Consolidation Act;

(b) except as provided in Subsection (2)(b), Title 63A, Utah [~~Administrative Services~~] Government Operations Code;

(c) Title 63J, Chapter 1, Budgetary Procedures Act; and

(d) Title [~~67~~] 63A, Chapter [~~19~~] 17, Utah State Personnel Management Act.

(2) The authority is subject to:

(a) Title 52, Chapter 4, Open and Public Meetings Act;

(b) Title 63A, Chapter 1, Part 2, Utah Public Finance Website;

(c) Title 63G, Chapter 2, Government Records Access and Management Act;

(d) Title 63G, Chapter 6a, Utah Procurement Code; and

(e) audit by the state auditor pursuant to Title 67, Chapter 3, Auditor, and by the legislative auditor general pursuant to Section 36-12-15.

Section 180. Section 63H-6-103 is amended to read:

63H-6-103. Utah State Fair Corporation -- Legal status -- Powers.

(1) There is created an independent public nonprofit corporation known as the "Utah State Fair Corporation."

(2) The board shall file articles of incorporation for the corporation with the Division of Corporations and Commercial Code.

(3) The corporation, subject to this chapter, has all powers and authority permitted nonprofit corporations by law.

(4) The corporation shall:

(a) manage, supervise, and control:

(i) all activities relating to the annual exhibition described in Subsection (4)(j); and

(ii) except as otherwise provided by statute, all state expositions, including setting the time, place, and purpose of any state exposition;

(b) for public entertainment, displays, and exhibits or similar events:

(i) provide, sponsor, or arrange the events;

(ii) publicize and promote the events; and

(iii) secure funds to cover the cost of the exhibits from:

(A) private contributions;

(B) public appropriations;

(C) admission charges; and

(D) other lawful means;

(c) acquire and designate exposition sites;

(d) use generally accepted accounting principles in accounting for the corporation's assets, liabilities, and operations;

(e) seek corporate sponsorships for the state fair park or for individual buildings or facilities within the fair park;

(f) work with county and municipal governments, the Salt Lake Convention and Visitor's Bureau, the Utah Travel Council, and other entities to develop and promote expositions and the use of the state fair park;

(g) develop and maintain a marketing program to promote expositions and the use of the state fair park;

(h) in accordance with provisions of this part, operate and maintain the state fair park, including the physical appearance and structural integrity of the state fair park and the buildings located at the state fair park;

(i) prepare an economic development plan for the state fair park;

(j) hold an annual exhibition that:

(i) is called the state fair or a similar name;

(ii) promotes and highlights agriculture throughout the state;

(iii) includes expositions of livestock, poultry, agricultural, domestic science, horticultural, floricultural, mineral and industrial products, manufactured articles, and domestic animals that, in the corporation's opinion will best stimulate agricultural, industrial, artistic, and educational pursuits and the sharing of talents among the people of Utah;

(iv) includes the award of premiums for the best specimens of the exhibited articles and animals;

(v) permits competition by livestock exhibited by citizens of other states and territories of the United States; and

(vi) is arranged according to plans approved by the board;

(k) fix the conditions of entry to the annual exhibition described in Subsection (4)(j); and

(l) publish a list of premiums that will be awarded at the annual exhibition described in Subsection (4)(j) for the best specimens of exhibited articles and animals.

(5) In addition to the annual exhibition described in Subsection (4)(j), the corporation may hold other exhibitions of livestock, poultry, agricultural, domestic science, horticultural, floricultural, mineral and industrial products, manufactured articles, and domestic animals that, in the corporation's opinion, will best stimulate agricultural, industrial, artistic, and educational pursuits and the sharing of talents among the people of Utah.

(6) The corporation may:

(a) employ advisers, consultants, and agents, including financial experts and independent legal counsel, and fix their compensation;

(b) (i) participate in the state's Risk Management Fund created under Section 63A-4-201; or

(ii) procure insurance against any loss in connection with the corporation's property and other assets, including mortgage loans;

(c) receive and accept aid or contributions of money, property, labor, or other things of value from any source, including any grants or appropriations from any department, agency, or instrumentality of the United States or Utah;

(d) hold, use, loan, grant, and apply that aid and those contributions to carry out the purposes of the corporation, subject to the conditions, if any, upon which the aid and contributions were made;

(e) enter into management agreements with any person or entity for the performance of the corporation's functions or powers;

(f) establish whatever accounts and procedures as necessary to budget, receive, and disburse, account for, and audit all funds received, appropriated, or generated;

(g) subject to Subsection (8), lease any of the facilities at the state fair park;

(h) sponsor events as approved by the board; and

(i) enter into one or more agreements to develop the state fair park.

(7) (a) Except as provided in Subsection (7)(c), as an independent agency of Utah, the corporation is exempt from:

(i) Title 51, Chapter 5, Funds Consolidation Act;

(ii) Title 51, Chapter 7, State Money Management Act;

(iii) Title 63A, Utah [~~Administrative Services~~] Government Operations Code;

(iv) Title 63J, Chapter 1, Budgetary Procedures Act; and

(v) Title [~~67~~] 63A, Chapter [~~19~~] 17, Utah State Personnel Management Act.

(b) The board shall adopt policies parallel to and consistent with:

(i) Title 51, Chapter 5, Funds Consolidation Act;

(ii) Title 51, Chapter 7, State Money Management Act;

(iii) Title 63A, Utah [~~Administrative Services~~] Government Operations Code; and

(iv) Title 63J, Chapter 1, Budgetary Procedures Act.

(c) The corporation shall comply with:

(i) Title 52, Chapter 4, Open and Public Meetings Act;

(ii) Title 63G, Chapter 2, Government Records Access and Management Act;

(iii) the provisions of Title 63A, Chapter 1, Part 2, Utah Public Finance Website;

(iv) Title 63G, Chapter 6a, Utah Procurement Code, except for a procurement for:

(A) entertainment provided at the state fair park;

(B) judges for competitive exhibits; or

(C) sponsorship of an event at the state fair park; and

(v) the legislative approval requirements for new facilities established in Section 63A-5b-404.

(8) (a) Before the corporation executes a lease described in Subsection (6)(g) with a term of 10 or more years, the corporation shall:

(i) submit the proposed lease to the State Building Board for the State Building Board's approval or rejection; and

(ii) if the State Building Board approves the proposed lease, submit the proposed lease to the Executive Appropriations Committee for the Executive Appropriation Committee's review and recommendation in accordance with Subsection (8)(b).

(b) The Executive Appropriations Committee shall review a proposed lease submitted in accordance with Subsection (8)(a) and recommend to the corporation that the corporation:

(i) execute the proposed sublease; or

(ii) reject the proposed sublease.

Section 181. Section 63H-7a-104 is amended to read:

63H-7a-104. Relation to certain acts.

(1) The authority is exempt from:

(a) Title 51, Chapter 5, Funds Consolidation Act;

(b) except as provided in Subsection (2)(b), Title 63A, Utah [~~Administrative Services~~] Government Operations Code;

(c) Title 63J, Chapter 1, Budgetary Procedures Act; and

(d) Title [~~67~~] 63A, Chapter [~~19~~] 17, Utah State Personnel Management Act.

(2) The authority is subject to:

(a) Title 52, Chapter 4, Open and Public Meetings Act;

(b) Title 63A, Chapter 1, Part 2, Utah Public Finance Website;

(c) Title 63G, Chapter 2, Government Records Access and Management Act; and

(d) Title 63G, Chapter 6a, Utah Procurement Code.

Section 182. Section 63H-7a-304 is amended to read:

63H-7a-304. Unified Statewide 911 Emergency Service Account -- Creation -- Administration -- Permitted uses.

(1) There is created a restricted account within the General Fund known as the "Unified Statewide 911 Emergency Service Account," consisting of:

(a) proceeds from the fee imposed in Section 69-2-403;

(b) money appropriated or otherwise made available by the Legislature; and

(c) contributions of money, property, or equipment from federal agencies, political subdivisions of the state, persons, or corporations.

(2) (a) Except as provided in Subsection (4) and subject to Subsection (3) and appropriations by the Legislature, the authority shall disburse funds in the 911 account for the purpose of enhancing and maintaining the statewide public safety communications network and 911 call processing equipment in order to rapidly, efficiently, effectively, and with greater interoperability deliver 911 services in the state.

(b) In expending funds in the 911 account, the authority shall give a higher priority to an expenditure that:

(i) best promotes statewide public safety;

(ii) best promotes interoperability;

(iii) impacts the largest service territory;

(iv) impacts a densely populated area; or

(v) impacts an underserved area.

(c) The authority shall expend funds in the 911 account in accordance with the authority strategic plan described in Section 63H-7a-206.

(d) The authority may not expend funds from the 911 account collected through the 911 emergency service charge imposed in Section 69-2-403 on behalf of a PSAP that chooses not to participate in the:

(i) public safety communications network; and

(ii) the 911 emergency service defined in Section 69-2-102.

(e) The authority may not expend funds from the 911 account collected through the prepaid wireless

911 service charge revenue distributed in Subsection 69-2-405(9)(c) on behalf of a PSAP that chooses not to participate in the:

(i) public safety communications network; and

(ii) 911 emergency service defined in Section 69-2-102.

(f) The executive director shall recommend to the board expenditures for the authority to make from the 911 account in accordance with this Subsection (2).

(3) Subject to an appropriation by the Legislature and approval by the board, the Administrative Services Division may use funds in the 911 account to cover the Administrative Services Division's administrative costs related to the 911 account.

(4) (a) The authority shall reimburse from the 911 account to the Automated Geographic Reference Center created in Section [~~63F-1-506~~] 63A-16-505 an amount equal to up to 1 cent of each unified statewide 911 emergency service charge deposited into the 911 account under Section 69-2-403.

(b) The Automated Geographic Reference Center shall use the funds reimbursed to the Automated Geographic Reference Center under Subsection (4)(a) to:

(i) enhance and upgrade digital mapping standards; and

(ii) maintain a statewide geospatial database for unified statewide 911 emergency service.

Section 183. Section 63H-7a-803 is amended to read:

63H-7a-803. Relation to certain acts -- Participation in Risk Management Fund.

(1) The Utah Communications Authority is exempt from:

(a) except as provided in Subsection (3), Title 63A, Utah [~~Administrative Services~~] Government Operations Code;

(b) Title 63G, Chapter 4, Administrative Procedures Act; and

(c) Title [~~67~~] 63A, Chapter [~~19~~] 17, Utah State Personnel Management Act.

(2) (a) The board shall adopt budgetary procedures, accounting, and personnel and human resource policies substantially similar to those from which they have been exempted in Subsection (1).

(b) The authority, the board, and the committee members are subject to Title 67, Chapter 16, Utah Public Officers' and Employees' Ethics Act.

(c) The authority is subject to Title 52, Chapter 4, Open and Public Meetings Act.

(d) The authority is subject to Title 63G, Chapter 6a, Utah Procurement Code.

(e) The authority is subject to Title 63J, Chapter 1, Budgetary Procedures Act, only with respect to money appropriated to the authority by the Legislature.

(3) (a) Subject to the requirements of Subsection 63E-1-304(2), the administration may participate in coverage under the Risk Management Fund created by Section 63A-4-201.

(b) The authority is subject to Title 63A, Chapter 1, Part 2, Utah Public Finance Website.

Section 184. Section 63H-8-204 is amended to read:

63H-8-204. Relation to certain acts.

(1) The corporation is exempt from:

(a) Title 51, Chapter 5, Funds Consolidation Act;

(b) Title 51, Chapter 7, State Money Management Act;

(c) except as provided in Subsection (2), Title 63A, Utah [~~Administrative Services~~] Government Operations Code;

(d) Title 63G, Chapter 6a, Utah Procurement Code;

(e) Title 63J, Chapter 1, Budgetary Procedures Act;

(f) Title 63J, Chapter 2, Revenue Procedures and Control Act; and

(g) Title [~~67~~] 63A, Chapter [~~19~~] 17, Utah State Personnel Management Act.

(2) The corporation shall comply with:

(a) Title 52, Chapter 4, Open and Public Meetings Act;

(b) Title 63A, Chapter 1, Part 2, Utah Public Finance Website; and

(c) Title 63G, Chapter 2, Government Records Access and Management Act.

Section 185. Section 63I-1-263 is amended to read:

63I-1-263. Repeal dates, Titles 63A to 63N.

(1) In relation to the Utah Transparency Advisory Board, on January 1, 2025:

(a) Subsection 63A-1-201(1) is repealed;

(b) Subsection 63A-1-202(2)(c), the language "using criteria established by the board" is repealed;

(c) Section 63A-1-203 is repealed;

(d) Subsections 63A-1-204(1) and (2), the language "After consultation with the board, and" is repealed; and

(e) Subsection 63A-1-204(1)(b), the language "using the standards provided in Subsection 63A-1-203(3)(c)" is repealed.

(2) Subsection 63A-5b-405(5), relating to prioritizing and allocating capital improvement funding, is repealed July 1, 2024.

(3) Section 63A-5b-1003, State Facility Energy Efficiency Fund, is repealed July 1, 2023.

(4) Sections 63A-9-301 and 63A-9-302, related to the Motor Vehicle Review Committee, are repealed July 1, 2023.

(5) Title 63C, Chapter 4a, Constitutional and Federalism Defense Act, is repealed July 1, 2028.

(6) Title 63C, Chapter 6, Utah Seismic Safety Commission, is repealed January 1, 2025.

(7) Title 63C, Chapter 12, Snake Valley Aquifer Advisory Council, is repealed July 1, 2024.

(8) Title 63C, Chapter 17, Point of the Mountain Development Commission Act, is repealed July 1, 2021.

(9) Title 63C, Chapter 18, Behavioral Health Crisis Response Commission, is repealed July 1, 2023.

(10) Title 63C, Chapter 21, Outdoor Adventure Commission, is repealed July 1, 2025.

(11) Title [~~63F, Chapter 2~~] 63A, Chapter 16, Part 7, Data Security Management Council, is repealed July 1, 2025.

(12) Section 63G-6a-805, which creates the Purchasing from Persons with Disabilities Advisory Board, is repealed July 1, 2026.

(13) Title 63G, Chapter 21, Agreements to Provide State Services, is repealed July 1, 2025.

(14) Title 63H, Chapter 4, Heber Valley Historic Railroad Authority, is repealed July 1, 2024.

(15) Title 63H, Chapter 8, Utah Housing Corporation Act, is repealed July 1, 2026.

(16) Subsection 63J-1-602.1(14), Nurse Home Visiting Restricted Account is repealed July 1, 2026.

(17) (a) Subsection 63J-1-602.1(58), relating to the Utah Statewide Radio System Restricted Account, is repealed July 1, 2022.

(b) When repealing Subsection 63J-1-602.1(58), the Office of Legislative Research and General Counsel shall, in addition to the office's authority under Subsection 36-12-12(3), make necessary changes to subsection numbering and cross references.

(18) Subsection 63J-1-602.2[~~(4)~~](5), referring to dedicated credits to the Utah Marriage Commission, is repealed July 1, 2023.

(19) Subsection 63J-1-602.2[~~(5)~~](6), referring to the Trip Reduction Program, is repealed July 1, 2022.

(20) Subsection 63J-1-602.2(25), related to the Utah Seismic Safety Commission, is repealed January 1, 2025.

(21) Title 63J, Chapter 4, Part 5, Resource Development Coordinating Committee, is repealed July 1, 2027.

(22) Subsection 63J-4-608(3), which creates the Federal Land Application Advisory Committee, is repealed on July 1, 2021.

(23) In relation to the Utah Substance Use and Mental Health Advisory Council, on January 1, 2023:

(a) Sections 63M-7-301, 63M-7-302, 63M-7-303, 63M-7-304, and 63M-7-306 are repealed;

(b) Section 63M-7-305, the language that states "council" is replaced with "commission";

(c) Subsection 63M-7-305(1) is repealed and replaced with:

"(1) "Commission" means the Commission on Criminal and Juvenile Justice."; and

(d) Subsection 63M-7-305(2) is repealed and replaced with:

"(2) The commission shall:

(a) provide ongoing oversight of the implementation, functions, and evaluation of the Drug-Related Offenses Reform Act; and

(b) coordinate the implementation of Section 77-18-1.1 and related provisions in Subsections 77-18-1(5)(b)(iii) and (iv).".

(24) The Crime Victim Reparations and Assistance Board, created in Section 63M-7-504, is repealed July 1, 2027.

(25) Title 63M, Chapter 7, Part 6, Utah Council on Victims of Crime, is repealed July 1, 2022.

(26) Title 63M, Chapter 11, Utah Commission on Aging, is repealed July 1, 2021.

(27) Subsection 63N-1-301(4)(c), related to the Talent Ready Utah Board, is repealed January 1, 2023.

(28) Title 63N, Chapter 1, Part 5, Governor's Economic Development Coordinating Council, is repealed July 1, 2024.

(29) Title 63N, Chapter 2, Part 2, Enterprise Zone Act, is repealed July 1, 2028.

(30) Section 63N-2-512 is repealed July 1, 2021.

(31) (a) Title 63N, Chapter 2, Part 6, Utah Small Business Jobs Act, is repealed January 1, 2021.

(b) Section 59-9-107 regarding tax credits against premium taxes is repealed for calendar years beginning on or after January 1, 2021.

(c) Notwithstanding Subsection (31)(b), an entity may carry forward a tax credit in accordance with Section 59-9-107 if:

(i) the person is entitled to a tax credit under Section 59-9-107 on or before December 31, 2020; and

(ii) the qualified equity investment that is the basis of the tax credit is certified under Section 63N-2-603 on or before December 31, 2023.

(32) Subsections 63N-3-109(2)(e) and 63N-3-109(2)(f)(i) are repealed July 1, 2023.

(33) Title 63N, Chapter 4, Part 4, Rural Employment Expansion Program, is repealed July 1, 2023.

(34) Title 63N, Chapter 7, Part 1, Board of Tourism Development, is repealed July 1, 2025.

(35) Title 63N, Chapter 9, Part 2, Outdoor Recreational Infrastructure Grant Program, is repealed January 1, 2023.

(36) Title 63N, Chapter 12, Part 5, Talent Ready Utah Center, is repealed January 1, 2023.

Section 186. Section 63I-2-267 is amended to read:

63I-2-267. Repeal dates -- Title 67.

Section [~~67-19-45~~] 63A-17-806 is repealed June 30, 2023.

Section 187. Section 63J-4-602 is amended to read:

63J-4-602. Public Lands Policy Coordinating Office -- Coordinator -- Appointment -- Qualifications -- Compensation.

(1) There is created within state government the Public Lands Policy Coordinating Office. The office shall be administered by a public lands policy coordinator.

(2) The coordinator shall be appointed by the governor with the advice and consent of the Senate and shall serve at the pleasure of the governor.

(3) The coordinator shall have demonstrated the necessary administrative and professional ability through education and experience to efficiently and effectively manage the office's affairs.

(4) The coordinator and employees of the office shall receive compensation as provided in Title [~~67~~] 63A, Chapter [~~19~~] 17, Utah State Personnel Management Act.

Section 188. Section 63J-4-603 is amended to read:

63J-4-603. Powers and duties of coordinator and office.

(1) The coordinator and the office shall:

(a) make a report to the Constitutional Defense Council created under Section 63C-4a-202 concerning R.S. 2477 rights and other public lands issues under Title 63C, Chapter 4a, Constitutional and Federalism Defense Act;

(b) provide staff assistance to the Constitutional Defense Council created under Section 63C-4a-202 for meetings of the council;

(c) (i) prepare and submit a constitutional defense plan under Section 63C-4a-403; and

(ii) execute any action assigned in a constitutional defense plan;

(d) under the direction of the state planning coordinator, assist in fulfilling the state planning coordinator's duties outlined in Section 63J-4-401 as those duties relate to the development of public lands policies by:

(i) developing cooperative contracts and agreements between the state, political subdivisions, and agencies of the federal government for involvement in the development of public lands policies;

(ii) producing research, documents, maps, studies, analysis, or other information that supports the state's participation in the development of public lands policy;

(iii) preparing comments to ensure that the positions of the state and political subdivisions are considered in the development of public lands policy;

(iv) partnering with state agencies and political subdivisions in an effort to:

(A) prepare coordinated public lands policies;

(B) develop consistency reviews and responses to public lands policies;

(C) develop management plans that relate to public lands policies; and

(D) develop and maintain a statewide land use plan that is based on cooperation and in conjunction with political subdivisions; and

(v) providing other information or services related to public lands policies as requested by the state planning coordinator;

(e) facilitate and coordinate the exchange of information, comments, and recommendations on public lands policies between and among:

(i) state agencies;

(ii) political subdivisions;

(iii) the Office of Rural Development created under Section 63N-4-102;

(iv) the Resource Development Coordinating Committee created under Section 63J-4-501;

(v) School and Institutional Trust Lands Administration created under Section 53C-1-201;

(vi) the committee created under Section [~~63F-1-508~~] 63A-16-507 to award grants to counties to inventory and map R.S. 2477 rights-of-way, associated structures, and other features; and

(vii) the Constitutional Defense Council created under Section 63C-4a-202;

(f) perform the duties established in Title 9, Chapter 8, Part 3, Antiquities, and Title 9, Chapter 8, Part 4, Historic Sites;

(g) consistent with other statutory duties, encourage agencies to responsibly preserve archaeological resources;

(h) maintain information concerning grants made under Subsection (1)(j), if available;

(i) report annually, or more often if necessary or requested, concerning the office's activities and expenditures to:

(i) the Constitutional Defense Council; and

(ii) the Legislature's Natural Resources, Agriculture, and Environment Interim Committee jointly with the Constitutional Defense Council;

(j) make grants of up to 16% of the office's total annual appropriations from the Constitutional Defense Restricted Account to a county or statewide association of counties to be used by the county or association of counties for public lands matters if the coordinator, with the advice of the Constitutional Defense Council, determines that the action provides a state benefit;

(k) provide staff services to the Snake Valley Aquifer Advisory Council created in Section 63C-12-103;

(l) coordinate and direct the Snake Valley Aquifer Research Team created in Section 63C-12-107;

(m) conduct the public lands transfer study and economic analysis required by Section 63J-4-606; and

(n) fulfill the duties described in Section 63L-10-103.

(2) The coordinator and office shall comply with Subsection 63C-4a-203(8) before submitting a comment to a federal agency, if the governor would be subject to Subsection 63C-4a-203(8) if the governor were submitting the material.

(3) The office may enter into a contract or other agreement with another state agency to provide information and services related to:

(a) the duties authorized by Title 72, Chapter 3, Highway Jurisdiction and Classification Act;

(b) legal actions concerning Title 72, Chapter 3, Highway Jurisdiction and Classification Act, or R.S. 2477 matters; or

(c) any other matter within the office's responsibility.

Section 189. Section 63M-4-402 is amended to read:

63M-4-402. In-state generator need -- Merchant electric transmission line.

(1) As used in this section:

(a) "Capacity allocation process" means the process outlined by the Federal Energy Regulatory Commission in its final policy statement dated January 17, 2013, "Allocation of Capacity on New Merchant Transmission Projects and New Cost-Based, Participant-Funded Transmission Projects, Priority Rights to New Participant-Funded Transmission," 142 F.E.R.C. P61,038 (2013).

(b) "Certificate of in-state need" means a certificate issued by the office in accordance with this section identifying an in-state generator that meets the requirements and qualifications of this section.

(c) "Expression of need" means a document prepared and submitted to the office by an in-state merchant generator that describes or otherwise documents the transmission needs of the in-state merchant generator in conformance with the requirements of this section.

(d) "In-state merchant generator" means an electric power provider that generates power in Utah and does not provide service to retail customers within the boundaries of Utah.

(e) "Merchant electric transmission line" means a transmission line that does not provide electricity to retail customers within the boundaries of Utah.

(f) "Office" means the Office of Energy Development established in Section 63M-4-401.

(g) "Open solicitation notice" means a document prepared and submitted to the office by a merchant electric transmission line regarding the commencement of the line's open solicitation in compliance with 142 F.E.R.C. P61,038 (2013).

(2) As part of the capacity allocation process, a merchant electric transmission line shall file an open solicitation notice with the office containing a description of the merchant electric transmission line, including:

(a) the proposed capacity;

(b) the location of potential interconnection for in-state merchant generators;

(c) the planned date for commencement of construction; and

(d) the planned commercial operations date.

(3) Upon receipt of the open solicitation notice, the office shall:

(a) publish the notice on the Utah Public Notice Website created under Section [~~63F-1-701~~] 63A-16-601;

(b) include in the notice contact information; and

(c) provide the deadline date for submission of an expression of need.

(4) (a) In response to the open solicitation notice published by the office, and no later than 30 days after publication of the notice, an in-state merchant generator may submit an expression of need to the office.

(b) An expression of need submitted under Subsection (4)(a) shall include:

(i) a description of the in-state merchant generator; and

(ii) a schedule of transmission capacity requirement provided in megawatts, by point of receipt and point of delivery and by operating year.

(5) No later than 60 days after notice is published under Subsection (3), the office shall prepare a certificate of in-state need identifying the in-state merchant generators.

(6) Within five days of preparing the certificate of in-state need, the office shall:

(a) publish the certificate on the Utah Public Notice Website created under Section [~~63F-1-701~~] 63A-16-601; and

(b) provide the certificate to the merchant electric transmission line for consideration in the capacity allocation process.

(7) The merchant electric transmission line shall:

(a) provide the Federal Energy Regulatory Commission with a copy of the certificate of in-state need; and

(b) certify that the certificate is being provided to the Federal Energy Regulatory Commission in accordance with the requirements of this section, including a citation to this section.

(8) At the conclusion of the capacity allocation process, and unless prohibited by a contractual obligation of confidentiality, the merchant electric transmission line shall report to the office whether a merchant in-state generator reflected on the certificate of in-state need has entered into a transmission service agreement with the merchant electric transmission line.

(9) This section may not be interpreted to:

(a) create an obligation of a merchant electric transmission line to pay for, or construct any portion of, the transmission line on behalf of an in-state merchant generator; or

(b) preempt, supersede, or otherwise conflict with Federal Energy Regulatory Commission rules and regulations applicable to a commercial transmission agreement, including agreements, or terms of agreements, as to cost, terms, transmission capacity, or key rates.

(10) Subsections (2) through (9) do not apply to a project entity as defined in Section 11-13-103.

Section 190. Section 63N-3-501 is amended to read:

63N-3-501. Infrastructure and broadband coordination.

(1) The office shall partner with the Automated Geographic Reference Center created in Section [~~63F-1-506~~] 63A-16-505 to collect and maintain a database and interactive map that displays economic development data statewide, including:

(a) voluntarily submitted broadband availability, speeds, and other broadband data;

(b) voluntarily submitted public utility data;

(c) workforce data, including information regarding:

(i) enterprise zones designated under Section 63N-2-206;

(ii) business resource centers;

(iii) public institutions of higher education; and

(iv) procurement technical assistance centers;

(d) transportation data, which may include information regarding railway routes, commuter rail routes, airport locations, and major highways;

(e) lifestyle data, which may include information regarding state parks, national parks and monuments, United States Forest Service boundaries, ski areas, golf courses, and hospitals; and

(f) other relevant economic development data as determined by the office, including data provided by partner organizations.

(2) The office may:

(a) make recommendations to state and federal agencies, local governments, the governor, and the Legislature regarding policies and initiatives that promote the development of broadband-related infrastructure in the state and help implement those policies and initiatives;

(b) facilitate coordination between broadband providers and public and private entities;

(c) collect and analyze data on broadband availability and usage in the state, including Internet speed, capacity, the number of unique visitors, and the availability of broadband infrastructure throughout the state;

(d) create a voluntary broadband advisory committee, which shall include broadband providers and other public and private stakeholders, to solicit input on broadband-related policy guidance, best practices, and adoption strategies;

(e) work with broadband providers, state and local governments, and other public and private stakeholders to facilitate and encourage the expansion and maintenance of broadband infrastructure throughout the state; and

(f) in accordance with the requirements of Title 63J, Chapter 5, Federal Funds Procedures Act, and in accordance with federal requirements:

(i) apply for federal grants;

(ii) participate in federal programs; and

(iii) administer federally funded broadband-related programs.

Section 191. Section 67-1-2.5 is amended to read:

67-1-2.5. Executive boards -- Database -- Governor's review of new boards.

(1) As used in this section:

(a) "Administrator" means the boards and commissions administrator designated under Subsection (3).

(b) "Executive board" means an executive branch board, commission, council, committee, working group, task force, study group, advisory group, or other body:

(i) with a defined limited membership;

(ii) that is created by the constitution, by statute, by executive order, by the governor, lieutenant

governor, attorney general, state auditor, or state treasurer or by the head of a department, division, or other administrative subunit of the executive branch of state government; and

(iii) that is created to operate for more than six months.

(2) (a) Except as provided in Subsection (2)(c), before August 1 of the calendar year following the year in which a new executive board is created in statute, the governor shall:

(i) review the executive board to evaluate:

(A) whether the executive board accomplishes a substantial governmental interest; and

(B) whether it is necessary for the executive board to remain in statute;

(ii) in the governor's review described in Subsection (2)(a)(i), consider:

(A) the funding required for the executive board;

(B) the staffing resources required for the executive board;

(C) the time members of the executive board are required to commit to serve on the executive board; and

(D) whether the responsibilities of the executive board could reasonably be accomplished through an existing entity or without statutory direction; and

(iii) submit a report to the Government Operations Interim Committee recommending that the Legislature:

(A) repeal the executive board;

(B) add a sunset provision or future repeal date to the executive board;

(C) make other changes to make the executive board more efficient; or

(D) make no changes to the executive board.

(b) In conducting the evaluation described in Subsection (2)(a), the governor shall give deference to:

(i) reducing the size of government; and

(ii) making governmental programs more efficient and effective.

(c) The governor is not required to conduct the review or submit the report described in Subsection (2)(a) for an executive board that is scheduled for repeal under Title 63I, Chapter 1, Legislative Oversight and Sunset Act, or Title 63I, Chapter 2, Repeal Dates by Title Act.

(3) (a) The governor shall designate a board and commissions administrator from the governor's staff to maintain a computerized database containing information about all executive boards.

(b) The administrator shall ensure that the database contains:

(i) the name of each executive board;

(ii) the current statutory or constitutional authority for the creation of the executive board;

(iii) the sunset date on which each executive board's statutory authority expires;

(iv) the state officer or department and division of state government under whose jurisdiction the executive board operates or with which the executive board is affiliated, if any;

(v) the name, address, gender, telephone number, and county of each individual currently serving on the executive board, along with a notation of all vacant or unfilled positions;

(vi) the title of the position held by the person who appointed each member of the executive board;

(vii) the length of the term to which each member of the executive board was appointed and the month and year that each executive board member's term expires;

(viii) whether members appointed to the executive board require the advice and consent of the Senate;

(ix) the organization, interest group, profession, local government entity, or geographic area that an individual appointed to an executive board represents, if any;

(x) the party affiliation of an individual appointed to an executive board, if the statute or executive order creating the position requires representation from political parties;

(xi) whether each executive board is a policy board or an advisory board;

(xii) whether the executive board has or exercises rulemaking authority, or is a rulemaking board as defined in Section 63G-24-102; and

(xiii) any compensation and expense reimbursement that members of the executive board are authorized to receive.

(4) The administrator shall ensure the governor's website includes:

(a) the information contained in the database, except for an individual's:

(i) physical address;

(ii) email address; and

(iii) telephone number;

(b) a portal, accessible on each executive board's web page within the governor's website, through which a member of the public may provide input on:

(i) an individual appointed to serve on the executive board; or

(ii) a sitting member of the executive board;

(c) each report the administrator receives under Subsection (5); and

(d) the summary report described in Subsection (6).

(5) (a) Before August 1, once every five years, beginning in calendar year 2024, each executive

board shall prepare and submit to the administrator a report that includes:

(i) the name of the executive board;

(ii) a description of the executive board's official function and purpose;

(iii) a description of the actions taken by the executive board since the last report the executive board submitted to the administrator under this Subsection (5);

(iv) recommendations on whether any statutory, rule, or other changes are needed to make the executive board more effective; and

(v) an indication of whether the executive board should continue to exist.

(b) The administrator shall compile and post the reports described in Subsection (5)(a) to the governor's website before September 1 of a calendar year in which the administrator receives a report described in Subsection (5)(a).

(6) (a) Before September 1 of a calendar year in which the administrator receives a report described in Subsection (5)(a), the administrator shall prepare a report that includes:

(i) as of July 1 of that year, the total number of executive boards that exist;

(ii) a summary of the reports submitted to the administrator under Subsection (5), including:

(A) a list of each executive board that submitted a report under Subsection (5);

(B) a list of each executive board that did not submit a report under Subsection (5);

(C) an indication of any recommendations made under Subsection (5)(a)(iv); and

(D) a list of any executive boards that indicated under Subsection (5)(a)(v) that the executive board should no longer exist; and

(iii) a list of each executive board, identified and reported by the Division of Archives and Record Services under Section [~~63F-1-701~~] 63A-16-601, that did not post a notice of a public meeting on the public notice website during the previous fiscal year.

(b) On or before September 1 of a calendar year in which the administrator prepares a report described in Subsection (6)(a), in accordance with Section 68-3-14, the administrator shall submit the report to:

(i) the president of the Senate;

(ii) the speaker of the House of Representatives; and

(iii) the Government Operations Interim Committee.

Section 192. Section 67-1-14 is amended to read:

67-1-14. Information technology.

The governor shall review the executive branch strategic plan submitted to the governor by the chief information officer in accordance with Section [~~63F-1-203~~] 63A-16-202.

Section 193. Section 67-1a-2.2 is amended to read:

67-1a-2.2. Residences in more than one district -- Lieutenant governor to resolve.

(1) If, in reviewing a map generated from a redistricting block assignment file, the lieutenant governor determines that a single-family or multi-family residence is within more than one Congressional, Senate, House, or State Board of Education district, the lieutenant governor may, by January 31, 2012, and in consultation with the Automated Geographic Reference Center, determine the district to which the residence is assigned.

(2) In order to make the determination required by Subsection (1), the lieutenant governor shall review the block assignment file and other Bureau of the Census data and obtain and review other relevant data such as aerial photography or other data about the area.

(3) Upon making the determination authorized by this section, the lieutenant governor shall notify county clerks affected by the determination and the Automated Geographic Reference Center created under Section [~~63F-1-506~~] 63A-16-505.

Section 194. Section 67-1a-6.5 is amended to read:

67-1a-6.5. Certification of local entity boundary actions -- Definitions -- Notice requirements -- Electronic copies -- Filing.

(1) As used in this section:

(a) "Applicable certificate" means:

(i) for the impending incorporation of a city, town, local district, conservation district, or incorporation of a local district from a reorganized special service district, a certificate of incorporation;

(ii) for the impending creation of a county, school district, special service district, community reinvestment agency, or interlocal entity, a certificate of creation;

(iii) for the impending annexation of territory to an existing local entity, a certificate of annexation;

(iv) for the impending withdrawal or disconnection of territory from an existing local entity, a certificate of withdrawal or disconnection, respectively;

(v) for the impending consolidation of multiple local entities, a certificate of consolidation;

(vi) for the impending division of a local entity into multiple local entities, a certificate of division;

(vii) for the impending adjustment of a common boundary between local entities, a certificate of boundary adjustment; and

(viii) for the impending dissolution of a local entity, a certificate of dissolution.

(b) "Approved final local entity plat" means a final local entity plat, as defined in Section 17-23-20, that has been approved under Section 17-23-20 as a final local entity plat by the county surveyor.

(c) "Approving authority" has the same meaning as defined in Section 17-23-20.

(d) "Boundary action" has the same meaning as defined in Section 17-23-20.

(e) "Center" means the Automated Geographic Reference Center created under Section [~~63F-1-506~~] 63A-16-505.

(f) "Community reinvestment agency" has the same meaning as defined in Section 17C-1-102.

(g) "Conservation district" has the same meaning as defined in Section 17D-3-102.

(h) "Interlocal entity" has the same meaning as defined in Section 11-13-103.

(i) "Local district" has the same meaning as defined in Section 17B-1-102.

(j) "Local entity" means a county, city, town, school district, local district, community reinvestment agency, special service district, conservation district, or interlocal entity.

(k) "Notice of an impending boundary action" means a written notice, as described in Subsection (3), that provides notice of an impending boundary action.

(l) "Special service district" has the same meaning as defined in Section 17D-1-102.

(2) Within 10 days after receiving a notice of an impending boundary action, the lieutenant governor shall:

(a) (i) issue the applicable certificate, if:

(A) the lieutenant governor determines that the notice of an impending boundary action meets the requirements of Subsection (3); and

(B) except in the case of an impending local entity dissolution, the notice of an impending boundary action is accompanied by an approved final local entity plat;

(ii) send the applicable certificate to the local entity's approving authority;

(iii) return the original of the approved final local entity plat to the local entity's approving authority;

(iv) send a copy of the applicable certificate and approved final local entity plat to:

(A) the State Tax Commission;

(B) the center; and

(C) the county assessor, county surveyor, county auditor, and county attorney of each county in which the property depicted on the approved final local entity plat is located; and

(v) send a copy of the applicable certificate to the state auditor, if the boundary action that is the subject of the applicable certificate is:

(A) the incorporation or creation of a new local entity;

(B) the consolidation of multiple local entities;

(C) the division of a local entity into multiple local entities; or

(D) the dissolution of a local entity; or

(b) (i) send written notification to the approving authority that the lieutenant governor is unable to issue the applicable certificate, if:

(A) the lieutenant governor determines that the notice of an impending boundary action does not meet the requirements of Subsection (3); or

(B) the notice of an impending boundary action is:

(I) not accompanied by an approved final local entity plat; or

(II) accompanied by a plat or final local entity plat that has not been approved as a final local entity plat by the county surveyor under Section 17-23-20; and

(ii) explain in the notification under Subsection (2)(b)(i) why the lieutenant governor is unable to issue the applicable certificate.

(3) Each notice of an impending boundary action shall:

(a) be directed to the lieutenant governor;

(b) contain the name of the local entity or, in the case of an incorporation or creation, future local entity, whose boundary is affected or established by the boundary action;

(c) describe the type of boundary action for which an applicable certificate is sought;

(d) be accompanied by a letter from the Utah State Retirement Office, created under Section 49-11-201, to the approving authority that identifies the potential provisions under Title 49, Utah State Retirement and Insurance Benefit Act, that the local entity shall comply with, related to the boundary action, if the boundary action is an impending incorporation or creation of a local entity that may result in the employment of personnel; and

(e) (i) contain a statement, signed and verified by the approving authority, certifying that all requirements applicable to the boundary action have been met; or

(ii) in the case of the dissolution of a municipality, be accompanied by a certified copy of the court order approving the dissolution of the municipality.

(4) The lieutenant governor may require the approving authority to submit a paper or electronic copy of a notice of an impending boundary action and approved final local entity plat in conjunction with the filing of the original of those documents.

(5) (a) The lieutenant governor shall:

(i) keep, index, maintain, and make available to the public each notice of an impending boundary action, approved final local entity plat, applicable

certificate, and other document that the lieutenant governor receives or generates under this section;

(ii) make a copy of each document listed in Subsection (5)(a)(i) available on the Internet for 12 months after the lieutenant governor receives or generates the document;

(iii) furnish a paper copy of any of the documents listed in Subsection (5)(a)(i) to any person who requests a paper copy; and

(iv) furnish a certified copy of any of the documents listed in Subsection (5)(a)(i) to any person who requests a certified copy.

(b) The lieutenant governor may charge a reasonable fee for a paper copy or certified copy of a document that the lieutenant governor provides under this Subsection (5).

Section 195. Section 67-5-11 is amended to read:

67-5-11. Employee accepting appointment to state position exempt from merit provisions -- Reinstatement in career status.

(1) An employee in a career status accepting appointment to a position in state government which is exempt from the merit provisions of Title [~~67~~] 63A, Chapter [~~19~~] 17, Utah State Personnel Management Act, shall notify the attorney general in writing. Upon termination of the appointment, unless discharged for cause, the employee, through written request of reinstatement made to the attorney general within 30 days from the effective date of termination from the appointment, shall be reinstated in a career status in the attorney general's office at a salary not less than that which he was receiving at the time of his appointment, and the time spent in the other position shall be credited toward seniority in the career service. Reinstatement shall be made no later than 60 days after the written notification required by this Subsection (1) or 60 days after the effective date of termination from the employee's appointive position, whichever is later. The position and assignment to which the employee shall return shall be determined by the attorney general.

(2) (a) The Office of the Attorney General shall establish and maintain a separate seniority list for each employee category, which categories may include attorneys, investigators, paralegals, secretaries, and others.

(b) An employee of the Office of the Attorney General with less seniority than an employee in the same category entitled to be reinstated under this section holds his position subject to any reinstatement provided by Subsection (1).

Section 196. Section 72-3-108 is amended to read:

72-3-108. County roads -- Vacation and narrowing.

(1) A county may, by ordinance, vacate, narrow, or change the name of a county road without petition or after petition by a property owner.

(2) A county may not vacate a county road unless notice of the hearing is:

(a) published:

(i) in a newspaper of general circulation in the county once a week for four consecutive weeks before the hearing; and

(ii) on the Utah Public Notice Website created in Section [~~63F-1-701~~] 63A-16-601, for four weeks before the hearing; and

(b) posted in three public places for four consecutive weeks prior to the hearing; and

(c) mailed to the department and all owners of property abutting the county road.

(3) The right-of-way and easements, if any, of a property owner and the franchise rights of any public utility may not be impaired by vacating or narrowing a county road.

(4) Except as provided in Section 72-5-305, if a county vacates a county road, the state's right-of-way interest in the county road is also vacated.

Section 197. Section 72-5-105 is amended to read:

72-5-105. Highways, streets, or roads once established continue until abandoned -- Temporary closure.

(1) Except as provided in Subsections (3) and (7), all public highways, streets, or roads once established shall continue to be highways, streets, or roads until formally abandoned or vacated by written order, resolution, or ordinance resolution of a highway authority having jurisdiction or by court decree, and the written order, resolution, ordinance, or court decree has been duly recorded in the office of the recorder of the county or counties where the highway, street, or road is located.

(2) (a) For purposes of assessment, upon the recordation of an order executed by the proper authority with the county recorder's office, title to the vacated or abandoned highway, street, or road shall vest to the adjoining record owners, with one-half of the width of the highway, street, or road assessed to each of the adjoining owners.

(b) Provided, however, that should a description of an owner of record extend into the vacated or abandoned highway, street, or road that portion of the vacated or abandoned highway, street, or road shall vest in the record owner, with the remainder of the highway, street, or road vested as otherwise provided in this Subsection (2).

(c) Title to a highway, street, or road that a local highway authority closes to vehicular traffic under Subsection (3) or (7) remains vested in the city.

(3) (a) In accordance with this section, a state or local highway authority may temporarily close a class B, C, or D road, an R.S. 2477 right-of-way, or a portion of a class B, C, or D road or R.S. 2477 right-of-way.

(b) (i) A temporary closure authorized under this section is not an abandonment.

(ii) The erection of a barrier or sign on a highway, street, or road once established is not an abandonment.

(iii) An interruption of the public's continuous use of a highway, street, or road once established is not an abandonment even if the interruption is allowed to continue unabated.

(c) A temporary closure under Subsection (3)(a) may be authorized only under the following circumstances:

(i) when a federal authority, or other person, provides an alternate route to an R.S. 2477 right-of-way or portion of an R.S. 2477 right-of-way if the alternate route is:

(A) accepted by the highway authority; and

(B) formalized by a federal permit or a written agreement between the federal authority or other person and the highway authority;

(ii) when a state or local highway authority determines that correction or mitigation of injury to private or public land resources is necessary on or near a class B or D road or portion of a class B or D road; or

(iii) when a local highway authority makes a finding that temporary closure of all or part of a class C road is necessary to mitigate unsafe conditions.

(d) (i) If a local highway authority temporarily closes all or part of a class C road under Subsection (3)(c)(iii), the local highway authority may convert the closed portion of the road to another public use or purpose related to the mitigation of the unsafe condition.

(ii) If a local highway authority temporarily closes all or part of a class C road under Subsection (3)(c)(iii), and the closed portion of road is the subject of a lease agreement between the local highway authority and another entity, the local highway authority may not reopen the closed portion of the road until the lease agreement terminates.

(e) A highway authority shall reopen an R.S. 2477 right-of-way or portion of an R.S. 2477 right-of-way temporarily closed under this section if the alternate route is closed for any reason.

(f) A temporary closure authorized under Subsection (3)(c)(ii) shall:

(i) be authorized annually; and

(ii) not exceed two years or the time it takes to complete the correction or mitigation, whichever is less.

(4) To authorize a closure of a road under Subsection (3) or (7), a local highway authority shall pass an ordinance to temporarily or indefinitely close the road.

(5) Before authorizing a temporary or indefinite closure as described in Subsection (4), a highway authority shall:

(a) hold a hearing on the proposed temporary or indefinite closure;

(b) provide notice of the hearing by mailing a notice to the Department of Transportation and all owners of property abutting the highway; and

(c) except for a closure under Subsection (3)(c)(iii):

(i) publishing the notice:

(A) in a newspaper of general circulation in the county at least once a week for four consecutive weeks before the hearing; and

(B) on the Utah Public Notice Website created in Section [~~63F-1-701~~] 63A-16-601, for four weeks before the hearing; or

(ii) posting the notice in three public places for at least four consecutive weeks before the hearing.

(6) The right-of-way and easements, if any, of a property owner and the franchise rights of any public utility may not be impaired by a temporary or indefinite closure authorized under this section.

(7) (a) A local highway authority may close to vehicular travel and convert to another public use or purpose a highway, road, or street over which the local highway authority has jurisdiction, for an indefinite period of time, if the local highway authority makes a finding that:

(i) the closed highway, road, or street is not necessary for vehicular travel;

(ii) the closure of the highway, road, or street is necessary to correct or mitigate injury to private or public land resources on or near the highway, road, or street; or

(iii) the closure of the highway, road, or street is necessary to mitigate unsafe conditions.

(b) If a local highway authority indefinitely closes all or part of a highway, road, or street under Subsection (7)(a)(iii), and the closed portion of road is the subject of a lease agreement between the local highway authority and another entity, the local highway authority may not reopen the closed portion of the road until the lease agreement terminates.

(c) An indefinite closure authorized under this Subsection (7) is not an abandonment.

Section 198. Section 72-5-304 is amended to read:

72-5-304. Mapping and survey requirements.

(1) The Department of Transportation, counties, and cities are not required to possess centerline surveys for R.S. 2477 rights-of-ways.

(2) To be accepted, highways within R.S. 2477 rights-of-way do not need to be included in the plats, descriptions, and maps of county roads required by Sections 72-3-105 and 72-3-107 or on the State Geographic Information Database, created in Section [~~63F-1-507~~] 63A-16-506, required to be maintained by Subsection (3).

(3) (a) The Automated Geographic Reference Center, created in Section [~~63F-1-506~~] 63A-16-505, shall create and maintain a record of R.S. 2477 rights-of-way on the Geographic Information Database.

(b) The record of R.S. 2477 rights-of-way shall be based on information maintained by the Department of Transportation and cartographic, topographic, photographic, historical, and other data available to or maintained by the Automated Geographic Reference Center.

(c) Agencies and political subdivisions of the state may provide additional information regarding R.S. 2477 rights-of-way when information is available.

Section 199. Section 72-16-202 is amended to read:

72-16-202. Hiring of director.

(1) (a) The executive director, subject to approval by the committee, shall hire a director.

(b) The executive director may remove the director at the executive director's will.

(2) The director shall:

(a) be experienced in administration and possess additional qualifications as determined by the committee and the executive director; and

(b) receive compensation in accordance with Title [~~67~~] 63A, Chapter [~~19~~] 17, Utah State Personnel Management Act.

Section 200. Section 73-1-16 is amended to read:

73-1-16. Petition for hearing to determine validity -- Notice -- Service -- Pleading -- Costs -- Review.

Where any water users' association, irrigation company, canal company, ditch company, reservoir company, or other corporation of like character or purpose, organized under the laws of this state has entered into or proposes to enter into a contract with the United States for the payment by such association or company of the construction and other charges of a federal reclamation project constructed, under construction, or to be constructed within this state, and where funds for the payment of such charges are to be obtained from assessments levied upon the stock of such association or company, or where a lien is created or will be created against any of the land, property, canals, water rights or other assets of such association or company or against the land, property, canals, water rights or other assets of any stockholder of such association or company to secure the payment of construction or other charges of a reclamation project, the water users' association, irrigation company, canal company, ditch company, reservoir company or other corporation of like character or purpose may file in the district court of the county wherein is situated the office of such association or company a petition entitled "..... Water Users' Association" or "..... Company," as the case may be, "against the stockholders of said association or company and the owners and mortgagees of land within the ..... Federal Reclamation Project." No other or more specific description of the defendants shall be required. In the petition it may be stated that the water users' association, irrigation company, canal company, ditch company, reservoir company or other corporation of like character and purpose has entered into or proposes to enter into a contract with the United States, to be set out in full in said petition, with a prayer that the court find said contract to be valid, and a modification of any individual contracts between the United States and the stockholders of such association or company, or between the association or company, and its stockholders, so far as such individual contracts are at variance with the contract or proposed contract between the association or company and the United States.

Thereupon a notice in the nature of a summons shall issue under the hand and seal of the clerk of said court, stating in brief outline the contents of said petition, and showing where a full copy of said contract or proposed contract may be examined, such notice to be directed to the said defendants under the same general designations, which shall be considered sufficient to give the court jurisdiction of all matters involved and parties interested. Service shall be obtained (a) by publication of such notice once a week for three consecutive weeks (three times) in a newspaper published in each county where the irrigable land of such federal reclamation project is situated, (b) as required in Section 45-1-101 for three weeks, (c) by publishing the notice on the Utah Public Notice Website created in Section [~~63F-1-701~~] 63A-16-601, for three weeks prior to the date of the hearing, and (d) by the posting at least three weeks prior to the date of the hearing on said petition of the notice and a complete copy of the said contract or proposed contract in the office of the plaintiff association or company, and at three other public places within the boundaries of such federal reclamation project. Any stockholder in the plaintiff association or company, or owner, or mortgagee of land within said federal reclamation project affected by the contract proposed to be made by such association or company, may demur to or answer said petition before the date set for such hearing or within such further time as may be allowed therefor by the court. The failure of any persons affected by the said contract to answer or demur shall be construed, so far as such persons are concerned as an acknowledgment of the validity of said contract and as a consent to the modification of said individual contracts if any with such association or company or with the United States, to the extent that such modification is required to cause the said individual contracts if any to conform to the terms of the contract or proposed contract between the plaintiff and the United States. All persons filing demurrers or answers shall be entered as defendants in said cause and their defense consolidated for hearing or trial. Upon hearing the court shall examine all matters and things in controversy and shall enter judgment and decree as the case warrants, showing how and to what extent, if any, the said individual contracts of

the defendants or under which they claim are modified by the plaintiff's contract or proposed contract with the United States. In reaching his conclusion in such causes, the court shall follow a liberal interpretation of the laws, and shall disregard informalities or omissions not affecting the substantial rights of the parties, unless it is affirmatively shown that such informalities or omissions led to a different result than would have been obtained otherwise. The Code of Civil Procedure shall govern matters of pleading and practice as nearly as may be. Costs may be assessed or apportioned among contesting parties in the discretion of the trial court. Review of the judgment of the district court by the Supreme Court may be had as in other civil causes.

Section 201. Section 73-5-1 is amended to read:

73-5-1. Appointment of water commissioners -- Procedure.

(1) (a) If, in the judgment of the state engineer or the district court, it is necessary to appoint a water commissioner for the distribution of water from any river system or water source, the commissioner shall be appointed for a four-year term by the state engineer.

(b) The state engineer shall determine whether all or a part of a river system or other water source shall be served by a commissioner, and if only a part is to be served, the state engineer shall determine the boundaries of that part.

(c) The state engineer may appoint:

(i) more than one commissioner to distribute water from all or a part of a water source; or

(ii) a single commissioner to distribute water from several separate and distinct water sources.

(d) A water commissioner appointed by the state engineer under this section is:

(i) an employee of the Division of Water Rights;

(ii) career service exempt under Subsection [~~67-19-15~~] 63A-17-301(1)(k); and

(iii) exempt under Subsection [~~67-19-12~~] 63A-17-307(2)(f) from the classified service provisions of Section [~~67-19-12~~] 63A-17-307.

(2) (a) The state engineer shall consult with the water users before appointing a commissioner. The form of consultation and notice to be given shall be determined by the state engineer so as to best suit local conditions, while providing for full expression of majority opinion.

(b) The state engineer shall act in accordance with the recommendation of a majority of the water users, if the majority of the water users:

(i) agree upon:

(A) a qualified individual to be appointed as a water commissioner;

(B) the duties the individual shall perform; and

(C) subject to the requirements of Title 49, Utah State Retirement and Insurance Benefit Act, the compensation the individual shall receive; and

(ii) submit a recommendation to the state engineer on the items described in Subsection (2)(b)(i).

(c) If a majority of water users do not agree on the appointment, duties, or compensation, the state engineer shall make a determination for them.

(3) (a) (i) The salary and expenses of the commissioner and all other expenses of distribution, including printing, postage, equipment, water users' expenses, and any other expenses considered necessary by the state engineer, shall be borne pro rata by the users of water from the river system or water source in accordance with a schedule to be fixed by the state engineer.

(ii) The schedule shall be based on the established rights of each water user, and the pro rata share shall be paid by each water user to the state engineer on or before May 1 of each year.

(b) The payments shall be deposited in the Water Commissioner Fund created in Section 73-5-1.5.

(c) If a water user fails to pay the assessment as provided by Subsection (3)(a), the state engineer may do any or all of the following:

(i) create a lien upon the water right affected by filing a notice of lien in the office of the county recorder in the county where the water is diverted and bring an action to enforce the lien;

(ii) forbid the use of water by the delinquent water user or the delinquent water user's successors or assignees, while the default continues; or

(iii) bring an action in the district court for the unpaid expense and salary.

(d) In any action brought to collect any unpaid assessment or to enforce any lien under this section, the delinquent water user shall be liable for the amount of the assessment, interest, any penalty, and for all costs of collection, including all court costs and a reasonable attorney fee.

(4) (a) A commissioner may be removed by the state engineer for cause.

(b) The users of water from any river system or water source may petition the district court for the removal of a commissioner and after notice and hearing, the court may order the removal of the commissioner and direct the state engineer to appoint a successor.

Section 202. Section 73-5-14 is amended to read:

73-5-14. Determination by the state engineer of watershed to which particular source is tributary -- Publications of notice and result -- Hearing -- Judicial review.

(1) The state engineer may determine for administrative and distribution purposes the

watershed to which any particular stream or source of water is tributary.

(2) A determination under Subsection (1) may be made only after publication of notice to the water users.

(3) Publication of notice under Subsection (2) shall be made:

(a) in a newspaper or newspapers having general circulation in every county in the state in which any rights might be affected, once each week for five consecutive weeks;

(b) in accordance with Section 45-1-101 for five weeks; and

(c) on the Utah Public Notice Website created in Section [~~63F-1-701~~] 63A-16-601, for five weeks.

(4) The state engineer shall fix the date and place of hearing and at the hearing any water user shall be given an opportunity to appear and adduce evidence material to the determination of the question involved.

(5) (a) The state engineer shall publish the result of the determination as provided in Subsections (3)(a) and (b), and the notice of the decision of the state engineer shall notify the public that any person aggrieved by the decision may appeal the decision as provided by Section 73-3-14.

(b) The notice under Subsection (5)(a) shall be considered to have been given so as to start the time for appeal upon completion of the publication of notice.

Section 203. Section 75-1-401 is amended to read:

75-1-401. Notice -- Method and time of giving.

(1) If notice of a hearing on any petition is required and except for specific notice requirements as otherwise provided, the petitioner shall cause notice of the time and place of hearing of any petition to be given to any interested person or the person's attorney if the person has appeared by attorney or requested that notice be sent to the person's attorney. Notice shall be given by the clerk posting a copy of the notice for the 10 consecutive days immediately preceding the time set for the hearing in at least three public places in the county, one of which must be at the courthouse of the county and:

(a) (i) by the clerk mailing a copy thereof at least 10 days before the time set for the hearing by certified, registered, or ordinary first class mail addressed to the person being notified at the post-office address given in the demand for notice, if any, or at the person's office or place of residence, if known; or

(ii) by delivering a copy thereof to the person being notified personally at least 10 days before the time set for the hearing; and

(b) if the address, or identity of any person is not known and cannot be ascertained with reasonable diligence, by publishing:

(i) at least once a week for three consecutive weeks a copy thereof in a newspaper having general circulation in the county where the hearing is to be held, the last publication of which is to be at least 10 days before the time set for the hearing; and

(ii) on the Utah Public Notice Website created in Section [~~63F-1-701~~] 63A-16-601, for three weeks.

(2) The court for good cause shown may provide for a different method or time of giving notice for any hearing.

(3) Proof of the giving of notice shall be made on or before the hearing and filed in the proceeding.

Section 204. Effective date.

This bill takes effect on July 1, 2021.

Section 205. Revisor instructions.

The Legislature intends that the Office of Legislative Research and General Counsel, in preparing the Utah Code database for publication, not enroll this bill if S.B. 181, Department of Government Operations, does not pass.

CHAPTER 346
S. B. 184
Passed March 5, 2021
Approved March 17, 2021
Effective May 5, 2021

SCHOOL ASSESSMENT AND ACCOUNTABILITYAMENDMENTS

Chief Sponsor: Kathleen A. Riebe
House Sponsor: V. Lowry Snow

LONG TITLE

General Description:

This bill makes amendments to provisions related to public school assessment and accountability.

Highlighted Provisions:

This bill:

- provides that, for the 2020-2021 school year, the State Board of Education (state board) is not required to:
  - identify schools not achieving state-established acceptable levels of student performance for the 2020-2021 school year;
  - assign to each school an overall rating using an A through F letter grading scale;
  - publish a report card for each school on the state board's website; or
  - determine school performance success and student academic achievement under the Teacher and Student Success Program;
- for the 2020-21, 2021-22, and 2022-23 school years, makes changes to the permitted uses for school turnaround funds appropriated in prior years;
- removes the exception for assigning an overall rating to a school when the state board establishes a new baseline to determine student growth due to a transition to a new assessment; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53E-4-311, as last amended by Laws of Utah 2019, Chapter 186
53E-5-204, as last amended by Laws of Utah 2020, Chapter 266
53E-5-211, as last amended by Laws of Utah 2019, Chapter 186
53E-5-305, as last amended by Laws of Utah 2020, Chapter 408
53G-7-1306, as last amended by Laws of Utah 2020, Chapter 408

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53E-4-311 is amended to read:

53E-4-311. Analysis of results -- Staff professional development.

(1) The state board, through the state superintendent, shall develop an online data reporting tool to analyze the results of statewide assessments.

(2) The online data reporting tool shall include components designed to:

(a) assist school districts and individual schools to use the results of the analysis in planning, evaluating, and enhancing programs;

(b) identify schools not achieving state-established acceptable levels of student performance in order to assist those schools in improving student performance levels; and

(c) provide:

(i) for statistical reporting of statewide assessment results at state, school district, school, and grade or course levels; and

(ii) actual levels of performance on statewide assessments.

(3) A local school board or charter school governing board shall provide for:

(a) evaluation of the statewide assessment results and use of the evaluations in setting goals and establishing programs; and

(b) a professional development program that provides teachers, principals, and other professional staff with the training required to successfully establish and maintain statewide assessments.

(4) The state board is not required to identify schools not achieving state-established acceptable levels of student performance as described in Subsection (2)(b) for the 2020-2021 school year.

Section 2. Section 53E-5-204 is amended to read:

53E-5-204. Rating schools.

(1) Except as provided in Subsection (3), and in accordance with this part, the state board shall annually assign to each school an overall rating using an A through F letter grading scale where, based on the school's performance level on the indicators described in Subsection (2):

(a) an A grade represents an exemplary school;

(b) a B grade represents a commendable school;

(c) a C grade represents a typical school;

(d) a D grade represents a developing school; and

(e) an F grade represents a critical needs school.

(2) A school's overall rating described in Subsection (1) shall be based on the school's performance on the indicators described in:

(a) Section 53E-5-205, for an elementary school or a middle school; or

(b) Section 53E-5-206, for a high school.

[~~(3) (a) For a school year in which the state board determines it is necessary to establish, due to a~~

~~transition to a new assessment, a new baseline to determine student growth described in Section 53E-5-210, the state board is not required to assign an overall rating described in Subsection (1) to a school to which the new baseline applies.~~]

[~~(b)~~] (3) For the 2017-2018, 2018-2019, [~~and~~] 2019-2020, and 2020-2021 school years, the state board:

[~~(i)~~] (a) shall evaluate a school based on the school's performance level on the indicators described in Subsection (2) and in accordance with this part; and

[~~(ii)~~] (b) is not required to assign a school an overall rating described in Subsection (1).

Section 3. Section 53E-5-211 is amended to read:

53E-5-211. Reporting.

(1) [~~The~~] Except as provided in Subsection (2), the state board shall annually publish on the state board's website a report card that includes for each school:

(a) the school's overall rating described in Subsection 53E-5-204(1);

(b) the school's performance on each indicator described in:

(i) Section 53E-5-205, for an elementary school or a middle school; or

(ii) Section 53E-5-206, for a high school;

(c) information comparing the school's performance on each indicator described in Subsection (1)(b) with:

(i) the average school performance; and

(ii) the school's performance in all previous years for which data is available;

(d) the percentage of students who participated in statewide assessments;

(e) for an elementary school, the percentage of students who read on grade level in grades 1 through 3; and

(f) for a high school, performance on Advanced Placement exams.

(2) The state board shall collect, but is not required to publish the information described in Subsection (1) related to the 2020-2021 school year.

[~~(2)~~] (3) A school may include in the school's report card described in Subsection (1) up to two self-reported school quality indicators that:

(a) are approved by the state board for inclusion; and

(b) may include process or input indicators.

[~~(3)~~] (4) (a) The state board shall develop an individualized student achievement report that includes:

(i) information on the student's level of proficiency as measured by a statewide assessment; and

(ii) a comparison of the student's academic growth target and actual academic growth as measured by a statewide assessment.

(b) The state board shall, subject to the Family Educational Rights and Privacy Act, 20 U.S.C. Sec. 1232g, make the individualized student achievement report described in Subsection [~~(3)~~] (4)(a) available for a school district or charter school to access electronically.

(c) A school district or charter school shall distribute an individualized student achievement report to the parent of the student to whom the report applies.

Section 4. Section 53E-5-305 is amended to read:

53E-5-305. State board to identify independent school turnaround experts -- Review and approval of school turnaround plans -- Appeals process.

(1) The state board shall identify two or more approved independent school turnaround experts, through a standard procurement process, that a low performing school may contract with to:

(a) respond to the needs assessment conducted under Section 53E-5-302; and

(b) provide the services described in Section 53E-5-303 or 53E-5-304, as applicable.

(2) In identifying independent school turnaround experts under Subsection (1), the state board shall identify experts that:

(a) have a credible track record of improving student academic achievement in public schools with various demographic characteristics, as measured by statewide assessments described in Section 53E-4-301;

(b) have experience designing, implementing, and evaluating data-driven instructional systems in public schools;

(c) have experience coaching public school administrators and teachers on designing data-driven school improvement plans;

(d) have experience working with the various education entities that govern public schools;

(e) have experience delivering high-quality professional development in instructional effectiveness to public school administrators and teachers; and

(f) are willing to partner with any low performing school in the state, regardless of location.

(3) (a) The state board shall:

(i) review a proposal submitted for approval under Section 53E-5-303 or 53E-5-304 no later than 30 days after the day on which the proposal is submitted;

(ii) review a school turnaround plan submitted for approval under Subsection 53E-5-303(7)(b) or

under Subsection 53E-5-304(9)(b) within 30 days of submission; and

(iii) approve a school turnaround plan that:

(A) is timely;

(B) is well-developed; and

(C) meets the criteria described in Subsection 53E-5-303(5).

(b) The state board may not approve a school turnaround plan that is not aligned with the needs assessment conducted under Section 53E-5-302.

(4) (a) Subject to legislative appropriations, when a school turnaround plan is approved by the state board, the state board shall distribute funds to each LEA governing board with a low performing school to carry out the provisions of Sections 53E-5-303 and 53E-5-304.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board shall make rules establishing a distribution method and allowable uses of the funds described in Subsection (4)(a).

(5) The state board shall:

(a) monitor and assess progress toward the goals, benchmarks and timetable in each school turnaround plan; and

(b) act as a liaison between a local school board, low performing school, and turnaround expert.

(6) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board shall make rules to establish an appeals process for:

(i) a low performing district school that is not granted approval from the district school's local school board under Subsection 53E-5-303(7)(b);

(ii) a low performing charter school that is not granted approval from the charter school's charter school governing board under Subsection 53E-5-304(9)(b); and

(iii) a local school board or charter school governing board that is not granted approval from the state board under Subsection (3)(a) or (b).

(b) The state board shall ensure that rules made under Subsection (6)(a) require an appeals process described in:

(i) Subsections (6)(a)(i) and (ii) to be resolved on or before July 1 of the initial remedial year; and

(ii) Subsection (6)(a)(iii) to be resolved on or before August 15 of the initial remedial year.

(7) [~~The~~] Except as provided in Subsection (8), the state board may use up to 4% of the funds appropriated by the Legislature to carry out the provisions of this part for administration if the amount for administration is approved by the state board in an open meeting.

(8) For the 2020-21, 2021-22, and 2022-23 school years, if the state board approves the use in an open meeting, the state board may use funds the Legislature appropriated in prior years to carry out the provisions of this part:

(a) for administration;

(b) up to $1,000,000 to contract with a provider, through a request for proposals process, to pilot complementary approaches to school improvement that draw on community resources and engagement; and

(c) to analyze the effectiveness of supports provided:

(i) under this part; and

(ii) by other school improvement programs.

Section 5. Section 53G-7-1306 is amended to read:

53G-7-1306. School improvement oversight -- Performance standards.

(1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board shall make rules that:

(a) using a criteria-setting process, determine a threshold of points under the statewide school accountability system that designates a school as succeeding in school performance and student academic achievement; and

(b) determine performance standards for a school described in Section 53E-5-203.

(2) (a) [~~For~~] Except as provided in Subsection (3), for each year following the year in which a school received approval for a success plan, an LEA governing board shall determine if the school:

(i) meets or exceeds the threshold of points described in Subsection (1);

(ii) has demonstrated at least a 1% increase in the school's total points received under the statewide school accountability system compared to the previous school year; or

(iii) qualifies for and satisfies the performance standards described in Subsection (1)(b).

(b) If the LEA governing board determines that a school does not satisfy Subsection (2)(a)(i), (ii), or (iii), the LEA governing board shall:

(i) work with the school's principal to modify the school's success plan to address the school's performance; and

(ii) oversee and adjust the school's allocation expenditures until the LEA governing board determines the school satisfies Subsection (2)(a)(i), (ii), or (iii).

(3) An LEA is not required to make the determination described in Subsection (2)(a) during the 2021-2022 school year.

CHAPTER 347
S. B. 186
Passed March 5, 2021
Approved March 17, 2021
Effective May 5, 2021

ANTI-BOYCOTT ISRAEL AMENDMENTS

Chief Sponsor: Jerry W. Stevenson
House Sponsor: Francis D. Gibson

LONG TITLE

General Description:

This bill enacts the Anti-boycott Israel Act.

Highlighted Provisions:

This bill:

- defines terms; and
- prohibits a government entity from contracting with a company that boycotts the State of Israel.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:
63G-27-101, Utah Code Annotated 1953
63G-27-102, Utah Code Annotated 1953
63G-27-201, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63G-27-101 is enacted to read:

CHAPTER 27. ANTI-BOYCOTT ISRAEL ACT

Part 1. General Provisions

63G-27-101. Title.

This chapter is known as the "Anti-Boycott Israel Act."

Section 2. Section 63G-27-102 is enacted to read:

63G-27-102. Definitions.

As used in this chapter:

(1) "Boycott action" means refusing to deal, terminating business activities, or limiting commercial relations.

(2) "Boycott of the State of Israel" means engaging in a boycott action targeting:

(a) the State of Israel; and

(b) (i) companies or individuals doing business in or with the State of Israel; or

(ii) companies authorized by, licensed by, or organized under the laws of the State of Israel to do business.

(3) (a) "Company" means a corporation, partnership, limited liability company, or similar entity.

(b) "Company" includes any wholly-owned subsidiary, majority-owned subsidiary, parent company, or affiliate of an entity described in Subsection (3)(a).

(4) "Public entity" means the state or a political subdivision of the state, including each department, division, office, board, commission, council, authority, or institution of the state or a political subdivision of the state.

Section 3. Section 63G-27-201 is enacted to read:

Part 2. Prohibitions

63G-27-201. Prohibition on contracting.

(1) Except as provided in Subsection (2), a public entity may not enter into a contract with a company to acquire or dispose of a good or service, including supplies, information technology, or construction services, unless:

(a) the contract includes a written certification that the company is not currently engaged in a boycott of the State of Israel; and

(b) the company agrees not to engage in a boycott of the State of Israel for the duration of the contract.

(2) This section does not apply to:

(a) a contract with a total value of less than $100,000; or

(b) a contract with a company that has fewer than 10 full-time employees.

CHAPTER 348
S. B. 189
Passed March 5, 2021
Approved March 17, 2021
Effective May 5, 2021

TOBACCO RETAILER AMENDMENTS

Chief Sponsor: Evan J. Vickers
House Sponsor: Paul Ray

LONG TITLE

General Description:

This bill amends provisions relating to tobacco retailers.

Highlighted Provisions:

This bill:

- amends provisions relating to a retail tobacco specialty business that is within a certain distance from a school;
- modifies the requirements for a tobacco retail permit;
- clarifies provisions relating to who may be in a retail tobacco specialty business; and
- modifies penalties for selling a tobacco product, electronic cigarette product, or a nicotine product to an individual who is younger than 21 years old.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

10-8-41.6, as last amended by Laws of Utah 2020, Sixth Special Session, Chapter 18
17-50-333, as last amended by Laws of Utah 2020, Sixth Special Session, Chapter 18
26-62-205, as last amended by Laws of Utah 2020, Chapters 302, 347
26-62-304, as last amended by Laws of Utah 2020, Chapters 302, 347
26-62-305, as last amended by Laws of Utah 2020, Chapters 302, 347 and last amended by Coordination Clause, Laws of Utah 2020, Chapter 302
26-62-306, as last amended by Laws of Utah 2020, Chapter 347
26-62-401, as enacted by Laws of Utah 2020, Chapter 302
76-10-105.1, as last amended by Laws of Utah 2020, Chapters 302 and 347

REPEALS:

26-62-402, as enacted by Laws of Utah 2020, Chapter 302

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 10-8-41.6 is amended to read:

10-8-41.6. Regulation of retail tobacco specialty business.

(1) As used in this section:

(a) "Community location" means:

(i) a public or private kindergarten, elementary, middle, junior high, or high school;

(ii) a licensed child-care facility or preschool;

(iii) a trade or technical school;

(iv) a church;

(v) a public library;

(vi) a public playground;

(vii) a public park;

(viii) a youth center or other space used primarily for youth oriented activities;

(ix) a public recreational facility;

(x) a public arcade; or

(xi) for a new license issued on or after July 1, 2018, a homeless shelter.

(b) "Department" means the Department of Health, created in Section 26-1-4.

(c) "Electronic cigarette product" means the same as that term is defined in Section 76-10-101.

(d) "Flavored electronic cigarette product" means the same as that term is defined in Section 76-10-101.

(e) "Licensee" means a person licensed under this section to conduct business as a retail tobacco specialty business.

(f) "Local health department" means the same as that term is defined in Section 26A-1-102.

(g) "Nicotine product" means the same as that term is defined in Section 76-10-101.

(h) "Retail tobacco specialty business" means a commercial establishment in which:

(i) sales of tobacco products, electronic cigarette products, and nicotine products account for more than 35% of the total quarterly gross receipts for the establishment;

(ii) 20% or more of the public retail floor space is allocated to the offer, display, or storage of tobacco products, electronic cigarette products, or nicotine products;

(iii) 20% or more of the total shelf space is allocated to the offer, display, or storage of tobacco products, electronic cigarette products, or nicotine products;

(iv) the commercial establishment:

(A) holds itself out as a retail tobacco specialty business; and

(B) causes a reasonable person to believe the commercial establishment is a retail tobacco specialty business;

(v) any flavored electronic cigarette product is sold; or

(vi) the retail space features a self-service display for tobacco products, electronic cigarette products, or nicotine products.

(i) "Self-service display" means the same as that term is defined in Section 76-10-105.1.

(j) "Tobacco product" means:

(i) a tobacco product as defined in Section 76-10-101; or

(ii) tobacco paraphernalia as defined in Section 76-10-101.

(2) The regulation of a retail tobacco specialty business is an exercise of the police powers of the state by the state or by delegation of the state's police powers to other governmental entities.

(3) (a) A person may not operate a retail tobacco specialty business in a municipality unless the person obtains a license from the municipality in which the retail tobacco specialty business is located.

(b) A municipality may only issue a retail tobacco specialty business license to a person if the person complies with the provisions of Subsections (4) and (5).

(4) (a) Except as provided in Subsection (7), a municipality may not issue a license for a person to conduct business as a retail tobacco specialty business if the retail tobacco specialty business is located within:

(i) 1,000 feet of a community location;

(ii) 600 feet of another retail tobacco specialty business; or

(iii) 600 feet from property used or zoned for:

(A) agriculture use; or

(B) residential use.

(b) For purposes of Subsection (4)(a), the proximity requirements shall be measured in a straight line from the nearest entrance of the retail tobacco specialty business to the nearest property boundary of a location described in Subsections (4)(a)(i) through (iii), without regard to intervening structures or zoning districts.

(5) A municipality may not issue or renew a license for a person to conduct business as a retail tobacco specialty business until the person provides the municipality with proof that the retail tobacco specialty business has:

(a) a valid permit for a retail tobacco specialty business issued under Title 26, Chapter 62, Tobacco, Electronic Cigarette, and Nicotine Product Retail Permit, by the local health department having jurisdiction over the area in which the retail tobacco specialty business is located; and

(b) (i) for a retailer that sells a tobacco product, a valid license issued by the State Tax Commission in accordance with Section 59-14-201 or 59-14-301 to sell a tobacco product; and

(ii) for a retailer that sells an electronic cigarette product or a nicotine product, a valid license issued by the State Tax Commission in accordance with Section 59-14-803 to sell an electronic cigarette product or a nicotine product.

(6) (a) Nothing in this section:

(i) requires a municipality to issue a retail tobacco specialty business license; or

(ii) prohibits a municipality from adopting more restrictive requirements on a person seeking a license or renewal of a license to conduct business as a retail tobacco specialty business.

(b) A municipality may suspend or revoke a retail tobacco specialty business license issued under this section:

(i) if a licensee engages in a pattern of unlawful activity under Title 76, Chapter 10, Part 16, Pattern of Unlawful Activity Act;

(ii) if a licensee violates federal law or federal regulations restricting the sale and distribution of tobacco products or electronic cigarette products to protect children and adolescents;

(iii) upon the recommendation of the department or a local health department under Title 26, Chapter 62, Tobacco, Electronic Cigarette, and Nicotine Product Retail Permit; or

(iv) under any other provision of state law or local ordinance.

(7) (a) A retail tobacco specialty business is exempt from Subsection (4) if:

(i) on or before December 31, 2018, the retail tobacco specialty business was issued a license to conduct business as a retail tobacco specialty business;

(ii) the retail tobacco specialty business is operating in a municipality in accordance with all applicable laws except for the requirement in Subsection (4); and

(iii) beginning July 1, [~~2021~~] 2022, the retail tobacco specialty business is not located within 1,000 feet of a public or private kindergarten, elementary, middle, junior high, or high school.

(b) A retail tobacco specialty business may maintain an exemption under Subsection (7)(a) if:

(i) the license described in Subsection (7)(a)(i) is renewed continuously without lapse or permanent revocation;

(ii) the retail tobacco specialty business does not close for business or otherwise suspend the sale of tobacco products, electronic cigarette products, or nicotine products for more than 60 consecutive days;

(iii) the retail tobacco specialty business does not substantially change the business premises or business operation; and

(iv) the retail tobacco specialty business maintains the right to operate under the terms of other applicable laws, including:

(A) Title 26, Chapter 38, Utah Indoor Clean Air Act;

(B) zoning ordinances;

(C) building codes; and

(D) the requirements of the license described in Subsection (7)(a)(i).

(c) A retail tobacco specialty business that does not qualify for an exemption under Subsection (7)(a) is exempt from Subsection (4) if:

(i) on or before December 31, 2018, the retail tobacco specialty business was issued a general tobacco retailer permit or a retail tobacco specialty business permit under Title 26, Chapter 62, Tobacco, Electronic Cigarette, and Nicotine Product Retail Permit, by the local health department having jurisdiction over the area in which the retail tobacco specialty business is located;

(ii) the retail tobacco specialty business is operating in the municipality in accordance with all applicable laws except for the requirement in Subsection (4); and

(iii) beginning July 1, 2022, the retail tobacco specialty business is not located within 1,000 feet of a public or private kindergarten, elementary, middle, junior high, or high school.

(d) [~~A~~] Except as provided in Subsection (7)(e), a retail tobacco specialty business may maintain an exemption under Subsection (7)(c) if:

(i) on or before December 31, 2020, the retail tobacco specialty business receives a retail tobacco specialty business permit from the local health department having jurisdiction over the area in which the retail tobacco specialty business is located;

(ii) the permit described in Subsection (7)(d)(i) is renewed continuously without lapse or permanent revocation;

(iii) the retail tobacco specialty business does not close for business or otherwise suspend the sale of tobacco products, electronic cigarette products, or nicotine products for more than 60 consecutive days; [~~and~~]

(iv) the retail tobacco specialty business does not substantially change the business premises or business operation as the business existed when the retail tobacco specialty business received a permit under Subsection (7)(d)(i); and

[~~(iv)~~] (v) the retail tobacco specialty business maintains the right to operate under the terms of other applicable laws, including:

(A) Title 26, Chapter 38, Utah Indoor Clean Air Act;

(B) zoning ordinances;

(C) building codes; and

(D) the requirements of the retail tobacco permit described in Subsection (7)(d)(i).

(e) A retail tobacco specialty business described in Subsection (7)(a) or (b) that is located within 1,000 feet of a public or private kindergarten, elementary, middle, junior high, or high school before July 1, 2022, is exempt from Subsection (4)(a)(iii)(B) if the retail tobacco specialty business:

(i) relocates, before July 1, 2022, to a property that is used or zoned for commercial use and located within a group of architecturally unified commercial establishments built on a site that is planned, developed, owned, and managed as an operating unit; and

(ii) continues to meet the requirements described in Subsection (7)(b) that are not directly related to the relocation described in this Subsection (7)(e).

Section 2. Section 17-50-333 is amended to read:

17-50-333. Regulation of retail tobacco specialty business.

(1) As used in this section:

(a) "Community location" means:

(i) a public or private kindergarten, elementary, middle, junior high, or high school;

(ii) a licensed child-care facility or preschool;

(iii) a trade or technical school;

(iv) a church;

(v) a public library;

(vi) a public playground;

(vii) a public park;

(viii) a youth center or other space used primarily for youth oriented activities;

(ix) a public recreational facility;

(x) a public arcade; or

(xi) for a new license issued on or after July 1, 2018, a homeless shelter.

(b) "Department" means the Department of Health, created in Section 26-1-4.

(c) "Electronic cigarette product" means the same as that term is defined in Section 76-10-101.

(d) "Flavored electronic cigarette product" means the same as that term is defined in Section 76-10-101.

(e) "Licensee" means a person licensed under this section to conduct business as a retail tobacco specialty business.

(f) "Local health department" means the same as that term is defined in Section 26A-1-102.

(g) "Nicotine product" means the same as that term is defined in Section 76-10-101.

(h) "Retail tobacco specialty business" means a commercial establishment in which:

(i) sales of tobacco products, electronic cigarette products, and nicotine products account for more than 35% of the total quarterly gross receipts for the establishment;

(ii) 20% or more of the public retail floor space is allocated to the offer, display, or storage of tobacco products, electronic cigarette products, or nicotine products;

(iii) 20% or more of the total shelf space is allocated to the offer, display, or storage of tobacco products, electronic cigarette products, or nicotine products;

(iv) the commercial establishment:

(A) holds itself out as a retail tobacco specialty business; and

(B) causes a reasonable person to believe the commercial establishment is a retail tobacco specialty business;

(v) any flavored electronic cigarette product is sold; or

(vi) the retail space features a self-service display for tobacco products, electronic cigarette products, or nicotine products.

(i) "Self-service display" means the same as that term is defined in Section 76-10-105.1.

(j) "Tobacco product" means:

(i) the same as that term is defined in Section 76-10-101; or

(ii) tobacco paraphernalia as defined in Section 76-10-101.

(2) The regulation of a retail tobacco specialty business is an exercise of the police powers of the state by the state or by the delegation of the state's police power to other governmental entities.

(3) (a) A person may not operate a retail tobacco specialty business in a county unless the person obtains a license from the county in which the retail tobacco specialty business is located.

(b) A county may only issue a retail tobacco specialty business license to a person if the person complies with the provisions of Subsections (4) and (5).

(4) (a) Except as provided in Subsection (7), a county may not issue a license for a person to conduct business as a retail tobacco specialty business if the retail tobacco specialty business is located within:

(i) 1,000 feet of a community location;

(ii) 600 feet of another retail tobacco specialty business; or

(iii) 600 feet from property used or zoned for:

(A) agriculture use; or

(B) residential use.

(b) For purposes of Subsection (4)(a), the proximity requirements shall be measured in a straight line from the nearest entrance of the retail tobacco specialty business to the nearest property boundary of a location described in Subsections (4)(a)(i) through (iii), without regard to intervening structures or zoning districts.

(5) A county may not issue or renew a license for a person to conduct business as a retail tobacco specialty business until the person provides the county with proof that the retail tobacco specialty business has:

(a) a valid permit for a retail tobacco specialty business issued under Title 26, Chapter 62, Tobacco, Electronic Cigarette, and Nicotine Product Retail Permit, by the local health department having jurisdiction over the area in which the retail tobacco specialty business is located; and

(b) (i) for a retailer that sells a tobacco product, a valid license issued by the State Tax Commission in accordance with Section 59-14-201 or 59-14-301 to sell a tobacco product; or

(ii) for a retailer that sells an electronic cigarette product or a nicotine product, a valid license issued by the State Tax Commission in accordance with Section 59-14-803 to sell an electronic cigarette product or a nicotine product.

(6) (a) Nothing in this section:

(i) requires a county to issue a retail tobacco specialty business license; or

(ii) prohibits a county from adopting more restrictive requirements on a person seeking a license or renewal of a license to conduct business as a retail tobacco specialty business.

(b) A county may suspend or revoke a retail tobacco specialty business license issued under this section:

(i) if a licensee engages in a pattern of unlawful activity under Title 76, Chapter 10, Part 16, Pattern of Unlawful Activity Act;

(ii) if a licensee violates federal law or federal regulations restricting the sale and distribution of tobacco products or electronic cigarette products to protect children and adolescents;

(iii) upon the recommendation of the department or a local health department under Title 26, Chapter 62, Tobacco, Electronic Cigarette, and Nicotine Product Retail Permit; or

(iv) under any other provision of state law or local ordinance.

(7) (a) [~~A~~] Except as provided in Subsection (7)(e), a retail tobacco specialty business is exempt from Subsection (4) if:

(i) on or before December 31, 2018, the retail tobacco specialty business was issued a license to conduct business as a retail tobacco specialty business;

(ii) the retail tobacco specialty business is operating in a county in accordance with all applicable laws except for the requirement in Subsection (4); and

(iii) beginning July 1, [~~2021~~] 2022, the retail tobacco specialty business is not located within

1,000 feet of a public or private kindergarten, elementary, middle, junior high, or high school.

(b) A retail tobacco specialty business may maintain an exemption under Subsection (7)(a) if:

(i) the license described in Subsection (7)(a)(i) is renewed continuously without lapse or permanent revocation;

(ii) the retail tobacco specialty business does not close for business or otherwise suspend the sale of tobacco products, electronic cigarette products, or nicotine products for more than 60 consecutive days;

(iii) the retail tobacco specialty business does not substantially change the business premises or business operation; and

(iv) the retail tobacco specialty business maintains the right to operate under the terms of other applicable laws, including:

(A) Title 26, Chapter 38, Utah Indoor Clean Air Act;

(B) zoning ordinances;

(C) building codes; and

(D) the requirements of the license described in Subsection (7)(a)(i).

(c) A retail tobacco specialty business that does not qualify for an exemption under Subsection (7)(a) is exempt from Subsection (4) if:

(i) on or before December 31, 2018, the retail tobacco specialty business was issued a general tobacco retailer permit or a retail tobacco specialty business permit under Title 26, Chapter 62, Tobacco, Electronic Cigarette, and Nicotine Product Retail Permit, by the local health department having jurisdiction over the area in which the retail tobacco specialty business is located;

(ii) the retail tobacco specialty business is operating in the county in accordance with all applicable laws except for the requirement in Subsection (4); and

(iii) beginning July 1, 2022, the retail tobacco specialty business is not located within 1,000 feet of a public or private kindergarten, elementary, middle, junior high, or high school.

(d) A retail tobacco specialty business may maintain an exemption under Subsection (7)(c) if:

(i) on or before December 31, 2020, the retail tobacco specialty business receives a retail tobacco specialty business permit from the local health department having jurisdiction over the area in which the retail tobacco specialty business is located;

(ii) the permit described in Subsection (7)(d)(i) is renewed continuously without lapse or permanent revocation;

(iii) the retail tobacco specialty business does not close for business or otherwise suspend the sale of tobacco products, electronic cigarette products, or nicotine products for more than 60 consecutive days; [~~and~~]

(iv) the retail tobacco specialty business does not substantially change the business premises or business operation as the business existed when the retail tobacco specialty business received a permit under Subsection (7)(d)(i); and

[~~(iv)~~] (v) the retail tobacco specialty business maintains the right to operate under the terms of other applicable laws, including:

(A) Title 26, Chapter 38, Utah Indoor Clean Air Act;

(B) zoning ordinances;

(C) building codes; and

(D) the requirements of the retail tobacco permit described in Subsection (7)(d)(i).

(e) A retail tobacco specialty business described in Subsection (7)(a) or (b) that is located within 1,000 feet of a public or private kindergarten, elementary, middle, junior high, or high school before July 1, 2022, is exempt from Subsection (4)(a)(iii)(B) if the retail tobacco specialty business:

(i) relocates, before July 1, 2022, to a property that is used or zoned for commercial use and located within a group of architecturally unified commercial establishments built on a site that is planned, developed, owned, and managed as an operating unit; and

(ii) continues to meet the requirements described in Subsection (7)(b) that are not directly related to the relocation described in this Subsection (7)(e).

Section 3. Section 26-62-205 is amended to read:

26-62-205. Permit requirements for a retail tobacco specialty business.

(1) A retail tobacco specialty business shall:

[~~(1)~~] (a) electronically verify proof of age for any individual that enters the premises of the business in accordance with Part 4, Proof of Age Requirements;

[~~(2)~~] (b) except as provided in Subsection 76-10-105.1(4), prohibit any individual from entering the business if the individual is under 21 years old; and

[~~(3)~~] (c) prominently display at the retail tobacco specialty business a sign on the public entrance of the business that communicates:

[~~(a)~~] (i) the prohibition on the presence of an individual under 21 years old in a retail tobacco specialty business in Subsection 76-10-105.1(4); and

[~~(b)~~] (ii) the prohibition on the sale of tobacco products and electronic cigarette products to an individual under 21 years old as described in Sections 76-10-104, 76-10-104.1, 76-10-105.1, and 76-10-114.

(2) A retail tobacco specialty business may not:

(a) employ an individual under 21 years old to sell a tobacco product, an electronic cigarette product, or a nicotine product; or

(b) permit an employee under 21 years old to sell a tobacco product, an electronic cigarette product, or a nicotine product.

Section 4. Section 26-62-304 is amended to read:

26-62-304. Hearing -- Evidence of criminal conviction.

(1) At a civil hearing conducted under Section 26-62-302, evidence of the final criminal conviction of a tobacco retailer [~~or employee~~] for violation of Section 76-10-114 at the same location and within the same time period as the location and time period alleged in the civil hearing for violation of this chapter for sale of a tobacco product, an electronic cigarette product, or a nicotine product to an individual under 21 years old is prima facie evidence of a violation of this chapter.

(2) If the tobacco retailer is convicted of violating Section 76-10-114, the enforcing agency:

(a) [~~may not~~] shall assess an additional monetary penalty under this chapter for the same offense for which the conviction was obtained; and

(b) [~~may~~] shall revoke or suspend a permit in accordance with Section 26-62-305 or 26-62-402.

Section 5. Section 26-62-305 is amended to read:

26-62-305. Penalties.

(1) (a) If an enforcing agency determines that a person has violated the terms of a permit issued under this chapter, the enforcing agency may impose the penalties described in this section.

(b) If multiple violations are found in a single inspection by an enforcing agency or a single investigation by a law enforcement agency under Section 77-39-101, the enforcing agency shall treat the multiple violations as one single violation under Subsections (2), (3), and (4).

(2) Except as provided in [~~Subsection~~] Subsections (3) [~~and Section 26-62-402~~] and (4), if a violation is found in [~~an inspection by an enforcing agency or~~] an investigation by a law enforcement agency under Section 77-39-101 or an inspection by an enforcing agency, the enforcing agency shall:

(a) on a first violation at a retail location, impose a penalty of [~~no more than $500~~] $1,000;

(b) on a second violation at the same retail location that occurs within one year of a previous violation, impose a penalty of [~~no more than $750~~] $1,500;

(c) on a third violation at the same retail location that occurs within two years after two previous violations, impose:

(i) a suspension of the permit for 30 consecutive business days within 60 days after the day on which the third violation occurs; or

(ii) a penalty of [~~no more than $1,000~~] $2,000; and

(d) on a fourth or subsequent violation within two years of three previous violations:

(i) impose a penalty of [~~no more than $1,000~~] $2,000;

(ii) revoke a permit of the retailer; and

(iii) if applicable, recommend to a municipality or county that a retail tobacco specialty business license issued under Section 10-8-41.6 or 17-50-333 be suspended or revoked.

(3) If a violation is found in an investigation of a general tobacco retailer by a law enforcement agency under Section 77-39-101 for the sale of a tobacco product, an electronic cigarette product, or a nicotine product to an individual under 21 years old and the violation is committed by the owner of the general tobacco retailer, the enforcing agency shall:

(a) on a first violation, impose a fine of [~~no more than~~] $2,000 on the general tobacco retailer; and

(b) on the second violation for the same general tobacco retailer within one year of the first violation:

(i) impose a fine [~~not exceeding~~] of $5,000; and

(ii) revoke the permit for the general tobacco retailer.

(4) If a violation is found in an investigation of a retail tobacco specialty business by a law enforcement agency under Section 77-39-101 for the sale of a tobacco product, an electronic cigarette product, or a nicotine product to an individual under 21 years old, the enforcing agency shall[~~apply the provisions of Section 26-62-402.~~]:

(a) on the first violation:

(i) impose a fine of $5,000; and

(ii) immediately suspend the permit for 30 consecutive days; and

(b) on the second violation at the same retail location within two years of the first violation:

(i) impose a fine of $10,000; and

(ii) revoke the permit for the retail tobacco specialty business.

(5) (a) Except when a transfer described in Subsection (6) occurs, a local health department may not issue a permit to:

(i) a tobacco retailer for whom a permit is suspended or revoked under Subsection (2) or (3) or Section 26-62-402; or

(ii) a tobacco retailer that has the same proprietor, director, corporate officer, partner, or other holder of significant interest as another tobacco retailer for whom a permit is suspended or revoked under Subsection (2) [~~or~~], (3), or [~~Section 26-62-402~~] (4).

(b) A person whose permit:

(i) is suspended under this section may not apply for a new permit for any other tobacco retailer for a

period of 12 months after the day on which an enforcing agency suspends the permit; and

(ii) is revoked under this section [~~or Section 26-62-402~~] may not apply for a new permit for any tobacco retailer for a period of 24 months after the day on which an enforcing agency revokes the permit.

(6) Violations of this chapter, Section 10-8-41.6, or Section 17-50-333[~~, or Section 26-62-402~~] that occur at a tobacco retailer location shall stay on the record for that tobacco retailer location unless:

(a) the tobacco retailer is transferred to a new proprietor; and

(b) the new proprietor provides documentation to the local health department that the new proprietor is acquiring the tobacco retailer in an arm's length transaction from the previous proprietor.

Section 6. Section 26-62-306 is amended to read:

26-62-306. Recognition of tobacco retailer training program.

(1) In determining the amount of the monetary penalty to be imposed for [~~an employee's~~] a violation of this chapter, a hearing officer shall reduce the civil penalty by at least 50% if the hearing officer determines that:

(a) the tobacco retailer has implemented a documented employee training program; and

(b) the employees have completed that training program within 30 days after the day on which each employee commences the duties of selling a tobacco product, an electronic cigarette product, or a nicotine product.

(2) (a) For the first offense at a location, if the hearing officer determines under Subsection (1) that the tobacco retailer [~~licensee~~] has not implemented a documented training program with a written curriculum for employees at that location regarding compliance with this chapter, the hearing officer may suspend all or a portion of the penalty if:

(i) the tobacco retailer agrees to initiate a training program for employees at that location; and

(ii) the training program begins within 30 days after the hearing officer makes a determination under this Subsection (2)(a).

(b) If the hearing officer determines at a subsequent hearing that the tobacco retailer has not implemented the training program within the time period required under Subsection (2)(a)(ii), the hearing officer shall promptly impose the suspended monetary penalty, unless the tobacco retailer demonstrates good cause for an extension of time for implementation of the training program.

Section 7. Section 26-62-401 is amended to read:

26-62-401. Verification of proof of age.

(1) As used in this section:

(a) "Employee" means an employee of a retail tobacco specialty business.

(b) "Electronic verification program" means a technology used by a retail tobacco specialty business to confirm proof of age for an individual.

(2) A retail tobacco specialty business shall require that an employee verify proof of age as provided in this section.

(3) To comply with Subsection (2), an employee shall:

(a) request the individual present proof of age; and

(b) verify the validity of the proof of age electronically in accordance with Subsection (4).

(4) A retail tobacco specialty business shall use an electronic verification program to assist the business in complying with the requirements of this section.

(5) (a) A retail tobacco specialty business may not disclose information obtained under this section except as provided under this part.

(b) Information obtained under this section:

(i) shall be kept for at least 180 days; and

(ii) is subject to inspection upon request by a peace officer or the representative of an enforcing agency.

(6) (a) If an employee does not verify proof of age under this section, the employee may not permit an individual to:

(i) except as provided in Subsection (6)(b), enter a retail tobacco specialty business; or

(ii) purchase a tobacco product or an electronic cigarette product.

(b) In accordance with Subsection 76-10-105.1(4), an individual who is under 21 years old may be permitted to enter a retail tobacco specialty business if the individual is:

(i) [~~the individual is~~] accompanied by a parent or legal guardian who provides proof of age; or

(ii) (A) [~~the individual is~~] present at the retail tobacco specialty [~~shop for a bona fide commercial purpose other than to purchase a tobacco product or an electronic cigarette product.~~] business solely for the purpose of providing a commercial service to the retail tobacco specialty business, including making a commercial delivery;

(B) monitored by the proprietor of the retail tobacco specialty business or an employee of the retail tobacco specialty business; and

(C) not permitted to make any purchase or conduct any commercial transaction other than the service described in Subsection (6)(b)(ii)(A).

(7) To determine whether the individual described in Subsection (2) is 21 years old or older, the following may request an individual described in Subsection (2) to present proof of age:

(a) an employee;

(b) a peace officer; or

(c) a representative of an enforcing agency.

Section 8. Section 76-10-105.1 is amended to read:

76-10-105.1. Requirement of direct, face-to-face sale of a tobacco product, an electronic cigarette product, or a nicotine product -- Minors not allowed in tobacco specialty shop -- Penalties.

(1) As used in this section:

(a) (i) "Face-to-face exchange" means a transaction made in person between an individual and a retailer or retailer's employee.

(ii) "Face-to-face exchange" does not include a sale through a:

(A) vending machine; or

(B) self-service display.

(b) "Retailer" means a person who:

(i) sells a tobacco product, an electronic cigarette product, or a nicotine product to an individual for personal consumption; or

(ii) operates a facility with a vending machine that sells a tobacco product, an electronic cigarette product, or a nicotine product.

(c) "Self-service display" means a display of a tobacco product, an electronic cigarette product, or a nicotine product to which the public has access without the intervention of a retailer or retailer's employee.

(2) Except as provided in Subsection (3), a retailer may sell a tobacco product, an electronic cigarette product, or a nicotine product only in a face-to-face exchange.

(3) The face-to-face sale requirement in Subsection (2) does not apply to:

(a) a mail-order, telephone, or Internet sale made in compliance with Section 59-14-509;

(b) a sale from a vending machine or self-service display that is located in an area of a retailer's facility:

(i) that is distinct and separate from the rest of the facility; and

(ii) where the retailer only allows an individual who complies with Subsection (4) to be present; or

(c) a sale at a retail tobacco specialty business.

(4) An individual who is under 21 years old may not enter or be present at a retail tobacco specialty business unless the individual is:

(a) accompanied by a parent or legal guardian; or

(b) (i) present at the retail tobacco specialty business [~~for a bona fide commercial purpose other than to purchase a tobacco product, an electronic cigarette product, or a nicotine product.~~] solely for the purpose of providing a service to the retail tobacco specialty business, including making a delivery;

(ii) monitored by the proprietor of the retail tobacco specialty business or an employee of the retail tobacco specialty business; and

(iii) not permitted to make any purchase or conduct any commercial transaction other than the service described in Subsection (4)(b)(i).

(5) A parent or legal guardian who accompanies, under Subsection (4)(a), an individual into an area described in Subsection (3)(b) or into a retail tobacco specialty business may not allow the individual to purchase a tobacco product, an electronic cigarette product, or a nicotine product.

(6) A violation of Subsection (2) or (4) is a:

(a) class C misdemeanor on the first offense;

(b) class B misdemeanor on the second offense; and

(c) class A misdemeanor on any subsequent offenses.

(7) An individual who violates Subsection (5) is guilty of an offense under Section 76-10-104.

Section 9. Repealer.

This bill repeals:

Section 26-62-402, Penalties.

CHAPTER 349
S. B. 191
Passed March 4, 2021
Approved March 17, 2021
Effective May 5, 2021

LAW ENFORCEMENT MODIFICATIONS

Chief Sponsor: Curtis S. Bramble
House Sponsor: Candice B. Pierucci

LONG TITLE

General Description:

This bill amends provisions relating to law enforcement.

Highlighted Provisions:

This bill:

- defines terms;
- addresses disciplinary charges against a peace officer;
- addresses the regulation and authority of a law enforcement agency established by a private institution of higher education;
- establishes a process and requirements for certification of a law enforcement agency established by a private institution of higher education (a private law enforcement agency);
- describes the authority of a private law enforcement agency;
- describes policy and procedure requirements for a private law enforcement agency;
- provides for access to records of, and periodic audits of, a private law enforcement agency;
- provides for enforcement of the provisions of this bill, including informal and formal action;
- establishes due process procedures for taking formal action against a private law enforcement agency, including placing the private law enforcement agency on probation or revoking a private law enforcement agency's certification; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

17-30a-403, as enacted by Laws of Utah 2014, Chapter 366
53-1-102, as last amended by Laws of Utah 2019, Chapter 280
53-13-103, as last amended by Laws of Utah 2019, Chapter 280

ENACTS:

53-19-101, Utah Code Annotated 1953
53-19-102, Utah Code Annotated 1953
53-19-103, Utah Code Annotated 1953
53-19-201, Utah Code Annotated 1953
53-19-202, Utah Code Annotated 1953
53-19-203, Utah Code Annotated 1953
53-19-204, Utah Code Annotated 1953
53-19-301, Utah Code Annotated 1953
53-19-302, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 17-30a-403 is amended to read:

17-30a-403. Disciplinary charges -- Appeal to commission -- Hearing -- Findings.

(1) The appointing authority:

(a) may impose disciplinary charges in accordance with a rule, policy, ordinance, or law; and

(b) shall serve the merit system officer to be disciplined with a copy of the written charges.

(2) (a) A disciplined merit system officer may file an appeal of the disciplinary charges with the department, which shall conduct the appeal internally.

(b) The department shall conduct an appeal in accordance with rules or policies adopted by the appointing authority.

(3) If the disciplinary charges are sustained on internal appeal, the merit system officer may appeal to the commission in accordance with the provisions of this section and commission rule.

(4) (a) A merit system officer disciplined in accordance with Subsection (1) may, within 10 calendar days after the internal department appeal decision described in Subsection (2), make an appeal in writing to the commission.

(b) If the merit system officer fails to make an internal appeal of the disciplinary action, the officer may not appeal to the commission.

(5) The commission may hear appeals regarding demotion, reduction in pay, suspension, or discharge of a merit system officer for any cause provided in Section 17-30a-402.

[~~(6) In the absence of an appeal, a copy of the charges under Subsection (1) may not be made public without the consent of the officer charged.~~]

[~~(7)~~] (6) (a) The commission shall:

(i) fix a time and place for a hearing on the appeal; and

(ii) give notice of the hearing to the parties.

(b) (i) Except as provided in Subsection [~~(7)~~] (6)(b)(ii), the commission shall hold a hearing under this Subsection [~~(7)~~] (6) no less than 10 and no more than 90 days after an appeal is filed.

(ii) The commission may hold a hearing more than 90 days after an appeal is filed if:

(A) the parties agree; or

(B) the commission finds that the delay is for good cause.

[~~(8)~~] (7) (a) The commission shall hold the hearing in accordance with Title 52, Chapter 4, Open and Public Meetings Act.

(b) Notwithstanding Subsection [~~(8)~~] (7)(a), if the commission proposes to and is authorized to close the hearing to the public in accordance with Title

52, Chapter 4, Open and Public Meetings Act, the commission shall open the meeting to the public if the aggrieved officer requests that the commission open the hearing.

[~~(9)~~] (8) The parties may be represented by counsel at the hearing.

[~~(10)~~] (9) The commission, on its own motion or at the request of the appointing authority, may dismiss an appeal for unjustified delay, removal to a court or other venue, or for other good cause shown.

[~~(11)~~] (10) In resolving an appeal, the commission may sustain, modify, or vacate a decision of the appointing authority.

[~~(12)~~] (11) After the hearing, the commission shall publish a written decision, including findings of fact and conclusions of law, and shall notify each party.

Section 2. Section 53-1-102 is amended to read:

53-1-102. Definitions.

(1) As used in this title:

(a) "Commissioner" means the commissioner of public safety appointed under Section 53-1-107.

(b) "Department" means the Department of Public Safety created in Section 53-1-103.

(c) "Law enforcement agency" means an entity or division of:

(i) (A) the federal government, a state, or a political subdivision of a state;

(B) a state institution of higher education; or

(C) a private institution of higher education, if the entity or division [~~has been~~] is certified by the commissioner under Title 53, Chapter 19, Certification of Private Law Enforcement Agency; and

(ii) that exists primarily to prevent and detect crime and enforce criminal laws, statutes, and ordinances.

(d) "Law enforcement officer" means the same as that term is defined in Section 53-13-103.

(e) "Motor vehicle" means every self-propelled vehicle and every vehicle propelled by electric power obtained from overhead trolley wires, but not operated upon rails, except motorized wheel chairs and vehicles moved solely by human power.

(f) "Peace officer" means any officer certified in accordance with Title 53, Chapter 13, Peace Officer Classifications.

(g) "State institution of higher education" means the same as that term is defined in Section 53B-3-102.

(h) "Vehicle" means every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, excepting devices used exclusively upon stationary rails or tracks.

(2) The definitions provided in Subsection (1) are to be applied throughout this title in addition to definitions that are applicable to specific chapters or parts.

Section 3. Section 53-13-103 is amended to read:

53-13-103. Law enforcement officer.

(1) (a) "Law enforcement officer" means a sworn and certified peace officer:

(i) who is an employee of a law enforcement agency; and

(ii) whose primary and principal duties consist of the prevention and detection of crime and the enforcement of criminal statutes or ordinances of this state or any of its political subdivisions.

(b) "Law enforcement officer" includes the following:

(i) [~~any~~] a sheriff or deputy sheriff, chief of police, police officer, or marshal of any county, city, or town;

(ii) the commissioner of public safety and any member of the Department of Public Safety certified as a peace officer;

(iii) all persons specified in Sections 23-20-1.5 and 79-4-501;

(iv) [~~any~~] a police officer employed by [~~any college or university~~] a state institution of higher education;

(v) investigators for the Motor Vehicle Enforcement Division;

(vi) investigators for the Department of Insurance, Fraud Division;

(vii) special agents or investigators employed by the attorney general, district attorneys, and county attorneys;

(viii) employees of the Department of Natural Resources designated as peace officers by law;

(ix) school district police officers as designated by the board of education for the school district;

(x) the executive director of the Department of Corrections and any correctional enforcement or investigative officer designated by the executive director and approved by the commissioner of public safety and certified by the division;

(xi) correctional enforcement, investigative, or adult probation and parole officers employed by the Department of Corrections serving on or before July 1, 1993;

(xii) members of a law enforcement agency established by a private college or university [~~provided that the college or university has been~~] if the agency is certified by the commissioner [~~of public safety according to rules of the Department of Public Safety~~] under Title 53, Chapter 19, Certification of Private Law Enforcement Agency;

(xiii) airport police officers of any airport owned or operated by the state or any of its political subdivisions; and

(xiv) transit police officers designated under Section 17B-2a-822.

(2) Law enforcement officers may serve criminal process and arrest violators of any law of this state and have the right to require aid in executing their lawful duties.

(3) (a) A law enforcement officer has statewide full-spectrum peace officer authority, but the authority extends to other counties, cities, or towns only when the officer is acting under Title 77, Chapter 9, Uniform Act on Fresh Pursuit, unless the law enforcement officer is employed by the state.

(b) (i) A local law enforcement agency may limit the jurisdiction in which its law enforcement officers may exercise their peace officer authority to a certain geographic area.

(ii) Notwithstanding Subsection (3)(b)(i), a law enforcement officer may exercise authority outside of the limited geographic area, pursuant to Title 77, Chapter 9, Uniform Act on Fresh Pursuit, if the officer is pursuing an offender for an offense that occurred within the limited geographic area.

(c) The authority of law enforcement officers employed by the Department of Corrections is regulated by Title 64, Chapter 13, Department of Corrections - State Prison.

(4) A law enforcement officer shall, prior to exercising peace officer authority:

(a) (i) have satisfactorily completed the requirements of Section 53-6-205; or

(ii) have met the waiver requirements in Section 53-6-206; and

(b) have satisfactorily completed annual certified training of at least 40 hours per year as directed by the director of the division, with the advice and consent of the council.

Section 4. Section 53-19-101 is enacted to read:

CHAPTER 19. CERTIFICATION OF PRIVATE LAW ENFORCEMENT AGENCY

Part 1. General Provisions

53-19-101. Title.

This chapter is known as "Certification of Private Law Enforcement Agency."

Section 5. Section 53-19-102 is enacted to read:

53-19-102. Definitions.

As used in this chapter:

(1) "Division" means the Peace Officer Standards and Training Division created in Section 53-6-103.

(2) "Formal action" against a private law enforcement agency includes:

(a) placing a private law enforcement agency on probation;

(b) extending the probation of a private law enforcement agency; or

(c) revoking the certification of a private law enforcement agency.

(3) "Informal action" against a private law enforcement agency includes:

(a) an oral or written warning;

(b) a written reprimand; or

(c) a written order to remedy noncompliance with a provision of this chapter, which may include a deadline for compliance and verification of compliance.

(4) "Private law enforcement agency" means a law enforcement agency operated by, and at, a private institution of higher education.

Section 6. Section 53-19-103 is enacted to read:

53-19-103. Rulemaking authority.

The commissioner shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establishing:

(1) the forms and process to apply for certification of a private law enforcement agency;

(2) methods for the commissioner, the department, or the division to obtain, review, use, and protect, any and all records of, or directly related to, a private law enforcement agency;

(3) requirements for the conduct of a formal hearing under Part 3, Enforcement, including requirements for proceedings, discovery, subpoenas, and witnesses;

(4) requirements for verifying compliance with the terms of probation;

(5) audit procedures;

(6) requirements for the contents of a policies and procedures manual of a private law enforcement agency; and

(7) requirements for the operation of a private law enforcement agency.

Section 7. Section 53-19-201 is enacted to read:

Part 2. Private Law Enforcement Agencies

53-19-201. Certification of private law enforcement agency.

(1) A private institution of higher education may operate a private law enforcement agency if the private law enforcement agency is certified by the commissioner.

(2) A private law enforcement agency certified before May 5, 2021:

(a) is not required to apply for an initial certification under Subsection (4); and

(b) retains the private law enforcement agency's certification, unless the commissioner revokes the certification in accordance with this chapter.

(3) A private law enforcement agency that is not certified before May 5, 2021:

(a) is required to apply for initial certification under Subsection (4); and

(b) retains the private law enforcement agency's certification, unless the commissioner revokes the certification in accordance with this chapter.

(4) To receive initial certification for a private law enforcement agency, the private institution of higher education seeking the certification shall submit to the department an application for certification, designed by the department, that includes:

(a) a description of the proposed private law enforcement agency, including the number of officers that the private law enforcement agency intends to initially employ;

(b) the command structure for the proposed private law enforcement agency;

(c) the private law enforcement agency's proposed policies and procedures manual; and

(d) any other information required by the commissioner, by a rule described in Section 53-19-103.

(5) The department shall, within 90 days after the day on which the department receives a completed application for certification described in Subsection (4), grant or deny the application.

(6) The commissioner shall:

(a) grant an application for certification of a private law enforcement agency, if:

(i) the application is complete;

(ii) the proposed policies and procedures manual complies with Section 53-19-203, including the rules described in Section 53-19-103;

(iii) the proposed private law enforcement agency will be organized and operated in a manner that is consistent with the requirements of law, the requirements of administrative rules, and best practices; and

(iv) the private institution of higher education submitting the application has never had certification of a private law enforcement agency revoked by the commissioner; and

(b) advise and consult with the applicant to cure any barriers to obtaining certification.

(7) The commissioner shall grant an application for certification of a private law enforcement agency whose certification was previously revoked if:

(a) the private institution of higher education applying for certification:

(i) complies with the provisions described in Subsections (6)(a)(i) through (iii); and

(ii) proves, by clear and convincing evidence, that the reasons for the previous revocation will not reoccur; and

(b) the application is filed at least one year after the day on which the certification was revoked.

Section 8. Section 53-19-202 is enacted to read:

53-19-202. Authority of private law enforcement agency -- Requirements -- Delegation of internal investigation.

(1) A certified private law enforcement agency may function as a law enforcement agency under the authority of the state, within the confines of the campus of the private institution of higher education, to:

(a) prevent, detect, and investigate crime; and

(b) enforce traffic laws and criminal statutes and ordinances.

(2) The authority of a private law enforcement agency does not extend beyond the

confines of the campus of the private institution of higher education, except as provided:

(a) under Subsection 53-13-103(3); or

(b) pursuant to an interagency agreement with another law enforcement agency.

(3) A private law enforcement agency shall:

(a) comply with:

(i) the requirements of this chapter;

(ii) rules made under Section 53-19-103; and

(iii) all other requirements of state and federal law;

(b) comply with and enforce the provisions of Sections 53-6-209, 53-6-211, 53-6-307, and 53-6-309;

(c) only employ peace officers and dispatchers who are certified under this title;

(d) if the private law enforcement agency is placed on probation, comply with requirements imposed during the period of probation;

(e) provide any and all records of, or directly related to, the private law enforcement agency that are requested by the commissioner, the department, or the division; and

(f) cooperate with an audit described in Section 53-19-204.

(4) The chief of a private law enforcement agency may, with the consent of the commissioner, delegate the duty to conduct an administrative or internal investigation under Section 53-6-211 to the commissioner or the commissioner's designee if:

(a) the chief requests the commissioner's consent in writing; and

(b) the request is made to avoid:

(i) an actual or potential conflict of interest; or

(ii) an actual or potential allegation of bias.

(5) If the commissioner or the commissioner's designee conducts an administrative or internal

investigation under Subsection (4), the commissioner or the commissioner's designee shall report the findings of the investigation to:

(a) the division, in accordance with Section 53-6-211;

(b) the private law enforcement agency; and

(c) the commissioner, if the investigation is conducted by a designee of the commissioner.

Section 9. Section 53-19-203 is enacted to read:

53-19-203. Policies and procedures -- Approval -- Modification.

(1) A private law enforcement agency shall:

(a) develop a policies and procedures manual that:

(i) includes clear definitions and clearly and fully explains the policies and procedures;

(ii) complies with the requirements of law and administrative rules;

(iii) reflects best practices for a private law enforcement agency; and

(iv) includes all policies and procedures of the private law enforcement agency;

(b) review, and revise and update as needed, the policies and procedures manual on at least an annual basis; and

(c) maintain, and uniformly apply and enforce, the policies and procedures contained in the manual.

(2) A private law enforcement agency shall:

(a) if the private law enforcement agency was certified before May 5, 2021, submit the private law enforcement agency's policies and procedures manual to the commissioner for approval:

(i) on or before July 1, 2021;

(ii) beginning in 2022, on an annual basis; and

(iii) in addition to the times described in Subsections (2)(a)(i) and (ii), within 14 days after the day on which the commissioner submits a written request for a copy of the manual; or

(b) if the private law enforcement agency is certified on or after May 5, 2021, submit the private law enforcement agency's policies and procedures manual:

(i) for initial approval in accordance with Subsection 53-19-201(4)(c);

(ii) on an annual basis; and

(iii) in addition to the times described in Subsections (2)(b)(i) and (ii), within 14 days after the day on which the commissioner submits a written request for a copy of the manual.

Section 10. Section 53-19-204 is enacted to read:

53-19-204. Audits.

(1) The commissioner or the commissioner's designee may conduct periodic audits of a private law enforcement agency to ensure compliance with the requirements of this chapter.

(2) The legislative auditor general or the state auditor may conduct an audit of a private law enforcement agency.

(3) A private law enforcement agency shall fully cooperate with an audit conducted under this section.

Section 11. Section 53-19-301 is enacted to read:

Part 3. Enforcement

53-19-301. Violation by private law enforcement agency -- Action by commissioner.

(1) If a private law enforcement agency is in violation of, or has violated, a provision of this chapter, the commissioner may:

(a) take informal action to remedy the violation;

(b) place the private law enforcement agency on probation if the violation is a material violation; or

(c) revoke the certification of the private law enforcement agency if:

(i) the violation is so egregious that it constitutes a violation of public trust;

(ii) (A) the violation is a material violation;

(B) the private law enforcement agency has committed the same violation on a previous occasion; and

(C) the private law enforcement agency was placed probation or had the certification of the private law enforcement agency revoked for the same violation; or

(iii) after committing a material violation:

(A) the commissioner provides the private law enforcement agency with a written notice described in Subsection (2); and

(B) after the commissioner complies with Subsection (1)(c)(iii)(A), the private law enforcement agency commits the same violation or fails to take the corrective action described in the written notice described in Subsection (2).

(2) The written notice required under Subsection (1)(c)(iii)(A) shall include:

(a) a detailed description of the violation;

(b) a statement that the violation constitutes a material violation;

(c) a detailed description of the action the private law enforcement agency is required to take to remedy the violation; and

(d) a specified, reasonable deadline for taking the action required to remedy the violation.

(3) If a private law enforcement agency on probation is in violation of, or has violated, a material provision of probation, the commissioner may:

(a) take informal action to remedy the violation;

(b) extend an existing period of probation; or

(c) revoke the certification of the private law enforcement agency.

(4) If the commissioner takes action to revoke the certification of a private law enforcement agency, the certification remains in effect until all timely challenges or appeals are concluded and the action of the commissioner becomes final.

(5) The certification of a private law enforcement agency remains in effect while the private law enforcement agency is on probation, unless the certification is revoked in accordance with the provisions of this chapter.

Section 12. Section 53-19-302 is enacted to read:

53-19-302. Formal action against a private law enforcement agency.

(1) If the commissioner determines that a private law enforcement agency violated a provision of this chapter or a requirement of probation, the commissioner may take formal action against the private law enforcement agency in accordance with this section.

(2) Before placing a private law enforcement agency on probation or extending the existing probation period, the commissioner shall provide written notice to the private law enforcement agency that the commissioner intends to take formal action against the private law enforcement agency, that includes:

(a) a statement that the commissioner intends to place the private law enforcement agency on probation or extend an existing period of probation;

(b) a description of the material violations upon which the formal action is based;

(c) a description of the probation period or extended probation period;

(d) a description of the terms of probation;

(e) a statement that the private law enforcement agency has the right to request a formal hearing on the action before an administrative law judge selected by the commissioner; and

(f) information regarding the process and deadline for requesting a hearing.

(3) Within 30 days after the day on which the commissioner provides the notice described in Subsection (2), the private law enforcement agency may request a formal hearing before an administrative law judge selected by the commissioner by submitting the request, in writing, to the commissioner.

(4) If the private law enforcement agency fails to timely request a formal hearing under Subsection (3):

(a) the commissioner may take the action described in Subsection (2)(a); and

(b) the action of the commissioner is final.

(5) If a private law enforcement agency timely requests a formal hearing under Subsection (3), an administrative law judge shall conduct a formal hearing on the action in accordance with Title 63G, Chapter 4, Administrative Procedures Act.

(6) The formal hearing shall be recorded and shall address the issue of whether the private law enforcement agency committed the violations included in the notice described in Subsection (2)(b).

(7) If, after the hearing, the administrative law judge issues findings of fact and conclusions of law stating that there is sufficient evidence to demonstrate that the private law enforcement agency committed one or more of the material violations included in the notice described in Subsection (2)(b), the commissioner shall review the findings and may:

(a) place the private law enforcement agency on probation; or

(b) extend an existing period of probation.

(8) If the administrative law judge finds that there is insufficient evidence to demonstrate that the private law enforcement agency committed any of the violations included in the notice described in Subsection (2)(b), the administrative law judge shall dismiss the formal action sought by the commissioner.

(9) A private law enforcement agency may appeal the decision of the administrative law judge and the action taken by the commissioner under Subsection (7), under Title 63G, Chapter 4, Part 4, Judicial Review.

(10) The commissioner may appeal the decision of the administrative law judge under Title 63G, Chapter 4, Part 4, Judicial Review.

(11) Before revoking the certification of a private law enforcement agency, the commissioner shall provide written notice to the private law enforcement agency that the commissioner intends to take formal action against the private law enforcement agency, that includes:

(a) a statement that the commissioner intends to revoke the certification of the private law enforcement agency;

(b) the date that the revocation is scheduled to occur, which date may not be sooner than 180 days after the day on which the commissioner provides the notice described in this Subsection (11);

(c) a detailed description of the violations upon which the formal action is based;

(d) a description of the basis, described in Subsection 53-19-301(1)(c), for seeking revocation of the private law enforcement agency's certification; and

(e) a statement that the private law enforcement agency has the right to demand a judicial determination on the issue of revocation by filing an action in the third district court within 30 days after the day on which the commissioner provides the notice described in this Subsection (11).

(12) If the private law enforcement agency fails to file an action described in Subsection (11)(a) in the third district court within 30 days after the day on which the commissioner provides the notice described in Subsection (11), the private law enforcement agency's certification is revoked on the date described in Subsection (11)(b).

(13) If the private law enforcement agency timely files an action described in Subsection (11)(e), the district court:

(a) shall allow discovery, and otherwise conduct the proceedings, in accordance with the Utah Rules of Civil Procedure;

(b) shall conduct the proceedings as a new action and not as an appellate review;

(c) shall require that the commissioner prove, by a preponderance of the evidence, that the violations described in Subsection (11)(c) occurred;

(d) shall require that, if the court finds that one or more the violations described in Subsection (11)(c) occurred, the commissioner prove, by a preponderance of the evidence, that the violations proven constitute sufficient grounds, under Subsection 53-19-301(1)(c), to revoke certification; and

(e) may not grant any deference to the decisions or findings of the commissioner.

(14) The court shall order revocation of the certification of the private law enforcement agency if the court finds that:

(a) one or more the violations described in Subsection (11)(c) occurred; and

(b) the violations that occurred constitute sufficient grounds, under Subsection 53-19-301(1)(c), to revoke certification.

(15) The court may order that the commissioner may place the private law enforcement agency on probation or extend an existing period of probation, if the court finds that:

(a) one or more violations described in Subsection (11)(c) occurred; and

(b) the violations do not constitute sufficient grounds, under Subsection 53-19-301(1)(c), to revoke certification.

CHAPTER 350
S. B. 192
Passed March 5, 2021
Approved March 17, 2021
Effective March 17, 2021

MEDICAL CANNABIS ACT AMENDMENTS

Chief Sponsor: Evan J. Vickers
House Sponsor: Francis D. Gibson

LONG TITLE

General Description:

This bill amends provisions related to the cultivation, processing, recommending, dispensing, and use of medical cannabis.

Highlighted Provisions:

This bill:

- defines terms;
- amends provisions regarding the reallocation of allowed cultivation space;
- creates the Cannabis Production Establishment Licensing Advisory Board and provides the board's composition and duties;
- amends provisions regarding a short-term or permanent increase in cultivation space;
- amends provisions regarding signage for cannabis production establishments and medical cannabis pharmacies;
- requires a cannabis cultivation facility to identify cannabis biomass and process or destroy cannabis cultivation byproduct;
- prohibits a cannabis cultivation facility from receiving industrial hemp waste without satisfying certain criteria;
- prohibits a cannabis cultivation facility from producing more than a certain amount of cannabis concentrate from industrial hemp waste in a single license year;
- removes a requirement that a cannabis processing facility package cannabis and cannabis product in a container that is opaque;
- imposes certain labeling requirements regarding derivative and synthetic cannabinoids;
- requires the processing and testing of derivative and synthetic cannabinoids to a certain product quality;
- amends the rulemaking authority of UDAF regarding testing;
- amends the duties of UDAF in the event testing identifies a defective batch of cannabis or cannabis product;
- amends the information required for a university to obtain a research license;
- requires the electronic verification system to communicate dispensing information to the controlled substance database;
- allows the Compassionate Use Board to approve an individual for a medical cannabis card for periods shorter than a standard initial period of validity;
- allows a qualified medical provider to advertise the individual's registration as a qualified medical provider;
- clarifies certain duties of a qualified medical provider before recommending or renewing a recommendation for medical cannabis;
- requires DOH to record the issuance or revocation of a medical cannabis card in the controlled substance database;
- prohibits the removal or alteration of a label from a container that contains medical cannabis;
- authorizes DOH to issue a 15th medical cannabis pharmacy license in a specific geographic region under certain circumstances;
- allows DOH to charge a license fee for any change in location, ownership, or company structure for a medical cannabis pharmacy;
- requires DOH to rescind a notice of an intent to issue a medical cannabis pharmacy license if the medical cannabis pharmacy does not begin operations by a certain date;
- imposes restrictions on medical cannabis pharmacy and pharmacy medical provider advertising;
- allows an emancipated minor to enter a medical cannabis pharmacy and amends other access provisions;
- modifies a medical cannabis pharmacy labeling requirement;
- clarifies information a qualified medical provider must submit if the qualified medical provider intends for a pharmacy medical provider to determine directions of use and dosing guidelines for a medical cannabis recommendation;
- requires a medical cannabis pharmacy to provide an opaque bag or box in which a medical cannabis cardholder is required to keep a container of medical cannabis while transporting the container in public;
- amends provisions governing what a medical cannabis pharmacy may and may not give at no cost;
- repeals an outdated method for a patient to obtain medical cannabis without a medical cannabis card;
- amends provisions regarding a medical cannabis pharmacy's logo, advertising, and educational events;
- clarifies that a person is not prohibited from selling a medical cannabis device within the state; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

This bill coordinates with S.B. 170, Consumer Protection for Cannabis Patients, by providing substantive amendments.

Utah Code Sections Affected:

AMENDS:

4-41a-102, as last amended by Laws of Utah 2020, Chapters 12, 148 and last amended by Coordination Clause, Laws of Utah 2020, Chapter 148
4-41a-201, as last amended by Laws of Utah 2020, Chapters 12, 148 and last amended by Coordination Clause, Laws of Utah 2020, Chapter 148
4-41a-203, as last amended by Laws of Utah 2020, Chapter 12
4-41a-204, as last amended by Laws of Utah 2020, Chapter 12

4-41a-301, as last amended by Laws of Utah 2019, First Special Session, Chapter 5
4-41a-403, as last amended by Laws of Utah 2020, Chapters 12 and 148
4-41a-501, as last amended by Laws of Utah 2020, Chapter 148
4-41a-602, as last amended by Laws of Utah 2020, Chapter 12
4-41a-603, as last amended by Laws of Utah 2020, Chapter 12
4-41a-701, as last amended by Laws of Utah 2019, First Special Session, Chapter 5
4-41a-702, as renumbered and amended by Laws of Utah 2018, Third Special Session, Chapter 1
4-41a-901, as enacted by Laws of Utah 2019, First Special Session, Chapter 5
26-61a-102, as last amended by Laws of Utah 2020, Chapters 12, 148 and last amended by Coordination Clause, Laws of Utah 2020, Chapter 148
26-61a-103, as last amended by Laws of Utah 2020, Chapter 12
26-61a-105, as last amended by Laws of Utah 2020, Chapter 12
26-61a-106, as last amended by Laws of Utah 2020, Chapter 12
26-61a-201, as last amended by Laws of Utah 2020, Chapters 12 and 148
26-61a-202, as last amended by Laws of Utah 2020, Chapter 12
26-61a-204, as last amended by Laws of Utah 2020, Chapter 12
26-61a-301, as last amended by Laws of Utah 2020, Chapters 12, 148, 354 and last amended by Coordination Clause, Laws of Utah 2020, Chapter 148
26-61a-305, as last amended by Laws of Utah 2020, Chapter 12
26-61a-403, as last amended by Laws of Utah 2019, First Special Session, Chapter 5
26-61a-501, as last amended by Laws of Utah 2020, Chapter 12
26-61a-502, as last amended by Laws of Utah 2020, Chapters 12, 148 and last amended by Coordination Clause, Laws of Utah 2020, Chapter 148
26-61a-504, as last amended by Laws of Utah 2020, Chapter 12
26-61a-505, as last amended by Laws of Utah 2020, Chapters 12 and 148
26-61a-605, as last amended by Laws of Utah 2020, Chapter 12
26-61a-606, as last amended by Laws of Utah 2019, First Special Session, Chapter 5
26-61a-607, as last amended by Laws of Utah 2019, First Special Session, Chapter 5
58-37-3.7, as last amended by Laws of Utah 2020, Chapter 12
58-37-3.9, as last amended by Laws of Utah 2020, Chapter 12

ENACTS:
4-41a-201.1, Utah Code Annotated 1953

Utah Code Sections Affected by Coordination Clause:
26-61a-502, as last amended by Laws of Utah 2020, Chapters 12, 148 and last amended by Coordination Clause, Laws of Utah 2020, Chapter 148

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 4-41a-102 is amended to read:

4-41a-102. Definitions.

As used in this chapter:

[~~(1) "Active tetrahydrocannabinol" means delta-9-tetrahydrocannabinol and tetrahydrocannabinolic acid.~~]

(1) "Adulterant" means any poisonous or deleterious substance in a quantity that may be injurious to health, including:

(a) pesticides;

(b) heavy metals;

(c) solvents;

(d) microbial life;

(e) toxins; or

(f) foreign matter.

(2) "Cannabinoid Product Board" means the Cannabinoid Product Board created in Section 26-61-201.

[~~(2)~~] (3) "Cannabis" means the same as that term is defined in Section 26-61a-102.

(4) "Cannabis concentrate" means:

(a) the product of any chemical or physical process applied to naturally occurring biomass that concentrates or isolates the cannabinoids contained in the biomass; and

(b) any amount of a natural, derivative, or synthetic cannabinoid in the synthetic cannabinoid's purified state.

(5) "Cannabis cultivation byproduct" means any portion of a cannabis plant that is not intended to be sold as a cannabis plant product.

[~~(3)~~] (6) "Cannabis cultivation facility" means a person that:

(a) possesses cannabis;

(b) grows or intends to grow cannabis; and

(c) sells or intends to sell cannabis to a cannabis cultivation facility, a cannabis processing facility, or a medical cannabis research licensee.

[~~(4)~~] (7) "Cannabis cultivation facility agent" means an individual who:

(a) is an employee of a cannabis cultivation facility; and

(b) holds a valid cannabis production establishment agent registration card.

(8) "Cannabis derivative product" means a product made using cannabis concentrate.

(9) "Cannabis plant product" means any portion of a cannabis plant intended to be sold in a form that is recognizable as a portion of a cannabis plant.

[~~(5)~~] (10) "Cannabis processing facility" means a person that:

(a) acquires or intends to acquire cannabis from a cannabis production establishment;

(b) possesses cannabis with the intent to manufacture a cannabis product;

(c) manufactures or intends to manufacture a cannabis product from unprocessed cannabis or a cannabis extract; and

(d) sells or intends to sell a cannabis product to a medical cannabis pharmacy or a medical cannabis research licensee.

[~~(6)~~] (11) "Cannabis processing facility agent" means an individual who:

(a) is an employee of a cannabis processing facility; and

(b) holds a valid cannabis production establishment agent registration card.

[~~(7)~~] (12) "Cannabis product" means the same as that term is defined in Section 26-61a-102.

[~~(8)~~] (13) "Cannabis production establishment" means a cannabis cultivation facility, a cannabis processing facility, or an independent cannabis testing laboratory.

[~~(9)~~] (14) "Cannabis production establishment agent" means a cannabis cultivation facility agent, a cannabis processing facility agent, or an independent cannabis testing laboratory agent.

[~~(10)~~] (15) "Cannabis production establishment agent registration card" means a registration card that the department issues that:

(a) authorizes an individual to act as a cannabis production establishment agent; and

(b) designates the type of cannabis production establishment for which an individual is authorized to act as an agent.

[~~(11)~~] (16) "Community location" means a public or private elementary or secondary school, a church, a public library, a public playground, or a public park.

[~~(12)~~] (17) "Cultivation space" means, quantified in square feet, the horizontal area in which a cannabis cultivation facility cultivates cannabis, including each level of horizontal area if the cannabis cultivation facility hangs, suspends, stacks, or otherwise positions plants above other plants in multiple levels.

(18) "Delta-9-tetrahydrocannabinol" or "delta-9-THC" means the cannabinoid identified as CAS# 1972-08-03, the primary psychotropic cannabinoid in cannabis.

[~~(13)~~] (19) "Department" means the Department of Agriculture and Food.

(20) "Derivative cannabinoid" means any cannabinoid that has been intentionally created using a process to convert a naturally occurring cannabinoid into another cannabinoid.

[~~(14)~~] (21) "Family member" means a parent, step-parent, spouse, child, sibling, step-sibling, uncle, aunt, nephew, niece, first cousin, mother-in-law, father-in-law, brother-in-law, sister-in-law, son-in-law, daughter-in-law, grandparent, or grandchild.

[~~(15)~~] (22) (a) "Independent cannabis testing laboratory" means a person that:

(i) conducts a chemical or other analysis of cannabis or a cannabis product; or

(ii) acquires, possesses, and transports cannabis or a cannabis product with the intent to conduct a chemical or other analysis of the cannabis or cannabis product.

(b) "Independent cannabis testing laboratory" includes a laboratory that the department operates in accordance with Subsection 4-41a-201(14).

[~~(16)~~] (23) "Independent cannabis testing laboratory agent" means an individual who:

(a) is an employee of an independent cannabis testing laboratory; and

(b) holds a valid cannabis production establishment agent registration card.

(24) "Industrial hemp waste" means:

(a) a cannabinoid extract above 0.3% total THC derived from verified industrial hemp biomass; or

(b) verified industrial hemp biomass with a total THC concentration of less than 0.3% by dry weight.

[~~(17)~~] (25) "Inventory control system" means a system described in Section 4-41a-103.

(26) "Licensing board" or "board" means the Cannabis Production Establishment Licensing Advisory Board created in Section 4-41a-201.1.

[~~(18)~~] (27) "Medical cannabis" means the same as that term is defined in Section 26-61a-102.

[~~(19)~~] (28) "Medical cannabis card" means the same as that term is defined in Section 26-61a-102.

[~~(20)~~] (29) "Medical cannabis pharmacy" means the same as that term is defined in Section 26-61a-102.

[~~(21)~~] (30) "Medical cannabis pharmacy agent" means the same as that term is defined in Section 26-61a-102.

[~~(22)~~] (31) "Medical cannabis research license" means a license that the department issues to a research university for the purpose of obtaining and possessing medical cannabis for academic research.

[~~(23)~~] (32) "Medical cannabis research licensee" means a research university that the department licenses to obtain and possess medical cannabis for academic research, in accordance with Section 4-41a-901.

[~~(24)~~] (33) "Medical cannabis treatment" means the same as that term is defined in Section 26-61a-102.

[~~(25)~~] (34) "Medicinal dosage form" means the same as that term is defined in Section 26-61a-102.

[~~(26)~~] (35) "Qualified medical provider" means the same as that term is defined in Section 26-61a-102.

[~~(27)~~] (36) "Qualified Production Enterprise Fund" means the fund created in Section 4-41a-104.

[~~(28)~~] (37) "Research university" means the same as that term is defined in Section 53B-7-702 and a private, nonprofit college or university in the state that:

(a) is accredited by the Northwest Commission on Colleges and Universities;

(b) grants doctoral degrees; and

(c) has a laboratory containing or a program researching a schedule I controlled substance described in Section 58-37-4.

[~~(29)~~] (38) "State electronic verification system" means the system described in Section 26-61a-103.

(39) "Synthetic cannabinoid" means any cannabinoid that:

(a) was chemically synthesized from starting materials other than a naturally occurring cannabinoid; and

(b) is not a derivative cannabinoid.

[~~(30)~~] (40) "Tetrahydrocannabinol" means a substance derived from cannabis or a synthetic equivalent as described in Subsection 58-37-4(2)(a)(iii)(AA).

[~~(31)~~] (41) "Total composite tetrahydrocannabinol" means all detectable forms of tetrahydrocannabinol.

(42) "Total tetrahydrocannabinol" or "total THC" means the sum of the determined amounts of delta-9-THC and tetrahydrocannabinolic acid, calculated as "total THC = delta-9-THC + (THCA x 0.877)."

Section 2. Section 4-41a-201 is amended to read:

4-41a-201. Cannabis production establishment -- License.

(1) Except as provided in Subsection (14), a person may not operate a cannabis production establishment without a license that the department issues under this chapter.

(2) (a) (i) Subject to Subsections (6), (7), (8), and (13) and to Section 4-41a-205[~~:~~], for a licensing process that the department initiates after the effective date of this bill, the department, through the licensing board, shall issue licenses in accordance with Section 4-41a-201.1.

[~~(A) for a licensing process that the department initiated before September 23, 2019, the department shall use the procedures in Title 63G, Chapter 6a, Utah Procurement Code, to review and rank applications for a cannabis production establishment license; and~~]

[~~(B) for a licensing process that the department initiates after September 23, 2019, the department shall issue a license to operate a cannabis production establishment in accordance with the procedures described in Subsection (2)(a)(iii).~~]

[~~(ii) The department may not issue a license to operate a cannabis production establishment to an applicant who is not eligible for a license under this section.~~]

[~~(iii)~~] (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department shall make rules to specify a transparent and efficient process to:

(A) solicit applications for a license under this section;

(B) allow for comments and questions in the development of applications;

(C) timely and objectively evaluate applications;

(D) hold public hearings that the department deems appropriate; and

(E) select applicants to receive a license.

(iii) The department may not issue a license to operate a cannabis production establishment to an applicant who is not eligible for a license under this section.

(b) An applicant is eligible for a license under this section if the applicant submits to the [~~department~~] licensing board:

(i) subject to Subsection (2)(c), a proposed name and address or, for a cannabis cultivation facility, addresses of no more than two facility locations, located in a zone described in Subsection 4-41a-406(2)(a) or (b), where the applicant will operate the cannabis production establishment;

(ii) the name and address of any individual who has:

(A) for a publicly traded company, a financial or voting interest of 2% or greater in the proposed cannabis production establishment;

(B) for a privately held company, a financial or voting interest in the proposed cannabis production establishment; or

(C) the power to direct or cause the management or control of a proposed cannabis production establishment;

(iii) an operating plan that:

(A) complies with Section 4-41a-204;

(B) includes operating procedures that comply with this chapter and any law the municipality or county in which the person is located adopts that is consistent with Section 4-41a-406; and

(C) the department or licensing board approves;

(iv) a statement that the applicant will obtain and maintain a performance bond that a surety

authorized to transact surety business in the state issues in an amount of at least:

(A) [~~$250,000~~] $100,000 for each cannabis cultivation facility for which the applicant applies; or

(B) $50,000 for each cannabis processing facility or independent cannabis testing laboratory for which the applicant applies;

(v) an application fee in an amount that, subject to Subsection 4-41a-104(5), the department sets in accordance with Section 63J-1-504; and

(vi) a description of any investigation or adverse action taken by any licensing jurisdiction, government agency, law enforcement agency, or court in any state for any violation or detrimental conduct in relation to any of the applicant's cannabis-related operations or businesses.

(c) (i) A person may not locate a cannabis production establishment:

(A) within 1,000 feet of a community location; or

(B) in or within 600 feet of a district that the relevant municipality or county has zoned as primarily residential.

(ii) The proximity requirements described in Subsection (2)(c)(i) shall be measured from the nearest entrance to the cannabis production establishment by following the shortest route of ordinary pedestrian travel to the property boundary of the community location or residential area.

(iii) The [~~department~~] licensing board may grant a waiver to reduce the proximity requirements in Subsection (2)(c)(i) by up to 20% if the [~~department~~] licensing board determines that it is not reasonably feasible for the applicant to site the proposed cannabis production establishment without the waiver.

(iv) An applicant for a license under this section shall provide evidence of compliance with the proximity requirements described in Subsection (2)(c)(i).

(3) [~~(a)~~] If the [~~department~~] licensing board approves an application for a license under this section and Section 4-41a-201.1:

[~~(i)~~] (a) the applicant shall pay the department:

[~~(A)~~] (i) an initial license fee in an amount that, subject to Subsection 4-41a-104(5), the department sets in accordance with Section 63J-1-504; or

[~~(B)~~] (ii) a fee for a 120-day limited license to operate as a cannabis processing facility described in Subsection (3)(b) that is equal to 33% of the initial license fee described in Subsection (3)(a)(i)[~~(A)~~][~~.~~]; and

[~~(ii)~~] (b) the department shall notify the Department of Public Safety of the license approval and the names of each individual described in Subsection (2)(b)(ii).

[~~(b) (i) (A) Before July 1, 2020, the department may issue a 120-day limited license to operate as a cannabis processing facility to an eligible applicant.~~]

[~~(B) Except as provided in Subsection (3)(b)(i)(C), the department may not renew the 120-day limited license.~~]

[~~(C) At the termination of the 120-day limited license, the department may issue a full-year license in accordance with Section 4-41a-203.~~]

[~~(ii) An applicant is eligible for the 120-day limited license described in Subsection (3)(b)(i) if the applicant:~~]

[~~(A) is eligible for a full-year license under this section; and~~]

[~~(B) has submitted an application for a full-year license under this section.~~]

(4) (a) Except as provided in Subsection (4)(b), [~~the department~~] a cannabis production establishment shall [~~require~~] obtain a separate license for each type of cannabis production establishment and each location of a cannabis production establishment.

(b) The [~~department~~] licensing board may issue a cannabis cultivation facility license and a cannabis processing facility license to a person to operate at the same physical location or at separate physical locations.

(5) If the [~~department~~] licensing board receives more than one application for a cannabis production establishment within the same city or town, the [~~department~~] licensing board shall consult with the local land use authority before approving any of the applications pertaining to that city or town.

(6) The [~~department~~] licensing board may not issue a license to operate an independent cannabis testing laboratory to a person who:

(a) holds a license or has an ownership interest in a medical cannabis pharmacy, a cannabis processing facility, or a cannabis cultivation facility;

(b) has an owner, officer, director, or employee whose family member holds a license or has an ownership interest in a medical cannabis pharmacy, a cannabis processing facility, or a cannabis cultivation facility; or

(c) proposes to operate the independent cannabis testing laboratory at the same physical location as a medical cannabis pharmacy, a cannabis processing facility, or a cannabis cultivation facility.

(7) The [~~department~~] licensing board may not issue a license to operate a cannabis production establishment to an applicant if any individual described in Subsection (2)(b)(ii):

(a) has been convicted under state or federal law of:

(i) a felony; or

(ii) after December 3, 2018, a misdemeanor for drug distribution;

(b) is younger than 21 years old; or

(c) after September 23, 2019 until January 1, 2023, is actively serving as a legislator.

(8) (a) If an applicant for a cannabis production establishment license under this section holds a license under Title 4, Chapter 41, Hemp and Cannabinoid Act, the [~~department~~] licensing board may not give preference to the applicant based on the applicant's status as a holder of the license.

(b) If an applicant for a license to operate a cannabis cultivation facility under this section holds a license to operate a medical cannabis pharmacy under Title 26, Chapter 61a, Utah Medical Cannabis Act, the [~~department~~] licensing board:

(i) shall consult with the Department of Health regarding the applicant; and

(ii) may give consideration to the applicant based on the applicant's status as a holder of a medical cannabis pharmacy license if:

(A) the applicant demonstrates that a decrease in costs to patients is more likely to result from the applicant's vertical integration than from a more competitive marketplace; and

(B) the [~~department~~] licensing board finds multiple other factors, in addition to the existing license, that support granting the new license.

(9) The [~~department~~] licensing board may revoke a license under this part:

(a) if the cannabis production establishment does not begin cannabis production operations within one year after the day on which the [~~department~~] licensing board issues the initial license;

(b) after the third of the same violation of this chapter in any of the licensee's licensed cannabis production establishments or medical cannabis pharmacies;

(c) if any individual described in Subsection (2)(b) is convicted, while the license is active, under state or federal law of:

(i) a felony; or

(ii) after December 3, 2018, a misdemeanor for drug distribution;

(d) if the licensee fails to provide the information described in Subsection (2)(b)(vi) at the time of application, or fails to supplement the information described in Subsection (2)(b)(vi) with any investigation or adverse action that occurs after the submission of the application within 14 calendar days after the licensee receives notice of the investigation or adverse action; or

(e) if the cannabis production establishment demonstrates a willful or reckless disregard for the requirements of this chapter or the rules the department makes in accordance with this chapter.

(10) (a) A person who receives a cannabis production establishment license under this chapter, if the municipality or county where the licensed cannabis production establishment will be located requires a local land use permit, shall submit to the [~~department~~] licensing board a copy of the licensee's approved application for the land use permit within 120 days after the day on which the [~~department~~] licensing board issues the license.

(b) If a licensee fails to submit to the [~~department~~] licensing board a copy of the licensee's approved land use permit application in accordance with Subsection (10)(a), the [~~department~~] licensing board may revoke the licensee's license.

(11) The department shall deposit the proceeds of a fee that the department imposes under this section into the Qualified Production Enterprise Fund.

(12) The department shall begin accepting applications under this part on or before January 1, 2020.

(13) (a) The department's authority, and consequently the licensing board's authority, to issue a license under this section is plenary and is not subject to review.

(b) Notwithstanding Subsection (2)(a)(i)(A), the decision of the department to award a license to an applicant is not subject to:

(i) Title 63G, Chapter 6a, Part 16, Protests; or

(ii) Title 63G, Chapter 6a, Part 17, Procurement Appeals Board.

(14) Notwithstanding this section, the department:

(a) may not issue more than four licenses to operate an independent cannabis testing laboratory;

[~~(a)~~] (b) may operate an independent cannabis testing laboratory;

[~~(b)~~] (c) if the department operates an independent cannabis testing laboratory, may not cease operating the independent cannabis testing laboratory unless:

(i) the department issues at least two licenses to independent cannabis testing laboratories; and

(ii) the department has ensured that the licensed independent cannabis testing laboratories have sufficient capacity to provide the testing necessary to support the state's medical cannabis market; and

[~~(c)~~] (d) after ceasing operations under Subsection [~~(14)(b)(ii)~~] (14)(d)(ii) shall resume independent cannabis testing laboratory operations at any time if:

(i) fewer than two licensed independent cannabis testing laboratories are operating; or

(ii) the licensed independent cannabis testing laboratories become, in the department's determination, unable to fully meet the market demand for testing.

Section 3. Section 4-41a-201.1 is enacted to read:

4-41a-201.1. Cannabis Production Establishment Licensing Advisory Board -- Composition -- Duties.

(1) There is created within the department the Cannabis Production Establishment Licensing Advisory Board.

(2) The commissioner shall:

(a) appoint the members of the board;

(b) submit the name of each individual that the commissioner appoints under Subsection (2)(a) to the governor for confirmation or rejection; and

(c) if the governor rejects an appointee that the commissioner submits under Subsection (2)(b), appoint another individual in accordance with this Subsection (2).

(3) (a) Except as provided in Subsection (3)(c), the board shall consist of the following six members:

(i) the following five voting members whom the commissioner appoints:

(A) one member of the public;

(B) one member with knowledge and experience in the pharmaceutical or nutraceutical manufacturing industry;

(C) one member representing law enforcement;

(D) one member whom an organization representing medical cannabis patients recommends; and

(E) a chemist who has experience with cannabis and who is associated with a research university; and

(ii) the commissioner or the commissioner's designee as a non-voting member, except to cast a deciding vote in the event of a tie.

(b) The commissioner may appoint a seventh member to the board who has a background in the cannabis cultivation and processing industry.

(c) The commissioner or the commissioner's designee shall serve as the chair of the board.

(d) An individual is not eligible for appointment to be a member of the board if the individual:

(i) has any commercial or ownership interest in a cannabis production establishment, medical cannabis pharmacy, or medical cannabis courier;

(ii) has an owner, officer, director, or employee whose family member holds a license or has an ownership interest in a cannabis production establishment, medical cannabis pharmacy, or medical cannabis courier; or

(iii) is employed or contracted to lobby on behalf of any cannabis production establishment, medical cannabis pharmacy, or medical cannabis courier.

(4) (a) Except as provided in Subsection (4)(b), a voting board member shall serve a term of four years, beginning July 1 and ending June 30.

(b) Notwithstanding Subsection (4)(a), for the initial appointments to the board, the commissioner shall stagger the length of the terms of board members to ensure that the commissioner appoints two or three board members every two years.

(c) As a board member's term expires:

(i) the board member is eligible for reappointment; and

(ii) the commissioner shall make an appointment, in accordance with Subsection (2), for the new term before the end of the member's term.

(d) When a vacancy occurs on the board for any reason other than the expiration of a board member's term, the commissioner shall appoint a replacement to the vacant position, in accordance with Subsection (2), for the unexpired term.

(e) In making appointments, the commissioner shall ensure that no two members of the board are employed by or represent the same company or nonprofit organization.

(f) The commissioner may remove a board member for cause, neglect of duty, inefficiency, or malfeasance.

(5) (a) (i) Four members of the board constitute a quorum of the board.

(ii) An action of the majority of the board members when a quorum is present constitutes an action of the board.

(b) The department shall provide staff support to the board.

(c) A member of the board may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(i) Section 63A-3-106;

(ii) Section 63A-3-107; and

(iii) rules made by the Division of Finance in accordance with Sections 63A-3-106 and 63A-3-107.

(6) The board shall:

(a) meet as called by the chair to review cannabis production establishment license applications;

(b) review each license application for compliance with:

(i) this chapter; and

(ii) department rules;

(c) conduct a public hearing to consider the license application;

(d) approve the department's license application forms and checklists; and

(e) make a determination on each license application.

(7) The board shall hold a public hearing to review a cannabis production establishment's license if the establishment:

(a) changes ownership by an interest of 20% or more;

(b) changes or adds a location;

(c) upgrades to a different licensing tier under department rule;

(d) changes extraction or formulation standard operating procedures;

(e) adds an industrial hemp processing or cultivation license to the same location as the cannabis production establishment's processing facility; or

(f) as necessary based on the recommendation of the department.

(8) (a) The board shall meet annually in December to consider cannabis production establishment license renewal applications.

(b) During the meeting described in Subsection (8)(a):

(i) a representative from each applicant for renewal shall:

(A) attend in person or electronically; or

(B) submit information before the meeting, as the board may require, for the board's consideration; and

(ii) the board shall consider, for each cannabis cultivation facility seeking renewal, information including:

(A) the amount of biomass the licensee produced during the current calendar year;

(B) the amount of biomass the licensee projects to produce during the following year;

(C) the amount of hemp waste the licensee currently holds;

(D) the current square footage or acres of growing area the licensee uses; and

(E) the square footage or acres of growing area the licensee projects to use in the following year; and

(iii) the board shall consider, for each cannabis processing facility seeking renewal, information including:

(A) methods and procedures for extraction;

(B) standard operating procedures; and

(C) a complete listing of the medical dosage forms that the licensee produces.

(c) The information a licensee or license applicant provides to the board for a license determination constitutes a protected record under Subsection 63G-2-305(1) or (2) if the applicant or licensee provides the board with the information regarding business confidentiality required in Section 63G-2-309.

Section 4. Section 4-41a-203 is amended to read:

4-41a-203. Renewal.

The department shall renew a license issued under Section 4-41a-201 every year [~~without opening a process described in Subsection 4-41a-201(2)(a) or convert a 120-day limited license described in Subsection 4-41a-201(3)(b) into a full-year license if, at the time of renewal:~~] if:

(1) the licensee meets the requirements of Section 4-41a-201 at the time of renewal;

(2) the board does not identify:

(a) a significant failure of compliance with this chapter or department rules in the review described in Section 4-41a-201.1; or

(b) grounds for revocation described in Subsections 4-41a-201(9)(b) through (e);

[~~(2)~~] (3) the licensee pays the department a license renewal fee in an amount that, subject to Subsection 4-41a-104(5), the department sets in accordance with Section 63J-1-504; and

[~~(3)~~] (4) if the cannabis production establishment changes the operating plan described in Section 4-41a-204 that the department or licensing board approved under Subsection 4-41a-201(2)(b)(iii), the department approves the new operating plan.

Section 5. Section 4-41a-204 is amended to read:

4-41a-204. Operating plan.

(1) A person applying for a cannabis production establishment license or license renewal shall submit to the department for the department's review a proposed operating plan that complies with this section and that includes:

(a) a description of the physical characteristics of the proposed facility or, for a cannabis cultivation facility, no more than two facility locations, including a floor plan and an architectural elevation;

(b) a description of the credentials and experience of:

(i) each officer, director, and owner of the proposed cannabis production establishment; and

(ii) any highly skilled or experienced prospective employee;

(c) the cannabis production establishment's employee training standards;

(d) a security plan;

(e) a description of the cannabis production establishment's inventory control system, including a description of how the inventory control system is compatible with the state electronic verification system described in Section 26-61a-103;

(f) storage protocols, both short- and long-term, to ensure that cannabis is stored in a manner that is sanitary and preserves the integrity of the cannabis;

(g) for a cannabis cultivation facility, the information described in Subsection (2);

(h) for a cannabis processing facility, the information described in Subsection (3); and

(i) for an independent cannabis testing laboratory, the information described in Subsection (4).

(2) (a) A cannabis cultivation facility shall ensure that the facility's operating plan includes the facility's intended:

(i) cannabis cultivation practices, including the facility's intended pesticide use and fertilizer use; and

(ii) subject to Subsection (2)(b), acreage or square footage under cultivation and anticipated cannabis yield.

(b) Except as provided in Subsection (2)(c)(i) or (d)(ii), a cannabis cultivation facility may not:

(i) for a facility that cultivates cannabis only indoors, use more than 100,000 total square feet of cultivation space;

(ii) for a facility that cultivates cannabis only outdoors, use more than four acres for cultivation; and

(iii) for a facility that cultivates cannabis through a combination of indoor and outdoor cultivation, use more combined indoor square footage and outdoor acreage than allowed under the department's formula described in Subsection (2)(e).

(c) (i) Each licensee may [~~annually~~] apply to the department for [~~authorization to exceed the cannabis cultivation facility's current cultivation size limitation by up to 20%.~~]:

(A) a one-time, permanent increase of up to 20% of the limitation on the cannabis cultivation facility's cultivation space; or

(B) a short-term increase, not to exceed 12 months, of up to 40% of the limitation on the cannabis cultivation facility's cultivation space.

(ii) [~~The department may, after~~] After conducting a review [~~as~~] equivalent to the review described in Subsection 4-41a-205(2)(a), if the department determines that additional cultivation is needed, the department may:

(A) grant the [~~authorization~~] one-time, permanent increase described in Subsection [~~(2)(c)(i).~~] (2)(c)(i)(A); or

(B) grant the short-term increase described in Subsection (2)(c)(i)(B).

(d) If a licensee describes an intended acreage or square footage under cultivation under Subsection (2)(a)(ii) that is less than the limitation described in Subsection (2)(b)[~~:(i)~~], the licensee may not cultivate more than the licensee's identified intended acreage or square footage under cultivation[~~; and~~].

[~~(ii) notwithstanding Subsection (2)(b), the department may allocate the remaining difference in acreage or square footage under cultivation to another licensee.~~]

(e) The department shall, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establish a formula for combined usage of indoor and outdoor cultivation that:

(i) does not exceed, in estimated cultivation yield, the aggregate limitations described in Subsection (2)(b)(i) or (ii); and

(ii) allows a cannabis cultivation facility to operate both indoors and outdoors.

(f) (i) The department may authorize a cannabis cultivation facility to operate at no more than two separate locations.

(ii) If the department authorizes multiple locations under Subsection (2)(f)(i), the two cannabis cultivation facility locations combined may not exceed the cultivation limitations described in this Subsection (2).

(3) A cannabis processing facility's operating plan shall include the facility's intended cannabis processing practices, including the cannabis processing facility's intended:

(a) offered variety of cannabis product;

(b) cannabinoid extraction method;

(c) cannabinoid extraction equipment;

(d) processing equipment;

(e) processing techniques; and

(f) sanitation and manufacturing safety procedures for items for human consumption.

(4) An independent cannabis testing laboratory's operating plan shall include the laboratory's intended:

(a) cannabis and cannabis product testing capability;

(b) cannabis and cannabis product testing equipment; and

(c) testing methods, standards, practices, and procedures for testing cannabis and cannabis products.

(5) Notwithstanding an applicant's proposed operating plan, a cannabis production establishment is subject to land use regulations, as defined in Sections 10-9a-103 and 17-27a-103, regarding the availability of outdoor cultivation in an industrial zone.

Section 6. Section 4-41a-301 is amended to read:

4-41a-301. Cannabis production establishment agent -- Registration.

(1) An individual may not act as a cannabis production establishment agent unless the department registers the individual as a cannabis production establishment agent, regardless of whether the individual is a seasonal, temporary, or permanent employee.

(2) The following individuals, regardless of the individual's status as a qualified medical provider, may not serve as a cannabis production establishment agent, have a financial or voting interest of 2% or greater in a cannabis production establishment, or have the power to direct or cause the management or control of a cannabis production establishment:

(a) a pharmacist licensed under Title 58, Chapter 17b, Pharmacy Practice Act;

(b) an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse Practice Act;

(c) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; or

(d) a physician assistant licensed under Title 58, Chapter 70a, Utah Physician Assistant Act.

(3) An independent cannabis testing laboratory agent may not act as an agent for a medical cannabis pharmacy, a medical cannabis courier, a cannabis processing facility, or a cannabis cultivation facility.

(4) (a) The department shall, within 15 business days after the day on which the department receives a complete application from a cannabis production establishment on behalf of a prospective cannabis production establishment agent, register and issue a cannabis production establishment agent registration card to the prospective agent if the cannabis production establishment:

(i) provides to the department:

(A) the prospective agent's name and address;

(B) the name and location of a licensed cannabis production establishment where the prospective agent will act as the cannabis production establishment's agent; and

(C) the submission required under Subsection (4)(b); and

(ii) pays a fee to the department in an amount that, subject to Subsection 4-41a-104(5), the department sets in accordance with Section 63J-1-504.

(b) Except for an applicant reapplying for a cannabis production establishment agent registration card within less than one year after the expiration of the applicant's previous cannabis production establishment agent registration card, each prospective agent described in Subsection (4)(a) shall:

(i) submit to the department:

(A) a fingerprint card in a form acceptable to the Department of Public Safety; and

(B) a signed waiver in accordance with Subsection 53-10-108(4) acknowledging the registration of the prospective agent's fingerprints in the Federal Bureau of Investigation Next Generation Identification System's Rap Back Service; and

(ii) consent to a fingerprint background check by:

(A) the Bureau of Criminal Identification; and

(B) the Federal Bureau of Investigation.

(c) The Bureau of Criminal Identification shall:

(i) check the fingerprints the prospective agent submits under Subsection (4)(b) against the applicable state, regional, and national criminal records databases, including the Federal Bureau of Investigation Next Generation Identification System;

(ii) report the results of the background check to the department;

(iii) maintain a separate file of fingerprints that prospective agents submit under Subsection (4)(b) for search by future submissions to the local and regional criminal records databases, including latent prints;

(iv) request that the fingerprints be retained in the Federal Bureau of Investigation Next Generation Identification System's Rap Back Service for search by future submissions to national criminal records databases, including the Next Generation Identification System and latent prints; and

(v) establish a privacy risk mitigation strategy to ensure that the department only receives notifications for an individual with whom the department maintains an authorizing relationship.

(d) The department shall:

(i) assess an individual who submits fingerprints under Subsection (4)(b) a fee in an amount that the department sets in accordance with Section 63J-1-504 for the services that the Bureau of Criminal Identification or another authorized agency provides under this section; and

(ii) remit the fee described in Subsection (4)(d)(i) to the Bureau of Criminal Identification.

(5) The department shall designate, on an individual's cannabis production establishment agent registration card:

(a) the name of the cannabis production establishment where the individual is registered as an agent; and

(b) the type of cannabis production establishment for which the individual is authorized to act as an agent.

(6) A cannabis production establishment agent shall comply with:

(a) a certification standard that the department develops; or

(b) a certification standard that the department has reviewed and approved.

(7) (a) The department shall ensure that the certification standard described in Subsection (6) includes training:

(i) in Utah medical cannabis law;

(ii) for a cannabis cultivation facility agent, in cannabis cultivation best practices;

(iii) for a cannabis processing facility agent, in cannabis processing, manufacturing safety procedures for items for human consumption, and sanitation best practices; and

(iv) for an independent cannabis testing laboratory agent, in cannabis testing best practices.

(b) The department shall review the training described in Subsection (7)(a) annually or as often as necessary to ensure compliance with this section.

(8) For an individual who holds or applies for a cannabis production establishment agent registration card:

(a) the department may revoke or refuse to issue the card if the individual violates the requirements of this chapter; and

(b) the department shall revoke or refuse to issue the card if the individual is convicted under state or federal law of:

(i) a felony; or

(ii) after December 3, 2018, a misdemeanor for drug distribution.

(9) (a) A cannabis production establishment agent registration card expires two years after the day on which the department issues the card.

(b) A cannabis production establishment agent may renew the agent's registration card if the agent:

(i) is eligible for a cannabis production establishment registration card under this section;

(ii) certifies to the department in a renewal application that the information in Subsection (4)(a) is accurate or updates the information; and

(iii) pays to the department a renewal fee in an amount that:

(A) subject to Subsection 4-41a-104(5), the department sets in accordance with Section 63J-1-504; and

(B) may not exceed the cost of the relatively lower administrative burden of renewal in comparison to the original application process.

Section 7. Section 4-41a-403 is amended to read:

4-41a-403. Advertising.

(1) Except as provided in this section, a cannabis production establishment may not advertise to the general public in any medium.

(2) A cannabis production establishment may advertise an employment opportunity at the cannabis production establishment.

(3) A cannabis production establishment may maintain a website that:

(a) contains information about the establishment and employees; and

(b) does not advertise any medical cannabis, cannabis products, or medical cannabis devices.

(4) (a) Notwithstanding any municipal or county ordinance prohibiting signage, a cannabis production establishment may use signage on the outside of the cannabis production establishment that:

[~~(a)~~] (i) includes only:

[~~(i)~~] (A) in accordance with Subsection (4)(b), the cannabis production establishment's name, logo, and hours of operation; and

[~~(ii)~~] (B) a green cross; and

[~~(b)~~] (ii) complies with local ordinances regulating signage.

(b) The department shall define standards for a cannabis production establishment's name and logo to ensure a medical rather than recreational disposition.

(5) (a) A cannabis production establishment may hold an educational event for the public or medical providers in accordance with this Subsection (5) and the rules described in Subsection (5)(c).

(b) A cannabis production establishment may not include in an educational event described in Subsection (5)(a):

(i) any topic that conflicts with this chapter or Title 26, Chapter 61a, Utah Medical Cannabis Act;

(ii) any gift items or merchandise other than educational materials, as those terms are defined by the department;

(iii) any marketing for a specific product from the cannabis production establishment or any other statement, claim, or information that would violate the federal Food, Drug, and Cosmetic Act, 21 U.S.C. Sec. 301, et seq.; or

(iv) a presenter other than the following:

(A) a cannabis production establishment agent;

(B) a pharmacist licensed under Title 58, Chapter 17b, Pharmacy Practice Act;

(C) an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse Practice Act;

(D) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act;

(E) a physician assistant licensed under Title 58, Chapter 70a, Utah Physician Assistant Act; or

(F) a state employee.

(c) The department shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to define the elements of and restrictions on the educational event described in Subsection (5)(a), including a minimum age of 21 years old for attendees.

Section 8. Section 4-41a-501 is amended to read:

4-41a-501. Cannabis cultivation facility -- Operating requirements.

(1) A cannabis cultivation facility shall ensure that any cannabis growing at the cannabis cultivation facility is not visible from the ground level of the cannabis cultivation facility perimeter.

(2) A cannabis cultivation facility shall use a unique identifier that is connected to the [~~cannabis cultivation~~] facility's inventory control system to identify:

(a) beginning at the time a cannabis plant is eight inches tall and has a root ball, each cannabis plant;

(b) each unique harvest of cannabis plants;

(c) each batch of cannabis the facility transfers to a medical cannabis pharmacy, a cannabis processing facility, or an independent cannabis testing laboratory; and

(d) any excess, contaminated, or deteriorated cannabis of which the cannabis cultivation facility disposes.

[~~(3) In a cannabis cultivation facility's acquisition of material related to cannabis cultivation, a cannabis cultivation facility may acquire industrial hemp, an industrial hemp product, or industrial hemp waste from an industrial hemp cultivator or processor.~~]

(3) A cannabis cultivation facility shall identify cannabis biomass as cannabis byproduct or cannabis plant product before transferring the cannabis biomass from the facility.

(4) A cannabis cultivation facility shall either:

(a) ensure that a cannabis processing facility chemically or physically processes cannabis cultivation byproduct to produce a cannabis concentrate for incorporation into cannabis derivative products; or

(b) destroy cannabis cultivation byproduct in accordance with Section 4-41a-405.

(5) (a) (i) A cannabis cultivation facility may not purchase or otherwise receive industrial hemp waste unless the waste meets department cannabis testing standards, as determined by an independent cannabis testing laboratory, before the transfer of the waste to the cannabis cultivation facility.

(ii) Upon receipt of the industrial hemp waste described in Subsection (5)(a)(i), the cannabis cultivation facility shall assign a unique identifier to the industrial hemp waste that is connected to the facility's inventory control system.

(iii) Industrial hemp waste described in this Subsection (5)(a) is considered to be cannabis for all testing and regulatory purposes of the department.

(b) Except as provided in Subsection (5)(a), a cannabis production establishment or agent may not receive industrial hemp waste for entry into the medical cannabis program.

(c) A cannabis cultivation facility may not produce more than 120 kilograms of cannabis concentrate from industrial hemp waste in a single license year.

Section 9. Section 4-41a-602 is amended to read:

4-41a-602. Cannabis product -- Labeling and child-resistant packaging.

(1) For any cannabis product that a cannabis processing facility processes or produces and for any raw cannabis that the facility packages, the facility shall:

(a) label the cannabis or cannabis product with a label that:

(i) clearly and unambiguously states that the cannabis product or package contains cannabis;

(ii) clearly displays the amount of total composite tetrahydrocannabinol and cannabidiol in the labeled container;

(iii) has a unique identification number that:

(A) is connected to the inventory control system; and

(B) identifies the unique cannabis product manufacturing process the cannabis processing facility used to manufacture the cannabis product;

(iv) identifies the cannabinoid extraction process that the cannabis processing facility used to create the cannabis product;

(v) does not display an image, word, or phrase that the facility knows or should know appeals to children; and

(vi) discloses each active or potentially active ingredient, in order of prominence, and possible allergen; and

(b) package the raw cannabis or cannabis product in a medicinal dosage form in a container that:

(i) is tamper evident and tamper resistant;

(ii) does not appeal to children;

(iii) does not mimic a candy container;

[~~(iv) is opaque;~~]

[~~(v)~~] (iv) complies with child-resistant effectiveness standards that the United States Consumer Product Safety Commission establishes; and

[~~(vi)~~] (v) includes a warning label that states: "WARNING: Cannabis has intoxicating effects and may be addictive. Do not operate a vehicle or machinery under its influence. KEEP OUT OF REACH OF CHILDREN. This product is for medical use only. Use only as directed by a qualified medical provider."

(2) For any cannabis or cannabis product that the cannabis processing facility processes into a gelatinous cube, gelatinous rectangular cuboid, or

lozenge in a cube or rectangular cuboid shape, the facility shall:

(a) ensure that the label described in Subsection (1)(a) does not contain a photograph or other image of the content of the container; and

(b) include on the label described in Subsection (1)(a) a warning about the risks of over-consumption.

(3) For any cannabis product that contains any derivative cannabinoid or synthetic cannabinoid, the cannabis processing facility shall ensure that the label clearly identifies each derivative cannabinoid or synthetic cannabinoid.

[~~(3)~~] (4) The department shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act to establish:

(a) a standard labeling format that:

(i) complies with the requirements of this section; and

(ii) ensures inclusion of a pharmacy label; and

(b) additional requirements on packaging for cannabis and cannabis products to ensure safety and product quality.

Section 10. Section 4-41a-603 is amended to read:

4-41a-603. Cannabis product -- Product quality.

(1) A cannabis processing facility:

(a) may not produce a cannabis product in a physical form that:

(i) the facility knows or should know appeals to children;

(ii) is designed to mimic or could be mistaken for a candy product; or

(iii) for a cannabis product used in vaporization, includes a candy-like flavor or another flavor that the facility knows or should know appeals to children; and

(b) notwithstanding Subsection (1)(a)(iii), may produce a concentrated oil with a flavor that the department approves to facilitate minimizing the taste or odor of cannabis.

(2) A cannabis product may vary in the cannabis product's labeled cannabinoid profile by up to 10% of the indicated amount of a given cannabinoid, by weight.

(3) A cannabis processing facility shall isolate derivative cannabinoids and synthetic cannabinoids to a purity of greater than 95%, as determined by an independent cannabis testing laboratory using liquid chromatography-mass spectroscopy or an equivalent method.

[~~(3)~~] (4) The department shall adopt by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, human safety standards for the manufacturing of cannabis products that are consistent with best practices for the use of cannabis.

Section 11. Section 4-41a-701 is amended to read:

4-41a-701. Cannabis and cannabis product testing.

[~~(1) A cannabis cultivation facility may not offer any cannabis for sale to a cannabis processing facility unless an independent cannabis testing laboratory has tested a representative sample of the cannabis or cannabis product to determine that the presence of contaminants, including mold, fungus, pesticides, microbial contaminants, heavy metals, or foreign material, does not exceed an amount that is safe for human consumption.~~]

[~~(2) A cannabis processing facility may not offer any cannabis or cannabis products for sale to a medical cannabis pharmacy and a medical cannabis pharmacy may not offer any cannabis or cannabis product for sale unless an independent cannabis testing laboratory has tested a representative sample of the cannabis or cannabis product to determine:~~]

[~~(a) (i) the amount of total composite tetrahydrocannabinol and cannabidiol in the cannabis or cannabis product; and~~]

[~~(ii) the amount of any other cannabinoid in the cannabis or cannabis product that the label claims the cannabis or cannabis product contains;~~]

[~~(b) that the presence of contaminants, including mold, fungus, pesticides, microbial contaminants, heavy metals, or foreign material, does not exceed an amount that is safe for human consumption; and~~]

[~~(c) for a cannabis product that is manufactured using a process that involves extraction using hydrocarbons, that the cannabis product does not contain a level of a residual solvent that is not safe for human consumption.~~]

[~~(3) By rule, in~~]

(1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department may make rules to:

(a) determine required adulterant tests for a cannabis plant product, cannabis concentrate, or cannabis product;

[~~(a) may~~] (b) determine the amount of any [~~substance described in Subsections (2)(b) and (c)~~] adulterant that is safe for human consumption; [~~and~~]

[~~(b) shall~~] (c) establish protocols for a recall of cannabis or a cannabis product by a cannabis production establishment[~~.~~]; or

(d) allow the propagation of testing results forward to derived product if the processing steps the cannabis production establishment uses to produce the product are unlikely to change the results of the test.

[~~(4)~~] (2) The department may require testing for a toxin if:

(a) the department receives information indicating the potential presence of a toxin; or

(b) the department's inspector has reason to believe a toxin may be present based on the inspection of a facility.

(3) (a) A cannabis production establishment may not:

(i) incorporate cannabis concentrate into a cannabis derivative product until an independent cannabis testing laboratory tests the cannabis concentrate in accordance with department rule; or

(ii) transfer cannabis or a cannabis product to a medical cannabis pharmacy until an independent cannabis testing laboratory tests a representative sample of the cannabis or cannabis product in accordance with department rule.

(b) A medical cannabis pharmacy may not offer any cannabis or cannabis product for sale unless an independent cannabis testing laboratory has tested a representative sample of the cannabis or cannabis product in accordance with department rule.

[~~(5)~~] (4) The department shall establish by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the standards, methods, practices, and procedures for the testing of cannabis and cannabis products by independent cannabis testing laboratories.

[~~(6)~~] (5) The department may require an independent cannabis testing laboratory to participate in a proficiency evaluation that the department conducts or that an organization that the department approves conducts.

Section 12. Section 4-41a-702 is amended to read:

4-41a-702. Reporting -- Inspections -- Seizure by the department.

(1) If an independent cannabis testing laboratory determines that the results of a lab test indicate that a cannabis or cannabis product batch may be unsafe for human use:

(a) the independent cannabis testing laboratory shall[~~:(i)~~] report the results and the cannabis or cannabis product batch to:

[~~(A)~~] (i) the department; and

[~~(B)~~] (ii) the cannabis production establishment that prepared the cannabis or cannabis product batch; [~~and~~]

[~~(ii) retain possession of the cannabis or cannabis product batch for two weeks in order to investigate the cause of the defective batch and to make a determination; and~~]

(b) the department shall place a hold on the cannabis or cannabis product batch to:

(i) investigate the cause of the defective batch; and

(ii) make a determination; and

[~~(b)~~] (c) the cannabis production establishment that prepared the cannabis or cannabis product batch may appeal the determination described in Subsection (1)[~~(a)~~](b)(ii) to the department.

(2) If the department determines, under Subsection (1)[~~(a)~~](b)(ii) or following an appeal under Subsection (1)[~~(b)~~](c), that a cannabis or cannabis product prepared by a cannabis production establishment is unsafe for human consumption, the department may seize, embargo, or destroy, in the same manner as a cannabis production establishment under Section 4-41a-405, the cannabis or cannabis product batch.

(3) If an independent cannabis testing laboratory determines that the results of a lab test indicate that the cannabinoid content of a cannabis or cannabis product batch diverges more than 10% from the amounts the label indicates, the cannabis processing facility may not sell the cannabis or cannabis product batch unless the facility replaces the incorrect label with a label that correctly indicates the cannabinoid content.

Section 13. Section 4-41a-901 is amended to read:

4-41a-901. Academic medical cannabis research -- License.

(1) A medical cannabis research licensee may, subject to department rules described in Subsection (4), obtain from a cannabis production establishment or a medical cannabis pharmacy, and possess[~~,~~] cannabis for academic medical cannabis research.

(2) The department shall license a research university to obtain and possess cannabis for the purpose of academic medical cannabis research if the research university submits to the department:

(a) the location where the research university intends to conduct the research;

(b) the research university's research plan; and

(c) the name of the [~~employee~~] principal investigator of the research university who will:

(i) supervise the [~~obtaining~~] procurement, possession, and security of cannabis and cannabis product; and

[~~(ii) be responsible to possess and secure the cannabis; and~~]

[~~(iii)~~] (ii) oversee the academic research.

(3) The department shall maintain a list of each medical cannabis research licensee.

(4) The department shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:

(a) establish requirements for a licensee to:

(i) participate in academic medical cannabis research;

(ii) obtain from a cannabis production establishment, and possess, cannabis for academic medical cannabis research; and

(b) set sampling and testing procedures.

(5) A medical cannabis research licensee shall provide to the department written consent allowing a representative of the department and local law enforcement to enter all premises where the licensee possesses or stores cannabis for the purpose of:

(a) conducting a physical inspection; or

(b) ensuring compliance with the requirements of this chapter.

(6) An individual who has been convicted of a drug related felony within the last 10 years may not obtain, possess, or conduct any research on cannabis under a medical cannabis research licensee's license under this part.

(7) The department may set a fee, in accordance with Subsection 4-2-103(2), for the application for a medical cannabis research license.

Section 14. Section 26-61a-102 is amended to read:

26-61a-102. Definitions.

As used in this chapter:

(1) "Active tetrahydrocannabinol" means Delta-8-THC, Delta-9-THC, and tetrahydrocannabinolic acid.

(2) "Cannabinoid Product Board" means the Cannabinoid Product Board created in Section 26-61-201.

[~~(1)~~] (3) "Cannabis" means marijuana.

[~~(2)~~] (4) "Cannabis cultivation facility" means the same as that term is defined in Section 4-41a-102.

[~~(3)~~] (5) "Cannabis processing facility" means the same as that term is defined in Section 4-41a-102.

[~~(4)~~] (6) "Cannabis product" means a product that:

(a) is intended for human use; and

(b) contains cannabis or tetrahydrocannabinol.

[~~(5)~~] (7) "Cannabis production establishment" means the same as that term is defined in Section 4-41a-102.

[~~(6)~~] (8) "Cannabis production establishment agent" means the same as that term is defined in Section 4-41a-102.

[~~(7)~~] (9) "Cannabis production establishment agent registration card" means the same as that term is defined in Section 4-41a-102.

[~~(8)~~] (10) "Community location" means a public or private elementary or secondary school, a church, a public library, a public playground, or a public park.

(11) "Controlled substance database" means the controlled substance database created in Section 58-37f-201.

(12) "Delta-8-tetrahydrocannabinol" or "Delta-8-THC" means the cannabinoid that:

(a) is similar to Delta-9-THC with a lower psychotropic potency; and

(b) interacts with the CB1 receptor of the nervous system.

(13) "Delta-9-tetrahydrocannabinol" or "Delta-9-THC" means the primary psychotropic cannabinoid in cannabis.

[~~(9)~~] (14) "Department" means the Department of Health.

[~~(10)~~] (15) "Designated caregiver" means:

(a) an individual:

(i) whom an individual with a medical cannabis patient card or a medical cannabis guardian card designates as the patient's caregiver; and

(ii) who registers with the department under Section 26-61a-202; or

(b) (i) a facility that an individual designates as a designated caregiver in accordance with Subsection 26-61a-202(1)(b); or

(ii) an assigned employee of the facility described in Subsection 26-61a-202(1)(b)(ii).

[~~(11)~~] (16) "Directions of use" means recommended routes of administration for a medical cannabis treatment and suggested usage guidelines.

[~~(12)~~] (17) "Dosing guidelines" means a quantity range and frequency of administration for a recommended treatment of medical cannabis.

[~~(13)~~] (18) "Financial institution" means a bank, trust company, savings institution, or credit union, chartered and supervised under state or federal law.

[~~(14)~~] (19) "Home delivery medical cannabis pharmacy" means a medical cannabis pharmacy that the department authorizes, as part of the pharmacy's license, to deliver medical cannabis shipments to a medical cannabis cardholder's home address to fulfill electronic orders that the state central patient portal facilitates.

[~~(15)~~] (20) "Inventory control system" means the system described in Section 4-41a-103.

[~~(16)~~] (21) "Legal dosage limit" means an amount that:

(a) is sufficient to provide 30 days of treatment based on the dosing guidelines that the relevant qualified medical provider or the state central patient portal or pharmacy medical provider, in accordance with Subsection [~~26-61a-201(4)~~] 26-61a-502(4) or (5), recommends; and

(b) may not exceed:

(i) for unprocessed cannabis in a medicinal dosage form, 113 grams by weight; and

(ii) for a cannabis product in a medicinal dosage form, a quantity that contains, in total, greater than 20 grams of active tetrahydrocannabinol.

[~~(17)~~] (22) "Legal use termination date" means a date on the label of a container of unprocessed cannabis flower:

(a) that is 60 days after the date of purchase of the cannabis; and

(b) after which, the cannabis is no longer in a medicinal dosage form outside of the primary residence of the relevant medical cannabis patient cardholder.

[~~(18)~~] (23) "Marijuana" means the same as that term is defined in Section 58-37-2.

[~~(19)~~] (24) "Medical cannabis" means cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form.

[~~(20)~~] (25) "Medical cannabis card" means a medical cannabis patient card, a medical cannabis guardian card, or a medical cannabis caregiver card.

[~~(21)~~] (26) "Medical cannabis cardholder" means:

(a) a holder of a medical cannabis card; or

(b) a facility or assigned employee, described in Subsection [~~(10)~~] (15)(b), only:

(i) within the scope of the facility's or assigned employee's performance of the role of a medical cannabis patient cardholder's caregiver designation under Subsection 26-61a-202(1)(b); and

(ii) while in possession of documentation that establishes:

(A) a caregiver designation described in Subsection 26-61a-202(1)(b);

(B) the identity of the individual presenting the documentation; and

(C) the relation of the individual presenting the documentation to the caregiver designation.

[~~(22)~~] (27) "Medical cannabis caregiver card" means an electronic document that a cardholder may print or store on an electronic device or a physical card or document that:

(a) the department issues to an individual whom a medical cannabis patient cardholder or a medical cannabis guardian cardholder designates as a designated caregiver; and

(b) is connected to the electronic verification system.

[~~(23)~~] (28) "Medical cannabis courier" means a courier that:

(a) the department licenses in accordance with Section 26-61a-604; and

(b) contracts with a home delivery medical cannabis pharmacy to deliver medical cannabis shipments to fulfill electronic orders that the state central patient portal facilitates.

(29) "Medical cannabis courier agent" means an individual who:

(a) is an employee of a medical cannabis courier; and

(b) who holds a valid medical cannabis courier agent registration card.

[~~(24)~~] (30) (a) "Medical cannabis device" means a device that an individual uses to ingest or inhale cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form.

(b) "Medical cannabis device" does not include a device that:

(i) facilitates cannabis combustion; or

(ii) an individual uses to ingest substances other than cannabis.

[~~(25)~~] (31) "Medical cannabis guardian card" means an electronic document that a cardholder may print or store on an electronic device or a physical card or document that:

(a) the department issues to the parent or legal guardian of a minor with a qualifying condition; and

(b) is connected to the electronic verification system.

[~~(26)~~] (32) "Medical cannabis patient card" means an electronic document that a cardholder may print or store on an electronic device or a physical card or document that:

(a) the department issues to an individual with a qualifying condition; and

(b) is connected to the electronic verification system.

[~~(27)~~] (33) "Medical cannabis pharmacy" means a person that:

(a) (i) acquires or intends to acquire[~~: (A) cannabis in a medicinal dosage form~~] medical cannabis or a cannabis product in a medicinal dosage form from a cannabis processing facility[~~;~~] or another medical cannabis pharmacy or [~~(B)~~] a medical cannabis device; or

(ii) possesses [~~cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form,~~] medical cannabis or a medical cannabis device; and

(b) sells or intends to sell [~~cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form,~~] medical cannabis or a medical cannabis device to a medical cannabis cardholder.

[~~(28)~~] (34) "Medical cannabis pharmacy agent" means an individual who:

(a) is an employee of a medical cannabis pharmacy; and

(b) who holds a valid medical cannabis pharmacy agent registration card.

[~~(29)~~] (35) "Medical cannabis pharmacy agent registration card" means a registration card issued by the department that authorizes an individual to act as a medical cannabis pharmacy agent.

[~~(30)~~] (36) "Medical cannabis shipment" means a shipment of medical cannabis or a medical cannabis product that a home delivery medical cannabis pharmacy or a medical cannabis courier delivers to

a medical cannabis cardholder's home address to fulfill an electronic medical cannabis order that the state central patient portal facilitates.

[~~(31)~~] (37) "Medical cannabis treatment" means cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device.

[~~(32)~~] (38) (a) "Medicinal dosage form" means:

(i) for processed medical cannabis or a medical cannabis product, the following with a specific and consistent cannabinoid content:

(A) a tablet;

(B) a capsule;

(C) a concentrated liquid or viscous oil;

(D) a liquid suspension;

(E) a topical preparation;

(F) a transdermal preparation;

(G) a sublingual preparation;

(H) a gelatinous cube, gelatinous rectangular cuboid, or lozenge in a cube or rectangular cuboid shape; or

(I) a resin or wax;

(ii) for unprocessed cannabis flower, a container described in Section 4-41a-602 that:

(A) contains cannabis flowers in a quantity that varies by no more than 10% from the stated weight at the time of packaging;

(B) at any time the medical cannabis cardholder transports or possesses the container in public, is contained within an opaque[~~, child-resistant~~] bag or box that the medical cannabis pharmacy provides; and

(C) is labeled with the container's content and weight, the date of purchase, the legal use termination date, and after December 31, 2020, a barcode that provides information connected to an inventory control system; and

(iii) a form measured in grams, milligrams, or milliliters.

(b) "Medicinal dosage form" includes a portion of unprocessed cannabis flower that:

(i) the medical cannabis cardholder has recently removed from the container described in Subsection [~~(32)(a)(ii)~~] (38)(a)(ii) for use; and

(ii) does not exceed the quantity described in Subsection [~~(32)(a)(ii)~~] (38)(a)(ii).

(c) "Medicinal dosage form" does not include:

(i) any unprocessed cannabis flower outside of the container described in Subsection [~~(32)(a)(ii)~~] (38)(a)(ii), except as provided in Subsection [~~(32)~~] (38)(b);

(ii) any unprocessed cannabis flower in a container described in Subsection [~~(32)(a)(ii)~~] (38)(a)(ii) after the legal use termination date; or

(iii) a process of vaporizing and inhaling concentrated cannabis by placing the cannabis on a nail or other metal object that is heated by a flame, including a blowtorch.

[~~(33)~~] (39) "Nonresident patient" means an individual who:

(a) is not a resident of Utah or has been a resident of Utah for less than 45 days;

(b) has a currently valid medical cannabis card or the equivalent of a medical cannabis card under the laws of another state, district, territory, commonwealth, or insular possession of the United States; and

(c) has been diagnosed with a qualifying condition as described in Section 26-61a-104.

[~~(34)~~] (40) "Payment provider" means an entity that contracts with a cannabis production establishment or medical cannabis pharmacy to facilitate transfers of funds between the establishment or pharmacy and other businesses or individuals.

[~~(35)~~] (41) "Pharmacy medical provider" means the medical provider required to be on site at a medical cannabis pharmacy under Section 26-61a-403.

[~~(36)~~] (42) "Provisional patient card" means a card that:

(a) the department issues to a minor with a qualifying condition for whom:

(i) a qualified medical provider has recommended a medical cannabis treatment; and

(ii) the department issues a medical cannabis guardian card to the minor's parent or legal guardian; and

(b) is connected to the electronic verification system.

[~~(37)~~] (43) "Qualified medical provider" means an individual who is qualified to recommend treatment with cannabis in a medicinal dosage form under Section 26-61a-106.

[~~(38)~~] (44) "Qualified Patient Enterprise Fund" means the enterprise fund created in Section 26-61a-109.

[~~(39)~~] (45) "Qualifying condition" means a condition described in Section 26-61a-104.

[~~(40)~~] (46) "Recommend" or "recommendation" means, for a qualified medical provider, the act of suggesting the use of medical cannabis treatment, which:

(a) certifies the patient's eligibility for a medical cannabis card; and

(b) may include, at the qualified medical provider's discretion, directions of use, with or without dosing guidelines.

[~~(41)~~] (47) "State central patient portal" means the website the department creates, in accordance with Section 26-61a-601, to facilitate patient

safety, education, and an electronic medical cannabis order.

[~~(42)~~] (48) "State central patient portal medical provider" means a physician or pharmacist that the department employs in relation to the state central patient portal to consult with medical cannabis cardholders in accordance with Section 26-61a-602.

[~~(43)~~] (49) "State electronic verification system" means the system described in Section 26-61a-103.

(50) "Tetrahydrocannabinol" or "THC" means a substance derived from cannabis or a synthetic equivalent as described in Subsection 58-37-4(2)(a)(iii)(AA).

[~~(44)~~] (51) "Valid form of photo identification" means a valid United States federal- or state-issued photo identification, including:

(a) a driver license;

(b) a United States passport;

(c) a United States passport card; or

(d) a United States military identification card.

Section 15. Section 26-61a-103 is amended to read:

26-61a-103. Electronic verification system.

(1) The Department of Agriculture and Food, the department, the Department of Public Safety, and the Department of Technology Services shall:

(a) enter into a memorandum of understanding in order to determine the function and operation of the state electronic verification system in accordance with Subsection (2);

(b) coordinate with the Division of Purchasing, under Title 63G, Chapter 6a, Utah Procurement Code, to develop a request for proposals for a third-party provider to develop and maintain the state electronic verification system in coordination with the Department of Technology Services; and

(c) select a third-party provider who:

(i) meets the requirements contained in the request for proposals issued under Subsection (1)(b); and

(ii) may not have any commercial or ownership interest in a cannabis production establishment or a medical cannabis pharmacy.

(2) The Department of Agriculture and Food, the department, the Department of Public Safety, and the Department of Technology Services shall ensure that, on or before March 1, 2020, the state electronic verification system described in Subsection (1):

(a) allows an individual to apply for a medical cannabis patient card or, if applicable, a medical cannabis guardian card, provided that the card may not become active until the relevant qualified medical provider completes the associated medical cannabis recommendation;

(b) allows an individual to apply to renew a medical cannabis patient card or a medical cannabis guardian card in accordance with Section 26-61a-201;

(c) allows a qualified medical provider, or an employee described in Subsection (3) acting on behalf of the qualified medical provider, to:

(i) access dispensing and card status information regarding a patient:

(A) with whom the qualified medical provider has a provider-patient relationship; and

(B) for whom the qualified medical provider has recommended or is considering recommending a medical cannabis card;

(ii) electronically recommend, after an initial face-to-face visit with a patient described in Subsection 26-61a-201(4)(b), treatment with cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form and optionally recommend dosing guidelines;

(iii) electronically renew a recommendation to a medical cannabis patient cardholder or medical cannabis guardian cardholder:

(A) using telehealth services, for the qualified medical provider who originally recommended a medical cannabis treatment during a face-to-face visit with the patient; or

(B) during a face-to-face visit with the patient, for a qualified medical provider who did not originally recommend the medical cannabis treatment during a face-to-face visit; and

(iv) notate a determination of physical difficulty or undue hardship, described in Subsection 26-61a-202(1), to qualify a patient to designate a caregiver;

(d) connects with:

(i) an inventory control system that a medical cannabis pharmacy uses to track in real time and archive purchases of any cannabis in a medicinal dosage form, cannabis product in a medicinal dosage form, or a medical cannabis device, including:

(A) the time and date of each purchase;

(B) the quantity and type of cannabis, cannabis product, or medical cannabis device purchased;

(C) any cannabis production establishment, any medical cannabis pharmacy, or any medical cannabis courier associated with the cannabis, cannabis product, or medical cannabis device; and

(D) the personally identifiable information of the medical cannabis cardholder who made the purchase; and

(ii) any commercially available inventory control system that a cannabis production establishment utilizes in accordance with Section 4-41a-103 to use data that the Department of Agriculture and Food requires by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, from the inventory tracking system that a licensee uses to track and confirm compliance;

(e) provides access to:

(i) the department to the extent necessary to carry out the department's functions and responsibilities under this chapter;

(ii) the Department of Agriculture and Food to the extent necessary to carry out the functions and responsibilities of the Department of Agriculture and Food under Title 4, Chapter 41a, Cannabis Production Establishments; and

(iii) the Division of Occupational and Professional Licensing to the extent necessary to carry out the functions and responsibilities related to the participation of the following in the recommendation and dispensing of medical cannabis:

(A) a pharmacist licensed under Title 58, Chapter 17b, Pharmacy Practice Act;

(B) an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse Practice Act;

(C) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; or

(D) a physician assistant licensed under Title 58, Chapter 70a, Utah Physician Assistant Act;

(f) provides access to and interaction with the state central patient portal;

(g) communicates dispensing information from a record that a medical cannabis pharmacy submits to the state electronic verification system under Subsection 26-61a-502(6)(a)(ii) to the controlled substance database;

[~~(g)~~] (h) provides access to state or local law enforcement:

(i) during a law enforcement encounter, without a warrant, using the individual's driver license or state ID, only for the purpose of determining if the individual subject to the law enforcement encounter has a valid medical cannabis card; or

(ii) after obtaining a warrant; and

[~~(h)~~] (i) creates a record each time a person accesses the [~~database~~] system that identifies the person who accesses the [~~database~~] system and the individual whose records the person accesses.

(3) (a) Beginning on the earlier of January 1, 2021, or the date on which the electronic verification system is functionally capable of allowing employee access under this Subsection (3), an employee of a qualified medical provider may access the electronic verification system for a purpose described in Subsection (2)(c) on behalf of the qualified medical provider if:

(i) the qualified medical provider has designated the employee as an individual authorized to access the electronic verification system on behalf of the qualified medical provider;

(ii) the qualified medical provider provides written notice to the department of the employee's identity and the designation described in Subsection (3)(a)(i); and

(iii) the department grants to the employee access to the electronic verification system.

(b) An employee of a business that employs a qualified medical provider may access the electronic verification system for a purpose described in Subsection (2)(c) on behalf of the qualified medical provider if:

(i) the qualified medical provider has designated the employee as an individual authorized to access the electronic verification system on behalf of the qualified medical provider;

(ii) the qualified medical provider and the employing business jointly provide written notice to the department of the employee's identity and the designation described in Subsection (3)(b)(i); and

(iii) the department grants to the employee access to the electronic verification system.

(4) (a) As used in this Subsection (4), "prescribing provider" means:

(i) an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse Practice Act;

(ii) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; or

(iii) a physician assistant licensed under Title 58, Chapter 70a, Utah Physician Assistant Act.

(b) Beginning on the earlier of January 1, 2021, or the date on which the electronic verification system is functionally capable of allowing provider access under this Subsection (4), a prescribing provider may access information in the electronic verification system regarding a patient the prescribing provider treats.

(5) The department may release limited data that the system collects for the purpose of:

(a) conducting medical and other department approved research;

(b) providing the report required by Section 26-61a-703; and

(c) other official department purposes.

(6) The department shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish:

(a) the limitations on access to the data in the state electronic verification system as described in this section; and

(b) standards and procedures to ensure accurate identification of an individual requesting information or receiving information in this section.

(7) (a) Any person who knowingly and intentionally releases any information in the state electronic verification system in violation of this section is guilty of a third degree felony.

(b) Any person who negligently or recklessly releases any information in the state electronic verification system in violation of this section is guilty of a class C misdemeanor.

(8) (a) Any person who obtains or attempts to obtain information from the state electronic verification system by misrepresentation or fraud is guilty of a third degree felony.

(b) Any person who obtains or attempts to obtain information from the state electronic verification system for a purpose other than a purpose this chapter authorizes is guilty of a third degree felony.

(9) (a) Except as provided in Subsection (9)(e), a person may not knowingly and intentionally use, release, publish, or otherwise make available to any other person information obtained from the state electronic verification system for any purpose other than a purpose specified in this section.

(b) Each separate violation of this Subsection (9) is:

(i) a third degree felony; and

(ii) subject to a civil penalty not to exceed $5,000.

(c) The department shall determine a civil violation of this Subsection (9) in accordance with Title 63G, Chapter 4, Administrative Procedures Act.

(d) Civil penalties assessed under this Subsection (9) shall be deposited into the General Fund.

(e) This Subsection (9) does not prohibit a person who obtains information from the state electronic verification system under Subsection (2)(a), (c), or (f) from:

(i) including the information in the person's medical chart or file for access by a person authorized to review the medical chart or file;

(ii) providing the information to a person in accordance with the requirements of the Health Insurance Portability and Accountability Act of 1996; or

(iii) discussing or sharing that information about the patient with the patient.

Section 16. Section 26-61a-105 is amended to read:

26-61a-105. Compassionate Use Board.

(1) (a) The department shall establish a Compassionate Use Board consisting of:

(i) seven qualified medical providers that the executive director appoints and the Senate confirms:

(A) who are knowledgeable about the medicinal use of cannabis;

(B) who are physicians licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; and

(C) whom the appropriate board certifies in the specialty of neurology, pain medicine and pain management, medical oncology, psychiatry, infectious disease, internal medicine, pediatrics, or gastroenterology; and

(ii) as a nonvoting member and the chair of the Compassionate Use Board, the executive director or the director's designee.

(b) In appointing the seven qualified medical providers described in Subsection (1)(a), the executive director shall ensure that at least two have a board certification in pediatrics.

(2) (a) Of the members of the Compassionate Use Board that the executive director first appoints:

(i) three shall serve an initial term of two years; and

(ii) the remaining members shall serve an initial term of four years.

(b) After an initial term described in Subsection (2)(a) expires:

(i) each term is four years; and

(ii) each board member is eligible for reappointment.

(c) A member of the Compassionate Use Board may serve until a successor is appointed.

(3) Four members constitute a quorum of the Compassionate Use Board.

(4) A member of the Compassionate Use Board may receive:

(a) notwithstanding Section 63A-3-106, compensation or benefits for the member's service; and

(b) travel expenses in accordance with Section 63A-3-107 and rules made by the Division of Finance in accordance with Section 63A-3-107.

(5) The Compassionate Use Board shall:

(a) review and recommend for department approval a petition to the board regarding an individual described in Subsection 26-61a-201(2)(a), a minor described in Subsection 26-61a-201(2)(c), or an individual who is not otherwise qualified to receive a medical cannabis card to obtain a medical cannabis card for compassionate use, for the standard or a reduced period of validity, if:

(i) for an individual who is not otherwise qualified to receive a medical cannabis card, the individual's qualified medical provider is actively treating the individual for an intractable condition that:

(A) substantially impairs the individual's quality of life; and

(B) has not, in the qualified medical provider's professional opinion, adequately responded to conventional treatments;

(ii) the qualified medical provider:

(A) recommends that the individual or minor be allowed to use medical cannabis; and

(B) provides a letter, relevant treatment history, and notes or copies of progress notes describing relevant treatment history including rationale for considering the use of medical cannabis; and

(iii) the Compassionate Use Board determines that:

(A) the recommendation of the individual's qualified medical provider is justified; and

(B) based on available information, it may be in the best interests of the individual to allow the use of medical cannabis;

(b) review and approve or deny the use of a medical cannabis device for an individual described in Subsection 26-61a-201(2)(a)(i)(B) or a minor described in Subsection 26-61a-201(2)(c) if the individual's or minor's qualified medical provider recommends that the individual or minor be allowed to use a medical cannabis device to vaporize the medical cannabis treatment;

(c) unless no petitions are pending:

(i) meet to receive or review compassionate use petitions at least quarterly; and

(ii) if there are more petitions than the board can receive or review during the board's regular schedule, as often as necessary;

(d) except as provided in Subsection (6), complete a review of each petition and recommend to the department approval or denial of the applicant for qualification for a medical cannabis card within 90 days after the day on which the board received the petition;

(e) consult with the department regarding the criteria described in Subsection (6); and

(f) report, before November 1 of each year, to the Health and Human Services Interim Committee:

(i) the number of compassionate use recommendations the board issued during the past year; and

(ii) the types of conditions for which the board recommended compassionate use.

(6) The department shall make rules, in consultation with the Compassionate Use Board and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish a process and criteria for a petition to the board to automatically qualify for expedited final review and approval or denial by the department in cases where, in the determination of the department and the board:

(a) time is of the essence;

(b) engaging the full review process would be unreasonable in light of the petitioner's physical condition; and

(c) sufficient factors are present regarding the petitioner's safety.

(7) (a) (i) The department shall review:

(A) any compassionate use for which the Compassionate Use Board recommends approval under Subsection (5)(d) to determine whether the board properly exercised the board's discretion under this section; and

(B) any expedited petitions the department receives under the process described in Subsection (6).

(ii) If the department determines that the Compassionate Use Board properly exercised the board's discretion in recommending approval under Subsection (5)(d) or that the expedited petition merits approval based on the criteria established in accordance with Subsection (6), the department shall:

(A) issue the relevant medical cannabis card; and

(B) provide for the renewal of the medical cannabis card in accordance with the recommendation of the qualified medical provider described in Subsection (5)(a).

(b) (i) If the Compassionate Use Board recommends denial under Subsection (5)(d), the individual seeking to obtain a medical cannabis card may petition the department to review the board's decision.

(ii) If the department determines that the Compassionate Use Board's recommendation for denial under Subsection (5)(d) was arbitrary or capricious:

(A) the department shall notify the Compassionate Use Board of the department's determination; and

(B) the board shall reconsider the Compassionate Use Board's refusal to recommend approval under this section.

(c) In reviewing the Compassionate Use Board's recommendation for approval or denial under Subsection (5)(d) in accordance with this Subsection (7), the department shall presume the board properly exercised the board's discretion unless the department determines that the board's recommendation was arbitrary or capricious.

(8) Any individually identifiable health information contained in a petition that the Compassionate Use Board or department receives under this section is a protected record in accordance with Title 63G, Chapter 2, Government Records Access and Management Act.

(9) The Compassionate Use Board shall annually report the board's activity to the Cannabinoid Product Board [~~created in Section 26-61-201~~].

Section 17. Section 26-61a-106 is amended to read:

26-61a-106. Qualified medical provider registration -- Continuing education -- Treatment recommendation.

(1) (a) Except as provided in Subsection (1)(b), an individual may not recommend a medical cannabis treatment unless the department registers the

individual as a qualified medical provider in accordance with this section.

(b) An individual who meets the qualifications in Subsections 26-61a-106(2)(a)(iii) and (iv) may recommend a medical cannabis treatment without registering under Subsection (1)(a) until January 1, 2021.

(2) (a) The department shall, within 15 days after the day on which the department receives an application from an individual, register and issue a qualified medical provider registration card to the individual if the individual:

(i) provides to the department the individual's name and address;

(ii) provides to the department a report detailing the individual's completion of the applicable continuing education requirement described in Subsection (3);

(iii) provides to the department evidence that the individual:

(A) has the authority to write a prescription;

(B) is licensed to prescribe a controlled substance under Title 58, Chapter 37, Utah Controlled Substances Act; and

(C) possesses the authority, in accordance with the individual's scope of practice, to prescribe a Schedule II controlled substance;

(iv) provides to the department evidence that the individual is:

(A) an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse Practice Act;

(B) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; or

(C) a physician assistant licensed under Title 58, Chapter 70a, Utah Physician Assistant Act, whose declaration of services agreement, as that term is defined in Section 58-70a-102, includes the recommending of medical cannabis, and whose supervising physician is a qualified medical provider; and

(v) pays the department a fee in an amount that:

(A) the department sets, in accordance with Section 63J-1-504; and

(B) does not exceed $300 for an initial registration.

(b) The department may not register an individual as a qualified medical provider if the individual is:

(i) a pharmacy medical provider; or

(ii) an owner, officer, director, board member, employee, or agent of a cannabis production establishment, a medical cannabis pharmacy, or a medical cannabis courier.

(3) (a) An individual shall complete the continuing education described in this Subsection (3) in the following amounts:

(i) for an individual as a condition precedent to registration, four hours; and

(ii) for a qualified medical provider as a condition precedent to renewal, four hours every two years.

(b) In accordance with Subsection (3)(a), a qualified medical provider shall:

(i) complete continuing education:

(A) regarding the topics described in Subsection (3)(d); and

(B) offered by the department under Subsection (3)(c) or an accredited or approved continuing education provider that the department recognizes as offering continuing education appropriate for the recommendation of cannabis to patients; and

(ii) make a continuing education report to the department in accordance with a process that the department establishes by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and in collaboration with the Division of Occupational and Professional Licensing and:

(A) for an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse Practice Act, the Board of Nursing;

(B) for a qualified medical provider licensed under Title 58, Chapter 67, Utah Medical Practice Act, the Physicians Licensing Board;

(C) for a qualified medical provider licensed under Title 58, Chapter 68, Utah Osteopathic Medical Practice Act, the Osteopathic Physician and Surgeon's Licensing Board; and

(D) for a physician assistant licensed under Title 58, Chapter 70a, Utah Physician Assistant Act, the Physician Assistant Licensing Board.

(c) The department may, in consultation with the Division of Occupational and Professional Licensing, develop the continuing education described in this Subsection (3).

(d) The continuing education described in this Subsection (3) may discuss:

(i) the provisions of this chapter;

(ii) general information about medical cannabis under federal and state law;

(iii) the latest scientific research on the endocannabinoid system and medical cannabis, including risks and benefits;

(iv) recommendations for medical cannabis as it relates to the continuing care of a patient in pain management, risk management, potential addiction, or palliative care; and

(v) best practices for recommending the form and dosage of medical cannabis products based on the qualifying condition underlying a medical cannabis recommendation.

(4) (a) Except as provided in Subsection (4)(b), a qualified medical provider may not recommend a medical cannabis treatment to more than 275 of the qualified medical provider's patients at the same time, as determined by the number of medical cannabis cards under the qualified medical provider's name in the state electronic verification system.

(b) A qualified medical provider may recommend a medical cannabis treatment to up to 600 of the qualified medical provider's patients at any given time, as determined by the number of medical cannabis cards under the qualified medical provider's name in the state electronic verification system, if:

(i) the appropriate American medical board has certified the qualified medical provider in the specialty of anesthesiology, gastroenterology, neurology, oncology, pain, hospice and palliative medicine, physical medicine and rehabilitation, rheumatology, endocrinology, or psychiatry; or

(ii) a licensed business employs or contracts with the qualified medical provider for the specific purpose of providing hospice and palliative care.

(5) A qualified medical provider may recommend medical cannabis to an individual under this chapter only in the course of a qualified medical provider-patient relationship after the qualifying medical provider has completed and documented in the patient's medical record a thorough assessment of the patient's condition and medical history based on the appropriate standard of care for the patient's condition.

(6) (a) Except as provided in Subsection (6)(b), an individual may not advertise that the individual recommends medical cannabis treatment in accordance with this chapter.

(b) For purposes of Subsection (6)(a), the communication of the following, through a website, by an individual described in Subsection (6)(c), does not constitute advertising:

(i) a green cross;

(ii) a qualifying condition that the [~~qualified medical provider~~] individual treats; [~~or~~]

(iii) the individual's registration as a qualified medical provider; or

[~~(iii)~~] (iv) a scientific study regarding medical cannabis use.

(c) The following are subject to Subsection (6)(b):

(i) before the department begins registering qualified medical providers:

(A) an advanced practice registered nurse described in Subsection (2)(a)(iv)(A);

(B) a physician described in Subsection (2)(a)(iv)(B); or

(C) a physician assistant described in Subsection (2)(a)(iv)(C); and

(ii) after the department begins registering qualified medical providers, a qualified medical provider.

(7) (a) A qualified medical provider registration card expires two years after the day on which the department issues the card.

(b) The department shall renew a qualified medical provider's registration card if the provider:

(i) applies for renewal;

(ii) is eligible for a qualified medical provider registration card under this section, including maintaining an unrestricted license as described in Subsection (2)(a)(iii);

(iii) certifies to the department in a renewal application that the information in Subsection (2)(a) is accurate or updates the information;

(iv) submits a report detailing the completion of the continuing education requirement described in Subsection (3); and

(v) pays the department a fee in an amount that:

(A) the department sets, in accordance with Section 63J-1-504; and

(B) does not exceed $50 for a registration renewal.

(8) The department may revoke the registration of a qualified medical provider who fails to maintain compliance with the requirements of this section.

(9) A qualified medical provider may not receive any compensation or benefit for the qualified medical provider's medical cannabis treatment recommendation from:

(a) a cannabis production establishment or an owner, officer, director, board member, employee, or agent of a cannabis production establishment;

(b) a medical cannabis pharmacy or an owner, officer, director, board member, employee, or agent of a medical cannabis pharmacy; or

(c) a qualified medical provider or pharmacy medical provider.

Section 18. Section 26-61a-201 is amended to read:

26-61a-201. Medical cannabis patient card -- Provisional patient card -- Medical cannabis guardian card application -- Application -- Fees -- Studies.

(1) On or before March 1, 2020, the department shall, within 15 days after the day on which an individual who satisfies the eligibility criteria in this section or Section 26-61a-202 submits an application in accordance with this section or Section 26-61a-202:

(a) issue a medical cannabis patient card to an individual described in Subsection (2)(a);

(b) issue a medical cannabis guardian card to an individual described in Subsection (2)(b);

(c) issue a provisional patient card to a minor described in Subsection (2)(c); and

(d) issue a medical cannabis caregiver card to an individual described in Subsection 26-61a-202(4).

(2) (a) An individual is eligible for a medical cannabis patient card if:

(i) (A) the individual is at least 21 years old; or

(B) the individual is 18, 19, or 20 years old, the individual petitions the Compassionate Use Board under Section 26-61a-105, and the Compassionate Use Board recommends department approval of the petition;

(ii) the individual is a Utah resident;

(iii) the individual's qualified medical provider recommends treatment with medical cannabis in accordance with Subsection (4);

(iv) the individual signs an acknowledgment stating that the individual received the information described in Subsection (8); and

(v) the individual pays to the department a fee in an amount that, subject to Subsection 26-61a-109(5), the department sets in accordance with Section 63J-1-504.

(b) (i) An individual is eligible for a medical cannabis guardian card if the individual:

(A) is at least 18 years old;

(B) is a Utah resident;

(C) is the parent or legal guardian of a minor for whom the minor's qualified medical provider recommends a medical cannabis treatment, the individual petitions the Compassionate Use Board under Section 26-61a-105, and the Compassionate Use Board recommends department approval of the petition;

(D) the individual signs an acknowledgment stating that the individual received the information described in Subsection (8);

(E) pays to the department a fee in an amount that, subject to Subsection 26-61a-109(5), the department sets in accordance with Section 63J-1-504, plus the cost of the criminal background check described in Section 26-61a-203; and

(F) the individual has not been convicted of a misdemeanor or felony drug distribution offense under either state or federal law, unless the individual completed any imposed sentence six months or more before the day on which the individual applies for a medical cannabis guardian card.

(ii) The department shall notify the Department of Public Safety of each individual that the department registers for a medical cannabis guardian card.

(c) (i) A minor is eligible for a provisional patient card if:

(A) the minor has a qualifying condition;

(B) the minor's qualified medical provider recommends a medical cannabis treatment to address the minor's qualifying condition;

(C) [~~the minor's parent or legal guardian~~] one of the minor's parents or legal guardians petitions the Compassionate Use Board under Section 26-61a-105, and the Compassionate Use Board recommends department approval of the petition; and

(D) the minor's parent or legal guardian is eligible for a medical cannabis guardian card under Subsection (2)(b) or designates a caregiver under Subsection (2)(d) who is eligible for a medical cannabis caregiver card under Section 26-61a-202.

(ii) The department shall automatically issue a provisional patient card to the minor described in Subsection (2)(c)(i) at the same time the department issues a medical cannabis guardian card to the minor's parent or legal guardian.

(d) Beginning on the earlier of January 1, 2021, or the date on which the electronic verification system is functionally capable of servicing the designation, if the parent or legal guardian of a minor described in Subsections (2)(c)(i)(A) through (C) does not qualify for a medical cannabis guardian card under Subsection (2)(b), the parent or legal guardian may designate up to two caregivers in accordance with Subsection 26-61a-202(1)(c) to ensure that the minor has adequate and safe access to the recommended medical cannabis treatment.

(3) (a) An individual who is eligible for a medical cannabis card described in Subsection (2)(a) or (b) shall submit an application for a medical cannabis card to the department:

(i) through an electronic application connected to the state electronic verification system;

(ii) with the recommending qualified medical provider; and

(iii) with information including:

(A) the applicant's name, gender, age, and address;

(B) the number of the applicant's valid form of photo identification;

(C) for a medical cannabis guardian card, the name, gender, and age of the minor receiving a medical cannabis treatment under the cardholder's medical cannabis guardian card; and

(D) for a provisional patient card, the name of the minor's parent or legal guardian who holds the associated medical cannabis guardian card.

(b) The department shall ensure that a medical cannabis card the department issues under this section contains the information described in Subsection (3)(a)(iii).

(c) (i) If a qualified medical provider determines that, because of age, illness, or disability, a medical cannabis patient cardholder requires assistance in administering the medical cannabis treatment that the qualified medical provider recommends, the qualified medical provider may indicate the cardholder's need in the state electronic verification system.

(ii) If a qualified medical provider makes the indication described in Subsection (3)(c)(i):

(A) the department shall add a label to the relevant medical cannabis patient card indicating the cardholder's need for assistance; and

(B) any adult who is 18 years old or older and who is physically present with the cardholder at the time the cardholder needs to use the recommended medical cannabis treatment may handle the medical cannabis treatment and any associated medical cannabis device as needed to assist the cardholder in administering the recommended medical cannabis treatment; and

(C) an individual of any age who is physically present with the cardholder in the event of an emergency medical condition, as that term is defined in Section 31A-22-627, may handle the medical cannabis treatment and any associated medical cannabis device as needed to assist the cardholder in administering the recommended medical cannabis treatment.

(iii) A non-cardholding individual acting under Subsection (3)(c)(ii)(B) or (C) may not:

(A) ingest or inhale medical cannabis;

(B) possess, transport, or handle medical cannabis or a medical cannabis device outside of the immediate area where the cardholder is present or with an intent other than to provide assistance to the cardholder; or

(C) possess, transport, or handle medical cannabis or a medical cannabis device when the cardholder is not in the process of being dosed with medical cannabis.

(4) To recommend a medical cannabis treatment to a patient or to renew a recommendation, a qualified medical provider shall:

(a) before recommending or renewing a recommendation for medical cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form:

(i) verify the patient's and, for a minor patient, the minor patient's parent or legal guardian's valid form of identification described in Subsection (3)(a);

(ii) review any record related to the patient and, for a minor patient, the patient's parent or legal guardian in:

(A) the state electronic verification system; and

(B) the controlled substance database created in Section 58-37f-201; and

(iii) consider the recommendation in light of the patient's qualifying condition and history of medical cannabis and controlled substance use during an initial face-to-face visit with the patient; and

(b) state in the qualified medical provider's recommendation that the patient:

(i) suffers from a qualifying condition, including the type of qualifying condition; and

(ii) may benefit from treatment with cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form.

(5) (a) Except as provided in Subsection (5)(b), a medical cannabis card that the department issues under this section is valid for the lesser of:

(i) an amount of time that the qualified medical provider determines; or

(ii) (A) for the first issuance, 90 days;

(B) except as provided in Subsection (5)(a)(ii)(C), for a renewal, six months; or

(C) for a renewal, one year if, after at least one year following the issuance of the original medical cannabis card, the qualified medical provider determines that the patient has been stabilized on the medical cannabis treatment and a one-year renewal period is justified.

(b) (i) A medical cannabis card that the department issues in relation to a terminal illness described in Section 26-61a-104 does not expire.

(ii) The recommending qualified medical provider may revoke a recommendation that the provider made in relation to a terminal illness described in Section 26-61a-104 if the medical cannabis cardholder no longer has the terminal illness.

(6) (a) A medical cannabis patient card or a medical cannabis guardian card is renewable if:

(i) at the time of renewal, the cardholder meets the requirements of Subsection (2)(a) or (b); or

(ii) the cardholder received the medical cannabis card through the recommendation of the Compassionate Use Board under Section 26-61a-105.

(b) A cardholder described in Subsection (6)(a) may renew the cardholder's card:

(i) using the application process described in Subsection (3); or

(ii) through phone or video conference with the qualified medical provider who made the recommendation underlying the card, at the qualifying medical provider's discretion.

(c) A cardholder under Subsection (2)(a) or (b) who renews the cardholder's card shall pay to the department a renewal fee in an amount that:

(i) subject to Subsection 26-61a-109(5), the department sets in accordance with Section 63J-1-504; and

(ii) may not exceed the cost of the relatively lower administrative burden of renewal in comparison to the original application process.

(d) If a minor meets the requirements of Subsection (2)(c), the minor's provisional patient card renews automatically at the time the minor's parent or legal guardian renews the parent or legal guardian's associated medical cannabis guardian card.

[~~(e) The department may revoke a medical cannabis guardian card if the cardholder under~~

~~Subsection (2)(b) is convicted of a misdemeanor or felony drug distribution offense under either state or federal law.~~]

(7) (a) A cardholder under this section shall carry the cardholder's valid medical cannabis card with the patient's name.

(b) (i) A medical cannabis patient cardholder or a provisional patient cardholder may purchase, in accordance with this chapter and the recommendation underlying the card, cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device.

(ii) A cardholder under this section may possess or transport, in accordance with this chapter and the recommendation underlying the card, cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device.

(iii) To address the qualifying condition underlying the medical cannabis treatment recommendation:

(A) a medical cannabis patient cardholder or a provisional patient cardholder may use cannabis in a medicinal dosage form, a medical cannabis product in a medicinal dosage form, or a medical cannabis device; and

(B) a medical cannabis guardian cardholder may assist the associated provisional patient cardholder with the use of cannabis in a medicinal dosage form, a medical cannabis product in a medicinal dosage form, or a medical cannabis device.

(c) If a licensed medical cannabis pharmacy is not operating within the state after January 1, 2021, a cardholder under this section:

(i) may possess:

(A) up to the legal dosage limit of unprocessed cannabis in a medicinal dosage form;

(B) up to the legal dosage limit of a cannabis product in a medicinal dosage form; and

(C) marijuana drug paraphernalia; and

(ii) is not subject to prosecution for the possession described in Subsection (7)(c)(i).

(8) The department shall establish by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, a process to provide information regarding the following to an individual receiving a medical cannabis card:

(a) risks associated with medical cannabis treatment;

(b) the fact that a condition's listing as a qualifying condition does not suggest that medical cannabis treatment is an effective treatment or cure for that condition, as described in Subsection 26-61a-104(1); and

(c) other relevant warnings and safety information that the department determines.

(9) The department may establish procedures by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement the application and issuance provisions of this section.

(10) (a) On or before January 1, 2021, the department shall establish by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, a process to allow an individual from another state to register with the Department of Health in order to purchase medical cannabis or a medical cannabis device from a medical cannabis pharmacy while the individual is visiting the state.

(b) The department may only provide the registration process described in Subsection (10)(a):

(i) to a nonresident patient; and

(ii) for no more than two visitation periods per calendar year of up to 21 calendar days per visitation period.

(11) (a) A person may submit to the department a request to conduct a research study using medical cannabis cardholder data that the state electronic verification system contains.

(b) The department shall review a request described in Subsection (11)(a) to determine whether an institutional review board, as that term is defined in Section 26-61-102, could approve the research study.

(c) At the time an individual applies for a medical cannabis card, the department shall notify the individual:

(i) of how the individual's information will be used as a cardholder;

(ii) that by applying for a medical cannabis card, unless the individual withdraws consent under Subsection (11)(d), the individual consents to the use of the individual's information for external research; and

(iii) that the individual may withdraw consent for the use of the individual's information for external research at any time, including at the time of application.

(d) An applicant may, through the medical cannabis card application, and a medical cannabis cardholder may, through the state central patient portal, withdraw the applicant's or cardholder's consent to participate in external research at any time.

(e) The department may release, for the purposes of a study described in this Subsection (11), information about a cardholder under this section who consents to participate under Subsection (11)(c).

(f) If an individual withdraws consent under Subsection (11)(d), the withdrawal of consent:

(i) applies to external research that is initiated after the withdrawal of consent; and

(ii) does not apply to research that was initiated before the withdrawal of consent.

(g) The department may establish standards for a medical research study's validity, by rule made in

accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(12) The department shall record the issuance or revocation of a medical cannabis card under this section in the controlled substance database.

Section 19. Section 26-61a-202 is amended to read:

26-61a-202. Medical cannabis caregiver card -- Registration -- Renewal -- Revocation.

(1) (a) A cardholder described in Section 26-61a-201 may designate, through the state central patient portal, up to two individuals, or an individual and a facility in accordance with Subsection (1)(b), to serve as a designated caregiver for the cardholder if a qualified medical provider notates in the electronic verification system that the provider determines that, due to physical difficulty or undue hardship, including concerns of distance to a medical cannabis pharmacy, the cardholder needs assistance to obtain the medical cannabis treatment that the qualified medical provider recommends.

(b) (i) Beginning on the earlier of January 1, 2021, or the date on which the electronic verification system is functionally capable of servicing the designation, a cardholder described in Section 26-61a-201 who is a patient in one of the following types of facilities may designate the facility as one of the caregivers described in Subsection (1)(a):

(A) an assisted living facility, as that term is defined in Section 26-21-2;

(B) a nursing care facility, as that term is defined in Section 26-21-2; or

(C) a general acute hospital, as that term is defined in Section 26-21-2.

(ii) A facility may assign one or more employees to assist patients with medical cannabis treatment under the caregiver designation described in this Subsection (1)(b).

(iii) The department shall make rules to regulate the practice of facilities and facility employees serving as designated caregivers under this Subsection (1)(b).

(c) A parent or legal guardian described in Subsection 26-61a-201(2)(d), in consultation with the minor and the minor's qualified medical provider, may designate, through the state central patient portal, up to two individuals to serve as a designated caregiver for the minor, if the department determines that the parent or legal guardian is not eligible for a medical cannabis guardian card under Section 26-61a-201.

(2) An individual that the department registers as a designated caregiver under this section and a facility described in Subsection (1)(b):

(a) for an individual designated caregiver, may carry a valid medical cannabis caregiver card;

(b) in accordance with this chapter, may purchase, possess, transport, or assist the patient in the use of cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device on behalf of the designating medical cannabis cardholder;

(c) may not charge a fee to an individual to act as the individual's designated caregiver or for a service that the designated caregiver provides in relation to the role as a designated caregiver;

(d) may accept reimbursement from the designating medical cannabis cardholder for direct costs the designated caregiver incurs for assisting with the designating cardholder's medicinal use of cannabis; and

(e) if a licensed medical cannabis pharmacy is not operating within the state after January 1, 2021:

(i) may possess up to the legal dosage limit of:

(A) unprocessed medical cannabis in a medicinal dosage form;

(B) a cannabis product in a medicinal dosage form; and

(ii) may possess marijuana drug paraphernalia; and

(iii) is not subject to prosecution for the possession described in Subsection (2)(e)(i).

(3) (a) The department shall:

(i) within 15 days after the day on which an individual submits an application in compliance with this section, issue a medical cannabis card to the applicant if the applicant:

(A) is designated as a caregiver under Subsection (1);

(B) is eligible for a medical cannabis caregiver card under Subsection (4); and

(C) complies with this section; and

(ii) notify the Department of Public Safety of each individual that the department registers as a designated caregiver.

(b) The department shall ensure that a medical cannabis caregiver card contains the information described in Subsection (5)(b).

(4) An individual is eligible for a medical cannabis caregiver card if the individual:

(a) is at least 21 years old;

(b) is a Utah resident;

(c) pays to the department a fee in an amount that, subject to Subsection 26-61a-109(5), the department sets in accordance with Section 63J-1-504, plus the cost of the criminal background check described in Section 26-61a-203;

(d) signs an acknowledgment stating that the applicant received the information described in Subsection 26-61a-201(8); and

(e) has not been convicted of a misdemeanor or felony drug distribution offense that is a felony

under either state or federal law, unless the individual completes any imposed sentence two or more years before the day on which the individual submits the application.

(5) An eligible applicant for a medical cannabis caregiver card shall:

(a) submit an application for a medical cannabis caregiver card to the department through an electronic application connected to the state electronic verification system; and

(b) submit the following information in the application described in Subsection (5)(a):

(i) the applicant's name, gender, age, and address;

(ii) the name, gender, age, and address of the cardholder described in Section 26-61a-201 who designated the applicant; and

(iii) if a medical cannabis guardian cardholder designated the caregiver, the name, gender, and age of the minor receiving a medical cannabis treatment in relation to the medical cannabis guardian cardholder.

(6) Except as provided in Subsection (6)(b), a medical cannabis caregiver card that the department issues under this section is valid for the lesser of:

(a) an amount of time that the cardholder described in Section 26-61a-201 who designated the caregiver determines; or

(b) the amount of time remaining before the card of the cardholder described in Section 26-61a-201 expires.

(7) (a) If a designated caregiver meets the requirements of Subsection (4), the designated caregiver's medical cannabis caregiver card renews automatically at the time the cardholder described in Section 26-61a-201 who designated the caregiver:

(i) renews the cardholder's card; and

(ii) renews the caregiver's designation, in accordance with Subsection (7)(b).

(b) The department shall provide a method in the card renewal process to allow a cardholder described in Section 26-61a-201 who has designated a caregiver to:

(i) signify that the cardholder renews the caregiver's designation;

(ii) remove a caregiver's designation; or

(iii) designate a new caregiver.

(8) The department may revoke a medical cannabis caregiver card if the designated caregiver:

(a) violates this chapter; or

(b) is convicted under state or federal law of:

(i) a felony drug distribution offense; or

(ii) after December 3, 2018, a misdemeanor [~~for~~] drug distribution offense.

(9) The department shall record the issuance or revocation of a medical cannabis card under this section in the controlled substance database.

Section 20. Section 26-61a-204 is amended to read:

26-61a-204. Medical cannabis card -- Patient and designated caregiver requirements -- Rebuttable presumption.

(1) (a) A medical cannabis cardholder who possesses medical cannabis that the cardholder purchased under this chapter:

(i) shall carry:

(A) at all times the cardholder's medical cannabis card; and

(B) after the earlier of January 1, 2021, or the day on which the individual purchases any medical cannabis from a medical cannabis pharmacy, with the medical cannabis, a label that identifies that the medical cannabis was sold from a licensed medical cannabis pharmacy and includes an identification number that links the medical cannabis to the inventory control system; and

(ii) may possess up to the legal dosage limit of:

(A) unprocessed cannabis in medicinal dosage form; and

(B) a cannabis product in medicinal dosage form; [~~and~~]

(iii) may not possess more medical cannabis than described in Subsection (1)(a)(ii)[~~.~~];

(iv) may only possess the medical cannabis in the container in which the cardholder received the medical cannabis from the medical cannabis pharmacy; and

(v) may not alter or remove any label described in Section 4-41a-602 from the container described in Subsection (1)(a)(iv).

(b) Except as provided in Subsection (1)(c) or (e), a medical cannabis cardholder who possesses medical cannabis in violation of Subsection (1)(a) is:

(i) guilty of an infraction; and

(ii) subject to a $100 fine.

(c) A medical cannabis cardholder or a nonresident patient who possesses medical cannabis in an amount that is greater than the legal dosage limit and equal to or less than twice the legal dosage limit is:

(i) for a first offense:

(A) guilty of an infraction; and

(B) subject to a fine of up to $100; and

(ii) for a second or subsequent offense:

(A) guilty of a class B misdemeanor; and

(B) subject to a fine of $1,000.

(d) An individual who is guilty of a violation described in Subsection (1)(b) or (c) is not guilty of a violation of Title 58, Chapter 37, Utah Controlled Substances Act, for the conduct underlying the penalty described in Subsection (1)(b) or (c).

(e) A nonresident patient who possesses medical cannabis that is not in a medicinal dosage form is:

(i) for a first offense:

(A) guilty of an infraction; and

(B) subject to a fine of up to $100; and

(ii) for a second or subsequent offense, is subject to the penalties described in Title 58, Chapter 37, Utah Controlled Substances Act.

(f) A medical cannabis cardholder or a nonresident patient who possesses medical cannabis in an amount that is greater than twice the legal dosage limit is subject to the penalties described in Title 58, Chapter 37, Utah Controlled Substances Act.

(2) (a) As used in this Subsection (2), "emergency medical condition" means the same as that term is defined in Section 31A-22-627.

(b) Except as described in Subsection (2)(c), a medical cannabis patient cardholder, a provisional patient cardholder, or a nonresident patient may not use, in public view, medical cannabis or a cannabis product.

(c) In the event of an emergency medical condition, an individual described in Subsection (2)(b) may use, and the holder of a medical cannabis guardian card or a medical cannabis caregiver card may administer to the cardholder's charge, in public view, cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form.

(d) An individual described in Subsection (2)(b) who violates Subsection (2)(b) is:

(i) for a first offense:

(A) guilty of an infraction; and

(B) subject to a fine of up to $100; and

(ii) for a second or subsequent offense:

(A) guilty of a class B misdemeanor; and

(B) subject to a fine of $1,000.

(3) If a medical cannabis cardholder carrying the cardholder's card possesses cannabis in a medicinal dosage form or a cannabis product in compliance with Subsection (1), or a medical cannabis device that corresponds with the cannabis or cannabis product:

(a) there is a rebuttable presumption that the cardholder possesses the cannabis, cannabis product, or medical cannabis device legally; and

(b) there is no probable cause, based solely on the cardholder's possession of the cannabis in medicinal dosage form, cannabis product in medicinal dosage form, or medical cannabis device, to believe that the cardholder is engaging in illegal activity.

(4) (a) If a law enforcement officer stops an individual who possesses cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device, and the individual represents to the law enforcement officer that the individual holds a valid medical cannabis card, but the individual does not have the medical cannabis card in the individual's possession at the time of the stop by the law enforcement officer, the law enforcement officer shall attempt to access the state electronic verification system to determine whether the individual holds a valid medical cannabis card.

(b) If the law enforcement officer is able to verify that the individual described in Subsection (4)(a) is a valid medical cannabis cardholder, the law enforcement officer:

(i) may not arrest or take the individual into custody for the sole reason that the individual is in possession of cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device; and

(ii) may not seize the cannabis, cannabis product, or medical cannabis device.

Section 21. Section 26-61a-301 is amended to read:

26-61a-301. Medical cannabis pharmacy -- License -- Eligibility.

(1) A person may not operate as a medical cannabis pharmacy without a license that the department issues under this part.

(2) (a) (i) Subject to Subsections (4) and (5) and to Section 26-61a-305, the department shall issue a license to operate a medical cannabis pharmacy in accordance with Title 63G, Chapter 6a, Utah Procurement Code.

(ii) The department may not issue a license to operate a medical cannabis pharmacy to an applicant who is not eligible for a license under this section.

(b) An applicant is eligible for a license under this section if the applicant submits to the department:

(i) subject to Subsection (2)(c), a proposed name and address where the applicant will operate the medical cannabis pharmacy;

(ii) the name and address of an individual who:

(A) for a publicly traded company, has a financial or voting interest of 2% or greater in the proposed medical cannabis pharmacy;

(B) for a privately held company, a financial or voting interest in the proposed medical cannabis pharmacy; or

(C) has the power to direct or cause the management or control of a proposed medical cannabis pharmacy;

(iii) a statement that the applicant will obtain and maintain a performance bond that a surety

authorized to transact surety business in the state issues in an amount of at least [~~$125,000~~] $100,000 for each application that the applicant submits to the department;

(iv) an operating plan that:

(A) complies with Section 26-61a-304;

(B) includes operating procedures to comply with the operating requirements for a medical cannabis pharmacy described in this chapter and with a relevant municipal or county law that is consistent with Section 26-61a-507; and

(C) the department approves;

(v) an application fee in an amount that, subject to Subsection 26-61a-109(5), the department sets in accordance with Section 63J-1-504; and

(vi) a description of any investigation or adverse action taken by any licensing jurisdiction, government agency, law enforcement agency, or court in any state for any violation or detrimental conduct in relation to any of the applicant's cannabis-related operations or businesses.

(c) (i) A person may not locate a medical cannabis pharmacy:

(A) within 200 feet of a community location; or

(B) in or within 600 feet of a district that the relevant municipality or county has zoned as primarily residential.

(ii) The proximity requirements described in Subsection (2)(c)(i) shall be measured from the nearest entrance to the medical cannabis pharmacy establishment by following the shortest route of ordinary pedestrian travel to the property boundary of the community location or residential area.

(iii) The department may grant a waiver to reduce the proximity requirements in Subsection (2)(c)(i) by up to 20% if the department determines that it is not reasonably feasible for the applicant to site the proposed medical cannabis pharmacy without the waiver.

(iv) An applicant for a license under this section shall provide evidence of compliance with the proximity requirements described in Subsection (2)(c)(i).

(d) The department may not issue a license to an eligible applicant that the department has selected to receive a license until the selected eligible applicant obtains the performance bond described in Subsection (2)(b)(iii).

(e) If the department receives more than one application for a medical cannabis pharmacy within the same city or town, the department shall consult with the local land use authority before approving any of the applications pertaining to that city or town.

(3) If the department selects an applicant for a medical cannabis pharmacy license under this section, the department shall:

(a) charge the applicant an initial license fee in an amount that, subject to Subsection 26-61a-109(5), the department sets in accordance with Section 63J-1-504; [~~and~~]

(b) notify the Department of Public Safety of the license approval and the names of each individual described in Subsection (2)(b)(ii)[~~.~~]; and

(c) charge the licensee a fee in an amount that, subject to Subsection 26-61a-109(5), the department sets in accordance with Section 63J-1-504, for any change in location, ownership, or company structure.

(4) The department may not issue a license to operate a medical cannabis pharmacy to an applicant if an individual described in Subsection (2)(b)(ii):

(a) has been convicted under state or federal law of:

(i) a felony; or

(ii) after December 3, 2018, a misdemeanor for drug distribution;

(b) is younger than 21 years old; or

(c) after September 23, 2019, until January 1, 2023, is actively serving as a legislator.

(5) (a) If an applicant for a medical cannabis pharmacy license under this section holds a license under Title 4, Chapter 41, Hemp and Cannabinoid Act, the department may not give preference to the applicant based on the applicant's status as a holder of the license.

(b) If an applicant for a medical cannabis pharmacy license under this section holds a license to operate a cannabis cultivation facility under Title 4, Chapter 41a, Cannabis Production Establishments, the department:

(i) shall consult with the Department of Agriculture and Food regarding the applicant; and

(ii) may give consideration to the applicant based on the applicant's status as a holder of a license to operate a cannabis cultivation facility if:

(A) the applicant demonstrates that a decrease in costs to patients is more likely to result from the applicant's vertical integration than from a more competitive marketplace; and

(B) the department finds multiple other factors, in addition to the existing license, that support granting the new license.

(6) (a) The department may revoke a license under this part:

[~~(a)~~] (i) if the medical cannabis pharmacy does not begin operations within one year after the day on which the department issues the initial license;

[~~(b)~~] (ii) after the third the same violation of this chapter in any of the licensee's licensed cannabis production establishments or medical cannabis pharmacies;

[~~(c)~~] (iii) if an individual described in Subsection (2)(b)(ii) is convicted, while the license is active, under state or federal law of:

[~~(i)~~] (A) a felony; or

[~~(ii)~~] (B) after December 3, 2018, a misdemeanor for drug distribution;

[~~(d)~~] (iv) if the licensee fails to provide the information described in Subsection (2)(b)(vi) at the time of application, or fails to supplement the information described in Subsection (2)(b)(vi) with any investigation or adverse action that occurs after the submission of the application within 14 calendar days after the licensee receives notice of the investigation or adverse action; or

[~~(e)~~] (v) if the medical cannabis pharmacy demonstrates a willful or reckless disregard for the requirements of this chapter or the rules the department makes in accordance with this chapter.

(b) The department shall rescind a notice of an intent to issue a license under this part to an applicant or revoke a license issued under this part if the associated medical cannabis pharmacy does not begin operation on or before June 1, 2021.

(7) (a) A person who receives a medical cannabis pharmacy license under this chapter, if the municipality or county where the licensed medical cannabis pharmacy will be located requires a local land use permit, shall submit to the department a copy of the licensee's approved application for the land use permit within 120 days after the day on which the department issues the license.

(b) If a licensee fails to submit to the department a copy the licensee's approved land use permit application in accordance with Subsection (7)(a), the department may revoke the licensee's license.

(8) The department shall deposit the proceeds of a fee imposed by this section [~~in~~] into the Qualified Patient Enterprise Fund.

(9) The department shall begin accepting applications under this part on or before March 1, 2020.

(10) (a) The department's authority to issue a license under this section is plenary and is not subject to review.

(b) Notwithstanding Subsection (2), the decision of the department to award a license to an applicant is not subject to:

(i) Title 63G, Chapter 6a, Part 16, Protests; or

(ii) Title 63G, Chapter 6a, Part 17, Procurement Appeals Board.

Section 22. Section 26-61a-305 is amended to read:

26-61a-305. Maximum number of licenses -- Home delivery medical cannabis pharmacies.

(1) (a) Except as provided in Subsections (1)(b) or (d), if a sufficient number of applicants apply, the department shall issue [~~14~~] up to 15 medical cannabis pharmacy licenses in accordance with this section.

(b) If [~~fewer than 14~~] an insufficient number of qualified applicants apply [~~for a~~] for the available number of medical cannabis pharmacy [~~license~~] licenses, the department shall issue a medical cannabis pharmacy license to each qualified applicant.

(c) The department may issue the licenses described in Subsection (1)(a) [~~in two phases~~] in accordance with this Subsection (1)(c).

(i) Using one procurement process, the department may issue eight licenses to an initial group of medical cannabis pharmacies and six licenses to a second group of medical cannabis pharmacies.

(ii) If the department issues licenses in two phases in accordance with [~~this~~] Subsection (1)(c)(i), the department shall:

(A) divide the state into no less than four geographic regions;

(B) issue at least one license in each geographic region during each phase of issuing licenses; and

(C) complete the process of issuing medical cannabis pharmacy licenses no later than July 1, 2020.

(iii) In issuing a 15th license under Subsection (1), the department shall ensure that the license recipient will locate the medical cannabis pharmacy within Dagget, Duchesne, Uintah, Carbon, Sevier, Emery, Grand, or San Juan County.

(d) (i) The department may issue licenses to operate a medical cannabis pharmacy in addition to the licenses described in Subsection (1)(a) if the department determines, in consultation with the Department of Agriculture and Food and after an annual or more frequent analysis of the current and anticipated market for medical cannabis, that each additional license is necessary to provide an adequate supply, quality, or variety of medical cannabis to medical cannabis cardholders.

(ii) The department shall:

(A) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules to establish criteria and processes for the consultation, analysis, and application for a license described in Subsection (1)(d)(i);

(B) before November 30, 2020, report on the rules described in Subsection (1)(d)(ii)(A) to the Executive Appropriations Committee of the Legislature; and

(C) report to the Executive Appropriations Committee of the Legislature before each time the department issues an additional license under Subsection (1)(d)(i) regarding the results of the consultation and analysis described in Subsection (1)(d)(i) and the application of the criteria described in Subsection (1)(d)(ii)(A) to the intended licensee.

(2) (a) If there are more qualified applicants than there are available licenses for medical cannabis pharmacies, the department shall:

(i) evaluate each applicant and award the license to the applicant that best demonstrates:

(A) experience with establishing and successfully operating a business that involves complying with a regulatory environment, tracking inventory, and training, evaluating, and monitoring employees;

(B) an operating plan that will best ensure the safety and security of patrons and the community;

(C) positive connections to the local community;

(D) the suitability of the proposed location and the location's accessibility for qualifying patients;

(E) the extent to which the applicant can increase efficiency and reduce the cost of medical cannabis for patients; and

(F) a strategic plan described in Subsection 26-61a-304(7) that has a comparatively high likelihood of success; and

(ii) ensure a geographic dispersal among licensees that is sufficient to reasonably maximize access to the largest number of medical cannabis cardholders.

(b) In making the evaluation described in Subsection (2)(a), the department may give increased consideration to applicants who indicate a willingness to:

(i) operate as a home delivery medical cannabis pharmacy that accepts electronic medical cannabis orders that the state central patient portal facilitates; and

(ii) accept payments through:

(A) a payment provider that the Division of Finance approves, in consultation with the state treasurer, in accordance with Section 26-61a-603; or

(B) a financial institution in accordance with Subsection 26-61a-603(4).

(3) The department may conduct a face-to-face interview with an applicant for a license that the department evaluates under Subsection (2).

(4) (a) The department may designate a medical cannabis pharmacy as a home delivery medical cannabis pharmacy if the department determines that the medical cannabis pharmacy's operating plan demonstrates the functional and technical ability to:

(i) safely conduct transactions for medical cannabis shipments;

(ii) accept electronic medical cannabis orders that the state central patient portal facilitates; and

(iii) accept payments through:

(A) a payment provider that the Division of Finance approves, in consultation with the state treasurer, in accordance with Section 26-61a-603; or

(B) a financial institution in accordance with Subsection 26-61a-603(4).

(b) An applicant seeking a designation as a home delivery medical cannabis pharmacy shall identify in the applicant's operating plan any information relevant to the department's evaluation described in Subsection (4)(a), including:

(i) the name and contact information of the payment provider;

(ii) the nature of the relationship between the prospective licensee and the payment provider;

(iii) the processes of the following to safely and reliably conduct transactions for medical cannabis shipments:

(A) the prospective licensee; and

(B) the electronic payment provider or the financial institution described in Subsection (4)(a)(iii); and

(iv) the ability of the licensee to comply with the department's rules regarding the secure transportation and delivery of medical cannabis or medical cannabis product to a medical cannabis cardholder.

(c) Notwithstanding any county or municipal ordinance, a medical cannabis pharmacy that the department designates as a home delivery medical cannabis pharmacy may deliver medical cannabis shipments in accordance with this chapter.

Section 23. Section 26-61a-403 is amended to read:

26-61a-403. Pharmacy medical providers -- Registration -- Continuing education.

(1) (a) A medical cannabis pharmacy:

(i) shall employ a pharmacist who is licensed under Title 58, Chapter 17b, Pharmacy Practice Act, as a pharmacy medical provider;

(ii) may employ a physician who has the authority to write a prescription and is licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act, as a pharmacy medical provider;

(iii) shall ensure that a pharmacy medical provider described in Subsection (1)(a)(i) works onsite during all business hours; and

(iv) shall designate one pharmacy medical provider described in Subsection (1)(a)(i) as the pharmacist-in-charge to oversee the operation of and generally supervise the medical cannabis pharmacy.

(b) An individual may not serve as a pharmacy medical provider unless the department registers the individual as a pharmacy medical provider in accordance with Subsection (2).

(2) (a) The department shall, within 15 days after the day on which the department receives an application from a medical cannabis pharmacy on behalf of a prospective pharmacy medical provider, register and issue a pharmacy medical provider registration card to the prospective pharmacy medical provider if the medical cannabis pharmacy:

(i) provides to the department:

(A) the prospective pharmacy medical provider's name and address;

(B) the name and location of the licensed medical cannabis pharmacy where the prospective pharmacy medical provider seeks to act as a pharmacy medical provider;

(C) a report detailing the completion of the continuing education requirement described in Subsection (3); and

(D) evidence that the prospective pharmacy medical provider is a pharmacist who is licensed under Title 58, Chapter 17b, Pharmacy Practice Act, or a physician who has the authority to write a prescription and is licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; and

(ii) pays a fee to the department in an amount that, subject to Subsection 26-61a-109(5), the department sets in accordance with Section 63J-1-504.

(b) The department may not register a qualified medical provider or a state central patient portal medical provider as a pharmacy medical provider.

(3) (a) A pharmacy medical provider shall complete the continuing education described in this Subsection (3) in the following amounts:

(i) as a condition precedent to registration, four hours; and

(ii) as a condition precedent to renewal of the registration, four hours every two years.

(b) In accordance with Subsection (3)(a), the pharmacy medical provider shall:

(i) complete continuing education:

(A) regarding the topics described in Subsection (3)(d); and

(B) offered by the department under Subsection (3)(c) or an accredited or approved continuing education provider that the department recognizes as offering continuing education appropriate for the medical cannabis pharmacy practice; and

(ii) make a continuing education report to the department in accordance with a process that the department establishes by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and in collaboration with the Division of Occupational and Professional Licensing and:

(A) for a pharmacy medical provider who is licensed under Title 58, Chapter 17b, Pharmacy Practice Act, the Board of Pharmacy;

(B) for a pharmacy medical provider licensed under Title 58, Chapter 67, Utah Medical Practice Act, the Physicians Licensing Board; and

(C) for a pharmacy medical provider licensed under Title 58, Chapter 68, Utah Osteopathic Medical Practice Act, the Osteopathic Physician and Surgeon's Licensing Board.

(c) The department may, in consultation with the Division of Occupational and Professional Licensing, develop the continuing education described in this Subsection (3).

(d) The continuing education described in this Subsection (3) may discuss:

(i) the provisions of this chapter;

(ii) general information about medical cannabis under federal and state law;

(iii) the latest scientific research on the endocannabinoid system and medical cannabis, including risks and benefits;

(iv) recommendations for medical cannabis as it relates to the continuing care of a patient in pain management, risk management, potential addiction, and palliative care; or

(v) best practices for recommending the form and dosage of a medical cannabis product based on the qualifying condition underlying a medical cannabis recommendation.

(4) (a) A pharmacy medical provider registration card expires two years after the day on which the department issues or renews the card.

(b) A pharmacy medical provider may renew the provider's registration card if the provider:

(i) is eligible for a pharmacy medical provider registration card under this section;

(ii) certifies to the department in a renewal application that the information in Subsection (2)(a) is accurate or updates the information;

(iii) submits a report detailing the completion of the continuing education requirement described in Subsection (3); and

(iv) pays to the department a renewal fee in an amount that:

(A) subject to Subsection 26-61a-109(5), the department sets in accordance with Section 63J-1-504; and

(B) may not exceed the cost of the relatively lower administrative burden of renewal in comparison to the original application process.

(5) (a) Except as provided in Subsection (5)(b), an individual may not advertise that the individual dispenses medical cannabis.

(b) For purposes of this Subsection (5), the communication of the following, through a website, by a pharmacy medical provider, does not constitute advertising:

(i) a green cross;

(ii) the individual's registration as a pharmacy medical provider; or

(iii) a scientific study regarding medical cannabis use.

Section 24. Section 26-61a-501 is amended to read:

26-61a-501. Operating requirements -- General.

(1) (a) A medical cannabis pharmacy shall operate:

(i) at the physical address provided to the department under Section 26-61a-301; and

(ii) in accordance with the operating plan provided to the department under Section 26-61a-301 and, if applicable, 26-61a-304.

(b) A medical cannabis pharmacy shall notify the department before a change in the medical cannabis pharmacy's physical address or operating plan.

(2) An individual may not enter a medical cannabis pharmacy unless the individual:

(a) is at least 18 years old or is an emancipated minor under Section 78A-6-805; and

(b) except as provided in Subsection (5)[~~,~~]:

(i) possesses a valid:

[~~(i)~~] (A) medical cannabis pharmacy agent registration card;

[~~(ii)~~] (B) pharmacy medical provider registration card; or

[~~(iii)~~] (C) medical cannabis card[~~.~~];

(ii) is an employee of the department or the Department of Agriculture and Food performing an inspection under Section 26-61a-504; or

(iii) is another individual as the department provides.

(3) A medical cannabis pharmacy may not employ an individual who is younger than 21 years old.

(4) A medical cannabis pharmacy may not employ an individual who has been convicted of a felony under state or federal law.

(5) Notwithstanding Subsection (2)(a), a medical cannabis pharmacy may authorize an individual who is not a medical cannabis pharmacy agent or pharmacy medical provider to access the medical cannabis pharmacy if the medical cannabis pharmacy tracks and monitors the individual at all times while the individual is at the medical cannabis pharmacy and maintains a record of the individual's access.

(6) A medical cannabis pharmacy shall operate in a facility that has:

(a) a single, secure public entrance;

(b) a security system with a backup power source that:

(i) detects and records entry into the medical cannabis pharmacy; and

(ii) provides notice of an unauthorized entry to law enforcement when the medical cannabis pharmacy is closed; and

(c) a lock on each area where the medical cannabis pharmacy stores cannabis or a cannabis product.

(7) A medical cannabis pharmacy shall post, both clearly and conspicuously in the medical cannabis pharmacy, the limit on the purchase of cannabis described in Subsection 26-61a-502(2).

(8) [~~A~~] Except for an emergency situation described in Subsection 26-61a-201(3)(c), a medical cannabis pharmacy may not allow any individual to consume cannabis on the property or premises of the medical cannabis pharmacy.

(9) A medical cannabis pharmacy may not sell cannabis or a cannabis product without first indicating on the cannabis or cannabis product label the name of the medical cannabis pharmacy.

(10) (a) Each medical cannabis pharmacy shall retain in the pharmacy's records the following information regarding each recommendation underlying a transaction:

(i) the qualified medical provider's name, address, and telephone number;

(ii) the patient's name and address;

(iii) the date of issuance;

(iv) directions of use and dosing guidelines or an indication that the qualified medical provider did not recommend specific directions of use or dosing guidelines; and

(v) if the patient did not complete the transaction, the name of the medical cannabis cardholder who completed the transaction.

(b) (i) Except as provided in Subsection [~~(10)(b)(ii)~~] (10)(b)(iii), a medical cannabis pharmacy may not sell medical cannabis unless the medical cannabis has a label securely affixed to the container indicating the following minimum information:

(A) the name, address, and telephone number of the medical cannabis pharmacy;

(B) the unique identification number that the medical cannabis pharmacy assigns;

(C) the date of the sale;

(D) the name of the patient;

(E) the name of the qualified medical provider who recommended the medical cannabis treatment;

(F) directions for use and cautionary statements, if any;

(G) the amount dispensed and the cannabinoid content;

(H) the suggested use date;

(I) for unprocessed cannabis flower, the legal use termination date; and

(J) any other requirements that the department determines, in consultation with the Division of Occupational and Professional Licensing and the Board of Pharmacy.

(ii) A medical cannabis pharmacy is exempt from the following labeling requirements if the information is already provided on the product label that a cannabis production establishment affixes:

(A) Subsection (10)(b)(i)(B) regarding a unique identification number;

(B) Subsection (10)(b)(i)(F) regarding directions for use and cautionary statements;

(C) Subsection (10)(b)(i)(G) regarding amount and cannabinoid content; and

(D) Subsection (10)(b)(i)(H) regarding a suggested use date.

[~~(ii)~~] (iii) A medical cannabis pharmacy may sell medical cannabis to another medical cannabis pharmacy without a label described in Subsection (10)(b)(i).

(11) A pharmacy medical provider or medical cannabis pharmacy agent shall:

(a) unless the medical cannabis cardholder has had a consultation under Subsection 26-61a-502(4), verbally offer to a medical cannabis cardholder at the time of a purchase of cannabis, a cannabis product, or a medical cannabis device, personal counseling with the pharmacy medical provider; and

(b) provide a telephone number or website by which the cardholder may contact a pharmacy medical provider for counseling.

(12) (a) A medical cannabis pharmacy may create a medical cannabis disposal program that allows an individual to deposit unused or excess medical cannabis, cannabis residue from a medical cannabis device, or medical cannabis product in a locked box or other secure receptacle within the medical cannabis pharmacy.

(b) A medical cannabis pharmacy with a disposal program described in Subsection (12)(a) shall ensure that only a medical cannabis pharmacy agent or pharmacy medical provider can access deposited medical cannabis or medical cannabis products.

(c) A medical cannabis pharmacy shall dispose of any deposited medical cannabis or medical cannabis products by:

(i) rendering the deposited medical cannabis or medical cannabis products unusable and unrecognizable before transporting deposited medical cannabis or medical cannabis products from the medical cannabis pharmacy; and

(ii) disposing of the deposited medical cannabis or medical cannabis products in accordance with:

(A) federal and state law, rules, and regulations related to hazardous waste;

(B) the Resource Conservation and Recovery Act, 42 U.S.C. Sec. 6991 et seq.;

(C) Title 19, Chapter 6, Part 5, Solid Waste Management Act; and

(D) other regulations that the department makes in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(13) The department shall establish by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, protocols for a recall of cannabis and cannabis products by a medical cannabis pharmacy.

Section 25. Section 26-61a-502 is amended to read:

26-61a-502. Dispensing -- Amount a medical cannabis pharmacy may dispense -- Reporting -- Form of cannabis or cannabis product.

(1) (a) A medical cannabis pharmacy may not sell a product other than, subject to this chapter:

(i) cannabis in a medicinal dosage form that the medical cannabis pharmacy acquired from another medical cannabis pharmacy or a cannabis processing facility that is licensed under Section 4-41a-201;

(ii) a cannabis product in a medicinal dosage form that the medical cannabis pharmacy acquired from another medical cannabis pharmacy or a cannabis processing facility that is licensed under Section 4-41a-201;

(iii) a medical cannabis device; or

(iv) educational material related to the medical use of cannabis.

(b) A medical cannabis pharmacy may only sell an item listed in Subsection (1)(a) to an individual with:

(i) (A) a medical cannabis card; or

(B) a department registration described in Subsection [~~26-61a-202(10)~~] 26-61a-201(10); [~~or~~] and

[~~(C) until December 31, 2020, a letter from a medical provider in accordance with Subsection (10); and~~]

(ii) a corresponding valid form of photo identification.

(c) Notwithstanding Subsection (1)(a), a medical cannabis pharmacy may not sell a cannabis-based drug that the United States Food and Drug Administration has approved.

(d) Notwithstanding Subsection (1)(b), a medical cannabis pharmacy may not sell a medical cannabis device to an individual described in Subsection 26-61a-201(2)(a)(i)(B) or to a minor described in Subsection 26-61a-201(2)(c) unless the individual or minor has the approval of the Compassionate Use Board in accordance with Subsection 26-61a-105(5).

(2) A medical cannabis pharmacy:

(a) may dispense to a medical cannabis cardholder [~~or to an individual described in Subsection (10)(b)~~], in any one 28-day period, up to the legal dosage limit of:

(i) unprocessed cannabis that:

(A) is in a medicinal dosage form; and

(B) carries a label clearly displaying the amount of tetrahydrocannabinol and cannabidiol in the cannabis; and

(ii) a cannabis product that is in a medicinal dosage form; and

(b) may not dispense:

(i) more medical cannabis than described in Subsection (2)(a); or

(ii) to an individual whose qualified medical provider[~~, or for an individual described in Subsection (10)(a), the medical professional described in Subsection (10)(a)(i),~~] did not recommend directions of use and dosing guidelines, until the individual consults with the pharmacy medical provider in accordance with Subsection (4), any medical cannabis.

(3) An individual with a medical cannabis card [~~or an individual described in Subsection (10)(a)~~]:

(a) may purchase, in any one 28-day period, up to the legal dosage limit of:

(i) unprocessed cannabis in a medicinal dosage form; and

(ii) a cannabis product in a medicinal dosage form;

(b) may not purchase:

(i) more medical cannabis than described in Subsection (3)(a); or

(ii) if the relevant qualified medical provider did not recommend directions of use and dosing guidelines, until the individual consults with the pharmacy medical provider in accordance with Subsection (4), any medical cannabis; and

(c) may not use a route of administration that the relevant qualified medical provider or the pharmacy medical provider, in accordance with Subsection (4) or (5), has not recommended.

(4) If a qualified medical provider recommends treatment with medical cannabis but [~~does not provide~~] wishes for the pharmacy medical provider to determine directions of use and dosing guidelines:

(a) the qualified medical provider shall [~~document in the recommendation~~] provide to the pharmacy medical provider any of the following information that the qualified medical provider feels would be needed to provide appropriate directions of use and dosing guidelines:

(i) [~~an evaluation of~~] information regarding the qualifying condition underlying the recommendation;

(ii) information regarding prior treatment attempts with medical cannabis; and

(iii) portions of the patient's current medication list; and

(b) before the relevant medical cannabis cardholder may obtain medical cannabis, the pharmacy medical provider shall:

(i) review pertinent medical records, including the qualified medical provider documentation described in Subsection (4)(a); and

(ii) unless the pertinent medical records show directions of use and dosing guidelines from a state central patient portal medical provider in accordance with Subsection (5), after completing the review described in Subsection (4)(b)(i) and consulting with the recommending qualified medical provider as needed, determine the best course of treatment through consultation with the cardholder regarding:

(A) the patient's qualifying condition underlying the recommendation from the qualified medical provider;

(B) indications for available treatments;

(C) directions of use and dosing guidelines; and

(D) potential adverse reactions.

(5) (a) A state central patient portal medical provider may provide the consultation and make the determination described in Subsection (4)(b) for a medical cannabis patient cardholder regarding an electronic order that the state central patient portal facilitates.

(b) The state central patient portal medical provider described in Subsection (5)(a) shall document the directions of use and dosing guidelines, determined under Subsection (5)(a) in the pertinent medical records.

(6) (a) A medical cannabis pharmacy shall:

[~~(a) (i)~~] (i) (A) access the state electronic verification system before dispensing cannabis or a cannabis product to a medical cannabis cardholder in order to determine if the cardholder or, where applicable, the associated patient has met the maximum amount of medical cannabis described in Subsection (2); and

[~~(ii)~~] (B) if the verification in Subsection (6)(a)(i) indicates that the individual has met the maximum amount described in Subsection (2)[~~: (A)~~], decline the sale[~~;~~] and [~~(B)~~] notify the qualified medical provider who made the underlying recommendation;

[~~(b)~~] (ii) submit a record to the state electronic verification system each time the medical cannabis pharmacy dispenses medical cannabis to a medical cannabis cardholder;

(iii) ensure that the pharmacy medical provider who is a licensed pharmacist reviews each medical cannabis transaction before dispensing the medical cannabis to the cardholder in accordance with pharmacy practice standards;

[~~(c)~~] (iv) package any medical cannabis that is in a container that:

[~~(i)~~] (A) complies with Subsection 4-41a-602(2) or, if applicable, 26-61a-102[~~(32)~~](39)(a)(ii);

[~~(ii)~~] (B) is tamper-resistant and tamper-evident; and

[~~(iii) opaque; and~~]

(C) provides an opaque bag or box for the medical cannabis cardholder's use in transporting the container in public; and

[~~(d)~~] (v) for a product that is a cube that is designed for ingestion through chewing or holding in the mouth for slow dissolution, include a separate, off-label warning about the risks of over-consumption.

(b) A medical cannabis cardholder transporting or possessing the container described in Subsection (6)(a)(iv) in public shall keep the container within the opaque bag or box that the medical cannabis pharmacist provides.

(7) (a) Except as provided in Subsection (7)(b), a medical cannabis pharmacy may not sell medical cannabis in the form of a cigarette or a medical cannabis device that is intentionally designed or constructed to resemble a cigarette.

(b) A medical cannabis pharmacy may sell a medical cannabis device that warms cannabis material into a vapor without the use of a flame and that delivers cannabis to an individual's respiratory system.

(8) (a) A medical cannabis pharmacy may not give, at no cost, a product that the medical cannabis pharmacy is allowed to sell under Subsection (1)(a)(i), (ii), or (iii).

(b) A medical cannabis pharmacy may give, at no cost, educational material related to the medical use of cannabis.

(9) The department may impose a uniform fee on each medical cannabis transaction in a medical cannabis pharmacy in an amount that, subject to Subsection 26-61a-109(5), the department sets in accordance with Section 63J-1-504.

[~~(10) (a) Except as provided in Subsection (10)(b), until December 31, 2020, an individual may purchase up to the legal dosage limit of an item listed in Subsection (1)(a) from a licensed medical cannabis pharmacy if:~~]

[~~(i) the individual presents to the medical cannabis pharmacy a letter from the medical professional described in Subsection 58-37-3.7(2)(a)(i)(B) that indicates the medical professional's medical cannabis recommendation for the individual;~~]

[~~(ii) the medical cannabis pharmacy receives independent confirmation from the medical professional described in Subsection (10)(a)(i) or an employee of the medical professional that the letter is valid;~~]

[~~(iii) the medical cannabis pharmacy:~~]

[~~(A) scans or photocopies the individual's letter and the individual's valid form of photo identification;~~]

[~~(B) creates a record of the transaction, including the documents described in Subsection (10)(a)(iii)(A), the date of purchase, and the type and quantity of medical cannabis the individual purchased; and~~]

[~~(C) provides information to the individual about obtaining a medical cannabis card; and~~]

[~~(iv) unless the medical professional recommends specific directions of using and dosing guidelines in the letter, the pharmacy medical provider determines the best course of treatment through consultation with the individual regarding:~~]

[~~(A) the individual's qualifying condition underlying the recommendation from the medical professional;~~]

[~~(B) indications for available treatments;~~]

[~~(C) directions of use and dosing guidelines; and~~]

[~~(D) potential adverse reactions.~~]

[~~(b) (i) An individual who purchases medical cannabis from a medical cannabis pharmacy under Subsection (10)(a) may not purchase medical cannabis from a different medical cannabis pharmacy under Subsection (10)(a).~~]

[~~(ii) If the department notifies a medical cannabis pharmacy, in accordance with Subsection (10)(c), of an individual purchasing medical cannabis under Subsection (10)(a) from more than one medical cannabis pharmacy, a medical cannabis pharmacy may not sell an item listed in Subsection (1)(a) to the individual under Subsection (10)(a).~~]

[~~(iii) An individual may not purchase medical cannabis under Subsection (10)(a) if the individual is a medical cannabis cardholder.~~]

[~~(c) (i) Until December 31, 2020, on or before the first day of each month, each medical cannabis pharmacy shall provide to the department, in a secure manner, information identifying each individual who has purchased medical cannabis from the medical cannabis pharmacy under Subsection (10)(a).~~]

[~~(ii) The department shall review information the department receives under Subsection (10)(c)(i) to identify any individuals who:~~]

[~~(A) have purchased medical cannabis under Subsection (10)(a) from more than one pharmacy; or~~]

[~~(B) hold a medical cannabis card.~~]

[~~(iii) If the department identifies an individual described in Subsection (10)(c)(ii), the department shall notify each medical cannabis pharmacy regarding:~~]

[~~(A) the identification of the individual; and~~]

[~~(B) the individual's ineligibility to purchase medical cannabis for a reason described in Subsection (10)(b).~~]

[~~(11)~~] (10) A medical cannabis pharmacy may purchase and store medical cannabis devices regardless of whether the seller has a cannabis-related license under this title or Title 4, Chapter 41a, Cannabis Production Establishments.

Section 26. Section 26-61a-504 is amended to read:

26-61a-504. Inspections.

(1) Each medical cannabis pharmacy shall maintain the pharmacy's medical cannabis treatment recommendation files and other records in accordance with this chapter, department rules, and the federal Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191, 110 Stat. 1936, as amended.

(2) The department or the Department of Agriculture and Food may inspect the records, facility, and inventory of a medical cannabis pharmacy at any time during business hours in order to determine if the medical cannabis pharmacy complies with this chapter and Title 4, Chapter 41a, Cannabis Production Establishments.

(3) An inspection under this section may include:

(a) inspection of a site, facility, vehicle, book, record, paper, document, data, or other physical or electronic information, or any combination of the above;

(b) questioning of any relevant individual;

(c) inspection of equipment, an instrument, a tool, or machinery, including a container or label;

(d) random sampling of medical cannabis by the Department of Agriculture and Food [~~to make the determinations described in Subsection 4-41a-701(2)~~] in accordance with rules described in Section 4-41a-701; or

(e) seizure of medical cannabis, medical cannabis devices, or educational material as evidence in a department investigation or inspection or in instances of compliance failure.

(4) In making an inspection under this section, the department or the Department of Agriculture and Food may freely access any area and review and make copies of a book, record, paper, document, data, or other physical or electronic information, including financial data, sales data, shipping data, pricing data, and employee data.

(5) Failure to provide the department, the Department of Agriculture and Food, or the authorized agents of the department or the Department of Agriculture and Food immediate access to records and facilities during business hours in accordance with this section may result in:

(a) the imposition of a civil monetary penalty that the department sets in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(b) license or registration suspension or revocation; or

(c) an immediate cessation of operations under a cease and desist order that the department issues.

(6) Notwithstanding any other provision of law, the department may temporarily store in any department facility the items the department seizes under Subsection (3)(e) until the department:

(a) determines that sufficient compliance justifies the return of the seized items; or

(b) disposes of the items in the same manner as a cannabis production establishment in accordance with Section 4-41a-405.

Section 27. Section 26-61a-505 is amended to read:

26-61a-505. Advertising.

(1) Except as provided in this section, a medical cannabis pharmacy may not advertise in any medium.

(2) A medical cannabis pharmacy may advertise an employment opportunity at the medical cannabis pharmacy.

(3) (a) Notwithstanding any municipal or county ordinance prohibiting signage, a medical cannabis pharmacy may use signage on the outside of the medical cannabis pharmacy that:

[~~(a)~~] (i) includes only:

[~~(i)~~] (A) in accordance with Subsection (3)(b), the medical cannabis pharmacy's name, logo, and hours of operation; and

[~~(ii)~~] (B) a green cross; and

[~~(b)~~] (ii) complies with local ordinances regulating signage.

(b) The department shall define standards for a medical cannabis pharmacy's name and logo to ensure a medical rather than recreational disposition.

(4) (a) A medical cannabis pharmacy may maintain a website that includes information about:

(i) the location and hours of operation of the medical cannabis pharmacy;

(ii) a product or service available at the medical cannabis pharmacy;

(iii) personnel affiliated with the medical cannabis pharmacy;

(iv) best practices that the medical cannabis pharmacy upholds; and

(v) educational material related to the medical use of cannabis, as defined by the department.

(b) The department shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to define the educational material described in Subsection (4)(a).

(5) (a) A medical cannabis pharmacy may hold an educational event for the public or medical

providers in accordance with this Subsection (5) and the rules described in Subsection (5)(c).

(b) A medical cannabis pharmacy may not include in an educational event described in Subsection (5)(a):

(i) any topic that conflicts with this chapter or Title 4, Chapter 41a, Cannabis Production Establishments;

(ii) any gift items or merchandise other than educational materials, as those terms are defined by the department;

(iii) any marketing for a specific product from the medical cannabis pharmacy or any other statement, claim, or information that would violate the federal Food, Drug, and Cosmetic Act, 21 U.S.C. Sec. 301, et seq.; or

(iv) a presenter other than the following:

(A) a pharmacist licensed under Title 58, Chapter 17b, Pharmacy Practice Act;

(B) an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse Practice Act;

(C) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act;

(D) a physician assistant licensed under Title 58, Chapter 70a, Utah Physician Assistant Act; [~~or~~]

(E) a medical practitioner, similar to the practitioners described in this Subsection (5)(b)(iv), who is licensed in another state or country;

[~~(E)~~] (F) a state employee[~~.~~]; or

(G) if the presentation relates to a cannabis topic other than medical treatment or medical conditions, an individual whom the department approves based on the individual's background and credentials in the presented topic.

(c) The department shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to define the elements of and restrictions on the educational event described in Subsection (5)(a), including:

(i) a minimum age of 21 years old for attendees[~~.~~]; and

(ii) an exception to the minimum age for a medical cannabis patient cardholder who is at least 18 years old.

Section 28. Section 26-61a-605 is amended to read:

26-61a-605. Medical cannabis shipment transportation.

(1) The department shall ensure that each home delivery medical cannabis pharmacy is capable of delivering, directly or through a medical cannabis courier, medical cannabis shipments in a secure manner.

(2) (a) A home delivery medical cannabis pharmacy may contract with a licensed medical cannabis courier to deliver medical cannabis shipments to fulfill electronic medical cannabis orders that the state central patient portal facilitates.

(b) If a home delivery medical cannabis pharmacy enters into a contract described in Subsection (2)(a), the pharmacy shall:

(i) impose security and personnel requirements on the medical cannabis courier sufficient to ensure the security and safety of medical cannabis shipments; and

(ii) provide regular oversight of the medical cannabis courier.

(3) Except for an individual with a valid medical cannabis card who transports a shipment the individual receives, an individual may not transport a medical cannabis shipment unless the individual is:

(a) a registered pharmacy medical provider;

(b) a registered medical cannabis pharmacy agent; or

(c) a registered agent of the medical cannabis courier described in Subsection (2).

(4) An individual transporting a medical cannabis shipment under Subsection (3) shall possess a physical or electronic transportation manifest that:

(a) includes a unique identifier that links the medical cannabis shipment to a relevant inventory control system;

(b) includes origin and destination information for the medical cannabis shipment the individual is transporting; and

(c) indicates the departure and estimated arrival times and locations of the individual transporting the medical cannabis shipment.

(5) In addition to the requirements in Subsections (3) and (4), the department may establish by rule, in collaboration with the Division of Occupational and Professional Licensing and the Board of Pharmacy and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, requirements for transporting medical cannabis shipments that are related to safety for human consumption of cannabis or a cannabis product.

(6) (a) It is unlawful for an individual to transport a medical cannabis shipment with a manifest that does not meet the requirements of Subsection (4).

(b) Except as provided in Subsection (6)(d), an individual who violates Subsection (6)(a) is:

(i) guilty of an infraction; and

(ii) subject to a $100 fine.

(c) An individual who is guilty of a violation described in Subsection (6)(b) is not guilty of a violation of Title 58, Chapter 37, Utah Controlled Substances Act, for the conduct underlying the violation described in Subsection (6)(b).

(d) If the individual described in Subsection (6)(a) is transporting more cannabis, cannabis product, or medical cannabis devices than the manifest identifies, except for a de minimis administrative error:

(i) this chapter does not apply; and

(ii) the individual is subject to penalties under Title 58, Chapter 37, Utah Controlled Substances Act.

Section 29. Section 26-61a-606 is amended to read:

26-61a-606. Medical cannabis courier agent -- Background check -- Registration card -- Rebuttable presumption.

(1) An individual may not serve as a medical cannabis courier agent unless:

(a) the individual is an employee of a licensed medical cannabis courier; and

(b) the department registers the individual as a medical cannabis courier agent.

(2) (a) The department shall, within 15 days after the day on which the department receives a complete application from a medical cannabis courier on behalf of a medical cannabis courier agent, register and issue a medical cannabis courier agent registration card to the prospective agent if the medical cannabis courier:

(i) provides to the department:

(A) the prospective agent's name and address;

(B) the name and address of the medical cannabis courier;

(C) the name and address of each home delivery medical cannabis pharmacy with which the medical cannabis courier contracts to deliver medical cannabis shipments; and

(D) the submission required under Subsection (2)(b);

(ii) as reported under Subsection (2)(c), has not been convicted under state or federal law of:

(A) a felony; or

(B) after December 3, 2018, a misdemeanor for drug distribution; and

(iii) pays the department a fee in an amount that, subject to Subsection 26-61a-109(5), the department sets in accordance with Section 63J-1-504.

(b) Except for an applicant reapplying for a medical cannabis courier agent registration card within less than one year after the expiration of the applicant's previous medical cannabis courier agent registration card, each prospective agent described in Subsection (2)(a) shall:

(i) submit to the department:

(A) a fingerprint card in a form acceptable to the Department of Public Safety; and

(B) a signed waiver in accordance with Subsection 53-10-108(4) acknowledging the registration of the prospective agent's fingerprints in the Federal Bureau of Investigation Next Generation Identification System's Rap Back Service; and

(ii) consent to a fingerprint background check by:

(A) the Bureau of Criminal Identification; and

(B) the Federal Bureau of Investigation.

(c) The Bureau of Criminal Identification shall:

(i) check the fingerprints the prospective agent submits under Subsection (2)(b) against the applicable state, regional, and national criminal records databases, including the Federal Bureau of Investigation Next Generation Identification System;

(ii) report the results of the background check to the department;

(iii) maintain a separate file of fingerprints that prospective agents submit under Subsection (2)(b) for search by future submissions to the local and regional criminal records databases, including latent prints;

(iv) request that the fingerprints be retained in the Federal Bureau of Investigation Next Generation Identification System's Rap Back Service for search by future submissions to national criminal records databases, including the Next Generation Identification System and latent prints; and

(v) establish a privacy risk mitigation strategy to ensure that the department only receives notifications for an individual with whom the department maintains an authorizing relationship.

(d) The department shall:

(i) assess an individual who submits fingerprints under Subsection (2)(b) a fee in an amount that the department sets in accordance with Section 63J-1-504 for the services that the Bureau of Criminal Identification or another authorized agency provides under this section; and

(ii) remit the fee described in Subsection (2)(d)(i) to the Bureau of Criminal Identification.

(3) The department shall designate on an individual's medical cannabis courier agent registration card the name of the medical cannabis [~~courier~~] pharmacy where the individual is registered as an agent and each home delivery medical cannabis courier for which the medical cannabis courier delivers medical cannabis shipments.

(4) (a) A medical cannabis courier agent shall comply with a certification standard that the department develops, in collaboration with the Division of Occupational and Professional Licensing and the Board of Pharmacy, or a third-party certification standard that the department designates by rule in collaboration with the Division of Occupational and Professional Licensing and the Board of Pharmacy and in

accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(b) The department shall ensure that the certification standard described in Subsection (4)(a) includes training in:

(i) Utah medical cannabis law;

(ii) the medical cannabis shipment process; and

(iii) medical cannabis courier agent best practices.

(5) (a) A medical cannabis courier agent registration card expires two years after the day on which the department issues or renews the card.

(b) A medical cannabis courier agent may renew the agent's registration card if the agent:

(i) is eligible for a medical cannabis courier agent registration card under this section;

(ii) certifies to the department in a renewal application that the information in Subsection (2)(a) is accurate or updates the information; and

(iii) pays to the department a renewal fee in an amount that:

(A) subject to Subsection 26-61a-109(5), the department sets in accordance with Section 63J-1-504; and

(B) may not exceed the cost of the relatively lower administrative burden of renewal in comparison to the original application process.

(6) The department may revoke or refuse to issue or renew the medical cannabis courier agent registration card of an individual who:

(a) violates the requirements of this chapter; or

(b) is convicted under state or federal law of:

(i) a felony; or

(ii) after December 3, 2018, a misdemeanor for drug distribution.

(7) A medical cannabis courier agent whom the department has registered under this section shall carry the agent's medical cannabis courier agent registration card with the agent at all times when:

(a) the agent is on the premises of the medical cannabis courier, a medical cannabis pharmacy, or a medical cannabis cardholder's home address; and

(b) the agent is handling a medical cannabis shipment.

(8) If a medical cannabis courier agent handling a medical cannabis shipment possesses the shipment in compliance with Subsection (7):

(a) there is a rebuttable presumption that the agent possesses the shipment legally; and

(b) there is no probable cause, based solely on the agent's possession of the medical cannabis shipment that the agent is engaging in illegal activity.

(9) (a) A medical cannabis courier agent who violates Subsection (7) is:

(i) guilty of an infraction; and

(ii) subject to a $100 fine.

(b) An individual who is guilty of a violation described in Subsection (9)(a) is not guilty of a violation of Title 58, Chapter 37, Utah Controlled Substances Act, for the conduct underlying the violation described in Subsection (9)(a).

Section 30. Section 26-61a-607 is amended to read:

26-61a-607. Home delivery of medical cannabis shipments.

(1) An individual may not receive and a medical cannabis pharmacy agent or a medical cannabis courier agent may not deliver a medical cannabis shipment from a home delivery medical cannabis pharmacy unless:

(a) the individual receiving the shipment presents:

(i) a valid form of photo identification; and

(ii) a valid medical cannabis card under the same name that appears on the valid form of photo identification; and

(b) the delivery occurs at the medical cannabis cardholder's home address that is on file in the state electronic verification system.

(2) Before a medical cannabis pharmacy agent or a medical cannabis courier agent distributes a medical cannabis shipment to a medical cannabis cardholder, the agent shall:

(a) verify the shipment information using the state electronic verification system;

(b) ensure that the individual satisfies the identification requirements in Subsection (1);

(c) verify that payment is complete; and

(d) record the completion of the shipment transaction in a manner such that the delivery of the shipment will later be recorded within a reasonable period in the electronic verification system.

(3) The medical cannabis courier shall:

(a) (i) store each medical cannabis shipment in a secure manner until the recipient medical cannabis cardholder receives the shipment or the medical cannabis courier returns the shipment to the home delivery medical cannabis pharmacy in accordance with Subsection (4); and

(ii) ensure that only a medical cannabis courier agent is able to access the medical cannabis shipment until the recipient medical cannabis cardholder receives the shipment;

(b) return any undelivered medical cannabis shipment to the home delivery medical cannabis pharmacy, in accordance with Subsection (4), after the medical cannabis courier has possessed the shipment for 10 business days; and

(c) return any medical cannabis shipment to the home delivery medical cannabis pharmacy, in accordance with Subsection (4), if a medical cannabis cardholder refuses to accept the shipment.

(4) (a) If a medical cannabis courier or home delivery medical cannabis pharmacy agent returns an undelivered medical cannabis shipment that remains unopened, the home delivery medical cannabis pharmacy may repackage or otherwise reuse the shipment.

(b) If a medical cannabis courier or home delivery medical cannabis pharmacy agent returns an undelivered or refused medical cannabis shipment under Subsection (3) that appears to be opened in any way, the home delivery medical cannabis pharmacy shall dispose of the shipment by:

(i) rendering the shipment unusable and unrecognizable before transporting the shipment from the home delivery medical cannabis pharmacy; and

(ii) disposing of the shipment in accordance with:

(A) federal and state laws, rules, and regulations related to hazardous waste;

(B) the Resource Conservation and Recovery Act, 42 U.S.C. Sec. 6991 et seq.;

(C) Title 19, Chapter 6, Part 5, Solid Waste Management Act; and

(D) other regulations that the department makes in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Section 31. Section 58-37-3.7 is amended to read:

58-37-3.7. Medical cannabis decriminalization.

(1) As used in this section:

(a) "Cannabis" means the same as that term is defined in Section 26-61a-102.

(b) "Cannabis product" means the same as that term is defined in Section 26-61a-102.

(c) "Legal dosage limit" means the same as that term is defined in Section 26-61a-102.

(d) "Medical cannabis card" means the same as that term is defined in Section 26-61a-102.

(e) "Medical cannabis device" means the same as that term is defined in Section 26-61a-102.

(f) "Medicinal dosage form" means the same as that term is defined in Section 26-61a-102.

(g) "Nonresident patient" means the same as that term is defined in Section 26-61a-102.

(h) "Qualifying condition" means the same as that term is defined in Section 26-61a-102.

(i) "Tetrahydrocannabinol" means the same as that term is defined in Section 58-37-3.9.

(2) Before January 1, 2021, an individual is not guilty under this chapter for the use or possession of marijuana, tetrahydrocannabinol, or marijuana drug paraphernalia if:

(a) at the time of the arrest or citation, the individual:

(i) (A) had been diagnosed with a qualifying condition; and

(B) had a pre-existing provider-patient relationship with an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse Practice Act, a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, a physician licensed under Title 58, Chapter 68, Utah Osteopathic Medical Practice Act, or a physician assistant licensed under Title 58, Chapter 70a, Utah Physician Assistant Act, who believed that the individual's illness described in Subsection (2)(a)(i)(A) could benefit from the use in question;

(ii) for possession, was:

(A) the parent or legal guardian of an individual described in Subsection (2)(a)(i) who is a minor; or

(B) the spouse of an individual described in Subsection (2)(a)(i); or

(iii) (A) for possession, was a medical cannabis cardholder; or

(B) for use, was a medical cannabis patient cardholder or a minor with a qualifying condition under the supervision of a medical cannabis guardian cardholder; and

(b) (i) for use or possession of marijuana or tetrahydrocannabinol, the marijuana or tetrahydrocannabinol is one of the following in an amount that does not exceed the legal dosage limit:

(A) unprocessed cannabis in a medicinal dosage form; or

(B) a cannabis product in a medicinal dosage form; and

(ii) for use or possession of marijuana drug paraphernalia, the paraphernalia is a medical cannabis device.

(3) A nonresident patient is not guilty under this chapter for the use or possession of marijuana, tetrahydrocannabinol, or marijuana drug paraphernalia under this chapter if:

(a) for use or possession of marijuana or tetrahydrocannabinol, the marijuana or tetrahydrocannabinol is one of the following in an amount that does not exceed the legal dosage limit:

(i) unprocessed cannabis in a medicinal dosage form; or

(ii) a cannabis product in a medicinal dosage form; and

(b) for use or possession of marijuana drug paraphernalia, the paraphernalia is a medical cannabis device.

(4) (a) There is a rebuttable presumption against an allegation of use or possession of marijuana or tetrahydrocannabinol if:

(i) an individual fails a drug test based on the presence of tetahyrdrocannabinol in the sample; and

(ii) the individual provides evidence that the individual possessed or used cannabidiol or a cannabidiol product.

(b) The presumption described in Subsection (4)(a) may be rebutted with evidence that the individual purchased or possessed marijuana or tetrahydrocannabinol that is not authorized under:

(i) Section 4-41-402; or

(ii) Title 26, Chapter 61a, Utah Medical Cannabis Act.

(5) (a) An individual is not guilty under this chapter for the use or possession of marijuana drug paraphernalia if the drug paraphernalia is a medical cannabis device.

(b) Nothing in this section prohibits a person, either within the state or outside the state, from selling a medical cannabis device within the state.

(c) A person is not required to hold a license under Title 4, Chapter 41a, Cannabis Production Establishments, or Title 26, Chapter 61a, Utah Medical Cannabis Act, to qualify for the protections of this section to sell a medical cannabis device.

Section 32. Section 58-37-3.9 is amended to read:

58-37-3.9. Exemption for possession or use of cannabis to treat a qualifying illness.

(1) As used in this section:

(a) "Cannabis" means marijuana.

(b) "Cannabis product" means the same as that term is defined in Section 26-61a-102.

(c) "Drug paraphernalia" means the same as that term is defined in Section 58-37a-3.

(d) "Medical cannabis cardholder" means the same as that term is defined in Section 26-61a-102.

(e) "Medical cannabis device" means the same as that term is defined in Section 26-61a-102.

(f) " Medicinal dosage form" means the same as that term is defined in Section 26-61a-102.

(g) "Tetrahydrocannabinol" means a substance derived from cannabis or a synthetic description as described in Subsection 58-37-4(2)(a)(iii)(AA).

(2) Notwithstanding any other provision of law, except as otherwise provided in this section:

(a) an individual is not guilty of a violation of this title for the following conduct if the individual engages in the conduct in accordance with Title 4, Chapter 41a, Cannabis Production Establishments, or Title 26, Chapter 61a, Utah Medical Cannabis Act:

(i) possessing, ingesting, inhaling, producing, manufacturing, dispensing, distributing, selling, or offering to sell cannabis or a cannabis product; or

(ii) possessing cannabis or a cannabis product with the intent to engage in the conduct described in Subsection (2)(a)(i); and

(b) an individual is not guilty of a violation of this title regarding drug paraphernalia if the individual, in accordance with Title 4, Chapter 41a, Cannabis Production Establishments, and Title 26, Chapter 61a, Utah Medical Cannabis Act:

(i) possesses, manufactures, distributes, sells, or offers to sell a medical cannabis device; or

(ii) possesses a medical cannabis device with the intent to engage in any of the conduct described in Subsection (2)(b)(i).

(3) (a) As used in this Subsection (3), "smoking" does not include the vaporization or heating of medical cannabis.

(b) Title 26, Chapter 61a, Utah Medical Cannabis Act, does not authorize a medical cannabis cardholder to smoke or combust cannabis or to use a device to facilitate the smoking or combustion of cannabis.

(c) A medical cannabis cardholder or a nonresident patient who smokes cannabis or engages in any other conduct described in Subsection (3)(b):

(i) does not possess the cannabis in accordance with Title 26, Chapter 61a, Utah Medical Cannabis Act; and

(ii) is, for the use or possession of marijuana, tetrahydrocannabinol, or marijuana drug paraphernalia for the conduct described in Subsection (3)(b):

(A) for the first offense, guilty of an infraction and subject to a fine of up to $100; and

(B) for a second or subsequent offense, subject to charges under this chapter.

(4) An individual who is assessed a penalty or convicted of a crime under Title 4, Chapter 41a, Cannabis Production Establishments, or Title 26, Chapter 61a, Utah Medical Cannabis Act, is not, based on the conduct underlying that penalty or conviction, subject to a penalty described in this chapter for:

(a) the possession, manufacture, sale, or offer for sale of cannabis or a cannabis product; or

(b) the possession, manufacture, sale, or offer for sale of drug paraphernalia.

(5) (a) Nothing in this section prohibits a person, either within the state or outside the state, from selling a medical cannabis device within the state.

(b) A person is not required to hold a license under Title 4, Chapter 41a, Cannabis Production Establishments, or Title 26, Chapter 61a, Utah Medical Cannabis Act, to qualify for the protections of this section to sell a medical cannabis device.

Section 33. Effective date.

If approved by two-thirds of all the members elected to each house, this bill takes effect upon

approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

Section 34. Coordinating S.B. 192 with S.B. 170 -- Substantive amendments.

If this S.B. 192 and S.B. 170, Consumer Protection for Cannabis Patients, both pass and become law, it is the intent of the Legislature that the Office of Legislative Research and General Counsel shall prepare the Utah Code database for publication by amending Subsection 26-61a-502(4)(a) to read:

"(4) If a [~~qualified~~] recommending medical provider recommends treatment with medical cannabis but [~~does not provide~~] wishes for the pharmacy medical provider to determine directions of use and dosing guidelines:

(a) the [~~qualified~~] recommending medical provider shall [~~document in the recommendation~~] provide to the pharmacy medical provider, either through the state electronic verification system or through a medical cannabis pharmacy's recording of a recommendation under the order of a limited medical provider, any of the following information that the recommending medical provider feels would be needed to provide appropriate directions of use and dosing guidelines:

(i) [~~an evaluation of~~] information regarding the qualifying condition underlying the recommendation;

(ii) information regarding prior treatment attempts with medical cannabis; and

(iii) portions of the patient's current medication list; and".

CHAPTER 351
S. B. 193
Passed March 4, 2021
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HIGHER EDUCATION PERFORMANCE FUNDING

Chief Sponsor: Ann Millner
House Sponsor: Val L. Peterson

LONG TITLE

General Description:

This bill amends provisions related to higher education goals and funding based on an institution's performance.

Highlighted Provisions:

This bill:

- requires the Utah Board of Higher Education (board) to:
  - set five-year goals for the state system of higher education;
  - set five-year goals for each degree-granting institution and technical college that align with each system five-year goal;
  - establish a model for determining a degree-granting institution's or technical college's performance in meeting the goals the board sets; and
  - every five years, submit the goals and model to the Higher Education Appropriations Subcommittee and governor for comment;
- requires the Executive Appropriations Committee, the Higher Education Appropriations Subcommittee, and the Education Interim Committee to, every five years, prepare and consider legislation to adopt the goals and model the board submits;
- amends the distribution of the money in the Performance Funding Restricted Account to degree-granting institutions and technical colleges;
- permits the board to set aside unearned performance funding and allocate the set-aside funds to a degree-granting institution or technical college that meets or exceeds goals;
- defines terms; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53B-1-301, as last amended by Laws of Utah 2020, Chapters 365 and 403
53B-7-702, as last amended by Laws of Utah 2020, Chapter 365
53B-7-703, as last amended by Laws of Utah 2020, Chapter 365
53B-7-705, as last amended by Laws of Utah 2020, Chapter 365
53B-7-706, as last amended by Laws of Utah 2020, Chapter 365
53E-1-201, as last amended by Laws of Utah 2020, Chapters 51, 174, 254, 274, 321, 354, 365 and last amended by Coordination Clause, Laws of Utah 2020, Chapters 254, 274, and 321
63I-2-253, as last amended by Laws of Utah 2020, Sixth Special Session, Chapter 13

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53B-1-301 is amended to read:

53B-1-301. Reports to and actions of the Higher Education Appropriations Subcommittee.

(1) In accordance with applicable provisions and Section 68-3-14, the following recurring reports are due to the Higher Education Appropriations Subcommittee:

(a) the reports described in Sections 34A-2-202.5, 53B-17-804, and 59-9-102.5 by the Rocky Mountain Center for Occupational and Environmental Health;

(b) the report described in Section 53B-7-101 by the board on recommended appropriations for higher education institutions, including the report described in Section 53B-8-104 by the board on the effects of offering nonresident partial tuition scholarships;

(c) the report described in Section 53B-7-704 by the Department of Workforce Services and the Governor's Office of Economic Development on targeted jobs;

(d) the reports described in Section 53B-7-705 by the board on performance;

(e) the report described in Section 53B-8-201 by the board on the Regents' Scholarship Program;

(f) the report described in Section 53B-8-303 by the board regarding Access Utah promise scholarships;

(g) the report described in Section 53B-8d-104 by the Division of Child and Family Services on tuition waivers for wards of the state;

(h) the report described in Section 53B-12-107 by the Utah Higher Education Assistance Authority;

(i) the report described in Section 53B-13a-104 by the board on the Success Stipend Program;

(j) the report described in Section 53B-17-201 by the University of Utah regarding the Miners' Hospital for Disabled Miners;

(k) the report described in Section 53B-26-103 by the Governor's Office of Economic Development on high demand technical jobs projected to support economic growth;

(l) the report described in Section 53B-26-202 by the Medical Education Council on projected demand for nursing professionals; and

(m) the report described in Section 53E-10-308 by the State Board of Education and board on

student participation in the concurrent enrollment program.

(2) In accordance with applicable provisions and Section 68-3-14, the following occasional reports are due to the Higher Education Appropriations Subcommittee:

(a) upon request, the information described in Section 53B-8a-111 submitted by the Utah Educational Savings Plan;

(b) as described in Section 53B-26-103, a proposal by an eligible partnership related to workforce needs for technical jobs projected to support economic growth;

(c) a proposal described in Section 53B-26-202 by an eligible program to respond to projected demand for nursing professionals;

(d) a report in 2023 from Utah Valley University and the Utah Fire Prevention Board on the fire and rescue training program described in Section 53B-29-202; and

(e) the reports described in Section 63C-19-202 by the Higher Education Strategic Planning Commission on the commission's progress.

(3) In accordance with applicable provisions, the Higher Education Appropriations Subcommittee shall complete the following:

(a) as required by Section 53B-7-703, the review of performance funding described in Section 53B-7-703;

[~~(b) the review described in Section 53B-7-705 of the implementation of performance funding;~~]

[~~(c)~~] (b) an appropriation recommendation described in Section 53B-26-103 to fund a proposal responding to workforce needs of a strategic industry cluster;

[~~(d)~~] (c) an appropriation recommendation described in Section 53B-26-202 to fund a proposal responding to projected demand for nursing professionals; and

[~~(e)~~] (d) review of the report described in Section 63B-10-301 by the University of Utah on the status of a bond and bond payments specified in Section 63B-10-301.

Section 2. Section 53B-7-702 is amended to read:

53B-7-702. Definitions.

As used in this part:

(1) "Account" means the Performance Funding Restricted Account created in Section 53B-7-703.

(2) "Estimated revenue growth from targeted jobs" means the estimated increase in individual income tax revenue generated by individuals employed in targeted jobs, determined by the Department of Workforce Services in accordance with Section 53B-7-704.

(3) "Full new performance funding amount" means the maximum amount of new performance funding that a degree-granting institution or technical college may qualify for in a fiscal year, determined by the Legislature in accordance with Section 53B-7-705.

(4) "Full-time" means the number of credit hours the board determines is full-time enrollment for a student.

(5) "GOED" means the Governor's Office of Economic Development created in Section 63N-1-201.

(6) "Job" means an occupation determined by the Department of Workforce Services.

(7) "Membership hour" means 60 minutes of scheduled instruction provided by a technical college to a student enrolled in the technical college.

(8) "New performance funding" means the difference between the total amount of money in the account and the amount of money appropriated from the account for performance funding in the current fiscal year.

(9) "Performance" means total performance across the metrics described in[~~:~~] Sections 53B-7-706 and 53B-7-707.

[~~(a) Section 53B-7-706 for a degree-granting institution; or~~]

[~~(b) Section 53B-7-707 for a technical college.~~]

(10) "Research university" means the University of Utah or Utah State University.

(11) "Targeted job" means a job designated by the Department of Workforce Services or GOED in accordance with Section 53B-7-704.

(12) "Technical college" means:

(a) the same as that term is defined in Section 53B-1-101.5;

(b) Salt Lake Community College's School of Applied Technology established in Section 53B-16-209;

(c) a USU regional institution as that term is defined in Section 53B-16-207; and

(d) Snow College Richfield campus established in Section 53B-16-205.

[~~(12)~~] (13) "Technical college graduate" means an individual who:

(a) has earned a certificate from an accredited program at a technical college; and

(b) is no longer enrolled in the technical college.

Section 3. Section 53B-7-703 is amended to read:

53B-7-703. Performance Funding Restricted Account -- Creation -- Deposits into account -- Legislative review.

(1) There is created within the Education Fund a restricted account known as the "Performance Funding Restricted Account."

(2) Money in the account shall be:

(a) used for performance funding for:

(i) degree-granting institutions; and

(ii) technical colleges; and

(b) appropriated by the Legislature in accordance with Section 53B-7-705.

(3) (a) Money in the account shall earn interest.

(b) All interest earned on account money shall be deposited into the account.

(4) (a) Except as provided in Subsection (4)(b)[~~(ii)~~], the Division of Finance shall deposit into the account an amount equal to[~~: (i) 14% of the estimated revenue growth from targeted jobs upon appropriation by the Legislature for the fiscal year beginning on July 1, 2018; and (ii)~~] 20% of the estimated revenue growth from targeted jobs upon appropriation by the Legislature for a fiscal year beginning on or after July 1, 2019.

(b) (i) As used in this Subsection (4)(b), "total higher education appropriations" means, for the current fiscal year, the total state funded appropriations to:

(A) the board;

(B) degree-granting institutions; and

(C) technical colleges.

(ii) If a deposit described in Subsection (4)(a) would exceed 10% of total higher education appropriations, upon appropriation by the Legislature, the Division of Finance shall deposit into the account an amount equal to 10% of total higher education appropriations.

(c) The Legislature may appropriate money to the account.

(5) (a) As used in this Subsection (5):

(i) "Base budget" means the same as that term is defined in legislative rule.

(ii) "Remaining available ongoing Education Fund revenue" means the difference between:

(A) the estimated ongoing Education Fund and Uniform School Fund revenue available for the Legislature to appropriate in the next fiscal year; and

(B) the amount of ongoing appropriations from the Education Fund and Uniform School Fund for the current year plus ongoing appropriations required under Sections 53F-9-201 and 53F-9-204 for the next fiscal year.

(b) Except as described in Subsection (5)(c), for a fiscal year beginning on or after July 1, 2023, when preparing the Higher Education Base Budget, the Office of the Legislative Fiscal Analyst shall:

(i) include in the base budget the lesser of the amount described in Subsection (4) or the remaining available ongoing Education Fund revenue; and

(ii) appropriate the funds described in Subsection (5)(b)(i) to the Utah Board of Higher Education to distribute to institutions as described in Section 53B-7-705.

(c) In a fiscal year beginning on or after July 1, 2023, in which the remaining available ongoing Education Fund revenue is less than zero, when preparing the base budget, the Office of the Legislative Fiscal Analyst shall include in the base budget an amount equal to the difference in the amount described in Subsection (4) for the current year and the amount described in Subsection (4) for the prior year, adjusted for any base budget reductions as directed by the Executive Appropriations Committee.

[~~(5)~~] (6) During the interim following a legislative general session in which an amount described in Subsection (4)(b) is deposited into the account, the Higher Education Appropriations Subcommittee shall review performance funding described in this part and make recommendations to the Legislature about:

(a) the performance levels required for degree-granting institutions and technical colleges to receive performance funding as described in Section 53B-7-705;

(b) the performance metrics described in Sections 53B-7-706 and 53B-7-707; and

(c) the amount of individual income tax revenue dedicated to higher education performance funding.

Section 4. Section 53B-7-705 is amended to read:

53B-7-705. Determination of full new performance funding amount -- Role of appropriations subcommittee -- Program review.

(1) In accordance with this section, and based on money deposited into the account, the Legislature shall, as part of the higher education appropriations budget process, annually determine the full new performance funding amount for each:

(a) degree-granting institution; and

(b) technical college.

(2) (a) [~~The~~] Before January 1, 2024, the Legislature shall annually allocate:

[~~(a)~~] (i) 90% of the money in the account to degree-granting institutions; and

[~~(b)~~] (ii) 10% of the money in the account to technical colleges.

(b) After January 1, 2024, the Legislature shall annually allocate:

(i) 85% of the money in the account to degree-granting institutions; and

(ii) 15% of the money in the account to technical colleges.

(3) (a) The Legislature shall determine a degree-granting institution's full new performance

funding amount based on the degree-granting institution's prior year share of:

(i) full-time equivalent enrollment in all degree-granting institutions; and

(ii) the total state-funded appropriated budget for all degree-granting institutions.

(b) In determining a degree-granting institution's full new performance funding amount, the Legislature shall give equal weight to the factors described in Subsections (3)(a)(i) and (ii).

(4) (a) The Legislature shall determine a technical college's full new performance funding amount based on the technical college's prior year share of:

(i) (A) before January 1, 2024, membership hours for all technical colleges; and

(B) after January 1, 2024, full-time equivalent enrollment for all technical colleges; and

(ii) the total state-funded appropriated budget for all technical colleges.

(b) In determining a technical college's full new performance funding amount, the Legislature shall give equal weight to the factors described in Subsections (4)(a)(i) and (ii).

(5) Annually, at least 30 days before the first day of the legislative general session the board shall submit a report to the Higher Education Appropriations Subcommittee on each degree-granting institution's and each technical college's performance.

(6) (a) In accordance with this Subsection (6), and based on the report described in Subsection (5), the Legislature shall determine for each degree-granting institution and each technical college:

(i) the portion of the full new performance funding amount earned; and

(ii) the amount of new performance funding to recommend that the Legislature appropriate, from the account, to the degree-granting institution or technical college.

(b) (i) This Subsection (6)(b) applies before January 1, 2024.

[~~(i)~~] (ii) A degree-granting institution earns the full new performance funding amount if the degree-granting institution has a positive change in performance of at least 1% compared to the degree-granting institution's average performance over the previous five years.

[~~(ii)~~] (iii) (A) Except as provided in Subsection (6)(b)[~~(ii)~~](iii)(B), a technical college earns the full new performance funding amount if the technical college has a positive change in the technical college's performance of at least 5% compared to the technical college's average performance over the previous five years.

(B) A technical college's change in performance may be compared to the technical college's average performance over fewer than five years in accordance with Subsection 53B-7-707(3)(b).

(c) After January 1, 2024, a degree-granting institution or technical college earns the full new performance funding amount if the degree-granting institution or technical college meets the annual performance goals the board sets under Subsection 53B-7-706(1)(a)(ii).

[~~(c)~~] (d) [~~A~~] Before January 1, 2024, a degree-granting institution or technical college that has a positive change in performance that is less than a change described in Subsection (6)(b) is eligible to receive a prorated amount of the full new performance funding amount.

[~~(d)~~] (e) [~~A~~] Before January 1, 2024, a degree-granting or technical college that has a negative change, or no change, in performance over a time period described in Subsection (6)(b) is not eligible to receive new performance funding.

(f) After January 1, 2024, a degree-granting institution or technical college that does not meet the goals the board sets under Subsection 53B-7-706(1)(a)(ii):

(i) is not eligible to receive the full new performance funding amount; and

(ii) is eligible to receive a prorated amount of the full new performance funding amount for performance that is greater than zero as measured by the model the board establishes under Subsection 53B-7-706(1)(a)(i)(B).

(g) (i) After January 1, 2024, if a degree-granting institution or technical college does not earn the full new performance funding amount as described in Subsection (6)(c), the board shall:

(A) set aside the unearned new performance funding; and

(B) at the end of a five-year period for which the board sets goals under Subsection 53B-7-706(1)(a)(ii), allocate the funds set aside under Subsection (6)(g)(i)(A) to a degree-granting institution or technical college that meets the degree-granting institution's or technical college's five-year goals described in Subsection 53B-7-706(1)(a)(ii)(B).

(ii) The board may reallocate the funds described in Subsection (6)(g)(i)(A) on a one-time basis to a degree-granting institution or technical college that exceeds the degree-granting institution's or technical college's annual performance goals until the board evaluates performance of five-year goals as described Subsection 53B-7-706(5).

(7) An appropriation described in this section is ongoing.

(8) Notwithstanding Section 53B-7-703 and Subsections (6) and (7), the Legislature may, by majority vote, appropriate or refrain from appropriating money for performance funding as circumstances require in a particular year.

[~~(9) On or before November 1, 2020, the Education Interim Committee, the Higher~~

~~Education Appropriations Subcommittee, and the governor shall review the implementation of performance funding described in this part.~~]

Section 5. Section 53B-7-706 is amended to read:

53B-7-706. Performance metrics for institutions -- Determination of performance.

(1) (a) (i) (A) The board shall establish a model for determining a degree-granting institution's performance.

(B) Beginning in March 2021, the board shall establish a model for determining a degree-granting institution's or technical college's performance.

(ii) Beginning in May 2021, the board shall:

(A) set a five-year goal for the Utah System of Higher Education for each metric described in Subsection (2)(a)(ii);

(B) adopt five-year goals for each degree-granting institution and technical college that align with each goal described in Subsection (1)(a)(ii)(A); and

(C) ensure the goals the board adopts for each degree-granting institution and technical college described in Subsection (1)(a)(ii)(B) are sufficiently rigorous to meet the goals described in Subsection (1)(a)(ii)(A); and

(b) (i) The board shall submit a draft of the model described in this section to the Higher Education Appropriations Subcommittee and the governor for comments and recommendations.

(ii) Beginning in 2021, and every five years thereafter, the board shall:

(A) submit the model described in Subsection (1)(a)(i) and the goals described in Subsection (1)(a)(ii) to the Higher Education Appropriations Subcommittee and to the governor for comments and recommendations; and

(B) consider the comments and recommendations described in Subsection (1)(b)(ii)(A), and make any necessary changes to the model described in Subsection (1)(a)(i) and the goals described in Subsection (1)(a)(ii).

(c) Beginning in 2021, and every five years thereafter, the Executive Appropriations Committee, the Higher Education Appropriations Subcommittee, and the Education Interim Committee shall prepare and jointly meet to consider legislation for introduction at the following general legislative session to adopt the goals described in Subsection (1)(a)(ii).

(2) (a) (i) The model described in Subsection (1)(a)(i)(A) shall include metrics, including:

[~~(i)~~] (A) completion, measured by degrees and certificates awarded;

[~~(ii)~~] (B) completion by underserved students, measured by degrees and certificates awarded to underserved students;

[~~(iii)~~] (C) responsiveness to workforce needs, measured by degrees and certificates awarded in high market demand fields;

[~~(iv)~~] (D) institutional efficiency, measured by degrees and certificates awarded per full-time equivalent student; and

[~~(v)~~] (E) for a research university, research, measured by total research expenditures.

(ii) Beginning in 2021, the board shall set the goals and establish the performance model described in Subsection (1)(a)(i)(B) for the following metrics:

(A) access;

(B) timely completion; and

(C) high-yield awards.

(b) (i) Subject to Subsection [~~(2)(c)~~] (2)(b)(ii), the board shall determine the relative weights of the metrics described in Subsection (2)(a)(i).

[~~(c)~~] (ii) The board shall assign the responsiveness to workforce needs metric described in Subsection [~~(2)(a)(iii)~~] (2)(a)(i)(C) a weight of at least 25% when determining a degree-granting institution's performance.

(c) Beginning in 2021, the board shall determine and establish in board policy, the definitions, measures, and relative weights of the metrics described in Subsection (2)(a)(ii) based on each degree-granting institution's and each technical college's mission.

(3) (a) For each degree-granting institution, the board shall annually determine the degree-granting institution's:

[~~(a)~~] (i) performance; and

[~~(b)~~] (ii) change in performance compared to the degree-granting institution's average performance over the previous five years.

(b) Beginning in 2022, for each degree-granting institution and technical college, the board shall annually:

(i) adopt annual performance goals for each metric described in Subsection (2)(a)(ii) that will advance the degree-granting institution or technical college toward achievement of the five-year goals described in Subsection (1)(a)(ii);

(ii) evaluate performance in meeting the goals described in Subsection (3)(b)(i); and

(iii) include a degree-granting institution's or technical college's performance under this section in the evaluation described in Subsection 53B-1-402(2)(i)(iii).

(4) (a) The board shall use the model described in [~~this section~~] Subsection (1)(a)(i)(A) to make the report described in Section 53B-7-705 for determining a degree-granting institution's

performance funding for a fiscal year beginning on or after July 1, 2018[.], but before July 1, 2024.

(b) For a fiscal year beginning on or after July 1, 2024, the board shall use the model described in Subsection (1)(a)(i)(B) to make the report described in Section 53B-7-705 for determining a degree-granting institution's or technical college's performance funding.

(5) At the end of each five-year period for which the board sets goals under Subsection (1)(a)(ii):

(a) the board shall:

(i) review the Utah System of Higher Education's performance in meeting the goals the board sets under Subsection (1)(a)(ii)(A);

(ii) review each degree-granting institution's and each technical college's performance in meeting the goals the board sets under Subsection (1)(a)(ii)(B); and

(iii) allocate any funds not allocated under Subsection 53B-7-705(6)(g) to each degree-granting institution and each technical college that meets or exceeds the goals the board sets under Subsection (1)(a)(ii)(B); and

(b) the Legislature may appropriate additional funds for the board to allocate to each degree-granting institution and each technical college that meets or exceeds goals as described in Subsection (5)(a)(iii).

(6) In year two or three of each five-year period for which the board sets goals under Subsection (1)(a)(ii), the following committees and the governor shall hold a joint open meeting to review the goals the board sets under Subsection (1)(a)(ii):

(a) the Executive Appropriations Committee;

(b) the Higher Education Appropriations Subcommittee; and

(c) the Education Interim Committee.

Section 6. Section 53E-1-201 is amended to read:

53E-1-201. Reports to and action required of the Education Interim Committee.

(1) In accordance with applicable provisions and Section 68-3-14, the following recurring reports are due to the Education Interim Committee:

(a) the report described in Section 9-22-109 by the STEM Action Center Board, including the information described in Section 9-22-113 on the status of the computer science initiative and Section 9-22-114 on the Computing Partnerships Grants Program;

(b) the prioritized list of data research described in Section 35A-14-302 and the report on research described in Section 35A-14-304 by the Utah Data Research Center;

(c) the report described in Section 35A-15-303 by the State Board of Education on preschool programs;

(d) the report described in Section 53B-1-402 by the Utah Board of Higher Education on career and technical education issues and addressing workforce needs;

(e) the annual report of the Utah Board of Higher Education described in Section 53B-1-402;

(f) the reports described in Section 53B-28-401 by the Utah Board of Higher Education regarding activities related to campus safety;

(g) the State Superintendent's Annual Report by the state board described in Section 53E-1-203;

(h) the annual report described in Section 53E-2-202 by the state board on the strategic plan to improve student outcomes;

(i) the report described in Section 53E-8-204 by the state board on the Utah Schools for the Deaf and the Blind;

(j) the report described in Section 53E-10-703 by the Utah Leading through Effective, Actionable, and Dynamic Education director on research and other activities;

(k) the report described in Section 53F-4-203 by the state board and the independent evaluator on an evaluation of early interactive reading software;

(l) the report described in Section 53F-4-407 by the state board on UPSTART;

(m) the reports described in Sections 53F-5-214 and 53F-5-215 by the state board related to grants for professional learning and grants for an elementary teacher preparation assessment; and

(n) the report described in Section 53F-5-405 by the State Board of Education regarding an evaluation of a partnership that receives a grant to improve educational outcomes for students who are low income.

(2) In accordance with applicable provisions and Section 68-3-14, the following occasional reports are due to the Education Interim Committee:

(a) the report described in Section 35A-15-303 by the School Readiness Board by November 30, 2020, on benchmarks for certain preschool programs;

(b) the report described in Section 53B-28-402 by the Utah Board of Higher Education on or before the Education Interim Committee's November 2021 meeting;

(c) the report described in Section 53E-3-519 by the state board regarding counseling services in schools;

(d) the reports described in Section 53E-3-520 by the state board regarding cost centers and implementing activity based costing;

(e) if required, the report described in Section 53E-4-309 by the state board explaining the reasons for changing the grade level specification for the administration of specific assessments;

(f) if required, the report described in Section 53E-5-210 by the state board of an adjustment to the minimum level that demonstrates proficiency for each statewide assessment;

(g) in 2022 and in 2023, on or before November 30, the report described in Subsection 53E-10-309(7) related to the PRIME pilot program;

(h) the report described in Section 53E-10-702 by Utah Leading through Effective, Actionable, and Dynamic Education;

(i) the report described in Section 53F-2-502 by the state board on the program evaluation of the dual language immersion program;

(j) if required, the report described in Section 53F-2-513 by the state board evaluating the effects of salary bonuses on the recruitment and retention of effective teachers in high poverty schools;

(k) upon request, the report described in Section 53F-5-207 by the state board on the Intergenerational Poverty Intervention Grants Program;

(l) the report described in Section 53F-5-210 by the state board on the Educational Improvement Opportunities Outside of the Regular School Day Grant Program;

(m) the report described in Section 53G-7-503 by the state board regarding fees that LEAs charge during the 2020-2021 school year;

(n) the reports described in Section 53G-11-304 by the state board regarding proposed rules and results related to educator exit surveys;

(o) upon request, the report described in Section 53G-11-505 by the state board on progress in implementing employee evaluations;

(p) the report described in Section 62A-15-117 by the Division of Substance Abuse and Mental Health, the State Board of Education, and the Department of Health regarding recommendations related to Medicaid reimbursement for school-based health services; and

(q) the reports described in Section 63C-19-202 by the Higher Education Strategic Planning Commission.

[~~(3) In accordance with Section 53B-7-705, the Education Interim Committee shall complete the review of the implementation of performance funding.~~]

Section 7. Section 63I-2-253 is amended to read:

63I-2-253. Repeal dates -- Titles 53 through 53G.

(1) (a) Section 53-2a-217, regarding procurement during an epidemic or pandemic emergency, is repealed on December 31, 2021.

(b) When repealing Section 53-2a-217, the Office of Legislative Research and General Counsel shall, in addition to the office's authority under Subsection 36-12-12(3), make necessary changes to subsection numbering and cross references.

(2) Section 53B-2a-103 is repealed July 1, 2021.

(3) Section 53B-2a-104 is repealed July 1, 2021.

(4) (a) Subsection 53B-2a-108(5), regarding exceptions to the composition of a technical college board of trustees, is repealed July 1, 2022.

(b) When repealing Subsection 53B-2a-108(5), the Office of Legislative Research and General Counsel shall, in addition to its authority under Subsection 36-12-12(3), make necessary changes to subsection numbering and cross references.

(5) Section 53B-6-105.7 is repealed July 1, 2024.

(6) (a) Subsection 53B-7-705(6)(b)[~~(ii)~~](iii)(A), the language that states "Except as provided in Subsection (6)(b)[~~(ii)~~](iii)(B)," is repealed July 1, 2021.

(b) Subsection 53B-7-705(6)(b)[~~(ii)~~](iii)(B), regarding comparing a technical college's change in performance with the technical college's average performance, is repealed July 1, 2021.

(7) (a) Subsection 53B-7-707(3)(a)(ii), the language that states "Except as provided in Subsection (3)(b)," is repealed July 1, 2021.

(b) Subsection 53B-7-707(3)(b), regarding performance data of a technical college during a fiscal year before fiscal year 2020, is repealed July 1, 2021.

(8) Section 53B-7-707 regarding performance metrics for technical colleges is repealed July 1, 2023.

[~~(8)~~] (9) Section 53B-8-114 is repealed July 1, 2024.

[~~(9)~~] (10) (a) The following sections, regarding the Regents' scholarship program, are repealed on July 1, 2023:

(i) Section 53B-8-202;

(ii) Section 53B-8-203;

(iii) Section 53B-8-204; and

(iv) Section 53B-8-205.

(b) (i) Subsection 53B-8-201(2), regarding the Regents' scholarship program for students who graduate from high school before fiscal year 2019, is repealed on July 1, 2023.

(ii) When repealing Subsection 53B-8-201(2), the Office of Legislative Research and General Counsel shall, in addition to its authority under Subsection 36-12-12(3), make necessary changes to subsection numbering and cross references.

[~~(10)~~] (11) Section 53B-10-101 is repealed on July 1, 2027.

[~~(11)~~] (12) Title 53B, Chapter 18, Part 14, Uintah Basin Air Quality Research Project, is repealed July 1, 2023.

[~~(12)~~] (13) Section 53E-3-519 regarding school counselor services is repealed July 1, 2020.

[~~(13)~~] (14) Section 53E-3-520 is repealed July 1, 2021.

[~~(14)~~] (15) Subsection 53E-5-306(3)(b)(ii)(B), related to improving school performance and

continued funding relating to the School Recognition and Reward Program, is repealed July 1, 2020.

[~~(15)~~] (16) Section 53E-5-307 is repealed July 1, 2020.

[~~(16)~~] (17) Subsection 53E-10-309(7), related to the PRIME pilot program, is repealed July 1, 2024.

[~~(17)~~] (18) In Subsections 53F-2-205(4) and (5), regarding the State Board of Education's duties if contributions from the minimum basic tax rate are overestimated or underestimated, the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

[~~(18)~~] (19) Subsection 53F-2-301(1), relating to the years the section is not in effect, is repealed July 1, 2023.

[~~(19)~~] (20) In Subsection 53F-2-515(1), the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

[~~(20)~~] (21) Section 53F-4-207 is repealed July 1, 2022.

[~~(21)~~] (22) In Subsection 53F-9-302(3), the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

[~~(22)~~] (23) In Subsection 53F-9-305(3)(a), the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

[~~(23)~~] (24) In Subsection 53F-9-306(3)(a), the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

[~~(24)~~] (25) In Subsection 53G-3-304(1)(c)(i), the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

[~~(25)~~] (26) Subsections 53G-10-204(1)(c) through (e), and Subsection 53G-10-204(7), related to the civics engagement pilot program, are repealed on July 1, 2023.

[~~(26)~~] (27) On July 1, 2023, when making changes in this section, the Office of Legislative Research and General Counsel shall, in addition to the office's authority under Subsection 36-12-12(3), make corrections necessary to ensure that sections and subsections identified in this section are complete sentences and accurately reflect the office's perception of the Legislature's intent.

CHAPTER 352
S. B. 196
Passed March 4, 2021
Approved March 17, 2021
Effective May 5, 2021

LAW ENFORCEMENT AGENCY DISCLOSURE AMENDMENTS

Chief Sponsor: Jani Iwamoto
House Sponsor: Ryan D. Wilcox

LONG TITLE

General Description:

This bill provides immunity for law enforcement agencies to disclose information to other law enforcement agencies regarding law enforcement officers.

Highlighted Provisions:

This bill:

- provides immunity for an employing law enforcement agency or training academy providing information to a prospective employer upon request; and
- provides immunity for information provided by authorized officers of law enforcement agencies to prospective employers or training academies.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63G-7-201, as last amended by Laws of Utah 2020, Fifth Special Session, Chapter 10

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63G-7-201 is amended to read:

63G-7-201. Immunity of governmental entities and employees from suit.

(1) Except as otherwise provided in this chapter, each governmental entity and each employee of a governmental entity are immune from suit for any injury that results from the exercise of a governmental function.

(2) Notwithstanding the waiver of immunity provisions of Section 63G-7-301, a governmental entity, its officers, and its employees are immune from suit:

(a) as provided in Section 78B-4-517; and

(b) for any injury or damage resulting from the implementation of or the failure to implement measures to:

(i) control the causes of epidemic and communicable diseases and other conditions significantly affecting the public health or necessary to protect the public health as set out in Title 26A, Chapter 1, Local Health Departments;

(ii) investigate and control suspected bioterrorism and disease as set out in Title 26, Chapter 23b, Detection of Public Health Emergencies Act;

(iii) respond to a national, state, or local emergency, a public health emergency as defined in Section 26-23b-102, or a declaration by the President of the United States or other federal official requesting public health related activities, including the use, provision, operation, and management of:

(A) an emergency shelter;

(B) housing;

(C) a staging place; or

(D) a medical facility; and

(iv) adopt methods or measures, in accordance with Section 26-1-30, for health care providers, public health entities, and health care insurers to coordinate among themselves to verify the identity of the individuals they serve.

(3) A governmental entity, its officers, and its employees are immune from suit, and immunity is not waived, for any injury if the injury arises out of or in connection with, or results from:

(a) a latent dangerous or latent defective condition of:

(i) any highway, road, street, alley, crosswalk, sidewalk, culvert, tunnel, bridge, or viaduct; or

(ii) another structure located on any of the items listed in Subsection (3)(a)(i); or

(b) a latent dangerous or latent defective condition of any public building, structure, dam, reservoir, or other public improvement.

(4) A governmental entity, its officers, and its employees are immune from suit, and immunity is not waived, for any injury proximately caused by a negligent act or omission of an employee committed within the scope of employment, if the injury arises out of or in connection with, or results from:

(a) the exercise or performance, or the failure to exercise or perform, a discretionary function, whether or not the discretion is abused;

(b) except as provided in Subsections 63G-7-301(2)(j), (3), and (4), assault, battery, false imprisonment, false arrest, malicious prosecution, intentional trespass, abuse of process, libel, slander, deceit, interference with contract rights, infliction of mental anguish, or violation of civil rights;

(c) the issuance, denial, suspension, or revocation of, or the failure or refusal to issue, deny, suspend, or revoke, any permit, license, certificate, approval, order, or similar authorization;

(d) a failure to make an inspection or making an inadequate or negligent inspection;

(e) the institution or prosecution of any judicial or administrative proceeding, even if malicious or without probable cause;

(f) a misrepresentation by an employee whether or not the misrepresentation is negligent or intentional;

(g) a riot, unlawful assembly, public demonstration, mob violence, or civil disturbance;

(h) the collection or assessment of taxes;

(i) an activity of the Utah National Guard;

(j) the incarceration of a person in a state prison, county or city jail, or other place of legal confinement;

(k) a natural condition on publicly owned or controlled land;

(l) a condition existing in connection with an abandoned mine or mining operation;

(m) an activity authorized by the School and Institutional Trust Lands Administration or the Division of Forestry, Fire, and State Lands;

(n) the operation or existence of a pedestrian or equestrian trail that is along a ditch, canal, stream, or river, regardless of ownership or operation of the ditch, canal, stream, or river, if:

(i) the trail is designated under a general plan adopted by a municipality under Section 10-9a-401 or by a county under Section 17-27a-401;

(ii) the trail right-of-way or the right-of-way where the trail is located is open to public use as evidenced by a written agreement between:

(A) the owner or operator of the trail right-of-way or of the right-of-way where the trail is located; and

(B) the municipality or county where the trail is located; and

(iii) the written agreement:

(A) contains a plan for operation and maintenance of the trail; and

(B) provides that an owner or operator of the trail right-of-way or of the right-of-way where the trail is located has, at a minimum, the same level of immunity from suit as the governmental entity in connection with or resulting from the use of the trail;

(o) research or implementation of cloud management or seeding for the clearing of fog;

(p) the management of flood waters, earthquakes, or natural disasters;

(q) the construction, repair, or operation of flood or storm systems;

(r) the operation of an emergency vehicle, while being driven in accordance with the requirements of Section 41-6a-212;

(s) the activity of:

(i) providing emergency medical assistance;

(ii) fighting fire;

(iii) regulating, mitigating, or handling hazardous materials or hazardous wastes;

(iv) an emergency evacuation;

(v) transporting or removing an injured person to a place where emergency medical assistance can be rendered or where the person can be transported by a licensed ambulance service; or

(vi) intervening during a dam emergency;

(t) the exercise or performance, or the failure to exercise or perform, any function pursuant to Title 73, Chapter 10, Board of Water Resources - Division of Water Resources;

(u) an unauthorized access to government records, data, or electronic information systems by any person or entity; [~~or~~]

(v) an activity of wildlife, as defined in Section 23-13-2, that arises during the use of a public or private road[~~.~~]; or

(w) a communication between employees of one or more law enforcement agencies related to the employment, disciplinary history, character, professional competence, or physical or mental health of a peace officer, or a former, current, or prospective employee of a law enforcement agency, including any communication made in accordance with Section 53-14-101.

CHAPTER 353
S. B. 198
Passed March 5, 2021
Approved March 17, 2021
Effective May 5, 2021

BALANCE BILLING AMENDMENTS

Chief Sponsor: Karen Mayne
House Sponsor: Clare Collard

LONG TITLE

General Description:

This bill repeals provisions related to balanced billing reporting from the Insurance Code.

Highlighted Provisions:

This bill:

- repeals provisions related to balanced billing reporting; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

26-21-27, as last amended by Laws of Utah 2020, Chapter 382
58-1-508, as last amended by Laws of Utah 2020, Chapter 382
63G-2-305, as last amended by Laws of Utah 2020, Chapters 112, 198, 339, 349, 382, and 393
63I-2-231, as last amended by Laws of Utah 2020, Chapters 354 and 382

REPEALS:

31A-22-653, as enacted by Laws of Utah 2020, Chapter 382

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 26-21-27 is amended to read:

26-21-27. Information regarding certain health care facility charges.

[~~(1) Beginning January 1, 2011, a~~] A health care facility licensed under this chapter shall, when requested by a consumer:

[~~(a)~~] (1) make a list of prices charged by the facility available for the consumer that includes the facility's:

[~~(i)~~] (a) in-patient procedures;

[~~(ii)~~] (b) out-patient procedures;

[~~(iii)~~] (c) the 50 most commonly prescribed drugs in the facility;

[~~(iv)~~] (d) imaging services; and

[~~(v)~~] (e) implants; and

[~~(b)~~] (2) provide the consumer with information regarding any discounts the facility provides for:

[~~(i)~~] (a) charges for services not covered by insurance; or

[~~(ii)~~] (b) prompt payment of billed charges.

[~~(2) A health care provider that is subject to the reporting requirement in Section 31A-22-653 shall submit information to the Insurance Department in accordance with Section 31A-22-653.~~]

Section 2. Section 58-1-508 is amended to read:

58-1-508. Failure to follow certain health care claims practices -- Penalties.

(1) As used in this section, "health care provider" means an individual who is licensed to provide health care services under this title.

(2) The division may assess a fine of up to $500 per violation against a health care provider that violates Section 31A-26-313.

(3) The division shall waive the fine described in Subsection (2) if:

(a) the health care provider demonstrates to the division that the health care provider mitigated and reversed any damage to the insured caused by the health care provider or third party's violation; or

(b) the insured does not pay the full amount due on the bill that is the subject of the violation, including any interest, fees, costs, and expenses, within 120 days after the day on which the health care provider or third party makes a report to a credit bureau or takes an action in violation of Section 31A-26-313.

[~~(4) A health care provider that is subject to the reporting requirement in Section 31A-22-653 shall submit information to the Insurance Department in accordance with Section 31A-22-653.~~]

Section 3. Section 63G-2-305 is amended to read:

63G-2-305. Protected records.

The following records are protected if properly classified by a governmental entity:

(1) trade secrets as defined in Section 13-24-2 if the person submitting the trade secret has provided the governmental entity with the information specified in Section 63G-2-309;

(2) commercial information or nonindividual financial information obtained from a person if:

(a) disclosure of the information could reasonably be expected to result in unfair competitive injury to the person submitting the information or would impair the ability of the governmental entity to obtain necessary information in the future;

(b) the person submitting the information has a greater interest in prohibiting access than the public in obtaining access; and

(c) the person submitting the information has provided the governmental entity with the information specified in Section 63G-2-309;

(3) commercial or financial information acquired or prepared by a governmental entity to the extent that disclosure would lead to financial speculations in currencies, securities, or commodities that will

interfere with a planned transaction by the governmental entity or cause substantial financial injury to the governmental entity or state economy;

(4) records, the disclosure of which could cause commercial injury to, or confer a competitive advantage upon a potential or actual competitor of, a commercial project entity as defined in Subsection 11-13-103(4);

(5) test questions and answers to be used in future license, certification, registration, employment, or academic examinations;

(6) records, the disclosure of which would impair governmental procurement proceedings or give an unfair advantage to any person proposing to enter into a contract or agreement with a governmental entity, except, subject to Subsections (1) and (2), that this Subsection (6) does not restrict the right of a person to have access to, after the contract or grant has been awarded and signed by all parties:

(a) a bid, proposal, application, or other information submitted to or by a governmental entity in response to:

(i) an invitation for bids;

(ii) a request for proposals;

(iii) a request for quotes;

(iv) a grant; or

(v) other similar document; or

(b) an unsolicited proposal, as defined in Section 63G-6a-712;

(7) information submitted to or by a governmental entity in response to a request for information, except, subject to Subsections (1) and (2), that this Subsection (7) does not restrict the right of a person to have access to the information, after:

(a) a contract directly relating to the subject of the request for information has been awarded and signed by all parties; or

(b) (i) a final determination is made not to enter into a contract that relates to the subject of the request for information; and

(ii) at least two years have passed after the day on which the request for information is issued;

(8) records that would identify real property or the appraisal or estimated value of real or personal property, including intellectual property, under consideration for public acquisition before any rights to the property are acquired unless:

(a) public interest in obtaining access to the information is greater than or equal to the governmental entity's need to acquire the property on the best terms possible;

(b) the information has already been disclosed to persons not employed by or under a duty of confidentiality to the entity;

(c) in the case of records that would identify property, potential sellers of the described property have already learned of the governmental entity's plans to acquire the property;

(d) in the case of records that would identify the appraisal or estimated value of property, the potential sellers have already learned of the governmental entity's estimated value of the property; or

(e) the property under consideration for public acquisition is a single family residence and the governmental entity seeking to acquire the property has initiated negotiations to acquire the property as required under Section 78B-6-505;

(9) records prepared in contemplation of sale, exchange, lease, rental, or other compensated transaction of real or personal property including intellectual property, which, if disclosed prior to completion of the transaction, would reveal the appraisal or estimated value of the subject property, unless:

(a) the public interest in access is greater than or equal to the interests in restricting access, including the governmental entity's interest in maximizing the financial benefit of the transaction; or

(b) when prepared by or on behalf of a governmental entity, appraisals or estimates of the value of the subject property have already been disclosed to persons not employed by or under a duty of confidentiality to the entity;

(10) records created or maintained for civil, criminal, or administrative enforcement purposes or audit purposes, or for discipline, licensing, certification, or registration purposes, if release of the records:

(a) reasonably could be expected to interfere with investigations undertaken for enforcement, discipline, licensing, certification, or registration purposes;

(b) reasonably could be expected to interfere with audits, disciplinary, or enforcement proceedings;

(c) would create a danger of depriving a person of a right to a fair trial or impartial hearing;

(d) reasonably could be expected to disclose the identity of a source who is not generally known outside of government and, in the case of a record compiled in the course of an investigation, disclose information furnished by a source not generally known outside of government if disclosure would compromise the source; or

(e) reasonably could be expected to disclose investigative or audit techniques, procedures, policies, or orders not generally known outside of government if disclosure would interfere with enforcement or audit efforts;

(11) records the disclosure of which would jeopardize the life or safety of an individual;

(12) records the disclosure of which would jeopardize the security of governmental property, governmental programs, or governmental recordkeeping systems from damage, theft, or other

appropriation or use contrary to law or public policy;

(13) records that, if disclosed, would jeopardize the security or safety of a correctional facility, or records relating to incarceration, treatment, probation, or parole, that would interfere with the control and supervision of an offender's incarceration, treatment, probation, or parole;

(14) records that, if disclosed, would reveal recommendations made to the Board of Pardons and Parole by an employee of or contractor for the Department of Corrections, the Board of Pardons and Parole, or the Department of Human Services that are based on the employee's or contractor's supervision, diagnosis, or treatment of any person within the board's jurisdiction;

(15) records and audit workpapers that identify audit, collection, and operational procedures and methods used by the State Tax Commission, if disclosure would interfere with audits or collections;

(16) records of a governmental audit agency relating to an ongoing or planned audit until the final audit is released;

(17) records that are subject to the attorney client privilege;

(18) records prepared for or by an attorney, consultant, surety, indemnitor, insurer, employee, or agent of a governmental entity for, or in anticipation of, litigation or a judicial, quasi-judicial, or administrative proceeding;

(19) (a) (i) personal files of a state legislator, including personal correspondence to or from a member of the Legislature; and

(ii) notwithstanding Subsection (19)(a)(i), correspondence that gives notice of legislative action or policy may not be classified as protected under this section; and

(b) (i) an internal communication that is part of the deliberative process in connection with the preparation of legislation between:

(A) members of a legislative body;

(B) a member of a legislative body and a member of the legislative body's staff; or

(C) members of a legislative body's staff; and

(ii) notwithstanding Subsection (19)(b)(i), a communication that gives notice of legislative action or policy may not be classified as protected under this section;

(20) (a) records in the custody or control of the Office of Legislative Research and General Counsel, that, if disclosed, would reveal a particular legislator's contemplated legislation or contemplated course of action before the legislator has elected to support the legislation or course of action, or made the legislation or course of action public; and

(b) notwithstanding Subsection (20)(a), the form to request legislation submitted to the Office of Legislative Research and General Counsel is a public document unless a legislator asks that the records requesting the legislation be maintained as protected records until such time as the legislator elects to make the legislation or course of action public;

(21) research requests from legislators to the Office of Legislative Research and General Counsel or the Office of the Legislative Fiscal Analyst and research findings prepared in response to these requests;

(22) drafts, unless otherwise classified as public;

(23) records concerning a governmental entity's strategy about:

(a) collective bargaining; or

(b) imminent or pending litigation;

(24) records of investigations of loss occurrences and analyses of loss occurrences that may be covered by the Risk Management Fund, the Employers' Reinsurance Fund, the Uninsured Employers' Fund, or similar divisions in other governmental entities;

(25) records, other than personnel evaluations, that contain a personal recommendation concerning an individual if disclosure would constitute a clearly unwarranted invasion of personal privacy, or disclosure is not in the public interest;

(26) records that reveal the location of historic, prehistoric, paleontological, or biological resources that if known would jeopardize the security of those resources or of valuable historic, scientific, educational, or cultural information;

(27) records of independent state agencies if the disclosure of the records would conflict with the fiduciary obligations of the agency;

(28) records of an institution within the state system of higher education defined in Section 53B-1-102 regarding tenure evaluations, appointments, applications for admissions, retention decisions, and promotions, which could be properly discussed in a meeting closed in accordance with Title 52, Chapter 4, Open and Public Meetings Act, provided that records of the final decisions about tenure, appointments, retention, promotions, or those students admitted, may not be classified as protected under this section;

(29) records of the governor's office, including budget recommendations, legislative proposals, and policy statements, that if disclosed would reveal the governor's contemplated policies or contemplated courses of action before the governor has implemented or rejected those policies or courses of action or made them public;

(30) records of the Office of the Legislative Fiscal Analyst relating to budget analysis, revenue estimates, and fiscal notes of proposed legislation before issuance of the final recommendations in these areas;

(31) records provided by the United States or by a government entity outside the state that are given to the governmental entity with a requirement that they be managed as protected records if the providing entity certifies that the record would not be subject to public disclosure if retained by it;

(32) transcripts, minutes, recordings, or reports of the closed portion of a meeting of a public body except as provided in Section 52-4-206;

(33) records that would reveal the contents of settlement negotiations but not including final settlements or empirical data to the extent that they are not otherwise exempt from disclosure;

(34) memoranda prepared by staff and used in the decision-making process by an administrative law judge, a member of the Board of Pardons and Parole, or a member of any other body charged by law with performing a quasi-judicial function;

(35) records that would reveal negotiations regarding assistance or incentives offered by or requested from a governmental entity for the purpose of encouraging a person to expand or locate a business in Utah, but only if disclosure would result in actual economic harm to the person or place the governmental entity at a competitive disadvantage, but this section may not be used to restrict access to a record evidencing a final contract;

(36) materials to which access must be limited for purposes of securing or maintaining the governmental entity's proprietary protection of intellectual property rights including patents, copyrights, and trade secrets;

(37) the name of a donor or a prospective donor to a governmental entity, including an institution within the state system of higher education defined in Section 53B-1-102, and other information concerning the donation that could reasonably be expected to reveal the identity of the donor, provided that:

(a) the donor requests anonymity in writing;

(b) any terms, conditions, restrictions, or privileges relating to the donation may not be classified protected by the governmental entity under this Subsection (37); and

(c) except for an institution within the state system of higher education defined in Section 53B-1-102, the governmental unit to which the donation is made is primarily engaged in educational, charitable, or artistic endeavors, and has no regulatory or legislative authority over the donor, a member of the donor's immediate family, or any entity owned or controlled by the donor or the donor's immediate family;

(38) accident reports, except as provided in Sections 41-6a-404, 41-12a-202, and 73-18-13;

(39) a notification of workers' compensation insurance coverage described in Section 34A-2-205;

(40) (a) the following records of an institution within the state system of higher education defined in Section 53B-1-102, which have been developed, discovered, disclosed to, or received by or on behalf of faculty, staff, employees, or students of the institution:

(i) unpublished lecture notes;

(ii) unpublished notes, data, and information:

(A) relating to research; and

(B) of:

(I) the institution within the state system of higher education defined in Section 53B-1-102; or

(II) a sponsor of sponsored research;

(iii) unpublished manuscripts;

(iv) creative works in process;

(v) scholarly correspondence; and

(vi) confidential information contained in research proposals;

(b) Subsection (40)(a) may not be construed to prohibit disclosure of public information required pursuant to Subsection 53B-16-302(2)(a) or (b); and

(c) Subsection (40)(a) may not be construed to affect the ownership of a record;

(41) (a) records in the custody or control of the Office of Legislative Auditor General that would reveal the name of a particular legislator who requests a legislative audit prior to the date that audit is completed and made public; and

(b) notwithstanding Subsection (41)(a), a request for a legislative audit submitted to the Office of the Legislative Auditor General is a public document unless the legislator asks that the records in the custody or control of the Office of Legislative Auditor General that would reveal the name of a particular legislator who requests a legislative audit be maintained as protected records until the audit is completed and made public;

(42) records that provide detail as to the location of an explosive, including a map or other document that indicates the location of:

(a) a production facility; or

(b) a magazine;

(43) information:

(a) contained in the statewide database of the Division of Aging and Adult Services created by Section 62A-3-311.1; or

(b) received or maintained in relation to the Identity Theft Reporting Information System (IRIS) established under Section 67-5-22;

(44) information contained in the Management Information System and Licensing Information System described in Title 62A, Chapter 4a, Child and Family Services;

(45) information regarding National Guard operations or activities in support of the National Guard's federal mission;

(46) records provided by any pawn or secondhand business to a law enforcement agency or to the central database in compliance with Title 13, Chapter 32a, Pawnshop and Secondhand Merchandise Transaction Information Act;

(47) information regarding food security, risk, and vulnerability assessments performed by the Department of Agriculture and Food;

(48) except to the extent that the record is exempt from this chapter pursuant to Section 63G-2-106, records related to an emergency plan or program, a copy of which is provided to or prepared or maintained by the Division of Emergency Management, and the disclosure of which would jeopardize:

(a) the safety of the general public; or

(b) the security of:

(i) governmental property;

(ii) governmental programs; or

(iii) the property of a private person who provides the Division of Emergency Management information;

(49) records of the Department of Agriculture and Food that provides for the identification, tracing, or control of livestock diseases, including any program established under Title 4, Chapter 24, Utah Livestock Brand and Anti-Theft Act, or Title 4, Chapter 31, Control of Animal Disease;

(50) as provided in Section 26-39-501:

(a) information or records held by the Department of Health related to a complaint regarding a child care program or residential child care which the department is unable to substantiate; and

(b) information or records related to a complaint received by the Department of Health from an anonymous complainant regarding a child care program or residential child care;

(51) unless otherwise classified as public under Section 63G-2-301 and except as provided under Section 41-1a-116, an individual's home address, home telephone number, or personal mobile phone number, if:

(a) the individual is required to provide the information in order to comply with a law, ordinance, rule, or order of a government entity; and

(b) the subject of the record has a reasonable expectation that this information will be kept confidential due to:

(i) the nature of the law, ordinance, rule, or order; and

(ii) the individual complying with the law, ordinance, rule, or order;

(52) the portion of the following documents that contains a candidate's residential or mailing address, if the candidate provides to the filing officer another address or phone number where the candidate may be contacted:

(a) a declaration of candidacy, a nomination petition, or a certificate of nomination, described in Section 20A-9-201, 20A-9-202, 20A-9-203, 20A-9-404, 20A-9-405, 20A-9-408, 20A-9-408.5, 20A-9-502, or 20A-9-601;

(b) an affidavit of impecuniosity, described in Section 20A-9-201; or

(c) a notice of intent to gather signatures for candidacy, described in Section 20A-9-408;

(53) the name, home address, work addresses, and telephone numbers of an individual that is engaged in, or that provides goods or services for, medical or scientific research that is:

(a) conducted within the state system of higher education, as defined in Section 53B-1-102; and

(b) conducted using animals;

(54) in accordance with Section 78A-12-203, any record of the Judicial Performance Evaluation Commission concerning an individual commissioner's vote on whether or not to recommend that the voters retain a judge including information disclosed under Subsection 78A-12-203(5)(e);

(55) information collected and a report prepared by the Judicial Performance Evaluation Commission concerning a judge, unless Section 20A-7-702 or Title 78A, Chapter 12, Judicial Performance Evaluation Commission Act, requires disclosure of, or makes public, the information or report;

(56) records contained in the Management Information System created in Section 62A-4a-1003;

(57) records provided or received by the Public Lands Policy Coordinating Office in furtherance of any contract or other agreement made in accordance with Section 63J-4-603;

(58) information requested by and provided to the 911 Division under Section 63H-7a-302;

(59) in accordance with Section 73-10-33:

(a) a management plan for a water conveyance facility in the possession of the Division of Water Resources or the Board of Water Resources; or

(b) an outline of an emergency response plan in possession of the state or a county or municipality;

(60) the following records in the custody or control of the Office of Inspector General of Medicaid Services, created in Section 63A-13-201:

(a) records that would disclose information relating to allegations of personal misconduct, gross mismanagement, or illegal activity of a person if the information or allegation cannot be corroborated by the Office of Inspector General of Medicaid Services through other documents or evidence, and the records relating to the allegation are not relied upon by the Office of Inspector General of Medicaid Services in preparing a final investigation report or final audit report;

(b) records and audit workpapers to the extent they would disclose the identity of a person who, during the course of an investigation or audit, communicated the existence of any Medicaid fraud, waste, or abuse, or a violation or suspected violation of a law, rule, or regulation adopted under the laws of this state, a political subdivision of the state, or any recognized entity of the United States, if the information was disclosed on the condition that the identity of the person be protected;

(c) before the time that an investigation or audit is completed and the final investigation or final audit report is released, records or drafts circulated to a person who is not an employee or head of a governmental entity for the person's response or information;

(d) records that would disclose an outline or part of any investigation, audit survey plan, or audit program; or

(e) requests for an investigation or audit, if disclosure would risk circumvention of an investigation or audit;

(61) records that reveal methods used by the Office of Inspector General of Medicaid Services, the fraud unit, or the Department of Health, to discover Medicaid fraud, waste, or abuse;

(62) information provided to the Department of Health or the Division of Occupational and Professional Licensing under Subsections 58-67-304(3) and (4) and Subsections 58-68-304(3) and (4);

(63) a record described in Section 63G-12-210;

(64) captured plate data that is obtained through an automatic license plate reader system used by a governmental entity as authorized in Section 41-6a-2003;

(65) any record in the custody of the Utah Office for Victims of Crime relating to a victim, including:

(a) a victim's application or request for benefits;

(b) a victim's receipt or denial of benefits; and

(c) any administrative notes or records made or created for the purpose of, or used to, evaluate or communicate a victim's eligibility for or denial of benefits from the Crime Victim Reparations Fund;

(66) an audio or video recording created by a body-worn camera, as that term is defined in Section 77-7a-103, that records sound or images inside a hospital or health care facility as those terms are defined in Section 78B-3-403, inside a clinic of a health care provider, as that term is defined in Section 78B-3-403, or inside a human service program as that term is defined in Section 62A-2-101, except for recordings that:

(a) depict the commission of an alleged crime;

(b) record any encounter between a law enforcement officer and a person that results in death or bodily injury, or includes an instance when an officer fires a weapon;

(c) record any encounter that is the subject of a complaint or a legal proceeding against a law enforcement officer or law enforcement agency;

(d) contain an officer involved critical incident as defined in Subsection 76-2-408(1)(f); or

(e) have been requested for reclassification as a public record by a subject or authorized agent of a subject featured in the recording;

(67) a record pertaining to the search process for a president of an institution of higher education described in Section 53B-2-102, except for application materials for a publicly announced finalist;

(68) an audio recording that is:

(a) produced by an audio recording device that is used in conjunction with a device or piece of equipment designed or intended for resuscitating an individual or for treating an individual with a life-threatening condition;

(b) produced during an emergency event when an individual employed to provide law enforcement, fire protection, paramedic, emergency medical, or other first responder service:

(i) is responding to an individual needing resuscitation or with a life-threatening condition; and

(ii) uses a device or piece of equipment designed or intended for resuscitating an individual or for treating an individual with a life-threatening condition; and

(c) intended and used for purposes of training emergency responders how to improve their response to an emergency situation;

(69) records submitted by or prepared in relation to an applicant seeking a recommendation by the Research and General Counsel Subcommittee, the Budget Subcommittee, or the Audit Subcommittee, established under Section 36-12-8, for an employment position with the Legislature;

(70) work papers as defined in Section 31A-2-204;

(71) a record made available to Adult Protective Services or a law enforcement agency under Section 61-1-206;

(72) a record submitted to the Insurance Department in accordance with Section 31A-37-201 [~~or 31A-22-653~~];

(73) a record described in Section 31A-37-503.

(74) any record created by the Division of Occupational and Professional Licensing as a result of Subsection 58-37f-304(5) or 58-37f-702(2)(a)(ii);

(75) a record described in Section 72-16-306 that relates to the reporting of an injury involving an amusement ride;

(76) except as provided in Subsection 63G-2-305.5(1), the signature of an individual on a political petition, or on a request to withdraw a

signature from a political petition, including a petition or request described in the following titles:

(a) Title 10, Utah Municipal Code;

(b) Title 17, Counties;

(c) Title 17B, Limited Purpose Local Government Entities - Local Districts;

(d) Title 17D, Limited Purpose Local Government Entities - Other Entities; and

(e) Title 20A, Election Code;

(77) except as provided in Subsection 63G-2-305.5(2), the signature of an individual in a voter registration record;

(78) except as provided in Subsection 63G-2-305.5(3), any signature, other than a signature described in Subsection (76) or (77), in the custody of the lieutenant governor or a local political subdivision collected or held under, or in relation to, Title 20A, Election Code;

(79) a Form I-918 Supplement B certification as described in Title 77, Chapter 38, Part 5, Victims Guidelines for Prosecutors Act;

(80) a record submitted to the Insurance Department under Subsection 31A-47-103(1)(b); and

(81) personal information, as defined in Section 63G-26-102, to the extent disclosure is prohibited under Section 63G-26-103.

Section 4. Section 63I-2-231 is amended to read:

63I-2-231. Repeal dates -- Title 31A.

[~~Section 31A-22-653 is repealed January 1, 2023.~~]

Section 5. Repealer.

This bill repeals:

Section 31A-22-653, Emergency service balance billing report -- Rulemaking -- Immunity -- Reporting requirement.

CHAPTER 354
S. B. 199
Passed March 3, 2021
Approved March 17, 2021
Effective May 5, 2021

WATER AMENDMENTS

Chief Sponsor: Michael K. McKell
House Sponsor: Timothy D. Hawkes

LONG TITLE

General Description:

This bill addresses issues related to water.

Highlighted Provisions:

This bill:

- addresses secondary water metering;
- directs the Legislative Water Development Commission to support the development of a unified, statewide water strategy to promote water conservation and efficiency; and
- makes technical changes.

Monies Appropriated in this Bill:

This bill appropriates in fiscal year 2022:

- to the Department of Natural Resources - Division of Water Resources, as an ongoing appropriation:
  - from the General Fund, $2,000,000.

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

73-10-34, as last amended by Laws of Utah 2020, Chapter 350
73-27-103, as last amended by Laws of Utah 2020, Chapter 28

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 73-10-34 is amended to read:

73-10-34. Secondary water metering.

(1) As used in this section:

(a) (i) "Commercial user" means a secondary water user that is a place of business.

(ii) "Commercial user" does not include a multi-family residence, an agricultural user, or a customer that falls within the industrial or institutional classification.

(b) (i) "Industrial user" means a secondary water user that manufactures or produces materials.

(ii) "Industrial user" includes a manufacturing plant, an oil and gas producer, and a mining company.

(c) (i) "Institutional user" means a secondary water user that is dedicated to public service, regardless of ownership.

(ii) "Institutional user" includes a school, church, hospital, park, golf course, and government facility.

(d) (i) "Residential user" means a secondary water user in a residence.

(ii) "Residential user" includes a single-family or multi-family home, apartment, duplex, twin home, condominium, or planned community.

(e) "Secondary water" means water that is:

(i) not culinary or water used on land assessed under Title 59, Chapter 2, Part 5, Farmland Assessment Act; and

(ii) delivered to and used by an end [~~consumer~~] user for the irrigation of landscaping or a garden.

(f) "Secondary water supplier" means an entity that supplies pressurized secondary water.

(g) "Small secondary water retail supplier" means an entity that:

(i) supplies pressurized secondary water only to the end user of the secondary water; and

(ii) (A) is a city, town, or metro township; or

(B) supplies 5,000 or fewer connections.

(2) (a) A secondary water supplier that begins design work for new service on or after April 1, 2020, to a commercial, industrial, institutional, or residential user shall meter the use of pressurized secondary water by the users receiving that new service.

(b) Beginning January 1, 2022, a secondary water supplier shall establish a meter installation reserve for metering installation and replacement projects.

(c) A secondary water supplier, including a small secondary water retail supplier, may not raise the rates charged for secondary water:

(i) by more than 10% in a calendar year for costs associated with metering secondary water unless the rise in rates is necessary because the secondary water supplier experiences a catastrophic failure or other similar event; or

(ii) unless, before raising the rates on the end user, the entity charging the end user provides a statement explaining the basis for why the needs of the secondary water supplier required an increase in rates.

(d) (i) A secondary water supplier that provides pressurized secondary water to a commercial, industrial, institutional, or residential user shall develop a plan, or if the secondary water supplier previously filed a similar plan, update the plan for metering the use of the pressurized water.

(ii) The plan required by this Subsection (2)(d) shall be filed or updated with the Division of Water Resources by no later than December 31, 2025, and address the process the secondary water supplier will follow to implement metering, including:

(A) the costs of full metering by the secondary water supplier;

(B) how long it would take the secondary water supplier to complete full metering by no later than December 31, 2040, including an anticipated beginning date and completion date; and

(C) how the secondary water supplier will finance metering.

(3) A secondary water supplier shall on or before March 31 of each year, report to the Division of Water Rights:

(a) for commercial, industrial, institutional, and residential users whose pressurized secondary water use is metered, the number of acre feet of pressurized secondary water the secondary water supplier supplied to the commercial, industrial, institutional, and residential users during the preceding 12-month period;

(b) the number of secondary water meters within the secondary water supplier's service boundary;

(c) a description of the secondary water supplier's service boundary;

(d) the number of connections in each of the following categories through which the secondary water supplier supplies pressurized secondary water:

(i) commercial;

(ii) industrial;

(iii) institutional; and

(iv) residential;

(e) the total volume of water that the secondary water supplier receives from [~~its~~] the secondary water supplier's sources; and

(f) the dates of service during the preceding 12-month period in which the secondary water supplier supplied pressurized secondary water.

(4) (a) Beginning July 1, 2019, the Board of Water Resources may make up to $10,000,000 in low-interest loans available each year:

(i) from the Water Resources Conservation and Development Fund, created in Section 73-10-24; and

(ii) for financing the cost of secondary water metering.

(b) The Division of Water Resources and the Board of Water Resources shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establishing the criteria and process for receiving a loan described in this Subsection (4), except the rules may not include prepayment penalties.

(5) (a) Beginning July 1, 2021, subject to appropriation, the Division of Water Resources may make matching grants each year for financing the cost of secondary water metering for a commercial, industrial, institutional, or residential user by a small secondary water retail supplier that:

(i) is not for new service described in Subsection (2)(a); and

(ii) matches the amount of the grant.

(b) For purposes of issuing grants under this section, the division shall prioritize the small secondary water retail suppliers that can demonstrate the greatest need or greatest inability to pay the entire cost of installing secondary water meters.

(c) The amount of a grant under this Subsection (5) may not:

(i) exceed 50% of the small secondary water retail supplier's cost of installing secondary water meters; or

(ii) supplant federal, state, or local money previously allocated to pay the small secondary water retail supplier's cost of installing secondary water meters.

(d) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the Board of Water Resources shall make rules establishing:

(i) the procedure for applying for a grant under this Subsection (5); and

(ii) how a small secondary water retail supplier can establish that the small secondary water retail supplier meets the eligibility requirements of this Subsection (5).

[~~(5)~~] (6) This section does not apply to a secondary water supplier to the extent that:

(a) the secondary water supplier supplies secondary water within a county of the third, fourth, fifth, or sixth class; or

(b) there is no meter that a meter manufacturer will warranty because of the water quality within a specific location.

[~~(6)~~] (7) Nothing in this section affects a water right holder's obligation to measure and report water usage as described in Sections 73-5-4 and 73-5-8.

Section 2. Section 73-27-103 is amended to read:

73-27-103. Duties and powers of commission.

(1) The commission shall consider and make recommendations to the Legislature and governor on the following issues:

(a) how the water needs of the state's growing agricultural, municipal, and industrial sectors will be met;

(b) what the impact of federal regulations and legislation will be on the ability of the state to manage and develop its compacted water rights;

(c) how the state will fund water projects;

(d) whether the state should become an owner and operator of water projects;

(e) how the state will encourage the implementation of water conservation programs; and

(f) other water issues of statewide importance.

(2) The commission shall consult with the Division of Water Resources and the Board of Water Resources regarding:

(a) recommendations for rules, criteria, targets, processes, and plans described in Subsection 73-10g-105(3); and

(b) the scope of any request for proposals that may be issued by the Division of Water Resources and Board of Water Resources to assist in creating the rules, criteria, targets, processes, and plans described in Subsection 73-10g-105(3).

(3) The commission shall support community efforts to develop a unified, state water strategy to promote water conservation and efficiency that:

(a) is consistent with Section 73-1-21;

(b) is created with the aid of stakeholders including water conservancy districts created under Title 17B, Chapter 2a, Part 10, Water Conservancy District Act;

(c) includes model ordinances or policies consistent with the unified, statewide water strategy that may be adopted by political subdivisions; and

(d) respects different needs of different political subdivisions or geographic regions of the state.

[~~(3)~~] (4) The commission may:

(a) form one or more working groups from the membership of the commission to consider and study the issues described in this section; and

(b) meet up to six times per calendar year without approval from the Legislative Management Committee.

Section 3. Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2021, and ending June 30, 2022. These are additions to amounts previously appropriated for fiscal year 2022. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 1

To the Department of Natural Resources - Division of Water Resources

From General Fund	$2,000,000
Schedule of Programs:	
Development	$2,000,000

The Legislature intends that the appropriation under this item be used to fund grants as described in Subsection 73-10-34(5) enacted in this bill.

CHAPTER 355
S. B. 201
Passed March 5, 2021
Approved March 17, 2021
Effective May 5, 2021

PUBLIC NOTICE AMENDMENTS

Chief Sponsor: Karen Mayne
House Sponsor: Joel Ferry

LONG TITLE

General Description:

This bill modifies provisions relating to public notices.

Highlighted Provisions:

This bill:

- eliminates some requirements to publish certain notices in a newspaper and on a specified legal notice website;
- requires certain notices to be posted on the Utah Public Notice Website;
- requires the Division of Archives and Records Service to allow newspapers to request and automatically receive a feed of postings to the Utah Public Notice Website; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

8-5-6, as last amended by Laws of Utah 2009, Chapter 388
10-2-406, as last amended by Laws of Utah 2019, Chapter 255
10-2-407, as last amended by Laws of Utah 2019, Chapter 255
10-2-415, as last amended by Laws of Utah 2020, Chapter 22
10-2-418, as last amended by Laws of Utah 2020, Sixth Special Session, Chapter 7
10-2-419, as last amended by Laws of Utah 2019, Chapter 255
10-2-502.5, as last amended by Laws of Utah 2019, Chapter 255
10-2-607, as last amended by Laws of Utah 2019, Chapter 255
10-2-703, as last amended by Laws of Utah 2019, Chapter 255
10-2-708, as last amended by Laws of Utah 2020, Chapter 22
10-2a-207, as last amended by Laws of Utah 2019, Chapters 165, 255 and last amended by Coordination Clause, Laws of Utah 2019, Chapter 165
10-2a-210, as last amended by Laws of Utah 2020, Chapter 22
10-2a-213, as last amended by Laws of Utah 2020, Chapter 22
10-2a-214, as last amended by Laws of Utah 2020, Chapter 22
10-2a-215, as last amended by Laws of Utah 2020, Chapter 22
10-2a-404, as enacted by Laws of Utah 2015, Chapter 352
10-2a-405, as last amended by Laws of Utah 2016, Chapter 176
10-2a-410, as last amended by Laws of Utah 2017, Chapter 158
10-3-301, as last amended by Laws of Utah 2020, Chapter 95
10-3-711, as last amended by Laws of Utah 2004, Chapter 202
10-5-108, as last amended by Laws of Utah 2017, Chapter 193
10-6-113, as last amended by Laws of Utah 2017, Chapter 193
10-6-152, as last amended by Laws of Utah 2009, Chapter 388
10-7-16, as last amended by Laws of Utah 2009, Chapter 388
10-7-19, as last amended by Laws of Utah 2019, Chapter 255
10-8-2, as last amended by Laws of Utah 2019, Chapter 376
10-8-15, as last amended by Laws of Utah 2019, Chapter 413
10-9a-204, as last amended by Laws of Utah 2010, Chapter 90
10-9a-205, as last amended by Laws of Utah 2017, Chapter 84
10-18-203, as last amended by Laws of Utah 2010, Chapter 90
10-18-302, as last amended by Laws of Utah 2014, Chapter 176
10-18-303, as last amended by Laws of Utah 2009, Chapter 388
11-13-219, as last amended by Laws of Utah 2015, Chapter 265
11-14-202, as last amended by Laws of Utah 2020, Chapter 31
11-14-315, as last amended by Laws of Utah 2010, Chapter 378
11-14-318, as last amended by Laws of Utah 2009, First Special Session, Chapter 5
11-14a-1, as last amended by Laws of Utah 2009, Chapter 388
11-30-5, as last amended by Laws of Utah 2009, Chapter 388
11-39-103, as last amended by Laws of Utah 2014, Chapter 196
11-42-202, as last amended by Laws of Utah 2020, Chapter 282
11-42-301, as last amended by Laws of Utah 2017, Chapter 470
11-42-402, as last amended by Laws of Utah 2015, Chapter 396
11-42-404, as last amended by Laws of Utah 2015, Chapter 396
11-42a-201, as last amended by Laws of Utah 2018, Chapters 197 and 431
17-27a-204, as last amended by Laws of Utah 2010, Chapter 90
17-27a-205, as last amended by Laws of Utah 2017, Chapter 84
17-27a-306, as last amended by Laws of Utah 2015, Chapter 352
17-27a-404, as last amended by Laws of Utah 2020, Chapter 434

17-41-302, as last amended by Laws of Utah 2019, Chapter 227
17-41-304, as last amended by Laws of Utah 2019, Chapter 227
17-41-405, as last amended by Laws of Utah 2019, Chapter 227
17B-1-111, as last amended by Laws of Utah 2011, Chapter 47
17B-1-211, as last amended by Laws of Utah 2013, Chapter 265
17B-1-304, as last amended by Laws of Utah 2017, Chapter 112
17B-1-306, as last amended by Laws of Utah 2020, Chapter 31
17B-1-313, as last amended by Laws of Utah 2009, Chapter 388
17B-1-417, as last amended by Laws of Utah 2010, Chapter 90
17B-1-505.5, as enacted by Laws of Utah 2017, Chapter 404
17B-1-609, as last amended by Laws of Utah 2015, Chapter 436
17B-1-643, as last amended by Laws of Utah 2016, Chapter 273
17B-1-1204, as last amended by Laws of Utah 2010, Chapter 90
17B-1-1307, as last amended by Laws of Utah 2010, Chapter 90
17B-2a-705, as last amended by Laws of Utah 2019, Chapter 255
17B-2a-1007, as last amended by Laws of Utah 2018, Chapter 197
17B-2a-1110, as last amended by Laws of Utah 2016, Chapter 176
17C-1-601.5, as last amended by Laws of Utah 2018, Chapter 101
17C-1-701.5, as renumbered and amended by Laws of Utah 2016, Chapter 350
17C-1-806, as last amended by Laws of Utah 2018, Chapter 364
17C-2-108, as last amended by Laws of Utah 2016, Chapter 350
17C-3-107, as last amended by Laws of Utah 2016, Chapter 350
17C-4-106, as last amended by Laws of Utah 2016, Chapter 350
17C-4-202, as last amended by Laws of Utah 2016, Chapter 350
17C-5-110, as enacted by Laws of Utah 2016, Chapter 350
17C-5-205, as last amended by Laws of Utah 2019, Chapter 376
20A-1-206, as last amended by Laws of Utah 2019, Chapter 255
20A-3a-604, as renumbered and amended by Laws of Utah 2020, Chapter 31
20A-4-104, as last amended by Laws of Utah 2020, Chapter 31
20A-4-304, as last amended by Laws of Utah 2019, Chapters 255 and 433
20A-5-101, as last amended by Laws of Utah 2019, Chapter 255
20A-5-403.5, as enacted by Laws of Utah 2020, Chapter 31
20A-5-405, as last amended by Laws of Utah 2020, Chapter 31
20A-9-203, as last amended by Laws of Utah 2020, Chapter 22
26-8a-405.3, as last amended by Laws of Utah 2012, Chapters 91, 347 and last amended by Coordination Clause, Laws of Utah 2012, Chapter 347
38-8-3, as last amended by Laws of Utah 2013, Chapter 163
54-8-10, as last amended by Laws of Utah 2010, Chapter 90
54-8-16, as last amended by Laws of Utah 2010, Chapter 90
54-8-23, as last amended by Laws of Utah 2009, Chapter 388
57-13a-104, as enacted by Laws of Utah 2013, Chapter 267
59-12-402, as last amended by Laws of Utah 2017, Chapter 422
59-12-2208, as enacted by Laws of Utah 2010, Chapter 263
62A-5-202.5, as last amended by Laws of Utah 2019, Chapter 255
63A-5b-305, as enacted by Laws of Utah 2020, Chapter 152
63F-1-701, as last amended by Laws of Utah 2020, Chapter 154
63G-6a-112, as last amended by Laws of Utah 2020, Chapter 257
72-5-105, as last amended by Laws of Utah 2017, First Special Session, Chapter 2
72-6-108, as last amended by Laws of Utah 2012, Chapter 347
76-8-809, as last amended by Laws of Utah 2009, Chapter 388
78A-7-202, as last amended by Laws of Utah 2015, Chapters 99 and 352

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 8-5-6 is amended to read:

8-5-6. Alternative council or board procedures for notice -- Termination of rights.

(1) As an alternative to the procedures set forth in Sections 8-5-1 through 8-5-4, a municipal council or cemetery maintenance district board may pass a resolution demanding that the owner of a lot, site, or portion of the cemetery, which has been unused for burial purposes for more than 60 years, file with the county recorder, city recorder, or town clerk notice of any claim to the lot, site, or portion of the cemetery.

(2) The municipal council or cemetery maintenance district board shall then cause a copy of the resolution to be personally served on the owner in the same manner as personal service of process in a civil action. The resolution shall notify the owner that the owner shall, within 60 days after service of the resolution on the owner, express interest in maintaining the cemetery lot, site, or portion of the cemetery and submit satisfactory evidence of an intention to use the lot, site, or portion of the cemetery for a burial.

(3) If the owner cannot be personally served with the resolution of the municipal council or cemetery

maintenance district board as required in Subsection (2), the municipal council or cemetery maintenance district board shall:

(a) publish its resolution[:] on the Utah Public Notice Website created in Section 63F-1-701 for three weeks; and

[~~(a) (i) for three successive weeks in a newspaper of general circulation within the county; and~~]

[~~(ii) in accordance with Section 45-1-101 for three weeks; and~~]

(b) mail a copy of the resolution within 14 days after the publication to the owner's last known address, if available.

(4) If, for 30 days after the last date of service or publication of the municipal council's or cemetery maintenance district board's resolution, the owner or person with a legal interest in the cemetery lot fails to state a valid interest in the use of the cemetery lot, site, or portion of the cemetery for burial purposes, the owner's rights are terminated and that portion of the cemetery shall be vested in the municipality or cemetery maintenance district.

Section 2. Section 10-2-406 is amended to read:

10-2-406. Notice of certification -- Publishing and providing notice of petition.

(1) After receipt of the notice of certification from the city recorder or town clerk under Subsection 10-2-405(2)(c)(i), the municipal legislative body shall publish notice:

[~~(a) (i) at least once a week for three successive weeks, beginning no later than 10 days after the day on which the municipal legislative body receives the notice of certification, in a newspaper of general circulation within:~~]

[~~(A)~~] (a) within the area proposed for annexation[~~; and (B)~~] and the unincorporated area within 1/2 mile of the area proposed for annexation[~~; (ii) if there is no newspaper of general circulation in the combined area described in Subsections (1)(a)(i)(A) and (B)~~], no later than 10 days after the day on which the municipal legislative body receives the notice of certification[~~,~~]:

(i) by posting one notice, and at least one additional notice per 2,000 population within the combined area, in places within the combined area that are most likely to give notice to the residents within, and the owners of real property located within, the combined area; or

[~~(iii) no later than 10 days after the day on which the municipal legislative body receives the notice of certification,~~]

(ii) by mailing the notice to each residence within, and to each owner of real property located within, the combined area [~~described in Subsections (1)(a)(i)(A) and (B)~~];

[~~(b) in accordance with Section 45-1-101, for three weeks, beginning no later than 10 days after the day on which the municipal legislative body receives the notice of certification;~~]

[~~(c)~~] (b) on the Utah Public Notice Website created in Section 63F-1-701, for three weeks, beginning no later than 10 days after the day on which the municipal legislative body receives the notice of certification;

[~~(d)~~] (c) within 20 days after the day on which the municipal legislative body receives the notice of certification, by mailing written notice to each affected entity; and

[~~(e)~~] (d) if the municipality has a website, on the municipality's website for the period of time described in Subsection (1)[~~(c)~~](b).

(2) The notice described in Subsection (1) shall:

(a) state that a petition has been filed with the municipality proposing the annexation of an area to the municipality;

(b) state the date of the municipal legislative body's receipt of the notice of certification under Subsection 10-2-405(2)(c)(i);

(c) describe the area proposed for annexation in the annexation petition;

(d) state that the complete annexation petition is available for inspection and copying at the office of the city recorder or town clerk;

(e) state in conspicuous and plain terms that the municipality may grant the petition and annex the area described in the petition unless, within the time required under Subsection 10-2-407(2)(a)(i), a written protest to the annexation petition is filed with the commission and a copy of the protest delivered to the city recorder or town clerk of the proposed annexing municipality;

(f) state the address of the commission or, if a commission has not yet been created in the county, the county clerk, where a protest to the annexation petition may be filed;

(g) state that the area proposed for annexation to the municipality will also automatically be annexed to a local district providing fire protection, paramedic, and emergency services or a local district providing law enforcement service, as the case may be, as provided in Section 17B-1-416, if:

(i) the proposed annexing municipality is entirely within the boundaries of a local district:

(A) that provides fire protection, paramedic, and emergency services or law enforcement service, respectively; and

(B) in the creation of which an election was not required because of Subsection 17B-1-214(3)(c); and

(ii) the area proposed to be annexed to the municipality is not already within the boundaries of the local district; and

(h) state that the area proposed for annexation to the municipality will be automatically withdrawn from a local district providing fire protection, paramedic, and emergency services or a local

district providing law enforcement service, as the case may be, as provided in Subsection 17B-1-502(2), if:

(i) the petition proposes the annexation of an area that is within the boundaries of a local district:

(A) that provides fire protection, paramedic, and emergency services or law enforcement service, respectively; and

(B) in the creation of which an election was not required because of Subsection 17B-1-214(3)(c); and

(ii) the proposed annexing municipality is not within the boundaries of the local district.

(3) (a) The statement required by Subsection (2)(e) shall state the deadline for filing a written protest in terms of the actual date rather than by reference to the statutory citation.

(b) In addition to the requirements under Subsection (2), a notice under Subsection (1) for a proposed annexation of an area within a county of the first class shall include a statement that a protest to the annexation petition may be filed with the commission by property owners if it contains the signatures of the owners of private real property that:

(i) is located in the unincorporated area within 1/2 mile of the area proposed for annexation;

(ii) covers at least 25% of the private land area located in the unincorporated area within 1/2 mile of the area proposed for annexation; and

(iii) is equal in value to at least 15% of all real property located in the unincorporated area within 1/2 mile of the area proposed for annexation.

Section 3. Section 10-2-407 is amended to read:

10-2-407. Protest to annexation petition -- Planning advisory area planning commission recommendation -- Petition requirements -- Disposition of petition if no protest filed.

(1) A protest to an annexation petition under Section 10-2-403 may be filed by:

(a) the legislative body or governing board of an affected entity;

(b) the owner of rural real property as defined in Section 17B-2a-1107; or

(c) for a proposed annexation of an area within a county of the first class, the owners of private real property that:

(i) is located in the unincorporated area within 1/2 mile of the area proposed for annexation;

(ii) covers at least 25% of the private land area located in the unincorporated area within 1/2 mile of the area proposed for annexation; and

(iii) is equal in value to at least 15% of all real property located in the unincorporated area within 1/2 mile of the area proposed for annexation.

(2) Each protest under Subsection (1) shall:

(a) be filed:

(i) no later than 30 days after the municipal legislative body's receipt of the notice of certification under Subsection 10-2-405(2)(c)(i); and

(ii) (A) in a county that has already created a commission under Section 10-2-409, with the commission; or

(B) in a county that has not yet created a commission under Section 10-2-409, with the clerk of the county in which the area proposed for annexation is located;

(b) state each reason for the protest of the annexation petition and, if the area proposed to be annexed is located in a specified county, justification for the protest under the standards established in this chapter;

(c) if the area proposed to be annexed is located in a specified county, contain other information that the commission by rule requires or that the party filing the protest considers pertinent; and

(d) contain the name and address of a contact person who is to receive notices sent by the commission with respect to the protest proceedings.

(3) The party filing a protest under this section shall on the same date deliver or mail a copy of the protest to the city recorder or town clerk of the proposed annexing municipality.

(4) Each clerk who receives a protest under Subsection (2)(a)(ii)(B) shall:

(a) immediately notify the county legislative body of the protest; and

(b) deliver the protest to the boundary commission within five days after:

(i) receipt of the protest, if the boundary commission has previously been created; or

(ii) creation of the boundary commission under Subsection 10-2-409(1)(b), if the boundary commission has not previously been created.

(5) (a) If a protest is filed under this section:

(i) the municipal legislative body may, at its next regular meeting after expiration of the deadline under Subsection (2)(a)(i), deny the annexation petition; or

(ii) if the municipal legislative body does not deny the annexation petition under Subsection (5)(a)(i), the municipal legislative body may take no further action on the annexation petition until after receipt of the commission's notice of its decision on the protest under Section 10-2-416.

(b) If a municipal legislative body denies an annexation petition under Subsection (5)(a)(i), the municipal legislative body shall, within five days after the denial, send notice of the denial in writing to:

(i) the contact sponsor of the annexation petition;

(ii) the commission; and

(iii) each entity that filed a protest.

(6) If no timely protest is filed under this section, the municipal legislative body may, subject to Subsection (7), approve the petition.

(7) Before approving an annexation petition under Subsection (6), the municipal legislative body shall hold a public hearing and publish notice of the public hearing:

[~~(a) (i) at least seven days before the day of the public hearing in a newspaper of general circulation within the municipality and the area proposed for annexation;~~]

[~~(ii) if there is no newspaper of general circulation in the combined area described in Subsection (7)(a)(i),~~]

(a) (i) at least seven days before the day of the public hearing, by posting one notice, and at least one additional notice per 2,000 population within the [~~combined area~~] municipality and the area proposed for annexation, in places within [~~the~~] that combined area that are most likely to give notice to the residents within, and the owners of real property located within, the combined area; or

[~~(iii)~~] (ii) at least 10 days before the day of the public hearing by mailing the notice to each residence within, and to each owner of real property located within, the combined area described in Subsection (7)(a)(i);

(b) on the Utah Public Notice Website created in Section 63F-1-701, for seven days before the day of the public hearing; and

[~~(c) in accordance with Section 45-1-101, for seven days before the day of the public hearing; and~~]

[~~(d)~~] (c) if the municipality has a website, on the municipality's website for seven days before the day of the public hearing.

Section 4. Section 10-2-415 is amended to read:

10-2-415. Public hearing -- Notice.

(1) (a) If the results of the feasibility study or supplemental feasibility study meet the requirements of Subsection 10-2-416(3) with respect to a proposed annexation of an area located in a county of the first class, the commission shall hold a public hearing within 30 days after the day on which the commission receives the feasibility study or supplemental feasibility study results.

(b) At the public hearing described in Subsection (1)(a), the commission shall:

(i) require the feasibility consultant to present the results of the feasibility study and, if applicable, the supplemental feasibility study;

(ii) allow those present to ask questions of the feasibility consultant regarding the study results; and

(iii) allow those present to speak to the issue of annexation.

(2) The commission shall publish notice of the public hearing described in Subsection (1)(a)[~~: (a) (i) at least once a week for two successive weeks before the public hearing in a newspaper of general circulation~~] within the area proposed for annexation, the surrounding 1/2 mile of unincorporated area, and the proposed annexing municipality[~~;~~]:

[~~(ii) if there is no newspaper of general circulation within the combined area described in Subsection (2)(a)(i),~~]

(a) (i) at least two weeks before the day of the public hearing, by posting one notice, and at least one additional notice per 2,000 population within the combined area, in places within the combined area that are most likely to give notice of the public hearing to the residents within, and the owners of real property located within, the combined area; or

[~~(iii)~~] (ii) by mailing notice to each residence within, and to each owner of real property located within, the combined area [~~described in Subsection (2)(a)(i)~~];

(b) on the Utah Public Notice Website created in Section 63F-1-701, for two weeks before the day of the public hearing;

[~~(c) in accordance with Section 45-1-101, for two weeks before the day of the public hearing;~~]

[~~(d)~~] (c) by sending written notice of the public hearing to the municipal legislative body of the proposed annexing municipality, the contact sponsor on the annexation petition, each entity that filed a protest, and, if a protest was filed under Subsection 10-2-407(1)(c), the contact person;

[~~(e)~~] (d) if the municipality has a website, on the municipality's website for two weeks before the day of the public hearing; and

[~~(f)~~] (e) on the county's website for two weeks before the day of the public hearing.

(3) The notice described in Subsection (2) shall:

(a) be entitled, "notice of annexation hearing";

(b) state the name of the annexing municipality;

(c) describe the area proposed for annexation; and

(d) specify the following sources where an individual may obtain a copy of the feasibility study conducted in relation to the proposed annexation:

(i) if the municipality has a website, the municipality's website;

(ii) a municipality's physical address; and

(iii) a mailing address and telephone number.

(4) Within 30 days after the time under Subsection 10-2-407(2) for filing a protest has expired with respect to a proposed annexation of an area located in a specified county, the boundary commission shall hold a hearing on all protests that were filed with respect to the proposed annexation.

(5) At least 14 days before the date of a hearing described in Subsection (4), the commission chair shall publish notice of the hearing:

[~~(a) (i) in a newspaper of general circulation within the area proposed for annexation;~~]

[~~(ii) if there is no newspaper of general circulation within the area proposed for annexation,~~]

(a) (i) by posting one notice, and at least one additional notice per 2,000 population within the area proposed for annexation, in places within the area that are most likely to give notice of the hearing to the residents within, and the owners of real property located within, the area; or

[~~(iii)~~] (ii) by mailing notice to each resident within, and each owner of real property located within, the area proposed for annexation;

(b) on the Utah Public Notice Website created in Section 63F-1-701, for 14 days before the day of the hearing;

[~~(c) in accordance with Section 45-1-101, for 14 days before the day of the hearing;~~]

[~~(d)~~] (c) if the municipality has a website, on the municipality's website for two weeks before the day of the public hearing; and

[~~(e)~~] (d) on the county's website for two weeks before the day of the public hearing.

(6) Each notice described in Subsection (5) shall:

(a) state the date, time, and place of the hearing;

[~~(a)~~] (b) briefly summarize the nature of the protest; and

[~~(b)~~] (c) state that a copy of the protest is on file at the commission's office.

(7) The commission may continue a hearing under Subsection (4) from time to time, but no continued hearing may be held later than 60 days after the original hearing date.

(8) In considering protests, the commission shall consider whether the proposed annexation:

(a) complies with the requirements of Sections 10-2-402 and 10-2-403 and the annexation policy plan of the proposed annexing municipality;

(b) conflicts with the annexation policy plan of another municipality; and

(c) if the proposed annexation includes urban development, will have an adverse tax consequence on the remaining unincorporated area of the county.

(9) (a) The commission shall record each hearing under this section by electronic means.

(b) A transcription of the recording under Subsection (9)(a), the feasibility study, if applicable, information received at the hearing, and the written decision of the commission shall constitute the record of the hearing.

Section 5. Section 10-2-418 is amended to read:

10-2-418. Annexation of an island or peninsula without a petition -- Notice -- Hearing.

(1) As used in Subsection (2)(b)(ii), for purposes of an annexation conducted in accordance with this section of an area located within a county of the first class, "municipal-type services" does not include a service provided by a municipality pursuant to a contract that the municipality has with another political subdivision as "political subdivision" is defined in Section 17B-1-102.

(2) Notwithstanding Subsection 10-2-402(2), a municipality may annex an unincorporated area under this section without an annexation petition if:

(a) for an unincorporated area within the expansion area of more than one municipality, each municipality agrees to the annexation; and

(b) (i) (A) the area to be annexed consists of one or more unincorporated islands within or unincorporated peninsulas contiguous to the municipality;

(B) the majority of each island or peninsula consists of residential or commercial development;

(C) the area proposed for annexation requires the delivery of municipal-type services; and

(D) the municipality has provided most or all of the municipal-type services to the area for more than one year;

(ii) (A) the area to be annexed consists of one or more unincorporated islands within or unincorporated peninsulas contiguous to the municipality, each of which has fewer than 800 residents; and

(B) the municipality has provided one or more municipal-type services to the area for at least one year;

(iii) the area consists of:

(A) an unincorporated island within or an unincorporated peninsula contiguous to the municipality; and

(B) for an area outside of the county of the first class proposed for annexation, no more than 50 acres; or

(iv) (A) the area to be annexed consists only of one or more unincorporated islands in a county of the second class;

(B) the area to be annexed is located in the expansion area of a municipality; and

(C) the county legislative body in which the municipality is located provides notice to each property owner within the area to be annexed that the county legislative body will hold a public hearing, no less than 15 days after the day on which the county legislative body provides the notice, and may make a recommendation of annexation to the municipality whose expansion area includes the area to be annexed after the public hearing.

(3) Notwithstanding Subsection 10-2-402(1)(b)(iii), a municipality may annex a portion of an unincorporated island or unincorporated peninsula under this section, leaving unincorporated the remainder of the unincorporated island or unincorporated peninsula, if:

(a) in adopting the resolution under Subsection (5)(a) the municipal legislative body determines that not annexing the entire unincorporated island or unincorporated peninsula is in the municipality's best interest; and

(b) for an annexation of one or more unincorporated islands under Subsection (2)(b), the entire island of unincorporated area, of which a portion is being annexed, complies with the requirement of Subsection (2)(b)(ii) relating to the number of residents.

(4) (a) This subsection applies only to an annexation within a county of the first class.

(b) A county of the first class shall agree to an annexation if the majority of private property owners within the area to be annexed give written consent to the annexation, in accordance with Subsection (4)(d), to the recorder of the annexing municipality.

(c) For purposes of Subsection (4)(b), the majority of private property owners is property owners who own:

(i) the majority of the total private land area within the area proposed for annexation; and

(ii) private real property equal to at least 1/2 the value of private real property within the area proposed for annexation.

(d) A property owner consenting to annexation shall indicate the property owner's consent on a form which includes language in substantially the following form:

"Notice: If this written consent is used to proceed with an annexation of your property in accordance with Utah Code Section 10-2-418, no public election is required by law to approve the annexation. If you sign this consent and later decide you do not want to support the annexation of your property, you may withdraw your signature by submitting a signed, written withdrawal with the recorder or clerk of [name of annexing municipality]. If you choose to withdraw your signature, you must do so no later than the close of the public hearing on the annexation conducted in accordance with Utah Code Subsection 10-2-418(4)(d).".

(e) A private property owner may withdraw the property owner's signature indicating consent by submitting a signed, written withdrawal with the recorder or clerk no later than the close of the public hearing held in accordance with Subsection (5)(b).

(5) The legislative body of each municipality intending to annex an area under this section shall:

(a) adopt a resolution indicating the municipal legislative body's intent to annex the area, describing the area proposed to be annexed; and

(b) hold a public hearing on the proposed annexation no earlier than 30 days after the adoption of the resolution described in Subsection (5)(a).

(6) A legislative body described in Subsection (5) shall publish notice of a public hearing described in Subsection (5)(b):

[~~(a) (i) at least once a week for three successive weeks before the public hearing in a newspaper of general circulation within the municipality and the area proposed for annexation;~~]

[~~(ii) if there is no newspaper of general circulation in the combined area described in Subsection (6)(a)(i),~~]

(a) (i) at least three weeks before the day of the public hearing, by posting one notice, and at least one additional notice per 2,000 population in the [~~combined area~~] municipality and the area proposed for annexation, in places within the combined area that are most likely to give notice to the residents within, and the owners of real property located within, the combined area; or

[~~(iii)~~] (ii) at least three weeks before the day of the public hearing, by mailing notice to each residence within, and each owner of real property located within, the combined area described in Subsection (6)(a)(i);

(b) on the Utah Public Notice Website created in Section 63F-1-701, for three weeks before the day of the public hearing;

[~~(c) in accordance with Section 45-1-101, for three weeks before the day of the public hearing;~~]

[~~(d)~~] (c) by sending written notice to:

(i) the board of each local district and special service district whose boundaries contain some or all of the area proposed for annexation; and

(ii) the legislative body of the county in which the area proposed for annexation is located; and

[~~(e)~~] (d) if the municipality has a website, on the municipality's website for three weeks before the day of the public hearing.

(7) The legislative body of the annexing municipality shall ensure that:

(a) each notice described in Subsection (6):

(i) states that the municipal legislative body has adopted a resolution indicating the municipality's intent to annex the area proposed for annexation;

(ii) states the date, time, and place of the public hearing described in Subsection (5)(b);

(iii) describes the area proposed for annexation; and

(iv) except for an annexation that meets the requirements of Subsection (8)(b) or (c), states in conspicuous and plain terms that the municipal

legislative body will annex the area unless, at or before the public hearing described in Subsection (5)(b), written protests to the annexation are filed by the owners of private real property that:

(A) is located within the area proposed for annexation;

(B) covers a majority of the total private land area within the entire area proposed for annexation; and

(C) is equal in value to at least 1/2 the value of all private real property within the entire area proposed for annexation; and

(b) the first publication of the notice described in Subsection (6)(a) occurs within 14 days after the day on which the municipal legislative body adopts a resolution under Subsection (5)(a).

(8) (a) Except as provided in Subsections (8)(b)(i) and (8)(c)(i), upon conclusion of the public hearing described in Subsection (5)(b), the municipal legislative body may adopt an ordinance approving the annexation of the area proposed for annexation under this section unless, at or before the hearing, written protests to the annexation have been filed with the recorder or clerk of the municipality by the owners of private real property that:

(i) is located within the area proposed for annexation;

(ii) covers a majority of the total private land area within the entire area proposed for annexation; and

(iii) is equal in value to at least 1/2 the value of all private real property within the entire area proposed for annexation.

(b) (i) Notwithstanding Subsection (8)(a), upon conclusion of the public hearing described in Subsection (5)(b), a municipality may adopt an ordinance approving the annexation of the area proposed for annexation under this section without allowing or considering protests under Subsection (8)(a) if the owners of at least 75% of the total private land area within the entire area proposed for annexation, representing at least 75% of the value of the private real property within the entire area proposed for annexation, have consented in writing to the annexation.

(ii) Upon the effective date under Section 10-2-425 of an annexation approved by an ordinance adopted under Subsection (8)(b)(i), the area annexed is conclusively presumed to be validly annexed.

(c) (i) Notwithstanding Subsection (8)(a), upon conclusion of the public hearing described in Subsection (5)(b), a municipality may adopt an ordinance approving the annexation of an area that the county legislative body proposes for annexation under this section without allowing or considering protests under Subsection (8)(a) if the county legislative body has formally recommended annexation to the annexing municipality and has made a formal finding that:

(A) the area to be annexed can be more efficiently served by the municipality than by the county;

(B) the area to be annexed is not likely to be naturally annexed by the municipality in the future as the result of urban development;

(C) annexation of the area is likely to facilitate the consolidation of overlapping functions of local government; and

(D) annexation of the area is likely to result in an equitable distribution of community resources and obligations.

(ii) The county legislative body may base the finding required in Subsection (8)(c)(i)(B) on:

(A) existing development in the area;

(B) natural or other conditions that may limit the future development of the area; or

(C) other factors that the county legislative body considers relevant.

(iii) A county legislative body may make the recommendation for annexation required in Subsection (8)(c)(i) for only a portion of an unincorporated island if, as a result of information provided at the public hearing, the county legislative body makes a formal finding that it would be equitable to leave a portion of the island unincorporated.

(iv) If a county legislative body has made a recommendation of annexation under Subsection (8)(c)(i):

(A) the relevant municipality is not required to proceed with the recommended annexation; and

(B) if the relevant municipality proceeds with annexation, the municipality shall annex the entire area that the county legislative body recommended for annexation.

(v) Upon the effective date under Section 10-2-425 of an annexation approved by an ordinance adopted under Subsection (8)(c)(i), the area annexed is conclusively presumed to be validly annexed.

(9) (a) Except as provided in Subsections (8)(b)(i) and (8)(c)(i), if protests are timely filed under Subsection (8)(a), the municipal legislative body may not adopt an ordinance approving the annexation of the area proposed for annexation, and the annexation proceedings under this section shall be considered terminated.

(b) Subsection (9)(a) does not prohibit the municipal legislative body from excluding from a proposed annexation under Subsection (2)(b) the property within an unincorporated island regarding which protests have been filed and proceeding under Subsection (3) to annex some or all of the remaining portion of the unincorporated island.

Section 6. Section 10-2-419 is amended to read:

10-2-419. Boundary adjustment -- Notice and hearing -- Protest.

(1) The legislative bodies of two or more municipalities having common boundaries may adjust their common boundaries as provided in this section.

(2) The legislative body of each municipality intending to adjust a boundary that is common with another municipality shall:

(a) adopt a resolution indicating the intent of the municipal legislative body to adjust a common boundary; and

(b) hold a public hearing on the proposed adjustment no less than 60 days after the adoption of the resolution under Subsection (2)(a).

(3) A legislative body described in Subsection (2) shall publish notice of a public hearing described in Subsection (2)(b):

[~~(a) (i) at least once a week for three successive weeks before the public hearing in a newspaper of general circulation within the municipality;~~]

[~~(ii) if there is no newspaper of general circulation within the municipality,~~]

(a) (i) at least three weeks before the day of the public hearing, by posting one notice, and at least one additional notice per 2,000 population of the municipality, in places within the municipality that are most likely to give notice to residents of the municipality; or

[~~(iii)~~] (ii) at least three weeks before the day of the public hearing, by mailing notice to each residence in the municipality;

(b) on the Utah Public Notice Website created in Section 63F-1-701, for three weeks before the day of the public hearing;

[~~(c) in accordance with Section 45-1-101, for three weeks before the day of the public hearing;~~]

[~~(d)~~] (c) if the proposed boundary adjustment may cause any part of real property owned by the state to be within the geographic boundary of a different local governmental entity than before the adjustment, by providing written notice, at least 50 days before the day of the public hearing, to:

(i) the title holder of any state-owned real property described in this Subsection (3)(d); and

(ii) the Utah State Developmental Center Board, created under Section [~~62A-5-202~~] 62A-5-202.2, if any state-owned real property described in this Subsection (3)(d) is associated with the Utah State Developmental Center; and

[~~(e)~~] (d) if the municipality has a website, on the municipality's website for three weeks before the day of the public hearing.

(4) The notice described in Subsection (3) shall:

(a) state that the municipal legislative body has adopted a resolution indicating the municipal legislative body's intent to adjust a boundary that the municipality has in common with another municipality;

(b) describe the area proposed to be adjusted;

(c) state the date, time, and place of the public hearing described in Subsection (2)(b);

(d) state in conspicuous and plain terms that the municipal legislative body will adjust the boundaries unless, at or before the public hearing described in Subsection (2)(b), a written protest to the adjustment is filed by:

(i) an owner of private real property that:

(A) is located within the area proposed for adjustment;

(B) covers at least 25% of the total private land area within the area proposed for adjustment; and

(C) is equal in value to at least 15% of the value of all private real property within the area proposed for adjustment; or

(ii) a title holder of state-owned real property described in Subsection (3)(d);

(e) state that the area that is the subject of the boundary adjustment will, because of the boundary adjustment, be automatically annexed to a local district providing fire protection, paramedic, and emergency services or a local district providing law enforcement service, as the case may be, as provided in Section 17B-1-416, if:

(i) the municipality to which the area is being added because of the boundary adjustment is entirely within the boundaries of a local district:

(A) that provides fire protection, paramedic, and emergency services or law enforcement service, respectively; and

(B) in the creation of which an election was not required because of Subsection 17B-1-214(3)(c); and

(ii) the municipality from which the area is being taken because of the boundary adjustment is not within the boundaries of the local district; and

(f) state that the area proposed for annexation to the municipality will be automatically withdrawn from a local district providing fire protection, paramedic, and emergency services, as provided in Subsection 17B-1-502(2), if:

(i) the municipality to which the area is being added because of the boundary adjustment is not within the boundaries of a local district:

(A) that provides fire protection, paramedic, and emergency services; and

(B) in the creation of which an election was not required because of Subsection 17B-1-214(3)(c); and

(ii) the municipality from which the area is being taken because of the boundary adjustment is entirely within the boundaries of the local district.

[~~(5) The first publication of the notice described in Subsection (3)(a)(i) shall be within 14 days after the day on which the municipal legislative body adopts a resolution under Subsection (2)(a).~~]

[~~(6)~~] (5) Upon conclusion of the public hearing described in Subsection (2)(b), the municipal legislative body may adopt an ordinance approving the adjustment of the common boundary unless, at or before the hearing described in Subsection (2)(b), a written protest to the adjustment is filed with the city recorder or town clerk by a person described in Subsection (3)(d)(i) or (ii).

[~~(7)~~] (6) The municipal legislative body shall comply with the requirements of Section 10-2-425 as if the boundary adjustment were an annexation.

[~~(8)~~] (7) (a) An ordinance adopted under Subsection [~~(6)~~] (5) becomes effective when each municipality involved in the boundary adjustment has adopted an ordinance under Subsection [~~(6)~~] (5).

(b) The effective date of a boundary adjustment under this section is governed by Section 10-2-425.

Section 7. Section 10-2-502.5 is amended to read:

10-2-502.5. Hearing on request for disconnection -- Determination by municipal legislative body -- Petition in district court.

(1) No sooner than [~~seven calendar days after, and no later than 30 calendar days after, the last day on which the petitioner publishes the notice required under Subsection 10-2-501(3)(a)~~] three weeks after notice is provided under Subsection 10-2-501(3), the legislative body of the municipality in which the area proposed for disconnection is located shall hold a public hearing.

(2) The municipal legislative body shall provide notice of the public hearing:

(a) at least seven days before the hearing date, in writing to the petitioner and to the legislative body of the county in which the area proposed for disconnection is located;

[~~(b) (i) at least seven days before the hearing date, by publishing notice in a newspaper of general circulation within the municipality;~~]

[~~(ii) if there is no newspaper of general circulation within the municipality,~~]

(b) (i) at least seven days before the hearing date, by posting one notice, and at least one additional notice per 2,000 population of the municipality, in places within the municipality that are most likely to give notice to residents within, and the owners of real property located within, the municipality; or

[~~(iii)~~] (ii) at least 10 days before the hearing date, by mailing notice to each residence within, and each owner of real property located within, the municipality;

(c) on the Utah Public Notice Website created in Section 63F-1-701, for seven days before the hearing date; and

[~~(d) in accordance with Section 45-1-101, for seven days before the hearing date; and~~]

[~~(c)~~] (d) if the municipality has a website, on the municipality's website for seven days before the hearing date.

(3) In the public hearing, any person may speak and submit documents regarding the disconnection proposal.

(4) Within 45 calendar days of the hearing, the municipal legislative body shall:

(a) determine whether to grant the request for disconnection; and

(b) if the municipality determines to grant the request, adopt an ordinance approving disconnection of the area from the municipality.

(5) (a) A petition against the municipality challenging the municipal legislative body's determination under Subsection (4) may be filed in district court by:

(i) the petitioner; or

(ii) the county in which the area proposed for disconnection is located.

(b) Each petition under Subsection (5)(a) shall include a copy of the request for disconnection.

Section 8. Section 10-2-607 is amended to read:

10-2-607. Notice of election.

If the county legislative bodies find that the resolution or petition for consolidation and their attachments substantially conform with the requirements of this part, the county legislative bodies shall publish notice of the election for consolidation to the voters of each municipality that would become part of the consolidated municipality:

[~~(1) (a) in a newspaper of general circulation within the boundaries of the municipality at least once a week for four consecutive weeks before the election;~~]

[~~(b) if there is no newspaper of general circulation in the municipality,~~]

(1) (a) at least four weeks before the day of the election, by posting one notice, and at least one additional notice per 2,000 population of the municipality, in places within the municipality that are most likely to give notice to the voters in the municipality; or

[~~(c)~~] (b) at least four weeks before the day of the election, by mailing notice to each registered voter in the municipality;

(2) on the Utah Public Notice Website created in Section 63F-1-701, for at least four weeks before the day of the election; and

[~~(3) in accordance with Section 45-1-101, for at least four weeks before the day of the election; and~~]

[~~(4)~~] (3) if the municipality has a website, on the municipality's website for at least four weeks before the day of the election.

Section 9. Section 10-2-703 is amended to read:

10-2-703. Publication of notice of election.

(1) Immediately after setting the date for the election, the court shall order for publication notice of the:

(a) petition; and

(b) date the election is to be held to determine the question of dissolution.

(2) The notice described in Subsection (1) shall be published:

[~~(a) (i) for at least once a week for a period of four weeks before the election in a newspaper of general circulation in the municipality;~~]

[~~(ii) if there is no newspaper of general circulation in the municipality,~~]

(a) (i) at least four weeks before the day of the election, by posting one notice, and at least one additional notice per 2,000 population of the municipality, in places within the municipality that are most likely to give notice to the voters in the municipality; or

[~~(iii)~~] (ii) at least one month before the day of the election, by mailing notice to each registered voter in the municipality;

(b) on the Utah Public Notice Website created in Section 63F-1-701, for four weeks before the day of the election; and

[~~(c) in accordance with Section 45-1-101, for four weeks before the day of the election; and~~]

[~~(d)~~] (c) if the municipality has a website, on the municipality's website for four weeks before the day of the election.

Section 10. Section 10-2-708 is amended to read:

10-2-708. Notice of disincorporation -- Publication and filing.

When a municipality has been dissolved, the clerk of the court shall publish notice of the dissolution:

[~~(1) (a) in a newspaper of general circulation in the county in which the municipality is located at least once a week for four consecutive weeks;~~]

[~~(b) if there is no newspaper of general circulation in the county in which the municipality is located,~~]

(1) (a) by posting one notice, and at least one additional notice per 2,000 population of the county in places within the county that are most likely to give notice to the residents within, and the owners of real property located within, the county, including the residents and owners within the municipality that is dissolved; or

[~~(c)~~] (b) by mailing notice to each residence within, and each owner of real property located within, the county;

(2) on the Utah Public Notice Website created in Section 63F-1-701, for four weeks;

[~~(3) in accordance with Section 45-1-101, for four weeks;~~]

[~~(4)~~] (3) if the municipality has a website, on the municipality's website for four weeks; and

[~~(5)~~] (4) on the county's website for four weeks.

Section 11. Section 10-2a-207 is amended to read:

10-2a-207. Public hearings on feasibility study results -- Notice of hearings.

(1) If the results of the feasibility study or supplemental feasibility study comply with Subsection 10-2a-205(6)(a), the lieutenant governor shall, after receipt of the results of the feasibility study or supplemental feasibility study, conduct at least two public hearings:

(a) within 60 days after the day on which the lieutenant governor receives the results;

(b) at least seven days apart;

(c) except in a proposed municipality that will be a city of the fifth class or a town, in geographically diverse locations;

(d) within or near the proposed municipality;

(e) to allow the feasibility consultant to present the results of the feasibility study; and

(f) to inform the public about the results of the feasibility study.

(2) At each public hearing described in Subsection (1), the lieutenant governor shall:

(a) provide a map or plat of the boundary of the proposed municipality;

(b) provide a copy of the feasibility study for public review;

(c) allow members of the public to express views about the proposed incorporation, including views about the proposed boundaries; and

(d) allow the public to ask the feasibility consultant questions about the feasibility study.

(3) The lieutenant governor shall publish notice of the public hearings described in Subsection (1):

[~~(a) (i) at least once a week for three consecutive weeks before the first public hearing in a newspaper of general circulation within the proposed municipality;~~]

[~~(ii) if there is no newspaper of general circulation in the proposed municipality,~~]

(a) (i) at least three weeks before the day of the first public hearing, by posting one notice, and at least one additional notice per 2,000 population of the proposed municipality, in places within the proposed municipality that are most likely to give notice to the residents within, and the owners of real property located within, the proposed municipality; or

[~~(iii)~~] (ii) at least three weeks before the first public hearing, by mailing notice to each residence within, and each owner of real property located within, the proposed municipality;

(b) on the Utah Public Notice Website created in Section 63F-1-701, for three weeks before the day of the first public hearing; and

[~~(c) in accordance with Section 45-1-101, for three weeks before the day of the first public hearing; and~~]

[~~(d)~~] (c) on the lieutenant governor's website for three weeks before the day of the first public hearing.

[~~(4) The last notice required to be published under Subsection (3)(a)(i) shall be at least three days before the first public hearing required under Subsection (1).~~]

[~~(5)~~] (4) (a) Except as provided in Subsection [~~(5)~~] (4)(b), the notice described in Subsection (3) shall include the feasibility study summary described in Subsection 10-2a-205(3)(c) and shall indicate that a full copy of the study is available on the lieutenant governor's website and for inspection at the Office of the Lieutenant Governor.

(b) Instead of publishing the feasability summary under Subsection [~~(5)~~] (4)(a), the lieutenant governor may publish a statement that specifies the following sources where a resident within, or the owner of real property located within, the proposed municipality, may view or obtain a copy of the feasability study:

(i) the lieutenant governor's website;

(ii) the physical address of the Office of the Lieutenant Governor; and

(iii) a mailing address and telephone number.

Section 12. Section 10-2a-210 is amended to read:

10-2a-210. Incorporation election.

(1) (a) If the lieutenant governor certifies a petition under Subsection 10-2a-209(1)(b), the lieutenant governor shall schedule an incorporation election for the proposed municipality described in the petition to be held on the date of the next regular general election described in Section 20A-1-201, or the next municipal general election described in Section 20A-1-202, that is at least 65 days after the day on which the lieutenant governor certifies the petition.

(b) (i) The lieutenant governor shall direct the county legislative body of the county in which the proposed municipality is located to hold the election on the date that the lieutenant governor schedules under Subsection (1)(a).

(ii) The county shall hold the election as directed by the lieutenant governor under Subsection (1)(b)(i).

(2) The county clerk shall publish notice of the election:

[~~(a) (i) in a newspaper of general circulation within the area proposed to be incorporated at least once a week for three successive weeks before the election;~~]

[~~(ii) if there is no newspaper of general circulation in the area proposed to be incorporated,~~]

(a) (i) at least three weeks before the day of the election, by posting one notice, and at least one additional notice per 2,000 population of the area proposed to be incorporated, in places within the area proposed to be incorporated that are most likely to give notice to the voters within the area proposed to be incorporated; or

[~~(iii)~~] (ii) at least three weeks before the day of the election, by mailing notice to each registered voter in the area proposed to be incorporated;

(b) on the Utah Public Notice Website created in Section 63F-1-701, for three weeks before the day of the election;

[~~(c) in accordance with Section 45-1-101, for three weeks before the day of the election;~~]

[~~(d)~~] (c) if the proposed municipality has a website, on the proposed municipality's website for three weeks before the day of the election; and

[~~(e)~~] (d) on the county's website for three weeks before the day of the election.

(3) (a) The notice required by Subsection (2) shall contain:

(i) a statement of the contents of the petition;

(ii) a description of the area proposed to be incorporated as a municipality;

(iii) a statement of the date and time of the election and the location of polling places; and

(iv) except as provided in Subsection (3)(c), the feasibility study summary described in Subsection 10-2a-205(3)(c) and a statement that a full copy of the study is available on the lieutenant governor's website and for inspection at the Office of the Lieutenant Governor.

[~~(b) The last notice required to be published under Subsection (2)(a)(i) shall be published at least one day, but no more than seven days, before the day of the election.~~]

[~~(c)~~] (b) Instead of publishing the feasibility summary under Subsection (3)(a)(iv), the notice may include a statement that specifies the following sources where a registered voter in area proposed to be incorporated may view or obtain a copy the feasibility study:

(i) the lieutenant governor's website;

(ii) the physical address of the Office of the Lieutenant Governor; and

(iii) a mailing address and telephone number.

(4) An individual may not vote in an incorporation election under this section unless the individual is a registered voter who resides, as defined in Section 20A-1-102, within the boundaries of the proposed municipality.

(5) If a majority of those who vote in an incorporation election held under this section cast votes in favor of incorporation, the area shall incorporate.

Section 13. Section 10-2a-213 is amended to read:

10-2a-213. Determination of number of council members -- Determination of election districts -- Hearings and notice.

(1) If the incorporation proposal passes, the petition sponsors shall, within 60 days after the day on which the county conducts the canvass of the election under Section 10-2a-212:

(a) for the incorporation of a city:

(i) if the voters at the incorporation election choose the council-mayor form of government, determine the number of council members that will constitute the city council of the city; and

(ii) if the voters at the incorporation election vote to elect council members by district, determine the number of council members to be elected by district and draw the boundaries of those districts, which shall be substantially equal in population; and

(b) for the incorporation of any municipality:

(i) determine the initial terms of the mayor and members of the municipal council so that:

(A) the mayor and approximately half the members of the municipal council are elected to serve an initial term, of no less than one year, that allows the mayor's and members' successors to serve a full four-year term that coincides with the schedule established in Subsection 10-3-205(1); and

(B) the remaining members of the municipal council are elected to serve an initial term, of no less than one year, that allows the members' successors to serve a full four-year term that coincides with the schedule established in Subsection 10-3-205(2); and

(ii) submit in writing to the county legislative body the results of the determinations made by the sponsors under Subsections (1)(a) and (b)(i).

(2) A newly incorporated town shall operate under the five-member council form of government as defined in Section 10-3b-102.

(3) Before making a determination under Subsection (1)(a) or (b)(i), the petition sponsors shall hold a public hearing within the future municipality on the applicable issues described in Subsections (1)(a) and (b)(i).

(4) The petition sponsors shall publish notice of the public hearing described in Subsection (3):

[~~(a) (i) in a newspaper of general circulation within the future municipality at least once a week for two successive weeks before the public hearing;~~]

[~~(ii) if there is no newspaper of general circulation in the future municipality,~~]

(a) (i) at least two weeks before the day of the public hearing, by posting one notice, and at least one additional notice per 2,000 population of the future municipality, in places within the future municipality that are most likely to give notice to the residents within, and the owners of real property located within, the future municipality; or

[~~(iii)~~] (ii) at least two weeks before the day of the public hearing, by mailing notice to each residence within, and each owner of real property located within, the future municipality;

(b) on the Utah Public Notice Website created in Section 63F-1-701, for two weeks before the day of the public hearing;

[~~(c) in accordance with Section 45-1-101, for at least two weeks before the day of the public hearing;~~]

[~~(d)~~] (c) if the future municipality has a website, for two weeks before the day of the public hearing; and

[~~(e)~~] (d) on the county's website for two weeks before the day of the public hearing.

[~~(5) The last notice required to be published under Subsection (4)(a)(i) shall be published at least three days before the day of the public hearing described in Subsection (3).~~]

Section 14. Section 10-2a-214 is amended to read:

10-2a-214. Notice of number of commission or council members to be elected and of district boundaries -- Declaration of candidacy for municipal office.

(1) Within 20 days after the day on which a county legislative body receives the petition sponsors' determination under Subsection 10-2a-213(1)(b)(ii), the county clerk shall publish, in accordance with Subsection (2), notice containing:

(a) the number of municipal council members to be elected for the new municipality;

(b) except as provided in Subsection (3), if some or all of the municipal council members are to be elected by district, a description of the boundaries of those districts;

(c) information about the deadline for an individual to file a declaration of candidacy to become a candidate for mayor or municipal council; and

(d) information about the length of the initial term of each of the municipal officers.

(2) The county clerk shall publish the notice described in Subsection (1):

[~~(a) (i) in a newspaper of general circulation within the future municipality at least once a week for two consecutive weeks;~~]

[~~(ii) if there is no newspaper of general circulation in the future municipality,~~]

(a) (i) by posting one notice, and at least one additional notice per 2,000 population of the future municipality, in places within the future municipality that are most likely to give notice to the residents in the future municipality; or

[~~(iii)~~] (ii) by mailing notice to each residence in the future municipality;

(b) on the Utah Public Notice Website created in Section 63F-1-701, for two weeks;

[~~(c) in accordance with Section 45-1-101, for two weeks;~~]

[~~(d)~~] (c) if the future municipality has a website, on the future municipality's website for two weeks; and

[~~(e)~~] (d) on the county's website for two weeks.

(3) Instead of publishing the district boundaries described in Subsection (1)(b), the notice may include a statement that specifies the following sources where a resident of the future municipality may view or obtain a copy the district:

(a) the county website;

(b) the physical address of the county offices; and

(c) a mailing address and telephone number.

(4) Notwithstanding Subsection 20A-9-203(3)(a), each individual seeking to become a candidate for mayor or municipal council of a municipality incorporating under this part shall file a declaration of candidacy with the clerk of the county in which the future municipality is located and in accordance with:

(a) for an incorporation held on the date of a regular general election, the deadlines for filing a declaration of candidacy under Section 20A-9-202; or

(b) for an incorporation held on the date of a municipal general election, the deadlines for filing a declaration of candidacy under Section 20A-9-203.

Section 15. Section 10-2a-215 is amended to read:

10-2a-215. Election of officers of new municipality -- Primary and final election dates -- County clerk duties -- Candidate duties -- Occupation of office.

(1) For the election of municipal officers, the county legislative body shall:

(a) unless a primary election is prohibited under Subsection 20A-9-404(2), hold a primary election; and

(b) unless the election may be cancelled in accordance with Section 20A-1-206, hold a final election.

(2) Each election described in Subsection (1) shall be held:

(a) consistent with the petition sponsors' determination of the length of each council member's initial term; and

(b) for the incorporation of a city:

(i) appropriate to the form of government chosen by the voters at the incorporation election;

(ii) consistent with the voters' decision about whether to elect city council members by district and, if applicable, consistent with the boundaries of those districts as determined by the petition sponsors; and

(iii) consistent with the sponsors' determination of the number of city council members to be elected.

(3) (a) Subject to Subsection (3)(b), and notwithstanding Subsection 20A-1-201.5(2), the primary election described in Subsection (1)(a) shall be held at the earliest of the next:

(i) regular primary election described in Subsection 20A-1-201.5(1); or

(ii) municipal primary election described in Section 20A-9-404.

(b) The county shall hold the primary election, if necessary, on the next election date described in Subsection (3)(a) that is after the incorporation election conducted under Section 10-2a-210.

(4) (a) Subject to Subsection (4)(b), the county shall hold the final election described in Subsection (1)(b):

(i) on the following election date that next follows the date of the incorporation election held under Subsection 10-2a-210(1)(a);

(ii) a regular general election described in Section 20A-1-201; or

(iii) a regular municipal general election under Section 20A-1-202.

(b) The county shall hold the final election on the earliest of the next election date that is listed in Subsection (4)(a)(i), (ii), or (iii):

(i) that is after a primary election; or

(ii) if there is no primary election, that is at least:

(A) 75 days after the incorporation election under Section 10-2a-210; and

(B) 65 days after the candidate filing period.

(5) The county clerk shall publish notice of an election under this section:

[~~(a) (i) in accordance with Subsection (6), at least once a week for two consecutive weeks before the election in a newspaper of general circulation within the future municipality;~~]

[~~(ii) if there is no newspaper of general circulation in the future municipality,~~]

(a) (i) at least two weeks before the day of the election, by posting one notice, and at least one additional notice per 2,000 population of the future municipality, in places within the future municipality that are most likely to give notice to the voters within the future municipality; or

[~~(iii)~~] (ii) at least two weeks before the day of the election, by mailing notice to each registered voter within the future municipality;

(b) on the Utah Public Notice Website created in Section 63F-1-701, for two weeks before the day of the election;

[~~(c) in accordance with Section 45-1-101, for two weeks before the day of the election;~~]

[~~(d)~~] (c) if the future municipality has a website, on the future municipality's website for two weeks before the day of the election; and

[~~(e)~~] (d) on the county's website for two weeks before the day of the election.

[~~(6) The last notice required to be published under Subsection (5)(a)(i) shall be published at least one day but no more than seven days before the day of the election.~~]

[~~(7)~~] (6) Until the municipality is incorporated, the county clerk:

(a) is the election officer for all purposes related to the election of municipal officers;

(b) may, as necessary, determine appropriate deadlines, procedures, and instructions related to the election of municipal officers for a new municipality that are not otherwise contrary to law;

(c) shall require and determine deadlines for municipal office candidates to file campaign financial disclosures in accordance with Section 10-3-208; and

(d) shall ensure that the ballot for the election includes each office that is required to be included in the election for officers of the newly incorporated municipality, including the term of each office.

[~~(8)~~] (7) An individual who has filed as a candidate for an office described in this section shall comply with:

(a) the campaign finance disclosure requirements described in Section 10-3-208; and

(b) the requirements and deadlines established by the county clerk under this section.

[~~(9)~~] (8) Notwithstanding Section 10-3-201, the officers elected at a final election described in Subsection (4)(a) shall take office:

(a) after taking the oath of office; and

(b) at noon on the first Monday following the day on which the election official transmits a certificate of nomination or election under the officer's seal to each elected candidate in accordance with Subsection 20A-4-304(4)(b).

Section 16. Section 10-2a-404 is amended to read:

10-2a-404. Election.

(1) (a) Notwithstanding Section 20A-1-203, a county of the first class shall hold a local special election on November 3, 2015, on the following ballot propositions:

(i) for registered voters residing within a planning township:

(A) whether the planning township shall be incorporated as a city or town, according to the classifications of Section 10-2-301, or as a metro township; and

(B) if the planning township incorporates as a metro township, whether the metro township is included in a municipal services district; and

(ii) for registered voters residing within an unincorporated island, whether the island should maintain its unincorporated status or be annexed into an eligible city.

(b) (i) A metro township incorporated under this part shall be governed by the five-member council in accordance with Chapter 3b, Part 5, Metro Township Council Form of Municipal Government.

(ii) A city or town incorporated under this part shall be governed by the five-member council form of government as defined in Section 10-3b-102.

(2) Unless a person is a registered voter who resides, as defined in Section 20A-1-102, within the boundaries of a planning township or an unincorporated island, the person may not vote on the proposed incorporation or annexation.

(3) The county clerk shall publish notice of the election[~~:~~] on the Utah Public Notice Website created in Section 63F-1-701 for three weeks before the election.

[~~(a) in a newspaper of general circulation within the planning township or unincorporated island at least once a week for three successive weeks; and~~]

[~~(b) in accordance with Section 45-1-101 for three weeks.~~]

(4) The notice required by Subsection (3) shall contain:

(a) for residents of a planning township:

(i) a statement that the voters will vote:

(A) to incorporate as a city or town, according to the classifications of Section 10-2-301, or as a metro township; and

(B) if the planning township incorporates as a metro township, whether the metro township is included in a municipal services district;

(ii) if applicable under Subsection 10-2a-405(5), a map showing the alteration to the planning township boundaries that would be effective upon incorporation;

(iii) a statement that if the residents of the planning township elect to incorporate:

(A) as a metro township, the metro township shall be governed by a five-member metro township council in accordance with Chapter 3b, Part 5, Metro Township Council Form of Municipal Government; or

(B) as a city or town, the city or town shall be governed by the five-member council form of government as defined in Section 10-3b-102; and

(iv) a statement of the date and time of the election and the location of polling places;

(b) for residents of an unincorporated island:

(i) a statement that the voters will vote either to be annexed into an eligible city or maintain unincorporated status; and

(ii) a statement of the eligible city, as determined by the county legislative body in accordance with Section 10-2a-405, the unincorporated island may elect to be annexed by; and

(c) a statement of the date and time of the election and the location of polling places.

[~~(5) The last publication of notice required under Subsection (3) shall occur at least one day but no more than seven days before the election.~~]

[~~(6) (a) In accordance with Subsection (3)(a), if there is no newspaper of general circulation within the proposed metro township or unincorporated island,~~]

(5) (a) In addition to the notice required under Subsection (3), the county clerk shall post at least one notice of the election per 1,000 population in conspicuous places within the planning township or unincorporated island that are most likely to give notice of the election to the voters of the proposed incorporation or annexation.

(b) The clerk shall post the notices under Subsection [~~(6)~~] (5)(a) at least seven days before the election under Subsection (1).

[~~(7)~~] (6) (a) In a planning township, if a majority of those casting votes within the planning township vote to:

(i) incorporate as a city or town, the planning township shall incorporate as a city or town, respectively; or

(ii) incorporate as a metro township, the planning township shall incorporate as a metro township.

(b) If a majority of those casting votes within the planning township vote to incorporate as a metro township, and a majority of those casting votes vote to include the metro township in a municipal services district and limit the metro township's municipal powers, the metro township shall be included in a municipal services district and have limited municipal powers.

(c) In an unincorporated island, if a majority of those casting a vote within the selected unincorporated island vote to:

(i) be annexed by the eligible city, the area shall be annexed by the eligible city; or

(ii) remain an unincorporated area, the area shall remain unincorporated.

[~~(8)~~] (7) The county shall, in consultation with interested parties, prepare and provide information on an annexation or incorporation subject to this part and an election held in accordance with this section.

Section 17. Section 10-2a-405 is amended to read:

10-2a-405. Duties of county legislative body -- Public hearing -- Notice -- Other election and incorporation issues -- Rural real property excluded.

(1) The legislative body of a county of the first class shall before an election described in Section 10-2a-404:

(a) in accordance with Subsection (3), publish notice of the public hearing described in Subsection (1)(b);

(b) hold a public hearing; and

(c) at the public hearing, adopt a resolution:

(i) identifying, including a map prepared by the county surveyor, all unincorporated islands within the county;

(ii) identifying each eligible city that will annex each unincorporated island, including whether the unincorporated island may be annexed by one eligible city or divided and annexed by multiple eligible cities, if approved by the residents at an election under Section 10-2a-404; and

(iii) identifying, including a map prepared by the county surveyor, the planning townships within the county and any changes to the boundaries of a planning township that the county legislative body proposes under Subsection (5).

(2) The county legislative body shall exclude from a resolution adopted under Subsection (1)(c) rural real property unless the owner of the rural real property provides written consent to include the property in accordance with Subsection (7).

(3) (a) The county clerk shall publish notice of the public hearing described in Subsection (1)(b):

(i) by mailing notice to each owner of real property located in an unincorporated island or planning township no later than 15 days before the day of the public hearing;

[~~(ii) at least once a week for three successive weeks in a newspaper of general circulation within each unincorporated island, each eligible city, and each planning township; and~~]

[~~(iii)~~] (ii) by posting notice on the Utah Public Notice Website created in Section 63F-1-701, for three weeks before the day of the public hearing[~~.~~]; and

[~~(b) The last publication of notice required under Subsection (3)(a)(ii) shall be at least three days before the first public hearing required under Subsection (1)(b).~~]

[~~(c) (i) If, under Subsection (3)(a)(ii), there is no newspaper of general circulation within an unincorporated island, an eligible city, or a planning township, the county clerk shall post~~]

(iii) by posting at least one notice of the hearing per 1,000 population in conspicuous places within the selected unincorporated island, eligible city, or planning township, as applicable, that are most likely to give notice of the hearing to the residents of the unincorporated island, eligible city, or planning township.

[~~(ii)~~] (b) The clerk shall post the notices under Subsection [~~(3)(c)(i)~~] (3)(a)(iii) at least seven days before the hearing under Subsection (1)(b).

[~~(d)~~] (c) The notice under Subsection (3)(a) [~~or (e)~~] shall include:

(i) (A) for a resident of an unincorporated island, a statement that the property in the unincorporated island may be, if approved at an election under Section 10-2a-404, annexed by an eligible city, including divided and annexed by multiple cities if applicable, and the name of the eligible city or cities; or

(B) for residents of a planning township, a statement that the property in the planning township shall be, pending the results of the election held under Section 10-2a-404, incorporated as a city, town, or metro township;

(ii) the location and time of the public hearing; and

(iii) the county website where a map may be accessed showing:

(A) how the unincorporated island boundaries will change if annexed by an eligible city; or

(B) how the planning township area boundaries will change, if applicable under Subsection (5), when the planning township incorporates as a metro township or as a city or town.

[~~(e)~~] (d) The county clerk shall publish a map described in Subsection (3)[~~(d)~~](c)(iii) on the county website.

(4) The county legislative body may, by ordinance or resolution adopted at a public meeting and in accordance with applicable law, resolve an issue that arises with an election held in accordance with this part or the incorporation and establishment of a metro township in accordance with this part.

(5) (a) The county legislative body may, by ordinance or resolution adopted at a public meeting, change the boundaries of a planning township.

(b) A change to a planning township boundary under this Subsection (5) is effective only upon the vote of the residents of the planning township at an election under Section 10-2a-404 to incorporate as a metro township or as a city or town and does not affect the boundaries of the planning township before the election.

(c) The county legislative body:

(i) may alter a planning township boundary under Subsection (5)(a) only if the alteration:

(A) affects less than 5% of the residents residing within the planning advisory area; and

(B) does not increase the area located within the planning township's boundaries; and

(ii) may not alter the boundaries of a planning township whose boundaries are entirely surrounded by one or more municipalities.

(6) After November 2, 2015, and before January 1, 2017, a person may not initiate an annexation or an incorporation process that, if approved, would change the boundaries of a planning township.

(7) (a) As used in this Subsection (7), "rural real property" means an area:

(i) zoned primarily for manufacturing, commercial, or agricultural purposes; and

(ii) that does not include residential units with a density greater than one unit per acre.

(b) Unless an owner of rural real property gives written consent to a county legislative body, rural real property described in Subsection (7)(c) may not be:

(i) included in a planning township identified under Subsection (1)(c); or

(ii) incorporated as part of a metro township, city, or town, in accordance with this part.

(c) The following rural real property is subject to an owner's written consent under Subsection (7)(b):

(i) rural real property that consists of 1,500 or more contiguous acres of real property consisting of one or more tax parcels;

(ii) rural real property that is not contiguous to, but used in connection with, rural real property that consists of 1,500 or more contiguous acres of real property consisting of one or more tax parcels;

(iii) rural real property that is owned, managed, or controlled by a person, company, or association, including a parent, subsidiary, or affiliate related to the owner of 1,500 or more contiguous acres of rural real property consisting of one or more tax parcels; or

(iv) rural real property that is located in whole or in part in one of the following as defined in Section 17-41-101:

(A) an agricultural protection area;

(B) an industrial protection area; or

(C) a mining protection area.

Section 18. Section 10-2a-410 is amended to read:

10-2a-410. Determination of metro township districts -- Determination of metro township or city initial officer terms -- Adoption of proposed districts.

(1) (a) If a metro township with a population of 10,000 or more is incorporated in accordance with an election held under Section 10-2a-404:

(i) each of the five metro township council members shall be elected by district; and

(ii) the boundaries of the five council districts for election and the terms of office shall be designated and determined in accordance with this section.

(b) If a metro township with a population of less than 10,000 or a town is incorporated at an election held in accordance with Section 10-2a-404, the five council members shall be elected at-large for terms as designated and determined in accordance with this section.

(c) If a city is incorporated at an election held in accordance with Section 10-2a-404:

(i) (A) the four members of the council district who are not the mayor shall be elected by district; and

(B) the boundaries of the four council districts for election and the term of office shall be designated and determined in accordance with this section; and

(ii) the mayor shall be elected at-large for a term designated and determined in accordance with this section.

(2) (a) No later than 90 days after the election day on which the metro township, city, or town is successfully incorporated under this part, the legislative body of the county in which the metro township, city, or town is located shall adopt by resolution:

(i) subject to Subsection (2)(b), for each incorporated metro township, city, or town, the council terms for a length of time in accordance with this section; and

(ii) (A) for a metro township with a population of 10,000 or more, the boundaries of the five council districts; and

(B) for a city, the boundaries of the four council districts.

(b) (i) For each metro township, city, or town, the county legislative body shall set the initial terms of the members of the metro township council, city council, or town council so that:

(A) except as provided in Subsection (2)(b)(ii), approximately half the members of the council, including the mayor in the case of a city, are elected to serve an initial term, of no less than one year, that allows their successors to serve a full four-year term that coincides with the schedule established in Subsection 10-3-205(1); and

(B) the remaining members of the council are elected to serve an initial term, of no less than one year, that allows their successors to serve a full four-year term that coincides with the schedule established in Subsection 10-3-205(2).

(ii) For a city that incorporated in a county of the first class in 2016, the term of office for the office of mayor is:

(A) three years for the initial term of office; and

(B) four years for each subsequent term of office.

(iii) For a metro township with a population of 10,000 or more, the county legislative body shall divide the metro township into five council districts that comply with Section 10-3-205.5.

(iv) For a city, the county legislative body shall divide the city into four council districts that comply with Section 10-3-205.5.

(3) (a) Within 20 days of the county legislative body's adoption of a resolution under Subsection (2), the county clerk shall publish, in accordance with Subsection (3)(b), notice containing:

(i) if applicable, a description of the boundaries, as designated in the resolution, of:

(A) for a metro township with a population of 10,000 or more, the metro township council districts; or

(B) the city council districts;

(ii) information about the deadline for filing a declaration of candidacy for those seeking to become candidates for metro township council, city council, town council, or city mayor, respectively; and

(iii) information about the length of the initial term of city mayor or each of the metro township, city, or town council offices, as described in the resolution.

(b) The county clerk shall publish the notice required under Subsection (3)(a) [~~shall be published~~]:

[~~(i) in a newspaper of general circulation within the metro township, city, or town at least once a week for two successive weeks; and~~]

[~~(ii) in accordance with Section 45-1-101 for two weeks.~~]

[~~(c) (i) In accordance with Subsection (3)(b)(i), if there is no newspaper of general circulation within the future metro township, city, or town, the county clerk shall post~~]

(i) on the Utah Public Notice Website created in Section 63F-1-701 for two weeks; and

(ii) by posting at least one notice per 1,000 population in conspicuous places within the future metro township, city, or town that are most likely to give notice to the residents of the future metro township, city, or town.

[~~(ii)~~] (c) The notice under Subsection [~~(3)(c)(i)~~] (3)(b)(ii) shall contain the information required under Subsection (3)(a).

[~~(iii)~~] (d) The county clerk shall post the notices under Subsection [~~(3)(c)(i)~~] (3)(b)(ii) at least seven days before the deadline for filing a declaration of candidacy under Subsection [~~(3)(d)~~] (4).

[~~(d)~~] (4) A person seeking to become a candidate for metro township, city, or town council or city mayor shall, in accordance with Section 20A-9-202, file a declaration of candidacy with the clerk of the county in which the metro township, city, or town is located for an election described in Section 10-2a-411.

Section 19. Section 10-3-301 is amended to read:

10-3-301. Notice -- Eligibility and residency requirements for elected municipal office -- Mayor and recorder limitations.

(1) As used in this section:

(a) "Absent" means that an elected municipal officer fails to perform official duties, including the officer's failure to attend each regularly scheduled meeting that the officer is required to attend.

(b) "Principal place of residence" means the same as that term is defined in Section 20A-2-105.

(c) "Secondary residence" means a place where an individual resides other than the individual's principal place of residence.

(2) (a) On or before May 1 in a year in which there is a municipal general election, the municipal clerk shall publish a notice that identifies:

(i) the municipal offices to be voted on in the municipal general election; and

(ii) the dates for filing a declaration of candidacy for the offices identified under Subsection (2)(a)(i).

(b) The municipal clerk shall publish the notice described in Subsection (2)(a):

(i) on the Utah Public Notice Website established by Section 63F-1-701; and

(ii) in at least one of the following ways:

(A) at the principal office of the municipality;

[~~(B) in a newspaper of general circulation within the municipality at least once a week for two successive weeks in accordance with Section 45-1-101;~~]

[~~(C)~~] (B) in a newsletter produced by the municipality;

[~~(D)~~] (C) on a website operated by the municipality; or

[~~(E)~~] (D) with a utility enterprise fund customer's bill.

(3) (a) An individual who files a declaration of candidacy for a municipal office shall comply with the requirements described in Section 20A-9-203.

(b) (i) Except as provided in Subsection (3)(b)(ii), the city recorder or town clerk of each municipality shall maintain office hours 8 a.m. to 5 p.m. on the dates described in Subsections 20A-9-203(3)(a)(i) and (c)(i) unless the date occurs on a:

(A) Saturday or Sunday; or

(B) state holiday as listed in Section 63G-1-301.

(ii) If on a regular basis a city recorder or town clerk maintains an office schedule that is less than 40 hours per week, the city recorder or town clerk may comply with Subsection (3)(b)(i) without maintaining office hours by:

(A) posting the recorder's or clerk's contact information, including a phone number and email address, on the recorder's or clerk's office door, the main door to the municipal offices, and, if available, on the municipal website; and

(B) being available from 8 a.m. to 5 p.m. on the dates described in Subsection (3)(b)(i), via the contact information described in Subsection (3)(b)(ii)(A).

(4) An individual elected to municipal office shall be a registered voter in the municipality in which the individual is elected.

(5) (a) Each elected officer of a municipality shall maintain a principal place of residence within the municipality, and within the district that the elected officer represents, during the officer's term of office.

(b) Except as provided in Subsection (6), an elected municipal office is automatically vacant if the officer elected to the municipal office, during the officer's term of office:

(i) establishes a principal place of residence outside the district that the elected officer represents;

(ii) resides at a secondary residence outside the district that the elected officer represents for a continuous period of more than 60 days while still maintaining a principal place of residence within the district;

(iii) is absent from the district that the elected officer represents for a continuous period of more than 60 days; or

(iv) fails to respond to a request, within 30 days after the day on which the elected officer receives the request, from the county clerk or the lieutenant governor seeking information to determine the officer's residency.

(6) (a) Notwithstanding Subsection (5), if an elected municipal officer obtains the consent of the municipal legislative body in accordance with Subsection (6)(b) before the expiration of the 60-day period described in Subsection (5)(b)(ii) or (iii), the officer may:

(i) reside at a secondary residence outside the district that the elected officer represents while still maintaining a principal place of residence within the district for a continuous period of up to one year during the officer's term of office; or

(ii) be absent from the district that the elected officer represents for a continuous period of up to one year during the officer's term of office.

(b) At a public meeting, the municipal legislative body may give the consent described in Subsection (6)(a) by majority vote after taking public comment regarding:

(i) whether the legislative body should give the consent; and

(ii) the length of time to which the legislative body should consent.

(7) (a) The mayor of a municipality may not also serve as the municipal recorder or treasurer.

(b) The recorder of a municipality may not also serve as the municipal treasurer.

(c) An individual who holds a county elected office may not, at the same time, hold a municipal elected office.

(d) The restriction described in Subsection (7)(c) applies regardless of whether the individual is elected to the office or appointed to fill a vacancy in the office.

Section 20. Section 10-3-711 is amended to read:

10-3-711. Publication and posting of ordinances.

(1) Before an ordinance may take effect, the legislative body of each municipality adopting an ordinance, except an ordinance enacted under Section 10-3-706, 10-3-707, 10-3-708, 10-3-709, or 10-3-710, shall:

(a) deposit a copy of the ordinance in the office of the municipal recorder; and

(b) (i) publish a short summary of the ordinance [~~at least once:~~] on the Utah Public Notice Website created in Section 63F-1-701; or

[~~(A) in a newspaper published within the municipality; or~~]

[~~(B) if there is no newspaper published within the municipality, in a newspaper of general circulation within the municipality; or~~]

(ii) post a complete copy of the ordinance:

(A) for a city of the first class, in nine public places within the city; or

(B) for any other municipality, in three public places within the municipality.

(2) (a) Any ordinance, code, or book, other than the state code, relating to building or safety standards, municipal functions, administration, control, or regulations, may be adopted and shall take effect without further publication or posting, if reference is made to the code or book and at least one copy has been filed for use and examination by the public in the office of the recorder or clerk of the city or town prior to the adoption of the ordinance by the governing body.

(b) Any state law relating to building or safety standards, municipal functions, administration, control, or regulations, may be adopted and shall take effect without further publication or posting if reference is made to the state code.

(c) The ordinance adopting the code or book shall be published in the manner provided in this section.

Section 21. Section 10-5-108 is amended to read:

10-5-108. Budget hearing -- Notice -- Adjustments.

(1) Prior to the adoption of the final budget or an amendment to a budget, a town council shall hold a public hearing to receive public comment.

(2) The town council shall provide notice of the place, purpose, and time of the public hearing by [~~publishing~~] posting notice at least seven days before the hearing:

[~~(a) (i) at least once in a newspaper of general circulation in the town; or~~]

[~~(ii) if there is no newspaper of general circulation, then by posting the notice~~]

(a) in three public places at least 48 hours before the hearing;

(b) on the Utah Public Notice Website created in Section 63F-1-701; and

(c) on the home page of the website, either in full or as a link, of the town or metro township, if the town or metro township has a publicly viewable website, until the hearing takes place.

(3) After the hearing, the town council, subject to Section 10-5-110, may adjust expenditures and revenues in conformity with this chapter.

Section 22. Section 10-6-113 is amended to read:

10-6-113. Budget -- Notice of hearing to consider adoption.

At the meeting at which each tentative budget is adopted, the governing body shall establish the time and place of a public hearing to consider its adoption and shall order that notice of the public hearing be published at least seven days prior to the hearing:

[~~(1) (a) in at least one issue of a newspaper of general circulation published in the county in which the city is located; or~~]

[~~(b) if there is not a newspaper as described in Subsection (1)(a),~~]

(1) in three public places within the city;

(2) on the Utah Public Notice Website created in Section 63F-1-701; and

(3) on the home page of the website, either in full or as a link, of the city or metro township, if the city or metro township has a publicly viewable website, until the hearing takes place.

Section 23. Section 10-6-152 is amended to read:

10-6-152. Notice that audit completed and available for inspection.

Within 10 days following the receipt of the audit report furnished by the independent auditor, the city auditor in cities having an auditor and the city recorder in all other cities shall:

(1) prepare [~~and publish: (a) (i) at least twice in a newspaper of general circulation published within the county,~~] a notice to the public that the audit of the city has been completed; [~~or~~]

[~~(ii) if a newspaper of general circulation is not published within the county, the notice required by this section may be posted~~]

(2) post the notice:

(a) in three public places; and

(b) on the Utah Public Notice Website created in Section 63F-1-701; and

[~~(b) a notice, published in accordance with Section 45-1-101, to the public that the audit of the city has been completed; and~~]

[~~(2)~~] (3) make a copy of the notice described in Subsection (1)(a) available for inspection at the office of the city auditor or recorder.

Section 24. Section 10-7-16 is amended to read:

10-7-16. Call for bids -- Notice -- Contents.

(1) (a) Before holding an election under Subsection 10-7-15(1)(a)(ii), the municipal legislative body shall open to bid the sale or lease of the property mentioned in Section 10-7-15.

(b) The municipal legislative body shall cause notice of the bid process to be given by publication for at least three consecutive weeks[~~:~~] on the Utah Public Notice Website created in Section 63F-1-701.

[~~(i) in a newspaper published or having general circulation in the city or town; and~~]

[~~(ii) as required in Section 45-1-101.~~]

(c) The notice described in Subsection (1) shall:

(i) give a general description of the property to be sold or leased;

(ii) specify the time when sealed bids for the property, or for a lease on the property, will be received; and

(iii) specify the time when and the place where the bids will be opened.

(2) (a) As used in this section and in Section 10-7-17, "responsible bidder" means an entity with a proven history of successful operation of an electrical generation and distribution system, or an equivalent proven history.

(b) Subject to Subsection (2)(c), a municipal legislative body may receive or refuse to receive any bid submitted for the sale or lease of the electrical works and plant.

(c) A municipal legislative body may not receive a bid unless the municipal legislative body determines that the bid is submitted by a responsible bidder.

Section 25. Section 10-7-19 is amended to read:

10-7-19. Election to authorize -- Notice -- Ballots.

(1) Subject to Subsection (2), the board of commissioners or city council of any city, or the board of trustees of any incorporated town, may aid and encourage the building of railroads by granting to any railroad company, for depot or other railroad purposes, real property of the city or incorporated town, not necessary for municipal or public purposes, upon the limitations and conditions established by the board of commissioners, city council, or board of trustees.

(2) A board of commissioners, city council, or board of trustees may not grant real property under Subsection (1) unless the grant is approved by the eligible voters of the city or town at the next municipal election, or at a special election called for that purpose by the board of commissioners, city council, or board of trustees.

(3) If the question is submitted at a special election, the election shall be held as nearly as practicable in conformity with the general election laws of the state.

(4) The board of commissioners, city council, or board of trustees shall publish notice of an election described in Subsections (2) and (3):

[~~(a) (i) in a newspaper of general circulation in the city or town once a week for four weeks before the election;~~]

[~~(ii) if there is no newspaper of general circulation in the city or town,~~]

(a) (i) at least four weeks before the day of the election, by posting one notice, and at least one additional notice per 2,000 population of the city or town, in places within the city or town that are most likely to give notice to the voters in the city or town; or

[~~(iii)~~] (ii) at least four weeks before the day of the election, by mailing notice to each registered voter in the city or town;

(b) on the Utah Public Notice Website created in Section 63F-1-701, for four weeks before the day of the election; and

[~~(c) in accordance with Section 45-1-101, for four weeks before the day of the election; and~~]

[~~(d)~~] (c) if the municipality has a website, on the municipality's website for at least four weeks before the day of the election.

(5) The board of commissioners, city council, or board of trustees shall cause ballots to be printed and provided to the eligible voters, which shall read: "For the proposed grant for depot or other railroad purposes: Yes. No."

(6) If a majority of the votes are cast in favor of the grant, the board of commissioners, city council, or board of trustees shall convey the real property to the railroad company.

Section 26. Section 10-8-2 is amended to read:

10-8-2. Appropriations -- Acquisition and disposal of property -- Municipal authority -- Corporate purpose -- Procedure -- Notice of intent to acquire real property.

(1) (a) A municipal legislative body may:

(i) appropriate money for corporate purposes only;

(ii) provide for payment of debts and expenses of the corporation;

(iii) subject to Subsections (4) and (5), purchase, receive, hold, sell, lease, convey, and dispose of real and personal property for the benefit of the municipality, whether the property is within or without the municipality's corporate boundaries, if the action is in the public interest and complies with other law;

(iv) improve, protect, and do any other thing in relation to this property that an individual could do; and

(v) subject to Subsection (2) and after first holding a public hearing, authorize municipal services or other nonmonetary assistance to be provided to or waive fees required to be paid by a nonprofit entity, whether or not the municipality receives consideration in return.

(b) A municipality may:

(i) furnish all necessary local public services within the municipality;

(ii) purchase, hire, construct, own, maintain and operate, or lease public utilities located and operating within and operated by the municipality; and

(iii) subject to Subsection (1)(c), acquire by eminent domain, or otherwise, property located inside or outside the corporate limits of the municipality and necessary for any of the purposes stated in Subsections (1)(b)(i) and (ii), subject to restrictions imposed by Title 78B, Chapter 6, Part 5, Eminent Domain, and general law for the protection of other communities.

(c) Each municipality that intends to acquire property by eminent domain under Subsection (1)(b) shall comply with the requirements of Section 78B-6-505.

(d) Subsection (1)(b) may not be construed to diminish any other authority a municipality may claim to have under the law to acquire by eminent domain property located inside or outside the municipality.

(2) (a) Services or assistance provided pursuant to Subsection (1)(a)(v) is not subject to the provisions of Subsection (3).

(b) The total amount of services or other nonmonetary assistance provided or fees waived under Subsection (1)(a)(v) in any given fiscal year may not exceed 1% of the municipality's budget for that fiscal year.

(3) It is considered a corporate purpose to appropriate money for any purpose that, in the judgment of the municipal legislative body, provides for the safety, health, prosperity, moral well-being, peace, order, comfort, or convenience of the inhabitants of the municipality subject to this Subsection (3).

(a) The net value received for any money appropriated shall be measured on a project-by-project basis over the life of the project.

(b) (i) A municipal legislative body shall establish the criteria for a determination under this Subsection (3).

(ii) A municipal legislative body's determination of value received is presumed valid unless a person can show that the determination was arbitrary, capricious, or illegal.

(c) The municipality may consider intangible benefits received by the municipality in determining net value received.

(d) (i) Before the municipal legislative body makes any decision to appropriate any funds for a corporate purpose under this section, the municipal legislative body shall hold a public hearing.

(ii) [~~The~~] At least 14 days before the date of the hearing, the municipal legislative body shall publish a notice of the hearing described in Subsection (3)(d)(i) by posting notice:

(A) [~~in a newspaper of general circulation at least 14 days before the date of the hearing or, if there is no newspaper of general circulation, by posting notice~~] in at least three conspicuous places within the municipality [~~for the same time period~~]; and

(B) on the Utah Public Notice Website created in Section 63F-1-701[~~, at least 14 days before the date of the hearing~~].

(e) (i) Before a municipality provides notice as described in Subsection (3)(d)(ii), the municipality shall perform a study that analyzes and demonstrates the purpose for an appropriation described in this Subsection (3) in accordance with Subsection (3)(e)(iii).

(ii) A municipality shall make the study described in Subsection (3)(e)(i) available at the municipality for review by interested parties at least 14 days immediately before the public hearing described in Subsection (3)(d)(i).

(iii) A municipality shall consider the following factors when conducting the study described in Subsection (3)(e)(i):

(A) what identified benefit the municipality will receive in return for any money or resources appropriated;

(B) the municipality's purpose for the appropriation, including an analysis of the way the appropriation will be used to enhance the safety, health, prosperity, moral well-being, peace, order, comfort, or convenience of the inhabitants of the municipality; and

(C) whether the appropriation is necessary and appropriate to accomplish the reasonable goals and objectives of the municipality in the area of economic development, job creation, affordable housing, elimination of a development impediment, job preservation, the preservation of historic structures and property, and any other public purpose.

(f) (i) An appeal may be taken from a final decision of the municipal legislative body, to make an appropriation.

(ii) A person shall file an appeal as described in Subsection (3)(f)(i) with the district court within 30 days after the day on which the municipal legislative body makes a decision.

(iii) Any appeal shall be based on the record of the proceedings before the legislative body.

(iv) A decision of the municipal legislative body shall be presumed to be valid unless the appealing

party shows that the decision was arbitrary, capricious, or illegal.

(g) The provisions of this Subsection (3) apply only to those appropriations made after May 6, 2002.

(h) This section applies only to appropriations not otherwise approved pursuant to Title 10, Chapter 5, Uniform Fiscal Procedures Act for Utah Towns, or Title 10, Chapter 6, Uniform Fiscal Procedures Act for Utah Cities.

(4) (a) Before a municipality may dispose of a significant parcel of real property, the municipality shall:

(i) provide reasonable notice of the proposed disposition at least 14 days before the opportunity for public comment under Subsection (4)(a)(ii); and

(ii) allow an opportunity for public comment on the proposed disposition.

(b) Each municipality shall, by ordinance, define what constitutes:

(i) a significant parcel of real property for purposes of Subsection (4)(a); and

(ii) reasonable notice for purposes of Subsection (4)(a)(i).

(5) (a) Except as provided in Subsection (5)(d), each municipality intending to acquire real property for the purpose of expanding the municipality's infrastructure or other facilities used for providing services that the municipality offers or intends to offer shall provide written notice, as provided in this Subsection (5), of its intent to acquire the property if:

(i) the property is located:

(A) outside the boundaries of the municipality; and

(B) in a county of the first or second class; and

(ii) the intended use of the property is contrary to:

(A) the anticipated use of the property under the general plan of the county in whose unincorporated area or the municipality in whose boundaries the property is located; or

(B) the property's current zoning designation.

(b) Each notice under Subsection (5)(a) shall:

(i) indicate that the municipality intends to acquire real property;

(ii) identify the real property; and

(iii) be sent to:

(A) each county in whose unincorporated area and each municipality in whose boundaries the property is located; and

(B) each affected entity.

(c) A notice under this Subsection (5) is a protected record as provided in Subsection 63G-2-305(8).

(d) (i) The notice requirement of Subsection (5)(a) does not apply if the municipality previously provided notice under Section 10-9a-203 identifying the general location within the municipality or unincorporated part of the county where the property to be acquired is located.

(ii) If a municipality is not required to comply with the notice requirement of Subsection (5)(a) because of application of Subsection (5)(d)(i), the municipality shall provide the notice specified in Subsection (5)(a) as soon as practicable after its acquisition of the real property.

Section 27. Section 10-8-15 is amended to read:

10-8-15. Waterworks -- Construction -- Extraterritorial jurisdiction.

(1) As used in this section, "affected entity" means a:

(a) county that has land use authority over land subject to an ordinance or regulation described in this section;

(b) local health department, as that term is defined in Section 26A-1-102, that has jurisdiction pursuant to Section 26A-1-108 over land subject to an ordinance or regulation described in this section;

(c) municipality that has enacted or has the right to enact an ordinance or regulation described in this section over the land subject to an ordinance or regulation described in this section; and

(d) municipality that has land use authority over land subject to an ordinance or regulation described in this section.

(2) A municipality may construct or authorize the construction of waterworks within or without the municipal limits, and for the purpose of maintaining and protecting the same from injury and the water from pollution the municipality's jurisdiction shall extend over the territory occupied by such works, and over all reservoirs, streams, canals, ditches, pipes and drains used in and necessary for the construction, maintenance and operation of the same, and over the stream or other source from which the water is taken, for 15 miles above the point from which it is taken and for a distance of 300 feet on each side of such stream and over highways along such stream or watercourse within said 15 miles and said 300 feet.

(3) The jurisdiction of a city of the first class shall additionally be over the entire watershed within the county of origin of the city of the first class and subject to Subsection (6) provided that livestock shall be permitted to graze beyond 1,000 feet from any such stream or source; and provided further, that the city of the first class shall provide a highway in and through the city's corporate limits, and so far as the city's jurisdiction extends, which may not be closed to cattle, horses, sheep, hogs, or goats driven through the city, or through any territory adjacent thereto over which the city has jurisdiction, but the board of commissioners of the city may enact ordinances placing under police regulations the manner of driving such cattle,

sheep, horses, hogs, and goats through the city, or any territory adjacent thereto over which the city has jurisdiction.

(4) A municipality may enact all ordinances and regulations necessary to carry the power herein conferred into effect, and is authorized and empowered to enact ordinances preventing pollution or contamination of the streams or watercourses from which the municipality derives the municipality's water supply, in whole or in part, for domestic and culinary purposes, and may enact ordinances prohibiting or regulating the construction or maintenance of any closet, privy, outhouse or urinal within the area over which the municipality has jurisdiction, and provide for permits for the construction and maintenance of the same.

(5) In granting a permit described in Subsection (4), a municipality may annex thereto such reasonable conditions and requirements for the protection of the public health as the municipality determines proper, and may, if determined advisable, require that all closets, privies and urinals along such streams shall be provided with effective septic tanks or other germ-destroying instrumentalities.

(6) A city of the first class may only exercise extraterritorial jurisdiction outside of the city's county of origin, as described in Subsection (3), pursuant to a written agreement with all municipalities and counties that have jurisdiction over the area where the watershed is located.

(7) (a) After July 1, 2019, a municipal legislative body that seeks to adopt an ordinance or regulation under the authority of this section shall:

(i) hold a public hearing on the proposed ordinance or regulation; and

(ii) give notice of the date, place, and time of the hearing, as described in Subsection (7)(b).

(b) At least ten days before the day on which the public hearing described in Subsection (7)(a)(i) is to be held, the notice described in Subsection (7)(a)(ii) shall be:

(i) mailed to:

(A) each affected entity;

(B) the director of the Division of Drinking Water; and

(C) the director of the Division of Water Quality; and

[~~(ii) published:~~]

[~~(A) in a newspaper of general circulation in the county in which the land subject to the proposed ordinance or regulation is located; and~~]

[~~(B)~~] (ii) published on the Utah Public Notice Website created in Section 63F-1-701.

(c) An ordinance or regulation adopted under the authority of this section may not conflict with:

(i) existing federal or state statutes; or

(ii) a rule created pursuant to a federal or state statute governing drinking water or water quality.

(d) A municipality that enacts an ordinance or regulation under the authority of this section shall:

(i) provide a copy of the ordinance or regulation to each affected entity; and

(ii) include a copy of the ordinance or regulation in the municipality's drinking water source protection plan.

Section 28. Section 10-9a-204 is amended to read:

10-9a-204. Notice of public hearings and public meetings to consider general plan or modifications.

(1) Each municipality shall provide:

(a) notice of the date, time, and place of the first public hearing to consider the original adoption or any modification of all or any portion of a general plan; and

(b) notice of each public meeting on the subject.

(2) Each notice of a public hearing under Subsection (1)(a) shall be at least 10 calendar days before the public hearing and shall be:

[~~(a) (i) published in a newspaper of general circulation in the area; and~~]

[~~(ii)~~] (a) published on the Utah Public Notice Website created in Section 63F-1-701;

(b) mailed to each affected entity; and

(c) posted:

(i) in at least three public locations within the municipality; or

(ii) on the municipality's official website.

(3) Each notice of a public meeting under Subsection (1)(b) shall be at least 24 hours before the meeting and shall be:

[~~(a) (i) submitted to a newspaper of general circulation in the area; and~~]

[~~(ii)~~] (a) published on the Utah Public Notice Website created in Section 63F-1-701; and

(b) posted:

(i) in at least three public locations within the municipality; or

(ii) on the municipality's official website.

Section 29. Section 10-9a-205 is amended to read:

10-9a-205. Notice of public hearings and public meetings on adoption or modification of land use regulation.

(1) Each municipality shall give:

(a) notice of the date, time, and place of the first public hearing to consider the adoption or any modification of a land use regulation; and

(b) notice of each public meeting on the subject.

(2) Each notice of a public hearing under Subsection (1)(a) shall be:

(a) mailed to each affected entity at least 10 calendar days before the public hearing;

(b) posted:

(i) in at least three public locations within the municipality; or

(ii) on the municipality's official website; and

[~~(c) (i) (A) published in a newspaper of general circulation in the area at least 10 calendar days before the public hearing; and~~]

[~~(B) published~~] (c) (i) posted on the Utah Public Notice Website created in Section 63F-1-701, at least 10 calendar days before the public hearing; or

(ii) mailed at least 10 days before the public hearing to:

(A) each property owner whose land is directly affected by the land use ordinance change; and

(B) each adjacent property owner within the parameters specified by municipal ordinance.

(3) Each notice of a public meeting under Subsection (1)(b) shall be posted at least 24 hours before the meeting [~~and shall be posted~~]:

(a) in at least three public locations within the municipality; or

(b) on the municipality's official website.

(4) (a) A municipality shall send a courtesy notice to each owner of private real property whose property is located entirely or partially within a proposed zoning map enactment or amendment at least 10 days before the scheduled day of the public hearing.

(b) The notice shall:

(i) identify with specificity each owner of record of real property that will be affected by the proposed zoning map or map amendments;

(ii) state the current zone in which the real property is located;

(iii) state the proposed new zone for the real property;

(iv) provide information regarding or a reference to the proposed regulations, prohibitions, and permitted uses that the property will be subject to if the zoning map or map amendment is adopted;

(v) state that the owner of real property may no later than 10 days after the day of the first public hearing file a written objection to the inclusion of the owner's property in the proposed zoning map or map amendment;

(vi) state the address where the property owner should file the protest;

(vii) notify the property owner that each written objection filed with the municipality will be provided to the municipal legislative body; and

(viii) state the location, date, and time of the public hearing described in Section 10-9a-502.

(c) If a municipality mails notice to a property owner in accordance with Subsection (2)(c)(ii) for a public hearing on a zoning map or map amendment, the notice required in this Subsection (4) may be included in or part of the notice described in Subsection (2)(c)(ii) rather than sent separately.

Section 30. Section 10-18-203 is amended to read:

10-18-203. Feasibility study on providing cable television or public telecommunications services -- Public hearings.

(1) If a feasibility consultant is hired under Section 10-18-202, the legislative body of the municipality shall require the feasibility consultant to:

(a) complete the feasibility study in accordance with this section;

(b) submit to the legislative body by no later than 180 days from the date the feasibility consultant is hired to conduct the feasibility study:

(i) the full written results of the feasibility study; and

(ii) a summary of the results that is no longer than one page in length; and

(c) attend the public hearings described in Subsection (4) to:

(i) present the feasibility study results; and

(ii) respond to questions from the public.

(2) The feasibility study described in Subsection (1) shall at a minimum consider:

(a) (i) if the municipality is proposing to provide cable television services to subscribers, whether the municipality providing cable television services in the manner proposed by the municipality will hinder or advance competition for cable television services in the municipality; or

(ii) if the municipality is proposing to provide public telecommunications services to subscribers, whether the municipality providing public telecommunications services in the manner proposed by the municipality will hinder or advance competition for public telecommunications services in the municipality;

(b) whether but for the municipality any person would provide the proposed:

(i) cable television services; or

(ii) public telecommunications services;

(c) the fiscal impact on the municipality of:

(i) the capital investment in facilities that will be used to provide the proposed:

(A) cable television services; or

(B) public telecommunications services; and

(ii) the expenditure of funds for labor, financing, and administering the proposed:

(A) cable television services; or

(B) public telecommunications services;

(d) the projected growth in demand in the municipality for the proposed:

(i) cable television services; or

(ii) public telecommunications services;

(e) the projections at the time of the feasibility study and for the next five years, of a full-cost accounting for a municipality to purchase, lease, construct, maintain, or operate the facilities necessary to provide the proposed:

(i) cable television services; or

(ii) public telecommunications services; and

(f) the projections at the time of the feasibility study and for the next five years of the revenues to be generated from the proposed:

(i) cable television services; or

(ii) public telecommunications services.

(3) For purposes of the financial projections required under Subsections (2)(e) and (f), the feasibility consultant shall assume that the municipality will price the proposed cable television services or public telecommunications services consistent with Subsection 10-18-303(5).

(4) If the results of the feasibility study satisfy the revenue requirement of Subsection 10-18-202(3), the legislative body, at the next regular meeting after the legislative body receives the results of the feasibility study, shall schedule at least two public hearings to be held:

(a) within 60 days of the meeting at which the public hearings are scheduled;

(b) at least seven days apart; and

(c) for the purpose of allowing:

(i) the feasibility consultant to present the results of the feasibility study; and

(ii) the public to:

(A) become informed about the feasibility study results; and

(B) ask questions of the feasibility consultant about the results of the feasibility study.

(5) (a) [~~Except as provided in Subsection (5)(b), the~~] The municipality shall publish notice of the public hearings required under Subsection (4) by:

[~~(i) at least once a week for three consecutive weeks in a newspaper of general circulation in the municipality and at least three days before the first public hearing required under Subsection (4); and~~]

[~~(ii)~~] (i) posting the notice on the Utah Public Notice Website created in Section 63F-1-701, for three weeks, at least three days before the first public hearing required under Subsection (4)[~~.~~]; and

[~~(b) (i) In accordance with Subsection (5)(a)(i), if there is no newspaper of general circulation in the municipality, for each 1,000 residents, the municipality shall post~~]

(ii) posting at least one notice of the hearings per 1,000 residents, in a conspicuous place within the municipality that is likely to give notice of the hearings to the greatest number of residents of the municipality.

[~~(ii)~~] (b) The municipality shall post the notices at least seven days before the first public hearing required under Subsection (4) is held.

Section 31. Section 10-18-302 is amended to read:

10-18-302. Bonding authority.

(1) In accordance with Title 11, Chapter 14, Local Government Bonding Act, the legislative body of a municipality may by resolution determine to issue one or more revenue bonds or general obligation bonds to finance the capital costs for facilities necessary to provide to subscribers:

(a) a cable television service; or

(b) a public telecommunications service.

(2) The resolution described in Subsection (1) shall:

(a) describe the purpose for which the indebtedness is to be created; and

(b) specify the dollar amount of the one or more bonds proposed to be issued.

(3) (a) A revenue bond issued under this section shall be secured and paid for:

(i) from the revenues generated by the municipality from providing:

(A) cable television services with respect to revenue bonds issued to finance facilities for the municipality's cable television services; and

(B) public telecommunications services with respect to revenue bonds issued to finance facilities for the municipality's public telecommunications services; and

(ii) notwithstanding Subsection (3)(b) and Subsection 10-18-303(3)(a), from revenues generated under Title 59, Chapter 12, Sales and Use Tax Act, if:

(A) notwithstanding Subsection 11-14-201(3) and except as provided in Subsections (4) and (5), the revenue bond is approved by the registered voters in an election held:

(I) except as provided in Subsection (3)(a)(ii)(A)(II), pursuant to the provisions of Title 11, Chapter 14, Local Government Bonding Act, that govern bond elections; and

(II) notwithstanding Subsection 11-14-203(2), at a regular general election;

(B) the revenues described in this Subsection (3)(a)(ii) are pledged as security for the revenue bond; and

(C) the municipality or municipalities annually appropriate the revenues described in this Subsection (3)(a)(ii) to secure and pay the revenue bond issued under this section.

(b) Except as provided in Subsection (3)(a)(ii), a municipality may not pay the origination, financing, or other carrying costs associated with the one or more revenue bonds issued under this section from the town or city, respectively, general funds or other enterprise funds of the municipality.

(4) (a) As used in this Subsection (4), "municipal entity" means an entity created pursuant to an agreement:

(i) under Title 11, Chapter 13, Interlocal Cooperation Act; and

(ii) to which a municipality is a party.

(b) The requirements of Subsection (3)(a)(ii)(A) do not apply to a municipality or municipal entity that issues revenue bonds, or to a municipality that is a member of a municipal entity that issues revenue bonds, if:

(i) on or before March 2, 2004, the municipality that is issuing revenue bonds or that is a member of a municipal entity that is issuing revenue bonds has published the first notice described in Subsection (4)(b)(iii);

(ii) on or before April 15, 2004, the municipality that is issuing revenue bonds or that is a member of a municipal entity that is issuing revenue bonds makes the decision to pledge the revenues described in Subsection (3)(a)(ii) as security for the revenue bonds described in this Subsection (4)(b)(ii);

(iii) (A) the municipality that is issuing the revenue bonds or the municipality that is a member of the municipal entity that is issuing the revenue bonds has[~~: (A)~~] held a public hearing for which public notice was given by publication of the notice[~~: (I) in a newspaper published in the municipality or in a newspaper of general circulation within the municipality for two consecutive weeks, with the first publication being not less than 14 days before the public hearing; and (II)~~] on the Utah Public Notice Website created in Section 63F-1-701, for two weeks before the public hearing; and

(B) the notice identifies:

(I) that the notice is given pursuant to Title 11, Chapter 14, Local Government Bonding Act;

(II) the purpose for the bonds to be issued;

(III) the maximum amount of the revenues described in Subsection (3)(a)(ii) that will be pledged in any fiscal year;

(IV) the maximum number of years that the pledge will be in effect; and

(V) the time, place, and location for the public hearing;

(iv) the municipal entity that issues revenue bonds:

(A) adopts a final financing plan; and

(B) in accordance with Title 63G, Chapter 2, Government Records Access and Management Act, makes available to the public at the time the municipal entity adopts the final financing plan:

(I) the final financing plan; and

(II) all contracts entered into by the municipal entity, except as protected by Title 63G, Chapter 2, Government Records Access and Management Act;

(v) any municipality that is a member of a municipal entity described in Subsection (4)(b)(iv):

(A) not less than 30 calendar days after the municipal entity complies with Subsection (4)(b)(iv)(B), holds a final public hearing;

(B) provides notice, at the time the municipality schedules the final public hearing, to any person who has provided to the municipality a written request for notice; and

(C) makes all reasonable efforts to provide fair opportunity for oral testimony by all interested parties; and

(vi) except with respect to a municipality that issued bonds prior to March 1, 2004, not more than 50% of the average annual debt service of all revenue bonds described in this section to provide service throughout the municipality or municipal entity may be paid from the revenues described in Subsection (3)(a)(ii).

(5) On or after July 1, 2007, the requirements of Subsection (3)(a)(ii)(A) do not apply to a municipality that issues revenue bonds if:

(a) (i) the municipality that is issuing the revenue bonds has[~~: (i)~~] held a public hearing for which public notice was given by publication of the notice[~~:(A) in a newspaper published in the municipality or in a newspaper of general circulation within the municipality for two consecutive weeks, with the first publication being not less than 14 days before the public hearing; and(B)~~] on the Utah Public Notice Website created in Section 63F-1-701, for 14 days before the public hearing; and

(ii) the notice identifies:

(A) that the notice is given pursuant to Title 11, Chapter 14, Local Government Bonding Act;

(B) the purpose for the bonds to be issued;

(C) the maximum amount of the revenues described in Subsection (3)(a)(ii) that will be pledged in any fiscal year;

(D) the maximum number of years that the pledge will be in effect; and

(E) the time, place, and location for the public hearing; and

(b) except with respect to a municipality that issued bonds prior to March 1, 2004, not more than 50% of the average annual debt service of all revenue bonds described in this section to provide service throughout the municipality or municipal

entity may be paid from the revenues described in Subsection (3)(a)(ii).

(6) A municipality that issues bonds pursuant to this section may not make or grant any undue or unreasonable preference or advantage to itself or to any private provider of:

(a) cable television services; or

(b) public telecommunications services.

Section 32. Section 10-18-303 is amended to read:

10-18-303. General operating limitations.

A municipality that provides a cable television service or a public telecommunications service under this chapter is subject to the operating limitations of this section.

(1) A municipality that provides a cable television service shall comply with:

(a) the Cable Communications Policy Act of 1984, 47 U.S.C. 521, et seq.; and

(b) the regulations issued by the Federal Communications Commission under the Cable Communications Policy Act of 1984, 47 U.S.C. 521, et seq.

(2) A municipality that provides a public telecommunications service shall comply with:

(a) the Telecommunications Act of 1996, Pub. L. 104-104;

(b) the regulations issued by the Federal Communications Commission under the Telecommunications Act of 1996, Pub. L. 104-104;

(c) Section 54-8b-2.2 relating to:

(i) the interconnection of essential facilities; and

(ii) the purchase and sale of essential services; and

(d) the rules made by the Public Service Commission of Utah under Section 54-8b-2.2.

(3) A municipality may not cross subsidize its cable television services or its public telecommunications services with:

(a) tax dollars;

(b) income from other municipal or utility services;

(c) below-market rate loans from the municipality; or

(d) any other means.

(4) (a) A municipality may not make or grant any undue or unreasonable preference or advantage to itself or to any private provider of:

(i) cable television services; or

(ii) public telecommunications services.

(b) A municipality shall apply without discrimination as to itself and to any private provider the municipality's ordinances, rules, and policies, including those relating to:

(i) obligation to serve;

(ii) access to public rights of way;

(iii) permitting;

(iv) performance bonding;

(v) reporting; and

(vi) quality of service.

(c) Subsections (4)(a) and (b) do not supersede the exception for a rural telephone company in Section 251 of the Telecommunications Act of 1996, Pub. L. 104-104.

(5) In calculating the rates charged by a municipality for a cable television service or a public telecommunications service, the municipality:

(a) shall include within its rates an amount equal to all taxes, fees, and other assessments that would be applicable to a similarly situated private provider of the same services, including:

(i) federal, state, and local taxes;

(ii) franchise fees;

(iii) permit fees;

(iv) pole attachment fees; and

(v) fees similar to those described in Subsections (5)(a)(i) through (iv); and

(b) may not price any cable television service or public telecommunications service at a level that is less than the sum of:

(i) the actual direct costs of providing the service;

(ii) the actual indirect costs of providing the service; and

(iii) the amount determined under Subsection (5)(a).

(6) (a) A municipality that provides cable television services or public telecommunications services shall establish and maintain a comprehensive price list of all cable television services or public telecommunications services offered by the municipality.

(b) The price list required by Subsection (6)(a) shall:

(i) include all terms and conditions relating to the municipality providing each cable television service or public telecommunications service offered by the municipality;

[~~(ii) (A) be published in a newspaper having general circulation in the municipality; and~~]

[~~(B) be published in accordance with Section 45-1-101; and~~]

(ii) be posted on the Utah Public Notice Website created in Section 63F-1-701; and

(iii) be available for inspection:

(A) at a designated office of the municipality; and

(B) during normal business hours.

(c) At least five days before the date a change to a municipality's price list becomes effective, the municipality shall:

(i) notify the following of the change:

(A) all subscribers to the services for which the price list is being changed; and

(B) any other persons requesting notification of any changes to the municipality's price list; and

(ii) publish notice on the Utah Public Notice Website created in Section 63F-1-701.

[~~(ii) (A) publish notice in a newspaper of general circulation in the municipality; and~~]

[~~(B) publish notice in accordance with Section 45-1-101.~~]

[~~(d) In accordance with Subsection (6)(c)(ii)(A), if there is no newspaper of general circulation in the municipality, the municipality shall publish the notice required by this Subsection (6) in a newspaper of general circulation that is nearest the municipality.~~]

[~~(e)~~] (d) A municipality may not offer a cable television service or a public telecommunications service except in accordance with the prices, terms, and conditions set forth in the municipality's price list.

(7) A municipality may not offer to provide or provide cable television services or public telecommunications services to a subscriber that does not reside within the geographic boundaries of the municipality.

(8) (a) A municipality shall keep accurate books and records of the municipality's:

(i) cable television services; and

(ii) public telecommunications services.

(b) The books and records required to be kept under Subsection (8)(a) are subject to legislative audit to verify the municipality's compliance with the requirements of this chapter including:

(i) pricing;

(ii) recordkeeping; and

(iii) antidiscrimination.

(9) A municipality may not receive distributions from the Universal Public Telecommunications Service Support Fund established in Section 54-8b-15.

Section 33. Section 11-13-219 is amended to read:

11-13-219. Publication of resolutions or agreements -- Contesting legality of resolution or agreement.

(1) As used in this section:

(a) "Enactment" means:

(i) a resolution adopted or proceedings taken by a governing body under the authority of this chapter, and includes a resolution, indenture, or other instrument providing for the issuance of bonds; and

(ii) an agreement or other instrument that is authorized, executed, or approved by a governing body under the authority of this chapter.

(b) "Governing body" means:

(i) the legislative body of a public agency; or

(ii) the governing authority of an interlocal entity created under this chapter.

(c) "Notice of agreement" means the notice authorized by Subsection (3)(c).

(d) "Notice of bonds" means the notice authorized by Subsection (3)(d).

[~~(e) "Official newspaper" means the newspaper selected by a governing body under Subsection (4)(b) to publish its enactments.~~]

(2) Any enactment taken or made under the authority of this chapter is not subject to referendum.

(3) (a) A governing body need not publish any enactment taken or made under the authority of this chapter.

(b) A governing body may provide for the publication of any enactment taken or made by it under the authority of this chapter according to the publication requirements established by this section.

(c) (i) If the enactment is an agreement, document, or other instrument, or a resolution or other proceeding authorizing or approving an agreement, document, or other instrument, the governing body may, instead of publishing the full text of the agreement, resolution, or other proceeding, publish a notice of agreement containing:

(A) the names of the parties to the agreement;

(B) the general subject matter of the agreement;

(C) the term of the agreement;

(D) a description of the payment obligations, if any, of the parties to the agreement; and

(E) a statement that the resolution and agreement will be available for review at the governing body's principal place of business during regular business hours for 30 days after the publication of the notice of agreement.

(ii) The governing body shall make a copy of the resolution or other proceeding and a copy of the contract available at its principal place of business during regular business hours for 30 days after the publication of the notice of agreement.

(d) If the enactment is a resolution or other proceeding authorizing the issuance of bonds, the governing body may, instead of publishing the full text of the resolution or other proceeding and the documents pertaining to the issuance of bonds,

publish a notice of bonds that contains the information described in Subsection 11-14-316(2).

(4) (a) If the governing body chooses to publish an enactment, notice of bonds, or notice of agreement, the governing body shall comply with the requirements of this Subsection (4).

[~~(b) If there is more than one newspaper of general circulation, or more than one newspaper, published within the boundaries of the governing body, the governing body may designate one of those newspapers as the official newspaper for all publications made under this section.~~]

[~~(c) (i) (A)~~] (b) The governing body shall [~~publish~~] post the enactment, notice of bonds, or notice of agreement [~~in:~~] on the Utah Public Notice Website created in Section 63F-1-701.

[~~(I) the official newspaper;~~]

[~~(II) the newspaper published in the municipality in which the principal office of the governmental entity is located; or~~]

[~~(III) if no newspaper is published in that municipality, in a newspaper having general circulation in the municipality; and~~]

[~~(B) as required in Section 45-1-101.~~]

[~~(ii) The governing body may publish the enactment, notice of bonds, or notice of agreement:~~]

[~~(A) (I) in a newspaper of general circulation; or~~]

[~~(II) in a newspaper that is published within the boundaries of any public agency that is a party to the enactment or agreement; and~~]

[~~(B) as required in Section 45-1-101.~~]

(5) (a) Any person in interest may contest the legality of an enactment or any action performed or instrument issued under the authority of the enactment for 30 days after the [~~publication~~] posting of the enactment, notice of bonds, or notice of agreement.

(b) After the 30 days have passed, no one may contest the regularity, formality, or legality of the enactment or any action performed or instrument issued under the authority of the enactment for any cause whatsoever.

Section 34. Section 11-14-202 is amended to read:

11-14-202. Notice of election -- Contents -- Publication -- Mailing.

(1) The governing body shall publish notice of the election:

[~~(a) (i) once per week for three consecutive weeks before the election in a newspaper of general circulation in the local political subdivision, in accordance with Section 11-14-316, the first publication occurring not less than 21, nor more than 35, days before the day of the election;~~]

[~~(ii) if there is no newspaper of general circulation in the local political subdivision,~~]

(a) (i) at least 21 days before the day of the election, by posting one notice, and at least one additional notice per 2,000 population of the local political subdivision, in places within the local political subdivision that are most likely to give notice to the voters in the local political subdivision; or

[~~(iii)~~] (ii) at least three weeks before the day of the election, by mailing notice to each registered voter in the local political subdivision;

(b) on the Utah Public Notice Website created in Section 63F-1-701, for three weeks before the day of the election; and

[~~(c) in accordance with Section 45-1-101, for three weeks before the day of the election; and~~]

[~~(d)~~] (c) if the local political subdivision has a website, on the local political subdivision's website for at least three weeks before the day of the election.

(2) When the debt service on the bonds to be issued will increase the property tax imposed upon the average value of a residence by an amount that is greater than or equal to $15 per year, the governing body shall prepare and mail either a voter information pamphlet or a notification described in Subsection (8):

(a) at least 15 days, but not more than 45 days, before the bond election;

(b) to each household containing a registered voter who is eligible to vote on the bonds; and

(c) that includes the information required by Subsections (4) and (5).

(3) The election officer may change the location of, or establish an additional:

(a) voting precinct polling place, in accordance with Subsection (6);

(b) early voting polling place, in accordance with Subsection 20A-3a-603(2); or

(c) election day voting center, in accordance with Subsection 20A-3a-703(2).

(4) The notice described in Subsection (1) and the voter information pamphlet described in Subsection (2):

(a) shall include, in the following order:

(i) the date of the election;

(ii) the hours during which the polls will be open;

(iii) the address of the Statewide Electronic Voter Information Website and, if available, the address of the election officer's website, with a statement indicating that the election officer will post on the website the location of each polling place for each voting precinct, each early voting polling place, and each election day voting center, including any changes to the location of a polling place and the location of an additional polling place;

(iv) a phone number that a voter may call to obtain information regarding the location of a polling place; and

(v) the title and text of the ballot proposition, including the property tax cost of the bond described in Subsection 11-14-206(2)(a); and

(b) may include the location of each polling place.

(5) The voter information pamphlet required by this section shall include:

(a) the information required under Subsection (4); and

(b) an explanation of the property tax impact, if any, of the issuance of the bonds, which may be based on information the governing body determines to be useful, including:

(i) expected debt service on the bonds to be issued;

(ii) a description of the purpose, remaining principal balance, and maturity date of any outstanding general obligation bonds of the issuer;

(iii) funds other than property taxes available to pay debt service on general obligation bonds;

(iv) timing of expenditures of bond proceeds;

(v) property values; and

(vi) any additional information that the governing body determines may be useful to explain the property tax impact of issuance of the bonds.

(6) (a) Except as provided in Section 20A-1-308, the election officer may, after the deadlines described in Subsections (1) and (2):

(i) if necessary, change the location of a voting precinct polling place; or

(ii) if the election officer determines that the number of voting precinct polling places is insufficient due to the number of registered voters who are voting, designate additional voting precinct polling places.

(b) Except as provided in Section 20A-1-308, if an election officer changes the location of a voting precinct polling place or designates an additional voting precinct polling place, the election officer shall, as soon as is reasonably possible, give notice of the dates, times, and location of a changed voting precinct polling place or an additional voting precinct polling place:

(i) to the lieutenant governor, for posting on the Statewide Electronic Voter Information Website;

(ii) by posting the information on the website of the election officer, if available; and

(iii) by posting notice:

(A) of a change in the location of a voting precinct polling place, at the new location and, if possible, the old location; and

(B) of an additional voting precinct polling place, at the additional voting precinct polling place.

(7) The governing body shall pay the costs associated with the notice required by this section.

(8) (a) The governing body may mail a notice printed on a postage prepaid, preaddressed return form that a person may use to request delivery of a voter information pamphlet by mail.

(b) The notice described in Subsection (8)(a) shall include:

(i) the website upon which the voter information pamphlet is available; and

(ii) the phone number a voter may call to request delivery of a voter information pamphlet by mail.

(9) A local school board shall comply with the voter information pamphlet requirements described in Section 53G-4-603.

Section 35. Section 11-14-315 is amended to read:

11-14-315. Nature and validity of bonds issued -- Applicability of other statutory provisions -- Budget provision required -- Applicable procedures for issuance.

Bonds issued under this chapter shall have all the qualities of negotiable paper, shall be incontestable in the hands of bona fide purchasers or holders for value and are not invalid for any irregularity or defect in the proceedings for their issuance and sale. This chapter is intended to afford an alternative method for the issuance of bonds by local political subdivisions and may not be so construed as to deprive any local political subdivision of the right to issue its bonds under authority of any other statute, but nevertheless this chapter shall constitute full authority for the issue and sale of bonds by local political subdivisions. The provisions of Section 11-1-1[~~, Utah Code Annotated 1953,~~] are not applicable to bonds issued under this chapter. Any local political subdivision subject to the provisions of any budget law shall in its annual budget make proper provision for the payment of principal and interest currently falling due on bonds issued hereunder, but no provision need be made in any such budget prior to the issuance of the bonds for the issuance thereof or for the expenditure of the proceeds thereof. No ordinance, resolution or proceeding in respect to the issuance of bonds hereunder shall be necessary except as herein specifically required, nor shall the publication of any resolution, proceeding or notice relating to the issuance of the bonds be necessary except as herein required. Any publication made hereunder [~~may be made in any newspaper conforming to the terms hereof in which legal notices may be published under the laws of Utah, without regard to the designation thereof as the official journal or newspaper of the local political subdivision, and as required in Section 45-1-101~~] shall be made by posting on the Utah Public Notice Website created in Section 63F-1-701. No resolution adopted or proceeding taken hereunder shall be subject to referendum petition or to an election other than as herein required. All proceedings adopted hereunder may be adopted on a single reading at any legally convened meeting of the governing body.

Section 36. Section 11-14-318 is amended to read:

11-14-318. Public hearing required.

(1) Before issuing bonds authorized under this chapter, a local political subdivision shall:

(a) in accordance with Subsection (2), provide public notice of the local political subdivision's intent to issue bonds; and

(b) hold a public hearing:

(i) if an election is required under this chapter:

(A) no sooner than 30 days before the day on which the notice of election is published under Section 11-14-202; and

(B) no later than five business days before the day on which the notice of election is published under Section 11-14-202; and

(ii) to receive input from the public with respect to:

(A) the issuance of the bonds; and

(B) the potential economic impact that the improvement, facility, or property for which the bonds pay all or part of the cost will have on the private sector.

(2) A local political subdivision shall:

(a) publish the notice required by Subsection (1)(a)[~~: (i) once each week for two consecutive weeks in the official newspaper described in Section 11-14-316 with the first publication being not less than 14 days before the public hearing required by Subsection (1)(b); and (ii)~~] on the Utah Public Notice Website, created under Section 63F-1-701, no less than 14 days before the public hearing required by Subsection (1)(b); and

(b) ensure that the notice:

(i) identifies:

(A) the purpose for the issuance of the bonds;

(B) the maximum principal amount of the bonds to be issued;

(C) the taxes, if any, proposed to be pledged for repayment of the bonds; and

(D) the time, place, and location of the public hearing; and

(ii) informs the public that the public hearing will be held for the purposes described in Subsection (1)(b)(ii).

Section 37. Section 11-14a-1 is amended to read:

11-14a-1. Notice of debt issuance.

(1) For purposes of this chapter:

(a) (i) "Debt" includes bonds, lease purchase agreements, certificates of participation, and contracts with municipal building authorities.

(ii) "Debt" does not include tax and revenue anticipation notes or refunding bonds.

(b) (i) "Local government entity" means a county, city, town, school district, local district, or special service district.

(ii) "Local government entity" does not mean an entity created by an interlocal agreement under Title 11, Chapter 13, Interlocal Cooperation Act that has assets over $10,000,000.

(c) "New debt resolution" means a resolution authorizing the issuance of debt wholly or partially to fund a rejected project.

(d) "Rejected Project" means a project for which a local government entity sought voter approval for general obligation bond financing and failed to receive that approval.

(2) Unless a local government entity complies with the requirements of this section, it may not adopt a new debt resolution.

(3) (a) Before adopting a new debt resolution, a local government entity shall:

[~~(i) advertise its intent to issue debt in a newspaper of general circulation:~~]

[~~(A) (I) at least once each week for the two weeks before the meeting at which the resolution will be considered; and~~]

[~~(II) on no less than 1/4 page or a 5 x 7 inch advertisement with type size no smaller than 18 point and surrounded by a 1/4 inch border; and~~]

[~~(B) in accordance with Section 45-1-101,~~]

(i) advertise the local government entity's intent to issue debt by posting a notice of that intent on the Utah Public Notice Website created in Section 63F-1-701, for the two weeks before the meeting at which the resolution will be considered; or

(ii) include notice of its intent to issue debt in a bill or other mailing sent to at least 95% of the residents of the local government entity.

(b) The local government entity shall ensure that the notice:

(i) except for website publication, is at least as large as the bill or other mailing that it accompanies;

(ii) is entitled, in type size no smaller than 24 point, "Intent to Issue Debt"; and

(iii) contains the information required by Subsection (3)(c).

(c) The local government entity shall ensure that the advertisement or notice described in Subsection (3)(a):

(i) identifies the local government entity;

(ii) states that the entity will meet on a day, time, and place identified in the advertisement or notice to hear public comments regarding a resolution authorizing the issuance of debt by the entity and to explain to the public the reasons for the issuance of debt;

(iii) contains:

(A) the name of the entity that will issue the debt;

(B) the purpose of the debt; and

(C) that type of debt and the maximum principal amount that may be issued;

(iv) invites all concerned citizens to attend the public hearing; and

(v) states that some or all of the proposed debt would fund a project whose general obligation bond financing was rejected by the voters.

(4) (a) The resolution considered at the hearing shall identify:

(i) the type of debt proposed to be issued;

(ii) the maximum principal amount that might be issued;

(iii) the interest rate;

(iv) the term of the debt; and

(v) how the debt will be repaid.

(b) (i) Except as provided in Subsection (4)(b)(ii), the resolution considered at the hearing need not be in final form and need not be adopted or rejected at the meeting at which the public hearing is held.

(ii) The local government entity may not, in the final resolution, increase the maximum principal amount of debt contained in the notice and discussed at the hearing.

(c) The local government entity may adopt, amend and adopt, or reject the resolution at a later meeting without recomplying with the published notice requirements of this section.

Section 38. Section 11-30-5 is amended to read:

11-30-5. Publication of order for hearing.

(1) Prior to the date set for hearing, the clerk of the court shall cause the order to be published[~~:~~] by posting the order on the Utah Public Notice Website created in Section 63F-1-701 for three weeks.

[~~(a) once each week for three consecutive weeks:~~]

[~~(i) in a newspaper published or of general circulation within the boundaries of the public body; or~~]

[~~(ii) if the public body has no defined boundaries or there is no newspaper published or of general circulation within the defined boundaries, a newspaper reasonably calculated to notify all parties, which has been approved by the court; and~~]

[~~(b) in accordance with Section 45-1-101 for three weeks.~~]

(2) If a refunding bond is being validated, all holders of the bonds to be refunded may be made defendants to the action, in which case notice may be made, and if so made shall be considered sufficient, by mailing a copy of the order to each holder's last-known address.

(3) By publication of the order, all defendants shall have been duly served and shall be parties to the proceedings.

Section 39. Section 11-39-103 is amended to read:

11-39-103. Requirements for undertaking a building improvement or public works project -- Request for bids -- Authority to reject bids.

(1) If the estimated cost of the building improvement or public works project exceeds the bid limit, the local entity shall, if it determines to proceed with the building improvement or public works project:

(a) request bids for completion of the building improvement or public works project by:

[~~(i) (A) publishing notice at least twice in a newspaper published or of general circulation in the local entity at least five days before opening the bids; or~~]

[~~(B) if there is no newspaper published or of general circulation in the local entity as described in Subsection (1)(a)(i)(A),~~]

(i) posting notice at least five days before opening the bids in at least five public places in the local entity and leaving the notice posted for at least three days; and

(ii) [~~publishing notice in accordance with Section 45-1-101~~] posting notice on the Utah Public Notice Website created in Section 63F-1-701, at least five days before opening the bids; and

(b) except as provided in Subsection (3), enter into a contract for the completion of the building improvement or public works project with:

(i) the lowest responsive responsible bidder; or

(ii) for a design-build project formulated by a local entity, a responsible bidder that:

(A) offers design-build services; and

(B) satisfies the local entity's criteria relating to financial strength, past performance, integrity, reliability, and other factors that the local entity uses to assess the ability of a bidder to perform fully and in good faith the contract requirements for a design-build project.

(2) (a) Each notice under Subsection (1)(a) shall indicate that the local entity may reject any or all bids submitted.

(b) (i) The cost of a building improvement or public works project may not be divided to avoid:

(A) exceeding the bid limit; and

(B) subjecting the local entity to the requirements of this section.

(ii) Notwithstanding Subsection (2)(b)(i), a local entity may divide the cost of a building improvement or public works project that would, without dividing, exceed the bid limit if the local entity complies with the requirements of this section with respect to each part of the building

improvement or public works project that results from dividing the cost.

(3) (a) The local entity may reject any or all bids submitted.

(b) If the local entity rejects all bids submitted but still intends to undertake the building improvement or public works project, the local entity shall again request bids by following the procedure provided in Subsection (1)(a).

(c) If, after twice requesting bids by following the procedure provided in Subsection (1)(a), the local entity determines that no satisfactory bid has been submitted, the governing body may undertake the building improvement or public works project as it considers appropriate.

Section 40. Section 11-42-202 is amended to read:

11-42-202. Requirements applicable to a notice of a proposed assessment area designation.

(1) Each notice required under Subsection 11-42-201(2)(a) shall:

(a) state that the local entity proposes to:

(i) designate one or more areas within the local entity's jurisdictional boundaries as an assessment area;

(ii) provide an improvement to property within the proposed assessment area; and

(iii) finance some or all of the cost of improvements by an assessment on benefitted property within the assessment area;

(b) describe the proposed assessment area by any reasonable method that allows an owner of property in the proposed assessment area to determine that the owner's property is within the proposed assessment area;

(c) describe, in a general and reasonably accurate way, the improvements to be provided to the assessment area, including:

(i) the nature of the improvements; and

(ii) the location of the improvements, by reference to streets or portions or extensions of streets or by any other means that the governing body chooses that reasonably describes the general location of the improvements;

(d) state the estimated cost of the improvements as determined by a project engineer;

(e) for the version of notice mailed in accordance with Subsection (4)(b), state the estimated total assessment specific to the benefitted property for which the notice is mailed;

(f) state that the local entity proposes to levy an assessment on benefitted property within the assessment area to pay some or all of the cost of the improvements according to the estimated benefits to the property from the improvements;

(g) if applicable, state that an unassessed benefitted government property will receive improvements for which the cost will be allocated proportionately to the remaining benefitted properties within the proposed assessment area and that a description of each unassessed benefitted government property is available for public review at the location or website described in Subsection (6);

(h) state the assessment method by which the governing body proposes to calculate the proposed assessment, including, if the local entity is a municipality or county, whether the assessment will be collected:

(i) by directly billing a property owner; or

(ii) by inclusion on a property tax notice issued in accordance with Section 59-2-1317 and in compliance with Section 11-42-401;

(i) state:

(i) the date described in Section 11-42-203 and the location at which protests against designation of the proposed assessment area or of the proposed improvements are required to be filed;

(ii) the method by which the governing body will determine the number of protests required to defeat the designation of the proposed assessment area or acquisition or construction of the proposed improvements; and

(iii) in large, boldface, and conspicuous type that a property owner must protest the designation of the assessment area in writing if the owner objects to the area designation or being assessed for the proposed improvements, operation and maintenance costs, or economic promotion activities;

(j) state the date, time, and place of the public hearing required in Section 11-42-204;

(k) if the governing body elects to create and fund a reserve fund under Section 11-42-702, include a description of:

(i) how the reserve fund will be funded and replenished; and

(ii) how remaining money in the reserve fund is to be disbursed upon full payment of the bonds;

(l) if the governing body intends to designate a voluntary assessment area, include a property owner consent form that:

(i) estimates the total assessment to be levied against the particular parcel of property;

(ii) describes any additional benefits that the governing body expects the assessed property to receive from the improvements;

(iii) designates the date and time by which the fully executed consent form is required to be submitted to the governing body; and

(iv) if the governing body intends to enforce an assessment lien on the property in accordance with Subsection 11-42-502.1(2)(a)(ii)(C):

(A) appoints a trustee that satisfies the requirements described in Section 57-1-21;

(B) gives the trustee the power of sale;

(C) is binding on the property owner and all successors; and

(D) explains that if an assessment or an installment of an assessment is not paid when due, the local entity may sell the property owner's property to satisfy the amount due plus interest, penalties, and costs, in the manner described in Title 57, Chapter 1, Conveyances;

(m) if the local entity intends to levy an assessment to pay operation and maintenance costs or for economic promotion activities, include:

(i) a description of the operation and maintenance costs or economic promotion activities to be paid by assessments and the initial estimated annual assessment to be levied;

(ii) a description of how the estimated assessment will be determined;

(iii) a description of how and when the governing body will adjust the assessment to reflect the costs of:

(A) in accordance with Section 11-42-406, current economic promotion activities; or

(B) current operation and maintenance costs;

(iv) a description of the method of assessment if different from the method of assessment to be used for financing any improvement; and

(v) a statement of the maximum number of years over which the assessment will be levied for:

(A) operation and maintenance costs; or

(B) economic promotion activities;

(n) if the governing body intends to divide the proposed assessment area into classifications under Subsection 11-42-201(1)(b), include a description of the proposed classifications;

(o) if applicable, state the portion and value of the improvement that will be increased in size or capacity to serve property outside of the assessment area and how the increases will be financed; and

(p) state whether the improvements will be financed with a bond and, if so, the currently estimated interest rate and term of financing, subject to Subsection (2), for which the benefitted properties within the assessment area may be obligated.

(2) The estimated interest rate and term of financing in Subsection (1)(p) may not be interpreted as a limitation to the actual interest rate incurred or the actual term of financing as subject to the market rate at the time of the issuance of the bond.

(3) A notice required under Subsection 11-42-201(2)(a) may contain other information that the governing body considers to be appropriate, including:

(a) the amount or proportion of the cost of the improvement to be paid by the local entity or from sources other than an assessment;

(b) the estimated total amount of each type of assessment for the various improvements to be financed according to the method of assessment that the governing body chooses; and

(c) provisions for any improvements described in Subsection 11-42-102(24)(a)(ii).

(4) Each notice required under Subsection 11-42-201(2)(a) shall:

[~~(a) (i) (A) be published in a newspaper of general circulation within the local entity's jurisdictional boundaries, once a week for four consecutive weeks, with the last publication at least five but not more than 20 days before the day of the hearing required in Section 11-42-204; or~~]

[~~(B) if there is no newspaper of general circulation within the local entity's jurisdictional boundaries,~~]

(a) (i) be posted in at least three public places within the local entity's jurisdictional boundaries at least 20 but not more than 35 days before the day of the hearing required in Section 11-42-204; and

(ii) be published on the Utah Public Notice Website described in Section 63F-1-701 for four weeks before the deadline for filing protests specified in the notice under Subsection (1)(i); and

(b) be mailed, postage prepaid, within 10 days after the first publication or posting of the notice under Subsection (4)(a) to each owner of property to be assessed within the proposed assessment area at the property owner's mailing address.

(5) (a) The local entity may record the version of the notice that is published or posted in accordance with Subsection (4)(a) with the office of the county recorder, by legal description and tax identification number as identified in county records, against the property proposed to be assessed.

(b) The notice recorded under Subsection (5)(a) expires and is no longer valid one year after the day on which the local entity records the notice if the local entity has failed to adopt the designation ordinance or resolution under Section 11-42-201 designating the assessment area for which the notice was recorded.

(6) A local entity shall make available on the local entity's website, or, if no website is available, at the local entity's place of business, the address and type of use of each unassessed benefitted government property described in Subsection (1)(g).

(7) If a governing body fails to provide actual or constructive notice under this section, the local entity may not assess a levy against a benefitted property omitted from the notice unless:

(a) the property owner gives written consent;

(b) the property owner received notice under Subsection 11-42-401(2)(a)(iii) and did not object to

the levy of the assessment before the final hearing of the board of equalization; or

(c) the benefitted property is conveyed to a subsequent purchaser and, before the date of conveyance, the requirements of Subsections 11-42-206(3)(a)(i) and (ii), or, if applicable, Subsection 11-42-207(1)(d)(i) are met.

Section 41. Section 11-42-301 is amended to read:

11-42-301. Improvements made only under contract let to lowest responsive, responsible bidder -- Publishing notice -- Sealed bids -- Procedure -- Exceptions to contract requirement.

(1) Except as otherwise provided in this section, a local entity may make improvements in an assessment area only under contract let to the lowest responsive, responsible bidder for the kind of service, material, or form of construction that the local entity's governing body determines in compliance with any applicable local entity ordinances.

(2) A local entity may:

(a) divide improvements into parts;

(b) (i) let separate contracts for each part; or

(ii) combine multiple parts into the same contract; and

(c) let a contract on a unit basis.

(3) (a) A local entity may not let a contract until after [~~publishing~~] posting notice as provided in Subsection (3)(b)[~~: (i) at least one time in a newspaper of general circulation within the boundaries of the local entity at least 15 days before the date specified for receipt of bids; and (ii) in accordance with Section 45-1-101~~] on the Utah Public Notice Website created in Section 63F-1-701, at least 15 days before the date specified for receipt of bids.

(b) Each notice under Subsection (3)(a) shall notify contractors that the local entity will receive sealed bids at a specified time and place for the construction of the improvements.

(c) Notwithstanding a local entity's failure, through inadvertence or oversight, to publish the notice or to publish the notice within 15 days before the date specified for receipt of bids, the governing body may proceed to let a contract for the improvements if the local entity receives at least three sealed and bona fide bids from contractors by the time specified for the receipt of bids.

(d) A local entity may publish a notice required under this Subsection (3) at the same time as a notice under Section 11-42-202.

(4) (a) A local entity may accept as a sealed bid a bid that is:

(i) manually sealed and submitted; or

(ii) electronically sealed and submitted.

(b) The governing body or project engineer shall, at the time specified in the notice under Subsection (3), open and examine the bids.

(c) In open session, the governing body:

(i) shall declare the bids; and

(ii) may reject any or all bids if the governing body considers the rejection to be for the public good.

(d) The local entity may award the contract to the lowest responsive, responsible bidder even if the price bid by that bidder exceeds the estimated costs as determined by the project engineer.

(e) A local entity may in any case:

(i) refuse to award a contract;

(ii) obtain new bids after giving a new notice under Subsection (3);

(iii) determine to abandon the assessment area; or

(iv) not make some of the improvements proposed to be made.

(5) A local entity is not required to let a contract as provided in this section for:

(a) an improvement or part of an improvement the cost of which or the making of which is donated or contributed;

(b) an improvement that consists of furnishing utility service or maintaining improvements;

(c) labor, materials, or equipment supplied by the local entity;

(d) the local entity's acquisition of completed or partially completed improvements in an assessment area;

(e) design, engineering, and inspection costs incurred with respect to the construction of improvements in an assessment area; or

(f) additional work performed in accordance with the terms of a contract duly let to the lowest responsive, responsible bidder.

(6) A local entity may itself furnish utility service and maintain improvements within an assessment area.

(7) (a) A local entity may acquire completed or partially completed improvements in an assessment area, but may not pay an amount for those improvements that exceeds their fair market value.

(b) Upon the local entity's payment for completed or partially completed improvements, title to the improvements shall be conveyed to the local entity or another public agency.

(8) The provisions of Title 11, Chapter 39, Building Improvements and Public Works Projects, and Section 72-6-108 do not apply to improvements to be constructed in an assessment area.

Section 42. Section 11-42-402 is amended to read:

11-42-402. Notice of assessment and board of equalization hearing.

Each notice required under Subsection 11-42-401(2)(a)(iii) shall:

(1) state:

(a) that an assessment list is completed and available for examination at the offices of the local entity;

(b) the total estimated or actual cost of the improvements;

(c) the amount of the total estimated or actual cost of the proposed improvements to be paid by the local entity;

(d) the amount of the assessment to be levied against benefitted property within the assessment area;

(e) the assessment method used to calculate the proposed assessment;

(f) the unit cost used to calculate the assessments shown on the assessment list, based on the assessment method used to calculate the proposed assessment; and

(g) the dates, times, and place of the board of equalization hearings under Subsection 11-42-401(2)(b)(i);

(2) (a) beginning at least 20 but not more than 35 days before the day on which the first hearing of the board of equalization is held[~~: (i) be published at least once in a newspaper of general circulation within the local entity's jurisdictional boundaries; or (ii) if there is no newspaper of general circulation within the local entity's jurisdictional boundaries~~], be posted in at least three public places within the local entity's jurisdictional boundaries; and

(b) be published on the Utah Public Notice Website created in Section 63F-1-701 for 35 days immediately before the day on which the first hearing of the board of equalization is held; and

(3) be mailed, postage prepaid, within 10 days after the first publication or posting of the notice under Subsection (2) to each owner of property to be assessed within the proposed assessment area at the property owner's mailing address.

Section 43. Section 11-42-404 is amended to read:

11-42-404. Adoption of a resolution or ordinance levying an assessment -- Notice of the adoption -- Effective date of resolution or ordinance -- Notice of assessment interest.

(1) (a) After receiving a final report from a board of equalization under Subsection 11-42-403(5) or, if applicable, after the time for filing an appeal under Subsection 11-42-403(6) has passed, the governing body may adopt a resolution or ordinance levying an assessment against benefitted property within the assessment area designated in accordance with Part 2, Designating an Assessment Area.

(b) Except as provided in Subsection (1)(c), a local entity may not levy more than one assessment under this chapter for an assessment area designated in accordance with Part 2, Designating an Assessment Area.

(c) A local entity may levy more than one assessment in an assessment area designated in accordance with Part 2, Designating an Assessment Area, if:

(i) the local entity has adopted a designation resolution or designation ordinance for each assessment in accordance with Section 11-42-201; and

(ii) the assessment is levied to pay:

(A) subject to Section 11-42-401, operation and maintenance costs;

(B) subject to Section 11-42-406, the costs of economic promotion activities; or

(C) the costs of environmental remediation activities.

(d) An assessment resolution or ordinance adopted under Subsection (1)(a):

(i) need not describe each tract, block, lot, part of block or lot, or parcel of property to be assessed;

(ii) need not include the legal description or tax identification number of the parcels of property assessed in the assessment area; and

(iii) is adequate for purposes of identifying the property to be assessed within the assessment area if the assessment resolution or ordinance incorporates by reference the corrected assessment list that describes the property assessed by legal description and tax identification number.

(2) (a) A local entity that adopts an assessment resolution or ordinance shall give notice of the adoption by:

[~~(i) (A) publishing a copy of the resolution or ordinance, or a summary of the resolution or ordinance, once in a newspaper of general circulation within the local entity's jurisdictional boundaries; or~~]

[~~(B) if there is no newspaper of general circulation with the local entity's jurisdictional boundaries as described in Subsection (2)(a)(i),~~]

(i) posting a copy of the resolution or ordinance in at least three public places within the local entity's jurisdictional boundaries for at least 21 days; and

(ii) [~~publishing, in accordance with Section 45-1-101,~~] posting a copy of the resolution or ordinance on the Utah Public Notice Website created in Section 63F-1-701 for at least 21 days.

(b) No other publication or posting of the resolution or ordinance is required.

(3) Notwithstanding any other statutory provision regarding the effective date of a resolution or ordinance, each assessment resolution or ordinance takes effect:

(a) on the date of publication or posting of the notice under Subsection (2); or

(b) at a later date provided in the resolution or ordinance.

(4) (a) The governing body of each local entity that has adopted an assessment resolution or ordinance under Subsection (1) shall, within five days after the day on which the 25-day prepayment period under Subsection 11-42-411(6) has passed, file a notice of assessment interest with the recorder of the county in which the assessed property is located.

(b) Each notice of assessment interest under Subsection (4)(a) shall:

(i) state that the local entity has an assessment interest in the assessed property;

(ii) if the assessment is to pay operation and maintenance costs or for economic promotion activities, state the maximum number of years over which an assessment will be payable; and

(iii) describe the property assessed by legal description and tax identification number.

(c) A local entity's failure to file a notice of assessment interest under this Subsection (4) has no affect on the validity of an assessment levied under an assessment resolution or ordinance adopted under Subsection (1).

Section 44. Section 11-42a-201 is amended to read:

11-42a-201. Resolution or ordinance designating an energy assessment area, levying an assessment, and issuing an energy assessment bond.

(1) (a) Except as otherwise provided in this chapter, and subject to the requirements of this part, at the request of a property owner on whose property or for whose benefit an improvement is being installed or being reimbursed, a governing body of a local entity may adopt an energy assessment resolution or an energy assessment ordinance that:

(i) designates an energy assessment area;

(ii) levies an assessment within the energy assessment area; and

(iii) if applicable, authorizes the issuance of an energy assessment bond.

(b) The governing body of a local entity may, by adopting a parameters resolution, delegate to an officer of the local entity, in accordance with the parameters resolution, the authority to:

(i) execute an energy assessment resolution or ordinance that:

(A) designates an energy assessment area;

(B) levies an energy assessment lien; and

(C) approves the final interest rate, price, principal amount, maturities, redemption features, and other terms of the energy assessment bonds; and

(ii) approve and execute all documents related to the designation of the energy assessment area, the levying of the energy assessment lien, and the issuance of the energy assessment bonds.

(c) The boundaries of a proposed energy assessment area may:

(i) include property that is not intended to be assessed; and

(ii) overlap, be coextensive with, or be substantially coterminous with the boundaries of any other energy assessment area or an assessment area created under Title 11, Chapter 42, Assessment Area Act.

(d) The energy assessment resolution or ordinance described in Subsection (1)(a) is adequate for purposes of identifying the property to be assessed within the energy assessment area if the resolution or ordinance describes the property to be assessed by legal description and tax identification number.

(2) (a) A local entity that adopts an energy assessment resolution or ordinance under Subsection (1)(a) or a parameters resolution under Subsection (1)(b) shall give notice of the adoption of the energy assessment resolution or ordinance or the parameters resolution by[~~: (i) publishing a copy or a summary of the resolution or ordinance once in a newspaper of general circulation where the energy assessment area is located; or (ii) if there is no newspaper of general circulation where the energy assessment area is located,~~] posting a copy of the resolution or ordinance:

(i) in at least three public places within the local entity's jurisdictional boundaries for at least 21 days[.]; and

(ii) on the Utah Public Notice Website created in Section 63F-1-701, for at least 21 days.

(b) Except as provided in Subsection (2)(a), a local entity is not required to make any other publication or posting of the resolution or ordinance.

(3) Notwithstanding any other statutory provision regarding the effective date of a resolution or ordinance, each energy assessment resolution or ordinance takes effect on the later of:

(a) the date on which the governing body of the local entity adopts the energy assessment resolution or ordinance;

(b) the date of publication or posting of the notice of adoption of either the energy assessment resolution or ordinance or the parameters resolution described in Subsection (2); or

(c) at a later date as provided in the resolution or ordinance.

(4) (a) The governing body of each local entity that has adopted an energy assessment resolution or ordinance under Subsection (1) shall, within five days after the effective date of the resolution or ordinance, file a notice of assessment interest with

the recorder of the county in which the property to be assessed is located.

(b) Each notice of assessment interest under Subsection (4)(a) shall:

(i) state that the local entity has an assessment interest in the property to be assessed; and

(ii) describe the property to be assessed by legal description and tax identification number.

(c) If a local entity fails to file a notice of assessment interest under this Subsection (4):

(i) the failure does not invalidate the designation of an energy assessment area; and

(ii) the local entity may not assess a levy against a subsequent purchaser of a benefitted property that lacked recorded notice unless:

(A) the subsequent purchaser gives written consent;

(B) the subsequent purchaser has actual notice of the assessment levy; or

(C) the subsequent purchaser purchased the property after a corrected notice was filed under Subsection (4)(d).

(d) The local entity may file a corrected notice if the entity fails to comply with the date or other requirements for filing a notice of assessment interest.

(e) If a governing body has filed a corrected notice under Subsection (4)(d), the local entity may not retroactively collect or adjust the amount of the levy to recapture lost funds for a levy that the local entity was prohibited from collecting, if applicable, under Subsection (4)(c).

Section 45. Section 17-27a-204 is amended to read:

17-27a-204. Notice of public hearings and public meetings to consider general plan or modifications.

(1) A county shall provide:

(a) notice of the date, time, and place of the first public hearing to consider the original adoption or any modification of all or any portion of a general plan; and

(b) notice of each public meeting on the subject.

(2) Each notice of a public hearing under Subsection (1)(a) shall be at least 10 calendar days before the public hearing and shall be:

[~~(a) (i) published in a newspaper of general circulation in the area; and~~]

[~~(ii)~~] (a) published on the Utah Public Notice Website created in Section 63F-1-701;

(b) mailed to each affected entity; and

(c) posted:

(i) in at least three public locations within the county; or

(ii) on the county's official website.

(3) Each notice of a public meeting under Subsection (1)(b) shall be at least 24 hours before the meeting and shall be:

[~~(a) (i) submitted to a newspaper of general circulation in the area; and~~]

[~~(ii)~~] (a) published on the Utah Public Notice Website created in Section 63F-1-701; and

(b) posted:

(i) in at least three public locations within the county; or

(ii) on the county's official website.

Section 46. Section 17-27a-205 is amended to read:

17-27a-205. Notice of public hearings and public meetings on adoption or modification of land use regulation.

(1) Each county shall give:

(a) notice of the date, time, and place of the first public hearing to consider the adoption or modification of a land use regulation; and

(b) notice of each public meeting on the subject.

(2) Each notice of a public hearing under Subsection (1)(a) shall be:

(a) mailed to each affected entity at least 10 calendar days before the public hearing;

(b) posted:

(i) in at least three public locations within the county; or

(ii) on the county's official website; and

[~~(c) (i) published:~~]

[~~(A) in a newspaper of general circulation in the area at least 10 calendar days before the public hearing; and~~]

[~~(B)~~] (c) (i) posted on the Utah Public Notice Website created in Section 63F-1-701, at least 10 calendar days before the public hearing; or

(ii) mailed at least 10 days before the public hearing to:

(A) each property owner whose land is directly affected by the land use ordinance change; and

(B) each adjacent property owner within the parameters specified by county ordinance.

(3) Each notice of a public meeting under Subsection (1)(b) shall be at least 24 hours before the hearing and shall be posted:

(a) in at least three public locations within the county; or

(b) on the county's official website.

(4) (a) A county shall send a courtesy notice to each owner of private real property whose property is located entirely or partially within the proposed zoning map enactment or amendment at least 10 days before the scheduled day of the public hearing.

(b) The notice shall:

(i) identify with specificity each owner of record of real property that will be affected by the proposed zoning map or map amendments;

(ii) state the current zone in which the real property is located;

(iii) state the proposed new zone for the real property;

(iv) provide information regarding or a reference to the proposed regulations, prohibitions, and permitted uses that the property will be subject to if the zoning map or map amendment is adopted;

(v) state that the owner of real property may no later than 10 days after the day of the first public hearing file a written objection to the inclusion of the owner's property in the proposed zoning map or map amendment;

(vi) state the address where the property owner should file the protest;

(vii) notify the property owner that each written objection filed with the county will be provided to the county legislative body; and

(viii) state the location, date, and time of the public hearing described in Section 17-27a-502.

(c) If a county mails notice to a property owner in accordance with Subsection (2)(c)(ii) for a public hearing on a zoning map or map amendment, the notice required in this Subsection (4) may be included in or part of the notice described in Subsection (2)(c)(ii) rather than sent separately.

Section 47. Section 17-27a-306 is amended to read:

17-27a-306. Planning advisory areas.

(1) (a) A planning advisory area may be established as provided in this Subsection (1).

(b) A planning advisory area may not be established unless the area to be included within the proposed planning advisory area:

(i) is unincorporated;

(ii) is contiguous; and

(iii) (A) contains:

(I) at least 20% but not more than 80% of:

(Aa) the total private land area in the unincorporated county; or

(Bb) the total value of locally assessed taxable property in the unincorporated county; or

(II) (Aa) in a county of the second or third class, at least 5% of the total population of the unincorporated county, but not less than 300 residents; or

(Bb) in a county of the fourth, fifth, or sixth class, at least 25% of the total population of the unincorporated county; or

(B) has been declared by the United States Census Bureau as a census designated place.

(c) (i) The process to establish a planning advisory area is initiated by the filing of a petition with the clerk of the county in which the proposed planning advisory area is located.

(ii) A petition to establish a planning advisory area may not be filed if it proposes the establishment of a planning advisory area that includes an area within a proposed planning advisory area in a petition that has previously been certified under Subsection (1)(g), until after the canvass of an election on the proposed planning advisory area under Subsection (1)(j).

(d) A petition under Subsection (1)(c) to establish a planning advisory area shall:

(i) be signed by the owners of private real property that:

(A) is located within the proposed planning advisory area;

(B) covers at least 10% of the total private land area within the proposed planning advisory area; and

(C) is equal in value to at least 10% of the value of all private real property within the proposed planning advisory area;

(ii) be accompanied by an accurate plat or map showing the boundary of the contiguous area proposed to be established as a planning advisory area;

(iii) indicate the typed or printed name and current residence address of each owner signing the petition;

(iv) designate up to five signers of the petition as petition sponsors, one of whom shall be designated as the contact sponsor, with the mailing address and telephone number of each petition sponsor;

(v) authorize the petition sponsor or sponsors to act on behalf of all owners signing the petition for purposes of the petition; and

(vi) request the county legislative body to provide notice of the petition and of a public hearing, hold a public hearing, and conduct an election on the proposal to establish a planning advisory area.

(e) Subsection 10-2a-102(3) applies to a petition to establish a planning advisory area to the same extent as if it were an incorporation petition under Title 10, Chapter 2a, Municipal Incorporation.

(f) (i) Within seven days after the filing of a petition under Subsection (1)(c) proposing the establishment of a planning advisory area in a county of the second class, the county clerk shall provide notice of the filing of the petition to:

(A) each owner of real property owning more than 1% of the assessed value of all real property within the proposed planning advisory area; and

(B) each owner of real property owning more than 850 acres of real property within the proposed planning advisory area.

(ii) A property owner may exclude all or part of the property owner's property from a proposed planning advisory area in a county of the second class:

(A) if:

(I) (Aa) (Ii) the property owner owns more than 1% of the assessed value of all property within the proposed planning advisory area;

(IIii) the property is nonurban; and

(IIIiii) the property does not or will not require municipal provision of municipal-type services; or

(Bb) the property owner owns more than 850 acres of real property within the proposed planning advisory area; and

(II) exclusion of the property will not leave within the planning advisory area an island of property that is not part of the planning advisory area; and

(B) by filing a notice of exclusion within 10 days after receiving the clerk's notice under Subsection (1)(f)(i).

(iii) (A) The county legislative body shall exclude from the proposed planning advisory area the property identified in a notice of exclusion timely filed under Subsection (1)(f)(ii)(B) if the property meets the applicable requirements of Subsection (1)(f)(ii)(A).

(B) If the county legislative body excludes property from a proposed planning advisory area under Subsection (1)(f)(iii), the county legislative body shall, within five days after the exclusion, send written notice of its action to the contact sponsor.

(g) (i) Within 45 days after the filing of a petition under Subsection (1)(c), the county clerk shall:

(A) with the assistance of other county officers from whom the clerk requests assistance, determine whether the petition complies with the requirements of Subsection (1)(d); and

(B) (I) if the clerk determines that the petition complies with the requirements of Subsection (1)(d):

(Aa) certify the petition and deliver the certified petition to the county legislative body; and

(Bb) mail or deliver written notification of the certification to the contact sponsor; or

(II) if the clerk determines that the petition fails to comply with any of the requirements of Subsection (1)(d), reject the petition and notify the contact sponsor in writing of the rejection and the reasons for the rejection.

(ii) If the county clerk rejects a petition under Subsection (1)(g)(i)(B)(II), the petition may be amended to correct the deficiencies for which it was rejected and then refiled with the county clerk.

(h) (i) Within 90 days after a petition to establish a planning advisory area is certified, the county legislative body shall hold a public hearing on the proposal to establish a planning advisory area.

(ii) A public hearing under Subsection (1)(h)(i) shall be:

(A) within the boundary of the proposed planning advisory area; or

(B) if holding a public hearing in that area is not practicable, as close to that area as practicable.

(iii) At least one week before holding a public hearing under Subsection (1)(h)(i), the county legislative body shall publish notice of the petition and the time, date, and place of the public hearing[: ~~(A) at least once in a newspaper of general circulation in the county; and (B)~~] on the Utah Public Notice Website created in Section 63F-1-701.

(i) Following the public hearing under Subsection (1)(h)(i), the county legislative body shall arrange for the proposal to establish a planning advisory area to be submitted to voters residing within the proposed planning advisory area at the next regular general election that is more than 90 days after the public hearing.

(j) A planning advisory area is established at the time of the canvass of the results of an election under Subsection (1)(i) if the canvass indicates that a majority of voters voting on the proposal to establish a planning advisory area voted in favor of the proposal.

(k) An area that is an established township before May 12, 2015:

(i) is, as of May 12, 2015, a planning advisory area; and

(ii) (A) shall change its name, if applicable, to no longer include the word "township"; and

(B) may use the word "planning advisory area" in its name.

(2) The county legislative body may:

(a) assign to the countywide planning commission the duties established in this part that would have been assumed by a planning advisory area planning commission designated under Subsection (2)(b); or

(b) designate and appoint a planning commission for the planning advisory area.

(3) (a) An area within the boundary of a planning advisory area may be withdrawn from the planning advisory area as provided in this Subsection (3) or in accordance with Subsection (5)(a).

(b) The process to withdraw an area from a planning advisory area is initiated by the filing of a petition with the clerk of the county in which the planning advisory area is located.

(c) A petition under Subsection (3)(b) shall:

(i) be signed by the owners of private real property that:

(A) is located within the area proposed to be withdrawn from the planning advisory area;

(B) covers at least 50% of the total private land area within the area proposed to be withdrawn from the planning advisory area; and

(C) is equal in value to at least 33% of the value of all private real property within the area proposed to be withdrawn from the planning advisory area;

(ii) state the reason or reasons for the proposed withdrawal;

(iii) be accompanied by an accurate plat or map showing the boundary of the contiguous area proposed to be withdrawn from the planning advisory area;

(iv) indicate the typed or printed name and current residence address of each owner signing the petition;

(v) designate up to five signers of the petition as petition sponsors, one of whom shall be designated as the contact sponsor, with the mailing address and telephone number of each petition sponsor;

(vi) authorize the petition sponsor or sponsors to act on behalf of all owners signing the petition for purposes of the petition; and

(vii) request the county legislative body to withdraw the area from the planning advisory area.

(d) Subsection 10-2a-102(3) applies to a petition to withdraw an area from a planning advisory area to the same extent as if it were an incorporation petition under Title 10, Chapter 2a, Municipal Incorporation.

(e) (i) Within 45 days after the filing of a petition under Subsection (3)(b), the county clerk shall:

(A) with the assistance of other county officers from whom the clerk requests assistance, determine whether the petition complies with the requirements of Subsection (3)(c); and

(B) (I) if the clerk determines that the petition complies with the requirements of Subsection (3)(c):

(Aa) certify the petition and deliver the certified petition to the county legislative body; and

(Bb) mail or deliver written notification of the certification to the contact sponsor; or

(II) if the clerk determines that the petition fails to comply with any of the requirements of Subsection (3)(c), reject the petition and notify the contact sponsor in writing of the rejection and the reasons for the rejection.

(ii) If the county clerk rejects a petition under Subsection (3)(e)(i)(B)(II), the petition may be amended to correct the deficiencies for which it was rejected and then refiled with the county clerk.

(f) (i) Within 60 days after a petition to withdraw an area from a planning advisory area is certified, the county legislative body shall hold a public hearing on the proposal to withdraw the area from the planning advisory area.

(ii) A public hearing under Subsection (3)(f)(i) shall be held:

(A) within the area proposed to be withdrawn from the planning advisory area; or

(B) if holding a public hearing in that area is not practicable, as close to that area as practicable.

(iii) Before holding a public hearing under Subsection (3)(f)(i), the county legislative body shall:

(A) publish notice of the petition and the time, date, and place of the public hearing[~~: (I) at least once a week for three consecutive weeks in a newspaper of general circulation in the planning advisory area; and (II)~~] on the Utah Public Notice Website created in Section 63F-1-701, for three consecutive weeks; and

(B) mail a notice of the petition and the time, date, and place of the public hearing to each owner of private real property within the area proposed to be withdrawn.

(g) (i) Within 45 days after the public hearing under Subsection (3)(f)(i), the county legislative body shall make a written decision on the proposal to withdraw the area from the planning advisory area.

(ii) In making its decision as to whether to withdraw the area from the planning advisory area, the county legislative body shall consider:

(A) whether the withdrawal would leave the remaining planning advisory area in a situation where the future incorporation of an area within the planning advisory area or the annexation of an area within the planning advisory area to an adjoining municipality would be economically or practically not feasible;

(B) if the withdrawal is a precursor to the incorporation or annexation of the withdrawn area:

(I) whether the proposed subsequent incorporation or withdrawal:

(Aa) will leave or create an unincorporated island or peninsula; or

(Bb) will leave the county with an area within its unincorporated area for which the cost, requirements, or other burdens of providing municipal services would materially increase over previous years; and

(II) whether the municipality to be created or the municipality into which the withdrawn area is expected to annex would be or is capable, in a cost effective manner, of providing service to the withdrawn area that the county will no longer provide due to the incorporation or annexation;

(C) the effects of a withdrawal on adjoining property owners, existing or projected county streets or other public improvements, law enforcement, and zoning and other municipal services provided by the county; and

(D) whether justice and equity favor the withdrawal.

(h) Upon the written decision of the county legislative body approving the withdrawal of an

area from a planning advisory area, the area is withdrawn from the planning advisory area and the planning advisory area continues as a planning advisory area with a boundary that excludes the withdrawn area.

(4) (a) A planning advisory area may be dissolved as provided in this Subsection (4).

(b) The process to dissolve a planning advisory area is initiated by the filing of a petition with the clerk of the county in which the planning advisory area is located.

(c) A petition under Subsection (4)(b) shall:

(i) be signed by registered voters within the planning advisory area equal in number to at least 25% of all votes cast by voters within the planning advisory area at the last congressional election;

(ii) state the reason or reasons for the proposed dissolution;

(iii) indicate the typed or printed name and current residence address of each person signing the petition;

(iv) designate up to five signers of the petition as petition sponsors, one of whom shall be designated as the contact sponsor, with the mailing address and telephone number of each petition sponsor;

(v) authorize the petition sponsors to act on behalf of all persons signing the petition for purposes of the petition; and

(vi) request the county legislative body to provide notice of the petition and of a public hearing, hold a public hearing, and conduct an election on the proposal to dissolve the planning advisory area.

(d) (i) Within 45 days after the filing of a petition under Subsection (4)(b), the county clerk shall:

(A) with the assistance of other county officers from whom the clerk requests assistance, determine whether the petition complies with the requirements of Subsection (4)(c); and

(B) (I) if the clerk determines that the petition complies with the requirements of Subsection (4)(c):

(Aa) certify the petition and deliver the certified petition to the county legislative body; and

(Bb) mail or deliver written notification of the certification to the contact sponsor; or

(II) if the clerk determines that the petition fails to comply with any of the requirements of Subsection (4)(c), reject the petition and notify the contact sponsor in writing of the rejection and the reasons for the rejection.

(ii) If the county clerk rejects a petition under Subsection (4)(d)(i)(B)(II), the petition may be amended to correct the deficiencies for which it was rejected and then refiled with the county clerk.

(e) (i) Within 60 days after a petition to dissolve the planning advisory area is certified, the county legislative body shall hold a public hearing on the proposal to dissolve the planning advisory area.

(ii) A public hearing under Subsection (4)(e)(i) shall be held:

(A) within the boundary of the planning advisory area; or

(B) if holding a public hearing in that area is not practicable, as close to that area as practicable.

(iii) Before holding a public hearing under Subsection (4)(e)(i), the county legislative body shall publish notice of the petition and the time, date, and place of the public hearing[~~: (A) at least once a week for three consecutive weeks in a newspaper of general circulation in the planning advisory area; and (B)~~] on the Utah Public Notice Website created in Section 63F-1-701, for three consecutive weeks immediately before the public hearing.

(f) Following the public hearing under Subsection (4)(e)(i), the county legislative body shall arrange for the proposal to dissolve the planning advisory area to be submitted to voters residing within the planning advisory area at the next regular general election that is more than 90 days after the public hearing.

(g) A planning advisory area is dissolved at the time of the canvass of the results of an election under Subsection (4)(f) if the canvass indicates that a majority of voters voting on the proposal to dissolve the planning advisory area voted in favor of the proposal.

(5) (a) If a portion of an area located within a planning advisory area is annexed by a municipality or incorporates, that portion is withdrawn from the planning advisory area.

(b) If a planning advisory area in whole is annexed by a municipality or incorporates, the planning advisory area is dissolved.

Section 48. Section 17-27a-404 is amended to read:

17-27a-404. Public hearing by planning commission on proposed general plan or amendment -- Notice -- Revisions to general plan or amendment -- Adoption or rejection by legislative body.

(1) (a) After completing its recommendation for a proposed general plan, or proposal to amend the general plan, the planning commission shall schedule and hold a public hearing on the proposed plan or amendment.

(b) The planning commission shall provide notice of the public hearing, as required by Section 17-27a-204.

(c) After the public hearing, the planning commission may modify the proposed general plan or amendment.

(2) The planning commission shall forward the proposed general plan or amendment to the legislative body.

(3) (a) As provided by local ordinance and by Section 17-27a-204, the legislative body shall provide notice of its intent to consider the general plan proposal.

(b) (i) In addition to the requirements of Subsections (1), (2), and (3)(a), the legislative body shall hold a public hearing in Salt Lake City on provisions of the proposed county plan regarding Subsection 17-27a-401(4). The hearing procedure shall comply with this Subsection (3)(b).

(ii) The hearing format shall allow adequate time for public comment at the actual public hearing, and shall also allow for public comment in writing to be submitted to the legislative body for not fewer than 90 days after the date of the public hearing.

(c) (i) The legislative body shall give notice of the hearing in accordance with this Subsection (3) when the proposed plan provisions required by Subsection 17-27a-401(4) are complete.

(ii) Direct notice of the hearing shall be given, in writing, to the governor, members of the state Legislature, executive director of the Department of Environmental Quality, the state planning coordinator, the Resource Development Coordinating Committee, and any other citizens or entities who specifically request notice in writing.

(iii) Public notice shall be given by publication[~~: (A) in at least one major Utah newspaper having broad general circulation in the state; (B) in at least one Utah newspaper having a general circulation focused mainly on the county where the proposed high-level nuclear waste or greater than class C radioactive waste site is to be located; and (C)~~] on the Utah Public Notice Website created in Section 63F-1-701.

(iv) The notice shall be published to allow reasonable time for interested parties and the state to evaluate the information regarding the provisions of Subsection 17-27a-401(4), including[~~: (A) in a newspaper described in Subsection (3)(c)(iii)(A), no less than 180 days before the date of the hearing to be held under this Subsection (3); and (B)~~] publication described in Subsection (3)(c)(iii)[~~(B) or (C)~~] for 180 days before the date of the hearing to be held under this Subsection (3).

(4) (a) After the public hearing required under this section, the legislative body may adopt, reject, or make any revisions to the proposed general plan that it considers appropriate.

(b) The legislative body shall respond in writing and in a substantive manner to all those providing comments as a result of the hearing required by Subsection (3).

(c) If the county legislative body rejects the proposed general plan or amendment, it may provide suggestions to the planning commission for the planning commission's review and recommendation.

(5) The legislative body shall adopt:

(a) a land use element as provided in Subsection 17-27a-403(2)(a)(i);

(b) a transportation and traffic circulation element as provided in Subsection 17-27a-403(2)(a)(ii);

(c) after considering the factors included in Subsection 17-27a-403(2)(b), a plan to provide a realistic opportunity to meet the need for additional moderate income housing; and

(d) before August 1, 2017, a resource management plan as provided by Subsection 17-27a-403(2)(a)(iv).

Section 49. Section 17-41-302 is amended to read:

17-41-302. Notice of proposal for creation of protection area -- Responses.

(1) An applicable legislative body shall provide notice of the proposal by:

[~~(a) (i) publishing notice in a newspaper having general circulation within:~~]

[~~(A) the same county as the land proposed for inclusion within an agriculture protection area, industrial protection area, or critical infrastructure materials protection area, as the case may be, if the land is within the unincorporated part of the county; or~~]

[~~(B) the same city or town as the land proposed for inclusion within an agriculture protection area, industrial protection area, or critical infrastructure materials protection area, as the case may be, if the land is within a city or town; and~~]

[~~(ii) as required in Section 45-1-101;~~]

(a) posting notice on the Utah Public Notice Website created in Section 63F-1-701;

(b) posting notice at five public places, designated by the county or municipal legislative body, within or near the proposed agriculture protection area, industrial protection area, or critical infrastructure materials protection area; and

(c) mailing written notice to each owner of land within 1,000 feet of the land proposed for inclusion within an agriculture protection area, industrial protection area, or critical infrastructure materials protection area.

(2) The notice shall contain:

(a) a statement that a proposal for the creation of an agriculture protection area, industrial protection area, or critical infrastructure materials protection area has been filed with the applicable legislative body;

(b) a statement that the proposal will be open to public inspection in the office of the applicable legislative body;

(c) a statement that any person affected by the establishment of the area may, within 15 days of the date of the notice, file with the applicable legislative body:

(i) written objections to the proposal; or

(ii) a written request to modify the proposal to exclude land from or add land to the proposed protection area;

(d) a statement that the applicable legislative body will submit the proposal to the advisory

committee and to the planning commission for review and recommendations;

(e) a statement that the applicable legislative body will hold a public hearing to discuss and hear public comment on:

(i) the proposal to create the agriculture protection area, industrial protection area, or critical infrastructure materials protection area;

(ii) the recommendations of the advisory committee and planning commission; and

(iii) any requests for modification of the proposal and any objections to the proposal; and

(f) a statement indicating the date, time, and place of the public hearing.

(3) (a) A person wishing to modify the proposal for the creation of the agriculture protection area, industrial protection area, or critical infrastructure materials protection area shall, within 15 days after the date of the notice, file a written request for modification of the proposal, which identifies specifically the land that should be added to or removed from the proposal.

(b) A person wishing to object to the proposal for the creation of the agriculture protection area, industrial protection area, or critical infrastructure materials protection area shall, within 15 days after the date of the notice, file a written objection to the creation of the relevant protection area.

Section 50. Section 17-41-304 is amended to read:

17-41-304. Public hearing -- Review and action on proposal.

(1) After receipt of the written reports from the advisory committee and planning commission, or after the 45 days have expired, whichever is earlier, the county or municipal legislative body shall:

(a) schedule a public hearing;

(b) provide notice of the public hearing by:

[~~(i) publishing notice:~~]

[~~(A) in a newspaper having general circulation within:~~]

[~~(I) the same county as the land proposed for inclusion within the agriculture protection area, industrial protection area, or critical infrastructure materials protection area, if the land is within the unincorporated part of the county; or~~]

[~~(II) the same city or town as the land proposed for inclusion within an agriculture protection area, industrial protection area, or critical infrastructure materials protection area, if the land is within a city or town; and~~]

[~~(B)~~] (i) posting notice on the Utah Public Notice Website created in Section 63F-1-701;

(ii) posting notice at five public places, designated by the applicable legislative body, within or near the proposed agriculture protection area, industrial protection area, or critical infrastructure materials protection area; and

(iii) mailing written notice to each owner of land within 1,000 feet of the land proposed for inclusion within an agriculture protection area, industrial protection area, or critical infrastructure materials protection area; and

(c) ensure that the notice includes:

(i) the time, date, and place of the public hearing on the proposal;

(ii) a description of the proposed agriculture protection area, industrial protection area, or critical infrastructure materials protection area;

(iii) any proposed modifications to the proposed agriculture protection area, industrial protection area, or critical infrastructure materials protection area;

(iv) a summary of the recommendations of the advisory committee and planning commission; and

(v) a statement that interested persons may appear at the public hearing and speak in favor of or against the proposal, any proposed modifications to the proposal, or the recommendations of the advisory committee and planning commission.

(2) The applicable legislative body shall:

(a) convene the public hearing at the time, date, and place specified in the notice; and

(b) take oral or written testimony from interested persons.

(3) (a) Within 120 days of the submission of the proposal, the applicable legislative body shall approve, modify and approve, or reject the proposal.

(b) The creation of an agriculture protection area, industrial protection area, or critical infrastructure materials protection area is effective at the earlier of:

(i) the applicable legislative body's approval of a proposal or modified proposal; or

(ii) 120 days after submission of a proposal complying with Subsection 17-41-301(2) if the applicable legislative body has failed to approve or reject the proposal within that time.

(c) Notwithstanding Subsection (3)(b), a critical infrastructure materials protection area is effective only if the applicable legislative body, at its discretion, approves a proposal or modified proposal.

(4) (a) To give constructive notice of the existence of the agriculture protection area, industrial protection area, or critical infrastructure materials protection area to all persons who have, may acquire, or may seek to acquire an interest in land in or adjacent to the relevant protection area within 10 days of the creation of the relevant protection area, the applicable legislative body shall file an executed document containing a legal description of the relevant protection area with:

(i) the county recorder of deeds; and

(ii) the affected planning commission.

(b) If the legal description of the property to be included in the relevant protection area is available through the county recorder's office, the applicable legislative body shall use that legal description in its executed document required in Subsection (4)(a).

(5) Within 10 days of the recording of the agriculture protection area, the applicable legislative body shall:

(a) send written notification to the commissioner of agriculture and food that the agriculture protection area has been created; and

(b) include in the notification:

(i) the number of landowners owning land within the agriculture protection area;

(ii) the total acreage of the area;

(iii) the date of approval of the area; and

(iv) the date of recording.

(6) The applicable legislative body's failure to record the notice required under Subsection (4) or to send the written notification under Subsection (5) does not invalidate the creation of an agriculture protection area.

(7) The applicable legislative body may consider the cost of recording notice under Subsection (4) and the cost of sending notification under Subsection (5) in establishing a fee under Subsection 17-41-301(4)(b).

Section 51. Section 17-41-405 is amended to read:

17-41-405. Eminent domain restrictions.

(1) A political subdivision having or exercising eminent domain powers may not condemn for any purpose any land within an agriculture protection area that is being used for agricultural production, land within an industrial protection area that is being put to an industrial use, or land within a critical infrastructure materials protection area, unless the political subdivision obtains approval, according to the procedures and requirements of this section, from the applicable legislative body and the advisory board.

(2) Any condemnor wishing to condemn property within an agriculture protection area, industrial protection area, or critical infrastructure materials protection area shall file a notice of condemnation with the applicable legislative body and the relevant protection area's advisory board at least 30 days before filing an eminent domain complaint.

(3) The applicable legislative body and the advisory board shall:

(a) hold a joint public hearing on the proposed condemnation at a location within the county in which the relevant protection area is located;

(b) [~~publish~~] post notice of the time, date, place, and purpose of the public hearing:

[~~(i) in a newspaper of general circulation within the relevant protection area; and~~]

[~~(ii)~~] (i) on the Utah Public Notice Website created in Section 63F-1-701; and

[~~(c) post notice of the time, date, place, and purpose of the public hearing~~]

(ii) in five conspicuous public places, designated by the applicable legislative body, within or near the relevant protection area.

(4) (a) If the condemnation is for highway purposes or for the disposal of solid or liquid waste materials, the applicable legislative body and the advisory board may approve the condemnation only if there is no reasonable and prudent alternative to the use of the land within the agriculture protection area, industrial protection area, or critical infrastructure materials protection area for the project.

(b) If the condemnation is for any other purpose, the applicable legislative body and the advisory board may approve the condemnation only if:

(i) the proposed condemnation would not have an unreasonably adverse effect upon the preservation and enhancement of:

(A) agriculture within the agriculture protection area;

(B) the industrial use within the industrial protection area; or

(C) critical infrastructure materials operations within the critical infrastructure materials protection area; or

(ii) there is no reasonable and prudent alternative to the use of the land within the [~~the~~] relevant protection area for the project.

(5) (a) Within 60 days after receipt of the notice of condemnation, the applicable legislative body and the advisory board shall approve or reject the proposed condemnation.

(b) If the applicable legislative body and the advisory board fail to act within the 60 days or such further time as the applicable legislative body establishes, the condemnation shall be considered rejected.

(6) The applicable legislative body or the advisory board may request the county or municipal attorney to bring an action to enjoin any condemnor from violating any provisions of this section.

Section 52. Section 17B-1-111 is amended to read:

17B-1-111. Impact fee resolution -- Notice and hearing requirements.

(1) (a) If a local district wishes to impose impact fees, the board of trustees of the local district shall:

(i) prepare a proposed impact fee resolution that meets the requirements of Title 11, Chapter 36a, Impact Fees Act;

(ii) make a copy of the impact fee resolution available to the public at least 14 days before the

date of the public hearing and hold a public hearing on the proposed impact fee resolution; and

(iii) provide reasonable notice of the public hearing at least 14 days before the date of the hearing.

(b) After the public hearing, the board of trustees may:

(i) adopt the impact fee resolution as proposed;

(ii) amend the impact fee resolution and adopt or reject it as amended; or

(iii) reject the resolution.

(2) A local district meets the requirements of reasonable notice required by this section if it:

(a) posts notice of the hearing or meeting in at least three public places within the jurisdiction [~~and publishes notice of the hearing or meeting in a newspaper of general circulation in the jurisdiction, if one is available~~]; or

(b) gives actual notice of the hearing or meeting.

(3) The local district's board of trustees may enact a resolution establishing stricter notice requirements than those required by this section.

(4) (a) Proof that one of the two forms of notice required by this section was given is prima facie evidence that notice was properly given.

(b) If notice given under authority of this section is not challenged within 30 days from the date of the meeting for which the notice was given, the notice is considered adequate and proper.

Section 53. Section 17B-1-211 is amended to read:

17B-1-211. Notice of public hearings -- Publication of resolution.

(1) Before holding a public hearing or set of public hearings under Section 17B-1-210, the legislative body of each county or municipality with which a request is filed or that adopts a resolution under Subsection 17B-1-203(1)(d) and the board of trustees of each local district that adopts a resolution under Subsection 17B-1-203(1)(e) shall:

[~~(a) (i) (A) except as provided in Subsections (1)(a)(i)(B) and (1)(a)(ii), publish notice in a newspaper or combination of newspapers of general circulation within the applicable area in accordance with Subsection (2); or~~]

[~~(B) if there is no newspaper or combination of newspapers of general circulation within the applicable area, post notice~~]

(a) (i) in accordance with Subsection (2), post at least one notice per 1,000 population of [~~that~~] the applicable area and at places within the area that are most likely to provide actual notice to residents of the area; and

(ii) publish notice on the Utah Public Notice Website created in Section 63F-1-701, for two weeks before the hearing or the first of the set of hearings; or

(b) mail a notice to each registered voter residing within and each owner of real property located within the proposed local district.

[~~(2) Each published notice under Subsection (1)(a)(i)(A) shall:~~]

[~~(a) be no less than 1/4 page in size, use type no smaller than 18 point, and be surrounded by a 1/4-inch border;~~]

[~~(b) if possible, appear in a newspaper that is published at least one day per week;~~]

[~~(c) if possible, appear in a newspaper of general interest and readership in the area and not of limited subject matter;~~]

[~~(d) be placed in a portion of the newspaper other than where legal notices and classified advertisements appear; and~~]

[~~(e) be published once each week for four consecutive weeks, with the final publication being no fewer than five and no more than 20 days before the hearing or the first of the set of hearings.~~]

[~~(3)~~] (2) Each notice required under Subsection (1) shall:

(a) if the hearing or set of hearings is concerning a resolution:

(i) contain the entire text or an accurate summary of the resolution; and

(ii) state the deadline for filing a protest against the creation of the proposed local district;

(b) clearly identify each governing body involved in the hearing or set of hearings;

(c) state the date, time, and place for the hearing or set of hearings and the purposes for the hearing or set of hearings; and

(d) describe or include a map of the entire proposed local district.

[~~(4)~~] (3) County or municipal legislative bodies may jointly provide the notice required under this section if all the requirements of this section are met as to each notice.

Section 54. Section 17B-1-304 is amended to read:

17B-1-304. Appointment procedures for appointed members.

(1) The appointing authority may, by resolution, appoint persons to serve as members of a local district board by following the procedures established by this section.

(2) (a) In any calendar year when appointment of a new local district board member is required, the appointing authority shall prepare a notice of vacancy that contains:

(i) the positions that are vacant that shall be filled by appointment;

(ii) the qualifications required to be appointed to those positions;

(iii) the procedures for appointment that the governing body will follow in making those appointments; and

(iv) the person to be contacted and any deadlines that a person shall meet who wishes to be considered for appointment to those positions.

(b) The appointing authority shall:

(i) post the notice of vacancy in four public places within the local district at least one month before the deadline for accepting nominees for appointment; and

[~~(ii) publish the notice of vacancy:~~]

[~~(A) in a daily newspaper of general circulation within the local district for five consecutive days before the deadline for accepting nominees for appointment; or~~]

[~~(B) in a local weekly newspaper circulated within the local district in the week before the deadline for accepting nominees for appointment; and~~]

[~~(iii)~~] (ii) [~~publish~~] post the notice of vacancy [~~in accordance with Section 45-1-101~~] on the Utah Public Notice Website, created in Section 63F-1-701, for five days before the deadline for accepting nominees for appointment.

(c) The appointing authority may bill the local district for the cost of preparing, printing, and publishing the notice.

(3) (a) Not sooner than two months after the appointing authority is notified of the vacancy, the appointing authority shall select a person to fill the vacancy from the applicants who meet the qualifications established by law.

(b) The appointing authority shall:

(i) comply with Title 52, Chapter 4, Open and Public Meetings Act, in making the appointment;

(ii) allow any interested persons to be heard; and

(iii) adopt a resolution appointing a person to the local district board.

(c) If no candidate for appointment to fill the vacancy receives a majority vote of the appointing authority, the appointing authority shall select the appointee from the two top candidates by lot.

(4) Persons appointed to serve as members of the local district board serve four-year terms, but may be removed for cause at any time after a hearing by two-thirds vote of the appointing body.

(5) (a) At the end of each board member's term, the position is considered vacant, and, after following the appointment procedures established in this section, the appointing authority may either reappoint the incumbent board member or appoint a new member.

(b) Notwithstanding Subsection (5)(a), a board member may continue to serve until a successor is elected or appointed and qualified in accordance with Subsection 17B-1-303(2)(b).

(6) Notwithstanding any other provision of this section, if the appointing authority appoints one of its own members and that member meets all applicable statutory board member qualifications, the appointing authority need not comply with Subsection (2) or (3).

Section 55. Section 17B-1-306 is amended to read:

17B-1-306. Local district board -- Election procedures.

(1) Except as provided in Subsection (12), each elected board member shall be selected as provided in this section.

(2) (a) Each election of a local district board member shall be held:

(i) at the same time as the municipal general election or the regular general election, as applicable; and

(ii) at polling places designated by the local district board in consultation with the county clerk for each county in which the local district is located, which polling places shall coincide with municipal general election or regular general election polling places, as applicable, whenever feasible.

(b) The local district board, in consultation with the county clerk, may consolidate two or more polling places to enable voters from more than one district to vote at one consolidated polling place.

(c) (i) Subject to Subsections (5)(h) and (i), the number of polling places under Subsection (2)(a)(ii) in an election of board members of an irrigation district shall be one polling place per division of the district, designated by the district board.

(ii) Each polling place designated by an irrigation district board under Subsection (2)(c)(i) shall coincide with a polling place designated by the county clerk under Subsection (2)(a)(ii).

(3) The clerk of each local district with a board member position to be filled at the next municipal general election or regular general election, as applicable, shall provide notice of:

(a) each elective position of the local district to be filled at the next municipal general election or regular general election, as applicable;

(b) the constitutional and statutory qualifications for each position; and

(c) the dates and times for filing a declaration of candidacy.

(4) The clerk of the local district shall publish the notice described in Subsection (3):

(a) by posting the notice on the Utah Public Notice Website created in Section 63F-1-701, for 10 days before the first day for filing a declaration of candidacy; and

(b) [~~(i)~~] by posting the notice in at least five public places within the local district at least 10 days before the first day for filing a declaration of candidacy; [~~or~~] and

[~~(ii) publishing the notice:~~]

[~~(A) in a newspaper of general circulation within the local district at least three but no more than 10~~

~~days before the first day for filing a declaration of candidacy;~~]

[~~(B) in accordance with Section 45-1-101, for 10 days before the first day for filing a declaration of candidacy; and~~]

(c) if the local district has a website, on the local district's website for 10 days before the first day for filing a declaration of candidacy.

(5) (a) Except as provided in Subsection (5)(c), to become a candidate for an elective local district board position, an individual shall file a declaration of candidacy in person with an official designated by the local district, during office hours, within the candidate filing period for the applicable election year in which the election for the local district board is held.

(b) When the candidate filing deadline falls on a Saturday, Sunday, or holiday, the filing time shall be extended until the close of normal office hours on the following regular business day.

(c) Subject to Subsection (5)(f), an individual may designate an agent to file a declaration of candidacy with the official designated by the local district if:

(i) the individual is located outside of the state during the entire filing period;

(ii) the designated agent appears in person before the official designated by the local district; and

(iii) the individual communicates with the official designated by the local district using an electronic device that allows the individual and official to see and hear each other.

(d) (i) Before the filing officer may accept any declaration of candidacy from an individual, the filing officer shall:

(A) read to the individual the constitutional and statutory qualification requirements for the office that the individual is seeking; and

(B) require the individual to state whether the individual meets those requirements.

(ii) If the individual does not meet the qualification requirements for the office, the filing officer may not accept the individual's declaration of candidacy.

(iii) If it appears that the individual meets the requirements of candidacy, the filing officer shall accept the individual's declaration of candidacy.

(e) The declaration of candidacy shall be in substantially the following form:

"I, (print name) _____, being first duly sworn, say that I reside at (Street) _____, City of _____, County of _____, state of Utah, (Zip Code) _____, (Telephone Number, if any)_____; that I meet the qualifications for the office of board of trustees member for _____ (state the name of the local district); that I am a candidate for that office to be voted upon at the next election; and that, if filing via a designated agent, I will be out of the state of Utah during the entire candidate filing period, and I hereby request that my name be printed upon the official ballot for that election.

(Signed)

_____

Subscribed and sworn to (or affirmed) before me by _____ on this _____ day of _____, ____.

(Signed) _____

(Clerk or Notary Public)"

(f) An agent designated under Subsection (5)(c) may not sign the form described in Subsection (5)(e).

(g) Each individual wishing to become a valid write-in candidate for an elective local district board position is governed by Section 20A-9-601.

(h) If at least one individual does not file a declaration of candidacy as required by this section, an individual shall be appointed to fill that board position in accordance with the appointment provisions of Section 20A-1-512.

(i) If only one candidate files a declaration of candidacy and there is no write-in candidate who complies with Section 20A-9-601, the board, in accordance with Section 20A-1-206, may:

(i) consider the candidate to be elected to the position; and

(ii) cancel the election.

(6) (a) A primary election may be held if:

(i) the election is authorized by the local district board; and

(ii) the number of candidates for a particular local board position or office exceeds twice the number of persons needed to fill that position or office.

(b) The primary election shall be conducted:

(i) on the same date as the municipal primary election or the regular primary election, as applicable; and

(ii) according to the procedures for primary elections provided under Title 20A, Election Code.

(7) (a) Except as provided in Subsection (7)(c), within one business day after the deadline for filing a declaration of candidacy, the local district clerk shall certify the candidate names to the clerk of each county in which the local district is located.

(b) (i) Except as provided in Subsection (7)(c) and in accordance with Section 20A-6-305, the clerk of each county in which the local district is located and the local district clerk shall coordinate the placement of the name of each candidate for local district office in the nonpartisan section of the ballot with the appropriate election officer.

(ii) If consolidation of the local district election ballot with the municipal general election ballot or the regular general election ballot, as applicable, is not feasible, the local district board of trustees, in

consultation with the county clerk, shall provide for a separate local district election ballot to be administered by poll workers at polling locations designated under Subsection (2).

(c) (i) Subsections (7)(a) and (b) do not apply to an election of a member of the board of an irrigation district established under Chapter 2a, Part 5, Irrigation District Act.

(ii) (A) Subject to Subsection (7)(c)(ii)(B), the board of each irrigation district shall prescribe the form of the ballot for each board member election.

(B) Each ballot for an election of an irrigation district board member shall be in a nonpartisan format.

(C) The name of each candidate shall be placed on the ballot in the order specified under Section 20A-6-305.

(8) (a) Each voter at an election for a board of trustees member of a local district shall:

(i) be a registered voter within the district, except for an election of:

(A) an irrigation district board of trustees member; or

(B) a basic local district board of trustees member who is elected by property owners; and

(ii) meet the requirements to vote established by the district.

(b) Each voter may vote for as many candidates as there are offices to be filled.

(c) The candidates who receive the highest number of votes are elected.

(9) Except as otherwise provided by this section, the election of local district board members is governed by Title 20A, Election Code.

(10) (a) Except as provided in Subsection 17B-1-303(8), a person elected to serve on a local district board shall serve a four-year term, beginning at noon on the January 1 after the person's election.

(b) A person elected shall be sworn in as soon as practical after January 1.

(11) (a) Except as provided in Subsection (11)(b), each local district shall reimburse the county or municipality holding an election under this section for the costs of the election attributable to that local district.

(b) Each irrigation district shall bear its own costs of each election it holds under this section.

(12) This section does not apply to an improvement district that provides electric or gas service.

(13) Except as provided in Subsection 20A-3a-605(1)(b), the provisions of Title 20A, Chapter 3a, Part 6, Early Voting, do not apply to an election under this section.

(14) (a) As used in this Subsection (14), "board" means:

(i) a local district board; or

(ii) the administrative control board of a special service district that has elected members on the board.

(b) A board may hold elections for membership on the board at a regular general election instead of a municipal general election if the board submits an application to the lieutenant governor that:

(i) requests permission to hold elections for membership on the board at a regular general election instead of a municipal general election; and

(ii) indicates that holding elections at the time of the regular general election is beneficial, based on potential cost savings, a potential increase in voter turnout, or another material reason.

(c) Upon receipt of an application described in Subsection (14)(b), the lieutenant governor may approve the application if the lieutenant governor concludes that holding the elections at the regular general election is beneficial based on the criteria described in Subsection (14)(b)(ii).

(d) If the lieutenant governor approves a board's application described in this section:

(i) all future elections for membership on the board shall be held at the time of the regular general election; and

(ii) the board may not hold elections at the time of a municipal general election unless the board receives permission from the lieutenant governor to hold all future elections for membership on the board at a municipal general election instead of a regular general election, under the same procedure, and by applying the same criteria, described in this Subsection (14).

Section 56. Section 17B-1-313 is amended to read:

17B-1-313. Publication of notice of board resolution or action -- Contest period -- No contest after contest period.

(1) After the board of trustees of a local district adopts a resolution or takes other action on behalf of the district, the board may provide for the publication of a notice of the resolution or other action.

(2) Each notice under Subsection (1) shall:

(a) include, as the case may be:

(i) the language of the resolution or a summary of the resolution; or

(ii) a description of the action taken by the board;

(b) state that:

(i) any person in interest may file an action in district court to contest the regularity, formality, or legality of the resolution or action within 30 days after the date of publication; and

(ii) if the resolution or action is not contested by filing an action in district court within the 30-day

period, no one may contest the regularity, formality, or legality of the resolution or action after the expiration of the 30-day period; and

[~~(c) be published:~~]

[~~(i) in a newspaper that is published or has general circulation in the district; and~~]

[~~(ii) as required in Section 45-1-101.~~]

(c) be posted on the Utah Public Notice Website created in Section 63F-1-701.

(3) For a period of 30 days after the date of the publication, any person in interest may contest the regularity, formality, or legality of the resolution or other action by filing an action in district court.

(4) After the expiration of the 30-day period under Subsection (3), no one may contest the regularity, formality, or legality of the resolution or action for any cause.

Section 57. Section 17B-1-417 is amended to read:

17B-1-417. Boundary adjustment -- Notice and hearing -- Protest -- Resolution adjusting boundaries -- Filing of notice and plat with the lieutenant governor -- Recording requirements -- Effective date.

(1) As used in this section, "affected area" means the area located within the boundaries of one local district that will be removed from that local district and included within the boundaries of another local district because of a boundary adjustment under this section.

(2) The boards of trustees of two or more local districts having a common boundary and providing the same service on the same wholesale or retail basis may adjust their common boundary as provided in this section.

(3) (a) The board of trustees of each local district intending to adjust a boundary that is common with another local district shall:

(i) adopt a resolution indicating the board's intent to adjust a common boundary;

(ii) hold a public hearing on the proposed boundary adjustment no less than 60 days after the adoption of the resolution under Subsection (3)(a)(i); and

[~~(iii) (A) publish notice:~~]

[~~(I) (Aa) once a week for two successive weeks in a newspaper of general circulation within the local district; or~~]

[~~(Bb) if there is no newspaper of general circulation within the local district, post notice~~]

(iii) (A) post notice:

(I) in at least four conspicuous places within the local district at least two weeks before the public hearing; and

(II) on the Utah Public Notice Website created in Section 63F-1-701, for two weeks; or

(B) mail a notice to each owner of property located within the affected area and to each registered voter residing within the affected area.

(b) The notice required under Subsection (3)(a)(iii) shall:

(i) state that the board of trustees of the local district has adopted a resolution indicating the board's intent to adjust a boundary that the local district has in common with another local district that provides the same service as the local district;

(ii) describe the affected area;

(iii) state the date, time, and location of the public hearing required under Subsection (3)(a)(ii);

(iv) provide a local district telephone number where additional information about the proposed boundary adjustment may be obtained;

(v) explain the financial and service impacts of the boundary adjustment on property owners or residents within the affected area; and

(vi) state in conspicuous and plain terms that the board of trustees may approve the adjustment of the boundaries unless, at or before the public hearing under Subsection (3)(a)(ii), written protests to the adjustment are filed with the board by:

(A) the owners of private real property that:

(I) is located within the affected area;

(II) covers at least 50% of the total private land area within the affected area; and

(III) is equal in assessed value to at least 50% of the assessed value of all private real property within the affected area; or

(B) registered voters residing within the affected area equal in number to at least 50% of the votes cast in the affected area for the office of governor at the last regular general election before the filing of the protests.

[~~(c) The first publication of the notice required under Subsection (3)(a)(iii)(A) shall be within 14 days after the board's adoption of a resolution under Subsection (3)(a)(i).~~]

[~~(d)~~] (c) The boards of trustees of the local districts whose boundaries are being adjusted may jointly:

(i) [~~publish, post,~~] post or mail the notice required under Subsection (3)(a)(iii); and

(ii) hold the public hearing required under Subsection (3)(a)(ii).

(4) After the public hearing required under Subsection (3)(a)(ii), the board of trustees may adopt a resolution approving the adjustment of the common boundary unless, at or before the public hearing, written protests to the boundary adjustment have been filed with the board by:

(a) the owners of private real property that:

(i) is located within the affected area;

(ii) covers at least 50% of the total private land area within the affected area; and

(iii) is equal in assessed value to at least 50% of the assessed value of all private real property within the affected area; or

(b) registered voters residing within the affected area equal in number to at least 50% of the votes cast in the affected area for the office of governor at the last regular general election before the filing of the protests.

(5) A resolution adopted under Subsection (4) does not take effect until the board of each local district whose boundaries are being adjusted has adopted a resolution under Subsection (4).

(6) The board of the local district whose boundaries are being adjusted to include the affected area shall:

(a) within 30 days after the resolutions take effect under Subsection (5), file with the lieutenant governor:

(i) a copy of a notice of an impending boundary action, as defined in Section 67-1a-6.5, that meets the requirements of Subsection 67-1a-6.5(3); and

(ii) a copy of an approved final local entity plat, as defined in Section 67-1a-6.5; and

(b) upon the lieutenant governor's issuance of a certificate of boundary adjustment under Section 67-1a-6.5:

(i) if the affected area is located within the boundary of a single county, submit to the recorder of that county:

(A) the original:

(I) notice of an impending boundary action;

(II) certificate of boundary adjustment; and

(III) approved final local entity plat; and

(B) a certified copy of each resolution adopted under Subsection (4); or

(ii) if the affected area is located within the boundaries of more than a single county:

(A) submit to the recorder of one of those counties:

(I) the original of the documents listed in Subsections (6)(b)(i)(A)(I), (II), and (III); and

(II) a certified copy of each resolution adopted under Subsection (4); and

(B) submit to the recorder of each other county:

(I) a certified copy of the documents listed in Subsections (6)(b)(i)(A)(I), (II), and (III); and

(II) a certified copy of each resolution adopted under Subsection (4).

(7) (a) Upon the lieutenant governor's issuance of a certificate of boundary adjustment under Section 67-1a-6.5, the affected area is annexed to the local district whose boundaries are being adjusted to include the affected area, and the affected area is withdrawn from the local district whose boundaries are being adjusted to exclude the affected area.

(b) (i) The effective date of a boundary adjustment under this section for purposes of assessing property within the affected area is governed by Section 59-2-305.5.

(ii) Until the documents listed in Subsection (6)(b) are recorded in the office of the recorder of the county in which the property is located, a local district in whose boundary an affected area is included because of a boundary adjustment under this section may not:

(A) levy or collect a property tax on property within the affected area;

(B) levy or collect an assessment on property within the affected area; or

(C) charge or collect a fee for service provided to property within the affected area.

(iii) Subsection (7)(b)(ii)(C):

(A) may not be construed to limit a local district's ability before a boundary adjustment to charge and collect a fee for service provided to property that is outside the local district's boundary; and

(B) does not apply until 60 days after the effective date, under Subsection (7)(a), of the local district's boundary adjustment, with respect to a fee that the local district was charging for service provided to property within the area affected by the boundary adjustment immediately before the boundary adjustment.

Section 58. Section 17B-1-505.5 is amended to read:

17B-1-505.5. Feasibility study for a municipality's withdrawal from a local district providing fire protection, paramedic, and emergency services or law enforcement service.

(1) As used in this section:

(a) "Feasibility consultant" means a person with expertise in:

(i) the processes and economics of local government; and

(ii) the economics of providing fire protection, paramedic, and emergency services or law enforcement service.

(b) "Feasibility study" means a study to determine the functional and financial feasibility of a municipality's withdrawal from a first responder local district.

(c) "First responder district" means a local district, other than a municipal services district, that provides:

(i) fire protection, paramedic, and emergency services; or

(ii) law enforcement service.

(d) "Withdrawing municipality" means a municipality whose legislative body has adopted a

resolution under Subsection 17B-1-505(3)(a) to initiate the process of the municipality's withdrawal from a first responder district.

(2) This section applies and a feasibility study shall be conducted, as provided in this section, if:

(a) the legislative body of a municipality has adopted a resolution under Subsection 17B-1-505(3)(a) to initiate the process of the municipality's withdrawal from a first responder district;

(b) the municipality and first responder district have not agreed in writing to the withdrawal; and

(c) a feasibility study is a condition under Subsection 17B-1-505(6)(a) for an election to be held approving the withdrawal.

(3) (a) As provided in this Subsection (3), the withdrawing municipality and first responder district shall choose and engage a feasibility consultant to conduct a feasibility study.

(b) The withdrawing municipality and first responder district shall jointly choose and engage a feasibility consultant according to applicable municipal or local district procurement procedures.

(c) (i) If the withdrawing municipality and first responder district cannot agree on and have not engaged a feasibility consultant under Subsection (3)(b) within 45 days after the legislative body of the withdrawing municipality submits written notice to the first responder district under Subsection 17B-1-505(3)(c), the withdrawing municipality and first responder district shall, as provided in this Subsection (3)(c), choose a feasibility consultant from a list of at least eight feasibility consultants provided by the Utah Association of Certified Public Accountants.

(ii) A list of feasibility consultants under Subsection (3)(c)(i) may not include a feasibility consultant that has had a contract to provide services to the withdrawing municipality or first responder district at any time during the two-year period immediately preceding the date the list is provided under Subsection (3)(c)(i).

(iii) (A) Beginning with the first responder district, the first responder district and withdrawing municipality shall alternately eliminate one feasibility consultant each from the list of feasibility consultants until one feasibility consultant remains.

(B) Within five days after receiving the list of consultants from the Utah Association of Certified Public Accountants, the first responder district shall make the first elimination of a feasibility consultant from the list and notify the withdrawing municipality in writing of the elimination.

(C) After the first elimination of a feasibility consultant from the list, the withdrawing municipality and first responder district shall each, within three days after receiving the written notification of the preceding elimination, notify the other in writing of the elimination of a feasibility consultant from the list.

(d) If a withdrawing municipality and first responder district do not engage a feasibility consultant under Subsection (3)(b), the withdrawing municipality and first responder district shall engage the feasibility consultant that has not been eliminated from the list at the completion of the process described in Subsection (3)(c).

(4) A feasibility consultant that conducts a feasibility study under this section shall be independent of and unaffiliated with the withdrawing municipality and first responder district.

(5) In conducting a feasibility study under this section, the feasibility consultant shall consider:

(a) population and population density within the withdrawing municipality;

(b) current and five-year projections of demographics and economic base in the withdrawing municipality, including household size and income, commercial and industrial development, and public facilities;

(c) projected growth in the withdrawing municipality during the next five years;

(d) subject to Subsection (6)(a), the present and five-year projections of the cost, including overhead, of providing the same service in the withdrawing municipality as is provided by the first responder district, including:

(i) the estimated cost if the first responder district continues to provide service; and

(ii) the estimated cost if the withdrawing municipality provides service;

(e) subject to Subsection (6)(a), the present and five-year projections of the cost, including overhead, of the first responder district providing service with:

(i) the municipality included in the first responder district's service area; and

(ii) the withdrawing municipality excluded from the first responder district's service area;

(f) a projection of any new taxes per household that may be levied within the withdrawing municipality within five years after the withdrawal;

(g) the fiscal impact that the withdrawing municipality's withdrawal has on other municipalities and unincorporated areas served by the first responder district, including any rate increase that may become necessary to maintain required coverage ratios for the first responder district's debt;

(h) the physical and other assets that will be required by the withdrawing municipality to provide, without interruption or diminution of service, the same service that is being provided by the first responder district;

(i) the physical and other assets that will no longer be required by the first responder district to continue to provide the current level of service to the remainder of the first responder district, excluding the withdrawing municipality, and could be transferred to the withdrawing municipality;

(j) subject to Subsection (6)(b), a fair and equitable allocation of the first responder district's assets between the first responder district and the withdrawing municipality, effective upon the withdrawal of the withdrawing municipality from the first responder district;

(k) a fair and equitable allocation of the debts, liabilities, and obligations of the first responder district and any local building authority of the first responder district, between the withdrawing municipality and the remaining first responder district, taking into consideration:

(i) any requirement to maintain the excludability of interest from the income of the holder of the debt, liability, or obligation for federal income tax purposes; and

(ii) any first responder district assets that have been purchased with the proceeds of bonds issued by the first responder district that the first responder district will retain and any of those assets that will be transferred to the withdrawing municipality;

(l) the number and classification of first responder district employees who will no longer be required to serve the remaining portions of the first responder district after the withdrawing municipality withdraws from the first responder district, including the dollar amount of the wages, salaries, and benefits attributable to the employees and the estimated cost associated with termination of the employees if the withdrawing municipality does not employ the employees;

(m) maintaining as a base, for a period of three years after withdrawal, the existing schedule of pay and benefits for first responder district employees who are transferred to the employment of the withdrawing municipality; and

(n) any other factor that the feasibility consultant considers relevant to the question of the withdrawing municipality's withdrawal from the first responder district.

(6) (a) For purposes of Subsections (5)(d) and (e):

(i) the feasibility consultant shall assume a level and quality of service to be provided in the future to the withdrawing municipality that fairly and reasonably approximates the level and quality of service that the first responder district provides to the withdrawing municipality at the time of the feasibility study;

(ii) in determining the present value cost of a service that the first responder district provides, the feasibility consultant shall consider:

(A) the cost to the withdrawing municipality of providing the service for the first five years after the withdrawal; and

(B) the first responder district's present and five-year projected cost of providing the same service within the withdrawing municipality; and

(iii) the feasibility consultant shall consider inflation and anticipated growth in calculating the cost of providing service.

(b) The feasibility consultant may not consider an allocation of first responder district assets or a transfer of first responder district employees to the extent that the allocation or transfer would impair the first responder district's ability to continue to provide the current level of service to the remainder of the first responder district without the withdrawing municipality, unless the first responder district consents to the allocation or transfer.

(7) A feasibility consultant may retain an architect, engineer, or other professional, as the feasibility consultant considers prudent and as provided in the agreement with the withdrawing municipality and first responder district, to assist the feasibility consultant to conduct a feasibility study.

(8) The withdrawing municipality and first responder district shall require the feasibility consultant to:

(a) complete the feasibility study within a time established by the withdrawing municipality and first responder district;

(b) prepare and submit a written report communicating the results of the feasibility study, including a one-page summary of the results; and

(c) attend all public hearings relating to the feasibility study under Subsection (14).

(9) A written report of the results of a feasibility study under this section shall:

(a) contain a recommendation concerning whether a withdrawing municipality's withdrawal from a first responder district is functionally and financially feasible for both the first responder district and the withdrawing municipality; and

(b) include any conditions the feasibility consultant determines need to be satisfied in order to make the withdrawal functionally and financially feasible, including:

(i) first responder district assets and liabilities to be allocated to the withdrawing municipality; and

(ii) (A) first responder district employees to become employees of the withdrawing municipality; and

(B) sick leave, vacation, and other accrued benefits and obligations relating to the first responder district employees that the withdrawing municipality needs to assume.

(10) The withdrawing municipality and first responder district shall equally share the feasibility consultant's fees and costs, as specified in the agreement between the withdrawing municipality and first responder district and the feasibility consultant.

(11) (a) Upon completion of the feasibility study and preparation of a written report, the feasibility consultant shall deliver a copy of the report to the withdrawing municipality and first responder district.

(b) (i) A withdrawing municipality or first responder district that disagrees with any aspect of a feasibility study report may, within 20 business days after receiving a copy of the report under Subsection (11)(a), submit to the feasibility consultant a written objection detailing the disagreement.

(ii) (A) A withdrawing municipality that submits a written objection under Subsection (11)(b)(i) shall simultaneously deliver a copy of the objection to the first responder district.

(B) A first responder district that submits a written objection under Subsection (11)(b)(i) shall simultaneously deliver a copy of the objection to the withdrawing municipality.

(iii) A withdrawing municipality or first responder district may, within 10 business days after receiving an objection under Subsection (11)(b)(ii), submit to the feasibility consultant a written response to the objection.

(iv) (A) A withdrawing municipality that submits a response under Subsection (11)(b)(iii) shall simultaneously deliver a copy of the response to the first responder district.

(B) A first responder district that submits a response under Subsection (11)(b)(iii) shall simultaneously deliver a copy of the response to the withdrawing municipality.

(v) If an objection is filed under Subsection (11)(b)(i), the feasibility consultant shall, within 20 business days after the expiration of the deadline under Subsection (11)(b)(iii) for submitting a response to an objection:

(A) modify the feasibility study report or explain in writing why the feasibility consultant is not modifying the feasibility study report; and

(B) deliver the modified feasibility study report or written explanation to the withdrawing municipality and first responder local district.

(12) Within seven days after the expiration of the deadline under Subsection (11)(b)(i) for submitting an objection or, if an objection is submitted, within seven days after receiving a modified feasibility study report or written explanation under Subsection (11)(b)(v), but at least 30 days before a public hearing under Subsection (14), the withdrawing municipality shall:

(a) make a copy of the report available to the public at the primary office of the withdrawing municipality; and

(b) if the withdrawing municipality has a website, post a copy of the report on the municipality's website.

(13) A feasibility study report or, if a feasibility study report is modified under Subsection (11), a modified feasibility study report may not be challenged unless the basis of the challenge is that the report results from collusion or fraud.

(14) (a) Following the expiration of the deadline under Subsection (11)(b)(i) for submitting an objection, or, if an objection is submitted under Subsection (11)(b)(i), following the withdrawing municipality's receipt of the modified feasibility study report or written explanation under Subsection (11)(b)(v), the legislative body of the withdrawing municipality shall, at the legislative body's next regular meeting, schedule at least one public hearing to be held:

(i) within the following 60 days; and

(ii) for the purpose of allowing:

(A) the feasibility consultant to present the results of the feasibility study; and

(B) the public to become informed about the feasibility study results, to ask the feasibility consultant questions about the feasibility study, and to express the public's views about the proposed withdrawal.

(b) At a public hearing under Subsection (14)(a), the legislative body of the withdrawing municipality shall:

(i) provide a copy of the feasibility study for public review; and

(ii) allow the public to:

(A) ask the feasibility consultant questions about the feasibility study; and

(B) express the public's views about the withdrawing municipality's proposed withdrawal from the first responder district.

(15) (a) The clerk or recorder of the withdrawing municipality shall publish notice of a hearing under Subsection (14)[~~: (i) at least once a week for three successive weeks in a newspaper of general circulation within the withdrawing municipality, with the last publication occurring no less than three days before the first public hearing held under Subsection (14); and (ii)~~] on the Utah Public Notice Website created in Section 63F-1-701, for three consecutive weeks immediately before the public hearing.

(b) A notice under Subsection (15)(a) shall state:

(i) the date, time, and location of the public hearing; and

(ii) that a copy of the feasibility study report may be obtained, free of charge, at the office of the withdrawing municipality or on the withdrawing municipality's website.

(16) Unless the withdrawing municipality and first responder district agree otherwise, conditions that a feasibility study report indicates are necessary to be met for a withdrawal to be functionally and financially feasible for the withdrawing municipality and first responder district are binding on the withdrawing municipality and first responder district if the withdrawal occurs.

Section 59. Section 17B-1-609 is amended to read:

17B-1-609. Hearing to consider adoption -- Notice.

(1) At the meeting at which the tentative budget is adopted, the board of trustees shall:

(a) establish the time and place of a public hearing to consider its adoption; and

(b) except as provided in Subsection (6), order that notice of the hearing:

[~~(i) (A) be published at least seven days before the hearing in at least one issue of a newspaper of general circulation in the county or counties in which the district is located; or~~]

[~~(B) if no newspaper is circulated generally in the county or counties,~~]

(i) be posted in three public places within the district; and

(ii) be published at least seven days before the hearing on the Utah Public Notice Website created in Section 63F-1-701.

(2) If the budget hearing is held in conjunction with a tax increase hearing, the notice required in Subsection (1)(b):

(a) may be combined with the notice required under Section 59-2-919; and

(b) shall be published in accordance with the advertisement provisions of Section 59-2-919.

(3) If the budget hearing is to be held in conjunction with a fee increase hearing, the notice required in Subsection (1)(b):

(a) may be combined with the notice required under Section 17B-1-643; and

(b) shall be published or mailed in accordance with the notice provisions of Section 17B-1-643.

(4) Proof that notice was given in accordance with Subsection (1)(b), (2), (3), or (6) is prima facie evidence that notice was properly given.

(5) If a notice required under Subsection (1)(b), (2), (3), or (6) is not challenged within 30 days after the day on which the hearing is held, the notice is adequate and proper.

(6) A board of trustees of a local district with an annual operating budget of less than $250,000 may satisfy the notice requirements in Subsection (1)(b) by:

(a) mailing a written notice, postage prepaid, to each voter in the local district; and

(b) posting the notice in three public places within the district.

Section 60. Section 17B-1-643 is amended to read:

17B-1-643. Imposing or increasing a fee for service provided by local district.

(1) (a) Before imposing a new fee or increasing an existing fee for a service provided by a local district, each local district board of trustees shall first hold a public hearing at which:

(i) the local district shall demonstrate its need to impose or increase the fee; and

(ii) any interested person may speak for or against the proposal to impose a fee or to increase an existing fee.

(b) Each public hearing under Subsection (1)(a) shall be held in the evening beginning no earlier than 6 p.m.

(c) A public hearing required under this Subsection (1) may be combined with a public hearing on a tentative budget required under Section 17B-1-610.

(d) Except to the extent that this section imposes more stringent notice requirements, the local district board shall comply with Title 52, Chapter 4, Open and Public Meetings Act, in holding the public hearing under Subsection (1)(a).

(2) (a) Each local district board shall give notice of a hearing under Subsection (1) as provided in Subsections (2)(b) and (c) or Subsection (2)(d).

[~~(b) The notice required under Subsection (2)(a) shall be published:~~]

(b) The local district board shall:

(i) post the notice required under Subsection (2)(a) on the Utah Public Notice Website established in Section 63F-1-701; and

[~~(ii) (A) in a newspaper or combination of newspapers of general circulation in the local district, if there is a newspaper or combination of newspapers of general circulation in the local district; or~~]

[~~(B) if there is no newspaper or combination of newspapers of general circulation in the local district, the local district board shall~~]

(ii) post at least one [~~notice~~] of the notices required under Subsection (2)(a) per 1,000 population within the local district, at places within the local district that are most likely to provide actual notice to residents within the local district.

[~~(c) (i) The notice described in Subsection (2)(b)(ii)(A):~~]

[~~(A) shall be no less than 1/4 page in size and the type used shall be no smaller than 18 point, and surrounded by a 1/4-inch border;~~]

[~~(B) may not be placed in that portion of the newspaper where legal notices and classified advertisements appear;~~]

[~~(C) whenever possible, shall appear in a newspaper that is published at least one day per week;~~]

[~~(D) shall be in a newspaper or combination of newspapers of general interest and readership in the local district, and not of limited subject matter; and~~]

[~~(E) shall be run once each week for the two weeks preceding the hearing.~~]

[~~(ii)~~] (c) The notice described in Subsection (2)(b) shall state that the local district board intends to impose or increase a fee for a service provided by the local district and will hold a public hearing on a certain day, time, and place fixed in the notice, which shall be not less than seven days after the day the first notice is published, for the purpose of hearing comments regarding the proposed imposition or increase of a fee and to explain the reasons for the proposed imposition or increase.

(d) (i) In lieu of providing notice under Subsection (2)(b), the local district board of trustees may give the notice required under Subsection (2)(a) by mailing the notice to those within the district who:

(A) will be charged the fee for a district service, if the fee is being imposed for the first time; or

(B) are being charged a fee, if the fee is proposed to be increased.

(ii) Each notice under Subsection (2)(d)(i) shall comply with Subsection (2)(c)[~~(ii)~~].

(iii) A notice under Subsection (2)(d)(i) may accompany a district bill for an existing fee.

(e) If the hearing required under this section is combined with the public hearing required under Section 17B-1-610, the notice required under this Subsection (2):

(i) may be combined with the notice required under Section 17B-1-609; and

(ii) shall be [~~published,~~] posted[~~,~~] or mailed in accordance with the notice provisions of this section.

(f) Proof that notice was given as provided in Subsection (2)(b) or (d) is prima facie evidence that notice was properly given.

(g) If no challenge is made to the notice given of a hearing required by Subsection (1) within 30 days after the date of the hearing, the notice is considered adequate and proper.

(3) After holding a public hearing under Subsection (1), a local district board may:

(a) impose the new fee or increase the existing fee as proposed;

(b) adjust the amount of the proposed new fee or the increase of the existing fee and then impose the new fee or increase the existing fee as adjusted; or

(c) decline to impose the new fee or increase the existing fee.

(4) This section applies to each new fee imposed and each increase of an existing fee that occurs on or after July 1, 1998.

(5) (a) This section does not apply to an impact fee.

(b) The imposition or increase of an impact fee is governed by Title 11, Chapter 36a, Impact Fees Act.

Section 61. Section 17B-1-1204 is amended to read:

17B-1-1204. Notice of the hearing on a validation petition -- Amended or supplemented validation petition.

(1) Upon the entry of an order under Section 17B-1-1203 setting a hearing on a validation petition, the local district that filed the petition shall post notice:

[~~(a) publish notice:~~]

[~~(i) at least once a week for three consecutive weeks in a newspaper of general circulation in the county in which the principal office of the district is located; and~~]

[~~(ii)~~] (a) on the Utah Public Notice Website created in Section 63F-1-701, for three weeks immediately before the hearing; and

(b) [~~post notice in its~~] in the local district's principal office at least 21 days before the date set for the hearing.

(2) Each notice under Subsection (1) shall:

(a) state the date, time, and place of the hearing on the validation petition;

(b) include a general description of the contents of the validation petition; and

(c) if applicable, state the location where a complete copy of a contract that is the subject of the validation petition may be examined.

(3) If a district amends or supplements a validation petition under Subsection 17B-1-1202(3) after publishing and posting notice as required under Subsection (1), the district is not required to publish or post notice again unless required by the court.

Section 62. Section 17B-1-1307 is amended to read:

17B-1-1307. Notice of public hearing and of dissolution.

(1) Before holding a public hearing required under Section 17B-1-1306, the administrative body shall:

(a) post notice of the public hearing and of the proposed dissolution:

[~~(a) (i) publish notice of the public hearing and of the proposed dissolution:~~]

[~~(A) in a newspaper of general circulation within the local district proposed to be dissolved; and~~]

[~~(B)~~] (i) on the Utah Public Notice Website created in Section 63F-1-701, for 30 days before the public hearing; and

(ii) [~~post notice of the public hearing and of the proposed dissolution~~] in at least four conspicuous places within the local district proposed to be dissolved, no less than five and no more than 30 days before the public hearing; or

(b) mail a notice to each owner of property located within the local district and to each registered voter residing within the local district.

(2) Each notice required under Subsection (1) shall:

(a) identify the local district proposed to be dissolved and the service it was created to provide; and

(b) state the date, time, and location of the public hearing.

Section 63. Section 17B-2a-705 is amended to read:

17B-2a-705. Taxation -- Additional levy -- Election.

(1) If a mosquito abatement district board of trustees determines that the funds required during the next ensuing fiscal year will exceed the maximum amount that the district is authorized to levy under Subsection 17B-1-103(2)(g), the board of trustees may call an election on a date specified in Section 20A-1-204 and submit to district voters the question of whether the district should be authorized to impose an additional tax to raise the necessary additional funds.

(2) The board shall publish notice of the election:

[~~(a) (i) in a newspaper of general circulation within the district at least once, no later than four weeks before the day of the election;~~]

[~~(ii) if there is no newspaper of general circulation in the district, at least four weeks before the day of the election,~~]

(a) (i) by posting one notice, and at least one additional notice per 2,000 population of the district, in places within the district that are most likely to give notice to the voters in the district; or

[~~(iii)~~] (ii) at least four weeks before the day of the election, by mailing notice to each registered voter in the district;

(b) by posting notice on the Utah Public Notice Website created in Section 63F-1-701, for four weeks before the day of the election; and

[~~(c) in accordance with Section 45-1-101, for four weeks before the day of the election; and~~]

[~~(d)~~] (c) if the district has a website, by posting notice on the district's website for four weeks before the day of the election.

(3) No particular form of ballot is required, and no informalities in conducting the election may invalidate the election, if it is otherwise fairly conducted.

(4) At the election each ballot shall contain the words, "Shall the district be authorized to impose an additional tax to raise the additional sum of $____?"

(5) The board of trustees shall canvass the votes cast at the election, and, if a majority of the votes cast are in favor of the imposition of the tax, the district is authorized to impose an additional levy to raise the additional amount of money required.

Section 64. Section 17B-2a-1007 is amended to read:

17B-2a-1007. Contract assessments.

(1) As used in this section:

(a) "Assessed land" means:

(i) for a contract assessment under a water contract with a private water user, the land owned by the private water user that receives the beneficial use of water under the water contract; or

(ii) for a contract assessment under a water contract with a public water user, the land within the boundaries of the public water user that is within the boundaries of the water conservancy district and that receives the beneficial use of water under the water contract.

(b) "Contract assessment" means an assessment levied as provided in this section by a water conservancy district on assessed land.

(c) "Governing body" means:

(i) for a county, city, or town, the legislative body of the county, city, or town;

(ii) for a local district, the board of trustees of the local district;

(iii) for a special service district:

(A) the legislative body of the county, city, or town that established the special service district, if no administrative control board has been appointed under Section 17D-1-301; or

(B) the administrative control board of the special service district, if an administrative control board has been appointed under Section 17D-1-301; and

(iv) for any other political subdivision of the state, the person or body with authority to govern the affairs of the political subdivision.

(d) "Petitioner" means a private petitioner or a public petitioner.

(e) "Private petitioner" means an owner of land within a water conservancy district who submits a petition to a water conservancy district under Subsection (3) to enter into a water contract with the district.

(f) "Private water user" means an owner of land within a water conservancy district who enters into a water contract with the district.

(g) "Public petitioner" means a political subdivision of the state:

(i) whose territory is partly or entirely within the boundaries of a water conservancy district; and

(ii) that submits a petition to a water conservancy district under Subsection (3) to enter into a water contract with the district.

(h) "Public water user" means a political subdivision of the state:

(i) whose territory is partly or entirely within the boundaries of a water conservancy district; and

(ii) that enters into a water contract with the district.

(i) "Water contract" means a contract between a water conservancy district and a private water user or a public water user under which the water user purchases, leases, or otherwise acquires the beneficial use of water from the water conservancy district for the benefit of:

(i) land owned by the private water user; or

(ii) land within the public water user's boundaries that is also within the boundaries of the water conservancy district.

(j) "Water user" means a private water user or a public water user.

(2) A water conservancy district may levy a contract assessment as provided in this section.

(3) (a) The governing body of a public petitioner may authorize its chief executive officer to submit a written petition on behalf of the public petitioner to a water conservancy district requesting to enter into a water contract.

(b) A private petitioner may submit a written petition to a water conservancy district requesting to enter into a water contract.

(c) Each petition under this Subsection (3) shall include:

(i) the petitioner's name;

(ii) the quantity of water the petitioner desires to purchase or otherwise acquire;

(iii) a description of the land upon which the water will be used;

(iv) the price to be paid for the water;

(v) the amount of any service, turnout, connection, distribution system, or other charge to be paid;

(vi) whether payment will be made in cash or annual installments;

(vii) a provision requiring the contract assessment to become a lien on the land for which the water is petitioned and is to be allotted; and

(viii) an agreement that the petitioner is bound by the provisions of this part and the rules and regulations of the water conservancy district board of trustees.

(4) (a) If the board of a water conservancy district desires to consider a petition submitted by a petitioner under Subsection (3), the board shall:

(i) [~~publish~~] post notice of the petition and of the hearing required under Subsection (4)(a)(ii) [~~at least once a week in two successive weeks in a newspaper of general circulation within the county in which the political subdivision or private petitioner's land, as the case may be, is located~~] on the Utah Public Notice Website, created in Section 63F-1-701, for at least two successive weeks immediately before the date of the hearing; and

(ii) hold a public hearing on the petition.

(b) Each notice under Subsection (4)(a)(i) shall:

(i) state that a petition has been filed and that the district is considering levying a contract assessment; and

(ii) give the date, time, and place of the hearing required under Subsection (4)(a)(ii).

(c) (i) At each hearing required under Subsection (4)(a)(ii), the board of trustees of the water conservancy district shall:

(A) allow any interested person to appear and explain why the petition should not be granted; and

(B) consider each written objection to the granting of the petition that the board receives before or at the hearing.

(ii) The board of trustees may adjourn and reconvene the hearing as the board considers appropriate.

(d) (i) Any interested person may file with the board of the water conservancy district, at or before the hearing under Subsection (4)(a)(ii), a written objection to the district's granting a petition.

(ii) Each person who fails to submit a written objection within the time provided under Subsection (4)(d)(i) is considered to have consented to the district's granting the petition and levying a contract assessment.

(5) After holding a public hearing as required under Subsection (4)(a)(ii), the board of trustees of a water conservancy district may:

(a) deny the petition; or

(b) grant the petition, if the board considers granting the petition to be in the best interests of the district.

(6) The board of a water conservancy district that grants a petition under this section may:

(a) make an allotment of water for the benefit of assessed land;

(b) authorize any necessary construction to provide for the use of water upon the terms and conditions stated in the water contract;

(c) divide the district into units and fix a different rate for water purchased or otherwise acquired and for other charges within each unit, if the rates and charges are equitable, although not equal and uniform, for similar classes of services throughout the district; and

(d) levy a contract assessment on assessed land.

(7) (a) The board of trustees of each water conservancy district that levies a contract assessment under this section shall:

(i) cause a certified copy of the resolution, ordinance, or order levying the assessment to be recorded in the office of the recorder of each county in which assessed land is located; and

(ii) on or before July 1 of each year after levying the contract assessment, certify to the auditor of

each county in which assessed land is located the amount of the contract assessment.

(b) Upon the recording of the resolution, ordinance, or order, in accordance with Subsection (7)(a)(i):

(i) the contract assessment associated with allotting water to the assessed land under the water contract becomes a political subdivision lien, as that term is defined in Section 11-60-102, on the assessed land, in accordance with Title 11, Chapter 60, Political Subdivision Lien Authority, as of the effective date of the resolution, ordinance, or order; and

(ii) (A) the board of trustees of the water conservancy district shall certify the amount of the assessment to the county treasurer; and

(B) the county treasurer shall include the certified amount on the property tax notice required by Section 59-2-1317 for that year.

(c) (i) Each county in which assessed land is located shall collect the contract assessment in the same manner as taxes levied by the county.

(ii) If the amount of a contract assessment levied under this section is not paid in full in a given year:

(A) by September 15, the governing body of the water conservancy district that levies the contract assessment shall certify any unpaid amount to the treasurer of the county in which the property is located; and

(B) the county treasurer shall include the certified amount on the property tax notice required by Section 59-2-1317 for that year.

(8) (a) The board of trustees of each water conservancy district that levies a contract assessment under this section shall:

(i) hold a public hearing, before August 8 of each year in which a contract assessment is levied, to hear and consider objections filed under Subsection (8)(b); and

[~~(ii) twice publish a notice, at least a week apart:~~]

[~~(A) in a newspaper of general circulation in each county with assessed land included within the district boundaries or, if there is no newspaper of general circulation within the county, in a newspaper of general circulation in an adjoining county; and~~]

(ii) post a notice:

(A) on the Utah Public Notice Website, created in Section 63F-1-701, for at least the two consecutive weeks before the public hearing; and

(B) that contains a general description of the assessed land, the amount of the contract assessment, and the time and place of the public hearing under Subsection (8)(a)(i).

(b) An owner of assessed land within the water conservancy district who believes that the contract assessment on the owner's land is excessive, erroneous, or illegal may, before the hearing under Subsection (8)(a)(i), file with the board of trustees a verified, written objection to the assessment, stating the grounds for the objection.

(c) (i) At each hearing under Subsection (8)(a)(i), the board of trustees shall hear and consider the evidence and arguments supporting each objection.

(ii) After hearing and considering the evidence and arguments supporting an objection, the board of trustees:

(A) shall enter a written order, stating its decision; and

(B) may modify the assessment.

(d) (i) An owner of assessed land may file a petition in district court seeking review of a board of trustees' order under Subsection (8)(c)(ii)(A).

(ii) Each petition under Subsection (8)(d)(i) shall:

(A) be filed within 30 days after the board enters its written order;

(B) state specifically the part of the board's order for which review is sought; and

(C) be accompanied by a bond with good and sufficient security in an amount not exceeding $200, as determined by the court clerk.

(iii) If more than one owner of assessed land seeks review, the court may, upon a showing that the reviews may be consolidated without injury to anyone's interests, consolidate the reviews and hear them together.

(iv) The court shall act as quickly as possible after a petition is filed.

(v) A court may not disturb a board of trustees' order unless the court finds that the contract assessment on the petitioner's assessed land is manifestly disproportionate to assessments imposed upon other land in the district.

(e) If no petition under Subsection (8)(d) is timely filed, the contract assessment is conclusively considered to have been made in proportion to the benefits conferred on the land in the district.

(9) Each resolution, ordinance, or order under which a water conservancy district levied a Class B, Class C, or Class D assessment before April 30, 2007, under the law in effect at the time of the levy is validated, ratified, and confirmed, and a water conservancy district may continue to levy the assessment according to the terms of the resolution, ordinance, or order.

(10) A contract assessment is not a levy of an ad valorem property tax and is not subject to the limits stated in Section 17B-2a-1006.

Section 65. Section 17B-2a-1110 is amended to read:

17B-2a-1110. Withdrawal from a municipal services district upon incorporation -- Feasibility study required for city or town withdrawal -- Public hearing -- Revenues transferred to municipal services district.

(1) (a) A municipality may withdraw from a municipal services district in accordance with

Section 17B-1-502 or 17B-1-505, as applicable, and the requirements of this section.

(b) If a municipality engages a feasibility consultant to conduct a feasibility study under Subsection (2)(a), the 180 days described in Subsection 17B-1-502(3)(a)(iii)(B) is tolled from the day that the municipality engages the feasibility consultant to the day on which the municipality holds the final public hearing under Subsection (5).

(2) (a) If a municipality decides to withdraw from a municipal services district, the municipal legislative body shall, before adopting a resolution under Section 17B-1-502 or 17B-1-505, as applicable, engage a feasibility consultant to conduct a feasibility study.

(b) The feasibility consultant shall be chosen:

(i) by the municipal legislative body; and

(ii) in accordance with applicable municipal procurement procedures.

(3) The municipal legislative body shall require the feasibility consultant to:

(a) complete the feasibility study and submit the written results to the municipal legislative body before the council adopts a resolution under Section 17B-1-502;

(b) submit with the full written results of the feasibility study a summary of the results no longer than one page in length; and

(c) attend the public hearings under Subsection (5).

(4) (a) The feasibility study shall consider:

(i) population and population density within the withdrawing municipality;

(ii) current and five-year projections of demographics and economic base in the withdrawing municipality, including household size and income, commercial and industrial development, and public facilities;

(iii) projected growth in the withdrawing municipality during the next five years;

(iv) subject to Subsection (4)(b), the present and five-year projections of the cost, including overhead, of municipal services in the withdrawing municipality;

(v) assuming the same tax categories and tax rates as currently imposed by the municipal services district and all other current service providers, the present and five-year projected revenue for the withdrawing municipality;

(vi) a projection of any new taxes per household that may be levied within the withdrawing municipality within five years of the withdrawal; and

(vii) the fiscal impact on other municipalities serviced by the municipal services district.

(b) (i) For purposes of Subsection (4)(a)(iv), the feasibility consultant shall assume a level and quality of municipal services to be provided to the withdrawing municipality in the future that fairly and reasonably approximates the level and quality of municipal services being provided to the withdrawing municipality at the time of the feasibility study.

(ii) In determining the present cost of a municipal service, the feasibility consultant shall consider:

(A) the amount it would cost the withdrawing municipality to provide municipal services for the first five years after withdrawing; and

(B) the municipal services district's present and five-year projected cost of providing municipal services.

(iii) The costs calculated under Subsection (4)(a)(iv) shall take into account inflation and anticipated growth.

(5) If the results of the feasibility study meet the requirements of Subsection (4), the municipal legislative body shall, at its next regular meeting after receipt of the results of the feasibility study, schedule at least one public hearing to be held:

(a) within the following 60 days; and

(b) for the purpose of allowing:

(i) the feasibility consultant to present the results of the study; and

(ii) the public to become informed about the feasibility study results, including the requirement that if the municipality withdraws from the municipal services district, the municipality must comply with Subsection (9), and to ask questions about those results of the feasibility consultant.

(6) At a public hearing described in Subsection (5), the municipal legislative body shall:

(a) provide a copy of the feasibility study for public review; and

(b) allow the public to express its views about the proposed withdrawal from the municipal services district.

(7) (a) [~~(i)~~] The municipal clerk or recorder shall publish notice of the public hearings required under Subsection (5):

[~~(A) at least once a week for three successive weeks in a newspaper of general circulation within the municipality; and~~]

[~~(B)~~] (i) by posting the notice on the Utah Public Notice Website created in Section 63F-1-701, for three weeks[~~.~~]; and

[~~(ii) The municipal clerk or recorder shall publish the last publication of notice required under Subsection (7)(a)(i)(A) at least three days before the first public hearing required under Subsection (5).~~]

[~~(b) (i) If, under Subsection (7)(a)(i)(A), there is no newspaper of general circulation within the proposed municipality, the municipal clerk or recorder shall post~~]

(ii) by posting at least one notice of the hearings per 1,000 population in conspicuous places within the municipality that are most likely to give notice of the hearings to the residents.

[~~(ii)~~] (b) The municipal clerk or recorder shall post the notices under Subsection [~~(7)(b)(i)~~] (7)(a)(ii) at least seven days before the first hearing under Subsection (5).

(c) The notice under [~~Subsections (7)(a) and (b)~~] Subsection (7)(a) shall include the feasibility study summary and shall indicate that a full copy of the study is available for inspection and copying at the office of the municipal clerk or recorder.

(8) At a public meeting held after the public hearing required under Subsection (5), the municipal legislative body may adopt a resolution under Section 17B-1-502 or 17B-1-505, as applicable, if the municipality is in compliance with the other requirements of that section.

(9) The municipality shall pay revenues in excess of 5% to the municipal services district for 10 years beginning on the next fiscal year immediately following the municipal legislative body adoption of a resolution or an ordinance to withdraw under Section 17B-1-502 or 17B-1-505 if the results of the feasibility study show that the average annual amount of revenue under Subsection (4)(a)(v) exceed the average annual amount of cost under Subsection (4)(a)(iv) by more than 5%.

Section 66. Section 17C-1-601.5 is amended to read:

17C-1-601.5. Annual agency budget -- Fiscal year -- Public hearing required -- Auditor forms -- Requirement to file form.

(1) Each agency shall prepare an annual budget of the agency's revenues and expenditures for each fiscal year.

(2) The board shall adopt each agency budget:

(a) for an agency created by a municipality, before June 30; or

(b) for an agency created by a county, before December 15.

(3) The agency's fiscal year shall be the same as the fiscal year of the community that created the agency.

(4) (a) Before adopting an annual budget, each board shall hold a public hearing on the annual budget.

(b) Each agency shall provide notice of the public hearing on the annual budget by:

[~~(i) (A) publishing at least one notice in a newspaper of general circulation within the agency boundaries, one week before the public hearing; or~~]

[~~(B) if there is no newspaper of general circulation within the agency boundaries,~~]

(i) posting a notice of the public hearing in at least three public places within the agency boundaries; and

(ii) publishing notice on the Utah Public Notice Website created in Section 63F-1-701, at least one week before the public hearing.

(c) Each agency shall make the annual budget available for public inspection at least three days before the date of the public hearing.

(5) The state auditor shall prescribe the budget forms and the categories to be contained in each annual budget, including:

(a) revenues and expenditures for the budget year;

(b) legal fees; and

(c) administrative costs, including rent, supplies, and other materials, and salaries of agency personnel.

(6) (a) Within 90 days after adopting an annual budget, each board shall file a copy of the annual budget with the auditor of the county in which the agency is located, the State Tax Commission, the state auditor, the State Board of Education, and each taxing entity from which the agency receives project area funds.

(b) The requirement of Subsection (6)(a) to file a copy of the annual budget with the state as a taxing entity is met if the agency files a copy with the State Tax Commission and the state auditor.

Section 67. Section 17C-1-701.5 is amended to read:

17C-1-701.5. Agency dissolution -- Restrictions -- Notice -- Recording requirements -- Agency records -- Dissolution expenses.

(1) (a) Subject to Subsection (1)(b), the community legislative body may, by ordinance, dissolve an agency.

(b) A community legislative body may adopt an ordinance described in Subsection (1)(a) only if the agency has no outstanding bonded indebtedness, other unpaid loans, indebtedness, or advances, and no legally binding contractual obligations with a person other than the community.

(2) (a) The community legislative body shall:

(i) within 10 days after adopting an ordinance described in Subsection (1), file with the lieutenant governor a copy of a notice of an impending boundary action, as defined in Section 67-1a-6.5, that meets the requirements of Subsection 67-1a-6.5(3); and

(ii) upon the lieutenant governor's issuance of a certificate of dissolution under Section 67-1a-6.5, submit to the recorder of the county in which the agency is located:

(A) the original notice of an impending boundary action;

(B) the original certificate of dissolution; and

(C) a certified copy of the ordinance that dissolves the agency.

(b) Upon the lieutenant governor's issuance of the certificate of dissolution under Section 67-1a-6.5, the agency is dissolved.

(c) Within 10 days after receiving the certificate of dissolution from the lieutenant governor under Section 67-1a-6.5, the community legislative body shall send a copy of the certificate of dissolution and the ordinance adopted under Subsection (1) to the State Board of Education, and each taxing entity.

(d) The community legislative body shall [~~publish~~] post a notice of dissolution [~~in a newspaper of general circulation in the county in which the dissolved agency is located~~] on the Utah Public Notice Website created in Section 63F-1-701.

(3) The books, documents, records, papers, and seal of each dissolved agency shall be deposited for safekeeping and reference with the recorder of the community that dissolved the agency.

(4) The agency shall pay all expenses of the dissolution.

Section 68. Section 17C-1-806 is amended to read:

17C-1-806. Requirements for notice provided by agency.

(1) The notice required by Section 17C-1-805 shall be given by:

[~~(a) (i) publishing one notice, excluding the map referred to in Subsection (3)(b), in a newspaper of general circulation within the county in which the project area or proposed project area is located, at least 14 days before the hearing;~~]

[~~(ii) if there is no newspaper of general circulation,~~]

(a) (i) posting notice at least 14 days before the day of the hearing in at least three conspicuous places within the county in which the project area or proposed project area is located; or

[~~(iii)~~] (ii) posting notice, excluding the map described in Subsection (3)(b), at least 14 days before the day on which the hearing is held on:

(A) the Utah Public Notice Website described in Section 63F-1-701; and

(B) the public website of a community located within the boundaries of the project area; and

(b) at least 30 days before the hearing, mailing notice to:

(i) each record owner of property located within the project area or proposed project area;

(ii) the State Tax Commission;

(iii) the assessor and auditor of the county in which the project area or proposed project area is located; and

(iv) (A) if a project area is subject to a taxing entity committee, each member of the taxing entity committee and the State Board of Education; or

(B) if a project area is not subject to a taxing entity committee, the legislative body or governing board of each taxing entity within the boundaries of the project area or proposed project area.

(2) The mailing of the notice to record property owners required under Subsection (1)(b)(i) shall be conclusively considered to have been properly completed if:

(a) the agency mails the notice to the property owners as shown in the records, including an electronic database, of the county recorder's office and at the addresses shown in those records; and

(b) the county recorder's office records used by the agency in identifying owners to whom the notice is mailed and their addresses were obtained or accessed from the county recorder's office no earlier than 30 days before the mailing.

(3) The agency shall include in each notice required under Section 17C-1-805:

(a) (i) a boundary description of the project area or proposed project area; or

(ii) (A) a mailing address or telephone number where a person may request that a copy of the boundary description be sent at no cost to the person by mail, email, or facsimile transmission; and

(B) if the agency or community has an Internet website, an Internet address where a person may gain access to an electronic, printable copy of the boundary description and other related information;

(b) a map of the boundaries of the project area or proposed project area;

(c) an explanation of the purpose of the hearing; and

(d) a statement of the date, time, and location of the hearing.

(4) The agency shall include in each notice under Subsection (1)(b):

(a) a statement that property tax revenue resulting from an increase in valuation of property within the project area or proposed project area will be paid to the agency for project area development rather than to the taxing entity to which the tax revenue would otherwise have been paid if:

(i) (A) the taxing entity committee consents to the project area budget; or

(B) one or more taxing entities agree to share property tax revenue under an interlocal agreement; and

(ii) the project area plan provides for the agency to receive tax increment; and

(b) an invitation to the recipient of the notice to submit to the agency comments concerning the subject matter of the hearing before the date of the hearing.

(5) An agency may include in a notice under Subsection (1) any other information the agency considers necessary or advisable, including the

public purpose achieved by the project area development and any future tax benefits expected to result from the project area development.

Section 69. Section 17C-2-108 is amended to read:

17C-2-108. Notice of urban renewal project area plan adoption -- Effective date of plan -- Contesting the formation of the plan.

(1) (a) Upon the community legislative body's adoption of an urban renewal project area plan, or an amendment to a project area plan under Section 17C-2-110, the community legislative body shall provide notice as provided in Subsection (1)(b) by:

[~~(i) (A) publishing or causing to be published a notice in a newspaper of general circulation within the agency's boundaries; or~~]

[~~(B) if there is no newspaper of general circulation within the agency's boundaries,~~]

(i) causing a notice to be posted in at least three public places within the agency's boundaries; and

(ii) posting a notice on the Utah Public Notice Website described in Section 63F-1-701.

(b) Each notice under Subsection (1)(a) shall:

(i) set forth the community legislative body's ordinance adopting the project area plan or a summary of the ordinance; and

(ii) include a statement that the project area plan is available for general public inspection and the hours for inspection.

(2) The project area plan shall become effective on the date of:

(a) if notice was published under Subsection (1)(a), publication of the notice; or

(b) if notice was posted under Subsection (1)(a), posting of the notice.

(3) (a) For a period of 30 days after the effective date of the project area plan under Subsection (2), any person may contest the project area plan or the procedure used to adopt the project area plan if the plan or procedure fails to comply with applicable statutory requirements.

(b) After the 30-day period under Subsection (3)(a) expires, a person may not contest the project area plan or procedure used to adopt the project area plan for any cause.

(4) Upon adoption of the project area plan by the community legislative body, the agency may carry out the project area plan.

(5) Each agency shall make the project area plan available to the general public at the agency's office during normal business hours.

Section 70. Section 17C-3-107 is amended to read:

17C-3-107. Notice of economic development project area plan adoption -- Effective date of plan -- Contesting the formation of the plan.

(1) (a) Upon the community legislative body's adoption of an economic development project area plan, or an amendment to the project area plan under Section 17C-3-109 that requires notice, the legislative body shall provide notice as provided in Subsection (1)(b) by:

[~~(i) publishing or causing to be published a notice:~~]

[~~(A) in a newspaper of general circulation within the agency's boundaries; or~~]

[~~(B) if there is no newspaper of general circulation within the agency's boundaries,~~]

(i) causing a notice to be posted in at least three public places within the agency's boundaries; and

(ii) posting a notice on the Utah Public Notice Website described in Section 63F-1-701.

(b) Each notice under Subsection (1)(a) shall:

(i) set forth the community legislative body's ordinance adopting the project area plan or a summary of the ordinance; and

(ii) include a statement that the project area plan is available for public inspection and the hours for inspection.

(2) The project area plan shall become effective on the date of:

(a) if notice was published under Subsection (1)(a), publication of the notice; or

(b) if notice was posted under Subsection (1)(a), posting of the notice.

(3) (a) For a period of 30 days after the effective date of the project area plan under Subsection (2), any person may contest the project area plan or the procedure used to adopt the project area plan if the plan or procedure fails to comply with applicable statutory requirements.

(b) After the 30-day period under Subsection (3)(a) expires, a person may not contest the project area plan or procedure used to adopt the project area plan for any cause.

(4) Upon adoption of the economic development project area plan by the community legislative body, the agency may implement the project area plan.

(5) Each agency shall make the economic development project area plan available to the general public at the agency's office during normal business hours.

Section 71. Section 17C-4-106 is amended to read:

17C-4-106. Notice of community development project area plan adoption -- Effective date of plan -- Contesting the formation of the plan.

(1) (a) Upon the community legislative body's adoption of a community development project area

plan, the community legislative body shall provide notice as provided in Subsection (1)(b) by:

[~~(i) (A) publishing or causing to be published a notice in a newspaper of general circulation within the agency's boundaries; or~~]

[~~(B) if there is no newspaper of general circulation within the agency's boundaries,~~]

(i) causing a notice to be posted in at least three public places within the agency's boundaries; and

(ii) [~~publishing~~] posting a notice or causing a notice to be [~~published in accordance with Section 45-1-101~~] posted on the Utah Public Notice Website created in Section 63F-1-701.

(b) Each notice under Subsection (1)(a) shall:

(i) set forth the community legislative body's ordinance adopting the community development project area plan or a summary of the ordinance; and

(ii) include a statement that the project area plan is available for general public inspection and the hours for inspection.

(2) The community development project area plan shall become effective on the date of[~~:~~] the posting of the notice under Subsection (1)(a).

[~~(a) if notice was published under Subsection (1)(a), publication of the notice; or~~]

[~~(b) if notice was posted under Subsection (1)(a), posting of the notice.~~]

(3) (a) For a period of 30 days after the effective date of the community development project area plan under Subsection (2), any person may contest the project area plan or the procedure used to adopt the project area plan if the plan or procedure fails to comply with applicable statutory requirements.

(b) After the 30-day period under Subsection (3)(a) expires, a person may not contest the community development project area plan or procedure used to adopt the project area plan for any cause.

(4) Upon adoption of the community development project area plan by the community legislative body, the agency may carry out the project area plan.

(5) Each agency shall make the adopted project area plan available to the public at the agency's office during normal business hours.

Section 72. Section 17C-4-202 is amended to read:

17C-4-202. Resolution or interlocal agreement to provide project area funds for the community development project area plan -- Notice -- Effective date of resolution or interlocal agreement -- Time to contest resolution or interlocal agreement -- Availability of resolution or interlocal agreement.

(1) The approval and adoption of each resolution or interlocal agreement under Subsection 17C-4-201(2) shall be in an open and public meeting.

(2) (a) Upon the adoption of a resolution or interlocal agreement under Section 17C-4-201, the agency shall provide notice as provided in Subsection (2)(b) by:

[~~(i) (A) publishing or causing to be published a notice in a newspaper of general circulation within the agency's boundaries; or~~]

[~~(B) if there is no newspaper of general circulation within the agency's boundaries,~~]

(i) causing a notice to be posted in at least three public places within the agency's boundaries; and

(ii) [~~publishing~~] posting or causing to be [~~published~~] posted a notice on the Utah Public Notice Website created in Section 63F-1-701.

(b) Each notice under Subsection (2)(a) shall:

(i) set forth a summary of the resolution or interlocal agreement; and

(ii) include a statement that the resolution or interlocal agreement is available for public inspection and the hours of inspection.

(3) The resolution or interlocal agreement shall become effective on the date of[~~:~~] the posting of the notice under Subsection (2)(a).

[~~(a) if notice was published under Subsection (2)(a)(i)(A) or (2)(a)(ii), publication of the notice; or~~]

[~~(b) if notice was posted under Subsection (2)(a)(i)(B), posting of the notice.~~]

(4) (a) For a period of 30 days after the effective date of the resolution or interlocal agreement under Subsection (3), any person may contest the resolution or interlocal agreement or the procedure used to adopt the resolution or interlocal agreement if the resolution or interlocal agreement or procedure fails to comply with applicable statutory requirements.

(b) After the 30-day period under Subsection (4)(a) expires, a person may not contest:

(i) the resolution or interlocal agreement;

(ii) a distribution of tax increment to the agency under the resolution or interlocal agreement; or

(iii) the agency's use of project area funds under the resolution or interlocal agreement.

(5) Each agency that is to receive project area funds under a resolution or interlocal agreement under Section 17C-4-201 and each taxing entity that approves a resolution or enters into an interlocal agreement under Section 17C-4-201 shall make the resolution or interlocal agreement, as the case may be, available at the taxing entity's offices to the public for inspection and copying during normal business hours.

Section 73. Section 17C-5-110 is amended to read:

17C-5-110. Notice of community reinvestment project area plan adoption --

Effective date of plan -- Contesting the formation of the plan.

(1) (a) Upon a community legislative body's adoption of a community reinvestment project area plan in accordance with Section 17C-5-109, or an amendment to a community reinvestment project area plan in accordance with Section 17C-5-112, the community legislative body shall provide notice of the adoption or amendment in accordance with Subsection (1)(b) by:

[~~(i) (A) causing a notice to be published in a newspaper of general circulation within the community; or~~]

[~~(B) if there is no newspaper of general circulation within the community,~~]

(i) causing a notice to be posted in at least three public places within the community; and

(ii) posting a notice on the Utah Public Notice Website described in Section 63F-1-701.

(b) A notice described in Subsection (1)(a) shall include:

(i) a copy of the community legislative body's ordinance, or a summary of the ordinance, that adopts the community reinvestment project area plan; and

(ii) a statement that the community reinvestment project area plan is available for public inspection and the hours for inspection.

(2) A community reinvestment project area plan is effective on the day on which notice of adoption is published or posted in accordance with Subsection (1)(a).

(3) A community reinvestment project area is considered created the day on which the community reinvestment project area plan becomes effective as described in Subsection (2).

(4) (a) Within 30 days after the day on which a community reinvestment project area plan is effective, a person may contest the community reinvestment project area plan or the procedure used to adopt the community reinvestment project area plan if the community reinvestment project area plan or the procedure fails to comply with a provision of this title.

(b) After the 30-day period described in Subsection (4)(a) expires, a person may not contest the community reinvestment project area plan or the procedure used to adopt the community reinvestment project area plan.

(5) Upon adoption of a community reinvestment project area plan by the community legislative body, the agency may implement the community reinvestment project area plan.

(6) The agency shall make the community reinvestment project area plan available to the public at the agency's office during normal business hours.

Section 74. Section 17C-5-205 is amended to read:

17C-5-205. Interlocal agreement to provide project area funds for the community reinvestment project area subject to interlocal agreement -- Notice -- Effective date of interlocal agreement -- Time to contest interlocal agreement -- Availability of interlocal agreement.

(1) An agency shall:

(a) approve and adopt an interlocal agreement described in Section 17C-5-204 at an open and public meeting; and

(b) provide a notice of the meeting titled "Diversion of Property Tax for a Community Reinvestment Project Area."

(2) (a) Upon the execution of an interlocal agreement described in Section 17C-5-204, the agency shall provide notice of the execution by:

[~~(i) (A) publishing or causing to be published a notice in a newspaper of general circulation within the agency's boundaries; or~~]

[~~(B) if there is no newspaper of general circulation within the agency's boundaries,~~]

(i) causing the notice to be posted in at least three public places within the agency's boundaries; and

(ii) [~~publishing~~] posting the notice or causing the notice to be [~~published~~] posted on the Utah Public Notice Website created in Section 63F-1-701.

(b) A notice described in Subsection (2)(a) shall include:

(i) a summary of the interlocal agreement; and

(ii) a statement that the interlocal agreement:

(A) is available for public inspection and the hours for inspection; and

(B) authorizes the agency to receive all or a portion of a taxing entity's tax increment or sales and use tax revenue.

(3) An interlocal agreement described in Section 17C-5-204 is effective the day on which the notice described in Subsection (2) is [~~published or~~] posted in accordance with Subsection (2)(a).

(4) (a) Within 30 days after the day on which the interlocal agreement is effective, a person may contest the interlocal agreement or the procedure used to adopt the interlocal agreement if the interlocal agreement or procedure fails to comply with a provision of this title.

(b) After the 30-day period described in Subsection (4)(a) expires, a person may not contest:

(i) the interlocal agreement;

(ii) a distribution of tax increment to the agency under the interlocal agreement; or

(iii) the agency's use of project area funds under the interlocal agreement.

(5) A taxing entity that enters into an interlocal agreement under Section 17C-5-204 shall make a

copy of the interlocal agreement available to the public at the taxing entity's office for inspection and copying during normal business hours.

Section 75. Section 20A-1-206 is amended to read:

20A-1-206. Cancellation of local election -- Municipalities -- Local districts -- Notice.

(1) A municipal legislative body may cancel a local election if:

(a) (i) (A) all municipal officers are elected in an at-large election under Subsection 10-3-205.5(1); and

(B) the number of municipal officer candidates, including any eligible write-in candidates under Section 20A-9-601, for the at-large municipal offices does not exceed the number of open at-large municipal offices for which the candidates have filed; or

(ii) (A) the municipality has adopted an ordinance under Subsection 10-3-205.5(2);

(B) the number of municipal officer candidates, including any eligible write-in candidates under Section 20A-9-601, for the at-large municipal offices, if any, does not exceed the number of open at-large municipal offices for which the candidates have filed; and

(C) each municipal officer candidate, including any eligible write-in candidates under Section 20A-9-601, in each district is unopposed;

(b) there are no other municipal ballot propositions; and

(c) the municipal legislative body passes, no later than 20 days before the day of the scheduled election, a resolution that cancels the election and certifies that:

(i) each municipal officer candidate is:

(A) unopposed; or

(B) a candidate for an at-large municipal office for which the number of candidates does not exceed the number of open at-large municipal offices; and

(ii) a candidate described in Subsection (1)(c)(i) is considered to be elected to office.

(2) A municipal legislative body that cancels a local election in accordance with Subsection (1) shall give notice that the election is cancelled by:

(a) subject to Subsection (5), posting notice on the Statewide Electronic Voter Information Website as described in Section 20A-7-801, for 15 consecutive days before the day of the scheduled election;

(b) if the municipality has a public website, posting notice on the municipality's public website for 15 days before the day of the scheduled election;

(c) if the municipality publishes a newsletter or other periodical, publishing notice in the next scheduled newsletter or other periodical published before the day of the scheduled election;

[~~(d) (i) publishing notice at least twice in a newspaper of general circulation in the municipality before the day of the scheduled election;~~]

[~~(ii) if there is no newspaper of general circulation in the municipality,~~]

(d) (i) at least 10 days before the day of the scheduled election, [~~by~~] posting one notice, and at least one additional notice per 2,000 population within the municipality, in places within the municipality that are most likely to give notice to the voters in the municipality; or

[~~(iii)~~] (ii) at least 10 days before the day of the scheduled election, mailing notice to each registered voter in the municipality; and

(e) [~~in accordance with Section 45-1-101, publishing~~] posting notice on the Utah Public Notice Website, created in Section 63F-1-701, for at least 10 days before the day of the scheduled election.

(3) A local district board may cancel an election as described in Section 17B-1-306 if:

(a) (i) (A) any local district officers are elected in an at-large election; and

(B) the number of local district officer candidates for the at-large local district offices, including any eligible write-in candidates under Section 20A-9-601, does not exceed the number of open at-large local district offices for which the candidates have filed; or

(ii) (A) the local district has divided the local district into divisions under Section 17B-1-306.5;

(B) the number of local district officer candidates, including any eligible write-in candidates under Section 20A-9-601, for the at-large local district offices within the local district, if any, does not exceed the number of open at-large local district offices for which the candidates have filed; and

(C) each local district officer candidate, including any eligible write-in candidates under Section 20A-9-601, in each division of the local district is unopposed;

(b) there are no other local district ballot propositions; and

(c) the local district governing body, no later than 20 days before the day of the scheduled election, adopts a resolution that cancels the election and certifies that:

(i) each local district officer candidate is:

(A) unopposed; or

(B) a candidate for an at-large local district office for which the number of candidates does not exceed the number of open at-large local district offices; and

(ii) a candidate described in Subsection (3)(c)(i) is considered to be elected to office.

(4) A local district that cancels a local election in accordance with Subsection (3) shall publish notice that the election is cancelled:

(a) subject to Subsection (5), by posting notice on the Statewide Electronic Voter Information Website as described in Section 20A-7-801, for 15 consecutive days before the day of the scheduled election;

(b) if the local district has a public website, by posting notice on the local district's public website for 15 days before the day of the scheduled election;

(c) if the local district publishes a newsletter or other periodical, by publishing notice in the next scheduled newsletter or other periodical published before the day of the scheduled election;

[~~(d) (i) at least twice in a newspaper of general circulation in the local district before the scheduled election;~~]

[~~(ii) if there is no newspaper of general circulation in the local district,~~]

(d) at least 10 days before the day of the scheduled election[~~,~~]:

(i) by posting one notice, and at least one additional notice per 2,000 population of the local district, in places within the local district that are most likely to give notice to the voters in the local district; or

[~~(iii) at least 10 days before the day of the scheduled election,~~]

(ii) by mailing notice to each registered voter in the local district; and

(e) [~~in accordance with Section 45-1-101~~] by posting notice on the Utah Public Notice Website, created in Section 63F-1-701, for at least 10 days before the day of the scheduled election.

(5) A municipal legislative body that posts a notice in accordance with Subsection (2)(a) or a local district that posts a notice in accordance with Subsection (4)(a) is not liable for a notice that fails to post due to technical or other error by the publisher of the Statewide Electronic Voter Information Website.

Section 76. Section 20A-3a-604 is amended to read:

20A-3a-604. Notice of time and place of early voting.

(1) Except as provided in Section 20A-1-308 or Subsection 20A-3a-603(2), the election officer shall, at least 19 days before the date of the election, publish notice of the dates, times, and locations of early voting:

[~~(a) (i) in one issue of a newspaper of general circulation in the county;~~]

[~~(ii) if there is no newspaper of general circulation in the county, in addition to posting the notice described in Subsection (1)(b),~~]

(a) (i) by posting one notice, and at least one additional notice per 2,000 population of the county, in places within the county that are most likely to give notice to the residents in the county; or

[~~(iii)~~] (ii) by mailing notice to each registered voter in the county;

(b) by posting the notice at each early voting polling place;

(c) on the Utah Public Notice Website created in Section 63F-1-701, for 19 days before the day of the election; and

[~~(d) in accordance with Section 45-1-101, for 19 days before the date of the election; and~~]

[~~(e)~~] (d) on the county's website for 19 days before the day of the election.

(2) Instead of publishing all dates, times, and locations of early voting under Subsection (1), the election officer may publish a statement that specifies the following sources where a voter may view or obtain a copy of all dates, times, and locations of early voting:

(a) the county's website;

(b) the physical address of the county's offices; and

(c) a mailing address and telephone number.

(3) The election officer shall include in the notice described in Subsection (1):

(a) the address of the Statewide Electronic Voter Information Website and, if available, the address of the election officer's website, with a statement indicating that the election officer will post on the website the location of each early voting polling place, including any changes to the location of an early voting polling place and the location of additional early voting polling places; and

(b) a phone number that a voter may call to obtain information regarding the location of an early voting polling place.

Section 77. Section 20A-4-104 is amended to read:

20A-4-104. Counting ballots electronically.

(1) (a) Before beginning to count ballots using automatic tabulating equipment, the election officer shall test the automatic tabulating equipment to ensure that it will accurately count the votes cast for all offices and all measures.

(b) The election officer shall publish public notice of the time and place of the test:

[~~(i) (A) at least 48 hours before the test in one or more daily or weekly newspapers of general circulation in the county, municipality, or jurisdiction where the equipment is used;~~]

[~~(B) if there is no daily or weekly newspaper of general circulation in the county, municipality, or jurisdiction where the equipment is used,~~]

(i) at least 10 days before the day of the test[~~,~~]:

(A) by posting one notice, and at least one additional notice per 2,000 population of the county, municipality, or jurisdiction, in places within the county, municipality, or jurisdiction that are most

likely to give notice to the voters in the county, municipality, or jurisdiction; or

[~~(C) at least 10 days before the day of the test,~~]

(B) by mailing notice to each registered voter in the county, municipality, or jurisdiction where the equipment is used;

(ii) on the Utah Public Notice Website created in Section 63F-1-701, for four weeks before the day of the test; and

[~~(iii) in accordance with Section 45-1-101, for at least 10 days before the day of the test; and~~]

[~~(iv)~~] (iii) if the county, municipality, or jurisdiction has a website, on the website for four weeks before the day of the test.

(c) The election officer shall conduct the test by processing a preaudited group of ballots.

(d) The election officer shall ensure that:

(i) a predetermined number of valid votes for each candidate and measure are recorded on the ballots;

(ii) for each office, one or more ballots have votes in excess of the number allowed by law in order to test the ability of the automatic tabulating equipment to reject those votes; and

(iii) a different number of valid votes are assigned to each candidate for an office, and for and against each measure.

(e) If any error is detected, the election officer shall determine the cause of the error and correct it.

(f) The election officer shall ensure that:

(i) the automatic tabulating equipment produces an errorless count before beginning the actual counting; and

(ii) the automatic tabulating equipment passes the same test at the end of the count before the election returns are approved as official.

(2) (a) The election officer or the election officer's designee shall supervise and direct all proceedings at the counting center.

(b) (i) Proceedings at the counting center are public and may be observed by interested persons.

(ii) Only those persons authorized to participate in the count may touch any ballot or return.

(c) The election officer shall deputize and administer an oath or affirmation to all persons who are engaged in processing and counting the ballots that they will faithfully perform their assigned duties.

(3) If any ballot is damaged or defective so that it cannot properly be counted by the automatic tabulating equipment, the election officer shall ensure that two counting judges jointly:

(a) make a true replication of the ballot with an identifying serial number;

(b) substitute the replicated ballot for the damaged or defective ballot;

(c) label the replicated ballot "replicated"; and

(d) record the replicated ballot's serial number on the damaged or defective ballot.

(4) The election officer may:

(a) conduct an unofficial count before conducting the official count in order to provide early unofficial returns to the public;

(b) release unofficial returns from time to time after the polls close; and

(c) report the progress of the count for each candidate during the actual counting of ballots.

(5) The election officer shall review and evaluate the provisional ballot envelopes and prepare any valid provisional ballots for counting as provided in Section 20A-4-107.

(6) (a) The election officer or the election officer's designee shall:

(i) separate, count, and tabulate any ballots containing valid write-in votes; and

(ii) complete the standard form provided by the clerk for recording valid write-in votes.

(b) In counting the write-in votes, if, by casting a valid write-in vote, a voter has cast more votes for an office than that voter is entitled to vote for that office, the poll workers shall count the valid write-in vote as being the obvious intent of the voter.

(7) (a) The election officer shall certify the return printed by the automatic tabulating equipment, to which have been added write-in and absentee votes, as the official return of each voting precinct.

(b) Upon completion of the count, the election officer shall make official returns open to the public.

(8) If for any reason it becomes impracticable to count all or a part of the ballots with tabulating equipment, the election officer may direct that they be counted manually according to the procedures and requirements of this part.

(9) After the count is completed, the election officer shall seal and retain the programs, test materials, and ballots as provided in Section 20A-4-202.

Section 78. Section 20A-4-304 is amended to read:

20A-4-304. Declaration of results -- Canvassers' report.

(1) Each board of canvassers shall:

(a) except as provided in Part 6, Municipal Alternate Voting Methods Pilot Project, declare "elected" or "nominated" those persons who:

(i) had the highest number of votes; and

(ii) sought election or nomination to an office completely within the board's jurisdiction;

(b) declare:

(i) "approved" those ballot propositions that:

(A) had more "yes" votes than "no" votes; and

(B) were submitted only to the voters within the board's jurisdiction;

(ii) "rejected" those ballot propositions that:

(A) had more "no" votes than "yes" votes or an equal number of "no" votes and "yes" votes; and

(B) were submitted only to the voters within the board's jurisdiction;

(c) certify the vote totals for persons and for and against ballot propositions that were submitted to voters within and beyond the board's jurisdiction and transmit those vote totals to the lieutenant governor; and

(d) if applicable, certify the results of each local district election to the local district clerk.

(2) As soon as the result is declared, the election officer shall prepare a report of the result, which shall contain:

(a) the total number of votes cast in the board's jurisdiction;

(b) the names of each candidate whose name appeared on the ballot;

(c) the title of each ballot proposition that appeared on the ballot;

(d) each office that appeared on the ballot;

(e) from each voting precinct:

(i) the number of votes for each candidate;

(ii) for each race conducted by instant runoff voting under Part 6, Municipal Alternate Voting Methods Pilot Project, the number of valid votes cast for each candidate for each potential ballot-counting phase and the name of the candidate excluded in each canvassing phase; and

(iii) the number of votes for and against each ballot proposition;

(f) the total number of votes given in the board's jurisdiction to each candidate, and for and against each ballot proposition;

(g) the number of ballots that were rejected; and

(h) a statement certifying that the information contained in the report is accurate.

(3) The election officer and the board of canvassers shall:

(a) review the report to ensure that it is correct; and

(b) sign the report.

(4) The election officer shall:

(a) record or file the certified report in a book kept for that purpose;

(b) prepare and transmit a certificate of nomination or election under the officer's seal to each nominated or elected candidate;

(c) publish a copy of the certified report in accordance with Subsection (5); and

(d) file a copy of the certified report with the lieutenant governor.

(5) Except as provided in Subsection (6), the election officer shall, no later than seven days after the day on which the board of canvassers declares the election results, publish the certified report described in Subsection (2):

[~~(a) (i) at least once in a newspaper of general circulation within the jurisdiction;~~]

[~~(ii) if there is no newspaper of general circulation within the jurisdiction,~~]

(a) (i) by posting one notice, and at least one additional notice per 2,000 population of the jurisdiction, in places within the jurisdiction that are most likely to give notice to the residents of the jurisdiction; or

[~~(iii)~~] (ii) by mailing notice to each residence within the jurisdiction;

(b) on the Utah Public Notice Website created in Section 63F-1-701, for one week; and

[~~(c) in accordance with Section 45-1-101, for one week; and~~]

[~~(d)~~] (c) if the jurisdiction has a website, on the jurisdiction's website for one week.

(6) Instead of publishing the entire certified report under Subsection (5), the election officer may publish a statement that:

(a) includes the following: "The Board of Canvassers for [indicate name of jurisdiction] has prepared a report of the election results for the [indicate type and date of election]."; and

(b) specifies the following sources where an individual may view or obtain a copy of the entire certified report:

(i) if the jurisdiction has a website, the jurisdiction's website;

(ii) the physical address for the jurisdiction; and

(iii) a mailing address and telephone number.

(7) When there has been a regular general or a statewide special election for statewide officers, for officers that appear on the ballot in more than one county, or for a statewide or two or more county ballot proposition, each board of canvassers shall:

(a) prepare a separate report detailing the number of votes for each candidate and the number of votes for and against each ballot proposition; and

(b) transmit the separate report by registered mail to the lieutenant governor.

(8) In each county election, municipal election, school election, local district election, and local special election, the election officer shall transmit the reports to the lieutenant governor within 14 days after the date of the election.

(9) In a regular primary election and in a presidential primary election, the board shall transmit to the lieutenant governor:

(a) the county totals for multi-county races, to be telephoned or faxed to the lieutenant governor not later than the second Tuesday after the election; and

(b) a complete tabulation showing voting totals for all primary races, precinct by precinct, to be mailed to the lieutenant governor on or before the third Friday following the primary election.

Section 79. Section 20A-5-101 is amended to read:

20A-5-101. Notice of election.

(1) On or before November 15 in the year before each regular general election year, the lieutenant governor shall prepare and transmit a written notice to each county clerk that:

(a) designates the offices to be filled at the next year's regular general election;

(b) identifies the dates for filing a declaration of candidacy, and for submitting and certifying nomination petition signatures, as applicable, under Sections 20A-9-403, 20A-9-407, and 20A-9-408 for those offices; and

(c) contains a description of any ballot propositions to be decided by the voters that have qualified for the ballot as of that date.

(2) No later than seven business days after the day on which the lieutenant governor transmits the written notice described in Subsection (1), each county clerk shall publish notice, in accordance with Subsection (3):

(a) (i) in a conspicuous place most likely to give notice of the election to the voters in each voting precinct within the county; and

(ii) prepare an affidavit of the posting, showing a copy of the notice and the places where the notice was posted;

[~~(b) (i) in a newspaper of general circulation in the county;~~]

[~~(ii) if there is no newspaper of general circulation within the county, in addition to the notice described in Subsection (2)(a),~~]

(b) (i) by posting one notice, and at least one additional notice per 2,000 population of the county, in places within the county that are most likely to give notice of the election to the voters in the county; or

[~~(iii)~~] (ii) by mailing notice to each registered voter in the county;

(c) on the Utah Public Notice Website created in Section 63F-1-701, for seven days before the day of the election; and

[~~(d) in accordance with Section 45-1-101, for seven days before the day of the election; and~~]

[~~(e)~~] (d) on the county's website for seven days before the day of the election.

(3) The notice described in Subsection (2) shall:

(a) designate the offices to be voted on in that election; and

(b) identify the dates for filing a declaration of candidacy for those offices.

(4) Except as provided in Subsection (6), before each election, the election officer shall give printed notice of the following information:

(a) the date of election;

(b) the hours during which the polls will be open;

(c) the polling places for each voting precinct, early voting polling place, and election day voting center;

(d) the address of the Statewide Electronic Voter Information Website and, if available, the address of the election officer's website, with a statement indicating that the election officer will post on the website any changes to the location of a polling place and the location of any additional polling place;

(e) a phone number that a voter may call to obtain information regarding the location of a polling place; and

(f) the qualifications for persons to vote in the election.

(5) To provide the printed notice described in Subsection (4), the election officer shall publish the notice:

[~~(a) (i) in a newspaper of general circulation in the jurisdiction to which the election pertains at least two days before the day of the election;~~]

[~~(ii) if there is no newspaper of general circulation in the jurisdiction to which the election pertains,~~]

(a) (i) at least two days before the day of the election, by posting one notice, and at least one additional notice per 2,000 population of the jurisdiction, in places within the jurisdiction that are most likely to give notice of the election to the voters in the jurisdiction; or

[~~(iii)~~] (ii) by mailing the notice to each registered voter who resides in the jurisdiction to which the election pertains at least five days before the day of the election;

(b) on the Utah Public Notice Website created in Section 63F-1-701, for two days before the day of the election; and

[~~(c) in accordance with Section 45-1-101, for two days before the day of the election; and~~]

[~~(d)~~] (c) if the jurisdiction has a website, on the jurisdiction's website for two days before the day of the election.

(6) Instead of including the information described in Subsection (4) in the notice, the election officer may give printed notice that:

(a) is entitled "Notice of Election";

(b) includes the following: "A [indicate election type] will be held in [indicate the jurisdiction] on [indicate date of election]. Information relating to

the election, including polling places, polling place hours, and qualifications of voters may be obtained from the following sources:"; and

(c) specifies the following sources where an individual may view or obtain the information described in Subsection (4):

(i) if the jurisdiction has a website, the jurisdiction's website;

(ii) the physical address of the jurisdiction offices; and

(iii) a mailing address and telephone number.

Section 80. Section 20A-5-403.5 is amended to read:

20A-5-403.5. Ballot drop boxes.

(1) An election officer:

(a) may designate ballot drop boxes for the election officer's jurisdiction; and

(b) shall clearly mark each ballot drop box as an official ballot drop box for the election officer's jurisdiction.

(2) Except as provided in Section 20A-1-308 or Subsection (5), the election officer shall, at least 19 days before the date of the election, publish notice of the location of each ballot drop box designated under Subsection (1):

[~~(a) (i) in one issue of a newspaper of general circulation in the jurisdiction holding the election;~~]

[~~(ii) if there is no newspaper of general circulation in the jurisdiction holding the election,~~]

(a) (i) by posting one notice, and at least one additional notice per 2,000 population of the jurisdiction holding the election, in places within the jurisdiction that are most likely to give notice to the residents in the jurisdiction; or

[~~(iii)~~] (ii) by mailing notice to each registered voter in the jurisdiction holding the election;

(b) on the Utah Public Notice Website created in Section 63F-1-701, for 19 days before the day of the election; and

[~~(c) in accordance with Section 45-1-101, for 19 days before the date of the election; and~~]

[~~(d)~~] (c) on the jurisdiction's website for 19 days before the day of the election.

(3) Instead of publishing the location of ballot drop boxes under Subsection (2), the election officer may publish a statement that specifies the following sources where a voter may view or obtain a copy of all ballot drop box locations:

(a) the jurisdiction's website;

(b) the physical address of the jurisdiction's offices; and

(c) a mailing address and telephone number.

(4) The election officer shall include in the notice described in Subsection (2):

(a) the address of the Statewide Electronic Voter Information Website and, if available, the address of the election officer's website, with a statement indicating that the election officer will post on the website the location of each ballot drop box, including any changes to the location of a ballot drop box and the location of additional ballot drop boxes; and

(b) a phone number that a voter may call to obtain information regarding the location of a ballot drop box.

(5) (a) Except as provided in Section 20A-1-308, the election officer may, after the deadline described in Subsection (2):

(i) if necessary, change the location of a ballot drop box; or

(ii) if the election officer determines that the number of ballot drop boxes is insufficient due to the number of registered voters who are voting, designate additional ballot drop boxes.

(b) Except as provided in Section 20A-1-308, if an election officer changes the location of a ballot box or designates an additional ballot drop box location, the election officer shall, as soon as is reasonably possible, give notice of the changed ballot drop box location or the additional ballot drop box location:

(i) to the lieutenant governor, for posting on the Statewide Voter Information Website;

(ii) by posting the information on the website of the election officer, if available; and

(iii) by posting notice:

(A) for a change in the location of a ballot drop box, at the new location and, if possible, the old location; and

(B) for an additional ballot drop box location, at the additional ballot drop box location.

(6) An election officer may, at any time, authorize two or more poll workers to remove a ballot drop box from a location, or to remove ballots from a ballot drop box for processing.

Section 81. Section 20A-5-405 is amended to read:

20A-5-405. Election officer to provide ballots.

(1) An election officer shall:

(a) provide ballots for every election of public officers in which the voters, or any of the voters, within the election officer's jurisdiction participate;

(b) cause the name of every candidate whose nomination has been certified to or filed with the election officer in the manner provided by law to be included on each ballot;

(c) cause any ballot proposition that has qualified for the ballot as provided by law to be included on each ballot;

(d) ensure that the ballots are prepared and in the possession of the election officer before commencement of voting;

(e) allow candidates and their agents and the sponsors of ballot propositions that have qualified for the official ballot to inspect the ballots;

(f) cause sample ballots to be printed that are in the same form as official ballots and that contain the same information as official ballots but that are printed on different colored paper than official ballots or are identified by a watermark;

(g) ensure that the sample ballots are printed and in the possession of the election officer at least seven days before commencement of voting;

(h) make the sample ballots available for public inspection by:

(i) posting a copy of the sample ballot in the election officer's office at least seven days before commencement of voting;

(ii) mailing a copy of the sample ballot to:

(A) each candidate listed on the ballot; and

(B) the lieutenant governor;

(iii) publishing a copy of the sample ballot:

[~~(A) except as provided in Subsection (2), at least seven days before the day of the election in a newspaper of general circulation in the jurisdiction holding the election;~~]

[~~(B) if there is no newspaper of general circulation in the jurisdiction holding the election,~~]

(A) at least seven days before the day of the election, by posting one copy of the sample ballot, and at least one additional copy of the sample ballot per 2,000 population of the jurisdiction, in places within the jurisdiction that are most likely to give notice to the voters in the jurisdiction; or

[~~(C)~~] (B) at least 10 days before the day of the election, by mailing a copy of the sample ballot to each registered voter who resides in the jurisdiction holding the election;

(iv) publishing a copy of the sample ballot on the Utah Public Notice Website created in Section 63F-1-701, for seven days before the day of the election; and

[~~(v) in accordance with Section 45-1-101, publishing a copy of the sample ballot for at least seven days before the day of the election; and~~]

[~~(vi)~~] (v) if the jurisdiction has a website, publishing a copy of the sample ballot for at least seven days before the day of the election;

(i) deliver at least five copies of the sample ballot to poll workers for each polling place and direct them to post the sample ballots as required by Section 20A-5-102; and

(j) print and deliver, at the expense of the jurisdiction conducting the election, enough ballots, sample ballots, and instructions to meet the voting demands of the qualified voters in each voting precinct.

(2) Instead of publishing the entire sample ballot under Subsection (1)(h)(iii)(A), the election officer may publish a statement that:

(a) is entitled, "sample ballot";

(b) includes the following: "A sample ballot for [indicate name of jurisdiction] for the upcoming [indicate type and date of election] may be obtained from the following sources:"; and

(c) specifies the following sources where an individual may view or obtain a copy of the sample ballot:

(i) if the jurisdiction has a website, the jurisdiction's website;

(ii) the physical address of the jurisdiction's offices; and

(iii) a mailing address and telephone number.

(3) (a) Each election officer shall, without delay, correct any error discovered in any ballot, if the correction can be made without interfering with the timely distribution of the ballots.

(b) (i) If the election officer discovers an error or omission in a manual ballot, and it is not possible to correct the error or omission, the election officer shall direct the poll workers to make the necessary corrections on the manual ballots before the ballots are distributed.

(ii) If the election officer discovers an error or omission in an electronic ballot and it is not possible to correct the error or omission by revising the electronic ballot, the election officer shall direct the poll workers to post notice of each error or omission with instructions on how to correct each error or omission in a prominent position at each polling booth.

(c) (i) If the election officer refuses or fails to correct an error or omission in a ballot, a candidate or a candidate's agent may file a verified petition with the district court asserting that:

(A) an error or omission has occurred in:

(I) the publication of the name or description of a candidate;

(II) the preparation or display of an electronic ballot; or

(III) in the printing of sample or official manual ballots; and

(B) the election officer has failed to correct or provide for the correction of the error or omission.

(ii) The district court shall issue an order requiring correction of any error in a ballot or an order to show cause why the error should not be corrected if it appears to the court that the error or omission has occurred and the election officer has failed to correct or provide for the correction of the error or [~~ommission~~] omission.

(iii) A party aggrieved by the district court's decision may appeal the matter to the Utah Supreme Court within five days after the day on which the district court enters the decision.

Section 82. Section 20A-9-203 is amended to read:

20A-9-203. Declarations of candidacy -- Municipal general elections.

(1) An individual may become a candidate for any municipal office if:

(a) the individual is a registered voter; and

(b) (i) the individual has resided within the municipality in which the individual seeks to hold elective office for the 12 consecutive months immediately before the date of the election; or

(ii) the territory in which the individual resides was annexed into the municipality, the individual has resided within the annexed territory or the municipality the 12 consecutive months immediately before the date of the election.

(2) (a) For purposes of determining whether an individual meets the residency requirement of Subsection (1)(b)(i) in a municipality that was incorporated less than 12 months before the election, the municipality is considered to have been incorporated 12 months before the date of the election.

(b) In addition to the requirements of Subsection (1), each candidate for a municipal council position shall, if elected from a district, be a resident of the council district from which the candidate is elected.

(c) In accordance with Utah Constitution, Article IV, Section 6, a mentally incompetent individual, an individual convicted of a felony, or an individual convicted of treason or a crime against the elective franchise may not hold office in this state until the right to hold elective office is restored under Section 20A-2-101.3 or 20A-2-101.5.

(3) (a) An individual seeking to become a candidate for a municipal office shall, regardless of the nomination method by which the individual is seeking to become a candidate:

(i) except as provided in Subsection (3)(b) or Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project, and subject to Subsection 20A-9-404(3)(e), file a declaration of candidacy, in person with the city recorder or town clerk, during the office hours described in Section 10-3-301 and not later than the close of those office hours, between June 1 and June 7 of any odd-numbered year; and

(ii) pay the filing fee, if one is required by municipal ordinance.

(b) Subject to Subsection (5)(b), an individual may designate an agent to file a declaration of candidacy with the city recorder or town clerk if:

(i) the individual is located outside of the state during the entire filing period;

(ii) the designated agent appears in person before the city recorder or town clerk;

(iii) the individual communicates with the city recorder or town clerk using an electronic device that allows the individual and city recorder or town clerk to see and hear each other; and

(iv) the individual provides the city recorder or town clerk with an email address to which the city recorder or town clerk may send the individual the copies described in Subsection (4).

(c) Any resident of a municipality may nominate a candidate for a municipal office by:

(i) except as provided in Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project, filing a nomination petition with the city recorder or town clerk during the office hours described in Section 10-3-301 and not later than the close of those office hours, between June 1 and June 7 of any odd-numbered year that includes signatures in support of the nomination petition of the lesser of at least:

(A) 25 registered voters who reside in the municipality; or

(B) 20% of the registered voters who reside in the municipality; and

(ii) paying the filing fee, if one is required by municipal ordinance.

(4) (a) Before the filing officer may accept any declaration of candidacy or nomination petition, the filing officer shall:

(i) read to the prospective candidate or individual filing the petition the constitutional and statutory qualification requirements for the office that the candidate is seeking;

(ii) require the candidate or individual filing the petition to state whether the candidate meets the requirements described in Subsection (4)(a)(i); and

(iii) inform the candidate or the individual filing the petition that an individual who holds a municipal elected office may not, at the same time, hold a county elected office.

(b) If the prospective candidate does not meet the qualification requirements for the office, the filing officer may not accept the declaration of candidacy or nomination petition.

(c) If it appears that the prospective candidate meets the requirements of candidacy, the filing officer shall:

(i) inform the candidate that the candidate's name will appear on the ballot as it is written on the declaration of candidacy;

(ii) provide the candidate with a copy of the current campaign financial disclosure laws for the office the candidate is seeking and inform the candidate that failure to comply will result in disqualification as a candidate and removal of the candidate's name from the ballot;

(iii) provide the candidate with a copy of Section 20A-7-801 regarding the Statewide Electronic Voter Information Website Program and inform the candidate of the submission deadline under Subsection 20A-7-801(4)(a);

(iv) provide the candidate with a copy of the pledge of fair campaign practices described under Section 20A-9-206 and inform the candidate that:

(A) signing the pledge is voluntary; and

(B) signed pledges shall be filed with the filing officer; and

(v) accept the declaration of candidacy or nomination petition.

(d) If the candidate elects to sign the pledge of fair campaign practices, the filing officer shall:

(i) accept the candidate's pledge; and

(ii) if the candidate has filed for a partisan office, provide a certified copy of the candidate's pledge to the chair of the county or state political party of which the candidate is a member.

(5) (a) The declaration of candidacy shall be in substantially the following form:

"I, (print name) ____, being first sworn, say that I reside at ____ Street, City of ____, County of ____, state of Utah, Zip Code ____, Telephone Number (if any) ____; that I am a registered voter; and that I am a candidate for the office of ____ (stating the term). I will meet the legal qualifications required of candidates for this office. If filing via a designated agent, I attest that I will be out of the state of Utah during the entire candidate filing period. I will file all campaign financial disclosure reports as required by law and I understand that failure to do so will result in my disqualification as a candidate for this office and removal of my name from the ballot. I request that my name be printed upon the applicable official ballots. (Signed) _____

Subscribed and sworn to (or affirmed) before me by ____ on this _____(month\day\year).

(Signed) _____ (Clerk or other officer qualified to administer oath)."[.]

(b) An agent designated under Subsection (3)(b) to file a declaration of candidacy may not sign the form described in Subsection (5)(a).

(c) (i) A nomination petition shall be in substantially the following form:

"NOMINATION PETITION

The undersigned residents of (name of municipality), being registered voters, nominate (name of nominee) for the office of (name of office) for the (length of term of office)."

(ii) The remainder of the petition shall contain lines and columns for the signatures of individuals signing the petition and each individual's address and phone number.

(6) If the declaration of candidacy or nomination petition fails to state whether the nomination is for the two-year or four-year term, the clerk shall consider the nomination to be for the four-year term.

(7) (a) The clerk shall verify with the county clerk that all candidates are registered voters.

(b) Any candidate who is not registered to vote is disqualified and the clerk may not print the candidate's name on the ballot.

(8) Immediately after expiration of the period for filing a declaration of candidacy, the clerk shall:

(a) publish a list of the names of the candidates as they will appear on the ballot:

[~~(i) (A) in at least two successive publications of a newspaper of general circulation in the municipality;~~]

[~~(B) if there is no newspaper of general circulation in the municipality,~~]

(i) (A) by posting one copy of the list, and at least one additional copy of the list per 2,000 population of the municipality, in places within the municipality that are most likely to give notice to the voters in the municipality; or

[~~(C)~~] (B) by mailing notice to each registered voter in the municipality;

(ii) on the Utah Public Notice Website created in Section 63F-1-701, for seven days; and

[~~(iii) in accordance with Section 45-1-101, for seven days; and~~]

[~~(iv)~~] (iii) if the municipality has a website, on the municipality's website for seven days; and

(b) notify the lieutenant governor of the names of the candidates as they will appear on the ballot.

(9) Except as provided in Subsection (10)(c), an individual may not amend a declaration of candidacy or nomination petition filed under this section after the candidate filing period ends.

(10) (a) A declaration of candidacy or nomination petition that an individual files under this section is valid unless a person files a written objection with the clerk before 5 p.m. within five days after the last day for filing.

(b) If a person files an objection, the clerk shall:

(i) mail or personally deliver notice of the objection to the affected candidate immediately; and

(ii) decide any objection within 48 hours after the objection is filed.

(c) If the clerk sustains the objection, the candidate may, before 5 p.m. within three days after the day on which the clerk sustains the objection, correct the problem for which the objection is sustained by amending the candidate's declaration of candidacy or nomination petition, or by filing a new declaration of candidacy.

(d) (i) The clerk's decision upon objections to form is final.

(ii) The clerk's decision upon substantive matters is reviewable by a district court if prompt application is made to the district court.

(iii) The decision of the district court is final unless the Supreme Court, in the exercise of its discretion, agrees to review the lower court decision.

(11) A candidate who qualifies for the ballot under this section may withdraw as a candidate by filing a written affidavit with the municipal clerk.

Section 83. Section 26-8a-405.3 is amended to read:

26-8a-405.3. Use of competitive sealed proposals -- Procedure -- Appeal rights.

(1) (a) Competitive sealed proposals for paramedic or 911 ambulance services under Section 26-8a-405.2, or for non-911 services under Section 26-8a-405.4, shall be solicited through a request for proposal and the provisions of this section.

(b) The governing body of the political subdivision shall approve the request for proposal prior to the notice of the request for proposals under Subsection (1)(c).

(c) [~~(i)~~] Notice of the request for proposals shall be published:

[~~(A) at least once a week for three consecutive weeks in a newspaper of general circulation published in the county; or~~]

[~~(B) if there is no such newspaper, then notice shall be posted~~]

(i) by posting the notice for at least 20 days in at least five public places in the county; and

[~~(ii) in accordance with Section 45-1-101 for at least 20 days.~~]

(ii) by posting the notice on the Utah Public Notice Website, created in Section 63F-1-701, for at least 20 days.

(2) (a) Proposals shall be opened so as to avoid disclosure of contents to competing offerors during the process of negotiations.

(b) (i) Subsequent to the published notice, and prior to selecting an applicant, the political subdivision shall hold a presubmission conference with interested applicants for the purpose of assuring full understanding of, and responsiveness to, solicitation requirements.

(ii) A political subdivision shall allow at least 90 days from the presubmission conference for the proposers to submit proposals.

(c) Subsequent to the presubmission conference, the political subdivision may issue addenda to the request for proposals. An addenda to a request for proposal shall be finalized and posted by the political subdivision at least 45 days before the day on which the proposal must be submitted.

(d) Offerors to the request for proposals shall be accorded fair and equal treatment with respect to any opportunity for discussion and revisions of proposals, and revisions may be permitted after submission and before a contract is awarded for the purpose of obtaining best and final offers.

(e) In conducting discussions, there shall be no disclosures of any information derived from proposals submitted by competing offerors.

(3) (a) (i) A political subdivision may select an applicant approved by the department under Section 26-8a-404 to provide 911 ambulance or paramedic services by contract to the most responsible offeror as defined in Section 63G-6a-103.

(ii) An award under Subsection (3)(a)(i) shall be made to the responsible offeror whose proposal is determined in writing to be the most advantageous to the political subdivision, taking into consideration price and the evaluation factors set forth in the request for proposal.

(b) The applicants who are approved under Section 26-8a-405 and who are selected under this section may be the political subdivision issuing the request for competitive sealed proposals, or any other public entity or entities, any private person or entity, or any combination thereof.

(c) A political subdivision may reject all of the competitive proposals.

(4) In seeking competitive sealed proposals and awarding contracts under this section, a political subdivision:

(a) shall apply the public convenience and necessity factors listed in Subsections 26-8a-408(2) through (6);

(b) shall require the applicant responding to the proposal to disclose how the applicant will meet performance standards in the request for proposal;

(c) may not require or restrict an applicant to a certain method of meeting the performance standards, including:

(i) requiring ambulance medical personnel to also be a firefighter; or

(ii) mandating that offerors use fire stations or dispatch services of the political subdivision;

(d) shall require an applicant to submit the proposal:

(i) based on full cost accounting in accordance with generally accepted accounting principals; and

(ii) if the applicant is a governmental entity, in addition to the requirements of Subsection (4)(e)(i), in accordance with generally accepted government auditing standards and in compliance with the State of Utah Legal Compliance Audit Guide; and

(e) shall set forth in the request for proposal:

(i) the method for determining full cost accounting in accordance with generally accepted accounting principles, and require an applicant to submit the proposal based on such full cost accounting principles;

(ii) guidelines established to further competition and provider accountability; and

(iii) a list of the factors that will be considered by the political subdivision in the award of the contract, including by percentage, the relative weight of the factors established under this Subsection (4)(e), which may include such things as:

(A) response times;

(B) staging locations;

(C) experience;

(D) quality of care; and

(E) cost, consistent with the cost accounting method in Subsection (4)(e)(i).

(5) (a) Notwithstanding any provision of Title 63G, Chapter 6a, Utah Procurement Code, to the contrary, the provisions of Title 63G, Chapter 6a, Utah Procurement Code, apply to the procurement process required by this section, except as provided in Subsection (5)(c).

(b) A procurement appeals panel described in Section 63G-6a-1702 shall have jurisdiction to review and determine an appeal of an offeror under this section.

(c) (i) An offeror may appeal the solicitation or award as provided by the political subdivision's procedures. After all political subdivision appeal rights are exhausted, the offeror may appeal under the provisions of Subsections (5)(a) and (b).

(ii) A procurement appeals panel described in Section 63G-6a-1702 shall determine whether the solicitation or award was made in accordance with the procedures set forth in this section and Section 26-8a-405.2.

(d) The determination of an issue of fact by the appeals board shall be final and conclusive unless arbitrary and capricious or clearly erroneous as provided in Section 63G-6a-1705.

Section 84. Section 38-8-3 is amended to read:

38-8-3. Enforcement of lien -- Notice requirements -- Sale procedure and effect.

(1) An owner may enforce a lien described in Section 38-8-2 against an occupant if:

(a) the occupant is in default for a continuous 30-day period; and

(b) the owner provides written notice of the owner's intent to enforce the lien, in accordance with the requirements of this section, to:

(i) the occupant;

(ii) each lienholder disclosed by the occupant under Subsection 38-8-2(3)(b);

(iii) each person that has filed a valid financing statement with the Division of Corporations and Commercial Code; and

(iv) each person identified as a lienholder in the records of the Motor Vehicle Division.

(2) An owner shall provide the written notice described in Subsection (1)(b):

(a) in person;

(b) by certified mail, to the person's last known address; or

(c) subject to Subsection (3), by email, to the person's last know email address.

(3) If an owner sends a notice described in Subsection (2) by email and does not receive a response, return receipt, or delivery confirmation from the email address to which the notice was sent within three business days after the day on which the notice was sent, the owner shall deliver the notice in person or by certified mail to the person's last known address.

(4) A written notice described in Subsection (1)(b) shall include:

(a) an itemized statement of the owner's claim showing the sum due at the time of the notice and the date when the sum became due;

(b) a brief description of the personal property subject to the lien that permits the person to identify the property, unless the property is locked, fastened, sealed, tied, or otherwise stored in a manner that prevents immediate identification of the property;

(c) if permitted by the terms of the rental agreement, a notice that the occupant may not access the occupant's personal property until the occupant complies with the requirements described in Subsection (9);

(d) the name, street address, and telephone number of the owner or the individual the occupant may contact to respond to the notification;

(e) a demand for payment within a specified time not less than 15 days after the day on which the notice is delivered; and

(f) a conspicuous statement that, unless the claim is paid within the time stated in the notice, the personal property will be advertised for sale and will be sold at a specified time and place.

(5) A notice under this section shall be presumed delivered when it is deposited with the United States Postal Service and properly addressed with postage prepaid.

(6) (a) (i) After the expiration of the time given in the notice, the owner shall publish an advertisement of the sale of the personal property subject to the lien once in a newspaper of general circulation in the county where the self-service storage facility is located.

[~~(b)~~] (ii) An advertisement described in Subsection (6)(a)(i) shall include:

[~~(i)~~] (A) the address of the self-service storage facility and the number, if any, of the space where the personal property is located;

[~~(ii)~~] (B) the name of the occupant; and

[~~(iii)~~] (C) the time, place, and manner of the sale, which shall take place not sooner than 15 days after the day on which the sale is advertised under Subsection (6)(a)(i).

(b) Subsection (6)(a) does not apply if:

(i) the owner:

(A) provided the notice described in Subsection (1)(b) by email; and

(B) received a response or return receipt from the email address to which the notice was sent; or

(ii) the owner:

(A) provided the notice described in Subsection (1)(b) by certified mail; and

(B) has evidence of providing the notice by certified mail.

(7) A sale of the personal property shall conform to the terms of the notice provided for in this section.

(8) A sale of the personal property shall be held at the self-service storage facility, at the nearest suitable place to where the personal property is held or stored, or online.

(9) Before a sale of personal property under this section, the occupant may pay the amount necessary to satisfy the lien and the reasonable expenses incurred under this section and thereby redeem the personal property; upon receipt of this payment, the owner shall return the personal property, and thereafter the owner shall have no liability to any person with respect to that personal property.

(10) A purchaser in good faith of the personal property sold to satisfy a lien as provided for in this chapter takes the property free of any rights of persons against whom the lien was valid and free of any rights of a secured creditor, despite noncompliance by the owner with the requirements of this section.

(11) In the event of a sale under this section, the owner may satisfy the lien for the proceeds of the sale, subject to the rights of any prior lienholder; the lien rights of the prior lienholder are automatically transferred to the proceeds of the sale; if the sale is made in good faith and is conducted in a reasonable manner, the owner shall not be subject to any surcharge for a deficiency in the amount of a prior secured lien, but shall hold the balance, if any, for delivery to the occupant, lienholder, or other person in interest; if the occupant, lienholder, or other person in interest does not claim the balance of the proceeds within one year of the date of sale, it shall become the property of the Utah state treasurer as unclaimed property with no further claim against the owner.

(12) If the requirements of this chapter are not satisfied, if the sale of the personal property is not in conformity with the notice of sale, or if there is a willful violation of this chapter, nothing in this section affects the rights and liabilities of the owner, occupant, or any other person.

Section 85. Section 54-8-10 is amended to read:

54-8-10. Public hearing -- Notice -- Publication.

(1) Such notice shall be:

[~~(a) (i) published:~~]

[~~(A) in full one time in a newspaper of general circulation in the district; or (B) if there be no such newspaper, in a newspaper of general circulation in the county, city, or town in which the district is located; and~~]

[~~(ii)~~] (a) published on the Utah Public Notice Website created in Section 63F-1-701; and

(b) posted in not less than three public places in the district.

(2) A copy of the notice shall be mailed by certified mail to the last known address of each owner of land within the proposed district whose property will be assessed for the cost of the improvement.

(3) The address to be used for that purpose shall be that last appearing on the real property assessment rolls of the county in which the property is located.

(4) In addition, a copy of the notice shall be addressed to "Owner" and shall be so mailed addressed to the street number of each piece of improved property to be affected by the assessment.

(5) Mailed notices and the published notice shall state where a copy of the resolution creating the district will be available for inspection by any interested parties.

Section 86. Section 54-8-16 is amended to read:

54-8-16. Notice of assessment -- Publication.

(1) After the preparation of a resolution under Section 54-8-14, notice of a public hearing on the proposed assessments shall be given.

(2) The notice described in Subsection (1) shall be:

[~~(a) published:~~]

[~~(i) one time in a newspaper in which the first notice of hearing was published at least 20 days before the date fixed for the hearing; and~~]

[~~(ii)~~] (a) published on the Utah Public Notice Website created in Section 63F-1-701, for at least 20 days before the date fixed for the hearing; and

(b) mailed by certified mail not less than 15 days prior to the date fixed for such hearing to each owner of real property whose property will be assessed for part of the cost of the improvement at the last known address of such owner using for such purpose the names and addresses appearing on the last completed real property assessment rolls of the county wherein said affected property is located.

(3) In addition, a copy of such notice shall be addressed to "Owner" and shall be so mailed addressed to the street number of each piece of improved property to be affected by such assessment.

(4) Each notice shall state that at the specified time and place, the governing body will hold a public hearing upon the proposed assessments and shall

state that any owner of any property to be assessed pursuant to the resolution will be heard on the question of whether his property will be benefited by the proposed improvement to the amount of the proposed assessment against his property and whether the amount assessed against his property constitutes more than his proper proportional share of the total cost of the improvement.

(5) The notice shall further state where a copy of the resolution proposed to be adopted levying the assessments against all real property in the district will be on file for public inspection, and that subject to such changes and corrections therein as may be made by the governing body, it is proposed to adopt the resolution at the conclusion of the hearing.

(6) A published notice shall describe the boundaries or area of the district with sufficient particularity to permit each owner of real property therein to ascertain that his property lies in the district.

(7) The mailed notice may refer to the district by name and date of creation and shall state the amount of the assessment proposed to be levied against the real property of the person to whom the notice is mailed.

Section 87. Section 54-8-23 is amended to read:

54-8-23. Objection to amount of assessment -- Civil action -- Litigation to question or attack proceedings or legality of bonds.

(1) No special assessment levied under this chapter shall be declared void, nor shall any such assessment or part thereof be set aside in consequence of any error or irregularity permitted or appearing in any of the proceedings under this chapter, but any party feeling aggrieved by any such special assessment or proceeding may bring a civil action to cause such grievance to be adjudicated if such action is commenced prior to the expiration of the period specified in this section.

(2) The burden of proof to show that such special assessment or part thereof is invalid, inequitable or unjust shall rest upon the party who brings such suit.

(3) Any such litigation shall not be regarded as an appeal within the meaning of the prohibition contained in Section 54-8-18.

(4) Every person whose property is subject to such special assessment and who fails to appear during the public hearings on said assessments to raise his objection to such tax shall be deemed to have waived all objections to such levy except the objection that the governing body lacks jurisdiction to levy such tax.

(5) For a period of 20 days after the governing body has adopted the enactment authorizing the assessment, any taxpayer in the district shall have the right to institute litigation for the purpose of questioning or attacking the proceedings pursuant to which the assessments have been authorized subject to the provisions of the preceding paragraph.

(6) Whenever any enactment authorizing the issuance of any bonds pursuant to the improvement contemplated shall have been adopted such resolution shall be [~~published:~~] posted on the Utah Public Notice Website created in Section 63F-1-701.

[~~(a) once in a newspaper in which the original notice of hearing was published; and~~]

[~~(b) as required in Section 45-1-101.~~]

(7) For a period of 20 days thereafter, any person whose property shall have been assessed and any taxpayer in the district shall have the right to institute litigation for the purpose of questioning or attacking the legality of such bonds.

(8) After the expiration of such 20-day period, all proceedings theretofore had by the governing body, the bonds to be issued pursuant thereto, and the special assessments from which such bonds are to be paid, shall become incontestable, and no suit attacking or questioning the legality thereof may be instituted in this state, and no court shall have the authority to inquire into such matters.

Section 88. Section 57-13a-104 is amended to read:

57-13a-104. Abandonment of prescriptive easement for water conveyance.

(1) A holder of a prescriptive easement for a water conveyance established under Section 57-13a-102 may, in accordance with this section, abandon all or part of the easement.

(2) A holder of a prescriptive easement for a water conveyance established under Section 57-13a-102 who seeks to abandon the easement or part of the easement shall:

(a) in each county where the easement or part of the easement is located[~~: (i)~~], file in the office of the county recorder a notice of intent to abandon the prescriptive easement that describes the easement or part of the easement to be abandoned; [~~and~~]

[~~(ii) publish the notice of intent to abandon the prescriptive easement once a week for two consecutive weeks in:~~]

[~~(A) a local newspaper of general circulation that is published in the area generally served by the water conveyance that utilizes the easement; or~~]

[~~(B) if a newspaper described in Subsection (2)(a)(ii)(A) does not exist, in a newspaper of general circulation in the county;~~]

(b) post copies of the notice of intent to abandon the prescriptive easement in three public places located within the area generally served by the water conveyance that utilizes the easement;

(c) mail a copy of the notice of intent to abandon the prescriptive easement to each municipal and county government where the easement or part of the easement is located;

(d) [~~in accordance with Section 45-1-101, publish~~] post a copy of the notice of intent to abandon the prescriptive easement on the [~~public~~

~~legal notice website described in Subsection 45-1-101(2)(b)~~] Utah Public Notice Website created in Section 63F-1-701; and

(e) after meeting the requirements of Subsections (2)(a), (b), (c), and (d) and at least 45 days after the last day on which the holder of the easement [~~publishes~~] posts the notice of intent to abandon the prescriptive easement in accordance with Subsection [~~(2)(a)(ii)~~] (2)(b), file in the office of the county recorder for each county where the easement or part of the easement is located a notice of abandonment that contains the same description required by Subsection (2)(a)(i).

(3) (a) Upon completion of the requirements described in Subsection (2) by the holder of a prescriptive easement for a water conveyance established under Section 57-13a-102:

(i) all interest to the easement or part of the easement abandoned by the holder of the easement is extinguished; and

(ii) subject to each legal right that exists as described in Subsection (3)(b), the owner of a servient estate whose land was encumbered by the easement or part of the easement abandoned may reclaim the land area occupied by the former easement or part of the easement and resume full utilization of the land without liability to the former holder of the easement.

(b) Abandonment of a prescriptive easement under this section does not affect a legal right to have water delivered or discharged through the water conveyance and easement established by a person other than the holder of the easement who abandons an easement as provided in this section.

Section 89. Section 59-12-402 is amended to read:

59-12-402. Additional resort communities sales and use tax -- Base -- Rate -- Collection fees -- Resolution and voter approval requirements -- Election requirements -- Notice requirements -- Ordinance requirements -- Prohibition of military installation development authority imposition of tax.

(1) (a) Subject to Subsections (2) through (6), the governing body of a municipality in which the transient room capacity as defined in Section 59-12-405 is greater than or equal to 66% of the municipality's permanent census population may, in addition to the sales tax authorized under Section 59-12-401, impose an additional resort communities sales tax in an amount that is less than or equal to .5% on the transactions described in Subsection 59-12-103(1) located within the municipality.

(b) Notwithstanding Subsection (1)(a), the governing body of a municipality may not impose a tax under this section on:

(i) the sale of:

(A) a motor vehicle;

(B) an aircraft;

(C) a watercraft;

(D) a modular home;

(E) a manufactured home; or

(F) a mobile home;

(ii) the sales and uses described in Section 59-12-104 to the extent the sales and uses are exempt from taxation under Section 59-12-104; and

(iii) except as provided in Subsection (1)(d), amounts paid or charged for food and food ingredients.

(c) For purposes of this Subsection (1), the location of a transaction shall be determined in accordance with Sections 59-12-211 through 59-12-215.

(d) A municipality imposing a tax under this section shall impose the tax on the purchase price or sales price for amounts paid or charged for food and food ingredients if the food and food ingredients are sold as part of a bundled transaction attributable to food and food ingredients and tangible personal property other than food and food ingredients.

(2) (a) An amount equal to the total of any costs incurred by the state in connection with the implementation of Subsection (1) which exceed, in any year, the revenues received by the state from its collection fees received in connection with the implementation of Subsection (1) shall be paid over to the state General Fund by the cities and towns which impose the tax provided for in Subsection (1).

(b) Amounts paid under Subsection (2)(a) shall be allocated proportionally among those cities and towns according to the amount of revenue the respective cities and towns generate in that year through imposition of that tax.

(3) To impose an additional resort communities sales tax under this section, the governing body of the municipality shall:

(a) pass a resolution approving the tax; and

(b) except as provided in Subsection (6), obtain voter approval for the tax as provided in Subsection (4).

(4) To obtain voter approval for an additional resort communities sales tax under Subsection (3)(b), a municipality shall:

(a) hold the additional resort communities sales tax election during:

(i) a regular general election; or

(ii) a municipal general election; and

(b) [~~publish~~] post notice of the election:

(i) 15 days or more before the day on which the election is held; and

[~~(ii) (A) in a newspaper of general circulation in the municipality; and~~]

[~~(B) as required in Section 45-1-101.~~]

(ii) on the Utah Public Notice Website created in Section 63F-1-701.

(5) An ordinance approving an additional resort communities sales tax under this section shall provide an effective date for the tax as provided in Section 59-12-403.

(6) (a) Except as provided in Subsection (6)(b), a municipality is not subject to the voter approval requirements of Subsection (3)(b) if, on or before January 1, 1996, the municipality imposed a license fee or tax on businesses based on gross receipts pursuant to Section 10-1-203.

(b) The exception from the voter approval requirements in Subsection (6)(a) does not apply to a municipality that, on or before January 1, 1996, imposed a license fee or tax on only one class of businesses based on gross receipts pursuant to Section 10-1-203.

(7) A military installation development authority authorized to impose a resort communities tax under Section 59-12-401 may not impose an additional resort communities sales tax under this section.

Section 90. Section 59-12-2208 is amended to read:

59-12-2208. Legislative body approval requirements -- Voter approval requirements.

(1) Subject to the other provisions of this section, before imposing a sales and use tax under this part, a county, city, or town legislative body shall:

(a) obtain approval to impose the sales and use tax from a majority of the members of the county, city, or town legislative body; and

(b) submit an opinion question to the county's, city's, or town's registered voters voting on the imposition of the sales and use tax so that each registered voter has the opportunity to express the registered voter's opinion on whether a sales and use tax should be imposed under this section.

(2) The opinion question required by this section shall state:

"Shall (insert the name of the county, city, or town), Utah, be authorized to impose a (insert the tax rate of the sales and use tax) sales and use tax for (list the purposes for which the revenues collected from the sales and use tax shall be expended)?"

(3) (a) Subject to Subsection (3)(b), the election required by this section shall be held:

(i) at a regular general election conducted in accordance with the procedures and requirements of Title 20A, Election Code, governing regular general elections; or

(ii) at a municipal general election conducted in accordance with the procedures and requirements of Section 20A-1-202.

(b) (i) Subject to Subsection (3)(b)(ii), the county clerk of the county in which the opinion question required by this section will be submitted to registered voters shall, no later than 15 days before the date of the election:

[~~(A) publish a notice:~~]

[~~(I) once in a newspaper published in that county; and~~]

[~~(II) as required in Section 45-1-101; or~~]

(A) post a notice on the Utah Public Notice Website created in Section 63F-1-701; or

(B) (I) cause a copy of the notice to be posted in a conspicuous place most likely to give notice of the election to the registered voters voting on the imposition of the sales and use tax; and

(II) prepare an affidavit of that posting, showing a copy of the notice and the places where the notice was posted.

(ii) The notice under Subsection (3)(b)(i) shall:

(A) state that an opinion question will be submitted to the county's, city's, or town's registered voters voting on the imposition of a sales and use tax under this section so that each registered voter has the opportunity to express the registered voter's opinion on whether a sales and use tax should be imposed under this section; and

(B) list the purposes for which the revenues collected from the sales and use tax shall be expended.

(4) A county, city, or town that submits an opinion question to registered voters under this section is subject to Section 20A-11-1203.

(5) Subject to Section 59-12-2209, if a county, city, or town legislative body determines that a majority of the county's, city's, or town's registered voters voting on the imposition of a sales and use tax under this part have voted in favor of the imposition of the sales and use tax in accordance with this section, the county, city, or town legislative body shall impose the sales and use tax.

(6) If, after imposing a sales and use tax under this part, a county, city, or town legislative body seeks to impose a tax rate for the sales and use tax that exceeds or is less than the tax rate stated in the opinion question described in Subsection (2) or repeals the tax rate stated in the opinion question described in Subsection (2), the county, city, or town legislative body shall:

(a) obtain approval from a majority of the members of the county, city, or town legislative body to impose a tax rate for the sales and use tax that exceeds or is less than the tax rate stated in the opinion question described in Subsection (2) or repeals the tax rate stated in the opinion question described in Subsection (2); and

(b) in accordance with the procedures and requirements of this section, submit an opinion question to the county's, city's, or town's registered voters voting on the tax rate so that each registered voter has the opportunity to express the registered

voter's opinion on whether to impose a tax rate for the sales and use tax that exceeds or is less than the tax rate stated in the opinion question described in Subsection (2) or repeal the tax rate stated in the opinion question described in Subsection (2).

Section 91. Section 62A-5-202.5 is amended to read:

62A-5-202.5. Utah State Developmental Center Board -- Creation -- Membership -- Duties -- Powers.

(1) There is created the Utah State Developmental Center Board within the Department of Human Services.

(2) The board is composed of nine members as follows:

(a) the director of the division or the director's designee;

(b) the superintendent of the developmental center or the superintendent's designee;

(c) the executive director of the Department of Human Services or the executive director's designee;

(d) a resident of the developmental center selected by the superintendent; and

(e) five members appointed by the governor with the advice and consent of the Senate as follows:

(i) three members of the general public; and

(ii) two members who are parents or guardians of individuals who receive services at the developmental center.

(3) In making appointments to the board, the governor shall ensure that:

(a) no more than three members have immediate family residing at the developmental center; and

(b) members represent a variety of geographic areas and economic interests of the state.

(4) (a) The governor shall appoint each member described in Subsection (2)(e) for a term of four years.

(b) An appointed member may not serve more than two full consecutive terms unless the governor determines that an additional term is in the best interest of the state.

(c) Notwithstanding the requirements of Subsections (4)(a) and (b), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of appointed members are staggered so that approximately half of the appointed members are appointed every two years.

(d) Appointed members shall continue in office until the expiration of their terms and until their successors are appointed, which may not exceed 120 days after the formal expiration of a term.

(e) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.

(5) (a) The director shall serve as the chair.

(b) The board shall appoint a member to serve as vice chair.

(c) The board shall hold meetings quarterly or as needed.

(d) Five members are necessary to constitute a quorum at any meeting, and, if a quorum exists, the action of the majority of members present shall be the action of the board.

(e) The chair shall be a non-voting member except that the chair may vote to break a tie vote between the voting members.

(6) An appointed member may not receive compensation or benefits for the member's service, but, at the executive director's discretion, may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(7) (a) The board shall adopt bylaws governing the board's activities.

(b) Bylaws shall include procedures for removal of a member who is unable or unwilling to fulfill the requirements of the member's appointment.

(8) The board shall:

(a) act for the benefit of the developmental center and the division;

(b) advise and assist the division with the division's functions, operations, and duties related to the developmental center, described in Sections 62A-5-102, 62A-5-103, 62A-5-201, 62A-5-203, and 62A-5-206;

(c) administer the Utah State Developmental Center Miscellaneous Donation Fund, as described in Section 62A-5-206.5;

(d) administer the Utah State Developmental Center Land Fund, as described in Section 62A-5-206.6;

(e) approve the sale, lease, or other disposition of real property or water rights associated with the developmental center, as described in Subsection 62A-5-206.6(2); and

(f) within 21 days after the day on which the board receives the notice required under Subsection 10-2-419(3)[~~(d)~~](c), provide a written opinion regarding the proposed boundary adjustment to:

(i) the director of the Division of Facilities and Construction Management; and

(ii) the Legislative Management Committee.

Section 92. Section 63A-5b-305 is amended to read:

63A-5b-305. Duties and authority of director.

(1) The director shall:

(a) administer the division's duties and responsibilities;

(b) report all property acquired by the state, except property acquired by an institution of higher education or the trust lands administration, to the director of the Division of Finance for inclusion in the state's financial records;

(c) after receiving the notice required under Subsection 10-2-419(3)[~~(d)~~](c), file a written protest at or before the public hearing under Subsection 10-2-419(2)(b), if:

(i) it is in the best interest of the state to protest the boundary adjustment; or

(ii) the Legislature instructs the director to protest the boundary adjustment; and

(d) take all other action that the director is required to take under this chapter or other applicable statute.

(2) The director may:

(a) create forms and make policies necessary for the division or director to perform the division or director's duties;

(b) (i) hire or otherwise procure assistance and service, professional, skilled, or otherwise, necessary to carry out the director's duties under this chapter; and

(ii) expend funds provided for the purpose described in Subsection (2)(b)(i) through annual operation budget appropriations or from other nonlapsing project funds;

(c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules necessary for the division or director to perform the division or director's duties; and

(d) take all other action necessary for carrying out the purposes of this chapter.

Section 93. Section 63F-1-701 is amended to read:

63F-1-701. Utah Public Notice Website -- Establishment and administration.

(1) As used in this part:

(a) "Division" means the Division of Archives and Records Service of the Department of Administrative Services.

(b) "Executive board" means the same as that term is defined in Section 67-1-2.5.

(c) "Public body" means the same as that term is defined in Section 52-4-103.

(d) "Public information" means a public body's public notices, minutes, audio recordings, and other materials that are required to be posted to the website under Title 52, Chapter 4, Open and Public Meetings Act, or other statute or state agency rule.

(e) "Website" means the Utah Public Notice Website created under this section.

(2) There is created the Utah Public Notice Website to be administered by the Division of Archives and Records Service.

(3) The website shall consist of an Internet website provided to assist the public to find posted public information.

(4) The division, with the technical assistance of the Department of Technology Services, shall create the website that shall:

(a) allow a public body, or other certified entity, to easily post any public information, including the contact information required under Subsections 17B-1-303(9) and 17D-1-106(1)(b)(ii);

(b) allow the public to easily search the public information by:

(i) public body name;

(ii) date of posting of the notice;

(iii) date of any meeting or deadline included as part of the public information; and

(iv) any other criteria approved by the division;

(c) allow the public to easily search and view past, archived public information;

(d) allow an individual to subscribe to receive updates and notices associated with a public body or a particular type of public information;

(e) be easily accessible by the public from the State of Utah home page;

(f) have a unique and simplified website address;

(g) be directly accessible via a link from the main page of the official state website; [~~and~~]

(h) allow a newspaper to request and automatically receive a transmission of a posting to the website as the posting occurs; and

[~~(h)~~] (i) include other links, features, or functionality that will assist the public in obtaining and reviewing public information posted on the website, as may be approved by the division.

(5) (a) Subject to Subsection (5)(b), the division and the governor's office shall coordinate to ensure that the website, the database described in Section 67-1-2.5, and the website described in Section 67-1-2.5 automatically share appropriate information in order to ensure that:

(i) an individual who subscribes to receive information under Subsection (4)(d) for an executive board automatically receives notifications of vacancies on the executive board that will be publicly filled, including a link to information regarding how an individual may apply to fill the vacancy; and

(ii) an individual who accesses an executive board's information on the website has access to the following through the website:

(A) the executive board's information in the database, except an individual's physical address, e-mail address, or phone number; and

(B) the portal described in Section 67-1-2.5 through which an individual may provide input on an appointee to, or member of, the executive board.

(b) The division and the governor's office shall comply with Subsection (5)(a) as soon as reasonably possible within existing funds appropriated to the division and the governor's office.

(6) Before August 1 of each year, the division shall:

(a) identify each executive board that is a public body that did not submit to the website a notice of a public meeting during the previous fiscal year; and

(b) report the name of each identified executive board to the governor's boards and commissions administrator.

(7) The division is responsible for:

(a) establishing and maintaining the website, including the provision of equipment, resources, and personnel as is necessary;

(b) providing a mechanism for public bodies or other certified entities to have access to the website for the purpose of posting and modifying public information; and

(c) maintaining an archive of all public information posted to the website.

(8) A public body is responsible for the content the public body is required to post to the website and the timing of posting of that information.

Section 94. Section 63G-6a-112 is amended to read:

63G-6a-112. Required public notice.

(1) A procurement unit that issues a solicitation shall [~~publish~~] post notice of the solicitation:

(a) at least seven days before the day of the deadline for submission of a solicitation response; and

[~~(b) (i) in a newspaper of general circulation in the state;~~]

[~~(ii) in a newspaper of local circulation in the area:~~]

[~~(A) directly impacted by the procurement; or~~]

[~~(B) over which the procurement unit has jurisdiction;~~]

[~~(iii)~~] (b) (i) on the main website for the procurement unit; or

[~~(iv)~~] (ii) on a state website that is owned, managed by, or provided under contract with, the division for posting a public procurement notice.

(2) A procurement unit may reduce the seven-day period described in Subsection (1), if the procurement unit's procurement official signs a written statement that:

(a) states that a shorter time is needed; and

(b) determines that competition from multiple sources may be obtained within the shorter period of time.

(3) (a) It is the responsibility of a person seeking information provided by a notice published under this section to seek out, find, and respond to the notice.

(b) As a courtesy and in order to promote competition, a procurement unit may provide, but is not required to provide, individual notice.

Section 95. Section 72-5-105 is amended to read:

72-5-105. Highways, streets, or roads once established continue until abandoned -- Temporary closure.

(1) Except as provided in Subsections (3) and (7), all public highways, streets, or roads once established shall continue to be highways, streets, or roads until formally abandoned or vacated by written order, resolution, or ordinance resolution of a highway authority having jurisdiction or by court decree, and the written order, resolution, ordinance, or court decree has been duly recorded in the office of the recorder of the county or counties where the highway, street, or road is located.

(2) (a) For purposes of assessment, upon the recordation of an order executed by the proper authority with the county recorder's office, title to the vacated or abandoned highway, street, or road shall vest to the adjoining record owners, with one-half of the width of the highway, street, or road assessed to each of the adjoining owners.

(b) Provided, however, that should a description of an owner of record extend into the vacated or abandoned highway, street, or road that portion of the vacated or abandoned highway, street, or road shall vest in the record owner, with the remainder of the highway, street, or road vested as otherwise provided in this Subsection (2).

(c) Title to a highway, street, or road that a local highway authority closes to vehicular traffic under Subsection (3) or (7) remains vested in the city.

(3) (a) In accordance with this section, a state or local highway authority may temporarily close a class B, C, or D road, an R.S. 2477 right-of-way, or a portion of a class B, C, or D road or R.S. 2477 right-of-way.

(b) (i) A temporary closure authorized under this section is not an abandonment.

(ii) The erection of a barrier or sign on a highway, street, or road once established is not an abandonment.

(iii) An interruption of the public's continuous use of a highway, street, or road once established is not

an abandonment even if the interruption is allowed to continue unabated.

(c) A temporary closure under Subsection (3)(a) may be authorized only under the following circumstances:

(i) when a federal authority, or other person, provides an alternate route to an R.S. 2477 right-of-way or portion of an R.S. 2477 right-of-way if the alternate route is:

(A) accepted by the highway authority; and

(B) formalized by a federal permit or a written agreement between the federal authority or other person and the highway authority;

(ii) when a state or local highway authority determines that correction or mitigation of injury to private or public land resources is necessary on or near a class B or D road or portion of a class B or D road; or

(iii) when a local highway authority makes a finding that temporary closure of all or part of a class C road is necessary to mitigate unsafe conditions.

(d) (i) If a local highway authority temporarily closes all or part of a class C road under Subsection (3)(c)(iii), the local highway authority may convert the closed portion of the road to another public use or purpose related to the mitigation of the unsafe condition.

(ii) If a local highway authority temporarily closes all or part of a class C road under Subsection (3)(c)(iii), and the closed portion of road is the subject of a lease agreement between the local highway authority and another entity, the local highway authority may not reopen the closed portion of the road until the lease agreement terminates.

(e) A highway authority shall reopen an R.S. 2477 right-of-way or portion of an R.S. 2477 right-of-way temporarily closed under this section if the alternate route is closed for any reason.

(f) A temporary closure authorized under Subsection (3)(c)(ii) shall:

(i) be authorized annually; and

(ii) not exceed two years or the time it takes to complete the correction or mitigation, whichever is less.

(4) To authorize a closure of a road under Subsection (3) or (7), a local highway authority shall pass an ordinance to temporarily or indefinitely close the road.

(5) Before authorizing a temporary or indefinite closure as described in Subsection (4), a highway authority shall:

(a) hold a hearing on the proposed temporary or indefinite closure;

(b) provide notice of the hearing by mailing a notice to the Department of Transportation and all owners of property abutting the highway; and

(c) except for a closure under Subsection (3)(c)(iii)[~~;~~], post the notice:

[~~(i) publishing the notice:~~]

[~~(A) in a newspaper of general circulation in the county at least once a week for four consecutive weeks before the hearing; and~~]

[~~(B)~~] (i) on the Utah Public Notice Website created in Section 63F-1-701, for four weeks before the hearing; or

(ii) [~~posting the notice~~] in three public places for at least four consecutive weeks before the hearing.

(6) The right-of-way and easements, if any, of a property owner and the franchise rights of any public utility may not be impaired by a temporary or indefinite closure authorized under this section.

(7) (a) A local highway authority may close to vehicular travel and convert to another public use or purpose a highway, road, or street over which the local highway authority has jurisdiction, for an indefinite period of time, if the local highway authority makes a finding that:

(i) the closed highway, road, or street is not necessary for vehicular travel;

(ii) the closure of the highway, road, or street is necessary to correct or mitigate injury to private or public land resources on or near the highway, road, or street; or

(iii) the closure of the highway, road, or street is necessary to mitigate unsafe conditions.

(b) If a local highway authority indefinitely closes all or part of a highway, road, or street under Subsection (7)(a)(iii), and the closed portion of road is the subject of a lease agreement between the local highway authority and another entity, the local highway authority may not reopen the closed portion of the road until the lease agreement terminates.

(c) An indefinite closure authorized under this Subsection (7) is not an abandonment.

Section 96. Section 72-6-108 is amended to read:

72-6-108. Class B and C roads -- Improvement projects -- Contracts -- Retainage.

(1) A county executive for class B roads and the municipal executive for class C roads shall cause plans, specifications, and estimates to be made prior to the construction of any improvement project, as defined in Section 72-6-109, on a class B or C road if the estimated cost for any one project exceeds the bid limit as defined in Section 72-6-109 for labor, equipment, and materials.

(2) (a) All projects in excess of the bid limit shall be performed under contract to be let to the lowest responsible bidder.

(b) If the estimated cost of the improvement project exceeds the bid limit for labor, equipment, and materials, the project may not be divided to permit the construction in parts, unless each part is done by contract.

(3) [~~(a)~~] The advertisement on bids shall be [~~published~~] posted:

[~~(i) in a newspaper of general circulation in the county in which the work is to be performed at least once a week for three consecutive weeks; and~~]

[~~(ii) in accordance with Section 45-1-101 for three weeks.~~]

(a) on the Utah Public Notice Website, created in Section 63F-1-701, for three weeks; and

(b) [~~If there is no newspaper of general circulation as described in Subsection (3)(a)(i), the notice shall be posted~~] for at least 20 days in at least five public places in the county.

(4) The county or municipal executive or their designee shall receive sealed bids and open the bids at the time and place designated in the advertisement. The county or municipal executive or their designee may then award the contract but may reject any and all bids.

(5) The person, firm, or corporation that is awarded a contract under this section is subject to the provisions of Title 63G, Chapter 6a, Utah Procurement Code.

(6) If any payment on a contract with a private contractor for construction or improvement of a class B or C road is retained or withheld, the payment shall be retained or withheld and released as provided in Section 13-8-5.

Section 97. Section 76-8-809 is amended to read:

76-8-809. Closing or restricting use of highways abutting defense or war facilities -- Posting of notices.

Any individual, partnership, association, corporation, municipal corporation or state or any political subdivision thereof engaged in or preparing to engage in the manufacture, transportation or storage of any product to be used in the preparation of the United States or any of the states for defense or for war or in the prosecution of war by the United States, or in the manufacture, transportation, distribution or storage of gas, oil, coal, electricity or water, or any of said natural or artificial persons operating any public utility who has property so used which he or it believes will be endangered if public use and travel is not restricted or prohibited on one or more highways or parts thereof upon which the property abuts, may petition the highway commissioners of any city, town, or county to close one or more of the highways or parts thereof to public use and travel or to restrict by order the use and travel upon one or more of the highways or parts thereof.

Upon receipt of the petition, the highway commissioners shall set a day for hearing and give notice [~~thereof by publication in a newspaper having general circulation in the city, town, or county in which the property is located and as required in Section 45-1-101, the publication shall be made~~] of the hearing by posting a notice on the Utah Public Notice Website, created in Section 63F-1-701, at least seven days prior to the date set for hearing. If, after hearing, the highway commissioners determine that the public safety and the safety of the property of the petitioner so require, they shall by suitable order close to public use and travel or reasonably restrict the use of and travel upon one or more of the highways or parts thereof; provided the highway commissioners may issue written permits to travel over the highway so closed or restricted to responsible and reputable persons for a term, under conditions and in a form as the commissioners may prescribe. Appropriate notices in letters at least three inches high shall be posted conspicuously at each end of any highway so closed or restricted by an order. The highway commissioners may at any time revoke or modify any order so made.

Section 98. Section 78A-7-202 is amended to read:

78A-7-202. Justice court judges to be appointed -- Procedure.

(1) As used in this section:

(a) "Local government executive" means:

(i) for a county:

(A) the chair of the county commission in a county operating under the county commission or expanded county commission form of county government;

(B) the county executive in a county operating under the county executive-council form of county government; and

(C) the county manager in a county operating under the council-manager form of county government;

(ii) for a city or town:

(A) the mayor of the city or town; or

(B) the city manager, in the council-manager form of government described in Subsection 10-3b-103(7); and

(iii) for a metro township, the chair of the metro township council.

(b) "Local legislative body" means:

(i) for a county, the county commission or county council; and

(ii) for a city or town, the council of the city or town.

(2) There is created in each county a county justice court nominating commission to review applicants and make recommendations to the appointing authority for a justice court position. The commission shall be convened when a new justice court judge position is created or when a vacancy in an existing court occurs for a justice court located within the county.

(a) Membership of the justice court nominating commission shall be as follows:

(i) one member appointed by:

(A) the county commission if the county has a county commission form of government; or

(B) the county executive if the county has an executive-council form of government;

(ii) one member appointed by the municipalities in the counties as follows:

(A) if the county has only one municipality, appointment shall be made by the governing authority of that municipality; or

(B) if the county has more than one municipality, appointment shall be made by a municipal selection committee composed of the mayors of each municipality and the chairs of each metro township in the county;

(iii) one member appointed by the county bar association; and

(iv) two members appointed by the governing authority of the jurisdiction where the judicial office is located.

(b) If there is no county bar association, the member in Subsection (2)(a)(iii) shall be appointed by the regional bar association. If no regional bar association exists, the state bar association shall make the appointment.

(c) Members appointed under Subsections (2)(a)(i) and (ii) may not be the appointing authority or an elected official of a county or municipality.

(d) The nominating commission shall submit at least three names to the appointing authority of the jurisdiction expected to be served by the judge. The local government executive shall appoint a judge from the list submitted and the appointment ratified by the local legislative body.

(e) The state court administrator shall provide staff to the commission. The Judicial Council shall establish rules and procedures for the conduct of the commission.

(3) Judicial vacancies shall be advertised in a newspaper of general circulation, through the Utah State Bar, on the Utah Public Notice Website, created in Section 63F-1-701, and through other appropriate means.

(4) Selection of candidates shall be based on compliance with the requirements for office and competence to serve as a judge.

(5) Once selected, every prospective justice court judge shall attend an orientation seminar conducted under the direction of the Judicial Council. Upon completion of the orientation program, the Judicial Council shall certify the justice court judge as qualified to hold office.

(6) The selection of a person to fill the office of justice court judge is effective upon certification of the judge by the Judicial Council. A justice court judge may not perform judicial duties until certified by the Judicial Council.

CHAPTER 356
S. B. 203
Passed March 5, 2021
Approved March 17, 2021
Effective May 5, 2021

LICENSE PLATE MODIFICATIONS

Chief Sponsor: Ann Millner
House Sponsor: Melissa G. Ballard

LONG TITLE

General Description:

This bill amends provisions related to the revenue distribution associated with the National Professional Men's Basketball Team Support of Women and Children Issues support special group license plate.

Highlighted Provisions:

This bill:

- amends provisions related to the revenue distribution associated with the National Professional Men's Basketball Team Support of Women and Children Issues support special group license plate due to recent organizational changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

62A-1-202, as last amended by Laws of Utah 2018, Chapter 469

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 62A-1-202 is amended to read:

62A-1-202. National Professional Men's Basketball Team Support of Women and Children Issues Restricted Account.

(1) There is created in the General Fund a restricted account known as the "National Professional Men's Basketball Team Support of Women and Children Issues Restricted Account."

(2) The account shall be funded by:

(a) contributions deposited into the account in accordance with Section 41-1a-422;

(b) private contributions; and

(c) donations or grants from public or private entities.

(3) Upon appropriation by the Legislature, the department shall distribute funds in the account to one or more charitable organizations that:

(a) qualify as being tax exempt under Section 501(c)(3) of the Internal Revenue Code;

(b) [~~have a board that is appointed~~] are selected by the owners that, either on an individual or joint basis, own a controlling interest in a legal entity that is a franchised member of the internationally recognized national governing body for professional men's basketball in the United States;

(c) are headquartered within the state;

(d) create or support programs that focus on issues affecting women and children within the state, with an emphasis on health and education; and

(e) have a board of directors that disperses all funds of the organization.

(4) (a) An organization described in Subsection (3) may apply to the department to receive a distribution in accordance with Subsection (3).

(b) An organization that receives a distribution from the department in accordance with Subsection (3) shall expend the distribution only to:

(i) create or support programs that focus on issues affecting women and children, with an emphasis on health and education;

(ii) create or sponsor programs that will benefit residents within the state; and

(iii) pay the costs of issuing or reordering National Professional Men's Basketball Team Support of Women and Children Issues support special group license plate decals.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department may make rules providing procedures for an organization to apply to the department to receive a distribution under this Subsection (4).

(5) In accordance with Section 63J-1-602.1, appropriations from the account are nonlapsing.

CHAPTER 357
S. B. 211
Passed March 5, 2021
Approved March 17, 2021
Effective May 5, 2021

CHILD CARE BACKGROUND CHECK MODIFICATIONS

Chief Sponsor: Jacob L. Anderegg
House Sponsor: Craig Hall

LONG TITLE

General Description:

This bill modifies background check requirements for individuals who are responsible for the care, custody, or control of children.

Highlighted Provisions:

This bill:

- defines terms; and
- authorizes the Criminal Investigations and Technical Services Division to share criminal history information between specific state entities for the purpose of qualifying an individual to work or volunteer in a position that is responsible for the care, custody, or control of children, with certain preconditions.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53-10-108, as last amended by Laws of Utah 2019, Chapters 136, 192, and 404

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53-10-108 is amended to read:

53-10-108. Restrictions on access, use, and contents of division records -- Limited use of records for employment purposes -- Challenging accuracy of records -- Usage fees -- Missing children records -- Penalty for misuse of records.

(1) As used in this section:

(a) "FBI Rap Back System" means the rap back system maintained by the Federal Bureau of Investigation.

(b) "Qualifying child care entity" means:

(i) the Office of Licensing within the Department of Human Services, created in Section 62A-2-103;

(ii) the State Board of Education described in Section 53E-3-201; or

(iii) the Department of Health created in Section 26-1-4.

[~~(b)~~] (c) "Rap back system" means a system that enables authorized entities to receive ongoing status notifications of any criminal history reported on individuals whose fingerprints are registered in the system.

[~~(c)~~] (d) "WIN Database" means the Western Identification Network Database that consists of eight western states sharing one electronic fingerprint database.

(2) [~~Dissemination~~] Except as provided in Subsection (17), dissemination of information from a criminal history record, including information obtained from a fingerprint background check, name check, warrant of arrest information, or information from division files, is limited to:

(a) criminal justice agencies for purposes of administration of criminal justice and for employment screening by criminal justice agencies;

(b) (i) agencies or individuals pursuant to a specific agreement with a criminal justice agency to provide services required for the administration of criminal justice;

(ii) the agreement shall specifically authorize access to data, limit the use of the data to purposes for which given, and ensure the security and confidentiality of the data;

(c) a qualifying entity for employment background checks for their own employees and persons who have applied for employment with the qualifying entity;

(d) noncriminal justice agencies or individuals for any purpose authorized by statute, executive order, court rule, court order, or local ordinance;

(e) agencies or individuals for the purpose of obtaining required clearances connected with foreign travel or obtaining citizenship;

(f) agencies or individuals for the purpose of a preplacement adoptive study, in accordance with the requirements of Sections 78B-6-128 and 78B-6-130;

(g) private security agencies through guidelines established by the commissioner for employment background checks for their own employees and prospective employees;

(h) state agencies for the purpose of conducting a background check for the following individuals:

(i) employees;

(ii) applicants for employment;

(iii) volunteers; and

(iv) contract employees;

(i) governor's office for the purpose of conducting a background check on the following individuals:

(i) cabinet members;

(ii) judicial applicants; and

(iii) members of boards, committees, and commissions appointed by the governor;

(j) the office of the lieutenant governor for the purpose of conducting a background check on an individual applying to be a notary public under Section 46-1-3[~~.~~];

(k) agencies and individuals as the commissioner authorizes for the express purpose of research,

evaluative, or statistical activities pursuant to an agreement with a criminal justice agency; and

(l) other agencies and individuals as the commissioner authorizes and finds necessary for protection of life and property and for offender identification, apprehension, and prosecution pursuant to an agreement.

(3) An agreement under Subsection (2)(k) shall specifically authorize access to data, limit the use of data to research, evaluative, or statistical purposes, preserve the anonymity of individuals to whom the information relates, and ensure the confidentiality and security of the data.

(4) (a) Before requesting information, a qualifying entity under Subsection (2)(c), state agency, or other agency or individual described in Subsections (2)(d) through (j) shall obtain a signed waiver from the person whose information is requested.

(b) The waiver shall notify the signee:

(i) that a criminal history background check will be conducted;

(ii) who will see the information; and

(iii) how the information will be used.

(c) A qualifying entity under Subsection (2)(c), state agency, or other agency or individual described in Subsections (2)(d) through (g) that submits a request for a noncriminal justice name based background check of local databases to the bureau shall provide to the bureau:

(i) personal identifying information for the subject of the background check; and

(ii) the fee required by Subsection (15).

(d) A qualifying entity under Subsection (2)(c), state agency, or other agency or individual described in Subsections (2)(d) through (g) that submits a request for a WIN database check and a nationwide background check shall provide to the bureau:

(i) personal identifying information for the subject of the background check;

(ii) a fingerprint card for the subject of the background check; and

(iii) the fee required by Subsection (15).

(e) Information received by a qualifying entity under Subsection (2)(c), state agency, or other agency or individual described in Subsections (2)(d) through (j) may only be:

(i) available to individuals involved in the hiring or background investigation of the job applicant, employee, or notary applicant;

(ii) used for the purpose of assisting in making an employment appointment, selection, or promotion decision or for considering a notary applicant under Section 46-1-3; and

(iii) used for the purposes disclosed in the waiver signed in accordance with Subsection (4)(b).

(f) An individual who disseminates or uses information obtained from the division under Subsections (2)(c) through (j) for purposes other than those specified under Subsection (4)(e), in addition to any penalties provided under this section, is subject to civil liability.

(g) A qualifying entity under Subsection (2)(c), state agency, or other agency or individual described in Subsections (2)(d) through (j) that obtains background check information shall provide the subject of the background check an opportunity to:

(i) review the information received as provided under Subsection (9); and

(ii) respond to any information received.

(h) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division may make rules to implement this Subsection (4).

(i) The division or its employees are not liable for defamation, invasion of privacy, negligence, or any other claim in connection with the contents of information disseminated under Subsections (2)(c) through (j).

(5) (a) Any criminal history record information obtained from division files may be used only for the purposes for which it was provided and may not be further disseminated, except under Subsection (5)(b), (c), or (d).

(b) A criminal history provided to an agency pursuant to Subsection (2)(f) may be provided by the agency to the individual who is the subject of the history, another licensed child-placing agency, or the attorney for the adoptive parents for the purpose of facilitating an adoption.

(c) A criminal history of a defendant provided to a criminal justice agency under Subsection (2)(a) may also be provided by the prosecutor to a defendant's defense counsel, upon request during the discovery process, for the purpose of establishing a defense in a criminal case.

(d) A public transit district, as described in Title 17B, Chapter 2a, Part 8, Public Transit District Act, that is under contract with a state agency to provide services may, for the purposes of complying with Subsection 62A-5-103.5(5), provide a criminal history record to the state agency or the agency's designee.

(6) The division may not disseminate criminal history record information to qualifying entities under Subsection (2)(c) regarding employment background checks if the information is related to charges:

(a) that have been declined for prosecution;

(b) that have been dismissed; or

(c) regarding which a person has been acquitted.

(7) (a) This section does not preclude the use of the division's central computing facilities for the

storage and retrieval of criminal history record information.

(b) This information shall be stored so it cannot be modified, destroyed, or accessed by unauthorized agencies or individuals.

(8) Direct access through remote computer terminals to criminal history record information in the division's files is limited to those agencies authorized by the commissioner under procedures designed to prevent unauthorized access to this information.

(9) (a) The commissioner shall establish procedures to allow an individual right of access to review and receive a copy of the individual's criminal history report.

(b) A processing fee for the right of access service, including obtaining a copy of the individual's criminal history report under Subsection (9)(a) shall be set in accordance with Section 63J-1-504.

(c) (i) The commissioner shall establish procedures for an individual to challenge the completeness and accuracy of criminal history record information contained in the division's computerized criminal history files regarding that individual.

(ii) These procedures shall include provisions for amending any information found to be inaccurate or incomplete.

(10) The private security agencies as provided in Subsection (2)(g):

(a) shall be charged for access; and

(b) shall be registered with the division according to rules made by the division under Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(11) Before providing information requested under this section, the division shall give priority to criminal justice agencies needs.

(12) (a) It is a class B misdemeanor for a person to knowingly or intentionally access, use, disclose, or disseminate a record created, maintained, or to which access is granted by the division or any information contained in a record created, maintained, or to which access is granted by the division for a purpose prohibited or not permitted by statute, rule, regulation, or policy of a governmental entity.

(b) A person who discovers or becomes aware of any unauthorized use of records created or maintained, or to which access is granted by the division shall inform the commissioner and the director of the Utah Bureau of Criminal Identification of the unauthorized use.

(13) (a) Subject to Subsection (13)(b), a qualifying entity or an entity described in Subsection (2) may request that the division register fingerprints taken for the purpose of conducting current and future criminal background checks under this section with:

(i) the WIN Database rap back system, or any successor system;

(ii) the FBI Rap Back System; or

(iii) a system maintained by the division.

(b) A qualifying entity or an entity described in Subsection (2) may only make a request under Subsection (13)(a) if the entity:

(i) has the authority through state or federal statute or federal executive order;

(ii) obtains a signed waiver from the individual whose fingerprints are being registered; and

(iii) establishes a privacy risk mitigation strategy to ensure that the entity only receives notifications for individuals with whom the entity maintains an authorizing relationship.

(14) The division is authorized to submit fingerprints to the FBI Rap Back System to be retained in the FBI Rap Back System for the purpose of being searched by future submissions to the FBI Rap Back System, including latent fingerprint searches.

(15) (a) The division shall impose fees set in accordance with Section 63J-1-504 for the applicant fingerprint card, name check, and to register fingerprints under Subsection (13)(a).

(b) Funds generated under this Subsection (15) shall be deposited into the General Fund as a dedicated credit by the department to cover the costs incurred in providing the information.

(c) The division may collect fees charged by an outside agency for services required under this section.

(16) For the purposes of conducting a criminal background check authorized under Subsection (2)(h),(i), or (j), the Department of Human Resource Management, in accordance with Title 67, Chapter 19, Utah State Personnel Management Act, and the governor's office shall have direct access to criminal background information maintained under Title 53, Chapter 10, Part 2, Bureau of Criminal Identification.

(17) (a) Except as provided in Subsection (18), if an individual has an active FBI Rap Back System subscription with a qualifying child care entity, the division may, upon request from another qualifying child care entity, transfer the subscription to the requesting qualifying child care entity if:

(i) the requesting qualifying child care entity requests the transfer for the purpose of evaluating whether the individual should be permitted to obtain or retain a license for, or serve as an employee or volunteer in a position where the individual is responsible for, the care, custody, or control of children;

(ii) the requesting qualifying child care entity is expressly authorized by statute to obtain criminal history record information for the individual who is the subject of the request;

(iii) before requesting the transfer, the requesting qualifying child care entity obtains a signed waiver,

containing the information described in Subsection (4)(b), from the individual who is the subject of the request;

(iv) the requesting qualifying child care entity or the individual pays any applicable fees set by the division in accordance with Section 63J-1-504; and

(v) the requesting qualifying child care entity complies with the requirements described in Subsection (4)(g).

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division may make rules regulating the process described in this Subsection (17).

(18) (a) Subsection (17) does not apply unless the Federal Bureau of Investigation approves the use of the FBI Rap Back System for the purpose described in Subsection (17)(a)(i) under the conditions described in Subsection (17).

(b) Subsection (17) does not apply to the extent that implementation of the provisions of Subsection (17) are contrary to the requirements of the Child Care and Development Block Grant, 42 U.S.C. Secs. 9857-9858r or any other federal grant.

(19) (a) Information received by a qualifying child care entity under Subsection (17) may only be disclosed and used as described in Subsection (4)(e).

(b) A person who disseminates or uses information received under Subsection (17) for a purpose other than those described in Subsection (4)(e) is subject to the penalties described in this section and is also subject to civil liability.

(c) A qualifying child care entity is not liable for defamation, invasion of privacy, negligence, or any other claim in connection with the contents of information disseminated under Subsection (17).

CHAPTER 358
S. B. 218
Passed March 3, 2021
Approved March 17, 2021
Effective May 5, 2021

AVIATION AMENDMENTS

Chief Sponsor: Wayne A. Harper
House Sponsor: Walt Brooks

LONG TITLE

General Description:

This bill requires the Department of Transportation to study state airplane operations and advanced air mobility.

Highlighted Provisions:

This bill:

- requires the Department of Transportation to:
  - study state airplane fleet operations;
  - study the development and implementation of advanced air mobility in the state; and
  - provide a report of the study to the Transportation Interim Committee.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63I-2-272, as last amended by Laws of Utah 2020, Chapter 354

ENACTS:

72-1-216.1, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63I-2-272 is amended to read:

63I-2-272. Repeal dates -- Title 72.

(1) Subsections 72-1-213(2) and (3)(a)(i), related to the Road Usage Charge Advisory Committee, are repealed January 1, 2022.

(2) Section 72-1-216.1 is repealed January 1, 2023.

Section 2. Section 72-1-216.1 is enacted to read:

72-1-216.1. State plane operations and advanced air mobility study.

(1) The department shall study:

(a) options to improve the operations of the state airplane fleet, including addressing how to make the state airplane fleet operations more self-reliant through:

(i) funding the state's plane operations through plane user fees; and

(ii) fleet replacement options; and

(b) the development and implementation of advanced air mobility in the state, including:

(i) identifying current state assets and assets in development that support advanced air mobility;

(ii) identifying assets required for full implementation of advanced air mobility;

(iii) identifying potential benefits and limitations of implementing advanced air mobility;

(iv) the feasibility of options to progress toward implementing a statewide advanced air mobility system, including phasing critical elements; and

(v) reviewing infrastructure funding mechanisms employed or under consideration by other states.

(2) The department shall provide a report of the department's findings before September 30, 2022, to the Transportation Interim Committee.

CHAPTER 359
S. B. 219
Passed March 5, 2021
Approved March 17, 2021
Effective March 17, 2021

TRUANCY ENFORCEMENT MORATORIUM

Chief Sponsor: Daniel McCay
House Sponsor: Candice B. Pierucci

LONG TITLE

General Description:

This bill decriminalizes certain truancy violations until 2022.

Highlighted Provisions:

This bill:

- decriminalizes certain truancy violations until 2022;
- prohibits the issuance and enforcement of notices of compulsory education violation and notices of truancy during the moratorium;
- suspends certain reporting requirements during the moratorium;
- clarifies the application of certain exemptions; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

This bill provides revisor instructions.

Utah Code Sections Affected:

AMENDS:

53G-6-202, as last amended by Laws of Utah 2020, Chapter 20
53G-6-203, as last amended by Laws of Utah 2020, Chapter 20
53G-6-204, as last amended by Laws of Utah 2020, Fifth Special Session, Chapter 14
53G-6-208, as last amended by Laws of Utah 2020, Chapter 20
53G-8-211, as last amended by Laws of Utah 2020, Chapters 20 and 214Utah Code Sections Affected by Revisor Instructions:
53G-6-202, as last amended by Laws of Utah 2020, Chapter 20
53G-6-208, as last amended by Laws of Utah 2020, Chapter 20
53G-8-211, as last amended by Laws of Utah 2020, Chapters 20 and 214

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53G-6-202 is amended to read:

53G-6-202. Compulsory education.

(1) [~~For purposes of~~] As used in this section:

(a) "Intentionally" means the same as that term is defined in Section 76-2-103.

(b) "Notice of compulsory education violation" means a notice issued in accordance with Subsections (3) and (4).

(c) "Remainder of the school year" means the portion of the school year beginning on the day after the day on which a notice of compulsory education violation is served and ending on the last day of the school year.

(2) Except as provided in Section 53G-6-204 or 53G-6-702, the parent of a school-age child shall enroll and send the school-age child to a public or regularly established private school.

(3) A school administrator, a designee of a school administrator, a law enforcement officer acting as a school resource officer, or a truancy specialist may only issue a notice of compulsory education violation to a parent of a school-age child if the school-age child is:

(a) in grade 1 through 6; and

(b) truant at least five times during the school year.

(4) A notice of compulsory education violation issued to a parent:

(a) shall direct the parent to:

(i) meet with school authorities to discuss the school-age child's school attendance problems; and

(ii) cooperate with the local school board, charter school governing board, or school district in securing regular attendance by the school-age child;

(b) shall designate the school authorities with whom the parent is required to meet;

(c) shall state that it is a class B misdemeanor for the parent to intentionally or without good cause:

(i) fail to meet with the designated school authorities to discuss the school-age child's school attendance problems; or

(ii) fail to prevent the school-age child from being truant five or more times during the remainder of the school year;

(d) shall be served on the parent by personal service or certified mail; and

(e) may not be issued unless the school-age child has been truant at least five times during the school year.

(5) [~~It~~] Except during the period between the effective date of this bill and June 1, 2022, it is a class B misdemeanor for a parent of a school-age child to intentionally or without good cause fail to enroll the school-age child in school, unless the school-age child is exempt from enrollment under Section 53G-6-204 or 53G-6-702.

(6) [~~It~~] Except during the period between the effective date of this bill and June 1, 2022, it is a class B misdemeanor for a parent of a school-age child who is in grade 1 through 6 to, after being served with a notice of compulsory education violation, intentionally or without good cause:

(a) fail to meet with the school authorities designated in the notice of compulsory education violation to discuss the school-age child's school attendance problems; or

(b) fail to prevent the school-age child from being truant five or more times during the remainder of the school year.

(7) [~~A~~] Except during the period described in Subsections (5) and (6), a local school board, charter school governing board, or school district shall report violations of this section to the appropriate county or district attorney.

(8) [~~If~~] Except during the period described in Subsections (5) and (6), if school personnel have reason to believe that, after a notice of compulsory education violation is issued, the parent has failed to make a good faith effort to ensure that the school-age child receives an appropriate education, the issuer of the compulsory education violation shall report to the Division of Child and Family Services:

(a) identifying information of the school-age child and the parent who received the notice of compulsory education violation;

(b) information regarding the longest number of consecutive school days the school-age child has been absent or truant from school and the percentage of school days the school-age child has been absent or truant during each relevant school term;

(c) whether the school-age child has made adequate educational progress;

(d) whether the requirements of Section 53G-6-206 have been met;

(e) whether the school-age child is two or more years behind the local public school's age group expectations in one or more basic skills; and

(f) whether the school-age child is receiving special education services or systematic remediation efforts.

(9) Notwithstanding this section, during the period described in Subsections (5) and (6), a school administrator, designee of a school administrator, law enforcement officer acting as a school resource officer, or truancy specialist may not issue or otherwise enforce a notice of compulsory education.

Section 2. Section 53G-6-203 is amended to read:

53G-6-203. Truancy -- Notice of truancy -- Failure to cooperate with school authorities.

(1) Except as provided in Section 53G-6-204 or 53G-6-702, a school-age child who is enrolled in a public school shall attend the public school in which the school-age child is enrolled.

(2) [~~In~~] Except during the period between the effective date of this bill and June 1, 2022, accordance with Section 53G-8-211, a local school board, charter school governing board, or school district may impose administrative penalties on a school-age child who is:

(a) in grade 7 or above, unless the school-age child is less than 12 years old; and

(b) truant.

(3) A local school board or charter school governing board:

(a) may authorize a school administrator, a designee of a school administrator, a law enforcement officer acting as a school resource officer, or a truancy specialist to issue a notice of truancy in accordance with Subsection (4); and

(b) shall establish a procedure for a school-age child, or the school-age child's parents, to contest a notice of truancy.

(4) A notice of truancy described in Subsection (3):

(a) may not be issued until a school-age child has been truant at least five times during the school year;

(b) may not be issued to a school-age child who is less than 12 years old or in a grade below grade 7;

(c) may not be issued to a school-age child exempt from school attendance as provided in Section 53G-6-204 or 53G-6-702;

(d) shall direct the school-age child who receives the notice of truancy and the parent of the school-age child to:

(i) meet with school authorities to discuss the school-age child's truancies; and

(ii) cooperate with the local school board, charter school governing board, or school district in securing regular attendance by the school-age child; and

(e) shall be mailed to, or served on, the school-age child's parent.

[~~(5) Nothing~~] (5) (a) Except as provided in Subsection (5)(b), nothing in this part prohibits a local school board, charter school governing board, or school district from taking action to resolve a truancy problem with a school-age child who has been truant fewer than five times, provided that the action does not conflict with the requirements of this part.

(b) A local school board, charter school governing board, or school district may not take punitive action to resolve a truancy problem with a school-age child during the period described in Subsection (2).

(6) Notwithstanding this section, during the period described in Subsection (2), a school administrator, designee of a school administrator, law enforcement officer acting as a school resource officer, or truancy specialist may not issue or otherwise enforce a notice of truancy.

Section 3. Section 53G-6-204 is amended to read:

53G-6-204. School-age children exempt from school attendance.

(1) (a) A local school board or charter school governing board may excuse a school-age child from attendance for any of the following reasons:

(i) a school-age child over age 16 may receive a partial release from school to enter employment, or

attend a trade school, if the school-age child has completed grade 8; or

(ii) on an annual basis, a school-age child may receive a full release from attending a public, regularly established private, or part-time school or class if:

(A) the school-age child has already completed the work required for graduation from high school;

(B) the school-age child is in a physical or mental condition, certified by a competent physician if required by the local school board or charter school governing board, which renders attendance inexpedient and impracticable;

(C) proper influences and adequate opportunities for education are provided in connection with the school-age child's employment; or

(D) the district superintendent or charter school governing board has determined that a school-age child over the age of 16 is unable to profit from attendance at school because of inability or a continuing negative attitude toward school regulations and discipline.

(b) A school-age child receiving a partial release from school under Subsection (1)(a)(i) is required to attend:

(i) school part time as prescribed by the local school board or charter school governing board; or

(ii) a home school part time.

(c) In each case, evidence of reasons for granting an exemption under Subsection (1) must be sufficient to satisfy the local school board or charter school governing board.

(d) A local school board or charter school governing board that excuses a school-age child from attendance as provided by this Subsection (1) shall issue a certificate that the child is excused from attendance during the time specified on the certificate.

(2) (a) A local school board shall excuse a school-age child from attendance, if the school-age child's parent files a signed and notarized affidavit with the school-age child's school district of residence, as defined in Section 53G-6-302, that:

(i) the school-age child will attend a home school; and

(ii) the parent assumes sole responsibility for the education of the school-age child, except to the extent the school-age child is dual enrolled in a public school as provided in Section 53G-6-702.

(b) A signed and notarized affidavit filed in accordance with Subsection (2)(a) shall remain in effect as long as:

(i) the school-age child attends a home school; and

(ii) the school district where the affidavit was filed remains the school-age child's district of residence.

(c) A parent of a school-age child who attends a home school is solely responsible for:

(i) the selection of instructional materials and textbooks;

(ii) the time, place, and method of instruction; and

(iii) the evaluation of the home school instruction.

(d) A local school board may not:

(i) require a parent of a school-age child who attends a home school to maintain records of instruction or attendance;

(ii) require credentials for individuals providing home school instruction;

(iii) inspect home school facilities; or

(iv) require standardized or other testing of home school students.

(e) Upon the request of a parent, a local school board shall identify the knowledge, skills, and competencies a student is recommended to attain by grade level and subject area to assist the parent in achieving college and career readiness through home schooling.

(f) A local school board that excuses a school-age child from attendance as provided by this Subsection (2) shall annually issue a certificate stating that the school-age child is excused from attendance for the specified school year.

(g) A local school board shall issue a certificate excusing a school-age child from attendance:

(i) within 30 days after receipt of a signed and notarized affidavit filed by the school-age child's parent pursuant to this Subsection (2); and

(ii) on or before August 1 each year thereafter unless:

(A) the school-age child enrolls in a school within the school district;

(B) the school-age child's parent notifies the school district that the school-age child no longer attends a home school; or

(C) the school-age child's parent notifies the school district that the school-age child's school district of residence has changed.

(3) A parent who files a signed and notarized affidavit as provided in Subsection (2)(a) is exempt from the application of Subsections 53G-6-202(2), (5), and (6).

(4) (a) Nothing in this section may be construed to prohibit or discourage voluntary cooperation, resource sharing, or testing opportunities between a school or school district and a parent of a child attending a home school.

(b) The exemptions in this section apply regardless of whether:

(i) a parent provides education instruction to the parent's child alone or in cooperation with other parents similarly exempted under this section; or

(ii) the parent makes payment for educational services the parent's child receives.

Section 4. Section 53G-6-208 is amended to read:

53G-6-208. Taking custody of a person believed to be a truant minor -- Disposition -- Reports -- Immunity from liability.

(1) [A] Except during the period between the effective date of this bill and June 1, 2022, a peace officer or public school administrator may take a minor into temporary custody if there is reason to believe the minor is a truant minor.

(2) An individual taking a presumed truant minor into custody under Subsection (1) shall, without unnecessary delay, release the minor to:

(a) the principal of the minor's school;

(b) a person who has been designated by the local school board or charter school governing board to receive and return the minor to school; or

(c) a truancy center established under Subsection (5).

(3) If the minor described in Subsection (2) refuses to return to school or go to the truancy center, the officer or administrator shall, without unnecessary delay, notify the minor's parents and release the minor to their custody.

(4) If the parents of a truant minor in custody cannot be reached or are unable or unwilling to accept custody and none of the options in Subsection (2) are available, the minor shall be referred to the Division of Child and Family Services.

(5) (a) (i) A local school board or charter school governing board, singly or jointly with another school board, may establish or designate truancy centers within existing school buildings and staff the centers with existing teachers or staff to provide educational guidance and counseling for truant minors.

(ii) Upon receipt of a truant minor, the center shall, without unnecessary delay, notify and direct the minor's parents to come to the center, pick up the minor, and return the minor to the school in which the minor is enrolled.

(b) (i) If the parents of a truant minor in custody cannot be reached or are unable or unwilling to comply with the request within a reasonable time, the center shall take such steps as are reasonably necessary to [~~insure~~] ensure the safety and well being of the minor, including, when appropriate, returning the minor to school or referring the minor to the Division of Child and Family Services.

(ii) A minor taken into custody under this section may not be placed in a detention center or other secure confinement facility.

(6) (a) [~~Action taken~~] An individual taking action under this section shall [~~be reported~~] report the action to the appropriate school district.

(b) The district described in Subsection (6)(a) shall promptly notify the minor's parents of the action taken.

(7) The Utah Governmental Immunity Act applies to all actions taken under this section.

(8) Nothing in this section may be construed to grant authority to a public school administrator to place a minor in the custody of the Division of Child and Family Services, without complying with Title 62A, Chapter 4a, Part 2, Child Welfare Services, and Title 78A, Chapter 6, Part 3, Abuse, Neglect, and Dependency Proceedings.

Section 5. Section 53G-8-211 is amended to read:

53G-8-211. Responses to school-based behavior.

(1) As used in this section:

(a) "Evidence-based" means a program or practice that has:

(i) had multiple randomized control studies or a meta-analysis demonstrating that the program or practice is effective for a specific population;

(ii) been rated as effective by a standardized program evaluation tool; or

(iii) been approved by the state board.

(b) "Habitual truant" means a school-age child who:

(i) is in grade 7 or above, unless the school-age child is less than 12 years old;

(ii) is subject to the requirements of Section 53G-6-202; and

(iii) (A) is truant at least 10 times during one school year; or

(B) fails to cooperate with efforts on the part of school authorities to resolve the school-age child's attendance problem as required under Section 53G-6-206.

(c) "Minor" means the same as that term is defined in Section 78A-6-105.

(d) "Mobile crisis outreach team" means the same as that term is defined in Section 78A-6-105.

(e) "Prosecuting attorney" means the same as that term is defined in Subsections 78A-6-105(46)(b) and (c).

(f) "Restorative justice program" means a school-based program or a program used or adopted by a local education agency that is designed:

(i) to enhance school safety, reduce school suspensions, and limit referrals to law enforcement agencies and courts; and

(ii) to help minors take responsibility for and repair harmful behavior that occurs in school.

(g) "School administrator" means a principal of a school.

(h) "School is in session" means a day during which the school conducts instruction for which

student attendance is counted toward calculating average daily membership.

(i) "School resource officer" means a law enforcement officer, as defined in Section 53-13-103, who contracts with, is employed by, or whose law enforcement agency contracts with a local education agency to provide law enforcement services for the local education agency.

(j) "School-age child" means the same as that term is defined in Section 53G-6-201.

(k) (i) "School-sponsored activity" means an activity, fundraising event, club, camp, clinic, or other event or activity that is authorized by a specific local education agency or public school, according to LEA governing board policy, and satisfies at least one of the following conditions:

(A) the activity is managed or supervised by a local education agency or public school, or local education agency or public school employee;

(B) the activity uses the local education agency's or public school's facilities, equipment, or other school resources; or

(C) the activity is supported or subsidized, more than inconsequentially, by public funds, including the public school's activity funds or Minimum School Program dollars.

(ii) "School-sponsored activity" includes preparation for and involvement in a public performance, contest, athletic competition, demonstration, display, or club activity.

(l) (i) "Status offense" means an offense that would not be an offense but for the age of the offender.

(ii) "Status offense" does not mean an offense that by statute is a misdemeanor or felony.

(2) This section applies to a minor enrolled in school who is alleged to have committed an offense at the school where the student is enrolled:

(a) on school property where the student is enrolled:

(i) when school is in session; or

(ii) during a school-sponsored activity; or

(b) except during the period between the effective date of this bill and June 1, 2022, that is truancy.

(3) (a) Except as provided in Subsections (3)(e) and (5), if a minor is alleged to have committed an offense that is a class C misdemeanor, an infraction, a status offense on school property, or an offense that is truancy:

(i) a school district or school may not refer the minor to a law enforcement officer or agency or a court; and

(ii) a law enforcement officer or agency may not refer the minor to a prosecuting attorney or a court.

(b) Except as provided in Subsection (3)(e), if a minor is alleged to have committed an offense that is a class C misdemeanor, an infraction, a status offense on school property, or an offense that is truancy, a school district, school, or law enforcement officer or agency may refer the minor to evidence-based alternative interventions, including:

(i) a mobile crisis outreach team, as defined in Section 78A-6-105;

(ii) a youth services center operated by the Division of Juvenile Justice Services in accordance with Section 62A-7-104;

(iii) a youth court or comparable restorative justice program;

(iv) evidence-based interventions created and developed by the school or school district; and

(v) other evidence-based interventions that may be jointly created and developed by a local education agency, the state board, the juvenile court, local counties and municipalities, the Department of Health, or the Department of Human Services.

(c) Notwithstanding Subsection (3)(a), a school resource officer may:

(i) investigate possible criminal offenses and conduct, including conducting probable cause searches;

(ii) consult with school administration about the conduct of a minor enrolled in a school;

(iii) transport a minor enrolled in a school to a location if the location is permitted by law;

(iv) take temporary custody of a minor in accordance with Subsection 78A-6-112(1); or

(v) protect the safety of students and the school community, including the use of reasonable and necessary physical force when appropriate based on the totality of the circumstances.

(d) Notwithstanding other provisions of this section, if a law enforcement officer has cause to believe a minor has committed an offense on school property when school is not in session and not during a school-sponsored activity, the law enforcement officer may refer the minor to:

(i) a prosecuting attorney or a court; or

(ii) evidence-based alternative interventions at the discretion of the law enforcement officer.

(e) If a minor is alleged to have committed a traffic offense that is an infraction, a school district, a school, or a law enforcement officer or agency may refer the minor to a prosecuting attorney or a court for the traffic offense.

(4) A school district or school shall refer a minor for prevention and early intervention youth services, as described in Section 62A-7-104, by the Division of Juvenile Justice Services for a class C misdemeanor committed on school property or for being a habitual truant if the minor refuses to participate in an evidence-based alternative intervention described in Subsection (3)(b).

(5) A school district or school may refer a minor to a court or a law enforcement officer or agency for an

alleged class C misdemeanor committed on school property or for allegedly being a habitual truant[~~, as defined in Section 53G-6-201,~~] if the minor:

(a) refuses to participate in an evidence-based alternative intervention under Subsection (3)(b); and

(b) fails to participate in prevention and early intervention youth services provided by the Division of Juvenile Justice Services under Subsection (4).

(6) (a) If a minor is referred to a court or a law enforcement officer or agency under Subsection (5), the school shall appoint a school representative to continue to engage with the minor and the minor's family through the court process.

(b) A school representative appointed under Subsection (6)(a) may not be a school resource officer.

(c) A school district or school shall include the following in the school district's or school's referral to the court or the law enforcement officer or agency:

(i) attendance records for the minor;

(ii) a report of evidence-based alternative interventions used by the school before the referral, including outcomes;

(iii) the name and contact information of the school representative assigned to actively participate in the court process with the minor and the minor's family;

(iv) a report from the Division of Juvenile Justice Services that demonstrates the minor's failure to complete or participate in prevention and early intervention youth services under Subsection (4); and

(v) any other information that the school district or school considers relevant.

(d) A minor referred to a court under Subsection (5) may not be ordered to or placed in secure detention, including for a contempt charge or violation of a valid court order under Section 78A-6-1101, when the underlying offense is a class C misdemeanor occurring on school property or habitual truancy.

(e) If a minor is referred to a court under Subsection (5), the court may use, when available, the resources of the Division of Juvenile Justice Services or the Division of Substance Abuse and Mental Health to address the minor.

(7) If the alleged offense is a class B misdemeanor or a class A misdemeanor, the school administrator, the school administrator's designee, or a school resource officer may refer the minor directly to a juvenile court or to the evidence-based alternative interventions in Subsection (3)(b).

Section 6. Effective date.

If approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

Section 7. Revisor instructions.

The Legislature intends that the Office of Legislative Research and General Counsel, in preparing the Utah Code database for publication, replace the references in the following subsections from "this bill's effective date" to the bill's actual effective date:

(1) Subsections 53G-6-202(5) and (6);

(2) Subsection 53G-6-208(1); and

(3) Subsection 53G-8-211(2)(b).

CHAPTER 360
S. B. 222
Passed March 3, 2021
Approved March 17, 2021
Effective May 5, 2021

PUBLIC OFFICIAL AND STATE CAPITOL PROTECTION AMENDMENTS

Chief Sponsor: Don L. Ipson
House Sponsor: Robert M. Spendlove

LONG TITLE

General Description:

This bill addresses security and protection for public officials and the state capitol complex.

Highlighted Provisions:

This bill:

- defines terms;
- requires the Office of Executive Protection to provide security to public officials and public officials' staff, with certain qualifications;
- requires the Office of Executive Protection to provide security and protection to the capitol hill complex;
- requires security training and equipment for members of the Office of Executive Protection and certain individuals who work at the capitol hill complex; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53-1-102, as last amended by Laws of Utah 2019, Chapter 280
53-1-106, as last amended by Laws of Utah 2019, Chapter 441
53-1-114, as last amended by Laws of Utah 2000, Chapter 146

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53-1-102 is amended to read:

53-1-102. Definitions.

(1) As used in this title:

(a) "Capitol hill complex" means the same as that term is defined in Section 63C-9-102.

[~~(a)~~] (b) "Commissioner" means the commissioner of public safety appointed under Section 53-1-107.

[~~(b)~~] (c) "Department" means the Department of Public Safety created in Section 53-1-103.

(d) "Governor-elect" means an individual whom the board of canvassers determines to be the successful candidate for governor after a general election for the office of governor.

[~~(c)~~] (e) "Law enforcement agency" means an entity or division of:

(i) (A) the federal government, a state, or a political subdivision of a state;

(B) a state institution of higher education; or

(C) a private institution of higher education, if the entity or division has been certified by the commissioner; and

(ii) that exists primarily to prevent and detect crime and enforce criminal laws, statutes, and ordinances.

[~~(d)~~] (f) "Law enforcement officer" means the same as that term is defined in Section 53-13-103.

[~~(e)~~] (g) "Motor vehicle" means every self-propelled vehicle and every vehicle propelled by electric power obtained from overhead trolley wires, but not operated upon rails, except motorized wheel chairs and vehicles moved solely by human power.

[~~(f)~~] (h) "Peace officer" means any officer certified in accordance with Title 53, Chapter 13, Peace Officer Classifications.

(i) "Public official" means the same as that term is defined in Section 36-11-102.

[~~(g)~~] (j) "State institution of higher education" means the same as that term is defined in Section 53B-3-102.

[~~(h)~~] (k) "Vehicle" means every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, excepting devices used exclusively upon stationary rails or tracks.

(2) The definitions provided in Subsection (1) are to be applied throughout this title in addition to definitions that are applicable to specific chapters or parts.

Section 2. Section 53-1-106 is amended to read:

53-1-106. Department duties -- Powers.

(1) In addition to the responsibilities contained in this title, the department shall:

(a) make rules and perform the functions specified in Title 41, Chapter 6a, Traffic Code, including:

(i) setting performance standards for towing companies to be used by the department, as required by Section 41-6a-1406; and

(ii) advising the Department of Transportation regarding the safe design and operation of school buses, as required by Section 41-6a-1304;

(b) make rules to establish and clarify standards pertaining to the curriculum and teaching methods of a motor vehicle accident prevention course under Section 31A-19a-211;

(c) aid in enforcement efforts to combat drug trafficking;

(d) meet with the Department of Technology Services to formulate contracts, establish priorities, and develop funding mechanisms for dispatch and telecommunications operations;

(e) provide assistance to the Crime Victim Reparations Board and the Utah Office for Victims of Crime in conducting research or monitoring victims' programs, as required by Section 63M-7-505;

(f) develop sexual assault exam protocol standards in conjunction with the Utah Hospital Association;

(g) engage in emergency planning activities, including preparation of policy and procedure and rulemaking necessary for implementation of the federal Emergency Planning and Community Right to Know Act of 1986, as required by Section 53-2a-702;

(h) implement the provisions of Section 53-2a-402, the Emergency Management Assistance Compact;

(i) ensure that any training or certification required of a public official or public employee, as those terms are defined in Section 63G-22-102, complies with Title 63G, Chapter 22, State Training and Certification Requirements, if the training or certification is required:

(i) under this title;

(ii) by the department; or

(iii) by an agency or division within the department; [~~and~~]

(j) employ a law enforcement officer as a public safety liaison to be housed at the State Board of Education who shall work with the State Board of Education to:

(i) support training with relevant state agencies for school resource officers as described in Section 53G-8-702;

(ii) coordinate the creation of model policies and memorandums of understanding for a local education agency and a local law enforcement agency; and

(iii) ensure cooperation between relevant state agencies, a local education agency, and a local law enforcement agency to foster compliance with disciplinary related statutory provisions, including Sections 53E-3-516 and 53G-8-211[~~.~~]; and

(k) provide for the security and protection of public officials, public officials' staff, and the capitol hill complex in accordance with the provisions of this part.

(2) (a) The department shall establish a schedule of fees as required or allowed in this title for services provided by the department.

(b) All fees not established in statute shall be established in accordance with Section 63J-1-504.

(3) The department may establish or contract for the establishment of an Organ Procurement Donor Registry in accordance with Section 26-28-120.

Section 3. Section 53-1-114 is amended to read:

53-1-114. Office of Executive Protection -- Security and protection for governor and family -- Protection for other officials and staff -- Training -- Equipment.

(1) The Office of Executive Protection shall provide all necessary security and protection for:

(a) the governor and the governor's immediate family;

(b) a governor-elect and the governor-elect's immediate family; and

(c) the capitol hill complex.

(2) (a) Subject to the [~~direction~~] authorization of the commissioner, and only if there is a demonstrable need or a specifically identified threat to the individual to be protected, the Office of Executive Protection may provide protection to:

(i) other public officials;

(ii) a public official's staff member;

(iii) a candidate for an elected state office and the candidate's immediate family during the time beginning on the date of the general election and ending on the date of the meeting of the board of canvassers under Section 20A-4-306; or

(iv) an outgoing elected state official and the outgoing elected state official's immediate family.

(b) [~~That protection~~] (i) Protection provided under Subsection (2)(a) may not extend for more than 15 days without review and approval by [~~majority vote of the president of the Senate, the speaker of the House, and~~] the commissioner.

[~~(c) Review and approval by the same majority vote shall be required at the end of each 15-day period.~~]

(ii) Review and approval by the commissioner is required at the end of each 15-day period.

(c) When protection is provided under Subsection (2)(a), the commissioner shall provide a report to the president of the Senate and the speaker of the House of Representatives at the end of each 15-day period.

(d) The requirement for review and approval described in Subsection (2)(b)(ii) and the reporting requirement described in Subsection (2)(c) may be waived or modified by majority vote of the president of the Senate, the speaker of the House of Representatives, and the commissioner.

(3) The Office of Executive Protection shall assess, monitor, and address any threat to a public official, a public official's staff member, or any part of the capitol hill complex.

(4) The commissioner or the commissioner's designee shall provide weekly public protection training to members of the Office of Executive Protection who are assigned to provide security and protection to an individual described in Subsection (1) or (2).

(5) The commissioner or the commissioner's designee shall provide regular training to all members of the Office of Executive Protection on:

(a) personal protection;

(b) special tactics;

(c) facility defense; and

(d) any other topic that, in the determination of the commissioner or the commissioner's designee, is relevant to providing for the security and protection of public officials, public officials' staff, and the capitol hill complex.

(6) (a) At times that the commissioner determines to be reasonable, the Office of Executive Protection shall provide personal security training for all public officials and public officials' staff members who work at the capitol hill complex.

(b) The Office of Executive Protection shall make personal security equipment, that the commissioner determines to be reasonable, available to the public officials and public officials' staff members who work at the capitol hill complex.

CHAPTER 361
S. B. 227
Passed March 5, 2021
Approved March 17, 2021
Effective May 5, 2021

GENETIC INFORMATION PRIVACY ACT

Chief Sponsor: Curtis S. Bramble
House Sponsor: Mike Schultz

LONG TITLE

General Description:

This bill enacts the Genetic Information Privacy Act.

Highlighted Provisions:

This bill:

- defines terms;
- requires a direct-to-consumer genetic testing company to:
  - provide a consumer clear information regarding the company's collection, use, and disclosure of genetic data;
  - provide a consumer a publicly available privacy notice;
  - obtain a consumer's consent for certain collection, use, or disclosure of the consumer's genetic data;
  - protect a consumer's genetic data;
  - allow a consumer to access and delete the consumer's genetic data; and
  - upon request, destroy a consumer's biological sample;
- prohibits a direct-to-consumer genetic testing company from disclosing a consumer's genetic data to certain persons; and
- empowers the Office of the Attorney General to take enforcement action against violators.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:
13-58-101, Utah Code Annotated 1953
13-58-102, Utah Code Annotated 1953
13-58-103, Utah Code Annotated 1953
13-58-201, Utah Code Annotated 1953
13-58-202, Utah Code Annotated 1953
13-58-301, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 13-58-101 is enacted to read:

CHAPTER 60. GENETIC INFORMATION PRIVACY ACT

Part 1. General Provisions

13-58-101. (Codified as 13-60-101) Title.

This chapter is known as the "Genetic Information Privacy Act."

Section 2. Section 13-58-102 is enacted to read:

13-58-102. (Codified as 13-60-102) Definitions.

As used in this chapter:

(1) "Biological sample" means any human material known to contain DNA, including tissue, blood, urine, or saliva.

(2) "Consumer" means an individual who is a resident of the state.

(3) "Deidentified data" means data that:

(a) cannot reasonably be linked to an identifiable individual; and

(b) possessed by a company that:

(i) takes administrative and technical measures to ensure that the data cannot be associated with a particular consumer;

(ii) makes a public commitment to maintain and use data in deidentified form and not attempt to reidentify data; and

(iii) enters into legally enforceable contractual obligation that prohibits a recipient of the data from attempting to reidentify the data.

(4) "Direct-to-consumer genetic testing company" or "company" means an entity that:

(a) offers consumer genetic testing products or services directly to consumers; or

(b) collects, uses, or analyzes genetic data that a consumer provides to the entity.

(5) "DNA" means deoxyribonucleic acid.

(6) "Express consent" means a consumer's affirmative response to a clear, meaningful, and prominent notice regarding the collection, use, or disclosure of genetic data for a specific purpose.

(7) (a) "Genetic data" means any data, regardless of format, concerning a consumer's genetic characteristics.

(b) "Genetic data" includes:

(i) raw sequence data that result from sequencing all or a portion of a consumer's extracted DNA;

(ii) genotypic and phenotypic information obtained from analyzing a consumer's raw sequence data; and

(iii) self-reported health information regarding a consumer's health conditions that the consumer provides to a company that the company:

(A) uses for scientific research or product development; and

(B) analyzes in connection with the consumer's raw sequence data.

(c) "Genetic data" does not include deidentified data.

(8) "Genetic testing" means:

(a) a laboratory test of a consumer's complete DNA, regions of DNA, chromosomes, genes, or gene products to determine the presence of genetic characteristics of the consumer; or

(b) an interpretation of a consumer's genetic data.

Section 3. Section 13-58-103 is enacted to read:

13-58-103. (Codified as 13-60-103) Limitations.

This chapter does not apply to:

(1) protected health information that is collected by a covered entity or business associate as those terms are defined in 45 C.F.R. Parts 160 and 164;

(2) a public or private institution of higher education; or

(3) an entity owned or operated by a public or private institution of higher education.

Section 4. Section 13-58-201 is enacted to read:

Part 2. Consumer Genetic Data

13-58-201. (Codified as 13-60-201) Consumer genetic information -- Privacy notice -- Consent -- Access -- Deletion -- Destruction.

(1) A direct-to-consumer genetic testing company shall:

(a) provide to a consumer:

(i) essential information about the company's collection, use, and disclosure of genetic data; and

(ii) a prominent, publicly available privacy notice that includes information about the company's data collection, consent, use, access, disclosure, transfer, security, retention, and deletion practices;

(b) obtain a consumer's initial express consent for collection, use, or disclosure of the consumer's genetic data that:

(i) clearly describes the company's use of the genetic data that the company collects through the company's genetic testing product or service;

(ii) specifies who has access to test results; and

(iii) specifies how the company may share the genetic data;

(c) if the company engages in any of the following, obtain a consumer's:

(i) separate express consent for:

(A) the transfer or disclosure of the consumer's genetic data to any person other than the company's vendors and service providers;

(B) the use of genetic data beyond the primary purpose of the company's genetic testing product or service; or

(C) the company's retention of any biological sample provided by the consumer following the company's completion of the initial testing service requested by the consumer;

(ii) informed consent in accordance with the Federal Policy for the Protection of Human Subjects, 45 C.F.R. Part 46, for transfer or disclosure of the consumer's genetic data to a third party for:

(A) research purposes; or

(B) research conducted under the control of the company for the purpose of publication or generalizable knowledge; and

(iii) express consent for:

(A) marketing to a consumer based on the consumer's genetic data; or

(B) marketing by a third party person to a consumer based on the consumer having ordered or purchased a genetic testing product or service;

(d) require valid legal process for the company's disclosure of a consumer's genetic data to law enforcement or any government entity without the consumer's express written consent;

(e) develop, implement, and maintain a comprehensive security program to protect a consumer's genetic data against unauthorized access, use, or disclosure; and

(f) provide a process for a consumer to:

(i) access the consumer's genetic data;

(ii) delete the consumer's account and genetic data; and

(iii) destroy the consumer's biological sample.

(2) Notwithstanding Subsection (1)(c)(iii), a direct-to-consumer genetic testing company with a first-party relationship to a consumer may, without obtaining the consumer's express consent, provide customized content or offers on the company's website or through the company's application or service.

Section 5. Section 13-58-202 is enacted to read:

13-58-202. (Codified as 13-60-202) Prohibited disclosures.

A direct-to-consumer genetic testing company may not disclose a consumer's genetic data without the consumer's written consent to:

(1) an entity that offers health insurance, life insurance, or long-term care insurance; or

(2) an employer of the consumer.

Section 6. Section 13-58-301 is enacted to read:

Part 3. Enforcement

13-58-301. (Codified as 13-60-301) Enforcement powers of the attorney general.

(1) The attorney general may enforce this chapter.

(2) The attorney general may initiate a civil enforcement action against a person for violating this chapter.

(3) In an action to enforce this chapter, the attorney general may recover:

(a) actual damages to the consumer;

(b) costs;

(c) attorney fees; and

(d) $2,500 for each violation of this chapter.

CHAPTER 362
S. B. 234
Passed March 3, 2021
Approved March 17, 2021
Effective May 5, 2021

STATEWIDE ONLINE EDUCATION PROGRAM AMENDMENTS

Chief Sponsor: Kirk A. Cullimore
House Sponsor: Kera Birkeland

LONG TITLE

General Description:

This bill amends provisions related to the Statewide Online Education Program.

Highlighted Provisions:

This bill:

- defines terms;
- makes amendments, including amendments to the purpose of the Statewide Online Education Program, to allow an online course provider through the Statewide Online Education Program to offer online courses for middle school credit;
- establishes a limit on the number of middle school course credits a private school student may enroll in each year through the Statewide Online Education Program;
- establishes the dates on which eligible students may enroll in an online course for middle school credit;
- provides for the State Board of Education to prioritize enrollment for certain students if legislative appropriations are insufficient; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53F-4-501, as last amended by Laws of Utah 2019, Chapter 186
53F-4-502, as renumbered and amended by Laws of Utah 2018, Chapter 2
53F-4-503, as last amended by Laws of Utah 2019, Chapter 186
53F-4-505, as renumbered and amended by Laws of Utah 2018, Chapter 2
53F-4-513, as renumbered and amended by Laws of Utah 2018, Chapter 2

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53F-4-501 is amended to read:

53F-4-501. Definitions.

As used in this part:

(1) "Credit" means credit for a high school course, or the equivalent for a middle school course, as determined by the state board.

[~~(1)~~] (2) "Eligible student" means a student:

(a) [~~a student~~] who intends to take a course for middle school or high school credit; and

(b) (i) who is enrolled in a district school or charter school in Utah; or

[~~(b) beginning on July 1, 2013, a student:~~]

[~~(i)~~] (ii) (A) who attends a private school or home school; and

[~~(ii)~~] (B) whose custodial parent is a resident of Utah.

(3) "High school" means grade 9, 10, 11, or 12.

(4) "Middle school" means grade 7 or 8.

[~~(2)~~] (5) "Online course" means a course of instruction offered by the Statewide Online Education Program through the use of digital technology.

[~~(3)~~] (6) "Plan for college and career readiness" means the same as that term is defined in Section 53E-2-304.

[~~(4)~~] (7) "Primary LEA of enrollment" means the LEA in which an eligible student is enrolled for courses other than online courses offered through the Statewide Online Education Program.

[~~(5)~~] (8) "Released-time" means a period of time during the regular school day a student is excused from school at the request of the student's parent pursuant to rules of the state board.

Section 2. Section 53F-4-502 is amended to read:

53F-4-502. Statewide Online Education Program created -- Designated as program of the public education system -- Purposes.

(1) The Statewide Online Education Program is created to enable an eligible student to [~~earn high school graduation credit~~], through the completion of publicly funded online courses[~~.~~]:

(a) earn high school graduation credit; or

(b) earn middle school credit.

(2) Pursuant to Utah Constitution, Article X, Section 2, the Statewide Online Education Program is designated as a program of the public education system.

(3) The purposes of an online school are to:

(a) provide a student with access to online learning options regardless of where the student attends school, whether a public, private, or home school;

(b) provide high quality learning options for a student regardless of language, residence, family income, or special needs;

(c) provide online learning options to allow a student to acquire the knowledge and technology skills necessary in a digital world;

(d) utilize the power and scalability of technology to customize education so that a student may learn in the student's own style preference and at the student's own pace;

(e) utilize technology to remove the constraints of traditional classroom learning, allowing a student to access learning virtually at any time and in any place and giving the student the flexibility to take advantage of the student's peak learning time;

(f) provide personalized learning, where a student can spend as little or as much time as the student needs to master the material;

(g) provide greater access to self-paced programs enabling a high achieving student to accelerate academically, while a struggling student may have additional time and help to gain competency;

(h) allow a student to customize the student's schedule to better meet the student's academic goals;

(i) provide quality learning options to better prepare a student for post-secondary education and vocational or career opportunities; and

(j) allow a student to have an individualized educational experience.

(4) The program created under this part shall be known as the "Statewide Online Education Program."

(5) The program name, "Statewide Online Education Program," shall be used in the dissemination of information on the program.

Section 3. Section 53F-4-503 is amended to read:

53F-4-503. Option to enroll in online courses offered through the Statewide Online Education Program.

(1) Subject to [~~the course limitations provided in Subsection (2),~~] Subsections (2), (3), and (9), an eligible student may enroll in an online course offered through the Statewide Online Education Program if:

(a) the student meets the course prerequisites;

(b) the course is open for enrollment;

(c) the online course is aligned with the student's plan for college and career readiness;

(d) the online course is consistent with the student's IEP, if the student has an IEP; and

(e) the online course is consistent with the student's international baccalaureate program, if the student is participating in an international baccalaureate program.

(2) [~~An~~] (a) Except as provided in Subsection (2)(b), an eligible student may enroll in online courses for no more than [~~the following number of credits:~~] six credits per school year.

[~~(a) in the 2011-12 and 2012-13 school years, two credits;~~]

[~~(b) in the 2013-14 school year, three credits;~~]

[~~(c) in the 2014-15 school year, four credits;~~]

[~~(d) in the 2015-16 school year, five credits; and~~]

[~~(e) beginning with the 2016-17 school year, six credits.~~]

(b) An eligible student may enroll in an online course for middle school credit for no more than two credits per school year if the eligible student:

(i) does not have a primary LEA of enrollment; and

(ii) is enrolled in a private school.

(3) (a) An eligible student who has a primary LEA of enrollment may enroll in an online course for middle school credit beginning January 1, 2022.

(b) An eligible student who does not have a primary LEA of enrollment may enroll in an online course for middle school credit beginning in the 2022-2023 school year.

[~~(3)~~] (4) Notwithstanding Subsection (2):

(a) a student's primary LEA of enrollment may allow an eligible student to enroll in online courses for more than the number of credits specified in Subsection (2); or

(b) upon the request of an eligible student, the state board may allow the student to enroll in online courses for more than the number of credits specified in Subsection (2), if the online courses better meet the academic goals of the student.

[~~(4)~~] (5) An eligible student's primary LEA of enrollment:

(a) in conjunction with the student and the student's parent, is responsible for preparing and implementing a plan for college and career readiness for the eligible student, as provided in Section 53E-2-304; and

(b) shall assist an eligible student in scheduling courses in accordance with the student's plan for college and career readiness, graduation requirements, and the student's post-secondary plans.

[~~(5)~~] (6) An eligible student's primary LEA of enrollment may not:

(a) impose restrictions on a student's selection of an online course that fulfills graduation requirements and is consistent with the student's plan for college and career readiness or post-secondary plans; or

(b) give preference to an online course or online course provider.

[~~(6)~~] (7) The state board, including an employee of the state board, may not give preference to an online course or online course provider.

[~~(7)~~] (8) (a) Except as provided in Subsection [~~(7)~~] (8)(b), a person may not provide an inducement or incentive to a public school student to participate in the Statewide Online Education Program.

(b) For purposes of Subsection [~~(7)~~] (8)(a):

(i) "Inducement or incentive" does not mean:

(A) instructional materials or software necessary to take an online course; or

(B) access to a computer or digital learning device for the purpose of taking an online course.

(ii) "Person" does not include a relative of the public school student.

(9) If the program lacks sufficient legislative appropriations to fund the enrollment in online courses for all eligible students who do not have a primary LEA of enrollment, the state board shall prioritize funding the enrollment of an eligible student who intends to graduate from high school during the school year in which the student enrolls in an online course.

Section 4. Section 53F-4-505 is amended to read:

53F-4-505. Payment for an online course.

(1) For the 2012-13 school year, the fee for a .5 credit online course or .5 credit of a 1 credit online course is:

(a) $200 for the following courses, except a concurrent enrollment course:

(i) financial literacy;

(ii) health;

(iii) fitness for life; and

(iv) computer literacy;

(b) $200 for driver education;

(c) $250 for a course that meets core standards for Utah public schools in fine arts or career and technical education, except a concurrent enrollment course;

(d) $300 for the following courses:

(i) a course that meets core standards for Utah public schools requirements in social studies, except a concurrent enrollment course; and

(ii) a world language course, except a concurrent enrollment course;

(e) $350 for the following courses:

(i) a course that meets core standards for Utah public schools requirements for language arts, mathematics, or science; and

(ii) a concurrent enrollment course; and

(f) $250 for a course not described in Subsections (1)(a) through (e).

(2) If a course meets the requirements of more than one course fee category described in Subsection (1), the course fee shall be the lowest of the applicable course fee categories.

(3) Beginning with the 2013-14 school year, the online course fees described in Subsection (1) shall be adjusted each school year in accordance with the percentage change in value of the weighted pupil unit from the previous school year.

(4) An online learning provider shall receive payment for an online course as follows:

(a) for a .5 credit online course, 50% of the online course fee after the withdrawal period described in Section 53F-4-506;

(b) for a 1 credit online course, 25% of the online course fee after the withdrawal period described in Section 53F-4-506 and 25% of the online course fee upon the beginning of the second .5 credit of the online course; and

(c) if a student completes a 1 credit online course within 12 months or a .5 credit course within nine weeks following the end of a traditional semester, 50% of the online course fee.

(5) (a) If a student fails to complete a 1 credit course within 12 months or a .5 credit course within nine weeks following the end of a traditional semester, the student may continue to be enrolled in the course until the student graduates from high school.

(b) To encourage an online course provider to provide remediation to a student who remains enrolled in an online course pursuant to Subsection (5)(a) and avoid the need for credit recovery, an online course provider shall receive a payment equal to 30% of the online course fee if the student completes the online course:

(i) for a high school online course, before the student graduates from high school[.]; or

(ii) for a middle school online course, before the student completes middle school.

(6) Notwithstanding the online course fees prescribed in Subsections (1) through (3), a school district or charter school may:

(a) negotiate a fee with an online course provider for an amount up to the amount prescribed in Subsections (1) through (3); and

(b) pay the negotiated fee instead of the fee prescribed in Subsections (1) through (3).

(7) An online course provider who contracts with a vendor for the acquisition of online course content or online course instruction may negotiate the payment for the vendor's service independent of the fees specified in Subsections (1) through (3).

Section 5. Section 53F-4-513 is amended to read:

53F-4-513. Time period to enroll in an online course.

(1) To provide an LEA and online course providers with estimates of online course enrollment, a student should enroll in an online course, or declare an intention to enroll in an online course[~~, during the high school course registration period designated by the LEA.~~]:

(a) for a high school online course, during the time period the LEA designates for high school course registration; or

(b) for a middle school online course, during the time period the LEA designates for middle school course registration.

(2) Notwithstanding Subsection (1) and except as provided in Subsection (3), a student may enroll in an online course at any time during a calendar year.

(3) (a) A student may alter a course schedule by dropping a traditional classroom course and adding an online course consistent with course schedule alteration procedures adopted by the student's primary LEA of enrollment [~~or high school~~].

(b) A school district's or high school's deadline for dropping a traditional classroom course and adding an online course shall be the same deadline for dropping and adding a traditional classroom course.

CHAPTER 363
S. B. 240
Passed March 5, 2021
Approved March 17, 2021
Effective May 5, 2021

COUNTY RECREATIONAL AREA AMENDMENTS

Chief Sponsor: Curtis S. Bramble
House Sponsor: Keven J. Stratton

LONG TITLE

General Description:

This bill amends provisions related to certain county recreational areas.

Highlighted Provisions:

This bill:

- modifies provisions related to the appointment of members in a mountainous planning district's planning commission;
- modifies provisions related to the general plan for a mountainous planning district;
- repeals provisions allowing a mountainous planning district to include a municipality within the mountainous planning district's boundaries;
- repeals certain reporting requirements for a county planning commission with jurisdiction over a mountainous planning district;
- repeals the sunset dates for:
  - provisions related to mountainous planning districts; and
  - certain provisions related to a county's funding of municipal services in a designated recreational area; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

10-9a-304, as last amended by Laws of Utah 2017, Chapter 448
17-27a-103, as last amended by Laws of Utah 2020, Chapter 434
17-27a-301, as last amended by Laws of Utah 2020, Chapter 114
17-27a-401, as last amended by Laws of Utah 2019, Chapter 327
17-27a-403, as last amended by Laws of Utah 2020, Chapter 136
17-27a-901, as last amended by Laws of Utah 2018, Chapter 330
63I-2-210, as last amended by Laws of Utah 2020, Chapter 136
63I-2-217, as last amended by Laws of Utah 2020, Chapters 47, 114, and 434

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 10-9a-304 is amended to read:

10-9a-304. State and federal property.

[~~(1)~~] Unless otherwise provided by law, nothing contained in this chapter may be construed as giving a municipality jurisdiction over property owned by the state or the United States.

[~~(2) (a) Except as provided in Subsection (2)(b), for purposes of this chapter, a municipality, a municipal planning commission, or a municipal land use authority does not have jurisdiction over property located within a mountainous planning district, as that term is defined in Section 17-27a-103.~~]

[~~(b) Subsection (2)(a) does not apply to a municipality if:~~]

[~~(i) (A) the municipality is wholly located within the boundaries of a mountainous planning district; and~~]

[~~(B) the municipality was incorporated before 1971;~~]

[~~(ii) the municipality exercises the municipality's extraterritorial jurisdiction under Section 10-8-15; or~~]

[~~(iii) subject to Subsection (2)(c), a local health authority has granted the municipality joint authority to regulate the municipality's watershed areas.~~]

[~~(c) The exception under Subsection (2)(b)(iii) applies only for matters related to regulation of the watershed within a watershed area.~~]

Section 2. Section 17-27a-103 is amended to read:

17-27a-103. Definitions.

As used in this chapter:

(1) "Accessory dwelling unit" means a habitable living unit added to, created within, or detached from a primary single-family dwelling and contained on one lot.

(2) "Adversely affected party" means a person other than a land use applicant who:

(a) owns real property adjoining the property that is the subject of a land use application or land use decision; or

(b) will suffer a damage different in kind than, or an injury distinct from, that of the general community as a result of the land use decision.

(3) "Affected entity" means a county, municipality, local district, special service district under Title 17D, Chapter 1, Special Service District Act, school district, interlocal cooperation entity established under Title 11, Chapter 13, Interlocal Cooperation Act, specified property owner, property [~~owners~~] owner's association, public utility, or the Utah Department of Transportation, if:

(a) the entity's services or facilities are likely to require expansion or significant modification because of an intended use of land;

(b) the entity has filed with the county a copy of the entity's general or long-range plan; or

(c) the entity has filed with the county a request for notice during the same calendar year and before the county provides notice to an affected entity in compliance with a requirement imposed under this chapter.

(4) "Affected owner" means the owner of real property that is:

(a) a single project;

(b) the subject of a land use approval that sponsors of a referendum timely challenged in accordance with Subsection 20A-7-601(5)(a); and

(c) determined to be legally referable under Section 20A-7-602.8.

(5) "Appeal authority" means the person, board, commission, agency, or other body designated by ordinance to decide an appeal of a decision of a land use application or a variance.

(6) "Billboard" means a freestanding ground sign located on industrial, commercial, or residential property if the sign is designed or intended to direct attention to a business, product, or service that is not sold, offered, or existing on the property where the sign is located.

(7) (a) "Charter school" means:

(i) an operating charter school;

(ii) a charter school applicant that [~~has its application approved by~~] a charter school authorizer approves in accordance with Title 53G, Chapter 5, Part 3, Charter School Authorization; or

(iii) an entity that is working on behalf of a charter school or approved charter applicant to develop or construct a charter school building.

(b) "Charter school" does not include a therapeutic school.

(8) "Chief executive officer" means the person or body that exercises the executive powers of the county.

(9) "Conditional use" means a land use that, because of [~~its~~] the unique characteristics or potential impact of the land use on the county, surrounding neighbors, or adjacent land uses, may not be compatible in some areas or may be compatible only if certain conditions are required that mitigate or eliminate the detrimental impacts.

(10) "Constitutional taking" means a governmental action that results in a taking of private property so that compensation to the owner of the property is required by the:

(a) Fifth or Fourteenth Amendment of the Constitution of the United States; or

(b) Utah Constitution, Article I, Section 22.

(11) "County utility easement" means an easement that:

(a) a plat recorded in a county recorder's office described as a county utility easement or otherwise as a utility easement;

(b) is not a protected utility easement or a public utility easement as defined in Section 54-3-27;

(c) the county or the county's affiliated governmental entity owns or creates; and

(d) (i) either:

(A) no person uses or occupies; or

(B) the county or the county's affiliated governmental entity uses and occupies to provide a utility service, including sanitary sewer, culinary water, electrical, storm water, or communications or data lines; or

(ii) a person uses or occupies with or without an authorized franchise or other agreement with the county.

(12) "Culinary water authority" means the department, agency, or public entity with responsibility to review and approve the feasibility of the culinary water system and sources for the subject property.

(13) "Development activity" means:

(a) any construction or expansion of a building, structure, or use that creates additional demand and need for public facilities;

(b) any change in use of a building or structure that creates additional demand and need for public facilities; or

(c) any change in the use of land that creates additional demand and need for public facilities.

(14) (a) "Disability" means a physical or mental impairment that substantially limits one or more of a person's major life activities, including a person having a record of such an impairment or being regarded as having such an impairment.

(b) "Disability" does not include current illegal use of, or addiction to, any federally controlled substance, as defined in Section 102 of the Controlled Substances Act, 21 U.S.C. Sec. 802.

(15) "Educational facility":

(a) means:

(i) a school district's building at which pupils assemble to receive instruction in a program for any combination of grades from preschool through grade 12, including kindergarten and a program for children with disabilities;

(ii) a structure or facility:

(A) located on the same property as a building described in Subsection (15)(a)(i); and

(B) used in support of the use of that building; and

(iii) a building to provide office and related space to a school district's administrative personnel; and

(b) does not include:

(i) land or a structure, including land or a structure for inventory storage, equipment storage, food processing or preparing, vehicle storage or maintenance, or similar use that is:

(A) not located on the same property as a building described in Subsection (15)(a)(i); and

(B) used in support of the purposes of a building described in Subsection (15)(a)(i); or

(ii) a therapeutic school.

(16) "Fire authority" means the department, agency, or public entity with responsibility to review and approve the feasibility of fire protection and suppression services for the subject property.

(17) "Flood plain" means land that:

(a) is within the 100-year flood plain designated by the Federal Emergency Management Agency; or

(b) has not been studied or designated by the Federal Emergency Management Agency but presents a likelihood of experiencing chronic flooding or a catastrophic flood event because the land has characteristics that are similar to those of a 100-year flood plain designated by the Federal Emergency Management Agency.

(18) "Gas corporation" has the same meaning as defined in Section 54-2-1.

(19) "General plan" means a document that a county adopts that sets forth general guidelines for proposed future development of:

(a) the unincorporated land within the county; or

(b) for a mountainous planning district, the land within the mountainous planning district.

(20) "Geologic hazard" means:

(a) a surface fault rupture;

(b) shallow groundwater;

(c) liquefaction;

(d) a landslide;

(e) a debris flow;

(f) unstable soil;

(g) a rock fall; or

(h) any other geologic condition that presents a risk:

(i) to life;

(ii) of substantial loss of real property; or

(iii) of substantial damage to real property.

(21) "Hookup fee" means a fee for the installation and inspection of any pipe, line, meter, or appurtenance to connect to a county water, sewer, storm water, power, or other utility system.

(22) "Identical plans" means building plans submitted to a county that:

(a) are clearly marked as "identical plans";

(b) are substantially identical building plans that were previously submitted to and reviewed and approved by the county; and

(c) describe a building that:

(i) is located on land zoned the same as the land on which the building described in the previously approved plans is located;

(ii) is subject to the same geological and meteorological conditions and the same law as the building described in the previously approved plans;

(iii) has a floor plan identical to the building plan previously submitted to and reviewed and approved by the county; and

(iv) does not require any additional engineering or analysis.

(23) "Impact fee" means a payment of money imposed under Title 11, Chapter 36a, Impact Fees Act.

(24) "Improvement completion assurance" means a surety bond, letter of credit, financial institution bond, cash, assignment of rights, lien, or other equivalent security required by a county to guaranty the proper completion of landscaping or an infrastructure improvement required as a condition precedent to:

(a) recording a subdivision plat; or

(b) development of a commercial, industrial, mixed use, or multifamily project.

(25) "Improvement warranty" means an applicant's unconditional warranty that the applicant's installed and accepted landscaping or infrastructure improvement:

(a) complies with the county's written standards for design, materials, and workmanship; and

(b) will not fail in any material respect, as a result of poor workmanship or materials, within the improvement warranty period.

(26) "Improvement warranty period" means a period:

(a) no later than one year after a county's acceptance of required landscaping; or

(b) no later than one year after a county's acceptance of required infrastructure, unless the county:

(i) determines for good cause that a one-year period would be inadequate to protect the public health, safety, and welfare; and

(ii) has substantial evidence, on record:

(A) of prior poor performance by the applicant; or

(B) that the area upon which the infrastructure will be constructed contains suspect soil and the county has not otherwise required the applicant to mitigate the suspect soil.

(27) "Infrastructure improvement" means permanent infrastructure that is essential for the public health and safety or that:

(a) is required for human consumption; and

(b) an applicant must install:

(i) in accordance with published installation and inspection specifications for public improvements; and

(ii) as a condition of:

(A) recording a subdivision plat;

(B) obtaining a building permit; or

(C) developing a commercial, industrial, mixed use, condominium, or multifamily project.

(28) "Internal lot restriction" means a platted note, platted demarcation, or platted designation that:

(a) runs with the land; and

(b) (i) creates a restriction that is enclosed within the perimeter of a lot described on the plat; or

(ii) designates a development condition that is enclosed within the perimeter of a lot described on the plat.

(29) "Interstate pipeline company" means a person or entity engaged in natural gas transportation subject to the jurisdiction of the Federal Energy Regulatory Commission under the Natural Gas Act, 15 U.S.C. Sec. 717 et seq.

(30) "Intrastate pipeline company" means a person or entity engaged in natural gas transportation that is not subject to the jurisdiction of the Federal Energy Regulatory Commission under the Natural Gas Act, 15 U.S.C. Sec. 717 et seq.

(31) "Land use applicant" means a property owner, or the property owner's designee, who submits a land use application regarding the property owner's land.

(32) "Land use application":

(a) means an application that is:

(i) required by a county; and

(ii) submitted by a land use applicant to obtain a land use decision; and

(b) does not mean an application to enact, amend, or repeal a land use regulation.

(33) "Land use authority" means:

(a) a person, board, commission, agency, or body, including the local legislative body, designated by the local legislative body to act upon a land use application; or

(b) if the local legislative body has not designated a person, board, commission, agency, or body, the local legislative body.

(34) "Land use decision" means an administrative decision of a land use authority or appeal authority regarding:

(a) a land use permit;

(b) a land use application; or

(c) the enforcement of a land use regulation, land use permit, or development agreement.

(35) "Land use permit" means a permit issued by a land use authority.

(36) "Land use regulation":

(a) means a legislative decision enacted by ordinance, law, code, map, resolution, specification, fee, or rule that governs the use or development of land;

(b) includes the adoption or amendment of a zoning map or the text of the zoning code; and

(c) does not include:

(i) a land use decision of the legislative body acting as the land use authority, even if the decision is expressed in a resolution or ordinance; or

(ii) a temporary revision to an engineering specification that does not materially:

(A) increase a land use applicant's cost of development compared to the existing specification; or

(B) impact a land use applicant's use of land.

(37) "Legislative body" means the county legislative body, or for a county that has adopted an alternative form of government, the body exercising legislative powers.

(38) "Local district" means any entity under Title 17B, Limited Purpose Local Government Entities - Local Districts, and any other governmental or quasi-governmental entity that is not a county, municipality, school district, or the state.

(39) "Lot" means a tract of land, regardless of any label, that is created by and shown on a subdivision plat that has been recorded in the office of the county recorder.

(40) (a) "Lot line adjustment" means a relocation of a lot line boundary between adjoining lots or parcels, whether or not the lots are located in the same subdivision, in accordance with Section 17-27a-608, with the consent of the owners of record.

(b) "Lot line adjustment" does not mean a new boundary line that:

(i) creates an additional lot; or

(ii) constitutes a subdivision.

(41) "Major transit investment corridor" means public transit service that uses or occupies:

(a) public transit rail right-of-way;

(b) dedicated road right-of-way for the use of public transit, such as bus rapid transit; or

(c) fixed-route bus corridors subject to an interlocal agreement or contract between a municipality or county and:

(i) a public transit district as defined in Section 17B-2a-802; or

(ii) an eligible political subdivision as defined in Section 59-12-2219.

(42) "Moderate income housing" means housing occupied or reserved for occupancy by households with a gross household income equal to or less than 80% of the median gross income for households of the same size in the county in which the housing is located.

(43) "Mountainous planning district" means an area[~~: (a)~~] designated by a county legislative body in accordance with Section 17-27a-901[~~; and~~].

[~~(b) that is not otherwise exempt under Section 10-9a-304.~~]

(44) "Nominal fee" means a fee that reasonably reimburses a county only for time spent and expenses incurred in:

(a) verifying that building plans are identical plans; and

(b) reviewing and approving those minor aspects of identical plans that differ from the previously reviewed and approved building plans.

(45) "Noncomplying structure" means a structure that:

(a) legally existed before [~~its~~] the structure's current land use designation; and

(b) because of one or more subsequent land use ordinance changes, does not conform to the setback, height restrictions, or other regulations, excluding those regulations that govern the use of land.

(46) "Nonconforming use" means a use of land that:

(a) legally existed before [~~its~~] the current land use designation;

(b) has been maintained continuously since the time the land use ordinance regulation governing the land changed; and

(c) because of one or more subsequent land use ordinance changes, does not conform to the regulations that now govern the use of the land.

(47) "Official map" means a map drawn by county authorities and recorded in the county recorder's office that:

(a) shows actual and proposed rights-of-way, centerline alignments, and setbacks for highways and other transportation facilities;

(b) provides a basis for restricting development in designated rights-of-way or between designated setbacks to allow the government authorities time to purchase or otherwise reserve the land; and

(c) has been adopted as an element of the county's general plan.

(48) "Parcel" means any real property that is not a lot created by and shown on a subdivision plat recorded in the office of the county recorder.

(49) (a) "Parcel boundary adjustment" means a recorded agreement between owners of adjoining parcels adjusting the mutual boundary, either by deed or by a boundary line agreement in accordance with Section 57-1-45, if no additional parcel is created and:

(i) none of the property identified in the agreement is subdivided land; or

(ii) the adjustment is to the boundaries of a single person's parcels.

(b) "Parcel boundary adjustment" does not mean an adjustment of a parcel boundary line that:

(i) creates an additional parcel; or

(ii) constitutes a subdivision.

(50) "Person" means an individual, corporation, partnership, organization, association, trust, governmental agency, or any other legal entity.

(51) "Plan for moderate income housing" means a written document adopted by a county legislative body that includes:

(a) an estimate of the existing supply of moderate income housing located within the county;

(b) an estimate of the need for moderate income housing in the county for the next five years;

(c) a survey of total residential land use;

(d) an evaluation of how existing land uses and zones affect opportunities for moderate income housing; and

(e) a description of the county's program to encourage an adequate supply of moderate income housing.

(52) "Planning advisory area" means a contiguous, geographically defined portion of the unincorporated area of a county established under this part with planning and zoning functions as exercised through the planning advisory area planning commission, as provided in this chapter, but with no legal or political identity separate from the county and no taxing authority.

(53) "Plat" means a map or other graphical representation of lands that a licensed professional land surveyor makes and prepares in accordance with Section 17-27a-603 or 57-8-13.

(54) "Potential geologic hazard area" means an area that:

(a) is designated by a Utah Geological Survey map, county geologist map, or other relevant map or report as needing further study to determine the area's potential for geologic hazard; or

(b) has not been studied by the Utah Geological Survey or a county geologist but presents the potential of geologic hazard because the area has characteristics similar to those of a designated geologic hazard area.

(55) "Public agency" means:

(a) the federal government;

(b) the state;

(c) a county, municipality, school district, local district, special service district, or other political subdivision of the state; or

(d) a charter school.

(56) "Public hearing" means a hearing at which members of the public are provided a reasonable opportunity to comment on the subject of the hearing.

(57) "Public meeting" means a meeting that is required to be open to the public under Title 52, Chapter 4, Open and Public Meetings Act.

(58) "Public street" means a public right-of-way, including a public highway, public avenue, public boulevard, public parkway, public road, public lane, public alley, public viaduct, public subway, public tunnel, public bridge, public byway, other public transportation easement, or other public way.

(59) "Receiving zone" means an unincorporated area of a county that the county designates, by ordinance, as an area in which an owner of land may receive a transferable development right.

(60) "Record of survey map" means a map of a survey of land prepared in accordance with Section 10-9a-603, 17-23-17, 17-27a-603, or 57-8-13.

(61) "Residential facility for persons with a disability" means a residence:

(a) in which more than one person with a disability resides; and

(b) (i) which is licensed or certified by the Department of Human Services under Title 62A, Chapter 2, Licensure of Programs and Facilities; or

(ii) which is licensed or certified by the Department of Health under Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act.

(62) "Rules of order and procedure" means a set of rules that govern and prescribe in a public meeting:

(a) parliamentary order and procedure;

(b) ethical behavior; and

(c) civil discourse.

(63) "Sanitary sewer authority" means the department, agency, or public entity with responsibility to review and approve the feasibility of sanitary sewer services or onsite wastewater systems.

(64) "Sending zone" means an unincorporated area of a county that the county designates, by ordinance, as an area from which an owner of land may transfer a transferable development right.

(65) "Site plan" means a document or map that may be required by a county during a preliminary review preceding the issuance of a building permit to demonstrate that an owner's or developer's proposed development activity meets a land use requirement.

(66) "Specified public agency" means:

(a) the state;

(b) a school district; or

(c) a charter school.

(67) "Specified public utility" means an electrical corporation, gas corporation, or telephone corporation, as those terms are defined in Section 54-2-1.

(68) "State" includes any department, division, or agency of the state.

(69) "Subdivided land" means the land, tract, or lot described in a recorded subdivision plat.

(70) (a) "Subdivision" means any land that is divided, resubdivided, or proposed to be divided into two or more lots or other division of land for the purpose, whether immediate or future, for offer, sale, lease, or development either on the installment plan or upon any and all other plans, terms, and conditions.

(b) "Subdivision" includes:

(i) the division or development of land whether by deed, metes and bounds description, devise and testacy, map, plat, or other recorded instrument, regardless of whether the division includes all or a portion of a parcel or lot; and

(ii) except as provided in Subsection (70)(c), divisions of land for residential and nonresidential uses, including land used or to be used for commercial, agricultural, and industrial purposes.

(c) "Subdivision" does not include:

(i) a bona fide division or partition of agricultural land for agricultural purposes;

(ii) an agreement recorded with the county recorder's office between owners of adjoining properties adjusting the mutual boundary by a boundary line agreement in accordance with Section 57-1-45 if:

(A) no new lot is created; and

(B) the adjustment does not violate applicable land use ordinances;

(iii) a recorded document, executed by the owner of record:

(A) revising the legal description of more than one contiguous parcel of property that is not subdivided land into one legal description encompassing all such parcels of property; or

(B) joining a subdivided parcel of property to another parcel of property that has not been subdivided, if the joinder does not violate applicable land use ordinances;

(iv) a bona fide division or partition of land in a county other than a first class county for the purpose of siting, on one or more of the resulting separate parcels:

(A) an electrical transmission line or a substation;

(B) a natural gas pipeline or a regulation station; or

(C) an unmanned telecommunications, microwave, fiber optic, electrical, or other utility service regeneration, transformation, retransmission, or amplification facility;

(v) an agreement between owners of adjoining subdivided properties adjusting the mutual lot line boundary in accordance with Section 10-9a-603 if:

(A) no new dwelling lot or housing unit will result from the adjustment; and

(B) the adjustment will not violate any applicable land use ordinance;

(vi) a bona fide division or partition of land by deed or other instrument where the land use authority expressly approves in writing the division in anticipation of further land use approvals on the parcel or parcels;

(vii) a parcel boundary adjustment;

(viii) a lot line adjustment;

(ix) a road, street, or highway dedication plat; or

(x) a deed or easement for a road, street, or highway purpose.

(d) The joining of a subdivided parcel of property to another parcel of property that has not been subdivided does not constitute a subdivision under this Subsection (70) as to the unsubdivided parcel of property or subject the unsubdivided parcel to the county's subdivision ordinance.

(71) "Subdivision amendment" means an amendment to a recorded subdivision in accordance with Section 17-27a-608 that:

(a) vacates all or a portion of the subdivision;

(b) alters the outside boundary of the subdivision;

(c) changes the number of lots within the subdivision;

(d) alters a public right-of-way, a public easement, or public infrastructure within the subdivision; or

(e) alters a common area or other common amenity within the subdivision.

(72) "Suspect soil" means soil that has:

(a) a high susceptibility for volumetric change, typically clay rich, having more than a 3% swell potential;

(b) bedrock units with high shrink or swell susceptibility; or

(c) gypsiferous silt and clay, gypsum, or bedrock units containing abundant gypsum commonly associated with dissolution and collapse features.

(73) "Therapeutic school" means a residential group living facility:

(a) for four or more individuals who are not related to:

(i) the owner of the facility; or

(ii) the primary service provider of the facility;

(b) that serves students who have a history of failing to function:

(i) at home;

(ii) in a public school; or

(iii) in a nonresidential private school; and

(c) that offers:

(i) room and board; and

(ii) an academic education integrated with:

(A) specialized structure and supervision; or

(B) services or treatment related to a disability, an emotional development, a behavioral development, a familial development, or a social development.

(74) "Transferable development right" means a right to develop and use land that originates by an ordinance that authorizes a land owner in a designated sending zone to transfer land use rights from a designated sending zone to a designated receiving zone.

(75) "Unincorporated" means the area outside of the incorporated area of a municipality.

(76) "Water interest" means any right to the beneficial use of water, including:

(a) each of the rights listed in Section 73-1-11; and

(b) an ownership interest in the right to the beneficial use of water represented by:

(i) a contract; or

(ii) a share in a water company, as defined in Section 73-3-3.5.

(77) "Zoning map" means a map, adopted as part of a land use ordinance, that depicts land use zones, overlays, or districts.

Section 3. Section 17-27a-301 is amended to read:

17-27a-301. Ordinance establishing planning commission required -- Exception -- Ordinance requirements -- Planning advisory area planning commission -- Compensation.

(1) (a) Except as provided in Subsection (1)(b), each county shall enact an ordinance establishing a countywide planning commission for the unincorporated areas of the county not within a planning advisory area.

(b) Subsection (1)(a) does not apply if all of the county is included within any combination of:

(i) municipalities;

(ii) planning advisory areas each with a separate planning commission; and

(iii) mountainous planning districts.

(c) (i) Notwithstanding Subsection (1)(a), [~~and except as provided in Subsection (1)(c)(ii),~~] a county that designates a mountainous planning district shall enact an ordinance, subject to Subsection (1)(c)(ii), establishing a planning commission that has jurisdiction over the entire mountainous planning district[~~, including areas of the~~

~~mountainous planning district that are also located within a municipality or are unincorporated~~].

(ii) A planning commission described in Subsection (1)(c)(i)[~~: (A) does not have jurisdiction over a municipality described in Subsection 10-9a-304(2)(b); and (B)~~] has jurisdiction subject to a local health department exercising [~~its~~] the local health department's authority in accordance with Title 26A, Chapter 1, Local Health Departments, and a municipality exercising the municipality's authority in accordance with Section 10-8-15.

(iii) The ordinance shall require that[~~:~~] members of the planning commission be appointed by the county executive with the advice and consent of the county legislative body.

[~~(A) members of the planning commission represent areas located in the unincorporated and incorporated county;~~]

[~~(B) members of the planning commission be registered voters who reside either in the unincorporated or incorporated county;~~]

[~~(C) at least one member of the planning commission resides within the mountainous planning district and another member is a resident of a municipality located within the mountainous planning district; and~~]

[~~(D) the county designate up to four seats on the planning commission, and fill each vacancy in the designated seats in accordance with the procedure described in Subsection (8).~~]

(2) (a) Notwithstanding Subsection (1)(b), the county legislative body of a county of the first or second class that includes more than one planning advisory area each with a separate planning commission may enact an ordinance that:

(i) dissolves each planning commission within the county; and

(ii) establishes a countywide planning commission that has jurisdiction over:

(A) each planning advisory area within the county; and

(B) the unincorporated areas of the county not within a planning advisory area.

(b) A countywide planning commission established under Subsection (2)(a) shall assume the duties of each dissolved planning commission.

(3) (a) The ordinance described in Subsection (1)(a) or (c) or (2)(a) shall define:

(i) the number and terms of the members and, if the county chooses, alternate members;

(ii) the mode of appointment;

(iii) the procedures for filling vacancies and removal from office;

(iv) the authority of the planning commission;

(v) subject to Subsection (3)(b), the rules of order and procedure for use by the planning commission in a public meeting; and

(vi) other details relating to the organization and procedures of the planning commission.

(b) Subsection (3)(a)(v) does not affect the planning commission's duty to comply with Title 52, Chapter 4, Open and Public Meetings Act.

(4) (a) (i) If the county establishes a planning advisory area planning commission, the county legislative body shall enact an ordinance that defines:

(A) appointment procedures;

(B) procedures for filling vacancies and removing members from office;

(C) subject to Subsection (4)(a)(ii), the rules of order and procedure for use by the planning advisory area planning commission in a public meeting; and

(D) details relating to the organization and procedures of each planning advisory area planning commission.

(ii) Subsection (4)(a)(i)(C) does not affect the planning advisory area planning commission's duty to comply with Title 52, Chapter 4, Open and Public Meetings Act.

(b) The planning commission for each planning advisory area shall consist of seven members who shall be appointed by:

(i) in a county operating under a form of government in which the executive and legislative functions of the governing body are separated, the county executive with the advice and consent of the county legislative body; or

(ii) in a county operating under a form of government in which the executive and legislative functions of the governing body are not separated, the county legislative body.

(c) (i) Members shall serve four-year terms and until their successors are appointed and qualified.

(ii) Notwithstanding the provisions of Subsection (4)(c)(i), members of the first planning commissions shall be appointed so that, for each commission, the terms of at least one member and no more than two members expire each year.

(d) (i) Each member of a planning advisory area planning commission shall be a registered voter residing within the planning advisory area.

(ii) Subsection (4)(d)(i) does not apply to a member described in Subsection (5)(a) if that member was, prior to May 12, 2015, authorized to reside outside of the planning advisory area.

(5) (a) A member of a planning commission who was elected to and served on a planning commission on May 12, 2015, shall serve out the term to which the member was elected.

(b) Upon the expiration of an elected term described in Subsection (5)(a), the vacant seat shall be filled by appointment in accordance with this section.

(6) Upon the appointment of all members of a planning advisory area planning commission, each

planning advisory area planning commission under this section shall begin to exercise the powers and perform the duties provided in Section 17-27a-302 with respect to all matters then pending that previously had been under the jurisdiction of the countywide planning commission or planning advisory area planning and zoning board.

(7) The legislative body may authorize a member of a planning commission to receive per diem and travel expenses for meetings actually attended, in accordance with Section 11-55-103.

[~~(8) (a) Subject to Subsection (8)(f), a county shall fill a vacancy in a planning commission seat described in Subsection (1)(c)(iii)(D) in accordance with this Subsection (8).~~]

[~~(b) If a county designates one or more planning commission seats under Subsection (1)(c)(iii)(D), the county shall identify at least one and up to four cities that:~~]

[~~(i) (A) are adjacent to the mountainous planning district; and~~]

[~~(B) border the entrance to a canyon that is located within the boundaries of the mountainous planning district and accessed by a paved road maintained by the county or the state; or~~]

[~~(ii) exercise extraterritorial jurisdiction in accordance with Section 10-8-15.~~]

[~~(c) When there is a vacancy in a planning commission seat described in Subsection (1)(c)(iii)(D), the county shall send a written request to one of the cities described in Subsection (8)(b), on a rotating basis, if applicable, for a list of three individuals, who satisfy the requirements described in Subsection (1)(c)(iii)(B), to fill the vacancy.~~]

[~~(d) The city shall respond to a written request described in Subsection (8)(c) within 60 days after the day on which the city receives the written request.~~]

[~~(e) After the county receives the city's list of three individuals, the county shall submit one of the individuals on the list for appointment to the vacant planning commission seat in accordance with county ordinance.~~]

[~~(f) The county shall fill the vacancy in accordance with the county's standard procedure if the city fails to timely respond to the written request.~~]

Section 4. Section 17-27a-401 is amended to read:

17-27a-401. General plan required -- Content -- Resource management plan -- Provisions related to radioactive waste facility.

(1) To accomplish the purposes of this chapter, each county shall prepare and adopt a comprehensive, long-range general plan:

(a) for present and future needs of the county;

(b) (i) for growth and development of all or any part of the land within the unincorporated portions of the county; or

(ii) if a county has designated a mountainous planning district, for growth and development of all or any part of the land within the mountainous planning district; and

(c) as a basis for communicating and coordinating with the federal government on land and resource management issues.

(2) To promote health, safety, and welfare, the general plan may provide for:

(a) health, general welfare, safety, energy conservation, transportation, prosperity, civic activities, aesthetics, and recreational, educational, and cultural opportunities;

(b) the reduction of the waste of physical, financial, or human resources that result from either excessive congestion or excessive scattering of population;

(c) the efficient and economical use, conservation, and production of the supply of:

(i) food and water; and

(ii) drainage, sanitary, and other facilities and resources;

(d) the use of energy conservation and solar and renewable energy resources;

(e) the protection of urban development;

(f) the protection and promotion of air quality;

(g) historic preservation;

(h) identifying future uses of land that are likely to require an expansion or significant modification of services or facilities provided by each affected entity; and

(i) an official map.

(3) (a) The general plan shall:

(i) allow and plan for moderate income housing growth; and

(ii) contain a resource management plan for the public lands, as defined in Section 63L-6-102, within the county.

(b) On or before December 1, 2019, a county with a general plan that does not comply with Subsection (3)(a)(i) shall amend the general plan to comply with Subsection (3)(a)(i).

(c) The resource management plan described in Subsection (3)(a)(ii) shall address:

(i) mining;

(ii) land use;

(iii) livestock and grazing;

(iv) irrigation;

(v) agriculture;

(vi) fire management;

(vii) noxious weeds;

(viii) forest management;

(ix) water rights;

(x) ditches and canals;

(xi) water quality and hydrology;

(xii) flood plains and river terraces;

(xiii) wetlands;

(xiv) riparian areas;

(xv) predator control;

(xvi) wildlife;

(xvii) fisheries;

(xviii) recreation and tourism;

(xix) energy resources;

(xx) mineral resources;

(xxi) cultural, historical, geological, and paleontological resources;

(xxii) wilderness;

(xxiii) wild and scenic rivers;

(xxiv) threatened, endangered, and sensitive species;

(xxv) land access;

(xxvi) law enforcement;

(xxvii) economic considerations; and

(xxviii) air.

(d) For each item listed under Subsection (3)(c), a county's resource management plan shall:

(i) establish findings pertaining to the item;

(ii) establish defined objectives; and

(iii) outline general policies and guidelines on how the objectives described in Subsection (3)(d)(ii) are to be accomplished.

(4) (a) The general plan shall include specific provisions related to any areas within, or partially within, the exterior boundaries of the county, or contiguous to the boundaries of a county, which are proposed for the siting of a storage facility or transfer facility for the placement of high-level nuclear waste or greater than class C radioactive nuclear waste, as these wastes are defined in Section 19-3-303. The provisions shall address the effects of the proposed site upon the health and general welfare of citizens of the state, and shall provide:

(i) the information identified in Section 19-3-305;

(ii) information supported by credible studies that demonstrates that the provisions of Subsection 19-3-307(2) have been satisfied; and

(iii) specific measures to mitigate the effects of high-level nuclear waste and greater than class C radioactive waste and guarantee the health and safety of the citizens of the state.

(b) A county may, in lieu of complying with Subsection (4)(a), adopt an ordinance indicating that all proposals for the siting of a storage facility or transfer facility for the placement of high-level nuclear waste or greater than class C radioactive waste wholly or partially within the county are rejected.

(c) A county may adopt the ordinance listed in Subsection (4)(b) at any time.

(d) The county shall send a certified copy of the ordinance described in Subsection (4)(b) to the executive director of the Department of Environmental Quality by certified mail within 30 days of enactment.

(e) If a county repeals an ordinance adopted under Subsection (4)(b) the county shall:

(i) comply with Subsection (4)(a) as soon as reasonably possible; and

(ii) send a certified copy of the repeal to the executive director of the Department of Environmental Quality by certified mail within 30 days after the repeal.

(5) The general plan may define the county's local customs, local culture, and the components necessary for the county's economic stability.

(6) Subject to Subsection 17-27a-403(2), the county may determine the comprehensiveness, extent, and format of the general plan.

(7) If a county has designated a mountainous planning district, the general plan for the mountainous planning district is the controlling plan [~~and takes precedence over a municipality's general plan for property located within the mountainous planning district~~].

(8) Nothing in this part may be construed to limit the authority of the state to manage and protect wildlife under Title 23, Wildlife Resources Code of Utah.

Section 5. Section 17-27a-403 is amended to read:

17-27a-403. Plan preparation.

(1) (a) The planning commission shall provide notice, as provided in Section 17-27a-203, of its intent to make a recommendation to the county legislative body for a general plan or a comprehensive general plan amendment when the planning commission initiates the process of preparing its recommendation.

(b) The planning commission shall make and recommend to the legislative body a proposed general plan for:

(i) the unincorporated area within the county; or

(ii) if the planning commission is a planning commission for a mountainous planning district, the mountainous planning district.

(c) (i) The plan may include planning for incorporated areas if, in the planning commission's judgment, they are related to the planning of the unincorporated territory or of the county as a whole.

(ii) Elements of the county plan that address incorporated areas are not an official plan or part of a municipal plan for any municipality, unless [~~it~~] the county plan is recommended by the municipal planning commission and adopted by the governing body of the municipality.

[~~(iii) Notwithstanding Subsection (1)(c)(ii), if property is located in a mountainous planning district, the plan for the mountainous planning district controls and precedes a municipal plan, if any, to which the property would be subject.~~]

(2) (a) At a minimum, the proposed general plan, with the accompanying maps, charts, and descriptive and explanatory matter, shall include the planning commission's recommendations for the following plan elements:

(i) a land use element that:

(A) designates the long-term goals and the proposed extent, general distribution, and location of land for housing for residents of various income levels, business, industry, agriculture, recreation, education, public buildings and grounds, open space, and other categories of public and private uses of land as appropriate; and

(B) may include a statement of the projections for and standards of population density and building intensity recommended for the various land use categories covered by the plan;

(ii) a transportation and traffic circulation element that:

(A) provides the general location and extent of existing and proposed freeways, arterial and collector streets, public transit, active transportation facilities, and other modes of transportation that the planning commission considers appropriate;

(B) addresses the county's plan for residential and commercial development around major transit investment corridors to maintain and improve the connections between housing, employment, education, recreation, and commerce; and

(C) correlates with the population projections, the employment projections, and the proposed land use element of the general plan;

(iii) a plan for the development of additional moderate income housing within the unincorporated area of the county or the mountainous planning district, and a plan to provide a realistic opportunity to meet the need for additional moderate income housing; and

(iv) before May 1, 2017, a resource management plan detailing the findings, objectives, and policies required by Subsection 17-27a-401(3).

(b) In drafting the moderate income housing element, the planning commission:

(i) shall consider the Legislature's determination that counties should facilitate a reasonable opportunity for a variety of housing, including moderate income housing:

(A) to meet the needs of people of various income levels living, working, or desiring to live or work in the community; and

(B) to allow people with various incomes to benefit from and fully participate in all aspects of neighborhood and community life; and

(ii) shall include an analysis of how the county will provide a realistic opportunity for the development of moderate income housing within the planning horizon, which may include a recommendation to implement three or more of the following strategies:

(A) rezone for densities necessary to assure the production of moderate income housing;

(B) facilitate the rehabilitation or expansion of infrastructure that will encourage the construction of moderate income housing;

(C) facilitate the rehabilitation of existing uninhabitable housing stock into moderate income housing;

(D) consider county general fund subsidies or other sources of revenue to waive construction related fees that are otherwise generally imposed by the county;

(E) create or allow for, and reduce regulations related to, accessory dwelling units in residential zones;

(F) allow for higher density or moderate income residential development in commercial and mixed-use zones, commercial centers, or employment centers;

(G) encourage higher density or moderate income residential development near major transit investment corridors;

(H) eliminate or reduce parking requirements for residential development where a resident is less likely to rely on the resident's own vehicle, such as residential development near major transit investment corridors or senior living facilities;

(I) allow for single room occupancy developments;

(J) implement zoning incentives for low to moderate income units in new developments;

(K) utilize strategies that preserve subsidized low to moderate income units on a long-term basis;

(L) preserve existing moderate income housing;

(M) reduce impact fees, as defined in Section 11-36a-102, related to low and moderate income housing;

(N) participate in a community land trust program for low or moderate income housing;

(O) implement a mortgage assistance program for employees of the county or of an employer that provides contracted services for the county;

(P) apply for or partner with an entity that applies for state or federal funds or tax incentives to promote the construction of moderate income housing;

(Q) apply for or partner with an entity that applies for programs offered by the Utah Housing Corporation within that agency's funding capacity;

(R) apply for or partner with an entity that applies for affordable housing programs administered by the Department of Workforce Services;

(S) apply for or partner with an entity that applies for services provided by a public housing authority to preserve and create moderate income housing;

(T) apply for or partner with an entity that applies for programs administered by a metropolitan planning organization or other transportation agency that provides technical planning assistance;

(U) utilize a moderate income housing set aside from a community reinvestment agency, redevelopment agency, or community development and renewal agency;

(V) reduce residential building design elements as defined in Section 10-9a-403; and

(W) consider any other program or strategy implemented by the county to address the housing needs of residents of the county who earn less than 80% of the area median income.

(c) In drafting the land use element, the planning commission shall:

(i) identify and consider each agriculture protection area within the unincorporated area of the county or mountainous planning district; and

(ii) avoid proposing a use of land within an agriculture protection area that is inconsistent with or detrimental to the use of the land for agriculture.

(d) In drafting the transportation and traffic circulation element, the planning commission shall:

(i) consider the regional transportation plan developed by its region's metropolitan planning organization, if the relevant areas of the county are within the boundaries of a metropolitan planning organization; or

(ii) consider the long-range transportation plan developed by the Department of Transportation, if the relevant areas of the county are not within the boundaries of a metropolitan planning organization.

(3) The proposed general plan may include:

(a) an environmental element that addresses:

(i) to the extent not covered by the county's resource management plan, the protection, conservation, development, and use of natural resources, including the quality of air, forests, soils, rivers and other waters, harbors, fisheries, wildlife, minerals, and other natural resources; and

(ii) the reclamation of land, flood control, prevention and control of the pollution of streams and other waters, regulation of the use of land on hillsides, stream channels and other environmentally sensitive areas, the prevention, control, and correction of the erosion of soils, protection of watersheds and wetlands, and the mapping of known geologic hazards;

(b) a public services and facilities element showing general plans for sewage, water, waste disposal, drainage, public utilities, rights-of-way, easements, and facilities for them, police and fire protection, and other public services;

(c) a rehabilitation, redevelopment, and conservation element consisting of plans and programs for:

(i) historic preservation;

(ii) the diminution or elimination of a development impediment as defined in Section 17C-1-102; and

(iii) redevelopment of land, including housing sites, business and industrial sites, and public building sites;

(d) an economic element composed of appropriate studies and forecasts, as well as an economic development plan, which may include review of existing and projected county revenue and expenditures, revenue sources, identification of basic and secondary industry, primary and secondary market areas, employment, and retail sales activity;

(e) recommendations for implementing all or any portion of the general plan, including the use of land use ordinances, capital improvement plans, community development and promotion, and any other appropriate action;

(f) provisions addressing any of the matters listed in Subsection 17-27a-401(2) or (3)(a)(i); and

(g) any other element the county considers appropriate.

Section 6. Section 17-27a-901 is amended to read:

17-27a-901. Mountainous planning district.

(1) (a) The legislative body of a county of the first class may adopt an ordinance designating an area located within the county as a mountainous planning district if the legislative body determines that:

(i) the area is primarily used for recreational purposes, including canyons, foothills, ski resorts, wilderness areas, lakes and reservoirs, campgrounds, or picnic areas within the Wasatch Range;

(ii) the area is used by residents of the county who live inside and outside the limits of a municipality;

(iii) the total resident population in the proposed mountainous planning district is equal to or less than 5% of the population of the county;

(iv) the area is within the unincorporated area of the county or was within the unincorporated area of the county before May 12, 2015; and

(v) the area includes land designated as part of a national forest on or before May 9, 2017.

[~~(b) (i) A mountainous planning district may include within its boundaries a municipality, whether in whole or in part.~~]

[~~(ii) Except as provided in Subsection (1)(b)(iv), if a mountainous planning district includes within its boundaries an unincorporated area, and that area subsequently incorporates as a municipality:~~]

[~~(A) the area of the incorporated municipality that is located in the mountainous planning district is included within the mountainous planning district boundaries; and~~]

[~~(B) property within the municipality that is also within the mountainous planning district is subject to the authority of the mountainous planning district.~~]

[~~(iii) A subdivision and zoning ordinance that governs property located within a mountainous planning district shall control over any subdivision or zoning ordinance, as applicable, that a municipality may adopt.~~]

[~~(iv) A county shall allow an area within the boundaries of a mountainous planning district to withdraw from the mountainous planning district if:~~]

[~~(A) the area contains less than 100 acres;~~]

[~~(B) the area is annexed to a city in accordance with Title 10, Chapter 2, Part 4, Annexation;~~]

[~~(C) the county determines that the area does not contain United States Forest Service land or land that is designated as watershed; and~~]

[~~(D) the county determines that the area is not used by individuals for recreational purposes.~~]

[~~(v) An area described in Subsection (1)(b)(iv) that withdraws from a mountainous planning district is not subject to the authority of the mountainous planning district.~~]

[~~(c)~~] (b) The population figure under Subsection (1)(a)(iii) shall be derived from a population estimate by the Utah Population Committee.

[~~(d) If any portion of a proposed mountainous planning district includes a municipality with a land base of five square miles or less, the county shall ensure that all of that municipality is wholly located within the boundaries of the mountainous planning district.~~]

(2) (a) [~~Notwithstanding Subsection 10-9a-102(2), 17-34-1(2)(a), or 17-50-302(1)(b), or Section 17-50-314, a~~] A county may adopt a general plan and adopt a zoning or subdivision ordinance for a property that is located within[~~:~~] a mountainous planning district.

[~~(i) a mountainous planning district; and~~]

[~~(ii) a municipality.~~]

(b) A county plan or zoning or subdivision ordinance governs a property described in Subsection (2)(a).

[~~(3) A planning commission with jurisdiction over a mountainous planning district in a county of the first class shall submit a report that summarizes actions the planning commission has taken and any recommendations regarding the mountainous planning district to the Legislature's Natural Resources, Agriculture, and Environment Interim Committee by no later than November 30 of each year.~~]

Section 7. Section 63I-2-210 is amended to read:

63I-2-210. Repeal dates -- Title 10.

[~~(1)~~] Section 10-6-160.1 is repealed January 1, 2021.

[~~(2) Subsection 10-9a-304(2), regarding municipal authority over property located within a mountainous planning district, is repealed June 1, 2021.~~]

[~~(3) When repealing Subsection 10-9a-304(2), the Office of Legislative Research and General Counsel shall, in addition to the office's authority under Subsection 36-12-12(3), make necessary changes to subsection numbering and cross references.~~]

Section 8. Section 63I-2-217 is amended to read:

63I-2-217. Repeal dates -- Title 17.

[~~(1) Section 17-22-32.2, regarding restitution reporting, is repealed January 1, 2021.~~]

[~~(2) Section 17-22-32.3, regarding the Jail Incarceration and Transportation Costs Study Council, is repealed January 1, 2021.~~]

[~~(3) Subsection 17-27a-102(1)(b), the language that states "or a designated mountainous planning district" is repealed June 1, 2021.~~]

[~~(4) (a) Subsection 17-27a-103(18)(b), regarding a mountainous planning district, is repealed June 1, 2021.~~]

[~~(b) Subsection 17-27a-103(42), regarding a mountainous planning district, is repealed June 1, 2021.~~]

[~~(5) Subsection 17-27a-210(2)(a), the language that states "or the mountainous planning district area" is repealed June 1, 2021.~~]

[~~(6) (a) Subsection 17-27a-301(1)(b)(iii), regarding a mountainous planning district, is repealed June 1, 2021.~~]

[~~(b) Subsection 17-27a-301(1)(c), regarding a mountainous planning district, is repealed June 1, 2021.~~]

[~~(c) Subsection 17-27a-301(3)(a), the language that states " or (c)" is repealed June 1, 2021.~~]

[~~(7) Section 17-27a-302, the language that states ", or mountainous planning district" and "or the mountainous planning district," is repealed June 1, 2021.~~]

[~~(8) Subsection 17-27a-305(1)(a), the language that states "a mountainous planning district or" and ", as applicable" is repealed June 1, 2021.~~]

[~~(9) (a) Subsection 17-27a-401(1)(b)(ii), regarding a mountainous planning district, is repealed June 1, 2021.~~]

[~~(b) Subsection 17-27a-401(7), regarding a mountainous planning district, is repealed June 1, 2021.~~]

[~~(10) (a) Subsection 17-27a-403(1)(b)(ii), regarding a mountainous planning district, is repealed June 1, 2021.~~]

[~~(b) Subsection 17-27a-403(1)(c)(iii), regarding a mountainous planning district, is repealed June 1, 2021.~~]

[~~(c) Subsection 17-27a-403(2)(a)(iii), the language that states "or the mountainous planning district" is repealed June 1, 2021.~~]

[~~(d) Subsection 17-27a-403(2)(c)(i), the language that states "or mountainous planning district" is repealed June 1, 2021.~~]

[~~(11) Subsection 17-27a-502(1)(d)(i)(B), regarding a mountainous planning district, is repealed June 1, 2021.~~]

[~~(12) Subsection 17-27a-505.5(2)(a)(iii), regarding a mountainous planning district, is repealed June 1, 2021.~~]

[~~(13) Subsection 17-27a-602(1)(b), the language that states "or, in the case of a mountainous planning district, the mountainous planning district" is repealed June 1, 2021.~~]

[~~(14) Subsection 17-27a-604(1)(b)(i)(B), regarding a mountainous planning district, is repealed June 1, 2021.~~]

[~~(15) Subsection 17-27a-605(1)(a), the language that states "or mountainous planning district land" is repealed June 1, 2021.~~]

[~~(16) Title 17, Chapter 27a, Part 9, Mountainous Planning District, is repealed June 1, 2021.~~]

[~~(17) On June 1, 2021, when making the changes in this section, the Office of Legislative Research and General Counsel shall:~~]

[~~(a) in addition to its authority under Subsection 36-12-12(3):~~]

[~~(i) make corrections necessary to ensure that sections and subsections identified in this section are complete sentences and accurately reflect the office's understanding of the Legislature's intent; and~~]

[~~(ii) make necessary changes to subsection numbering and cross references; and~~]

[~~(b) identify the text of the affected sections and subsections based upon the section and subsection numbers used in Laws of Utah 2017, Chapter 448.~~]

[~~(18) Subsection 17-34-1(5)(d), regarding county funding of certain municipal services in a designated recreation area, is repealed June 1, 2021.~~]

[~~(19)~~] (1) Title 17, Chapter 35b, Consolidation of Local Government Units, is repealed January 1, 2022.

[~~(20)~~] (2) On June 1, 2022:

(a) Section 17-52a-104 is repealed;

(b) in Subsection 17-52a-301(3)(a), the language that states "or under a provision described in Subsection 17-52a-104(1)(b) or (2)(b)," is repealed; and

(c) Subsection 17-52a-301(3)(a)(iv), regarding the first initiated process, is repealed.

[~~(21)~~] (3) On January 1, 2028, Subsection 17-52a-103(3), requiring certain counties to initiate a change of form of government process by July 1, 2018, is repealed.

CHAPTER 364
S. B. 244
Passed March 4, 2021
Approved March 17, 2021
Effective May 5, 2021

STUDENT RELIGIOUS ACCOMMODATIONS AMENDMENTS

Chief Sponsor: Michael S. Kennedy
House Sponsor: Val L. Peterson

LONG TITLE

General Description:

This bill requires institutions of higher education to reasonably accommodate student absences from scheduled examinations or academic requirements due to a student's sincerely held religious beliefs.

Highlighted Provisions:

This bill:

- requires institutions of higher education to:
  - reasonably accommodate student absences from scheduled examinations or academic requirements if they create an undue hardship due to the student's sincerely held religious beliefs; and
  - annually publish information about the general procedure to request an accommodation; and
- directs the Board of Higher Education to make policies related to the religious accommodation.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

53B-27-401, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53B-27-401 is enacted to read:

53B-27-401. (Codified as 53B-27-405) Student religious accommodations.

(1) An institution shall:

(a) reasonably accommodate a student's absence from an examination or other academic requirement under the circumstances described in Subsection (2) for reasons of:

(i) the student's faith or conscience; or

(ii) the student's participation in an organized activity conducted under the auspices of the student's religious tradition or religious organization; and

(b) ensure that an accommodation described in Subsection (1)(a) does not adversely impact the student's academic opportunities.

(2) An institution shall make an accommodation described in Subsection (1) if:

(a) the time at which an examination or academic requirement is scheduled to occur creates an undue hardship for a student due to the student's sincerely held religious belief; and

(b) the student provides a written notice to the instructor of the course for which the student seeks the accommodation regarding the date of the examination or academic requirement for which the student seeks the accommodation.

(3) The board shall establish policies related to the accommodation described in Subsection (1) that:

(a) require an institution to provide the accommodation with respect to when the student participates in examinations and other academic requirements;

(b) allow an instructor who receives a notice described in Subsection (2)(b) to:

(i) schedule an alternative examination time before or after the regularly scheduled examination; or

(ii) make accommodations for other academic requirements related to the accommodation; and

(c) require an instructor who receives a notice described in Subsection (2)(b) to keep confidential a student's request for the accommodation.

(4) (a) The board shall annually:

(i) create a list of the dates of religious holidays for the following two years; and

(ii) distribute the list described in Subsection (4)(a) to an institution.

(b) The creation and distribution of the list described in Subsection (4)(a) does not prohibit a student from seeking, or an institution from granting, an accommodation for a date of a religious holiday that is not included on that list.

(5) An institution shall:

(a) designate a point of contact for information about an accommodation described in Subsection (1);

(b) establish a process by which a student may submit a grievance with regards to implementation of this section; and

(c) publish the following information on the institution's website and update the information annually:

(i) the board's religious accommodation policies described in Subsection (3);

(ii) the point of contact described in Subsection (5)(a);

(iii) the list described in Subsection (4);

(iv) a description of the general procedure to request an accommodation described in Subsection (1); and

(v) the grievance process described in Subsection (5)(b).

CHAPTER 365
S. B. 246
Passed March 3, 2021
Approved March 17, 2021
Effective May 5, 2021

CHILD AND FAMILY SERVICES INVESTIGATIVE AMENDMENTS

Chief Sponsor: Jerry W. Stevenson
House Sponsor: Paul Ray

LONG TITLE

General Description:

This bill addresses investigations of alleged child abuse or neglect by the Division of Child and Family Services.

Highlighted Provisions:

This bill:

- removes provisions indicating that the Division of Child and Family Services is not required to conduct a preremoval investigation of alleged child abuse or neglect if the alleged perpetrator does not have access to the child; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

62A-4a-409, as last amended by Laws of Utah 2020, Fifth Special Session, Chapter 20

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 62A-4a-409 is amended to read:

62A-4a-409. Investigation by division -- Temporary protective custody -- Preremoval interviews of children.

(1) (a) [~~Except as provided in Subsection (1)(c), the~~] The division shall conduct a thorough preremoval investigation upon receiving either an oral or written report of alleged abuse or neglect, or an oral or written report under Subsection 62A-4a-404(2), when there is reasonable cause to suspect that a situation of abuse, neglect, or the circumstances described under Subsection 62A-4a-404(2) exist.

(b) The primary purpose of the investigation described in Subsection (1)(a) shall be protection of the child.

[~~(c) The division is not required to conduct an investigation under Subsection (1)(a) if the division determines the person responsible for the child's care:~~]

[~~(i) is not the alleged perpetrator; and~~]

[~~(ii) is willing and able to ensure the alleged perpetrator does not have access to the child.~~]

(2) The preremoval investigation described in Subsection (1)(a) shall include the same investigative requirements described in Section 62A-4a-202.3.

(3) The division shall make a written report of its investigation that shall include a determination regarding whether the alleged abuse or neglect is supported, unsupported, or without merit.

(4) (a) The division shall use an interdisciplinary approach when appropriate in dealing with reports made under this part.

(b) The division shall convene a child protection team to assist the division in the division's protective, diagnostic, assessment, treatment, and coordination services.

(c) The division may include members of a child protection unit in the division's protective, diagnostic, assessment, treatment, and coordination services.

(d) A representative of the division shall serve as the team's coordinator and chair. Members of the team shall serve at the coordinator's invitation. Whenever possible, the team shall include representatives of:

(i) health, mental health, education, and law enforcement agencies;

(ii) the child;

(iii) parent and family support groups unless the parent is alleged to be the perpetrator; and

(iv) other appropriate agencies or individuals.

(5) If a report of neglect is based upon or includes an allegation of educational neglect, the division shall immediately consult with school authorities to verify the child's status in accordance with Sections 53G-6-201 through 53G-6-206.

(6) When the division completes the division's initial investigation under this part, the division shall give notice of that completion to the person who made the initial report.

(7) Division workers or other child protection team members have authority to enter upon public or private premises, using appropriate legal processes, to investigate reports of alleged abuse or neglect, upon notice to parents of their rights under the Child Abuse Prevention and Treatment Act, 42 U.S.C. Sec. 5106, or any successor thereof.

(8) With regard to any interview of a child prior to removal of that child from the child's home:

(a) except as provided in Subsection (8)(b) or (c), the division shall inform a parent of the child prior to the interview of:

(i) the specific allegations concerning the child; and

(ii) the time and place of the interview;

(b) if a child's parent or stepparent, or a parent's paramour has been identified as the alleged perpetrator, the division is not required to comply with Subsection (8)(a);

(c) if the perpetrator is unknown, or if the perpetrator's relationship to the child's family is unknown, the division may conduct a minimal interview or conversation, not to exceed 15 minutes, with the child prior to complying with Subsection (8)(a);

(d) in all cases described in Subsection (8)(b) or (c), a parent of the child shall be notified as soon as practicable after the child has been interviewed, but in no case later than 24 hours after the interview has taken place;

(e) a child's parents shall be notified of the time and place of all subsequent interviews with the child; and

(f) the child shall be allowed to have a support person of the child's choice present, who:

(i) may include:

(A) a school teacher;

(B) an administrator;

(C) a guidance counselor;

(D) a child care provider;

(E) a family member;

(F) a family advocate; or

(G) a member of the clergy; and

(ii) may not be an individual who is alleged to be, or potentially may be, the perpetrator.

(9) In accordance with the procedures and requirements of Sections 62A-4a-202.1 through 62A-4a-202.3, a division worker or child protection team member may take a child into protective custody and deliver the child to a law enforcement officer, or place the child in an emergency shelter facility approved by the juvenile court, at the earliest opportunity subsequent to the child's removal from the child's original environment. Control and jurisdiction over the child is determined by the provisions of Title 78A, Chapter 6, Juvenile Court Act, and as otherwise provided by law.

(10) With regard to cases in which law enforcement has or is conducting an investigation of alleged abuse or neglect of a child:

(a) the division shall coordinate with law enforcement to ensure that there is an adequate safety plan to protect the child from further abuse or neglect; and

(b) the division is not required to duplicate an aspect of the investigation that, in the division's determination, has been satisfactorily completed by law enforcement.

(11) With regard to a mutual case in which a child protection unit was involved in the investigation of alleged abuse or neglect of a child, the division shall consult with the child protection unit before closing the case.

CHAPTER 366
S. B. 249
Passed March 3, 2021
Approved March 17, 2021
Effective May 5, 2021

COUNTY JAILS AMENDMENTS

Chief Sponsor: Derrin R. Owens
House Sponsor: Craig Hall

LONG TITLE

General Description:

This bill sets specific amounts for jail contracting and reimbursement rates and creates a committee to study the issue.

Highlighted Provisions:

This bill:

- sets a specific amount for the daily jail contracting rate;
- sets a specific amount for the daily jail reimbursement rate;
- caps the number of beds in certain categories;
- creates the Subcommittee on Jail Contracting and Reimbursement within the Commission on Criminal and Juvenile Justice;
- defines the membership of the subcommittee;
- sets responsibilities and study items;
- requires a report to the Law Enforcement and Criminal Justice Interim Committee and the Executive Offices and Criminal Justice Appropriations Subcommittee; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63I-2-264, as renumbered and amended by Laws of Utah 2008, Chapter 382
64-13e-105, as last amended by Laws of Utah 2020, Chapter 410

ENACTS:

64-13e-103.2, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63I-2-264 is amended to read:

63I-2-264. Repeal dates -- Title 64.

(1) Section 64-13e-103.2 is repealed June 30, 2024.

Section 2. Section 64-13e-103.2 is enacted to read:

64-13e-103.2. State daily incarceration rate -- Limits -- Payments to jails.

(1) Notwithstanding Sections 64-13e-103 and 64-13e-103.1, the actual state daily incarceration rate shall be $85.27. This rate shall apply to inmates under Section 64-13e-103 and probationary and parole inmates under Section 64-13e-104.

(2) Notwithstanding Subsection 64-13e-103(3)(a), the number of jail beds contracted for shall be 1450 at the base rate of 71.57%, with the exception of:

(a) the beds set aside for Subsection 64-13e-103(3)(a)(i) which shall be 434 beds and shall be reimbursed at 88.53% of the actual state daily incarceration rate; and

(b) the beds set aside for Subsection 64-13e-103(3)(a)(ii) which shall be 235 beds and shall be reimbursed at 79.52% of the actual state daily incarceration rate.

(3) Notwithstanding Subsection 64-13e-104(9), the five year average state probationary or parole inmate days is set at 300,000 days.

(4) Notwithstanding Subsection 64-13e-104(2), within funds appropriated by the Legislature for this purpose, the Division of Finance shall pay a county that houses a state probationary inmate or a state parole inmate at a rate of 50% of the actual state daily incarceration rate.

(5) Expenditures for Section 64-13e-103 shall be $35,173,900 annually.

(6) Expenditures for Section 64-13e-104 shall be $12,790,700 annually.

Section 3. Section 64-13e-105 is amended to read:

64-13e-105. Subcommittee on Jail Contracting and Reimbursement -- Purpose -- Responsibilities -- Membership.

(1) There is created within the Commission on Criminal and Juvenile Justice, the Subcommittee on Jail Contracting and Reimbursement consisting of the individuals listed in Subsection (3).

(2) [~~Before September 30 of each year, the individuals described in Subsection (2),~~] The subcommittee shall meet at least quarterly to review, [~~and~~] discuss, and make recommendations for:

(a) the [~~actual~~] state daily incarceration rate, described in Section 64-13e-103.1;

(b) the [~~actual~~] county daily incarceration rate;

(c) jail contracting and jail reimbursement processes and goals, including the creation of a comprehensive statewide system of jail contracting and reimbursement;

(d) developing a partnership between the state and counties to create common goals for housing state inmates;

(e) calculations for the projected number of beds needed;

(f) programming for inmates while incarcerated;

(g) proposals to reduce recidivism;

(h) enhancing partnerships to improve law enforcement and incarceration programs;

(i) inmate transportation costs; and

[~~(e)~~] (j) the compilation described in Subsection 64-13e-104(7).

[~~(2) The following individuals shall meet in accordance with Subsection (1):~~]

(3) The membership of the subcommittee shall consist of the following nine members:

(a) as designated by the Utah Sheriffs Association:

(i) one sheriff of a county that is currently under contract with the department to house state inmates; and

(ii) one sheriff of a county that is currently receiving reimbursement from the department for housing state probationary inmates or state parole inmates;

(b) the executive director of the department or the executive director's designee;

(c) as designated by the Utah Association of Counties:

(i) one member of the legislative body of one county that is currently under contract with the department to house state inmates; and

(ii) one member of the legislative body of one county that is currently receiving reimbursement from the department for housing state probationary inmates or state parole inmates;

(d) the executive director of the Commission on Criminal and Juvenile Justice or the executive director's designee; [~~and~~]

(e) one member of the House of Representatives, appointed by the speaker of the House of Representatives;

(f) one member of the Senate, appointed by the president of the Senate; and

[~~(e)~~] (g) the executive director of the Governor's Office of Management and Budget or the executive director's designee.

(4) The subcommittee shall report to the Law Enforcement and Criminal Justice Interim Committee in November 2022 and 2024 on progress and efforts to create a comprehensive statewide jail reimbursement and contracting system.

(5) The subcommittee shall report to the Executive Offices and Criminal Justice Appropriations Subcommittee not later than October 31 in 2022, 2023, and 2024 on costs associated with creating a comprehensive statewide jail reimbursement and contracting system.

(6) (a) A member who is not a legislator may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses as allowed in:

(i) Section 63A-3-106;

(ii) Section 63A-3-107; and

(iii) rules made by the Division of Finance according to Sections 63A-3-106 and 63A-3-107.

(b) Compensation and expenses of a member who is a legislator are governed by Section 36-2-2 and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.

CHAPTER 367
H. B. 30
Passed March 1, 2021
Approved March 22, 2021
Effective May 5, 2021
(Retrospective operation to January 1, 2021)

TAX MODIFICATIONS

Chief Sponsor: Stewart E. Barlow
Senate Sponsor: Luz Escamilla
Cosponsor: Travis M. Seegmiller

LONG TITLE

General Description:

This bill modifies provisions related to tax.

Highlighted Provisions:

This bill:

- addresses the State Tax Commission's authority to provide tax collection data to counties, cities, towns, metro townships, and the military installation development authority;
- clarifies the signature requirements for the form a new owner of residential property uses to declare that the residential property qualifies for the primary residential exemption;
- amends the calculation of certain tax credits to match the applicable income tax rate;
- integrates the income tax code provisions from 2020 Third Special Session, H.B. 3003, Income Tax Revisions, into the Utah Code;
- integrates the sales tax code provisions from 2020 Fourth Special Session, H.B. 4002, Rail Fuel Sales Tax Amendments, into the Utah Code; and
- makes technical corrections, including eliminating references to repealed provisions, eliminating redundant or obsolete language, and updating cross-references.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides retrospective operation.

This bill provides coordination clauses.

Utah Code Sections Affected:

AMENDS:

11-41-102, as last amended by Laws of Utah 2016, Chapter 176
19-3-106, as last amended by Laws of Utah 2018, Chapter 376
26-36b-208, as last amended by Laws of Utah 2019, Chapters 1 and 393
35A-8-308, as last amended by Laws of Utah 2017, Chapters 181 and 421
35A-8-309, as last amended by Laws of Utah 2019, Chapter 493
59-1-401, as last amended by Laws of Utah 2020, Chapter 294
59-1-403, as last amended by Laws of Utah 2020, Chapter 294
59-1-403.1, as enacted by Laws of Utah 2018, Chapter 4
59-1-404, as last amended by Laws of Utah 2018, Chapter 368
59-2-103.5, as last amended by Laws of Utah 2020, Chapter 78
59-2-1007, as last amended by Laws of Utah 2018, Chapter 368
59-2-1602, as last amended by Laws of Utah 2020, Chapter 447
59-7-118, as last amended by Laws of Utah 2019, Chapter 11
59-7-159, as last amended by Laws of Utah 2019, Chapters 247 and 465
59-7-504, as last amended by Laws of Utah 1995, Chapter 311
59-7-505, as last amended by Laws of Utah 1997, Chapter 332
59-7-507, as last amended by Laws of Utah 2007, Chapter 269
59-7-610, as last amended by Laws of Utah 2020, Chapters 82, 354, 360 and last amended by Coordination Clause, Laws of Utah 2020, Chapter 360
59-7-619, as last amended by Laws of Utah 2016, Third Special Session, Chapter 1
59-7-620, as last amended by Laws of Utah 2020, Chapter 46
59-10-103, as last amended by Laws of Utah 2020, Sixth Special Session, Chapter 15
59-10-114, as last amended by Laws of Utah 2020, Sixth Special Session, Chapter 15
59-10-137, as last amended by Laws of Utah 2019, Chapters 247 and 465
59-10-507, as last amended by Laws of Utah 2016, Chapter 87
59-10-514, as last amended by Laws of Utah 2016, Chapter 87
59-10-516, as last amended by Laws of Utah 2010, Chapter 271
59-10-522, as renumbered and amended by Laws of Utah 1987, Chapter 2
59-10-1007, as last amended by Laws of Utah 2020, Chapters 82, 354, 360 and last amended by Coordination Clause, Laws of Utah 2020, Chapter 360
59-10-1017, as last amended by Laws of Utah 2017, Chapter 389
59-10-1017.1, as enacted by Laws of Utah 2017, Chapter 389
59-10-1022, as enacted by Laws of Utah 2008, Chapter 389
59-10-1023, as enacted by Laws of Utah 2008, Chapter 389
59-10-1028, as last amended by Laws of Utah 2012, Chapter 399
59-10-1035, as last amended by Laws of Utah 2017, Chapter 222
59-10-1036, as enacted by Laws of Utah 2016, Chapter 55
59-10-1403, as last amended by Laws of Utah 2017, Chapter 270
59-10-1403.3, as enacted by Laws of Utah 2017, Chapter 270
59-12-102, as last amended by Laws of Utah 2020, Chapters 354, 365, and 438
59-12-103, as last amended by Laws of Utah 2020, Fifth Special Session, Chapter 20
59-12-104, as last amended by Laws of Utah 2020, Chapters 44, 91, 354, 412, and 438
59-12-209, as last amended by Laws of Utah 2009, Chapters 212 and 240

59-12-210, as last amended by Laws of Utah 2009, Chapter 240
59-14-212, as last amended by Laws of Utah 2007, Chapter 322
62A-11-328, as last amended by Laws of Utah 2009, Chapter 31
63G-2-302, as last amended by Laws of Utah 2020, Fifth Special Session, Chapter 4

REPEALS:
59-7-118.1, as enacted by Laws of Utah 2020, Third Special Session, Chapter 4
59-7-504.1, as enacted by Laws of Utah 2020, Third Special Session, Chapter 4
59-7-505.1, as enacted by Laws of Utah 2020, Third Special Session, Chapter 4
59-7-507.1, as enacted by Laws of Utah 2020, Third Special Session, Chapter 4
59-10-103.2, as enacted by Laws of Utah 2020, Third Special Session, Chapter 4
59-10-114.1, as enacted by Laws of Utah 2020, Third Special Session, Chapter 4
59-10-514.2, as enacted by Laws of Utah 2020, Third Special Session, Chapter 4
59-10-516.1, as enacted by Laws of Utah 2020, Third Special Session, Chapter 4
59-10-522.1, as enacted by Laws of Utah 2020, Third Special Session, Chapter 4
59-10-1403.4, as enacted by Laws of Utah 2020, Third Special Session, Chapter 4
59-12-103.3, as enacted by Laws of Utah 2020, Fourth Special Session, Chapter 2

Utah Code Sections Affected by Coordination Clause:
10-1-304, as last amended by Laws of Utah 2012, Chapter 410
10-3c-204, as enacted by Laws of Utah 2015, Chapter 352
59-12-102, as last amended by Laws of Utah 2020, Chapters 354, 365, and 438
59-12-209, as last amended by Laws of Utah 2009, Chapters 212 and 240
59-12-210, as last amended by Laws of Utah 2009, Chapter 240

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 11-41-102 is amended to read:

11-41-102. Definitions.

As used in this chapter:

(1) "Agreement" means an oral or written agreement between a:

(a) (i) county; or

(ii) municipality; and

(b) person.

(2) "Municipality" means a:

(a) city;

(b) town; or

(c) metro township.

(3) "Payment" includes:

(a) a payment;

(b) a rebate;

(c) a refund; or

(d) an amount similar to Subsections (3)(a) through (c).

(4) "Regional retail business" means a:

(a) retail business that occupies a floor area of more than 80,000 square feet;

(b) dealer as defined in Section 41-1a-102;

(c) retail shopping facility that has at least two anchor tenants if the total number of anchor tenants in the shopping facility occupy a total floor area of more than 150,000 square feet; or

(d) grocery store that occupies a floor area of more than 30,000 square feet.

(5) (a) "Sales and use tax" means a tax:

(i) imposed on transactions within a:

(A) county; or

(B) municipality; and

(ii) except as provided in Subsection (5)(b), authorized under Title 59, Chapter 12, Sales and Use Tax Act.

(b) [~~Notwithstanding Subsection (5)(a)(ii), "sales"~~] "Sales and use tax" does not include a tax authorized under:

(i) Subsection 59-12-103(2)(a)(i);

(ii) Subsection 59-12-103(2)(b)(i);

(iii) Subsection 59-12-103(2)(c)(i);

(iv) Subsection 59-12-103(2)(d);

[~~(iv)~~] (v) Subsection 59-12-103(2)[~~(d)~~](e)(i)(A);

[~~(v)~~] (vi) Section 59-12-301;

[~~(vi)~~] (vii) Section 59-12-352;

[~~(vii)~~] (viii) Section 59-12-353;

[~~(viii)~~] (ix) Section 59-12-603; or

[~~(ix)~~] (x) Section 59-12-1201.

(6) (a) "Sales and use tax incentive payment" means a payment of revenues:

(i) to a person;

(ii) by a:

(A) county; or

(B) municipality;

(iii) to induce the person to locate or relocate a regional retail business within the:

(A) county; or

(B) municipality; and

(iv) that are derived from a sales and use tax.

(b) "Sales and use tax incentive payment" does not include funding for public infrastructure.

Section 2. Section 19-3-106 is amended to read:

19-3-106. Fee for commercial radioactive waste disposal or treatment.

(1) (a) An owner or operator of a commercial radioactive waste treatment or disposal facility that receives radioactive waste shall pay a fee as provided in Subsection (1)(b).

(b) (i) On or after July 1, 2011, the fee shall be established by the department in accordance with Section 63J-1-504.

(ii) In the development of a fee schedule prepared under Subsection (1)(b)(i), the department may conduct by no later than July 1, 2011, a review of the program costs and indirect costs of regulating radioactive waste in the state.

(iii) In addition to the process required by Section 63J-1-504, the department shall establish a fee that:

(A) is a flat fee, not based on the amount of waste treated or disposed of;

(B) provides for reasonable and timely oversight of radioactive waste by the department; and

(C) adequately meets the needs of industry and the department, including allowing for the department to employ qualified personnel to appropriately oversee industry regulation.

(2) (a) The owner or operator shall remit the fees imposed under this section to the department on or before the 15th day of the month following the month in which the fee accrued.

(b) The department shall deposit the fees received under this section into the Environmental Quality Restricted Account created in Section 19-1-108.

(3) (a) The annual fee required under Subsection (1)(a) shall be reduced by the amount paid in tax annually by the owner or operator under Section 59-24-103.5.

(b) Beginning June 2018, the State Tax Commission shall provide annually on or before June 1 the tax information described in Subsection 59-1-403[~~(3)~~](4)(v) indicating the amount of tax paid for the previous calendar year under Section 59-24-103.5.

(c) The department shall apply the tax amount established in Subsection (3)(b) to reduce the fee paid during the upcoming fiscal year, beginning fiscal year 2019, by the owner or operator under Subsection (1)(a).

(4) The Legislature shall appropriate the fully burdened cost as determined by the annual fee set under Subsection (1)(b) to the Environmental Quality Restricted Account created in Section 19-1-108 from the General Fund for the regulation of radioactive waste treatment and disposal.

(5) If the Legislature fails to appropriate adequate funds to cover the fully burdened cost as determined by the annual fee set under Subsection (1)(b), the owner or operator shall pay the balance.

(6) Radioactive waste that is subject to a fee under this section is not subject to a fee under Section 19-6-119.

Section 3. Section 26-36b-208 is amended to read:

26-36b-208. Medicaid Expansion Fund.

(1) There is created an expendable special revenue fund known as the Medicaid Expansion Fund.

(2) The fund consists of:

(a) assessments collected under this chapter;

(b) intergovernmental transfers under Section 26-36b-206;

(c) savings attributable to the health coverage improvement program as determined by the department;

(d) savings attributable to the enhancement waiver program as determined by the department;

(e) savings attributable to the Medicaid waiver expansion as determined by the department;

(f) savings attributable to the inclusion of psychotropic drugs on the preferred drug list under Subsection 26-18-2.4(3) as determined by the department;

(g) revenues collected from the sales tax described in Subsection 59-12-103[~~(13)~~](12);

(h) gifts, grants, donations, or any other conveyance of money that may be made to the fund from private sources;

(i) interest earned on money in the fund; and

(j) additional amounts as appropriated by the Legislature.

(3) (a) The fund shall earn interest.

(b) All interest earned on fund money shall be deposited into the fund.

(4) (a) A state agency administering the provisions of this chapter may use money from the fund to pay the costs, not otherwise paid for with federal funds or other revenue sources, of:

(i) the health coverage improvement program;

(ii) the enhancement waiver program;

(iii) a Medicaid waiver expansion; and

(iv) the outpatient upper payment limit supplemental payments under Section 26-36b-210.

(b) A state agency administering the provisions of this chapter may not use:

(i) funds described in Subsection (2)(b) to pay the cost of private outpatient upper payment limit supplemental payments; or

(ii) money in the fund for any purpose not described in Subsection (4)(a).

Section 4. Section 35A-8-308 is amended to read:

35A-8-308. Throughput Infrastructure Fund.

(1) There is created an enterprise fund known as the Throughput Infrastructure Fund.

(2) The fund consists of money generated from the following revenue sources:

(a) all amounts transferred to the fund [~~under Subsection 59-12-103(12)~~] by statute;

(b) any voluntary contributions received;

(c) appropriations made to the fund by the Legislature; and

(d) all amounts received from the repayment of loans made by the impact board under Section 35A-8-309.

(3) The state treasurer shall:

(a) invest the money in the fund by following the procedures and requirements of Title 51, Chapter 7, State Money Management Act; and

(b) deposit all interest or other earnings derived from those investments into the fund.

Section 5. Section 35A-8-309 is amended to read:

35A-8-309. Throughput Infrastructure Fund administered by impact board -- Uses -- Review by board -- Annual report -- First project.

(1) The impact board shall:

(a) make grants and loans from the Throughput Infrastructure Fund created in Section 35A-8-308 for a throughput infrastructure project;

(b) use money transferred to the Throughput Infrastructure Fund in accordance with [~~Subsection 59-12-103(12)~~] statute to provide a loan or grant to finance the cost of acquisition or construction of a throughput infrastructure project to one or more local political subdivisions, including a Utah interlocal agency created under Title 11, Chapter 13, Interlocal Cooperation Act;

(c) administer the Throughput Infrastructure Fund in a manner that will keep a portion of the fund revolving;

(d) determine provisions for repayment of loans;

(e) establish criteria for awarding loans and grants; and

(f) establish criteria for determining eligibility for assistance under this section.

(2) The cost of acquisition or construction of a throughput infrastructure project includes amounts for working capital, reserves, transaction costs, and other amounts determined by the impact board to be allocable to a throughput infrastructure project.

(3) The impact board may restructure or forgive all or part of a local political subdivision's or interlocal agency's obligation to repay loans for extenuating circumstances.

(4) To receive assistance under this section, a local political subdivision or an interlocal agency shall submit a formal application containing the information that the impact board requires.

(5) (a) The impact board shall:

(i) review the proposed uses of the Throughput Infrastructure Fund for a loan or grant before approving the loan or grant and may condition its approval on whatever assurances the impact board considers necessary to ensure that proceeds of the loan or grant will be used in accordance with this section;

(ii) ensure that each loan specifies terms for interest deferments, accruals, and scheduled principal repayment; and

(iii) ensure that repayment terms are evidenced by bonds, notes, or other obligations of the appropriate local political subdivision or interlocal agency issued to the impact board and payable from the net revenues of a throughput infrastructure project.

(b) An instrument described in Subsection (5)(a)(iii) may be:

(i) non-recourse to the local political subdivision or interlocal agency; and

(ii) limited to a pledge of the net revenues from a throughput infrastructure project.

(6) (a) Subject to the restriction in Subsection (6)(b), the impact board shall allocate from the Throughput Infrastructure Fund to the board those amounts that are appropriated by the Legislature for the administration of the Throughput Infrastructure Fund.

(b) The amount described in Subsection (6)(a) may not exceed 2% of the annual receipts to the fund.

(7) The board shall include in the annual written report described in Section 35A-1-109:

(a) the number and type of loans and grants made under this section; and

(b) a list of local political subdivisions or interlocal agencies that received assistance under this section.

(8) (a) The first throughput infrastructure project considered by the impact board shall be a bulk commodities ocean terminal project.

(b) Upon receipt of an application from an interlocal agency created for the sole purpose of undertaking a throughput infrastructure project that is a bulk commodities ocean terminal project, the impact board shall:

(i) grant up to 2% of the money in the Throughput Infrastructure Fund to the interlocal agency to pay or reimburse costs incurred by the interlocal agency

preliminary to its acquisition of the throughput infrastructure project; and

(ii) fund the interlocal agency's application if the application meets all criteria established by the impact board.

Section 6. Section 59-1-401 is amended to read:

59-1-401. Definitions -- Offenses and penalties -- Rulemaking authority -- Statute of limitations -- Commission authority to waive, reduce, or compromise penalty or interest.

(1) As used in this section:

(a) "Activated tax, fee, or charge" means a tax, fee, or charge with respect to which the commission:

(i) has implemented the commission's GenTax system; and

(ii) at least 30 days before implementing the commission's GenTax system as described in Subsection (1)(a)(i), has provided notice in a conspicuous place on the commission's website stating:

(A) the date the commission will implement the GenTax system with respect to the tax, fee, or charge; and

(B) that, at the time the commission implements the GenTax system with respect to the tax, fee, or charge:

(I) a person that files a return after the due date as described in Subsection (2)(a) is subject to the penalty described in Subsection (2)(c)(ii); and

(II) a person that fails to pay the tax, fee, or charge as described in Subsection (3)(a) is subject to the penalty described in Subsection (3)(b)(ii).

(b) "Activation date for a tax, fee, or charge" means with respect to a tax, fee, or charge, the later of:

(i) the date on which the commission implements the commission's GenTax system with respect to the tax, fee, or charge; or

(ii) 30 days after the date the commission provides the notice described in Subsection (1)(a)(ii) with respect to the tax, fee, or charge.

(c) (i) Except as provided in Subsection (1)(c)(ii), "tax, fee, or charge" means:

(A) a tax, fee, or charge the commission administers under:

(I) this title;

(II) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;

(III) Title 10, Chapter 1, Part 4, Municipal Telecommunications License Tax Act;

(IV) Section 19-6-410.5;

(V) Section 19-6-714;

(VI) Section 19-6-805;

(VII) Section 34A-2-202;

(VIII) Section 40-6-14; or

(IX) Title 69, Chapter 2, Part 4, Prepaid Wireless Telecommunications Service Charges; or

(B) another amount that by statute is subject to a penalty imposed under this section.

(ii) "Tax, fee, or charge" does not include a tax, fee, or charge imposed under:

(A) Title 41, Chapter 1a, Motor Vehicle Act, except for Section 41-1a-301;

(B) Title 41, Chapter 3, Motor Vehicle Business Regulation Act;

(C) Chapter 2, Property Tax Act, except for Section 59-2-1309;

(D) Chapter 3, Tax Equivalent Property Act; or

(E) Chapter 4, Privilege Tax.

(d) "Unactivated tax, fee, or charge" means a tax, fee, or charge except for an activated tax, fee, or charge.

(2) (a) The due date for filing a return is:

(i) if the person filing the return is not allowed by law an extension of time for filing the return, the day on which the return is due as provided by law; or

(ii) if the person filing the return is allowed by law an extension of time for filing the return, the earlier of:

(A) the date the person files the return; or

(B) the last day of that extension of time as allowed by law.

(b) A penalty in the amount described in Subsection (2)(c) is imposed if a person files a return after the due date described in Subsection (2)(a).

(c) For purposes of Subsection (2)(b), the penalty is an amount equal to the greater of:

(i) if the return described in Subsection (2)(b) is filed with respect to an unactivated tax, fee, or charge:

(A) $20; or

(B) 10% of the unpaid unactivated tax, fee, or charge due on the return; or

(ii) if the return described in Subsection (2)(b) is filed with respect to an activated tax, fee, or charge, beginning on the activation date for the tax, fee, or charge:

(A) $20; or

(B) (I) 2% of the unpaid activated tax, fee, or charge due on the return if the return is filed no later than five days after the due date described in Subsection (2)(a);

(II) 5% of the unpaid activated tax, fee, or charge due on the return if the return is filed more than five

days after the due date but no later than 15 days after the due date described in Subsection (2)(a); or

(III) 10% of the unpaid activated tax, fee, or charge due on the return if the return is filed more than 15 days after the due date described in Subsection (2)(a).

(d) This Subsection (2) does not apply to:

(i) an amended return; or

(ii) a return with no tax due.

(3) (a) A person is subject to a penalty for failure to pay a tax, fee, or charge if:

(i) the person files a return on or before the due date for filing a return described in Subsection (2)(a), but fails to pay the tax, fee, or charge due on the return on or before that due date;

(ii) the person:

(A) is subject to a penalty under Subsection (2)(b); and

(B) fails to pay the tax, fee, or charge due on a return within a 90-day period after the due date for filing a return described in Subsection (2)(a);

(iii) (A) the person is subject to a penalty under Subsection (2)(b); and

(B) the commission estimates an amount of tax due for that person in accordance with Subsection 59-1-1406(2);

(iv) the person:

(A) is mailed a notice of deficiency; and

(B) within a 30-day period after the day on which the notice of deficiency described in Subsection (3)(a)(iv)(A) is mailed:

(I) does not file a petition for redetermination or a request for agency action; and

(II) fails to pay the tax, fee, or charge due on a return;

(v) (A) the commission:

(I) issues an order constituting final agency action resulting from a timely filed petition for redetermination or a timely filed request for agency action; or

(II) is considered to have denied a request for reconsideration under Subsection 63G-4-302(3)(b) resulting from a timely filed petition for redetermination or a timely filed request for agency action; and

(B) the person fails to pay the tax, fee, or charge due on a return within a 30-day period after the date the commission:

(I) issues the order constituting final agency action described in Subsection (3)(a)(v)(A)(I); or

(II) is considered to have denied the request for reconsideration described in Subsection (3)(a)(v)(A)(II); or

(vi) the person fails to pay the tax, fee, or charge within a 30-day period after the date of a final judicial decision resulting from a timely filed petition for judicial review.

(b) For purposes of Subsection (3)(a), the penalty is an amount equal to the greater of:

(i) if the failure to pay a tax, fee, or charge as described in Subsection (3)(a) is with respect to an unactivated tax, fee, or charge:

(A) $20; or

(B) 10% of the unpaid unactivated tax, fee, or charge due on the return; or

(ii) if the failure to pay a tax, fee, or charge as described in Subsection (3)(a) is with respect to an activated tax, fee, or charge, beginning on the activation date:

(A) $20; or

(B) (I) 2% of the unpaid activated tax, fee, or charge due on the return if the activated tax, fee, or charge due on the return is paid no later than five days after the due date for filing a return described in Subsection (2)(a);

(II) 5% of the unpaid activated tax, fee, or charge due on the return if the activated tax, fee, or charge due on the return is paid more than five days after the due date for filing a return described in Subsection (2)(a) but no later than 15 days after that due date; or

(III) 10% of the unpaid activated tax, fee, or charge due on the return if the activated tax, fee, or charge due on the return is paid more than 15 days after the due date for filing a return described in Subsection (2)(a).

(4) (a) Beginning January 1, 1995, in the case of any underpayment of estimated tax or quarterly installments required by Sections 59-5-107, 59-5-207, 59-7-504, and 59-9-104, there shall be added a penalty in an amount determined by applying the interest rate provided under Section 59-1-402 plus four percentage points to the amount of the underpayment for the period of the underpayment.

(b) (i) For purposes of Subsection (4)(a), the amount of the underpayment shall be the excess of the required installment over the amount, if any, of the installment paid on or before the due date for the installment.

(ii) The period of the underpayment shall run from the due date for the installment to whichever of the following dates is the earlier:

(A) the original due date of the tax return, without extensions, for the taxable year; or

(B) with respect to any portion of the underpayment, the date on which that portion is paid.

(iii) For purposes of this Subsection (4), a payment of estimated tax shall be credited against unpaid required installments in the order in which the installments are required to be paid.

(5) (a) Notwithstanding Subsection (2) and except as provided in Subsection (6), a person allowed by law an extension of time for filing a corporate franchise or income tax return under Chapter 7, Corporate Franchise and Income Taxes, or an individual income tax return under Chapter 10, Individual Income Tax Act, is subject to a penalty in the amount described in Subsection (5)(b) if, on or before the day on which the return is due as provided by law, not including the extension of time, the person fails to pay:

(i) for a person filing a corporate franchise or income tax return under Chapter 7, Corporate Franchise and Income Taxes, the payment required by Subsection 59-7-507(1)(b); or

(ii) for a person filing an individual income tax return under Chapter 10, Individual Income Tax Act, the payment required by Subsection 59-10-516(2).

(b) For purposes of Subsection (5)(a), the penalty per month during the period of the extension of time for filing the return is an amount equal to 2% of the tax due on the return, unpaid as of the day on which the return is due as provided by law.

(6) If a person does not file a return within an extension of time allowed by Section 59-7-505 or 59-10-516, the person:

(a) is not subject to a penalty in the amount described in Subsection (5)(b); and

(b) is subject to a penalty in an amount equal to the sum of:

(i) a late file penalty in an amount equal to the greater of:

(A) $20; or

(B) 10% of the tax due on the return, unpaid as of the day on which the return is due as provided by law, not including the extension of time; and

(ii) a late pay penalty in an amount equal to the greater of:

(A) $20; or

(B) 10% of the unpaid tax due on the return, unpaid as of the day on which the return is due as provided by law, not including the extension of time.

(7) (a) Additional penalties for an underpayment of a tax, fee, or charge are as provided in this Subsection (7)(a).

(i) Except as provided in Subsection (7)(c), if any portion of an underpayment of a tax, fee, or charge is due to negligence, the penalty is 10% of the portion of the underpayment that is due to negligence.

(ii) Except as provided in Subsection (7)(d), if any portion of an underpayment of a tax, fee, or charge is due to intentional disregard of law or rule, the penalty is 15% of the entire underpayment.

(iii) If any portion of an underpayment is due to an intent to evade a tax, fee, or charge, the penalty is the greater of $500 per period or 50% of the entire underpayment.

(iv) If any portion of an underpayment is due to fraud with intent to evade a tax, fee, or charge, the penalty is the greater of $500 per period or 100% of the entire underpayment.

(b) If the commission determines that a person is liable for a penalty imposed under Subsection (7)(a)(ii), (iii), or (iv), the commission shall notify the person of the proposed penalty.

(i) The notice of proposed penalty shall:

(A) set forth the basis of the assessment; and

(B) be mailed by certified mail, postage prepaid, to the person's last-known address.

(ii) Upon receipt of the notice of proposed penalty, the person against whom the penalty is proposed may:

(A) pay the amount of the proposed penalty at the place and time stated in the notice; or

(B) proceed in accordance with the review procedures of Subsection (7)(b)(iii).

(iii) A person against whom a penalty is proposed in accordance with this Subsection (7) may contest the proposed penalty by filing a petition for an adjudicative proceeding with the commission.

(iv) (A) If the commission determines that a person is liable for a penalty under this Subsection (7), the commission shall assess the penalty and give notice and demand for payment.

(B) The commission shall mail the notice and demand for payment described in Subsection (7)(b)(iv)(A):

(I) to the person's last-known address; and

(II) in accordance with Section 59-1-1404.

(c) A seller that voluntarily collects a tax under Subsection 59-12-107(2)(d) is not subject to the penalty under Subsection (7)(a)(i) if on or after July 1, 2001:

(i) a court of competent jurisdiction issues a final unappealable judgment or order determining that:

(A) the seller meets one or more of the criteria described in Subsection 59-12-107(2)(a) or is a seller required to pay or collect and remit sales and use taxes under Subsection 59-12-107(2)(b) or (2)(c); and

(B) the commission or a county, city, or town may require the seller to collect a tax under Subsections 59-12-103(2)(a) through [~~(d)~~] (e); or

(ii) the commission issues a final unappealable administrative order determining that:

(A) the seller meets one or more of the criteria described in Subsection 59-12-107(2)(a) or is a seller required to pay or collect and remit sales and use taxes under Subsection 59-12-107(2)(b) or (2)(c); and

(B) the commission or a county, city, or town may require the seller to collect a tax under Subsections 59-12-103(2)(a) through [~~(d)~~] (e).

(d) A seller that voluntarily collects a tax under Subsection 59-12-107(2)(d) is not subject to the penalty under Subsection (7)(a)(ii) if:

(i) (A) a court of competent jurisdiction issues a final unappealable judgment or order determining that:

(I) the seller meets one or more of the criteria described in Subsection 59-12-107(2)(a) or is a seller required to pay or collect and remit sales and use taxes under Subsection 59-12-107(2)(b) or (2)(c); and

(II) the commission or a county, city, or town may require the seller to collect a tax under Subsections 59-12-103(2)(a) through [~~(d)~~] (e); or

(B) the commission issues a final unappealable administrative order determining that:

(I) the seller meets one or more of the criteria described in Subsection 59-12-107(2)(a) or is a seller required to pay or collect and remit sales and use taxes under Subsection 59-12-107(2)(b) or (2)(c); and

(II) the commission or a county, city, or town may require the seller to collect a tax under Subsections 59-12-103(2)(a) through [~~(d)~~] (e); and

(ii) the seller's intentional disregard of law or rule is warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law.

(8) (a) Subject to Subsections (8)(b) and (c), the penalty for failure to file an information return, information report, or a complete supporting schedule is $50 for each information return, information report, or supporting schedule up to a maximum of $1,000.

(b) If an employer is subject to a penalty under Subsection (13), the employer may not be subject to a penalty under Subsection (8)(a).

(c) If an employer is subject to a penalty under this Subsection (8) for failure to file a return in accordance with Subsection 59-10-406(3) on or before the due date described in Subsection 59-10-406(3)(b)(ii), the commission may not impose a penalty under this Subsection (8) unless the return is filed more than 14 days after the due date described in Subsection 59-10-406(3)(b)(ii).

(9) If a person, in furtherance of a frivolous position, has a prima facie intent to delay or impede administration of a law relating to a tax, fee, or charge and files a purported return that fails to contain information from which the correctness of reported tax, fee, or charge liability can be determined or that clearly indicates that the tax, fee, or charge liability shown is substantially incorrect, the penalty is $500.

(10) (a) A seller that fails to remit a tax, fee, or charge monthly as required by Subsection 59-12-108(1)(a):

(i) is subject to a penalty described in Subsection (2); and

(ii) may not retain the percentage of sales and use taxes that would otherwise be allowable under Subsection 59-12-108(2).

(b) A seller that fails to remit a tax, fee, or charge by electronic funds transfer as required by Subsection 59-12-108(1)(a)(ii)(B):

(i) is subject to a penalty described in Subsection (2); and

(ii) may not retain the percentage of sales and use taxes that would otherwise be allowable under Subsection 59-12-108(2).

(11) (a) A person is subject to the penalty provided in Subsection (11)(c) if that person:

(i) commits an act described in Subsection (11)(b) with respect to one or more of the following documents:

(A) a return;

(B) an affidavit;

(C) a claim; or

(D) a document similar to Subsections (11)(a)(i)(A) through (C);

(ii) knows or has reason to believe that the document described in Subsection (11)(a)(i) will be used in connection with any material matter administered by the commission; and

(iii) knows that the document described in Subsection (11)(a)(i), if used in connection with any material matter administered by the commission, would result in an understatement of another person's liability for a tax, fee, or charge.

(b) The following acts apply to Subsection (11)(a)(i):

(i) preparing any portion of a document described in Subsection (11)(a)(i);

(ii) presenting any portion of a document described in Subsection (11)(a)(i);

(iii) procuring any portion of a document described in Subsection (11)(a)(i);

(iv) advising in the preparation or presentation of any portion of a document described in Subsection (11)(a)(i);

(v) aiding in the preparation or presentation of any portion of a document described in Subsection (11)(a)(i);

(vi) assisting in the preparation or presentation of any portion of a document described in Subsection (11)(a)(i); or

(vii) counseling in the preparation or presentation of any portion of a document described in Subsection (11)(a)(i).

(c) For purposes of Subsection (11)(a), the penalty:

(i) shall be imposed by the commission;

(ii) is $500 for each document described in Subsection (11)(a)(i) with respect to which the person described in Subsection (11)(a) meets the requirements of Subsection (11)(a); and

(iii) is in addition to any other penalty provided by law.

(d) The commission may seek a court order to enjoin a person from engaging in conduct that is subject to a penalty under this Subsection (11).

(e) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules prescribing the documents that are similar to Subsections (11)(a)(i)(A) through (C).

(12) (a) As provided in Section 76-8-1101, criminal offenses and penalties are as provided in Subsections (12)(b) through (e).

(b) (i) A person who is required by this title or any laws the commission administers or regulates to register with or obtain a license or permit from the commission, who operates without having registered or secured a license or permit, or who operates when the registration, license, or permit is expired or not current, is guilty of a class B misdemeanor.

(ii) Notwithstanding Section 76-3-301, for purposes of Subsection (12)(b)(i), the penalty may not:

(A) be less than $500; or

(B) exceed $1,000.

(c) (i) With respect to a tax, fee, or charge, a person who knowingly and intentionally, and without a reasonable good faith basis, fails to make, render, sign, or verify a return within the time required by law or to supply information within the time required by law, or who makes, renders, signs, or verifies a false or fraudulent return or statement, or who supplies false or fraudulent information, is guilty of a third degree felony.

(ii) Notwithstanding Section 76-3-301, for purposes of Subsection (12)(c)(i), the penalty may not:

(A) be less than $1,000; or

(B) exceed $5,000.

(d) (i) A person who intentionally or willfully attempts to evade or defeat a tax, fee, or charge or the payment of a tax, fee, or charge is, in addition to other penalties provided by law, guilty of a second degree felony.

(ii) Notwithstanding Section 76-3-301, for purposes of Subsection (12)(d)(i), the penalty may not:

(A) be less than $1,500; or

(B) exceed $25,000.

(e) (i) A person is guilty of a second degree felony if that person commits an act:

(A) described in Subsection (12)(e)(ii) with respect to one or more of the following documents:

(I) a return;

(II) an affidavit;

(III) a claim; or

(IV) a document similar to Subsections (12)(e)(i)(A)(I) through (III); and

(B) subject to Subsection (12)(e)(iii), with knowledge that the document described in Subsection (12)(e)(i)(A):

(I) is false or fraudulent as to any material matter; and

(II) could be used in connection with any material matter administered by the commission.

(ii) The following acts apply to Subsection (12)(e)(i):

(A) preparing any portion of a document described in Subsection (12)(e)(i)(A);

(B) presenting any portion of a document described in Subsection (12)(e)(i)(A);

(C) procuring any portion of a document described in Subsection (12)(e)(i)(A);

(D) advising in the preparation or presentation of any portion of a document described in Subsection (12)(e)(i)(A);

(E) aiding in the preparation or presentation of any portion of a document described in Subsection (12)(e)(i)(A);

(F) assisting in the preparation or presentation of any portion of a document described in Subsection (12)(e)(i)(A); or

(G) counseling in the preparation or presentation of any portion of a document described in Subsection (12)(e)(i)(A).

(iii) This Subsection (12)(e) applies:

(A) regardless of whether the person for which the document described in Subsection (12)(e)(i)(A) is prepared or presented:

(I) knew of the falsity of the document described in Subsection (12)(e)(i)(A); or

(II) consented to the falsity of the document described in Subsection (12)(e)(i)(A); and

(B) in addition to any other penalty provided by law.

(iv) Notwithstanding Section 76-3-301, for purposes of this Subsection (12)(e), the penalty may not:

(A) be less than $1,500; or

(B) exceed $25,000.

(v) The commission may seek a court order to enjoin a person from engaging in conduct that is subject to a penalty under this Subsection (12)(e).

(vi) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules prescribing the documents that are similar to Subsections (12)(e)(i)(A)(I) through (III).

(f) The statute of limitations for prosecution for a violation of this Subsection (12) is the later of six years:

(i) from the date the tax should have been remitted; or

(ii) after the day on which the person commits the criminal offense.

(13) (a) Subject to Subsection (13)(b), an employer that is required to file a form with the commission in accordance with Subsection 59-10-406(8) is subject to a penalty described in Subsection (13)(b) if the employer:

(i) fails to file the form with the commission in an electronic format approved by the commission as required by Subsection 59-10-406(8);

(ii) fails to file the form on or before the due date provided in Subsection 59-10-406(8);

(iii) fails to provide accurate information on the form; or

(iv) fails to provide all of the information required by the Internal Revenue Service to be contained on the form.

(b) For purposes of Subsection (13)(a), the penalty is:

(i) $30 per form, not to exceed $75,000 in a calendar year, if the employer files the form in accordance with Subsection 59-10-406(8), more than 14 days after the due date provided in Subsection 59-10-406(8) but no later than 30 days after the due date provided in Subsection 59-10-406(8);

(ii) $60 per form, not to exceed $200,000 in a calendar year, if the employer files the form in accordance with Subsection 59-10-406(8), more than 30 days after the due date provided in Subsection 59-10-406(8) but on or before June 1; or

(iii) $100 per form, not to exceed $500,000 in a calendar year, if the employer:

(A) files the form in accordance with Subsection 59-10-406(8) after June 1; or

(B) fails to file the form.

(14) Upon making a record of its actions, and upon reasonable cause shown, the commission may waive, reduce, or compromise any of the penalties or interest imposed under this part.

Section 7. Section 59-1-403 is amended to read:

59-1-403. Confidentiality -- Exceptions -- Penalty -- Application to property tax.

(1) As used in this section:

(a) "Distributed tax, fee, or charge" means a tax, fee, or charge:

(i) the commission administers under:

(A) this title, other than a tax under Chapter 12, Part 2, Local Sales and Use Tax Act;

(B) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;

(C) Title 10, Chapter 1, Part 4, Municipal Telecommunications License Tax Act;

(D) Section 19-6-805;

(E) Section 63H-1-205; or

(F) Title 69, Chapter 2, Part 4, Prepaid Wireless Telecommunications Service Charges; and

(ii) with respect to which the commission distributes the revenue collected from the tax, fee, or charge to a qualifying jurisdiction.

(b) "Qualifying jurisdiction" means:

(i) a county, city, town, or metro township; or

(ii) the military installation development authority created in Section 63H-1-201.

[~~(1)~~] (2) (a) Any of the following may not divulge or make known in any manner any information gained by that person from any return filed with the commission:

(i) a tax commissioner;

(ii) an agent, clerk, or other officer or employee of the commission; or

(iii) a representative, agent, clerk, or other officer or employee of any county, city, or town.

(b) An official charged with the custody of a return filed with the commission is not required to produce the return or evidence of anything contained in the return in any action or proceeding in any court, except:

(i) in accordance with judicial order;

(ii) on behalf of the commission in any action or proceeding under:

(A) this title; or

(B) other law under which persons are required to file returns with the commission;

(iii) on behalf of the commission in any action or proceeding to which the commission is a party; or

(iv) on behalf of any party to any action or proceeding under this title if the report or facts shown by the return are directly involved in the action or proceeding.

(c) Notwithstanding Subsection [~~(1)~~] (2)(b), a court may require the production of, and may admit in evidence, any portion of a return or of the facts shown by the return, as are specifically pertinent to the action or proceeding.

[~~(2)~~] (3) This section does not prohibit:

(a) a person or that person's duly authorized representative from receiving a copy of any return or report filed in connection with that person's own tax;

(b) the publication of statistics as long as the statistics are classified to prevent the identification of particular reports or returns; and

(c) the inspection by the attorney general or other legal representative of the state of the report or return of any taxpayer:

(i) who brings action to set aside or review a tax based on the report or return;

(ii) against whom an action or proceeding is contemplated or has been instituted under this title; or

(iii) against whom the state has an unsatisfied money judgment.

[~~(3)~~] (4) (a) Notwithstanding Subsection [~~(1)~~] (2) and for purposes of administration, the commission may by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, provide for a reciprocal exchange of information with:

(i) the United States Internal Revenue Service; or

(ii) the revenue service of any other state.

(b) Notwithstanding Subsection [~~(1)~~] (2) and for all taxes except individual income tax and corporate franchise tax, the commission may by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, share information gathered from returns and other written statements with the federal government, any other state, any of the political subdivisions of another state, or any political subdivision of this state, except as limited by Sections 59-12-209 and 59-12-210, if the political subdivision, other state, or the federal government grant substantially similar privileges to this state.

(c) Notwithstanding Subsection [~~(1)~~] (2) and for all taxes except individual income tax and corporate franchise tax, the commission may by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, provide for the issuance of information concerning the identity and other information of taxpayers who have failed to file tax returns or to pay any tax due.

(d) Notwithstanding Subsection [~~(1)~~] (2), the commission shall provide to the director of the Division of Environmental Response and Remediation, as defined in Section 19-6-402, as requested by the director of the Division of Environmental Response and Remediation, any records, returns, or other information filed with the commission under Chapter 13, Motor and Special Fuel Tax Act, or Section 19-6-410.5 regarding the environmental assurance program participation fee.

(e) Notwithstanding Subsection [~~(1)~~] (2), at the request of any person the commission shall provide that person sales and purchase volume data reported to the commission on a report, return, or other information filed with the commission under:

(i) Chapter 13, Part 2, Motor Fuel; or

(ii) Chapter 13, Part 4, Aviation Fuel.

(f) Notwithstanding Subsection [~~(1)~~] (2), upon request from a tobacco product manufacturer, as defined in Section 59-22-202, the commission shall report to the manufacturer:

(i) the quantity of cigarettes, as defined in Section 59-22-202, produced by the manufacturer and reported to the commission for the previous calendar year under Section 59-14-407; and

(ii) the quantity of cigarettes, as defined in Section 59-22-202, produced by the manufacturer for which a tax refund was granted during the previous calendar year under Section 59-14-401 and reported to the commission under Subsection 59-14-401(1)(a)(v).

(g) Notwithstanding Subsection [~~(1)~~] (2), the commission shall notify manufacturers, distributors, wholesalers, and retail dealers of a tobacco product manufacturer that is prohibited from selling cigarettes to consumers within the state under Subsection 59-14-210(2).

(h) Notwithstanding Subsection [~~(1)~~] (2), the commission may:

(i) provide to the Division of Consumer Protection within the Department of Commerce and the attorney general data:

(A) reported to the commission under Section 59-14-212; or

(B) related to a violation under Section 59-14-211; and

(ii) upon request, provide to any person data reported to the commission under Subsections 59-14-212(1)(a) through (c) and Subsection 59-14-212(1)(g).

(i) Notwithstanding Subsection [~~(1)~~] (2), the commission shall, at the request of a committee of the Legislature, the Office of the Legislative Fiscal Analyst, or the Governor's Office of Management and Budget, provide to the committee or office the total amount of revenues collected by the commission under Chapter 24, Radioactive Waste Facility Tax Act, for the time period specified by the committee or office.

(j) Notwithstanding Subsection [~~(1)~~] (2), the commission shall make the directory required by Section 59-14-603 available for public inspection.

(k) Notwithstanding Subsection [~~(1)~~] (2), the commission may share information with federal, state, or local agencies as provided in Subsection 59-14-606(3).

(l) (i) Notwithstanding Subsection [~~(1)~~] (2), the commission shall provide the Office of Recovery Services within the Department of Human Services any relevant information obtained from a return filed under Chapter 10, Individual Income Tax Act, regarding a taxpayer who has become obligated to the Office of Recovery Services.

(ii) The information described in Subsection [~~(3)~~] (4)(l)(i) may be provided by the Office of Recovery Services to any other state's child support collection agency involved in enforcing that support obligation.

(m) (i) Notwithstanding Subsection [~~(1)~~] (2), upon request from the state court administrator, the commission shall provide to the state court administrator, the name, address, telephone number, county of residence, and social security number on resident returns filed under Chapter 10, Individual Income Tax Act.

(ii) The state court administrator may use the information described in Subsection [~~(3)~~] (4)(m)(i) only as a source list for the master jury list described in Section 78B-1-106.

(n) (i) As used in this Subsection [~~(3)~~] (4)(n):

(A) "GOED" means the Governor's Office of Economic Development created in Section 63N-1-201.

(B) "Income tax information" means information gained by the commission that is required to be attached to or included in a return filed with the commission under Chapter 7, Corporate Franchise and Income Taxes, or Chapter 10, Individual Income Tax Act.

(C) "Other tax information" means information gained by the commission that is required to be attached to or included in a return filed with the commission except for a return filed under Chapter 7, Corporate Franchise and Income Taxes, or Chapter 10, Individual Income Tax Act.

(D) "Tax information" means income tax information or other tax information.

(ii) (A) Notwithstanding Subsection [~~(1)~~] (2) and except as provided in Subsection [~~(3)~~] (4)(n)(ii)(B) or (C), the commission shall at the request of GOED provide to GOED all income tax information.

(B) For purposes of a request for income tax information made under Subsection [~~(3)~~] (4)(n)(ii)(A), GOED may not request and the commission may not provide to GOED a person's address, name, social security number, or taxpayer identification number.

(C) In providing income tax information to GOED, the commission shall in all instances protect the privacy of a person as required by Subsection [~~(3)~~] (4)(n)(ii)(B).

(iii) (A) Notwithstanding Subsection [~~(1)~~] (2) and except as provided in Subsection [~~(3)~~] (4)(n)(iii)(B), the commission shall at the request of GOED provide to GOED other tax information.

(B) Before providing other tax information to GOED, the commission shall redact or remove any name, address, social security number, or taxpayer identification number.

(iv) GOED may provide tax information received from the commission in accordance with this Subsection [~~(3)~~] (4)(n) only:

(A) as a fiscal estimate, fiscal note information, or statistical information; and

(B) if the tax information is classified to prevent the identification of a particular return.

(v) (A) A person may not request tax information from GOED under Title 63G, Chapter 2, Government Records Access and Management Act, or this section, if GOED received the tax information from the commission in accordance with this Subsection [~~(3)~~] (4)(n).

(B) GOED may not provide to a person that requests tax information in accordance with Subsection [~~(3)~~] (4)(n)(v)(A) any tax information other than the tax information GOED provides in accordance with Subsection [~~(3)~~] (4)(n)(iv).

(o) Notwithstanding Subsection [~~(1)~~] (2), the commission may provide to the governing board of the agreement or a taxing official of another state, the District of Columbia, the United States, or a territory of the United States:

(i) the following relating to an agreement sales and use tax:

(A) information contained in a return filed with the commission;

(B) information contained in a report filed with the commission;

(C) a schedule related to Subsection [~~(3)~~] (4)(o)(i)(A) or (B); or

(D) a document filed with the commission; or

(ii) a report of an audit or investigation made with respect to an agreement sales and use tax.

(p) Notwithstanding Subsection [~~(1)~~] (2), the commission may provide information concerning a taxpayer's state income tax return or state income tax withholding information to the Driver License Division if the Driver License Division:

(i) requests the information; and

(ii) provides the commission with a signed release form from the taxpayer allowing the Driver License Division access to the information.

(q) Notwithstanding Subsection [~~(1)~~] (2), the commission shall provide to the Utah Communications Authority, or a division of the Utah Communications Authority, the information requested by the authority under Sections 63H-7a-302, 63H-7a-402, and 63H-7a-502.

(r) Notwithstanding Subsection [~~(1)~~] (2), the commission shall provide to the Utah Educational Savings Plan information related to a resident or nonresident individual's contribution to a Utah Educational Savings Plan account as designated on the resident or nonresident's individual income tax return as provided under Section 59-10-1313.

(s) Notwithstanding Subsection [~~(1)~~] (2), for the purpose of verifying eligibility under Sections 26-18-2.5 and 26-40-105, the commission shall provide an eligibility worker with the Department of Health or its designee with the adjusted gross income of an individual if:

(i) an eligibility worker with the Department of Health or its designee requests the information from the commission; and

(ii) the eligibility worker has complied with the identity verification and consent provisions of Sections 26-18-2.5 and 26-40-105.

(t) Notwithstanding Subsection [~~(1)~~] (2), the commission may provide to a county, as determined by the commission, information declared on an individual income tax return in accordance with Section 59-10-103.1 that relates to eligibility to claim a residential exemption authorized under Section 59-2-103.

(u) Notwithstanding Subsection [~~(1)~~] (2), the commission shall provide a report regarding any access line provider that is over 90 days delinquent in payment to the commission of amounts the access line provider owes under Title 69, Chapter 2, Part 4, Prepaid Wireless Telecommunications Service Charges, to the board of the Utah Communications Authority created in Section 63H-7a-201.

(v) Notwithstanding Subsection [~~(1)~~] (2), the commission shall provide the Department of Environmental Quality a report on the amount of tax paid by a radioactive waste facility for the previous calendar year under Section 59-24-103.5.

(w) Notwithstanding Subsection [~~(1)~~] (2), the commission may, upon request, provide to the Department of Workforce Services any information received under Chapter 10, Part 4, Withholding of Tax, that is relevant to the duties of the Department of Workforce Services.

(x) Notwithstanding Subsection [~~(1)~~] (2), the commission may provide the Public Service Commission or the Division of Public Utilities information related to a seller that collects and remits to the commission a charge described in Subsection 69-2-405(2), including the seller's identity and the number of charges described in Subsection 69-2-405(2) that the seller collects.

(y) (i) Notwithstanding Subsection (2), the commission shall provide to each qualifying jurisdiction the collection data necessary to verify the revenue collected by the commission for a distributed tax, fee, or charge collected within the qualifying jurisdiction.

(ii) In addition to the information provided under Subsection (4)(y)(i), the commission shall provide a qualifying jurisdiction with copies of returns and other information relating to a distributed tax, fee, or charge collected within the qualifying jurisdiction.

(iii) (A) To obtain the information described in Subsection (4)(y)(ii), the chief executive officer or the chief executive officer's designee of the qualifying jurisdiction shall submit a written request to the commission that states the specific information sought and how the qualifying jurisdiction intends to use the information.

(B) The information described in Subsection (4)(y)(ii) is available only in official matters of the qualifying jurisdiction.

(iv) Information that a qualifying jurisdiction receives in response to a request under this subsection is:

(A) classified as a private record under Title 63G, Chapter 2, Government Records Access and Management Act; and

(B) subject to the confidentiality requirements of this section.

[~~(4)~~] (5) (a) Each report and return shall be preserved for at least three years.

(b) After the three-year period provided in Subsection [~~(4)~~] (5)(a) the commission may destroy a report or return.

[~~(5)~~] (6) (a) Any individual who violates this section is guilty of a class A misdemeanor.

(b) If the individual described in Subsection [~~(5)~~] (6)(a) is an officer or employee of the state, the individual shall be dismissed from office and be disqualified from holding public office in this state for a period of five years thereafter.

(c) Notwithstanding Subsection [~~(5)~~] (6)(a) or (b), GOED, when requesting information in accordance with Subsection [~~(3)~~] (4)(n)(iii), or an individual who requests information in accordance with Subsection [~~(3)~~] (4)(n)(v):

(i) is not guilty of a class A misdemeanor; and

(ii) is not subject to:

(A) dismissal from office in accordance with Subsection [~~(5)~~] (6)(b); or

(B) disqualification from holding public office in accordance with Subsection [~~(5)~~] (6)(b).

[~~(6)~~] (7) Except as provided in Section 59-1-404, this part does not apply to the property tax.

Section 8. Section 59-1-403.1 is amended to read:

59-1-403.1. Disclosure of return information.

(1) As used in this section:

(a) "Office" means:

(i) the Office of the Legislative Fiscal Analyst, established in Section 36-12-13;

(ii) the Office of Legislative Research and General Counsel, established in Section 36-12-12; or

(iii) the Governor's Office of Management and Budget, created in Section 63J-4-201.

(b) (i) "Return information" means information gained by the commission that is required to be attached to or included in a return filed with the commission.

(ii) "Return information" does not include information that the commission is prohibited from disclosing by federal law, federal regulation, or federal publication.

(2) (a) Notwithstanding Subsection 59-1-403[~~(1)~~](2), the commission, at the request of

an office, shall provide to the office all return information with the items described in Subsection (2)(b) removed.

(b) For purposes of a request for return information made under Subsection (2)(a), the commission shall redact or remove any name, address, social security number, or taxpayer identification number.

(3) (a) An office may disclose return information received from the commission in accordance with this section only:

(i) (A) as a fiscal estimate, fiscal note information, or statistical information; and

(B) in a manner that reasonably protects the identification of a particular taxpayer; or

(ii) to another office.

(b) A person may not request return information, other than the return information that the office discloses in accordance with Subsection (3)(a), from an office under Title 63G, Chapter 2, Government Records Access and Management Act, or this section, if that office received the return information from the commission in accordance with this section.

(c) An office may not disclose to a person that requests return information any return information other than the return information that the office discloses in accordance with Subsection (3)(a).

(4) Any individual who violates Subsection (3)(a):

(a) is guilty of a class A misdemeanor; and

(b) shall be:

(i) dismissed from office; and

(ii) disqualified from holding public office in this state for a period of five years after dismissal.

(5) (a) An office and the commission may enter into an agreement specifying the procedures for accessing, storing, and destroying return information requested in accordance with this section.

(b) An office's access to return information is governed by this section, and except as provided in Subsection (5)(a), may not be limited by any agreement.

Section 9. Section 59-1-404 is amended to read:

59-1-404. Definitions -- Confidentiality of commercial information obtained from a property taxpayer or derived from the commercial information -- Rulemaking authority -- Exceptions -- Written explanation -- Signature requirements -- Retention of signed explanation by employer -- Penalty.

(1) As used in this section:

(a) "Appraiser" means an individual who holds an appraiser's certificate or license issued by the Division of Real Estate under Title 61, Chapter 2g, Real Estate Appraiser Licensing and Certification Act and includes an individual associated with an appraiser who assists the appraiser in preparing an appraisal.

(b) "Appraisal" is as defined in Section 61-2g-102.

(c) (i) "Commercial information" means:

(A) information of a commercial nature obtained from a property taxpayer regarding the property taxpayer's property; or

(B) information derived from the information described in this Subsection (1)(c)(i).

(ii) (A) "Commercial information" does not include information regarding a property taxpayer's property if the information is intended for public use.

(B) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for purposes of Subsection (1)(c)(ii)(A), the commission may by rule prescribe the circumstances under which information is intended for public use.

(d) "Consultation service" is as defined in Section 61-2g-102.

(e) "Locally assessed property" means property that is assessed by a county assessor in accordance with Chapter 2, Part 3, County Assessment.

(f) "Property taxpayer" means a person that:

(i) is a property owner; or

(ii) has in effect a contract with a property owner to:

(A) make filings on behalf of the property owner;

(B) process appeals on behalf of the property owner; or

(C) pay a tax under Chapter 2, Property Tax Act, on the property owner's property.

(g) "Property taxpayer's property" means property with respect to which a property taxpayer:

(i) owns the property;

(ii) makes filings relating to the property;

(iii) processes appeals relating to the property; or

(iv) pays a tax under Chapter 2, Property Tax Act, on the property.

(h) "Protected commercial information" means commercial information that:

(i) identifies a specific property taxpayer; or

(ii) would reasonably lead to the identity of a specific property taxpayer.

(2) An individual listed under Subsection 59-1-403[~~(1)~~](2)(a) may not disclose commercial information:

(a) obtained in the course of performing any duty that the individual listed under Subsection 59-1-403[~~(1)~~](2)(a) performs under Chapter 2, Property Tax Act; or

(b) relating to an action or proceeding:

(i) with respect to a tax imposed on property in accordance with Chapter 2, Property Tax Act; and

(ii) that is filed in accordance with:

(A) this chapter;

(B) Chapter 2, Property Tax Act; or

(C) this chapter and Chapter 2, Property Tax Act.

(3) (a) Notwithstanding Subsection (2) and subject to Subsection (3)(c), an individual listed under Subsection 59-1-403[~~(1)~~](2)(a) may disclose the following information:

(i) the assessed value of property;

(ii) the tax rate imposed on property;

(iii) a legal description of property;

(iv) the physical description or characteristics of property, including a street address or parcel number for the property;

(v) the square footage or acreage of property;

(vi) the square footage of improvements on property;

(vii) the name of a property taxpayer;

(viii) the mailing address of a property taxpayer;

(ix) the amount of a property tax:

(A) assessed on property;

(B) due on property;

(C) collected on property;

(D) abated on property; or

(E) deferred on property;

(x) the amount of the following relating to property taxes due on property:

(A) interest;

(B) costs; or

(C) other charges;

(xi) the tax status of property, including:

(A) an exemption;

(B) a property classification;

(C) a bankruptcy filing; or

(D) whether the property is the subject of an action or proceeding under this title;

(xii) information relating to a tax sale of property; or

(xiii) information relating to single-family residential property.

(b) Notwithstanding Subsection (2) and subject to Subsection (3)(c), an individual listed under Subsection 59-1-403[~~(1)~~](2)(a) shall disclose, upon request, the information described in Subsection 59-2-1007(9).

(c) (i) Subject to Subsection (3)(c)(ii), a person may receive the information described in Subsection (3)(a) or (b) in written format.

(ii) The following may charge a reasonable fee to cover the actual cost of providing the information described in Subsection (3)(a) or (b) in written format:

(A) the commission;

(B) a county;

(C) a city; or

(D) a town.

(4) (a) Notwithstanding Subsection (2) and except as provided in Subsection (4)(c), an individual listed under Subsection 59-1-403[~~(1)~~](2)(a) shall disclose commercial information:

(i) in accordance with judicial order;

(ii) on behalf of the commission in any action or proceeding:

(A) under this title;

(B) under another law under which a property taxpayer is required to disclose commercial information; or

(C) to which the commission is a party;

(iii) on behalf of any party to any action or proceeding under this title if the commercial information is directly involved in the action or proceeding; or

(iv) if the requirements of Subsection (4)(b) are met, that is:

(A) relevant to an action or proceeding:

(I) filed in accordance with this title; and

(II) involving property; or

(B) in preparation for an action or proceeding involving property.

(b) Commercial information shall be disclosed in accordance with Subsection (4)(a)(iv):

(i) if the commercial information is obtained from:

(A) a real estate agent if the real estate agent is not a property taxpayer of the property that is the subject of the action or proceeding;

(B) an appraiser if the appraiser:

(I) is not a property taxpayer of the property that is the subject of the action or proceeding; and

(II) did not receive the commercial information pursuant to Subsection (8);

(C) a property manager if the property manager is not a property taxpayer of the property that is the subject of the action or proceeding; or

(D) a property taxpayer other than a property taxpayer of the property that is the subject of the action or proceeding;

(ii) regardless of whether the commercial information is disclosed in more than one action or proceeding; and

(iii) (A) if a county board of equalization conducts the action or proceeding, the county board of equalization takes action to provide that any commercial information disclosed during the action or proceeding may not be disclosed by any person conducting or participating in the action or proceeding except as specifically allowed by this section;

(B) if the commission conducts the action or proceeding, the commission enters a protective order or, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, makes rules specifying that any commercial information disclosed during the action or proceeding may not be disclosed by any person conducting or participating in the action or proceeding except as specifically allowed by this section; or

(C) if a court of competent jurisdiction conducts the action or proceeding, the court enters a protective order specifying that any commercial information disclosed during the action or proceeding may not be disclosed by any person conducting or participating in the action or proceeding except as specifically allowed by this section.

(c) Notwithstanding Subsection (4)(a), a court may require the production of, and may admit in evidence, commercial information that is specifically pertinent to the action or proceeding.

(5) Notwithstanding Subsection (2), this section does not prohibit:

(a) the following from receiving a copy of any commercial information relating to the basis for assessing a tax that is charged to a property taxpayer:

(i) the property taxpayer;

(ii) a duly authorized representative of the property taxpayer;

(iii) a person that has in effect a contract with the property taxpayer to:

(A) make filings on behalf of the property taxpayer;

(B) process appeals on behalf of the property taxpayer; or

(C) pay a tax under Chapter 2, Property Tax Act, on the property taxpayer's property;

(iv) a property taxpayer that purchases property from another property taxpayer; or

(v) a person that the property taxpayer designates in writing as being authorized to receive the commercial information;

(b) the publication of statistics as long as the statistics are classified to prevent the identification of a particular property taxpayer's commercial information; or

(c) the inspection by the attorney general or other legal representative of the state or a legal representative of a political subdivision of the state of the commercial information of a property taxpayer:

(i) that brings action to set aside or review a tax or property valuation based on the commercial information;

(ii) against which an action or proceeding is contemplated or has been instituted under this title; or

(iii) against which the state or a political subdivision of the state has an unsatisfied money judgment.

(6) Notwithstanding Subsection (2), in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule establish standards authorizing an individual listed under Subsection 59-1-403[~~(1)~~](2)(a) to disclose commercial information:

(a) (i) in a published decision; or

(ii) in carrying out official duties; and

(b) if that individual listed under Subsection 59-1-403[~~(1)~~](2)(a) consults with the property taxpayer that provided the commercial information.

(7) Notwithstanding Subsection (2):

(a) an individual listed under Subsection 59-1-403[~~(1)~~](2)(a) may share commercial information with the following:

(i) another individual listed in Subsection 59-1-403[~~(1)~~](2)(a)(i) or (ii); or

(ii) a representative, agent, clerk, or other officer or employee of a county as required to fulfill an obligation created by Chapter 2, Property Tax Act;

(b) an individual listed under Subsection 59-1-403[~~(1)~~](2)(a) may perform the following to fulfill an obligation created by Chapter 2, Property Tax Act:

(i) publish notice;

(ii) provide notice; or

(iii) file a lien; or

(c) the commission may by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, share commercial information gathered from returns and other written statements with the federal government, any other state, any of the political subdivisions of another state, or any political subdivision of this state, if these political subdivisions or the federal government grant substantially similar privileges to this state.

(8) Notwithstanding Subsection (2):

(a) subject to the limitations in this section, an individual described in Subsection 59-1-403[~~(1)~~](2)(a) may share the following commercial information with an appraiser:

(i) the sales price of locally assessed property and the related financing terms;

(ii) capitalization rates and related rates and ratios related to the valuation of locally assessed property; and

(iii) income and expense information related to the valuation of locally assessed property; and

(b) except as provided in Subsection (4), an appraiser who receives commercial information:

(i) may disclose the commercial information:

(A) to an individual described in Subsection 59-1-403[~~(1)~~](2)(a);

(B) to an appraiser;

(C) in an appraisal if protected commercial information is removed to protect its confidential nature; or

(D) in performing a consultation service if protected commercial information is not disclosed; and

(ii) may not use the commercial information:

(A) for a purpose other than to prepare an appraisal or perform a consultation service; or

(B) for a purpose intended to be, or which could reasonably be foreseen to be, anti-competitive to a property taxpayer.

(9) (a) The commission shall:

(i) prepare a written explanation of this section; and

(ii) make the written explanation described in Subsection (9)(a)(i) available to the public.

(b) An employer of a person described in Subsection 59-1-403[~~(1)~~](2)(a) shall:

(i) provide the written explanation described in Subsection (9)(a)(i) to each person described in Subsection 59-1-403[~~(1)~~](2)(a) who is reasonably likely to receive commercial information;

(ii) require each person who receives a written explanation in accordance with Subsection (9)(b)(i) to:

(A) read the written explanation; and

(B) sign the written explanation; and

(iii) retain each written explanation that is signed in accordance with Subsection (9)(b)(ii) for a time period:

(A) beginning on the day on which a person signs the written explanation in accordance with Subsection (9)(b)(ii); and

(B) ending six years after the day on which the employment of the person described in Subsection (9)(b)(iii)(A) by the employer terminates.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall by rule define "employer."

(10) (a) An individual described in Subsection (1)(a) or 59-1-403[~~(1)~~](2)(a), or an individual that violates a protective order or similar limitation entered pursuant to Subsection (4)(b)(iii), is guilty of a class A misdemeanor if that person:

(i) intentionally discloses commercial information in violation of this section; and

(ii) knows that the disclosure described in Subsection (10)(a)(i) is prohibited by this section.

(b) If the individual described in Subsection (10)(a) is an officer or employee of the state or a county and is convicted of violating this section, the individual shall be dismissed from office and be disqualified from holding public office in this state for a period of five years thereafter.

(c) If the individual described in Subsection (10)(a) is an appraiser, the appraiser shall forfeit any certification or license received under Title 61, Chapter 2g, Real Estate Appraiser Licensing and Certification Act, for a period of five years.

(d) If the individual described in Subsection (10)(a) is an individual associated with an appraiser who assists the appraiser in preparing appraisals, the individual shall be prohibited from becoming licensed or certified under Title 61, Chapter 2g, Real Estate Appraiser Licensing and Certification Act, for a period of five years.

Section 10. Section 59-2-103.5 is amended to read:

59-2-103.5. Procedures to obtain an exemption for residential property -- Procedure if property owner or property no longer qualifies to receive a residential exemption.

(1) Subject to Subsection (8), for residential property other than part-year residential property, a county legislative body may adopt an ordinance that requires an owner to file an application with the county board of equalization before a residential exemption under Section 59-2-103 may be applied to the value of the residential property if:

(a) the residential property was ineligible for the residential exemption during the calendar year immediately preceding the calendar year for which the owner is seeking to have the residential exemption applied to the value of the residential property;

(b) an ownership interest in the residential property changes; or

(c) the county board of equalization determines that there is reason to believe that the residential property no longer qualifies for the residential exemption.

(2) (a) The application described in Subsection (1):

(i) shall be on a form the commission prescribes by rule and makes available to the counties;

(ii) shall be signed by the owner of the residential property; and

(iii) may not request the sales price of the residential property.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules prescribing the contents of the form described in Subsection (2)(a).

(c) For purposes of the application described in Subsection (1), a county may not request information from an owner of a residential property beyond the information provided in the form prescribed by the commission under this Subsection (2).

(3) (a) Regardless of whether a county legislative body adopts an ordinance described in Subsection (1), before a residential exemption may be applied to the value of part-year residential property, an owner of the property shall:

(i) file the application described in Subsection (2)(a) with the county board of equalization; and

(ii) include as part of the application described in Subsection (2)(a) a statement that certifies:

(A) the date the part-year residential property became residential property;

(B) that the part-year residential property will be used as residential property for 183 or more consecutive calendar days during the calendar year for which the owner seeks to obtain the residential exemption; and

(C) that the owner, or a member of the owner's household, may not claim a residential exemption for any property for the calendar year for which the owner seeks to obtain the residential exemption, other than the part-year residential property, or as allowed under Section 59-2-103 with respect to the primary residence or household furnishings, furniture, and equipment of the owner's tenant.

(b) An owner may not obtain a residential exemption for part-year residential property unless the owner files an application under this Subsection (3) on or before November 30 of the calendar year for which the owner seeks to obtain the residential exemption.

(c) If an owner files an application under this Subsection (3) on or after May 1 of the calendar year for which the owner seeks to obtain the residential exemption, the county board of equalization may require the owner to pay an application fee of not to exceed $50.

(4) Except as provided in Subsection (5), if a property owner no longer qualifies to receive a residential exemption authorized under Section 59-2-103 for the property owner's primary residence, the property owner shall:

(a) file a written statement with the county board of equalization of the county in which the property is located:

(i) on a form provided by the county board of equalization; and

(ii) notifying the county board of equalization that the property owner no longer qualifies to receive a residential exemption authorized under Section 59-2-103 for the property owner's primary residence; and

(b) declare on the property owner's individual income tax return under Chapter 10, Individual Income Tax Act, for the taxable year for which the property owner no longer qualifies to receive a residential exemption authorized under Section 59-2-103 for the property owner's primary residence, that the property owner no longer qualifies to receive a residential exemption authorized under Section 59-2-103 for the property owner's primary residence.

(5) A property owner is not required to file a written statement or make the declaration described in Subsection (4) if the property owner:

(a) changes primary residences;

(b) qualified to receive a residential exemption authorized under Section 59-2-103 for the residence that was the property owner's former primary residence; and

(c) qualifies to receive a residential exemption authorized under Section 59-2-103 for the residence that is the property owner's current primary residence.

(6) Subsections (2) through (5) do not apply to qualifying exempt primary residential rental personal property.

(7) (a) Subject to Subsection (8), for the first calendar year in which a property owner qualifies to receive a residential exemption under Section 59-2-103, a county assessor may require the property owner to file a signed statement described in Section 59-2-306.

(b) Subject to Subsection (8) and notwithstanding Section 59-2-306, for a calendar year after the calendar year described in Subsection (7)(a) in which a property owner qualifies for an exemption described in Subsection 59-2-1115(2) for qualifying exempt primary residential rental personal property, a signed statement described in Section 59-2-306 with respect to the qualifying exempt primary residential rental personal property may only require the property owner to certify, under penalty of perjury, that the property owner qualifies for the exemption under Subsection 59-2-1115(2).

(8) (a) Subject to the requirements of this Subsection (8) and except as provided in Subsection (8)(b), on or before May 1, 2020, a county assessor shall:

(i) notify each owner of residential property that the owner is required to submit a written declaration described in Subsection (8)(d) within 30 days after the day on which the county assessor mails the notice under this Subsection (8)(a); and

(ii) provide each owner with a form described in Subsection (8)(e) to make the written declaration described in Subsection (8)(d).

(b) A county assessor is not required to provide a notice to an owner of residential property under Subsection (8)(a) if the situs address of the

residential property is the same as any one of the following:

(i) the mailing address of the residential property owner or the tenant of the residential property;

(ii) the address listed on the:

(A) residential property owner's driver license; or

(B) tenant of the residential property's driver license; or

(iii) the address listed on the:

(A) residential property owner's voter registration; or

(B) tenant of the residential property's voter registration.

(c) After an ownership interest in residential property changes, the county assessor shall:

(i) notify the owner of the residential property that the owner is required to submit a written declaration described in Subsection (8)(d) within 90 days after the day on which the owner receives notice under this Subsection (8)(c); and

(ii) provide the owner of the residential property with the form described in Subsection (8)(e) to make the written declaration described in Subsection (8)(d).

(d) An owner of residential property that receives a notice described in Subsection (8)(a) or (c) shall submit a written declaration to the county assessor under penalty of perjury certifying the information contained in the form provided in Subsection (8)(e).

(e) The written declaration required by Subsection (8)(d) shall be:

(i) signed by the owner of the residential property; and

(ii) in substantially the following form:

"Residential Property Declaration

This form must be submitted to the County Assessor's office where your new residential property is located within 90 days of receipt. Failure to do so will result in the county assessor taking action that could result in the withdrawal of the primary residential exemption from your residential property.

Residential Property Owner Information

Name(s):_____

Home Phone:_____

Work Phone:_____

Mailing Address:_____

Residential Property Information

Physical Address:_____

Certification

1. Is this property used as a primary residential property or part-year residential property for you or another person?

"Part-year residential property" means owned property that is not residential property on January 1 of a calendar year but becomes residential property after January 1 of the calendar year.

Yes No

2. Will this primary residential property or part-year residential property be occupied for 183 or more consecutive calendar days by the owner or another person?

A part-year residential property occupied for 183 or more consecutive calendar days in a calendar year by the owner(s) or a tenant is eligible for the exemption.

Yes No

If a property owner or a property owner's spouse claims a residential exemption under Utah Code Ann. § 59-2-103 for property in this state that is the primary residence of the property owner or the property owner's spouse, that claim of a residential exemption creates a rebuttable presumption that the property owner and the property owner's spouse have domicile in Utah for income tax purposes. The rebuttable presumption of domicile does not apply if the residential property is the primary residence of a tenant of the property owner or the property owner's spouse.

Signature

[~~This form must be signed by all owners of the property.~~]

Under penalties of perjury, I declare to the best of my knowledge and belief, this declaration and accompanying pages are true, correct, and complete.

_____(Owner signature)
_____Date (mm/dd/yyyy)

_____(Owner printed name)"

(f) For purposes of a written declaration described in this Subsection (8), a county may not request information from a property owner beyond the information described in the form provided in Subsection (8)(e).

(g) (i) If, after receiving a written declaration filed under Subsection (8)(d), the county determines that the property has been incorrectly qualified or disqualified to receive a residential exemption, the county shall:

(A) redetermine the property's qualification to receive a residential exemption; and

(B) notify the claimant of the redetermination and its reason for the redetermination.

(ii) The redetermination provided in Subsection (8)(g)(i)(A) is final unless appealed within 30 days after the notice required by Subsection (8)(g)(i)(B).

(h) (i) If a residential property owner fails to file a written declaration required by Subsection (8)(d), the county assessor shall mail to the owner of the residential property a notice that:

(A) the property owner failed to file a written declaration as required by Subsection (8)(d); and

(B) the property owner will no longer qualify to receive the residential exemption authorized under Section 59-2-103 for the property that is the subject of the written declaration if the property owner does not file the written declaration required by Subsection (8)(d) within 30 days after the day on which the county assessor mails the notice under this Subsection (8)(h)(i).

(ii) If a property owner fails to file a written declaration required by Subsection (8)(d) after receiving the notice described in Subsection (8)(h)(i), the property owner no longer qualifies to receive the residential exemption authorized under Section 59-2-103 in the calendar year for the property that is the subject of the written declaration.

(iii) A property owner that is disqualified to receive the residential exemption under Subsection (8)(h)(ii) may file an application described in Subsection (1) to determine whether the owner is eligible to receive the residential exemption.

(i) The requirements of this Subsection (8) do not apply to a county assessor in a county that has, for the five calendar years prior to 2019, had in place and enforced an ordinance described in Subsection (1).

Section 11. Section 59-2-1007 is amended to read:

59-2-1007. Objection to assessment by commission -- Application -- Contents of application -- Amending an application -- Information provided by the commission -- Hearings -- Appeals.

(1) (a) Subject to the other provisions of this section, if the owner of property assessed by the commission objects to the assessment, the owner may apply to the commission for a hearing on the objection on or before the later of:

(i) August 1; or

(ii) 90 days after the day on which the commission mails the notice of assessment in accordance with Section 59-2-201.

(b) The commission shall allow an owner that meets the requirements of Subsection (1)(a) to be a party at a hearing under this section.

(2) Subject to the other provisions of this section, a county that objects to the assessment of property assessed by the commission may apply to the commission for a hearing on the objection:

(a) for an assessment with respect to which the owner has applied to the commission for a hearing on the objection under Subsection (1), if the county applies to the commission to become a party to the hearing on the objection no later than 60 days after the day on which the owner applied to the commission for the hearing on the objection; or

(b) for an assessment with respect to which the owner has not applied to the commission for a hearing on the objection under Subsection (1), if the county:

(i) reasonably believes that the commission should have assessed the property for the current calendar year at a fair market value that is at least the lesser of an amount that is:

(A) 50% greater than the value at which the commission is assessing the property for the current calendar year; or

(B) 50% greater than the value at which the commission assessed the property for the prior calendar year; and

(ii) applies to the commission for a hearing on the objection no later than 60 days after the last day on which the owner could have applied to the commission for a hearing on the objection under Subsection (1).

(3) Before a county may apply to the commission for a hearing under this section on an objection to an assessment, a majority of the members of the county legislative body shall approve filing an application under this section.

(4) (a) The commission shall allow a county that meets the requirements of Subsections (2) and (3) to be a party at a hearing under this section.

(b) The commission shall allow an owner to be a party at a hearing under this section on an objection to an assessment a county files in accordance with Subsection (2)(b).

(5) An owner or a county shall include in an application under this section:

(a) a written statement:

(i) setting forth the known facts and legal basis supporting a different fair market value than the value assessed by the commission; and

(ii) for an assessment described in Subsection (2)(b), establishing the county's reasonable belief that the commission should have assessed the property for the current calendar year at a fair market value that is at least the lesser of an amount that is:

(A) 50% greater than the value at which the commission is assessing the property for the current calendar year; or

(B) 50% greater than the value at which the commission assessed the property for the prior calendar year; and

(b) the owner's or county's estimate of the fair market value of the property.

(6) (a) Except as provided in Subsection (6)(b), an owner or a county assessor may amend an estimate on an application under this section of the fair market value of the property prior to the hearing as provided by rule.

(b) A county may not amend the fair market value of property under this Subsection (6) to equal an amount that is less than the lesser of:

(i) the value at which the commission is assessing the property for the current calendar year plus 50%; or

(ii) the value at which the commission assessed the property for the prior calendar year plus 50%.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules governing the procedures for amending an estimate of fair market value under this Subsection (6).

(7) In applying to the commission for a hearing on an objection under this section:

(a) a county may estimate the fair market value of the property using a valuation methodology the county considers to be appropriate, regardless of:

(i) the valuation methodology used previously in valuing the property; or

(ii) the valuation methodology an owner asserts; and

(b) an owner may estimate the fair market value of the property using a valuation methodology the owner considers to be appropriate, regardless of:

(i) the valuation methodology used previously in valuing the property; or

(ii) the valuation methodology a county asserts.

(8) (a) An owner who applies to the commission for a hearing in accordance with Subsection (1) shall, for the property for which the owner objects to the commission's assessment, file a copy of the application with the county auditor of each county in which the property is located.

(b) A county auditor who receives a copy of an application in accordance with Subsection (8)(a) shall provide a copy of the application to the county:

(i) assessor;

(ii) attorney;

(iii) legislative body; and

(iv) treasurer.

(9) (a) Upon request, the commission shall provide to a nonprofit organization that represents counties in the state the following information regarding an appeal filed under this section:

(i) the name of the property owner filing the appeal;

(ii) each year at issue in the appeal;

(iii) the value assessed by the commission for the property that is the subject of the appeal; and

(iv) the owner's estimate of value for the property that is the subject of the appeal as submitted under Subsection (5)(b).

(b) (i) Except as provided in Subsection (9)(b)(ii), a nonprofit organization may not disclose the information described in Subsection (9)(a)(iv).

(ii) A nonprofit organization may disclose information described in Subsection (9)(a)(iv) to an individual listed under Subsection 59-1-403[~~(1)~~](2)(a).

(10) (a) On or before November 15, the commission shall conduct a scheduling conference with all parties to a hearing under this section.

(b) At the scheduling conference under Subsection (10)(a), the commission shall establish dates for:

(i) the completion of discovery;

(ii) the filing of prehearing motions; and

(iii) conducting a hearing on the objection to the assessment.

(11) (a) The commission shall issue a written decision no later than 120 days after the later of the day on which:

(i) the commission completes the hearing under this section; or

(ii) the parties submit all posthearing briefs.

(b) If the commission does not issue a written decision on an objection to an assessment under this section within a two-year period after the date an application under this section is filed, the objection is considered to be denied, unless the parties stipulate to a different time period for resolving the objection.

(c) A party may appeal to the district court in accordance with Section 59-1-601 within 30 days after the day on which an objection is considered to be denied.

(12) At the hearing on an objection under this section, the commission may increase, lower, or sustain the assessment if:

(a) the commission finds an error in the assessment; or

(b) the commission determines that increasing, lowering, or sustaining the assessment is necessary to equalize the assessment with other similarly assessed property.

(13) (a) The commission shall send notice of a commission action under Subsection (12) to a county auditor if:

(i) the commission proposes to adjust an assessment the commission made in accordance with Section 59-2-201;

(ii) the county's tax revenues may be affected by the commission's decision; and

(iii) the county is not a party to the hearing under this section.

(b) The written notice described in Subsection (13)(a):

(i) may be sent by:

(A) any form of electronic communication;

(B) first class mail; or

(C) private carrier; and

(ii) shall request the county to show good cause why the commission should not adjust the assessment by requesting the county to provide to the commission a written statement setting forth the known facts and legal basis for not adjusting the assessment within 30 days after the day on which the commission sends the written notice.

(c) If a county provides a written statement described in Subsection (13)(b) to the commission, the commission shall:

(i) hold a hearing or take other appropriate action to consider the good cause the county provides in the written statement; and

(ii) issue a written decision increasing, lowering, or sustaining the assessment.

(d) If a county does not provide a written statement described in Subsection (13)(b) to the commission within 30 days after the day on which the commission sends the notice described in Subsection (13)(a), the commission shall adjust the assessment and send a copy of the commission's written decision to the county.

(14) Subsection (13) does not limit the rights of a county as provided in Subsections (2) and (4)(a).

Section 12. Section 59-2-1602 is amended to read:

59-2-1602. Property Tax Valuation Agency Fund -- Creation -- Statewide levy -- Additional county levy.

(1) (a) There is created an agency fund known as the "Property Tax Valuation Agency Fund."

(b) The fund consists of:

(i) deposits made and penalties received under Subsection (3); and

(ii) interest on money deposited into the fund.

(c) Deposits, penalties, and interest described in Subsection (1)(b) shall be disbursed and used as provided in Section 59-2-1603.

(2) (a) Each county shall annually impose a multicounty assessing and collecting levy as provided in this Subsection (2).

(b) The tax rate of the multicounty assessing and collecting levy is:

(i) for a calendar year beginning on or after January 1, 2020, and before January 1, 2025, .000012; and

(ii) for a calendar year beginning on or after January 1, 2025, the certified revenue levy.

(c) The state treasurer shall allocate revenue collected from the multicounty assessing and collecting levy as follows:

(i) 18% of the revenue collected [~~from the base rate~~] shall be deposited into the Property Tax Valuation Agency Fund, up to $500,000 annually; and

(ii) after the deposit described in Subsection (2)(c)(i), all remaining revenue collected from the multicounty assessing and collecting levy shall be deposited into the Multicounty Appraisal Trust.

(3) (a) The multicounty assessing and collecting levy imposed under Subsection (2) shall be separately stated on the tax notice as a multicounty assessing and collecting levy.

(b) The multicounty assessing and collecting levy is:

(i) exempt from Sections 17C-1-403 through 17C-1-406;

(ii) in addition to and exempt from the maximum levies allowable under Section 59-2-908; and

(iii) exempt from the notice and public hearing requirements of Section 59-2-919.

(c) (i) Each county shall transmit quarterly to the state treasurer the revenue collected from the multicounty assessing and collecting levy.

(ii) The revenue transmitted under Subsection (3)(c)(i) shall be transmitted no later than the tenth day of the month following the end of the quarter in which the revenue is collected.

(iii) If revenue transmitted under Subsection (3)(c)(i) is transmitted after the tenth day of the month following the end of the quarter in which the revenue is collected, the county shall pay an interest penalty at the rate of 10% each year until the revenue is transmitted.

(d) The state treasurer shall allocate the penalties received under this Subsection (3) in the same manner as revenue is allocated under Subsection (2)(c).

(4) (a) A county may levy a county additional property tax in accordance with this Subsection (4).

(b) The county additional property tax:

(i) shall be separately stated on the tax notice as a county assessing and collecting levy;

(ii) may not be incorporated into the rate of any other levy;

(iii) is exempt from Sections 17C-1-403 through 17C-1-406; and

(iv) is in addition to and exempt from the maximum levies allowable under Section 59-2-908.

(c) Revenue collected from the county additional property tax shall be used to:

(i) promote the accurate valuation and uniform assessment levels of property as required by Section 59-2-103;

(ii) promote the efficient administration of the property tax system, including the costs of

assessment, collection, and distribution of property taxes;

(iii) fund state mandated actions to meet legislative mandates or judicial or administrative orders that relate to promoting:

(A) the accurate valuation of property; and

(B) the establishment and maintenance of uniform assessment levels within and among counties; and

(iv) establish reappraisal programs that:

(A) are adopted by a resolution or ordinance of the county legislative body; and

(B) conform to rules the commission makes in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Section 13. Section 59-7-118 is amended to read:

59-7-118. Section 965, Internal Revenue Code -- Installment payments.

(1) Subject to the other provisions of this section, a corporation may pay in installments the tax owed under this chapter on deferred foreign income described in Section 965, Internal Revenue Code.

(2) Subsection (1) applies:

(a) to a corporation that:

(i) is authorized to make an election under Section 965(h), Internal Revenue Code; and

(ii) apportions deferred foreign income described in Section 965, Internal Revenue Code, to this state; and

(b) for a tax year in which a corporation makes an election under Section 965(h), Internal Revenue Code, for purposes of the corporation's federal income tax.

(3) (a) Except as provided in Subsection (3)(b), the same provisions that apply to an election made under Section 965(h), Internal Revenue Code, for federal purposes apply to an installment payment made under this section.

(b) A corporation shall make:

(i) the first installment under this section on or before the due date[~~, including any extension,~~] of the tax return filed under this chapter for the first taxable year in which the corporation reports deferred foreign income described in Section 965, Internal Revenue Code; and

(ii) a subsequent installment on or before the due date[~~, including any extension,~~] of the tax return filed under this chapter in each of the following seven years.

Section 14. Section 59-7-159 is amended to read:

59-7-159. Review of credits allowed under this chapter.

(1) As used in this section, "committee" means the Revenue and Taxation Interim Committee.

(2) (a) The committee shall review the tax credits described in this chapter as provided in Subsection (3) and make recommendations concerning whether the tax credits should be continued, modified, or repealed.

(b) In conducting the review required under Subsection (2)(a), the committee shall:

(i) schedule time on at least one committee agenda to conduct the review;

(ii) invite state agencies, individuals, and organizations concerned with the tax credit under review to provide testimony;

(iii) (A) invite the Governor's Office of Economic Development to present a summary and analysis of the information for each tax credit regarding which the Governor's Office of Economic Development is required to make a report under this chapter; and

(B) invite the Office of the Legislative Fiscal Analyst to present a summary and analysis of the information for each tax credit regarding which the Office of the Legislative Fiscal Analyst is required to make a report under this chapter;

(iv) ensure that the committee's recommendations described in this section include an evaluation of:

(A) the cost of the tax credit to the state;

(B) the purpose and effectiveness of the tax credit; and

(C) the extent to which the state benefits from the tax credit; and

(v) undertake other review efforts as determined by the committee chairs or as otherwise required by law.

(3) (a) On or before November 30, 2017, and every three years after 2017, the committee shall conduct the review required under Subsection (2) of the tax credits allowed under the following sections:

(i) Section 59-7-601;

(ii) Section 59-7-607;

(iii) Section 59-7-612;

(iv) Section 59-7-614.1; and

(v) Section 59-7-614.5.

(b) On or before November 30, 2018, and every three years after 2018, the committee shall conduct the review required under Subsection (2) of the tax credits allowed under the following sections:

(i) Section 59-7-609;

(ii) Section 59-7-614.2;

(iii) Section 59-7-614.10;

(iv) Section 59-7-619;

(v) Section 59-7-620; and

(vi) Section 59-7-624.

(c) On or before November 30, 2019, and every three years after 2019, the committee shall conduct the review required under Subsection (2) of the tax credits allowed under the following sections:

(i) Section 59-7-610;

(ii) Section 59-7-614; and

(iii) Section 59-7-614.7[~~; and~~].

[~~(iv) Section 59-7-618.~~]

(d) (i) In addition to the reviews described in this Subsection (3), the committee shall conduct a review of a tax credit described in this chapter that is enacted on or after January 1, 2017.

(ii) The committee shall complete a review described in this Subsection (3)(d) three years after the effective date of the tax credit and every three years after the initial review date.

Section 15. Section 59-7-504 is amended to read:

59-7-504. Estimated tax payments -- Penalty -- Waiver.

(1) Except as [~~otherwise provided in this section, each~~] provided in Subsection (2), a corporation subject to taxation under this chapter [~~having~~] that has a tax liability of $3,000 or more in either the current tax year[~~, or which had a tax liability of $3,000 or more in the previous tax year, shall make payments of estimated tax at the same time and using any method provided under Section 6655, Internal Revenue Code~~] or the previous tax year shall make a payment of an estimated tax on or before the day on which the corporation is required to make a payment of an estimated tax for the same time period to the federal government.

[~~(2) The following are modifications or exceptions to the provisions of Section 6655, Internal Revenue Code:~~]

(2) The provisions of Section 6655, Internal Revenue Code, shall govern the payment described in Subsection (1), except that:

(a) for the first year a corporation is required to file a return in Utah, that corporation is not subject to Subsection (1) if [~~it~~] the corporation makes a payment on or before the due date of the return, without extensions, equal to or greater than the minimum tax required under Section 59-7-104 or 59-7-201;

(b) the applicable percentage of the required annual payment, as defined in Section 6655, Internal Revenue Code, for annualized income installments, adjusted seasonal installments, and those estimated tax payments based on the current year tax liability shall be:

Installment	Percentage
1st	22.5
2nd	45.0
3rd	67.5
4th	90.0

(c) a large [~~corporations~~] corporation shall be treated as any other corporation for purposes of this section; [~~and~~]

(d) if a taxpayer elects a different annualization period than the one used for federal purposes, the taxpayer shall make an election with the [~~Tax Commission~~] commission at the same time as provided under Section 6655, Internal Revenue Code[~~.~~]; and

(e) the due date shall be superseded by the due date for federal estimated payments if modified by other federal action.

(3) A penalty shall be added as provided in Section 59-1-401 for any quarterly estimated tax payment [~~which~~] that is not made in accordance with this section.

(4) There shall be no interest added to any estimated tax payments subject to a penalty under this section.

Section 16. Section 59-7-505 is amended to read:

59-7-505. Returns required -- When due -- Extension of time -- Exemption from filing.

(1) Each corporation subject to taxation under this chapter shall make a return, except that a group of corporations filing a combined report under Part 4, Combined Reporting, shall file one combined report.

(a) The return shall be signed by a responsible officer of the corporation, the signature of whom need not be notarized but when signed shall be considered as made under oath.

(b) (i) In cases where receivers, trustees in bankruptcy, or assignees are operating the property or business of corporations, those receivers, trustees, or assignees shall make returns for such corporations in the same manner and form as corporations are required to make returns.

(ii) Any tax due on the basis of such returns made by receivers, trustees, or assignees shall be collected in the same manner as if collected from the corporations of whose business or property they have custody and control.

[~~(2) Returns shall be made on or before the 15th day of the fourth month following the close of the taxable year.~~]

(2) (a) A corporation required to make a return under this chapter shall make a return on or before the later of:

(i) the 15th day of the fourth month following the close of the taxable year; or

(ii) the day on which the corporation is required to file a federal income tax return.

(b) Interest accrues from the day on which a return is due under this Subsection (2).

(3) (a) The commission shall allow a taxpayer an extension of time for filing [~~returns~~] a return.

[~~(b) The extension under Subsection (3)(a) may not exceed six months.~~]

(b) Except as provided in Subsection (3)(c), the extension described in Subsection (3)(a) may be for up to six months.

(c) For a taxable year beginning on or after January 1, 2019, but beginning on or before December 31, 2019, a taxpayer may receive an extension described in Subsection (3)(a) for the time period that ends on the last day of the extension to file the taxpayer's federal income tax return.

(4) Each return shall be made to the commission.

(5) A corporation incorporated or qualified to do business in this state [~~prior to~~] before January 1, 1973, is not liable for filing a return or paying tax measured by income for the taxable year in which [~~it~~] the corporation legally terminates [~~its~~] the corporation's existence.

(6) A corporation incorporated or qualified to do business or [~~which had its~~] that had the corporation's authority to do business reinstated on or after January 1, 1973, shall file a return and pay the tax measured by income for each period during which [~~it~~] the corporation had the right to do business in this state, and the return shall be filed and the tax paid within three months and 15 days after the close of this period.

(7) If a corporation terminates [~~its~~] the corporation's existence under Section 16-10a-1401, [~~no returns are required to be filed if a statement is furnished~~] the corporation is not required to file a return if the corporation provides a statement to the commission that no business has been conducted during that period.

(8) (a) A corporation commencing to do business in Utah after qualification or incorporation with the Division of Corporations and Commercial Code is not required to file a return for the period commencing with the date of incorporation or qualification and ending on the last day of the same month, if that corporation was not doing business in and received no income from sources in the state during such period.

(b) In determining whether a corporation comes within the provisions of this chapter, affidavits on behalf of the corporation that it did no business in and received no income from sources in Utah during such period shall be filed with the commission.

Section 17. Section 59-7-507 is amended to read:

59-7-507. Payment of tax.

(1) (a) If [~~quarterly estimated payments are~~] an estimated payment is not made as provided in Section 59-7-504, the amount of tax imposed by this chapter shall be paid no later than the [~~original~~] due date of the return described in Subsection 59-7-505(2).

[~~(b) If an extension of time is necessary for filing a return, as provided in Subsection 59-7-505(3) or Section 59-7-803, payment must be made no later than the original due date of the return in an amount equal to the lesser of:~~]

(b) If a taxpayer needs an extension of time to file a return, as provided in Section 59-7-505 or 59-7-803, a taxpayer shall pay, no later than the due date of the return described in Subsection 59-7-505(2), an amount equal to the lesser of:

(i) [~~The~~] the greater of:

(A) 90% of the total tax reported on the return for the current taxable year; or

(B) 100% of the minimum tax described in Section 59-7-104; or

(ii) 100% of the total tax liability for the taxable year immediately preceding the current taxable year.

(c) If payment is not made as provided in Subsection (1)(b), the commission shall add an extension penalty as provided in Section 59-1-401, until the tax is paid during the period of extension.

(2) (a) For a taxable year beginning on or after January 1, 2019, but beginning on or before December 31, 2019, a taxpayer shall receive an extension of time for the payment of the amount determined as the tax of the taxpayer, or any part of that amount, for the time period that ends on the last day of the extension to pay the taxpayer's federal income tax.

[~~(2) (a) At~~] (b) (i) For a taxable year beginning on or after January 1, 2020, at the request of the taxpayer, the commission may extend the time for payment of the amount determined as the tax by the taxpayer, or any part of that amount, for a period not to exceed six months from the date prescribed for the payment of the tax.

[~~(b) For purposes of Subsection (2)(a), the amount in respect of which the extension is granted shall be paid on or before the date of the expiration of the period of the extension.~~]

(ii) For purposes of Subsection (2)(b)(i), the taxpayer shall pay the amount for which the extension is granted on or before the day on which the period of the extension expires.

Section 18. Section 59-7-610 is amended to read:

59-7-610. Recycling market development zones tax credits.

(1) Subject to other provisions of this section, a taxpayer that is a business operating in a recycling market development zone as defined in Section 19-13-102 may claim the following nonrefundable tax credits:

(a) a tax credit [~~of 5% of~~] equal to the product of the percentage listed in Subsection 59-7-104(2) and the purchase price paid for machinery and equipment used directly in:

(i) commercial composting; or

(ii) manufacturing facilities or plant units that:

(A) manufacture, process, compound, or produce recycled items of tangible personal property for sale; or

(B) reduce or reuse postconsumer waste material; and

(b) a tax credit equal to the lesser of:

(i) 20% of net expenditures to third parties for rent, wages, supplies, tools, test inventory, and utilities made by the taxpayer for establishing and operating recycling or composting technology in the state; and

(ii) $2,000.

(2) (a) To claim a tax credit described in Subsection (1), the taxpayer shall receive from the Department of Environmental Quality a written certification, on a form approved by the commission, that includes:

(i) a statement that the taxpayer is operating a business within the boundaries of a recycling market development zone;

(ii) for a claim of the tax credit described in Subsection (1)(a):

(A) the type of the machinery and equipment that the taxpayer purchased;

(B) the date that the taxpayer purchased the machinery and equipment;

(C) the purchase price for the machinery and equipment;

(D) the total purchase price for all machinery and equipment for which the taxpayer is claiming a tax credit;

(E) a statement that the machinery and equipment are integral to the composting or recycling process; and

(F) the amount of the taxpayer's tax credit; and

(iii) for a claim of the tax credit described in Subsection (1)(b):

(A) the type of net expenditure that the taxpayer made to a third party;

(B) the date that the taxpayer made the payment to a third party;

(C) the amount that the taxpayer paid to each third party;

(D) the total amount that the taxpayer paid to all third parties;

(E) a statement that the net expenditures support the establishment and operation of recycling or composting technology in the state; and

(F) the amount of the taxpayer's tax credit.

(b) (i) The Department of Environmental Quality shall provide a taxpayer seeking to claim a tax credit under Subsection (1) with a copy of the written certification.

(ii) The taxpayer shall retain a copy of the written certification for the same period of time that a person is required to keep books and records under Section 59-1-1406.

(c) The Department of Environmental Quality shall submit to the commission an electronic list that includes:

(i) the name and identifying information of each taxpayer to which the Department of Environmental Quality issues a written certification; and

(ii) for each taxpayer, the amount of each tax credit listed on the written certification.

(3) A taxpayer may not claim a tax credit under Subsection (1)(a), Subsection (1)(b), or both that exceeds 40% of the taxpayer's state income tax liability as the tax liability is calculated:

(a) for the taxable year in which the taxpayer made the purchases or payments;

(b) before any other tax credits the taxpayer may claim for the taxable year; and

(c) before the taxpayer claims a tax credit authorized by this section.

(4) The commission shall make rules governing what information a taxpayer shall file with the commission to verify the entitlement to and amount of a tax credit.

(5) Except as provided in Subsections (6) through (8), a taxpayer may carry forward, to the next three taxable years, the amount of a tax credit described in Subsection (1)(a) that the taxpayer does not use for the taxable year.

(6) A taxpayer may not claim or carry forward a tax credit described in Subsection (1)(a) in a taxable year during which the taxpayer claims or carries forward a tax credit under Section 63N-2-213.

(7) A taxpayer may not claim a tax credit described in Subsection (1)(b) in a taxable year during which the taxpayer claims or carries forward a tax credit under Section 63N-2-213.

(8) A taxpayer may not claim or carry forward a tax credit under this section for a taxable year during which the taxpayer claims the targeted business income tax credit under Section 59-7-624.

Section 19. Section 59-7-619 is amended to read:

59-7-619. Nonrefundable high cost infrastructure development tax credit.

(1) As used in this section:

(a) "High cost infrastructure project" means the same as that term is defined in Section 63M-4-602.

(b) "Infrastructure cost-burdened entity" means the same as that term is defined in Section 63M-4-602.

(c) "Infrastructure-related revenue" means the same as that term is defined in Section 63M-4-602.

(d) "Office" means the Office of Energy Development created in Section 63M-4-401.

(2) Subject to the other provisions of this section, a corporation that is an infrastructure cost-burdened entity may claim a nonrefundable tax credit for development of a high cost infrastructure project as provided in this section.

(3) The tax credit under this section is the amount listed as the tax credit amount on a tax credit certificate that the office issues under Title 63M, Chapter 4, Part 6, High Cost Infrastructure Development Tax Credit Act, to the infrastructure cost-burdened entity for the taxable year.

(4) An infrastructure cost-burdened entity may carry forward a tax credit under this section for a period that does not exceed the next seven taxable years if:

(a) the infrastructure cost-burdened entity is allowed to claim a tax credit under this section for a taxable year; and

(b) the amount of the tax credit exceeds the infrastructure cost-burdened entity's tax liability under this chapter for that taxable year.

(5) (a) In accordance with Section 59-7-159, the Revenue and Taxation Interim Committee shall study the tax credit allowed by this section and make recommendations concerning whether the tax credit should be continued, modified, or repealed.

(b) (i) Except as provided in Subsection (5)(b)(ii), for purposes of the study required by this Subsection (5), the office shall provide the following information, if available to the office, to the Office of the Legislative Fiscal Analyst:

(A) the amount of tax credit that the office grants to each infrastructure cost-burdened entity for each taxable year;

(B) the infrastructure-related revenue generated by each high cost infrastructure project;

(C) the information contained in the office's latest report under Section [~~63M-4-505~~] 63M-4-605; and

(D) any other information that the Office of the Legislative Fiscal Analyst requests.

(ii) (A) In providing the information described in Subsection (5)(b)(i), the office shall redact information that identifies a recipient of a tax credit under this section.

(B) If, notwithstanding the redactions made under Subsection (5)(b)(ii)(A), reporting the information described in Subsection (5)(b)(i) might disclose the identity of a recipient of a tax credit, the office may file a request with the Revenue and Taxation Interim Committee to provide the information described in Subsection (5)(b)(i) in the aggregate for all infrastructure cost-burdened entities that receive the tax credit under this section.

(c) As part of the study required by this Subsection (5), the Office of the Legislative Fiscal Analyst shall report to the Revenue and Taxation Interim Committee a summary and analysis of the information provided to the Office of the Legislative Fiscal Analyst by the office under Subsection (5)(b).

(d) The Revenue and Taxation Interim Committee shall ensure that the recommendations described in Subsection (5)(a) include an evaluation of:

(i) the cost of the tax credit to the state;

(ii) the purpose and effectiveness of the tax credit; and

(iii) the extent to which the state benefits from the tax credit.

Section 20. Section 59-7-620 is amended to read:

59-7-620. Nonrefundable tax credit for contribution to state Achieving a Better Life Experience Program account.

(1) As used in this section:

(a) "Account" means an account in a qualified ABLE program where the designated beneficiary of the account is a resident of this state.

(b) "Contributor" means a corporation that:

(i) makes a contribution to an account; and

(ii) receives a statement from the qualified ABLE program itemizing the contribution.

(c) "Designated beneficiary" means the same as that term is defined in 26 U.S.C. Sec. 529A.

(d) "Qualified ABLE program" means the same as that term is defined in Section 35A-12-102.

(2) For a taxable year beginning on or after January 1, 2020, but beginning on or before December 31, 2020, a contributor to an account may claim a nonrefundable tax credit as provided in this section.

(3) Subject to the other provisions of this section, the tax credit is equal to the product of:

(a) [~~5%~~] the percentage listed in Subsection 59-7-104(2); and

(b) the total amount of contributions:

(i) the contributor makes for the taxable year; and

(ii) for which the contributor receives a statement from the qualified ABLE program itemizing the contributions.

(4) A contributor may not claim a tax credit under this section:

(a) for an amount of excess contribution to an account that is returned to the contributor; or

(b) with respect to an amount the contributor deducts on a federal income tax return.

(5) A tax credit under this section may not be carried forward or carried back.

Section 21. Section 59-10-103 is amended to read:

59-10-103. Definitions.

(1) As used in this chapter:

(a) (i) "Adjusted gross income":

(A) for a resident or nonresident individual, means the same as that term is defined in Section 62, Internal Revenue Code; or

(B) for a resident or nonresident estate or trust, is as calculated in Section 67(e), Internal Revenue Code.

(ii) "Adjusted gross income" does not include:

(A) income received from a loan forgiven in accordance with 15 U.S.C. Sec. 636(a) (36), to the extent that a deduction for the expenditures paid with the loan is disallowed, or a similar paycheck protection loan that is authorized by the federal government, provided in response to COVID-19, forgiven if the borrower meets the expenditure requirements, and exempt from federal income tax, to the extent that a deduction for the expenditures paid with the loan is disallowed; or

(B) an amount that an individual receives in accordance with Section 6428, Internal Revenue Code, or an amount that an individual receives that is authorized by the federal government as a tax credit for the 2020 tax year, provided in response to COVID-19, paid in advance of the filing of the individual's 2020 federal income tax return, and exempt from federal income tax.

(b) "Corporation" includes:

(i) an association;

(ii) a joint stock company; and

(iii) an insurance company.

(c) "COVID-19" means:

(i) the severe acute respiratory syndrome coronavirus 2; or

(ii) the disease caused by severe acute respiratory syndrome coronavirus 2.

(d) "Distributable net income" means the same as that term is defined in Section 643, Internal Revenue Code.

(e) "Employee" means the same as that term is defined in Section 59-10-401.

(f) "Employer" means the same as that term is defined in Section 59-10-401.

(g) "Federal taxable income":

(i) for a resident or nonresident individual, means taxable income as defined by Section 63, Internal Revenue Code; or

(ii) for a resident or nonresident estate or trust, is as calculated in Section 641(a) and (b), Internal Revenue Code.

(h) "Fiduciary" means:

(i) a guardian;

(ii) a trustee;

(iii) an executor;

(iv) an administrator;

(v) a receiver;

(vi) a conservator; or

(vii) any person acting in any fiduciary capacity for any individual.

(i) "Guaranteed annuity interest" means the same as that term is defined in 26 C.F.R. Sec. 1.170A-6(c)(2).

(j) "Homesteaded land diminished from the Uintah and Ouray Reservation" means the homesteaded land that was held to have been diminished from the Uintah and Ouray Reservation in Hagen v. Utah, 510 U.S. 399 (1994).

(k) "Individual" means a natural person and includes aliens and minors.

(l) "Irrevocable trust" means a trust in which the settlor may not revoke or terminate all or part of the trust without the consent of a person who has a substantial beneficial interest in the trust and the interest would be adversely affected by the exercise of the settlor's power to revoke or terminate all or part of the trust.

(m) "Military service" means the same as that term is defined in Pub. L. No. 108-189, Sec. 101.

(n) "Nonresident individual" means an individual who is not a resident of this state.

(o) "Nonresident trust" or "nonresident estate" means a trust or estate which is not a resident estate or trust.

(p) (i) "Partnership" includes a syndicate, group, pool, joint venture, or other unincorporated organization:

(A) through or by means of which any business, financial operation, or venture is carried on; and

(B) that is not, within the meaning of this chapter, a trust, an estate, or a corporation.

(ii) "Partnership" does not include any organization not included under the definition of "partnership" in Section 761, Internal Revenue Code.

(iii) "Partner" includes a member in a syndicate, group, pool, joint venture, or organization described in Subsection (1)(p)(i).

(q) "Pass-through entity" means the same as that term is defined in Section 59-10-1402.

(r) "Pass-through entity taxpayer" means the same as that term is defined in Section 59-10-1402.

[~~(q)~~] (s) "Qualified nongrantor charitable lead trust" means a trust:

(i) that is irrevocable;

(ii) that has a trust term measured by:

(A) a fixed term of years; or

(B) the life of a person living on the day on which the trust is created;

(iii) under which:

(A) a portion of the value of the trust assets is distributed during the trust term:

(I) to an organization described in Section 170(c), Internal Revenue Code; and

(II) as a guaranteed annuity interest or a unitrust interest; and

(B) assets remaining in the trust at the termination of the trust term are distributed to a beneficiary:

(I) designated in the trust; and

(II) that is not an organization described in Section 170(c), Internal Revenue Code;

(iv) for which the trust is allowed a deduction under Section 642(c), Internal Revenue Code; and

(v) under which the grantor of the trust is not treated as the owner of any portion of the trust for federal income tax purposes.

[~~(r)~~] (t) "Resident individual" means an individual who is domiciled in this state for any period of time during the taxable year, but only for the duration of the period during which the individual is domiciled in this state.

[~~(s)~~] (u) "Resident estate" or "resident trust" means the same as that term is defined in Section 75-7-103.

[~~(t)~~] (v) "Servicemember" means the same as that term is defined in Pub. L. No. 108-189, Sec. 101.

[~~(u)~~] (w) "State income tax percentage for a nonresident estate or trust" means a percentage equal to a nonresident estate's or trust's state taxable income for the taxable year divided by the nonresident estate's or trust's total adjusted gross income for that taxable year after making the adjustments required by:

(i) Section 59-10-202;

(ii) Section 59-10-207;

(iii) Section 59-10-209.1; or

(iv) Section 59-10-210.

[~~(v)~~] (x) "State income tax percentage for a nonresident individual" means a percentage equal to a nonresident individual's state taxable income for the taxable year divided by the difference between:

(i) subject to Section 59-10-1405, the nonresident individual's total adjusted gross income for that taxable year, after making the:

(A) additions and subtractions required by Section 59-10-114; and

(B) adjustments required by Section 59-10-115; and

(ii) if the nonresident individual described in Subsection (1)[~~(v)~~](x)(i) is a servicemember, the compensation the servicemember receives for military service if the servicemember is serving in compliance with military orders.

[~~(w)~~] (y) "State income tax percentage for a part-year resident individual" means, for a taxable year, a fraction:

(i) the numerator of which is the sum of:

(A) subject to Section 59-10-1404.5, for the time period during the taxable year that the part-year resident individual is a resident, the part-year resident individual's total adjusted gross income for that time period, after making the:

(I) additions and subtractions required by Section 59-10-114; and

(II) adjustments required by Section 59-10-115; and

(B) for the time period during the taxable year that the part-year resident individual is a nonresident, an amount calculated by:

(I) determining the part-year resident individual's adjusted gross income for that time period, after making the:

(Aa) additions and subtractions required by Section 59-10-114; and

(Bb) adjustments required by Section 59-10-115; and

(II) calculating the portion of the amount determined under Subsection (1)[~~(w)~~](y)(i)(B)(I) that is derived from Utah sources in accordance with Section 59-10-117; and

(ii) the denominator of which is the difference between:

(A) the part-year resident individual's total adjusted gross income for that taxable year, after making the:

(I) additions and subtractions required by Section 59-10-114; and

(II) adjustments required by Section 59-10-115; and

(B) if the part-year resident individual is a servicemember, any compensation the servicemember receives for military service during the portion of the taxable year that the servicemember is a nonresident if the servicemember is serving in compliance with military orders.

[~~(x)~~] (z) "Taxable income" or "state taxable income":

(i) subject to Section 59-10-1404.5, for a resident individual, means the resident individual's adjusted gross income after making the:

(A) additions and subtractions required by Section 59-10-114; and

(B) adjustments required by Section 59-10-115;

(ii) for a nonresident individual, is an amount calculated by:

(A) determining the nonresident individual's adjusted gross income for the taxable year, after making the:

(I) additions and subtractions required by Section 59-10-114; and

(II) adjustments required by Section 59-10-115; and

(B) calculating the portion of the amount determined under Subsection (1)[~~(x)~~](z)(ii)(A) that is derived from Utah sources in accordance with Section 59-10-117;

(iii) for a resident estate or trust, is as calculated under Section 59-10-201.1; and

(iv) for a nonresident estate or trust, is as calculated under Section 59-10-204.

[~~(y)~~] (aa) "Taxpayer" means any [~~individual, estate, trust, or beneficiary of an estate or trust,~~] of the following that has income subject in whole or part to the tax imposed by this chapter[~~.~~]:

(i) an individual;

(ii) an estate, a trust, or a beneficiary of an estate or a trust that is not a pass-through entity or a pass-through entity taxpayer;

(iii) a pass-through entity; or

(iv) a pass-through entity taxpayer.

[~~(z)~~] (bb) "Trust term" means a time period:

(i) beginning on the day on which a qualified nongrantor charitable lead trust is created; and

(ii) ending on the day on which the qualified nongrantor charitable lead trust described in Subsection (1)[~~(z)~~](bb)(i) terminates.

[~~(aa)~~] (cc) "Uintah and Ouray Reservation" means the lands recognized as being included within the Uintah and Ouray Reservation in:

(i) Hagen v. Utah, 510 U.S. 399 (1994); and

(ii) Ute Indian Tribe v. Utah, 114 F.3d 1513 (10th Cir. 1997).

[~~(bb)~~] (dd) "Unadjusted income" means an amount equal to the difference between:

(i) the total income required to be reported by a resident or nonresident estate or trust on the resident or nonresident estate's or trust's federal income tax return for estates and trusts for the taxable year; and

(ii) the sum of the following:

(A) fees paid or incurred to the fiduciary of a resident or nonresident estate or trust:

(I) for administering the resident or nonresident estate or trust; and

(II) that the resident or nonresident estate or trust deducts as allowed on the resident or nonresident estate's or trust's federal income tax return for estates and trusts for the taxable year;

(B) the income distribution deduction that a resident or nonresident estate or trust deducts under Section 651 or 661, Internal Revenue Code, as allowed on the resident or nonresident estate's or trust's federal income tax return for estates and trusts for the taxable year;

(C) the amount that a resident or nonresident estate or trust deducts as a deduction for estate tax or generation skipping transfer tax under Section 691(c), Internal Revenue Code, as allowed on the resident or nonresident estate's or trust's federal income tax return for estates and trusts for the taxable year; and

(D) the amount that a resident or nonresident estate or trust deducts as a personal exemption under Section 642(b), Internal Revenue Code, as allowed on the resident or nonresident estate's or trust's federal income tax return for estates and trusts for the taxable year.

[~~(cc)~~] (ee) "Unitrust interest" means the same as that term is defined in 26 C.F.R. Sec. 1.170A-6(c)(2).

[~~(dd)~~] (ff) "Ute tribal member" means an individual who is enrolled as a member of the Ute Indian Tribe of the Uintah and Ouray Reservation.

[~~(ee)~~] (gg) "Ute tribe" means the Ute Indian Tribe of the Uintah and Ouray Reservation.

[~~(ff)~~] (hh) "Wages" means the same as that term is defined in Section 59-10-401.

(2) (a) Any term used in this chapter has the same meaning as when used in comparable context in the laws of the United States relating to federal income taxes unless a different meaning is clearly required.

(b) Any reference to the Internal Revenue Code or to the laws of the United States shall mean the Internal Revenue Code or other provisions of the laws of the United States relating to federal income taxes that are in effect for the taxable year.

(c) Any reference to a specific section of the Internal Revenue Code or other provision of the laws of the United States relating to federal income taxes shall include any corresponding or comparable provisions of the Internal Revenue Code as amended, redesignated, or reenacted.

Section 22. Section 59-10-114 is amended to read:

59-10-114. Additions to and subtractions from adjusted gross income of an individual.

(1) There shall be added to adjusted gross income of a resident or nonresident individual:

(a) a lump sum distribution that the taxpayer does not include in adjusted gross income on the taxpayer's federal individual income tax return for the taxable year;

(b) the amount of a child's income calculated under Subsection (4) that:

(i) a parent elects to report on the parent's federal individual income tax return for the taxable year; and

(ii) the parent does not include in adjusted gross income on the parent's federal individual income tax return for the taxable year;

(c) (i) a withdrawal from a medical care savings account and any penalty imposed for the taxable year if:

(A) the resident or nonresident individual does not deduct the amounts on the resident or nonresident individual's federal individual income tax return under Section 220, Internal Revenue Code;

(B) the withdrawal is subject to Subsections 31A-32a-105(1) and (2); and

(C) the withdrawal is subtracted on, or used as the basis for claiming a tax credit on, a return the resident or nonresident individual files under this chapter;

(ii) a disbursement required to be added to adjusted gross income in accordance with Subsection 31A-32a-105(3); or

(iii) an amount required to be added to adjusted gross income in accordance with Subsection 31A-32a-105(5)(c);

(d) the amount withdrawn under Title 53B, Chapter 8a, Utah Educational Savings Plan, from the account of a resident or nonresident individual who is an account owner as defined in Section 53B-8a-102, for the taxable year for which the amount is withdrawn, if that amount withdrawn from the account of the resident or nonresident individual who is the account owner:

(i) is not expended for:

(A) higher education costs as defined in Section 53B-8a-102.5; or

(B) a payment or distribution that qualifies as an exception to the additional tax for distributions not used for educational expenses provided in Sections 529(c) and 530(d), Internal Revenue Code; and

(ii) is:

(A) subtracted by the resident or nonresident individual:

(I) who is the account owner; and

(II) on the resident or nonresident individual's return filed under this chapter for a taxable year beginning on or before December 31, 2007; or

(B) used as the basis for the resident or nonresident individual who is the account owner to claim a tax credit under Section 59-10-1017;

(e) except as provided in Subsection (5), for bonds, notes, and other evidences of indebtedness acquired on or after January 1, 2003, the interest from bonds, notes, and other evidences of indebtedness:

(i) issued by one or more of the following entities:

(A) a state other than this state;

(B) the District of Columbia;

(C) a political subdivision of a state other than this state; or

(D) an agency or instrumentality of an entity described in Subsections (1)(e)(i)(A) through (C); and

(ii) to the extent the interest is not included in adjusted gross income on the taxpayer's federal income tax return for the taxable year;

(f) subject to Subsection (2)(c), any distribution received by a resident beneficiary of a resident trust of income that was taxed at the trust level for federal tax purposes, but was subtracted from state taxable income of the trust pursuant to Subsection 59-10-202(2)(b);

(g) any distribution received by a resident beneficiary of a nonresident trust of undistributed distributable net income realized by the trust on or after January 1, 2004, if that undistributed distributable net income was taxed at the trust level for federal tax purposes, but was not taxed at the trust level by any state, with undistributed distributable net income considered to be distributed from the most recently accumulated undistributed distributable net income; and

(h) any adoption expense:

(i) for which a resident or nonresident individual receives reimbursement from another person; and

(ii) to the extent to which the resident or nonresident individual subtracts that adoption expense:

(A) on a return filed under this chapter for a taxable year beginning on or before December 31, 2007; or

(B) from federal taxable income on a federal individual income tax return.

(2) There shall be subtracted from adjusted gross income of a resident or nonresident individual:

(a) the difference between:

(i) the interest or a dividend on an obligation or security of the United States or an authority, commission, instrumentality, or possession of the United States, to the extent that interest or dividend is:

(A) included in adjusted gross income for federal income tax purposes for the taxable year; and

(B) exempt from state income taxes under the laws of the United States; and

(ii) any interest on indebtedness incurred or continued to purchase or carry the obligation or security described in Subsection (2)(a)(i);

(b) [~~for taxable years beginning on or after January 1, 2000,~~] if the conditions of Subsection (3)(a) are met, the amount of income derived by a Ute tribal member:

(i) during a time period that the Ute tribal member resides on homesteaded land diminished from the Uintah and Ouray Reservation; and

(ii) from a source within the Uintah and Ouray Reservation;

(c) an amount received by a resident or nonresident individual or distribution received by a resident or nonresident beneficiary of a resident trust:

(i) if that amount or distribution constitutes a refund of taxes imposed by:

(A) a state; or

(B) the District of Columbia; and

(ii) to the extent that amount or distribution is included in adjusted gross income for that taxable year on the federal individual income tax return of the resident or nonresident individual or resident or nonresident beneficiary of a resident trust;

(d) the amount of a railroad retirement benefit:

(i) paid:

(A) in accordance with The Railroad Retirement Act of 1974, 45 U.S.C. Sec. 231 et seq.;

(B) to a resident or nonresident individual; and

(C) for the taxable year; and

(ii) to the extent that railroad retirement benefit is included in adjusted gross income on that resident or nonresident individual's federal individual income tax return for that taxable year;

(e) an amount:

(i) received by an enrolled member of an American Indian tribe; and

(ii) to the extent that the state is not authorized or permitted to impose a tax under this part on that amount in accordance with:

(A) federal law;

(B) a treaty; or

(C) a final decision issued by a court of competent jurisdiction;

(f) an amount received:

(i) for the interest on a bond, note, or other obligation issued by an entity for which state statute provides an exemption of interest on its bonds from state individual income tax;

(ii) by a resident or nonresident individual;

(iii) for the taxable year; and

(iv) to the extent the amount is included in adjusted gross income on the taxpayer's federal income tax return for the taxable year;

(g) the amount of all income, including income apportioned to another state, of a nonmilitary spouse of an active duty military member if:

(i) both the nonmilitary spouse and the active duty military member are nonresident individuals;

(ii) the active duty military member is stationed in Utah;

(iii) the nonmilitary spouse is subject to the residency provisions of 50 U.S.C. Sec. 4001(a)(2); and

(iv) the income is included in adjusted gross income for federal income tax purposes for the taxable year;

(h) for a taxable year beginning on or after January 1, 2019, but beginning on or before December 31, 2019, only:

(i) the amount of any FDIC premium paid or incurred by the taxpayer that is disallowed as a deduction for federal income tax purposes under Section 162(r), Internal Revenue Code, on the taxpayer's 2018 federal income tax return; plus

(ii) the amount of any FDIC premium paid or incurred by the taxpayer that is disallowed as a deduction for federal income tax purposes under Section 162(r), Internal Revenue Code, for the taxable year;

(i) for a taxable year beginning on or after January 1, 2020, the amount of any FDIC premium paid or incurred by the taxpayer that is disallowed as a deduction for federal income tax purposes under Section 162(r), Internal Revenue Code, for the taxable year; [~~and~~]

(j) for a taxable year beginning on or after January 1, 2020, but beginning on or before December 31, 2020, the amount:

(i) of a paycheck protection loan similar to a loan forgiven in accordance with 15 U.S.C. Sec. 636(a)(36) that is:

(A) authorized by the federal government;

(B) provided in response to COVID-19;

(C) forgiven if the borrower meets the expenditure requirements; and

(D) subject to federal income tax, to the extent that a deduction for the expenditures paid with the loan is disallowed;

(ii) that a resident or a nonresident individual receives that is:

(A) authorized by the federal government as a tax credit for the 2020 tax year;

(B) provided in response to COVID-19;

(C) paid in advance of the filing of the individual's 2020 federal income tax return; and

(D) subject to federal income tax; and

(iii) of any grant funds or forgiven loans that:

(A) the resident or nonresident individual receives from the state, a county within the state, or a municipality within the state in response to COVID-19;

(B) are funded by using federal revenue received by the state, the county, or the municipality to respond to COVID-19; and

(C) are included in adjusted gross income[.]; and

(k) an amount of a distribution from a qualified retirement plan under Section 401(a), Internal Revenue Code, if:

(i) the amount of the distribution is included in adjusted gross income on the resident or nonresident individual's federal individual income tax return for the taxable year; and

(ii) for the taxable year when the amount of the distribution was contributed to the qualified retirement plan, the amount of the distribution:

(A) was not included in adjusted gross income on the resident or nonresident individual's federal individual income tax return for the taxable year; and

(B) was taxed by another state of the United States, the District of Columbia, or a possession of the United States.

(3) (a) A subtraction for an amount described in Subsection (2)(b) is allowed only if:

(i) the taxpayer is a Ute tribal member; and

(ii) the governor and the Ute tribe execute and maintain an agreement meeting the requirements of this Subsection (3).

(b) The agreement described in Subsection (3)(a):

(i) may not:

(A) authorize the state to impose a tax in addition to a tax imposed under this chapter;

(B) provide a subtraction under this section greater than or different from the subtraction described in Subsection (2)(b); or

(C) affect the power of the state to establish rates of taxation; and

(ii) shall:

(A) provide for the implementation of the subtraction described in Subsection (2)(b);

(B) be in writing;

(C) be signed by:

(I) the governor; and

(II) the chair of the Business Committee of the Ute tribe;

(D) be conditioned on obtaining any approval required by federal law; and

(E) state the effective date of the agreement.

(c) (i) The governor shall report to the commission by no later than February 1 of each year regarding whether or not an agreement meeting the requirements of this Subsection (3) is in effect.

(ii) If an agreement meeting the requirements of this Subsection (3) is terminated, the subtraction permitted under Subsection (2)(b) is not allowed for taxable years beginning on or after the January 1 following the termination of the agreement.

(d) For purposes of Subsection (2)(b) and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules:

(i) for determining whether income is derived from a source within the Uintah and Ouray Reservation; and

(ii) that are substantially similar to how adjusted gross income derived from Utah sources is determined under Section 59-10-117.

(4) (a) For purposes of this Subsection (4), "Form 8814" means:

(i) the federal individual income tax Form 8814, Parents' Election To Report Child's Interest and Dividends; or

(ii) (A) a form designated by the commission in accordance with Subsection (4)(a)(ii)(B) as being substantially similar to 2000 Form 8814 if for purposes of federal individual income taxes the information contained on 2000 Form 8814 is reported on a form other than Form 8814; and

(B) for purposes of Subsection (4)(a)(ii)(A) and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules designating a form as being substantially similar to 2000 Form 8814 if for purposes of federal individual income taxes the information contained on 2000 Form 8814 is reported on a form other than Form 8814.

(b) The amount of a child's income added to adjusted gross income under Subsection (1)(b) is equal to the difference between:

(i) the lesser of:

(A) the base amount specified on Form 8814; and

(B) the sum of the following reported on Form 8814:

(I) the child's taxable interest;

(II) the child's ordinary dividends; and

(III) the child's capital gain distributions; and

(ii) the amount not taxed that is specified on Form 8814.

(5) Notwithstanding Subsection (1)(e), interest from bonds, notes, and other evidences of indebtedness issued by an entity described in Subsections (1)(e)(i)(A) through (D) may not be added to adjusted gross income of a resident or nonresident individual if, as annually determined by the commission:

(a) for an entity described in Subsection (1)(e)(i)(A) or (B), the entity and all of the political subdivisions, agencies, or instrumentalities of the entity do not impose a tax based on income on any part of the bonds, notes, and other evidences of indebtedness of this state; or

(b) for an entity described in Subsection (1)(e)(i)(C) or (D), the following do not impose a tax

based on income on any part of the bonds, notes, and other evidences of indebtedness of this state:

(i) the entity; or

(ii) (A) the state in which the entity is located; or

(B) the District of Columbia, if the entity is located within the District of Columbia.

Section 23. Section 59-10-137 is amended to read:

59-10-137. Review of credits allowed under this chapter.

(1) As used in this section, "committee" means the Revenue and Taxation Interim Committee.

(2) (a) The committee shall review the tax credits described in this chapter as provided in Subsection (3) and make recommendations concerning whether the tax credits should be continued, modified, or repealed.

(b) In conducting the review required under Subsection (2)(a), the committee shall:

(i) schedule time on at least one committee agenda to conduct the review;

(ii) invite state agencies, individuals, and organizations concerned with the tax credit under review to provide testimony;

(iii) (A) invite the Governor's Office of Economic Development to present a summary and analysis of the information for each tax credit regarding which the Governor's Office of Economic Development is required to make a report under this chapter; and

(B) invite the Office of the Legislative Fiscal Analyst to present a summary and analysis of the information for each tax credit regarding which the Office of the Legislative Fiscal Analyst is required to make a report under this chapter;

(iv) ensure that the committee's recommendations described in this section include an evaluation of:

(A) the cost of the tax credit to the state;

(B) the purpose and effectiveness of the tax credit; and

(C) the extent to which the state benefits from the tax credit; and

(v) undertake other review efforts as determined by the committee chairs or as otherwise required by law.

(3) (a) On or before November 30, 2017, and every three years after 2017, the committee shall conduct the review required under Subsection (2) of the tax credits allowed under the following sections:

(i) Section 59-10-1004;

(ii) Section 59-10-1010;

(iii) Section 59-10-1015;

(iv) Section 59-10-1025;

(v) Section 59-10-1027;

(vi) Section 59-10-1031;

(vii) Section 59-10-1032;

(viii) Section 59-10-1035;

(ix) Section 59-10-1104;

(x) Section 59-10-1105; and

(xi) Section 59-10-1108.

(b) On or before November 30, 2018, and every three years after 2018, the committee shall conduct the review required under Subsection (2) of the tax credits allowed under the following sections:

(i) Section 59-10-1005;

(ii) Section 59-10-1006;

(iii) Section 59-10-1012;

(iv) Section 59-10-1022;

(v) Section 59-10-1023;

(vi) Section 59-10-1028;

(vii) Section 59-10-1034;

(viii) Section 59-10-1037;

(ix) Section 59-10-1107; and

(x) Section 59-10-1112.

(c) On or before November 30, 2019, and every three years after 2019, the committee shall conduct the review required under Subsection (2) of the tax credits allowed under the following sections:

(i) Section 59-10-1007;

(ii) Section 59-10-1014;

(iii) Section 59-10-1017;

(iv) Section 59-10-1018;

(v) Section 59-10-1019;

(vi) Section 59-10-1024;

(vii) Section 59-10-1029;

[~~(viii) Section 59-10-1033;~~]

[~~(ix)~~] (viii) Section 59-10-1036;

[~~(x)~~] (ix) Section 59-10-1106; and

[~~(xi)~~] (x) Section 59-10-1111.

(d) (i) In addition to the reviews described in this Subsection (3), the committee shall conduct a review of a tax credit described in this chapter that is enacted on or after January 1, 2017.

(ii) The committee shall complete a review described in this Subsection (3)(d) three years after the effective date of the tax credit and every three years after the initial review date.

Section 24. Section 59-10-507 is amended to read:

59-10-507. Return by a pass-through entity.

[~~(1) As used in this section:~~]

[~~(a) "Pass-through entity" is as defined in Section 59-10-1402.~~]

[~~(b) "Taxable~~] (1) As used in this section, "taxable year" means a year or other time period that would be a taxable year of a pass-through entity if the pass-through entity were subject to taxation under this chapter.

(2) A pass-through entity having any income derived from or connected with Utah sources shall make a return for the taxable year in accordance with Section 59-10-514.

Section 25. Section 59-10-514 is amended to read:

59-10-514. Return filing requirements -- Rulemaking authority.

(1) (a) Subject to Subsection (3) and Section 59-10-518:

[~~(a)~~] (i) an individual income tax return filed for a tax imposed in accordance with Part 1, Determination and Reporting of Tax Liability and Information, shall be filed with the commission on or before the day on which a federal individual income tax return is due [~~under the Internal Revenue Code~~];

[~~(b)~~] (ii) a fiduciary income tax return filed for a tax imposed in accordance with Part 2, Trusts and Estates, shall be filed with the commission on or before the day on which a federal return for estates and trusts is due [~~under the Internal Revenue Code~~]; or

[~~(c)~~] (iii) a return filed in accordance with Section 59-10-507 shall be filed with the commission on or before the later of:

(A) the 15th day of the fourth month following the last day of the taxpayer's taxable year[~~.~~]; or

(B) the day on which the taxpayer is required to file a federal income tax return.

(b) Interest accrues from the day on which a return is due under this Subsection (1).

(2) A person required to make and file a return under this chapter shall, without assessment, notice, or demand, pay any tax due:

(a) to the commission; and

(b) before the due date for filing the return, without regard to any extension of time for filing the return.

(3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules prescribing what constitutes filing a return with the commission.

Section 26. Section 59-10-516 is amended to read:

59-10-516. Filing extension -- Payment of tax -- Penalty -- Foreign residency.

(1) (a) The commission shall allow a taxpayer an extension of time for filing a return.

(b) Except as provided in Subsection (1)(c):

(i) [~~For~~] for a return filed by a taxpayer except for a partnership, the extension [~~under~~] described in Subsection (1)(a) may [~~not exceed~~] be up to six months[~~.~~]; and

(ii) [~~For~~] for a return filed by a partnership, the extension [~~under~~] described in Subsection (1)(a) may [~~not exceed~~] be up to five months.

[~~(2) (a) Except as provided in Subsection (2)(b), the commission may not impose on a taxpayer during the extension period prescribed under Subsection (1) a penalty under Section 59-1-401 if the taxpayer pays, on or before the 15th day of the fourth month following the close of the taxpayer's taxable year, the lesser of:~~]

(c) For a taxable year beginning on or after January 1, 2019, but beginning on or before December 31, 2019, a taxpayer may receive an extension described in Subsection (1)(a) for the time period that ends on the last day of the extension to file the taxpayer's federal income tax return.

(2) The commission may not impose a penalty under Section 59-1-401 during the extension period described in Subsection (1) on:

(a) a pass-through entity, if the pass-through entity, on or before the return due date described in Section 59-10-514, pays or withholds the tax on behalf of a pass-through entity taxpayer; or

(b) a taxpayer other than a taxpayer described in Subsection (2)(a), if the taxpayer pays, on or before the return due date described in Section 59-10-514, an amount equal to the lesser of:

(i) 90% of the total tax reported on the return for the current taxable year; or

(ii) 100% of the total tax liability for the taxable year immediately preceding the current taxable year.

[~~(b)~~] (3) If a taxpayer fails to meet the requirements of Subsection (2)[~~(a)~~], the commission may apply to the total balance due a penalty as provided in Section 59-1-401.

[~~(3)~~] (4) If a federal income tax return filing is lawfully delayed pending a determination of qualification for a federal tax exemption due to residency outside of the United States, a taxpayer shall file a return within 30 days after that determination is made.

Section 27. Section 59-10-522 is amended to read:

59-10-522. Extension of time for paying tax.

(1) (a) For a taxable year beginning on or after January 1, 2019, but beginning on or before December 31, 2019, a taxpayer shall receive an extension of time for the payment of the amount determined as the tax of the taxpayer, or any part of that amount, for the time period that ends on the last day of the extension to pay the taxpayer's federal income tax.

[~~(1) The~~] (b) (i) For a taxable year beginning on or after January 1, 2020, the commission, except as otherwise provided by this chapter, may extend the

time for payment of the amount shown, or required to be shown, on any return required under authority of this chapter (or any installment thereof), for a reasonable period not to exceed six months from the date fixed for payment thereof.

(ii) [~~Such~~] The extension may exceed six months in the cases of taxpayers who are outside the states of the union and the District of Columbia.

(2) (a) Under rules prescribed by the commission, the time for payment of the amount determined as a deficiency may be extended for a period not to exceed 18 months from the date fixed for payment of the deficiency, and, in exceptional cases, for a further period not to exceed 12 months.

(b) An extension under this subsection may be granted only where it is shown to the satisfaction of the commission that the payment of a deficiency upon the date fixed for the payment thereof will result in undue hardship to the taxpayer.

(c) No extension may be granted if the deficiency is due to negligence, to intentional disregard of rules, or to fraud with intent to evade tax.

(3) [~~Extensions~~] An extension of time for payment of any portion of a claim for an unpaid tax under this chapter, allowed in bankruptcy or receivership proceedings, [~~which is unpaid,~~] may be had in the same manner and subject to the same provisions and limitations as provided in Subsection (2) [~~in respect of a deficiency in tax~~].

Section 28. Section 59-10-1007 is amended to read:

59-10-1007. Recycling market development zones tax credits.

(1) Subject to other provisions of this section, a claimant, estate, or trust in a recycling market development zone as defined in Section 19-13-102 may claim the following nonrefundable tax credits:

(a) a tax credit [~~of 5% of~~] equal to the product of the percentage listed in Subsection 59-10-104(2) and the purchase price paid for machinery and equipment used directly in:

(i) commercial composting; or

(ii) manufacturing facilities or plant units that:

(A) manufacture, process, compound, or produce recycled items of tangible personal property for sale; or

(B) reduce or reuse postconsumer waste material; and

(b) a tax credit equal to the lesser of:

(i) 20% of net expenditures to third parties for rent, wages, supplies, tools, test inventory, and utilities made by the claimant, estate, or trust for establishing and operating recycling or composting technology in the state; and

(ii) $2,000.

(2) (a) To claim a tax credit described in Subsection (1), the claimant, estate, or trust shall receive from the Department of Environmental Quality a written certification, on a form approved by the commission, that includes:

(i) a statement that the claimant, estate, or trust is operating within the boundaries of a recycling market development zone;

(ii) for a claim of the tax credit described in Subsection (1)(a):

(A) the type of the machinery and equipment that the claimant, estate, or trust purchased;

(B) the date that the claimant, estate, or trust purchased the machinery and equipment;

(C) the purchase price for the machinery and equipment;

(D) the total purchase price for all machinery and equipment for which the claimant, estate, or trust is claiming a tax credit;

(E) the amount of the claimant's, estate's, or trust's tax credit; and

(F) a statement that the machinery and equipment are integral to the composting or recycling process; and

(iii) for a claim of the tax credit described in Subsection (1)(b):

(A) the type of net expenditure that the claimant, estate, or trust made to a third party;

(B) the date that the claimant, estate, or trust made the payment to a third party;

(C) the amount that the claimant, estate, or trust paid to each third party;

(D) the total amount that the claimant, estate, or trust paid to all third parties;

(E) a statement that the net expenditures support the establishment and operation of recycling or composting technology in the state; and

(F) the amount of the claimant's, estate's, or trust's tax credit.

(b) (i) The Department of Environmental Quality shall provide a claimant, estate, or trust seeking to claim a tax credit under Subsection (1) with a copy of the written certification.

(ii) The claimant, estate, or trust shall retain a copy of the written certification for the same period of time that a person is required to keep books and records under Section 59-1-1406.

(c) The Department of Environmental Quality shall submit to the commission an electronic list that includes:

(i) the name and identifying information of each claimant, estate, or trust to which the Department of Environmental Quality issues a written certification; and

(ii) for each claimant, estate, or trust, the amount of each tax credit listed on the written certification.

(3) A claimant, estate, or trust may not claim a tax credit under Subsection (1)(a), Subsection (1)(b), or

both that exceeds 40% of the claimant's, estate's, or trust's state income tax liability as the tax liability is calculated:

(a) for the taxable year in which the claimant, estate, or trust made the purchases or payments;

(b) before any other tax credits the claimant, estate, or trust may claim for the taxable year; and

(c) before the claimant, estate, or trust claims a tax credit authorized by this section.

(4) The commission shall make rules governing what information a claimant, estate, or trust shall file with the commission to verify the entitlement to and amount of a tax credit.

(5) Except as provided in Subsections (6) through (8), a claimant, estate, or trust may carry forward, to the next three taxable years, the amount of a tax credit described in Subsection (1)(a) that the claimant, estate, or trust does not use for the taxable year.

(6) A claimant, estate, or trust may not claim or carry forward a tax credit described in Subsection (1)(a) in a taxable year during which the claimant, estate, or trust claims or carries forward a tax credit under Section 63N-2-213.

(7) A claimant, estate, or trust may not claim a tax credit described in Subsection (1)(b) in a taxable year during which the claimant, estate, or trust claims or carries forward a tax credit under Section 63N-2-213.

(8) A claimant, estate, or trust may not claim or carry forward a tax credit under this section for a taxable year during which the claimant, estate, or trust claims the targeted business income tax credit under Section 59-10-1112.

Section 29. Section 59-10-1017 is amended to read:

59-10-1017. Utah Educational Savings Plan tax credit.

(1) As used in this section:

(a) "Account owner" means the same as that term is defined in Section 53B-8a-102.

(b) "Grantor trust" means the same as that term is defined in Section 53B-8a-102.5.

(c) "Higher education costs" means the same as that term is defined in Section 53B-8a-102.5.

(d) "Maximum amount of a qualified investment for the taxable year" means, for a taxable year, the product of [~~5%~~] the percentage listed in Subsection 59-10-104(2) and:

(i) subject to Subsection (1)(d)(iii), for a claimant, estate, or trust that is an account owner, if that claimant, estate, or trust is other than husband and wife account owners who file a single return jointly, the maximum amount of a qualified investment:

(A) listed in Subsection 53B-8a-106(1)(e)(ii); and

(B) increased or kept for that taxable year in accordance with Subsections 53B-8a-106(1)(f) and (g);

(ii) subject to Subsection (1)(d)(iii), for claimants who are husband and wife account owners who file a single return jointly, the maximum amount of a qualified investment:

(A) listed in Subsection 53B-8a-106(1)(e)(iii); and

(B) increased or kept for that taxable year in accordance with Subsections 53B-8a-106(1)(f) and (g); or

(iii) for a grantor trust:

(A) if the owner of the grantor trust has a single filing status or head of household filing status as defined in Section 59-10-1018, the amount described in Subsection (1)(d)(i); or

(B) if the owner of the grantor trust has a joint filing status as defined in Section 59-10-1018, the amount described in Subsection (1)(d)(ii).

(e) "Owner of the grantor trust" means the same as that term is defined in Section 53B-8a-102.5.

(f) "Qualified investment" means the same as that term is defined in Section 53B-8a-102.5.

(2) Except as provided in Section 59-10-1002.2 and subject to the other provisions of this section, a claimant, estate, or trust that is an account owner may claim a nonrefundable tax credit equal to the product of:

(a) the amount of a qualified investment made:

(i) during the taxable year; and

(ii) into an account owned by the claimant, estate, or trust; and

[~~(b) 5%.~~]

(b) the percentage listed in Subsection 59-10-104(2).

(3) A claimant, estate, or trust, or a person other than the claimant, estate, or trust, may make a qualified investment described in Subsection (2).

(4) A claimant, estate, or trust that is an account owner may not claim a tax credit under this section with respect to any portion of a qualified investment described in Subsection (2) that a claimant, estate, trust, or person described in Subsection (3) deducts on a federal income tax return.

(5) A tax credit under this section may not exceed the maximum amount of a qualified investment for the taxable year.

(6) A claimant, estate, or trust that is an account owner may not carry forward or carry back the tax credit under this section.

(7) A claimant, estate, or trust may claim a tax credit under this section in addition to the tax credit described in Section 59-10-1017.1.

Section 30. Section 59-10-1017.1 is amended to read:

59-10-1017.1. Student Prosperity Savings Program tax credit.

(1) As used in this section, "qualified donation" means an amount donated, in accordance with Section 53B-8a-203, to the Student Prosperity Savings Program created in Section 53B-8a-202.

(2) A claimant, estate, or trust may claim a nonrefundable tax credit for a qualified donation.

(3) The tax credit equals the product of:

(a) the qualified donation; and

[~~(b) 5%.~~]

(b) the percentage listed in Subsection 59-10-104(2).

(4) A claimant, estate, or trust may not claim a tax credit under this section with respect to any portion of a qualified donation that a claimant, estate, or trust deducts on a federal income tax return.

(5) A claimant, estate, or trust may not carry forward or carry back the portion of the tax credit allowed by this section that exceeds the claimant's, estate's, or trust's tax liability for the taxable year in which the claimant, estate, or trust claims the tax credit.

(6) A claimant, estate, or trust may claim a tax credit under this section in addition to the tax credit described in Section 59-10-1017.

Section 31. Section 59-10-1022 is amended to read:

59-10-1022. Nonrefundable tax credit for capital gain transactions.

(1) As used in this section:

(a) (i) "Capital gain transaction" means a transaction that results in a:

(A) short-term capital gain; or

(B) long-term capital gain.

(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "transaction."

(b) "Commercial domicile" means the principal place from which the trade or business of a Utah small business corporation is directed or managed.

(c) "Long-term capital gain" is as defined in Section 1222, Internal Revenue Code.

(d) "Qualifying stock" means stock that is:

(i) (A) common; or

(B) preferred;

(ii) as defined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, originally issued to:

(A) a claimant, estate, or trust; or

(B) a partnership if the claimant, estate, or trust that claims a tax credit under this section:

(I) was a partner on the day on which the stock was issued; and

(II) remains a partner until the last day of the taxable year for which the claimant, estate, or trust claims a tax credit under this section; and

(iii) issued:

(A) by a Utah small business corporation;

(B) on or after January 1, 2008; and

(C) for:

(I) money; or

(II) other property, except for stock or securities.

(e) "Short-term capital gain" is as defined in Section 1222, Internal Revenue Code.

(f) (i) "Utah small business corporation" means a corporation that:

(A) except as provided in Subsection (1)(f)(ii), is a small business corporation as defined in Section 1244(c)(3), Internal Revenue Code;

(B) except as provided in Subsection (1)(f)(iii), meets the requirements of Section 1244(c)(1)(C), Internal Revenue Code; and

(C) has its commercial domicile in this state.

(ii) The dollar amount listed in Section 1244(c)(3)(A) is considered to be $2,500,000.

(iii) The phrase "the date the loss on such stock was sustained" in Sections 1244(c)(1)(C) and 1244(c)(2), Internal Revenue Code, is considered to be "the last day of the taxable year for which the claimant, estate, or trust claims a tax credit under this section."

(2) For taxable years beginning on or after January 1, 2008, a claimant, estate, or trust that meets the requirements of Subsection (3) may claim a nonrefundable tax credit equal to the product of:

(a) the total amount of the claimant's, estate's, or trust's short-term capital gain or long-term capital gain on a capital gain transaction that occurs on or after January 1, 2008; and

[~~(b) 5%.~~]

(b) the percentage listed in Subsection 59-10-104(2).

(3) For purposes of Subsection (2), a claimant, estate, or trust may claim the nonrefundable tax credit allowed by Subsection (2) if:

(a) 70% or more of the gross proceeds of the capital gain transaction are expended:

(i) to purchase qualifying stock in a Utah small business corporation; and

(ii) within a 12-month period after the day on which the capital gain transaction occurs; and

(b) prior to the purchase of the qualifying stock described in Subsection (3)(a)(i), the claimant, estate, or trust did not have an ownership interest in the Utah small business corporation that issued the qualifying stock.

(4) A claimant, estate, or trust may not carry forward or carry back a tax credit under this section.

(5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules:

(a) defining the term "gross proceeds"; and

(b) prescribing the circumstances under which a claimant, estate, or trust has an ownership interest in a Utah small business corporation.

Section 32. Section 59-10-1023 is amended to read:

59-10-1023. Nonrefundable tax credit for amounts paid under a health benefit plan.

(1) As used in this section:

(a) "Claimant with dependents" means a claimant:

(i) regardless of the claimant's filing status for purposes of filing a federal individual income tax return for the taxable year; and

(ii) who claims one or more dependents under Section 151, Internal Revenue Code, as allowed on the claimant's federal individual income tax return for the taxable year.

(b) "Eligible insured individual" means:

(i) the claimant who is insured under a health benefit plan;

(ii) the spouse of the claimant described in Subsection (1)(b)(i) if:

(A) the claimant files a single return jointly under this chapter with the claimant's spouse for the taxable year; and

(B) the spouse is insured under the health benefit plan described in Subsection (1)(b)(i); or

(iii) a dependent of the claimant described in Subsection (1)(b)(i) if:

(A) the claimant claims the dependent under Section 151, Internal Revenue Code, as allowed on the claimant's federal individual income tax return for the taxable year; and

(B) the dependent is insured under the health benefit plan described in Subsection (1)(b)(i).

(c) "Excluded expenses" means an amount a claimant pays for insurance offered under a health benefit plan for a taxable year if:

(i) the claimant claims a tax credit for that amount under Section 35, Internal Revenue Code:

(A) on the claimant's federal individual income tax return for the taxable year; and

(B) with respect to an eligible insured individual;

(ii) the claimant deducts that amount under Section 162 or 213, Internal Revenue Code:

(A) on the claimant's federal individual income tax return for the taxable year; and

(B) with respect to an eligible insured individual; or

(iii) the claimant excludes that amount from gross income under Section 106 or 125, Internal Revenue Code, with respect to an eligible insured individual.

(d) (i) "Health benefit plan" is as defined in Section 31A-1-301.

(ii) "Health benefit plan" does not include equivalent self-insurance as defined by the Insurance Department by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(e) "Joint claimant with no dependents" means a husband and wife who:

(i) file a single return jointly under this chapter for the taxable year; and

(ii) do not claim a dependent under Section 151, Internal Revenue Code, on the husband's and wife's federal individual income tax return for the taxable year.

(f) "Single claimant with no dependents" means:

(i) a single individual who:

(A) files a single federal individual income tax return for the taxable year; and

(B) does not claim a dependent under Section 151, Internal Revenue Code, on the single individual's federal individual income tax return for the taxable year;

(ii) a head of household:

(A) as defined in Section 2(b), Internal Revenue Code, who files a single federal individual income tax return for the taxable year; and

(B) who does not claim a dependent under Section 151, Internal Revenue Code, on the head of household's federal individual income tax return for the taxable year; or

(iii) a married individual who:

(A) does not file a single federal individual income tax return jointly with that married individual's spouse for the taxable year; and

(B) does not claim a dependent under Section 151, Internal Revenue Code, on that married individual's federal individual income tax return for the taxable year.

(2) Subject to Subsection (3), and except as provided in Subsection (4), for taxable years beginning on or after January 1, 2009, a claimant may claim a nonrefundable tax credit equal to the product of:

(a) the difference between:

(i) the total amount the claimant pays during the taxable year for:

(A) insurance offered under a health benefit plan; and

(B) an eligible insured individual; and

(ii) excluded expenses; and

[~~(b) 5%.~~]

(b) the percentage listed in Subsection 59-10-104(2).

(3) The maximum amount of a tax credit described in Subsection (2) a claimant may claim on a return for a taxable year is:

(a) for a single claimant with no dependents, $300;

(b) for a joint claimant with no dependents, $600; or

(c) for a claimant with dependents, $900.

(4) A claimant may not claim a tax credit under this section if the claimant is eligible to participate in insurance offered under a health benefit plan maintained and funded in whole or in part by:

(a) the claimant's employer; or

(b) another person's employer.

(5) A claimant may not carry forward or carry back a tax credit under this section.

Section 33. Section 59-10-1028 is amended to read:

59-10-1028. Nonrefundable tax credit for capital gain transactions on the exchange of one form of legal tender for another form of legal tender.

(1) As used in this section:

(a) "Capital gain transaction" means a transaction that results in a:

(i) short-term capital gain; or

(ii) long-term capital gain.

(b) "Long-term capital gain" is as defined in Section 1222, Internal Revenue Code.

(c) "Long-term capital loss" is as defined in Section 1222, Internal Revenue Code.

(d) "Net capital gain" means the amount by which the sum of long-term capital gains and short-term capital gains on a claimant's, estate's, or trust's transactions from exchanges made for a taxable year of one form of legal tender for another form of legal tender exceeds the sum of long-term capital losses and short-term capital losses on those transactions for that taxable year.

(e) "Short-term capital loss" is as defined in Section 1222, Internal Revenue Code.

(f) "Short-term capital gain" is as defined in Section 1222, Internal Revenue Code.

(2) Except as provided in Section 59-10-1002.2, for taxable years beginning on or after January 1, 2012, a claimant, estate, or trust may claim a nonrefundable tax credit equal to the product of:

(a) to the extent a net capital gain is included in taxable income, the amount of the claimant's, estate's, or trust's net capital gain on capital gain transactions from exchanges made on or after January 1, 2012, for a taxable year, of one form of legal tender for another form of legal tender; and

[~~(b) 5%.~~]

(b) the percentage listed in Subsection 59-10-104(2).

(3) A claimant, estate, or trust may not carry forward or carry back a tax credit under this section.

(4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules to implement this section.

Section 34. Section 59-10-1035 is amended to read:

59-10-1035. Nonrefundable tax credit for contribution to state Achieving a Better Life Experience Program account.

(1) As used in this section:

(a) "Account" means an account in a qualified ABLE program where the designated beneficiary of the account is a resident of this state.

(b) "Contributor" means a claimant, estate, or trust that:

(i) makes a contribution to an account; and

(ii) receives a statement from the qualified ABLE program itemizing the contribution.

(c) "Designated beneficiary" means the same as that term is defined in 26 U.S.C. Sec. 529A.

(d) "Qualified ABLE program" means the same as that term is defined in Section 35A-12-102.

(2) A contributor to an account may claim a nonrefundable tax credit as provided in this section.

(3) Subject to the other provisions of this section, the tax credit is equal to the product of:

[~~(a) 5%; and~~]

(a) the percentage listed in Subsection 59-10-104(2); and

(b) the total amount of contributions:

(i) the contributor makes for the taxable year; and

(ii) for which the contributor receives a statement from the qualified ABLE program itemizing the contributions.

(4) A contributor may not claim a tax credit under this section:

(a) for an amount of excess contribution to an account that is returned to the contributor; or

(b) with respect to an amount the contributor deducts on a federal income tax return.

(5) A tax credit under this section may not be carried forward or carried back.

Section 35. Section 59-10-1036 is amended to read:

59-10-1036. Nonrefundable tax credit for military survivor benefits.

(1) As used in this section:

(a) "Dependent child" means the same as that term is defined in 10 U.S.C. Sec. 1447.

(b) "Reserve components" means the same as that term is described in 10 U.S.C. Sec. 10101.

(c) "Surviving spouse" means the same as that term is defined in 10 U.S.C. Sec. 1447.

(d) "Survivor benefits" means the amount paid by the federal government in accordance with 10 U.S.C. Secs. 1447 through 1455.

(2) A surviving spouse or dependent child may claim a nonrefundable tax credit for survivor benefits if the benefits are paid due to:

(a) the death of a member of the armed forces or reserve components while on active duty; or

(b) the death of a member of the reserve components that results from a service-connected cause while performing inactive duty training.

(3) The tax credit described in Subsection (2) is equal to the product of:

(a) the amount of survivor benefits that the surviving spouse or dependent child received during the taxable year; and

[~~(b) 5%.~~]

(b) the percentage listed in Subsection 59-10-104(2).

(4) The tax credit described in Subsection (2):

(a) may not be carried forward or carried back; and

(b) applies to a taxable year beginning on or after January 1, 2017.

Section 36. Section 59-10-1403 is amended to read:

59-10-1403. Income tax treatment of a pass-through entity -- Returns -- Classification same as under Internal Revenue Code.

(1) Subject to Subsection (3), a pass-through entity is not subject to a tax imposed by this chapter.

(2) Except as provided in Section 59-10-1403.3, the income, gain, loss, deduction, or credit of a pass-through entity shall be passed through to one or more pass-through entity taxpayers as provided in this part.

(3) A pass-through entity is subject to the return filing requirements of Sections 59-10-507 [~~and~~], 59-10-514, and 59-10-516.

(4) For purposes of taxation under this title, a pass-through entity that transacts business in the state shall be classified in the same manner as the pass-through entity is classified for federal income tax purposes.

Section 37. Section 59-10-1403.3 is amended to read:

59-10-1403.3. Refund of amounts paid or withheld for a pass-through entity.

(1) As used in this section:

(a) "Committee" means the Revenue and Taxation Interim Committee.

(b) "Qualifying excess withholding" means an amount that:

(i) is paid or withheld:

(A) by a pass-through entity that has a different taxable year than the pass-through entity that requests a refund under this section; and

(B) on behalf of the pass-through entity that requests the refund, if the pass-through entity that requests the refund also is a pass-through entity taxpayer; and

(ii) is equal to the difference between:

(A) the amount paid or withheld for the taxable year on behalf of the pass-through entity that requests the refund; and

(B) the product of [~~5%~~] the percentage listed in Subsection 59-10-104(2) and the income, described in Subsection 59-10-1403.2(1)(a)(i), of the pass-through entity that requests the refund.

(2) For a taxable year ending on or after July 1, 2017, a pass-through entity may claim a refund of qualifying excess withholding, if the amount of the qualifying excess withholding is equal to or greater than $250,000.

(3) A pass-through entity that requests a refund of qualifying excess withholding under this section shall:

(a) apply to the commission for a refund on or, subject to Subsection (4), after the day on which the pass-through entity files the pass-through entity's income tax return; and

(b) provide any information that the commission may require to determine that the pass-through entity is eligible to receive the refund.

(4) A pass-through entity shall claim a refund of qualifying excess withholding under this section within 30 days after the earlier of the day on which:

(a) the pass-through entity files an income tax return; or

(b) the pass-through entity's income tax return is due, including any extension of due date authorized in statute.

(5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules establishing the information that a pass-through entity shall provide to the commission to obtain a refund of qualifying excess withholding under this section.

(6) (a) On or before November 30, 2018, the committee shall review the $250,000 threshold described in Subsection (2) for the purpose of assessing whether the threshold amount should be maintained, increased, or decreased.

(b) To assist the committee in conducting the review described in Subsection (6)(a), the commission shall provide the committee with:

(i) the total number of refund requests made under this section;

(ii) the total costs of any refunds issued under this section;

(iii) the costs of any audits conducted on refund requests made under this section; and

(iv) an estimation of:

(A) the number of refund requests the commission expects to receive if the Legislature increases the threshold;

(B) the number of refund requests the commission expects to receive if the Legislature decreases the threshold; and

(C) the costs of any audits the commission would conduct if the Legislature increases or decreases the threshold.

Section 38. Section 59-12-102 is amended to read:

59-12-102. Definitions.

As used in this chapter:

(1) "800 service" means a telecommunications service that:

(a) allows a caller to dial a toll-free number without incurring a charge for the call; and

(b) is typically marketed:

(i) under the name 800 toll-free calling;

(ii) under the name 855 toll-free calling;

(iii) under the name 866 toll-free calling;

(iv) under the name 877 toll-free calling;

(v) under the name 888 toll-free calling; or

(vi) under a name similar to Subsections (1)(b)(i) through (v) as designated by the Federal Communications Commission.

(2) (a) "900 service" means an inbound toll telecommunications service that:

(i) a subscriber purchases;

(ii) allows a customer of the subscriber described in Subsection (2)(a)(i) to call in to the subscriber's:

(A) prerecorded announcement; or

(B) live service; and

(iii) is typically marketed:

(A) under the name 900 service; or

(B) under a name similar to Subsection (2)(a)(iii)(A) as designated by the Federal Communications Commission.

(b) "900 service" does not include a charge for:

(i) a collection service a seller of a telecommunications service provides to a subscriber; or

(ii) the following a subscriber sells to the subscriber's customer:

(A) a product; or

(B) a service.

(3) (a) "Admission or user fees" includes season passes.

(b) "Admission or user fees" does not include:

(i) annual membership dues to private organizations; or

(ii) a lesson, including a lesson that involves as part of the lesson equipment or a facility listed in Subsection 59-12-103(1)(f).

(4) "Affiliate" or "affiliated person" means a person that, with respect to another person:

(a) has an ownership interest of more than 5%, whether direct or indirect, in that other person; or

(b) is related to the other person because a third person, or a group of third persons who are affiliated persons with respect to each other, holds an ownership interest of more than 5%, whether direct or indirect, in the related persons.

(5) "Agreement" means the Streamlined Sales and Use Tax Agreement adopted on November 12, 2002, including amendments made to the Streamlined Sales and Use Tax Agreement after November 12, 2002.

(6) "Agreement combined tax rate" means the sum of the tax rates:

(a) listed under Subsection (7); and

(b) that are imposed within a local taxing jurisdiction.

(7) "Agreement sales and use tax" means a tax imposed under:

(a) Subsection 59-12-103(2)(a)(i)(A);

(b) Subsection 59-12-103(2)(b)(i);

(c) Subsection 59-12-103(2)(c)(i);

(d) Subsection 59-12-103(2)(d);

[~~(d)~~] (e) Subsection 59-12-103(2)[~~(d)~~](e)(i)(A)(I);

[~~(e)~~] (f) Section 59-12-204;

[~~(f)~~] (g) Section 59-12-401;

[~~(g)~~] (h) Section 59-12-402;

[~~(h)~~] (i) Section 59-12-402.1;

[~~(i)~~] (j) Section 59-12-703;

[~~(j)~~] (k) Section 59-12-802;

[~~(k)~~] (l) Section 59-12-804;

[~~(l)~~] (m) Section 59-12-1102;

[~~(m)~~] (n) Section 59-12-1302;

[~~(n)~~] (o) Section 59-12-1402;

[~~(o)~~] (p) Section 59-12-1802;

[~~(p)~~] (q) Section 59-12-2003;

[~~(q)~~] (r) Section 59-12-2103;

[~~(r)~~] (s) Section 59-12-2213;

[~~(s)~~] (t) Section 59-12-2214;

[~~(t)~~] (u) Section 59-12-2215;

[~~(u)~~] (v) Section 59-12-2216;

[~~(v)~~] (w) Section 59-12-2217;

[~~(w)~~] (x) Section 59-12-2218;

[~~(x)~~] (y) Section 59-12-2219; or

[~~(y)~~] (z) Section 59-12-2220.

(8) "Aircraft" means the same as that term is defined in Section 72-10-102.

(9) "Aircraft maintenance, repair, and overhaul provider" means a business entity:

(a) except for:

(i) an airline as defined in Section 59-2-102; or

(ii) an affiliated group, as defined in Section 59-7-101, except that "affiliated group" includes a corporation that is qualified to do business but is not otherwise doing business in the state, of an airline; and

(b) that has the workers, expertise, and facilities to perform the following, regardless of whether the business entity performs the following in this state:

(i) check, diagnose, overhaul, and repair:

(A) an onboard system of a fixed wing turbine powered aircraft; and

(B) the parts that comprise an onboard system of a fixed wing turbine powered aircraft;

(ii) assemble, change, dismantle, inspect, and test a fixed wing turbine powered aircraft engine;

(iii) perform at least the following maintenance on a fixed wing turbine powered aircraft:

(A) an inspection;

(B) a repair, including a structural repair or modification;

(C) changing landing gear; and

(D) addressing issues related to an aging fixed wing turbine powered aircraft;

(iv) completely remove the existing paint of a fixed wing turbine powered aircraft and completely apply new paint to the fixed wing turbine powered aircraft; and

(v) refurbish the interior of a fixed wing turbine powered aircraft in a manner that results in a change in the fixed wing turbine powered aircraft's certification requirements by the authority that certifies the fixed wing turbine powered aircraft.

(10) "Alcoholic beverage" means a beverage that:

(a) is suitable for human consumption; and

(b) contains .5% or more alcohol by volume.

(11) "Alternative energy" means:

(a) biomass energy;

(b) geothermal energy;

(c) hydroelectric energy;

(d) solar energy;

(e) wind energy; or

(f) energy that is derived from:

(i) coal-to-liquids;

(ii) nuclear fuel;

(iii) oil-impregnated diatomaceous earth;

(iv) oil sands;

(v) oil shale;

(vi) petroleum coke; or

(vii) waste heat from:

(A) an industrial facility; or

(B) a power station in which an electric generator is driven through a process in which water is heated, turns into steam, and spins a steam turbine.

(12) (a) Subject to Subsection (12)(b), "alternative energy electricity production facility" means a facility that:

(i) uses alternative energy to produce electricity; and

(ii) has a production capacity of two megawatts or greater.

(b) A facility is an alternative energy electricity production facility regardless of whether the facility is:

(i) connected to an electric grid; or

(ii) located on the premises of an electricity consumer.

(13) (a) "Ancillary service" means a service associated with, or incidental to, the provision of telecommunications service.

(b) "Ancillary service" includes:

(i) a conference bridging service;

(ii) a detailed communications billing service;

(iii) directory assistance;

(iv) a vertical service; or

(v) a voice mail service.

(14) "Area agency on aging" means the same as that term is defined in Section 62A-3-101.

(15) "Assisted amusement device" means an amusement device, skill device, or ride device that is started and stopped by an individual:

(a) who is not the purchaser or renter of the right to use or operate the amusement device, skill device, or ride device; and

(b) at the direction of the seller of the right to use the amusement device, skill device, or ride device.

(16) "Assisted cleaning or washing of tangible personal property" means cleaning or washing of tangible personal property if the cleaning or washing labor is primarily performed by an individual:

(a) who is not the purchaser of the cleaning or washing of the tangible personal property; and

(b) at the direction of the seller of the cleaning or washing of the tangible personal property.

(17) "Authorized carrier" means:

(a) in the case of vehicles operated over public highways, the holder of credentials indicating that the vehicle is or will be operated pursuant to both the International Registration Plan and the International Fuel Tax Agreement;

(b) in the case of aircraft, the holder of a Federal Aviation Administration operating certificate or air carrier's operating certificate; or

(c) in the case of locomotives, freight cars, railroad work equipment, or other rolling stock, a person who uses locomotives, freight cars, railroad work equipment, or other rolling stock in more than one state.

(18) (a) Except as provided in Subsection (18)(b), "biomass energy" means any of the following that is used as the primary source of energy to produce fuel or electricity:

(i) material from a plant or tree; or

(ii) other organic matter that is available on a renewable basis, including:

(A) slash and brush from forests and woodlands;

(B) animal waste;

(C) waste vegetable oil;

(D) methane or synthetic gas produced at a landfill, as a byproduct of the treatment of wastewater residuals, or through the conversion of a waste material through a nonincineration, thermal conversion process;

(E) aquatic plants; and

(F) agricultural products.

(b) "Biomass energy" does not include:

(i) black liquor; or

(ii) treated woods.

(19) (a) "Bundled transaction" means the sale of two or more items of tangible personal property, products, or services if the tangible personal property, products, or services are:

(i) distinct and identifiable; and

(ii) sold for one nonitemized price.

(b) "Bundled transaction" does not include:

(i) the sale of tangible personal property if the sales price varies, or is negotiable, on the basis of the selection by the purchaser of the items of tangible personal property included in the transaction;

(ii) the sale of real property;

(iii) the sale of services to real property;

(iv) the retail sale of tangible personal property and a service if:

(A) the tangible personal property:

(I) is essential to the use of the service; and

(II) is provided exclusively in connection with the service; and

(B) the service is the true object of the transaction;

(v) the retail sale of two services if:

(A) one service is provided that is essential to the use or receipt of a second service;

(B) the first service is provided exclusively in connection with the second service; and

(C) the second service is the true object of the transaction;

(vi) a transaction that includes tangible personal property or a product subject to taxation under this chapter and tangible personal property or a product that is not subject to taxation under this chapter if the:

(A) seller's purchase price of the tangible personal property or product subject to taxation under this chapter is de minimis; or

(B) seller's sales price of the tangible personal property or product subject to taxation under this chapter is de minimis; and

(vii) the retail sale of tangible personal property that is not subject to taxation under this chapter and tangible personal property that is subject to taxation under this chapter if:

(A) that retail sale includes:

(I) food and food ingredients;

(II) a drug;

(III) durable medical equipment;

(IV) mobility enhancing equipment;

(V) an over-the-counter drug;

(VI) a prosthetic device; or

(VII) a medical supply; and

(B) subject to Subsection (19)(f):

(I) the seller's purchase price of the tangible personal property subject to taxation under this chapter is 50% or less of the seller's total purchase price of that retail sale; or

(II) the seller's sales price of the tangible personal property subject to taxation under this chapter is 50% or less of the seller's total sales price of that retail sale.

(c) (i) For purposes of Subsection (19)(a)(i), tangible personal property, a product, or a service that is distinct and identifiable does not include:

(A) packaging that:

(I) accompanies the sale of the tangible personal property, product, or service; and

(II) is incidental or immaterial to the sale of the tangible personal property, product, or service;

(B) tangible personal property, a product, or a service provided free of charge with the purchase of another item of tangible personal property, a product, or a service; or

(C) an item of tangible personal property, a product, or a service included in the definition of "purchase price."

(ii) For purposes of Subsection (19)(c)(i)(B), an item of tangible personal property, a product, or a service is provided free of charge with the purchase of another item of tangible personal property, a product, or a service if the sales price of the purchased item of tangible personal property, product, or service does not vary depending on the inclusion of the tangible personal property, product, or service provided free of charge.

(d) (i) For purposes of Subsection (19)(a)(ii), property sold for one nonitemized price does not include a price that is separately identified by tangible personal property, product, or service on the following, regardless of whether the following is in paper format or electronic format:

(A) a binding sales document; or

(B) another supporting sales-related document that is available to a purchaser.

(ii) For purposes of Subsection (19)(d)(i), a binding sales document or another supporting sales-related document that is available to a purchaser includes:

(A) a bill of sale;

(B) a contract;

(C) an invoice;

(D) a lease agreement;

(E) a periodic notice of rates and services;

(F) a price list;

(G) a rate card;

(H) a receipt; or

(I) a service agreement.

(e) (i) For purposes of Subsection (19)(b)(vi), the sales price of tangible personal property or a product subject to taxation under this chapter is de minimis if:

(A) the seller's purchase price of the tangible personal property or product is 10% or less of the seller's total purchase price of the bundled transaction; or

(B) the seller's sales price of the tangible personal property or product is 10% or less of the seller's total sales price of the bundled transaction.

(ii) For purposes of Subsection (19)(b)(vi), a seller:

(A) shall use the seller's purchase price or the seller's sales price to determine if the purchase price or sales price of the tangible personal property or product subject to taxation under this chapter is de minimis; and

(B) may not use a combination of the seller's purchase price and the seller's sales price to determine if the purchase price or sales price of the tangible personal property or product subject to taxation under this chapter is de minimis.

(iii) For purposes of Subsection (19)(b)(vi), a seller shall use the full term of a service contract to determine if the sales price of tangible personal property or a product is de minimis.

(f) For purposes of Subsection (19)(b)(vii)(B), a seller may not use a combination of the seller's purchase price and the seller's sales price to determine if tangible personal property subject to taxation under this chapter is 50% or less of the seller's total purchase price or sales price of that retail sale.

(20) "Certified automated system" means software certified by the governing board of the agreement that:

(a) calculates the agreement sales and use tax imposed within a local taxing jurisdiction:

(i) on a transaction; and

(ii) in the states that are members of the agreement;

(b) determines the amount of agreement sales and use tax to remit to a state that is a member of the agreement; and

(c) maintains a record of the transaction described in Subsection (20)(a)(i).

(21) "Certified service provider" means an agent certified:

(a) by the governing board of the agreement; and

(b) to perform a seller's sales and use tax functions for an agreement sales and use tax, as outlined in the contract between the governing board of the agreement and the certified service provider, other than the seller's obligation under Section 59-12-124 to remit a tax on the seller's own purchases.

(22) (a) Subject to Subsection (22)(b), "clothing" means all human wearing apparel suitable for general use.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules:

(i) listing the items that constitute "clothing"; and

(ii) that are consistent with the list of items that constitute "clothing" under the agreement.

(23) "Coal-to-liquid" means the process of converting coal into a liquid synthetic fuel.

(24) "Commercial use" means the use of gas, electricity, heat, coal, fuel oil, or other fuels that does not constitute industrial use under Subsection (57) or residential use under Subsection (112).

(25) (a) "Common carrier" means a person engaged in or transacting the business of transporting passengers, freight, merchandise, or other property for hire within this state.

(b) (i) "Common carrier" does not include a person that, at the time the person is traveling to or from that person's place of employment, transports a passenger to or from the passenger's place of employment.

(ii) For purposes of Subsection (25)(b)(i), in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules defining what constitutes a person's place of employment.

(c) "Common carrier" does not include a person that provides transportation network services, as defined in Section 13-51-102.

(26) "Component part" includes:

(a) poultry, dairy, and other livestock feed, and their components;

(b) baling ties and twine used in the baling of hay and straw;

(c) fuel used for providing temperature control of orchards and commercial greenhouses doing a majority of their business in wholesale sales, and for providing power for off-highway type farm machinery; and

(d) feed, seeds, and seedlings.

(27) "Computer" means an electronic device that accepts information:

(a) (i) in digital form; or

(ii) in a form similar to digital form; and

(b) manipulates that information for a result based on a sequence of instructions.

(28) "Computer software" means a set of coded instructions designed to cause:

(a) a computer to perform a task; or

(b) automatic data processing equipment to perform a task.

(29) "Computer software maintenance contract" means a contract that obligates a seller of computer software to provide a customer with:

(a) future updates or upgrades to computer software;

(b) support services with respect to computer software; or

(c) a combination of Subsections (29)(a) and (b).

(30) (a) "Conference bridging service" means an ancillary service that links two or more participants of an audio conference call or video conference call.

(b) "Conference bridging service" may include providing a telephone number as part of the ancillary service described in Subsection (30)(a).

(c) "Conference bridging service" does not include a telecommunications service used to reach the ancillary service described in Subsection (30)(a).

(31) "Construction materials" means any tangible personal property that will be converted into real property.

(32) "Delivered electronically" means delivered to a purchaser by means other than tangible storage media.

(33) (a) "Delivery charge" means a charge:

(i) by a seller of:

(A) tangible personal property;

(B) a product transferred electronically; or

(C) a service; and

(ii) for preparation and delivery of the tangible personal property, product transferred electronically, or services described in Subsection (33)(a)(i) to a location designated by the purchaser.

(b) "Delivery charge" includes a charge for the following:

(i) transportation;

(ii) shipping;

(iii) postage;

(iv) handling;

(v) crating; or

(vi) packing.

(34) "Detailed telecommunications billing service" means an ancillary service of separately stating information pertaining to individual calls on a customer's billing statement.

(35) "Dietary supplement" means a product, other than tobacco, that:

(a) is intended to supplement the diet;

(b) contains one or more of the following dietary ingredients:

(i) a vitamin;

(ii) a mineral;

(iii) an herb or other botanical;

(iv) an amino acid;

(v) a dietary substance for use by humans to supplement the diet by increasing the total dietary intake; or

(vi) a concentrate, metabolite, constituent, extract, or combination of any ingredient described in Subsections (35)(b)(i) through (v);

(c) (i) except as provided in Subsection (35)(c)(ii), is intended for ingestion in:

(A) tablet form;

(B) capsule form;

(C) powder form;

(D) softgel form;

(E) gelcap form; or

(F) liquid form; or

(ii) if the product is not intended for ingestion in a form described in Subsections (35)(c)(i)(A) through (F), is not represented:

(A) as conventional food; and

(B) for use as a sole item of:

(I) a meal; or

(II) the diet; and

(d) is required to be labeled as a dietary supplement:

(i) identifiable by the "Supplemental Facts" box found on the label; and

(ii) as required by 21 C.F.R. Sec. 101.36.

(36) (a) "Digital audio work" means a work that results from the fixation of a series of musical, spoken, or other sounds.

(b) "Digital audio work" includes a ringtone.

(37) "Digital audio-visual work" means a series of related images which, when shown in succession, imparts an impression of motion, together with accompanying sounds, if any.

(38) "Digital book" means a work that is generally recognized in the ordinary and usual sense as a book.

(39) (a) "Direct mail" means printed material delivered or distributed by United States mail or other delivery service:

(i) to:

(A) a mass audience; or

(B) addressees on a mailing list provided:

(I) by a purchaser of the mailing list; or

(II) at the discretion of the purchaser of the mailing list; and

(ii) if the cost of the printed material is not billed directly to the recipients.

(b) "Direct mail" includes tangible personal property supplied directly or indirectly by a purchaser to a seller of direct mail for inclusion in a package containing the printed material.

(c) "Direct mail" does not include multiple items of printed material delivered to a single address.

(40) "Directory assistance" means an ancillary service of providing:

(a) address information; or

(b) telephone number information.

(41) (a) "Disposable home medical equipment or supplies" means medical equipment or supplies that:

(i) cannot withstand repeated use; and

(ii) are purchased by, for, or on behalf of a person other than:

(A) a health care facility as defined in Section 26-21-2;

(B) a health care provider as defined in Section 78B-3-403;

(C) an office of a health care provider described in Subsection (41)(a)(ii)(B); or

(D) a person similar to a person described in Subsections (41)(a)(ii)(A) through (C).

(b) "Disposable home medical equipment or supplies" does not include:

(i) a drug;

(ii) durable medical equipment;

(iii) a hearing aid;

(iv) a hearing aid accessory;

(v) mobility enhancing equipment; or

(vi) tangible personal property used to correct impaired vision, including:

(A) eyeglasses; or

(B) contact lenses.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes medical equipment or supplies.

(42) "Drilling equipment manufacturer" means a facility:

(a) located in the state;

(b) with respect to which 51% or more of the manufacturing activities of the facility consist of manufacturing component parts of drilling equipment;

(c) that uses pressure of 800,000 or more pounds per square inch as part of the manufacturing process; and

(d) that uses a temperature of 2,000 or more degrees Fahrenheit as part of the manufacturing process.

(43) (a) "Drug" means a compound, substance, or preparation, or a component of a compound, substance, or preparation that is:

(i) recognized in:

(A) the official United States Pharmacopoeia;

(B) the official Homeopathic Pharmacopoeia of the United States;

(C) the official National Formulary; or

(D) a supplement to a publication listed in Subsections (43)(a)(i)(A) through (C);

(ii) intended for use in the:

(A) diagnosis of disease;

(B) cure of disease;

(C) mitigation of disease;

(D) treatment of disease; or

(E) prevention of disease; or

(iii) intended to affect:

(A) the structure of the body; or

(B) any function of the body.

(b) "Drug" does not include:

(i) food and food ingredients;

(ii) a dietary supplement;

(iii) an alcoholic beverage; or

(iv) a prosthetic device.

(44) (a) Except as provided in Subsection (44)(c), "durable medical equipment" means equipment that:

(i) can withstand repeated use;

(ii) is primarily and customarily used to serve a medical purpose;

(iii) generally is not useful to a person in the absence of illness or injury; and

(iv) is not worn in or on the body.

(b) "Durable medical equipment" includes parts used in the repair or replacement of the equipment described in Subsection (44)(a).

(c) "Durable medical equipment" does not include mobility enhancing equipment.

(45) "Electronic" means:

(a) relating to technology; and

(b) having:

(i) electrical capabilities;

(ii) digital capabilities;

(iii) magnetic capabilities;

(iv) wireless capabilities;

(v) optical capabilities;

(vi) electromagnetic capabilities; or

(vii) capabilities similar to Subsections (45)(b)(i) through (vi).

(46) "Electronic financial payment service" means an establishment:

(a) within NAICS Code 522320, Financial Transactions Processing, Reserve, and Clearinghouse Activities, of the 2012 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget; and

(b) that performs electronic financial payment services.

(47) "Employee" means the same as that term is defined in Section 59-10-401.

(48) "Fixed guideway" means a public transit facility that uses and occupies:

(a) rail for the use of public transit; or

(b) a separate right-of-way for the use of public transit.

(49) "Fixed wing turbine powered aircraft" means an aircraft that:

(a) is powered by turbine engines;

(b) operates on jet fuel; and

(c) has wings that are permanently attached to the fuselage of the aircraft.

(50) "Fixed wireless service" means a telecommunications service that provides radio communication between fixed points.

(51) (a) "Food and food ingredients" means substances:

(i) regardless of whether the substances are in:

(A) liquid form;

(B) concentrated form;

(C) solid form;

(D) frozen form;

(E) dried form; or

(F) dehydrated form; and

(ii) that are:

(A) sold for:

(I) ingestion by humans; or

(II) chewing by humans; and

(B) consumed for the substance's:

(I) taste; or

(II) nutritional value.

(b) "Food and food ingredients" includes an item described in Subsection (96)(b)(iii).

(c) "Food and food ingredients" does not include:

(i) an alcoholic beverage;

(ii) tobacco; or

(iii) prepared food.

(52) (a) "Fundraising sales" means sales:

(i) (A) made by a school; or

(B) made by a school student;

(ii) that are for the purpose of raising funds for the school to purchase equipment, materials, or provide transportation; and

(iii) that are part of an officially sanctioned school activity.

(b) For purposes of Subsection (52)(a)(iii), "officially sanctioned school activity" means a school activity:

(i) that is conducted in accordance with a formal policy adopted by the school or school district governing the authorization and supervision of fundraising activities;

(ii) that does not directly or indirectly compensate an individual teacher or other educational personnel by direct payment, commissions, or payment in kind; and

(iii) the net or gross revenues from which are deposited in a dedicated account controlled by the school or school district.

(53) "Geothermal energy" means energy contained in heat that continuously flows outward from the earth that is used as the sole source of energy to produce electricity.

(54) "Governing board of the agreement" means the governing board of the agreement that is:

(a) authorized to administer the agreement; and

(b) established in accordance with the agreement.

(55) (a) For purposes of Subsection 59-12-104(41), "governmental entity" means:

(i) the executive branch of the state, including all departments, institutions, boards, divisions, bureaus, offices, commissions, and committees;

(ii) the judicial branch of the state, including the courts, the Judicial Council, the Administrative Office of the Courts, and similar administrative units in the judicial branch;

(iii) the legislative branch of the state, including the House of Representatives, the Senate, the Legislative Printing Office, the Office of Legislative Research and General Counsel, the Office of the Legislative Auditor General, and the Office of the Legislative Fiscal Analyst;

(iv) the National Guard;

(v) an independent entity as defined in Section 63E-1-102; or

(vi) a political subdivision as defined in Section 17B-1-102.

(b) "Governmental entity" does not include the state systems of public and higher education, including:

(i) a school;

(ii) the State Board of Education;

(iii) the Utah Board of Higher Education; or

(iv) an institution of higher education described in Section 53B-1-102.

(56) "Hydroelectric energy" means water used as the sole source of energy to produce electricity.

(57) "Industrial use" means the use of natural gas, electricity, heat, coal, fuel oil, or other fuels:

(a) in mining or extraction of minerals;

(b) in agricultural operations to produce an agricultural product up to the time of harvest or placing the agricultural product into a storage facility, including:

(i) commercial greenhouses;

(ii) irrigation pumps;

(iii) farm machinery;

(iv) implements of husbandry as defined in Section 41-1a-102 that are not registered under Title 41, Chapter 1a, Part 2, Registration; and

(v) other farming activities;

(c) in manufacturing tangible personal property at an establishment described in:

(i) SIC Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of the President, Office of Management and Budget; or

(ii) a NAICS code within NAICS Sector 31-33, Manufacturing, of the 2017 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget;

(d) by a scrap recycler if:

(i) from a fixed location, the scrap recycler utilizes machinery or equipment to process one or more of the following items into prepared grades of processed materials for use in new products:

(A) iron;

(B) steel;

(C) nonferrous metal;

(D) paper;

(E) glass;

(F) plastic;

(G) textile; or

(H) rubber; and

(ii) the new products under Subsection (57)(d)(i) would otherwise be made with nonrecycled materials; or

(e) in producing a form of energy or steam described in Subsection 54-2-1(3)(a) by a cogeneration facility as defined in Section 54-2-1.

(58) (a) Except as provided in Subsection (58)(b), "installation charge" means a charge for installing:

(i) tangible personal property; or

(ii) a product transferred electronically.

(b) "Installation charge" does not include a charge for:

(i) repairs or renovations of:

(A) tangible personal property; or

(B) a product transferred electronically; or

(ii) attaching tangible personal property or a product transferred electronically:

(A) to other tangible personal property; and

(B) as part of a manufacturing or fabrication process.

(59) "Institution of higher education" means an institution of higher education listed in Section 53B-2-101.

(60) (a) "Lease" or "rental" means a transfer of possession or control of tangible personal property or a product transferred electronically for:

(i) (A) a fixed term; or

(B) an indeterminate term; and

(ii) consideration.

(b) "Lease" or "rental" includes an agreement covering a motor vehicle and trailer if the amount of consideration may be increased or decreased by reference to the amount realized upon sale or disposition of the property as defined in Section 7701(h)(1), Internal Revenue Code.

(c) "Lease" or "rental" does not include:

(i) a transfer of possession or control of property under a security agreement or deferred payment plan that requires the transfer of title upon completion of the required payments;

(ii) a transfer of possession or control of property under an agreement that requires the transfer of title:

(A) upon completion of required payments; and

(B) if the payment of an option price does not exceed the greater of:

(I) $100; or

(II) 1% of the total required payments; or

(iii) providing tangible personal property along with an operator for a fixed period of time or an indeterminate period of time if the operator is necessary for equipment to perform as designed.

(d) For purposes of Subsection (60)(c)(iii), an operator is necessary for equipment to perform as designed if the operator's duties exceed the:

(i) set-up of tangible personal property;

(ii) maintenance of tangible personal property; or

(iii) inspection of tangible personal property.

(61) "Lesson" means a fixed period of time for the duration of which a trained instructor:

(a) is present with a student in person or by video; and

(b) actively instructs the student, including by providing observation or feedback.

(62) "Life science establishment" means an establishment in this state that is classified under the following NAICS codes of the 2007 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget:

(a) NAICS Code 33911, Medical Equipment and Supplies Manufacturing;

(b) NAICS Code 334510, Electromedical and Electrotherapeutic Apparatus Manufacturing; or

(c) NAICS Code 334517, Irradiation Apparatus Manufacturing.

(63) "Life science research and development facility" means a facility owned, leased, or rented by a life science establishment if research and development is performed in 51% or more of the total area of the facility.

(64) "Load and leave" means delivery to a purchaser by use of a tangible storage media if the tangible storage media is not physically transferred to the purchaser.

(65) "Local taxing jurisdiction" means a:

(a) county that is authorized to impose an agreement sales and use tax;

(b) city that is authorized to impose an agreement sales and use tax; or

(c) town that is authorized to impose an agreement sales and use tax.

(66) "Manufactured home" means the same as that term is defined in Section 15A-1-302.

(67) "Manufacturing facility" means:

(a) an establishment described in:

(i) SIC Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of the President, Office of Management and Budget; or

(ii) a NAICS code within NAICS Sector 31-33, Manufacturing, of the 2017 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget;

(b) a scrap recycler if:

(i) from a fixed location, the scrap recycler utilizes machinery or equipment to process one or more of the following items into prepared grades of processed materials for use in new products:

(A) iron;

(B) steel;

(C) nonferrous metal;

(D) paper;

(E) glass;

(F) plastic;

(G) textile; or

(H) rubber; and

(ii) the new products under Subsection (67)(b)(i) would otherwise be made with nonrecycled materials; or

(c) a cogeneration facility as defined in Section 54-2-1 if the cogeneration facility is placed in service on or after May 1, 2006.

(68) (a) "Marketplace" means a physical or electronic place, platform, or forum where tangible personal property, a product transferred electronically, or a service is offered for sale.

(b) "Marketplace" includes a store, a booth, an Internet website, a catalog, or a dedicated sales software application.

(69) (a) "Marketplace facilitator" means a person, including an affiliate of the person, that enters into a contract, an agreement, or otherwise with sellers, for consideration, to facilitate the sale of a seller's product through a marketplace that the person owns, operates, or controls and that directly or indirectly:

(i) does any of the following:

(A) lists, makes available, or advertises tangible personal property, a product transferred electronically, or a service for sale by a marketplace seller on a marketplace that the person owns, operates, or controls;

(B) facilitates the sale of a marketplace seller's tangible personal property, product transferred electronically, or service by transmitting or otherwise communicating an offer or acceptance of a retail sale between the marketplace seller and a purchaser using the marketplace;

(C) owns, rents, licenses, makes available, or operates any electronic or physical infrastructure or any property, process, method, copyright, trademark, or patent that connects a marketplace seller to a purchaser for the purpose of making a retail sale of tangible personal property, a product transferred electronically, or a service;

(D) provides a marketplace for making, or otherwise facilitates, a retail sale of tangible personal property, a product transferred electronically, or a service, regardless of ownership or control of the tangible personal property, the product transferred electronically, or the service that is the subject of the retail sale;

(E) provides software development or research and development activities related to any activity described in this Subsection (69)(a)(i), if the software development or research and development activity is directly related to the person's marketplace;

(F) provides or offers fulfillment or storage services for a marketplace seller;

(G) sets prices for the sale of tangible personal property, a product transferred electronically, or a service by a marketplace seller;

(H) provides or offers customer service to a marketplace seller or a marketplace seller's purchaser or accepts or assists with taking orders, returns, or exchanges of tangible personal property, a product transferred electronically, or a service sold by a marketplace seller on the person's marketplace; or

(I) brands or otherwise identifies sales as those of the person; and

(ii) does any of the following:

(A) collects the sales price or purchase price of a retail sale of tangible personal property, a product transferred electronically, or a service;

(B) provides payment processing services for a retail sale of tangible personal property, a product transferred electronically, or a service;

(C) charges, collects, or otherwise receives a selling fee, listing fee, referral fee, closing fee, a fee for inserting or making available tangible personal property, a product transferred electronically, or a service on the person's marketplace, or other consideration for the facilitation of a retail sale of tangible personal property, a product transferred electronically, or a service, regardless of ownership or control of the tangible personal property, the product transferred electronically, or the service that is the subject of the retail sale;

(D) through terms and conditions, an agreement, or another arrangement with a third person, collects payment from a purchase for a retail sale of tangible personal property, a product transferred electronically, or a service and transmits that payment to the marketplace seller, regardless of whether the third person receives compensation or other consideration in exchange for the service; or

(E) provides a virtual currency for a purchaser to use to purchase tangible personal property, a product transferred electronically, or service offered for sale.

(b) "Marketplace facilitator" does not include:

(i) a person that only provides payment processing services; or

(ii) a person described in Subsection (69)(a) to the extent the person is facilitating a sale for a seller that is a restaurant as defined in Section 59-12-602.

(70) "Marketplace seller" means a seller that makes one or more retail sales through a marketplace that a marketplace facilitator owns, operates, or controls, regardless of whether the seller is required to be registered to collect and remit the tax under this part.

(71) "Member of the immediate family of the producer" means a person who is related to a producer described in Subsection 59-12-104(20)(a) as a:

(a) child or stepchild, regardless of whether the child or stepchild is:

(i) an adopted child or adopted stepchild; or

(ii) a foster child or foster stepchild;

(b) grandchild or stepgrandchild;

(c) grandparent or stepgrandparent;

(d) nephew or stepnephew;

(e) niece or stepniece;

(f) parent or stepparent;

(g) sibling or stepsibling;

(h) spouse;

(i) person who is the spouse of a person described in Subsections (71)(a) through (g); or

(j) person similar to a person described in Subsections (71)(a) through (i) as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(72) "Mobile home" means the same as that term is defined in Section 15A-1-302.

(73) "Mobile telecommunications service" means the same as that term is defined in the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

(74) (a) "Mobile wireless service" means a telecommunications service, regardless of the technology used, if:

(i) the origination point of the conveyance, routing, or transmission is not fixed;

(ii) the termination point of the conveyance, routing, or transmission is not fixed; or

(iii) the origination point described in Subsection (74)(a)(i) and the termination point described in Subsection (74)(a)(ii) are not fixed.

(b) "Mobile wireless service" includes a telecommunications service that is provided by a commercial mobile radio service provider.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define "commercial mobile radio service provider."

(75) (a) Except as provided in Subsection (75)(c), "mobility enhancing equipment" means equipment that is:

(i) primarily and customarily used to provide or increase the ability to move from one place to another;

(ii) appropriate for use in a:

(A) home; or

(B) motor vehicle; and

(iii) not generally used by persons with normal mobility.

(b) "Mobility enhancing equipment" includes parts used in the repair or replacement of the equipment described in Subsection (75)(a).

(c) "Mobility enhancing equipment" does not include:

(i) a motor vehicle;

(ii) equipment on a motor vehicle if that equipment is normally provided by the motor vehicle manufacturer;

(iii) durable medical equipment; or

(iv) a prosthetic device.

(76) "Model 1 seller" means a seller registered under the agreement that has selected a certified service provider as the seller's agent to perform the seller's sales and use tax functions for agreement sales and use taxes, as outlined in the contract between the governing board of the agreement and the certified service provider, other than the seller's obligation under Section 59-12-124 to remit a tax on the seller's own purchases.

(77) "Model 2 seller" means a seller registered under the agreement that:

(a) except as provided in Subsection (77)(b), has selected a certified automated system to perform the seller's sales tax functions for agreement sales and use taxes; and

(b) retains responsibility for remitting all of the sales tax:

(i) collected by the seller; and

(ii) to the appropriate local taxing jurisdiction.

(78) (a) Subject to Subsection (78)(b), "model 3 seller" means a seller registered under the agreement that has:

(i) sales in at least five states that are members of the agreement;

(ii) total annual sales revenues of at least $500,000,000;

(iii) a proprietary system that calculates the amount of tax:

(A) for an agreement sales and use tax; and

(B) due to each local taxing jurisdiction; and

(iv) entered into a performance agreement with the governing board of the agreement.

(b) For purposes of Subsection (78)(a), "model 3 seller" includes an affiliated group of sellers using the same proprietary system.

(79) "Model 4 seller" means a seller that is registered under the agreement and is not a model 1 seller, model 2 seller, or model 3 seller.

(80) "Modular home" means a modular unit as defined in Section 15A-1-302.

(81) "Motor vehicle" means the same as that term is defined in Section 41-1a-102.

(82) "Oil sands" means impregnated bituminous sands that:

(a) contain a heavy, thick form of petroleum that is released when heated, mixed with other hydrocarbons, or otherwise treated;

(b) yield mixtures of liquid hydrocarbon; and

(c) require further processing other than mechanical blending before becoming finished petroleum products.

(83) "Oil shale" means a group of fine black to dark brown shales containing kerogen material that yields petroleum upon heating and distillation.

(84) "Optional computer software maintenance contract" means a computer software maintenance contract that a customer is not obligated to purchase as a condition to the retail sale of computer software.

(85) (a) "Other fuels" means products that burn independently to produce heat or energy.

(b) "Other fuels" includes oxygen when it is used in the manufacturing of tangible personal property.

(86) (a) "Paging service" means a telecommunications service that provides transmission of a coded radio signal for the purpose of activating a specific pager.

(b) For purposes of Subsection (86)(a), the transmission of a coded radio signal includes a transmission by message or sound.

(87) "Pawnbroker" means the same as that term is defined in Section 13-32a-102.

(88) "Pawn transaction" means the same as that term is defined in Section 13-32a-102.

(89) (a) "Permanently attached to real property" means that for tangible personal property attached to real property:

(i) the attachment of the tangible personal property to the real property:

(A) is essential to the use of the tangible personal property; and

(B) suggests that the tangible personal property will remain attached to the real property in the same place over the useful life of the tangible personal property; or

(ii) if the tangible personal property is detached from the real property, the detachment would:

(A) cause substantial damage to the tangible personal property; or

(B) require substantial alteration or repair of the real property to which the tangible personal property is attached.

(b) "Permanently attached to real property" includes:

(i) the attachment of an accessory to the tangible personal property if the accessory is:

(A) essential to the operation of the tangible personal property; and

(B) attached only to facilitate the operation of the tangible personal property;

(ii) a temporary detachment of tangible personal property from real property for a repair or renovation if the repair or renovation is performed where the tangible personal property and real property are located; or

(iii) property attached to oil, gas, or water pipelines, except for the property listed in Subsection (89)(c)(iii) or (iv).

(c) "Permanently attached to real property" does not include:

(i) the attachment of portable or movable tangible personal property to real property if that portable or movable tangible personal property is attached to real property only for:

(A) convenience;

(B) stability; or

(C) for an obvious temporary purpose;

(ii) the detachment of tangible personal property from real property except for the detachment described in Subsection (89)(b)(ii);

(iii) an attachment of the following tangible personal property to real property if the attachment to real property is only through a line that supplies water, electricity, gas, telecommunications, cable, or supplies a similar item as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(A) a computer;

(B) a telephone;

(C) a television; or

(D) tangible personal property similar to Subsections (89)(c)(iii)(A) through (C) as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or

(iv) an item listed in Subsection (130)(c).

(90) "Person" includes any individual, firm, partnership, joint venture, association, corporation, estate, trust, business trust, receiver, syndicate, this state, any county, city, municipality, district, or other local governmental entity of the state, or any group or combination acting as a unit.

(91) "Place of primary use":

(a) for telecommunications service other than mobile telecommunications service, means the street address representative of where the customer's use of the telecommunications service primarily occurs, which shall be:

(i) the residential street address of the customer; or

(ii) the primary business street address of the customer; or

(b) for mobile telecommunications service, means the same as that term is defined in the Mobile

Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

(92) (a) "Postpaid calling service" means a telecommunications service a person obtains by making a payment on a call-by-call basis:

(i) through the use of a:

(A) bank card;

(B) credit card;

(C) debit card; or

(D) travel card; or

(ii) by a charge made to a telephone number that is not associated with the origination or termination of the telecommunications service.

(b) "Postpaid calling service" includes a service, except for a prepaid wireless calling service, that would be a prepaid wireless calling service if the service were exclusively a telecommunications service.

(93) "Postproduction" means an activity related to the finishing or duplication of a medium described in Subsection 59-12-104(54)(a).

(94) "Prepaid calling service" means a telecommunications service:

(a) that allows a purchaser access to telecommunications service that is exclusively telecommunications service;

(b) that:

(i) is paid for in advance; and

(ii) enables the origination of a call using an:

(A) access number; or

(B) authorization code;

(c) that is dialed:

(i) manually; or

(ii) electronically; and

(d) sold in predetermined units or dollars that decline:

(i) by a known amount; and

(ii) with use.

(95) "Prepaid wireless calling service" means a telecommunications service:

(a) that provides the right to utilize:

(i) mobile wireless service; and

(ii) other service that is not a telecommunications service, including:

(A) the download of a product transferred electronically;

(B) a content service; or

(C) an ancillary service;

(b) that:

(i) is paid for in advance; and

(ii) enables the origination of a call using an:

(A) access number; or

(B) authorization code;

(c) that is dialed:

(i) manually; or

(ii) electronically; and

(d) sold in predetermined units or dollars that decline:

(i) by a known amount; and

(ii) with use.

(96) (a) "Prepared food" means:

(i) food:

(A) sold in a heated state; or

(B) heated by a seller;

(ii) two or more food ingredients mixed or combined by the seller for sale as a single item; or

(iii) except as provided in Subsection (96)(c), food sold with an eating utensil provided by the seller, including a:

(A) plate;

(B) knife;

(C) fork;

(D) spoon;

(E) glass;

(F) cup;

(G) napkin; or

(H) straw.

(b) "Prepared food" does not include:

(i) food that a seller only:

(A) cuts;

(B) repackages; or

(C) pasteurizes; or

(ii) (A) the following:

(I) raw egg;

(II) raw fish;

(III) raw meat;

(IV) raw poultry; or

(V) a food containing an item described in Subsections (96)(b)(ii)(A)(I) through (IV); and

(B) if the Food and Drug Administration recommends in Chapter 3, Part 401.11 of the Food and Drug Administration's Food Code that a consumer cook the items described in Subsection (96)(b)(ii)(A) to prevent food borne illness; or

(iii) the following if sold without eating utensils provided by the seller:

(A) food and food ingredients sold by a seller if the seller's proper primary classification under the 2002 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget, is manufacturing in Sector 311, Food Manufacturing, except for Subsector 3118, Bakeries and Tortilla Manufacturing;

(B) food and food ingredients sold in an unheated state:

(I) by weight or volume; and

(II) as a single item; or

(C) a bakery item, including:

(I) a bagel;

(II) a bar;

(III) a biscuit;

(IV) bread;

(V) a bun;

(VI) a cake;

(VII) a cookie;

(VIII) a croissant;

(IX) a danish;

(X) a donut;

(XI) a muffin;

(XII) a pastry;

(XIII) a pie;

(XIV) a roll;

(XV) a tart;

(XVI) a torte; or

(XVII) a tortilla.

(c) An eating utensil provided by the seller does not include the following used to transport the food:

(i) a container; or

(ii) packaging.

(97) "Prescription" means an order, formula, or recipe that is issued:

(a) (i) orally;

(ii) in writing;

(iii) electronically; or

(iv) by any other manner of transmission; and

(b) by a licensed practitioner authorized by the laws of a state.

(98) (a) Except as provided in Subsection (98)(b)(ii) or (iii), "prewritten computer software" means computer software that is not designed and developed:

(i) by the author or other creator of the computer software; and

(ii) to the specifications of a specific purchaser.

(b) "Prewritten computer software" includes:

(i) a prewritten upgrade to computer software if the prewritten upgrade to the computer software is not designed and developed:

(A) by the author or other creator of the computer software; and

(B) to the specifications of a specific purchaser;

(ii) computer software designed and developed by the author or other creator of the computer software to the specifications of a specific purchaser if the computer software is sold to a person other than the purchaser; or

(iii) except as provided in Subsection (98)(c), prewritten computer software or a prewritten portion of prewritten computer software:

(A) that is modified or enhanced to any degree; and

(B) if the modification or enhancement described in Subsection (98)(b)(iii)(A) is designed and developed to the specifications of a specific purchaser.

(c) "Prewritten computer software" does not include a modification or enhancement described in Subsection (98)(b)(iii) if the charges for the modification or enhancement are:

(i) reasonable; and

(ii) subject to Subsections 59-12-103(2)[~~(e)~~](f)(ii) and (2)[~~(f)~~](g)(i), separately stated on the invoice or other statement of price provided to the purchaser at the time of sale or later, as demonstrated by:

(A) the books and records the seller keeps at the time of the transaction in the regular course of business, including books and records the seller keeps at the time of the transaction in the regular course of business for nontax purposes;

(B) a preponderance of the facts and circumstances at the time of the transaction; and

(C) the understanding of all of the parties to the transaction.

(99) (a) "Private communications service" means a telecommunications service:

(i) that entitles a customer to exclusive or priority use of one or more communications channels between or among termination points; and

(ii) regardless of the manner in which the one or more communications channels are connected.

(b) "Private communications service" includes the following provided in connection with the use of one or more communications channels:

(i) an extension line;

(ii) a station;

(iii) switching capacity; or

(iv) another associated service that is provided in connection with the use of one or more communications channels as defined in Section 59-12-215.

(100) (a) Except as provided in Subsection (100)(b), "product transferred electronically" means a product transferred electronically that would be subject to a tax under this chapter if that product was transferred in a manner other than electronically.

(b) "Product transferred electronically" does not include:

(i) an ancillary service;

(ii) computer software; or

(iii) a telecommunications service.

(101) (a) "Prosthetic device" means a device that is worn on or in the body to:

(i) artificially replace a missing portion of the body;

(ii) prevent or correct a physical deformity or physical malfunction; or

(iii) support a weak or deformed portion of the body.

(b) "Prosthetic device" includes:

(i) parts used in the repairs or renovation of a prosthetic device;

(ii) replacement parts for a prosthetic device;

(iii) a dental prosthesis; or

(iv) a hearing aid.

(c) "Prosthetic device" does not include:

(i) corrective eyeglasses; or

(ii) contact lenses.

(102) (a) "Protective equipment" means an item:

(i) for human wear; and

(ii) that is:

(A) designed as protection:

(I) to the wearer against injury or disease; or

(II) against damage or injury of other persons or property; and

(B) not suitable for general use.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules:

(i) listing the items that constitute "protective equipment"; and

(ii) that are consistent with the list of items that constitute "protective equipment" under the agreement.

(103) (a) For purposes of Subsection 59-12-104(41), "publication" means any written or printed matter, other than a photocopy:

(i) regardless of:

(A) characteristics;

(B) copyright;

(C) form;

(D) format;

(E) method of reproduction; or

(F) source; and

(ii) made available in printed or electronic format.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "photocopy."

(104) (a) "Purchase price" and "sales price" mean the total amount of consideration:

(i) valued in money; and

(ii) for which tangible personal property, a product transferred electronically, or services are:

(A) sold;

(B) leased; or

(C) rented.

(b) "Purchase price" and "sales price" include:

(i) the seller's cost of the tangible personal property, a product transferred electronically, or services sold;

(ii) expenses of the seller, including:

(A) the cost of materials used;

(B) a labor cost;

(C) a service cost;

(D) interest;

(E) a loss;

(F) the cost of transportation to the seller; or

(G) a tax imposed on the seller;

(iii) a charge by the seller for any service necessary to complete the sale; or

(iv) consideration a seller receives from a person other than the purchaser if:

(A) (I) the seller actually receives consideration from a person other than the purchaser; and

(II) the consideration described in Subsection (104)(b)(iv)(A)(I) is directly related to a price reduction or discount on the sale;

(B) the seller has an obligation to pass the price reduction or discount through to the purchaser;

(C) the amount of the consideration attributable to the sale is fixed and determinable by the seller at the time of the sale to the purchaser; and

(D) (I) (Aa) the purchaser presents a certificate, coupon, or other documentation to the seller to claim a price reduction or discount; and

(Bb) a person other than the seller authorizes, distributes, or grants the certificate, coupon, or other documentation with the understanding that the person other than the seller will reimburse any seller to whom the certificate, coupon, or other documentation is presented;

(II) the purchaser identifies that purchaser to the seller as a member of a group or organization allowed a price reduction or discount, except that a preferred customer card that is available to any patron of a seller does not constitute membership in a group or organization allowed a price reduction or discount; or

(III) the price reduction or discount is identified as a third party price reduction or discount on the:

(Aa) invoice the purchaser receives; or

(Bb) certificate, coupon, or other documentation the purchaser presents.

(c) "Purchase price" and "sales price" do not include:

(i) a discount:

(A) in a form including:

(I) cash;

(II) term; or

(III) coupon;

(B) that is allowed by a seller;

(C) taken by a purchaser on a sale; and

(D) that is not reimbursed by a third party; or

(ii) subject to Subsections 59-12-103(2)[~~(e)~~](f)(ii) and (2)[~~(f)~~](g)(i), the following if separately stated on an invoice, bill of sale, or similar document provided to the purchaser at the time of sale or later, as demonstrated by the books and records the seller keeps at the time of the transaction in the regular course of business, including books and records the seller keeps at the time of the transaction in the regular course of business for nontax purposes, by a preponderance of the facts and circumstances at the time of the transaction, and by the understanding of all of the parties to the transaction:

(A) the following from credit extended on the sale of tangible personal property or services:

(I) a carrying charge;

(II) a financing charge; or

(III) an interest charge;

(B) a delivery charge;

(C) an installation charge;

(D) a manufacturer rebate on a motor vehicle; or

(E) a tax or fee legally imposed directly on the consumer.

(105) "Purchaser" means a person to whom:

(a) a sale of tangible personal property is made;

(b) a product is transferred electronically; or

(c) a service is furnished.

(106) "Qualifying data center" means a data center facility that:

(a) houses a group of networked server computers in one physical location in order to disseminate, manage, and store data and information;

(b) is located in the state;

(c) is a new operation constructed on or after July 1, 2016;

(d) consists of one or more buildings that total 150,000 or more square feet;

(e) is owned or leased by:

(i) the operator of the data center facility; or

(ii) a person under common ownership, as defined in Section 59-7-101, of the operator of the data center facility; and

(f) is located on one or more parcels of land that are owned or leased by:

(i) the operator of the data center facility; or

(ii) a person under common ownership, as defined in Section 59-7-101, of the operator of the data center facility.

(107) "Regularly rented" means:

(a) rented to a guest for value three or more times during a calendar year; or

(b) advertised or held out to the public as a place that is regularly rented to guests for value.

(108) "Rental" means the same as that term is defined in Subsection (60).

(109) (a) Except as provided in Subsection (109)(b), "repairs or renovations of tangible personal property" means:

(i) a repair or renovation of tangible personal property that is not permanently attached to real property; or

(ii) attaching tangible personal property or a product transferred electronically to other tangible personal property or detaching tangible personal property or a product transferred electronically from other tangible personal property if:

(A) the other tangible personal property to which the tangible personal property or product transferred electronically is attached or from which the tangible personal property or product transferred electronically is detached is not permanently attached to real property; and

(B) the attachment of tangible personal property or a product transferred electronically to other tangible personal property or detachment of tangible personal property or a product transferred electronically from other tangible personal

property is made in conjunction with a repair or replacement of tangible personal property or a product transferred electronically.

(b) "Repairs or renovations of tangible personal property" does not include:

(i) attaching prewritten computer software to other tangible personal property if the other tangible personal property to which the prewritten computer software is attached is not permanently attached to real property; or

(ii) detaching prewritten computer software from other tangible personal property if the other tangible personal property from which the prewritten computer software is detached is not permanently attached to real property.

(110) "Research and development" means the process of inquiry or experimentation aimed at the discovery of facts, devices, technologies, or applications and the process of preparing those devices, technologies, or applications for marketing.

(111) (a) "Residential telecommunications services" means a telecommunications service or an ancillary service that is provided to an individual for personal use:

(i) at a residential address; or

(ii) at an institution, including a nursing home or a school, if the telecommunications service or ancillary service is provided to and paid for by the individual residing at the institution rather than the institution.

(b) For purposes of Subsection (111)(a)(i), a residential address includes an:

(i) apartment; or

(ii) other individual dwelling unit.

(112) "Residential use" means the use in or around a home, apartment building, sleeping quarters, and similar facilities or accommodations.

(113) "Retail sale" or "sale at retail" means a sale, lease, or rental for a purpose other than:

(a) resale;

(b) sublease; or

(c) subrent.

(114) (a) "Retailer" means any person, unless prohibited by the Constitution of the United States or federal law, that is engaged in a regularly organized business in tangible personal property or any other taxable transaction under Subsection 59-12-103(1), and who is selling to the user or consumer and not for resale.

(b) "Retailer" includes commission merchants, auctioneers, and any person regularly engaged in the business of selling to users or consumers within the state.

(115) (a) "Sale" means any transfer of title, exchange, or barter, conditional or otherwise, in any manner, of tangible personal property or any other taxable transaction under Subsection 59-12-103(1), for consideration.

(b) "Sale" includes:

(i) installment and credit sales;

(ii) any closed transaction constituting a sale;

(iii) any sale of electrical energy, gas, services, or entertainment taxable under this chapter;

(iv) any transaction if the possession of property is transferred but the seller retains the title as security for the payment of the price; and

(v) any transaction under which right to possession, operation, or use of any article of tangible personal property is granted under a lease or contract and the transfer of possession would be taxable if an outright sale were made.

(116) "Sale at retail" means the same as that term is defined in Subsection (113).

(117) "Sale-leaseback transaction" means a transaction by which title to tangible personal property or a product transferred electronically that is subject to a tax under this chapter is transferred:

(a) by a purchaser-lessee;

(b) to a lessor;

(c) for consideration; and

(d) if:

(i) the purchaser-lessee paid sales and use tax on the purchaser-lessee's initial purchase of the tangible personal property or product transferred electronically;

(ii) the sale of the tangible personal property or product transferred electronically to the lessor is intended as a form of financing:

(A) for the tangible personal property or product transferred electronically; and

(B) to the purchaser-lessee; and

(iii) in accordance with generally accepted accounting principles, the purchaser-lessee is required to:

(A) capitalize the tangible personal property or product transferred electronically for financial reporting purposes; and

(B) account for the lease payments as payments made under a financing arrangement.

(118) "Sales price" means the same as that term is defined in Subsection (104).

(119) (a) "Sales relating to schools" means the following sales by, amounts paid to, or amounts charged by a school:

(i) sales that are directly related to the school's educational functions or activities including:

(A) the sale of:

(I) textbooks;

(II) textbook fees;

(III) laboratory fees;

(IV) laboratory supplies; or

(V) safety equipment;

(B) the sale of a uniform, protective equipment, or sports or recreational equipment that:

(I) a student is specifically required to wear as a condition of participation in a school-related event or school-related activity; and

(II) is not readily adaptable to general or continued usage to the extent that it takes the place of ordinary clothing;

(C) sales of the following if the net or gross revenues generated by the sales are deposited into a school district fund or school fund dedicated to school meals:

(I) food and food ingredients; or

(II) prepared food; or

(D) transportation charges for official school activities; or

(ii) amounts paid to or amounts charged by a school for admission to a school-related event or school-related activity.

(b) "Sales relating to schools" does not include:

(i) bookstore sales of items that are not educational materials or supplies;

(ii) except as provided in Subsection (119)(a)(i)(B):

(A) clothing;

(B) clothing accessories or equipment;

(C) protective equipment; or

(D) sports or recreational equipment; or

(iii) amounts paid to or amounts charged by a school for admission to a school-related event or school-related activity if the amounts paid or charged are passed through to a person:

(A) other than a:

(I) school;

(II) nonprofit organization authorized by a school board or a governing body of a private school to organize and direct a competitive secondary school activity; or

(III) nonprofit association authorized by a school board or a governing body of a private school to organize and direct a competitive secondary school activity; and

(B) that is required to collect sales and use taxes under this chapter.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules defining the term "passed through."

(120) For purposes of this section and Section 59-12-104, "school" means:

(a) an elementary school or a secondary school that:

(i) is a:

(A) public school; or

(B) private school; and

(ii) provides instruction for one or more grades kindergarten through 12; or

(b) a public school district.

(121) (a) "Seller" means a person that makes a sale, lease, or rental of:

(i) tangible personal property;

(ii) a product transferred electronically; or

(iii) a service.

(b) "Seller" includes a marketplace facilitator.

(122) (a) "Semiconductor fabricating, processing, research, or development materials" means tangible personal property or a product transferred electronically if the tangible personal property or product transferred electronically is:

(i) used primarily in the process of:

(A) (I) manufacturing a semiconductor;

(II) fabricating a semiconductor; or

(III) research or development of a:

(Aa) semiconductor; or

(Bb) semiconductor manufacturing process; or

(B) maintaining an environment suitable for a semiconductor; or

(ii) consumed primarily in the process of:

(A) (I) manufacturing a semiconductor;

(II) fabricating a semiconductor; or

(III) research or development of a:

(Aa) semiconductor; or

(Bb) semiconductor manufacturing process; or

(B) maintaining an environment suitable for a semiconductor.

(b) "Semiconductor fabricating, processing, research, or development materials" includes:

(i) parts used in the repairs or renovations of tangible personal property or a product transferred electronically described in Subsection (122)(a); or

(ii) a chemical, catalyst, or other material used to:

(A) produce or induce in a semiconductor a:

(I) chemical change; or

(II) physical change;

(B) remove impurities from a semiconductor; or

(C) improve the marketable condition of a semiconductor.

(123) "Senior citizen center" means a facility having the primary purpose of providing services to the aged as defined in Section 62A-3-101.

(124) (a) Subject to Subsections (124)(b) and (c), "short-term lodging consumable" means tangible personal property that:

(i) a business that provides accommodations and services described in Subsection 59-12-103(1)(i) purchases as part of a transaction to provide the accommodations and services to a purchaser;

(ii) is intended to be consumed by the purchaser; and

(iii) is:

(A) included in the purchase price of the accommodations and services; and

(B) not separately stated on an invoice, bill of sale, or other similar document provided to the purchaser.

(b) "Short-term lodging consumable" includes:

(i) a beverage;

(ii) a brush or comb;

(iii) a cosmetic;

(iv) a hair care product;

(v) lotion;

(vi) a magazine;

(vii) makeup;

(viii) a meal;

(ix) mouthwash;

(x) nail polish remover;

(xi) a newspaper;

(xii) a notepad;

(xiii) a pen;

(xiv) a pencil;

(xv) a razor;

(xvi) saline solution;

(xvii) a sewing kit;

(xviii) shaving cream;

(xix) a shoe shine kit;

(xx) a shower cap;

(xxi) a snack item;

(xxii) soap;

(xxiii) toilet paper;

(xxiv) a toothbrush;

(xxv) toothpaste; or

(xxvi) an item similar to Subsections (124)(b)(i) through (xxv) as the commission may provide by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(c) "Short-term lodging consumable" does not include:

(i) tangible personal property that is cleaned or washed to allow the tangible personal property to be reused; or

(ii) a product transferred electronically.

(125) "Simplified electronic return" means the electronic return:

(a) described in Section 318(C) of the agreement; and

(b) approved by the governing board of the agreement.

(126) "Solar energy" means the sun used as the sole source of energy for producing electricity.

(127) (a) "Sports or recreational equipment" means an item:

(i) designed for human use; and

(ii) that is:

(A) worn in conjunction with:

(I) an athletic activity; or

(II) a recreational activity; and

(B) not suitable for general use.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules:

(i) listing the items that constitute "sports or recreational equipment"; and

(ii) that are consistent with the list of items that constitute "sports or recreational equipment" under the agreement.

(128) "State" means the state of Utah, its departments, and agencies.

(129) "Storage" means any keeping or retention of tangible personal property or any other taxable transaction under Subsection 59-12-103(1), in this state for any purpose except sale in the regular course of business.

(130) (a) Except as provided in Subsection (130)(d) or (e), "tangible personal property" means personal property that:

(i) may be:

(A) seen;

(B) weighed;

(C) measured;

(D) felt; or

(E) touched; or

(ii) is in any manner perceptible to the senses.

(b) "Tangible personal property" includes:

(i) electricity;

(ii) water;

(iii) gas;

(iv) steam; or

(v) prewritten computer software, regardless of the manner in which the prewritten computer software is transferred.

(c) "Tangible personal property" includes the following regardless of whether the item is attached to real property:

(i) a dishwasher;

(ii) a dryer;

(iii) a freezer;

(iv) a microwave;

(v) a refrigerator;

(vi) a stove;

(vii) a washer; or

(viii) an item similar to Subsections (130)(c)(i) through (vii) as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(d) "Tangible personal property" does not include a product that is transferred electronically.

(e) "Tangible personal property" does not include the following if attached to real property, regardless of whether the attachment to real property is only through a line that supplies water, electricity, gas, telephone, cable, or supplies a similar item as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(i) a hot water heater;

(ii) a water filtration system; or

(iii) a water softener system.

(131) (a) "Telecommunications enabling or facilitating equipment, machinery, or software" means an item listed in Subsection (131)(b) if that item is purchased or leased primarily to enable or facilitate one or more of the following to function:

(i) telecommunications switching or routing equipment, machinery, or software; or

(ii) telecommunications transmission equipment, machinery, or software.

(b) The following apply to Subsection (131)(a):

(i) a pole;

(ii) software;

(iii) a supplementary power supply;

(iv) temperature or environmental equipment or machinery;

(v) test equipment;

(vi) a tower; or

(vii) equipment, machinery, or software that functions similarly to an item listed in Subsections (131)(b)(i) through (vi) as determined by the commission by rule made in accordance with Subsection (131)(c).

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes equipment, machinery, or software that functions similarly to an item listed in Subsections (131)(b)(i) through (vi).

(132) "Telecommunications equipment, machinery, or software required for 911 service" means equipment, machinery, or software that is required to comply with 47 C.F.R. Sec. 20.18.

(133) "Telecommunications maintenance or repair equipment, machinery, or software" means equipment, machinery, or software purchased or leased primarily to maintain or repair one or more of the following, regardless of whether the equipment, machinery, or software is purchased or leased as a spare part or as an upgrade or modification to one or more of the following:

(a) telecommunications enabling or facilitating equipment, machinery, or software;

(b) telecommunications switching or routing equipment, machinery, or software; or

(c) telecommunications transmission equipment, machinery, or software.

(134) (a) "Telecommunications service" means the electronic conveyance, routing, or transmission of audio, data, video, voice, or any other information or signal to a point, or among or between points.

(b) "Telecommunications service" includes:

(i) an electronic conveyance, routing, or transmission with respect to which a computer processing application is used to act:

(A) on the code, form, or protocol of the content;

(B) for the purpose of electronic conveyance, routing, or transmission; and

(C) regardless of whether the service:

(I) is referred to as voice over Internet protocol service; or

(II) is classified by the Federal Communications Commission as enhanced or value added;

(ii) an 800 service;

(iii) a 900 service;

(iv) a fixed wireless service;

(v) a mobile wireless service;

(vi) a postpaid calling service;

(vii) a prepaid calling service;

(viii) a prepaid wireless calling service; or

(ix) a private communications service.

(c) "Telecommunications service" does not include:

(i) advertising, including directory advertising;

(ii) an ancillary service;

(iii) a billing and collection service provided to a third party;

(iv) a data processing and information service if:

(A) the data processing and information service allows data to be:

(I) (Aa) acquired;

(Bb) generated;

(Cc) processed;

(Dd) retrieved; or

(Ee) stored; and

(II) delivered by an electronic transmission to a purchaser; and

(B) the purchaser's primary purpose for the underlying transaction is the processed data or information;

(v) installation or maintenance of the following on a customer's premises:

(A) equipment; or

(B) wiring;

(vi) Internet access service;

(vii) a paging service;

(viii) a product transferred electronically, including:

(A) music;

(B) reading material;

(C) a ring tone;

(D) software; or

(E) video;

(ix) a radio and television audio and video programming service:

(A) regardless of the medium; and

(B) including:

(I) furnishing conveyance, routing, or transmission of a television audio and video programming service by a programming service provider;

(II) cable service as defined in 47 U.S.C. Sec. 522(6); or

(III) audio and video programming services delivered by a commercial mobile radio service provider as defined in 47 C.F.R. Sec. 20.3;

(x) a value-added nonvoice data service; or

(xi) tangible personal property.

(135) (a) "Telecommunications service provider" means a person that:

(i) owns, controls, operates, or manages a telecommunications service; and

(ii) engages in an activity described in Subsection (135)(a)(i) for the shared use with or resale to any person of the telecommunications service.

(b) A person described in Subsection (135)(a) is a telecommunications service provider whether or not the Public Service Commission of Utah regulates:

(i) that person; or

(ii) the telecommunications service that the person owns, controls, operates, or manages.

(136) (a) "Telecommunications switching or routing equipment, machinery, or software" means an item listed in Subsection (136)(b) if that item is purchased or leased primarily for switching or routing:

(i) an ancillary service;

(ii) data communications;

(iii) voice communications; or

(iv) telecommunications service.

(b) The following apply to Subsection (136)(a):

(i) a bridge;

(ii) a computer;

(iii) a cross connect;

(iv) a modem;

(v) a multiplexer;

(vi) plug in circuitry;

(vii) a router;

(viii) software;

(ix) a switch; or

(x) equipment, machinery, or software that functions similarly to an item listed in Subsections (136)(b)(i) through (ix) as determined by the commission by rule made in accordance with Subsection (136)(c).

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes equipment, machinery, or software that functions similarly to an item listed in Subsections (136)(b)(i) through (ix).

(137) (a) "Telecommunications transmission equipment, machinery, or software" means an item listed in Subsection (137)(b) if that item is purchased or leased primarily for sending, receiving, or transporting:

(i) an ancillary service;

(ii) data communications;

(iii) voice communications; or

(iv) telecommunications service.

(b) The following apply to Subsection (137)(a):

(i) an amplifier;

(ii) a cable;

(iii) a closure;

(iv) a conduit;

(v) a controller;

(vi) a duplexer;

(vii) a filter;

(viii) an input device;

(ix) an input/output device;

(x) an insulator;

(xi) microwave machinery or equipment;

(xii) an oscillator;

(xiii) an output device;

(xiv) a pedestal;

(xv) a power converter;

(xvi) a power supply;

(xvii) a radio channel;

(xviii) a radio receiver;

(xix) a radio transmitter;

(xx) a repeater;

(xxi) software;

(xxii) a terminal;

(xxiii) a timing unit;

(xxiv) a transformer;

(xxv) a wire; or

(xxvi) equipment, machinery, or software that functions similarly to an item listed in Subsections (137)(b)(i) through (xxv) as determined by the commission by rule made in accordance with Subsection (137)(c).

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes equipment, machinery, or software that functions similarly to an item listed in Subsections (137)(b)(i) through (xxv).

(138) (a) "Textbook for a higher education course" means a textbook or other printed material that is required for a course:

(i) offered by an institution of higher education; and

(ii) that the purchaser of the textbook or other printed material attends or will attend.

(b) "Textbook for a higher education course" includes a textbook in electronic format.

(139) "Tobacco" means:

(a) a cigarette;

(b) a cigar;

(c) chewing tobacco;

(d) pipe tobacco; or

(e) any other item that contains tobacco.

(140) "Unassisted amusement device" means an amusement device, skill device, or ride device that is started and stopped by the purchaser or renter of the right to use or operate the amusement device, skill device, or ride device.

(141) (a) "Use" means the exercise of any right or power over tangible personal property, a product transferred electronically, or a service under Subsection 59-12-103(1), incident to the ownership or the leasing of that tangible personal property, product transferred electronically, or service.

(b) "Use" does not include the sale, display, demonstration, or trial of tangible personal property, a product transferred electronically, or a service in the regular course of business and held for resale.

(142) "Value-added nonvoice data service" means a service:

(a) that otherwise meets the definition of a telecommunications service except that a computer processing application is used to act primarily for a purpose other than conveyance, routing, or transmission; and

(b) with respect to which a computer processing application is used to act on data or information:

(i) code;

(ii) content;

(iii) form; or

(iv) protocol.

(143) (a) Subject to Subsection (143)(b), "vehicle" means the following that are required to be titled, registered, or titled and registered:

(i) an aircraft as defined in Section 72-10-102;

(ii) a vehicle as defined in Section 41-1a-102;

(iii) an off-highway vehicle as defined in Section 41-22-2; or

(iv) a vessel as defined in Section 41-1a-102.

(b) For purposes of Subsection 59-12-104(33) only, "vehicle" includes:

(i) a vehicle described in Subsection (143)(a); or

(ii) (A) a locomotive;

(B) a freight car;

(C) railroad work equipment; or

(D) other railroad rolling stock.

(144) "Vehicle dealer" means a person engaged in the business of buying, selling, or exchanging a vehicle as defined in Subsection (143).

(145) (a) "Vertical service" means an ancillary service that:

(i) is offered in connection with one or more telecommunications services; and

(ii) offers an advanced calling feature that allows a customer to:

(A) identify a caller; and

(B) manage multiple calls and call connections.

(b) "Vertical service" includes an ancillary service that allows a customer to manage a conference bridging service.

(146) (a) "Voice mail service" means an ancillary service that enables a customer to receive, send, or store a recorded message.

(b) "Voice mail service" does not include a vertical service that a customer is required to have in order to utilize a voice mail service.

(147) (a) Except as provided in Subsection (147)(b), "waste energy facility" means a facility that generates electricity:

(i) using as the primary source of energy waste materials that would be placed in a landfill or refuse pit if it were not used to generate electricity, including:

(A) tires;

(B) waste coal;

(C) oil shale; or

(D) municipal solid waste; and

(ii) in amounts greater than actually required for the operation of the facility.

(b) "Waste energy facility" does not include a facility that incinerates:

(i) hospital waste as defined in 40 C.F.R. 60.51c; or

(ii) medical/infectious waste as defined in 40 C.F.R. 60.51c.

(148) "Watercraft" means a vessel as defined in Section 73-18-2.

(149) "Wind energy" means wind used as the sole source of energy to produce electricity.

(150) "ZIP Code" means a Zoning Improvement Plan Code assigned to a geographic location by the United States Postal Service.

Section 39. Section 59-12-103 is amended to read:

59-12-103. Sales and use tax base -- Rates -- Effective dates -- Use of sales and use tax revenues.

(1) A tax is imposed on the purchaser as provided in this part on the purchase price or sales price for amounts paid or charged for the following transactions:

(a) retail sales of tangible personal property made within the state;

(b) amounts paid for:

(i) telecommunications service, other than mobile telecommunications service, that originates and terminates within the boundaries of this state;

(ii) mobile telecommunications service that originates and terminates within the boundaries of one state only to the extent permitted by the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 116 et seq.; or

(iii) an ancillary service associated with a:

(A) telecommunications service described in Subsection (1)(b)(i); or

(B) mobile telecommunications service described in Subsection (1)(b)(ii);

(c) sales of the following for commercial use:

(i) gas;

(ii) electricity;

(iii) heat;

(iv) coal;

(v) fuel oil; or

(vi) other fuels;

(d) sales of the following for residential use:

(i) gas;

(ii) electricity;

(iii) heat;

(iv) coal;

(v) fuel oil; or

(vi) other fuels;

(e) sales of prepared food;

(f) except as provided in Section 59-12-104, amounts paid or charged as admission or user fees for theaters, movies, operas, museums, planetariums, shows of any type or nature, exhibitions, concerts, carnivals, amusement parks, amusement rides, circuses, menageries, fairs, races, contests, sporting events, dances, boxing matches, wrestling matches, closed circuit television broadcasts, billiard parlors, pool parlors, bowling lanes, golf, miniature golf, golf driving ranges, batting cages, skating rinks, ski lifts, ski runs, ski trails, snowmobile trails, tennis courts, swimming pools, water slides, river runs, jeep tours, boat tours, scenic cruises, horseback rides, sports activities, or any other amusement, entertainment, recreation, exhibition, cultural, or athletic activity;

(g) amounts paid or charged for services for repairs or renovations of tangible personal property, unless Section 59-12-104 provides for an exemption from sales and use tax for:

(i) the tangible personal property; and

(ii) parts used in the repairs or renovations of the tangible personal property described in Subsection (1)(g)(i), regardless of whether:

(A) any parts are actually used in the repairs or renovations of that tangible personal property; or

(B) the particular parts used in the repairs or renovations of that tangible personal property are exempt from a tax under this chapter;

(h) except as provided in Subsection 59-12-104(7), amounts paid or charged for assisted cleaning or washing of tangible personal property;

(i) amounts paid or charged for tourist home, hotel, motel, or trailer court accommodations and services that are regularly rented for less than 30 consecutive days;

(j) amounts paid or charged for laundry or dry cleaning services;

(k) amounts paid or charged for leases or rentals of tangible personal property if within this state the tangible personal property is:

(i) stored;

(ii) used; or

(iii) otherwise consumed;

(l) amounts paid or charged for tangible personal property if within this state the tangible personal property is:

(i) stored;

(ii) used; or

(iii) consumed; and

(m) amounts paid or charged for a sale:

(i) (A) of a product transferred electronically; or

(B) of a repair or renovation of a product transferred electronically; and

(ii) regardless of whether the sale provides:

(A) a right of permanent use of the product; or

(B) a right to use the product that is less than a permanent use, including a right:

(I) for a definite or specified length of time; and

(II) that terminates upon the occurrence of a condition.

(2) (a) Except as provided in Subsections (2)(b) through [~~(e)~~] (f), a state tax and a local tax are imposed on a transaction described in Subsection (1) equal to the sum of:

(i) a state tax imposed on the transaction at a tax rate equal to the sum of:

[~~(A) (I) through March 31, 2019, 4.70%; and~~]

[~~(II)~~] (A) [~~beginning on April 1, 2019,~~] 4.70% plus the rate specified in Subsection [~~(13)~~] (12)(a); and

(B) (I) the tax rate the state imposes in accordance with Part 18, Additional State Sales and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211 through 59-12-215 is in a county in which the state imposes the tax under Part 18, Additional State Sales and Use Tax Act; and

(II) the tax rate the state imposes in accordance with Part 20, Supplemental State Sales and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211 through 59-12-215 is in a city, town, or the unincorporated area of a county in which the state imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

(ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the transaction under this chapter other than this part.

(b) Except as provided in Subsection [~~(2)(d) or (e)~~] (2)(e) or (f) and subject to Subsection (2)[~~(j)~~](k), a state tax and a local tax are imposed on a transaction described in Subsection (1)(d) equal to the sum of:

(i) a state tax imposed on the transaction at a tax rate of 2%; and

(ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the transaction under this chapter other than this part.

(c) Except as provided in Subsection [~~(2)(d) or (e)~~] (2)(e) or (f), a state tax and a local tax are imposed on amounts paid or charged for food and food ingredients equal to the sum of:

(i) a state tax imposed on the amounts paid or charged for food and food ingredients at a tax rate of 1.75%; and

(ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the amounts paid or charged for food and food ingredients under this chapter other than this part.

(d) Except as provided in Subsection (2)(e) or (f), a state tax is imposed on amounts paid or charged for fuel to a common carrier that is a railroad for use in a locomotive engine at a rate of 4.85%.

[~~(d)~~] (e) (i) For a bundled transaction that is attributable to food and food ingredients and tangible personal property other than food and food ingredients, a state tax and a local tax is imposed on the entire bundled transaction equal to the sum of:

(A) a state tax imposed on the entire bundled transaction equal to the sum of:

(I) the tax rate described in Subsection (2)(a)(i)(A); and

(II) (Aa) the tax rate the state imposes in accordance with Part 18, Additional State Sales and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211 through 59-12-215 is in a county in which the state imposes the tax under Part 18, Additional State Sales and Use Tax Act; and

(Bb) the tax rate the state imposes in accordance with Part 20, Supplemental State Sales and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211 through 59-12-215 is in a city, town, or the unincorporated area of a county in which the state imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

(B) a local tax imposed on the entire bundled transaction at the sum of the tax rates described in Subsection (2)(a)(ii).

(ii) If an optional computer software maintenance contract is a bundled transaction that consists of taxable and nontaxable products that are not separately itemized on an invoice or similar billing document, the purchase of the optional computer software maintenance contract is 40% taxable under this chapter and 60% nontaxable under this chapter.

(iii) Subject to Subsection (2)[~~(d)~~](e)(iv), for a bundled transaction other than a bundled transaction described in Subsection (2)[~~(d)~~](e)(i) or (ii):

(A) if the sales price of the bundled transaction is attributable to tangible personal property, a product, or a service that is subject to taxation under this chapter and tangible personal property, a product, or service that is not subject to taxation under this chapter, the entire bundled transaction is subject to taxation under this chapter unless:

(I) the seller is able to identify by reasonable and verifiable standards the tangible personal property, product, or service that is not subject to taxation under this chapter from the books and records the seller keeps in the seller's regular course of business; or

(II) state or federal law provides otherwise; or

(B) if the sales price of a bundled transaction is attributable to two or more items of tangible personal property, products, or services that are subject to taxation under this chapter at different rates, the entire bundled transaction is subject to taxation under this chapter at the higher tax rate unless:

(I) the seller is able to identify by reasonable and verifiable standards the tangible personal property, product, or service that is subject to taxation under this chapter at the lower tax rate from the books and records the seller keeps in the seller's regular course of business; or

(II) state or federal law provides otherwise.

(iv) For purposes of Subsection (2)[~~(d)~~](e)(iii), books and records that a seller keeps in the seller's regular course of business includes books and records the seller keeps in the regular course of business for nontax purposes.

[~~(e)~~] (f) (i) Except as otherwise provided in this chapter and subject to Subsections (2)[~~(e)~~](f)(ii) and (iii), if a transaction consists of the sale, lease, or rental of tangible personal property, a product, or a service that is subject to taxation under this chapter, and the sale, lease, or rental of tangible personal property, other property, a product, or a service that is not subject to taxation under this chapter, the entire transaction is subject to taxation under this chapter unless the seller, at the time of the transaction:

(A) separately states the portion of the transaction that is not subject to taxation under this chapter on an invoice, bill of sale, or similar document provided to the purchaser; or

(B) is able to identify by reasonable and verifiable standards, from the books and records the seller keeps in the seller's regular course of business, the portion of the transaction that is not subject to taxation under this chapter.

(ii) A purchaser and a seller may correct the taxability of a transaction if:

(A) after the transaction occurs, the purchaser and the seller discover that the portion of the transaction that is not subject to taxation under this chapter was not separately stated on an invoice, bill of sale, or similar document provided to the purchaser because of an error or ignorance of the law; and

(B) the seller is able to identify by reasonable and verifiable standards, from the books and records the seller keeps in the seller's regular course of business, the portion of the transaction that is not subject to taxation under this chapter.

(iii) For purposes of Subsections (2)[~~(e)~~](f)(i) and (ii), books and records that a seller keeps in the seller's regular course of business includes books and records the seller keeps in the regular course of business for nontax purposes.

[~~(f)~~] (g) (i) If the sales price of a transaction is attributable to two or more items of tangible personal property, products, or services that are subject to taxation under this chapter at different rates, the entire purchase is subject to taxation under this chapter at the higher tax rate unless the seller, at the time of the transaction:

(A) separately states the items subject to taxation under this chapter at each of the different rates on an invoice, bill of sale, or similar document provided to the purchaser; or

(B) is able to identify by reasonable and verifiable standards the tangible personal property, product, or service that is subject to taxation under this chapter at the lower tax rate from the books and records the seller keeps in the seller's regular course of business.

(ii) For purposes of Subsection (2)[~~(f)~~](g)(i), books and records that a seller keeps in the seller's regular course of business includes books and records the seller keeps in the regular course of business for nontax purposes.

[~~(g)~~] (h) Subject to Subsections [~~(2)(h) and (i)~~] (2)(i) and (j), a tax rate repeal or tax rate change for a tax rate imposed under the following shall take effect on the first day of a calendar quarter:

(i) Subsection (2)(a)(i)(A);

(ii) Subsection (2)(b)(i);

(iii) Subsection (2)(c)(i); or

(iv) Subsection (2)[~~(d)~~](e)(i)(A)(I).

[~~(h)~~] (i) (i) A tax rate increase takes effect on the first day of the first billing period that begins on or after the effective date of the tax rate increase if the

billing period for the transaction begins before the effective date of a tax rate increase imposed under:

(A) Subsection (2)(a)(i)(A);

(B) Subsection (2)(b)(i);

(C) Subsection (2)(c)(i); or

(D) Subsection (2)[~~(d)~~](e)(i)(A)(I).

(ii) The repeal of a tax or a tax rate decrease applies to a billing period if the billing statement for the billing period is rendered on or after the effective date of the repeal of the tax or the tax rate decrease imposed under:

(A) Subsection (2)(a)(i)(A);

(B) Subsection (2)(b)(i);

(C) Subsection (2)(c)(i); or

(D) Subsection (2)[~~(d)~~](e)(i)(A)(I).

[~~(i)~~] (j) (i) For a tax rate described in Subsection (2)[~~(i)~~](j)(ii), if a tax due on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, a tax rate repeal or change in a tax rate takes effect:

(A) on the first day of a calendar quarter; and

(B) beginning 60 days after the effective date of the tax rate repeal or tax rate change.

(ii) Subsection (2)[~~(i)~~](j)(i) applies to the tax rates described in the following:

(A) Subsection (2)(a)(i)(A);

(B) Subsection (2)(b)(i);

(C) Subsection (2)(c)(i); or

(D) Subsection (2)[~~(d)~~](e)(i)(A)(I).

(iii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

[~~(j)~~] (k) (i) For a location described in Subsection (2)[~~(j)~~](k)(ii), the commission shall determine the taxable status of a sale of gas, electricity, heat, coal, fuel oil, or other fuel based on the predominant use of the gas, electricity, heat, coal, fuel oil, or other fuel at the location.

(ii) Subsection (2)[~~(j)~~](k)(i) applies to a location where gas, electricity, heat, coal, fuel oil, or other fuel is furnished through a single meter for two or more of the following uses:

(A) a commercial use;

(B) an industrial use; or

(C) a residential use.

(3) (a) The following state taxes shall be deposited into the General Fund:

(i) the tax imposed by Subsection (2)(a)(i)(A);

(ii) the tax imposed by Subsection (2)(b)(i);

(iii) the tax imposed by Subsection (2)(c)(i); [~~or~~] and

(iv) the tax imposed by Subsection (2)[~~(d)~~](e)(i)(A)(I).

(b) The following local taxes shall be distributed to a county, city, or town as provided in this chapter:

(i) the tax imposed by Subsection (2)(a)(ii);

(ii) the tax imposed by Subsection (2)(b)(ii);

(iii) the tax imposed by Subsection (2)(c)(ii); and

(iv) the tax imposed by Subsection (2)[~~(d)~~](e)(i)(B).

(c) The state tax imposed by Subsection (2)(d) shall be deposited into the General Fund.

(4) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1, 2003, the lesser of the following amounts shall be expended as provided in Subsections (4)(b) through (g):

(i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:

(A) by a 1/16% tax rate on the transactions described in Subsection (1); and

(B) for the fiscal year; or

(ii) $17,500,000.

(b) (i) For a fiscal year beginning on or after July 1, 2003, 14% of the amount described in Subsection (4)(a) shall be transferred each year as dedicated credits to the Department of Natural Resources to:

(A) implement the measures described in Subsections 79-2-303(3)(a) through (d) to protect sensitive plant and animal species; or

(B) award grants, up to the amount authorized by the Legislature in an appropriations act, to political subdivisions of the state to implement the measures described in Subsections 79-2-303(3)(a) through (d) to protect sensitive plant and animal species.

(ii) Money transferred to the Department of Natural Resources under Subsection (4)(b)(i) may not be used to assist the United States Fish and Wildlife Service or any other person to list or attempt to have listed a species as threatened or endangered under the Endangered Species Act of 1973, 16 U.S.C. Sec. 1531 et seq.

(iii) At the end of each fiscal year:

(A) 50% of any unexpended dedicated credits shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24;

(B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan Program Subaccount created in Section 73-10c-5; and

(C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan Program Subaccount created in Section 73-10c-5.

(c) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described in

Subsection (4)(a) shall be deposited each year in the Agriculture Resource Development Fund created in Section 4-18-106.

(d) (i) For a fiscal year beginning on or after July 1, 2003, 1% of the amount described in Subsection (4)(a) shall be transferred each year as dedicated credits to the Division of Water Rights to cover the costs incurred in hiring legal and technical staff for the adjudication of water rights.

(ii) At the end of each fiscal year:

(A) 50% of any unexpended dedicated credits shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24;

(B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan Program Subaccount created in Section 73-10c-5; and

(C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan Program Subaccount created in Section 73-10c-5.

(e) (i) For a fiscal year beginning on or after July 1, 2003, 41% of the amount described in Subsection (4)(a) shall be deposited into the Water Resources Conservation and Development Fund created in Section 73-10-24 for use by the Division of Water Resources.

(ii) In addition to the uses allowed of the Water Resources Conservation and Development Fund under Section 73-10-24, the Water Resources Conservation and Development Fund may also be used to:

(A) conduct hydrologic and geotechnical investigations by the Division of Water Resources in a cooperative effort with other state, federal, or local entities, for the purpose of quantifying surface and ground water resources and describing the hydrologic systems of an area in sufficient detail so as to enable local and state resource managers to plan for and accommodate growth in water use without jeopardizing the resource;

(B) fund state required dam safety improvements; and

(C) protect the state's interest in interstate water compact allocations, including the hiring of technical and legal staff.

(f) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described in Subsection (4)(a) shall be deposited into the Utah Wastewater Loan Program Subaccount created in Section 73-10c-5 for use by the Water Quality Board to fund wastewater projects.

(g) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described in Subsection (4)(a) shall be deposited into the Drinking Water Loan Program Subaccount created in Section 73-10c-5 for use by the Division of Drinking Water to:

(i) provide for the installation and repair of collection, treatment, storage, and distribution facilities for any public water system, as defined in Section 19-4-102;

(ii) develop underground sources of water, including springs and wells; and

(iii) develop surface water sources.

(5) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1, 2006, the difference between the following amounts shall be expended as provided in this Subsection (5), if that difference is greater than $1:

(i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated for the fiscal year by a 1/16% tax rate on the transactions described in Subsection (1); and

(ii) $17,500,000.

(b) (i) The first $500,000 of the difference described in Subsection (5)(a) shall be:

(A) transferred each fiscal year to the Department of Natural Resources as dedicated credits; and

(B) expended by the Department of Natural Resources for watershed rehabilitation or restoration.

(ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described in Subsection (5)(b)(i) shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24.

(c) (i) After making the transfer required by Subsection (5)(b)(i), $150,000 of the remaining difference described in Subsection (5)(a) shall be:

(A) transferred each fiscal year to the Division of Water Resources as dedicated credits; and

(B) expended by the Division of Water Resources for cloud-seeding projects authorized by Title 73, Chapter 15, Modification of Weather.

(ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described in Subsection (5)(c)(i) shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24.

(d) After making the transfers required by Subsections (5)(b) and (c), 85% of the remaining difference described in Subsection (5)(a) shall be deposited into the Water Resources Conservation and Development Fund created in Section 73-10-24 for use by the Division of Water Resources for:

(i) preconstruction costs:

(A) as defined in Subsection 73-26-103(6) for projects authorized by Title 73, Chapter 26, Bear River Development Act; and

(B) as defined in Subsection 73-28-103(8) for the Lake Powell Pipeline project authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act;

(ii) the cost of employing a civil engineer to oversee any project authorized by Title 73, Chapter 26, Bear River Development Act;

(iii) the cost of employing a civil engineer to oversee the Lake Powell Pipeline project authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act; and

(iv) other uses authorized under Sections 73-10-24, 73-10-25.1, and 73-10-30, and Subsection (4)(e)(ii) after funding the uses specified in Subsections (5)(d)(i) through (iii).

(e) After making the transfers required by Subsections (5)(b) and (c) and subject to Subsection (5)(f), 15% of the remaining difference described in Subsection (5)(a) shall be transferred each year as dedicated credits to the Division of Water Rights to cover the costs incurred for employing additional technical staff for the administration of water rights.

(f) At the end of each fiscal year, any unexpended dedicated credits described in Subsection (5)(e) over $150,000 lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24.

(6) Notwithstanding Subsection (3)(a) and for taxes listed under Subsection (3)(a), the amount of revenue generated by a 1/16% tax rate on the transactions described in Subsection (1) for the fiscal year shall be deposited as follows:

[~~(a) for fiscal year 2016-17 only, 100% of the revenue described in this Subsection (6) shall be deposited into the Transportation Investment Fund of 2005 created by Section 72-2-124;~~]

[~~(b) for fiscal year 2017-18 only:~~]

[~~(i) 80% of the revenue described in this Subsection (6) shall be deposited into the Transportation Investment Fund of 2005 created by Section 72-2-124; and~~]

[~~(ii) 20% of the revenue described in this Subsection (6) shall be deposited into the Water Infrastructure Restricted Account created by Section 73-10g-103;~~]

[~~(c) for fiscal year 2018-19 only:~~]

[~~(i) 60% of the revenue described in this Subsection (6) shall be deposited into the Transportation Investment Fund of 2005 created by Section 72-2-124; and~~]

[~~(ii) 40% of the revenue described in this Subsection (6) shall be deposited into the Water Infrastructure Restricted Account created by Section 73-10g-103;~~]

[~~(d) for fiscal year 2019-20 only:~~]

[~~(i) 40% of the revenue described in this Subsection (6) shall be deposited into the Transportation Investment Fund of 2005 created by Section 72-2-124; and~~]

[~~(ii) 60% of the revenue described in this Subsection (6) shall be deposited into the Water Infrastructure Restricted Account created by Section 73-10g-103;~~]

[~~(e)~~] (a) for fiscal year 2020-21 only:

(i) 20% of the revenue described in this Subsection (6) shall be deposited into the Transportation Investment Fund of 2005 created by Section 72-2-124; and

(ii) 80% of the revenue described in this Subsection (6) shall be deposited into the Water Infrastructure Restricted Account created by Section 73-10g-103; and

[~~(f)~~] (b) for a fiscal year beginning on or after July 1, 2021, 100% of the revenue described in this Subsection (6) shall be deposited into the Water Infrastructure Restricted Account created by Section 73-10g-103.

(7) (a) Notwithstanding Subsection (3)(a), in addition to the amounts deposited in Subsection (6), and subject to Subsection (7)(b), for a fiscal year beginning on or after July 1, 2012, the Division of Finance shall deposit into the Transportation Investment Fund of 2005 created by Section 72-2-124:

(i) a portion of the taxes listed under Subsection (3)(a) in an amount equal to 8.3% of the revenues collected from the following taxes, which represents a portion of the approximately 17% of sales and use tax revenues generated annually by the sales and use tax on vehicles and vehicle-related products:

(A) the tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate;

(B) the tax imposed by Subsection (2)(b)(i);

(C) the tax imposed by Subsection (2)(c)(i); and

(D) the tax imposed by Subsection (2)[~~(d)~~](e)(i)(A)(I); plus

(ii) an amount equal to 30% of the growth in the amount of revenues collected in the current fiscal year from the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) that exceeds the amount collected from the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) in the 2010-11 fiscal year.

(b) (i) Subject to Subsections (7)(b)(ii) and (iii), in any fiscal year that the portion of the sales and use taxes deposited under Subsection (7)(a) represents an amount that is a total lower percentage of the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) generated in the current fiscal year than the total percentage of sales and use taxes deposited in the previous fiscal year, the Division of Finance shall deposit an amount under Subsection (7)(a) equal to the product of:

(A) the total percentage of sales and use taxes deposited under Subsection (7)(a) in the previous fiscal year; and

(B) the total sales and use tax revenue generated by the taxes described in Subsections (7)(a)(i)(A) through (D) in the current fiscal year.

(ii) In any fiscal year in which the portion of the sales and use taxes deposited under Subsection

(7)(a) would exceed 17% of the revenues collected from the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) in the current fiscal year, the Division of Finance shall deposit 17% of the revenues collected from the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) for the current fiscal year under Subsection (7)(a).

(iii) In all subsequent fiscal years after a year in which 17% of the revenues collected from the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) was deposited under Subsection (7)(a), the Division of Finance shall annually deposit 17% of the revenues collected from the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) in the current fiscal year under Subsection (7)(a).

[~~(8) (a) Notwithstanding Subsection (3)(a), and in addition to the amounts deposited under Subsections (6) and (7), for the 2016-17 fiscal year only, the Division of Finance shall deposit $64,000,000 of the revenues generated by the taxes listed under Subsection (3)(a) into the Transportation Investment Fund of 2005 created by Section 72-2-124.~~]

[~~(b) Notwithstanding Subsection (3)(a), and in addition to the amounts deposited under Subsections (6) and (7), for the 2017-18 fiscal year only, the Division of Finance shall deposit $63,000,000 of the revenues generated by the taxes listed under Subsection (3)(a) into the Transportation Investment Fund of 2005 created by Section 72-2-124.~~]

[~~(c) (i)~~] (8) (a) Notwithstanding Subsection (3)(a), in addition to the amounts deposited under Subsections (6) and (7), and subject to Subsection [~~(8)(c)(ii)~~] (8)(b), for a fiscal year beginning on or after July 1, 2018, the commission shall annually deposit into the Transportation Investment Fund of 2005 created by Section 72-2-124 a portion of the taxes listed under Subsection (3)(a) in an amount equal to 3.68% of the revenues collected from the following taxes:

[~~(A)~~] (i) the tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate;

[~~(B)~~] (ii) the tax imposed by Subsection (2)(b)(i);

[~~(C)~~] (iii) the tax imposed by Subsection (2)(c)(i); and

[~~(D)~~] (iv) the tax imposed by Subsection (2)[~~(d)~~](e)(i)(A)(I).

[~~(ii)~~] (b) For a fiscal year beginning on or after July 1, 2019, the commission shall annually reduce the deposit into the Transportation Investment Fund of 2005 under Subsection [~~(8)(c)(i)~~] (8)(a) by an amount that is equal to 35% of the amount of revenue generated in the current fiscal year by the portion of the tax imposed on motor and special fuel that is sold, used, or received for sale or use in this state that exceeds 29.4 cents per gallon.

[~~(iii)~~] (c) The commission shall annually deposit the amount described in Subsection [~~(8)(c)(ii)~~] (8)(b) into the Transit [~~and~~] Transportation Investment Fund created in Section 72-2-124.

(9) Notwithstanding Subsection (3)(a), for each fiscal year beginning with fiscal year 2009-10, $533,750 shall be deposited into the Qualified Emergency Food Agencies Fund created by Section 35A-8-1009 and expended as provided in Section 35A-8-1009.

[~~(10) (a) Notwithstanding Subsection (3)(a), except as provided in Subsection (10)(c), in addition to any amounts deposited under Subsections (6), (7), and (8), and for the 2016-17 fiscal year only, the Division of Finance shall deposit into the Transportation Investment Fund of 2005 created by Section 72-2-124 the amount of tax revenue generated by a .05% tax rate on the transactions described in Subsection (1).~~]

[~~(b)~~] (10) (a) Notwithstanding Subsection (3)(a), except as provided in Subsection (10)[~~(c)~~](b), and in addition to any amounts deposited under Subsections (6), (7), and (8), the Division of Finance shall deposit into the Transportation Investment Fund of 2005 created by Section 72-2-124 the amount of revenue described as follows:

[~~(i) for fiscal year 2017-18 only, 83.33% of the amount of revenue generated by a .05% tax rate on the transactions described in Subsection (1);~~]

[~~(ii) for fiscal year 2018-19 only, 66.67% of the amount of revenue generated by a .05% tax rate on the transactions described in Subsection (1);~~]

[~~(iii) for fiscal year 2019-20 only, 50% of the amount of revenue generated by a .05% tax rate on the transactions described in Subsection (1);~~]

[~~(iv)~~] (i) for fiscal year 2020-21 only, 33.33% of the amount of revenue generated by a .05% tax rate on the transactions described in Subsection (1); and

[~~(v)~~] (ii) for fiscal year 2021-22 only, 16.67% of the amount of revenue generated by a .05% tax rate on the transactions described in Subsection (1).

[~~(c)~~] (b) For purposes of [~~Subsections (10)(a) and (b)~~] Subsection (10)(a), the Division of Finance may not deposit into the Transportation Investment Fund of 2005 any tax revenue generated by amounts paid or charged for food and food ingredients, except for tax revenue generated by a bundled transaction attributable to food and food ingredients and tangible personal property other than food and food ingredients described in Subsection (2)[~~(d)~~](e).

(11) Notwithstanding Subsection (3)(a), beginning the second fiscal year after the fiscal year during which the Division of Finance receives notice under Section 63N-2-510 that construction on a qualified hotel, as defined in Section 63N-2-502, has begun, the Division of Finance shall, for two consecutive fiscal years, annually deposit $1,900,000 of the revenue generated by the taxes listed under Subsection (3)(a) into the Hotel Impact Mitigation Fund, created in Section 63N-2-512.

[~~(12) (a) Notwithstanding Subsection (3)(a), for the 2016-17 fiscal year only, the Division of Finance~~

~~shall deposit $26,000,000 of the revenues generated by the taxes listed under Subsection (3)(a) into the Throughput Infrastructure Fund created by Section 35A-8-308.~~]

[~~(b) Notwithstanding Subsection (3)(a), for the 2017-18 fiscal year only, the Division of Finance shall deposit $27,000,000 of the revenues generated by the taxes listed under Subsection (3)(a) into the Throughput Infrastructure Fund created by Section 35A-8-308.~~]

[~~(13)~~] (12) (a) The rate specified in this subsection is 0.15%.

(b) Notwithstanding Subsection (3)(a), the Division of Finance shall[~~: (i) on or before September 30, 2019, transfer the amount of revenue collected from the rate described in Subsection (13)(a) beginning on April 1, 2019, and ending on June 30, 2019, on the transactions that are subject to the sales and use tax under Subsection (2)(a)(i)(A) into the Medicaid Expansion Fund created in Section 26-36b-208; and (ii)~~], for a fiscal year beginning on or after July 1, 2019, annually transfer the amount of revenue collected from the rate described in Subsection [~~(13)~~] (12)(a) on the transactions that are subject to the sales and use tax under Subsection (2)(a)(i)(A) into the Medicaid Expansion Fund created in Section 26-36b-208.

[~~(14)~~] (13) Notwithstanding Subsection (3)(a), for each fiscal year beginning with fiscal year 2020-21, the Division of Finance shall deposit $200,000 into the General Fund as a dedicated credit solely for use of the Search and Rescue Financial Assistance Program created in, and expended in accordance with, Title 53, Chapter 2a, Part 11, Search and Rescue Act.

[~~(15)~~] (14) (a) For each fiscal year beginning with fiscal year 2020-21, the Division of Finance shall annually transfer $1,813,400 of the revenue deposited into the Transportation Investment Fund of 2005 under Subsections (6) through (8) to the General Fund.

(b) If the total revenue deposited into the Transportation Investment Fund of 2005 under Subsections (6) through (8) is less than $1,813,400 for a fiscal year, the Division of Finance shall transfer the total revenue deposited into the Transportation Investment Fund of 2005 under Subsections (6) through (8) during the fiscal year to the General Fund.

Section 40. Section 59-12-104 is amended to read:

59-12-104. Exemptions.

Exemptions from the taxes imposed by this chapter are as follows:

(1) sales of aviation fuel, motor fuel, and special fuel subject to a Utah state excise tax under Chapter 13, Motor and Special Fuel Tax Act;

(2) subject to Section 59-12-104.6, sales to the state, its institutions, and its political subdivisions; however, this exemption does not apply to sales of:

(a) construction materials except:

(i) construction materials purchased by or on behalf of institutions of the public education system as defined in Utah Constitution, Article X, Section 2, provided the construction materials are clearly identified and segregated and installed or converted to real property which is owned by institutions of the public education system; and

(ii) construction materials purchased by the state, its institutions, or its political subdivisions which are installed or converted to real property by employees of the state, its institutions, or its political subdivisions; or

(b) tangible personal property in connection with the construction, operation, maintenance, repair, or replacement of a project, as defined in Section 11-13-103, or facilities providing additional project capacity, as defined in Section 11-13-103;

(3) (a) sales of an item described in Subsection (3)(b) from a vending machine if:

(i) the proceeds of each sale do not exceed $1; and

(ii) the seller or operator of the vending machine reports an amount equal to 150% of the cost of the item described in Subsection (3)(b) as goods consumed; and

(b) Subsection (3)(a) applies to:

(i) food and food ingredients; or

(ii) prepared food;

(4) (a) sales of the following to a commercial airline carrier for in-flight consumption:

(i) alcoholic beverages;

(ii) food and food ingredients; or

(iii) prepared food;

(b) sales of tangible personal property or a product transferred electronically:

(i) to a passenger;

(ii) by a commercial airline carrier; and

(iii) during a flight for in-flight consumption or in-flight use by the passenger; or

(c) services related to Subsection (4)(a) or (b);

[~~(5) (a) (i) beginning on July 1, 2008, and ending on September 30, 2008, sales of parts and equipment:~~]

[~~(A) (I) by an establishment described in NAICS Code 336411 or 336412 of the 2002 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget; and~~]

[~~(II) for:~~]

[~~(Aa) installation in an aircraft, including services relating to the installation of parts or equipment in the aircraft;~~]

[~~(Bb) renovation of an aircraft; or~~]

[~~(Cc) repair of an aircraft; or~~]

[~~(B) for installation in an aircraft operated by a common carrier in interstate or foreign commerce; or~~]

[~~(ii) beginning on October 1, 2008, sales of parts and equipment for installation in an aircraft operated by a common carrier in interstate or foreign commerce; and~~]

[~~(b) notwithstanding the time period of Subsection 59-1-1410(8) for filing for a refund, a person may claim the exemption allowed by Subsection (5)(a)(i)(B) for a sale by filing for a refund:~~]

[~~(i) if the sale is made on or after July 1, 2008, but on or before September 30, 2008;~~]

[~~(ii) as if Subsection (5)(a)(i)(B) were in effect on the day on which the sale is made;~~]

[~~(iii) if the person did not claim the exemption allowed by Subsection (5)(a)(i)(B) for the sale prior to filing for the refund;~~]

[~~(iv) for sales and use taxes paid under this chapter on the sale;~~]

[~~(v) in accordance with Section 59-1-1410; and~~]

[~~(vi) subject to any extension allowed for filing for a refund under Section 59-1-1410, if the person files for the refund on or before September 30, 2011;~~]

(5) sales of parts and equipment for installation in an aircraft operated by a common carrier in interstate or foreign commerce;

(6) sales of commercials, motion picture films, prerecorded audio program tapes or records, and prerecorded video tapes by a producer, distributor, or studio to a motion picture exhibitor, distributor, or commercial television or radio broadcaster;

(7) (a) except as provided in Subsection (85) and subject to Subsection (7)(b), sales of cleaning or washing of tangible personal property if the cleaning or washing of the tangible personal property is not assisted cleaning or washing of tangible personal property;

(b) if a seller that sells at the same business location assisted cleaning or washing of tangible personal property and cleaning or washing of tangible personal property that is not assisted cleaning or washing of tangible personal property, the exemption described in Subsection (7)(a) applies if the seller separately accounts for the sales of the assisted cleaning or washing of the tangible personal property; and

(c) for purposes of Subsection (7)(b) and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules:

(i) governing the circumstances under which sales are at the same business location; and

(ii) establishing the procedures and requirements for a seller to separately account for sales of assisted cleaning or washing of tangible personal property;

(8) sales made to or by religious or charitable institutions in the conduct of their regular religious or charitable functions and activities, if the requirements of Section 59-12-104.1 are fulfilled;

(9) sales of a vehicle of a type required to be registered under the motor vehicle laws of this state if the vehicle is:

(a) not registered in this state; and

(b) (i) not used in this state; or

(ii) used in this state:

(A) if the vehicle is not used to conduct business, for a time period that does not exceed the longer of:

(I) 30 days in any calendar year; or

(II) the time period necessary to transport the vehicle to the borders of this state; or

(B) if the vehicle is used to conduct business, for the time period necessary to transport the vehicle to the borders of this state;

(10) (a) amounts paid for an item described in Subsection (10)(b) if:

(i) the item is intended for human use; and

(ii) (A) a prescription was issued for the item; or

(B) the item was purchased by a hospital or other medical facility; and

(b) (i) Subsection (10)(a) applies to:

(A) a drug;

(B) a syringe; or

(C) a stoma supply; and

(ii) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the terms:

(A) "syringe"; or

(B) "stoma supply";

(11) purchases or leases exempt under Section 19-12-201;

(12) (a) sales of an item described in Subsection (12)(c) served by:

(i) the following if the item described in Subsection (12)(c) is not available to the general public:

(A) a church; or

(B) a charitable institution; or

(ii) an institution of higher education if:

(A) the item described in Subsection (12)(c) is not available to the general public; or

(B) the item described in Subsection (12)(c) is prepaid as part of a student meal plan offered by the institution of higher education; or

(b) sales of an item described in Subsection (12)(c) provided for a patient by:

(i) a medical facility; or

(ii) a nursing facility; and

(c) Subsections (12)(a) and (b) apply to:

(i) food and food ingredients;

(ii) prepared food; or

(iii) alcoholic beverages;

(13) (a) except as provided in Subsection (13)(b), the sale of tangible personal property or a product transferred electronically by a person:

(i) regardless of the number of transactions involving the sale of that tangible personal property or product transferred electronically by that person; and

(ii) not regularly engaged in the business of selling that type of tangible personal property or product transferred electronically;

(b) this Subsection (13) does not apply if:

(i) the sale is one of a series of sales of a character to indicate that the person is regularly engaged in the business of selling that type of tangible personal property or product transferred electronically;

(ii) the person holds that person out as regularly engaged in the business of selling that type of tangible personal property or product transferred electronically;

(iii) the person sells an item of tangible personal property or product transferred electronically that the person purchased as a sale that is exempt under Subsection (25); or

(iv) the sale is of a vehicle or vessel required to be titled or registered under the laws of this state in which case the tax is based upon:

(A) the bill of sale or other written evidence of value of the vehicle or vessel being sold; or

(B) in the absence of a bill of sale or other written evidence of value, the fair market value of the vehicle or vessel being sold at the time of the sale as determined by the commission; and

(c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules establishing the circumstances under which:

(i) a person is regularly engaged in the business of selling a type of tangible personal property or product transferred electronically;

(ii) a sale of tangible personal property or a product transferred electronically is one of a series of sales of a character to indicate that a person is regularly engaged in the business of selling that type of tangible personal property or product transferred electronically; or

(iii) a person holds that person out as regularly engaged in the business of selling a type of tangible personal property or product transferred electronically;

(14) amounts paid or charged for a purchase or lease of machinery, equipment, normal operating repair or replacement parts, or materials, except for office equipment or office supplies, by:

(a) a manufacturing facility that:

(i) is located in the state; and

(ii) uses or consumes the machinery, equipment, normal operating repair or replacement parts, or materials:

(A) in the manufacturing process to manufacture an item sold as tangible personal property, as the commission may define that phrase in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or

(B) for a scrap recycler, to process an item sold as tangible personal property, as the commission may define that phrase in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(b) an establishment, as the commission defines that term in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

(i) is described in NAICS Subsector 212, Mining (except Oil and Gas), or NAICS Code 213113, Support Activities for Coal Mining, 213114, Support Activities for Metal Mining, or 213115, Support Activities for Nonmetallic Minerals (except Fuels) Mining, of the 2002 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget;

(ii) is located in the state; and

(iii) uses or consumes the machinery, equipment, normal operating repair or replacement parts, or materials in:

(A) the production process to produce an item sold as tangible personal property, as the commission may define that phrase in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(B) research and development, as the commission may define that phrase in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(C) transporting, storing, or managing tailings, overburden, or similar waste materials produced from mining;

(D) developing or maintaining a road, tunnel, excavation, or similar feature used in mining; or

(E) preventing, controlling, or reducing dust or other pollutants from mining; or

(c) an establishment, as the commission defines that term in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

(i) is described in NAICS Code 518112, Web Search Portals, of the 2002 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget;

(ii) is located in the state; and

(iii) uses or consumes the machinery, equipment, normal operating repair or replacement parts, or materials in the operation of the web search portal;

(15) (a) sales of the following if the requirements of Subsection (15)(b) are met:

(i) tooling;

(ii) special tooling;

(iii) support equipment;

(iv) special test equipment; or

(v) parts used in the repairs or renovations of tooling or equipment described in Subsections (15)(a)(i) through (iv); and

(b) sales of tooling, equipment, or parts described in Subsection (15)(a) are exempt if:

(i) the tooling, equipment, or parts are used or consumed exclusively in the performance of any aerospace or electronics industry contract with the United States government or any subcontract under that contract; and

(ii) under the terms of the contract or subcontract described in Subsection (15)(b)(i), title to the tooling, equipment, or parts is vested in the United States government as evidenced by:

(A) a government identification tag placed on the tooling, equipment, or parts; or

(B) listing on a government-approved property record if placing a government identification tag on the tooling, equipment, or parts is impractical;

(16) sales of newspapers or newspaper subscriptions;

(17) (a) except as provided in Subsection (17)(b), tangible personal property or a product transferred electronically traded in as full or part payment of the purchase price, except that for purposes of calculating sales or use tax upon vehicles not sold by a vehicle dealer, trade-ins are limited to other vehicles only, and the tax is based upon:

(i) the bill of sale or other written evidence of value of the vehicle being sold and the vehicle being traded in; or

(ii) in the absence of a bill of sale or other written evidence of value, the then existing fair market value of the vehicle being sold and the vehicle being traded in, as determined by the commission; and

(b) Subsection (17)(a) does not apply to the following items of tangible personal property or products transferred electronically traded in as full or part payment of the purchase price:

(i) money;

(ii) electricity;

(iii) water;

(iv) gas; or

(v) steam;

(18) (a) (i) except as provided in Subsection (18)(b), sales of tangible personal property or a product transferred electronically used or consumed primarily and directly in farming operations, regardless of whether the tangible personal property or product transferred electronically:

(A) becomes part of real estate; or

(B) is installed by a[~~:~~] farmer, contractor, or subcontractor; or

[~~(I) farmer;~~]

[~~(II) contractor; or~~]

[~~(III) subcontractor; or~~]

(ii) sales of parts used in the repairs or renovations of tangible personal property or a product transferred electronically if the tangible personal property or product transferred electronically is exempt under Subsection (18)(a)(i); and

(b) amounts paid or charged for the following are subject to the taxes imposed by this chapter:

(i) (A) subject to Subsection (18)(b)(i)(B), machinery, equipment, materials, or supplies if used in a manner that is incidental to farming; and

(B) tangible personal property that is considered to be used in a manner that is incidental to farming includes:

(I) hand tools; or

(II) maintenance and janitorial equipment and supplies;

(ii) (A) subject to Subsection (18)(b)(ii)(B), tangible personal property or a product transferred electronically if the tangible personal property or product transferred electronically is used in an activity other than farming; and

(B) tangible personal property or a product transferred electronically that is considered to be used in an activity other than farming includes:

(I) office equipment and supplies; or

(II) equipment and supplies used in:

(Aa) the sale or distribution of farm products;

(Bb) research; or

(Cc) transportation; or

(iii) a vehicle required to be registered by the laws of this state during the period ending two years after the date of the vehicle's purchase;

(19) sales of hay;

(20) exclusive sale during the harvest season of seasonal crops, seedling plants, or garden, farm, or other agricultural produce if the seasonal crops are, seedling plants are, or garden, farm, or other agricultural produce is sold by:

(a) the producer of the seasonal crops, seedling plants, or garden, farm, or other agricultural produce;

(b) an employee of the producer described in Subsection (20)(a); or

(c) a member of the immediate family of the producer described in Subsection (20)(a);

(21) purchases made using a coupon as defined in 7 U.S.C. Sec. 2012 that is issued under the Food Stamp Program, 7 U.S.C. Sec. 2011 et seq.;

(22) sales of nonreturnable containers, nonreturnable labels, nonreturnable bags, nonreturnable shipping cases, and nonreturnable casings to a manufacturer, processor, wholesaler, or retailer for use in packaging tangible personal property to be sold by that manufacturer, processor, wholesaler, or retailer;

(23) a product stored in the state for resale;

(24) (a) purchases of a product if:

(i) the product is:

(A) purchased outside of this state;

(B) brought into this state:

(I) at any time after the purchase described in Subsection (24)(a)(i)(A); and

(II) by a nonresident person who is not living or working in this state at the time of the purchase;

(C) used for the personal use or enjoyment of the nonresident person described in Subsection (24)(a)(i)(B)(II) while that nonresident person is within the state; and

(D) not used in conducting business in this state; and

(ii) for:

(A) a product other than a boat described in Subsection (24)(a)(ii)(B), the first use of the product for a purpose for which the product is designed occurs outside of this state;

(B) a boat, the boat is registered outside of this state; or

(C) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered outside of this state;

(b) the exemption provided for in Subsection (24)(a) does not apply to:

(i) a lease or rental of a product; or

(ii) a sale of a vehicle exempt under Subsection (33); and

(c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for purposes of Subsection (24)(a), the commission may by rule define what constitutes the following:

(i) conducting business in this state if that phrase has the same meaning in this Subsection (24) as in Subsection (63);

(ii) the first use of a product if that phrase has the same meaning in this Subsection (24) as in Subsection (63); or

(iii) a purpose for which a product is designed if that phrase has the same meaning in this Subsection (24) as in Subsection (63);

(25) a product purchased for resale in the regular course of business, either in its original form or as an ingredient or component part of a manufactured or compounded product;

(26) a product upon which a sales or use tax was paid to some other state, or one of its subdivisions, except that the state shall be paid any difference between the tax paid and the tax imposed by this part and Part 2, Local Sales and Use Tax Act, and no adjustment is allowed if the tax paid was greater than the tax imposed by this part and Part 2, Local Sales and Use Tax Act;

(27) any sale of a service described in Subsections 59-12-103(1)(b), (c), and (d) to a person for use in compounding a service taxable under the subsections;

(28) purchases made in accordance with the special supplemental nutrition program for women, infants, and children established in 42 U.S.C. Sec. 1786;

(29) sales or leases of rolls, rollers, refractory brick, electric motors, or other replacement parts used in the furnaces, mills, or ovens of a steel mill described in SIC Code 3312 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of the President, Office of Management and Budget;

(30) sales of a boat of a type required to be registered under Title 73, Chapter 18, State Boating Act, a boat trailer, or an outboard motor if the boat, boat trailer, or outboard motor is:

(a) not registered in this state; and

(b) (i) not used in this state; or

(ii) used in this state:

(A) if the boat, boat trailer, or outboard motor is not used to conduct business, for a time period that does not exceed the longer of:

(I) 30 days in any calendar year; or

(II) the time period necessary to transport the boat, boat trailer, or outboard motor to the borders of this state; or

(B) if the boat, boat trailer, or outboard motor is used to conduct business, for the time period necessary to transport the boat, boat trailer, or outboard motor to the borders of this state;

(31) sales of aircraft manufactured in Utah;

(32) amounts paid for the purchase of telecommunications service for purposes of providing telecommunications service;

(33) sales, leases, or uses of the following:

(a) a vehicle by an authorized carrier; or

(b) tangible personal property that is installed on a vehicle:

(i) sold or leased to or used by an authorized carrier; and

(ii) before the vehicle is placed in service for the first time;

(34) (a) 45% of the sales price of any new manufactured home; and

(b) 100% of the sales price of any used manufactured home;

(35) sales relating to schools and fundraising sales;

(36) sales or rentals of durable medical equipment if:

(a) a person presents a prescription for the durable medical equipment; and

(b) the durable medical equipment is used for home use only;

(37) (a) sales to a ski resort of electricity to operate a passenger ropeway as defined in Section 72-11-102; and

(b) the commission shall by rule determine the method for calculating sales exempt under Subsection (37)(a) that are not separately metered and accounted for in utility billings;

(38) sales to a ski resort of:

(a) snowmaking equipment;

(b) ski slope grooming equipment;

(c) passenger ropeways as defined in Section 72-11-102; or

(d) parts used in the repairs or renovations of equipment or passenger ropeways described in Subsections (38)(a) through (c);

(39) subject to Subsection 59-12-103(2)(j), sales of natural gas, electricity, heat, coal, fuel oil, or other fuels for industrial use;

(40) (a) subject to Subsection (40)(b), sales or rentals of the right to use or operate for amusement, entertainment, or recreation an unassisted amusement device as defined in Section 59-12-102;

(b) if a seller that sells or rents at the same business location the right to use or operate for amusement, entertainment, or recreation one or more unassisted amusement devices and one or more assisted amusement devices, the exemption described in Subsection (40)(a) applies if the seller separately accounts for the sales or rentals of the right to use or operate for amusement, entertainment, or recreation for the assisted amusement devices; and

(c) for purposes of Subsection (40)(b) and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules:

(i) governing the circumstances under which sales are at the same business location; and

(ii) establishing the procedures and requirements for a seller to separately account for the sales or rentals of the right to use or operate for amusement, entertainment, or recreation for assisted amusement devices;

(41) (a) sales of photocopies by:

(i) a governmental entity; or

(ii) an entity within the state system of public education, including:

(A) a school; or

(B) the State Board of Education; or

(b) sales of publications by a governmental entity;

(42) amounts paid for admission to an athletic event at an institution of higher education that is subject to the provisions of Title IX of the Education Amendments of 1972, 20 U.S.C. Sec. 1681 et seq.;

(43) (a) sales made to or by:

(i) an area agency on aging; or

(ii) a senior citizen center owned by a county, city, or town; or

(b) sales made by a senior citizen center that contracts with an area agency on aging;

(44) sales or leases of semiconductor fabricating, processing, research, or development materials regardless of whether the semiconductor fabricating, processing, research, or development materials:

(a) actually come into contact with a semiconductor; or

(b) ultimately become incorporated into real property;

(45) an amount paid by or charged to a purchaser for accommodations and services described in Subsection 59-12-103(1)(i) to the extent the amount is exempt under Section 59-12-104.2;

(46) [~~beginning on September 1, 2001,~~] the lease or use of a vehicle issued a temporary sports event registration certificate in accordance with Section 41-3-306 for the event period specified on the temporary sports event registration certificate;

(47) (a) sales or uses of electricity, if the sales or uses are made under a retail tariff adopted by the Public Service Commission only for purchase of electricity produced from a new alternative energy source built after January 1, 2016, as designated in the tariff by the Public Service Commission; and

(b) for a residential use customer only, the exemption under Subsection (47)(a) applies only to the portion of the tariff rate a customer pays under the tariff described in Subsection (47)(a) that exceeds the tariff rate under the tariff described in Subsection (47)(a) that the customer would have paid absent the tariff;

(48) sales or rentals of mobility enhancing equipment if a person presents a prescription for the mobility enhancing equipment;

(49) sales of water in a:

(a) pipe;

(b) conduit;

(c) ditch; or

(d) reservoir;

(50) sales of currency or coins that constitute legal tender of a state, the United States, or a foreign nation;

(51) (a) sales of an item described in Subsection (51)(b) if the item:

(i) does not constitute legal tender of a state, the United States, or a foreign nation; and

(ii) has a gold, silver, or platinum content of 50% or more; and

(b) Subsection (51)(a) applies to a gold, silver, or platinum:

(i) ingot;

(ii) bar;

(iii) medallion; or

(iv) decorative coin;

(52) amounts paid on a sale-leaseback transaction;

(53) sales of a prosthetic device:

(a) for use on or in a human; and

(b) (i) for which a prescription is required; or

(ii) if the prosthetic device is purchased by a hospital or other medical facility;

(54) (a) except as provided in Subsection (54)(b), purchases, leases, or rentals of machinery or equipment by an establishment described in Subsection (54)(c) if the machinery or equipment is primarily used in the production or postproduction of the following media for commercial distribution:

(i) a motion picture;

(ii) a television program;

(iii) a movie made for television;

(iv) a music video;

(v) a commercial;

(vi) a documentary; or

(vii) a medium similar to Subsections (54)(a)(i) through (vi) as determined by the commission by administrative rule made in accordance with Subsection (54)(d); or

(b) purchases, leases, or rentals of machinery or equipment by an establishment described in Subsection (54)(c) that is used for the production or postproduction of the following are subject to the taxes imposed by this chapter:

(i) a live musical performance;

(ii) a live news program; or

(iii) a live sporting event;

(c) the following establishments listed in the 1997 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget, apply to Subsections (54)(a) and (b):

(i) NAICS Code 512110; or

(ii) NAICS Code 51219; and

(d) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule:

(i) prescribe what constitutes a medium similar to Subsections (54)(a)(i) through (vi); or

(ii) define:

(A) "commercial distribution";

(B) "live musical performance";

(C) "live news program"; or

(D) "live sporting event";

(55) (a) leases of seven or more years or purchases made on or after July 1, 2004, but on or before June 30, 2027, of tangible personal property that:

(i) is leased or purchased for or by a facility that:

(A) is an alternative energy electricity production facility;

(B) is located in the state; and

(C) (I) becomes operational on or after July 1, 2004; or

(II) has its generation capacity increased by one or more megawatts on or after July 1, 2004, as a result of the use of the tangible personal property;

(ii) has an economic life of five or more years; and

(iii) is used to make the facility or the increase in capacity of the facility described in Subsection (55)(a)(i) operational up to the point of interconnection with an existing transmission grid including:

(A) a wind turbine;

(B) generating equipment;

(C) a control and monitoring system;

(D) a power line;

(E) substation equipment;

(F) lighting;

(G) fencing;

(H) pipes; or

(I) other equipment used for locating a power line or pole; and

(b) this Subsection (55) does not apply to:

(i) tangible personal property used in construction of:

(A) a new alternative energy electricity production facility; or

(B) the increase in the capacity of an alternative energy electricity production facility;

(ii) contracted services required for construction and routine maintenance activities; and

(iii) unless the tangible personal property is used or acquired for an increase in capacity of the facility described in Subsection (55)(a)(i)(C)(II), tangible personal property used or acquired after:

(A) the alternative energy electricity production facility described in Subsection (55)(a)(i) is operational as described in Subsection (55)(a)(iii); or

(B) the increased capacity described in Subsection (55)(a)(i) is operational as described in Subsection (55)(a)(iii);

(56) (a) leases of seven or more years or purchases made on or after July 1, 2004, but on or before June 30, 2027, of tangible personal property that:

(i) is leased or purchased for or by a facility that:

(A) is a waste energy production facility;

(B) is located in the state; and

(C) (I) becomes operational on or after July 1, 2004; or

(II) has its generation capacity increased by one or more megawatts on or after July 1, 2004, as a result of the use of the tangible personal property;

(ii) has an economic life of five or more years; and

(iii) is used to make the facility or the increase in capacity of the facility described in Subsection (56)(a)(i) operational up to the point of interconnection with an existing transmission grid including:

(A) generating equipment;

(B) a control and monitoring system;

(C) a power line;

(D) substation equipment;

(E) lighting;

(F) fencing;

(G) pipes; or

(H) other equipment used for locating a power line or pole; and

(b) this Subsection (56) does not apply to:

(i) tangible personal property used in construction of:

(A) a new waste energy facility; or

(B) the increase in the capacity of a waste energy facility;

(ii) contracted services required for construction and routine maintenance activities; and

(iii) unless the tangible personal property is used or acquired for an increase in capacity described in Subsection (56)(a)(i)(C)(II), tangible personal property used or acquired after:

(A) the waste energy facility described in Subsection (56)(a)(i) is operational as described in Subsection (56)(a)(iii); or

(B) the increased capacity described in Subsection (56)(a)(i) is operational as described in Subsection (56)(a)(iii);

(57) (a) leases of five or more years or purchases made on or after July 1, 2004, but on or before June 30, 2027, of tangible personal property that:

(i) is leased or purchased for or by a facility that:

(A) is located in the state;

(B) produces fuel from alternative energy, including:

(I) methanol; or

(II) ethanol; and

(C) (I) becomes operational on or after July 1, 2004; or

(II) has its capacity to produce fuel increase by 25% or more on or after July 1, 2004, as a result of the installation of the tangible personal property;

(ii) has an economic life of five or more years; and

(iii) is installed on the facility described in Subsection (57)(a)(i);

(b) this Subsection (57) does not apply to:

(i) tangible personal property used in construction of:

(A) a new facility described in Subsection (57)(a)(i); or

(B) the increase in capacity of the facility described in Subsection (57)(a)(i); or

(ii) contracted services required for construction and routine maintenance activities; and

(iii) unless the tangible personal property is used or acquired for an increase in capacity described in Subsection (57)(a)(i)(C)(II), tangible personal property used or acquired after:

(A) the facility described in Subsection (57)(a)(i) is operational; or

(B) the increased capacity described in Subsection (57)(a)(i) is operational;

(58) (a) subject to Subsection (58)(b) [~~or (c)~~], sales of tangible personal property or a product transferred electronically to a person within this state if that tangible personal property or product transferred electronically is subsequently shipped outside the state and incorporated pursuant to contract into and becomes a part of real property located outside of this state; and

(b) the exemption under Subsection (58)(a) is not allowed to the extent that the other state or political entity to which the tangible personal property is shipped imposes a sales, use, gross receipts, or other similar transaction excise tax on the transaction

against which the other state or political entity allows a credit for sales and use taxes imposed by this chapter; [~~and~~]

[~~(c) notwithstanding the time period of Subsection 59-1-1410(8) for filing for a refund, a person may claim the exemption allowed by this Subsection (58) for a sale by filing for a refund:~~]

[~~(i) if the sale is made on or after July 1, 2004, but on or before June 30, 2008;~~]

[~~(ii) as if this Subsection (58) as in effect on July 1, 2008, were in effect on the day on which the sale is made;~~]

[~~(iii) if the person did not claim the exemption allowed by this Subsection (58) for the sale prior to filing for the refund;~~]

[~~(iv) for sales and use taxes paid under this chapter on the sale;~~]

[~~(v) in accordance with Section 59-1-1410; and~~]

[~~(vi) subject to any extension allowed for filing for a refund under Section 59-1-1410, if the person files for the refund on or before June 30, 2011;~~]

(59) purchases:

(a) of one or more of the following items in printed or electronic format:

(i) a list containing information that includes one or more:

(A) names; or

(B) addresses; or

(ii) a database containing information that includes one or more:

(A) names; or

(B) addresses; and

(b) used to send direct mail;

(60) redemptions or repurchases of a product by a person if that product was:

(a) delivered to a pawnbroker as part of a pawn transaction; and

(b) redeemed or repurchased within the time period established in a written agreement between the person and the pawnbroker for redeeming or repurchasing the product;

(61) (a) purchases or leases of an item described in Subsection (61)(b) if the item:

(i) is purchased or leased by, or on behalf of, a telecommunications service provider; and

(ii) has a useful economic life of one or more years; and

(b) the following apply to Subsection (61)(a):

(i) telecommunications enabling or facilitating equipment, machinery, or software;

(ii) telecommunications equipment, machinery, or software required for 911 service;

(iii) telecommunications maintenance or repair equipment, machinery, or software;

(iv) telecommunications switching or routing equipment, machinery, or software; or

(v) telecommunications transmission equipment, machinery, or software;

(62) (a) beginning on July 1, 2006, and ending on June 30, 2027, purchases of tangible personal property or a product transferred electronically that are used in the research and development of alternative energy technology; and

(b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may, for purposes of Subsection (62)(a), make rules defining what constitutes purchases of tangible personal property or a product transferred electronically that are used in the research and development of alternative energy technology;

(63) (a) purchases of tangible personal property or a product transferred electronically if:

(i) the tangible personal property or product transferred electronically is:

(A) purchased outside of this state;

(B) brought into this state at any time after the purchase described in Subsection (63)(a)(i)(A); and

(C) used in conducting business in this state; and

(ii) for:

(A) tangible personal property or a product transferred electronically other than the tangible personal property described in Subsection (63)(a)(ii)(B), the first use of the property for a purpose for which the property is designed occurs outside of this state; or

(B) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered outside of this state and not required to be registered in this state under Section 41-1a-202 or 73-18-9 based on residency;

(b) the exemption provided for in Subsection (63)(a) does not apply to:

(i) a lease or rental of tangible personal property or a product transferred electronically; or

(ii) a sale of a vehicle exempt under Subsection (33); and

(c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for purposes of Subsection (63)(a), the commission may by rule define what constitutes the following:

(i) conducting business in this state if that phrase has the same meaning in this Subsection (63) as in Subsection (24);

(ii) the first use of tangible personal property or a product transferred electronically if that phrase has the same meaning in this Subsection (63) as in Subsection (24); or

(iii) a purpose for which tangible personal property or a product transferred electronically is

designed if that phrase has the same meaning in this Subsection (63) as in Subsection (24);

(64) sales of disposable home medical equipment or supplies if:

(a) a person presents a prescription for the disposable home medical equipment or supplies;

(b) the disposable home medical equipment or supplies are used exclusively by the person to whom the prescription described in Subsection (64)(a) is issued; and

(c) the disposable home medical equipment and supplies are listed as eligible for payment under:

(i) Title XVIII, federal Social Security Act; or

(ii) the state plan for medical assistance under Title XIX, federal Social Security Act;

(65) sales:

(a) to a public transit district under Title 17B, Chapter 2a, Part 8, Public Transit District Act; or

(b) of tangible personal property to a subcontractor of a public transit district, if the tangible personal property is:

(i) clearly identified; and

(ii) installed or converted to real property owned by the public transit district;

(66) sales of construction materials:

(a) purchased on or after July 1, 2010;

(b) purchased by, on behalf of, or for the benefit of an international airport:

(i) located within a county of the first class; and

(ii) that has a United States customs office on its premises; and

(c) if the construction materials are:

(i) clearly identified;

(ii) segregated; and

(iii) installed or converted to real property:

(A) owned or operated by the international airport described in Subsection (66)(b); and

(B) located at the international airport described in Subsection (66)(b);

(67) sales of construction materials:

(a) purchased on or after July 1, 2008;

(b) purchased by, on behalf of, or for the benefit of a new airport:

(i) located within a county of the second class; and

(ii) that is owned or operated by a city in which an airline as defined in Section 59-2-102 is headquartered; and

(c) if the construction materials are:

(i) clearly identified;

(ii) segregated; and

(iii) installed or converted to real property:

(A) owned or operated by the new airport described in Subsection (67)(b);

(B) located at the new airport described in Subsection (67)(b); and

(C) as part of the construction of the new airport described in Subsection (67)(b);

(68) except for the tax imposed by Subsection 59-12-103(2)(d), sales of fuel to a common carrier that is a railroad for use in a locomotive engine;

(69) purchases and sales described in Section 63H-4-111;

(70) (a) sales of tangible personal property to an aircraft maintenance, repair, and overhaul provider for use in the maintenance, repair, overhaul, or refurbishment in this state of a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration lists a state or country other than this state as the location of registry of the fixed wing turbine powered aircraft; or

(b) sales of tangible personal property by an aircraft maintenance, repair, and overhaul provider in connection with the maintenance, repair, overhaul, or refurbishment in this state of a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration lists a state or country other than this state as the location of registry of the fixed wing turbine powered aircraft;

(71) subject to Section 59-12-104.4, sales of a textbook for a higher education course:

(a) to a person admitted to an institution of higher education; and

(b) by a seller, other than a bookstore owned by an institution of higher education, if 51% or more of that seller's sales revenue for the previous calendar quarter are sales of a textbook for a higher education course;

(72) a license fee or tax a municipality imposes in accordance with Subsection 10-1-203(5) on a purchaser from a business for which the municipality provides an enhanced level of municipal services;

(73) amounts paid or charged for construction materials used in the construction of a new or expanding life science research and development facility in the state, if the construction materials are:

(a) clearly identified;

(b) segregated; and

(c) installed or converted to real property;

(74) amounts paid or charged for:

(a) a purchase or lease of machinery and equipment that:

(i) are used in performing qualified research:

(A) as defined in Section 41(d), Internal Revenue Code; and

(B) in the state; and

(ii) have an economic life of three or more years; and

(b) normal operating repair or replacement parts:

(i) for the machinery and equipment described in Subsection (74)(a); and

(ii) that have an economic life of three or more years;

(75) a sale or lease of tangible personal property used in the preparation of prepared food if:

(a) for a sale:

(i) the ownership of the seller and the ownership of the purchaser are identical; and

(ii) the seller or the purchaser paid a tax under this chapter on the purchase of that tangible personal property prior to making the sale; or

(b) for a lease:

(i) the ownership of the lessor and the ownership of the lessee are identical; and

(ii) the lessor or the lessee paid a tax under this chapter on the purchase of that tangible personal property prior to making the lease;

(76) (a) purchases of machinery or equipment if:

(i) the purchaser is an establishment described in NAICS Subsector 713, Amusement, Gambling, and Recreation Industries, of the 2012 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget;

(ii) the machinery or equipment:

(A) has an economic life of three or more years; and

(B) is used by one or more persons who pay admission or user fees described in Subsection 59-12-103(1)(f) to the purchaser of the machinery and equipment; and

(iii) 51% or more of the purchaser's sales revenue for the previous calendar quarter is:

(A) amounts paid or charged as admission or user fees described in Subsection 59-12-103(1)(f); and

(B) subject to taxation under this chapter; and

(b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules for verifying that 51% of a purchaser's sales revenue for the previous calendar quarter is:

(i) amounts paid or charged as admission or user fees described in Subsection 59-12-103(1)(f); and

(ii) subject to taxation under this chapter;

(77) purchases of a short-term lodging consumable by a business that provides accommodations and services described in Subsection 59-12-103(1)(i);

(78) amounts paid or charged to access a database:

(a) if the primary purpose for accessing the database is to view or retrieve information from the database; and

(b) not including amounts paid or charged for a:

(i) digital audio work;

(ii) digital audio-visual work; or

(iii) digital book;

(79) amounts paid or charged for a purchase or lease made by an electronic financial payment service, of:

(a) machinery and equipment that:

(i) are used in the operation of the electronic financial payment service; and

(ii) have an economic life of three or more years; and

(b) normal operating repair or replacement parts that:

(i) are used in the operation of the electronic financial payment service; and

(ii) have an economic life of three or more years;

(80) [~~beginning on April 1, 2013,~~] sales of a fuel cell as defined in Section 54-15-102;

(81) amounts paid or charged for a purchase or lease of tangible personal property or a product transferred electronically if the tangible personal property or product transferred electronically:

(a) is stored, used, or consumed in the state; and

(b) is temporarily brought into the state from another state:

(i) during a disaster period as defined in Section 53-2a-1202;

(ii) by an out-of-state business as defined in Section 53-2a-1202;

(iii) for a declared state disaster or emergency as defined in Section 53-2a-1202; and

(iv) for disaster- or emergency-related work as defined in Section 53-2a-1202;

(82) sales of goods and services at a morale, welfare, and recreation facility, as defined in Section 39-9-102, made pursuant to Title 39, Chapter 9, State Morale, Welfare, and Recreation Program;

(83) amounts paid or charged for a purchase or lease of molten magnesium;

(84) amounts paid or charged for a purchase or lease made by a qualifying data center or an occupant of a qualifying data center of machinery,

equipment, or normal operating repair or replacement parts, if the machinery, equipment, or normal operating repair or replacement parts:

(a) are used in:

(i) the operation of the qualifying data center; or

(ii) the occupant's operations in the qualifying data center; and

(b) have an economic life of one or more years;

(85) sales of cleaning or washing of a vehicle, except for cleaning or washing of a vehicle that includes cleaning or washing of the interior of the vehicle;

(86) amounts paid or charged for a purchase or lease of machinery, equipment, normal operating repair or replacement parts, catalysts, chemicals, reagents, solutions, or supplies used or consumed:

(a) by a refiner who owns, leases, operates, controls, or supervises a refinery as defined in Section 63M-4-701 located in the state;

(b) if the machinery, equipment, normal operating repair or replacement parts, catalysts, chemicals, reagents, solutions, or supplies are used or consumed in:

(i) the production process to produce gasoline or diesel fuel, or at which blendstock is added to gasoline or diesel fuel;

(ii) research and development;

(iii) transporting, storing, or managing raw materials, work in process, finished products, and waste materials produced from refining gasoline or diesel fuel, or adding blendstock to gasoline or diesel fuel;

(iv) developing or maintaining a road, tunnel, excavation, or similar feature used in refining; or

(v) preventing, controlling, or reducing pollutants from refining; and

(c) [~~beginning on July 1, 2021,~~] if the person holds a valid refiner tax exemption certification as defined in Section 63M-4-701;

(87) amounts paid to or charged by a proprietor for accommodations and services, as defined in Section 63H-1-205, if the proprietor is subject to the MIDA accommodations tax imposed under Section 63H-1-205;

(88) amounts paid or charged for a purchase or lease of machinery, equipment, normal operating repair or replacement parts, or materials, except for office equipment or office supplies, by an establishment, as the commission defines that term in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

(a) is described in NAICS Code 621511, Medical Laboratories, of the 2017 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget;

(b) is located in this state; and

(c) uses the machinery, equipment, normal operating repair or replacement parts, or materials in the operation of the establishment; and

(89) amounts paid or charged for an item exempt under Section 59-12-104.10.

Section 41. Section 59-12-209 is amended to read:

59-12-209. Participation of qualifying jurisdictions in administration and enforcement of certain local sales and use taxes -- Petition for reconsideration relating to the redistribution of certain sales and use tax revenues.

(1) As used in this section, "qualifying jurisdiction" means the same as that term is defined in Section 59-1-403.

[~~(1)~~] (2) Notwithstanding Title 63G, Chapter 4, Administrative Procedures Act, a [~~county, city, or town~~] qualifying jurisdiction does not have the right to any of the following, except as specifically allowed by Subsection [~~(2)~~] (3) and Section 59-12-210:

(a) to inspect, review, or have access to any taxpayer sales and use tax records; or

(b) to be informed of, participate in, intervene in, or appeal from any adjudicative proceeding commenced pursuant to Section 63G-4-201 to determine the liability of any taxpayer for sales and use taxes imposed pursuant to this chapter.

[~~(2)~~] (3) (a) [~~Counties, cities, and towns~~] A qualifying jurisdiction shall have access to records and information on file with the commission, and shall have the right to notice of, and rights to intervene in or to appeal from, a proposed final agency action of the commission as provided in this Subsection [~~(2)~~] (3).

(b) If the commission, following a formal adjudicative proceeding commenced pursuant to Title 63G, Chapter 4, Administrative Procedures Act, proposes to take final agency action that would reduce the amount of sales and use tax liability alleged in the notice of deficiency, the commission shall provide notice of a proposed agency action to each [~~qualified county, city, and town. (c) For purposes of this Subsection (2), a county, city, or town is a qualified county, city, or town if a~~] qualifying jurisdiction if the proposed final agency action reduces a tax under this chapter distributable to that [~~county, city, or town~~] qualifying jurisdiction by more than $10,000 below the amount of the tax that would have been distributable to that [~~county, city, or town~~] qualifying jurisdiction had a notice of deficiency, as described in Section 59-1-1405, not been reduced.

[~~(d)~~] (c) A [~~qualified county, city, or town~~] qualifying jurisdiction that receives notice described in Subsection (3)(b) may designate a representative who shall have the right to review the record of the formal hearing and any other commission records relating to a proposed final

agency action subject to the confidentiality provisions of Section 59-1-403.

[~~(e)~~] (d) No later than 10 days after receiving the notice of the commission's proposed final agency action, a [~~qualified county, city, or town~~] qualifying jurisdiction may file a notice of intervention with the commission.

[~~(f)~~] (e) No later than 20 days after filing a notice of intervention, if a [~~qualified county, city, or town~~] qualifying jurisdiction objects to the proposed final agency action, that [~~qualified county, city, or town~~] qualifying jurisdiction may file a petition for reconsideration with the commission and shall serve copies of the petition on the taxpayer and the appropriate division in the commission.

[~~(g)~~] (f) The taxpayer and appropriate division in the commission may each file a response to the petition for reconsideration within 20 days of receipt of the petition for reconsideration.

[~~(h)~~] (g) (i) After consideration of the petition for reconsideration and any response, and any additional proceeding the commission considers appropriate, the commission may affirm, modify, or amend its proposed final agency action.

(ii) A taxpayer and any [~~qualified county, city, or town~~] qualifying jurisdiction that has filed a petition for reconsideration may appeal the final agency action.

[~~(i)~~] (h) (i) Notwithstanding Subsections [~~(2)~~] (3)(a) through [~~(h)~~] (g) and subject to Subsection [~~(2)(i)~~] (3)(h)(ii), the following may file a petition for reconsideration with the commission:

(A) an original recipient political subdivision as defined in Section 59-12-210.1 that receives a notice from the commission in accordance with Subsection 59-12-210.1(2); or

(B) a secondary recipient political subdivision as defined in Section 59-12-210.1 that receives a notice from the commission in accordance with Subsection 59-12-210.1(2).

(ii) An original recipient political subdivision or secondary recipient political subdivision that files a petition for reconsideration with the commission under Subsection [~~(2)(i)~~] (3)(h)(i) shall file the petition no later than 20 days after the later of:

(A) the date the original recipient political subdivision or secondary recipient political subdivision receives the notice described in Subsection [~~(2)(i)~~] (3)(h)(i) from the commission; or

(B) the date the commission makes the redistribution as defined in Section 59-12-210.1 that is the subject of the notice described in Subsection [~~(2)(i)~~] (3)(h)(i).

Section 42. Section 59-12-210 is amended to read:

59-12-210. Commission to provide data to counties.

(1) As used in this section, "qualifying jurisdiction" means the same as that term is defined in Section 59-1-403.

[~~(1)~~] (2) (a) The commission shall provide to each [~~county~~] qualifying jurisdiction the sales and use tax collection data necessary to verify that sales and use tax revenues collected by the commission are distributed to each [~~county, city, and town~~] qualifying jurisdiction in accordance with Sections 59-12-211 through 59-12-215.

(b) The data described in Subsection [~~(1)~~] (2)(a) shall include the commission's reports of seller sales, sales and use tax distribution reports, and a breakdown of local revenues.

[~~(2)~~] (3) (a) In addition to the access to information provided in Subsection (1) and Section 59-12-109, the commission shall provide a [~~county, city, or town~~] qualifying jurisdiction with copies of returns and other information required by this chapter relating to a tax under this chapter.

(b) The information described in Subsection [~~(2)~~] (3)(a) is available only in official matters and must be requested in writing by the chief executive officer or the chief executive officer's designee.

(c) The request described in Subsection [~~(2)~~] (3)(b) shall specifically indicate the information being sought and how the information will be used.

(d) Information received pursuant to the request described in Subsection [~~(2)~~] (3)(b) shall be:

(i) classified as private or protected under Section 63G-2-302 or 63G-2-305; and

(ii) subject to the confidentiality provisions of Section 59-1-403.

Section 43. Section 59-14-212 is amended to read:

59-14-212. Reporting of imported cigarettes -- Penalty.

(1) Except as provided under Subsection (2), any manufacturer, distributor, wholesaler, or retail dealer who under Section 59-14-205 affixes a stamp to an individual package or container of cigarettes imported to the United States shall provide to the commission the following as they pertain to the imported cigarettes:

(a) a copy of the importer's federal import permit;

(b) the customs form showing the tax information required by federal law;

(c) a statement signed under penalty of perjury by the manufacturer or importer that the manufacturer or importer has complied with:

(i) 15 U.S.C. 1333 of the Federal Cigarette Labeling and Advertising Act, regarding warning labels and other package information; and

(ii) 15 U.S.C. 1335a of the Federal Cigarette Labeling and Advertising Act, regarding reporting of added ingredients;

(d) the name of the person from whom the person affixing the stamp received the cigarettes;

(e) the name of the person to whom the person affixing the stamp delivered the cigarettes, unless the person receiving the cigarettes was the ultimate consumer;

(f) the quantity of cigarettes in the package or container; and

(g) the brand and brand style of the cigarettes.

(2) Subsection (1) does not apply to cigarettes sold or intended to be sold as duty-free merchandise by a duty-free sales enterprise in accordance with the provisions of 19 U.S.C. 1555(b) and any implementing regulations unless the cigarettes are brought back into the customs territory for resale within the customs territory.

(3) The information under Subsection (1) shall be provided on a quarterly basis on forms specified by the agency.

(4) A person who fails to comply with the reporting requirement or provides false or misleading information under Subsection (1):

(a) is guilty of a class B misdemeanor; and

(b) may be subject to:

(i) revocation or suspension of a license issued under Section 59-14-202; and

(ii) a civil penalty imposed by the commission in an amount not to exceed the greater of:

(A) 500% of the retail value of the cigarettes for which a report was not properly made; or

(B) $5,000.

(5) The information under Subsection (1) may be disclosed by the commission as provided under Subsection 59-1-403[~~(3)~~](4)(g).

Section 44. Section 62A-11-328 is amended to read:

62A-11-328. Information received from State Tax Commission provided to other states' child support collection agencies.

The office shall, upon request, provide to any other state's child support collection agency the information which it receives from the State Tax Commission under Subsection 59-1-403[~~(3)~~](4)(l), with regard to a support debt which that agency is involved in enforcing.

Section 45. Section 63G-2-302 is amended to read:

63G-2-302. Private records.

(1) The following records are private:

(a) records concerning an individual's eligibility for unemployment insurance benefits, social services, welfare benefits, or the determination of benefit levels;

(b) records containing data on individuals describing medical history, diagnosis, condition, treatment, evaluation, or similar medical data;

(c) records of publicly funded libraries that when examined alone or with other records identify a patron;

(d) records received by or generated by or for:

(i) the Independent Legislative Ethics Commission, except for:

(A) the commission's summary data report that is required under legislative rule; and

(B) any other document that is classified as public under legislative rule; or

(ii) a Senate or House Ethics Committee in relation to the review of ethics complaints, unless the record is classified as public under legislative rule;

(e) records received by, or generated by or for, the Independent Executive Branch Ethics Commission, except as otherwise expressly provided in Title 63A, Chapter 14, Review of Executive Branch Ethics Complaints;

(f) records received or generated for a Senate confirmation committee concerning character, professional competence, or physical or mental health of an individual:

(i) if, prior to the meeting, the chair of the committee determines release of the records:

(A) reasonably could be expected to interfere with the investigation undertaken by the committee; or

(B) would create a danger of depriving a person of a right to a fair proceeding or impartial hearing; and

(ii) after the meeting, if the meeting was closed to the public;

(g) employment records concerning a current or former employee of, or applicant for employment with, a governmental entity that would disclose that individual's home address, home telephone number, social security number, insurance coverage, marital status, or payroll deductions;

(h) records or parts of records under Section 63G-2-303 that a current or former employee identifies as private according to the requirements of that section;

(i) that part of a record indicating a person's social security number or federal employer identification number if provided under Section 31A-23a-104, 31A-25-202, 31A-26-202, 58-1-301, 58-55-302, 61-1-4, or 61-2f-203;

(j) that part of a voter registration record identifying a voter's:

(i) driver license or identification card number;

(ii) social security number, or last four digits of the social security number;

(iii) email address; or

(iv) date of birth;

(k) a voter registration record that is classified as a private record by the lieutenant governor or a county clerk under Subsection 20A-2-101.1(5)(a), 20A-2-104(4)(h), or 20A-2-204(4)(b);

(l) a voter registration record that is withheld under Subsection 20A-2-104(7);

(m) a withholding request form described in Subsections 20A-2-104(7) and (8) and any verification submitted in support of the form;

(n) a record that:

(i) contains information about an individual;

(ii) is voluntarily provided by the individual; and

(iii) goes into an electronic database that:

(A) is designated by and administered under the authority of the Chief Information Officer; and

(B) acts as a repository of information about the individual that can be electronically retrieved and used to facilitate the individual's online interaction with a state agency;

(o) information provided to the Commissioner of Insurance under:

(i) Subsection 31A-23a-115(3)(a);

(ii) Subsection 31A-23a-302(4); or

(iii) Subsection 31A-26-210(4);

(p) information obtained through a criminal background check under Title 11, Chapter 40, Criminal Background Checks by Political Subdivisions Operating Water Systems;

(q) information provided by an offender that is:

(i) required by the registration requirements of Title 77, Chapter 41, Sex and Kidnap Offender Registry or Title 77, Chapter 43, Child Abuse Offender Registry; and

(ii) not required to be made available to the public under Subsection 77-41-110(4) or 77-43-108(4);

(r) a statement and any supporting documentation filed with the attorney general in accordance with Section 34-45-107, if the federal law or action supporting the filing involves homeland security;

(s) electronic toll collection customer account information received or collected under Section 72-6-118 and customer information described in Section 17B-2a-815 received or collected by a public transit district, including contact and payment information and customer travel data;

(t) an email address provided by a military or overseas voter under Section 20A-16-501;

(u) a completed military-overseas ballot that is electronically transmitted under Title 20A, Chapter 16, Uniform Military and Overseas Voters Act;

(v) records received by or generated by or for the Political Subdivisions Ethics Review Commission established in Section 63A-15-201, except for:

(i) the commission's summary data report that is required in Section 63A-15-202; and

(ii) any other document that is classified as public in accordance with Title 63A, Chapter 15, Political Subdivisions Ethics Review Commission;

(w) a record described in Section 53G-9-604 that verifies that a parent was notified of an incident or threat;

(x) a criminal background check or credit history report conducted in accordance with Section 63A-3-201;

(y) a record described in Subsection 53-5a-104(7);

(z) the following portions of a record maintained by a county for the purpose of administering property taxes, an individual's:

(i) email address;

(ii) phone number; or

(iii) personal financial information related to a person's payment method; [~~and~~]

(aa) a record concerning an individual's eligibility for an exemption, deferral, abatement, or relief under:

(i) Title 59, Chapter 2, Part 11, Exemptions, Deferrals, and Abatements;

(ii) Title 59, Chapter 2, Part 12, Property Tax Relief;

(iii) Title 59, Chapter 2, Part 18, Tax Deferral and Tax Abatement; or

(iv) Title 59, Chapter 2, Part 19, Armed Forces Exemptions[~~.~~]; and

(bb) a record provided by the State Tax Commission in response to a request under Subsection 59-1-403(3)(y)(iii).

(2) The following records are private if properly classified by a governmental entity:

(a) records concerning a current or former employee of, or applicant for employment with a governmental entity, including performance evaluations and personal status information such as race, religion, or disabilities, but not including records that are public under Subsection 63G-2-301(2)(b) or 63G-2-301(3)(o) or private under Subsection (1)(b);

(b) records describing an individual's finances, except that the following are public:

(i) records described in Subsection 63G-2-301(2);

(ii) information provided to the governmental entity for the purpose of complying with a financial assurance requirement; or

(iii) records that must be disclosed in accordance with another statute;

(c) records of independent state agencies if the disclosure of those records would conflict with the fiduciary obligations of the agency;

(d) other records containing data on individuals the disclosure of which constitutes a clearly unwarranted invasion of personal privacy;

(e) records provided by the United States or by a government entity outside the state that are given with the requirement that the records be managed as private records, if the providing entity states in writing that the record would not be subject to public disclosure if retained by it;

(f) any portion of a record in the custody of the Division of Aging and Adult Services, created in Section 62A-3-102, that may disclose, or lead to the discovery of, the identity of a person who made a report of alleged abuse, neglect, or exploitation of a vulnerable adult; and

(g) audio and video recordings created by a body-worn camera, as defined in Section 77-7a-103, that record sound or images inside a home or residence except for recordings that:

(i) depict the commission of an alleged crime;

(ii) record any encounter between a law enforcement officer and a person that results in death or bodily injury, or includes an instance when an officer fires a weapon;

(iii) record any encounter that is the subject of a complaint or a legal proceeding against a law enforcement officer or law enforcement agency;

(iv) contain an officer involved critical incident as defined in Subsection 76-2-408(1)(f); or

(v) have been requested for reclassification as a public record by a subject or authorized agent of a subject featured in the recording.

(3) (a) As used in this Subsection (3), "medical records" means medical reports, records, statements, history, diagnosis, condition, treatment, and evaluation.

(b) Medical records in the possession of the University of Utah Hospital, its clinics, doctors, or affiliated entities are not private records or controlled records under Section 63G-2-304 when the records are sought:

(i) in connection with any legal or administrative proceeding in which the patient's physical, mental, or emotional condition is an element of any claim or defense; or

(ii) after a patient's death, in any legal or administrative proceeding in which any party relies upon the condition as an element of the claim or defense.

(c) Medical records are subject to production in a legal or administrative proceeding according to state or federal statutes or rules of procedure and evidence as if the medical records were in the possession of a nongovernmental medical care provider.

Section 46. Repealer.

This bill repeals:

Section 59-7-118.1, Modification of installment due date for deferred foreign income tax.

Section 59-7-504.1, Modification of estimated payment due date.

Section 59-7-505.1, Modification of return due date and extension period.

Section 59-7-507.1, Modification of time for payment of tax.

Section 59-10-103.2, Additional chapter definitions.

Section 59-10-114.1, Additional subtraction from income.

Section 59-10-514.2, Modification of return due date.

Section 59-10-516.1, Modification of extension dates and requirements.

Section 59-10-522.1, Limitation on commission authority to extend the time for payment of tax.

Section 59-10-1403.4, Modification of return filing requirements for pass-through entity.

Section 59-12-103.3, Sales and use tax base -- Rate for locomotive fuel.

Section 47. Retrospective operation.

The following sections have retrospective operation for a taxable year beginning on or after January 1, 2021:

(1) Section 59-7-610;

(2) Section 59-7-620;

(3) Section 59-10-1007;

(4) Section 59-10-1017;

(5) Section 59-10-1017.1;

(6) Section 59-10-1022;

(7) Section 59-10-1023;

(8) Section 59-10-1028;

(9) Section 59-10-1035;

(10) Section 59-10-1036; and

(11) Section 59-10-1403.3.

Section 48. Coordinating H.B. 30 with S.B. 58 -- Omitting substantive changes.

If this H.B. 30 and S.B. 58, Metro Township Amendments, both pass and become law, it is the intent of the Legislature that the Office of Legislative Research and General Counsel, in preparing the Utah Code database for publication, delete Subsection 10-3c-204(2) enacted by S.B. 58 and renumber the remaining subsections accordingly.

Section 49. Coordinating H.B. 30 with S.B. 233 -- Superseding technical and substantive amendments -- Omitting substantive changes.

If this H.B. 30 and S.B. 233 Military Installation Development Authority Amendments, both pass

and become law, it is the intent of the Legislature that when the Office of Legislative Research and General Counsel prepares the Utah Code database for publication:

(1) the amendments to Sections 59-12-209 and 59-12-210 in this bill supersede the amendments to Sections 59-12-209 and 59-12-210 in S.B. 233; and

(2) the Office of Legislative Research and General Counsel not make the changes in S.B. 233 to Sections 10-1-304 and 59-12-102.

CHAPTER 368
H. B. 39
Passed February 17, 2021
Approved March 22, 2021
Effective May 5, 2021
(Exception clause)

CORPORATE TAX UNADJUSTED INCOME AMENDMENTS

Chief Sponsor: Douglas V. Sagers
Senate Sponsor: Wayne A. Harper

LONG TITLE

General Description:

This bill modifies defined terms related to corporate income taxes.

Highlighted Provisions:

This bill:

- provides that a corporate taxpayer's unadjusted income is determined before any deductions related to:
  - foreign-derived intangible income and global intangible low-taxed income; and
  - deferred foreign income; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides retrospective operation.

Utah Code Sections Affected:

AMENDS:

59-7-101, as last amended by Laws of Utah 2020, Sixth Special Session, Chapter 15
59-7-106, as last amended by Laws of Utah 2020, Sixth Special Session, Chapter 15
59-7-402, as last amended by Laws of Utah 2020, Sixth Special Session, Chapter 15

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 59-7-101 is amended to read:

59-7-101. Definitions.

As used in this chapter:

(1) "Adjusted income" means unadjusted income as modified by Sections 59-7-105 and 59-7-106.

(2) (a) "Affiliated group" means one or more chains of corporations that are connected through stock ownership with a common parent corporation that meet the following requirements:

(i) at least 80% of the stock of each of the corporations in the group, excluding the common parent corporation, is owned by one or more of the other corporations in the group; and

(ii) the common parent directly owns at least 80% of the stock of at least one of the corporations in the group.

(b) "Affiliated group" does not include corporations that are qualified to do business but are not otherwise doing business in this state.

(c) For purposes of this Subsection (2), "stock" does not include nonvoting stock which is limited and preferred as to dividends.

(3) "Apportionable income" means adjusted income less nonbusiness income net of related expenses, to the extent included in adjusted income.

(4) "Apportioned income" means apportionable income multiplied by the apportionment fraction as determined in Section 59-7-311.

(5) "Business income" means the same as that term is defined in Section 59-7-302.

(6) "Captive insurance company" means the same as that term is defined in Section 31A-1-301.

(7) (a) "Captive real estate investment trust" means a real estate investment trust if:

(i) the shares or beneficial interests of the real estate investment trust are not regularly traded on an established securities market; and

(ii) more than 50% of the voting power or value of the shares or beneficial interests of the real estate investment trust are directly, indirectly, or constructively:

(A) owned by a controlling entity of the real estate investment trust; or

(B) controlled by a controlling entity of the real estate investment trust.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules defining "established securities market."

(8) (a) "Common ownership" means the direct or indirect control or ownership of more than 50% of the outstanding voting stock of:

(i) a parent-subsidiary controlled group as defined in Section 1563, Internal Revenue Code, except that 50% shall be substituted for 80%;

(ii) a brother-sister controlled group as defined in Section 1563, Internal Revenue Code; or

(iii) three or more corporations each of which is a member of a group of corporations described in Subsection (2)(a)(i) or (ii), and one of which is:

(A) a common parent corporation included in a group of corporations described in Subsection (2)(a)(i); and

(B) included in a group of corporations described in Subsection (2)(a)(ii).

(b) Ownership of outstanding voting stock shall be determined by Section 1563, Internal Revenue Code.

(9) (a) "Controlling entity of a captive real estate investment trust" means an entity that:

(i) is treated as an association taxable as a corporation under the Internal Revenue Code;

(ii) is not exempt from federal income taxation under Section 501(a), Internal Revenue Code; and

(iii) directly, indirectly, or constructively holds more than 50% of:

(A) the voting power of a captive real estate investment trust; or

(B) the value of the shares or beneficial interests of a captive real estate investment trust.

(b) "Controlling entity of a captive real estate investment trust" does not include:

(i) a real estate investment trust, except for a captive real estate investment trust;

(ii) a qualified real estate investment subsidiary described in Section 856(i), Internal Revenue Code, except for a qualified real estate investment trust subsidiary of a captive real estate investment trust; or

(iii) a foreign real estate investment trust.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules defining "established securities market."

(10) "Corporate return" or "return" includes a combined report.

(11) "Corporation" includes:

(a) entities defined as corporations under Sections 7701(a) and 7704, Internal Revenue Code; and

(b) other organizations that are taxed as corporations for federal income tax purposes under the Internal Revenue Code.

(12) "COVID-19" means:

(a) the severe acute respiratory syndrome coronavirus 2; or

(b) the disease caused by severe acute respiratory syndrome coronavirus 2.

(13) "Dividend" means any distribution, including money or other type of property, made by a corporation to its shareholders out of its earnings or profits accumulated after December 31, 1930.

(14) (a) "Doing business" includes any transaction in the course of business by a domestic corporation or by a foreign corporation qualified to do or doing business in this state.

(b) Except as provided in Subsection (14)(c) or Subsection 59-7-102(3), "doing business" includes:

(i) the right to do business through incorporation or qualification;

(ii) owning, renting, or leasing of real or personal property within this state;

(iii) the participation in joint ventures, working and operating agreements, the performance of which takes place in this state;

(iv) selling or performing a service in this state; and

(v) earning income from the use of intangible property in this state.

(c) "Doing business" does not include the business activity of a corporation if the corporation's only business activity within the state is the solicitation of orders for sales of tangible personal property that are protected under 15 U.S.C. Secs. 381 through 384.

(15) "Domestic corporation" means a corporation that is incorporated or organized under the laws of this state.

(16) "Exercising a corporate franchise" does not include the business activity of a corporation if the corporation's only business activity within the state is the solicitation of orders for sales of tangible personal property that are protected under 15 U.S.C. Secs. 381 through 384.

(17) (a) "Farmers' cooperative" means an association, corporation, or other organization that is:

(i) (A) an association, corporation, or other organization of farmers or fruit growers; or

(B) an association, corporation, or other organization that is similar to an association, corporation, or organization described in Subsection (17)(a)(i)(A); and

(ii) organized and operated on a cooperative basis to:

(A) (I) market the products of members of the cooperative or the products of other producers; and

(II) return to the members of the cooperative or other producers the proceeds of sales less necessary marketing expenses on the basis of the quantity of the products of a member or producer or the value of the products of a member or producer; or

(B) (I) purchase supplies and equipment for the use of members of the cooperative or other persons; and

(II) turn over the supplies and equipment described in Subsection (17)(a)(ii)(B)(I) at actual costs plus necessary expenses to the members of the cooperative or other persons.

(b) (i) Subject to Subsection (17)(b)(ii), for purposes of this Subsection (17), the commission by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, shall define:

(A) the terms "member" and "producer"; and

(B) what constitutes an association, corporation, or other organization that is similar to an association, corporation, or organization described in Subsection (17)(a)(i)(A).

(ii) The rules made under this Subsection (17)(b) shall be consistent with the filing requirements under federal law for a farmers' cooperative.

(18) "Foreign corporation" means a corporation that is not incorporated or organized under the laws of this state.

(19) (a) "Foreign operating company" means a corporation that:

(i) is incorporated in the United States;

(ii) conducts at least 80% of the corporation's business activity, as determined under Section 59-7-401, outside the United States; and

(iii) as calculated in accordance with Part 3, Allocation and Apportionment of Income - Utah UDITPA Provisions, has:

(A) at least $1,000,000 of payroll located outside the United States; and

(B) at least $2,000,000 of property located outside the United States.

(b) "Foreign operating company" does not include a corporation that qualifies for the Puerto Rico and possession tax credit as provided in Section 936, Internal Revenue Code.

(20) (a) "Foreign real estate investment trust" means:

(i) a business entity organized outside the laws of the United States if:

(A) at least 75% of the business entity's total asset value at the close of the business entity's taxable year is represented by:

(I) real estate assets, as defined in Section 856(c)(5)(B), Internal Revenue Code;

(II) cash or cash equivalents; or

(III) one or more securities issued or guaranteed by the United States;

(B) the business entity is:

(I) not subject to income taxation:

(Aa) on amounts distributed to the business entity's beneficial owners; and

(Bb) in the jurisdiction in which the business entity is organized; or

(II) exempt from income taxation on an entity level in the jurisdiction in which the business entity is organized;

(C) the business entity distributes at least 85% of the business entity's taxable income, as computed in the jurisdiction in which the business entity is organized, to the holders of the business entity's:

(I) shares or beneficial interests; and

(II) on an annual basis;

(D) (I) not more than 10% of the following is held directly, indirectly, or constructively by a single person:

(Aa) the voting power of the business entity; or

(Bb) the value of the shares or beneficial interests of the business entity; or

(II) the shares of the business entity are regularly traded on an established securities market; and

(E) the business entity is organized in a country that has a tax treaty with the United States; or

(ii) a listed Australian property trust.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules defining:

(i) "cash or cash equivalents";

(ii) "established securities market"; or

(iii) "listed Australian property trust."

(21) "Income" includes losses.

(22) "Internal Revenue Code" means Title 26 of the United States Code as effective during the year in which Utah taxable income is determined.

(23) "Nonbusiness income" means the same as that term is defined in Section 59-7-302.

(24) "Real estate investment trust" means the same as that term is defined in Section 856, Internal Revenue Code.

(25) "Related expenses" means:

(a) expenses directly attributable to nonbusiness income; and

(b) the portion of interest or other expense indirectly attributable to both nonbusiness and business income that bears the same ratio to the aggregate amount of such interest or other expense, determined without regard to this Subsection (25), as the average amount of the asset producing the nonbusiness income bears to the average amount of all assets of the taxpayer within the taxable year.

(26) "S corporation" means an S corporation as defined in Section 1361, Internal Revenue Code.

(27) "Safe harbor lease" means a lease that qualified as a safe harbor lease under Section 168, Internal Revenue Code.

(28) "Special deduction" includes a deduction under:

(a) Section 250, Internal Revenue Code; or

(b) Section 965(c), Internal Revenue Code.

[~~(28)~~] (29) "State of the United States" includes any of the 50 states or the District of Columbia.

[~~(29)~~] (30) (a) "Taxable year" means the calendar year or the fiscal year ending during such calendar year upon the basis of which the adjusted income is computed.

(b) In the case of a return made for a fractional part of a year under this chapter or under rules prescribed by the commission, "taxable year" includes the period for which such return is made.

[~~(30)~~] (31) "Taxpayer" means any corporation subject to the tax imposed by this chapter.

[~~(31)~~] (32) "Threshold level of business activity" means business activity in the United States equal to or greater than 20% of the corporation's total business activity as determined under Section 59-7-401.

[~~(32)~~] (33) (a) "Unadjusted income" means federal taxable income as determined on a separate return basis before intercompany eliminations as determined by the Internal Revenue Code, before

the net operating loss deduction and special deductions [~~for dividends received~~].

(b) "Unadjusted income" includes deferred foreign income described in Section 965(a), Internal Revenue Code.

(c) "Unadjusted income" does not include income received from:

(i) a loan forgiven in accordance with 15 U.S.C. Sec. 636(a)(36), to the extent that a deduction for the expenditures paid with the loan is disallowed; or

(ii) a similar paycheck protection loan that is:

(A) authorized by the federal government;

(B) provided in response to COVID-19;

(C) forgiven if the borrower meets the expenditure requirements; and

(D) exempt from federal income tax, to the extent that a deduction for the expenditures paid with the loan is disallowed.

[~~(33)~~] (34) (a) "Unitary group" means a group of corporations that:

(i) are related through common ownership; and

(ii) by a preponderance of the evidence as determined by a court of competent jurisdiction or the commission, are economically interdependent with one another as demonstrated by the following factors:

(A) centralized management;

(B) functional integration; and

(C) economies of scale.

(b) "Unitary group" includes a captive real estate investment trust.

(c) "Unitary group" does not include an S corporation.

[~~(34)~~] (35) "United States" includes the 50 states and the District of Columbia.

[~~(35)~~] (36) "Utah net loss" means the current year Utah taxable income before Utah net loss deduction, if determined to be less than zero.

[~~(36)~~] (37) "Utah net loss deduction" means the amount of Utah net losses from other taxable years that a taxpayer may carry forward to the current taxable year in accordance with Section 59-7-110.

[~~(37)~~] (38) (a) "Utah taxable income" means Utah taxable income before net loss deduction less Utah net loss deduction.

(b) "Utah taxable income" includes income from tangible or intangible property located or having situs in this state, regardless of whether carried on in intrastate, interstate, or foreign commerce.

[~~(38)~~] (39) "Utah taxable income before net loss deduction" means apportioned income plus nonbusiness income allocable to Utah net of related expenses.

[~~(39)~~] (40) (a) "Water's edge combined report" means a report combining the income and activities of:

(i) all members of a unitary group that are:

(A) corporations organized or incorporated in the United States, including those corporations qualifying for the Puerto Rico and Possession Tax Credit as provided in Section 936, Internal Revenue Code, in accordance with Subsection [~~(39)~~] (40)(b); and

(B) corporations organized or incorporated outside of the United States meeting the threshold level of business activity; and

(ii) an affiliated group electing to file a water's edge combined report under Subsection 59-7-402(2).

(b) There is a rebuttable presumption that a corporation which qualifies for the Puerto Rico and possession tax credit provided in Section 936, Internal Revenue Code, is part of a unitary group.

[~~(40)~~] (41) "Worldwide combined report" means the combination of the income and activities of all members of a unitary group irrespective of the country in which the corporations are incorporated or conduct business activity.

Section 2. Section 59-7-106 is amended to read:

59-7-106. Subtractions from unadjusted income.

(1) In computing adjusted income, the following amounts shall be subtracted from unadjusted income:

(a) the foreign dividend gross-up included in gross income for federal income tax purposes under Section 78, Internal Revenue Code;

(b) subject to Subsection (2), the net capital loss, as defined for federal purposes, if the taxpayer elects to deduct the net capital loss on the return filed under this chapter for the taxable year for which the net capital loss is incurred;

(c) the decrease in salary expense deduction for federal income tax purposes due to claiming the federal work opportunity credit under Section 51, Internal Revenue Code;

(d) the decrease in qualified research and basic research expense deduction for federal income tax purposes due to claiming the federal credit for increasing research activities under Section 41, Internal Revenue Code;

(e) the decrease in qualified clinical testing expense deduction for federal income tax purposes due to claiming the federal credit for clinical testing expenses for certain drugs for rare diseases or conditions under Section 45C, Internal Revenue Code;

(f) any decrease in any expense deduction for federal income tax purposes due to claiming any other federal credit;

(g) the safe harbor lease adjustment required under Subsections 59-7-111(1)(b) and (2)(b);

(h) any income on the federal corporation income tax return that has been previously taxed by Utah;

(i) an amount included in federal taxable income that is due to a refund of a tax, including a franchise tax, an income tax, a corporate stock and business tax, or an occupation tax:

(i) if that tax is imposed for the privilege of:

(A) doing business; or

(B) exercising a corporate franchise;

(ii) if that tax is paid by the corporation to:

(A) Utah;

(B) another state of the United States;

(C) a foreign country;

(D) a United States possession; or

(E) the Commonwealth of Puerto Rico; and

(iii) to the extent that tax was added to unadjusted income under Section 59-7-105;

(j) a charitable contribution, to the extent the charitable contribution is allowed as a subtraction under Section 59-7-109;

(k) subject to Subsection (3), 50% of a dividend considered to be received or received from a subsidiary that:

(i) is a member of the unitary group;

(ii) is organized or incorporated outside of the United States; and

(iii) is not included in a combined report under Section 59-7-402 or 59-7-403;

(l) subject to Subsection (4) and Section 59-7-401, 50% of the adjusted income of a foreign operating company;

(m) the amount of gain or loss that is included in unadjusted income but not recognized for federal purposes on stock sold or exchanged by a member of a selling consolidated group as defined in Section 338, Internal Revenue Code, if an election has been made in accordance with Section 338(h)(10), Internal Revenue Code;

(n) the amount of gain or loss that is included in unadjusted income but not recognized for federal purposes on stock sold, exchanged, or distributed by a corporation in accordance with Section 336(e), Internal Revenue Code, if an election under Section 336(e), Internal Revenue Code, has been made for federal purposes;

(o) subject to Subsection (5), an adjustment to the following due to a difference between basis for federal purposes and basis as computed under Section 59-7-107:

(i) an amortization expense;

(ii) a depreciation expense;

(iii) a gain;

(iv) a loss; or

(v) an item similar to Subsections (1)(o)(i) through (iv);

(p) an interest expense that is not deducted on a federal corporation income tax return under Section 265(b) or 291(e), Internal Revenue Code;

(q) 100% of dividends received from a subsidiary that is an insurance company if that subsidiary that is an insurance company is:

(i) exempt from this chapter under Subsection 59-7-102(1)(c); and

(ii) under common ownership;

(r) subject to Subsection 59-7-105(10), for a corporation that is an account owner as defined in Section 53B-8a-102, the amount of a qualified investment as defined in Section 53B-8a-102.5:

(i) that the corporation or a person other than the corporation makes into an account owned by the corporation during the taxable year;

(ii) to the extent that neither the corporation nor the person other than the corporation described in Subsection (1)(r)(i) deducts the qualified investment on a federal income tax return; and

(iii) to the extent the qualified investment does not exceed the maximum amount of the qualified investment that may be subtracted from unadjusted income for a taxable year in accordance with Subsection 53B-8a-106(1);

(s) for a corporation that makes a donation, as that term is defined in Section 53B-8a-201, to the Student Prosperity Savings Program created in Section 53B-8a-202, the amount of the donation to the extent that the corporation did not deduct the donation on a federal income tax return;

(t) for purposes of income included in a combined report under Part 4, Combined Reporting, the entire amount of the dividends a member of a unitary group receives or is considered to receive from a captive real estate investment trust;

(u) the increase in income for federal income tax purposes due to claiming a:

(i) qualified tax credit bond credit under Section 54A, Internal Revenue Code; or

(ii) qualified zone academy bond under Section 1397E, Internal Revenue Code;

(v) for a taxable year beginning on or after January 1, 2019, but beginning on or before December 31, 2019, only:

(i) the amount of any FDIC premium paid or incurred by the taxpayer that is disallowed as a deduction for federal income tax purposes under Section 162(r), Internal Revenue Code, on the taxpayer's 2018 federal income tax return; plus

(ii) the amount of any FDIC premium paid or incurred by the taxpayer that is disallowed as a deduction for federal income tax purposes under

Section 162(r), Internal Revenue Code, for the taxable year;

(w) for a taxable year beginning on or after January 1, 2020, the amount of any FDIC premium paid or incurred by the taxpayer that is disallowed as a deduction for federal income tax purposes under Section 162(r), Internal Revenue Code, for the taxable year; and

(x) for a taxable year beginning on or after January 1, 2020, but beginning on or before December 31, 2020, the amount of:

(i) a paycheck protection loan similar to a loan forgiven in accordance with 15 U.S.C. Sec. 636(a)(36) that is:

(A) authorized by the federal government;

(B) provided in response to COVID-19;

(C) forgiven if the borrower meets the expenditure requirements; and

(D) subject to federal income tax, to the extent that a deduction for the expenditures paid with the loan is disallowed; and

(ii) any grant funds or forgiven loans that:

(A) the taxpayer receives from the state, a county within the state, or a municipality within the state in response to COVID-19;

(B) are funded using federal revenue received by the state, the county, or the municipality to respond to COVID-19; and

(C) are included in unadjusted income.

(2) For purposes of Subsection (1)(b):

(a) the subtraction shall be made by claiming the subtraction on a return filed:

(i) under this chapter for the taxable year for which the net capital loss is incurred; and

(ii) by the due date of the return, including extensions; and

(b) a net capital loss for a taxable year shall be:

(i) subtracted for the taxable year for which the net capital loss is incurred; or

(ii) carried forward as provided in Sections 1212(a)(1)(B) and (C), Internal Revenue Code.

(3) (a) For purposes of calculating the subtraction provided for in Subsection (1)(k), a taxpayer shall first subtract from a dividend considered to be received or received an expense directly attributable to that dividend.

(b) For purposes of Subsection (3)(a), the amount of an interest expense that is considered to be directly attributable to a dividend is calculated by multiplying the interest expense by a fraction:

(i) the numerator of which is the taxpayer's average investment in the dividend paying subsidiaries; and

(ii) the denominator of which is the taxpayer's average total investment in assets.

(c) (i) For purposes of calculating the subtraction allowed by Subsection (1)(k), in determining income apportionable to this state, a portion of the factors of a foreign subsidiary that has dividends that are partially subtracted under Subsection (1)(k) shall be included in the combined report factors as provided in this Subsection (3)(c).

(ii) For purposes of Subsection (3)(c)(i), the portion of the factors of a foreign subsidiary that has dividends that are partially subtracted under Subsection (1)(k) that shall be included in the combined report factors is calculated by multiplying each factor of the foreign subsidiary by a fraction:

(A) not to exceed 100%; and

(B) (I) the numerator of which is the amount of the dividend paid by the foreign subsidiary that is included in adjusted income; and

(II) the denominator of which is the current year earnings and profits of the foreign subsidiary as determined under the Internal Revenue Code.

(d) A dividend described in Subsection (1)(k) includes amounts included in federal taxable income under Section 965(a), Internal Revenue Code and amounts included in federal taxable income under Section 951A, Internal Revenue Code.

(4) (a) For purposes of Subsection (1)(l), a taxpayer may not make a subtraction under Subsection (1)(l):

(i) if the taxpayer elects to file a worldwide combined report as provided in Section 59-7-403; or

(ii) for the following:

(A) income generated from intangible property; or

(B) a capital gain, dividend, interest, rent, royalty, or other similar item that is generated from an asset held for investment and not from a regular business trading activity.

(b) In calculating the subtraction provided for in Subsection (1)(l), a foreign operating company:

(i) may not subtract an amount provided for in Subsection (1)(k) or (l); and

(ii) prior to determining the subtraction under Subsection (1)(l), shall eliminate a transaction that occurs between members of a unitary group.

(c) For purposes of the subtraction provided for in Subsection (1)(l), in determining income apportionable to this state, the factors for a foreign operating company shall be included in the combined report factors in the same percentages as the foreign operating company's adjusted income is included in the combined adjusted income.

(d) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes:

(i) income generated from intangible property; or

(ii) a capital gain, dividend, interest, rent, royalty, or other similar item that is generated from an asset held for investment and not from a regular business trading activity.

(5) (a) For purposes of the subtraction provided for in Subsection (1)(o), the amount of a reduction in basis shall be allowed as an expense for the taxable year in which a federal tax credit is claimed if:

(i) there is a reduction in federal basis for a federal tax credit; and

(ii) there is no corresponding tax credit allowed in this state.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes an item similar to Subsections (1)(o)(i) through (iv).

Section 3. Section 59-7-402 is amended to read:

59-7-402. Water's edge combined report.

(1) Except as provided in Section 59-7-403, if any corporation listed in Subsection 59-7-101[~~(39)~~](40)(a) is doing business in Utah, the unitary group shall file a water's edge combined report.

(2) (a) A group of corporations that are not otherwise a unitary group may elect to file a water's edge combined report if each member of the group is:

(i) doing business in Utah;

(ii) part of the same affiliated group; and

(iii) qualified, under Section 1501, Internal Revenue Code, to file a federal consolidated return.

(b) Each corporation within the affiliated group that is doing business in Utah must consent to filing a combined report. If an affiliated group elects to file a combined report, each corporation within the affiliated group that is doing business in Utah must file a combined report.

(c) Corporations that elect to file a water's edge combined report under this section may not thereafter elect to file a separate return without the consent of the commission.

Section 4. Retrospective operation.

This bill has retrospective operation for:

(1) the last taxable year of a taxpayer beginning on or before December 31, 2017; and

(2) a taxable year beginning on or after January 1, 2018.

CHAPTER 369
H. B. 40
Passed February 5, 2021
Approved March 22, 2021
Effective May 5, 2021

TAX STATUS DISCLOSURE AMENDMENTS

Chief Sponsor: Norman K. Thurston
Senate Sponsor: Lincoln Fillmore

LONG TITLE

General Description:

This bill requires the State Tax Commission to disclose tax status information to the Alcoholic Beverage Control Commission related to individuals who are obtaining or maintaining a license under the Alcoholic Beverage Control Act.

Highlighted Provisions:

This bill:

- requires the State Tax Commission to disclose to the Alcoholic Beverage Control Commission whether an individual applying for a license or a licensee is current on state tax obligations.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

59-1-403, as last amended by Laws of Utah 2020, Chapter 294

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 59-1-403 is amended to read:

59-1-403. Confidentiality -- Exceptions -- Penalty -- Application to property tax.

(1) (a) Any of the following may not divulge or make known in any manner any information gained by that person from any return filed with the commission:

(i) a tax commissioner;

(ii) an agent, clerk, or other officer or employee of the commission; or

(iii) a representative, agent, clerk, or other officer or employee of any county, city, or town.

(b) An official charged with the custody of a return filed with the commission is not required to produce the return or evidence of anything contained in the return in any action or proceeding in any court, except:

(i) in accordance with judicial order;

(ii) on behalf of the commission in any action or proceeding under:

(A) this title; or

(B) other law under which persons are required to file returns with the commission;

(iii) on behalf of the commission in any action or proceeding to which the commission is a party; or

(iv) on behalf of any party to any action or proceeding under this title if the report or facts shown by the return are directly involved in the action or proceeding.

(c) Notwithstanding Subsection (1)(b), a court may require the production of, and may admit in evidence, any portion of a return or of the facts shown by the return, as are specifically pertinent to the action or proceeding.

(2) This section does not prohibit:

(a) a person or that person's duly authorized representative from receiving a copy of any return or report filed in connection with that person's own tax;

(b) the publication of statistics as long as the statistics are classified to prevent the identification of particular reports or returns; and

(c) the inspection by the attorney general or other legal representative of the state of the report or return of any taxpayer:

(i) who brings action to set aside or review a tax based on the report or return;

(ii) against whom an action or proceeding is contemplated or has been instituted under this title; or

(iii) against whom the state has an unsatisfied money judgment.

(3) (a) Notwithstanding Subsection (1) and for purposes of administration, the commission may by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, provide for a reciprocal exchange of information with:

(i) the United States Internal Revenue Service; or

(ii) the revenue service of any other state.

(b) Notwithstanding Subsection (1) and for all taxes except individual income tax and corporate franchise tax, the commission may by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, share information gathered from returns and other written statements with the federal government, any other state, any of the political subdivisions of another state, or any political subdivision of this state, except as limited by Sections 59-12-209 and 59-12-210, if the political subdivision, other state, or the federal government grant substantially similar privileges to this state.

(c) Notwithstanding Subsection (1) and for all taxes except individual income tax and corporate franchise tax, the commission may by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, provide for the issuance of information concerning the identity and other information of taxpayers who have failed to file tax returns or to pay any tax due.

(d) Notwithstanding Subsection (1), the commission shall provide to the director of the

Division of Environmental Response and Remediation, as defined in Section 19-6-402, as requested by the director of the Division of Environmental Response and Remediation, any records, returns, or other information filed with the commission under Chapter 13, Motor and Special Fuel Tax Act, or Section 19-6-410.5 regarding the environmental assurance program participation fee.

(e) Notwithstanding Subsection (1), at the request of any person the commission shall provide that person sales and purchase volume data reported to the commission on a report, return, or other information filed with the commission under:

(i) Chapter 13, Part 2, Motor Fuel; or

(ii) Chapter 13, Part 4, Aviation Fuel.

(f) Notwithstanding Subsection (1), upon request from a tobacco product manufacturer, as defined in Section 59-22-202, the commission shall report to the manufacturer:

(i) the quantity of cigarettes, as defined in Section 59-22-202, produced by the manufacturer and reported to the commission for the previous calendar year under Section 59-14-407; and

(ii) the quantity of cigarettes, as defined in Section 59-22-202, produced by the manufacturer for which a tax refund was granted during the previous calendar year under Section 59-14-401 and reported to the commission under Subsection 59-14-401(1)(a)(v).

(g) Notwithstanding Subsection (1), the commission shall notify manufacturers, distributors, wholesalers, and retail dealers of a tobacco product manufacturer that is prohibited from selling cigarettes to consumers within the state under Subsection 59-14-210(2).

(h) Notwithstanding Subsection (1), the commission may:

(i) provide to the Division of Consumer Protection within the Department of Commerce and the attorney general data:

(A) reported to the commission under Section 59-14-212; or

(B) related to a violation under Section 59-14-211; and

(ii) upon request, provide to any person data reported to the commission under Subsections 59-14-212(1)(a) through (c) and Subsection 59-14-212(1)(g).

(i) Notwithstanding Subsection (1), the commission shall, at the request of a committee of the Legislature, the Office of the Legislative Fiscal Analyst, or the Governor's Office of Management and Budget, provide to the committee or office the total amount of revenues collected by the commission under Chapter 24, Radioactive Waste Facility Tax Act, for the time period specified by the committee or office.

(j) Notwithstanding Subsection (1), the commission shall make the directory required by Section 59-14-603 available for public inspection.

(k) Notwithstanding Subsection (1), the commission may share information with federal, state, or local agencies as provided in Subsection 59-14-606(3).

(l) (i) Notwithstanding Subsection (1), the commission shall provide the Office of Recovery Services within the Department of Human Services any relevant information obtained from a return filed under Chapter 10, Individual Income Tax Act, regarding a taxpayer who has become obligated to the Office of Recovery Services.

(ii) The information described in Subsection (3)(l)(i) may be provided by the Office of Recovery Services to any other state's child support collection agency involved in enforcing that support obligation.

(m) (i) Notwithstanding Subsection (1), upon request from the state court administrator, the commission shall provide to the state court administrator, the name, address, telephone number, county of residence, and social security number on resident returns filed under Chapter 10, Individual Income Tax Act.

(ii) The state court administrator may use the information described in Subsection (3)(m)(i) only as a source list for the master jury list described in Section 78B-1-106.

(n) (i) As used in this Subsection (3)(n):

(A) "GOED" means the Governor's Office of Economic Development created in Section 63N-1-201.

(B) "Income tax information" means information gained by the commission that is required to be attached to or included in a return filed with the commission under Chapter 7, Corporate Franchise and Income Taxes, or Chapter 10, Individual Income Tax Act.

(C) "Other tax information" means information gained by the commission that is required to be attached to or included in a return filed with the commission except for a return filed under Chapter 7, Corporate Franchise and Income Taxes, or Chapter 10, Individual Income Tax Act.

(D) "Tax information" means income tax information or other tax information.

(ii) (A) Notwithstanding Subsection (1) and except as provided in Subsection (3)(n)(ii)(B) or (C), the commission shall at the request of GOED provide to GOED all income tax information.

(B) For purposes of a request for income tax information made under Subsection (3)(n)(ii)(A), GOED may not request and the commission may not provide to GOED a person's address, name, social security number, or taxpayer identification number.

(C) In providing income tax information to GOED, the commission shall in all instances protect

the privacy of a person as required by Subsection (3)(n)(ii)(B).

(iii) (A) Notwithstanding Subsection (1) and except as provided in Subsection (3)(n)(iii)(B), the commission shall at the request of GOED provide to GOED other tax information.

(B) Before providing other tax information to GOED, the commission shall redact or remove any name, address, social security number, or taxpayer identification number.

(iv) GOED may provide tax information received from the commission in accordance with this Subsection (3)(n) only:

(A) as a fiscal estimate, fiscal note information, or statistical information; and

(B) if the tax information is classified to prevent the identification of a particular return.

(v) (A) A person may not request tax information from GOED under Title 63G, Chapter 2, Government Records Access and Management Act, or this section, if GOED received the tax information from the commission in accordance with this Subsection (3)(n).

(B) GOED may not provide to a person that requests tax information in accordance with Subsection (3)(n)(v)(A) any tax information other than the tax information GOED provides in accordance with Subsection (3)(n)(iv).

(o) Notwithstanding Subsection (1), the commission may provide to the governing board of the agreement or a taxing official of another state, the District of Columbia, the United States, or a territory of the United States:

(i) the following relating to an agreement sales and use tax:

(A) information contained in a return filed with the commission;

(B) information contained in a report filed with the commission;

(C) a schedule related to Subsection (3)(o)(i)(A) or (B); or

(D) a document filed with the commission; or

(ii) a report of an audit or investigation made with respect to an agreement sales and use tax.

(p) Notwithstanding Subsection (1), the commission may provide information concerning a taxpayer's state income tax return or state income tax withholding information to the Driver License Division if the Driver License Division:

(i) requests the information; and

(ii) provides the commission with a signed release form from the taxpayer allowing the Driver License Division access to the information.

(q) Notwithstanding Subsection (1), the commission shall provide to the Utah Communications Authority, or a division of the Utah Communications Authority, the information requested by the authority under Sections 63H-7a-302, 63H-7a-402, and 63H-7a-502.

(r) Notwithstanding Subsection (1), the commission shall provide to the Utah Educational Savings Plan information related to a resident or nonresident individual's contribution to a Utah Educational Savings Plan account as designated on the resident or nonresident's individual income tax return as provided under Section 59-10-1313.

(s) Notwithstanding Subsection (1), for the purpose of verifying eligibility under Sections 26-18-2.5 and 26-40-105, the commission shall provide an eligibility worker with the Department of Health or its designee with the adjusted gross income of an individual if:

(i) an eligibility worker with the Department of Health or its designee requests the information from the commission; and

(ii) the eligibility worker has complied with the identity verification and consent provisions of Sections 26-18-2.5 and 26-40-105.

(t) Notwithstanding Subsection (1), the commission may provide to a county, as determined by the commission, information declared on an individual income tax return in accordance with Section 59-10-103.1 that relates to eligibility to claim a residential exemption authorized under Section 59-2-103.

(u) Notwithstanding Subsection (1), the commission shall provide a report regarding any access line provider that is over 90 days delinquent in payment to the commission of amounts the access line provider owes under Title 69, Chapter 2, Part 4, Prepaid Wireless Telecommunications Service Charges, to the board of the Utah Communications Authority created in Section 63H-7a-201.

(v) Notwithstanding Subsection (1), the commission shall provide the Department of Environmental Quality a report on the amount of tax paid by a radioactive waste facility for the previous calendar year under Section 59-24-103.5.

(w) Notwithstanding Subsection (1), the commission may, upon request, provide to the Department of Workforce Services any information received under Chapter 10, Part 4, Withholding of Tax, that is relevant to the duties of the Department of Workforce Services.

(x) Notwithstanding Subsection (1), the commission may provide the Public Service Commission or the Division of Public Utilities information related to a seller that collects and remits to the commission a charge described in Subsection 69-2-405(2), including the seller's identity and the number of charges described in Subsection 69-2-405(2) that the seller collects.

(y) Notwithstanding Subsection (1), the commission shall provide the Alcoholic Beverage Control Commission, upon request, with taxpayer status information related to state tax obligations necessary to comply with the requirements described in Section 32B-1-203.

(4) (a) Each report and return shall be preserved for at least three years.

(b) After the three-year period provided in Subsection (4)(a) the commission may destroy a report or return.

(5) (a) Any individual who violates this section is guilty of a class A misdemeanor.

(b) If the individual described in Subsection (5)(a) is an officer or employee of the state, the individual shall be dismissed from office and be disqualified from holding public office in this state for a period of five years thereafter.

(c) Notwithstanding Subsection (5)(a) or (b), GOED, when requesting information in accordance with Subsection (3)(n)(iii), or an individual who requests information in accordance with Subsection (3)(n)(v):

(i) is not guilty of a class A misdemeanor; and

(ii) is not subject to:

(A) dismissal from office in accordance with Subsection (5)(b); or

(B) disqualification from holding public office in accordance with Subsection (5)(b).

(6) Except as provided in Section 59-1-404, this part does not apply to the property tax.

CHAPTER 370
H. B. 46
Passed February 5, 2021
Approved March 22, 2021
Effective May 5, 2021
(Exception clause)

STUDENT PROSPERITY SAVINGS PROGRAM AMENDMENTS

Chief Sponsor: Steve Eliason
Senate Sponsor: Jani Iwamoto

LONG TITLE

General Description:

This bill repeals income tax incentives related to the Student Prosperity Savings Program.

Highlighted Provisions:

This bill:

- repeals the corporate income tax deduction for a donation to the Student Prosperity Savings Program;
- repeals the individual income tax credit for a donation to the Student Prosperity Savings Program;
- eliminates a record retention requirement; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides retrospective operation.

Utah Code Sections Affected:

AMENDS:

53B-8a-203, as enacted by Laws of Utah 2017, Chapter 389
59-7-106, as last amended by Laws of Utah 2020, Sixth Special Session, Chapter 15
59-10-1017, as last amended by Laws of Utah 2017, Chapter 389
63I-2-259, as last amended by Laws of Utah 2020, Fifth Special Session, Chapter 12

REPEALS:

59-10-1017.1, as enacted by Laws of Utah 2017, Chapter 389

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53B-8a-203 is amended to read:

53B-8a-203. Donations to the program.

(1) (a) A person may make a donation to the program by:

(i) sending the donation to the plan; and

(ii) including with the donation, direction that the donation benefit the program.

(b) A person making a donation shall include the person's name and mailing address with the donation.

(2) (a) The plan shall mail a receipt to the person that makes the donation.

(b) The receipt described in Subsection (2)(a) shall state:

(i) the name of the person that made the donation;

(ii) the amount of the donation; and

(iii) the date on which the person makes the donation.

(c) The date on which the person makes a donation to the program is the date on which the plan receives the donation, unless the plan receives the donation on a Saturday, a Sunday, or a holiday, in which case the date on which the person makes the donation shall be the first business day after the day on which the plan receives the donation.

[~~(d) A person that receives a receipt described in Subsection (2)(a) shall retain the receipt for the same time period a person is required to keep books and records under Section 59-1-1406.~~]

Section 2. Section 59-7-106 is amended to read:

59-7-106. Subtractions from unadjusted income.

(1) In computing adjusted income, the following amounts shall be subtracted from unadjusted income:

(a) the foreign dividend gross-up included in gross income for federal income tax purposes under Section 78, Internal Revenue Code;

(b) subject to Subsection (2), the net capital loss, as defined for federal purposes, if the taxpayer elects to deduct the net capital loss on the return filed under this chapter for the taxable year for which the net capital loss is incurred;

(c) the decrease in salary expense deduction for federal income tax purposes due to claiming the federal work opportunity credit under Section 51, Internal Revenue Code;

(d) the decrease in qualified research and basic research expense deduction for federal income tax purposes due to claiming the federal credit for increasing research activities under Section 41, Internal Revenue Code;

(e) the decrease in qualified clinical testing expense deduction for federal income tax purposes due to claiming the federal credit for clinical testing expenses for certain drugs for rare diseases or conditions under Section 45C, Internal Revenue Code;

(f) any decrease in any expense deduction for federal income tax purposes due to claiming any other federal credit;

(g) the safe harbor lease adjustment required under Subsections 59-7-111(1)(b) and (2)(b);

(h) any income on the federal corporation income tax return that has been previously taxed by Utah;

(i) an amount included in federal taxable income that is due to a refund of a tax, including a franchise tax, an income tax, a corporate stock and business tax, or an occupation tax:

(i) if that tax is imposed for the privilege of:

(A) doing business; or

(B) exercising a corporate franchise;

(ii) if that tax is paid by the corporation to:

(A) Utah;

(B) another state of the United States;

(C) a foreign country;

(D) a United States possession; or

(E) the Commonwealth of Puerto Rico; and

(iii) to the extent that tax was added to unadjusted income under Section 59-7-105;

(j) a charitable contribution, to the extent the charitable contribution is allowed as a subtraction under Section 59-7-109;

(k) subject to Subsection (3), 50% of a dividend considered to be received or received from a subsidiary that:

(i) is a member of the unitary group;

(ii) is organized or incorporated outside of the United States; and

(iii) is not included in a combined report under Section 59-7-402 or 59-7-403;

(l) subject to Subsection (4) and Section 59-7-401, 50% of the adjusted income of a foreign operating company;

(m) the amount of gain or loss that is included in unadjusted income but not recognized for federal purposes on stock sold or exchanged by a member of a selling consolidated group as defined in Section 338, Internal Revenue Code, if an election has been made in accordance with Section 338(h)(10), Internal Revenue Code;

(n) the amount of gain or loss that is included in unadjusted income but not recognized for federal purposes on stock sold, exchanged, or distributed by a corporation in accordance with Section 336(e), Internal Revenue Code, if an election under Section 336(e), Internal Revenue Code, has been made for federal purposes;

(o) subject to Subsection (5), an adjustment to the following due to a difference between basis for federal purposes and basis as computed under Section 59-7-107:

(i) an amortization expense;

(ii) a depreciation expense;

(iii) a gain;

(iv) a loss; or

(v) an item similar to Subsections (1)(o)(i) through (iv);

(p) an interest expense that is not deducted on a federal corporation income tax return under Section 265(b) or 291(e), Internal Revenue Code;

(q) 100% of dividends received from a subsidiary that is an insurance company if that subsidiary that is an insurance company is:

(i) exempt from this chapter under Subsection 59-7-102(1)(c); and

(ii) under common ownership;

(r) subject to Subsection 59-7-105(10), for a corporation that is an account owner as defined in Section 53B-8a-102, the amount of a qualified investment as defined in Section 53B-8a-102.5:

(i) that the corporation or a person other than the corporation makes into an account owned by the corporation during the taxable year;

(ii) to the extent that neither the corporation nor the person other than the corporation described in Subsection (1)(r)(i) deducts the qualified investment on a federal income tax return; and

(iii) to the extent the qualified investment does not exceed the maximum amount of the qualified investment that may be subtracted from unadjusted income for a taxable year in accordance with Subsection 53B-8a-106(1);

[~~(s) for a corporation that makes a donation, as that term is defined in Section 53B-8a-201, to the Student Prosperity Savings Program created in Section 53B-8a-202, the amount of the donation to the extent that the corporation did not deduct the donation on a federal income tax return;~~]

[~~(t)~~] (s) for purposes of income included in a combined report under Part 4, Combined Reporting, the entire amount of the dividends a member of a unitary group receives or is considered to receive from a captive real estate investment trust;

[~~(u)~~] (t) the increase in income for federal income tax purposes due to claiming a:

(i) qualified tax credit bond credit under Section 54A, Internal Revenue Code; or

(ii) qualified zone academy bond under Section 1397E, Internal Revenue Code;

[~~(v)~~] (u) for a taxable year beginning on or after January 1, 2019, but beginning on or before December 31, 2019, only:

(i) the amount of any FDIC premium paid or incurred by the taxpayer that is disallowed as a deduction for federal income tax purposes under Section 162(r), Internal Revenue Code, on the taxpayer's 2018 federal income tax return; plus

(ii) the amount of any FDIC premium paid or incurred by the taxpayer that is disallowed as a deduction for federal income tax purposes under Section 162(r), Internal Revenue Code, for the taxable year;

[~~(w)~~] (v) for a taxable year beginning on or after January 1, 2020, the amount of any FDIC premium paid or incurred by the taxpayer that is disallowed as a deduction for federal income tax purposes under Section 162(r), Internal Revenue Code, for the taxable year; and

[~~(x)~~] (w) for a taxable year beginning on or after January 1, 2020, but beginning on or before December 31, 2020, the amount of:

(i) a paycheck protection loan similar to a loan forgiven in accordance with 15 U.S.C. Sec. 636(a)(36) that is:

(A) authorized by the federal government;

(B) provided in response to COVID-19;

(C) forgiven if the borrower meets the expenditure requirements; and

(D) subject to federal income tax, to the extent that a deduction for the expenditures paid with the loan is disallowed; and

(ii) any grant funds or forgiven loans that:

(A) the taxpayer receives from the state, a county within the state, or a municipality within the state in response to COVID-19;

(B) are funded using federal revenue received by the state, the county, or the municipality to respond to COVID-19; and

(C) are included in unadjusted income.

(2) For purposes of Subsection (1)(b):

(a) the subtraction shall be made by claiming the subtraction on a return filed:

(i) under this chapter for the taxable year for which the net capital loss is incurred; and

(ii) by the due date of the return, including extensions; and

(b) a net capital loss for a taxable year shall be:

(i) subtracted for the taxable year for which the net capital loss is incurred; or

(ii) carried forward as provided in Sections 1212(a)(1)(B) and (C), Internal Revenue Code.

(3) (a) For purposes of calculating the subtraction provided for in Subsection (1)(k), a taxpayer shall first subtract from a dividend considered to be received or received an expense directly attributable to that dividend.

(b) For purposes of Subsection (3)(a), the amount of an interest expense that is considered to be directly attributable to a dividend is calculated by multiplying the interest expense by a fraction:

(i) the numerator of which is the taxpayer's average investment in the dividend paying subsidiaries; and

(ii) the denominator of which is the taxpayer's average total investment in assets.

(c) (i) For purposes of calculating the subtraction allowed by Subsection (1)(k), in determining income apportionable to this state, a portion of the factors of a foreign subsidiary that has dividends that are partially subtracted under Subsection (1)(k) shall be included in the combined report factors as provided in this Subsection (3)(c).

(ii) For purposes of Subsection (3)(c)(i), the portion of the factors of a foreign subsidiary that has dividends that are partially subtracted under Subsection (1)(k) that shall be included in the combined report factors is calculated by multiplying each factor of the foreign subsidiary by a fraction:

(A) not to exceed 100%; and

(B) (I) the numerator of which is the amount of the dividend paid by the foreign subsidiary that is included in adjusted income; and

(II) the denominator of which is the current year earnings and profits of the foreign subsidiary as determined under the Internal Revenue Code.

(4) (a) For purposes of Subsection (1)(l), a taxpayer may not make a subtraction under Subsection (1)(l):

(i) if the taxpayer elects to file a worldwide combined report as provided in Section 59-7-403; or

(ii) for the following:

(A) income generated from intangible property; or

(B) a capital gain, dividend, interest, rent, royalty, or other similar item that is generated from an asset held for investment and not from a regular business trading activity.

(b) In calculating the subtraction provided for in Subsection (1)(l), a foreign operating company:

(i) may not subtract an amount provided for in Subsection (1)(k) or (l); and

(ii) prior to determining the subtraction under Subsection (1)(l), shall eliminate a transaction that occurs between members of a unitary group.

(c) For purposes of the subtraction provided for in Subsection (1)(l), in determining income apportionable to this state, the factors for a foreign operating company shall be included in the combined report factors in the same percentages as the foreign operating company's adjusted income is included in the combined adjusted income.

(d) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes:

(i) income generated from intangible property; or

(ii) a capital gain, dividend, interest, rent, royalty, or other similar item that is generated from an asset held for investment and not from a regular business trading activity.

(5) (a) For purposes of the subtraction provided for in Subsection (1)(o), the amount of a reduction in basis shall be allowed as an expense for the taxable year in which a federal tax credit is claimed if:

(i) there is a reduction in federal basis for a federal tax credit; and

(ii) there is no corresponding tax credit allowed in this state.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission

may by rule define what constitutes an item similar to Subsections (1)(o)(i) through (iv).

Section 3. Section 59-10-1017 is amended to read:

59-10-1017. Utah Educational Savings Plan tax credit.

(1) As used in this section:

(a) "Account owner" means the same as that term is defined in Section 53B-8a-102.

(b) "Grantor trust" means the same as that term is defined in Section 53B-8a-102.5.

(c) "Higher education costs" means the same as that term is defined in Section 53B-8a-102.5.

(d) "Maximum amount of a qualified investment for the taxable year" means, for a taxable year, the product of 5% and:

(i) subject to Subsection (1)(d)(iii), for a claimant, estate, or trust that is an account owner, if that claimant, estate, or trust is other than husband and wife account owners who file a single return jointly, the maximum amount of a qualified investment:

(A) listed in Subsection 53B-8a-106(1)(e)(ii); and

(B) increased or kept for that taxable year in accordance with Subsections 53B-8a-106(1)(f) and (g);

(ii) subject to Subsection (1)(d)(iii), for claimants who are husband and wife account owners who file a single return jointly, the maximum amount of a qualified investment:

(A) listed in Subsection 53B-8a-106(1)(e)(iii); and

(B) increased or kept for that taxable year in accordance with Subsections 53B-8a-106(1)(f) and (g); or

(iii) for a grantor trust:

(A) if the owner of the grantor trust has a single filing status or head of household filing status as defined in Section 59-10-1018, the amount described in Subsection (1)(d)(i); or

(B) if the owner of the grantor trust has a joint filing status as defined in Section 59-10-1018, the amount described in Subsection (1)(d)(ii).

(e) "Owner of the grantor trust" means the same as that term is defined in Section 53B-8a-102.5.

(f) "Qualified investment" means the same as that term is defined in Section 53B-8a-102.5.

(2) Except as provided in Section 59-10-1002.2 and subject to the other provisions of this section, a claimant, estate, or trust that is an account owner may claim a nonrefundable tax credit equal to the product of:

(a) the amount of a qualified investment made:

(i) during the taxable year; and

(ii) into an account owned by the claimant, estate, or trust; and

(b) 5%.

(3) A claimant, estate, or trust, or a person other than the claimant, estate, or trust, may make a qualified investment described in Subsection (2).

(4) A claimant, estate, or trust that is an account owner may not claim a tax credit under this section with respect to any portion of a qualified investment described in Subsection (2) that a claimant, estate, trust, or person described in Subsection (3) deducts on a federal income tax return.

(5) A tax credit under this section may not exceed the maximum amount of a qualified investment for the taxable year.

(6) A claimant, estate, or trust that is an account owner may not carry forward or carry back the tax credit under this section.

[~~(7) A claimant, estate, or trust may claim a tax credit under this section in addition to the tax credit described in Section 59-10-1017.1.~~]

Section 4. Section 63I-2-259 is amended to read:

63I-2-259. Repeal dates -- Title 59.

(1) In Section 59-2-926, the language that states "applicable" and "or 53F-2-301.5" is repealed July 1, 2023.

(2) Subsection 59-7-106(1)[~~(x)~~](w) is repealed December 31, 2021.

(3) Section 59-7-620 is repealed December 31, 2021.

(4) Subsection 59-10-114(2)(j) is repealed December 31, 2021.

Section 5. Repealer.

This bill repeals:

Section 59-10-1017.1, Student Prosperity Savings Program tax credit.

Section 6. Retrospective operation.

(1) Except as provided in Subsection (2), this bill has retrospective operation for a taxable year beginning on or after January 1, 2021.

(2) The changes to Section 63I-2-259 have retrospective operation to January 1, 2021.

CHAPTER 371
H. B. 91
Passed March 3, 2021
Approved March 22, 2021
Effective May 5, 2021
(Retrospective operation to January 1, 2021)

TAX CREDIT FOR ALTERNATIVE FUEL HEAVY DUTY VEHICLES

Chief Sponsor: Andrew Stoddard
Senate Sponsor: Lincoln Fillmore
Cosponsors: Suzanne Harrison
Steve Waldrip

LONG TITLE

General Description:

This bill reenacts a tax credit related to certain alternative fuel heavy duty vehicles.

Highlighted Provisions:

This bill:

- reenacts and extends the availability of an income tax credit related to certain alternative fuel heavy duty vehicles; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides retrospective operation.

Utah Code Sections Affected:

AMENDS:

63I-1-259, as last amended by Laws of Utah 2020, Chapter 332

ENACTS:

59-7-618.1, Utah Code Annotated 1953
59-10-1033.1, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 59-7-618.1 is enacted to read:

59-7-618.1. Tax credit related to alternative fuel heavy duty vehicles.

(1) As used in this section:

(a) "Board" means the Air Quality Board created under Title 19, Chapter 2, Air Conservation Act.

(b) "Director" means the director of the Division of Air Quality appointed under Section 19-2-107.

(c) "Heavy duty vehicle" means a commercial category 7 or 8 vehicle, according to vehicle classifications established by the Federal Highway Administration.

(d) "Natural gas" includes compressed natural gas and liquified natural gas.

(e) "Qualified heavy duty vehicle" means a heavy duty vehicle that:

(i) has never been titled or registered and has been driven less than 7,500 miles; and

(ii) is fueled by natural gas, has a 100% electric drivetrain, or has a hydrogen-electric drivetrain.

(f) "Qualified purchase" means the purchase of a qualified heavy duty vehicle.

(g) "Qualified taxpayer" means a taxpayer that:

(i) purchases a qualified heavy duty vehicle; and

(ii) receives a tax credit certificate from the director.

(h) "Small fleet" means 40 or fewer heavy duty vehicles registered in the state and owned by a single taxpayer.

(i) "Tax credit certificate" means a certificate issued by the director certifying that a taxpayer is entitled to a tax credit as provided in this section and stating the amount of the tax credit.

(2) A qualified taxpayer may claim a nonrefundable tax credit against tax otherwise due under this chapter or Chapter 8, Gross Receipts Tax on Certain Corporations Not Required to Pay Corporate Franchise or Income Tax Act:

(a) in an amount equal to:

(i) $15,000, if the qualified purchase occurs during calendar year 2021;

(ii) $13,500, if the qualified purchase occurs during calendar year 2022;

(iii) $12,000, if the qualified purchase occurs during calendar year 2023;

(iv) $10,500, if the qualified purchase occurs during calendar year 2024;

(v) $9,000, if the qualified purchase occurs during calendar year 2025;

(vi) $7,500, if the qualified purchase occurs during calendar year 2026;

(vii) $6,000, if the qualified purchase occurs during calendar year 2027;

(viii) $4,500, if the qualified purchase occurs during calendar year 2028;

(ix) $3,000, if the qualified purchase occurs during calendar year 2029; and

(x) $1,500, if the qualified purchase occurs during calendar year 2030; and

(b) if the qualified taxpayer certifies under oath that over 50% of the miles that the heavy duty vehicle that is the subject of the qualified purchase will travel annually will be within the state.

(3) (a) Except as provided in Subsection (3)(b), a taxpayer may not submit an application for, and the director may not issue to the taxpayer, a tax credit certificate under this section in any taxable year for a qualified purchase if the director has already issued tax credit certificates to the taxpayer for 10 qualified purchases in the same taxable year.

(b) If, by May 1 of any year, more than 30% of the aggregate annual total amount of tax credits under Subsection (5) has not been claimed, a taxpayer may submit an application for, and the director may issue to the taxpayer, one or more tax credit certificates for up to eight additional qualified

purchases, even if the director has already issued to that taxpayer tax credit certificates for the maximum number of qualified purchases allowed under Subsection (3)(a).

(4) (a) Subject to Subsection (4)(b), the director shall reserve 25% of all tax credits available under this section for qualified taxpayers with a small fleet.

(b) Subsection (4)(a) does not prevent a taxpayer from submitting an application for, or the director from issuing, a tax credit certificate if, before October 1, qualified taxpayers with a small fleet have not reserved under Subsection (5)(b) tax credits for the full amount reserved under Subsection (4)(a).

(5) (a) The aggregate annual total amount of tax credits represented by tax credit certificates that the director issues under this section and Section 59-10-1033.1 may not exceed $500,000.

(b) The board shall, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules to establish a process under which a taxpayer may reserve a potential tax credit under this section for a limited time to allow the taxpayer to make a qualified purchase with the assurance that the aggregate limit under Subsection (5)(a) will not be met before the taxpayer is able to submit an application for a tax credit certificate.

(6) (a) (i) A taxpayer wishing to claim a tax credit under this section shall, using forms the board requires by rule:

(A) submit to the director an application for a tax credit;

(B) provide the director proof of a qualified purchase; and

(C) submit to the director the certification under oath required under Subsection (2)(b).

(ii) Upon receiving the application, proof, and certification required under Subsection (6)(a)(i), the director shall provide the taxpayer a written statement from the director acknowledging receipt of the proof.

(b) If the director determines that a taxpayer qualifies for a tax credit under this section, the director shall:

(i) determine the amount of tax credit the taxpayer is allowed under this section; and

(ii) provide the taxpayer with a written tax credit certificate:

(A) stating that the taxpayer has qualified for a tax credit; and

(B) showing the amount of tax credit for which the taxpayer has qualified under this section.

(c) A qualified taxpayer shall retain the tax credit certificate.

(d) The director shall at least annually submit to the commission a list of all qualified taxpayers to which the director has issued a tax credit certificate and the amount of each tax credit represented by the tax credit certificates.

(7) The tax credit under this section is allowed only:

(a) against a tax owed under this chapter or Chapter 8, Gross Receipts Tax on Certain Corporations Not Required to Pay Corporate Franchise or Income Tax Act, in the taxable year by the qualified taxpayer;

(b) for the taxable year in which the qualified purchase occurs; and

(c) once per vehicle.

(8) A qualified taxpayer may not assign a tax credit or a tax credit certificate under this section to another person.

(9) If the qualified taxpayer receives a tax credit certificate under this section that allows a tax credit in an amount that exceeds the qualified taxpayer's tax liability under this chapter or Chapter 8, Gross Receipts Tax on Certain Corporations Not Required to Pay Corporate Franchise or Income Tax Act, for a taxable year, the qualified taxpayer may carry forward the amount of the tax credit that exceeds the tax liability for a period that does not exceed the next five taxable years.

Section 2. Section 59-10-1033.1 is enacted to read:

59-10-1033.1. Tax credit related to alternative fuel heavy duty vehicles.

(1) As used in this section:

(a) "Board" means the Air Quality Board created under Title 19, Chapter 2, Air Conservation Act.

(b) "Director" means the director of the Division of Air Quality appointed under Section 19-2-107.

(c) "Heavy duty vehicle" means a commercial category 7 or 8 vehicle, according to vehicle classifications established by the Federal Highway Administration.

(d) "Natural gas" includes compressed natural gas and liquified natural gas.

(e) "Qualified heavy duty vehicle" means a heavy duty vehicle that:

(i) has never been titled or registered and has been driven less than 7,500 miles; and

(ii) is fueled by natural gas, has a 100% electric drivetrain, or has a hydrogen-electric drivetrain.

(f) "Qualified purchase" means the purchase of a qualified heavy duty vehicle.

(g) "Qualified taxpayer" means a claimant, estate, or trust that:

(i) purchases a qualified heavy duty vehicle; and

(ii) receives a tax credit certificate from the director.

(h) "Small fleet" means 40 or fewer heavy duty vehicles registered in the state and owned by a single claimant, estate, or trust.

(i) "Tax credit certificate" means a certificate issued by the director certifying that a claimant, estate, or trust is entitled to a tax credit as provided in this section and stating the amount of the tax credit.

(2) A qualified taxpayer may claim a nonrefundable tax credit against tax otherwise due under this chapter:

(a) in an amount equal to:

(i) $15,000, if the qualified purchase occurs during calendar year 2021;

(ii) $13,500, if the qualified purchase occurs during calendar year 2022;

(iii) $12,000, if the qualified purchase occurs during calendar year 2023;

(iv) $10,500, if the qualified purchase occurs during calendar year 2024;

(v) $9,000, if the qualified purchase occurs during calendar year 2025;

(vi) $7,500, if the qualified purchase occurs during calendar year 2026;

(vii) $6,000, if the qualified purchase occurs during calendar year 2027;

(viii) $4,500, if the qualified purchase occurs during calendar year 2028;

(ix) $3,000, if the qualified purchase occurs during calendar year 2029; and

(x) $1,500, if the qualified purchase occurs during calendar year 2030; and

(b) if the qualified taxpayer certifies under oath that over 50% of the miles that the heavy duty vehicle that is the subject of the qualified purchase will travel annually will be within the state.

(3) (a) Except as provided in Subsection (3)(b), a claimant, estate, or trust may not submit an application for, and the director may not issue to the claimant, estate, or trust, a tax credit certificate under this section in any taxable year for a qualified purchase if the director has already issued tax credit certificates to the claimant, estate, or trust for 10 qualified purchases in the same taxable year.

(b) If, by May 1 of any year, more than 30% of the aggregate annual total amount of tax credits under Subsection (5) has not been claimed, a claimant, estate, or trust may submit an application for, and the director may issue to the claimant, estate, or trust, one or more tax credit certificates for up to eight additional qualified purchases, even if the director has already issued to that claimant, estate, or trust tax credit certificates for the maximum number of qualified purchases allowed under Subsection (3)(a).

(4) (a) Subject to Subsection (4)(b), the director shall reserve 25% of all tax credits available under this section for qualified taxpayers with a small fleet.

(b) Subsection (4)(a) does not prevent a claimant, estate, or trust from submitting an application for, or the director from issuing, a tax credit certificate if, before October 1, qualified taxpayers with a small fleet have not reserved under Subsection (5)(b) tax credits for the full amount reserved under Subsection (4)(a).

(5) (a) The aggregate annual total amount of tax credits represented by tax credit certificates that the director issues under this section and Section 59-7-618.1 may not exceed $500,000.

(b) The board shall, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules to establish a process under which a claimant, estate, or trust may reserve a potential tax credit under this section for a limited time to allow the claimant, estate, or trust to make a qualified purchase with the assurance that the aggregate limit under Subsection (5)(a) will not be met before the claimant, estate, or trust is able to submit an application for a tax credit certificate.

(6) (a) (i) A claimant, estate, or trust wishing to claim a tax credit under this section shall, using forms the board requires by rule:

(A) submit to the director an application for a tax credit;

(B) provide the director proof of a qualified purchase; and

(C) submit to the director the certification under oath required under Subsection (2)(b).

(ii) Upon receiving the application, proof, and certification required under Subsection (6)(a)(i), the director shall provide the claimant, estate, or trust a written statement from the director acknowledging receipt of the proof.

(b) If the director determines that a claimant, estate, or trust qualifies for a tax credit under this section, the director shall:

(i) determine the amount of tax credit the claimant, estate, or trust is allowed under this section; and

(ii) provide the claimant, estate, or trust with a written tax credit certificate:

(A) stating that the claimant, estate, or trust has qualified for a tax credit; and

(B) showing the amount of tax credit for which the claimant, estate, or trust has qualified under this section.

(c) A qualified taxpayer shall retain the tax credit certificate.

(d) The director shall at least annually submit to the commission a list of all qualified taxpayers to which the director has issued a tax credit certificate and the amount of each tax credit represented by the tax credit certificates.

(7) The tax credit under this section is allowed only:

(a) against a tax owed under this chapter in the taxable year by the qualified taxpayer;

(b) for the taxable year in which the qualified purchase occurs; and

(c) once per vehicle.

(8) A qualified taxpayer may not assign a tax credit or a tax credit certificate under this section to another person.

(9) If the qualified taxpayer receives a tax credit certificate under this section that allows a tax credit in an amount that exceeds the qualified taxpayer's tax liability under this chapter for a taxable year, the qualified taxpayer may carry forward the amount of the tax credit that exceeds the tax liability for a period that does not exceed the next five taxable years.

Section 3. Section 63I-1-259 is amended to read:

63I-1-259. Repeal dates, Title 59.

(1) Section 59-1-213.1 is repealed on May 9, 2024.

(2) Section 59-1-213.2 is repealed on May 9, 2024.

(3) Subsection 59-1-405(1)(g) is repealed on May 9, 2024.

(4) Subsection 59-1-405(2)(b) is repealed on May 9, 2024.

[~~(5) Section 59-7-618 is repealed July 1, 2020.~~]

(5) Section 59-7-618.1 is repealed July 1, 2029.

(6) Section 59-9-102.5 is repealed December 31, 2030.

[~~(7) Section 59-10-1033 is repealed July 1, 2020.~~]

(7) Section 59-10-1033.1 is repealed July 1, 2029.

(8) Subsection 59-12-2219(13), which addresses new revenue supplanting existing allocations, is repealed on June 30, 2020.

(9) Title 59, Chapter 28, State Transient Room Tax Act, is repealed on January 1, 2023.

Section 4. Retrospective operation.

This bill has retrospective operation for a taxable year beginning on or after January 1, 2021.

CHAPTER 372
H. B. 120
Passed March 5, 2021
Approved March 22, 2021
Effective May 5, 2021

UNEMPLOYMENT INSURANCE AMENDMENTS

Chief Sponsor: Jennifer Dailey-Provost
Senate Sponsor: Karen Mayne

LONG TITLE

General Description:

This bill modifies provisions in the Employment Security Act.

Highlighted Provisions:

This bill:

- requires certain small nonprofit organizations to notify an employee that the employee will be unable to claim service performed for the nonprofit organization as employment for the purpose of qualifying for unemployment insurance benefits; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

35A-4-313, as renumbered and amended by Laws of Utah 1996, Chapter 240

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 35A-4-313 is amended to read:

35A-4-313. Determination of employer and employment.

(1) (a) The division or its authorized representatives may, upon its own motion or upon application of an employing unit, determine whether an employing unit constitutes an employer and whether services performed for, or in connection with the business of, an employer constitute employment for the employing unit. [~~The determinations~~]

(b) A determination described in Subsection (1)(a) may constitute the basis for determination of contribution liability under Subsection 35A-4-305(2) and be subject to review and appeal as provided.

(2) Pursuant to Subsection 35A-4-204(2)(e), if the division or the division's authorized representatives determine that services performed for, or in connection with the business of, a religious, charitable, educational, or other organization do not constitute employment for an employer:

(a) the religious, charitable, educational, or other organization shall notify a prospective employee, at the time an offer of employment is made, that the employee will be unable to claim the service as employment for the purpose of qualifying for unemployment benefits under this chapter; and

(b) the division shall notify the religious, charitable, educational, or other organization of the requirement described in Subsection (2)(a).

(3) Pursuant to Subsection 35A-4-204(2)(e), if the division or the division's authorized representatives determine that the status of whether services performed for, or in connection with the business of, a religious, charitable, educational, or other organization has changed regarding whether the services constitute employment for an employer:

(a) the religious, charitable, educational, or other organization shall notify each current employee of the change in status regarding whether the employee will be able or unable to claim the service as employment for the purpose of qualifying for unemployment benefits under this chapter; and

(b) the division shall notify the religious, charitable, educational, or other organization of the requirement described in Subsection (3)(a).

CHAPTER 373
H. B. 217
Passed March 3, 2021
Approved March 22, 2021
Effective May 5, 2021

REGULATORY SANDBOX PROGRAM AMENDMENTS

Chief Sponsor: A. Cory Maloy
Senate Sponsor: Ann Millner
Cosponsors: Cheryl K. Acton
Carl R. Albrecht
Melissa G. Ballard
Stewart E. Barlow
Walt Brooks
Steve R. Christiansen
Jennifer Dailey-Provost
Francis D. Gibson
Matthew H. Gwynn
Stephen G. Handy
Suzanne Harrison
Sandra Hollins
Dan N. Johnson
Marsha Judkins
Michael L. Kohler
Karen Kwan
Bradley G. Last
Karianne Lisonbee
Ashlee Matthews
Kelly B. Miles
Carol Spackman Moss
Jefferson Moss
Merrill F. Nelson
Michael J. Petersen
Val L. Peterson
Susan Pulsipher
Paul Ray
Adam Robertson
Angela Romero
Douglas V. Sagers
Travis M. Seegmiller
V. Lowry Snow
Andrew Stoddard
Keven J. Stratton
Mark A. Strong
Jordan D. Teuscher
Norman K. Thurston
Raymond P. Ward
Christine F. Watkins
Elizabeth Weight
Douglas R. Welton
Mark A. Wheatley
Ryan D. Wilcox
Mike Winder

LONG TITLE

General Description:

This bill creates the Utah Office of Regulatory Relief (regulatory relief office) within the Governor's Office of Economic Development (GOED).

Highlighted Provisions:

This bill:

- creates the regulatory relief office within GOED;
- defines terms;
- describes the duties of the regulatory relief office;
- creates the General Regulatory Sandbox Program (sandbox program), which allows the office to waive laws or regulations applicable to a participant under certain circumstances;
- describes how the sandbox program is to be administered by the regulatory relief office;
- describes reporting and other requirements of the regulatory relief office and participants in the sandbox program;
- creates the General Regulatory Sandbox Program Advisory Committee (advisory committee);
- describes the membership and duties of the advisory committee; and
- requires the regulatory relief office to create a web page where residents and businesses in the state may provide suggestions regarding modifying or eliminating laws and regulations to reduce the regulatory burden on residents and businesses in the state.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

13-55-102, as enacted by Laws of Utah 2019, Chapter 243
31A-47-102, as enacted by Laws of Utah 2020, Chapter 141
63G-2-305, as last amended by Laws of Utah 2020, Chapters 112, 198, 339, 349, 382, and 393

ENACTS:

63N-16-101, Utah Code Annotated 1953
63N-16-102, Utah Code Annotated 1953
63N-16-103, Utah Code Annotated 1953
63N-16-104, Utah Code Annotated 1953
63N-16-105, Utah Code Annotated 1953
63N-16-201, Utah Code Annotated 1953
63N-16-202, Utah Code Annotated 1953
63N-16-203, Utah Code Annotated 1953
63N-16-204, Utah Code Annotated 1953
63N-16-205, Utah Code Annotated 1953
63N-16-206, Utah Code Annotated 1953
63N-16-301, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 13-55-102 is amended to read:

13-55-102. Definitions.

As used in this chapter:

(1) "Applicable agency" means a department or agency of the state, including the department and the Department of Financial Institutions, that by law regulates certain types of business activity in the state and persons engaged in such business activity, including the issuance of licenses or other types of authorization, which the department determines would otherwise regulate a sandbox participant.

(2) "Applicant" means an individual or entity that is applying to participate in the regulatory sandbox.

(3) "Blockchain technology" means the use of a digital database containing records of financial transactions, which can be simultaneously used and shared within a decentralized, publicly accessible network and can record transactions between two parties in a verifiable and permanent way.

(4) "Consumer" means a person that purchases or otherwise enters into a transaction or agreement to receive an innovative product or service that is being tested by a sandbox participant.

(5) "Department" means the Department of Commerce.

(6) (a) "Financial product or service" means:

(i) a financial product or financial service that requires state licensure or registration; or

(ii) a financial product or financial service that includes a business model, delivery mechanism, or element that may require a license or other authorization to act as a financial institution, enterprise, or other entity that is regulated by Title 7, Financial Institutions Act, or other related provisions.

(b) "Financial product or service" does not include a product or service that is governed by:

(i) Title 31A, Insurance Code; or

(ii) Title 61, Chapter 1, Utah Uniform Securities Act.

(7) "Innovation" means the use or incorporation of a new idea, a new or emerging technology, or a new use of existing technology, including blockchain technology, to address a problem, provide a benefit, or otherwise offer a product, service, business model, or delivery mechanism [~~that is not known by the department to have a comparable widespread offering in the state~~].

(8) "Innovative product or service" means a financial product or service that includes an innovation.

(9) "Regulatory sandbox" means the Regulatory Sandbox Program created by Section 13-55-103, which allows a person to temporarily test an innovative product or service on a limited basis without otherwise being licensed or authorized to act under the laws of the state.

(10) "Sandbox participant" means a person whose application to participate in the regulatory sandbox is approved in accordance with the provisions of this chapter.

(11) "Test" means to provide an innovative product or service in accordance with the provisions of this chapter.

Section 2. Section 31A-47-102 is amended to read:

31A-47-102. Definitions.

As used in this chapter:

(1) "Applicable agency" means a department or agency of the state, including the department and the Department of Commerce, that by law regulates certain types of insurance-related business activity in the state and persons engaged in such insurance-related business activity, including the issuance of licenses or other types of authorization, which the department determines would otherwise regulate an insurance sandbox participant.

(2) "Applicant" means an individual or entity that is applying to participate in the insurance regulatory sandbox.

(3) "Blockchain technology" means the use of a digital database containing records of financial transactions, which can be simultaneously used and shared within a decentralized, publicly accessible network and can record transactions between two parties in a verifiable and permanent way.

(4) "Consumer" means a person that purchases or otherwise enters into a transaction or agreement to receive an innovative insurance product or service that is being tested by an insurance sandbox participant.

(5) "Department" means the Department of Insurance.

(6) "Innovation" means the use or incorporation of a new idea, a new or emerging technology, or a new use of existing technology, including blockchain technology, to address a problem, provide a benefit, or otherwise offer a product, service, business model, or delivery mechanism [~~that is not known by the department to have a comparable widespread offering in the state~~].

(7) "Innovative insurance product or service" means an insurance product or service that includes an innovation.

(8) (a) "Insurance product or service" means an insurance product or insurance service that requires state licensure, registration, or other authorization as regulated by Title 31A, Insurance Code, including an insurance product or insurance service that includes a business model, delivery mechanism, or element that requires a license, registration, or other authorization to do an insurance business, act as an insurance producer or consultant, or engage in insurance adjusting as regulated by Title 31A, Insurance Code.

(b) "Insurance product or service" does not include a product or service that is governed by Title 61, Chapter 1, Utah Uniform Securities Act.

(9) "Insurance regulatory sandbox" means the Insurance Regulatory Sandbox Program created by Section 31A-47-103, which allows a person to temporarily test an innovative insurance product or service on a limited basis without otherwise being licensed or authorized to act under the laws of the state.

(10) "Insurance sandbox participant" means a person whose application to participate in the insurance regulatory sandbox is approved in accordance with the provisions of this chapter.

(11) "Test" means to provide an innovative insurance product or service in accordance with the provisions of this chapter.

Section 3. Section 63G-2-305 is amended to read:

63G-2-305. Protected records.

The following records are protected if properly classified by a governmental entity:

(1) trade secrets as defined in Section 13-24-2 if the person submitting the trade secret has provided the governmental entity with the information specified in Section 63G-2-309;

(2) commercial information or nonindividual financial information obtained from a person if:

(a) disclosure of the information could reasonably be expected to result in unfair competitive injury to the person submitting the information or would impair the ability of the governmental entity to obtain necessary information in the future;

(b) the person submitting the information has a greater interest in prohibiting access than the public in obtaining access; and

(c) the person submitting the information has provided the governmental entity with the information specified in Section 63G-2-309;

(3) commercial or financial information acquired or prepared by a governmental entity to the extent that disclosure would lead to financial speculations in currencies, securities, or commodities that will interfere with a planned transaction by the governmental entity or cause substantial financial injury to the governmental entity or state economy;

(4) records, the disclosure of which could cause commercial injury to, or confer a competitive advantage upon a potential or actual competitor of, a commercial project entity as defined in Subsection 11-13-103(4);

(5) test questions and answers to be used in future license, certification, registration, employment, or academic examinations;

(6) records, the disclosure of which would impair governmental procurement proceedings or give an unfair advantage to any person proposing to enter into a contract or agreement with a governmental entity, except, subject to Subsections (1) and (2), that this Subsection (6) does not restrict the right of a person to have access to, after the contract or grant has been awarded and signed by all parties:

(a) a bid, proposal, application, or other information submitted to or by a governmental entity in response to:

(i) an invitation for bids;

(ii) a request for proposals;

(iii) a request for quotes;

(iv) a grant; or

(v) other similar document; or

(b) an unsolicited proposal, as defined in Section 63G-6a-712;

(7) information submitted to or by a governmental entity in response to a request for information, except, subject to Subsections (1) and (2), that this Subsection (7) does not restrict the right of a person to have access to the information, after:

(a) a contract directly relating to the subject of the request for information has been awarded and signed by all parties; or

(b) (i) a final determination is made not to enter into a contract that relates to the subject of the request for information; and

(ii) at least two years have passed after the day on which the request for information is issued;

(8) records that would identify real property or the appraisal or estimated value of real or personal property, including intellectual property, under consideration for public acquisition before any rights to the property are acquired unless:

(a) public interest in obtaining access to the information is greater than or equal to the governmental entity's need to acquire the property on the best terms possible;

(b) the information has already been disclosed to persons not employed by or under a duty of confidentiality to the entity;

(c) in the case of records that would identify property, potential sellers of the described property have already learned of the governmental entity's plans to acquire the property;

(d) in the case of records that would identify the appraisal or estimated value of property, the potential sellers have already learned of the governmental entity's estimated value of the property; or

(e) the property under consideration for public acquisition is a single family residence and the governmental entity seeking to acquire the property has initiated negotiations to acquire the property as required under Section 78B-6-505;

(9) records prepared in contemplation of sale, exchange, lease, rental, or other compensated transaction of real or personal property including intellectual property, which, if disclosed prior to completion of the transaction, would reveal the appraisal or estimated value of the subject property, unless:

(a) the public interest in access is greater than or equal to the interests in restricting access, including the governmental entity's interest in maximizing the financial benefit of the transaction; or

(b) when prepared by or on behalf of a governmental entity, appraisals or estimates of the value of the subject property have already been disclosed to persons not employed by or under a duty of confidentiality to the entity;

(10) records created or maintained for civil, criminal, or administrative enforcement purposes or audit purposes, or for discipline, licensing, certification, or registration purposes, if release of the records:

(a) reasonably could be expected to interfere with investigations undertaken for enforcement, discipline, licensing, certification, or registration purposes;

(b) reasonably could be expected to interfere with audits, disciplinary, or enforcement proceedings;

(c) would create a danger of depriving a person of a right to a fair trial or impartial hearing;

(d) reasonably could be expected to disclose the identity of a source who is not generally known outside of government and, in the case of a record compiled in the course of an investigation, disclose information furnished by a source not generally known outside of government if disclosure would compromise the source; or

(e) reasonably could be expected to disclose investigative or audit techniques, procedures, policies, or orders not generally known outside of government if disclosure would interfere with enforcement or audit efforts;

(11) records the disclosure of which would jeopardize the life or safety of an individual;

(12) records the disclosure of which would jeopardize the security of governmental property, governmental programs, or governmental recordkeeping systems from damage, theft, or other appropriation or use contrary to law or public policy;

(13) records that, if disclosed, would jeopardize the security or safety of a correctional facility, or records relating to incarceration, treatment, probation, or parole, that would interfere with the control and supervision of an offender's incarceration, treatment, probation, or parole;

(14) records that, if disclosed, would reveal recommendations made to the Board of Pardons and Parole by an employee of or contractor for the Department of Corrections, the Board of Pardons and Parole, or the Department of Human Services that are based on the employee's or contractor's supervision, diagnosis, or treatment of any person within the board's jurisdiction;

(15) records and audit workpapers that identify audit, collection, and operational procedures and methods used by the State Tax Commission, if disclosure would interfere with audits or collections;

(16) records of a governmental audit agency relating to an ongoing or planned audit until the final audit is released;

(17) records that are subject to the attorney client privilege;

(18) records prepared for or by an attorney, consultant, surety, indemnitor, insurer, employee, or agent of a governmental entity for, or in anticipation of, litigation or a judicial, quasi–judicial, or administrative proceeding;

(19) (a) (i) personal files of a state legislator, including personal correspondence to or from a member of the Legislature; and

(ii) notwithstanding Subsection (19)(a)(i), correspondence that gives notice of legislative action or policy may not be classified as protected under this section; and

(b) (i) an internal communication that is part of the deliberative process in connection with the preparation of legislation between:

(A) members of a legislative body;

(B) a member of a legislative body and a member of the legislative body's staff; or

(C) members of a legislative body's staff; and

(ii) notwithstanding Subsection (19)(b)(i), a communication that gives notice of legislative action or policy may not be classified as protected under this section;

(20) (a) records in the custody or control of the Office of Legislative Research and General Counsel, that, if disclosed, would reveal a particular legislator's contemplated legislation or contemplated course of action before the legislator has elected to support the legislation or course of action, or made the legislation or course of action public; and

(b) notwithstanding Subsection (20)(a), the form to request legislation submitted to the Office of Legislative Research and General Counsel is a public document unless a legislator asks that the records requesting the legislation be maintained as protected records until such time as the legislator elects to make the legislation or course of action public;

(21) research requests from legislators to the Office of Legislative Research and General Counsel or the Office of the Legislative Fiscal Analyst and research findings prepared in response to these requests;

(22) drafts, unless otherwise classified as public;

(23) records concerning a governmental entity's strategy about:

(a) collective bargaining; or

(b) imminent or pending litigation;

(24) records of investigations of loss occurrences and analyses of loss occurrences that may be covered by the Risk Management Fund, the Employers' Reinsurance Fund, the Uninsured Employers' Fund, or similar divisions in other governmental entities;

(25) records, other than personnel evaluations, that contain a personal recommendation concerning an individual if disclosure would constitute a clearly unwarranted invasion of personal privacy, or disclosure is not in the public interest;

(26) records that reveal the location of historic, prehistoric, paleontological, or biological resources that if known would jeopardize the security of those resources or of valuable historic, scientific, educational, or cultural information;

(27) records of independent state agencies if the disclosure of the records would conflict with the fiduciary obligations of the agency;

(28) records of an institution within the state system of higher education defined in Section 53B-1-102 regarding tenure evaluations, appointments, applications for admissions, retention decisions, and promotions, which could be properly discussed in a meeting closed in accordance with Title 52, Chapter 4, Open and Public Meetings Act, provided that records of the final decisions about tenure, appointments, retention, promotions, or those students admitted, may not be classified as protected under this section;

(29) records of the governor's office, including budget recommendations, legislative proposals, and policy statements, that if disclosed would reveal the governor's contemplated policies or contemplated courses of action before the governor has implemented or rejected those policies or courses of action or made them public;

(30) records of the Office of the Legislative Fiscal Analyst relating to budget analysis, revenue estimates, and fiscal notes of proposed legislation before issuance of the final recommendations in these areas;

(31) records provided by the United States or by a government entity outside the state that are given to the governmental entity with a requirement that they be managed as protected records if the providing entity certifies that the record would not be subject to public disclosure if retained by it;

(32) transcripts, minutes, recordings, or reports of the closed portion of a meeting of a public body except as provided in Section 52-4-206;

(33) records that would reveal the contents of settlement negotiations but not including final settlements or empirical data to the extent that they are not otherwise exempt from disclosure;

(34) memoranda prepared by staff and used in the decision-making process by an administrative law judge, a member of the Board of Pardons and Parole, or a member of any other body charged by law with performing a quasi-judicial function;

(35) records that would reveal negotiations regarding assistance or incentives offered by or requested from a governmental entity for the purpose of encouraging a person to expand or locate a business in Utah, but only if disclosure would result in actual economic harm to the person or place the governmental entity at a competitive disadvantage, but this section may not be used to restrict access to a record evidencing a final contract;

(36) materials to which access must be limited for purposes of securing or maintaining the governmental entity's proprietary protection of intellectual property rights including patents, copyrights, and trade secrets;

(37) the name of a donor or a prospective donor to a governmental entity, including an institution within the state system of higher education defined in Section 53B-1-102, and other information concerning the donation that could reasonably be expected to reveal the identity of the donor, provided that:

(a) the donor requests anonymity in writing;

(b) any terms, conditions, restrictions, or privileges relating to the donation may not be classified protected by the governmental entity under this Subsection (37); and

(c) except for an institution within the state system of higher education defined in Section 53B-1-102, the governmental unit to which the donation is made is primarily engaged in educational, charitable, or artistic endeavors, and has no regulatory or legislative authority over the donor, a member of the donor's immediate family, or any entity owned or controlled by the donor or the donor's immediate family;

(38) accident reports, except as provided in Sections 41-6a-404, 41-12a-202, and 73-18-13;

(39) a notification of workers' compensation insurance coverage described in Section 34A-2-205;

(40) (a) the following records of an institution within the state system of higher education defined in Section 53B-1-102, which have been developed, discovered, disclosed to, or received by or on behalf of faculty, staff, employees, or students of the institution:

(i) unpublished lecture notes;

(ii) unpublished notes, data, and information:

(A) relating to research; and

(B) of:

(I) the institution within the state system of higher education defined in Section 53B-1-102; or

(II) a sponsor of sponsored research;

(iii) unpublished manuscripts;

(iv) creative works in process;

(v) scholarly correspondence; and

(vi) confidential information contained in research proposals;

(b) Subsection (40)(a) may not be construed to prohibit disclosure of public information required pursuant to Subsection 53B-16-302(2)(a) or (b); and

(c) Subsection (40)(a) may not be construed to affect the ownership of a record;

(41) (a) records in the custody or control of the Office of Legislative Auditor General that would

reveal the name of a particular legislator who requests a legislative audit prior to the date that audit is completed and made public; and

(b) notwithstanding Subsection (41)(a), a request for a legislative audit submitted to the Office of the Legislative Auditor General is a public document unless the legislator asks that the records in the custody or control of the Office of Legislative Auditor General that would reveal the name of a particular legislator who requests a legislative audit be maintained as protected records until the audit is completed and made public;

(42) records that provide detail as to the location of an explosive, including a map or other document that indicates the location of:

(a) a production facility; or

(b) a magazine;

(43) information:

(a) contained in the statewide database of the Division of Aging and Adult Services created by Section 62A-3-311.1; or

(b) received or maintained in relation to the Identity Theft Reporting Information System (IRIS) established under Section 67-5-22;

(44) information contained in the Management Information System and Licensing Information System described in Title 62A, Chapter 4a, Child and Family Services;

(45) information regarding National Guard operations or activities in support of the National Guard's federal mission;

(46) records provided by any pawn or secondhand business to a law enforcement agency or to the central database in compliance with Title 13, Chapter 32a, Pawnshop and Secondhand Merchandise Transaction Information Act;

(47) information regarding food security, risk, and vulnerability assessments performed by the Department of Agriculture and Food;

(48) except to the extent that the record is exempt from this chapter pursuant to Section 63G-2-106, records related to an emergency plan or program, a copy of which is provided to or prepared or maintained by the Division of Emergency Management, and the disclosure of which would jeopardize:

(a) the safety of the general public; or

(b) the security of:

(i) governmental property;

(ii) governmental programs; or

(iii) the property of a private person who provides the Division of Emergency Management information;

(49) records of the Department of Agriculture and Food that provides for the identification, tracing, or control of livestock diseases, including any program established under Title 4, Chapter 24, Utah Livestock Brand and Anti-Theft Act, or Title 4, Chapter 31, Control of Animal Disease;

(50) as provided in Section 26-39-501:

(a) information or records held by the Department of Health related to a complaint regarding a child care program or residential child care which the department is unable to substantiate; and

(b) information or records related to a complaint received by the Department of Health from an anonymous complainant regarding a child care program or residential child care;

(51) unless otherwise classified as public under Section 63G-2-301 and except as provided under Section 41-1a-116, an individual's home address, home telephone number, or personal mobile phone number, if:

(a) the individual is required to provide the information in order to comply with a law, ordinance, rule, or order of a government entity; and

(b) the subject of the record has a reasonable expectation that this information will be kept confidential due to:

(i) the nature of the law, ordinance, rule, or order; and

(ii) the individual complying with the law, ordinance, rule, or order;

(52) the portion of the following documents that contains a candidate's residential or mailing address, if the candidate provides to the filing officer another address or phone number where the candidate may be contacted:

(a) a declaration of candidacy, a nomination petition, or a certificate of nomination, described in Section 20A-9-201, 20A-9-202, 20A-9-203, 20A-9-404, 20A-9-405, 20A-9-408, 20A-9-408.5, 20A-9-502, or 20A-9-601;

(b) an affidavit of impecuniosity, described in Section 20A-9-201; or

(c) a notice of intent to gather signatures for candidacy, described in Section 20A-9-408;

(53) the name, home address, work addresses, and telephone numbers of an individual that is engaged in, or that provides goods or services for, medical or scientific research that is:

(a) conducted within the state system of higher education, as defined in Section 53B-1-102; and

(b) conducted using animals;

(54) in accordance with Section 78A-12-203, any record of the Judicial Performance Evaluation Commission concerning an individual commissioner's vote on whether or not to recommend that the voters retain a judge including information disclosed under Subsection 78A-12-203(5)(e);

(55) information collected and a report prepared by the Judicial Performance Evaluation

Commission concerning a judge, unless Section 20A-7-702 or Title 78A, Chapter 12, Judicial Performance Evaluation Commission Act, requires disclosure of, or makes public, the information or report;

(56) records contained in the Management Information System created in Section 62A-4a-1003;

(57) records provided or received by the Public Lands Policy Coordinating Office in furtherance of any contract or other agreement made in accordance with Section 63J-4-603;

(58) information requested by and provided to the 911 Division under Section 63H-7a-302;

(59) in accordance with Section 73-10-33:

(a) a management plan for a water conveyance facility in the possession of the Division of Water Resources or the Board of Water Resources; or

(b) an outline of an emergency response plan in possession of the state or a county or municipality;

(60) the following records in the custody or control of the Office of Inspector General of Medicaid Services, created in Section 63A-13-201:

(a) records that would disclose information relating to allegations of personal misconduct, gross mismanagement, or illegal activity of a person if the information or allegation cannot be corroborated by the Office of Inspector General of Medicaid Services through other documents or evidence, and the records relating to the allegation are not relied upon by the Office of Inspector General of Medicaid Services in preparing a final investigation report or final audit report;

(b) records and audit workpapers to the extent they would disclose the identity of a person who, during the course of an investigation or audit, communicated the existence of any Medicaid fraud, waste, or abuse, or a violation or suspected violation of a law, rule, or regulation adopted under the laws of this state, a political subdivision of the state, or any recognized entity of the United States, if the information was disclosed on the condition that the identity of the person be protected;

(c) before the time that an investigation or audit is completed and the final investigation or final audit report is released, records or drafts circulated to a person who is not an employee or head of a governmental entity for the person's response or information;

(d) records that would disclose an outline or part of any investigation, audit survey plan, or audit program; or

(e) requests for an investigation or audit, if disclosure would risk circumvention of an investigation or audit;

(61) records that reveal methods used by the Office of Inspector General of Medicaid Services, the fraud unit, or the Department of Health, to discover Medicaid fraud, waste, or abuse;

(62) information provided to the Department of Health or the Division of Occupational and Professional Licensing under Subsections 58-67-304(3) and (4) and Subsections 58-68-304(3) and (4);

(63) a record described in Section 63G-12-210;

(64) captured plate data that is obtained through an automatic license plate reader system used by a governmental entity as authorized in Section 41-6a-2003;

(65) any record in the custody of the Utah Office for Victims of Crime relating to a victim, including:

(a) a victim's application or request for benefits;

(b) a victim's receipt or denial of benefits; and

(c) any administrative notes or records made or created for the purpose of, or used to, evaluate or communicate a victim's eligibility for or denial of benefits from the Crime Victim Reparations Fund;

(66) an audio or video recording created by a body-worn camera, as that term is defined in Section 77-7a-103, that records sound or images inside a hospital or health care facility as those terms are defined in Section 78B-3-403, inside a clinic of a health care provider, as that term is defined in Section 78B-3-403, or inside a human service program as that term is defined in Section 62A-2-101, except for recordings that:

(a) depict the commission of an alleged crime;

(b) record any encounter between a law enforcement officer and a person that results in death or bodily injury, or includes an instance when an officer fires a weapon;

(c) record any encounter that is the subject of a complaint or a legal proceeding against a law enforcement officer or law enforcement agency;

(d) contain an officer involved critical incident as defined in Subsection 76-2-408(1)(f); or

(e) have been requested for reclassification as a public record by a subject or authorized agent of a subject featured in the recording;

(67) a record pertaining to the search process for a president of an institution of higher education described in Section 53B-2-102, except for application materials for a publicly announced finalist;

(68) an audio recording that is:

(a) produced by an audio recording device that is used in conjunction with a device or piece of equipment designed or intended for resuscitating an individual or for treating an individual with a life-threatening condition;

(b) produced during an emergency event when an individual employed to provide law enforcement, fire protection, paramedic, emergency medical, or other first responder service:

(i) is responding to an individual needing resuscitation or with a life-threatening condition; and

(ii) uses a device or piece of equipment designed or intended for resuscitating an individual or for treating an individual with a life-threatening condition; and

(c) intended and used for purposes of training emergency responders how to improve their response to an emergency situation;

(69) records submitted by or prepared in relation to an applicant seeking a recommendation by the Research and General Counsel Subcommittee, the Budget Subcommittee, or the Audit Subcommittee, established under Section 36-12-8, for an employment position with the Legislature;

(70) work papers as defined in Section 31A-2-204;

(71) a record made available to Adult Protective Services or a law enforcement agency under Section 61-1-206;

(72) a record submitted to the Insurance Department in accordance with Section 31A-37-201 or 31A-22-653;

(73) a record described in Section 31A-37-503.

(74) any record created by the Division of Occupational and Professional Licensing as a result of Subsection 58-37f-304(5) or 58-37f-702(2)(a)(ii);

(75) a record described in Section 72-16-306 that relates to the reporting of an injury involving an amusement ride;

(76) except as provided in Subsection 63G-2-305.5(1), the signature of an individual on a political petition, or on a request to withdraw a signature from a political petition, including a petition or request described in the following titles:

(a) Title 10, Utah Municipal Code;

(b) Title 17, Counties;

(c) Title 17B, Limited Purpose Local Government Entities - Local Districts;

(d) Title 17D, Limited Purpose Local Government Entities - Other Entities; and

(e) Title 20A, Election Code;

(77) except as provided in Subsection 63G-2-305.5(2), the signature of an individual in a voter registration record;

(78) except as provided in Subsection 63G-2-305.5(3), any signature, other than a signature described in Subsection (76) or (77), in the custody of the lieutenant governor or a local political subdivision collected or held under, or in relation to, Title 20A, Election Code;

(79) a Form I-918 Supplement B certification as described in Title 77, Chapter 38, Part 5, Victims Guidelines for Prosecutors Act;

(80) a record submitted to the Insurance Department under Subsection 31A-47-103(1)(b); [~~and~~]

(81) personal information, as defined in Section 63G-26-102, to the extent disclosure is prohibited under Section 63G-26-103[~~.~~]; and

(82) any part of an application described in Section 63N-16-201 that the Governor's Office of Economic Development determines is nonpublic, confidential information that if disclosed would result in actual economic harm to the applicant, but this Subsection (82) may not be used to restrict access to a record evidencing a final contract or approval decision.

Section 4. Section 63N-16-101 is enacted to read:

CHAPTER 16. UTAH OFFICE OF REGULATORY RELIEF

Part 1. General Provisions

63N-16-101. Title.

This chapter is known as the "Utah Office of Regulatory Relief."

Section 5. Section 63N-16-102 is enacted to read:

63N-16-102. Definitions.

As used in this chapter:

(1) "Advisory committee" means the General Regulatory Sandbox Program Advisory Committee created in Section 63N-16-104.

(2) "Applicable agency" means a department or agency of the state that by law regulates a business activity and persons engaged in such business activity, including the issuance of licenses or other types of authorization, which the office determines would otherwise regulate a sandbox participant.

(3) "Applicant" means a person that applies to participate in the regulatory sandbox.

(4) "Consumer" means a person that purchases or otherwise enters into a transaction or agreement to receive an offering pursuant to a demonstration by a sandbox participant.

(5) "Demonstrate" or "demonstration" means to temporarily provide an offering in accordance with the provisions of the regulatory sandbox program described in this chapter.

(6) "Director" means the director of the Utah Office of Regulatory Relief created in Section 63N-16-103.

(7) "Executive director" means the executive director of the Governor's Office of Economic Development.

(8) "Innovation" means the use or incorporation of a new idea, a new or emerging technology, or a new use of existing technology to address a problem, provide a benefit, or otherwise offer a product, production method, or service.

(9) "Innovative offering" means an offering that includes an innovation.

(10) (a) "Offering" means a product, production method, or service.

(b) "Offering" does not include a product, production method, or service that is governed by:

(i) Title 31A, Insurance Code, as determined by the insurance commissioner; or

(ii) Title 61, Chapter 1, Utah Uniform Securities Act.

(11) "Product" means a commercially distributed good that is:

(a) tangible personal property;

(b) the result of a production process; and

(c) passed through the distribution channel before consumption.

(12) "Production" means the method or process of creating or obtaining a good, which may include assembling, breeding, capturing, collecting, extracting, fabricating, farming, fishing, gathering, growing, harvesting, hunting, manufacturing, mining, processing, raising, or trapping a good.

(13) "Regulatory relief office" means the Utah Office of Regulatory Relief created in Section 63N-16-103.

(14) "Regulatory sandbox" means the General Regulatory Sandbox Program created in Section 63N-16-201, which allows a person to temporarily demonstrate an offering under a waiver or suspension of one or more state laws or regulations.

(15) "Sandbox participant" means a person whose application to participate in the regulatory sandbox is approved in accordance with the provisions of this chapter.

(16) "Service" means any commercial activity, duty, or labor performed for another person.

Section 6. Section 63N-16-103 is enacted to read:

63N-16-103. Creation of regulatory relief office and appointment of director -- Responsibilities of regulatory relief office.

(1) There is created within the Governor's Office of Economic Development the Utah Office of Regulatory Relief.

(2) (a) The regulatory relief office shall be administered by a director.

(b) The director shall report to the executive director and may appoint staff subject to the approval of the executive director.

(3) The regulatory relief office shall:

(a) administer the provisions of this chapter;

(b) administer the regulatory sandbox program; and

(c) act as a liaison between private businesses and applicable agencies to identify state laws or regulations that could potentially be waived or suspended under the regulatory sandbox program.

(4) The regulatory relief office may:

(a) review state laws and regulations that may unnecessarily inhibit the creation and success of new companies or industries and provide recommendations to the governor and the Legislature on modifying such state laws and regulations;

(b) create a framework for analyzing the risk level to the health, safety, and financial well-being of consumers related to permanently removing or temporarily waiving laws and regulations inhibiting the creation or success of new and existing companies or industries;

(c) propose potential reciprocity agreements between states that use or are proposing to use similar regulatory sandbox programs as described in this chapter, Section 13-55-103, or Section 31A-47-103; and

(d) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and the provisions of this chapter, make rules regarding:

(i) administering the regulatory sandbox, including making rules regarding the application process and the reporting requirements of sandbox participants; and

(ii) cooperating and consulting with other agencies in the state that administer sandbox programs.

Section 7. Section 63N-16-104 is enacted to read:

63N-16-104. Creation and duties of advisory committee.

(1) There is created the General Regulatory Sandbox Program Advisory Committee.

(2) The advisory committee shall have 11 members as follows:

(a) six members appointed by the director who represent businesses interests and are selected from a variety of industry clusters;

(b) three members appointed by the director who represent state agencies that regulate businesses;

(c) one member of the Senate, appointed by the president of the Senate; and

(d) one member of the House of Representatives, appointed by the speaker of the House of Representatives.

(3) (a) Subject to Subsection (3)(b), members of the advisory committee who are not legislators shall be appointed to a four-year term.

(b) Notwithstanding the requirements of Subsection (3)(a), the director may adjust the length of terms of appointments and reappointments to the advisory committee so that approximately half of the advisory committee is appointed every two years.

(4) The director shall select a chair of the advisory committee on an annual basis.

(5) A majority of the advisory committee constitutes a quorum for the purpose of conducting

advisory committee business, and the action of the majority of a quorum constitutes the action of the advisory committee.

(6) The advisory committee shall advise and make recommendations to the regulatory relief office as described in this chapter.

(7) The regulatory relief office shall provide administrative staff support for the advisory committee.

(8) (a) A member may not receive compensation or benefits for the member's service, but a member appointed under Subsection (2)(a) may receive per diem and travel expenses in accordance with:

(i) Sections 63A-3-106 and 63A-3-107; and

(ii) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(b) Compensation and expenses of a member who is a legislator are governed by Section 36-2-2 and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.

(9) Meetings of the advisory committee are not subject to Title 52, Chapter 4, Open and Public Meetings Act.

Section 8. Section 63N-16-105 is enacted to read:

63N-16-105. Annual Report.

(1) The executive director shall include in the annual report described in Section 63N-1-301 a written report from the director on the activities of the regulatory relief office, which report shall include:

(a) information regarding each participant in the regulatory sandbox created in Section 63N-16-201, including which industries each participant represents and the anticipated or actual cost savings that each participant experienced;

(b) recommendations regarding any laws or regulations that should be permanently modified;

(c) information regarding outcomes for consumers; and

(d) recommendations for changes to the regulatory sandbox program or other duties of the regulatory relief office.

(2) By October 1 of each year, the executive director shall provide the written report from the director on the activities of the regulatory relief office described in Subsection (1) to the Business and Labor Interim Committee.

Section 9. Section 63N-16-201 is enacted to read:

Part 2. General Regulatory Sandbox Program

63N-16-201. General Regulatory Sandbox Program -- Application requirements.

(1) There is created in the regulatory relief office the General Regulatory Sandbox Program.

(2) In administering the regulatory sandbox, the regulatory relief office:

(a) shall consult with each applicable agency;

(b) shall establish a program to enable a person to obtain legal protections and limited access to the market in the state to demonstrate an innovative offering without obtaining a license or other authorization that might otherwise be required;

(c) may enter into agreements with or adopt the best practices of corresponding federal regulatory agencies or other states that are administering similar programs; and

(d) may consult with businesses in the state about existing or potential proposals for the regulatory sandbox.

(3) (a) An applicant for the regulatory sandbox may contact the regulatory relief office to request a consultation regarding the regulatory sandbox before submitting an application.

(b) The regulatory relief office shall provide relevant information regarding the regulatory sandbox program, including informing an applicant whether it would be better to apply for the programs described in Section 13-55-103 or Section 31A-47-103.

(c) The regulatory relief office may provide assistance to an applicant in preparing an application for submission.

(4) An applicant for the regulatory sandbox shall provide to the regulatory relief office an application in a form prescribed by the regulatory relief office that:

(a) confirms the applicant is subject to the jurisdiction of the state;

(b) confirms the applicant has established a physical or virtual location in the state, from which the demonstration of an innovative offering will be developed and performed and where all required records, documents, and data will be maintained;

(c) contains relevant personal and contact information for the applicant, including legal names, addresses, telephone numbers, email addresses, website addresses, and other information required by the regulatory relief office;

(d) discloses criminal convictions of the applicant or other participating personnel, if any;

(e) contains a description of the innovative offering to be demonstrated, including statements regarding:

(i) how the offering is subject to licensing, legal prohibition, or other authorization requirements outside of the regulatory sandbox;

(ii) each law or regulation that the applicant seeks to have waived or suspended while participating in the regulatory sandbox program;

(iii) how the offering would benefit consumers;

(iv) how the offering is different from other offerings available in the state;

(v) what risks might exist for consumers who use or purchase the offering;

(vi) how participating in the regulatory sandbox would enable a successful demonstration of the offering;

(vii) a description of the proposed demonstration plan, including estimated time periods for beginning and ending the demonstration;

(viii) recognition that the applicant will be subject to all laws and regulations pertaining to the applicant's offering after conclusion of the demonstration; and

(ix) how the applicant will end the demonstration and protect consumers if the demonstration fails;

(f) lists each government agency, if any, that the applicant knows regulates the applicant's business; and

(g) provides any other required information as determined by the regulatory relief office.

(5) The regulatory relief office may collect an application fee from an applicant that is set in accordance with Section 63J-1-504.

(6) An applicant shall file a separate application for each innovative offering that the applicant wishes to demonstrate.

(7) After an application is filed, the regulatory relief office:

(a) shall classify the application and any related information provided by the applicant as a protected record in accordance with Subsection 63G-2-305(82);

(b) consult with each applicable government agency that regulates the applicant's business regarding whether more information is needed from the applicant; and

(c) seek additional information from the applicant that the regulatory relief office determines is necessary.

(8) No later than five business days after the day on which a complete application is received by the regulatory relief office, the regulatory relief office shall:

(a) review the application and refer the application to each applicable government agency that regulates the applicant's business; and

(b) provide to the applicant:

(i) an acknowledgment of receipt of the application; and

(ii) the identity and contact information of each regulatory agency to which the application has been referred for review.

(9) (a) Subject to Subsections (9)(c) and (9)(g), no later than 30 days after the day on which an applicable agency receives a complete application for review, the applicable agency shall provide a written report to the director of the applicable agency's findings.

(b) The report shall:

(i) describe any identifiable, likely, and significant harm to the health, safety, or financial well-being of consumers that the relevant law or regulation protects against; and

(ii) make a recommendation to the regulatory relief office that the applicant either be admitted or denied entrance into the regulatory sandbox.

(c) (i) The applicable agency may request an additional five business days to deliver the written report by providing notice to the director, which request shall automatically be granted.

(ii) The applicable agency may only request one extension per application.

(d) If the applicable agency recommends an applicant under this section be denied entrance into the regulatory sandbox, the written report shall include a description of the reasons for the recommendation, including why a temporary waiver or suspension of the relevant laws or regulations would potentially significantly harm the health, safety, or financial well-being of consumers or the public and the likelihood of such harm occurring.

(e) If the agency determines that the consumer's or public's health, safety, or financial well-being can be protected through less restrictive means than the existing relevant laws or regulations, then the applicable agency shall provide a recommendation of how that can be achieved.

(f) If an applicable agency fails to deliver a written report as described in this Subsection (9), the director shall assume that the applicable agency does not object to the temporary waiver or suspension of the relevant laws or regulations for an applicant seeking to participate in the regulatory sandbox.

(g) Notwithstanding any other provision of this section, an applicable agency may by written notice to the regulatory relief office:

(i) within the 30 days after the day on which the applicable agency receives a complete application for review, or within 35 days if an extension has been requested by the applicable agency, reject an application if the applicable agency determines, in the applicable agency's sole discretion, that the applicant's offering fails to comply with standards or specifications:

(A) required by federal law or regulation; or

(B) previously approved for use by a federal agency; or

(ii) reject an application preliminarily approved by the regulatory relief office, if the applicable agency:

(A) recommended rejection of the application in accordance with Subsection (9)(d) in the agency's written report; and

(B) provides in the written notice under this Subsection (9)(g), a description of the applicable agency's reasons why approval of the application would create a substantial risk of harm to the health or safety of the public, or create unreasonable expenses for taxpayers in the state.

(h) If an applicable agency rejects an application under Subsection (9)(g), the regulatory relief office may not approve the application.

(10) (a) Upon receiving a written report described in Subsection (9), the director shall provide the application and the written report to the advisory committee.

(b) The director may call the advisory committee to meet as needed, but not less than once per quarter if applications are available for review.

(c) After receiving and reviewing the application and each written report, the advisory committee shall provide to the director the advisory committee's recommendation as to whether or not the applicant should be admitted as a sandbox participant under this chapter.

(d) As part of the advisory committee's review of each written report, the advisory committee shall use the criteria required for an applicable agency as described in Subsection (9).

(11) (a) In reviewing an application and each applicable agency's written report, the regulatory relief office shall consult with each applicable agency and the advisory committee before admitting an applicant into the regulatory sandbox.

(b) The consultation with each applicable agency and the consultation with the advisory committee may include seeking information about whether:

(i) the applicable agency has previously issued a license or other authorization to the applicant; and

(ii) the applicable agency has previously investigated, sanctioned, or pursued legal action against the applicant.

(12) In reviewing an application under this section, the regulatory relief office and each applicable agency shall consider whether a competitor to the applicant is or has been a sandbox participant and, if so, weigh that as a factor in favor of allowing the applicant to also become a sandbox participant.

(13) In reviewing an application under this section, the regulatory relief office shall consider whether:

(a) the applicant's plan will adequately protect consumers from potential harm identified by an applicable agency in the applicable agency's written report;

(b) the risk of harm to consumers is outweighed by the potential benefits to consumers from the applicant's participation in the regulatory sandbox; and

(c) certain state laws or regulations that regulate an offering should not be waived or suspended even if the applicant is approved as a sandbox participant, including applicable antifraud or disclosure provisions.

(14) (a) An applicant becomes a sandbox participant if the regulatory relief office approves the application for the regulatory sandbox and enters into a written agreement with the applicant describing the specific laws and regulations that are waived or suspended as part of participation in the regulatory sandbox.

(b) Notwithstanding any other provision of this chapter, the regulatory relief office may not enter into a written agreement with an applicant that waives or suspends a tax, fee, or charge that is administered by the State Tax Commission or that is described in Title 59, Revenue and Taxation.

(15) (a) The director may deny at the director's sole discretion any application submitted under this section for any reason, including if the director determines that the preponderance of evidence demonstrates that suspending or waiving enforcement of a law or regulation would cause a significant risk of harm to consumers or residents of the state.

(b) If the director denies an application submitted under this section, the regulatory relief office shall provide to the applicant a written description of the reasons for not allowing the applicant to be a sandbox participant.

(c) The denial of an application submitted under this section is not subject to:

(i) agency or judicial review; or

(ii) the provisions of Title 63G, Chapter 4, Administrative Procedures Act.

(16) The director shall deny an application for participation in the regulatory sandbox described by this section if:

(a) the director determines that the applicant should instead apply for the Regulatory Sandbox Program created in Section 13-55-103 for a financial product or service or the Insurance Regulatory Sandbox Program created in Section 31A-47-103 for an insurance product or service; or

(b) the applicant or any person who seeks to participate with the applicant in demonstrating an offering has been convicted, entered a plea of nolo contendere, or entered a plea of guilty or nolo contendere held in abeyance, for any crime involving significant theft, fraud, or dishonesty if the crime bears a significant relationship to the applicant's or other participant's ability to safely and competently participate in the regulatory sandbox program.

(17) When an applicant is approved for participation in the regulatory sandbox, the director may provide notice of the approval to competitors of the applicant and to the public.

Section 10. Section 63N-16-202 is enacted to read:

63N-16-202. Scope of the regulatory sandbox.

(1) If the regulatory relief office approves an application under this part, the sandbox participant has 12 months after the day on which the application was approved to demonstrate the offering described in the sandbox participant's application.

(2) An offering that is demonstrated within the regulatory sandbox is subject to the following:

(a) each consumer shall be a resident of the state; and

(b) no law or regulation may be waived or suspended if waiving or suspending the law or regulation would prevent a consumer from seeking restitution in the event that the consumer is harmed.

(3) This part does not restrict a sandbox participant who holds a license or other authorization in another jurisdiction from acting in accordance with that license or other authorization.

(4) A sandbox participant is deemed to possess an appropriate license or other authorization under the laws of the state for the purposes of any provision of federal law requiring licensure or other authorization by the state.

(5) Subject to Subsection (6):

(a) during the demonstration period, a sandbox participant is not subject to the enforcement of state laws or regulations identified in the written agreement between the regulatory relief office and the sandbox participant described in Subsection 63N-16-201(14);

(b) a prosecutor may not file or pursue charges pertaining to a law or regulation identified in the written agreement between the regulatory relief office and the sandbox participant described in Subsection 63N-16-201(14) that occurs during the demonstration period; and

(c) a state agency may not file or pursue any punitive action against a sandbox participant, including a fine or license suspension or revocation, for the violation of a law or regulation that:

(i) is identified as being waived or suspended in the written agreement between the regulatory relief office and the sandbox participant described in Subsection 63N-16-201(14); and

(ii) occurs during the demonstration period.

(6) Notwithstanding any other provision of this part, a sandbox participant does not have immunity related to any criminal offense committed during the sandbox participant's participation in the regulatory sandbox.

(7) By written notice, the regulatory relief office may end a sandbox participant's participation in the regulatory sandbox at any time and for any reason, including if the director determines that a sandbox participant is not operating in good faith to bring an innovative offering to market.

(8) The regulatory relief office and the regulatory relief office's employees are not liable for any business losses or the recouping of application expenses or other expenses related to the regulatory sandbox, including for:

(a) denying an applicant's application to participate in the regulatory sandbox for any reason; or

(b) ending a sandbox participant's participation in the regulatory sandbox at any time and for any reason.

Section 11. Section 63N-16-203 is enacted to read:

63N-16-203. Consumer protection for regulatory sandbox.

(1) Before demonstrating an offering to a consumer, a sandbox participant shall disclose the following to the consumer:

(a) the name and contact information of the sandbox participant;

(b) that the offering is authorized pursuant to the regulatory sandbox and, if applicable, that the sandbox participant does not have a license or other authorization to provide an offering under state laws that regulate offerings outside of the regulatory sandbox;

(c) that the offering is undergoing testing and may not function as intended and may expose the consumer to certain risks as identified by the applicable agency's written report;

(d) that the provider of the offering is not immune from civil liability for any losses or damages caused by the offering;

(e) that the provider of the offering is not immune from criminal prosecution for violations of state law or regulations that are not suspended or waived as allowed by the regulatory sandbox;

(f) that the offering is a temporary demonstration that may be discontinued at the end of the demonstration period;

(g) the expected end date of the demonstration period; and

(h) that a consumer may contact the regulatory relief office and file a complaint regarding the offering being demonstrated and provide the regulatory relief office's telephone number and website address where a complaint may be filed.

(2) The disclosures required by Subsection (1) shall be provided to a consumer in a clear and conspicuous form and, for an Internet or application-based offering, a consumer shall acknowledge receipt of the disclosure before any transaction may be completed.

(3) The regulatory relief office may require that a sandbox participant make additional disclosures to a consumer.

Section 12. Section 63N-16-204 is enacted to read:

63N-16-204. Requirements for exiting regulatory sandbox.

(1) At least 30 days before the end of the 12-month regulatory sandbox demonstration period, a sandbox participant shall:

(a) notify the regulatory relief office that the sandbox participant will exit the regulatory sandbox and discontinue the sandbox participant's demonstration after the day on which the 12-month demonstration period ends; or

(b) seek an extension in accordance with Section 63N-16-205.

(2) Subject to Subsection (3), if the regulatory relief office does not receive notification as required by Subsection (1), the regulatory sandbox demonstration period ends at the end of the 12-month testing period.

(3) If a demonstration includes an offering that requires ongoing duties, the sandbox participant may continue to do so but will be subject to enforcement of the laws or regulations that were waived or suspended as part of the regulatory sandbox.

Section 13. Section 63N-16-205 is enacted to read:

63N-16-205. Extensions.

(1) Not later than 30 days before the end of the 12-month regulatory sandbox demonstration period, a sandbox participant may request an extension of the regulatory sandbox demonstration period.

(2) The regulatory relief office shall grant or deny a request for an extension in accordance with Subsection (1) by the end of the 12-month regulatory sandbox testing period.

(3) The regulatory relief office may grant an extension in accordance with this section for not more than 12 months after the end of the regulatory sandbox demonstration period.

Section 14. Section 63N-16-206 is enacted to read:

63N-16-206. Record keeping and reporting requirements.

(1) A sandbox participant shall retain records, documents, and data produced in the ordinary course of business regarding an offering demonstrated in the regulatory sandbox.

(2) If a sandbox participant ceases to provide an offering before the end of a demonstration period, the sandbox participant shall notify the regulatory relief office and each applicable agency and report on actions taken by the sandbox participant to ensure consumers have not been harmed as a result.

(3) The regulatory relief office shall establish quarterly reporting requirements for a sandbox participant, including information about any consumer complaints.

(4) The regulatory relief office may request records, documents, and data from a sandbox participant and, upon the regulatory relief office's request, the sandbox participant shall make such records, documents, and data available for inspection by the regulatory relief office.

(5) (a) The sandbox participant shall notify the regulatory relief office and each applicable agency of any incidents that result in harm to the health, safety, or financial well-being of a consumer.

(b) If a sandbox participant fails to notify the regulatory relief office and each applicable agency of any incidents as described in Subsection (5)(a), or the regulatory relief office or an applicable agency has evidence that significant harm to a consumer has occurred, the regulatory relief office may immediately remove the sandbox participant from the regulatory sandbox.

(6) (a) No later than 30 days after the day on which a sandbox participant exits the regulatory sandbox, the sandbox participant shall submit a written report to the regulatory relief office and each applicable agency describing an overview of the sandbox participant's demonstration, including any:

(i) incidents of harm to consumers;

(ii) legal action filed against the participant as a result of the participant's demonstration; and

(iii) complaints filed with an applicable agency as a result of the participant's demonstration.

(b) No later than 30 days after the day on which an applicable agency receives the quarterly reporting described in Subsection (3) or a written report from a sandbox participant as described in Subsection (5)(a), the applicable agency shall provide a written report to the regulatory relief office on the demonstration that describes any statutory or regulatory reform the applicable agency recommends as a result of the demonstration.

(7) The regulatory relief office may remove a sandbox participant from the regulatory sandbox at any time if the regulatory relief office determines that a sandbox participant has engaged in, is engaging in, or is about to engage in any practice or transaction that is in violation of this chapter or that constitutes a violation of a law or regulation for which suspension or waiver has not been granted.

Section 15. Section 63N-16-301 is enacted to read:

Part 3. Regulatory Relief Web Page

63N-16-301. Regulatory relief web page.

(1) The regulatory relief office shall create and maintain on GOED's website a web page that invites residents and businesses in the state to make suggestions regarding laws and regulations that could be modified or eliminated to reduce the regulatory burden of residents and businesses in the state.

(2) On at least a quarterly basis, the regulatory relief office shall compile the results of suggestions from the web page and provide a written report to the governor, the Business and Labor Interim

Committee, and the Economic Development and Workforce Services Interim Committee that describes the most common suggestions.

(3) In creating the report described in Subsection (2), the regulatory relief office and the advisory committee:

(a) shall ensure that private information of residents and businesses that make suggestions on the web page is not made public; and

(b) may evaluate the suggestions and provide analysis and suggestions regarding which state laws and regulations could be modified or eliminated to reduce the regulatory burden of residents and businesses in the state while still protecting consumers.

CHAPTER 374
H. B. 223
Passed March 4, 2021
Approved March 22, 2021
Effective January 1, 2022

ALTERNATIVE FUEL INCENTIVES AMENDMENTS

Chief Sponsor: Melissa G. Ballard
Senate Sponsor: David P. Hinkins
Cosponsors: Carl R. Albrecht
Clare Collard
Steven J. Lund
Michael J. Petersen
Angela Romero
Douglas V. Sagers
Keven J. Stratton

LONG TITLE

General Description:

This bill modifies and enacts incentives related to alternative fuels.

Highlighted Provisions:

This bill:

- enacts refundable corporate and individual income tax credits for systems that produce hydrogen from renewable and nonrenewable sources; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:
59-7-614, as last amended by Laws of Utah 2019, Chapter 247
59-10-1106, as last amended by Laws of Utah 2016, Third Special Session, Chapter 1

ENACTS:
59-7-626, Utah Code Annotated 1953
59-10-1113, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 59-7-614 is amended to read:

59-7-614. Renewable energy systems tax credits -- Definitions -- Certification -- Rulemaking authority.

(1) As used in this section:

(a) (i) "Active solar system" means a system of equipment that is capable of:

(A) collecting and converting incident solar radiation into thermal, mechanical, or electrical energy; and

(B) transferring a form of energy described in Subsection (1)(a)(i)(A) by a separate apparatus to storage or to the point of use.

(ii) "Active solar system" includes water heating, space heating or cooling, and electrical or mechanical energy generation.

(b) "Biomass system" means a system of apparatus and equipment for use in:

(i) converting material into biomass energy, as defined in Section 59-12-102; and

(ii) transporting the biomass energy by separate apparatus to the point of use or storage.

(c) "Commercial energy system" means a system that is:

(i) (A) an active solar system;

(B) a biomass system;

(C) a direct use geothermal system;

(D) a geothermal electricity system;

(E) a geothermal heat pump system;

(F) a hydroenergy system;

(G) a passive solar system; or

(H) a wind system;

(ii) located in the state; and

(iii) used:

(A) to supply energy to a commercial unit; or

(B) as a commercial enterprise.

(d) "Commercial enterprise" means an entity, the purpose of which is to produce:

(i) electrical, mechanical, or thermal energy for sale from a commercial energy system; or

(ii) hydrogen for sale from a hydrogen production system.

(e) (i) "Commercial unit" means a building or structure that an entity uses to transact business.

(ii) Notwithstanding Subsection (1)(e)(i):

(A) with respect to an active solar system used for agricultural water pumping or a wind system, each individual energy generating device is considered to be a commercial unit; or

(B) if an energy system is the building or structure that an entity uses to transact business, a commercial unit is the complete energy system itself.

(f) "Direct use geothermal system" means a system of apparatus and equipment that enables the direct use of geothermal energy to meet energy needs, including heating a building, an industrial process, and aquaculture.

(g) "Geothermal electricity" means energy that is:

(i) contained in heat that continuously flows outward from the earth; and

(ii) used as a sole source of energy to produce electricity.

(h) "Geothermal energy" means energy generated by heat that is contained in the earth.

(i) "Geothermal heat pump system" means a system of apparatus and equipment that:

(i) enables the use of thermal properties contained in the earth at temperatures well below 100 degrees Fahrenheit; and

(ii) helps meet heating and cooling needs of a structure.

(j) "Hydroenergy system" means a system of apparatus and equipment that is capable of:

(i) intercepting and converting kinetic water energy into electrical or mechanical energy; and

(ii) transferring this form of energy by separate apparatus to the point of use or storage.

(k) "Hydrogen production system" means a system of apparatus and equipment, located in this state, that uses:

(i) electricity from a renewable energy source to create hydrogen gas from water, regardless of whether the renewable energy source is at a separate facility or the same facility as the system of apparatus and equipment; or

(ii) uses renewable natural gas to produce hydrogen gas.

[~~(k)~~] (l) "Office" means the Office of Energy Development created in Section 63M-4-401.

[~~(l)~~] (m) (i) "Passive solar system" means a direct thermal system that utilizes the structure of a building and [~~its~~] the structure's operable components to provide for collection, storage, and distribution of heating or cooling during the appropriate times of the year by utilizing the climate resources available at the site.

(ii) "Passive solar system" includes those portions and components of a building that are expressly designed and required for the collection, storage, and distribution of solar energy.

[~~(m)~~] (n) "Photovoltaic system" means an active solar system that generates electricity from sunlight.

[~~(n)~~] (o) (i) "Principal recovery portion" means the portion of a lease payment that constitutes the cost a person incurs in acquiring a commercial energy system.

(ii) "Principal recovery portion" does not include:

(A) an interest charge; or

(B) a maintenance expense.

(p) "Renewable energy source" means the same as that term is defined in Section 54-17-601.

[~~(o)~~] (q) "Residential energy system" means the following used to supply energy to or for a residential unit:

(i) an active solar system;

(ii) a biomass system;

(iii) a direct use geothermal system;

(iv) a geothermal heat pump system;

(v) a hydroenergy system;

(vi) a passive solar system; or

(vii) a wind system.

[~~(p)~~] (r) (i) "Residential unit" means a house, condominium, apartment, or similar dwelling unit that:

(A) is located in the state; and

(B) serves as a dwelling for a person, group of persons, or a family.

(ii) "Residential unit" does not include property subject to a fee under:

(A) Section 59-2-405;

(B) Section 59-2-405.1;

(C) Section 59-2-405.2;

(D) Section 59-2-405.3; or

(E) Section 72-10-110.5.

[~~(q)~~] (s) "Wind system" means a system of apparatus and equipment that is capable of:

(i) intercepting and converting wind energy into mechanical or electrical energy; and

(ii) transferring these forms of energy by a separate apparatus to the point of use, sale, or storage.

(2) A taxpayer may claim an energy system tax credit as provided in this section against a tax due under this chapter for a taxable year.

(3) (a) Subject to the other provisions of this Subsection (3), a taxpayer may claim a nonrefundable tax credit under this Subsection (3) with respect to a residential unit the taxpayer owns or uses if:

(i) the taxpayer:

(A) purchases and completes a residential energy system to supply all or part of the energy required for the residential unit; or

(B) participates in the financing of a residential energy system to supply all or part of the energy required for the residential unit; and

[~~(ii) the residential energy system is completed and placed in service on or after January 1, 2007; and~~]

[~~(iii)~~] (ii) the taxpayer obtains a written certification from the office in accordance with Subsection [~~(7)~~] (8).

(b) (i) Subject to Subsections (3)(b)(ii) through (iv) and, as applicable, Subsection (3)(c) or (d), the tax credit is equal to 25% of the reasonable costs of each residential energy system installed with respect to each residential unit the taxpayer owns or uses.

(ii) A tax credit under this Subsection (3) may include installation costs.

(iii) A taxpayer may claim a tax credit under this Subsection (3) for the taxable year in which the

residential energy system is completed and placed in service.

(iv) If the amount of a tax credit under this Subsection (3) exceeds a taxpayer's tax liability under this chapter for a taxable year, the taxpayer may carry forward the amount of the tax credit exceeding the liability [~~may be carried forward~~] for a period that does not exceed the next four taxable years.

(c) The total amount of tax credit a taxpayer may claim under this Subsection (3) for a residential energy system, other than a photovoltaic system, may not exceed $2,000 per residential unit.

(d) The total amount of tax credit a taxpayer may claim under this Subsection (3) for a photovoltaic system may not exceed:

(i) for a system installed on or after January 1, 2018, but on or before December 31, 2020, $1,600;

(ii) for a system installed on or after January 1, 2021, but on or before December 31, 2021, $1,200;

(iii) for a system installed on or after January 1, 2022, but on or before December 31, 2022, $800;

(iv) for a system installed on or after January 1, 2023, but on or before December 31, 2023, $400; and

(v) for a system installed on or after January 1, 2024, $0.

(e) If a taxpayer sells a residential unit to another person before the taxpayer claims the tax credit under this Subsection (3):

(i) the taxpayer may assign the tax credit to the other person; and

(ii) (A) if the other person files a return under this chapter, the other person may claim the tax credit under this section as if the other person had met the requirements of this section to claim the tax credit; or

(B) if the other person files a return under Chapter 10, Individual Income Tax Act, the other person may claim the tax credit under Section 59-10-1014 as if the other person had met the requirements of Section 59-10-1014 to claim the tax credit.

(4) (a) Subject to the other provisions of this Subsection (4), a taxpayer may claim a refundable tax credit under this Subsection (4) with respect to a commercial energy system if:

(i) the commercial energy system does not use:

(A) wind, geothermal electricity, solar, or biomass equipment capable of producing a total of 660 or more kilowatts of electricity; or

(B) solar equipment capable of producing 2,000 or more kilowatts of electricity;

(ii) the taxpayer purchases or participates in the financing of the commercial energy system;

(iii) (A) the commercial energy system supplies all or part of the energy required by commercial units owned or used by the taxpayer; or

(B) the taxpayer sells all or part of the energy produced by the commercial energy system as a commercial enterprise;

[~~(iv) the commercial energy system is completed and placed in service on or after January 1, 2007; and~~]

(iv) the taxpayer has not claimed and will not claim a tax credit under Subsection (7) for hydrogen production using electricity for which the taxpayer claims a tax credit under this Subsection (4); and

(v) the taxpayer obtains a written certification from the office in accordance with Subsection [~~(7)~~] (8).

(b) (i) Subject to Subsections (4)(b)(ii) through [~~(v)~~] (iv), the tax credit is equal to 10% of the reasonable costs of the commercial energy system.

(ii) A tax credit under this Subsection (4) may include installation costs.

(iii) A taxpayer [~~may claim~~] is eligible to claim a tax credit under this Subsection (4) for the taxable year in which the commercial energy system is completed and placed in service.

[~~(iv) A tax credit under this Subsection (4) may not be carried forward or carried back.~~]

[~~(v)~~] (iv) The total amount of tax credit a taxpayer may claim under this Subsection (4) may not exceed $50,000 per commercial unit.

(c) (i) Subject to Subsections (4)(c)(ii) and (iii), a taxpayer that is a lessee of a commercial energy system installed on a commercial unit may claim a tax credit under this Subsection (4) if the taxpayer confirms that the lessor irrevocably elects not to claim the tax credit.

(ii) A taxpayer described in Subsection (4)(c)(i) may claim as a tax credit under this Subsection (4) only the principal recovery portion of the lease payments.

(iii) A taxpayer described in Subsection (4)(c)(i) may claim a tax credit under this Subsection (4) for a period that does not exceed seven taxable years after the [~~date~~] day on which the lease begins, as stated in the lease agreement.

(5) (a) Subject to the other provisions of this Subsection (5), a taxpayer may claim a refundable tax credit under this Subsection (5) with respect to a commercial energy system if:

(i) the commercial energy system uses wind, geothermal electricity, or biomass equipment capable of producing a total of 660 or more kilowatts of electricity;

(ii) (A) the commercial energy system supplies all or part of the energy required by commercial units owned or used by the taxpayer; or

(B) the taxpayer sells all or part of the energy produced by the commercial energy system as a commercial enterprise;

[~~(iii) the commercial energy system is completed and placed in service on or after January 1, 2007; and~~]

(iii) the taxpayer has not claimed and will not claim a tax credit under Subsection (7) for hydrogen production using electricity for which the taxpayer claims a tax credit under this Subsection (5); and

(iv) the taxpayer obtains a written certification from the office in accordance with Subsection [~~(7)~~] (8).

(b) (i) Subject to [~~Subsections~~] Subsection (5)(b)(ii) [~~and (iii)~~], a tax credit under this Subsection (5) is equal to the product of:

(A) 0.35 cents; and

(B) the kilowatt hours of electricity produced and used or sold during the taxable year.

(ii) A taxpayer is eligible to claim a tax credit under this Subsection (5) [~~may be claimed~~] for production occurring during a period of 48 months beginning with the month in which the commercial energy system is placed in commercial service.

[~~(iii) A tax credit under this Subsection (5) may not be carried forward or carried back.~~]

(c) A taxpayer that is a lessee of a commercial energy system installed on a commercial unit may claim a tax credit under this Subsection (5) if the taxpayer confirms that the lessor irrevocably elects not to claim the tax credit.

(6) (a) Subject to the other provisions of this Subsection (6), a taxpayer may claim a refundable tax credit as provided in this Subsection (6) if:

(i) the taxpayer owns a commercial energy system that uses solar equipment capable of producing a total of 660 or more kilowatts of electricity;

(ii) (A) the commercial energy system supplies all or part of the energy required by commercial units owned or used by the taxpayer; or

(B) the taxpayer sells all or part of the energy produced by the commercial energy system as a commercial enterprise;

(iii) the taxpayer does not claim a tax credit under Subsection (4) and has not claimed and will not claim a tax credit under Subsection (7) for hydrogen production using electricity for which a taxpayer claims a tax credit under this Subsection (6); and

[~~(iv) the commercial energy system is completed and placed in service on or after January 1, 2015; and~~]

[~~(v)~~] (iv) the taxpayer obtains a written certification from the office in accordance with Subsection [~~(7)~~] (8).

(b) (i) Subject to [~~Subsections~~] Subsection (6)(b)(ii) [~~and (iii)~~], a tax credit under this Subsection (6) is equal to the product of:

(A) 0.35 cents; and

(B) the kilowatt hours of electricity produced and used or sold during the taxable year.

(ii) A taxpayer is eligible to claim a tax credit under this Subsection (6) [~~may be claimed for~~] production occurring during a period of 48 months beginning with the month in which the commercial energy system is placed in commercial service.

[~~(iii) A tax credit under this Subsection (6) may not be carried forward or carried back.~~]

(c) A taxpayer that is a lessee of a commercial energy system installed on a commercial unit may claim a tax credit under this Subsection (6) if the taxpayer confirms that the lessor irrevocably elects not to claim the tax credit.

(7) (a) A taxpayer may claim a refundable tax credit as provided in this Subsection (7) if:

(i) the taxpayer owns a hydrogen production system;

(ii) the hydrogen production system is completed and placed in service on or after January 1, 2022;

(iii) the taxpayer sells as a commercial enterprise, or supplies for the taxpayer's own use in commercial units, the hydrogen produced from the hydrogen production system;

(iv) the taxpayer has not claimed and will not claim a tax credit under Subsection (4), (5), or (6) or Section 59-7-626 for electricity or hydrogen used to meet the requirements of this Subsection (7); and

(v) the taxpayer obtains a written certification from the office in accordance with Subsection (8).

(b) (i) Subject to Subsections (7)(b)(ii) and (iii), a tax credit under this Subsection (7) is equal to the product of:

(A) $0.12; and

(B) the number of kilograms of hydrogen produced during the taxable year.

(ii) A taxpayer may not receive a tax credit under this Subsection (7) for more than 5,600 metric tons of hydrogen per taxable year.

(iii) A taxpayer is eligible to claim a tax credit under this Subsection (7) for production occurring during a period of 48 months beginning with the month in which the hydrogen production system is placed in commercial service.

[~~(7)~~] (8) (a) Before a taxpayer may claim a tax credit under this section, the taxpayer shall obtain a written certification from the office.

(b) The office shall issue a taxpayer a written certification if the office determines that:

(i) the taxpayer meets the requirements of this section to receive a tax credit; and

(ii) the residential energy system [~~or~~], the commercial energy system, or the hydrogen production system with respect to which the taxpayer seeks to claim a tax credit:

(A) has been completely installed;

(B) is a viable system for saving or producing energy from renewable resources; and

(C) is safe, reliable, efficient, and technically feasible to ensure that the residential energy system [~~or~~], the commercial energy system, or the hydrogen production system uses the state's renewable and nonrenewable energy resources in an appropriate and economic manner.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office may make rules:

(i) for determining whether a residential energy system [~~or~~], a commercial energy system, or a hydrogen production system meets the requirements of Subsection [~~(7)~~] (8)(b)(ii); and

(ii) for purposes of a tax credit under Subsection (3) [~~or~~], (4), or (6), establishing the reasonable costs of a residential energy system or a commercial energy system, as an amount per unit of energy production.

(d) A taxpayer that obtains a written certification from the office shall retain the certification for the same time period a person is required to keep books and records under Section 59-1-1406.

(e) The office shall submit to the commission an electronic list that includes:

(i) the name and identifying information of each taxpayer to which the office issues a written certification; and

(ii) for each taxpayer:

(A) the amount of the tax credit listed on the written certification; and

(B) the date the renewable energy system was installed.

[~~(8)~~] (9) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules to address the certification of a tax credit under this section.

[~~(9)~~] (10) A tax credit under this section is in addition to any tax credits provided under the laws or rules and regulations of the United States.

Section 2. Section 59-7-626 is enacted to read:

59-7-626. Refundable tax credit for nonrenewable hydrogen production system.

(1) As used in this section:

(a) "Commercial enterprise" means an entity, the purpose of which is to produce hydrogen for sale from a hydrogen production system.

(b) "Commercial unit" means a building or structure that an entity uses to transact business.

(c) "Hydrogen production system" means a system of apparatus and equipment, located in this state, that produces hydrogen from nonrenewable sources.

(d) "Office" means the Office of Energy Development created in Section 63M-4-401.

(2) (a) A taxpayer may claim a refundable credit under this section if:

(i) the taxpayer owns a hydrogen production system;

(ii) the hydrogen production system is completed and placed in service on or after January 1, 2022;

(iii) the taxpayer sells as a commercial enterprise, or supplies for the taxpayer's own use in commercial units, the hydrogen produced from the hydrogen production system;

(iv) the taxpayer has not claimed and will not claim a tax credit under Section 59-7-614 for electricity used to meet the requirements of this section; and

(v) the taxpayer obtains a written certification from the office in accordance with Subsection (3).

(b) (i) Subject to Subsections (2)(b)(ii) and (iii), a tax credit under this section is equal to the product of:

(A) $0.12; and

(B) the number of kilograms of hydrogen produced during the taxable year.

(ii) A taxpayer may not receive a tax credit under this section for more than 5,600 metric tons of hydrogen per taxable year.

(iii) A taxpayer is eligible to claim a tax credit under this section for production occurring during a period of 48 months beginning with the month in which the hydrogen production system is placed in commercial service.

(3) (a) Before a taxpayer may claim a tax credit under this section, the taxpayer shall obtain a written certification from the office.

(b) The office shall issue a taxpayer a written certification if the office determines that:

(i) the taxpayer meets the requirements of this section to receive a tax credit; and

(ii) the hydrogen production system with respect to which the taxpayer seeks to claim a tax credit:

(A) has been completely installed; and

(B) is safe, reliable, efficient, and technically feasible to ensure that the hydrogen production system uses the state's nonrenewable energy resources in an appropriate and economic manner.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office may make rules for determining whether a hydrogen production system meets the requirements of Subsection (3)(b)(ii).

(d) A taxpayer that obtains a written certification from the office shall retain the certification for the same time period a person is required to keep books and records under Section 59-1-1406.

(e) The office shall submit to the commission an electronic list that includes:

(i) the name and identifying information of each taxpayer to which the office issues a written certification; and

(ii) for each taxpayer:

(A) the amount of the tax credit listed on the written certification; and

(B) the date the hydrogen production system was installed.

(4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules to address the certification of a tax credit under this section.

(5) A tax credit under this section is in addition to any tax credits provided under the laws or rules and regulations of the United States.

Section 3. Section 59-10-1106 is amended to read:

59-10-1106. Refundable renewable energy systems tax credits -- Definitions -- Certification -- Rulemaking authority.

(1) As used in this section:

(a) "Active solar system" means the same as that term is defined in Section 59-10-1014.

(b) "Biomass system" means the same as that term is defined in Section 59-10-1014.

(c) "Commercial energy system" means the same as that term is defined in Section 59-7-614.

(d) "Commercial enterprise" means the same as that term is defined in Section 59-7-614.

(e) [~~(i)~~] "Commercial unit" means the same as that term is defined in Section 59-7-614.

[~~(ii) Notwithstanding Subsection (1)(e)(i):~~]

[~~(A) with respect to an active solar system used for agricultural water pumping or a wind system, each individual energy generating device is considered to be a commercial unit; or~~]

[~~(B) if an energy system is the building or structure that a claimant, estate, or trust uses to transact business, a commercial unit is the complete energy system itself.~~]

(f) "Direct use geothermal system" means the same as that term is defined in Section 59-10-1014.

(g) "Geothermal electricity" means the same as that term is defined in Section 59-10-1014.

(h) "Geothermal energy" means the same as that term is defined in Section 59-10-1014.

(i) "Geothermal heat pump system" means the same as that term is defined in Section 59-10-1014.

(j) "Hydroenergy system" means the same as that term is defined in Section 59-10-1014.

(k) "Hydrogen production system" means the same as that term is defined in Section 59-7-614.

[~~(k)~~] (l) "Office" means the Office of Energy Development created in Section 63M-4-401.

[~~(l)~~] (m) "Passive solar system" means the same as that term is defined in Section 59-10-1014.

[~~(m)~~] (n) "Principal recovery portion" means the same as that term is defined in Section 59-10-1014.

[~~(n)~~] (o) "Wind system" means the same as that term is defined in Section 59-10-1014.

(2) A claimant, estate, or trust may claim an energy system tax credit as provided in this section against a tax due under this chapter for a taxable year.

(3) (a) Subject to the other provisions of this Subsection (3), a claimant, estate, or trust may claim a refundable tax credit under this Subsection (3) with respect to a commercial energy system if:

(i) the commercial energy system does not use:

(A) wind, geothermal electricity, solar, or biomass equipment capable of producing a total of 660 or more kilowatts of electricity; or

(B) solar equipment capable of producing 2,000 or more kilowatts of electricity;

(ii) the claimant, estate, or trust purchases or participates in the financing of the commercial energy system;

(iii) (A) the commercial energy system supplies all or part of the energy required by commercial units owned or used by the claimant, estate, or trust; or

(B) the claimant, estate, or trust sells all or part of the energy produced by the commercial energy system as a commercial enterprise;

[~~(iv) the commercial energy system is completed and placed in service on or after January 1, 2007; and~~]

(iv) the claimant, estate, or trust has not claimed and will not claim a tax credit under Subsection (6) for hydrogen production using electricity for which the claimant, estate, or trust claims a tax credit under this Subsection (3); and

(v) the claimant, estate, or trust obtains a written certification from the office in accordance with Subsection [~~(6)~~] (7).

(b) (i) Subject to Subsections (3)(b)(ii) through [~~(v)~~] (iv), the tax credit is equal to 10% of the reasonable costs of the commercial energy system.

(ii) A tax credit under this Subsection (3) may include installation costs.

(iii) A claimant, estate, or trust [~~may claim~~] is eligible to claim a tax credit under this Subsection (3) for the taxable year in which the commercial energy system is completed and placed in service.

[~~(iv) A tax credit under this Subsection (3) may not be carried forward or carried back.~~]

[~~(v)~~] (iv) The total amount of tax credit a claimant, estate, or trust may claim under this Subsection (3) may not exceed $50,000 per commercial unit.

(c) (i) Subject to Subsections (3)(c)(ii) and (iii), a claimant, estate, or trust that is a lessee of a commercial energy system installed on a commercial unit may claim a tax credit under this

Subsection (3) if the claimant, estate, or trust confirms that the lessor irrevocably elects not to claim the tax credit.

(ii) A claimant, estate, or trust described in Subsection (3)(c)(i) may claim as a tax credit under this Subsection (3) only the principal recovery portion of the lease payments.

(iii) A claimant, estate, or trust described in Subsection (3)(c)(i) may claim a tax credit under this Subsection (3) for a period that does not exceed seven taxable years after the [~~date~~] day on which the lease begins, as stated in the lease agreement.

(4) (a) Subject to the other provisions of this Subsection (4), a claimant, estate, or trust may claim a refundable tax credit under this Subsection (4) with respect to a commercial energy system if:

(i) the commercial energy system uses wind, geothermal electricity, or biomass equipment capable of producing a total of 660 or more kilowatts of electricity;

(ii) (A) the commercial energy system supplies all or part of the energy required by commercial units owned or used by the claimant, estate, or trust; or

(B) the claimant, estate, or trust sells all or part of the energy produced by the commercial energy system as a commercial enterprise;

[~~(iii) the commercial energy system is completed and placed in service on or after January 1, 2007; and~~]

(iii) the claimant, estate, or trust has not claimed and will not claim a tax credit under Subsection (6) for hydrogen production using electricity for which the claimant, estate, or trust claims a tax credit under this Subsection (4); and

(iv) the claimant, estate, or trust obtains a written certification from the office in accordance with Subsection [~~(6)~~] (7).

(b) (i) Subject to [~~Subsections~~] Subsection (4)(b)(ii) [~~and (iii)~~], a tax credit under this Subsection (4) is equal to the product of:

(A) 0.35 cents; and

(B) the kilowatt hours of electricity produced and used or sold during the taxable year.

(ii) A claimant, estate, or trust is eligible to claim a tax credit under this Subsection (4) [~~may be claimed~~] for production occurring during a period of 48 months beginning with the month in which the commercial energy system is placed in commercial service.

[~~(iii) A tax credit under this Subsection (4) may not be carried forward or carried back.~~]

(c) A claimant, estate, or trust that is a lessee of a commercial energy system installed on a commercial unit may claim a tax credit under this Subsection (4) if the claimant, estate, or trust confirms that the lessor irrevocably elects not to claim the tax credit.

(5) (a) Subject to the other provisions of this Subsection (5), a claimant, estate, or trust may claim a refundable tax credit as provided in this Subsection (5) if:

(i) the claimant, estate, or trust owns a commercial energy system that uses solar equipment capable of producing a total of 660 or more kilowatts of electricity;

(ii) (A) the commercial energy system supplies all or part of the energy required by commercial units owned or used by the claimant, estate, or trust; or

(B) the claimant, estate, or trust sells all or part of the energy produced by the commercial energy system as a commercial enterprise;

(iii) the claimant, estate, or trust does not claim a tax credit under Subsection (3);

[~~(iv) the commercial energy system is completed and placed in service on or after January 1, 2015; and~~]

(iv) the claimant, estate, or trust has not claimed and will not claim a tax credit under Subsection (6) for hydrogen production using electricity for which a taxpayer claims a tax credit under this Subsection (5); and

(v) the claimant, estate, or trust obtains a written certification from the office in accordance with Subsection [~~(6)~~] (7).

(b) (i) Subject to [~~Subsections~~] Subsection (5)(b)(ii) [~~and (iii)~~], a tax credit under this Subsection (5) is equal to the product of:

(A) 0.35 cents; and

(B) the kilowatt hours of electricity produced and used or sold during the taxable year.

(ii) A claimant, estate, or trust is eligible to claim a tax credit under this Subsection (5) [~~may be claimed~~] for production occurring during a period of 48 months beginning with the month in which the commercial energy system is placed in commercial service.

[~~(iii) A tax credit under this Subsection (5) may not be carried forward or carried back.~~]

(c) A claimant, estate, or trust that is a lessee of a commercial energy system installed on a commercial unit may claim a tax credit under this Subsection (5) if the claimant, estate, or trust confirms that the lessor irrevocably elects not to claim the tax credit.

(6) (a) A claimant, estate, or trust may claim a refundable tax credit as provided in this Subsection (6) if:

(i) the claimant, estate, or trust owns a hydrogen production system;

(ii) the hydrogen production system is completed and placed in service on or after January 1, 2022;

(iii) the claimant, estate, or trust sells as a commercial enterprise, or supplies for the claimant's, estate's, or trust's own use in

commercial units, the hydrogen produced from the hydrogen production system;

(iv) the claimant, estate, or trust has not claimed and will not claim a tax credit under Subsection (3), (4), or (5) for electricity used to meet the requirements of this Subsection (6); and

(v) the claimant, estate, or trust obtains a written certification from the office in accordance with Subsection (7).

(b) (i) Subject to Subsections (6)(b)(ii) and (iii), a tax credit under this Subsection (6) is equal to the product of:

(A) $0.12; and

(B) the number of kilograms of hydrogen produced during the taxable year.

(ii) A claimant, estate, or trust may not receive a tax credit under this Subsection (6) for more than 5,600 metric tons of hydrogen per taxable year.

(iii) A claimant, estate, or trust is eligible to claim a tax credit under this Subsection (6) for production occurring during a period of 48 months beginning with the month in which the hydrogen production system is placed in commercial service.

[~~(6)~~] (7) (a) Before a claimant, estate, or trust may claim a tax credit under this section, the claimant, estate, or trust shall obtain a written certification from the office.

(b) The office shall issue a claimant, estate, or trust a written certification if the office determines that:

(i) the claimant, estate, or trust meets the requirements of this section to receive a tax credit; and

(ii) [~~the office determines that~~] the commercial energy system or the hydrogen production system with respect to which the claimant, estate, or trust seeks to claim a tax credit:

(A) has been completely installed;

(B) is a viable system for saving or producing energy from renewable resources; and

(C) is safe, reliable, efficient, and technically feasible to ensure that the commercial energy system or the hydrogen production system uses the state's renewable and nonrenewable resources in an appropriate and economic manner.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office may make rules:

(i) for determining whether a commercial energy system or a hydrogen production system meets the requirements of Subsection [~~(6)~~] (7)(b)(ii); and

(ii) for purposes of a tax credit under Subsection (3), establishing the reasonable costs of a commercial energy system, as an amount per unit of energy production.

(d) A claimant, estate, or trust that obtains a written certification from the office shall retain the certification for the same time period a person is required to keep books and records under Section 59-1-1406.

(e) The office shall submit to the commission an electronic list that includes:

(i) the name and identifying information of each claimant, estate, or trust to which the office issues a written certification; and

(ii) for each claimant, estate, or trust:

(A) the amount of the tax credit listed on the written certification; and

(B) the date the commercial energy system or the hydrogen production system was installed.

[~~(7)~~] (8) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules to address the certification of a tax credit under this section.

[~~(8)~~] (9) A tax credit under this section is in addition to any tax credits provided under the laws or rules and regulations of the United States.

[~~(9)~~] (10) A purchaser of one or more solar units that claims a tax credit under Section 59-10-1024 for the purchase of the one or more solar units may not claim a tax credit under this section for that purchase.

Section 4. Section 59-10-1113 is enacted to read:

59-10-1113. Refundable tax credit for nonrenewable hydrogen production system.

(1) As used in this section:

(a) "Commercial enterprise" means the same as that term is defined in Section 59-7-626.

(b) "Commercial unit" means the same as that term is defined in Section 59-7-626.

(c) "Hydrogen production system" means the same as that term is defined in Section 59-7-626.

(d) "Office" means the Office of Energy Development created in Section 63M-4-401.

(2) (a) A claimant, estate, or trust may claim a refundable credit under this section if:

(i) the claimant, estate, or trust owns a hydrogen production system;

(ii) the hydrogen production system is completed and placed in service on or after January 1, 2022;

(iii) the claimant, estate, or trust sells as a commercial enterprise, or supplies for the claimant's, estate's, or trust's own use in commercial units, the hydrogen produced from the hydrogen production system;

(iv) the claimant, estate, or trust has not claimed and will not claim a tax credit under Section 59-10-1106 for electricity used to meet the requirements of this section; and

(v) the taxpayer obtains a written certification from the office in accordance with Subsection (3).

(b) (i) Subject to Subsections (2)(b)(ii) and (iii), a tax credit under this section is equal to the product of:

(A) $0.12; and

(B) the number of kilograms of hydrogen produced during the taxable year.

(ii) A claimant, estate, or trust may not receive a tax credit under this section for more than 5,600 metric tons of hydrogen per taxable year.

(iii) A claimant, estate, or trust is eligible to claim a tax credit under this section for production occurring during a period of 48 months beginning with the month in which the hydrogen production system is placed in commercial service.

(3) (a) Before a claimant, estate, or trust may claim a tax credit under this section, the claimant, estate, or trust shall obtain a written certification from the office.

(b) The office shall issue a claimant, estate, or trust a written certification if the office determines that:

(i) the claimant, estate, or trust meets the requirements of this section to receive a tax credit; and

(ii) the hydrogen production system with respect to which the claimant, estate, or trust seeks to claim a tax credit:

(A) has been completely installed;

(B) is safe, reliable, efficient, and technically feasible to ensure that the hydrogen production system uses the state's nonrenewable energy resources in an appropriate and economic manner.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office may make rules for determining whether a hydrogen production system meets the requirements of this Subsection (3)(b)(ii).

(d) A claimant, estate, or trust that obtains a written certification from the office shall retain the certification for the same time period a person is required to keep books and records under Section 59-1-1406.

(e) The office shall submit to the commission an electronic list that includes:

(i) the name and identifying information of each claimant, estate, or trust to which the office issues a written certification; and

(ii) for each claimant, estate, or trust:

(A) the amount of the tax credit listed on the written certification; and

(B) the date the hydrogen production system was installed.

(4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules to address the certification of a tax credit under this section.

(5) A tax credit under this section is in addition to any tax credits provided under the laws or rules and regulations of the United States.

Section 5. Effective date.

This bill takes effect for a taxable year beginning on or after January 1, 2022.

CHAPTER 375
H. B. 224
Passed March 3, 2021
Approved March 22, 2021
Effective May 5, 2021

POLLINATOR AMENDMENTS

Chief Sponsor: Ashlee Matthews
Senate Sponsor: Evan J. Vickers

LONG TITLE

General Description:

This bill creates a pilot program to address issues related to pollinators.

Highlighted Provisions:

This bill:

- directs the Department of Agriculture and Food to create a pollinator pilot program;
- permits the department to coordinate with entities related to the pilot program;
- authorizes rulemaking;
- enacts a sunset date; and
- makes technical changes.

Monies Appropriated in this Bill:

This bill appropriates in fiscal year 2022:

- to Southern Utah University - Education and General, as an ongoing appropriation:
  - from the Education Fund, $60,000.

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63I-1-204, as last amended by Laws of Utah 2020, Chapters 154 and 232

ENACTS:

4-2-701, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 4-2-701 is enacted to read:

Part 7. Pollinator Pilot Program

4-2-701. Pollinator pilot program.

(1) Subject to the other provisions of this section, the department shall implement a three-year pollinator pilot program that includes one or more of the following:

(a) public education efforts that include workshops, planting guides, or a public education campaign to raise awareness about creating pollinator habitats;

(b) distribution of pollinator-friendly native flowering plants or seeds for native flowering plants for planting within the state to protect a diversity of pollinators;

(c) pollinator programs run by local governments and nonprofit organizations with support from the department; and

(d) grants that:

(i) are provided on a first-come-first-serve basis; and

(ii) cover up to 25% of the costs for the planting of pollinator-friendly native flowering plants or seeds for native flowering plants on private or public land.

(2) (a) The cost to the department related to the native flowering plants or seeds described in Subsection (1) may not exceed $60,000 in a fiscal year.

(b) The department may coordinate with the federal government, other state agencies, state institutions of higher education, or political subdivisions to provide for the activities described in Subsection (1).

(c) The department may designate smaller areas of the state to begin the activities described in Subsection (1).

(3) The department may make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish:

(a) the criteria for receiving a grant under this section; and

(b) the process to apply for and receive a grant under this section.

Section 2. Section 63I-1-204 is amended to read:

63I-1-204. Repeal dates, Title 4.

(1) Section 4-2-108, which creates the Agricultural Advisory Board, is repealed July 1, 2023.

(2) Title 4, Chapter 2, Part 7, Pollinator Pilot Program, is repealed July 1, 2024.

[~~(2)~~] (3) Section 4-17-104, which creates the State Weed Committee, is repealed July 1, 2021.

[~~(3)~~] (4) Section 4-20-103, which creates the State Grazing Advisory Board, is repealed July 1, 2022.

[~~(4)~~] (5) Sections 4-23-104 and 4-23-105, which create the Agricultural and Wildlife Damage Prevention Board, are repealed July 1, 2024.

[~~(5)~~] (6) Section 4-24-104, which creates the Livestock Brand Board, is repealed July 1, 2025.

[~~(6)~~] (7) Section 4-35-103, which creates the Decision and Action Committee, is repealed July 1, 2026.

[~~(7)~~] (8) Section 4-39-104, which creates the Domesticated Elk Act Advisory Council, is repealed July 1, 2027.

Section 3. Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2021, and ending June 30, 2022. These are additions to amounts previously appropriated for fiscal year 2022. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 1

To Southern Utah University - Education and General

From Education Fund	$60,000

Schedule of Programs:

Education and General	$60,000

It is the intent of the Legislature that the appropriations in this item be used to assist with the implementation of the pollinator pilot program enacted in Section 4-2-701.

CHAPTER 376
H. B. 247
Passed March 4, 2021
Approved March 22, 2021
Effective May 5, 2021

TRANSIENT ROOM TAX AMENDMENTS

Chief Sponsor: Carl R. Albrecht
Senate Sponsor: Evan J. Vickers

LONG TITLE

General Description:

This bill modifies provisions related to the transient room sales tax.

Highlighted Provisions:

This bill:

- modifies the requirements for how a county of the fourth, fifth, or sixth class spends revenue from the transient room tax;
- limits the surplus in a transient room tax reserve fund;
- authorizes a county auditor to make referrals to assist the State Tax Commission in determining whether to audit a person that is required to collect and remit the transient room tax;
- creates a sunset date for provisions relating to expenditure of transient room tax revenue for an economic diversification activity; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

17-31-2, as last amended by Laws of Utah 2020, Chapter 315
17-31-3, as last amended by Laws of Utah 2014, Chapter 176
17-31-5.5, as last amended by Laws of Utah 2020, Chapter 315
59-12-302, as last amended by Laws of Utah 2020, Chapter 315
63I-1-217, as last amended by Laws of Utah 2020, Sixth Special Session, Chapter 18

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 17-31-2 is amended to read:

17-31-2. Purposes of transient room tax and expenditure of revenue -- Purchase or lease of facilities -- Mitigating impacts of recreation, tourism, or conventions -- Issuance of bonds.

(1) As used in this section:

(a) "Aircraft" means the same as that term is defined in Section 72-10-102.

(b) "Airport" means the same as that term is defined in Section 72-10-102.

(c) "Airport authority" means the same as that term is defined in Section 72-10-102.

(d) "Airport operator" means the same as that term is defined in Section 72-10-102.

(e) "Base year revenue" means the amount of revenue generated by a transient room tax and collected by a county for fiscal year 2018-19.

(f) "Base year promotion expenditure" means the amount of revenue generated by a transient room tax that a county spent for the purpose described in Subsection (2)(a) during fiscal year 2018-19.

(g) "Economic diversification activity" means an economic development activity that is reasonably similar to, supplements, or expands any economic program as administered by the state or the Governor's Office of Economic Development.

[~~(g)~~] (h) "Eligible town" means a town that:

(i) is located within a county that has a national park within or partially within the county's boundaries; and

(ii) imposes a resort communities tax authorized by Section 59-12-401.

[~~(h)~~] (i) "Emergency medical services provider" means an eligible town, a local district, or a special service district.

(j) "Tourism" means an activity to develop, encourage, solicit, or market tourism that attracts transient guests to the county, including planning, development, and advertising for the purpose described in Subsection (2)(a)(i).

[~~(i)~~] (k) "Town" means a municipality that is classified as a town in accordance with Section 10-2-301.

[~~(j)~~] (l) "Transient room tax" means a tax at a rate not to exceed 4.25% authorized by Section 59-12-301.

(2) Subject to the requirements of this section, a county legislative body may impose the transient room tax for the purposes of:

(a) establishing and promoting:

(i) tourism;

(ii) recreation, [~~tourism,~~] film production, and conventions; or

(iii) an economic diversification activity if:

(A) the county is a county of the fourth, fifth, or sixth class;

(B) the county has more than one national park within or partially within the county's boundaries; and

(C) the county has a base population of 9,000 or more according to current United States census data;

(b) acquiring, leasing, constructing, furnishing, maintaining, or operating:

(i) convention meeting rooms;

(ii) exhibit halls;

(iii) visitor information centers;

(iv) museums;

(v) sports and recreation facilities including practice fields, stadiums, and arenas;

(vi) related facilities;

(vii) if a national park is located within or partially within the [~~county~~] county's boundaries, the following on any route designated by the county legislative body:

(A) transit service, including shuttle service; and

(B) parking infrastructure; and

(viii) an airport, if:

(A) the county is a county of the fourth, fifth, or sixth class; and

(B) the county is the airport operator of the airport;

(c) acquiring land, leasing land, or making payments for construction or infrastructure improvements required for or related to the purposes listed in Subsection (2)(b);

(d) as required to mitigate the impacts of recreation, tourism, or conventions in counties of the fourth, fifth, and sixth class, paying for:

(i) solid waste disposal operations;

(ii) emergency medical services;

(iii) search and rescue activities;

(iv) law enforcement activities; and

(v) road repair and upgrade of:

(A) class B roads, as defined in Section 72-3-103;

(B) class C roads, as defined in Section 72-3-104; or

(C) class D roads, as defined in Section 72-3-105; and

(e) making the annual payment of principal, interest, premiums, and necessary reserves for any of the aggregate of bonds authorized under Subsection (5).

(3) (a) The county legislative body of a county that imposes a transient room tax at a rate of 3% or less may expend the revenue generated as provided in Subsection (4), after making any reduction required by Subsection (6).

(b) The county legislative body of a county that imposes a transient room tax at a rate that exceeds 3% or increases the rate of transient room tax above 3% may expend:

(i) the revenue generated from the transient room tax at a rate of 3% as provided in Subsection (4), after making any reduction required by Subsection (6); and

(ii) the revenue generated from the portion of the rate that exceeds 3%:

(A) for any combination of the purposes described in Subsections (2) and (5); and

(B) regardless of the limitation on expenditures for the purposes described in Subsection (4).

(4) Subject to [~~Subsection~~] Subsections (6) and (7), a county may not expend more than 1/3 of the revenue generated by a rate of transient room tax that does not exceed 3%, for any combination of the purposes described in Subsections (2)(b) through (2)(e).

(5) (a) The county legislative body may issue bonds or cause bonds to be issued, as permitted by law, to pay all or part of any costs incurred for the purposes set forth in Subsections (2)(b) through (2)(d) that are permitted to be paid from bond proceeds.

(b) If a county legislative body does not need the revenue generated by the transient room tax for payment of principal, interest, premiums, and reserves on bonds issued as provided in Subsection (2)(e), the county legislative body shall expend that revenue for the purposes described in Subsection (2), subject to the limitation of Subsection (4).

(6) (a) In addition to the purposes described in Subsection (2), a county legislative body may expend up to 4% of the total revenue generated by a transient room tax to pay a provider for emergency medical services in one or more eligible towns.

(b) A county legislative body shall reduce the amount that the county is authorized to expend for the purposes described in Subsection (4) by subtracting the amount of transient room tax revenue expended in accordance with Subsection (6)(a) from the amount of revenue described in Subsection (4).

(7) (a) [~~A~~] Except as provided in Subsection (7)(b), a county legislative body in a county of the fourth, fifth, or sixth class shall expend the revenue generated by a transient room tax as follows:

(i) an amount equal to the county's base year promotion expenditure for the purpose described in Subsection (2)(a)(i);

(ii) an amount equal to the difference between the county's base year revenue and the county's base year promotion expenditure in accordance with Subsections (3) through (6); and

(iii) (A) 37% of the revenue that exceeds the county's base year revenue for the purpose described in Subsection (2)(a)(i); and

(B) subject to Subsection [~~(7)(b)~~] (7)(c), 63% of the revenue that exceeds the county's base year revenue for any combination of the purposes described in Subsections [~~(2)(b)~~] (2)(a)(ii) through (e) or to pay an emergency medical services provider for emergency medical services in one or more eligible towns.

(b) A county legislative body in a county of the fourth, fifth, or sixth class with one or more national recreation areas administered by the National Park Service or the Forest Service or national parks

within or partially within the county's boundaries shall expend the revenue generated by a transient room tax as follows:

(i) for a purpose described in Subsection (2)(a) and subject to the limitations described in Subsection (7)(d), the greater of:

(A) an amount equal to the county's base year promotion expenditure; or

(B) 37% of the transient room tax revenue; and

(ii) the remainder of the transient room tax not expended in accordance with Subsection (7)(b)(i) for any combination of the purposes described in Subsection (2) and, subject to the limitation described in Subsection (7)(c), Subsection (6).

[~~(b)~~] (c) A county legislative body in a county of the fourth, fifth, or sixth class may not:

(i) expend more than 4% of the revenue generated by a transient room tax to pay an emergency medical services provider for emergency medical services in one or more eligible towns; or

(ii) expend revenue generated by a transient room tax for the purpose described in Subsection (2)(e) in an amount that exceeds the county's base year promotion expenditure.

(d) A county legislative body may not expend:

(i) more than 1/5 of the revenue described in Subsection (7)(b)(i) for a purpose described in Subsection (2)(a)(ii); and

(ii) more than 1/3 of the revenue described in Subsection (7)(b)(i) for the purpose described in Subsection (2)(a)(iii).

[~~(c)~~] (e) The provisions of this Subsection (7) apply notwithstanding any other provision of this section.

[~~(d)~~] (f) If the total amount of revenue generated by a transient room tax in a county of the fourth, fifth, or sixth class is less than the county's base year promotion expenditure:

(i) Subsections (7)(a) through [~~(c)~~] (d) do not apply; and

(ii) the county legislative body shall expend the revenue generated by the transient room tax in accordance with Subsections (3) through (6).

Section 2. Section 17-31-3 is amended to read:

17-31-3. Reserve fund authorized -- Use of collected funds -- Limitation on surplus in fund.

(1) The county legislative body may create a reserve fund [~~and any funds collected but not expended during any fiscal year shall be retained in a special fund to be used in accordance with Sections 17-31-2 through 17-31-5~~].

(2) (a) Subject to Subsection (2)(b), a county legislative body shall retain any transient room tax funds collected but not expended during any fiscal year in the reserve fund to be used in accordance with Sections 17-31-2 through 17-31-5.

(b) The accumulated unappropriated surplus in the reserve fund, as determined before the county's adoption of a tentative budget, may not exceed 50% of the total transient room tax revenue for the current fiscal year.

Section 3. Section 17-31-5.5 is amended to read:

17-31-5.5. Report by county legislative body -- Content.

(1) The legislative body of each county that imposes a transient room tax under Section 59-12-301 or a tourism, recreation, cultural, convention, and airport facilities tax under Section 59-12-603 shall prepare annually a report in accordance with Subsection (2).

(2) The report described in Subsection (1) shall include a breakdown of expenditures into the following categories:

(a) for the transient room tax, identification of expenditures for:

(i) establishing and promoting:

(A) recreation;

(B) tourism;

(C) film production; [~~and~~]

(D) conventions; and

(E) economic diversification activity;

(ii) acquiring, leasing, constructing, furnishing, or operating:

(A) convention meeting rooms;

(B) exhibit halls;

(C) visitor information centers;

(D) museums; and

(E) related facilities;

(iii) acquiring or leasing land required for or related to the purposes listed in Subsection (2)(a)(ii);

(iv) mitigation costs as identified in Subsection 17-31-2(2)(d); and

(v) making the annual payment of principal, interest, premiums, and necessary reserves for any or the aggregate of bonds issued to pay for costs referred to in Subsections 17-31-2(2)(e) and (5)(a); and

(b) for the tourism, recreation, cultural, convention, and airport facilities tax, identification of expenditures for:

(i) financing tourism promotion, which means an activity to develop, encourage, solicit, or market tourism that attracts transient guests to the county, including planning, product development, and advertising;

(ii) the development, operation, and maintenance of the following facilities as defined in Section 59-12-602:

(A) an airport facility;

(B) a convention facility;

(C) a cultural facility;

(D) a recreation facility; and

(E) a tourist facility; and

(iii) a pledge as security for evidences of indebtedness under Subsection 59-12-603(3).

(3) For the transient room tax, the report described in Subsection (1) shall include a breakdown of each expenditure described in Subsection (2)(a)(i), including:

(a) whether the expenditure was used for in-state and out-of-state promotion efforts;

(b) an explanation of how the expenditure targeted a cost created by tourism; and

(c) an accounting of the expenditure showing that the expenditure was used only for costs directly related to a cost created by tourism.

(4) A county legislative body shall provide a copy of the report described in Subsection (1) to:

(a) the Utah Office of Tourism within the Governor's Office of Economic Development;

(b) [~~its~~] the county's tourism tax advisory board; and

(c) the Office of the Legislative Fiscal Analyst.

Section 4. Section 59-12-302 is amended to read:

59-12-302. Collection of tax -- Administrative charge.

(1) Except as provided in Subsections (2), (3), and (4), the tax authorized under this part shall be administered, collected, and enforced in accordance with:

(a) the same procedures used to administer, collect, and enforce the tax under:

(i) Part 1, Tax Collection; or

(ii) Part 2, Local Sales and Use Tax Act; and

(b) Chapter 1, General Taxation Policies.

(2) The location of a transaction shall be determined in accordance with Sections 59-12-211 through 59-12-215.

(3) A tax under this part is not subject to Section 59-12-107.1 or 59-12-123 or Subsections 59-12-205(2) through (6).

[~~(4) A county auditor may coordinate with the commission in determining whether to require an audit of any person that is required to remit a tax authorized under this part.~~]

(4) A county auditor may make referrals to the commission to assist the commission in determining whether to require an audit of any person that is required to remit a tax authorized under this part.

(5) The commission:

(a) shall distribute the revenue collected from the tax to the county within which the revenue was collected; and

(b) shall retain and deposit an administrative charge in accordance with Section 59-1-306 from revenue the commission collects from a tax under this part.

Section 5. Section 63I-1-217 is amended to read:

63I-1-217. Repeal dates, Title 17.

(1) Subsection 17-16-21(2)(d) is repealed July 1, 2023.

(2) Title 17, Chapter 21a, Part 3, Administration and Standards, which creates the Utah Electronic Recording Commission, is repealed July 1, 2022.

(3) In relation to Section 17-31-2, on July 1, 2026:

(a) Subsection 17-31-2(1)(g), which defines "economic diversification activity," is repealed;

(b) Subsection 17-31-2(2)(a)(iii), relating to establishing and promoting an economic diversification activity, is repealed;

(c) Subsection 17-31-2(7)(b)(i) is amended to read:

"(i) for a purpose described in Subsection (2)(a) and subject to the limitation described in Subsection (7)(d), the greater of:"; and

(d) Subsection 17-31-2(7)(d)(ii), relating to a limitation on the expenditure of revenue for an economic diversification activity, is repealed.

(4) Subsection 17-31-5.5(2)(a)(i)(E), relating to economic diversification activity, is repealed July 1, 2026.

CHAPTER 377
H. B. 270
Passed March 3, 2021
Approved March 22, 2021
Effective March 22, 2021
(Retrospective operation to January 1, 2021)

PROPERTY TAX VALUATION AMENDMENTS

Chief Sponsor: Timothy D. Hawkes
Senate Sponsor: Kirk A. Cullimore

LONG TITLE

General Description:

This bill modifies provisions of the Property Tax Act related to valuation and appeals.

Highlighted Provisions:

This bill:

- defines terms;
- clarifies and amends:
  - the burdens of proof for appeals involving certain real property for which there was a reduction in assessed value after the county assessor issued the valuation notice; and
  - the application of the automatic county review process for certain real property valuations or equalizations that exceed a threshold; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

This bill provides retrospective operation.

Utah Code Sections Affected:

AMENDS:

59-2-109, as last amended by Laws of Utah 2019, Chapter 16
59-2-303.2, as enacted by Laws of Utah 2019, Chapter 16
59-2-1004, as last amended by Laws of Utah 2020, Chapter 86

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 59-2-109 is amended to read:

59-2-109. Burden of proof.

(1) As used in this section:

(a) "Final assessed value" means:

(i) for real property for which the taxpayer appealed the valuation or equalization to the county board of equalization in accordance with Section 59-2-1004, the value given to the real property by [~~a~~] the county board of equalization [~~after the appeal~~], including a value based on a stipulation of the parties;

(ii) for real property for which the taxpayer or a county assessor appealed the valuation or equalization to the commission in accordance with Section 59-2-1006, the value given to the real property by:

(A) the commission, if the commission has issued a decision in the appeal or the parties have entered a stipulation; or

(B) a county board of equalization, if the commission has not yet issued a decision in the appeal and the parties have not entered a stipulation; or

(iii) for real property for which the taxpayer or a county assessor sought judicial review of the valuation or equalization in accordance with Section 59-1-602 or Title 63G, Chapter 4, Part 4, Judicial Review, the value given the real property by the commission.

(b) "Inflation adjusted value" means the [~~value of the real property that is the subject of the appeal as calculated by the county assessor in accordance with Subsection 59-2-1004(2)(c)~~] same as that term is defined in Section 59-2-1004.

(c) "Qualified real property" means real property:

(i) that is assessed by a county assessor in accordance with Part 3, County Assessment;

(ii) for which:

(A) the taxpayer or a county assessor appealed the valuation or equalization for the previous taxable year to the county board of equalization in accordance with Section 59-2-1004 or the commission in accordance with Section 59-2-1006;

(B) [~~as a result of~~] the appeal described in Subsection (1)(c)(ii)(A)[~~, a county board of equalization or the commission gave~~] resulted in a final assessed value that was lower than the assessed value; and

(C) the assessed value for the current taxable year is higher than the inflation adjusted value; and

(iii) that, [~~between~~] on or after January 1 of the previous taxable year and before January 1 of the current taxable year, has not [~~been improved or changed beyond the improvements in place on January 1 of the previous taxable year.~~] had a qualifying change.

(d) "Qualifying change" means one of the following changes to real property that occurs on or after January 1 of the previous taxable year and before January 1 of the current taxable year:

(i) a physical improvement if, solely as a result of the physical improvement, the fair market value of the physical improvement equals or exceeds the greater of 10% of fair market value of the real property or $20,000;

(ii) a zoning change, if the fair market value of the real property increases solely as a result of the zoning change; or

(iii) a change in the legal description of the real property, if the fair market value of the real property increases solely as a result of the change in the legal description of the real property.

(2) For an appeal involving the valuation of real property to the county board of equalization or the commission, the party carrying the burden of proof shall demonstrate:

(a) substantial error in:

(i) for an appeal not involving qualified real property:

(A) if Subsection (3) does not apply and the appeal is to the county board of equalization, the original assessed value;

(B) if Subsection (3) does not apply and the appeal is to the commission, the value given to the property by the county board of equalization; or

(C) if Subsection (3) applies, the original assessed value; or

(ii) for an appeal involving qualified real property, the inflation adjusted value; and

(b) a sound evidentiary basis upon which the county board of equalization or the commission could adopt a different valuation.

(3) (a) The party described in Subsection (3)(b) shall carry the burden of proof before a county board of equalization or the commission, in an action appealing the value of property:

(i) that is not qualified real property; and

(ii) for which a county assessor, a county board of equalization, or the commission asserts that the fair market value of the assessed property is greater than the original assessed value for that calendar year.

(b) For purposes of Subsection (3)(a), the following have the burden of proof:

(i) for property assessed under Part 3, County Assessment:

(A) the county assessor, if the county assessor is a party to the appeal that asserts that the fair market value of the assessed property is greater than the original assessed value for that calendar year; or

(B) the county board of equalization, if the county board of equalization is a party to the appeal that asserts that the fair market value of the assessed property is greater than the original assessed value for that calendar year; or

(ii) for property assessed under Part 2, Assessment of Property, the commission, if the commission is a party to the appeal that asserts that the fair market value of the assessed property is greater than the original assessed value for that calendar year.

(c) For purposes of this Subsection (3) only, if a county assessor, county board of equalization, or the commission asserts that the fair market value of the assessed property is greater than the original assessed value for that calendar year:

(i) the original assessed value shall lose the presumption of correctness;

(ii) a preponderance of the evidence shall suffice to sustain the burden for all parties; and

(iii) the county board of equalization or the commission shall be free to consider all evidence allowed by law in determining fair market value, including the original assessed value.

(4) (a) The party described in Subsection (4)(b) shall carry the burden of proof before a county board of equalization or the commission in an action appealing the value of qualified real property if at least one party presents evidence of or otherwise asserts a value other than inflation adjusted value.

(b) For purposes of Subsection (4)(a):

(i) the county assessor or the county board of equalization that is a party to the appeal has the burden of proof if the county assessor or county board of equalization presents evidence of or otherwise asserts a value that is greater than or equal to the inflation adjusted value; or

(ii) the taxpayer that is a party to the appeal has the burden of proof if the taxpayer presents evidence of or otherwise asserts a value that is less than the inflation adjusted value.

(c) The burdens of proof described in Subsection (4)(b) apply before a county board of equalization or the commission even if the previous year's valuation is:

(i) pending an appeal requested in accordance with Section 59-2-1006 or judicial review requested in accordance with Section 59-1-602 or Title 63G, Chapter 4, Part 4, Judicial Review; or

(ii) overturned by the commission as a result of an appeal requested in accordance with Section 59-2-1006 or by a court of competent jurisdiction as a result of judicial review requested in accordance with Section 59-1-602 or Title 63G, Chapter 4, Part 4, Judicial Review.

Section 2. Section 59-2-303.2 is amended to read:

59-2-303.2. Automatic review of assessed value of review property.

(1) As used in this section:

(a) "Final assessed value" means:

(i) for a review property for which the taxpayer did not appeal the valuation or equalization in accordance with Section 59-2-1004, the assessed value as stated on the valuation notice described in Section 59-2-919.1;

(ii) for a review property for which the taxpayer appealed the valuation or equalization in accordance with Section 59-2-1004, the assessed value given to the review property by [~~a~~] the county board of equalization [~~after the appeal~~], including an assessed value based on a stipulation of the parties;

(iii) for real property for which the taxpayer or a county assessor appealed the valuation or equalization to the commission in accordance with Section 59-2-1006, the value given to the real property by:

(A) the commission, if the commission has issued a decision in the appeal or the parties have entered a stipulation; or

(B) a county board of equalization, if the commission has not yet issued a decision in the appeal and the parties have not entered a stipulation; or

(iv) for real property for which the taxpayer or a county assessor sought judicial review of the valuation or equalization in accordance with Section 59-1-602 or Title 63G, Chapter 4, Part 4, Judicial Review, the value given the real property by the commission.

(b) "Median property value change" means the midpoint of the property value changes for all real property that is:

(i) of the same class of real property as the review property; and

(ii) located within the same county and within the same market area as the review property.

(c) "Property value change" means the percentage change in the fair market value of real property [~~between~~] on or after January 1 of the previous year and before January 1 of the current year.

(d) "Qualifying change" means one of the following changes to real property that occurs on or after January 1 of the previous taxable year and before January 1 of the current taxable year:

(i) a physical improvement if, solely as a result of the physical improvement, the fair market value of the physical improvement equals or exceeds the greater of 10% of fair market value of the real property or $20,000;

(ii) a zoning change, if the fair market value of the real property increases solely as a result of the zoning change; or

(iii) a change in the legal description of the real property, if the fair market value of the real property increases solely as a result of the change in the legal description of the real property.

[~~(d)~~] (e) "Review property" means real property located in the county:

(i) that [~~between~~] on or after January 1 of the previous year and before January 1 of the current year has not [~~been improved or changed beyond improvements in place on January 1 of the previous taxable year~~] had a qualifying change; and

(ii) for which the county assessor did not conduct a detailed review of property characteristics during the current taxable year.

[~~(e)~~] (f) "Threshold increase" means an increase in a review property's assessed value for the current taxable year compared to the final assessed value of the review property for the previous taxable year that is:

(i) the median property value change plus 15%; and

(ii) at least $10,000.

(2) (a) Before completing and delivering the assessment book to the county auditor in accordance with Section 59-2-311, the county assessor shall review the assessment of a review property for which the assessed value for the current taxable year is equal to or exceeds the threshold increase.

(b) The county assessor shall retain a record of the properties for which the county assessor conducts a review in accordance with this section and the results of that review.

(3) (a) If the county assessor determines that the assessed value of the review property reflects the review property's fair market value, the county assessor [~~shall~~] may not adjust the review property's assessed value.

(b) If the county assessor determines that the assessed value of the review property does not reflect the review property's fair market value, the county assessor shall adjust the assessed value of the review property to reflect the fair market value.

(4) The review process described in this section does not supersede or otherwise affect a taxpayer's right to appeal or to seek judicial review of the valuation or equalization of a review property in accordance with:

(a) this part;

(b) Title 59, Chapter 1, Part 6, Judicial Review; or

(c) Title 63G, Chapter 4, Part 4, Judicial Review.

Section 3. Section 59-2-1004 is amended to read:

59-2-1004. Appeal to county board of equalization -- Real property -- Time period for appeal -- Public hearing requirements -- Decision of board -- Extensions approved by commission -- Appeal to commission.

(1) As used in this section:

(a) "Final assessed value" means:

(i) for real property for which the taxpayer appealed the valuation or equalization to the county board of equalization in accordance with this section, the value given to the real property by [~~a~~] the county board of equalization [~~after the appeal~~], including a value based on a stipulation of the parties;

(ii) for real property for which the taxpayer or a county assessor appealed the valuation or equalization to the commission in accordance with Section 59-2-1006, the value given to the real property by:

(A) the commission, if the commission has issued a decision in the appeal or the parties have entered a stipulation; or

(B) a county board of equalization, if the commission has not yet issued a decision in the appeal and the parties have not entered a stipulation; or

(iii) for real property for which the taxpayer or a county assessor sought judicial review of the valuation or equalization in accordance with

Section 59-1-602 or Title 63G, Chapter 4, Part 4, Judicial Review, the value given the real property by the commission.

(b) "Inflation adjusted value" means the value of the real property that is the subject of the appeal as calculated by [~~the county assessor in accordance with Subsection (2)(c)~~] changing the final assessed value for the previous taxable year for the real property by the median property value change.

(c) "Median property value change" means the midpoint of the property value changes for all real property that is:

(i) of the same class of real property as the qualified real property; and

(ii) located within the same county and within the same market area as the qualified real property.

(d) "Property value change" means the percentage change in the fair market value of real property [~~between~~] on or after January 1 of the previous year and before January 1 of the current year.

(e) "Qualified real property" means real property:

(i) for which:

(A) the taxpayer or a county assessor appealed the valuation or equalization for the previous taxable year to the county board of equalization in accordance with this section or the commission in accordance with Section 59-2-1006;

(B) [~~as a result of~~] the appeal described in Subsection (1)(e)(i)(A), [~~a county board of equalization or the commission gave~~] resulted in a final assessed value that was lower than the assessed value; and

(C) the assessed value for the current taxable year is higher than the inflation adjusted value; and

(ii) that, [~~between~~] on or after January 1 of the previous taxable year and before January 1 of the current taxable year, has not [~~been improved or changed beyond the improvements in place on January 1 of the previous taxable year.~~] had a qualifying change.

(f) "Qualifying change" means one of the following changes to real property that occurs on or after January 1 of the previous taxable year and before January 1 of the current taxable year:

(i) a physical improvement if, solely as a result of the physical improvement, the fair market value of the physical improvement equals or exceeds the greater of 10% of fair market value of the real property or $20,000;

(ii) a zoning change, if the fair market value of the real property increases solely as a result of the zoning change; or

(iii) a change in the legal description of the real property, if the fair market value of the real property increases solely as a result of the change in the legal description of the real property.

(2) (a) A taxpayer dissatisfied with the valuation or the equalization of the taxpayer's real property may make an application to appeal by:

(i) filing the application with the county board of equalization within the time period described in Subsection (3); or

(ii) making an application by telephone or other electronic means within the time period described in Subsection (3) if the county legislative body passes a resolution under Subsection (8) authorizing a taxpayer to make an application by telephone or other electronic means.

(b) (i) The county board of equalization shall make a rule describing the contents of the application.

(ii) In addition to any information the county board of equalization requires, the application shall include information about:

(A) the burden of proof in an appeal involving qualified real property; and

(B) the process for the taxpayer to learn the inflation adjusted value of the qualified real property.

[~~(c) (i) The county assessor shall calculate inflation adjusted value by changing the final assessed value for the previous taxable year of the real property that is the subject of the appeal by the median property value change.~~]

[~~(ii)~~] (c) (i) (A) The county assessor shall notify the county board of equalization of a qualified real property's inflation adjusted value within 15 business days after the date on which the county assessor receives notice that a taxpayer filed an appeal with the county board of equalization.

(B) The county assessor shall notify the commission of a qualified real property's inflation adjusted value within 15 business days after the date on which the county assessor receives notice that a person dissatisfied with the decision of a county board of equalization files an appeal with the commission.

[~~(iii)~~] (ii) (A) A person may not appeal a county assessor's calculation of inflation adjusted value but may appeal the fair market value of a qualified real property.

(B) A person may appeal a determination of whether, on or after January 1 of the previous taxable year and before January 1 of the current taxable year, real property had a qualifying change.

(3) (a) Except as provided in Subsection (3)(b) and for purposes of Subsection (2), a taxpayer shall make an application to appeal the valuation or the equalization of the taxpayer's real property on or before the later of:

(i) September 15 of the current calendar year; or

(ii) the last day of a 45-day period beginning on the day on which the county auditor provides the notice under Section 59-2-919.1.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission

shall make rules providing for circumstances under which the county board of equalization is required to accept an application to appeal that is filed after the time period prescribed in Subsection (3)(a).

(4) (a) Except as provided in Subsection (4)(b), the taxpayer shall include in the application under Subsection (2)(a):

(i) the taxpayer's estimate of the fair market value of the property and any evidence that may indicate that the assessed valuation of the taxpayer's property is improperly equalized with the assessed valuation of comparable properties; and

(ii) a signed statement of the personal property located in a multi-tenant residential property, as that term is defined in Section 59-2-301.8 if the taxpayer:

(A) appeals the value of multi-tenant residential property assessed in accordance with Section 59-2-301.8; and

(B) intends to contest the value of the personal property located within the multi-tenant residential property.

(b) (i) For an appeal involving qualified real property:

(A) the county board of equalization shall presume that the fair market value of the qualified real property is equal to the inflation adjusted value; and

(B) except as provided in Subsection (4)(b)(ii), the taxpayer may provide the information described in Subsection (4)(a).

(ii) If the taxpayer seeks to prove that the fair market value of the qualified real property is below the inflation adjusted value, the taxpayer shall provide the information described in Subsection (4)(a).

(5) In reviewing evidence submitted to a county board of equalization by or on behalf of an owner or a county assessor, the county board of equalization shall consider and weigh:

(a) the accuracy, reliability, and comparability of the evidence presented by the owner or the county assessor;

(b) if submitted, the sales price of relevant property that was under contract for sale as of the lien date but sold after the lien date;

(c) if submitted, the sales offering price of property that was offered for sale as of the lien date but did not sell, including considering and weighing the amount of time for which, and manner in which, the property was offered for sale; and

(d) if submitted, other evidence that is relevant to determining the fair market value of the property.

(6) (a) The county board of equalization shall meet and hold public hearings as described in Section 59-2-1001.

(b) (i) For purposes of this Subsection (6)(b), "significant adjustment" means a proposed adjustment to the valuation of real property that:

(A) is to be made by a county board of equalization; and

(B) would result in a valuation that differs from the original assessed value by at least 20% and $1,000,000.

(ii) When a county board of equalization is going to consider a significant adjustment, the county board of equalization shall:

(A) list the significant adjustment as a separate item on the agenda of the public hearing at which the county board of equalization is going to consider the significant adjustment; and

(B) for purposes of the agenda described in Subsection (6)(b)(ii)(A), provide a description of the property for which the county board of equalization is considering a significant adjustment.

(c) The county board of equalization shall make a decision on each appeal filed in accordance with this section within 60 days after the day on which the taxpayer makes an application.

(d) The commission may approve the extension of a time period provided for in Subsection (6)(c) for a county board of equalization to make a decision on an appeal.

(e) Unless the commission approves the extension of a time period under Subsection (6)(d), if a county board of equalization fails to make a decision on an appeal within the time period described in Subsection (6)(c), the county legislative body shall:

(i) list the appeal, by property owner and parcel number, on the agenda for the next meeting the county legislative body holds after the expiration of the time period described in Subsection (6)(c); and

(ii) hear the appeal at the meeting described in Subsection (6)(e)(i).

(f) The decision of the county board of equalization shall contain:

(i) a determination of the valuation of the property based on fair market value; and

(ii) a conclusion that the fair market value is properly equalized with the assessed value of comparable properties.

(g) If no evidence is presented before the county board of equalization, the county board of equalization shall presume that the equalization issue has been met.

(h) (i) If the fair market value of the property that is the subject of the appeal deviates plus or minus 5% from the assessed value of comparable properties, the county board of equalization shall adjust the valuation of the appealed property to reflect a value equalized with the assessed value of comparable properties.

(ii) Subject to Sections 59-2-301.1, 59-2-301.2, 59-2-301.3, and 59-2-301.4, equalized value

established under Subsection (6)(h)(i) shall be the assessed value for property tax purposes until the county assessor is able to evaluate and equalize the assessed value of all comparable properties to bring all comparable properties into conformity with full fair market value.

(7) If any taxpayer is dissatisfied with the decision of the county board of equalization, the taxpayer may file an appeal with the commission as described in Section 59-2-1006.

(8) A county legislative body may pass a resolution authorizing taxpayers owing taxes on property assessed by that county to file property tax appeals applications under this section by telephone or other electronic means.

Section 4. Effective date.

If approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

Section 5. Retrospective operation.

This bill has retrospective operation to January 1, 2021.

CHAPTER 378
H. B. 272
Passed March 5, 2021
Approved March 22, 2021
Effective October 15, 2021

SPECIAL LICENSE PLATE AMENDMENTS

Chief Sponsor: Paul Ray
Senate Sponsor: Evan J. Vickers

LONG TITLE

General Description:

This bill creates the Donate Life support special group license plate.

Highlighted Provisions:

This bill:

- renames the Organ Donation Contribution Fund as the Allyson Gamble Organ Donation Contribution Fund;
- amends provisions related to the Allyson Gamble Organ Donation Contribution Fund to direct contributions from the Donate Life support special group license plate to be deposited into the fund;
- directs the Department of Health to distribute proceeds from the Donate Life support special group license plate to a nonprofit organization that specializes in the recovery and transplantation of organs and tissues;
- creates the Donate Life support special group license plate; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

26-1-30, as last amended by Laws of Utah 2019, Chapter 87
26-18b-101, as last amended by Laws of Utah 2013, Chapters 167 and 400
41-1a-230.5, as enacted by Laws of Utah 2002, Chapter 55
41-1a-418, as last amended by Laws of Utah 2020, Chapters 120, 322, and 405
41-1a-422, as last amended by Laws of Utah 2020, Chapters 120, 322, 354, and 405
53-3-214.7, as last amended by Laws of Utah 2003, Chapter 30

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 26-1-30 is amended to read:

26-1-30. Powers and duties of department.

The department shall exercise the following powers and duties, in addition to other powers and duties established in this chapter:

(1) enter into cooperative agreements with the Department of Environmental Quality to delineate specific responsibilities to assure that assessment and management of risk to human health from the environment are properly administered;

(2) consult with the Department of Environmental Quality and enter into cooperative agreements, as needed, to ensure efficient use of resources and effective response to potential health and safety threats from the environment, and to prevent gaps in protection from potential risks from the environment to specific individuals or population groups;

(3) promote and protect the health and wellness of the people within the state;

(4) establish, maintain, and enforce rules necessary or desirable to carry out the provisions and purposes of this title to promote and protect the public health or to prevent disease and illness;

(5) investigate and control the causes of epidemic, infectious, communicable, and other diseases affecting the public health;

(6) provide for the detection, reporting, prevention, and control of communicable, infectious, acute, chronic, or any other disease or health hazard which the department considers to be dangerous, important, or likely to affect the public health;

(7) collect and report information on causes of injury, sickness, death, and disability and the risk factors that contribute to the causes of injury, sickness, death, and disability within the state;

(8) collect, prepare, publish, and disseminate information to inform the public concerning the health and wellness of the population, specific hazards, and risks that may affect the health and wellness of the population and specific activities which may promote and protect the health and wellness of the population;

(9) establish and operate programs necessary or desirable for the promotion or protection of the public health and the control of disease or which may be necessary to ameliorate the major causes of injury, sickness, death, and disability in the state, except that the programs may not be established if adequate programs exist in the private sector;

(10) establish, maintain, and enforce isolation and quarantine, and for this purpose only, exercise physical control over property and individuals as the department finds necessary for the protection of the public health;

(11) close theaters, schools, and other public places and forbid gatherings of people when necessary to protect the public health;

(12) abate nuisances when necessary to eliminate sources of filth and infectious and communicable diseases affecting the public health;

(13) make necessary sanitary and health investigations and inspections in cooperation with local health departments as to any matters affecting the public health;

(14) establish laboratory services necessary to support public health programs and medical services in the state;

(15) establish and enforce standards for laboratory services which are provided by any

laboratory in the state when the purpose of the services is to protect the public health;

(16) cooperate with the Labor Commission to conduct studies of occupational health hazards and occupational diseases arising in and out of employment in industry, and make recommendations for elimination or reduction of the hazards;

(17) cooperate with the local health departments, the Department of Corrections, the Administrative Office of the Courts, the Division of Juvenile Justice Services, and the Crime Victim Reparations Board to conduct testing for HIV infection of alleged sexual offenders, convicted sexual offenders, and any victims of a sexual offense;

(18) investigate the causes of maternal and infant mortality;

(19) establish, maintain, and enforce a procedure requiring the blood of adult pedestrians and drivers of motor vehicles killed in highway accidents be examined for the presence and concentration of alcohol;

(20) provide the Commissioner of Public Safety with monthly statistics reflecting the results of the examinations provided for in Subsection (19) and provide safeguards so that information derived from the examinations is not used for a purpose other than the compilation of statistics authorized in this Subsection (20);

(21) establish qualifications for individuals permitted to draw blood pursuant to Subsection 41-6a-523(1)(a)(vi), 53-10-405(2)(a)(vi), 72-10-502(5)(a)(vi), or 77-23-213(3)(a)(vi), and to issue permits to individuals it finds qualified, which permits may be terminated or revoked by the department;

(22) establish a uniform public health program throughout the state which includes continuous service, employment of qualified employees, and a basic program of disease control, vital and health statistics, sanitation, public health nursing, and other preventive health programs necessary or desirable for the protection of public health;

(23) adopt rules and enforce minimum sanitary standards for the operation and maintenance of:

(a) orphanages;

(b) boarding homes;

(c) summer camps for children;

(d) lodging houses;

(e) hotels;

(f) restaurants and all other places where food is handled for commercial purposes, sold, or served to the public;

(g) tourist and trailer camps;

(h) service stations;

(i) public conveyances and stations;

(j) public and private schools;

(k) factories;

(l) private sanatoria;

(m) barber shops;

(n) beauty shops;

(o) physician offices;

(p) dentist offices;

(q) workshops;

(r) industrial, labor, or construction camps;

(s) recreational resorts and camps;

(t) swimming pools, public baths, and bathing beaches;

(u) state, county, or municipal institutions, including hospitals and other buildings, centers, and places used for public gatherings; and

(v) any other facilities in public buildings or on public grounds;

(24) conduct health planning for the state;

(25) monitor the costs of health care in the state and foster price competition in the health care delivery system;

(26) adopt rules for the licensure of health facilities within the state pursuant to Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act;

(27) license the provision of child care;

(28) accept contributions to and administer the funds contained in the Allyson Gamble Organ Donation Contribution Fund created in Section 26-18b-101;

(29) serve as the collecting agent, on behalf of the state, for the nursing care facility assessment fee imposed under Title 26, Chapter 35a, Nursing Care Facility Assessment Act, and adopt rules for the enforcement and administration of the nursing facility assessment consistent with the provisions of Title 26, Chapter 35a, Nursing Care Facility Assessment Act;

(30) establish methods or measures for health care providers, public health entities, and health care insurers to coordinate among themselves to verify the identity of the individuals they serve;

(31) (a) designate Alzheimer's disease and related dementia as a public health issue and, within budgetary limitations, implement a state plan for Alzheimer's disease and related dementia by incorporating the plan into the department's strategic planning and budgetary process; and

(b) coordinate with other state agencies and other organizations to implement the state plan for Alzheimer's disease and related dementia;

(32) ensure that any training or certification required of a public official or public employee, as those terms are defined in Section 63G-22-102, complies with Title 63G, Chapter 22, State Training and Certification Requirements, if the training or certification is required:

(a) under this title;

(b) by the department; or

(c) by an agency or division within the department; and

(33) oversee public education vision screening as described in Section 53G-9-404.

Section 2. Section 26-18b-101 is amended to read:

26-18b-101. Allyson Gamble Organ Donation Contribution Fund created.

(1) (a) There is created an expendable special revenue fund known as the Allyson Gamble Organ Donation Contribution Fund.

(b) The Allyson Gamble Organ Donation Contribution Fund shall consist of:

(i) private contributions;

(ii) donations or grants from public or private entities;

(iii) voluntary donations collected under Sections 41-1a-230.5 and 53-3-214.7; [~~and~~]

(iv) contributions deposited into the account in accordance with Section 41-1a-422; and

[~~(iv)~~] (v) interest and earnings on fund money.

(c) The cost of administering the Allyson Gamble Organ Donation Contribution Fund shall be paid from money in the fund.

(2) The Department of Health shall:

(a) administer the funds deposited in the Allyson Gamble Organ Donation Contribution Fund; and

(b) select qualified organizations and distribute the funds in the Allyson Gamble Organ Donation Contribution Fund in accordance with Subsection (3).

(3) (a) The funds in the Allyson Gamble Organ Donation Contribution Fund may be distributed to a selected organization that:

(i) promotes and supports organ donation;

(ii) assists in maintaining and operating a statewide organ donation registry; and

(iii) provides donor awareness education.

(b) An organization that meets the criteria of Subsections (3)(a)(i) through (iii) may apply to the Department of Health, in a manner prescribed by the department, to receive a portion of the money contained in the Allyson Gamble Organ Donation Contribution Fund.

(4) The Department of Health may expend funds in the account to pay the costs of administering the fund and issuing or reordering the Donate Life support special group license plate and decals.

Section 3. Section 41-1a-230.5 is amended to read:

41-1a-230.5. Registration checkoff for promoting and supporting organ donation.

(1) A person who applies for a motor vehicle registration or registration renewal may designate a voluntary contribution of $2 for the purpose of promoting and supporting organ donation.

(2) This contribution shall be:

(a) collected by the division;

(b) treated as a voluntary contribution to the Allyson Gamble Organ Donation Contribution Fund created in Section 26-18b-101 and not as a motor vehicle registration fee; and

(c) transferred to the Allyson Gamble Organ Donation Contribution Fund created in Section 26-18b-101 at least monthly, less actual administrative costs associated with collecting and transferring the contributions.

Section 4. Section 41-1a-418 is amended to read:

41-1a-418. Authorized special group license plates.

(1) The division shall only issue special group license plates in accordance with this section through Section 41-1a-422 to a person who is specified under this section within the categories listed as follows:

(a) disability special group license plates issued in accordance with Section 41-1a-420;

(b) honor special group license plates, as in a war hero, which plates are issued for a:

(i) survivor of the Japanese attack on Pearl Harbor;

(ii) former prisoner of war;

(iii) recipient of a Purple Heart;

(iv) disabled veteran;

(v) recipient of a gold star award issued by the United States Secretary of Defense; or

(vi) recipient of a campaign or combat theater award determined by the Department of Veterans and Military Affairs;

(c) unique vehicle type special group license plates, as for historical, collectors value, or other unique vehicle type, which plates are issued for:

(i) a special interest vehicle;

(ii) a vintage vehicle;

(iii) a farm truck; or

(iv) (A) until Subsection (1)(c)(iv)(B) or (4) applies, a vehicle powered by clean fuel as defined in Section 59-13-102; or

(B) beginning on the effective date of rules made by the Department of Transportation authorized under Subsection 41-6a-702(5)(b) and until Subsection (4) applies, a vehicle powered by clean

fuel that meets the standards established by the Department of Transportation in rules authorized under Subsection 41-6a-702(5)(b);

(d) recognition special group license plates, which plates are issued for:

(i) a current member of the Legislature;

(ii) a current member of the United States Congress;

(iii) a current member of the National Guard;

(iv) a licensed amateur radio operator;

(v) a currently employed, volunteer, or retired firefighter until June 30, 2009;

(vi) an emergency medical technician;

(vii) a current member of a search and rescue team;

(viii) a current honorary consulate designated by the United States Department of State;

(ix) an individual supporting commemoration and recognition of women's suffrage;

(x) an individual supporting a fraternal, initiatic order for those sharing moral and metaphysical ideals, and designed to teach ethical and philosophical matters of brotherly love, relief, and truth;

(xi) an individual supporting the Utah Wing of the Civil Air Patrol; or

(xii) an individual supporting the recognition and continuation of the work and life of Dr. Martin Luther King, Jr.; or

(e) support special group license plates, as for a contributor to an institution or cause, which plates are issued for a contributor to:

(i) an institution's scholastic scholarship fund;

(ii) the Division of Wildlife Resources;

(iii) the Department of Veterans and Military Affairs;

(iv) the Division of Parks and Recreation;

(v) the Department of Agriculture and Food;

(vi) the Guardian Ad Litem Services Account and the Children's Museum of Utah;

(vii) the Boy Scouts of America;

(viii) spay and neuter programs through No More Homeless Pets in Utah;

(ix) the Boys and Girls Clubs of America;

(x) Utah public education;

(xi) programs that provide support to organizations that create affordable housing for those in severe need through the Division of Real Estate;

(xii) the Department of Public Safety;

(xiii) programs that support Zion National Park;

(xiv) beginning on July 1, 2009, programs that provide support to firefighter organizations;

(xv) programs that promote bicycle operation and safety awareness;

(xvi) programs that conduct or support cancer research;

(xvii) programs that create or support autism awareness;

(xviii) programs that create or support humanitarian service and educational and cultural exchanges;

(xix) until September 30, 2017, programs that conduct or support prostate cancer awareness, screening, detection, or prevention;

(xx) programs that support and promote adoptions;

(xxi) programs that support issues affecting women and children through an organization affiliated with a national professional men's basketball organization;

(xxii) programs that strengthen youth soccer, build communities, and promote environmental sustainability through an organization affiliated with a professional men's soccer organization;

(xxiii) programs that support children with heart disease;

(xxiv) programs that support the operation and maintenance of the Utah Law Enforcement Memorial;

(xxv) programs that provide assistance to children with cancer;

(xxvi) programs that promote leadership and career development through agricultural education;

(xxvii) the Utah State Historical Society;

(xxviii) programs to transport veterans to visit memorials honoring the service and sacrifices of veterans;

(xxix) programs that promote motorcycle safety awareness;

(xxx) organizations that promote clean air through partnership, education, and awareness; [~~or~~]

(xxxi) programs dedicated to strengthening the state's Latino community through education, mentoring, and leadership opportunities[~~.~~]; or

(xxxii) organizations dedicated to facilitating, connecting, registering, and advocating for organ donors and donor families.

(2) (a) The division may not issue a new type of special group license plate or decal unless the division receives:

(i) (A) a private donation for the start-up fee established under Section 63J-1-504 for the

production and administrative costs of providing the new special group license plates or decals; or

(B) a legislative appropriation for the start-up fee provided under Subsection (2)(a)(i)(A); and

(ii) beginning on January 1, 2012, and for the issuance of a support special group license plate authorized in Section 41-1a-422, at least 500 completed applications for the new type of support special group license plate or decal to be issued with all fees required under this part for the support special group license plate or decal issuance paid by each applicant.

(b) (i) Beginning on January 1, 2012, each participating organization shall collect and hold applications for support special group license plates or decals authorized in Section 41-1a-422 on or after January 1, 2012, until it has received at least 500 applications.

(ii) Once a participating organization has received at least 500 applications, it shall submit the applications, along with the necessary fees, to the division for the division to begin working on the design and issuance of the new type of support special group license plate or decal to be issued.

(iii) Beginning on January 1, 2012, the division may not work on the issuance or design of a new support special group license plate or decal authorized in Section 41-1a-422 until the applications and fees required under this Subsection (2) have been received by the division.

(iv) The division shall begin issuance of a new support special group license plate or decal authorized in Section 41-1a-422 on or after January 1, 2012, no later than six months after receiving the applications and fees required under this Subsection (2).

(c) (i) Beginning on July 1, 2009, the division may not renew a motor vehicle registration of a motor vehicle that has been issued a firefighter recognition special group license plate unless the applicant is a contributor as defined in Subsection 41-1a-422(1)(a)(ii)(D) to the Firefighter Support Restricted Account.

(ii) A registered owner of a vehicle that has been issued a firefighter recognition special group license plate prior to July 1, 2009, upon renewal of the owner's motor vehicle registration shall:

(A) be a contributor to the Firefighter Support Restricted Account as required under Subsection (2)(c)(i); or

(B) replace the firefighter recognition special group license plate with a new license plate.

(3) Beginning on July 1, 2011, if a support special group license plate or decal type authorized in Section 41-1a-422 and issued on or after January 1, 2012, has fewer than 500 license plates issued each year for a three consecutive year time period that begins on July 1, the division may not issue that type of support special group license plate or decal to a new applicant beginning on January 1 of the following calendar year after the three consecutive year time period for which that type of support special group license plate or decal has fewer than 500 license plates issued each year.

(4) Beginning on July 1, 2011, the division may not issue to an applicant a unique vehicle type license plate for a vehicle powered by clean fuel under Subsection (1)(c)(iv).

(5) (a) Beginning on October 1, 2017, the division may not issue a new prostate cancer support special group license plate.

(b) A registered owner of a vehicle that has been issued a prostate cancer support special group license plate before October 1, 2017, may renew the owner's motor vehicle registration, with the contribution allocated as described in Section 41-1a-422.

Section 5. Section 41-1a-422 is amended to read:

41-1a-422. Support special group license plates -- Contributor -- Voluntary contribution collection procedures.

(1) As used in this section:

(a) (i) Except as provided in Subsection (1)(a)(ii), "contributor" means a person who has donated or in whose name at least $25 has been donated to:

(A) a scholastic scholarship fund of a single named institution;

(B) the Department of Veterans and Military Affairs for veterans programs;

(C) the Division of Wildlife Resources for the Wildlife Resources Account created in Section 23-14-13, for conservation of wildlife and the enhancement, preservation, protection, access, and management of wildlife habitat;

(D) the Department of Agriculture and Food for the benefit of conservation districts;

(E) the Division of Parks and Recreation for the benefit of snowmobile programs;

(F) the Guardian Ad Litem Services Account and the Children's Museum of Utah, with the donation evenly divided between the two;

(G) the Boy Scouts of America for the benefit of a Utah Boy Scouts of America council as specified by the contributor;

(H) No More Homeless Pets in Utah for distribution to organizations or individuals that provide spay and neuter programs that subsidize the sterilization of domestic animals;

(I) the Utah Alliance of Boys and Girls Clubs, Inc. to provide and enhance youth development programs;

(J) the Utah Association of Public School Foundations to support public education;

(K) the Utah Housing Opportunity Restricted Account created in Section 61-2-204 to assist people who have severe housing needs;

(L) the Public Safety Honoring Heroes Restricted Account created in Section 53-1-118 to support the

families of fallen Utah Highway Patrol troopers and other Department of Public Safety employees;

(M) the Division of Parks and Recreation for distribution to organizations that provide support for Zion National Park;

(N) the Firefighter Support Restricted Account created in Section 53-7-109 to support firefighter organizations;

(O) the Share the Road Bicycle Support Restricted Account created in Section 72-2-127 to support bicycle operation and safety awareness programs;

(P) the Cancer Research Restricted Account created in Section 26-21a-302 to support cancer research programs;

(Q) Autism Awareness Restricted Account created in Section 53F-9-401 to support autism awareness programs;

(R) Humanitarian Service and Educational and Cultural Exchange Restricted Account created in Section 9-17-102 to support humanitarian service and educational and cultural programs;

(S) Upon renewal of a prostate cancer support special group license plate, to the Cancer Research Restricted Account created in Section 26-21a-302 to support cancer research programs;

(T) the Choose Life Adoption Support Restricted Account created in Section 62A-4a-608 to support programs that promote adoption;

(U) the National Professional Men's Basketball Team Support of Women and Children Issues Restricted Account created in Section 62A-1-202;

(V) the Utah Law Enforcement Memorial Support Restricted Account created in Section 53-1-120;

(W) the Children with Cancer Support Restricted Account created in Section 26-21a-304 for programs that provide assistance to children with cancer;

(X) the National Professional Men's Soccer Team Support of Building Communities Restricted Account created in Section 9-19-102;

(Y) the Children with Heart Disease Support Restricted Account created in Section 26-58-102;

(Z) the Utah Intracurricular Student Organization Support for Agricultural Education and Leadership Restricted Account created in Section 4-42-102;

(AA) the Division of Wildlife Resources for the Support for State-Owned Shooting Ranges Restricted Account created in Section 23-14-13.5, for the creation of new, and operation and maintenance of existing, state-owned firearm shooting ranges;

(BB) the Utah State Historical Society to further the mission and purpose of the Utah State Historical Society;

(CC) the Motorcycle Safety Awareness Support Restricted Account created in Section 72-2-130; [~~or~~]

(DD) the Transportation of Veterans to Memorials Support Restricted Account created in Section 71-14-102;

(EE) clean air support causes, with half of the donation deposited into the Clean Air Support Restricted Account created in Section 19-1-109, and half of the donation deposited into the Clean Air Fund created in Section 59-10-1319; [~~or~~]

(FF) the Latino Community Support Restricted Account created in Section 13-1-16[~~.~~]; or

(GG) the Allyson Gamble Organ Donation Contribution Fund created in Section 26-18b-101.

(ii) (A) For a veterans special group license plate described in Subsection 41-1a-421(1)(a)(v) or 41-1a-422(4), "contributor" means a person who has donated or in whose name at least a $25 donation at the time of application and $10 annual donation thereafter has been made.

(B) For a Utah Housing Opportunity special group license plate, "contributor" means a person who:

(I) has donated or in whose name at least $30 has been donated at the time of application and annually after the time of application; and

(II) is a member of a trade organization for real estate licensees that has more than 15,000 Utah members.

(C) For an Honoring Heroes special group license plate, "contributor" means a person who has donated or in whose name at least $35 has been donated at the time of application and annually thereafter.

(D) For a firefighter support special group license plate, "contributor" means a person who:

(I) has donated or in whose name at least $15 has been donated at the time of application and annually after the time of application; and

(II) is a currently employed, volunteer, or retired firefighter.

(E) For a cancer research special group license plate, "contributor" means a person who has donated or in whose name at least $35 has been donated at the time of application and annually after the time of application.

(F) For a Utah Law Enforcement Memorial Support special group license plate, "contributor" means a person who has donated or in whose name at least $35 has been donated at the time of application and annually thereafter.

(b) "Institution" means a state institution of higher education as defined under Section 53B-3-102 or a private institution of higher education in the state accredited by a regional or national accrediting agency recognized by the United States Department of Education.

(2) (a) An applicant for original or renewal collegiate special group license plates under

Subsection (1)(a)(i) must be a contributor to the institution named in the application and present the original contribution verification form under Subsection (2)(b) or make a contribution to the division at the time of application under Subsection (3).

(b) An institution with a support special group license plate shall issue to a contributor a verification form designed by the commission containing:

(i) the name of the contributor;

(ii) the institution to which a donation was made;

(iii) the date of the donation; and

(iv) an attestation that the donation was for a scholastic scholarship.

(c) The state auditor may audit each institution to verify that the money collected by the institutions from contributors is used for scholastic scholarships.

(d) After an applicant has been issued collegiate license plates or renewal decals, the commission shall charge the institution whose plate was issued, a fee determined in accordance with Section 63J-1-504 for management and administrative expenses incurred in issuing and renewing the collegiate license plates.

(e) If the contribution is made at the time of application, the contribution shall be collected, treated, and deposited as provided under Subsection (3).

(3) (a) An applicant for original or renewal support special group license plates under this section must be a contributor to the sponsoring organization associated with the license plate.

(b) This contribution shall be:

(i) unless collected by the named institution under Subsection (2), collected by the division;

(ii) considered a voluntary contribution for the funding of the activities specified under this section and not a motor vehicle registration fee;

(iii) deposited into the appropriate account less actual administrative costs associated with issuing the license plates; and

(iv) for a firefighter special group license plate, deposited into the appropriate account less:

(A) the costs of reordering firefighter special group license plate decals; and

(B) the costs of replacing recognition special group license plates with new license plates under Subsection 41-1a-1211(13).

(c) The donation described in Subsection (1)(a) must be made in the 12 months prior to registration or renewal of registration.

(d) The donation described in Subsection (1)(a) shall be a one-time donation made to the division when issuing original:

(i) snowmobile license plates; or

(ii) conservation license plates.

(4) Veterans license plates shall display one of the symbols representing the Army, Navy, Air Force, Marines, Coast Guard, or American Legion.

Section 6. Section 53-3-214.7 is amended to read:

53-3-214.7. License or identification card checkoff for promoting and supporting organ donation.

(1) A person who applies for a license or identification card or a renewal of a license or identification card may designate a voluntary contribution of $2 for the purpose of promoting and supporting organ donation.

(2) This contribution shall be:

(a) collected by the division;

(b) treated as a voluntary contribution to the Allyson Gamble Organ Donation Contribution Fund created in Section 26-18b-101 and not as a license fee; and

(c) transferred to the Allyson Gamble Organ Donation Contribution Fund created in Section 26-18b-101 at least monthly, less actual administrative costs associated with collecting and transferring the contributions.

Section 7. Effective date.

This bill takes effect on October 15, 2021.

CHAPTER 379
H. B. 279
Passed March 2, 2021
Approved March 22, 2021
Effective May 5, 2021

HIGHER EDUCATION FOR INCARCERATED YOUTH

Chief Sponsor: V. Lowry Snow
Senate Sponsor: Derrin R. Owens
Cosponsors: Melissa G. Ballard
Stewart E. Barlow
Joel K. Briscoe
Walt Brooks
Clare Collard
Jennifer Dailey-Provost
Stephen G. Handy
Sandra Hollins
Brian S. King
Karen Kwan
Rosemary T. Lesser
Phil Lyman
Ashlee Matthews
Kelly B. Miles
Carol Spackman Moss
Doug Owens
Stephanie Pitcher
Angela Romero
Andrew Stoddard
Christine F. Watkins
Elizabeth Weight
Mark A. Wheatley
Ryan D. Wilcox

LONG TITLE

General Description:

This bill directs the establishment of the Dixie State University Higher Education for Incarcerated Youth Program.

Highlighted Provisions:

This bill:

- defines terms;
- directs the establishment of the Dixie State University Higher Education for Incarcerated Youth Program to provide certain higher education opportunities to students in certain custody; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:
53E-10-301, as last amended by Laws of Utah 2020, Chapters 220 and 365

ENACTS:
53B-30-101, Utah Code Annotated 1953
53B-30-301, Utah Code Annotated 1953

RENUMBERS AND AMENDS:
53B-30-201, (Renumbered from 53B-16-501, as last amended by Laws of Utah 2020, Chapter 365)

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53B-30-101 is enacted to read:

CHAPTER 30. DIXIE STATE UNIVERSITY

53B-30-101. (Codified as 53B-31-101) Title.

This chapter is known as "Dixie State University."

Section 2. Section 53B-30-201, which is renumbered from Section 53B-16-501 is renumbered and amended to read:

Part 2. Nonprofit Corporations or Foundations

~~[53B-16-501]~~. 53B-30-201. (Codified as 53B-31-201) Nonprofit corporations or foundations -- Purpose.

(1) Dixie State University may form a nonprofit corporation or foundation controlled by the president of the university and the board to aid and assist the university in attaining its charitable, communications, and other related educational objectives, including support for media innovation, film festivals, film production, print media, broadcasting, television, and digital media.

(2) The nonprofit corporation or foundation may receive and administer legislative appropriations, government grants, contracts, and private gifts to carry out its public purposes.

Section 3. Section 53B-30-301 is enacted to read:

Part 3. Incarcerated Youth Program

53B-30-301. (Codified as 53B-31-301) Dixie State University Higher Education for Incarcerated Youth Program.

(1) As used in this section:

(a) "Interactive video conferencing" means two-way, real-time transmission of audio and video signals between devices or computers at two or more locations.

(b) "Program" means the Dixie State University Higher Education for Incarcerated Youth Program.

(c) "Student" means an individual who is:

(i) in the custody of the Division of Juvenile Justice Services within the timeframe of the course being offered; and

(ii) subject to the jurisdiction of the Youth Parole Authority.

(2) Consistent with policies established by the board, Dixie State University shall, subject to legislative appropriation, establish and administer the Dixie State University Higher Education for Incarcerated Youth Program to provide:

(a) students needing high school credits opportunities for concurrent enrollment courses;

(b) a consistent, two-year, flexible schedule of higher education courses delivered through interactive video conferencing to students;

(c) a pathway for students to earn college credits that:

(i) apply toward earning a certificate, associate degree, bachelor's degree; or

(ii) satisfy scholarship requirements or other objectives that best meet the needs of an individual student; and

(d) advisory support to students and academic counselors who participate in the program to ensure that the students' higher education courses align with the academic and career goals defined in the students' plans for college and career readiness.

Section 4. Section 53E-10-301 is amended to read:

53E-10-301. Definitions.

As used in this part:

(1) "Career and technical education course" means a concurrent enrollment course in career and technical education, as determined by the policy established by the Utah Board of Higher Education under Section 53E-10-302.

(2) "Concurrent enrollment" means enrollment in a course offered through the concurrent enrollment program described in Section 53E-10-302.

(3) "Educator" means the same as that term is defined in Section 53E-6-102.

(4) "Eligible instructor" means an instructor who meets the requirements described in Subsection 53E-10-302(6).

(5) "Eligible student" means a student who:

(a) (i) is enrolled in, and counted in average daily membership in, a public school within the state; or

(ii) is in the custody of the Division of Juvenile Justice Services and subject to the jurisdiction of the Youth Parole Authority;

(b) has on file a plan for college and career readiness as described in Section 53E-2-304; and

(c) is in grade 9, 10, 11, or 12.

(6) "Institution of higher education" means an institution described in Subsection 53B-1-102(1)(a).

(7) "License" means the same as that term is defined in Section 53E-6-102.

(8) "Local education agency" or "LEA" means a school district or charter school.

(9) "Qualifying experience" means an LEA employee's experience in an academic field that:

(a) qualifies the LEA employee to teach a concurrent enrollment course in the academic field; and

(b) may include the LEA employee's:

(i) number of years teaching in the academic field;

(ii) holding a higher level secondary teaching credential issued by the state board;

(iii) research, publications, or other scholarly work in the academic field;

(iv) continuing professional education in the academic field;

(v) portfolio of work related to the academic field; or

(vi) professional work experience or certifications in the academic field.

(10) "Value of the weighted pupil unit" means the amount established each year in the enacted public education budget that is multiplied by the number of weighted pupil units to yield the funding level for the basic state-supported school program.

CHAPTER 380
H. B. 341
Passed March 3, 2021
Approved March 22, 2021
Effective May 5, 2021

BEARS EARS VISITOR CENTER ADVISORY COMMITTEE

Chief Sponsor: Doug Owens
Senate Sponsor: David P. Hinkins
Cosponsor: Phil Lyman

LONG TITLE

General Description:

This bill provides for an advisory committee to study a Bears Ears visitor center.

Highlighted Provisions:

This bill:

- creates the advisory committee;
- specifies powers and duties of the advisory committee, including contracting with a consultant;
- provides for the repeal of the advisory committee; and
- makes technical changes.

Monies Appropriated in this Bill:

This bill appropriates in fiscal year 2022:

- to the Legislature – Senate as a one-time appropriation:
  - from the General Fund, $2,300;
- to the Legislature – House of Representatives as a one-time appropriation:
  - from the General Fund, $4,700; and
- to the Department of Heritage and Arts – Indian Affairs as a one-time appropriation:
  - from the General Fund, $10,800.

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63I-2-209, as enacted by Laws of Utah 2020, Fifth Special Session, Chapter 12

ENACTS:

9-9-112, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 9-9-112 is enacted to read:

9-9-112. Bears Ears Visitor Center Advisory Committee.

(1) Utah extends an invitation to the Navajo Nation, the Ute Mountain Ute Tribe, the Hopi Nation, the Zuni Tribe, and the Ute Indian Tribe of the Uintah Ouray to form an advisory committee for the purpose of exploring the feasibility, location, functions, and other important matters surrounding the creation of a visitor center at Bears Ears.

(2) As used in this section:

(a) "Advisory committee" means the Bears Ears Visitor Center Advisory Committee created by this section.

(b) "Bears Ears" means the Bears Ears National Monument.

(3) (a) Subject to Subsection (3)(b), there is created the Bears Ears Visitor Center Advisory Committee consisting of the following eight members:

(i) five voting members as follows:

(A) a representative of the Navajo Nation, appointed by the Navajo Nation;

(B) a representative of the Ute Mountain Ute Tribe, appointed by the Ute Mountain Ute Tribe;

(C) a representative of the Hopi Nation, appointed by the Hopi Nation;

(D) a representative of the Zuni Tribe, appointed by the Zuni Tribe; and

(E) a representative of the Ute Indian Tribe of the Uintah Ouray, appointed by the Ute Indian Tribe of the Uintah Ouray; and

(ii) subject to Subsection (4), three nonvoting members as follows:

(A) one member of the Senate, appointed by the president of the Senate; and

(B) two members of the House of Representatives, appointed by the speaker of the House of Representatives.

(b) The advisory committee is formed when all of the tribes described in Subsection (1)(a)(i) have communicated to the other tribes and to the Division of Indian Affairs that the tribe has appointed a member to the advisory committee.

(4) At least one of the three legislative members appointed under Subsection (3)(a)(ii) shall be from a minority party.

(5) The advisory committee may select from the advisory committee members the chair or other officers of the advisory committee.

(6) (a) If a vacancy occurs in the membership of the advisory committee appointed under Subsection (3), the member shall be replaced in the same manner in which the original appointment was made.

(b) A member appointed under Subsection (3) serves until the member's successor is appointed and qualified.

(7) (a) A majority of the voting members of the advisory committee constitutes a quorum.

(b) The action of a majority of a quorum constitutes an action of the advisory committee.

(8) (a) The salary and expenses of an advisory committee member who is a legislator shall be paid in accordance with Section 36-2-2 and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.

(b) An advisory committee member who is not a legislator may not receive compensation or benefits for the member's service on the advisory committee, but may receive per diem and reimbursement for travel expenses incurred as an advisory committee member at the rates established by the Division of Finance under:

(i) Sections 63A-3-106 and 63A-3-107; and

(ii) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(9) The advisory committee may invite the United States Forest Service, the Bureau of Land Management, the Division of Parks and Recreation, and the Utah Office of Tourism within the Governor's Office of Economic Development, to serve as technical advisors to the advisory committee.

(10) The Division of Indian Affairs shall staff the advisory committee.

(11) The advisory committee shall study and make recommendations concerning:

(a) the need for a visitor center associated with Bears Ears;

(b) the feasibility of a visitor center associated with Bears Ears, including investigating:

(i) potential locations for the visitor center;

(ii) purposes for the visitor center; and

(iii) sources of funding to build and maintain the visitor center;

(c) whether a visitor center will increase visitorship to Bears Ears; and

(d) whether a visitor center at Bears Ears could function as a repository of traditional knowledge and practices.

(12) The advisory committee may contract with one or more consultants to conduct work related to the issues raised in Subsection (11) if the Legislature appropriates money expressly for the purpose of the advisory committee contracting with a consultant.

(13) The advisory committee shall hold at least one public hearing to obtain public comment on the creation of a Bears Ears visitor center.

(14) The advisory committee shall report the advisory committee's recommendations to one or more of the following:

(a) the Economic Development and Workforce Services Interim Committee;

(b) the House Economic Development and Workforce Services Committee; or

(c) the Senate Economic Development and Workforce Services Committee.

Section 2. Section 63I-2-209 is amended to read:

63I-2-209. Repeal dates -- Title 9.

(1) Section 9-9-112, Bears Ears Visitor Center Advisory Committee, is repealed December 31, 2024.

(2) Title 9, Chapter 6, Part 9, COVID-19 Cultural Assistance Grant Program, is repealed June 30, 2021.

Section 3. Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2021, and ending June 30, 2022. These are additions to amounts previously appropriated for fiscal year 2022. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 1

To Legislature - Senate

From General Fund, One-time $2,300

Schedule of Programs:

Administration $2,300

ITEM 2

To Legislature - House of Representatives

From General Fund, One-time $4,700

Schedule of Programs:

Administration $4,700

ITEM 3

To Department of Heritage and Arts - Indian Affairs

From General Fund, One-time $10,800

Schedule of Programs:

Indian Affairs $10,800

The Legislature intends that an appropriation provided under these items be used for expenses relating to the per diem and reimbursement for travel expenses incurred by the Bears Ears Visitor Center Advisory Committee as described in Section 9-9-112 and costs of staffing the committee. It is the intent of the Legislature that the appropriations be nonlapsing.

CHAPTER 381
H. B. 356
Passed March 4, 2021
Approved March 22, 2021
Effective May 5, 2021

RURAL ECONOMIC DEVELOPMENT TAX INCREMENT FINANCING

Chief Sponsor: Carl R. Albrecht
Senate Sponsor: Derrin R. Owens

LONG TITLE

General Description:

This bill modifies provisions related to economic development tax increment financing.

Highlighted Provisions:

This bill:

- defines terms, including modifying the definitions of "new commercial project," "high paying job," and "significant capital investment," related to new commercial projects located in rural areas of the state;
- modifies provisions related to the authorization of tax credits by the Governor's Office of Economic Development for new commercial projects located in rural areas of the state;
- modifies the types of new commercial projects that may qualify for tax credits authorized by the Governor's Office of Economic Development; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63N-1-102, as last amended by Laws of Utah 2019, Chapter 465
63N-2-103, as last amended by Laws of Utah 2019, Chapters 399, 465, 498 and last amended by Coordination Clause, Laws of Utah 2019, Chapter 465
63N-2-104, as last amended by Laws of Utah 2018, Chapter 281
63N-2-105, as last amended by Laws of Utah 2016, Chapter 350

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63N-1-102 is amended to read:

63N-1-102. Definitions.

As used in this title:

(1) "Baseline jobs" means the number of full-time employee positions that existed within a business entity in the state before the date on which a project related to the business entity is approved by the office or by the board.

(2) "Baseline state revenue" means the amount of state tax revenue collected from a business entity or the employees of a business entity during the year before the date on which a project related to the business entity is approved by the office or by the board.

(3) "Board" means the Board of Business and Economic Development created in Section 63N-1-401.

(4) "Council" means the Governor's Economic Development Coordinating Council created in Section 63N-1-501.

(5) "Executive director" means the executive director of the office.

(6) "Full-time employee" means an employment position that is filled by an employee who works at least 30 hours per week and:

(a) may include an employment position filled by more than one employee, if each employee who works less than 30 hours per week is provided benefits comparable to a full-time employee; and

(b) may not include an employment position that is shifted from one jurisdiction in the state to another jurisdiction in the state.

(7) "High paying job" means a newly created full-time employee position where the aggregate average annual gross wage of the employment position, not including health care or other paid or unpaid benefits, is:

(a) at least 110% of the average wage of the county in which the employment position exists[.]; or

(b) for an employment position related to a project described in Chapter 2, Part 1, Economic Development Tax Increment Financing, and that is located within the boundary of a county of the third, fourth, fifth, or sixth class, or located within a municipality in a county of the second class and where the municipality has a population of 10,000 or less:

(i) at least 100% of the average wage of the county in which the employment position exists; or

(ii) an amount determined by rule made by the office in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, if the office determines the project is in a county experiencing economic distress.

(8) (a) "Incremental job" means a full-time employment position in the state that:

[~~(a)~~] (i) did not exist within a business entity in the state before the beginning of a project related to the business entity; and

[~~(b)~~] (ii) is created in addition to the number of baseline jobs that existed within a business entity.

(b) "Incremental job" includes a full-time employment position where the employee is hired:

(i) directly by a business entity; or

(ii) by a professional employer organization, as defined in Section 31A-40-102, on behalf of a business entity.

(9) "New state revenue" means the state revenue collected from a business entity or a business

entity's employees during a calendar year minus the baseline state revenue calculation.

(10) "Office" or "GOED" means the Governor's Office of Economic Development.

(11) "State revenue" means state tax liability paid by a business entity or a business entity's employees under any combination of the following provisions:

(a) Title 59, Chapter 7, Corporate Franchise and Income Taxes;

(b) Title 59, Chapter 10, Part 1, Determination and Reporting of Tax Liability and Information;

(c) Title 59, Chapter 10, Part 2, Trusts and Estates;

(d) Title 59, Chapter 10, Part 4, Withholding of Tax; and

(e) Title 59, Chapter 12, Sales and Use Tax Act.

Section 2. Section 63N-2-103 is amended to read:

63N-2-103. Definitions.

As used in this part:

(1) "Authority" means:

(a) the Utah Inland Port Authority, created in Section 11-58-201; or

(b) the Military Installation Development Authority, created in Section 63H-1-201.

(2) "Authority project area" means a project area of:

(a) the Utah Inland Port Authority, created in Section 11-58-201; or

(b) the Military Installation Development Authority, created in Section 63H-1-201.

(3) (a) "Business entity" means a person that enters into an agreement with the office to initiate a new commercial project in Utah that will qualify the person to receive a tax credit under Section 59-7-614.2 or 59-10-1107.

(b) With respect to a tax credit authorized by the office in accordance with Subsection 63N-2-104(3)(c)(ii), "business entity" includes a nonprofit entity.

(4) "Community reinvestment agency" has the same meaning as that term is defined in Section 17C-1-102.

(5) "Development zone" means an economic development zone created under Section 63N-2-104.

(6) "Local government entity" means a county, city, town, or authority that enters into an agreement with the office to have a new commercial project that:

(a) is [~~initiated~~] located within:

(i) the boundary of the county, city, or town; or

(ii) an authority project area; and

(b) qualifies the county, city, town, or authority to receive a tax credit under Section 59-7-614.2.

(7) (a) "New commercial project" means an economic development opportunity that involves new or expanded industrial, manufacturing, distribution, or business services in Utah.

(b) "New commercial project" includes an economic development opportunity that involves new or expanded agricultural or mining business services in Utah if the new commercial project is located within a:

(i) county of the third, fourth, fifth, or sixth class; or

(ii) municipality that has a population of 10,000 or less and the municipality is in a county of the second class.

[~~(b)~~] (c) "New commercial project" does not include retail business.

[~~(8) "Significant capital investment" means an amount of at least $10,000,000 to purchase capital or fixed assets, which may include real property, personal property, and other fixtures related to a new commercial project:~~]

[~~(a) that represents an expansion of existing operations in the state; or~~]

[~~(b) that maintains or increases the business entity's existing work force in the state.~~]

(8) "Significant capital investment" means an investment in capital or fixed assets in the following amounts, which may include real property, personal property, and other fixtures related to a new commercial project that represents an expansion of existing operations in the state or that increases the business entity's existing workforce in the state:

(a) except as described in Subsection (8)(b), an amount of at least $10,000,000 for a new commercial project located within the boundary of a county of the first or second class;

(b) an amount of at least $500,000 for a new commercial project located within the boundary of a county of the third or fourth class, or located within a municipality in a county of the second class and where the municipality has a population of 10,000 or less;

(c) an amount of at least $250,000 for a new commercial project located within the boundary of a county of the fifth or sixth class; or

(d) an amount determined by rule made by the office in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(9) "Tax credit" means an economic development tax credit created by Section 59-7-614.2 or 59-10-1107.

(10) "Tax credit amount" means the amount the office lists as a tax credit on a tax credit certificate for a taxable year.

(11) "Tax credit certificate" means a certificate issued by the office that:

(a) lists the name of the business entity, local government entity, or community development and renewal agency to which the office authorizes a tax credit;

(b) lists the business entity's, local government entity's, or community development and renewal agency's taxpayer identification number;

(c) lists the amount of tax credit that the office authorizes the business entity, local government entity, or community development and renewal agency for the taxable year; and

(d) may include other information as determined by the office.

Section 3. Section 63N-2-104 is amended to read:

63N-2-104. Creation of economic development zones -- Tax credits -- Assignment of tax credit.

(1) The office, with advice from the board, may create an economic development zone in the state if the following requirements are satisfied:

(a) the area is zoned agricultural, commercial, industrial, manufacturing, business park, research park, or other appropriate business related use in a community-approved master plan;

(b) the request to create a development zone has first been approved by an appropriate local government entity; and

(c) local incentives have been or will be committed to be provided within the area.

(2) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office shall make rules establishing the requirements for a business entity or local government entity to qualify for a tax credit for a new commercial project in a development zone under this part.

(b) The office shall ensure that the requirements described in Subsection (2)(a) include the following:

(i) the new commercial project is within the development zone;

(ii) the new commercial project includes direct investment within the geographic boundaries of the development zone;

(iii) the new commercial project brings new incremental jobs to Utah;

(iv) the new commercial project includes the creation of high paying jobs in the state, significant capital investment in the state, or significant purchases from vendors, contractors, or service providers in the state, or a combination of these three economic factors;

(v) the new commercial project generates new state revenues; and

(vi) a business entity, a local government entity, or a community reinvestment agency to which a local government entity assigns a tax credit under this section meets the requirements of Section 63N-2-105.

(3) (a) The office, after consultation with the board, may enter into a written agreement with a business entity or local government entity authorizing a tax credit to the business entity or local government entity if the business entity or local government entity meets the requirements described in this section.

(b) (i) With respect to a new commercial project, the office may authorize a tax credit to a business entity or a local government entity, but not both.

(ii) In determining whether to authorize a tax credit with respect to a new commercial project to a business entity or a local government entity, the office shall authorize the tax credit in a manner that the office determines will result in providing the most effective incentive for the new commercial project.

(c) (i) Except as provided in Subsection [~~(3)(c)(ii),~~] (3)(c)(ii)(A), for a new commercial project that is located within the boundary of a county of the first or second class, the office may not authorize or commit to authorize a tax credit that exceeds:

(A) 50% of the new state revenues from the new commercial project in any given year; or

(B) 30% of the new state revenues from the new commercial project over the lesser of the life of a new commercial project or 20 years.

(ii) If the office authorizes or commits to authorize a tax credit for a new commercial project located within the boundary of:

(A) a municipality with a population of 10,000 or less located within a county of the second class and that is experiencing economic hardship as determined by the office, the office shall authorize a tax credit of up to 50% of new state revenues from the new commercial project over the lesser of the life of the new commercial project or 20 years;

(B) a county of the third class, the office shall authorize a tax credit of up to 50% of new state revenues from the new commercial project over the lesser of the life of the new commercial project or 20 years; and

(C) a county of the fourth, fifth, or sixth class, the office shall authorize a tax credit of 50% of new state revenues from the new commercial project over the lesser of the life of the new commercial project or 20 years.

(iii) Notwithstanding any other provisions of this section, the office may not authorize a tax credit under this section for a new commercial project:

(A) to a business entity that has claimed a High Cost Infrastructure Development Tax Credit described in Section 63M-4-603 related to the same new commercial project; or

(B) in an amount more than the amount of the capital investment in the new commercial project.

[~~(ii) If the eligible business entity makes capital expenditures in the state of $1,500,000,000 or more~~

~~associated with a new commercial project, the office may:~~]

[~~(A) authorize or commit to authorize a tax credit not exceeding 60% of new state revenues over the lesser of the life of the project or 20 years, if the other requirements of this part are met;~~]

[~~(B) establish the year that state revenues and incremental jobs baseline data are measured for purposes of an incentive under this Subsection (3)(e)(ii); and~~]

[~~(C) offer an incentive under this Subsection (3)(e)(ii) or modify an existing incentive previously granted under Subsection (3)(c)(i) that is based on the baseline measurements described in Subsection (3)(e)(ii)(B), except that the incentive may not authorize or commit to authorize a tax credit of more than 60% of new state revenues in any one year.~~]

(d) (i) A local government entity may by resolution assign a tax credit authorized by the office to a community reinvestment agency.

(ii) The local government entity shall provide a copy of the resolution described in Subsection (3)(d)(i) to the office.

(iii) If a local government entity assigns a tax credit to a community reinvestment agency, the written agreement described in Subsection (3)(a) shall:

(A) be between the office, the local government entity, and the community reinvestment agency;

(B) establish the obligations of the local government entity and the community reinvestment agency; and

(C) establish the extent to which any of the local government entity's obligations are transferred to the community reinvestment agency.

(iv) If a local government entity assigns a tax credit to a community reinvestment agency:

(A) the community reinvestment agency shall retain records as described in Subsection (4)(d); and

(B) a tax credit certificate issued in accordance with Section 63N-2-105 shall list the community reinvestment agency as the named applicant.

(4) The office shall ensure that the written agreement described in Subsection (3):

(a) specifies the requirements that the business entity or local government entity shall meet to qualify for a tax credit under this part;

(b) specifies the maximum amount of tax credit that the business entity or local government entity may be authorized for a taxable year and over the life of the new commercial project;

(c) establishes the length of time the business entity or local government entity may claim a tax credit;

(d) requires the business entity or local government entity to retain records supporting a claim for a tax credit for at least four years after the business entity or local government entity claims a tax credit under this part; and

(e) requires the business entity or local government entity to submit to audits for verification of the tax credit claimed.

Section 4. Section 63N-2-105 is amended to read:

63N-2-105. Qualifications for tax credit -- Procedure.

(1) The office shall certify a business entity's or local government entity's eligibility for a tax credit as provided in this part.

(2) A business entity or local government entity seeking to receive a tax credit as provided in this part shall provide the office with:

(a) an application for a tax credit certificate, including a certification, by an officer of the business entity, of any signature on the application;

(b) (i) for a business entity, documentation of the new state revenues from the business entity's new commercial project that were paid during the preceding calendar year; or

(ii) for a local government entity, documentation of the new state revenues from the new commercial project within the area of the local government entity that were paid during the preceding calendar year;

(c) known or expected detriments to the state or existing businesses in the state;

(d) if a local government entity seeks to assign the tax credit to a community reinvestment agency as described in Section 63N-2-104, a statement providing the name and taxpayer identification number of the community reinvestment agency to which the local government entity seeks to assign the tax credit;

(e) (i) with respect to a business entity, a document that expressly directs and authorizes the State Tax Commission to disclose to the office the business entity's returns and other information that would otherwise be subject to confidentiality under Section 59-1-403 or Section 6103, Internal Revenue Code;

(ii) with respect to a local government entity that seeks to claim the tax credit:

(A) a document that expressly directs and authorizes the State Tax Commission to disclose to the office the local government entity's returns and other information that would otherwise be subject to confidentiality under Section 59-1-403 or Section 6103, Internal Revenue Code; and

(B) if the new state revenues collected as a result of a new commercial project are attributable in whole or in part to a new or expanded industrial, manufacturing, mining, agricultural, distribution, or business service within a new commercial project within the area of the local government entity, a document signed by an authorized representative of the new or expanded industrial, manufacturing,

mining, agricultural, distribution, or business service that:

(I) expressly directs and authorizes the State Tax Commission to disclose to the office the returns of the new or expanded industrial, manufacturing, distribution, or business service and other information that would otherwise be subject to confidentiality under Section 59-1-403 or Section 6103, Internal Revenue Code; and

(II) lists the taxpayer identification number of the new or expanded industrial, manufacturing, mining, agricultural, distribution, or business service; or

(iii) with respect to a local government entity that seeks to assign the tax credit to a community reinvestment agency:

(A) a document signed by the members of the governing body of the community reinvestment agency that expressly directs and authorizes the State Tax Commission to disclose to the office the returns of the community reinvestment agency and other information that would otherwise be subject to confidentiality under Section 59-1-403 or Section 6103, Internal Revenue Code; and

(B) if the new state revenues collected as a result of a new commercial project are attributable in whole or in part to a new or expanded industrial, manufacturing, mining, agricultural, distribution, or business service within a new commercial project within the community reinvestment agency, a document signed by an authorized representative of the new or expanded industrial, manufacturing, mining, agricultural, distribution, or business service that:

(I) expressly directs and authorizes the State Tax Commission to disclose to the office the returns of the new or expanded industrial, manufacturing, mining, agricultural, distribution, or business service and other information that would otherwise be subject to confidentiality under Section 59-1-403 or Section 6103, Internal Revenue Code; and

(II) lists the taxpayer identification number of the new or expanded industrial, manufacturing, mining, agricultural, distribution, or business service; and

(f) for a business entity only, documentation that the business entity has satisfied the performance benchmarks outlined in the written agreement described in Subsection 63N-2-104(3)(a), including:

(i) the creation of new incremental jobs that are also high paying jobs;

(ii) significant capital investment;

(iii) significant purchases from Utah vendors and providers; or

(iv) a combination of these benchmarks.

(3) (a) The office shall submit the documents described in Subsection (2)(e) to the State Tax Commission.

(b) Upon receipt of a document described in Subsection (2)(e), the State Tax Commission shall provide the office with the returns and other information requested by the office that the State Tax Commission is directed or authorized to provide to the office in accordance with Subsection (2)(e).

(4) If, after review of the returns and other information provided by the State Tax Commission, or after review of the ongoing performance of the business entity or local government entity, the office determines that the returns and other information are inadequate to provide a reasonable justification for authorizing or continuing a tax credit, the office shall:

(a) (i) deny the tax credit; or

(ii) terminate the agreement described in Subsection 63N-2-104(3)(a) for failure to meet the performance standards established in the agreement; or

(b) inform the business entity or local government entity that the returns or other information were inadequate and ask the business entity or local government entity to submit new documentation.

(5) If after review of the returns and other information provided by the State Tax Commission, the office determines that the returns and other information provided by the business entity or local government entity provide reasonable justification for authorizing a tax credit, the office shall, based upon the returns and other information:

(a) determine the amount of the tax credit to be granted to the business entity, local government entity, or if the local government entity assigns the tax credit as described in Section 63N-2-104, to the community reinvestment agency to which the local government entity assigns the tax credit;

(b) issue a tax credit certificate to the business entity, local government entity, or if the local government entity assigns the tax credit as described in Section 63N-2-104, to the community reinvestment agency to which the local government entity assigns the tax credit; and

(c) provide a duplicate copy of the tax credit certificate to the State Tax Commission.

(6) A business entity, local government entity, or community reinvestment agency may not claim a tax credit unless the business entity, local government entity, or community reinvestment agency has a tax credit certificate issued by the office.

(7) (a) A business entity, local government entity, or community reinvestment agency may claim a tax credit in the amount listed on the tax credit certificate on its tax return.

(b) A business entity, local government entity, or community reinvestment agency that claims a tax

credit under this section shall retain the tax credit certificate in accordance with Section 59-7-614.2 or 59-10-1107.

CHAPTER 382
H. B. 368
Passed March 5, 2021
Approved March 22, 2021
Effective July 1, 2021

STATE PLANNING AGENCIES AMENDMENTS

Chief Sponsor: Robert M. Spendlove
Senate Sponsor: Ann Millner

LONG TITLE

General Description:

This bill modifies provisions relating to state planning agencies.

Highlighted Provisions:

This bill:

- modifies provisions relating to the Governor's Office of Management and Budget, the Public Lands Policy Coordinating Office, the state planning coordinator, and the Resource Development Coordinating Committee;
- changes the name of the Governor's Office of Management and Budget to the Governor's Office of Planning and Budget;
- moves the Public Lands Policy Coordinating Office to be within the Department of Natural Resources;
- modifies compensation and retirement provisions relating to the executive director and employees of the Public Lands Policy Coordinating Office;
- repeals language relating to the Employability to Careers Program within the Governor's Office of Management and Budget;
- replaces the state planning coordinator with the executive director of the renamed Governor's Office of Planning and Budget on the board of the Homeless Coordinating Committee;
- modifies the date for the submission of an estimate of ongoing General Fund revenue that involves the renamed Governor's Office of Planning and Budget;
- provides for the state planning coordinator to be appointed by the executive director of the Governor's Office of Planning and Budget rather than by the governor;
- eliminates the responsibility of the state planning coordinator to oversee and supervise the activities and duties of the public lands policy coordinator;
- modifies the roles of the state planning coordinator and the Public Lands Policy Coordinating Office; and
- makes technical changes.

Monies Appropriated in this Bill:

This bill appropriates in fiscal year 2022:

- to the Public Lands Policy Coordinating Office:
  - from General Fund, ($2,685,100)
  - from General Fund, One-Time ($5,100)
  - from General Fund Restricted - Constitutional Defense, ($1,227,300)
  - from General Fund Restricted - Constitutional Defense, One-Time, ($2,300)
  - from Beginning Nonlapsing Balances, ($2,559,900)
  - from Closing Nonlapsing Balances, $2,189,900
- to the Department of Natural Resources - Public Lands Policy Coordinating Office
  - from General Fund, $2,685,100
  - from General Fund, One-Time, $5,100
  - from General Fund Restricted - Constitutional Defense, $1,227,300
  - from General Fund Restricted - Constitutional Defense, One-Time, $2,300
  - from Beginning Nonlapsing Balances, $2,559,900
  - from Closing Nonlapsing Balances, ($2,189,900)

Other Special Clauses:

This bill provides a special effective date.

This bill provides revisor instructions.

This bill provides coordination clauses.

Utah Code Sections Affected:

AMENDS:

4-20-103, as renumbered and amended by Laws of Utah 2017, Chapter 345
11-38-201, as last amended by Laws of Utah 2020, Chapter 352
11-38-203, as last amended by Laws of Utah 2013, Chapter 310
17B-1-106, as last amended by Laws of Utah 2013, Chapter 445
23-14-21, as last amended by Laws of Utah 2008, Chapter 382
23-21-2.3, as last amended by Laws of Utah 2008, Chapter 382
26-18-405.5, as enacted by Laws of Utah 2015, Chapter 288
32B-2-505, as enacted by Laws of Utah 2018, Chapter 329
35A-1-109, as last amended by Laws of Utah 2018, Chapter 423
35A-1-201, as last amended by Laws of Utah 2020, Chapter 352
35A-8-601, as last amended by Laws of Utah 2018, Chapters 251 and 312
36-2-4, as last amended by Laws of Utah 2013, Chapter 310
49-11-406, as last amended by Laws of Utah 2020, Chapter 24
49-12-203, as last amended by Laws of Utah 2020, Chapters 24 and 365
49-20-410, as last amended by Laws of Utah 2018, Chapter 155
49-22-205, as last amended by Laws of Utah 2020, Chapter 24
51-10-202, as enacted by Laws of Utah 2015, Chapter 319
53-2c-201, as enacted by Laws of Utah 2020, Third Special Session, Chapter 1
53-17-402, as enacted by Laws of Utah 2015, Chapter 166
53B-2a-110, as last amended by Laws of Utah 2020, Chapter 365
53F-2-205, as last amended by Laws of Utah 2020, Chapter 330
53F-2-208, as last amended by Laws of Utah 2020, Fifth Special Session, Chapter 14
53F-2-601, as last amended by Laws of Utah 2020, Fifth Special Session, Chapter 14

53F-9-201, as last amended by Laws of Utah 2020, Chapters 207 and 354
54-3-28, as last amended by Laws of Utah 2013, Chapter 445
59-1-403, as last amended by Laws of Utah 2020, Chapter 294
59-1-403.1, as enacted by Laws of Utah 2018, Chapter 4
59-15-109, as last amended by Laws of Utah 2019, Chapter 336
62A-15-612, as last amended by Laws of Utah 2013, Chapters 17 and 310
63A-1-114, as last amended by Laws of Utah 2018, Chapter 137
63A-1-203, as renumbered and amended by Laws of Utah 2019, Chapter 370
63A-5b-201, as enacted by Laws of Utah 2020, Chapter 152
63A-5b-702, as enacted by Laws of Utah 2020, Chapter 152
63B-2-301, as last amended by Laws of Utah 2020, Chapter 152
63B-3-301, as last amended by Laws of Utah 2019, Chapter 61
63B-4-201, as last amended by Laws of Utah 2020, Chapter 152
63B-4-301, as last amended by Laws of Utah 2013, Chapter 310
63C-4a-308, as renumbered and amended by Laws of Utah 2019, Chapter 246
63C-4a-402, as last amended by Laws of Utah 2016, Chapter 378
63C-9-301, as last amended by Laws of Utah 2016, Chapters 215 and 245
63C-20-103, as enacted by Laws of Utah 2018, Chapter 330
63C-20-105, as enacted by Laws of Utah 2018, Chapter 330
63F-1-104, as last amended by Laws of Utah 2020, Chapter 94
63F-1-302, as last amended by Laws of Utah 2016, Chapter 287
63F-1-508, as last amended by Laws of Utah 2013, Chapter 310
63F-3-103, as last amended by Laws of Utah 2020, Chapter 270
63F-4-102, as enacted by Laws of Utah 2018, Chapter 144
63G-2-305, as last amended by Laws of Utah 2020, Chapters 112, 198, 339, 349, 382, and 393
63G-3-301, as last amended by Laws of Utah 2020, Chapter 408
63G-25-202, as enacted by Laws of Utah 2020, Chapter 319
63I-1-263, as last amended by Laws of Utah 2020, Chapters 82, 152, 154, 199, 230, 303, 322, 336, 354, 360, 375, 405 and last amended by Coordination Clause, Laws of Utah 2020, Chapter 360
63I-2-263, as last amended by Laws of Utah 2020, Fifth Special Session, Chapter 12
63J-1-105, as last amended by Laws of Utah 2019, Chapter 182
63J-1-201, as last amended by Laws of Utah 2020, Chapter 152
63J-1-205, as last amended by Laws of Utah 2014, Chapter 430
63J-1-209, as last amended by Laws of Utah 2018, Chapter 469
63J-1-217, as last amended by Laws of Utah 2018, Chapter 469
63J-1-220, as last amended by Laws of Utah 2019, Chapters 136 and 293
63J-1-411, as last amended by Laws of Utah 2013, Chapter 310
63J-1-504, as last amended by Laws of Utah 2018, Chapter 229
63J-1-602.1, as last amended by Laws of Utah 2020, Fifth Special Session, Chapter 4
63J-3-102, as last amended by Laws of Utah 2018, Chapter 415
63J-3-103, as last amended by Laws of Utah 2020, Chapters 152 and 365
63J-3-202, as last amended by Laws of Utah 2013, Chapter 310
63J-4-101, as last amended by Laws of Utah 2013, Chapter 310
63J-4-102, as last amended by Laws of Utah 2013, Chapter 310
63J-4-201, as last amended by Laws of Utah 2013, Chapter 310
63J-4-202, as last amended by Laws of Utah 2013, Chapters 12 and 310
63J-4-301, as last amended by Laws of Utah 2018, Chapters 423 and 469
63J-4-401, as last amended by Laws of Utah 2013, Chapter 101
63J-5-201, as last amended by Laws of Utah 2013, Chapter 310
63J-5-202, as last amended by Laws of Utah 2016, Chapter 272
63J-7-201, as last amended by Laws of Utah 2013, Chapter 310
63J-8-102, as last amended by Laws of Utah 2017, Chapter 181
63J-8-104, as last amended by Laws of Utah 2014, Chapter 328
63J-8-105.2, as enacted by Laws of Utah 2015, Chapter 88
63J-8-105.5, as last amended by Laws of Utah 2015, Chapter 88
63J-8-105.7, as last amended by Laws of Utah 2014, Chapter 321
63J-8-105.8, as last amended by Laws of Utah 2018, Chapter 50
63J-8-105.9, as last amended by Laws of Utah 2015, Chapter 87
63J-8-106, as repealed and reenacted by Laws of Utah 2012, Chapter 165
63L-2-301, as last amended by Laws of Utah 2020, Chapter 168
63L-10-102, as last amended by Laws of Utah 2019, Chapter 246
63N-1-203, as last amended by Laws of Utah 2018, Chapter 423
63N-1-301, as last amended by Laws of Utah 2020, Chapter 365
63N-2-107, as last amended by Laws of Utah 2016, Chapter 350
63N-2-811, as renumbered and amended by Laws of Utah 2015, Chapter 283
63N-3-111, as last amended by Laws of Utah 2018, Chapter 182

63N-9-104, as last amended by Laws of Utah 2016, Chapter 88
64-13e-105, as last amended by Laws of Utah 2020, Chapter 410
67-4-16, as last amended by Laws of Utah 2013, Chapter 310
67-5-34, as enacted by Laws of Utah 2016, Chapter 120
67-19-11, as last amended by Laws of Utah 2016, Chapters 228, 287 and last amended by Coordination Clause, Laws of Utah 2016, Chapter 287
67-19-15, as last amended by Laws of Utah 2020, Chapter 360
67-19-43, as last amended by Laws of Utah 2016, Chapter 310
67-19d-202, as last amended by Laws of Utah 2013, Chapter 310
67-19f-202, as last amended by Laws of Utah 2015, Chapter 368
67-22-2, as last amended by Laws of Utah 2018, Chapter 39
79-2-201, as last amended by Laws of Utah 2020, Chapters 190 and 309

ENACTS:
63L-11-101, Utah Code Annotated 1953
63L-11-103, Utah Code Annotated 1953
63L-11-301, Utah Code Annotated 1953
63L-11-302, Utah Code Annotated 1953
63L-11-303, Utah Code Annotated 1953

RENUMBERS AND AMENDS:
63L-11-102, (Renumbered from 63J-4-601, as last amended by Laws of Utah 2009, Chapter 121)
63L-11-201, (Renumbered from 63J-4-602, as last amended by Laws of Utah 2020, Chapter 352)
63L-11-202, (Renumbered from 63J-4-603, as last amended by Laws of Utah 2018, Chapter 411)
63L-11-203, (Renumbered from 63J-4-607, as last amended by Laws of Utah 2020, Chapter 434)
63L-11-304, (Renumbered from 63J-4-606, as last amended by Laws of Utah 2019, Chapter 246)
63L-11-305, (Renumbered from 63J-4-608, as last amended by Laws of Utah 2020, Chapter 354)
63L-11-401, (Renumbered from 63J-4-501, as last amended by Laws of Utah 2013, Chapter 310)
63L-11-402, (Renumbered from 63J-4-502, as last amended by Laws of Utah 2015, Chapter 451)
63L-11-403, (Renumbered from 63J-4-503, as last amended by Laws of Utah 2009, Chapter 121)
63L-11-404, (Renumbered from 63J-4-504, as renumbered and amended by Laws of Utah 2008, Chapter 382)
63L-11-405, (Renumbered from 63J-4-505, as renumbered and amended by Laws of Utah 2008, Chapter 382)

REPEALS:
63J-4-701, as enacted by Laws of Utah 2017, Chapter 253
63J-4-702, as last amended by Laws of Utah 2020, Chapter 352
63J-4-703, as enacted by Laws of Utah 2017, Chapter 253
63J-4-704, as enacted by Laws of Utah 2017, Chapter 253
63J-4-705, as enacted by Laws of Utah 2017, Chapter 253
63J-4-706, as enacted by Laws of Utah 2017, Chapter 253
63J-4-707, as enacted by Laws of Utah 2017, Chapter 253
63J-4-708, as last amended by Laws of Utah 2018, Chapter 423

Utah Code Sections Affected by Coordination Clause:
63I-1-263, as last amended by Laws of Utah 2020, Chapters 82, 152, 154, 199, 230, 303, 322, 336, 354, 360, 375, 405 and last amended by Coordination Clause, Laws of Utah 2020, Chapter 360
63J-4-202, as last amended by Laws of Utah 2013, Chapters 12 and 310
63L-11-402, Utah Code Annotated 1953

Uncodified Material Affected:
ENACTS UNCODIFIED MATERIAL

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 4-20-103 is amended to read:

4-20-103. State Grazing Advisory Board -- Duties.

(1) (a) There is created within the department the State Grazing Advisory Board.

(b) The commissioner shall appoint the following members:

(i) one member from each regional board;

(ii) one member from the Conservation Commission, created in Section 4-18-104;

(iii) one representative of the Department of Natural Resources;

(iv) two livestock producers at-large; and

(v) one representative of the oil, gas, or mining industry.

(2) The term of office for a state board member is four years.

(3) Members of the state board shall elect a chair, who shall serve for two years.

(4) A member may not receive compensation or benefits for the member's service but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(5) The state board shall:

(a) receive:

(i) advice and recommendations from a regional board concerning:

(A) management plans for public lands, state lands, and school and institutional trust lands as defined in Section 53C-1-103, within the regional board's region; and

(B) any issue that impacts grazing on private lands, public lands, state lands, or school and institutional trust lands as defined in Section 53C-1-103, in its region; and

(ii) requests for restricted account money from the entities described in Subsections (5)(c)(i) through (iv);

(b) recommend state policy positions and cooperative agency participation in federal and state land management plans to the department and to the Public Lands Policy Coordinating Office, created under Section [~~63J-4-602~~] 63L-11-201; and

(c) advise the department on the requests and recommendations of:

(i) regional boards;

(ii) county weed control boards, created in Section 4-17-105;

(iii) cooperative weed management associations; and

(iv) conservation districts created under the authority of Title 17D, Chapter 3, Conservation District Act.

Section 2. Section 11-38-201 is amended to read:

11-38-201. Quality Growth Commission -- Term of office -- Vacancy -- Organization -- Expenses -- Staff.

(1) (a) There is created a Quality Growth Commission consisting of:

(i) the director of the Department of Natural Resources;

(ii) the commissioner of the Department of Agriculture and Food;

(iii) six elected officials at the local government level, three of whom may not be residents of a county of the first or second class; and

(iv) five persons from the profit and nonprofit private sector, two of whom may not be residents of a county of the first or second class and no more than three of whom may be from the same political party and one of whom shall be from the residential construction industry, nominated by the Utah Home Builders Association, and one of whom shall be from the real estate industry, nominated by the Utah Association of Realtors.

(b) (i) The director of the Department of Natural Resources and the commissioner of the Department of Agriculture and Food may not assume their positions on the commission until:

(A) after May 1, 2005; and

(B) the term of the respective predecessor in office, who is a state government level appointee, expires.

(ii) The term of a commission member serving on May 1, 2005 as one of the six elected local officials or five private sector appointees may not be shortened because of application of the restriction under Subsections (1)(a)(iii) and (iv) on the number of appointees from counties of the first or second class.

(2) (a) Each commission member appointed under Subsection (1)(a)(iii) or (iv) shall be appointed by the governor with the advice and consent of the Senate.

(b) The governor shall select three of the six members under Subsection (1)(a)(iii) from a list of names provided by the Utah League of Cities and Towns, and shall select the remaining three from a list of names provided by the Utah Association of Counties.

(c) Two of the persons appointed under Subsection (1) shall be from the agricultural community from a list of names provided by Utah farm organizations.

(3) (a) The term of office of each member is four years, except that the governor shall appoint one of the persons at the state government level, three of the persons at the local government level, and two of the persons under Subsection (1)(a)(iv) to an initial two-year term.

(b) No member of the commission may serve more than two consecutive four-year terms.

(4) Each mid-term vacancy shall be filled for the unexpired term in the same manner as an appointment under Subsection (2).

(5) Commission members shall elect a chair from their number and establish rules for the organization and operation of the commission.

(6) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(7) A member is not required to give bond for the performance of official duties.

(8) Staff services to the commission:

(a) shall be provided by the Governor's Office of [~~Management~~] Planning and Budget; and

(b) may be provided by local entities through the Utah Association of Counties and the Utah League of Cities and Towns, with funds approved by the commission from those identified as available to local entities under Subsection 11-38-203(1)(a).

Section 3. Section 11-38-203 is amended to read:

11-38-203. Commission may provide assistance to local entities.

The commission may:

(1) from funds appropriated to the Governor's Office of [~~Management~~] Planning and Budget by the Legislature for this purpose, grant money to local entities to help them obtain the technical assistance they need to:

(a) conduct workshops or public hearings or use other similar methods to obtain public input and participation in the process of identifying for that entity the principles of quality growth referred to in Subsection 11-38-202(1)(f);

(b) identify where and how quality growth areas could be established within the local entity; and

(c) develop or modify the local entity's general plan to incorporate and implement the principles of quality growth developed by the local entity and to establish quality growth areas; and

(2) require each local entity to which the commission grants money under Subsection (1) to report to the commission, in a format and upon a timetable determined by the commission, on that local entity's process of developing quality growth principles and on the quality growth principles developed by that local entity.

Section 4. Section 17B-1-106 is amended to read:

17B-1-106. Notice before preparing or amending a long-range plan or acquiring certain property.

(1) As used in this section:

(a) (i) "Affected entity" means each county, municipality, local district under this title, special service district, school district, interlocal cooperation entity established under Title 11, Chapter 13, Interlocal Cooperation Act, and specified public utility:

(A) whose services or facilities are likely to require expansion or significant modification because of an intended use of land; or

(B) that has filed with the local district a copy of the general or long-range plan of the county, municipality, local district, school district, interlocal cooperation entity, or specified public utility.

(ii) "Affected entity" does not include the local district that is required under this section to provide notice.

(b) "Specified public utility" means an electrical corporation, gas corporation, or telephone corporation, as those terms are defined in Section 54-2-1.

(2) (a) If a local district under this title located in a county of the first or second class prepares a long-range plan regarding its facilities proposed for the future or amends an already existing long-range plan, the local district shall, before preparing a long-range plan or amendments to an existing long-range plan, provide written notice, as provided in this section, of its intent to prepare a long-range plan or to amend an existing long-range plan.

(b) Each notice under Subsection (2)(a) shall:

(i) indicate that the local district intends to prepare a long-range plan or to amend a long-range plan, as the case may be;

(ii) describe or provide a map of the geographic area that will be affected by the long-range plan or amendments to a long-range plan;

(iii) be:

(A) sent to each county in whose unincorporated area and each municipality in whose boundaries is located the land on which the proposed long-range plan or amendments to a long-range plan are expected to indicate that the proposed facilities will be located;

(B) sent to each affected entity;

(C) sent to the Automated Geographic Reference Center created in Section 63F-1-506;

(D) sent to each association of governments, established pursuant to an interlocal agreement under Title 11, Chapter 13, Interlocal Cooperation Act, of which a county or municipality described in Subsection (2)(b)(iii)(A) is a member; and

(E) (I) placed on the Utah Public Notice Website created under Section 63F-1-701, if the local district:

(Aa) is required under Subsection 52-4-203(3) to use that website to provide public notice of a meeting; or

(Bb) voluntarily chooses to place notice on that website despite not being required to do so under Subsection (2)(b)(iii)(E)(I)(Aa); or

(II) the state planning coordinator appointed under Section [~~63J-4-202~~] 63J-4-401, if the local district does not provide notice on the Utah Public Notice Website under Subsection (2)(b)(iii)(E)(I);

(iv) with respect to the notice to counties and municipalities described in Subsection (2)(b)(iii)(A) and affected entities, invite them to provide information for the local district to consider in the process of preparing, adopting, and implementing the long-range plan or amendments to a long-range plan concerning:

(A) impacts that the use of land proposed in the proposed long-range plan or amendments to a long-range plan may have on the county, municipality, or affected entity; and

(B) uses of land that the county, municipality, or affected entity is planning or considering that may conflict with the proposed long-range plan or amendments to a long-range plan; and

(v) include the address of an Internet website, if the local district has one, and the name and telephone number of a person where more information can be obtained concerning the local district's proposed long-range plan or amendments to a long-range plan.

(3) (a) Except as provided in Subsection (3)(d), each local district intending to acquire real property in a county of the first or second class for the purpose of expanding the district's infrastructure or other facilities used for providing the services that the district is authorized to provide shall provide written notice, as provided in this Subsection (3), of [~~its~~] the district's intent to acquire the property if the intended use of the property is contrary to:

(i) the anticipated use of the property under the county or municipality's general plan; or

(ii) the property's current zoning designation.

(b) Each notice under Subsection (3)(a) shall:

(i) indicate that the local district intends to acquire real property;

(ii) identify the real property; and

(iii) be sent to:

(A) each county in whose unincorporated area and each municipality in whose boundaries the property is located; and

(B) each affected entity.

(c) A notice under this Subsection (3) is a protected record as provided in Subsection 63G-2-305(8).

(d) (i) The notice requirement of Subsection (3)(a) does not apply if the local district previously provided notice under Subsection (2) identifying the general location within the municipality or unincorporated part of the county where the property to be acquired is located.

(ii) If a local district is not required to comply with the notice requirement of Subsection (3)(a) because of application of Subsection (3)(d)(i), the local district shall provide the notice specified in Subsection (3)(a) as soon as practicable after its acquisition of the real property.

Section 5. Section 23-14-21 is amended to read:

23-14-21. Transplants of big game, turkeys, wolves, or sensitive species.

(1) The division may transplant big game, turkeys, wolves, or sensitive species only in accordance with:

(a) a list of sites for the transplant of a particular species that is prepared and adopted in accordance with Subsections (2) through (5);

(b) a species management plan, such as a deer or elk management plan adopted under Section 23-16-7 or a recovery plan for a threatened or endangered species, provided that:

(i) the plan identifies sites for the transplant of the species or the lands or waters the species are expected to occupy; and

(ii) the public has had an opportunity to comment and make recommendations on the plan; or

(c) a legal agreement between the state and a tribal government that identifies potential transplants; and

(d) the Endangered Species Act of 1973, 16 U.S.C. Sec. 1531 et seq.

(2) The division shall:

(a) consult with the landowner in determining the suitability of a site for the transplant of a species;

(b) prepare a list of proposed sites for the transplant of species;

(c) provide notification of proposed sites for the transplant of species to:

(i) local government officials having jurisdiction over areas that may be affected by a transplant; and

(ii) the Resource Development Coordinating Committee created in Section [~~63J-4-501~~] 63L-11-401.

(3) After receiving comments from local government officials and the Resource Development Coordinating Committee, the division shall submit the list of proposed transplant sites, or a revised list, to regional advisory councils for regions that may be affected by the transplants of species.

(4) Each regional advisory council reviewing a list of proposed sites for the transplant of species may submit recommendations to the Wildlife Board.

(5) The Wildlife Board shall approve, modify, or reject each proposal for the transplant of a species.

(6) Each list of proposed transplant sites approved by the Wildlife Board shall have a termination date after which a transplant may not occur.

Section 6. Section 23-21-2.3 is amended to read:

23-21-2.3. Review and adoption of management plans.

(1) The division shall submit the draft management plan to the Resource Development Coordinating Committee created in Section [~~63J-4-501~~] 63L-11-401 and the Habitat Council created by the division for their review and recommendations.

(2) The division shall submit the draft management plan and any recommendations received from the Resource Development Coordinating Committee and the Habitat Council to:

(a) the regional advisory council for the wildlife region in which the lands covered by the management plan are located; and

(b) the regional advisory council for any wildlife region that may be affected by the management plan.

(3) Each regional advisory council reviewing the draft management plan may make recommendations to the division director.

(4) The division director has authority to adopt the management plan, adopt the plan with amendments, or reject the plan.

(5) At the request of the division director or any member of the Wildlife Board, the Wildlife Board may review a management plan to determine whether the plan is consistent with board policies.

(6) The division director may amend a management plan in accordance with recommendations made by the Wildlife Board.

Section 7. Section 26-18-405.5 is amended to read:

26-18-405.5. Base budget appropriations for Medicaid accountable care organizations.

(1) For purposes of this section:

(a) "ACOs" means accountable care organizations.

(b) "Base budget" means the same as that term is defined in legislative rule.

(c) "Current fiscal year PMPM" means per-member-per-month funding for Medicaid accountable care organizations under the Department of Health in the current fiscal year.

(d) "General Fund growth factor" means the amount determined by dividing the next fiscal year ongoing General Fund revenue estimate by current fiscal year ongoing appropriations from the General Fund.

(e) "Next fiscal year ongoing General Fund revenue estimate" means the next fiscal year ongoing General Fund revenue estimate identified by the Executive Appropriations Subcommittee, in accordance with legislative rule, for use by the Office of the Legislative Fiscal Analyst in preparing budget recommendations.

(f) "Next fiscal year PMPM" means per-member-per-month funding for Medicaid accountable care organizations under the Department of Health for the next fiscal year.

(2) If the General Fund growth factor is less than 100%, the next fiscal year base budget shall include an appropriation to the Department of Health for Medicaid ACOs in an amount necessary to ensure that next fiscal year PMPM equals current fiscal year PMPM multiplied by 100%.

(3) If the General Fund growth factor is greater than or equal to 100%, but less than 102%, the next fiscal year base budget shall include an appropriation to the Department of Health for Medicaid ACOs in an amount necessary to ensure that next fiscal year PMPM equals current fiscal year PMPM multiplied by the General Fund growth factor.

(4) If the General Fund growth factor is greater than or equal to 102%, the next fiscal year base budget shall include an appropriation to the Department of Health for Medicaid ACOs in an amount necessary to ensure that next fiscal year PMPM is greater than or equal to PMPM multiplied by 102% and less than or equal to current fiscal year PMPM multiplied by the General Fund growth factor.

(5) In order for the department to estimate the impact of Subsections (2) through (4) prior to identification of the next fiscal year ongoing General Fund revenue estimate under Subsection (1)(e), the Governor's Office of [~~Management~~] Planning and Budget shall, in cooperation with the Office of the Legislative Fiscal Analyst, develop an estimate of ongoing General Fund revenue for the next fiscal year and provide it to the department no later than [~~September~~] November 1 of each year.

Section 8. Section 32B-2-505 is amended to read:

32B-2-505. Reporting requirements -- Building plan and market survey required -- Department performance measures.

(1) In 2018 and each year thereafter, the department shall present a five-year building plan to the Infrastructure and General Government Appropriations Subcommittee that describes the department's anticipated property acquisition, building, and remodeling for the five years following the day on which the department presents the five-year building plan.

(2) (a) In 2018 and every other year thereafter, the department shall complete a market survey to inform the department's five-year building plan described in Subsection (1).

(b) The department shall:

(i) provide a copy of each market survey to the Infrastructure and General Government Appropriations Subcommittee and the Business and Labor Interim Committee; and

(ii) upon request, appear before the Infrastructure and General Government Appropriations Subcommittee to present the results of the market survey.

(3) For fiscal year 2018-19 and each fiscal year thereafter, before the fiscal year begins, the Governor's Office of [~~Management~~] Planning and Budget, in consultation with the department and the Office of the Legislative Fiscal Analyst, shall establish performance measures and goals to evaluate the department's operations during the fiscal year.

(4) (a) The department may not submit a request to the State Building Board for a capital development project unless the department first obtains approval from the Governor's Office of [~~Management~~] Planning and Budget.

(b) In determining whether to grant approval for a request described in Subsection (4)(a), the Governor's Office of [~~Management~~] Planning and Budget shall evaluate the extent to which the department met the performance measures and goals described in Subsection (3) during the previous fiscal year.

Section 9. Section 35A-1-109 is amended to read:

35A-1-109. Annual report -- Content -- Format.

(1) The department shall prepare and submit to the governor and the Legislature, by October 1 of each year, an annual written report of the operations, activities, programs, and services of the department, including its divisions, offices, boards, commissions, councils, and committees, for the preceding fiscal year.

(2) For each operation, activity, program, or service provided by the department, the annual report shall include:

(a) a description of the operation, activity, program, or service;

(b) data and metrics:

(i) selected and used by the department to measure progress, performance, effectiveness, and scope of the operation, activity, program, or service, including summary data; and

(ii) that are consistent and comparable for each state operation, activity, program, or service that primarily involves employment training or placement as determined by the executive directors of the department, the Governor's Office of Economic Development, and the Governor's Office of [~~Management~~] Planning and Budget;

(c) budget data, including the amount and source of funding, expenses, and allocation of full-time employees for the operation, activity, program, or service;

(d) historical data from previous years for comparison with data reported under Subsections (2)(b) and (c);

(e) goals, challenges, and achievements related to the operation, activity, program, or service;

(f) relevant federal and state statutory references and requirements;

(g) contact information of officials knowledgeable and responsible for each operation, activity, program, or service; and

(h) other information determined by the department that:

(i) may be needed, useful, or of historical significance; or

(ii) promotes accountability and transparency for each operation, activity, program, or service with the public and elected officials.

(3) The annual report shall be designed to provide clear, accurate, and accessible information to the public, the governor, and the Legislature.

(4) The department shall:

(a) submit the annual report in accordance with Section 68-3-14;

(b) make the annual report, and previous annual reports, accessible to the public by placing a link to the reports on the department's website; and

(c) provide the data and metrics described in Subsection (2)(b) to the Talent Ready Utah Board created in Section 63N-12-503.

Section 10. Section 35A-1-201 is amended to read:

35A-1-201. Executive director -- Appointment -- Removal -- Compensation -- Qualifications -- Responsibilities -- Deputy directors.

(1) (a) The chief administrative officer of the department is the executive director, who is appointed by the governor with the advice and consent of the Senate.

(b) The executive director serves at the pleasure of the governor.

(c) The executive director shall receive a salary established by the governor within the salary range fixed by the Legislature in Title 67, Chapter 22, State Officer Compensation.

(d) The executive director shall be experienced in administration, management, and coordination of complex organizations.

(2) The executive director shall:

(a) administer and supervise the department in compliance with Title 67, Chapter 19, Utah State Personnel Management Act;

(b) supervise and coordinate between the economic service areas and directors created under Chapter 2, Economic Service Areas;

(c) coordinate policies and program activities conducted through the divisions and economic service areas of the department;

(d) approve the proposed budget of each division, the Workforce Appeals Board, and each economic service area within the department;

(e) approve all applications for federal grants or assistance in support of any department program;

(f) coordinate with the executive directors of the Governor's Office of Economic Development and the Governor's Office of [~~Management~~] Planning and Budget to review data and metrics to be reported to the Legislature as described in Subsection 35A-1-109(2)(b); and

(g) fulfill such other duties as assigned by the Legislature or as assigned by the governor that are not inconsistent with this title.

(3) The executive director may appoint deputy or assistant directors to assist the executive director in carrying out the department's responsibilities.

(4) The executive director shall at least annually provide for the sharing of information between the advisory councils established under this title.

Section 11. Section 35A-8-601 is amended to read:

35A-8-601. Creation.

(1) There is created within the division the Homeless Coordinating Committee.

(2) (a) The committee shall consist of the following members:

(i) the lieutenant governor or the lieutenant governor's designee;

(ii) the [~~state planning coordinator or the coordinator's designee~~] executive director of the Governor's Office of Planning and Budget or the executive director's designee;

(iii) the state superintendent of public instruction or the superintendent's designee;

(iv) the chair of the board of trustees of the Utah Housing Corporation or the chair's designee;

(v) the executive director of the Department of Workforce Services or the executive director's designee;

(vi) the executive director of the Department of Corrections or the executive director's designee;

(vii) the executive director of the Department of Health or the executive director's designee;

(viii) the executive director of the Department of Human Services or the executive director's designee;

(ix) the mayor of Salt Lake City or the mayor's designee;

(x) the mayor of Salt Lake County or the mayor's designee;

(xi) the mayor of Ogden or the mayor's designee;

(xii) the mayor of Midvale or the mayor's designee;

(xiii) the mayor of St. George or the mayor's designee; and

(xiv) the mayor of South Salt Lake or the mayor's designee.

(b) (i) The lieutenant governor shall serve as the chair of the committee.

(ii) The lieutenant governor may appoint a vice chair from among committee members, who shall conduct committee meetings in the absence of the lieutenant governor.

(3) The governor may appoint as members of the committee:

(a) representatives of local governments, local housing authorities, local law enforcement agencies;

(b) representatives of federal and private agencies and organizations concerned with the homeless, persons with a mental illness, the elderly, single-parent families, persons with a substance use disorder, and persons with a disability; and

(c) a resident of Salt Lake County.

(4) (a) Except as required by Subsection (4)(b), as terms of current committee members appointed under Subsection (3) expire, the governor shall appoint each new member or reappointed member to a four-year term.

(b) Notwithstanding the requirements of Subsection (4)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of committee members are staggered so that approximately half of the committee is appointed every two years.

(c) A member appointed under Subsection (3) may not be appointed to serve more than three consecutive terms.

(5) When a vacancy occurs in the membership for any reason, the replacement is appointed for the unexpired term.

(6) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

Section 12. Section 36-2-4 is amended to read:

36-2-4. Legislative Compensation Commission created -- Governor's considerations in appointments -- Organization and expenses.

(1) There is created a state Legislative Compensation Commission composed of seven members appointed by the governor, not more than four of whom shall be from the same political party.

(2) (a) Except as required by Subsection (2)(b), the members shall be appointed for four-year terms.

(b) Notwithstanding the requirements of Subsection (2)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of board members are staggered so that approximately half of the board is appointed every two years.

(c) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term in the same manner as the vacated member was chosen.

(3) In appointing members of the commission, the governor shall give consideration to achieving representation from the major geographic areas of the state, and representation from a broad cross section of occupational, professional, employee, and management interests.

(4) The commission shall select a chair. Four members of the commission shall constitute a quorum. The commission shall not make any final determination without the concurrence of a majority of [~~its~~] the commission's members appointed and serving on the commission being present.

(5) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(6) (a) The commission shall be a citizen commission and no member or employee of the legislative, judicial, or executive branch is eligible for appointment to the commission.

(b) The executive director of the Governor's Office of [~~Management~~] Planning and Budget:

(i) shall provide staff to the commission; and

(ii) is responsible for administration, budgeting, procurement, and related management functions for the commission.

Section 13. Section 49-11-406 is amended to read:

49-11-406. Governor's appointed executives and senior staff -- Appointed legislative employees -- Transfer of value of accrued defined benefit -- Procedures.

(1) As used in this section:

(a) "Defined benefit balance" means the total amount of the contributions made on behalf of a member to a defined benefit system plus refund interest.

(b) "Senior staff" means an at-will employee who reports directly to an elected official, executive director, or director and includes a deputy director and other similar, at-will employee positions designated by the governor, the speaker of the House, or the president of the Senate and filed with the Department of Human Resource Management and the Utah State Retirement Office.

(2) In accordance with this section and subject to requirements under federal law and rules made by the board, a member who has service credit from a system may elect to be exempt from coverage under a defined benefit system and to have the member's defined benefit balance transferred from the defined benefit system or plan to a defined contribution plan in the member's own name if the member is:

(a) the state auditor;

(b) the state treasurer;

(c) an appointed executive under Subsection 67-22-2(1)(a);

(d) an employee in the Governor's Office;

(e) senior staff in the Governor's Office of [~~Management~~] Planning and Budget;

(f) senior staff in the Governor's Office of Economic Development;

(g) senior staff in the Commission on Criminal and Juvenile Justice;

(h) senior staff in the Public Lands Policy Coordinating Office, created in Section 63L-11-201;

[~~(h)~~] (i) a legislative employee appointed under Subsection 36-12-7(3)(a); or

[~~(i)~~] (j) a legislative employee appointed by the speaker of the House of Representatives, the House of Representatives minority leader, the president of the Senate, or the Senate minority leader[~~; or~~].

[~~(j) senior staff of the Utah Science Technology and Research Initiative created under Title 63M, Chapter 2, Utah Science Technology and Research Governing Authority Act.~~]

(3) An election made under Subsection (2):

(a) is final, and no right exists to make any further election;

(b) is considered a request to be exempt from coverage under a defined benefits system; and

(c) shall be made on forms provided by the office.

(4) The board shall adopt rules to implement and administer this section.

Section 14. Section 49-12-203 is amended to read:

49-12-203. Exclusions from membership in system.

(1) The following employees are not eligible for service credit in this system:

(a) subject to the requirements of Subsection (2), an employee whose employment status is temporary in nature due to the nature or the type of work to be performed;

(b) except as provided under Subsection (3)(a), an employee of an institution of higher education who participates in a retirement system with a public or private retirement system, organization, or company designated by the Utah Board of Higher Education, or the technical college board of trustees for an employee of each technical college, during any period in which required contributions based on compensation have been paid on behalf of the employee by the employer;

(c) an employee serving as an exchange employee from outside the state for an employer who has not elected to make all of the employer's exchange employees eligible for service credit in this system;

(d) an executive department head of the state, a member of the State Tax Commission, the Public Service Commission, and a member of a full-time or part-time board or commission who files a formal request for exemption;

(e) an employee of the Department of Workforce Services who is covered under another retirement system allowed under Title 35A, Chapter 4, Employment Security Act;

(f) an employee who is employed on or after July 1, 2009, with an employer that has elected, prior to July 1, 2009, to be excluded from participation in this system under Subsection 49-12-202(2)(c);

(g) an employee who is employed on or after July 1, 2014, with an employer that has elected, prior to July 1, 2014, to be excluded from participation in this system under Subsection 49-12-202(2)(d);

(h) an employee who is employed with a withdrawing entity that has elected under Section 49-11-623, prior to January 1, 2017, to exclude:

(i) new employees from participation in this system under Subsection 49-11-623(3)(a); or

(ii) all employees from participation in this system under Subsection 49-11-623(3)(b); or

(i) an employee described in Subsection (1)(i)(i) or (ii) who is employed with a withdrawing entity that has elected under Section 49-11-624, before January 1, 2018, to exclude:

(i) new employees from participation in this system under Subsection 49-11-624(3)(a); or

(ii) all employees from participation in this system under Subsection 49-11-624(3)(b).

(2) If an employee whose status is temporary in nature due to the nature of type of work to be performed:

(a) is employed for a term that exceeds six months and the employee otherwise qualifies for service credit in this system, the participating employer shall report and certify to the office that the employee is a regular full-time employee effective the beginning of the seventh month of employment; or

(b) was previously terminated prior to being eligible for service credit in this system and is reemployed within three months of termination by the same participating employer, the participating employer shall report and certify that the member is a regular full-time employee when the total of the periods of employment equals six months and the employee otherwise qualifies for service credits in this system.

(3) (a) Upon cessation of the participating employer contributions, an employee under Subsection (1)(b) is eligible for service credit in this system.

(b) Notwithstanding the provisions of Subsection (1)(f), any eligibility for service credit earned by an employee under this chapter before July 1, 2009 is not affected under Subsection (1)(f).

(c) Notwithstanding the provisions of Subsection (1)(g), any eligibility for service credit earned by an employee under this chapter before July 1, 2014, is not affected under Subsection (1)(g).

(4) Upon filing a written request for exemption with the office, the following employees shall be exempt from coverage under this system:

(a) a full-time student or the spouse of a full-time student and individuals employed in a trainee relationship;

(b) an elected official;

(c) an executive department head of the state, a member of the State Tax Commission, a member of the Public Service Commission, and a member of a full-time or part-time board or commission;

(d) an employee of the Governor's Office of [~~Management~~] Planning and Budget;

(e) an employee of the Governor's Office of Economic Development;

(f) an employee of the Commission on Criminal and Juvenile Justice;

(g) an employee of the Governor's Office;

(h) an employee of the Public Lands Policy Coordinating Office, created in Section 63L-11-201;

[~~(h)~~] (i) an employee of the State Auditor's Office;

[~~(i)~~] (j) an employee of the State Treasurer's Office;

[~~(j)~~] (k) any other member who is permitted to make an election under Section 49-11-406;

[~~(k)~~] (l) a person appointed as a city manager or chief city administrator or another person employed by a municipality, county, or other political subdivision, who is an at-will employee;

[~~(l)~~] (m) an employee of an interlocal cooperative agency created under Title 11, Chapter 13, Interlocal Cooperation Act, who is engaged in a specialized trade customarily provided through membership in a labor organization that provides retirement benefits to [~~its~~] the organization's members; and

[~~(m)~~] (n) an employee serving as an exchange employee from outside the state for an employer who has elected to make all of the employer's exchange employees eligible for service credit in this system.

(5) (a) Each participating employer shall prepare and maintain a list designating those positions eligible for exemption under Subsection (4).

(b) An employee may not be exempted unless the employee is employed in an exempted position designated by the participating employer.

(6) (a) In accordance with this section, Section 49-13-203, and Section 49-22-205, a municipality, county, or political subdivision may not exempt a total of more than 50 positions or a number equal to 10% of the eligible employees of the municipality, county, or political subdivision, whichever is less.

(b) A municipality, county, or political subdivision may exempt at least one regular full-time employee.

(7) Each participating employer shall:

(a) maintain a list of employee exemptions; and

(b) update the employee exemptions in the event of any change.

(8) The office may make rules to implement this section.

(9) An employee's exclusion, exemption, participation, or election described in this section:

(a) shall be made in accordance with this section; and

(b) is subject to requirements under federal law and rules made by the board.

Section 15. Section 49-20-410 is amended to read:

49-20-410. High deductible health plan -- Health savings account -- Contributions.

(1) (a) In addition to other employee benefit plans offered under Subsection 49-20-201(1), the office shall offer at least one federally qualified high deductible health plan with a health savings account as an optional health plan.

(b) The provisions and limitations of the plan shall be:

(i) determined by the office in accordance with federal requirements and limitations; and

(ii) designed to promote appropriate health care utilization by consumers, including preventive health care services.

(c) A state employee hired on or after July 1, 2011, who is offered a plan under Subsection 49-20-202(1)(a), shall be enrolled in a federally qualified high deductible health plan unless the employee chooses a different health benefit plan during the employee's open enrollment period.

(2) The office shall:

(a) administer the high deductible health plan in coordination with a health savings account for medical expenses for each covered individual in the high deductible health plan;

(b) offer to all employees training regarding all health plans offered to employees;

(c) prepare online training as an option for the training required by Subsections (2)(b) and (4);

(d) ensure the training offered under Subsections (2)(b) and (c) includes information on changing coverages to the high deductible plan with a health savings account, including coordination of benefits with other insurances, restrictions on other insurance coverages, and general tax implications; and

(e) coordinate annual open enrollment with the Department of Human Resource Management to give state employees the opportunity to affirmatively select preferences from among insurance coverage options.

(3) (a) Contributions to the health savings account may be made by the employer.

(b) The amount of the employer contributions under Subsection (3)(a) shall be determined annually by the office, after consultation with the Department of Human Resource Management and the Governor's Office of [~~Management~~] Planning and Budget so that the annual employer contribution amount is not less than the difference in the actuarial value between the program's health maintenance organization coverage and the federally qualified high deductible health plan coverage, after taking into account any difference in employee premium contribution.

(c) The office shall distribute the annual amount determined under Subsection (3)(b) to employees in two equal amounts with a pay date in January and a pay date in July of each plan year.

(d) An employee may also make contributions to the health savings account.

(e) If an employee is ineligible for a contribution to a health savings account under federal law and would otherwise be eligible for the contribution under Subsection (3)(a), the contribution shall be distributed into a health reimbursement account or other tax-advantaged arrangement authorized under the Internal Revenue Code for the benefit of the employee.

(4) (a) An employer participating in a plan offered under Subsection 49-20-202(1)(a) shall require each employee to complete training on the health plan options available to the employee.

(b) The training required by Subsection (4)(a):

(i) shall include materials prepared by the office under Subsection (2);

(ii) may be completed online; and

(iii) shall be completed:

(A) before the end of the 2012 open enrollment period for current enrollees in the program; and

(B) for employees hired on or after July 1, 2011, before the employee's selection of a plan in the program.

Section 16. Section 49-22-205 is amended to read:

49-22-205. Exemptions from participation in system.

(1) Upon filing a written request for exemption with the office, the following employees are exempt from participation in the system as provided in this section:

(a) an executive department head of the state;

(b) a member of the State Tax Commission;

(c) a member of the Public Service Commission;

(d) a member of a full-time or part-time board or commission;

(e) an employee of the Governor's Office of [~~Management~~] Planning and Budget;

(f) an employee of the Governor's Office of Economic Development;

(g) an employee of the Commission on Criminal and Juvenile Justice;

(h) an employee of the Governor's Office;

(i) an employee of the State Auditor's Office;

(j) an employee of the State Treasurer's Office;

(k) any other member who is permitted to make an election under Section 49-11-406;

(l) a person appointed as a city manager or appointed as a city administrator or another at-will employee of a municipality, county, or other political subdivision;

(m) an employee of an interlocal cooperative agency created under Title 11, Chapter 13, Interlocal Cooperation Act, who is engaged in a specialized trade customarily provided through membership in a labor organization that provides retirement benefits to its members; and

[~~(n) an employee of the Utah Science Technology and Research Initiative created under Title 63M, Chapter 2, Utah Science Technology and Research Governing Authority Act; and~~]

[~~(o)~~] (n) an employee serving as an exchange employee from outside the state for an employer who has elected to make all of the employer's exchange employees eligible for service credit in this system.

(2) (a) A participating employer shall prepare and maintain a list designating those positions eligible for exemption under Subsection (1).

(b) An employee may not be exempted unless the employee is employed in a position designated by the participating employer under Subsection (1).

(3) (a) In accordance with this section, Section 49-12-203, and Section 49-13-203, a municipality, county, or political subdivision may not exempt a total of more than 50 positions or a number equal to 10% of the eligible employees of the municipality, county, or political subdivision, whichever is less.

(b) A municipality, county, or political subdivision may exempt at least one regular full-time employee.

(4) Each participating employer shall:

(a) maintain a list of employee exemptions; and

(b) update an employee exemption in the event of any change.

(5) Beginning on the effective date of the exemption for an employee who elects to be exempt in accordance with Subsection (1):

(a) for a member of the Tier II defined contribution plan:

(i) the participating employer shall contribute the nonelective contribution and the amortization rate described in Section 49-22-401, except that the nonelective contribution is exempt from the vesting requirements of Subsection 49-22-401(3)(a); and

(ii) the member may make voluntary deferrals as provided in Section 49-22-401; and

(b) for a member of the Tier II hybrid retirement system:

(i) the participating employer shall contribute the nonelective contribution and the amortization rate described in Section 49-22-401, except that the contribution is exempt from the vesting requirements of Subsection 49-22-401(3)(a);

(ii) the member may make voluntary deferrals as provided in Section 49-22-401; and

(iii) the member is not eligible for additional service credit in the system.

(6) If an employee who is a member of the Tier II hybrid retirement system subsequently revokes the election of exemption made under Subsection (1), the provisions described in Subsection (5)(b) shall no longer be applicable and the coverage for the employee shall be effective prospectively as provided in Part 3, Tier II Hybrid Retirement System.

(7) (a) All employer contributions made on behalf of an employee shall be invested in accordance with Subsection 49-22-303(3)(a) or 49-22-401(4)(a) until the one-year election period under Subsection 49-22-201(2)(c) is expired if the employee:

(i) elects to be exempt in accordance with Subsection (1); and

(ii) continues employment with the participating employer through the one-year election period under Subsection 49-22-201(2)(c).

(b) An employee is entitled to receive a distribution of the employer contributions made on behalf of the employee and all associated investment gains and losses if the employee:

(i) elects to be exempt in accordance with Subsection (1); and

(ii) terminates employment prior to the one-year election period under Subsection 49-22-201(2)(c).

(8) (a) The office shall make rules to implement this section.

(b) The rules made under this Subsection (8) shall include provisions to allow the exemption provided under Subsection (1) to apply to all contributions made beginning on or after July 1, 2011, on behalf of an exempted employee who began the employment before May 8, 2012.

(9) An employee's exemption, participation, or election described in this section:

(a) shall be made in accordance with this section; and

(b) is subject to requirements under federal law and rules made by the board.

Section 17. Section 51-10-202 is amended to read:

51-10-202. Board of trustees of the fund -- Trust administrator.

(1) (a) There is created a board of trustees of the fund composed of the following three members:

(i) the state treasurer;

(ii) the director of the Division of Finance; and

(iii) the director of the Governor's Office of [~~Management~~] Planning and Budget or the director's designee.

(b) The state treasurer is chair of the board.

(c) Three members of the board is a quorum.

(d) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(i) Section 63A-3-106;

(ii) Section 63A-3-107; and

(iii) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(2) (a) The board shall:

(i) contract with a person to act as trust administrator in accordance with Title 63G, Chapter 6a, Utah Procurement Code, and when not provided for by this chapter, define the trust administrator's duties; or

(ii) if unable to find a qualified person under Subsection (2)(a)(i) to act as trust administrator for a reasonable cost, hire a qualified person to act as trust administrator and, when not provided for in this chapter, define the trust administrator's duties.

(b) If the board hires a trust administrator under Subsection (2)(a)(ii), the board may hire or authorize the trust administrator to hire other persons necessary to assist the trust administrator and the board to perform the duties required by this chapter.

(3) The board shall:

(a) on behalf of the state, act as trustee of the fund and exercise the state's fiduciary responsibilities;

(b) meet at least once every other month;

(c) review and approve the policies, projections, rules, criteria, procedures, forms, standards, and performance goals established by the trust administrator;

(d) review and approve the fund budget prepared by the trust administrator;

(e) review the progress reports from programs financed by the fund;

(f) review financial records of the fund, including fund receipts, expenditures, and investments; and

(g) do any other thing necessary to perform the state's fiduciary obligations under the fund.

(4) The attorney general shall:

(a) act as legal counsel and provide legal representation to the board; and

(b) attend or direct an attorney from the attorney general's office to attend each meeting of the board.

(5) The board may consult with knowledgeable state personnel to advise the board on policy and technical matters.

Section 18. Section 53-2c-201 is amended to read:

53-2c-201. Public Health and Economic Emergency Commission -- Creation -- Membership -- Quorum -- Per diem -- Staff support -- Meetings.

(1) There is created the Public Health and Economic Emergency Commission consisting of the following members:

(a) the executive director of the Department of Health, or the executive director's designee;

(b) four individuals, appointed by the governor, including:

(i) the chief executive of a for profit health care organization that operates at least one hospital in the state;

(ii) the chief executive of a not-for-profit health care organization that operates at least one hospital in the state; and

(iii) two other individuals;

(c) two individuals appointed by the president of the Senate;

(d) two individuals appointed by the speaker of the House of Representatives; and

(e) one individual appointed by the chief executive officer of the Utah Association of Counties.

(2) (a) The president of the Senate and the speaker of the House of Representatives shall jointly designate one of the members appointed under Subsection (1)(c) or (d) as chair of the commission.

(b) For an appointment under Subsection (1)(c) or (d), the president of the Senate or the speaker of the House of Representatives may appoint a legislator or a non-legislator.

(3) (a) If a vacancy occurs in the membership of the commission appointed under Subsection (1)(b), (c), (d), or (e), the member shall be replaced in the same manner in which the original appointment was made.

(b) A member of the commission serves until the member's successor is appointed and qualified.

(4) (a) A majority of the commission members constitutes a quorum.

(b) The action of a majority of a quorum constitutes an action of the commission.

(5) (a) The salary and expenses of a commission member who is a legislator shall be paid in accordance with Section 36-2-2, Legislative Joint Rules, Title 5, Chapter 2, Lodging, Meal, and Transportation Expenses, and Legislative Joint Rules, Title 5, Chapter 3, Legislator Compensation.

(b) A commission member who is not a legislator may not receive compensation or benefits for the member's service on the commission, but may receive per diem and reimbursement for travel expenses incurred as a commission member at the rates established by the Division of Finance under:

(i) Sections 63A-3-106 and 63A-3-107; and

(ii) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(6) The Governor's Office of [~~Management~~] Planning and Budget shall:

(a) provide staff support to the commission; and

(b) coordinate with the Office of Legislative Research and General Counsel regarding the commission.

(7) A meeting of the commission that takes place during a public health emergency is not subject to Title 52, Chapter 4, Open and Public Meetings Act.

Section 19. Section 53-17-402 is amended to read:

53-17-402. Local Public Safety and Firefighter Surviving Spouse Trust Fund Board of Trustees -- Quorum -- Duties -- Establish rates.

(1) (a) There is created the Local Public Safety and Firefighter Surviving Spouse Trust Fund Board of Trustees composed of four members:

(i) the commissioner of public safety or the commissioner's designee;

(ii) the executive director of the Governor's Office of [~~Management~~] Planning and Budget or the executive director's designee;

(iii) one person representing municipalities, designated by the Utah League of Cities and Towns; and

(iv) one person representing counties, designated by the Utah Association of Counties.

(b) The commissioner of public safety, or the commissioner's designee, is chair of the board.

(c) Three members of the board are a quorum.

(d) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(i) Section 63A-3-106;

(ii) Section 63A-3-107; and

(iii) rules made by the Division of Finance according to Sections 63A-3-106 and 63A-3-107.

(e) (i) The Department of Public Safety shall staff the board of trustees.

(ii) The department shall provide accounting services for the trust fund.

(2) The board shall:

(a) establish rates to charge each employer based on the number of public safety service employees and firefighter service employees who are eligible for the health coverage under this chapter;

(b) act as trustee of the trust fund and exercise the state's fiduciary responsibilities;

(c) meet at least once per year;

(d) review and approve all policies, projections, rules, criteria, procedures, forms, standards, performance goals, and actuarial reports;

(e) review and approve the budget for the trust fund;

(f) review financial records of the trust fund, including trust fund receipts, expenditures, and investments;

(g) commission and obtain financial or actuarial studies of the liabilities for the trust fund;

(h) calculate and approve administrative expenses of the trust fund; and

(i) do any other things necessary to perform the fiduciary obligations under the trust.

Section 20. Section 53B-2a-110 is amended to read:

53B-2a-110. Technical college board of trustees' powers and duties.

(1) A technical college board of trustees shall:

(a) assist the technical college president in preparing a budget request for the technical college's annual operations to the board;

(b) after consulting with the board, other higher education institutions, school districts, and charter schools within the technical college's region, prepare a comprehensive strategic plan for delivering technical education within the region;

(c) consult with business, industry, the Department of Workforce Services, the Governor's Office of Economic Development, and the Governor's Office of [~~Management~~] Planning and Budget on an ongoing basis to determine what workers and skills are needed for employment in Utah businesses and industries;

(d) in accordance with Section 53B-16-102, develop programs based upon the information described in Subsection (1)(c), including expedited program approval and termination procedures to meet market needs;

(e) adopt an annual budget and fund balances;

(f) develop policies for the operation of technical education facilities under the technical college board of trustees' jurisdiction;

(g) establish human resources and compensation policies for all employees in accordance with policies of the board;

(h) approve credentials for employees and assign employees to duties in accordance with board policies and accreditation guidelines;

(i) conduct annual program evaluations;

(j) appoint program advisory committees and other advisory groups to provide counsel, support, and recommendations for updating and improving the effectiveness of training programs and services;

(k) approve regulations, both regular and emergency, to be issued and executed by the technical college president;

(l) coordinate with local school boards, school districts, and charter schools to meet the technical education needs of secondary students;

(m) develop policies and procedures for the admission, classification, instruction, and examination of students in accordance with the policies and accreditation guidelines of the board and the State Board of Education; and

(n) (i) approve a strategic plan for the technical college that is aligned with:

(A) state attainment goals;

(B) workforce needs; and

(C) the technical college's role, mission, and distinctiveness; and

(ii) monitor the technical college's progress toward achieving the strategic plan.

(2) A policy described in Subsection (1)(g) does not apply to compensation for a technical college president.

(3) A technical college board of trustees may not exercise jurisdiction over career and technical education provided by a school district or charter school or provided by a higher education institution independently of the technical college.

(4) If a program advisory committee or other advisory group submits a printed recommendation to a technical college board of trustees, the technical college board of trustees shall acknowledge the recommendation with a printed response that explains the technical college board of trustees' action regarding the recommendation and the reasons for the action.

Section 21. Section 53F-2-205 is amended to read:

53F-2-205. Powers and duties of state board to adjust Minimum School Program allocations -- Use of remaining funds at the end of a fiscal year.

(1) As used in this section:

(a) "ESEA" means the Elementary and Secondary Education Act of 1965, 20 U.S.C. Sec. 6301 et seq.

(b) "Program" means a program or allocation funded by a line item appropriation or other appropriation designated as:

(i) Basic Program;

(ii) Related to Basic Programs;

(iii) Voted and Board Levy Programs; or

(iv) Minimum School Program.

(2) Except as provided in Subsection (3) or (5), if the number of weighted pupil units in a program is underestimated, the state board shall reduce the value of the weighted pupil unit in that program so that the total amount paid for the program does not exceed the amount appropriated for the program.

(3) If the number of weighted pupil units in a program is overestimated, the state board shall spend excess money appropriated for the following purposes giving priority to the purpose described in Subsection (3)(a):

(a) to support the value of the weighted pupil unit in a program within the basic state-supported school program in which the number of weighted pupil units is underestimated;

(b) to support the state guaranteed local levy increments as defined in Section 53F-2-601, if:

(i) local contributions to the voted local levy program or board local levy program are overestimated; or

(ii) the number of weighted pupil units within school districts qualifying for a guarantee is underestimated;

(c) to support the state supplement to local property taxes allocated to charter schools, if the state supplement is less than the amount prescribed by Section 53F-2-704;

(d) to fund the cost of the salary supplements described in Section 53F-2-504; or

(e) to support a school district with a loss in student enrollment as provided in Section 53F-2-207.

(4) If local contributions from the minimum basic tax rate imposed under Section 53F-2-301 or 53F-2-301.5, as applicable, are overestimated, the state board shall reduce the value of the weighted pupil unit for all programs within the basic state-supported school program so the total state contribution to the basic state-supported school program does not exceed the amount of state funds appropriated.

(5) If local contributions from the minimum basic tax rate imposed under Section 53F-2-301 or 53F-2-301.5, as applicable, are underestimated, the state board shall:

(a) spend the excess local contributions for the purposes specified in Subsection (3), giving priority to supporting the value of the weighted pupil unit in programs within the basic state-supported school program in which the number of weighted pupil units is underestimated; and

(b) reduce the state contribution to the basic state-supported school program so the total cost of the basic state-supported school program does not exceed the total state and local funds appropriated to the basic state-supported school program plus the local contributions necessary to support the value of the weighted pupil unit in programs within the basic state-supported school program in which the number of weighted pupil units is underestimated.

(6) Except as provided in Subsection (3) or (5), the state board shall reduce the state guarantee per weighted pupil unit provided under the local levy state guarantee program described in Section 53F-2-601, if:

(a) local contributions to the voted local levy program or board local levy program are overestimated; or

(b) the number of weighted pupil units within school districts qualifying for a guarantee is underestimated.

(7) Money appropriated to the state board is nonlapsing, including appropriations to the Minimum School Program and all agencies, line items, and programs under the jurisdiction of the state board.

(8) The state board shall report actions taken by the state board under this section to the Office of the Legislative Fiscal Analyst and the Governor's Office of [~~Management~~] Planning and Budget.

Section 22. Section 53F-2-208 is amended to read:

53F-2-208. Cost of adjustments for growth and inflation.

(1) In accordance with Subsection (2), the Legislature shall annually determine:

(a) the estimated state cost of adjusting for inflation in the next fiscal year, based on a rolling five-year average ending in the current fiscal year, ongoing state tax fund appropriations to the following programs:

(i) education for youth in custody, described in Section 53E-3-503;

(ii) the Basic Program, described in Title 53F, Chapter 2, Part 3, Basic Program (Weighted Pupil Units);

(iii) the Adult Education Program, described in Section 53F-2-401;

(iv) state support of pupil transportation, described in Section [~~53F-4-402~~] 53F-2-402;

(v) the Enhancement for Accelerated Students Program, described in Section 53F-2-408;

(vi) the Concurrent Enrollment Program, described in Section 53F-2-409; and

(vii) the Enhancement for At-Risk Students Program, described in Section 53F-2-410; and

(b) the estimated state cost of adjusting for enrollment growth, in the next fiscal year, the current fiscal year's ongoing state tax fund appropriations to the following programs:

(i) a program described in Subsection (1)(a);

(ii) educator salary adjustments, described in Section 53F-2-405;

(iii) the Teacher Salary Supplement Program, described in Section 53F-2-504;

(iv) the Voted and Board Local Levy Guarantee programs, described in Section 53F-2-601; and

(v) charter school local replacement funding, described in Section 53F-2-702.

(2) (a) In or before December each year, the Executive Appropriations Committee shall determine:

(i) the cost of the inflation adjustment described in Subsection (1)(a); and

(ii) the cost of the enrollment growth adjustment described in Subsection (1)(b).

(b) The Executive Appropriations Committee shall make the determinations described in Subsection (2)(a) based on recommendations developed by the Office of the Legislative Fiscal Analyst, in consultation with the state board and the Governor's Office of [~~Management~~] Planning and Budget.

Section 23. Section 53F-2-601 is amended to read:

53F-2-601. State guaranteed local levy increments -- Appropriation to increase number of guaranteed local levy increments -- No effect of change of minimum basic tax rate -- Voted and board local levy funding balance -- Use of guaranteed local levy increment funds.

(1) As used in this section:

(a) "Board local levy" means a local levy described in Section 53F-8-302.

(b) "Guaranteed local levy increment" means a local levy increment guaranteed by the state:

(i) for the board local levy, described in Subsections (2)(a)(ii)(A) and (2)(b)(ii)(B); or

(ii) for the voted local levy, described in Subsections (2)(a)(ii)(B) and (2)(b)(ii)(A).

(c) "Local levy increment" means .0001 per dollar of taxable value.

(d) (i) "Voted and board local levy funding balance" means the difference between:

(A) the amount appropriated for the guaranteed local levy increments in a fiscal year; and

(B) the amount necessary to fund in the same fiscal year the guaranteed local levy increments as determined under this section.

(ii) "Voted and board local levy funding balance" does not include appropriations described in Subsection (2)(b)(i).

(e) "Voted local levy" means a local levy described in Section 53F-8-301.

(2) (a) (i) In addition to the revenue collected from the imposition of a voted local levy or a board local levy, the state shall guarantee that a school district receives, subject to Subsections (2)(b)(ii)(C) and (3)(a), for each guaranteed local levy increment, an amount sufficient to guarantee for a fiscal year that begins on July 1, 2018, $43.10 per weighted pupil unit.

(ii) Except as provided in Subsection (2)(b)(ii), the number of local levy increments that are subject to the guarantee amount described in Subsection (2)(a)(i) are:

(A) for a board local levy, the first four local levy increments a local school board imposes under the board local levy; and

(B) for a voted local levy, the first 16 local levy increments a local school board imposes under the voted local levy.

(b) (i) Subject to future budget constraints and Subsection (2)(c), the Legislature shall annually appropriate money from the Local Levy Growth Account established in Section 53F-9-305 for purposes described in Subsection (2)(b)(ii).

(ii) The state board shall, for a fiscal year beginning on or after July 1, 2018, and subject to Subsection (2)(c), allocate funds appropriated under Subsection (2)(b)(i) in the following order of priority by increasing:

(A) by up to four increments the number of voted local levy guaranteed local levy increments above 16;

(B) by up to 16 increments the number of board local levy guaranteed local levy increments above four; and

(C) the guaranteed amount described in Subsection (2)(a)(i).

(c) The number of guaranteed local levy increments under this Subsection (2) for a school district may not exceed 20 guaranteed local levy increments, regardless of whether the guaranteed local levy increments are from the imposition of a voted local levy, a board local levy, or a combination of the two.

(3) (a) The guarantee described in Subsection (2)(a)(i) is indexed each year to the value of the weighted pupil unit by making the value of the guarantee equal to .011962 times the value of the prior year's weighted pupil unit.

(b) The guarantee shall increase by .0005 times the value of the prior year's weighted pupil unit for each year subject to the Legislature appropriating funds for an increase in the guarantee.

(4) (a) The amount of state guarantee money that a school district would otherwise be entitled to receive under this section may not be reduced for the sole reason that the school district's board local levy or voted local levy is reduced as a consequence of changes in the certified tax rate under Section 59-2-924 pursuant to changes in property valuation.

(b) Subsection (4)(a) applies for a period of five years following a change in the certified tax rate as described in Subsection (4)(a).

(5) The guarantee provided under this section does not apply to the portion of a voted local levy rate that exceeds the voted local levy rate that was in effect for the previous fiscal year, unless an increase in the voted local levy rate was authorized in an election conducted on or after July 1 of the previous fiscal year and before December 2 of the previous fiscal year.

(6) (a) If a voted and board local levy funding balance exists for the prior fiscal year, the state board shall:

(i) use the voted and board local levy funding balance to increase the value of the state guarantee per weighted pupil unit described in Subsection (3)(a) in the current fiscal year; and

(ii) distribute guaranteed local levy increment funds to school districts based on the increased value of the state guarantee per weighted pupil unit described in Subsection (6)(a)(i).

(b) The state board shall report action taken under Subsection (6)(a) to the Office of the Legislative Fiscal Analyst and the Governor's Office of [~~Management~~] Planning and Budget.

(7) A local school board of a school district that receives funds described in this section shall budget and expend the funds for public education purposes.

Section 24. Section 53F-9-201 is amended to read:

53F-9-201. Uniform School Fund -- Contents -- Trust Distribution Account.

(1) As used in this section:

(a) "Annual distribution calculation" means, for a given fiscal year, the average of:

(i) 4% of the average market value of the State School Fund for that fiscal year; and

(ii) the distribution amount for the prior fiscal year, multiplied by the sum of:

(A) one;

(B) the percent change in student enrollment from the school year two years prior to the prior school year; and

(C) the actual total percent change of the consumer price index during the last 12 months as measured in June of the prior fiscal year.

(b) "Average market value of the State School Fund" means the results of a calculation completed by the SITFO director each fiscal year that averages the value of the State School Fund for the past 12 consecutive quarters ending in the prior fiscal year.

(c) "Consumer price index" means the Consumer Price Index for All Urban Consumers: All Items Less Food & Energy, as published by the Bureau of Labor Statistics of the United States Department of Labor.

(d) "SITFO director" means the director of the School and Institutional Trust Fund Office appointed under Section 53D-1-401.

(e) "State School Fund investment earnings distribution amount" or "distribution amount" means, for a fiscal year, the lesser of:

(i) the annual distribution calculation; or

(ii) 4% of the average market value of the State School Fund.

(2) The Uniform School Fund, a special revenue fund within the Education Fund, established by Utah Constitution, Article X, Section 5, consists of:

(a) distributions derived from the investment of money in the permanent State School Fund established by Utah Constitution, Article X, Section 5;

(b) money transferred to the fund pursuant to Title 67, Chapter 4a, Revised Uniform Unclaimed Property Act; and

(c) all other constitutional or legislative allocations to the fund, including:

(i) appropriations for the Minimum School Program, enrollment growth, and inflation under Section 53F-9-201.1; and

(ii) revenues received by donation.

(3) (a) There is created within the Uniform School Fund a restricted account known as the Trust Distribution Account.

(b) The Trust Distribution Account consists of:

(i) in accordance with Subsection (4), quarterly deposits of the State School Fund investment earnings distribution amount from the prior fiscal year;

(ii) all interest earned on the Trust Distribution Account in the prior fiscal year; and

(iii) any unused appropriation for the administration of the School LAND Trust Program, as described in Subsection 53F-2-404(1)(c).

(4) If, at the end of a fiscal year, the Trust Distribution Account has a balance remaining after subtracting the appropriation amount described in Subsection 53F-2-404(1)(a) for the next fiscal year, the SITFO director shall, during the next fiscal year, apply the amount of the remaining balance from the prior fiscal year toward the current fiscal year's distribution amount by reducing a quarterly deposit to the Trust Distribution Account by the amount of the remaining balance from the prior fiscal year.

(5) On or before October 1 of each year, the SITFO director shall:

(a) in accordance with this section, determine the distribution amount for the following fiscal year; and

(b) report the amount described in Subsection (5)(a) as the funding amount, described in Subsection 53F-2-404(1)(c), for the School LAND Trust Program, to:

(i) the State Treasurer;

(ii) the Legislative Fiscal Analyst;

(iii) the Division of Finance;

(iv) the director of the Land Trusts Protection and Advocacy Office, appointed under Section 53D-2-203;

(v) the School and Institutional Trust Lands Administration created in Section 53C-1-201;

(vi) the state board; and

(vii) the Governor's Office of [~~Management~~] Planning and Budget.

(6) The School and Institutional Trust Fund Board of Trustees created in Section 53D-1-301 shall:

(a) annually review the distribution amount; and

(b) make recommendations, if necessary, to the Legislature for changes to the formula for calculating the distribution amount.

(7) Upon appropriation by the Legislature, the SITFO director shall place in the Trust Distribution Account funds for the School LAND Trust Program as described in Subsections 53F-2-404(1)(a) and (c).

Section 25. Section 54-3-28 is amended to read:

54-3-28. Notice required of certain public utilities before preparing or amending a long-range plan or acquiring certain property.

(1) As used in this section:

(a) (i) "Affected entity" means each county, municipality, local district under Title 17B, Limited Purpose Local Government Entities - Local Districts, special service district, school district, interlocal cooperation entity established under Title 11, Chapter 13, Interlocal Cooperation Act, and specified public utility:

(A) whose services or facilities are likely to require expansion or significant modification because of expected uses of land under a proposed long-range plan or under proposed amendments to a long-range plan; or

(B) that has filed with the specified public utility a copy of the general or long-range plan of the county, municipality, local district, special service district, school district, interlocal cooperation entity, or specified public utility.

(ii) "Affected entity" does not include the specified public utility that is required under Subsection (2) to provide notice.

(b) "Specified public utility" means an electrical corporation, gas corporation, or telephone corporation, as those terms are defined in Section 54-2-1.

(2) (a) If a specified public utility prepares a long-range plan regarding its facilities proposed for the future in a county of the first or second class or amends an already existing long-range plan, the specified public utility shall, before preparing a long-range plan or amendments to an existing long-range plan, provide written notice, as provided in this section, of its intent to prepare a long-range plan or to amend an existing long-range plan.

(b) Each notice under Subsection (2) shall:

(i) indicate that the specified public utility intends to prepare a long-range plan or to amend a long-range plan, as the case may be;

(ii) describe or provide a map of the geographic area that will be affected by the long-range plan or amendments to a long-range plan;

(iii) be sent to:

(A) each county in whose unincorporated area and each municipality in whose boundaries is located the land on which the proposed long-range plan or amendments to a long-range plan are expected to indicate that the proposed facilities will be located;

(B) each affected entity;

(C) the Automated Geographic Reference Center created in Section 63F-1-506;

(D) each association of governments, established pursuant to an interlocal agreement under Title 11, Chapter 13, Interlocal Cooperation Act, of which a county or municipality described in Subsection (2)(b)(iii)(A) is a member; and

(E) the state planning coordinator appointed under Section [~~63J-4-202~~] 63J-4-401;

(iv) with respect to the notice to counties and municipalities described in Subsection (2)(b)(iii)(A) and affected entities, invite them to provide information for the specified public utility to consider in the process of preparing, adopting, and implementing the long-range plan or amendments to a long-range plan concerning:

(A) impacts that the use of land proposed in the proposed long-range plan or amendments to a long-range plan may have on the county, municipality, or affected entity; and

(B) uses of land that the county, municipality, or affected entity is planning or considering that may conflict with the proposed long-range plan or amendments to a long-range plan; and

(v) include the address of an Internet website, if the specified public utility has one, and the name and telephone number of a person where more information can be obtained concerning the specified public utility's proposed long-range plan or amendments to a long-range plan.

(3) (a) Except as provided in Subsection (3)(d), each specified public utility intending to acquire real property in a county of the first or second class for the purpose of expanding its infrastructure or other facilities used for providing the services that the specified public utility is authorized to provide shall provide written notice, as provided in this Subsection (3), of its intent to acquire the property if the intended use of the property is contrary to:

(i) the anticipated use of the property under the county or municipality's general plan; or

(ii) the property's current zoning designation.

(b) Each notice under Subsection (3)(a) shall:

(i) indicate that the specified public utility intends to acquire real property;

(ii) identify the real property; and

(iii) be sent to:

(A) each county in whose unincorporated area and each municipality in whose boundaries the property is located; and

(B) each affected entity.

(c) A notice under this Subsection (3) is a protected record as provided in Subsection 63G-2-305(8).

(d) (i) The notice requirement of Subsection (3)(a) does not apply if the specified public utility previously provided notice under Subsection (2) identifying the general location within the municipality or unincorporated part of the county where the property to be acquired is located.

(ii) If a specified public utility is not required to comply with the notice requirement of Subsection (3)(a) because of application of Subsection (3)(d)(i), the specified public utility shall provide the notice specified in Subsection (3)(a) as soon as practicable after its acquisition of the real property.

Section 26. Section 59-1-403 is amended to read:

59-1-403. Confidentiality -- Exceptions -- Penalty -- Application to property tax.

(1) (a) Any of the following may not divulge or make known in any manner any information gained by that person from any return filed with the commission:

(i) a tax commissioner;

(ii) an agent, clerk, or other officer or employee of the commission; or

(iii) a representative, agent, clerk, or other officer or employee of any county, city, or town.

(b) An official charged with the custody of a return filed with the commission is not required to produce the return or evidence of anything contained in the return in any action or proceeding in any court, except:

(i) in accordance with judicial order;

(ii) on behalf of the commission in any action or proceeding under:

(A) this title; or

(B) other law under which persons are required to file returns with the commission;

(iii) on behalf of the commission in any action or proceeding to which the commission is a party; or

(iv) on behalf of any party to any action or proceeding under this title if the report or facts shown by the return are directly involved in the action or proceeding.

(c) Notwithstanding Subsection (1)(b), a court may require the production of, and may admit in evidence, any portion of a return or of the facts shown by the return, as are specifically pertinent to the action or proceeding.

(2) This section does not prohibit:

(a) a person or that person's duly authorized representative from receiving a copy of any return or report filed in connection with that person's own tax;

(b) the publication of statistics as long as the statistics are classified to prevent the identification of particular reports or returns; and

(c) the inspection by the attorney general or other legal representative of the state of the report or return of any taxpayer:

(i) who brings action to set aside or review a tax based on the report or return;

(ii) against whom an action or proceeding is contemplated or has been instituted under this title; or

(iii) against whom the state has an unsatisfied money judgment.

(3) (a) Notwithstanding Subsection (1) and for purposes of administration, the commission may by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, provide for a reciprocal exchange of information with:

(i) the United States Internal Revenue Service; or

(ii) the revenue service of any other state.

(b) Notwithstanding Subsection (1) and for all taxes except individual income tax and corporate franchise tax, the commission may by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, share information gathered from returns and other written statements with the federal government, any other state, any of the political subdivisions of another state, or any political subdivision of this state, except as limited by Sections 59-12-209 and 59-12-210, if the political subdivision, other state, or the federal government grant substantially similar privileges to this state.

(c) Notwithstanding Subsection (1) and for all taxes except individual income tax and corporate franchise tax, the commission may by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, provide for the issuance of information concerning the identity and other information of taxpayers who have failed to file tax returns or to pay any tax due.

(d) Notwithstanding Subsection (1), the commission shall provide to the director of the Division of Environmental Response and Remediation, as defined in Section 19-6-402, as requested by the director of the Division of Environmental Response and Remediation, any records, returns, or other information filed with the commission under Chapter 13, Motor and Special Fuel Tax Act, or Section 19-6-410.5 regarding the environmental assurance program participation fee.

(e) Notwithstanding Subsection (1), at the request of any person the commission shall provide that person sales and purchase volume data reported to the commission on a report, return, or other information filed with the commission under:

(i) Chapter 13, Part 2, Motor Fuel; or

(ii) Chapter 13, Part 4, Aviation Fuel.

(f) Notwithstanding Subsection (1), upon request from a tobacco product manufacturer, as defined in Section 59-22-202, the commission shall report to the manufacturer:

(i) the quantity of cigarettes, as defined in Section 59-22-202, produced by the manufacturer and reported to the commission for the previous calendar year under Section 59-14-407; and

(ii) the quantity of cigarettes, as defined in Section 59-22-202, produced by the manufacturer for which a tax refund was granted during the previous calendar year under Section 59-14-401 and reported to the commission under Subsection 59-14-401(1)(a)(v).

(g) Notwithstanding Subsection (1), the commission shall notify manufacturers, distributors, wholesalers, and retail dealers of a tobacco product manufacturer that is prohibited from selling cigarettes to consumers within the state under Subsection 59-14-210(2).

(h) Notwithstanding Subsection (1), the commission may:

(i) provide to the Division of Consumer Protection within the Department of Commerce and the attorney general data:

(A) reported to the commission under Section 59-14-212; or

(B) related to a violation under Section 59-14-211; and

(ii) upon request, provide to any person data reported to the commission under Subsections 59-14-212(1)(a) through (c) and Subsection 59-14-212(1)(g).

(i) Notwithstanding Subsection (1), the commission shall, at the request of a committee of the Legislature, the Office of the Legislative Fiscal Analyst, or the Governor's Office of [~~Management~~] Planning and Budget, provide to the committee or office the total amount of revenues collected by the commission under Chapter 24, Radioactive Waste Facility Tax Act, for the time period specified by the committee or office.

(j) Notwithstanding Subsection (1), the commission shall make the directory required by Section 59-14-603 available for public inspection.

(k) Notwithstanding Subsection (1), the commission may share information with federal, state, or local agencies as provided in Subsection 59-14-606(3).

(l) (i) Notwithstanding Subsection (1), the commission shall provide the Office of Recovery Services within the Department of Human Services any relevant information obtained from a return filed under Chapter 10, Individual Income Tax Act, regarding a taxpayer who has become obligated to the Office of Recovery Services.

(ii) The information described in Subsection (3)(l)(i) may be provided by the Office of Recovery Services to any other state's child support collection agency involved in enforcing that support obligation.

(m) (i) Notwithstanding Subsection (1), upon request from the state court administrator, the commission shall provide to the state court administrator, the name, address, telephone number, county of residence, and social security number on resident returns filed under Chapter 10, Individual Income Tax Act.

(ii) The state court administrator may use the information described in Subsection (3)(m)(i) only as a source list for the master jury list described in Section 78B-1-106.

(n) (i) As used in this Subsection (3)(n):

(A) "GOED" means the Governor's Office of Economic Development created in Section 63N-1-201.

(B) "Income tax information" means information gained by the commission that is required to be attached to or included in a return filed with the commission under Chapter 7, Corporate Franchise and Income Taxes, or Chapter 10, Individual Income Tax Act.

(C) "Other tax information" means information gained by the commission that is required to be attached to or included in a return filed with the commission except for a return filed under Chapter 7, Corporate Franchise and Income Taxes, or Chapter 10, Individual Income Tax Act.

(D) "Tax information" means income tax information or other tax information.

(ii) (A) Notwithstanding Subsection (1) and except as provided in Subsection (3)(n)(ii)(B) or (C), the commission shall at the request of GOED provide to GOED all income tax information.

(B) For purposes of a request for income tax information made under Subsection (3)(n)(ii)(A), GOED may not request and the commission may not provide to GOED a person's address, name, social security number, or taxpayer identification number.

(C) In providing income tax information to GOED, the commission shall in all instances protect the privacy of a person as required by Subsection (3)(n)(ii)(B).

(iii) (A) Notwithstanding Subsection (1) and except as provided in Subsection (3)(n)(iii)(B), the commission shall at the request of GOED provide to GOED other tax information.

(B) Before providing other tax information to GOED, the commission shall redact or remove any name, address, social security number, or taxpayer identification number.

(iv) GOED may provide tax information received from the commission in accordance with this Subsection (3)(n) only:

(A) as a fiscal estimate, fiscal note information, or statistical information; and

(B) if the tax information is classified to prevent the identification of a particular return.

(v) (A) A person may not request tax information from GOED under Title 63G, Chapter 2, Government Records Access and Management Act, or this section, if GOED received the tax information from the commission in accordance with this Subsection (3)(n).

(B) GOED may not provide to a person that requests tax information in accordance with Subsection (3)(n)(v)(A) any tax information other than the tax information GOED provides in accordance with Subsection (3)(n)(iv).

(o) Notwithstanding Subsection (1), the commission may provide to the governing board of the agreement or a taxing official of another state, the District of Columbia, the United States, or a territory of the United States:

(i) the following relating to an agreement sales and use tax:

(A) information contained in a return filed with the commission;

(B) information contained in a report filed with the commission;

(C) a schedule related to Subsection (3)(o)(i)(A) or (B); or

(D) a document filed with the commission; or

(ii) a report of an audit or investigation made with respect to an agreement sales and use tax.

(p) Notwithstanding Subsection (1), the commission may provide information concerning a taxpayer's state income tax return or state income tax withholding information to the Driver License Division if the Driver License Division:

(i) requests the information; and

(ii) provides the commission with a signed release form from the taxpayer allowing the Driver License Division access to the information.

(q) Notwithstanding Subsection (1), the commission shall provide to the Utah Communications Authority, or a division of the Utah Communications Authority, the information requested by the authority under Sections 63H-7a-302, 63H-7a-402, and 63H-7a-502.

(r) Notwithstanding Subsection (1), the commission shall provide to the Utah Educational Savings Plan information related to a resident or nonresident individual's contribution to a Utah Educational Savings Plan account as designated on the resident or nonresident's individual income tax return as provided under Section 59-10-1313.

(s) Notwithstanding Subsection (1), for the purpose of verifying eligibility under Sections 26-18-2.5 and 26-40-105, the commission shall provide an eligibility worker with the Department of Health or its designee with the adjusted gross income of an individual if:

(i) an eligibility worker with the Department of Health or its designee requests the information from the commission; and

(ii) the eligibility worker has complied with the identity verification and consent provisions of Sections 26-18-2.5 and 26-40-105.

(t) Notwithstanding Subsection (1), the commission may provide to a county, as determined by the commission, information declared on an individual income tax return in accordance with Section 59-10-103.1 that relates to eligibility to claim a residential exemption authorized under Section 59-2-103.

(u) Notwithstanding Subsection (1), the commission shall provide a report regarding any access line provider that is over 90 days delinquent in payment to the commission of amounts the access line provider owes under Title 69, Chapter 2, Part 4, Prepaid Wireless Telecommunications Service Charges, to the board of the Utah Communications Authority created in Section 63H-7a-201.

(v) Notwithstanding Subsection (1), the commission shall provide the Department of Environmental Quality a report on the amount of tax paid by a radioactive waste facility for the previous calendar year under Section 59-24-103.5.

(w) Notwithstanding Subsection (1), the commission may, upon request, provide to the Department of Workforce Services any information received under Chapter 10, Part 4, Withholding of Tax, that is relevant to the duties of the Department of Workforce Services.

(x) Notwithstanding Subsection (1), the commission may provide the Public Service Commission or the Division of Public Utilities information related to a seller that collects and remits to the commission a charge described in Subsection 69-2-405(2), including the seller's identity and the number of charges described in Subsection 69-2-405(2) that the seller collects.

(4) (a) Each report and return shall be preserved for at least three years.

(b) After the three-year period provided in Subsection (4)(a) the commission may destroy a report or return.

(5) (a) Any individual who violates this section is guilty of a class A misdemeanor.

(b) If the individual described in Subsection (5)(a) is an officer or employee of the state, the individual shall be dismissed from office and be disqualified from holding public office in this state for a period of five years thereafter.

(c) Notwithstanding Subsection (5)(a) or (b), GOED, when requesting information in accordance with Subsection (3)(n)(iii), or an individual who requests information in accordance with Subsection (3)(n)(v):

(i) is not guilty of a class A misdemeanor; and

(ii) is not subject to:

(A) dismissal from office in accordance with Subsection (5)(b); or

(B) disqualification from holding public office in accordance with Subsection (5)(b).

(6) Except as provided in Section 59-1-404, this part does not apply to the property tax.

Section 27. Section 59-1-403.1 is amended to read:

59-1-403.1. Disclosure of return information.

(1) As used in this section:

(a) "Office" means:

(i) the Office of the Legislative Fiscal Analyst, established in Section 36-12-13;

(ii) the Office of Legislative Research and General Counsel, established in Section 36-12-12; or

(iii) the Governor's Office of [~~Management~~] Planning and Budget, created in Section 63J-4-201.

(b) (i) "Return information" means information gained by the commission that is required to be attached to or included in a return filed with the commission.

(ii) "Return information" does not include information that the commission is prohibited from disclosing by federal law, federal regulation, or federal publication.

(2) (a) Notwithstanding Subsection 59-1-403(1), the commission, at the request of an office, shall provide to the office all return information with the items described in Subsection (2)(b) removed.

(b) For purposes of a request for return information made under Subsection (2)(a), the commission shall redact or remove any name, address, social security number, or taxpayer identification number.

(3) (a) An office may disclose return information received from the commission in accordance with this section only:

(i) (A) as a fiscal estimate, fiscal note information, or statistical information; and

(B) in a manner that reasonably protects the identification of a particular taxpayer; or

(ii) to another office.

(b) A person may not request return information, other than the return information that the office discloses in accordance with Subsection (3)(a), from an office under Title 63G, Chapter 2, Government Records Access and Management Act, or this section, if that office received the return information from the commission in accordance with this section.

(c) An office may not disclose to a person that requests return information any return information other than the return information that the office discloses in accordance with Subsection (3)(a).

(4) Any individual who violates Subsection (3)(a):

(a) is guilty of a class A misdemeanor; and

(b) shall be:

(i) dismissed from office; and

(ii) disqualified from holding public office in this state for a period of five years after dismissal.

(5) (a) An office and the commission may enter into an agreement specifying the procedures for accessing, storing, and destroying return information requested in accordance with this section.

(b) An office's access to return information is governed by this section, and except as provided in Subsection (5)(a), may not be limited by any agreement.

Section 28. Section 59-15-109 is amended to read:

59-15-109. Tax money to be paid to state treasurer.

(1) Except as provided in Subsection (2), taxes collected under this chapter shall be paid by the commission to the state treasurer daily for deposit as follows:

(a) the greater of the following shall be deposited into the Alcoholic Beverage Enforcement and Treatment Restricted Account created in Section 32B-2-403:

(i) an amount calculated by:

(A) determining an amount equal to 40% of the revenue collected for the fiscal year two years preceding the fiscal year for which the deposit is made; and

(B) subtracting $30,000 from the amount determined under Subsection (1)(a)(i)(A); or

(ii) $4,350,000; and

(b) the revenue collected in excess of the amount deposited in accordance with Subsection (1)(a) shall be deposited into the General Fund.

(2) For a fiscal year beginning on or after July 1, 2020, the state treasurer shall annually deposit into the Alcoholic Beverage Enforcement and Treatment Restricted Account created in Section 32B-2-403 an amount equal to the amount of revenue generated in the current fiscal year by the portion of the tax imposed under Section 59-15-101 that exceeds:

(a) $12.80 per 31-gallon barrel for beer imported or manufactured:

(i) on or after July 1, 2003; and

(ii) for sale, use, or distribution in this state; and

(b) a proportionate rate to the rate described in Subsection (2)(a) for:

(i) any quantity of beer other than a 31-gallon barrel; or

(ii) the fractional parts of a 31-gallon barrel.

(3) (a) The commission shall notify the entities described in Subsection (3)(b) not later than the September 1 preceding the fiscal year of the deposit of:

(i) the amount of the proceeds of the beer excise tax collected in accordance with this section for the fiscal year two years preceding the fiscal year of deposit; and

(ii) an amount equal to 40% of the amount listed in Subsection (3)(a)(i).

(b) The notification required by Subsection (3)(a) shall be sent to:

(i) the Governor's Office of [~~Management~~] Planning and Budget; and

(ii) the Legislative Fiscal Analyst.

Section 29. Section 62A-15-612 is amended to read:

62A-15-612. Allocation of pediatric state hospital beds -- Formula.

(1) As used in this section:

(a) "Mental health catchment area" means a county or group of counties governed by a local mental health authority.

(b) "Pediatric beds" means the total number of patient beds located in the children's unit and the youth units at the state hospital, as determined by the superintendent of the state hospital.

(2) On July 1, 1996, 72 pediatric beds shall be allocated to local mental health authorities under this section. The division shall review and adjust the number of pediatric beds as necessary every three years according to the state's population of persons under 18 years of age. All population figures utilized shall reflect the most recent available population estimates from the Governor's Office of [~~Management~~] Planning and Budget.

(3) The allocation of beds shall be based on the percentage of the state's population of persons under the age of 18 located within a mental health catchment area. Each community mental health center shall be allocated at least one bed.

(4) A local mental health authority may sell or loan its allocation of beds to another local mental health authority.

(5) The division shall allocate 72 pediatric beds at the state hospital to local mental health authorities for their use in accordance with the formula established under this section. If a local mental health authority is unable to access a bed allocated to it under that formula, the division shall provide that local mental health authority with funding equal to the reasonable, average daily cost of an acute care bed purchased by the local mental health authority.

Section 30. Section 63A-1-114 is amended to read:

63A-1-114. Rate committee -- Membership -- Duties.

(1) (a) There is created a rate committee consisting of the executive directors, commissioners, or superintendents of seven state agencies, which may include the State Board of Education, that use services and pay rates to one of the department internal service funds, or their designee, that the governor appoints for a two-year term.

(b) (i) Of the seven state agencies represented on the rate committee under Subsection (1)(a), only one of the following may be represented on the committee, if at all, at any one time:

(A) the Governor's Office of [~~Management~~] Planning and Budget; or

(B) the Department of Technology Services.

(ii) The department may not have a representative on the rate committee.

(c) (i) The committee shall elect a chair from its members.

(ii) Members of the committee who are state government employees and who do not receive salary, per diem, or expenses from their agency for their service on the committee shall receive no compensation, benefits, per diem, or expenses for the members' service on the committee.

(d) The Department of Administrative Services shall provide staff services to the committee.

(2) (a) A division described in Section 63A-1-109 that manages an internal service fund shall submit to the committee a proposed rate and fee schedule for services rendered by the division to an executive branch entity or an entity that subscribes to services rendered by the division.

(b) The committee shall:

(i) conduct meetings in accordance with Title 52, Chapter 4, Open and Public Meetings Act;

(ii) meet at least once each calendar year to:

(A) discuss the service performance of each internal service fund;

(B) review the proposed rate and fee schedules;

(C) at the rate committee's discretion, approve, increase, or decrease the rate and fee schedules described in Subsection (2)(b)(ii)(B); and

(D) discuss any prior or potential adjustments to the service level received by state agencies that pay rates to an internal service fund;

(iii) recommend a proposed rate and fee schedule for each internal service fund to:

(A) the Governor's Office of [~~Management~~] Planning and Budget; and

(B) each legislative appropriations subcommittee that, in accordance with Section 63J-1-410, approves the internal service fund agency's rates, fees, and budget; and

(iv) review and approve, increase or decrease an interim rate, fee, or amount when an internal service fund agency begins a new service or introduces a new product between annual general sessions of the Legislature.

(c) The committee may in accordance with Subsection 63J-1-410(4), decrease a rate, fee, or amount that has been approved by the Legislature.

Section 31. Section 63A-1-203 is amended to read:

63A-1-203. Utah Transparency Advisory Board -- Creation -- Membership -- Duties.

(1) There is created within the department the Utah Transparency Advisory Board comprised of members knowledgeable about public finance or providing public access to public information.

(2) The board consists of:

(a) the state auditor or the state auditor's designee;

(b) an individual appointed by the executive director of the department;

(c) an individual appointed by the executive director of the Governor's Office of [~~Management~~] Planning and Budget;

(d) an individual appointed by the governor on advice from the Legislative Fiscal Analyst;

(e) one member of the Senate, appointed by the governor on advice from the president of the Senate;

(f) one member of the House of Representatives, appointed by the governor on advice from the speaker of the House of Representatives;

(g) an individual appointed by the director of the Department of Technology Services;

(h) the director of the Division of Archives and Records Service created in Section 63A-12-101 or the director's designee;

(i) an individual who is a member of the State Records Committee created in Section 63G-2-501, appointed by the governor;

(j) an individual representing counties, appointed by the governor;

(k) an individual representing municipalities, appointed by the governor;

(l) an individual representing special districts, appointed by the governor;

(m) an individual representing the State Board of Education, appointed by the State Board of Education; and

(n) one individual who is a member of the public and who has knowledge, expertise, or experience in matters relating to the board's duties under Subsection (10), appointed by the board members identified in Subsections (2)(a) through (m).

(3) The board shall:

(a) advise the state auditor and the department on matters related to the implementation and administration of this part;

(b) develop plans, make recommendations, and assist in implementing the provisions of this part;

(c) determine what public financial information shall be provided by a participating state entity, independent entity, and participating local entity, if the public financial information:

(i) only includes records that:

(A) are classified as public under Title 63G, Chapter 2, Government Records Access and Management Act, or, subject to any specific limitations and requirements regarding the provision of financial information from the entity described in Section 63A-1-202, if an entity is exempt from Title 63G, Chapter 2, Government Records Access and Management Act, records that would normally be classified as public if the entity were not exempt from Title 63G, Chapter 2, Government Records Access and Management Act;

(B) are an accounting of money, funds, accounts, bonds, loans, expenditures, or revenues, regardless of the source; and

(C) are owned, held, or administered by the participating state entity, independent entity, or participating local entity that is required to provide the record; and

(ii) is of the type or nature that should be accessible to the public via a website based on considerations of:

(A) the cost effectiveness of providing the information;

(B) the value of providing the information to the public; and

(C) privacy and security considerations;

(d) evaluate the cost effectiveness of implementing specific information resources and features on the website;

(e) require participating local entities to provide public financial information in accordance with the requirements of this part, with a specified content, reporting frequency, and form;

(f) require an independent entity's website or a participating local entity's website to be accessible by link or other direct route from the Utah Public Finance Website if the independent entity or participating local entity does not use the Utah Public Finance Website;

(g) determine the search methods and the search criteria that shall be made available to the public as part of a website used by an independent entity or a participating local entity under the requirements of this part, which criteria may include:

(i) fiscal year;

(ii) expenditure type;

(iii) name of the agency;

(iv) payee;

(v) date; and

(vi) amount; and

(h) analyze ways to improve the information on the Utah Public Finance Website so the information is more relevant to citizens, including through the use of:

(i) infographics that provide more context to the data; and

(ii) geolocation services, if possible.

(4) Every two years, the board shall elect a chair and a vice chair from its members.

(5) (a) Each member shall serve a four-year term.

(b) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for a four-year term.

(6) To accomplish its duties, the board shall meet as it determines necessary.

(7) Reasonable notice shall be given to each member of the board before any meeting.

(8) A majority of the board constitutes a quorum for the transaction of business.

(9) (a) A member who is not a legislator may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses as allowed in:

(i) Section 63A-3-106;

(ii) Section 63A-3-107; and

(iii) rules made by the Division of Finance according to Sections 63A-3-106 and 63A-3-107.

(b) Compensation and expenses of a member who is a legislator are governed by Section 36-2-2 and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.

(10) (a) As used in Subsections (10) and (11):

(i) "Information website" means a single Internet website containing public information or links to public information.

(ii) "Public information" means records of state government, local government, or an independent entity that are classified as public under Title 63G, Chapter 2, Government Records Access and Management Act, or, subject to any specific limitations and requirements regarding the provision of financial information from the entity described in Section 63A-1-202, if an entity is exempt from Title 63G, Chapter 2, Government Records Access and Management Act, records that would normally be classified as public if the entity were not exempt from Title 63G, Chapter 2, Government Records Access and Management Act.

(b) The board shall:

(i) study the establishment of an information website and develop recommendations for its establishment;

(ii) develop recommendations about how to make public information more readily available to the public through the information website;

(iii) develop standards to make uniform the format and accessibility of public information posted to the information website; and

(iv) identify and prioritize public information in the possession of a state agency or political subdivision that may be appropriate for publication on the information website.

(c) In fulfilling its duties under Subsection (10)(b), the board shall be guided by principles that encourage:

(i) (A) the establishment of a standardized format of public information that makes the information more easily accessible by the public;

(B) the removal of restrictions on the reuse of public information;

(C) minimizing limitations on the disclosure of public information while appropriately safeguarding sensitive information; and

(D) balancing factors in favor of excluding public information from an information website against the public interest in having the information accessible on an information website;

(ii) (A) permanent, lasting, open access to public information; and

(B) the publication of bulk public information;

(iii) the implementation of well-designed public information systems that ensure data quality, create a public, comprehensive list or index of public information, and define a process for continuous publication of and updates to public information;

(iv) the identification of public information not currently made available online and the implementation of a process, including a timeline and benchmarks, for making that public information available online; and

(v) accountability on the part of those who create, maintain, manage, or store public information or post it to an information website.

(d) The department shall implement the board's recommendations, including the establishment of an information website, to the extent that implementation:

(i) is approved by the Legislative Management Committee;

(ii) does not require further legislative appropriation; and

(iii) is within the department's existing statutory authority.

(11) The department shall, in consultation with the board and as funding allows, modify the information website described in Subsection (10) to:

(a) by January 1, 2015, serve as a point of access for Government Records Access and Management Act requests for executive agencies;

(b) by January 1, 2016, serve as a point of access for Government Records Access and Management Act requests for:

(i) school districts;

(ii) charter schools;

(iii) public transit districts created under Title 17B, Chapter 2a, Part 8, Public Transit District Act;

(iv) counties; and

(v) municipalities;

(c) by January 1, 2017, serve as a point of access for Government Records Access and Management Act requests for:

(i) local districts under Title 17B, Limited Purpose Local Government Entities - Local Districts; and

(ii) special service districts under Title 17D, Chapter 1, Special Service District Act;

(d) except as provided in Subsection (12)(a), provide link capabilities to other existing repositories of public information, including maps, photograph collections, legislatively required reports, election data, statute, rules, regulations, and local ordinances that exist on other agency and political subdivision websites;

(e) provide multiple download options in different formats, including nonproprietary, open formats where possible;

(f) provide any other public information that the board, under Subsection (10), identifies as appropriate for publication on the information website; and

(g) incorporate technical elements the board identifies as useful to a citizen using the information website.

(12) (a) The department, in consultation with the board, shall establish by rule any restrictions on the inclusion of maps and photographs, as described in Subsection (11)(d), on the website described in Subsection (10) if the inclusion would pose a potential security concern.

(b) The website described in Subsection (10) may not publish any record that is classified as private, protected, or controlled under Title 63G, Chapter 2, Government Records Access and Management Act.

Section 32. Section 63A-5b-201 is amended to read:

63A-5b-201. Creation of state building board -- Composition -- Appointment -- Per diem and expenses -- Board officers.

(1) There is created within the department the state building board.

(2) (a) The board is composed of eight members, seven of whom are voting members appointed by the governor.

(b) The executive director of the Governor's Office of [~~Management~~] Planning and Budget, or the executive director's designee, is a nonvoting member of the board.

(3) The term of a voting board member is four years, except that the governor shall, at the time of a member's appointment or reappointment, adjust the length of the member's term, as necessary, to ensure that approximately half of the board is appointed every two years.

(4) When a vacancy occurs in the membership of the voting members of the board for any reason, the governor shall appoint a replacement for the unexpired term of the member who created the vacancy.

(5) (a) A voting board member shall hold office until a successor is appointed and qualified.

(b) A voting board member may not serve more than two consecutive terms.

(6) The governor shall designate one board member as the board chair.

(7) A member of the board may not receive compensation or benefits for the member's service on the board, but may receive per diem and travel expenses in accordance with:

(a) Sections 63A-3-106 and 63A-3-107; and

(b) rules made by the Division of Finance in accordance with Sections 63A-3-106 and 63A-3-107.

(8) A member of the board is not required to post a bond for the performance of the member's official duties.

(9) The executive director or the executive director's designee shall serve as secretary to the board and shall:

(a) manage scheduling for the board and the board's calendar;

(b) establish and manage the agenda for meetings of the board;

(c) keep the minutes of board meetings;

(d) assist the board in the board's obligation to comply with Title 52, Chapter 4, Open and Public Meetings Act;

(e) (i) assist the board in the board's obligation to comply with Title 63G, Chapter 2, Government Records Access and Management Act; and

(ii) act as the board's records officer, as defined in Section 63G-2-103; and

(f) assist the board in the board's obligation to comply with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Section 33. Section 63A-5b-702 is amended to read:

63A-5b-702. Standards and requirements for state facilities -- Life-cycle cost effectiveness.

(1) As used in this section:

(a) "Life cycle cost-effective" means the most prudent cost of owning, operating, and maintaining a facility, including the initial cost, energy costs, operation and maintenance costs, repair costs, and the costs of energy conservation and renewable energy systems.

(b) "Renewable energy system" means a system designed to use solar, wind, geothermal power, wood, or other replenishable energy source to heat, cool, or provide electricity to a building.

(2) The director shall, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules:

(a) that establish standards and requirements for determining whether a state facility project is life cycle cost-effective;

(b) for the monitoring of an agency's operation and maintenance expenditures for a state-owned facility;

(c) to establish standards and requirements for utility metering;

(d) that create an operation and maintenance program for an agency's facilities;

(e) that establish a methodology for determining reasonably anticipated inflationary costs for each operation and maintenance program described in Subsection (2)(d);

(f) that require an agency to report the amount the agency receives and expends on operation and maintenance; and

(g) that provide for determining the actual cost for operation and maintenance requests for a new facility.

(3) The director shall:

(a) ensure that state-owned facilities, except for facilities under the control of the State Capitol Preservation Board, are life cycle cost-effective;

(b) conduct ongoing facilities audits of state-owned facilities; and

(c) monitor an agency's operation and maintenance expenditures for state-owned facilities as provided in rules made under Subsection (2)(b).

(4) (a) An agency shall comply with the rules made under Subsection (2) for new facility requests submitted to the Legislature for a session of the Legislature after the 2017 General Session.

(b) The Office of the Legislative Fiscal Analyst and the Governor's Office of [~~Management~~] Planning and Budget shall, for each agency with operation and maintenance expenses, ensure that

each required budget for the agency is adjusted in accordance with the rules described in Subsection (2)(e).

Section 34. Section 63B-2-301 is amended to read:

63B-2-301. Legislative intent -- Additional projects.

It is the intent of the Legislature that:

(1) The Department of Employment Security use money in the special administrative fund to plan, design, and construct a Davis County facility under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by him as authorized by Section 63A-5b-604.

(2) The University of Utah may use donated funds to plan, design, and construct the Nora Eccles Harrison addition under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by him as authorized by Section 63A-5b-604.

(3) The University of Utah may use hospital funds to plan, design, and construct the West Patient Services Building under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by him as authorized by Section 63A-5b-604.

(4) The University of Utah may use federal funds to plan, design, and construct the Computational Science Building under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by him as authorized by Section 63A-5b-604.

(5) The Board of Regents may issue revenue bonds to provide:

(a) $6,700,000 to plan, design, and construct single student housing at Utah State University under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by him as authorized by Section 63A-5b-604; and

(b) additional money necessary to:

(i) pay costs incident to the issuance and sale of the bonds;

(ii) pay interest on the bonds that accrues during construction and acquisition of the project and for up to one year after construction is completed; and

(iii) fund any reserve requirements for the bonds.

(6) Utah State University may use federal funds to plan, design, and construct the Natural Resources Lab addition under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by him as authorized by Section 63A-5b-604.

(7) Utah State University may use funds derived from property sales to plan, design, and construct emergency relocation facilities for the Farmington Botanical Gardens under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by him as authorized by Section 63A-5b-604.

(8) Utah State University may use institutional funds to plan, design, and construct an institutional residence for the president under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by him as authorized by Section 63A-5b-604.

(9) Weber State University may use discretionary funds to construct a remodel and expansion of the stores building and mail service facilities under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by him as authorized by Section 63A-5b-604.

(10) Weber State University may use fees and auxiliary revenue to plan, design, and construct a remodel and expansion of the Shepherd Student Union Building under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by him as authorized by Section 63A-5b-604.

(11) Southern Utah University may use donated funds to plan, design, and construct an alumni house under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by him as authorized by Section 63A-5b-604.

(12) Utah State University Eastern may use auxiliary revenues and other fees to:

(a) make lease or other payments;

(b) redeem revenue bonds or repay loans issued on behalf of the college; and

(c) plan, design, and construct a 200 person residence hall under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by him as authorized by Section 63A-5b-604.

(13) The Sevier Valley Applied Technology Center may use private and Community Impact Board funds, if approved, to plan, design, and construct a performing arts/multi-use facility under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by him as authorized by Section 63A-5b-604.

(14) Ogden City and Weber County may have offices and related space for their attorneys included in the Ogden Courts building if the city and county are able to provide upfront funding to cover all costs associated with the design and construction of that space. In addition, the city and

county shall cover their proportionate share of all operations and maintenance costs of their facility, including future major repairs to the building.

(15) If the Legislature authorizes the Division of Facilities Construction and Management to enter into a lease purchase agreement for the Department of Human Services facility at 1385 South State Street in Salt Lake City or for the State Board of Education facility and adjacent space in Salt Lake City, or for both of those facilities, the State Building Ownership Authority, at the reasonable rates and amounts it may determine, and with technical assistance from the state treasurer, the director of the Division of Finance, and the executive director of the Governor's Office of [~~Management~~] Planning and Budget, may seek out the most cost effective lease purchase plans available to the state and may, pursuant to Title 63B, Chapter 1, Part 3, State Building Ownership Authority Act, certificate out interests in, or obligations of the authority pertaining to:

(a) the lease purchase obligation; or

(b) lease rental payments under the lease purchase obligation.

(16) Salt Lake Community College may use donated funds to plan, design, and construct an amphitheater under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by him as authorized by Section 63A-5b-604.

(17) For the Tax Commission building, that:

(a) All costs associated with the construction and furnishing of the Tax Commission building that are incurred before the issuance of the 1993 general obligation bonds be reimbursed by bond proceeds.

(b) The maximum amount of cost that may be reimbursed from the 1993 general obligation bond proceeds for the Tax Commission building and furnishings may not exceed $14,230,000.

(c) This intent statement for Subsection (17) constitutes a declaration of official intent under Section 1.103-18 of the U.S. Treasury Regulations.

Section 35. Section 63B-3-301 is amended to read:

63B-3-301. Legislative intent -- Additional projects.

(1) It is the intent of the Legislature that, for any lease purchase agreement that the Legislature may authorize the Division of Facilities Construction and Management to enter into during its 1994 Annual General Session, the State Building Ownership Authority, at the reasonable rates and amounts it may determine, and with technical assistance from the state treasurer, the director of the Division of Finance, and the executive director of the Governor's Office of [~~Management~~] Planning and Budget, may seek out the most cost effective and prudent lease purchase plans available to the state and may, pursuant to Chapter 1, Part 3, State Building Ownership Authority Act, certificate out interests in, or obligations of the authority pertaining to:

(a) the lease purchase obligation; or

(b) lease rental payments under the lease purchase obligation.

(2) It is the intent of the Legislature that the Department of Transportation dispose of surplus real properties and use the proceeds from those properties to acquire or construct through the Division of Facilities Construction and Management a new District Two Complex.

(3) It is the intent of the Legislature that the State Building Board allocate funds from the Capital Improvement appropriation and donations to cover costs associated with the upgrade of the Governor's Residence that go beyond the restoration costs which can be covered by insurance proceeds.

(4) (a) It is the intent of the Legislature to authorize the State Building Ownership Authority under authority of Chapter 1, Part 3, State Building Ownership Authority Act, to issue or execute obligations or enter into or arrange for a lease purchase agreement in which participation interests may be created, to provide up to $10,600,000 for the construction of a Natural Resources Building in Salt Lake City, together with additional amounts necessary to:

(i) pay costs of issuance;

(ii) pay capitalized interest; and

(iii) fund any debt service reserve requirements.

(b) It is the intent of the Legislature that the authority seek out the most cost effective and prudent lease purchase plan available with technical assistance from the state treasurer, the director of the Division of Finance, and the executive director of the Governor's Office of [~~Management~~] Planning and Budget.

(c) It is the intent of the Legislature that the operating budget for the Department of Natural Resources not be increased to fund these lease payments.

(5) (a) It is the intent of the Legislature to authorize the State Building Ownership Authority under authority of Chapter 1, Part 3, State Building Ownership Authority Act, to issue or execute obligations or enter into or arrange for a lease purchase agreement in which participation interests may be created, to provide up to $8,300,000 for the acquisition of the office buildings currently occupied by the Department of Environmental Quality and approximately 19 acres of additional vacant land at the Airport East Business Park in Salt Lake City, together with additional amounts necessary to:

(i) pay costs of issuance;

(ii) pay capitalized interest; and

(iii) fund any debt service reserve requirements.

(b) It is the intent of the Legislature that the authority seek out the most cost effective and

prudent lease purchase plan available with technical assistance from the state treasurer, the director of the Division of Finance, and the executive director of the Governor's Office of [~~Management~~] Planning and Budget.

(6) (a) It is the intent of the Legislature to authorize the State Building Ownership Authority under authority of Chapter 1, Part 3, State Building Ownership Authority Act, to issue or execute obligations or enter into or arrange for a lease purchase agreement in which participation interests may be created, to provide up to $9,000,000 for the acquisition or construction of up to two field offices for the Department of Human Services in the southwestern portion of Salt Lake County, together with additional amounts necessary to:

(i) pay costs of issuance;

(ii) pay capitalized interest; and

(iii) fund any debt service reserve requirements.

(b) It is the intent of the Legislature that the authority seek out the most cost effective and prudent lease purchase plan available with technical assistance from the state treasurer, the director of the Division of Finance, and the executive director of the Governor's Office of [~~Management~~] Planning and Budget.

(7) (a) It is the intent of the Legislature to authorize the State Building Ownership Authority under authority of Chapter 1, Part 3, State Building Ownership Authority Act, to issue or execute obligations or enter into or arrange for lease purchase agreements in which participation interests may be created, to provide up to $5,000,000 for the acquisition or construction of up to 13 stores for the Department of Alcoholic Beverage Control, together with additional amounts necessary to:

(i) pay costs of issuance;

(ii) pay capitalized interest; and

(iii) fund any debt service reserve requirements.

(b) It is the intent of the Legislature that the authority seek out the most cost effective and prudent lease purchase plan available with technical assistance from the state treasurer, the director of the Division of Finance, and the executive director of the Governor's Office of [~~Management~~] Planning and Budget.

(c) It is the intent of the Legislature that the operating budget for the Department of Alcoholic Beverage Control not be increased to fund these lease payments.

(8) (a) It is the intent of the Legislature to authorize the State Building Ownership Authority under authority of Chapter 1, Part 3, State Building Ownership Authority Act, to issue or execute obligations or enter into or arrange for a lease purchase agreement in which participation interests may be created, to provide up to $6,800,000 for the construction of a Prerelease and Parole Center for the Department of Corrections, containing a minimum of 300 beds, together with additional amounts necessary to:

(i) pay costs of issuance;

(ii) pay capitalized interest; and

(iii) fund any debt service reserve requirements.

(b) It is the intent of the Legislature that the authority seek out the most cost effective and prudent lease purchase plan available with technical assistance from the state treasurer, the director of the Division of Finance, and the executive director of the Governor's Office of [~~Management~~] Planning and Budget.

(9) If S.B. 275, 1994 General Session, which authorizes funding for a Courts Complex in Salt Lake City, becomes law, it is the intent of the Legislature that:

(a) the Legislative Management Committee, the Interim Appropriation Subcommittees for General Government and Capital Facilities and Executive Offices, Courts, and Corrections, the Office of the Legislative Fiscal Analyst, the Governor's Office of [~~Management~~] Planning and Budget, and the State Building Board participate in a review of the proposed facility design for the Courts Complex no later than December 1994; and

(b) although this review will not affect the funding authorization issued by the 1994 Legislature, it is expected that Division of Facilities Construction and Management will give proper attention to concerns raised in these reviews and make appropriate design changes pursuant to the review.

(10) It is the intent of the Legislature that:

(a) the Division of Facilities Construction and Management, in cooperation with the Division of Youth Corrections renamed in 2003 to the Division of Juvenile Justice Services, develop a flexible use prototype facility for the Division of Youth Corrections renamed in 2003 to the Division of Juvenile Justice Services;

(b) the development process use existing prototype proposals unless it can be quantifiably demonstrated that the proposals cannot be used;

(c) the facility is designed so that with minor modifications, it can accommodate detention, observation and assessment, transition, and secure programs as needed at specific geographical locations;

(d) (i) funding as provided in the fiscal year 1995 bond authorization for the Division of Youth Corrections renamed in 2003 to the Division of Juvenile Justice Services is used to design and construct one facility and design the other;

(ii) the Division of Youth Corrections renamed in 2003 to the Division of Juvenile Justice Services shall:

(A) determine the location for the facility for which design and construction are fully funded; and

(B) in conjunction with the Division of Facilities Construction and Management, determine the best

methodology for design and construction of the fully funded facility;

(e) the Division of Facilities Construction and Management submit the prototype as soon as possible to the Infrastructure and General Government Appropriations Subcommittee and Executive Offices, Criminal Justice, and Legislature Appropriation Subcommittee for review;

(f) the Division of Facilities Construction and Management issue a Request for Proposal for one of the facilities, with that facility designed and constructed entirely by the winning firm;

(g) the other facility be designed and constructed under the existing Division of Facilities Construction and Management process;

(h) that both facilities follow the program needs and specifications as identified by Division of Facilities Construction and Management and the Division of Youth Corrections renamed in 2003 to the Division of Juvenile Justice Services in the prototype; and

(i) the fully funded facility should be ready for occupancy by September 1, 1995.

(11) It is the intent of the Legislature that the fiscal year 1995 funding for the State Fair Park Master Study be used by the Division of Facilities Construction and Management to develop a master plan for the State Fair Park that:

(a) identifies capital facilities needs, capital improvement needs, building configuration, and other long term needs and uses of the State Fair Park and its buildings; and

(b) establishes priorities for development, estimated costs, and projected timetables.

(12) It is the intent of the Legislature that:

(a) the Division of Facilities Construction and Management, in cooperation with the Division of Parks and Recreation and surrounding counties, develop a master plan and general program for the phased development of Antelope Island;

(b) the master plan:

(i) establish priorities for development;

(ii) include estimated costs and projected time tables; and

(iii) include recommendations for funding methods and the allocation of responsibilities between the parties; and

(c) the results of the effort be reported to the Natural Resources, Agriculture, and Environmental Quality Appropriations Subcommittee and Infrastructure and General Government Appropriations Subcommittee.

(13) It is the intent of the Legislature to authorize the University of Utah to use:

(a) bond reserves to plan, design, and construct the Kingsbury Hall renovation under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director; and

(b) donated and other nonappropriated funds to plan, design, and construct the Biology Research Building under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director.

(14) It is the intent of the Legislature to authorize Utah State University to use:

(a) federal and other funds to plan, design, and construct the Bee Lab under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director;

(b) donated and other nonappropriated funds to plan, design, and construct an Athletic Facility addition and renovation under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director;

(c) donated and other nonappropriated funds to plan, design, and construct a renovation to the Nutrition and Food Science Building under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director; and

(d) federal and private funds to plan, design, and construct the Millville Research Facility under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director.

(15) It is the intent of the Legislature to authorize Salt Lake Community College to use:

(a) institutional funds to plan, design, and construct a remodel to the Auto Trades Office and Learning Center under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director;

(b) institutional funds to plan, design, and construct the relocation and expansion of a temporary maintenance compound under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director; and

(c) institutional funds to plan, design, and construct the Alder Amphitheater under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director.

(16) It is the intent of the Legislature to authorize Southern Utah University to use:

(a) federal funds to plan, design, and construct a Community Services Building under the supervision of the director of the Division of Facilities Construction and Management unless

supervisory authority is delegated by the director; and

(b) donated and other nonappropriated funds to plan, design, and construct a stadium expansion under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director.

(17) It is the intent of the Legislature to authorize the Department of Corrections to use donated funds to plan, design, and construct a Prison Chapel at the Central Utah Correctional Facility in Gunnison under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director.

(18) If the Utah National Guard does not relocate in the Signetics Building, it is the intent of the Legislature to authorize the Guard to use federal funds and funds from Provo City to plan and design an Armory in Provo, Utah, under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director.

(19) It is the intent of the Legislature that the Utah Department of Transportation use $250,000 of the fiscal year 1995 highway appropriation to fund an environmental study in Ogden, Utah of the 2600 North Corridor between Washington Boulevard and I-15.

(20) It is the intent of the Legislature that the Ogden-Weber Applied Technology Center use the money appropriated for fiscal year 1995 to design the Metal Trades Building and purchase equipment for use in that building that could be used in metal trades or other programs in other Applied Technology Centers.

(21) It is the intent of the Legislature that the Bridgerland Applied Technology Center and the Ogden-Weber Applied Technology Center projects as designed in fiscal year 1995 be considered as the highest priority projects for construction funding in fiscal year 1996.

(22) It is the intent of the Legislature that:

(a) the Division of Facilities Construction and Management complete physical space utilization standards by June 30, 1995, for the use of technology education activities;

(b) these standards are to be developed with and approved by the State Board of Education, the Board of Regents, and the Utah State Building Board;

(c) these physical standards be used as the basis for:

(i) determining utilization of any technology space based on number of stations capable and occupied for any given hour of operation; and

(ii) requests for any new space or remodeling;

(d) the fiscal year 1995 projects at the Bridgerland Applied Technology Center and the Ogden-Weber Applied Technology Center are exempt from this process; and

(e) the design of the Davis Applied Technology Center take into account the utilization formulas established by the Division of Facilities Construction and Management.

(23) It is the intent of the Legislature that Utah Valley State College may use the money from the bond allocated to the remodel of the Signetics building to relocate its technical education programs at other designated sites or facilities under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director.

(24) It is the intent of the Legislature that the money provided for the fiscal year 1995 project for the Bridgerland Applied Technology Center be used to design and construct the space associated with Utah State University and design the technology center portion of the project.

(25) It is the intent of the Legislature that the governor provide periodic reports on the expenditure of the funds provided for electronic technology, equipment, and hardware to the Infrastructure and General Government Appropriations Subcommittee, and the Legislative Management Committee.

Section 36. Section 63B-4-201 is amended to read:

63B-4-201. Legislative intent statements -- Capital facilities.

(1) (a) It is the intent of the Legislature that the University of Utah use institutional and other funds to plan, design, and construct two campus child care centers under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director.

(b) The university shall work with Salt Lake City and the surrounding neighborhood to ensure site compatibility for future recreational development by the city.

(2) It is the intent of the Legislature that the University of Utah use institutional funds to plan, design, and construct:

(a) the Union Parking structure under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director;

(b) the stadium renovation under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director;

(c) the Huntsman Cancer Institute under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director;

(d) the Business Case Method Building under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director; and

(e) the Fine Arts Museum expansion under the supervision of the director of the Division of

Facilities Construction and Management unless supervisory authority is delegated by the director.

(3) It is the intent of the Legislature that Utah State University use institutional funds to plan, design, and construct:

(a) a student health services facility under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director;

(b) a women's softball field under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director;

(c) an addition to the Nutrition and Food Services Building under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director; and

(d) a Human Resource Research Center under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director.

(4) It is the intent of the Legislature that Weber State University use institutional funds to plan, design, and construct:

(a) a track renovation under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director; and

(b) the Dee Events Center offices under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director.

(5) It is the intent of the Legislature that Southern Utah University use:

(a) institutional funds to plan, design, and construct an institutional residence under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director; and

(b) project revenues and other funds to plan, design, and construct the Shakespearean Festival support facilities under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director.

(6) It is the intent of the Legislature that Dixie College use institutional funds to plan, design, and construct an institutional residence under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director.

(7) It is the intent of the Legislature that the Division of Forestry, Fire, and State Lands use federal and other funds to plan, design, and construct a wetlands enhancement facility under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director.

(8) (a) As provided in Subsection 63A-5b-609(2), the funds appropriated to the Project Reserve Fund may only be used for the award of contracts in excess of the construction budget if these funds are required to meet the intent of the project.

(b) It is the intent of the Legislature that:

(i) up to $2,000,000 of the amount may be used to award the construction contract for the Ogden Court Building; and

(ii) the need for any funds remaining as of December 31, 1995 be reviewed by the 1996 Legislature.

(9) (a) It is the intent of the Legislature that the State Building Ownership Authority, under authority of Title 63B, Chapter 1, Part 3, State Building Ownership Authority Act, issue or execute obligations or enter into or arrange for a lease purchase agreement in which participation interests may be created to provide up to $539,700 for the purchase and demolition of the Keyston property and construction of parking facilities adjacent to the State Board of Education building in Salt Lake City, with additional amounts necessary to:

(i) pay costs of issuance;

(ii) pay capitalized interest; and

(iii) fund any debt service reserve requirements.

(b) It is the intent of the Legislature that the authority seek out the most cost effective and prudent lease purchase plan available with technical assistance from the state treasurer, the director of the Division of Finance, and the executive director of the Governor's Office of [~~Management~~] Planning and Budget.

(10) (a) It is the intent of the Legislature that the money appropriated for Phase One of the Remodeling/Life Safety Upgrades of the Browning Fine Arts Center at Weber State University is to include design of full code compliance, life safety, space necessary to maintain required programs, and seismic upgrades.

(b) The design shall identify the full scope and cost of Phase Two of the remodeling for funding consideration in the fiscal year 1997 budget cycle.

(11) It is the intent of the Legislature that:

(a) the fiscal year 1996 appropriation for the Davis County Higher Education land purchase includes up to $250,000 for planning purposes;

(b) the Division of Facilities Construction and Management, the Board of Regents, and the assigned institution of higher education work jointly to ensure the following elements are part of the planning process:

(i) projections of student enrollment and programmatic needs for the next 10 years;

(ii) review and make recommendations for better use of existing space, current technologies, public/private partnerships, and other alternatives as a means to reduce the need for new facilities and still accommodate the projected student needs; and

(iii) use of a master plan that includes issues of utilities, access, traffic circulation, drainage, rights of way, future developments, and other infrastructure items considered appropriate; and

(c) every effort is used to minimize expenditures for this part until a definitive decision has been made by BRACC relative to Hill Air Force Base.

(12) (a) It is the intent of the Legislature that the State Building Ownership Authority, under authority of Title 63B, Chapter 1, Part 3, State Building Ownership Authority Act, issue or execute obligations or enter into or arrange for a lease purchase agreement in which participation interests may be created, to provide up to $7,400,000 for the acquisition and improvement of the Human Services Building located at 120 North 200 West, Salt Lake City, Utah, with associated parking for the Department of Human Services together with additional amounts necessary to:

(i) pay costs of issuance;

(ii) pay capitalized interest; and

(iii) fund any debt service reserve requirements.

(b) It is the intent of the Legislature that the authority seek out the most cost effective and prudent lease purchase plan available with technical assistance from the state treasurer, the director of the Division of Finance, and the executive director of the Governor's Office of [~~Management~~] Planning and Budget.

(13) (a) It is the intent of the Legislature that the State Building Ownership Authority, under authority of Title 63B, Chapter 1, Part 3, State Building Ownership Authority Act, issue or execute obligations or enter into or arrange for a lease purchase agreement in which participation interests may be created to provide up to $63,218,600 for the construction of a Salt Lake Courts Complex together with additional amounts necessary to:

(i) pay costs of issuance;

(ii) pay capitalized interest; and

(iii) fund any debt service reserve requirements.

(b) It is the intent of the Legislature that the authority seek out the most cost effective and prudent lease purchase plan available with technical assistance from the state treasurer, the director of the Division of Finance, and the executive director of the Governor's Office of [~~Management~~] Planning and Budget.

(c) It is the intent of the Legislature that the Division of Facilities Construction and Management lease land to the State Building Ownership Authority for the construction of a Salt Lake Courts Complex.

(14) It is the intent of the Legislature that:

(a) the Board of Regents use the higher education design project money to design no more than two higher education projects from among the following projects:

(i) Utah State University Eastern – Student Center;

(ii) Snow College – Noyes Building;

(iii) University of Utah – Gardner Hall;

(iv) Utah State University – Widtsoe Hall; or

(v) Southern Utah University – Physical Education Building; and

(b) the higher education institutions that receive approval from the Board of Regents to design projects under this chapter design those projects under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director.

(15) It is the intent of the Legislature that:

(a) the Board of Regents may authorize the University of Utah to use institutional funds and donated funds to design Gardner Hall; and

(b) if authorized by the Board of Regents, the University of Utah may use institutional funds and donated funds to design Gardner Hall under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director.

(16) It is the intent of the Legislature that the Division of Facilities Construction and Management use up to $250,000 of the capital improvement money to fund the site improvements required at the San Juan campus of the Utah State University Eastern.

Section 37. Section 63B-4-301 is amended to read:

63B-4-301. Bonds for golf course at Wasatch Mountain State Park.

(1) The State Building Ownership Authority under authority of Title 63B, Chapter 1, Part 3, State Building Ownership Authority Act, may issue or execute obligations, or enter into or arrange for a lease purchase agreement in which participation interests may be created, to provide up to $2,500,000 for a new nine-hole golf course at Wasatch Mountain State Park for the Division of Parks and Recreation, together with additional amounts necessary to:

(a) pay costs of issuance;

(b) pay capitalized interest; and

(c) fund any debt service reserve requirements.

(2) (a) The State Building Ownership Authority shall work cooperatively with the Division of Parks and Recreation to seek out the most cost effective and prudent lease purchase plan available.

(b) The state treasurer, the director of the Division of Finance, and the executive director of the Governor's Office of [~~Management~~] Planning and Budget shall provide technical assistance to accomplish the purpose specified in Subsection (2)(a).

Section 38. Section 63C-4a-308 is amended to read:

63C-4a-308. Commission duties with regards to federal lands.

The commission shall:

(1) review and make recommendations on the transfer of federally controlled public lands to the state;

(2) review and make recommendations regarding the state's sovereign right to protect the health, safety, and welfare of its citizens as it relates to public lands, including recommendations concerning the use of funds in the account created in Section 63C-4a-404;

(3) study and evaluate the recommendations of the public lands transfer study and economic analysis conducted by the Public Lands Policy Coordinating Office in accordance with Section [~~63J-4-606~~] 63L-11-304;

(4) coordinate with and report on the efforts of the executive branch, the counties and political subdivisions of the state, the state congressional delegation, western governors, other states, and other stakeholders concerning the transfer of federally controlled public lands to the state including convening working groups, such as a working group composed of members of the Utah Association of Counties;

(5) study and make recommendations regarding the appropriate designation of public lands transferred to the state, including stewardship of the land and appropriate uses of the land;

(6) study and make recommendations regarding the use of funds received by the state from the public lands transferred to the state; and

(7) receive reports from and make recommendations to the attorney general, the Legislature, and other stakeholders involved in litigation on behalf of the state's interest in the transfer of public lands to the state, regarding:

(a) preparation for potential litigation;

(b) selection of outside legal counsel;

(c) ongoing legal strategy for the transfer of public lands; and

(d) use of money:

(i) appropriated by the Legislature for the purpose of securing the transfer of public lands to the state under Section 63C-4a-404; and

(ii) disbursed from the Public Lands Litigation Expendable Special Revenue Fund created in Section 63C-4a-405.

Section 39. Section 63C-4a-402 is amended to read:

63C-4a-402. Creation of Constitutional Defense Restricted Account -- Sources of funds -- Uses of funds -- Reports.

(1) There is created a restricted account within the General Fund known as the Constitutional Defense Restricted Account.

(2) The account consists of money from the following revenue sources:

(a) money deposited to the account as required by Section 53C-3-203;

(b) voluntary contributions;

(c) money received by the council from other state agencies; and

(d) appropriations made by the Legislature.

(3) The Legislature may annually appropriate money from the Constitutional Defense Restricted Account to one or more of the following:

(a) the commission, to fund the commission and for the commission's duties;

(b) the council, to fund the council and for the council's duties;

(c) the Public Lands Policy Coordinating Office to carry out its duties in Section [~~63J-4-603~~] 63L-11-202;

(d) the Office of the Governor, to be used only for the purpose of asserting, defending, or litigating:

(i) an issue arising with another state regarding the use or ownership of water; or

(ii) state and local government rights under R.S. 2477, in accordance with a plan developed and approved as provided in Section 63C-4a-403;

(e) a county or association of counties to assist counties, consistent with the purposes of the council, in pursuing issues affecting the counties;

(f) the Office of the Attorney General, to be used only:

(i) for public lands counsel and assistance and litigation to the state or local governments including asserting, defending, or litigating state and local government rights under R.S. 2477 in accordance with a plan developed and approved as provided in Section 63C-4a-403;

(ii) for an action filed in accordance with Section 67-5-29;

(iii) to advise the council; or

(iv) for asserting, defending, or litigating an issue arising with another state regarding the use or ownership of water;

(g) the Office of the Attorney General or any other state or local government entity to bring an action to establish the right of a state or local government officer or employee to enter onto federal land or use a federal road or an R.S. 2477 road, in the officer's or employee's official capacity, to protect the health, safety, or welfare of a citizen of the state; or

(h) the Office of Legislative Research and General Counsel, to provide staff support to the commission.

(4) (a) The council shall require that any entity, other than the commission, that receives money

from the account provide financial reports and litigation reports to the council.

(b) Nothing in this Subsection (4) prohibits the commission or the council from closing a meeting under Title 52, Chapter 4, Open and Public Meetings Act, or prohibits the commission or the council from complying with Title 63G, Chapter 2, Government Records Access and Management Act.

Section 40. Section 63C-9-301 is amended to read:

63C-9-301. Board powers -- Subcommittees.

(1) The board shall:

(a) except as provided in Subsection (2), exercise complete jurisdiction and stewardship over capitol hill facilities, capitol hill grounds, and the capitol hill complex;

(b) preserve, maintain, and restore the capitol hill complex, capitol hill facilities, capitol hill grounds, and their contents;

(c) before October 1 of each year, review and approve the executive director's annual budget request for submittal to the governor and Legislature;

(d) by October 1 of each year, prepare and submit a recommended budget request for the upcoming fiscal year for the capitol hill complex to:

(i) the governor, through the Governor's Office of [~~Management~~] Planning and Budget; and

(ii) the Legislature's appropriations subcommittee responsible for capitol hill facilities, through the Office of the Legislative Fiscal Analyst;

(e) review and approve the executive director's:

(i) annual work plan;

(ii) long-range master plan for the capitol hill complex, capitol hill facilities, and capitol hill grounds; and

(iii) furnishings plan for placement and care of objects under the care of the board;

(f) approve all changes to the buildings and their grounds, including:

(i) restoration, remodeling, and rehabilitation projects;

(ii) usual maintenance program; and

(iii) any transfers or loans of objects under the board's care;

(g) define and identify all significant aspects of the capitol hill complex, capitol hill facilities, and capitol hill grounds, after consultation with the:

(i) Division of Facilities Construction and Management;

(ii) State Library Division;

(iii) Division of Archives and Records Service;

(iv) Division of State History;

(v) Office of Museum Services; and

(vi) Arts Council;

(h) inventory, define, and identify all significant contents of the buildings and all state-owned items of historical significance that were at one time in the buildings, after consultation with the:

(i) Division of Facilities Construction and Management;

(ii) State Library Division;

(iii) Division of Archives and Records Service;

(iv) Division of State History;

(v) Office of Museum Services; and

(vi) Arts Council;

(i) maintain archives relating to the construction and development of the buildings, the contents of the buildings and their grounds, including documents such as plans, specifications, photographs, purchase orders, and other related documents, the original copies of which shall be maintained by the Division of Archives and Records Service;

(j) comply with federal and state laws related to program and facility accessibility; and

(k) establish procedures for receiving, hearing, and deciding complaints or other issues raised about the capitol hill complex, capitol hill facilities, and capitol hill grounds, or their use.

(2) (a) Notwithstanding Subsection (1)(a), the supervision and control of the legislative area, as defined in Section 36-5-1, is reserved to the Legislature; and

(b) the supervision and control of the governor's area, as defined in Section 67-1-16, is reserved to the governor.

(3) (a) The board shall make rules to govern, administer, and regulate the capitol hill complex, capitol hill facilities, and capitol hill grounds by following the procedures and requirements of Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(b) A violation of a rule relating to the use of the capitol hill complex adopted by the board under the authority of this Subsection (3) is an infraction.

(c) If an act violating a rule under Subsection (3)(b) also amounts to an offense subject to a greater penalty under this title, Title 32B, Alcoholic Beverage Control Act, Title 41, Motor Vehicles, Title 76, Utah Criminal Code, or other provision of state law, Subsection (3)(b) does not prohibit prosecution and sentencing for the more serious offense.

(d) In addition to any punishment allowed under Subsections (3)(b) and (c), a person who violates a rule adopted by the board under the authority of this Subsection (3) is subject to a civil penalty not to exceed $2,500 for each violation, plus the amount of any actual damages, expenses, and costs related to the violation of the rule that are incurred by the state.

(e) The board may take any other legal action allowed by law.

(f) The board may not apply this section or rules adopted under the authority of this section in a manner that violates a person's rights under the Utah Constitution or the First Amendment to the United States Constitution, including the right of persons to peaceably assemble.

(g) The board shall send proposed rules under this section to the legislative general counsel and the governor's general counsel for review and comment before the board adopts the rules.

(4) The board is exempt from the requirements of Title 63G, Chapter 6a, Utah Procurement Code, but shall adopt procurement rules substantially similar to the requirements of that chapter.

(5) The board shall name the House Building, that is defined in Section 36-5-1, the "Rebecca D. Lockhart House Building."

(6) (a) The board may:

(i) establish subcommittees made up of board members and members of the public to assist and support the executive director in accomplishing the executive director's duties;

(ii) establish fees for the use of capitol hill facilities and capitol hill grounds;

(iii) assign and allocate specific duties and responsibilities to any other state agency, if the other agency agrees to perform the duty or accept the responsibility;

(iv) contract with another state agency to provide services;

(v) delegate by specific motion of the board any authority granted to it by this section to the executive director;

(vi) in conjunction with Salt Lake City, expend money to improve or maintain public property contiguous to East Capitol Boulevard and capitol hill;

(vii) provide wireless Internet service to the public without a fee in any capitol hill facility; and

(viii) when necessary, consult with the:

(A) Division of Facilities Construction and Management;

(B) State Library Division;

(C) Division of Archives and Records Service;

(D) Division of State History;

(E) Office of Museum Services; and

(F) Arts Council.

(b) The board's provision of wireless Internet service under Subsection (6)(a)(vii) shall be discontinued in the legislative area if the president of the Senate and the speaker of the House of Representatives each submit a signed letter to the board indicating that the service is disruptive to the legislative process and is to be discontinued.

(c) If a budget subcommittee is established by the board, the following shall serve as ex officio, nonvoting members of the budget subcommittee:

(i) the legislative fiscal analyst, or the analyst's designee, who shall be from the Office of the Legislative Fiscal Analyst; and

(ii) the executive director of the Governor's Office of [~~Management~~] Planning and Budget, or the executive director's designee, who shall be from the Governor's Office of [~~Management~~] Planning and Budget.

(d) If a preservation and maintenance subcommittee is established by the board, the board may, by majority vote, appoint one or each of the following to serve on the subcommittee as voting members of the subcommittee:

(i) an architect, who shall be selected from a list of three architects submitted by the American Institute of Architects; or

(ii) an engineer, who shall be selected from a list of three engineers submitted by the American Civil Engineers Council.

(e) If the board establishes any subcommittees, the board may, by majority vote, appoint up to two people who are not members of the board to serve, at the will of the board, as nonvoting members of a subcommittee.

(f) Members of each subcommittee shall, at the first meeting of each calendar year, select one individual to act as chair of the subcommittee for a one-year term.

(7) (a) The board, and the employees of the board, may not move the office of the governor, lieutenant governor, president of the Senate, speaker of the House of Representatives, or a member of the Legislature from the State Capitol unless the removal is approved by:

(i) the governor, in the case of the governor's office;

(ii) the lieutenant governor, in the case of the lieutenant governor's office;

(iii) the president of the Senate, in the case of the president's office or the office of a member of the Senate; or

(iv) the speaker of the House of Representatives, in the case of the speaker's office or the office of a member of the House.

(b) The board and the employees of the board have no control over the furniture, furnishings, and decorative objects in the offices of the governor, lieutenant governor, or the members of the Legislature except as necessary to inventory or conserve items of historical significance owned by the state.

(c) The board and the employees of the board have no control over records and documents produced by

or in the custody of a state agency, official, or employee having an office in a building on the capitol hill complex.

(d) Except for items identified by the board as having historical significance, and except as provided in Subsection (7)(b), the board and the employees of the board have no control over moveable furnishings and equipment in the custody of a state agency, official, or employee having an office in a building on the capitol hill complex.

Section 41. Section 63C-20-103 is amended to read:

63C-20-103. Utah Population Committee -- Creation.

(1) There is created the Utah Population Committee composed of the following members:

(a) the director of the Kem C. Gardner Policy Institute at the University of Utah or the director's designee;

(b) the director of the Population Research Laboratory at Utah State University or the director's designee;

(c) the state planning coordinator appointed under Section [~~63J-4-202~~] 63J-4-401;

(d) the director of the Workforce Research and Analysis Division within the Department of Workforce Services or the director's designee;

(e) the director of the Office of Vital Records and Statistics or the director's designee;

(f) the state superintendent of public instruction or the superintendent's designee;

(g) the chair of the State Tax Commission or the chair's designee;

(h) the legislative fiscal analyst or the legislative fiscal analyst's designee;

(i) the commissioner of higher education or the commissioner's designee; and

(j) any additional member appointed under Subsection (2).

(2) (a) By a majority vote of the members of the committee, the committee may appoint one or more additional members to serve on the committee at the pleasure of the committee.

(b) The committee shall ensure that each additional member appointed under Subsection (2)(a) is a data provider or a representative of a data provider.

(3) The director of the Kem C. Gardner Policy Institute or the director's designee described in Subsection (1)(a) is the chair of the committee.

Section 42. Section 63C-20-105 is amended to read:

63C-20-105. State use of committee estimates -- Compliance.

(1) Except as provided in Subsection (2), and unless otherwise provided in statute or rule, if an executive branch entity, legislative branch entity, or independent entity is required to perform an action or make a determination based on a population estimate, the entity shall use a population estimate that the committee produces, if available.

(2) (a) The Governor's Office of [~~Management~~] Planning and Budget may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to use a population estimate other than a population estimate that the committee produces.

(b) For the purpose of creating a revenue estimate, the Governor's Office of [~~Management~~] Planning and Budget and the Office of the Legislative Fiscal Analyst are not required to use a population estimate that the committee produces.

(c) For redistricting purposes, a legislative branch entity shall give priority to a population estimate that is produced by the United States Bureau of the Census.

(3) A newly incorporated political subdivision shall provide the committee with a list of residential building permits issued within the boundaries of the political subdivision since the last decennial census.

Section 43. Section 63F-1-104 is amended to read:

63F-1-104. Duties of Department of Technology Services.

The department shall:

(1) lead state executive branch agency efforts to establish and reengineer the state's information technology architecture with the goal of coordinating central and individual agency information technology in a manner that:

(a) ensures compliance with the executive branch agency strategic plan; and

(b) ensures that cost-effective, efficient information and communication systems and resources are being used by agencies to:

(i) reduce data, hardware, and software redundancy;

(ii) improve system interoperability and data accessibility between agencies; and

(iii) meet the agency's and user's business and service needs;

(2) coordinate an executive branch strategic plan for all agencies;

(3) develop and implement processes to replicate information technology best practices and standards throughout the executive branch;

(4) at least once every odd-numbered year:

(a) evaluate the adequacy of the department's and the executive branch agencies' data and

information technology system security standards through an independent third party assessment; and

(b) communicate the results of the independent third party assessment to the appropriate executive branch agencies and to the president of the Senate and the speaker of the House of Representatives;

(5) oversee the expanded use and implementation of project and contract management principles as they relate to information technology projects within the executive branch;

(6) serve as general contractor between the state's information technology users and private sector providers of information technology products and services;

(7) work toward building stronger partnering relationships with providers;

(8) develop service level agreements with executive branch departments and agencies to ensure quality products and services are delivered on schedule and within budget;

(9) develop standards for application development including a standard methodology and cost-benefit analysis that all agencies shall utilize for application development activities;

(10) determine and implement statewide efforts to standardize data elements;

(11) coordinate with executive branch agencies to provide basic website standards for agencies that address common design standards and navigation standards, including:

(a) accessibility for individuals with disabilities in accordance with:

(i) the standards of 29 U.S.C. Sec. 794d; and

(ii) Section 63F-1-210;

(b) consistency with standardized government security standards;

(c) designing around user needs with data-driven analysis influencing management and development decisions, using qualitative and quantitative data to determine user goals, needs, and behaviors, and continual testing of the website, web-based form, web-based application, or digital service to ensure that user needs are addressed;

(d) providing users of the website, web-based form, web-based application, or digital service with the option for a more customized digital experience that allows users to complete digital transactions in an efficient and accurate manner; and

(e) full functionality and usability on common mobile devices;

(12) consider, when making a purchase for an information system, cloud computing options, including any security benefits, privacy, data retention risks, and cost savings associated with cloud computing options;

(13) develop systems and methodologies to review, evaluate, and prioritize existing information technology projects within the executive branch and report to the governor and the Public Utilities, Energy, and Technology Interim Committee in accordance with 63F-1-201 on a semiannual basis regarding the status of information technology projects;

(14) assist the Governor's Office of [~~Management~~] Planning and Budget with the development of information technology budgets for agencies; and

(15) ensure that any training or certification required of a public official or public employee, as those terms are defined in Section 63G-22-102, complies with Title 63G, Chapter 22, State Training and Certification Requirements, if the training or certification is required:

(a) under this title;

(b) by the department; or

(c) by an agency or division within the department.

Section 44. Section 63F-1-302 is amended to read:

63F-1-302. Information Technology Rate Committee -- Membership -- Duties.

(1) (a) There is created an Information Technology Rate Committee, which shall consist of the executive directors, or the executive director's designee, of seven executive branch agencies that use services and pay rates to one of the department internal service funds, appointed by the governor for a two-year term.

(b) (i) Of the seven executive agencies represented on the rate committee under Subsection (1)(a), only one of the following may be represented on the committee, if at all, at any one time:

(A) the Governor's Office of [~~Management~~] Planning and Budget;

(B) the Division of Finance; or

(C) the Department of Administrative Services.

(ii) The department may not have a representative on the rate committee.

(c) (i) The committee shall elect a chair from [~~its~~] the committee's members.

(ii) Members of the committee who are state government employees and who do not receive salary, per diem, or expenses from their agency for their service on the committee shall receive no compensation, benefits, per diem, or expenses for the member's service on the committee.

(d) The department shall provide staff services to the committee.

(2) (a) Any internal service funds managed by the department shall submit to the committee a proposed rate and fee schedule for services rendered by the department to an executive branch agency or an entity that subscribes to services rendered by the department.

(b) The committee shall:

(i) conduct meetings in accordance with Title 52, Chapter 4, Open and Public Meetings Act;

(ii) meet at least once each calendar year to:

(A) discuss the service performance of each internal service fund;

(B) review the proposed rate and fee schedules;

(C) determine whether each proposed fee is based on cost recovery as required by Subsection 63F-1-301(2)(b);

(D) at the rate committee's discretion, approve, increase, or decrease the rate and fee schedules described in Subsection (2)(b)(ii)(B); and

(E) discuss any prior or potential adjustments to the service level received by state agencies that pay rates to an internal service fund;

(iii) recommend a proposed rate and fee schedule for each internal service fund to:

(A) the Governor's Office of [~~Management~~] Planning and Budget; and

(B) the Office of the Legislative Fiscal Analyst for review by the Legislature in accordance with Section 63J-1-410, which requires the Legislature to approve the internal service fund agency's rates, fees, and budget in an appropriations act; and

(iv) in accordance with Section 63J-1-410, review and approve, increase or decrease an interim rate, fee, or amount when an internal service fund agency begins a new service or introduces a new product between annual general sessions of the Legislature, which rate, fee, or amount shall be submitted to the Legislature at the next annual general session.

(c) The committee may, in accordance with Subsection 63J-1-410(4), decrease a rate, fee, or amount that has been approved by the Legislature.

Section 45. Section 63F-1-508 is amended to read:

63F-1-508. Committee to award grants to counties for inventory and mapping of R.S. 2477 rights-of-way -- Use of grants -- Request for proposals.

(1) There is created within the center a committee to award grants to counties to inventory and map R.S. 2477 rights-of-way, associated structures, and other features as provided by Subsection (5).

(2) (a) The committee shall consist of:

(i) the center manager;

(ii) a representative of the Governor's Office of [~~Management~~] Planning and Budget;

(iii) a representative of Utah State University Extension;

(iv) a representative of the Utah Association of Counties; and

(v) three county commissioners.

(b) The committee members specified in Subsections (2)(a)(ii) through (2)(a)(iv) shall be selected by the organizations they represent.

(c) The committee members specified in Subsection (2)(a)(v) shall be:

(i) selected by the Utah Association of Counties;

(ii) from rural counties; and

(iii) from different regions of the state.

(3) (a) The committee shall select a chair from [~~its~~] the committee's membership.

(b) The committee shall meet upon the call of the chair or a majority of the committee members.

(c) Four members shall constitute a quorum.

(4) (a) Committee members who are state government employees shall receive no additional compensation for their work on the committee.

(b) Committee members who are not state government employees shall receive no compensation or expenses from the state for their work on the committee.

(5) (a) The committee shall award grants to counties to:

(i) inventory and map R.S. 2477 rights-of-way using Global Positioning System (GPS) technology; and

(ii) photograph:

(A) roads and other evidence of construction of R.S. 2477 rights-of-way;

(B) structures or natural features that may be indicative of the purpose for which an R.S. 2477 right-of-way was created, such as mines, agricultural facilities, recreational facilities, or scenic overlooks; and

(C) evidence of valid and existing rights on federal lands, such as mines and agricultural facilities.

(b) (i) The committee may allow counties, while they are conducting the activities described in Subsection (5)(a), to use grant money to inventory, map, or photograph other natural or cultural resources.

(ii) Activities funded under Subsection (5)(b)(i) must be integrated with existing programs underway by state agencies, counties, or institutions of higher education.

(c) Maps and other data acquired through the grants shall become a part of the State Geographic Information Database.

(d) Counties shall provide an opportunity to interested parties to submit information relative to the mapping and photographing of R.S. 2477 rights-of-way and other structures as provided in Subsections (5)(a) and (5)(b).

(6) (a) The committee shall develop a request for proposals process and issue a request for proposals.

(b) The request for proposals shall require each grant applicant to submit an implementation plan

and identify any monetary or in-kind contributions from the county.

(c) In awarding grants, the committee shall give priority to proposals to inventory, map, and photograph R.S. 2477 rights-of-way and other structures as specified in Subsection (5)(a) which are located on federal lands that:

(i) a federal land management agency proposes for special management, such as lands to be managed as an area of critical environmental concern or primitive area; or

(ii) are proposed to receive a special designation by Congress, such as lands to be designated as wilderness or a national conservation area.

(7) Each county that receives a grant under the provision of this section shall provide a copy of all data regarding inventory and mapping to the AGRC for inclusion in the state database.

Section 46. Section 63F-3-103 is amended to read:

63F-3-103. Single sign-on business portal -- Creation.

(1) The department shall, in consultation with the entities described in Subsection (4), design and create a single sign-on business portal that is:

(a) a web portal through which a person may access data described in Subsection (2), as agreed upon by the entities described in Subsection (4); and

(b) secure, centralized, and interconnected.

(2) The department shall ensure that the single sign-on business portal allows a person doing business in the state to access, at a single point of entry, all relevant state-collected business data about the person, including information related to:

(a) business registration;

(b) workers' compensation;

(c) beginning December 1, 2020, tax liability and payment; and

(d) other information collected by the state that the department determines is relevant to a person doing business in the state.

(3) The department shall develop the single sign-on business portal:

(a) using an open platform that:

(i) facilitates participation in the web portal by a state entity;

(ii) allows for optional participation by a political subdivision of the state; and

(iii) contains a link to the State Tax Commission website; and

(b) in a manner that anticipates the creation of the single sign-on citizen portal described in Section 63F-3-103.5.

(4) In developing the single sign-on business portal, the department shall consult with:

(a) the Department of Commerce;

(b) the State Tax Commission;

(c) the Labor Commission;

(d) the Department of Workforce Services;

(e) the Governor's Office of [~~Management~~] Planning and Budget;

(f) the Utah League of Cities and Towns;

(g) the Utah Association of Counties; and

(h) the business community that is likely to use the single sign-on business portal.

(5) The department shall ensure that the single sign-on business portal is fully operational no later than May 1, 2021.

Section 47. Section 63F-4-102 is amended to read:

63F-4-102. Definitions.

As used in this chapter:

(1) "Executive branch agency" means a department, division, or other agency within the executive branch of state government.

(2) "Governor's budget office" means the Governor's Office of [~~Management~~] Planning and Budget, created in Section 63J-4-201.

(3) "Review board" means the Architecture Review Board established within the department.

(4) "Technology innovation" means a new information technology not previously in use or a substantial adaptation or modification of an existing information technology.

(5) "Technology proposal" means a proposal to implement a technology innovation designed to result in a greater efficiency in a government process or a cost saving in the delivery of a government service, or both.

Section 48. Section 63G-2-305 is amended to read:

63G-2-305. Protected records.

The following records are protected if properly classified by a governmental entity:

(1) trade secrets as defined in Section 13-24-2 if the person submitting the trade secret has provided the governmental entity with the information specified in Section 63G-2-309;

(2) commercial information or nonindividual financial information obtained from a person if:

(a) disclosure of the information could reasonably be expected to result in unfair competitive injury to the person submitting the information or would impair the ability of the governmental entity to obtain necessary information in the future;

(b) the person submitting the information has a greater interest in prohibiting access than the public in obtaining access; and

(c) the person submitting the information has provided the governmental entity with the information specified in Section 63G-2-309;

(3) commercial or financial information acquired or prepared by a governmental entity to the extent that disclosure would lead to financial speculations in currencies, securities, or commodities that will interfere with a planned transaction by the governmental entity or cause substantial financial injury to the governmental entity or state economy;

(4) records, the disclosure of which could cause commercial injury to, or confer a competitive advantage upon a potential or actual competitor of, a commercial project entity as defined in Subsection 11-13-103(4);

(5) test questions and answers to be used in future license, certification, registration, employment, or academic examinations;

(6) records, the disclosure of which would impair governmental procurement proceedings or give an unfair advantage to any person proposing to enter into a contract or agreement with a governmental entity, except, subject to Subsections (1) and (2), that this Subsection (6) does not restrict the right of a person to have access to, after the contract or grant has been awarded and signed by all parties:

(a) a bid, proposal, application, or other information submitted to or by a governmental entity in response to:

(i) an invitation for bids;

(ii) a request for proposals;

(iii) a request for quotes;

(iv) a grant; or

(v) other similar document; or

(b) an unsolicited proposal, as defined in Section 63G-6a-712;

(7) information submitted to or by a governmental entity in response to a request for information, except, subject to Subsections (1) and (2), that this Subsection (7) does not restrict the right of a person to have access to the information, after:

(a) a contract directly relating to the subject of the request for information has been awarded and signed by all parties; or

(b) (i) a final determination is made not to enter into a contract that relates to the subject of the request for information; and

(ii) at least two years have passed after the day on which the request for information is issued;

(8) records that would identify real property or the appraisal or estimated value of real or personal property, including intellectual property, under consideration for public acquisition before any rights to the property are acquired unless:

(a) public interest in obtaining access to the information is greater than or equal to the governmental entity's need to acquire the property on the best terms possible;

(b) the information has already been disclosed to persons not employed by or under a duty of confidentiality to the entity;

(c) in the case of records that would identify property, potential sellers of the described property have already learned of the governmental entity's plans to acquire the property;

(d) in the case of records that would identify the appraisal or estimated value of property, the potential sellers have already learned of the governmental entity's estimated value of the property; or

(e) the property under consideration for public acquisition is a single family residence and the governmental entity seeking to acquire the property has initiated negotiations to acquire the property as required under Section 78B-6-505;

(9) records prepared in contemplation of sale, exchange, lease, rental, or other compensated transaction of real or personal property including intellectual property, which, if disclosed prior to completion of the transaction, would reveal the appraisal or estimated value of the subject property, unless:

(a) the public interest in access is greater than or equal to the interests in restricting access, including the governmental entity's interest in maximizing the financial benefit of the transaction; or

(b) when prepared by or on behalf of a governmental entity, appraisals or estimates of the value of the subject property have already been disclosed to persons not employed by or under a duty of confidentiality to the entity;

(10) records created or maintained for civil, criminal, or administrative enforcement purposes or audit purposes, or for discipline, licensing, certification, or registration purposes, if release of the records:

(a) reasonably could be expected to interfere with investigations undertaken for enforcement, discipline, licensing, certification, or registration purposes;

(b) reasonably could be expected to interfere with audits, disciplinary, or enforcement proceedings;

(c) would create a danger of depriving a person of a right to a fair trial or impartial hearing;

(d) reasonably could be expected to disclose the identity of a source who is not generally known outside of government and, in the case of a record compiled in the course of an investigation, disclose information furnished by a source not generally known outside of government if disclosure would compromise the source; or

(e) reasonably could be expected to disclose investigative or audit techniques, procedures, policies, or orders not generally known outside of government if disclosure would interfere with enforcement or audit efforts;

(11) records the disclosure of which would jeopardize the life or safety of an individual;

(12) records the disclosure of which would jeopardize the security of governmental property, governmental programs, or governmental recordkeeping systems from damage, theft, or other appropriation or use contrary to law or public policy;

(13) records that, if disclosed, would jeopardize the security or safety of a correctional facility, or records relating to incarceration, treatment, probation, or parole, that would interfere with the control and supervision of an offender's incarceration, treatment, probation, or parole;

(14) records that, if disclosed, would reveal recommendations made to the Board of Pardons and Parole by an employee of or contractor for the Department of Corrections, the Board of Pardons and Parole, or the Department of Human Services that are based on the employee's or contractor's supervision, diagnosis, or treatment of any person within the board's jurisdiction;

(15) records and audit workpapers that identify audit, collection, and operational procedures and methods used by the State Tax Commission, if disclosure would interfere with audits or collections;

(16) records of a governmental audit agency relating to an ongoing or planned audit until the final audit is released;

(17) records that are subject to the attorney client privilege;

(18) records prepared for or by an attorney, consultant, surety, indemnitor, insurer, employee, or agent of a governmental entity for, or in anticipation of, litigation or a judicial, quasi-judicial, or administrative proceeding;

(19) (a) (i) personal files of a state legislator, including personal correspondence to or from a member of the Legislature; and

(ii) notwithstanding Subsection (19)(a)(i), correspondence that gives notice of legislative action or policy may not be classified as protected under this section; and

(b) (i) an internal communication that is part of the deliberative process in connection with the preparation of legislation between:

(A) members of a legislative body;

(B) a member of a legislative body and a member of the legislative body's staff; or

(C) members of a legislative body's staff; and

(ii) notwithstanding Subsection (19)(b)(i), a communication that gives notice of legislative action or policy may not be classified as protected under this section;

(20) (a) records in the custody or control of the Office of Legislative Research and General Counsel, that, if disclosed, would reveal a particular legislator's contemplated legislation or contemplated course of action before the legislator has elected to support the legislation or course of action, or made the legislation or course of action public; and

(b) notwithstanding Subsection (20)(a), the form to request legislation submitted to the Office of Legislative Research and General Counsel is a public document unless a legislator asks that the records requesting the legislation be maintained as protected records until such time as the legislator elects to make the legislation or course of action public;

(21) research requests from legislators to the Office of Legislative Research and General Counsel or the Office of the Legislative Fiscal Analyst and research findings prepared in response to these requests;

(22) drafts, unless otherwise classified as public;

(23) records concerning a governmental entity's strategy about:

(a) collective bargaining; or

(b) imminent or pending litigation;

(24) records of investigations of loss occurrences and analyses of loss occurrences that may be covered by the Risk Management Fund, the Employers' Reinsurance Fund, the Uninsured Employers' Fund, or similar divisions in other governmental entities;

(25) records, other than personnel evaluations, that contain a personal recommendation concerning an individual if disclosure would constitute a clearly unwarranted invasion of personal privacy, or disclosure is not in the public interest;

(26) records that reveal the location of historic, prehistoric, paleontological, or biological resources that if known would jeopardize the security of those resources or of valuable historic, scientific, educational, or cultural information;

(27) records of independent state agencies if the disclosure of the records would conflict with the fiduciary obligations of the agency;

(28) records of an institution within the state system of higher education defined in Section 53B-1-102 regarding tenure evaluations, appointments, applications for admissions, retention decisions, and promotions, which could be properly discussed in a meeting closed in accordance with Title 52, Chapter 4, Open and Public Meetings Act, provided that records of the final decisions about tenure, appointments, retention, promotions, or those students admitted, may not be classified as protected under this section;

(29) records of the governor's office, including budget recommendations, legislative proposals, and policy statements, that if disclosed would reveal the governor's contemplated policies or contemplated courses of action before the governor has implemented or rejected those policies or courses of action or made them public;

(30) records of the Office of the Legislative Fiscal Analyst relating to budget analysis, revenue estimates, and fiscal notes of proposed legislation before issuance of the final recommendations in these areas;

(31) records provided by the United States or by a government entity outside the state that are given to the governmental entity with a requirement that they be managed as protected records if the providing entity certifies that the record would not be subject to public disclosure if retained by it;

(32) transcripts, minutes, recordings, or reports of the closed portion of a meeting of a public body except as provided in Section 52-4-206;

(33) records that would reveal the contents of settlement negotiations but not including final settlements or empirical data to the extent that they are not otherwise exempt from disclosure;

(34) memoranda prepared by staff and used in the decision-making process by an administrative law judge, a member of the Board of Pardons and Parole, or a member of any other body charged by law with performing a quasi-judicial function;

(35) records that would reveal negotiations regarding assistance or incentives offered by or requested from a governmental entity for the purpose of encouraging a person to expand or locate a business in Utah, but only if disclosure would result in actual economic harm to the person or place the governmental entity at a competitive disadvantage, but this section may not be used to restrict access to a record evidencing a final contract;

(36) materials to which access must be limited for purposes of securing or maintaining the governmental entity's proprietary protection of intellectual property rights including patents, copyrights, and trade secrets;

(37) the name of a donor or a prospective donor to a governmental entity, including an institution within the state system of higher education defined in Section 53B-1-102, and other information concerning the donation that could reasonably be expected to reveal the identity of the donor, provided that:

(a) the donor requests anonymity in writing;

(b) any terms, conditions, restrictions, or privileges relating to the donation may not be classified protected by the governmental entity under this Subsection (37); and

(c) except for an institution within the state system of higher education defined in Section 53B-1-102, the governmental unit to which the donation is made is primarily engaged in educational, charitable, or artistic endeavors, and has no regulatory or legislative authority over the donor, a member of the donor's immediate family, or any entity owned or controlled by the donor or the donor's immediate family;

(38) accident reports, except as provided in Sections 41-6a-404, 41-12a-202, and 73-18-13;

(39) a notification of workers' compensation insurance coverage described in Section 34A-2-205;

(40) (a) the following records of an institution within the state system of higher education defined in Section 53B-1-102, which have been developed, discovered, disclosed to, or received by or on behalf of faculty, staff, employees, or students of the institution:

(i) unpublished lecture notes;

(ii) unpublished notes, data, and information:

(A) relating to research; and

(B) of:

(I) the institution within the state system of higher education defined in Section 53B-1-102; or

(II) a sponsor of sponsored research;

(iii) unpublished manuscripts;

(iv) creative works in process;

(v) scholarly correspondence; and

(vi) confidential information contained in research proposals;

(b) Subsection (40)(a) may not be construed to prohibit disclosure of public information required pursuant to Subsection 53B-16-302(2)(a) or (b); and

(c) Subsection (40)(a) may not be construed to affect the ownership of a record;

(41) (a) records in the custody or control of the Office of the Legislative Auditor General that would reveal the name of a particular legislator who requests a legislative audit prior to the date that audit is completed and made public; and

(b) notwithstanding Subsection (41)(a), a request for a legislative audit submitted to the Office of the Legislative Auditor General is a public document unless the legislator asks that the records in the custody or control of the Office of the Legislative Auditor General that would reveal the name of a particular legislator who requests a legislative audit be maintained as protected records until the audit is completed and made public;

(42) records that provide detail as to the location of an explosive, including a map or other document that indicates the location of:

(a) a production facility; or

(b) a magazine;

(43) information:

(a) contained in the statewide database of the Division of Aging and Adult Services created by Section 62A-3-311.1; or

(b) received or maintained in relation to the Identity Theft Reporting Information System (IRIS) established under Section 67-5-22;

(44) information contained in the Management Information System and Licensing Information System described in Title 62A, Chapter 4a, Child and Family Services;

(45) information regarding National Guard operations or activities in support of the National Guard's federal mission;

(46) records provided by any pawn or secondhand business to a law enforcement agency or to the central database in compliance with Title 13, Chapter 32a, Pawnshop and Secondhand Merchandise Transaction Information Act;

(47) information regarding food security, risk, and vulnerability assessments performed by the Department of Agriculture and Food;

(48) except to the extent that the record is exempt from this chapter pursuant to Section 63G-2-106, records related to an emergency plan or program, a copy of which is provided to or prepared or maintained by the Division of Emergency Management, and the disclosure of which would jeopardize:

(a) the safety of the general public; or

(b) the security of:

(i) governmental property;

(ii) governmental programs; or

(iii) the property of a private person who provides the Division of Emergency Management information;

(49) records of the Department of Agriculture and Food that provides for the identification, tracing, or control of livestock diseases, including any program established under Title 4, Chapter 24, Utah Livestock Brand and Anti-Theft Act, or Title 4, Chapter 31, Control of Animal Disease;

(50) as provided in Section 26-39-501:

(a) information or records held by the Department of Health related to a complaint regarding a child care program or residential child care which the department is unable to substantiate; and

(b) information or records related to a complaint received by the Department of Health from an anonymous complainant regarding a child care program or residential child care;

(51) unless otherwise classified as public under Section 63G-2-301 and except as provided under Section 41-1a-116, an individual's home address, home telephone number, or personal mobile phone number, if:

(a) the individual is required to provide the information in order to comply with a law, ordinance, rule, or order of a government entity; and

(b) the subject of the record has a reasonable expectation that this information will be kept confidential due to:

(i) the nature of the law, ordinance, rule, or order; and

(ii) the individual complying with the law, ordinance, rule, or order;

(52) the portion of the following documents that contains a candidate's residential or mailing address, if the candidate provides to the filing officer another address or phone number where the candidate may be contacted:

(a) a declaration of candidacy, a nomination petition, or a certificate of nomination, described in Section 20A-9-201, 20A-9-202, 20A-9-203, 20A-9-404, 20A-9-405, 20A-9-408, 20A-9-408.5, 20A-9-502, or 20A-9-601;

(b) an affidavit of impecuniosity, described in Section 20A-9-201; or

(c) a notice of intent to gather signatures for candidacy, described in Section 20A-9-408;

(53) the name, home address, work addresses, and telephone numbers of an individual that is engaged in, or that provides goods or services for, medical or scientific research that is:

(a) conducted within the state system of higher education, as defined in Section 53B-1-102; and

(b) conducted using animals;

(54) in accordance with Section 78A-12-203, any record of the Judicial Performance Evaluation Commission concerning an individual commissioner's vote on whether or not to recommend that the voters retain a judge including information disclosed under Subsection 78A-12-203(5)(e);

(55) information collected and a report prepared by the Judicial Performance Evaluation Commission concerning a judge, unless Section 20A-7-702 or Title 78A, Chapter 12, Judicial Performance Evaluation Commission Act, requires disclosure of, or makes public, the information or report;

(56) records contained in the Management Information System created in Section 62A-4a-1003;

(57) records provided or received by the Public Lands Policy Coordinating Office in furtherance of any contract or other agreement made in accordance with Section [~~63J-4-603~~] 63L-11-202;

(58) information requested by and provided to the 911 Division under Section 63H-7a-302;

(59) in accordance with Section 73-10-33:

(a) a management plan for a water conveyance facility in the possession of the Division of Water Resources or the Board of Water Resources; or

(b) an outline of an emergency response plan in possession of the state or a county or municipality;

(60) the following records in the custody or control of the Office of Inspector General of Medicaid Services, created in Section 63A-13-201:

(a) records that would disclose information relating to allegations of personal misconduct,

gross mismanagement, or illegal activity of a person if the information or allegation cannot be corroborated by the Office of Inspector General of Medicaid Services through other documents or evidence, and the records relating to the allegation are not relied upon by the Office of Inspector General of Medicaid Services in preparing a final investigation report or final audit report;

(b) records and audit workpapers to the extent they would disclose the identity of a person who, during the course of an investigation or audit, communicated the existence of any Medicaid fraud, waste, or abuse, or a violation or suspected violation of a law, rule, or regulation adopted under the laws of this state, a political subdivision of the state, or any recognized entity of the United States, if the information was disclosed on the condition that the identity of the person be protected;

(c) before the time that an investigation or audit is completed and the final investigation or final audit report is released, records or drafts circulated to a person who is not an employee or head of a governmental entity for the person's response or information;

(d) records that would disclose an outline or part of any investigation, audit survey plan, or audit program; or

(e) requests for an investigation or audit, if disclosure would risk circumvention of an investigation or audit;

(61) records that reveal methods used by the Office of Inspector General of Medicaid Services, the fraud unit, or the Department of Health, to discover Medicaid fraud, waste, or abuse;

(62) information provided to the Department of Health or the Division of Occupational and Professional Licensing under Subsections 58-67-304(3) and (4) and Subsections 58-68-304(3) and (4);

(63) a record described in Section 63G-12-210;

(64) captured plate data that is obtained through an automatic license plate reader system used by a governmental entity as authorized in Section 41-6a-2003;

(65) any record in the custody of the Utah Office for Victims of Crime relating to a victim, including:

(a) a victim's application or request for benefits;

(b) a victim's receipt or denial of benefits; and

(c) any administrative notes or records made or created for the purpose of, or used to, evaluate or communicate a victim's eligibility for or denial of benefits from the Crime Victim Reparations Fund;

(66) an audio or video recording created by a body-worn camera, as that term is defined in Section 77-7a-103, that records sound or images inside a hospital or health care facility as those terms are defined in Section 78B-3-403, inside a clinic of a health care provider, as that term is defined in Section 78B-3-403, or inside a human service program as that term is defined in Section 62A-2-101, except for recordings that:

(a) depict the commission of an alleged crime;

(b) record any encounter between a law enforcement officer and a person that results in death or bodily injury, or includes an instance when an officer fires a weapon;

(c) record any encounter that is the subject of a complaint or a legal proceeding against a law enforcement officer or law enforcement agency;

(d) contain an officer involved critical incident as defined in Subsection 76-2-408(1)(f); or

(e) have been requested for reclassification as a public record by a subject or authorized agent of a subject featured in the recording;

(67) a record pertaining to the search process for a president of an institution of higher education described in Section 53B-2-102, except for application materials for a publicly announced finalist;

(68) an audio recording that is:

(a) produced by an audio recording device that is used in conjunction with a device or piece of equipment designed or intended for resuscitating an individual or for treating an individual with a life-threatening condition;

(b) produced during an emergency event when an individual employed to provide law enforcement, fire protection, paramedic, emergency medical, or other first responder service:

(i) is responding to an individual needing resuscitation or with a life-threatening condition; and

(ii) uses a device or piece of equipment designed or intended for resuscitating an individual or for treating an individual with a life-threatening condition; and

(c) intended and used for purposes of training emergency responders how to improve their response to an emergency situation;

(69) records submitted by or prepared in relation to an applicant seeking a recommendation by the Research and General Counsel Subcommittee, the Budget Subcommittee, or the Audit Subcommittee, established under Section 36-12-8, for an employment position with the Legislature;

(70) work papers as defined in Section 31A-2-204;

(71) a record made available to Adult Protective Services or a law enforcement agency under Section 61-1-206;

(72) a record submitted to the Insurance Department in accordance with Section 31A-37-201 or 31A-22-653;

(73) a record described in Section 31A-37-503.

(74) any record created by the Division of Occupational and Professional Licensing as a result

of Subsection 58-37f-304(5) or 58-37f-702(2)(a)(ii);

(75) a record described in Section 72-16-306 that relates to the reporting of an injury involving an amusement ride;

(76) except as provided in Subsection 63G-2-305.5(1), the signature of an individual on a political petition, or on a request to withdraw a signature from a political petition, including a petition or request described in the following titles:

(a) Title 10, Utah Municipal Code;

(b) Title 17, Counties;

(c) Title 17B, Limited Purpose Local Government Entities - Local Districts;

(d) Title 17D, Limited Purpose Local Government Entities - Other Entities; and

(e) Title 20A, Election Code;

(77) except as provided in Subsection 63G-2-305.5(2), the signature of an individual in a voter registration record;

(78) except as provided in Subsection 63G-2-305.5(3), any signature, other than a signature described in Subsection (76) or (77), in the custody of the lieutenant governor or a local political subdivision collected or held under, or in relation to, Title 20A, Election Code;

(79) a Form I-918 Supplement B certification as described in Title 77, Chapter 38, Part 5, Victims Guidelines for Prosecutors Act;

(80) a record submitted to the Insurance Department under Subsection 31A-47-103(1)(b); and

(81) personal information, as defined in Section 63G-26-102, to the extent disclosure is prohibited under Section 63G-26-103.

Section 49. Section 63G-3-301 is amended to read:

63G-3-301. Rulemaking procedure.

(1) An agency authorized to make rules is also authorized to amend or repeal those rules.

(2) Except as provided in Sections 63G-3-303 and 63G-3-304, when making, amending, or repealing a rule agencies shall comply with:

(a) the requirements of this section;

(b) consistent procedures required by other statutes;

(c) applicable federal mandates; and

(d) rules made by the office to implement this chapter.

(3) Subject to the requirements of this chapter, each agency shall develop and use flexible approaches in drafting rules that meet the needs of the agency and that involve persons affected by the agency's rules.

(4) (a) Each agency shall file the agency's proposed rule and rule analysis with the office.

(b) Rule amendments shall be marked with new language underlined and deleted language struck out.

(c) (i) The office shall publish the information required under Subsection (8) on the rule analysis and the text of the proposed rule in the next issue of the bulletin.

(ii) For rule amendments, only the section or subsection of the rule being amended need be printed.

(iii) If the director determines that the rule is too long to publish, the office shall publish the rule analysis and shall publish the rule by reference to a copy on file with the office.

(5) Before filing a rule with the office, the agency shall conduct a thorough analysis, consistent with the criteria established by the Governor's Office of [~~Management~~] Planning and Budget, of the fiscal impact a rule may have on businesses, which criteria may include:

(a) the type of industries that will be impacted by the rule, and for each identified industry, an estimate of the total number of businesses within the industry, and an estimate of the number of those businesses that are small businesses;

(b) the individual fiscal impact that would incur to a typical business for a one-year period;

(c) the aggregated total fiscal impact that would incur to all businesses within the state for a one-year period;

(d) the total cost that would incur to all impacted entities over a five-year period; and

(e) the department head's comments on the analysis.

(6) If the agency reasonably expects that a proposed rule will have a measurable negative fiscal impact on small businesses, the agency shall consider, as allowed by federal law, each of the following methods of reducing the impact of the rule on small businesses:

(a) establishing less stringent compliance or reporting requirements for small businesses;

(b) establishing less stringent schedules or deadlines for compliance or reporting requirements for small businesses;

(c) consolidating or simplifying compliance or reporting requirements for small businesses;

(d) establishing performance standards for small businesses to replace design or operational standards required in the proposed rule; and

(e) exempting small businesses from all or any part of the requirements contained in the proposed rule.

(7) If during the public comment period an agency receives comment that the proposed rule will cost small business more than one day's annual average

gross receipts, and the agency had not previously performed the analysis in Subsection (6), the agency shall perform the analysis described in Subsection (6).

(8) The rule analysis shall contain:

(a) a summary of the rule or change;

(b) the purpose of the rule or reason for the change;

(c) the statutory authority or federal requirement for the rule;

(d) the anticipated cost or savings to:

(i) the state budget;

(ii) local governments;

(iii) small businesses; and

(iv) persons other than small businesses, businesses, or local governmental entities;

(e) the compliance cost for affected persons;

(f) how interested persons may review the full text of the rule;

(g) how interested persons may present their views on the rule;

(h) the time and place of any scheduled public hearing;

(i) the name and telephone number of an agency employee who may be contacted about the rule;

(j) the name of the agency head or designee who authorized the rule;

(k) the date on which the rule may become effective following the public comment period;

(l) the agency's analysis on the fiscal impact of the rule as required under Subsection (5);

(m) any additional comments the department head may choose to submit regarding the fiscal impact the rule may have on businesses; and

(n) if applicable, a summary of the agency's efforts to comply with the requirements of Subsection (6).

(9) (a) For a rule being repealed and reenacted, the rule analysis shall contain a summary that generally includes the following:

(i) a summary of substantive provisions in the repealed rule which are eliminated from the enacted rule; and

(ii) a summary of new substantive provisions appearing only in the enacted rule.

(b) The summary required under this Subsection (9) is to aid in review and may not be used to contest any rule on the ground of noncompliance with the procedural requirements of this chapter.

(10) A copy of the rule analysis shall be mailed to all persons who have made timely request of the agency for advance notice of the agency's rulemaking proceedings and to any other person who, by statutory or federal mandate or in the judgment of the agency, should also receive notice.

(11) (a) Following the publication date, the agency shall allow at least 30 days for public comment on the rule.

(b) The agency shall review and evaluate all public comments submitted in writing within the time period under Subsection (11)(a) or presented at public hearings conducted by the agency within the time period under Subsection (11)(a).

(12) (a) Except as provided in Sections 63G-3-303 and 63G-3-304, a proposed rule becomes effective on any date specified by the agency that is:

(i) no fewer than seven calendar days after the day on which the public comment period closes under Subsection (11); and

(ii) no more than 120 days after the day on which the rule is published.

(b) The agency shall provide notice of the rule's effective date to the office in the form required by the office.

(c) The notice of effective date may not provide for an effective date before the day on which the office receives the notice.

(d) The office shall publish notice of the effective date of the rule in the next issue of the bulletin.

(e) A proposed rule lapses if a notice of effective date or a change to a proposed rule is not filed with the office within 120 days after the day on which the rule is published.

(13) (a) Except as provided in Subsection (13)(d), before an agency enacts a rule, the agency shall submit to the appropriations subcommittee and interim committee with jurisdiction over the agency the agency's proposed rule for review, if the proposed rule, over a three-year period, has a fiscal impact of more than:

(i) $250,000 to a single person; or

(ii) $7,500,000 to a group of persons.

(b) An appropriations subcommittee or interim committee that reviews a rule submitted under Subsection (13)(a) shall:

(i) before the review, directly inform the chairs of the Administrative Rules Review Committee of the coming review, including the date, time, and place of the review; and

(ii) after the review, directly inform the chairs of the Administrative Rules Review Committee of the outcome of the review, including any recommendation.

(c) An appropriations subcommittee or interim committee that reviews a rule submitted under Subsection (13)(a) may recommend to the Administrative Rules Review Committee that the Administrative Rules Review Committee not recommend reauthorization of the rule in the

omnibus legislation described in Section 63G-3-502.

(d) The requirement described in Subsection (13)(a) does not apply to:

(i) the State Tax Commission; or

(ii) the State Board of Education.

(14) (a) As used in this Subsection (14), "initiate rulemaking proceedings" means the filing, for the purposes of publication in accordance with Subsection (4), of an agency's proposed rule that is required by state statute.

(b) A state agency shall initiate rulemaking proceedings no later than 180 days after the day on which the statutory provision that specifically requires the rulemaking takes effect, except under Subsection (14)(c).

(c) When a statute is enacted that requires agency rulemaking and the affected agency already has rules in place that meet the statutory requirement, the agency shall submit the rules to the Administrative Rules Review Committee for review within 60 days after the day on which the statute requiring the rulemaking takes effect.

(d) If a state agency does not initiate rulemaking proceedings in accordance with the time requirements in Subsection (14)(b), the state agency shall appear before the legislative Administrative Rules Review Committee and provide the reasons for the delay.

Section 50. Section 63G-25-202 is amended to read:

63G-25-202. Citizen feedback annual report.

(1) The Governor's Office of [~~Management~~] Planning and Budget shall prepare an annual report that contains a summary of any feedback that state agencies gathered in accordance with Section 63G-25-201 during the preceding calendar year.

(2) On or before July 1, the Governor's Office of [~~Management~~] Planning and Budget shall:

(a) provide an electronic copy of the report described in Subsection (1) to each legislator; and

(b) make the report described in Subsection (1) accessible to the public.

Section 51. Section 63I-1-263 is amended to read:

63I-1-263. Repeal dates, Titles 63A to 63N.

(1) In relation to the Utah Transparency Advisory Board, on January 1, 2025:

(a) Subsection 63A-1-201(1) is repealed;

(b) Subsection 63A-1-202(2)(c), the language "using criteria established by the board" is repealed;

(c) Section 63A-1-203 is repealed;

(d) Subsections 63A-1-204(1) and (2), the language "After consultation with the board, and" is repealed; and

(e) Subsection 63A-1-204(1)(b), the language "using the standards provided in Subsection 63A-1-203(3)(c)" is repealed.

(2) Subsection 63A-5b-405(5), relating to prioritizing and allocating capital improvement funding, is repealed July 1, 2024.

(3) Section 63A-5b-1003, State Facility Energy Efficiency Fund, is repealed July 1, 2023.

(4) Sections 63A-9-301 and 63A-9-302, related to the Motor Vehicle Review Committee, are repealed July 1, 2023.

(5) Title 63C, Chapter 4a, Constitutional and Federalism Defense Act, is repealed July 1, 2028.

(6) Title 63C, Chapter 6, Utah Seismic Safety Commission, is repealed January 1, 2025.

(7) Title 63C, Chapter 12, Snake Valley Aquifer Advisory Council, is repealed July 1, 2024.

(8) Title 63C, Chapter 17, Point of the Mountain Development Commission Act, is repealed July 1, 2021.

(9) Title 63C, Chapter 18, Behavioral Health Crisis Response Commission, is repealed July 1, 2023.

(10) Title 63C, Chapter 21, Outdoor Adventure Commission, is repealed July 1, 2025.

(11) Title 63F, Chapter 2, Data Security Management Council, is repealed July 1, 2025.

(12) Section 63G-6a-805, which creates the Purchasing from Persons with Disabilities Advisory Board, is repealed July 1, 2026.

(13) Title 63G, Chapter 21, Agreements to Provide State Services, is repealed July 1, 2025.

(14) Title 63H, Chapter 4, Heber Valley Historic Railroad Authority, is repealed July 1, 2024.

(15) Title 63H, Chapter 8, Utah Housing Corporation Act, is repealed July 1, 2026.

(16) Subsection 63J-1-602.1(14), Nurse Home Visiting Restricted Account is repealed July 1, 2026.

(17) (a) Subsection 63J-1-602.1(58), relating to the Utah Statewide Radio System Restricted Account, is repealed July 1, 2022.

(b) When repealing Subsection 63J-1-602.1(58), the Office of Legislative Research and General Counsel shall, in addition to the office's authority under Subsection 36-12-12(3), make necessary changes to subsection numbering and cross references.

(18) Subsection 63J-1-602.2(4), referring to dedicated credits to the Utah Marriage Commission, is repealed July 1, 2023.

(19) Subsection 63J-1-602.2(5), referring to the Trip Reduction Program, is repealed July 1, 2022.

(20) Subsection 63J-1-602.2(25), related to the Utah Seismic Safety Commission, is repealed January 1, 2025.

(21) Title 63J, Chapter 4, Part 5, Resource Development Coordinating Committee, is repealed July 1, 2027.

(22) Subsection [~~63J-4-608~~] 63L-11-305(3), which creates the Federal Land Application Advisory Committee, is repealed on July 1, 2021.

(23) In relation to the Utah Substance Use and Mental Health Advisory Council, on January 1, 2023:

(a) Sections 63M-7-301, 63M-7-302, 63M-7-303, 63M-7-304, and 63M-7-306 are repealed;

(b) Section 63M-7-305, the language that states "council" is replaced with "commission";

(c) Subsection 63M-7-305(1) is repealed and replaced with:

"(1) "Commission" means the Commission on Criminal and Juvenile Justice."; and

(d) Subsection 63M-7-305(2) is repealed and replaced with:

"(2) The commission shall:

(a) provide ongoing oversight of the implementation, functions, and evaluation of the Drug-Related Offenses Reform Act; and

(b) coordinate the implementation of Section 77-18-1.1 and related provisions in Subsections 77-18-1(5)(b)(iii) and (iv).".

(24) The Crime Victim Reparations and Assistance Board, created in Section 63M-7-504, is repealed July 1, 2027.

(25) Title 63M, Chapter 7, Part 6, Utah Council on Victims of Crime, is repealed July 1, 2022.

(26) Title 63M, Chapter 11, Utah Commission on Aging, is repealed July 1, 2021.

(27) Subsection 63N-1-301(4)(c), related to the Talent Ready Utah Board, is repealed January 1, 2023.

(28) Title 63N, Chapter 1, Part 5, Governor's Economic Development Coordinating Council, is repealed July 1, 2024.

(29) Title 63N, Chapter 2, Part 2, Enterprise Zone Act, is repealed July 1, 2028.

(30) Section 63N-2-512 is repealed July 1, 2021.

(31) (a) Title 63N, Chapter 2, Part 6, Utah Small Business Jobs Act, is repealed January 1, 2021.

(b) Section 59-9-107 regarding tax credits against premium taxes is repealed for calendar years beginning on or after January 1, 2021.

(c) Notwithstanding Subsection (31)(b), an entity may carry forward a tax credit in accordance with Section 59-9-107 if:

(i) the person is entitled to a tax credit under Section 59-9-107 on or before December 31, 2020; and

(ii) the qualified equity investment that is the basis of the tax credit is certified under Section 63N-2-603 on or before December 31, 2023.

(32) Subsections 63N-3-109(2)(e) and 63N-3-109(2)(f)(i) are repealed July 1, 2023.

(33) Title 63N, Chapter 4, Part 4, Rural Employment Expansion Program, is repealed July 1, 2023.

(34) Title 63N, Chapter 7, Part 1, Board of Tourism Development, is repealed July 1, 2025.

(35) Title 63N, Chapter 9, Part 2, Outdoor Recreational Infrastructure Grant Program, is repealed January 1, 2023.

(36) Title 63N, Chapter 12, Part 5, Talent Ready Utah Center, is repealed January 1, 2023.

Section 52. Section 63I-2-263 is amended to read:

63I-2-263. Repeal dates, Title 63A to Title 63N.

(1) On July 1, 2020:

(a) Subsection 63A-1-203(5)(a)(i) is repealed; and

(b) in Subsection 63A-1-203(5)(a)(ii), the language that states "appointed on or after May 8, 2018," is repealed.

(2) Section 63A-3-111 is repealed June 30, 2021.

(3) Title 63C, Chapter 19, Higher Education Strategic Planning Commission is repealed July 1, 2021.

(4) Title 63C, Chapter 22, Digital Wellness, Citizenship, and Safe Technology Commission is repealed July 1, 2023.

(5) The following sections regarding the World War II Memorial Commission are repealed on July 1, 2022:

(a) Section 63G-1-801;

(b) Section 63G-1-802;

(c) Section 63G-1-803; and

(d) Section 63G-1-804.

(6) Subsections 63G-6a-802(1)(d) and 63G-6a-802(3)(b)(iii), regarding a procurement relating to a vice presidential debate, are repealed January 1, 2021.

(7) In relation to the State Fair Park Committee, on January 1, 2021:

(a) Section 63H-6-104.5 is repealed; and

(b) Subsections 63H-6-104(8) and (9) are repealed.

(8) Section 63H-7a-303 is repealed July 1, 2024.

(9) Subsection 63J-1-206(3)(c), relating to coronavirus, is repealed July 1, 2021.

[~~(10) In relation to the Employability to Careers Program Board, on July 1, 2022.~~]

[~~(a) Subsection 63J-1-602.1(57) is repealed;~~]

[~~(b) Subsection 63J-4-301(1)(h), related to the review of data and metrics, is repealed; and~~]

[~~(c) Title 63J, Chapter 4, Part 7, Employability to Careers Program, is repealed.~~]

[~~(11)~~] (10) Title 63M, Chapter 4, Part 8, Voluntary Home Energy Information Pilot Program Act, is repealed January 1, 2022.

[~~(12)~~] (11) Sections 63M-7-213 and 63M-7-213.5 are repealed on January 1, 2023.

[~~(13)~~] (12) Subsection 63N-12-508(3) is repealed December 31, 2021.

[~~(14)~~] (13) Title 63N, Chapter 13, Part 3, Facilitating [~~Public-Private~~] Public-private Partnerships Act, is repealed January 1, 2024.

[~~(15)~~] (14) Title 63N, Chapter 15, COVID-19 Economic Recovery Programs, is repealed December 31, 2021.

Section 53. Section 63J-1-105 is amended to read:

63J-1-105. Revenue types -- Disposition of dedicated credits and expendable receipts.

(1) (a) Dedicated credits are subject to appropriations and the restrictions in this chapter.

(b) An agency may expend dedicated credits for any purpose within the program or line item.

(2) Except as provided in Subsections (3) and (4), an agency may not expend dedicated credits in excess of the amount appropriated to a line item as dedicated credits by the Legislature.

(3) Each agency that receives dedicated credits revenue greater than the amount appropriated to a line item by the Legislature in the annual appropriations acts may expend the excess up to 25% of the amount appropriated if the expenditure is included in a revised budget execution plan submitted as provided in Section 63J-1-209.

(4) Notwithstanding the requirements of Subsection (3), when an agency's dedicated credits revenue represents over 90% of the budget of the line item for which the dedicated credits are collected, the agency may expend 100% of the excess of the amount appropriated if the agency submits a revised budget execution plan as provided in Subsection (3) and Section 63J-1-209.

(5) An expenditure of dedicated credits in excess of amounts appropriated to a line item as dedicated credits by the Legislature may not be used to permanently increase personnel within the agency unless:

(a) the increase is approved by the Legislature; or

(b) the money is deposited as a dedicated credit in a line item covering tuition or federal vocational funds at an institution of higher education.

(6) (a) All excess dedicated credits not received or expended in compliance with Subsection (3), (4), or (7) lapse to the General Fund or other appropriate fund as free or restricted revenue at the end of the fiscal year.

(b) The Division of Finance shall determine the appropriate fund into which the dedicated credits lapse.

(7) (a) When an agency has a line item that is funded by more than one major revenue type, one of which is dedicated credits, the agency shall completely expend authorized dedicated credits within the current fiscal year and allocate unused spending authorization among other funding sources based upon a proration of the amounts appropriated from each of those major revenue types not attributable to dedicated credits, unless the Legislature has designated a portion of the dedicated credits as nonlapsing, in which case the agency shall completely expend within the current fiscal year authorized dedicated credits minus the portion of dedicated credits designated as nonlapsing, and allocate unused spending authorization among the other funding sources based upon a proration of the amounts appropriated from each of those major revenue types not attributable to dedicated credits.

(b) Nothing in Subsection (7)(a) shall be construed to allow an agency to receive and expend dedicated credits in excess of legislative appropriations to a line item without complying with Subsection (3) or (4).

(c) Each agency that receives dedicated credits shall report, to the Division of Finance, any balances remaining in those funds at the conclusion of each fiscal year.

(8) Each agency shall include in its annual budget request estimates of dedicated credits revenue that is identified by, collected for, or set by the agency.

(9) Each agency may expend expendable receipts in accordance with the terms set by a nonstate entity that provides the funds.

(10) (a) Expendable receipts are not limited by appropriations.

(b) Each agency that receives expendable receipts revenue greater than the amount included for a line item by the Legislature in the annual appropriations acts may expend the excess if the expenditure is included in a revised budget execution plan submitted as provided in Section 63J-1-209.

(c) If an agency receives excess expendable receipts revenue that is more than 25% greater than the amount included for a line item by the Legislature in the annual appropriations acts, the agency shall report the excess amount, the source of the expendable receipts, and the purpose for which the expendable receipts will be expended to the Governor's Office of [~~Management~~] Planning and Budget, the legislative fiscal analyst, and the Executive Appropriations Committee within 60 days of submitting a revised budget execution plan as provided in Section 63J-1-209.

Section 54. Section 63J-1-201 is amended to read:

63J-1-201. Governor's proposed budget to Legislature -- Contents -- Preparation -- Appropriations based on current tax laws and not to exceed estimated revenues.

(1) The governor shall deliver, not later than 30 days before the date the Legislature convenes in the annual general session, a confidential draft copy of the governor's proposed budget recommendations to the Office of the Legislative Fiscal Analyst according to the requirements of this section.

(2) (a) When submitting a proposed budget, the governor shall, within the first three days of the annual general session of the Legislature, submit to the presiding officer of each house of the Legislature:

(i) a proposed budget for the ensuing fiscal year;

(ii) a schedule for all of the proposed changes to appropriations in the proposed budget, with each change clearly itemized and classified; and

(iii) as applicable, a document showing proposed changes in estimated revenues that are based on changes in state tax laws or rates.

(b) The proposed budget shall include:

(i) a projection of:

(A) estimated revenues by major tax type;

(B) 15-year trends for each major tax type;

(C) estimated receipts of federal funds;

(D) 15-year trends for federal fund receipts; and

(E) appropriations for the next fiscal year;

(ii) the source of changes to all direct, indirect, and in-kind matching funds for all federal grants or assistance programs included in the budget;

(iii) changes to debt service;

(iv) a plan of proposed changes to appropriations and estimated revenues for the next fiscal year that is based upon the current fiscal year state tax laws and rates and considers projected changes in federal grants or assistance programs included in the budget;

(v) an itemized estimate of the proposed changes to appropriations for:

(A) the Legislative Department as certified to the governor by the president of the Senate and the speaker of the House;

(B) the Executive Department;

(C) the Judicial Department as certified to the governor by the state court administrator;

(D) changes to salaries payable by the state under the Utah Constitution or under law for lease agreements planned for the next fiscal year; and

(E) all other changes to ongoing or one-time appropriations, including dedicated credits, restricted funds, nonlapsing balances, grants, and federal funds;

(vi) for each line item, the average annual dollar amount of staff funding associated with all positions that were vacant during the last fiscal year;

(vii) deficits or anticipated deficits;

(viii) the recommendations for each state agency for new full-time employees for the next fiscal year, which shall also be provided to the director of the Division of Facilities Construction and Management as required by Subsection 63A-5b-501(3);

(ix) a written description and itemized report submitted by a state agency to the Governor's Office of [~~Management~~] Planning and Budget under Section 63J-1-220, including:

(A) a written description and an itemized report provided at least annually detailing the expenditure of the state money, or the intended expenditure of any state money that has not been spent; and

(B) a final written itemized report when all the state money is spent;

(x) any explanation that the governor may desire to make as to the important features of the budget and any suggestion as to methods for the reduction of expenditures or increase of the state's revenue; and

(xi) information detailing certain fee increases as required by Section 63J-1-504.

(3) For the purpose of preparing and reporting the proposed budget:

(a) The governor shall require the proper state officials, including all public and higher education officials, all heads of executive and administrative departments and state institutions, bureaus, boards, commissions, and agencies expending or supervising the expenditure of the state money, and all institutions applying for state money and appropriations, to provide itemized estimates of changes in revenues and appropriations.

(b) The governor may require the persons and entities subject to Subsection (3)(a) to provide other information under these guidelines and at times as the governor may direct, which may include a requirement for program productivity and performance measures, where appropriate, with emphasis on outcome indicators.

(c) The governor may require representatives of public and higher education, state departments and institutions, and other institutions or individuals applying for state appropriations to attend budget meetings.

(4) (a) The Governor's Office of [~~Management~~] Planning and Budget shall provide to the Office of the Legislative Fiscal Analyst, as soon as practicable, but no later than 30 days before the date the Legislature convenes in the annual general session, data, analysis, or requests used in

preparing the governor's budget recommendations, notwithstanding the restrictions imposed on such recommendations by available revenue.

(b) The information under Subsection (4)(a) shall include:

(i) actual revenues and expenditures for the fiscal year ending the previous June 30;

(ii) estimated or authorized revenues and expenditures for the current fiscal year;

(iii) requested revenues and expenditures for the next fiscal year;

(iv) detailed explanations of any differences between the amounts appropriated by the Legislature in the current fiscal year and the amounts reported under Subsections (4)(b)(ii) and (iii);

(v) a statement of:

(A) agency and program objectives, effectiveness measures, and program size indicators;

(B) the final status of the program objectives, effectiveness measures, and program size indicators included in the appropriations act for the fiscal year ending the previous June 30; and

(C) the current status of the program objectives, effectiveness measures, and program size indicators included in the appropriations act for the current fiscal year; and

(vi) other budgetary information required by the Legislature in statute.

(c) The budget information under Subsection (4)(a) shall cover:

(i) all items of appropriation, funds, and accounts included in appropriations acts for the current and previous fiscal years; and

(ii) any new appropriation, fund, or account items requested for the next fiscal year.

(d) The information provided under Subsection (4)(a) may be provided as a shared record under Section 63G-2-206 as considered necessary by the Governor's Office of [~~Management~~] Planning and Budget.

(5) (a) In submitting the budget for the Department of Public Safety, the governor shall include a separate recommendation in the governor's budget for maintaining a sufficient number of alcohol-related law enforcement officers to maintain the enforcement ratio equal to or below the number specified in Subsection 32B-1-201(2).

(b) If the governor does not include in the governor's budget an amount sufficient to maintain the number of alcohol-related law enforcement officers described in Subsection (5)(a), the governor shall include a message to the Legislature regarding the governor's reason for not including that amount.

(6) (a) The governor may revise all estimates, except those relating to the Legislative Department, the Judicial Department, and those providing for the payment of principal and interest to the state debt and for the salaries and expenditures specified by the Utah Constitution or under the laws of the state.

(b) The estimate for the Judicial Department, as certified by the state court administrator, shall also be included in the budget without revision, but the governor may make separate recommendations on the estimate.

(7) The total appropriations requested for expenditures authorized by the budget may not exceed the estimated revenues from taxes, fees, and all other sources for the next ensuing fiscal year.

(8) If any item of the budget as enacted is held invalid upon any ground, the invalidity does not affect the budget itself or any other item in it.

Section 55. Section 63J-1-205 is amended to read:

63J-1-205. Revenue volatility report.

(1) Beginning in 2011 and continuing every three years after 2011, the Legislative Fiscal Analyst and the Governor's Office of [~~Management~~] Planning and Budget shall submit a joint revenue volatility report to the Executive Appropriations Committee prior to the committee's December meeting.

(2) The Legislative Fiscal Analyst and the Governor's Office of [~~Management~~] Planning and Budget shall ensure that the report:

(a) discusses the tax base and the tax revenue volatility of the revenue streams that provide the source of funding for the state budget;

(b) considers federal funding included in the state budget and any projected changes in the amount or value of federal funding;

(c) identifies the balances in the General Fund Budget Reserve Account and the Education Fund Budget Reserve Account;

(d) analyzes the adequacy of the balances in the General Fund Budget Reserve Account and the Education Fund Budget Reserve Account in relation to the volatility of the revenue streams and the risk of a reduction in the amount or value of federal funding;

(e) recommends changes to the deposit amounts or transfer limits established in Sections 63J-1-312 and 63J-1-313, if the Legislative Fiscal Analyst and Governor's Office of [~~Management~~] Planning and Budget consider it appropriate to recommend changes; and

(f) presents options for a deposit mechanism linked to one or more tax sources on the basis of each tax source's observed volatility, including:

(i) an analysis of how the options would have performed historically within the state;

(ii) an analysis of how the options will perform based on the most recent revenue forecast; and

(iii) recommendations for deposit mechanisms considered likely to meet the budget reserve

account targets established in Sections 63J-1-312 and 63J-1-313.

Section 56. Section 63J-1-209 is amended to read:

63J-1-209. Director of finance to exercise accounting control -- Budget execution plans -- Allotments and expenditures.

(1) The director of finance shall exercise accounting control over all state departments, institutions, and agencies other than the Legislature and legislative committees.

(2) (a) The director shall require the head of each department to submit, by May 15 of each year, a budget execution plan for the next fiscal year.

(b) The director may require any department to submit a budget execution plan for any other period.

(3) The budget execution plan shall include appropriations and all other funds from any source made available to the department for its operation and maintenance for the period and program authorized by legislation that appropriates funds.

(4) (a) In order to revise a budget execution plan, the department, agency, or institution seeking to revise the budget execution plan shall:

(i) develop a new budget execution plan that consists of the currently approved budget execution plan and the revision sought to be made;

(ii) prepare a written justification for the new budget execution plan that sets forth the purpose and necessity of the revision; and

(iii) submit the new budget execution plan and the written justification for the new budget execution plan to the Division of Finance.

(b) The Division of Finance shall process the new budget execution plan with written justification and make this information available to the Governor's Office of [~~Management~~] Planning and Budget and the legislative fiscal analyst.

(5) Upon request from the Governor's Office of [~~Management~~] Planning and Budget, the Division of Finance shall revise budget execution plans.

(6) Notwithstanding the requirements of Title 63J, Chapter 2, Revenue Procedures and Control Act, the aggregate of the budget execution plan revisions may not exceed the total appropriations or other funds from any source that are available to the agency line item for the fiscal year in question.

(7) Upon transmittal of the new budget execution plan to the entities in Subsection (4), the Division of Finance shall permit all expenditures to be made from the appropriations or other funds from any source on the basis of those budget execution plans.

(8) The Division of Finance shall, through statistical sampling methods or other means, audit all claims against the state for which an appropriation has been made.

Section 57. Section 63J-1-217 is amended to read:

63J-1-217. Overexpenditure of budget by agency -- Prorating budget income shortfall.

(1) Expenditures of departments, agencies, and institutions of state government shall be kept within revenues available for such expenditures.

(2) (a) Line items of appropriation shall not be overexpended.

(b) Notwithstanding Subsection (2)(a), if an agency's line item is overexpended at the close of a fiscal year:

(i) the director of the Division of Finance may make payments from the line item to vendors for goods or services that were received on or before June 30; and

(ii) the director of the Division of Finance shall immediately reduce the agency's line item budget in the current year by the amount of the overexpenditure.

(c) Each agency with an overexpended line item shall:

(i) prepare a written report explaining the reasons for the overexpenditure; and

(ii) present the report to:

(A) the Board of Examiners as required by Section 63G-9-301; and

(B) the Office of the Legislative Fiscal Analyst.

(3) (a) As used in this Subsection (3):

(i) "Education Fund budget deficit" has the same meaning as in Section 63J-1-312; and

(ii) "General Fund budget deficit" has the same meaning as in Section 63J-1-312.

(b) If an Education Fund budget deficit or a General Fund budget deficit exists and the adopted estimated revenues were prepared in consensus with the Governor's Office of [~~Management~~] Planning and Budget, the governor shall:

(i) direct state agencies to reduce commitments and expenditures by an amount proportionate to the amount of the deficiency; and

(ii) direct the Division of Finance to reduce allotments to institutions of higher education by an amount proportionate to the amount of the deficiency.

(c) The governor's directions under Subsection (3)(b) are rescinded when the Legislature rectifies the Education Fund budget deficit and the General Fund budget deficit.

(4) (a) A department may not receive an advance of funds that cannot be covered by anticipated revenue within the budget execution plan of the fiscal year, unless the governor allocates money from the governor's emergency appropriations.

(b) All allocations made from the governor's emergency appropriations shall be reported to the

budget subcommittee of the Legislative Management Committee by notifying the Office of the Legislative Fiscal Analyst at least 15 days before the effective date of the allocation.

(c) Emergency appropriations shall be allocated only to support activities having existing legislative approval and appropriation, and may not be allocated to any activity or function rejected directly or indirectly by the Legislature.

Section 58. Section 63J-1-220 is amended to read:

63J-1-220. Reporting related to pass through money distributed by state agencies.

(1) As used in this section:

(a) "Local government entity" means a county, municipality, school district, local district under Title 17B, Limited Purpose Local Government Entities - Local Districts, special service district under Title 17D, Chapter 1, Special Service District Act, or any other political subdivision of the state.

(b) (i) "Pass through funding" means money appropriated by the Legislature to a state agency that is intended to be passed through the state agency to one or more:

(A) local government entities;

(B) private organizations, including not-for-profit organizations; or

(C) persons in the form of a loan or grant.

(ii) "Pass through funding" may be:

(A) general funds, dedicated credits, or any combination of state funding sources; and

(B) ongoing or one-time.

(c) "Recipient entity" means a local government entity or private entity, including a nonprofit entity, that receives money by way of pass through funding from a state agency.

(d) "State agency" means a department, commission, board, council, agency, institution, officer, corporation, fund, division, office, committee, authority, laboratory, library, unit, bureau, panel, or other administrative unit of the executive branch of the state.

(e) (i) "State money" means money that is owned, held, or administered by a state agency and derived from state fees or tax revenues.

(ii) "State money" does not include contributions or donations received by a state agency.

(2) A state agency may not provide a recipient entity state money through pass through funding unless:

(a) the state agency enters into a written agreement with the recipient entity; and

(b) the written agreement described in Subsection (2)(a) requires the recipient entity to provide the state agency:

(i) a written description and an itemized report at least annually detailing the expenditure of the state money, or the intended expenditure of any state money that has not been spent; and

(ii) a final written itemized report when all the state money is spent.

(3) A state agency shall provide to the Governor's Office of [~~Management~~] Planning and Budget a copy of a written description or itemized report received by the state agency under Subsection (2).

(4) Notwithstanding Subsection (2), a state agency is not required to comply with this section to the extent that the pass through funding is issued:

(a) under a competitive award process;

(b) in accordance with a formula enacted in statute;

(c) in accordance with a state program under parameters in statute or rule that guides the distribution of the pass through funding; or

(d) under the authority of the Minimum School Program, as defined in Section 53F-2-102.

Section 59. Section 63J-1-411 is amended to read:

63J-1-411. Internal service funds -- End of fiscal year -- Unused authority for capital acquisition.

(1) An internal service fund agency's authority to acquire capital assets under Subsection 63J-1-410(8)(a) shall lapse if the acquisition of the capital asset does not occur in the fiscal year in which the authorization is included in the appropriations act, unless the Legislature identifies the authority to acquire the capital asset as nonlapsing authority:

(a) for a specific one-time project and a limited period of time in the Legislature's initial appropriation to the agency; or

(b) in a supplemental appropriation in accordance with Subsection (2).

(2) (a) An internal service fund agency's authority to acquire capital assets may be retained as nonlapsing authorization if the internal service fund agency includes a one-time project's list as part of the budget request that it submits to the governor and the Legislature at the annual general session of the Legislature immediately before the end of the fiscal year in which the agency may have unused capital acquisition authority.

(b) The governor:

(i) may approve some or all of the items from an agency's one-time project's list; and

(ii) shall identify and prioritize any approved one-time projects in the budget that the governor submits to the Legislature.

(c) The Legislature:

(i) may approve some or all of the specific items from an agency's one-time project's list as an approved capital acquisition for an agency's appropriation balance;

(ii) shall identify any authorized one-time projects in the appropriate line item appropriation; and

(iii) may prioritize one-time projects in intent language.

(3) An internal service fund agency shall submit a status report of outstanding nonlapsing authority to acquire capital assets and associated one-time projects to the Governor's Office of [~~Management~~] Planning and Budget and the Legislative Fiscal Analyst's Office with the proposed budget submitted by the governor as provided under Section 63J-1-201.

Section 60. Section 63J-1-504 is amended to read:

63J-1-504. Fees -- Adoption, procedure, and approval -- Establishing and assessing fees without legislative approval.

(1) As used in this section:

(a) (i) "Agency" means each department, commission, board, council, agency, institution, officer, corporation, fund, division, office, committee, authority, laboratory, library, unit, bureau, panel, or other administrative unit of the state.

(ii) "Agency" does not mean the Legislature or its committees.

(b) "Fee agency" means any agency that is authorized to establish fees.

(c) "Fee schedule" means the complete list of fees charged by a fee agency and the amount of those fees.

(2) Each fee agency shall adopt a schedule of fees assessed for services provided by the fee agency that are:

(a) reasonable, fair, and reflect the cost of services provided; and

(b) established according to a cost formula determined by the executive director of the Governor's Office of [~~Management~~] Planning and Budget and the director of the Division of Finance in conjunction with the agency seeking to establish the fee.

(3) Except as provided in Subsection (6), a fee agency may not:

(a) set fees by rule; or

(b) create, change, or collect any fee unless the fee has been established according to the procedures and requirements of this section.

(4) Each fee agency that is proposing a new fee or proposing to change a fee shall:

(a) present each proposed fee at a public hearing, subject to the requirements of Title 52, Chapter 4, Open and Public Meetings Act;

(b) increase, decrease, or affirm each proposed fee based on the results of the public hearing;

(c) except as provided in Subsection (6), submit the fee schedule to the Legislature as part of the agency's annual appropriations request; and

(d) where necessary, modify the fee schedule to implement the Legislature's actions.

(5) (a) Each fee agency shall submit [~~its~~] the agency's fee schedule or special assessment amount to the Legislature for [~~its~~] the Legislature's approval on an annual basis.

(b) The Legislature may approve, increase or decrease and approve, or reject any fee submitted to it by a fee agency.

(6) After conducting the public hearing required by this section, a fee agency may establish and assess fees without first obtaining legislative approval if:

(a) (i) the Legislature creates a new program that is to be funded by fees to be set by the Legislature;

(ii) the new program's effective date is before the Legislature's next annual general session; and

(iii) the fee agency submits the fee schedule for the new program to the Legislature for its approval at a special session, if allowed in the governor's call, or at the next annual general session of the Legislature, whichever is sooner; or

(b) (i) the fee agency proposes to increase or decrease an existing fee for the purpose of adding or removing a transactional fee that is charged or assessed by a non-governmental third party but is included as part of the fee charged by the fee agency;

(ii) the amount of the increase or decrease in the fee is equal to the amount of the transactional fee charged or assessed by the non-governmental third party; and

(iii) the increased or decreased fee is submitted to the Legislature for [~~its~~] the Legislature's approval at a special session, if allowed in the governor's call, or at the next annual session of the Legislature, whichever is sooner.

(7) (a) Each fee agency that wishes to change any fee shall submit to the governor as part of the agency's annual appropriation request a list that identifies:

(i) the title or purpose of the fee;

(ii) the present amount of the fee;

(iii) the proposed new amount of the fee;

(iv) the percent that the fee will have increased if the Legislature approves the higher fee;

(v) the estimated total annual revenue change that will result from the change in the fee;

(vi) the account or fund into which the fee will be deposited; and

(vii) the reason for the change in the fee.

(b) (i) The governor may review and approve, modify and approve, or reject the fee increases.

(ii) The governor shall transmit the list required by Subsection (7)(a), with any modifications, to the

[~~Legislative Fiscal Analyst~~] legislative fiscal analyst with the governor's budget recommendations.

(c) Bills approving any fee change shall be filed before the beginning of the Legislature's annual general session, if possible.

(8) (a) Except as provided in Subsection (8)(b), the School and Institutional Trust Lands Administration, established in Section 53C-1-201, is exempt from the requirements of this section.

(b) The following fees of the School and Institutional Trust Lands Administration are subject to the requirements of this section: application, assignment, amendment, affidavit for lost documents, name change, reinstatement, grazing nonuse, extension of time, partial conveyance, patent reissue, collateral assignment, electronic payment, and processing.

Section 61. Section 63J-1-602.1 is amended to read:

63J-1-602.1. List of nonlapsing appropriations from accounts and funds.

Appropriations made from the following accounts or funds are nonlapsing:

(1) The Utah Intracurricular Student Organization Support for Agricultural Education and Leadership Restricted Account created in Section 4-42-102.

(2) The Native American Repatriation Restricted Account created in Section 9-9-407.

(3) The Martin Luther King, Jr. Civil Rights Support Restricted Account created in Section 9-18-102.

(4) The National Professional Men's Soccer Team Support of Building Communities Restricted Account created in Section 9-19-102.

(5) Funds collected for directing and administering the C-PACE district created in Section 11-42a-106.

(6) Money received by the Utah Inland Port Authority, as provided in Section 11-58-105.

(7) The "Latino Community Support Restricted Account" created in Section 13-1-16.

(8) The Clean Air Support Restricted Account created in Section 19-1-109.

(9) The "Support for State-Owned Shooting Ranges Restricted Account" created in Section 23-14-13.5.

(10) Award money under the State Asset Forfeiture Grant Program, as provided under Section 24-4-117.

(11) Funds collected from the program fund for local health department expenses incurred in responding to a local health emergency under Section 26-1-38.

(12) The Children with Cancer Support Restricted Account created in Section 26-21a-304.

(13) State funds for matching federal funds in the Children's Health Insurance Program as provided in Section 26-40-108.

(14) The Children with Heart Disease Support Restricted Account created in Section 26-58-102.

(15) The Nurse Home Visiting Restricted Account created in Section 26-63-601.

(16) The Technology Development Restricted Account created in Section 31A-3-104.

(17) The Criminal Background Check Restricted Account created in Section 31A-3-105.

(18) The Captive Insurance Restricted Account created in Section 31A-3-304, except to the extent that Section 31A-3-304 makes the money received under that section free revenue.

(19) The Title Licensee Enforcement Restricted Account created in Section 31A-23a-415.

(20) The Health Insurance Actuarial Review Restricted Account created in Section 31A-30-115.

(21) The Insurance Fraud Investigation Restricted Account created in Section 31A-31-108.

(22) The Underage Drinking Prevention Media and Education Campaign Restricted Account created in Section 32B-2-306.

(23) The School Readiness Restricted Account created in Section 35A-15-203.

(24) Money received by the Utah State Office of Rehabilitation for the sale of certain products or services, as provided in Section 35A-13-202.

(25) The Oil and Gas Administrative Penalties Account created in Section 40-6-11.

(26) The Oil and Gas Conservation Account created in Section 40-6-14.5.

(27) The Electronic Payment Fee Restricted Account created by Section 41-1a-121 to the Motor Vehicle Division.

(28) The Motor Vehicle Enforcement Division Temporary Permit Restricted Account created by Section 41-3-110 to the State Tax Commission.

(29) The Utah Law Enforcement Memorial Support Restricted Account created in Section 53-1-120.

(30) The State Disaster Recovery Restricted Account to the Division of Emergency Management, as provided in Section 53-2a-603.

(31) The Department of Public Safety Restricted Account to the Department of Public Safety, as provided in Section 53-3-106.

(32) The Utah Highway Patrol Aero Bureau Restricted Account created in Section 53-8-303.

(33) The DNA Specimen Restricted Account created in Section 53-10-407.

(34) The Canine Body Armor Restricted Account created in Section 53-16-201.

(35) The Technical Colleges Capital Projects Fund created in Section 53B-2a-118.

(36) The Higher Education Capital Projects Fund created in Section 53B-22-202.

(37) A certain portion of money collected for administrative costs under the School Institutional Trust Lands Management Act, as provided under Section 53C-3-202.

(38) The Public Utility Regulatory Restricted Account created in Section 54-5-1.5, subject to Subsection 54-5-1.5(4)(d).

(39) Funds collected from a surcharge fee to provide certain licensees with access to an electronic reference library, as provided in Section 58-3a-105.

(40) Certain fines collected by the Division of Occupational and Professional Licensing for violation of unlawful or unprofessional conduct that are used for education and enforcement purposes, as provided in Section 58-17b-505.

(41) Funds collected from a surcharge fee to provide certain licensees with access to an electronic reference library, as provided in Section 58-22-104.

(42) Funds collected from a surcharge fee to provide certain licensees with access to an electronic reference library, as provided in Section 58-55-106.

(43) Funds collected from a surcharge fee to provide certain licensees with access to an electronic reference library, as provided in Section 58-56-3.5.

(44) Certain fines collected by the Division of Occupational and Professional Licensing for use in education and enforcement of the Security Personnel Licensing Act, as provided in Section 58-63-103.

(45) The Relative Value Study Restricted Account created in Section 59-9-105.

(46) The Cigarette Tax Restricted Account created in Section 59-14-204.

(47) Funds paid to the Division of Real Estate for the cost of a criminal background check for a mortgage loan license, as provided in Section 61-2c-202.

(48) Funds paid to the Division of Real Estate for the cost of a criminal background check for principal broker, associate broker, and sales agent licenses, as provided in Section 61-2f-204.

(49) Certain funds donated to the Department of Human Services, as provided in Section 62A-1-111.

(50) The National Professional Men's Basketball Team Support of Women and Children Issues Restricted Account created in Section 62A-1-202.

(51) Certain funds donated to the Division of Child and Family Services, as provided in Section 62A-4a-110.

(52) The Choose Life Adoption Support Restricted Account created in Section 62A-4a-608.

(53) Funds collected by the Office of Administrative Rules for publishing, as provided in Section 63G-3-402.

(54) The Immigration Act Restricted Account created in Section 63G-12-103.

(55) Money received by the military installation development authority, as provided in Section 63H-1-504.

(56) The Computer Aided Dispatch Restricted Account created in Section 63H-7a-303.

(57) The Unified Statewide 911 Emergency Service Account created in Section 63H-7a-304.

(58) The Utah Statewide Radio System Restricted Account created in Section 63H-7a-403.

[~~(59) The Employability to Careers Program Restricted Account created in Section 63J-4-703.~~]

[~~(60)~~] (59) The Motion Picture Incentive Account created in Section 63N-8-103.

[~~(61)~~] (60) Certain money payable for expenses of the Pete Suazo Utah Athletic Commission, as provided under Section 63N-10-301.

[~~(62)~~] (61) Funds collected by the housing of state probationary inmates or state parole inmates, as provided in Subsection 64-13e-104(2).

[~~(63)~~] (62) Certain forestry and fire control funds utilized by the Division of Forestry, Fire, and State Lands, as provided in Section 65A-8-103.

[~~(64)~~] (63) The Transportation of Veterans to Memorials Support Restricted Account created in Section 71-14-102.

[~~(65)~~] (64) The Amusement Ride Safety Restricted Account, as provided in Section 72-16-204.

[~~(66)~~] (65) Certain funds received by the Office of the State Engineer for well drilling fines or bonds, as provided in Section 73-3-25.

[~~(67)~~] (66) The Water Resources Conservation and Development Fund, as provided in Section 73-23-2.

[~~(68)~~] (67) Funds donated or paid to a juvenile court by private sources, as provided in Subsection 78A-6-203(1)(c).

[~~(69)~~] (68) Fees for certificate of admission created under Section 78A-9-102.

[~~(70)~~] (69) Funds collected for adoption document access as provided in Sections 78B-6-141, 78B-6-144, and 78B-6-144.5.

[~~(71)~~] (70) Funds collected for indigent defense as provided in Title 78B, Chapter 22, Part 4, Utah Indigent Defense Commission.

[~~(72)~~] (71) Revenue for golf user fees at the Wasatch Mountain State Park, Palisades State Park, Jordan River State Park, and Green River State Park, as provided under Section 79-4-403.

[~~(73)~~] (72) Certain funds received by the Division of Parks and Recreation from the sale or disposal of buffalo, as provided under Section 79-4-1001.

[~~(74)~~] (73) The Drinking While Pregnant Prevention Media and Education Campaign Restricted Account created in Section 32B-2-308.

Section 62. Section 63J-3-102 is amended to read:

63J-3-102. Purpose of chapter -- Limitations on state mandated property tax, state appropriations, and state debt.

(1) (a) It is the purpose of this chapter to:

(i) place a limitation on the state mandated property tax rate under Title 53F, Chapter 2, State Funding -- Minimum School Program;

(ii) place limitations on state government appropriations based upon the combined changes in population and inflation; and

(iii) place a limitation on the state's outstanding general obligation debt.

(b) The limitations imposed by this chapter are in addition to limitations on tax levies, rates, and revenues otherwise provided for by law.

(2) (a) This chapter may not be construed as requiring the state to collect the full amount of tax revenues permitted to be appropriated by this chapter.

(b) This chapter's purpose is to provide a ceiling, not a floor, limitation on the appropriations of state government.

(3) The recommendations and budget analysis prepared by the Governor's Office of [~~Management~~] Planning and Budget and the Office of the Legislative Fiscal Analyst, as required by Title 36, Chapter 12, Legislative Organization, shall be in strict compliance with the limitations imposed under this chapter.

Section 63. Section 63J-3-103 is amended to read:

63J-3-103. Definitions.

As used in this chapter:

(1) (a) "Appropriations" means actual unrestricted capital and operating appropriations from unrestricted General Fund and Education Fund sources.

(b) "Appropriations" includes appropriations that are contingent upon available surpluses in the General Fund and Education Fund.

(c) "Appropriations" does not mean:

(i) public education expenditures;

(ii) Utah Education and Telehealth Network expenditures in support of public education;

(iii) Utah Board of Higher Education expenditures in support of public education;

(iv) State Tax Commission expenditures related to collection of income taxes in support of public education;

(v) debt service expenditures;

(vi) emergency expenditures;

(vii) expenditures from all other fund or subfund sources;

(viii) transfers or appropriations from the Education Fund to the Uniform School Fund;

(ix) transfers into, or appropriations made to, the General Fund Budget Reserve Account established in Section 63J-1-312;

(x) transfers into, or appropriations made to, the Education Budget Reserve Account established in Section 63J-1-313;

(xi) transfers in accordance with Section 63J-1-314 into, or appropriations made to the Wildland Fire Suppression Fund created in Section 65A-8-204 or the State Disaster Recovery Restricted Account created in Section 53-2a-603;

(xii) money appropriated to fund the total one-time project costs for the construction of capital development projects as defined in Section 63A-5b-401;

(xiii) transfers or deposits into or appropriations made to the Centennial Highway Fund created by Section 72-2-118;

(xiv) transfers or deposits into or appropriations made to the Transportation Investment Fund of 2005 created by Section 72-2-124;

(xv) transfers or deposits into or appropriations made to:

(A) the Department of Transportation from any source; or

(B) any transportation-related account or fund from any source; or

(xvi) supplemental appropriations from the General Fund to the Division of Forestry, Fire, and State Lands to provide money for wildland fire control expenses incurred during the current or previous fire years.

(2) "Base year real per capita appropriations" means the result obtained for the state by dividing the fiscal year 1985 actual appropriations of the state less debt money by:

(a) the state's July 1, 1983 population; and

(b) the fiscal year 1983 inflation index divided by 100.

(3) "Calendar year" means the time period beginning on January 1 of any given year and ending on December 31 of the same year.

(4) "Fiscal emergency" means an extraordinary occurrence requiring immediate expenditures and includes the settlement under Laws of Utah 1988, Fourth Special Session, Chapter 4.

(5) "Fiscal year" means the time period beginning on July 1 of any given year and ending on June 30 of the subsequent year.

(6) "Fiscal year 1985 actual base year appropriations" means fiscal year 1985 actual capital and operations appropriations from General Fund and non-Uniform School Fund income tax revenue sources, less debt money.

(7) "Inflation index" means the change in the general price level of goods and services as measured by the Gross National Product Implicit Price Deflator of the Bureau of Economic Analysis, U.S. Department of Commerce calculated as provided in Section 63J-3-202.

(8) (a) "Maximum allowable appropriations limit" means the appropriations that could be, or could have been, spent in any given year under the limitations of this chapter.

(b) "Maximum allowable appropriations limit" does not mean actual appropriations spent or actual expenditures.

(9) "Most recent fiscal year's inflation index" means the fiscal year inflation index two fiscal years previous to the fiscal year for which the maximum allowable inflation and population appropriations limit is being computed under this chapter.

(10) "Most recent fiscal year's population" means the fiscal year population two fiscal years previous to the fiscal year for which the maximum allowable inflation and population appropriations limit is being computed under this chapter.

(11) "Population" means the number of residents of the state as of July 1 of each year as calculated by the Governor's Office of [~~Management~~] Planning and Budget according to the procedures and requirements of Section 63J-3-202.

(12) "Revenues" means the revenues of the state from every tax, penalty, receipt, and other monetary exaction and interest connected with it that are recorded as unrestricted revenue of the General Fund and from non-Uniform School Fund income tax revenues, except as specifically exempted by this chapter.

(13) "Security" means any bond, note, warrant, or other evidence of indebtedness, whether or not the bond, note, warrant, or other evidence of indebtedness is or constitutes an "indebtedness" within the meaning of any provision of the constitution or laws of this state.

Section 64. Section 63J-3-202 is amended to read:

63J-3-202. Computing formula elements.

(1) For purposes of calculating fiscal year inflation indexes for the previous fiscal year, the Governor's Office of [~~Management~~] Planning and Budget shall use:

(a) the actual quarterly data released by the U.S. Department of Commerce as of January 31 of each year; and

(b) the most recent U.S. Bureau of Census population estimates as of January 31 of each year.

(2) (a) For purposes of computing the inflation index, the Governor's Office of [~~Management~~] Planning and Budget shall:

(i) assign the bureau's 1982 calendar year inflation index value of 100 to fiscal year 1989 for purposes of computing fiscal year index values;

(ii) compute all subsequent fiscal year inflation indexes after having assigned the fiscal year 1989 inflation index a value of 100; and

(iii) use the quarterly index values published by the Bureau of Economic Analysis, U.S. Department of Commerce, to compute fiscal year index values.

(b) If the bureau changes its calendar base year, appropriate adjustments are to be made in this chapter to accommodate those changes.

(3) (a) For purposes of computing the most recent fiscal year's population, the Governor's Office of [~~Management~~] Planning and Budget shall convert the April 1 decennial census estimate to a July 1 estimate, unless otherwise estimated by the Bureau of Census.

(b) If the bureau changes the state's July 1, 1983 base year population after it conducts the 1990 Census, appropriate adjustments shall be made in this chapter to accommodate those changes.

Section 65. Section 63J-4-101 is amended to read:

CHAPTER 4. GOVERNOR'S OFFICE OF PLANNING AND BUDGET

63J-4-101. Title.

This chapter is known as the "Governor's Office of [~~Management~~] Planning and Budget."

Section 66. Section 63J-4-102 is amended to read:

63J-4-102. Definitions.

As used in this chapter:

[~~(1) "Committee" means the Resource Development Coordinating Committee created by this chapter.~~]

[~~(2)~~] (1) "Executive director" means the chief administrative officer of the [~~Governor's Office of Management and Budget appointed as provided in this chapter~~] office, appointed under Section 63J-4-202.

[~~(3)~~] (2) "Office" means the Governor's Office of [~~Management~~] Planning and Budget created [~~by this chapter.~~] in Section 63J-4-201.

(3) "Planning coordinator" means the individual appointed as the planning coordinator under Section 63J-4-401.

(4) "Political subdivision" means:

(a) a county, municipality, local district, special service district, school district, or interlocal [~~cooperation agreement entity, or any~~] entity, as defined in Section 11-13-103; or

(b) an administrative subunit of [~~them~~] an entity listed in Subsection (4)(a).

[~~(5) "State planning coordinator" means the person appointed as planning coordinator as provided in this chapter.~~]

Section 67. Section 63J-4-201 is amended to read:

63J-4-201. Creation of Governor's Office of Planning and Budget.

There is created within the governor's office the Governor's Office of [~~Management~~] Planning and Budget to be administered by an executive director.

Section 68. Section 63J-4-202 is amended to read:

63J-4-202. Appointment of executive director -- Salary.

(1) [~~(a)~~] The governor shall appoint an executive director of the office, to serve at the governor's pleasure[~~;~~].

[~~(i) an executive director of the Governor's Office of Management and Budget; and~~]

[~~(ii) a state planning coordinator.~~]

[~~(b) The state planning coordinator is considered part of the office for purposes of administration.~~]

(2) The governor shall establish the executive director's salary within the salary range fixed by the Legislature in Title 67, Chapter 22, State Officer Compensation.

Section 69. Section 63J-4-301 is amended to read:

63J-4-301. Duties of the executive director and office.

(1) The executive director and the office shall:

(a) comply with the procedures and requirements of Title 63J, Chapter 1, Budgetary Procedures Act;

(b) under the direct supervision of the governor, assist the governor in the preparation of the governor's budget recommendations;

(c) review agency budget execution plans as specified in Section 63J-1-209;

(d) establish benchmarking practices for measuring operational costs, quality of service, and effectiveness across all state agencies and programs;

(e) assist agencies with the development of an operational plan that uses continuous improvement tools and operational metrics to increase statewide capacity and improve interagency integration;

(f) review and assess agency budget requests and expenditures using a clear set of goals and measures;

(g) develop and maintain enterprise portfolio and electronic information systems to select and oversee the execution of projects, ensure a return on investment, and trace and report performance metrics; and

[~~(h) coordinate with the executive directors of the Department of Workforce Services and the Governor's Office of Economic Development to review data and metrics to be reported to the Legislature as described in Subsection 63J-4-708(2)(d); and~~]

[~~(i)~~] (h) perform other duties and responsibilities as assigned by the governor.

(2) (a) The executive director [~~of the Governor's Office of Management and Budget~~] or the executive director's designee is the Federal Assistance Management Officer.

(b) In acting as the Federal Assistance Management Officer, the executive director or designee shall:

(i) study the administration and effect of federal assistance programs in the state and advise the governor and the Legislature, through the Office of the Legislative Fiscal Analyst and the Executive Appropriations Committee, of alternative recommended methods and procedures for the administration of these programs;

(ii) assist in the coordination of federal assistance programs that involve or are administered by more than one state agency; and

(iii) analyze and advise on applications for new federal assistance programs submitted to the governor for approval as required by Chapter 5, Federal Funds Procedures Act.

Section 70. Section 63J-4-401 is amended to read:

63J-4-401. Planning coordinator appointment, functions, and duties.

(1) (a) The executive director shall appoint a planning coordinator to perform the functions and duties stated in this section.

(b) The planning coordinator serves at the pleasure of and under the direction of the executive director.

[~~(1)~~] (2) The [~~state~~] planning coordinator shall:

(a) act as the governor's adviser on state, regional, metropolitan, and local governmental planning matters relating to public improvements and land use;

(b) counsel with the authorized representatives of the Department of Transportation, the State Building Board, the Department of Health, the Department of Workforce Services, the Labor Commission, the Department of Natural Resources, the School and Institutional Trust Lands Administration, and other proper persons concerning all state planning matters;

(c) when designated to do so by the governor, receive funds made available to [~~Utah~~] the state by the federal government;

(d) receive [~~and~~], review, and provide an internet-accessible repository of plans and studies

of the various state agencies and political subdivisions relating to public improvements [~~and programs~~], housing, land use, economic development, transportation infrastructure, water infrastructure, and utility infrastructure;

(e) [~~when conflicts occur~~] if a conflict occurs between the plans and proposals of state agencies, prepare specific recommendations for the resolution of the [~~conflicts~~] conflict and submit the recommendations to the governor for a decision resolving the conflict;

(f) [~~when conflicts occur~~] if a conflict occurs between the plans and proposals of a state agency and a political subdivision or between two or more political subdivisions, advise these entities of the conflict and make specific recommendations for the resolution of the conflict;

(g) act as the governor's planning agent in planning public improvements and land use and, in this capacity, undertake special studies and investigations, participate in cross-jurisdictional planning activities, and, if needed, provide coordination;

(h) provide information and cooperate with the Legislature or any of its committees in conducting planning studies;

(i) cooperate and exchange information with federal agencies and local, metropolitan, or regional agencies as necessary to assist with federal, state, regional, metropolitan, and local programs;

(j) make recommendations to the governor that the planning coordinator considers advisable for the proper development and coordination of plans for state government and political subdivisions; [~~and~~]

[~~(k) oversee and supervise the activities and duties of the public lands policy coordinator.~~]

(k) assist in the interpretation of projections and analyses with respect to future growth needs; and

(l) actively participate in informing the short-term and long-term budgetary needs of the state.

[~~(2)~~] (3) (a) The [~~state~~] planning coordinator may:

[~~(a)~~] (i) perform regional and state planning and assist state government planning agencies in performing state planning;

[~~(b)~~] (ii) provide planning assistance to Indian tribes regarding planning for Indian reservations; [~~and~~]

[~~(c)~~] (iii) assist city, county, metropolitan, and regional planning agencies in performing local, metropolitan, and regional planning[~~, provided that the state planning coordinator and the state planning coordinator's agents and designees recognize and promote the plans, policies, programs, processes, and desired outcomes of each planning agency whenever possible.~~], subject to Subsection (3)(b); and

(iv) conduct, or coordinate with stakeholders to conduct, public meetings or hearings to:

(A) encourage maximum public understanding of and agreement with the factual data and assumptions upon which projections and analyses are based; and

(B) receive suggestions as to the types of projections and analyses that are needed.

(b) In performing the duties described in Subsection (3)(a)(iii), to the extent possible the planning coordinator and any agent or designee of the planning coordinator shall recognize and promote the plans, policies, programs, processes, and desired outcomes of the city, county, metropolitan, or regional planning agency that the planning coordinator or the planning coordinator's agent or designee is assisting.

[~~(3) When preparing or~~] (4) In assisting in the preparation of plans, policies, programs, or processes related to the management or use of federal lands or natural resources on federal lands in [~~Utah~~] the state, the [~~state~~] planning coordinator shall[~~:~~] coordinate with the Public Lands Policy Coordinating Office created in Section 63L-11-201.

[~~(a) incorporate the plans, policies, programs, processes, and desired outcomes of the counties where the federal lands or natural resources are located, to the maximum extent consistent with state and federal law, provided that this requirement shall not be interpreted to infringe upon the authority of the governor;~~]

[~~(b) identify inconsistencies or conflicts between the plans, policies, programs, processes, and desired outcomes prepared under Subsection (3)(a) and the plans, programs, processes, and desired outcomes of local government as early in the preparation process as possible, and seek resolution of the inconsistencies through meetings or other conflict resolution mechanisms involving the necessary and immediate parties to the inconsistency or conflict;~~]

[~~(c) present to the governor the nature and scope of any inconsistency or other conflict that is not resolved under the procedures in Subsection (3)(b) for the governor's decision about the position of the state concerning the inconsistency or conflict;~~]

[~~(d) develop, research, and use factual information, legal analysis, and statements of desired future condition for the state, or subregion of the state, as necessary to support the plans, policies, programs, processes, and desired outcomes of the state and the counties where the federal lands or natural resources are located;~~]

[~~(e) establish and coordinate agreements between the state and federal land management agencies, federal natural resource management agencies, and federal natural resource regulatory agencies to facilitate state and local participation in the development, revision, and implementation of land use plans, guidelines, regulations, other instructional memoranda, or similar documents proposed or promulgated for lands and natural resources administered by federal agencies; and~~]

[(f) work in conjunction with political subdivisions to establish agreements with federal land management agencies, federal natural resource management agencies, and federal natural resource regulatory agencies to provide a process for state and local participation in the preparation of, or coordinated state and local response to, environmental impact analysis documents and similar documents prepared pursuant to law by state or federal agencies.]

[(4) The state planning coordinator shall comply with the requirements of Subsection 63C-4a-203(8) before submitting any comments on a draft environmental impact statement or on an environmental assessment for a proposed land management plan, if the governor would be subject to Subsection 63C-4a-203(8) if the governor were submitting the material.]

[(5) The state planning coordinator shall cooperate with and work in conjunction with appropriate state agencies and political subdivisions to develop policies, plans, programs, processes, and desired outcomes authorized by this section by coordinating the development of positions:]

[(a) through the Resource Development Coordinating Committee;]

[(b) in conjunction with local government officials concerning general local government plans;]

[(c) by soliciting public comment through the Resource Development Coordinating Committee; and]

[(d) by working with the Public Lands Policy Coordinating Office.]

[(6) The state planning coordinator shall recognize and promote the following principles when preparing any policies, plans, programs, processes, or desired outcomes relating to federal lands and natural resources on federal lands pursuant to this section:]

[(a) (i) the citizens of the state are best served by applying multiple-use and sustained-yield principles in public land use planning and management; and]

[(ii) multiple-use and sustained-yield management means that federal agencies should develop and implement management plans and make other resource-use decisions that:]

[(A) achieve and maintain in perpetuity a high-level annual or regular periodic output of mineral and various renewable resources from public lands;]

[(B) support valid existing transportation, mineral, and grazing privileges at the highest reasonably sustainable levels;]

[(C) support the specific plans, programs, processes, and policies of state agencies and local governments;]

[(D) are designed to produce and provide the desired vegetation for the watersheds, timber, food, fiber, livestock forage, and wildlife forage, and minerals that are necessary to meet present needs and future economic growth and community expansion without permanent impairment of the productivity of the land;]

[(E) meet the recreational needs and the personal and business-related transportation needs of the citizens of the state by providing access throughout the state;]

[(F) meet the recreational needs of the citizens of the state;]

[(G) meet the needs of wildlife;]

[(H) provide for the preservation of cultural resources, both historical and archaeological;]

[(I) meet the needs of economic development;]

[(J) meet the needs of community development; and]

[(K) provide for the protection of water rights;]

[(b) managing public lands for "wilderness characteristics" circumvents the statutory wilderness process and is inconsistent with the multiple-use and sustained-yield management standard that applies to all Bureau of Land Management and U.S. Forest Service lands that are not wilderness areas or wilderness study areas;]

[(c) all waters of the state are:]

[(i) owned exclusively by the state in trust for its citizens;]

[(ii) are subject to appropriation for beneficial use; and]

[(iii) are essential to the future prosperity of the state and the quality of life within the state;]

[(d) the state has the right to develop and use its entitlement to interstate rivers;]

[(e) all water rights desired by the federal government must be obtained through the state water appropriation system;]

[(f) land management and resource-use decisions which affect federal lands should give priority to and support the purposes of the compact between the state and the United States related to school and institutional trust lands;]

[(g) development of the solid, fluid, and gaseous mineral resources of the state is an important part of the economy of the state, and of local regions within the state;]

[(h) the state should foster and support industries that take advantage of the state's outstanding opportunities for outdoor recreation;]

[(i) wildlife constitutes an important resource and provides recreational and economic opportunities for the state's citizens;]

[(j) proper stewardship of the land and natural resources is necessary to ensure the health of the watersheds, timber, forage, and wildlife resources to provide for a continuous supply of resources for the people of the state and the people of the local

~~communities who depend on these resources for a sustainable economy;~~]

[~~(k) forests, rangelands, timber, and other vegetative resources:~~]

[~~(i) provide forage for livestock;~~]

[~~(ii) provide forage and habitat for wildlife;~~]

[~~(iii) provide resources for the state's timber and logging industries;~~]

[~~(iv) contribute to the state's economic stability and growth; and~~]

[~~(v) are important for a wide variety of recreational pursuits;~~]

[~~(l) management programs and initiatives that improve watersheds, forests, and increase forage for the mutual benefit of wildlife species and livestock, logging, and other agricultural industries by utilizing proven techniques and tools are vital to the state's economy and the quality of life in Utah; and~~]

[~~(m) (i) land management plans, programs, and initiatives should provide that the amount of domestic livestock forage, expressed in animal unit months, for permitted, active use as well as the wildlife forage included in that amount, be no less than the maximum number of animal unit months sustainable by range conditions in grazing allotments and districts, based on an on-the-ground and scientific analysis;~~]

[~~(ii) the state opposes the relinquishment or retirement of grazing animal unit months in favor of conservation, wildlife, and other uses;~~]

[~~(iii) (A) the state favors the best management practices that are jointly sponsored by cattlemen's, sportsmen's, and wildlife management groups such as chaining, logging, seeding, burning, and other direct soil and vegetation prescriptions that are demonstrated to restore forest and rangeland health, increase forage, and improve watersheds in grazing districts and allotments for the mutual benefit of domestic livestock and wildlife;~~]

[~~(B) when practices described in Subsection (6)(m)(iii)(A) increase a grazing allotment's forage beyond the total permitted forage use that was allocated to that allotment in the last federal land use plan or allotment management plan still in existence as of January 1, 2005, a reasonable and fair portion of the increase in forage beyond the previously allocated total permitted use should be allocated to wildlife as recommended by a joint, evenly balanced committee of livestock and wildlife representatives that is appointed and constituted by the governor for that purpose;~~]

[~~(C) the state favors quickly and effectively adjusting wildlife population goals and population census numbers in response to variations in the amount of available forage caused by drought or other climatic adjustments, and state agencies responsible for managing wildlife population goals and population census numbers will give due regard to both the needs of the livestock industry and the need to prevent the decline of species to a point where listing under the terms of the Endangered Species Act when making such adjustments;~~]

[~~(iv) the state opposes the transfer of grazing animal unit months to wildlife for supposed reasons of rangeland health;~~]

[~~(v) reductions in domestic livestock animal unit months must be temporary and scientifically based upon rangeland conditions;~~]

[~~(vi) policies, plans, programs, initiatives, resource management plans, and forest plans may not allow the placement of grazing animal unit months in a suspended use category unless there is a rational and scientific determination that the condition of the rangeland allotment or district in question will not sustain the animal unit months sought to be placed in suspended use;~~]

[~~(vii) any grazing animal unit months that are placed in a suspended use category should be returned to active use when range conditions improve;~~]

[~~(viii) policies, plans, programs, and initiatives related to vegetation management should recognize and uphold the preference for domestic grazing over alternate forage uses in established grazing districts while upholding management practices that optimize and expand forage for grazing and wildlife in conjunction with state wildlife management plans and programs in order to provide maximum available forage for all uses; and~~]

[~~(ix) in established grazing districts, animal unit months that have been reduced due to rangeland health concerns should be restored to livestock when rangeland conditions improve, and should not be converted to wildlife use.~~]

[~~(7) The state planning coordinator shall recognize and promote the following findings in the preparation of any policies, plans, programs, processes, or desired outcomes relating to federal lands and natural resources on federal lands under this section:~~]

[~~(a) as a coholder of R.S. 2477 rights-of-way with the counties, the state supports its recognition by the federal government and the public use of R.S. 2477 rights-of-way and urges the federal government to fully recognize the rights-of-way and their use by the public as expeditiously as possible;~~]

[~~(b) it is the policy of the state to use reasonable administrative and legal measures to protect and preserve valid existing rights-of-way granted by Congress under R.S. 2477, and to support and work in conjunction with counties to redress cases where R.S. 2477 rights-of-way are not recognized or are impaired; and~~]

[~~(c) transportation and access routes to and across federal lands, including all rights-of-way vested under R.S. 2477, are vital to the state's economy and to the quality of life in the state, and~~

~~must provide, at a minimum, a network of roads throughout the resource planning area that provides for:~~]

[~~(i) movement of people, goods, and services across public lands;~~]

[~~(ii) reasonable access to a broad range of resources and opportunities throughout the resource planning area, including:~~]

[~~(A) livestock operations and improvements;~~]

[~~(B) solid, fluid, and gaseous mineral operations;~~]

[~~(C) recreational opportunities and operations, including motorized and nonmotorized recreation;~~]

[~~(D) search and rescue needs;~~]

[~~(E) public safety needs; and~~]

[~~(F) access for transportation of wood products to market;~~]

[~~(iii) access to federal lands for people with disabilities and the elderly; and~~]

[~~(iv) access to state lands and school and institutional trust lands to accomplish the purposes of those lands.~~]

[~~(8) The state planning coordinator shall recognize and promote the following findings in the preparation of any plans, policies, programs, processes, or desired outcomes relating to federal lands and natural resources on federal lands pursuant to this section:~~]

[~~(a) the state's support for the addition of a river segment to the National Wild and Scenic Rivers System, 16 U.S.C. Sec. 1271 et seq., will be withheld until:~~]

[~~(i) it is clearly demonstrated that water is present and flowing at all times;~~]

[~~(ii) it is clearly demonstrated that the required water-related value is considered outstandingly remarkable within a region of comparison consisting of one of the three physiographic provinces in the state, and that the rationale and justification for the conclusions are disclosed;~~]

[~~(iii) it is clearly demonstrated that the inclusion of each river segment is consistent with the plans and policies of the state and the county or counties where the river segment is located as those plans and policies are developed according to Subsection (3);~~]

[~~(iv) the effects of the addition upon the local and state economies, agricultural and industrial operations and interests, outdoor recreation, water rights, water quality, water resource planning, and access to and across river corridors in both upstream and downstream directions from the proposed river segment have been evaluated in detail by the relevant federal agency;~~]

[~~(v) it is clearly demonstrated that the provisions and terms of the process for review of potential additions have been applied in a consistent manner by all federal agencies;~~]

[~~(vi) the rationale and justification for the proposed addition, including a comparison with protections offered by other management tools, is clearly analyzed within the multiple-use mandate, and the results disclosed;~~]

[~~(vii) it is clearly demonstrated that the federal agency with management authority over the river segment, and which is proposing the segment for inclusion in the National Wild and Scenic River System will not use the actual or proposed designation as a basis to impose management standards outside of the federal land management plan;~~]

[~~(viii) it is clearly demonstrated that the terms and conditions of the federal land and resource management plan containing a recommendation for inclusion in the National Wild and Scenic River System:~~]

[~~(A) evaluates all eligible river segments in the resource planning area completely and fully for suitability for inclusion in the National Wild and Scenic River System;~~]

[~~(B) does not suspend or terminate any studies for inclusion in the National Wild and Scenic River System at the eligibility phase;~~]

[~~(C) fully disclaims any interest in water rights for the recommended segment as a result of the adoption of the plan; and~~]

[~~(D) fully disclaims the use of the recommendation for inclusion in the National Wild and Scenic River System as a reason or rationale for an evaluation of impacts by proposals for projects upstream, downstream, or within the recommended segment;~~]

[~~(ix) it is clearly demonstrated that the agency with management authority over the river segment commits not to use an actual or proposed designation as a basis to impose Visual Resource Management Class I or II management prescriptions that do not comply with the provisions of Subsection (8)(t); and~~]

[~~(x) it is clearly demonstrated that including the river segment and the terms and conditions for managing the river segment as part of the National Wild and Scenic River System will not prevent, reduce, impair, or otherwise interfere with:~~]

[~~(A) the state and its citizens' enjoyment of complete and exclusive water rights in and to the rivers of the state as determined by the laws of the state; or~~]

[~~(B) local, state, regional, or interstate water compacts to which the state or any county is a party;~~]

[~~(b) the conclusions of all studies related to potential additions to the National Wild and Scenic River System, 16 U.S.C. Sec. 1271 et seq., are submitted to the state for review and action by the Legislature and governor, and the results, in support of or in opposition to, are included in any planning documents or other proposals for addition and are forwarded to the United States Congress;~~]

[~~(c) the state's support for designation of an Area of Critical Environmental Concern (ACEC), as defined in 43 U.S.C. Sec. 1702, within federal land management plans will be withheld until:~~]

[~~(i) it is clearly demonstrated that the proposed area satisfies all the definitional requirements of the Federal Land Policy and Management Act of 1976, 43 U.S.C. Sec. 1702(a);~~]

[~~(ii) it is clearly demonstrated that the area proposed for designation as an ACEC is limited in geographic size and that the proposed management prescriptions are limited in scope to the minimum necessary to specifically protect and prevent irreparable damage to the relevant and important values identified, or limited in geographic size and management prescriptions to the minimum required to specifically protect human life or safety from natural hazards;~~]

[~~(iii) it is clearly demonstrated that the proposed area is limited only to areas that are already developed or used or to areas where no development is required;~~]

[~~(iv) it is clearly demonstrated that the proposed area contains relevant and important historic, cultural or scenic values, fish or wildlife resources, or natural processes which are unique or substantially significant on a regional basis, or contain natural hazards which significantly threaten human life or safety;~~]

[~~(v) the federal agency has analyzed regional values, resources, processes, or hazards for irreparable damage and its potential causes resulting from potential actions which are consistent with the multiple-use, sustained-yield principles, and the analysis describes the rationale for any special management attention required to protect, or prevent irreparable damage to the values, resources, processes, or hazards;~~]

[~~(vi) it is clearly demonstrated that the proposed designation is consistent with the plans and policies of the state and of the county where the proposed designation is located as those plans and policies are developed according to Subsection (3);~~]

[~~(vii) it is clearly demonstrated that the proposed ACEC designation will not be applied redundantly over existing protections provided by other state and federal laws for federal lands or resources on federal lands, and that the federal statutory requirement for special management attention for a proposed ACEC will discuss and justify any management requirements needed in addition to those specified by the other state and federal laws;~~]

[~~(viii) the difference between special management attention required for an ACEC and normal multiple-use management has been identified and justified, and that any determination of irreparable damage has been analyzed and justified for short and long-term horizons;~~]

[~~(ix) it is clearly demonstrated that the proposed designation:~~]

[~~(A) is not a substitute for a wilderness suitability recommendation;~~]

[~~(B) is not a substitute for managing areas inventoried for wilderness characteristics after 1993 under the BLM interim management plan for valid wilderness study areas; and~~]

[~~(C) it is not an excuse or justification to apply de facto wilderness management standards; and~~]

[~~(x) the conclusions of all studies are submitted to the state, as a cooperating agency, for review, and the results, in support of or in opposition to, are included in all planning documents;~~]

[~~(d) sufficient federal lands are made available for government-to-government exchanges of school and institutional trust lands and federal lands without regard for a resource-to-resource correspondence between the surface or mineral characteristics of the offered trust lands and the offered federal lands;~~]

[~~(e) federal agencies should support government-to-government exchanges of land with the state based on a fair process of valuation which meets the fiduciary obligations of both the state and federal governments toward trust lands management, and which assures that revenue authorized by federal statute to the state from mineral or timber production, present or future, is not diminished in any manner during valuation, negotiation, or implementation processes;~~]

[~~(f) agricultural and grazing lands should continue to produce the food and fiber needed by the citizens of the state and the nation, and the rural character and open landscape of rural Utah should be preserved through a healthy and active agricultural and grazing industry, consistent with private property rights and state fiduciary duties;~~]

[~~(g) the resources of the forests and rangelands of the state should be integrated as part of viable, robust, and sustainable state and local economies, and available forage should be evaluated for the full complement of herbivores the rangelands can support in a sustainable manner, and forests should contain a diversity of timber species, and disease or insect infestations in forests should be controlled using logging or other best management practices;~~]

[~~(h) the state opposes any additional evaluation of national forest service lands as "roadless" or "unroaded" beyond the forest service's second roadless area review evaluation and opposes efforts by agencies to specially manage those areas in a way that:~~]

[~~(i) closes or declassifies existing roads unless multiple side by side roads exist running to the same destination and state and local governments consent to close or declassify the extra roads;~~]

[~~(ii) permanently bars travel on existing roads;~~]

[~~(iii) excludes or diminishes traditional multiple-use activities, including grazing and proper forest harvesting;~~]

[~~(iv) interferes with the enjoyment and use of valid, existing rights, including water rights, local~~

~~transportation plan rights, R.S. 2477 rights, grazing allotment rights, and mineral leasing rights; or~~]

[~~(v) prohibits development of additional roads reasonably necessary to pursue traditional multiple-use activities;~~]

[~~(i) the state's support for any forest plan revision or amendment will be withheld until the appropriate plan revision or plan amendment clearly demonstrates that:~~]

[~~(i) established roads are not referred to as unclassified roads or a similar classification;~~]

[~~(ii) lands in the vicinity of established roads are managed under the multiple-use, sustained-yield management standard; and~~]

[~~(iii) no roadless or unroaded evaluations or inventories are recognized or upheld beyond those that were recognized or upheld in the forest service's second roadless area review evaluation;~~]

[~~(j) the state's support for any recommendations made under the statutory requirement to examine the wilderness option during the revision of land and resource management plans by the U.S. Forest Service will be withheld until it is clearly demonstrated that:~~]

[~~(i) the duly adopted transportation plans of the state and county or counties within the planning area are fully and completely incorporated into the baseline inventory of information from which plan provisions are derived;~~]

[~~(ii) valid state or local roads and rights-of-way are recognized and not impaired in any way by the recommendations;~~]

[~~(iii) the development of mineral resources by underground mining is not affected by the recommendations;~~]

[~~(iv) the need for additional administrative or public roads necessary for the full use of the various multiple-uses, including recreation, mineral exploration and development, forest health activities, and grazing operations is not unduly affected by the recommendations;~~]

[~~(v) analysis and full disclosure is made concerning the balance of multiple-use management in the proposed areas, and that the analysis compares the full benefit of multiple-use management to the recreational, forest health, and economic needs of the state and the counties to the benefits of the requirements of wilderness management; and~~]

[~~(vi) the conclusions of all studies related to the requirement to examine the wilderness option are submitted to the state for review and action by the Legislature and governor, and the results, in support of or in opposition to, are included in any planning documents or other proposals that are forwarded to the United States Congress;~~]

[~~(k) the invasion of noxious weeds and undesirable invasive plant species into the state should be reversed, their presence eliminated, and their return prevented;~~]

[~~(l) management and resource-use decisions by federal land management and regulatory agencies concerning the vegetative resources within the state should reflect serious consideration of the proper optimization of the yield of water within the watersheds of the state;~~]

[~~(m) (i) it is the policy of the state that:~~]

[~~(A) mineral and energy production and environmental protection are not mutually exclusive;~~]

[~~(B) it is technically feasible to permit appropriate access to mineral and energy resources while preserving nonmineral and nonenergy resources;~~]

[~~(C) resource management planning should seriously consider all available mineral and energy resources;~~]

[~~(D) the development of the solid, fluid, and gaseous mineral resources of the state and the renewable resources of the state should be encouraged;~~]

[~~(E) the waste of fluid and gaseous minerals within developed areas should be prohibited; and~~]

[~~(F) requirements to mitigate or reclaim mineral development projects should be based on credible evidence of significant impacts to natural or cultural resources;~~]

[~~(ii) the state's support for mineral development provisions within federal land management plans will be withheld until the appropriate land management plan environmental impact statement clearly demonstrates:~~]

[~~(A) that the authorized planning agency has:~~]

[~~(I) considered and evaluated the mineral and energy potential in all areas of the planning area as if the areas were open to mineral development under standard lease agreements; and~~]

[~~(II) evaluated any management plan prescription for its impact on the area's baseline mineral and energy potential;~~]

[~~(B) that the development provisions do not unduly restrict access to public lands for energy exploration and development;~~]

[~~(C) that the authorized planning agency has supported any closure of additional areas to mineral leasing and development or any increase of acres subject to no surface occupancy restrictions by adhering to:~~]

[~~(I) the relevant provisions of the Federal Land Policy and Management Act of 1976, 43 U.S.C. Sec. 1701 et seq.;~~]

[~~(II) other controlling mineral development laws; and~~]

[~~(III) the controlling withdrawal and reporting procedures set forth in the Federal Land Policy and~~

~~Management Act of 1976, 43 U.S.C. Sec. 1701 et seq.;~~]

[~~(D) that the authorized planning agency evaluated whether to repeal any moratorium that may exist on the issuance of additional mining patents and oil and gas leases;~~]

[~~(E) that the authorized planning agency analyzed all proposed mineral lease stipulations and considered adopting the least restrictive necessary to protect against damage to other significant resource values;~~]

[~~(F) that the authorized planning agency evaluated mineral lease restrictions to determine whether to waive, modify, or make exceptions to the restrictions on the basis that they are no longer necessary or effective;~~]

[~~(G) that the authorized federal agency analyzed all areas proposed for no surface occupancy restrictions, and that the analysis evaluated:~~]

[~~(I) whether directional drilling is economically feasible and ecologically necessary for each proposed no surface occupancy area;~~]

[~~(II) whether the directional drilling feasibility analysis, or analysis of other management prescriptions, demonstrates that the proposed no surface occupancy prescription, in effect, sterilizes the mineral and energy resources beneath the area; and~~]

[~~(III) whether, if the minerals are effectively sterilized, the area must be reported as withdrawn under the provisions of the Federal Land Policy and Management Act; and~~]

[~~(H) that the authorized planning agency has evaluated all directional drilling requirements in no surface occupancy areas to determine whether directional drilling is feasible from an economic, ecological, and engineering standpoint;~~]

[~~(n) motorized, human, and animal-powered outdoor recreation should be integrated into a fair and balanced allocation of resources within the historical and cultural framework of multiple-uses in rural Utah, and outdoor recreation should be supported as part of a balanced plan of state and local economic support and growth;~~]

[~~(o) off-highway vehicles should be used responsibly, the management of off-highway vehicles should be uniform across all jurisdictions, and laws related to the use of off-highway vehicles should be uniformly applied across all jurisdictions;~~]

[~~(p) (i) rights-of-way granted and vested under the provisions of R.S. 2477 should be preserved and acknowledged;~~]

[~~(ii) land use management plans, programs, and initiatives should be consistent with both state and county transportation plans developed according to Subsection (3) in order to provide a network of roads throughout the planning area that provides for:~~]

[~~(A) movement of people, goods, and services across public lands;~~]

[~~(B) reasonable access to a broad range of resources and opportunities throughout the planning area, including access to livestock, water, and minerals;~~]

[~~(C) economic and business needs;~~]

[~~(D) public safety;~~]

[~~(E) search and rescue;~~]

[~~(F) access for people with disabilities and the elderly;~~]

[~~(G) access to state lands; and~~]

[~~(H) recreational opportunities;~~]

[~~(q) transportation and access provisions for all other existing routes, roads, and trails across federal, state, and school trust lands within the state should be determined and identified, and agreements should be executed and implemented, as necessary to fully authorize and determine responsibility for maintenance of all routes, roads, and trails;~~]

[~~(r) the reasonable development of new routes and trails for motorized, human, and animal-powered recreation should be implemented;~~]

[~~(s) (i) forests, rangelands, and watersheds, in a healthy condition, are necessary and beneficial for wildlife, livestock grazing, and other multiple-uses;~~]

[~~(ii) management programs and initiatives that are implemented to increase forage for the mutual benefit of the agricultural industry, livestock operations, and wildlife species should utilize all proven techniques and tools;~~]

[~~(iii) the continued viability of livestock operations and the livestock industry should be supported on the federal lands within the state by management of the lands and forage resources, by the proper optimization of animal unit months for livestock, in accordance with the multiple-use provisions of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1701 et seq., the provisions of the Taylor Grazing Act of 1934, 43 U.S.C. 315 et seq., and the provisions of the Public Rangelands Improvement Act of 1978, 43 U.S.C. 1901 et seq.;~~]

[~~(iv) provisions for predator control initiatives or programs under the direction of state and local authorities should be implemented; and~~]

[~~(v) resource-use and management decisions by federal land management and regulatory agencies should support state-sponsored initiatives or programs designed to stabilize wildlife populations that may be experiencing a scientifically demonstrated decline in those populations; and~~]

[~~(t) management and resource use decisions by federal land management and regulatory agencies concerning the scenic resources of the state must balance the protection of scenery with the full management requirements of the other authorized uses of the land under multiple-use management, and should carefully consider using Visual~~

~~Resource Management Class I protection only for areas of inventoried Class A scenery or equivalent.~~]

[~~(9) Notwithstanding any provision of Section 63J-8-105.5, the state is committed to establishing and administering an effective statewide conservation strategy for greater sage grouse.~~]

[~~(10) Nothing contained in this section may be construed to restrict or supersede the planning powers conferred upon state departments, agencies, instrumentalities, or advisory councils of the state or the planning powers conferred upon political subdivisions by any other existing law.~~]

[~~(11) Nothing in this section may be construed to affect any lands withdrawn from the public domain for military purposes, which are administered by the United States Army, Air Force, or Navy.~~]

Section 71. Section 63J-5-201 is amended to read:

63J-5-201. Legislative appropriation subcommittees to review certain federal funds reauthorizations -- Executive appropriations review -- Legislative approval.

(1) The Governor's Office of [~~Management~~] Planning and Budget shall annually prepare and submit a federal funds request summary for each agency to the Legislative Fiscal Analyst at the same time the governor submits the confidential draft budget under Section 63J-1-201.

(2) (a) The Legislative Fiscal Analyst, as directed by the Executive Appropriations Committee, may include federal funds in the base budget appropriations act or acts, when those acts are prepared as provided in JR3-2-402.

(b) The Legislative Fiscal Analyst shall submit a federal funds request summary for each agency to the legislative appropriations subcommittee responsible for that agency's budget for review during each annual general session.

(3) Each legislative appropriations subcommittee shall review the federal funds request summary and may:

(a) recommend that the agency accept the federal funds or participate in the federal program for the fiscal year under consideration; or

(b) recommend that the agency not accept the federal funds or not participate in the federal program for the fiscal year under consideration.

(4) The Legislative Executive Appropriations Committee shall:

(a) review each subcommittee's recommendation;

(b) determine whether or not the agency should be authorized to accept the federal funds or participate in the federal program; and

(c) direct the Legislative Fiscal Analyst to include or exclude those federal funds and federal programs in an annual appropriations act for approval by the Legislature.

(5) Legislative approval of an appropriations act containing federal funds constitutes legislative approval of the federal grants or awards associated with the federal funds for the purposes of compliance with the requirements of this chapter.

Section 72. Section 63J-5-202 is amended to read:

63J-5-202. Governor to approve certain new federal funds requests.

(1) (a) Before obligating the state to accept or receive new federal funds or to participate in a new federal program, and no later than three months after submitting a new federal funds request, and, where possible, before formally submitting the new federal funds request, an executive branch agency shall submit a federal funds request summary to the governor or the governor's designee for approval or rejection when:

(i) the state will receive total payments of $1,000,000 or less per year if the new federal funds request is approved;

(ii) receipt of the new federal funds will require no additional permanent full-time employees, permanent part-time employees, or combination of additional permanent full-time employees and permanent part-time employees; and

(iii) no new state money will be required to match the new federal funds or to implement the new federal program for which the grant is issued.

(b) The Governor's Office of [~~Management~~] Planning and Budget shall report each new federal funds request that is approved by the governor or the governor's designee and each new federal funds request granted by the federal government to:

(i) the Legislature's Executive Appropriations Committee;

(ii) the Office of the Legislative Fiscal Analyst; and

(iii) the Office of Legislative Research and General Counsel.

(2) The governor or the governor's designee shall approve or reject each new federal funds request submitted under the authority of this section.

(3) (a) If the governor or the governor's designee approves the new federal funds request, the executive branch agency may accept the new federal funds or participate in the new federal program.

(b) If the governor or the governor's designee rejects the new federal funds request, the executive branch agency may not accept the new federal funds or participate in the new federal program.

(4) If an executive branch agency fails to obtain the governor's or the governor's designee's approval under this section, the governor may require the agency to:

(a) withdraw the new federal funds request;

(b) return the federal funds;

(c) withdraw from the federal program; or

(d) any combination of Subsections (4)(a), (4)(b), and (4)(c).

(5) If a letter or other official documentation awarding an agency a grant of federal funds is not available to be included in a federal funds request summary submitted to the Governor's Office of [~~Management~~] Planning and Budget under this section, the agency shall submit to the Governor's Office of [~~Management~~] Planning and Budget the letter or other official documentation awarding the agency a grant of federal funds before expending the federal funds granted.

Section 73. Section 63J-7-201 is amended to read:

63J-7-201. Governor to approve certain grant requests.

(1) (a) Before obligating the state to accept or receive a grant, an executive branch agency shall submit a grant summary to the governor or the governor's designee for approval or rejection when:

(i) the executive branch agency would receive a grant of at least $10,000 but no more than $50,000 if the grant is approved;

(ii) receipt of the grant will require no additional permanent full-time employees, permanent part-time employees, or combination of additional permanent full-time employees and permanent part-time employees; and

(iii) no new state money will be required to match the grant.

(b) The Governor's Office of [~~Management~~] Planning and Budget shall report each grant authorized under this section to:

(i) the Legislature's Executive Appropriations Committee; and

(ii) the Office of the Legislative Fiscal Analyst.

(2) The governor or the governor's designee shall approve or reject each grant submitted under the authority of this section.

(3) (a) If the governor or the governor's designee approves the grant, the executive branch agency may accept the grant.

(b) If the governor or the governor's designee rejects the grant, the executive branch agency may not accept the grant.

(4) If an executive branch agency fails to obtain the governor's or the governor's designee's approval under this section, the governor may require the agency to return the grant.

Section 74. Section 63J-8-102 is amended to read:

63J-8-102. Definitions.

As used in this chapter:

(1) "ACEC" means an area of critical environmental concern as defined in 43 U.S.C. Sec. 1702.

(2) "AUM" means animal unit months, a unit of grazing forage.

(3) "BLM" means the United States Bureau of Land Management.

(4) "BLM recommended wilderness" means a wilderness study area recommended for wilderness designation in the final report of the president of the United States to the United States Congress in 1993.

(5) "Federal land use designation" means one or a combination of the following congressional or federal actions included in proposed congressional land use legislation:

(a) designation of wilderness within the National Wilderness Preservation System;

(b) designation of a national conservation area;

(c) designation of a watercourse within the National Wild and Scenic River System;

(d) designation of an ACEC;

(e) designation of a national monument in accordance with the Antiquities Act or by Congress;

(f) designation of a national park within the National Park System;

(g) designation of a national recreational area; or

(h) any other designation, classification, categorization, reservation, withdrawal, or similar action that has the purpose or effect of eliminating, restricting, or reducing energy and mineral development, motorized travel, grazing, active vegetation management, or any other traditional multiple use on public land.

(6) "FLPMA" means the Federal Land Policy and Management Act of 1976, 43 U.S.C. Sec. 1701 et seq.

(7) "Forest Service" means the United States Forest Service within the United States Department of Agriculture.

(8) "Green River Energy Zone" means the lands described as follows in Subsections (8)(a) and (b), as more fully illustrated in the maps prepared by the Carbon County and Emery County GIS Departments in February 2013, each entitled "2013 Green River Energy Zone":

(a) BLM and Forest Service lands in Carbon County that are situated in the following townships: Township 12S Range 6E, Township 12S Range 7E, Township 12S Range 8E, Township 12S Range 9E, Township 12S Range 10E, Township 12S Range 11E, Township 12S Range 12E, Township 12S Range 13E, Township 12S Range 14E, Township 12S Range 15E, Township 12S Range 16E, Township 12S Range 17E, Township 12S Range 18E, Township 13S Range 6E, Township 13S Range 8E, Township 13S Range 9E, Township 13S Range 10E, Township 13S Range 11E, Township 13S Range 12E, Township 13S Range 13E, Township 13S Range 14E, Township 13S Range 15E, Township 13S Range 16E, Township 13S Range 17E, Township 14S Range 6E, Township 14S Range 8E, Township 14S Range 9E, Township 14S

Range 11E, Township 14S Range 12E, Township 14S Range 13E, Township 14S Range 14E, Township 14S Range 15E, Township 14S Range 16E, Township 14S Range 17E, Township 15S Range 7E, Township 15S Range 8E, Township 15S Range 9E, Township 15S Range 10E, Township 15S Range 11E, Township 15S Range 12E, Township 15S Range 13E, Township 15S Range 14E, Township 15S Range 15E, and Township 15S Range 16E; and

(b) BLM and Forest Service lands in Emery County, excluding any areas that are or may be designated as wilderness, national conservation areas, or wild or scenic rivers, that are situated in the following townships and represented in the Emery County Public Land Management Act DRAFT Map prepared by Emery County and available at emerycounty.com/publiclands/LANDS-USE-15.pdf: Township 13S Range 6E, Township 14S Range 6E, Township 14S Range 7E, Township 15S Range 6E, Township 15S Range 7E, Township 16S Range 6E, Township 16S Range 7E, Township 16S Range 8E, Township 16S Range 9E, Township 16S Range 10E, Township 16S Range 11E, Township 16S Range 12E, Township 16S Range 13E, Township 16S Range 14E, Township 16S Range 15E, Township 17S Range 6E, Township 17S Range 7E, Township 17S Range 8E, Township 17S Range 9E, Township 17S Range 10E, Township 17S Range 11E, Township 17S Range 12E, Township 17S Range 13E, Township 17S Range 14E, Township 17S Range 15E, Township 18S Range 6E, Township 18S Range 7E, Township 18S Range 8E, Township 18S Range 9E, Township 18S Range 10E, Township 18S Range 11E, Township 18S Range 12E, Township 18S Range 13E, Township 18S Range 14E, Township 18S Range 15E, Township 19S Range 6E, Township 19S Range 7E, Township 19S Range 8E, Township 19S Range 9E, Township 19S Range 10E, Township 19S Range 11E, Township 19S Range 12E, Township 19S Range 13E, Township 19S Range 14E, Township 19S Range 15E, Township 20S Range 6E, Township 20S Range 7E, Township 20S Range 8E, Township 20S Range 9E, Township 20S Range 10E, Township 20S Range 11E, Township 20S Range 12E, Township 20S Range 13E, Township 20S Range 14E, Township 20S Range 15E, Township 20S Range 16E, Township 21S Range 6E, Township 21S Range 7E, Township 21S Range 8E, Township 21S Range 9E, Township 21S Range 14E, Township 21S Range 15E, Township 21S Range 16E, Township 22S Range 6E, Township 22S Range 7E, Township 22S Range 8E, Township 22S Range 9E, Township 22S Range 14E, Township 22S Range 15E, Township 22S Range 16E, Township 23S Range 6E, Township 23S Range 7E, Township 23S Range 8E, Township 23S Range 9E, Township 23S Range 13E, Township 23S Range 14E, Township 23S Range 15E, Township 23S Range 16E, Township 24S Range 6E, Township 24S Range 7E, Township 24S Range 8E, Township 24S Range 12E, Township 24S Range 13E, Township 24S Range 14E, Township 24S Range 15E, Township 24S Range 16E, Township 24S Range 17E, Township 25S Range 6E, Township 25S Range 7E, Township 25S Range 8E, Township 25S Range 11E, Township 25S Range 12E, Township 25S Range 13E, Township 25S Range 14E, Township 25S Range 15E, Township 25S Range 16E, Township 25S Range 17E, Township 26S Range 6E, Township 26S Range 7E, Township 26S Range 8E, Township 26S Range 9E, Township 26S Range 10E, Township 26S Range 11E, Township 26S Range 12E, Township 26S Range 13E, Township 26S Range 14E, Township 26S Range 15E, Township 26S Range 16E, and Township 26S Range 17E.

(9) "Multiple use" means proper stewardship of the subject lands pursuant to Section 103(c) of FLPMA, 43 U.S.C. Sec. 1702(c).

(10) "National conservation area" means an area designated by Congress and managed by the BLM.

(11) "National wild and scenic river" means a watercourse:

(a) identified in a BLM or Forest Service planning process; or

(b) designated as part of the National Wild and Scenic River System.

(12) "National Wild and Scenic River System" means the National Wild and Scenic River System established in 16 U.S.C. Sec. 1271 et seq.

(13) "Office" means the Public Lands Policy Coordinating Office created in Section [~~63J-4-602~~] 63L-11-201.

(14) "OHV" means off-highway vehicle as defined in Section 41-22-2.

(15) "Proposed congressional land use legislation" means a draft or a working document of congressional legislation prepared by a person that includes a federal land use designation.

(16) "RARE II" means the second United States Forest Service Roadless Area Review and Evaluation report of 1984.

(17) "R.S. 2477 right-of-way" means a right-of-way established in accordance with 43 U.S.C. Sec. 932 repealed by FLPMA 1976.

(18) "San Juan County Energy Zone" means BLM and Forest Service lands situated in the following townships in San Juan County, as more fully illustrated in the map prepared by the San Juan County GIS department in December 2014 entitled "San Juan County Energy Zone": Township 26S Range 21E, Township 26S Range 22E, Township 26S Range 23E, Township 26S Range 24E, Township 26S Range 25E, Township 26S Range 26E, Township 27S Range 21E, Township 27S Range 22E, Township 27S Range 23E, Township 27S Range 24E, Township 27S Range 25E, Township 27S Range 26E, Township 28S Range 21E, Township 28S Range 22E, Township 28S Range 23E, Township 28S Range 24E, Township 28S Range 25E, Township 28S Range 26E, Township 29S Range 21E, Township 29S Range 22E, Township 29S Range 23E, Township 29S Range 24E, Township 29S Range 25E, Township 29S Range 26E, Township 30S Range 21E, Township 30S Range 22E, Township 30S Range 23E, Township 30S Range 24E, Township 30S

Range 25E, Township 30S Range 26E, Township 31S Range 22E, Township 31S Range 23E, Township 31S Range 24E, Township 31S Range 25E, Township 31S Range 26E, Township 32S Range 20E, Township 32S Range 21E, Township 32S Range 22E, Township 32S Range 23E, Township 32S Range 24E, Township 32S Range 25E, Township 32S Range 26E, Township 33S Range 19E, Township 33S Range 20E, Township 33S Range 21E, Township 33S Range 22E, Township 33S Range 23E, Township 33S Range 24E, Township 33S Range 25E, Township 33S Range 26E, Township 34S Range 19E, Township 34S Range 20E, Township 34S Range 21E, Township 34S Range 22E, Township 34S Range 23E, Township 34S Range 24E, Township 34S Range 25E, Township 34S Range 26E, Township 35S Range 14E, Township 35S Range 15E, Township 35S Range 16E, Township 35S Range 17E, Township 35S Range 18E, Township 35S Range 19E, Township 35S Range 20E, Township 35S Range 21E, Township 35S Range 22E, Township 35S Range 23E, Township 35S Range 24E, Township 35S Range 25E, Township 35S Range 26E, Township 36S Range 14E, Township 36S Range 15E, Township 36S Range 16E, Township 36S Range 17E, Township 36S Range 18E, Township 36S Range 19E, Township 36S Range 21E, Township 36S Range 22E, Township 36S Range 23E, Township 36S Range 24E, Township 36S Range 25E, Township 36S Range 26E, Township 37S Range 14E, Township 37S Range 15E, Township 37S Range 16E, Township 37S Range 17E, Township 37S Range 21E, Township 37S Range 22E, Township 37S Range 23E, Township 37S Range 24E, Township 37S Range 25E, Township 37S Range 26E, Township 38S Range 12E, Township 38S Range 21E, Township 38S Range 22E, Township 38S Range 23E, Township 38S Range 24E, Township 38S Range 25E, Township 38S Range 26E, Township 39S Range 12E, Township 39S Range 13E, Township 39S Range 15E, Township 39S Range 21E, Township 39S Range 22E, Township 39S Range 23E, Township 39S Range 24E, Township 39S Range 25E, Township 39S Range 26E, Township 40S Range 14E, Township 40S Range 15E, Township 40S Range 16E, Township 40S Range 19E, Township 40S Range 20E, Township 40S Range 21E, Township 40S Range 22E, Township 40S Range 23E, Township 40S Range 24E, Township 40S Range 25E, Township 40S Range 26E, Township 41S Range 16E, Township 41S Range 17E, Township 41S Range 18E, Township 41S Range 19E, Township 41S Range 20E, Township 41S Range 21E, Township 41S Range 22E, Township 41S Range 23E, Township 41S Range 24E, Township 41S Range 25E, Township 41S Range 26E, Township 42S Range 14E, Township 42S Range 15E, Township 42S Range 16E, Township 42S Range 17E, Township 42S Range 18E, Township 42S Range 19E, Township 42S Range 20E, Township 42S Range 21E, Township 42S Range 22E, Township 42S Range 23E, Township 42S Range 24E, Township 42S Range 25E, Township 42S Range 26E, Township 43S Range 14E, Township 43S Range 15E, Township 43S Range 16E, Township 43S Range 17E, Township 43S Range 18E, Township 43S Range 19E, Township 43S Range 20E, Township 43S Range 21E, Township 43S Range 22E, Township 43S Range 23E, Township 43S Range 24E, Township 43S Range 25E, and Township 43S Range 26E.

(19) "Settlement Agreement" means the written agreement between the state and the Department of the Interior in 2003 (revised in 2005) that resolved the case of State of Utah v. Gale Norton, Secretary of Interior (United States District Court, D. Utah, Case No. 2:96cv0870).

(20) "SITLA" means the School and Institutional Trust Lands Administration as created in Section 53C-1-201.

(21) (a) "Subject lands" means the following non-WSA BLM lands:

(i) in Beaver County:

(A) Mountain Home Range South, Jackson Wash, The Toad, North Wah Wah Mountains, Central Wah Wah Mountains, and San Francisco Mountains according to the region map entitled "Great Basin Central" linked in the webpage entitled "Citizen's Proposal for Wilderness in Utah" at http://www.protectwildutah.org/proposal/index.html as the webpage existed on February 17, 2011; and

(B) White Rock Range, South Wah Wah Mountains, and Granite Peak according to the region map entitled "Great Basin South" linked in the webpage entitled "Citizen's Proposal for Wilderness in Utah" at http://www.protectwildutah.org/proposal/index.html as the webpage existed on February 17, 2011;

(ii) in Box Elder County: Little Goose Creek, Grouse Creek Mountains North, Grouse Creek Mountains South, Bald Eagle Mountain, Central Pilot Range, Pilot Peak, Crater Island West, Crater Island East, Newfoundland Mountains, and Grassy Mountains North according to the region map entitled "Great Basin North" linked in the webpage entitled "Citizen's Proposal for Wilderness in Utah" at http://www.protectwildutah.org/proposal/index.html as the webpage existed on February 17, 2011;

(iii) in Carbon County: Desbrough Canyon and Turtle Canyon according to the region map entitled "Book Cliffs" linked in the webpage entitled "Citizen's Proposal for Wilderness in Utah" at http://www.protectwildutah.org/proposal/index.html as the webpage existed on February 17, 2011;

(iv) in Daggett County: Goslin Mountain, Home Mountain, Red Creek Badlands, O-wi-yu-kuts, Lower Flaming Gorge, Crouse Canyon, and Diamond Breaks according to the region map entitled "Dinosaur" linked in the webpage entitled "Citizen's Proposal for Wilderness in Utah" at http://www.protectwildutah.org/proposal/index.html as the webpage existed on February 17, 2011;

(v) in Duchesne County: Desbrough Canyon according to the region map entitled "Book Cliffs" linked in the webpage entitled "Citizen's Proposal

for Wilderness in Utah" at http://www.protectwildutah.org/proposal/index.html as the webpage existed on February 17, 2011;

(vi) in Emery County:

(A) San Rafael River and Sweetwater Reef, according to the region map entitled "Canyonlands Basin" linked in the webpage entitled "Citizen's Proposal for Wilderness in Utah" at http://www.protectwildutah.org/proposal/index.html as the webpage existed on February 17, 2011;

(B) Flat Tops according to the region map entitled "Glen Canyon," which is available by clicking the link entitled "Dirty Devil" at the webpage entitled "Citizen's Proposal for Wilderness in Utah" at http://www.protectwildutah.org/proposal/index.html as the webpage existed on February 17, 2011; and

(C) Price River, Lost Spring Wash, Eagle Canyon, Upper Muddy Creek, Molen Reef, Rock Canyon, Mussentuchit Badland, and Muddy Creek, according to the region map entitled "San Rafael Swell" linked at the webpage entitled "Citizen's Proposal for Wilderness in Utah" at http://www.protectwildutah.org/proposal/index.html as the webpage existed on February 17, 2011;

(vii) in Garfield County:

(A) Pole Canyon, according to the region map entitled "Great Basin South" linked in the webpage entitled "Citizen's Proposal for Wilderness in Utah" at http://www.protectwildutah.org/proposal/index.html as the webpage existed on February 17, 2011;

(B) Dirty Devil, Fiddler Butte, Little Rockies, Cane Spring Desert, and Cane Spring Desert Adjacents, according to the region map entitled "Glen Canyon," which is available by clicking the link entitled "Dirty Devil" at the webpage entitled "Citizen's Proposal for Wilderness in Utah" at http://www.protectwildutah.org/proposal/index.html as the webpage existed on February 17, 2011;

(C) Lampstand, Wide Hollow, Steep Creek, Brinkerhof Flats, Little Valley Canyon, Death Hollow, Studhorse Peaks, Box Canyon, Heaps Canyon, North Escalante Canyon, Colt Mesa, East of Bryce, Slopes of Canaan Peak, Horse Spring Canyon, Muley Twist Flank, Pioneer Mesa, Slopes of Bryce, Blue Hills, Mud Springs Canyon, Carcass Canyon, Willis Creek North, Kodachrome Basin, and Kodachrome Headlands, according to the region map entitled "Grand Staircase Escalante" linked at the webpage entitled "Citizen's Proposal for Wilderness in Utah" at http://www.protectwildutah.org/proposal/index.html as the webpage existed on February 17, 2011; and

(D) Notom Bench, Mount Ellen, Bull Mountain, Dogwater Creek, Ragged Mountain, Mount Pennell, Mount Hillers, Bullfrog Creek, and Long Canyon, according to the region map entitled "Henry Mountains" linked at the webpage entitled "Citizen's Proposal for Wilderness in Utah" at http://www.protectwildutah.org/proposal/index.html as the webpage existed on February 17, 2011;

(viii) in Iron County: Needle Mountains, Steamboat Mountain, Broken Ridge, Paradise Mountains, Crook Canyon, Hamlin, North Peaks, Mount Escalante, and Antelope Ridge, according to the region map entitled "Great Basin South" linked in the webpage entitled "Citizen's Proposal for Wilderness in Utah" at http://www.protectwildutah.org/proposal/index.html as the webpage existed on February 17, 2011;

(ix) in Juab County: Deep Creek Mountains, Essex Canyon, Kern Mountains, Wild Horse Pass, Disappointment Hills, Granite Mountain, Middle Mountains, Tule Valley, Fish Springs Ridge, Thomas Range, Drum Mountains, Dugway Mountains, Keg Mountains West, Keg Mountains East, Lion Peak, and Rockwell Little Sahara, according to the region map entitled "Great Basin Central" linked in the webpage entitled "Citizen's Proposal for Wilderness in Utah" at http://www.protectwildutah.org/proposal/index.html as the webpage existed on February 17, 2011;

(x) in Kane County:

(A) Willis Creek North, Willis Creek, Kodachrome Badlands, Mud Springs Canyon, Carcass Canyon, Scorpion, Bryce Boot, Paria–Hackberry Canyons, Fiftymile Canyon, Hurricane Wash, Upper Kanab Creek, Timber Mountain, Nephi Point, Paradise Canyon, Wahweap Burning Hills, Fiftymile Bench, Forty Mile Gulch, Sooner Bench 1, 2, & 3, Rock Cove, Warm Bench, Andalex Not, Vermillion Cliffs, Ladder Canyon, The Cockscomb, Nipple Bench, Moquith Mountain, Bunting Point, Glass Eye Canyon, and Pine Hollow, according to the region map entitled "Grand Staircase Escalante" linked at the webpage entitled "Citizen's Proposal for Wilderness in Utah" at http://www.protectwildutah.org/proposal/index.html as the webpage existed on February 17, 2011; and

(B) Orderville Canyon, Jolley Gulch, and Parunuweap Canyon, according to the region map entitled "Zion/Mohave" linked at the webpage entitled "Citizen's Proposal for Wilderness in Utah" at http://www.protectwildutah.org/proposal/index.html as the webpage existed on February 17, 2011;

(xi) in Millard County: Kern Mountains, Wild Horse Pass, Disappointment Hills, Granite Mountain, Middle Mountains, Tule Valley, Swasey Mountain, Little Drum Mountains North, Little Drum Mountains South, Drum Mountains, Snake Valley, Coyote Knoll, Howell Peak, Tule Valley South, Ledger Canyon, Chalk Knolls, Orr Ridge, Notch View, Bullgrass Knoll, Notch Peak, Barn Hills, Cricket Mountains, Burbank Pass, Middle Burbank Hills, King Top, Barn Hills, Red Tops, Middle Burbank Hills, Juniper, Painted Rock Mountain, Black Hills, Tunnel Springs, Red Canyon, Sand Ridge, Little Sage Valley, Cat Canyon, Headlight Mountain, Black Hills, Mountain Range Home North, Tweedy Wash, North Wah Wah Mountains, Jackson Wash, and

San Francisco Mountains, according to the region map entitled "Great Basin Central" linked in the webpage entitled "Citizen's Proposal for Wilderness in Utah" at http://www.protectwildutah.org/proposal/index.html as the webpage existed on February 17, 2011;

(xii) in Piute County: Kingston Ridge, Rocky Ford, and Phonolite Hill, according to the region map entitled "Great Basin South" linked in the webpage entitled "Citizen's Proposal for Wilderness in Utah" at http://www.protectwildutah.org/proposal/index.html as the webpage existed on February 17, 2011;

(xiii) in San Juan County:

(A) Horseshoe Point, Deadhorse Cliffs, Gooseneck, Demon's Playground, Hatch Canyon, Lockhart Basin, Indian Creek, Hart's Point, Butler Wash, Bridger Jack Mesa, and Shay Mountain, according to the region map entitled "Canyonlands Basin" linked in the webpage entitled "Citizen's Proposal for Wilderness in Utah" at http://www.protectwildutah.org/proposal/index.html as the webpage existed on February 17, 2011;

(B) Dark Canyon, Copper Point, Fortknocker Canyon, White Canyon, The Needle, Red Rock Plateau, Upper Red Canyon, and Tuwa Canyon, according to the region map entitled "Glen Canyon," which is available by clicking the link entitled "Dirty Devil" at the webpage entitled "Citizen's Proposal for Wilderness in Utah" at http://www.protectwildutah.org/proposal/index.html as the webpage existed on February 17, 2011;

(C) Hunters Canyon, Behind the Rocks, Mill Creek, and Coyote Wash, according to the region map entitled "Moab/La Sal" linked at the webpage entitled "Citizen's Proposal for Wilderness in Utah" at http://www.protectwildutah.org/proposal/index.html as the webpage existed on February 17, 2011; and

(D) Hammond Canyon, Allen Canyon, Mancos Jim Butte, Arch Canyon, Monument Canyon, Tin Cup Mesa, Cross Canyon, Nokai Dome, Grand Gulch, Fish and Owl Creek Canyons, Comb Ridge, Road Canyon, The Tabernacle, Lime Creek, San Juan River, and Valley of the Gods, according to the region map entitled "San Juan" linked at the webpage entitled "Citizen's Proposal for Wilderness in Utah" at http://www.protectwildutah.org/proposal/index.html as the webpage existed on February 17, 2011;

(xiv) in Sevier County: Rock Canyon, Mussentuchit Badland, Limestone Cliffs, and Jones' Bench, according to the region map entitled "San Rafael Swell" linked at the webpage entitled "Citizen's Proposal for Wilderness in Utah" at http://www.protectwildutah.org/proposal/index.html as the webpage existed on February 17, 2011;

(xv) in Tooele County:

(A) Silver Island Mountains, Crater Island East, Grassy Mountains North, Grassy Mountains South, Stansbury Island, Cedar Mountains North, Cedar Mountains Central, Cedar Mountains South, North Stansbury Mountains, Oquirrh Mountains, and Big Hollow, according to the region map entitled "Great Basin North" linked in the webpage entitled "Citizen's Proposal for Wilderness in Utah" at http://www.protectwildutah.org/proposal/index.html as the webpage existed on February 17, 2011, excluding the areas that Congress designated as wilderness under the National Defense Authorization Act for Fiscal Year 2006; and

(B) Ochre Mountain, Deep Creek Mountains, Dugway Mountains, Indian Peaks, and Lion Peak, according to the region map entitled "Great Basin Central" linked in the webpage entitled "Citizen's Proposal for Wilderness in Utah" at http://www.protectwildutah.org/proposal/index.html as the webpage existed on February 17, 2011;

(xvi) in Uintah County:

(A) White River, Lower Bitter Creek, Sunday School Canyon, Dragon Canyon, Wolf Point, Winter Ridge, Seep Canyon, Bitter Creek, Hideout Canyon, Sweetwater Canyon, and Hell's Hole, according to the region map entitled "Book Cliffs" linked in the webpage entitled "Citizen's Proposal for Wilderness in Utah" at http://www.protectwildutah.org/proposal/index.html as the webpage existed on February 17, 2011; and

(B) Lower Flaming Gorge, Crouse Canyon Stone Bridge Draw, Diamond Mountain, Wild Mountain, Split Mountain Benches, Vivas Cake Hill, Split Mountain Benches South, Beach Draw, Stuntz Draw, Moonshine Draw, Bourdette Draw, and Bull Canyon, according to the region map entitled "Dinosaur" linked in the webpage entitled "Citizen's Proposal for Wilderness in Utah" at http://www.protectwildutah.org/proposal/index.html as the webpage existed on February 17, 2011;

(xvii) in Washington County: Couger Canyon, Docs Pass, Slaughter Creek, Butcher Knife Canyon, Square Top, Scarecrow Creek, Beaver Dam Wash, Beaver Dam Mountains North, Beaver Dam Mountains South, Joshua Tree, Beaver Dam Wilderness Expansion, Red Mountain, Cottonwood Canyon, Taylor Canyon, LaVerkin Creek, Beartrap Canyon, Deep Creek, Black Ridge, Red Butte, Kolob Creek, Goose Creek, Dry Creek, Zion National Park Adjacents, Crater Hill, The Watchman, and Canaan Mountain, according to the region map entitled "Zion/Mohave" linked at the webpage entitled "Citizen's Proposal for Wilderness in Utah" at http://www.protectwildutah.org/proposal/index.html as the webpage existed on February 17, 2011, excluding the areas that Congress designated as wilderness and conservation areas under the Omnibus Public Lands Management Act of 2009; and

(xviii) in Wayne County:

(A) Sweetwater Reef, Upper Horseshoe Canyon, and Labyrinth Canyon, according to the region map entitled "Canyonlands Basin" linked in the webpage entitled "Citizen's Proposal for Wilderness in Utah" at http://www.protectwildutah.org/proposal/index.html as the webpage existed on February 17, 2011;

(B) Flat Tops and Dirty Devil, according to the region map entitled "Glen Canyon," which is

available by clicking the link entitled "Dirty Devil" at the webpage entitled "Citizen's Proposal for Wilderness in Utah" at http://www.protectwildutah.org/proposal/index.html as the webpage existed on February 17, 2011;

(C) Fremont Gorge, Pleasant Creek Bench, Notom Bench, Mount Ellen, and Bull Mountain, according to the region map entitled "Henry Mountains" linked at the webpage entitled "Citizen's Proposal for Wilderness in Utah" at http://www.protectwildutah.org/proposal/index.html as the webpage existed on February 17, 2011; and

(D) Capital Reef Adjacents, Muddy Creek, Wild Horse Mesa, North Blue Flats, Red Desert, and Factory Butte, according to the region map entitled "San Rafael Swell" linked at the webpage entitled "Citizen's Proposal for Wilderness in Utah" at http://www.protectwildutah.org/proposal/index.html as the webpage existed on February 17, 2011.

(b) "Subject lands" also includes all BLM and Forest Service lands in the state that are not Wilderness Area or Wilderness Study Areas;

(c) "Subject lands" does not include the following lands that are the subject of consideration for a possible federal lands bill and should be managed according to the 2008 Price BLM Field Office Resource Management Plan until a federal lands bill provides otherwise:

(i) Turtle Canyon and Desolation Canyon according to the region map entitled "Book Cliffs" linked in the webpage entitled "Citizen's Proposal for Wilderness in Utah" at http://protectwildutah.org/proposal/index.html as the webpage existed on February 17, 2011;

(ii) Labyrinth Canyon, Duma Point, and Horseshoe Point, according to the region map entitled "Canyonlands Basin" linked in the webpage entitled "Citizen's Proposal for Wilderness in Utah" at http://protectwildutah.org/proposal/index.html as the webpage existed on February 17, 2011; and

(iii) Devil's Canyon, Sid's Mountain, Mexican Mountain, San Rafael Reef, Hondu Country, Cedar Mountain, and Wild Horse, according to the region map entitled "San Rafael Swell" linked at the webpage entitled "Citizen's Proposal for Wilderness in Utah" at http://protectwildutah.org/proposal/index.html as the webpage existed on February 17, 2011.

(22) "Uintah Basin Energy Zone" means BLM and Forest Service lands situated in the following townships in Daggett, Duchesne, and Uintah counties, as more fully illustrated in the map prepared by the Uintah County GIS Department in February 2012 entitled "Uintah Basin Utah Energy Zone":

(a) in Daggett County, Township 3N Range 17 E, Township 3N Range 18E, Township 3N Range 19E, Township 3N Range 20E, Township 3N Range 22E, Township 3N Range 23E, Township 3N Range 24E, Township 3N Range 25E, Township 2N Range 17E, Township 2N Range 18E, Township 2N Range 19E, Township 2N Range 20E, Township 2N Range 21E, and Township 2S Range 25E;

(b) in Duchesne County, Township 3N Range 4W, Township 3N Range 3W, Township 3N Range 2W, Township 3N Range 1W, Township 2N Range 6W, Township 2N Range 5W, Township 2N Range 4W, Township 2N Range 3W, Township 2N Range 1W, Township 1N Range 9W, Township 1N Range 8W, Township 1N Range 7W, Township 1N Range 6W, Township 1S Range 9W, Township 1S Range 8W, Township 4S Range 9W, Township 4S Range 3W, Township 4S Range 2W, Township 4S Range 1W, Township 8S Range 15E, Township 8S Range 16E, Township 8S Range 17E, Township 5S Range 9W, Township 5S Range 3W, Township 9S Range 15E, Township 9S Range 16E, Township 9S Range 17E, Township 6S Range 9W, Township 6S Range 8W, Township 6S Range 7W, Township 6S Range 6W, Township 6S Range 5W, Township 6S Range 3W, Township 10S Range 15E, Township 10S Range 16E, Township 10S Range 17E, Township 7S Range 9W, Township 7S Range 8W, Township 7S Range 7W, Township 7S Range 6W, Township 7S Range 5W, Township 7S Range 4W, Township 10S Range 11E, Township 10S Range 12E, Township 10S Range 13E, Township 10S Range 14E, Township 10S Range 15E, Township 10S Range 16E, Township 10S Range 17E, Township 11S Range 10E, Township 11S Range 11E, Township 11S Range 12E, Township 11S Range 13E, Township 11S Range 14E, Township 11S Range 15E, Township 11S Range 16E, and Township 11S Range 17E; and

(c) in Uintah County: Township 2S Range 18E, Township 2S Range 19E, Township 2S Range 20E, Township 2S Range 21E, Township 2S Range 22E, Township 2S Range 23E, Township 2S Range 24E, Township 2N Range 1W, Township 2N Range 1E, Township 2N Range 2E, Township 3S Range 18E, Township 3S Range 19E, Township 3S Range 20E, Township 3S Range 21E, Township 3S Range 22E, Township 3S Range 23E, Township 3S Range 24E, Township 4S Range 19E, Township 4S Range 20E, Township 4S Range 21E, Township 4S Range 22E, Township 4S Range 23E, Township 4S Range 24E, Township 4S Range 25E, Township 5S Range 19E, Township 5S Range 20E, Township 5S Range 21E, Township 5S Range 22E, Township 5S Range 23E, Township 5S Range 24E, Township 5S Range 25E, Township 6S Range 19E, Township 6S Range 20E, Township 6S Range 21E, Township 6S Range 22E, Township 6S Range 23E, Township 6S Range 24E, Township 6S Range 25E, Township 7S Range 19E, Township 7S Range 20E, Township 7S Range 21E, Township 7S Range 22E, Township 7S Range 23E, Township 7S Range 24E, Township 7S Range 25E, Township 8S Range 17E, Township 8S Range 18E, Township 8S Range 19E, Township 8S Range 20E, Township 8S Range 21E, Township 8S Range 22E, Township 8S Range 23E, Township 8S Range 24E, Township 8S Range 25E, Township 9S Range 17E, Township 9S Range 18E, Township 9S Range 19E, Township 9S Range 20E, Township 9S Range 21E, Township 9S Range 22E, Township 9S Range 23E, Township 9S Range 24E, Township 9S Range 25E,

Township 10S Range 17E, Township 10S Range 18E, Township 10S Range 19E, Township 10S Range 20E, Township 10S Range 21E, Township 10S Range 22E, Township 10S Range 23E, Township 10S Range 24E, Township 10S Range 25E, Township 11S Range 17E, Township 11S Range 18E, Township 11S Range 19E, Township 11S Range 20E, Township 11S Range 21E, Township 11S Range 22E, Township 11S Range 23E, Township 11S Range 24E, Township 11S Range 25E, Township 12S Range 20E, Township 12S Range 21E, Township 12S Range 22E, Township 12S Range 23E, Township 12S Range 24E, Township 12S Range 25E, Township 13S Range 20E, Township 13S Range 21E, Township 13S Range 22E, Township 13S Range 23E, Township 13S Range 24E, Township 13S Range 25E, Township 13S Range 26 E, Township 14S Range 21E, Township 14S Range 22E, Township 14S Range 23E, Township 14S Range 24E, Township 14S Range 25E, and Township 14S Range 26E.

(23) "Wilderness" means the same as that term is defined in 16 U.S.C. Sec. 1131.

(24) "Wilderness area" means those BLM and Forest Service lands added to the National Wilderness Preservation System by an act of Congress.

(25) "Wilderness Preservation System" means the Wilderness Preservation System established in 16 U.S.C. Sec. 1131 et seq.

(26) "WSA" and "Wilderness Study Area" mean the BLM lands in Utah that were identified as having the necessary wilderness character and were classified as wilderness study areas during the BLM wilderness review conducted between 1976 and 1993 by authority of 43 U.S.C. Sec. 1782 and labeled as Wilderness Study Areas within the final report of the President of the United States to the United States Congress in 1993.

Section 75. Section 63J-8-104 is amended to read:

63J-8-104. State land use planning and management program.

(1) The BLM and Forest Service land use plans should produce planning documents consistent with state and local land use plans to the maximum extent consistent with federal law and FLPMA's purposes, by incorporating the state's land use planning and management program for the subject lands that is as follows:

(a) preserve traditional multiple use and sustained yield management on the subject lands to:

(i) achieve and maintain in perpetuity a high-level annual or regular periodic output of agricultural, mineral, and various other resources from the subject lands;

(ii) support valid existing transportation, mineral, and grazing privileges in the subject lands at the highest reasonably sustainable levels;

(iii) produce and maintain the desired vegetation for watersheds, timber, food, fiber, livestock forage, wildlife forage, and minerals that are necessary to meet present needs and future economic growth and community expansion in each county where the subject lands are situated without permanent impairment of the productivity of the land;

(iv) meet the recreational needs and the personal and business-related transportation needs of the citizens of each county where the subject lands are situated by providing access throughout each such county;

(v) meet the needs of wildlife, provided that the respective forage needs of wildlife and livestock are balanced according to the provisions of Subsection [~~63J-4-401(6)(m)~~] 63L-11-302(13);

(vi) protect against adverse effects to historic properties, as defined by 36 C.F.R. Sec. 800;

(vii) meet the needs of community economic growth and development;

(viii) provide for the protection of existing water rights and the reasonable development of additional water rights; and

(ix) provide for reasonable and responsible development of electrical transmission and energy pipeline infrastructure on the subject lands;

(b) (i) do not designate, establish, manage, or treat any of the subject lands as an area with management prescriptions that parallel, duplicate, or resemble the management prescriptions established for wilderness areas or wilderness study areas, including the nonimpairment standard applicable to WSAs or anything that parallels, duplicates, or resembles that nonimpairment standard; and

(ii) recognize, follow, and apply the agreement between the state and the Department of the Interior in the settlement agreement;

(c) call upon the BLM to revoke and revise BLM Manuals H 6301, H 6302, and H 6303, issued on or about February 25, 2011, in light of the settlement agreement and the following principles of this state plan:

(i) BLM lacks congressional authority to manage subject lands, other than WSAs, as if they are or may become wilderness;

(ii) BLM lacks authority to designate geographic areas as lands with wilderness characteristics or designate management prescriptions for such areas other than to use specific geographic-based tools and prescriptions expressly identified in FLPMA;

(iii) BLM lacks authority to manage the subject lands in any manner other than to prevent unnecessary or undue degradation, unless the BLM uses geographic tools expressly identified in FLPMA and does so pursuant to a duly adopted provision of a resource management plan adopted under FLPMA, 43 U.S.C. Sec. 1712;

(iv) BLM inventories for the presence of wilderness characteristics must be closely

coordinated with inventories for those characteristics conducted by state and local governments, and should reflect a consensus among those governmental agencies about the existence of wilderness characteristics, as follows:

(A) any inventory of wilderness characteristics should reflect all of the criteria identified in the Wilderness Act of 1964, including:

(I) a size of 5,000 acres or more, containing no visible roads; and

(II) the presence of naturalness, the opportunity for primitive and unconfined recreation, and the opportunity for solitude;

(B) geographic areas found to contain the presence of naturalness must appear pristine to the average viewer, and not contain any of the implements, artifacts, or effects of human presence, including:

(I) visible roads, whether maintained or not; and

(II) human-made features such as vehicle bridges, fire breaks, fisheries, enhancement facilities, fire rings, historic mining and other properties, including tailings piles, commercial radio and communication repeater sites, fencing, spring developments, linear disturbances, stock ponds, visible drill pads, pipeline and transmission line rights-of-way, and other similar features;

(C) factors, such as the following, though not necessarily conclusive, should weigh against a determination that a land area has the presence of naturalness:

(I) the area is or once was the subject of mining and drilling activities;

(II) mineral and hard rock mining leases exist in the area; and

(III) the area is in a grazing district with active grazing allotments and visible range improvements;

(D) geographic areas found to contain the presence of solitude should convey the sense of solitude within the entire geographic area identified, otherwise boundary adjustments should be performed in accordance with Subsection (1)(c)(iv)(F);

(E) geographic areas found to contain the presence of an opportunity for primitive and unconfined recreation must find these features within the entire area and provide analysis about the effect of the number of visitors to the geographic area upon the presence of primitive or unconfined recreation, otherwise boundary adjustments should be performed in accordance with Subsection (1)(c)(iv)(F);

(F) in addition to the actions required by the review for roads pursuant to the definitions of roads contained in BLM Manual H 6301, or any similar authority, the BLM should, pursuant to its authority to inventory, identify and list all roads or routes identified as part of a local or state governmental transportation system, and consider those routes or roads as qualifying as roads within the definition of the Wilderness Act of 1964; and

(G) BLM should adjust the boundaries for a geographic area to exclude areas that do not meet the criteria of lacking roads, lacking solitude, and lacking primitive and unconfined recreation and the boundaries should be redrawn to reflect an area that clearly meets the criteria above, and which does not employ minor adjustments to simply exclude small areas with human intrusions, specifically:

(I) the boundaries of a proposed geographic area containing lands with wilderness characteristics should not be drawn around roads, rights-of-way, and intrusions; and

(II) lands located between individual human impacts that do not meet the requirements for lands with wilderness characteristics should be excluded;

(v) BLM should consider the responses of the Department of the Interior under cover of the letter dated May 20, 2009, clearly stating that BLM does not have the authority to apply the nonimpairment management standard to the subject lands, or to manage the subject lands in any manner to preserve their suitability for designation as wilderness, when considering the proper management principles for areas that meet the full definition of lands with wilderness characteristics; and

(vi) even if the BLM were to properly inventory an area for the presence of wilderness characteristics, the BLM still lacks authority to make or alter project level decisions to automatically avoid impairment of any wilderness characteristics without express congressional authority to do so;

(d) achieve and maintain at the highest reasonably sustainable levels a continuing yield of energy, hard rock, and nuclear resources in those subject lands with economically recoverable amounts of such resources as follows:

(i) the development of the solid, fluid, and gaseous mineral resources in portions of the subject lands is an important part of the state's economy and the economies of the respective counties, and should be recognized that it is technically feasible to access mineral and energy resources in portions of the subject lands while preserving or, as necessary, restoring nonmineral and nonenergy resources;

(ii) all available, recoverable solid, fluid, gaseous, and nuclear mineral resources in the subject lands should be seriously considered for contribution or potential contribution to the state's economy and the economies of the respective counties;

(iii) those portions of the subject lands shown to have reasonable mineral, energy, and nuclear potential should be open to leasing, drilling, and other access with reasonable stipulations and conditions, including mitigation, reclamation, and bonding measures where necessary, that will protect the lands against unnecessary and undue damage to other significant resource values;

(iv) federal oil and gas existing lease conditions and restrictions should not be modified, waived, or

removed unless the lease conditions or restrictions are no longer necessary or effective;

(v) any prior existing lease restrictions in the subject lands that are no longer necessary or effective should be modified, waived, or removed;

(vi) restrictions against surface occupancy should be eliminated, modified, or waived, where reasonable;

(vii) in the case of surface occupancy restrictions that cannot be reasonably eliminated, modified, or waived, directional drilling should be considered where the mineral and energy resources beneath the area can be reached employing available directional drilling technology;

(viii) applications for permission to drill in the subject lands that meet standard qualifications, including reasonable and effective mitigation and reclamation requirements, should be expeditiously processed and granted; and

(ix) any moratorium that may exist against the issuance of qualified mining patents and oil and gas leases in the subject lands, and any barriers that may exist against developing unpatented mining claims and filing for new claims, should be carefully evaluated for removal;

(e) achieve and maintain livestock grazing in the subject lands at the highest reasonably sustainable levels by adhering to the policies, goals, and management practices set forth in Subsection [~~63J-4-401(6)(m)~~] 63L-11-302(13);

(f) manage the watershed in the subject lands to achieve and maintain water resources at the highest reasonably sustainable levels as follows:

(i) adhere to the policies, goals, and management practices set forth in Subsection [~~63J-4-401(6)(m)~~] 63L-11-302(13);

(ii) deter unauthorized cross-country OHV use in the subject lands by establishing a reasonable system of roads and trails in the subject lands for the use of an OHV, as closing the subject lands to all OHV use will only spur increased and unauthorized use; and

(iii) keep open any road or trail in the subject lands that historically has been open to OHV use, as identified on respective county road maps;

(g) achieve and maintain traditional access to outdoor recreational opportunities available in the subject lands as follows:

(i) hunting, trapping, fishing, hiking, family and group parties, family and group campouts and campfires, rock hounding, OHV travel, geological exploring, pioneering, recreational vehicle parking, or just touring in personal vehicles are activities that are important to the traditions, customs, and character of the state and individual counties where the subject lands are located and should continue;

(ii) wildlife hunting, trapping, and fishing should continue at levels determined by the Wildlife Board and the Division of Wildlife Resources and traditional levels of group camping, group day use, and other traditional forms of outdoor recreation, both motorized and nonmotorized, should continue; and

(iii) the broad spectrum of outdoor recreational activities available on the subject lands should be available to citizens for whom a primitive, nonmotorized, outdoor experience is not preferred, affordable, or physically achievable;

(h) (i) keep open to motorized travel, any road in the subject lands that is part of the respective counties' duly adopted transportation plan;

(ii) provide that R.S. 2477 rights-of-way should be recognized by the BLM;

(iii) provide that a county road may be temporarily closed or permanently abandoned only by statutorily authorized action of the county or state;

(iv) provide that the BLM and the Forest Service must recognize and not unduly interfere with a county's ability to maintain and repair roads and, where reasonably necessary, make improvements to the roads; and

(v) recognize that additional roads and trails may be needed in the subject lands from time to time to facilitate reasonable access to a broad range of resources and opportunities throughout the subject lands, including livestock operations and improvements, solid, fluid, and gaseous mineral operations, recreational opportunities and operations, search and rescue needs, other public safety needs, access to public lands for people with disabilities and the elderly, and access to Utah school and institutional trust lands for the accomplishment of the purposes of those lands;

(i) manage the subject lands so as to protect prehistoric rock art, three dimensional structures, and other artifacts and sites recognized as culturally important and significant by the state historic preservation officer or each respective county by imposing reasonable and effective stipulations and conditions reached by agreement between the federal agency and the state authorized officer pursuant to the authority granted by the National Historic Preservation Act, 16 U.S.C. Sec. 470 et seq.;

(j) manage the subject lands so as to not interfere with the property rights of private landowners as follows:

(i) the state recognizes that there are parcels of private fee land throughout the subject lands;

(ii) land management policies and standards in the subject lands should not interfere with the property rights of any private landowner to enjoy and engage in uses and activities on an individual's private property consistent with controlling county zoning and land use laws; and

(iii) a private landowner or a guest or client of a private landowner should not be denied the right of motorized access to the private landowner's property consistent with past uses of the private property;

(k) manage the subject lands in a manner that supports the fiduciary agreement made between the state and the federal government concerning the school and institutional trust lands, as managed according to state law, by:

(i) formally recognizing, by duly authorized federal proclamation, the duty of the federal government to support the purposes of the school and institutional trust lands owned by the state and administered by SITLA in trust for the benefit of public schools and other institutions as mandated in the Utah Constitution and the Utah Enabling Act of 1894, 28 Stat. 107;

(ii) actively seeking to support SITLA's fiduciary responsibility to manage the school trust lands to optimize revenue by making the school trust lands available for sale and private development and for other multiple and consumptive use activities such as mineral development, grazing, recreation, timber, and agriculture;

(iii) not interfering with SITLA's ability to carry out its fiduciary responsibilities by the creation of geographical areas burdened with management restrictions that prohibit or discourage the optimization of revenue, without just compensation;

(iv) recognizing SITLA's right of economic access to the school trust lands to enable SITLA to put those sections to use in its fiduciary responsibilities;

(v) recognizing any management plan enacted by SITLA pursuant to Section 53C-2-201; and

(vi) acting responsibly as the owner of land parcels with potential for exchange for state land parcels by:

(A) moving forward with the process for identifying federal land parcels suitable and desirable for exchange for state land parcels;

(B) removing barriers to the exchange of federal land parcels for state land parcels;

(C) expediting the procedures and processes necessary to execute the exchange of federal land parcels for state land parcels; and

(D) lobbying and supporting in good faith any congressional legislation to enact and finalize the exchange of federal land parcels for state land parcels;

(l) oppose the designation of BLM lands as areas of critical environmental concern (ACEC), as the BLM lands are generally not compatible with the state's plan and policy for managing the subject lands, but special cases may exist where such a designation is appropriate if compliance with FLPMA, 43 U.S.C. Sec. 1702(a) is clearly demonstrated and where the proposed designation and protection:

(i) is limited to the geographic size to the minimum necessary to meet the standards required by [~~Section 63J-4-401~~] Sections 63L-11-302 and 63L-11-303;

(ii) is necessary to protect not just a temporary change in ground conditions or visual resources that can be reclaimed or reversed naturally, but is clearly shown as necessary to protect against visible damage on the ground that will persist on a time scale beyond that which would effectively disqualify the land for a later inventory of wilderness characteristics;

(iii) will not be applied in a geographic area already protected by other protective designations available pursuant to law; and

(iv) is not a substitute for the nonimpairment management requirements of wilderness study areas; and

(m) recognize that a BLM visual resource management class I or II rating is generally not compatible with the state's plan and policy for managing the subject lands, but special cases may exist where such a rating is appropriate if jointly considered and created by state, local, and federal authorities as part of an economic development plan for a region of the state, with due regard for school trust lands and private lands within the area.

(2) All BLM and Forest Service decision documents should be accompanied with an analysis of the social and economic impact of the decision. Such analysis should:

(a) consider all facets of the decision in light of valuation techniques for the potential costs and benefits of the decision;

(b) clarify whether the costs and benefits employ monetized or nonmonetized techniques;

(c) compare the accuracy, completeness, and viability of monetized and nonmonetized valuation techniques used as part of the analysis, including all caveats on use of the techniques; and

(d) compare the valuation techniques employed in the analysis to the federal standards for valuation employed by the U.S. Department of Justice in court actions.

Section 76. Section 63J-8-105.2 is amended to read:

63J-8-105.2. San Juan County Energy Zone established -- Finding -- Management and land use priorities.

(1) There is established the San Juan County Energy Zone in San Juan County for the purpose of maximizing efficient and responsible development of energy and mineral resources.

(2) The land area and boundaries of the San Juan County Energy Zone are described in Subsection 63J-8-102(18) and illustrated on the map described in Section 63J-8-105.

(3) The state finds that:

(a) the lands comprising the San Juan County Energy Zone contain abundant world-class deposits of energy and mineral resources, including oil, natural gas, potash, uranium, vanadium,

limestone, copper, sand, gravel, wind, and solar; and

(b) the highest management priority is the responsible management, development, and extraction of existing energy and mineral resources in order to provide long-term domestic energy and supplies for the state and the United States.

(4) The state supports:

(a) efficient and responsible full development of all existing energy and mineral resources located within the San Juan County Energy Zone, including oil, natural gas, potash, uranium, vanadium, limestone, copper, sand, gravel, wind, and solar; and

(b) a cooperative management approach by federal agencies, the state, and local governments to achieve broadly supported management plans for the full development of all energy and mineral resources within the San Juan County Energy Zone.

(5) The state requests that the federal agencies that administer lands within the San Juan County Energy Zone:

(a) fully cooperate and coordinate with the state and with San Juan County to develop, amend, and implement land and resource management plans and to implement management decisions that are consistent with the purposes, goals, and policies described in this section to the maximum extent allowed under federal law;

(b) expedite the processing, granting, and streamlining of mineral and energy leases and applications to drill, extract, and otherwise develop all existing energy and mineral resources located within the San Juan County Energy Zone, including oil, natural gas, potash, uranium, vanadium, copper, sand, gravel, wind, and solar resources;

(c) allow continued maintenance and increased development of roads, power lines, pipeline infrastructure, and other utilities necessary to achieve the goals, purposes, and policies described in this section;

(d) refrain from any planning decisions and management actions that will undermine, restrict, or diminish the goals, purposes, and policies for the San Juan County Energy Zone as stated in this section; and

(e) refrain from implementing a policy that is contrary to the goals and purposes within this section.

(6) The state calls upon Congress to establish an intergovernmental standing commission, with membership consisting of representatives from the United States government, the state, and local governments, to guide and control planning and management actions in the San Juan County Energy Zone in order to achieve and maintain the goals, purposes, and policies described in this section.

(7) Notwithstanding the provisions of this section, the state's grazing and livestock policies and plans on land within the San Juan County Energy Zone shall continue to be governed by Sections [~~63J-4-401~~] 63L-11-302, 63L-11-303, and 63J-8-104.

Section 77. Section 63J-8-105.5 is amended to read:

63J-8-105.5. Uintah Basin Energy Zone established -- Findings -- Management and land use priorities.

(1) There is established the Uintah Basin Energy Zone in Daggett, Uintah, and Duchesne Counties for the purpose of maximizing efficient and responsible development of energy and mineral resources.

(2) The land area and boundaries of the Uintah Basin Energy Zone are described in Subsection 63J-8-102(22) and illustrated on the map described in Section 63J-8-105.

(3) The state finds that:

(a) the lands comprising the Uintah Basin Energy Zone contain abundant, world-class deposits of energy and mineral resources, including oil, natural gas, oil shale, oil sands, gilsonite, coal, phosphate, gold, uranium, and copper, as well as areas with high wind and solar energy potential; and

(b) the highest management priority for all lands within the Uintah Basin Energy Zone is responsible management and development of existing energy and mineral resources in order to provide long-term domestic energy and supplies for Utah and the United States.

(4) The state supports:

(a) efficient and responsible full development of all existing energy and mineral resources located within the Uintah Basin Energy Zone, including oil, oil shale, natural gas, oil sands, gilsonite, phosphate, gold, uranium, copper, solar, and wind resources; and

(b) a cooperative management approach among federal agencies, state, and local governments to achieve broadly supported management plans for the full development of all energy and mineral resources within the Uintah Basin Energy Zone.

(5) The state calls upon the federal agencies who administer lands within the Uintah Basin Energy Zone to:

(a) fully cooperate and coordinate with the state and with Daggett, Uintah, and Duchesne Counties to develop, amend, and implement land and resource management plans and to implement management decisions that are consistent with the purposes, goals, and policies described in this section to the maximum extent allowed under federal law;

(b) expedite the processing, granting, and streamlining of mineral and energy leases and applications to drill, extract, and otherwise develop all existing energy and mineral resources located

within the Uintah Basin Energy Zone, including oil, natural gas, oil shale, oil sands, gilsonite, phosphate, gold, uranium, copper, solar, and wind resources;

(c) allow continued maintenance and increased development of roads, power lines, pipeline infrastructure, and other utilities necessary to achieve the goals, purposes, and policies described in this section;

(d) refrain from any planning decisions and management actions that will undermine, restrict, or diminish the goals, purposes, and policies for the Uintah Basin Energy Zone as stated in this section; and

(e) refrain from implementing a policy that is contrary to the goals and purposes described within this section.

(6) The state calls upon Congress to establish an intergovernmental standing commission among federal, state, and local governments to guide and control planning decisions and management actions in the Uintah Basin Energy Zone in order to achieve and maintain the goals, purposes, and policies described in this section.

(7) Notwithstanding the provisions of this section, the state's grazing and livestock policies and plans on land within the Uintah Basin Energy Zone shall continue to be governed by Sections [~~63J-4-401~~] 63L-11-302, 63L-11-303, and 63J-8-104.

Section 78. Section 63J-8-105.7 is amended to read:

63J-8-105.7. Green River Energy Zone established -- Findings -- Management and land use priorities.

(1) There is established the Green River Energy Zone in Carbon and Emery Counties for the purpose of maximizing efficient and responsible development of energy and mineral resources.

(2) The land area and boundaries of the Green River Energy Zone are described in Subsection 63J-8-102(8) and illustrated on the maps described in Section 63J-8-105.

(3) The state finds that:

(a) the lands comprising the Green River Energy Zone contain abundant world-class deposits of energy and mineral resources, including oil, natural gas, oil shale, oil sands, gilsonite, coal, phosphate, gold, uranium, and copper, as well as areas with high wind and solar energy potential;

(b) for lands within the Carbon County portion of the Green River Energy Zone, the highest management priority is the responsible management, development, and extraction of existing energy and mineral resources in order to provide long-term domestic energy and supplies for Utah and the United States; and

(c) for lands within the Emery County portion of the Green River Energy Zone:

(i) the responsible management and development of existing energy and mineral resources in order to provide long-term domestic energy and supplies for Utah and the United States is a high management priority; and

(ii) the management priority described in Subsection (3)(c)(i) should be balanced with the following high management priorities:

(A) watershed health;

(B) water storage and water delivery systems;

(C) Emery County Heritage Sites;

(D) facilities and resources associated with the domestic livestock industry;

(E) wildlife and wildlife habitat; and

(F) recreation opportunities.

(4) The state supports:

(a) efficient and responsible full development of all existing energy and mineral resources located within the Green River Energy Zone, including oil, oil shale, natural gas, oil sands, gilsonite, coal, phosphate, gold, uranium, copper, solar, and wind resources; and

(b) a cooperative management approach by federal agencies, the state of Utah, and local governments to achieve broadly supported management plans for the full development of all energy and mineral resources within the Green River Energy Zone.

(5) The state requests that the federal agencies that administer lands within the Green River Energy Zone:

(a) fully cooperate and coordinate with the state of Utah and with Carbon and Emery Counties to develop, amend, and implement land and resource management plans and to implement management decisions that are consistent with the purposes, goals, and policies described in this section to the maximum extent allowed under federal law;

(b) expedite the processing, granting, and streamlining of mineral and energy leases and applications to drill, extract, and otherwise develop all existing energy and mineral resources located within the Green River Energy Zone, including oil, natural gas, oil shale, oil sands, gilsonite, coal, phosphate, gold, uranium, copper, solar, and wind resources;

(c) allow continued maintenance and increased development of roads, power lines, pipeline infrastructure, and other utilities necessary to achieve the goals, purposes, and policies described in this section;

(d) refrain from any planning decisions and management actions that will undermine, restrict, or diminish the goals, purposes, and policies for the Green River Energy Zone as stated in this section; and

(e) refrain from implementing a policy that is contrary to the goals and purposes within this section.

(6) The state calls upon Congress to establish an intergovernmental standing commission, with membership consisting of representatives from the United States government, the state of Utah, and local governments to guide and control planning and management actions in the Green River Energy Zone in order to achieve and maintain the goals, purposes, and policies described in this section.

(7) Notwithstanding the provisions of this section, the state's grazing and livestock policies and plans on land within the Green River Energy Zone shall continue to be governed by Sections [~~63J-4-401~~] 63L-11-302, 63L-11-303, and 63J-8-104.

Section 79. Section 63J-8-105.8 is amended to read:

63J-8-105.8. Utah Grazing Agricultural Commodity Zones established -- Findings -- Management and land use priorities.

(1) There are established Utah Grazing Agricultural Commodity Zones in the counties of Beaver, Emery, Garfield, Kane, Piute, Iron, Sanpete, San Juan, Sevier, Washington, and Wayne for the purpose of:

(a) preserving and protecting the agricultural livestock industry from ongoing threats;

(b) preserving and protecting the history, culture, custom, and economic value of the agricultural livestock industry from ongoing threats; and

(c) maximizing efficient and responsible restoration, reclamation, preservation, enhancement, and development of forage and watering resources for grazing and wildlife practices and affected natural, historical, and cultural activities.

(2) The titles, land area, and boundaries of the zones are as follows:

(a) "Escalante Region Grazing Zone," consisting of certain BLM, National Park Service, and Forest Service lands in the following townships in Garfield and Kane counties, as more fully illustrated in the map jointly prepared by the Garfield County and Kane County Geographic Information Systems departments entitled "Escalante Region Grazing Zone":

(i) in Garfield County, Township 32S Range 6E, Township 32S Range 7E, Township 33S Range 4E, Township 33S Range 5E, Township 33S Range 6E, Township 33S Range 7E, Township 33S Range 8E, Township 34S Range 2E, Township 34S Range 3E, Township 34S Range 4E, Township 34S Range 5E, Township 34S Range 6E, Township 34S Range 7E, Township 34S Range 8E, Township 35S Range 1E, Township 35S Range 2E, Township 35S Range 3E, Township 35S Range 4E, Township 35S Range 5E, Township 35S Range 6E, Township 35S Range 7E, Township 35S Range 8E, Township 36S Range 1W, Township 36S Range 2W, Township 36S Range 3W, Township 36S Range 1E, Township 36S Range 2E, Township 36S Range 3E, Township 36S Range 4E, Township 36S Range 5E, Township 36S Range 6E, Township 36S Range 7E, Township 36S Range 8E, Township 36S Range 9E, Township 37S Range 1W, Township 37S Range 2W, Township 37S Range 3W, Township 37S Range 4W, Township 37S Range 1E, Township 37S Range 2E, Township 37S Range 3E, Township 37S Range 4E, Township 37S Range 5E, Township 37S Range 6E, Township 37S Range 7E, Township 37S Range 8E, and Township 37S Range 9E; and

(ii) in Kane County, Township 38S Range 1W, Township 38S Range 2W, Township 38S Range 3W, Township 38S Range 4W, Township 38S Range 1E, Township 38S Range 2E, Township 38S Range 3E, Township 38S Range 4E, Township 38S Range 5E, Township 38S Range 6E, Township 38S Range 7E, Township 38S Range 8E, Township 38S Range 9E, Township 39S Range 1W, Township 39S Range 2W, Township 39S Range 3W, Township 39S Range 4W, Township 39S Range 4.5W, Township 39S Range 1E, Township 39S Range 2E, Township 39S Range 3E, Township 39S Range 4E, Township 39S Range 5E, Township 39S Range 6E, Township 39S Range 7E, Township 39S Range 8E, Township 39S Range 9E, Township 40S Range 1W, Township 40S Range 2W, Township 40S Range 3W, Township 40S Range 4W, Township 40S Range 4.5W, Township 40S Range 5W, Township 40S Range 1E, Township 40S Range 2E, Township 40S Range 3E, Township 40S Range 4E, Township 40S Range 5E, Township 40S Range 6E, Township 40S Range 7E, Township 40S Range 8E, Township 40S Range 9E, Township 40.5S Range 9E, Township 41S Range 1W, Township 41S Range 2W, Township 41S Range 3W, Township 41S Range 4W, Township 41S Range 4.5W, Township 41S Range 5W, Township 41S Range 1E, Township 41S Range 2E, Township 41S Range 3E, Township 41S Range 4E, Township 41S Range 5E, Township 41S Range 6E, Township 41S Range 7E, Township 41S Range 8E, Township 41S Range 9E, Township 42S Range 1W, Township 42S Range 2W, Township 42S Range 3W, Township 42S Range 4W, Township 42S Range 4.5W, Township 42S Range 5W, Township 42S Range 1E, Township 42S Range 2E, Township 42S Range 3E, Township 42S Range 4E, Township 42S Range 5E, Township 42S Range 6E, Township 42S Range 7E, Township 42S Range 8E, Township 42S Range 9E, Township 42.5S Range 6.5E, Township 42.5S Range 7E, Township 43S Range 1W, Township 43S Range 2W, Township 43S Range 3W, Township 43S Range 4W, Township 43S Range 4.5W, Township 43S Range 5W, Township 43S Range 1E, Township 43S Range 2E, Township 43S Range 3E, Township 43S Range 4E, Township 43S Range 5E, Township 43S Range 6E, Township 44S Range 1W, Township 44S Range 2W, Township 44S Range 3W, Township 44S Range 4W, Township 44S Range 4.5W, Township 44S Range 5W, Township 44S Range 1E, Township 44S Range 2E, Township 44S Range 3E, Township 44S Range 4E, and Township 44S Range 5E;

(b) "Beaver County Southwest Desert Region Grazing Zone," consisting of certain BLM lands in the following townships in Beaver County, as more fully illustrated in the map prepared by the Beaver County Geographic Information Systems Departments entitled "Beaver County Southeast Desert Grazing Zone": Township 26S Range 11W,

Township 27S Range 11W, Township 28S Range 11W, Township 29S Range 11W, Township 30S Range 11W, Township 26S Range 12W, Township 27S Range 12W, Township 28S Range 12W, Township 29S Range 12W, Township 30S Range 12W, Township 26S Range 13W, Township 27S Range 13W, Township 28S Range 13W, Township 29S Range 13W, Township 30S Range 13W, Township 26S Range 14W, Township 27S Range 14W, Township 28S Range 14W, Township 29S Range 14W, Township 30S Range 14W, Township 26S Range 15W, Township 27S Range 15W, Township 28S Range 15W, Township 29S Range 15W, Township 30S Range 15W, Township 26S Range 16W, Township 27S Range 16W, Township 28S Range 16W, Township 29S Range 16W, Township 30S Range 16W, Township 26S Range 17W, Township 27S Range 17W, Township 28S Range 17W, Township 29S Range 17W, Township 30S Range 17W, Township 26S Range 18W, Township 27S Range 18W, Township 28S Range 18W, Township 29S Range 18W, Township 30S Range 18W, Township 26S Range 19W, Township 27S Range 19W, Township 28S Range 19W, Township 29S Range 19W, Township 30S Range 19W, Township 26S Range 20W, Township 27S Range 20W, Township 28S Range 20W, Township 29S Range 20W, and Township 30S Range 20W;

(c) "Beaver County Central Grazing Zone," consisting of certain BLM and Forest Service lands in the following townships in Beaver County, as more fully illustrated in the map prepared by the Beaver County Geographic Information Systems Department entitled "Beaver County Central Grazing Zone": Township 26S Range 7W, Township 26S Range 8W, Township 26S Range 9W, Township 26S Range 10W, Township 27S Range 7W, Township 27S Range 8W, Township 27S Range 9W, Township 27S Range 10W, Township 28S Range 7W, Township 28S Range 8W, Township 28S Range 9W, Township 28S Range 10W, Township 29S Range 7W, Township 29S Range 8W, Township 29S Range 9W, Township 29S Range 10W, Township 30S Range 7W, Township 30S Range 8W, Township 30S Range 9W, and Township 30S Range 10W;

(d) "Tushar Mountain Region Grazing Zone," consisting of certain BLM and Forest Service lands in the following townships in Beaver, Garfield, and Piute counties, as more fully illustrated in the map jointly prepared by the Beaver, Garfield, and Piute counties GIS departments in February 2014, entitled "Tushar Mountain Region Grazing Zone":

(i) in Beaver County, Township 28S Range 4W, Township 29S Range 4W, Township 27S Range 5W, Township 28S Range 5W, Township 29S Range 5W, Township 30S Range 5W, Township 26S Range 6W, Township 27S Range 6W, Township 28S Range 6W, Township 29S Range 6W, and Township 30S Range 6W;

(ii) in Piute County, Township 26S Range 6W, Township 27S Range 6W, Township 26S Range 5W, Township 27S Range 5W, Township 28S Range 5W, Township 29S Range 5W, Township 30S Range 5W, Township 26S Range 4.5W, Township 26S Range 4W, Township 27S Range 4W, Township 28S Range 4W, Township 29S Range 4W, and Township 30S Range 4W; and

(iii) in Garfield County, Township 31S Range 5W;

(e) "Last Chance Region Grazing Zone," consisting of certain BLM and Forest Service lands in the following townships in Sevier County, as more fully illustrated in the map prepared by the Sevier County GIS department in February 2014, entitled "Last Chance Region Grazing Zone": Township 23S Range 5E, Township 24S Range 4E, Township 24S Range 5E, Township 25S Range 5E, and Township 26S Range 5E;

(f) "Muddy Creek Region Grazing Zone," consisting of certain BLM lands in the following townships in Emery County, as more fully illustrated in the map prepared by the Emery County GIS department in February 2014, entitled "Muddy Creek Region Grazing Zone": Township 22S Range 7E, Township 23S Range 7E, Township 24S Range 7E, Township 25S Range 7E, Township 22S Range 8E, Township 23S Range 8E, Township 24S Range 8E, Township 25S Range 8E, Township 23S Range 9E, and Township 24S Range 9E;

(g) "McKay Flat Region Grazing Zone," consisting of certain BLM lands in the following townships in Emery County, as more fully illustrated in the map prepared by the Emery County GIS department in February 2014, entitled "McKay Flat Region Grazing Zone": Township 25S Range 9E, Township 26S Range 9E, Township 23S Range 10E, Township 24S Range 10E, Township 25S Range 10E, Township 24S Range 11E, and Township 25S Range 11E;

(h) "Sinbad Region Grazing Zone," consisting of certain BLM lands in the following townships in Emery County, as more fully illustrated in the map prepared by the Emery County GIS department in February 2014, entitled "Sinbad Region Grazing Zone": Township 20S Range 11E, Township 21S Range 11E, Township 21S Range 12E, Township 22S Range 12E, Township 23S Range 12E, Township 21S Range 13E, Township 22S Range 13E, and Township 23S Range 13E;

(i) "Robbers Roost Region Grazing Zone," consisting of certain BLM lands in the following townships in Emery County, as more fully illustrated in the map prepared by the Emery County GIS department in February 2014, entitled "Robbers Roost Region Grazing Zone": Township 25S Range 13E, Township 26S Range 13E, Township 25S Range 14E, Township 26S Range 14E, Township 25S Range 15E, and Township 26S Range 15E;

(j) "Western Iron County Region Grazing Zone," consisting of certain BLM and Forest Service lands in the following townships in Iron County, as more fully illustrated in the map prepared by the Iron County GIS department in February 2014, entitled "Western Iron County Region Grazing Zone": Township 31S Range 7W, Township 31S Range 8W, Township 31S Range 9W, Township 31S Range 10W, Township 31S Range 11W, Township 31S Range 12W, Township 31S Range 13W, Township 31S Range 14W, Township 31S Range 15W,

Township 31S Range 16W, Township 31S Range 17W, Township 31S Range 18W, Township 31S Range 19W, Township 31S Range 20W, Township 32S Range 8W, Township 32S Range 9W, Township 32S Range 10W, Township 32S Range 11W, Township 32S Range 12W, Township 32S Range 13W, Township 32S Range 14W, Township 32S Range 15W, Township 32S Range 16W, Township 32S Range 17W, Township 32S Range 18W, Township 32S Range 19W, Township 32S Range 20W, Township 33S Range 8W, Township 33S Range 9W, Township 33S Range 10W, Township 33S Range 11W, Township 33S Range 12W, Township 33S Range 13W, Township 33S Range 14W, Township 33S Range 15W, Township 33S Range 16W, Township 33S Range 17W, Township 33S Range 18W, Township 33S Range 19W, Township 33S Range 20W, Township 34S Range 9W, Township 34S Range 10W, Township 34S Range 11W, Township 34S Range 12W, Township 34S Range 13W, Township 34S Range 14W, Township 34S Range 15W, Township 34S Range 17W, Township 34S Range 18W, Township 34S Range 19W, Township 34S Range 20W, Township 35S Range 10W, Township 35S Range 12W, Township 35S Range 13W, Township 35S Range 14W, Township 35S Range 15W, Township 35S Range 17W, Township 35S Range 18W, Township 35S Range 19W, Township 35S Range 20W, Township 36S Range 11W, Township 36S Range 12W, Township 36S Range 13W, Township 36S Range 14W, Township 36S Range 15W, Township 36S Range 17W, Township 36S Range 18W, Township 36S Range 19W, Township 36S Range 20W, Township 37S Range 12W, Township 37S Range 13W, Township 37S Range 14W, and Township 38S Range 12W;

(k) "Eastern Iron County Region Grazing Zone," consisting of certain BLM and Forest Service lands in the following townships in Iron County, as more fully illustrated in the map prepared by the Iron County GIS department in February 2014, entitled "Eastern Iron County Region Grazing Zone": Township 31S Range 6W, Township 31S Range 7W, Township 32S Range 6W, Township 32S Range 7W, Township 33S Range 6W, Township 33S Range 7W, Township 33S Range 8W, Township 34S Range 7W, Township 34S Range 8W, Township 34S Range 9W, Township 35S Range 8W, Township 35S Range 9W, Township 35S Range 10W, Township 36S Range 8W, Township 36S Range 9W, Township 36S Range 10W, Township 36S Range 11W, Township 37S Range 8W, Township 37S Range 9W, Township 37S Range 11W, Township 37S Range 12W, Township 38S Range 11W, Township 38S Range 12W, Township 38S Range 10W, Township 38S Range 11W, and Township 38S Range 12W, excluding Zion National Park;

(l) "Panguitch Lake Region Grazing Zone," consisting of certain BLM and Forest Service lands in the following townships in Kane and Garfield counties, as more fully illustrated in the map prepared by the Kane County GIS department in February 2014, entitled "Panguitch Lake Region Grazing Zone," and the map prepared by the Garfield County GIS department in February 2017 entitled "Panguitch Lake Region Grazing Zone":

(i) in Kane County, Township 38S Range 9W, Township 38S Range 8W, Township 38S Range 7W, Township 38S Range 6W, Township 39S Range 8W, and Township 39S Range 7W; and

(ii) in Garfield County, Township 35S Range 7W, Township 36S Range 7W, Township 37S Range 7W, Township 34S Range 6W, Township 35S Range 6W, Township 36S Range 6W, and Township 37S Range 6W;

(m) "East Fork Region Grazing Zone," consisting of certain BLM and Forest Service lands in the following townships in Kane and Garfield counties, as more fully illustrated in the map jointly prepared by the Kane and Garfield counties GIS departments in February 2017, entitled "East Fork Region Grazing Zone":

(i) in Kane County, Township 38S Range 5W, Township 38S Range 4.5W, Township 39S Range 5W, and Township 39S Range 4.5W; and

(ii) in Garfield County, Township 36S Range 5W, Township 37S Range 5W, Township 32S Range 4.5W, Township 33S Range 4.5W, Township 34S Range 4.5W, Township 35S Range 4.5W, Township 36S Range 4.5W, Township 37S Range 4.5W, Township 31S Range 4W, Township 32S Range 4W, Township 33S Range 4W, Township 34S Range 4W, Township 35S Range 4W, Township 36S Range 4W, Township 37S Range 4W, Township 31S Range 3W, Township 32S Range 3W, Township 33S Range 3W, Township 34S Range 3W, Township 35S Range 3W, Township 36S Range 3W, Township 37S Range 3W, Township 31S Range 2.5W, Township 32S Range 2W, Township 33S Range 2W, Township 34S Range 2W, and Township 35S Range 2W;

(n) "Sevier River Region Grazing Zone," consisting of certain BLM and Forest Service lands in the following townships in Piute County, as more fully illustrated in the map prepared by the Piute GIS department in February 2014, entitled "Sevier River Region Grazing Zone": Township 27S Range 3W, Township 28S Range 3W, and Township 29S Range 3W;

(o) "Kingston Canyon Region Grazing Zone," consisting of certain BLM and Forest Service lands in the following townships in Piute and Garfield counties, as more fully illustrated in the map jointly prepared by the Piute and Garfield counties GIS departments in February 2017, entitled "Kingston Canyon Region Grazing Zone":

(i) in Piute County, Township 30S Range 3W, Township 30S Range 2.5W, and Township 30S Range 2W; and

(ii) in Garfield County, Township 31S Range 2W, Township 32S Range 2W, Township 31S Range 1W, and Township 32S Range 1W;

(p) "Monroe Mountain Region Grazing Zone," consisting of certain BLM and Forest Service lands in the following townships in Piute County, as more fully illustrated in the map prepared by the Piute County GIS department in February 2014, entitled

"Monroe Mountain Region Grazing Zone": Township 26S Range 3W, Township 27S Range 2.5W, Township 28S Range 2.5W, Township 29S Range 2.5W, Township 26S Range 2W, Township 27S Range 2W, Township 28S Range 2W, Township 29S Range 2W, Township 26S Range 1W, and Township 27S Range 1W;

(q) "Parker Mountain Region Grazing Zone," consisting of certain BLM and Forest Service lands in the following townships in Wayne County, as more fully illustrated in the map prepared by the Wayne County GIS department in February 2014, entitled "Parker Mountain Region Grazing Zone": Township 26S Range 2E, Township 27S Range 2E, Township 28S Range 2E, Township 29S Range 2E, and Township 30S Range 2E;

(r) "Boulder Mountain Region Grazing Zone," consisting of certain BLM and Forest Service lands in the following townships in Wayne and Garfield counties, as more fully illustrated in the map jointly prepared by the Wayne and Garfield counties GIS departments in February 2017, entitled "Boulder Mountain Region Grazing Zone":

(i) in Wayne County, Township 30S Range 3E, Township 30S Range 4E, and Township 30S Range 5E; and

(ii) in Garfield County, Township 35S Range 3W, Township 36S Range 3W, Township 33S Range 2W, Township 34S Range 2W, Township 35S Range 2W, Township 36S Range 2W, Township 31S Range 1W, Township 32S Range 1W, Township 33S Range 1W, Township 34S Range 1W, Township 35S Range 1W, Township 36S Range 1W, Township 31S Range 1E, Township 32S Range 1E, Township 33S Range 1E, Township 34S Range 1E, Township 35S Range 1E, Township 36S Range 1E, Township 37S Range 1E, Township 31S Range 2E, Township 32S Range 2E, Township 33S Range 2E, Township 34S Range 2E, Township 31S Range 3E, Township 32S Range 3E, Township 33S Range 3E, Township 34S Range 3E, Township 31S Range 4E, Township 32S Range 4E, Township 33S Range 4E, Township 30.5S Range 5E, Township 31S Range 5E, Township 32S Range 5E, Township 33S Range 5E, Township 31S Range 6E, and Township 32S Range 6E;

(s) "Thousand Lake Region Grazing Zone," consisting of certain Forest Service lands in the following townships in Wayne County, as more fully illustrated in the map prepared by the Wayne County GIS department in February 2014, entitled "Thousand Lake Region Grazing Zone": Township 26S Range 4E, Township 27S Range 4E, and Township 28S Range 4E;

(t) "Hartnet-Middle Desert Region Grazing Zone," consisting of certain BLM lands in the following townships in Wayne County, as more fully illustrated in the map prepared by the Wayne County GIS department in February 2014, entitled "Hartnet-Middle Desert Region Grazing Zone": Township 28S Range 7E, Township 27S Range 8E, and Township 28S Range 8E;

(u) "Sandy No. 1 Region Grazing Zone," consisting of certain BLM lands in the following townships in Wayne County, as more fully illustrated in the map prepared by the Wayne County GIS department in February 2014, entitled "Sandy No. 1 Region Grazing Zone": Township 29S Range 8E and Township 30S Range 8E;

(v) "Blue Benches Region Grazing Zone," consisting of certain BLM lands in the following townships in Wayne County, as more fully illustrated in the map prepared by the Wayne County GIS department in February 2014, entitled "Blue Benches Region Grazing Zone": Township 29S Range 9E, Township 29S Range 10E, and Township 30S Range 10E;

(w) "Wild Horse Region Grazing Zone," consisting of certain BLM lands in the following townships in Wayne County, as more fully illustrated in the map prepared by the Wayne County GIS department in February 2014, entitled "Wild Horse Region Grazing Zone": Township 27S Range 10E and Township 27S Range 11E;

(x) "Hanksville Region Grazing Zone," consisting of certain BLM lands in the following townships in Wayne County, as more fully illustrated in the map prepared by the Wayne County GIS department in February 2014, entitled "Hanksville Region Grazing Zone": Township 29S Range 11E, Township 30S Range 11E, Township 28S Range 12E, Township 29S Range 12E, Township 30S Range 12E, and Township 30S Range 13E;

(y) "Jeffery Wells Region Grazing Zone," consisting of certain BLM lands in the following townships in Wayne County, as more fully illustrated in the map prepared by the Wayne County GIS department in February 2014, entitled "Jeffery Wells Region Grazing Zone": Township 27S Range 14E and Township 27S Range 15E;

(z) "Robbers Roost Region Grazing Zone," consisting of certain BLM lands in the following townships in Wayne County, as more fully illustrated in the map prepared by the Wayne County GIS department in February 2014, entitled "Robbers Roost Region Grazing Zone": Township 29S Range 14E;

(aa) "French Springs Region Grazing Zone," consisting of certain BLM lands in the following townships in Wayne County, as more fully illustrated in the map prepared by the Wayne County GIS department in February 2014, entitled "French Springs Region Grazing Zone": Township 30S Range 16E;

(bb) "12 Mile C&H Region Grazing Zone," consisting of certain Forest Service lands in the following townships in Sanpete County, as more fully illustrated in the map prepared by the Sanpete County GIS department in February 2014, entitled "12 Mile C&H Region Grazing Zone": Township 19S Range 3E and Township 20S Range 3E;

(cc) "Horseshoe Region Grazing Zone," consisting of certain Forest Service lands in the following townships in Sanpete County, as more fully illustrated in the map prepared by the Sanpete County GIS department in February 2014, entitled "Horseshoe Region Grazing Zone": Township 14S Range 5E, Township 14S Range 6E, Township 15S Range 5E, and Township 15S Range 6E;

(dd) "Nokai Dome Region Grazing Zone," consisting of certain BLM and National Park Service lands in the following townships in San Juan County, as more fully illustrated in the map prepared by the San Juan County GIS department in February 2014, entitled "Nokai Dome Region Grazing Zone": Township 38S Range 11E, Township 38S Range 12E, Township 39S Range 11E, Township 39S Range 12E, Township 39S Range 13E, Township 39S Range 14E, Township 39S Range 15E, Township 40S Range 10E, Township 40S Range 11E, Township 40S Range 12E, Township 40S Range 13E, Township 40S Range 14E, Township 41S Range 9E, Township 41S Range 10E, Township 41S Range 11E, and Township 41S Range 12E;

(ee) "Grand Gulch Region Grazing Zone," consisting of certain BLM and National Park Service lands in the following townships in San Juan County, as more fully illustrated in the map prepared by the San Juan County GIS department in February 2014, entitled "Grand Gulch Region Grazing Zone": Township 37S Range 17E, Township 37S Range 18E, Township 38S Range 16E, Township 38S Range 17E, Township 38S Range 18E, Township 39S Range 14E, Township 39S Range 15E, Township 39S Range 16E, Township 39S Range 17E, Township 39S Range 18E, Township 40S Range 14E, Township 40S Range 15E, Township 40S Range 16E, Township 40S Range 17E, and Township 40S Range 18E;

(ff) "Cedar Mesa East Region Grazing Zone," consisting of certain BLM and National Park Service lands in the following townships in San Juan County, as more fully illustrated in the map prepared by the San Juan County GIS department in February 2014, entitled "Cedar Mesa East Region Grazing Zone": Township 36S Range 20E, Township 37S Range 18E, Township 37S Range 19E, Township 37S Range 20E, Township 37S Range 21E, Township 38S Range 18E, Township 38S Range 19E, Township 38S Range 20E, Township 38S Range 21E, Township 39S Range 18E, Township 39S Range 19E, Township 39S Range 20E, Township 39S Range 21E, Township 40S Range 18E, Township 40S Range 19E, Township 40S Range 20E, Township 40S Range 21E, Township 41S Range 18E, Township 41S Range 19E, Township 41S Range 20E, and Township 41S Range 21E;

(gg) "Mancos Mesa Region Grazing Zone," consisting of certain BLM and National Park Service lands in the following townships in San Juan County, as more fully illustrated in the map prepared by the San Juan County GIS department in February 2014, entitled "Mancos Mesa Region Grazing Zone": Township 35S Range 13E, Township 36S Range 12E, Township 36S Range 13E, Township 36S Range 14E, Township 37S Range 12E, Township 37S Range 13E, Township 37S Range 14E, Township 37S Range 15E, Township 38S Range 11E, Township 38S Range 12E, Township 38S Range 13E, Township 38S Range 14E, Township 38S Range 15E, Township 38S Range 18E, Township 39S Range 13E, Township 39S Range 14E, and Township 39S Range 15E;

(hh) "Red Canyon Region Grazing Zone," consisting of certain BLM and National Park Service lands in the following townships in San Juan County, as more fully illustrated in the map prepared by the San Juan County GIS department in February 2014, entitled "Red Canyon Region Grazing Zone": Township 33S Range 14E, Township 34S Range 13E, Township 34S Range 14E, Township 34S Range 15E, Township 35S Range 13E, Township 35S Range 14E, Township 35S Range 15E, Township 36S Range 14E, Township 36S Range 15E, Township 36S Range 16E, Township 36S Range 17E, Township 37S Range 14E, Township 37S Range 15E, Township 37S Range 16E, Township 37S Range 17E, Township 38S Range 15E, and Township 38S Range 16E;

(ii) "White Canyon Region Grazing Zone," consisting of certain BLM and National Park Service lands in the following townships in San Juan County, as more fully illustrated in the map prepared by the San Juan County GIS department in February 2014, entitled "White Canyon Region Grazing Zone": Township 33S Range 14E, Township 33S Range 15E, Township 33S Range 16E, Township 34S Range 14E, Township 34S Range 15E, Township 34S Range 16E, Township 34S Range 17E, Township 35S Range 15E, Township 35S Range 16E, Township 35S Range 17E, Township 35S Range 18E, Township 36S Range 15E, Township 36S Range 16E, Township 36S Range 17E, Township 36S Range 18E, Township 37S Range 17E, and Township 37S Range 18E;

(jj) "Dark Canyon/Hammond Canyon Region Grazing Zone," consisting of certain Forest Service lands in the following townships in San Juan County, as more fully illustrated in the map prepared by the San Juan County GIS department in February 2014, entitled "Dark Canyon/Hammond Canyon Region Grazing Zone": Township 34S Range 17E, Township 34S Range 18E, Township 34S Range 19E, Township 34S Range 20E, Township 35S Range 17E, Township 35S Range 18E, Township 35S Range 19E, Township 35S Range 20E, Township 36S Range 18E, Township 36S Range 19E, Township 36S Range 20E, and Township 37S Range 19E;

(kk) "Chippean/Indian Creek Region Grazing Zone," consisting of certain Forest Service lands in the following townships in San Juan County, as more fully illustrated in the map prepared by the San Juan County GIS department in February 2014, entitled "Chippean/Indian Creek Region Grazing Zone": Township 32S Range 21E, Township 32S Range 22E, Township 33S Range 21E, Township 33S Range 22E, Township 34S Range 20E, Township 34S Range 21E, Township 34S Range 22E, Township 35S Range 20E, Township 35S Range 21E, and Township 35S Range 22E;

(ll) "Henry Mountain Region Grazing Zone," consisting of certain BLM and National Park

Service lands in the following townships in Garfield County, as more fully illustrated in the map prepared by the Garfield County GIS department in February 2017, entitled "Henry Mountain Region Grazing Zone": Township 31S Range 7E, Township 32S Range 7E, Township 31S Range 8E, Township 32S Range 8E, Township 33S Range 8E, Township 34S Range 8E, Township 31S Range 9E, Township 32S Range 9E, Township 33S Range 9E, Township 34S Range 9E, Township 35S Range 9E, Township 31S Range 10E, Township 32S Range 10E, Township 33S Range 10E, Township 34S Range 10E, Township 35S Range 10E, Township 31S Range 11E, Township 32S Range 11E, Township 33S Range 11E, Township 34S Range 11E, Township 31S Range 12E, Township 32S Range 12E, Township 33S Range 12E, and Township 34S Range 12E;

(mm) "Glen Canyon Region Grazing Zone," consisting of certain BLM and National Park Service lands in the following townships in Garfield County, as more fully illustrated in the map prepared by the Garfield County GIS department in February 2017, entitled "Glen Canyon Region Grazing Zone": Township 36S Range 9E, Township 37S Range 9E, Township 36S Range 10E, Township 37S Range 10E, Township 35S Range 11E, Township 36S Range 11E, Township 37S Range 11E, Township 31S Range 12E, Township 32S Range 12E, Township 33S Range 12E, Township 34S Range 12E, Township 35S Range 12E, Township 35.5S Range 12E, Township 36S Range 12E, Township 37S Range 12E, Township 31S Range 13E, Township 32S Range 13E, Township 33S Range 13E, Township 34S Range 13E, Township 35S Range 13E, Township 35.5S Range 13E, Township 36S Range 13E, Township 31S Range 14E, Township 32S Range 14E, Township 32.5S Range 14E, Township 33S Range 14E, Township 31S Range 15E, Township 32S Range 15E, Township 32.5S Range 15E, Township 33S Range 15E, Township 30.5S Range 16E, Township 31S Range 16E, Township 32S Range 16E, Township 30.5S Range 17E, Township 31S Range 17E, Township 32S Range 17E, Township 30.5S Range 18E, and Township 31S Range 18E;

(nn) "Glendale Bench Region Grazing Zone," consisting of certain BLM and Forest Service lands in the following townships in Kane County, as more fully illustrated in the map prepared by the Kane County GIS department in February 2014, entitled "Glendale Bench Region Grazing Zone": Township 39S Range 6W, Township 39S Range 5W, Township 39S Range 4.5W, Township 40S Range 7W, Township 40S Range 6W, Township 41S Range 7W, and Township 41S Range 6W;

(oo) "John R. Region Grazing Zone," consisting of certain BLM and Forest Service lands in the following townships in Kane County, as more fully illustrated in the map prepared by the Kane County GIS department in February 2014, entitled "John R. Region Grazing Zone": Township 41S Range 7W, Township 41S Range 6W, Township 42S Range 7W, Township 42S Range 6W, Township 43S Range 6W, and Township 44S Range 6W;

(pp) "Beaver Dam Scope Region Grazing Zone," consisting of certain BLM lands in the following townships in Washington County, as more fully illustrated in the map prepared by the Washington County GIS department: Township 42 South Range 17 West, Township 43 South Range 18 West, Township 43 South Range 19 West, Township 43 South Range 20 West, Township 42 South Range 18 West, Township 42 South Range 19 West, Township 42 South Range 20 West, Township 41 South Range 17 West, Township 41 South Range 18 West, Township 41 South Range 19 West, Township 41 South Range 20 West, Township 40 South Range 18 West, Township 40 South Range 19 West, and Township 40 South Range 20 West;

(qq) "Square Top Daggett Flat Region Grazing Zone," consisting of certain BLM lands in the following townships in Washington County, as more fully illustrated in the map prepared by the Washington County GIS department: Township 40 South Range 17 West, Township 40 South Range 18 West, Township 40 South Range 19 West, Township 40 South Range 20 West, Township 39 South Range 16 West, Township 39 South Range 17 West, Township 39 South Range 18 West, Township 39 South Range 19 West, Township 39 South Range 20 West, Township 38 South Range 18 West, Township 38 South Range 19 West, and Township 38 South Range 20 West;

(rr) "Enterprise Region Grazing Zone," consisting of certain BLM and Forest Service lands in the following townships in Washington County, as more fully illustrated in the map prepared by the Washington County GIS department: Township 37 South Range 17 West and Township 37 South Range 18 West;

(ss) "Apex Region Grazing Zone," consisting of certain BLM lands in the following townships in Washington County, as more fully illustrated in the map prepared by the Washington County GIS department: Township 42 South Range 16 West, Township 42 South Range 17 West, Township 43 South Range 16 West, and Township 43 South Range 17 West;

(tt) "Veyo/Gunlock Region Grazing Zone," consisting of certain BLM lands in the following townships in Washington County, as more fully illustrated in the map prepared by the Washington County GIS department: Township 39 South Range 16 West, Township 39 South Range 17 West, Township 40 South Range 16 West, Township 40 South Range 17 West, Township 41 South Range 16 West, Township 41 South Range 17 West, and Township 41 South Range 18 West;

(uu) "Pine Valley Dixie National Forest Grazing Zone," consisting of certain Forest Service lands in the following townships in Washington County, as more fully illustrated in the map prepared by the Washington County GIS department: Township 37 South Range 15 West, Township 37 South Range 16 West, Township 37 South Range 17 West, Township 37 South Range 18 West, Township 37 South Range 19 West, Township 37 South Range 20 West, Township 38 South Range 13 West, Township 38 South Range 14 West, Township 38 South Range 15

West, Township 38 South Range 16 West, Township 38 South Range 17 West, Township 38 South Range 18 West, Township 38 South Range 19 West, Township 39 South Range 13 West, Township 39 South Range 14 West, Township 39 South Range 15 West, Township 39 South Range 16 West, Township 39 South Range 17 West, and Township 39 South Range 18 West;

(vv) "New Harmony Region Grazing Zone," consisting of certain BLM lands in the following township in Washington County, as more fully illustrated in the map prepared by the Washington County GIS department: Township 38 South Range 13 West;

(ww) "Kanarra Region Grazing Zone," consisting of certain BLM lands in the following township in Washington County, as more fully illustrated in the map prepared by the Washington County GIS department: Township 38 South Range 11 West;

(xx) "Kolob Region Grazing Zone," consisting of certain BLM lands in the following townships in Washington County, as more fully illustrated in the map prepared by the Washington County GIS department: Township 38 South Range 10 West and Township 39 South Range 10 West;

(yy) "La Verkin Creek/Dry Creek Region Grazing Zone," consisting of certain BLM lands in the following townships in Washington County, as more fully illustrated in the map prepared by the Washington County GIS department: Township 39 South Range 11 West, Township 39 South Range 12 West, Township 39 South Range 13 West, Township 40 South Range 11 West, Township 40 South Range 12 West, Township 40 South Range 13 West, Township 41 South Range 11 West, Township 41 South Range 12 West, and Township 41 South Range 13 West;

(zz) "Grafton Region Grazing Zone," consisting of certain BLM lands in the following townships in Washington County: Township 41 South Range 11 West, Township 41 South Range 12 West, Township 41 South Range 13 West, Township 42 South Range 11 West, Township 42 South Range 12 West, and Township 42 South Range 13 West;

(aaa) "Hurricane Region Grazing Zone," consisting of certain BLM lands in the following townships in Washington County, as more fully illustrated in the map prepared by the Washington County GIS department: Township 42 South Range 13 West, Township 42 South Range 14 West, Township 42 South Range 15 West, Township 43 South Range 13 West, Township 43 South Range 14 West, and Township 43 South Range 15 West;

(bbb) "Little Creek Region Grazing Zone," consisting of certain BLM lands in the following townships in Washington County, as more fully illustrated in the map prepared by the Washington County GIS department: Township 42 South Range 11 West, Township 42 South Range 12 West, Township 42 South Range 13 West, Township 43 South Range 11 West, Township 43 South Range 12 West, and Township 43 South Range 13 West;

(ccc) "Canaan Mountain Grazing Zone," consisting of certain BLM lands in the following townships in Washington County, as more fully illustrated in the map prepared by the Washington County GIS department: Township 42 South Range 9.5 West, Township 42 South Range 10 West, Township 42 South Range 11 West, Township 43 South Range 9.5 West, Township 43 South Range 10 West, and Township 43 South Range 11 West; and

(ddd) "Panguitch Valley Regional Grazing Zone," consisting of certain BLM lands in the following townships in Garfield County, as more fully illustrated in the map prepared by the Garfield County GIS department in February 2017, entitled "Panguitch Valley Region Grazing Zone": Township 34S Range 6W, Township 35S Range 6W, Township 36S Range 6W, Township 37S Range 6W, Township 32S Range 5.5W, Township 31S Range 5W, Township 32S Range 5W, Township 33S Range 5W, Township 34S Range 5W, Township 35S Range 5W, Township 36S Range 5W, Township 37S Range 5W, Township 32S Range 4.5W, Township 33S Range 4.5W, Township 34S Range 4.5W, Township 35S Range 4.5W, Township 36S Range 4.5W, Township 31S Range 4W, and Township 31S Range 3W.

(3) Printed copies of the maps referenced in Subsection (2) shall be available for inspection by the public at the offices of the Utah Association of Counties.

(4) The state finds with respect to the grazing zones described in Subsection (2) that:

(a) agricultural livestock industry on the lands comprising these zones has provided a significant contribution to the history, customs, culture, economy, welfare, and other values of each area for more than 100 years;

(b) the potential for abundant natural and vegetative resources exists within these zones if managed properly, that will support and expand continued, responsible agricultural livestock activities and wildlife habitat;

(c) agricultural livestock activities in these zones and the associated historic resources, human history, shaping of human endeavors, variety of cultural resources, landmarks, structures, and other objects of historic or scientific interest are worthy of recognition, preservation, and protection;

(d) (i) the highest management priority for lands within these zones is the preservation, restoration, and enhancement of watershed and rangeland health to sustain and expand forage production for both livestock grazing and wildlife habitat, and the restoration and development of historic, existing, and future livestock grazing and wildlife habitat resources in order to provide protection for the resources, objects, customs, culture, and values identified above; and

(ii) notwithstanding Subsection (4)(d)(i), if part or all of any zone lies within a sage grouse management area, then the management priorities for such part shall be consistent with the management priorities set forth in Subsection (4)(d)(i) to the maximum extent consistent with the

management priorities of the sage grouse management area;

(e) subject to Subsection (4)(d)(ii), responsible development of any deposits of energy and mineral resources, including oil, natural gas, oil shale, oil sands, coal, phosphate, gold, uranium, and copper, as well as areas with wind and solar energy potential, that may exist in these zones is compatible with the management priorities of Subsection (4)(d)(i) in these zones; and

(f) subject to Subsection (4)(d)(ii), responsible development of any recreation resources, including roads, campgrounds, water resources, trails, OHV use, sightseeing, canyoneering, hunting, fishing, trapping, and hiking resources that may exist in these grazing zones is compatible with the management priorities of Subsection (4)(d)(i) in these grazing zones.

(5) The state finds with respect to the zones described in Subsection (2) that the historic levels of livestock grazing activity and other values identified in Subsection (4) in each zone have greatly diminished, or are under other serious threat, due to:

(a) unreasonable, arbitrary, and unlawfully restrictive federal management policies, including:

(i) de facto managing for wilderness in nonwilderness areas and non-WSAs;

(ii) ignoring the chiefly valuable for grazing designation of the Secretary of the Interior applicable to each of these zones; and

(iii) the arbitrary administrative reductions in animal unit months of permitted forage;

(b) inflexible federal grazing practices that disallow grazing at different times each year proven to be most effective for maintaining and enhancing rangeland conditions;

(c) mismanagement of wild horses and burros resulting in competition for forage by excess and mismanaged populations of wild horses and burros in Beaver and Emery counties;

(d) improper management of vegetation resulting in the overgrowth of pinion, invasive species, and juniper, and other woody vegetation that:

(i) compromise watershed and rangeland health;

(ii) crowd out grazing forage;

(iii) degrade habitat and limit wildlife populations;

(iv) reduce water yield; and

(v) heighten the risk of catastrophic wildfire; and

(e) other practices that degrade overall rangeland health.

(6) To protect and preserve against the threats described in Subsection (5), the state supports the following with respect to the zones described in Subsection (2):

(a) efficient and sustained policies, programs, and practices directed at preserving, restoring, and enhancing watershed and rangeland health to maximize:

(i) all permitted forage production for livestock grazing and other compatible uses, including flexible grazing on and off dates adaptive to yearly climate and range conditions; and

(ii) forage for fish and wildlife;

(b) a cooperative management approach by federal agencies, the state, and local government agencies to achieve broadly supported management plans for the full development of:

(i) forage resources for grazing livestock and wildlife; and

(ii) other uses compatible with livestock grazing and wildlife utilization;

(c) effective and responsible management of wild horses and burros to eliminate excess populations; and

(d) effective and responsible management of wildlife habitat.

(7) The state requests that the federal agencies that administer lands within each grazing zone:

(a) fully cooperate and coordinate with the state and the respective counties within which each grazing zone is situated to develop, amend, and implement land and resource management plans, and implement management decisions that are consistent with the purposes, goals, and policies described in this section to the maximum extent allowed under federal law;

(b) expedite the processing, granting, and streamlining of grazing permits, range improvements, and applications to enhance and otherwise develop all existing and permitted grazing resources located within each grazing zone, including renewable vegetative resources;

(c) allow continued maintenance and increased development of roads, power lines, pipeline infrastructure, and other utilities necessary to achieve the goals, purposes, and policies described in this section and consistent with multiple use and sustained yield principles;

(d) refrain from any planning decisions and management actions that will undermine, restrict, or diminish the goals, purposes, and policies for each grazing zone as stated in this section;

(e) subject to Subsection (4)(d)(ii), refrain from implementing a policy that is contrary to the goals and purposes described within this section; and

(f) refrain from implementing utilization standards less than 50%, unless:

(i) implementing a standard of less than 50% utilization on a temporary basis is necessary to resolve site-specific concerns; and

(ii) the federal agency consults, coordinates, and cooperates fully with local governments.

(8) (a) If a grazing zone described in Subsection (2) is managed or neglected in such a way as to increase the risk of catastrophic wildfire, and if the chief executive officer of a county or a county sheriff finds that the catastrophic wildfire risk adversely affects the health, safety, and welfare of the people of the political subdivision and that increased livestock grazing in part or all of the grazing zone would substantially reduce that adverse effect:

(i) Subsections 11-51-103(1)(a) and (b) shall govern and apply to the chief executive officer and the county sheriff with respect to making increased livestock grazing available in the grazing zone; and

(ii) Subsection 11-51-103(1)(b) shall govern and apply to the attorney general with respect to making increased livestock grazing available in the grazing zone.

(b) If a grazing zone described in Subsection (2) is managed or neglected in such a way as to increase the risk of catastrophic wildfire, and if the chief executive officer of a county or a county sheriff finds that the catastrophic wildfire risk constitutes an imminent threat to the health, safety, and welfare of the people of the political subdivision and that increased livestock grazing in part or all of the grazing zone would substantially reduce that imminent threat:

(i) Subsections 11-51-103(2) and (3) shall govern and apply to the chief executive officer and the county sheriff with respect to making increased livestock grazing available in the grazing zone; and

(ii) Subsection 11-51-103(3) and Section 11-51-104 shall govern and apply to the attorney general with respect to making increased livestock grazing available in the grazing zone.

(9) (a) The state recognizes the importance of all grazing districts on Utah BLM and Forest Service lands but establishes the grazing zones described in Subsection (2) to provide special protection and preservation against the identified threats found in Subsection (5) to exist in these zones.

(b) It is the intent of the state to designate additional grazing agricultural commodity zones in future years, if circumstances warrant special protection and preservation for new zones.

(10) The state calls upon applicable federal, state, and local agencies to coordinate with each other and establish applicable intergovernmental standing commissions, with membership consisting of representatives from the United States government, the state, and local governments to coordinate and achieve consistency in planning decisions and management actions in zones described in Subsection (2) in order to achieve the goals, purposes, and policies described in this section.

(11) Notwithstanding the provisions of this section, and subject to Subsection (4)(d)(ii), the state's mineral, oil, gas, and energy policies and plans on land within the zones described in Subsection (2) shall be governed by Sections [~~63J-4-401~~] 63L-11-302, 63L-11-303, and 63J-8-104.

Section 80. Section 63J-8-105.9 is amended to read:

63J-8-105.9. Utah Timber Agricultural Commodity Zones established -- Findings -- Management and land use priorities.

(1) There are established and designated Utah Timber Agricultural Commodity Zones for the purpose of:

(a) preserving and protecting the agricultural timber, logging, and forest products industry within these zones from ongoing threats;

(b) preserving and protecting the significant history, culture, customs, and economic value of the agricultural timber, logging, and forest products industry within these zones from ongoing threats; and

(c) maximizing efficient and responsible restoration, reclamation, preservation, enhancement, and development of timber, logging, and forest products and affected natural, historical, and cultural activities within these zones, in order to protect and preserve these zones from ongoing threats.

(2) The titles, land area, and boundaries of these zones are described as follows:

(a) "Tushar Mountain Region Timber Zone," consisting of certain Forest Service lands in the following townships in Beaver County and Piute County, as more fully illustrated in the map jointly prepared by the Beaver and Piute counties GIS departments in February 2014, entitled "Tushar Mountain Region Timber Zone":

(i) in Beaver County, Township 28S Range 4W, Township 29S Range 4W, Township 27S Range 5W, Township 28S Range 5W, Township 29S Range 5W, Township 30S Range 5W, Township 26S Range 6W, Township 27S Range 6W, Township 28S Range 6W, Township 29S Range 6W, and Township 30S Range 6W; and

(ii) in Piute County, Township 26S Range 6W, Township 27S Range 6W, Township 26S Range 5W, Township 27S Range 5W, Township 28S Range 5W, Township 29S Range 5W, Township 30S Range 5W, Township 26S Range 4.5W, Township 26S Range 4W, Township 28S Range 4W, Township 29S Range 4W, and Township 30S Range 4W;

(b) "Panguitch Lake Region Timber Zone," consisting of certain Forest Service lands situated in the following townships in Iron, Kane, and Garfield counties, as more fully illustrated in the map jointly prepared by the Iron, Kane, and Garfield counties GIS departments in February 2014, entitled "Panguitch Lake Region Timber Zone":

(i) in Iron County, Township 34S Range 7W, Township 35S Range 8W, Township 36S Range 8W, Township 36S Range 9W (excluding Cedar Breaks National Monument and Ashdown Wilderness Area), Township 37S Range 8W, and Township 37S Range 9W;

(ii) in Kane County, Township 38S Range 9W, Township 38S Range 8W, Township 38S Range 7W, Township 38S Range 6W, Township 39S Range 8W, Township 39S Range 7W, and Township 39S Range 6W; and

(iii) in Garfield County, Township 35S Range 7W, Township 35S Range 6W, Township 36S Range 7W, Township 36S Range 6W, Township 37S Range 7W, and Township 37S Range 6W;

(c) "Monroe Mountain Region Timber Zone," consisting of certain Forest Service lands in the following townships in Piute County, as more fully illustrated in the map prepared by the Piute County GIS department in February 2014, entitled "Monroe Mountain Region Timber Zone": Township 26S Range 3W, Township 27S Range 2.5W, Township 28S Range 2.5W, Township 29S Range 2.5W, Township 26S Range 2W, Township 27S Range 2W, Township 28S Range 2W, Township 29S Range 2W, Township 26S Range 1W, and Township 7S Range 1W;

(d) "Boulder Mountain Region Timber Zone," consisting of certain Forest Service lands situated in the following townships in Wayne and Garfield counties, as more fully illustrated in the map jointly prepared by the Wayne and Garfield counties GIS departments in February 2014, entitled "Boulder Mountain Region Timber Zone":

(i) in Wayne County, Township 30S Range 3E, Township 30S Range 4E, and Township 30S Range 5E; and

(ii) in Garfield County, Township 31S Range 1E, Township 31S Range 2E, Township 31S Range 3E, Township 32S Range 2E, Township 32S Range 3E, Township 32S Range 4E, Township 33S Range 3E, Township 33S Range 4E, Township 30 1/2S Range 5E, Township 31S Range 5E, Township 31S Range 6E, Township 32S Range 5E, and Township 32S Range 6E;

(e) "Thousand Lake Region Timber Zone," consisting of certain Forest Service lands in the following townships in Wayne County, as more fully illustrated in the map prepared by the Wayne County GIS department in February 2014, entitled "Thousand Lake Region Timber Zone": Township 26S Range 4E, Township 27S Range 4E, and Township 28S Range 4E;

(f) "Millers Flat Region Timber Zone," consisting of certain Forest Service lands situated in the following townships in Sanpete County, as more fully illustrated in the map prepared by the Sanpete County GIS department in February 2014, entitled "Millers Flat Region Timber Zone": Township 16S Range 5E, Township 17S Range 5E, Township 17S Range 4E, and Township 17S Range 6E;

(g) "East Fork Timber Zone," consisting of certain Forest Service lands situated in the following townships in Garfield and Kane counties, as more fully illustrated in the map jointly prepared by the Garfield and Kane counties GIS departments in February 2014, entitled "East Fork Region Timber Zone":

(i) in Garfield County, Township 36S Range 4 1/2W, Township 36S Range 4W, Township 37S Range 5W, Township 37S Range 4 1/2W, and Township 37S Range 4W; and

(ii) in Kane County, Township 38S Range 5W, Township 38S Range 4.5W, Township 39S Range 5W, and Township 39S Range 4.5W;

(h) "Upper Valley Timber Zone," consisting of certain Forest Service lands situated in the following townships in Garfield County, as more fully illustrated in the map prepared by the Garfield County GIS department in February 2014, entitled "Upper Valley Region Timber Zone": Township 34S Range 1W, Township 35S Range 1W, Township 35S Range 1E, Township 36S Range 1W, Township 36S Range 1E, and Township 37S Range 1E;

(i) "Iron Springs Timber Zone," consisting of certain Forest Service lands situated in the following townships in Garfield County, as more fully illustrated in the map prepared by the Garfield County GIS department in February 2014, entitled "Iron Springs Region Timber Zone": Township 32S Range 1E, Township 33S Range 1W, Township 33S Range 1E, and Township 34S Range 1W; and

(j) "Dutton Timber Zone," consisting of certain Forest Service lands situated in the following townships in Garfield County, as more fully illustrated in the map prepared by the Garfield County GIS department in February 2014, entitled "Dutton Region Timber Zone": Township 32S Range 3W, Township 32S Range 2W, Township 33S Range 3W, and Township 33S Range 2W.

(3) Printed copies of the maps referenced in Subsection (2) shall be available for inspection by the public at the offices of the Utah Association of Counties.

(4) The state finds with respect to the zones described in Subsection (2) that:

(a) agricultural timber, logging, and forest product industries on the lands comprising these timber zones have provided a significant contribution to the history, customs, culture, economy, welfare, and other values of each area for many decades;

(b) abundant natural and vegetative resources exist within these zones to support and expand continued, responsible timber, logging, and other forest product activities;

(c) agricultural timber, logging, and forest product activities in these zones, and the associated historic resources, human history, shaping of human endeavors, variety of cultural resources, landmarks, structures, and other objects of historic or scientific interest are worthy of recognition, preservation, and protection;

(d) (i) the highest management priority for lands within these zones is maintenance and promotion of forest and vegetation ecosystem health achieved by responsible active management in development of historic, existing, and future timber, logging, and forest product resources in order to provide

protection for the resources, objects, customs, culture, and values identified above; and

(ii) notwithstanding Subsection (4)(d)(i), if part or all of any zone lies within a sage grouse management area, then the management priorities for such part shall be consistent with the management priorities set forth in Subsection (4)(d)(i) to the maximum extent consistent with the management priorities of the sage grouse management area;

(e) subject to Subsection (4)(d)(ii), responsible development of any deposits of energy and mineral resources, including oil, natural gas, oil shale, oil sands, coal, phosphate, gold, uranium, and copper, as well as areas with wind and solar energy potential, that may exist in these zones is compatible with the management priorities of Subsection (4)(d)(i) in these zones; and

(f) subject to Subsection (4)(d)(ii), responsible development of any recreation resources, including wildlife, roads, campgrounds, water resources, trails, OHV use, sightseeing, canyoneering, hunting, fishing, trapping, and hiking resources that may exist in these timber zones is compatible with the management priorities of Subsection (4)(d)(i) in these timber zones.

(5) The state finds that the historic levels of timber, logging, and forest products activities in the zones described in Subsection (2) have greatly diminished, or are under serious threat, due to:

(a) unreasonable, arbitrary, and unlawfully restrictive federal management policies, including:

(i) de facto managing for wilderness in nonwilderness areas;

(ii) ignoring the multiple use sustained yield mission of the Forest Service;

(iii) ignoring the fact that the Forest Service's parent agency is the United States Department of Agriculture whose mission includes providing timber as an important agriculture resource; and

(iv) the arbitrary administrative reductions in timber, logging, and forest products activities;

(b) improper management of forest vegetation resulting in the overcrowding of old growth alpine species and the crowding out of aspen diversity, all of which results in:

(i) devastation of entire mountainsides due to insect infestation and disease;

(ii) reduced water yield;

(iii) increased catastrophic wildfire;

(iv) increased soil erosion;

(v) degradation of wildlife habitat; and

(vi) suppression and threatened extinction of important rural economic activities; and

(c) other practices that degrade overall forest health.

(6) To protect and preserve against the threats described in Subsection (5), the state supports the following with respect to the zones described in Subsection (2):

(a) efficient and responsible development, within each timber zone, of:

(i) robust timber thinning and harvesting programs and activities; and

(ii) other uses compatible with increased timber, logging, and forest product activities, including a return to historic levels of timber, logging, and forest product activity in each of these zones;

(b) a cooperative management approach by federal agencies, the state, and local governments to achieve broadly supported management plans for the full development, within each timber zone, of:

(i) forest product resources; and

(ii) other uses compatible with timber activities; and

(c) effective and responsible management of wildlife habitat.

(7) The state requests that the federal agencies that administer lands within each timber zone:

(a) fully cooperate and coordinate with the state and the respective counties within which each timber zone is situated to develop, amend, and implement land and resource management plans and implement management decisions that are consistent with the purposes, goals, and policies described in this section to the maximum extent allowed under federal law;

(b) expedite the processing, granting, and streamlining of logging and forest product harvesting permits, range improvements, and applications to enhance and otherwise develop existing and permitted timber resources located within each timber zone, including renewable vegetative resources;

(c) expedite stewardship programs to allow private enterprise to carry out the timber, logging, and forest activities described in this section;

(d) allow continued maintenance and increased development of roads, power lines, pipeline infrastructure, and other utilities necessary to achieve the goals, purposes, and policies described in this section and consistent with multiple use and sustained yield principles;

(e) refrain from any planning decisions and management actions that will undermine, restrict, or diminish the goals, purposes, and policies for each timber zone as stated in this section; and

(f) subject to Subsection (4)(d)(ii), refrain from implementing a policy that is contrary to the goals and purposes described within this section.

(8) (a) The state recognizes the importance of all areas on BLM and Forest Service lands high value lumber and forest product resources but establishes the special Timber Agricultural Commodity Zones to provide special protection and preservation

against the identified threats found in Subsection (5) to exist in these zones.

(b) It is the intent of the Legislature to designate additional Timber Agricultural Commodity Zones in future years, if circumstances warrant special protection and preservation for new zones.

(9) The state calls upon applicable federal, state, and local agencies to coordinate with each other and establish applicable intergovernmental standing commissions, with membership consisting of representatives from the United States government, the state, and local governments to coordinate and achieve consistency in planning decisions and management actions in the zones described in Subsection (2).

(10) Notwithstanding the provisions of this section, and subject to Subsection (4)(d)(ii), the state's mineral, oil, gas, and energy policies, as well as its grazing policies, on land within zones described in Subsection (2), shall continue to be governed by Sections [~~63J-4-401~~] 63L-11-302, 63L-11-303, and 63J-8-104.

Section 81. Section 63J-8-106 is amended to read:

63J-8-106. County supported federal land use designation proposed in proposed congressional land use legislation -- Process for legislative review of proposed federal legislation land use within a county.

(1) (a) Notwithstanding any other provision of this chapter, the Legislature may, in accordance with this section, recommend to the Utah congressional delegation proposed congressional land use legislation that is supported by a county.

(b) A county that fails to comply with the requirements of this section may not communicate or otherwise represent in any way that a federal land use designation contained in proposed congressional land use legislation has the support or approval of the Legislature.

(2) If a county supports a federal land use designation contained in proposed congressional land use legislation, the county shall:

(a) prepare a report on the proposed congressional land use legislation in accordance with Subsection (3);

(b) draft a concurrent resolution for a legislative committee's consideration, in accordance with Subsection (7)(a), in support of the proposed congressional land use legislation; and

(c) subject to Subsection (4)(a), deliver the report and draft concurrent resolution to the office.

(3) The report required in Subsection (2)(a) shall include:

(a) a copy of the proposed congressional land use legislation;

(b) a detailed description of the land or watercourse proposed for a federal land use designation, including:

(i) the total acres of federal land proposed for a federal land use designation;

(ii) (A) a map showing the location of the land or watercourse; and

(B) the proposed type of federal land use designation for each location;

(iii) a proposed land conveyance or land proposed for auction by the BLM, if any; and

(iv) (A) school and institutional trust land, as defined in Section 53C-1-103, proposed for a land exchange, if any; and

(B) whether the county has coordinated with SITLA on the proposed land exchange;

(c) an explanation of whether a federal land use designation will assist in resolving long-standing public lands issues, such as wilderness disputes, economic development, recreational use, and access to public lands;

(d) a narrative description of the economic, recreational, and cultural impacts, taken as a whole, on a county and the state that would occur if Congress adopted the proposed congressional land use legislation, including an impact on state revenues;

(e) an account of actions, if any, proposed in a federal land use designation to minimize impacts on:

(i) resource extraction activities occurring on the land or in the watercourse proposed for a federal land use designation, including mining and energy development; and

(ii) motorized recreational use and public access;

(f) a summary of potential benefits gained by the county and state if Congress adopts the proposed congressional land use legislation;

(g) a description of the stakeholders and their positions on a federal land use designation;

(h) whether land identified for a federal land use designation is BLM recommended wilderness;

(i) an explanation of what the proposed congressional land use legislation proposes for federal land located in the county other than land identified for the federal land use designation;

(j) (i) a description of the impact that, if adopted by Congress, the proposed congressional land use legislation would have on access to roads currently identified as part of an adopted county transportation plan as described in Section [~~63J-4-401~~] 63L-11-303; and

(ii) if a federal land use designation proposes to close a road described in Subsection (3)(j)(i), an explanation for the road closure and a copy of the minutes of any county public hearing in which the proposed road closures were discussed and public comment was taken;

(k) (i) a description of a proposed resolution for an R.S. 2477 right-of-way, if any, located within the area identified in a federal land use designation; and

(ii) whether a proposed resolution described in Subsection (3)(k)(i) would include a quiet title action concerning an R.S. 2477 right-of-way;

(l) an explanation of whether a federal land use designation proposes a hard release of all public lands and watercourses not included in the federal land use designation, placing the land and watercourses in multiple use management;

(m) an explanation of whether a federal land use designation proposes a prohibition on further federal action under the Antiquities Act of 1906, 16 U.S.C. Sec. 431 et seq.;

(n) a narrative description of a federal land use designation's interaction with, if any, a regional haze rule adopted by the United States Environmental Protection Agency;

(o) an explanation of whether a federal land use designation would authorize best management practices as part of an active effort to control on the land or watercourse proposed for a federal land use designation:

(i) wildfire;

(ii) invasive species, including insects; and

(iii) disease;

(p) if applicable, a statement as to whether a federal land use designation would allow for the continuation of existing grazing permits;

(q) a statement as to the presence or need of passive water management facilities or activities for livestock or wildlife, such as guzzlers or fencing, for the management of wildlife or livestock;

(r) if a federal land use designation identifies land that has oil, gas, or mineral deposits, an explanation as to why the federal land use designation includes the land;

(s) (i) a statement as to whether a federal land use designation:

(A) affects land or a watercourse located exclusively within the county; or

(B) affects, whether by an actual federal land use designation or by implication if a federal land use designation is adopted, land or a watercourse located in another county; and

(ii) if the land use proposal would affect land or a watercourse located in another county, whether that county supports the proposed congressional land use legislation;

(t) an explanation of whether a proposed land use designation designates land as wilderness in the National Wilderness Preservation System or designates land as a national conservation area that is not part of:

(i) BLM recommended wilderness; or

(ii) Forest Service land recommended for wilderness designation in RARE II; and

(u) a statement explaining whether and to what extent members of Utah's congressional delegation and their staff were consulted in preparing the proposed congressional land use legislation and the federal land use designation contained therein.

(4) (a) No later than 60 days before delivering a report and draft concurrent resolution in accordance with Subsection (2), a county shall contact and inform the office of the county's intention to prepare and deliver the report and draft concurrent resolution.

(b) The office may give general guidance to a county described in Subsection (4)(a), as requested, as to compliance with this section.

(5) The office shall prepare an evaluation of the county's report, including whether the county has addressed each matter described in Subsection (3).

(6) The office shall deliver the evaluation described in Subsection (5), including a copy of the county's report, the proposed congressional land use legislation, and the draft concurrent resolution, no later than 30 days after receiving the county's report:

(a) if the Legislature is not in session, and subject to Subsection (6)(b), to the chair of the Natural Resources, Agriculture, and Environment Interim Committee; or

(b) if the Legislature is in session or there are no scheduled meetings of the Natural Resources, Agriculture, and Environment Interim Committee before the beginning of the next legislative session, to the chair of either the House Natural Resources, Agriculture, and Environment Committee or the Senate Natural Resources, Agriculture, and Environment Committee.

(7) (a) At a committee's next scheduled meeting after receiving a report, the draft concurrent resolution, and a copy of the proposed congressional land use legislation, the committee shall:

(i) review:

(A) the county's report;

(B) the draft concurrent resolution, if the concurrent resolution has a legislative sponsor; and

(C) the office's evaluation;

(ii) if the draft concurrent resolution is presented to the committee, consider whether to approve or reject the draft concurrent resolution;

(iii) if the draft concurrent resolution is rejected, provide direction to the county as to the reasons the resolution was rejected and the actions that the county might take to secure committee approval of the resolution; and

(iv) take any additional action the committee finds necessary.

(b) A legislative committee may not accept for review a county-supported federal land use designation contained in proposed congressional

land use legislation that does not meet the requirements of this section.

(8) (a) If the committee rejects the draft concurrent resolution, a county may resubmit a revised report and draft concurrent resolution to the office in accordance with the terms of this section.

(b) Upon receipt of a revised report and draft concurrent resolution, the office shall comply with the procedures set forth in this section.

(c) Upon receipt of a revised report, evaluation, and draft concurrent resolution by the office, a committee described in Subsection (6) shall comply with the procedures set forth in this section.

(9) The governor may call a special session to consider the concurrent resolution presented to and approved by a committee described in Subsection (7)(a).

(10) If a concurrent resolution described in this section is adopted by the Legislature and signed by the governor, the Office of the Governor shall forward a copy of the concurrent resolution, the county's report, and the proposed congressional land use legislation to Utah's congressional delegation.

Section 82. Section 63L-2-301 is amended to read:

63L-2-301. Promoting or lobbying for a federal designation within the state.

(1) As used in this section:

(a) "Federal designation" means the designation of a:

(i) national monument;

(ii) national conservation area;

(iii) wilderness area or wilderness study area;

(iv) area of critical environmental concern;

(v) research natural area; or

(vi) national recreation area.

(b) (i) "Governmental entity" means:

(A) a state-funded institution of higher education or public education;

(B) a political subdivision of the state;

(C) an office, agency, board, bureau, committee, department, advisory board, or commission that the government funds or establishes to carry out the public's business, regardless of whether the office, agency board, bureau, committee, department, advisory board, or commission is composed entirely of public officials or employees;

(D) an interlocal entity as defined in Section 11-13-103 or a joint or cooperative undertaking as defined in Section 11-13-103;

(E) a governmental nonprofit corporation as defined in Section 11-13a-102; or

(F) an association as defined in Section 53G-7-1101.

(ii) "Governmental entity" does not mean:

(A) the School and Institutional Trust Lands Administration created in Section 53C-1-201;

(B) the School and Institutional Trust Lands Board of Trustees created in Section 53C-1-202;

(C) the Office of the Governor;

(D) the Governor's Office of [~~Management~~] Planning and Budget created in Section 63J-4-201;

(E) the Public Lands Policy Coordinating Office created in Section [~~63J-4-602~~] 63L-11-201;

(F) the Office of Energy Development created in Section 63M-4-401; or

(G) the Governor's Office of Economic Development created in Section 63N-1-201, including the Office of Tourism and the Utah Office of Outdoor Recreation created in Section 63N-9-104.

(2) (a) A governmental entity, or a person a governmental entity employs and designates as a representative, may investigate the possibility of a federal designation within the state.

(b) A governmental entity that intends to advocate for a federal designation within the state shall:

(i) notify the chairs of the following committees before the introduction of federal legislation:

(A) the Natural Resources, Agriculture, and Environment Interim Committee, if constituted, and the Federalism Commission; or

(B) if the notice is given during a General Session, the House and Senate Natural Resources, Agriculture, and Environment Standing Committees; and

(ii) upon request of the chairs, meet with the relevant committee to review the proposal.

(3) This section does not apply to a political subdivision supporting a federal designation if the federal designation:

(a) applies to 5,000 acres or less; and

(b) has an economical or historical benefit to the political subdivision.

Section 83. Section 63L-10-102 is amended to read:

63L-10-102. Definitions.

As used in this chapter:

(1) "Commission" means the Federalism Commission.

(2) "Office" means the Public Lands Policy Coordinating Office established in Section [~~63J-4-602~~] 63L-11-201.

(3) "Plan" means the statewide resource management plan, created pursuant to Section [~~63J-4-607~~] 63L-11-203 and adopted in Section 63L-10-103.

(4) "Public lands" means:

(a) land other than a national park that is managed by the United States Parks Service;

(b) land that is managed by the United States Forest Service; and

(c) land that is managed by the Bureau of Land Management.

Section 84. Section 63L-11-101 is enacted to read:

CHAPTER 11. PUBLIC LANDS PLANNING

Part 1. General Provisions

63L-11-101. Title.

This chapter is known as "Public Lands Planning."

Section 85. Section 63L-11-102, which is renumbered from Section 63J-4-601 is renumbered and amended to read:

[~~63J-4-601~~]. 63L-11-102. Definitions.

As used in this [~~part~~] chapter:

(1) "Coordinating committee" means the committee created in Section 63L-11-401.

[~~(1) "Coordinator"~~] (2) "Executive director" means the public lands policy [~~coordinator~~] executive director appointed [~~in this part~~] under Section 63L-11-201.

[~~(2)~~] (3) "Office" means the Public Lands Policy Coordinating Office created [~~by this part~~] in Section 63L-11-201.

[~~(3)~~] (4) "Political subdivision" means:

(a) a county, municipality, local district, special service district, school district, or interlocal [~~cooperation agreement entity, or any~~] entity, as defined in Section 11-13-103; or

(b) an administrative subunit of [~~them~~] an entity listed in Subsection (4)(a).

[~~(4) "State planning coordinator" means the person appointed under Subsection 63J-4-202(1)(a)(ii).~~]

Section 86. Section 63L-11-103 is enacted to read:

63L-11-103. Interrelationship with other law.

(1) Notwithstanding any provision of Section 63J-8-105.5, the state is committed to establishing and administering an effective statewide conservation strategy for greater sage grouse.

(2) Nothing in this chapter may be construed to restrict or supersede the planning powers conferred upon departments, agencies, instrumentalities, or advisory councils of the state or the planning powers conferred upon political subdivisions by any other existing law.

(3) Nothing in this chapter may be construed to affect any lands withdrawn from the public domain for military purposes to be administered by the United States Army, Air Force, or Navy.

Section 87. Section 63L-11-201, which is renumbered from Section 63J-4-602 is renumbered and amended to read:

Part 2. Public Lands Policy Coordinating Office

[~~63J-4-602~~]. 63L-11-201. Public Lands Policy Coordinating Office -- Executive director -- Appointment -- Qualifications -- Compensation.

(1) There is created within [~~state government~~] the Department of Natural Resources the Public Lands Policy Coordinating Office[~~. The office shall~~] to be administered by [~~a public lands policy coordinator~~] an executive director.

(2) The [~~coordinator~~] executive director shall be appointed by the governor with the advice and consent of the Senate and shall serve at the pleasure of the governor.

(3) The [~~coordinator~~] executive director shall have demonstrated the necessary administrative and professional ability through education and experience to efficiently and effectively manage the office's affairs.

(4) (a) The [~~coordinator~~] executive director and employees of the office shall receive compensation as provided in Title 67, Chapter 19, Utah State Personnel Management Act.

(b) The office space for the executive director and employees of the office shall be in a building where the Department of Natural Resources is located.

Section 88. Section 63L-11-202, which is renumbered from Section 63J-4-603 is renumbered and amended to read:

[~~63J-4-603~~]. 63L-11-202. Powers and duties of the office and executive director.

(1) The [~~coordinator and the~~] office shall:

(a) make a report to the Constitutional Defense Council created under Section 63C-4a-202 concerning R.S. 2477 rights and other public lands issues under Title 63C, Chapter 4a, Constitutional and Federalism Defense Act;

(b) provide staff assistance to the Constitutional Defense Council created under Section 63C-4a-202 for meetings of the council;

(c) (i) prepare and submit a constitutional defense plan under Section 63C-4a-403; and

(ii) execute any action assigned in a constitutional defense plan;

(d) [~~under the direction of the state planning coordinator, assist in fulfilling the state planning coordinator's duties outlined in Section 63J-4-401 as those duties relate to the development of~~] develop public lands policies by:

(i) developing cooperative contracts and agreements between the state, political subdivisions, and agencies of the federal

government for involvement in the development of public lands policies;

(ii) producing research, documents, maps, studies, analysis, or other information that supports the state's participation in the development of public lands policy;

(iii) preparing comments to ensure that the positions of the state and political subdivisions are considered in the development of public lands policy; and

(iv) partnering with state agencies and political subdivisions in an effort to:

(A) prepare coordinated public lands policies;

(B) develop consistency reviews and responses to public lands policies;

(C) develop management plans that relate to public lands policies; and

(D) develop and maintain a statewide land use plan that is based on cooperation and in conjunction with political subdivisions; [~~and~~]

[~~(v) providing other information or services related to public lands policies as requested by the state planning coordinator;~~]

(e) facilitate and coordinate the exchange of information, comments, and recommendations on public lands policies between and among:

(i) state agencies;

(ii) political subdivisions;

(iii) the Office of Rural Development created under Section 63N-4-102;

(iv) the [~~Resource Development Coordinating Committee created under Section 63J-4-501~~] coordinating committee;

(v) School and Institutional Trust Lands Administration created under Section 53C-1-201;

(vi) the committee created under Section 63F-1-508 to award grants to counties to inventory and map R.S. 2477 rights-of-way, associated structures, and other features; and

(vii) the Constitutional Defense Council created under Section 63C-4a-202;

(f) perform the duties established in Title 9, Chapter 8, Part 3, Antiquities, and Title 9, Chapter 8, Part 4, Historic Sites;

(g) consistent with other statutory duties, encourage agencies to responsibly preserve archaeological resources;

(h) maintain information concerning grants made under Subsection (1)(j), if available;

(i) report annually, or more often if necessary or requested, concerning the office's activities and expenditures to:

(i) the Constitutional Defense Council; and

(ii) the Legislature's Natural Resources, Agriculture, and Environment Interim Committee jointly with the Constitutional Defense Council;

(j) make grants of up to 16% of the office's total annual appropriations from the Constitutional Defense Restricted Account to a county or statewide association of counties to be used by the county or association of counties for public lands matters if the [~~coordinator~~] executive director, with the advice of the Constitutional Defense Council, determines that the action provides a state benefit;

(k) provide staff services to the Snake Valley Aquifer Advisory Council created in Section 63C-12-103;

(l) coordinate and direct the Snake Valley Aquifer Research Team created in Section 63C-12-107;

(m) conduct the public lands transfer study and economic analysis required by Section [~~63J-4-606~~] 63L-11-304; and

(n) fulfill the duties described in Section 63L-10-103.

(2) The [~~coordinator and office~~] executive director shall comply with Subsection 63C-4a-203(8) before submitting a comment to a federal agency, if the governor would be subject to Subsection 63C-4a-203(8) [~~if the governor were~~] in submitting the [~~material~~] comment.

[~~(3) The office may enter into a contract or other agreement with another state agency to provide information and services related to:~~]

[~~(a) the duties authorized by Title 72, Chapter 3, Highway Jurisdiction and Classification Act;~~]

[~~(b) legal actions concerning Title 72, Chapter 3, Highway Jurisdiction and Classification Act, or R.S. 2477 matters; or~~]

[~~(c) any other matter within the office's responsibility.~~]

(3) The office may enter into an agreement with another state agency to provide information and services related to:

(a) the duties authorized by Title 72, Chapter 3, Highway Jurisdiction and Classification Act;

(b) legal actions concerning Title 72, Chapter 3, Highway Jurisdiction and Classification Act, or R.S. 2477 matters; or

(c) any other matter within the office's responsibility.

(4) In fulfilling the duties under this part, the office shall consult, as necessary, with:

(a) the Department of Natural Resources;

(b) the Department of Agriculture and Food;

(c) the Department of Environmental Quality;

(d) other applicable state agencies;

(e) political subdivisions of the state;

(f) federal land management agencies; and

(g) elected officials.

Section 89. Section 63L-11-203, which is renumbered from Section 63J-4-607 is renumbered and amended to read:

~~[63J-4-607]~~. 63L-11-203. Resource management plan administration.

(1) The office shall consult with the Federalism Commission before expending funds appropriated by the Legislature for the implementation of this section.

(2) To the extent that the Legislature appropriates sufficient funding, the office may procure the services of a non-public entity in accordance with Title 63G, Chapter 6a, Utah Procurement Code, to assist the office with the office's responsibilities described in Subsection (3).

(3) The office shall:

(a) assist each county with the creation of the county's resource management plan by:

(i) consulting with the county on policy and legal issues related to the county's resource management plan; and

(ii) helping the county ensure that the county's resource management plan meets the requirements of Subsection 17-27a-401(3);

(b) promote quality standards among all counties' resource management plans; and

(c) upon submission by a county, review and verify the county's:

(i) estimated cost for creating a resource management plan; and

(ii) actual cost for creating a resource management plan.

(4) (a) A county shall cooperate with the office, or an entity procured by the office under Subsection (2), with regards to the office's responsibilities under Subsection (3).

(b) To the extent that the Legislature appropriates sufficient funding, the office may, in accordance with Subsection (4)(c), provide funding to a county before the county completes a resource management plan.

(c) The office may provide pre-completion funding described in Subsection (4)(b):

(i) after:

(A) the county submits an estimated cost for completing the resource management plan to the office; and

(B) the office reviews and verifies the estimated cost in accordance with Subsection (3)(c)(i); and

(ii) in an amount up to:

(A) 50% of the estimated cost of completing the resource management plan, verified by the office; or

(B) $25,000, if the amount described in Subsection (4)(c)(i)(A) is greater than $25,000.

(d) To the extent that the Legislature appropriates sufficient funding, the office shall provide funding to a county in the amount described in Subsection (4)(e) after:

(i) a county's resource management plan:

(A) meets the requirements described in Subsection 17-27a-401(3); and

(B) is adopted under Subsection 17-27a-404(5)(d);

(ii) the county submits the actual cost of completing the resource management plan to the office; and

(iii) the office reviews and verifies the actual cost in accordance with Subsection (3)(c)(ii).

(e) The office shall provide funding to a county under Subsection (4)(d) in an amount equal to the difference between:

(i) the lesser of:

(A) the actual cost of completing the resource management plan, verified by the office; or

(B) $50,000; and

(ii) the amount of any pre-completion funding that the county received under Subsections (4)(b) and (c).

(5) To the extent that the Legislature appropriates sufficient funding, after the deadline established in Subsection 17-27a-404(5)(d) for a county to adopt a resource management plan, the office shall:

(a) obtain a copy of each county's resource management plan;

(b) create a statewide resource management plan that:

(i) meets the same requirements described in Subsection 17-27a-401(3); and

(ii) to the extent reasonably possible, coordinates and is consistent with any resource management plan or land use plan established under Chapter 8, State of Utah Resource Management Plan for Federal Lands; and

(c) submit a copy of the statewide resource management plan to the Federalism Commission for review.

(6) Following review of the statewide resource management plan, the Federalism Commission shall prepare a concurrent resolution approving the statewide resource management plan for consideration during the 2018 General Session.

(7) To the extent that the Legislature appropriates sufficient funding, the office shall provide legal support to a county that becomes involved in litigation with the federal government over the requirements of Subsection 17-27a-405(3).

(8) After the statewide resource management plan is approved, as described in Subsection (6), and to the extent that the Legislature appropriates

sufficient funding, the office shall monitor the implementation of the statewide resource management plan at the federal, state, and local levels.

Section 90. Section 63L-11-301 is enacted to read:

Part 3. Office Duties Related to Federal Land

63L-11-301. Office duties relating to plans for the management of federal land.

(1) (a) In preparing or assisting in the preparation of plans, policies, programs, or processes related to the management or use of federal land or natural resources on federal land in the state, the office shall:

(i) incorporate the plans, policies, programs, processes, and desired outcomes of the counties where the federal lands or natural resources are located, to the maximum extent consistent with state and federal law, subject to Subsection (1)(b);

(ii) identify inconsistencies or conflicts between the plans, policies, programs, processes, and desired outcomes prepared under Subsection (1)(a)(i) and the plans, programs, processes, and desired outcomes of local government as early in the preparation process as possible, and seek resolution of the inconsistencies through meetings or other conflict resolution mechanisms involving the necessary and immediate parties to the inconsistency or conflict;

(iii) present to the governor the nature and scope of any inconsistency or other conflict that is not resolved under the procedures in Subsection (1)(a)(i) for the governor's decision about the position of the state concerning the inconsistency or conflict;

(iv) develop, research, and use factual information, legal analysis, and statements of desired future condition for the state, or subregion of the state, as necessary to support the plans, policies, programs, processes, and desired outcomes of the state and the counties where the federal lands or natural resources are located;

(v) establish and coordinate agreements between the state and federal land management agencies, federal natural resource management agencies, and federal natural resource regulatory agencies to facilitate state and local participation in the development, revision, and implementation of land use plans, guidelines, regulations, other instructional memoranda, or similar documents proposed or promulgated for lands and natural resources administered by federal agencies; and

(vi) work in conjunction with political subdivisions to establish agreements with federal land management agencies, federal natural resource management agencies, and federal natural resource regulatory agencies to provide a process for state and local participation in the preparation of, or coordinated state and local response to, environmental impact analysis documents and similar documents prepared pursuant to law by state or federal agencies.

(b) The requirement in Subsection (1)(a)(i) may not be interpreted to infringe upon the authority of the governor.

(2) The office shall cooperate with and work in conjunction with appropriate state agencies and political subdivisions to develop policies, plans, programs, processes, and desired outcomes authorized by this section by coordinating the development of positions:

(a) through the coordinating committee;

(b) in conjunction with local government officials concerning general local government plans; and

(c) by soliciting public comment through the coordinating committee.

Section 91. Section 63L-11-302 is enacted to read:

63L-11-302. Principles to be recognized and promoted.

The office shall recognize and promote the following principles when preparing any policies, plans, programs, processes, or desired outcomes relating to federal lands and natural resources on federal lands under Section 63L-11-301:

(1) (a) the citizens of the state are best served by applying multiple-use and sustained-yield principles in public land use planning and management; and

(b) multiple-use and sustained-yield management means that federal agencies should develop and implement management plans and make other resource-use decisions that:

(i) achieve and maintain in perpetuity a high-level annual or regular periodic output of mineral and various renewable resources from public lands;

(ii) support valid existing transportation, mineral, and grazing privileges at the highest reasonably sustainable levels;

(iii) support the specific plans, programs, processes, and policies of state agencies and local governments;

(iv) are designed to produce and provide the desired vegetation for the watersheds, timber, food, fiber, livestock forage, wildlife forage, and minerals that are necessary to meet present needs and future economic growth and community expansion without permanent impairment of the productivity of the land;

(v) meet the recreational needs and the personal and business-related transportation needs of the citizens of the state by providing access throughout the state;

(vi) meet the recreational needs of the citizens of the state;

(vii) meet the needs of wildlife;

(viii) provide for the preservation of cultural resources, both historical and archaeological;

(ix) meet the needs of economic development;

(x) meet the needs of community development; and

(xi) provide for the protection of water rights;

(2) managing public lands for wilderness characteristics circumvents the statutory wilderness process and is inconsistent with the multiple-use and sustained-yield management standard that applies to all Bureau of Land Management and United States. Forest Service lands that are not wilderness areas or wilderness study areas;

(3) all waters of the state are:

(a) owned exclusively by the state in trust for the state's citizens;

(b) are subject to appropriation for beneficial use; and

(c) are essential to the future prosperity of the state and the quality of life within the state;

(4) the state has the right to develop and use the state's entitlement to interstate rivers;

(5) all water rights desired by the federal government must be obtained through the state water appropriation system;

(6) land management and resource-use decisions which affect federal lands should give priority to and support the purposes of the compact between the state and the United States related to school and institutional trust lands;

(7) development of the solid, fluid, and gaseous mineral resources of the state is an important part of the economy of the state, and of local regions within the state;

(8) the state should foster and support industries that take advantage of the state's outstanding opportunities for outdoor recreation;

(9) wildlife constitutes an important resource and provides recreational and economic opportunities for the state's citizens;

(10) proper stewardship of the land and natural resources is necessary to ensure the health of the watersheds, timber, forage, and wildlife resources to provide for a continuous supply of resources for the people of the state and the people of the local communities who depend on these resources for a sustainable economy;

(11) forests, rangelands, timber, and other vegetative resources:

(a) provide forage for livestock;

(b) provide forage and habitat for wildlife;

(c) provide resources for the state's timber and logging industries;

(d) contribute to the state's economic stability and growth; and

(e) are important for a wide variety of recreational pursuits;

(12) management programs and initiatives that improve watersheds and forests and increase forage for the mutual benefit of wildlife species and livestock, logging, and other agricultural industries by utilizing proven techniques and tools are vital to the state's economy and the quality of life in the state; and

(13) (a) land management plans, programs, and initiatives should provide that the amount of domestic livestock forage, expressed in animal unit months, for permitted, active use as well as the wildlife forage included in that amount, be no less than the maximum number of animal unit months sustainable by range conditions in grazing allotments and districts, based on an on-the-ground and scientific analysis;

(b) the state opposes the relinquishment or retirement of grazing animal unit months in favor of conservation, wildlife, and other uses;

(c) (i) the state favors the best management practices that are jointly sponsored by cattlemen, sportsmen, and wildlife management groups such as chaining, logging, seeding, burning, and other direct soil and vegetation prescriptions that are demonstrated to restore forest and rangeland health, increase forage, and improve watersheds in grazing districts and allotments for the benefit of domestic livestock and wildlife;

(ii) when practices described in Subsection (13)(c)(i) increase a grazing allotment's forage beyond the total permitted forage use that was allocated to that allotment in the last federal land use plan or allotment management plan still in existence as of January 1, 2005, a reasonable and fair portion of the increase in forage beyond the previously allocated total permitted use should be allocated to wildlife as recommended by a joint, evenly balanced committee of livestock and wildlife representatives that is appointed and constituted by the governor for that purpose; and

(iii) the state favors quickly and effectively adjusting wildlife population goals and population census numbers in response to variations in the amount of available forage caused by drought or other climatic adjustments, and state agencies responsible for managing wildlife population goals and population census numbers will, when making those adjustments, give due regard to both the needs of the livestock industry and the need to prevent the decline of species to a point of listing under the terms of the Endangered Species Act;

(d) the state opposes the transfer of grazing animal unit months to wildlife for supposed reasons of rangeland health;

(e) reductions in domestic livestock animal unit months must be temporary and scientifically based upon rangeland conditions;

(f) policies, plans, programs, initiatives, resource management plans, and forest plans may not allow the placement of grazing animal unit months in a suspended use category unless there is a rational

and scientific determination that the condition of the rangeland allotment or district in question will not sustain the animal unit months sought to be placed in suspended use;

(g) any grazing animal unit months that are placed in a suspended use category should be returned to active use when range conditions improve;

(h) policies, plans, programs, and initiatives related to vegetation management should recognize and uphold the preference for domestic grazing over alternate forage uses in established grazing districts while upholding management practices that optimize and expand forage for grazing and wildlife in conjunction with state wildlife management plans and programs in order to provide maximum available forage for all uses; and

(i) in established grazing districts, animal unit months that have been reduced due to rangeland health concerns should be restored to livestock when rangeland conditions improve, and should not be converted to wildlife use.

Section 92. Section 63L-11-303 is enacted to read:

63L-11-303. Findings to be recognized and promoted.

The office shall recognize and promote the following findings in the preparation of any policies, plans, programs, processes, or desired outcomes under Section 63L-11-301 relating to federal lands and natural resources on federal lands:

(1) as a coholder of R.S. 2477 rights-of-way with the counties, the state supports the state's recognition by the federal government and the public use of R.S. 2477 rights-of-way and urges the federal government to fully recognize the rights-of-way and their use by the public as expeditiously as possible;

(2) it is the policy of the state to use reasonable administrative and legal measures to protect and preserve valid existing rights-of-way granted by Congress under R.S. 2477, and to support and work in conjunction with counties to redress cases where R.S. 2477 rights-of-way are not recognized or are impaired;

(3) transportation and access routes to and across federal lands, including all rights-of-way vested under R.S. 2477, are vital to the state's economy and to the quality of life in the state, and must provide, at a minimum, a network of roads throughout the resource planning area that provides for:

(a) movement of people, goods, and services across public lands;

(b) reasonable access to a broad range of resources and opportunities throughout the resource planning area, including:

(i) livestock operations and improvements;

(ii) solid, fluid, and gaseous mineral operations;

(iii) recreational opportunities and operations, including motorized and nonmotorized recreation;

(iv) search and rescue needs;

(v) public safety needs; and

(vi) access for transportation of wood products to market;

(c) access to federal lands for people with disabilities and the elderly; and

(d) access to state lands and school and institutional trust lands to accomplish the purposes of those lands;

(4) the state's support for the addition of a river segment to the National Wild and Scenic Rivers System, 16 U.S.C. Sec. 1271 et seq., will be withheld until:

(a) it is clearly demonstrated that water is present and flowing at all times;

(b) it is clearly demonstrated that the required water-related value is considered outstandingly remarkable within a region of comparison consisting of one of the three physiographic provinces in the state, and that the rationale and justification for the conclusions are disclosed;

(c) it is clearly demonstrated that the inclusion of each river segment is consistent with the plans and policies of the state and the county or counties where the river segment is located as those plans and policies are developed according to Subsection (3);

(d) the effects of the addition upon the local and state economies, agricultural and industrial operations and interests, outdoor recreation, water rights, water quality, water resource planning, and access to and across river corridors in both upstream and downstream directions from the proposed river segment have been evaluated in detail by the relevant federal agency;

(e) it is clearly demonstrated that the provisions and terms of the process for review of potential additions have been applied in a consistent manner by all federal agencies;

(f) the rationale and justification for the proposed addition, including a comparison with protections offered by other management tools, is clearly analyzed within the multiple-use mandate, and the results disclosed;

(g) it is clearly demonstrated that the federal agency that has management authority over the river segment and that is proposing the segment for inclusion in the National Wild and Scenic River System will not use the actual or proposed designation as a basis to impose management standards outside of the federal land management plan;

(h) it is clearly demonstrated that the federal land and resource management plan containing a recommendation for inclusion in the National Wild and Scenic River System:

(i) evaluates all eligible river segments in the resource planning area completely and fully for

suitability for inclusion in the National Wild and Scenic River System;

(ii) does not suspend or terminate any studies for inclusion in the National Wild and Scenic River System at the eligibility phase;

(iii) fully disclaims any interest in water rights for the recommended segment as a result of the adoption of the plan; and

(iv) fully disclaims the use of the recommendation for inclusion in the National Wild and Scenic River System as a reason or rationale for an evaluation of impacts by proposals for projects upstream, downstream, or within the recommended segment;

(i) it is clearly demonstrated that the agency with management authority over the river segment commits not to use an actual or proposed designation as a basis to impose Visual Resource Management Class I or II management prescriptions that do not comply with the provisions of Subsection (24); and

(j) it is clearly demonstrated that including the river segment and the terms and conditions for managing the river segment as part of the National Wild and Scenic River System will not prevent, reduce, impair, or otherwise interfere with:

(i) the enjoyment of the state and the state's citizens of complete and exclusive water rights in and to the rivers of the state as determined by the laws of the state; or

(ii) local, state, regional, or interstate water compacts to which the state or any county is a party;

(5) the conclusions of all studies related to potential additions to the National Wild and Scenic River System, 16 U.S.C. Sec. 1271 et seq., are submitted to the state for review and action by the Legislature and governor, and the results, in support of or in opposition to, are included in any planning documents or other proposals for addition and are forwarded to the United States Congress;

(6) the state's support for designation of an Area of Critical Environmental Concern (ACEC), as defined in 43 U.S.C. Sec. 1702, within federal land management plans will be withheld until:

(a) it is clearly demonstrated that the proposed area satisfies all the definitional requirements of the Federal Land Policy and Management Act of 1976, 43 U.S.C. Sec. 1702(a);

(b) it is clearly demonstrated that:

(i) the area proposed for designation as an ACEC is limited in geographic size; and

(ii) the proposed management prescriptions are limited in scope to the minimum necessary to specifically protect and prevent irreparable damage to the relevant and important values identified, or limited in geographic size and management prescriptions to the minimum required to specifically protect human life or safety from natural hazards;

(c) it is clearly demonstrated that the proposed area is limited only to areas that are already developed or used or to areas where no development is required;

(d) it is clearly demonstrated that the proposed area contains relevant and important historic, cultural or scenic values, fish or wildlife resources, or natural processes which are unique or substantially significant on a regional basis, or contain natural hazards which significantly threaten human life or safety;

(e) the federal agency has analyzed regional values, resources, processes, or hazards for irreparable damage and potential causes of the damage resulting from potential actions which are consistent with the multiple-use, sustained-yield principles, and the analysis describes the rationale for any special management attention required to protect, or prevent irreparable damage to, the values, resources, processes, or hazards;

(f) it is clearly demonstrated that the proposed designation is consistent with the plans and policies of the state and of the county where the proposed designation is located as those plans and policies are developed according to Subsection (3);

(g) it is clearly demonstrated that the proposed ACEC designation will not be applied redundantly over existing protections provided by other state and federal laws for federal lands or resources on federal lands, and that the federal statutory requirement for special management attention for a proposed ACEC will discuss and justify any management requirements needed in addition to those specified by the other state and federal laws;

(h) the difference between special management attention required for an ACEC and normal multiple-use management has been identified and justified, and any determination of irreparable damage has been analyzed and justified for short-term and long-term horizons;

(i) it is clearly demonstrated that the proposed designation:

(i) is not a substitute for a wilderness suitability recommendation;

(ii) is not a substitute for managing areas inventoried for wilderness characteristics after 1993 under the Bureau of Land Management interim management plan for valid wilderness study areas; and

(iii) it is not an excuse or justification to apply de facto wilderness management standards; and

(j) the conclusions of all studies are submitted to the state, as a cooperating agency, for review, and the results, in support of or in opposition to, are included in all planning documents;

(7) sufficient federal lands are made available for government-to-government exchanges of school and institutional trust lands and federal lands without regard for a resource-to-resource correspondence between the surface or mineral characteristics of the offered trust lands and the offered federal lands;

(8) federal agencies should support government-to-government exchanges of land with the state based on a fair process of valuation which meets the fiduciary obligations of both the state and federal governments toward trust lands management, and which assures that revenue authorized by federal statute to the state from mineral or timber production, present or future, is not diminished in any manner during valuation, negotiation, or implementation processes;

(9) agricultural and grazing lands should continue to produce the food and fiber needed by the citizens of the state and the nation, and the rural character and open landscape of rural Utah should be preserved through a healthy and active agricultural and grazing industry, consistent with private property rights and state fiduciary duties;

(10) (a) the resources of the forests and rangelands of the state should be integrated as part of viable, robust, and sustainable state and local economies;

(b) available forage should be evaluated for the full complement of herbivores the rangelands can support in a sustainable manner;

(c) forests should contain a diversity of timber species; and

(d) disease or insect infestations in forests should be controlled using logging or other best management practices;

(11) the state opposes any additional evaluation of national forest service lands as roadless or unroaded beyond the forest service's second roadless area review evaluation and opposes efforts by agencies to specially manage those areas in a way that:

(a) closes or declassifies existing roads unless multiple side-by-side roads exist running to the same destination and state and local governments consent to close or declassify the extra roads;

(b) permanently bars travel on existing roads;

(c) excludes or diminishes traditional multiple-use activities, including grazing and proper forest harvesting;

(d) interferes with the enjoyment and use of valid, existing rights, including water rights, local transportation plan rights, R.S. 2477 rights, grazing allotment rights, and mineral leasing rights; or

(e) prohibits development of additional roads reasonably necessary to pursue traditional multiple-use activities;

(12) the state's support for any forest plan revision or amendment will be withheld until the appropriate plan revision or plan amendment clearly demonstrates that:

(a) established roads are not referred to as unclassified roads or a similar classification;

(b) lands in the vicinity of established roads are managed under the multiple-use, sustained-yield management standard; and

(c) no roadless or unroaded evaluations or inventories are recognized or upheld beyond those that were recognized or upheld in the forest service's second roadless area review evaluation;

(13) the state's support for any recommendations made under the statutory requirement to examine the wilderness option during the revision of land and resource management plans by the United States Forest Service will be withheld until it is clearly demonstrated that:

(a) the duly adopted transportation plans of the state and each county within the planning area are fully and completely incorporated into the baseline inventory of information from which plan provisions are derived;

(b) valid state or local roads and rights-of-way are recognized and not impaired in any way by the recommendations;

(c) the development of mineral resources by underground mining is not affected by the recommendations;

(d) the need for additional administrative or public roads necessary for the full use of the various multiple uses, including recreation, mineral exploration and development, forest health activities, and grazing operations, is not unduly affected by the recommendations;

(e) analysis and full disclosure are made concerning the balance of multiple-use management in the proposed areas, and that the analysis compares the full benefit of multiple-use management to the recreational, forest health, and economic needs of the state and the counties to the benefits of the requirements of wilderness management; and

(f) the conclusions of all studies related to the requirement to examine the wilderness option are submitted to the state for review and action by the Legislature and governor, and the results, in support of or in opposition to, are included in any planning documents or other proposals that are forwarded to the United States Congress;

(14) the invasion of noxious weeds and undesirable invasive plant species into the state should be reversed, their presence eliminated, and their return prevented;

(15) management and resource-use decisions by federal land management and regulatory agencies concerning the vegetative resources within the state should reflect serious consideration of the proper optimization of the yield of water within the watersheds of the state;

(16) it is the policy of the state that:

(a) mineral and energy production and environmental protection are not mutually exclusive;

(b) it is technically feasible to permit appropriate access to mineral and energy resources while preserving nonmineral and nonenergy resources;

(c) resource management planning should seriously consider all available mineral and energy resources;

(d) the development of the solid, fluid, and gaseous mineral resources of the state and the renewable resources of the state should be encouraged;

(e) the waste of fluid and gaseous minerals within developed areas should be prohibited; and

(f) requirements to mitigate or reclaim mineral development projects should be based on credible evidence of significant impacts to natural or cultural resources;

(17) the state's support for mineral development provisions within federal land management plans will be withheld until the appropriate land management plan environmental impact statement clearly demonstrates:

(a) that the authorized planning agency has:

(i) considered and evaluated the mineral and energy potential in all areas of the planning area as if the areas were open to mineral development under standard lease agreements; and

(ii) evaluated any management plan prescription for the plan's impact on the area's baseline mineral and energy potential;

(b) that the development provisions do not unduly restrict access to public lands for energy exploration and development;

(c) that the authorized planning agency has supported any closure of additional areas to mineral leasing and development or any increase of acres subject to no surface occupancy restrictions by adhering to:

(i) the relevant provisions of the Federal Land Policy and Management Act of 1976, 43 U.S.C. Sec. 1701 et seq.;

(ii) other controlling mineral development laws; and

(iii) the controlling withdrawal and reporting procedures set forth in the Federal Land Policy and Management Act of 1976, 43 U.S.C. Sec. 1701 et seq.;

(d) that the authorized planning agency evaluated whether to repeal any moratorium that may exist on the issuance of additional mining patents and oil and gas leases;

(e) that the authorized planning agency analyzed all proposed mineral lease stipulations and considered adopting the least restrictive necessary to protect against damage to other significant resource values;

(f) that the authorized planning agency evaluated mineral lease restrictions to determine whether to waive, modify, or make exceptions to the restrictions on the basis that they are no longer necessary or effective;

(g) that the authorized federal agency analyzed all areas proposed for no surface occupancy restrictions, and that the analysis evaluated:

(i) whether directional drilling is economically feasible and ecologically necessary for each proposed no surface occupancy area;

(ii) whether the directional drilling feasibility analysis, or analysis of other management prescriptions, demonstrates that the proposed no surface occupancy prescription, in effect, sterilizes the mineral and energy resources beneath the area; and

(iii) whether, if the minerals are effectively sterilized, the area must be reported as withdrawn under the provisions of the Federal Land Policy and Management Act; and

(h) that the authorized planning agency has evaluated all directional drilling requirements in no surface occupancy areas to determine whether directional drilling is feasible from an economic, ecological, and engineering standpoint;

(18) motorized, human-powered, and animal-powered outdoor recreation should be integrated into a fair and balanced allocation of resources within the historical and cultural framework of multiple uses in rural areas of the state, and outdoor recreation should be supported as part of a balanced plan of state and local economic support and growth;

(19) off-highway vehicles should be used responsibly, the management of off-highway vehicles should be uniform across all jurisdictions, and laws related to the use of off-highway vehicles should be uniformly applied across all jurisdictions;

(20) (a) rights-of-way granted and vested under the provisions of R.S. 2477 should be preserved and acknowledged; and

(b) land use management plans, programs, and initiatives should be consistent with both state and county transportation plans developed according to Subsection (3) in order to provide a network of roads throughout the planning area that provides for:

(i) movement of people, goods, and services across public lands;

(ii) reasonable access to a broad range of resources and opportunities throughout the planning area, including access to livestock, water, and minerals;

(iii) economic and business needs;

(iv) public safety;

(v) search and rescue;

(vi) access for people with disabilities and the elderly;

(vii) access to state lands; and

(viii) recreational opportunities;

(21) transportation and access provisions for all other existing routes, roads, and trails across federal, state, and school trust lands within the

state should be determined and identified, and agreements should be executed and implemented, as necessary to fully authorize and determine responsibility for maintenance of all routes, roads, and trails;

(22) the reasonable development of new routes and trails for motorized, human-powered, and animal-powered recreation should be implemented;

(23) (a) forests, rangelands, and watersheds, in a healthy condition, are necessary and beneficial for wildlife, livestock grazing, and other multiple uses;

(b) management programs and initiatives that are implemented to increase forage for the benefit of the agricultural industry, livestock operations, and wildlife species should utilize all proven techniques and tools;

(c) the continued viability of livestock operations and the livestock industry should be supported on the federal lands within the state by management of the lands and forage resources, by the proper optimization of animal unit months for livestock, in accordance with the multiple-use provisions of the Federal Land Policy and Management Act of 1976, 43 U.S.C. Sec. 1701 et seq., the provisions of the Taylor Grazing Act of 1934, 43 U.S.C. Sec. 315 et seq., and the provisions of the Public Rangelands Improvement Act of 1978, 43 U.S.C. Sec. 1901 et seq.;

(d) provisions for predator control initiatives or programs under the direction of state and local authorities should be implemented; and

(e) resource use and management decisions by federal land management and regulatory agencies should support state-sponsored initiatives or programs designed to stabilize wildlife populations that may be experiencing a scientifically demonstrated decline in those populations; and

(24) management and resource use decisions by federal land management and regulatory agencies concerning the scenic resources of the state must balance the protection of scenery with the full management requirements of the other authorized uses of the land under multiple-use management, and should carefully consider using Visual Resource Management Class I protection only for areas of inventoried Class A scenery or equivalent.

Section 93. Section 63L-11-304, which is renumbered from Section 63J-4-606 is renumbered and amended to read:

[~~63J-4-606~~]. 63L-11-304. Public lands transfer study and economic analysis -- Report.

(1) As used in this section:

(a) "Public lands" means the same as that term is defined in Section 63L-6-102.

(b) "Transfer of public lands" means the transfer of public lands from federal ownership to state ownership.

(2) The [~~coordinator and the~~] office shall, on an ongoing basis, report to the Federalism Commission regarding the ramifications and economic impacts of the transfer of public lands.

(3) The [~~coordinator and~~] office shall:

(a) on an ongoing basis, discuss issues related to the transfer of public lands with:

(i) the School and Institutional Trust Lands Administration;

(ii) local governments;

(iii) water managers;

(iv) environmental advocates;

(v) outdoor recreation advocates;

(vi) nonconventional and renewable energy producers;

(vii) tourism representatives;

(viii) wilderness advocates;

(ix) ranchers and agriculture advocates;

(x) oil, gas, and mining producers;

(xi) fishing, hunting, and other wildlife interests;

(xii) timber producers;

(xiii) other interested parties; and

(xiv) the Federalism Commission; and

(b) develop ways to obtain input from [~~Utah~~] citizens of the state regarding the transfer of public lands and the future care and use of public lands.

Section 94. Section 63L-11-305, which is renumbered from Section 63J-4-608 is renumbered and amended to read:

[~~63J-4-608~~]. 63L-11-305. Facilitating the acquisition of federal land -- Advisory committee.

(1) As used in this section:

(a) "Advisory committee" means the committee established under Subsection (3).

(b) "Federal land" means land that the secretary is authorized to dispose of under the federal land disposal law.

(c) "Federal land disposal law" means the Recreation and Public Purposes Act, 43 U.S.C. Sec. 869 et seq.

(d) "Government entity" means any state or local government entity allowed to submit a land application under the federal land disposal law.

(e) "Land application" means an application under the federal land disposal law requesting the secretary to sell or lease federal land.

(f) "Land application process" means all actions involved in the process of submitting and obtaining a final decision on a land application.

(g) "Secretary" means the Secretary of the Interior of the United States.

(2) The [~~coordinator and the~~] office shall:

(a) develop expertise:

(i) in the land application process; and

(ii) concerning the factors that tend to increase the chances that a land application will result in the secretary selling or leasing federal land as requested in the land application;

(b) work to educate government entities concerning:

(i) the availability of federal land pursuant to the federal land disposal law; and

(ii) the land application process;

(c) advise and consult with a government entity that requests assistance from [~~the coordinator or~~] the office to formulate and submit a land application and to pursue a decision on the land application;

(d) advise and consult with a government entity that requests assistance from [~~the coordinator or~~] the office to identify and quantify the amount of any funds needed to provide the public use described in a land application;

(e) with the advice and recommendations of the advisory committee:

(i) adopt a list of factors to be considered in determining the degree to which a land application or potential land application is in the public interest; and

(ii) recommend a prioritization of all land applications or potential land applications in the state according to the extent to which the land applications are in the public interest, based on the factors adopted under Subsection (2)[~~(f)~~](e)(i);

(f) prepare and submit a written report of land applications:

(i) to the Natural Resources, Agriculture, and Environment Interim Committee and the Federalism Commission;

(ii) (A) annually no later than August 31; and

(B) at other times, if and as requested by the committee or commission; and

(iii) (A) on the activities of [~~the coordinator and~~] the office under this section;

(B) on the land applications and potential land applications in the state; and

(C) on the decisions of the secretary on land applications submitted by government entities in the state and the quantity of land acquired under the land applications;

(g) present a summary of information contained in the report described in Subsection [~~(3)~~] (2)(f):

(i) at a meeting of the Natural Resources, Agriculture, and Environment Interim Committee and at a meeting of the Federalism Commission;

(ii) annually no later than August 31; and

(iii) at other times, if and as requested by the committee or commission; and

(h) report to the Executive Appropriations Committee of the Legislature, as frequently as the [~~coordinator~~] executive director considers appropriate or as requested by the committee, on the need for legislative appropriations to provide funds for the public purposes described in land applications.

(3) (a) There is created [~~a~~] an advisory committee comprised of:

(i) an individual designated by the chairs of the Federalism Commission;

(ii) an individual designated by the director of the Division of Facilities Construction and Management;

(iii) a representative of the Antiquities Section, created in Section 9-8-304, designated by the director of the Division of State History;

(iv) a representative of municipalities designated by the Utah League of Cities and Towns;

(v) a representative of counties designated by the Utah Association of Counties;

(vi) an individual designated by the Governor's Office of Economic Development; and

(vii) an individual designated by the director of the Division of Parks and Recreation, created in Section 79-4-201.

(b) The seven members of the advisory committee under Subsection (3)(a) may, by majority vote, appoint up to four additional volunteer members of the advisory committee.

(c) The advisory committee shall advise and provide recommendations to [~~the coordinator and~~] the office on:

(i) factors the [~~coordinator and~~] office should consider in determining the degree to which a land application or potential land application is in the public interest; and

(ii) the prioritization of land applications or potential land applications in the state according to the extent to which the land applications are in the public interest, based on the factors adopted under Subsection (2)[~~(f)~~](e)(i).

(d) A member of the advisory committee may not receive compensation, benefits, or expense reimbursement for the member's service on the advisory committee.

(e) The advisory committee may:

(i) select a chair from among the advisory committee members; and

(ii) meet as often as necessary to perform the advisory committee's duties under this section.

(f) The [~~coordinator~~] executive director shall facilitate the convening of the first meeting of the advisory committee.

Section 95. Section 63L-11-401, which is renumbered from Section 63J-4-501 is

renumbered and amended to read:

Part 4. Resource Development Coordinating Committee

[~~63J-4-501~~]. 63L-11-401. Creation of Resource Development Coordinating Committee.

There is created the Resource Development Coordinating Committee within the [~~Governor's Office of Management and Budget~~] office to:

(1) assist the [~~state planning coordinator~~] office in fulfilling the responsibilities of reviewing and coordinating technical and policy actions that may affect the physical resources of the state; and

(2) facilitate the exchange of information on those actions among state agencies and other levels of government.

Section 96. Section 63L-11-402, which is renumbered from Section 63J-4-502 is renumbered and amended to read:

[~~63J-4-502~~]. 63L-11-402. Membership -- Terms -- Chair -- Expenses.

(1) The Resource Development Coordinating Committee [~~shall consist~~] consists of the following 24 members:

(a) the state science advisor;

(b) a representative from the Department of Agriculture and Food appointed by the executive director of the Department of Agriculture and Food;

(c) a representative from the Department of Heritage and Arts appointed by the executive director of the Department of Heritage and Arts;

(d) a representative from the Department of Environmental Quality appointed by the executive director of the Department of Environmental Quality;

(e) a representative from the Department of Natural Resources appointed by the executive director of the Department of Natural Resources;

(f) a representative from the Department of Transportation appointed by the executive director of the Department of Transportation;

(g) a representative from the Governor's Office of Economic Development appointed by the director of the Governor's Office of Economic Development;

(h) a representative from the Housing and Community Development Division appointed by the director of the Housing and Community Development Division;

(i) a representative from the Division of State History appointed by the director of the Division of State History;

(j) a representative from the Division of Air Quality appointed by the director of the Division of Air Quality;

(k) a representative from the Division of Drinking Water appointed by the director of the Division of Drinking Water;

(l) a representative from the Division of Environmental Response and Remediation appointed by the director of the Division of Environmental Response and Remediation;

(m) a representative from the Division of Waste Management and Radiation Control appointed by the director of the Division of Waste Management and Radiation Control;

(n) a representative from the Division of Water Quality appointed by the director of the Division of Water Quality;

(o) a representative from the Division of Oil, Gas, and Mining appointed by the director of the Division of Oil, Gas, and Mining;

(p) a representative from the Division of Parks and Recreation appointed by the director of the Division of Parks and Recreation;

(q) a representative from the Division of Forestry, Fire, and State Lands appointed by the director of the Division of Forestry, Fire, and State Lands;

(r) a representative from the Utah Geological Survey appointed by the director of the Utah Geological Survey;

(s) a representative from the Division of Water Resources appointed by the director of the Division of Water Resources;

(t) a representative from the Division of Water Rights appointed by the director of the Division of Water Rights;

(u) a representative from the Division of Wildlife Resources appointed by the director of the Division of Wildlife Resources;

(v) a representative from the School and Institutional Trust Lands Administration appointed by the director of the School and Institutional Trust Lands Administration;

(w) a representative from the Division of Facilities Construction and Management appointed by the director of the Division of Facilities Construction and Management; and

(x) a representative from the Division of Emergency Management appointed by the director of the Division of Emergency Management.

(2) (a) As particular issues require, the coordinating committee may, by majority vote of the members present, [~~and with the concurrence of the state planning coordinator,~~] appoint additional temporary members to serve as ex officio voting members.

(b) Those ex officio members may discuss and vote on the issue or issues for which they were appointed.

(3) A chair shall be selected by a majority vote of committee members with the concurrence of the [~~state planning coordinator~~] executive director.

(4) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) [~~Section~~] Sections 63A-3-106[~~; (b) Section~~] and 63A-3-107; and

[~~(c)~~] (b) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

Section 97. Section 63L-11-403, which is renumbered from Section 63J-4-503 is renumbered and amended to read:

[~~63J-4-503~~]. 63L-11-403. Executive director responsibilities.

[~~(1) The state planning coordinator shall:~~]

The executive director shall:

[~~(a)~~] (1) administer this part;

[~~(b)~~] (2) subject to the direction and approval of the governor, take necessary action [~~for its implementation~~] to implement this part; and

[~~(c)~~] (3) inform political subdivision representatives, in advance, of all coordinating committee meetings.

[~~(2) The state planning coordinator may delegate the state planning coordinator's responsibilities under this part to the Public Lands Policy Coordinating Office.~~]

Section 98. Section 63L-11-404, which is renumbered from Section 63J-4-504 is renumbered and amended to read:

[~~63J-4-504~~]. 63L-11-404. Coordinating committee duties.

(1) The coordinating committee shall assist the [~~state planning coordinator~~] office:

(a) in the review of:

(i) proposed state actions affecting physical resources;

(ii) federal and federally assisted actions for which state review is provided by federal law, regulation, or policy; and

(iii) proposed federal regulations and policies pertaining to natural resource issues; and

(b) in the development and implementation of a procedure that will expedite the review of proposed energy and industrial facilities that require permits to be issued by more than one state agency.

(2) The [~~state planning coordinator~~] office shall review and forward the comments and recommendations of the committee to:

(a) the governor;

(b) the initiating state agency, in the case of a proposed state action; and

(c) the Office of Legislative Research and General Counsel.

Section 99. Section 63L-11-405, which is renumbered from Section 63J-4-505 is renumbered and amended to read:

[~~63J-4-505~~]. 63L-11-405. Powers of state agencies and local governments not limited.

This part does not limit powers conferred upon [~~state~~] departments, agencies, [~~or~~] instrumentalities [~~of the state~~], or political subdivisions of the state by existing law.

Section 100. Section 63N-1-203 is amended to read:

63N-1-203. Powers and duties of executive director.

(1) Unless otherwise expressly provided by statute, the executive director may organize the office in any appropriate manner, including the appointment of deputy directors of the office.

(2) The executive director may consolidate personnel and service functions for efficiency and economy in the office.

(3) The executive director, with the approval of the governor:

(a) may, by following the procedures and requirements of Title 63J, Chapter 5, Federal Funds Procedures Act, seek federal grants, loans, or participation in federal programs;

(b) may enter into a lawful contract or agreement with another state, a chamber of commerce organization, a service club, or a private entity; and

(c) shall annually prepare and submit to the governor a budget of the office's financial requirements.

(4) With the governor's approval, if a federal program requires the expenditure of state funds as a condition for the state to participate in a fund, property, or service, the executive director may expend necessary funds from money provided by the Legislature for the use of the office.

(5) The executive director shall coordinate with the executive directors of the Department of Workforce Services and the Governor's Office of [~~Management~~] Planning and Budget to review data and metrics to be reported to the Legislature as described in Subsection 63N-1-301(2)(b).

Section 101. Section 63N-1-301 is amended to read:

63N-1-301. Annual report -- Content -- Format -- Strategic plan.

(1) The office shall prepare and submit to the governor and the Legislature, by October 1 of each year, an annual written report of the operations, activities, programs, and services of the office, including the divisions, sections, boards, commissions, councils, and committees established under this title, for the preceding fiscal year.

(2) For each operation, activity, program, or service provided by the office, the annual report shall include:

(a) a description of the operation, activity, program, or service;

(b) data and metrics:

(i) selected and used by the office to measure progress, performance, effectiveness, and scope of the operation, activity, program, or service, including summary data; and

(ii) that are consistent and comparable for each state operation, activity, program, or service that primarily involves employment training or placement as determined by the executive directors of the office, the Department of Workforce Services, and the Governor's Office of [~~Management~~] Planning and Budget;

(c) budget data, including the amount and source of funding, expenses, and allocation of full-time employees for the operation, activity, program, or service;

(d) historical data from previous years for comparison with data reported under Subsections (2)(b) and (c);

(e) goals, challenges, and achievements related to the operation, activity, program, or service;

(f) relevant federal and state statutory references and requirements;

(g) contact information of officials knowledgeable and responsible for each operation, activity, program, or service; and

(h) other information determined by the office that:

(i) may be needed, useful, or of historical significance; or

(ii) promotes accountability and transparency for each operation, activity, program, or service with the public and elected officials.

(3) The annual report shall be designed to provide clear, accurate, and accessible information to the public, the governor, and the Legislature.

(4) The office shall:

(a) submit the annual report in accordance with Section 68-3-14;

(b) make the annual report, and previous annual reports, accessible to the public by placing a link to the reports on the office's website; and

(c) provide the data and metrics described in Subsection (2)(b) to the Talent Ready Utah Board created in Section 63N-12-503.

(5) (a) On or before October 1, 2019, the office shall:

(i) in consultation with the organizations described in Subsection (5)(c), coordinate the development of a written strategic plan that contains a coordinated economic development strategy for the state; and

(ii) provide the strategic plan to the president of the Senate, the speaker of the House of Representatives, and the Economic Development and Workforce Services Interim Committee.

(b) The strategic plan shall:

(i) establish a statewide economic development strategy that consists of a limited set of clear, concise, and defined principles and goals;

(ii) recommend targeted economic development policies that will further the implementation of the economic development strategy described in this section;

(iii) identify each of the relevant state-level economic development agencies, including the agencies described in Subsection (5)(c);

(iv) outline the functional role in furthering the state's economic development strategy for each relevant state-level economic development agency;

(v) establish specific principles and make specific recommendations to decrease competition and increase communication and cooperation among state-level economic development agencies, providers and administrators of economic development programs in the state, nonprofit entities that participate in economic development in the state, and local governments;

(vi) recommend a fundamental realignment of economic development programs in the state to ensure each program's purpose is congruent with the mission of the organization within which the program is located;

(vii) address rural economic development by:

(A) establishing goals and principles to ensure the state's economic development strategy works for both urban and rural areas of the state; and

(B) providing recommendations on how existing rural economic development programs should be restructured or realigned;

(viii) assess the effectiveness of the state's economic development incentives and make recommendations regarding:

(A) how incentive policies could be improved; and

(B) how incentives could be better coordinated among state-level economic development agencies and local governments;

(ix) make recommendations regarding how to align the state's economic development strategy and policies in order to take advantage of the strengths and address the weaknesses of the state's current and projected urban and rural workforce;

(x) make recommendations regarding how to monitor and assess whether certain economic development policies further the statewide economic development strategy described in this section, including recommendations on performance metrics to measure results; and

(xi) align the strategic plan with each element of the statewide economic development strategy.

(c) The office shall coordinate the development of the strategic plan by working in coordination with

and obtaining information from other state agencies, including:

(i) the Department of Workforce Services;

(ii) the Office of Energy Development;

(iii) the State Board of Education; and

(iv) the Utah Board of Higher Education.

(d) If contacted by the office, other state agencies, including those described in Subsection (5)(c), shall, in accordance with state and federal law, share information and cooperate with the office in coordinating the development of the strategic plan.

Section 102. Section 63N-2-107 is amended to read:

63N-2-107. Reports of new state revenues, partial rebates, and tax credits.

(1) Before October 1 of each year, the office shall submit a report to the Governor's Office of [~~Management~~] Planning and Budget, the Office of the Legislative Fiscal Analyst, and the Division of Finance identifying:

(a) (i) the total estimated amount of new state revenues created from new commercial projects in development zones;

(ii) the estimated amount of new state revenues from new commercial projects in development zones that will be generated from:

(A) sales tax;

(B) income tax; and

(C) corporate franchise and income tax; and

(iii) the minimum number of new incremental jobs and high paying jobs that will be created before any tax credit is awarded; and

(b) the total estimated amount of tax credits that the office projects that business entities, local government entities, or community reinvestment agencies will qualify to claim under this part.

(2) By the first business day of each month, the office shall submit a report to the Governor's Office of [~~Management~~] Planning and Budget, the Office of the Legislative Fiscal Analyst, and the Division of Finance identifying:

(a) each new agreement entered into by the office since the last report;

(b) the estimated amount of new state revenues that will be generated under each agreement;

(c) the estimated maximum amount of tax credits that a business entity, local government entity, or community reinvestment agency could qualify for under each agreement; and

(d) the minimum number of new incremental jobs and high paying jobs that will be created before any tax credit is awarded.

(3) At the reasonable request of the Governor's Office of [~~Management~~] Planning and Budget, the Office of the Legislative Fiscal Analyst, or the Division of Finance, the office shall provide additional information about the tax credit, new incremental jobs and high paying jobs, costs, and economic benefits related to this part, if the information is part of a public record as defined in Section 63G-2-103.

Section 103. Section 63N-2-811 is amended to read:

63N-2-811. Reports of tax credits.

(1) Before December 1 of each year, the office shall submit a report to the Governor's Office of [~~Management~~] Planning and Budget, the Office of the Legislative Fiscal Analyst, and the Division of Finance identifying:

(a) the total amount listed on tax credit certificates the office issues under this part; and

(b) the criteria that the office uses in prioritizing the issuance of tax credits amongst tax credit applicants.

(2) By the first business day of each month, the office shall submit a report to the Governor's Office of [~~Management~~] Planning and Budget, the Office of the Legislative Fiscal Analyst, and the Division of Finance identifying:

(a) each new agreement entered into by the office since the last report;

(b) the total amount listed on tax credit certificates the office issues under this part; and

(c) the criteria that the office uses in prioritizing the issuance of tax credits amongst tax credit applicants.

Section 104. Section 63N-3-111 is amended to read:

63N-3-111. Annual policy considerations.

(1) (a) The board shall determine annually which industries or groups of industries shall be targeted industries as defined in Section 63N-3-102.

(b) The office shall make recommendations to state and federal agencies, local governments, the governor, and the Legislature regarding policies and initiatives that promote the economic development of targeted industries.

(c) The office may create one or more voluntary advisory committees that may include public and private stakeholders to solicit input on policy guidance and best practices in encouraging the economic development of targeted industries.

(2) In designating an economically disadvantaged rural area, the board shall consider the average agricultural and nonagricultural wage, personal income, unemployment, and employment in the area.

(3) In evaluating the economic impact of applications for assistance, the board shall use an econometric cost-benefit model or models adopted by the Governor's Office of [~~Management~~] Planning and Budget.

(4) The board may establish:

(a) minimum interest rates to be applied to loans granted that reflect a fair social rate of return to the state comparable to prevailing market-based rates such as the prime rate, U.S. Government T-bill rate, or bond coupon rate as paid by the state, adjusted by social indicators such as the rate of unemployment; and

(b) minimum applicant expense ratios, as long as they are at least equal to those required under Subsection 63N-3-105(1)(a) or 63N-3-108(1)(b)(i)(A).

Section 105. Section 63N-9-104 is amended to read:

63N-9-104. Creation of outdoor recreation office and appointment of director -- Responsibilities of outdoor recreation office.

(1) There is created within the Governor's Office of Economic Development the Utah Office of Outdoor Recreation.

(2) (a) The executive director shall appoint a director of the outdoor recreation office.

(b) The director shall report to the executive director and may appoint staff.

(3) The outdoor recreation office shall:

(a) coordinate outdoor recreation policy, management, and promotion:

(i) among state and federal agencies and local government entities in the state; and

(ii) with the Public Lands Policy Coordinating Office created in Section [~~63J-4-602~~] 63L-11-201, if public land is involved;

(b) promote economic development in the state by:

(i) coordinating with outdoor recreation stakeholders;

(ii) improving recreational opportunities; and

(iii) recruiting outdoor recreation business;

(c) recommend to the governor and Legislature policies and initiatives to enhance recreational amenities and experiences in the state and help implement those policies and initiatives;

(d) develop data regarding the impacts of outdoor recreation in the state; and

(e) promote the health and social benefits of outdoor recreation, especially to young people.

(4) By following the procedures and requirements of Title 63J, Chapter 5, Federal Funds Procedures Act, the outdoor recreation office may:

(a) seek federal grants or loans;

(b) seek to participate in federal programs; and

(c) in accordance with applicable federal program guidelines, administer federally funded outdoor recreation programs.

(5) For purposes of administering this part, the outdoor recreation office may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Section 106. Section 64-13e-105 is amended to read:

64-13e-105. Meeting to discuss daily incarceration rates.

(1) Before September 30 of each year, the individuals described in Subsection (2) shall meet to review and discuss:

(a) the actual state daily incarceration rate, described in Section 64-13e-103.1;

(b) the actual county daily incarceration rate; and

(c) the compilation described in Subsection 64-13e-104(7).

(2) The following individuals shall meet in accordance with Subsection (1):

(a) as designated by the Utah Sheriffs Association:

(i) one sheriff of a county that is currently under contract with the department to house state inmates; and

(ii) one sheriff of a county that is currently receiving reimbursement from the department for housing state probationary inmates or state parole inmates;

(b) the executive director of the department or the executive director's designee;

(c) as designated by the Utah Association of Counties:

(i) one member of the legislative body of one county that is currently under contract with the department to house state inmates; and

(ii) one member of the legislative body of one county that is currently receiving reimbursement from the department for housing state probationary inmates or state parole inmates;

(d) the executive director of the Commission on Criminal and Juvenile Justice or the executive director's designee; and

(e) the executive director of the Governor's Office of [~~Management~~] Planning and Budget or the executive director's designee.

Section 107. Section 67-4-16 is amended to read:

67-4-16. State financial advisor -- Duties -- Conflict of interest restrictions.

(1) The state treasurer may hire a state financial advisor on a fee-for-service basis.

(2) The state financial advisor shall advise the state treasurer, the executive director of the Governor's Office of [~~Management~~] Planning and Budget, the director of the Division of Finance, the director of the Division of Facilities Construction and Management, and the Legislature and its staff offices on the issuance of bonds and other debt, and on all other public debt matters generally.

(3) The financial advisor may assist in the preparation of the official statement, represent the state's creditworthiness before credit rating agencies, and assist in the preparation, marketing, or issuance of public debt.

(4) (a) The state financial advisor or the firm that the advisor represents may not negotiate to underwrite debt issued by the state of Utah for which he has provided financial advisor services.

(b) The state financial advisor may enter a competitive bid, either for his own account or in cooperation with others, in response to a call for public bids for the sale of state debt.

(5) (a) Fees directly related to the preparation, marketing, or issuance of public debt, including ordinary and necessary expenses, may be paid from the debt proceeds.

(b) Fees for other services shall be paid from the state treasurer's budget.

Section 108. Section 67-5-34 is amended to read:

67-5-34. Rate committee -- Membership -- Duties.

(1) (a) There is created a rate committee that consists of:

(i) the executive director of the Governor's Office of [~~Management~~] Planning and Budget, or the executive director's designee; and

(ii) the executive directors of six state agencies that use or are likely to use services and pay rates to the Office of the Attorney General's internal service fund, appointed by the governor for a two-year term, or the executive directors' designees.

(b) The rate committee shall elect a chair from the rate committee's members.

(2) Each member of the rate committee who is a state government employee and does not receive salary, per diem, or expenses from the member's agency for the member's service on the rate committee shall receive no compensation, benefits, per diem, or expenses for the member's service on the rate committee.

(3) The Office of the Attorney General shall provide staff services to the rate committee.

(4) The Office of the Attorney General shall submit to the rate committee a proposed rate and fee schedule for legal services rendered by the Office of the Attorney General to an agency.

(5) (a) The rate committee shall:

(i) conduct meetings in accordance with Title 52, Chapter 4, Open and Public Meetings Act;

(ii) review the proposed rate and fee schedules and, at the rate committee's discretion, approve, increase, or decrease the rate and fee schedules;

(iii) recommend a proposed rate and fee schedule for the internal service fund to:

(A) the Governor's Office of [~~Management~~] Planning and Budget; and

(B) each legislative appropriations subcommittee that, in accordance with Section 63J-1-410, approves the internal service fund rates, fees, and budget; and

(iv) review and approve, increase or decrease an interim rate, fee, or amount when the office begins a new service or introduces a new product between annual general sessions of the Legislature.

(b) The committee may, in accordance with Subsection 63J-1-410(4), decrease a rate, fee, or amount that has been approved by the Legislature.

Section 109. Section 67-19-11 is amended to read:

67-19-11. Use of department facilities -- Field office facilities cost allocation -- Rate committee.

(1) (a) An agency or a political subdivision of the state shall allow the department to use public buildings under the agency's of the political subdivision's control, and furnish heat, light, and furniture, for any examination, training, hearing, or investigation authorized by this chapter.

(b) An agency or political subdivision that allows the department to use a public building under Subsection (1)(a) shall pay the cost of the department's use of the public building.

(2) The executive director shall:

(a) prepare an annual budget request for the department;

(b) submit the budget request to the governor and the Legislature; and

(c) before charging a fee for services provided by the department's internal service fund to an executive branch agency:

(i) submit the proposed rates, fees, and cost analysis to the Rate Committee established under Subsection (3); and

(ii) obtain the approval of the Legislature as required under Section 63J-1-410.

(3) (a) There is created a rate committee that shall consist of the executive directors of seven state agencies that use services and pay rates to one of the department internal service funds, or their designee, appointed by the governor for a two-year term.

(b) (i) Of the seven executive agencies represented on the rate committee under Subsection (3)(a), only one of the following may be represented on the committee, if at all, at any one time:

(A) the Governor's Office of [~~Management~~] Planning and Budget;

(B) the Division of Finance;

(C) the Department of Administrative Services; or

(D) the Department of Technology Services.

(ii) The department may not have a representative on the rate committee.

(c) (i) The rate committee shall elect a chair from the rate committee's members.

(ii) Each member of the rate committee who is a state government employee and who does not receive salary, per diem, or expenses from the member's agency for the member's service on the rate committee shall receive no compensation, benefits, per diem, or expenses for the member's service on the rate committee.

(d) The department shall provide staff services to the rate committee.

(4) (a) The department shall submit to the rate committee a proposed rate and fee schedule for:

(i) human resource management services rendered; and

(ii) costs incurred by the Office of the Attorney General in defending the state in a grievance under review by the Career Service Review Office.

(b) The rate committee shall:

(i) conduct meetings in accordance with Title 52, Chapter 4, Open and Public Meetings Act;

(ii) meet at least once each calendar year to:

(A) discuss the service performance of each internal service fund;

(B) review the proposed rate and fee schedules;

(C) at the rate committee's discretion, approve, increase, or decrease the rate and fee schedules described in Subsection (4)(b)(ii)(B); and

(D) discuss any prior or potential adjustments to the service level received by state agencies that pay rates to an internal service fund;

(iii) recommend a proposed rate and fee schedule for the internal service fund to:

(A) the Governor's Office of [~~Management~~] Planning and Budget; and

(B) each legislative appropriations subcommittee that, in accordance with Section 63J-1-410, approves the internal service fund rates, fees, and budget; and

(iv) review and approve, increase or decrease an interim rate, fee, or amount when the department begins a new service or introduces a new product between annual general sessions of the Legislature.

(c) The committee may in accordance with Subsection 63J-1-410(4) decrease a rate, fee, or amount that has been approved by the Legislature.

Section 110. Section 67-19-15 is amended to read:

67-19-15. Career service -- Exempt positions -- Schedules for civil service positions -- Coverage of career service provisions.

(1) Except as otherwise provided by law or by rules and regulations established for federally aided programs, the following positions are exempt from the career service provisions of this chapter and are designated under the following schedules:

(a) schedule AA includes the governor, members of the Legislature, and all other elected state officers;

(b) schedule AB includes appointed executives and board or commission executives enumerated in Section 67-22-2;

(c) schedule AC includes all employees and officers in:

(i) the office and at the residence of the governor;

(ii) the Public Lands Policy Coordinating [~~Council~~] Office;

(iii) the Office of the State Auditor; and

(iv) the Office of the State Treasurer;

(d) schedule AD includes employees who:

(i) are in a confidential relationship to an agency head or commissioner; and

(ii) report directly to, and are supervised by, a department head, commissioner, or deputy director of an agency or its equivalent;

(e) schedule AE includes each employee of the State Board of Education that the State Board of Education designates as exempt from the career service provisions of this chapter;

(f) schedule AG includes employees in the Office of the Attorney General who are under their own career service pay plan under Sections 67-5-7 through 67-5-13;

(g) schedule AH includes:

(i) teaching staff of all state institutions; and

(ii) employees of the Utah Schools for the Deaf and the Blind who are:

(A) educational interpreters as classified by the department; or

(B) educators as defined by Section 53E-8-102;

(h) schedule AN includes employees of the Legislature;

(i) schedule AO includes employees of the judiciary;

(j) schedule AP includes all judges in the judiciary;

(k) schedule AQ includes:

(i) members of state and local boards and councils appointed by the governor and governing bodies of agencies;

(ii) a water commissioner appointed under Section 73-5-1;

(iii) other local officials serving in an ex officio capacity; and

(iv) officers, faculty, and other employees of state universities and other state institutions of higher education;

(l) schedule AR includes employees in positions that involve responsibility:

(i) for determining policy;

(ii) for determining the way in which a policy is carried out; or

(iii) of a type not appropriate for career service, as determined by the agency head with the concurrence of the executive director;

(m) schedule AS includes any other employee:

(i) whose appointment is required by statute to be career service exempt;

(ii) whose agency is not subject to this chapter; or

(iii) whose agency has authority to make rules regarding the performance, compensation, and bonuses for its employees;

(n) schedule AT includes employees of the Department of Technology Services, designated as executive/professional positions by the executive director of the Department of Technology Services with the concurrence of the executive director;

(o) schedule AU includes patients and inmates employed in state institutions;

(p) employees of the Department of Workforce Services, designated as schedule AW:

(i) who are temporary employees that are federally funded and are required to work under federally qualified merit principles as certified by the director; or

(ii) for whom substantially all of their work is repetitive, measurable, or transaction based, and who voluntarily apply for and are accepted by the Department of Workforce Services to work in a pay for performance program designed by the Department of Workforce Services with the concurrence of the executive director; and

(q) for employees in positions that are temporary, seasonal, time limited, funding limited, or variable hour in nature, under schedule codes and parameters established by the department by administrative rule.

(2) The civil service shall consist of two schedules as follows:

(a) (i) Schedule A is the schedule consisting of positions under Subsection (1).

(ii) Removal from any appointive position under schedule A, unless otherwise regulated by statute, is at the pleasure of the appointing officers without regard to tenure.

(b) Schedule B is the competitive career service schedule, consisting of:

(i) all positions filled through competitive selection procedures as defined by the executive director; or

(ii) positions filled through a department approved on-the-job examination intended to appoint a qualified person with a disability, or a veteran in accordance with Title 71, Chapter 10, Veterans Preference.

(3) (a) The executive director, after consultation with the heads of concerned executive branch departments and agencies and with the approval of the governor, shall allocate positions to the appropriate schedules under this section.

(b) Agency heads shall make requests and obtain approval from the executive director before changing the schedule assignment and tenure rights of any position.

(c) Unless the executive director's decision is reversed by the governor, when the executive director denies an agency's request, the executive director's decision is final.

(4) (a) Compensation for employees of the Legislature shall be established by the directors of the legislative offices in accordance with Section 36-12-7.

(b) Compensation for employees of the judiciary shall be established by the state court administrator in accordance with Section 78A-2-107.

(c) Compensation for officers, faculty, and other employees of state universities and institutions of higher education shall be established as provided in Title 53B, Chapter 1, Governance, Powers, Rights, and Responsibilities, and Title 53B, Chapter 2, Institutions of Higher Education.

(d) Unless otherwise provided by law, compensation for all other schedule A employees shall be established by their appointing authorities, within ranges approved by, and after consultation with the executive director of the Department of Human Resource Management.

(5) An employee who is in a position designated schedule AC and who holds career service status on June 30, 2010, shall retain the career service status if the employee:

(a) remains in the position that the employee is in on June 30, 2010; and

(b) does not elect to convert to career service exempt status in accordance with a rule made by the department.

Section 111. Section 67-19-43 is amended to read:

67-19-43. State employee matching supplemental defined contribution benefit.

(1) As used in this section:

(a) "Qualifying account" means:

(i) a defined contribution plan qualified under Section 401(k) of the Internal Revenue Code, which is sponsored by the Utah State Retirement Board; or

(ii) a deemed Individual Retirement Account authorized under the Internal Revenue Code,

which is sponsored by the Utah State Retirement Board; or

(iii) a similar savings plan or account authorized under the Internal Revenue Code, which is sponsored by the Utah State Retirement Board.

(b) "Qualifying employee" means an employee who is:

(i) in a position that is:

(A) receiving retirement benefits under Title 49, Utah State Retirement and Insurance Benefit Act; and

(B) accruing paid leave benefits that can be used in the current and future calendar years; and

(ii) not an employee who is reemployed as that term is:

(A) defined in Section 49-11-1202; or

(B) used in Section 49-11-504.

(2) Subject to the requirements of Subsection (3) and beginning on or after January 4, 2014, an employer shall make a biweekly matching contribution to every qualifying employee's defined contribution plan qualified under Section 401(k) of the Internal Revenue Code, subject to federal requirements and limitations, which is sponsored by the Utah State Retirement Board.

(3) (a) In accordance with the requirements of this Subsection (3), each qualifying employee shall be eligible to receive the same dollar amount for the contribution under Subsection (2).

(b) A qualifying employee:

(i) shall receive the contribution amount determined under Subsection (3)(c) if the qualifying employee makes a voluntary personal contribution to one or more qualifying accounts in an amount equal to or greater than the employer's contribution amount determined in Subsection (3)(c);

(ii) shall receive a partial contribution amount that is equal to the qualifying employee's personal contribution amount if the employee makes a voluntary personal contribution to one or more qualifying accounts in an amount less than the employer's contribution amount determined in Subsection (3)(c); or

(iii) may not receive a contribution under Subsection (2) if the qualifying employee does not make a voluntary personal contribution to a qualifying account.

(c) (i) Subject to the maximum limit under Subsection (3)(c)(iii), the Legislature shall annually determine the contribution amount that an employer shall provide to each qualifying employee under Subsection (2).

(ii) The department shall make recommendations annually to the Legislature on the contribution amount required under Subsection (2), in consultation with the Governor's Office of [~~Management~~] Planning and Budget and the Division of Finance.

(iii) The biweekly matching contribution amount required under Subsection (2) may not exceed $26 for each qualifying employee.

(4) A qualifying employee is eligible to receive the biweekly contribution under this section for any pay period in which the employee is in a paid status or other status protected by federal or state law.

(5) The employer and employee contributions made and related earnings under this section vest immediately upon deposit and can be withdrawn by the employee at any time, subject to Internal Revenue Code regulations on the withdrawals.

(6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the executive director shall make rules establishing procedures to implement the provisions of this section.

Section 112. Section 67-19d-202 is amended to read:

67-19d-202. Board of trustees of the State Post-Retirement Benefits Trust Fund and the Elected Official Post-Retirement Benefits Trust Fund.

(1) (a) There is created a board of trustees of the State Post-Retirement Benefits Trust Fund and the Elected Official Post-Retirement Benefits Trust Fund composed of three members:

(i) the state treasurer or designee;

(ii) the director of the Division of Finance or designee; and

(iii) the executive director of the Governor's Office of [~~Management~~] Planning and Budget or designee.

(b) The state treasurer is chair of the board.

(c) Three members of the board are a quorum.

(d) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(i) Section 63A-3-106;

(ii) Section 63A-3-107; and

(iii) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(e) (i) Except as provided in Subsection (1)(e)(ii), the state treasurer shall staff the board of trustees.

(ii) The Division of Finance shall provide accounting services for the trust fund.

(2) The board shall:

(a) on behalf of the state, act as trustee of the State Post-Retirement Benefits Trust Fund created under Section 67-19d-201 and the Elected Official Post-Retirement Benefits Trust Fund created under Section 67-19d-201.5 and exercise the state's fiduciary responsibilities;

(b) meet at least twice per year;

(c) review and approve all policies, projections, rules, criteria, procedures, forms, standards, performance goals, and actuarial reports;

(d) review and approve the budget for each trust fund described under Subsection (2)(a);

(e) review financial records for each trust fund described under Subsection (2)(a), including trust fund receipts, expenditures, and investments;

(f) commission and obtain actuarial studies of the liabilities for each trust fund described under Subsection (2)(a);

(g) for purposes of the State Post-Retirement Benefits Trust Fund, establish labor additive rates to charge all federal, state, and other programs to cover:

(i) the annual required contribution as determined by actuary; and

(ii) the administrative expenses of the trust fund; and

(h) do any other things necessary to perform the state's fiduciary obligations under each trust fund described under Subsection (2)(a).

(3) The attorney general shall:

(a) act as legal counsel and provide legal representation to the board of trustees; and

(b) attend, or direct an attorney from the Office of the Attorney General to attend, each meeting of the board of trustees.

Section 113. Section 67-19f-202 is amended to read:

67-19f-202. Board of trustees of the State Employees' Annual Leave Trust Fund.

(1) (a) There is created a board of trustees of the State Employees' Annual Leave Trust Fund composed of the following three members:

(i) the state treasurer or the state treasurer's designee;

(ii) the director of the Division of Finance or the director's designee; and

(iii) the executive director of the Governor's Office of [~~Management~~] Planning and Budget or the executive director's designee.

(b) The state treasurer is chair of the board.

(c) Three members of the board is a quorum.

(d) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses as allowed in:

(i) Section 63A-3-106;

(ii) Section 63A-3-107; and

(iii) rules made by the Division of Finance according to Sections 63A-3-106 and 63A-3-107.

(e) (i) Except as provided in Subsection (1)(e)(ii), the state treasurer shall staff the board of trustees.

(ii) The Division of Finance shall provide accounting services for the trust fund.

(2) The board shall:

(a) on behalf of the state, act as trustee of the trust fund created under Section 67-19f-201 and exercise the state's fiduciary responsibilities;

(b) meet at least twice per year;

(c) review and approve the policies, projections, rules, criteria, procedures, forms, standards, performance goals, and actuarial reports for the trust fund;

(d) review and approve the budget for the trust fund;

(e) review financial records for the trust fund, including trust fund receipts, expenditures, and investments; and

(f) do any other things necessary to perform the state's fiduciary obligations under the trust fund.

(3) The board may:

(a) commission and obtain actuarial studies of the liabilities for the trust fund; and

(b) for purposes of the trust fund, establish labor additive rates to charge for the administrative expenses of the trust fund.

(4) The attorney general shall:

(a) act as legal counsel and provide legal representation to the board of trustees; and

(b) attend, or direct an attorney from the Office of the Attorney General to attend, each meeting of the board of trustees.

Section 114. Section 67-22-2 is amended to read:

67-22-2. Compensation -- Other state officers.

(1) As used in this section:

(a) "Appointed executive" means the:

(i) commissioner of the Department of Agriculture and Food;

(ii) commissioner of the Insurance Department;

(iii) commissioner of the Labor Commission;

(iv) director, Department of Alcoholic Beverage Control;

(v) commissioner of the Department of Financial Institutions;

(vi) executive director, Department of Commerce;

(vii) executive director, Commission on Criminal and Juvenile Justice;

(viii) adjutant general;

(ix) executive director, Department of Heritage and Arts;

(x) executive director, Department of Corrections;

(xi) commissioner, Department of Public Safety;

(xii) executive director, Department of Natural Resources;

(xiii) executive director, Governor's Office of [~~Management~~] Planning and Budget;

(xiv) executive director, Department of Administrative Services;

(xv) executive director, Department of Human Resource Management;

(xvi) executive director, Department of Environmental Quality;

(xvii) director, Governor's Office of Economic Development;

(xviii) executive director, Utah Science Technology and Research Governing Authority;

(xix) executive director, Department of Workforce Services;

(xx) executive director, Department of Health, Nonphysician;

(xxi) executive director, Department of Human Services;

(xxii) executive director, Department of Transportation;

(xxiii) executive director, Department of Technology Services; [~~and~~]

(xxiv) executive director, Department of Veterans and Military Affairs[~~.~~]; and

(xxv) executive director, Public Lands Policy Coordinating Office, created in Section 63L-11-201.

(b) "Board or commission executive" means:

(i) members, Board of Pardons and Parole;

(ii) chair, State Tax Commission;

(iii) commissioners, State Tax Commission;

(iv) executive director, State Tax Commission;

(v) chair, Public Service Commission; and

(vi) commissioners, Public Service Commission.

(c) "Deputy" means the person who acts as the appointed executive's second in command as determined by the Department of Human Resource Management.

(2) (a) The executive director of the Department of Human Resource Management shall:

(i) before October 31 of each year, recommend to the governor a compensation plan for the appointed executives and the board or commission executives; and

(ii) base those recommendations on market salary studies conducted by the Department of Human Resource Management.

(b) (i) The Department of Human Resource Management shall determine the salary range for the appointed executives by:

(A) identifying the salary range assigned to the appointed executive's deputy;

(B) designating the lowest minimum salary from those deputies' salary ranges as the minimum salary for the appointed executives' salary range; and

(C) designating 105% of the highest maximum salary range from those deputies' salary ranges as the maximum salary for the appointed executives' salary range.

(ii) If the deputy is a medical doctor, the Department of Human Resource Management may not consider that deputy's salary range in designating the salary range for appointed executives.

(c) (i) Except as provided in Subsection (2)(c)(ii), in establishing the salary ranges for board or commission executives, the Department of Human Resource Management shall set the maximum salary in the salary range for each of those positions at 90% of the salary for district judges as established in the annual appropriation act under Section 67-8-2.

(ii) In establishing the salary ranges for an individual described in Subsection (1)(b)(ii) or (iii), the Department of Human Resource Management shall set the maximum salary in the salary range for each of those positions at 100% of the salary for district judges as established in the annual appropriation act under Section 67-8-2.

(3) (a) (i) Except as provided in Subsection (3)(a)(ii), the governor shall establish a specific salary for each appointed executive within the range established under Subsection (2)(b).

(ii) If the executive director of the Department of Health is a physician, the governor shall establish a salary within the highest physician salary range established by the Department of Human Resource Management.

(iii) The governor may provide salary increases for appointed executives within the range established by Subsection (2)(b) and identified in Subsection (3)(a)(ii).

(b) The governor shall apply the same overtime regulations applicable to other FLSA exempt positions.

(c) The governor may develop standards and criteria for reviewing the appointed executives.

(4) Salaries for other Schedule A employees, as defined in Section 67-19-15, that are not provided for in this chapter, or in Title 67, Chapter 8, Utah Elected Official and Judicial Salary Act, shall be established as provided in Section 67-19-15.

(5) (a) The Legislature fixes benefits for the appointed executives and the board or commission executives as follows:

(i) the option of participating in a state retirement system established by Title 49, Utah

State Retirement and Insurance Benefit Act, or in a deferred compensation plan administered by the State Retirement Office in accordance with the Internal Revenue Code and its accompanying rules and regulations;

(ii) health insurance;

(iii) dental insurance;

(iv) basic life insurance;

(v) unemployment compensation;

(vi) workers' compensation;

(vii) required employer contribution to Social Security;

(viii) long-term disability income insurance;

(ix) the same additional state-paid life insurance available to other noncareer service employees;

(x) the same severance pay available to other noncareer service employees;

(xi) the same leave, holidays, and allowances granted to Schedule B state employees as follows:

(A) sick leave;

(B) converted sick leave if accrued prior to January 1, 2014;

(C) educational allowances;

(D) holidays; and

(E) annual leave except that annual leave shall be accrued at the maximum rate provided to Schedule B state employees;

(xii) the option to convert accumulated sick leave to cash or insurance benefits as provided by law or rule upon resignation or retirement according to the same criteria and procedures applied to Schedule B state employees;

(xiii) the option to purchase additional life insurance at group insurance rates according to the same criteria and procedures applied to Schedule B state employees; and

(xiv) professional memberships if being a member of the professional organization is a requirement of the position.

(b) Each department shall pay the cost of additional state-paid life insurance for its executive director from its existing budget.

(6) The Legislature fixes the following additional benefits:

(a) for the executive director of the State Tax Commission a vehicle for official and personal use;

(b) for the executive director of the Department of Transportation a vehicle for official and personal use;

(c) for the executive director of the Department of Natural Resources a vehicle for commute and official use;

(d) for the commissioner of Public Safety:

(i) an accidental death insurance policy if POST certified; and

(ii) a public safety vehicle for official and personal use;

(e) for the executive director of the Department of Corrections:

(i) an accidental death insurance policy if POST certified; and

(ii) a public safety vehicle for official and personal use;

(f) for the adjutant general a vehicle for official and personal use; and

(g) for each member of the Board of Pardons and Parole a vehicle for commute and official use.

Section 115. Section 79-2-201 is amended to read:

79-2-201. Department of Natural Resources created.

(1) There is created the Department of Natural Resources.

(2) The department comprises the following:

(a) Board of Water Resources, created in Section 73-10-1.5;

(b) Board of Oil, Gas, and Mining, created in Section 40-6-4;

(c) Board of Parks and Recreation, created in Section 79-4-301;

(d) Wildlife Board, created in Section 23-14-2;

(e) Board of the Utah Geological Survey, created in Section 79-3-301;

(f) Water Development Coordinating Council, created in Section 73-10c-3;

(g) Division of Water Rights, created in Section 73-2-1.1;

(h) Division of Water Resources, created in Section 73-10-18;

(i) Division of Forestry, Fire, and State Lands, created in Section 65A-1-4;

(j) Division of Oil, Gas, and Mining, created in Section 40-6-15;

(k) Division of Parks and Recreation, created in Section 79-4-201;

(l) Division of Wildlife Resources, created in Section 23-14-1;

(m) Utah Geological Survey, created in Section 79-3-201;

(n) Heritage Trees Advisory Committee, created in Section 65A-8-306;

(o) Recreational Trails Advisory Council, authorized by Section 79-5-201;

(p) Boating Advisory Council, authorized by Section 73-18-3.5;

(q) Wildlife Board Nominating Committee, created in Section 23-14-2.5;

(r) Wildlife Regional Advisory Councils, created in Section 23-14-2.6;

(s) Utah Watersheds Council, created in Section 73-10g-304; [~~and~~]

(t) Utah Natural Resources Legacy Fund Board, created in Section 23-31-202[~~.~~]; and

(u) Public Lands Policy Coordinating Office created in Section 63L-11-201.

Section 116. Repealer.

This bill repeals:

Section 63J-4-701, Definitions.

Section 63J-4-702, Employability to Careers Program Board.

Section 63J-4-703, Employability to Careers Program Restricted Account.

Section 63J-4-704, Results-based contracts -- Board duties.

Section 63J-4-705, Employability to Careers Program.

Section 63J-4-706, Feasibility analysis.

Section 63J-4-707, Components of an education, employability training, and workforce placement program.

Section 63J-4-708, Reporting.

Section 117. Intent language.

It is the intent of the Legislature that:

(1) the Division of Finance transfer any money remaining in the Employability to Careers Restricted Account at the end of fiscal year 2021 to the General Fund; and

(2) notwithstanding the effective date of this bill, agencies may take until July 1, 2022 to update the financial and information systems to come into full compliance with the provisions of this bill.

Section 118. Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2021, and ending June 30, 2022. These are additions to the amounts previously appropriated for fiscal year 2022. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 1

To the Public Lands Policy Coordinating Office

From General Fund	($2,685,100)
From General Fund, One-Time	($5,100)
From General Fund Restricted - Constitutional Defense	($1,227,300)
From General Fund Restricted - Constitutional Defense, One-Time	($2,300)
From Beginning Nonlapsing Balances	($2,559,900)
From Closing Nonlapsing Balances	$2,189,900
Schedule of Programs:	
Public Lands Policy Coordinating Office	($4,289,800)

ITEM 2

To the Department of Natural Resources - Public Lands Policy Coordinating Office

From General Fund	$2,685,100
From General Fund, One-Time	$5,100
From General Fund Restricted - Constitutional Defense	$1,227,300
From General Fund Restricted - Constitutional Defense, One-Time	$2,300
From Beginning Nonlapsing Balances	$2,559,900
From Closing Nonlapsing Balances	($2,189,900)
Schedule of Programs:	
Public Lands Policy Coordinating Office	$4,289,800

The Legislature intends that, at the close of fiscal year 2021 accounting, the Division of Finance transfer any fiscal year 2021 closing nonlapsing balances in the Public Lands Policy Coordinating Office to the Department of Natural Resources - Public Lands Policy Coordinating Office, as fiscal year 2022 beginning nonlapsing balances.

Section 119. Effective date.

This bill takes effect on July 1, 2021.

Section 120. Revisor instructions.

The Legislature intends that the Office of Legislative Research and General Counsel, in preparing the Utah Code database for publication, on May 5, 2021, replace "Management and Budget," when referring to the Governor's Office of Management and Budget, with "Planning and Budget" in any new language added to the Utah Code by legislation passed during the 2021 General Session.

Section 121. Coordinating H.B. 368 with H.B. 347 -- Substantive and technical changes.

If this H.B. 368 and H.B. 347, Homeless Services Amendments, both pass and become law, it is the intent of the Legislature that the Office of Legislative Research and General Counsel shall prepare the Utah Code database for publication by amending Subsection 63J-4-202(1)(a) to read:

"(1)(a) The governor shall appoint, to serve at the governor's pleasure:

(i) an executive director of the office; and

(ii) a state homelessness coordinator."..

Section 122. Coordinating H.B. 368 with S.B. 21 -- Substantive and technical changes.

If this H.B. 368 and S.B. 21, Federal Land Application Advisory Committee Sunset Extension, both pass and become law, it is the intent of the Legislature that the Office of Legislative Research and General Counsel shall prepare the Utah Code database for publication by amending Subsection 63I-1-263(22) to read:

"(22) [~~Subsection 63J-4-608(3), which creates the Federal Land Application Advisory Committee, is repealed~~] In relation to the advisory committee created in Subsection 63L-11-305(3), on July 1, [~~2021.~~] 2022:

(a) Subsection 63L-11-305(1)(a), which defines "advisory committee," is repealed; and

(b) Subsection 63L-11-305(3), which creates the advisory committee, is repealed.".

Section 123. Coordinating H.B. 368 with H.B. 313 -- Technical change.

If this H.B. 368 and H.B. 313, Heritage and Arts Amendments, both pass and become law, it is the intent of the Legislature that the Office of Legislative Research and General Counsel shall prepare the Utah Code database for publication by amending Subsection 63L-11-402(1)(c) to read:

"(c) a representative from the Department of [~~Heritage and Arts~~] Cultural and Community Engagement appointed by the executive director of the Department of Cultural and Community Engagement.".

Section 124. Coordinating H.B. 368 with H.B. 346 -- Technical change.

If this H.B. 368 and H.B. 346, Natural Resources Entities Amendments, both pass and become law, it is the intent of the Legislature that the Office of Legislative Research and General Counsel shall prepare the Utah Code database for publication by amending Subsection 63L-11-402(1)(p) to read:

"(p) a representative from the Division of Parks [~~and Recreation~~] appointed by the director of the Division of Parks;

(q) a representative from the Division of Recreation appointed by the director of the Division of Recreation;".

CHAPTER 383
H. B. 388
Passed March 5, 2021
Approved March 22, 2021
Effective May 5, 2021

STATE ENERGY POLICY AMENDMENTS

Chief Sponsor: Carl R. Albrecht
Senate Sponsor: Ronald M. Winterton

LONG TITLE

General Description:
This bill amends the state energy policy.

Highlighted Provisions:
This bill:

- amends the state energy policy to include a policy of developing energy resources with the intent to:
  - promote the development of pumped storage and advanced energy systems including hydrogen;
  - respond to disruptions in state energy resources; and
  - maintain reserves in case of disruptions.

Monies Appropriated in this Bill:
None

Other Special Clauses:
None

Utah Code Sections Affected:

AMENDS:
63M-4-301, as last amended by Laws of Utah 2019, Chapter 415

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63M-4-301 is amended to read:

63M-4-301. State energy policy.

(1) It is the policy of the state that:

(a) Utah shall have adequate, reliable, affordable, sustainable, and clean energy resources;

(b) Utah will promote the development of:

(i) nonrenewable energy resources, including natural gas, coal, oil, oil shale, and oil sands;

(ii) renewable energy resources, including geothermal, solar, wind, biomass, biofuel, and hydroelectric;

(iii) nuclear power generation technologies certified for use by the United States Nuclear Regulatory Commission including molten salt reactors producing medical isotopes;

(iv) alternative transportation fuels and technologies;

(v) infrastructure to facilitate energy development, diversified modes of transportation, greater access to domestic and international markets for Utah's resources, and advanced transmission systems;

(vi) energy storage, pumped storage, and other advanced energy systems, including hydrogen from all sources; [~~and~~]

(vii) electricity systems that can be controlled at the request of grid operators to meet system load demands, to ensure an adequate supply of dispatchable energy generation resources; and

[~~(vii)~~] (viii) increased refinery capacity;

(c) Utah will promote the development of resources and infrastructure sufficient to meet the state's growing demand, while contributing to the regional and national energy supply, thus reducing dependence on international energy sources;

(d) Utah will promote the development of resources, tools, and infrastructure to enhance the state's ability to:

(i) respond effectively to significant disruptions to the state's energy generation, energy delivery systems, or fuel supplies; and

(ii) maintain adequate supply, including reserves of proven and cost-effective dispatchable electricity reserves to meet grid demand;

[~~(d)~~] (e) Utah will allow market forces to drive prudent use of energy resources, although incentives and other methods may be used to ensure the state's optimal development and use of energy resources in the short- and long-term;

[~~(e)~~] (f) Utah will pursue energy conservation, energy efficiency, and environmental quality;

[~~(f)~~] (g) (i) state regulatory processes should be streamlined to balance economic costs with the level of review necessary to ensure protection of the state's various interests; and

(ii) where federal action is required, Utah will encourage expedited federal action and will collaborate with federal agencies to expedite review;

[~~(g)~~] (h) Utah will maintain an environment that provides for stable consumer prices that are as low as possible while providing producers and suppliers a fair return on investment, recognizing that:

(i) economic prosperity is linked to the availability, reliability, and affordability of consumer energy supplies; and

(ii) investment will occur only when adequate financial returns can be realized; and

[~~(h)~~] (i) Utah will promote training and education programs focused on developing a comprehensive understanding of energy, including:

(i) programs addressing:

(A) energy conservation;

(B) energy efficiency;

(C) supply and demand; and

(D) energy related workforce development; and

(ii) energy education programs in grades K-12.

(2) State agencies are encouraged to conduct agency activities consistent with Subsection (1).

(3) A person may not file suit to challenge a state agency's action that is inconsistent with Subsection (1).

CHAPTER 384
H. B. 390
Passed March 4, 2021
Approved March 22, 2021
Effective May 5, 2021

URBAN FARMING AMENDMENTS

Chief Sponsor: Michael L. Kohler
Senate Sponsor: Ronald M. Winterton

LONG TITLE

General Description:
This bill modifies the Urban Farming Assessment Act.

Highlighted Provisions:
This bill:
- modifies the definition of urban farming; and
- makes technical changes.

Monies Appropriated in this Bill:
None

Other Special Clauses:
None

Utah Code Sections Affected:

AMENDS:
59-2-1702, as last amended by Laws of Utah 2019, Chapter 492

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 59-2-1702 is amended to read:

59-2-1702. Definitions.

As used in this part:

(1) "Actively devoted to urban farming" means that:

(a) land is devoted to active urban farming activities; and

(b) the land produces greater than 50% of the average agricultural production per acre:

(i) as determined under Section 59-2-1703; and

(ii) for the given type of land and the given county or area.

(2) "Rollback tax" means the tax imposed under Section 59-2-1705.

[~~(3) (a) Subject to Subsection (3)(b), "urban farming" means cultivating food or other marketable crop:~~]

[~~(i) with a reasonable expectation of profit from the sale of the food or other marketable crop; and~~]

[~~(ii) from irrigated land located in a county that has adopted an ordinance governing urban farming in the county, pursuant to Section 59-2-1714.~~]

[~~(b) "Urban farming" does not include:~~]

[~~(i) cultivating food derived from an animal; or~~]

[~~(ii) grazing.~~]

(3) "Urban farming" means:

(a) cultivating food or other marketable crop or engaging in livestock production, including grazing; and

(b) performing the activity described in Subsection (3)(a) with a reasonable expectation of profit and from irrigated land located in a county that has adopted an ordinance governing urban farming in accordance with Section 59-2-1714.

(4) "Withdrawn from this part" means that land that has been assessed under this part is no longer assessed under this part or eligible for assessment under this part for any reason including that:

(a) an owner voluntarily requests that the land be withdrawn from this part;

(b) the land is no longer actively devoted to urban farming;

(c) (i) the land has a change in ownership; and

(ii) (A) the new owner fails to apply for assessment under this part as required by Section 59-2-1707; or

(B) an owner applies for assessment under this part, as required by Section 59-2-1707, but the land does not meet the requirements of this part to be assessed under this part;

(d) (i) the legal description of the land changes; and

(ii) (A) an owner fails to apply for assessment under this part, as required by Section 59-2-1707; or

(B) an owner applies for assessment under this part, as required by Section 59-2-1707, but the land does not meet the requirements of this part to be assessed under this part;

(e) the owner of the land fails to file an application as provided in Section 59-2-1707; or

(f) except as provided in Section 59-2-1703, the land fails to meet a requirement of Section 59-2-1703.

CHAPTER 385
H. B. 409
Passed March 5, 2021
Approved March 22, 2021
Effective May 5, 2021

MUNICIPAL AND COUNTY LAND USE AND DEVELOPMENT REVISIONS

Chief Sponsor: Steve Waldrip
Senate Sponsor: Daniel McCay

LONG TITLE

General Description:

This bill revises provisions related to municipal and county land use development and management.

Highlighted Provisions:

This bill:

- defines terms;
- establishes certain annual training requirements for a municipal or county planning commission;
- requires a local land use authority to establish objective standards for conditional uses;
- prohibits a municipality or county from imposing certain land use regulations on specified building permit applicants;
- establishes certain requirements governing municipal and county development agreements;
- prohibits a municipality or county from imposing certain requirements related to the installation of pavement for specified infrastructure improvements involving roadways;
- requires a municipality or county to establish by ordinance certain standards for infrastructure improvements involving roadways;
- modifies provisions related to property boundary adjustments, subdivision amendments, and public street vacations;
- prohibits a municipal or county land use appeal authority from hearing an appeal from the enactment of a land use regulation; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

10-9a-103, as last amended by Laws of Utah 2020, Chapter 434
10-9a-302, as last amended by Laws of Utah 2020, Chapter 434
10-9a-507, as last amended by Laws of Utah 2019, Chapter 384
10-9a-509, as last amended by Laws of Utah 2020, Chapter 434
10-9a-523, as enacted by Laws of Utah 2013, Chapter 334
10-9a-524, as enacted by Laws of Utah 2013, Chapter 334
10-9a-529, as enacted by Laws of Utah 2020, Chapter 434
10-9a-601, as last amended by Laws of Utah 2019, Chapter 384
10-9a-608, as last amended by Laws of Utah 2020, Chapter 434
10-9a-609.5, as last amended by Laws of Utah 2020, Chapter 434
10-9a-701, as last amended by Laws of Utah 2020, Chapters 126 and 434
10-9a-801, as last amended by Laws of Utah 2020, Chapter 434
17-27a-103, as last amended by Laws of Utah 2020, Chapter 434
17-27a-302, as last amended by Laws of Utah 2020, Chapter 434
17-27a-506, as last amended by Laws of Utah 2019, Chapter 384
17-27a-508, as last amended by Laws of Utah 2019, Chapter 384 and last amended by Coordination Clause, Laws of Utah 2019, Chapter 384
17-27a-522, as enacted by Laws of Utah 2013, Chapter 334
17-27a-523, as enacted by Laws of Utah 2013, Chapter 334
17-27a-601, as last amended by Laws of Utah 2019, Chapter 384
17-27a-608, as last amended by Laws of Utah 2020, Chapter 434
17-27a-609.5, as last amended by Laws of Utah 2020, Chapter 434
17-27a-701, as last amended by Laws of Utah 2020, Chapter 434
17-27a-801, as last amended by Laws of Utah 2020, Chapter 434
57-1-13, as last amended by Laws of Utah 2019, Chapter 384
57-1-45, as last amended by Laws of Utah 2019, Chapter 384
63I-2-217, as last amended by Laws of Utah 2020, Chapters 47, 114, and 434

ENACTS:

10-9a-530, Utah Code Annotated 1953
10-9a-531, Utah Code Annotated 1953
17-27a-526, Utah Code Annotated 1953
17-27a-527, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 10-9a-103 is amended to read:

10-9a-103. Definitions.

As used in this chapter:

(1) "Accessory dwelling unit" means a habitable living unit added to, created within, or detached from a primary single-family dwelling and contained on one lot.

(2) "Adversely affected party" means a person other than a land use applicant who:

(a) owns real property adjoining the property that is the subject of a land use application or land use decision; or

(b) will suffer a damage different in kind than, or an injury distinct from, that of the general community as a result of the land use decision.

(3) "Affected entity" means a county, municipality, local district, special service district

under Title 17D, Chapter 1, Special Service District Act, school district, interlocal cooperation entity established under Title 11, Chapter 13, Interlocal Cooperation Act, specified public utility, property owner, property owners association, or the Utah Department of Transportation, if:

(a) the entity's services or facilities are likely to require expansion or significant modification because of an intended use of land;

(b) the entity has filed with the municipality a copy of the entity's general or long-range plan; or

(c) the entity has filed with the municipality a request for notice during the same calendar year and before the municipality provides notice to an affected entity in compliance with a requirement imposed under this chapter.

(4) "Affected owner" means the owner of real property that is:

(a) a single project;

(b) the subject of a land use approval that sponsors of a referendum timely challenged in accordance with Subsection 20A-7-601(5)(a); and

(c) determined to be legally referable under Section 20A-7-602.8.

(5) "Appeal authority" means the person, board, commission, agency, or other body designated by ordinance to decide an appeal of a decision of a land use application or a variance.

(6) "Billboard" means a freestanding ground sign located on industrial, commercial, or residential property if the sign is designed or intended to direct attention to a business, product, or service that is not sold, offered, or existing on the property where the sign is located.

(7) (a) "Charter school" means:

(i) an operating charter school;

(ii) a charter school applicant that [~~has its application approved by~~] a charter school authorizer approves in accordance with Title 53G, Chapter 5, Part 3, Charter School Authorization; or

(iii) an entity that is working on behalf of a charter school or approved charter applicant to develop or construct a charter school building.

(b) "Charter school" does not include a therapeutic school.

(8) "Conditional use" means a land use that, because of [~~its~~] the unique characteristics or potential impact of the land use on the municipality, surrounding neighbors, or adjacent land uses, may not be compatible in some areas or may be compatible only if certain conditions are required that mitigate or eliminate the detrimental impacts.

(9) "Constitutional taking" means a governmental action that results in a taking of private property so that compensation to the owner of the property is required by the:

(a) Fifth or Fourteenth Amendment of the Constitution of the United States; or

(b) Utah Constitution Article I, Section 22.

(10) "Culinary water authority" means the department, agency, or public entity with responsibility to review and approve the feasibility of the culinary water system and sources for the subject property.

(11) "Development activity" means:

(a) any construction or expansion of a building, structure, or use that creates additional demand and need for public facilities;

(b) any change in use of a building or structure that creates additional demand and need for public facilities; or

(c) any change in the use of land that creates additional demand and need for public facilities.

(12) (a) "Development agreement" means a written agreement or amendment to a written agreement between a municipality and one or more parties that regulates or controls the use or development of a specific area of land.

(b) "Development agreement" does not include an improvement completion assurance.

[~~(12)~~] (13) (a) "Disability" means a physical or mental impairment that substantially limits one or more of a person's major life activities, including a person having a record of such an impairment or being regarded as having such an impairment.

(b) "Disability" does not include current illegal use of, or addiction to, any federally controlled substance, as defined in Section 102 of the Controlled Substances Act, 21 U.S.C. 802.

[~~(13)~~] (14) "Educational facility":

(a) means:

(i) a school district's building at which pupils assemble to receive instruction in a program for any combination of grades from preschool through grade 12, including kindergarten and a program for children with disabilities;

(ii) a structure or facility:

(A) located on the same property as a building described in Subsection [~~(13)~~] (14)(a)(i); and

(B) used in support of the use of that building; and

(iii) a building to provide office and related space to a school district's administrative personnel; and

(b) does not include:

(i) land or a structure, including land or a structure for inventory storage, equipment storage, food processing or preparing, vehicle storage or maintenance, or similar use that is:

(A) not located on the same property as a building described in Subsection [~~(13)~~] (14)(a)(i); and

(B) used in support of the purposes of a building described in Subsection [~~(13)~~] (14)(a)(i); or

(ii) a therapeutic school.

[~~(14)~~] (15) "Fire authority" means the department, agency, or public entity with responsibility to review and approve the feasibility of fire protection and suppression services for the subject property.

[~~(15)~~] (16) "Flood plain" means land that:

(a) is within the 100-year flood plain designated by the Federal Emergency Management Agency; or

(b) has not been studied or designated by the Federal Emergency Management Agency but presents a likelihood of experiencing chronic flooding or a catastrophic flood event because the land has characteristics that are similar to those of a 100-year flood plain designated by the Federal Emergency Management Agency.

[~~(16)~~] (17) "General plan" means a document that a municipality adopts that sets forth general guidelines for proposed future development of the land within the municipality.

[~~(17)~~] (18) "Geologic hazard" means:

(a) a surface fault rupture;

(b) shallow groundwater;

(c) liquefaction;

(d) a landslide;

(e) a debris flow;

(f) unstable soil;

(g) a rock fall; or

(h) any other geologic condition that presents a risk:

(i) to life;

(ii) of substantial loss of real property; or

(iii) of substantial damage to real property.

[~~(18)~~] (19) "Historic preservation authority" means a person, board, commission, or other body designated by a legislative body to:

(a) recommend land use regulations to preserve local historic districts or areas; and

(b) administer local historic preservation land use regulations within a local historic district or area.

[~~(19)~~] (20) "Hookup fee" means a fee for the installation and inspection of any pipe, line, meter, or appurtenance that connects to a municipal water, sewer, storm water, power, or other utility system.

[~~(20)~~] (21) "Identical plans" means building plans submitted to a municipality that:

(a) are clearly marked as "identical plans";

(b) are substantially identical to building plans that were previously submitted to and reviewed and approved by the municipality; and

(c) describe a building that:

(i) is located on land zoned the same as the land on which the building described in the previously approved plans is located;

(ii) is subject to the same geological and meteorological conditions and the same law as the building described in the previously approved plans;

(iii) has a floor plan identical to the building plan previously submitted to and reviewed and approved by the municipality; and

(iv) does not require any additional engineering or analysis.

[~~(21)~~] (22) "Impact fee" means a payment of money imposed under Title 11, Chapter 36a, Impact Fees Act.

[~~(22)~~] (23) "Improvement completion assurance" means a surety bond, letter of credit, financial institution bond, cash, assignment of rights, lien, or other equivalent security required by a municipality to guaranty the proper completion of landscaping or an infrastructure improvement required as a condition precedent to:

(a) recording a subdivision plat; or

(b) development of a commercial, industrial, mixed use, or multifamily project.

[~~(23)~~] (24) "Improvement warranty" means an applicant's unconditional warranty that the applicant's installed and accepted landscaping or infrastructure improvement:

(a) complies with the municipality's written standards for design, materials, and workmanship; and

(b) will not fail in any material respect, as a result of poor workmanship or materials, within the improvement warranty period.

[~~(24)~~] (25) "Improvement warranty period" means a period:

(a) no later than one year after a municipality's acceptance of required landscaping; or

(b) no later than one year after a municipality's acceptance of required infrastructure, unless the municipality:

(i) determines for good cause that a one-year period would be inadequate to protect the public health, safety, and welfare; and

(ii) has substantial evidence, on record:

(A) of prior poor performance by the applicant; or

(B) that the area upon which the infrastructure will be constructed contains suspect soil and the municipality has not otherwise required the applicant to mitigate the suspect soil.

[~~(25)~~] (26) "Infrastructure improvement" means permanent infrastructure that is essential for the public health and safety or that:(a) is required for human occupation; and

(b) an applicant must install:

(i) in accordance with published installation and inspection specifications for public improvements; and

(ii) whether the improvement is public or private, as a condition of:

(A) recording a subdivision plat;

(B) obtaining a building permit; or

(C) development of a commercial, industrial, mixed use, condominium, or multifamily project.

[~~(26)~~] (27) "Internal lot restriction" means a platted note, platted demarcation, or platted designation that:

(a) runs with the land; and

(b) (i) creates a restriction that is enclosed within the perimeter of a lot described on the plat; or

(ii) designates a development condition that is enclosed within the perimeter of a lot described on the plat.

[~~(27)~~] (28) "Land use applicant" means a property owner, or the property owner's designee, who submits a land use application regarding the property owner's land.

[~~(28)~~] (29) "Land use application":

(a) means an application that is:

(i) required by a municipality; and

(ii) submitted by a land use applicant to obtain a land use decision; and

(b) does not mean an application to enact, amend, or repeal a land use regulation.

[~~(29)~~] (30) "Land use authority" means:

(a) a person, board, commission, agency, or body, including the local legislative body, designated by the local legislative body to act upon a land use application; or

(b) if the local legislative body has not designated a person, board, commission, agency, or body, the local legislative body.

[~~(30)~~] (31) "Land use decision" means an administrative decision of a land use authority or appeal authority regarding:

(a) a land use permit;

(b) a land use application; or

(c) the enforcement of a land use regulation, land use permit, or development agreement.

[~~(31)~~] (32) "Land use permit" means a permit issued by a land use authority.

[~~(32)~~] (33) "Land use regulation":

(a) means a legislative decision enacted by ordinance, law, code, map, resolution, specification, fee, or rule that governs the use or development of land;

(b) includes the adoption or amendment of a zoning map or the text of the zoning code; and

(c) does not include:

(i) a land use decision of the legislative body acting as the land use authority, even if the decision is expressed in a resolution or ordinance; or

(ii) a temporary revision to an engineering specification that does not materially:

(A) increase a land use applicant's cost of development compared to the existing specification; or

(B) impact a land use applicant's use of land.

[~~(33)~~] (34) "Legislative body" means the municipal council.

[~~(34)~~] (35) "Local district" means an entity under Title 17B, Limited Purpose Local Government Entities - Local Districts, and any other governmental or quasi-governmental entity that is not a county, municipality, school district, or the state.

[~~(35)~~] (36) "Local historic district or area" means a geographically definable area that:

(a) contains any combination of buildings, structures, sites, objects, landscape features, archeological sites, or works of art that contribute to the historic preservation goals of a legislative body; and

(b) is subject to land use regulations to preserve the historic significance of the local historic district or area.

[~~(36)~~] (37) "Lot" means a tract of land, regardless of any label, that is created by and shown on a subdivision plat that has been recorded in the office of the county recorder.

[~~(37)~~] (38) (a) "Lot line adjustment" means a relocation of a lot line boundary between adjoining lots or between a lot and adjoining parcels[~~,~~] in accordance with Section 10-9a-608:

(i) whether or not the lots are located in the same subdivision[~~, in accordance with Section 10-9a-608,~~]; and

(ii) with the consent of the owners of record.

(b) "Lot line adjustment" does not mean a new boundary line that:

(i) creates an additional lot; or

(ii) constitutes a subdivision.

(c) "Lot line adjustment" does not include a boundary line adjustment made by the Department of Transportation.

[~~(38)~~] (39) "Major transit investment corridor" means public transit service that uses or occupies:

(a) public transit rail right-of-way;

(b) dedicated road right-of-way for the use of public transit, such as bus rapid transit; or

(c) fixed-route bus corridors subject to an interlocal agreement or contract between a municipality or county and:

(i) a public transit district as defined in Section 17B-2a-802; or

(ii) an eligible political subdivision as defined in Section 59-12-2219.

[~~(39)~~] (40) "Moderate income housing" means housing occupied or reserved for occupancy by households with a gross household income equal to or less than 80% of the median gross income for households of the same size in the county in which the city is located.

[~~(40)~~] (41) "Municipal utility easement" means an easement that:

(a) is created or depicted on a plat recorded in a county recorder's office and is described as a municipal utility easement granted for public use;

(b) is not a protected utility easement or a public utility easement as defined in Section 54-3-27;

(c) the municipality or the municipality's affiliated governmental entity uses and occupies to provide a utility service, including sanitary sewer, culinary water, electrical, storm water, or communications or data lines;

(d) is used or occupied with the consent of the municipality in accordance with an authorized franchise or other agreement;

(e) (i) is used or occupied by a specified public utility in accordance with an authorized franchise or other agreement; and

(ii) is located in a utility easement granted for public use; or

(f) is described in Section 10-9a-529 and is used by a specified public utility.

[~~(41)~~] (42) "Nominal fee" means a fee that reasonably reimburses a municipality only for time spent and expenses incurred in:

(a) verifying that building plans are identical plans; and

(b) reviewing and approving those minor aspects of identical plans that differ from the previously reviewed and approved building plans.

[~~(42)~~] (43) "Noncomplying structure" means a structure that:

(a) legally existed before [~~its~~] the structure's current land use designation; and

(b) because of one or more subsequent land use ordinance changes, does not conform to the setback, height restrictions, or other regulations, excluding those regulations, which govern the use of land.

[~~(43)~~] (44) "Nonconforming use" means a use of land that:

(a) legally existed before its current land use designation;

(b) has been maintained continuously since the time the land use ordinance governing the land changed; and

(c) because of one or more subsequent land use ordinance changes, does not conform to the regulations that now govern the use of the land.

[~~(44)~~] (45) "Official map" means a map drawn by municipal authorities and recorded in a county recorder's office that:

(a) shows actual and proposed rights-of-way, centerline alignments, and setbacks for highways and other transportation facilities;

(b) provides a basis for restricting development in designated rights-of-way or between designated setbacks to allow the government authorities time to purchase or otherwise reserve the land; and

(c) has been adopted as an element of the municipality's general plan.

[~~(45)~~] (46) "Parcel" means any real property that is not a lot [~~created by and shown on a subdivision plat recorded in the office of the county recorder~~].

[~~(46)~~] (47) (a) "Parcel boundary adjustment" means a recorded agreement between owners of adjoining parcels adjusting the mutual boundary, either by deed or by a boundary line agreement in accordance with Section [~~57-1-45~~] 10-9a-524, if no additional parcel is created and:

(i) none of the property identified in the agreement is [~~subdivided land~~] a lot; or

(ii) the adjustment is to the boundaries of a single person's parcels.

(b) "Parcel boundary adjustment" does not mean an adjustment of a parcel boundary line that:

(i) creates an additional parcel; or

(ii) constitutes a subdivision.

(c) "Parcel boundary adjustment" does not include a boundary line adjustment made by the Department of Transportation.

[~~(47)~~] (48) "Person" means an individual, corporation, partnership, organization, association, trust, governmental agency, or any other legal entity.

[~~(48)~~] (49) "Plan for moderate income housing" means a written document adopted by a municipality's legislative body that includes:

(a) an estimate of the existing supply of moderate income housing located within the municipality;

(b) an estimate of the need for moderate income housing in the municipality for the next five years;

(c) a survey of total residential land use;

(d) an evaluation of how existing land uses and zones affect opportunities for moderate income housing; and

(e) a description of the municipality's program to encourage an adequate supply of moderate income housing.

[~~(49)~~] (50) "Plat" means an instrument subdividing property into lots as depicted on a map or other graphical representation of lands that a

licensed professional land surveyor makes and prepares in accordance with Section 10-9a-603 or 57-8-13.

[~~(50)~~] (51) "Potential geologic hazard area" means an area that:

(a) is designated by a Utah Geological Survey map, county geologist map, or other relevant map or report as needing further study to determine the area's potential for geologic hazard; or

(b) has not been studied by the Utah Geological Survey or a county geologist but presents the potential of geologic hazard because the area has characteristics similar to those of a designated geologic hazard area.

[~~(51)~~] (52) "Public agency" means:

(a) the federal government;

(b) the state;

(c) a county, municipality, school district, local district, special service district, or other political subdivision of the state; or

(d) a charter school.

[~~(52)~~] (53) "Public hearing" means a hearing at which members of the public are provided a reasonable opportunity to comment on the subject of the hearing.

[~~(53)~~] (54) "Public meeting" means a meeting that is required to be open to the public under Title 52, Chapter 4, Open and Public Meetings Act.

[~~(54)~~] (55) "Public street" means a public right-of-way, including a public highway, public avenue, public boulevard, public parkway, public road, public lane, public alley, public viaduct, public subway, public tunnel, public bridge, public byway, other public transportation easement, or other public way.

[~~(55)~~] (56) "Receiving zone" means an area of a municipality that the municipality designates, by ordinance, as an area in which an owner of land may receive a transferable development right.

[~~(56)~~] (57) "Record of survey map" means a map of a survey of land prepared in accordance with Section 10-9a-603, 17-23-17, 17-27a-603, or 57-8-13.

[~~(57)~~] (58) "Residential facility for persons with a disability" means a residence:

(a) in which more than one person with a disability resides; and

(b) (i) which is licensed or certified by the Department of Human Services under Title 62A, Chapter 2, Licensure of Programs and Facilities; or

(ii) which is licensed or certified by the Department of Health under Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act.

[~~(58)~~] (59) "Rules of order and procedure" means a set of rules that govern and prescribe in a public meeting:

(a) parliamentary order and procedure;

(b) ethical behavior; and

(c) civil discourse.

[~~(59)~~] (60) "Sanitary sewer authority" means the department, agency, or public entity with responsibility to review and approve the feasibility of sanitary sewer services or onsite wastewater systems.

[~~(60)~~] (61) "Sending zone" means an area of a municipality that the municipality designates, by ordinance, as an area from which an owner of land may transfer a transferable development right.

[~~(61)~~] (62) "Specified public agency" means:

(a) the state;

(b) a school district; or

(c) a charter school.

[~~(62)~~] (63) "Specified public utility" means an electrical corporation, gas corporation, or telephone corporation, as those terms are defined in Section 54-2-1.

[~~(63)~~] (64) "State" includes any department, division, or agency of the state.

[~~(64) "Subdivided land" means the land, tract, or lot described in a recorded subdivision plat.~~]

(65) (a) "Subdivision" means any land that is divided, resubdivided, or proposed to be divided into two or more lots or other division of land for the purpose, whether immediate or future, for offer, sale, lease, or development either on the installment plan or upon any and all other plans, terms, and conditions.

(b) "Subdivision" includes:

(i) the division or development of land, whether by deed, metes and bounds description, devise and testacy, map, plat, or other recorded instrument, regardless of whether the division includes all or a portion of a parcel or lot; and

(ii) except as provided in Subsection (65)(c), divisions of land for residential and nonresidential uses, including land used or to be used for commercial, agricultural, and industrial purposes.

(c) "Subdivision" does not include:

(i) a bona fide division or partition of agricultural land for the purpose of joining one of the resulting separate parcels to a contiguous parcel of unsubdivided agricultural land, if neither the resulting combined parcel nor the parcel remaining from the division or partition violates an applicable land use ordinance;

(ii) [~~an~~] a boundary line agreement recorded with the county recorder's office between owners of adjoining [~~unsubdivided properties~~] parcels adjusting the mutual boundary [~~by a boundary line agreement~~] in accordance with Section [~~57-1-45 if:~~] 10-9a-524 if no new parcel is created;

[~~(A) no new lot is created; and~~]

[~~(B) the adjustment does not violate applicable land use ordinances;~~]

(iii) a recorded document, executed by the owner of record:

(A) revising the legal [~~description of more than one contiguous parcel of property that is not subdivided land~~] descriptions of multiple parcels into one legal description encompassing all such parcels [~~of property~~]; or

(B) joining a [~~subdivided parcel of property to another parcel of property that has not been subdivided, if the joinder does not violate applicable land use ordinances~~] lot to a parcel;

(iv) [~~an~~] a boundary line agreement between owners of adjoining subdivided properties adjusting the mutual lot line boundary in accordance with [~~Section 10-9a-603~~] Sections 10-9a-524 and 10-9a-608 if:

(A) no new dwelling lot or housing unit will result from the adjustment; and

(B) the adjustment will not violate any applicable land use ordinance;

(v) a bona fide division [~~or partition~~] of land by deed or other instrument [~~where the land use authority expressly approves~~] if the deed or other instrument states in writing that the division:

(A) [~~in writing the division~~] is in anticipation of [~~further~~] future land use approvals on the parcel or parcels;

(B) does not confer any land use approvals; and

(C) has not been approved by the land use authority;

(vi) a parcel boundary adjustment;

(vii) a lot line adjustment;

(viii) a road, street, or highway dedication plat; [~~or~~]

(ix) a deed or easement for a road, street, or highway purpose[~~.~~]; or

(x) any other division of land authorized by law.

[~~(d) The joining of a subdivided parcel of property to another parcel of property that has not been subdivided does not constitute a subdivision under this Subsection (65) as to the unsubdivided parcel of property or subject the unsubdivided parcel to the municipality's subdivision ordinance.~~]

(66) "Subdivision amendment" means an amendment to a recorded subdivision in accordance with Section 10-9a-608 that:

(a) vacates all or a portion of the subdivision;

(b) alters the outside boundary of the subdivision;

(c) changes the number of lots within the subdivision;

(d) alters a public right-of-way, a public easement, or public infrastructure within the subdivision; or

(e) alters a common area or other common amenity within the subdivision.

(67) "Substantial evidence" means evidence that:

(a) is beyond a scintilla; and

(b) a reasonable mind would accept as adequate to support a conclusion.

[~~(67)~~] (68) "Suspect soil" means soil that has:

(a) a high susceptibility for volumetric change, typically clay rich, having more than a 3% swell potential;

(b) bedrock units with high shrink or swell susceptibility; or

(c) gypsiferous silt and clay, gypsum, or bedrock units containing abundant gypsum commonly associated with dissolution and collapse features.

[~~(68)~~] (69) "Therapeutic school" means a residential group living facility:

(a) for four or more individuals who are not related to:

(i) the owner of the facility; or

(ii) the primary service provider of the facility;

(b) that serves students who have a history of failing to function:

(i) at home;

(ii) in a public school; or

(iii) in a nonresidential private school; and

(c) that offers:

(i) room and board; and

(ii) an academic education integrated with:

(A) specialized structure and supervision; or

(B) services or treatment related to a disability, an emotional development, a behavioral development, a familial development, or a social development.

[~~(69)~~] (70) "Transferable development right" means a right to develop and use land that originates by an ordinance that authorizes a land owner in a designated sending zone to transfer land use rights from a designated sending zone to a designated receiving zone.

[~~(70)~~] (71) "Unincorporated" means the area outside of the incorporated area of a city or town.

[~~(71)~~] (72) "Water interest" means any right to the beneficial use of water, including:

(a) each of the rights listed in Section 73-1-11; and

(b) an ownership interest in the right to the beneficial use of water represented by:

(i) a contract; or

(ii) a share in a water company, as defined in Section 73-3-3.5.

[~~(72)~~] (73) "Zoning map" means a map, adopted as part of a land use ordinance, that depicts land use zones, overlays, or districts.

Section 2. Section 10-9a-302 is amended to read:

10-9a-302. Planning commission powers and duties -- Training requirements.

(1) The planning commission shall review and make a recommendation to the legislative body for:

(a) a general plan and amendments to the general plan;

(b) land use regulations, including:

(i) ordinances regarding the subdivision of land within the municipality; and

(ii) amendments to existing land use regulations;

(c) an appropriate delegation of power to at least one designated land use authority to hear and act on a land use application;

(d) an appropriate delegation of power to at least one appeal authority to hear and act on an appeal from a decision of the land use authority; and

(e) application processes that:

(i) may include a designation of routine land use matters that, upon application and proper notice, will receive informal streamlined review and action if the application is uncontested; and

(ii) shall protect the right of each:

(A) land use applicant and adversely affected party to require formal consideration of any application by a land use authority;

(B) land use applicant or adversely affected party to appeal a land use authority's decision to a separate appeal authority; and

(C) participant to be heard in each public hearing on a contested application.

(2) Before making a recommendation to a legislative body on an item described in Subsection (1)(a) or (b), the planning commission shall hold a public hearing in accordance with Section 10-9a-404.

(3) A legislative body may adopt, modify, or reject a planning commission's recommendation to the legislative body under this section.

(4) A legislative body may consider a planning commission's failure to make a timely recommendation as a negative recommendation.

(5) Nothing in this section limits the right of a municipality to initiate or propose the actions described in this section.

(6) (a) (i) This Subsection (6) applies to:

(A) a city of the first, second, third, or fourth class;

(B) a city of the fifth class with a population of 5,000 or more, if the city is located within a county of the first, second, or third class; and

(C) a metro township with a population of 5,000 or more.

(ii) The population figures described in Subsection (6)(a)(i) shall be derived from:

(A) the most recent official census or census estimate of the United States Census Bureau; or

(B) if a population figure is not available under Subsection (6)(a)(ii)(A), an estimate of the Utah Population Committee.

(b) A municipality described in Subsection (6)(a)(i) shall ensure that each member of the municipality's planning commission completes four hours of annual land use training as follows:

(i) one hour of annual training on general powers and duties under Title 10, Chapter 9a, Municipal Land Use, Development, and Management Act; and

(ii) three hours of annual training on land use, which may include:

(A) appeals and variances;

(B) conditional use permits;

(C) exactions;

(D) impact fees;

(E) vested rights;

(F) subdivision regulations and improvement guarantees;

(G) land use referenda;

(H) property rights;

(I) real estate procedures and financing;

(J) zoning, including use-based and form-based; and

(K) drafting ordinances and code that complies with statute.

(c) A newly appointed planning commission member may not participate in a public meeting as an appointed member until the member completes the training described in Subsection (6)(b)(i).

(d) A planning commission member may qualify for one completed hour of training required under Subsection (6)(b)(ii) if the member attends, as an appointed member, 12 public meetings of the planning commission within a calendar year.

(e) A municipality shall provide the training described in Subsection (6)(b) through:

(i) municipal staff;

(ii) the Utah League of Cities and Towns; or

(iii) a list of training courses selected by:

(A) the Utah League of Cities and Towns; or

(B) the Division of Real Estate created in Section 61-2-201.

(f) A municipality shall, for each planning commission member:

(i) monitor compliance with the training requirements in Subsection (6)(b); and

(ii) maintain a record of training completion at the end of each calendar year.

Section 3. Section 10-9a-507 is amended to read:

10-9a-507. Conditional uses.

(1) (a) A municipality may adopt a land use ordinance that includes conditional uses and provisions for conditional uses that require compliance with objective standards set forth in an applicable ordinance.

(b) A municipality may not impose a requirement or standard on a conditional use that conflicts with a provision of this chapter or other state or federal law.

(2) (a) (i) A land use authority shall approve a conditional use if reasonable conditions are proposed, or can be imposed, to mitigate the reasonably anticipated detrimental effects of the proposed use in accordance with applicable standards.

(ii) The requirement described in Subsection (2)(a)(i) to reasonably mitigate anticipated detrimental effects of the proposed conditional use does not require elimination of the detrimental effects.

(b) If a land use authority proposes reasonable conditions on a proposed conditional use, the land use authority shall ensure that the conditions are stated on the record and reasonably relate to mitigating the anticipated detrimental effects of the proposed use.

(c) If the reasonably anticipated detrimental effects of a proposed conditional use cannot be substantially mitigated by the proposal or the imposition of reasonable conditions to achieve compliance with applicable standards, the land use authority may deny the conditional use.

(3) A land use authority's decision to approve or deny conditional use is an administrative land use decision.

(4) A legislative body shall classify any use that a land use regulation allows in a zoning district as either a permitted or conditional use under this chapter.

Section 4. Section 10-9a-509 is amended to read:

10-9a-509. Applicant's entitlement to land use application approval -- Municipality's requirements and limitations -- Vesting upon submission of development plan and schedule.

(1) (a) (i) An applicant who has submitted a complete land use application as described in Subsection (1)(c), including the payment of all application fees, is entitled to substantive review of the application under the land use regulations:

(A) in effect on the date that the application is complete; and

(B) applicable to the application or to the information shown on the application.

(ii) An applicant is entitled to approval of a land use application if the application conforms to the requirements of the applicable land use regulations, land use decisions, and development standards in effect when the applicant submits a complete application and pays application fees, unless:

(A) the land use authority, on the record, formally finds that a compelling, countervailing public interest would be jeopardized by approving the application and specifies the compelling, countervailing public interest in writing; or

(B) in the manner provided by local ordinance and before the applicant submits the application, the municipality formally initiates proceedings to amend the municipality's land use regulations in a manner that would prohibit approval of the application as submitted.

(b) The municipality shall process an application without regard to proceedings the municipality initiated to amend the municipality's ordinances as described in Subsection (1)(a)(ii)(B) if:

(i) 180 days have passed since the municipality initiated the proceedings; and

(ii) the proceedings have not resulted in an enactment that prohibits approval of the application as submitted.

(c) A land use application is considered submitted and complete when the applicant provides the application in a form that complies with the requirements of applicable ordinances and pays all applicable fees.

(d) A subsequent incorporation of a municipality or a petition that proposes the incorporation of a municipality does not affect a land use application approved by a county in accordance with Section 17-27a-508.

(e) The continuing validity of an approval of a land use application is conditioned upon the applicant proceeding after approval to implement the approval with reasonable diligence.

(f) A municipality may not impose on an applicant who has submitted a complete application a requirement that is not expressed in:

(i) this chapter;

(ii) a municipal ordinance; or

(iii) a municipal specification for public improvements applicable to a subdivision or development that is in effect on the date that the applicant submits an application.

(g) A municipality may not impose on a holder of an issued land use permit or a final, unexpired subdivision plat a requirement that is not expressed:

(i) in a land use permit;

(ii) on the subdivision plat;

(iii) in a document on which the land use permit or subdivision plat is based;

(iv) in the written record evidencing approval of the land use permit or subdivision plat;

(v) in this chapter; or

(vi) in a municipal ordinance.

(h) Except as provided in Subsection (1)(i), a municipality may not withhold issuance of a certificate of occupancy or acceptance of subdivision improvements because of an applicant's failure to comply with a requirement that is not expressed:

(i) in the building permit or subdivision plat, documents on which the building permit or subdivision plat is based, or the written record evidencing approval of the land use permit or subdivision plat; or

(ii) in this chapter or the municipality's ordinances.

(i) A municipality may not unreasonably withhold issuance of a certificate of occupancy where an applicant has met all requirements essential for the public health, public safety, and general welfare of the occupants, in accordance with this chapter, unless:

(i) the applicant and the municipality have agreed in a written document to the withholding of a certificate of occupancy; or

(ii) the applicant has not provided a financial assurance for required and uncompleted landscaping or infrastructure improvements in accordance with an applicable ordinance that the legislative body adopts under this chapter.

(2) A municipality is bound by the terms and standards of applicable land use regulations and shall comply with mandatory provisions of those regulations.

(3) A municipality may not, as a condition of land use application approval, require a person filing a land use application to obtain documentation regarding a school district's willingness, capacity, or ability to serve the development proposed in the land use application.

(4) (a) Except as provided in Subsection (4)(b), for a period of 10 years after the day on which a subdivision plat is recorded, a municipality may not impose on a building permit applicant for a single-family dwelling located within the subdivision any land use regulation that is enacted within 10 years after the day on which the subdivision plat is recorded.

(b) Subsection (4)(a) does not apply to any changes in the requirements of the applicable building code, health code, or fire code, or other similar regulations.

[~~(4)~~] (5) Upon a specified public agency's submission of a development plan and schedule as required in Subsection 10-9a-305(8) that complies with the requirements of that subsection, the specified public agency vests in the municipality's applicable land use maps, zoning map, hookup fees, impact fees, other applicable development fees, and land use regulations in effect on the date of submission.

[~~(5)~~] (6) (a) If sponsors of a referendum timely challenge a project in accordance with Subsection 20A-7-601(5)(a), the project's affected owner may rescind the project's land use approval by delivering a written notice:

(i) to the local clerk as defined in Section 20A-7-101; and

(ii) no later than seven days after the day on which a petition for a referendum is determined sufficient under Section 20A-7-607(5).

(b) Upon delivery of a written notice described in Subsection [~~(5)~~] (6)(a) the following are rescinded and are of no further force or effect:

(i) the relevant land use approval; and

(ii) any land use regulation enacted specifically in relation to the land use approval.

Section 5. Section 10-9a-523 is amended to read:

10-9a-523. Property boundary adjustment.

[~~(1) A property owner:~~]

[~~(a) may execute a parcel boundary adjustment by quitclaim deed or by a boundary line agreement as described in Section 57-1-45; and~~]

[~~(b) shall record the quitclaim deed or boundary line agreement in the office of the county recorder.~~]

[~~(2) A parcel boundary adjustment is not subject to the review of a land use authority.~~]

(1) To make a parcel boundary adjustment, a property owner shall:

(a) execute a boundary adjustment through:

(i) a quitclaim deed; or

(ii) a boundary line agreement under Section 10-9a-524; and

(b) record the quitclaim deed or boundary line agreement described in Subsection (1)(a) in the office of the county recorder of the county in which each property is located.

(2) To make a lot line adjustment, a property owner shall:

(a) obtain approval of the boundary adjustment under Section 10-9a-608;

(b) execute a boundary adjustment through:

(i) a quitclaim deed; or

(ii) a boundary line agreement under Section 10-9a-524; and

(c) record the quitclaim deed or boundary line agreement described in Subsection (2)(b) in the office of the county recorder of the county in which each property is located.

(3) A parcel boundary adjustment under Subsection (1) is not subject to review of a land use authority unless:

(a) the parcel includes a dwelling; and

(b) the land use authority's approval is required under Subsection 10-9a-524(5).

(4) The recording of a boundary line agreement or other document used to adjust a mutual boundary line that is not subject to review of a land use authority:

(a) does not constitute a land use approval; and

(b) does not affect the validity of the boundary line agreement or other document used to adjust a mutual boundary line.

(5) A municipality may withhold approval of a land use application for property that is subject to a recorded boundary line agreement or other document used to adjust a mutual boundary line if the municipality determines that the lots or parcels, as adjusted by the boundary line agreement or other document used to adjust the mutual boundary line, are not in compliance with the municipality's land use regulations in effect on the day on which the boundary line agreement or other document used to adjust the mutual boundary line is recorded.

Section 6. Section 10-9a-524 is amended to read:

10-9a-524. Boundary line agreement.

[~~(1) As used in this section, "boundary line agreement" is an agreement described in Section 57-1-45.~~]

[~~(2) A property owner:~~]

[~~(a) may execute a boundary line agreement; and~~]

[~~(b) shall record a boundary line agreement in the office of the county recorder.~~]

[~~(3) A boundary line agreement is not subject to the review of a land use authority.~~]

(1) If properly executed and acknowledged as required by law, an agreement between owners of adjoining property that designates the boundary line between the adjoining properties acts, upon recording in the office of the recorder of the county in which each property is located, as a quitclaim deed to convey all of each party's right, title, interest, and estate in property outside the agreed boundary line that had been the subject of the boundary line agreement or dispute that led to the boundary line agreement.

(2) Adjoining property owners executing a boundary line agreement described in Subsection (1) shall:

(a) ensure that the agreement includes:

(i) a legal description of the agreed upon boundary line and of each parcel or lot after the boundary line is changed;

(ii) the name and signature of each grantor that is party to the agreement;

(iii) a sufficient acknowledgment for each grantor's signature;

(iv) the address of each grantee for assessment purposes;

(v) a legal description of the parcel or lot each grantor owns before the boundary line is changed; and

(vi) the date of the agreement if the date is not included in the acknowledgment in a form substantially similar to a quitclaim deed as described in Section 57-1-13;

(b) if any of the property subject to the boundary line agreement is a lot, prepare an amended plat in accordance with Section 10-9a-608 before executing the boundary line agreement; and

(c) if none of the property subject to the boundary line agreement is a lot, ensure that the boundary line agreement includes a statement citing the file number of a record of a survey map in accordance with Section 17-23-17, unless the statement is exempted by the municipality.

(3) A boundary line agreement described in Subsection (1) that complies with Subsection (2) presumptively:

(a) has no detrimental effect on any easement on the property that is recorded before the day on which the agreement is executed unless the owner of the property benefitting from the easement specifically modifies the easement within the boundary line agreement or a separate recorded easement modification or relinquishment document; and

(b) relocates the parties' common boundary line for an exchange of consideration.

(4) Notwithstanding Part 6, Subdivisions, or a municipality's ordinances or policies, a boundary line agreement that only affects parcels is not subject to:

(a) any public notice, public hearing, or preliminary platting requirement;

(b) the review of a land use authority; or

(c) an engineering review or approval of the municipality, except as provided in Subsection (5).

(5) (a) If a parcel that is the subject of a boundary line agreement contains a dwelling unit, the municipality may require a review of the boundary line agreement if the municipality:

(i) adopts an ordinance that:

(A) requires review and approval for a boundary line agreement containing a dwelling unit; and

(B) includes specific criteria for approval; and

(ii) completes the review within 14 days after the day on which the property owner submits the boundary line agreement for review.

(b) (i) If a municipality, upon a review under Subsection (5)(a), determines that the boundary line agreement is deficient or if the municipality requires additional information to approve the boundary line agreement, the municipality shall send, within the time period described in Subsection (5)(a)(ii), written notice to the property owner that:

(A) describes the specific deficiency or additional information that the municipality requires to approve the boundary line agreement; and

(B) states that the municipality shall approve the boundary line agreement upon the property owner's correction of the deficiency or submission of the additional information described in Subsection (5)(b)(i)(A).

(ii) If a municipality, upon a review under Subsection (5)(a), approves the boundary line agreement, the municipality shall send written notice of the boundary line agreement's approval to the property owner within the time period described in Subsection (5)(a)(ii).

(c) If a municipality fails to send a written notice under Subsection (5)(b) within the time period described in Subsection (5)(a)(ii), the property owner may record the boundary line agreement as if no review under this Subsection (5) was required.

Section 7. Section 10-9a-529 is amended to read:

10-9a-529. Specified public utility located in a municipal utility easement.

A specified public utility may exercise each power of a public utility under Section 54-3-27 if the specified public utility uses an easement:

(1) with the consent of a municipality; and

(2) that is located within a municipal utility easement described in [~~Subsection~~] Subsections 10-9a-103[~~(40)~~](41)(a) through (e).

Section 8. Section 10-9a-530 is enacted to read:

10-9a-530. (Codified as 10-9a-532) Development agreements.

(1) Subject to Subsection (2), a municipality may enter into a development agreement containing any term that the municipality considers necessary or appropriate to accomplish the purposes of this chapter.

(2) (a) A development agreement may not:

(i) limit a municipality's authority in the future to:

(A) enact a land use regulation; or

(B) take any action allowed under Section 10-8-84;

(ii) require a municipality to change the zoning designation of an area of land within the municipality in the future; or

(iii) contain a term that conflicts with, or is different from, a standard set forth in an existing land use regulation that governs the area subject to the development agreement, unless the legislative body approves the development agreement in accordance with the same procedures for enacting a land use regulation under Section 10-9a-502, including a review and recommendation from the planning commission and a public hearing.

(b) A development agreement that requires the implementation of an existing land use regulation as an administrative act does not require a legislative body's approval under Section 10-9a-502.

(c) A municipality may not require a development agreement as the only option for developing land within the municipality.

(d) To the extent that a development agreement does not specifically address a matter or concern related to land use or development, the matter or concern is governed by:

(i) this chapter; and

(ii) any applicable land use regulations.

Section 9. Section 10-9a-531 is enacted to read:

10-9a-531. Infrastructure improvements involving roadways.

(1) As used in this section:

(a) "Low impact development" means the same as that term is defined in Section 19-5-108.5.

(b) (i) "Pavement" means the bituminous or concrete surface of a roadway.

(ii) "Pavement" does not include a curb or gutter.

(c) "Residential street" means a public or private roadway that:

(i) currently serves or is projected to serve an area designated primarily for single-family residential use;

(ii) requires at least two off-site parking spaces for each single-family residential property abutting the roadway; and

(iii) has or is projected to have, on average, traffic of no more than 1,000 trips per day, based on findings contained in:

(A) a traffic impact study;

(B) the municipality's general plan under Section 10-9a-401;

(C) an adopted phasing plan; or

(D) a written plan or report on current or projected traffic usage.

(2) (a) Except as provided in Subsection (2)(b), a municipality may not, as part of an infrastructure improvement, require the installation of pavement on a residential street at a width in excess of 32 feet if the municipality requires low impact development for the area in which the residential street is located.

(b) Subsection (2)(a) does not apply if a municipality requires the installation of pavement:

(i) in a vehicle turnaround area; or

(ii) to address specific traffic flow constraints at an intersection or other area.

(3) (a) A municipality shall, by ordinance, establish any standards that the municipality requires, as part of an infrastructure improvement, for fire department vehicle access and turnaround on roadways.

(b) The municipality shall ensure that the standards established under Subsection (3)(a) are consistent with the State Fire Code as defined in Section 15A-1-102.

Section 10. Section 10-9a-601 is amended to read:

10-9a-601. Enactment of subdivision ordinance.

(1) The legislative body of a municipality may enact ordinances requiring that a subdivision plat comply with the provisions of the municipality's ordinances and this part before:

(a) the subdivision plat may be filed and recorded in the county recorder's office; and

(b) lots may be sold.

(2) If the legislative body fails to enact a subdivision ordinance, the municipality may regulate subdivisions only to the extent provided in this part.

(3) The joining of a lot or lots to a parcel does not constitute a subdivision as to the parcel or subject the parcel to the municipality's subdivision ordinance.

Section 11. Section 10-9a-608 is amended to read:

10-9a-608. Subdivision amendments.

(1) (a) A fee owner of land, as shown on the last county assessment roll, in a subdivision that has been laid out and platted as provided in this part may file a written petition with the land use authority to request a subdivision amendment.

(b) Upon filing a written petition to request a subdivision amendment under Subsection (1)(a), the owner shall prepare and, if approved by the land use authority, record a plat in accordance with Section 10-9a-603 that:

(i) depicts only the portion of the subdivision that is proposed to be amended;

(ii) includes a plat name distinguishing the amended plat from the original plat;

(iii) describes the differences between the amended plat and the original plat; and

(iv) includes references to the original plat.

(c) If a petition is filed under Subsection (1)(a), the land use authority shall provide notice of the petition by mail, email, or other effective means to each affected entity that provides a service to an owner of record of the portion of the plat that is being vacated or amended at least 10 calendar days before the land use authority may approve the petition for a subdivision amendment.

(d) If a petition is filed under Subsection (1)(a), the land use authority shall hold a public hearing within 45 days after the day on which the petition is filed if:

(i) any owner within the plat notifies the municipality of the owner's objection in writing within 10 days of mailed notification; or

(ii) a public hearing is required because all of the owners in the subdivision have not signed the revised plat.

(e) A land use authority may not approve a petition for a subdivision amendment under this section unless the amendment identifies and preserves any easements owned by a culinary water authority and sanitary sewer authority for existing facilities located within the subdivision.

(2) [~~Unless a local ordinance provides otherwise, the~~] The public hearing requirement of Subsection (1)(d) does not apply and a land use authority may consider at a public meeting an owner's petition for a subdivision amendment if:

(a) the petition seeks to:

(i) join two or more of the petitioner fee owner's contiguous lots;

(ii) subdivide one or more of the petitioning fee owner's lots, if the subdivision will not result in a violation of a land use ordinance or a development condition;

(iii) adjust the lot lines of adjoining lots or [~~parcels~~] between a lot and an adjoining parcel if the fee owners of each of the adjoining [~~lots or parcels~~] properties join in the petition, regardless of whether the [~~lots or parcels~~] properties are located in the same subdivision;

(iv) on a lot owned by the petitioning fee owner, adjust an internal lot restriction imposed by the local political subdivision; or

(v) alter the plat in a manner that does not change existing boundaries or other attributes of lots within the subdivision that are not:

(A) owned by the petitioner; or

(B) designated as a common area; and

(b) notice has been given to [~~adjacent~~] adjoining property owners in accordance with any applicable local ordinance.

(3) A petition under Subsection (1)(a) that contains a request to amend a public street or municipal utility easement is also subject to Section 10-9a-609.5.

(4) A petition under Subsection (1)(a) that contains a request to amend an entire plat or a portion of a plat shall include:

(a) the name and address of each owner of record of the land contained in the entire plat or on that portion of the plat described in the petition; and

(b) the signature of each owner described in Subsection (4)(a) who consents to the petition.

(5) (a) The owners of record of [~~adjacent parcels that are described by either a metes and bounds description or by a recorded plat~~] adjoining properties where one or more of the properties is a lot may exchange title to portions of those parcels if the exchange of title is approved by the land use authority in accordance with Subsection (5)(b).

(b) The land use authority shall approve an exchange of title under Subsection (5)(a) if the exchange of title will not result in a violation of any land use ordinance.

(c) If an exchange of title is approved under Subsection (5)(b):

(i) a notice of approval shall be recorded in the office of the county recorder which:

(A) is executed by each owner included in the exchange and by the land use authority;

(B) contains an acknowledgment for each party executing the notice in accordance with the provisions of Title 57, Chapter 2a, Recognition of Acknowledgments Act; and

(C) recites the legal descriptions of both the original [~~parcels~~] properties and the [~~parcels created by~~] properties resulting from the exchange of title; and

(ii) a document of conveyance shall be recorded in the office of the county recorder with an amended plat.

(d) A notice of approval recorded under this Subsection (5) does not act as a conveyance of title to real property and is not required in order to record a document conveying title to real property.

(6) (a) The name of a recorded subdivision may be changed by recording an amended plat making that change, as provided in this section and subject to Subsection (6)(c).

(b) The surveyor preparing the amended plat shall certify that the surveyor:

(i) holds a license in accordance with Title 58, Chapter 22, Professional Engineers and Professional Land Surveyors Licensing Act;

(ii) has completed a survey of the property described on the plat in accordance with Section 17-23-17 and has verified all measurements; and

(iii) has placed monuments as represented on the plat.

(c) An owner of land may not submit for recording an amended plat that gives the subdivision described in the amended plat the same name as a subdivision in a plat already recorded in the county recorder's office.

(d) Except as provided in Subsection (6)(a), the recording of a declaration or other document that purports to change the name of a recorded plat is void.

Section 12. Section 10-9a-609.5 is amended to read:

10-9a-609.5. Petition to vacate a public street.

(1) In lieu of vacating some or all of a public street through a plat or amended plat in accordance with Sections 10-9a-603 through 10-9a-609, a legislative body may approve a petition to vacate a public street in accordance with this section.

(2) A petition to vacate some or all of a public street or municipal utility easement shall include:

(a) the name and address of each owner of record of land that is:

(i) adjacent to the public street or municipal utility easement between the two nearest public street intersections; or

(ii) accessed exclusively by or within 300 feet of the public street or municipal utility easement;

(b) proof of written notice to operators of utilities and culinary water or sanitary sewer facilities located within the bounds of the public street or municipal utility easement sought to be vacated; and

(c) the signature of each owner under Subsection (2)(a) who consents to the vacation.

(3) If a petition is submitted containing a request to vacate some or all of a public street or municipal utility easement, the legislative body shall hold a public hearing in accordance with Section 10-9a-208 and determine whether:

(a) good cause exists for the vacation; and

(b) the public interest or any person will be materially injured by the proposed vacation.

(4) The legislative body may adopt an ordinance granting a petition to vacate some or all of a public street or municipal utility easement if the legislative body finds that:

(a) good cause exists for the vacation; and

(b) neither the public interest nor any person will be materially injured by the vacation.

(5) If the legislative body adopts an ordinance vacating some or all of a public street or municipal utility easement, the legislative body shall ensure that one or both of the following is recorded in the office of the recorder of the county in which the land is located:

(a) a plat reflecting the vacation; or

(b) (i) an ordinance described in Subsection (4); and

(ii) a legal description of the public street to be vacated.

(6) The action of the legislative body vacating some or all of a public street or municipal utility easement that has been dedicated to public use:

(a) operates to the extent to which it is vacated, upon the effective date of the recorded plat or ordinance, as a revocation of the acceptance of and

the relinquishment of the municipality's fee in the vacated public street or municipal utility easement; and

(b) may not be construed to impair:

(i) any right-of-way or easement of any parcel or lot owner; [~~or~~]

(ii) the rights of any public utility[~~.~~]; or

(iii) the rights of a culinary water authority or sanitary sewer authority.

(7) (a) A municipality may submit a petition, in accordance with Subsection (2), and initiate and complete a process to vacate some or all of a public street.

(b) If a municipality submits a petition and initiates a process under Subsection (7)(a):

(i) the legislative body shall hold a public hearing;

(ii) the petition and process may not apply to or affect a public utility easement, except to the extent:

(A) the easement is not a protected utility easement as defined in Section 54-3-27;

(B) the easement is included within the public street; and

(C) the notice to vacate the public street also contains a notice to vacate the easement; and

(iii) a recorded ordinance to vacate a public street has the same legal effect as vacating a public street through a recorded plat or amended plat.

(8) A legislative body may not approve a petition to vacate a public street under this section unless the vacation identifies and preserves any easements owned by a culinary water authority and sanitary sewer authority for existing facilities located within the public street.

Section 13. Section 10-9a-701 is amended to read:

10-9a-701. Appeal authority required -- Condition precedent to judicial review -- Appeal authority duties.

(1) (a) Each municipality adopting a land use ordinance shall, by ordinance, establish one or more appeal authorities [~~to hear and decide:~~].

(b) An appeal authority described in Subsection (1)(a) shall hear and decide:

[~~(a)~~] (i) requests for variances from the terms of [~~the~~] land use ordinances;

[~~(b)~~] (ii) appeals from land use decisions applying [~~the~~] land use ordinances; and

[~~(c)~~] (iii) appeals from a fee charged in accordance with Section 10-9a-510.

(c) An appeal authority described in Subsection (1)(a) may not hear an appeal from the enactment of a land use regulation.

(2) As a condition precedent to judicial review, each adversely affected party shall timely and specifically challenge a land use authority's land use decision, in accordance with local ordinance.

(3) An appeal authority described in Subsection (1)(a):

(a) shall:

(i) act in a quasi-judicial manner; and

(ii) serve as the final arbiter of issues involving the interpretation or application of land use ordinances; and

(b) may not entertain an appeal of a matter in which the appeal authority, or any participating member, had first acted as the land use authority.

(4) By ordinance, a municipality may:

(a) designate a separate appeal authority to hear requests for variances than the appeal authority [~~it~~] the municipality designates to hear appeals;

(b) designate one or more separate appeal authorities to hear distinct types of appeals of land use authority decisions;

(c) require an adversely affected party to present to an appeal authority every theory of relief that [~~it~~] the adversely affected party can raise in district court;

(d) not require a land use applicant or adversely affected party to pursue duplicate or successive appeals before the same or separate appeal authorities as a condition of an appealing party's duty to exhaust administrative remedies; and

(e) provide that specified types of land use decisions may be appealed directly to the district court.

(5) If the municipality establishes or, prior to the effective date of this chapter, has established a multiperson board, body, or panel to act as an appeal authority, at a minimum the board, body, or panel shall:

(a) notify each of [~~its~~] the members of the board, body, or panel of any meeting or hearing of the board, body, or panel;

(b) provide each of [~~its~~] the members of the board, body, or panel with the same information and access to municipal resources as any other member;

(c) convene only if a quorum of [~~its~~] the members of the board, body, or panel is present; and

(d) act only upon the vote of a majority of [~~its~~] the convened members of the board, body, or panel.

Section 14. Section 10-9a-801 is amended to read:

10-9a-801. No district court review until administrative remedies exhausted -- Time for filing -- Tolling of time -- Standards governing court review -- Record on review -- Staying of decision.

(1) No person may challenge in district court a land use decision until that person has exhausted

the person's administrative remedies as provided in Part 7, Appeal Authority and Variances, if applicable.

(2) (a) [~~A~~] Subject to Subsection (1), a land use applicant or adversely affected party may file a petition for review of [~~the~~] a land use decision with the district court within 30 days after the decision is final.

(b) (i) The time under Subsection (2)(a) to file a petition is tolled from the date a property owner files a request for arbitration of a constitutional taking issue with the property rights ombudsman under Section 13-43-204 until 30 days after:

(A) the arbitrator issues a final award; or

(B) the property rights ombudsman issues a written statement under Subsection 13-43-204(3)(b) declining to arbitrate or to appoint an arbitrator.

(ii) A tolling under Subsection (2)(b)(i) operates only as to the specific constitutional taking issue that is the subject of the request for arbitration filed with the property rights ombudsman by a property owner.

(iii) A request for arbitration filed with the property rights ombudsman after the time under Subsection (2)(a) to file a petition has expired does not affect the time to file a petition.

(3) (a) A court shall:

(i) presume that a land use regulation properly enacted under the authority of this chapter is valid; and

(ii) determine only whether:

(A) the land use regulation is expressly preempted by, or was enacted contrary to, state or federal law; and

(B) it is reasonably debatable that the land use regulation is consistent with this chapter.

(b) A court shall:

(i) presume that a final land use decision of a land use authority or an appeal authority is valid; and

(ii) uphold the land use decision unless the land use decision is:

(A) arbitrary and capricious; or

(B) illegal.

(c) (i) A land use decision is arbitrary and capricious if the land use decision is not supported by substantial evidence in the record.

(ii) A land use decision is illegal if the land use decision is:

(A) based on an incorrect interpretation of a land use regulation; or

(B) contrary to law.

(d) (i) A court may affirm or reverse [~~the decision of a land use authority~~] a land use decision.

(ii) If the court reverses a land use [~~authority's~~] decision, the court shall remand the matter to the land use authority with instructions to issue a land use decision consistent with the court's ruling.

(4) The provisions of Subsection (2)(a) apply from the date on which the municipality takes final action on a land use application, if the municipality conformed with the notice provisions of Part 2, Notice, or for any person who had actual notice of the pending land use decision.

(5) If the municipality has complied with Section 10-9a-205, a challenge to the enactment of a land use regulation or general plan may not be filed with the district court more than 30 days after the enactment.

(6) A challenge to a land use decision is barred unless the challenge is filed within 30 days after the land use decision is final.

(7) (a) The land use authority or appeal authority, as the case may be, shall transmit to the reviewing court the record of [~~its~~] the proceedings of the land use authority or appeal authority, including [~~its~~] the minutes, findings, orders, and, if available, a true and correct transcript of [~~its~~] the proceedings.

(b) If the proceeding was recorded, a transcript of that recording is a true and correct transcript for purposes of this Subsection (7).

(8) (a) (i) If there is a record, the district court's review is limited to the record provided by the land use authority or appeal authority, as the case may be.

(ii) The court may not accept or consider any evidence outside the record of the land use authority or appeal authority, as the case may be, unless that evidence was offered to the land use authority or appeal authority, respectively, and the court determines that [~~it~~] the evidence was improperly excluded.

(b) If there is no record, the court may call witnesses and take evidence.

(9) (a) The filing of a petition does not stay the land use decision of the land use authority or appeal authority, as the case may be.

(b) (i) Before filing a petition under this section or a request for mediation or arbitration of a constitutional taking issue under Section 13-43-204, a land use applicant may petition the appeal authority to stay [~~its~~] the appeal authority's land use decision.

(ii) Upon receipt of a petition to stay, the appeal authority may order [~~its~~] the appeal authority's land use decision stayed pending district court review if the appeal authority finds [~~it~~] the order to be in the best interest of the municipality.

(iii) After a petition is filed under this section or a request for mediation or arbitration of a constitutional taking issue is filed under Section 13-43-204, the petitioner may seek an injunction staying the appeal authority's land use decision.

(10) If the court determines that a party initiated or pursued a challenge to [~~the~~] a land use decision

on a land use application in bad faith, the court may award attorney fees.

Section 15. Section 17-27a-103 is amended to read:

17-27a-103. Definitions.

As used in this chapter:

(1) "Accessory dwelling unit" means a habitable living unit added to, created within, or detached from a primary single-family dwelling and contained on one lot.

(2) "Adversely affected party" means a person other than a land use applicant who:

(a) owns real property adjoining the property that is the subject of a land use application or land use decision; or

(b) will suffer a damage different in kind than, or an injury distinct from, that of the general community as a result of the land use decision.

(3) "Affected entity" means a county, municipality, local district, special service district under Title 17D, Chapter 1, Special Service District Act, school district, interlocal cooperation entity established under Title 11, Chapter 13, Interlocal Cooperation Act, specified property owner, property owners association, public utility, or the Utah Department of Transportation, if:

(a) the entity's services or facilities are likely to require expansion or significant modification because of an intended use of land;

(b) the entity has filed with the county a copy of the entity's general or long-range plan; or

(c) the entity has filed with the county a request for notice during the same calendar year and before the county provides notice to an affected entity in compliance with a requirement imposed under this chapter.

(4) "Affected owner" means the owner of real property that is:

(a) a single project;

(b) the subject of a land use approval that sponsors of a referendum timely challenged in accordance with Subsection 20A-7-601(5)(a); and

(c) determined to be legally referable under Section 20A-7-602.8.

(5) "Appeal authority" means the person, board, commission, agency, or other body designated by ordinance to decide an appeal of a decision of a land use application or a variance.

(6) "Billboard" means a freestanding ground sign located on industrial, commercial, or residential property if the sign is designed or intended to direct attention to a business, product, or service that is not sold, offered, or existing on the property where the sign is located.

(7) (a) "Charter school" means:

(i) an operating charter school;

(ii) a charter school applicant that [~~has its application approved by~~] a charter school authorizer approves in accordance with Title 53G, Chapter 5, Part 3, Charter School Authorization; or

(iii) an entity that is working on behalf of a charter school or approved charter applicant to develop or construct a charter school building.

(b) "Charter school" does not include a therapeutic school.

(8) "Chief executive officer" means the person or body that exercises the executive powers of the county.

(9) "Conditional use" means a land use that, because of [~~its~~] the unique characteristics or potential impact of the land use on the county, surrounding neighbors, or adjacent land uses, may not be compatible in some areas or may be compatible only if certain conditions are required that mitigate or eliminate the detrimental impacts.

(10) "Constitutional taking" means a governmental action that results in a taking of private property so that compensation to the owner of the property is required by the:

(a) Fifth or Fourteenth Amendment of the Constitution of the United States; or

(b) Utah Constitution, Article I, Section 22.

(11) "County utility easement" means an easement that:

(a) a plat recorded in a county recorder's office described as a county utility easement or otherwise as a utility easement;

(b) is not a protected utility easement or a public utility easement as defined in Section 54-3-27;

(c) the county or the county's affiliated governmental entity owns or creates; and

(d) (i) either:

(A) no person uses or occupies; or

(B) the county or the county's affiliated governmental entity uses and occupies to provide a utility service, including sanitary sewer, culinary water, electrical, storm water, or communications or data lines; or

(ii) a person uses or occupies with or without an authorized franchise or other agreement with the county.

(12) "Culinary water authority" means the department, agency, or public entity with responsibility to review and approve the feasibility of the culinary water system and sources for the subject property.

(13) "Development activity" means:

(a) any construction or expansion of a building, structure, or use that creates additional demand and need for public facilities;

(b) any change in use of a building or structure that creates additional demand and need for public facilities; or

(c) any change in the use of land that creates additional demand and need for public facilities.

(14) (a) "Development agreement" means a written agreement or amendment to a written agreement between a county and one or more parties that regulates or controls the use or development of a specific area of land.

(b) "Development agreement" does not include an improvement completion assurance.

[~~(14)~~] (15) (a) "Disability" means a physical or mental impairment that substantially limits one or more of a person's major life activities, including a person having a record of such an impairment or being regarded as having such an impairment.

(b) "Disability" does not include current illegal use of, or addiction to, any federally controlled substance, as defined in Section 102 of the Controlled Substances Act, 21 U.S.C. Sec. 802.

[~~(15)~~] (16) "Educational facility":

(a) means:

(i) a school district's building at which pupils assemble to receive instruction in a program for any combination of grades from preschool through grade 12, including kindergarten and a program for children with disabilities;

(ii) a structure or facility:

(A) located on the same property as a building described in Subsection [~~(15)~~] (16)(a)(i); and

(B) used in support of the use of that building; and

(iii) a building to provide office and related space to a school district's administrative personnel; and

(b) does not include:

(i) land or a structure, including land or a structure for inventory storage, equipment storage, food processing or preparing, vehicle storage or maintenance, or similar use that is:

(A) not located on the same property as a building described in Subsection [~~(15)~~] (16)(a)(i); and

(B) used in support of the purposes of a building described in Subsection [~~(15)~~] (16)(a)(i); or

(ii) a therapeutic school.

[~~(16)~~] (17) "Fire authority" means the department, agency, or public entity with responsibility to review and approve the feasibility of fire protection and suppression services for the subject property.

[~~(17)~~] (18) "Flood plain" means land that:

(a) is within the 100-year flood plain designated by the Federal Emergency Management Agency; or

(b) has not been studied or designated by the Federal Emergency Management Agency but presents a likelihood of experiencing chronic flooding or a catastrophic flood event because the land has characteristics that are similar to those of a 100-year flood plain designated by the Federal Emergency Management Agency.

[~~(18)~~] (19) "Gas corporation" has the same meaning as defined in Section 54-2-1.

[~~(19)~~] (20) "General plan" means a document that a county adopts that sets forth general guidelines for proposed future development of:

(a) the unincorporated land within the county; or

(b) for a mountainous planning district, the land within the mountainous planning district.

[~~(20)~~] (21) "Geologic hazard" means:

(a) a surface fault rupture;

(b) shallow groundwater;

(c) liquefaction;

(d) a landslide;

(e) a debris flow;

(f) unstable soil;

(g) a rock fall; or

(h) any other geologic condition that presents a risk:

(i) to life;

(ii) of substantial loss of real property; or

(iii) of substantial damage to real property.

[~~(21)~~] (22) "Hookup fee" means a fee for the installation and inspection of any pipe, line, meter, or appurtenance to connect to a county water, sewer, storm water, power, or other utility system.

[~~(22)~~] (23) "Identical plans" means building plans submitted to a county that:

(a) are clearly marked as "identical plans";

(b) are substantially identical building plans that were previously submitted to and reviewed and approved by the county; and

(c) describe a building that:

(i) is located on land zoned the same as the land on which the building described in the previously approved plans is located;

(ii) is subject to the same geological and meteorological conditions and the same law as the building described in the previously approved plans;

(iii) has a floor plan identical to the building plan previously submitted to and reviewed and approved by the county; and

(iv) does not require any additional engineering or analysis.

[~~(23)~~] (24) "Impact fee" means a payment of money imposed under Title 11, Chapter 36a, Impact Fees Act.

[~~(24)~~] (25) "Improvement completion assurance" means a surety bond, letter of credit, financial institution bond, cash, assignment of rights, lien, or

other equivalent security required by a county to guaranty the proper completion of landscaping or an infrastructure improvement required as a condition precedent to:

(a) recording a subdivision plat; or

(b) development of a commercial, industrial, mixed use, or multifamily project.

[~~(25)~~] (26) "Improvement warranty" means an applicant's unconditional warranty that the applicant's installed and accepted landscaping or infrastructure improvement:

(a) complies with the county's written standards for design, materials, and workmanship; and

(b) will not fail in any material respect, as a result of poor workmanship or materials, within the improvement warranty period.

[~~(26)~~] (27) "Improvement warranty period" means a period:

(a) no later than one year after a county's acceptance of required landscaping; or

(b) no later than one year after a county's acceptance of required infrastructure, unless the county:

(i) determines for good cause that a one-year period would be inadequate to protect the public health, safety, and welfare; and

(ii) has substantial evidence, on record:

(A) of prior poor performance by the applicant; or

(B) that the area upon which the infrastructure will be constructed contains suspect soil and the county has not otherwise required the applicant to mitigate the suspect soil.

[~~(27)~~] (28) "Infrastructure improvement" means permanent infrastructure that is essential for the public health and safety or that:

(a) is required for human consumption; and

(b) an applicant must install:

(i) in accordance with published installation and inspection specifications for public improvements; and

(ii) as a condition of:

(A) recording a subdivision plat;

(B) obtaining a building permit; or

(C) developing a commercial, industrial, mixed use, condominium, or multifamily project.

[~~(28)~~] (29) "Internal lot restriction" means a platted note, platted demarcation, or platted designation that:

(a) runs with the land; and

(b) (i) creates a restriction that is enclosed within the perimeter of a lot described on the plat; or

(ii) designates a development condition that is enclosed within the perimeter of a lot described on the plat.

[~~(29)~~] (30) "Interstate pipeline company" means a person or entity engaged in natural gas transportation subject to the jurisdiction of the Federal Energy Regulatory Commission under the Natural Gas Act, 15 U.S.C. Sec. 717 et seq.

[~~(30)~~] (31) "Intrastate pipeline company" means a person or entity engaged in natural gas transportation that is not subject to the jurisdiction of the Federal Energy Regulatory Commission under the Natural Gas Act, 15 U.S.C. Sec. 717 et seq.

[~~(31)~~] (32) "Land use applicant" means a property owner, or the property owner's designee, who submits a land use application regarding the property owner's land.

[~~(32)~~] (33) "Land use application":

(a) means an application that is:

(i) required by a county; and

(ii) submitted by a land use applicant to obtain a land use decision; and

(b) does not mean an application to enact, amend, or repeal a land use regulation.

[~~(33)~~] (34) "Land use authority" means:

(a) a person, board, commission, agency, or body, including the local legislative body, designated by the local legislative body to act upon a land use application; or

(b) if the local legislative body has not designated a person, board, commission, agency, or body, the local legislative body.

[~~(34)~~] (35) "Land use decision" means an administrative decision of a land use authority or appeal authority regarding:

(a) a land use permit;

(b) a land use application; or

(c) the enforcement of a land use regulation, land use permit, or development agreement.

[~~(35)~~] (36) "Land use permit" means a permit issued by a land use authority.

[~~(36)~~] (37) "Land use regulation":

(a) means a legislative decision enacted by ordinance, law, code, map, resolution, specification, fee, or rule that governs the use or development of land;

(b) includes the adoption or amendment of a zoning map or the text of the zoning code; and

(c) does not include:

(i) a land use decision of the legislative body acting as the land use authority, even if the decision is expressed in a resolution or ordinance; or

(ii) a temporary revision to an engineering specification that does not materially:

(A) increase a land use applicant's cost of development compared to the existing specification; or

(B) impact a land use applicant's use of land.

[~~(37)~~] (38) "Legislative body" means the county legislative body, or for a county that has adopted an alternative form of government, the body exercising legislative powers.

[~~(38)~~] (39) "Local district" means any entity under Title 17B, Limited Purpose Local Government Entities - Local Districts, and any other governmental or quasi-governmental entity that is not a county, municipality, school district, or the state.

[~~(39)~~] (40) "Lot" means a tract of land, regardless of any label, that is created by and shown on a subdivision plat that has been recorded in the office of the county recorder.

[~~(40)~~] (41) (a) "Lot line adjustment" means a relocation of a lot line boundary between adjoining lots or between a lot and adjoining parcels[~~,~~] in accordance with Section 17-27a-608:

(i) whether or not the lots are located in the same subdivision[~~, in accordance with Section 17-27a-608,~~]; and

(ii) with the consent of the owners of record.

(b) "Lot line adjustment" does not mean a new boundary line that:

(i) creates an additional lot; or

(ii) constitutes a subdivision.

(c) "Lot line adjustment" does not include a boundary line adjustment made by the Department of Transportation.

[~~(41)~~] (42) "Major transit investment corridor" means public transit service that uses or occupies:

(a) public transit rail right-of-way;

(b) dedicated road right-of-way for the use of public transit, such as bus rapid transit; or

(c) fixed-route bus corridors subject to an interlocal agreement or contract between a municipality or county and:

(i) a public transit district as defined in Section 17B-2a-802; or

(ii) an eligible political subdivision as defined in Section 59-12-2219.

[~~(42)~~] (43) "Moderate income housing" means housing occupied or reserved for occupancy by households with a gross household income equal to or less than 80% of the median gross income for households of the same size in the county in which the housing is located.

[~~(43)~~] (44) "Mountainous planning district" means an area:

(a) designated by a county legislative body in accordance with Section 17-27a-901; and

(b) that is not otherwise exempt under Section 10-9a-304.

[~~(44)~~] (45) "Nominal fee" means a fee that reasonably reimburses a county only for time spent and expenses incurred in:

(a) verifying that building plans are identical plans; and

(b) reviewing and approving those minor aspects of identical plans that differ from the previously reviewed and approved building plans.

[~~(45)~~] (46) "Noncomplying structure" means a structure that:

(a) legally existed before [~~its~~] the structure's current land use designation; and

(b) because of one or more subsequent land use ordinance changes, does not conform to the setback, height restrictions, or other regulations, excluding those regulations that govern the use of land.

[~~(46)~~] (47) "Nonconforming use" means a use of land that:

(a) legally existed before its current land use designation;

(b) has been maintained continuously since the time the land use ordinance regulation governing the land changed; and

(c) because of one or more subsequent land use ordinance changes, does not conform to the regulations that now govern the use of the land.

[~~(47)~~] (48) "Official map" means a map drawn by county authorities and recorded in the county recorder's office that:

(a) shows actual and proposed rights-of-way, centerline alignments, and setbacks for highways and other transportation facilities;

(b) provides a basis for restricting development in designated rights-of-way or between designated setbacks to allow the government authorities time to purchase or otherwise reserve the land; and

(c) has been adopted as an element of the county's general plan.

[~~(48)~~] (49) "Parcel" means any real property that is not a lot [~~created by and shown on a subdivision plat recorded in the office of the county recorder~~].

[~~(49)~~] (50) (a) "Parcel boundary adjustment" means a recorded agreement between owners of adjoining parcels adjusting the mutual boundary, either by deed or by a boundary line agreement in accordance with Section [~~57-1-45~~] 17-27a-523, if no additional parcel is created and:

(i) none of the property identified in the agreement is [~~subdivided land~~] a lot; or

(ii) the adjustment is to the boundaries of a single person's parcels.

(b) "Parcel boundary adjustment" does not mean an adjustment of a parcel boundary line that:

(i) creates an additional parcel; or

(ii) constitutes a subdivision.

(c) "Parcel boundary adjustment" does not include a boundary line adjustment made by the Department of Transportation.

[~~(50)~~] (51) "Person" means an individual, corporation, partnership, organization, association, trust, governmental agency, or any other legal entity.

[~~(51)~~] (52) "Plan for moderate income housing" means a written document adopted by a county legislative body that includes:

(a) an estimate of the existing supply of moderate income housing located within the county;

(b) an estimate of the need for moderate income housing in the county for the next five years;

(c) a survey of total residential land use;

(d) an evaluation of how existing land uses and zones affect opportunities for moderate income housing; and

(e) a description of the county's program to encourage an adequate supply of moderate income housing.

[~~(52)~~] (53) "Planning advisory area" means a contiguous, geographically defined portion of the unincorporated area of a county established under this part with planning and zoning functions as exercised through the planning advisory area planning commission, as provided in this chapter, but with no legal or political identity separate from the county and no taxing authority.

[~~(53)~~] (54) "Plat" means an instrument subdividing property into lots as depicted on a map or other graphical representation of lands that a licensed professional land surveyor makes and prepares in accordance with Section 17-27a-603 or 57-8-13.

[~~(54)~~] (55) "Potential geologic hazard area" means an area that:

(a) is designated by a Utah Geological Survey map, county geologist map, or other relevant map or report as needing further study to determine the area's potential for geologic hazard; or

(b) has not been studied by the Utah Geological Survey or a county geologist but presents the potential of geologic hazard because the area has characteristics similar to those of a designated geologic hazard area.

[~~(55)~~] (56) "Public agency" means:

(a) the federal government;

(b) the state;

(c) a county, municipality, school district, local district, special service district, or other political subdivision of the state; or

(d) a charter school.

[~~(56)~~] (57) "Public hearing" means a hearing at which members of the public are provided a reasonable opportunity to comment on the subject of the hearing.

[~~(57)~~] (58) "Public meeting" means a meeting that is required to be open to the public under Title 52, Chapter 4, Open and Public Meetings Act.

[~~(58)~~] (59) "Public street" means a public right-of-way, including a public highway, public avenue, public boulevard, public parkway, public road, public lane, public alley, public viaduct, public subway, public tunnel, public bridge, public byway, other public transportation easement, or other public way.

[~~(59)~~] (60) "Receiving zone" means an unincorporated area of a county that the county designates, by ordinance, as an area in which an owner of land may receive a transferable development right.

[~~(60)~~] (61) "Record of survey map" means a map of a survey of land prepared in accordance with Section 10-9a-603, 17-23-17, 17-27a-603, or 57-8-13.

[~~(61)~~] (62) "Residential facility for persons with a disability" means a residence:

(a) in which more than one person with a disability resides; and

(b) (i) which is licensed or certified by the Department of Human Services under Title 62A, Chapter 2, Licensure of Programs and Facilities; or

(ii) which is licensed or certified by the Department of Health under Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act.

[~~(62)~~] (63) "Rules of order and procedure" means a set of rules that govern and prescribe in a public meeting:

(a) parliamentary order and procedure;

(b) ethical behavior; and

(c) civil discourse.

[~~(63)~~] (64) "Sanitary sewer authority" means the department, agency, or public entity with responsibility to review and approve the feasibility of sanitary sewer services or onsite wastewater systems.

[~~(64)~~] (65) "Sending zone" means an unincorporated area of a county that the county designates, by ordinance, as an area from which an owner of land may transfer a transferable development right.

[~~(65)~~] (66) "Site plan" means a document or map that may be required by a county during a preliminary review preceding the issuance of a building permit to demonstrate that an owner's or developer's proposed development activity meets a land use requirement.

[~~(66)~~] (67) "Specified public agency" means:

(a) the state;

(b) a school district; or

(c) a charter school.

[~~(67)~~] (68) "Specified public utility" means an electrical corporation, gas corporation, or telephone corporation, as those terms are defined in Section 54-2-1.

[~~(68)~~] (69) "State" includes any department, division, or agency of the state.

[~~(69) "Subdivided land" means the land, tract, or lot described in a recorded subdivision plat.~~]

(70) (a) "Subdivision" means any land that is divided, resubdivided, or proposed to be divided into two or more lots or other division of land for the purpose, whether immediate or future, for offer, sale, lease, or development either on the installment plan or upon any and all other plans, terms, and conditions.

(b) "Subdivision" includes:

(i) the division or development of land, whether by deed, metes and bounds description, devise and testacy, map, plat, or other recorded instrument, regardless of whether the division includes all or a portion of a parcel or lot; and

(ii) except as provided in Subsection (70)(c), divisions of land for residential and nonresidential uses, including land used or to be used for commercial, agricultural, and industrial purposes.

(c) "Subdivision" does not include:

(i) a bona fide division or partition of agricultural land for agricultural purposes;

(ii) [~~an~~] a boundary line agreement recorded with the county recorder's office between owners of adjoining [~~properties~~] parcels adjusting the mutual boundary [~~by a boundary line agreement~~] in accordance with Section [~~57-1-45 if:~~] 17-27a-523 if no new lot is created;

[~~(A) no new lot is created; and~~]

[~~(B) the adjustment does not violate applicable land use ordinances;~~]

(iii) a recorded document, executed by the owner of record:

(A) revising the legal [~~description of more than one contiguous parcel of property that is not subdivided land~~] descriptions of multiple parcels into one legal description encompassing all such parcels [~~of property~~]; or

(B) joining a [~~subdivided parcel of property to another parcel of property that has not been subdivided, if the joinder does not violate applicable land use ordinances~~] lot to a parcel;

(iv) a bona fide division or partition of land in a county other than a first class county for the purpose of siting, on one or more of the resulting separate parcels:

(A) an electrical transmission line or a substation;

(B) a natural gas pipeline or a regulation station; or

(C) an unmanned telecommunications, microwave, fiber optic, electrical, or other utility service regeneration, transformation, retransmission, or amplification facility;

(v) [~~an~~] a boundary line agreement between owners of adjoining subdivided properties adjusting the mutual lot line boundary in accordance with [~~Section 10-9a-603~~] Sections 17-27a-523 and 17-27a-608 if:

(A) no new dwelling lot or housing unit will result from the adjustment; and

(B) the adjustment will not violate any applicable land use ordinance;

(vi) a bona fide division [~~or partition~~] of land by deed or other instrument [~~where the land use authority expressly approves~~] if the deed or other instrument states in writing that the division:

(A) [~~in writing the division~~] is in anticipation of [~~further~~] future land use approvals on the parcel or parcels;

(B) does not confer any land use approvals; and

(C) has not been approved by the land use authority;

(vii) a parcel boundary adjustment;

(viii) a lot line adjustment;

(ix) a road, street, or highway dedication plat; [~~or~~]

(x) a deed or easement for a road, street, or highway purpose[~~.~~]; or

(xi) any other division of land authorized by law.

[~~(d) The joining of a subdivided parcel of property to another parcel of property that has not been subdivided does not constitute a subdivision under this Subsection (70) as to the unsubdivided parcel of property or subject the unsubdivided parcel to the county's subdivision ordinance.~~]

(71) "Subdivision amendment" means an amendment to a recorded subdivision in accordance with Section 17-27a-608 that:

(a) vacates all or a portion of the subdivision;

(b) alters the outside boundary of the subdivision;

(c) changes the number of lots within the subdivision;

(d) alters a public right-of-way, a public easement, or public infrastructure within the subdivision; or

(e) alters a common area or other common amenity within the subdivision.

(72) "Substantial evidence" means evidence that:

(a) is beyond a scintilla; and

(b) a reasonable mind would accept as adequate to support a conclusion.

[~~(72)~~] (73) "Suspect soil" means soil that has:

(a) a high susceptibility for volumetric change, typically clay rich, having more than a 3% swell potential;

(b) bedrock units with high shrink or swell susceptibility; or

(c) gypsiferous silt and clay, gypsum, or bedrock units containing abundant gypsum commonly associated with dissolution and collapse features.

[~~(73)~~] (74) "Therapeutic school" means a residential group living facility:

(a) for four or more individuals who are not related to:

(i) the owner of the facility; or

(ii) the primary service provider of the facility;

(b) that serves students who have a history of failing to function:

(i) at home;

(ii) in a public school; or

(iii) in a nonresidential private school; and

(c) that offers:

(i) room and board; and

(ii) an academic education integrated with:

(A) specialized structure and supervision; or

(B) services or treatment related to a disability, an emotional development, a behavioral development, a familial development, or a social development.

[~~(74)~~] (75) "Transferable development right" means a right to develop and use land that originates by an ordinance that authorizes a land owner in a designated sending zone to transfer land use rights from a designated sending zone to a designated receiving zone.

[~~(75)~~] (76) "Unincorporated" means the area outside of the incorporated area of a municipality.

[~~(76)~~] (77) "Water interest" means any right to the beneficial use of water, including:

(a) each of the rights listed in Section 73-1-11; and

(b) an ownership interest in the right to the beneficial use of water represented by:

(i) a contract; or

(ii) a share in a water company, as defined in Section 73-3-3.5.

[~~(77)~~] (78) "Zoning map" means a map, adopted as part of a land use ordinance, that depicts land use zones, overlays, or districts.

Section 16. Section 17-27a-302 is amended to read:

17-27a-302. Planning commission powers and duties -- Training requirements.

(1) Each countywide, planning advisory area, or mountainous planning district planning commission shall, with respect to the unincorporated area of the county, the planning advisory area, or the mountainous planning district, review and make a recommendation to the county legislative body for:

(a) a general plan and amendments to the general plan;

(b) land use regulations, including:

(i) ordinances regarding the subdivision of land within the county; and

(ii) amendments to existing land use regulations;

(c) an appropriate delegation of power to at least one designated land use authority to hear and act on a land use application;

(d) an appropriate delegation of power to at least one appeal authority to hear and act on an appeal from a decision of the land use authority; and

(e) application processes that:

(i) may include a designation of routine land use matters that, upon application and proper notice, will receive informal streamlined review and action if the application is uncontested; and

(ii) shall protect the right of each:

(A) land use applicant and adversely affected party to require formal consideration of any application by a land use authority;

(B) land use applicant or adversely affected party to appeal a land use authority's decision to a separate appeal authority; and

(C) participant to be heard in each public hearing on a contested application.

(2) Before making a recommendation to a legislative body on an item described in Subsection (1)(a) or (b), the planning commission shall hold a public hearing in accordance with Section 17-27a-404.

(3) A legislative body may adopt, modify, or reject a planning commission's recommendation to the legislative body under this section.

(4) A legislative body may consider a planning commission's failure to make a timely recommendation as a negative recommendation.

(5) Nothing in this section limits the right of a county to initiate or propose the actions described in this section.

(6) (a) (i) This Subsection (6) applies to a county that:

(A) is a county of the first, second, or third class; and

(B) has a population in the county's unincorporated areas of 5,000 or more.

(ii) The population figure described in Subsection (6)(a)(i) shall be derived from:

(A) the most recent official census or census estimate of the United States Census Bureau; or

(B) if a population figure is not available under Subsection (6)(a)(ii)(A), an estimate of the Utah Population Committee.

(b) A county described in Subsection (6)(a)(i) shall ensure that each member of the county's planning commission completes four hours of annual land use training as follows:

(i) one hour of annual training on general powers and duties under Title 17, Chapter 27a, County Land Use, Development, and Management Act; and

(ii) three hours of annual training on land use, which may include:

(A) appeals and variances;

(B) conditional use permits;

(C) exactions;

(D) impact fees;

(E) vested rights;

(F) subdivision regulations and improvement guarantees;

(G) land use referenda;

(H) property rights;

(I) real estate procedures and financing;

(J) zoning, including use-based and form-based; and

(K) drafting ordinances and code that complies with statute.

(c) A newly appointed planning commission member may not participate in a public meeting as an appointed member until the member completes the training described in Subsection (6)(b)(i).

(d) A planning commission member may qualify for one completed hour of training required under Subsection (6)(b)(ii) if the member attends, as an appointed member, 12 public meetings of the planning commission within a calendar year.

(e) A county shall provide the training described in Subsection (6)(b) through:

(i) county staff;

(ii) the Utah Association of Counties; or

(iii) a list of training courses selected by:

(A) the Utah Association of Counties; or

(B) the Division of Real Estate created in Section 61-2-201.

(f) A county shall, for each planning commission member:

(i) monitor compliance with the training requirements in Subsection (6)(b); and

(ii) maintain a record of training completion at the end of each calendar year.

Section 17. Section 17-27a-506 is amended to read:

17-27a-506. Conditional uses.

(1) (a) A county may adopt a land use ordinance that includes conditional uses and provisions for conditional uses that require compliance with objective standards set forth in an applicable ordinance.

(b) A county may not impose a requirement or standard on a conditional use that conflicts with a provision of this chapter or other state or federal law.

(2) (a) (i) A land use authority shall approve a conditional use if reasonable conditions are proposed, or can be imposed, to mitigate the reasonably anticipated detrimental effects of the proposed use in accordance with applicable standards.

(ii) The requirement described in Subsection (2)(a)(i) to reasonably mitigate anticipated detrimental effects of the proposed conditional use does not require elimination of the detrimental effects.

(b) If a land use authority proposes reasonable conditions on a proposed conditional use, the land use authority shall ensure that the conditions are stated on the record and reasonably relate to mitigating the anticipated detrimental effects of the proposed use.

(c) If the reasonably anticipated detrimental effects of a proposed conditional use cannot be substantially mitigated by the proposal or the imposition of reasonable conditions to achieve compliance with applicable standards, the land use authority may deny the conditional use.

(3) A land use authority's decision to approve or deny a conditional use is an administrative land use decision.

(4) A legislative body shall classify any use that a land use regulation allows in a zoning district as either a permitted or conditional use under this chapter.

Section 18. Section 17-27a-508 is amended to read:

17-27a-508. Applicant's entitlement to land use application approval -- Application relating to land in a high priority transportation corridor -- County's requirements and limitations -- Vesting upon submission of development plan and schedule.

(1) (a) (i) An applicant who has submitted a complete land use application, including the payment of all application fees, is entitled to substantive review of the application under the land use regulations:

(A) in effect on the date that the application is complete; and

(B) applicable to the application or to the information shown on the submitted application.

(ii) An applicant is entitled to approval of a land use application if the application conforms to the requirements of the applicable land use regulations, land use decisions, and development standards in effect when the applicant submits a complete application and pays all application fees, unless:

(A) the land use authority, on the record, formally finds that a compelling, countervailing public interest would be jeopardized by approving the application and specifies the compelling, countervailing public interest in writing; or

(B) in the manner provided by local ordinance and before the applicant submits the application, the county formally initiates proceedings to amend the county's land use regulations in a manner that would prohibit approval of the application as submitted.

(b) The county shall process an application without regard to proceedings the county initiated to amend the county's ordinances as described in Subsection (1)(a)(ii)(B) if:

(i) 180 days have passed since the county initiated the proceedings; and

(ii) the proceedings have not resulted in an enactment that prohibits approval of the application as submitted.

(c) A land use application is considered submitted and complete when the applicant provides the application in a form that complies with the requirements of applicable ordinances and pays all applicable fees.

(d) The continuing validity of an approval of a land use application is conditioned upon the applicant proceeding after approval to implement the approval with reasonable diligence.

(e) A county may not impose on an applicant who has submitted a complete application a requirement that is not expressed:

(i) in this chapter;

(ii) in a county ordinance; or

(iii) in a county specification for public improvements applicable to a subdivision or development that is in effect on the date that the applicant submits an application.

(f) A county may not impose on a holder of an issued land use permit or a final, unexpired subdivision plat a requirement that is not expressed:

(i) in a land use permit;

(ii) on the subdivision plat;

(iii) in a document on which the land use permit or subdivision plat is based;

(iv) in the written record evidencing approval of the land use permit or subdivision plat;

(v) in this chapter; or

(vi) in a county ordinance.

(g) Except as provided in Subsection (1)(h), a county may not withhold issuance of a certificate of occupancy or acceptance of subdivision improvements because of an applicant's failure to comply with a requirement that is not expressed:

(i) in the building permit or subdivision plat, documents on which the building permit or subdivision plat is based, or the written record evidencing approval of the building permit or subdivision plat; or

(ii) in this chapter or the county's ordinances.

(h) A county may not unreasonably withhold issuance of a certificate of occupancy where an applicant has met all requirements essential for the public health, public safety, and general welfare of the occupants, in accordance with this chapter, unless:

(i) the applicant and the county have agreed in a written document to the withholding of a certificate of occupancy; or

(ii) the applicant has not provided a financial assurance for required and uncompleted landscaping or infrastructure improvements in accordance with an applicable ordinance that the legislative body adopts under this chapter.

(2) A county is bound by the terms and standards of applicable land use regulations and shall comply with mandatory provisions of those regulations.

(3) A county may not, as a condition of land use application approval, require a person filing a land use application to obtain documentation regarding a school district's willingness, capacity, or ability to serve the development proposed in the land use application.

(4) (a) Except as provided in Subsection (4)(b), for a period of 10 years after the day on which a subdivision plat is recorded, a county may not impose on a building permit applicant for a single-family dwelling located within the subdivision any land use regulation that is enacted within 10 years after the day on which the subdivision plat is recorded.

(b) Subsection (4)(a) does not apply to any changes in the requirements of the applicable building code, health code, or fire code, or other similar regulations.

[~~(4)~~] (5) Upon a specified public agency's submission of a development plan and schedule as required in Subsection 17-27a-305(8) that complies with the requirements of that subsection, the specified public agency vests in the county's applicable land use maps, zoning map, hookup fees, impact fees, other applicable development fees, and land use regulations in effect on the date of submission.

[~~(5)~~] (6) (a) If sponsors of a referendum timely challenge a project in accordance with Subsection 20A-7-601(5)(a), the project's affected owner may rescind the project's land use approval by delivering a written notice:

(i) to the local clerk as defined in Section 20A-7-101; and

(ii) no later than seven days after the day on which a petition for a referendum is determined sufficient under Section 20A-7-607(5).

(b) Upon delivery of a written notice described in Subsection [~~(5)~~] (6)(a) the following are rescinded and are of no further force or effect:

(i) the relevant land use approval; and

(ii) any land use regulation enacted specifically in relation to the land use approval.

Section 19. Section 17-27a-522 is amended to read:

17-27a-522. Property boundary adjustment.

[~~(1) A property owner:~~]

[~~(a) may execute a parcel boundary adjustment by quitclaim deed or by a boundary line agreement as described in Section 57-1-45; and~~]

[~~(b) shall record the quitclaim deed or boundary line agreement in the office of the county recorder.~~]

[~~(2) A parcel boundary adjustment is not subject to the review of a land use authority.~~]

(1) To make a parcel line adjustment, a property owner shall:

(a) execute a boundary adjustment through:

(i) a quitclaim deed; or

(ii) a boundary line agreement under Section 17-27a-523; and

(b) record the quitclaim deed or boundary line agreement described in Subsection (1)(a) in the office of the county recorder of the county in which each property is located.

(2) To make a lot line adjustment, a property owner shall:

(a) obtain approval of the boundary adjustment under Section 17-27a-608;

(b) execute a boundary adjustment through:

(i) a quitclaim deed; or

(ii) a boundary line agreement under Section 17-27a-523; and

(c) record the quitclaim deed or boundary line agreement described in Subsection (2)(b) in the office of the county recorder of the county in which each property is located.

(3) A parcel boundary adjustment under Subsection (1) is not subject to review of a land use authority unless:

(a) the parcel includes a dwelling; and

(b) the land use authority's approval is required under Subsection 17-27a-523(5).

(4) The recording of a boundary line agreement or other document used to adjust a mutual boundary line that is not subject to review of a land use authority:

(a) does not constitute a land use approval; and

(b) does not affect the validity of the boundary line agreement or other document used to adjust a mutual boundary line.

(5) A county may withhold approval of a land use application for property that is subject to a recorded boundary line agreement or other document used to adjust a mutual boundary line if the county determines that the lots or parcels, as adjusted by the boundary line agreement or other document used to adjust the mutual boundary line, are not in compliance with the county's land use regulations in effect on the day on which the boundary line agreement or other document used to adjust the mutual boundary line is recorded.

Section 20. Section 17-27a-523 is amended to read:

17-27a-523. Boundary line agreement.

[~~(1) As used in this section, "boundary line agreement" is an agreement described in Section 57-1-45.~~]

[~~(2) A property owner:~~]

[~~(a) may execute a boundary line agreement; and~~]

[~~(b) shall record a boundary line agreement in the office of the county recorder.~~]

[~~(3) A boundary line agreement is not subject to the review of a land use authority.~~]

(1) If properly executed and acknowledged as required by law, an agreement between owners of adjoining property that designates the boundary line between the adjoining properties acts, upon recording in the office of the recorder of the county in which each property is located, as a quitclaim deed to convey all of each party's right, title, interest, and estate in property outside the agreed boundary line that had been the subject of the boundary line agreement or dispute that led to the boundary line agreement.

(2) Adjoining property owners executing a boundary line agreement described in Subsection (1) shall:

(a) ensure that the agreement includes:

(i) a legal description of the agreed upon boundary line and of each parcel or lot after the boundary line is changed;

(ii) the name and signature of each grantor that is party to the agreement;

(iii) a sufficient acknowledgment for each grantor's signature;

(iv) the address of each grantee for assessment purposes;

(v) a legal description of the parcel or lot each grantor owns before the boundary line is changed; and

(vi) the date of the agreement if the date is not included in the acknowledgment in a form substantially similar to a quitclaim deed as described in Section 57-1-13;

(b) if any of the property subject to the boundary line agreement is a lot, prepare an amended plat in accordance with Section 17-27a-608 before executing the boundary line agreement; and

(c) if none of the property subject to the boundary line agreement is a lot, ensure that the boundary line agreement includes a statement citing the file number of a record of a survey map in accordance with Section 17-23-17, unless the statement is exempted by the county.

(3) A boundary line agreement described in Subsection (1) that complies with Subsection (2) presumptively:

(a) has no detrimental effect on any easement on the property that is recorded before the day on which the agreement is executed unless the owner of the property benefitting from the easement specifically modifies the easement within the boundary line agreement or a separate recorded easement modification or relinquishment document; and

(b) relocates the parties' common boundary line for an exchange of consideration.

(4) Notwithstanding Part 6, Subdivisions, or a county's ordinances or policies, a boundary line agreement that only affects parcels is not subject to:

(a) any public notice, public hearing, or preliminary platting requirement;

(b) the review of a land use authority; or

(c) an engineering review or approval of the county, except as provided in Subsection (5).

(5) (a) If a parcel that is the subject of a boundary line agreement contains a dwelling unit, the county may require a review of the boundary line agreement if the county:

(i) adopts an ordinance that:

(A) requires review and approval for a boundary line agreement containing a dwelling unit; and

(B) includes specific criteria for approval; and

(ii) completes the review within 14 days after the day on which the property owner submits the boundary line agreement for review.

(b) (i) If a county, upon a review under Subsection (5)(a), determines that the boundary line agreement is deficient or if the county requires additional information to approve the boundary line agreement, the county shall send, within the time period described in Subsection (5)(a)(ii), written notice to the property owner that:

(A) describes the specific deficiency or additional information that the county requires to approve the boundary line agreement; and

(B) states that the county shall approve the boundary line agreement upon the property owner's correction of the deficiency or submission of the additional information described in Subsection (5)(b)(i)(A).

(ii) If a county, upon a review under Subsection (5)(a), approves the boundary line agreement, the county shall send written notice of the boundary line agreement's approval to the property owner within the time period described in Subsection (5)(a)(ii).

(c) If a county fails to send a written notice under Subsection (5)(b) within the time period described in Subsection (5)(a)(ii), the property owner may record the boundary line agreement as if no review under this Subsection (5) was required.

Section 21. Section 17-27a-526 is enacted to read:

17-27a-526. (Codified as 17-27a-528) Development agreements.

(1) Subject to Subsection (2), a county may enter into a development agreement containing any term that the county considers necessary or appropriate to accomplish the purposes of this chapter.

(2) (a) A development agreement may not:

(i) limit a county's authority in the future to:

(A) enact a land use regulation; or

(B) take any action allowed under Section 17-53-223;

(ii) require a county to change the zoning designation of an area of land within the county in the future; or

(iii) contain a term that conflicts with, or is different from, a standard set forth in an existing land use regulation that governs the area subject to the development agreement, unless the legislative body approves the development agreement in accordance with the same procedures for enacting a land use regulation under Section 17-27a-502, including a review and recommendation from the planning commission and a public hearing.

(b) A development agreement that requires the implementation of an existing land use regulation as an administrative act does not require a legislative body's approval under Section 17-27a-502.

(c) A county may not require a development agreement as the only option for developing land within the county.

(d) To the extent that a development agreement does not specifically address a matter or concern related to land use or development, the matter or concern is governed by:

(i) this chapter; and

(ii) any applicable land use regulations.

Section 22. Section 17-27a-527 is enacted to read:

17-27a-527. Infrastructure improvements involving roadways.

(1) As used in this section:

(a) "Low impact development" means the same as that term is defined in Section 19-5-108.5.

(b) (i) "Pavement" means the bituminous or concrete surface of a roadway.

(ii) "Pavement" does not include a curb or gutter.

(c) "Residential street" means a public or private roadway that:

(i) currently serves or is projected to serve an area designated primarily for single-family residential use;

(ii) requires at least two off-site parking spaces for each single-family residential property abutting the roadway; and

(iii) has or is projected to have, on average, traffic of no more than 1,000 trips per day, based on findings contained in:

(A) a traffic impact study;

(B) the county's general plan under Section 17-27a-401;

(C) an adopted phasing plan; or

(D) a written plan or report on current or projected traffic usage.

(2) (a) Except as provided in Subsection (2)(b), a county may not, as part of an infrastructure improvement, require the installation of pavement on a residential street at a width in excess of 32 feet if the county requires low impact development for the area in which the residential street is located.

(b) Subsection (2)(a) does not apply if a county requires the installation of pavement:

(i) in a vehicle turnaround area; or

(ii) to address specific traffic flow constraints at an intersection or other area.

(3) (a) A county shall, by ordinance, establish any standards that the county requires, as part of an infrastructure improvement, for fire department vehicle access and turnaround on roadways.

(b) The county shall ensure that the standards established under Subsection (3)(a) are consistent with the State Fire Code as defined in Section 15A-1-102.

Section 23. Section 17-27a-601 is amended to read:

17-27a-601. Enactment of subdivision ordinance.

(1) The legislative body of a county may enact ordinances requiring that a subdivision plat comply with the provisions of the county's ordinances and this part before:

(a) the subdivision plat may be filed and recorded in the county recorder's office; and

(b) lots may be sold.

(2) If the legislative body fails to enact a subdivision ordinance, the county may regulate subdivisions only as provided in this part.

(3) The joining of a lot or lots to a parcel does not constitute a subdivision as to the parcel or subject the parcel to the county's subdivision ordinance.

Section 24. Section 17-27a-608 is amended to read:

17-27a-608. Subdivision amendments.

(1) (a) A fee owner of [~~land~~] a lot, as shown on the last county assessment roll, in a [~~subdivision~~] plat that has been laid out and platted as provided in this part may file a written petition with the land use authority to request a subdivision amendment.

(b) Upon filing a written petition to request a subdivision amendment under Subsection (1)(a), the owner shall prepare and, if approved by the land use authority, record a plat in accordance with Section 17-27a-603 that:

(i) depicts only the portion of the subdivision that is proposed to be amended;

(ii) includes a plat name distinguishing the amended plat from the original plat;

(iii) describes the differences between the amended plat and the original plat; and

(iv) includes references to the original plat.

(c) If a petition is filed under Subsection (1)(a), the land use authority shall provide notice of the petition by mail, email, or other effective means to each affected entity that provides a service to an owner of record of the portion of the plat that is being amended at least 10 calendar days before the land use authority may approve the petition for a subdivision amendment.

(d) If a petition is filed under Subsection (1)(a), the land use authority shall hold a public hearing within 45 days after the day on which the petition is filed if:

(i) any owner within the plat notifies the county of the owner's objection in writing within 10 days of mailed notification; or

(ii) a public hearing is required because all of the owners in the subdivision have not signed the revised plat.

(e) A land use authority may not approve a petition for a subdivision amendment under this section unless the amendment identifies and preserves any easements owned by a culinary water authority and sanitary sewer authority for existing facilities located within the subdivision.

(2) [~~Unless a local ordinance provides otherwise, the~~] The public hearing requirement of Subsection (1)(d) does not apply and a land use authority may consider at a public meeting an owner's petition for a subdivision amendment if:

(a) the petition seeks to:

(i) join two or more of the petitioning fee owner's contiguous lots;

(ii) subdivide one or more of the petitioning fee owner's lots, if the subdivision will not result in a violation of a land use ordinance or a development condition;

(iii) adjust the lot lines of adjoining lots or [~~parcels~~] between a lot and an adjoining parcel if the

fee owners of each of the adjoining [~~lots or parcels~~] properties join the petition, regardless of whether the [~~lots or parcels~~] properties are located in the same subdivision;

(iv) on a lot owned by the petitioning fee owner, adjust an internal lot restriction imposed by the local political subdivision; or

(v) alter the plat in a manner that does not change existing boundaries or other attributes of lots within the subdivision that are not:

(A) owned by the petitioner; or

(B) designated as a common area; and

(b) notice has been given to [~~adjacent~~] adjoining property owners in accordance with any applicable local ordinance.

(3) A petition under Subsection (1)(a) that contains a request to amend a public street or county utility easement is also subject to Section 17-27a-609.5.

(4) A petition under Subsection (1)(a) that contains a request to amend an entire plat or a portion of a plat shall include:

(a) the name and address of each owner of record of the land contained in:

(i) the entire plat; or

(ii) that portion of the plan described in the petition; and

(b) the signature of each owner who consents to the petition.

(5) (a) The owners of record of [~~adjacent parcels that are described by either a metes and bounds description or by a recorded plat~~] adjoining properties where one or more of the properties is a lot may exchange title to portions of those [~~parcels~~] properties if the exchange of title is approved by the land use authority in accordance with Subsection (5)(b).

(b) The land use authority shall approve an exchange of title under Subsection (5)(a) if the exchange of title will not result in a violation of any land use ordinance.

(c) If an exchange of title is approved under Subsection (5)(b):

(i) a notice of approval shall be recorded in the office of the county recorder which:

(A) is executed by each owner included in the exchange and by the land use authority;

(B) contains an acknowledgment for each party executing the notice in accordance with the provisions of Title 57, Chapter 2a, Recognition of Acknowledgments Act; and

(C) recites the legal descriptions of both the [~~original parcels~~] properties and the [~~parcels created by~~] properties resulting from the exchange of title; and

(ii) a document of conveyance of title reflecting the approved change shall be recorded in the office of the county recorder with an amended plat.

(d) A notice of approval recorded under this Subsection (5) does not act as a conveyance of title to real property and is not required to record a document conveying title to real property.

(6) (a) The name of a recorded subdivision may be changed by recording an amended plat making that change, as provided in this section and subject to Subsection (6)(c).

(b) The surveyor preparing the amended plat shall certify that the surveyor:

(i) holds a license in accordance with Title 58, Chapter 22, Professional Engineers and Professional Land Surveyors Licensing Act;

(ii) has completed a survey of the property described on the plat in accordance with Section 17-23-17 and has verified all measurements; and

(iii) has placed monuments as represented on the plat.

(c) An owner of land may not submit for recording an amended plat that gives the subdivision described in the amended plat the same name as a subdivision recorded in the county recorder's office.

(d) Except as provided in Subsection (6)(a), the recording of a declaration or other document that purports to change the name of a recorded plat is void.

Section 25. Section 17-27a-609.5 is amended to read:

17-27a-609.5. Petition to vacate a public street.

(1) In lieu of vacating some or all of a public street through a plat or amended plat in accordance with Sections 17-27a-603 through 17-27a-609, a legislative body may approve a petition to vacate a public street in accordance with this section.

(2) A petition to vacate some or all of a public street or county utility easement shall include:

(a) the name and address of each owner of record of land that is:

(i) adjacent to the public street or county utility easement between the two nearest public street intersections; or

(ii) accessed exclusively by or within 300 feet of the public street or county utility easement;

(b) proof of written notice to operators of utilities and culinary water or sanitary sewer facilities located within the bounds of the public street or county utility easement sought to be vacated; and

(c) the signature of each owner under Subsection (2)(a) who consents to the vacation.

(3) If a petition is submitted containing a request to vacate some or all of a public street or county utility easement, the legislative body shall hold a public hearing in accordance with Section 17-27a-208 and determine whether:

(a) good cause exists for the vacation; and

(b) the public interest or any person will be materially injured by the proposed vacation.

(4) The legislative body may adopt an ordinance granting a petition to vacate some or all of a public street or county utility easement if the legislative body finds that:

(a) good cause exists for the vacation; and

(b) neither the public interest nor any person will be materially injured by the vacation.

(5) If the legislative body adopts an ordinance vacating some or all of a public street or county utility easement, the legislative body shall ensure that one or both of the following is recorded in the office of the recorder of the county in which the land is located:

(a) a plat reflecting the vacation; or

(b) (i) an ordinance described in Subsection (4); and

(ii) a legal description of the public street to be vacated.

(6) The action of the legislative body vacating some or all of a public street or county utility easement that has been dedicated to public use:

(a) operates to the extent to which it is vacated, upon the effective date of the recorded plat or ordinance, as a revocation of the acceptance of and the relinquishment of the county's fee in the vacated street, right-of-way, or easement; and

(b) may not be construed to impair:

(i) any right-of-way or easement of any parcel or lot owner; [~~or~~]

(ii) the rights of any public utility[~~.~~]; or

(iii) the rights of a culinary water authority or sanitary sewer authority.

(7) (a) A county may submit a petition, in accordance with Subsection (2), and initiate and complete a process to vacate some or all of a public street.

(b) If a county submits a petition and initiates a process under Subsection (7)(a):

(i) the legislative body shall hold a public hearing;

(ii) the petition and process may not apply to or affect a public utility easement, except to the extent:

(A) the easement is not a protected utility easement as defined in Section 54-3-27;

(B) the easement is included within the public street; and

(C) the notice to vacate the public street also contains a notice to vacate the easement; and

(iii) a recorded ordinance to vacate a public street has the same legal effect as vacating a public street through a recorded plat or amended plat.

(8) A legislative body may not approve a petition to vacate a public street under this section unless the vacation identifies and preserves any easements owned by a culinary water authority and sanitary sewer authority for existing facilities located within the public street.

Section 26. Section 17-27a-701 is amended to read:

17-27a-701. Appeal authority required -- Condition precedent to judicial review -- Appeal authority duties.

(1) (a) Each county adopting a land use ordinance shall, by ordinance, establish one or more appeal authorities [~~to hear and decide:~~].

(b) An appeal authority shall hear and decide:

[~~(a)~~] (i) requests for variances from the terms of [~~the~~] land use ordinances;

[~~(b)~~] (ii) appeals from land use decisions applying [~~the~~] land use ordinances; and

[~~(c)~~] (iii) appeals from a fee charged in accordance with Section 17-27a-509.

(c) An appeal authority may not hear an appeal from the enactment of a land use regulation.

(2) As a condition precedent to judicial review, each adversely affected party shall timely and specifically challenge a land use authority's land use decision, in accordance with local ordinance.

(3) An appeal authority described in Subsection (1)(a):

(a) shall:

(i) act in a quasi-judicial manner; and

(ii) serve as the final arbiter of issues involving the interpretation or application of land use ordinances; and

(b) may not entertain an appeal of a matter in which the appeal authority, or any participating member, had first acted as the land use authority.

(4) By ordinance, a county may:

(a) designate a separate appeal authority to hear requests for variances than the appeal authority [~~it~~] the county designates to hear appeals;

(b) designate one or more separate appeal authorities to hear distinct types of appeals of land use authority decisions;

(c) require an adversely affected party to present to an appeal authority every theory of relief that [~~it~~] the adversely affected party can raise in district court;

(d) not require a land use applicant or adversely affected party to pursue duplicate or successive appeals before the same or separate appeal authorities as a condition of an appealing party's duty to exhaust administrative remedies; and

(e) provide that specified types of land use decisions may be appealed directly to the district court.

(5) If the county establishes or, prior to the effective date of this chapter, has established a multiperson board, body, or panel to act as an appeal authority, at a minimum the board, body, or panel shall:

(a) notify each of [~~its~~] the members of the board, body, or panel of any meeting or hearing of the board, body, or panel;

(b) provide each of [~~its~~] the members of the board, body, or panel with the same information and access to municipal resources as any other member;

(c) convene only if a quorum of [~~its~~] the members of the board, body, or panel is present; and

(d) act only upon the vote of a majority of [~~its~~] the convened members of the board, body, or panel.

Section 27. Section 17-27a-801 is amended to read:

17-27a-801. No district court review until administrative remedies exhausted -- Time for filing -- Tolling of time -- Standards governing court review -- Record on review -- Staying of decision.

(1) No person may challenge in district court a land use decision until that person has exhausted the person's administrative remedies as provided in Part 7, Appeal Authority and Variances, if applicable.

(2) (a) [~~A~~] Subject to Subsection (1), a land use applicant or adversely affected party may file a petition for review of [~~the~~] a land use decision with the district court within 30 days after the decision is final.

(b) (i) The time under Subsection (2)(a) to file a petition is tolled from the date a property owner files a request for arbitration of a constitutional taking issue with the property rights ombudsman under Section 13-43-204 until 30 days after:

(A) the arbitrator issues a final award; or

(B) the property rights ombudsman issues a written statement under Subsection 13-43-204(3)(b) declining to arbitrate or to appoint an arbitrator.

(ii) A tolling under Subsection (2)(b)(i) operates only as to the specific constitutional taking issue that is the subject of the request for arbitration filed with the property rights ombudsman by a property owner.

(iii) A request for arbitration filed with the property rights ombudsman after the time under Subsection (2)(a) to file a petition has expired does not affect the time to file a petition.

(3) (a) A court shall:

(i) presume that a land use regulation properly enacted under the authority of this chapter is valid; and

(ii) determine only whether:

(A) the land use regulation is expressly preempted by, or was enacted contrary to, state or federal law; and

(B) it is reasonably debatable that the land use regulation is consistent with this chapter.

(b) A court shall:

(i) presume that a final land use decision of a land use authority or an appeal authority is valid; and

(ii) uphold the land use decision unless the land use decision is:

(A) arbitrary and capricious; or

(B) illegal.

(c) (i) A land use decision is arbitrary and capricious if the land use decision is not supported by substantial evidence in the record.

(ii) A land use decision is illegal if the land use decision is:

(A) based on an incorrect interpretation of a land use regulation; or

(B) contrary to law.

(d) (i) A court may affirm or reverse [~~the decision of a land use authority~~] a land use decision.

(ii) If the court reverses a [~~denial of a land use application~~] land use decision, the court shall remand the matter to the land use authority with instructions to issue [~~an approval~~] a land use decision consistent with the court's decision.

(4) The provisions of Subsection (2)(a) apply from the date on which the county takes final action on a land use application, if the county conformed with the notice provisions of Part 2, Notice, or for any person who had actual notice of the pending land use decision.

(5) If the county has complied with Section 17-27a-205, a challenge to the enactment of a land use regulation or general plan may not be filed with the district court more than 30 days after the enactment.

(6) A challenge to a land use decision is barred unless the challenge is filed within 30 days after the land use decision is final.

(7) (a) The land use authority or appeal authority, as the case may be, shall transmit to the reviewing court the record of [~~its~~] the proceedings of the land use authority or appeal authority, including [~~its~~] the minutes, findings, orders and, if available, a true and correct transcript of [~~its~~] the proceedings.

(b) If the proceeding was recorded, a transcript of that recording is a true and correct transcript for purposes of this Subsection (7).

(8) (a) (i) If there is a record, the district court's review is limited to the record provided by the land use authority or appeal authority, as the case may be.

(ii) The court may not accept or consider any evidence outside the record of the land use

authority or appeal authority, as the case may be, unless that evidence was offered to the land use authority or appeal authority, respectively, and the court determines that [~~it~~] the evidence was improperly excluded.

(b) If there is no record, the court may call witnesses and take evidence.

(9) (a) The filing of a petition does not stay the land use decision of the land use authority or appeal authority, as the case may be.

(b) (i) Before filing a petition under this section or a request for mediation or arbitration of a constitutional taking issue under Section 13-43-204, a land use applicant may petition the appeal authority to stay [~~its~~] the appeal authority's decision.

(ii) Upon receipt of a petition to stay, the appeal authority may order [~~its~~] the appeal authority's decision stayed pending district court review if the appeal authority finds [~~it~~] the order to be in the best interest of the county.

(iii) After a petition is filed under this section or a request for mediation or arbitration of a constitutional taking issue is filed under Section 13-43-204, the petitioner may seek an injunction staying the appeal authority's land use decision.

(10) If the court determines that a party initiated or pursued a challenge to [~~the~~] a land use decision on a land use application in bad faith, the court may award attorney fees.

Section 28. Section 57-1-13 is amended to read:

57-1-13. Form of quitclaim deed -- Effect.

(1) A conveyance of land may also be substantially in the following form:

"QUITCLAIM DEED

____ (here insert name), grantor, of ____ (insert place of residence), hereby quitclaims to ____ (insert name), grantee, of ____ (here insert place of residence), for the sum of ____ dollars, the following described tract ____ of land in ____ County, Utah, to wit: (here describe the premises).

Witness the hand of said grantor this _____(month\day\year).

A quitclaim deed when executed as required by law shall have the effect of a conveyance of all right, title, interest, and estate of the grantor in and to the premises therein described and all rights, privileges, and appurtenances thereunto belonging, at the date of the conveyance."

(2) A boundary line agreement operating as a quitclaim deed shall meet the requirements described in Section [~~57-1-45~~] 10-9a-524 or 17-27a-523, as applicable.

Section 29. Section 57-1-45 is amended to read:

57-1-45. Boundary line agreements.

[~~(1) If properly executed and acknowledged as required under this chapter, and when recorded in the office of the recorder of the county in which the property is located, an agreement between adjoining property owners of land that designates the boundary line between the adjoining properties acts as a quitclaim deed to convey all of each party's right, title, interest, and estate in property outside the agreed boundary line that had been the subject of the boundary line agreement or dispute that led to the boundary line agreement.~~]

[~~(2) Adjoining property owners executing a boundary line agreement described in Subsection (1) shall:~~]

[~~(a) ensure that the agreement includes:~~]

[~~(i) a legal description of the agreed upon boundary line;~~]

[~~(ii) the name and signature of each grantor that is party to the agreement;~~]

[~~(iii) a sufficient acknowledgment for each grantor's signature;~~]

[~~(iv) the address of each grantee for assessment purposes;~~]

[~~(v) the parcel or lot each grantor owns before the boundary line is changed;~~]

[~~(vi) a statement citing the file number of a record of a survey map, as defined in Sections 10-9a-103 and 17-27a-103, that the parties prepare and file, in accordance with Section 17-23-17, in conjunction with the boundary line agreement; and~~]

[~~(vii) the date of the agreement if the date is not included in the acknowledgment in a form substantially similar to a quitclaim deed as described in Section 57-1-13; and~~]

[~~(b) prepare an amended plat in accordance with Title 10, Chapter 9a, Part 6, Subdivisions, or Title 17, Chapter 27a, Part 6, Subdivisions.~~]

[~~(3) A boundary line agreement described in Subsection (1) that complies with Subsection (2) presumptively:~~]

[~~(a) has no detrimental effect on any easement on the property that is recorded before the date on which the agreement is executed unless the owner of the property benefitting from the easement specifically modifies the easement within the boundary line agreement or a separate recorded easement modification or relinquishment document; and~~]

[~~(b) relocates the parties' common boundary line for an exchange of consideration.~~]

[~~(4) Notwithstanding Title 10, Chapter 9a, Part 6, Subdivisions, Title 17, Chapter 27a, Part 6, Subdivisions, or the local entity's ordinances or policies, a boundary line agreement is not subject to:~~]

[~~(a) any public notice, public hearing, or preliminary platting requirement;~~]

[~~(b) the local entity's planning commission review or recommendation; or~~]

[~~(c) an engineering review or approval of the local entity.~~]

A boundary line agreement to adjust the boundaries of adjoining properties shall comply with Section 10-9a-524 or 17-27a-523, as applicable.

Section 30. Section 63I-2-217 is amended to read:

63I-2-217. Repeal dates -- Title 17.

(1) Section 17-22-32.2, regarding restitution reporting, is repealed January 1, 2021.

(2) Section 17-22-32.3, regarding the Jail Incarceration and Transportation Costs Study Council, is repealed January 1, 2021.

(3) Subsection 17-27a-102(1)(b), the language that states "or a designated mountainous planning district" is repealed June 1, 2021.

(4) (a) Subsection 17-27a-103[~~(18)~~](20)(b), regarding a mountainous planning district, is repealed June 1, 2021.

(b) Subsection 17-27a-103[~~(42)~~](44), regarding a mountainous planning district, is repealed June 1, 2021.

(5) Subsection 17-27a-210(2)(a), the language that states "or the mountainous planning district area" is repealed June 1, 2021.

(6) (a) Subsection 17-27a-301(1)(b)(iii), regarding a mountainous planning district, is repealed June 1, 2021.

(b) Subsection 17-27a-301(1)(c), regarding a mountainous planning district, is repealed June 1, 2021.

(c) Subsection 17-27a-301(3)(a), the language that states " or (c)" is repealed June 1, 2021.

(7) Section 17-27a-302, the language that states ", or mountainous planning district" and "or the mountainous planning district," is repealed June 1, 2021.

(8) Subsection 17-27a-305(1)(a), the language that states "a mountainous planning district or" and ", as applicable" is repealed June 1, 2021.

(9) (a) Subsection 17-27a-401(1)(b)(ii), regarding a mountainous planning district, is repealed June 1, 2021.

(b) Subsection 17-27a-401(7), regarding a mountainous planning district, is repealed June 1, 2021.

(10) (a) Subsection 17-27a-403(1)(b)(ii), regarding a mountainous planning district, is repealed June 1, 2021.

(b) Subsection 17-27a-403(1)(c)(iii), regarding a mountainous planning district, is repealed June 1, 2021.

(c) Subsection 17-27a-403(2)(a)(iii), the language that states "or the mountainous planning district" is repealed June 1, 2021.

(d) Subsection 17-27a-403(2)(c)(i), the language that states "or mountainous planning district" is repealed June 1, 2021.

(11) Subsection 17-27a-502(1)(d)(i)(B), regarding a mountainous planning district, is repealed June 1, 2021.

(12) Subsection 17-27a-505.5(2)(a)(iii), regarding a mountainous planning district, is repealed June 1, 2021.

(13) Subsection 17-27a-602(1)(b), the language that states "or, in the case of a mountainous planning district, the mountainous planning district" is repealed June 1, 2021.

(14) Subsection 17-27a-604(1)(b)(i)(B), regarding a mountainous planning district, is repealed June 1, 2021.

(15) Subsection 17-27a-605(1)(a), the language that states "or mountainous planning district land" is repealed June 1, 2021.

(16) Title 17, Chapter 27a, Part 9, Mountainous Planning District, is repealed June 1, 2021.

(17) On June 1, 2021, when making the changes in this section, the Office of Legislative Research and General Counsel shall:

(a) in addition to its authority under Subsection 36-12-12(3):

(i) make corrections necessary to ensure that sections and subsections identified in this section are complete sentences and accurately reflect the office's understanding of the Legislature's intent; and

(ii) make necessary changes to subsection numbering and cross references; and

(b) identify the text of the affected sections and subsections based upon the section and subsection numbers used in Laws of Utah 2017, Chapter 448.

(18) Subsection 17-34-1(5)(d), regarding county funding of certain municipal services in a designated recreation area, is repealed June 1, 2021.

(19) Title 17, Chapter 35b, Consolidation of Local Government Units, is repealed January 1, 2022.

(20) On June 1, 2022:

(a) Section 17-52a-104 is repealed;

(b) in Subsection 17-52a-301(3)(a), the language that states "or under a provision described in Subsection 17-52a-104(1)(b) or (2)(b)," is repealed; and

(c) Subsection 17-52a-301(3)(a)(iv), regarding the first initiated process, is repealed.

(21) On January 1, 2028, Subsection 17-52a-103(3), requiring certain counties to initiate a change of form of government process by July 1, 2018, is repealed.

CHAPTER 386
H. B. 416
Passed March 5, 2021
Approved March 22, 2021
Effective May 5, 2021

LOCAL TAX SALES AMENDMENTS

Chief Sponsor: Craig Hall
Senate Sponsor: Ronald M. Winterton

LONG TITLE

General Description:

This bill modifies the requirements for holding a tax sale of real property.

Highlighted Provisions:

This bill:

- provides the circumstances under which a county auditor may conduct a tax sale of real property electronically;
- updates the location information for the tax sale in the notice requirement; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

59-2-1351, as last amended by Laws of Utah 2018, Chapter 197

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 59-2-1351 is amended to read:

59-2-1351. Sales by county -- Notice of tax sale -- Entries on record.

(1) (a) Upon receiving the tax sale listing from the county treasurer, the county auditor shall select a date for the tax sale for all real property:

(i) on which a tax or tax notice charge delinquency exists;

(ii) that was not previously redeemed; and

(iii) upon which the period of redemption is expiring in the nearest tax sale.

(b) The county auditor shall conduct the tax sale [~~shall be conducted~~] in May or June of the current year.

(c) The tax sale may occur:

(i) at the front door of the county courthouse in the county where the real property is located; or

(ii) through an electronic process if:

(A) the tax sale occurs in the same format as a tax sale would occur at the front door of the county courthouse except that participation is through an electronic means;

(B) members of the public are able to observe and participate, including making bids and payment arrangements, in the tax sale; and

(C) the county auditor includes information about how the public may access the tax sale through the electronic process with the description of the place of the tax sale in the notice provided in accordance with Subsections (2) and (3).

(2) [~~Notice~~] The county auditor shall provide notice of the tax sale [~~shall be provided~~] as follows:

(a) [~~sent~~] send by certified and first class mail to the last-known recorded owner, the occupant of any improved property, and all other interests of record, as of the preceding March 15, at [~~their~~] the last-known [~~address~~] addresses; and

(b) [~~published~~] publish:

(i) four times in a newspaper published and having general circulation in the county, once in each of four successive weeks immediately preceding the date of sale; and

(ii) in accordance with Section 45-1-101 for four weeks immediately preceding the date of sale; and

(c) if no newspaper is published in the county, [~~posted~~] post in five public places in the county, as determined by the auditor, at least 25 but no more than 30 days [~~prior to~~] before the date of sale.

(3) The notice shall be in substantially the following form:

NOTICE OF TAX SALE

Notice is hereby given that on _____(month\day\year), at __ o'clock __. m., at [~~the front door of the county courthouse in ____ County, Utah~~] [the physical or electronic address of the tax sale], I will offer for sale at public auction and sell to the highest bidder for cash, under the provisions of Section 59-2-1351.1, the following described real property located in the county and now delinquent and subject to tax sale. A bid for less than the total amount of taxes, tax notice charges, interest, penalty, and administrative costs which are a charge upon the real estate will not be accepted.

(Here describe the real estate)

IN WITNESS WHEREOF I have hereunto set my hand and official seal on _____(month\day\year).

_____County Auditor

_____County

(4) (a) The notice sent by certified mail in accordance with Subsection (2)(a) shall include:

(i) the name and last-known address of the last-known recorded owner of the property to be sold;

(ii) the parcel, serial, or account number of the delinquent property; and

(iii) the legal description of the delinquent property.

(b) The notice published in a newspaper in accordance with Subsection (2)(b) shall include:

(i) the name and last-known address of the last-known recorded owner of each parcel of property to be sold; and

(ii) the street address or the parcel, serial, or account number of the delinquent parcels.

CHAPTER 387
H. B. 433
Passed March 4, 2021
Approved March 22, 2021
Effective May 5, 2021

AMENDMENTS RELATED TO INFRASTRUCTURE FUNDING

Chief Sponsor: Mike Schultz
Senate Sponsor: Kirk A. Cullimore

LONG TITLE

General Description:

This bill enacts and modifies provisions relating to funding for infrastructure projects.

Highlighted Provisions:

This bill:

- authorizes the issuance of $264,000,000 in bonds for specified transportation and transit projects;
- provides for uses of the bond proceeds;
- limits the issuance of bonds;
- enacts other provisions relating to the issuance of the bonds;
- provides for certain sales tax revenue to be deposited into a specified transportation investment fund; and
- allocates and appropriates money for infrastructure projects.

Monies Appropriated in this Bill:

This bill appropriates in fiscal year 2022:

- to Transportation – Transportation Investment Fund of 2005, as a one-time appropriation:
  - from the General Fund, $733,000,000; and
- to Transportation – Transit Transportation Investment Fund, as a one-time appropriation:
  - from the General Fund, $101,600,000.

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

59-12-103, as last amended by Laws of Utah 2020, Fifth Special Session, Chapter 20
72-2-124, as last amended by Laws of Utah 2020, Chapters 366 and 377
72-2-131, as enacted by Laws of Utah 2020, Fourth Special Session, Chapter 2

ENACTS:

63B-31-101, Utah Code Annotated 1953

Uncodified Material Affected:

ENACTS UNCODIFIED MATERIAL

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 59-12-103 is amended to read:

59-12-103. Sales and use tax base -- Rates -- Effective dates -- Use of sales and use tax revenues.

(1) A tax is imposed on the purchaser as provided in this part on the purchase price or sales price for amounts paid or charged for the following transactions:

(a) retail sales of tangible personal property made within the state;

(b) amounts paid for:

(i) telecommunications service, other than mobile telecommunications service, that originates and terminates within the boundaries of this state;

(ii) mobile telecommunications service that originates and terminates within the boundaries of one state only to the extent permitted by the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 116 et seq.; or

(iii) an ancillary service associated with a:

(A) telecommunications service described in Subsection (1)(b)(i); or

(B) mobile telecommunications service described in Subsection (1)(b)(ii);

(c) sales of the following for commercial use:

(i) gas;

(ii) electricity;

(iii) heat;

(iv) coal;

(v) fuel oil; or

(vi) other fuels;

(d) sales of the following for residential use:

(i) gas;

(ii) electricity;

(iii) heat;

(iv) coal;

(v) fuel oil; or

(vi) other fuels;

(e) sales of prepared food;

(f) except as provided in Section 59-12-104, amounts paid or charged as admission or user fees for theaters, movies, operas, museums, planetariums, shows of any type or nature, exhibitions, concerts, carnivals, amusement parks, amusement rides, circuses, menageries, fairs, races, contests, sporting events, dances, boxing matches, wrestling matches, closed circuit television broadcasts, billiard parlors, pool parlors, bowling lanes, golf, miniature golf, golf driving ranges, batting cages, skating rinks, ski lifts, ski runs, ski trails, snowmobile trails, tennis courts, swimming pools, water slides, river runs, jeep tours, boat tours, scenic cruises, horseback rides, sports activities, or any other amusement, entertainment, recreation, exhibition, cultural, or athletic activity;

(g) amounts paid or charged for services for repairs or renovations of tangible personal property, unless Section 59-12-104 provides for an exemption from sales and use tax for:

(i) the tangible personal property; and

(ii) parts used in the repairs or renovations of the tangible personal property described in Subsection (1)(g)(i), regardless of whether:

(A) any parts are actually used in the repairs or renovations of that tangible personal property; or

(B) the particular parts used in the repairs or renovations of that tangible personal property are exempt from a tax under this chapter;

(h) except as provided in Subsection 59-12-104(7), amounts paid or charged for assisted cleaning or washing of tangible personal property;

(i) amounts paid or charged for tourist home, hotel, motel, or trailer court accommodations and services that are regularly rented for less than 30 consecutive days;

(j) amounts paid or charged for laundry or dry cleaning services;

(k) amounts paid or charged for leases or rentals of tangible personal property if within this state the tangible personal property is:

(i) stored;

(ii) used; or

(iii) otherwise consumed;

(l) amounts paid or charged for tangible personal property if within this state the tangible personal property is:

(i) stored;

(ii) used; or

(iii) consumed; and

(m) amounts paid or charged for a sale:

(i) (A) of a product transferred electronically; or

(B) of a repair or renovation of a product transferred electronically; and

(ii) regardless of whether the sale provides:

(A) a right of permanent use of the product; or

(B) a right to use the product that is less than a permanent use, including a right:

(I) for a definite or specified length of time; and

(II) that terminates upon the occurrence of a condition.

(2) (a) Except as provided in Subsections (2)(b) through (e), a state tax and a local tax are imposed on a transaction described in Subsection (1) equal to the sum of:

(i) a state tax imposed on the transaction at a tax rate equal to the sum of:

(A) (I) through March 31, 2019, 4.70%; and

(II) beginning on April 1, 2019, 4.70% plus the rate specified in Subsection (13)(a); and

(B) (I) the tax rate the state imposes in accordance with Part 18, Additional State Sales and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211 through 59-12-215 is in a county in which the state imposes the tax under Part 18, Additional State Sales and Use Tax Act; and

(II) the tax rate the state imposes in accordance with Part 20, Supplemental State Sales and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211 through 59-12-215 is in a city, town, or the unincorporated area of a county in which the state imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

(ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the transaction under this chapter other than this part.

(b) Except as provided in Subsection (2)(d) or (e) and subject to Subsection (2)(j), a state tax and a local tax are imposed on a transaction described in Subsection (1)(d) equal to the sum of:

(i) a state tax imposed on the transaction at a tax rate of 2%; and

(ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the transaction under this chapter other than this part.

(c) Except as provided in Subsection (2)(d) or (e), a state tax and a local tax are imposed on amounts paid or charged for food and food ingredients equal to the sum of:

(i) a state tax imposed on the amounts paid or charged for food and food ingredients at a tax rate of 1.75%; and

(ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the amounts paid or charged for food and food ingredients under this chapter other than this part.

(d) (i) For a bundled transaction that is attributable to food and food ingredients and tangible personal property other than food and food ingredients, a state tax and a local tax is imposed on the entire bundled transaction equal to the sum of:

(A) a state tax imposed on the entire bundled transaction equal to the sum of:

(I) the tax rate described in Subsection (2)(a)(i)(A); and

(II) (Aa) the tax rate the state imposes in accordance with Part 18, Additional State Sales and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211 through 59-12-215 is in a county in which the state imposes the tax under Part 18, Additional State Sales and Use Tax Act; and

(Bb) the tax rate the state imposes in accordance with Part 20, Supplemental State Sales and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211 through 59-12-215 is in a city, town, or the unincorporated area of a county in which the state imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

(B) a local tax imposed on the entire bundled transaction at the sum of the tax rates described in Subsection (2)(a)(ii).

(ii) If an optional computer software maintenance contract is a bundled transaction that consists of taxable and nontaxable products that are not separately itemized on an invoice or similar billing document, the purchase of the optional computer software maintenance contract is 40% taxable under this chapter and 60% nontaxable under this chapter.

(iii) Subject to Subsection (2)(d)(iv), for a bundled transaction other than a bundled transaction described in Subsection (2)(d)(i) or (ii):

(A) if the sales price of the bundled transaction is attributable to tangible personal property, a product, or a service that is subject to taxation under this chapter and tangible personal property, a product, or service that is not subject to taxation under this chapter, the entire bundled transaction is subject to taxation under this chapter unless:

(I) the seller is able to identify by reasonable and verifiable standards the tangible personal property, product, or service that is not subject to taxation under this chapter from the books and records the seller keeps in the seller's regular course of business; or

(II) state or federal law provides otherwise; or

(B) if the sales price of a bundled transaction is attributable to two or more items of tangible personal property, products, or services that are subject to taxation under this chapter at different rates, the entire bundled transaction is subject to taxation under this chapter at the higher tax rate unless:

(I) the seller is able to identify by reasonable and verifiable standards the tangible personal property, product, or service that is subject to taxation under this chapter at the lower tax rate from the books and records the seller keeps in the seller's regular course of business; or

(II) state or federal law provides otherwise.

(iv) For purposes of Subsection (2)(d)(iii), books and records that a seller keeps in the seller's regular course of business includes books and records the seller keeps in the regular course of business for nontax purposes.

(e) (i) Except as otherwise provided in this chapter and subject to Subsections (2)(e)(ii) and (iii), if a transaction consists of the sale, lease, or rental of tangible personal property, a product, or a service that is subject to taxation under this chapter, and the sale, lease, or rental of tangible personal property, other property, a product, or a service that is not subject to taxation under this chapter, the entire transaction is subject to taxation under this chapter unless the seller, at the time of the transaction:

(A) separately states the portion of the transaction that is not subject to taxation under this chapter on an invoice, bill of sale, or similar document provided to the purchaser; or

(B) is able to identify by reasonable and verifiable standards, from the books and records the seller keeps in the seller's regular course of business, the portion of the transaction that is not subject to taxation under this chapter.

(ii) A purchaser and a seller may correct the taxability of a transaction if:

(A) after the transaction occurs, the purchaser and the seller discover that the portion of the transaction that is not subject to taxation under this chapter was not separately stated on an invoice, bill of sale, or similar document provided to the purchaser because of an error or ignorance of the law; and

(B) the seller is able to identify by reasonable and verifiable standards, from the books and records the seller keeps in the seller's regular course of business, the portion of the transaction that is not subject to taxation under this chapter.

(iii) For purposes of Subsections (2)(e)(i) and (ii), books and records that a seller keeps in the seller's regular course of business includes books and records the seller keeps in the regular course of business for nontax purposes.

(f) (i) If the sales price of a transaction is attributable to two or more items of tangible personal property, products, or services that are subject to taxation under this chapter at different rates, the entire purchase is subject to taxation under this chapter at the higher tax rate unless the seller, at the time of the transaction:

(A) separately states the items subject to taxation under this chapter at each of the different rates on an invoice, bill of sale, or similar document provided to the purchaser; or

(B) is able to identify by reasonable and verifiable standards the tangible personal property, product, or service that is subject to taxation under this chapter at the lower tax rate from the books and records the seller keeps in the seller's regular course of business.

(ii) For purposes of Subsection (2)(f)(i), books and records that a seller keeps in the seller's regular course of business includes books and records the seller keeps in the regular course of business for nontax purposes.

(g) Subject to Subsections (2)(h) and (i), a tax rate repeal or tax rate change for a tax rate imposed under the following shall take effect on the first day of a calendar quarter:

(i) Subsection (2)(a)(i)(A);

(ii) Subsection (2)(b)(i);

(iii) Subsection (2)(c)(i); or

(iv) Subsection (2)(d)(i)(A)(I).

(h) (i) A tax rate increase takes effect on the first day of the first billing period that begins on or after the effective date of the tax rate increase if the billing period for the transaction begins before the effective date of a tax rate increase imposed under:

(A) Subsection (2)(a)(i)(A);

(B) Subsection (2)(b)(i);

(C) Subsection (2)(c)(i); or

(D) Subsection (2)(d)(i)(A)(I).

(ii) The repeal of a tax or a tax rate decrease applies to a billing period if the billing statement for the billing period is rendered on or after the effective date of the repeal of the tax or the tax rate decrease imposed under:

(A) Subsection (2)(a)(i)(A);

(B) Subsection (2)(b)(i);

(C) Subsection (2)(c)(i); or

(D) Subsection (2)(d)(i)(A)(I).

(i) (i) For a tax rate described in Subsection (2)(i)(ii), if a tax due on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, a tax rate repeal or change in a tax rate takes effect:

(A) on the first day of a calendar quarter; and

(B) beginning 60 days after the effective date of the tax rate repeal or tax rate change.

(ii) Subsection (2)(i)(i) applies to the tax rates described in the following:

(A) Subsection (2)(a)(i)(A);

(B) Subsection (2)(b)(i);

(C) Subsection (2)(c)(i); or

(D) Subsection (2)(d)(i)(A)(I).

(iii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

(j) (i) For a location described in Subsection (2)(j)(ii), the commission shall determine the taxable status of a sale of gas, electricity, heat, coal, fuel oil, or other fuel based on the predominant use of the gas, electricity, heat, coal, fuel oil, or other fuel at the location.

(ii) Subsection (2)(j)(i) applies to a location where gas, electricity, heat, coal, fuel oil, or other fuel is furnished through a single meter for two or more of the following uses:

(A) a commercial use;

(B) an industrial use; or

(C) a residential use.

(3) (a) The following state taxes shall be deposited into the General Fund:

(i) the tax imposed by Subsection (2)(a)(i)(A);

(ii) the tax imposed by Subsection (2)(b)(i);

(iii) the tax imposed by Subsection (2)(c)(i); or

(iv) the tax imposed by Subsection (2)(d)(i)(A)(I).

(b) The following local taxes shall be distributed to a county, city, or town as provided in this chapter:

(i) the tax imposed by Subsection (2)(a)(ii);

(ii) the tax imposed by Subsection (2)(b)(ii);

(iii) the tax imposed by Subsection (2)(c)(ii); and

(iv) the tax imposed by Subsection (2)(d)(i)(B).

(4) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1, 2003, the lesser of the following amounts shall be expended as provided in Subsections (4)(b) through (g):

(i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:

(A) by a 1/16% tax rate on the transactions described in Subsection (1); and

(B) for the fiscal year; or

(ii) $17,500,000.

(b) (i) For a fiscal year beginning on or after July 1, 2003, 14% of the amount described in Subsection (4)(a) shall be transferred each year as dedicated credits to the Department of Natural Resources to:

(A) implement the measures described in Subsections 79-2-303(3)(a) through (d) to protect sensitive plant and animal species; or

(B) award grants, up to the amount authorized by the Legislature in an appropriations act, to political subdivisions of the state to implement the measures described in Subsections 79-2-303(3)(a) through (d) to protect sensitive plant and animal species.

(ii) Money transferred to the Department of Natural Resources under Subsection (4)(b)(i) may not be used to assist the United States Fish and Wildlife Service or any other person to list or attempt to have listed a species as threatened or endangered under the Endangered Species Act of 1973, 16 U.S.C. Sec. 1531 et seq.

(iii) At the end of each fiscal year:

(A) 50% of any unexpended dedicated credits shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24;

(B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan Program Subaccount created in Section 73-10c-5; and

(C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan Program Subaccount created in Section 73-10c-5.

(c) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described in Subsection (4)(a) shall be deposited each year in the Agriculture Resource Development Fund created in Section 4-18-106.

(d) (i) For a fiscal year beginning on or after July 1, 2003, 1% of the amount described in Subsection (4)(a) shall be transferred each year as dedicated credits to the Division of Water Rights to cover the costs incurred in hiring legal and technical staff for the adjudication of water rights.

(ii) At the end of each fiscal year:

(A) 50% of any unexpended dedicated credits shall lapse to the Water Resources Conservation

and Development Fund created in Section 73-10-24;

(B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan Program Subaccount created in Section 73-10c-5; and

(C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan Program Subaccount created in Section 73-10c-5.

(e) (i) For a fiscal year beginning on or after July 1, 2003, 41% of the amount described in Subsection (4)(a) shall be deposited into the Water Resources Conservation and Development Fund created in Section 73-10-24 for use by the Division of Water Resources.

(ii) In addition to the uses allowed of the Water Resources Conservation and Development Fund under Section 73-10-24, the Water Resources Conservation and Development Fund may also be used to:

(A) conduct hydrologic and geotechnical investigations by the Division of Water Resources in a cooperative effort with other state, federal, or local entities, for the purpose of quantifying surface and ground water resources and describing the hydrologic systems of an area in sufficient detail so as to enable local and state resource managers to plan for and accommodate growth in water use without jeopardizing the resource;

(B) fund state required dam safety improvements; and

(C) protect the state's interest in interstate water compact allocations, including the hiring of technical and legal staff.

(f) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described in Subsection (4)(a) shall be deposited into the Utah Wastewater Loan Program Subaccount created in Section 73-10c-5 for use by the Water Quality Board to fund wastewater projects.

(g) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described in Subsection (4)(a) shall be deposited into the Drinking Water Loan Program Subaccount created in Section 73-10c-5 for use by the Division of Drinking Water to:

(i) provide for the installation and repair of collection, treatment, storage, and distribution facilities for any public water system, as defined in Section 19-4-102;

(ii) develop underground sources of water, including springs and wells; and

(iii) develop surface water sources.

(5) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1, 2006, the difference between the following amounts shall be expended as provided in this Subsection (5), if that difference is greater than $1:

(i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated for the fiscal year by a 1/16% tax rate on the transactions described in Subsection (1); and

(ii) $17,500,000.

(b) (i) The first $500,000 of the difference described in Subsection (5)(a) shall be:

(A) transferred each fiscal year to the Department of Natural Resources as dedicated credits; and

(B) expended by the Department of Natural Resources for watershed rehabilitation or restoration.

(ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described in Subsection (5)(b)(i) shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24.

(c) (i) After making the transfer required by Subsection (5)(b)(i), $150,000 of the remaining difference described in Subsection (5)(a) shall be:

(A) transferred each fiscal year to the Division of Water Resources as dedicated credits; and

(B) expended by the Division of Water Resources for cloud-seeding projects authorized by Title 73, Chapter 15, Modification of Weather.

(ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described in Subsection (5)(c)(i) shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24.

(d) After making the transfers required by Subsections (5)(b) and (c), 85% of the remaining difference described in Subsection (5)(a) shall be deposited into the Water Resources Conservation and Development Fund created in Section 73-10-24 for use by the Division of Water Resources for:

(i) preconstruction costs:

(A) as defined in Subsection 73-26-103(6) for projects authorized by Title 73, Chapter 26, Bear River Development Act; and

(B) as defined in Subsection 73-28-103(8) for the Lake Powell Pipeline project authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act;

(ii) the cost of employing a civil engineer to oversee any project authorized by Title 73, Chapter 26, Bear River Development Act;

(iii) the cost of employing a civil engineer to oversee the Lake Powell Pipeline project authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act; and

(iv) other uses authorized under Sections 73-10-24, 73-10-25.1, and 73-10-30, and Subsection (4)(e)(ii) after funding the uses specified in Subsections (5)(d)(i) through (iii).

(e) After making the transfers required by Subsections (5)(b) and (c) and subject to Subsection (5)(f), 15% of the remaining difference described in Subsection (5)(a) shall be transferred each year as

dedicated credits to the Division of Water Rights to cover the costs incurred for employing additional technical staff for the administration of water rights.

(f) At the end of each fiscal year, any unexpended dedicated credits described in Subsection (5)(e) over $150,000 lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24.

(6) Notwithstanding Subsection (3)(a) and for taxes listed under Subsection (3)(a), the amount of revenue generated by a 1/16% tax rate on the transactions described in Subsection (1) for the fiscal year shall be deposited as follows:

(a) for fiscal year 2016-17 only, 100% of the revenue described in this Subsection (6) shall be deposited into the Transportation Investment Fund of 2005 created by Section 72-2-124;

(b) for fiscal year 2017-18 only:

(i) 80% of the revenue described in this Subsection (6) shall be deposited into the Transportation Investment Fund of 2005 created by Section 72-2-124; and

(ii) 20% of the revenue described in this Subsection (6) shall be deposited into the Water Infrastructure Restricted Account created by Section 73-10g-103;

(c) for fiscal year 2018-19 only:

(i) 60% of the revenue described in this Subsection (6) shall be deposited into the Transportation Investment Fund of 2005 created by Section 72-2-124; and

(ii) 40% of the revenue described in this Subsection (6) shall be deposited into the Water Infrastructure Restricted Account created by Section 73-10g-103;

(d) for fiscal year 2019-20 only:

(i) 40% of the revenue described in this Subsection (6) shall be deposited into the Transportation Investment Fund of 2005 created by Section 72-2-124; and

(ii) 60% of the revenue described in this Subsection (6) shall be deposited into the Water Infrastructure Restricted Account created by Section 73-10g-103;

(e) for fiscal year 2020-21 only:

(i) 20% of the revenue described in this Subsection (6) shall be deposited into the Transportation Investment Fund of 2005 created by Section 72-2-124; and

(ii) 80% of the revenue described in this Subsection (6) shall be deposited into the Water Infrastructure Restricted Account created by Section 73-10g-103; and

(f) for a fiscal year beginning on or after July 1, 2021, 100% of the revenue described in this Subsection (6) shall be deposited into the Water Infrastructure Restricted Account created by Section 73-10g-103.

(7) (a) Notwithstanding Subsection (3)(a), in addition to the amounts deposited in Subsection (6), and subject to Subsection (7)(b), for a fiscal year beginning on or after July 1, 2012, the Division of Finance shall deposit into the Transportation Investment Fund of 2005 created by Section 72-2-124:

(i) a portion of the taxes listed under Subsection (3)(a) in an amount equal to 8.3% of the revenues collected from the following taxes, which represents a portion of the approximately 17% of sales and use tax revenues generated annually by the sales and use tax on vehicles and vehicle-related products:

(A) the tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate;

(B) the tax imposed by Subsection (2)(b)(i);

(C) the tax imposed by Subsection (2)(c)(i); and

(D) the tax imposed by Subsection (2)(d)(i)(A)(I); plus

(ii) an amount equal to 30% of the growth in the amount of revenues collected in the current fiscal year from the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) that exceeds the amount collected from the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) in the 2010-11 fiscal year.

(b) (i) Subject to Subsections (7)(b)(ii) and (iii), in any fiscal year that the portion of the sales and use taxes deposited under Subsection (7)(a) represents an amount that is a total lower percentage of the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) generated in the current fiscal year than the total percentage of sales and use taxes deposited in the previous fiscal year, the Division of Finance shall deposit an amount under Subsection (7)(a) equal to the product of:

(A) the total percentage of sales and use taxes deposited under Subsection (7)(a) in the previous fiscal year; and

(B) the total sales and use tax revenue generated by the taxes described in Subsections (7)(a)(i)(A) through (D) in the current fiscal year.

(ii) In any fiscal year in which the portion of the sales and use taxes deposited under Subsection (7)(a) would exceed 17% of the revenues collected from the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) in the current fiscal year, the Division of Finance shall deposit 17% of the revenues collected from the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) for the current fiscal year under Subsection (7)(a).

(iii) [~~In~~] Subject to Subsection (7)(b)(iv)(E), in all subsequent fiscal years after a year in which 17% of the revenues collected from the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) was deposited under Subsection (7)(a), the Division of Finance shall annually deposit 17% of the revenues collected from the sales and use taxes

described in Subsections (7)(a)(i)(A) through (D) in the current fiscal year under Subsection (7)(a).

(iv) (A) As used in this Subsection (7)(b)(iv), "additional growth revenue" means the amount of relevant revenue collected in the current fiscal year that exceeds by more than 3% the relevant revenue collected in the previous fiscal year.

(B) As used in this Subsection (7)(b)(iv), "combined amount" means the combined total amount of money deposited into the Cottonwood Canyons fund under Subsections (7)(b)(iv)(F) and (8)(c)(iv)(F) in any single fiscal year.

(C) As used in this Subsection (7)(b)(iv), "Cottonwood Canyons fund" means the Cottonwood Canyons Transportation Investment Fund created in Subsection 72-2-124(10).

(D) As used in this Subsection (7)(b)(iv), "relevant revenue" means the portion of taxes listed under Subsection (3)(a) that equals 17% of the revenue collected from taxes described in Subsections (7)(a)(i)(A) through (D).

(E) For a fiscal year beginning on or after July 1, 2020, the commission shall annually reduce the deposit under Subsection (7)(c)(iii) into the Transportation Investment Fund of 2005 by an amount equal to the amount of the deposit under this Subsection (7)(b)(iv) to the Cottonwood Canyons fund in the previous fiscal year plus 25% of additional growth revenue, subject to the limit in Subsection (7)(b)(iv)(F).

(F) The commission shall annually deposit the amount described in Subsection (7)(b)(iv)(E) into the Cottonwood Canyons fund, subject to an annual maximum combined amount for any single fiscal year of $20,000,000.

(G) If the amount of relevant revenue declines in a fiscal year compared to the previous fiscal year, the commission shall decrease the amount of the contribution to the Cottonwood Canyons fund under this Subsection (7)(b)(iv) in the same proportion as the decline in relevant revenue.

(8) (a) Notwithstanding Subsection (3)(a), and in addition to the amounts deposited under Subsections (6) and (7), for the 2016-17 fiscal year only, the Division of Finance shall deposit $64,000,000 of the revenues generated by the taxes listed under Subsection (3)(a) into the Transportation Investment Fund of 2005 created by Section 72-2-124.

(b) Notwithstanding Subsection (3)(a), and in addition to the amounts deposited under Subsections (6) and (7), for the 2017-18 fiscal year only, the Division of Finance shall deposit $63,000,000 of the revenues generated by the taxes listed under Subsection (3)(a) into the Transportation Investment Fund of 2005 created by Section 72-2-124.

(c) (i) Notwithstanding Subsection (3)(a), in addition to the amounts deposited under Subsections (6) and (7), and subject to [~~Subsection~~] Subsections (8)(c)(ii) and (iv)(E), for a fiscal year beginning on or after July 1, 2018, the commission shall annually deposit into the Transportation Investment Fund of 2005 created by Section 72-2-124 a portion of the taxes listed under Subsection (3)(a) in an amount equal to 3.68% of the revenues collected from the following taxes:

(A) the tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate;

(B) the tax imposed by Subsection (2)(b)(i);

(C) the tax imposed by Subsection (2)(c)(i); and

(D) the tax imposed by Subsection (2)(d)(i)(A)(I).

(ii) For a fiscal year beginning on or after July 1, 2019, the commission shall annually reduce the deposit into the Transportation Investment Fund of 2005 under Subsection (8)(c)(i) by an amount that is equal to 35% of the amount of revenue generated in the current fiscal year by the portion of the tax imposed on motor and special fuel that is sold, used, or received for sale or use in this state that exceeds 29.4 cents per gallon.

(iii) The commission shall annually deposit the amount described in Subsection (8)(c)(ii) into the Transit and Transportation Investment Fund created in Section 72-2-124.

(iv) (A) As used in this Subsection (8)(c)(iv), "additional growth revenue" means the amount of relevant revenue collected in the current fiscal year that exceeds by more than 3% the relevant revenue collected in the previous fiscal year.

(B) As used in this Subsection (8)(c)(iv), "combined amount" means the combined total amount of money deposited into the Cottonwood Canyons fund under Subsections (7)(b)(iv)(F) and (8)(c)(iv)(F) in any single fiscal year.

(C) As used in this Subsection (8)(c)(iv), "Cottonwood Canyons fund" means the Cottonwood Canyons Transportation Investment Fund created in Subsection 72-2-124(10).

(D) As used in this Subsection (8)(c)(iv), "relevant revenue" means the portion of taxes listed under Subsection (3)(a) that equals 3.68% of the revenue collected from taxes described in Subsections (8)(c)(i)(A) through (D).

(E) For a fiscal year beginning on or after July 1, 2020, the commission shall annually reduce the deposit under Subsection (8)(c)(i) into the Transportation Investment Fund of 2005 by an amount equal to the amount of the deposit under this Subsection (8)(c)(iv) to the Cottonwood Canyons fund in the previous fiscal year plus 25% of additional growth revenue, subject to the limit in Subsection (8)(c)(iv)(F).

(F) The commission shall annually deposit the amount described in Subsection (8)(c)(iv)(E) into the Cottonwood Canyons fund, subject to an annual maximum combined amount for any single fiscal year of $20,000,000.

(G) If the amount of relevant revenue declines in a fiscal year compared to the previous fiscal year, the commission shall decrease the amount of the

contribution to the Cottonwood Canyons fund under this Subsection (8)(c)(iv) in the same proportion as the decline in relevant revenue.

(9) Notwithstanding Subsection (3)(a), for each fiscal year beginning with fiscal year 2009-10, $533,750 shall be deposited into the Qualified Emergency Food Agencies Fund created by Section 35A-8-1009 and expended as provided in Section 35A-8-1009.

(10) (a) Notwithstanding Subsection (3)(a), except as provided in Subsection (10)(c), in addition to any amounts deposited under Subsections (6), (7), and (8), and for the 2016-17 fiscal year only, the Division of Finance shall deposit into the Transportation Investment Fund of 2005 created by Section 72-2-124 the amount of tax revenue generated by a .05% tax rate on the transactions described in Subsection (1).

(b) Notwithstanding Subsection (3)(a), except as provided in Subsection (10)(c), and in addition to any amounts deposited under Subsections (6), (7), and (8), the Division of Finance shall deposit into the Transportation Investment Fund of 2005 created by Section 72-2-124 the amount of revenue described as follows:

(i) for fiscal year 2017-18 only, 83.33% of the amount of revenue generated by a .05% tax rate on the transactions described in Subsection (1);

(ii) for fiscal year 2018-19 only, 66.67% of the amount of revenue generated by a .05% tax rate on the transactions described in Subsection (1);

(iii) for fiscal year 2019-20 only, 50% of the amount of revenue generated by a .05% tax rate on the transactions described in Subsection (1);

(iv) for fiscal year 2020-21 only, 33.33% of the amount of revenue generated by a .05% tax rate on the transactions described in Subsection (1); and

(v) for fiscal year 2021-22 only, 16.67% of the amount of revenue generated by a .05% tax rate on the transactions described in Subsection (1).

(c) For purposes of Subsections (10)(a) and (b), the Division of Finance may not deposit into the Transportation Investment Fund of 2005 any tax revenue generated by amounts paid or charged for food and food ingredients, except for tax revenue generated by a bundled transaction attributable to food and food ingredients and tangible personal property other than food and food ingredients described in Subsection (2)(d).

(11) Notwithstanding Subsection (3)(a), beginning the second fiscal year after the fiscal year during which the Division of Finance receives notice under Section 63N-2-510 that construction on a qualified hotel, as defined in Section 63N-2-502, has begun, the Division of Finance shall, for two consecutive fiscal years, annually deposit $1,900,000 of the revenue generated by the taxes listed under Subsection (3)(a) into the Hotel Impact Mitigation Fund, created in Section 63N-2-512.

(12) (a) Notwithstanding Subsection (3)(a), for the 2016-17 fiscal year only, the Division of Finance shall deposit $26,000,000 of the revenues generated by the taxes listed under Subsection (3)(a) into the Throughput Infrastructure Fund created by Section 35A-8-308.

(b) Notwithstanding Subsection (3)(a), for the 2017-18 fiscal year only, the Division of Finance shall deposit $27,000,000 of the revenues generated by the taxes listed under Subsection (3)(a) into the Throughput Infrastructure Fund created by Section 35A-8-308.

(13) (a) The rate specified in this subsection is 0.15%.

(b) Notwithstanding Subsection (3)(a), the Division of Finance shall:

(i) on or before September 30, 2019, transfer the amount of revenue collected from the rate described in Subsection (13)(a) beginning on April 1, 2019, and ending on June 30, 2019, on the transactions that are subject to the sales and use tax under Subsection (2)(a)(i)(A) into the Medicaid Expansion Fund created in Section 26-36b-208; and

(ii) for a fiscal year beginning on or after July 1, 2019, annually transfer the amount of revenue collected from the rate described in Subsection (13)(a) on the transactions that are subject to the sales and use tax under Subsection (2)(a)(i)(A) into the Medicaid Expansion Fund created in Section 26-36b-208.

(14) Notwithstanding Subsection (3)(a), for each fiscal year beginning with fiscal year 2020-21, the Division of Finance shall deposit $200,000 into the General Fund as a dedicated credit solely for use of the Search and Rescue Financial Assistance Program created in, and expended in accordance with, Title 53, Chapter 2a, Part 11, Search and Rescue Act.

(15) (a) For each fiscal year beginning with fiscal year 2020-21, the Division of Finance shall annually transfer $1,813,400 of the revenue deposited into the Transportation Investment Fund of 2005 under Subsections (6) through (8) to the General Fund.

(b) If the total revenue deposited into the Transportation Investment Fund of 2005 under Subsections (6) through (8) is less than $1,813,400 for a fiscal year, the Division of Finance shall transfer the total revenue deposited into the Transportation Investment Fund of 2005 under Subsections (6) through (8) during the fiscal year to the General Fund.

Section 2. Section 63B-31-101 is enacted to read:

CHAPTER 31. 2021 BONDING AND FINANCING AUTHORIZATIONS

Part 1. General Provisions

63B-31-101. General obligation bonds -- Maximum amount -- Use of proceeds for projects.

(1) (a) Subject to the restriction in Subsection (1)(c), the total amount of bonds issued under this section may not exceed $264,000,000 for acquisition and construction proceeds, plus additional amounts as provided in Subsection (1)(b).

(b) When the Department of Transportation certifies to the commission the amount of bond proceeds needed to provide funding for the projects described in this section, the commission may issue and sell general obligation bonds in an amount equal to the certified amount, plus additional amounts necessary to pay costs of issuance, to pay capitalized interest, and to fund any existing debt service reserve requirements, not to exceed 1% of the certified amount.

(c) The commission may not issue general obligation bonds authorized under this section if the issuance of the general obligation bonds would result in the total current outstanding general obligation debt of the state exceeding 50% of the limitation described in the Utah Constitution, Article XIV, Section 1.

(2) Proceeds from the bonds issued under this section shall be provided to the Department of Transportation to pay for, or to provide funds in accordance with this section to pay for, the costs of right-of-way acquisition, construction, reconstruction, renovations, or improvements with respect to projects described in this section.

(3) It is the intent of the Legislature that as transportation projects are prioritized under Section 72-2-124, the Transportation Commission give consideration to projects beyond the normal programming horizon.

(4) (a) Two hundred thirty-two million dollars of the proceeds of bonds issued under this section shall be used to pay for the following transit projects, to be repaid from the Transit Transportation Investment Fund under Subsection 72-2-124(9):

(i) subject to Subsection (4)(b), $200,000,000 to double track strategic sections of the FrontRunner commuter rail system;

(ii) $12,000,000 to pay for construction and improvements to the S-line streetcar facilities in Salt Lake City;

(iii) $11,000,000 for bus rapid transit in the Salt Lake midvalley area;

(iv) $5,000,000 for an environmental study at the point of the mountain area; and

(v) $4,000,000 for a Utah Transit Authority and Sharp-Tintic railroad consolidation project.

(b) The issuance of the $200,000,000 of bonds for the purpose described in Subsection (4)(a)(i) is contingent upon the establishment of an agreement between the Department of Transportation and the Utah Transit Authority whereby the Utah Transit Authority agrees to pay $5,000,000 per year for 15 years toward repayment of the bonds.

(5) (a) Twenty-nine million dollars of the proceeds of bonds issued under this section shall be provided to the Department of Transportation to pass through to Brigham City to be used for a Forest Street rail bridge project in Brigham City.

(b) Payments shall be made from the Rail Transportation Restricted Account created in Section 72-2-131, from the amount designated under Subsection 72-2-131(4)(c), in the amount per year of the principal and interest payments due under the bonds issued under Subsection (5)(a) until those bonds have been repaid in full.

(6) (a) Three million dollars of the proceeds of bonds issued under this section shall be provided to the Department of Transportation to pass through to the city of North Salt Lake for an environmental study for a grade separation at 1100 North in North Salt Lake.

(b) Payments shall be made from the Rail Transportation Restricted Account created in Section 72-2-131, from the amount designated under Subsection 72-2-131(4)(b), in the amount per year of the principal and interest payments due under the bonds issued under Subsection (6)(a) until those bonds have been repaid in full.

(7) The costs under Subsection (2) may include the costs of studies necessary to make transportation infrastructure improvements, the costs of acquiring land, interests in land, and easements and rights-of-way, the costs of improving sites and making all improvements necessary, incidental, or convenient to the facilities, and the costs of interest estimated to accrue on these bonds during the period to be covered by construction of the projects plus a period of six months after the end of the construction period, interest estimated to accrue on any bond anticipation notes issued under the authority of this title, and all related engineering, architectural, and legal fees.

(8) The commission or the state treasurer may make any statement of intent relating to a reimbursement that is necessary or desirable to comply with federal tax law.

(9) The Department of Transportation may enter into agreements related to the projects described in Subsection (4) before the receipt of proceeds of bonds issued under this section.

Section 3. Section 72-2-124 is amended to read:

72-2-124. Transportation Investment Fund of 2005.

(1) There is created a capital projects fund entitled the Transportation Investment Fund of 2005.

(2) The fund consists of money generated from the following sources:

(a) any voluntary contributions received for the maintenance, construction, reconstruction, or renovation of state and federal highways;

(b) appropriations made to the fund by the Legislature;

(c) registration fees designated under Section 41-1a-1201;

(d) the sales and use tax revenues deposited into the fund in accordance with Section 59-12-103; and

(e) revenues transferred to the fund in accordance with Section 72-2-106.

(3) (a) The fund shall earn interest.

(b) All interest earned on fund money shall be deposited into the fund.

(4) (a) Except as provided in Subsection (4)(b), the executive director may only use fund money to pay:

(i) the costs of maintenance, construction, reconstruction, or renovation to state and federal highways prioritized by the Transportation Commission through the prioritization process for new transportation capacity projects adopted under Section 72-1-304;

(ii) the costs of maintenance, construction, reconstruction, or renovation to the highway projects described in Subsections 63B-18-401(2), (3), and (4);

(iii) principal, interest, and issuance costs of bonds authorized by Section 63B-18-401 minus the costs paid from the County of the First Class Highway Projects Fund in accordance with Subsection 72-2-121(4)(e);

(iv) for a fiscal year beginning on or after July 1, 2013, to transfer to the 2010 Salt Lake County Revenue Bond Sinking Fund created by Section 72-2-121.3 the amount certified by Salt Lake County in accordance with Subsection 72-2-121.3(4)(c) as necessary to pay the debt service on $30,000,000 of the revenue bonds issued by Salt Lake County;

(v) principal, interest, and issuance costs of bonds authorized by Section 63B-16-101 for projects prioritized in accordance with Section 72-2-125;

(vi) all highway general obligation bonds that are intended to be paid from revenues in the Centennial Highway Fund created by Section 72-2-118;

(vii) for fiscal year 2015-16 only, to transfer $25,000,000 to the County of the First Class Highway Projects Fund created in Section 72-2-121 to be used for the purposes described in Section 72-2-121; [~~and~~]

(viii) if a political subdivision provides a contribution equal to or greater than 40% of the costs needed for construction, reconstruction, or renovation of paved pedestrian or paved nonmotorized transportation for projects that:

(A) mitigate traffic congestion on the state highway system;

(B) are part of an active transportation plan approved by the department; and

(C) are prioritized by the commission through the prioritization process for new transportation capacity projects adopted under Section 72-1-304[.];

(ix) $705,000,000 for the costs of right-of-way acquisition, construction, reconstruction, or renovation of or improvement to the following projects:

(A) the connector road between Main Street and 1600 North in the city of Vineyard;

(B) Geneva Road from University Parkway to 1800 South;

(C) the SR-97 interchange at 5600 South on I-15;

(D) two lanes on U-111 from Herriman Parkway to 11800 South;

(E) widening I-15 between mileposts 10 and 13 and the interchange at milepost 11;

(F) improvements to 1600 North in Orem from 1200 West to State Street;

(G) widening I-15 between mileposts 6 and 8;

(H) widening 1600 South from Main Street in the city of Spanish Fork to SR-51;

(I) widening US 6 from Sheep Creek to Mill Fork between mileposts 195 and 197 in Spanish Fork Canyon;

(J) I-15 northbound between mileposts 43 and 56;

(K) a passing lane on SR-132 between mileposts 41.1 and 43.7 between mileposts 43 and 45.1;

(L) east Zion SR-9 improvements;

(M) Toquerville Parkway;

(N) an environmental study on Foothill Boulevard in the city of Saratoga Springs;

(O) for construction of an interchange on Bangerter Highway at 13400 South; and

(P) an environmental impact study for Kimball Junction in Summit County; and

(x) $28,000,000 as pass-through funds, to be distributed as necessary to pay project costs based upon a statement of cash flow that the local jurisdiction where the project is located provides to the department demonstrating the need for money for the project, for the following projects in the following amounts:

(A) $5,000,000 for Payson Main Street repair and replacement;

(B) $8,000,000 for a Bluffdale 14600 South railroad bypass;

(C) $5,000,000 for improvements to 4700 South in Taylorsville; and

(D) $10,000,000 for improvements to the west side frontage roads adjacent to U.S. 40 between mile markers 7 and 10.

(b) The executive director may use fund money to exchange for an equal or greater amount of federal transportation funds to be used as provided in Subsection (4)(a).

(5) (a) Except as provided in Subsection (5)(b), the executive director may not program fund money to a project prioritized by the commission under Section

72-1-304, including fund money from the Transit Transportation Investment Fund, within the boundaries of a municipality that is required to adopt a moderate income housing plan element as part of the municipality's general plan as described in Subsection 10-9a-401(3), if the municipality has failed to adopt a moderate income housing plan element as part of the municipality's general plan or has failed to implement the requirements of the moderate income housing plan as determined by the results of the Department of Workforce Service's review of the annual moderate income housing report described in Subsection 35A-8-803(1)(a)(vii).

(b) Within the boundaries of a municipality that is required under Subsection 10-9a-401(3) to plan for moderate income housing growth but has failed to adopt a moderate income housing plan element as part of the municipality's general plan or has failed to implement the requirements of the moderate income housing plan as determined by the results of the Department of Workforce Service's review of the annual moderate income housing report described in Subsection 35A-8-803(1)(a)(vii), the executive director:

(i) may program fund money in accordance with Subsection (4)(a) for a limited-access facility or interchange connecting limited-access facilities;

(ii) may not program fund money for the construction, reconstruction, or renovation of an interchange on a limited-access facility;

(iii) may program Transit Transportation Investment Fund money for a multi-community fixed guideway public transportation project; and

(iv) may not program Transit Transportation Investment Fund money for the construction, reconstruction, or renovation of a station that is part of a fixed guideway public transportation project.

(c) Subsections (5)(a) and (b) do not apply to a project programmed by the executive director before May 1, 2020, for projects prioritized by the commission under Section 72-1-304.

(6) (a) Except as provided in Subsection (6)(b), the executive director may not program fund money to a project prioritized by the commission under Section 72-1-304, including fund money from the Transit Transportation Investment Fund, within the boundaries of the unincorporated area of a county, if the county is required to adopt a moderate income housing plan element as part of the county's general plan as described in Subsection 17-27a-401(3) and if the county has failed to adopt a moderate income housing plan element as part of the county's general plan or has failed to implement the requirements of the moderate income housing plan as determined by the results of the Department of Workforce Service's review of the annual moderate income housing report described in Subsection 35A-8-803(1)(a)(vii).

(b) Within the boundaries of the unincorporated area of a county where the county is required under Subsection 17-27a-401(3) to plan for moderate income housing growth but has failed to adopt a moderate income housing plan element as part of the county's general plan or has failed to implement the requirements of the moderate income housing plan as determined by the results of the Department of Workforce Service's review of the annual moderate income housing report described in Subsection 35A-8-803(1)(a)(vii), the executive director:

(i) may program fund money in accordance with Subsection (4)(a) for a limited-access facility to a project prioritized by the commission under Section 72-1-304;

(ii) may not program fund money for the construction, reconstruction, or renovation of an interchange on a limited-access facility;

(iii) may program Transit Transportation Investment Fund money for a multi-community fixed guideway public transportation project; and

(iv) may not program Transit Transportation Investment Fund money for the construction, reconstruction, or renovation of a station that is part of a fixed guideway public transportation project.

(c) Subsections (5)(a) and (b) do not apply to a project programmed by the executive director before July 1, 2020, for projects prioritized by the commission under Section 72-1-304.

(7) (a) Before bonds authorized by Section 63B-18-401 or 63B-27-101 may be issued in any fiscal year, the department and the commission shall appear before the Executive Appropriations Committee of the Legislature and present the amount of bond proceeds that the department needs to provide funding for the projects identified in Subsections 63B-18-401(2), (3), and (4) or Subsection 63B-27-101(2) for the current or next fiscal year.

(b) The Executive Appropriations Committee of the Legislature shall review and comment on the amount of bond proceeds needed to fund the projects.

(8) The Division of Finance shall, from money deposited into the fund, transfer the amount of funds necessary to pay principal, interest, and issuance costs of bonds authorized by Section 63B-18-401 or 63B-27-101 in the current fiscal year to the appropriate debt service or sinking fund.

(9) (a) There is created in the Transportation Investment Fund of 2005 the Transit Transportation Investment Fund.

(b) The fund shall be funded by:

(i) contributions deposited into the fund in accordance with Section 59-12-103;

(ii) appropriations into the account by the Legislature;

(iii) private contributions; and

(iv) donations or grants from public or private entities.

(c) (i) The fund shall earn interest.

(ii) All interest earned on fund money shall be deposited into the fund.

(d) Subject to Subsection (9)(e), the Legislature may appropriate money from the fund for public transit capital development of new capacity projects to be used as prioritized by the commission.

(e) (i) The Legislature may only appropriate money from the fund for a public transit capital development project or pedestrian or nonmotorized transportation project that provides connection to the public transit system if the public transit district or political subdivision provides funds of equal to or greater than 40% of the costs needed for the project.

(ii) A public transit district or political subdivision may use money derived from a loan granted pursuant to Title 72, Chapter 2, Part 2, State Infrastructure Bank Fund, to provide all or part of the 40% requirement described in Subsection (9)(e)(i) if:

(A) the loan is approved by the commission as required in Title 72, Chapter 2, Part 2, State Infrastructure Bank Fund; and

(B) the proposed capital project has been prioritized by the commission pursuant to Section 72-1-303.

(10) (a) There is created in the Transportation Investment Fund of 2005 the Cottonwood Canyons Transportation Investment Fund.

(b) The fund shall be funded by:

(i) money deposited into the fund in accordance with Section 59-12-103;

(ii) appropriations into the account by the Legislature;

(iii) private contributions; and

(iv) donations or grants from public or private entities.

(c) (i) The fund shall earn interest.

(ii) All interest earned on fund money shall be deposited into the fund.

(d) The Legislature may appropriate money from the fund for public transit or transportation projects in the Cottonwood Canyons of Salt Lake County.

Section 4. Section 72-2-131 is amended to read:

72-2-131. Rail Transportation Restricted Account -- Grants for railroad crossing safety.

(1) As used in this section, "eligible entity" means:

(a) a public entity; or

(b) a private entity that is exempt from federal income taxation under Section 501(c)(3), Internal Revenue Code.

(2) There is created in the Transit Transportation Investment Fund, created in Section 72-2-124, the Rail Transportation Restricted Account.

(3) The account shall be funded by:

(a) appropriations to the account by the Legislature;

(b) private contributions;

(c) donations or grants from public or private entities; and

(d) interest earned on money in the account.

(4) Upon appropriation, the department shall:

(a) use an amount equal to 10% of the money deposited into the account to provide grants in accordance with Subsection (5);

(b) use an amount equal to 10% of the money deposited into the account to pay:

(i) the costs of performing environmental impact studies in connection with construction, reconstruction, or renovation projects related to railroad crossings on class A, class B, or class C roads; or

(ii) the appropriate debt service or sinking fund for the repayment of bonds issued under Subsection 63B-31-101(6); and

(c) use the remaining money deposited into the account to pay:

(i) the costs of construction, reconstruction, or renovation projects related to railroad crossings on class A, class B, or class C roads; [~~or~~]

(ii) debt service related to a project described in Subsection (4)(b)[~~.~~]; or

(iii) the appropriate debt service or sinking fund for the repayment of bonds issued under Subsection 63B-31-101(5).

(5) (a) The department may award grants to one or more eligible entities to be used for the purpose of improving safety at railroad crossings on class A, class B, or class C roads.

(b) An eligible entity may use grant money for any expense related to improving safety at railroad crossings on class A, class B, or class C roads, including:

(i) signage; and

(ii) safety enhancements to a railroad crossing.

(c) The department shall prioritize, in the following order, grants to applicants that propose projects impacting railroad crossings that:

(i) have demonstrated safety concerns, including emergency services access; and

(ii) have high levels of vehicular and pedestrian traffic.

Section 5. Intent language.

The Legislature recognizes the tremendous employment opportunities that this bill will bring to Utah's skilled work force and to Utah's business

community. The Legislature encourages the employment of Utah workers and the proliferation of Utah business in carrying out the projects made possible by the funding provided in this bill.

Section 6. Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2021 and ending June 30, 2022. These are additions to amounts otherwise appropriated for fiscal year 2022.

Subsection 6(a). Operating and Capital Budgets.

Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 1

To Transportation - Transportation Investment Fund Capacity Program

From Transportation Investment Fund of 2005, One-time	$733,000,000

Schedule of Programs:

Transportation Investment Fund Capacity Program	$733,000,000

The Legislature intends that the department use money from this appropriation for the projects listed in Subsections 72-2-124(4)(a)(ix) and (x).

ITEM 2

To Transportation - Transit Transportation Investment

From Transit Transportation Investment Fund, One-time	$101,600,000

Schedule of Programs:

Transit Transportation Investment	$101,600,000

The Legislature intends that the department use money from this appropriation as follows: $100,000,000 to pay to double track strategic sections of the FrontRunner commuter rail system; and $1,600,000 to pay for a rail station in the city of Vineyard.

Subsection 6(b). Capital Project Funds.

The Legislature has reviewed the following capital project funds. The Legislature authorizes the Division of Finance to transfer amounts between funds and accounts as indicated.

ITEM 3

To Transportation - Transportation Investment Fund of 2005

From General Fund, One-time	$733,000,000

Schedule of Programs:

Transportation Investment Fund	$733,000,000

ITEM 4

To Transportation - Transit Transportation Investment Fund

From General Fund, One-time	$101,600,000

Schedule of Programs:

Transit Transportation Investment Fund	$101,600,000

CHAPTER 388
S. B. 18
Passed March 5, 2021
Approved March 22, 2021
Effective January 1, 2022

PROPERTY TAX EXEMPTION AMENDMENTS

Chief Sponsor: Wayne A. Harper
House Sponsor: Karianne Lisonbee

LONG TITLE

General Description:

This bill modifies the Property Tax Act.

Highlighted Provisions:

This bill:

- modifies the qualifications for tangible personal property tax to be exempt from property tax; and
- excludes the revenue generated from the increase in the amount of the exemption that is based on aggregate taxable value in the county from the certified tax rate calculation.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

59-2-924, as last amended by Laws of Utah 2020, Chapters 305 and 354
59-2-1115, as last amended by Laws of Utah 2020, Chapters 38 and 42

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 59-2-924 is amended to read:

59-2-924. Definitions -- Report of valuation of property to county auditor and commission -- Transmittal by auditor to governing bodies -- Calculation of certified tax rate -- Rulemaking authority -- Adoption of tentative budget -- Notice provided by the commission.

(1) As used in this section:

(a) (i) "Ad valorem property tax revenue" means revenue collected in accordance with this chapter.

(ii) "Ad valorem property tax revenue" does not include:

(A) interest;

(B) penalties;

(C) collections from redemptions; or

(D) revenue received by a taxing entity from personal property that is semiconductor manufacturing equipment assessed by a county assessor in accordance with Part 3, County Assessment.

(b) "Adjusted tax increment" means the same as that term is defined in Section 17C-1-102.

(c) (i) "Aggregate taxable value of all property taxed" means:

(A) the aggregate taxable value of all real property a county assessor assesses in accordance with Part 3, County Assessment, for the current year;

(B) the aggregate taxable value of all real and personal property the commission assesses in accordance with Part 2, Assessment of Property, for the current year; and

(C) the aggregate year end taxable value of all personal property a county assessor assesses in accordance with Part 3, County Assessment, contained on the prior year's tax rolls of the taxing entity.

(ii) "Aggregate taxable value of all property taxed" does not include the aggregate year end taxable value of personal property that is:

(A) semiconductor manufacturing equipment assessed by a county assessor in accordance with Part 3, County Assessment; and

(B) contained on the prior year's tax rolls of the taxing entity.

(d) "Base taxable value" means:

(i) for an authority created under Section 11-58-201, the same as that term is defined in Section 11-58-102;

(ii) for an agency created under Section 17C-1-201.5, the same as that term is defined in Section 17C-1-102;

(iii) for an authority created under Section 63H-1-201, the same as that term is defined in Section 63H-1-102; or

(iv) for a host local government, the same as that term is defined in Section 63N-2-502.

(e) "Centrally assessed benchmark value" means an amount equal to the highest year end taxable value of real and personal property the commission assesses in accordance with Part 2, Assessment of Property, for a previous calendar year that begins on or after January 1, 2015, adjusted for taxable value attributable to:

(i) an annexation to a taxing entity; or

(ii) an incorrect allocation of taxable value of real or personal property the commission assesses in accordance with Part 2, Assessment of Property.

(f) (i) "Centrally assessed new growth" means the greater of:

(A) zero; or

(B) the amount calculated by subtracting the centrally assessed benchmark value adjusted for prior year end incremental value from the taxable value of real and personal property the commission assesses in accordance with Part 2, Assessment of Property, for the current year, adjusted for current year incremental value.

(ii) "Centrally assessed new growth" does not include a change in value as a result of a change in

the method of apportioning the value prescribed by the Legislature, a court, or the commission in an administrative rule or administrative order.

(g) "Certified tax rate" means a tax rate that will provide the same ad valorem property tax revenue for a taxing entity as was budgeted by that taxing entity for the prior year.

(h) "Eligible new growth" means the greater of:

(i) zero; or

(ii) the sum of:

(A) locally assessed new growth;

(B) centrally assessed new growth; and

(C) project area new growth or hotel property new growth.

(i) "Host local government" means the same as that term is defined in Section 63N-2-502.

(j) "Hotel property" means the same as that term is defined in Section 63N-2-502.

(k) "Hotel property new growth" means an amount equal to the incremental value that is no longer provided to a host local government as incremental property tax revenue.

(l) "Incremental property tax revenue" means the same as that term is defined in Section 63N-2-502.

(m) "Incremental value" means:

(i) for an authority created under Section 11-58-201, the amount calculated by multiplying:

(A) the difference between the taxable value and the base taxable value of the property that is located within a project area and on which property tax differential is collected; and

(B) the number that represents the percentage of the property tax differential that is paid to the authority;

(ii) for an agency created under Section 17C-1-201.5, the amount calculated by multiplying:

(A) the difference between the taxable value and the base taxable value of the property located within a project area and on which tax increment is collected; and

(B) the number that represents the adjusted tax increment from that project area that is paid to the agency;

(iii) for an authority created under Section 63H-1-201, the amount calculated by multiplying:

(A) the difference between the taxable value and the base taxable value of the property located within a project area and on which property tax allocation is collected; and

(B) the number that represents the percentage of the property tax allocation from that project area that is paid to the authority; or

(iv) for a host local government, an amount calculated by multiplying:

(A) the difference between the taxable value and the base taxable value of the hotel property on which incremental property tax revenue is collected; and

(B) the number that represents the percentage of the incremental property tax revenue from that hotel property that is paid to the host local government.

(n) (i) "Locally assessed new growth" means the greater of:

(A) zero; or

(B) the amount calculated by subtracting the year end taxable value of real property the county assessor assesses in accordance with Part 3, County Assessment, for the previous year, adjusted for prior year end incremental value from the taxable value of real property the county assessor assesses in accordance with Part 3, County Assessment, for the current year, adjusted for current year incremental value.

(ii) "Locally assessed new growth" does not include a change in:

(A) value as a result of factoring in accordance with Section 59-2-704, reappraisal, or another adjustment;

(B) assessed value based on whether a property is allowed a residential exemption for a primary residence under Section 59-2-103;

(C) assessed value based on whether a property is assessed under Part 5, Farmland Assessment Act; or

(D) assessed value based on whether a property is assessed under Part 17, Urban Farming Assessment Act.

(o) "Project area" means:

(i) for an authority created under Section 11-58-201, the same as that term is defined in Section 11-58-102;

(ii) for an agency created under Section 17C-1-201.5, the same as that term is defined in Section 17C-1-102; or

(iii) for an authority created under Section 63H-1-201, the same as that term is defined in Section 63H-1-102.

(p) "Project area new growth" means:

(i) for an authority created under Section 11-58-201, an amount equal to the incremental value that is no longer provided to an authority as property tax differential;

(ii) for an agency created under Section 17C-1-201.5, an amount equal to the incremental value that is no longer provided to an agency as tax increment; or

(iii) for an authority created under Section 63H-1-201, an amount equal to the incremental

value that is no longer provided to an authority as property tax allocation.

(q) "Property tax allocation" means the same as that term is defined in Section 63H-1-102.

(r) "Property tax differential" means the same as that term is defined in Section 11-58-102.

(s) "Qualifying exempt revenue" means revenue received:

(i) for the previous calendar year;

(ii) by a taxing entity;

(iii) from tangible personal property contained on the prior year's tax rolls that is exempt from property tax under Subsection 59-2-1115(2)(b) for a calendar year beginning on January 1, 2022; and

(iv) on the aggregate 2021 year end taxable value of the tangible personal property that exceeds $15,300.

[~~(s)~~] (t) "Tax increment" means the same as that term is defined in Section 17C-1-102.

(2) Before June 1 of each year, the county assessor of each county shall deliver to the county auditor and the commission the following statements:

(a) a statement containing the aggregate valuation of all taxable real property a county assessor assesses in accordance with Part 3, County Assessment, for each taxing entity; and

(b) a statement containing the taxable value of all personal property a county assessor assesses in accordance with Part 3, County Assessment, from the prior year end values.

(3) The county auditor shall, on or before June 8, transmit to the governing body of each taxing entity:

(a) the statements described in Subsections (2)(a) and (b);

(b) an estimate of the revenue from personal property;

(c) the certified tax rate; and

(d) all forms necessary to submit a tax levy request.

(4) (a) Except as otherwise provided in this section, the certified tax rate shall be calculated by dividing the ad valorem property tax revenue that a taxing entity budgeted for the prior year minus the qualifying exempt revenue by the amount calculated under Subsection (4)(b).

(b) For purposes of Subsection (4)(a), the legislative body of a taxing entity shall calculate an amount as follows:

(i) calculate for the taxing entity the difference between:

(A) the aggregate taxable value of all property taxed; and

(B) any adjustments for current year incremental value;

(ii) after making the calculation required by Subsection (4)(b)(i), calculate an amount determined by increasing or decreasing the amount calculated under Subsection (4)(b)(i) by the average of the percentage net change in the value of taxable property for the equalization period for the three calendar years immediately preceding the current calendar year;

(iii) after making the calculation required by Subsection (4)(b)(ii), calculate the product of:

(A) the amount calculated under Subsection (4)(b)(ii); and

(B) the percentage of property taxes collected for the five calendar years immediately preceding the current calendar year; and

(iv) after making the calculation required by Subsection (4)(b)(iii), calculate an amount determined by:

(A) multiplying the percentage of property taxes collected for the five calendar years immediately preceding the current calendar year by eligible new growth; and

(B) subtracting the amount calculated under Subsection (4)(b)(iv)(A) from the amount calculated under Subsection (4)(b)(iii).

(5) A certified tax rate for a taxing entity described in this Subsection (5) shall be calculated as follows:

(a) except as provided in Subsection (5)(b), for a new taxing entity, the certified tax rate is zero;

(b) for a municipality incorporated on or after July 1, 1996, the certified tax rate is:

(i) in a county of the first, second, or third class, the levy imposed for municipal-type services under Sections 17-34-1 and 17-36-9; and

(ii) in a county of the fourth, fifth, or sixth class, the levy imposed for general county purposes and such other levies imposed solely for the municipal-type services identified in Section 17-34-1 and Subsection 17-36-3(23); and

(c) for debt service voted on by the public, the certified tax rate is the actual levy imposed by that section, except that a certified tax rate for the following levies shall be calculated in accordance with Section 59-2-913 and this section:

(i) a school levy provided for under Section 53F-8-301, 53F-8-302, or 53F-8-303; and

(ii) a levy to pay for the costs of state legislative mandates or judicial or administrative orders under Section 59-2-1602.

(6) (a) A judgment levy imposed under Section 59-2-1328 or 59-2-1330 may be imposed at a rate that is sufficient to generate only the revenue required to satisfy one or more eligible judgments.

(b) The ad valorem property tax revenue generated by a judgment levy described in Subsection (6)(a) may not be considered in establishing a taxing entity's aggregate certified tax rate.

(7) (a) For the purpose of calculating the certified tax rate, the county auditor shall use:

(i) the taxable value of real property:

(A) the county assessor assesses in accordance with Part 3, County Assessment; and

(B) contained on the assessment roll;

(ii) the year end taxable value of personal property:

(A) a county assessor assesses in accordance with Part 3, County Assessment; and

(B) contained on the prior year's assessment roll; and

(iii) the taxable value of real and personal property the commission assesses in accordance with Part 2, Assessment of Property.

(b) For purposes of Subsection (7)(a), taxable value does not include eligible new growth.

(8) (a) On or before June 30, a taxing entity shall annually adopt a tentative budget.

(b) If a taxing entity intends to exceed the certified tax rate, the taxing entity shall notify the county auditor of:

(i) the taxing entity's intent to exceed the certified tax rate; and

(ii) the amount by which the taxing entity proposes to exceed the certified tax rate.

(c) The county auditor shall notify property owners of any intent to levy a tax rate that exceeds the certified tax rate in accordance with Sections 59-2-919 and 59-2-919.1.

(9) (a) Subject to Subsection (9)(d), the commission shall provide notice, through electronic means on or before July 31, to a taxing entity and the Revenue and Taxation Interim Committee if:

(i) the amount calculated under Subsection (9)(b) is 10% or more of the year end taxable value of the real and personal property the commission assesses in accordance with Part 2, Assessment of Property, for the previous year, adjusted for prior year end incremental value; and

(ii) the amount calculated under Subsection (9)(c) is 50% or more of the total year end taxable value of the real and personal property of a taxpayer the commission assesses in accordance with Part 2, Assessment of Property, for the previous year.

(b) For purposes of Subsection (9)(a)(i), the commission shall calculate an amount by subtracting the taxable value of real and personal property the commission assesses in accordance with Part 2, Assessment of Property, for the current year, adjusted for current year incremental value, from the year end taxable value of the real and personal property the commission assesses in accordance with Part 2, Assessment of Property, for the previous year, adjusted for prior year end incremental value.

(c) For purposes of Subsection (9)(a)(ii), the commission shall calculate an amount by subtracting the total taxable value of real and personal property of a taxpayer the commission assesses in accordance with Part 2, Assessment of Property, for the current year, from the total year end taxable value of the real and personal property of a taxpayer the commission assesses in accordance with Part 2, Assessment of Property, for the previous year.

(d) The notification under Subsection (9)(a) shall include a list of taxpayers that meet the requirement under Subsection (9)(a)(ii).

Section 2. Section 59-2-1115 is amended to read:

59-2-1115. Exemption of certain tangible personal property.

(1) As used in this section:

(a) (i) "Item of taxable tangible personal property" does not include an improvement to real property or a part that will become an improvement.

(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules defining the term "item of taxable tangible personal property."

(b) (i) "Taxable tangible personal property" means tangible personal property that is subject to taxation under this chapter.

(ii) "Taxable tangible personal property" does not include:

(A) tangible personal property required by law to be registered with the state before it is used on a public highway, public waterway, or public land or in the air;

(B) a mobile home as defined in Section 41-1a-102; or

(C) a manufactured home as defined in Section 41-1a-102.

(2) (a) In accordance with Utah Constitution, Article XIII, Section 3, Subsection (2)(a)(vi), which provides that the Legislature may by statute exempt tangible personal property that, if subject to property tax, would generate an inconsequential amount of revenue, the Legislature exempts the tangible personal property described in this Subsection (2).

(b) The taxable tangible personal property of a taxpayer is exempt from taxation if the taxable tangible personal property has a total aggregate taxable value per county of [~~$15,000~~] $25,000 or less.

[~~(b) In addition to the exemption under Subsection (2)(a), an item of taxable tangible personal property, except for an item of noncapitalized personal property as defined in Section 59-2-108, is exempt from taxation if the item of taxable tangible personal property:~~]

[~~(i) has an acquisition cost of $1,000 or less;~~]

[~~(ii) has reached a percent good of 15% or less according to a personal property schedule published by the commission pursuant to Section 59-2-107; and~~]

[~~(iii) is in a personal property schedule with a residual value of 15% or less.~~]

(c) For an item of taxable tangible personal property that is not exempt under Subsection [~~(2)(a) or (b)~~] (2)(b), the item is exempt from taxation if:

[~~(i) (A) the item is owned by a business and is not critical to the actual business operation of the business; or~~]

[~~(B) beginning January 1, 2021,~~]

(i) the item is owned by a business and is not critical to the actual business operation of the business; and

(ii) the acquisition cost of the item is[~~:~~] less than $500.

[~~(A) less than $150; or~~]

[~~(B) beginning January 1, 2021, less than $500.~~]

(3) (a) For a calendar year beginning on or after January 1, [~~2021~~] 2023, the commission shall increase the dollar amount described in Subsection (2)[~~(a)~~](b):

(i) by a percentage equal to the percentage difference between the consumer price index for the preceding calendar year and the consumer price index for calendar year [~~2019~~] 2021; and

(ii) up to the nearest $100 increment.

(b) For purposes of this Subsection (3), the commission shall calculate the consumer price index as provided in Sections 1(f)(4) and 1(f)(5), Internal Revenue Code.

(c) If the percentage difference under Subsection (3)(a)(i) is zero or a negative percentage, the consumer price index increase for the year is zero.

(4) (a) For the first calendar year in which a taxpayer qualifies for an exemption described in Subsection (2)[~~(a)~~](b), a county assessor may require the taxpayer to file a signed statement described in Section 59-2-306.

(b) Notwithstanding Section 59-2-306 and subject to Subsection (5), for a calendar year in which a taxpayer qualifies for an exemption described in Subsection (2)[~~(a)~~](b) after the calendar year described in Subsection (4)(a), a signed statement described in Section 59-2-306 with respect to the taxable tangible personal property that is exempt under Subsection (2)[~~(a)~~](b) may only require the taxpayer to certify, under penalty of perjury, that the taxpayer qualifies for the exemption under Subsection (2)[~~(a)~~](b).

(c) If a taxpayer qualifies for an exemption described in Subsection (2)[~~(a)~~](b) for five consecutive years and files a signed statement for each of those years in accordance with Section 59-2-306 and Subsection (4)(b), a county assessor may not require the taxpayer to file a signed statement for each continuing consecutive year for which the taxpayer qualifies for the exemption.

(d) If a taxpayer qualifies for an exemption described in Subsection [~~(2)(b) or~~] (2)(c) for an item of tangible taxable personal property, a county assessor may not require the taxpayer to include the item on a signed statement described in Section 59-2-306.

(5) A signed statement with respect to qualifying exempt primary residential rental personal property is as provided in Section 59-2-103.5.

(6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules to administer this section and provide for uniform implementation.

Section 3. Effective date.

This bill takes effect on January 1, 2022.

CHAPTER 389
S. B. 24
Passed January 27, 2021
Approved March 22, 2021
Effective May 5, 2021
(Exception clause)

PROPERTY TAX REVISIONS

Chief Sponsor: Curtis S. Bramble
House Sponsor: Matthew H. Gwynn

LONG TITLE

General Description:

This bill modifies provisions of the Property Tax Act.

Highlighted Provisions:

This bill:

- addresses the deadline to file an application to apply a residential exemption to the value of a part-year residential property; and
- upon a showing of reasonable cause, allows a county to waive or reduce a penalty for failure to file a required signed statement of a person's real and personal property that is assessable by the assessor.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides retrospective operation.

Utah Code Sections Affected:

AMENDS:

59-2-103.5, as last amended by Laws of Utah 2020, Chapter 78
59-2-307, as last amended by Laws of Utah 2011, Chapter 163

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 59-2-103.5 is amended to read:

59-2-103.5. Procedures to obtain an exemption for residential property -- Procedure if property owner or property no longer qualifies to receive a residential exemption.

(1) Subject to Subsection (8), for residential property other than part-year residential property, a county legislative body may adopt an ordinance that requires an owner to file an application with the county board of equalization before a residential exemption under Section 59-2-103 may be applied to the value of the residential property if:

(a) the residential property was ineligible for the residential exemption during the calendar year immediately preceding the calendar year for which the owner is seeking to have the residential exemption applied to the value of the residential property;

(b) an ownership interest in the residential property changes; or

(c) the county board of equalization determines that there is reason to believe that the residential property no longer qualifies for the residential exemption.

(2) (a) The application described in Subsection (1):

(i) shall be on a form the commission prescribes by rule and makes available to the counties;

(ii) shall be signed by the owner of the residential property; and

(iii) may not request the sales price of the residential property.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules prescribing the contents of the form described in Subsection (2)(a).

(c) For purposes of the application described in Subsection (1), a county may not request information from an owner of a residential property beyond the information provided in the form prescribed by the commission under this Subsection (2).

(3) (a) Regardless of whether a county legislative body adopts an ordinance described in Subsection (1), before a residential exemption may be applied to the value of part-year residential property, an owner of the property shall:

(i) file the application described in Subsection (2)(a) with the county board of equalization; and

(ii) include as part of the application described in Subsection (2)(a) a statement that certifies:

(A) the date the part-year residential property became residential property;

(B) that the part-year residential property will be used as residential property for 183 or more consecutive calendar days during the calendar year for which the owner seeks to obtain the residential exemption; and

(C) that the owner, or a member of the owner's household, may not claim a residential exemption for any property for the calendar year for which the owner seeks to obtain the residential exemption, other than the part-year residential property, or as allowed under Section 59-2-103 with respect to the primary residence or household furnishings, furniture, and equipment of the owner's tenant.

[~~(b) An owner may not obtain a residential exemption for part-year residential property unless the owner files an application under this Subsection (3) on or before November 30 of the calendar year for which the owner seeks to obtain the residential exemption.~~]

[~~(c)~~] (b) If an owner files an application under this Subsection (3) on or after May 1 of the calendar year for which the owner seeks to obtain the residential exemption, the county board of equalization may require the owner to pay an application fee [~~of~~] not to exceed $50.

(4) Except as provided in Subsection (5), if a property owner no longer qualifies to receive a residential exemption authorized under Section

59-2-103 for the property owner's primary residence, the property owner shall:

(a) file a written statement with the county board of equalization of the county in which the property is located:

(i) on a form provided by the county board of equalization; and

(ii) notifying the county board of equalization that the property owner no longer qualifies to receive a residential exemption authorized under Section 59-2-103 for the property owner's primary residence; and

(b) declare on the property owner's individual income tax return under Chapter 10, Individual Income Tax Act, for the taxable year for which the property owner no longer qualifies to receive a residential exemption authorized under Section 59-2-103 for the property owner's primary residence, that the property owner no longer qualifies to receive a residential exemption authorized under Section 59-2-103 for the property owner's primary residence.

(5) A property owner is not required to file a written statement or make the declaration described in Subsection (4) if the property owner:

(a) changes primary residences;

(b) qualified to receive a residential exemption authorized under Section 59-2-103 for the residence that was the property owner's former primary residence; and

(c) qualifies to receive a residential exemption authorized under Section 59-2-103 for the residence that is the property owner's current primary residence.

(6) Subsections (2) through (5) do not apply to qualifying exempt primary residential rental personal property.

(7) (a) Subject to Subsection (8), for the first calendar year in which a property owner qualifies to receive a residential exemption under Section 59-2-103, a county assessor may require the property owner to file a signed statement described in Section 59-2-306.

(b) Subject to Subsection (8) and notwithstanding Section 59-2-306, for a calendar year after the calendar year described in Subsection (7)(a) in which a property owner qualifies for an exemption described in Subsection 59-2-1115(2) for qualifying exempt primary residential rental personal property, a signed statement described in Section 59-2-306 with respect to the qualifying exempt primary residential rental personal property may only require the property owner to certify, under penalty of perjury, that the property owner qualifies for the exemption under Subsection 59-2-1115(2).

(8) (a) Subject to the requirements of this Subsection (8) and except as provided in Subsection (8)(b), on or before May 1, 2020, a county assessor shall:

(i) notify each owner of residential property that the owner is required to submit a written declaration described in Subsection (8)(d) within 30 days after the day on which the county assessor mails the notice under this Subsection (8)(a); and

(ii) provide each owner with a form described in Subsection (8)(e) to make the written declaration described in Subsection (8)(d).

(b) A county assessor is not required to provide a notice to an owner of residential property under Subsection (8)(a) if the situs address of the residential property is the same as any one of the following:

(i) the mailing address of the residential property owner or the tenant of the residential property;

(ii) the address listed on the:

(A) residential property owner's driver license; or

(B) tenant of the residential property's driver license; or

(iii) the address listed on the:

(A) residential property owner's voter registration; or

(B) tenant of the residential property's voter registration.

(c) After an ownership interest in residential property changes, the county assessor shall:

(i) notify the owner of the residential property that the owner is required to submit a written declaration described in Subsection (8)(d) within 90 days after the day on which the owner receives notice under this Subsection (8)(c); and

(ii) provide the owner of the residential property with the form described in Subsection (8)(e) to make the written declaration described in Subsection (8)(d).

(d) An owner of residential property that receives a notice described in Subsection (8)(a) or (c) shall submit a written declaration to the county assessor under penalty of perjury certifying the information contained in the form provided in Subsection (8)(e).

(e) The written declaration required by Subsection (8)(d) shall be:

(i) signed by the owner of the residential property; and

(ii) in substantially the following form:

"Residential Property Declaration

This form must be submitted to the County Assessor's office where your new residential property is located within 90 days of receipt. Failure to do so will result in the county assessor taking action that could result in the withdrawal of the primary residential exemption from your residential property.

Residential Property Owner Information

Name(s):_____

Home
Phone:_____

Work
Phone:_____

Mailing
Address:_____

Residential Property Information

Physical
Address:_____

Certification

1. Is this property used as a primary residential property or part-year residential property for you or another person?

"Part-year residential property" means owned property that is not residential property on January 1 of a calendar year but becomes residential property after January 1 of the calendar year.

Yes No

2. Will this primary residential property or part-year residential property be occupied for 183 or more consecutive calendar days by the owner or another person?

A part-year residential property occupied for 183 or more consecutive calendar days in a calendar year by the owner(s) or a tenant is eligible for the exemption.

Yes No

If a property owner or a property owner's spouse claims a residential exemption under Utah Code Ann. § 59-2-103 for property in this state that is the primary residence of the property owner or the property owner's spouse, that claim of a residential exemption creates a rebuttable presumption that the property owner and the property owner's spouse have domicile in Utah for income tax purposes. The rebuttable presumption of domicile does not apply if the residential property is the primary residence of a tenant of the property owner or the property owner's spouse.

Signature

This form must be signed by all owners of the property.

Under penalties of perjury, I declare to the best of my knowledge and belief, this declaration and accompanying pages are true, correct, and complete.

_____(Owner signature)

_____Date (mm/dd/yyyy)

_____(Owner printed name)

(f) For purposes of a written declaration described in this Subsection (8), a county may not request information from a property owner beyond the information described in the form provided in Subsection (8)(e).

(g) (i) If, after receiving a written declaration filed under Subsection (8)(d), the county determines that the property has been incorrectly qualified or disqualified to receive a residential exemption, the county shall:

(A) redetermine the property's qualification to receive a residential exemption; and

(B) notify the claimant of the redetermination and its reason for the redetermination.

(ii) The redetermination provided in Subsection (8)(g)(i)(A) is final unless appealed within 30 days after the notice required by Subsection (8)(g)(i)(B).

(h) (i) If a residential property owner fails to file a written declaration required by Subsection (8)(d), the county assessor shall mail to the owner of the residential property a notice that:

(A) the property owner failed to file a written declaration as required by Subsection (8)(d); and

(B) the property owner will no longer qualify to receive the residential exemption authorized under Section 59-2-103 for the property that is the subject of the written declaration if the property owner does not file the written declaration required by Subsection (8)(d) within 30 days after the day on which the county assessor mails the notice under this Subsection (8)(h)(i).

(ii) If a property owner fails to file a written declaration required by Subsection (8)(d) after receiving the notice described in Subsection (8)(h)(i), the property owner no longer qualifies to receive the residential exemption authorized under Section 59-2-103 in the calendar year for the property that is the subject of the written declaration.

(iii) A property owner that is disqualified to receive the residential exemption under Subsection (8)(h)(ii) may file an application described in Subsection (1) to determine whether the owner is eligible to receive the residential exemption.

(i) The requirements of this Subsection (8) do not apply to a county assessor in a county that has, for the five calendar years prior to 2019, had in place and enforced an ordinance described in Subsection (1).

Section 2. Section 59-2-307 is amended to read:

59-2-307. Refusal by taxpayer to file signed statement -- Penalty -- Assessor to estimate value -- Reporting information to other counties.

(1) (a) Each person who fails to file the signed statement required by Section 59-2-306, fails to file the signed statement with respect to name and place of residence, or fails to appear and testify when requested by the assessor, shall pay a penalty equal to 10% of the estimated tax due, but not less than $25 for each failure to file a signed and completed statement.

(b) Each penalty under Subsection (1)(a) shall be collected in the manner provided by Sections 59-2-1302 and 59-2-1303, except as otherwise

provided for in this section, or by a judicial proceeding brought in the name of the assessor.

(c) All money recovered by any assessor under this section shall be paid into the county treasury.

[~~(2) (a) The penalty imposed by Subsection (1)(a) may not be waived or reduced by the assessor, county, county Board of Equalization, or commission except pursuant to a procedure for the review and approval of reductions and waivers adopted by county ordinance, or by administrative rule adopted in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.~~]

(2) (a) Upon a showing of reasonable cause, a county may waive or reduce a penalty imposed under Subsection (1)(a).

(b) (i) Except as provided in Subsection (2)(b)(ii), a penalty under Subsection (1)(a) may be imposed on or after May 16 of the year the statement described in Section 59-2-306 is requested by the county assessor.

(ii) A penalty under Subsection (1)(a) may not be imposed until 30 days after the postmark date of mailing of a subsequent notice if the signed statement described in Section 59-2-306 is requested:

(A) on or after March 16; or

(B) by a county assessor of a county of the first class.

(3) (a) If an owner neglects or refuses to file a signed statement requested by an assessor as required under Section 59-2-306:

(i) the assessor shall:

(A) make a record of the failure to file; and

(B) make an estimate of the value of the property of the owner based on known facts and circumstances; and

(ii) the assessor of a county of the first class:

(A) shall make a subsequent request by mail for the signed statement, informing the owner of the consequences of not filing a signed statement; and

(B) may impose a fee for the actual and necessary expenses of the mailing under Subsection (3)(a)(ii)(A).

(b) The value fixed by the assessor in accordance with Subsection (3)(a)(i) may not be reduced by the county board of equalization or by the commission.

(4) If the signed statement discloses property in any other county, the assessor shall file the signed statement and send a copy to the assessor of each county in which the property is located.

Section 3. Retrospective operation.

The actions affecting Section 59-2-103.5 have retrospective operation to January 1, 2021.

CHAPTER 390
S. B. 25
Passed March 5, 2021
Approved March 22, 2021
Effective May 5, 2021
(Retrospective operation to January 1, 2021)

CORPORATE TAX AMENDMENTS

Chief Sponsor: Curtis S. Bramble
House Sponsor: Robert M. Spendlove

LONG TITLE

General Description:

This bill amends corporate franchise and income tax provisions related to Utah net loss.

Highlighted Provisions:

This bill:

- clarifies the calculation of the 80% limitation on carrying forward a Utah net loss.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides retrospective operation.

Utah Code Sections Affected:

AMENDS:

59-7-110, as last amended by Laws of Utah 2020, Sixth Special Session, Chapter 10

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 59-7-110 is amended to read:

59-7-110. Utah net loss -- Carry forward -- Deduction.

(1) A taxpayer shall determine the amount of Utah net loss that the taxpayer may carry forward to offset income of another taxable year as provided in this section.

(2) Subject to the other provisions of this section, a taxpayer:

(a) may carry forward a Utah net loss from a taxable year to a future taxable year; and

(b) may not carry back a Utah net loss from a taxable year.

(3) A taxpayer that carries forward a Utah net loss shall carry forward the Utah net loss to the earliest eligible year for which the Utah taxable income before net loss deduction, minus Utah net losses from previous years that a taxpayer applied or was required to apply to offset income, is not less than zero.

(4) (a) Subject to Subsection (4)(b), the amount of Utah net loss that a taxpayer may carry to the year identified in Subsection (3) is the lesser of:

(i) the remaining Utah net loss after deduction of any amounts of the Utah net loss that a taxpayer carried to previous years; or

(ii) the remaining Utah taxable income before net loss deduction of the year identified in Subsection (3) after deduction of Utah net losses from previous years that a taxpayer carried or was required to carry to the year identified in Subsection (3).

(b) (i) For a taxable year beginning on or after January 1, 2021, the amount of Utah net loss that a taxpayer may carry forward to a taxable year may not exceed 80% of Utah taxable income computed without regard to the deduction [~~allowable under this section~~] of any Utah net loss.

(ii) A taxpayer may carry a remaining Utah net loss to one or more taxable years in accordance with this section.

(c) If the only Utah net loss that a taxpayer carries forward is from a taxable year that began before January 1, 2018, the commission:

(i) shall instruct the taxpayer to calculate the 80% limitation described in Subsection (4)(b) by following federal guidance for calculating the 80% taxable income limitation for federal income tax purposes; or

(ii) if the commission determines that adequate federal corporate guidance on how to calculate the 80% limitation is unavailable, may not apply the 80% limitation to the Utah net loss.

(d) If a taxpayer carries forward a Utah net loss from a taxable year beginning before January 1, 2018, and a Utah net loss from a taxable year beginning on or after January 1, 2018, the commission shall instruct the taxpayer to calculate the 80% limitation described in Subsection (4)(b) by:

(i) following federal guidance for calculating the 80% of taxable income limitation for federal income tax purposes; or

(ii) if the commission determines that adequate federal corporate guidance on how to calculate the 80% limitation is unavailable, by:

(A) calculating 80% of Utah taxable income before deducting any Utah net losses from Utah taxable income; and

(B) applying the limitation that the Utah net loss that a taxpayer carries forward may not exceed 80% of Utah taxable income to Utah net losses incurred on or after January 1, 2018, without regard to Utah net losses from a previous taxable year that the taxpayer carries forward.

(e) The commission shall:

(i) make a determination annually, on or before April 15 of the year after the taxable year ends, about whether adequate federal corporate guidance on how to calculate the 80% limitation is available; and

(ii) if the commission determines that adequate federal corporate guidance on how to calculate the 80% limitation is unavailable, notify the Revenue and Taxation Interim Committee, electronically before the next interim committee meeting, that the commission intends to issue instructions in accordance with Subsection (4)(c)(ii) or (d)(ii).

(5) (a) (i) Subject to Subsection (5)(a)(ii), a corporation acquiring the assets or stock of another corporation may not deduct any net loss incurred by

the acquired corporation prior to the date of acquisition.

(ii) Subsection (5)(a)(i) does not apply if the only change in the corporation is that of the state of incorporation.

(b) An acquired corporation may deduct the acquired corporation's net losses incurred before the date of acquisition against the acquired corporation's separate income as calculated under Subsections (6) and (7) if the acquired corporation has continued to carry on a trade or business substantially the same as that conducted before the acquisition.

(6) For purposes of Subsection (5)(b), the amount of net loss an acquired corporation that is acquired by a unitary group may deduct is calculated by:

(a) subject to Subsection (7):

(i) except as provided in Subsection (6)(a)(ii), calculating the sum of:

(A) an amount determined by dividing the average value of the acquired corporation's real and tangible personal property owned or rented and used in this state during the taxable year by the average value of all of the unitary group's real and tangible personal property owned or rented and used during the taxable year;

(B) an amount determined by dividing the total amount paid in this state during the taxable year by the acquired corporation for compensation by the total compensation paid everywhere by the unitary group during the taxable year; and

(C) an amount determined by:

(I) dividing the total sales of the acquired corporation in this state during the taxable year by the total sales of the unitary group everywhere during the taxable year; and

(II) if the unitary group elects or is required to calculate the fraction for apportioning business income to this state using the method described in Subsection 59-7-311(4) in taxable year 2019 or taxable year 2020, multiplying the amount calculated under Subsection (6) (a)(i)(C)(I) by, for the taxable year 2019, four, or, for the taxable year 2020, eight; or

(ii) if the unitary group is required or elects to calculate the fraction for apportioning business income to this state using the method described in Subsection 59-7-311(2), calculating an amount determined by dividing the total sales of the acquired corporation in this state during the taxable year by the total sales of the unitary group everywhere during the taxable year;

(b) dividing the amount calculated under Subsection (6)(a) by the same denominator of the fraction the unitary group uses to apportion business income to this state for that taxable year in accordance with Section 59-7-311;

(c) multiplying the amount calculated under Subsection (6)(b) by the business income of the unitary group for the taxable year that is subject to apportionment under Section 59-7-311; and

(d) calculating the sum of:

(i) the amount calculated under Subsection (6)(c); and

(ii) the following amounts allocable to the acquired corporation for the taxable year:

(A) nonbusiness income allocable to this state; or

(B) nonbusiness loss allocable to this state.

(7) The amounts calculated under Subsection (6)(a) shall be derived in the same manner as those amounts are derived for purposes of apportioning the unitary group's business income before deducting the net loss, including a modification made in accordance with Section 59-7-320.

Section 2. Retrospective operation.

This bill has retrospective operation for a taxable year beginning on or after January 1, 2021.

CHAPTER 391
S. B. 26
Passed March 5, 2021
Approved March 22, 2021
Effective May 5, 2021
(Retrospective operation to January 1, 2021)

PROPERTY TAX RELIEF AMENDMENTS

Chief Sponsor: Gene Davis
House Sponsor: Robert M. Spendlove

LONG TITLE

General Description:

This bill modifies provisions relating to the tax relief commonly known as "circuit breaker."

Highlighted Provisions:

This bill:

- modifies the qualifications for circuit breaker tax relief;
- changes the consumer price index used to adjust annual income qualifications; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides retrospective operation.

Utah Code Sections Affected:

AMENDS:

59-2-1202, as last amended by Laws of Utah 2020, Chapter 238
59-2-1203, as last amended by Laws of Utah 2020, Chapter 238
59-2-1206, as last amended by Laws of Utah 2020, Chapter 238
59-2-1208, as last amended by Laws of Utah 2018, Chapters 405 and 456
59-2-1209, as last amended by Laws of Utah 2018, Chapters 405 and 456
59-2-1220, as last amended by Laws of Utah 2020, Chapter 238

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 59-2-1202 is amended to read:

59-2-1202. Definitions.

As used in this part:

(1) (a) "Claimant" means a homeowner or renter who:

(i) files a claim under this part for a residence;

(ii) is domiciled in this state for the entire calendar year for which a claim for relief is filed under this part; and

(iii) on or before [~~the~~] December 31 of the year for which a claim for relief is filed under this part, is:

(A) 66 years [~~of age~~] old or older if the individual was born on or before December 31, 1959; or

(B) 67 years [~~of age~~] old or older if the individual was born on or after January 1, 1960.

(b) Notwithstanding Subsection (1)(a), "claimant" includes a surviving spouse:

(i) regardless of:

(A) the age of the surviving spouse; or

(B) the age of the deceased spouse at the time of death;

(ii) if the surviving spouse meets the requirements of this part except for the age requirement;

(iii) if the surviving spouse is part of the same household of the deceased spouse at the time of death of the deceased spouse; and

(iv) if the surviving spouse is unmarried at the time the surviving spouse files the claim.

(c) If two or more individuals of a household are able to meet the qualifications for a claimant, they may determine among them as to who the claimant shall be, but if they are unable to agree, the matter shall be referred to the county legislative body for a determination of the claimant of an owned residence and to the commission for a determination of the claimant of a rented residence.

(2) "Consumer price index housing" means the Consumer Price Index – All Urban Consumers, Housing United States Cities Average, published by the Bureau of Labor Statistics of the United States Department of Labor.

[~~(2)~~] (3) (a) "Gross rent" means rent actually paid in cash or its equivalent solely for the right of occupancy, at arm's-length, of a residence, exclusive of charges for any utilities, services, furniture, furnishings, or personal appliances furnished by the landlord as a part of the rental agreement.

(b) If a claimant occupies two or more residences in the year [~~and does not own the residence as of the lien date~~], "gross rent" means the total rent paid for the residences during the one-year period for which the renter files a claim under this part.

[~~(3)~~] (4) (a) "Homeowner" means:

(i) an individual whose name is listed on the deed of a residence; or

(ii) if a residence is owned in a qualifying trust, an individual who is a grantor, trustor, or settlor or holds another similar role in the trust.

(b) "Homeowner" does not include:

(i) if a residence is owned by any type of entity other than a qualifying trust, an individual who holds an ownership interest in that entity; or

(ii) an individual who is listed on a deed of a residence along with an entity other than a qualifying trust.

[~~(4)~~] (5) "Homeowner's credit" means a credit against a claimant's property tax liability.

[~~(5)~~] (6) "Household" means the association of individuals who live in the same dwelling, sharing the dwelling's furnishings, facilities, accommodations, and expenses.

[~~(6) "Household~~]

(7) (a) Except as provided in Subsection (7)(b), "household income" means all income received by all members of a claimant's household in:

[~~(a)~~] (i) for a claimant who owns a residence, the calendar year preceding the calendar year in which property taxes are due; or

[~~(b)~~] (ii) for a claimant who rents a residence, the year for which a claim is filed.

(b) "Household income" does not include income received by a member of a claimant's household who is:

(i) under the age of 18; or

(ii) a parent or a grandparent, through blood, marriage, or adoption, of the claimant or the claimant's spouse.

[~~(7) (a) (i)~~] (8) (a) "Income" means the sum of:

[~~(A)~~] (i) federal adjusted gross income as defined in Section 62, Internal Revenue Code; and

[~~(B)~~] (ii) [~~all~~] nontaxable income [~~as defined in Subsection (7)(b)~~].

[~~(ii)~~] (b) "Income" does not include:

[~~(A)~~] (i) aid, assistance, or contributions from a tax-exempt nongovernmental source;

[~~(B)~~] (ii) surplus foods;

[~~(C)~~] (iii) relief in kind supplied by a public or private agency; [~~or~~]

[~~(D)~~] (iv) relief provided under this part or Part 18, Tax Deferral and Tax Abatement[~~.~~]; or

(v) Social Security Disability Income payments received under the Social Security Act.

[~~(b) For purposes of Subsection (7)(a)(i), "nontaxable~~]

(9) "Nontaxable income" means amounts excluded from adjusted gross income under the Internal Revenue Code, including:

[~~(i)~~] (a) capital gains;

[~~(ii)~~] (b) loss carry forwards claimed during the taxable year in which a claimant files for relief under this part or Part 18, Tax Deferral and Tax Abatement;

[~~(iii)~~] (c) depreciation claimed pursuant to the Internal Revenue Code by a claimant on the residence for which the claimant files for relief under this part or Part 18, Tax Deferral and Tax Abatement;

[~~(iv)~~] (d) support money received;

[~~(v)~~] (e) nontaxable strike benefits;

[~~(vi)~~] (f) cash public assistance or relief;

[~~(vii)~~] (g) the gross amount of a pension or annuity, including benefits under the Railroad Retirement Act of 1974, 45 U.S.C. Sec. 231 et seq., and veterans disability pensions;

[~~(viii)~~] (h) except for payments described in Subsection (8)(b)(v), payments received under the Social Security Act;

[~~(ix)~~] (i) state unemployment insurance amounts;

[~~(x)~~] (j) nontaxable interest received from any source;

[~~(xi)~~] (k) workers' compensation;

[~~(xii)~~] (l) the gross amount of "loss of time" insurance; and

[~~(xiii)~~] (m) voluntary contributions to a tax-deferred retirement plan.

[~~(8)~~] (10) (a) "Property taxes accrued" means property taxes, exclusive of special assessments, delinquent interest, and charges for service, levied on 35% of the fair market value, as reflected on the assessment roll, of a claimant's residence in this state.

(b) For a mobile home, "property taxes accrued" includes taxes imposed on both the land upon which the home is situated and on the structure of the home itself, whether classified as real property or personal property taxes.

(c) The relief described in Subsection [~~(8)~~] (10)(a) constitutes:

(i) a tax abatement for the poor in accordance with Utah Constitution, Article XIII, Section 3; and

(ii) the residential exemption provided for in Section 59-2-103.

(d) [~~(i)~~] For purposes of this Subsection [~~(8)~~] (10), property taxes accrued are levied on the lien date.

[~~(ii) If a claimant owns a residence on the lien date, property taxes accrued mean taxes levied on the lien date, even if that claimant does not own a residence for the entire year.~~]

(e) When a household owns and occupies two or more different residences in this state in the same calendar year, and neither residence is acquired or sold during the calendar year for which relief is claimed under this part, property taxes accrued shall relate only to the residence occupied on the lien date by the household as the household's principal place of residence.

(f) (i) If a residence is an integral part of a large unit such as a farm or a multipurpose or multidwelling building, property taxes accrued shall be calculated on the percentage that the value of the residence is of the total value of the unit.

(ii) For purposes of this Subsection [~~(8)(f)~~] (10)(f), "unit" refers to the parcel of property covered by a single tax statement of which the residence is a part.

[~~(9)~~] (11) "Qualifying trust" means a trust holding title to real or tangible personal property for which an individual:

(a) makes a claim under this part;

(b) proves to the satisfaction of the county that title to the portion of the trust will revest in the individual upon the exercise of a power:

(i) by:

(A) the individual as grantor, trustor, settlor, or in another similar role of the trust;

(B) a nonadverse party; or

(C) both the individual and a nonadverse party; and

(ii) regardless of whether the power is a power:

(A) to revoke;

(B) to terminate;

(C) to alter;

(D) to amend; or

(E) to appoint; and

(c) is obligated to pay the taxes on that portion of the trust property beginning January 1 of the year the individual makes the claim.

[~~(10)~~] (12) (a) [~~As used in this section, "rental~~] "Rental assistance payment" means any payment that:

(i) is made by a:

(A) governmental entity;

(B) charitable organization; or

(C) religious organization; and

(ii) is specifically designated for the payment of rent of a claimant:

(A) for the calendar year for which the claimant seeks a renter's credit under this part; and

(B) regardless of whether the payment is made to the[~~:~~] claimant or the landlord.

[~~(I) claimant; or~~]

[~~(II) landlord.~~]

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules defining the terms:

(i) "governmental entity";

(ii) "charitable organization"; or

(iii) "religious organization."

[~~(11)~~] (13) (a) (i) "Residence" means the dwelling in this state, whether owned or rented, and so much of the land surrounding the dwelling, not exceeding one acre, as is reasonably necessary for use of the dwelling as a home.

(ii) "Residence" includes a dwelling that is:

(A) a part of a multidwelling or multipurpose building and a part of the land upon which the multidwelling or multipurpose building is built; and

(B) a mobile home or houseboat.

(b) "Residence" does not include personal property such as furniture, furnishings, or appliances.

(c) For purposes of this Subsection [~~(11)~~] (13), "owned" includes a vendee in possession under a land contract or one or more joint tenants or tenants in common.

Section 2. Section 59-2-1203 is amended to read:

59-2-1203. Right to file claim -- Death of claimant.

(1) (a) The right to file a claim under this part is personal to the claimant.

(b) The right to file a claim does not survive the claimant's death.

(c) The right to file a claim may be exercised on behalf of a claimant by:

(i) a legal guardian of the claimant; or

(ii) an attorney-in-fact of the claimant.

(2) (a) If a claimant dies after having filed a timely claim, the amount of the claim shall be disbursed to another member of the household as determined by the commission by rule.

(b) If the claimant described in Subsection (2)(a) was the only member of the household, the claim may be paid to the executor or administrator, except that if neither an executor or administrator is appointed and qualified within two years of the filing of the claim, the amount of the claim shall escheat to the state.

(3) If the claimant is the grantor, trustor, or settlor of or holds another similar role in a qualifying trust and the claimant meets the requirements of this part, the claimant may claim the portion of the credit and be treated as the owner of that portion of the property held in trust.

(4) The relief described in Subsection 59-2-1202[~~(8)~~](10)(a) is in addition to any other exemption or reduction for which a homeowner may be eligible, including the homeowner's credit provided for in Section 59-2-1206.

Section 3. Section 59-2-1206 is amended to read:

59-2-1206. Application for homeowner's credit -- Time for filing -- Payment from General Fund.

(1) (a) A claimant applying for a homeowner's credit shall file annually an application for the credit with the county in which the residence for which the claimant is seeking a homeowner's credit is located before September 1.

(b) The application under this section shall:

(i) be on forms provided by[~~:~~] the county that meet the requirements of Section 59-2-1211; and

[~~(A) the commission; or~~]

[~~(B) the county in which the applicant resides; and~~]

(ii) include a household income statement signed by the claimant stating that:

(A) the income statement is correct; and

(B) the claimant qualifies for the credit.

(c) (i) Subject to Subsection (1)(c)(ii), a county shall apply the credit in accordance with this section and Section 59-2-1207 for the year in which the claimant applies for a homeowner's credit if the claimant meets the criteria for obtaining a homeowner's credit as provided in this part.

(ii) A homeowner's credit under this part may not exceed the claimant's property tax liability for the residence for the year in which the claimant applies for a homeowner's credit under this part.

(d) A claimant may qualify for a homeowner's credit under this part regardless of whether the claimant owes delinquent property taxes.

(2) (a) (i) The county shall compile a list of claimants and the homeowner's credits granted to the claimants for purposes of obtaining payment from the General Fund for the amount of credits granted.

(ii) A county may not obtain payment from the General Fund for the amount described in Subsection 59-2-1202[~~(8)~~](10).

(b) Upon certification by the commission the payment for the credits under this Subsection (2) shall be made to the county on or before January 1 if the list of claimants and the credits granted are received by the commission on or before November 30 of the year in which the credits under this part are granted.

(c) If the commission does not receive the list under this Subsection (2) on or before November 30, payment shall be made within 30 days of receipt of the list of claimants and credits from the county.

Section 4. Section 59-2-1208 is amended to read:

59-2-1208. Amount of homeowner's credit -- Cost-of-living adjustment -- Limitation -- General Fund as source of credit.

(1) (a) Subject to Subsections (2) and (4), for a calendar year beginning on or after January 1, [~~2007~~] 2021, a claimant may claim a homeowner's credit that does not exceed the following amounts:

If household income is	Homeowner's credit
$0 -- [~~$9,159~~] $11,785	[~~$798~~] $1,027
[~~$9,160 $12,214~~] $11,786 -- $15,716	[~~$696~~] $896
[~~$12,215 -- $15,266~~] $15,717 -- $19,643	[~~$597~~] $768
[~~$15,267 -- $18,319~~] $19,644 -- $23,572	[~~$447~~] $575
[~~$18,320 -- $21,374~~] $23,573 -- $27,503	[~~$348~~] $448
[~~$21,375 -- $24,246~~] $27,504 -- $31,198	[~~$199~~] $256
[~~$24,247 -- $26,941~~] $31,199 -- $34,666	[~~$98~~] $126

(b) [~~(i)~~] For a calendar year beginning on or after January 1, [~~2008~~] 2022, the commission shall increase or decrease the household income eligibility amounts and the credits under Subsection (1)(a) by a percentage equal to the percentage difference between the consumer price index housing for the preceding calendar year and the consumer price index housing for calendar year [~~2006~~] 2020.

[~~(ii) For purposes of Subsection (1)(b)(i), the commission shall calculate the consumer price index as provided in Sections 1(f)(4) and 1(f)(5), Internal Revenue Code.~~]

(2) (a) An individual may not receive the homeowner's credit under this section or the tax relief described in Subsection 59-2-1202(10)(a) on 20% of the fair market value of the residence if:

[~~(a)~~] (i) the individual is claimed as a personal exemption on another individual's federal income tax return during any portion of a calendar year for which the individual seeks to claim the homeowner's credit under this section; [~~or~~]

[~~(b)~~] (ii) the individual is a dependent with respect to whom another individual claims a tax credit under Section 24(h)(4), Internal Revenue Code, during any portion of a calendar year for which the individual seeks to claim the homeowner's credit under this section[.]; or

(iii) the individual did not own the residence for the entire calendar year for which the individual claims the homeowner's credit.

(b) For a calendar year in which a residence is sold, the amount received as a homeowner's credit under this section or as tax relief described in Subsection 59-2-1202(10)(a) on 20% of the fair market value of the residence shall be repaid to the county on or before the day on which the sale of the residence closes.

(3) A payment for a homeowner's credit allowed by this section, and provided for in Section 59-2-1204, shall be paid from the General Fund.

(4) For a calendar year that begins on or after January 1, 2018, after the commission has adjusted

the homeowner credit amount under Subsection (1)(b), the commission shall increase each homeowner credit amount under Subsection (1) by the following amounts:

(a) for a calendar year that begins on January 1, 2018, $14;

(b) for a calendar year that begins on January 1, 2019, $22;

(c) for a calendar year that begins on January 1, 2020, $31;

(d) for a calendar year that begins on January 1, 2021, $40; and

(e) for a calendar year that begins on or after January 1, 2022, $49.

Section 5. Section 59-2-1209 is amended to read:

59-2-1209. Amount of renter's credit -- Cost-of-living adjustment -- Renter's credit may be claimed only for rent that does not constitute a rental assistance payment -- Limitation -- General Fund as source of credit -- Maximum credit.

(1) (a) Subject to Subsections (2) and (3), for a calendar year beginning on or after January 1, [~~2007~~] 2021, a claimant may claim a renter's credit for the previous calendar year that does not exceed the following amounts:

If household income is	Percentage of rent allowed as a credit
$0 -- [~~$9,159~~] $11,785	9.5%
[~~$9,160 -- $12,214~~] $11,786 -- $15,716	8.5%
[~~$12,215 -- $15,266~~] $15,717 -- $19,643	7.0%
[~~$15,267 -- $18,319~~] $19,644 -- $23,572	5.5%
[~~$18,320 -- $21,374~~] $23,573 -- $27,503	4.0%
[~~$21,375 -- $24,246~~] $27,504 -- $31,198	3.0%
[~~$24,247 -- $26,941~~] $31,199 -- $34,666	2.5%

(b) [~~(i)~~] For a calendar year beginning on or after January 1, [~~2008~~] 2022, the commission shall increase or decrease the household income eligibility amounts under Subsection (1)(a) by a percentage equal to the percentage difference between the consumer price index housing for the preceding calendar year and the consumer price index housing for calendar year [~~2006~~] 2020.

[~~(ii) For purposes of Subsection (1)(b)(i), the commission shall calculate the consumer price index as provided in Sections 1(f)(4) and 1(f)(5), Internal Revenue Code.~~]

(2) A claimant may claim a renter's credit under this part only for rent that does not constitute a rental assistance payment.

(3) An individual may not receive the renter's credit under this section if the individual is:

(a) claimed as a personal exemption on another individual's federal income tax return during any portion of a calendar year for which the individual seeks to claim the renter's credit under this section; or

(b) a dependent with respect to whom another individual claims a tax credit under Section 24(h)(4), Internal Revenue Code, during any portion of a calendar year for which the individual seeks to claim the renter's credit under this section.

(4) A payment for a renter's credit allowed by this section, and provided for in Section 59-2-1204, shall be paid from the General Fund.

(5) [~~For calendar years beginning on or after January 1, 2007, a~~] A credit under this section may not exceed the maximum amount allowed as a homeowner's credit for each income bracket under Subsection 59-2-1208(1)(a).

Section 6. Section 59-2-1220 is amended to read:

59-2-1220. Extension of time for filing application -- County authority to make refunds.

(1) The commission or a county may extend the time for filing [~~a claim~~] an application until December 31 of the year the [~~claim~~] application is required to be filed, if the commission or county finds that good cause exists to extend the deadline.

(2) (a) For purposes of this Subsection (2):

(i) "Abatement" means the amount of property taxes accrued that constitutes a tax abatement for the poor in accordance with Subsection 59-2-1202[~~(8)~~](10).

(ii) "Credit" means a homeowner's credit or renter's credit authorized by this part.

(iii) "Property taxes due" means the taxes due on a claimant's property:

(A) for which the county or the commission grants an abatement or a credit [~~is granted by a county or the commission~~]; and

(B) for the calendar year for which the abatement or credit is granted.

(iv) "Property taxes paid" is an amount equal to the sum of:

(A) the amount of the property taxes paid for the taxable year for which the claimant is applying for the abatement or credit; and

(B) the amount of the abatement or credit the county or the commission grants.

(b) A county or the commission granting an abatement or a credit to a claimant shall refund to that claimant an amount equal to the amount by which the claimant's property taxes paid exceed the

claimant's property taxes due, if that amount is $1 or more.

Section 7. Retrospective operation.

This bill has retrospective operation to January 1, 2021.

CHAPTER 392
S. B. 35
Passed January 27, 2021
Approved March 22, 2021
Effective May 5, 2021
(Retrospective operation to January 1, 2021)

INCOME TAX DOMICILE AMENDMENTS

Chief Sponsor: Curtis S. Bramble
House Sponsor: Steve Eliason

LONG TITLE

General Description:

This bill modifies provisions relating to income tax domicile requirements.

Highlighted Provisions:

This bill:

- provides that an individual may not be determined to have domicile in this state for purposes of assessing an income tax based on the individual's dependent being enrolled in a public school in this state if the individual is a noncustodial parent and the individual was never married to the dependent's custodial parent.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides retrospective operation.

Utah Code Sections Affected:

AMENDS:

59-10-136, as last amended by Laws of Utah 2020, Chapter 354

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 59-10-136 is amended to read:

59-10-136. Domicile -- Temporary absence from state.

(1) (a) An individual is considered to have domicile in this state if:

(i) except as provided in Subsection (1)(b), a dependent with respect to whom the individual or the individual's spouse claims a personal exemption or a tax credit under Section 24, Internal Revenue Code, on the individual's or individual's spouse's federal individual income tax return is enrolled in a public kindergarten, public elementary school, or public secondary school in this state; or

(ii) the individual or the individual's spouse is a resident student in accordance with Section 53B-8-102 who is enrolled in an institution of higher education described in Section 53B-2-101 in this state.

(b) The determination of whether an individual is considered to have domicile in this state may not be determined in accordance with Subsection (1)(a)(i) if the individual:

(i) is the noncustodial parent of a dependent:

(A) with respect to whom the individual claims a personal exemption or a tax credit under Section 24, Internal Revenue Code, on the individual's federal individual income tax return; and

(B) who is enrolled in a public kindergarten, public elementary school, or public secondary school in this state; and

(ii) (A) is divorced from the custodial parent of the dependent described in Subsection (1)(b)(i)[.]; or

(B) was never married to the custodial parent of the dependent described in Subsection (1)(b)(i).

(2) There is a rebuttable presumption that an individual is considered to have domicile in this state if:

(a) the individual or the individual's spouse claims a residential exemption in accordance with Chapter 2, Property Tax Act, for that individual's or individual's spouse's primary residence;

(b) the individual or the individual's spouse:

(i) votes in this state in a regular general election, municipal general election, primary election, or special election during the taxable year; and

(ii) has not registered to vote in another state in that taxable year; or

(c) the individual or the individual's spouse asserts residency in this state for purposes of filing an individual income tax return under this chapter, including asserting that the individual or the individual's spouse is a part-year resident of this state for the portion of the taxable year for which the individual or the individual's spouse is a resident of this state.

(3) (a) Subject to Subsection (3)(b), if the requirements of Subsection (1) or (2) are not met for an individual to be considered to have domicile in this state, the individual is considered to have domicile in this state if:

(i) the individual or the individual's spouse has a permanent home in this state to which the individual or the individual's spouse intends to return after being absent; and

(ii) the individual or the individual's spouse has voluntarily fixed the individual's or the individual's spouse's habitation in this state, not for a special or temporary purpose, but with the intent of making a permanent home.

(b) The determination of whether an individual is considered to have domicile in this state under Subsection (3)(a) shall be based on the preponderance of the evidence, taking into consideration the totality of the following facts and circumstances:

(i) whether the individual or the individual's spouse has a driver license in this state;

(ii) whether a dependent with respect to whom the individual or the individual's spouse claims a personal exemption or a tax credit under Section 24, Internal Revenue Code, on the individual's or individual's spouse's federal individual income tax

return is a resident student in accordance with Section 53B-8-102 who is enrolled in an institution of higher education described in Section 53B-2-101 in this state;

(iii) the nature and quality of the living accommodations that the individual or the individual's spouse has in this state as compared to another state;

(iv) the presence in this state of a spouse or dependent with respect to whom the individual or the individual's spouse claims a personal exemption or a tax credit under Section 24, Internal Revenue Code, on the individual's or individual's spouse's federal individual income tax return;

(v) the physical location in which earned income as defined in Section 32(c)(2), Internal Revenue Code, is earned by the individual or the individual's spouse;

(vi) the state of registration of a vehicle as defined in Section 59-12-102 owned or leased by the individual or the individual's spouse;

(vii) whether the individual or the individual's spouse is a member of a church, a club, or another similar organization in this state;

(viii) whether the individual or the individual's spouse lists an address in this state on mail, a telephone listing, a listing in an official government publication, other correspondence, or another similar item;

(ix) whether the individual or the individual's spouse lists an address in this state on a state or federal tax return;

(x) whether the individual or the individual's spouse asserts residency in this state on a document, other than an individual income tax return filed under this chapter, filed with or provided to a court or other governmental entity;

(xi) the failure of an individual or the individual's spouse to obtain a permit or license normally required of a resident of the state for which the individual or the individual's spouse asserts to have domicile;

(xii) whether the individual is an individual described in Subsection (1)(b);

(xiii) whether the individual:

(A) maintains a place of abode in the state; and

(B) spends in the aggregate 183 or more days of the taxable year in the state; or

(xiv) whether the individual or the individual's spouse:

(A) did not vote in this state in a regular general election, municipal general election, primary election, or special election during the taxable year, but voted in the state in a general election, municipal general election, primary election, or special election during any of the three taxable years prior to that taxable year; and

(B) has not registered to vote in another state during a taxable year described in Subsection (3)(b)(xiv)(A).

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and for purposes of Subsection (3)(b)(xiii), the commission may by rule define what constitutes spending a day of the taxable year in the state.

(4) (a) Notwithstanding Subsections (1) through (3) and subject to the other provisions of this Subsection (4), an individual is not considered to have domicile in this state if the individual meets the following qualifications:

(i) except as provided in Subsection (4)(a)(ii)(A), the individual and the individual's spouse are absent from the state for at least 761 consecutive days; and

(ii) during the time period described in Subsection (4)(a)(i), neither the individual nor the individual's spouse:

(A) return to this state for more than 30 days in a calendar year;

(B) claim a personal exemption or a tax credit under Section 24, Internal Revenue Code, on the individual's or individual's spouse's federal individual income tax return with respect to a dependent who is enrolled in a public kindergarten, public elementary school, or public secondary school in this state, unless the individual is an individual described in Subsection (1)(b);

(C) are resident students in accordance with Section 53B-8-102 who are enrolled in an institution of higher education described in Section 53B-2-101 in this state;

(D) claim a residential exemption in accordance with Chapter 2, Property Tax Act, for that individual's or individual's spouse's primary residence; or

(E) assert that this state is the individual's or the individual's spouse's tax home for federal individual income tax purposes.

(b) Notwithstanding Subsection (4)(a), an individual that meets the qualifications of Subsection (4)(a) to not be considered to have domicile in this state may elect to be considered to have domicile in this state by filing an individual income tax return in this state as a resident individual.

(c) For purposes of Subsection (4)(a), an absence from the state:

(i) begins on the later of the date:

(A) the individual leaves this state; or

(B) the individual's spouse leaves this state; and

(ii) ends on the date the individual or the individual's spouse returns to this state if the individual or the individual's spouse remains in this state for more than 30 days in a calendar year.

(d) An individual shall file an individual income tax return or amended individual income tax return

under this chapter and pay any applicable interest imposed under Section 59-1-402 if:

(i) the individual did not file an individual income tax return or amended individual income tax return under this chapter based on the individual's belief that the individual has met the qualifications of Subsection (4)(a) to not be considered to have domicile in this state; and

(ii) the individual or the individual's spouse fails to meet a qualification of Subsection (4)(a) to not be considered to have domicile in this state.

(e) (i) Except as provided in Subsection (4)(e)(ii), an individual that files an individual income tax return or amended individual income tax return under Subsection (4)(d) shall pay any applicable penalty imposed under Section 59-1-401.

(ii) The commission shall waive the penalties under Subsections 59-1-401(2), (3), and (5) if an individual who is required by Subsection (4)(d) to file an individual income tax return or amended individual income tax return under this chapter:

(A) files the individual income tax return or amended individual income tax return within 105 days after the individual fails to meet a qualification of Subsection (4)(a) to not be considered to have domicile in this state; and

(B) within the 105-day period described in Subsection (4)(e)(ii)(A), pays in full the tax due on the return, any interest imposed under Section 59-1-402, and any applicable penalty imposed under Section 59-1-401, except for a penalty under Subsection 59-1-401(2), (3), or (5).

(5) Notwithstanding Subsections (2) and (3), for individuals who are spouses for purposes of this section and one of the spouses has domicile under this section, the other spouse is not considered to have domicile in this state under Subsection (2) or (3) if one of the spouses establishes by a preponderance of the evidence that, during the taxable year and for three taxable years prior to that taxable year, that other spouse:

(a) is not an owner of property in this state;

(b) does not return to this state for more than 30 days in a calendar year;

(c) has not received earned income as defined in Section 32(c)(2), Internal Revenue Code, in this state;

(d) has not voted in this state in a regular general election, municipal general election, primary election, or special election; and

(e) does not have a driver license in this state.

(6) (a) Except as provided in Subsection (5), an individual is considered to have domicile in this state in accordance with this section, the individual's spouse is considered to have domicile in this state.

(b) For purposes of this section, an individual is not considered to have a spouse if:

(i) the individual is legally separated or divorced from the spouse; or

(ii) the individual and the individual's spouse claim married filing separately filing status for purposes of filing a federal individual income tax return for the taxable year.

(c) Except as provided in Subsection (6)(b)(ii), for purposes of this section, an individual's filing status on a federal individual income tax return or a return filed under this chapter may not be considered in determining whether an individual has a spouse.

(7) For purposes of this section, whether or not an individual or the individual's spouse claims a property tax residential exemption under Chapter 2, Property Tax Act, for the residential property that is the primary residence of a tenant of the individual or the individual's spouse may not be considered in determining domicile in this state.

Section 2. Retrospective operation.

This bill has retrospective operation for a taxable year beginning on or after January 1, 2021.

CHAPTER 393
S. B. 42
Passed March 3, 2021
Approved March 22, 2021
Effective July 1, 2021

TAX COMMISSION COLLECTION AMENDMENTS

Chief Sponsor: Curtis S. Bramble
House Sponsor: Steve Eliason

LONG TITLE

General Description:

This bill enacts and modifies provisions related to the State Tax Commission's collection processes.

Highlighted Provisions:

This bill:

- defines terms;
- allows the State Tax Commission to authorize a private collector to contract with a third party;
- addresses the information the State Tax Commission may disclose to a private collector and allows the private collector to provide any relevant information to a contracted third party;
- if a taxpayer owes a liability to the State Tax Commission, authorizes the State Tax Commission to issue an administrative garnishment order against the taxpayer's personal property that is in possession of another person; and
- addresses the procedural and substantive requirements of an administrative garnishment order.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

59-1-1101, as last amended by Laws of Utah 2000, Chapter 182
59-1-1102, as enacted by Laws of Utah 1994, Chapter 165

ENACTS:

59-1-1420, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 59-1-1101 is amended to read:

59-1-1101. Private collection of tax -- Fee.

(1) The [~~tax~~] commission is authorized to employ private collectors for the collection of accounts that are unpaid over 12 months after the assessment date.

(2) Up to, but no more than, 33% of the money collected may be used to offset the payment to a private collector.

(3) The commission may authorize a private collector described in Subsection (1) to contract with a third party for services for the collection of accounts that the commission refers to the private collector.

Section 2. Section 59-1-1102 is amended to read:

59-1-1102. Disclosure of tax information -- Confidentiality.

(1) (a) Notwithstanding Section 59-1-403, if the commission refers a debt related to a tax, fee, or charge as defined in Section 59-1-401 to a private collector under Section 59-1-1101, the commission may disclose [~~the tax due,~~] to the private collector the following information related to the debt:

(i) the name of the taxpayer[~~, and~~];

(ii) the taxpayer's contact information, including address and phone number [~~when any tax is referred to a private collector under Section 59-1-1101.~~];

(iii) the amount of the debt;

(iv) other information that identifies the taxpayer; or

(v) a combination of the information described in Subsections (1)(a)(i) through (iv).

(b) This disclosure may not be made if it would be in violation of Section 6103 [~~of the~~], Internal Revenue Code.

(2) Subject to Subsections (1)(b) and (3), if the commission authorizes a private collector to contract with a third party under Section 59-1-1101, the private collector may disclose to the third party the information described in Subsection (1)(a) that the commission discloses to the private collector and that relates to services the third party provides to the private collector.

[~~(2)~~] (3) [~~Any~~] A private collector or a third party described in Subsection (2) is subject to the confidentiality requirements and penalty provisions provided in Section 59-1-403 with regard to [~~these records~~] information disclosed in accordance with this section.

Section 3. Section 59-1-1420 is enacted to read:

59-1-1420. Administrative garnishment order for liability.

(1) As used in this section:

(a) "Administrative garnishment order" includes a continuing administrative garnishment order issued under this section.

(b) "Disposable earnings" means the same as that term is defined in Section 70C-7-103.

(c) "Garnishee" means a person to whom the commission issues an administrative garnishment order under this section.

(d) "Nonexempt periodic payment" means any recurring payment that, under Title 78B, Chapter 5, Part 5, Utah Exemptions Act, is not exempt from the judicial process to collect an unsecured debt.

(2) (a) Subject to Subsection (3), if a taxpayer owes a liability, the commission may issue an administrative garnishment order against the taxpayer's personal property, including wages, in

the possession or control of a person other than the taxpayer in the same manner and with the same effect as if the order were a writ of garnishment issued by a court with jurisdiction.

(b) In addition to the underlying liability, the commission may satisfy through an administrative garnishment any costs or fees incurred by the commission as a result of issuing the administrative garnishment order.

(3) The commission may issue an administrative garnishment order to a person described in Subsection (2) if:

(a) the commission has filed a warrant against the taxpayer for the underlying liability in accordance with Section 59-1-1414; and

(b) the commission's executive director or the executive director's designee signs the administrative garnishment order.

(4) An administrative garnishment order issued in accordance with this section is subject to the procedures and due process protections provided by Rule 64D, Utah Rules of Civil Procedure.

(5) The maximum portion of a taxpayer's disposable earnings subject to garnishment under this section is the lesser of:

(a) 25% of the taxpayer's disposable earnings; or

(b) the amount by which the taxpayer's disposable earnings for a pay period exceeds the number of weeks in that pay period multiplied by 30 times the federal minimum wage as provided in 29 U.S.C. Sec. 201 et seq., Fair Labor Standards Act of 1938.

(6) Upon agreement by the garnishee, the parties to an administrative garnishment order may accept and transmit documents relating to the administrative garnishment order by electronic means, including service of process, proof of service, interrogatories, answers, and any other information shared between the garnishee and the commission.

(7) In an administrative garnishment order issued under this section, the commission shall:

(a) identify the taxpayer, including:

(i) the taxpayer's name and address; and

(ii) if known:

(A) the last four digits of the taxpayer's social security number, or the taxpayer's full social security number, if the taxpayer's full social security number is required by federal law; and

(B) the taxpayer's date of birth;

(b) contain a statement that includes:

(i) if known, the nature, location, account number, and estimated value of the property subject to administrative garnishment;

(ii) if known, the name, address, and phone number of the person holding the property subject to administrative garnishment; and

(iii) the name, address, and phone number of any person claiming an interest in the property described in Subsection (7)(b)(i) or (ii);

(c) state whether any of the property subject to administrative garnishment consists of earnings;

(d) state the outstanding amount owed under the warrant described in Subsection (3)(a);

(e) state the amount of any applicable costs or fees included in the administrative garnishment;

(f) state the manner in which the garnishee shall deliver the property to the commission; and

(g) state that the commission shall pay the garnishee the fee described in Subsection 78A-2-216.

(8) As part of the administrative garnishment order, the commission shall serve on the garnishee the following interrogatories:

(a) whether the garnishee is indebted to the taxpayer and, if so, the nature of the indebtedness;

(b) whether the garnishee possesses or controls any property of the taxpayer, and, if so, the nature, location, and estimated value of the property;

(c) whether the garnishee knows of any property of the taxpayer in the possession or control of another person, and if so, the following information about the property:

(i) the nature;

(ii) the location; and

(iii) the estimated value;

(d) (i) whether the garnishee intends to deduct from the property a liquidated claim against the taxpayer;

(ii) a description of any claim described in Subsection (8)(d)(i); and

(iii) the amount deducted, if any;

(e) the date and manner of the garnishee's service of the documents described in Subsection (9)(c) on the taxpayer and any third party;

(f) the date on which the taxpayer was previously served with any continuing administrative garnishment order;

(g) any other relevant information the commission requests, including:

(i) the taxpayer's position;

(ii) the taxpayer's rate of pay;

(iii) the taxpayer's compensation method;

(iv) the taxpayer's pay period; and

(v) a computation of the taxpayer's disposable earnings.

(9) Within seven days after the day on which an administrative garnishment order is served, the garnishee shall:

(a) answer each interrogatory described in Subsection (8);

(b) serve the answers to the interrogatories on the commission;

(c) serve the taxpayer and any other person known to the garnishee to have an interest in the property a copy of:

(i) the administrative garnishment order; and

(ii) the answers to the interrogatories described in Subsection (9)(b); and

(d) inform the taxpayer of the taxpayer's right to reply to the answers described in Subsection (9)(b) and request a hearing as provided by Rule 64D, Utah Rules of Civil Procedure.

(10) (a) A garnishee who acts in accordance with this section and the administrative garnishment order is released from liability unless an answer to an interrogatory is successfully controverted.

(b) Except as provided in Subsection (10)(c), if a garnishee fails to comply with the administrative garnishment order without a court or final administrative order directing otherwise, the garnishee is liable for an amount including:

(i) the lesser of the value of the property or the balance owed under the warrant described in Subsection (3)(a);

(ii) reasonable costs and fees; and

(iii) attorney fees incurred by the parties as a result of the garnishee's failure.

(c) If a garnishee demonstrates that the garnishee took reasonable steps to secure the property, the commission may excuse the garnishee of liability in whole or in part.

(11) If the commission files a motion for an order to show cause to enforce an administrative garnishment order under this section, the commission shall attach to the motion a statement that the commission has in good faith conferred or attempted to confer with the garnishee in an effort to settle the issue without court action.

(12) A garnishee is not liable for drawing, accepting, making, or endorsing a negotiable instrument that is not in the possession or control of the garnishee at the time the administrative garnishment order is served.

(13) A garnishee may deduct from the property any liquidated claim against the taxpayer.

(14) (a) If a debt owed by the taxpayer to the garnishee is secured by the property subject to the administrative garnishment order, the commission may apply the property to the debt.

(b) An administrative garnishment order described in Subsection (14)(a) remains in effect regardless of whether the commission applies the property to the debt.

(15) (a) The commission may issue a continuing administrative garnishment order against any nonexempt periodic payment.

(b) A continuing administrative garnishment order applies to payments to the taxpayer:

(i) beginning on the day on which the continuing administrative garnishment order is served; and

(ii) ending on the earlier of:

(A) subject to Subsection (15)(c), one year after the day on which the continuing administrative garnishment order is served;

(B) 120 days after the day on which a second or subsequent continuing administrative garnishment against the taxpayer is served;

(C) the day on which the last nonexempt periodic payment subject to the continuing administrative garnishment order occurs;

(D) the day on which the warrant described in Subsection (3)(a) is stayed, vacated, or satisfied in full; or

(E) the day on which the commission releases the continuing administrative garnishment order.

(c) If the commission issues a continuing administrative garnishment order during the term of another continuing administrative garnishment order against the same taxpayer, the period described in Subsection (15)(b)(i) is tolled if the other continuing administrative garnishment order:

(i) is in effect at the time the commission serves the subsequent continuing administrative garnishment order; and

(ii) requires payments greater than or equal to the maximum portion of disposable earnings described in Subsection (5).

(d) For each periodic payment period, no later than seven days after the day on which the periodic payment period ends, the garnishee shall:

(i) answer each interrogatory described in Subsection (8);

(ii) serve the answers to the interrogatories on the commission, the taxpayer, and any other person known to the garnishee to have an interest in the property; and

(iii) deliver the property to the commission in the manner specified in the continuing administrative garnishment order.

(16) (a) The commission may not name more than one garnishee in an administrative garnishment order.

(b) Priority among garnishments is according to the order of service on the garnishee.

(c) An administrative garnishment order applies to earnings accruing during the pay period in which the order is effective.

(17) This section is subject to Title 78B, Chapter 5, Part 5, Utah Exemptions Act.

Section 4. Effective date.

This bill takes effect July 1, 2021.

CHAPTER 394
S. B. 62
Passed March 4, 2021
Approved March 22, 2021
Effective May 5, 2021

GUBERNATORIAL TRANSFER OF POWER

Chief Sponsor: Don L. Ipson
House Sponsor: Robert M. Spendlove

LONG TITLE

General Description:

This bill provides for the transition between gubernatorial administrations.

Highlighted Provisions:

This bill:

- defines terms;
- clarifies the deadline for the Senate to consent to certain gubernatorial appointees;
- requires the executive branch and an incoming gubernatorial administration to work together to facilitate an efficient transition between gubernatorial administrations;
- allows appropriations to be made for an incoming gubernatorial administration to use in making the transition into the offices of governor and lieutenant governor;
- specifies how the governor's proposed budget is to be prepared in a year in which there is a transition between gubernatorial administrations; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

67-1-1.5, as last amended by Laws of Utah 2020, Chapter 352

ENACTS:

67-1b-101, Utah Code Annotated 1953
67-1b-102, Utah Code Annotated 1953
67-1b-103, Utah Code Annotated 1953
67-1b-104, Utah Code Annotated 1953
67-1b-105, Utah Code Annotated 1953
67-1b-106, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 67-1-1.5 is amended to read:

67-1-1.5. Gubernatorial appointment powers.

(1) As used in this section:

(a) "Board member" means each gubernatorial appointee to any state board, committee, commission, council, or authority.

(b) "Executive branch management position" includes department executive directors, division directors, and any other administrative position in state government where the person filling the position:

(i) works full-time performing managerial and administrative functions;

(ii) is appointed by the governor with the advice and consent of the Senate.

(c) (i) "Executive branch policy position" means any person other than a person filling an executive branch management position, who is appointed by the governor with the advice and consent of the Senate.

(ii) "Executive branch policy position" includes each member of any state board and commission appointed by the governor with the advice and consent of the Senate.

(2) (a) Whenever a vacancy occurs in any executive branch policy position or in any executive branch management position, the governor shall submit the name of a nominee to the Senate for advice and consent no later than three months after the day on which the vacancy occurs.

(b) If the Senate fails to consent to that person within 90 days after the day on which the governor submits the nominee's name to the Senate for consent:

(i) the nomination is considered rejected; and

(ii) the governor shall resubmit the name of the nominee described in Subsection (2)(a) or submit the name of a different nominee to the Senate for consent no later than 60 days after the date on which the nomination was rejected by the Senate.

(3) [~~(a)~~] Whenever a vacancy occurs in any executive branch management position, the governor may either:

[~~(i)~~] (a) appoint an interim manager who meets the qualifications of the vacant position to exercise the powers and duties of the vacant position for three months, pending consent of a person to permanently fill that position by the Senate; or

[~~(ii)~~] (b) appoint an interim manager who does not meet the qualifications of the vacant position and submit that person's name to the Senate for consent as interim manager within one month of the appointment.

[~~(b) If~~] (4) Except for an interim manager appointed to a position described in Subsection 67-1-2(3)(b)(i) through (vii), if the Senate fails to consent to the interim manager appointed under Subsection [~~(3)(a)(ii)~~] (3)(b) within 30 days after the day on which the governor submits the nominee's name to the Senate for consent:

[~~(i)~~] (a) the nomination is considered rejected; and

[~~(ii)~~] (b) the governor may:

(i) (A) [~~(I)~~] reappoint the interim manager to whom the Senate failed to consent within 30 days; and

[~~(II)~~] (B) resubmit the name of the person described in Subsection [~~(3)(b)(ii)(A)(I)~~] (4)(b)(i)(A) to the Senate for consent as interim manager; or

[~~(B)~~] (ii) appoint a different interim manager under Subsection (3)[~~(a)~~].

(5) For an interim manager appointed to a position described in Subsection 67-1-2(3)(b)(i) through (vii), if the Senate fails to consent to the interim manager appointed under Subsection (3)(b) within 60 days after the day on which the governor submits the nominee's name to the Senate for consent:

(a) the nomination is considered rejected; and

(b) the governor may:

(i) (A) reappoint the interim manager to whom the Senate failed to consent; and

(B) resubmit the name of the person described in Subsection (5)(b)(i)(A) to the Senate for consent as interim manager; or

(ii) appoint a different interim manager under Subsection (3).

[~~(c)~~] (6) If, after an interim manager has served three months, no one has been appointed and received Senate consent to permanently fill the position, the governor shall:

[~~(i)~~] (a) appoint a new interim manager who meets the qualifications of the vacant position to exercise the powers and duties of the vacant position for three months; or

[~~(ii)~~] (b) submit the name of the first interim manager to the Senate for consent as an interim manager for a three-month term.

[~~(d)~~] (7) If the Senate fails to consent to a nominee whose name is submitted under Subsection [~~(3)(c)(ii)~~] (6)(b) within 30 days after the day on which the governor submits the name to the Senate:

[~~(i)~~] (a) the nomination is considered rejected; and

[~~(ii)~~] (b) the governor shall:

(i) (A) [~~(I)~~] reappoint the person described in Subsection [~~(3)(d)~~] (6)(b); and

[~~(II)~~] (B) resubmit the name of the person described in Subsection [~~(3)(d)~~] (6)(b) to the Senate for consent as interim manager; or

[~~(B)~~] (ii) appoint a different interim manager in the manner required by Subsection (3)[~~(a)~~].

[~~(4)~~] (8) The governor may not make a temporary appointment to fill a vacant executive branch policy position.

[~~(5)~~] (9) (a) Before appointing any person to serve as a board member, the governor shall ask the person whether [~~or not~~] the person wishes to receive per diem, expenses, or both for serving as a board member.

(b) If the person declines to receive per diem, expenses, or both, the governor shall notify the agency administering the board, commission, committee, council, or authority and direct the agency to implement the board member's request.

[~~(6)~~] (10) A gubernatorial nomination upon which the Senate has not acted to give consent or refuse to give consent is void when a vacancy in the office of governor occurs.

Section 2. Section 67-1b-101 is enacted to read:

CHAPTER 1b. TRANSITION TO NEW GUBERNATORIAL ADMINISTRATION

67-1b-101. Title.

This chapter is known as "Transition to New Gubernatorial Administration."

Section 3. Section 67-1b-102 is enacted to read:

67-1b-102. Definitions.

As used in this chapter:

(1) "Board of canvassers" means the state board of canvassers created in Section 20A-4-306.

(2) (a) "Executive branch" means:

(i) the governor, the governor's staff, and the governor's appointed advisors;

(ii) the lieutenant governor and lieutenant governor's staff;

(iii) cabinet level officials;

(iv) except as provided in Subsection (2)(b), an agency, board, department, division, committee, commission, council, office, or other administrative subunit of the executive branch of state government;

(v) except as provided in Subsection (2)(b), a cabinet officer, elected official, executive director, or board or commission vested with:

(A) policy making and oversight responsibility for a state executive branch agency; or

(B) authority to appoint and remove the director of a state executive branch agency;

(vi) executive ministerial officers;

(vii) each gubernatorial appointee to a state board, committee, commission, council, or authority;

(viii) each executive branch management position, as defined in Section 67-1-1.5;

(ix) each executive branch policy position, as defined in Section 67-1-1.5; and

(x) the military forces of the state.

(b) "Executive branch" does not include:

(i) the legislative branch;

(ii) the judicial branch;

(iii) the State Board of Education;

(iv) the Utah Board of Higher Education;

(v) institutions of higher education;

(vi) independent entities as defined in Section 63E-1-102;

(vii) elective constitutional offices of the executive department, including the state auditor, the state treasurer, and the attorney general;

(viii) a county, municipality, school district, local district, or special service district; or

(ix) an administrative subdivision of a county, municipality, school district, local district, or special service district.

(3) "Governor-elect" means, during a transition period, an individual whom the board of canvassers determines to be the successful candidate for governor after a general election for the office of governor, if that successful candidate is an individual other than the incumbent governor.

(4) "Governor-elect's staff" means:

(a) an individual that a governor-elect intends to nominate as a department head;

(b) an individual that a governor-elect intends to appoint to a key position in the executive branch;

(c) an individual hired by a governor-elect under Subsection 67-1b-105(1)(c); and

(d) any other individual expressly engaged by the governor-elect to assist with the governor-elect's transition into the office of governor.

(5) "Governor's Office of Management and Budget" means the office created in Section 63J-4-201.

(6) "Incoming gubernatorial administration" means a governor-elect, a governor-elect's staff, a lieutenant governor-elect, and a lieutenant governor-elect's staff.

(7) "Lieutenant governor-elect" means, during a transition period, an individual whom the board of canvassers determines to be the successful candidate for lieutenant governor after a general election for the office of lieutenant governor, if that successful candidate is an individual other than the incumbent lieutenant governor.

(8) "Lieutenant governor-elect's staff" means:

(a) an individual hired by a lieutenant governor-elect under Subsection 67-1b-105(1)(c); and

(b) any other individual expressly engaged by the lieutenant governor-elect to assist with the lieutenant governor-elect's transition into the office of lieutenant governor.

(9) "Office of the Legislative Fiscal Analyst" means the office created in Section 36-12-13.

(10) "Record" means the same as that term is defined in Section 63G-2-103.

(11) "Transition period" means the period of time beginning the day after the meeting of the board of canvassers under Section 20A-4-306 in a year in which the board of canvassers determines that the successful candidate for governor is an individual other than the incumbent governor, and ending on the first Monday of the next January.

Section 4. Section 67-1b-103 is enacted to read:

67-1b-103. Applicability.

(1) Except as otherwise provided, this chapter applies when there is a transition from the administration of one governor to the administration of the next governor following a regular general election at which a new governor is elected.

(2) Except as otherwise provided, this chapter does not apply:

(a) to a transition from the administration of one governor to the administration of another governor due to a vacancy in the office of governor under Utah Constitution, Article VII, Section 11; or

(b) if the successful candidate for governor is the incumbent governor.

Section 5. Section 67-1b-104 is enacted to read:

67-1b-104. Duties during transition period.

(1) During a transition period, the executive branch shall:

(a) provide any lawful assistance that the incoming gubernatorial administration may reasonably request related to the transition between gubernatorial administrations; and

(b) take reasonable steps to:

(i) avoid or minimize disruptions that might be occasioned by a transition between gubernatorial administrations; and

(ii) facilitate an efficient transition between gubernatorial administrations.

(2) During a transition period, the incoming gubernatorial administration shall take reasonable steps to:

(a) avoid or minimize disruptions that might be occasioned by a transition between gubernatorial administrations; and

(b) facilitate an efficient transition between gubernatorial administrations.

(3) (a) During a transition period, the executive branch shall timely provide a governor-elect, upon the governor-elect's request, with all records and information from the executive branch upon any subject relating to the executive branch's condition, expenditures, expenses, management, operations, personnel, and receipts.

(b) For a record requested by a governor-elect under Subsection (3)(a) that is classified as private or protected under Title 63G, Chapter 2, Government Records Access and Management Act, there is a rebuttable presumption that disclosure of the record to the governor-elect meets the conditions for disclosure under Subsection 63G-2-201(5).

(c) A governor-elect who receives records under this Subsection (3) is subject to the provisions of Title 63G, Chapter 2, Government Records Access

and Management Act, governing the use and disclosure of records.

(d) The disclosure of a record that is classified as private or protected to a governor-elect does not affect the classification of that record under Title 63G, Chapter 2, Government Records Access and Management Act.

Section 6. Section 67-1b-105 is enacted to read:

67-1b-105. Appropriations.

(1) (a) There is created a restricted account in the General Fund known as the "Gubernatorial Transition Account."

(b) The account created in Subsection (1)(a) shall be funded by appropriations made to the account by the Legislature.

(c) The Department of Administrative Services shall administer the Gubernatorial Transition Account and shall make money in the Gubernatorial Transition Account available to an incoming gubernatorial administration to use for expenses reasonably related to fulfilling the incoming gubernatorial administration's duties under Subsection 67-1b-104(2), including:

(i) office space;

(ii) fixtures, furniture, office supplies, office machines, equipment, or information and communication systems used in the office space described in Subsection (2)(c)(i);

(iii) mobile computing devices, including mobile phones, tablet computers, or laptop computers used by the incoming gubernatorial administration; or

(iv) hiring employees to assist with transition efforts.

(d) Interest or other earnings derived from the Gubernatorial Transition Account shall be deposited in the General Fund.

(2) Any unexpended balance of an appropriation made under this section is nonlapsing.

Section 7. Section 67-1b-106 is enacted to read:

67-1b-106. Governor's budget.

(1) During a transition period:

(a) the governor-elect is entitled to participate in all executive branch budget meetings;

(b) subject to Title 63G, Chapter 2, Government Records Access and Management Act, the executive branch shall make records and information related to the preparation of the governor's confidential draft proposed budget available to the governor-elect; and

(c) the incumbent governor shall consider any proposed additions or changes from the governor-elect in preparing the governor's confidential draft proposed budget recommendations to be submitted to the Office of Legislative Fiscal Analyst in accordance with Section 63J-1-201.

(2) (a) If the governor-elect proposes additions or changes to the governor that are not adopted by the governor in preparing the governor's confidential draft proposed budget recommendations, the governor-elect may prepare confidential proposed additions or changes and submit them to the Office of the Legislative Fiscal Analyst concurrent with the governor's confidential draft proposed budget recommendations.

(b) The Governor's Office of Management and Budget shall, at the request of the governor-elect, assist the governor-elect in preparing confidential proposed additions or changes to the incumbent governor's draft proposed budget recommendations for submission to the Office of the Legislative Fiscal Analyst.

(3) (a) After the incumbent governor's confidential draft proposed budget recommendations are submitted to the Office of the Legislative Fiscal Analyst, the governor-elect is responsible for preparing the proposed budget to be submitted to the presiding officers of each house of the Legislature in accordance with Section 63J-1-201, and shall submit the proposed budget to the presiding officers of each house of the Legislature after assuming the office of governor.

(b) The executive branch shall provide the governor-elect with any assistance reasonably requested by the governor-elect to prepare the proposed budget to be submitted to the presiding officers of each house of the Legislature.

(c) A governor whose term ends following a transition period may not submit a proposed budget to the presiding officers of each house of the Legislature.

CHAPTER 395
S. B. 73
Passed March 3, 2021
Approved March 22, 2021
Effective January 1, 2022

VEHICLE REGISTRATION CHECKOFF AND FEE AMENDMENTS

Chief Sponsor: Lincoln Fillmore
House Sponsor: Norman K. Thurston

LONG TITLE

General Description:

This bill provides a credit for fees and taxes charged to a person registering a leased vehicle purchased by the lessee and creates a voluntary contribution checkoff for motor vehicle registrations and renewals.

Highlighted Provisions:

This bill:

- creates a credit for fees and taxes the Division of Motor Vehicles charged to a person registering a vehicle if the purchaser:
  - registered the leased vehicle as the lessee; and
  - paid the fees and taxes for registering the leased vehicle in the same registration period;
- creates a voluntary contribution checkoff for motor vehicle registrations and renewals that supports the:
  - Emergency Medical Services Grant Program; and
  - Search and Rescue Financial Assistance Program; and
- repeals:
  - the registration checkoff for protecting access to public lands and promoting off-highway vehicle education; and
  - the Off-Highway Access and Education Restricted Account.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

26-8a-108, as enacted by Laws of Utah 2020, Chapter 215
53-2a-1102, as last amended by Laws of Utah 2020, Chapter 379

ENACTS:

41-1a-230.7, Utah Code Annotated 1953
41-1a-1225, Utah Code Annotated 1953

REPEALS:

41-1a-230.6, as enacted by Laws of Utah 2007, Chapter 299
41-22-19.5, as last amended by Laws of Utah 2011, Chapter 303

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 26-8a-108 is amended to read:

26-8a-108. Emergency Medical Services System Account.

(1) There is created within the General Fund a restricted account known as the Emergency Medical Services System Account.

(2) The account consists of:

(a) interest earned on the account; [~~and~~]

(b) appropriations made by the Legislature[~~.~~]; and

(c) contributions deposited into the account in accordance with Section 41-1a-230.7.

(3) The department shall use:

(a) an amount equal to 25% of the money in the account for administrative costs related to this chapter; [~~and~~]

(b) an amount equal to 75% of the money in the account for grants awarded in accordance with Subsection 26-8a-207(3)[~~.~~]; and

(c) all money received from the revenue source in Subsection (2)(c) for grants awarded in accordance with Subsection 26-8a-207(3).

Section 2. Section 41-1a-230.7 is enacted to read:

41-1a-230.7. Registration checkoff for supporting emergency medical services and search and rescue operations.

(1) A person who applies for a motor vehicle registration or registration renewal may designate a voluntary contribution of $3 for the purpose of supporting:

(a) the Emergency Medical Services Grant Program; and

(b) the Search and Rescue Financial Assistance Program.

(2) This contribution shall be:

(a) collected by the division;

(b) treated as a voluntary contribution and not as a motor vehicle or off-highway vehicle registration fee; and

(c) distributed equally to the Emergency Medical Services System Account created in Section 26-8a-108 and the Search and Rescue Financial Assistance Program created in Section 53-2a-1102 at least monthly, less actual administrative costs associated with collecting and transferring the contributions.

(3) In addition to the administrative costs deducted under Subsection (2)(c), the division may deduct the first $1,000 collected to cover costs incurred to change the registration form.

Section 3. Section 41-1a-1225 is enacted to read:

41-1a-1225. Credit for registering leased vehicle purchased by the lessee.

(1) The division shall provide a credit against the fees and taxes charged to a person registering a vehicle under Title 41, Chapter 1a, Motor Vehicle Act, if:

(a) immediately before purchasing the vehicle, the purchaser leased the vehicle and was a registrant of the vehicle; and

(b) while leasing the vehicle and during the same registration period, the purchaser paid the fees and taxes charged for registering the vehicle under Title 41, Chapter 1a, Motor Vehicle Act.

(2) The division shall apply the credit provided under Subsection (1) by allowing the registration period described in Subsection (1)(b) to remain in effect until expiration.

(3) This section applies only to taxes and fees paid by, or on behalf of, the purchaser at the time of the registration described in Subsection (1)(b).

Section 4. Section 53-2a-1102 is amended to read:

53-2a-1102. Search and Rescue Financial Assistance Program -- Uses -- Rulemaking -- Distribution.

(1) As used in this section:

(a) "Assistance card program" means the Utah Search and Rescue Assistance Card Program created within this section.

(b) "Card" means the Search and Rescue Assistance Card issued under this section to a participant.

(c) "Participant" means an individual, family, or group who is registered pursuant to this section as having a valid card at the time search, rescue, or both are provided.

(d) "Program" means the Search and Rescue Financial Assistance Program created within this section.

(e) (i) "Reimbursable base expenses" means those reasonable expenses incidental to search and rescue activities.

(ii) "Reimbursable base expenses" include:

(A) rental for fixed wing aircraft, snowmobiles, boats, and generators;

(B) replacement and upgrade of search and rescue equipment;

(C) training of search and rescue volunteers;

(D) costs of providing life insurance and workers' compensation benefits for volunteer search and rescue team members under Section 67-20-7.5; and

(E) any other equipment or expenses necessary or appropriate for conducting search and rescue activities.

(iii) "Reimbursable base expenses" do not include any salary or overtime paid to an individual on a regular or permanent payroll, including permanent part-time employees of any agency of the state.

(f) "Rescue" means search services, rescue services, or both search and rescue services.

(2) There is created the Search and Rescue Financial Assistance Program within the division.

(3) (a) The financial program and the assistance card program shall be funded from the following revenue sources:

(i) any voluntary contributions to the state received for search and rescue operations;

(ii) money received by the state under Subsection (11) and under Sections 23-19-42, 41-22-34, and 73-18-24;

(iii) money deposited under Subsection 59-12-103(14); [~~and~~]

(iv) contributions deposited in accordance with Section 41-1a-230.7; and

[~~(iv)~~] (v) appropriations made to the program by the Legislature.

(b) All money received from the revenue sources in Subsections (3)(a)(i) [~~and~~], (ii), and (iv), and 90% of the money described in Subsection (3)(a)(iii), shall be deposited into the General Fund as a dedicated credit to be used solely for the program.

(c) 10% of the money described in Subsection (3)(a)(iii) shall be deposited into the General Fund as a dedicated credit to be used solely to promote the assistance card program.

(d) All funding for the program is nonlapsing.

(4) Subject to Subsections (3)(b) and (c), the director shall use the money described in this section to reimburse counties for all or a portion of each county's reimbursable base expenses for search and rescue operations, subject to:

(a) the approval of the Search and Rescue Advisory Board as provided in Section 53-2a-1104;

(b) money available in the program; and

(c) rules made under Subsection (7).

(5) Money described in Subsection (3) may not be used to reimburse for any paid personnel costs or paid man hours spent in emergency response and search and rescue related activities.

(6) The Legislature finds that these funds are for a general and statewide public purpose.

(7) The division, with the approval of the Search and Rescue Advisory Board, shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and consistent with this section:

(a) specifying the costs that qualify as reimbursable base expenses;

(b) defining the procedures of counties to submit expenses and be reimbursed;

(c) defining a participant in the assistance card program, including:

(i) individuals; and

(ii) families and organized groups who qualify as participants;

(d) defining the procedure for issuing a card to a participant;

(e) defining excluded expenses that may not be reimbursed under the program, including medical expenses;

(f) establishing the card renewal cycle for the Utah Search and Rescue Assistance Card Program;

(g) establishing the frequency of review of the fee schedule;

(h) providing for the administration of the program; and

(i) providing a formula to govern the distribution of available money among the counties for uncompensated search and rescue expenses based on:

(i) the total qualifying expenses submitted;

(ii) the number of search and rescue incidents per county population;

(iii) the number of victims that reside outside the county; and

(iv) the number of volunteer hours spent in each county in emergency response and search and rescue related activities per county population.

(8) (a) The division shall, in consultation with the Outdoor Recreation Office, establish the fee schedule of the Utah Search and Rescue Assistance Card Program under Subsection 63J-1-504(6).

(b) The division shall provide a discount of not less than 10% of the card fee under Subsection (8)(a) to a person who has paid a fee under Section 23-19-42, 41-22-34, or 73-18-24 during the same calendar year in which the person applies to be a participant in the assistance card program.

(9) Counties may not bill reimbursable base expenses to an individual for costs incurred for the rescue of an individual, if the individual is a current participant in the Utah Search and Rescue Assistance Card Program at the time of rescue, unless:

(a) the rescuing county finds that the participant acted recklessly in creating a situation resulting in the need for the county to provide rescue services; or

(b) the rescuing county finds that the participant intentionally created a situation resulting in the need for the county to provide rescue services.

(10) (a) There is created the Utah Search and Rescue Assistance Card Program. The program is located within the division.

(b) The program may not be utilized to cover any expenses, such as medically related expenses, that are not reimbursable base expenses related to the rescue.

(11) (a) To participate in the program, a person shall purchase a search and rescue assistance card from the division by paying the fee as determined by the division in Subsection (8).

(b) The money generated by the fees shall be deposited into the General Fund as a dedicated credit for the Search and Rescue Financial Assistance Program created in this section.

(c) Participation and payment of fees by a person under Sections 23-19-42, 41-22-34, and 73-18-24 do not constitute purchase of a card under this section.

(12) The division shall consult with the Outdoor Recreation Office regarding:

(a) administration of the assistance card program; and

(b) outreach and marketing strategies.

(13) Pursuant to Subsection 31A-1-103(7), the Utah Search and Rescue Assistance Card Program under this section is exempt from being considered insurance as that term is defined in Section 31A-1-301.

Section 5. Repealer.

This bill repeals:

Section 41-1a-230.6, Registration checkoff for protecting access to public lands and promoting off-highway vehicle education.

Section 41-22-19.5, Off-highway Access and Education Restricted Account -- Creation -- Funding -- Distribution of funds by the Board of Parks and Recreation.

Section 6. Effective date.

This bill takes effect on January 1, 2022.

CHAPTER 396
S. B. 88
Passed February 17, 2021
Approved March 22, 2021
Effective January 1, 2022

LOCAL OPTION SALES TAX DISTRIBUTION AMENDMENTS

Chief Sponsor: Lincoln Fillmore
House Sponsor: Candice B. Pierucci

LONG TITLE

General Description:

This bill modifies provisions related to county option funding for botanical, cultural, recreational, and zoological organizations or facilities.

Highlighted Provisions:

This bill:

- addresses the distribution of revenue generated by a county option sales tax for funding botanical, cultural, recreational, and zoological organizations or facilities by amending the eligibility requirements for certain botanical and cultural organizations to receive revenue; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

59-12-704, as last amended by Laws of Utah 2020, Chapter 419

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 59-12-704 is amended to read:

59-12-704. Distribution of revenues -- Advisory board creation -- Determining operating expenses -- Administrative charge.

(1) Except as provided in Subsections (3)(b) and (5), and subject to the requirements of this section, any revenues collected by a county of the first class under this part shall be distributed annually by the county legislative body to support cultural facilities, recreational facilities, and zoological facilities and botanical organizations, cultural organizations, and zoological organizations within that first class county as follows:

(a) 30% of the revenue collected by the county under this section shall be distributed by the county legislative body to support cultural facilities and recreational facilities located within the county;

(b) (i) subject to Subsection (1)(b)(ii) and except as provided in Subsection (1)(b)(iii), 16% of the revenue collected by the county under this section shall be distributed by the county legislative body to support no more than three zoological facilities and zoological organizations located within the county, having average annual operating expenses of $1,500,000 or more as determined under Subsection (3), with:

(A) 63.5% of that revenue being distributed to support a zoological organization having as its primary purpose the operation of a zoological park, or a zoological facility that is part of or integrated with a zoological park;

(B) 28.25% of that revenue being distributed to support a zoological organization having as its primary purpose the operation of an aquarium, or a zoological facility that is part of or integrated with an aquarium; and

(C) 8.25% of that revenue being distributed to support a zoological organization having as its primary purpose the operation of an aviary, or a zoological facility that is part of or integrated with an aviary;

(ii) if more than one zoological organization or zoological facility qualifies to receive the money described in Subsection (1)(b)(i)(A), (B), or (C), the county legislative body shall distribute the money described in the subsection for which more than one zoological organization or zoological facility qualifies to whichever zoological organization or zoological facility the county legislative body determines is most appropriate, except that a zoological organization or zoological facility may not receive money under more than one subsection under Subsection (1)(b)(i); and

(iii) if no zoological organization or zoological facility qualifies to receive money described in Subsection (1)(b)(i)(A), (B), or (C), the county legislative body shall distribute the money described in the subsection for which no zoological organization or zoological facility qualifies among the zoological organizations or zoological facilities qualifying for and receiving money under the other subsections in proportion to the zoological organizations' or zoological facilities' average annual operating expenses as determined under Subsection (3);

(c) (i) 45% of the revenue collected by the county under this section shall be distributed to no more than 22 botanical organizations and cultural organizations [~~with~~]:

(A) each of which has average annual operating expenses of more than $250,000 as determined under Subsection (3); and

(B) whose activities impact all or a significant region of the county or state;

(ii) subject to Subsection (1)(c)(iii), the county legislative body shall distribute the money described in Subsection (1)(c)(i) among the botanical organizations and cultural organizations in proportion to their average annual operating expenses as determined under Subsection (3); and

(iii) the amount distributed to any botanical organization or cultural organization described in Subsection (1)(c)(i) may not exceed 35% of the botanical organization's or cultural organization's operating budget; and

(d) (i) 9% of the revenue collected by the county under this section shall be distributed to botanical organizations and cultural organizations that do not receive revenue under Subsection (1)(c)(i) in communities throughout the county; and

(ii) the county legislative body shall determine how the money shall be distributed among the botanical organizations and cultural organizations described in Subsection (1)(d)(i).

(2) (a) The county legislative body of each county shall create an advisory board to advise the county legislative body on disbursement of funds to botanical organizations and cultural organizations under Subsection (1)(c)(i).

(b) (i) The advisory board under Subsection (2)(a) shall consist of seven members appointed by the county legislative body.

(ii) In a county of the first class, two of the seven members of the advisory board under Subsection (2)(a) shall be appointed by the Division of Arts and Museums created in Section 9-6-201.

(3) (a) Except as provided in Subsection (3)(b), to be eligible to receive money collected by the county under this part, a botanical organization, cultural organization, zoological organization, and zoological facility located within a county of the first class shall, every year:

(i) calculate its average annual operating expenses based upon audited operating expenses for three preceding fiscal years; and

(ii) submit to the appropriate county legislative body:

(A) a verified audit of annual operating expenses for each of those three preceding fiscal years; and

(B) the average annual operating expenses as calculated under Subsection (3)(a)(i).

(b) The county legislative body may waive the operating expenses reporting requirements under Subsection (3)(a) for organizations described in Subsection (1)(d)(i).

(4) When calculating average annual operating expenses as described in Subsection (3), each botanical organization, cultural organization, and zoological organization shall use the same three-year fiscal period as determined by the county legislative body.

(5) (a) By July 1 of each year, the county legislative body of a first class county may index the threshold amount in Subsections (1)(c) and (d).

(b) Any change under Subsection (5)(a) shall be rounded off to the nearest $100.

(6) (a) In a county except for a county of the first class, the county legislative body shall by ordinance provide for the distribution of the entire amount of the revenues generated by the tax imposed by this section:

(i) as provided in this Subsection (6); and

(ii) as stated in the opinion question described in Subsection 59-12-703(1).

(b) Pursuant to an interlocal agreement established in accordance with Title 11, Chapter 13, Interlocal Cooperation Act, a county described in Subsection (6)(a) may distribute to a city, town, or political subdivision within the county revenues generated by a tax under this part.

(c) The revenues distributed under Subsection (6)(a) or (b) shall be used for one or more organizations or facilities defined in Section 59-12-702 regardless of whether the revenues are distributed:

(i) directly by the county described in Subsection (6)(a) to be used for an organization or facility defined in Section 59-12-702; or

(ii) in accordance with an interlocal agreement described in Subsection (6)(b).

(7) A county legislative body may retain up to 1.5% of the proceeds from a tax under this part for the cost of administering this part.

(8) The commission shall retain and deposit an administrative charge in accordance with Section 59-1-306 from the revenues the commission collects from a tax under this part.

Section 2. Effective date.

This bill takes effect on January 1, 2022.

CHAPTER 397
S. B. 97
Passed February 17, 2021
Approved March 22, 2021
Effective May 5, 2021

CHARITABLE PRESCRIPTION DRUG RECYCLING PROGRAM AMENDMENTS

Chief Sponsor: Evan J. Vickers
House Sponsor: Merrill F. Nelson

LONG TITLE

General Description:

This bill modifies the Charitable Prescription Drug Recycling Act.

Highlighted Provisions:

This bill:

- allows an individual to transfer prescription drugs to an eligible pharmacy or an eligible physician's office;
- removes the requirement that only state residents receive donated drugs; and
- requires that a medically indigent individual be located in the state when the drug is dispensed.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

58-17b-902, as last amended by Laws of Utah 2020, Chapter 384
58-17b-903, as last amended by Laws of Utah 2020, Chapter 384
58-17b-905, as enacted by Laws of Utah 2016, Chapter 405
58-17b-907, as last amended by Laws of Utah 2020, Chapter 384

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 58-17b-902 is amended to read:

58-17b-902. Definitions.

As used in this part:

(1) "Assisted living facility" means the same as that term is defined in Section 26-21-2.

(2) "Cancer drug" means a drug that controls or kills neoplastic cells and includes a drug used in chemotherapy to destroy cancer cells.

(3) "Charitable clinic" means a charitable nonprofit corporation that:

(a) holds a valid exemption from federal income taxation issued under Section 501(a), Internal Revenue Code;

(b) is exempt from federal income taxation under Section 501(c)(3), Internal Revenue Code;

(c) provides, on an outpatient basis, for a period of less than 24 consecutive hours, to an individual not residing or confined at a facility owned or operated by the charitable nonprofit corporation:

(i) advice;

(ii) counseling;

(iii) diagnosis;

(iv) treatment;

(v) surgery; or

(vi) care or services relating to the preservation or maintenance of health; and

(d) has a licensed outpatient pharmacy.

(4) "Charitable pharmacy" means an eligible pharmacy that is operated by a charitable clinic.

(5) "County health department" means the same as that term is defined in Section 26A-1-102.

(6) "Donated prescription drug" means a prescription drug that an eligible donor or individual donates to an eligible pharmacy under the program.

(7) "Eligible donor" means a donor that donates a prescription drug from within the state and is:

(a) a nursing care facility;

(b) an assisted living facility;

(c) a licensed intermediate care facility for people with an intellectual disability;

(d) a manufacturer;

(e) a pharmaceutical wholesale distributor;

(f) an eligible pharmacy; or

(g) a physician's office.

(8) "Eligible pharmacy" means a pharmacy that:

(a) is registered by the division as eligible to participate in the program; and

(b) (i) is licensed in the state as a Class A retail pharmacy; or

(ii) is operated by:

(A) a county;

(B) a county health department;

(C) a pharmacy under contract with a county health department;

(D) the Department of Health, created in Section 26-1-4;

(E) the Division of Substance Abuse and Mental Health, created in Section 62A-15-103; or

(F) a charitable clinic.

(9) "Eligible prescription drug" means a prescription drug, described in Section 58-17b-904, that is not:

(a) a controlled substance; or

(b) a drug that can only be dispensed to a patient registered with the drug's manufacturer in

accordance with federal Food and Drug Administration requirements.

(10) "Licensed intermediate care facility for people with an intellectual disability" means the same as that term is defined in Section 58-17b-503.

(11) "Medically indigent individual" means an individual who:

(a) (i) does not have health insurance; and

(ii) lacks reasonable means to purchase prescribed medications; or

(b) (i) has health insurance; and

(ii) lacks reasonable means to pay the insured's portion of the cost of the prescribed medications.

(12) "Nursing care facility" means the same as that term is defined in Section 26-18-501.

(13) "Physician's office" means a fixed medical facility that:

(a) is staffed by a physician, physician's assistant, nurse practitioner, or registered nurse, licensed under Title 58, Occupations and Professions; and

(b) treats an individual who presents at, or is transported to, the facility.

(14) "Program" means the Charitable Prescription Drug Recycling Program created in Section 58-17b-903.

(15) "Unit pack" means the same as that term is defined in Section 58-17b-503.

(16) "Unlawful conduct" means the same as that term is defined in Sections 58-1-501 and 58-17b-501.

(17) "Unprofessional conduct" means the same as that term is defined in Sections 58-1-501 and 58-17b-502.

Section 2. Section 58-17b-903 is amended to read:

58-17b-903. Charitable Prescription Drug Recycling Program -- Creation -- Requirements.

(1) There is created the Charitable Prescription Drug Recycling Program.

(2) The division, in consultation with the board, shall:

(a) implement the program, on a statewide basis, to permit:

(i) an individual or an eligible donor to transfer an eligible prescription drug to an eligible pharmacy for dispensing to a medically indigent individual; and

(ii) an individual to transfer an eligible prescription drug to a physician's office:

(A) that is an eligible donor; and

(B) for transfer to an eligible pharmacy for dispensing to a medically indigent individual;

(b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules necessary to implement the program; and

(c) provide technical assistance to entities that desire to participate in the program.

Section 3. Section 58-17b-905 is amended to read:

58-17b-905. Participation in program -- Requirements -- Fees.

(1) An eligible donor, an individual, or an eligible pharmacy may participate in the program.

(2) An eligible pharmacy:

(a) shall comply with all applicable federal and state laws related to the storage and distribution of a prescription drug;

(b) shall comply with all applicable federal and state laws related to the acceptance and transfer of a prescription drug, including 21 U.S.C. Chapter 9, Subchapter V, Part H, Pharmaceutical Distribution Supply Chain;

(c) shall, before accepting or dispensing a prescription drug under the program, inspect each prescription drug to determine whether the prescription drug is an eligible prescription drug;

(d) may dispense an eligible prescription drug to a medically indigent individual who:

(i) [~~is a resident of the state~~] is located in the state when the drug is dispensed; and

(ii) has a prescription issued by a practitioner;

(e) may charge a handling fee, adopted by the division under Section 63J-1-504; and

(f) may not accept, transfer, or dispense a prescription drug in violation of the federal Food, Drug, and Cosmetic Act, 21 U.S.C. Sec. 301 et seq.

Section 4. Section 58-17b-907 is amended to read:

58-17b-907. Rules made by the division.

The rules made by the division under Subsection 58-17b-903(2)(b) shall include:

(1) registration requirements to establish the eligibility of a pharmacy to participate in the program;

(2) a formulary that includes all eligible prescription drugs approved by the federal Food and Drug Administration;

(3) standards and procedures for:

(a) verifying whether a pharmacy or pharmacist participating in the program is licensed and in good standing with the board;

(b) handling of an eligible prescription drug transferred in accordance with Subsection 58-17b-903(2) to an eligible pharmacy or a physician's office, including:

(i) acceptance;

(ii) identification, including redundant criteria for verification;

(iii) documentation, under 21 U.S.C. Sec. 360eee-1, of transaction information, history, and statements;

(iv) safe storage;

(v) security;

(vi) inspection;

(vii) transfer; and

(viii) dispensing;

(c) a pharmacist, pharmacy intern, or licensed pharmacy technician:

(i) working in or consulting with a participating eligible donor; or

(ii) assisting an individual donating the eligible prescription drug;

(d) disposition of a donated prescription drug that is a controlled substance;

(e) record keeping regarding:

[~~(i) the eligible donor that donated each prescription drug;~~]

[~~(ii) an individual who transferred an eligible prescription drug to a physician's office under Subsection 58-17b-903(2)(a)(ii);~~]

(i) the individual or eligible donor that transferred an eligible prescription drug under Subsection 58-17b-903(2)(a);

[~~(iii)~~] (ii) the identification and evaluation of a donated prescription drug by a pharmacist or licensed pharmacy technician; and

[~~(iv)~~] (iii) the dispensing or disposition of a prescription drug;

(f) determining the status of a medically indigent individual;

(g) labeling requirements to:

(i) ensure compliance with patient privacy laws relating to:

(A) an individual who receives an eligible prescription drug; and

(B) patient information that may appear on a donated prescription drug;

(ii) clearly identify an eligible prescription drug dispensed under the program; and

(iii) communicate necessary information regarding the manufacturer's recommended expiration date or the beyond use date; and

(h) ensuring compliance with the requirements of this part;

(4) a process for seeking input from:

(a) the Department of Health, created in Section 26-1-4, to establish program standards and procedures for assisted living facilities and nursing care facilities; and

(b) the Division of Substance Abuse and Mental Health, created in Section 62A-15-103, to establish program standards and procedures for mental health and substance abuse clients; and

(5) the creation of a special training program that a pharmacist and a licensed pharmacy technician at an eligible pharmacy must complete before participating in the program.

CHAPTER 398
S. B. 115
Passed March 5, 2021
Approved March 22, 2021
Effective May 5, 2021

RETIREMENT SYSTEM TRANSPARENCY REQUIREMENTS

Chief Sponsor: Lincoln Fillmore
House Sponsor: Mike Schultz

LONG TITLE

General Description:

This bill amends provisions related to the public disclosure of information by employers participating in the Utah Retirement System.

Highlighted Provisions:

This bill:

- defines terms; and
- requires certain employers that participate in the Utah Retirement System to disclose employee compensation information through the Utah Public Finance Website or the employer's own website, if the employer is not currently required to disclose the information.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a coordination clause.

Utah Code Sections Affected:

AMENDS:

63A-1-201, as renumbered and amended by Laws of Utah 2019, Chapter 370

63A-1-202, as last amended by Laws of Utah 2019, Chapter 214 and renumbered and amended by Laws of Utah 2019, Chapter 370

Utah Code Sections Affected by Coordination Clause:

67-3-12, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63A-1-201 is amended to read:

63A-1-201. Definitions.

As used in this part:

(1) "Board" means the Utah Transparency Advisory Board created under Section 63A-1-203.

(2) "Department" means the Department of Administrative Services.

(3) (a) "Independent entity," except as provided in Subsection (3)(c), means the same as that term is defined in Section 63E-1-102.

(b) "Independent entity" includes an entity that is part of an independent entity described in this Subsection (3), if the entity is considered a component unit of the independent entity under the governmental accounting standards issued by the Governmental Accounting Standards Board.

(c) "Independent entity" does not include the Utah State Retirement Office created in Section 49-11-201.

(4) "Participating local entity" means each of the following local entities:

(a) a county;

(b) a municipality;

(c) a local district under Title 17B, Limited Purpose Local Government Entities - Local Districts;

(d) a special service district under Title 17D, Chapter 1, Special Service District Act;

(e) a housing authority under Title 35A, Chapter 8, Part 4, Housing Authorities;

(f) a school district;

(g) a charter school;

(h) except for a taxed interlocal entity as defined in Section 11-13-602:

(i) an interlocal entity as defined in Section 11-13-103;

(ii) a joint or cooperative undertaking as defined in Section 11-13-103; and

(iii) any project, program, or undertaking entered into by interlocal agreement in accordance with Title 11, Chapter 13, Interlocal Cooperation Act;

(i) except for a taxed interlocal entity as defined in Section 11-13-602, an entity that is part of an entity described in Subsections (4)(a) through (h), if the entity is considered a component unit of the entity described in Subsections (4)(a) through (h) under the governmental accounting standards issued by the Governmental Accounting Standards Board; and

(j) a conservation district under Title 17D, Chapter 3, Conservation District Act.

(5) (a) "Participating state entity" means the state of Utah, including [~~its~~] the state's executive, legislative, and judicial branches, [~~its~~] departments, divisions, agencies, boards, commissions, councils, committees, and institutions.

(b) "Participating state entity" includes an entity that is part of an entity described in Subsection (5)(a), if the entity is considered a component unit of the entity described in Subsection (5)(a) under the governmental accounting standards issued by the Governmental Accounting Standards Board.

(6) "Public financial information" means records that are required to be made available on the Utah Public Finance Website, a participating local entity's website, or an independent entity's website as required by this part, and as the term "public financial information" is defined by rule [~~under~~] in accordance with Section 63A-1-204.

(7) (a) "URS-participating employer" means an entity that:

(i) is a participating entity, as that term is defined in Section 49-11-102; and

(ii) is not required to report public financial information under this part as:

(A) an independent entity;

(B) a participating local entity; or

(C) a participating state entity.

(b) "URS-participating employer" does not include:

(i) the Utah State Retirement Office created in Section 49-11-201; or

(ii) a withdrawing entity.

(8) (a) "Withdrawing entity" means an entity that elects to withdraw from participation in a system or plan under Title 49, Chapter 11, Part 6, Procedures and Records.

(b) "Withdrawing entity" includes a withdrawing entity, as that term is defined in Sections 49-11-623 and 49-11-624.

Section 2. Section 63A-1-202 is amended to read:

63A-1-202. Utah Public Finance Website -- Establishment and administration -- Records disclosure -- Exceptions.

(1) There is created the Utah Public Finance Website to be administered by the state auditor.

(2) The Utah Public Finance Website shall:

(a) permit Utah taxpayers to:

(i) view, understand, and track the use of taxpayer dollars by making public financial information available on the Internet for participating state entities, independent entities, [~~and~~] participating local entities, and URS-participating employers, using the Utah Public Finance Website; and

(ii) link to websites administered by participating local entities [~~or~~], independent entities, or URS-participating employers that do not use the Utah Public Finance Website for the purpose of providing [~~participating local entities' or independent entities'~~] public financial information as required by this part and by rule [~~under~~] in accordance with Section 63A-1-204;

(b) allow a person [~~who~~] that has Internet access to use the website without paying a fee;

(c) allow the public to search public financial information on the Utah Public Finance Website using criteria established by the board;

(d) provide access to financial reports, financial audits, budgets, or other financial documents that are used to allocate, appropriate, spend, and account for government funds, as may be established by rule [~~under~~] in accordance with Section 63A-1-204;

(e) have a unique and simplified website address;

(f) be directly accessible via a link from the main page of the official state website;

(g) include other links, features, or functionality that will assist the public in obtaining and reviewing public financial information, as may be established by rule under Section 63A-1-204; and

(h) include a link to school report cards published on the State Board of Education's website under Section 53E-5-211.

(3) (a) The state auditor shall:

(i) establish and maintain the website, including the provision of equipment, resources, and personnel as necessary;

(ii) maintain an archive of all information posted to the website;

(iii) coordinate and process the receipt and posting of public financial information from participating state entities; and

(iv) coordinate and regulate the posting of public financial information by participating local entities and independent entities.

(b) The department shall provide staff support for the advisory committee.

(4) (a) A participating state entity and each independent entity shall permit the public to view the entity's public financial information via the website, beginning with information that is generated not later than the fiscal year that begins July 1, 2008, except that public financial information for an:

(i) institution of higher education shall be provided beginning with information generated for the fiscal year beginning July 1, 2009; and

(ii) independent entity shall be provided beginning with information generated for the entity's fiscal year beginning in 2014.

(b) [~~No later than May 15, 2009, the~~] The website shall:

(i) be operational; and

(ii) permit public access to participating state entities' public financial information, except as provided in Subsections (4)(c) and (d).

(c) An institution of higher education that is a participating state entity shall submit the entity's public financial information at a time allowing for inclusion on the website no later than May 15, 2010.

(d) No later than the first full quarter after July 1, 2014, an independent entity shall submit the entity's public financial information for inclusion on the Utah Public Finance Website or via a link to its own website on the Utah Public Finance Website.

(5) (a) The Utah Educational Savings Plan, created in Section 53B-8a-103, shall provide the following financial information to the state auditor for posting on the Utah Public Finance Website:

(i) administrative fund expense transactions from its general ledger accounting system; and

(ii) employee compensation information.

(b) The plan is not required to submit other financial information to the state auditor, including:

(i) revenue transactions;

(ii) account owner transactions; and

(iii) fiduciary or commercial information, as defined in Section 53B-12-102.

(6) (a) The following independent entities shall each provide administrative expense transactions from [~~its~~] the independent entity's general ledger accounting system and employee compensation information to the state auditor for posting on the Utah Public Finance Website or via a link to a website administered by the independent entity:

(i) the Utah Housing Corporation, created in Section 63H-8-201; and

(ii) the School and Institutional Trust Lands Administration, created in Section 53C-1-201.

(b) The Utah Capital Investment Corporation, an independent entity created in Section 63N-6-301, shall provide the following information to the division for posting on the Utah Public Finance Website or via a link to a website administered by the independent entity for each fiscal year ending on or after June 30, 2015:

(i) aggregate compensation information for full-time and part-time employees, including benefit information;

(ii) aggregate business travel expenses;

(iii) aggregate expenses related to the Utah Capital Investment Corporation's allocation manager; and

(iv) aggregate administrative, operating, and finance costs.

(c) For purposes of this part, an independent entity described in Subsection (6)(a) or (b) is not required to submit to the state auditor, or provide a link to, other financial information, including:

(i) revenue transactions of a fund or account created in its enabling statute;

(ii) fiduciary or commercial information related to any subject if the disclosure of the information:

(A) would conflict with fiduciary obligations; or

(B) is prohibited by insider trading provisions;

(iii) information of a commercial nature, including information related to:

(A) account owners, borrowers, and dependents;

(B) demographic data;

(C) contracts and related payments;

(D) negotiations;

(E) proposals or bids;

(F) investments;

(G) the investment and management of funds;

(H) fees and charges;

(I) plan and program design;

(J) investment options and underlying investments offered to account owners;

(K) marketing and outreach efforts;

(L) lending criteria;

(M) the structure and terms of bonding; and

(N) financial plans or strategies; and

(iv) information protected from public disclosure by federal law.

(7) (a) As used in this Subsection (7):

(i) "Local education agency" means a school district or a charter school.

(ii) "New school building project" means:

(A) the construction of a school or school facility that did not previously exist in a local education agency; or

(B) the lease or purchase of an existing building, by a local education agency, to be used as a school or school facility.

(iii) "School facility" means a facility, including a pool, theater, stadium, or maintenance building, that is built, leased, acquired, or remodeled by a local education agency regardless of whether the facility is open to the public.

(iv) "Significant school remodel" means a construction project undertaken by a local education agency with a project cost equal to or greater than $2,000,000, including:

(A) the upgrading, changing, alteration, refurbishment, modification, or complete substitution of an existing school or school facility in a local education agency; or

(B) the addition of a school facility.

(b) For each new school building project or significant school remodel, the local education agency shall:

(i) prepare an annual school plant capital outlay report; and

(ii) submit the report:

(A) to the state auditor for publication on the Utah Public Finance Website; and

(B) in a format, including any raw data or electronic formatting, prescribed by applicable policy established by the state auditor.

(c) The local education agency shall include in the capital outlay report described in Subsection (7)(b)(i) the following information as applicable to each new school building project or significant school remodel:

(i) the name and location of the new school building project or significant school remodel;

(ii) construction and design costs, including:

(A) the purchase price or lease terms of any real property acquired or leased for the project or remodel;

(B) facility construction;

(C) facility and landscape design;

(D) applicable impact fees; and

(E) furnishings and equipment;

(iii) the gross square footage of the project or remodel;

(iv) the year construction was completed; and

(v) the final student capacity of the new school building project or, for a significant school remodel, the increase or decrease in student capacity created by the remodel.

(d) (i) For a cost, fee, or other expense required to be reported under Subsection (7)(c), the local education agency shall report the actual cost, fee, or other expense.

(ii) The state auditor may require that a local education agency provide further itemized data on information listed in Subsection (7)(c).

(e) (i) No later than May 15, 2015, a local education agency shall provide the state auditor a school plant capital outlay report for each new school building project and significant school remodel completed on or after July 1, 2004, and before May 13, 2014.

(ii) For a new school building project or significant school remodel completed after May 13, 2014, the local education agency shall provide the school plant capital outlay report described in this Subsection (7) to the state auditor annually by a date designated by the state auditor.

(8) A URS-participating employer shall provide employee compensation information for each fiscal year ending on or after June 30, 2022:

(a) to the state auditor for posting on the Utah Public Finance Website; or

(b) (i) through the URS-participating employer's own website; and

(ii) via a link to the website described in Subsection (8)(b)(i), submitted to the state auditor for posting on the Utah Public Finance Website.

[~~(8)~~] (9) [~~A person~~] An individual who negligently discloses a record that is classified as private, protected, or controlled by Title 63G, Chapter 2, Government Records Access and Management Act, is not criminally or civilly liable for an improper disclosure of the record if the record is disclosed solely as a result of the preparation or publication of the Utah Public Finance Website.

Section 3. Coordinating S.B. 115 with H.B. 27 -- Substantive amendments.

If this S.B. 115 and H.B. 27, Public Information Website Modifications, both pass and become law, it is the intent of the Legislature that the Office of Legislative Research and General Counsel shall prepare the Utah Code database for publication as follows:

(1) Subsection 67-3-12(1)(g) is amended to read:

"(g) "Qualifying entity" means:

(i) an independent entity;

(ii) a participating local entity;

(iii) a participating state entity;

(iv) a local education agency;

(v) a state institution of higher education as defined in Section 53B-3-102;

(vi) the Utah Educational Savings Plan created in Section 58B-8a-103;

(vii) the Utah Housing Corporation created in Section 63H-8-201;

(viii) the School and Institutional Trust Lands Administration created in Section 53C-1-201;

(ix) the Utah Capital Investment Corporation created in Section 63N-6-301; or

(x) a URS-participating employer.";

(2) the following language is inserted as a new Subsection 67-3-12(1)(h):

"(h) (i) "URS-participating employer" means an entity that:

(A) is a participating entity, as that term is defined in Section 49-11-102; and

(B) is not required to report public financial information under this section as a qualifying entity described in Subsections (1)(g)(i) through (ix).

(ii) "URS-participating employer" does not include:

(A) the Utah State Retirement Office created in Section 49-11-201; or

(B) a withdrawing entity.

(i) (i) "Withdrawing entity" means an entity that elects to withdraw from participation in a system or plan under Title 49, Chapter 11, Part 6, Procedures and Records.

(ii) "Withdrawing entity" includes a withdrawing entity, as that term is defined in Sections 49-11-623 and 49-11-624.";

(3) Subsection 67-3-12(3)(a) is amended to read:

"(a) permit Utah taxpayers to:

(i) view, understand, and track the use of taxpayer dollars by making public financial information available on the Internet for participating state entities, independent entities, [~~and~~] participating local entities, and URS-participating employers using the [~~Utah Public Finance Website~~] website; and

(ii) link to websites administered by participating local entities [~~or~~], independent entities, or URS-participating employers that do not use the

[~~Utah Public Finance Website~~] website for the purpose of providing [~~participating local entities' or independent entities~~'] public financial information as required by this [~~part~~] section and by rule made under [~~Section 63A-1-204~~] Subsection (8);"; and

(4) the following language is inserted as a new Subsection 67-3-12(9):

"(9) The rules made under Subsection (8) shall only require a URS-participating employer to provide employee compensation information for each fiscal year ending on or after June 30, 2022:

(a) to the state auditor for posting on the public finance website; or

(b) (i) through the URS-participating employer's own website; and

(ii) via a link to the website described in Subsection (9)(b)(i), submitted to the state auditor for posting on the public finance website.".

CHAPTER 399
S. B. 122
Passed March 5, 2021
Approved March 22, 2021
Effective May 5, 2021

CUSTODY AMENDMENTS

Chief Sponsor: Jacob L. Anderegg
House Sponsor: Karianne Lisonbee

LONG TITLE

General Description:

This bill amends child custody provisions.

Highlighted Provisions:

This bill:

- defines terms; and
- creates an equal parent-time schedule.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

30-3-34, as last amended by Laws of Utah 2019, Chapter 188
78B-12-208, as renumbered and amended by Laws of Utah 2008, Chapter 3

ENACTS:

30-3-35.2, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 30-3-34 is amended to read:

30-3-34. Parent-time -- Best interests -- Rebuttable presumption.

(1) If the parties are unable to agree on a parent-time schedule, the court may:

(a) establish a parent-time schedule [~~consistent with the best interests of the child.~~]; or

(b) order a parent-time schedule described in Section 30-3-35, 30-3-35.1, 30-3-35.2, or 30-3-35.5.

(2) The advisory guidelines as provided in Section 30-3-33 and the parent-time schedule as provided in Sections 30-3-35 and 30-3-35.5 shall be [~~presumed to be in the best interests of the child unless the court determines that Section 30-3-35.1 should apply. The parent-time schedule shall be~~] considered the minimum parent-time to which the noncustodial parent and the child shall be entitled [~~unless a parent can establish otherwise by a preponderance of the evidence that more or less parent-time should be awarded based upon one or more of the following criteria:~~].

(3) A court may consider the following when ordering a parent-time schedule:

(a) whether parent-time would endanger the child's physical health or mental health, or significantly impair the child's emotional development;

(b) evidence of domestic violence, neglect, physical abuse, sexual abuse, or emotional abuse, involving the child, a parent, or a household member of the parent;

(c) the distance between the residency of the child and the noncustodial parent;

(d) a credible allegation of child abuse has been made;

(e) the lack of demonstrated parenting skills without safeguards to ensure the child's well-being during parent-time;

(f) the financial inability of the noncustodial parent to provide adequate food and shelter for the child during periods of parent-time;

(g) the preference of the child if the court determines the child is of sufficient maturity;

(h) the incarceration of the noncustodial parent in a county jail, secure youth corrections facility, or an adult corrections facility;

(i) shared interests between the child and the noncustodial parent;

(j) the involvement or lack of involvement of the noncustodial parent in the school, community, religious, or other related activities of the child;

(k) the availability of the noncustodial parent to care for the child when the custodial parent is unavailable to do so because of work or other circumstances;

(l) a substantial and chronic pattern of missing, canceling, or denying regularly scheduled parent-time;

(m) the minimal duration of and lack of significant bonding in the parents' relationship before the conception of the child;

(n) the parent-time schedule of siblings;

(o) the lack of reasonable alternatives to the needs of a nursing child; and

(p) any other criteria the court determines relevant to the best interests of the child.

[~~(3)~~] (4) The court shall enter the reasons underlying the court's order for parent-time that:

(a) incorporates a parent-time schedule provided in Section 30-3-35 or 30-3-35.5; or

(b) provides more or less parent-time than a parent-time schedule provided in Section 30-3-35 or 30-3-35.5.

(5) A court may not order a parent-time schedule unless the court determines by a preponderance of the evidence that the parent-time schedule is in the best interest of the child.

[~~(4)~~] (6) Once the parent-time schedule has been established, the parties may not alter the schedule except by mutual consent of the parties or a court order.

Section 2. Section 30-3-35.2 is enacted to read:

30-3-35.2. Equal parent-time schedule.

(1) (a) A court may order the equal parent-time schedule described in this section if the court determines that:

(i) the equal parent-time schedule is in the child's best interest;

(ii) each parent has been actively involved in the child's life; and

(iii) each parent can effectively facilitate the equal parent-time schedule.

(b) To determine whether each parent has been actively involved in the child's life, the court shall consider:

(i) each parent's demonstrated responsibility in caring for the child;

(ii) each parent's involvement in child care;

(iii) each parent's presence or volunteer efforts in the child's school and at extracurricular activities;

(iv) each parent's assistance with the child's homework;

(v) each parent's involvement in preparation of meals, bath time, and bedtime for the child;

(vi) each parent's bond with the child; and

(vii) any other factor the court considers relevant.

(c) To determine whether each parent can effectively facilitate the equal parent-time schedule, the court shall consider:

(i) the geographic distance between the residence of each parent and the distance between each residence and the child's school;

(ii) each parent's ability to assist with the child's after school care;

(iii) the health of the child and each parent, consistent with Subsection 30-3-10(6);

(iv) the flexibility of each parent's employment or other schedule;

(v) each parent's ability to provide appropriate playtime with the child;

(vi) each parent's history and ability to implement a flexible schedule for the child;

(vii) physical facilities of each parent's residence; and

(viii) any other factor the court considers relevant.

(2) (a) If the parties agree to or the court orders the equal parent-time schedule described in this section, a parenting plan in accordance with Sections 30-3-10.7 through 30-3-10.10 shall be filed with an order incorporating the equal parent-time schedule.

(b) An order under this section shall result in 182 overnights per year for one parent, and 183 overnights per year for the other parent.

(c) Under the equal parent-time schedule, neither parent is considered to have the child the majority of the time for the purposes of Subsection 30-3-10.3(4) or 30-3-10.9(5)(c)(ii).

(d) Child support for the equal parent-time schedule shall be consistent with Section 78B-12-208.

(e) (i) A court shall determine which parent receives 182 overnights and which parent receives 183 overnights for parent-time.

(ii) For the purpose of calculating child support under Section 78B-12-208, the amount of time to be spent with the parent who has the lower gross monthly income is considered 183 overnights, regardless of whether the parent receives 182 overnights or 183 overnights under Subsection (2)(e)(i).

(3) (a) Unless the parents agree otherwise and subject to a holiday, the equal parent-time schedule is as follows:

(i) one parent shall exercise parent-time starting Monday morning and ending Wednesday morning;

(ii) the other parent shall exercise parent-time starting Wednesday morning and ending Friday morning; and

(iii) each parent shall alternate weeks exercising parent-time starting Friday morning and ending Monday morning.

(b) The child exchange shall take place:

(i) at the time the child's school begins; or

(ii) if school is not in session, at 9 a.m.

(4) (a) The parents may create a holiday schedule.

(b) If the parents are unable to create a holiday schedule under Subsection (4)(a), the court shall:

(i) order the holiday schedule described in Section 30-3-35; and

(ii) designate which parent shall exercise parent-time for each holiday described in Section 30-3-35.

(5) (a) Each year, a parent may designate two consecutive weeks to exercise uninterrupted parent-time during the summer when school is not in session.

(b) (i) One parent may make a designation at any time and the other parent may make a designation after May 1.

(ii) A parent shall make a designation at least 30 days before the day on which the designated two-week period begins.

(c) The court shall designate which parent may make the earlier designation described in Subsection (5)(b)(i) for an even numbered year with the other parent allowed to make the earlier designation in an odd numbered year.

(d) The two consecutive weeks described in Subsection (5)(a) take precedence over all holidays except for Mother's Day and Father's Day.

Section 3. Section 78B-12-208 is amended to read:

78B-12-208. Joint physical custody -- Obligation calculations.

In cases of joint physical custody, the base child support award shall be determined as follows:

(1) Combine the adjusted gross incomes of the parents and determine the base combined child support obligation using the base combined child support obligation table.

(2) Calculate each parent's proportionate share of the base combined child support obligation by multiplying the base combined child support obligation by each parent's percentage of combined adjusted gross income. The amounts so calculated are the base child support obligation due from each parent for support of the children.

(3) [~~If~~] Subject to Subsection 30-3-35.2(2)(e)(ii), if the obligor's time with the children exceeds 110 overnights, the obligation shall be calculated further as follows:

(a) if the amount of time to be spent with the children is between 110 and 131 overnights, multiply the number of overnights over 110 by .0027, then multiply the result by the base combined child support obligation, and then subtract the result from the obligor's payment as determined by Subsection (2) to arrive at the obligor's payment; or

(b) if the amount of time to be spent with the children is 131 overnights or more, multiply the number of overnights over 130 by .0084, then multiply the result by the base combined child support obligation, and then subtract the result from the obligor's payment as determined in Subsection (3)(a) to arrive at the obligor's payment.

CHAPTER 400
S. B. 127
Passed March 2, 2021
Approved March 22, 2021
Effective May 5, 2021

HUMAN SERVICES PROGRAM AMENDMENTS

Chief Sponsor: Michael K. McKell
House Sponsor: Brady Brammer

LONG TITLE

General Description:

This bill modifies provisions related to human services programs.

Highlighted Provisions:

This bill:

- defines terms;
- provides incident reporting requirements for persons licensed by the Office of Licensing;
- requires the Office of Licensing to review certain policies and procedures established by a human services program;
- requires a human services program to publicly post the Office of Licensing's contact information;
- requires the Office of Licensing to inspect each congregate care program multiple times a year;
- describes when a congregate care program may use a restraint or seclusion;
- requires a congregate care program to maintain suicide prevention policies;
- prohibits a human services program from engaging in sex and gender based discrimination; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

62A-2-101, as last amended by Laws of Utah 2019, Chapters 136, 193 and last amended by Coordination Clause, Laws of Utah 2019, Chapter 193
62A-2-106, as last amended by Laws of Utah 2017, Chapter 148
62A-2-118, as last amended by Laws of Utah 2005, Chapter 188
62A-2-120, as last amended by Laws of Utah 2020, Chapters 176, 225, 250 and last amended by Coordination Clause, Laws of Utah 2020, Chapter 225

ENACTS:

62A-2-123, Utah Code Annotated 1953
62A-2-124, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 62A-2-101 is amended to read:

62A-2-101. Definitions.

As used in this chapter:

(1) "Adult day care" means nonresidential care and supervision:

(a) for three or more adults for at least four but less than 24 hours a day; and

(b) that meets the needs of functionally impaired adults through a comprehensive program that provides a variety of health, social, recreational, and related support services in a protective setting.

(2) "Applicant" means a person who applies for an initial license or a license renewal under this chapter.

(3) (a) "Associated with the licensee" means that an individual is:

(i) affiliated with a licensee as an owner, director, member of the governing body, employee, agent, provider of care, department contractor, or volunteer; or

(ii) applying to become affiliated with a licensee in a capacity described in Subsection (3)(a)(i).

(b) "Associated with the licensee" does not include:

(i) service on the following bodies, unless that service includes direct access to a child or a vulnerable adult:

(A) a local mental health authority described in Section 17-43-301;

(B) a local substance abuse authority described in Section 17-43-201; or

(C) a board of an organization operating under a contract to provide mental health or substance abuse programs, or services for the local mental health authority or substance abuse authority; or

(ii) a guest or visitor whose access to a child or a vulnerable adult is directly supervised at all times.

(4) (a) "Boarding school" means a private school that:

(i) uses a regionally accredited education program;

(ii) provides a residence to the school's students:

(A) for the purpose of enabling the school's students to attend classes at the school; and

(B) as an ancillary service to educating the students at the school;

(iii) has the primary purpose of providing the school's students with an education, as defined in Subsection (4)(b)(i); and

(iv) (A) does not provide the treatment or services described in Subsection [~~(33)(a)~~] (36)(a); or

(B) provides the treatment or services described in Subsection [~~(33)(a)~~] (36)(a) on a limited basis, as described in Subsection (4)(b)(ii).

(b) (i) For purposes of Subsection (4)(a)(iii), "education" means a course of study for one or more of grades kindergarten through 12th grade.

(ii) For purposes of Subsection (4)(a)(iv)(B), a private school provides the treatment or services

described in Subsection [~~(33)(a)~~] (36)(a) on a limited basis if:

(A) the treatment or services described in Subsection [~~(33)(a)~~] (36)(a) are provided only as an incidental service to a student; and

(B) the school does not:

(I) specifically solicit a student for the purpose of providing the treatment or services described in Subsection [~~(33)(a)~~] (36)(a); or

(II) have a primary purpose of providing the treatment or services described in Subsection [~~(33)(a)~~] (36)(a).

(c) "Boarding school" does not include a therapeutic school.

(5) "Child" means [~~a person~~] an individual under 18 years [~~of age~~] old.

(6) "Child placing" means receiving, accepting, or providing custody or care for any child, temporarily or permanently, for the purpose of:

(a) finding a person to adopt the child;

(b) placing the child in a home for adoption; or

(c) foster home placement.

(7) "Child-placing agency" means a person that engages in child placing.

(8) "Client" means an individual who receives or has received services from a licensee.

(9) "Congregate care program" means any of the following that provide services to a child:

(a) an outdoor youth program;

(b) a residential support program;

(c) a residential treatment program; or

(d) a therapeutic school.

[~~(9)~~] (10) "Day treatment" means specialized treatment that is provided to:

(a) a client less than 24 hours a day; and

(b) four or more persons who:

(i) are unrelated to the owner or provider; and

(ii) have emotional, psychological, developmental, physical, or behavioral dysfunctions, impairments, or chemical dependencies.

[~~(10)~~] (11) "Department" means the Department of Human Services.

[~~(11)~~] (12) "Department contractor" means an individual who:

(a) provides services under a contract with the department; and

(b) due to the contract with the department, has or will likely have direct access to a child or vulnerable adult.

[~~(12)~~] (13) "Direct access" means that an individual has, or likely will have:

(a) contact with or access to a child or vulnerable adult that provides the individual with an opportunity for personal communication or touch; or

(b) an opportunity to view medical, financial, or other confidential personal identifying information of the child, the child's parents or legal guardians, or the vulnerable adult.

[~~(13)~~] (14) "Directly supervised" means that an individual is being supervised under the uninterrupted visual and auditory surveillance of another individual who has a current background screening approval issued by the office.

[~~(14)~~] (15) "Director" means the director of the Office of Licensing.

[~~(15)~~] (16) "Domestic violence" means the same as that term is defined in Section 77-36-1.

[~~(16)~~] (17) "Domestic violence treatment program" means a nonresidential program designed to provide psychological treatment and educational services to perpetrators and victims of domestic violence.

[~~(17)~~] (18) "Elder adult" means a person 65 years [~~of age~~] old or older.

[~~(18)~~] (19) "Executive director" means the executive director of the department.

[~~(19)~~] (20) "Foster home" means a residence that is licensed or certified by the Office of Licensing for the full-time substitute care of a child.

[~~(20)~~] (21) "Health benefit plan" means the same as that term is defined in Section 31A-1-301.

[~~(21)~~] (22) "Health care provider" means the same as that term is defined in Section 78B-3-403.

[~~(22)~~] (23) "Health insurer" means the same as that term is defined in Section 31A-22-615.5.

[~~(23)~~] (24) (a) "Human services program" means [~~a~~]:

(i) a foster home;

(ii) a therapeutic school;

(iii) a youth program;

(iv) an outdoor youth program;

(v) a residential treatment program;

(vi) a residential support program;

[~~(iv)~~] (vii) a resource family home;

[~~(v)~~] (viii) a recovery residence; or

[~~(vi)~~] (ix) a facility or program that provides:

[~~(A) secure treatment;~~]

[~~(B) inpatient treatment;~~]

[~~(C) residential treatment;~~]

[~~(D) residential support;~~]

[~~(E)~~] (A) adult day care;

[~~(F)~~] (B) day treatment;

[~~(G)~~] (C) outpatient treatment;

[~~(H)~~] (D) domestic violence treatment;

[~~(I)~~] (E) child-placing services;

[~~(J)~~] (F) social detoxification; or

[~~(K)~~] (G) any other human services that are required by contract with the department to be licensed with the department.

(b) "Human services program" does not include:

(i) a boarding school; or

(ii) a residential, vocational and life skills program, as defined in Section 13-53-102.

[~~(24)~~] (25) "Indian child" means the same as that term is defined in 25 U.S.C. Sec. 1903.

[~~(25)~~] (26) "Indian country" means the same as that term is defined in 18 U.S.C. Sec. 1151.

[~~(26)~~] (27) "Indian tribe" means the same as that term is defined in 25 U.S.C. Sec. 1903.

(28) "Intermediate secure treatment" means 24-hour specialized residential treatment or care for an individual who:

(a) cannot live independently or in a less restrictive environment; and

(b) requires, without the individual's consent or control, the use of locked doors to care for the individual.

[~~(27)~~] (29) "Licensee" means an individual or a human services program licensed by the office.

[~~(28)~~] (30) "Local government" means a city, town, metro township, or county.

[~~(29)~~] (31) "Minor" has the same meaning as "child."

[~~(30)~~] (32) "Office" means the Office of Licensing within the Department of Human Services.

(33) "Outdoor youth program" means a program that provides:

(a) services to a child that has:

(i) a chemical dependency; or

(ii) a dysfunction or impairment that is emotional, psychological, developmental, or behavioral;

(b) a 24-hour outdoor group living environment; and

(c) (i) regular therapy, including group, individual, or supportive family therapy; or

(ii) informal therapy or similar services, including wilderness therapy, adventure therapy, or outdoor behavioral healthcare.

[~~(31)~~] (34) "Outpatient treatment" means individual, family, or group therapy or counseling designed to improve and enhance social or psychological functioning for those whose physical and emotional status allows them to continue functioning in their usual living environment.

[~~(32)~~] (35) "Practice group" or "group practice" means two or more health care providers legally organized as a partnership, professional corporation, or similar association, for which:

(a) substantially all of the services of the health care providers who are members of the group are provided through the group and are billed in the name of the group and amounts received are treated as receipts of the group; and

(b) the overhead expenses of and the income from the practice are distributed in accordance with methods previously determined by members of the group.

[~~(33)~~] (36) (a) "Recovery residence" means a home, residence, or facility that meets at least two of the following requirements:

(i) provides a supervised living environment for individuals recovering from a substance use disorder;

(ii) provides a living environment in which more than half of the individuals in the residence are recovering from a substance use disorder;

(iii) provides or arranges for residents to receive services related to their recovery from a substance use disorder, either on or off site;

(iv) is held out as a living environment in which individuals recovering from substance abuse disorders live together to encourage continued sobriety; or

(v) (A) receives public funding; or

(B) is run as a business venture, either for-profit or not-for-profit.

(b) "Recovery residence" does not mean:

(i) a residential treatment program;

(ii) residential support; or

(iii) a home, residence, or facility, in which:

(A) residents, by their majority vote, establish, implement, and enforce policies governing the living environment, including the manner in which applications for residence are approved and the manner in which residents are expelled;

(B) residents equitably share rent and housing-related expenses; and

(C) a landlord, owner, or operator does not receive compensation, other than fair market rental income, for establishing, implementing, or enforcing policies governing the living environment.

[~~(34)~~] (37) "Regular business hours" means:

(a) the hours during which services of any kind are provided to a client; or

(b) the hours during which a client is present at the facility of a licensee.

[~~(35)~~] (38) (a) "Residential support program" means [~~arranging for or providing~~] a program that arranges for or provides the necessities of life as a protective service to individuals or families who have a disability or who are experiencing a dislocation or emergency that prevents them from providing these services for themselves or their families.

(b) "Residential support program" includes [~~providing~~] a program that provides a supervised living environment for [~~persons~~] individuals with dysfunctions or impairments that are:

(i) emotional;

(ii) psychological;

(iii) developmental; or

(iv) behavioral.

(c) Treatment is not a necessary component of a residential support program.

(d) "Residential support program" does not include:

(i) a recovery residence; or

(ii) a program that provides residential services that are performed:

(A) exclusively under contract with the department and provided to individuals through the Division of Services for People with Disabilities; or

(B) in a facility that serves fewer than four individuals.

[~~(36)~~] (39) (a) "Residential treatment" means a 24-hour group living environment for four or more individuals unrelated to the owner or provider that offers room or board and specialized treatment, behavior modification, rehabilitation, discipline, emotional growth, or habilitation services for persons with emotional, psychological, developmental, or behavioral dysfunctions, impairments, or chemical dependencies.

(b) "Residential treatment" does not include a:

(i) boarding school;

(ii) foster home; or

(iii) recovery residence.

[~~(37)~~] (40) "Residential treatment program" means a [~~human services program~~] a program or facility that provides:

(a) residential treatment; or

(b) intermediate secure treatment.

[~~(38) (a) "Secure treatment" means 24-hour specialized residential treatment or care for persons whose current functioning is such that they cannot live independently or in a less restrictive environment.~~]

[~~(b) "Secure treatment" differs from residential treatment to the extent that it requires intensive supervision, locked doors, and other security measures that are imposed on residents with neither their consent nor control.~~]

(41) "Seclusion" means the involuntary confinement of an individual in a room or an area:

(a) away from the individual's peers; and

(b) in a manner that physically prevents the individual from leaving the room or area.

[~~(39)~~] (42) "Social detoxification" means short-term residential services for persons who are experiencing or have recently experienced drug or alcohol intoxication, that are provided outside of a health care facility licensed under Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act, and that include:

(a) room and board for persons who are unrelated to the owner or manager of the facility;

(b) specialized rehabilitation to acquire sobriety; and

(c) aftercare services.

[~~(40)~~] (43) "Substance abuse disorder" or "substance use disorder" mean the same as "substance use disorder" is defined in Section 62A-15-1202.

[~~(41)~~] (44) "Substance abuse treatment program" or "substance use disorder treatment program" means a program:

(a) designed to provide:

(i) specialized drug or alcohol treatment;

(ii) rehabilitation; or

(iii) habilitation services; and

(b) that provides the treatment or services described in Subsection [~~(41)~~] (44)(a) to persons with:

(i) a diagnosed substance use disorder; or

(ii) chemical dependency disorder.

[~~(42)~~] (45) "Therapeutic school" means a residential group living facility:

(a) for four or more individuals that are not related to:

(i) the owner of the facility; or

(ii) the primary service provider of the facility;

(b) that serves students who have a history of failing to function:

(i) at home;

(ii) in a public school; or

(iii) in a nonresidential private school; and

(c) that offers:

(i) room and board; and

(ii) an academic education integrated with:

(A) specialized structure and supervision; or

(B) services or treatment related to:

(I) a disability;

(II) emotional development;

(III) behavioral development;

(IV) familial development; or

(V) social development.

[~~(43)~~] (46) "Unrelated persons" means persons other than parents, legal guardians, grandparents, brothers, sisters, uncles, or aunts.

[~~(44)~~] (47) "Vulnerable adult" means an elder adult or an adult who has a temporary or permanent mental or physical impairment that substantially affects the person's ability to:

(a) provide personal protection;

(b) provide necessities such as food, shelter, clothing, or mental or other health care;

(c) obtain services necessary for health, safety, or welfare;

(d) carry out the activities of daily living;

(e) manage the adult's own resources; or

(f) comprehend the nature and consequences of remaining in a situation of abuse, neglect, or exploitation.

[~~(45)~~] (48) (a) "Youth program" means a [~~nonresidential~~] program designed to provide behavioral, substance abuse, or mental health services to minors that:

(i) serves adjudicated or nonadjudicated youth;

(ii) charges a fee for its services;

(iii) may [~~or may not~~] provide host homes or other arrangements for overnight accommodation of the youth;

(iv) may [~~or may not~~] provide all or part of its services in the outdoors;

(v) may [~~or may not~~] limit or censor access to parents or guardians; and

(vi) prohibits or restricts a minor's ability to leave the program at any time of the minor's own free will.

(b) "Youth program" does not include recreational programs such as Boy Scouts, Girl Scouts, 4-H, and other such organizations.

Section 2. Section 62A-2-106 is amended to read:

62A-2-106. Office responsibilities.

(1) Subject to the requirements of federal and state law, the office shall:

(a) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish:

(i) except as provided in Subsection (1)(a)(ii), basic health and safety standards for licensees, that shall be limited to:

(A) fire safety;

(B) food safety;

(C) sanitation;

(D) infectious disease control;

(E) safety of the:

(I) physical facility and grounds; and

(II) area and community surrounding the physical facility;

(F) transportation safety;

(G) emergency preparedness and response;

(H) the administration of medical standards and procedures, consistent with the related provisions of this title;

(I) staff and client safety and protection;

(J) the administration and maintenance of client and service records;

(K) staff qualifications and training, including standards for permitting experience to be substituted for education, unless prohibited by law;

(L) staff to client ratios;

(M) access to firearms; and

(N) the prevention of abuse, neglect, exploitation, harm, mistreatment, or fraud;

(ii) basic health and safety standards for therapeutic schools, that shall be limited to:

(A) fire safety, except that the standards are limited to those required by law or rule under Title 53, Chapter 7, Part 2, Fire Prevention and Fireworks Act;

(B) food safety;

(C) sanitation;

(D) infectious disease control, except that the standards are limited to:

(I) those required by law or rule under Title 26, Utah Health Code, or Title 26A, Local Health Authorities; and

(II) requiring a separate room for clients who are sick;

(E) safety of the physical facility and grounds, except that the standards are limited to those required by law or rule under Title 53, Chapter 7, Part 2, Fire Prevention and Fireworks Act;

(F) transportation safety;

(G) emergency preparedness and response;

(H) access to appropriate medical care, including:

(I) subject to the requirements of law, designation of a person who is authorized to dispense medication; and

(II) storing, tracking, and securing medication;

(I) staff and client safety and protection that permits the school to provide for the direct supervision of clients at all times;

(J) the administration and maintenance of client and service records;

(K) staff qualifications and training, including standards for permitting experience to be substituted for education, unless prohibited by law;

(L) staff to client ratios;

(M) access to firearms; and

(N) the prevention of abuse, neglect, exploitation, harm, mistreatment, or fraud;

(iii) procedures and standards for permitting a licensee to:

(A) provide in the same facility and under the same conditions as children, residential treatment services to a person 18 years old or older who:

(I) begins to reside at the licensee's residential treatment facility before the person's 18th birthday;

(II) has resided at the licensee's residential treatment facility continuously since the time described in Subsection (1)(a)(iii)(A)(I);

(III) has not completed the course of treatment for which the person began residing at the licensee's residential treatment facility; and

(IV) voluntarily consents to complete the course of treatment described in Subsection (1)(a)(iii)(A)(III); or

(B) (I) provide residential treatment services to a child who is:

(Aa) [~~12 years old or older~~] at least 12 years old or, as approved by the office, younger than 12 years old; and

(Bb) under the custody of the Department of Human Services, or one of its divisions; and

(II) provide, in the same facility as a child described in Subsection (1)(a)(iii)(B)(I), residential treatment services to a person who is:

(Aa) at least 18 years old, but younger than 21 years old; and

(Bb) under the custody of the Department of Human Services, or one of its divisions;

(iv) minimum administration and financial requirements for licensees;

(v) guidelines for variances from rules established under this Subsection (1);

(vi) ethical standards, as described in Subsection 78B-6-106(3), and minimum responsibilities of a child-placing agency that provides adoption services and that is licensed under this chapter;

(vii) what constitutes an "outpatient treatment program" for purposes of this chapter;

(viii) a procedure requiring a licensee to provide an insurer the licensee's records related to any services or supplies billed to the insurer, and a procedure allowing the licensee and the insurer to contact the Insurance Department to resolve any disputes;

(ix) a protocol for the office to investigate and process complaints about licensees; [~~and~~]

(x) a procedure for [~~licensees to report incidents;~~] a licensee to:

(A) report the use of a restraint or seclusion within one business day after the day on which the use of the restraint or seclusion occurs; and

(B) report a critical incident within one business day after the day on which the incident occurs;

(xi) guidelines for the policies and procedures described in Sections 62A-2-123 and 62A-2-124;

(xii) a procedure for the office to review and approve the policies and procedures described in Sections 62A-2-123 and 62A-2-124; and

(xiii) a requirement that each human services program publicly post information that informs an individual how to submit a complaint about a human services program to the office;

(b) enforce rules relating to the office;

(c) issue licenses in accordance with this chapter;

(d) if the United States Department of State executes an agreement with the office that designates the office to act as an accrediting entity in accordance with the Intercountry Adoption Act of 2000, Pub. L. No. 106-279, accredit one or more agencies and persons to provide intercountry adoption services pursuant to:

(i) the Intercountry Adoption Act of 2000, Pub. L. No. 106-279; and

(ii) the implementing regulations for the Intercountry Adoption Act of 2000, Pub. L. No. 106-279;

(e) make rules to implement the provisions of Subsection (1)(d);

(f) conduct surveys and inspections of licensees and facilities in accordance with Section 62A-2-118;

(g) collect licensure fees;

(h) notify licensees of the name of a person within the department to contact when filing a complaint;

(i) investigate complaints regarding any licensee or human services program;

(j) have access to all records, correspondence, and financial data required to be maintained by a licensee;

(k) have authority to interview any client, family member of a client, employee, or officer of a licensee;

(l) have authority to deny, condition, revoke, suspend, or extend any license issued by the department under this chapter by following the

procedures and requirements of Title 63G, Chapter 4, Administrative Procedures Act;

(m) electronically post notices of agency action issued to a human services program, with the exception of a foster home, on the office's website, in accordance with Title 63G, Chapter 2, Government Records Access and Management Act; and

(n) upon receiving a local government's request under Section 62A-2-108.4, notify the local government of new human services program license applications, except for foster homes, for human services programs located within the local government's jurisdiction.

(2) In establishing rules under Subsection (1)(a)(ii)(G), the office shall require a licensee to establish and comply with an emergency response plan that requires clients and staff to:

(a) immediately report to law enforcement any significant criminal activity, as defined by rule, committed:

(i) on the premises where the licensee operates its human services program;

(ii) by or against its clients; or

(iii) by or against a staff member while the staff member is on duty;

(b) immediately report to emergency medical services any medical emergency, as defined by rule:

(i) on the premises where the licensee operates its human services program;

(ii) involving its clients; or

(iii) involving a staff member while the staff member is on duty; and

(c) immediately report other emergencies that occur on the premises where the licensee operates its human services program to the appropriate emergency services agency.

Section 3. Section 62A-2-118 is amended to read:

62A-2-118. Administrative inspections.

(1) (a) [~~The~~] Subject to Subsection (1)(b), the office may, for the purpose of ascertaining compliance with this chapter, enter and inspect on a routine basis the facility of a licensee.

(b) (i) The office shall enter and inspect a congregate care program at least once each calendar quarter.

(ii) At least two of the inspections described in Subsection (1)(b)(i) shall be unannounced.

(c) If another government entity conducts an inspection that is substantially similar to an inspection conducted by the office, the office may conclude the inspection satisfies an inspection described in Subsection (1)(b).

(2) Before conducting an inspection under Subsection (1), the office shall, after identifying the person in charge:

(a) give proper identification;

(b) request to see the applicable license;

(c) describe the nature and purpose of the inspection; and

(d) if necessary, explain the authority of the office to conduct the inspection and the penalty for refusing to permit the inspection as provided in Section 62A-2-116.

(3) In conducting an inspection under Subsection (1), the office may, after meeting the requirements of Subsection (2):

(a) inspect the physical facilities;

(b) inspect and copy records and documents;

(c) interview officers, employees, clients, family members of clients, and others; and

(d) observe the licensee in operation.

(4) An inspection conducted under Subsection (1) shall be during regular business hours and may be announced or unannounced.

(5) The licensee shall make copies of inspection reports available to the public upon request.

(6) The provisions of this section apply to on-site inspections and do not restrict the office from contacting family members, neighbors, or other individuals, or from seeking information from other sources to determine compliance with this chapter.

Section 4. Section 62A-2-120 is amended to read:

62A-2-120. Background check -- Direct access to children or vulnerable adults.

(1) As used in this section:

(a) (i) "Applicant" means:

(A) the same as that term is defined in Section 62A-2-101;

(B) an individual who is associated with a licensee and has or will likely have direct access to a child or a vulnerable adult;

(C) an individual who provides respite care to a foster parent or an adoptive parent on more than one occasion;

(D) a department contractor;

(E) a guardian submitting an application on behalf of an individual, other than the child or vulnerable adult who is receiving the service, if the individual is 12 years [~~of age~~] old or older and resides in a home, that is licensed or certified by the office, with the child or vulnerable adult who is receiving services; or

(F) a guardian submitting an application on behalf of an individual, other than the child or vulnerable adult who is receiving the service, if the individual is 12 years [~~of age~~] old or older and is a person described in Subsection (1)(a)(i)(A), (B), (C), or (D).

(ii) "Applicant" does not mean an individual, including an adult, who is in the custody of the

Division of Child and Family Services or the Division of Juvenile Justice Services.

(b) "Application" means a background screening application to the office.

(c) "Bureau" means the Bureau of Criminal Identification within the Department of Public Safety, created in Section 53-10-201.

(d) "Incidental care" means occasional care, not in excess of five hours per week and never overnight, for a foster child.

(e) "Personal identifying information" means:

(i) current name, former names, nicknames, and aliases;

(ii) date of birth;

(iii) physical address and email address;

(iv) telephone number;

(v) driver license or other government-issued identification;

(vi) social security number;

(vii) only for applicants who are 18 years [~~of age~~] old or older, fingerprints, in a form specified by the office; and

(viii) other information specified by the office by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(2) (a) Except as provided in Subsection (13), an applicant or a representative shall submit the following to the office:

(i) personal identifying information;

(ii) a fee established by the office under Section 63J-1-504; and

(iii) a disclosure form, specified by the office, for consent for:

(A) an initial background check upon submission of the information described under this Subsection (2)(a);

(B) ongoing monitoring of fingerprints and registries until no longer associated with a licensee for 90 days;

(C) a background check when the office determines that reasonable cause exists; and

(D) retention of personal identifying information, including fingerprints, for monitoring and notification as described in Subsections (3)(d) and (4).

(b) In addition to the requirements described in Subsection (2)(a), if an applicant resided outside of the United States and its territories during the five years immediately preceding the day on which the information described in Subsection (2)(a) is submitted to the office, the office may require the applicant to submit documentation establishing whether the applicant was convicted of a crime during the time that the applicant resided outside of the United States or its territories.

(3) The office:

(a) shall perform the following duties as part of a background check of an applicant:

(i) check state and regional criminal background databases for the applicant's criminal history by:

(A) submitting personal identifying information to the bureau for a search; or

(B) using the applicant's personal identifying information to search state and regional criminal background databases as authorized under Section 53-10-108;

(ii) submit the applicant's personal identifying information and fingerprints to the bureau for a criminal history search of applicable national criminal background databases;

(iii) search the Department of Human Services, Division of Child and Family Services' Licensing Information System described in Section 62A-4a-1006;

(iv) search the Department of Human Services, Division of Aging and Adult Services' vulnerable adult abuse, neglect, or exploitation database described in Section 62A-3-311.1;

(v) search the juvenile court records for substantiated findings of severe child abuse or neglect described in Section 78A-6-323; and

(vi) search the juvenile court arrest, adjudication, and disposition records, as provided under Section 78A-6-209;

(b) shall conduct a background check of an applicant for an initial background check upon submission of the information described under Subsection (2)(a);

(c) may conduct all or portions of a background check of an applicant, as provided by rule, made by the office in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(i) for an annual renewal; or

(ii) when the office determines that reasonable cause exists;

(d) may submit an applicant's personal identifying information, including fingerprints, to the bureau for checking, retaining, and monitoring of state and national criminal background databases and for notifying the office of new criminal activity associated with the applicant;

(e) shall track the status of an approved applicant under this section to ensure that an approved applicant is not required to duplicate the submission of the applicant's fingerprints if the applicant applies for:

(i) more than one license;

(ii) direct access to a child or a vulnerable adult in more than one human services program; or

(iii) direct access to a child or a vulnerable adult under a contract with the department;

(f) shall track the status of each license and each individual with direct access to a child or a

vulnerable adult and notify the bureau within 90 days after the day on which the license expires or the individual's direct access to a child or a vulnerable adult ceases;

(g) shall adopt measures to strictly limit access to personal identifying information solely to the individuals responsible for processing and entering the applications for background checks and to protect the security of the personal identifying information the office reviews under this Subsection (3);

(h) as necessary to comply with the federal requirement to check a state's child abuse and neglect registry regarding any individual working in a congregate care [~~setting that serves children~~] program, shall:

(i) search the Department of Human Services, Division of Child and Family Services' Licensing Information System described in Section 62A-4a-1006; and

(ii) require the child abuse and neglect registry be checked in each state where an applicant resided at any time during the five years immediately preceding the day on which the applicant submits the information described in Subsection (2)(a) to the office; and

(i) shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement the provisions of this Subsection (3) relating to background checks.

(4) (a) With the personal identifying information the office submits to the bureau under Subsection (3), the bureau shall check against state and regional criminal background databases for the applicant's criminal history.

(b) With the personal identifying information and fingerprints the office submits to the bureau under Subsection (3), the bureau shall check against national criminal background databases for the applicant's criminal history.

(c) Upon direction from the office, and with the personal identifying information and fingerprints the office submits to the bureau under Subsection (3)(d), the bureau shall:

(i) maintain a separate file of the fingerprints for search by future submissions to the local and regional criminal records databases, including latent prints; and

(ii) monitor state and regional criminal background databases and identify criminal activity associated with the applicant.

(d) The bureau is authorized to submit the fingerprints to the Federal Bureau of Investigation Next Generation Identification System, to be retained in the Federal Bureau of Investigation Next Generation Identification System for the purpose of:

(i) being searched by future submissions to the national criminal records databases, including the Federal Bureau of Investigation Next Generation Identification System and latent prints; and

(ii) monitoring national criminal background databases and identifying criminal activity associated with the applicant.

(e) The Bureau shall notify and release to the office all information of criminal activity associated with the applicant.

(f) Upon notice from the office that a license has expired or an individual's direct access to a child or a vulnerable adult has ceased for 90 days, the bureau shall:

(i) discard and destroy any retained fingerprints; and

(ii) notify the Federal Bureau of Investigation when the license has expired or an individual's direct access to a child or a vulnerable adult has ceased, so that the Federal Bureau of Investigation will discard and destroy the retained fingerprints from the Federal Bureau of Investigation Next Generation Identification System.

(5) (a) After conducting the background check described in Subsections (3) and (4), the office shall deny an application to an applicant who, within three years before the day on which the applicant submits information to the office under Subsection (2) for a background check, has been convicted of any of the following, regardless of whether the offense is a felony, a misdemeanor, or an infraction:

(i) an offense identified as domestic violence, lewdness, voyeurism, battery, cruelty to animals, or bestiality;

(ii) a violation of any pornography law, including sexual exploitation of a minor;

(iii) prostitution;

(iv) an offense included in:

(A) Title 76, Chapter 5, Offenses Against the Person;

(B) Section 76-5b-201, Sexual Exploitation of a Minor; or

(C) Title 76, Chapter 7, Offenses Against the Family;

(v) aggravated arson, as described in Section 76-6-103;

(vi) aggravated burglary, as described in Section 76-6-203;

(vii) aggravated robbery, as described in Section 76-6-302;

(viii) identity fraud crime, as described in Section 76-6-1102; or

(ix) a felony or misdemeanor offense committed outside of the state that, if committed in the state, would constitute a violation of an offense described in Subsections (5)(a)(i) through (viii).

(b) If the office denies an application to an applicant based on a conviction described in

Subsection (5)(a), the applicant is not entitled to a comprehensive review described in Subsection (6).

(c) If the applicant will be working in a program serving only adults whose only impairment is a mental health diagnosis, including that of a serious mental health disorder, with or without co-occurring substance use disorder, the denial provisions of Subsection (5)(a) do not apply, and the office shall conduct a comprehensive review as described in Subsection (6).

(6) (a) The office shall conduct a comprehensive review of an applicant's background check if the applicant:

(i) has an open court case or a conviction for any felony offense, not described in Subsection (5)(a), with a date of conviction that is no more than 10 years before the date on which the applicant submits the application;

(ii) has an open court case or a conviction for a misdemeanor offense, not described in Subsection (5)(a), and designated by the office, by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, if the conviction is within three years before the day on which the applicant submits information to the office under Subsection (2) for a background check;

(iii) has a conviction for any offense described in Subsection (5)(a) that occurred more than three years before the day on which the applicant submitted information under Subsection (2)(a);

(iv) is currently subject to a plea in abeyance or diversion agreement for any offense described in Subsection (5)(a);

(v) has a listing in the Department of Human Services, Division of Child and Family Services' Licensing Information System described in Section 62A-4a-1006;

(vi) has a listing in the Department of Human Services, Division of Aging and Adult Services' vulnerable adult abuse, neglect, or exploitation database described in Section 62A-3-311.1;

(vii) has a record in the juvenile court of a substantiated finding of severe child abuse or neglect described in Section 78A-6-323;

(viii) has a record of an adjudication in juvenile court for an act that, if committed by an adult, would be a felony or misdemeanor, if the applicant is:

(A) under 28 years [~~of age~~] old; or

(B) 28 years [~~of age~~] old or older and has been convicted of, has pleaded no contest to, or is currently subject to a plea in abeyance or diversion agreement for a felony or a misdemeanor offense described in Subsection (5)(a);

(ix) has a pending charge for an offense described in Subsection (5)(a); or

(x) is an applicant described in Subsection (5)(c).

(b) The comprehensive review described in Subsection (6)(a) shall include an examination of:

(i) the date of the offense or incident;

(ii) the nature and seriousness of the offense or incident;

(iii) the circumstances under which the offense or incident occurred;

(iv) the age of the perpetrator when the offense or incident occurred;

(v) whether the offense or incident was an isolated or repeated incident;

(vi) whether the offense or incident directly relates to abuse of a child or vulnerable adult, including:

(A) actual or threatened, nonaccidental physical, mental, or financial harm;

(B) sexual abuse;

(C) sexual exploitation; or

(D) negligent treatment;

(vii) any evidence provided by the applicant of rehabilitation, counseling, psychiatric treatment received, or additional academic or vocational schooling completed;

(viii) the applicant's risk of harm to clientele in the program or in the capacity for which the applicant is applying; and

(ix) any other pertinent information presented to or publicly available to the committee members.

(c) At the conclusion of the comprehensive review described in Subsection (6)(a), the office shall deny an application to an applicant if the office finds that approval would likely create a risk of harm to a child or a vulnerable adult.

(d) At the conclusion of the comprehensive review described in Subsection (6)(a), the office may not deny an application to an applicant solely because the applicant was convicted of an offense that occurred 10 or more years before the day on which the applicant submitted the information required under Subsection (2)(a) if:

(i) the applicant has not committed another misdemeanor or felony offense after the day on which the conviction occurred; and

(ii) the applicant has never been convicted of an offense described in Subsection (14)(c).

(e) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office may make rules, consistent with this chapter, to establish procedures for the comprehensive review described in this Subsection (6).

(7) Subject to Subsection (10), the office shall approve an application to an applicant who is not denied under Subsection (5), (6), or [~~(13)~~] (14).

(8) (a) The office may conditionally approve an application of an applicant, for a maximum of 60 days after the day on which the office sends written

notice to the applicant under Subsection (12), without requiring that the applicant be directly supervised, if the office:

(i) is awaiting the results of the criminal history search of national criminal background databases; and

(ii) would otherwise approve an application of the applicant under Subsection (7).

(b) The office may conditionally approve an application of an applicant, for a maximum of one year after the day on which the office sends written notice to the applicant under Subsection (12), without requiring that the applicant be directly supervised if the office:

(i) is awaiting the results of an out-of-state registry for providers other than foster and adoptive parents; and

(ii) would otherwise approve an application of the applicant under Subsection (7).

(c) Upon receiving the results of the criminal history search of a national criminal background database, the office shall approve or deny the application of the applicant in accordance with Subsections (5) through (7).

(9) A licensee or department contractor may not permit an individual to have direct access to a child or a vulnerable adult unless, subject to Subsection (10):

(a) the individual is associated with the licensee or department contractor and:

(i) the individual's application is approved by the office under this section;

(ii) the individual's application is conditionally approved by the office under Subsection (8); or

(iii) (A) the individual has submitted the background check information described in Subsection (2) to the office;

(B) the office has not determined whether to approve the applicant's application; and

(C) the individual is directly supervised by an individual who has a current background screening approval issued by the office under this section and is associated with the licensee or department contractor;

(b) (i) the individual is associated with the licensee or department contractor;

(ii) the individual has a current background screening approval issued by the office under this section;

(iii) one of the following circumstances, that the office has not yet reviewed under Subsection (6), applies to the individual:

(A) the individual was charged with an offense described in Subsection (5)(a);

(B) the individual is listed in the Licensing Information System, described in Section 62A-4a-1006;

(C) the individual is listed in the vulnerable adult abuse, neglect, or exploitation database, described in Section 62A-3-311.1;

(D) the individual has a record in the juvenile court of a substantiated finding of severe child abuse or neglect, described in Section 78A-6-323; or

(E) the individual has a record of an adjudication in juvenile court for an act that, if committed by an adult, would be a felony or a misdemeanor as described in Subsection (5)(a) or (6); and

(iv) the individual is directly supervised by an individual who:

(A) has a current background screening approval issued by the office under this section; and

(B) is associated with the licensee or department contractor;

(c) the individual:

(i) is not associated with the licensee or department contractor; and

(ii) is directly supervised by an individual who:

(A) has a current background screening approval issued by the office under this section; and

(B) is associated with the licensee or department contractor;

(d) the individual is the parent or guardian of the child, or the guardian of the vulnerable adult;

(e) the individual is approved by the parent or guardian of the child, or the guardian of the vulnerable adult, to have direct access to the child or the vulnerable adult;

(f) the individual is only permitted to have direct access to a vulnerable adult who voluntarily invites the individual to visit; or

(g) the individual only provides incidental care for a foster child on behalf of a foster parent who has used reasonable and prudent judgment to select the individual to provide the incidental care for the foster child.

(10) An individual may not have direct access to a child or a vulnerable adult if the individual is prohibited by court order from having that access.

(11) Notwithstanding any other provision of this section, an individual for whom the office denies an application may not have direct access to a child or vulnerable adult unless the office approves a subsequent application by the individual.

(12) (a) Within 30 days after the day on which the office receives the background check information for an applicant, the office shall give notice of the clearance status to:

(i) the applicant, and the licensee or department contractor, of the office's decision regarding the background check and findings; and

(ii) the applicant of any convictions and potentially disqualifying charges and adjudications found in the search.

(b) With the notice described in Subsection (12)(a), the office shall also give the applicant the details of any comprehensive review conducted under Subsection (6).

(c) If the notice under Subsection (12)(a) states that the applicant's application is denied, the notice shall further advise the applicant that the applicant may, under Subsection 62A-2-111(2), request a hearing in the department's Office of Administrative Hearings, to challenge the office's decision.

(d) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office shall make rules, consistent with this chapter:

(i) defining procedures for the challenge of the office's background check decision described in Subsection (12)(c); and

(ii) expediting the process for renewal of a license under the requirements of this section and other applicable sections.

(13) An individual or a department contractor who provides services in an adults only substance use disorder program, as defined by rule, is exempt from this section. This exemption does not extend to a program director or a member, as defined by Section 62A-2-108, of the program.

(14) (a) Except as provided in Subsection (14)(b), in addition to the other requirements of this section, if the background check of an applicant is being conducted for the purpose of giving clearance status to an applicant seeking a position in a congregate care [~~facility~~] program, an applicant for a one-time adoption, an applicant seeking to provide a prospective foster home, or an applicant seeking to provide a prospective adoptive home, the office shall:

(i) check the child abuse and neglect registry in each state where each applicant resided in the five years immediately preceding the day on which the applicant applied to be a foster parent or adoptive parent, to determine whether the prospective foster parent or prospective adoptive parent is listed in the registry as having a substantiated or supported finding of child abuse or neglect; and

(ii) check the child abuse and neglect registry in each state where each adult living in the home of the applicant described in Subsection (14)(a)(i) resided in the five years immediately preceding the day on which the applicant applied to be a foster parent or adoptive parent, to determine whether the adult is listed in the registry as having a substantiated or supported finding of child abuse or neglect.

(b) The requirements described in Subsection (14)(a) do not apply to the extent that:

(i) federal law or rule permits otherwise; or

(ii) the requirements would prohibit the Division of Child and Family Services or a court from placing a child with:

(A) a noncustodial parent under Section 62A-4a-209, 78A-6-307, or 78A-6-307.5; or

(B) a relative, other than a noncustodial parent, under Section 62A-4a-209, 78A-6-307, or 78A-6-307.5, pending completion of the background check described in Subsection (5).

(c) Notwithstanding Subsections (5) through (9), the office shall deny a clearance to an applicant seeking a position in a congregate care [~~facility~~] program, an applicant for a one-time adoption, an applicant to become a prospective foster parent, or an applicant to become a prospective adoptive parent if the applicant has been convicted of:

(i) a felony involving conduct that constitutes any of the following:

(A) child abuse, as described in Section 76-5-109;

(B) commission of domestic violence in the presence of a child, as described in Section 76-5-109.1;

(C) abuse or neglect of a child with a disability, as described in Section 76-5-110;

(D) endangerment of a child or vulnerable adult, as described in Section 76-5-112.5;

(E) aggravated murder, as described in Section 76-5-202;

(F) murder, as described in Section 76-5-203;

(G) manslaughter, as described in Section 76-5-205;

(H) child abuse homicide, as described in Section 76-5-208;

(I) homicide by assault, as described in Section 76-5-209;

(J) kidnapping, as described in Section 76-5-301;

(K) child kidnapping, as described in Section 76-5-301.1;

(L) aggravated kidnapping, as described in Section 76-5-302;

(M) human trafficking of a child, as described in Section 76-5-308.5;

(N) an offense described in Title 76, Chapter 5, Part 4, Sexual Offenses;

(O) sexual exploitation of a minor, as described in Section 76-5b-201;

(P) aggravated arson, as described in Section 76-6-103;

(Q) aggravated burglary, as described in Section 76-6-203;

(R) aggravated robbery, as described in Section 76-6-302; or

(S) domestic violence, as described in Section 77-36-1; or

(ii) an offense committed outside the state that, if committed in the state, would constitute a violation of an offense described in Subsection (14)(c)(i).

(d) Notwithstanding Subsections (5) through (9), the office shall deny a license or license renewal to a prospective foster parent or a prospective adoptive parent if, within the five years immediately preceding the day on which the individual's application or license would otherwise be approved, the applicant was convicted of a felony involving conduct that constitutes a violation of any of the following:

(i) aggravated assault, as described in Section 76-5-103;

(ii) aggravated assault by a prisoner, as described in Section 76-5-103.5;

(iii) mayhem, as described in Section 76-5-105;

(iv) an offense described in Title 58, Chapter 37, Utah Controlled Substances Act;

(v) an offense described in Title 58, Chapter 37a, Utah Drug Paraphernalia Act;

(vi) an offense described in Title 58, Chapter 37b, Imitation Controlled Substances Act;

(vii) an offense described in Title 58, Chapter 37c, Utah Controlled Substance Precursor Act; or

(viii) an offense described in Title 58, Chapter 37d, Clandestine Drug Lab Act.

(e) In addition to the circumstances described in Subsection (6)(a), the office shall conduct the comprehensive review of an applicant's background check pursuant to this section if the registry check described in Subsection (14)(a) indicates that the individual is listed in a child abuse and neglect registry of another state as having a substantiated or supported finding of a severe type of child abuse or neglect as defined in Section 62A-4a-1002.

Section 5. Section 62A-2-123 is enacted to read:

62A-2-123. Congregate care program regulation.

(1) A congregate care program may not use a cruel, severe, unusual, or unnecessary practice on a child, including:

(a) a strip search unless the congregate care program determines and documents that a strip search is necessary to protect an individual's health or safety;

(b) a body cavity search unless the congregate care program determines and documents that a body cavity search is necessary to protect an individual's health or safety;

(c) inducing pain to obtain compliance;

(d) hyperextending joints;

(e) peer restraints;

(f) discipline or punishment that is intended to frighten or humiliate;

(g) requiring or forcing the child to take an uncomfortable position, including squatting or bending;

(h) for the purpose of punishing or humiliating, requiring or forcing the child to repeat physical movements or physical exercises such as running laps or performing push-ups;

(i) spanking, hitting, shaking, or otherwise engaging in aggressive physical contact;

(j) denying an essential program service;

(k) depriving the child of a meal, water, rest, or opportunity for toileting;

(l) denying shelter, clothing, or bedding;

(m) withholding personal interaction, emotional response, or stimulation;

(n) prohibiting the child from entering the residence;

(o) abuse as defined in Section 78A-6-105; and

(p) neglect as defined in Section 78A-6-105.

(2) Before a congregate care program may use a restraint or seclusion, the congregate care program shall:

(a) develop and implement written policies and procedures that:

(i) describe the circumstances under which a staff member may use a restraint or seclusion;

(ii) describe which staff members are authorized to use a restraint or seclusion;

(iii) describe procedures for monitoring a child that is restrained or in seclusion;

(iv) describe time limitations on the use of a restraint or seclusion;

(v) require immediate and continuous review of the decision to use a restraint or seclusion;

(vi) require documenting the use of a restraint or seclusion;

(vii) describe record keeping requirements for records related to the use of a restraint or seclusion;

(viii) to the extent practicable, require debriefing the following individuals if debriefing would not interfere with an ongoing investigation, violate any law or regulation, or conflict with a child's treatment plan:

(A) each witness to the event;

(B) each staff member involved; and

(C) the child who was restrained or in seclusion.

(ix) include a procedure for complying with Subsection (5); and

(x) provide an administrative review process and required follow up actions after a child is restrained or put in seclusion; and

(b) consult with the office to ensure that the congregate care program's written policies and

procedures align with industry standards and applicable law.

(3) A congregate care program:

(a) may use a passive physical restraint only if the passive physical restraint is supported by a nationally or regionally recognized curriculum focused on non-violent interventions and de-escalation techniques;

(b) may not use a chemical or mechanical restraint unless the office has authorized the congregate care program to use a chemical or mechanical restraint;

(c) shall ensure that a staff member that uses a restraint on a child is:

(i) properly trained to use the restraint; and

(ii) familiar with the child and if the child has a treatment plan, the child's treatment plan; and

(d) shall train each staff member on how to intervene if another staff member fails to follow correct procedures when using a restraint.

(4) (a) A congregate care program:

(i) may use seclusion if:

(A) the purpose for the seclusion is to ensure the immediate safety of the child or others; and

(B) no less restrictive intervention is likely to ensure the safety of the child or others; and

(ii) may not use seclusion:

(A) for coercion, retaliation, or humiliation; or

(B) due to inadequate staffing or for the staff's convenience.

(b) While a child is in seclusion, a staff member who is familiar to the child shall actively supervise the child for the duration of the seclusion.

(5) Subject to the office's review and approval, a congregate care program shall develop:

(a) suicide prevention policies and procedures that describe:

(i) how the congregate care program will respond in the event a child exhibits self-injurious, self-harm, or suicidal behavior;

(ii) warning signs of suicide;

(iii) emergency protocol and contacts;

(iv) training requirements for staff, including suicide prevention training;

(v) procedures for implementing additional supervision precautions and for removing any additional supervision precautions;

(vi) suicide risk assessment procedures;

(vii) documentation requirements for a child's suicide ideation and self-harm;

(viii) special observation precautions for a child exhibiting warning signs of suicide;

(ix) communication procedures to ensure all staff are aware of a child who exhibits warning signs of suicide;

(x) a process for tracking suicide behavioral patterns; and

(xi) a post-intervention plan with identified resources; and

(b) based on state law and industry best practices, policies and procedures for managing a child's behavior during the child's participation in the congregate care program.

(6) A congregate care program:

(a) when not otherwise prohibited by law, shall facilitate weekly confidential communication between a child and the child's parents, guardian, foster parents, and siblings, as applicable;

(b) shall ensure that the communication described in Subsection (6)(a) complies with the child's treatment plan, if any; and

(c) may not use family contact as an incentive for proper behavior or withhold family contact as a punishment.

Section 6. Section 62A-2-124 is enacted to read:

62A-2-124. Human services program non-discrimination.

A human services program:

(1) shall perform an individualized assessment when classifying and placing an individual in programs and living environments; and

(2) subject to the office's review and approval, shall create policies and procedures that include:

(a) a description of what constitutes sex and gender based abuse, discrimination, and harassment;

(b) procedures for preventing and reporting abuse, discrimination, and harassment; and

(c) procedures for teaching effective and professional communication with individuals of all sexual orientations and genders.

CHAPTER 401
S. B. 133
Passed February 24, 2021
Approved March 22, 2021
Effective May 5, 2021

SEVERANCE TAX REVENUE AMENDMENTS

Chief Sponsor: David P. Hinkins
House Sponsor: Steven J. Lund

LONG TITLE

General Description:

This bill addresses use of severance tax revenues.

Highlighted Provisions:

This bill:

- creates the Division of Air Quality Oil, Gas, and Mining Restricted Account, Division of Water Quality Oil, Gas, and Mining Restricted Account, the Division of Oil, Gas, and Mining Restricted Account, and the Utah Geological Survey Oil, Gas, and Mining Restricted Account;
- establishes deposits of certain portions of severance tax revenues to the restricted accounts;
- creates the New Severance Tax Revenue Special Revenue Fund;
- makes appropriations made from the accounts nonlapsing; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

40-6-14.5, as last amended by Laws of Utah 2016, Chapter 420
51-9-202, as last amended by Laws of Utah 2013, Chapter 211
51-9-301, as last amended by Laws of Utah 2010, Chapter 219
59-5-115, as last amended by Laws of Utah 2014, Chapter 241
59-5-116, as last amended by Laws of Utah 2014, Chapter 241
59-5-119, as last amended by Laws of Utah 2014, Chapter 241
59-5-215, as last amended by Laws of Utah 2014, Chapter 241
63I-1-263, as last amended by Laws of Utah 2020, Chapters 82, 152, 154, 199, 230, 303, 322, 336, 354, 360, 375, 405 and last amended by Coordination Clause, Laws of Utah 2020, Chapter 360
63I-2-263, as last amended by Laws of Utah 2020, Fifth Special Session, Chapter 12
63J-1-602.1, as last amended by Laws of Utah 2020, Fifth Special Session, Chapter 4

ENACTS:

19-2a-106, Utah Code Annotated 1953
19-5-126, Utah Code Annotated 1953
40-6-23, Utah Code Annotated 1953
51-9-306, Utah Code Annotated 1953
51-9-307, Utah Code Annotated 1953
79-3-403, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 19-2a-106 is enacted to read:

19-2a-106. Division of Air Quality Oil, Gas, and Mining Restricted Account.

(1) As used in this section:

(a) "Account" means the Division of Air Quality Oil, Gas, and Mining Restricted Account created by this section.

(b) "Division" means the Division of Air Quality.

(2) (a) There is created a restricted account within the General Fund known as the "Division of Air Quality Oil, Gas, and Mining Restricted Account."

(b) The account consists of:

(i) deposits to the account made under Section 51-9-306;

(ii) appropriations from the Legislature; and

(iii) interest and other earnings described in Subsection (2)(c).

(c) The Office of the Treasurer shall deposit interest and other earnings derived from investment of money in the account into the account.

(3) (a) Upon appropriation by the Legislature, the division shall use money from the account to pay the costs of programs or projects administered by the division that are primarily related to oil, gas, and mining.

(b) An appropriation provided for under this section is not intended to replace the following that is otherwise allocated for the programs or projects described in Subsection (3)(a):

(i) federal money; or

(ii) a dedicated credit.

(4) Appropriations made in accordance with this section are nonlapsing in accordance with Section 63J-1-602.1.

Section 2. Section 19-5-126 is enacted to read:

19-5-126. Division of Water Quality Oil, Gas, and Mining Restricted Account.

(1) As used in this section:

(a) "Account" means the Division of Water Quality Oil, Gas, and Mining Restricted Account created by this section.

(b) "Division" means the Division of Water Quality.

(2) (a) There is created a restricted account within the General Fund known as the "Division of Water Quality Oil, Gas, and Mining Restricted Account."

(b) The account consists of:

(i) deposits to the account made under Section 51-9-306;

(ii) appropriations of the Legislature; and

(iii) interest and other earnings described in Subsection (2)(c).

(c) The Office of the Treasurer shall deposit interest and other earnings derived from investment of money in the account into the account.

(3) (a) Upon appropriation by the Legislature, the division shall use money from the account to pay the costs of programs or projects administered by the division that are primarily related to oil, gas, and mining.

(b) An appropriation provided for under this section is not intended to replace the following that is otherwise allocated for the programs or projects described in Subsection (3)(a):

(i) federal money; or

(ii) a dedicated credit.

(4) Appropriations made in accordance with this section are nonlapsing in accordance with Section 63J-1-602.1.

Section 3. Section 40-6-14.5 is amended to read:

40-6-14.5. Oil and Gas Conservation Account created -- Contents -- Use of account money.

(1) There is created within the General Fund a restricted account known as the Oil and Gas Conservation Account.

(2) The contents of the account shall consist of:

(a) revenues from the fee levied under Section 40-6-14, including any penalties or interest charged for delinquent payments; and

(b) interest and earnings on account money.

(3) Account money shall be used to pay for:

(a) the administration of this chapter in addition to money from the Division of Oil, Gas, and Mining Restricted Account, created in Section 40-6-23;

(b) the plugging and reclamation of abandoned oil or gas wells or bore, core, or exploratory holes for which:

(i) there is no reclamation surety; or

(ii) the forfeited surety is insufficient for plugging and reclamation; and

(c) public educational programs designed to increase knowledge of mineral and petroleum resources and industries.

(4) Priority in the use of the money shall be given to paying for the administration of this chapter.

(5) Appropriations made in accordance with Subsections (3)(b) and (c) are nonlapsing.

(6) (a) The balance of the Oil and Gas Conservation Account at the end of a fiscal year may not exceed 100% of the fiscal year appropriation for Subsection (3)(a).

(b) Any excess money at the end of the fiscal year above the balance limit established in Subsection (6)(a) shall be transferred to the General Fund.

Section 4. Section 40-6-23 is enacted to read:

40-6-23. Division of Oil, Gas, and Mining Restricted Account.

(1) As used in this section:

(a) "Account" means the Division of Oil, Gas, and Mining Restricted Account created by this section.

(b) "Division" means the Division of Oil, Gas, and Mining.

(2) (a) There is created a restricted account within the General Fund known as the "Division of Oil, Gas, and Mining Restricted Account."

(b) The account consists of:

(i) deposits to the account made under Section 51-9-306;

(ii) appropriations of the Legislature; and

(iii) interest and other earnings described in Subsection (2)(c).

(c) The Office of the Treasurer shall deposit interest and other earnings derived from investment of money in the account into the account.

(3) (a) Upon appropriation by the Legislature, the division shall use money from the account to pay the costs of programs or projects administered by the division.

(b) An appropriation provided for under this section is not intended to replace the following that is otherwise allocated for the programs or projects described in Subsection (3)(a):

(i) federal money; or

(ii) a dedicated credit.

(4) Appropriations made in accordance with this section are nonlapsing in accordance with Section 63J-1-602.1.

Section 5. Section 51-9-202 is amended to read:

51-9-202. Permanent state trust fund.

(1) Until July 1, 2003, 50% of all funds of every kind that are received by the state that are related to the settlement agreement that the state entered into with leading tobacco manufacturers on November 23, 1998, shall be deposited into the permanent state trust fund created by and operated under Utah Constitution Article XXII, Section 4.

(2) On and after July 1, 2003 and until July 1, 2004 20% of the funds of any kind received by the state that are related to the settlement agreement that the state entered into with leading tobacco manufacturers shall be deposited into the permanent state trust fund created by and operated under Utah Constitution Article XXII, Section 4.

(3) On and after July 1, 2004 and until July 1, 2005, 30% of all funds of any kind received by the state that are related to the settlement agreement that the state entered into with leading tobacco manufacturers shall be deposited into the General Fund Budget Reserve Account created in Section 63J-1-312.

(4) On and after July 1, 2005 and until July 1, 2007, 25% of all funds of any kind received by the state that are related to the settlement agreement that the state entered into with leading tobacco manufacturers shall be deposited into the permanent state trust fund created by and operated under Utah Constitution Article XXII, Section 4.

(5) On and after July 1, 2007, 40% of all funds of every kind that are received by the state that are related to the settlement agreement that the state entered into with leading tobacco manufacturers on November 23, 1998, shall be deposited into the General Fund and the remaining funds deposited as directed.

(6) Funds in the permanent state trust fund shall be deposited or invested pursuant to Chapter 7b, Investment of Permanent State Trust Fund Money.

(7) (a) In accordance with Utah Constitution Article XXII, Section 4, the interest and dividends earned annually from the permanent state trust fund shall be deposited in the General Fund. There shall be transferred on an ongoing basis from the General Fund to the permanent state trust fund created under Utah Constitution Article XXII, Section 4, an amount equal to 50% of the interest and dividends earned annually from the permanent state trust fund. The amount transferred into the fund under this Subsection (7)(a) shall be treated as principal.

(b) Any annual interest or dividends earned from the permanent state trust fund that remain in the General Fund after Subsection (7)(a) may be appropriated by the Legislature.

(c) Any realized or unrealized gains or losses on investments in the permanent state trust fund shall remain in the permanent state trust fund.

(8) This section does not apply to funds deposited under Chapter 9, Part 3, Infrastructure and Economic Diversification Investment Account and Deposit or Credits of Certain Severance Taxes [~~into Permanent State Trust Fund~~] Act, into the permanent state trust fund.

Section 6. Section 51-9-301 is amended to read:

Part 3. Infrastructure and Economic Diversification Investment Account and Deposit or Credit of Certain Severance Taxes Act

51-9-301. Title.

This part is known as the "Infrastructure and Economic Diversification Investment Account and Deposit or Credit of Certain Severance Taxes [~~into Permanent State Trust Fund~~] Act."

Section 7. Section 51-9-306 is enacted to read:

51-9-306. Deposit of certain severance tax revenue for specified state agencies.

(1) As used in this section:

(a) "Aggregate annual revenue" means the aggregate annual revenue collected in a fiscal year from the taxes imposed under Title 59, Chapter 5, Severance Tax on Oil, Gas, and Mining, after subtracting the amounts required to be distributed under Sections 51-9-305, 59-5-116, and 59-5-119.

(b) "Aggregate annual mining revenue" means the aggregate annual revenue collected in a fiscal year from taxes imposed under Title 59, Chapter 5, Part 2, Mining Severance Tax, after subtracting the amounts required to be distributed under Section 51-9-305.

(c) "Aggregate annual oil and gas revenue" means the aggregate annual revenue collected in a fiscal year from the taxes imposed under Title 59, Chapter 5, Part 1, Oil and Gas Severance Tax, after subtracting the amounts required to be distributed under Sections 51-9-305, 59-5-116, and 59-5-119.

(d) "Average aggregate annual revenue" means the three-year rolling average of the aggregate annual revenue collected in a fiscal year from the taxes imposed under Title 59, Chapter 5, Severance Tax on Oil, Gas, and Mining:

(i) after subtracting the amounts required to be distributed under Sections 51-9-305, 59-5-116, and 59-5-119; and

(ii) ending in the fiscal year immediately preceding a deposit required by this section.

(e) "Average aggregate annual mining revenue" means the three-year rolling average of the aggregate annual revenue collected in a fiscal year from the taxes imposed under Title 59, Chapter 5, Part 2, Mining Severance Tax:

(i) after subtracting the amounts required to be distributed under Section 51-9-305; and

(ii) ending in the fiscal year immediately preceding a deposit required by this section.

(f) "Average aggregate annual oil and gas revenue" means the three-year rolling average of the aggregate annual revenue collected in a fiscal year from the taxes imposed under Title 59, Chapter 5, Part 1, Oil and Gas Severance Tax:

(i) after subtracting the amounts required to be distributed under Sections 51-9-305, 59-5-116, and 59-5-119; and

(ii) ending in the fiscal year immediately preceding a deposit required by this section.

(2) After making the deposits of oil and gas severance tax revenue as required under Sections 59-5-116 and 59-5-119 and making the credits under Section 51-9-305, beginning on July 1, 2021, the State Tax Commission shall annually make the following deposits:

(a) to the Division of Air Quality Oil, Gas, and Mining Restricted Account, created in Section

19-2a-106, the following average aggregate annual revenue:

(i) 2.75% of the first $50,000,000 of the average aggregate annual revenue;

(ii) 1% of the next $50,000,000 of the average aggregate annual revenue; and

(iii) .5% of the average aggregate annual revenue that exceeds $100,000,000;

(b) to the Division of Water Quality Oil, Gas, and Mining Restricted Account, created in Section 19-5-126, the following average aggregate annual revenue:

(i) .4% of the first $50,000,000 of the average aggregate annual revenue;

(ii) .15% of the next $50,000,000 of the average aggregate annual revenue; and

(iii) .08% of the average aggregate annual revenue that exceeds $100,000,000;

(c) to the Division of Oil, Gas, and Mining Restricted Account, created in Section 40-6-23, the following:

(i) (A) 11.5% of the first $50,000,000 of the average aggregate annual mining revenue;

(B) 3% of the next $50,000,000 of the average aggregate annual mining revenue; and

(C) 1% of the average aggregate annual mining revenue that exceeds $100,000,000; and

(ii) (A) 18% of the first $50,000,000 of the average aggregate annual oil and gas revenue;

(B) 3% of the next $50,000,000 of the average aggregate annual oil and gas revenue; and

(C) 1% of the average aggregate annual oil and gas revenue that exceeds $100,000,000; and

(d) to the Utah Geological Survey Oil, Gas, and Mining Restricted Account, created in Section 79-3-403, the following average aggregate annual revenue:

(i) 2.5% of the first $50,000,000 of the average aggregate annual revenue;

(ii) 1% of the next $50,000,000 of the average aggregate annual revenue; and

(iii) .5% of the average aggregate annual revenue that exceeds $100,000,000.

(3) If the money collected in a fiscal year from the taxes imposed under Title 59, Chapter 5, Severance Tax on Oil, Gas, and Mining, is insufficient to make the deposits required by Subsection (2), the State Tax Commission shall deposit money collected in the fiscal year as follows:

(a) to the Division of Air Quality Oil, Gas, and Mining Restricted Account, created in Section 19-2a-106, the following revenue:

(i) 2.75% of the first $50,000,000 of the aggregate annual revenue;

(ii) 1% of the next $50,000,000 of the aggregate annual revenue; and

(iii) .5% of the aggregate annual revenue that exceeds $100,000,000;

(b) to the Division of Water Quality Oil, Gas, and Mining Restricted Account, created in Section 19-5-126, the following revenue:

(i) .4% of the first $50,000,000 of the aggregate annual revenue;

(ii) .15% of the next $50,000,000 of the aggregate annual revenue; and

(iii) .08% of the aggregate annual revenue that exceeds $100,000,000;

(c) to the Division of Oil, Gas, and Mining Restricted Account, created in Section 40-6-23, the following:

(i) (A) 11.5% of the first $50,000,000 of the aggregate annual mining revenue;

(B) 3% of the next $50,000,000 of the aggregate annual mining revenue; and

(C) 1% of the aggregate annual mining revenue that exceeds $100,000,000; and

(ii) (A) 18% of the first $50,000,000 of the aggregate annual oil and gas revenue;

(B) 3% of the next $50,000,000 of the aggregate annual oil and gas revenue; and

(C) 1% of the aggregate annual oil and gas revenue that exceeds $100,000,000; and

(d) to the Utah Geological Survey Oil, Gas, and Mining Restricted Account, created in Section 79-3-403, the following revenue:

(i) 2.5% of the first $50,000,000 of the aggregate annual revenue;

(ii) 1% of the next $50,000,000 of the aggregate annual revenue; and

(iii) .5% of the aggregate annual revenue that exceeds $100,000,000.

(4) The severance tax revenues deposited under this section into restricted accounts for the state agencies specified in Subsection (2) and appropriated from the restricted accounts offset and supplant General Fund appropriations used to pay the costs of programs or projects administered by the state agencies that are primarily related to oil, gas, and mining.

Section 8. Section 51-9-307 is enacted to read:

51-9-307. New Severance Tax Revenue Special Revenue Fund.

(1) As used in this section:

(a) "Fund" means the New Severance Tax Revenue Special Revenue Fund created in this section.

(b) "New revenue" means revenue collected above $100,000,000 from the taxes imposed under Title

59, Chapter 5, Severance Tax on Oil, Gas, and Mining, after subtracting the amounts required to be distributed under Sections 51-9-305, 51-9-306, 59-5-116, and 59-5-119.

(2) There is created a special revenue fund known as the "New Severance Tax Revenue Special Revenue Fund" that consists of:

(a) money deposited by the State Tax Commission in accordance with this section; and

(b) interest earned on the money in the fund.

(3) Beginning July 1, 2021, the State Tax Commission shall deposit into the fund 100% of new revenue until the new revenue equals or exceeds $200,000,000 in a fiscal year.

Section 9. Section 59-5-115 is amended to read:

59-5-115. Disposition of taxes collected -- Credit to General Fund.

Except as provided in Section 51-9-305, 51-9-306, 51-9-307, 59-5-116, or 59-5-119, a tax imposed and collected under Section 59-5-102 shall be paid to the commission, promptly remitted to the state treasurer, and credited to the General Fund.

Section 10. Section 59-5-116 is amended to read:

59-5-116. Disposition of certain taxes collected on Ute Indian land.

(1) Except as provided in Subsection (2), there shall be deposited into the Uintah Basin Revitalization Fund established in Section 35A-8-1602:

(a) for taxes imposed under this part, 33% of the taxes collected on oil, gas, or other hydrocarbon substances produced from a well:

(i) for which production began on or before June 30, 1995; and

(ii) attributable to interests:

(A) held in trust by the United States for the Tribe and its members; or

(B) on lands identified in Pub. L. No. 440, 62 Stat. 72 (1948);

(b) for taxes imposed under this part, 80% of taxes collected on oil, gas, or other hydrocarbon substances produced from a well:

(i) for which production began on or after July 1, 1995; and

(ii) attributable to interests:

(A) held in trust by the United States for the Tribe and its members; or

(B) on lands identified in Pub. L. No. 440, 62 Stat. 72 (1948); and

(c) for taxes imposed under this part, 80% of taxes collected on oil, gas, or other hydrocarbon substances produced from a well:

(i) for which production began on or after January 1, 2001; and

(ii) attributable to interests on lands conveyed to the tribe under the Ute-Moab Land Restoration Act, Pub. L. No. 106-398, Sec. 3303.

(2) (a) The maximum amount deposited in the Uintah Basin Revitalization Fund may not exceed:

(i) $3,000,000 in fiscal year 2005-06;

(ii) $5,000,000 in fiscal year 2006-07;

(iii) $6,000,000 in fiscal years 2007-08 and 2008-09; and

(iv) for fiscal years beginning with fiscal year 2009-10, the amount determined by the commission as described in Subsection (2)(b).

(b) (i) The commission shall increase or decrease the dollar amount described in Subsection (2)(a)(iii) by a percentage equal to the percentage difference between the consumer price index for the preceding calendar year and the consumer price index for calendar year 2008; and

(ii) after making an increase or decrease under Subsection (2)(b)(i), round the dollar amount to the nearest whole dollar.

(c) For purposes of this Subsection (2), "consumer price index" is as described in Section 1(f)(4), Internal Revenue Code, and defined in Section (1)(f)(5), Internal Revenue Code.

(d) Any amounts in excess of the maximum described in Subsection (2)(a) shall be credited as provided in Sections 51-9-305, 51-9-306, 51-9-307, and 59-5-115.

Section 11. Section 59-5-119 is amended to read:

59-5-119. Disposition of certain taxes collected on Navajo Nation land located in Utah.

(1) Except as provided in Subsection (2), there shall be deposited into the Navajo Revitalization Fund established in Section 35A-8-1704 for taxes imposed under this part beginning on July 1, 1997:

(a) 33% of the taxes collected on oil, gas, or other hydrocarbon substances produced from a well:

(i) for which production began on or before June 30, 1996; and

(ii) attributable to interests in Utah held in trust by the United States for the Navajo Nation and its members; and

(b) 80% of the taxes collected on oil, gas, or other hydrocarbon substances produced from a well:

(i) for which production began on or after July 1, 1996; and

(ii) attributable to interests in Utah held in trust by the United States for the Navajo Nation and its members.

(2) (a) The maximum amount deposited in the Navajo Revitalization Fund may not exceed:

(i) $2,000,000 in fiscal year 2006-07; and

(ii) $3,000,000 for fiscal years beginning with fiscal year 2007-08.

(b) Any amounts in excess of the maximum described in Subsection (2)(a) shall be credited as provided in Sections 51-9-305, 51-9-306, 51-9-307, and 59-5-115.

Section 12. Section 59-5-215 is amended to read:

59-5-215. Disposition of taxes collected -- Credit to General Fund.

Except as provided in Section 51-9-305, 51-9-306, or 51-9-307, a tax imposed and collected under Section 59-5-202 shall be paid to the commission, promptly remitted to the state treasurer, and credited to the General Fund.

Section 13. Section 63I-1-263 is amended to read:

63I-1-263. Repeal dates, Titles 63A to 63N.

(1) In relation to the Utah Transparency Advisory Board, on January 1, 2025:

(a) Subsection 63A-1-201(1) is repealed;

(b) Subsection 63A-1-202(2)(c), the language "using criteria established by the board" is repealed;

(c) Section 63A-1-203 is repealed;

(d) Subsections 63A-1-204(1) and (2), the language "After consultation with the board, and" is repealed; and

(e) Subsection 63A-1-204(1)(b), the language "using the standards provided in Subsection 63A-1-203(3)(c)" is repealed.

(2) Subsection 63A-5b-405(5), relating to prioritizing and allocating capital improvement funding, is repealed July 1, 2024.

(3) Section 63A-5b-1003, State Facility Energy Efficiency Fund, is repealed July 1, 2023.

(4) Sections 63A-9-301 and 63A-9-302, related to the Motor Vehicle Review Committee, are repealed July 1, 2023.

(5) Title 63C, Chapter 4a, Constitutional and Federalism Defense Act, is repealed July 1, 2028.

(6) Title 63C, Chapter 6, Utah Seismic Safety Commission, is repealed January 1, 2025.

(7) Title 63C, Chapter 12, Snake Valley Aquifer Advisory Council, is repealed July 1, 2024.

(8) Title 63C, Chapter 17, Point of the Mountain Development Commission Act, is repealed July 1, 2021.

(9) Title 63C, Chapter 18, Behavioral Health Crisis Response Commission, is repealed July 1, 2023.

(10) Title 63C, Chapter 21, Outdoor Adventure Commission, is repealed July 1, 2025.

(11) Title 63F, Chapter 2, Data Security Management Council, is repealed July 1, 2025.

(12) Section 63G-6a-805, which creates the Purchasing from Persons with Disabilities Advisory Board, is repealed July 1, 2026.

(13) Title 63G, Chapter 21, Agreements to Provide State Services, is repealed July 1, 2025.

(14) Title 63H, Chapter 4, Heber Valley Historic Railroad Authority, is repealed July 1, 2024.

(15) Title 63H, Chapter 8, Utah Housing Corporation Act, is repealed July 1, 2026.

(16) Subsection 63J-1-602.1[~~(14)~~](17), Nurse Home Visiting Restricted Account is repealed July 1, 2026.

(17) (a) Subsection 63J-1-602.1[~~(58)~~](61), relating to the Utah Statewide Radio System Restricted Account, is repealed July 1, 2022.

(b) When repealing Subsection 63J-1-602.1[~~(58)~~](61), the Office of Legislative Research and General Counsel shall, in addition to the office's authority under Subsection 36-12-12(3), make necessary changes to subsection numbering and cross references.

(18) Subsection 63J-1-602.2(4), referring to dedicated credits to the Utah Marriage Commission, is repealed July 1, 2023.

(19) Subsection 63J-1-602.2(5), referring to the Trip Reduction Program, is repealed July 1, 2022.

(20) Subsection 63J-1-602.2(25), related to the Utah Seismic Safety Commission, is repealed January 1, 2025.

(21) Title 63J, Chapter 4, Part 5, Resource Development Coordinating Committee, is repealed July 1, 2027.

(22) Subsection 63J-4-608(3), which creates the Federal Land Application Advisory Committee, is repealed on July 1, 2021.

(23) In relation to the Utah Substance Use and Mental Health Advisory Council, on January 1, 2023:

(a) Sections 63M-7-301, 63M-7-302, 63M-7-303, 63M-7-304, and 63M-7-306 are repealed;

(b) Section 63M-7-305, the language that states "council" is replaced with "commission";

(c) Subsection 63M-7-305(1) is repealed and replaced with:

"(1) "Commission" means the Commission on Criminal and Juvenile Justice."; and

(d) Subsection 63M-7-305(2) is repealed and replaced with:

"(2) The commission shall:

(a) provide ongoing oversight of the implementation, functions, and evaluation of the Drug-Related Offenses Reform Act; and

(b) coordinate the implementation of Section 77-18-1.1 and related provisions in Subsections 77-18-1(5)(b)(iii) and (iv).".

(24) The Crime Victim Reparations and Assistance Board, created in Section 63M-7-504, is repealed July 1, 2027.

(25) Title 63M, Chapter 7, Part 6, Utah Council on Victims of Crime, is repealed July 1, 2022.

(26) Title 63M, Chapter 11, Utah Commission on Aging, is repealed July 1, 2021.

(27) Subsection 63N-1-301(4)(c), related to the Talent Ready Utah Board, is repealed January 1, 2023.

(28) Title 63N, Chapter 1, Part 5, Governor's Economic Development Coordinating Council, is repealed July 1, 2024.

(29) Title 63N, Chapter 2, Part 2, Enterprise Zone Act, is repealed July 1, 2028.

(30) Section 63N-2-512 is repealed July 1, 2021.

(31) (a) Title 63N, Chapter 2, Part 6, Utah Small Business Jobs Act, is repealed January 1, 2021.

(b) Section 59-9-107 regarding tax credits against premium taxes is repealed for calendar years beginning on or after January 1, 2021.

(c) Notwithstanding Subsection (31)(b), an entity may carry forward a tax credit in accordance with Section 59-9-107 if:

(i) the person is entitled to a tax credit under Section 59-9-107 on or before December 31, 2020; and

(ii) the qualified equity investment that is the basis of the tax credit is certified under Section 63N-2-603 on or before December 31, 2023.

(32) Subsections 63N-3-109(2)(e) and 63N-3-109(2)(f)(i) are repealed July 1, 2023.

(33) Title 63N, Chapter 4, Part 4, Rural Employment Expansion Program, is repealed July 1, 2023.

(34) Title 63N, Chapter 7, Part 1, Board of Tourism Development, is repealed July 1, 2025.

(35) Title 63N, Chapter 9, Part 2, Outdoor Recreational Infrastructure Grant Program, is repealed January 1, 2023.

(36) Title 63N, Chapter 12, Part 5, Talent Ready Utah Center, is repealed January 1, 2023.

Section 14. Section 63I-2-263 is amended to read:

63I-2-263. Repeal dates, Title 63A to Title 63N.

(1) On July 1, 2020:

(a) Subsection 63A-1-203(5)(a)(i) is repealed; and

(b) in Subsection 63A-1-203(5)(a)(ii), the language that states "appointed on or after May 8, 2018," is repealed.

(2) Section 63A-3-111 is repealed June 30, 2021.

(3) Title 63C, Chapter 19, Higher Education Strategic Planning Commission is repealed July 1, 2021.

(4) Title 63C, Chapter 22, Digital Wellness, Citizenship, and Safe Technology Commission is repealed July 1, 2023.

(5) The following sections regarding the World War II Memorial Commission are repealed on July 1, 2022:

(a) Section 63G-1-801;

(b) Section 63G-1-802;

(c) Section 63G-1-803; and

(d) Section 63G-1-804.

(6) Subsections 63G-6a-802(1)(d) and 63G-6a-802(3)(b)(iii), regarding a procurement relating to a vice presidential debate, are repealed January 1, 2021.

(7) In relation to the State Fair Park Committee, on January 1, 2021:

(a) Section 63H-6-104.5 is repealed; and

(b) Subsections 63H-6-104(8) and (9) are repealed.

(8) Section 63H-7a-303 is repealed July 1, 2024.

(9) Subsection 63J-1-206(3)(c), relating to coronavirus, is repealed July 1, 2021.

(10) In relation to the Employability to Careers Program Board, on July 1, 2022:

(a) Subsection 63J-1-602.1[~~(57)~~](62) is repealed;

(b) Subsection 63J-4-301(1)(h), related to the review of data and metrics, is repealed; and

(c) Title 63J, Chapter 4, Part 7, Employability to Careers Program, is repealed.

(11) Title 63M, Chapter 4, Part 8, Voluntary Home Energy Information Pilot Program Act, is repealed January 1, 2022.

(12) Sections 63M-7-213 and 63M-7-213.5 are repealed on January 1, 2023.

(13) Subsection 63N-12-508(3) is repealed December 31, 2021.

(14) Title 63N, Chapter 13, Part 3, Facilitating [~~Public-Private~~] Public-private Partnerships Act, is repealed January 1, 2024.

(15) Title 63N, Chapter 15, COVID-19 Economic Recovery Programs, is repealed December 31, 2021.

Section 15. Section 63J-1-602.1 is amended to read:

63J-1-602.1. List of nonlapsing appropriations from accounts and funds.

Appropriations made from the following accounts or funds are nonlapsing:

(1) The Utah Intracurricular Student Organization Support for Agricultural Education and Leadership Restricted Account created in Section 4-42-102.

(2) The Native American Repatriation Restricted Account created in Section 9-9-407.

(3) The Martin Luther King, Jr. Civil Rights Support Restricted Account created in Section 9-18-102.

(4) The National Professional Men's Soccer Team Support of Building Communities Restricted Account created in Section 9-19-102.

(5) Funds collected for directing and administering the C-PACE district created in Section 11-42a-106.

(6) Money received by the Utah Inland Port Authority, as provided in Section 11-58-105.

(7) The "Latino Community Support Restricted Account" created in Section 13-1-16.

(8) The Clean Air Support Restricted Account created in Section 19-1-109.

(9) The Division of Air Quality Oil, Gas, and Mining Restricted Account created in Section 19-2a-106.

(10) The Division of Water Quality Oil, Gas, and Mining Restricted Account created in Section 19-5-126.

[~~(9)~~] (11) The "Support for State-Owned Shooting Ranges Restricted Account" created in Section 23-14-13.5.

[~~(10)~~] (12) Award money under the State Asset Forfeiture Grant Program, as provided under Section 24-4-117.

[~~(11)~~] (13) Funds collected from the program fund for local health department expenses incurred in responding to a local health emergency under Section 26-1-38.

[~~(12)~~] (14) The Children with Cancer Support Restricted Account created in Section 26-21a-304.

[~~(13)~~] (15) State funds for matching federal funds in the Children's Health Insurance Program as provided in Section 26-40-108.

[~~(14)~~] (16) The Children with Heart Disease Support Restricted Account created in Section 26-58-102.

[~~(15)~~] (17) The Nurse Home Visiting Restricted Account created in Section 26-63-601.

[~~(16)~~] (18) The Technology Development Restricted Account created in Section 31A-3-104.

[~~(17)~~] (19) The Criminal Background Check Restricted Account created in Section 31A-3-105.

[~~(18)~~] (20) The Captive Insurance Restricted Account created in Section 31A-3-304, except to the extent that Section 31A-3-304 makes the money received under that section free revenue.

[~~(19)~~] (21) The Title Licensee Enforcement Restricted Account created in Section 31A-23a-415.

[~~(20)~~] (22) The Health Insurance Actuarial Review Restricted Account created in Section 31A-30-115.

[~~(21)~~] (23) The Insurance Fraud Investigation Restricted Account created in Section 31A-31-108.

[~~(22)~~] (24) The Underage Drinking Prevention Media and Education Campaign Restricted Account created in Section 32B-2-306.

[~~(23)~~] (25) The School Readiness Restricted Account created in Section 35A-15-203.

[~~(24)~~] (26) Money received by the Utah State Office of Rehabilitation for the sale of certain products or services, as provided in Section 35A-13-202.

[~~(25)~~] (27) The Oil and Gas Administrative Penalties Account created in Section 40-6-11.

[~~(26)~~] (28) The Oil and Gas Conservation Account created in Section 40-6-14.5.

(29) The Division of Oil, Gas, and Mining Restricted account created in Section 40-6-23.

[~~(27)~~] (30) The Electronic Payment Fee Restricted Account created by Section 41-1a-121 to the Motor Vehicle Division.

[~~(28)~~] (31) The Motor Vehicle Enforcement Division Temporary Permit Restricted Account created by Section 41-3-110 to the State Tax Commission.

[~~(29)~~] (32) The Utah Law Enforcement Memorial Support Restricted Account created in Section 53-1-120.

[~~(30)~~] (33) The State Disaster Recovery Restricted Account to the Division of Emergency Management, as provided in Section 53-2a-603.

[~~(31)~~] (34) The Department of Public Safety Restricted Account to the Department of Public Safety, as provided in Section 53-3-106.

[~~(32)~~] (35) The Utah Highway Patrol Aero Bureau Restricted Account created in Section 53-8-303.

[~~(33)~~] (36) The DNA Specimen Restricted Account created in Section 53-10-407.

[~~(34)~~] (37) The Canine Body Armor Restricted Account created in Section 53-16-201.

[~~(35)~~] (38) The Technical Colleges Capital Projects Fund created in Section 53B-2a-118.

[~~(36)~~] (39) The Higher Education Capital Projects Fund created in Section 53B-22-202.

[~~(37)~~] (40) A certain portion of money collected for administrative costs under the School Institutional Trust Lands Management Act, as provided under Section 53C-3-202.

[~~(38)~~] (41) The Public Utility Regulatory Restricted Account created in Section 54-5-1.5, subject to Subsection 54-5-1.5(4)(d).

[~~(39)~~] (42) Funds collected from a surcharge fee to provide certain licensees with access to an electronic reference library, as provided in Section 58-3a-105.

[~~(40)~~] (43) Certain fines collected by the Division of Occupational and Professional Licensing for violation of unlawful or unprofessional conduct that are used for education and enforcement purposes, as provided in Section 58-17b-505.

[~~(41)~~] (44) Funds collected from a surcharge fee to provide certain licensees with access to an electronic reference library, as provided in Section 58-22-104.

[~~(42)~~] (45) Funds collected from a surcharge fee to provide certain licensees with access to an electronic reference library, as provided in Section 58-55-106.

[~~(43)~~] (46) Funds collected from a surcharge fee to provide certain licensees with access to an electronic reference library, as provided in Section 58-56-3.5.

[~~(44)~~] (47) Certain fines collected by the Division of Occupational and Professional Licensing for use in education and enforcement of the Security Personnel Licensing Act, as provided in Section 58-63-103.

[~~(45)~~] (48) The Relative Value Study Restricted Account created in Section 59-9-105.

[~~(46)~~] (49) The Cigarette Tax Restricted Account created in Section 59-14-204.

[~~(47)~~] (50) Funds paid to the Division of Real Estate for the cost of a criminal background check for a mortgage loan license, as provided in Section 61-2c-202.

[~~(48)~~] (51) Funds paid to the Division of Real Estate for the cost of a criminal background check for principal broker, associate broker, and sales agent licenses, as provided in Section 61-2f-204.

[~~(49)~~] (52) Certain funds donated to the Department of Human Services, as provided in Section 62A-1-111.

[~~(50)~~] (53) The National Professional Men's Basketball Team Support of Women and Children Issues Restricted Account created in Section 62A-1-202.

[~~(51)~~] (54) Certain funds donated to the Division of Child and Family Services, as provided in Section 62A-4a-110.

[~~(52)~~] (55) The Choose Life Adoption Support Restricted Account created in Section 62A-4a-608.

[~~(53)~~] (56) Funds collected by the Office of Administrative Rules for publishing, as provided in Section 63G-3-402.

[~~(54)~~] (57) The Immigration Act Restricted Account created in Section 63G-12-103.

[~~(55)~~] (58) Money received by the military installation development authority, as provided in Section 63H-1-504.

[~~(56)~~] (59) The Computer Aided Dispatch Restricted Account created in Section 63H-7a-303.

[~~(57)~~] (60) The Unified Statewide 911 Emergency Service Account created in Section 63H-7a-304.

[~~(58)~~] (61) The Utah Statewide Radio System Restricted Account created in Section 63H-7a-403.

[~~(59)~~] (62) The Employability to Careers Program Restricted Account created in Section 63J-4-703.

[~~(60)~~] (63) The Motion Picture Incentive Account created in Section 63N-8-103.

[~~(61)~~] (64) Certain money payable for expenses of the Pete Suazo Utah Athletic Commission, as provided under Section 63N-10-301.

[~~(62)~~] (65) Funds collected by the housing of state probationary inmates or state parole inmates, as provided in Subsection 64-13e-104(2).

[~~(63)~~] (66) Certain forestry and fire control funds utilized by the Division of Forestry, Fire, and State Lands, as provided in Section 65A-8-103.

[~~(64)~~] (67) The Transportation of Veterans to Memorials Support Restricted Account created in Section 71-14-102.

[~~(65)~~] (68) The Amusement Ride Safety Restricted Account, as provided in Section 72-16-204.

[~~(66)~~] (69) Certain funds received by the Office of the State Engineer for well drilling fines or bonds, as provided in Section 73-3-25.

[~~(67)~~] (70) The Water Resources Conservation and Development Fund, as provided in Section 73-23-2.

[~~(68)~~] (71) Funds donated or paid to a juvenile court by private sources, as provided in Subsection 78A-6-203(1)(c).

[~~(69)~~] (72) Fees for certificate of admission created under Section 78A-9-102.

[~~(70)~~] (73) Funds collected for adoption document access as provided in Sections 78B-6-141, 78B-6-144, and 78B-6-144.5.

[~~(71)~~] (74) Funds collected for indigent defense as provided in Title 78B, Chapter 22, Part 4, Utah Indigent Defense Commission.

(75) The Utah Geological Survey Oil, Gas, and Mining Restricted Account created in Section 79-3-403.

[~~(72)~~] (76) Revenue for golf user fees at the Wasatch Mountain State Park, Palisades State Park, Jordan River State Park, and Green River State Park, as provided under Section 79-4-403.

[~~(73)~~] (77) Certain funds received by the Division of Parks and Recreation from the sale or disposal of buffalo, as provided under Section 79-4-1001.

[~~(74)~~] (78) The Drinking While Pregnant Prevention Media and Education Campaign Restricted Account created in Section 32B-2-308.

Section 16. Section 79-3-403 is enacted to read:

79-3-403. Utah Geological Survey Oil, Gas, and Mining Restricted Account.

(1) As used in this section:

(a) "Account" means the Utah Geological Survey Oil, Gas, and Mining Restricted Account created by this section.

(b) "Survey" means the Utah Geological Survey.

(2) (a) There is created a restricted account within the General Fund known as the "Utah Geological Survey Oil, Gas, and Mining Restricted Account."

(b) The account consists of:

(i) deposits to the account made under Section 51-9-306;

(ii) appropriations of the Legislature; and

(iii) interest and other earnings described in Subsection (2)(c).

(c) The Office of the Treasurer shall deposit interest and other earnings derived from investment of money in the account into the account.

(3) (a) Upon appropriation by the Legislature, the survey shall use money from the account to pay costs of programs or projects administered by the survey that are primarily related to oil, gas, and mining.

(b) An appropriation provided for under this section is not intended to replace the following that is otherwise allocated for the programs or projects described in Subsection (3)(a):

(i) federal money; or

(ii) a dedicated credit.

(4) Appropriations made in accordance with this section are nonlapsing in accordance with Section 63J-1-602.1.

CHAPTER 402
S. B. 136
Passed February 25, 2021
Approved March 22, 2021
Effective May 5, 2021

HIGHER EDUCATION SCHOLARSHIPS AMENDMENTS

Chief Sponsor: Derrin R. Owens
House Sponsor: V. Lowry Snow

LONG TITLE

General Description:

This bill provides for the Opportunity Scholarship Program and amends provisions related to higher education scholarships.

Highlighted Provisions:

This bill:

- forecloses new applications for a New Century scholarship after the current academic year;
- expands the eligibility and extends the availability of technical education scholarships;
- replaces the Regents' Scholarship Program with the Opportunity Scholarship Program for degree-granting institutions and amends related provisions;
- repeals certain repeal dates; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53B-1-301, as last amended by Laws of Utah 2020, Chapters 365 and 403
53B-8-105, as last amended by Laws of Utah 2020, Chapters 196 and 386
53B-8-115, as last amended by Laws of Utah 2020, Chapter 196
53B-8-201, as last amended by Laws of Utah 2020, Chapters 365 and 445
63G-12-402, as last amended by Laws of Utah 2019, Chapter 444
63I-2-253, as last amended by Laws of Utah 2020, Sixth Special Session, Chapter 13

REPEALS:

53B-2a-116, as last amended by Laws of Utah 2020, Chapter 365

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53B-1-301 is amended to read:

53B-1-301. Reports to and actions of the Higher Education Appropriations Subcommittee.

(1) In accordance with applicable provisions and Section 68-3-14, the following recurring reports are due to the Higher Education Appropriations Subcommittee:

(a) the reports described in Sections 34A-2-202.5, 53B-17-804, and 59-9-102.5 by the Rocky Mountain Center for Occupational and Environmental Health;

(b) the report described in Section 53B-7-101 by the board on recommended appropriations for higher education institutions, including the report described in Section 53B-8-104 by the board on the effects of offering nonresident partial tuition scholarships;

(c) the report described in Section 53B-7-704 by the Department of Workforce Services and the Governor's Office of Economic Development on targeted jobs;

(d) the reports described in Section 53B-7-705 by the board on performance;

(e) the report described in Section 53B-8-201 by the board on the [~~Regents'~~] Opportunity Scholarship Program;

(f) the report described in Section 53B-8-303 by the board regarding Access Utah promise scholarships;

(g) the report described in Section 53B-8d-104 by the Division of Child and Family Services on tuition waivers for wards of the state;

(h) the report described in Section 53B-12-107 by the Utah Higher Education Assistance Authority;

(i) the report described in Section 53B-13a-104 by the board on the Success Stipend Program;

(j) the report described in Section 53B-17-201 by the University of Utah regarding the Miners' Hospital for Disabled Miners;

(k) the report described in Section 53B-26-103 by the Governor's Office of Economic Development on high demand technical jobs projected to support economic growth;

(l) the report described in Section 53B-26-202 by the Medical Education Council on projected demand for nursing professionals; and

(m) the report described in Section 53E-10-308 by the State Board of Education and board on student participation in the concurrent enrollment program.

(2) In accordance with applicable provisions and Section 68-3-14, the following occasional reports are due to the Higher Education Appropriations Subcommittee:

(a) upon request, the information described in Section 53B-8a-111 submitted by the Utah Educational Savings Plan;

(b) as described in Section 53B-26-103, a proposal by an eligible partnership related to workforce needs for technical jobs projected to support economic growth;

(c) a proposal described in Section 53B-26-202 by an eligible program to respond to projected demand for nursing professionals;

(d) a report in 2023 from Utah Valley University and the Utah Fire Prevention Board on the fire and

rescue training program described in Section 53B-29-202; and

(e) the reports described in Section 63C-19-202 by the Higher Education Strategic Planning Commission on the commission's progress.

(3) In accordance with applicable provisions, the Higher Education Appropriations Subcommittee shall complete the following:

(a) as required by Section 53B-7-703, the review of performance funding described in Section 53B-7-703;

(b) the review described in Section 53B-7-705 of the implementation of performance funding;

(c) an appropriation recommendation described in Section 53B-26-103 to fund a proposal responding to workforce needs of a strategic industry cluster;

(d) an appropriation recommendation described in Section 53B-26-202 to fund a proposal responding to projected demand for nursing professionals; and

(e) review of the report described in Section 63B-10-301 by the University of Utah on the status of a bond and bond payments specified in Section 63B-10-301.

Section 2. Section 53B-8-105 is amended to read:

53B-8-105. New Century scholarships -- High school requirements.

(1) Notwithstanding the provisions of this section, the board may not accept a new application for a scholarship described in this section on or after August 15, 2021.

[~~(1)~~] (2) As used in this section:

(a) "Complete the requirements for an associate degree" means that a student:

(i) (A) completes all the required courses for an associate degree from a higher education institution within the state system of higher education that offers associate degrees; and

(B) applies for the associate degree from the institution; or

(ii) completes equivalent requirements described in Subsection [~~(1)~~] (2)(a)(i)(A) from a higher education institution within the state system of higher education that offers baccalaureate degrees but does not offer associate degrees.

(b) "Fee" means a fee approved by the board.

[~~(2)~~] (3) (a) The board shall award New Century scholarships.

(b) The board shall develop and approve the math and science curriculum described under Subsection [~~(3)~~] (4)(a)(ii).

[~~(3)~~] (4) (a) In order to qualify for a New Century scholarship, a student in Utah schools shall complete the requirements for an:

(i) associate degree; or

(ii) approved math and science curriculum.

(b) The requirements under Subsection [~~(3)~~] (4)(a) shall be completed:

(i) by the day on which the student's class graduates from high school; and

(ii) with at least a 3.0 grade point average.

(c) In addition to the requirements in Subsection [~~(3)~~] (4)(a), a student in Utah shall:

(i) complete the high school graduation requirements of:

(A) a public high school established by the State Board of Education and the student's school district or charter school; or

(B) a private high school in the state that is accredited by a regional accrediting body approved by the board; and

(ii) complete high school with at least a 3.5 cumulative high school grade point average.

[~~(4)~~] (5) Notwithstanding Subsection [~~(3)~~] (4), for a student who does not receive a high school grade point average, the student shall:

(a) complete the requirements for an associate degree:

(i) by June 15 of the year the student completes high school; and

(ii) with at least a 3.0 grade point average; and

(b) score a composite ACT score of 26 or higher.

[~~(5)~~] (6) (a) To be eligible for the scholarship, a student:

(i) shall submit an application to the board with:

(A) an official college transcript showing college courses the student has completed to complete the requirements for an associate degree; and

(B) if applicable, an official high school transcript or, if applicable, a copy of the student's ACT scores;

(ii) shall be a citizen of the United States or a noncitizen who is eligible to receive federal student aid;

(iii) if applicable, shall meet the application deadlines as established by the board under Subsection [~~(10)~~] (11); and

(iv) shall demonstrate, in accordance with rules described in Subsection [~~(5)~~] (6)(b), the completion of a Free Application for Federal Student Aid.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the board shall make rules regarding the completion of the Free Application for Federal Student Aid described in Subsection [~~(5)~~] (6)(a)(iv), including:

(i) provisions for students or parents to opt out of the requirement due to:

(A) financial ineligibility for any potential grant or other financial aid;

(B) personal privacy concerns; or

(C) other reasons the board specifies; and

(ii) direction for applicants to financial aid advisors.

[~~(6)~~] (7) (a) The scholarship may be used at a:

(i) higher education institution within the state system of higher education that offers baccalaureate programs; or

(ii) if the scholarship holder applies for the scholarship on or before October 1, 2019, private, nonprofit college or university in the state accredited by the Northwest Association of Schools and Colleges that offers baccalaureate programs.

(b) (i) Subject to Subsection [~~(6)~~] (7)(e), the total value of the scholarship is up to $5,000, allocated over a time period described in Subsection [~~(6)~~] (7)(c), as prescribed by the board.

(ii) The board may increase the scholarship amount described in Subsection [~~(6)~~] (7)(b)(i) by an amount not to exceed the average percentage tuition increase approved by the board for institutions in the state system of higher education.

(c) The scholarship is valid for the shortest of the following time periods:

(i) two years of full-time equivalent enrollment;

(ii) 60 credit hours; or

(iii) until the student meets the requirements for a baccalaureate degree.

(d) (i) A scholarship holder shall enroll full-time at a higher education institution by no later than the fall term immediately following the student's high school graduation date or receive an approved deferral from the board.

(ii) The board may grant a deferral or leave of absence to a scholarship holder, but the scholarship holder may only receive scholarship money within five years of the student's high school graduation date.

(e) For a scholarship for which a student applies after October 1, 2019:

(i) the board shall reduce the amount of the scholarship holder's scholarship so that the total amount of state aid awarded to the scholarship holder, including tuition or fee waivers or the scholarship, does not exceed the cost of the scholarship holder's tuition and fees; and

(ii) the scholarship holder may only use the scholarship for tuition and fees.

[~~(7)~~] (8) The board may cancel a New Century scholarship at any time if the student fails to:

(a) register for at least 15 credit hours per semester;

(b) maintain a 3.3 grade point average for two consecutive semesters; or

(c) make reasonable progress toward the completion of a baccalaureate degree.

[~~(8)~~] (9) (a) Subject to future budget constraints, the Legislature shall make an annual appropriation from the General Fund to the board for the costs associated with the New Century Scholarship Program authorized under this section.

(b) It is understood that the appropriation is offset in part by the state money that would otherwise be required and appropriated for these students if they were enrolled in a four-year postsecondary program at a state-operated institution.

(c) Notwithstanding Subsections [~~(2)~~] (3)(a) and [~~(6)~~] (7), if the appropriation under Subsection [~~(8)~~] (9)(a) is insufficient to cover the costs associated with the New Century Scholarship Program, the board may reduce the scholarship amount.

(d) If money appropriated under this section is available after New Century scholarships are awarded, the board shall use the money for the Access Utah Promise Scholarship Program created in Section 53B-8-302.

[~~(9)~~] (10) (a) The board shall adopt policies establishing an application process and an appeal process for a New Century scholarship.

(b) The board shall disclose on all applications and related materials that the amount of the scholarship is subject to funding and may be reduced, in accordance with Subsection [~~(8)~~] (9)(c).

(c) The board shall require an applicant for a New Century scholarship to certify under penalty of perjury that:

(i) the applicant is a United States citizen; or

(ii) the applicant is a noncitizen who is eligible to receive federal student aid.

(d) The certification under this Subsection [~~(9)~~] (10) shall include a statement advising the signer that providing false information subjects the signer to penalties for perjury.

[~~(10)~~] (11) The board may set deadlines for receiving New Century scholarship applications and supporting documentation.

[~~(11)~~] (12) A student may not receive both a New Century scholarship and [~~a Regents'~~] an Opportunity scholarship established in [~~Part 2, Regents' Scholarship Program~~] Part 2, Opportunity Scholarship Program.

Section 3. Section 53B-8-115 is amended to read:

53B-8-115. Technical education scholarships.

(1) As used in this section:

(a) "Eligible institution" means:

(i) Salt Lake Community College's School of Applied Technology established in Section 53B-16-209;

(ii) Snow College;

(iii) Utah State University Eastern established in Section 53B-18-1201;

(iv) Utah State University Blanding established in Section 53B-18-1202; [~~or~~]

(v) the Utah State University regional campus located at or near Moab described in Section 53B-18-301[~~.~~]; or

(vi) a technical college.

(b) "High demand program" means a [~~noncredit career and~~] technical education program that:

(i) is offered by an eligible institution;

(ii) leads to a certificate; and

(iii) is designated by the board in accordance with Subsection (6).

(c) "Scholarship" means a [~~career and~~] technical education scholarship described in this section.

(2) Subject to future budget constraints, the Legislature shall annually appropriate money to the board to be distributed to eligible institutions to award [~~career and~~] technical education scholarships.

(3) In accordance with the rules described in Subsection (5), an eligible institution may award a scholarship to an individual who:

(a) is enrolled in, or intends to enroll in, a high demand program; and

(b) demonstrates, in accordance with rules described in Subsection (5)(b), the completion of a Free Application for Federal Student Aid.

(4) (a) An eligible institution may award a scholarship for an amount of money up to the total cost of tuition, fees, and required textbooks for the high demand program in which the scholarship recipient is enrolled or intends to enroll.

(b) An eligible institution may award a scholarship to a scholarship recipient for up to [~~two~~] three academic years.

(c) An eligible institution may cancel a scholarship if the scholarship recipient does not:

(i) maintain enrollment in the eligible institution on at least a half time basis, as determined by the eligible institution; or

(ii) make satisfactory progress toward the completion of a certificate.

(5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the board shall make rules:

(a) that establish:

(i) how state funding available for scholarships is divided among eligible institutions;

(ii) requirements related to an eligible institution's administration of a scholarship;

(iii) requirements related to eligibility for a scholarship, including requiring eligible institutions to prioritize scholarships for underserved populations;

(iv) a process for an individual to apply to an eligible institution to receive a scholarship; and

(v) how to determine satisfactory progress described in Subsection (4)(c)(ii); and

(b) regarding the completion of the Free Application for Federal Student Aid described in Subsection (3)(b), including:

(i) provisions for students or parents to opt out of the requirement due to:

(A) financial ineligibility for any potential grant or other financial aid;

(B) personal privacy concerns; or

(C) other reasons the board specifies; and

(ii) direction for applicants to financial aid advisors.

(6) Every other year, after consulting with the Department of Workforce Services, the board shall designate, as a high demand program, a [~~noncredit career and~~] technical education program that prepares an individual to work in a job that has, in Utah:

(a) high employer demand and high median hourly wages; or

(b) significant industry importance.

Section 4. Section 53B-8-201 is amended to read:

53B-8-201. Opportunity Scholarship Program.

(1) As used in this section:

(a) "Eligible institution" means:

(i) [~~an~~] a degree-granting institution of higher education within the state system of higher education [~~described in Section 53B-1-102~~]; or

(ii) a private, nonprofit college or university in the state that is accredited by the Northwest Commission on Colleges and Universities.

(b) "Eligible student" means a student who:

(i) applies to the board in accordance with the rules described in Subsection [~~(6)~~] (5);

(ii) is enrolled in an eligible institution; and

(iii) meets the criteria established by the board in rules described in Subsection [~~(6)~~] (5).

(c) "Fee" means:

(i) for an eligible institution that is a degree-granting institution, a fee approved by the board; or

(ii) for an eligible institution that is a technical college, a fee approved by the eligible institution.

(d) "Program" means the [~~Regents'~~] Opportunity Scholarship Program described in this section.

[~~(2) (a) A student who graduates from high school after July 1, 2018:~~]

[~~(i) may receive a Regents' scholarship in accordance with this section; and~~]

[~~(ii) may not receive a scholarship in accordance with Sections 53B-8-202 through 53B-8-205.~~]

[~~(b) A student who graduates from high school on or before July 1, 2018:~~]

[~~(i) may receive a scholarship in accordance with Sections 53B-8-202 through 53B-8-205; and~~]

[~~(ii) may not receive a Regents' scholarship in accordance with this section.~~]

[~~(3)~~] (2) (a) Subject to legislative appropriations, [~~beginning with an appropriation for fiscal year 2019,~~] the board shall annually distribute money for the [~~Regents'~~] Opportunity Scholarship Program described in this section to each eligible institution to award as [~~Regents'~~] Opportunity scholarships to eligible students.

(b) The board shall annually determine the amount of [~~a Regents'~~] an Opportunity scholarship based on:

(i) the number of eligible students in the state; and

(ii) money available for the program.

[~~(c) (i) Subject to Subsection (3)(c)(ii), the board shall annually determine the total amount of money to distribute to an eligible institution based on the eligible institution's share of all eligible students in the state.~~]

[~~(ii) The board may not allocate a percentage of a legislative appropriation for Regents' scholarships to any one eligible institution described in Subsection (1)(a)(ii) that is greater than the highest percentage of the legislative appropriation that the board allocates to an eligible institution described in Subsection (1)(a)(i).~~]

[~~(4)~~] (3) (a) Except as provided in this Subsection [~~(4)~~] (3), an eligible institution shall provide to an eligible student [~~a Regents'~~] an Opportunity scholarship in the amount determined by the board described in Subsection [~~(3)~~] (2)(b).

(b) For [~~a Regents'~~] an Opportunity scholarship for which an eligible student applies on or before July 1, 2019, an eligible institution may reduce the amount of the [~~Regents'~~] Opportunity scholarship based on other state aid awarded to the eligible student for tuition and fees.

(c) For [~~a Regents'~~] an Opportunity scholarship for which an eligible student applies after July 1, 2019:

(i) an eligible institution shall reduce the amount of the [~~Regents'~~] Opportunity scholarship so that the total amount of state aid awarded to the eligible student, including tuition or fee waivers and the [~~Regents'~~] Opportunity scholarship, does not exceed the cost of the eligible student's tuition and fees; and

(ii) the eligible student may only use the [~~Regents'~~] Opportunity scholarship for tuition and fees.

(d) An institution described in Subsection (1)(a)(ii) may not award [~~a Regents'~~] an Opportunity scholarship to an eligible student in an amount that exceeds the average total cost of tuition and fees among the eligible institutions described in Subsection (1)(a)(i).

(e) If the allocation for an eligible institution described in Subsection (1)(a)(ii) is insufficient to provide the amount described in Subsection [~~(3)~~] (2)(b) to each eligible student, the eligible institution may reduce the amount of [~~a Regents'~~] an Opportunity scholarship.

[~~(5)~~] (4) The board may:

(a) audit an eligible institution's administration of [~~Regents'~~] Opportunity scholarships;

(b) require an eligible institution to repay to the board money distributed to the eligible institution under this section that is not provided to an eligible student as [~~a Regents'~~] an Opportunity scholarship; and

(c) require an eligible institution to enter into a written agreement with the board in which the eligible institution agrees to provide the board with access to information and data necessary for the purposes of the program.

[~~(6)~~] (5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the board shall make rules that establish:

(a) requirements related to an eligible institution's administration of [~~Regents'~~] Opportunity scholarships;

(b) a process for a student to apply to the board to determine the student's eligibility for [~~a Regents'~~] an Opportunity scholarship;

(c) criteria to determine a student's eligibility for [~~a Regents'~~] an Opportunity scholarship, including:

(i) minimum secondary education academic performance standards; and

[~~(ii) the completion of secondary core curriculum and graduation requirements;~~]

[~~(iii)~~] (ii) the completion of a Free Application for Federal Student Aid;

[~~(iv) need-based measures that address college affordability and access; and~~]

[~~(v) minimum enrollment requirements in an eligible institution; and~~]

(d) a requirement for each eligible institution to annually report to the board on all [~~Regents'~~] Opportunity scholarships awarded by the eligible institution[~~.~~]; and

(e) a process for a student to apply to the board for an Opportunity scholarship who would have likely received the scholarship but for an irreconcilable error in the application process described in Subsection (5)(b).

[~~(7)~~] (6) The board shall annually report on the program to the Higher Education Appropriations Subcommittee.

[~~(8) (a)~~] (7) The State Board of Education, a school district, or a public high school shall cooperate with the board and eligible institutions to facilitate the program, including by exchanging relevant data where allowed by law.

[~~(b) The State Board of Education shall annually provide to the board a list of directory information, including name and address, for each grade 8 student in the state.~~]

[~~(9) If money appropriated under this section is available after Regents' scholarships are awarded, the board shall use the money for the Access Utah Promise Scholarship Program created in Section 53B-8-302~~].

Section 5. Section 63G-12-402 is amended to read:

63G-12-402. Receipt of state, local, or federal public benefits -- Verification -- Exceptions -- Fraudulently obtaining benefits -- Criminal penalties -- Annual report.

(1) (a) Except as provided in Subsection (3) or when exempted by federal law, an agency or political subdivision of the state shall verify the lawful presence in the United States of an individual at least 18 years of age who applies for:

(i) a state or local public benefit as defined in 8 U.S.C. Sec. 1621; or

(ii) a federal public benefit as defined in 8 U.S.C. Sec. 1611, that is administered by an agency or political subdivision of this state.

(b) For purpose of a license issued under Title 58, Chapter 55, Utah Construction Trades Licensing Act, to an applicant that is an unincorporated entity, the Department of Commerce shall verify in accordance with this Subsection (1) the lawful presence in the United States of each individual who:

(i) owns an interest in the contractor that is an unincorporated entity; and

(ii) engages, or will engage, in a construction trade in Utah as an owner of the contractor described in Subsection (1)(b)(i).

(2) This section shall be enforced without regard to race, religion, gender, ethnicity, or national origin.

(3) Verification of lawful presence under this section is not required for:

(a) any purpose for which lawful presence in the United States is not restricted by law, ordinance, or regulation;

(b) assistance for health care items and services that:

(i) are necessary for the treatment of an emergency medical condition, as defined in 42 U.S.C. Sec. 1396b(v)(3), of the individual involved; and

(ii) are not related to an organ transplant procedure;

(c) short-term, noncash, in-kind emergency disaster relief;

(d) public health assistance for immunizations with respect to immunizable diseases and for testing and treatment of symptoms of communicable diseases whether or not the symptoms are caused by the communicable disease;

(e) programs, services, or assistance such as soup kitchens, crisis counseling and intervention, and short-term shelter, specified by the United States Attorney General, in the sole and unreviewable discretion of the United States Attorney General after consultation with appropriate federal agencies and departments, that:

(i) deliver in-kind services at the community level, including through public or private nonprofit agencies;

(ii) do not condition the provision of assistance, the amount of assistance provided, or the cost of assistance provided on the income or resources of the individual recipient; and

(iii) are necessary for the protection of life or safety;

(f) the exemption for paying the nonresident portion of total tuition as set forth in Section 53B-8-106;

(g) an applicant for a license under Section 61-1-4, if the applicant:

(i) is registered with the Financial Industry Regulatory Authority; and

(ii) files an application with the state Division of Securities through the Central Registration Depository;

(h) a state public benefit to be given to an individual under Title 49, Utah State Retirement and Insurance Benefit Act;

(i) a home loan that will be insured, guaranteed, or purchased by:

(i) the Federal Housing Administration, the Veterans Administration, or any other federal agency; or

(ii) an enterprise as defined in 12 U.S.C. Sec. 4502;

(j) a subordinate loan or a grant that will be made to an applicant in connection with a home loan that does not require verification under Subsection (3)(i);

(k) an applicant for a license issued by the Department of Commerce or individual described in Subsection (1)(b), if the applicant or individual provides the Department of Commerce:

(i) certification, under penalty of perjury, that the applicant or individual is:

(A) a United States citizen;

(B) a qualified alien as defined in 8 U.S.C. Sec. 1641; or

(C) lawfully present in the United States; and

(ii) (A) the number assigned to a driver license or identification card issued under Title 53, Chapter 3, Uniform Driver License Act; or

(B) the number assigned to a driver license or identification card issued by a state other than Utah if, as part of issuing the driver license or identification card, the state verifies an individual's lawful presence in the United States; and

(l) an applicant for:

(i) [~~a Regents'~~] an Opportunity scholarship described in [~~Title 53B, Chapter 8, Part 2, Regents' Scholarship Program~~] Title 53B, Chapter 8, Part 2, Opportunity Scholarship Program;

(ii) a New Century scholarship described in Section 53B-8-105;

(iii) a promise scholarship described in Section 53B-8-303; or

(iv) a [~~privately funded~~] scholarship:

(A) for an individual who is a graduate of a high school located within Utah; and

(B) administered by an institution of higher education as defined in Section 53B-2-101.

(4) (a) An agency or political subdivision required to verify the lawful presence in the United States of an applicant under this section shall require the applicant to certify under penalty of perjury that:

(i) the applicant is a United States citizen; or

(ii) the applicant is:

(A) a qualified alien as defined in 8 U.S.C. Sec. 1641; and

(B) lawfully present in the United States.

(b) The certificate required under this Subsection (4) shall include a statement advising the signer that providing false information subjects the signer to penalties for perjury.

(5) An agency or political subdivision shall verify a certification required under Subsection (4)(a)(ii) through the federal SAVE program.

(6) (a) An individual who knowingly and willfully makes a false, fictitious, or fraudulent statement or representation in a certification under Subsection (3)(k) or (4) is subject to the criminal penalties applicable in this state for:

(i) making a written false statement under Subsection 76-8-504(2); and

(ii) fraudulently obtaining:

(A) public assistance program benefits under Sections 76-8-1205 and 76-8-1206; or

(B) unemployment compensation under Section 76-8-1301.

(b) If the certification constitutes a false claim of United States citizenship under 18 U.S.C. Sec. 911, the agency or political subdivision shall file a complaint with the United States Attorney General for the applicable district based upon the venue in which the application was made.

(c) If an agency or political subdivision receives verification that a person making an application for a benefit, service, or license is not a qualified alien, the agency or political subdivision shall provide the information to the Office of the Attorney General unless prohibited by federal mandate.

(7) An agency or political subdivision may adopt variations to the requirements of this section that:

(a) clearly improve the efficiency of or reduce delay in the verification process; or

(b) provide for adjudication of unique individual circumstances where the verification procedures in this section would impose an unusual hardship on a legal resident of Utah.

(8) It is unlawful for an agency or a political subdivision of this state to provide a state, local, or federal benefit, as defined in 8 U.S.C. Sec. 1611 and 1621, in violation of this section.

(9) A state agency or department that administers a program of state or local public benefits shall:

(a) provide an annual report to the governor, the president of the Senate, and the speaker of the House regarding its compliance with this section; and

(b) (i) monitor the federal SAVE program for application verification errors and significant delays;

(ii) provide an annual report on the errors and delays to ensure that the application of the federal SAVE program is not erroneously denying a state or local benefit to a legal resident of the state; and

(iii) report delays and errors in the federal SAVE program to the United States Department of Homeland Security.

Section 6. Section 63I-2-253 is amended to read:

63I-2-253. Repeal dates -- Titles 53 through 53G.

(1) (a) Section 53-2a-217, regarding procurement during an epidemic or pandemic emergency, is repealed on December 31, 2021.

(b) When repealing Section 53-2a-217, the Office of Legislative Research and General Counsel shall, in addition to the office's authority under Subsection 36-12-12(3), make necessary changes to subsection numbering and cross references.

(2) Section 53B-2a-103 is repealed July 1, 2021.

(3) Section 53B-2a-104 is repealed July 1, 2021.

(4) (a) Subsection 53B-2a-108(5), regarding exceptions to the composition of a technical college board of trustees, is repealed July 1, 2022.

(b) When repealing Subsection 53B-2a-108(5), the Office of Legislative Research and General Counsel shall, in addition to its authority under Subsection 36-12-12(3), make necessary changes to subsection numbering and cross references.

(5) Section 53B-6-105.7 is repealed July 1, 2024.

(6) (a) Subsection 53B-7-705(6)(b)(ii)(A), the language that states "Except as provided in Subsection (6)(b)(ii)(B)," is repealed July 1, 2021.

(b) Subsection 53B-7-705(6)(b)(ii)(B), regarding comparing a technical college's change in performance with the technical college's average performance, is repealed July 1, 2021.

(7) (a) Subsection 53B-7-707(3)(a)(ii), the language that states "Except as provided in Subsection (3)(b)," is repealed July 1, 2021.

(b) Subsection 53B-7-707(3)(b), regarding performance data of a technical college during a fiscal year before fiscal year 2020, is repealed July 1, 2021.

(8) Section 53B-8-114 is repealed July 1, 2024.

(9) [~~(a)~~] The following sections, regarding the Regents' scholarship program, are repealed on July 1, 2023:

[~~(i)~~] (a) Section 53B-8-202;

[~~(ii)~~] (b) Section 53B-8-203;

[~~(iii)~~] (c) Section 53B-8-204; and

[~~(iv)~~] (d) Section 53B-8-205.

[~~(b) (i) Subsection 53B-8-201(2), regarding the Regents' scholarship program for students who graduate from high school before fiscal year 2019, is repealed on July 1, 2023.~~]

[~~(ii) When repealing Subsection 53B-8-201(2), the Office of Legislative Research and General Counsel shall, in addition to its authority under Subsection 36-12-12(3), make necessary changes to subsection numbering and cross references.~~]

(10) Section 53B-10-101 is repealed on July 1, 2027.

(11) Title 53B, Chapter 18, Part 14, Uintah Basin Air Quality Research Project, is repealed July 1, 2023.

(12) Section 53E-3-519 regarding school counselor services is repealed July 1, 2020.

(13) Section 53E-3-520 is repealed July 1, 2021.

(14) Subsection 53E-5-306(3)(b)(ii)(B), related to improving school performance and continued funding relating to the School Recognition and Reward Program, is repealed July 1, 2020.

(15) Section 53E-5-307 is repealed July 1, 2020.

(16) Subsection 53E-10-309(7), related to the PRIME pilot program, is repealed July 1, 2024.

(17) In Subsections 53F-2-205(4) and (5), regarding the State Board of Education's duties if contributions from the minimum basic tax rate are overestimated or underestimated, the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

(18) Subsection 53F-2-301(1), relating to the years the section is not in effect, is repealed July 1, 2023.

(19) In Subsection 53F-2-515(1), the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

(20) Section 53F-4-207 is repealed July 1, 2022.

(21) In Subsection 53F-9-302(3), the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

(22) In Subsection 53F-9-305(3)(a), the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

(23) In Subsection 53F-9-306(3)(a), the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

(24) In Subsection 53G-3-304(1)(c)(i), the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

(25) Subsections 53G-10-204(1)(c) through (e), and Subsection 53G-10-204(7), related to the civics engagement pilot program, are repealed on July 1, 2023.

(26) On July 1, 2023, when making changes in this section, the Office of Legislative Research and General Counsel shall, in addition to the office's authority under Subsection 36-12-12(3), make corrections necessary to ensure that sections and subsections identified in this section are complete sentences and accurately reflect the office's perception of the Legislature's intent.

Section 7. Repealer.

This bill repeals:

Section 53B-2a-116, Technical college scholarships.

CHAPTER 403
S. B. 149
Passed March 4, 2021
Approved March 22, 2021
Effective May 5, 2021

MASSAGE THERAPY PRACTICE ACT AMENDMENTS

Chief Sponsor: Wayne A. Harper
House Sponsor: Joel Ferry

LONG TITLE

General Description:

This bill modifies exemptions from licensure provisions in the Massage Therapy Practices Act.

Highlighted Provisions:

This bill:

- exempts a licensed occupational therapy assistant from being licensed as a massage therapist;
- exempts a brain integration practitioner from being licensed as a massage therapist; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

58-47b-304, as last amended by Laws of Utah 2019, Chapters 98 and 349

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 58-47b-304 is amended to read:

58-47b-304. Exemptions from licensure.

(1) In addition to the exemptions from licensure in Section 58-1-307, the following individuals may engage in the practice of massage therapy as defined under this chapter, subject to the stated circumstances and limitations, without being licensed, but may not represent themselves as a massage therapist or massage apprentice:

(a) a physician or surgeon licensed under Chapter 67, Utah Medical Practice Act;

(b) a physician assistant licensed under Chapter 70a, Utah Physician Assistant Act;

(c) a nurse licensed under Chapter 31b, Nurse Practice Act, or under Chapter 44a, Nurse Midwife Practice Act;

(d) a physical therapist licensed under Chapter 24b, Physical Therapy Practice Act;

(e) a physical therapist assistant licensed under Chapter 24b, Physical Therapy Practice Act, while under the general supervision of a physical therapist;

(f) an osteopathic physician or surgeon licensed under Chapter 68, Utah Osteopathic Medical Practice Act;

(g) a chiropractic physician licensed under Chapter 73, Chiropractic Physician Practice Act;

(h) a hospital staff member employed by a hospital, who practices massage as part of the staff member's responsibilities;

(i) an athletic trainer licensed under Chapter 40a, Athletic Trainer Licensing Act;

(j) a student in training enrolled in a massage therapy school approved by the division;

(k) a naturopathic physician licensed under Chapter 71, Naturopathic Physician Practice Act;

(l) (i) an occupational therapist licensed under Chapter 42a, Occupational Therapy Practice Act; and

(ii) an occupational therapy assistant licensed under Chapter 42a, Occupational Therapy Practice Act, while under the general supervision of an occupational therapist;

(m) an individual performing gratuitous massage; and

(n) an individual:

(i) certified by or through, and in good standing with, an industry organization that is recognized by the division and that represents a profession with established standards and ethics:

(A) who is certified to practice reflexology and whose practice is limited to the scope of practice of reflexology;

(B) who is certified to practice a type of zone therapy, including foot zone therapy, and whose practice is limited to the scope of practice for which the individual is certified;

(C) who is certified to practice ortho-bionomy and whose practice is limited to the scope of practice of ortho-bionomy; [~~or~~]

(D) who is certified to practice bowenwork and whose practice is limited to the scope of practice of bowenwork; or

(E) who is certified to practice a type of brain integration and whose practice is limited to the scope of practice for which the individual is certified;

(ii) whose clients remain fully clothed from the shoulders to the knees; and

(iii) whose clients do not receive gratuitous massage from the individual.

(2) This chapter may not be construed to authorize any individual licensed under this chapter to engage in any manner in the practice of medicine as defined by the laws of this state.

(3) This chapter may not be construed to:

(a) require insurance coverage or reimbursement for massage therapy from third party payors; or

(b) prevent an insurance carrier from offering coverage for massage therapy.

CHAPTER 404
S. B. 161
Passed March 4, 2021
Approved March 22, 2021
Effective March 22, 2021
(Exception clause in Section 12)

MENTAL HEALTH SYSTEMS AMENDMENTS

Chief Sponsor: Todd D. Weiler
House Sponsor: Steve Eliason

LONG TITLE

General Description:

This bill addresses mental and behavioral health services in the state.

Highlighted Provisions:

This bill:

- creates, modifies, and repeals definitions;
- requires the base budget to include certain appropriations to the Department of Health and the Department of Human Services for insurance plans that contract with the state's Medicaid program for behavioral health services;
- requires a health benefit plan to:
  - provide coverage for treatment of a mental health condition through telemedicine services if certain conditions are met; and
  - reimburse for the treatment at a certain rate;
- allows a provider to use any synchronous audiovisual technology that is compliant with the federal Health Insurance Portability and Accountability Act of 1996 for certain treatment through telemedicine services;
- prohibits the Division of Occupational and Professional Licensing from refusing to issue, or taking disciplinary action against, the occupational license of certain health care providers based solely on the provider seeking or participating in mental health or substance abuse treatment; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

This bill appropriates in fiscal year 2022:

- to Department of Health -- Medicaid Services, as an ongoing appropriation:
  - From Federal Funds, $3,780,000;
  - From Expendable Receipts, $340,000; and
  - From Medicaid Expansion Fund, $36,000;
- to Department of Health -- Medicaid Services, as a one-time appropriation:
  - From Federal Funds, One-time, ($2,950,000);
  - From Expendable Receipts, One-time, ($260,000); and
  - From Medicaid Expansion Fund, One-time, ($26,000);
- to Department of Human Services -- Division of Substance Abuse and Mental Health, as an ongoing appropriation:
  - From General Fund, $1,369,100; and
- to Department of Human Services -- Division of Substance Abuse and Mental Health, as a one-time appropriation:
  - From General Fund, One-time, ($1,066,500).

Other Special Clauses:

This bill provides a special effective date.

This bill provides a coordination clause.

Utah Code Sections Affected:

AMENDS:

26-18-405.5, as enacted by Laws of Utah 2015, Chapter 288
31A-22-649.5, as enacted by Laws of Utah 2020, Chapter 119
58-1-401, as last amended by Laws of Utah 2020, Chapter 289
58-31b-401, as last amended by Laws of Utah 2019, Chapter 136
58-60-108, as enacted by Laws of Utah 1994, Chapter 32
58-61-401, as enacted by Laws of Utah 1994, Chapter 32
58-67-401, as last amended by Laws of Utah 2011, Chapter 214
58-68-401, as last amended by Laws of Utah 2011, Chapter 214
58-70a-401, as enacted by Laws of Utah 1997, Chapter 229

ENACTS:

58-81-105, Utah Code Annotated 1953

Utah Code Sections Affected by Coordination Clause:

31A-22-649.5, as enacted by Laws of Utah 2020, Chapter 119

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 26-18-405.5 is amended to read:

26-18-405.5. Base budget appropriations for Medicaid accountable care organizations and mental health plans.

(1) [~~For purposes of~~] As used in this section:

(a) [~~"ACOs" means accountable care organizations.~~] "ACO" means an accountable care organization that contracts with the state's Medicaid program for:

(i) physical health services; or

(ii) integrated physical and behavioral health services.

(b) "Base budget" means the same as that term is defined in legislative rule.

[~~(c) "Current fiscal year PMPM" means per-member-per-month funding for Medicaid accountable care organizations under the Department of Health in the current fiscal year.~~]

[~~(d)~~] (c) "General Fund growth factor" means the amount determined by dividing the next fiscal year ongoing General Fund revenue estimate by current fiscal year ongoing appropriations from the General Fund.

(d) "Mental health plan" means a prepaid mental health plan or a health plan that uses a fee-for-service payment model that contracts with the state's Medicaid program for behavioral health services.

(e) "Next fiscal year ongoing General Fund revenue estimate" means the next fiscal year ongoing General Fund revenue estimate identified by the Executive Appropriations Subcommittee, in accordance with legislative rule, for use by the Office of the Legislative Fiscal Analyst in preparing budget recommendations.

[~~(f) "Next fiscal year PMPM" means per-member-per-month funding for Medicaid accountable care organizations under the Department of Health for the next fiscal year.~~]

(f) "PMPM" means per-member-per-month funding.

(2) If the General Fund growth factor is less than 100%, the next fiscal year base budget shall include an appropriation:

(a) to the [~~Department of Health for Medicaid~~] department for ACOs under the department in an amount necessary to ensure that the next fiscal year PMPM for the ACOs equals the current fiscal year PMPM for the ACOs multiplied by 100%[~~.~~]; and

(b) subject to Subsection (5), to the Department of Human Services for mental health plans under the Department of Human Services in an amount necessary to ensure that the funding for the mental health plans in the next fiscal year equals the funding for the mental health plans in the current fiscal year multiplied by 100%.

(3) If the General Fund growth factor is greater than or equal to 100%, but less than 102%, the next fiscal year base budget shall include an appropriation:

(a) to the [~~Department of Health for Medicaid~~] department for ACOs under the department in an amount necessary to ensure that the next fiscal year PMPM for the ACOs equals the current fiscal year PMPM for the ACOs multiplied by the General Fund growth factor[~~.~~]; and

(b) subject to Subsection (5), to the Department of Human Services for mental health plans under the Department of Human Services in an amount necessary to ensure that the funding for the mental health plans in the next fiscal year equals the funding for the mental health plans in the current fiscal year multiplied by the General Fund growth factor.

(4) If the General Fund growth factor is greater than or equal to 102%, the next fiscal year base budget shall include an appropriation:

(a) to the [~~Department of Health for Medicaid~~] department for ACOs under the department in an amount necessary to ensure that the next fiscal year PMPM for the ACOs is greater than or equal to the current fiscal year PMPM for the ACOs multiplied by 102% and less than or equal to the current fiscal year PMPM for the ACOs multiplied by the General Fund growth factor[~~.~~]; and

(b) subject to Subsection (5), to the Department of Human Services for mental health plans under the Department of Human Services in an amount necessary to ensure that the funding for the mental health plans in the next fiscal year is greater than or equal to the funding for the mental health plans in the current fiscal year multiplied by 102% and less than or equal to the funding for the mental health plans in the current fiscal year multiplied by the General Fund growth factor.

(5) The appropriations provided to the Department of Human Services under this section shall be reduced by the amount contributed by counties in the current fiscal year for mental health plans under the Department of Human Services in accordance with Subsections 17-43-201(5)(k) and 17-43-301(6)(a)(x).

[~~(5)~~] (6) In order for the department and the Department of Human Services to estimate the impact of Subsections (2) through (4) [~~prior to~~] before identification of the next fiscal year ongoing General Fund revenue estimate [~~under Subsection (1)(e)~~], the Governor's Office of Management and Budget shall, in cooperation with the Office of the Legislative Fiscal Analyst, develop an estimate of ongoing General Fund revenue for the next fiscal year and provide [~~it~~] the estimate to the department and the Department of Human Services no later than September 1 of each year.

Section 2. Section 31A-22-649.5 is amended to read:

31A-22-649.5. Insurance parity for telemedicine services -- Method of technology used.

(1) As used in this section:

[~~(a) "Telehealth services" means the same as that term is defined in Section 26-60-102.~~]

(a) "Mental health condition" means a mental disorder or a substance-related disorder that falls under a diagnostic category listed in the Diagnostic and Statistical Manual, as periodically revised.

(b) "Telemedicine services" means the same as that term is defined in Section 26-60-102.

(2) Notwithstanding the provisions of Section 31A-22-618.5, a health benefit plan offered in the individual market, the small group market, or the large group market [~~and entered into or renewed on or after January 1, 2021,~~] shall:

(a) provide coverage for:

(i) telemedicine services that are covered by Medicare; and

[~~(b) reimburse, at a commercially reasonable rate, a network provider that provides the telemedicine services described in Subsection (2)(a).~~]

(ii) treatment of a mental health condition through telemedicine services if:

(A) the health benefit plan provides coverage for the treatment of the mental health condition through in-person services; and

(B) the health benefit plan determines treatment of the mental health condition through telemedicine services meets the appropriate standard of care; and

(b) reimburse a network provider that provides the telemedicine services described in Subsection (2)(a) at a negotiated commercially reasonable rate.

(3) (a) Notwithstanding Section 31A-45-303, a health benefit plan providing [~~treatment~~] coverage under Subsection (2)(a) may not impose originating site restrictions, geographic restrictions, or distance-based restrictions.

(b) A network provider that provides the telemedicine services described in Subsection (2)(a) may utilize any synchronous audiovisual technology for the telemedicine services that is compliant with the federal Health Insurance Portability and Accountability Act of 1996.

Section 3. Section 58-1-401 is amended to read:

58-1-401. Grounds for denial of license -- Disciplinary proceedings -- Time limitations -- Sanctions.

(1) The division shall refuse to issue a license to an applicant and shall refuse to renew or shall revoke, suspend, restrict, place on probation, or otherwise act upon the license of a licensee who does not meet the qualifications for licensure under this title.

(2) The division may refuse to issue a license to an applicant and may refuse to renew or may revoke, suspend, restrict, place on probation, issue a public reprimand to, or otherwise act upon the license of a licensee for the following reasons:

(a) subject to the provisions of Subsection (7), the applicant or licensee has engaged in unprofessional conduct, as defined by statute or rule under this title;

(b) the applicant or licensee has engaged in unlawful conduct as defined by statute under this title;

(c) the applicant or licensee has been determined to be mentally incompetent by a court of competent jurisdiction; or

(d) subject to Subsections 58-31b-401(7), 58-60-108(2), 58-61-401(2), 58-67-401(2), 58-68-401(2), 58-70a-401(2), and Section 58-81-105, the applicant or licensee is unable to practice the occupation or profession with reasonable skill and safety because of illness, drunkenness, excessive use of drugs, narcotics, chemicals, or other type of material, or as a result of a mental or physical condition, when the condition demonstrates a threat or potential threat to the public health, safety, or welfare.

(3) A licensee whose license to practice an occupation or profession regulated by this title has been suspended, revoked, placed on probation, or restricted may apply for reinstatement of the license at reasonable intervals and upon compliance with conditions imposed upon the licensee by statute, rule, or terms of the license suspension, revocation, probation, or restriction.

(4) The division may issue cease and desist orders to:

(a) a licensee or applicant who may be disciplined under Subsection (1) or (2);

(b) a person who engages in or represents that the person is engaged in an occupation or profession regulated under this title; and

(c) a person who otherwise violates this title or a rule adopted under this title.

(5) The division may impose an administrative penalty in accordance with Section 58-1-502.

(6) (a) The division may not take disciplinary action against a person for unprofessional or unlawful conduct under this title, unless the division enters into a stipulated agreement or initiates an adjudicative proceeding regarding the conduct within four years after the conduct is reported to the division, except under Subsection (6)(b).

(b) (i) The division may not take disciplinary action against a person for unprofessional or unlawful conduct more than 10 years after the occurrence of the conduct, unless the proceeding is in response to a civil or criminal judgment or settlement and the proceeding is initiated within one year following the judgment or settlement.

(ii) Notwithstanding Subsection (6)(b)(i), the division may refuse to issue a license due to unprofessional or unlawful conduct that occurred more than 10 years before a request or application for licensure is made.

(7) When the division is determining whether to refuse to issue a license to an applicant, or to refuse to renew the license of a licensee, based solely on the criminal conviction of an applicant or licensee, the division shall:

(a) provide individualized consideration to the applicant or licensee;

(b) determine whether the criminal conviction bears a substantial relationship to the applicant's or licensee's ability to safely or competently practice the occupation or profession; and

(c) consider the applicant's or licensee's current circumstances, which may include any of the following:

(i) the age of the applicant or licensee when the applicant or licensee committed the offense;

(ii) the time that has elapsed since the applicant or licensee committed the offense;

(iii) whether the applicant or licensee has completed the applicant's or licensee's criminal sentence;

(iv) whether the applicant has completed or is actively participating in rehabilitative drug or alcohol treatment;

(v) any testimonials or recommendations from other individuals provided by the applicant or licensee, including a progress report from the applicant's or licensee's probation or parole officer;

(vi) other evidence of rehabilitation provided by the applicant or licensee;

(vii) the education and training of the applicant or licensee;

(viii) the employment history of the applicant or licensee; and

(ix) other relevant information provided by the applicant or licensee.

Section 4. Section 58-31b-401 is amended to read:

58-31b-401. Grounds for denial of licensure or certification and disciplinary proceedings.

(1) (a) As used in this section, "licensed" or "license" includes certified or certification under this chapter.

(b) A term or condition applied to the word "nurse" under this section applies to a medication aide certified.

(2) Grounds for refusal to issue a license to an applicant, for refusal to renew the license of a licensee, to revoke, suspend, restrict, or place on probation the license of a licensee, to issue a public or private reprimand to a licensee, and to issue cease and desist orders shall be in accordance with Section 58-1-401.

[~~(2) If~~] (3) (a) (i) Subject to Subsection (7), if a court of competent jurisdiction determines a nurse is incapacitated as defined in Section 75-1-201 or that the nurse has a mental illness, as defined in Section 62A-15-602, and is unable to safely engage in the practice of nursing, the director shall immediately suspend the license of the nurse upon the entry of the judgment of the court, without further proceedings under Title 63G, Chapter 4, Administrative Procedures Act, regardless of whether an appeal from the court's ruling is pending.

(ii) The director shall promptly notify the nurse in writing of [~~the~~] a suspension under Subsection (3)(a)(i).

[~~(3) (a) If~~] (b) (i) Subject to Subsection (7), if the division and the majority of the board find reasonable cause to believe a nurse who is not determined judicially to be an incapacitated person or to have a mental illness, is incapable of practicing nursing with reasonable skill regarding the safety of patients, because of illness, excessive use of drugs or alcohol, or as a result of any mental or physical condition, the board shall recommend that the director file a petition with the division, and cause the petition to be served upon the nurse with a notice of hearing on the sole issue of the capacity of the nurse to competently, safely engage in the practice of nursing.

[~~(b) The~~] (ii) Except as provided in Subsection (4), the hearing described in Subsection (3)(b)(i) shall be conducted under Section 58-1-109 and Title 63G, Chapter 4, Administrative Procedures Act[~~, except as provided in Subsection (4)~~].

(4) (a) Every nurse who accepts the privilege of being licensed under this chapter gives consent to:

(i) submitting to an immediate mental or physical examination, at the nurse's expense and by a division-approved practitioner selected by the nurse when directed in writing by the division and a majority of the board to do so; and

(ii) the admissibility of the reports of the examining practitioner's testimony or examination, and waives all objections on the ground the reports constitute a privileged communication.

(b) The examination may be ordered by the division, with the consent of a majority of the board, only upon a finding of reasonable cause to believe:

(i) the nurse has a mental illness, is incapacitated, or otherwise unable to practice nursing with reasonable skill and safety; and

(ii) immediate action by the division and the board is necessary to prevent harm to the nurse's patients or the general public.

(c) (i) Failure of a nurse to submit to the examination ordered under this section is a ground for the division's immediate suspension of the nurse's license by written order of the director.

(ii) The division may enter the order of suspension without further compliance with Title 63G, Chapter 4, Administrative Procedures Act, unless the division finds the failure to submit to the examination ordered under this section was due to circumstances beyond the control of the nurse and was not related directly to the illness or incapacity of the nurse.

(5) (a) A nurse whose license is suspended under Subsection [~~(2),~~] (3)[~~,~~] or (4)(c) has the right to a hearing to appeal the suspension within 10 days after the license is suspended.

(b) The hearing held under this Subsection (5) shall be conducted in accordance with Sections 58-1-108 and 58-1-109 for the sole purpose of determining if sufficient basis exists for the continuance of the order of suspension in order to prevent harm to the nurse's patients or the general public.

(6) A nurse whose license is revoked, suspended, or in any way restricted under this section may request the division and the board to consider, at reasonable intervals, evidence presented by the nurse, under procedures established by division rule, regarding any change in the nurse's condition, to determine whether:

(a) the nurse is or is not able to safely and competently engage in the practice of nursing; and

(b) the nurse is qualified to have the nurse's license to practice under this chapter restored completely or in part.

(7) The division may not refuse, revoke, suspend, or in any way restrict an applicant or licensee's license under this chapter solely because the applicant or licensee seeks or participates in mental health or substance abuse treatment.

[~~(7) Nothing in~~]

(8) Section 63G-2-206 may not be construed as limiting the authority of the division to report current significant investigative information to the coordinated licensure information system for transmission to party states as required of the division by Article VII of the Nurse Licensure Compact - Revised in Section 58-31e-102.

[~~(8) For purposes of this section:~~]

[~~(a) "licensed" or "license" includes "certified" or "certification" under this chapter; and~~]

[~~(b) any terms or conditions applied to the word "nurse" in this section also apply to a medication aide certified.~~]

Section 5. Section 58-60-108 is amended to read:

58-60-108. Grounds for action regarding license -- Disciplinary proceedings.

[~~The~~] (1) Subject to Subsection (2), the division's grounds for refusing to issue a license to an applicant, for refusing to renew the license of a licensee, for revoking, suspending, restricting, or placing on probation the license of a licensee, for issuing a public or private reprimand to a licensee, and for issuing a cease and desist order are under Section 58-1-401.

(2) The division may not refuse, revoke, suspend, or in any way restrict an applicant or licensee's license under this chapter solely because the applicant or licensee seeks or participates in mental health or substance abuse treatment.

Section 6. Section 58-61-401 is amended to read:

58-61-401. Grounds for action regarding license -- Disciplinary proceedings.

[~~The~~] (1) Subject to Subsection (2), the division's grounds for refusing to issue a license to an applicant, for refusing to renew the license of a licensee, for revoking, suspending, restricting, or placing on probation the license of a licensee, for issuing a public or private reprimand to a licensee, and for issuing a cease and desist order are under Section 58-1-401.

(2) The division may not refuse, revoke, suspend, or in any way restrict an applicant or licensee's license under this chapter solely because the applicant or licensee seeks or participates in mental health or substance abuse treatment.

Section 7. Section 58-67-401 is amended to read:

58-67-401. Grounds for denial of license -- Disciplinary proceedings.

[~~Grounds~~] (1) Subject to Subsection (2), grounds for division action are set forth in Sections 58-1-401 and 58-67-503.

(2) The division may not refuse, revoke, suspend, or in any way restrict an applicant or licensee's license under this chapter solely because the applicant or licensee seeks or participates in mental health or substance abuse treatment.

Section 8. Section 58-68-401 is amended to read:

58-68-401. Grounds for denial of license -- Disciplinary proceedings.

[~~Grounds~~] (1) Subject to Subsection (2), grounds for division action are set forth in Sections 58-1-401 and 58-68-503.

(2) The division may not refuse, revoke, suspend, or in any way restrict an applicant or licensee's license under this chapter solely because the applicant or licensee seeks or participates in mental health or substance abuse treatment.

Section 9. Section 58-70a-401 is amended to read:

58-70a-401. Grounds for denial of license -- Disciplinary proceedings.

[~~Grounds~~] (1) Subject to Subsection (2), grounds for the following division actions regarding a licensee are under Section 58-1-401:

[~~(1)~~] (a) refusing to issue a license to an applicant;

[~~(2)~~] (b) refusing to renew the license of a licensee;

[~~(3)~~] (c) revoking, suspending, restricting, or placing on probation the license of a licensee;

[~~(4)~~] (d) issuing a public or private reprimand to a licensee; and

[~~(5)~~] (e) issuing a cease and desist order.

(2) The division may not refuse, revoke, suspend, or in any way restrict an applicant or licensee's license under this chapter solely because the applicant or licensee seeks or participates in mental health or substance abuse treatment.

Section 10. Section 58-81-105 is enacted to read:

58-81-105. Grounds for denial of license.

The division may not refuse, revoke, suspend, or in any way restrict the license of a health care practitioner, as defined in Subsections 58-81-102(2)(c), (g), (h), (i), (j), and (l), under this chapter solely because the health care practitioner seeks or participates in mental health or substance abuse treatment.

Section 11. Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2021 and ending June 30, 2022. These are additions to amounts previously appropriated for fiscal year 2022. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 1

To Department of Health -- Medicaid Services

From Federal Funds $3,780,000

From Federal Funds, One-time	($2,950,000)
From Expendable Receipts	$340,000
From Expendable Receipts, One-time	($260,000)
From Medicaid Expansion Fund	$36,000
From Medicaid Expansion Fund, One-time	($26,000)
Schedule of Programs:	
Medicaid Expansion	$80,000
Mental Health and Substance Abuse	$1,142,600

The Legislature intends that the Department of Health use the appropriations provided under this item to increase the Medicaid reimbursement rates for mental health plans.

ITEM 2

To Department of Human Services -- Division of Substance Abuse and Mental Health

From General Fund	$1,369,100
From General Fund, One-time	($1,066,500)
Schedule of Programs:	
Mental Health Centers	$302,600

The Legislature intends that the Department of Human Services use the appropriations provided under this item to increase the Medicaid reimbursement rates for mental health plans.

Section 12. Effective date.

(1) Except as provided in Subsections (2) and (3), this bill takes effect on May 5, 2021.

(2) The amendments to Section 31A-22-649.5, if approved by two-thirds of all the members elected to each house, take effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

(3) The amendments to Section 26-18-405.5 take effect on July 1, 2022.

Section 13. Coordinating S.B. 161 with S.B. 41 -- Superseding amendment.

If this S.B. 161 and S.B. 41, Mental Health Access Amendments, both pass and become law, the Legislature intends that the amendments to Section 31A-22-649.5 in this bill supersede the amendments to Section 31A-22-649.5 in S.B. 41 when the Office of Legislative Research and General Counsel prepare the Utah Code database for publication.

CHAPTER 405
S. B. 185
Passed February 16, 2021
Approved March 22, 2021
Effective May 5, 2021

CAPITOL MEETING ROOM DESIGNATION

Chief Sponsor: J. Stuart Adams
House Sponsor: Brad R. Wilson

LONG TITLE

General Description:

This bill modifies provisions governing the State Capitol Preservation Board by instructing the board to designate a name for a meeting room on capitol hill.

Highlighted Provisions:

This bill:

- instructs the State Capitol Preservation Board to name committee room 210 in the Senate Building on capitol hill the "Allyson W. Gamble Committee Room."

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63C-9-301, as last amended by Laws of Utah 2016, Chapters 215 and 245

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63C-9-301 is amended to read:

63C-9-301. Board powers -- Subcommittees.

(1) The board shall:

(a) except as provided in Subsection (2), exercise complete jurisdiction and stewardship over capitol hill facilities, capitol hill grounds, and the capitol hill complex;

(b) preserve, maintain, and restore the capitol hill complex, capitol hill facilities, capitol hill grounds, and their contents;

(c) before October 1 of each year, review and approve the executive director's annual budget request for submittal to the governor and Legislature;

(d) by October 1 of each year, prepare and submit a recommended budget request for the upcoming fiscal year for the capitol hill complex to:

(i) the governor, through the Governor's Office of Management and Budget; and

(ii) the Legislature's appropriations subcommittee responsible for capitol hill facilities, through the Office of Legislative Fiscal Analyst;

(e) review and approve the executive director's:

(i) annual work plan;

(ii) long-range master plan for the capitol hill complex, capitol hill facilities, and capitol hill grounds; and

(iii) furnishings plan for placement and care of objects under the care of the board;

(f) approve all changes to the buildings and their grounds, including:

(i) restoration, remodeling, and rehabilitation projects;

(ii) usual maintenance program; and

(iii) any transfers or loans of objects under the board's care;

(g) define and identify all significant aspects of the capitol hill complex, capitol hill facilities, and capitol hill grounds, after consultation with the:

(i) Division of Facilities Construction and Management;

(ii) State Library Division;

(iii) Division of Archives and Records Service;

(iv) Division of State History;

(v) Office of Museum Services; and

(vi) Arts Council;

(h) inventory, define, and identify all significant contents of the buildings and all state-owned items of historical significance that were at one time in the buildings, after consultation with the:

(i) Division of Facilities Construction and Management;

(ii) State Library Division;

(iii) Division of Archives and Records Service;

(iv) Division of State History;

(v) Office of Museum Services; and

(vi) Arts Council;

(i) maintain archives relating to the construction and development of the buildings, the contents of the buildings and their grounds, including documents such as plans, specifications, photographs, purchase orders, and other related documents, the original copies of which shall be maintained by the Division of Archives and Records Service;

(j) comply with federal and state laws related to program and facility accessibility; and

(k) establish procedures for receiving, hearing, and deciding complaints or other issues raised about the capitol hill complex, capitol hill facilities, and capitol hill grounds, or their use.

(2) (a) Notwithstanding Subsection (1)(a), the supervision and control of the legislative area, as defined in Section 36-5-1, is reserved to the Legislature; and

(b) the supervision and control of the governor's area, as defined in Section 67-1-16, is reserved to the governor.

(3) (a) The board shall make rules to govern, administer, and regulate the capitol hill complex, capitol hill facilities, and capitol hill grounds by following the procedures and requirements of Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(b) A violation of a rule relating to the use of the capitol hill complex adopted by the board under the authority of this Subsection (3) is an infraction.

(c) If an act violating a rule under Subsection (3)(b) also amounts to an offense subject to a greater penalty under this title, Title 32B, Alcoholic Beverage Control Act, Title 41, Motor Vehicles, Title 76, Utah Criminal Code, or other provision of state law, Subsection (3)(b) does not prohibit prosecution and sentencing for the more serious offense.

(d) In addition to any punishment allowed under Subsections (3)(b) and (c), a person who violates a rule adopted by the board under the authority of this Subsection (3) is subject to a civil penalty not to exceed $2,500 for each violation, plus the amount of any actual damages, expenses, and costs related to the violation of the rule that are incurred by the state.

(e) The board may take any other legal action allowed by law.

(f) The board may not apply this section or rules adopted under the authority of this section in a manner that violates a person's rights under the Utah Constitution or the First Amendment to the United States Constitution, including the right of persons to peaceably assemble.

(g) The board shall send proposed rules under this section to the legislative general counsel and the governor's general counsel for review and comment before the board adopts the rules.

(4) The board is exempt from the requirements of Title 63G, Chapter 6a, Utah Procurement Code, but shall adopt procurement rules substantially similar to the requirements of that chapter.

(5) The board shall name:

(a) the House Building, that is defined in Section 36-5-1, the "Rebecca D. Lockhart House Building[.]"; and

(b) committee room 210 in the Senate Building, that is defined in Section 36-5-1, the "Allyson W. Gamble Committee Room".

(6) (a) The board may:

(i) establish subcommittees made up of board members and members of the public to assist and support the executive director in accomplishing the executive director's duties;

(ii) establish fees for the use of capitol hill facilities and capitol hill grounds;

(iii) assign and allocate specific duties and responsibilities to any other state agency, if the other agency agrees to perform the duty or accept the responsibility;

(iv) contract with another state agency to provide services;

(v) delegate by specific motion of the board any authority granted to it by this section to the executive director;

(vi) in conjunction with Salt Lake City, expend money to improve or maintain public property contiguous to East Capitol Boulevard and capitol hill;

(vii) provide wireless Internet service to the public without a fee in any capitol hill facility; and

(viii) when necessary, consult with the:

(A) Division of Facilities Construction and Management;

(B) State Library Division;

(C) Division of Archives and Records Service;

(D) Division of State History;

(E) Office of Museum Services; and

(F) Arts Council.

(b) The board's provision of wireless Internet service under Subsection (6)(a)(vii) shall be discontinued in the legislative area if the president of the Senate and the speaker of the House of Representatives each submit a signed letter to the board indicating that the service is disruptive to the legislative process and is to be discontinued.

(c) If a budget subcommittee is established by the board, the following shall serve as ex officio, nonvoting members of the budget subcommittee:

(i) the legislative fiscal analyst, or the analyst's designee, who shall be from the Office of Legislative Fiscal Analyst; and

(ii) the executive director of the Governor's Office of Management and Budget, or the executive director's designee, who shall be from the Governor's Office of Management and Budget.

(d) If a preservation and maintenance subcommittee is established by the board, the board may, by majority vote, appoint one or each of the following to serve on the subcommittee as voting members of the subcommittee:

(i) an architect, who shall be selected from a list of three architects submitted by the American Institute of Architects; or

(ii) an engineer, who shall be selected from a list of three engineers submitted by the American Civil Engineers Council.

(e) If the board establishes any subcommittees, the board may, by majority vote, appoint up to two people who are not members of the board to serve, at the will of the board, as nonvoting members of a subcommittee.

(f) Members of each subcommittee shall, at the first meeting of each calendar year, select one individual to act as chair of the subcommittee for a one-year term.

(7) (a) The board, and the employees of the board, may not move the office of the governor, lieutenant

governor, president of the Senate, speaker of the House of Representatives, or a member of the Legislature from the State Capitol unless the removal is approved by:

(i) the governor, in the case of the governor's office;

(ii) the lieutenant governor, in the case of the lieutenant governor's office;

(iii) the president of the Senate, in the case of the president's office or the office of a member of the Senate; or

(iv) the speaker of the House of Representatives, in the case of the speaker's office or the office of a member of the House.

(b) The board and the employees of the board have no control over the furniture, furnishings, and decorative objects in the offices of the governor, lieutenant governor, or the members of the Legislature except as necessary to inventory or conserve items of historical significance owned by the state.

(c) The board and the employees of the board have no control over records and documents produced by or in the custody of a state agency, official, or employee having an office in a building on the capitol hill complex.

(d) Except for items identified by the board as having historical significance, and except as provided in Subsection (7)(b), the board and the employees of the board have no control over moveable furnishings and equipment in the custody of a state agency, official, or employee having an office in a building on the capitol hill complex.

CHAPTER 406
S. B. 188
Passed March 4, 2021
Approved March 22, 2021
Effective May 5, 2021

PROCUREMENT CODE REVISIONS

Chief Sponsor: Derrin R. Owens
House Sponsor: Kay J. Christofferson

LONG TITLE

General Description:

This bill modifies provisions of the Utah Procurement Code.

Highlighted Provisions:

This bill:

- modifies a provision relating to a procurement unit's evaluation of bids;
- provides that a procurement intended for the establishment of a state liquor store may be made without engaging in a standard procurement process;
- defines "contract price" in the context of a provision allowing a contractor to increase or lower the contract price; and
- prohibits a contractor under a multiple award contract from lowering the contract price under certain circumstances.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63G-6a-606, as last amended by Laws of Utah 2020, Chapter 257
63G-6a-802, as last amended by Laws of Utah 2020, Chapters 257 and 286
63G-6a-1206.5, as last amended by Laws of Utah 2016, Chapter 355

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63G-6a-606 is amended to read:

63G-6a-606. Evaluation of bids -- Award -- Cancellation.

(1) A procurement unit that conducts a procurement using a bidding process shall evaluate [~~each bid~~] bids:

(a) using the objective criteria described in the invitation for bids[~~.~~]; and

(b) to achieve the greatest long-term value to the state and the procurement unit.

(2) Criteria not described in the invitation for bids may not be used to evaluate a bid.

(3) After evaluating bids, the procurement unit shall:

(a) (i) award a contract as soon as practicable to the responsible bidder who submits the lowest responsive bid; and

(ii) publish the name and bid amount of the bidder to whom the contract is awarded; or

(b) (i) cancel the invitation for bids without awarding a contract; and

(ii) publish a notice of the cancellation that includes an explanation of the reasons for cancelling the invitation for bids.

Section 2. Section 63G-6a-802 is amended to read:

63G-6a-802. Award of contract without engaging in a standard procurement process -- Notice -- Duty to negotiate contract terms in best interest of procurement unit.

(1) A procurement unit may award a contract for a procurement item without engaging in a standard procurement process if the procurement official determines in writing that:

(a) there is only one source for the procurement item;

(b) (i) transitional costs are a significant consideration in selecting a procurement item; and

(ii) the results of a cost-benefit analysis demonstrate that transitional costs are unreasonable or cost-prohibitive, and that the award of a contract without engaging in a standard procurement process is in the best interest of the procurement unit; [~~or~~]

(c) the award of a contract is under circumstances, described in rules adopted by the rulemaking authority, that make awarding the contract through a standard procurement process impractical and not in the best interest of the procurement unit[~~.~~]; or

(d) the procurement item is intended to be used for, or in connection with the establishment of, a state store, as defined in Section 32B-1-102.

(2) Transitional costs associated with a trial use or testing of a procurement item under a trial use contract awarded under Section 63G-6a-802.3 may not be included in a consideration of transitional costs under Subsection (1)(b).

(3) (a) Subject to Subsection (3)(b), a rulemaking authority shall make rules regarding the publication of notice for a procurement under this section that, at a minimum, require publication of notice of the procurement, in accordance with Section 63G-6a-112, if the cost of the procurement exceeds $50,000.

(b) Publication of notice under Section 63G-6a-112 is not required for:

(i) the procurement of public utility services pursuant to a sole source contract; or

(ii) other procurements under this section for which an applicable rule provides that notice is not required.

(4) A procurement official who awards a contract under this section shall negotiate with the contractor to ensure that the terms of the contract,

including price and delivery, are in the best interest of the procurement unit.

Section 3. Section 63G-6a-1206.5 is amended to read:

63G-6a-1206.5. Change in contract price.

(1) As used in this section, "contract price":

(a) means the price under an existing contract between a procurement unit and a contractor; and

(b) does not include a proposed price or cost contained in a solicitation response or any other bid, proposal, or offer submitted by a person other than the contractor under the existing contract.

(2) A contractor may:

[~~(1)~~] (a) increase the contract price only in accordance with the terms of the contract; and

[~~(2)~~] (b) subject to Subsection (3), lower the contract price at any time during the time a contract is in effect.

(3) A contractor under a multiple award contract resulting from a bidding process may not lower the contract price unless the contractor's solicitation response that led to the contract award was the lowest price solicitation response.

CHAPTER 407
S. B. 194
Passed March 3, 2021
Approved March 22, 2021
Effective May 5, 2021

UTAH MAIN STREET PROGRAM

Chief Sponsor: Derrin R. Owens
House Sponsor: Steven J. Lund

LONG TITLE

General Description:

This bill creates the Utah Main Street Program (program) within the Governor's Office of Economic Development (GOED).

Highlighted Provisions:

This bill:

- defines terms;
- creates the Utah Main Street Program;
- describes the duties of GOED in administering the program; and
- creates and describes the membership and duties of the Utah Main Street Program Advisory Committee.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:
63N-3-601, Utah Code Annotated 1953
63N-3-602, Utah Code Annotated 1953
63N-3-603, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63N-3-601 is enacted to read:

Part 6. (Codified as Part 7.) Utah Main Street Program

63N-3-601. (Codified as 63N-3-701) Definitions.

As used in this part:

(1) "Advisory committee" means the Utah Main Street Advisory Committee created in Section 63N-3-603.

(2) "Center" means the National Main Street Center.

(3) "Program" means the Utah Main Street Program created in Section 63N-3-602.

Section 2. Section 63N-3-602 is enacted to read:

63N-3-602. (Codified as 63N-3-702) Utah Main Street Program.

(1) The Utah Main Street Program is created within the office to provide resources for the revitalization of downtown or commercial district areas of municipalities in the state.

(2) To implement the program, the office may:

(a) become a member of the National Main Street Center and partner with the center to become the statewide coordinating program for participating municipalities in the state;

(b) establish criteria for the designation of one or more local main street programs administered by a county or municipality in the state;

(c) consider the recommendations of the advisory committee in designating and implementing local main street programs;

(d) provide training and technical assistance to local governments, businesses, property owners, or other organizations that participate in designated local main street programs;

(e) subject to appropriations from the Legislature or other funding, provide financial assistance to designated local main street programs; and

(f) under the direction of the executive director, appoint full-time staff.

(3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office may make rules establishing the eligibility and reporting criteria for a downtown area to receive a local main street program designation, including requirements for:

(a) local government support of the local main street program; and

(b) collecting data to measure economic development impact.

(4) The office shall include in the annual written report described in Section 63N-1-301, a report of the program's operations and details of which municipalities have received:

(a) a local main street program designation; and

(b) financial support from the program.

Section 3. Section 63N-3-603 is enacted to read:

63N-3-603. (Codified as 63N-3-703) Main Street Program Advisory Committee -- Membership -- Duties.

(1) There is created in the office the Main Street Program Advisory Committee.

(2) The advisory committee is composed of the following members appointed by the executive director:

(a) a representative of the office who provides administrative oversight of the program;

(b) a representative of the office involved in tourism development;

(c) a representative of the Department of Heritage and Arts;

(d) a representative of the State Historic Preservation Office;

(e) a representative of the Utah Department of Transportation;

(f) a representative of the Housing and Community Development Division;

(g) a representative from a local association of governments;

(h) a representative from the private sector involved in a local main street program;

(i) a representative of a local main street program; and

(j) three representatives from various entities that have an interest or expertise in assisting local main street programs.

(3) The advisory committee shall advise and make recommendations to the office regarding:

(a) the eligibility of applicants for designation as a local main street program;

(b) financial assistance requests from designated local main street programs; and

(c) improving the effectiveness of the program.

(4) (a) Except as provided under Subsection (4)(b), each member of the advisory committee appointed under Subsections (2)(g) through (j) shall be appointed for a four-year term.

(b) The executive director, at the time of appointment or reappointment, may adjust the length of terms to ensure that the terms of approximately half of the members of the advisory committee appointed under Subsections (2)(g) through (j) end every two years.

(5) The representative of the office appointed under Subsection (2)(a) shall serve as chair of the advisory committee.

(6) When a vacancy occurs in the membership for any reason, the executive director shall appoint a replacement member.

(7) A majority of the advisory committee constitutes a quorum for the purpose of conducting advisory committee business and the action of a majority of a quorum constitutes the action of the advisory committee.

(8) A member may not receive compensation or benefits for the member's service, but a member may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

CHAPTER 408
S. B. 197
Passed March 5, 2021
Approved March 22, 2021
Effective May 5, 2021

TRUST DEED AMENDMENTS

Chief Sponsor: Chris H. Wilson
House Sponsor: Dan N. Johnson

LONG TITLE

General Description:

This bill modifies provisions relating to trust deeds.

Highlighted Provisions:

This bill:

- requires the trustee to send, by certified or registered mail, a cancellation of recorded notice of default under a trust deed to interested parties; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

57-1-31, as last amended by Laws of Utah 2001, Chapter 236

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 57-1-31 is amended to read:

57-1-31. Trust deeds -- Default in performance of obligations secured -- Reinstatement -- Cancellation of recorded notice of default.

(1) (a) Whenever all or a portion of the principal sum of any obligation secured by a trust deed has, prior to the maturity date fixed in the obligation, become due or been declared due by reason of a breach or default in the performance of any obligation secured by the trust deed, including a default in the payment of interest or of any installment of principal, or by reason of failure of the trustor to pay, in accordance with the terms of the trust deed, taxes, assessments, premiums for insurance, or advances made by the beneficiary in accordance with terms of the obligation or of the trust deed, the trustor or the trustor's successor in interest in the trust property or any part of the trust property or any other person having a subordinate lien or encumbrance of record on the trust property or any beneficiary under a subordinate trust deed, at any time within three months of the filing for record of notice of default under the trust deed, if the power of sale is to be exercised, may pay to the beneficiary or the beneficiary's successor in interest the entire amount then due under the terms of the trust deed (including costs and expenses actually incurred in enforcing the terms of the obligation, or trust deed, and the trustee's and attorney's fees actually incurred) other than that portion of the principal as would not then be due had no default occurred, and thereby cure the existing default.

(b) After the beneficiary or beneficiary's successor in interest has been paid and the default cured, the obligation and trust deed shall be reinstated as if no acceleration had occurred.

(2) (a) If the default is cured and the trust deed reinstated in the manner provided in Subsection (1), and a reasonable fee is paid for cancellation, including the cost of recording the cancellation of notice of default, the trustee shall:

(i) execute, acknowledge, and deliver a cancellation of the recorded notice of default under the trust deed; and [~~any~~]

(ii) mail, by certified or registered mail, return receipt requested, with postage prepaid, within 20 days, a copy of the recorded cancellation of notice of default to each person entitled to receive a copy of a notice of default and a copy of a notice of sale under Subsection 57-1-26(3).

(b) A trustee who refuses to execute and record this cancellation within 30 days is liable to the person curing the default for all actual damages resulting from this refusal.

(c) A reconveyance given by the trustee or the execution of a trustee's deed constitutes a cancellation of a notice of default.

(d) Otherwise, a cancellation of a recorded notice of default under a trust deed is, when acknowledged, entitled to be recorded and is sufficient if made and executed by the trustee in substantially the following form:

Cancellation of Notice of Default

The undersigned hereby cancels the notice of default filed for record _____(month\day\year), and recorded in Book ____, Page ____, Records of ____ County, (or filed of record _____(month\day\year), with recorder's entry No. ____, ____ County), Utah, which notice of default refers to the trust deed executed by ____ and _____ as trustors, in which ____ is named as beneficiary and ____ as trustee, and filed for record _____(month\day\year), and recorded in Book ____, Page ____, Records of ____ County, (or filed of record _____(month\day\year), with recorder's entry No. ____, ____ County), Utah.

(legal description)

Signature of Trustee _____

CHAPTER 409
S. B. 214
Passed March 5, 2021
Approved March 22, 2021
Effective May 5, 2021

OFFICIAL LANGUAGE AMENDMENTS

Chief Sponsor: Kirk A. Cullimore
House Sponsor: Mike Schultz

LONG TITLE

General Description:

This bill removes provisions relating to English being the sole language of government in Utah.

Highlighted Provisions:

This bill:

- removes the provision that English is the sole language for the government in the state of Utah;
- removes the provision requiring all official government documents, transactions, proceedings, meetings, or publications to be in English;
- removes provisions relating to the return of state funds appropriated or designated for the printing or translation of materials or the provision of services or information in a language other than English; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

58-1-311, as enacted by Laws of Utah 2019, Chapter 117
58-11a-302, as last amended by Laws of Utah 2020, Chapter 339
63G-1-201, as last amended by Laws of Utah 2020, Chapter 134

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 58-1-311 is amended to read:

58-1-311. Required examinations in languages in addition to English.

In order to encourage economic development in the state [~~in accordance with Subsection 63G-1-201(4)(e)~~], the department may offer any required examination under this title, which is prepared by a national testing organization, in languages in addition to English.

Section 2. Section 58-11a-302 is amended to read:

58-11a-302. Qualifications for licensure.

(1) Each applicant for licensure as a barber shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

(c) provide satisfactory documentation of:

(i) graduation from a licensed or recognized barber school, or a licensed or recognized cosmetology/barber school, whose curriculum consists of a minimum of 1,000 hours of instruction, or the equivalent number of credit hours, over a period of not less than 25 weeks;

(ii) (A) graduation from a recognized barber school located in a state other than Utah whose curriculum consists of less than 1,000 hours of instruction or the equivalent number of credit hours; and

(B) practice as a licensed barber in a state other than Utah for not less than the number of hours required to equal 1,000 total hours when added to the hours of instruction described in Subsection (1)(c)(ii)(A); or

(iii) completion of an approved barber apprenticeship; and

(d) meet the examination requirement established by rule.

(2) Each applicant for licensure as a barber instructor shall:

(a) submit an application in a form prescribed by the division;

(b) subject to Subsection (24), pay a fee determined by the department under Section 63J-1-504;

(c) provide satisfactory documentation that the applicant is currently licensed as a barber;

(d) provide satisfactory documentation of completion of:

(i) an instructor training program conducted by a licensed or recognized school, as defined by rule, consisting of a minimum of 250 hours or the equivalent number of credit hours;

(ii) on-the-job instructor training conducted by a licensed instructor at a licensed or recognized school, as defined by rule, consisting of a minimum of 250 hours or the equivalent number of credit hours; or

(iii) a minimum of 2,000 hours of experience as a barber; and

(e) meet the examination requirement established by rule.

(3) Each applicant for licensure as a barber school shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee determined by the department under Section 63J-1-504; and

(c) provide satisfactory documentation:

(i) of appropriate registration with the Division of Corporations and Commercial Code;

(ii) of business licensure from the city, town, or county in which the school is located;

(iii) that the applicant's physical facilities comply with the requirements established by rule; and

(iv) that the applicant meets:

(A) the standards for barber schools, including staff and accreditation requirements, established by rule; and

(B) the requirements for recognition as an institution of postsecondary study as described in Subsection (22).

(4) Each applicant for licensure as a cosmetologist/barber shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

(c) provide satisfactory documentation of:

(i) graduation from a licensed or recognized cosmetology/barber school whose curriculum consists of a minimum of 1,600 hours of instruction, or the equivalent number of credit hours, with full flexibility within those hours;

(ii) (A) graduation from a recognized cosmetology/barber school located in a state other than Utah whose curriculum consists of less than 1,600 hours of instruction, or the equivalent number of credit hours, with full flexibility within those hours; and

(B) practice as a licensed cosmetologist/barber in a state other than Utah for not less than the number of hours required to equal 1,600 total hours when added to the hours of instruction described in Subsection (4)(c)(ii)(A); or

(iii) completion of an approved cosmetology/barber apprenticeship; and

(d) meet the examination requirement established by rule.

(5) Each applicant for licensure as a cosmetologist/barber instructor shall:

(a) submit an application in a form prescribed by the division;

(b) subject to Subsection (24), pay a fee determined by the department under Section 63J-1-504;

(c) provide satisfactory documentation that the applicant is currently licensed as a cosmetologist/barber;

(d) provide satisfactory documentation of completion of:

(i) an instructor training program conducted by a licensed or recognized school, as defined by rule, consisting of a minimum of 400 hours or the equivalent number of credit hours;

(ii) on-the-job instructor training conducted by a licensed instructor at a licensed or recognized school, as defined by rule, consisting of a minimum of 400 hours or the equivalent number of credit hours; or

(iii) a minimum of 3,000 hours of experience as a cosmetologist/barber; and

(e) meet the examination requirement established by rule.

(6) Each applicant for licensure as a cosmetologist/barber school shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee determined by the department under Section 63J-1-504; and

(c) provide satisfactory documentation:

(i) of appropriate registration with the Division of Corporations and Commercial Code;

(ii) of business licensure from the city, town, or county in which the school is located;

(iii) that the applicant's physical facilities comply with the requirements established by rule; and

(iv) that the applicant meets:

(A) the standards for cosmetology schools, including staff and accreditation requirements, established by rule; and

(B) the requirements for recognition as an institution of postsecondary study as described in Subsection (22).

(7) Each applicant for licensure as an electrologist shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

(c) provide satisfactory documentation of having graduated from a licensed or recognized electrology school after completing a curriculum of 600 hours of instruction or the equivalent number of credit hours; and

(d) meet the examination requirement established by rule.

(8) Each applicant for licensure as an electrologist instructor shall:

(a) submit an application in a form prescribed by the division;

(b) subject to Subsection (24), pay a fee determined by the department under Section 63J-1-504;

(c) provide satisfactory documentation that the applicant is currently licensed as an electrologist;

(d) provide satisfactory documentation of completion of:

(i) an instructor training program conducted by a licensed or recognized school, as defined by rule,

consisting of a minimum of 150 hours or the equivalent number of credit hours;

(ii) on-the-job instructor training conducted by a licensed instructor at a licensed or recognized school, as defined by rule, consisting of a minimum of 150 hours or the equivalent number of credit hours; or

(iii) a minimum of 1,000 hours of experience as an electrologist; and

(e) meet the examination requirement established by rule.

(9) Each applicant for licensure as an electrologist school shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee determined by the department under Section 63J-1-504; and

(c) provide satisfactory documentation:

(i) of appropriate registration with the Division of Corporations and Commercial Code;

(ii) of business licensure from the city, town, or county in which the school is located;

(iii) that the applicant's facilities comply with the requirements established by rule; and

(iv) that the applicant meets:

(A) the standards for electrologist schools, including staff, curriculum, and accreditation requirements, established by rule; and

(B) the requirements for recognition as an institution of postsecondary study as described in Subsection (22).

(10) Each applicant for licensure as an esthetician shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

(c) provide satisfactory documentation of one of the following:

(i) graduation from a licensed or recognized esthetic school or a licensed or recognized cosmetology/barber school whose curriculum consists of not less than 15 weeks of esthetic instruction with a minimum of 600 hours or the equivalent number of credit hours;

(ii) completion of an approved esthetician apprenticeship; or

(iii) (A) graduation from a recognized cosmetology/barber school located in a state other than Utah whose curriculum consists of less than 1,600 hours of instruction, or the equivalent number of credit hours, with full flexibility within those hours; and

(B) practice as a licensed cosmetologist/barber for not less than the number of hours required to equal 1,600 total hours when added to the hours of instruction described in Subsection (10)(c)(iii)(A); and

(d) meet the examination requirement established by division rule.

(11) Each applicant for licensure as a master esthetician shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

(c) provide satisfactory documentation of:

(i) completion of at least 1,200 hours of training, or the equivalent number of credit hours, at a licensed or recognized esthetics school, except that up to 600 hours toward the 1,200 hours may have been completed:

(A) at a licensed or recognized cosmetology/barbering school, if the applicant graduated from the school and its curriculum consisted of at least 1,600 hours of instruction, or the equivalent number of credit hours, with full flexibility within those hours; or

(B) at a licensed or recognized cosmetology/barber school located in a state other than Utah, if the applicant graduated from the school and its curriculum contained full flexibility within its hours of instruction; or

(ii) completion of an approved master esthetician apprenticeship;

(d) if the applicant will practice lymphatic massage, provide satisfactory documentation to show completion of 200 hours of training, or the equivalent number of credit hours, in lymphatic massage as defined by division rule; and

(e) meet the examination requirement established by division rule.

(12) Each applicant for licensure as an esthetician instructor shall:

(a) submit an application in a form prescribed by the division;

(b) subject to Subsection (24), pay a fee determined by the department under Section 63J-1-504;

(c) provide satisfactory documentation that the applicant is currently licensed as a master esthetician;

(d) provide satisfactory documentation of completion of:

(i) an instructor training program conducted by a licensed or recognized school, as defined by rule, consisting of a minimum of 300 hours or the equivalent number of credit hours;

(ii) on-the-job instructor training conducted by a licensed instructor at a licensed or recognized school, as defined by rule, consisting of a minimum of 300 hours or the equivalent number of credit hours; or

(iii) a minimum of 1,000 hours of experience in esthetics; and

(e) meet the examination requirement established by rule.

(13) Each applicant for licensure as an esthetics school shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee determined by the department under Section 63J-1-504; and

(c) provide satisfactory documentation:

(i) of appropriate registration with the Division of Corporations and Commercial Code;

(ii) of business licensure from the city, town, or county in which the school is located;

(iii) that the applicant's physical facilities comply with the requirements established by rule; and

(iv) that the applicant meets:

(A) the standards for esthetics schools, including staff, curriculum, and accreditation requirements, established by division rule made in collaboration with the board; and

(B) the requirements for recognition as an institution of postsecondary study as described in Subsection (22).

(14) Each applicant for licensure as a hair designer shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

(c) provide satisfactory documentation of:

(i) graduation from a licensed or recognized cosmetology/barber, hair design, or barbering school whose curriculum consists of a minimum of 1,200 hours of instruction, or the equivalent number of credit hours, with full flexibility within those hours;

(ii) (A) graduation from a recognized cosmetology/barber, hair design, or barbering school located in a state other than Utah whose curriculum consists of less than 1,200 hours of instruction, or the equivalent number of credit hours, with full flexibility within those hours; and

(B) practice as a licensed cosmetologist/barber or hair designer in a state other than Utah for not less than the number of hours required to equal 1,200 total hours when added to the hours of instruction described in Subsection (14)(c)(ii)(A);

(iii) being a state licensed cosmetologist/barber; or

(iv) completion of an approved hair designer apprenticeship; and

(d) meet the examination requirements established by rule.

(15) Each applicant for licensure as a hair designer instructor shall:

(a) submit an application in a form prescribed by the division;

(b) subject to Subsection (24), pay a fee determined by the department under Section 63J-1-504;

(c) provide satisfactory documentation that the applicant is currently licensed as a hair designer or as a cosmetologist/barber;

(d) provide satisfactory documentation of completion of:

(i) an instructor training program conducted by a licensed or recognized school, as defined by rule, consisting of a minimum of 300 hours or the equivalent number of credit hours;

(ii) on-the-job instructor training conducted by a licensed instructor at a licensed or recognized school, as defined by rule, consisting of a minimum of 300 hours or the equivalent number of credit hours; or

(iii) a minimum of 2,500 hours of experience as a hair designer or as a cosmetologist/barber; and

(e) meet the examination requirement established by rule.

(16) Each applicant for licensure as a hair design school shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee determined by the department under Section 63J-1-504; and

(c) provide satisfactory documentation:

(i) of appropriate registration with the Division of Corporations and Commercial Code;

(ii) of business licensure from the city, town, or county in which the school is located;

(iii) that the applicant's physical facilities comply with the requirements established by rule; and

(iv) that the applicant meets:

(A) the standards for a hair design school, including staff and accreditation requirements, established by rule; and

(B) the requirements for recognition as an institution of postsecondary study as described in Subsection (22).

(17) Each applicant for licensure as a nail technician shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

(c) provide satisfactory documentation of:

(i) graduation from a licensed or recognized nail technology school, or a licensed or recognized cosmetology/barber school, whose curriculum consists of not less than 300 hours of instruction, or the equivalent number of credit hours;

(ii) (A) graduation from a recognized nail technology school located in a state other than Utah whose curriculum consists of less than 300 hours of instruction or the equivalent number of credit hours; and

(B) practice as a licensed nail technician in a state other than Utah for not less than the number of hours required to equal 300 total hours when added to the hours of instruction described in Subsection (17)(c)(ii)(A); or

(iii) completion of an approved nail technician apprenticeship; and

(d) meet the examination requirement established by division rule.

(18) Each applicant for licensure as a nail technician instructor shall:

(a) submit an application in a form prescribed by the division;

(b) subject to Subsection (24), pay a fee determined by the department under Section 63J-1-504;

(c) provide satisfactory documentation that the applicant is currently licensed as a nail technician;

(d) provide satisfactory documentation of completion of:

(i) an instructor training program conducted by a licensed or recognized school, as defined by rule, consisting of a minimum of 75 hours or the equivalent number of credit hours;

(ii) an on-the-job instructor training program conducted by a licensed instructor at a licensed or recognized school, as defined by rule, consisting of a minimum of 75 hours or the equivalent number of credit hours; or

(iii) a minimum of 600 hours of experience in nail technology; and

(e) meet the examination requirement established by rule.

(19) Each applicant for licensure as a nail technology school shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee determined by the department under Section 63J-1-504; and

(c) provide satisfactory documentation:

(i) of appropriate registration with the Division of Corporations and Commercial Code;

(ii) of business licensure from the city, town, or county in which the school is located;

(iii) that the applicant's facilities comply with the requirements established by rule; and

(iv) that the applicant meets:

(A) the standards for nail technology schools, including staff, curriculum, and accreditation requirements, established by rule; and

(B) the requirements for recognition as an institution of postsecondary study as described in Subsection (22).

(20) Each applicant for licensure under this chapter whose education in the field for which a license is sought was completed at a foreign school may satisfy the educational requirement for licensure by demonstrating, to the satisfaction of the division, the educational equivalency of the foreign school education with a licensed school under this chapter.

(21) (a) A licensed or recognized school under this section shall accept credit hours towards graduation for documented, relevant, and substantially equivalent coursework previously completed by:

(i) a student that did not complete the student's education while attending a different school; or

(ii) a licensee of any other profession listed in this section, based on the licensee's schooling, apprenticeship, or experience.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and consistent with this section, the division may make rules governing the acceptance of credit hours under Subsection (21)(a).

(22) A school licensed or applying for licensure under this chapter shall maintain recognition as an institution of postsecondary study by meeting the following conditions:

(a) the school shall admit as a regular student only an individual who has earned a recognized high school diploma or the equivalent of a recognized high school diploma, or who is beyond the age of compulsory high school attendance as prescribed by Title 53G, Chapter 6, Part 2, Compulsory Education; and

(b) the school shall be licensed by name, or in the case of an applicant, shall apply for licensure by name, under this chapter to offer one or more training programs beyond the secondary level.

(23) A person seeking to qualify for licensure under this chapter by apprenticing in an approved apprenticeship shall register with the division as described in Section 58-11a-306.

(24) The department may only charge a fee to a person applying for licensure as any type of instructor under this chapter if the person is not a licensed instructor in any other profession under this chapter.

(25) In order to encourage economic development in the state [~~in accordance with Subsection 63G-1-201(4)(e)~~], the department may offer any

required examination under this section, which is prepared by a national testing organization, in languages in addition to English.

Section 3. Section 63G-1-201 is amended to read:

63G-1-201. Official state language.

[~~(1)~~] English is declared to be the official language of Utah.

[~~(2) As the official language of this State, the English language is the sole language of the government, except as otherwise provided in this section.~~]

[~~(3) Except as provided in Subsection (4), all official documents, transactions, proceedings, meetings, or publications issued, conducted, or regulated by, on behalf of, or representing the state and its political subdivisions shall be in English.~~]

[~~(4) Languages other than English may be used when required:~~]

[~~(a) by the United States Constitution, the Utah State Constitution, federal law, or federal regulation;~~]

[~~(b) by law enforcement for public health and safety needs;~~]

[~~(c) by public and higher education systems according to rules made by the State Board of Education and the State Board of Regents to comply with Subsection (5);~~]

[~~(d) in judicial proceedings, when necessary to insure that justice is served;~~]

[~~(e) to promote and encourage tourism and economic development, including the hosting of international events such as the Olympics;~~]

[~~(f) by a recreational, scenic, historic, or cultural facility, site, or area that is frequented by international tourists to:~~]

[~~(i) inform international tourists about the facility, site, or area; and~~]

[~~(ii) address the health and safety of international tourists while visiting the facility, site, or area;~~]

[~~(g) by libraries to:~~]

[~~(i) collect and promote foreign language materials; and~~]

[~~(ii) provide foreign language services and activities; and~~]

[~~(h) by the Utah Educational Savings Plan established under Title 53B, Chapter 8a, Utah Educational Savings Plan.~~]

[~~(5) The State Board of Education and the State Board of Regents shall make rules governing the use of foreign languages in the public and higher education systems that promote the following principles:~~]

[~~(a) non-English speaking children and adults should become able to read, write, and understand English as quickly as possible;~~]

[~~(b) foreign language instruction should be encouraged;~~]

[~~(c) formal and informal programs in English as a Second Language should be initiated, continued, and expanded; and~~]

[~~(d) public schools should establish communication with non-English speaking parents of children within their systems, using a means designed to maximize understanding when necessary, while encouraging those parents who do not speak English to become more proficient in English.~~]

[~~(6) Unless exempted by Subsection (4), all state funds appropriated or designated for the printing or translation of materials or the provision of services or information in a language other than English shall be returned to the General Fund.~~]

[~~(a) Each state agency that has state funds appropriated or designated for the printing or translation of materials or the provision of services or information in a language other than English shall:~~]

[~~(i) notify the Division of Finance that the money exists and the amount of the money; and~~]

[~~(ii) return the money to the Division of Finance.~~]

[~~(b) The Division of Finance shall account for the money and inform the Legislature of the existence and amount of the money at the beginning of the Legislature's annual general session.~~]

[~~(c) The Legislature may appropriate any money received under this section to the State School Board for use in English as a Second Language programs.~~]

[~~(7) Nothing in this section affects the ability of government employees, private businesses, nonprofit organizations, or private individuals to exercise their rights under:~~]

[~~(a) the First Amendment of the United States Constitution; and~~]

[~~(b) Utah Constitution, Article 1, Sections 1 and 15.~~]

[~~(8) If any provision of this section, or the application of any such provision to any person or circumstance, is held invalid, the remainder of this act shall be given effect without the invalid provision or application.~~]

CHAPTER 410
S. B. 215
Passed March 4, 2021
Approved March 22, 2021
Effective May 5, 2021

SEX OFFENDER REGISTRY AMENDMENTS

Chief Sponsor: Jacob L. Anderegg
House Sponsor: Craig Hall

LONG TITLE

General Description:

This bill concerns the Sex and Kidnap Offender Registry.

Highlighted Provisions:

This bill:

- requires the Board of Pardons and Parole, after granting a pardon for a conviction that requires an individual to be registered on the Sex and Kidnap Offender Registry, to send an order directing the Department of Corrections to remove the individual from the registry;
- allows certain offenders on the Sex and Kidnap Offender Registry to petition the court for removal from the registry under specified conditions;
- establishes the burden of proof and factors that a court may consider in determining whether to grant certain petitions for removal from the Sex and Kidnap Offender Registry;
- requires the Department of Corrections to remove an individual from the Sex and Kidnap Offender Registry when the individual's conviction that requires registration has been pardoned;
- requires the Department of Corrections to automatically remove qualifying individuals from the Sex and Kidnap Offender Registry;
- allows for an individual who has not been automatically removed from the registry by the Department of Corrections but believes that the individual's offense is no longer registrable to request removal; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a coordination clause.

Utah Code Sections Affected:

AMENDS:
77-41-112, as last amended by Laws of Utah 2019, Chapter 382
77-41-113, as enacted by Laws of Utah 2020, Chapter 237

ENACTS:
77-27-5.2, Utah Code Annotated 1953

Utah Code Sections Affected by Coordination Clause:
77-41-113, as enacted by Laws of Utah 2020, Chapter 237

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 77-27-5.2 is enacted to read:

77-27-5.2. Board authority to order removal from Sex and Kidnap Offender Registry.

(1) If the board grants a pardon for a conviction that is the basis for an individual's registration on the Sex and Kidnap Offender Registry, the board shall issue an order directing the Department of Corrections to remove the individual's name and personal information relating to the pardoned conviction from the Sex and Kidnap Offender Registry.

(2) An order described in Subsection (1), issued by the board, satisfies the notification requirement described in Subsection 77-41-113(1)(b).

Section 2. Section 77-41-112 is amended to read:

77-41-112. Removal from registry -- Requirements -- Procedure.

(1) An offender who is required to register with the Sex and Kidnap Offender Registry may petition the court for an order removing the offender from the Sex and Kidnap Offender Registry if:

(a) (i) the offender is convicted of an offense described in Subsection (2);

(ii) at least five years have passed after the day on which the offender's sentence for the offense terminates;

(iii) the offense is the only offense for which the offender is required to register;

(iv) the offender is not convicted of another offense, excluding a traffic offense, after the day on which the offender is convicted of the offense for which the offender is required to register, as evidenced by a certificate of eligibility issued by the bureau;

(v) the offender successfully completes all treatment ordered by the court or the Board of Pardons and Parole relating to the offense;

(vi) the offender pays all restitution ordered by the court or the Board of Pardons and Parole relating to the offense; and

(vii) the offender complies with all registration requirements required under this chapter at all times; [~~or~~]

(b) (i) if the offender is required to register in accordance with Subsection 77-41-105(3)(a);

(ii) at least 10 years have passed after the later of:

(A) the day on which the offender is placed on probation;

(B) the day on which the offender is released from incarceration to parole;

(C) the day on which the offender's sentence is terminated without parole;

(D) the day on which the offender enters a community-based residential program; or

(E) for a minor, as defined in Section 78A-6-105, the day on which the division's custody of the offender is terminated;

(iii) the offender is not convicted of another offense that is a class A misdemeanor, felony, or capital felony within the most recent 10-year period after the date described in Subsection (1)(b)(ii), as evidenced by a certificate of eligibility issued by the bureau;

(iv) the offender successfully completes all treatment ordered by the court or the Board of Pardons and Parole relating to the offense;

(v) the offender pays all restitution ordered by the court or the Board of Pardons and Parole relating to the offense; and

(vi) the offender complies with all registration requirements required under this chapter at all times[.]; or

(c) (i) the offender is required to register in accordance with Subsection 77-41-105(3)(c);

(ii) at least 20 years have passed after the later of:

(A) the day on which the offender was placed on probation;

(B) the day on which the offender was released from incarceration to parole;

(C) the day on which the offender's sentence was terminated without parole;

(D) the day on which the offender entered a community-based residential program; or

(E) for a minor, as defined in Section 78A-6-105, the day on which the division's custody of the offender was terminated;

(iii) the offender has not been convicted of another offense that is a class A misdemeanor, felony, or capital felony within the most recent 20-year period after the date described in Subsection (1)(c)(ii), as evidenced by a certificate of eligibility issued by the bureau;

(iv) the offender completed all treatment ordered by the court or the Board of Pardons and Parole relating to the offense;

(v) the offender has paid all restitution ordered by the court or the Board of Pardons and Parole relating to the offense; and

(vi) the offender submits to an evidence-based risk assessment to the court, with the offender's petition, that:

(A) meets the standards for the current risk assessment, score, and risk level required by the Board of Pardons and Parole for parole termination requests;

(B) is completed within the six months before the date on which the petition is filed; and

(C) describes the evidence-based risk assessment of the current level of risk to the safety of the public posed by the offender.

(2) The offenses referred to in Subsection (1)(a)(i) are:

(a) Section 76-4-401, enticing a minor, if the offense is a class A misdemeanor;

(b) Section 76-5-301, kidnapping;

(c) Section 76-5-304, unlawful detention, if the conviction of violating Section 76-5-304 is the only conviction for which the offender is required to register;

(d) Section 76-5-401, unlawful sexual activity with a minor if, at the time of the offense, the offender is not more than 10 years older than the victim;

(e) Section 76-5-401.1, sexual abuse of a minor, if, at the time of the offense, the offender is not more than 10 years older than the victim;

(f) Section 76-5-401.2, unlawful sexual conduct with a 16 or 17 year old, and at the time of the offense, the offender is not more than 15 years older than the victim; or

(g) Section 76-9-702.7, voyeurism, if the offense is a class A misdemeanor.

(3) (a) (i) An offender seeking removal from the Sex and Kidnap Offender Registry under this section shall apply for a certificate of eligibility from the bureau.

(ii) An offender who intentionally or knowingly provides false or misleading information to the bureau when applying for a certificate of eligibility is guilty of a class B misdemeanor and subject to prosecution under Section 76-8-504.6.

(iii) Regardless of whether the offender is prosecuted, the bureau may deny a certificate of eligibility to an offender who provides false information on an application.

(b) (i) The bureau shall perform a check of records of governmental agencies, including national criminal databases, to determine whether an offender is eligible to receive a certificate of eligibility.

(ii) If the offender meets the requirements described in Subsection (1)(a) [~~or~~], (b), or (c), the bureau shall issue a certificate of eligibility to the offender, which is valid for a period of 90 days after the day on which the bureau issues the certificate.

(iii) The bureau shall request information from the department regarding whether the offender meets the requirements.

(iv) Upon request from the bureau under Subsection (3)(b)(iii), the department shall issue a document that states whether the offender meets the requirements described in Subsection (1)(a) [~~or~~], (b), or (c), which may be used by the bureau to determine if a certificate of eligibility is appropriate.

(v) The bureau shall provide a copy of the document provided to the bureau under Subsection (3)(b)(iv) to the offender upon issuance of a certificate of eligibility.

(4) (a) (i) The bureau shall charge application and issuance fees for a certificate of eligibility in accordance with the process in Section 63J-1-504.

(ii) The application fee shall be paid at the time the offender submits an application for a certificate of eligibility to the bureau.

(iii) If the bureau determines that the issuance of a certificate of eligibility is appropriate, the offender will be charged an additional fee for the issuance of a certificate of eligibility.

(b) Funds generated under this Subsection (4) shall be deposited into the General Fund as a dedicated credit by the department to cover the costs incurred in determining eligibility.

(5) (a) The offender shall file the petition, including original information, the court docket, the certificate of eligibility from the bureau, and the document from the department described in Subsection (3)(b)(iv) with the court, and deliver a copy of the petition to the office of the prosecutor.

(b) Upon receipt of a petition for removal from the Sex and Kidnap Offender Registry, the office of the prosecutor shall provide notice of the petition by first-class mail to the victim at the most recent address of record on file or, if the victim is still a minor under 18 years of age, to the parent or guardian of the victim.

(c) The notice described in Subsection (5)(b) shall include a copy of the petition, state that the victim has a right to object to the removal of the offender from the registry, and provide instructions for registering an objection with the court.

(d) The office of the prosecutor shall provide the following, if available, to the court within 30 days after the day on which the office receives the petition:

(i) presentencing report;

(ii) an evaluation done as part of sentencing; and

(iii) any other information the office of the prosecutor feels the court should consider.

(e) The victim, or the victim's parent or guardian if the victim is a minor under 18 years [~~of age~~] old, may respond to the petition by filing a recommendation or objection with the court within 45 days after the day on which the petition is mailed to the victim.

(6) (a) The court shall:

(i) review the petition and all documents submitted with the petition; and

(ii) hold a hearing if requested by the prosecutor or the victim.

(b) [~~The~~] (i) Except as provided in Subsections (6)(b)(ii) and (iii), the court may grant the petition and order removal of the offender from the registry if the court determines that the offender has met the requirements described in Subsection (1)(a) or (b) and removal is not contrary to the interests of the public.

(ii) When considering a petition filed under Subsection (1)(c), the court shall determine whether the offender has demonstrated, by clear and convincing evidence, that the offender is rehabilitated and does not pose a threat to the safety of the public.

(iii) In making the determination described in Subsection (6)(b)(ii), the court may consider:

(A) the nature and degree of violence involved in the offense that requires registration;

(B) the age and number of victims of the offense that requires registration;

(C) the age of the offender at the time of the offense that requires registration;

(D) the offender's performance while on supervision for the offense that requires registration;

(E) the offender's stability in employment and housing;

(F) the offender's community and personal support system;

(G) other criminal and relevant noncriminal behavior of the offender both before and after the offense that requires registration;

(H) the level of risk posed by the offender as evidenced by the evidence-based risk assessment described in Subsection (1)(c)(vi); and

(I) any other relevant factors.

(c) If the court grants the petition, the court shall forward a copy of the order directing removal of the offender from the registry to the department and the office of the prosecutor.

(d) [~~If~~] (i) Except as provided in Subsection (6)(d)(ii), if the court denies the petition, the offender may not submit another petition for three years.

(ii) If the offender files a petition under Subsection (1)(c) and the court denies the petition, the offender may not submit another petition for eight years.

(7) The court shall notify the victim and the Sex and Kidnap Offender Registry office in the department of the court's decision within three days after the day on which the court issues the court's decision in the same manner described in Subsection (5).

Section 3. Section 77-41-113 is amended to read:

77-41-113. Removal for offenses or convictions for which registration is no longer required.

[~~(1) An individual who is currently on the Sex and Kidnap Offender Registry because of a conviction for any of the following offenses may contact the~~

~~department and request removal from the registry if~~]

(1) The department shall automatically remove an individual who is currently on the Sex and Kidnap Offender Registry because of a conviction if:

(a) the only offense or offenses for which the individual is on the registry [~~is~~] are listed in Subsection (2)[~~.~~]; or

(b) the department receives a formal notification or order from the court or the Board of Pardons and Parole that the conviction for the offense or offenses for which the individual is on the registry has been reversed, vacated, or pardoned.

[~~(2) This section applies to a conviction for the following offenses:~~]

(2) The offenses described in Subsection (1)(a) are:

(a) a class B or class C misdemeanor for enticing a minor, Section 76-4-401;

(b) kidnapping, based upon Subsection 76-5-301(1)(a) or (b);

(c) child kidnapping, Section 76-5-301.1, if the offender was the natural parent of the child victim;

(d) unlawful detention, Section 76-5-304;

(e) a third degree felony for unlawful sexual intercourse before 1986, or a class B misdemeanor for unlawful sexual intercourse, Section 76-5-401; or

(f) sodomy, but not forcible sodomy, Section 76-5-403.

(3) (a) The department shall notify an individual who has been removed from the registry in accordance with Subsection (1).

(b) The notice described in Subsection (3)(a) shall include a statement that the individual is no longer required to register as a sex offender.

(4) An individual who is currently on the Sex and Kidnap Offender Registry may submit a request to the department to be removed from the registry if the individual believes that the individual qualifies for removal under this section.

[~~(3)~~] (5) The department, upon receipt of a request for removal from the registry shall:

(a) check the registry for the individual's current status;

(b) determine whether the individual qualifies for removal based upon this section; and

(c) notify the individual in writing of the department's determination and whether the individual:

(i) qualifies for removal from the registry; or

(ii) does not qualify for removal.

[~~(4)~~] (6) If the department determines that the individual qualifies for removal from the registry, the department shall remove the offender from the registry.

[~~(5)~~] (7) If the department determines that the individual does not qualify for removal from the registry, the department shall provide an explanation in writing for the department's determination. The department's determination is final and not subject to administrative review.

[~~(6)~~] (8) Neither the department nor any employee may be civilly liable for a determination made in good faith in accordance with this section.

[~~(7)~~] (9) The department shall provide a response to a request for removal within 30 days of receipt of the request and payment of the fee. If the response cannot be provided within 30 days, the department shall notify the individual that the response may be delayed up to 30 additional days.

[~~(8)~~] (10) The department may charge a fee, not to exceed $25, for a request for removal.

Section 4. Coordinating S.B. 215 with S.B. 165 -- Substantive amendments.

If this S.B. 215 and S.B. 165, Sex Offender Registry Revisions, both pass and become law, the Legislature intends that the Office of Legislative Research and General Counsel, when it prepares the Utah Code database for publication, amend Section 77-41-113 to read:

"77-41-113. Removal for offenses or convictions for which registration is no longer required.

(1) [~~An individual who is currently on the Sex and Kidnap Offender Registry because of a conviction for any of the following offenses may contact the department and request removal from the registry if~~] The department shall automatically remove an individual who is currently on the Sex and Kidnap Offender Registry because of a conviction if:

(a) the only offense or offenses for which the individual is on the registry [~~is~~] are listed in Subsection (2)[~~.~~]; or

(b) the department receives a formal notification or order from the court or the Board of Pardons and Parole that the conviction for the offense or offenses for which the individual is on the registry have been reversed, vacated, or pardoned.

(2) [~~This section applies to a conviction for the following offenses~~] The offenses described in Subsection (1)(a) are:

(a) a class B or class C misdemeanor for enticing a minor, Section 76-4-401;

(b) kidnapping, based upon Subsection 76-5-301(1)(a) or (b);

(c) child kidnapping, Section 76-5-301.1, if the offender was the natural parent of the child victim;

(d) unlawful detention, Section 76-5-304;

(e) a third degree felony for unlawful sexual intercourse before 1986, or a class B misdemeanor for unlawful sexual intercourse, Section 76-5-401; or

(f) sodomy, but not forcible sodomy, Section 76-5-403.

(3) (a) The department shall notify an individual who has been removed from the registry in accordance with Subsection (1).

(b) The notice described in Subsection (3)(a) shall include a statement that the individual is no longer required to register as a sex offender.

(4) An individual who is currently on the Sex and Kidnap Offender Registry may submit a request to the department to be removed from the registry if the individual believes that the individual qualifies for removal under this section.

[~~(3)~~] (5) The department, upon receipt of a request for removal from the registry shall:

(a) check the registry for the individual's current status;

(b) determine whether the individual qualifies for removal based upon this section; and

(c) notify the individual in writing of the department's determination and whether the individual:

(i) qualifies for removal from the registry; or

(ii) does not qualify for removal.

[~~(4)~~] (6) If the department determines that the individual qualifies for removal from the registry, the department shall remove the offender from the registry.

[~~(5)~~] (7) If the department determines that the individual does not qualify for removal from the registry, the department shall provide an explanation in writing for the department's determination. The department's determination is final and not subject to administrative review.

[~~(6)~~] (8) Neither the department nor any employee may be civilly liable for a determination made in good faith in accordance with this section.

[~~(7)~~] (9) The department shall provide a response to a request for removal within 30 days of receipt of the request [~~and payment of the fee~~]. If the response cannot be provided within 30 days, the department shall notify the individual that the response may be delayed up to 30 additional days.

[~~(8) The department may charge a fee, not to exceed $25, for a request for removal.~~]".

CHAPTER 411
S. B. 217
Passed March 5, 2021
Approved March 22, 2021
Effective May 5, 2021
(Exception clause in Section 16)

HOUSING AND TRANSIT REINVESTMENT ZONE ACT

Chief Sponsor: Wayne A. Harper
House Sponsor: Stephen G. Handy

LONG TITLE

General Description:

This bill enacts the Housing and Transit Reinvestment Zone Act.

Highlighted Provisions:

This bill:

- enacts the Housing and Transit Reinvestment Zone Act;
- defines terms;
- establishes objectives and requirements for a municipality or public transit county to create a housing and transit reinvestment zone to capture tax increment revenue within a defined area around certain public transit facilities;
- requires a municipality or public transit county to submit a housing and transit reinvestment zone proposal to the Governor's Office of Economic Development;
- requires the Governor's Office of Economic Development to initiate an analysis of the feasibility, efficiency, and other aspects of the proposed housing and transit reinvestment zone;
- creates and defines membership of a committee to review the proposed housing and transit reinvestment zone;
- requires the committee to evaluate the proposed housing and transit reinvestment zone and approve if certain criteria are met;
- requires participation from local taxing entities if the housing and transit reinvestment zone proposal meets the statutory requirements and is approved by the committee;
- defines permitted uses and administration of tax increment revenue generated pursuant to the housing and transit reinvestment zone;
- provides procedures for a housing and transit reinvestment zone that overlaps with a community reinvestment project;
- provides for certain protections of tax increment revenues;
- requires a certain portion of sales and use tax increment generated within a sales and use tax boundary that corresponds to the housing and transit reinvestment zone boundary to be deposited into the Transit Transportation Investment Fund;
- amends provisions related to prioritization of certain funds related to transportation for a project that is part of an housing and transit reinvestment zone; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

59-12-103, as last amended by Laws of Utah 2020, Fifth Special Session, Chapter 20
72-1-102, as last amended by Laws of Utah 2020, Chapters 243 and 377
72-1-304, as last amended by Laws of Utah 2020, Chapter 377
72-2-124, as last amended by Laws of Utah 2020, Chapters 366 and 377
72-2-201, as last amended by Laws of Utah 2020, Chapter 366

ENACTS:

63N-3-601, Utah Code Annotated 1953
63N-3-602, Utah Code Annotated 1953
63N-3-603, Utah Code Annotated 1953
63N-3-604, Utah Code Annotated 1953
63N-3-605, Utah Code Annotated 1953
63N-3-606, Utah Code Annotated 1953
63N-3-607, Utah Code Annotated 1953
63N-3-608, Utah Code Annotated 1953
63N-3-609, Utah Code Annotated 1953
63N-3-610, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 59-12-103 is amended to read:

59-12-103. Sales and use tax base -- Rates -- Effective dates -- Use of sales and use tax revenues.

(1) A tax is imposed on the purchaser as provided in this part on the purchase price or sales price for amounts paid or charged for the following transactions:

(a) retail sales of tangible personal property made within the state;

(b) amounts paid for:

(i) telecommunications service, other than mobile telecommunications service, that originates and terminates within the boundaries of this state;

(ii) mobile telecommunications service that originates and terminates within the boundaries of one state only to the extent permitted by the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 116 et seq.; or

(iii) an ancillary service associated with a:

(A) telecommunications service described in Subsection (1)(b)(i); or

(B) mobile telecommunications service described in Subsection (1)(b)(ii);

(c) sales of the following for commercial use:

(i) gas;

(ii) electricity;

(iii) heat;

(iv) coal;

(v) fuel oil; or

(vi) other fuels;

(d) sales of the following for residential use:

(i) gas;

(ii) electricity;

(iii) heat;

(iv) coal;

(v) fuel oil; or

(vi) other fuels;

(e) sales of prepared food;

(f) except as provided in Section 59-12-104, amounts paid or charged as admission or user fees for theaters, movies, operas, museums, planetariums, shows of any type or nature, exhibitions, concerts, carnivals, amusement parks, amusement rides, circuses, menageries, fairs, races, contests, sporting events, dances, boxing matches, wrestling matches, closed circuit television broadcasts, billiard parlors, pool parlors, bowling lanes, golf, miniature golf, golf driving ranges, batting cages, skating rinks, ski lifts, ski runs, ski trails, snowmobile trails, tennis courts, swimming pools, water slides, river runs, jeep tours, boat tours, scenic cruises, horseback rides, sports activities, or any other amusement, entertainment, recreation, exhibition, cultural, or athletic activity;

(g) amounts paid or charged for services for repairs or renovations of tangible personal property, unless Section 59-12-104 provides for an exemption from sales and use tax for:

(i) the tangible personal property; and

(ii) parts used in the repairs or renovations of the tangible personal property described in Subsection (1)(g)(i), regardless of whether:

(A) any parts are actually used in the repairs or renovations of that tangible personal property; or

(B) the particular parts used in the repairs or renovations of that tangible personal property are exempt from a tax under this chapter;

(h) except as provided in Subsection 59-12-104(7), amounts paid or charged for assisted cleaning or washing of tangible personal property;

(i) amounts paid or charged for tourist home, hotel, motel, or trailer court accommodations and services that are regularly rented for less than 30 consecutive days;

(j) amounts paid or charged for laundry or dry cleaning services;

(k) amounts paid or charged for leases or rentals of tangible personal property if within this state the tangible personal property is:

(i) stored;

(ii) used; or

(iii) otherwise consumed;

(l) amounts paid or charged for tangible personal property if within this state the tangible personal property is:

(i) stored;

(ii) used; or

(iii) consumed; and

(m) amounts paid or charged for a sale:

(i) (A) of a product transferred electronically; or

(B) of a repair or renovation of a product transferred electronically; and

(ii) regardless of whether the sale provides:

(A) a right of permanent use of the product; or

(B) a right to use the product that is less than a permanent use, including a right:

(I) for a definite or specified length of time; and

(II) that terminates upon the occurrence of a condition.

(2) (a) Except as provided in Subsections (2)(b) through (e), a state tax and a local tax are imposed on a transaction described in Subsection (1) equal to the sum of:

(i) a state tax imposed on the transaction at a tax rate equal to the sum of:

(A) (I) through March 31, 2019, 4.70%; and

(II) beginning on April 1, 2019, 4.70% plus the rate specified in Subsection (13)(a); and

(B) (I) the tax rate the state imposes in accordance with Part 18, Additional State Sales and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211 through 59-12-215 is in a county in which the state imposes the tax under Part 18, Additional State Sales and Use Tax Act; and

(II) the tax rate the state imposes in accordance with Part 20, Supplemental State Sales and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211 through 59-12-215 is in a city, town, or the unincorporated area of a county in which the state imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

(ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the transaction under this chapter other than this part.

(b) Except as provided in Subsection (2)(d) or (e) and subject to Subsection (2)(j), a state tax and a local tax are imposed on a transaction described in Subsection (1)(d) equal to the sum of:

(i) a state tax imposed on the transaction at a tax rate of 2%; and

(ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the transaction under this chapter other than this part.

(c) Except as provided in Subsection (2)(d) or (e), a state tax and a local tax are imposed on amounts

paid or charged for food and food ingredients equal to the sum of:

(i) a state tax imposed on the amounts paid or charged for food and food ingredients at a tax rate of 1.75%; and

(ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the amounts paid or charged for food and food ingredients under this chapter other than this part.

(d) (i) For a bundled transaction that is attributable to food and food ingredients and tangible personal property other than food and food ingredients, a state tax and a local tax is imposed on the entire bundled transaction equal to the sum of:

(A) a state tax imposed on the entire bundled transaction equal to the sum of:

(I) the tax rate described in Subsection (2)(a)(i)(A); and

(II) (Aa) the tax rate the state imposes in accordance with Part 18, Additional State Sales and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211 through 59-12-215 is in a county in which the state imposes the tax under Part 18, Additional State Sales and Use Tax Act; and

(Bb) the tax rate the state imposes in accordance with Part 20, Supplemental State Sales and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211 through 59-12-215 is in a city, town, or the unincorporated area of a county in which the state imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

(B) a local tax imposed on the entire bundled transaction at the sum of the tax rates described in Subsection (2)(a)(ii).

(ii) If an optional computer software maintenance contract is a bundled transaction that consists of taxable and nontaxable products that are not separately itemized on an invoice or similar billing document, the purchase of the optional computer software maintenance contract is 40% taxable under this chapter and 60% nontaxable under this chapter.

(iii) Subject to Subsection (2)(d)(iv), for a bundled transaction other than a bundled transaction described in Subsection (2)(d)(i) or (ii):

(A) if the sales price of the bundled transaction is attributable to tangible personal property, a product, or a service that is subject to taxation under this chapter and tangible personal property, a product, or service that is not subject to taxation under this chapter, the entire bundled transaction is subject to taxation under this chapter unless:

(I) the seller is able to identify by reasonable and verifiable standards the tangible personal property, product, or service that is not subject to taxation under this chapter from the books and records the seller keeps in the seller's regular course of business; or

(II) state or federal law provides otherwise; or

(B) if the sales price of a bundled transaction is attributable to two or more items of tangible personal property, products, or services that are subject to taxation under this chapter at different rates, the entire bundled transaction is subject to taxation under this chapter at the higher tax rate unless:

(I) the seller is able to identify by reasonable and verifiable standards the tangible personal property, product, or service that is subject to taxation under this chapter at the lower tax rate from the books and records the seller keeps in the seller's regular course of business; or

(II) state or federal law provides otherwise.

(iv) For purposes of Subsection (2)(d)(iii), books and records that a seller keeps in the seller's regular course of business includes books and records the seller keeps in the regular course of business for nontax purposes.

(e) (i) Except as otherwise provided in this chapter and subject to Subsections (2)(e)(ii) and (iii), if a transaction consists of the sale, lease, or rental of tangible personal property, a product, or a service that is subject to taxation under this chapter, and the sale, lease, or rental of tangible personal property, other property, a product, or a service that is not subject to taxation under this chapter, the entire transaction is subject to taxation under this chapter unless the seller, at the time of the transaction:

(A) separately states the portion of the transaction that is not subject to taxation under this chapter on an invoice, bill of sale, or similar document provided to the purchaser; or

(B) is able to identify by reasonable and verifiable standards, from the books and records the seller keeps in the seller's regular course of business, the portion of the transaction that is not subject to taxation under this chapter.

(ii) A purchaser and a seller may correct the taxability of a transaction if:

(A) after the transaction occurs, the purchaser and the seller discover that the portion of the transaction that is not subject to taxation under this chapter was not separately stated on an invoice, bill of sale, or similar document provided to the purchaser because of an error or ignorance of the law; and

(B) the seller is able to identify by reasonable and verifiable standards, from the books and records the seller keeps in the seller's regular course of business, the portion of the transaction that is not subject to taxation under this chapter.

(iii) For purposes of Subsections (2)(e)(i) and (ii), books and records that a seller keeps in the seller's regular course of business includes books and records the seller keeps in the regular course of business for nontax purposes.

(f) (i) If the sales price of a transaction is attributable to two or more items of tangible personal property, products, or services that are subject to taxation under this chapter at different rates, the entire purchase is subject to taxation under this chapter at the higher tax rate unless the seller, at the time of the transaction:

(A) separately states the items subject to taxation under this chapter at each of the different rates on an invoice, bill of sale, or similar document provided to the purchaser; or

(B) is able to identify by reasonable and verifiable standards the tangible personal property, product, or service that is subject to taxation under this chapter at the lower tax rate from the books and records the seller keeps in the seller's regular course of business.

(ii) For purposes of Subsection (2)(f)(i), books and records that a seller keeps in the seller's regular course of business includes books and records the seller keeps in the regular course of business for nontax purposes.

(g) Subject to Subsections (2)(h) and (i), a tax rate repeal or tax rate change for a tax rate imposed under the following shall take effect on the first day of a calendar quarter:

(i) Subsection (2)(a)(i)(A);

(ii) Subsection (2)(b)(i);

(iii) Subsection (2)(c)(i); or

(iv) Subsection (2)(d)(i)(A)(I).

(h) (i) A tax rate increase takes effect on the first day of the first billing period that begins on or after the effective date of the tax rate increase if the billing period for the transaction begins before the effective date of a tax rate increase imposed under:

(A) Subsection (2)(a)(i)(A);

(B) Subsection (2)(b)(i);

(C) Subsection (2)(c)(i); or

(D) Subsection (2)(d)(i)(A)(I).

(ii) The repeal of a tax or a tax rate decrease applies to a billing period if the billing statement for the billing period is rendered on or after the effective date of the repeal of the tax or the tax rate decrease imposed under:

(A) Subsection (2)(a)(i)(A);

(B) Subsection (2)(b)(i);

(C) Subsection (2)(c)(i); or

(D) Subsection (2)(d)(i)(A)(I).

(i) (i) For a tax rate described in Subsection (2)(i)(ii), if a tax due on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, a tax rate repeal or change in a tax rate takes effect:

(A) on the first day of a calendar quarter; and

(B) beginning 60 days after the effective date of the tax rate repeal or tax rate change.

(ii) Subsection (2)(i)(i) applies to the tax rates described in the following:

(A) Subsection (2)(a)(i)(A);

(B) Subsection (2)(b)(i);

(C) Subsection (2)(c)(i); or

(D) Subsection (2)(d)(i)(A)(I).

(iii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

(j) (i) For a location described in Subsection (2)(j)(ii), the commission shall determine the taxable status of a sale of gas, electricity, heat, coal, fuel oil, or other fuel based on the predominant use of the gas, electricity, heat, coal, fuel oil, or other fuel at the location.

(ii) Subsection (2)(j)(i) applies to a location where gas, electricity, heat, coal, fuel oil, or other fuel is furnished through a single meter for two or more of the following uses:

(A) a commercial use;

(B) an industrial use; or

(C) a residential use.

(3) (a) The following state taxes shall be deposited into the General Fund:

(i) the tax imposed by Subsection (2)(a)(i)(A);

(ii) the tax imposed by Subsection (2)(b)(i);

(iii) the tax imposed by Subsection (2)(c)(i); or

(iv) the tax imposed by Subsection (2)(d)(i)(A)(I).

(b) The following local taxes shall be distributed to a county, city, or town as provided in this chapter:

(i) the tax imposed by Subsection (2)(a)(ii);

(ii) the tax imposed by Subsection (2)(b)(ii);

(iii) the tax imposed by Subsection (2)(c)(ii); and

(iv) the tax imposed by Subsection (2)(d)(i)(B).

(4) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1, 2003, the lesser of the following amounts shall be expended as provided in Subsections (4)(b) through (g):

(i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:

(A) by a 1/16% tax rate on the transactions described in Subsection (1); and

(B) for the fiscal year; or

(ii) $17,500,000.

(b) (i) For a fiscal year beginning on or after July 1, 2003, 14% of the amount described in Subsection (4)(a) shall be transferred each year as dedicated credits to the Department of Natural Resources to:

(A) implement the measures described in Subsections 79-2-303(3)(a) through (d) to protect sensitive plant and animal species; or

(B) award grants, up to the amount authorized by the Legislature in an appropriations act, to political subdivisions of the state to implement the measures described in Subsections 79-2-303(3)(a) through (d) to protect sensitive plant and animal species.

(ii) Money transferred to the Department of Natural Resources under Subsection (4)(b)(i) may not be used to assist the United States Fish and Wildlife Service or any other person to list or attempt to have listed a species as threatened or endangered under the Endangered Species Act of 1973, 16 U.S.C. Sec. 1531 et seq.

(iii) At the end of each fiscal year:

(A) 50% of any unexpended dedicated credits shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24;

(B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan Program Subaccount created in Section 73-10c-5; and

(C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan Program Subaccount created in Section 73-10c-5.

(c) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described in Subsection (4)(a) shall be deposited each year in the Agriculture Resource Development Fund created in Section 4-18-106.

(d) (i) For a fiscal year beginning on or after July 1, 2003, 1% of the amount described in Subsection (4)(a) shall be transferred each year as dedicated credits to the Division of Water Rights to cover the costs incurred in hiring legal and technical staff for the adjudication of water rights.

(ii) At the end of each fiscal year:

(A) 50% of any unexpended dedicated credits shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24;

(B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan Program Subaccount created in Section 73-10c-5; and

(C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan Program Subaccount created in Section 73-10c-5.

(e) (i) For a fiscal year beginning on or after July 1, 2003, 41% of the amount described in Subsection (4)(a) shall be deposited into the Water Resources Conservation and Development Fund created in Section 73-10-24 for use by the Division of Water Resources.

(ii) In addition to the uses allowed of the Water Resources Conservation and Development Fund under Section 73-10-24, the Water Resources Conservation and Development Fund may also be used to:

(A) conduct hydrologic and geotechnical investigations by the Division of Water Resources in a cooperative effort with other state, federal, or local entities, for the purpose of quantifying surface and ground water resources and describing the hydrologic systems of an area in sufficient detail so as to enable local and state resource managers to plan for and accommodate growth in water use without jeopardizing the resource;

(B) fund state required dam safety improvements; and

(C) protect the state's interest in interstate water compact allocations, including the hiring of technical and legal staff.

(f) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described in Subsection (4)(a) shall be deposited into the Utah Wastewater Loan Program Subaccount created in Section 73-10c-5 for use by the Water Quality Board to fund wastewater projects.

(g) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described in Subsection (4)(a) shall be deposited into the Drinking Water Loan Program Subaccount created in Section 73-10c-5 for use by the Division of Drinking Water to:

(i) provide for the installation and repair of collection, treatment, storage, and distribution facilities for any public water system, as defined in Section 19-4-102;

(ii) develop underground sources of water, including springs and wells; and

(iii) develop surface water sources.

(5) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1, 2006, the difference between the following amounts shall be expended as provided in this Subsection (5), if that difference is greater than $1:

(i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated for the fiscal year by a 1/16% tax rate on the transactions described in Subsection (1); and

(ii) $17,500,000.

(b) (i) The first $500,000 of the difference described in Subsection (5)(a) shall be:

(A) transferred each fiscal year to the Department of Natural Resources as dedicated credits; and

(B) expended by the Department of Natural Resources for watershed rehabilitation or restoration.

(ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described in Subsection (5)(b)(i) shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24.

(c) (i) After making the transfer required by Subsection (5)(b)(i), $150,000 of the remaining difference described in Subsection (5)(a) shall be:

(A) transferred each fiscal year to the Division of Water Resources as dedicated credits; and

(B) expended by the Division of Water Resources for cloud-seeding projects authorized by Title 73, Chapter 15, Modification of Weather.

(ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described in Subsection (5)(c)(i) shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24.

(d) After making the transfers required by Subsections (5)(b) and (c), 85% of the remaining difference described in Subsection (5)(a) shall be deposited into the Water Resources Conservation and Development Fund created in Section 73-10-24 for use by the Division of Water Resources for:

(i) preconstruction costs:

(A) as defined in Subsection 73-26-103(6) for projects authorized by Title 73, Chapter 26, Bear River Development Act; and

(B) as defined in Subsection 73-28-103(8) for the Lake Powell Pipeline project authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act;

(ii) the cost of employing a civil engineer to oversee any project authorized by Title 73, Chapter 26, Bear River Development Act;

(iii) the cost of employing a civil engineer to oversee the Lake Powell Pipeline project authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act; and

(iv) other uses authorized under Sections 73-10-24, 73-10-25.1, and 73-10-30, and Subsection (4)(e)(ii) after funding the uses specified in Subsections (5)(d)(i) through (iii).

(e) After making the transfers required by Subsections (5)(b) and (c) and subject to Subsection (5)(f), 15% of the remaining difference described in Subsection (5)(a) shall be transferred each year as dedicated credits to the Division of Water Rights to cover the costs incurred for employing additional technical staff for the administration of water rights.

(f) At the end of each fiscal year, any unexpended dedicated credits described in Subsection (5)(e) over $150,000 lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24.

(6) Notwithstanding Subsection (3)(a) and for taxes listed under Subsection (3)(a), the amount of revenue generated by a 1/16% tax rate on the transactions described in Subsection (1) for the fiscal year shall be deposited as follows:

(a) for fiscal year 2016-17 only, 100% of the revenue described in this Subsection (6) shall be deposited into the Transportation Investment Fund of 2005 created by Section 72-2-124;

(b) for fiscal year 2017-18 only:

(i) 80% of the revenue described in this Subsection (6) shall be deposited into the Transportation Investment Fund of 2005 created by Section 72-2-124; and

(ii) 20% of the revenue described in this Subsection (6) shall be deposited into the Water Infrastructure Restricted Account created by Section 73-10g-103;

(c) for fiscal year 2018-19 only:

(i) 60% of the revenue described in this Subsection (6) shall be deposited into the Transportation Investment Fund of 2005 created by Section 72-2-124; and

(ii) 40% of the revenue described in this Subsection (6) shall be deposited into the Water Infrastructure Restricted Account created by Section 73-10g-103;

(d) for fiscal year 2019-20 only:

(i) 40% of the revenue described in this Subsection (6) shall be deposited into the Transportation Investment Fund of 2005 created by Section 72-2-124; and

(ii) 60% of the revenue described in this Subsection (6) shall be deposited into the Water Infrastructure Restricted Account created by Section 73-10g-103;

(e) for fiscal year 2020-21 only:

(i) 20% of the revenue described in this Subsection (6) shall be deposited into the Transportation Investment Fund of 2005 created by Section 72-2-124; and

(ii) 80% of the revenue described in this Subsection (6) shall be deposited into the Water Infrastructure Restricted Account created by Section 73-10g-103; and

(f) for a fiscal year beginning on or after July 1, 2021, 100% of the revenue described in this Subsection (6) shall be deposited into the Water Infrastructure Restricted Account created by Section 73-10g-103.

(7) (a) Notwithstanding Subsection (3)(a), in addition to the amounts deposited in Subsection (6), and subject to Subsection (7)(b), for a fiscal year beginning on or after July 1, 2012, the Division of Finance shall deposit into the Transportation Investment Fund of 2005 created by Section 72-2-124:

(i) a portion of the taxes listed under Subsection (3)(a) in an amount equal to 8.3% of the revenues collected from the following taxes, which represents a portion of the approximately 17% of sales and use tax revenues generated annually by the sales and use tax on vehicles and vehicle-related products:

(A) the tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate;

(B) the tax imposed by Subsection (2)(b)(i);

(C) the tax imposed by Subsection (2)(c)(i); and

(D) the tax imposed by Subsection (2)(d)(i)(A)(I); plus

(ii) an amount equal to 30% of the growth in the amount of revenues collected in the current fiscal year from the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) that exceeds the amount collected from the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) in the 2010-11 fiscal year.

(b) (i) Subject to Subsections (7)(b)(ii) and (iii), in any fiscal year that the portion of the sales and use taxes deposited under Subsection (7)(a) represents an amount that is a total lower percentage of the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) generated in the current fiscal year than the total percentage of sales and use taxes deposited in the previous fiscal year, the Division of Finance shall deposit an amount under Subsection (7)(a) equal to the product of:

(A) the total percentage of sales and use taxes deposited under Subsection (7)(a) in the previous fiscal year; and

(B) the total sales and use tax revenue generated by the taxes described in Subsections (7)(a)(i)(A) through (D) in the current fiscal year.

(ii) In any fiscal year in which the portion of the sales and use taxes deposited under Subsection (7)(a) would exceed 17% of the revenues collected from the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) in the current fiscal year, the Division of Finance shall deposit 17% of the revenues collected from the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) for the current fiscal year under Subsection (7)(a).

(iii) In all subsequent fiscal years after a year in which 17% of the revenues collected from the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) was deposited under Subsection (7)(a), the Division of Finance shall annually deposit 17% of the revenues collected from the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) in the current fiscal year under Subsection (7)(a).

(8) (a) Notwithstanding Subsection (3)(a), and in addition to the amounts deposited under Subsections (6) and (7), for the 2016-17 fiscal year only, the Division of Finance shall deposit $64,000,000 of the revenues generated by the taxes listed under Subsection (3)(a) into the Transportation Investment Fund of 2005 created by Section 72-2-124.

(b) Notwithstanding Subsection (3)(a), and in addition to the amounts deposited under Subsections (6) and (7), for the 2017-18 fiscal year only, the Division of Finance shall deposit $63,000,000 of the revenues generated by the taxes listed under Subsection (3)(a) into the Transportation Investment Fund of 2005 created by Section 72-2-124.

(c) (i) Notwithstanding Subsection (3)(a), in addition to the amounts deposited under Subsections (6) and (7), and subject to Subsection (8)(c)(ii), for a fiscal year beginning on or after July 1, 2018, the commission shall annually deposit into the Transportation Investment Fund of 2005 created by Section 72-2-124 a portion of the taxes listed under Subsection (3)(a) in an amount equal to 3.68% of the revenues collected from the following taxes:

(A) the tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate;

(B) the tax imposed by Subsection (2)(b)(i);

(C) the tax imposed by Subsection (2)(c)(i); and

(D) the tax imposed by Subsection (2)(d)(i)(A)(I).

(ii) For a fiscal year beginning on or after July 1, 2019, the commission shall annually reduce the deposit into the Transportation Investment Fund of 2005 under Subsection (8)(c)(i) by an amount that is equal to 35% of the amount of revenue generated in the current fiscal year by the portion of the tax imposed on motor and special fuel that is sold, used, or received for sale or use in this state that exceeds 29.4 cents per gallon.

(iii) The commission shall annually deposit the amount described in Subsection (8)(c)(ii) into the Transit and Transportation Investment Fund created in Section 72-2-124.

(9) Notwithstanding Subsection (3)(a), for each fiscal year beginning with fiscal year 2009-10, $533,750 shall be deposited into the Qualified Emergency Food Agencies Fund created by Section 35A-8-1009 and expended as provided in Section 35A-8-1009.

(10) (a) Notwithstanding Subsection (3)(a), except as provided in Subsection (10)(c), in addition to any amounts deposited under Subsections (6), (7), and (8), and for the 2016-17 fiscal year only, the Division of Finance shall deposit into the Transportation Investment Fund of 2005 created by Section 72-2-124 the amount of tax revenue generated by a .05% tax rate on the transactions described in Subsection (1).

(b) Notwithstanding Subsection (3)(a), except as provided in Subsection (10)(c), and in addition to any amounts deposited under Subsections (6), (7), and (8), the Division of Finance shall deposit into the Transportation Investment Fund of 2005 created by Section 72-2-124 the amount of revenue described as follows:

(i) for fiscal year 2017-18 only, 83.33% of the amount of revenue generated by a .05% tax rate on the transactions described in Subsection (1);

(ii) for fiscal year 2018-19 only, 66.67% of the amount of revenue generated by a .05% tax rate on the transactions described in Subsection (1);

(iii) for fiscal year 2019-20 only, 50% of the amount of revenue generated by a .05% tax rate on the transactions described in Subsection (1);

(iv) for fiscal year 2020-21 only, 33.33% of the amount of revenue generated by a .05% tax rate on the transactions described in Subsection (1); and

(v) for fiscal year 2021-22 only, 16.67% of the amount of revenue generated by a .05% tax rate on the transactions described in Subsection (1).

(c) For purposes of Subsections (10)(a) and (b), the Division of Finance may not deposit into the Transportation Investment Fund of 2005 any tax revenue generated by amounts paid or charged for food and food ingredients, except for tax revenue generated by a bundled transaction attributable to food and food ingredients and tangible personal property other than food and food ingredients described in Subsection (2)(d).

(11) Notwithstanding Subsection (3)(a), beginning the second fiscal year after the fiscal year during which the Division of Finance receives notice under Section 63N-2-510 that construction on a qualified hotel, as defined in Section 63N-2-502, has begun, the Division of Finance shall, for two consecutive fiscal years, annually deposit $1,900,000 of the revenue generated by the taxes listed under Subsection (3)(a) into the Hotel Impact Mitigation Fund, created in Section 63N-2-512.

(12) (a) Notwithstanding Subsection (3)(a), for the 2016-17 fiscal year only, the Division of Finance shall deposit $26,000,000 of the revenues generated by the taxes listed under Subsection (3)(a) into the Throughput Infrastructure Fund created by Section 35A-8-308.

(b) Notwithstanding Subsection (3)(a), for the 2017-18 fiscal year only, the Division of Finance shall deposit $27,000,000 of the revenues generated by the taxes listed under Subsection (3)(a) into the Throughput Infrastructure Fund created by Section 35A-8-308.

(13) (a) The rate specified in this subsection is 0.15%.

(b) Notwithstanding Subsection (3)(a), the Division of Finance shall:

(i) on or before September 30, 2019, transfer the amount of revenue collected from the rate described in Subsection (13)(a) beginning on April 1, 2019, and ending on June 30, 2019, on the transactions that are subject to the sales and use tax under Subsection (2)(a)(i)(A) into the Medicaid Expansion Fund created in Section 26-36b-208; and

(ii) for a fiscal year beginning on or after July 1, 2019, annually transfer the amount of revenue collected from the rate described in Subsection (13)(a) on the transactions that are subject to the sales and use tax under Subsection (2)(a)(i)(A) into the Medicaid Expansion Fund created in Section 26-36b-208.

(14) Notwithstanding Subsection (3)(a), for each fiscal year beginning with fiscal year 2020-21, the Division of Finance shall deposit $200,000 into the General Fund as a dedicated credit solely for use of the Search and Rescue Financial Assistance Program created in, and expended in accordance with, Title 53, Chapter 2a, Part 11, Search and Rescue Act.

(15) (a) For each fiscal year beginning with fiscal year 2020-21, the Division of Finance shall annually transfer $1,813,400 of the revenue deposited into the Transportation Investment Fund of 2005 under Subsections (6) through (8) to the General Fund.

(b) If the total revenue deposited into the Transportation Investment Fund of 2005 under Subsections (6) through (8) is less than $1,813,400 for a fiscal year, the Division of Finance shall transfer the total revenue deposited into the Transportation Investment Fund of 2005 under Subsections (6) through (8) during the fiscal year to the General Fund.

(16) Notwithstanding Subsection (3)(a), and as described in Section 63N-3-610, beginning one year after the sales and use tax boundary for a housing and transit reinvestment zone is established, the commission, at least annually, shall transfer an amount equal to 15% of the sales and use tax increment within an established sales and use tax boundary, as defined in Section 63N-3-602, into the Transit Transportation Investment Fund created in Section 72-2-124.

Section 2. Section 63N-3-601 is enacted to read:

Part 6. ~~Housing and Transit Reinvestment Zone Act~~63N-3-601. Title.

This part is known as the "Housing and Transit Reinvestment Zone Act."

Section 3. Section 63N-3-602 is enacted to read:

63N-3-602. Definitions.

As used in this part:

(1) "Affordable housing" means the same as that term is defined in Section 11-38-102.

(2) "Agency" means the same as that term is defined in Section 17C-1-102.

(3) "Base taxable value" means a property's taxable value as shown upon the assessment roll last equalized during the base year.

(4) "Base year" means, for a proposed housing and transit reinvestment zone area, a year determined by the last equalized tax roll before the adoption of the housing and transit reinvestment zone.

(5) (a) "Commuter rail" means a heavy-rail passenger rail transit facility operated by a large public transit district.

(b) "Commuter rail" does not include a light-rail passenger rail facility of a large public transit district.

(6) "Commuter rail station" means a station, stop, or terminal along an existing commuter rail line, or along an extension to an existing commuter rail line or new commuter rail line that is included in a metropolitan planning organization's adopted long-range transportation plan.

(7) "Dwelling unit" means one or more rooms arranged for the use of one or more individuals living together, as a single housekeeping unit normally having cooking, living, sanitary, and sleeping facilities.

(8) "Enhanced development" means the construction of mixed uses including housing, commercial uses, and related facilities, at an average density of 50 dwelling units or more per acre on the developable acres.

(9) "Enhanced development costs" means extra costs associated with structured parking costs, vertical construction costs, horizontal construction costs, life safety costs, structural costs, conveyor or elevator costs, and other costs incurred due to the increased height of buildings or enhanced development.

(10) "Horizontal construction costs" means the additional costs associated with earthwork, over excavation, utility work, transportation infrastructure, and landscaping to achieve enhanced development in the housing and transit reinvestment zone.

(11) "Housing and transit reinvestment zone" means a housing and transit reinvestment zone created pursuant to this part.

(12) "Housing and transit reinvestment zone committee" means a housing and transit reinvestment zone committee created pursuant to Section 63N-3-605.

(13) "Large public transit district" means the same as that term is defined in Section 17B-2a-802.

(14) "Metropolitan planning organization" means the same as that term is defined in Section 72-1-208.5.

(15) "Mixed use development" means development with a mix of multi-family residential use and at least one additional land use.

(16) "Municipality" means the same as that term is defined in Section 10-1-104.

(17) "Participant" means the same as that term is defined in Section 17C-1-102.

(18) "Participation agreement" means the same as that term is defined in Section 17C-1-102.

(19) "Public transit county" means a county that has created a small public transit district.

(20) "Public transit hub" means a public transit depot or station where four or more routes serving separate parts of the county-created transit district stop to transfer riders between routes.

(21) "Sales and use tax base year" means a sales and use tax year determined by the first year pertaining to the tax imposed in Section 59-12-103 after the sales and use tax boundary for a housing and transit reinvestment zone is established.

(22) "Sales and use tax boundary" means a boundary created as described in Section 63N-3-604, based on state sales and use tax collection that corresponds as closely as reasonably practicable to the housing and transit reinvestment zone boundary.

(23) "Sales and use tax increment" means the difference between:

(a) the amount of state sales and use tax revenue generated each year following the sales and use tax base year by the sales and use tax from the area within a housing and transit reinvestment zone designated in the housing and transit reinvestment zone proposal as the area from which sales and use tax increment is to be collected; and

(b) the amount of state sales and use tax revenue that was generated from that same area during the sales and use tax base year.

(24) "Sales and use tax revenue" means revenue that is generated from the tax imposed under Section 59-12-103.

(25) "Small public transit district" means the same as that term is defined in Section 17B-2a-802.

(26) "Tax commission" means the State Tax Commission created in Section 59-1-201.

(27) "Tax increment" means the difference between:

(a) the amount of property tax revenue generated each tax year by a taxing entity from the area within a housing and transit reinvestment zone designated in the housing and transit reinvestment zone proposal as the area from which tax increment is to be collected, using the current assessed value and each taxing entity's current certified tax rate as defined in Section 59-2-924; and

(b) the amount of property tax revenue that would be generated from that same area using the base taxable value and each taxing entity's current certified tax rate as defined in Section 59-2-924.

(28) "Taxing entity" means the same as that term is defined in Section 17C-1-102.

(29) "Vertical construction costs" means the additional costs associated with construction above four stories and structured parking to achieve enhanced development in the housing and transit reinvestment zone.

Section 4. Section 63N-3-603 is enacted to read:

63N-3-603. Applicability, requirements, and limitations on a housing and transit reinvestment zone.

(1) A housing and transit reinvestment zone proposal created under this part shall promote the following objectives:

(a) higher utilization of public transit;

(b) increasing availability of housing, including affordable housing;

(c) conservation of water resources through efficient land use;

(d) improving air quality by reducing fuel consumption and motor vehicle trips;

(e) encouraging transformative mixed-use development and investment in transportation and public transit infrastructure in strategic areas;

(f) strategic land use and municipal planning in major transit investment corridors as described in Subsections 10-9a-403(3) and (4); and

(g) increasing access to employment and educational opportunities.

(2) In order to accomplish the objectives described in Subsection (1), a municipality or public transit county that initiates the process to create a housing and transit reinvestment zone as described in this part shall ensure that the proposal for a housing and transit reinvestment zone includes:

(a) except as provided in Subsection (3), at least 10% of the proposed housing units within the housing and transit reinvestment zone are affordable housing units;

(b) a dedication of at least 51% of the developable area within the housing and transit reinvestment zone to residential development with an average of 50 multi-family dwelling units per acre or greater; and

(c) mixed-use development.

(3) A municipality or public transit county that, at the time the housing and transit reinvestment zone proposal is approved by the housing and transit reinvestment zone committee, meets the affordable housing guidelines of the United States Department of Housing and Urban Development at 60% area median income is exempt from the requirement described in Subsection (2)(a).

(4) A municipality or public transit county may only propose a housing and transit reinvestment zone that:

(a) subject to Subsection (5):

(i) (A) for a municipality, does not exceed a 1/3 mile radius of a commuter rail station; or

(B) for a public transit county, does not exceed a 1/3 mile radius of a public transit hub; and

(ii) has a total area of no more than 125 noncontiguous square acres;

(b) subject to Section 63N-3-607, proposes the capture of a maximum of 80% of each taxing entity's tax increment above the base year for a term of no more than 25 consecutive years on each parcel within a 45-year period not to exceed the tax increment amount approved in the housing and transit reinvestment zone proposal; and

(c) the commencement of collection of tax increment, for all or a portion of the housing and transit reinvestment zone, will be triggered by providing notice as described in Subsection (6).

(5) If a parcel is bisected by the 1/3 mile radius, the full parcel may be included as part of the housing and transit reinvestment zone area and will not count against the limitations described in Subsection (4)(a).

(6) The notice of commencement of collection of tax increment required in Subsection (4)(c) shall be sent by mail or electronically to:

(a) the tax commission;

(b) the State Board of Education;

(c) the state auditor;

(d) the auditor of the county in which the housing and transit reinvestment zone is located;

(e) each taxing entity affected by the collection of tax increment from the housing and transit reinvestment zone; and

(f) the Governor's Office of Economic Development.

Section 5. Section 63N-3-604 is enacted to read:

63N-3-604. Process for a proposal of a housing and transit reinvestment zone -- Analysis.

(1) Subject to approval of the housing and transit reinvestment zone committee as described in Section 63N-3-605, in order to create a housing and transit reinvestment zone, a municipality or public transit county that has general land use authority over the housing and transit reinvestment zone area, shall:

(a) prepare a proposal for the housing and transit reinvestment zone that:

(i) demonstrates that the proposed housing and transit reinvestment zone will meet the objectives described in Subsection 63N-3-603(1);

(ii) explains how the municipality or public transit county will achieve the requirements of Subsection 63N-3-603(2)(a);

(iii) defines the specific transportation infrastructure needs, if any, and proposed improvements;

(iv) defines the boundaries of:

(A) the housing and transit reinvestment zone; and

(B) the sales and use tax boundary corresponding to the housing and transit reinvestment zone boundary, as described in Section 63N-3-610;

(v) identifies any development impediments that prevent the development from being a market-rate investment and proposed strategies for addressing each one;

(vi) describes the proposed development plan, including the requirements described in Subsections 63N-3-603(2) and (4);

(vii) establishes a base year and collection period to calculate the tax increment within the housing and transit reinvestment zone;

(viii) establishes a sales and use tax base year to calculate the sales and use tax increment within the housing and transit reinvestment zone;

(ix) describes projected maximum revenues generated and the amount of tax increment capture from each taxing entity and proposed expenditures of revenue derived from the housing and transit reinvestment zone;

(x) includes an analysis of other applicable or eligible incentives, grants, or sources of revenue that can be used to reduce the finance gap;

(xi) proposes a finance schedule to align expected revenue with required financing costs and payments; and

(xii) provides a pro-forma for the planned development including the cost differential between surface parked multi-family development and enhanced development that satisfies the requirements described in Subsections 63N-3-603(2), (3), and (4); and

(b) submit the housing and transit reinvestment zone proposal to the Governor's Office of Economic Development.

(2) Before submitting the proposed housing and transit reinvestment zone to the Governor's Office of Economic Development as described in Subsection (1)(b), the municipality or public transit county proposing the housing and transit reinvestment zone shall ensure that the area of the proposed housing and transit reinvestment zone is zoned in such a manner to accommodate the requirements of a housing and transit reinvestment zone described in this section and the proposed development.

(3) (a) After receiving the proposal as described in Subsection (1)(b), the Governor's Office of Economic Development shall, at the expense of the proposing municipality or public transit county as described in Subsection (5), contract with an independent entity to perform the gap analysis described in Subsection (3)(b).

(b) The gap analysis required in Subsection (3)(a) shall include:

(i) a description of the planned development;

(ii) a market analysis relative to other comparable project developments included in or adjacent to the municipality or public transit county absent the proposed housing and transit reinvestment zone;

(iii) an evaluation of the proposal to and a determination of the adequacy and efficiency of the proposal; and

(iv) based on the market analysis and other findings, an opinion relative to the amount of potential public financing reasonably determined to be necessary to achieve the objectives described in Subsection 63N-3-603(1).

(4) After receiving the results from the analysis described in Subsection (3)(b), the municipality or public transit county proposing the housing and transit reinvestment zone may:

(a) amend the housing and transit reinvestment zone proposal based on the findings of the analysis described in Subsection (3)(b) and request that the Governor's Office of Economic Development submit the amended housing and transit reinvestment zone proposal to the housing and transit reinvestment zone committee; or

(b) request that the Governor's Office of Economic Development submit the original housing and transit reinvestment zone proposal to the housing and transit reinvestment zone committee.

(5) (a) The Governor's Office of Economic Development may accept, as a dedicated credit, up to $20,000 from a municipality or public transit county for the costs of the gap analysis described in Subsection (3)(b).

(b) The Governor's Office of Economic Development may expend funds received from a municipality or public transit county as dedicated credits to pay for the costs associated with the gap analysis described in Subsection (3)(b).

Section 6. Section 63N-3-605 is enacted to read:

63N-3-605. Housing and Transit Reinvestment Zone Committee -- Creation.

(1) For any housing and transit reinvestment zone proposed under this part, there is created a housing and transit reinvestment zone committee with membership described in Subsection (2).

(2) Each housing and transit reinvestment zone committee shall consist of the following members:

(a) one representative from the Governor's Office of Economic Development, designated by the executive director of the Governor's Office of Economic Development;

(b) one representative from each municipality that is a party to the proposed housing and transit reinvestment zone, designated by the chief executive officer of each respective municipality;

(c) one representative from the Department of Transportation created in Section 72-1-201, designated by the executive director of the Department of Transportation;

(d) one representative from a large public transit district that serves the proposed housing and transit reinvestment zone area, designated by the chair of the board of trustees of a large public transit district;

(e) one representative of each relevant metropolitan planning organization, designated by the chair of the metropolitan planning organization;

(f) one member designated by the president of the Senate;

(g) one member designated by the speaker of the House of Representatives;

(h) one member designated by the chair of the State Board of Education;

(i) one member designated by the chief executive officer of each county affected by the housing and transit reinvestment zone;

(j) one representative designated by the school superintendent from the school district affected by the housing and transit reinvestment zone; and

(k) one representative, representing the largest participating local taxing entity, after the municipality, county, and school district.

(3) The individual designated by the Governor's Office of Economic Development as described in Subsection (2)(a) shall serve as chair of the housing and transit reinvestment zone committee.

(4) (a) A majority of the members of the housing and transit reinvestment zone committee constitutes a quorum of the housing and transit reinvestment zone committee.

(b) An action by a majority of a quorum of the housing and transit reinvestment zone committee is an action of the housing and transit reinvestment zone committee.

(5) After the Governor's Office of Economic Development receives the results of the analysis described in Section 63N-3-604, and after the Governor's Office of Economic Development has received a request from the submitting municipality or public transit county to submit the housing and transit reinvestment zone proposal to the housing and transit reinvestment zone committee, the Governor's Office of Economic Development shall notify each of the entities described in Subsection (2) of the formation of the housing and transit reinvestment zone committee.

(6) (a) The chair of the housing and transit reinvestment zone committee shall convene a public meeting to consider the proposed housing and transit reinvestment zone.

(b) A meeting of the housing and transit reinvestment zone committee is subject to Title 52, Chapter 4, Open and Public Meetings Act.

(7) (a) The proposing municipality or public transit county shall present the housing and transit reinvestment zone proposal to the housing and transit reinvestment zone committee in a public meeting.

(b) The housing and transit reinvestment zone committee shall:

(i) evaluate and verify whether the elements of a housing and transit reinvestment zone described in Subsections 63N-3-603(2) and (4) have been met; and

(ii) evaluate the proposed housing and transit reinvestment zone relative to the analysis described in Subsection 63N-3-604(2).

(8) The housing and transit reinvestment zone committee may:

(a) request changes to the housing and transit reinvestment zone proposal based on the analysis described in Section 63N-3-604; or

(b) vote to approve or deny the proposal.

(9) If approved by the committee:

(a) the proposed housing and transit reinvestment zone is established according to the terms of the housing and transit reinvestment zone proposal; and

(b) affected local taxing entities are required to participate according to the terms of the housing and transit reinvestment zone proposal.

(10) A housing and transit reinvestment zone proposal may be amended by following the same procedure as approving a housing and transit reinvestment zone proposal.

Section 7. Section 63N-3-606 is enacted to read:

63N-3-606. Notice requirements.

(1) In approving a housing and transit reinvestment zone proposal the housing and transit reinvestment zone committee shall follow the hearing and notice requirements for creating a housing and transit reinvestment zone area proposal.

(2) Within 30 days after the housing and transit reinvestment zone committee approves a proposed housing and transit reinvestment zone, the municipality or public transit county shall:

(a) record with the recorder of the county in which the housing and transit reinvestment zone is located a document containing:

(i) a description of the land within the housing and transit reinvestment zone;

(ii) a statement that the proposed housing and transit reinvestment zone has been approved; and

(iii) the date of adoption;

(b) transmit a copy of the description of the land within the housing and transit reinvestment zone and an accurate map or plat indicating the boundaries of the housing and transit reinvestment zone to the Automated Geographic Reference Center created under Section 63F-1-506; and

(c) transmit a copy of the approved housing and transit reinvestment zone proposal, map, and description of the land within the housing and transit reinvestment zone, to:

(i) the auditor, recorder, attorney, surveyor, and assessor of the county in which any part of the housing and transit reinvestment zone is located;

(ii) the officer or officers performing the function of auditor or assessor for each taxing entity that does not use the county assessment roll or collect the taxing entity's taxes through the county;

(iii) the legislative body or governing board of each taxing entity;

(iv) the tax commission; and

(v) the State Board of Education.

Section 8. Section 63N-3-607 is enacted to read:

63N-3-607. Payment, use, and administration of revenue from a housing and transit reinvestment zone.

(1) A municipality or public transit county may receive and use tax increment and housing and transit reinvestment zone funds in accordance with this part.

(2) (a) A county that collects property tax on property located within a housing and transit reinvestment zone shall, in accordance with Section 59-2-1365, distribute to the municipality or public transit county any tax increment the municipality or public transit county is authorized to receive up to the maximum approved by the housing and transit reinvestment zone committee.

(b) Tax increment distributed to a municipality or public transit county in accordance with Subsection (2)(a) is not revenue of the taxing entity or municipality or public transit county.

(c) (i) Tax increment paid to the municipality or public transit county are housing and transit reinvestment zone funds and shall be administered by an agency created by the municipality or public transit county within which the housing and transit reinvestment zone is located.

(ii) Before an agency may receive housing and transit reinvestment zone funds from the municipality or public transit county, the municipality or public transit county and the agency shall enter into an interlocal agreement with terms that:

(A) are consistent with the approval of the housing and transit reinvestment zone committee; and

(B) meet the requirements of Section 63N-3-603.

(3) (a) A municipality or public transit county and agency shall use housing and transit reinvestment zone funds within, or for the direct benefit of, the housing and transit reinvestment zone.

(b) If any housing and transit reinvestment zone funds will be used outside of the housing and transit reinvestment zone there must be a finding in the approved proposal for a housing and transit reinvestment zone that the use of the housing and transit reinvestment zone funds outside of the housing and transit reinvestment zone will directly benefit the housing and transit reinvestment zone.

(4) A municipality or public transit county shall use housing and transit reinvestment zone funds to achieve the purposes described in Subsections 63N-3-603(1) and (2), by paying all or part of the costs of any of the following:

(a) income targeted housing costs;

(b) structured parking within the housing and transit reinvestment zone;

(c) enhanced development costs;

(d) horizontal construction costs;

(e) vertical construction costs;

(f) land purchase costs within the housing and transit reinvestment zone; or

(g) the costs of the municipality or public transit county to create and administer the housing and transit reinvestment zone, which may not exceed 1% of the total housing and transit reinvestment zone funds, plus the costs to complete the gap analysis described in Subsection 63N-3-604(3).

(5) Housing and transit reinvestment zone funds may be paid to a participant, if the agency and participant enter into a participation agreement which requires the participant to utilize the housing and transit reinvestment zone funds as allowed in this section.

(6) Housing and transit reinvestment zone funds may be used to pay all of the costs of bonds issued by the municipality or public transit county in accordance with Title 17C, Chapter 1, Part 5, Agency Bonds, including the cost to issue and repay the bonds including interest.

(7) A municipality or public transit county may create one or more public infrastructure districts within the housing and transit reinvestment zone under Title 17B, Chapter 2a, Part 12, Public Infrastructure District Act, and pledge and utilize the housing and transit reinvestment zone funds to guarantee the payment of public infrastructure bonds issued by a public infrastructure district.

Section 9. Section 63N-3-608 is enacted to read:

63N-3-608. Applicability to an existing community reinvestment project.

For a housing and transit reinvestment zone created under this part that overlaps any portion of an existing inactive industrial site community reinvestment project area plan created pursuant to Title 17C, Limited Purpose Local Government Entities - Community Reinvestment Agency Act:

(1) if the community reinvestment project area plan captures less than 80% of the tax increment from a taxing entity, or if a taxing entity is not participating in the community reinvestment project area plan, the housing and transit reinvestment zone may capture the difference between:

(a) 80%; and

(b) the percentage of tax increment captured pursuant to the community reinvestment project area plan; and

(2) if a community reinvestment project area plan expires before the housing and transit reinvestment zone, the housing and transit reinvestment zone may capture the tax increment allocated to the community reinvestment project area plan for any remaining portion of the term of the housing and transit reinvestment zone.

Section 10. Section 63N-3-609 is enacted to read:

63N-3-609. Tax increment protections.

(1) Upon petition by a participating taxing entity or on the initiative of the housing and transit reinvestment zone committee creating a housing and transit reinvestment zone, a housing and transit reinvestment zone may suspend or terminate the collection of tax increment in a housing and transit reinvestment zone if the housing and transit reinvestment zone committee determines, by clear and convincing evidence, presented in a public meeting of the housing and transit reinvestment zone committee, that:

(a) a substantial portion of the tax increment collected in the housing and transit reinvestment zone has not or will not be used for the purposes provided in Section 63N-3-607; and

(b) (i) the housing and transit reinvestment zone has no indebtedness; or

(ii) the housing and transit reinvestment zone has no binding financial obligations.

(2) A housing and transit reinvestment zone may not collect tax increment in excess of the tax increment projections or limitations set forth in the housing and transit reinvestment proposal.

(3) The agency administering the tax increment collected in a housing and transit reinvestment zone under Subsection 63N-3-607(2)(c), shall have standing in a court with proper jurisdiction to enforce provisions of the housing and transit reinvestment zone proposal, participation agreements, and other agreements for the use of the tax increment collected.

(4) The agency administering tax increment from a housing and transit reinvestment zone under Subsection 63N-3-607(2)(c) which is collecting tax increment shall follow the reporting requirements described in Section 17C-1-603 and the audit requirements described in Sections 17C-1-604 and 17C-1-605.

(5) For each housing and transit reinvestment zone collecting tax increment within a county, the county auditor shall follow the reporting requirement found in Section 17C-1-606.

Section 11. Section 63N-3-610 is enacted to read:

63N-3-610. Sales and use tax increment in a housing and transit reinvestment zone.

(1) A housing and transit reinvestment proposal shall, in consultation with the tax commission:

(a) create a sales and use tax boundary as described in Subsection (2); and

(b) establish a sales and use tax base year and collection period to calculate and transfer the state sales and use tax increment within the housing and transit reinvestment zone.

(2) (a) The municipality or public transit county, in consultation with the tax commission, shall establish a sales and use tax boundary that:

(i) is based on state sales and use tax collection boundaries; and

(ii) follows as closely as reasonably practicable the boundary of the housing and transit reinvestment zone.

(b) The municipality or public transit county shall include the sales and use tax boundary in the housing and transit reinvestment zone proposal as described in Section 63N-3-604.

(3) Beginning one year after the sales and use tax boundary for a housing and transit reinvestment zone is established, the tax commission shall, at least annually, transfer an amount equal to 15% of the sales and use tax increment within an established sales and use tax boundary into the Transit Transportation Investment Fund created in Section 72-2-124.

(4) (a) The requirement described in Subsection (3) to transfer incremental sales tax revenue shall take effect:

(i) on the first day of a calendar quarter; and

(ii) after a 90-day waiting period, beginning on the date the commission receives notice from the municipality or public transit county meeting the requirements of Subsection (4)(b).

(b) The notice described in Subsection (4)(a) shall include:

(i) a statement that the housing and transit reinvestment zone will be established under this part;

(ii) the approval date and effective date of the housing and transit reinvestment zone; and

(iii) the definitions of the sales and use tax boundary and sales and use tax base year.

Section 12. Section 72-1-102 is amended to read:

72-1-102. Definitions.

As used in this title:

(1) "Circulator alley" means a publicly owned passageway:

(a) with a right-of-way width of 20 feet or greater;

(b) located within a master planned community;

(c) established by the city having jurisdictional authority as part of the street network for traffic circulation that may also be used for:

(i) garbage collection;

(ii) access to residential garages; or

(iii) access rear entrances to a commercial establishment; and

(d) constructed with a bituminous or concrete pavement surface.

(2) "Commission" means the Transportation Commission created under Section 72-1-301.

(3) "Construction" means the construction, reconstruction, replacement, and improvement of the highways, including the acquisition of rights-of-way and material sites.

(4) "Department" means the Department of Transportation created in Section 72-1-201.

(5) "Executive director" means the executive director of the department appointed under Section 72-1-202.

(6) "Farm tractor" has the meaning set forth in Section 41-1a-102.

(7) "Federal aid primary highway" means that portion of connected main highways located within this state officially designated by the department and approved by the United States Secretary of Transportation under Title 23, Highways, U.S.C.

(8) "Highway" means any public road, street, alley, lane, court, place, viaduct, tunnel, culvert, bridge, or structure laid out or erected for public use, or dedicated or abandoned to the public, or made public in an action for the partition of real property, including the entire area within the right-of-way.

(9) "Highway authority" means the department or the legislative, executive, or governing body of a county or municipality.

(10) "Housing and transit reinvestment zone" means the same as that term is defined in Section 63N-3-602.

[~~(10)~~] (11) "Implement of husbandry" has the meaning set forth in Section 41-1a-102.

[~~(11)~~] (12) "Interstate system" means any highway officially designated by the department and included as part of the national interstate and defense highways, as provided in the Federal Aid Highway Act of 1956 and any supplemental acts or amendments.

[~~(12)~~] (13) "Limited-access facility" means a highway especially designated for through traffic, and over, from, or to which neither owners nor occupants of abutting lands nor other persons have any right or easement, or have only a limited right or easement of access, light, air, or view.

[~~(13)~~] (14) "Master planned community" means a land use development:

(a) designated by the city as a master planned community; and

(b) comprised of a single development agreement for a development larger than 500 acres.

[~~(14)~~] (15) "Motor vehicle" has the same meaning set forth in Section 41-1a-102.

[~~(15)~~] (16) "Municipality" has the same meaning set forth in Section 10-1-104.

[~~(16)~~] (17) "National highway systems highways" means that portion of connected main highways located within this state officially designated by the department and approved by the United States Secretary of Transportation under Title 23, Highways, U.S.C.

[~~(17)~~] (18) (a) "Port-of-entry" means a fixed or temporary facility constructed, operated, and maintained by the department where drivers, vehicles, and vehicle loads are checked or inspected for compliance with state and federal laws as specified in Section 72-9-501.

(b) "Port-of-entry" includes inspection and checking stations and weigh stations.

[~~(18)~~] (19) "Port-of-entry agent" means a person employed at a port-of-entry to perform the duties specified in Section 72-9-501.

[~~(19)~~] (20) "Public transit" means the same as that term is defined in Section 17B-2a-802.

[~~(20)~~] (21) "Public transit facility" means a transit vehicle, transit station, depot, passenger loading or unloading zone, parking lot, or other facility:

(a) leased by or operated by or on behalf of a public transit district; and

(b) related to the public transit services provided by the district, including:

(i) railway or other right-of-way;

(ii) railway line; and

(iii) a reasonable area immediately adjacent to a designated stop on a route traveled by a transit vehicle.

[~~(21)~~] (22) "Right-of-way" means real property or an interest in real property, usually in a strip, acquired for or devoted to a highway.

[~~(22)~~] (23) "Sealed" does not preclude acceptance of electronically sealed and submitted bids or proposals in addition to bids or proposals manually sealed and submitted.

[~~(23)~~] (24) "Semitrailer" has the meaning set forth in Section 41-1a-102.

[~~(24)~~] (25) "SR" means state route and has the same meaning as state highway as defined in this section.

[~~(25)~~] (26) "State highway" means those highways designated as state highways in Title 72, Chapter 4, Designation of State Highways Act.

[~~(26)~~] (27) "State transportation purposes" has the meaning set forth in Section 72-5-102.

[~~(27)~~] (28) "State transportation systems" means all streets, alleys, roads, highways, pathways, and thoroughfares of any kind, including connected structures, airports, aerial corridor infrastructure, spaceports, public transit facilities, and all other modes and forms of conveyance used by the public.

[~~(28)~~] (29) "Trailer" has the meaning set forth in Section 41-1a-102.

(30) "Transportation reinvestment zone" means a transportation reinvestment zone created pursuant to Section 11-13-227.

[~~(29)~~] (31) "Truck tractor" has the meaning set forth in Section 41-1a-102.

[~~(30)~~] (32) "UDOT" means the Utah Department of Transportation.

[~~(31)~~] (33) "Vehicle" has the same meaning set forth in Section 41-1a-102.

Section 13. Section 72-1-304 is amended to read:

72-1-304. Written project prioritization process for new transportation capacity projects -- Rulemaking.

(1) (a) The Transportation Commission, in consultation with the department and the metropolitan planning organizations as defined in Section 72-1-208.5, shall develop a written prioritization process for the prioritization of:

(i) new transportation capacity projects that are or will be part of the state highway system under Chapter 4, Part 1, State Highways;

(ii) paved pedestrian or paved nonmotorized transportation projects that:

(A) mitigate traffic congestion on the state highway system; and

(B) are part of an active transportation plan approved by the department;

(iii) public transit projects that add capacity to the public transit systems within the state; and

(iv) pedestrian or nonmotorized transportation projects that provide connection to a public transit system.

(b) (i) A local government or district may nominate a project for prioritization in accordance with the process established by the commission in rule.

(ii) If a local government or district nominates a project for prioritization by the commission, the local government or district shall provide data and evidence to show that:

(A) the project will advance the purposes and goals described in Section 72-1-211;

(B) for a public transit project, the local government or district has an ongoing funding source for operations and maintenance of the proposed development; and

(C) the local government or district will provide 40% of the costs for the project as required by Subsection 72-2-124(4)(a)(viii) or 72-2-124(9)(e).

(2) The following shall be included in the written prioritization process under Subsection (1):

(a) a description of how the strategic initiatives of the department adopted under Section 72-1-211 are advanced by the written prioritization process;

(b) a definition of the type of projects to which the written prioritization process applies;

(c) specification of a weighted criteria system that is used to rank proposed projects and how it will be used to determine which projects will be prioritized;

(d) specification of the data that is necessary to apply the weighted ranking criteria; and

(e) any other provisions the commission considers appropriate, which may include consideration of:

(i) regional and statewide economic development impacts, including improved local access to:

(A) employment;

(B) educational facilities;

(C) recreation;

(D) commerce; and

(E) residential areas, including moderate income housing as demonstrated in the local government's or district's general plan pursuant to Section 10-9a-403 or 17-27a-403;

(ii) the extent to which local land use plans relevant to a project support and accomplish the strategic initiatives adopted under Section 72-1-211; and

(iii) any matching funds provided by a political subdivision or public transit district in addition to the 40% required by Subsections 72-2-124(4)(a)(viii) and 72-2-124(9)(e).

(3) (a) When prioritizing a public transit project that increases capacity, the commission:

(i) may give priority consideration to projects that are part of a transit-oriented development or transit-supportive development as defined in Section 17B-2a-802[~~.~~]; and

(ii) shall give priority consideration to projects that are within the boundaries of a housing and transit reinvestment zone created pursuant to Title 63N, Chapter 3, Part 6, Housing and Transit Reinvestment Zone Act.

(b) When prioritizing a [~~public transit or~~] transportation project that increases capacity, the commission may give priority consideration to projects that are:

(i) part of a transportation reinvestment zone created under Section 11-13-227 if:

[~~(i)~~] (A) the state is a participant in the transportation reinvestment zone; or

[~~(ii)~~] (B) the commission finds that the transportation reinvestment zone provides a benefit to the state transportation system[~~.~~]; or

(ii) within the boundaries of a housing and transit reinvestment zone created pursuant to Title 63N, Chapter 3, Part 6, Housing and Transit Reinvestment Zone Act.

(4) In developing the written prioritization process, the commission:

(a) shall seek and consider public comment by holding public meetings at locations throughout the state; and

(b) may not consider local matching dollars as provided under Section 72-2-123 unless the state provides an equal opportunity to raise local matching dollars for state highway improvements within each county.

(5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the Transportation Commission, in consultation with the department, shall make rules establishing the written prioritization process under Subsection (1).

(6) The commission shall submit the proposed rules under this section to a committee or task force designated by the Legislative Management Committee for review prior to taking final action on the proposed rules or any proposed amendment to the rules described in Subsection (5).

Section 14. Section 72-2-124 is amended to read:

72-2-124. Transportation Investment Fund of 2005.

(1) There is created a capital projects fund entitled the Transportation Investment Fund of 2005.

(2) The fund consists of money generated from the following sources:

(a) any voluntary contributions received for the maintenance, construction, reconstruction, or renovation of state and federal highways;

(b) appropriations made to the fund by the Legislature;

(c) registration fees designated under Section 41-1a-1201;

(d) the sales and use tax revenues deposited into the fund in accordance with Section 59-12-103; and

(e) revenues transferred to the fund in accordance with Section 72-2-106.

(3) (a) The fund shall earn interest.

(b) All interest earned on fund money shall be deposited into the fund.

(4) (a) Except as provided in Subsection (4)(b), the executive director may only use fund money to pay:

(i) the costs of maintenance, construction, reconstruction, or renovation to state and federal highways prioritized by the Transportation Commission through the prioritization process for new transportation capacity projects adopted under Section 72-1-304;

(ii) the costs of maintenance, construction, reconstruction, or renovation to the highway projects described in Subsections 63B-18-401(2), (3), and (4);

(iii) principal, interest, and issuance costs of bonds authorized by Section 63B-18-401 minus the costs paid from the County of the First Class Highway Projects Fund in accordance with Subsection 72-2-121(4)(e);

(iv) for a fiscal year beginning on or after July 1, 2013, to transfer to the 2010 Salt Lake County Revenue Bond Sinking Fund created by Section 72-2-121.3 the amount certified by Salt Lake County in accordance with Subsection 72-2-121.3(4)(c) as necessary to pay the debt service on $30,000,000 of the revenue bonds issued by Salt Lake County;

(v) principal, interest, and issuance costs of bonds authorized by Section 63B-16-101 for projects prioritized in accordance with Section 72-2-125;

(vi) all highway general obligation bonds that are intended to be paid from revenues in the Centennial Highway Fund created by Section 72-2-118;

(vii) for fiscal year 2015-16 only, to transfer $25,000,000 to the County of the First Class Highway Projects Fund created in Section 72-2-121 to be used for the purposes described in Section 72-2-121; and

(viii) if a political subdivision provides a contribution equal to or greater than 40% of the costs needed for construction, reconstruction, or renovation of paved pedestrian or paved nonmotorized transportation for projects that:

(A) mitigate traffic congestion on the state highway system;

(B) are part of an active transportation plan approved by the department; and

(C) are prioritized by the commission through the prioritization process for new transportation capacity projects adopted under Section 72-1-304.

(b) The executive director may use fund money to exchange for an equal or greater amount of federal transportation funds to be used as provided in Subsection (4)(a).

(5) (a) Except as provided in Subsection (5)(b), the executive director may not program fund money to a project prioritized by the commission under Section 72-1-304, including fund money from the Transit Transportation Investment Fund, within the boundaries of a municipality that is required to adopt a moderate income housing plan element as part of the municipality's general plan as described in Subsection 10-9a-401(3), if the municipality has failed to adopt a moderate income housing plan element as part of the municipality's general plan or has failed to implement the requirements of the moderate income housing plan as determined by the results of the Department of Workforce Service's review of the annual moderate income housing report described in Subsection 35A-8-803(1)(a)(vii).

(b) Within the boundaries of a municipality that is required under Subsection 10-9a-401(3) to plan for moderate income housing growth but has failed to adopt a moderate income housing plan element as part of the municipality's general plan or has failed to implement the requirements of the moderate income housing plan as determined by the results of the Department of Workforce

Service's review of the annual moderate income housing report described in Subsection 35A-8-803(1)(a)(vii), the executive director:

(i) may program fund money in accordance with Subsection (4)(a) for a limited-access facility or interchange connecting limited-access facilities;

(ii) may not program fund money for the construction, reconstruction, or renovation of an interchange on a limited-access facility;

(iii) may program Transit Transportation Investment Fund money for a multi-community fixed guideway public transportation project; and

(iv) may not program Transit Transportation Investment Fund money for the construction, reconstruction, or renovation of a station that is part of a fixed guideway public transportation project.

(c) Subsections (5)(a) and (b) do not apply to a project programmed by the executive director before May 1, 2020, for projects prioritized by the commission under Section 72-1-304.

(6) (a) Except as provided in Subsection (6)(b), the executive director may not program fund money to a project prioritized by the commission under Section 72-1-304, including fund money from the Transit Transportation Investment Fund, within the boundaries of the unincorporated area of a county, if the county is required to adopt a moderate income housing plan element as part of the county's general plan as described in Subsection 17-27a-401(3) and if the county has failed to adopt a moderate income housing plan element as part of the county's general plan or has failed to implement the requirements of the moderate income housing plan as determined by the results of the Department of Workforce Service's review of the annual moderate income housing report described in Subsection 35A-8-803(1)(a)(vii).

(b) Within the boundaries of the unincorporated area of a county where the county is required under Subsection 17-27a-401(3) to plan for moderate income housing growth but has failed to adopt a moderate income housing plan element as part of the county's general plan or has failed to implement the requirements of the moderate income housing plan as determined by the results of the Department of Workforce Service's review of the annual moderate income housing report described in Subsection 35A-8-803(1)(a)(vii), the executive director:

(i) may program fund money in accordance with Subsection (4)(a) for a limited-access facility to a project prioritized by the commission under Section 72-1-304;

(ii) may not program fund money for the construction, reconstruction, or renovation of an interchange on a limited-access facility;

(iii) may program Transit Transportation Investment Fund money for a multi-community fixed guideway public transportation project; and

(iv) may not program Transit Transportation Investment Fund money for the construction, reconstruction, or renovation of a station that is part of a fixed guideway public transportation project.

(c) Subsections (5)(a) and (b) do not apply to a project programmed by the executive director before July 1, 2020, for projects prioritized by the commission under Section 72-1-304.

(7) (a) Before bonds authorized by Section 63B-18-401 or 63B-27-101 may be issued in any fiscal year, the department and the commission shall appear before the Executive Appropriations Committee of the Legislature and present the amount of bond proceeds that the department needs to provide funding for the projects identified in Subsections 63B-18-401(2), (3), and (4) or Subsection 63B-27-101(2) for the current or next fiscal year.

(b) The Executive Appropriations Committee of the Legislature shall review and comment on the amount of bond proceeds needed to fund the projects.

(8) The Division of Finance shall, from money deposited into the fund, transfer the amount of funds necessary to pay principal, interest, and issuance costs of bonds authorized by Section 63B-18-401 or 63B-27-101 in the current fiscal year to the appropriate debt service or sinking fund.

(9) (a) There is created in the Transportation Investment Fund of 2005 the Transit Transportation Investment Fund.

(b) The fund shall be funded by:

(i) contributions deposited into the fund in accordance with Section 59-12-103;

(ii) appropriations into the account by the Legislature;

(iii) deposits of sales and use tax increment related to a housing and transit reinvestment zone as described in Section 63N-3-610;

[~~(iii)~~] (iv) private contributions; and

[~~(iv)~~] (v) donations or grants from public or private entities.

(c) (i) The fund shall earn interest.

(ii) All interest earned on fund money shall be deposited into the fund.

(d) Subject to Subsection (9)(e), the Legislature may appropriate money from the fund for public transit capital development of new capacity projects to be used as prioritized by the commission.

(e) (i) The Legislature may only appropriate money from the fund for a public transit capital development project or pedestrian or nonmotorized transportation project that provides connection to the public transit system if the public transit district or political subdivision provides funds of equal to or greater than 40% of the costs needed for the project.

(ii) A public transit district or political subdivision may use money derived from a loan granted pursuant to Title 72, Chapter 2, Part 2, State Infrastructure Bank Fund, to provide all or part of the 40% requirement described in Subsection (9)(e)(i) if:

(A) the loan is approved by the commission as required in Title 72, Chapter 2, Part 2, State Infrastructure Bank Fund; and

(B) the proposed capital project has been prioritized by the commission pursuant to Section 72-1-303.

Section 15. Section 72-2-201 is amended to read:

72-2-201. Definitions.

As used in this part:

(1) "Fund" means the State Infrastructure Bank Fund created under Section 72-2-202.

(2) "Infrastructure assistance" means any use of fund money, except an infrastructure loan, to provide financial assistance for transportation projects, including:

(a) capital reserves and other security for bond or debt instrument financing; or

(b) any letters of credit, lines of credit, bond insurance, or loan guarantees obtained by a public entity to finance transportation projects.

(3) "Infrastructure loan" means a loan of fund money to finance a transportation project.

(4) "Public entity" means a state agency, county, municipality, local district, special service district, an intergovernmental entity organized under state law, or the military installation development authority created in Section 63H-1-201.

(5) "Transportation project":

(a) means a project:

(i) to improve a state or local highway;

(ii) to improve a public transportation facility or nonmotorized transportation facility;

(iii) to construct or improve parking facilities; [~~or~~]

(iv) that is subject to a transportation reinvestment zone agreement pursuant to Section 11-13-227 if the state is party to the agreement; or

(v) that is part of a housing and transit reinvestment zone created pursuant to Title 63N, Chapter 3, Part 6, Housing and Transit Reinvestment Zone Act;

(b) includes the costs of acquisition, construction, reconstruction, rehabilitation, equipping, and fixturing; and

(c) may only include a project if the project is part of:

(i) the statewide long range plan;

(ii) a regional transportation plan of the area metropolitan planning organization if a metropolitan planning organization exists for the area; or

(iii) a local government general plan or economic development initiative.

Section 16. Effective date.

This bill takes effect on May 5, 2021, except that the amendments to Sections 59-12-103 and 63N-3-610 in this bill take effect on January 1, 2022.

CHAPTER 412
S. B. 225
Passed March 5, 2021
Approved March 22, 2021
Effective May 5, 2021

NAVAJO WATER RIGHTS NEGOTIATION

Chief Sponsor: David P. Hinkins
House Sponsor: Phil Lyman
Cosponsor: Jani Iwamoto

LONG TITLE

General Description:

This bill addresses the process to finalize negotiations of Navajo water rights.

Highlighted Provisions:

This bill:

- defines terms;
- modifies the conditions to be met before money may be transferred from the fund; and
- makes technical changes.

Monies Appropriated in this Bill:

This bill appropriates in fiscal year 2022:

- to the General Fund Restricted -- Navajo Water Rights Negotiation Account, as a one-time appropriation:
  - from the General Fund Budget Reserve Account, $6,000,000.
- to the Department of Natural Resources -- Division of Water Rights, as a one-time appropriation:
  - from the General Fund Restricted -- Navajo Water Rights Negotiation Account, $8,000,000.

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

51-9-702, as enacted by Laws of Utah 2012, Chapter 276

63J-1-602.2, as last amended by Laws of Utah 2020, Fifth Special Session, Chapter 20

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 51-9-702 is amended to read:

51-9-702. Navajo Water Rights Negotiation Account -- Settlement.

(1) As used in this section:

(a) "Conformed agreement" means an agreement required by congressional action and that the parties to the settlement agreement have agreed to enter into to complete the settlement process.

(b) "Congressional action" means the United States Congress's approval of the settlement agreement with passage of H. R. 133, Consolidated Appropriations Act, 2021, Section 1102, the Navajo-Utah Water Rights Settlement.

(c) "Settlement agreement" means the document titled "Navajo Utah Water Rights Settlement Agreement" dated December 14, 2015, and the exhibits attached to the document.

[~~(1)~~] (2) (a) There is created a restricted account within the General Fund known as the "Navajo Water Rights Negotiation Account."

(b) The restricted account shall consist of appropriations made by the Legislature.

(c) The Division of Finance shall:

(i) administer the account; and

(ii) deposit interest earned on the account into the General Fund.

[~~(2)~~] (3) Subject to Subsection [~~(3)~~] (4), the Legislature may appropriate money from the restricted account only to plan, design, and construct drinking water projects to serve populations located on the Navajo Nation reservation within the boundaries of Utah.

[~~(3) Before appropriating money from the account for the purpose specified in Subsection (2), the Legislature shall ensure that the state of Utah has:~~]

[~~(a) a signed, enforceable agreement on Navajo water rights with the Navajo Nation and the United States government; and~~]

[~~(b) a signed, enforceable project repayment agreement with the United States Department of the Interior.~~]

(4) Before transferring money appropriated from the account under the settlement agreement and congressional action for the purposes described in Subsection (3):

(a) the state engineer, appointed under Section 73-2-1, shall:

(i) determine whether the conformed agreement is consistent with the settlement agreement in all material respects;

(ii) if the conformed agreement is consistent with the settlement agreement in all material respects, recommend that the governor sign the conformed agreement; and

(iii) submit the state engineer's findings and recommendation under this Subsection (4)(a) in writing to the governor and the Legislative Management Committee;

(b) the governor shall sign the conformed agreement; and

(c) all parties have signed the conformed agreement.

[~~(4)~~] (5) Creation of the account and appropriations into the account do not:

(a) create a state obligation to provide funding for the planning, design, or construction of drinking water projects to serve populations located on the Navajo Nation reservation within the boundaries of the state; and

(b) constitute an acknowledgment or admission by the state [~~of Utah~~] of any legal liability or obligation.

Section 2. Section 63J-1-602.2 is amended to read:

63J-1-602.2. List of nonlapsing appropriations to programs.

Appropriations made to the following programs are nonlapsing:

(1) The Legislature and the Legislature's committees.

(2) The State Board of Education, including all appropriations to agencies, line items, and programs under the jurisdiction of the State Board of Education, in accordance with Section 53F-9-103.

(3) The Percent-for-Art Program created in Section 9-6-404.

(4) The LeRay McAllister Critical Land Conservation Program created in Section 11-38-301.

(5) Dedicated credits accrued to the Utah Marriage Commission as provided under Subsection 17-16-21(2)(d)(ii).

(6) The Trip Reduction Program created in Section 19-2a-104.

(7) The Division of Wildlife Resources for the appraisal and purchase of lands under the Pelican Management Act, as provided in Section 23-21a-6.

(8) The emergency medical services grant program in Section 26-8a-207.

(9) The primary care grant program created in Section 26-10b-102.

(10) Sanctions collected as dedicated credits from Medicaid provider under Subsection 26-18-3(7).

(11) The Utah Health Care Workforce Financial Assistance Program created in Section 26-46-102.

(12) The Rural Physician Loan Repayment Program created in Section 26-46a-103.

(13) The Opiate Overdose Outreach Pilot Program created in Section 26-55-107.

(14) Funds that the Department of Alcoholic Beverage Control retains in accordance with Subsection 32B-2-301(8)(a) or (b).

(15) The General Assistance program administered by the Department of Workforce Services, as provided in Section 35A-3-401.

(16) A new program or agency that is designated as nonlapsing under Section 36-24-101.

(17) The Utah National Guard, created in Title 39, Militia and Armories.

(18) The State Tax Commission under Section 41-1a-1201 for the:

(a) purchase and distribution of license plates and decals; and

(b) administration and enforcement of motor vehicle registration requirements.

(19) The Search and Rescue Financial Assistance Program, as provided in Section 53-2a-1102.

(20) The Motorcycle Rider Education Program, as provided in Section 53-3-905.

(21) The Utah Board of Higher Education for teacher preparation programs, as provided in Section 53B-6-104.

(22) The Medical Education Program administered by the Medical Education Council, as provided in Section 53B-24-202.

(23) The Division of Services for People with Disabilities, as provided in Section 62A-5-102.

(24) The Division of Fleet Operations for the purpose of upgrading underground storage tanks under Section 63A-9-401.

(25) The Utah Seismic Safety Commission, as provided in Section 63C-6-104.

(26) Appropriations to the Department of Technology Services for technology innovation as provided under Section 63F-4-202.

(27) The Office of Administrative Rules for publishing, as provided in Section 63G-3-402.

(28) The Governor's Office of Economic Development to fund the Enterprise Zone Act, as provided in Title 63N, Chapter 2, Part 2, Enterprise Zone Act.

(29) Appropriations to fund the Governor's Office of Economic Development's Rural Employment Expansion Program, as described in Title 63N, Chapter 4, Part 4, Rural Employment Expansion Program.

(30) Appropriations to fund programs for the Jordan River Recreation Area as described in Section 65A-2-8.

(31) The Department of Human Resource Management user training program, as provided in Section 67-19-6.

(32) A public safety answering point's emergency telecommunications service fund, as provided in Section 69-2-301.

(33) The Traffic Noise Abatement Program created in Section 72-6-112.

(34) The money appropriated from the Navajo Water Rights Negotiation Account to the Division of Water Rights, created in Section 73-2-1.1, for purposes of participating in a settlement of federal reserved water right claims.

[~~(34)~~] (35) The Judicial Council for compensation for special prosecutors, as provided in Section 77-10a-19.

[~~(35)~~] (36) A state rehabilitative employment program, as provided in Section 78A-6-210.

[~~(36)~~] (37) The Utah Geological Survey, as provided in Section 79-3-401.

[~~(37)~~] (38) The Bonneville Shoreline Trail Program created under Section 79-5-503.

[~~(38)~~] (39) Adoption document access as provided in Sections 78B-6-141, 78B-6-144, and 78B-6-144.5.

[~~(39)~~] (40) Indigent defense as provided in Title 78B, Chapter 22, Part 4, Utah Indigent Defense Commission.

[~~(40)~~] (41) The program established by the Division of Facilities Construction and Management under Section 63A-5b-703 under which state agencies receive an appropriation and pay lease payments for the use and occupancy of buildings owned by the Division of Facilities Construction and Management.

Section 3. Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2021, and ending June 30, 2022. These are additions to amounts previously appropriated for fiscal year 2022.

Subsection (3)(a). Restricted Fund and Account Transfers.

The Legislature authorizes the State Division of Finance to transfer the following amounts between the following funds or accounts indicated. Expenditures and outlays from the funds to which the money is transferred must be authorized by an appropriation.

ITEM 1

To General Fund Restricted -- Navajo Water Rights Negotiation Account

From General Fund Budget Reserve Account, One-time	$6,000,000
Schedule of Programs:	
Navajo Water Rights Negotiation Account	$6,000,000

Subsection (3)(b). Operating and Capital Budgets.

Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 2

To Department of Natural Resources -- Water Rights

From General Fund Restricted — Navajo Water URights Negotiation Account, One-time	$8,000,000
Schedule of Programs:	
Adjudication	$8,000,000

CHAPTER 413
S. B. 226
Passed March 5, 2021
Approved March 22, 2021
Effective May 5, 2021

ONLINE EDUCATION PROGRAM REVISIONS

Chief Sponsor: John D. Johnson
House Sponsor: Ryan D. Wilcox

LONG TITLE

General Description:

This bill makes revisions related to online education.

Highlighted Provisions:

This bill:

- defines terms;
- allows a certified online course provider that the State Board of Education (the state board) approves to offer courses directly through the Statewide Online Education Program;
- establishes the requirements for the state board to approve certified online course providers;
- authorizes the state board to make rules related to approving certified online course providers; and
- authorizes the state board to set fees to cover the costs of regulating certified online course providers.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53F-4-501, as last amended by Laws of Utah 2019, Chapter 186
53F-4-504, as last amended by Laws of Utah 2019, Chapter 186
53F-4-514, as last amended by Laws of Utah 2020, Chapter 408

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53F-4-501 is amended to read:

53F-4-501. Definitions.

As used in this part:

(1) (a) "Certified online course provider" means a provider that the state board approves to offer courses through the Statewide Online Education Program.

(b) "Certified online course provider" does not include an entity described in Subsections 53F-4-504(1)(a) through (c).

[~~(1)~~] (2) "Eligible student" means:

(a) a student enrolled in a district school or charter school in Utah; or

(b) [~~beginning on July 1, 2013,~~] a student:

(i) who attends a private school or home school; and

(ii) whose custodial parent is a resident of Utah.

[~~(2)~~] (3) "Online course" means a course of instruction offered by the Statewide Online Education Program through the use of digital technology.

[~~(3)~~] (4) "Plan for college and career readiness" means the same as that term is defined in Section 53E-2-304.

[~~(4)~~] (5) "Primary LEA of enrollment" means the LEA in which an eligible student is enrolled for courses other than online courses offered through the Statewide Online Education Program.

[~~(5)~~] (6) "Released-time" means a period of time during the regular school day a student is excused from school at the request of the student's parent pursuant to rules of the state board.

Section 2. Section 53F-4-504 is amended to read:

53F-4-504. Authorized online course providers -- Certified online course providers.

(1) The following entities may offer online courses to eligible students through the Statewide Online Education Program:

[~~(1)~~] (a) a charter school or district school created exclusively for the purpose of serving students online;

[~~(2)~~] (b) an LEA program, approved by the LEA governing board, that is created exclusively for the purpose of serving students online; [~~and~~]

[~~(3)~~] (c) a program of an institution of higher education listed in Section 53B-2-101 that:

[~~(a)~~] (i) offers secondary school level courses; and

[~~(b)~~] (ii) is created exclusively for the purpose of serving students online[~~.~~]; and

(d) beginning in the 2021-2022 school year, a certified online course provider.

(2) The state board shall approve an online course provider as a certified online course provider if the online course provider:

(a) complies with the application procedures described in Section 53F-4-514;

(b) meets the standards described in Section 53F-4-514; and

(c) has prior experience offering online courses to secondary students.

(3) The state board may revoke the approval described in Subsection (2) if the state board finds that a certified online course provider is not complying with the requirements described in Section 53F-4-514.

Section 3. Section 53F-4-514 is amended to read:

53F-4-514. State board -- Rulemaking -- Fees.

(1) The state board shall make rules in accordance with this part and Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

[~~(1)~~] (a) establish a course credit acknowledgement form and procedures for completing and submitting to the state board a course credit acknowledgement; [~~and~~]

[~~(2)~~] (b) establish procedures for the administration of a statewide assessment to a student enrolled in an online course[~~.~~]; and

(c) establish protocols for an online course provider to obtain approval to become a certified online course provider, including:

(i) the application procedure for an online course provider to obtain approval to become a certified online course provider; and

(ii) the standards that a certified online course provider and any online course the certified online course provider offers shall meet.

(2) (a) When establishing the standards described in Subsection (1)(c)(ii), the state board shall:

(i) establish rules and minimum standards regarding accreditation;

(ii) require an online course to be aligned with the core standards described in Section 53E-4-202;

(iii) require proof that a national organization responsible for college athletics endorses:

(A) the certified online course provider; or

(B) the online course that a certified online course provider offers;

(iv) permit an open-entry, open-exit method of instructional delivery that allows a student the flexibility to:

(A) schedule in response to individual needs or requirements;

(B) demonstrate competency when the student has mastered knowledge and skills;

(C) begin or end study at any time; and

(D) progress through course material at the student's own pace; and

(v) require an individual who teaches a course for a certified online course provider to hold a teaching license issued by the state board.

(b) When establishing the standards described in Subsection (1)(c)(ii), the state board may not:

(i) specify a minimum duration for an online course;

(ii) specify a minimum amount of time that a student must spend in an online course; or

(iii) limit the class size of an online course.

(3) The state board may establish a fee, in accordance with Section 63J-1-504, in an amount to pay the costs to the state board of the application approval process and the monitoring of a certified online course provider's compliance with the standards described in Subsection (1)(c)(ii).

(4) (a) Fee revenue collected in accordance with Subsection (3) shall be:

(b) deposited into the Uniform School Fund as a dedicated credit; and

(c) used to pay the costs to the state board of reviewing certified online course providers' applications and compliance with the standards described in Subsection (1)(c)(ii).

CHAPTER 414
S. B. 233
Passed March 5, 2021
Approved March 22, 2021
Effective March 22, 2021

MILITARY INSTALLATION DEVELOPMENT AUTHORITY AMENDMENTS

Chief Sponsor: Jerry W. Stevenson
House Sponsor: Val L. Peterson

LONG TITLE

General Description:

This bill modifies provisions relating to the Military Installation Development Authority.

Highlighted Provisions:

This bill:

- modifies the authority of the State Tax Commission to administer, operate, and enforce sales tax code provisions to include representing the interest of the Military Installation Development Authority in administrative proceedings;
- includes the Military Installation Development Authority with counties, cities, and towns in provisions relating to the administration of local sales taxes and to sales tax information provided by the State Tax Commission;
- requires the State Tax Commission to provide certain tax revenue information to the authority;
- modifies a definition relating to public infrastructure and improvements in the context of code provisions relating to the Military Installation Development Authority;
- modifies the powers of the Military Installation Development Authority, including relating to facilitating public-private partnerships;
- makes an exception to a conflict-of-interest provision applicable to a contract involving the authority or a subsidiary as a facilitator of public-private partnerships;
- provides exceptions to open meetings provisions and government records provisions;
- authorizes a subsidiary of the Military Installation Development Authority that is created as a public infrastructure district to levy a property tax for the operations and maintenance of the public infrastructure district's financed infrastructure and related improvements;
- modifies a provision relating to the MIDA accommodations tax;
- enacts a provision for a former rail line to become part of a project area under specified circumstances;
- modifies a provision relating to the board's delegation of powers to authority staff;
- modifies a provision relating to the notice of the board's adoption of a project area plan;
- modifies a provision requiring the authority to make an adopted project area plan available to the public;
- modifies a provision relating to the authority's annual report; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

10-1-304, as last amended by Laws of Utah 2012, Chapter 410
10-1-403, as last amended by Laws of Utah 2009, Chapter 92
17B-2a-1206, as last amended by Laws of Utah 2020, Chapter 282
59-12-102, as last amended by Laws of Utah 2020, Chapters 354, 365, and 438
59-12-118, as last amended by Laws of Utah 2020, Chapter 315
59-12-209, as last amended by Laws of Utah 2009, Chapters 212 and 240
59-12-210, as last amended by Laws of Utah 2009, Chapter 240
59-12-401, as last amended by Laws of Utah 2017, Chapter 422
63H-1-102, as last amended by Laws of Utah 2020, Chapter 282
63H-1-201, as last amended by Laws of Utah 2020, Chapters 282 and 354
63H-1-202, as last amended by Laws of Utah 2020, Chapter 282
63H-1-205, as last amended by Laws of Utah 2019, Chapter 136
63H-1-301, as last amended by Laws of Utah 2009, Chapter 92
63H-1-403, as last amended by Laws of Utah 2020, Chapter 282
63H-1-502, as last amended by Laws of Utah 2020, Chapter 282
63H-1-703, as last amended by Laws of Utah 2015, Chapter 377
63N-13-303, as enacted by Laws of Utah 2020, Chapter 446

ENACTS:

63H-1-208, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 10-1-304 is amended to read:

10-1-304. Municipality and military installation development authority may levy tax -- Rate -- Imposition or repeal of tax -- Tax rate change -- Effective date -- Notice requirements -- Exemptions.

(1) (a) Except as provided in Subsections (4) and (5), a municipality may levy a municipal energy sales and use tax on the sale or use of taxable energy within the municipality:

(i) by ordinance as provided in Section 10-1-305; and

(ii) of up to 6% of the delivered value of the taxable energy.

(b) Subject to Section 63H-1-203, the military installation development authority created in Section 63H-1-201 may levy a municipal energy sales and use tax under this part within a project area described in a project area plan adopted by the authority under Title 63H, Chapter 1, Military Installation Development Authority Act, as though the authority were a municipality.

(2) A municipal energy sales and use tax imposed under this part may be in addition to any sales and use tax imposed by the municipality under Title 59, Chapter 12, Sales and Use Tax Act.

(3) (a) For purposes of this Subsection (3):

(i) "Annexation" means an annexation to a municipality under Chapter 2, Part 4, Annexation.

(ii) "Annexing area" means an area that is annexed into a municipality.

(b) (i) If, on or after May 1, 2000, a city or town enacts or repeals a tax or changes the rate of a tax under this part, the enactment, repeal, or change shall take effect:

(A) on the first day of a calendar quarter; and

(B) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (3)(b)(ii) from the municipality.

(ii) The notice described in Subsection (3)(b)(i)(B) shall state:

(A) that the city or town will enact or repeal a tax or change the rate of a tax under this part;

(B) the statutory authority for the tax described in Subsection (3)(b)(ii)(A);

(C) the effective date of the tax described in Subsection (3)(b)(ii)(A); and

(D) if the city or town enacts the tax or changes the rate of the tax described in Subsection (3)(b)(ii)(A), the new rate of the tax.

(c) (i) If, for an annexation that occurs on or after May 1, 2000, the annexation will result in a change in the rate of a tax under this part for an annexing area, the change shall take effect:

(A) on the first day of a calendar quarter; and

(B) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (3)(c)(ii) from the municipality that annexes the annexing area.

(ii) The notice described in Subsection (3)(c)(i)(B) shall state:

(A) that the annexation described in Subsection (3)(c)(i) will result in a change in the rate of a tax under this part for the annexing area;

(B) the statutory authority for the tax described in Subsection (3)(c)(ii)(A);

(C) the effective date of the tax described in Subsection (3)(c)(ii)(A); and

(D) the new rate of the tax described in Subsection (3)(c)(ii)(A).

(4) (a) Subject to Subsection (4)(b), a sale or use of electricity within a municipality is exempt from the tax authorized by this section if the sale or use is made under a tariff adopted by the Public Service Commission of Utah only for purchase of electricity produced from a new source of alternative energy, as defined in Section 59-12-102, as designated in the tariff by the Public Service Commission of Utah.

(b) The exemption under Subsection (4)(a) applies to the portion of the tariff rate a customer pays under the tariff described in Subsection (4)(a) that exceeds the tariff rate under the tariff described in Subsection (4)(a) that the customer would have paid absent the tariff.

(5) (a) A municipality may not levy a municipal energy sales and use tax within any portion of the municipality that is within a project area described in a project area plan adopted by the military installation development authority under Title 63H, Chapter 1, Military Installation Development Authority Act.

(b) Subsection (5)(a) does not apply to the military installation development authority's levy of a municipal energy sales and use tax.

(6) (a) The State Tax Commission shall provide to the military installation development authority the collection data necessary to verify that revenue collected by the State Tax Commission is distributed to the military installation development authority in accordance with this part.

(b) The data described in Subsection (6)(a) shall include the State Tax Commission's breakdown of military installation development authority revenue, including reports of collections and distributions.

Section 2. Section 10-1-403 is amended to read:

10-1-403. Municipality and military installation development authority may levy municipal telecommunications license tax -- Recovery from customers -- Enactment, repeal, or change in rate of tax -- Annexation.

(1) (a) (i) Subject to the provisions of this section, beginning July 1, 2004, a municipality may levy on and provide that there is collected from a telecommunications provider a municipal telecommunications license tax on the telecommunications provider's gross receipts from telecommunications service that are attributed to the municipality in accordance with Section 10-1-407.

(ii) Subject to Section 63H-1-203, the military installation development authority created in Section 63H-1-201 may levy and collect a municipal telecommunications license tax under this part for telecommunications service provided within a project area described in a project area plan adopted by the authority under Title 63H, Chapter 1, Military Installation Development Authority Act, as though the authority were a municipality.

(b) To levy and provide for the collection of a municipal telecommunications license tax under this part, the municipality shall adopt an ordinance that complies with the requirements of Section 10-1-404.

(c) Beginning on July 1, 2007, a municipal telecommunications license tax imposed under this part shall be at a rate of up to 3.5% of the telecommunications provider's gross receipts from telecommunications service that are attributed to the municipality in accordance with Section 10-1-407.

(2) A telecommunications provider may recover the amounts paid in municipal telecommunications license taxes from the customers of the telecommunications provider within the municipality imposing the municipal telecommunications license tax through a charge that is separately identified in the statement of the transaction with the customer as the recovery of a tax.

(3) (a) For purposes of this Subsection (3):

(i) "Annexation" means an annexation to a municipality under Title 10, Chapter 2, Part 4, Annexation.

(ii) "Annexing area" means an area that is annexed into a municipality.

(b) (i) If, on or after July 1, 2004, a municipality enacts or repeals a tax or changes the rate of the tax under this part, the enactment, repeal, or change shall take effect:

(A) on the first day of a calendar quarter; and

(B) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (3)(b)(ii) from the municipality.

(ii) The notice described in Subsection (3)(b)(i)(B) shall state:

(A) that the municipality will enact or repeal a tax under this part or change the rate of the tax;

(B) the statutory authority for the tax described in Subsection (3)(b)(ii)(A);

(C) the effective date of the tax described in Subsection (3)(b)(ii)(A); and

(D) if the municipality enacts the municipal telecommunications license tax or changes the rate of the tax, the new rate of the tax.

(c) (i) If, for an annexation that occurs on or after July 1, 2004, the annexation will result in a change in the rate of the tax under this part for an annexing area, the change shall take effect:

(A) on the first day of a calendar quarter; and

(B) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (3)(c)(ii) from the municipality that annexes the annexing area.

(ii) The notice described in Subsection (3)(c)(i)(B) shall state:

(A) that the annexation described in Subsection (3)(c)(i) will result in a change in the rate of a tax under this part for the annexing area;

(B) the statutory authority for the tax described in Subsection (3)(c)(ii)(A);

(C) the effective date of the tax described in Subsection (3)(c)(ii)(A); and

(D) the new rate of the tax described in Subsection (3)(c)(ii)(A).

(4) Notwithstanding Subsection (3)(b), for purposes of a change in a municipal telecommunications license tax rate that takes effect on July 1, 2007, a municipality is not subject to the notice requirements of Subsection (3)(b) if:

(a) on June 30, 2007, the municipality has in effect an ordinance that levies a municipal telecommunications license tax at a rate that exceeds 3.5%; and

(b) on July 1, 2007, the municipality has in effect an ordinance that levies a municipal telecommunications license tax at a rate of 3.5%.

(5) Notwithstanding Subsection (3)(b), for purposes of a change in a municipal telecommunications license tax rate that takes effect on July 1, 2007, the 90-day period described in Subsection (3)(b)(i)(B) is considered to be a 30-day period if:

(a) on June 30, 2007, the municipality has in effect an ordinance that levies a municipal telecommunications license tax at a rate that exceeds 3.5%; and

(b) on July 1, 2007, the municipality has in effect an ordinance that levies a municipal telecommunications license tax at a rate that is less than 3.5%.

(6) (a) A municipality may not levy or collect a municipal telecommunications license tax for telecommunications service provided within any portion of the municipality that is within a project area described in a project area plan adopted by the military installation development authority under Title 63H, Chapter 1, Military Installation Development Authority Act.

(b) Subsection (6)(a) does not apply to the military installation development authority's levy of a municipal telecommunications license tax.

(7) (a) The State Tax Commission shall provide to the military installation development authority the collection data necessary to verify that revenue collected by the State Tax Commission is distributed to the military installation development authority in accordance with this part.

(b) The data described in Subsection (7)(a) shall include the State Tax Commission's breakdown of military installation development authority revenue, including reports of collections and distributions.

Section 3. Section 17B-2a-1206 is amended to read:

17B-2a-1206. Additional public infrastructure district powers.

In addition to the powers conferred on a public infrastructure district under Section 17B-1-103, a public infrastructure district may:

(1) issue negotiable bonds to pay:

(a) all or part of the costs of acquiring, acquiring an interest in, improving, or extending any of the improvements, facilities, or property allowed under Section 11-14-103;

(b) capital costs of improvements in an energy assessment area, as defined in Section 11-42a-102, and other related costs, against the funds that the public infrastructure district will receive because of an assessment in an energy assessment area, as defined in Section 11-42a-102;

(c) public improvements related to the provision of housing;

(d) capital costs related to public transportation; and

(e) for a public infrastructure district created by the development authority, the cost of acquiring or financing [~~publicly owned~~] public infrastructure and improvements, as defined in Section 63H-1-102;

(2) enter into an interlocal agreement in accordance with Title 11, Chapter 13, Interlocal Cooperation Act, provided that the interlocal agreement may not expand the powers of the public infrastructure district, within the limitations of Title 11, Chapter 13, Interlocal Cooperation Act, without the consent of the creating entity;

(3) acquire completed or partially completed improvements for fair market value as reasonably determined by:

(a) the board;

(b) the creating entity, if required in the governing document; or

(c) a surveyor or engineer that a public infrastructure district employs or engages to perform the necessary engineering services for and to supervise the construction or installation of the improvements;

(4) contract with the creating entity for the creating entity to provide administrative services on behalf of the public infrastructure district, when agreed to by both parties, in order to achieve cost savings and economic efficiencies, at the discretion of the creating entity; and

(5) for a public infrastructure district created by a development authority:

(a) (i) operate and maintain publicly owned infrastructure and improvements the district acquires or finances; and

(ii) use fees, assessments, or taxes to pay for the operation and maintenance of those publicly owned infrastructure and improvements; and

(b) issue bonds under Title 11, Chapter 42, Assessment Area Act.

Section 4. Section 59-12-102 is amended to read:

59-12-102. Definitions.

As used in this chapter:

(1) "800 service" means a telecommunications service that:

(a) allows a caller to dial a toll-free number without incurring a charge for the call; and

(b) is typically marketed:

(i) under the name 800 toll-free calling;

(ii) under the name 855 toll-free calling;

(iii) under the name 866 toll-free calling;

(iv) under the name 877 toll-free calling;

(v) under the name 888 toll-free calling; or

(vi) under a name similar to Subsections (1)(b)(i) through (v) as designated by the Federal Communications Commission.

(2) (a) "900 service" means an inbound toll telecommunications service that:

(i) a subscriber purchases;

(ii) allows a customer of the subscriber described in Subsection (2)(a)(i) to call in to the subscriber's:

(A) prerecorded announcement; or

(B) live service; and

(iii) is typically marketed:

(A) under the name 900 service; or

(B) under a name similar to Subsection (2)(a)(iii)(A) as designated by the Federal Communications Commission.

(b) "900 service" does not include a charge for:

(i) a collection service a seller of a telecommunications service provides to a subscriber; or

(ii) the following a subscriber sells to the subscriber's customer:

(A) a product; or

(B) a service.

(3) (a) "Admission or user fees" includes season passes.

(b) "Admission or user fees" does not include:

(i) annual membership dues to private organizations; or

(ii) a lesson, including a lesson that involves as part of the lesson equipment or a facility listed in Subsection 59-12-103(1)(f).

(4) "Affiliate" or "affiliated person" means a person that, with respect to another person:

(a) has an ownership interest of more than 5%, whether direct or indirect, in that other person; or

(b) is related to the other person because a third person, or a group of third persons who are affiliated persons with respect to each other, holds an ownership interest of more than 5%, whether direct or indirect, in the related persons.

(5) "Agreement" means the Streamlined Sales and Use Tax Agreement adopted on November 12, 2002, including amendments made to the Streamlined Sales and Use Tax Agreement after November 12, 2002.

(6) "Agreement combined tax rate" means the sum of the tax rates:

(a) listed under Subsection (7); and

(b) that are imposed within a local taxing jurisdiction.

(7) "Agreement sales and use tax" means a tax imposed under:

(a) Subsection 59-12-103(2)(a)(i)(A);

(b) Subsection 59-12-103(2)(b)(i);

(c) Subsection 59-12-103(2)(c)(i);

(d) Subsection 59-12-103(2)(d)(i)(A)(I);

(e) Section 59-12-204;

(f) Section 59-12-401;

(g) Section 59-12-402;

(h) Section 59-12-402.1;

(i) Section 59-12-703;

(j) Section 59-12-802;

(k) Section 59-12-804;

(l) Section 59-12-1102;

(m) Section 59-12-1302;

(n) Section 59-12-1402;

(o) Section 59-12-1802;

(p) Section 59-12-2003;

(q) Section 59-12-2103;

(r) Section 59-12-2213;

(s) Section 59-12-2214;

(t) Section 59-12-2215;

(u) Section 59-12-2216;

(v) Section 59-12-2217;

(w) Section 59-12-2218;

(x) Section 59-12-2219; or

(y) Section 59-12-2220.

(8) "Aircraft" means the same as that term is defined in Section 72-10-102.

(9) "Aircraft maintenance, repair, and overhaul provider" means a business entity:

(a) except for:

(i) an airline as defined in Section 59-2-102; or

(ii) an affiliated group, as defined in Section 59-7-101, except that "affiliated group" includes a corporation that is qualified to do business but is not otherwise doing business in the state, of an airline; and

(b) that has the workers, expertise, and facilities to perform the following, regardless of whether the business entity performs the following in this state:

(i) check, diagnose, overhaul, and repair:

(A) an onboard system of a fixed wing turbine powered aircraft; and

(B) the parts that comprise an onboard system of a fixed wing turbine powered aircraft;

(ii) assemble, change, dismantle, inspect, and test a fixed wing turbine powered aircraft engine;

(iii) perform at least the following maintenance on a fixed wing turbine powered aircraft:

(A) an inspection;

(B) a repair, including a structural repair or modification;

(C) changing landing gear; and

(D) addressing issues related to an aging fixed wing turbine powered aircraft;

(iv) completely remove the existing paint of a fixed wing turbine powered aircraft and completely apply new paint to the fixed wing turbine powered aircraft; and

(v) refurbish the interior of a fixed wing turbine powered aircraft in a manner that results in a change in the fixed wing turbine powered aircraft's certification requirements by the authority that certifies the fixed wing turbine powered aircraft.

(10) "Alcoholic beverage" means a beverage that:

(a) is suitable for human consumption; and

(b) contains .5% or more alcohol by volume.

(11) "Alternative energy" means:

(a) biomass energy;

(b) geothermal energy;

(c) hydroelectric energy;

(d) solar energy;

(e) wind energy; or

(f) energy that is derived from:

(i) coal-to-liquids;

(ii) nuclear fuel;

(iii) oil-impregnated diatomaceous earth;

(iv) oil sands;

(v) oil shale;

(vi) petroleum coke; or

(vii) waste heat from:

(A) an industrial facility; or

(B) a power station in which an electric generator is driven through a process in which water is heated, turns into steam, and spins a steam turbine.

(12) (a) Subject to Subsection (12)(b), "alternative energy electricity production facility" means a facility that:

(i) uses alternative energy to produce electricity; and

(ii) has a production capacity of two megawatts or greater.

(b) A facility is an alternative energy electricity production facility regardless of whether the facility is:

(i) connected to an electric grid; or

(ii) located on the premises of an electricity consumer.

(13) (a) "Ancillary service" means a service associated with, or incidental to, the provision of telecommunications service.

(b) "Ancillary service" includes:

(i) a conference bridging service;

(ii) a detailed communications billing service;

(iii) directory assistance;

(iv) a vertical service; or

(v) a voice mail service.

(14) "Area agency on aging" means the same as that term is defined in Section 62A-3-101.

(15) "Assisted amusement device" means an amusement device, skill device, or ride device that is started and stopped by an individual:

(a) who is not the purchaser or renter of the right to use or operate the amusement device, skill device, or ride device; and

(b) at the direction of the seller of the right to use the amusement device, skill device, or ride device.

(16) "Assisted cleaning or washing of tangible personal property" means cleaning or washing of tangible personal property if the cleaning or washing labor is primarily performed by an individual:

(a) who is not the purchaser of the cleaning or washing of the tangible personal property; and

(b) at the direction of the seller of the cleaning or washing of the tangible personal property.

(17) "Authorized carrier" means:

(a) in the case of vehicles operated over public highways, the holder of credentials indicating that the vehicle is or will be operated pursuant to both the International Registration Plan and the International Fuel Tax Agreement;

(b) in the case of aircraft, the holder of a Federal Aviation Administration operating certificate or air carrier's operating certificate; or

(c) in the case of locomotives, freight cars, railroad work equipment, or other rolling stock, a person who uses locomotives, freight cars, railroad work equipment, or other rolling stock in more than one state.

(18) (a) Except as provided in Subsection (18)(b), "biomass energy" means any of the following that is used as the primary source of energy to produce fuel or electricity:

(i) material from a plant or tree; or

(ii) other organic matter that is available on a renewable basis, including:

(A) slash and brush from forests and woodlands;

(B) animal waste;

(C) waste vegetable oil;

(D) methane or synthetic gas produced at a landfill, as a byproduct of the treatment of wastewater residuals, or through the conversion of a waste material through a nonincineration, thermal conversion process;

(E) aquatic plants; and

(F) agricultural products.

(b) "Biomass energy" does not include:

(i) black liquor; or

(ii) treated woods.

(19) (a) "Bundled transaction" means the sale of two or more items of tangible personal property, products, or services if the tangible personal property, products, or services are:

(i) distinct and identifiable; and

(ii) sold for one nonitemized price.

(b) "Bundled transaction" does not include:

(i) the sale of tangible personal property if the sales price varies, or is negotiable, on the basis of the selection by the purchaser of the items of tangible personal property included in the transaction;

(ii) the sale of real property;

(iii) the sale of services to real property;

(iv) the retail sale of tangible personal property and a service if:

(A) the tangible personal property:

(I) is essential to the use of the service; and

(II) is provided exclusively in connection with the service; and

(B) the service is the true object of the transaction;

(v) the retail sale of two services if:

(A) one service is provided that is essential to the use or receipt of a second service;

(B) the first service is provided exclusively in connection with the second service; and

(C) the second service is the true object of the transaction;

(vi) a transaction that includes tangible personal property or a product subject to taxation under this chapter and tangible personal property or a product that is not subject to taxation under this chapter if the:

(A) seller's purchase price of the tangible personal property or product subject to taxation under this chapter is de minimis; or

(B) seller's sales price of the tangible personal property or product subject to taxation under this chapter is de minimis; and

(vii) the retail sale of tangible personal property that is not subject to taxation under this chapter and tangible personal property that is subject to taxation under this chapter if:

(A) that retail sale includes:

(I) food and food ingredients;

(II) a drug;

(III) durable medical equipment;

(IV) mobility enhancing equipment;

(V) an over-the-counter drug;

(VI) a prosthetic device; or

(VII) a medical supply; and

(B) subject to Subsection (19)(f):

(I) the seller's purchase price of the tangible personal property subject to taxation under this chapter is 50% or less of the seller's total purchase price of that retail sale; or

(II) the seller's sales price of the tangible personal property subject to taxation under this chapter is 50% or less of the seller's total sales price of that retail sale.

(c) (i) For purposes of Subsection (19)(a)(i), tangible personal property, a product, or a service that is distinct and identifiable does not include:

(A) packaging that:

(I) accompanies the sale of the tangible personal property, product, or service; and

(II) is incidental or immaterial to the sale of the tangible personal property, product, or service;

(B) tangible personal property, a product, or a service provided free of charge with the purchase of another item of tangible personal property, a product, or a service; or

(C) an item of tangible personal property, a product, or a service included in the definition of "purchase price."

(ii) For purposes of Subsection (19)(c)(i)(B), an item of tangible personal property, a product, or a service is provided free of charge with the purchase of another item of tangible personal property, a product, or a service if the sales price of the purchased item of tangible personal property, product, or service does not vary depending on the inclusion of the tangible personal property, product, or service provided free of charge.

(d) (i) For purposes of Subsection (19)(a)(ii), property sold for one nonitemized price does not include a price that is separately identified by tangible personal property, product, or service on the following, regardless of whether the following is in paper format or electronic format:

(A) a binding sales document; or

(B) another supporting sales-related document that is available to a purchaser.

(ii) For purposes of Subsection (19)(d)(i), a binding sales document or another supporting sales-related document that is available to a purchaser includes:

(A) a bill of sale;

(B) a contract;

(C) an invoice;

(D) a lease agreement;

(E) a periodic notice of rates and services;

(F) a price list;

(G) a rate card;

(H) a receipt; or

(I) a service agreement.

(e) (i) For purposes of Subsection (19)(b)(vi), the sales price of tangible personal property or a product subject to taxation under this chapter is de minimis if:

(A) the seller's purchase price of the tangible personal property or product is 10% or less of the seller's total purchase price of the bundled transaction; or

(B) the seller's sales price of the tangible personal property or product is 10% or less of the seller's total sales price of the bundled transaction.

(ii) For purposes of Subsection (19)(b)(vi), a seller:

(A) shall use the seller's purchase price or the seller's sales price to determine if the purchase price or sales price of the tangible personal property or product subject to taxation under this chapter is de minimis; and

(B) may not use a combination of the seller's purchase price and the seller's sales price to determine if the purchase price or sales price of the tangible personal property or product subject to taxation under this chapter is de minimis.

(iii) For purposes of Subsection (19)(b)(vi), a seller shall use the full term of a service contract to determine if the sales price of tangible personal property or a product is de minimis.

(f) For purposes of Subsection (19)(b)(vii)(B), a seller may not use a combination of the seller's purchase price and the seller's sales price to determine if tangible personal property subject to taxation under this chapter is 50% or less of the seller's total purchase price or sales price of that retail sale.

(20) "Certified automated system" means software certified by the governing board of the agreement that:

(a) calculates the agreement sales and use tax imposed within a local taxing jurisdiction:

(i) on a transaction; and

(ii) in the states that are members of the agreement;

(b) determines the amount of agreement sales and use tax to remit to a state that is a member of the agreement; and

(c) maintains a record of the transaction described in Subsection (20)(a)(i).

(21) "Certified service provider" means an agent certified:

(a) by the governing board of the agreement; and

(b) to perform a seller's sales and use tax functions for an agreement sales and use tax, as outlined in the contract between the governing board of the agreement and the certified service provider, other than the seller's obligation under Section 59-12-124 to remit a tax on the seller's own purchases.

(22) (a) Subject to Subsection (22)(b), "clothing" means all human wearing apparel suitable for general use.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules:

(i) listing the items that constitute "clothing"; and

(ii) that are consistent with the list of items that constitute "clothing" under the agreement.

(23) "Coal-to-liquid" means the process of converting coal into a liquid synthetic fuel.

(24) "Commercial use" means the use of gas, electricity, heat, coal, fuel oil, or other fuels that does not constitute industrial use under Subsection (57) or residential use under Subsection (112).

(25) (a) "Common carrier" means a person engaged in or transacting the business of transporting passengers, freight, merchandise, or other property for hire within this state.

(b) (i) "Common carrier" does not include a person that, at the time the person is traveling to or from that person's place of employment, transports a passenger to or from the passenger's place of employment.

(ii) For purposes of Subsection (25)(b)(i), in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules defining what constitutes a person's place of employment.

(c) "Common carrier" does not include a person that provides transportation network services, as defined in Section 13-51-102.

(26) "Component part" includes:

(a) poultry, dairy, and other livestock feed, and their components;

(b) baling ties and twine used in the baling of hay and straw;

(c) fuel used for providing temperature control of orchards and commercial greenhouses doing a majority of their business in wholesale sales, and for providing power for off-highway type farm machinery; and

(d) feed, seeds, and seedlings.

(27) "Computer" means an electronic device that accepts information:

(a) (i) in digital form; or

(ii) in a form similar to digital form; and

(b) manipulates that information for a result based on a sequence of instructions.

(28) "Computer software" means a set of coded instructions designed to cause:

(a) a computer to perform a task; or

(b) automatic data processing equipment to perform a task.

(29) "Computer software maintenance contract" means a contract that obligates a seller of computer software to provide a customer with:

(a) future updates or upgrades to computer software;

(b) support services with respect to computer software; or

(c) a combination of Subsections (29)(a) and (b).

(30) (a) "Conference bridging service" means an ancillary service that links two or more participants of an audio conference call or video conference call.

(b) "Conference bridging service" may include providing a telephone number as part of the ancillary service described in Subsection (30)(a).

(c) "Conference bridging service" does not include a telecommunications service used to reach the ancillary service described in Subsection (30)(a).

(31) "Construction materials" means any tangible personal property that will be converted into real property.

(32) "Delivered electronically" means delivered to a purchaser by means other than tangible storage media.

(33) (a) "Delivery charge" means a charge:

(i) by a seller of:

(A) tangible personal property;

(B) a product transferred electronically; or

(C) a service; and

(ii) for preparation and delivery of the tangible personal property, product transferred electronically, or services described in Subsection (33)(a)(i) to a location designated by the purchaser.

(b) "Delivery charge" includes a charge for the following:

(i) transportation;

(ii) shipping;

(iii) postage;

(iv) handling;

(v) crating; or

(vi) packing.

(34) "Designated political subdivision" means:

(a) a county, city, or town; or

(b) the military installation development authority created in Section 63H-1-201.

[~~(34)~~] (35) "Detailed telecommunications billing service" means an ancillary service of separately stating information pertaining to individual calls on a customer's billing statement.

[~~(35)~~] (36) "Dietary supplement" means a product, other than tobacco, that:

(a) is intended to supplement the diet;

(b) contains one or more of the following dietary ingredients:

(i) a vitamin;

(ii) a mineral;

(iii) an herb or other botanical;

(iv) an amino acid;

(v) a dietary substance for use by humans to supplement the diet by increasing the total dietary intake; or

(vi) a concentrate, metabolite, constituent, extract, or combination of any ingredient described in Subsections [~~(35)~~] (36)(b)(i) through (v);

(c) (i) except as provided in Subsection [~~(35)~~] (36)(c)(ii), is intended for ingestion in:

(A) tablet form;

(B) capsule form;

(C) powder form;

(D) softgel form;

(E) gelcap form; or

(F) liquid form; or

(ii) if the product is not intended for ingestion in a form described in Subsections [~~(35)~~] (36)(c)(i)(A) through (F), is not represented:

(A) as conventional food; and

(B) for use as a sole item of:

(I) a meal; or

(II) the diet; and

(d) is required to be labeled as a dietary supplement:

(i) identifiable by the "Supplemental Facts" box found on the label; and

(ii) as required by 21 C.F.R. Sec. 101.36.

[~~(36)~~] (37) (a) "Digital audio work" means a work that results from the fixation of a series of musical, spoken, or other sounds.

(b) "Digital audio work" includes a ringtone.

[~~(37)~~] (38) "Digital audio-visual work" means a series of related images which, when shown in succession, imparts an impression of motion, together with accompanying sounds, if any.

[~~(38)~~] (39) "Digital book" means a work that is generally recognized in the ordinary and usual sense as a book.

[~~(39)~~] (40) (a) "Direct mail" means printed material delivered or distributed by United States mail or other delivery service:

(i) to:

(A) a mass audience; or

(B) addressees on a mailing list provided:

(I) by a purchaser of the mailing list; or

(II) at the discretion of the purchaser of the mailing list; and

(ii) if the cost of the printed material is not billed directly to the recipients.

(b) "Direct mail" includes tangible personal property supplied directly or indirectly by a purchaser to a seller of direct mail for inclusion in a package containing the printed material.

(c) "Direct mail" does not include multiple items of printed material delivered to a single address.

[~~(40)~~] (41) "Directory assistance" means an ancillary service of providing:

(a) address information; or

(b) telephone number information.

[~~(41)~~] (42) (a) "Disposable home medical equipment or supplies" means medical equipment or supplies that:

(i) cannot withstand repeated use; and

(ii) are purchased by, for, or on behalf of a person other than:

(A) a health care facility as defined in Section 26-21-2;

(B) a health care provider as defined in Section 78B-3-403;

(C) an office of a health care provider described in Subsection [~~(41)~~] (42)(a)(ii)(B); or

(D) a person similar to a person described in Subsections [~~(41)~~] (42)(a)(ii)(A) through (C).

(b) "Disposable home medical equipment or supplies" does not include:

(i) a drug;

(ii) durable medical equipment;

(iii) a hearing aid;

(iv) a hearing aid accessory;

(v) mobility enhancing equipment; or

(vi) tangible personal property used to correct impaired vision, including:

(A) eyeglasses; or

(B) contact lenses.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes medical equipment or supplies.

[~~(42)~~] (43) "Drilling equipment manufacturer" means a facility:

(a) located in the state;

(b) with respect to which 51% or more of the manufacturing activities of the facility consist of manufacturing component parts of drilling equipment;

(c) that uses pressure of 800,000 or more pounds per square inch as part of the manufacturing process; and

(d) that uses a temperature of 2,000 or more degrees Fahrenheit as part of the manufacturing process.

[~~(43)~~] (44) (a) "Drug" means a compound, substance, or preparation, or a component of a compound, substance, or preparation that is:

(i) recognized in:

(A) the official United States Pharmacopoeia;

(B) the official Homeopathic Pharmacopoeia of the United States;

(C) the official National Formulary; or

(D) a supplement to a publication listed in Subsections [~~(43)~~] (44)(a)(i)(A) through (C);

(ii) intended for use in the:

(A) diagnosis of disease;

(B) cure of disease;

(C) mitigation of disease;

(D) treatment of disease; or

(E) prevention of disease; or

(iii) intended to affect:

(A) the structure of the body; or

(B) any function of the body.

(b) "Drug" does not include:

(i) food and food ingredients;

(ii) a dietary supplement;

(iii) an alcoholic beverage; or

(iv) a prosthetic device.

[~~(44)~~] (45) (a) Except as provided in Subsection [~~(44)~~] (45)(c), "durable medical equipment" means equipment that:

(i) can withstand repeated use;

(ii) is primarily and customarily used to serve a medical purpose;

(iii) generally is not useful to a person in the absence of illness or injury; and

(iv) is not worn in or on the body.

(b) "Durable medical equipment" includes parts used in the repair or replacement of the equipment described in Subsection [~~(44)~~] (45)(a).

(c) "Durable medical equipment" does not include mobility enhancing equipment.

[~~(45)~~] (46) "Electronic" means:

(a) relating to technology; and

(b) having:

(i) electrical capabilities;

(ii) digital capabilities;

(iii) magnetic capabilities;

(iv) wireless capabilities;

(v) optical capabilities;

(vi) electromagnetic capabilities; or

(vii) capabilities similar to Subsections [~~(45)~~] (46)(b)(i) through (vi).

[~~(46)~~] (47) "Electronic financial payment service" means an establishment:

(a) within NAICS Code 522320, Financial Transactions Processing, Reserve, and Clearinghouse Activities, of the 2012 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget; and

(b) that performs electronic financial payment services.

[~~(47)~~] (48) "Employee" means the same as that term is defined in Section 59-10-401.

[~~(48)~~] (49) "Fixed guideway" means a public transit facility that uses and occupies:

(a) rail for the use of public transit; or

(b) a separate right-of-way for the use of public transit.

[~~(49)~~] (50) "Fixed wing turbine powered aircraft" means an aircraft that:

(a) is powered by turbine engines;

(b) operates on jet fuel; and

(c) has wings that are permanently attached to the fuselage of the aircraft.

[~~(50)~~] (51) "Fixed wireless service" means a telecommunications service that provides radio communication between fixed points.

[~~(51)~~] (52) (a) "Food and food ingredients" means substances:

(i) regardless of whether the substances are in:

(A) liquid form;

(B) concentrated form;

(C) solid form;

(D) frozen form;

(E) dried form; or

(F) dehydrated form; and

(ii) that are:

(A) sold for:

(I) ingestion by humans; or

(II) chewing by humans; and

(B) consumed for the substance's:

(I) taste; or

(II) nutritional value.

(b) "Food and food ingredients" includes an item described in Subsection [~~(96)~~] (97)(b)(iii).

(c) "Food and food ingredients" does not include:

(i) an alcoholic beverage;

(ii) tobacco; or

(iii) prepared food.

[~~(52)~~] (53) (a) "Fundraising sales" means sales:

(i) (A) made by a school; or

(B) made by a school student;

(ii) that are for the purpose of raising funds for the school to purchase equipment, materials, or provide transportation; and

(iii) that are part of an officially sanctioned school activity.

(b) For purposes of Subsection [~~(52)~~] (53)(a)(iii), "officially sanctioned school activity" means a school activity:

(i) that is conducted in accordance with a formal policy adopted by the school or school district governing the authorization and supervision of fundraising activities;

(ii) that does not directly or indirectly compensate an individual teacher or other educational personnel by direct payment, commissions, or payment in kind; and

(iii) the net or gross revenues from which are deposited in a dedicated account controlled by the school or school district.

[~~(53)~~] (54) "Geothermal energy" means energy contained in heat that continuously flows outward from the earth that is used as the sole source of energy to produce electricity.

[~~(54)~~] (55) "Governing board of the agreement" means the governing board of the agreement that is:

(a) authorized to administer the agreement; and

(b) established in accordance with the agreement.

[~~(55)~~] (56) (a) For purposes of Subsection 59-12-104(41), "governmental entity" means:

(i) the executive branch of the state, including all departments, institutions, boards, divisions, bureaus, offices, commissions, and committees;

(ii) the judicial branch of the state, including the courts, the Judicial Council, the Administrative Office of the Courts, and similar administrative units in the judicial branch;

(iii) the legislative branch of the state, including the House of Representatives, the Senate, the Legislative Printing Office, the Office of Legislative Research and General Counsel, the Office of the Legislative Auditor General, and the Office of the Legislative Fiscal Analyst;

(iv) the National Guard;

(v) an independent entity as defined in Section 63E-1-102; or

(vi) a political subdivision as defined in Section 17B-1-102.

(b) "Governmental entity" does not include the state systems of public and higher education, including:

(i) a school;

(ii) the State Board of Education;

(iii) the Utah Board of Higher Education; or

(iv) an institution of higher education described in Section 53B-1-102.

[~~(56)~~] (57) "Hydroelectric energy" means water used as the sole source of energy to produce electricity.

[~~(57)~~] (58) "Industrial use" means the use of natural gas, electricity, heat, coal, fuel oil, or other fuels:

(a) in mining or extraction of minerals;

(b) in agricultural operations to produce an agricultural product up to the time of harvest or placing the agricultural product into a storage facility, including:

(i) commercial greenhouses;

(ii) irrigation pumps;

(iii) farm machinery;

(iv) implements of husbandry as defined in Section 41-1a-102 that are not registered under Title 41, Chapter 1a, Part 2, Registration; and

(v) other farming activities;

(c) in manufacturing tangible personal property at an establishment described in:

(i) SIC Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of the President, Office of Management and Budget; or

(ii) a NAICS code within NAICS Sector 31-33, Manufacturing, of the 2017 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget;

(d) by a scrap recycler if:

(i) from a fixed location, the scrap recycler utilizes machinery or equipment to process one or more of the following items into prepared grades of processed materials for use in new products:

(A) iron;

(B) steel;

(C) nonferrous metal;

(D) paper;

(E) glass;

(F) plastic;

(G) textile; or

(H) rubber; and

(ii) the new products under Subsection [~~(57)~~] (58)(d)(i) would otherwise be made with nonrecycled materials; or

(e) in producing a form of energy or steam described in Subsection 54-2-1(3)(a) by a cogeneration facility as defined in Section 54-2-1.

[~~(58)~~] (59) (a) Except as provided in Subsection [~~(58)~~] (59)(b), "installation charge" means a charge for installing:

(i) tangible personal property; or

(ii) a product transferred electronically.

(b) "Installation charge" does not include a charge for:

(i) repairs or renovations of:

(A) tangible personal property; or

(B) a product transferred electronically; or

(ii) attaching tangible personal property or a product transferred electronically:

(A) to other tangible personal property; and

(B) as part of a manufacturing or fabrication process.

[~~(59)~~] (60) "Institution of higher education" means an institution of higher education listed in Section 53B-2-101.

[~~(60)~~] (61) (a) "Lease" or "rental" means a transfer of possession or control of tangible personal property or a product transferred electronically for:

(i) (A) a fixed term; or

(B) an indeterminate term; and

(ii) consideration.

(b) "Lease" or "rental" includes an agreement covering a motor vehicle and trailer if the amount of consideration may be increased or decreased by reference to the amount realized upon sale or disposition of the property as defined in Section 7701(h)(1), Internal Revenue Code.

(c) "Lease" or "rental" does not include:

(i) a transfer of possession or control of property under a security agreement or deferred payment plan that requires the transfer of title upon completion of the required payments;

(ii) a transfer of possession or control of property under an agreement that requires the transfer of title:

(A) upon completion of required payments; and

(B) if the payment of an option price does not exceed the greater of:

(I) $100; or

(II) 1% of the total required payments; or

(iii) providing tangible personal property along with an operator for a fixed period of time or an indeterminate period of time if the operator is necessary for equipment to perform as designed.

(d) For purposes of Subsection [~~(60)~~] (61)(c)(iii), an operator is necessary for equipment to perform as designed if the operator's duties exceed the:

(i) set-up of tangible personal property;

(ii) maintenance of tangible personal property; or

(iii) inspection of tangible personal property.

[~~(61)~~] (62) "Lesson" means a fixed period of time for the duration of which a trained instructor:

(a) is present with a student in person or by video; and

(b) actively instructs the student, including by providing observation or feedback.

[~~(62)~~] (63) "Life science establishment" means an establishment in this state that is classified under the following NAICS codes of the 2007 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget:

(a) NAICS Code 33911, Medical Equipment and Supplies Manufacturing;

(b) NAICS Code 334510, Electromedical and Electrotherapeutic Apparatus Manufacturing; or

(c) NAICS Code 334517, Irradiation Apparatus Manufacturing.

[~~(63)~~] (64) "Life science research and development facility" means a facility owned, leased, or rented by a life science establishment if research and development is performed in 51% or more of the total area of the facility.

[~~(64)~~] (65) "Load and leave" means delivery to a purchaser by use of a tangible storage media if the tangible storage media is not physically transferred to the purchaser.

[~~(65)~~] (66) "Local taxing jurisdiction" means a:

(a) county that is authorized to impose an agreement sales and use tax;

(b) city that is authorized to impose an agreement sales and use tax; or

(c) town that is authorized to impose an agreement sales and use tax.

[~~(66)~~] (67) "Manufactured home" means the same as that term is defined in Section 15A-1-302.

[~~(67)~~] (68) "Manufacturing facility" means:

(a) an establishment described in:

(i) SIC Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of the President, Office of Management and Budget; or

(ii) a NAICS code within NAICS Sector 31-33, Manufacturing, of the 2017 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget;

(b) a scrap recycler if:

(i) from a fixed location, the scrap recycler utilizes machinery or equipment to process one or more of the following items into prepared grades of processed materials for use in new products:

(A) iron;

(B) steel;

(C) nonferrous metal;

(D) paper;

(E) glass;

(F) plastic;

(G) textile; or

(H) rubber; and

(ii) the new products under Subsection [~~(67)~~] (68)(b)(i) would otherwise be made with nonrecycled materials; or

(c) a cogeneration facility as defined in Section 54-2-1 if the cogeneration facility is placed in service on or after May 1, 2006.

[~~(68)~~] (69) (a) "Marketplace" means a physical or electronic place, platform, or forum where tangible personal property, a product transferred electronically, or a service is offered for sale.

(b) "Marketplace" includes a store, a booth, an Internet website, a catalog, or a dedicated sales software application.

[~~(69)~~] (70) (a) "Marketplace facilitator" means a person, including an affiliate of the person, that enters into a contract, an agreement, or otherwise with sellers, for consideration, to facilitate the sale of a seller's product through a marketplace that the person owns, operates, or controls and that directly or indirectly:

(i) does any of the following:

(A) lists, makes available, or advertises tangible personal property, a product transferred electronically, or a service for sale by a marketplace seller on a marketplace that the person owns, operates, or controls;

(B) facilitates the sale of a marketplace seller's tangible personal property, product transferred electronically, or service by transmitting or otherwise communicating an offer or acceptance of a retail sale between the marketplace seller and a purchaser using the marketplace;

(C) owns, rents, licenses, makes available, or operates any electronic or physical infrastructure or any property, process, method, copyright, trademark, or patent that connects a marketplace seller to a purchaser for the purpose of making a retail sale of tangible personal property, a product transferred electronically, or a service;

(D) provides a marketplace for making, or otherwise facilitates, a retail sale of tangible personal property, a product transferred electronically, or a service, regardless of ownership or control of the tangible personal property, the product transferred electronically, or the service that is the subject of the retail sale;

(E) provides software development or research and development activities related to any activity described in this Subsection [~~(69)~~] (70)(a)(i), if the software development or research and development activity is directly related to the person's marketplace;

(F) provides or offers fulfillment or storage services for a marketplace seller;

(G) sets prices for the sale of tangible personal property, a product transferred electronically, or a service by a marketplace seller;

(H) provides or offers customer service to a marketplace seller or a marketplace seller's purchaser or accepts or assists with taking orders, returns, or exchanges of tangible personal property, a product transferred electronically, or a service sold by a marketplace seller on the person's marketplace; or

(I) brands or otherwise identifies sales as those of the person; and

(ii) does any of the following:

(A) collects the sales price or purchase price of a retail sale of tangible personal property, a product transferred electronically, or a service;

(B) provides payment processing services for a retail sale of tangible personal property, a product transferred electronically, or a service;

(C) charges, collects, or otherwise receives a selling fee, listing fee, referral fee, closing fee, a fee for inserting or making available tangible personal property, a product transferred electronically, or a service on the person's marketplace, or other consideration for the facilitation of a retail sale of tangible personal property, a product transferred electronically, or a service, regardless of ownership or control of the tangible personal property, the product transferred electronically, or the service that is the subject of the retail sale;

(D) through terms and conditions, an agreement, or another arrangement with a third person, collects payment from a purchase for a retail sale of tangible personal property, a product transferred electronically, or a service and transmits that payment to the marketplace seller, regardless of whether the third person receives compensation or other consideration in exchange for the service; or

(E) provides a virtual currency for a purchaser to use to purchase tangible personal property, a product transferred electronically, or service offered for sale.

(b) "Marketplace facilitator" does not include:

(i) a person that only provides payment processing services; or

(ii) a person described in Subsection [~~(69)~~] (70)(a) to the extent the person is facilitating a sale for a seller that is a restaurant as defined in Section 59-12-602.

[~~(70)~~] (71) "Marketplace seller" means a seller that makes one or more retail sales through a marketplace that a marketplace facilitator owns, operates, or controls, regardless of whether the seller is required to be registered to collect and remit the tax under this part.

[~~(71)~~] (72) "Member of the immediate family of the producer" means a person who is related to a producer described in Subsection 59-12-104(20)(a) as a:

(a) child or stepchild, regardless of whether the child or stepchild is:

(i) an adopted child or adopted stepchild; or

(ii) a foster child or foster stepchild;

(b) grandchild or stepgrandchild;

(c) grandparent or stepgrandparent;

(d) nephew or stepnephew;

(e) niece or stepniece;

(f) parent or stepparent;

(g) sibling or stepsibling;

(h) spouse;

(i) person who is the spouse of a person described in Subsections [~~(71)~~] (72)(a) through (g); or

(j) person similar to a person described in Subsections [~~(71)~~] (72)(a) through (i) as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

[~~(72)~~] (73) "Mobile home" means the same as that term is defined in Section 15A-1-302.

[~~(73)~~] (74) "Mobile telecommunications service" means the same as that term is defined in the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

[~~(74)~~] (75) (a) "Mobile wireless service" means a telecommunications service, regardless of the technology used, if:

(i) the origination point of the conveyance, routing, or transmission is not fixed;

(ii) the termination point of the conveyance, routing, or transmission is not fixed; or

(iii) the origination point described in Subsection [~~(74)~~] (75)(a)(i) and the termination point described in Subsection [~~(74)~~] (75)(a)(ii) are not fixed.

(b) "Mobile wireless service" includes a telecommunications service that is provided by a commercial mobile radio service provider.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define "commercial mobile radio service provider."

[~~(75)~~] (76) (a) Except as provided in Subsection [~~(75)~~] (76)(c), "mobility enhancing equipment" means equipment that is:

(i) primarily and customarily used to provide or increase the ability to move from one place to another;

(ii) appropriate for use in a:

(A) home; or

(B) motor vehicle; and

(iii) not generally used by persons with normal mobility.

(b) "Mobility enhancing equipment" includes parts used in the repair or replacement of the equipment described in Subsection [~~(75)~~] (76)(a).

(c) "Mobility enhancing equipment" does not include:

(i) a motor vehicle;

(ii) equipment on a motor vehicle if that equipment is normally provided by the motor vehicle manufacturer;

(iii) durable medical equipment; or

(iv) a prosthetic device.

[~~(76)~~] (77) "Model 1 seller" means a seller registered under the agreement that has selected a

certified service provider as the seller's agent to perform the seller's sales and use tax functions for agreement sales and use taxes, as outlined in the contract between the governing board of the agreement and the certified service provider, other than the seller's obligation under Section 59-12-124 to remit a tax on the seller's own purchases.

[~~(77)~~] (78) "Model 2 seller" means a seller registered under the agreement that:

(a) except as provided in Subsection [~~(77)~~] (78)(b), has selected a certified automated system to perform the seller's sales tax functions for agreement sales and use taxes; and

(b) retains responsibility for remitting all of the sales tax:

(i) collected by the seller; and

(ii) to the appropriate local taxing jurisdiction.

[~~(78)~~] (79) (a) Subject to Subsection [~~(78)~~] (79)(b), "model 3 seller" means a seller registered under the agreement that has:

(i) sales in at least five states that are members of the agreement;

(ii) total annual sales revenues of at least $500,000,000;

(iii) a proprietary system that calculates the amount of tax:

(A) for an agreement sales and use tax; and

(B) due to each local taxing jurisdiction; and

(iv) entered into a performance agreement with the governing board of the agreement.

(b) For purposes of Subsection [~~(78)~~] (79)(a), "model 3 seller" includes an affiliated group of sellers using the same proprietary system.

[~~(79)~~] (80) "Model 4 seller" means a seller that is registered under the agreement and is not a model 1 seller, model 2 seller, or model 3 seller.

[~~(80)~~] (81) "Modular home" means a modular unit as defined in Section 15A-1-302.

[~~(81)~~] (82) "Motor vehicle" means the same as that term is defined in Section 41-1a-102.

[~~(82)~~] (83) "Oil sands" means impregnated bituminous sands that:

(a) contain a heavy, thick form of petroleum that is released when heated, mixed with other hydrocarbons, or otherwise treated;

(b) yield mixtures of liquid hydrocarbon; and

(c) require further processing other than mechanical blending before becoming finished petroleum products.

[~~(83)~~] (84) "Oil shale" means a group of fine black to dark brown shales containing kerogen material that yields petroleum upon heating and distillation.

[~~(84)~~] (85) "Optional computer software maintenance contract" means a computer software maintenance contract that a customer is not obligated to purchase as a condition to the retail sale of computer software.

[~~(85)~~] (86) (a) "Other fuels" means products that burn independently to produce heat or energy.

(b) "Other fuels" includes oxygen when it is used in the manufacturing of tangible personal property.

[~~(86)~~] (87) (a) "Paging service" means a telecommunications service that provides transmission of a coded radio signal for the purpose of activating a specific pager.

(b) For purposes of Subsection [~~(86)~~] (87)(a), the transmission of a coded radio signal includes a transmission by message or sound.

[~~(87)~~] (88) "Pawnbroker" means the same as that term is defined in Section 13-32a-102.

[~~(88)~~] (89) "Pawn transaction" means the same as that term is defined in Section 13-32a-102.

[~~(89)~~] (90) (a) "Permanently attached to real property" means that for tangible personal property attached to real property:

(i) the attachment of the tangible personal property to the real property:

(A) is essential to the use of the tangible personal property; and

(B) suggests that the tangible personal property will remain attached to the real property in the same place over the useful life of the tangible personal property; or

(ii) if the tangible personal property is detached from the real property, the detachment would:

(A) cause substantial damage to the tangible personal property; or

(B) require substantial alteration or repair of the real property to which the tangible personal property is attached.

(b) "Permanently attached to real property" includes:

(i) the attachment of an accessory to the tangible personal property if the accessory is:

(A) essential to the operation of the tangible personal property; and

(B) attached only to facilitate the operation of the tangible personal property;

(ii) a temporary detachment of tangible personal property from real property for a repair or renovation if the repair or renovation is performed where the tangible personal property and real property are located; or

(iii) property attached to oil, gas, or water pipelines, except for the property listed in Subsection [~~(89)~~] (90)(c)(iii) or (iv).

(c) "Permanently attached to real property" does not include:

(i) the attachment of portable or movable tangible personal property to real property if that portable or movable tangible personal property is attached to real property only for:

(A) convenience;

(B) stability; or

(C) for an obvious temporary purpose;

(ii) the detachment of tangible personal property from real property except for the detachment described in Subsection [~~(89)~~] (90)(b)(ii);

(iii) an attachment of the following tangible personal property to real property if the attachment to real property is only through a line that supplies water, electricity, gas, telecommunications, cable, or supplies a similar item as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(A) a computer;

(B) a telephone;

(C) a television; or

(D) tangible personal property similar to Subsections [~~(89)~~] (90)(c)(iii)(A) through (C) as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or

(iv) an item listed in Subsection [~~(130)~~] (131)(c).

[~~(90)~~] (91) "Person" includes any individual, firm, partnership, joint venture, association, corporation, estate, trust, business trust, receiver, syndicate, this state, any county, city, municipality, district, or other local governmental entity of the state, or any group or combination acting as a unit.

[~~(91)~~] (92) "Place of primary use":

(a) for telecommunications service other than mobile telecommunications service, means the street address representative of where the customer's use of the telecommunications service primarily occurs, which shall be:

(i) the residential street address of the customer; or

(ii) the primary business street address of the customer; or

(b) for mobile telecommunications service, means the same as that term is defined in the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

[~~(92)~~] (93) (a) "Postpaid calling service" means a telecommunications service a person obtains by making a payment on a call-by-call basis:

(i) through the use of a:

(A) bank card;

(B) credit card;

(C) debit card; or

(D) travel card; or

(ii) by a charge made to a telephone number that is not associated with the origination or termination of the telecommunications service.

(b) "Postpaid calling service" includes a service, except for a prepaid wireless calling service, that would be a prepaid wireless calling service if the service were exclusively a telecommunications service.

[~~(93)~~] (94) "Postproduction" means an activity related to the finishing or duplication of a medium described in Subsection 59-12-104(54)(a).

[~~(94)~~] (95) "Prepaid calling service" means a telecommunications service:

(a) that allows a purchaser access to telecommunications service that is exclusively telecommunications service;

(b) that:

(i) is paid for in advance; and

(ii) enables the origination of a call using an:

(A) access number; or

(B) authorization code;

(c) that is dialed:

(i) manually; or

(ii) electronically; and

(d) sold in predetermined units or dollars that decline:

(i) by a known amount; and

(ii) with use.

[~~(95)~~] (96) "Prepaid wireless calling service" means a telecommunications service:

(a) that provides the right to utilize:

(i) mobile wireless service; and

(ii) other service that is not a telecommunications service, including:

(A) the download of a product transferred electronically;

(B) a content service; or

(C) an ancillary service;

(b) that:

(i) is paid for in advance; and

(ii) enables the origination of a call using an:

(A) access number; or

(B) authorization code;

(c) that is dialed:

(i) manually; or

(ii) electronically; and

(d) sold in predetermined units or dollars that decline:

(i) by a known amount; and

(ii) with use.

[~~(96)~~] (97) (a) "Prepared food" means:

(i) food:

(A) sold in a heated state; or

(B) heated by a seller;

(ii) two or more food ingredients mixed or combined by the seller for sale as a single item; or

(iii) except as provided in Subsection [~~(96)~~] (97)(c), food sold with an eating utensil provided by the seller, including a:

(A) plate;

(B) knife;

(C) fork;

(D) spoon;

(E) glass;

(F) cup;

(G) napkin; or

(H) straw.

(b) "Prepared food" does not include:

(i) food that a seller only:

(A) cuts;

(B) repackages; or

(C) pasteurizes; or

(ii) (A) the following:

(I) raw egg;

(II) raw fish;

(III) raw meat;

(IV) raw poultry; or

(V) a food containing an item described in Subsections [~~(96)~~] (97)(b)(ii)(A)(I) through (IV); and

(B) if the Food and Drug Administration recommends in Chapter 3, Part 401.11 of the Food and Drug Administration's Food Code that a consumer cook the items described in Subsection [~~(96)~~] (97)(b)(ii)(A) to prevent food borne illness; or

(iii) the following if sold without eating utensils provided by the seller:

(A) food and food ingredients sold by a seller if the seller's proper primary classification under the 2002 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget, is manufacturing in Sector 311, Food Manufacturing, except for Subsector 3118, Bakeries and Tortilla Manufacturing;

(B) food and food ingredients sold in an unheated state:

(I) by weight or volume; and

(II) as a single item; or

(C) a bakery item, including:

(I) a bagel;

(II) a bar;

(III) a biscuit;

(IV) bread;

(V) a bun;

(VI) a cake;

(VII) a cookie;

(VIII) a croissant;

(IX) a danish;

(X) a donut;

(XI) a muffin;

(XII) a pastry;

(XIII) a pie;

(XIV) a roll;

(XV) a tart;

(XVI) a torte; or

(XVII) a tortilla.

(c) An eating utensil provided by the seller does not include the following used to transport the food:

(i) a container; or

(ii) packaging.

[~~(97)~~] (98) "Prescription" means an order, formula, or recipe that is issued:

(a) (i) orally;

(ii) in writing;

(iii) electronically; or

(iv) by any other manner of transmission; and

(b) by a licensed practitioner authorized by the laws of a state.

[~~(98)~~] (99) (a) Except as provided in Subsection [~~(98)~~] (99)(b)(ii) or (iii), "prewritten computer software" means computer software that is not designed and developed:

(i) by the author or other creator of the computer software; and

(ii) to the specifications of a specific purchaser.

(b) "Prewritten computer software" includes:

(i) a prewritten upgrade to computer software if the prewritten upgrade to the computer software is not designed and developed:

(A) by the author or other creator of the computer software; and

(B) to the specifications of a specific purchaser;

(ii) computer software designed and developed by the author or other creator of the computer software to the specifications of a specific purchaser if the computer software is sold to a person other than the purchaser; or

(iii) except as provided in Subsection [~~(98)~~] (99)(c), prewritten computer software or a prewritten portion of prewritten computer software:

(A) that is modified or enhanced to any degree; and

(B) if the modification or enhancement described in Subsection [~~(98)~~] (99)(b)(iii)(A) is designed and developed to the specifications of a specific purchaser.

(c) "Prewritten computer software" does not include a modification or enhancement described in Subsection [~~(98)~~] (99)(b)(iii) if the charges for the modification or enhancement are:

(i) reasonable; and

(ii) subject to Subsections 59-12-103(2)(e)(ii) and (2)(f)(i), separately stated on the invoice or other statement of price provided to the purchaser at the time of sale or later, as demonstrated by:

(A) the books and records the seller keeps at the time of the transaction in the regular course of business, including books and records the seller keeps at the time of the transaction in the regular course of business for nontax purposes;

(B) a preponderance of the facts and circumstances at the time of the transaction; and

(C) the understanding of all of the parties to the transaction.

[~~(99)~~] (100) (a) "Private communications service" means a telecommunications service:

(i) that entitles a customer to exclusive or priority use of one or more communications channels between or among termination points; and

(ii) regardless of the manner in which the one or more communications channels are connected.

(b) "Private communications service" includes the following provided in connection with the use of one or more communications channels:

(i) an extension line;

(ii) a station;

(iii) switching capacity; or

(iv) another associated service that is provided in connection with the use of one or more communications channels as defined in Section 59-12-215.

[~~(100)~~] (101) (a) Except as provided in Subsection [~~(100)~~] (101)(b), "product transferred electronically" means a product transferred electronically that would be subject to a tax under this chapter if that product was transferred in a manner other than electronically.

(b) "Product transferred electronically" does not include:

(i) an ancillary service;

(ii) computer software; or

(iii) a telecommunications service.

[~~(101)~~] (102) (a) "Prosthetic device" means a device that is worn on or in the body to:

(i) artificially replace a missing portion of the body;

(ii) prevent or correct a physical deformity or physical malfunction; or

(iii) support a weak or deformed portion of the body.

(b) "Prosthetic device" includes:

(i) parts used in the repairs or renovation of a prosthetic device;

(ii) replacement parts for a prosthetic device;

(iii) a dental prosthesis; or

(iv) a hearing aid.

(c) "Prosthetic device" does not include:

(i) corrective eyeglasses; or

(ii) contact lenses.

[~~(102)~~] (103) (a) "Protective equipment" means an item:

(i) for human wear; and

(ii) that is:

(A) designed as protection:

(I) to the wearer against injury or disease; or

(II) against damage or injury of other persons or property; and

(B) not suitable for general use.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules:

(i) listing the items that constitute "protective equipment"; and

(ii) that are consistent with the list of items that constitute "protective equipment" under the agreement.

[~~(103)~~] (104) (a) For purposes of Subsection 59-12-104(41), "publication" means any written or printed matter, other than a photocopy:

(i) regardless of:

(A) characteristics;

(B) copyright;

(C) form;

(D) format;

(E) method of reproduction; or

(F) source; and

(ii) made available in printed or electronic format.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "photocopy."

[~~(104)~~] (105) (a) "Purchase price" and "sales price" mean the total amount of consideration:

(i) valued in money; and

(ii) for which tangible personal property, a product transferred electronically, or services are:

(A) sold;

(B) leased; or

(C) rented.

(b) "Purchase price" and "sales price" include:

(i) the seller's cost of the tangible personal property, a product transferred electronically, or services sold;

(ii) expenses of the seller, including:

(A) the cost of materials used;

(B) a labor cost;

(C) a service cost;

(D) interest;

(E) a loss;

(F) the cost of transportation to the seller; or

(G) a tax imposed on the seller;

(iii) a charge by the seller for any service necessary to complete the sale; or

(iv) consideration a seller receives from a person other than the purchaser if:

(A) (I) the seller actually receives consideration from a person other than the purchaser; and

(II) the consideration described in Subsection [~~(104)~~] (105)(b)(iv)(A)(I) is directly related to a price reduction or discount on the sale;

(B) the seller has an obligation to pass the price reduction or discount through to the purchaser;

(C) the amount of the consideration attributable to the sale is fixed and determinable by the seller at the time of the sale to the purchaser; and

(D) (I) (Aa) the purchaser presents a certificate, coupon, or other documentation to the seller to claim a price reduction or discount; and

(Bb) a person other than the seller authorizes, distributes, or grants the certificate, coupon, or other documentation with the understanding that the person other than the seller will reimburse any seller to whom the certificate, coupon, or other documentation is presented;

(II) the purchaser identifies that purchaser to the seller as a member of a group or organization allowed a price reduction or discount, except that a preferred customer card that is available to any patron of a seller does not constitute membership in a group or organization allowed a price reduction or discount; or

(III) the price reduction or discount is identified as a third party price reduction or discount on the:

(Aa) invoice the purchaser receives; or

(Bb) certificate, coupon, or other documentation the purchaser presents.

(c) "Purchase price" and "sales price" do not include:

(i) a discount:

(A) in a form including:

(I) cash;

(II) term; or

(III) coupon;

(B) that is allowed by a seller;

(C) taken by a purchaser on a sale; and

(D) that is not reimbursed by a third party; or

(ii) subject to Subsections 59-12-103(2)(e)(ii) and (2)(f)(i), the following if separately stated on an invoice, bill of sale, or similar document provided to the purchaser at the time of sale or later, as demonstrated by the books and records the seller keeps at the time of the transaction in the regular course of business, including books and records the seller keeps at the time of the transaction in the regular course of business for nontax purposes, by a preponderance of the facts and circumstances at the time of the transaction, and by the understanding of all of the parties to the transaction:

(A) the following from credit extended on the sale of tangible personal property or services:

(I) a carrying charge;

(II) a financing charge; or

(III) an interest charge;

(B) a delivery charge;

(C) an installation charge;

(D) a manufacturer rebate on a motor vehicle; or

(E) a tax or fee legally imposed directly on the consumer.

[~~(105)~~] (106) "Purchaser" means a person to whom:

(a) a sale of tangible personal property is made;

(b) a product is transferred electronically; or

(c) a service is furnished.

[~~(106)~~] (107) "Qualifying data center" means a data center facility that:

(a) houses a group of networked server computers in one physical location in order to disseminate, manage, and store data and information;

(b) is located in the state;

(c) is a new operation constructed on or after July 1, 2016;

(d) consists of one or more buildings that total 150,000 or more square feet;

(e) is owned or leased by:

(i) the operator of the data center facility; or

(ii) a person under common ownership, as defined in Section 59-7-101, of the operator of the data center facility; and

(f) is located on one or more parcels of land that are owned or leased by:

(i) the operator of the data center facility; or

(ii) a person under common ownership, as defined in Section 59-7-101, of the operator of the data center facility.

[~~(107)~~] (108) "Regularly rented" means:

(a) rented to a guest for value three or more times during a calendar year; or

(b) advertised or held out to the public as a place that is regularly rented to guests for value.-

[~~(108)~~] (109) "Rental" means the same as that term is defined in Subsection [~~(60)~~] (61).

[~~(109)~~] (110) (a) Except as provided in Subsection [~~(109)~~] (110)(b), "repairs or renovations of tangible personal property" means:

(i) a repair or renovation of tangible personal property that is not permanently attached to real property; or

(ii) attaching tangible personal property or a product transferred electronically to other tangible personal property or detaching tangible personal property or a product transferred electronically from other tangible personal property if:

(A) the other tangible personal property to which the tangible personal property or product transferred electronically is attached or from which the tangible personal property or product transferred electronically is detached is not permanently attached to real property; and

(B) the attachment of tangible personal property or a product transferred electronically to other tangible personal property or detachment of tangible personal property or a product transferred electronically from other tangible personal property is made in conjunction with a repair or replacement of tangible personal property or a product transferred electronically.

(b) "Repairs or renovations of tangible personal property" does not include:

(i) attaching prewritten computer software to other tangible personal property if the other tangible personal property to which the prewritten computer software is attached is not permanently attached to real property; or

(ii) detaching prewritten computer software from other tangible personal property if the other tangible personal property from which the prewritten computer software is detached is not permanently attached to real property.

[~~(110)~~] (111) "Research and development" means the process of inquiry or experimentation aimed at the discovery of facts, devices, technologies, or applications and the process of preparing those devices, technologies, or applications for marketing.

[~~(111)~~] (112) (a) "Residential telecommunications services" means a telecommunications service or an ancillary service that is provided to an individual for personal use:

(i) at a residential address; or

(ii) at an institution, including a nursing home or a school, if the telecommunications service or ancillary service is provided to and paid for by the individual residing at the institution rather than the institution.

(b) For purposes of Subsection [~~(111)~~] (112)(a)(i), a residential address includes an:

(i) apartment; or

(ii) other individual dwelling unit.

[~~(112)~~] (113) "Residential use" means the use in or around a home, apartment building, sleeping quarters, and similar facilities or accommodations.

[~~(113)~~] (114) "Retail sale" or "sale at retail" means a sale, lease, or rental for a purpose other than:

(a) resale;

(b) sublease; or

(c) subrent.

[~~(114)~~] (115) (a) "Retailer" means any person, unless prohibited by the Constitution of the United States or federal law, that is engaged in a regularly organized business in tangible personal property or any other taxable transaction under Subsection 59-12-103(1), and who is selling to the user or consumer and not for resale.

(b) "Retailer" includes commission merchants, auctioneers, and any person regularly engaged in the business of selling to users or consumers within the state.

[~~(115)~~] (116) (a) "Sale" means any transfer of title, exchange, or barter, conditional or otherwise, in any manner, of tangible personal property or any other taxable transaction under Subsection 59-12-103(1), for consideration.

(b) "Sale" includes:

(i) installment and credit sales;

(ii) any closed transaction constituting a sale;

(iii) any sale of electrical energy, gas, services, or entertainment taxable under this chapter;

(iv) any transaction if the possession of property is transferred but the seller retains the title as security for the payment of the price; and

(v) any transaction under which right to possession, operation, or use of any article of

tangible personal property is granted under a lease or contract and the transfer of possession would be taxable if an outright sale were made.

[~~(116)~~] (117) "Sale at retail" means the same as that term is defined in Subsection [~~(113)~~] (114).

[~~(117)~~] (118) "Sale-leaseback transaction" means a transaction by which title to tangible personal property or a product transferred electronically that is subject to a tax under this chapter is transferred:

(a) by a purchaser-lessee;

(b) to a lessor;

(c) for consideration; and

(d) if:

(i) the purchaser-lessee paid sales and use tax on the purchaser-lessee's initial purchase of the tangible personal property or product transferred electronically;

(ii) the sale of the tangible personal property or product transferred electronically to the lessor is intended as a form of financing:

(A) for the tangible personal property or product transferred electronically; and

(B) to the purchaser-lessee; and

(iii) in accordance with generally accepted accounting principles, the purchaser-lessee is required to:

(A) capitalize the tangible personal property or product transferred electronically for financial reporting purposes; and

(B) account for the lease payments as payments made under a financing arrangement.

[~~(118)~~] (119) "Sales price" means the same as that term is defined in Subsection [~~(104)~~] (105).

[~~(119)~~] (120) (a) "Sales relating to schools" means the following sales by, amounts paid to, or amounts charged by a school:

(i) sales that are directly related to the school's educational functions or activities including:

(A) the sale of:

(I) textbooks;

(II) textbook fees;

(III) laboratory fees;

(IV) laboratory supplies; or

(V) safety equipment;

(B) the sale of a uniform, protective equipment, or sports or recreational equipment that:

(I) a student is specifically required to wear as a condition of participation in a school-related event or school-related activity; and

(II) is not readily adaptable to general or continued usage to the extent that it takes the place of ordinary clothing;

(C) sales of the following if the net or gross revenues generated by the sales are deposited into a school district fund or school fund dedicated to school meals:

(I) food and food ingredients; or

(II) prepared food; or

(D) transportation charges for official school activities; or

(ii) amounts paid to or amounts charged by a school for admission to a school-related event or school-related activity.

(b) "Sales relating to schools" does not include:

(i) bookstore sales of items that are not educational materials or supplies;

(ii) except as provided in Subsection [~~(119)~~] (120)(a)(i)(B):

(A) clothing;

(B) clothing accessories or equipment;

(C) protective equipment; or

(D) sports or recreational equipment; or

(iii) amounts paid to or amounts charged by a school for admission to a school-related event or school-related activity if the amounts paid or charged are passed through to a person:

(A) other than a:

(I) school;

(II) nonprofit organization authorized by a school board or a governing body of a private school to organize and direct a competitive secondary school activity; or

(III) nonprofit association authorized by a school board or a governing body of a private school to organize and direct a competitive secondary school activity; and

(B) that is required to collect sales and use taxes under this chapter.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules defining the term "passed through."

[~~(120)~~] (121) For purposes of this section and Section 59-12-104, "school" means:

(a) an elementary school or a secondary school that:

(i) is a:

(A) public school; or

(B) private school; and

(ii) provides instruction for one or more grades kindergarten through 12; or

(b) a public school district.

[~~(121)~~] (122) (a) "Seller" means a person that makes a sale, lease, or rental of:

(i) tangible personal property;

(ii) a product transferred electronically; or

(iii) a service.

(b) "Seller" includes a marketplace facilitator.

[~~(122)~~] (123) (a) "Semiconductor fabricating, processing, research, or development materials" means tangible personal property or a product transferred electronically if the tangible personal property or product transferred electronically is:

(i) used primarily in the process of:

(A) (I) manufacturing a semiconductor;

(II) fabricating a semiconductor; or

(III) research or development of a:

(Aa) semiconductor; or

(Bb) semiconductor manufacturing process; or

(B) maintaining an environment suitable for a semiconductor; or

(ii) consumed primarily in the process of:

(A) (I) manufacturing a semiconductor;

(II) fabricating a semiconductor; or

(III) research or development of a:

(Aa) semiconductor; or

(Bb) semiconductor manufacturing process; or

(B) maintaining an environment suitable for a semiconductor.

(b) "Semiconductor fabricating, processing, research, or development materials" includes:

(i) parts used in the repairs or renovations of tangible personal property or a product transferred electronically described in Subsection [~~(122)~~] (123)(a); or

(ii) a chemical, catalyst, or other material used to:

(A) produce or induce in a semiconductor a:

(I) chemical change; or

(II) physical change;

(B) remove impurities from a semiconductor; or

(C) improve the marketable condition of a semiconductor.

[~~(123)~~] (124) "Senior citizen center" means a facility having the primary purpose of providing services to the aged as defined in Section 62A-3-101.

[~~(124)~~] (125) (a) Subject to Subsections [~~(124)~~] (125)(b) and (c), "short-term lodging consumable" means tangible personal property that:

(i) a business that provides accommodations and services described in Subsection 59-12-103(1)(i) purchases as part of a transaction to provide the accommodations and services to a purchaser;

(ii) is intended to be consumed by the purchaser; and

(iii) is:

(A) included in the purchase price of the accommodations and services; and

(B) not separately stated on an invoice, bill of sale, or other similar document provided to the purchaser.

(b) "Short-term lodging consumable" includes:

(i) a beverage;

(ii) a brush or comb;

(iii) a cosmetic;

(iv) a hair care product;

(v) lotion;

(vi) a magazine;

(vii) makeup;

(viii) a meal;

(ix) mouthwash;

(x) nail polish remover;

(xi) a newspaper;

(xii) a notepad;

(xiii) a pen;

(xiv) a pencil;

(xv) a razor;

(xvi) saline solution;

(xvii) a sewing kit;

(xviii) shaving cream;

(xix) a shoe shine kit;

(xx) a shower cap;

(xxi) a snack item;

(xxii) soap;

(xxiii) toilet paper;

(xxiv) a toothbrush;

(xxv) toothpaste; or

(xxvi) an item similar to Subsections [~~(124)~~] (125)(b)(i) through (xxv) as the commission may provide by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(c) "Short-term lodging consumable" does not include:

(i) tangible personal property that is cleaned or washed to allow the tangible personal property to be reused; or

(ii) a product transferred electronically.

[~~(125)~~] (126) "Simplified electronic return" means the electronic return:

(a) described in Section 318(C) of the agreement; and

(b) approved by the governing board of the agreement.

[~~(126)~~] (127) "Solar energy" means the sun used as the sole source of energy for producing electricity.

[~~(127)~~] (128) (a) "Sports or recreational equipment" means an item:

(i) designed for human use; and

(ii) that is:

(A) worn in conjunction with:

(I) an athletic activity; or

(II) a recreational activity; and

(B) not suitable for general use.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules:

(i) listing the items that constitute "sports or recreational equipment"; and

(ii) that are consistent with the list of items that constitute "sports or recreational equipment" under the agreement.

[~~(128)~~] (129) "State" means the state of Utah, its departments, and agencies.

[~~(129)~~] (130) "Storage" means any keeping or retention of tangible personal property or any other taxable transaction under Subsection 59-12-103(1), in this state for any purpose except sale in the regular course of business.

[~~(130)~~] (131) (a) Except as provided in Subsection [~~(130)~~] (131)(d) or (e), "tangible personal property" means personal property that:

(i) may be:

(A) seen;

(B) weighed;

(C) measured;

(D) felt; or

(E) touched; or

(ii) is in any manner perceptible to the senses.

(b) "Tangible personal property" includes:

(i) electricity;

(ii) water;

(iii) gas;

(iv) steam; or

(v) prewritten computer software, regardless of the manner in which the prewritten computer software is transferred.

(c) "Tangible personal property" includes the following regardless of whether the item is attached to real property:

(i) a dishwasher;

(ii) a dryer;

(iii) a freezer;

(iv) a microwave;

(v) a refrigerator;

(vi) a stove;

(vii) a washer; or

(viii) an item similar to Subsections [~~(130)~~] (131)(c)(i) through (vii) as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(d) "Tangible personal property" does not include a product that is transferred electronically.

(e) "Tangible personal property" does not include the following if attached to real property, regardless of whether the attachment to real property is only through a line that supplies water, electricity, gas, telephone, cable, or supplies a similar item as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(i) a hot water heater;

(ii) a water filtration system; or

(iii) a water softener system.

[~~(131)~~] (132) (a) "Telecommunications enabling or facilitating equipment, machinery, or software" means an item listed in Subsection [~~(131)~~] (132)(b) if that item is purchased or leased primarily to enable or facilitate one or more of the following to function:

(i) telecommunications switching or routing equipment, machinery, or software; or

(ii) telecommunications transmission equipment, machinery, or software.

(b) The following apply to Subsection [~~(131)~~] (132)(a):

(i) a pole;

(ii) software;

(iii) a supplementary power supply;

(iv) temperature or environmental equipment or machinery;

(v) test equipment;

(vi) a tower; or

(vii) equipment, machinery, or software that functions similarly to an item listed in Subsections [~~(131)~~] (132)(b)(i) through (vi) as determined by the commission by rule made in accordance with Subsection [~~(131)~~] (132)(c).

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission

may by rule define what constitutes equipment, machinery, or software that functions similarly to an item listed in Subsections [~~(131)~~] (132)(b)(i) through (vi).

[~~(132)~~] (133) "Telecommunications equipment, machinery, or software required for 911 service" means equipment, machinery, or software that is required to comply with 47 C.F.R. Sec. 20.18.

[~~(133)~~] (134) "Telecommunications maintenance or repair equipment, machinery, or software" means equipment, machinery, or software purchased or leased primarily to maintain or repair one or more of the following, regardless of whether the equipment, machinery, or software is purchased or leased as a spare part or as an upgrade or modification to one or more of the following:

(a) telecommunications enabling or facilitating equipment, machinery, or software;

(b) telecommunications switching or routing equipment, machinery, or software; or

(c) telecommunications transmission equipment, machinery, or software.

[~~(134)~~] (135) (a) "Telecommunications service" means the electronic conveyance, routing, or transmission of audio, data, video, voice, or any other information or signal to a point, or among or between points.

(b) "Telecommunications service" includes:

(i) an electronic conveyance, routing, or transmission with respect to which a computer processing application is used to act:

(A) on the code, form, or protocol of the content;

(B) for the purpose of electronic conveyance, routing, or transmission; and

(C) regardless of whether the service:

(I) is referred to as voice over Internet protocol service; or

(II) is classified by the Federal Communications Commission as enhanced or value added;

(ii) an 800 service;

(iii) a 900 service;

(iv) a fixed wireless service;

(v) a mobile wireless service;

(vi) a postpaid calling service;

(vii) a prepaid calling service;

(viii) a prepaid wireless calling service; or

(ix) a private communications service.

(c) "Telecommunications service" does not include:

(i) advertising, including directory advertising;

(ii) an ancillary service;

(iii) a billing and collection service provided to a third party;

(iv) a data processing and information service if:

(A) the data processing and information service allows data to be:

(I) (Aa) acquired;

(Bb) generated;

(Cc) processed;

(Dd) retrieved; or

(Ee) stored; and

(II) delivered by an electronic transmission to a purchaser; and

(B) the purchaser's primary purpose for the underlying transaction is the processed data or information;

(v) installation or maintenance of the following on a customer's premises:

(A) equipment; or

(B) wiring;

(vi) Internet access service;

(vii) a paging service;

(viii) a product transferred electronically, including:

(A) music;

(B) reading material;

(C) a ring tone;

(D) software; or

(E) video;

(ix) a radio and television audio and video programming service:

(A) regardless of the medium; and

(B) including:

(I) furnishing conveyance, routing, or transmission of a television audio and video programming service by a programming service provider;

(II) cable service as defined in 47 U.S.C. Sec. 522(6); or

(III) audio and video programming services delivered by a commercial mobile radio service provider as defined in 47 C.F.R. Sec. 20.3;

(x) a value-added nonvoice data service; or

(xi) tangible personal property.

[~~(135)~~] (136) (a) "Telecommunications service provider" means a person that:

(i) owns, controls, operates, or manages a telecommunications service; and

(ii) engages in an activity described in Subsection [~~(135)~~] (136)(a)(i) for the shared use with or resale to any person of the telecommunications service.

(b) A person described in Subsection [~~(135)~~] (136)(a) is a telecommunications service provider whether or not the Public Service Commission of Utah regulates:

(i) that person; or

(ii) the telecommunications service that the person owns, controls, operates, or manages.

[~~(136)~~] (137) (a) "Telecommunications switching or routing equipment, machinery, or software" means an item listed in Subsection [~~(136)~~] (137)(b) if that item is purchased or leased primarily for switching or routing:

(i) an ancillary service;

(ii) data communications;

(iii) voice communications; or

(iv) telecommunications service.

(b) The following apply to Subsection [~~(136)~~] (137)(a):

(i) a bridge;

(ii) a computer;

(iii) a cross connect;

(iv) a modem;

(v) a multiplexer;

(vi) plug in circuitry;

(vii) a router;

(viii) software;

(ix) a switch; or

(x) equipment, machinery, or software that functions similarly to an item listed in Subsections [~~(136)~~] (137)(b)(i) through (ix) as determined by the commission by rule made in accordance with Subsection [~~(136)~~] (137)(c).

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes equipment, machinery, or software that functions similarly to an item listed in Subsections [~~(136)~~] (137)(b)(i) through (ix).

[~~(137)~~] (138) (a) "Telecommunications transmission equipment, machinery, or software" means an item listed in Subsection [~~(137)~~] (138)(b) if that item is purchased or leased primarily for sending, receiving, or transporting:

(i) an ancillary service;

(ii) data communications;

(iii) voice communications; or

(iv) telecommunications service.

(b) The following apply to Subsection [~~(137)~~] (138)(a):

(i) an amplifier;

(ii) a cable;

(iii) a closure;

(iv) a conduit;

(v) a controller;

(vi) a duplexer;

(vii) a filter;

(viii) an input device;

(ix) an input/output device;

(x) an insulator;

(xi) microwave machinery or equipment;

(xii) an oscillator;

(xiii) an output device;

(xiv) a pedestal;

(xv) a power converter;

(xvi) a power supply;

(xvii) a radio channel;

(xviii) a radio receiver;

(xix) a radio transmitter;

(xx) a repeater;

(xxi) software;

(xxii) a terminal;

(xxiii) a timing unit;

(xxiv) a transformer;

(xxv) a wire; or

(xxvi) equipment, machinery, or software that functions similarly to an item listed in Subsections [~~(137)~~] (138)(b)(i) through (xxv) as determined by the commission by rule made in accordance with Subsection [~~(137)~~] (138)(c).

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes equipment, machinery, or software that functions similarly to an item listed in Subsections [~~(137)~~] (138)(b)(i) through (xxv).

[~~(138)~~] (139) (a) "Textbook for a higher education course" means a textbook or other printed material that is required for a course:

(i) offered by an institution of higher education; and

(ii) that the purchaser of the textbook or other printed material attends or will attend.

(b) "Textbook for a higher education course" includes a textbook in electronic format.

[~~(139)~~] (140) "Tobacco" means:

(a) a cigarette;

(b) a cigar;

(c) chewing tobacco;

(d) pipe tobacco; or

(e) any other item that contains tobacco.

[~~(140)~~] (141) "Unassisted amusement device" means an amusement device, skill device, or ride device that is started and stopped by the purchaser or renter of the right to use or operate the amusement device, skill device, or ride device.

[~~(141)~~] (142) (a) "Use" means the exercise of any right or power over tangible personal property, a product transferred electronically, or a service under Subsection 59-12-103(1), incident to the ownership or the leasing of that tangible personal property, product transferred electronically, or service.

(b) "Use" does not include the sale, display, demonstration, or trial of tangible personal property, a product transferred electronically, or a service in the regular course of business and held for resale.

[~~(142)~~] (143) "Value-added nonvoice data service" means a service:

(a) that otherwise meets the definition of a telecommunications service except that a computer processing application is used to act primarily for a purpose other than conveyance, routing, or transmission; and

(b) with respect to which a computer processing application is used to act on data or information:

(i) code;

(ii) content;

(iii) form; or

(iv) protocol.

[~~(143)~~] (144) (a) Subject to Subsection [~~(143)~~] (144)(b), "vehicle" means the following that are required to be titled, registered, or titled and registered:

(i) an aircraft as defined in Section 72-10-102;

(ii) a vehicle as defined in Section 41-1a-102;

(iii) an off-highway vehicle as defined in Section 41-22-2; or

(iv) a vessel as defined in Section 41-1a-102.

(b) For purposes of Subsection 59-12-104(33) only, "vehicle" includes:

(i) a vehicle described in Subsection [~~(143)~~] (144)(a); or

(ii) (A) a locomotive;

(B) a freight car;

(C) railroad work equipment; or

(D) other railroad rolling stock.

[~~(144)~~] (145) "Vehicle dealer" means a person engaged in the business of buying, selling, or exchanging a vehicle as defined in Subsection [~~(143)~~] (144).

[~~(145)~~] (146) (a) "Vertical service" means an ancillary service that:

(i) is offered in connection with one or more telecommunications services; and

(ii) offers an advanced calling feature that allows a customer to:

(A) identify a caller; and

(B) manage multiple calls and call connections.

(b) "Vertical service" includes an ancillary service that allows a customer to manage a conference bridging service.

[~~(146)~~] (147) (a) "Voice mail service" means an ancillary service that enables a customer to receive, send, or store a recorded message.

(b) "Voice mail service" does not include a vertical service that a customer is required to have in order to utilize a voice mail service.

[~~(147)~~] (148) (a) Except as provided in Subsection [~~(147)~~] (148)(b), "waste energy facility" means a facility that generates electricity:

(i) using as the primary source of energy waste materials that would be placed in a landfill or refuse pit if it were not used to generate electricity, including:

(A) tires;

(B) waste coal;

(C) oil shale; or

(D) municipal solid waste; and

(ii) in amounts greater than actually required for the operation of the facility.

(b) "Waste energy facility" does not include a facility that incinerates:

(i) hospital waste as defined in 40 C.F.R. 60.51c; or

(ii) medical/infectious waste as defined in 40 C.F.R. 60.51c.

[~~(148)~~] (149) "Watercraft" means a vessel as defined in Section 73-18-2.

[~~(149)~~] (150) "Wind energy" means wind used as the sole source of energy to produce electricity.

[~~(150)~~] (151) "ZIP Code" means a Zoning Improvement Plan Code assigned to a geographic location by the United States Postal Service.

Section 5. Section 59-12-118 is amended to read:

59-12-118. Commission's authority to administer sales and use tax.

Except as provided in Sections 59-12-209 and 59-12-302, the commission shall have exclusive authority to administer, operate, and enforce the provisions of this chapter including:

(1) determining, assessing, and collecting any sales and use tax imposed pursuant to this chapter;

(2) representing each [~~county, city, and town's~~] designated political subdivision's interest in any

administrative proceeding involving the state or local option sales and use tax;

(3) adjudicating any administrative proceedings involving the state or local option sales and use tax;

(4) waiving, reducing, or compromising any penalty and interest imposed in connection with any determination of state or local option sales or use tax; and

(5) prescribing forms and rules to conform with this chapter for the making of returns and for the ascertainment, assessment, and collection of the taxes imposed under this chapter.

Section 6. Section 59-12-209 is amended to read:

59-12-209. Participation of designated political subdivisions in administration and enforcement of certain local sales and use taxes -- Petition for reconsideration relating to the redistribution of certain sales and use tax revenues.

(1) Notwithstanding Title 63G, Chapter 4, Administrative Procedures Act, a [~~county, city, or town~~] designated political subdivision does not have the right to any of the following, except as specifically allowed by Subsection (2) and Section 59-12-210:

(a) to inspect, review, or have access to any taxpayer sales and use tax records; or

(b) to be informed of, participate in, intervene in, or appeal from any adjudicative proceeding commenced pursuant to Section 63G-4-201 to determine the liability of any taxpayer for sales and use taxes imposed pursuant to this chapter.

(2) (a) [~~Counties, cities, and towns~~] A designated political subdivision shall have access to records and information on file with the commission, and shall have the right to notice of, and rights to intervene in or to appeal from, a proposed final agency action of the commission as provided in this Subsection (2).

(b) If the commission, following a formal adjudicative proceeding commenced pursuant to Title 63G, Chapter 4, Administrative Procedures Act, proposes to take final agency action that would reduce the amount of sales and use tax liability alleged in the notice of deficiency, the commission shall provide notice of a proposed agency action to each qualified [~~county, city, and town~~] political subdivision.

(c) For purposes of this Subsection (2), a [~~county, city, or town~~] designated political subdivision is a qualified [~~county, city, or town~~] political subdivision if a proposed final agency action reduces a tax under this chapter distributable to that [~~county, city, or town~~] designated political subdivision by more than $10,000 below the amount of the tax that would have been distributable to that [~~county, city, or town~~] designated political subdivision had a notice of deficiency, as described in Section 59-1-1405, not been reduced.

(d) A qualified [~~county, city, or town~~] political subdivision may designate a representative who shall have the right to review the record of the formal hearing and any other commission records relating to a proposed final agency action subject to the confidentiality provisions of Section 59-1-403.

(e) No later than 10 days after receiving the notice of the commission's proposed final agency action, a qualified [~~county, city, or town~~] political subdivision may file a notice of intervention with the commission.

(f) No later than 20 days after filing a notice of intervention, if a qualified [~~county, city, or town~~] political subdivision objects to the proposed final agency action, that qualified [~~county, city, or town~~] political subdivision may file a petition for reconsideration with the commission and shall serve copies of the petition on the taxpayer and the appropriate division in the commission.

(g) The taxpayer and appropriate division in the commission may each file a response to the petition for reconsideration within 20 days of receipt of the petition for reconsideration.

(h) (i) After consideration of the petition for reconsideration and any response, and any additional proceeding the commission considers appropriate, the commission may affirm, modify, or amend its proposed final agency action.

(ii) A taxpayer and any qualified [~~county, city, or town~~] political subdivision that has filed a petition for reconsideration may appeal the final agency action.

(i) (i) Notwithstanding Subsections (2)(a) through (h) and subject to Subsection (2)(i)(ii), the following may file a petition for reconsideration with the commission:

(A) an original recipient political subdivision as defined in Section 59-12-210.1 that receives a notice from the commission in accordance with Subsection 59-12-210.1(2); or

(B) a secondary recipient political subdivision as defined in Section 59-12-210.1 that receives a notice from the commission in accordance with Subsection 59-12-210.1(2).

(ii) An original recipient political subdivision or secondary recipient political subdivision that files a petition for reconsideration with the commission under Subsection (2)(i)(i) shall file the petition no later than 20 days after the later of:

(A) the date the original recipient political subdivision or secondary recipient political subdivision receives the notice described in Subsection (2)(i)(i) from the commission; or

(B) the date the commission makes the redistribution as defined in Section 59-12-210.1 that is the subject of the notice described in Subsection (2)(i)(i).

Section 7. Section 59-12-210 is amended to read:

59-12-210. Commission to provide data to designated political subdivisions.

(1) (a) The commission shall provide to each county the sales and use tax collection data necessary to verify that sales and use tax revenues collected by the commission are distributed to each [~~county, city, and town~~] designated political subdivision in accordance with Sections 59-12-211 through 59-12-215.

(b) The data described in Subsection (1)(a) shall include the commission's reports of seller sales, sales and use tax distribution reports, and a breakdown of local revenues.

(2) (a) In addition to the access to information provided in Subsection (1) and Section 59-12-109, the commission shall provide a [~~county, city, or town~~] designated political subdivision with copies of returns and other information required by this chapter relating to a tax under this chapter.

(b) The information described in Subsection (2)(a) is available only in official matters and must be requested in writing by the chief executive officer or the chief executive officer's designee.

(c) The request described in Subsection (2)(b) shall specifically indicate the information being sought and how the information will be used.

(d) Information received pursuant to the request described in Subsection (2)(b) shall be:

(i) classified as private or protected under Section 63G-2-302 or 63G-2-305; and

(ii) subject to the confidentiality provisions of Section 59-1-403.

Section 8. Section 59-12-401 is amended to read:

59-12-401. Resort communities tax authority for cities, towns, and military installation development authority -- Base -- Rate -- Collection fees.

(1) (a) In addition to other sales and use taxes, a city or town in which the transient room capacity as defined in Section 59-12-405 is greater than or equal to 66% of the municipality's permanent census population may impose a sales and use tax of up to 1.1% on the transactions described in Subsection 59-12-103(1) located within the city or town.

(b) Notwithstanding Subsection (1)(a), a city or town may not impose a tax under this section on:

(i) the sale of:

(A) a motor vehicle;

(B) an aircraft;

(C) a watercraft;

(D) a modular home;

(E) a manufactured home; or

(F) a mobile home;

(ii) the sales and uses described in Section 59-12-104 to the extent the sales and uses are exempt from taxation under Section 59-12-104; and

(iii) except as provided in Subsection (1)(d), amounts paid or charged for food and food ingredients.

(c) For purposes of this Subsection (1), the location of a transaction shall be determined in accordance with Sections 59-12-211 through 59-12-215.

(d) A city or town imposing a tax under this section shall impose the tax on the purchase price or the sales price for amounts paid or charged for food and food ingredients if the food and food ingredients are sold as part of a bundled transaction attributable to food and food ingredients and tangible personal property other than food and food ingredients.

(2) (a) An amount equal to the total of any costs incurred by the state in connection with the implementation of Subsection (1) which exceed, in any year, the revenues received by the state from its collection fees received in connection with the implementation of Subsection (1) shall be paid over to the state General Fund by the cities and towns which impose the tax provided for in Subsection (1).

(b) Amounts paid under Subsection (2)(a) shall be allocated proportionally among those cities and towns according to the amount of revenue the respective cities and towns generate in that year through imposition of that tax.

(3) (a) Subject to Section 63H-1-203, the military installation development authority created in Section 63H-1-201 may impose a tax under this section on the transactions described in Subsection 59-12-103(1) located within a project area described in a project area plan adopted by the authority under Title 63H, Chapter 1, Military Installation Development Authority Act, as though the authority were a city or a town.

(b) For purposes of calculating the permanent census population within a project area, the board, as defined in Section 63H-1-102, shall:

(i) use the actual number of permanent residents within the project area as determined by the board;

(ii) include in the calculation of transient room capacity the number, as determined by the board, of approved high-occupancy lodging units, recreational lodging units, special lodging units, and standard lodging units, even if the units are not constructed;

[~~(ii)~~] (iii) adopt a resolution verifying the population number; and

[~~(iii)~~] (iv) provide the commission any information required in Section 59-12-405.

(c) Notwithstanding Subsection (1)(a), a board as defined in Section 63H-1-102 may impose the sales and use tax under this section if there are no permanent residents.

Section 9. Section 63H-1-102 is amended to read:

63H-1-102. Definitions.

As used in this chapter:

(1) "Authority" means the Military Installation Development Authority, created under Section 63H-1-201.

(2) "Base taxable value" means:

(a) for military land or other land that was exempt from a property tax at the time that a project area was created that included the military land or other land, a taxable value of zero; or

(b) for private property that is included in a project area, the taxable value of the property within any portion of the project area, as designated by board resolution, from which the property tax allocation will be collected, as shown upon the assessment roll last equalized:

(i) before the year in which the authority creates the project area; or

(ii) before the year in which the project area plan is amended, for property added to a project area by an amendment to a project area plan.

(3) "Board" means the governing body of the authority created under Section 63H-1-301.

(4) (a) "Dedicated tax collections" means the property tax that remains after the authority is paid the property tax allocation the authority is entitled to receive under Subsection 63H-1-501(1), for a property tax levied by:

(i) a county, including a district the county has established under Subsection 17-34-3(2) to levy a property tax under Title 17, Chapter 34, Municipal-Type Services to Unincorporated Areas; or

(ii) an included municipality.

(b) "Dedicated tax collections" does not include a county additional property tax or multicounty assessing and collecting levy imposed in accordance with Section 59-2-1602.

(5) "Develop" means to engage in development.

[~~(5)~~] (6) (a) "Development" means an activity occurring:

(i) on land within a project area that is owned or operated by the military, the authority, another public entity, or a private entity; or

(ii) on military land associated with a project area.

(b) "Development" includes the demolition, construction, reconstruction, modification, expansion, maintenance, operation, or improvement of a building, facility, utility, landscape, parking lot, park, trail, or recreational amenity.

[~~(6)~~] (7) "Development project" means a project to develop land within a project area.

[~~(7)~~] (8) "Elected member" means a member of the authority board who:

(a) is a mayor or member of a legislative body appointed under Subsection 63H-1-302(2)(b); or

(b) (i) is appointed to the authority board under Subsection 63H-1-302(2)(a) or (3); and

(ii) concurrently serves in an elected state, county, or municipal office.

[~~(8)~~] (9) "Included municipality" means a municipality, some or all of which is included within a project area.

[~~(9)~~] (10) (a) "Military" means a branch of the armed forces of the United States, including the Utah National Guard.

(b) "Military" includes, in relation to property, property that is occupied by the military and is owned by the government of the United States or the state.

[~~(10)~~] (11) "Military Installation Development Authority accommodations tax" or "MIDA accommodations tax" means the tax imposed under Section 63H-1-205.

[~~(11)~~] (12) "Military Installation Development Authority energy tax" or "MIDA energy tax" means the tax levied under Section 63H-1-204.

[~~(12)~~] (13) "Military land" means land or a facility, including leased land or a leased facility, that is part of or affiliated with a base, camp, post, station, yard, center, or installation under the jurisdiction of the United States Department of Defense, the United States Department of Veterans Affairs, or the Utah National Guard.

[~~(13)~~] (14) "Municipal energy tax" means a municipal energy sales and use tax under Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act.

[~~(14)~~] (15) "Municipal services revenue" means revenue that the authority:

(a) collects from the authority's:

(i) levy of a municipal energy tax;

(ii) levy of a MIDA energy tax;

(iii) levy of a telecommunications tax;

(iv) imposition of a transient room tax; and

(v) imposition of a resort communities tax;

(b) receives under Subsection 59-12-205(2)(b)(ii); and

(c) receives as dedicated tax collections.

[~~(15)~~] (16) "Municipal tax" means a municipal energy tax, MIDA energy tax, MIDA accommodations tax, telecommunications tax, transient room tax, or resort communities tax.

[~~(16)~~] (17) "Project area" means the land, including military land, whether consisting of a single contiguous area or multiple noncontiguous areas, described in a project area plan or draft project area plan, where the development project

set forth in the project area plan or draft project area plan takes place or is proposed to take place.

[~~(17)~~] (18) "Project area budget" means a multiyear projection of annual or cumulative revenues and expenses and other fiscal matters pertaining to a project area that includes:

(a) the base taxable value of property in the project area;

(b) the projected property tax allocation expected to be generated within the project area;

(c) the amount of the property tax allocation expected to be shared with other taxing entities;

(d) the amount of the property tax allocation expected to be used to implement the project area plan, including the estimated amount of the property tax allocation to be used for land acquisition, public improvements, infrastructure improvements, and loans, grants, or other incentives to private and public entities;

(e) the property tax allocation expected to be used to cover the cost of administering the project area plan;

(f) if the property tax allocation is to be collected at different times or from different portions of the project area, or both:

(i) (A) the tax identification numbers of the parcels from which the property tax allocation will be collected; or

(B) a legal description of the portion of the project area from which the property tax allocation will be collected; and

(ii) an estimate of when other portions of the project area will become subject to collection of the property tax allocation; and

(g) for property that the authority owns or leases and expects to sell or sublease, the expected total cost of the property to the authority and the expected selling price or lease payments.

[~~(18)~~] (19) "Project area plan" means a written plan that, after the plan's effective date, guides and controls the development within a project area.

[~~(19)~~] (20) (a) "Property tax" includes a privilege tax imposed under Title 59, Chapter 4, Privilege Tax, except as described in Subsection [~~(19)~~] (20)(b), and each levy on an ad valorem basis on tangible or intangible personal or real property.

(b) "Property tax" does not include a privilege tax on the taxable value:

(i) attributable to a portion of a facility leased to the military for a calendar year when:

(A) a lessee of military land has constructed a facility on the military land that is part of a project area;

(B) the lessee leases space in the facility to the military for the entire calendar year; and

(C) the lease rate paid by the military for the space is $1 or less for the entire calendar year, not including any common charges that are reimbursements for actual expenses; or

(ii) of the following property owned by the authority, regardless of whether the authority enters into a long-term operating agreement with a privately owned entity under which the privately owned entity agrees to operate the property:

(A) a hotel;

(B) a hotel condominium unit in a condominium project, as defined in Section 57-8-3; and

(C) a commercial condominium unit in a condominium project, as defined in Section 57-8-3.

[~~(20)~~] (21) "Property tax allocation" means the difference between:

(a) the amount of property tax revenues generated each tax year by all taxing entities from the area within a project area designated in the project area plan as the area from which the property tax allocation is to be collected, using the current assessed value of the property; and

(b) the amount of property tax revenues that would be generated from that same area using the base taxable value of the property.

[~~(21)~~] (22) "Public entity" means:

(a) the state, including each department or agency of the state; or

(b) a political subdivision of the state, including a county, city, town, school district, local district, special service district, or interlocal cooperation entity.

[~~(22)~~] (23) (a) "[~~Publicly owned~~] Public infrastructure and improvements" means infrastructure, improvements, facilities, or buildings that:

(i) benefit the public, the authority, the military, or military-related entities; and [~~are:~~]

[~~(i)~~] (ii) (A) are publicly owned by the military, the authority, a public infrastructure district under Title 17B, Chapter 2a, Part 12, Public Infrastructure District Act, or another public entity;

[~~(ii)~~] (B) are owned by a utility; or

[~~(iii)~~] (C) are publicly maintained or operated by the military, the authority, or another public entity.

(b) "Public infrastructure and improvements" also means infrastructure, improvements, facilities, or buildings that:

(i) are privately owned; and

(ii) provide a substantial benefit, as determined by the board, to the development and operation of a project area.

[~~(b) "Publicly owned~~] (c) "Public infrastructure and improvements" includes:

(i) facilities, lines, or systems that harness geothermal energy or provide water, chilled water, steam, sewer, storm drainage, natural gas, electricity, or telecommunications;

(ii) streets, roads, curb, gutter, sidewalk, walkways, tunnels, solid waste facilities, parking facilities, public transportation facilities, and parks, trails, and other recreational facilities;

(iii) snowmaking equipment and related improvements that can also be used for water storage or fire suppression purposes; and

(iv) a building and related improvements for occupancy by the public, the authority, the military, or military-related entities.

[~~(23)~~] (24) "Remaining municipal services revenue" means municipal services revenue that the authority has not:

(a) spent during the authority's fiscal year for municipal services as provided in Subsection 63H-1-503(1); or

(b) redirected to use in accordance with Subsection 63H-1-502(3).

[~~(24)~~] (25) "Resort communities tax" means a sales and use tax imposed under Section 59-12-401.

[~~(25)~~] (26) "Taxable value" means the value of property as shown on the last equalized assessment roll.

[~~(26)~~] (27) "Taxing entity":

(a) means a public entity that levies a tax on property within a project area; and

(b) does not include a public infrastructure district that the authority creates under Title 17B, Chapter 2a, Part 12, Public Infrastructure District Act.

[~~(27)~~] (28) "Telecommunications tax" means a telecommunications license tax under Title 10, Chapter 1, Part 4, Municipal Telecommunications License Tax Act.

[~~(28)~~] (29) "Transient room tax" means a tax under Section 59-12-352.

Section 10. Section 63H-1-201 is amended to read:

63H-1-201. Creation of military installation development authority -- Status and powers of authority -- Limitation.

(1) There is created a military installation development authority.

(2) The authority is:

(a) an independent, nonprofit, separate body corporate and politic, with perpetual succession and statewide jurisdiction, whose purpose is to facilitate the development of land within a project area or on military land associated with a project area;

(b) a political subdivision of the state; and

(c) a public corporation, as defined in Section 63E-1-102.

(3) The authority may:

(a) [~~as provided in this chapter,~~] facilitate the development of land within one or more project areas, including the ongoing operation of facilities within a project area, or development of military land associated with a project area;

(b) sue and be sued;

(c) enter into contracts generally;

(d) by itself or through a subsidiary, buy, obtain an option upon, or otherwise acquire any interest in real or personal property:

(i) in a project area; or

(ii) outside a project area for [~~publicly owned~~] public infrastructure and improvements, if the board considers the purchase, option, or other interest acquisition to be necessary for fulfilling the authority's development objectives;

(e) sell, convey, grant, dispose of by gift, or otherwise dispose of any interest in real or personal property;

(f) enter into a lease agreement on real or personal property, either as lessee or lessor:

(i) in a project area; or

(ii) outside a project area, if the board considers the lease to be necessary for fulfilling the authority's development objectives;

(g) provide for the development of land within a project area or military land associated with the project area under one or more contracts;

(h) exercise powers and perform functions under a contract, as authorized in the contract;

(i) exercise exclusive police power within a project area to the same extent as though the authority were a municipality, including the collection of regulatory fees;

(j) receive the property tax allocation and other taxes and fees as provided in this chapter;

(k) accept financial or other assistance from any public or private source for the authority's activities, powers, and duties, and expend any funds so received for any of the purposes of this chapter;

(l) borrow money, contract with, or accept financial or other assistance from the federal government, a public entity, or any other source for any of the purposes of this chapter and comply with any conditions of the loan, contract, or assistance;

(m) issue bonds to finance the undertaking of any development objectives of the authority, including bonds under Title 11, Chapter 17, Utah Industrial Facilities and Development Act, and bonds under Title 11, Chapter 42, Assessment Area Act;

(n) hire employees, including contract employees;

(o) transact other business and exercise all other powers provided for in this chapter;

(p) enter into a development agreement with a developer of land within a project area;

(q) enter into an agreement with a political subdivision of the state under which the political

subdivision provides one or more municipal services within a project area;

(r) enter into an agreement with a private contractor to provide one or more municipal services within a project area;

(s) provide for or finance an energy efficiency upgrade, a renewable energy system, or electric vehicle charging infrastructure as defined in Section 11-42a-102, in accordance with Title 11, Chapter 42a, Commercial Property Assessed Clean Energy Act;

(t) exercise powers and perform functions that the authority is authorized by statute to exercise or perform;

(u) enter into an agreement with the federal government or an agency of the federal government under which the federal government or agency:

(i) provides law enforcement services only to military land within a project area; and

(ii) may enter into a mutual aid or other cooperative agreement with a law enforcement agency of the state or a political subdivision of the state; [~~and~~]

(v) by itself or through a subsidiary, act as a facilitator under Title 63N, Chapter 13, Part 3, Facilitating Public-private Partnerships Act, to provide expertise and knowledge to another governmental entity interested in public-private partnerships[~~.~~];

(w) enter into an intergovernmental support agreement under Title 10, U.S.C. Sec. 2679 with the military to provide support services to the military in accordance with the agreement;

(x) act as a developer, or assist a developer chosen by the military, to develop military land as part of an enhanced use lease under Title 10, U.S.C. Sec. 2667; and

(y) develop public infrastructure and improvements.

(4) The authority may not itself provide law enforcement service or fire protection service within a project area but may enter into an agreement for one or both of those services, as provided in Subsection (3)(q).

(5) The authority shall provide support to a subsidiary that enters into an agreement under Subsection (3)(v) that the authority determines necessary for the subsidiary to fulfill the requirements of the agreement.

[~~(5)~~] (6) Because providing procurement, utility, construction, and other services for use by a military installation, including providing [~~publicly owned~~] public infrastructure and improvements for use or occupancy by the military, are core functions of the authority and are typically provided by a local government for the local government's own needs or use, these services provided by the authority for the military under this chapter are considered to be for the authority's own needs and use.

(7) A public infrastructure district created by the authority under Title 17B, Chapter 2a, Part 12, Public Infrastructure District Act, is a subsidiary of the authority.

Section 11. Section 63H-1-202 is amended to read:

63H-1-202. Applicability of other law.

(1) As used in this section:

(a) "Subsidiary" means an authority subsidiary that is a public body as defined in Section 52-4-103.

(b) "Subsidiary board" means the governing body of a subsidiary.

[~~(1)~~] (2) The authority or land within a project area is not subject to:

(a) Title 10, Chapter 9a, Municipal Land Use, Development, and Management Act;

(b) Title 17, Chapter 27a, County Land Use, Development, and Management Act;

(c) ordinances or regulations of a county or municipality, including those relating to land use, health, business license, or franchise; or

(d) the jurisdiction of a local district under Title 17B, Limited Purpose Local Government Entities - Local Districts, or a special service district under Title 17D, Chapter 1, Special Service District Act.

[~~(2)~~] (3) The authority is subject to and governed by Sections 63E-2-106, 63E-2-107, 63E-2-108, 63E-2-109, 63E-2-110, and 63E-2-111, but is not otherwise subject to or governed by Title 63E, Independent Entities Code.

[~~(3)~~] (4) (a) The definitions in Section 57-8-3 apply to this Subsection [~~(3)~~] (4).

(b) Notwithstanding the provisions of Title 57, Chapter 8, Condominium Ownership Act, or any other provision of law:

(i) if the military is the owner of land in a project area on which a condominium project is constructed, the military is not required to sign, execute, or record a declaration of a condominium project; and

(ii) if a condominium unit in a project area is owned by the military or owned by the authority and leased to the military for $1 or less per calendar year, not including any common charges that are reimbursements for actual expenses:

(A) the condominium unit is not subject to any liens under Title 57, Chapter 8, Condominium Ownership Act;

(B) condominium unit owners within the same building or commercial condominium project may agree on any method of allocation and payment of common area expenses, regardless of the size or par value of each unit; and

(C) the condominium project may not be dissolved without the consent of all the condominium unit owners.

[~~(4)~~] (5) Notwithstanding any other provision, when a law requires the consent of a local government, the authority is the consenting entity for a project area.

[~~(5)~~] (6) (a) A department, division, or other agency of the state and a political subdivision of the state shall cooperate with the authority to the fullest extent possible to provide whatever support, information, or other assistance the authority requests that is reasonably necessary to help the authority fulfill the authority's duties and responsibilities under this chapter.

(b) Subsection [~~(5)~~] (6)(a) does not apply to a political subdivision that does not have any of a project area located within the boundary of the political subdivision.

(7) The authority and a subsidiary are subject to Title 52, Chapter 4, Open and Public Meetings Act, except that:

(a) notwithstanding Section 54-2-104, the timing and nature of training to authority board members or subsidiary board members on the requirements of Title 52, Chapter 4, Open and Public Meetings Act, may be determined by:

(i) the board chair, for the authority board; or

(ii) the subsidiary board chair, for a subsidiary board;

(b) authority staff may adopt a rule governing the use of electronic meetings under Section 52-4-207, if, under Subsection 63H-1-301(3), the board delegates to authority staff the power to adopt the rule; and

(c) for an electronic meeting of the authority board or subsidiary board that otherwise complies with Section 52-4-207, the authority board or subsidiary board, respectively:

(i) is not required to establish an anchor location; and

(ii) may convene and conduct the meeting without the written determination otherwise required under Subsection 52-4-207(4).

(8) The authority and a subsidiary are subject to Title 63G, Chapter 2, Government Records Access and Management Act, except that:

(a) notwithstanding Section 63G-2-701:

(i) the authority may establish an appeals board consisting of at least three members;

(ii) an appeals board established under Subsection (8)(a)(i) shall include:

(A) one of the authority board members appointed by the governor;

(B) the authority board member appointed by the president of the Senate; and

(C) the authority board member appointed by the speaker of the House of Representatives; and

(iii) an appeal of a decision of an appeals board is to district court, as provided in Section 63G-2-404, except that the State Records Committee is not a party; and

(b) a record created or retained by the authority or a subsidiary acting in the role of a facilitator under Subsection 63H-1-201(3)(v) is a protected record under Title 63G, Chapter 2, Government Records Access and Management Act.

(9) The authority or a subsidiary acting in the role of a facilitator under Subsection 63H-1-201(3)(v) is not prohibited from receiving a benefit from a public-private partnership that results from the facilitator's work as a facilitator.

(10) (a) (i) A subsidiary created as a public infrastructure district under Title 17B, Chapter 2a, Part 12, Public Infrastructure District Act, may, subject to limitations of Title 17B, Chapter 2a, Part 12, Public Infrastructure District Act, levy a property tax for the operations and maintenance of the public infrastructure district's financed infrastructure and related improvements, subject to a maximum rate of .015.

(ii) A levy under Subsection (10)(a)(i) may be separate from a public infrastructure district property tax levy for a bond.

(b) If a subsidiary created as a public infrastructure district issues a bond:

(i) the subsidiary may:

(A) delay the effective date of the property tax levy for the bond until after the period of capitalized interest payments; and

(B) covenant with bondholders not to reduce or impair the property tax levy; and

(ii) notwithstanding a provision to the contrary in Title 17B, Chapter 2a, Part 12, Public Infrastructure District Act, the tax rate for the property tax levy for the bond may not exceed a rate that generates more revenue than required to pay the annual debt service of the bond plus administrative costs, subject to a maximum of .02.

Section 12. Section 63H-1-205 is amended to read:

63H-1-205. MIDA accommodations tax.

(1) As used in this section:

(a) "Accommodations and services" means an accommodation or service described in Subsection 59-12-103(1)(i).

(b) "Accommodations and services" does not include amounts paid or charged that are not part of a rental room rate.

(2) By ordinance, the authority board may impose a MIDA accommodations tax on a provider for amounts paid or charged for accommodations and services, if the place of accommodation is located on:

(a) authority-owned or other government-owned property within the project area; or

(b) privately owned property on which the authority owns a condominium unit that is part of the place of accommodation.

(3) The maximum rate of the MIDA accommodations tax is 15% of the amounts paid to or charged by the provider for accommodations and services.

(4) A provider may recover an amount equal to the MIDA accommodations tax from customers, if the provider includes the amount as a separate billing line item.

(5) If the authority imposes the tax described in this section, neither the authority nor a public entity may impose, on the amounts paid or charged for accommodations and services, any other tax described in:

(a) Title 59, Chapter 12, Sales and Use Tax Act; or

(b) Title 59, Chapter 28, State Transient Room Tax Act.

(6) Except as provided in Subsection (7) or (8), the tax imposed under this section shall be administered, collected, and enforced in accordance with:

(a) the same procedures used to administer, collect, and enforce the tax under:

(i) Title 59, Chapter 12, Part 1, Tax Collection; or

(ii) Title 59, Chapter 12, Part 2, Local Sales and Use Tax Act; and

(b) Title 59, Chapter 1, General Taxation Policies.

(7) The location of a transaction shall be determined in accordance with Sections 59-12-211 through 59-12-215.

(8) (a) A tax under this section is not subject to Section 59-12-107.1 or 59-12-123 or Subsections 59-12-205(2) through (5).

(b) The exemptions described in Sections 59-12-104, 59-12-104.1, and 59-12-104.6 do not apply to a tax imposed under this section.

(9) The State Tax Commission shall:

(a) except as provided in Subsection (9)(b), distribute the revenue collected from the tax to the authority; and

(b) retain and deposit an administrative charge in accordance with Section 59-1-306 from revenue the commission collects from a tax under this section.

(10) (a) If the authority imposes, repeals, or changes the rate of tax under this section, the implementation, repeal, or change shall take effect:

(i) on the first day of a calendar quarter; and

(ii) after a 90-day period beginning on the date the State Tax Commission receives the notice described in Subsection (10)(b) from the authority.

(b) The notice required in Subsection (10)(a)(ii) shall state:

(i) that the authority will impose, repeal, or change the rate of a tax under this section;

(ii) the effective date of the implementation, repeal, or change of the tax; and

(iii) the rate of the tax.

(11) In addition to the uses permitted under Section 63H-1-502, the authority may allocate revenue from the MIDA accommodations tax to a county in which a place of accommodation that is subject to the MIDA accommodations tax is located, if:

(a) the county had a transient room tax described in Section 59-12-301 in effect at the time the authority board imposed a MIDA accommodations tax by ordinance; and

(b) the revenue replaces revenue that the county received from a county transient room tax described in Section 59-12-301 for the county's general operations and administrative expenses.

Section 13. Section 63H-1-208 is enacted to read:

63H-1-208. Former rail line.

(1) A former rail line automatically becomes included within a project area located at an air force base if:

(a) the authority acquires title to the former rail line; and

(b) a portion of the former rail line is adjacent to the project area.

(2) The authority may:

(a) develop the former rail line; or

(b) transfer title of all or part of the former rail line to another governmental entity or nonprofit entity.

Section 14. Section 63H-1-301 is amended to read:

63H-1-301. Authority board -- Delegation of power.

(1) The authority shall be governed by a board which shall manage and conduct the business and affairs of the authority and shall determine all questions of authority policy.

(2) All powers of the authority are exercised through the board.

(3) The board may by resolution delegate powers to authority staff, including the power to adopt a rule governing the use of electronic meetings under Section 54-2-207.

Section 15. Section 63H-1-403 is amended to read:

63H-1-403. Notice of project area plan adoption -- Effective date of plan -- Contesting the formation of the plan.

(1) Upon the [~~board's adoption~~] effective date of a project area plan, the board shall provide notice as provided in Subsection (1)(b) by publishing or causing to be published legal notice:

(a) in a newspaper of general circulation within or near the project area; and

(b) as required by Section 45-1-101.

(2) (a) Each notice under Subsection (1) shall include:

(i) the board resolution adopting the project area plan or a summary of the resolution; [~~and~~]

(ii) a statement that the project area plan is available for general public inspection [~~and the hours for inspection.~~] as provided in Subsection (4); and

(iii) an email address to which a person may send an email requesting an electronic copy of the project area plan.

(b) The statement required under Subsection (2)(a)(ii) may be included in the board resolution or summary described in Subsection (2)(a)(i).

(3) The project area plan becomes effective on the date designated in the board resolution adopting the project area plan.

(4) The authority shall make the adopted project area plan available to the general public [~~at its offices during normal business hours.~~] by:

(a) providing an electronic link to the project area plan on the authority's website, if the authority has a website; and

(b) sending an email free of charge with an electronic copy of the project area plan to any person who submits an email to the authority at an email address identified in the notice under Subsection (2).

(5) Within 10 days after the [~~day on which~~] effective date of a project area plan [~~is adopted~~] that establishes a project area, or after an amendment to a project area plan is adopted under which the boundary of a project area is modified, the authority shall send notice of the establishment or modification of the project area and an accurate map or plat of the project area to:

(a) the State Tax Commission;

(b) the Automated Geographic Reference Center created in Section 63F-1-506; and

(c) the assessor and recorder of each county where the project area is located.

(6) (a) A legal action or other challenge to a project area plan or a project area described in a project area plan is barred unless brought within 30 days after the effective date of the project area plan.

(b) For a project area created before December 1, 2018, a legal action or other challenge is barred.

(c) For a project area created after December 1, 2018, and before May 14, 2019, a legal action or other challenge is barred after July 1, 2019.

Section 16. Section 63H-1-502 is amended to read:

63H-1-502. Allowable uses of property tax allocation and other funds.

(1) Other than municipal services revenue, the authority may use the property tax allocation and other funds available to the authority:

(a) for any purpose authorized under this chapter;

(b) for administrative, overhead, legal, and other operating expenses of the authority;

(c) to pay for, including financing or refinancing, all or part of the development of land within the project area from which the property tax allocation or other funds were collected, including assisting the ongoing operation of a development or facility within the project area;

(d) to pay the cost of the installation and construction of [~~publicly owned~~] public infrastructure and improvements within the project area from which the property tax allocation funds were collected;

(e) to pay the cost of the installation [~~of publicly owned~~] and construction of public infrastructure and improvements, including a passenger ropeway, as defined in Section 72-11-102, outside the project area if:

(i) the authority board determines by resolution that the infrastructure and improvements are of benefit to the project area; and

(ii) for a passenger ropeway, at least one end of the ropeway is located within the project area;

(f) to pay the principal and interest on bonds issued by the authority;

(g) to pay for a morale, welfare, and recreation program of a United States Air Force base in Utah, affiliated with the project area from which the funds were collected; or

(h) to pay for the promotion of:

(i) a development within the project area; or

(ii) amenities outside of the project area that are associated with a development within the project area.

(2) The authority may use revenue generated from the authority's operation of [~~publicly owned~~] public infrastructure [~~operated by the authority or~~] and improvements [~~operated by the authority~~] to:

(a) operate and maintain the public infrastructure [~~or~~] and improvements; and

(b) pay for authority operating expenses, including administrative, overhead, and legal expenses.

(3) For purposes of Subsection (1), the authority may use:

(a) tax revenue received under Subsection 59-12-205(2)(b)(ii);

(b) resort communities tax revenue;

(c) MIDA energy tax revenue, received under Section 63H-1-204, which does not have to be used in the project area where the revenue was generated;

(d) MIDA accommodations tax revenue, received under Section 63H-1-205;

(e) transient room tax revenue generated from hotels located on authority-owned or other public-entity-owned property;

(f) municipal energy tax revenue generated from hotels located on authority-owned or other public-entity-owned property; or

(g) payments received under Subsection 63H-1-501(4).

(4) The determination of the authority board under Subsection (1)(e) regarding benefit to the project area is final.

Section 17. Section 63H-1-703 is amended to read:

63H-1-703. Authority report.

(1) (a) On or before November 1 of each year, the authority shall prepare and file a report with the county auditor of each county in which a project area of the authority is located, the State Tax Commission, the State Board of Education, and each taxing entity that levies a tax on property from which the authority collects property tax allocation.

(b) The requirement of Subsection (1)(a) to file a copy of the report with the state as a taxing entity is met if the authority files a copy with the State Tax Commission [~~and the state auditor~~].

(2) Each report under Subsection (1) shall contain:

(a) an estimate of the property tax allocation to be paid to the authority for the calendar year ending December 31; and

(b) an estimate of the property tax allocation to be paid to the authority for the calendar year beginning the next January 1.

Section 18. Section 63N-13-303 is amended to read:

63N-13-303. Contract with facilitator.

(1) Within legislative appropriations, the office shall enter into a contract with a nonprofit entity or government entity to act as a facilitator.

(2) The office shall use a request for proposals process under Title 63G, Chapter 6a, Utah Procurement Code, to select a qualified person to act as facilitator.

(3) The term of a contract under Subsection (1) may not exceed three years.

(4) [~~The~~] Except as provided in Subsection 63H-1-202(9), the office shall ensure that the contract with the facilitator includes a conflict-of-interest provision prohibiting the facilitator, or a principal, officer, or employee of the facilitator, from receiving a direct or indirect financial benefit from any public-private partnership that results from the facilitator's work under the contract.

Section 19. Effective date.

If approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

CHAPTER 415
S. B. 243
Passed March 5, 2021
Approved March 22, 2021
Effective May 5, 2021

POLITICAL SUBDIVISIONS AMENDMENTS

Chief Sponsor: Jerry W. Stevenson
House Sponsor: Francis D. Gibson

LONG TITLE

General Description:

This bill modifies and enacts provisions relating to political subdivisions.

Highlighted Provisions:

This bill:

- authorizes the Utah Inland Port Authority to levy an assessment under the Assessment Area Act and makes provisions of that act applicable to the inland port authority;
- excludes a public infrastructure district created by the inland port authority from the definition of "taxing entity" applicable to the Utah Inland Port Authority Act;
- creates enterprise revolving loan funds, to be administered by the Division of Finance, to provide funding for infrastructure projects relating to the Utah Inland Port Authority, the Point of the Mountain State Land Authority, and the Military Installation Development Authority, and enacts provisions governing those funds;
- provides an exception to Open and Public Meeting Act requirements for electronic meetings held by the board of the Point of the Mountain State Land Authority, under certain circumstances;
- authorizes the Utah Inland Port Authority to create public infrastructure districts;
- defines "public entity" in the context of provisions applicable to the Point of the Mountain State Land Authority;
- modifies election provisions relating to a local district whose board members are elected by property owners;
- makes an exception to a voter approval requirement for general obligation bonds issued by a local district whose board members are elected by property owners;
- modifies a definition related to public infrastructure and improvements in the context of provisions applicable to the Military Installation Development Authority; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

11-42-102, as last amended by Laws of Utah 2020, Chapter 282
11-42-106, as last amended by Laws of Utah 2020, Chapter 282
11-42-202, as last amended by Laws of Utah 2020, Chapter 282
11-42-411, as last amended by Laws of Utah 2020, Chapter 282
11-58-102, as last amended by Laws of Utah 2020, Chapter 126
11-58-304, as last amended by Laws of Utah 2018, Second Special Session, Chapter 1
11-59-102, as enacted by Laws of Utah 2018, Chapter 388
11-59-204, as enacted by Laws of Utah 2018, Chapter 388
17B-1-306, as last amended by Laws of Utah 2020, Chapter 31
17B-1-1102, as last amended by Laws of Utah 2019, Chapter 490
17B-2a-1202, as last amended by Laws of Utah 2020, Chapters 282 and 397
17B-2a-1205, as last amended by Laws of Utah 2020, Chapters 282 and 397
17B-2a-1206, as last amended by Laws of Utah 2020, Chapter 282
63H-1-102, as last amended by Laws of Utah 2020, Chapter 282

ENACTS:

11-58-106, Utah Code Annotated 1953
11-59-104, Utah Code Annotated 1953
63A-3-401.5, Utah Code Annotated 1953
63A-3-402, Utah Code Annotated 1953
63A-3-403, Utah Code Annotated 1953
63A-3-404, Utah Code Annotated 1953
63H-1-104, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 11-42-102 is amended to read:

11-42-102. Definitions.

(1) As used in this chapter:

(a) "Adequate protests" means, for all proposed assessment areas except sewer assessment areas, timely filed, written protests under Section 11-42-203 that represent at least 40% of the frontage, area, taxable value, fair market value, lots, number of connections, or equivalent residential units of the property proposed to be assessed, according to the same assessment method by which the assessment is proposed to be levied, after eliminating:

(i) protests relating to:

(A) property that has been deleted from a proposed assessment area; or

(B) an improvement that has been deleted from the proposed improvements to be provided to property within the proposed assessment area; and

(ii) protests that have been withdrawn under Subsection 11-42-203(3).

(b) "Adequate protests" means, for a proposed sewer assessment area, timely filed, written protests under Section 11-42-203 that represent at least 70% of the frontage, area, taxable value, fair market value, lots, number of connections, or equivalent residential units of the property proposed to be assessed, according to the same assessment method by which the assessment is proposed to be levied, after eliminating adequate protests under Subsection (1)(a).

(2) "Assessment area" means an area, or, if more than one area is designated, the aggregate of all areas within a local entity's jurisdictional boundaries that is designated by a local entity under Part 2, Designating an Assessment Area, for the purpose of financing the costs of improvements, operation and maintenance, or economic promotion activities that benefit property within the area.

(3) "Assessment bonds" means bonds that are:

(a) issued under Section 11-42-605; and

(b) payable in part or in whole from assessments levied in an assessment area, improvement revenues, and a guaranty fund or reserve fund.

(4) "Assessment fund" means a special fund that a local entity establishes under Section 11-42-412.

(5) "Assessment lien" means a lien on property within an assessment area that arises from the levy of an assessment, as provided in Section 11-42-501.

(6) "Assessment method" means the method:

(a) by which an assessment is levied against benefitted property, whether by frontage, area, taxable value, fair market value, lot, parcel, number of connections, equivalent residential unit, any combination of these methods, or any other method; and

(b) that, when applied to a benefitted property, accounts for an assessment that meets the requirements of Section 11-42-409.

(7) "Assessment ordinance" means an ordinance adopted by a local entity under Section 11-42-404 that levies an assessment on benefitted property within an assessment area.

(8) "Assessment resolution" means a resolution adopted by a local entity under Section 11-42-404 that levies an assessment on benefitted property within an assessment area.

(9) "Benefitted property" means property within an assessment area that directly or indirectly benefits from improvements, operation and maintenance, or economic promotion activities.

(10) "Bond anticipation notes" means notes issued under Section 11-42-602 in anticipation of the issuance of assessment bonds.

(11) "Bonds" means assessment bonds and refunding assessment bonds.

(12) "Commercial area" means an area in which at least 75% of the property is devoted to the interchange of goods or commodities.

(13) (a) "Commercial or industrial real property" means real property used directly or indirectly or held for one of the following purposes or activities, regardless of whether the purpose or activity is for profit:

(i) commercial;

(ii) mining;

(iii) industrial;

(iv) manufacturing;

(v) governmental;

(vi) trade;

(vii) professional;

(viii) a private or public club;

(ix) a lodge;

(x) a business; or

(xi) a similar purpose.

(b) "Commercial or industrial real property" includes real property that:

(i) is used as or held for dwelling purposes; and

(ii) contains more than four rental units.

(14) "Connection fee" means a fee charged by a local entity to pay for the costs of connecting property to a publicly owned sewer, storm drainage, water, gas, communications, or electrical system, whether or not improvements are installed on the property.

(15) "Contract price" means:

(a) the cost of acquiring an improvement, if the improvement is acquired; or

(b) the amount payable to one or more contractors for the design, engineering, inspection, and construction of an improvement.

(16) "Designation ordinance" means an ordinance adopted by a local entity under Section 11-42-206 designating an assessment area.

(17) "Designation resolution" means a resolution adopted by a local entity under Section 11-42-206 designating an assessment area.

(18) "Development authority" means:

(a) the Utah Inland Port Authority created in Section 11-58-201; or

(b) the military installation development authority created in Section 63H-1-201.

[~~(18)~~] (19) "Economic promotion activities" means activities that promote economic growth in a commercial area of a local entity, including:

(a) sponsoring festivals and markets;

(b) promoting business investment or activities;

(c) helping to coordinate public and private actions; and

(d) developing and issuing publications designed to improve the economic well-being of the commercial area.

[~~(19)~~] (20) "Environmental remediation activity" means a surface or subsurface enhancement, effort, cost, initial or ongoing maintenance expense, facility, installation, system, earth movement, or change to grade or elevation that improves the use, function, aesthetics, or environmental condition of publicly owned property.

[~~(20)~~] (21) "Equivalent residential unit" means a dwelling, unit, or development that is equal to a

single-family residence in terms of the nature of its use or impact on an improvement to be provided in the assessment area.

[~~(21)~~] (22) "Governing body" means:

(a) for a county, city, or town, the legislative body of the county, city, or town;

(b) for a local district, the board of trustees of the local district;

(c) for a special service district:

(i) the legislative body of the county, city, or town that established the special service district, if no administrative control board has been appointed under Section 17D-1-301; or

(ii) the administrative control board of the special service district, if an administrative control board has been appointed under Section 17D-1-301;

(d) for the military installation development authority created in Section 63H-1-201, the board, as defined in Section 63H-1-102; and

(e) for the Utah Inland Port Authority, created in Section 11-58-201, the board, as defined in Section 11-58-102.

[~~(22)~~] (23) "Guaranty fund" means the fund established by a local entity under Section 11-42-701.

[~~(23)~~] (24) "Improved property" means property upon which a residential, commercial, or other building has been built.

[~~(24)~~] (25) "Improvement":

(a) (i) means a publicly owned infrastructure, facility, system, or environmental remediation activity that:

(A) a local entity is authorized to provide;

(B) the governing body of a local entity determines is necessary or convenient to enable the local entity to provide a service that the local entity is authorized to provide; or

(C) a local entity is requested to provide through an interlocal agreement in accordance with Chapter 13, Interlocal Cooperation Act; and

(ii) includes facilities in an assessment area, including a private driveway, an irrigation ditch, and a water turnout, that:

(A) can be conveniently installed at the same time as an infrastructure, system, or other facility described in Subsection [~~(24)~~] (25)(a)(i); and

(B) are requested by a property owner on whose property or for whose benefit the infrastructure, system, or other facility is being installed; or

(b) for a local district created to assess groundwater rights in accordance with Section 17B-1-202, means a system or plan to regulate groundwater withdrawals within a specific groundwater basin in accordance with Sections 17B-1-202 and 73-5-15.

[~~(25)~~] (26) "Improvement revenues":

(a) means charges, fees, impact fees, or other revenues that a local entity receives from improvements; and

(b) does not include revenue from assessments.

[~~(26)~~] (27) "Incidental refunding costs" means any costs of issuing refunding assessment bonds and calling, retiring, or paying prior bonds, including:

(a) legal and accounting fees;

(b) charges of financial advisors, escrow agents, certified public accountant verification entities, and trustees;

(c) underwriting discount costs, printing costs, the costs of giving notice;

(d) any premium necessary in the calling or retiring of prior bonds;

(e) fees to be paid to the local entity to issue the refunding assessment bonds and to refund the outstanding prior bonds;

(f) any other costs that the governing body determines are necessary and proper to incur in connection with the issuance of refunding assessment bonds; and

(g) any interest on the prior bonds that is required to be paid in connection with the issuance of the refunding assessment bonds.

[~~(27)~~] (28) "Installment payment date" means the date on which an installment payment of an assessment is payable.

[~~(28)~~] (29) "Interim warrant" means a warrant issued by a local entity under Section 11-42-601.

[~~(29)~~] (30) "Jurisdictional boundaries" means:

(a) for a county, the boundaries of the unincorporated area of the county; and

(b) for each other local entity, the boundaries of the local entity.

[~~(30)~~] (31) "Local district" means a local district under Title 17B, Limited Purpose Local Government Entities - Local Districts.

[~~(31)~~] (32) "Local entity" means:

(a) a county, city, town, special service district, or local district;

(b) an interlocal entity as defined in Section 11-13-103;

(c) the military installation development authority, created in Section 63H-1-201;

(d) a public infrastructure district created by [~~the military installation~~] a development authority under Title 17B, Chapter 2a, Part 12, Public Infrastructure District Act;

(e) the Utah Inland Port Authority, created in Section 11-58-201; or

(f) any other political subdivision of the state.

[~~(32)~~] (33) "Local entity obligations" means assessment bonds, refunding assessment bonds, interim warrants, and bond anticipation notes issued by a local entity.

[~~(33)~~] (34) "Mailing address" means:

(a) a property owner's last-known address using the name and address appearing on the last completed real property assessment roll of the county in which the property is located; and

(b) if the property is improved property:

(i) the property's street number; or

(ii) the post office box, rural route number, or other mailing address of the property, if a street number has not been assigned.

[~~(34)~~] (35) "Net improvement revenues" means all improvement revenues that a local entity has received since the last installment payment date, less all amounts payable by the local entity from those improvement revenues for operation and maintenance costs.

[~~(35)~~] (36) "Operation and maintenance costs":

(a) means the costs that a local entity incurs in operating and maintaining improvements in an assessment area, whether or not those improvements have been financed under this chapter; and

(b) includes service charges, administrative costs, ongoing maintenance charges, and tariffs or other charges for electrical, water, gas, or other utility usage.

[~~(36)~~] (37) "Overhead costs" means the actual costs incurred or the estimated costs to be incurred by a local entity in connection with an assessment area for appraisals, legal fees, filing fees, financial advisory charges, underwriting fees, placement fees, escrow, trustee, and paying agent fees, publishing and mailing costs, costs of levying an assessment, recording costs, and all other incidental costs.

[~~(37)~~] (38) "Prior assessment ordinance" means the ordinance levying the assessments from which the prior bonds are payable.

[~~(38)~~] (39) "Prior assessment resolution" means the resolution levying the assessments from which the prior bonds are payable.

[~~(39)~~] (40) "Prior bonds" means the assessment bonds that are refunded in part or in whole by refunding assessment bonds.

[~~(40)~~] (41) "Project engineer" means the surveyor or engineer employed by or the private consulting engineer engaged by a local entity to perform the necessary engineering services for and to supervise the construction or installation of the improvements.

[~~(41)~~] (42) "Property" includes real property and any interest in real property, including water rights and leasehold rights.

[~~(42)~~] (43) "Property price" means the price at which a local entity purchases or acquires by eminent domain property to make improvements in an assessment area.

[~~(43)~~] (44) "Provide" or "providing," with reference to an improvement, includes the acquisition, construction, reconstruction, renovation, maintenance, repair, operation, and expansion of an improvement.

[~~(44)~~] (45) "Public agency" means:

(a) the state or any agency, department, or division of the state; and

(b) a political subdivision of the state.

[~~(45)~~] (46) "Reduced payment obligation" means the full obligation of an owner of property within an assessment area to pay an assessment levied on the property after the assessment has been reduced because of the issuance of refunding assessment bonds, as provided in Section 11-42-608.

[~~(46)~~] (47) "Refunding assessment bonds" means assessment bonds that a local entity issues under Section 11-42-607 to refund, in part or in whole, assessment bonds.

[~~(47)~~] (48) "Reserve fund" means a fund established by a local entity under Section 11-42-702.

[~~(48)~~] (49) "Service" means:

(a) water, sewer, storm drainage, garbage collection, library, recreation, communications, or electric service;

(b) economic promotion activities; or

(c) any other service that a local entity is required or authorized to provide.

[~~(49)~~] (50) (a) "Sewer assessment area" means an assessment area that has as the assessment area's primary purpose the financing and funding of public improvements to provide sewer service where there is, in the opinion of the local board of health, substantial evidence of septic system failure in the defined area due to inadequate soils, high water table, or other factors proven to cause failure.

(b) "Sewer assessment area" does not include property otherwise located within the assessment area:

(i) on which an approved conventional or advanced wastewater system has been installed during the previous five calendar years;

(ii) for which the local health department has inspected the system described in Subsection [~~(49)~~] (50)(b)(i) to ensure that the system is functioning properly; and

(iii) for which the property owner opts out of the proposed assessment area for the earlier of a period of 10 calendar years or until failure of the system described in Subsection [~~(49)~~] (50)(b)(i).

[~~(50)~~] (51) "Special service district" means the same as that term is defined in Section 17D-1-102.

[~~(51)~~] (52) "Unassessed benefitted government property" means property that a local entity may not assess in accordance with Section 11-42-408 but is benefitted by an improvement, operation and maintenance, or economic promotion activities.

[~~(52)~~] (53) "Unimproved property" means property upon which no residential, commercial, or other building has been built.

[~~(53)~~] (54) "Voluntary assessment area" means an assessment area that contains only property whose owners have voluntarily consented to an assessment.

Section 2. Section 11-42-106 is amended to read:

11-42-106. Action to contest assessment or proceeding -- Requirements -- Exclusive remedy -- Bonds and assessment incontestable.

(1) A person who contests an assessment or any proceeding to designate an assessment area or levy an assessment may commence a civil action against the local entity to:

(a) set aside a proceeding to designate an assessment area; or

(b) enjoin the levy or collection of an assessment.

(2) (a) Each action under Subsection (1) shall be commenced in the district court with jurisdiction in the county in which the assessment area is located.

(b) (i) Except as provided in Subsection (2)(b)(ii), an action under Subsection (1) may not be commenced against and a summons relating to the action may not be served on the local entity more than 60 days after the effective date of the:

(A) designation resolution or designation ordinance, if the challenge is to the designation of an assessment area;

(B) assessment resolution or ordinance, if the challenge is to an assessment; or

(C) amended resolution or ordinance, if the challenge is to an amendment.

(ii) The period for commencing an action and serving a summons under Subsection (2)(b)(i) is 30 days if the designation resolution, assessment resolution, or amended resolution was:

(A) adopted by [~~the military installation~~] a development authority[~~, created in Section 63H-1-201,~~] or a public infrastructure district created by [~~the military installation~~] a development authority under Title 17B, Chapter 2a, Part 12, Public Infrastructure District Act; and

(B) all owners of property within the assessment area or proposed assessment area consent in writing to the designation resolution, assessment resolution, or amended resolution.

(3) (a) An action under Subsection (1) is the exclusive remedy of a person who:

(i) claims an error or irregularity in an assessment or in any proceeding to designate an assessment area or levy an assessment; or

(ii) challenges a bondholder's right to repayment.

(b) A court may not hear any complaint under Subsection (1) that a person was authorized to make but did not make in a protest under Section 11-42-203 or at a hearing under Section 11-42-204.

(c) (i) If a person has not brought a claim for which the person was previously authorized to bring but is otherwise barred from making under Subsection (2)(b), the claim may not be brought later because of an amendment to the resolution or ordinance unless the claim arises from the amendment itself.

(ii) In an action brought pursuant to Subsection (1), a person may not contest a previous decision, proceeding, or determination for which the service deadline described in Subsection (2)(b) has expired by challenging a subsequent decision, proceeding, or determination.

(4) An assessment or a proceeding to designate an assessment area or to levy an assessment may not be declared invalid or set aside in part or in whole because of an error or irregularity that does not go to the equity or justice of the proceeding or the assessment meeting the requirements of Section 11-42-409.

(5) After the expiration of the period referred to in Subsection (2)(b):

(a) assessment bonds and refunding assessment bonds issued or to be issued with respect to an assessment area and assessments levied on property in the assessment area become at that time incontestable against all persons who have not commenced an action and served a summons as provided in this section; and

(b) a suit to enjoin the issuance or payment of assessment bonds or refunding assessment bonds, the levy, collection, or enforcement of an assessment, or to attack or question in any way the legality of assessment bonds, refunding assessment bonds, or an assessment may not be commenced, and a court may not inquire into those matters.

(6) (a) This section may not be interpreted to insulate a local entity from a claim of misuse of assessment funds after the expiration of the period described in Subsection (2)(b).

(b) (i) Except as provided in Subsection (6)(b)(ii), an action in the nature of mandamus is the sole form of relief available to a party challenging the misuse of assessment funds.

(ii) The limitation in Subsection (6)(b)(i) does not prohibit the filing of criminal charges against or the prosecution of a party for the misuse of assessment funds.

Section 3. Section 11-42-202 is amended to read:

11-42-202. Requirements applicable to a notice of a proposed assessment area designation.

(1) Each notice required under Subsection 11-42-201(2)(a) shall:

(a) state that the local entity proposes to:

(i) designate one or more areas within the local entity's jurisdictional boundaries as an assessment area;

(ii) provide an improvement to property within the proposed assessment area; and

(iii) finance some or all of the cost of improvements by an assessment on benefitted property within the assessment area;

(b) describe the proposed assessment area by any reasonable method that allows an owner of property in the proposed assessment area to determine that the owner's property is within the proposed assessment area;

(c) describe, in a general and reasonably accurate way, the improvements to be provided to the assessment area, including:

(i) the nature of the improvements; and

(ii) the location of the improvements, by reference to streets or portions or extensions of streets or by any other means that the governing body chooses that reasonably describes the general location of the improvements;

(d) state the estimated cost of the improvements as determined by a project engineer;

(e) for the version of notice mailed in accordance with Subsection (4)(b), state the estimated total assessment specific to the benefitted property for which the notice is mailed;

(f) state that the local entity proposes to levy an assessment on benefitted property within the assessment area to pay some or all of the cost of the improvements according to the estimated benefits to the property from the improvements;

(g) if applicable, state that an unassessed benefitted government property will receive improvements for which the cost will be allocated proportionately to the remaining benefitted properties within the proposed assessment area and that a description of each unassessed benefitted government property is available for public review at the location or website described in Subsection (6);

(h) state the assessment method by which the governing body proposes to calculate the proposed assessment, including, if the local entity is a municipality or county, whether the assessment will be collected:

(i) by directly billing a property owner; or

(ii) by inclusion on a property tax notice issued in accordance with Section 59-2-1317 and in compliance with Section 11-42-401;

(i) state:

(i) the date described in Section 11-42-203 and the location at which protests against designation of the proposed assessment area or of the proposed improvements are required to be filed;

(ii) the method by which the governing body will determine the number of protests required to defeat the designation of the proposed assessment area or acquisition or construction of the proposed improvements; and

(iii) in large, boldface, and conspicuous type that a property owner must protest the designation of the assessment area in writing if the owner objects to the area designation or being assessed for the proposed improvements, operation and maintenance costs, or economic promotion activities;

(j) state the date, time, and place of the public hearing required in Section 11-42-204;

(k) if the governing body elects to create and fund a reserve fund under Section 11-42-702, include a description of:

(i) how the reserve fund will be funded and replenished; and

(ii) how remaining money in the reserve fund is to be disbursed upon full payment of the bonds;

(l) if the governing body intends to designate a voluntary assessment area, include a property owner consent form that:

(i) estimates the total assessment to be levied against the particular parcel of property;

(ii) describes any additional benefits that the governing body expects the assessed property to receive from the improvements;

(iii) designates the date and time by which the fully executed consent form is required to be submitted to the governing body; and

(iv) if the governing body intends to enforce an assessment lien on the property in accordance with Subsection 11-42-502.1(2)(a)(ii)(C):

(A) appoints a trustee that satisfies the requirements described in Section 57-1-21;

(B) gives the trustee the power of sale;

(C) is binding on the property owner and all successors; and

(D) explains that if an assessment or an installment of an assessment is not paid when due, the local entity may sell the property owner's property to satisfy the amount due plus interest, penalties, and costs, in the manner described in Title 57, Chapter 1, Conveyances;

(m) if the local entity intends to levy an assessment to pay operation and maintenance costs or for economic promotion activities, include:

(i) a description of the operation and maintenance costs or economic promotion activities to be paid by assessments and the initial estimated annual assessment to be levied;

(ii) a description of how the estimated assessment will be determined;

(iii) a description of how and when the governing body will adjust the assessment to reflect the costs of:

(A) in accordance with Section 11-42-406, current economic promotion activities; or

(B) current operation and maintenance costs;

(iv) a description of the method of assessment if different from the method of assessment to be used for financing any improvement; and

(v) a statement of the maximum number of years over which the assessment will be levied for:

(A) operation and maintenance costs; or

(B) economic promotion activities;

(n) if the governing body intends to divide the proposed assessment area into classifications under Subsection 11-42-201(1)(b), include a description of the proposed classifications;

(o) if applicable, state the portion and value of the improvement that will be increased in size or capacity to serve property outside of the assessment area and how the increases will be financed; and

(p) state whether the improvements will be financed with a bond and, if so, the currently estimated interest rate and term of financing, subject to Subsection (2), for which the benefitted properties within the assessment area may be obligated.

(2) The estimated interest rate and term of financing in Subsection (1)(p) may not be interpreted as a limitation to the actual interest rate incurred or the actual term of financing as subject to the market rate at the time of the issuance of the bond.

(3) A notice required under Subsection 11-42-201(2)(a) may contain other information that the governing body considers to be appropriate, including:

(a) the amount or proportion of the cost of the improvement to be paid by the local entity or from sources other than an assessment;

(b) the estimated total amount of each type of assessment for the various improvements to be financed according to the method of assessment that the governing body chooses; and

(c) provisions for any improvements described in Subsection 11-42-102[~~(24)~~](25)(a)(ii).

(4) Each notice required under Subsection 11-42-201(2)(a) shall:

(a) (i) (A) be published in a newspaper of general circulation within the local entity's jurisdictional boundaries, once a week for four consecutive weeks, with the last publication at least five but not more than 20 days before the day of the hearing required in Section 11-42-204; or

(B) if there is no newspaper of general circulation within the local entity's jurisdictional boundaries, be posted in at least three public places within the local entity's jurisdictional boundaries at least 20 but not more than 35 days before the day of the hearing required in Section 11-42-204; and

(ii) be published on the Utah Public Notice Website described in Section 63F-1-701 for four weeks before the deadline for filing protests specified in the notice under Subsection (1)(i); and

(b) be mailed, postage prepaid, within 10 days after the first publication or posting of the notice under Subsection (4)(a) to each owner of property to be assessed within the proposed assessment area at the property owner's mailing address.

(5) (a) The local entity may record the version of the notice that is published or posted in accordance with Subsection (4)(a) with the office of the county recorder, by legal description and tax identification number as identified in county records, against the property proposed to be assessed.

(b) The notice recorded under Subsection (5)(a) expires and is no longer valid one year after the day on which the local entity records the notice if the local entity has failed to adopt the designation ordinance or resolution under Section 11-42-201 designating the assessment area for which the notice was recorded.

(6) A local entity shall make available on the local entity's website, or, if no website is available, at the local entity's place of business, the address and type of use of each unassessed benefitted government property described in Subsection (1)(g).

(7) If a governing body fails to provide actual or constructive notice under this section, the local entity may not assess a levy against a benefitted property omitted from the notice unless:

(a) the property owner gives written consent;

(b) the property owner received notice under Subsection 11-42-401(2)(a)(iii) and did not object to the levy of the assessment before the final hearing of the board of equalization; or

(c) the benefitted property is conveyed to a subsequent purchaser and, before the date of conveyance, the requirements of Subsections 11-42-206(3)(a)(i) and (ii), or, if applicable, Subsection 11-42-207(1)(d)(i) are met.

Section 4. Section 11-42-411 is amended to read:

11-42-411. Installment payment of assessments.

(1) (a) In an assessment resolution or ordinance, the governing body may, subject to Subsection (1)(b), provide that some or all of the assessment be paid in installments over a period:

(i) not to exceed 20 years from the effective date of the resolution or ordinance, except as provided in Subsection (1)(a)(ii); or

(ii) not to exceed 30 years from the effective date of the resolution, for a resolution adopted by:

(A) [~~the military installation~~] a development authority[~~, created in Section 63H-1-201~~]; or

(B) a public infrastructure district created by [~~the military installation~~] a development authority under Title 17B, Chapter 2a, Part 12, Public Infrastructure District Act.

(b) If an assessment resolution or ordinance provides that some or all of the assessment be paid in installments for a period exceeding 10 years from the effective date of the resolution or ordinance, the governing body:

(i) shall make a determination that:

(A) the improvement for which the assessment is made has a reasonable useful life for the full period during which installments are to be paid; or

(B) it would be in the best interests of the local entity and the property owners for installments to be paid for more than 10 years; and

(ii) may provide in the resolution or ordinance that no assessment is payable during some or all of the period ending three years after the effective date of the resolution or ordinance.

(2) An assessment resolution or ordinance that provides for the assessment to be paid in installments may provide that the unpaid balance be paid over the period of time that installments are payable:

(a) in substantially equal installments of principal; or

(b) in substantially equal installments of principal and interest.

(3) (a) Each assessment resolution or ordinance that provides for the assessment to be paid in installments shall, subject to Subsections (3)(b) and (c), provide that the unpaid balance of the assessment bear interest at a fixed rate, variable rate, or a combination of fixed and variable rates, as determined by the governing body, from the effective date of the resolution or ordinance or another date specified in the resolution or ordinance.

(b) If the assessment is for operation and maintenance costs or for the costs of economic promotion activities:

(i) a local entity may charge interest only from the date each installment is due; and

(ii) the first installment of an assessment shall be due 15 days after the effective date of the assessment resolution or ordinance.

(c) If an assessment resolution or ordinance provides for the unpaid balance of the assessment to bear interest at a variable rate, the assessment resolution or ordinance shall specify:

(i) the basis upon which the rate is to be determined from time to time;

(ii) the manner in which and schedule upon which the rate is to be adjusted; and

(iii) a maximum rate that the assessment may bear.

(4) Interest payable on assessments may include:

(a) interest on assessment bonds;

(b) ongoing local entity costs incurred for administration of the assessment area; and

(c) any costs incurred with respect to:

(i) securing a letter of credit or other instrument to secure payment or repurchase of bonds; or

(ii) retaining a marketing agent or an indexing agent.

(5) Interest imposed in an assessment resolution or ordinance shall be paid in addition to the amount of each installment annually or at more frequent intervals as provided in the assessment resolution or ordinance.

(6) (a) Except for an assessment for operation and maintenance costs or for the costs of economic promotion activities, a property owner may pay some or all of the entire assessment without interest if paid within 25 days after the assessment resolution or ordinance takes effect.

(b) After the 25-day period stated in Subsection (6)(a), a property owner may at any time prepay some or all of the assessment levied against the owner's property.

(c) A local entity may require a prepayment of an installment to include:

(i) an amount equal to the interest that would accrue on the assessment to the next date on which interest is payable on bonds issued in anticipation of the collection of the assessment; and

(ii) the amount necessary, in the governing body's opinion or the opinion of the officer designated by the governing body, to assure the availability of money to pay:

(A) interest that becomes due and payable on those bonds; and

(B) any premiums that become payable on bonds that are called in order to use the money from the prepaid assessment installment.

Section 5. Section 11-58-102 is amended to read:

11-58-102. Definitions.

As used in this chapter:

(1) "Authority" means the Utah Inland Port Authority, created in Section 11-58-201.

(2) "Authority jurisdictional land" means land within the authority boundary delineated:

(a) in the electronic shapefile that is the electronic component of H.B. 2001, Utah Inland Port Authority Amendments, 2018 Second Special Session; and

(b) beginning April 1, 2020, as provided in Subsection 11-58-202(3).

(3) "Base taxable value" means:

(a) (i) except as provided in Subsection (3)(a)(ii), for a project area that consists of the authority

jurisdictional land, the taxable value of authority jurisdictional land in calendar year 2018; and

(ii) for an area described in Subsection 11-58-601(5), the taxable value of that area in calendar year 2017; or

(b) for a project area that consists of land outside the authority jurisdictional land, the taxable value of property within any portion of a project area, as designated by board resolution, from which the property tax differential will be collected, as shown upon the assessment roll last equalized before the year in which the authority adopts a project area plan for that area.

(4) "Board" means the authority's governing body, created in Section 11-58-301.

(5) "Business plan" means a plan designed to facilitate, encourage, and bring about development of the authority jurisdictional land to achieve the goals and objectives described in Subsection 11-58-203(1), including the development and establishment of an inland port.

(6) "Development" means:

(a) the demolition, construction, reconstruction, modification, expansion, or improvement of a building, utility, infrastructure, landscape, parking lot, park, trail, recreational amenity, or other facility, including publicly owned infrastructure and improvements; and

(b) the planning of, arranging for, or participation in any of the activities listed in Subsection (6)(a).

(7) "Development project" means a project for the development of land within a project area.

(8) "Inland port" means one or more sites that:

(a) contain multimodal transportation assets and other facilities that:

(i) are related but may be separately owned and managed; and

(ii) together are intended to:

(A) allow global trade to be processed and altered by value-added services as goods move through the supply chain;

(B) provide a regional merging point for transportation modes for the distribution of goods to and from ports and other locations in other regions;

(C) provide cargo-handling services to allow freight consolidation and distribution, temporary storage, customs clearance, and connection between transport modes; and

(D) provide international logistics and distribution services, including freight forwarding, customs brokerage, integrated logistics, and information systems; and

(b) may include a satellite customs clearance terminal, an intermodal facility, a customs pre-clearance for international trade, or other facilities that facilitate, encourage, and enhance regional, national, and international trade.

(9) "Inland port use" means a use of land:

(a) for an inland port;

(b) that directly implements or furthers the purposes of an inland port, as stated in Subsection (8);

(c) that complements or supports the purposes of an inland port, as stated in Subsection (8); or

(d) that depends upon the presence of the inland port for the viability of the use.

(10) "Intermodal facility" means a hub or other facility for trade combining any combination of rail, trucking, air cargo, and other transportation services.

(11) "Nonvoting member" means an individual appointed as a member of the board under Subsection 11-58-302(6) who does not have the power to vote on matters of authority business.

(12) "Project area" means:

(a) the authority jurisdictional land; or

(b) land outside the authority jurisdictional land, whether consisting of a single contiguous area or multiple noncontiguous areas, described in a project area plan or draft project area plan, where the development project set forth in the project area plan or draft project area plan takes place or is proposed to take place.

(13) "Project area budget" means a multiyear projection of annual or cumulative revenues and expenses and other fiscal matters pertaining to the project area.

(14) "Project area plan" means a written plan that, after its effective date, guides and controls the development within a project area.

(15) "Property tax" includes a privilege tax and each levy on an ad valorem basis on tangible or intangible personal or real property.

(16) "Property tax differential":

(a) means the difference between:

(i) the amount of property tax revenues generated each tax year by all taxing entities from a project area, using the current assessed value of the property; and

(ii) the amount of property tax revenues that would be generated from that same area using the base taxable value of the property; and

(b) does not include property tax revenue from:

(i) a county additional property tax or multicounty assessing and collecting levy imposed in accordance with Section 59-2-1602;

(ii) a judgment levy imposed by a taxing entity under Section 59-2-1328 or 59-2-1330; or

(iii) a levy imposed by a taxing entity under Section 11-14-310 to pay for a general obligation bond.

(17) "Public entity" means:

(a) the state, including each department, division, or other agency of the state; or

(b) a county, city, town, metro township, school district, local district, special service district, interlocal cooperation entity, community reinvestment agency, or other political subdivision of the state, including the authority.

(18) "Publicly owned infrastructure and improvements":

(a) means infrastructure, improvements, facilities, or buildings that:

(i) benefit the public; and

(ii) (A) are owned by a public entity or a utility; or

(B) are publicly maintained or operated by a public entity;

(b) includes:

(i) facilities, lines, or systems that provide:

(A) water, chilled water, or steam; or

(B) sewer, storm drainage, natural gas, electricity, energy storage, renewable energy, microgrids, or telecommunications service; and

(ii) streets, roads, curb, gutter, sidewalk, walkways, solid waste facilities, parking facilities, and public transportation facilities.

(19) "Shapefile" means the digital vector storage format for storing geometric location and associated attribute information.

(20) "Taxable value" means the value of property as shown on the last equalized assessment roll.

(21) "Taxing entity":

(a) means a public entity that levies a tax on property within a project area[.]; and

(b) does not include a public infrastructure district that the authority creates under Title 17B, Chapter 2a, Part 12, Public Infrastructure District Act.

(22) "Voting member" means an individual appointed or designated as a member of the board under Subsection 11-58-302(2).

Section 6. Section 11-58-106 is enacted to read:

11-58-106. Loan approval committee -- Approval of infrastructure loans.

(1) As used in this section:

(a) "Borrower" means the same as that term is defined in Section 63A-3-401.5.

(b) "Infrastructure loan" means the same as that term is defined in Section 63A-3-401.5.

(c) "Infrastructure project" means the same as that term is defined in Section 63A-3-401.5.

(d) "Inland port fund" means the same as that term is defined in Section 63A-3-401.5.

(e) "Loan approval committee" means a committee consisting of:

(i) the two board members appointed by the governor;

(ii) the board member appointed by the president of the Senate;

(iii) the board member appointed by the speaker of the House of Representatives; and

(iv) the board member appointed by the chair of the Permanent Community Impact Fund Board.

(2) The loan approval committee may approve an infrastructure loan from the inland port fund to a borrower for an infrastructure project undertaken by the borrower.

(3) (a) The loan approval committee shall establish the terms of an infrastructure loan in accordance with Section 63A-3-404.

(b) The loan approval committee shall require the terms of an infrastructure loan secured by property tax differential to include a requirement that money from the infrastructure loan be used only for an infrastructure project within the project area that generates the property tax differential.

(c) The terms of an infrastructure loan that the loan approval committee approves may include provisions allowing for the infrastructure loan to be forgiven if:

(i) the infrastructure loan is to a public university in the state;

(ii) the infrastructure loan is to fund a vehicle electrification pilot project;

(iii) the amount of the infrastructure loan does not exceed $15,000,000; and

(iv) the public university receives matching funds for the vehicle electrification pilot project from another source.

(4) (a) The loan approval committee shall establish policies and guidelines with respect to prioritizing requests for infrastructure loans and approving infrastructure loans.

(b) With respect to infrastructure loan requests for an infrastructure project on authority jurisdictional land, the policies and guidelines established under Subsection (4)(a) shall give priority to an infrastructure loan request that furthers the policies and best practices incorporated into the environmental sustainability component of the authority's business plan under Subsection 11-58-202(1)(a).

(5) Within 60 days after the execution of an infrastructure loan, the loan approval committee shall report the infrastructure loan, including the loan amount, terms, and security, to the Executive Appropriations Committee.

(6) (a) Salaries and expenses of committee members who are legislators shall be paid in accordance with Section 36-2-2 and Legislative Joint Rules, Title 5, Chapter 3, Legislator Compensation.

(b) A committee member who is not a legislator may not receive compensation or benefits for the member's service on the committee, but may receive per diem and reimbursement for travel expenses incurred as a committee member at the rates established by the Division of Finance under:

(i) Sections 63A-3-106 and 63A-3-107; and

(ii) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

Section 7. Section 11-58-304 is amended to read:

11-58-304. Limitations on board members and executive director.

(1) As used in this section:

(a) "Direct financial benefit":

(i) means any form of financial benefit that accrues to an individual directly, including:

(A) compensation, commission, or any other form of a payment or increase of money; and

(B) an increase in the value of a business or property; and

(ii) does not include a financial benefit that accrues to the public generally.

(b) "Family member" means a parent, spouse, sibling, child, or grandchild.

(2) An individual may not serve as a voting member of the board or as executive director if:

(a) the individual owns real property, other than a personal residence in which the individual resides, [~~on or within five miles of the authority jurisdictional land~~] within a project area, whether or not the ownership interest is a recorded interest;

(b) a family member of the individual owns an interest in real property, other than a personal residence in which the family member resides, located [~~on or within one-half mile of the authority jurisdictional land~~] within a project area; or

(c) the individual or a family member of the individual owns an interest in, is directly affiliated with, or is an employee or officer of a private firm, private company, or other private entity that the individual reasonably believes is likely to:

(i) participate in or receive a direct financial benefit from the development of the authority jurisdictional land; or

(ii) acquire an interest in or locate a facility [~~on the authority jurisdictional land~~] within a project area.

(3) Before taking office as a voting member of the board or accepting employment as executive director, an individual shall submit to the authority:

(a) a statement verifying that the individual's service as a board member or employment as executive director does not violate Subsection (2); or

(b) for an individual to whom Subsection 11-58-302(8) applies, the disclosure required under that subsection.

(4) (a) An individual may not, at any time during the individual's service as a voting member or employment with the authority, acquire, or take any action to initiate, negotiate, or otherwise arrange for the acquisition of, an interest in real property located [~~on or within five miles of the authority jurisdictional land~~] within a project area, if:

(i) the acquisition is in the individual's personal capacity or in the individual's capacity as an employee or officer of a private firm, private company, or other private entity; and

(ii) the acquisition will enable the individual to receive a direct financial benefit as a result of the development of the [~~authority jurisdictional land~~] project area.

(b) Subsection (4)(a) does not apply to an individual's acquisition of, or action to initiate, negotiate, or otherwise arrange for the acquisition of, an interest in real property that is a personal residence in which the individual will reside upon acquisition of the real property.

(5) (a) A voting member or nonvoting member of the board or an employee of the authority may not receive a direct financial benefit from the development of [~~authority jurisdictional land~~] a project area.

(b) For purposes of Subsection (5)(a), a direct financial benefit does not include:

(i) expense reimbursements;

(ii) per diem pay for board member service, if applicable; or

(iii) an employee's compensation or benefits from employment with the authority.

(6) Nothing in this section may be construed to affect the application or effect of any other code provision applicable to a board member or employee relating to ethics or conflicts of interest.

Section 8. Section 11-59-102 is amended to read:

11-59-102. Definitions.

As used in this chapter:

(1) "Authority" means the Point of the Mountain State Land Authority, created in Section 11-59-201.

(2) "Board" means the authority's board, created in Section 11-59-301.

(3) "Development":

(a) means the construction, reconstruction, modification, expansion, or improvement of a building, utility, infrastructure, landscape, parking lot, park, trail, recreational amenity, or other facility, including:

(i) the demolition or preservation or repurposing of a building, infrastructure, or other facility;

(ii) surveying, testing, locating existing utilities and other infrastructure, and other preliminary site work; and

(iii) any associated planning, design, engineering, and related activities; and

(b) includes all activities associated with:

(i) marketing and business recruiting activities and efforts;

(ii) leasing, or selling or otherwise disposing of, all or any part of the point of the mountain state land; and

(iii) planning and funding for mass transit infrastructure to service the point of the mountain state land.

(4) "New correctional facility" means the state correctional facility being developed in Salt Lake City to replace the state correctional facility in Draper.

(5) "Point of the mountain state land" means the approximately 700 acres of state-owned land in Draper, including land used for the operation of a state correctional facility until completion of the new correctional facility and state-owned land in the vicinity of the current state correctional facility.

(6) "Public entity" means:

(a) the state, including each department, division, or other agency of the state; or

(b) a county, city, town, metro township, school district, local district, special service district, interlocal cooperation entity, community reinvestment agency, or other political subdivision of the state, including the authority.

Section 9. Section 11-59-104 is enacted to read:

11-59-104. Loan approval committee -- Approval of infrastructure loans.

(1) As used in this section:

(a) "Borrower" means the same as that term is defined in Section 63A-3-401.5.

(b) "Infrastructure loan" means the same as that term is defined in Section 63A-3-401.5.

(c) "Infrastructure project" means the same as that term is defined in Section 63A-3-401.5.

(d) "Point of the mountain fund" means the same as that term is defined in Section 63A-3-401.5.

(e) "Loan approval committee" means a committee consisting of:

(i) the board member:

(A) who is a member of the Senate appointed under Subsection 11-59-302(2)(a); and

(B) whose Senate district is closer to the boundary of the point of the mountain state land than is the Senate district of the other member of the Senate appointed under Subsection 11-59-302(2)(a);

(ii) the board member:

(A) who is a member of the House of Representatives appointed under Subsection 11-59-302(2)(b); and

(B) whose House district is closer to the boundary of the point of the mountain state land than is the House district of the other member of the House of Representatives appointed under Subsection 11-59-302(2)(b);

(iii) the board member who is appointed by the governor under Subsection 11-59-302(2)(c)(i);

(iv) the board member who is appointed by the governor under Subsection 11-59-302(2)(c)(ii); and

(v) the board member who is the mayor of Draper or a member of the Draper city council.

(2) The loan approval committee may approve an infrastructure loan from the point of the mountain fund to a borrower for an infrastructure project undertaken by the borrower.

(3) The loan approval committee shall establish the terms of an infrastructure loan in accordance with Section 63A-3-404.

(4) The loan approval committee may establish policies and guidelines with respect to prioritizing requests for infrastructure loans and approving infrastructure loans.

(5) Within 60 days after the execution of an infrastructure loan, the loan approval committee shall report the infrastructure loan, including the loan amount, terms, and security, to the Executive Appropriations Committee.

(6) (a) Salaries and expenses of committee members who are legislators shall be paid in accordance with Section 36-2-2 and Legislative Joint Rules, Title 5, Chapter 3, Legislator Compensation.

(b) A committee member who is not a legislator may not receive compensation or benefits for the member's service on the committee, but may receive per diem and reimbursement for travel expenses incurred as a committee member at the rates established by the Division of Finance under:

(i) Sections 63A-3-106 and 63A-3-107; and

(ii) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

Section 10. Section 11-59-204 is amended to read:

11-59-204. Applicability of other law -- Coordination with municipality.

(1) The authority and the point of the mountain state land are not subject to:

(a) Title 10, Chapter 9a, Municipal Land Use, Development, and Management Act; or

(b) the jurisdiction of a local district under Title 17B, Limited Purpose Local Government Entities - Local Districts, or a special service district under Title 17D, Chapter 1, Special Service District Act, except to the extent that:

(i) some or all of the point of the mountain state land is, on May 8, 2018, included within the boundary of a local district or special service district; and

(ii) the authority elects to receive service from the local district or special service district for the point of the mountain state land that is included within the boundary of the local district or special service district, respectively.

(2) In formulating and implementing a development plan for the point of the mountain state land, the authority shall consult with officials of the municipality within which the point of the mountain state land is located on planning and zoning matters.

(3) The authority is subject to and governed by Sections 63E-2-106, 63E-2-107, 63E-2-108, 63E-2-109, 63E-2-110, and 63E-2-111, but is not otherwise subject to or governed by Title 63E, Independent Entities Code.

(4) Nothing in this chapter may be construed to remove the point of the mountain state land from the service area of the municipality in which the point of the mountain state land is located, for purposes of water, sewer, and other similar municipal services currently being provided.

(5) The authority is subject to Title 52, Chapter 4, Open and Public Meetings Act, except that for an electronic meeting of the authority board that otherwise complies with Section 52-4-207, the authority board:

(a) is not required to establish an anchor location; and

(b) may convene and conduct the meeting without the written determination otherwise required under Subsection 52-4-207(4).

Section 11. Section 17B-1-306 is amended to read:

17B-1-306. Local district board -- Election procedures.

(1) Except as provided in Subsection (12), each elected board member shall be selected as provided in this section.

(2) (a) Each election of a local district board member shall be held:

(i) at the same time as the municipal general election or the regular general election, as applicable; and

(ii) at polling places designated by the local district board in consultation with the county clerk for each county in which the local district is located, which polling places shall coincide with municipal general election or regular general election polling places, as applicable, whenever feasible.

(b) The local district board, in consultation with the county clerk, may consolidate two or more polling places to enable voters from more than one district to vote at one consolidated polling place.

(c) (i) Subject to Subsections (5)(h) and (i), the number of polling places under Subsection (2)(a)(ii) in an election of board members of an irrigation district shall be one polling place per division of the district, designated by the district board.

(ii) Each polling place designated by an irrigation district board under Subsection (2)(c)(i) shall coincide with a polling place designated by the county clerk under Subsection (2)(a)(ii).

(3) The clerk of each local district with a board member position to be filled at the next municipal general election or regular general election, as applicable, shall provide notice of:

(a) each elective position of the local district to be filled at the next municipal general election or regular general election, as applicable;

(b) the constitutional and statutory qualifications for each position; and

(c) the dates and times for filing a declaration of candidacy.

(4) The clerk of the local district shall publish the notice described in Subsection (3):

(a) by posting the notice on the Utah Public Notice Website created in Section 63F-1-701, for 10 days before the first day for filing a declaration of candidacy; and

(b) (i) by posting the notice in at least five public places within the local district at least 10 days before the first day for filing a declaration of candidacy; or

(ii) publishing the notice:

(A) in a newspaper of general circulation within the local district at least three but no more than 10 days before the first day for filing a declaration of candidacy;

(B) in accordance with Section 45-1-101, for 10 days before the first day for filing a declaration of candidacy; and

(c) if the local district has a website, on the local district's website for 10 days before the first day for filing a declaration of candidacy.

(5) (a) Except as provided in Subsection (5)(c), to become a candidate for an elective local district board position, an individual shall file a declaration of candidacy in person with an official designated by the local district, during office hours, within the candidate filing period for the applicable election year in which the election for the local district board is held.

(b) When the candidate filing deadline falls on a Saturday, Sunday, or holiday, the filing time shall be extended until the close of normal office hours on the following regular business day.

(c) Subject to Subsection (5)(f), an individual may designate an agent to file a declaration of candidacy with the official designated by the local district if:

(i) the individual is located outside of the state during the entire filing period;

(ii) the designated agent appears in person before the official designated by the local district; and

(iii) the individual communicates with the official designated by the local district using an electronic device that allows the individual and official to see and hear each other.

(d) (i) Before the filing officer may accept any declaration of candidacy from an individual, the filing officer shall:

(A) read to the individual the constitutional and statutory qualification requirements for the office that the individual is seeking; and

(B) require the individual to state whether the individual meets those requirements.

(ii) If the individual does not meet the qualification requirements for the office, the filing officer may not accept the individual's declaration of candidacy.

(iii) If it appears that the individual meets the requirements of candidacy, the filing officer shall accept the individual's declaration of candidacy.

(e) The declaration of candidacy shall be in substantially the following form:

"I, (print name) _____, being first duly sworn, say that I reside at (Street) _____, City of _____, County of _____, state of Utah, (Zip Code) _____, (Telephone Number, if any)_____; that I meet the qualifications for the office of board of trustees member for _____ (state the name of the local district); that I am a candidate for that office to be voted upon at the next election; and that, if filing via a designated agent, I will be out of the state of Utah during the entire candidate filing period, and I hereby request that my name be printed upon the official ballot for that election.

(Signed)

_____

Subscribed and sworn to (or affirmed) before me by _____ on this _____ day of _____, ____.

(Signed) _____

(Clerk or Notary Public)".

(f) An agent designated under Subsection (5)(c) may not sign the form described in Subsection (5)(e).

(g) Each individual wishing to become a valid write-in candidate for an elective local district board position is governed by Section 20A-9-601.

(h) If at least one individual does not file a declaration of candidacy as required by this section, an individual shall be appointed to fill that board position in accordance with the appointment provisions of Section 20A-1-512.

(i) If only one candidate files a declaration of candidacy and there is no write-in candidate who complies with Section 20A-9-601, the board, in accordance with Section 20A-1-206, may:

(i) consider the candidate to be elected to the position; and

(ii) cancel the election.

(6) (a) A primary election may be held if:

(i) the election is authorized by the local district board; and

(ii) the number of candidates for a particular local board position or office exceeds twice the number of persons needed to fill that position or office.

(b) The primary election shall be conducted:

(i) on the same date as the municipal primary election or the regular primary election, as applicable; and

(ii) according to the procedures for primary elections provided under Title 20A, Election Code.

(7) (a) Except as provided in Subsection (7)(c), within one business day after the deadline for filing a declaration of candidacy, the local district clerk shall certify the candidate names to the clerk of each county in which the local district is located.

(b) (i) Except as provided in Subsection (7)(c) and in accordance with Section 20A-6-305, the clerk of each county in which the local district is located and the local district clerk shall coordinate the placement of the name of each candidate for local district office in the nonpartisan section of the ballot with the appropriate election officer.

(ii) If consolidation of the local district election ballot with the municipal general election ballot or the regular general election ballot, as applicable, is not feasible, the local district board of trustees, in consultation with the county clerk, shall provide for a separate local district election ballot to be administered by poll workers at polling locations designated under Subsection (2).

(c) (i) Subsections (7)(a) and (b) do not apply to an election of a member of the board of an irrigation district established under Chapter 2a, Part 5, Irrigation District Act.

(ii) (A) Subject to Subsection (7)(c)(ii)(B), the board of each irrigation district shall prescribe the form of the ballot for each board member election.

(B) Each ballot for an election of an irrigation district board member shall be in a nonpartisan format.

(C) The name of each candidate shall be placed on the ballot in the order specified under Section 20A-6-305.

(8) (a) Each voter at an election for a board of trustees member of a local district shall:

(i) be a registered voter within the district, except for an election of:

(A) an irrigation district board of trustees member; or

(B) a basic local district board of trustees member who is elected by property owners; and

(ii) meet the requirements to vote established by the district.

(b) Each voter may vote for as many candidates as there are offices to be filled.

(c) The candidates who receive the highest number of votes are elected.

(9) Except as otherwise provided by this section, the election of local district board members is governed by Title 20A, Election Code.

(10) (a) Except as provided in Subsection 17B-1-303(8), a person elected to serve on a local district board shall serve a four-year term, beginning at noon on the January 1 after the person's election.

(b) A person elected shall be sworn in as soon as practical after January 1.

(11) (a) Except as provided in Subsection (11)(b), each local district shall reimburse the county or municipality holding an election under this section for the costs of the election attributable to that local district.

(b) Each irrigation district shall bear [~~its~~] the district's own costs of each election [~~it~~] the district holds under this section.

(12) This section does not apply to an improvement district that provides electric or gas service.

(13) Except as provided in Subsection 20A-3a-605(1)(b), the provisions of Title 20A, Chapter 3a, Part 6, Early Voting, do not apply to an election under this section.

(14) (a) As used in this Subsection (14), "board" means:

(i) a local district board; or

(ii) the administrative control board of a special service district that has elected members on the board.

(b) A board may hold elections for membership on the board at a regular general election instead of a municipal general election if the board submits an application to the lieutenant governor that:

(i) requests permission to hold elections for membership on the board at a regular general election instead of a municipal general election; and

(ii) indicates that holding elections at the time of the regular general election is beneficial, based on potential cost savings, a potential increase in voter turnout, or another material reason.

(c) Upon receipt of an application described in Subsection (14)(b), the lieutenant governor may approve the application if the lieutenant governor concludes that holding the elections at the regular general election is beneficial based on the criteria described in Subsection (14)(b)(ii).

(d) If the lieutenant governor approves a board's application described in this section:

(i) all future elections for membership on the board shall be held at the time of the regular general election; and

(ii) the board may not hold elections at the time of a municipal general election unless the board receives permission from the lieutenant governor to hold all future elections for membership on the board at a municipal general election instead of a regular general election, under the same procedure, and by applying the same criteria, described in this Subsection (14).

(15) (a) This Subsection (15) applies to a local district if:

(i) the local district's board members are elected by the owners of real property, as provided in Subsection 17B-1-1402(1)(b); and

(ii) the local district was created before January 1, 2020.

(b) The board of a local district described in Subsection (15)(a) may conduct an election:

(i) to fill a board member position that expires at the end of the term for that board member's position; and

(ii) notwithstanding Subsection 20A-1-512(1)(a)(i), to fill a vacancy in an unexpired term of a board member.

(c) An election under Subsection (15)(b) may be conducted as determined by the local district board, subject to Subsection (15)(d).

(d) (i) The local district board shall provide to property owners eligible to vote at the local district election:

(A) notice of the election; and

(B) a form to nominate an eligible individual to be elected as a board member.

(ii) (A) The local district board may establish a deadline for a property owner to submit a nomination form.

(B) A deadline under Subsection (15)(d)(ii)(A) may not be earlier than 15 days after the board provides the notice and nomination form under Subsection (15)(d)(i).

(iii) (A) After the deadline for submitting nomination forms, the local district board shall provide a ballot to all property owners eligible to vote at the local district election.

(B) A local district board shall allow at least five days for ballots to be returned.

(iv) A local district board shall certify the results of an election under this Subsection (15) during an open meeting of the board.

Section 12. Section 17B-1-1102 is amended to read:

17B-1-1102. General obligation bonds.

(1) Except as provided in [~~Subsection (3)~~] Subsections (3) and (7), if a district intends to issue general obligation bonds, the district shall first obtain the approval of district voters for issuance of the bonds at an election held for that purpose as provided in Title 11, Chapter 14, Local Government Bonding Act.

(2) General obligation bonds shall be secured by a pledge of the full faith and credit of the district, subject to:

(a) for a water conservancy district, the property tax levy limits of Section 17B-2a-1006; and

(b) for a limited tax bond as defined in Section 17B-2a-1202 that a public infrastructure district issues, the property tax levy limits of Section 17B-2a-1209.

(3) A district may issue refunding general obligation bonds, as provided in Title 11, Chapter 27, Utah Refunding Bond Act, without obtaining voter approval.

(4) (a) A local district may not issue general obligation bonds if the issuance of the bonds will cause the outstanding principal amount of all of the district's general obligation bonds to exceed the amount that results from multiplying the fair market value of the taxable property within the district, as determined under Subsection 11-14-301(3)(b), by a number that is:

(i) .05, for a basic local district, except as provided in Subsection (7);

(ii) .004, for a cemetery maintenance district;

(iii) .002, for a drainage district;

(iv) .004, for a fire protection district;

(v) .024, for an improvement district;

(vi) .1, for an irrigation district;

(vii) .1, for a metropolitan water district;

(viii) .0004, for a mosquito abatement district;

(ix) .03, for a public transit district;

(x) .12, for a service area;

(xi) .05 for a municipal services district; or

(xii) except for a limited tax bond as defined in Section 17B-2a-1202, .15 for a public infrastructure district.

(b) Bonds or other obligations of a local district that are not general obligation bonds are not included in the limit stated in Subsection (4)(a).

(5) A district may not be considered to be a municipal corporation for purposes of the debt limitation of the Utah Constitution, Article XIV, Section 4.

(6) Bonds issued by an administrative or legal entity created under Title 11, Chapter 13, Interlocal Cooperation Act, may not be considered to be bonds of a local district that participates in the agreement creating the administrative or legal entity.

(7) (a) As used in this Subsection (7), "property owner district" means a local district whose board members are elected by property owners, as provided in Subsection 17B-1-1402(1)(b).

(b) A property owner district may issue a general obligation bond with the consent of:

(i) the owners of all property within the district; and

(ii) all registered voters, if any, within the boundary of the district.

(c) A property owner district may use proceeds from a bond issued under this Subsection (7) to fund:

(i) the acquisition and construction of a system or improvement authorized in the district's creation resolution; and

(ii) a connection outside the boundary of the district between systems or improvements within the boundary of the district.

(d) The consent under Subsection (7)(b) is sufficient for any requirement necessary for the issuance of a general obligation bond.

(e) A general obligation bond issued under this Subsection (7):

(i) shall mature no later than 40 years after the date of issuance; and

(ii) is not subject to the limit under Subsection (4)(a)(i).

(f) (i) A property owner district may not issue a general obligation bond under this Subsection (7) if the issuance will cause the outstanding principal amount of all the district's general obligation bonds to exceed one-half of the market value of all real property within the district.

(ii) Market value under Subsection (7)(f)(i) shall:

(A) be based on the value that the real property will have after all improvements financed by the general obligation bonds are constructed; and

(B) be determined by appraisal by an appraiser who is a member of the Appraisal Institute.

(g) With respect to a general obligation bond issued under this Subsection (7), the board of a property owner district may, by resolution, delegate to one or more officers of the district, the authority to:

(i) approve the final interest rate, price, principal amount, maturity, redemption features, and other terms of the bond;

(ii) approve and execute a document relating to the issuance of the bond; and

(iii) approve a contract related to the acquisition and construction of an improvement, facility, or property to be financed with proceeds from the bond.

(h) (i) A person may commence a lawsuit or other proceeding to contest the legality of the issuance of a general obligation bond issued under this

Subsection (7) or any provision relating to the security or payment of the bond if the lawsuit or other proceeding is commenced within 30 days after the publication of:

(A) the resolution authorizing the issuance of the general obligation bond; or

(B) a notice of the bond issuance containing substantially the items required under Subsection 11-14-316(2).

(ii) Following the period described in Subsection (7)(h)(i), no person may bring a lawsuit or other proceeding to contest for any reason the regularity, formality, or legality of a general obligation bond issued under this Subsection (7).

(i) (i) A property owner district that charges and collects an impact fee or other fee on real property at the time the real property is sold may proportionally pay down a general obligation bond issued under this Subsection (7) from the money collected from the impact fee or other fee.

(ii) A property owner district that proportionally pays down a general obligation bond under Subsection (7)(i)(i) shall reduce the property tax rate on the parcel of real property on which the district charged and collected an impact fee or other charge, to reflect the amount of outstanding principal of a general obligation bond issued under this Subsection (7) that was paid down and is attributable to that parcel.

(j) If a property owner fails to pay a property tax that the property owner district imposes in connection with a general obligation bond issued under this Subsection (7), the district may impose a property tax penalty at an annual rate of .07, in addition to any other penalty allowed by law.

Section 13. Section 17B-2a-1202 is amended to read:

17B-2a-1202. Definitions.

As used in this part:

(1) "Board" means the board of trustees of a public infrastructure district.

(2) "Creating entity" means the county, municipality, or development authority that approves the creation of the public infrastructure district.

(3) "Development authority" means:

(a) the Utah Inland Port Authority created in Section 11-58-201; or

(b) the military installation development authority created in Section 63H-1-201.

(4) "District applicant" means the person proposing the creation of the public infrastructure district.

(5) "Division" means a division of a public infrastructure district:

(a) that is relatively equal in number of eligible voters or potential eligible voters to all other divisions within the public infrastructure district, taking into account existing or potential developments which, when completed, would increase or decrease the population within the public infrastructure district; and

(b) which a member of the board represents.

(6) "Governing document" means the document governing the public infrastructure district to which the creating entity agrees before the creation of the public infrastructure district, as amended from time to time, and subject to the limitations of Chapter 1, Provisions Applicable to All Local Districts, and this part.

(7) (a) "Limited tax bond" means a bond:

(i) that is directly payable from and secured by ad valorem property taxes that are levied:

(A) by the public infrastructure district that issues the bond; and

(B) on taxable property within the district;

(ii) that is a general obligation of the public infrastructure district; and

(iii) for which the ad valorem property tax levy for repayment of the bond does not exceed the property tax levy rate limit established under Section 17B-2a-1209 for any fiscal year, except as provided in Subsection 17B-2a-1207(8).

(b) "Limited tax bond" does not include:

(i) a short-term bond;

(ii) a tax and revenue anticipation bond; or

(iii) a special assessment bond.

(8) "Public infrastructure and improvements" means:

(a) publicly owned infrastructure and improvements, as defined in Section 11-58-102, for a public infrastructure district created by the Utah Inland Port Authority created in Section 11-58-201; and

(b) the same as that term is defined in Section 63H-1-102, for a public infrastructure district created by the military installation development authority created in Section 63H-1-201.

Section 14. Section 17B-2a-1205 is amended to read:

17B-2a-1205. Public infrastructure district board -- Governing document.

(1) The legislative body or board of the creating entity shall appoint the members of the board, in accordance with the governing document.

(2) (a) Unless otherwise limited in the governing document and except as provided in Subsection (2)(b), the initial term of each member of the board is four years.

(b) Notwithstanding Subsection (2)(a), approximately half of the members of the initial board shall serve a six-year term so that, after the expiration of the initial term, the term of

approximately half the board members expires every two years.

(c) A board may elect that a majority of the board serve an initial term of six years.

(d) After the initial term, the term of each member of the board is four years.

(3) (a) Notwithstanding Subsection 17B-1-302(1)(b), a board member is not required to be a resident within the boundaries of the public infrastructure district if:

(i) all of the surface property owners consent to the waiver of the residency requirement;

(ii) there are no residents within the boundaries of the public infrastructure district;

(iii) no qualified candidate timely files to be considered for appointment to the board; or

(iv) no qualified individual files a declaration of candidacy for a board position in accordance with Subsection 17B-1-306[~~(4)~~](5).

(b) Except under the circumstances described in Subsection (3)(a)(iii) or (iv), the residency requirement in Subsection 17B-1-302(1)(b) is applicable to any board member elected for a division or board position that has transitioned from an appointed to an elected board member in accordance with this section.

(c) An individual who is not a resident within the boundaries of the public infrastructure district may not serve as a board member unless the individual is:

(i) an owner of land or an agent or officer of the owner of land within the boundaries of the public infrastructure district; and

(ii) a registered voter at the individual's primary residence.

(4) (a) A governing document may provide for a transition from legislative body appointment under Subsection (1) to a method of election by registered voters based upon milestones or events that the governing document identifies, including a milestone for each division or individual board position providing that when the milestone is reached:

(i) for a division, the registered voters of the division elect a member of the board in place of an appointed member at the next municipal general election for the board position; or

(ii) for an at large board position established in the governing document, the registered voters of the public infrastructure district elect a member of the board in place of an appointed member at the next municipal general election for the board position.

(b) Regardless of whether a board member is elected under Subsection (4)(a), the position of each remaining board member shall continue to be appointed under Subsection (1) until the member's respective division or board position surpasses the density milestone described in the governing document.

(5) (a) Subject to Subsection (5)(c), the board may, in the board's discretion but no more frequently than every four years, reestablish the boundaries of each division so that each division that has reached a milestone specified in the governing document, as described in Subsection (4)(a), has, as nearly as possible, the same number of eligible voters.

(b) In reestablishing division boundaries under Subsection (5)(a), the board shall consider existing or potential developments within the divisions which, when completed, would increase or decrease the number of eligible voters within the division.

(c) The governing document may prohibit the board from reestablishing, without the consent of the creating entity, the division boundaries as described in Subsection (5)(a).

(6) The public infrastructure district may not compensate a board member for the member's service on the board under Section 17B-1-307 unless the board member is a resident within the boundaries of the public infrastructure district.

(7) The governing document shall:

(a) include a boundary description and a map of the public infrastructure district;

(b) state the number of board members;

(c) describe any divisions of the public infrastructure district;

(d) establish any applicable property tax levy rate limit for the public infrastructure district;

(e) establish any applicable limitation on the principal amount of indebtedness for the public infrastructure district; and

(f) include other information that the public infrastructure district or the creating entity determines to be necessary or advisable.

(8) (a) Except as provided in Subsection (8)(b), the board and the governing body of the creating entity may amend a governing document by each adopting a resolution that approves the amended governing document.

(b) Notwithstanding Subsection (8)(a), any amendment to a property tax levy rate limitation requires the consent of:

(i) 100% of surface property owners within the boundaries of the public infrastructure district; and

(ii) 100% of the registered voters, if any, within the boundaries of the public infrastructure district.

(9) A board member is not in violation of Section 67-16-9 if the board member:

(a) discloses a business relationship in accordance with Sections 67-16-7 and 67-16-8 and files the disclosure with the creating entity:

(i) before any appointment or election; and

(ii) upon any significant change in the business relationship; and

(b) conducts the affairs of the public infrastructure district in accordance with this title and any parameters described in the governing document.

(10) Notwithstanding any other provision of this section, the governing document governs the number, appointment, and terms of board members of a public infrastructure district created by the development authority.

Section 15. Section 17B-2a-1206 is amended to read:

17B-2a-1206. Additional public infrastructure district powers.

In addition to the powers conferred on a public infrastructure district under Section 17B-1-103, a public infrastructure district may:

(1) issue negotiable bonds to pay:

(a) all or part of the costs of acquiring, acquiring an interest in, improving, or extending any of the improvements, facilities, or property allowed under Section 11-14-103;

(b) capital costs of improvements in an energy assessment area, as defined in Section 11-42a-102, and other related costs, against the funds that the public infrastructure district will receive because of an assessment in an energy assessment area, as defined in Section 11-42a-102;

(c) public improvements related to the provision of housing;

(d) capital costs related to public transportation; and

(e) for a public infrastructure district created by [~~the~~] a development authority, the cost of acquiring or financing [~~publicly owned~~] public infrastructure and improvements;

(2) enter into an interlocal agreement in accordance with Title 11, Chapter 13, Interlocal Cooperation Act, provided that the interlocal agreement may not expand the powers of the public infrastructure district, within the limitations of Title 11, Chapter 13, Interlocal Cooperation Act, without the consent of the creating entity;

(3) acquire completed or partially completed improvements for fair market value as reasonably determined by:

(a) the board;

(b) the creating entity, if required in the governing document; or

(c) a surveyor or engineer that a public infrastructure district employs or engages to perform the necessary engineering services for and to supervise the construction or installation of the improvements;

(4) contract with the creating entity for the creating entity to provide administrative services on behalf of the public infrastructure district, when agreed to by both parties, in order to achieve cost savings and economic efficiencies, at the discretion of the creating entity; and

(5) for a public infrastructure district created by a development authority:

(a) (i) operate and maintain [~~publicly owned~~] public infrastructure and improvements the district acquires or finances; and

(ii) use fees, assessments, or taxes to pay for the operation and maintenance of those [~~publicly owned~~] public infrastructure and improvements; and

(b) issue bonds under Title 11, Chapter 42, Assessment Area Act.

Section 16. Section 63A-3-401.5 is enacted to read:

Part 4. Infrastructure Revolving Loan Funds

63A-3-401.5. Definitions.

As used in this part:

(1) "Borrower" means a person who borrows money from an infrastructure fund for an infrastructure project.

(2) "Independent political subdivision" means:

(a) the Utah Inland Port Authority created in Section 11-58-201;

(b) the Point of the Mountain State Land Authority created in Section 11-59-201; or

(c) the Military Installation Development Authority created in Section 63H-1-201.

(3) "Infrastructure fund" means a fund created in Subsection 63A-3-402(1).

(4) "Infrastructure loan" means a loan of infrastructure fund money to finance an infrastructure project.

(5) "Infrastructure project" means a project to acquire, construct, reconstruct, rehabilitate, equip, or improve public infrastructure and improvements:

(a) within a project area; or

(b) outside a project area, if the respective loan approval committee determines by resolution that the public infrastructure and improvements are of benefit to the project area.

(6) "Inland port" means the same as that term is defined in Section 11-58-102.

(7) "Inland port fund" means the infrastructure fund created in Subsection 63A-3-402(1)(a).

(8) "Military development fund" means the infrastructure fund created in Subsection 63A-3-402(1)(c).

(9) "Point of the mountain fund" means the infrastructure fund created in Subsection 63A-3-402(1)(b).

(10) "Project area" means:

(a) the same as that term is defined in Section 11-58-102, for purposes of an infrastructure loan from the inland port fund;

(b) the point of the mountain state land, as defined in Section 11-59-102, for purposes of an infrastructure loan from the point of the mountain fund; and

(c) the same as that term is defined in Section 63H-1-102, for purposes of an infrastructure loan from the military development fund.

(11) "Property tax revenue" means:

(a) property tax differential, as defined in Section 11-58-102, for purposes of an infrastructure loan from the inland port fund; or

(b) property tax allocation, as defined in Section 63H-1-102, for purposes of an infrastructure loan from the military development fund.

(12) "Public infrastructure and improvements":

(a) for purposes of an infrastructure loan from the inland port fund:

(i) means publicly owned infrastructure and improvements, as defined in Section 11-58-102; and

(ii) includes an inland port facility; and

(b) means the same as that term is defined in Section 63H-1-102, for purposes of an infrastructure loan from the military development fund.

(13) "Respective loan approval committee" means:

(a) the committee created in Section 11-58-106, for purposes of an infrastructure loan from the inland port fund;

(b) the committee created in Section 11-59-104, for purposes of an infrastructure loan from the point of the mountain fund; and

(c) the committee created in Section 63H-1-104, for purposes of an infrastructure loan from the military development fund.

Section 17. Section 63A-3-402 is enacted to read:

63A-3-402. Infrastructure funds established -- Purpose of funds -- Use of money in funds.

(1) There are created, as enterprise revolving loan funds:

(a) the inland port infrastructure revolving loan fund;

(b) the point of the mountain infrastructure revolving loan fund; and

(c) the military development infrastructure revolving loan fund.

(2) The purpose of each infrastructure fund is to provide funding, through infrastructure loans, for infrastructure projects undertaken by a borrower.

(3) (a) Money in an infrastructure fund may be used only to provide loans for infrastructure projects.

(b) The division may not loan money in an infrastructure fund without the approval of the respective loan approval committee.

Section 18. Section 63A-3-403 is enacted to read:

63A-3-403. Money in infrastructure funds.

(1) Money in each of the infrastructure funds shall be kept separate and accounted for separately from money in the other infrastructure funds.

(2) Each infrastructure fund includes money:

(a) appropriated to that fund by the Legislature;

(b) transferred to the fund from the State Infrastructure Bank Fund created in Section 72-2-202, if applicable;

(c) from federal, state, or other public grants or contributions;

(d) that an independent political subdivision transfers to the fund from other money available to the independent political subdivision;

(e) contributed or granted to the infrastructure fund from a private source; and

(f) collected from repayments of loans of infrastructure fund money.

(3) In addition to money identified in Subsection (2), the military development fund includes money repaid after May 5, 2021 from a loan under Subsection 63B-27-101(3)(a).

(4) (a) Each infrastructure fund shall earn interest.

(b) All interest earned on infrastructure fund money shall be deposited into the respective infrastructure fund and included in the money of the infrastructure fund available to be loaned.

(5) The state treasurer shall invest infrastructure fund money as provided in Title 51, Chapter 7, State Money Management Act.

Section 19. Section 63A-3-404 is enacted to read:

63A-3-404. Loan agreement.

(1) (a) A borrower that borrows money from an infrastructure fund shall enter into a loan agreement with the division for repayment of the money.

(b) (i) A loan agreement under Subsection (1)(a) shall be secured by:

(A) bonds, notes, or another evidence of indebtedness validly issued under state law; or

(B) revenue generated from an infrastructure project.

(ii) The security provided under Subsection (1)(b)(i) may include the borrower's pledge of some or all of a revenue source that the borrower controls.

(c) The respective loan approval committee may determine that property tax revenue or revenue from the infrastructure project for which the infrastructure loan is obtained is sufficient security for an infrastructure loan.

(2) An infrastructure loan shall bear interest at a rate not to exceed .5% above bond market interest rates available to the state.

(3) (a) Subject to Subsection (3)(b), the respective loan approval committee shall determine the length of term of an infrastructure loan.

(b) If the security for an infrastructure loan is property tax revenue, the repayment terms of the infrastructure loan agreement shall allow sufficient time for the property tax revenue to generate sufficient money to cover payments under the infrastructure loan.

(4) An infrastructure loan agreement may provide for a portion of the loan proceeds to be applied to a reserve fund to secure repayment of the infrastructure loan.

(5) (a) If a borrower fails to comply with the terms of an infrastructure loan agreement, the division may:

(i) seek any legal or equitable remedy to obtain:

(A) compliance with the agreement; or

(B) the payment of damages; and

(ii) request a state agency with money due to the borrower to withhold payment of the money to the borrower and instead to pay the money to the division to pay any amount due under the infrastructure loan agreement.

(b) A state agency that receives a request from the division under Subsection (5)(a)(ii) shall pay to the division the money due to the borrower to the extent of the amount due under the infrastructure loan agreement.

(6) Upon approval from the respective loan approval committee, the division shall loan money from an infrastructure fund according to the terms established by the respective loan approval committee.

(7) (a) The division shall administer and enforce an infrastructure loan according to the terms of the infrastructure loan agreement.

(b) (i) Beginning May 5, 2021, the division shall assume responsibility from the State Infrastructure Bank Fund for servicing the loan under Subsection 63B-27-101(3)(a).

(ii) Payments due after May 5, 2021 under the loan under Subsection 63B-27-101(3)(a) shall be made to the division rather than to the State Infrastructure Bank Fund, to be deposited into the military development fund.

Section 20. Section 63H-1-102 is amended to read:

63H-1-102. Definitions.

As used in this chapter:

(1) "Authority" means the Military Installation Development Authority, created under Section 63H-1-201.

(2) "Base taxable value" means:

(a) for military land or other land that was exempt from a property tax at the time that a project area was created that included the military land or other land, a taxable value of zero; or

(b) for private property that is included in a project area, the taxable value of the property within any portion of the project area, as designated by board resolution, from which the property tax allocation will be collected, as shown upon the assessment roll last equalized:

(i) before the year in which the authority creates the project area; or

(ii) before the year in which the project area plan is amended, for property added to a project area by an amendment to a project area plan.

(3) "Board" means the governing body of the authority created under Section 63H-1-301.

(4) (a) "Dedicated tax collections" means the property tax that remains after the authority is paid the property tax allocation the authority is entitled to receive under Subsection 63H-1-501(1), for a property tax levied by:

(i) a county, including a district the county has established under Subsection 17-34-3(2) to levy a property tax under Title 17, Chapter 34, Municipal-Type Services to Unincorporated Areas; or

(ii) an included municipality.

(b) "Dedicated tax collections" does not include a county additional property tax or multicounty assessing and collecting levy imposed in accordance with Section 59-2-1602.

(5) (a) "Development" means an activity occurring:

(i) on land within a project area that is owned or operated by the military, the authority, another public entity, or a private entity; or

(ii) on military land associated with a project area.

(b) "Development" includes the demolition, construction, reconstruction, modification, expansion, or improvement of a building, facility, utility, landscape, parking lot, park, trail, or recreational amenity.

(6) "Development project" means a project to develop land within a project area.

(7) "Elected member" means a member of the authority board who:

(a) is a mayor or member of a legislative body appointed under Subsection 63H-1-302(2)(b); or

(b) (i) is appointed to the authority board under Subsection 63H-1-302(2)(a) or (3); and

(ii) concurrently serves in an elected state, county, or municipal office.

(8) "Included municipality" means a municipality, some or all of which is included within a project area.

(9) (a) "Military" means a branch of the armed forces of the United States, including the Utah National Guard.

(b) "Military" includes, in relation to property, property that is occupied by the military and is owned by the government of the United States or the state.

(10) "Military Installation Development Authority accommodations tax" or "MIDA accommodations tax" means the tax imposed under Section 63H-1-205.

(11) "Military Installation Development Authority energy tax" or "MIDA energy tax" means the tax levied under Section 63H-1-204.

(12) "Military land" means land or a facility, including leased land or a leased facility, that is part of or affiliated with a base, camp, post, station, yard, center, or installation under the jurisdiction of the United States Department of Defense, the United States Department of Veterans Affairs, or the Utah National Guard.

(13) "Municipal energy tax" means a municipal energy sales and use tax under Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act.

(14) "Municipal services revenue" means revenue that the authority:

(a) collects from the authority's:

(i) levy of a municipal energy tax;

(ii) levy of a MIDA energy tax;

(iii) levy of a telecommunications tax;

(iv) imposition of a transient room tax; and

(v) imposition of a resort communities tax;

(b) receives under Subsection 59-12-205(2)(b)(ii); and

(c) receives as dedicated tax collections.

(15) "Municipal tax" means a municipal energy tax, MIDA energy tax, MIDA accommodations tax, telecommunications tax, transient room tax, or resort communities tax.

(16) "Project area" means the land, including military land, whether consisting of a single contiguous area or multiple noncontiguous areas, described in a project area plan or draft project area plan, where the development project set forth in the project area plan or draft project area plan takes place or is proposed to take place.

(17) "Project area budget" means a multiyear projection of annual or cumulative revenues and expenses and other fiscal matters pertaining to a project area that includes:

(a) the base taxable value of property in the project area;

(b) the projected property tax allocation expected to be generated within the project area;

(c) the amount of the property tax allocation expected to be shared with other taxing entities;

(d) the amount of the property tax allocation expected to be used to implement the project area plan, including the estimated amount of the property tax allocation to be used for land acquisition, public improvements, infrastructure improvements, and loans, grants, or other incentives to private and public entities;

(e) the property tax allocation expected to be used to cover the cost of administering the project area plan;

(f) if the property tax allocation is to be collected at different times or from different portions of the project area, or both:

(i) (A) the tax identification numbers of the parcels from which the property tax allocation will be collected; or

(B) a legal description of the portion of the project area from which the property tax allocation will be collected; and

(ii) an estimate of when other portions of the project area will become subject to collection of the property tax allocation; and

(g) for property that the authority owns or leases and expects to sell or sublease, the expected total cost of the property to the authority and the expected selling price or lease payments.

(18) "Project area plan" means a written plan that, after the plan's effective date, guides and controls the development within a project area.

(19) (a) "Property tax" includes a privilege tax imposed under Title 59, Chapter 4, Privilege Tax, except as described in Subsection (19)(b), and each levy on an ad valorem basis on tangible or intangible personal or real property.

(b) "Property tax" does not include a privilege tax on the taxable value:

(i) attributable to a portion of a facility leased to the military for a calendar year when:

(A) a lessee of military land has constructed a facility on the military land that is part of a project area;

(B) the lessee leases space in the facility to the military for the entire calendar year; and

(C) the lease rate paid by the military for the space is $1 or less for the entire calendar year, not including any common charges that are reimbursements for actual expenses; or

(ii) of the following property owned by the authority, regardless of whether the authority

enters into a long-term operating agreement with a privately owned entity under which the privately owned entity agrees to operate the property:

(A) a hotel;

(B) a hotel condominium unit in a condominium project, as defined in Section 57-8-3; and

(C) a commercial condominium unit in a condominium project, as defined in Section 57-8-3.

(20) "Property tax allocation" means the difference between:

(a) the amount of property tax revenues generated each tax year by all taxing entities from the area within a project area designated in the project area plan as the area from which the property tax allocation is to be collected, using the current assessed value of the property; and

(b) the amount of property tax revenues that would be generated from that same area using the base taxable value of the property.

(21) "Public entity" means:

(a) the state, including each department or agency of the state; or

(b) a political subdivision of the state, including a county, city, town, school district, local district, special service district, or interlocal cooperation entity, including the authority.

(22) (a) [~~"Publicly owned"~~] "Public infrastructure and improvements" means infrastructure, improvements, facilities, or buildings that:

(i) benefit the public, the authority, the military, or military-related entities [~~and are:~~]; and

[~~(i)~~] (ii) (A) are publicly owned by the military, the authority, a public infrastructure district under Title 17B, Chapter 2a, Part 12, Public Infrastructure District Act, or another public entity;

[~~(ii)~~] (B) are owned by a utility; or

[~~(iii)~~] (C) are publicly maintained or operated by the military, the authority, or another public entity.

(b) "Public infrastructure and improvements" also means infrastructure, improvements, facilities, or buildings that:

(i) are privately owned; and

(ii) provide a substantial benefit, as determined by the board, to the development and operation of a project area.

[~~(b)~~] (c) [~~"Publicly owned"~~] "Public infrastructure and improvements" includes:

(i) facilities, lines, or systems that harness geothermal energy or provide water, chilled water, steam, sewer, storm drainage, natural gas, electricity, or telecommunications;

(ii) streets, roads, curb, gutter, sidewalk, walkways, solid waste facilities, parking facilities, public transportation facilities, and parks, trails, and other recreational facilities;

(iii) snowmaking equipment and related improvements that can also be used for water storage or fire suppression purposes; and

(iv) a building and related improvements for occupancy by the public, the authority, the military, or military-related entities.

(23) "Remaining municipal services revenue" means municipal services revenue that the authority has not:

(a) spent during the authority's fiscal year for municipal services as provided in Subsection 63H-1-503(1); or

(b) redirected to use in accordance with Subsection 63H-1-502(3).

(24) "Resort communities tax" means a sales and use tax imposed under Section 59-12-401.

(25) "Taxable value" means the value of property as shown on the last equalized assessment roll.

(26) "Taxing entity":

(a) means a public entity that levies a tax on property within a project area; and

(b) does not include a public infrastructure district that the authority creates under Title 17B, Chapter 2a, Part 12, Public Infrastructure District Act.

(27) "Telecommunications tax" means a telecommunications license tax under Title 10, Chapter 1, Part 4, Municipal Telecommunications License Tax Act.

(28) "Transient room tax" means a tax under Section 59-12-352.

Section 21. Section 63H-1-104 is enacted to read:

63H-1-104. Loan approval committee -- Approval of infrastructure loans.

(1) As used in this section:

(a) "Borrower" means the same as that term is defined in Section 63A-3-401.5.

(b) "Infrastructure loan" means the same as that term is defined in Section 63A-3-401.5.

(c) "Infrastructure project" means the same as that term is defined in Section 63A-3-401.5.

(d) "Military development fund" means the same as that term is defined in Section 63A-3-401.5.

(e) "Loan approval committee" means a committee consisting of:

(i) the board member who is appointed by the governor under Subsection 63H-1-302(2)(a);

(ii) the board member who is appointed by the governor under Subsection 63H-1-302(2)(c);

(iii) the board members who are appointed by the president of the Senate and the speaker of the

House of Representatives under Subsection 63H-1-302(3); and

(iv) a voting or nonvoting board member designated by the board.

(2) The loan approval committee may approve an infrastructure loan from the military development fund to a borrower for an infrastructure project undertaken by the borrower.

(3) The loan approval committee shall establish the terms of an infrastructure loan in accordance with Section 63A-3-404.

(4) The loan approval committee may establish policies and guidelines with respect to prioritizing requests for infrastructure loans and approving infrastructure loans.

(5) Beginning May 5, 2021, the loan approval committee shall assume jurisdiction from the State Infrastructure Bank Fund relating to the terms of a loan under Subsection 63B-27-101(3)(a).

(6) Within 60 days after the execution of an infrastructure loan, the loan approval committee shall report the infrastructure loan, including the loan amount, terms, and security, to the Executive Appropriations Committee.

(7) (a) A meeting of the loan approval committee does not constitute a meeting of the board, even if a quorum of the board is present at a loan approval committee meeting.

(b) A quorum of board members present at a meeting of the loan approval committee may not conduct board business at the loan approval committee meeting.

(8) (a) Salaries and expenses of committee members who are legislators shall be paid in accordance with Section 36-2-2 and Legislative Joint Rules, Title 5, Chapter 3, Legislator Compensation.

(b) A committee member who is not a legislator may not receive compensation or benefits for the member's service on the committee, but may receive per diem and reimbursement for travel expenses incurred as a committee member at the rates established by the Division of Finance under:

(i) Sections 63A-3-106 and 63A-3-107; and

(ii) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

CHAPTER 416
H. B. 72
Passed March 4, 2021
Approved March 23, 2021
Contingent Effective date in Section 8

DEVICE FILTER AMENDMENTS

Chief Sponsor: Susan Pulsipher
Senate Sponsor: Wayne A. Harper
Cosponsors: Kera Birkeland
Brady Brammer
Walt Brooks
Kay J. Christofferson
James A. Dunnigan
Dan N. Johnson
Karianne Lisonbee
Michael J. Petersen
Keven J. Stratton
Mike Winder

LONG TITLE

General Description:

This bill establishes filter requirements and enforcement mechanisms for tablets and smart phones activated in the state on or after January 1 of the year following the year this bill takes effect.

Highlighted Provisions:

This bill:

- defines terms;
- requires a tablet or a smart phone (a device) sold in the state and manufactured on or after January 1 of the year following the year this bill takes effect to, when activated in the state, automatically enable a filter capable of blocking material that is harmful to minors;
- requires the filter enabled at activation to:
  - prevent the user of the device from accessing material that is harmful to minors on the device;
  - enable certain users to deactivate the filter for the device or for specific content; and
  - notify the user when content is filtered;
- provides a process for the attorney general or a member of the public to bring a civil action against a manufacturer that manufactures a device on or after January 1 of the year following the year this bill takes effect if:
  - the device does not contain an enabled filter upon activation in the state; and
  - a minor accessed material that is harmful to minors on the device;
- allows for a civil penalty of up to $10 for each violation;
- requires that a portion of any civil penalty recovery be provided to the Crime Victims Reparations Fund;
- provides a process for curing the violation and paying a reduced penalty;
- requires the Judicial Council to adjust the penalty every five years; and
- provides a sunset date.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a contingent effective date.

This bill provides revisor instructions.

Utah Code Sections Affected:

AMENDS:

63I-2-278, as last amended by Laws of Utah 2018, Chapters 38 and 281

ENACTS:

78B-6-2201, Utah Code Annotated 1953
78B-6-2202, Utah Code Annotated 1953
78B-6-2203, Utah Code Annotated 1953
78B-6-2204, Utah Code Annotated 1953
78B-6-2205, Utah Code Annotated 1953
78B-6-2206, Utah Code Annotated 1953

Utah Code Sections Affected by Revisor Instructions:

78B-6-2202, Utah Code Annotated 1953
78B-6-2203, Utah Code Annotated 1953
78B-6-2204, Utah Code Annotated 1953
78B-6-2206, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63I-2-278 is amended to read:

63I-2-278. Repeal dates -- Title 78A and Title 78B.

[~~Subsection 78B-6-144(5) is repealed January 1, 2019.~~]

If Title 78B, Chapter 6, Part 22, Cause of Action to Protect Minors from Unfiltered Devices, is not in effect before January 1, 2031, Title 78B, Chapter 6, Part 22, Cause of Action to Protect Minors from Unfiltered Devices, is repealed January 1, 2031.

Section 2. Section 78B-6-2201 is enacted to read:

Part 22. Cause of Action to Protect Minors from Unfiltered Devices

78B-6-2201. Title.

This part is known as "Cause of Action to Protect Minors from Unfiltered Devices."

Section 3. Section 78B-6-2202 is enacted to read:

78B-6-2202. Definitions.

As used in this part:

(1) "Activate" means the process of powering on a device and associating it with a new user account.

(2) "Device" means a tablet or a smart phone sold in Utah and manufactured on or after January 1 of the year following the year this bill takes effect.

(3) "Filter" means software installed on a device that is capable of preventing the device from accessing or displaying material that is harmful to minors through the Internet or any applications owned and controlled by the manufacturer and installed on the device.

(4) "Harmful to minors" means the same as that term is defined in Section 76-10-1201.

(5) "Internet" means the same as that term is defined in Section 13-40-102.

(6) (a) "Manufacturer" means a person that:

(i) is engaged in the business of manufacturing a device; and

(ii) has a commercial registered agent as that term is defined in Section 16-17-102.

(b) "Manufacturer" includes a registrant as that term is defined in Section 70-3a-103.

(7) "Minor" means an individual under the age of 18 who is not emancipated, married, or a member of the armed forces of the United States.

(8) "Smart phone" means the same as that term is defined in Section 63A-2-101.5.

(9) "Tablet" means a mobile device that:

(a) is equipped with a mobile operating system, touchscreen display, and rechargeable battery; and

(b) has the ability to support access to a cellular network.

Section 4. Section 78B-6-2203 is enacted to read:

78B-6-2203. Filter required.

Beginning on January 1 of the year following the year this bill takes effect, a manufacturer shall manufacture a device that, when activated in the state, automatically enables a filter that:

(1) when enabled, prevents the user from accessing or downloading material that is harmful to minors on:

(a) mobile data networks;

(b) applications owned and controlled by the manufacturer;

(c) wired Internet networks; and

(d) wireless Internet networks;

(2) notifies the user of the device when the filter blocks the device from downloading an application or accessing a website;

(3) gives a user with a passcode the opportunity to unblock a filtered application or website; and

(4) reasonably precludes a user other than a user with a passcode the opportunity to deactivate, modify, or uninstall the filter.

Section 5. Section 78B-6-2204 is enacted to read:

78B-6-2204. Liability.

(1) Beginning January 1 of the year following the year this bill takes effect, a manufacturer of a device is liable to a minor in the state if:

(a) the device is activated in the state;

(b) the device does not, upon activation in the state, enable a filter that complies with the requirements described in Section 78B-6-2203; and

(c) the minor accesses material that is harmful to minors on the device.

(2) Nothing in this part affects any private right of action existing under other law, including contract.

(3) Notwithstanding Subsection (1), this section does not apply to a manufacturer that makes a good faith effort to provide a device that, upon activation of the device in the state, automatically enables a generally accepted and commercially reasonable method of filtration in accordance with this part and industry standards.

Section 6. Section 78B-6-2205 is enacted to read:

78B-6-2205. Damages -- Class action.

(1) If a court finds that a manufacturer is liable under Section 78B-6-2204, the court may award the plaintiff actual damages.

(2) A class action may be brought under this part in accordance with Utah Rules of Civil Procedure, Rule 23.

Section 7. Section 78B-6-2206 is enacted to read:

78B-6-2206. Civil action for enforcement -- Penalties.

(1) (a) A manufacturer that is found liable under Section 78B-6-2204 shall be:

(i) liable for civil penalties not to exceed $10 per violation, plus filing fees and attorney fees, in addition to any other penalty established by law; and

(ii) enjoined from further violations.

(b) The civil penalty may be assessed and recovered in a civil action brought in any court of competent jurisdiction.

(c) For purposes of assessing a penalty under Subsection (1), a manufacturer is considered to have committed a separate violation for each device manufactured on or after January 1 of the year following the year this bill takes effect, and activated in the state on which:

(i) a filter is not automatically enabled; and

(ii) a minor encounters material harmful to minors.

(d) The total civil penalty assessed in a civil action brought under this section may not exceed $500, regardless of how many separate violations the plaintiff establishes.

(2) (a) A plaintiff shall prove and a court shall find, by clear and convincing evidence, that a manufacturer manufactured a device on or after January 1 of the year following the year this bill takes effect, that was activated in the state in violation of Section 78B-6-2203.

(b) The plaintiff shall prove all other elements by a preponderance of the evidence.

(3) The court shall specify the amount of each of the following for each violation:

(a) the civil penalty;

(b) filing fees; and

(c) attorney fees.

(4) In assessing the amount of a civil penalty for a violation of this chapter, the court shall consider the following:

(a) the nature and extent of the violation;

(b) the number and severity of the violations;

(c) the economic effect of the penalty on the violator;

(d) the good faith measures the violator took to comply with this part;

(e) the timing of the measures the violator took to comply with this part;

(f) the willfulness of the violator's misconduct;

(g) the deterrent effect that the imposition of the penalty would have on both the violator and the regulated community as a whole; and

(h) any other factor that the court determines justice requires.

(5) Actions pursuant to this part may be brought by the attorney general's office in the name of the people of the state or by a private individual in accordance with Subsection (6).

(6) A private individual may bring an action in the public interest to establish liability under Section 78B-6-2204 pursuant to this section and after satisfying the requirements of Subsections (7), (8), and (9), if:

(a) the individual has served on the alleged violator and the attorney general's office a notice of an alleged violation of Subsection 78B-6-2203(3);

(b) the attorney general's office has not provided a letter to the noticing party within 45 days after the day on which the attorney general's office receives the notice of an alleged violation indicating that:

(i) an action is currently being pursued or will be pursued by the attorney general's office regarding the violation; or

(ii) the attorney general believes that there is no merit to the action; and

(c) the alleged violator has not responded to the notice of alleged violation or returned the proof of compliance form provided in Subsection (11).

(7) (a) The attorney for the noticing party, or the noticing party if the noticing party is not represented by an attorney, shall execute the notice of an alleged violation.

(b) The notice of an alleged violation shall:

(i) state that the individual executing the notice believes that there is a violation; and

(ii) provide factual information sufficient to establish the basis for the alleged violation.

(8) (a) The attorney general shall review the notice of an alleged violation and may confer with the noticing party.

(b) The attorney general shall provide, within 45 days after the day on which the attorney general received the notice of an alleged violation, a letter to the noticing party and the alleged violator that states whether or not the attorney general finds merit in the action.

(9) (a) An individual who serves a notice of an alleged violation described in Subsection (7) shall complete and provide to the alleged violator at the time the notice of the alleged violation is served, a notice of special compliance procedure and proof of compliance form pursuant to Subsection (11).

(b) The individual may file an action against the alleged violator, or recover from the alleged violator, if:

(i) the notice of alleged violation alleges that the alleged violator failed to manufacture a device that, when activated in the state, automatically enabled a filter as required under Section 78B-6-2203;

(ii) a minor encountered material harmful to minors on the device without the option to enable a filter; and

(iii) within 60 days after the day on which the alleged violator receives the notice of the alleged violation, the alleged violator has not:

(A) corrected the alleged violation and all similar violations known to the alleged violator;

(B) agreed to pay a penalty for the alleged violation in the amount of $10 per violation, up to $500, regardless of the number of separate violations alleged in the notice; and

(C) notified, in writing, the noticing party and the attorney general's office that the violation has been corrected.

(10) (a) The written notice required in Subsection (9)(b)(iii)(C) shall be the notice of special compliance procedure and proof of compliance form specified in Subsection (11).

(b) The alleged violator shall deliver the civil penalty to the noticing party within 60 days after the day on which the alleged violator received the notice of the alleged violation.

(11) The notice required to be provided to an alleged violator pursuant to Subsection (9) shall be presented as follows:

"Date:

Name of Noticing Party or Attorney for Noticing Party:

Address:

Phone Number:

SPECIAL COMPLIANCE PROCEDURE

PROOF OF COMPLIANCE

You are receiving this form because the Noticing Party listed above has alleged that you are in violation of Utah Code Section 78B-6-2202.

The Noticing Party may bring legal proceedings against you for the alleged violation checked below if:

(1) you have not actually taken the corrective steps that you have certified in this form;

(2) the Noticing Party has not received this form at the address shown above, accurately completed by you, postmarked within 50 days after you receive this notice; and

(3) the Noticing Party does not receive the required $10 penalty payment for each violation alleged, with a total payment not to exceed $500 regardless of the number of separate violations alleged in the notice, from you at the address shown above postmarked within 60 days of your receiving this notice.

PART 1: TO BE COMPLETED BY THE NOTICING PARTY OR ATTORNEY FOR THE NOTICING PARTY

This notice of alleged violation is for failure to provide an activated filter to protect minors against exposure to materials considered harmful to minors. [provide complete description of violation(s), including when and where observed and the serial number(s) of the device(s) involved]

Date:

Name of Noticing Party or Attorney for Noticing Party:

Address:

Phone Number:

PART 2: TO BE COMPLETED BY THE ALLEGED VIOLATOR OR AUTHORIZED REPRESENTATIVE

Certification of Compliance

Accurate completion of this form will demonstrate you are now in compliance with Utah Code Section 78B-6-2203, for the alleged violation listed above. You must complete and submit the form below to the Noticing Party at the address shown above, with a copy to the Utah Attorney General's Office, postmarked within 50 days of you receiving this notice.

I hereby agree to pay, within 60 days of receipt of this notice, a penalty of $10 for each violation alleged to the Noticing Party only and certify that I have complied by (check only one of the following):

[ ] Providing the party at the address shown above with information about how to enable a filter.

[ ] Providing the party at the address shown above with information about how to exchange a device that did not have a filter automatically enable upon activation for a replacement device of the same model that will automatically enable the filter upon activation in the state.

CERTIFICATION

My statements on this form, and on any attachments to it, are true, complete, and correct to the best of my knowledge and belief and are made in good faith. I have carefully read the instructions to complete this form.

Signature of alleged violator or authorized representative:

Date:

Name and title of signatory:".

(12) If a lawsuit is commenced, the plaintiff may include additional violations in the claim that are discovered through the discovery process.

(13) An alleged violator shall satisfy the conditions set forth in Subsection (11) only one time per device.

(14) (a) Notwithstanding an alleged violator's compliance with Subsection (10), the attorney general may file an action pursuant to Subsection (5) against the alleged violator.

(b) In any action, a court shall reduce the amount of any civil penalty for a violation to reflect any payment made by the alleged violator to a private individual in accordance with Subsection (10) for the same alleged violation.

(15) Payments shall be made as follows:

(a) a civil penalty ordered by the court shall be paid to the plaintiff as directed by the court; and

(b) a penalty paid in accordance with the special compliance procedure in Subsection (11) shall be made directly to the noticing party.

(16) (a) The Utah Office for Victims of Crimes shall receive 50% of any penalty paid in accordance with this section.

(b) Funds received shall be deposited into the Crime Victim Reparations Fund created in Section 63M-7-526.

(c) The penalty amount upon which the 50% is calculated may not include attorney fees or costs awarded by the court.

(d) If the penalty is paid to a noticing party in accordance with Subsection (11), the noticing party shall remit the amount required by this Subsection (16) along with a copy of the Special Compliance Procedure document.

(e) If a civil penalty is ordered by the court, the plaintiff shall remit the amount required by this Subsection (16) along with a copy of the court order.

(17) The attorney general's office shall provide to the Utah Office for Victims of Crime a copy of all notices of alleged violations to which the attorney general's office did not respond with a letter of merit in accordance with Subsection (8).

(18) The court shall provide to the Utah Office for Victims of Crime a copy of the court's order for payment.

(19) The Utah Office for Victims of Crime shall:

(a) maintain a record of documents and payments submitted pursuant to Subsections (16), (17), and (18); and

(b) create and provide to the Legislature in odd-numbered years beginning after November of the year following the year this bill takes effect a report containing the following for the previous two years:

(i) the number of notices of alleged violations received from the attorney general's office;

(ii) the number of court orders received; and

(iii) the total amount received and deposited into the Crime Victim Reparations Fund.

(20) This section does not apply to a manufacturer who makes a good faith effort to install and enable upon activation in the state a generally accepted and commercially reasonable method of filtration in accordance with this part and industry standards.

(21) (a) Beginning May 1 of the year following the year this bill takes effect, and at each five-year interval, the Judicial Council shall adjust the dollar amount of the civil penalty provided in Subsection (1) based on the change in the annual Consumer Price Index for the most recent five-year period ending on December 31 of the previous year and rounded to the nearest five dollars.

(b) The attorney general shall publish the dollar amount of the civil penalty together with the date of the next scheduled adjustment.

Section 8. Contingent effective date.

(1) Title 78B, Chapter 6, Part 22, Cause of Action to Protect Minors from Unfiltered Devices, takes effect on the first day of January following the day on which at least five states, other than Utah, pass legislation in substantially the same form as Subsection 78B-6-2203(1) and the enactments by the states have taken effect in each state.

(2) The lieutenant governor shall inform the legislative general counsel, in writing, of the date Title 78B, Chapter 6, Part 22, Cause of Action to Protect Minors from Unfiltered Devices, takes effect in accordance with this section.

Section 9. Revisor instructions.

For purposes of Sections 78B-6-2202, 78B-6-2203, 78B-6-2204, and 78B-6-2206, the Legislature intends that the Office of Legislative Research and General Counsel, in preparing the Utah Code database for publication, on the date this bill takes effect, replace the phrase "of the year following the year this bill takes effect" with the year after the year the bill takes effect. For example, if the lieutenant governor informs the legislative general counsel that this bill takes effect in 2022, the Legislature intends that the Office of Legislative Research and General Counsel replace the phrase "of the year following the year this bill takes effect" with the date "2023".

CHAPTER 417
H. B. 94
Passed March 5, 2021
Approved March 23, 2021
Effective May 5, 2021

MICROENTERPRISE HOME KITCHEN AMENDMENTS

Chief Sponsor: Christine F. Watkins
Senate Sponsor: Evan J. Vickers

LONG TITLE

General Description:

This bill creates permitting guidelines for microenterprise home kitchens.

Highlighted Provisions:

This bill:

- defines terms;
- grants administrative authority to the Department of Health to make rules regarding the sanitation, equipment, and maintenance requirements for microenterprise home kitchens; and
- grants administrative authority to local health departments to:
  - create and issue microenterprise home kitchen permits;
  - charge fees for issuing permits and inspecting premises; and
  - inspect microenterprise home kitchens; and
- limits the number of microenterprise home kitchen permits that may be issued within a county and creates a sunset date for this limit.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63I-1-226, as last amended by Laws of Utah 2020, Chapters 19, 154, 172, 181, 221, 232, 303, 347, and 429

ENACTS:

26-15c-101, Utah Code Annotated 1953
26-15c-102, Utah Code Annotated 1953
26-15c-103, Utah Code Annotated 1953
26-15c-104, Utah Code Annotated 1953
26-15c-105, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 26-15c-101 is enacted to read:

CHAPTER 15c. MICROENTERPRISE HOME KITCHEN ACT

26-15c-101. Title.

This chapter is known as the "Microenterprise Home Kitchen Act."

Section 2. Section 26-15c-102 is enacted to read:

26-15c-102. Definitions.

As used in this chapter:

(1) "Food" means:

(a) a raw, cooked, or processed edible substance, ice, nonalcoholic beverage, or ingredient used or intended for use or for sale, in whole or in part, for human consumption; or

(b) chewing gum.

(2) "Local health department" means the same as that term is defined in Section 26A-1-102.

(3) (a) "Microenterprise home kitchen" means a non-commercial kitchen facility located in a private home and operated by a resident of the home where ready-to-eat food is handled, stored, prepared, or offered for sale.

(b) "Microenterprise home kitchen" does not include:

(i) a catering operation;

(ii) a cottage food operation;

(iii) a food truck;

(iv) an agritourism food establishment as defined in Section 26-15b-102;

(v) a bed and breakfast; or

(vi) a residence-based group care facility.

(4) "Microenterprise home kitchen permit" means a permit issued by a local health department to the operator for the purpose of operating a microenterprise home kitchen.

(5) "Operator" means an individual who resides in the private home and who manages or controls the microenterprise home kitchen.

(6) "Ready-to-eat" means:

(a) raw animal food that is cooked;

(b) raw fruits and vegetables that are washed;

(c) fruits and vegetables that are cooked for hot holding;

(d) a time or temperature control food that is cooked to the temperature and time required for the specific food in accordance with rules made by the department in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or

(e) a bakery item for which further cooking is not required for food safety.

(7) "Time or temperature control food" means food that requires time or temperature controls for safety to limit pathogenic microorganism growth or toxin formation.

Section 3. Section 26-15c-103 is enacted to read:

26-15c-103. Permitting -- Fees.

(1) An operator may not operate a microenterprise home kitchen unless the operator obtains a permit from the local health department that has jurisdiction over the area in which the microenterprise home kitchen is located.

(2) In accordance with Section 26A-1-121, and subject to the restrictions of Section 26-15c-105, the department shall make standards and regulations relating to the permitting of a microenterprise home kitchen.

(3) In accordance with Section 26A-1-114, a local health department shall impose a fee for a microenterprise home kitchen permit in an amount that reimburses the local health department for the cost of regulating the microenterprise home kitchen.

Section 4. Section 26-15c-104 is enacted to read:

26-15c-104. Safety and health inspections and permits.

(1) A local health department with jurisdiction over an area in which a microenterprise home kitchen is located may grant a microenterprise home kitchen permit to the operator.

(2) Nothing in this section prevents a local health department from revoking a microenterprise home kitchen permit issued by the local health department if the operation of the microenterprise home kitchen violates the terms of the permit or Section 26-15c-105.

(3) (a) The number of microenterprise home kitchen permits issued by a local health department under this chapter may not exceed:

(i) for a county of the first or second class, 15% of the total number of licenses issued by the local health department to food service establishments as defined in Section 26-15a-102; or

(ii) for a county of the third through sixth class, 70% of the total number of licenses issued by the local health department to food service establishments as defined in Section 26-15a-102.

(b) For a local health department with jurisdiction over two or more counties, the limitation under Subsection (3)(a) shall be calculated separately for each county within the local health department's jurisdiction.

Section 5. Section 26-15c-105 is enacted to read:

26-15c-105. Permit requirements.

(1) An operator may qualify for a microenterprise home kitchen permit if:

(a) food that is served at the microenterprise home kitchen is processed in compliance with state and federal regulations;

(b) a kitchen facility used to prepare food for the microenterprise home kitchen meets the requirements established by the department;

(c) the microenterprise home kitchen operates only during the hours approved in the microenterprise home kitchen permit; and

(d) the microenterprise home kitchen complies with the requirements of this section.

(2) The department shall, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules regarding sanitation, equipment, and maintenance requirements for microenterprise home kitchens.

(3) A local health department shall:

(a) ensure compliance with the rules described in Subsection (2) when inspecting a microenterprise home kitchen;

(b) notwithstanding Section 26A-1-113, inspect a microenterprise home kitchen that requests a microenterprise home kitchen permit only:

(i) for an initial inspection, no more than one week before the microenterprise home kitchen is scheduled to begin operation;

(ii) for an unscheduled inspection, if the local health department conducts the inspection:

(A) within three days before or after the day on which the microenterprise home kitchen is scheduled to begin operation; or

(B) during operating hours of the microenterprise home kitchen; or

(iii) for subsequent inspections if:

(A) the local health department provides the operator with reasonable advanced notice of the inspection; or

(B) the local health department has a valid reason to suspect that the microenterprise home kitchen is the source of an adulterated food or of an outbreak of illness caused by a contaminated food; and

(c) document the reason for any inspection after the initial inspection, keep a copy of that documentation on file with the microenterprise home kitchen's permit, and provide a copy of that documentation to the operator.

(4) A microenterprise home kitchen shall:

(a) take steps to avoid any potential contamination to:

(i) food;

(ii) equipment;

(iii) utensils; or

(iv) unwrapped single-service and single-use articles;

(b) prevent an individual from entering the food preparation area while food is being prepared if the individual is known to be suffering from:

(i) symptoms associated with acute gastrointestinal illness; or

(ii) a communicable disease that is transmissible through food; and

(c) comply with the following requirements:

(i) time or temperature control food shall be prepared, cooked, and served on the same day;

(ii) food that is sold or provided to a customer may not be consumed onsite at the microenterprise home kitchen operation;

(iii) food that is sold or provided to a customer shall be picked up by the consumer or delivered within a safe time period based on holding equipment capacity;

(iv) food preparation may not involve processes that require a HACCP plan, or the production, service, or sale of raw milk or raw milk products;

(v) molluscan shellfish may not be served or sold;

(vi) the operator may only sell or provide food directly to consumers and may not sell or provide food to any wholesaler or retailer; and

(vii) the operator shall provide the consumer with a notification that, while a permit has been issued by the local health department, the kitchen may not meet all of the requirements of a commercial retail food establishment.

(5) When making the rules described in Subsection (2), the department may not make rules regarding:

(a) hand washing facilities, except to require that a hand washing station supplied with warm water, soap, and disposable hand towels is conveniently located in food preparation, food dispensing, and warewashing areas;

(b) kitchen sinks, kitchen sink compartments, and dish sanitation, except to require that the kitchen sink has hot and cold water, a sanitizing agent, is fully operational, and that dishes are sanitized between each use;

(c) the individuals allowed access to the food preparation areas, food storage areas, and washing areas, except during food preparation;

(d) display guards, covers, or containers for display foods, except to require that ready-to-eat food is protected from contamination during storage, preparation, handling, transport, and display;

(e) outdoor display and sale of food, except to require that food is maintained at proper holding temperatures;

(f) utensils and equipment, except to require that utensils and equipment used in the home kitchen:

(i) retain their characteristic qualities under normal use conditions;

(ii) are properly sanitized after use; and

(iii) are maintained in a sanitary manner between uses;

(g) food contact surfaces, except to require that food contact surfaces are smooth, easily cleanable, in good repair, and properly sanitized between tasks;

(h) non-food contact surfaces, if those surfaces are made of materials ordinarily used in residential settings, except to require that those surfaces are kept clean from the accumulation of residue and debris;

(i) clean-in-place equipment, except to require that the equipment is cleaned and sanitized between uses;

(j) ventilation, except to require that gases, odors, steam, heat, grease, vapors, and smoke are able to escape the kitchen;

(k) fixed temperature measuring devices or product mimicking sensors for the holding equipment for time or temperature control food, except to require non-fixed temperature measuring devices for hot and cold holding of food during storage, serving, and cooling;

(l) fixed floor-mounted and table-mounted equipment, except to require that floor-mounted and table-mounted equipment be in good repair and sanitized between uses;

(m) dedicated laundry facilities, except to require that linens used for the microenterprise home kitchen are stored and laundered separately from household laundry and that soiled laundry is stored to prevent contamination of food and equipment;

(n) water, plumbing, drainage, and waste, except to require that:

(i) sinks be supplied with hot and cold potable water from:

(A) an approved public water system as defined in Section 19-4-102;

(B) if the local health department with jurisdiction over the microenterprise home kitchen has regulations regarding the safety of drinking water, a source that meets the local health department's regulations regarding the safety of drinking water; or

(C) a water source that is tested at least once per month for bacteriologic quality, and at least once in every three year period for lead and copper; and

(ii) food preparation and service is discontinued in the event of a disruption of potable water service;

(o) the number of and path of access to toilet facilities, except to require that toilet facilities are equipped with proper handwashing stations;

(p) lighting, except to require that food preparations are well lit by natural or artificial light whenever food is being prepared;

(q) designated dressing areas and storage facilities, except to require that items not ordinarily found in a home kitchen are placed or stored away from food preparation areas, that dressing takes place outside of the kitchen facility, and that food items are stored in a manner that does not allow for contamination;

(r) the presence and handling of animals, except to require that all animals are kept outside of food preparation and service areas;

(s) food storage, floor, wall, ceiling, and toilet surfaces, except to require that surfaces are smooth, of durable construction, easily cleanable, and kept clean and free of debris;

(t) kitchen facilities open to living areas, except to require that food is only prepared, handled, or stored in kitchen and food storage areas;

(u) submission of plans and specifications before construction or remodel of a kitchen facility;

(v) the number and type of time or temperature controlled food offered for sale, except:

(i) a raw time or temperature controlled food such as raw fish, raw milk, and raw shellfish;

(ii) any food requiring special processes that would necessitate a HACCP plan; and

(iii) fish from waters of the state;

(w) approved food sources, except to require that:

(i) food in a hermetically sealed container is obtained from a regulated food processing plant;

(ii) liquid milk and milk products are obtained from sources that comply with Grade A standards specified by the Department of Agriculture and Food by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(iii) fish for sale or service are commercially and legally caught;

(iv) mushrooms picked in the wild are not offered for sale or service; and

(v) game animals offered for sale or service are raised, slaughtered, and processed according to rules governing meat and poultry as specified by the Department of Agriculture and Food by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(x) the use of items produced under this chapter; or

(y) the use of an open air barbeque, grill, or outdoor wood-burning oven.

(6) An operator applying for a microenterprise home kitchen permit shall provide to the local health department:

(a) written consent to enter the premises where food is prepared, cooked, stored, or harvested for the microenterprise home kitchen; and

(b) written standard operating procedures that include:

(i) all food that will be stored, handled, and prepared;

(ii) the proposed procedures and methods of food preparation and handling;

(iii) procedures, methods, and schedules for cleaning utensils and equipment;

(iv) procedures and methods for the disposal of refuse; and

(v) a plan for maintaining time or temperature controlled food at the appropriate temperatures for each time or temperature controlled food.

(7) In addition to a fee charged under Section 26-15c-103, if the local health department is required to inspect the microenterprise home kitchen as a source of an adulterated food or an outbreak of illness caused by a contaminated food and finds, as a result of that inspection, that the microenterprise home kitchen has produced an adulterated food or was the source of an outbreak of illness caused by a contaminated food, the local health department may charge and collect from the microenterprise home kitchen a fee for that inspection.

(8) A microenterprise home kitchen permit:

(a) is nontransferable;

(b) is renewable on an annual basis;

(c) is restricted to the location and hours listed on the permit;

(d) shall include a statement that reads: "This location is permitted under modified FDA requirements."; and

(e) shall provide the operator the opportunity to update the food types and products handled without requiring the operator to renew the permit.

(9) This section does not prohibit an operator from applying for a different type of food event permit from a local health department.

Section 6. Section 63I-1-226 is amended to read:

63I-1-226. Repeal dates, Title 26.

(1) Subsection 26-1-7(1)(f), related to the Residential Child Care Licensing Advisory Committee, is repealed July 1, 2024.

(2) Subsection 26-1-7(1)(h), related to the Primary Care Grant Committee, is repealed July 1, 2025.

(3) Section 26-1-7.5, which creates the Utah Health Advisory Council, is repealed July 1, 2025.

(4) Section 26-1-40 is repealed July 1, 2022.

(5) Section 26-1-41 is repealed July 1, 2026.

(6) Section 26-7-10 is repealed July 1, 2025.

(7) Subsection 26-7-11(5), regarding reports to the Legislature, is repealed July 1, 2028.

(8) Section 26-7-14 is repealed December 31, 2027.

(9) Title 26, Chapter 9f, Utah Digital Health Service Commission Act, is repealed July 1, 2025.

(10) Subsection 26-10-6(5), which creates the Newborn Hearing Screening Committee, is repealed July 1, 2026.

(11) Section 26-10-11 is repealed July 1, 2025.

(12) Section 26-10b-106, which creates the Primary Care Grant Committee, is repealed July 1, 2025.

(13) Subsection 26-15c-104(3), relating to a limitation on the number of microenterprise home

kitchen permits that may be issued, is repealed on July 1, 2022.

[~~(13)~~] (14) Title 26, Chapter 18, Part 2, Drug Utilization Review Board, is repealed July 1, 2027.

[~~(14) Subsection 26-18-417(3) relating to a report to the Health and Human services Interim Committee is repealed July 1, 2020.~~]

(15) Subsection 26-18-418(2), the language that states "and the Behavioral Health Crisis Response Commission created in Section 63C-18-202" is repealed July 1, 2023.

(16) Title 26, Chapter 18a, Kurt Oscarson Children's Organ Transplant Coordinating Committee, is repealed July 1, 2021.

(17) Section 26-33a-117 is repealed on December 31, 2023.

(18) Title 26, Chapter 33a, Utah Health Data Authority Act, is repealed July 1, 2024.

(19) Title 26, Chapter 36b, Inpatient Hospital Assessment Act, is repealed July 1, 2024.

(20) Title 26, Chapter 36c, Medicaid Expansion Hospital Assessment Act, is repealed July 1, 2024.

(21) Title 26, Chapter 36d, Hospital Provider Assessment Act, is repealed July 1, 2024.

(22) Section 26-39-201, which creates the Residential Child Care Licensing Advisory Committee, is repealed July 1, 2024.

(23) Section 26-40-104, which creates the Utah Children's Health Insurance Program Advisory Council, is repealed July 1, 2025.

(24) Section 26-50-202, which creates the Traumatic Brain Injury Advisory Committee, is repealed July 1, 2025.

(25) Title 26, Chapter 54, Spinal Cord and Brain Injury Rehabilitation Fund and Pediatric Neuro-Rehabilitation Fund, is repealed January 1, 2025.

(26) Title 26, Chapter 63, Nurse Home Visiting Pay-for-Success Program, is repealed July 1, 2026.

(27) Title 26, Chapter 66, Early Childhood Utah Advisory Council, is repealed July 1, 2026.

CHAPTER 418
H. B. 136
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Effective May 5, 2021

INITIATIVE AND REFERENDA MODIFICATIONS

Chief Sponsor: Jordan D. Teuscher
Senate Sponsor: Jerry W. Stevenson
Cosponsors: Cheryl K. Acton
Carl R. Albrecht
Melissa G. Ballard
Kera Birkeland
Brady Brammer
Walt Brooks
Jefferson S. Burton
Scott H. Chew
Steve R. Christiansen
Kay J. Christofferson
Joel Ferry
Francis D. Gibson
Matthew H. Gwynn
Timothy D. Hawkes
Dan N. Johnson
Michael L. Kohler
Bradley G. Last
Karianne Lisonbee
Steven J. Lund
Phil Lyman
Jefferson Moss
Merrill F. Nelson
Michael J. Petersen
Val L. Peterson
Candice B. Pierucci
Mike Schultz
Travis M. Seegmiller
Rex P. Shipp
Jeffrey D. Stenquist
Mark A. Strong
Christine F. Watkins
Ryan D. Wilcox

LONG TITLE

General Description:

This bill amends provisions of the Election Code relating to statewide and local initiatives and referenda.

Highlighted Provisions:

This bill:

- imposes requirements on signature gatherers and provides penalties for violation of those requirements;
- modifies the form for signature sheets and the verification of signature packets;
- requires the sponsors of an initiative to:
  - send certain information via email to an individual who signs a petition if the individual provides an email address; and
  - sign a verification that the sponsor complied with the email requirement;
- removes the requirement to include a copy of the initiative or referendum in a signature packet and, instead, requires a signature gatherer to, before collecting a signature, present to the individual a printed or digital copy of the initiative or referendum and wait for the individual to read the initiative or referendum;
- requires the lieutenant governor or a local clerk to post certain information on the lieutenant governor's or clerk's website regarding an initiative or referendum;
- clarifies requirements for review of an application to determine referability to voters; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a coordination clause.

Utah Code Sections Affected:

AMENDS:

20A-1-609, as last amended by Laws of Utah 2020, Chapter 31
20A-7-203, as last amended by Laws of Utah 2020, Fifth Special Session, Chapter 20
20A-7-204, as last amended by Laws of Utah 2017, Chapter 291
20A-7-206, as last amended by Laws of Utah 2020, Chapters 166 and 349
20A-7-303, as last amended by Laws of Utah 2019, Chapter 210
20A-7-304, as last amended by Laws of Utah 1995, Chapter 153
20A-7-306, as last amended by Laws of Utah 2020, Chapter 166
20A-7-502.7, as enacted by Laws of Utah 2019, Chapter 203
20A-7-503, as last amended by Laws of Utah 2017, Chapter 291
20A-7-504, as last amended by Laws of Utah 2019, Chapter 203
20A-7-506, as last amended by Laws of Utah 2019, Chapters 203 and 255
20A-7-602.7, as enacted by Laws of Utah 2019, Chapter 203
20A-7-602.8, as enacted by Laws of Utah 2019, Chapter 203
20A-7-603, as last amended by Laws of Utah 2019, Chapter 203
20A-7-604, as last amended by Laws of Utah 2019, Chapter 203
20A-7-606, as last amended by Laws of Utah 2019, Chapter 255

ENACTS:

20A-7-104, Utah Code Annotated 1953
20A-7-202.7, Utah Code Annotated 1953
20A-7-304.5, Utah Code Annotated 1953
20A-7-502.6, Utah Code Annotated 1953
20A-7-604.5, Utah Code Annotated 1953

Utah Code Sections Affected by Coordination Clause:

20A-7-203, as last amended by Laws of Utah 2020, Fifth Special Session, Chapter 20
20A-7-204, as last amended by Laws of Utah 2017, Chapter 291
20A-7-303, as last amended by Laws of Utah 2019, Chapter 210
20A-7-304, as last amended by Laws of Utah 1995, Chapter 153
20A-7-503, as last amended by Laws of Utah 2017, Chapter 291

20A-7-504, as last amended by Laws of Utah 2019, Chapter 203
20A-7-603, as last amended by Laws of Utah 2019, Chapter 203
20A-7-604, as last amended by Laws of Utah 2019, Chapter 203

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 20A-1-609 is amended to read:

20A-1-609. Omnibus penalties.

(1) (a) Except as provided in Subsection (1)(b), a person who violates any provision of this title is guilty of a class B misdemeanor.

(b) Subsection (1)(a) does not apply to a provision of this title for which another penalty is expressly stated.

(c) An individual is not guilty of a crime for, by signing a petition for an initiative or referendum, falsely making the statement described in Subsection 20A-7-203(2)[~~(e)(ii)~~](d)(xx), 20A-7-303(2)[~~(h)(ii)~~](d)(xx), 20A-7-503(2)[~~(e)~~](d)(xx), or 20A-7-603(2)[~~(h)~~](d)(xx).

(2) Except as provided by Section 20A-2-101.3 or 20A-2-101.5, an individual convicted of any offense under this title may not:

(a) file a declaration of candidacy for any office or appear on the ballot as a candidate for any office during the election cycle in which the violation occurred;

(b) take or hold the office to which the individual was elected; and

(c) receive the emoluments of the office to which the individual was elected.

(3) (a) Any individual convicted of any offense under this title forfeits the right to vote at any election unless the right to vote is restored as provided in Section 20A-2-101.3 or 20A-2-101.5.

(b) Any person may challenge the right to vote of a person described in Subsection (3)(a) by following the procedures and requirements of Section 20A-3a-803.

Section 2. Section 20A-7-104 is enacted to read:

20A-7-104. Signature gatherers -- Payments -- Badges -- Information -- Requirement to provide initiative or referendum for review.

(1) A person may not pay a person to gather signatures under this chapter based on a rate per signature, on a rate per verified signature, or on the initiative or referendum qualifying for the ballot.

(2) A person that pays a person to gather signatures under this section shall base the payment solely on an hourly rate.

(3) A person may not accept payment made in violation of this section.

(4) An individual who is paid to gather signatures for a petition described in this chapter shall, while gathering signatures, wear a badge on the front of the individual's torso that complies with the following, ensuring that the information on the badge is clearly visible to the individual from whom a signature is sought:

(a) the badge shall be printed in black ink on white cardstock and laminated; and

(b) the information on the badge shall be in at least 24-point type and include the following information:

(i) an identification number that is unique to the individual gathering signatures, assigned by:

(A) for a statewide initiative or referendum, the lieutenant governor; or

(B) for a local initiative or referendum, the local clerk;

(ii) the title of the initiative or referendum;

(iii) the words "Paid Signature Gatherer"; and

(iv) the name of the entity paying the signature gatherer.

(5) Except as provided in Subsection (6)(b), an individual who gathers signatures under this chapter shall provide a paper document to each individual who signs the petition that:

(a) is printed in black ink on white paper, white cardstock, or a white sticker, in at least 12-point type; and

(b) (i) for an initiative, includes the name of the initiative and the following statement:

"You may view the initiative, its fiscal impact, and information on removing your signature from the petition at [list a uniform resource locator that links directly to the information described in Section 20A-7-202.7 or 20A-7-502.6, as applicable].": or

(ii) for a referendum, includes the name of the referendum and the following statement:

"You may view the referendum and information on removing your signature from the petition at [list a uniform resource locator that links directly to the information described in Section 20A-7-304.5 or 20A-7-604.5, as applicable]."

(6) An individual who gathers signatures under this chapter:

(a) shall, before collecting a signature from an individual, present to the individual a printed or digital copy of the initiative or referendum and wait for the individual to read the initiative or referendum; and

(b) is not required to provide the document described in Subsection (5) if, after the individual offers to provide the document, the individual who signs the petition declines to accept the document.

(7) A person who violates this section is guilty of a class B misdemeanor.

Section 3. Section 20A-7-202.7 is enacted to read:

20A-7-202.7. Posting initiative information.

(1) Within one business day after the day on which the lieutenant governor receives the initial fiscal impact statement under Subsection 20A-7-202.5(3)(a), the lieutenant governor shall post the following information together in a conspicuous place on the lieutenant governor's website:

(a) the initiative petition;

(b) the initiative;

(c) the fiscal impact statement; and

(d) information describing how an individual may remove the individual's signature from the signature packet.

(2) The lieutenant governor shall:

(a) promptly update the information described in Subsection (1) if the information changes; and

(b) maintain the information described in Subsection (1) on the lieutenant governor's website until the initiative fails to qualify for the ballot or is passed or defeated at an election.

Section 4. Section 20A-7-203 is amended to read:

20A-7-203. Form of initiative petition and signature sheets.

(1) (a) Each proposed initiative petition shall be printed in substantially the following form:

"INITIATIVE PETITION To the Honorable ____, Lieutenant Governor:

We, the undersigned citizens of Utah, respectfully demand that the following proposed law be submitted to the legal voters/Legislature of Utah for their/its approval or rejection at the regular general election/session to be held/ beginning on _____(month\day\year);

Each signer says:

I have personally signed this petition;

I am registered to vote in Utah or intend to become registered to vote in Utah before the certification of the petition names by the county clerk; and

My residence and post office address are written correctly after my name.

NOTICE TO SIGNERS:

Public hearings to discuss this petition were held at: (list dates and locations of public hearings.)".

(b) If the initiative petition proposes a tax increase, the following statement shall appear, in at least 14-point, bold type, immediately following the information described in Subsection (1)(a):

"This initiative petition seeks to increase the current (insert name of tax) rate by (insert the tax percentage difference) percent, resulting in a(n) (insert the tax percentage increase) percent increase in the current tax rate."

(c) The sponsors of an initiative shall attach a copy of the proposed law to each initiative petition.

(2) Each signature sheet shall:

(a) be printed on sheets of paper 8-1/2 inches long and 11 inches wide;

(b) be ruled with a horizontal line three-fourths inch from the top, with the space above that line blank for the purpose of binding;

(c) [~~contain~~] include the title of the initiative printed below the horizontal line, in at least 14-point, bold type;

[~~(d) be vertically divided into columns as follows:~~]

[~~(i) the edge of the first column shall appear .5 inch from the extreme left of the sheet, be.25 inch wide, and be headed, together with the second column, "For Office Use Only";~~]

[~~(ii) the second column shall be .25 inch wide;~~]

[~~(iii) the third column shall be 2.5 inches wide, headed "Registered Voter's Printed Name (must be legible to be counted)";~~]

[~~(iv) the fourth column shall be 2.5 inches wide, headed "Signature of Registered Voter";~~]

[~~(v) the fifth column shall be .75 inch wide, headed "Date Signed";~~]

[~~(vi) the sixth column shall be three inches wide, headed "Street Address, City, Zip Code"; and~~]

[~~(vii) the seventh column shall be .75 inch wide, headed "Birth Date or Age (Optional)";~~]

[~~(e) be horizontally divided into rows as follows:~~]

[~~(i) the top of the first row, for the purpose of entering the information described in Subsection (2)(d), shall be .5 inch high;~~]

[~~(ii) the second row shall be .15 inch high and contain the following statement printed or typed in not less than 12-point type:~~]

[~~"By signing this petition, you are stating that you have read and understand the law proposed by this petition."; and~~]

[~~(iii) the first and second rows shall be repeated, in order, leaving sufficient room at the bottom of the sheet for the information described in Subsection (2)(f); and~~]

(d) include a table immediately below the title of the initiative, and beginning .5 inch from the left side of the paper, as follows:

(i) the first column shall be .5 inch wide and include three rows;

(ii) the first row of the first column shall be .85 inch tall and contain the words "For Office Use Only" in 10-point type;

(iii) the second row of the first column shall be .35 inch tall;

(iv) the third row of the first column shall be .5 inch tall;

(v) the second column shall be 2.75 inches wide;

(vi) the first row of the second column shall be .35 inch tall and contain the words "Registered Voter's Printed Name (must be legible to be counted)" in 10-point type;

(vii) the second row of the second column shall be .5 inch tall;

(viii) the third row of the second column shall be .35 inch tall and contain the words "Street Address, City, Zip Code" in 10-point type;

(ix) the fourth row of the second column shall be .5 inch tall;

(x) the third column shall be 2.75 inches wide;

(xi) the first row of the third column shall be .35 inch tall and contain the words "Signature of Registered Voter" in 10-point type;

(xii) the second row of the third column shall be .5 inch tall;

(xiii) the third row of the third column shall be .35 inch tall and contain the words "Email Address (optional, to receive additional information)" in 10-point type;

(xiv) the fourth row of the third column shall be .5 inch tall;

(xv) the fourth column shall be one inch wide;

(xvi) the first row of the fourth column shall be .35 inch tall and contain the words "Date Signed" in 10-point type;

(xvii) the second row of the fourth column shall be .5 inch tall;

(xviii) the third row of the fourth column shall be .35 inch tall and contain the words "Birth Date or Age (optional)" in 10-point type;

(xix) the fourth row of the third column shall be .5 inch tall; and

(xx) the fifth row of the entire table shall be the width of the entire table, .4 inch tall, and contain the following statement, "By signing this petition, you are stating that you have read and understand the law proposed by this petition." in 12-point type;

(e) the table described in Subsection (2)(d) shall be repeated, leaving sufficient room at the bottom of the sheet for the information described in Subsection (2)(f); and

(f) at the bottom of the sheet, [~~contain~~] include in the following order:

(i) the words "Fiscal Impact of" followed by the title of the initiative, in at least [~~14-point~~] 12-point, bold type;

(ii) except as provided in Subsection (4), the initial fiscal impact estimate's summary statement issued by the Office of the Legislative Fiscal Analyst in accordance with Subsection 20A-7-202.5(2)(a), including any update in accordance with Subsection 20A-7-204.1(5), in not less than 12-point[~~, bold~~] type;

(iii) if the initiative petition proposes a tax increase, the following statement in 12-point, bold type:

"This initiative petition seeks to increase the current (insert name of tax) rate by (insert the tax percentage difference) percent, resulting in a(n) (insert the tax percentage increase) percent increase in the current tax rate."; and

[~~(iii)~~] (iv) the word "Warning," in 12-point, bold type, followed by the following statement in not less than eight-point type:

"It is a class A misdemeanor for an individual to sign an initiative petition with a name other than the individual's own name, or to knowingly sign the individual's name more than once for the same measure, or to sign an initiative petition when the individual knows that the individual is not a registered voter and knows that the individual does not intend to become registered to vote before the certification of the petition names by the county clerk.[~~"; (iv) the following statement:"~~]

Birth date or age information is not required, but it may be used to verify your identity with voter registration records. If you choose not to provide it, your signature may not be verified as a valid signature if you change your address before petition signatures are verified or if the information you provide does not match your voter registration records."[~~; and~~]

[~~(v) if the initiative petition proposes a tax increase, spanning the bottom of the sheet, horizontally, in not less than 14-point, bold type, the following statement:~~]

[~~"This initiative petition seeks to increase the current (insert name of tax) rate by (insert the tax percentage difference) percent, resulting in a(n) (insert the tax percentage increase) percent increase in the current tax rate."~~]

(3) The final page of each initiative packet shall contain the following printed or typed statement:

[~~"~~]Verification of signature collector

State of Utah, County of ____

I, _____, of ____, hereby state, under penalty of perjury, that:

I am a resident of Utah and am at least 18 years old;

All the names that appear in this packet were signed by individuals who professed to be the individuals whose names appear in it, and each of the individuals signed the individual's name on it in my presence;

I believe that each individual has printed and signed the individual's name and written the individual's post office address and residence correctly, that each signer has read and understands the law proposed by the initiative, and that each signer is registered to vote in Utah or intends to become registered to vote before the certification of the petition names by the county clerk.

Each individual who signed the packet wrote the correct date of signature next to the individual's name.

I have not paid or given anything of value to any individual who signed this petition to encourage that individual to sign it.

_____

(Name) (Residence Address) (Date)[~~?~~]

(4) If the initial fiscal impact estimate described in Subsection (2)(f), as updated in accordance with Subsection 20A-7-204.1(5), exceeds 200 words, the Office of the Legislative Fiscal Analyst shall prepare a shorter summary statement, for the purpose of inclusion on a signature sheet, that does not exceed 200 words.

(5) If the forms described in this section are substantially followed, the initiative petitions are sufficient, notwithstanding clerical and merely technical errors.

Section 5. Section 20A-7-204 is amended to read:

20A-7-204. Circulation requirements -- Lieutenant governor to provide sponsors with materials.

(1) In order to obtain the necessary number of signatures required by this part, the sponsors shall circulate initiative packets that meet the form requirements of this part.

(2) The lieutenant governor shall furnish to the sponsors:

(a) a copy of the initiative petition, with any change submitted under Subsection 20A-7-204.1(5); and

(b) one signature sheet.

(3) The sponsors of the petition shall:

(a) arrange and pay for the printing of all additional copies of the petition and signature sheets; and

(b) ensure that the copies of the petition and signature sheets meet the form requirements of this section.

(4) (a) The sponsors may prepare the initiative for circulation by creating multiple initiative packets.

(b) The sponsors shall create [~~those~~] the packets by binding a copy of the initiative petition[~~, a copy of the proposed law,~~] and no more than 50 signature sheets together at the top [~~in such a way~~] so that the packets may be conveniently opened for signing.

(c) The sponsors need not attach a uniform number of signature sheets to each initiative packet.

[~~(5) (a) After the sponsors have prepared sufficient initiative packets, they shall return them to the lieutenant governor.~~]

(5) (a) The sponsors or an agent of the sponsors shall, before gathering signatures:

(i) contact the lieutenant governor's office to receive a range of numbers that the sponsors may use to number signature packets; and

(ii) number each signature packet, sequentially, within the range of numbers provided by the lieutenant governor's office, starting with the lowest number in the range.

(b) The sponsors or an agent of the sponsors may not:

(i) number a signature packet in a manner not directed by the lieutenant governor's office; or

(ii) circulate or submit a signature packet that is not numbered in the manner directed by the lieutenant governor's office.

[~~(b)~~] (c) The lieutenant governor shall[~~:~~] keep a record of the number range provided under Subsection (5)(a).

[~~(i) number each of the initiative packets and return them to the sponsors within five working days; and~~]

[~~(ii) keep a record of the numbers assigned to each packet.~~]

Section 6. Section 20A-7-206 is amended to read:

20A-7-206. Submitting the initiative petition -- Certification of signatures by the county clerks -- Transfer to lieutenant governor.

(1) (a) In order to qualify an initiative petition for placement on the regular general election ballot, the sponsors, or an agent of the sponsors, shall deliver a signed and verified initiative packet to the county clerk of the county in which the packet was circulated before 5 p.m. no later than the earlier of:

(i) 30 days after the day on which the first individual signs the initiative packet;

(ii) 316 days after the day on which the application for the initiative petition is filed; or

(iii) the February 15 immediately before the next regular general election immediately after the application is filed under Section 20A-7-202.

(b) A [~~sponsor~~] person may not submit an initiative packet after the deadline described in Subsection (1)(a).

(c) Before delivering a packet to the county clerk under Subsection (1), the sponsors shall send an email to each individual who provides a legible, valid email address on the form described in Subsection 20A-7-203(2)(d) that includes the following:

(i) the subject of the email shall include the following statement, "Notice Regarding Your Petition Signature";

(ii) the body of the email shall include the following statement in 12-point type:

"You signed a petition for the following initiative:

[insert title of initiative]

To access a copy of the initiative petition, the initiative, the fiscal impact statement, and information on the deadline for removing your signature from the petition, please visit the following link: [insert a uniform resource locator that takes the individual directly to the page on the lieutenant governor's website that includes the information referred to in the email]."

(d) When the sponsors submit the final signature packet to the county clerk, the sponsors shall submit to the county clerk the following written verification, completed and signed by each of the sponsors:

Verification of initiative sponsor

State of Utah, County of _____

I, _____, of _____, hereby state, under penalty of perjury, that:

I am a sponsor of the initiative petition entitled _____;

I sent, or caused to be sent, to each individual who provided a legible, valid email address on a signature packet submitted to the county clerk in relation to the initiative petition, the email described in Utah Code Subsection 20A-7-206(1)(c).

_____

(Name) (Residence Address) (Date)

(e) Signatures gathered for the initiative petition are not valid if the sponsors do not comply with this Subsection (1).

(2) For an initiative packet received by the county clerk before December 1, the county clerk shall, within 30 days after the day on which the county clerk receives the packet:

(a) determine whether each signer is a registered voter according to the requirements of Section 20A-7-206.3;

(b) certify on the petition whether each name is that of a registered voter;

(c) post the name and voter identification number of each registered voter certified under Subsection (2)(b) in a conspicuous location on the county's website for at least 90 days; and

(d) deliver the verified initiative packet to the lieutenant governor.

(3) For an initiative packet received by the county clerk on or after December 1, the county clerk shall, within 21 days after the day on which the county clerk receives the packet:

(a) determine whether each signer is a registered voter according to the requirements of Section 20A-7-206.3;

(b) certify on the petition whether each name is that of a registered voter;

(c) post the name and voter identification number of each registered voter certified under Subsection (2)(b) in a conspicuous location on the county's website for at least 45 days; and

(d) deliver the verified initiative packet to the lieutenant governor.

(4) Within seven days after timely receipt of a statement described in Subsection 20A-7-205(3), the county clerk shall:

(a) remove the voter's name and voter identification number from the posting described in Subsection (2)(c) or (3)(c); and

(b) (i) remove the voter's signature from the signature packet totals; and

(ii) inform the lieutenant governor of the removal.

(5) The county clerk may not certify a signature under Subsection (2) or (3):

(a) on an initiative packet that is not verified in accordance with Section 20A-7-205; or

(b) that does not have a date of signature next to the signature.

(6) In order to qualify an initiative petition for submission to the Legislature, the sponsors shall deliver each signed and verified initiative packet to the county clerk of the county in which the packet was circulated before 5 p.m. no later than the November 15 before the next annual general session of the Legislature immediately after the application is filed under Section 20A-7-202.

(7) The county clerk may not certify a signature under Subsection (8) on an initiative packet that is not verified in accordance with Section 20A-7-205.

(8) No later than December 15 before the annual general session of the Legislature, the county clerk shall, for an initiative described in Subsection (6):

(a) determine whether each signer is a registered voter according to the requirements of Section 20A-7-206.3;

(b) certify on the petition whether each name is that of a registered voter; and

(c) deliver all of the verified initiative packets to the lieutenant governor.

(9) The sponsor or a sponsor's representative may not retrieve an initiative packet from a county clerk after the initiative packet is submitted to the county clerk.

Section 7. Section 20A-7-303 is amended to read:

20A-7-303. Form of referendum petition and signature sheets.

(1) (a) Each proposed referendum petition shall be printed in substantially the following form:

"REFERENDUM PETITION To the Honorable ____, Lieutenant Governor:

We, the undersigned citizens of Utah, respectfully order that Senate (or House) Bill No. ____, entitled (title of act, and, if the petition is

against less than the whole act, set forth here the part or parts on which the referendum is sought), passed by the ____ Session of the Legislature of the state of Utah, be referred to the people of Utah for their approval or rejection at a regular general election or a statewide special election;

Each signer says:

I have personally signed this petition;

I am registered to vote in Utah or intend to become registered to vote in Utah before the certification of the petition names by the county clerk; and

My residence and post office address are written correctly after my name."

(b) The sponsors of a referendum shall attach a copy of the law that is the subject of the referendum to each referendum petition.

(2) Each signature sheet shall:

(a) be printed on sheets of paper 8-1/2 inches long and 11 inches wide;

(b) be ruled with a horizontal line three-fourths inch from the top, with the space above that line blank for the purpose of binding;

(c) [~~contain~~] include the title of the referendum printed below the horizontal line, in at least 14-point, bold type;

[~~(d) contain the word "Warning" printed or typed at the top of each signature sheet under the title of the referendum;~~]

[~~(e) contain, to the right of the word "Warning," the following statement printed or typed in not less than eight-point, single-leaded type:~~]

[~~"It is a class A misdemeanor for an individual to sign a referendum petition with any other name than the individual's own name, or knowingly to sign the individual's name more than once for the same measure, or to sign a referendum petition when the individual knows that the individual is not a registered voter and knows that the individual does not intend to become registered to vote before the certification of the petition names by the county clerk.";~~]

[~~(f) contain horizontally ruled lines, three-eighths inch apart under the "Warning" statement required by this section; and~~]

[~~(g) be vertically divided into columns as follows:~~]

[~~(i) the edge of the first column shall appear .5 inch from the extreme left of the sheet, be.25 inch wide, and be headed, together with the second column, "For Office Use Only";~~]

[~~(ii) the second column shall be .25 inch wide;~~]

[~~(iii) the third column shall be 2.5 inches wide, headed "Registered Voter's Printed Name (must be legible to be counted)";~~]

[~~(iv) the fourth column shall be 2.5 inches wide, headed "Signature of Registered Voter";~~]

[~~(v) the fifth column shall be .75 inch wide, headed "Date Signed";~~]

[~~(vi) the sixth column shall be three inches wide, headed "Street Address, City, Zip Code"; and~~]

[~~(vii) the seventh column shall be .75 inch wide, headed"Birth Date or Age (Optional)";~~]

[~~(h) be horizontally divided into rows as follows:~~]

[~~(i) the top of the first row, for the purpose of entering the information described in Subsection (2)(g), shall be .5 inch high;~~]

[~~(ii) the second row shall be .15 inch high and contain the following statement printed or typed in not less than 12-point type:~~]

[~~"By signing this petition, you are stating that you have read and understand the law this petition seeks to overturn."; and~~]

[~~(iii) the first and second rows shall be repeated, in order, leaving sufficient room at the bottom of the sheet for the information described in Subsection (2)(i); and~~]

[~~(i) at the bottom of the sheet, contain the following statement: "Birth date or age information is not required, but it may be used to verify your identity with voter registration records. If you choose not to provide it, your signature may not be verified as a valid signature if you change your address before petition signatures are verified or if the information you provide does not match your voter registration records."~~]

(d) include a table immediately below the title of the referendum, and beginning .5 inch from the left side of the paper, as follows:

(i) the first column shall be .5 inch wide and include three rows;

(ii) the first row of the first column shall be .85 inch tall and contain the words "For Office Use Only" in 10-point type;

(iii) the second row of the first column shall be .35 inch tall;

(iv) the third row of the first column shall be .5 inch tall;

(v) the second column shall be 2.75 inches wide;

(vi) the first row of the second column shall be .35 inch tall and contain the words "Registered Voter's Printed Name (must be legible to be counted)" in 10-point type;

(vii) the second row of the second column shall be .5 inch tall;

(viii) the third row of the second column shall be .35 inch tall and contain the words "Street Address, City, Zip Code" in 10-point type;

(ix) the fourth row of the second column shall be .5 inch tall;

(x) the third column shall be 2.75 inches wide;

(xi) the first row of the third column shall be .35 inch tall and contain the words "Signature of Registered Voter" in 10-point type;

(xii) the second row of the third column shall be .5 inch tall;

(xiii) the third row of the third column shall be .35 inch tall and contain the words "Email Address (optional, to receive additional information)" in 10-point type;

(xiv) the fourth row of the third column shall be .5 inch tall;

(xv) the fourth column shall be one inch wide;

(xvi) the first row of the fourth column shall be .35 inch tall and contain the words "Date Signed" in 10-point type;

(xvii) the second row of the fourth column shall be .5 inch tall;

(xviii) the third row of the fourth column shall be .35 inch tall and contain the words "Birth Date or Age (optional)" in 10-point type;

(xix) the fourth row of the third column shall be .5 inch tall; and

(xx) the fifth row of the entire table shall be the width of the entire table, .4 inch tall, and contain the following words "By signing this petition, you are stating that you have read and understand the law that this petition seeks to overturn." in 12-point type;

(e) the table described in Subsection (2)(d) shall be repeated, leaving sufficient room at the bottom of the sheet for the information described in Subsection (2)(f); and

(f) at the bottom of the sheet, include the word "Warning," in 12-point, bold type, followed by the following statement in not less than eight-point type:

"It is a class A misdemeanor for an individual to sign a referendum petition with a name other than the individual's own name, or to knowingly sign the individual's name more than once for the same measure, or to sign a referendum petition when the individual knows that the individual is not a registered voter and knows that the individual does not intend to become registered to vote before the certification of the petition names by the county clerk.

Birth date or age information is not required, but it may be used to verify your identity with voter registration records. If you choose not to provide it, your signature may not be verified as a valid signature if you change your address before petition signatures are verified or if the information you provide does not match your voter registration records."

(3) The final page of each referendum packet shall contain the following printed or typed statement:

[~~"~~]Verification of signature collector

State of Utah, County of ____

I, _____, of ____, hereby state, under penalty of perjury, that:

I am a Utah resident and am at least 18 years old;

All the names that appear in this packet were signed by individuals who professed to be the individuals whose names appear in it, and each of the individuals signed the individual's name on it in my presence;

I believe that each individual has printed and signed the individual's name and written the individual's post office address and residence correctly, that each signer has read and understands the law that the referendum seeks to overturn, and that each signer is registered to vote in Utah or intends to become registered to vote before the certification of the petition names by the county clerk.

Each individual who signed the packet wrote the correct date of signature next to the individual's name.

I have not paid or given anything of value to any individual who signed this petition to encourage that individual to sign it.

_____

(Name) (Residence Address) (Date)[~~"~~]

(4) If the forms described in this section are substantially followed, the referendum petitions are sufficient, notwithstanding clerical and merely technical errors.

Section 8. Section 20A-7-304 is amended to read:

20A-7-304. Circulation requirements -- Lieutenant governor to provide sponsors with materials.

(1) In order to obtain the necessary number of signatures required by this part, the sponsors shall circulate referendum packets that meet the form requirements of this part.

(2) The lieutenant governor shall furnish to the sponsors:

(a) a copy of the referendum petition; and

(b) a signature sheet.

(3) The sponsors of the petition shall:

(a) arrange and pay for the printing of all additional copies of the petition and signature sheets; and

(b) ensure that the copies of the petition and signature sheets meet the form requirements of this section.

(4) (a) The sponsors may prepare the referendum for circulation by creating multiple referendum packets.

(b) The sponsors shall create [~~those~~] the packets by binding a copy of the referendum petition[~~, a copy of the law that is the subject of the referendum,~~] and no more than 50 signature sheets together at the top [~~in such a way~~] so that the packets may be conveniently opened for signing.

(c) The sponsors need not attach a uniform number of signature sheets to each referendum packet.

[~~(5) (a) After the sponsors have prepared sufficient referendum packets, they shall return them to the lieutenant governor.~~]

(5) (a) The sponsors or an agent of the sponsors shall, before gathering signatures:

(i) contact the lieutenant governor's office to receive a range of numbers that the sponsors may use to number signature packets; and

(ii) number each signature packet, sequentially, within the range of numbers provided by the lieutenant governor's office, starting with the lowest number in the range.

(b) The sponsors or an agent of the sponsors may not:

(i) number a signature packet in a manner not directed by the lieutenant governor's office; or

(ii) circulate or submit a signature packet that is not numbered in the manner directed by the lieutenant governor's office.

[~~(b)~~] (c) The lieutenant governor shall[~~:~~] keep a record of the number range provided under Subsection (5)(a).

[~~(i) number each of the referendum packets and return them to the sponsors within five working days; and~~]

[~~(ii) keep a record of the numbers assigned to each packet.~~]

Section 9. Section 20A-7-304.5 is enacted to read:

20A-7-304.5. Posting referendum information.

(1) On the day on which the lieutenant governor complies with Subsection 20A-7-304(2), the lieutenant governor shall post the following information together in a conspicuous place on the lieutenant governor's website:

(a) the referendum petition;

(b) the referendum; and

(c) information describing how an individual may remove the individual's signature from the signature packet.

(2) The lieutenant governor shall:

(a) promptly update the information described in Subsection (1) if the information changes; and

(b) maintain the information described in Subsection (1) on the lieutenant governor's website until the referendum fails to qualify for the ballot or is passed or defeated at an election.

Section 10. Section 20A-7-306 is amended to read:

20A-7-306. Submitting the referendum petition -- Certification of signatures by the county clerks -- Transfer to lieutenant governor.

(1) (a) The sponsors, or the agent of the sponsors, shall deliver a signed and verified referendum packet to the county clerk of the county in which the packet was circulated before 5 p.m. no later than the earlier of:

(i) 14 days after the day on which the first individual signs the referendum packet; or

(ii) 40 days after the day on which the legislative session at which the law passed ends.

(b) A [~~sponsor~~] person may not submit a referendum packet after the deadline described in Subsection (1)(a).

(2) (a) No later than 14 days after the day on which the county clerk receives a verified referendum packet, the county clerk shall:

(i) check the name of each individual who completes the verification on the last page of each referendum packet to determine whether the individual is a resident of Utah and is at least 18 years old; and

(ii) submit the name of each individual who is not a Utah resident or who is not at least 18 years old to the attorney general and county attorney.

(b) The county clerk may not certify a signature under Subsection (3):

(i) on a referendum packet that is not verified in accordance with Section 20A-7-305; or

(ii) that does not have a date of signature next to the signature.

(3) No later than 14 days after the day on which the county clerk receives a verified referendum packet, the county clerk shall:

(a) determine whether each signer is a registered voter according to the requirements of Section 20A-7-306.3;

(b) certify on the referendum petition whether each name is that of a registered voter;

(c) post the name and voter identification number of each registered voter certified under Subsection (3)(b) in a conspicuous location on the county's website for at least 45 days; and

(d) deliver the verified referendum packet to the lieutenant governor.

(4) The county clerk shall, after timely receipt of a statement requesting signature removal under Subsection 20A-7-305(3), remove the voter's name and voter identification number from the posting described in Subsection (3)(c), and notify the lieutenant governor's office of the removal, the earlier of:

(a) within two business days after the day on which the [~~the~~] county clerk timely receives the statement; or

(b) 99 days after the day on which the legislative session at which the law passed ends.

(5) The sponsor or a sponsor's representative may not retrieve a referendum packet from a county clerk after the referendum packet is submitted to the county clerk.

Section 11. Section 20A-7-502.6 is enacted to read:

20A-7-502.6. Posting initiative information.

(1) Within one business day after the day on which the local clerk's office receives the initial fiscal impact estimate under Subsection 20A-7-502.5(4)(a), the local clerk shall post the following information together in a conspicuous place on the local clerk's website:

(a) the initiative petition;

(b) the initiative;

(c) the fiscal impact estimate; and

(d) information describing how an individual may remove the individual's signature from the signature packet.

(2) The local clerk shall:

(a) promptly update the information described in Subsection (1) if the information changes; and

(b) maintain the information described in Subsection (1) on the local clerk's website until the initiative fails to qualify for the ballot or is passed or defeated at an election.

Section 12. Section 20A-7-502.7 is amended to read:

20A-7-502.7. Referability to voters.

(1) Within 20 days after the day on which an eligible voter files an application to circulate an initiative petition under Section 20A-7-502, counsel for the county, city, town, or metro township to which the initiative pertains shall:

(a) review the proposed law in the initiative application to determine whether the law is legally referable to voters; and

(b) notify the first three sponsors, in writing, whether the proposed law is:

(i) legally referable to voters; or

(ii) rejected as not legally referable to voters.

(2) A proposed law in an initiative application is legally referable to voters unless:

(a) the proposed law is patently unconstitutional;

(b) the proposed law is nonsensical;

(c) the proposed law is administrative, rather than legislative, in nature;

(d) the proposed law could not become law if passed;

(e) the proposed law contains more than one subject as evaluated in accordance with Subsection 20A-7-502(3);

(f) the subject of the proposed law is not clearly expressed in the law's title;

(g) the proposed law is identical or substantially similar to a legally referable proposed law sought by an initiative application submitted to the local clerk, under Section 20A-7-502, within two years before the day on which the application for the current proposed initiative is filed; or

(h) the application for the proposed law was not timely filed or does not comply with the requirements of this part.

(3) After the end of the 20-day period described in Subsection (1), a county, city, town, or metro township may not:

(a) reject a proposed initiative as not legally referable to voters; or

(b) bring a legal action, other than to appeal a court decision, challenging a proposed initiative on the grounds that the proposed initiative is not legally referable to voters.

(4) If a county, city, town, or metro township rejects a proposed initiative, a sponsor of the proposed initiative may, within 10 days after the day on which a sponsor is notified under Subsection (1)(b), appeal the decision to:

(a) district court; or

(b) the Supreme Court, if the Supreme Court has original jurisdiction over the appeal.

(5) If, on appeal, the court determines that the law proposed in the initiative petition is legally referable to voters, the local clerk shall comply with Subsection 20A-7-504(2) within five days after the day on which the determination, and any appeal of the determination, is final.

Section 13. Section 20A-7-503 is amended to read:

20A-7-503. Form of initiative petitions and signature sheets.

(1) (a) Each proposed initiative petition shall be printed in substantially the following form:

"INITIATIVE PETITION To the Honorable ____, County Clerk/City Recorder/Town Clerk:

We, the undersigned citizens of Utah, respectfully demand that the following proposed law be submitted to: the legislative body for its approval or rejection at its next meeting; and the legal voters of the county/city/town, if the legislative body rejects the proposed law or takes no action on it.

Each signer says:

I have personally signed this petition;

I am registered to vote in Utah or intend to become registered to vote in Utah before the certification of the petition names by the county clerk; and

My residence and post office address are written correctly after my name."

(b) If the initiative petition proposes a tax increase, the following statement shall appear, in at least 14-point, bold type, immediately following the information described in Subsection (1)(a):

"This initiative petition seeks to increase the current (insert name of tax) rate by (insert the tax percentage difference) percent, resulting in a(n) (insert the tax percentage increase) percent increase in the current tax rate."

(c) The sponsors of an initiative shall attach a copy of the proposed law to each initiative petition.

(2) Each signature sheet shall:

(a) be printed on sheets of paper 8-1/2 inches long and 11 inches wide;

(b) be ruled with a horizontal line three-fourths inch from the top, with the space above that line blank for the purpose of binding;

(c) [~~contain~~] include the title of the initiative printed below the horizontal line, in at least 14-point, bold type;

[~~(d) be vertically divided into columns as follows:~~]

[~~(i) the first column shall appear at the extreme left of the sheet, be five-eighths inch wide, be headed with "For Office Use Only", and be subdivided with a light vertical line down the middle with the left subdivision entitled "Registered" and the right subdivision left untitled;~~]

[~~(ii) the next column shall be 2-1/2 inches wide, headed "Registered Voter's Printed Name (must be legible to be counted)";~~]

[~~(iii) the next column shall be 2-1/2 inches wide, headed "Signature of Registered Voter";~~]

[~~(iv) the next column shall be one inch wide, headed "Birth Date or Age (Optional)"; and~~]

[~~(v) the final column shall be 4-3/8 inches wide, headed "Street Address, City, Zip Code";~~]

[~~(e) spanning the sheet horizontally beneath each row on which a registered voter may submit the information described in Subsection (2)(d), contain the following statement printed or typed in not less than eight-point type:~~]

[~~"By signing this petition, you are stating that you have read and understand the law proposed by this petition."; and~~]

(d) include a table immediately below the title of the initiative, and beginning .5 inch from the left side of the paper, as follows:

(i) the first column shall be .5 inch wide and include three rows;

(ii) the first row of the first column shall be .85 inch tall and contain the words "For Office Use Only" in 10-point type;

(iii) the second row of the first column shall be .35 inch tall;

(iv) the third row of the first column shall be .5 inch tall;

(v) the second column shall be 2.75 inches wide;

(vi) the first row of the second column shall be .35 inch tall and contain the words "Registered Voter's Printed Name (must be legible to be counted)" in 10-point type;

(vii) the second row of the second column shall be .5 inch tall;

(viii) the third row of the second column shall be .35 inch tall and contain the words "Street Address, City, Zip Code" in 10-point type;

(ix) the fourth row of the second column shall be .5 inch tall;

(x) the third column shall be 2.75 inches wide;

(xi) the first row of the third column shall be .35 inch tall and contain the words "Signature of Registered Voter" in 10-point type;

(xii) the second row of the third column shall be .5 inch tall;

(xiii) the third row of the third column shall be .35 inch tall and contain the words "Email Address (optional, to receive additional information)" in 10-point type;

(xiv) the fourth row of the third column shall be .5 inch tall;

(xv) the fourth column shall be one inch wide;

(xvi) the first row of the fourth column shall be .35 inch tall and contain the words "Date Signed" in 10-point type;

(xvii) the second row of the fourth column shall be .5 inch tall;

(xviii) the third row of the fourth column shall be .35 inch tall and contain the words "Birth Date or Age (optional)" in 10-point type;

(xix) the fourth row of the third column shall be .5 inch tall; and

(xx) the fifth row of the entire table shall be the width of the entire table, .4 inch tall, and contain the following words "By signing this petition, you are stating that you have read and understand the law proposed by this petition." in 12-point type;

(e) the table described in Subsection (2)(d) shall be repeated, leaving sufficient room at the bottom of the sheet for the information described in Subsection (2)(f); and

(f) at the bottom of the sheet, [~~contain~~] include in the following order:

(i) the words "Fiscal impact of" followed by the title of the initiative, in at least [~~14-point~~] 12-point, bold type;

(ii) the initial fiscal impact estimate's summary statement issued by the budget officer in accordance with Subsection 20A-7-502.5(2)(b) and the cost estimate for printing and distributing information related to the initiative petition in

accordance with Subsection 20A-7-502.5(3), in not less than 12-point, bold type;

(iii) if the initiative petition proposes a tax increase, the following statement in 12-point, bold type:

"This initiative petition seeks to increase the current (insert name of tax) rate by (insert the tax percentage difference) percent, resulting in a(n) (insert the tax percentage increase) percent increase in the current tax rate."; and

[~~(iii)~~] (iv) the word "Warning," in 12-point, bold type, followed by the following statement in not less than eight-point type:

"It is a class A misdemeanor for an individual to sign an initiative petition with a name other than the individual's own name, or to knowingly sign the individual's name more than once for the same measure, or to sign an initiative petition when the individual knows that the individual is not a registered voter and knows that the individual does not intend to become registered to vote before the certification of the petition names by the county clerk.[~~"; (iv) the following statement: "~~]

Birth date or age information is not required, but it may be used to verify your identity with voter registration records. If you choose not to provide it, your signature may not be verified as a valid signature if you change your address before petition signatures are verified or if the information you provide does not match your voter registration records."[~~; and~~]

[~~(v) if the initiative petition proposes a tax increase, spanning the bottom of the sheet, horizontally, in not less than 14-point, bold type, the following statement:~~]

[~~"This initiative petition seeks to increase the current (insert name of tax) rate by (insert the tax percentage difference) percent, resulting in a(n) (insert the tax percentage increase) percent increase in the current tax rate."~~]

(3) The final page of each initiative packet shall contain the following printed or typed statement:

[~~"~~]Verification of signature collector

State of Utah, County of ____

I, _____, of ____, hereby state that:

I am a resident of Utah and am at least 18 years old;

All the names that appear in this initiative packet were signed by the individuals who professed to be the individuals whose names appear in it, and each of the individuals signed the individual's name on it in my presence;

I believe that each individual has printed and signed the individual's name and written the individual's post office address and residence correctly, and that each signer is registered to vote in Utah or intends to become registered to vote before the certification of the petition names by the county clerk.

[_____"]

_____

(Name) (Residence Address) (Date)

(4) The forms prescribed in this section are not mandatory, and, if substantially followed, the initiative petitions are sufficient, notwithstanding clerical and merely technical errors.

Section 14. Section 20A-7-504 is amended to read:

20A-7-504. Circulation requirements -- Local clerk to provide sponsors with materials.

(1) In order to obtain the necessary number of signatures required by this part, the sponsors shall, after the sponsors receive the documents described in Subsections (2)(a) and (b) and Subsection 20A-7-401.5(4)(b), circulate initiative packets that meet the form requirements of this part.

(2) Within five days after the day on which a county, city, town, metro township, or court determines, in accordance with Section 20A-7-502.7, that a law proposed in an initiative petition is legally referable to voters, the local clerk shall furnish to the sponsors:

(a) one copy of the initiative petition; and

(b) one signature sheet.

(3) The sponsors of the petition shall:

(a) arrange and pay for the printing of all additional copies of the petition and signature sheets; and

(b) ensure that the copies of the petition and signature sheets meet the form requirements of this section.

(4) (a) The sponsors may prepare the initiative for circulation by creating multiple initiative packets.

(b) The sponsors shall create [~~those~~] the packets by binding a copy of the initiative petition[~~, a copy of the proposed law,~~] and no more than 50 signature sheets together at the top [~~in such a way~~] so that the packets may be conveniently opened for signing.

(c) The sponsors need not attach a uniform number of signature sheets to each initiative packet.

(d) The sponsors shall include, with each packet, a copy of the proposition information pamphlet provided to the sponsors under Subsection 20A-7-401.5(4)(b).

Section 15. Section 20A-7-506 is amended to read:

20A-7-506. Submitting the initiative petition -- Certification of signatures by the county clerks -- Transfer to local clerk.

(1) (a) The sponsors, or an agent of the sponsors, shall deliver each signed and verified initiative

packet to the county clerk of the county in which the packet was circulated before 5 p.m. the earlier of:

(i) for county initiatives:

(A) 316 days after the day on which the application is filed; or

(B) the April 15 immediately before the next regular general election immediately after the application is filed under Section 20A-7-502; or

(ii) for municipal initiatives:

(A) 316 days after the day on which the application is filed; or

(B) the April 15 immediately before the next municipal general election immediately after the application is filed under Section 20A-7-502.

(b) A [~~sponsor~~] person may not submit an initiative packet after the deadline established in this Subsection (1).

(c) Before delivering a packet to the county clerk under Subsection (1), the sponsors shall send an email to each individual who provides a legible, valid email address on the form described in Subsection 20A-7-503(2)(d) that includes the following:

(i) the subject of the email shall include the following statement, "Notice Regarding Your Petition Signature";

(ii) the body of the email shall include the following statement in 12-point type:

"You signed a petition for the following initiative:

[insert title of initiative]

To access a copy of the initiative petition, the initiative, the fiscal impact statement, and information on the deadline for removing your signature from the petition, please visit the following link: [insert a uniform resource locator that takes the individual directly to the page on the county clerk's website that includes the information referred to in the email]."

(d) When the sponsors submit the final signature packet to the county clerk, the sponsors shall submit to the county clerk the following written verification, completed and signed by each of the sponsors:

Verification of initiative sponsor

State of Utah, County of _____

I, _____, of _____, hereby state, under penalty of perjury, that:

I am a sponsor of the initiative petition entitled _____;

I sent, or caused to be sent, to each individual who provided a legible, valid email address on a signature packet submitted to the county clerk in relation to the initiative petition, the email described in Utah Code Subsection 20A-7-506(1)(c).

_____

(Name) (Residence Address) (Date)

(e) Signatures gathered for the initiative petition are not valid if the sponsors do not comply with this Subsection (1).

(2) The county clerk may not certify a signature under Subsection (3) on an initiative packet that is not verified in accordance with Section 20A-7-505.

(3) No later than May 15, the county clerk shall:

(a) determine whether or not each signer is a voter according to the requirements of Section 20A-7-506.3;

(b) certify on the petition whether or not each name is that of a voter; and

(c) deliver all of the verified packets to the local clerk.

Section 16. Section 20A-7-602.7 is amended to read:

20A-7-602.7. Referability to voters of local law other than land use law.

(1) Within 20 days after the day on which an eligible voter files an application to circulate a referendum petition under Section 20A-7-602 for a local law other than a land use law, counsel for the county, city, town, or metro township to which the referendum pertains shall:

(a) review the application to determine whether the proposed referendum is legally referable to voters; and

(b) notify the first three sponsors, in writing, whether the proposed referendum is:

(i) legally referable to voters; or

(ii) rejected as not legally referable to voters.

(2) For a local law other than a land use law, a proposed referendum is legally referable to voters unless:

(a) the proposed referendum challenges an action that is administrative, rather than legislative, in nature;

(b) the proposed referendum challenges more than one law passed by the local legislative body; or

(c) the application for the proposed referendum was not timely filed or does not comply with the requirements of this part.

(3) After the end of the 20-day period described in Subsection (1), a county, city, town, or metro township may not, for a local law other than a land use law:

(a) reject a proposed referendum as not legally referable to voters; or

(b) except as provided in Subsection (4), challenge, in a legal action or otherwise, a proposed referendum on the grounds that the proposed referendum is not legally referable to voters.

(4) (a) If, under Subsection (1)(b)(ii), a county, city, town, or metro township rejects a proposed

referendum concerning a local law other than a land use law, a sponsor of the proposed referendum may, within 10 days after the day on which a sponsor is notified under Subsection (1)(b), challenge or appeal the decision to:

(i) the Supreme Court, by means of an extraordinary writ, if possible; or

(ii) a district court, if the sponsor is prohibited from pursuing an extraordinary writ under Subsection (4)(a)(i).

(b) Failure of a sponsor to timely challenge or appeal a rejection under Subsection (4)(a) terminates the referendum.

(5) If, on a challenge or appeal, the court determines that the proposed referendum described in Subsection (4) is legally referable to voters, the local clerk shall comply with Subsection 20A-7-604(2) within five days after the day on which the determination, and any challenge or appeal of the determination, is final.

Section 17. Section 20A-7-602.8 is amended to read:

20A-7-602.8. Referability to voters of local land use law.

(1) Within 20 days after the day on which an eligible voter files an application to circulate a referendum petition under Section 20A-7-602 for a land use law, counsel for the county, city, town, or metro township to which the referendum pertains shall:

(a) review the application to determine whether the proposed referendum is legally referable to voters; and

(b) notify the first three sponsors, in writing, whether the proposed referendum is:

(i) legally referable to voters; or

(ii) rejected as not legally referable to voters.

(2) For a land use law, a proposed referendum is legally referable to voters unless:

(a) the proposed referendum challenges an action that is administrative, rather than legislative, in nature;

(b) the proposed referendum challenges a land use decision, rather than a land use regulation, as those terms are defined in Section 10-9a-103 or 17-27a-103;

(c) the proposed referendum challenges more than one law passed by the local legislative body; or

(d) the application for the proposed referendum was not timely filed or does not comply with the requirements of this part.

(3) After the end of the 20-day period described in Subsection (1), a county, city, town, or metro township may not, for a land use law:

(a) reject a proposed referendum as not legally referable to voters; or

(b) except as provided in Subsection (4), challenge, in a legal action or otherwise, a proposed referendum on the grounds that the proposed referendum is not legally referable to voters.

(4) (a) If a county, city, town, or metro township rejects a proposed referendum concerning a land use law, a sponsor of the proposed referendum may, within seven days after the day on which a sponsor is notified under Subsection (1)(b), challenge or appeal the decision to:

(i) the Supreme Court, by means of an extraordinary writ, if possible; or

(ii) a district court, if the sponsor is prohibited from pursuing an extraordinary writ under Subsection (4)(a)(i).

(b) Failure of a sponsor to timely challenge or appeal a rejection under Subsection (4)(a) terminates the referendum.

(5) If, on challenge or appeal, the court determines that the proposed referendum is legally referable to voters, the local clerk shall comply with Subsection 20A-7-604(2) within five days after the day on which the determination, and any challenge or appeal of the determination, is final.

Section 18. Section 20A-7-603 is amended to read:

20A-7-603. Form of referendum petition and signature sheets.

(1) (a) Each proposed referendum petition shall be printed in substantially the following form:

"REFERENDUM PETITION To the Honorable ____, County Clerk/City Recorder/Town Clerk:

We, the undersigned citizens of Utah, respectfully order that (description of local law or portion of local law being challenged), passed by the ____ be referred to the voters for their approval or rejection at the regular/municipal general election to be held on _____(month\day\year);

Each signer says:

I have personally signed this petition;

The date next to my signature correctly reflects the date that I actually signed the petition;

I have personally reviewed the entire statement included with this packet;

I am registered to vote in Utah or intend to become registered to vote in Utah before the certification of the petition names by the county clerk; and

My residence and post office address are written correctly after my name."

(b) The sponsors of a referendum shall attach a copy of the law that is the subject of the referendum to each referendum petition.

(2) Each signature sheet shall:

(a) be printed on sheets of paper 8-1/2 inches long and 11 inches wide;

(b) be ruled with a horizontal line three-fourths inch from the top, with the space above that line blank for the purpose of binding;

(c) [~~contain~~] include the title of the referendum printed below the horizontal line, in at least 14-point type;

[~~(d) contain the word "Warning" printed or typed at the top of each signature sheet under the title of the referendum;~~]

[~~(e) contain, to the right of the word "Warning," the following statement printed or typed in not less than eight-point, single-leaded type:~~]

["~~It is a class A misdemeanor for an individual to sign a referendum petition with any other name than the individual's own name, or to knowingly sign the individual's name more than once for the same measure, or to sign a referendum petition when the individual knows that the individual is not a registered voter and knows that the individual does not intend to become registered to vote before the certification of the petition names by the county clerk.~~";]

[~~(f) contain horizontally ruled lines three-eighths inch apart under the "Warning" statement required by this section;~~]

[~~(g) be vertically divided into columns as follows:~~]

[~~(i) the edge of the first column shall appear .5 inch from the extreme left of the sheet, be.25 inch wide, and be headed, together with the second column, "For Office Use Only";~~]

[~~(ii) the second column shall be .25 inch wide;~~]

[~~(iii) the third column shall be 2.5 inches wide, headed "Registered Voter's Printed Name (must be legible to be counted)";~~]

[~~(iv) the fourth column shall be 2.5 inches wide, headed "Signature of Registered Voter";~~]

[~~(v) the fifth column shall be .75 inch wide, headed "Date Signed";~~]

[~~(vi) the sixth column shall be three inches wide, headed "Street Address, City, Zip Code"; and~~]

[~~(vii) the seventh column shall be .75 inch wide, headed "Birth Date or Age (Optional)";~~]

[~~(h) be horizontally divided into rows as follows:~~]

[~~(i) the top of the first row, for the purpose of entering the information described in Subsection (2)(g), shall be .5 inch high;~~]

[~~(ii) the second row shall be .15 inch high and contain the following statement printed or typed in not less than eight-point, single-leaded type: "By signing this petition, you are stating that you have read and understand the law this petition seeks to overturn."; and~~]

[~~(iii) the first and second rows shall be repeated, in order, leaving sufficient room at the bottom of the sheet for the information described in Subsection (2)(i); and~~]

[~~(i) at the bottom of the sheet, contain the following statement: "Birth date or age information is not required, but it may be used to verify your identity with voter registration records. If you choose not to provide it, your signature may not be verified as a valid signature if you change your address before petition signatures are verified or if the information you provide does not match your voter registration records."~~]

(d) include a table immediately below the title of the referendum, and beginning .5 inch from the left side of the paper, as follows:

(i) the first column shall be .5 inch wide and include three rows;

(ii) the first row of the first column shall be .85 inch tall and contain the words "For Office Use Only" in 10-point type;

(iii) the second row of the first column shall be .35 inch tall;

(iv) the third row of the first column shall be .5 inch tall;

(v) the second column shall be 2.75 inches wide;

(vi) the first row of the second column shall be .35 inch tall and contain the words "Registered Voter's Printed Name (must be legible to be counted)" in 10-point type;

(vii) the second row of the second column shall be .5 inch tall;

(viii) the third row of the second column shall be .35 inch tall and contain the words "Street Address, City, Zip Code" in 10-point type;

(ix) the fourth row of the second column shall be .5 inch tall;

(x) the third column shall be 2.75 inches wide;

(xi) the first row of the third column shall be .35 inch tall and contain the words "Signature of Registered Voter" in 10-point type;

(xii) the second row of the third column shall be .5 inch tall;

(xiii) the third row of the third column shall be .35 inch tall and contain the words "Email Address (optional, to receive additional information)" in 10-point type;

(xiv) the fourth row of the third column shall be .5 inch tall;

(xv) the fourth column shall be one inch wide;

(xvi) the first row of the fourth column shall be .35 inch tall and contain the words "Date Signed" in 10-point type;

(xvii) the second row of the fourth column shall be .5 inch tall;

(xviii) the third row of the fourth column shall be .35 inch tall and contain the words "Birth Date or Age (optional)" in 10-point type;

(xix) the fourth row of the third column shall be .5 inch tall; and

(xx) the fifth row of the entire table shall be the width of the entire table, .4 inch tall, and contain the following words, "By signing this petition, you are stating that you have read and understand the law

that this petition seeks to overturn." in 12-point type;

(e) the table described in Subsection (2)(d) shall be repeated, leaving sufficient room at the bottom of the sheet or the information described in Subsection (2)(f); and

(f) at the bottom of the sheet, include the word "Warning," in 12-point, bold type, followed by the following statement in not less than eight-point type:

"It is a class A misdemeanor for an individual to sign a referendum petition with a name other than the individual's own name, or to knowingly sign the individual's name more than once for the same measure, or to sign a referendum petition when the individual knows that the individual is not a registered voter and knows that the individual does not intend to become registered to vote before the certification of the petition names by the county clerk.

Birth date or age information is not required, but it may be used to verify your identity with voter registration records. If you choose not to provide it, your signature may not be verified as a valid signature if you change your address before petition signatures are verified or if the information you provide does not match your voter registration records."

(3) The final page of each referendum packet shall contain the following printed or typed statement:

[~~"~~]Verification of signature collector

State of Utah, County of ____

I, _____, of ____, hereby state that:

I am a resident of Utah and am at least 18 years old;

All the names that appear in this referendum packet were signed by individuals who professed to be the individuals whose names appear in it, and each of the individuals signed the individual's name on it in my presence;

I did not knowingly make a misrepresentation of fact concerning the law this petition seeks to overturn;

I believe that each individual has printed and signed the individual's name and written the individual's post office address and residence correctly, and that each signer is registered to vote in Utah or intends to become registered to vote before the certification of the petition names by the county clerk.

[_____"]

_____

(Name) (Residence Address) (Date)

(4) The forms prescribed in this section are not mandatory, and, if substantially followed, the referendum petitions are sufficient, notwithstanding clerical and merely technical errors.

Section 19. Section 20A-7-604 is amended to read:

20A-7-604. Circulation requirements -- Local clerk to provide sponsors with materials.

(1) In order to obtain the necessary number of signatures required by this part, the sponsors shall, after the sponsors receive the documents described in Subsection (2) and Subsection 20A-7-401.5(4)(b), circulate referendum packets that meet the form requirements of this part.

(2) Within five days after the day on which a county, city, town, metro township, or court determines, in accordance with Section 20A-7-602.7, that a proposed referendum is legally referable to voters, the local clerk shall furnish to the sponsors a copy of the referendum petition and a signature sheet.

(3) The sponsors of the petition shall:

(a) arrange and pay for the printing of all additional copies of the petition and signature sheets; and

(b) ensure that the copies of the petition and signature sheets meet the form requirements of this section.

(4) (a) The sponsors may prepare the referendum for circulation by creating multiple referendum packets.

(b) The sponsors shall create [~~those~~] the packets by binding a copy of the referendum petition[~~, a copy of the law that is the subject of the referendum,~~] and no more than 50 signature sheets together at the top [~~in such a way~~] so that the packets may be conveniently opened for signing.

(c) The sponsors need not attach a uniform number of signature sheets to each referendum packet.

(d) The sponsors shall include, with each packet, a copy of the proposition information pamphlet provided to the sponsors under Subsection 20A-7-401.5(4)(b).

Section 20. Section 20A-7-604.5 is enacted to read:

20A-7-604.5. Posting referendum information.

(1) On the day on which the local clerk complies with Subsection 20A-7-604(2), the local clerk shall post the following information together in a conspicuous place on the local clerk's website:

(a) the referendum petition;

(b) the referendum; and

(c) information describing how an individual may remove the individual's signature from the signature packet.

(2) The local clerk shall:

(a) promptly update the information described in Subsection (1) if the information changes; and

(b) maintain the information described in Subsection (1) on the local clerk's website until the referendum fails to qualify for the ballot or is passed or defeated at an election.

Section 21. Section 20A-7-606 is amended to read:

20A-7-606. Submitting the referendum petition -- Certification of signatures by the county clerks -- Transfer to local clerk.

(1) (a) The sponsors, or an agent of the sponsors, shall deliver each signed and verified referendum packet to the county clerk of the county in which the packet was circulated before 5 p.m. no later than 45 days after the day on which the sponsors receive the items described in Subsection 20A-7-604(2) from the local clerk.

(b) A [~~sponsor~~] person may not submit a referendum packet after the deadline established in this Subsection (1).

(2) (a) No later than 15 days after the day on which a county clerk receives a referendum packet under Subsection (1)(a), the county clerk shall:

(i) check the names of all persons completing the verification on the last page of each referendum packet to determine whether those persons are Utah residents and are at least 18 years old; and

(ii) submit the name of each of those persons who is not a Utah resident or who is not at least 18 years old to the attorney general and county attorney.

(b) The county clerk may not certify a signature under Subsection (3) on a referendum packet that is not verified in accordance with Section 20A-7-605.

(3) No later than 30 days after the day on which a county clerk receives a referendum packet under Subsection (1)(a), the county clerk shall:

(a) determine whether each signer is a registered voter according to the requirements of Section 20A-7-606.3;

(b) certify on the referendum petition whether each name is that of a registered voter; and

(c) deliver all of the verified referendum packets to the local clerk.

Section 22. Coordinating H.B. 136 with H.B. 211 -- Initiatives and referenda amendments -- substantive and technical amendments.

If this H.B. 136 and H.B. 211, Initiatives and Referenda Amendments, both pass and become law, it is the intent of the Legislature that the Office of Legislative Research and General Counsel prepare the Utah Code database for publication as follows:

(1) the changes to Section 20A-1-609 in H.B. 136 supersede the changes to Subsection 20A-1-609 in H.B. 211;

(2) the changes to Subsection 20A-7-203(2) in H.B. 136 supersede the changes to Subsection 20A-7-203(2) in H.B. 211;

(3) by amending Subsection 20A-7-204(4)(b) to read:

"(b) The sponsors or an agent of the sponsors shall create [~~those~~] the initiative packets by binding a copy of the initiative petition[~~, a copy of the proposed law,~~] and no more than 50 signature sheets together at the top in [~~such a way~~] a manner that the packets may be conveniently opened for signing.";

(4) the changes to Subsection 20A-7-303(2) in H.B. 136 supersede the changes to Subsection 20A-7-303(2) in H.B. 211;

(5) by amending Subsection 20A-7-304(4)(b) to read:

"(b) The sponsors or an agent of the sponsors shall create [~~those~~] referendum packets by binding a copy of the referendum [~~petition, a copy of the law that is the subject of the referendum,~~] and no more than 50 signature sheets together at the top in [~~such a way~~] a manner that the packets may be conveniently opened for signing.";

(6) the changes to Subsection 20A-7-503(2) in H.B. 136 supersede the changes to Subsection 20A-7-503(2) in H.B. 211;

(7) by amending Subsection 20A-7-504(4)(b) to read:

"(b) The sponsors or an agent of the sponsors shall create [~~those~~] initiative packets bybinding a copy of the initiative petition[~~, a copy of the proposed law,~~] and no more than 50 signature sheets together at the top in [~~such a way~~] a manner that the packets may be conveniently opened for signing.";

(8) the changes to Subsection 20A-7-603(2) in H.B. 136 supersede the changes to Subsection 20A-7-603(2) in H.B. 211; and

(9) by amending Subsection 20A-7-604(4)(b) to read:

"The sponsors or an agent of the sponsors shall create [~~those~~] referendum packets by binding a copy of the referendum petition[~~, a copy of the law that is the subject of the referendum,~~] and no more than 50 signature sheets together at the top in [~~such a way~~] a manner that the packets may be conveniently opened for signing.".

CHAPTER 419
H. B. 218
Passed March 5, 2021
Approved March 23, 2021
Effective May 5, 2021

REPORTING REQUIREMENT AMENDMENTS

Chief Sponsor: Brian S. King
Senate Sponsor: Curtis S. Bramble

LONG TITLE

General Description:

This bill addresses reporting requirements for the abuse, neglect, or exploitation of certain individuals.

Highlighted Provisions:

This bill:

- amends the reporting requirement for the suspected abuse, neglect, or exploitation of a vulnerable adult;
- provides exceptions to the reporting requirement for suspected abuse, neglect, or exploitation of a vulnerable adult;
- clarifies the physician-patient privilege in regards to reporting suspected abuse, neglect, or exploitation of a vulnerable adult;
- requires Adult Protective Services to file a complaint in certain circumstances;
- addresses civil and criminal liability for reporting, or failing to report, suspected abuse, neglect, or exploitation of a vulnerable adult to Adult Protective Services or the nearest police officer or law enforcement agency;
- addresses prosecution for willful failure to report suspected abuse, neglect, or exploitation of a vulnerable adult;
- amends the reporting requirement for the suspected abuse or neglect of a child;
- provides exceptions to the reporting requirement for suspected abuse or neglect of a child;
- clarifies the physician-patient privilege in regards to reporting suspected abuse or neglect of a child;
- requires the Division of Child and Family Services to file a complaint in certain circumstances;
- addresses civil and criminal liability for reporting, or failing to report, suspected abuse or neglect of a child to the Division of Child and Family Services or the nearest police officer or law enforcement agency;
- addresses prosecution for willful failure to report suspected abuse or neglect of a child;
- makes it a crime for an individual to threaten, intimidate, or attempt to intimidate certain individuals when a report is made, or an investigation is being conducted, in regards to the abuse or neglect of a child;
- repeals a statute with a reporting requirement for abuse, neglect, or exploitation of a vulnerable adult; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

62A-3-305, as last amended by Laws of Utah 2012, Chapter 328
62A-4a-403, as last amended by Laws of Utah 2020, Fifth Special Session, Chapter 20
62A-4a-410, as last amended by Laws of Utah 2008, Chapters 382 and 395
62A-4a-411, as last amended by Laws of Utah 2008, Chapter 299
62A-4a-412, as last amended by Laws of Utah 2020, Chapters 193 and 258

REPEALS:

76-5-111.1, as last amended by Laws of Utah 2004, Chapter 50

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 62A-3-305 is amended to read:

62A-3-305. Reporting requirements -- Investigation -- Exceptions -- Immunity -- Penalties -- Nonmedical healing.

[~~(1) A person who has reason to believe that a vulnerable adult has been the subject of abuse, neglect, or exploitation shall immediately notify Adult Protective Services intake or the nearest law enforcement agency. When the initial report is made to law enforcement, law enforcement shall immediately notify Adult Protective Services intake. Adult Protective Services and law enforcement shall coordinate, as appropriate, their efforts to provide protection to the vulnerable adult.~~]

(1) Except as provided in Subsection (4), if an individual has reason to believe that a vulnerable adult is, or has been, the subject of abuse, neglect, or exploitation, the individual shall immediately report the suspected abuse, neglect, or exploitation to Adult Protective Services or to the nearest peace officer or law enforcement agency.

(2) (a) If a peace officer or a law enforcement agency receives a report under Subsection (1), the peace officer or the law enforcement agency shall immediately notify Adult Protective Services.

(b) Adult Protective Services and the peace officer or the law enforcement agency shall coordinate, as appropriate, efforts to investigate the report under Subsection (1) and to provide protection to the vulnerable adult.

[~~(2)~~] (3) When [~~the initial report or~~] a report under Subsection (1), or a subsequent investigation by Adult Protective Services, indicates that a criminal offense may have occurred against a vulnerable adult:

(a) Adult Protective Services shall notify the nearest local law enforcement agency regarding the potential offense; and

(b) the law enforcement agency [~~may~~] shall initiate an investigation in cooperation with Adult Protective Services.

[~~(3) A person who in good faith makes a report or otherwise notifies a law enforcement agency or Adult Protective Services of suspected abuse, neglect, or exploitation is immune from civil and criminal liability in connection with the report or other notification.~~]

[~~(4) (a) A person who willfully fails to report suspected abuse, neglect, or exploitation of a vulnerable adult is guilty of a class B misdemeanor.~~]

[~~(b) A covered provider or covered contractor, as defined in Section 26-21-201, that knowingly fails to report suspected abuse or neglect, as required by this section, is subject to a private right of action and liability for the abuse or neglect of another person that is committed by the individual who was not reported to Adult Protective Services in accordance with this section.~~]

(4) Subject to Subsection (5), the reporting requirement described in Subsection (1) does not apply to:

(a) a member of the clergy, with regard to any confession made to the member of the clergy while functioning in the ministerial capacity of the member of the clergy and without the consent of the individual making the confession, if:

(i) the perpetrator made the confession directly to the member of the clergy; and

(ii) the member of the clergy is, under canon law or church doctrine or practice, bound to maintain the confidentiality of that confession; or

(b) an attorney, or an individual employed by the attorney, if knowledge of the suspected abuse, neglect, or exploitation of a vulnerable adult arises from the representation of a client, unless the attorney is permitted to reveal the suspected abuse, neglect, or exploitation of the vulnerable adult to prevent reasonably certain death or substantial bodily harm in accordance with Utah Rules of Professional Conduct, Rule 1.6.

(5) (a) When a member of the clergy receives information about abuse, neglect, or exploitation of a vulnerable adult from any source other than confession of the perpetrator, the member of the clergy is required to report that information even though the member of the clergy may have also received information about abuse or neglect from the confession of the perpetrator.

(b) Exemption of the reporting requirement for an individual described in Subsection (4) does not exempt the individual from any other efforts required by law to prevent further abuse, neglect, or exploitation of a vulnerable adult by the perpetrator.

(6) (a) As used in this Subsection (6), "physician" means an individual licensed to practice as a physician or osteopath in this state under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act.

(b) The physician-patient privilege does not:

(i) excuse a physician from reporting suspected abuse, neglect, or exploitation of a vulnerable adult under Subsection (1); or

(ii) constitute grounds for excluding evidence regarding a vulnerable adult's injuries, or the cause of the vulnerable adult's injuries, in any judicial or administrative proceeding resulting from a report under Subsection (1).

(7) (a) An individual who in good faith makes a report under Subsection (1), or who otherwise notifies Adult Protective Services or a peace officer or law enforcement agency, is immune from civil and criminal liability in connection with the report or notification.

(b) A covered provider or covered contractor, as defined in Section 26-21-201, that knowingly fails to report suspected abuse, neglect, or exploitation of a vulnerable adult to Adult Protective Services, or to the nearest peace officer or law enforcement agency, under Subsection (1), is subject to a private right of action and liability for the abuse, neglect, or exploitation of a vulnerable adult that is committed by the individual who was not reported to Adult Protective Services or to the nearest peace officer or law enforcement agency.

(c) This Subsection (7) does not provide immunity with respect to acts or omissions of a governmental employee except as provided in Title 63G, Chapter 7, Governmental Immunity Act of Utah.

(8) If Adult Protective Services has substantial grounds to believe that an individual has knowingly failed to report suspected abuse, neglect, or exploitation of a vulnerable adult in accordance with this section, Adult Protective Services shall file a complaint with:

(a) the Division of Occupational and Professional Licensing if the individual is a health care provider, as defined in Section 62A-4a-404, or a mental health therapist, as defined in Section 58-6-102;

(b) the appropriate law enforcement agency if the individual is a law enforcement officer, as defined in Section 53-13-103; and

(c) the State Board of Education if the individual is an educator, as defined in Section 53E-6-102.

(9) (a) An individual is guilty of a class B misdemeanor if the individual willfully fails to report suspected abuse, neglect, or exploitation of a vulnerable adult to Adult Protective Services, or to the nearest peace officer or law enforcement agency under Subsection (1).

(b) If an individual is convicted under Subsection (9)(a), the court may order the individual, in addition to any other sentence the court imposes, to:

(i) complete community service hours; or

(ii) complete a program on preventing abuse, neglect, and exploitation of vulnerable adults.

(c) In determining whether it would be appropriate to charge an individual with a violation of Subsection (9)(a), the prosecuting attorney shall take into account whether a reasonable individual

would not have reported suspected abuse, neglect, or exploitation of a vulnerable adult because reporting would have placed the individual in immediate danger of death or serious bodily injury.

(d) Notwithstanding any contrary provision of law, a prosecuting attorney may not use an individual's violation of Subsection (9)(a) as the basis for charging the individual with another offense.

(e) A prosecution for failure to report under Subsection (9)(a) shall be commenced within two years after the day on which the individual had knowledge of the suspected abuse, neglect, or exploitation and willfully failed to report.

[~~(5)~~] (10) Under circumstances not amounting to a violation of Section 76-8-508, [~~a person who~~] an individual is guilty of a class B misdemeanor if the individual threatens, intimidates, or attempts to intimidate a vulnerable adult who is the subject of a report[~~, a witness, the person who made the report~~] under Subsection (1), the individual who made the report under Subsection (1), a witness, or any other person cooperating with an investigation conducted [~~pursuant to~~] in accordance with this chapter [~~is guilty of a class B misdemeanor~~].

[~~(6)~~] (11) An adult is not considered abused, neglected, or a vulnerable adult for the reason that the adult has chosen to rely solely upon religious, nonmedical forms of healing in lieu of medical care.

Section 2. Section 62A-4a-403 is amended to read:

62A-4a-403. Reporting requirements -- Exceptions.

[~~(1) (a) Except as provided in Subsection (2), when any individual, including an individual licensed under Title 58, Chapter 31b, Nurse Practice Act, or Title 58, Chapter 67, Utah Medical Practice Act, has reason to believe that a child has been subjected to abuse or neglect, or observes a child being subjected to conditions or circumstances that would reasonably result in abuse or neglect, that individual shall immediately report the alleged abuse or neglect to the nearest peace officer, law enforcement agency, or office of the division.~~]

[~~(b) (i) Upon receipt of a report described in Subsection (1)(a)~~]

(1) Except as provided in Subsection (3), if an individual, including an individual licensed under Title 58, Chapter 31b, Nurse Practice Act, or Title 58, Chapter 67, Utah Medical Practice Act, has reason to believe that a child is, or has been, the subject of abuse or neglect, or observes a child being subjected to conditions or circumstances that would reasonably result in abuse or neglect, the individual shall immediately report the suspected abuse or neglect to the division or to the nearest peace office or law enforcement agency.

(2) (a) (i) If a peace officer or a law enforcement agency receives a report under Subsection (1), the peace officer or law enforcement agency shall immediately notify the nearest office of the division.

(ii) [~~If an initial report of abuse or neglect is made to the division~~] If the division receives a report under Subsection (1), the division shall immediately notify the appropriate local law enforcement agency.

[~~(c)~~] (b) (i) The division shall, in addition to the division's own investigation in accordance with Section 62A-4a-409, coordinate with the law enforcement agency on investigations [~~by law enforcement undertaken to investigate a report described in Subsection (1)(a)~~] undertaken by the law enforcement agency to investigate the report of abuse or neglect under Subsection (1).

(ii) If a law enforcement agency undertakes an investigation of a [~~report described in Subsection (1)(a)~~] report under Subsection (1), the law enforcement agency [~~undertaking the investigation~~] shall provide a final investigatory report to the division upon request.

[~~(2)~~] (3) Subject to Subsection [~~(3)~~] (4), the [~~notification~~] reporting requirement described in Subsection [~~(1)(a)~~] (1) does not apply to:

(a) a member of the clergy, with regard to any confession made to the member of the clergy while functioning in the ministerial capacity of the member of the clergy and without the consent of the individual making the confession, if:

[~~(a)~~] (i) the perpetrator made the confession directly to the member of the clergy; and

[~~(b)~~] (ii) the member of the clergy is, under canon law or church doctrine or practice, bound to maintain the confidentiality of that confession[~~.~~]; or

(b) an attorney, or an individual employed by the attorney, if the knowledge or belief of the suspected abuse or neglect of a child arises from the representation of a client, unless the attorney is permitted to reveal the suspected abuse or neglect of the child to prevent reasonably certain death or substantial bodily harm in accordance with Utah Rules of Professional Conduct, Rule 1.6.

[~~(3)~~] (4) (a) When a member of the clergy receives information about abuse or neglect from any source other than confession of the perpetrator, the member of the clergy is required to report that information even though the member of the clergy may have also received information about abuse or neglect from the confession of the perpetrator.

(b) Exemption of the reporting requirement for [~~a member of the clergy~~] an individual described in Subsection (3) does not exempt the [~~member of the clergy~~] individual from any other efforts required by law to prevent further abuse or neglect by the perpetrator.

Section 3. Section 62A-4a-410 is amended to read:

62A-4a-410. Immunity from liability -- Exception.

(1) (a) Any person who in good faith makes a report under Section 62A-4a-403, 62A-4a-404, or 62A-4a-405, or who otherwise notifies the division or a peace officer or law enforcement agency of

suspected abuse or neglect of a child, is immune from civil and criminal liability in connection with the report or notification.

[~~(1)~~] (b) Except as provided in Subsection (3), any person, official, or institution [~~participating in good faith in making a report,~~] taking photographs or X-rays, assisting an investigator from the division, serving as a member of a child protection team, or taking a child into protective custody [~~pursuant to~~] in accordance with this part, is immune from [~~any liability, civil or criminal, that otherwise might result by reason of those actions~~] civil or criminal liability in connection with those actions.

(2) This section does not provide immunity with respect to acts or omissions of a governmental employee except as provided in Title 63G, Chapter 7, Governmental Immunity Act of Utah.

(3) The immunity described in Subsection (1)(b) does not apply if the person, official, or institution:

(a) acted or failed to act through fraud or willful misconduct;

(b) in a judicial or administrative proceeding, intentionally or knowingly gave, upon a lawful oath or in any form allowed by law as a substitute for an oath, false testimony material to the issue or matter of inquiry in the proceeding; or

(c) intentionally or knowingly:

(i) fabricated evidence; or

(ii) except as provided in Subsection (4), with a conscious disregard for the rights of others, failed to disclose evidence that:

(A) was known to the person, official, or institution; and

(B) (I) was known by the person, official, or institution to be relevant to a material issue or matter of inquiry in a pending judicial or administrative proceeding if the person, official, or institution knew of the pending judicial or administrative proceeding; or

(II) was known by the person, official, or institution to be relevant to a material issue or matter of inquiry in a judicial or administrative proceeding, if disclosure of the evidence was requested of the employee by a party to the proceeding or counsel for a party to the proceeding.

(4) Immunity is not lost under Subsection (3)(c)(ii), if the person, official, or institution:

(a) failed to disclose evidence described in Subsection (3)(c)(ii), because the person, official, or institution is prohibited by law from disclosing the evidence; or

(b) (i) [~~pursuant to~~] in accordance with the provisions of 45 [~~CFR~~] C.F.R. 164.502(g)(5), refused to disclose evidence described in Subsection (3)(c)(ii) to a person who requested the evidence; and

(ii) after refusing to disclose the evidence under Subsection (4)(b)(i), complied with or responded to a valid court order or valid subpoena received by the person, official, or institution to disclose the evidence described in Subsection (3)(c)(ii).

Section 4. Section 62A-4a-411 is amended to read:

62A-4a-411. Failure to report -- Threats and intimidation -- Penalties.

[~~Any person, official, or institution required to report a case of suspected abuse, neglect, fetal alcohol syndrome, or fetal drug dependency, who willfully fails to do so is guilty of a class B misdemeanor. Action for failure to report must be commenced within four years from the date of knowledge of the offense and the willful failure to report.~~]

(1) If the division has substantial grounds to believe that an individual has knowingly failed to report suspected abuse, neglect, fetal alcohol syndrome, or fetal drug dependency in accordance with this part, the division shall file a complaint with:

(a) the Division of Occupational and Professional Licensing if the individual is a health care provider, as defined in Section 62A-4a-404, or a mental health therapist, as defined in Section 58-6-102;

(b) the appropriate law enforcement agency if the individual is a law enforcement officer, as defined in Section 53-13-103; and

(c) the State Board of Education if the individual is an educator, as defined in Section 53E-6-102.

(2) (a) An individual is guilty of a class B misdemeanor if the individual willfully fails to report the suspected abuse, neglect, fetal alcohol syndrome, or fetal drug dependency in accordance with this part.

(b) If an individual is convicted under Subsection (2)(a), the court may order the individual, in addition to any other sentence the court imposes, to:

(i) complete community service hours; or

(ii) complete a program on preventing abuse and neglect of children.

(c) In determining whether it would be appropriate to charge an individual with a violation of Subsection (2)(a), the prosecuting attorney shall take into account whether a reasonable individual would not have reported suspected abuse or neglect of a child because reporting would have placed the individual in immediate danger of death or serious bodily injury.

(d) Notwithstanding any contrary provision of law, a prosecuting attorney may not use an individual's violation of Subsection (2)(a) as the basis for charging the individual with another offense.

(e) A prosecution for failure to report under Subsection (2)(a) shall be commenced within two years after the day on which the individual had knowledge of the suspected abuse, neglect, fetal alcohol syndrome, or fetal drug dependency and willfully failed to report.

(3) Under circumstances not amounting to a violation of Section 76-8-508, an individual is guilty of a class B misdemeanor if the individual threatens, intimidates, or attempts to intimidate a child who is the subject of a report under this part, the individual who made the report, a witness, or any other person cooperating with an investigation conducted in accordance with this chapter.

Section 5. Section 62A-4a-412 is amended to read:

62A-4a-412. Reports, information, and referrals confidential.

(1) Except as otherwise provided in this chapter, reports made under this part, as well as any other information in the possession of the division obtained as the result of a report are private, protected, or controlled records under Title 63G, Chapter 2, Government Records Access and Management Act, and may only be made available to:

(a) a police or law enforcement agency investigating a report of known or suspected abuse or neglect, including members of a child protection unit;

(b) a physician who reasonably believes that a child may be the subject of abuse or neglect;

(c) an agency that has responsibility or authority to care for, treat, or supervise a minor who is the subject of a report;

(d) a contract provider that has a written contract with the division to render services to a minor who is the subject of a report;

(e) except as provided in Subsection 63G-2-202(10), a subject of the report, the natural parents of the child, and the guardian ad litem;

(f) a court, upon a finding that access to the records may be necessary for the determination of an issue before the court, provided that in a divorce, custody, or related proceeding between private parties, the record alone is:

(i) limited to objective or undisputed facts that were verified at the time of the investigation; and

(ii) devoid of conclusions drawn by the division or any of the division's workers on the ultimate issue of whether or not a person's acts or omissions constituted any level of abuse or neglect of another person;

(g) an office of the public prosecutor or its deputies in performing an official duty;

(h) a person authorized by a Children's Justice Center, for the purposes described in Section 67-5b-102;

(i) a person engaged in bona fide research, when approved by the director of the division, if the information does not include names and addresses;

(j) the State Board of Education, acting on behalf of itself or on behalf of a local education agency, as defined in Section 63J-5-102, for the purpose of evaluating whether an individual should be permitted to obtain or retain a license as an educator or serve as an employee or volunteer in a school, limited to information with substantiated or supported findings involving an alleged sexual offense, an alleged felony or class A misdemeanor drug offense, or any alleged offense against the person under Title 76, Chapter 5, Offenses Against the Person, and with the understanding that the office must provide the subject of a report received under Subsection (1)(k) with an opportunity to respond to the report before making a decision concerning licensure or employment;

(k) any person identified in the report as a perpetrator or possible perpetrator of abuse or neglect, after being advised of the screening prohibition in Subsection (2);

(l) except as provided in Subsection 63G-2-202(10), a person filing a petition for a child protective order on behalf of a child who is the subject of the report;

(m) a licensed child-placing agency or person who is performing a preplacement adoptive evaluation in accordance with the requirements of Sections 78B-6-128 and 78B-6-130;

(n) an Indian tribe to:

(i) certify or license a foster home;

(ii) render services to a subject of a report; or

(iii) investigate an allegation of abuse, neglect, or dependency; or

(o) the Division of Substance Abuse and Mental Health, the Department of Health, or a local substance abuse authority, described in Section 17-43-201, for the purpose of providing substance abuse treatment to a pregnant woman, or the services described in Subsection 62A-15-103(2)(o).

(2) (a) A person, unless listed in Subsection (1), may not request another person to obtain or release a report or any other information in the possession of the division obtained as a result of the report that is available under Subsection (1)(k) to screen for potential perpetrators of abuse or neglect.

(b) A person who requests information knowing that the request is a violation of Subsection (2)(a) is subject to the criminal penalty in Subsection (4).

(3) (a) Except as provided in Section 62A-4a-1007 and Subsection (3)(b), the division and law enforcement officials shall ensure the anonymity of the person or persons making the initial report and any others involved in [~~its~~] a subsequent investigation.

(b) Notwithstanding any other provision of law, excluding Section 78A-6-317, but including this chapter and Title 63G, Chapter 2, Government Records Access and Management Act, when the division makes a report or other information in the division's possession available under Subsection (1)(e) to a subject of the report or a parent of a child, the division shall remove from the report or other information only the names, addresses, and

telephone numbers of individuals or specific information that could:

(i) identify the referent;

(ii) impede a criminal investigation; or

(iii) endanger a person's safety.

(4) Any person who [~~wilfully~~] willfully permits, or aides and abets the release of data or information obtained as a result of this part, in the possession of the division or contained on any part of the Management Information System, in violation of this part or Sections 62A-4a-1003 through 62A-4a-1007, is guilty of a class C misdemeanor.

[~~(5) The physician-patient privilege is not a ground for excluding evidence regarding a child's injuries or the cause of those injuries, in any proceeding resulting from a report made in good faith pursuant to this part.~~]

(5) (a) As used in this Subsection (5), "physician" means an individual licensed to practice as a physician or osteopath in this state under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act.

(b) The physician-patient privilege does not:

(i) excuse a physician from reporting suspected abuse, neglect, fetal alcohol syndrome, or fetal drug dependency under this part; and

(ii) constitute grounds for excluding evidence regarding a child's injuries, or the cause of the child's injuries, in any judicial or administrative proceeding resulting from a report under this part.

(6) A child-placing agency or person who receives a report in connection with a preplacement adoptive evaluation pursuant to Sections 78B-6-128 and 78B-6-130:

(a) may provide this report to the person who is the subject of the report; and

(b) may provide this report to a person who is performing a preplacement adoptive evaluation in accordance with the requirement of Sections 78B-6-128 and 78B-6-130, or to a licensed child-placing agency or to an attorney seeking to facilitate an adoption.

Section 6. Repealer.

This bill repeals:

Section 76-5-111.1, Reporting requirements -- Investigation -- Immunity -- Violation -- Penalty -- Physician-patient privilege -- Nonmedical healing.

CHAPTER 420
H. B. 244
Passed March 4, 2021
Approved March 23, 2021
Effective May 5, 2021

FIRST CLASS COUNTY HIGHWAY ROAD FUNDS AMENDMENTS

Chief Sponsor: James A. Dunnigan
Senate Sponsor: Wayne A. Harper

LONG TITLE

General Description:

This bill allocates funds in the County of the First Class Highway Projects Fund and authorizes the issuance of a general obligation bond for certain transportation projects.

Highlighted Provisions:

This bill:

- allocates revenue from certain local option registration fees;
- allocates funds in the County of the First Class Highway Projects Fund to cities as one-time distributions;
- allocates funds in the County of the First Class Highway Projects Fund for annual distributions to certain political subdivisions within Salt Lake County for the next 15 years, subject to availability of funds;
- authorizes the issuance of a general obligation bond for certain transportation improvements and infrastructure loans; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

41-1a-1222, as last amended by Laws of Utah 2018, Chapter 403
63I-1-272, as last amended by Laws of Utah 2020, Chapter 154
72-2-121, as last amended by Laws of Utah 2020, Fifth Special Session, Chapter 20

ENACTS:

63B-31-101, Utah Code Annotated 1953
63B-31-102, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 41-1a-1222 is amended to read:

41-1a-1222. Local option highway construction and transportation corridor preservation fee -- Exemptions -- Deposit -- Transfer -- County ordinance -- Notice.

(1) As used in this section:

(a) "Metro township" means the same as that term is defined in Section 10-2a-403.

(b) "Unincorporated" means the same as that term is defined in Section 10-1-104.

[~~(1)~~] (2) (a) (i) Except as provided in Subsection [~~(1)~~] (2)(a)(ii), a county legislative body may impose a local option highway construction and transportation corridor preservation fee of up to $10 on each motor vehicle registration within the county.

(ii) A county legislative body may impose a local option highway construction and transportation corridor preservation fee of up to $7.75 on each motor vehicle registration for a six-month registration period under Section 41-1a-215.5 within the county.

(iii) A fee imposed under Subsection [~~(1)~~] (2)(a)(i) or (ii) shall be set in whole dollar increments.

(b) If imposed under Subsection [~~(1)~~] (2)(a), at the time application is made for registration or renewal of registration of a motor vehicle under this chapter, the applicant shall pay the local option highway construction and transportation corridor preservation fee established by the county legislative body.

(c) The following are exempt from the fee required under Subsection [~~(1)~~] (2)(a):

(i) a motor vehicle that is exempt from the registration fee under Section 41-1a-1209 or Subsection 41-1a-419(3);

(ii) a commercial vehicle with an apportioned registration under Section 41-1a-301; and

(iii) a motor vehicle with a Purple Heart special group license plate issued in accordance with Section 41-1a-421.

[~~(2)~~] (3) (a) Except as provided in Subsection [~~(2)~~] (3)(b), the revenue generated under this section shall be:

(i) deposited in the Local Highway and Transportation Corridor Preservation Fund created in Section 72-2-117.5;

(ii) credited to the county from which it is generated; and

(iii) used and distributed in accordance with Section 72-2-117.5.

(b) The revenue generated by a fee imposed under this section in a county of the first class shall be deposited or transferred as follows:

(i) [~~70%~~] 50% of the revenue shall be:

(A) deposited in the County of the First Class Highway Projects Fund created in Section 72-2-121; and

(B) used in accordance with Section 72-2-121; [~~and~~]

(ii) 30% of the revenue shall be deposited, credited, and used as provided in Subsection [~~(2)(a).~~] (3)(a); and

(iii) 20% of the revenue shall be transferred to the legislative body of a county of the first class.

(4) Beginning in a fiscal year beginning on or after July 1, 2023, and for 15 years thereafter, the

legislative body of the county of the first class shall annually transfer, from the revenue transferred to the legislative body of a county of the first class as described in Subsection (3)(b)(iii):

(a) $300,000 to Kearns township; and

(b) $225,000 to Magna township.

[~~(3)~~] (5) To impose or change the amount of a fee under this section, the county legislative body shall pass an ordinance:

(a) approving the fee;

(b) setting the amount of the fee; and

(c) providing an effective date for the fee as provided in Subsection [~~(4)~~] (6).

[~~(4)~~] (6) (a) If a county legislative body enacts, changes, or repeals a fee under this section, the enactment, change, or repeal shall take effect on July 1 if the commission receives notice meeting the requirements of Subsection [~~(4)~~] (6)(b) from the county prior to April 1.

(b) The notice described in Subsection [~~(4)~~] (6)(a) shall:

(i) state that the county will enact, change, or repeal a fee under this part;

(ii) include a copy of the ordinance imposing the fee; and

(iii) if the county enacts or changes the fee under this section, state the amount of the fee.

Section 2. Section 63B-31-101 is enacted to read:

Part 1. 2021 Highway General Obligation Bonds

63B-31-101. (Codified as 63B-31-102) Transportation bonds -- Maximum amount -- Use for transportation projects and related facilities.

(1) (a) Subject to the restriction in Subsection (1)(c), the total amount of bonds issued under this section may not exceed $20,000,000.

(b) When the Department of Transportation certifies to the commission the amount of bond proceeds that the commission needs to provide funding for the projects described in Subsection (2), the commission may issue and sell general obligation bonds in an amount equal to the certified amount plus costs of issuance.

(c) The commission may not issue general obligation bonds authorized under this section if the issuance for general obligation bonds would result in the total current outstanding general obligation debt of the state exceeding 50% of the limitation described in the Utah Constitution, Article XIV, Section 1.

(2) (a) Proceeds from the bonds issued under this section shall be provided to the Department of Transportation to pay for or to provide funds to a municipality or county to pay for the costs of right-of-way acquisition, construction, reconstruction, renovations, or improvements to highways, transportation facilities, or multimodal transportation projects described in Subsection (2)(b).

(b) Bond proceeds described under Subsection (2)(a) shall be used to pay for the following local transportation projects, transportation facilities, or multimodal transportation projects:

(i) construction and improvements to 14600 South in Bluffdale; and

(ii) construction of a parking structure in South Jordan.

(c) The costs under this Subsection (2) may include the costs of acquiring land, interests in land, easements and rights-of-way, the costs of improving sites, making all improvements necessary, incidental, or convenient to the facilities, and the costs of interest estimated to accrue on these bonds during the period to be covered by construction of the projects plus a period of six months after the end of the construction period, interest estimated to accrue on any bond anticipation notes issued under the authority of this title, and all related engineering, architectural, and legal fees.

(3) (a) Proceeds from bonds authorized by this section shall be allocated, subject to Subsection (4)(a), as follows:

(i) up to $12,000,000 to Bluffdale; and

(ii) up to $8,000,000 to South Jordan.

(b) The executive director of the Department of Transportation may allocate bond proceeds under this section together, or for each project separately, when the executive director is satisfied that the planning, engineering, design, and commitment are present to complete the project.

(4) (a) Before the Department of Transportation may provide proceeds to a municipality for a project described in Subsection (2)(b), the municipality shall provide a detailed cost estimate of costs to complete the planning and design of the project.

(b) After receiving a cost estimate described in Subsection (4)(a), the Department of Transportation may provide to a municipality proceeds reasonably necessary to complete the planning and design of the project.

(c) After completion of the planning and design of a project, the municipality shall provide to the Department of Transportation a detailed estimate of the costs to construct and complete a project described in Subsection (2)(b).

(d) If approved by the executive director of the Department of Transportation, the Department of Transportation may provide funds to a municipality to construct and complete a project described in Subsection (2)(b).

Section 3. Section 63B-31-102 is enacted to read:

63B-31-102. (Codified as 63B-31-103) Transportation bonds -- Maximum amount -- Use for State Infrastructure Bank Fund loans.

(1) (a) Subject to the restriction in Subsection (1)(c), the total amount of bonds issued under this section may not exceed $30,000,000.

(b) When the Department of Transportation certifies to the commission the amount of bond proceeds that the commission needs to provide funding for the purposes described in Subsection (2), the commission may issue and sell general obligation bonds in an amount equal to the certified amount plus costs of issuance.

(c) The commission may not issue general obligation bonds authorized under this section if the issuance for general obligation bonds would result in the total current outstanding general obligation debt of the state exceeding 50% of the limitation described in the Utah Constitution, Article XIV, Section 1.

(2) (a) Proceeds from the bonds issued under this section shall be provided to the Department of Transportation to transfer to the State Infrastructure Bank Fund created in Section 72-2-202 to be used to issue loans pursuant to Title 72, Chapter 2, Part 2, State Infrastructure Bank Fund.

(b) Any distribution from the State Infrastructure Bank Fund shall be contingent upon a commitment from the borrower that revenue is available to repay the loan from the State Infrastructure Bank Fund which shall be paid in whole or in part from revenue distributions described in Subsection 72-2-121(4)(m).

(c) Notwithstanding Subsection 72-2-204(2), a loan or assistance made with proceeds from bonds issued under this section shall bear an interest rate not to exceed .5% above the bond market interest rate available to the state for an issuance under this section.

Section 4. Section 63I-1-272 is amended to read:

63I-1-272. Repeal dates, Title 72.

(1) Subsection 72-2-121[~~(9)~~](10), which creates transportation advisory committees, is repealed July 1, 2022.

(2) Title 72, Chapter 4, Part 3, Utah State Scenic Byway Program, is repealed January 2, 2025.

Section 5. Section 72-2-121 is amended to read:

72-2-121. County of the First Class Highway Projects Fund.

(1) There is created a special revenue fund within the Transportation Fund known as the "County of the First Class Highway Projects Fund."

(2) The fund consists of money generated from the following revenue sources:

(a) any voluntary contributions received for new construction, major renovations, and improvements to highways within a county of the first class;

(b) the portion of the sales and use tax described in Subsection 59-12-2214(3)(b) deposited [~~in~~] into or transferred to the fund;

(c) the portion of the sales and use tax described in Section 59-12-2217 deposited [~~in~~] into or transferred to the fund; and

(d) a portion of the local option highway construction and transportation corridor preservation fee imposed in a county of the first class under Section 41-1a-1222 deposited [~~in~~] into or transferred to the fund.

(3) (a) The fund shall earn interest.

(b) All interest earned on fund money shall be deposited into the fund.

(4) The executive director shall use the fund money only:

(a) to pay debt service and bond issuance costs for bonds issued under Sections 63B-16-102, 63B-18-402, and 63B-27-102;

(b) for right-of-way acquisition, new construction, major renovations, and improvements to highways within a county of the first class and to pay any debt service and bond issuance costs related to those projects, including improvements to a highway located within a municipality in a county of the first class where the municipality is located within the boundaries of more than a single county;

(c) for the construction, acquisition, use, maintenance, or operation of:

(i) an active transportation facility for nonmotorized vehicles;

(ii) multimodal transportation that connects an origin with a destination; or

(iii) a facility that may include a:

(A) pedestrian or nonmotorized vehicle trail;

(B) nonmotorized vehicle storage facility;

(C) pedestrian or vehicle bridge; or

(D) vehicle parking lot or parking structure;

(d) to transfer to the 2010 Salt Lake County Revenue Bond Sinking Fund created by Section 72-2-121.3 the amount required in Subsection 72-2-121.3(4)(c) minus the amounts transferred in accordance with Subsection 72-2-124(4)(a)(iv);

(e) for a fiscal year beginning on or after July 1, 2013, to pay debt service and bond issuance costs for $30,000,000 of the bonds issued under Section 63B-18-401 for the projects described in Subsection 63B-18-401(4)(a);

(f) for a fiscal year beginning on or after July 1, 2013, and after the department has verified that the

amount required under Subsection 72-2-121.3(4)(c) is available in the fund, to transfer an amount equal to 50% of the revenue generated by the local option highway construction and transportation corridor preservation fee imposed under Section 41-1a-1222 in a county of the first class:

(i) to the legislative body of a county of the first class; and

(ii) to be used by a county of the first class for:

(A) highway construction, reconstruction, or maintenance projects; or

(B) the enforcement of state motor vehicle and traffic laws;

(g) for fiscal year 2015-16 only, and after the department has verified that the amount required under Subsection 72-2-121.3(4)(c) is available in the fund and the transfer under Subsection (4)(e) has been made, to transfer an amount equal to $25,000,000:

(i) to the legislative body of a county of the first class; and

(ii) to be used by the county for the purposes described in this section;

(h) for a fiscal year beginning on or after July 1, 2015, after the department has verified that the amount required under Subsection 72-2-121.3(4)(c) is available in the fund and the transfer under Subsection (4)(e) has been made, to annually transfer an amount [~~equal to up to 42.5%~~] of the sales and use tax revenue imposed in a county of the first class and deposited into the fund in accordance with Subsection 59-12-2214(3)(b) equal to an amount needed to cover the debt to:

(i) the appropriate debt service or sinking fund for the repayment of bonds issued under Section 63B-27-102; [~~and~~]

(ii) the Transportation Fund created in Section 72-2-102 until $28,079,000 has been deposited into the Transportation Fund; and

(iii) the appropriate debt service or sinking fund for the repayment of bonds issued under Sections 63B-31-101 and 63B-31-102;

(i) [~~for a fiscal year beginning on or after July 1, 2018,~~] after the department has verified that the amount required under Subsection 72-2-121.3(4)(c) is available in the fund and after the transfer under Subsection (4)(d), the payment under Subsection (4)(e), and the transfers under Subsections (4)(h)(i) and (ii) have been made, to annually transfer [~~20% of the amount deposited into the fund under Subsection (2)(b)~~] $2,000,000 to a public transit district in a county of the first class to fund a system for public transit;

(j) for a fiscal year beginning on or after July 1, 2018, after the department has verified that the amount required under Subsection 72-2-121.3(4)(c) is available in the fund and after the transfer under Subsection (4)(d), the payment under Subsection (4)(e), and the transfers under Subsections (4)(h)(i) and (ii) have been made, to annually transfer 20% of the amount deposited into the fund under Subsection (2)(b):

(i) to the legislative body of a county of the first class; and

(ii) to fund parking facilities in a county of the first class that facilitate significant economic development and recreation and tourism within the state;

(k) for the 2018-19 fiscal year only, after the department has verified that the amount required under Subsection 72-2-121.3(4)(c) is available in the fund and after the transfer under Subsection (4)(d), the payment under Subsection (4)(e), and the transfers under Subsections (4)(h), (i), and (j) have been made, to transfer $12,000,000 to the department to distribute for the following projects:

(i) $2,000,000 to West Valley City for highway improvement to 4100 South;

(ii) $1,000,000 to Herriman for highway improvements to Herriman Boulevard from 6800 West to 7300 West;

(iii) $1,100,000 to South Jordan for highway improvements to Grandville Avenue;

(iv) $1,800,000 to Riverton for highway improvements to Old Liberty Way from 13400 South to 13200 South;

(v) $1,000,000 to Murray City for highway improvements to 5600 South from State Street to Van Winkle;

(vi) $1,000,000 to Draper for highway improvements to Lone Peak Parkway from 11400 South to 12300 South;

(vii) $1,000,000 to Sandy City for right-of-way acquisition for Monroe Street;

(viii) $900,000 to South Jordan City for right-of-way acquisition and improvements to 10200 South from 2700 West to 3200 West;

(ix) $1,000,000 to West Jordan for highway improvements to 8600 South near Mountain View Corridor;

(x) $700,000 to South Jordan right-of-way improvements to 10550 South; and

(xi) $500,000 to Salt Lake County for highway improvements to 2650 South from 7200 West to 8000 West; [~~and~~]

[~~(l) for a fiscal year beginning after the amount described in Subsection (4)(h) has been repaid to the Transportation Fund until fiscal year 2030, or sooner if the amount described in Subsection (4)(h)(ii) has been repaid, after the department has verified that the amount required under Subsection 72-2-121.3(4)(c) is available in the fund and the transfer under Subsection (4)(e) has been made, and after the bonds under Section 63B-27-102 have been repaid, to annually transfer an amount equal to up to 42.5% of the sales and use tax revenue imposed in a county of the first class and deposited into the fund in accordance with Subsection 59-12-2214(3)(b):~~]

[~~(i) to the legislative body of a county of the first class; and~~]

[~~(ii) to be used by the county for the purposes described in this section.~~]

(l) subject to Subsection (5), for the 2020-2021 fiscal year only, after the department has verified that the amount required under Subsection 72-2-121.3(4)(c) is available in the fund and after the transfer under Subsection (4)(d), the payment under Subsection (4)(e), and the transfers under Subsections (4)(h), (i), and (j) have been made, to transfer the following amounts to the following cities:

(i) $2,600,000 to South Salt Lake City;

(ii) $1,100,000 to Salt Lake City;

(iii) $1,100,000 to West Valley City;

(iv) $1,000,000 to Millcreek;

(v) $700,000 to Sandy;

(vi) $700,000 to West Jordan;

(vii) $500,000 to Murray;

(viii) $500,000 to South Jordan; and

(ix) $500,000 to Taylorsville; and

(m) subject to Subsection (5), for a fiscal year beginning on or after July 1, 2021, and for 15 years thereafter, to annually transfer the following amounts to the following cities, metro townships, and the county of the first class for priority projects to mitigate congestion and improve transportation safety:

(i) $1,100,000 to Salt Lake City;

(ii) $1,100,000 to Sandy;

(iii) $1,100,000 to Taylorsville;

(iv) $1,100,000 to West Jordan;

(v) $1,100,000 to West Valley City;

(vi) $800,000 to Herriman;

(vii) $700,000 to Draper;

(viii) $700,000 to Riverton;

(ix) $700,000 to South Jordan;

(x) $500,000 to Midvale;

(xi) $500,000 to Millcreek;

(xii) $500,000 to Murray;

(xiii) $400,000 to Cottonwood Heights; and

(xiv) $300,000 to Holladay.

(5) (a) If revenue in the fund is insufficient to satisfy all of the transfers described in Subsection (4)(m), the executive director shall proportionately reduce the amounts transferred as described in Subsection (4)(m).

(b) A local government entity, as that term is defined in Section 63J-1-220, is exempt from entering into an agreement as described in Section 63J-1-220 pertaining to the receipt or expenditure of any funding described in Subsection (4)(l) or (m).

(c) A local government may not use revenue described in Subsections (4)(l) and (m) to supplant existing class B or class C road funds that a local government has budgeted for transportation projects.

(d) (i) A municipality or county that received a transfer of funds described in Subsection (4)(k) shall submit to the department a statement of cash flow and progress pertaining to the municipality's or county's respective project described in Subsection (4)(k).

(ii) After the department is satisfied that the municipality or county described in Subsection (4)(k) has made substantial progress and the expenditure of funds is programmed and imminent, the department may transfer to the same municipality or county the respective amounts described in Subsections (4)(l) and (m).

[~~(5)~~] (6) The revenues described in Subsections (2)(b), (c), and (d) that are deposited [~~in~~] into the fund and bond proceeds from bonds issued under Sections 63B-16-102, 63B-18-402, and 63B-27-102 are considered a local matching contribution for the purposes described under Section 72-2-123.

[~~(6)~~] (7) The additional administrative costs of the department to administer this fund shall be paid from money in the fund.

[~~(7)~~] (8) Notwithstanding any statutory or other restrictions on the use or expenditure of the revenue sources deposited into this fund, the Department of Transportation may use the money in this fund for any of the purposes detailed in Subsection (4).

[~~(8)~~] (9) (a) For a fiscal year beginning on or after July 1, 2018, at the end of each fiscal year, after all programmed payments and transfers authorized or required under this section have been made, on November 30 the department shall transfer the remainder of the money in the fund to the Transportation Fund to reduce the amount owed to the Transportation Fund under Subsection [~~(4)(j)(ii)~~] (4)(h)(ii).

(b) The department shall provide notice to a county of the first class of the amount transferred in accordance with this Subsection [~~(8)~~] (9).

[~~(9)~~] (10) (a) Any revenue in the fund that is not specifically allocated and obligated under Subsections (4) through (8) is subject to the review process described in this Subsection [~~(9)~~] (10).

(b) A county of the first class shall create a county transportation advisory committee as described in Subsection [~~(9)~~] (10)(c) to review proposed transportation and, as applicable, public transit projects and rank projects for allocation of funds.

(c) The county transportation advisory committee described in Subsection [~~(9)~~] (10)(b) shall be composed of the following 13 members:

(i) six members who are residents of the county, nominated by the county executive and confirmed by the county legislative body who are:

(A) members of a local advisory council of a large public transit district as defined in Section 17B-2a-802;

(B) county council members; or

(C) other residents with expertise in transportation planning and funding; and

(ii) seven members nominated by the county executive, and confirmed by the county legislative body, chosen from mayors or managers of cities or towns within the county.

(d) (i) A majority of the members of the county transportation advisory committee constitutes a quorum.

(ii) The action by a quorum of the county transportation advisory committee constitutes an action by the county transportation advisory committee.

(e) The county body shall determine:

(i) the length of a term of a member of the county transportation advisory committee;

(ii) procedures and requirements for removing a member of the county transportation advisory committee;

(iii) voting requirements of the county transportation advisory committee;

(iv) chairs or other officers of the county transportation advisory committee;

(v) how meetings are to be called and the frequency of meetings, but not less than once annually; and

(vi) the compensation, if any, of members of the county transportation advisory committee.

(f) The county shall establish by ordinance criteria for prioritization and ranking of projects, which may include consideration of regional and countywide economic development impacts, including improved local access to:

(i) employment;

(ii) recreation;

(iii) commerce; and

(iv) residential areas.

(g) The county transportation advisory committee shall evaluate and rank each proposed public transit project and regionally significant transportation facility according to criteria developed pursuant to Subsection [~~(9)~~] (10)(f).

(h) (i) After the review and ranking of each project as described in this section, the county transportation advisory committee shall provide a report and recommend the ranked list of projects to the county legislative body and county executive.

(ii) After review of the recommended list of projects, as part of the county budgetary process, the county executive shall review the list of projects and may include in the proposed budget the proposed projects for allocation, as funds are available.

(i) The county executive of the county of the first class, with information provided by the county and relevant state entities, shall provide a report annually to the county transportation advisory committee, and to the mayor or manager of each city, town, or metro township in the county, including the following:

(i) the amount of revenue received into the fund during the past year;

(ii) any funds available for allocation;

(iii) funds obligated for debt service; and

(iv) the outstanding balance of transportation-related debt.

[~~(10)~~] (11) As resources allow, the department shall study in 2020 transportation connectivity in the southwest valley of Salt Lake County, including the feasibility of connecting major east-west corridors to U-111.

CHAPTER 421
H. B. 326
Passed March 3, 2021
Approved March 23, 2021
Effective May 5, 2021

PERFORMANCE REPORTING AND EFFICIENCY REQUIREMENTS

Chief Sponsor: Melissa G. Ballard
Senate Sponsor: Don L. Ipson
Cosponsor: Travis M. Seegmiller

LONG TITLE

General Description:

This bill modifies provisions related to government performance reporting and efficiency requirements.

Highlighted Provisions:

This bill:

- defines terms;
- modifies the duties of the Office of the Legislative Fiscal Analyst and the Office of the Legislative Auditor General related to government processes targeted for efficiency improvements;
- modifies the process by which an agency develops and reports performance measures;
- requires the Governor's Office of Management and Budget and the Office of the Legislative Fiscal Analyst to:
  - establish a process to target certain government processes for efficiency improvements; and
  - report annually regarding the status of the efficiency improvement process and any recommended changes;
- clarifies that the judicial department and the legislative department are not subject to certain performance reporting requirements; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

36-12-13, as last amended by Laws of Utah 2018, Chapter 248
36-12-15, as last amended by Laws of Utah 2020, Chapter 356
63I-1-263, as last amended by Laws of Utah 2020, Chapters 82, 152, 154, 199, 230, 303, 322, 336, 354, 360, 375, 405 and last amended by Coordination Clause, Laws of Utah 2020, Chapter 360
63J-1-201, as last amended by Laws of Utah 2020, Chapter 152
63J-1-602.2, as last amended by Laws of Utah 2020, Fifth Special Session, Chapter 20

ENACTS:

63J-1-901, Utah Code Annotated 1953
63J-1-902, Utah Code Annotated 1953
63J-1-903, Utah Code Annotated 1953
63J-1-904, Utah Code Annotated 1953

REPEALS:

36-24-101, as last amended by Laws of Utah 2011, Chapter 342

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 36-12-13 is amended to read:

36-12-13. Office of the Legislative Fiscal Analyst established -- Powers, functions, and duties -- Qualifications.

(1) There is established an Office of the Legislative Fiscal Analyst as a permanent staff office for the Legislature.

(2) The powers, functions, and duties of the Office of the Legislative Fiscal Analyst under the supervision of the fiscal analyst are:

(a) (i) to estimate general revenue collections, including comparisons of:

(A) current estimates for each major tax type to long-term trends for that tax type;

(B) current estimates for federal fund receipts to long-term federal fund trends; and

(C) current estimates for tax collections and federal fund receipts to long-term trends deflated for the inflationary effects of debt monetization; and

(ii) to report the analysis required under Subsection (2)(a)(i) to the Legislature's Executive Appropriations Committee before each annual general session of the Legislature;

(b) to analyze in detail the state budget before the convening of each legislative session and make recommendations to the Legislature on each item or program appearing in the budget, including:

(i) funding for and performance of programs, acquisitions, and services currently undertaken by state government to determine whether each department, agency, institution, or program should:

(A) continue at its current level of expenditure;

(B) continue at a different level of expenditure; or

(C) be terminated; and

(ii) increases or decreases to spending authority and other resource allocations for the current and future fiscal years;

(c) to prepare on all proposed bills fiscal estimates that reflect:

(i) potential state government revenue impacts;

(ii) anticipated state government expenditure changes;

(iii) anticipated expenditure changes for county, municipal, local district, or special service district governments; and

(iv) anticipated direct expenditure by Utah residents and businesses, including the unit cost, number of units, and total cost to all impacted residents and businesses;

(d) to indicate whether each proposed bill will impact the regulatory burden for Utah residents or businesses, and if so:

(i) whether the impact increases or decreases the regulatory burden; and

(ii) whether the change in burden is high, medium, or low;

(e) beginning in 2017 and repeating every three years after 2017, to prepare the following cycle of analyses of long-term fiscal sustainability:

(i) in year one, the joint revenue volatility report required under Section 63J-1-205;

(ii) in year two, a long-term budget for programs appropriated from major funds and tax types; and

(iii) in year three, a budget stress test comparing estimated future revenue to and expenditure from major funds and tax types under various potential economic conditions;

(f) to report instances in which the administration may be failing to carry out the expressed intent of the Legislature;

(g) to propose and analyze statutory changes for more effective operational economies or more effective administration;

(h) to prepare, before each annual general session of the Legislature, a summary showing the current status of the following as compared to the past nine fiscal years:

(i) debt;

(ii) long-term liabilities;

(iii) contingent liabilities;

(iv) General Fund borrowing;

(v) reserves;

(vi) fund and nonlapsing balances; and

(vii) cash funded capital investments;

(i) to make recommendations for addressing the items described in Subsection (2)(h) in the upcoming annual general session of the Legislature;

(j) to prepare, after each session of the Legislature, a summary showing the effect of the final legislative program on the financial condition of the state;

(k) to conduct organizational and management improvement studies in accordance with Title 63J, Chapter 1, Part 9, Government Performance Reporting and Efficiency Process, and legislative rule;

(l) to prepare and deliver upon request of any interim committee or the Legislative Management Committee, reports on the finances of the state and on anticipated or proposed requests for appropriations;

(m) to recommend areas for research studies by the executive department or the interim committees;

(n) to appoint and develop a professional staff within budget limitations;

(o) to prepare and submit the annual budget request for the office;

(p) to develop a taxpayer receipt:

(i) available to taxpayers through a website; and

(ii) that allows a taxpayer to view on the website an estimate of how the taxpayer's tax dollars are expended for government purposes; and

(q) to publish or provide other information on taxation and government expenditures that may be accessed by the public.

(3) The legislative fiscal analyst shall have a master's degree in public administration, political science, economics, accounting, or the equivalent in academic or practical experience.

(4) In carrying out the duties provided for in this section, the legislative fiscal analyst may obtain access to all records, documents, and reports necessary to the scope of the legislative fiscal analyst's duties according to the procedures contained in Title 36, Chapter 14, Legislative Subpoena Powers.

Section 2. Section 36-12-15 is amended to read:

36-12-15. Office of the Legislative Auditor General established -- Qualifications -- Powers, functions, and duties.

(1) There is created an Office of the Legislative Auditor General as a permanent staff office for the Legislature.

(2) The legislative auditor general shall be a licensed certified public accountant or certified internal auditor with at least five years of experience in the auditing or public accounting profession, or the equivalent, prior to appointment.

(3) The legislative auditor general shall appoint and develop a professional staff within budget limitations.

(4) (a) The Office of the Legislative Auditor General shall exercise the constitutional authority provided in Article VI, Sec. 33, Utah Constitution.

(b) Under the direction of the legislative auditor general, the office shall:

(i) conduct comprehensive and special purpose audits, examinations, and reviews of any entity that receives public funds;

(ii) prepare and submit a written report on each audit, examination, or review to the Legislative Management Committee, the audit subcommittee, and to all members of the Legislature within 75 days after the audit or examination is completed; and

[~~(iii) as provided in Section 36-24-101:~~]

[~~(A) monitor all new programs and agencies created during each Annual General Session or Special Session of the Legislature;~~]

[~~(B) provide each new program and agency created with a list of best practices in setting up their program or agency, including:~~]

[~~(I) policies;~~]

[~~(II) performance measures; and~~]

[~~(III) data collection;~~]

[~~(C) send each new program and agency:~~]

[~~(I) within one year after its creation, a survey instrument requesting a self evaluation that includes policies, performance measures, and data collection; and~~]

[~~(II) within two years after its creation, a survey instrument requesting a self evaluation that includes policies, performance measures, and data collection; and~~]

[~~(D) (I) using the new program or agency's response to the self evaluation survey instruments, recommend to the legislative audit subcommittee that the office conduct an audit of those new programs and agencies created on which questions have arisen as a result of the response to the survey instrument and provide a limited scope audit report on those new programs or agencies on which it receives direction to audit to the legislative interim committee and to the legislative appropriations subcommittee with oversight responsibility for that program or agency on or before the November interim meeting; and~~]

[~~(II) include within this limited scope audit report a recommendation as to whether the program or agency is fulfilling its statutory guidelines and directives.~~]

(iii) monitor and conduct a risk assessment of any efficiency evaluations in accordance with Title 63J, Chapter 1, Part 9, Government Performance Reporting and Efficiency Process, and legislative rule.

(5) The audit, examination, or review of any entity that receives public funds may include a determination of any or all of the following:

(a) the honesty and integrity of all [~~its~~] the entity's fiscal affairs;

(b) the accuracy and reliability of [~~its~~] the entity's financial statements and reports;

(c) whether or not [~~its~~] the entity's financial controls are adequate and effective to properly record and safeguard its acquisition, custody, use, and accounting of public funds;

(d) whether or not [~~its~~] the entity's administrators have faithfully adhered to legislative intent;

(e) whether or not [~~its~~] the entity's operations have been conducted in an efficient, effective, and cost efficient manner;

(f) whether or not [~~its~~] the entity's programs have been effective in accomplishing intended objectives; and

(g) whether or not [~~its~~] the entity's management control and information systems are adequate and effective.

(6) The Office of the Legislative Auditor General:

(a) (i) shall, notwithstanding any other provision of law, have access to all records, documents, and reports of any entity that receives public funds that are necessary to the scope of the duties of the legislative auditor general or the office; and

(ii) may issue a subpoena to obtain access as provided in Subsection (6)(a)(i) using the procedures contained in Title 36, Chapter 14, Legislative Subpoena Powers;

(b) establish policies, procedures, methods, and standards of audit work for the office and staff;

(c) prepare and submit each audit report without interference from any source relative to the content of the report, the conclusions reached in the report, or the manner of disclosing the results of the legislative auditor general's findings; and

(d) prepare and submit the annual budget request for the office.

(7) To preserve the professional integrity and independence of the office:

(a) no legislator or public official may urge the appointment of any person to the office; and

(b) the legislative auditor general may not be appointed to serve on any board, authority, commission, or other agency of the state during the legislative auditor general's term as legislative auditor general.

(8) The following records in the custody or control of the legislative auditor general shall be protected records under Title 63G, Chapter 2, Government Records Access and Management Act:

(a) Records that would disclose information relating to allegations of personal misconduct, gross mismanagement, or illegal activity of a past or present governmental employee if the information or allegation cannot be corroborated by the legislative auditor general through other documents or evidence, and the records relating to the allegation are not relied upon by the legislative auditor general in preparing a final audit report.

(b) Records and audit workpapers to the extent they would disclose the identity of a person who during the course of a legislative audit, communicated the existence of any waste of public funds, property, or manpower, or a violation or suspected violation of a law, rule, or regulation adopted under the laws of this state, a political subdivision of the state, or any recognized entity of the United States, if the information was disclosed on the condition that the identity of the person be protected.

(c) Prior to the time that an audit is completed and the final audit report is released, records or

drafts circulated to a person who is not an employee or head of a governmental entity for their response or information.

(d) Records that would disclose an outline or part of any audit survey plans or audit program.

(e) Requests for audits, if disclosure would risk circumvention of an audit.

(f) The provisions of Subsections (8)(a), (b), and (c) do not prohibit the disclosure of records or information that relate to a violation of the law by a governmental entity or employee to a government prosecutor or peace officer.

(g) The provisions of this section do not limit the authority otherwise given to the legislative auditor general to classify a document as public, private, controlled, or protected under Title 63G, Chapter 2, Government Records Access and Management Act.

(9) The legislative auditor general shall:

(a) be available to the Legislature and to [~~its~~] the Legislature's committees for consultation on matters relevant to areas of the legislative auditor general's professional competence;

(b) conduct special audits as requested by the Legislative Management Committee;

(c) report immediately in writing to the Legislative Management Committee through its audit subcommittee any apparent violation of penal statutes disclosed by the audit of a state agency and furnish to the Legislative Management Committee all information relative to the apparent violation;

(d) report immediately in writing to the Legislative Management Committee through its audit subcommittee any apparent instances of malfeasance or nonfeasance by a state officer or employee disclosed by the audit of a state agency; and

(e) make any recommendations to the Legislative Management Committee through its audit subcommittee with respect to the alteration or improvement of the accounting system used by any entity that receives public funds.

(10) If the legislative auditor general conducts an audit of a state agency that has previously been audited and finds that the state agency has not implemented a recommendation made by the legislative auditor general in a previous audit, the legislative auditor general shall, upon release of the audit:

(a) report immediately in writing to the Legislative Management Committee through its audit subcommittee that the state agency has not implemented that recommendation; and

(b) shall report, as soon as possible, that the state agency has not implemented that recommendation to a meeting of an appropriate legislative committee designated by the audit subcommittee of the Legislative Management Committee.

(11) (a) Prior to each annual general session, the legislative auditor general shall prepare a summary of the audits conducted and of actions taken based upon them during the preceding year.

(b) This report shall also set forth any items and recommendations that are important for consideration in the forthcoming session, together with a brief statement or rationale for each item or recommendation.

(c) The legislative auditor general shall deliver the report to the Legislature and to the appropriate committees of the Legislature.

(12) (a) No person or entity may:

(i) interfere with a legislative audit, examination, or review of any entity conducted by the office; or

(ii) interfere with the office relative to the content of the report, the conclusions reached in the report, or the manner of disclosing the results and findings of the office.

(b) Any person or entity that violates the provisions of this Subsection (12) is guilty of a class B misdemeanor.

(13) (a) Beginning July 1, 2020, the Office of the Legislative Auditor General may require any current employee, or any applicant for employment, to submit to a fingerprint-based local, regional, and criminal history background check as an ongoing condition of employment.

(b) An employee or applicant for employment shall provide a completed fingerprint card to the office upon request. The office shall require that an individual required to submit to a background check under this subsection also provide a signed waiver on a form provided by the office that meets the requirements of Subsection 53-10-108(4).

(c) For a noncriminal justice background search and registration in accordance with Subsection 53-10-108(13), the office shall submit to the Bureau of Criminal Identification:

(i) the employee's or applicant's personal identifying information and fingerprints for a criminal history search of applicable local, regional, and national databases; and

(ii) a request for all information received as a result of the local, regional, and nationwide background check.

Section 3. Section 63I-1-263 is amended to read:

63I-1-263. Repeal dates, Titles 63A to 63N.

(1) In relation to the Utah Transparency Advisory Board, on January 1, 2025:

(a) Subsection 63A-1-201(1) is repealed;

(b) Subsection 63A-1-202(2)(c), the language "using criteria established by the board" is repealed;

(c) Section 63A-1-203 is repealed;

(d) Subsections 63A-1-204(1) and (2), the language "After consultation with the board, and" is repealed; and

(e) Subsection 63A-1-204(1)(b), the language "using the standards provided in Subsection 63A-1-203(3)(c)" is repealed.

(2) Subsection 63A-5b-405(5), relating to prioritizing and allocating capital improvement funding, is repealed July 1, 2024.

(3) Section 63A-5b-1003, State Facility Energy Efficiency Fund, is repealed July 1, 2023.

(4) Sections 63A-9-301 and 63A-9-302, related to the Motor Vehicle Review Committee, are repealed July 1, 2023.

(5) Title 63C, Chapter 4a, Constitutional and Federalism Defense Act, is repealed July 1, 2028.

(6) Title 63C, Chapter 6, Utah Seismic Safety Commission, is repealed January 1, 2025.

(7) Title 63C, Chapter 12, Snake Valley Aquifer Advisory Council, is repealed July 1, 2024.

(8) Title 63C, Chapter 17, Point of the Mountain Development Commission Act, is repealed July 1, 2021.

(9) Title 63C, Chapter 18, Behavioral Health Crisis Response Commission, is repealed July 1, 2023.

(10) Title 63C, Chapter 21, Outdoor Adventure Commission, is repealed July 1, 2025.

(11) Title 63F, Chapter 2, Data Security Management Council, is repealed July 1, 2025.

(12) Section 63G-6a-805, which creates the Purchasing from Persons with Disabilities Advisory Board, is repealed July 1, 2026.

(13) Title 63G, Chapter 21, Agreements to Provide State Services, is repealed July 1, 2025.

(14) Title 63H, Chapter 4, Heber Valley Historic Railroad Authority, is repealed July 1, 2024.

(15) Title 63H, Chapter 8, Utah Housing Corporation Act, is repealed July 1, 2026.

(16) Subsection 63J-1-602.1(14), Nurse Home Visiting Restricted Account is repealed July 1, 2026.

(17) (a) Subsection 63J-1-602.1(58), relating to the Utah Statewide Radio System Restricted Account, is repealed July 1, 2022.

(b) When repealing Subsection 63J-1-602.1(58), the Office of Legislative Research and General Counsel shall, in addition to the office's authority under Subsection 36-12-12(3), make necessary changes to subsection numbering and cross references.

(18) Subsection 63J-1-602.2[~~(4)~~](5), referring to dedicated credits to the Utah Marriage Commission, is repealed July 1, 2023.

(19) Subsection 63J-1-602.2[~~(5)~~](6), referring to the Trip Reduction Program, is repealed July 1, 2022.

(20) Subsection 63J-1-602.2[~~(25)~~](24), related to the Utah Seismic Safety Commission, is repealed January 1, 2025.

(21) Title 63J, Chapter 4, Part 5, Resource Development Coordinating Committee, is repealed July 1, 2027.

(22) Subsection 63J-4-608(3), which creates the Federal Land Application Advisory Committee, is repealed on July 1, 2021.

(23) In relation to the Utah Substance Use and Mental Health Advisory Council, on January 1, 2023:

(a) Sections 63M-7-301, 63M-7-302, 63M-7-303, 63M-7-304, and 63M-7-306 are repealed;

(b) Section 63M-7-305, the language that states "council" is replaced with "commission";

(c) Subsection 63M-7-305(1) is repealed and replaced with:

"(1) "Commission" means the Commission on Criminal and Juvenile Justice."; and

(d) Subsection 63M-7-305(2) is repealed and replaced with:

"(2) The commission shall:

(a) provide ongoing oversight of the implementation, functions, and evaluation of the Drug-Related Offenses Reform Act; and

(b) coordinate the implementation of Section 77-18-1.1 and related provisions in Subsections 77-18-1(5)(b)(iii) and (iv).".

(24) The Crime Victim Reparations and Assistance Board, created in Section 63M-7-504, is repealed July 1, 2027.

(25) Title 63M, Chapter 7, Part 6, Utah Council on Victims of Crime, is repealed July 1, 2022.

(26) Title 63M, Chapter 11, Utah Commission on Aging, is repealed July 1, 2021.

(27) Subsection 63N-1-301(4)(c), related to the Talent Ready Utah Board, is repealed January 1, 2023.

(28) Title 63N, Chapter 1, Part 5, Governor's Economic Development Coordinating Council, is repealed July 1, 2024.

(29) Title 63N, Chapter 2, Part 2, Enterprise Zone Act, is repealed July 1, 2028.

(30) Section 63N-2-512 is repealed July 1, 2021.

(31) (a) Title 63N, Chapter 2, Part 6, Utah Small Business Jobs Act, is repealed January 1, 2021.

(b) Section 59-9-107 regarding tax credits against premium taxes is repealed for calendar years beginning on or after January 1, 2021.

(c) Notwithstanding Subsection (31)(b), an entity may carry forward a tax credit in accordance with Section 59-9-107 if:

(i) the person is entitled to a tax credit under Section 59-9-107 on or before December 31, 2020; and

(ii) the qualified equity investment that is the basis of the tax credit is certified under Section 63N-2-603 on or before December 31, 2023.

(32) Subsections 63N-3-109(2)(e) and 63N-3-109(2)(f)(i) are repealed July 1, 2023.

(33) Title 63N, Chapter 4, Part 4, Rural Employment Expansion Program, is repealed July 1, 2023.

(34) Title 63N, Chapter 7, Part 1, Board of Tourism Development, is repealed July 1, 2025.

(35) Title 63N, Chapter 9, Part 2, Outdoor Recreational Infrastructure Grant Program, is repealed January 1, 2023.

(36) Title 63N, Chapter 12, Part 5, Talent Ready Utah Center, is repealed January 1, 2023.

Section 4. Section 63J-1-201 is amended to read:

63J-1-201. Governor's proposed budget to Legislature -- Contents -- Preparation -- Appropriations based on current tax laws and not to exceed estimated revenues.

(1) The governor shall deliver, not later than 30 days before the date the Legislature convenes in the annual general session, a confidential draft copy of the governor's proposed budget recommendations to the Office of the Legislative Fiscal Analyst according to the requirements of this section.

(2) (a) When submitting a proposed budget, the governor shall, within the first three days of the annual general session of the Legislature, submit to the presiding officer of each house of the Legislature:

(i) a proposed budget for the ensuing fiscal year;

(ii) a schedule for all of the proposed changes to appropriations in the proposed budget, with each change clearly itemized and classified; and

(iii) as applicable, a document showing proposed changes in estimated revenues that are based on changes in state tax laws or rates.

(b) The proposed budget shall include:

(i) a projection of:

(A) estimated revenues by major tax type;

(B) 15-year trends for each major tax type;

(C) estimated receipts of federal funds;

(D) 15-year trends for federal fund receipts; and

(E) appropriations for the next fiscal year;

(ii) the source of changes to all direct, indirect, and in-kind matching funds for all federal grants or assistance programs included in the budget;

(iii) changes to debt service;

(iv) a plan of proposed changes to appropriations and estimated revenues for the next fiscal year that is based upon the current fiscal year state tax laws and rates and considers projected changes in federal grants or assistance programs included in the budget;

(v) an itemized estimate of the proposed changes to appropriations for:

(A) the [~~Legislative Department~~] legislative department as certified to the governor by the president of the Senate and the speaker of the House;

(B) the [~~Executive Department~~] executive department;

(C) the [~~Judicial Department~~] judicial department as certified to the governor by the state court administrator;

(D) changes to salaries payable by the state under the Utah Constitution or under law for lease agreements planned for the next fiscal year; and

(E) all other changes to ongoing or one-time appropriations, including dedicated credits, restricted funds, nonlapsing balances, grants, and federal funds;

(vi) for each line item, the average annual dollar amount of staff funding associated with all positions that were vacant during the last fiscal year;

(vii) deficits or anticipated deficits;

(viii) the recommendations for each state agency for new full-time employees for the next fiscal year, which shall also be provided to the director of the Division of Facilities Construction and Management as required by Subsection 63A-5b-501(3);

(ix) a written description and itemized report submitted by a state agency to the Governor's Office of Management and Budget under Section 63J-1-220, including:

(A) a written description and an itemized report provided at least annually detailing the expenditure of the state money, or the intended expenditure of any state money that has not been spent; and

(B) a final written itemized report when all the state money is spent;

(x) any explanation that the governor may desire to make as to the important features of the budget and any suggestion as to methods for the reduction of expenditures or increase of the state's revenue; and

(xi) information detailing certain fee increases as required by Section 63J-1-504.

(3) (a) [~~For~~] Except as provided in Subsection (3)(b), for the purpose of preparing and reporting the proposed budget, the governor:

[~~(a) The governor~~]

(i) shall require the proper state officials, including all public and higher education officials, all heads of executive and administrative departments and state institutions, bureaus, boards, commissions, and agencies expending or

supervising the expenditure of the state money, and all institutions applying for state money and appropriations, to provide itemized estimates of changes in revenues and appropriations[.];

[~~(b) The governor~~]

(ii) may require the persons and entities subject to Subsection (3)(a)(i) to provide other information under these guidelines and at times as the governor may direct, which may include a requirement for program productivity and performance measures, where appropriate, with emphasis on outcome indicators[.]; and

[~~(c) The governor~~]

(iii) may require representatives of public and higher education, state departments and institutions, and other institutions or individuals applying for state appropriations to attend budget meetings.

(b) Subsections (3)(a)(ii) and (iii) do not apply to the judicial department or the legislative department.

(4) (a) The Governor's Office of Management and Budget shall provide to the Office of the Legislative Fiscal Analyst, as soon as practicable, but no later than 30 days before the [~~date~~] day on which the Legislature convenes in the annual general session, data, analysis, or requests used in preparing the governor's budget recommendations, notwithstanding the restrictions imposed on such recommendations by available revenue.

(b) The information under Subsection (4)(a) shall include:

(i) actual revenues and expenditures for the fiscal year ending the previous June 30;

(ii) estimated or authorized revenues and expenditures for the current fiscal year;

(iii) requested revenues and expenditures for the next fiscal year;

(iv) detailed explanations of any differences between the amounts appropriated by the Legislature in the current fiscal year and the amounts reported under Subsections (4)(b)(ii) and (iii); and

[~~(v) a statement of:~~]

[~~(A) agency and program objectives, effectiveness measures, and program size indicators;~~]

[~~(B) the final status of the program objectives, effectiveness measures, and program size indicators included in the appropriations act for the fiscal year ending the previous June 30; and~~]

[~~(C) the current status of the program objectives, effectiveness measures, and program size indicators included in the appropriations act for the current fiscal year; and~~]

[~~(vi)~~] (v) other budgetary information required by the Legislature in statute.

(c) The budget information under Subsection (4)(a) shall cover:

(i) all items of appropriation, funds, and accounts included in appropriations acts for the current and previous fiscal years; and

(ii) any new appropriation, fund, or account items requested for the next fiscal year.

(d) The information provided under Subsection (4)(a) may be provided as a shared record under Section 63G-2-206 as considered necessary by the Governor's Office of Management and Budget.

(5) (a) In submitting the budget for the Department of Public Safety, the governor shall include a separate recommendation in the governor's budget for maintaining a sufficient number of alcohol-related law enforcement officers to maintain the enforcement ratio equal to or below the number specified in Subsection 32B-1-201(2).

(b) If the governor does not include in the governor's budget an amount sufficient to maintain the number of alcohol-related law enforcement officers described in Subsection (5)(a), the governor shall include a message to the Legislature regarding the governor's reason for not including that amount.

(6) (a) The governor may revise all estimates, except those relating to the [~~Legislative Department, the Judicial Department~~] legislative department, the judicial department, and those providing for the payment of principal and interest to the state debt and for the salaries and expenditures specified by the Utah Constitution or under the laws of the state.

(b) The estimate for the [~~Judicial Department~~] judicial department, as certified by the state court administrator, shall also be included in the budget without revision, but the governor may make separate recommendations on the estimate.

(7) The total appropriations requested for expenditures authorized by the budget may not exceed the estimated revenues from taxes, fees, and all other sources for the next ensuing fiscal year.

(8) If any item of the budget as enacted is held invalid upon any ground, the invalidity does not affect the budget itself or any other item in [~~it~~] the budget.

Section 5. Section 63J-1-602.2 is amended to read:

63J-1-602.2. List of nonlapsing appropriations to programs.

Appropriations made to the following programs are nonlapsing:

(1) The Legislature and the Legislature's committees.

(2) The State Board of Education, including all appropriations to agencies, line items, and programs under the jurisdiction of the State Board of Education, in accordance with Section 53F-9-103.

(3) The Percent-for-Art Program created in Section 9-6-404.

(4) The LeRay McAllister Critical Land Conservation Program created in Section 11-38-301.

(5) Dedicated credits accrued to the Utah Marriage Commission as provided under Subsection 17-16-21(2)(d)(ii).

(6) The Trip Reduction Program created in Section 19-2a-104.

(7) The Division of Wildlife Resources for the appraisal and purchase of lands under the Pelican Management Act, as provided in Section 23-21a-6.

(8) The emergency medical services grant program in Section 26-8a-207.

(9) The primary care grant program created in Section 26-10b-102.

(10) Sanctions collected as dedicated credits from Medicaid provider under Subsection 26-18-3(7).

(11) The Utah Health Care Workforce Financial Assistance Program created in Section 26-46-102.

(12) The Rural Physician Loan Repayment Program created in Section 26-46a-103.

(13) The Opiate Overdose Outreach Pilot Program created in Section 26-55-107.

(14) Funds that the Department of Alcoholic Beverage Control retains in accordance with Subsection 32B-2-301(8)(a) or (b).

(15) The General Assistance program administered by the Department of Workforce Services, as provided in Section 35A-3-401.

[~~(16) A new program or agency that is designated as nonlapsing under Section 36-24-101.~~]

[~~(17)~~] (16) The Utah National Guard, created in Title 39, Militia and Armories.

[~~(18)~~] (17) The State Tax Commission under Section 41-1a-1201 for the:

(a) purchase and distribution of license plates and decals; and

(b) administration and enforcement of motor vehicle registration requirements.

[~~(19)~~] (18) The Search and Rescue Financial Assistance Program, as provided in Section 53-2a-1102.

[~~(20)~~] (19) The Motorcycle Rider Education Program, as provided in Section 53-3-905.

[~~(21)~~] (20) The Utah Board of Higher Education for teacher preparation programs, as provided in Section 53B-6-104.

[~~(22)~~] (21) The Medical Education Program administered by the Medical Education Council, as provided in Section 53B-24-202.

[~~(23)~~] (22) The Division of Services for People with Disabilities, as provided in Section 62A-5-102.

[~~(24)~~] (23) The Division of Fleet Operations for the purpose of upgrading underground storage tanks under Section 63A-9-401.

[~~(25)~~] (24) The Utah Seismic Safety Commission, as provided in Section 63C-6-104.

[~~(26)~~] (25) Appropriations to the Department of Technology Services for technology innovation as provided under Section 63F-4-202.

[~~(27)~~] (26) The Office of Administrative Rules for publishing, as provided in Section 63G-3-402.

[~~(28)~~] (27) The Governor's Office of Economic Development to fund the Enterprise Zone Act, as provided in Title 63N, Chapter 2, Part 2, Enterprise Zone Act.

[~~(29)~~] (28) Appropriations to fund the Governor's Office of Economic Development's Rural Employment Expansion Program, as described in Title 63N, Chapter 4, Part 4, Rural Employment Expansion Program.

[~~(30)~~] (29) Appropriations to fund programs for the Jordan River Recreation Area as described in Section 65A-2-8.

[~~(31)~~] (30) The Department of Human Resource Management user training program, as provided in Section 67-19-6.

[~~(32)~~] (31) A public safety answering point's emergency telecommunications service fund, as provided in Section 69-2-301.

[~~(33)~~] (32) The Traffic Noise Abatement Program created in Section 72-6-112.

[~~(34)~~] (33) The Judicial Council for compensation for special prosecutors, as provided in Section 77-10a-19.

[~~(35)~~] (34) A state rehabilitative employment program, as provided in Section 78A-6-210.

[~~(36)~~] (35) The Utah Geological Survey, as provided in Section 79-3-401.

[~~(37)~~] (36) The Bonneville Shoreline Trail Program created under Section 79-5-503.

[~~(38)~~] (37) Adoption document access as provided in Sections 78B-6-141, 78B-6-144, and 78B-6-144.5.

[~~(39)~~] (38) Indigent defense as provided in Title 78B, Chapter 22, Part 4, Utah Indigent Defense Commission.

[~~(40)~~] (39) The program established by the Division of Facilities Construction and Management under Section 63A-5b-703 under which state agencies receive an appropriation and pay lease payments for the use and occupancy of buildings owned by the Division of Facilities Construction and Management.

Section 6. Section 63J-1-901 is enacted to read:

Part 9. Government Performance Reporting and Efficiency Process

63J-1-901. Title.

This part is known as "Government Performance Reporting and Efficiency Process."

Section 7. Section 63J-1-902 is enacted to read:

63J-1-902. Definitions.

As used in this part:

(1) "Appropriated entity" means any entity that receives state funds.

(2) "Funding item" means an increase to an agency's state funding that:

(a) is $10,000 or more; and

(b) results from action during a legislative session.

(3) "Performance measure" means a program objective, effectiveness measure, program size indicator, or other related measure.

(4) "Product or service" means an appropriated entity's final output or outcome.

(5) "Government process" means a set of functions and procedures by which an appropriated entity creates a product or service.

Section 8. Section 63J-1-903 is enacted to read:

63J-1-903. Performance measure and funding item reporting.

(1) The Governor's Office of Management and Budget and the Office of the Legislative Fiscal Analyst may develop an information system to collect, track, and publish agency performance measures.

(2) Each executive department agency shall:

(a) in consultation with the Governor's Office of Management and Budget and the Office of the Legislative Fiscal Analyst, develop performance measures to include in an appropriations act for each fiscal year; and

(b) on or before October 1 of each calendar year, provide to the Governor's Office of Management and Budget and the Office of the Legislative Fiscal Analyst:

(i) any recommendations for legislative changes for the next fiscal year to the agency's previously adopted performance measures; and

(ii) a report of the final status of the agency's performance measures included in the appropriations act for the fiscal year ending the previous June 30.

(3) Each judicial department agency shall:

(a) develop performance measures to include in an appropriations act for each fiscal year; and

(b) annually submit to the Office of the Legislative Fiscal Analyst a report that contains:

(i) any recommendations for legislative changes for the next fiscal year to the agency's previously adopted performance measures; and

(ii) the final status of the agency's performance measures included in the appropriations act for the fiscal year ending the previous June 30.

(4) For each funding item, the executive department agency shall provide to the Governor's Office of Management and Budget and the Office of the Legislative Fiscal Analyst:

(a) within 60 days after the day on which the Legislature adjourns a legislative session sine die:

(i) one or more proposed performance measures developed in consultation with the Governor's Office of Management and Budget and the Office of the Legislative Fiscal Analyst; and

(ii) a target for each performance measure described in Subsection (4)(a)(i); and

(b) on or before August 15 of each year after the close of the fiscal year in which the funding item was first funded, a report that includes:

(i) the status of each performance measure relative to the measure's target as described in Subsection (4)(a);

(ii) the actual amount the agency spent, if any, on the funding item; and

(iii) (A) the month and year in which the agency implemented the program or project associated with the funding item; or

(B) if the program or project associated with the funding item is not fully implemented, the month and year in which the agency anticipates fully implementing the program or project associated with the funding item.

(5) The Office of the Legislative Fiscal Analyst shall report the relevant performance measure information described in this section to the Executive Appropriations Committee and the appropriations subcommittees, as appropriate.

Section 9. Section 63J-1-904 is enacted to read:

63J-1-904. Efficiency improvement process.

(1) By May 1, 2022, the Governor's Office of Management and Budget and the Office of the Legislative Fiscal Analyst shall jointly establish a process that identifies and prioritizes government processes to target for efficiency improvements.

(2) The Governor's Office of Management and Budget and the Office of the Legislative Fiscal Analyst shall ensure that the efficiency improvement process described in Subsection (1) addresses the following:

(a) the roles of the Governor's Office of Management and Budget and the Office of the

Legislative Fiscal Analyst throughout the efficiency improvement process;

(b) how to collaborate with an appropriated entity in the development of the appropriated entity's performance measures under Section 63J-1-903;

(c) how to evaluate the results of an appropriated entity's performance measures, including identifying which performance measures that an appropriated entity may want to retain, modify, or discontinue;

(d) the process by which an appropriated entity's government process is selected for an efficiency evaluation;

(e) the criteria and methodology used for an efficiency evaluation;

(f) whether to provide any rewards or incentives for an appropriated entity to implement recommendations from an efficiency evaluation;

(g) whether to create a formal or informal committee that advises the efficiency improvement process; and

(h) the process by which the Governor's Office of Management and Budget and the Office of the Legislative Fiscal Analyst notify the Office of the Legislative Auditor General when an efficiency evaluation is completed.

(3) (a) The Office of the Legislative Auditor General shall independently review the results of each efficiency evaluation conducted under this section.

(b) If, based on the review described in Subsection (3)(a), the Office of the Legislative Auditor General determines further review is necessary, the Office of the Legislative Auditor General shall:

(i) conduct a risk assessment; and

(ii) provide the results of the risk assessment to the Audit Subcommittee created in Section 36-12-8.

(4) Beginning in 2021 and each calendar year thereafter, the Governor's Office of Management and Budget and the Office of the Legislative Fiscal Analyst shall, before December 31, report to the governor and the Legislative Management Committee, respectively, regarding the status of the efficiency improvement process and recommended changes, if any.

(5) The efficiency improvement process described in this section does not apply to a legislative department government process.

Section 10. Repealer.

This bill repeals:

Section 36-24-101, Review of new programs and agencies.

CHAPTER 422
H. B. 365
Passed March 3, 2021
Approved March 23, 2021
Effective March 23, 2021
(Exception clause in Section 12)

STATE AGENCY REALIGNMENT

Chief Sponsor: Paul Ray
Senate Sponsor: Jacob L. Anderegg

LONG TITLE

General Description:

This bill creates the Department of Health and Human Services and provides for the transition of the Department of Health and the Department of Human Services into the newly created single state agency.

Highlighted Provisions:

This bill:

- creates the Department of Health and Human Services to combine the functions of the Department of Health and the Department of Human Services;
- describes the duties, responsibilities, and powers of the agency created in this bill;
- provides for the transition of the Department of Health and the Department of Human Services into the agency created in this bill;
- amends the certain responsibilities of the Department of Workforce Services, particularly relating to administration of Medicaid eligibility; and
- creates a sunset date for certain provisions relating to the transition to the agency created in this bill.

Monies Appropriated in this Bill:

This bill appropriates in fiscal year 2022:

- to General Fund Restricted Department of Health and Human Services Transition Restricted Account, as a one-time appropriation:
  - from the General Fund, One-time, $1,500,000.
- to Department of Health Executive Director's Operations, as an ongoing appropriation:
  - from the General Fund, Ongoing, ($135,000).
  - from Federal Funds, Ongoing, ($135,000).
- to Department of Health Executive Director's Operations, as a one-time appropriation:
  - from the General Fund, One-time, $135,000.
  - from Federal Funds, One-time, $135,000.
- to Department of Health Medicaid and Health Financing, as an ongoing appropriation:
  - from the General Fund, Ongoing, ($486,500).
  - from the Federal Funds, Ongoing, ($486,500).
- to Department of Health Medicaid and Health Financing, as a one-time appropriation:
  - from the General Fund, One-time, $486,500.
  - from Federal Funds, One-time, $486,500.
- to Department of Health Executive Director's Operations, as an ongoing appropriation:
  - from the General Fund, Ongoing, ($58,200).
  - from Federal Funds, Ongoing, ($58,200).
- to Department of Health Executive Director's Operations, as a one-time appropriation:
  - from the General Fund, One-time, $58,200.
  - from Federal Funds, One-time, $58,200.
- to Department of Workforce Services Operations and Policy, as an ongoing appropriation:
  - from the General Fund, Ongoing, $486,500.
  - from the Federal Funds, Ongoing, $486,500.
- to Department of Workforce Services Operations and Policy, as a one-time appropriation:
  - from the General Fund, One-time, ($486,500).
  - from Federal Funds, One-time, ($486,500).
- to Department of Workforce Services Administration, as an ongoing appropriation:
  - from the General Fund, Ongoing, $58,200.
  - from Federal Funds, Ongoing, $58,200.
- to Department of Workforce Services Administration, as a one-time appropriation:
  - from the General Fund, One-time, ($58,200).
  - from Federal Funds, One-time, ($58,200).
- to Department of Health Executive Director's Operations, as a one-time appropriation:
  - from the Department of Health and Human Services Transition Restricted Account, One-time, $1,500,000.
  - from Federal Funds, One-time, $1,500,000.
- to Department of Human Services Executive Director Operations, as a one-time appropriation:
  - from the Department of Health and Human Services Transition Restricted Account, One-time, $1,500,000.
  - from Federal Funds, One-time, $1,500,000.

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

26-18-3, as last amended by Laws of Utah 2019, Chapters 104 and 253
35A-1-304, as last amended by Laws of Utah 1998, Chapter 116
35A-1-307, as repealed and reenacted by Laws of Utah 1997, Chapter 375
35A-3-103, as last amended by Laws of Utah 2016, Chapters 296 and 348
63I-2-226, as last amended by Laws of Utah 2020, Chapters 154, 187, 215, and 354

ENACTS:

26B-1-101, Utah Code Annotated 1953
26B-1-102, Utah Code Annotated 1953
26B-1-103, Utah Code Annotated 1953
26B-1-201, Utah Code Annotated 1953
26B-1-201.1, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 26-18-3 is amended to read:

26-18-3. Administration of Medicaid program by department -- Reporting to

the Legislature -- Disciplinary measures and sanctions -- Funds collected -- Eligibility standards -- Internal audits -- Health opportunity accounts.

(1) The department shall be the single state agency responsible for the administration of the Medicaid program in connection with the United States Department of Health and Human Services pursuant to Title XIX of the Social Security Act.

(2) (a) The department shall implement the Medicaid program through administrative rules in conformity with this chapter, Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the requirements of Title XIX, and applicable federal regulations.

(b) The rules adopted under Subsection (2)(a) shall include, in addition to other rules necessary to implement the program:

(i) the standards used by the department for determining eligibility for Medicaid services;

(ii) the services and benefits to be covered by the Medicaid program;

(iii) reimbursement methodologies for providers under the Medicaid program; and

(iv) a requirement that:

(A) a person receiving Medicaid services shall participate in the electronic exchange of clinical health records established in accordance with Section 26-1-37 unless the individual opts out of participation;

(B) prior to enrollment in the electronic exchange of clinical health records the enrollee shall receive notice of enrollment in the electronic exchange of clinical health records and the right to opt out of participation at any time; and

(C) beginning July 1, 2012, when the program sends enrollment or renewal information to the enrollee and when the enrollee logs onto the program's website, the enrollee shall receive notice of the right to opt out of the electronic exchange of clinical health records.

(3) (a) The department shall, in accordance with Subsection (3)(b), report to the Social Services Appropriations Subcommittee when the department:

(i) implements a change in the Medicaid State Plan;

(ii) initiates a new Medicaid waiver;

(iii) initiates an amendment to an existing Medicaid waiver;

(iv) applies for an extension of an application for a waiver or an existing Medicaid waiver;

(v) applies for or receives approval for a change in any capitation rate within the Medicaid program; or

(vi) initiates a rate change that requires public notice under state or federal law.

(b) The report required by Subsection (3)(a) shall:

(i) be submitted to the Social Services Appropriations Subcommittee prior to the department implementing the proposed change; and

(ii) include:

(A) a description of the department's current practice or policy that the department is proposing to change;

(B) an explanation of why the department is proposing the change;

(C) the proposed change in services or reimbursement, including a description of the effect of the change;

(D) the effect of an increase or decrease in services or benefits on individuals and families;

(E) the degree to which any proposed cut may result in cost-shifting to more expensive services in health or human service programs; and

(F) the fiscal impact of the proposed change, including:

(I) the effect of the proposed change on current or future appropriations from the Legislature to the department;

(II) the effect the proposed change may have on federal matching dollars received by the state Medicaid program;

(III) any cost shifting or cost savings within the department's budget that may result from the proposed change; and

(IV) identification of the funds that will be used for the proposed change, including any transfer of funds within the department's budget.

(4) Any rules adopted by the department under Subsection (2) are subject to review and reauthorization by the Legislature in accordance with Section 63G-3-502.

(5) The department may, in its discretion, contract with the Department of Human Services or other qualified agencies for services in connection with the administration of the Medicaid program, including:

(a) the determination of the eligibility of individuals for the program;

(b) recovery of overpayments; and

(c) consistent with Section 26-20-13, and to the extent permitted by law and quality control services, enforcement of fraud and abuse laws.

(6) The department shall provide, by rule, disciplinary measures and sanctions for Medicaid providers who fail to comply with the rules and procedures of the program, provided that sanctions imposed administratively may not extend beyond:

(a) termination from the program;

(b) recovery of claim reimbursements incorrectly paid; and

(c) those specified in Section 1919 of Title XIX of the federal Social Security Act.

(7) (a) Funds collected as a result of a sanction imposed under Section 1919 of Title XIX of the federal Social Security Act shall be deposited in the General Fund as dedicated credits to be used by the division in accordance with the requirements of Section 1919 of Title XIX of the federal Social Security Act.

(b) In accordance with Section 63J-1-602.2, sanctions collected under this Subsection (7) are nonlapsing.

(8) (a) In determining whether an applicant or recipient is eligible for a service or benefit under this part or Chapter 40, Utah Children's Health Insurance Act, the department shall, if Subsection (8)(b) is satisfied, exclude from consideration one passenger vehicle designated by the applicant or recipient.

(b) Before Subsection (8)(a) may be applied:

(i) the federal government shall:

(A) determine that Subsection (8)(a) may be implemented within the state's existing public assistance-related waivers as of January 1, 1999;

(B) extend a waiver to the state permitting the implementation of Subsection (8)(a); or

(C) determine that the state's waivers that permit dual eligibility determinations for cash assistance and Medicaid are no longer valid; and

(ii) the department shall determine that Subsection (8)(a) can be implemented within existing funding.

(9) (a) For purposes of this Subsection (9):

(i) "aged, blind, or has a disability" means an aged, blind, or disabled individual, as defined in 42 U.S.C. Sec. 1382c(a)(1); and

(ii) "spend down" means an amount of income in excess of the allowable income standard that shall be paid in cash to the department or incurred through the medical services not paid by Medicaid.

(b) In determining whether an applicant or recipient who is aged, blind, or has a disability is eligible for a service or benefit under this chapter, the department shall use 100% of the federal poverty level as:

(i) the allowable income standard for eligibility for services or benefits; and

(ii) the allowable income standard for eligibility as a result of spend down.

(10) The department shall conduct internal audits of the Medicaid program.

(11) (a) The department may apply for and, if approved, implement a demonstration program for health opportunity accounts, as provided for in 42 U.S.C. Sec. 1396u-8.

(b) A health opportunity account established under Subsection (11)(a) shall be an alternative to the existing benefits received by an individual eligible to receive Medicaid under this chapter.

(c) Subsection (11)(a) is not intended to expand the coverage of the Medicaid program.

(12) (a) (i) The department shall apply for, and if approved, implement an amendment to the state plan under this Subsection (12) for benefits for:

(A) medically needy pregnant women;

(B) medically needy children; and

(C) medically needy parents and caretaker relatives.

(ii) The department may implement the eligibility standards of Subsection (12)(b) for eligibility determinations made on or after the date of the approval of the amendment to the state plan.

(b) In determining whether an applicant is eligible for benefits described in Subsection (12)(a)(i), the department shall:

(i) disregard resources held in an account in the savings plan created under Title 53B, Chapter 8a, Utah Educational Savings Plan, if the beneficiary of the account is:

(A) under the age of 26; and

(B) living with the account owner, as that term is defined in Section 53B-8a-102, or temporarily absent from the residence of the account owner; and

(ii) include the withdrawals from an account in the Utah Educational Savings Plan as resources for a benefit determination, if the withdrawal was not used for qualified higher education costs as that term is defined in Section 53B-8a-102.5.

(13) (a) The department may not deny or terminate eligibility for Medicaid solely because an individual is:

(i) incarcerated; and

(ii) not an inmate as defined in Section 64-13-1.

(b) Subsection (13)(a) does not require the Medicaid program to provide coverage for any services for an individual while the individual is incarcerated.

(14) The department is a party to, and may intervene at any time in, any judicial or administrative action:

(a) to which the Department of Workforce Services is a party; and

(b) that involves medical assistance under:

(i) Title 26, Chapter 18, Medical Assistance Act; or

(ii) Title 26, Chapter 40, Utah Children's Health Insurance Act.

Section 2. Section 26B-1-101 is enacted to read:

TITLE 26B. DEPARTMENT OF HEALTH AND HUMAN SERVICES

CHAPTER 1. GENERAL PROVISIONS AND ORGANIZATION

Part 1. General Provisions

26B-1-101. Title.

This title is known as the "Department of Health and Human Services."

Section 3. Section 26B-1-102 is enacted to read:

26B-1-102. Definitions.

As used in this title:

(1) "Department" means the Department of Health and Human Services created in Section 26B-1-201.

(2) "Department of Health" means the Department of Health created in Section 26-1-4.

(3) "Department of Human Services" means the Department of Human Services created in Section 62A-1-102.

Section 4. Section 26B-1-103 is enacted to read:

26B-1-103. Purpose of title -- Consolidation of functions into single state agency.

The purpose of this title is to consolidate into a single agency of state government all of the functions exercised by:

(1) the Department of Health, including all of the powers and duties described in Title 26, Utah Health Code; and

(2) the Department of Human Services, including all of the powers and duties described in Title 62A, Utah Human Services Code.

Section 5. Section 26B-1-201 is enacted to read:

Part 2. Organization

26B-1-201. Department of Health and Human Services -- Creation -- Duties.

(1) There is created within state government the Department of Health and Human Services, which has all of the policymaking functions, regulatory and enforcement powers, rights, duties, and responsibilities outlined in this title.

(2) In addition to Subsection (1), during the transition period described in Section 26B-1-201.1, the Department of Health and Human Services may exercise any of the policymaking functions, regulatory and enforcement powers, rights, duties, and responsibilities of the Department of Health and the Department of Human Services under the joint direction of:

(a) the executive director of the Department of Health; and

(b) the executive director of the Department of Human Services.

Section 6. Section 26B-1-201.1 is enacted to read:

26B-1-201.1. Transition to single state agency -- Transition plan -- Restricted Account.

(1) As used in this section:

(a) "Transition agencies" means the:

(i) Department of Health; and

(ii) Department of Human Services.

(b) "Transition period" means the period of time:

(i) during which the transition of the department to the Department of Health and Human Services takes place; and

(ii) beginning on the effective date of the bill, and ending on July 1, 2022.

(2) On or before December 1, 2021, the transition agencies shall develop a written transition plan for merging the functions of the transition agencies into the Department of Health and Human Services on July 1, 2022, in order to:

(a) more efficiently and effectively manage health and human services programs that are the responsibility of the state;

(b) establish a health and human services policy for the state; and

(c) promote health and the quality of life in the health and human services field.

(3) The written transition plan described in Subsection (2) shall describe:

(a) the tasks that need to be completed before the move on July 1, 2022, including a description of:

(i) how the transition agencies solicited comment from stakeholders, including:

(A) employees of the transition agencies;

(B) clients and partners of the transition agencies;

(C) members of the public;

(D) the Legislature; and

(E) the executive office of the governor;

(ii) the proposed organizational structure of the department, including the transition of responsibilities of employees, by job title and classification, under the newly proposed organizational structure and a plan for these transitions;

(iii) office space and infrastructure requirements related to the transition;

(iv) any work site location changes for transitioning employees;

(v) the transition of service delivery sites;

(vi) amendments needed to existing contracts, including grants;

(vii) legislative changes needed to implement the transition described in this section;

(viii) how the transition agencies will coordinate agency rules;

(ix) procedures for the transfer and reconciliation of budgeting and funding of the department as the transition agencies transition into the department; and

(x) the transition of technology services to the department;

(b) the tasks that may need to be completed after the transition on July 1, 2022; and

(c) how the transition to the department will be funded, including details of:

(i) how expenses associated with the transition will be managed;

(ii) how funding for services provided by the transition agencies will be managed to ensure services will be provided by the transition agencies and the department without interruption; and

(iii) how federal funds will be used by or transferred between the transition agencies and the department to ensure services will be provided by the transition agencies and the department without interruption.

(4) The written transition plan described in Subsection (2) shall:

(a) include a detailed timeline for the completion of the tasks described in Subsection (3)(a);

(b) be updated at least one time in every two week period until the transition is complete;

(c) describe how information will be provided to clients of the transition agencies and the department regarding any changes to where services will be provided and the hours services will be provided;

(d) be provided to the:

(i) Health and Human Services Interim Committee;

(ii) Social Services Appropriations Subcommittee;

(iii) the executive office of the governor;

(iv) Division of Finance; and

(v) Department of Technology Services; and

(e) be made available to employees that are transitioning or may potentially be transitioned.

(5) The transition agencies shall publish information that provides a full overview of the written transition plan and how the move may affect client services offered by the transition agencies on the transition agencies' respective websites, including regular updates regarding:

(a) how the move may affect client services offered by the transition agencies;

(b) information regarding the location where services are provided and the hours services are provided; and

(c) contact information so that clients of the transition agencies can contact transitioning employees and obtain information regarding client services.

(6) The transition agencies may, separately or collectively, enter into a memorandum of understanding regarding how costs and responsibilities will be shared to:

(a) ensure that services provided under agreements with the federal government, including new and ongoing grant programs, are fulfilled;

(b) ensure that commitments made by the transition agencies are met;

(c) provide ongoing or shared services as needed, including the provision of payments to the department from the transition agencies; and

(d) ensure that money from the Department of Health and Human Services Transition Restricted Account created in Subsection (8) is used appropriately by the transition agencies and the department.

(7) In implementing the written transition plan described in this section, the transition agencies and the department shall protect existing services, programs, and access to services provided by the transition agencies.

(8) (a) There is created a restricted account within the General Fund known as the "Department of Health and Human Services Transition Restricted Account."

(b) The restricted account shall consist of appropriations made by the Legislature.

(c) Subject to appropriation, the transition agencies and the department may spend money from the restricted account to pay for expenses related to moving the transition agencies into the department, including staff and legal services.

Section 7. Section 35A-1-304 is amended to read:

35A-1-304. Review authority of the Workforce Appeals Board.

(1) (a) In accordance with this title and Title 63G, Chapter 4, Administrative Procedures Act, the Workforce Appeals Board may allow an appeal from a decision of an administrative law judge from a formal adjudicative proceeding if a motion for review is filed with the Division of Adjudication within the designated time by any party entitled to the notice of the administrative law judge's decision.

(b) An appeal filed by the party shall be allowed as of right if the decision of the administrative law

judge did not affirm the department's prior decision.

(c) If the Workforce Appeals Board denies an application for appeal from the decision of an administrative law judge, the decision of the administrative law judge is considered a decision of the Workforce Appeals Board for purposes of judicial review and is subject to judicial review if further appeal is initiated under this title.

(2) On appeal, the Workforce Appeals Board may on the basis of the evidence previously submitted in the case, or upon the basis of any additional evidence it requires:

(a) affirm the decision of the administrative law judge;

(b) modify the decision of the administrative law judge; or

(c) reverse the findings, conclusions, and decision of the administrative law judge.

(3) The Workforce Appeals Board shall promptly notify the parties to any proceedings before it of its decision, including its findings and conclusions, and the decision is a final order of the department unless within 30 days after the date the decision of the Workforce Appeals Board is issued, further appeal is initiated under this title.

Section 8. Section 35A-1-307 is amended to read:

35A-1-307. Scope of part.

This part does not apply to adjudication under[~~: (1) Chapter 3, Employment Support Act; or (2)~~] Chapter 5, Part 1, Job Training Coordination Act.

Section 9. Section 35A-3-103 is amended to read:

35A-3-103. Department responsibilities.

The department shall:

(1) administer public assistance programs assigned by the Legislature and the governor;

(2) determine eligibility for public assistance programs in accordance with the requirements of this chapter;

(3) cooperate with the federal government in the administration of public assistance programs;

(4) administer state employment services;

(5) provide for the compilation of necessary or desirable information, statistics, and reports;

(6) perform other duties and functions required by law;

(7) monitor the application of eligibility policy;

(8) develop personnel training programs for effective and efficient operation of the programs administered by the department;

(9) provide refugee resettlement services in accordance with Section 35A-3-701;

(10) provide child care assistance for children in accordance with Part 2, Office of Child Care; [~~and~~]

(11) provide services that enable an applicant or recipient to qualify for affordable housing in cooperation with:

(a) the Utah Housing Corporation;

(b) the Housing and Community Development Division; and

(c) local housing authorities[~~.~~];

(12) in accordance with 42 C.F.R. Sec. 431.10, develop non-clinical eligibility policy and procedures to implement the eligibility state plan, waivers, and administrative rules developed and issued by the Department of Health and Human Services for medical assistance under:

(a) Title 26, Chapter 18, Medical Assistance Act; and

(b) Title 26, Chapter 40, Utah Children's Health Insurance Act;

(13) administer the Medicaid Eligibility Quality Control function in accordance with 42 C.F.R. Sec. 431.812; and

(14) conduct eligibility hearings and issue final decisions in adjudicative proceedings, including expedited appeals as defined in 42 C.F.R. Sec. 431.224, for medical assistance eligibility under:

(a) Title 26, Chapter 18, Medical Assistance Act; or

(b) Title 26, Chapter 40, Utah Children's Health Insurance Act.

Section 10. Section 63I-2-226 is amended to read:

63I-2-226. Repeal dates, Title 26 through 26B.

(1) Subsection 26-1-7(1)(c), in relation to the Air Ambulance Committee, is repealed July 1, 2024.

(2) Subsection 26-7-8(3) is repealed January 1, 2027.

(3) Section 26-8a-107 is repealed July 1, 2024.

(4) Subsection 26-8a-203(3)(a)(i) is repealed January 1, 2023.

(5) Section 26-8a-211 is repealed July 1, 2023.

(6) In relation to the Air Ambulance Committee, on July 1, 2024, Subsection 26-8a-602(1)(a) is amended to read:

"(a) provide the patient or the patient's representative with the following information before contacting an air medical transport provider:

(i) which health insurers in the state the air medical transport provider contracts with;

(ii) if sufficient data is available, the average charge for air medical transport services for a patient who is uninsured or out of network; and

(iii) whether the air medical transport provider balance bills a patient for any charge not paid by the patient's health insurer; and".

(7) Subsection 26-18-2.4(3)(e) is repealed January 1, 2023.

(8) Subsection 26-18-411(8), related to reporting on the health coverage improvement program, is repealed January 1, 2023.

(9) Subsection 26-18-420(5), related to reporting on coverage for in vitro fertilization and genetic testing, is repealed July 1, 2030.

[~~(10) Subsection 26-21-28(2)(b) is repealed January 1, 2021.~~]

[~~(11)~~] (10) In relation to the Air Ambulance Committee, July 1, 2024, Subsection 26-21-32(1)(a) is amended to read:

"(a) provide the patient or the patient's representative with the following information before contacting an air medical transport provider:

(i) which health insurers in the state the air medical transport provider contracts with;

(ii) if sufficient data is available, the average charge for air medical transport services for a patient who is uninsured or out of network; and

(iii) whether the air medical transport provider balance bills a patient for any charge not paid by the patient's health insurer; and".

[~~(12)~~] (11) Subsection 26-33a-106.1(2)(a) is repealed January 1, 2023.

[~~(13)~~] (12) Title 26, Chapter 46, Utah Health Care Workforce Financial Assistance Program, is repealed July 1, 2027.

[~~(14) Subsection 26-55-107(8) is repealed January 1, 2021.~~]

[~~(15)~~] (13) Subsection 26-61-202(4)(b) is repealed January 1, 2022.

[~~(16)~~] (14) Subsection 26-61-202(5) is repealed January 1, 2022.

(15) Section 26B-1-201.1 is repealed July 1, 2022.

Section 11. Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2021, and ending June 30, 2022. These are additions to amounts previously appropriated for fiscal year 2022.

Subsection 11(a). Operating and Capital Budgets.

Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 1

To Department of Health -- Executive Director's Operations

From General Fund	($135,000)
From General Fund, One-time	$135,000
From Federal Funds	($135,000)
From Federal Funds, One-time	$135,000

ITEM 2

To Department of Health -- Medicaid and Health Financing

From General Fund	($486,500)
From General Fund, One-time	$486,500
From Federal Funds	($486,500)
From Federal Funds, One-time	$486,500

ITEM 3

To Department of Health -- Executive Director's Operations

From General Fund	($58,200)
From General Fund, One-time	$58,200
From Federal Funds	($58,200)
From Federal Funds, One-time	$58,200

ITEM 4

To Department of Health -- Executive Director's Operations

From Department of Health and Human Services Transition Restricted Account, One-time	$1,500,000
From Federal Funds, One-Time	$1,500,000
Schedule of Programs:	
Program Operations	$3,000,000

ITEM 5

To Department of Human Services -- Executive Director Operations

From Department of Health and Human Services Transition Restricted Account, One-time	$1,500,000
From Federal Funds, One-Time	$1,500,000
Schedule of Programs:	
Fiscal Operations	$3,000,000

ITEM 6

To Department of Workforce Services — Operations and Policy

From General Fund	$486,500
From General Fund, One-time	($486,500)
From Federal Funds	$486,500
From Federal Funds, One-time	($486,500)

ITEM 7

To Department of Workforce Services — Administration

From General Fund	$58,200
From General Fund, One-time	($58,200)
From Federal Funds	$58,200

From Federal Funds, One-time ($58,200)

Subsection 11(b). Restricted Fund and Account Transfers.

The Legislature authorizes the State Division of Finance to transfer the following amounts between the following funds or accounts as indicated. Expenditures and outlays from the funds to which the money is transferred must be authorized by an appropriation.

ITEM 1

To General Fund Restricted -- Department of Health and Human Services Transition Restricted Account

From General Fund, One-time $1,500,000

From Federal Funds, One-time $1,500,000

Schedule of Programs:

General Fund Restricted — Department of Health and Human Services Transition Restricted Account $3,000,000

Section 12. Effective date.

(1) Except as provided in Subsection (2), if approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

(2) The actions affecting the following sections take effect on July 1, 2022:

(a) Section 26-18-3;

(b) Section 35A-1-304;

(c) Section 35A-1-307; and

(d) Section 35A-3-103.

CHAPTER 423
H. B. 415
Passed March 5, 2021
Approved March 23, 2021
Effective May 5, 2021

EXECUTIVE ORDER REVIEW PROCESS AMENDMENTS

Chief Sponsor: Phil Lyman
Senate Sponsor: David P. Hinkins
Cosponsors: Cheryl K. Acton
Carl R. Albrecht
Melissa G. Ballard
Kera Birkeland
Brady Brammer
Walt Brooks
Jefferson S. Burton
Steve R. Christiansen
Joel Ferry
Francis D. Gibson
Stephen G. Handy
Michael L. Kohler
Steven J. Lund
Merrill F. Nelson
Michael J. Petersen
Adam Robertson
Rex P. Shipp
Keven J. Stratton
Jordan D. Teuscher
Raymond P. Ward
Christine F. Watkins
Douglas R. Welton
Ryan D. Wilcox

LONG TITLE

General Description:

This bill addresses the review of certain presidential executive orders.

Highlighted Provisions:

This bill:

- requires the Constitutional Defense Council to review certain executive orders by the president of the United States;
- authorizes the attorney general or governor to seek to have the executive order declared an unconstitutional exercise of legislative authority by the president; and
- restricts the enforceability of certain executive orders.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:
63C-4a-204, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63C-4a-204 is enacted to read:

63C-4a-204. Review of presidential executive orders.

(1) The council shall review certain executive orders by the president of the United States that are not affirmed by a vote of the United States Congress and signed into law as prescribed by the Constitution of the United States.

(2) Upon review, the council may recommend to the attorney general and the governor that an executive order be further examined by the attorney general to determine:

(a) the constitutionality of the executive order; and

(b) whether the state should seek to have the executive order declared to be an unconstitutional exercise of legislative authority by the president.

(3) Notwithstanding any other provision of law, no state agency, political subdivision, elected or appointed state official or employee, or official or employee of a political subdivision may implement a presidential executive order that is determined by the attorney general to be unconstitutional under this section if the order relates to:

(a) a pandemic or other public health emergency;

(b) the regulation of natural resources;

(c) the regulation of the agricultural industry;

(d) the regulation of land use;

(e) the regulation of the financial sector through the imposition of environmental, social, or governance standards; or

(f) the regulation of the constitutional right to keep and bear arms.

CHAPTER 424
S. B. 137
Passed March 4, 2021
Approved March 23, 2021
Effective May 5, 2021

ALCOHOLIC BEVERAGE CONTROL RETAIL STORE AMENDMENTS

Chief Sponsor: Gene Davis
House Sponsor: Timothy D. Hawkes

LONG TITLE

General Description:

This bill amends the Alcoholic Beverage Control Act regarding financing.

Highlighted Provisions:

This bill:

- amends what is included in the Department of Alcoholic Beverage Control's base budget.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

32B-2-301, as last amended by Laws of Utah 2020, Fifth Special Session, Chapter 20
63J-1-602.2, as last amended by Laws of Utah 2020, Fifth Special Session, Chapters 20 and 20

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 32B-2-301 is amended to read:

32B-2-301. State property -- Liquor Control Fund -- Money to be retained by department -- Department building process.

(1) As used in this section, "base budget" means the same as that term is defined in legislative rule.

(2) The following are property of the state:

(a) the money received in the administration of this title, except as otherwise provided; and

(b) property acquired, administered, possessed, or received by the department.

[~~(2)~~] (3) (a) There is created an enterprise fund known as the "Liquor Control Fund."

(b) Except as provided in Section 32B-2-304, the department shall deposit the following into the Liquor Control Fund:

(i) money received in the administration of this title;

(ii) money received from the markup described in Section 32B-2-304; and

(iii) money credited under Subsection [~~(3)~~] (4).

(c) The department may draw from the Liquor Control Fund only to the extent appropriated by the Legislature or provided by statute.

(d) The net position of the Liquor Control Fund may not fall below zero.

[~~(3)~~] (4) (a) The department shall deposit 0.125% of the total gross revenue from the sale of liquor with the state treasurer to be credited to the Liquor Control Fund.

(b) The department shall deposit 0.27% of the total gross revenue from the sale of liquor with the state treasurer, as determined by the total gross revenue collected for the fiscal year two years preceding the fiscal year for which the deposit is made, to be credited to the Liquor Control Fund.

[~~(4)~~] (5) (a) Notwithstanding Subsection [~~(2)~~] (3)(c), the department may draw by warrant from the Liquor Control Fund without an appropriation for an expenditure that is directly incurred by the department:

(i) to purchase an alcoholic product;

(ii) to transport an alcoholic product from the supplier to a warehouse of the department; or

(iii) for variances related to an alcoholic product, including breakage or theft.

(b) If the balance of the Liquor Control Fund is not adequate to cover a warrant that the department draws against the Liquor Control Fund, to the extent necessary to cover the warrant, the cash resources of the General Fund may be used.

[~~(5) (a) As used in this Subsection (5), "base budget" means the same as that term is defined in legislative rule.~~]

[~~(b)~~] (6) The department's base budget shall include as an appropriation from the Liquor Control Fund:

[~~(i)~~] (a) credit card related fees paid by the department;

[~~(ii)~~] (b) package agency compensation; [~~and~~]

[~~(iii)~~] (c) the department's costs of shipping and warehousing alcoholic products[~~.~~]; and

(d) the amount needed, as the Department of Human Resource Management determines, to make the median department salary in the previous fiscal year equal the median market salary in the previous fiscal year for the following positions:

(i) state store manager or equivalent;

(ii) state store assistant manager or equivalent;

(iii) full-time sales clerk at a state store or equivalent;

(iv) part-time sales clerk at a state store or equivalent;

(v) department warehouse manager or equivalent;

(vi) department warehouse assistant manager or equivalent;

(vii) full-time department warehouse worker or equivalent; and

(viii) part-time department warehouse worker or equivalent.

[~~(6)~~] (7) (a) The Division of Finance shall transfer annually from the Liquor Control Fund to the General Fund a sum equal to the amount of net profit earned from the sale of liquor since the preceding transfer of money under this Subsection [~~(6)~~] (7).

(b) After each fiscal year, the Division of Finance shall calculate the amount for the transfer on or before September 1 and the Division of Finance shall make the transfer on or before September 30.

(c) The Division of Finance may make year-end closing entries in the Liquor Control Fund to comply with Subsection 51-5-6(2).

[~~(7)~~] (8) (a) By the end of each day, the department shall:

(i) make a deposit to a qualified depository, as defined in Section 51-7-3; and

(ii) report the deposit to the state treasurer.

(b) A commissioner or department employee is not personally liable for a loss caused by the default or failure of a qualified depository.

(c) Money deposited in a qualified depository is entitled to the same priority of payment as other public funds of the state.

[~~(8)~~] (9) Before the Division of Finance makes the transfer described in Subsection [~~(6)~~] (7), the department may retain each fiscal year from the Liquor Control Fund $1,000,000 that the department may use for:

(a) capital equipment purchases;

(b) salary increases for department employees;

(c) performance awards for department employees; or

(d) information technology enhancements because of changes or trends in technology.

Section 2. Section 63J-1-602.2 is amended to read:

63J-1-602.2. List of nonlapsing appropriations to programs.

Appropriations made to the following programs are nonlapsing:

(1) The Legislature and the Legislature's committees.

(2) The State Board of Education, including all appropriations to agencies, line items, and programs under the jurisdiction of the State Board of Education, in accordance with Section 53F-9-103.

(3) The Percent-for-Art Program created in Section 9-6-404.

(4) The LeRay McAllister Critical Land Conservation Program created in Section 11-38-301.

(5) Dedicated credits accrued to the Utah Marriage Commission as provided under Subsection 17-16-21(2)(d)(ii).

(6) The Trip Reduction Program created in Section 19-2a-104.

(7) The Division of Wildlife Resources for the appraisal and purchase of lands under the Pelican Management Act, as provided in Section 23-21a-6.

(8) The emergency medical services grant program in Section 26-8a-207.

(9) The primary care grant program created in Section 26-10b-102.

(10) Sanctions collected as dedicated credits from Medicaid provider under Subsection 26-18-3(7).

(11) The Utah Health Care Workforce Financial Assistance Program created in Section 26-46-102.

(12) The Rural Physician Loan Repayment Program created in Section 26-46a-103.

(13) The Opiate Overdose Outreach Pilot Program created in Section 26-55-107.

(14) Funds that the Department of Alcoholic Beverage Control retains in accordance with Subsection [~~32B-2-301(8)(a)~~] 32B-2-301(9)(a) or (b).

(15) The General Assistance program administered by the Department of Workforce Services, as provided in Section 35A-3-401.

(16) A new program or agency that is designated as nonlapsing under Section 36-24-101.

(17) The Utah National Guard, created in Title 39, Militia and Armories.

(18) The State Tax Commission under Section 41-1a-1201 for the:

(a) purchase and distribution of license plates and decals; and

(b) administration and enforcement of motor vehicle registration requirements.

(19) The Search and Rescue Financial Assistance Program, as provided in Section 53-2a-1102.

(20) The Motorcycle Rider Education Program, as provided in Section 53-3-905.

(21) The Utah Board of Higher Education for teacher preparation programs, as provided in Section 53B-6-104.

(22) The Medical Education Program administered by the Medical Education Council, as provided in Section 53B-24-202.

(23) The Division of Services for People with Disabilities, as provided in Section 62A-5-102.

(24) The Division of Fleet Operations for the purpose of upgrading underground storage tanks under Section 63A-9-401.

(25) The Utah Seismic Safety Commission, as provided in Section 63C-6-104.

(26) Appropriations to the Department of Technology Services for technology innovation as provided under Section 63F-4-202.

(27) The Office of Administrative Rules for publishing, as provided in Section 63G-3-402.

(28) The Governor's Office of Economic Development to fund the Enterprise Zone Act, as provided in Title 63N, Chapter 2, Part 2, Enterprise Zone Act.

(29) Appropriations to fund the Governor's Office of Economic Development's Rural Employment Expansion Program, as described in Title 63N, Chapter 4, Part 4, Rural Employment Expansion Program.

(30) Appropriations to fund programs for the Jordan River Recreation Area as described in Section 65A-2-8.

(31) The Department of Human Resource Management user training program, as provided in Section 67-19-6.

(32) A public safety answering point's emergency telecommunications service fund, as provided in Section 69-2-301.

(33) The Traffic Noise Abatement Program created in Section 72-6-112.

(34) The Judicial Council for compensation for special prosecutors, as provided in Section 77-10a-19.

(35) A state rehabilitative employment program, as provided in Section 78A-6-210.

(36) The Utah Geological Survey, as provided in Section 79-3-401.

(37) The Bonneville Shoreline Trail Program created under Section 79-5-503.

(38) Adoption document access as provided in Sections 78B-6-141, 78B-6-144, and 78B-6-144.5.

(39) Indigent defense as provided in Title 78B, Chapter 22, Part 4, Utah Indigent Defense Commission.

(40) The program established by the Division of Facilities Construction and Management under Section 63A-5b-703 under which state agencies receive an appropriation and pay lease payments for the use and occupancy of buildings owned by the Division of Facilities Construction and Management.

CHAPTER 425
S. B. 172
Passed March 5, 2021
Approved March 23, 2021
Effective May 5, 2021
(Exception clause)

ROCKY MOUNTAIN CENTER FOR OCCUPATIONAL AND ENVIRONMENTAL HEALTH AMENDMENTS

Chief Sponsor: Karen Mayne
House Sponsor: Val L. Peterson

LONG TITLE

General Description:

This bill relates to the Rocky Mountain Center for Occupational and Environmental Health (center).

Highlighted Provisions:

This bill:

- modifies definitions;
- modifies the amount a self-insured employer or a workers' compensation insurer may offset against certain workers' compensation-related assessments if the amount is greater than certain donations by the employer or insurer to the center;
- requires the University of Utah and Weber State University to:
  - jointly operate the center;
  - jointly create the Rocky Mountain Center for Occupational and Environmental Health Advisory Board (board) and bylaws for operation of the board; and
  - each appoint a representative to assist with an application for certain federal funding for the center;
- requires the University of Utah senior vice president for health sciences to develop an annual budget for the center;
- modifies the process for appointment of the director of the center;
- requires the board to:
  - advise the director of the center regarding certain public and private funding;
  - promote undergraduate training and other education regarding occupational health and safety; and
  - provide a report to the president of the University of Utah, the president of Weber State University, and the Education Interim Committee; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides retrospective operation.

Utah Code Sections Affected:

AMENDS:

34A-2-202.5, as last amended by Laws of Utah 2019, Chapter 324
53B-1-301, as last amended by Laws of Utah 2020, Chapters 365 and 403
59-9-102.5, as last amended by Laws of Utah 2019, Chapter 324

ENACTS:

53B-30-101, Utah Code Annotated 1953
53B-30-201, Utah Code Annotated 1953

RENUMBERS AND AMENDS:

53B-30-202, (Renumbered from 53B-17-801, as enacted by Laws of Utah 2007, Chapter 232)
53B-30-203, (Renumbered from 53B-17-802, as enacted by Laws of Utah 2007, Chapter 232)
53B-30-204, (Renumbered from 53B-17-803, as last amended by Laws of Utah 2010, Chapter 286)
53B-30-205, (Renumbered from 53B-17-805, as enacted by Laws of Utah 2007, Chapter 232)
53B-30-206, (Renumbered from 53B-17-804, as last amended by Laws of Utah 2019, Chapter 324)

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 34A-2-202.5 is amended to read:

34A-2-202.5. Offset for occupational health and safety related donations.

(1) As used in this section:

(a) "Occupational health and safety center" means the Rocky Mountain Center for Occupational and Environmental Health created in [~~Title 53B, Chapter 17, Part 8,~~] Title 53B, Chapter 30, Part 2, Rocky Mountain Center for Occupational and Environmental Health.

(b) "Qualified donation" means a donation that is:

(i) cash;

(ii) given directly to an occupational health and safety center; and

(iii) given exclusively for the purpose of:

(A) supporting graduate level education and training in fields of:

(I) safety and ergonomics;

(II) industrial hygiene;

(III) occupational health nursing; [~~and~~]

(IV) occupational injury prevention; and

[~~(IV)~~] (V) occupational medicine;

(B) providing continuing education programs for employers designed to promote workplace safety; and

(C) paying reasonable administrative, personnel, equipment, and overhead costs of the occupational health and safety center.

(c) "Self-insured employer" is a self-insured employer as defined in Section 34A-2-201.5 that is required to pay the assessment imposed under Section 34A-2-202.

(2) (a) A self-insured employer may offset against the assessment imposed under Section 34A-2-202 an amount equal to the lesser of:

(i) the total of qualified donations made by the self-insured employer in the calendar year for which the assessment is calculated; and

(ii) [~~.10%~~] .20% of the self-insured employer's total calculated premium calculated under Subsection 34A-2-202(1)(d) for the calendar year for which the assessment is calculated.

(b) The offset provided under this Subsection (2) shall be allocated in proportion to the percentages provided in Subsection 59-9-101(2)(c).

(3) An occupational health and safety center shall:

(a) provide a self-insured employer a receipt for any qualified donation made by the self-insured employer to the occupational health and safety center;

(b) expend money received by a qualified donation:

(i) for the purposes described in Subsection (1)(b)(iii); and

(ii) in a manner that can be audited to ensure that the money is expended for the purposes described in Subsection (1)(b)(iii); and

(c) in conjunction with the report required by Section 59-9-102.5, report to the Office of the Legislative Fiscal Analyst for review by the Higher Education Appropriations Subcommittee by no later than August 15 of each year:

(i) the qualified donations received by the occupational health and safety center in the previous calendar year; and

(ii) the expenditures during the previous calendar year of qualified donations received by the occupational health and safety center.

Section 2. Section 53B-1-301 is amended to read:

53B-1-301. Reports to and actions of the Higher Education Appropriations Subcommittee.

(1) In accordance with applicable provisions and Section 68-3-14, the following recurring reports are due to the Higher Education Appropriations Subcommittee:

(a) the reports described in Sections 34A-2-202.5, [~~53B-17-804~~] 53B-30-206, and 59-9-102.5 by the Rocky Mountain Center for Occupational and Environmental Health;

(b) the report described in Section 53B-7-101 by the board on recommended appropriations for higher education institutions, including the report described in Section 53B-8-104 by the board on the effects of offering nonresident partial tuition scholarships;

(c) the report described in Section 53B-7-704 by the Department of Workforce Services and the Governor's Office of Economic Development on targeted jobs;

(d) the reports described in Section 53B-7-705 by the board on performance;

(e) the report described in Section 53B-8-201 by the board on the Regents' Scholarship Program;

(f) the report described in Section 53B-8-303 by the board regarding Access Utah promise scholarships;

(g) the report described in Section 53B-8d-104 by the Division of Child and Family Services on tuition waivers for wards of the state;

(h) the report described in Section 53B-12-107 by the Utah Higher Education Assistance Authority;

(i) the report described in Section 53B-13a-104 by the board on the Success Stipend Program;

(j) the report described in Section 53B-17-201 by the University of Utah regarding the Miners' Hospital for Disabled Miners;

(k) the report described in Section 53B-26-103 by the Governor's Office of Economic Development on high demand technical jobs projected to support economic growth;

(l) the report described in Section 53B-26-202 by the Medical Education Council on projected demand for nursing professionals; and

(m) the report described in Section 53E-10-308 by the State Board of Education and board on student participation in the concurrent enrollment program.

(2) In accordance with applicable provisions and Section 68-3-14, the following occasional reports are due to the Higher Education Appropriations Subcommittee:

(a) upon request, the information described in Section 53B-8a-111 submitted by the Utah Educational Savings Plan;

(b) as described in Section 53B-26-103, a proposal by an eligible partnership related to workforce needs for technical jobs projected to support economic growth;

(c) a proposal described in Section 53B-26-202 by an eligible program to respond to projected demand for nursing professionals;

(d) a report in 2023 from Utah Valley University and the Utah Fire Prevention Board on the fire and rescue training program described in Section 53B-29-202; and

(e) the reports described in Section 63C-19-202 by the Higher Education Strategic Planning Commission on the commission's progress.

(3) In accordance with applicable provisions, the Higher Education Appropriations Subcommittee shall complete the following:

(a) as required by Section 53B-7-703, the review of performance funding described in Section 53B-7-703;

(b) the review described in Section 53B-7-705 of the implementation of performance funding;

(c) an appropriation recommendation described in Section 53B-26-103 to fund a proposal responding to workforce needs of a strategic industry cluster;

(d) an appropriation recommendation described in Section 53B-26-202 to fund a proposal responding to projected demand for nursing professionals; and

(e) review of the report described in Section 63B-10-301 by the University of Utah on the status of a bond and bond payments specified in Section 63B-10-301.

Section 3. Section 53B-30-101 is enacted to read:

CHAPTER 30. MULTI-UNIVERSITY PROGRAMS

Part 1. General Provisions

53B-30-101. Title.

This chapter is known as "Multi-University Programs."

Section 4. Section 53B-30-201 is enacted to read:

Part 2. Rocky Mountain Center for Occupational and Environmental Health

53B-30-201. Title.

This part is known as "Rocky Mountain Center for Occupational and Environmental Health."

Section 5. Section 53B-30-202, which is renumbered from Section 53B-17-801 is renumbered and amended to read:

[~~53B-17-801~~]. 53B-30-202. Definitions.

[~~(1) This part is known as "Rocky Mountain Center for Occupational and Environmental Health."~~]

[~~(2)~~] As used in this part:

[~~(a)~~] (1) "Affected populations" include:

[~~(i)~~] (a) employees;

[~~(ii)~~] (b) employers;

[~~(iii)~~] (c) insurers;

[~~(iv)~~] (d) professionals or professional organizations related to occupational and environmental health;

[~~(v)~~] (e) government agencies; and

[~~(vi)~~] (f) outside academic institutions.

[~~(b)~~] (2) "Board" means the Rocky Mountain Center for Occupational and Environmental Health Advisory Board created in Section [~~53B-17-803~~] 53B-30-204.

[~~(c)~~] (3) "Center" means the Rocky Mountain Center for Occupational and Environmental Health established in Section 53B-30-203.

[~~(d)~~] (4) "Director" means the director of the center.

[~~(e) "University" means the University of Utah.~~]

Section 6. Section 53B-30-203, which is renumbered from Section 53B-17-802 is renumbered and amended to read:

[~~53B-17-802~~]. 53B-30-203. Rocky Mountain Center for Occupational and Environmental Health.

(1) There is established at the University of Utah and Weber State University the Rocky Mountain Center for Occupational and Environmental Health, to be [~~an occupational health and safety~~] a center for occupational health, safety, and environment education and research.

(2) [~~The university~~] The University of Utah and Weber State University shall:

(a) jointly operate the center in a manner so that the center is:

[~~(a)~~] (i) eligible to be designated as an education and research center by the National Institute for Occupational Safety and Health in the United States Department of Health and Human Services; and

[~~(b)~~] (ii) a resource for affected populations to:

[~~(i)~~] (A) improve workplace health [~~and~~], safety[~~; and (ii)~~], and environment; and

(B) contribute to economic growth and development in Utah and the surrounding region[~~.~~]; and

(b) each appoint a co-principal investigator upon application for the designation described in Subsection (2)(a)(i).

(3) The University of Utah senior vice president for health sciences and the Weber State University provost and vice president of academic affairs shall jointly develop an annual budget for the center that considers funding from all available sources.

Section 7. Section 53B-30-204, which is renumbered from Section 53B-17-803 is renumbered and amended to read:

[~~53B-17-803~~]. 53B-30-204. Advisory board.

(1) [~~The university~~] In consultation with the director appointed under Section 53B-30-205, the president of the University of Utah and the president of Weber State University, or the presidents' designees, shall create an advisory board known as the "Rocky Mountain Center for Occupational and Environmental Health Advisory Board" to:

(a) promote occupational health and safety in Utah and the surrounding region;

(b) promote the development of undergraduate training in occupational health and safety;

(c) engage other higher education institutions in the state to participate in improving occupational health and safety education and programs for undergraduate students and other affected populations, including the industrial hygiene program offered at Utah State University;

[~~(b)~~] (d) promote the interests and mission of the center by advising the director on issues including:

(i) operation of the center as a multidisciplinary, state-of-the-art program at the university;

(ii) developing and maintaining state and institutional support;

(iii) emerging local or regional, occupational health and safety education and research needs;

(iv) continuing education and outreach to local and regional occupational health and safety professionals;

(v) coordinating with other local or regional entities that promote occupational health and safety in a manner that meets the needs of both employers and employees; and

(vi) grant requirements and renewal;

[~~(c)~~] (e) advise the director on the expenditure by the center of public and private funds including:

(i) funds appropriated by the Legislature;

(ii) donations; [~~and~~]

[~~(iii) federal or other grants; and~~]

(iii) the proportionate amount of administrative funds available to each university upon the center's designation as described in Subsection 53B-30-203(2)(a)(i), consistent with federal guidelines; and

(iv) the proportionate amount of funds available to each university for the center from public and private grants and contracts; and

[~~(d)~~] (f) develop recommendations for the long-term operation of the center consistent with Section [~~53B-17-802~~] 53B-30-203.

(2) (a) The board shall consist of no fewer than 15 and no more than 18 [~~persons~~] individuals who represent the affected populations.

(b) [~~The university~~] In consultation with the director appointed under Section 53B-30-205, the president of the University of Utah and the president of Weber State University, or the presidents' designees, shall establish reasonable bylaws for the operation of the board including:

(i) the selection of board members;

(ii) quorum requirements; and

(iii) voting requirements.

(3) The board shall elect a board chair and vice chair from among the board members by a vote of the members.

(4) (a) The board shall have an executive committee consisting of:

(i) the board chair;

(ii) the board vice chair; and

(iii) three other board members, selected by the board chair in consultation with the director.

(b) The executive committee shall meet at least quarterly to advise the center and to plan for board meetings.

(5) The board chair, in consultation with the director, shall call board meetings at least two times each calendar year.

(6) The board and the executive committee are subject to Title 52, Chapter 4, Open and Public Meetings Act.

(7) A board member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

Section 8. Section 53B-30-205, which is renumbered from Section 53B-17-805 is renumbered and amended to read:

[~~53B-17-805~~]. 53B-30-205. Appointment and removal of director.

(1) [~~Subject to the advice and consent of the senior vice president for health sciences and after consultation with the individuals listed in Subsection (2), one of the following specified by the senior vice president for health sciences~~] Subject to Subsection (2), the University of Utah senior vice president for health sciences and the Weber State University provost and vice president of academic affairs shall jointly appoint and may jointly remove the director[~~: (a) the chair of the department within the university where the center resides; or (b) a designee of the senior vice president for health sciences~~].

(2) The appointment or removal of the director under Subsection (1) may be made only after consultation with:

[~~(a) the senior vice president for academic affairs or the dean of the graduate school;~~]

[~~(b) the dean of the school of medicine or the dean's designee;~~]

(a) the president of the University of Utah or the president's designee;

(b) the president of Weber State University or the president's designee;

(c) the dean of the University of Utah college of engineering or the dean's designee; and

(d) the board through the board chair.

Section 9. Section 53B-30-206, which is renumbered from Section 53B-17-804 is renumbered and amended to read:

[~~53B-17-804~~]. 53B-30-206. Reporting requirements.

(1) (a) The board, through the director and the board chair, shall provide by no later than July 1 of each year, a written report to the president of the [~~university~~] University of Utah, the president of Weber State University, and the Education Interim Committee.

(b) The report required [~~by~~] under this Subsection (1) shall:

(i) summarize the center's activities and accomplishments in the immediate proceeding calendar year; and

(ii) provide information and the board's advice and recommendations on how the state, university, and the center can:

(A) improve workplace health and safety; and

(B) contribute to economic growth and development in Utah and the surrounding region.

(2) (a) If the center receives in a fiscal year money from the Eddie P. Mayne Workplace Safety and Occupational Health Funding Program provided for in Section 34A-2-701, the center shall provide a written report:

(i) in conjunction with the reports described in Sections 34A-2-202.5 and 59-9-102.5;

(ii) that accounts for the expenditure of money received in the fiscal year by the center from the Eddie P. Mayne Workplace Safety and Occupational Health Funding Program including impact on workplace safety in Utah; and

(iii) that includes a preliminary statement as to money the center will request from the Eddie P. Mayne Workplace Safety and Occupational Health Funding Program for the fiscal year following the day on which the report is provided.

(b) A report provided under this Subsection (2) meets the reporting requirements under Subsection 34A-2-701(5)(b)(i)(B).

Section 10. Section 59-9-102.5 is amended to read:

59-9-102.5. Offset for occupational health and safety related donations.

(1) As used in this section:

(a) "Occupational health and safety center" means the Rocky Mountain Center for Occupational and Environmental Health created in [~~Title 53B, Chapter 17, Part 8~~] Title 53B, Chapter 30, Part 2, Rocky Mountain Center for Occupational and Environmental Health.

(b) "Qualified donation" means a donation that is:

(i) cash;

(ii) given directly to an occupational health and safety center; and

(iii) given exclusively for the purpose of:

(A) supporting graduate level education and training in fields of:

(I) safety and ergonomics;

(II) industrial hygiene;

(III) occupational health nursing; [~~and~~]

(IV) occupational injury prevention; and

[~~(IV)~~] (V) occupational medicine;

(B) providing continuing education programs for employers designed to promote workplace safety; and

(C) paying reasonable administrative, personnel, equipment, and overhead costs of the occupational health and safety center.

(c) "Workers' compensation insurer" means an admitted insurer writing workers' compensation insurance in this state that is required to pay the premium assessment imposed under Subsection 59-9-101(2).

(2) (a) A workers' compensation insurer may offset against the premium assessment imposed under Subsection 59-9-101(2) an amount equal to the lesser of:

(i) the total of qualified donations made by the workers' compensation insurer in the calendar year for which the premium assessment is calculated; and

(ii) [~~.10%~~] .20% of the workers' compensation insurer's total workers' compensation premium income as defined in Subsection 59-9-101(2)(b) in the calendar year for which the premium assessment is calculated.

(b) The offset provided under this Subsection (2) shall be allocated in proportion to the percentages provided in Subsection 59-9-101(2)(c).

(3) An occupational health and safety center shall:

(a) provide a workers' compensation insurer a receipt for any qualified donation made by the workers' compensation insurer to the occupational health and safety center;

(b) expend money received by a qualified donation:

(i) for the purposes described in Subsection (1)(b)(iii); and

(ii) in a manner that can be audited to ensure that the money is expended for the purposes described in Subsection (1)(b)(iii); and

(c) in conjunction with the report required by Section 34A-2-202.5, report to the Office of the Legislative Fiscal Analyst for review by the Higher Education Appropriations Subcommittee by no later than August 15 of each year:

(i) the qualified donations received by the occupational health and safety center in the previous calendar year; and

(ii) the expenditures during the previous calendar year of qualified donations received by the occupational health and safety center.

Section 11. Retrospective operation.

The following sections have retrospective operation for a taxable year beginning on or after January 1, 2021:

(1) Section 34A-2-202.5; and

(2) Section 59-9-102.5.

CHAPTER 426
H. B. 44
Passed February 5, 2021
Approved March 11, 2021
Effective May 5, 2021

CCJJ REPORTING REQUIREMENTS

Chief Sponsor: Kelly B. Miles
Senate Sponsor: Evan J. Vickers

LONG TITLE

General Description:

This bill requires the State Commission on Criminal and Juvenile Justice to make an annual progress report on certain topics to the Law Enforcement and Criminal Justice Interim Committee.

Highlighted Provisions:

This bill:

- requires the State Commission on Criminal and Juvenile Justice to make an annual report to the Law Enforcement and Criminal Justice Interim Committee on the progress made on the following goals of the Justice Reinvestment Initiative:
  - ensuring oversight and accountability;
  - supporting local corrections systems;
  - improving and expanding reentry and treatment services; and
  - strengthening probation and parole supervision; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63M-7-204, as last amended by Laws of Utah 2020, Chapters 200, 230, and 395

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63M-7-204 is amended to read:

63M-7-204. Duties of commission.

(1) The State Commission on Criminal and Juvenile Justice administration shall:

(a) promote the commission's purposes as enumerated in Section 63M-7-201;

(b) promote the communication and coordination of all criminal and juvenile justice agencies;

(c) study, evaluate, and report on the status of crime in the state and on the effectiveness of criminal justice policies, procedures, and programs that are directed toward the reduction of crime in the state;

(d) study, evaluate, and report on programs initiated by state and local agencies to address reducing recidivism, including changes in penalties and sentencing guidelines intended to reduce recidivism, costs savings associated with the reduction in the number of inmates, and evaluation of expenses and resources needed to meet goals regarding the use of treatment as an alternative to incarceration, as resources allow;

(e) study, evaluate, and report on policies, procedures, and programs of other jurisdictions which have effectively reduced crime;

(f) identify and promote the implementation of specific policies and programs the commission determines will significantly reduce crime in Utah;

(g) provide analysis and recommendations on all criminal and juvenile justice legislation, state budget, and facility requests, including program and fiscal impact on all components of the criminal and juvenile justice system;

(h) provide analysis, accountability, recommendations, and supervision for state and federal criminal justice grant money;

(i) provide public information on the criminal and juvenile justice system and give technical assistance to agencies or local units of government on methods to promote public awareness;

(j) promote research and program evaluation as an integral part of the criminal and juvenile justice system;

(k) provide a comprehensive criminal justice plan annually;

(l) review agency forecasts regarding future demands on the criminal and juvenile justice systems, including specific projections for secure bed space;

(m) promote the development of criminal and juvenile justice information systems that are consistent with common standards for data storage and are capable of appropriately sharing information with other criminal justice information systems by:

(i) developing and maintaining common data standards for use by all state criminal justice agencies;

(ii) annually performing audits of criminal history record information maintained by state criminal justice agencies to assess their accuracy, completeness, and adherence to standards;

(iii) defining and developing state and local programs and projects associated with the improvement of information management for law enforcement and the administration of justice; and

(iv) establishing general policies concerning criminal and juvenile justice information systems and making rules as necessary to carry out the duties under Subsection (1)(k) and this Subsection (1)(m);

(n) allocate and administer grants, from money made available, for approved education programs to help prevent the sexual exploitation of children;

(o) allocate and administer grants for law enforcement operations and programs related to

reducing illegal drug activity and related criminal activity;

(p) request, receive, and evaluate data and recommendations collected and reported by agencies and contractors related to policies recommended by the commission regarding recidivism reduction;

(q) establish and administer a performance incentive grant program that allocates funds appropriated by the Legislature to programs and practices implemented by counties that reduce recidivism and reduce the number of offenders per capita who are incarcerated;

(r) oversee or designate an entity to oversee the implementation of juvenile justice reforms;

(s) make rules and administer the juvenile holding room standards and juvenile jail standards to align with the Juvenile Justice and Delinquency Prevention Act requirements pursuant to 42 U.S.C. Sec. 5633;

(t) allocate and administer grants, from money made available, for pilot qualifying education programs;

(u) oversee the trauma-informed justice program described in Section 63M-7-209; [~~and~~]

(v) request, receive, and evaluate the aggregate data collected from prosecutorial agencies[~~, jails,~~] and the Administrative Office of the Courts, in accordance with Sections [~~17-22-32.4,~~] 63M-7-216[~~,~~] and 78A-2-109.5[~~.~~]; and

(w) report annually to the Law Enforcement and Criminal Justice Interim Committee on the progress made on each of the following goals of the Justice Reinvestment Initiative:

(i) ensuring oversight and accountability;

(ii) supporting local corrections systems;

(iii) improving and expanding reentry and treatment services; and

(iv) strengthening probation and parole supervision.

(2) If the commission designates an entity under Subsection (1)(r), the commission shall ensure that the membership of the entity includes representation from the three branches of government and, as determined by the commission, representation from relevant stakeholder groups across all parts of the juvenile justice system, including county representation.

CHAPTER 427
H. B. 81
Passed February 18, 2021
Approved March 11, 2021
Effective May 5, 2021

MENTAL HEALTH DAYS FOR STUDENTS

Chief Sponsor: Mike Winder
Senate Sponsor: Lincoln Fillmore
Cosponsors: Melissa G. Ballard
Kera Birkeland
Steve Eliason
Craig Hall
Suzanne Harrison
Jordan D. Teuscher

LONG TITLE

General Description:

This bill adds mental or behavioral health as a valid excuse for a school absence.

Highlighted Provisions:

This bill:

- adds mental or behavioral health as a valid excuse for a school absence; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53G-6-201, as last amended by Laws of Utah 2020, Chapter 20

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53G-6-201 is amended to read:

53G-6-201. Definitions.

As used in this part:

(1) (a) "Absence" or "absent" means the failure of a school-age child assigned to a class or class period to attend a class or class period.

(b) "Absence" or "absent" does not mean multiple tardies used to calculate an absence for the sake of a truancy.

(2) "Minor" means a person under the age of 18 years.

(3) "Parent" includes:

(a) a custodial parent of the minor;

(b) a legally appointed guardian of a minor; or

(c) any other person purporting to exercise any authority over the minor which could be exercised by a person described in Subsection (3)(a) or (b).

(4) "School day" means the portion of a day that school is in session in which a school-age child is required to be in school for purposes of receiving instruction.

(5) "School year" means the period of time designated by a local school board or charter school governing board as the school year for the school where the school-age child:

(a) is enrolled; or

(b) should be enrolled, if the school-age child is not enrolled in school.

(6) "School-age child" means a minor who:

(a) is at least six years old but younger than 18 years old; and

(b) is not emancipated.

(7) (a) "Truant" means a condition in which a school-age child, without a valid excuse, and subject to Subsection (7)(b), is absent for at least:

(i) half of the school day; or

(ii) if the school-age child is enrolled in a learner verified program, as that term is defined by the state board, the relevant amount of time under the LEA's policy regarding the LEA's continuing enrollment measure as it relates to truancy.

(b) A school-age child may not be considered truant under this part more than one time during one day.

(8) "Truant minor" means a school-age child who:

(a) is subject to the requirements of Section 53G-6-202 or 53G-6-203; and

(b) is truant.

(9) (a) "Valid excuse" means:

(i) an illness, which may be either mental or physical;

(ii) mental or behavioral health of the school-age child;

[~~(ii)~~] (iii) a family death;

[~~(iii)~~] (iv) an approved school activity;

[~~(iv)~~] (v) an absence permitted by a school-age child's:

(A) individualized education program; or

(B) Section 504 accommodation plan;

[~~(v)~~] (vi) an absence permitted in accordance with Subsection 53G-6-803(5); or

[~~(vi)~~] (vii) any other excuse established as valid by a local school board, charter school governing board, or school district.

(b) "Valid excuse" does not mean a parent acknowledgment of an absence for a reason other than a reason described in Subsections (9)(a)(i) through (vi), unless specifically permitted by the local school board, charter school governing board, or school district under Subsection (9)(a)(vi).

CHAPTER 428
H. B. 86
Passed March 1, 2021
Approved March 11, 2021
Effective May 5, 2021
(Retrospective operation to January 1, 2021)

SOCIAL SECURITY TAX AMENDMENTS

Chief Sponsor: Walt Brooks
Senate Sponsor: Wayne A. Harper
Cosponsors: Nelson T. Abbott
Carl R. Albrecht
Stewart E. Barlow
Kera Birkeland
Steve R. Christiansen
James A. Dunnigan
Steve Eliason
Craig Hall
Stephen G. Handy
Karianne Lisonbee
A. Cory Maloy
Kelly B. Miles
Jefferson Moss
Merrill F. Nelson
Val L. Peterson
Candice B. Pierucci
Susan Pulsipher
Adam Robertson
Mike Schultz
Travis M. Seegmiller
Rex P. Shipp
V. Lowry Snow
Robert M. Spendlove
Jeffrey D. Stenquist
Jordan D. Teuscher
Mike Winder

LONG TITLE

General Description:

This bill provides for an individual income tax credit for certain social security benefits.

Highlighted Provisions:

This bill:

- defines terms;
- enacts a tax credit for social security benefits that are included in the claimant's federal adjusted gross income;
- provides that an individual who claims the tax credit for social security benefits may not also claim the retirement tax credit;
- grants rulemaking authority to the State Tax Commission; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides retrospective operation.

Utah Code Sections Affected:

AMENDS:

59-10-1002.2, as last amended by Laws of Utah 2016, Chapter 263
59-10-1019, as renumbered and amended by Laws of Utah 2008, Chapter 389

ENACTS:

59-10-1042, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 59-10-1002.2 is amended to read:

59-10-1002.2. Apportionment of tax credits.

(1) A nonresident individual or a part-year resident individual that claims a tax credit in accordance with Section 59-10-1017, 59-10-1018, 59-10-1019, 59-10-1022, 59-10-1023, 59-10-1024, [~~or~~] 59-10-1028, or 59-10-1042 may only claim an apportioned amount of the tax credit equal to:

(a) for a nonresident individual, the product of:

(i) the state income tax percentage for the nonresident individual; and

(ii) the amount of the tax credit that the nonresident individual would have been allowed to claim but for the apportionment requirements of this section; or

(b) for a part-year resident individual, the product of:

(i) the state income tax percentage for the part-year resident individual; and

(ii) the amount of the tax credit that the part-year resident individual would have been allowed to claim but for the apportionment requirements of this section.

(2) A nonresident estate or trust that claims a tax credit in accordance with Section 59-10-1017, 59-10-1020, 59-10-1022, 59-10-1024, or 59-10-1028 may only claim an apportioned amount of the tax credit equal to the product of:

(a) the state income tax percentage for the nonresident estate or trust; and

(b) the amount of the tax credit that the nonresident estate or trust would have been allowed to claim but for the apportionment requirements of this section.

Section 2. Section 59-10-1019 is amended to read:

59-10-1019. Definitions -- Nonrefundable retirement tax credit.

(1) As used in this section:

(a) "Eligible [~~age 65 or older retiree~~] claimant" means a claimant, regardless of whether that claimant is retired, who[~~:~~] was born on or before December 31, 1952.

[~~(i) is 65 years of age or older; and~~]

[~~(ii) was born on or before December 31, 1952.~~]

[~~(b) (i) "Eligible retirement income" means income received by an eligible under age 65 retiree as a pension or annuity if that pension or annuity is:~~]

[~~(A) paid to the eligible under age 65 retiree or the surviving spouse of an eligible under age 65 retiree; and~~]

[~~(B) (I) paid from an annuity contract purchased by an employer under a plan that meets the requirements of Section 404(a)(2), Internal Revenue Code;~~]

[~~(II) purchased by an employee under a plan that meets the requirements of Section 408, Internal Revenue Code; or~~]

[~~(III) paid by:~~]

[~~(Aa) the United States;~~]

[~~(Bb) a state or a political subdivision of a state; or~~]

[~~(Cc) the District of Columbia.~~]

[~~(ii) "Eligible retirement income" does not include amounts received by the spouse of a living eligible under age 65 retiree because of the eligible under age 65 retiree's having been employed in a community property state.~~]

[~~(c) "Eligible under age 65 retiree" means a claimant, regardless of whether that claimant is retired, who:~~]

[~~(i) is younger than 65 years of age;~~]

[~~(ii) was born on or before December 31, 1952; and~~]

[~~(iii) has eligible retirement income for the taxable year for which a tax credit is claimed under this section.~~]

[~~(d)~~] (b) "Head of household filing status" [~~is as~~] means the same as that term is defined in Section 59-10-1018.

[~~(e)~~] (c) "Joint filing status" [~~is as~~] means the same as that term is defined in Section 59-10-1018.

[~~(f)~~] (d) "Married filing separately status" means a married individual who:

(i) does not file a single federal individual income tax return jointly with that married individual's spouse for the taxable year; and

(ii) files a single federal individual income tax return for the taxable year.

[~~(g)~~] (e) "Modified adjusted gross income" means the sum [~~of an eligible age 65 or older retiree's or eligible under age 65 retiree's~~] of the following for an eligible claimant or, if the eligible claimant's return under this chapter is allowed a joint filing status, the eligible claimant and the eligible claimant's spouse:

(i) adjusted gross income for the taxable year for which a tax credit is claimed under this section;

(ii) any interest income that is not included in adjusted gross income for the taxable year described in Subsection (1)[~~(g)~~](e)(i); and

(iii) any addition to adjusted gross income required by Section 59-10-114 for the taxable year described in Subsection (1)[~~(g)~~](e)(i).

[~~(h)~~] (f) "Single filing status" means a single individual who files a single federal individual income tax return for the taxable year.

(2) Except as provided in Section 59-10-1002.2 and [~~subject to~~] Subsections (3) [~~through (5): (a)~~] and (4), each eligible [~~age 65 or older retiree~~] claimant may claim a nonrefundable tax credit of $450 against taxes otherwise due under this part[~~; or~~].

[~~(b) each eligible under age 65 retiree may claim a nonrefundable tax credit against taxes otherwise due under this part in an amount equal to the lesser of:~~]

[~~(i) $288; or~~]

[~~(ii) the product of:~~]

[~~(A) the eligible under age 65 retiree's eligible retirement income for the taxable year for which the eligible under age 65 retiree claims a tax credit under this section; and~~]

[~~(B) 6%.~~]

[~~(3) A tax credit under this section may not be carried forward or carried back.~~]

(3) (a) An eligible claimant may not:

(i) carry forward or carry back the amount of a tax credit under this section that exceeds the eligible claimant's tax liability for the taxable year; or

(ii) claim a tax credit under this section and a tax credit under Section 59-10-1042.

(b) An eligible claimant who qualifies for a tax credit under this section and a tax credit under Section 59-10-1042 may elect whether to claim a tax credit under this section or a tax credit under Section 59-10-1042.

(4) The [~~sum of the tax credits~~] tax credit allowed by Subsection (2) claimed on [~~one~~] a return filed under this part shall be reduced by $.025 for each dollar by which modified adjusted gross income for purposes of the return exceeds:

(a) for a federal individual income tax return that is allowed a married filing separately status, $16,000;

(b) for a federal individual income tax return that is allowed a single filing status, $25,000;

(c) for a federal individual income tax return that is allowed a head of household filing status, $32,000; or

(d) for a return under this chapter that is allowed a joint filing status, $32,000.

[~~(5) For purposes of determining the ownership of items of retirement income under this section, common law doctrine shall be applied in all cases even though some items of retirement income may have originated from service or investments in a community property state.~~]

Section 3. Section 59-10-1042 is enacted to read:

59-10-1042. Nonrefundable tax credit for social security benefits.

(1) As used in this section:

(a) "Head of household filing status" means the same as that term is defined in Section 59-10-1018.

(b) "Joint filing status" means the same as that term is defined in Section 59-10-1018.

(c) "Married filing separately status" means a married individual who:

(i) does not file a single federal individual income tax return jointly with that married individual's spouse for the taxable year; and

(ii) files a single federal individual income tax return for the taxable year.

(d) "Modified adjusted gross income" means the sum of the following for a claimant or, if the claimant's return under this chapter is allowed a joint filing status, the claimant and the claimant's spouse:

(i) adjusted gross income for the taxable year for which a tax credit is claimed under this section;

(ii) any interest income that is not included in adjusted gross income for the taxable year described in Subsection (1)(d)(i); and

(iii) any addition to adjusted gross income required by Section 59-10-114 for the taxable year described in Subsection (1)(d)(i).

(e) "Single filing status" means a single individual who files a single federal individual income tax return for the taxable year.

(f) "Social security benefit" means an amount received by a claimant as a monthly benefit in accordance with the Social Security Act, 42 U.S.C. Sec. 401 et seq.

(2) Except as provided in Section 59-10-1002.2 and Subsections (3) and (4), each claimant on a return that receives a social security benefit may claim a nonrefundable tax credit against taxes otherwise due under this part equal to the product of:

(a) the percentage listed in Subsection 59-10-104(2); and

(b) the claimant's social security benefit that is included in adjusted gross income on the claimant's federal income tax return for the taxable year.

(3) (a) A claimant may not:

(i) carry forward or carry back the amount of a tax credit under this section that exceeds the claimant's tax liability for the taxable year; or

(ii) claim a tax credit under this section and a tax credit under Section 59-10-1019.

(b) A claimant that qualifies for a tax credit under this section and a tax credit under Section 59-10-1019 may elect whether to claim a tax credit under this section or a tax credit under Section 59-10-1019.

(4) The tax credit allowed by Subsection (2) claimed on a return filed under this part shall be reduced by $.025 for each dollar by which modified adjusted gross income for purposes of the return exceeds:

(a) for a federal individual income tax return that is allowed a married filing separately status, $25,000;

(b) for a federal individual income tax return that is allowed a single filing status, $30,000;

(c) for a federal individual income tax return that is allowed a head of household filing status, $50,000; or

(d) for a return under this chapter that is allowed a joint filing status, $50,000.

(5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules governing the calculation and method for claiming the tax credit described in this section.

Section 4. Retrospective operation.

This bill has retrospective operation for a taxable year beginning on or after January 1, 2021.

CHAPTER 429
H. B. 188
Passed February 19, 2021
Approved March 16, 2021
Effective May 5, 2021

STATE STONE DESIGNATION

Chief Sponsor: Christine F. Watkins
Senate Sponsor: Ronald M. Winterton

LONG TITLE

General Description:

This bill designates honeycomb calcite as the state stone.

Highlighted Provisions:

This bill:

- designates honeycomb calcite as the state stone; and
- makes technical changes to correct alphabetization errors.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63G-1-601, as last amended by Laws of Utah 2020, Chapter 36

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63G-1-601 is amended to read:

63G-1-601. State symbols.

(1) Utah's state animal is the elk.

(2) Utah's state bird is the sea gull.

(3) Utah's state centennial astronomical symbol is the Beehive Cluster located in the constellation of Cancer the Crab.

(4) Utah's state centennial star is Dubhe, one of the seven bright stars composing the Big Dipper in the constellation Ursa Major.

(5) Utah's state centennial tartan, which honors the first Scots known to have been in Utah and those Utahns of Scottish heritage, shall have a pattern or repeating-half-sett of white-2, blue-6, red-6, blue-4, red-6, green-18, red-6, and white-4 to represent the tartan worn anciently by the Logan and Skene clans, with the addition of a white stripe.

(6) Utah's state cooking pot is the dutch oven.

(7) Utah's state dinosaur is the Utahraptor.

[~~(7)~~] (8) Utah's state emblem is the beehive.

[~~(8)~~] (9) Utah's state emblem of service and sacrifice of lives lost by members of the military in defense of our freedom is the "Honor and Remember" flag, which consists of:

(a) a red field covering the top two-thirds of the flag;

(b) a white field covering the bottom one-third of the flag, which contains the words "honor" and "remember";

(c) a blue star overlaid by a gold star with a thin white border in the center of the flag spanning the red field and the white field; and

(d) a representation of a folded United States flag beneath the blue and gold stars with three tongues of flame emanating from its top point into the center of the gold star.

[~~(9)~~] (10) Utah's state firearm is the John M. Browning designed M1911 automatic pistol.

[~~(10)~~] (11) Utah's state fish is the Bonneville cutthroat trout.

[~~(11)~~] (12) Utah's state flower is the sego lily.

[~~(12)~~] (13) Utah's state folk dance is the square dance, the folk dance that is called, cued, or prompted to the dancers and includes squares, rounds, clogging, contra, line, and heritage dances.

[~~(13) Utah's state reptile is the Gila Monster (Heloderma suspectum), whose habitat includes Southwest Utah.~~]

[~~(14) Utah's state dinosaur is the Utahraptor.~~]

[~~(15)~~] (14) Utah's state fossil is the Allosaurus.

[~~(16)~~] (15) Utah's state fruit is the cherry.

[~~(17) Utah's state vegetable is the Spanish sweet onion.~~]

[~~(18) Utah's historic state vegetable is the sugar beet.~~]

[~~(19)~~] (16) Utah's state gem is topaz, as is prominently found in the Thomas Mountain Range in Juab County, Utah.

[~~(20)~~] (17) Utah's state grass is Indian rice grass.

[~~(21)~~] (18) Utah's state hymn is "Utah We Love Thee" by Evan Stephens.

[~~(22)~~] (19) Utah's state insect is the honeybee.

(20) Utah's state military museum is the Fort Douglas Military Museum.

[~~(23)~~] (21) Utah's state mineral is copper.

[~~(24)~~] (22) Utah's state motto is "Industry."

[~~(25)~~] (23) Utah's state railroad museum is Ogden Union Station.

(24) Utah's state reptile is the Gila Monster (Heloderma suspectum), whose habitat includes Southwest Utah.

[~~(26)~~] (25) Utah's state rock is coal.

[~~(27)~~] (26) Utah's state song is "Utah This is the Place" by Sam and Gary Francis.

(27) Utah's state stone is honeycomb calcite, which originates in Duchesne County, Utah.

(28) Utah's state tree is the quaking aspen.

(29) Utah's state vegetable is the Spanish sweet onion.

(30) Utah's historic state vegetable is the sugar beet.

[~~(29)~~] (31) Utah's state winter sports are skiing and snowboarding.

[~~(30)~~] (32) Utah's state works of art are Native American rock art.

[~~(31)~~] (33) Utah's state work of land art is the Spiral Jetty.

[~~(32) Utah's state military museum is the Fort Douglas Military Museum.~~]

CHAPTER 430
H. B. 197
Passed March 3, 2021
(Passed into law without governor's signature)
Effective May 5, 2021

VOTER AFFILIATION AMENDMENTS

Chief Sponsor: Jordan D. Teuscher
Senate Sponsor: Curtis S. Bramble

LONG TITLE

General Description:

This bill amends the Election Code relating to a voter's change of political party affiliation.

Highlighted Provisions:

This bill:

- specifies when a voter's designation or change of political party affiliation takes effect.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

20A-2-107, as last amended by Laws of Utah 2019, Chapter 433

20A-2-107.5, as last amended by Laws of Utah 2019, Chapter 433

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 20A-2-107 is amended to read:

20A-2-107. Designating or changing party affiliation -- Times permitted.

(1) The county clerk shall:

(a) except as provided in Subsection 20A-2-107.5(1)(c), record the party affiliation designated by the voter on the voter registration form as the voter's party affiliation; or

(b) if no political party affiliation is designated by the voter on the voter registration form:

(i) except as provided in Subsection (1)(b)(ii), record the voter's party affiliation as the party that the voter designated the last time that the voter designated a party on a voter registration form, unless the voter more recently registered as "unaffiliated"; or

(ii) record the voter's party affiliation as "unaffiliated" if the voter:

(A) did not previously designate a party;

(B) most recently designated the voter's party affiliation as "unaffiliated"; or

(C) did not previously register.

(2) (a) Any registered voter may designate or change the voter's political party affiliation by complying with the procedures and requirements of this Subsection (2).

(b) A registered voter may designate or change the voter's political party affiliation by filing a signed form with the county clerk that identifies the registered political party with which the voter chooses to affiliate[~~, during any period except the following:~~].

[~~(i) the period beginning on the day after the voter registration deadline and continuing through the date of the regular primary election; and~~]

[~~(ii) the period beginning on the day after the voter registration deadline and continuing through the date of the presidential primary election.~~]

(c) Except as provided in Subsection (2)(d), a signed form designating or changing a voter's political party affiliation takes effect when the county clerk receives the signed form.

(d) In an even-numbered year, a form described in Subsection (2)(c) received by the county clerk after March 31 takes effect on the day after that year's regular primary election if the form changes a registered voter's affiliation with one political party to affiliate with another political party.

(e) Any part of a form described in Subsection (2)(d), other than the voter's designation or change of political party affiliation, takes effect when the county clerk receives the signed form.

(f) For purposes of Subsection (2)(d), a signed form described in Subsection (2)(c) is received by the county clerk on or before March 31 if:

(i) the individual submits the form in person at the county clerk's office no later than 5 p.m. on the last business day before April 1;

(ii) the individual submits the form electronically through the system described in Section 20A-2-206, at or before 11:59 p.m. on March 31; or

(iii) the individual's form is clearly postmarked on or before March 31.

(g) Subsection (2)(d) does not apply to the party affiliation designated by a voter on the voter registration form if the voter has not previously been registered to vote in the state.

Section 2. Section 20A-2-107.5 is amended to read:

20A-2-107.5. Designating or changing party affiliation -- Regular primary election and presidential primary election.

(1) At any regular primary election or presidential primary election:

(a) each county clerk shall provide change of party affiliation forms to the poll workers for each voting precinct within the county; [~~and~~]

(b) [~~any~~] except as provided in Subsection (1)(c), a registered voter who is classified as "unaffiliated" may affiliate with a political party by completing the form and giving it to the poll worker[~~.~~]; and

(c) for an unaffiliated voter who was affiliated with a political party at any time between April 1 and the date of the regular primary election, a form described in Subsection (1)(a) takes effect on the day after the regular primary election.

(2) An unaffiliated voter who affiliates with a political party as provided in Subsection (1)(b) may vote in that party's primary election.

CHAPTER 431
H. B. 220
Passed March 3, 2021
Approved March 24, 2021
Effective May 5, 2021

PRETRIAL DETENTION AMENDMENTS

Chief Sponsor: Mike Schultz
Senate Sponsor: Kirk A. Cullimore

LONG TITLE

General Description:

This bill addresses requirements for pretrial release and detention.

Highlighted Provisions:

This bill:

- removes the presumption of release for a person arrested for certain criminal offenses while the person awaits trial;
- removes the requirement that a person who is eligible for pretrial release be released under the least restrictive, reasonably available conditions to ensure the appearance of the person and the safety of the public;
- removes the specific list of additional pretrial release conditions that may be ordered by the court;
- alters procedures for pretrial detention hearings;
- changes the time allowance for bail forfeiture;
- provides procedures for forfeited bail;
- modifies reporting requirements related to persons released from law enforcement custody on various conditions; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides coordination clauses.

Utah Code Sections Affected:

AMENDS:

77-7-20, as last amended by Laws of Utah 2020, Chapter 185
77-7-21, as last amended by Laws of Utah 2020, Chapter 185
77-17-8, as last amended by Laws of Utah 2020, Chapter 185
77-18a-1, as last amended by Laws of Utah 2020, Chapter 185
77-20-1, as last amended by Laws of Utah 2020, Chapters 142 and 185
77-20-1.1, as enacted by Laws of Utah 2020, Chapter 185
77-20-4, as last amended by Laws of Utah 2020, Chapter 185
77-20-7, as last amended by Laws of Utah 2020, Chapter 185
77-20-8, as last amended by Laws of Utah 2020, Chapter 185
77-20-8.5, as last amended by Laws of Utah 2020, Chapter 185
77-20-9, as last amended by Laws of Utah 2020, Chapter 185
77-20-10, as last amended by Laws of Utah 2020, Chapters 142 and 185
77-20b-101, as last amended by Laws of Utah 2020, Chapter 185
77-20b-102, as last amended by Laws of Utah 2020, Chapter 185
77-20b-104, as last amended by Laws of Utah 2020, Chapter 185
78A-2-220, as last amended by Laws of Utah 2020, Chapter 185

ENACTS:

77-20-3.1, Utah Code Annotated 1953

Utah Code Sections Affected by Coordination Clause:

77-20-1, as last amended by Laws of Utah 2020, Chapters 142 and 185

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 77-7-20 is amended to read:

77-7-20. Service of citation on defendant -- Filing in court -- Electronic filing -- Contents of citations.

(1) Except as provided in Subsection (4), a peace officer or other authorized official who issues a citation pursuant to Section 77-7-18 shall give the citation to the individual cited and shall, within five business days, electronically file the data from Subsections (2)(a) through (2)(h) with the court specified in the citation. The data transmission shall use the court's electronic filing interface. A nonconforming filing is not effective.

(2) The citation issued under authority of this chapter shall contain the following data:

(a) the name, address, and phone number of the court before which the individual is to appear;

(b) the name and date of birth of the individual cited;

(c) a brief description of the offense charged;

(d) the date, time, and place at which the offense is alleged to have occurred;

(e) the date on which the citation was issued;

(f) the name of the peace officer or official who issued the citation, and the name of the arresting individual if a private party made the arrest and the citation was issued in lieu of taking the arrested individual before a magistrate;

(g) the time and date on or date range during which the individual is to appear or a statement that the court will notify the individual of the time to appear;

(h) whether the offense is a domestic violence offense; and

(i) a notice containing substantially the following language:

READ CAREFULLY

This citation is not an information and will not be used as an information without your consent. If an information is filed you will be provided a copy by the court. You MUST appear in court on or before the time set in this citation or as directed by the

court. IF YOU FAIL TO APPEAR, THE COURT MAY ISSUE A WARRANT FOR YOUR ARREST.

(3) By electronically filing the data with the court, the peace officer or official affirms to the court that:

(a) the citation or information, including the summons and complaint, was [~~delivered to~~] served upon the defendant in accordance with the law;

(b) the defendant committed the offense [~~set forth~~] described in the [~~citation~~] served documents; and

(c) the court to which the defendant was directed to appear has jurisdiction over the offense charged.

(4) (a) If a citing law enforcement officer is not reasonably able to access the efiling system, the citation need not be filed electronically if being filed with a justice court.

(b) The court may accept an electronic filing received after five business days if:

(i) the defendant consents to the filing; and

(ii) the court finds the interests of justice would be best served by accepting the filing.

Section 2. Section 77-7-21 is amended to read:

77-7-21. Proceeding on citation -- Voluntary remittance of fine -- Parent signature required -- Information, when required.

(1) (a) A citation filed with the court may, with the consent of the defendant, serve in lieu of an information to which the defendant may plead guilty or no contest to the charge or charges listed and be sentenced accordingly.

(b) If provided by the uniform fine schedule described in Section 76-3-301.5, or with the court's approval, an individual may remit the fine and other penalties without a personal appearance before the court in any case charging a class B misdemeanor or lower offense, unless the charge is:

(i) a domestic violence offense as defined in Section 77-36-1;

(ii) a violation of Section 41-6a-502, driving under the influence of alcohol, drugs, or a combination of both or with specified or unsafe blood alcohol concentration;

(iii) a violation of Section 41-6a-517, driving with any measurable controlled substance in the body;

(iv) a violation of a local ordinance similar to the offenses described in Subsections (1)(b)(i) through (iii); or

(v) a violation that appears to:

(A) affect a victim, as defined in Section 77-38a-102; or

(B) require restitution, as defined in Section 77-38a-102.

(c) The remittal of fines and other penalties shall be entered as a conviction and treated the same as if the accused pleaded no contest.

(d) If the person cited is under 18 years of age, the court shall promptly mail a copy or notice of the citation to the address as shown on the citation, to the attention of the parent or guardian of the defendant.

(2) If the individual pleads not guilty to the offense charged, further proceedings shall be held in accordance with the Rules of Criminal Procedure and all other applicable provisions of this code.

Section 3. Section 77-17-8 is amended to read:

77-17-8. Mistake in charging offense -- Procedure -- Witnesses.

If, at any time before verdict or judgment, a mistake is made in charging the proper offense, and there is probable cause to believe that the defendant is chargeable with another offense, the court may commit the defendant or require the defendant [~~to comply with one or more pretrial release conditions in accordance with Section 77-20-1 to ensure the defendant's appearance in court~~] to give bail under Section 77-20-1 for the defendant's appearance to answer to the proper charge when filed, and may also require witnesses to give bail for their appearance.

Section 4. Section 77-18a-1 is amended to read:

77-18a-1. Appeals -- When proper.

(1) A defendant may, as a matter of right, appeal from:

(a) a final judgment of conviction, whether by verdict or plea;

(b) an order made after judgment that affects the substantial rights of the defendant;

(c) an order adjudicating the defendant's competency to proceed further in a pending prosecution; or

(d) an order denying bail, as provided in [~~Section 77-20-1~~] Subsection 77-20-1(9).

(2) In addition to any appeal permitted by Subsection (1), a defendant may seek discretionary appellate review of any interlocutory order.

(3) The prosecution may, as a matter of right, appeal from:

(a) a final judgment of dismissal, including a dismissal of a felony information following a refusal to bind the defendant over for trial;

(b) a pretrial order dismissing a charge on the ground that the court's suppression of evidence has substantially impaired the prosecution's case;

(c) an order granting a motion to withdraw a plea of guilty or no contest;

(d) an order arresting judgment or granting a motion for merger;

(e) an order terminating the prosecution because of a finding of double jeopardy or denial of a speedy trial;

(f) an order granting a new trial;

(g) an order holding a statute or any part of it invalid;

(h) an order adjudicating the defendant's competency to proceed further in a pending prosecution;

(i) an order finding, pursuant to Title 77, Chapter 19, Part 2, Competency for Execution, that an inmate sentenced to death is incompetent to be executed;

(j) an order reducing the degree of offense pursuant to Section 76-3-402; or

(k) an illegal sentence.

(4) In addition to any appeal permitted by Subsection (3), the prosecution may seek discretionary appellate review of any interlocutory order entered before jeopardy attaches.

Section 5. Section 77-20-1 is amended to read:

77-20-1. Right to bail -- Pretrial status order -- Denial of bail -- Detention hearing -- Motion to modify.

(1) As used in this chapter:

(a) "Bail bond agency" means the same as that term is defined in Section 31A-35-102.

[~~(b) "Financial condition" or "monetary bail" means any monetary condition that may be imposed under Section 77-20-4 to secure an individual's pretrial release.~~]

[~~(c) "Pretrial release" or "bail" means release of an individual charged with or arrested for a criminal offense from law enforcement or judicial custody during the time the individual awaits trial or other resolution of the criminal charges.~~]

[~~(d) "Pretrial status order" means an order issued by the court exercising jurisdiction over an individual charged with a criminal offense that sets the terms and conditions of the individual's pretrial release or denies pretrial release and orders that the individual be detained pending resolution of the criminal charges.~~]

[~~(e)~~] (b) "Surety" and "sureties" mean a surety insurer or a bail bond agency.

[~~(f)~~] (c) "Surety insurer" means the same as that term is defined in Section 31A-35-102.

(2) An individual charged with or arrested for a criminal offense shall be admitted to bail as a matter of right, except if the individual is charged with a:

(a) capital felony, when the court finds there is substantial evidence to support the charge;

(b) felony committed while on probation or parole, or while free on bail awaiting trial on a previous felony charge, when the court finds there is substantial evidence to support the current felony charge;

(c) felony when there is substantial evidence to support the charge and the court finds by clear and convincing evidence that the individual would constitute a substantial danger to any other individual or to the community, or is likely to flee the jurisdiction of the court, if released on bail;

(d) felony when the court finds there is substantial evidence to support the charge and the court finds by clear and convincing evidence that the individual violated a material condition of release while previously on bail; or

(e) domestic violence offense if the court finds:

(i) that there is substantial evidence to support the charge; and

(ii) by clear and convincing evidence, that the individual would constitute a substantial danger to an alleged victim of domestic violence if released on bail.

[~~(3) (a) A court exercising jurisdiction over an individual charged with or arrested for a criminal offense shall issue a pretrial status order designating the conditions to be imposed upon the individual's release or ordering that the individual be detained under this section during the time the individual awaits trial or other resolution of the criminal charges.~~]

[~~(b) A court granting pretrial release shall impose the least restrictive reasonably available conditions of release on the individual who is the subject of the pretrial status order that the court determines will reasonably ensure:~~]

[~~(i) the individual's appearance in court when required;~~]

[~~(ii) the safety of any witnesses or victims of the offense allegedly committed by the individual;~~]

[~~(iii) the safety and welfare of the public; and~~]

[~~(iv) that the individual will not obstruct or attempt to obstruct the criminal justice process.~~]

[~~(c) (i) The court shall issue the pretrial status order without unnecessary delay.~~]

[~~(ii) If a prosecutor files a motion for detention under Subsection (6), the court may delay issuing the pretrial status order until after hearing the motion to detain if the court finds:~~]

[~~(A) the prosecutor's motion states a reasonable case for detention; and~~]

[~~(B) detaining the defendant until after the motion is heard is in the interests of justice and public safety.~~]

[~~(4) (a) Except as otherwise provided in this section or Section 78B-7-802, the court shall order that an individual charged with a criminal offense be released on the individual's own recognizance, on condition that the individual appear at all required court proceedings, if the court finds that additional conditions are not necessary to reasonably ensure compliance with Subsection (3)(b).~~]

[~~(b) The court shall impose additional release conditions if the court finds that additional release conditions are necessary to reasonably ensure compliance with Subsection (3)(b). The conditions imposed may include that the individual:~~]

[~~(i) not commit a federal, state, or local offense during the period of release;~~]

[~~(ii) avoid contact with a victim or victims of the alleged offense;~~]

[~~(iii) avoid contact with a witness or witnesses who may testify concerning the alleged offense that are named in the pretrial status order;~~]

[~~(iv) not use or consume alcohol, or any narcotic drug or other controlled substance except as prescribed by a licensed medical practitioner;~~]

[~~(v) submit to drug or alcohol testing;~~]

[~~(vi) complete a substance abuse evaluation and comply with any recommended treatment or release program;~~]

[~~(vii) submit to electronic monitoring or location device tracking;~~]

[~~(viii) participate in inpatient or outpatient medical, behavioral, psychological, or psychiatric treatment;~~]

[~~(ix) maintain employment, or if unemployed, actively seek employment;~~]

[~~(x) maintain or commence an education program;~~]

[~~(xi) comply with limitations on where the individual is allowed to be located or the times the individual shall be or may not be at a specified location;~~]

[~~(xii) comply with specified restrictions on personal associations, place of residence, or travel;~~]

[~~(xiii) report to a law enforcement agency, pretrial services program, or other designated agency at a specified frequency or on specified dates;~~]

[~~(xiv) comply with a specified curfew;~~]

[~~(xv) forfeit or refrain from possession of a firearm or other dangerous weapon;~~]

[~~(xvi) if the individual is charged with an offense against a child, is limited or denied access to any location or occupation where children are, including any residence where children are on the premises, activities including organized activities in which children are involved, locations where children congregate, or where a reasonable person should know that children congregate;~~]

[~~(xvii) comply with requirements for house arrest;~~]

[~~(xviii) return to custody for a specified period of time following release for employment, schooling, or other limited purposes;~~]

[~~(xix) remain in the custody of one or more designated individuals who agree to supervise and report on the behavior and activities of the individual charged and to encourage compliance with all court orders and attendance at all required court proceedings;~~]

[~~(xx) comply with a financial condition; or~~]

[~~(xxi) comply with any other condition that is necessary to reasonably ensure compliance with Subsection (3)(b).~~]

[~~(c) If the court determines a financial condition, other than an unsecured bond, is necessary to impose on an individual as part of the individual's pretrial release, the court shall consider the individual's ability to pay when determining the amount of the financial condition.~~]

[~~(5) In making a determination under Subsection (3), the court may rely on the following:~~]

[~~(a) any form of pretrial services assessment;~~]

[~~(b) the nature and circumstances of the offense or offenses charged, including whether the charges include a violent offense and the vulnerability of witnesses or alleged victims;~~]

[~~(c) the nature and circumstances of the individual, including the individual's character, physical and mental health, family and community ties, employment status and history, financial resources, past criminal conduct, history of drug or alcohol abuse, and history of timely appearances at required court proceedings;~~]

[~~(d) the potential danger to another individual or individuals posed by the release of the individual;~~]

[~~(e) if the individual was on probation, parole, or release pending an upcoming court proceeding at the time the individual allegedly committed the offense;~~]

[~~(f) the availability of other individuals who agree to assist the individual in attending court when required or other evidence relevant to the individual's opportunities for supervision in the individual's community;~~]

[~~(g) the eligibility and willingness of the individual to participate in various treatment programs, including drug treatment; or~~]

[~~(h) other evidence relevant to the individual's likelihood of fleeing or violating the law if released.~~]

[~~(6) (a) If the criminal charges filed against the individual include one or more offenses eligible for detention under Subsection (2) or Utah Constitution, Article I, Section 8, the prosecution may file a motion for pretrial detention.~~]

[~~(b) Upon receiving a motion under Subsection (6)(a), the court shall set a hearing on the matter as soon as practicable.~~]

[~~(c) The individual who is the subject of the detention hearing has the right to be represented by counsel at the pretrial detention hearing and, if a court finds the individual is indigent under Section 78B-22-202, the court shall appoint counsel to represent the individual in accordance with Section 78B-22-203.~~]

[~~(d) The court shall give both parties the opportunity to make arguments and to present relevant evidence at the detention hearing.~~]

[~~(7) After hearing evidence on a motion for pretrial detention, the court may detain the individual if:~~]

[~~(a) the individual is accused of committing an offense that qualifies the individual for detention under Subsection (2) or Utah Constitution, Article I, Section 8;~~]

[~~(b) the prosecution demonstrates substantial evidence to support the charge, and meets all additional evidentiary burdens required under Subsection (2) or Utah Constitution, Article I, Section 8; and~~]

[~~(c) the court finds that no conditions that may be imposed upon granting the individual pretrial release will reasonably ensure compliance with Subsection (3)(b).~~]

[~~(8) (a) If an individual is charged with a criminal offense described in Subsection (8)(b), there is a rebuttable presumption that the individual be detained.~~]

[~~(b) Criminal charges that create a rebuttable presumption of detention under Subsection (8)(a) include:~~]

[~~(i) criminal homicide as defined in Section 75-5-201; and~~]

[~~(ii) any offense for which the term of imprisonment may include life.~~]

[~~(c) The individual may rebut the presumption of detention by demonstrating, by a preponderance of the evidence, that specified conditions of release will reasonably ensure compliance with Subsection (3)(b).~~]

[~~(9) Except as otherwise provided, the court issuing a pretrial warrant of arrest shall issue the initial pretrial status order.~~]

(3) Any individual who may be admitted to bail may be released by posting bail in the form and manner provided in Section 77-20-4, or on the individual's own recognizance, on condition that the individual appear in court for future court proceedings in the case, and on any other conditions imposed in the discretion of the magistrate or court in a pretrial status order setting the terms and conditions of the individual's pretrial release that will reasonably:

(a) ensure the appearance of the accused;

(b) ensure the integrity of the court process;

(c) prevent direct or indirect contact with witnesses or victims by the accused, if appropriate; and

(d) ensure the safety of the public.

(4) (a) Except as otherwise provided, the initial order denying or fixing the amount of bail shall be issued by the magistrate or court issuing the warrant of arrest.

(b) A magistrate may set bail upon determining that there was probable cause for a warrantless arrest.

(c) A bail commissioner may set bail in a misdemeanor case in accordance with Sections 10-3-920 and 17-32-1.

[~~(10) (a)~~] (d) An individual arrested for a violation of a jail release agreement or jail release court order issued in accordance with Section 78B-7-802:

(i) may be denied pretrial release by the court under Subsection (2); and

(ii) if denied pretrial release, may not be released before the individual's initial appearance before the court.

[~~(b) Nothing in this section precludes or nullifies a jail release agreement or jail release order required under Section 78B-7-802.~~]

(5) The magistrate or court may rely upon information contained in:

(a) the indictment or information;

(b) any sworn statement or sworn probable cause statement or other information provided by law enforcement;

(c) any form of pretrial services assessment;

(d) witness statements or testimony; or

(e) any other reliable record or source, including proffered evidence.

(6) (a) Except as provided by Subsection (6)(b), the prosecution and defendant have a right to subpoena witnesses to testify at a pretrial detention hearing.

(b) If a defendant seeks to subpoena an alleged victim who did not willingly testify at a pretrial detention hearing, at the conclusion of the hearing, a defendant may issue a subpoena compelling the alleged victim to testify at a subsequent pretrial detention hearing only if the court finds that the testimony sought by the subpoena:

(i) is material to the substantial evidence or clear and convincing evidence determinations described in Subsection (2) in light of all information presented to the court; and

(ii) would not unnecessarily intrude on the rights of the victim.

(c) An alleged victim has the right to be heard at a hearing on a motion for pretrial detention.

[~~(11)~~] (7) (a) A motion to modify the initial pretrial status order may be made by a party at any time upon notice to the opposing party sufficient to permit the opposing party to prepare for hearing and to permit each alleged victim to be notified and be present.

(b) Hearing on a motion to modify a pretrial status order may be held in conjunction with a preliminary hearing or any other pretrial hearing.

(c) The magistrate or court may rely on information as provided in Subsection (5) and may base its ruling on evidence provided at the hearing so long as each party is provided an opportunity to present additional evidence or information relevant to bail.

[~~(12)~~] (8) Subsequent motions to modify a pretrial status order may be made only upon a showing that there has been a material change in circumstances.

[~~(13)~~] (9) An appeal may be taken from an order of a court denying bail to the Utah Court of Appeals pursuant to the Utah Rules of Appellate Procedure, which shall review the determination under Subsection [~~(7)~~] (2).

[~~(14)~~] (10) For purposes of this section, any arrest or charge for a violation of Section 76-5-202, Aggravated murder, is a capital felony unless:

(a) the prosecutor files a notice of intent to not seek the death penalty; or

(b) the time for filing a notice to seek the death penalty has expired and the prosecutor has not filed a notice to seek the death penalty.

Section 6. Section 77-20-1.1 is amended to read:

77-20-1.1. Release data requirements.

(1) The Administrative Office of the Courts shall submit the following data on individuals for whom the Administrative Office of the Courts has a state identification number broken down by judicial district to the Commission on Criminal and Juvenile Justice before July 1 of each year:

(a) for the preceding calendar year:

(i) the number of individuals charged with a criminal offense who failed to appear at a required court preceding while on pretrial release, in accordance with Section 77-20-1, under each of the following categories of release:

(A) the individual's own recognizance;

(B) a financial condition; and

(C) a [~~pretrial~~] release condition other than a financial condition;

(ii) the number of offenses that carry a potential penalty of incarceration an individual committed while on pretrial release, in accordance with Section 77-20-1, under each of the following categories of release:

(A) the individual's own recognizance;

(B) a financial condition; and

(C) a [~~pretrial~~] release condition other than a financial condition; and

(iii) the total amount of fees and fines, including bond forfeiture, collected by the court from an individual for the individual's failure to comply with a condition of [~~pretrial~~] release under each of the following categories of release:

(A) an individual's own recognizance;

(B) a financial condition; and

(C) a [~~pretrial~~] release condition other than a financial condition; and

(b) at the end of the preceding calendar year:

(i) the total number of outstanding warrants of arrest for individuals who were released from law enforcement custody, in accordance with Section 77-20-1, under each of the following categories of release:

(A) the individual's own recognizance;

(B) a financial condition; and

(C) a [~~pretrial~~] release condition other than a financial condition;

(ii) for each of the categories described in Subsection (1)(b)(i), the average length of time that the outstanding warrants had been outstanding; and

(iii) for each of the categories described in Subsection (1)(b)(i), the number of outstanding warrants for arrest for crimes of each of the following categories:

(A) a first degree felony;

(B) a second degree felony;

(C) a third degree felony;

(D) a class A misdemeanor;

(E) a class B misdemeanor; and

(F) a class C misdemeanor.

(2) Each county jail shall submit the following data, based on the preceding calendar year, to the Commission of Criminal and Juvenile Justice before July 1 of each year:

(a) the number of individuals released upon payment of monetary bail before appearing before a court;

(b) the number of individuals released on the individual's own recognizance before appearing before a court; and

(c) the amount of monetary bail, any fees, and any other money paid by or on behalf of individuals collected by the county jail.

(3) The Commission on Criminal and Juvenile Justice shall compile the data collected under this section and shall submit the compiled data in an electronic report to the Law Enforcement and Criminal Justice Interim Committee before November 1 of each year.

Section 7. Section 77-20-3.1 is enacted to read:

77-20-3.1. Release on own recognizance -- Changing amount of bail or conditions of release.

(1) Any person who may be admitted to bail may likewise be released on the person's own recognizance in accordance with Subsection 77-20-1(3).

(2) After releasing the defendant on the defendant's own recognizance or admitting the defendant to bail, the magistrate or court may:

(a) impose bail or increase or decrease the amount of the bail; and

(b) impose or change the conditions of release under Subsection 77-20-1(3).

Section 8. Section 77-20-4 is amended to read:

77-20-4. Bail to be posted in cash, by credit or debit card, or by written undertaking -- Specific monetary bail methods.

(1) (a) Except as provided in Subsection (2), the judge or magistrate shall set bail at a single amount per case or charge.

(b) Subject to Subsection (2), a defendant may choose to post the amount described in Subsection (1)(a) by any of the following methods:

(i) in cash;

(ii) by written undertaking with sureties;

(iii) by written undertaking without sureties, at the discretion of the judge or magistrate; or

(iv) by credit or debit card, at the discretion of the judge or bail commissioner.

(2) A judge or magistrate may limit a defendant to a specific method of posting [~~monetary~~] bail described in Subsection (1)(b)(i), (ii), (iii), or (iv):

(a) if, after charges are filed, the defendant fails to appear in the case on a bail bond and the case involves a violent offense;

(b) in order to allow the defendant to voluntarily [~~forfeit monetary bail~~] remit the fine in accordance with Section 77-7-21 and the offense with which the defendant is charged is listed in the shared master offense table as one for which an appearance is not mandatory;

(c) if the defendant has failed to respond to a citation or summons and the offense with which the defendant is charged is listed in the shared master offense table as one for which an appearance is not mandatory;

(d) if a warrant is issued for the defendant solely for failure to pay a criminal judgment account receivable, as defined in Section 77-32a-101, and the defendant's [~~monetary~~] bail is limited to the amount owed; or

(e) if a court has entered a judgment of [~~bond~~] bail forfeiture under Section 77-20b-104 in any case involving the defendant.

(3) [~~Monetary bail~~] Bail may not be accepted without receiving in writing at the time the [~~monetary~~] bail is posted the current mailing address, telephone number, and email address of the surety.

(4) [~~Monetary bail paid~~] Bail posted by debit or credit card, less the fee charged by the financial institution, shall be tendered to the courts.

(5) [~~Monetary bail~~] Bail refunded by the court may be refunded by credit to the debit or credit card, or cash. The amount refunded shall be the full amount received by the court under Subsection (4), which may be less than the full amount of the [~~monetary~~] bail set by the court.

(6) Before refunding [~~monetary~~] bail that is posted by the defendant in cash, by credit card, or by debit card, the court may apply the amount posted toward accounts receivable, as defined in Section 77-32a-101, that are owed by the defendant in the priority set forth in Section 77-38a-404.

Section 9. Section 77-20-7 is amended to read:

77-20-7. Duration of liability on undertaking -- Notices to sureties -- Exoneration if charges not filed.

(1) (a) Except as provided in Subsection (1)(b), the principal and the sureties on [~~a bond or other~~] the written undertaking are liable on the [~~bond or other written~~] undertaking during all proceedings and for all court appearances required of the defendant up to and including the surrender of the defendant for sentencing, irrespective of any contrary provision in the [~~bond or other written~~] undertaking. Any failure of the defendant to appear when required is a breach of the conditions of the [~~bond or other written~~] undertaking or bail and subjects [~~the bond~~] it to forfeiture, regardless of whether or not notice of appearance was given to the sureties. Upon sentencing the bail bond [~~or other written undertaking~~] shall be exonerated without motion.

(b) If the sentence includes a commitment to a jail or prison, the bail bond [~~or other written undertaking~~] shall be exonerated when the defendant appears at the appropriate jail or prison, unless the judge does not require the defendant to begin the commitment within seven days, in which case the bail bond [~~or other written undertaking~~] is exonerated upon sentencing.

(c) For purposes of this section, an order of the court accepting a plea in abeyance agreement and holding that plea in abeyance pursuant to Title 77, Chapter 2a, Pleas in Abeyance, is considered to be the same as a sentencing upon a guilty plea.

(d) Any suspended or deferred sentencing is not the responsibility of the surety and the bail bond is exonerated without any motion, upon acceptance of the court and the defendant of a plea in abeyance, probation, fine payments, post sentencing reviews, or any other deferred sentencing reviews or any other deferred sentencing agreement.

(e) If a surety issues a bail bond after sentencing, the surety is liable on the undertaking during all proceedings and for all court appearances required of the defendant up to and including the defendant's appearance to commence serving the sentence imposed under Subsection (1).

[~~(2) If the prosecutor does not file an information, indictment, or request to extend time 120 days after the date on which the bond or other written undertaking is received, the court shall:~~]

[~~(a) relieve a person from conditions of release;~~]

[~~(b) refund any monetary bail, as provided in Subsection 77-20-4(5); and~~]

[~~(c) exonerate any bond or other written undertaking without further order of the court.~~]

[~~(3) (a) A request to extend time shall:~~]

[~~(i) be served on any surety and the defendant or the defendant's attorney; and~~]

[~~(ii) be granted for a period of up to 60 days.~~]

[~~(b) A court may grant a request to extend time for a period of up to 120 days upon a showing of good cause.~~]

[~~(c) An extension of time does not prohibit the proper filing of charges against a person at any time.~~]

(2) If no information or indictment charging a person with an offense is filed in court within 120 days after the date on which the bail undertaking or cash is received, the court may relieve a person from conditions of release at the person's request, and the bail bond or undertaking is exonerated without further order of the court unless the prosecutor requests an extension of time before the end of the 120-day period by:

(a) filing a notice for extension with the court; and

(b) serving the notice for extension upon the sureties and the person or the person's attorney.

(3) A court may extend bail and conditions of release for good cause.

(4) Subsection (2) does not prohibit the filing of charges against a person at any time.

(5) If the court does not set on a calendar any hearings on a case within 18 months after the last court docket activity on a case, the undertaking of bail is exonerated without motion.

Section 10. Section 77-20-8 is amended to read:

77-20-8. Grounds for detaining or releasing defendant on conviction and prior to sentence.

(1) Upon conviction, by plea or trial, the court shall order that the convicted defendant who is waiting imposition or execution of sentence be detained, unless the court finds by clear and convincing evidence presented by the defendant that the defendant is not likely to flee the jurisdiction of the court, and will not pose a danger to the physical, psychological, or financial and economic safety or well-being of any other person or the community if released.

(2) If the court finds the defendant does not need to be detained, the court shall order the release of the defendant on suitable conditions, which may include the conditions under Subsection [~~77-20-1~~(4)] 77-20-10(2).

Section 11. Section 77-20-8.5 is amended to read:

77-20-8.5. Sureties -- Surrender of defendant -- Arrest of defendant.

(1) (a) Sureties may at any time prior to a defendant's failure to appear surrender the defendant and obtain exoneration of [~~monetary~~] bail, by notifying the clerk of the court in which the [~~monetary~~] bail was posted of the defendant's surrender and requesting exoneration. Notification shall be made immediately following the surrender by surface mail, electronic mail, or fax.

(b) To effect surrender, a certified copy of the surety's undertaking from the court in which it was posted or a copy of the [~~monetary~~] bail agreement with the defendant shall be delivered to the on-duty jailer, who shall detain the defendant in the on-duty jailer's custody as upon a commitment, and shall in writing acknowledge the surrender upon the copy of the undertaking or [~~monetary~~] bail agreement. The certified copy of the undertaking or copy of the [~~monetary~~] bail agreement upon which the acknowledgment of surrender is endorsed shall be filed with the court. The court may then, upon proper application, order the undertaking exonerated and [~~shall~~] may order a refund of any paid premium, or part of a premium, as it finds just.

(2) For the purpose of surrendering the defendant, the sureties may:

(a) arrest the defendant:

(i) at any time before the defendant is finally exonerated; and

(ii) at any place within the state; and

(b) surrender the defendant to any county jail booking facility in Utah.

(3) An arrest under this section is not a basis for exoneration of the bail bond under Section 77-20b-101.

(4) A surety acting under this section is subject to Title 53, Chapter 11, Bail Bond Recovery Act.

Section 12. Section 77-20-9 is amended to read:

77-20-9. Disposition of forfeitures.

If by reason of the neglect of the defendant to appear, money deposited as a financial condition or money paid by sureties on bond is forfeited and the forfeiture is not discharged or remitted, the clerk with whom it is deposited or paid shall, immediately after final adjournment of the court, pay over the money forfeited as follows:

(1) the forfeited amount in cases in precinct justice courts or in municipal justice courts shall be distributed as provided in Sections 78A-7-120 and 78A-7-121; and

(2) in all other cases:

(a) where the financial condition was paid by a surety:

[~~(a)~~] (i) 60% of the forfeited [~~bond~~] amount shall be paid to the Pretrial Release Programs Special Revenue Fund established in Section 63M-7-215;

[~~(b) 25%~~] (ii) 20% of the forfeited [~~bond~~] amount shall be paid to the General Fund; and

[~~(c) 15%~~] (iii) 20% of the forfeited [~~bond~~] amount shall be paid to the prosecuting agency that brings an action to collect under Section 77-20b-104[~~.~~]; and

(b) where the financial condition was paid without the assistance of a surety:

(i) 75% of the forfeited amount shall be paid to the Pretrial Release Programs Special Revenue Fund established in Section 63M-7-215; and

(ii) 25% of the forfeited amount shall be paid to the General Fund.

Section 13. Section 77-20-10 is amended to read:

77-20-10. Grounds for detaining defendant while appealing the defendant's conviction -- Conditions for release while on appeal.

(1) The court shall order that a defendant who has been found guilty of an offense in a court of record and sentenced to a term of imprisonment in jail or prison, and who has filed an appeal or a petition for a writ of certiorari, be detained, unless the court finds:

(a) the appeal raises a substantial question of law or fact likely to result in:

(i) reversal;

(ii) an order for a new trial; or

(iii) a sentence that does not include a term of imprisonment in jail or prison;

(b) the appeal is not for the purpose of delay; and

(c) by clear and convincing evidence presented by the defendant that the defendant is not likely to flee the jurisdiction of the court, and will not pose a danger to the physical, psychological, or financial and economic safety or well-being of any other person or the community if released.

(2) If the court makes a finding under Subsection (1) that justifies not detaining the defendant, the court shall order the release of the defendant, subject to conditions that result in the least restrictive [~~reasonably available~~] condition or combination of conditions that the court determines will reasonably ensure the appearance of the defendant as required and the safety of any other individual, property, and the community. The conditions may include [~~the conditions described in Subsection 77-20-1(4)(b).~~] that the defendant:

(a) post appropriate bail;

(b) execute a bail bond with a surety under Title 31A, Chapter 35, Bail Bond Act, in an amount necessary to ensure the appearance of the defendant as required;

(c) (i) execute a written agreement to forfeit, upon failing to appear as required, designated property, including money, as is reasonably necessary to ensure the appearance of the defendant; and

(ii) post with the court indicia of ownership of the property or a percentage of the money as the court may specify;

(d) not commit a federal, state, or local crime during the period of release;

(e) remain in the custody of a designated person who agrees to assume supervision of the defendant and who agrees to report any violation of a release condition to the court, if the designated person is reasonably able to assure the court that the defendant will appear as required and will not pose a danger to the safety of any other person or the community;

(f) maintain employment, or if unemployed, actively seek employment;

(g) maintain or commence an educational program;

(h) abide by specified restrictions on personal associations, place of abode, or travel;

(i) avoid all contact with the victims of the offense and with any witnesses who testified against the defendant or potential witnesses who may testify concerning the offense if the appeal results in a reversal or an order for a new trial;

(j) report on a regular basis to a designated law enforcement agency, pretrial services agency, or other designated agency;

(k) comply with a specified curfew;

(l) not possess a firearm, destructive device, or other dangerous weapon;

(m) not use alcohol, or any narcotic drug or other controlled substance except as prescribed by a licensed medical practitioner;

(n) undergo available medical, psychological, or psychiatric treatment, including treatment for drug or alcohol dependency, and remain under the supervision of or in a specified institution if required for that purpose;

(o) return to custody for specified hours following release for employment, schooling, or other limited purposes;

(p) satisfy any other condition that is reasonably necessary to ensure the appearance of the defendant as required and to ensure the safety of any other person and the community; and

(q) if convicted of committing a sexual offense or an assault or other offense involving violence against a child 17 years old or younger, is limited or denied access to any location or occupation where children are, including:

(i) any residence where children are on the premises;

(ii) activities, including organized activities, in which children are involved; and

(iii) locations where children congregate, or where a reasonable person should know that children congregate.

(3) The court may, in its discretion, amend an order granting release to impose additional or different conditions of release.

(4) If the defendant is found guilty of an offense in a court not of record and files a timely notice of appeal pursuant to Subsection 78A-7-118(1) for a trial de novo, the court shall stay all terms of a sentence, unless at the time of sentencing the judge finds by a preponderance of the evidence that the defendant poses a danger to another person or the community.

(5) If a stay is ordered, the court may order post-conviction restrictions on the defendant's conduct as appropriate, including:

(a) continuation of any pre-trial restrictions or orders;

(b) sentencing protective orders under Section 78B-7-804;

(c) drug and alcohol use;

(d) use of an ignition interlock; and

(e) posting appropriate [~~monetary~~] bail.

(6) The provisions of Subsections (4) and (5) do not apply to convictions for an offense under Title 41, Chapter 6a, Part 5, Driving Under the Influence and Reckless Driving.

(7) Any stay authorized by Subsection (4) is lifted upon the dismissal of the appeal by the district court.

Section 14. Section 77-20b-101 is amended to read:

77-20b-101. Entry of nonappearance -- Notice to surety -- Release of surety on failure of timely notice.

(1) If a defendant who has posted bail fails to appear before the appropriate court as required, the court shall, within 30 days [~~of the failure~~] after the day on which the defendant fails to appear, issue a bench warrant that includes the original case number. The court shall also direct that the surety [~~or surety insurer~~] be given notice of the nonappearance. The clerk of the court shall:

(a) email notice of nonappearance to the surety [~~or surety insurer~~] at the email address provided on the bond;

(b) notify the surety as listed on the bail bond of the name, address, and telephone number of the prosecutor;

[~~(b)~~] (c) email a copy of the notice sent under Subsection (1)(a) to the prosecutor's office at the same time notice is sent under Subsection (1)(a); and

[~~(c)~~] (d) ensure that the name, address, business email address, and telephone number of the surety[~~, its agent, or surety insurer~~] or the surety's agent as listed on the bail bond is stated on the bench warrant.

(2) The prosecutor may email notice of nonappearance to the address of the surety [~~or surety insurer~~] as listed on the bail bond within 37 days after the date of the defendant's failure to appear.

(3) If notice of nonappearance is not emailed to a surety [~~or surety insurer~~] as listed on the bail bond, other than the defendant, in accordance with Subsection (1) or (2), the surety [~~or surety insurer~~] and [~~its~~] the surety's bail bond producer are relieved of further obligation under the bail bond if the [~~surety or surety insurer have listed their current name and email addresses on the bond~~] surety's current name and address or the current name and address of the bail bond agency are on the bail bond in the court's file.

(4) (a) (i) If a defendant appears in court within [~~30~~] seven days after a missed, scheduled court appearance, the court may reinstate the bail bond without further notice to the surety [~~or surety insurer~~].

(ii) If the defendant, while in custody, appears on the case for which the bail bond was posted, the court may not reinstate the bail bond without the consent of the bail bond company.

(b) If a defendant fails to appear within [~~30~~] seven days after a scheduled court appearance, the court may not reinstate the bail bond without the consent of the surety [~~or surety insurer~~].

(c) If the defendant is arrested and booked into a county jail booking facility pursuant to a warrant for failure to appear on the original charges and the court is notified of the arrest, or the court recalls the warrant due to the defendant's having paid the fine and prior to entry of judgment of forfeiture, the court shall exonerate the bail bond.

(d) Unless the court makes a finding of good cause why the bond should not be exonerated, it shall exonerate the bail bond if:

(i) the surety [~~or surety insurer~~] has delivered the defendant to the county jail booking facility in the county where the original charge or charges are pending;

(ii) the defendant has been released on a bond secured from a subsequent surety [~~or surety insurer~~] for the original charge and the failure to appear;

(iii) after an arrest, the defendant has escaped from jail or has been released on the defendant's own recognizance, pursuant to a pretrial release, under a court order regulating jail capacity, or by a sheriff's release under Section 17-22-5.5;

(iv) the surety [~~or surety insurer~~] has transported or agreed to pay for the transportation of the defendant from a location outside of the county back to the county where the original charge is pending, and the payment is in an amount equal to government transportation expenses listed in Section 76-3-201; or

(v) the surety [~~or surety insurer~~] demonstrates by a preponderance of the evidence that:

(A) at the time the surety [~~or surety insurer~~] issued the bail bond, it had made reasonable efforts to determine that the defendant was legally present in the United States;

(B) a reasonable person would have concluded, based on the surety's [~~or surety insurer's~~] determination, that the defendant was legally present in the United States; and

(C) the surety [~~or surety insurer~~] has failed to bring the defendant before the court because the defendant is in federal custody or has been deported.

(e) Under circumstances not otherwise provided for in this section, the court may exonerate the bail bond if it finds that the prosecutor has been given reasonable notice of a surety's [~~or surety insurer's~~] motion and there is good cause for the bail bond to be exonerated.

(f) If a surety's [~~or surety insurer's~~] bail bond has been exonerated under this section and the surety [~~or surety insurer~~] remains liable for the cost of transportation of the defendant, the surety [~~or surety insurer~~] may take custody of the defendant for the purpose of transporting the defendant to the jurisdiction where the charge is pending.

Section 15. Section 77-20b-102 is amended to read:

77-20b-102. Time for bringing defendant to court.

(1) If notice of nonappearance is emailed to a surety [~~or surety insurer~~] under Section 77-20b-101, the surety [~~or surety insurer~~] may bring the defendant before the court or surrender the defendant into the custody of a county sheriff within the state within [~~90 days after~~] six months after the date of nonappearance, during which time a forfeiture action on the bail bond may not be brought.

(2) A surety [~~or surety insurer~~] may request an extension of the [~~90-day~~] six-month time period in Subsection (1), if the surety [~~or surety insurer~~] within that time:

(a) files a motion for extension with the court; and

(b) mails the motion for extension and a notice of hearing on the motion to the prosecutor.

(3) The court may extend the [~~90-day~~] six-month time in Subsection (1) for not more than 60 days, if the surety [~~or surety insurer~~] has complied with Subsection (2) and the court finds good cause.

Section 16. Section 77-20b-104 is amended to read:

77-20b-104. Forfeiture of bail.

(1) If a surety [~~or surety insurer~~] fails to bring the defendant before the court within the time provided in Section 77-20b-102, the prosecuting attorney may request the forfeiture of the [~~bond~~] bail by:

(a) filing a motion for [~~bond~~] bail forfeiture with the court, supported by proof of notice to the surety [~~or surety insurer~~] of the defendant's nonappearance; and

(b) emailing a copy of the motion to the surety [~~or surety insurer~~].

(2) A court shall enter judgment of [~~bond~~] bail forfeiture without further notice if the court finds by a preponderance of the evidence:

(a) the defendant failed to appear as required;

(b) the surety [~~or surety insurer~~] was given notice of the defendant's nonappearance in accordance with Section 77-20b-101;

(c) the surety [~~or surety insurer~~] failed to bring the defendant to the court within the [~~90-day~~] six-month period under Section 77-20b-102; and

(d) the prosecutor has complied with the notice requirements under Subsection (1).

(3) If the surety [~~or surety insurer~~] shows by a preponderance of the evidence that it has failed to bring the defendant before the court because the defendant is deceased through no act of the surety [~~or surety insurer~~], the court may not enter judgment of [~~bond~~] bail forfeiture and the bail bond is exonerated.

(4) The amount of [~~the bond~~] bail forfeited is the face amount of the bail bond, but if the defendant is in the custody of another jurisdiction and the state extradites or intends to extradite the defendant, the court may reduce the amount forfeited to the actual or estimated costs of returning the defendant to the court's jurisdiction. A judgment under Subsection (5) shall:

(a) identify the surety [~~or surety insurer~~] against whom judgment is granted;

(b) specify the amount of [~~the bond~~] bail forfeited;

(c) grant the forfeiture of the bail bond; and

(d) be docketed by the clerk of the court in the civil judgment docket.

(5) A prosecutor may immediately commence collection proceedings to execute a judgment of bail bond forfeiture against the assets of the surety.

Section 17. Section 78A-2-220 is amended to read:

78A-2-220. Authority of magistrate.

(1) Except as otherwise provided by law, a magistrate as defined in Section 77-1-3 shall have the authority to:

(a) commit a person to incarceration prior to trial;

(b) set or deny bail under Section 77-20-1 and release upon the payment of [~~monetary~~] bail and satisfaction of any other conditions of release;

(c) issue to any place in the state summonses and warrants of search and arrest and authorize administrative traffic checkpoints under Section 77-23-104;

(d) conduct an initial appearance;

(e) conduct arraignments;

(f) conduct a preliminary examination to determine probable cause;

(g) appoint attorneys and order recoupment of attorney fees;

(h) order the preparation of presentence investigations and reports;

(i) issue temporary orders as provided by rule of the Judicial Council; and

(j) perform any other act or function authorized by statute.

(2) A judge of the justice court may exercise the authority of a magistrate specified in Subsection (1) with the following limitations:

(a) a judge of the justice court may conduct an initial appearance, preliminary examination, or arraignment as provided by rule of the Judicial Council; and

(b) a judge of the justice court may not [~~perform any act or function~~] set bail in a capital felony nor deny bail in any case.

Section 18. Coordinating H.B. 220 with H.B. 58 -- Substantive amendments.

If this H.B. 220 and H.B. 58, Riot Amendments, both pass and become law, the Legislature intends that the Office of Legislative Research and General Counsel prepare the Utah Code database for publication by amending Subsection 77-20-1(3) in H.B. 220 to read:

"(3) (a) Any individual who may be admitted to bail may be released by posting bail in the form and manner provided in Section 77-20-4, or on the individual's own recognizance, on condition that the individual appear in court for future court proceedings in the case, and on any other conditions imposed in the discretion of the magistrate or court in a pretrial status order setting the terms and conditions of the individual's pretrial release that will reasonably:

(i) ensure the appearance of the accused;

(ii) ensure the integrity of the court process;

(iii) prevent direct or indirect contact with witnesses or victims by the accused, if appropriate; and

(iv) ensure the safety of the public.

(b) An individual arrested for a violation of Subsection 76-9-101(4) may not be released from custody before the individual appears before a magistrate or a judge.".

Section 19. Coordinating H.B. 220 with H.B. 47 -- Substantive amendments and technical renumbering.

If this H.B. 220 and H.B. 47, DUI Revisions, both pass and become law, it is the intent of the Legislature that the Office of Legislative Research and General Counsel prepare the Utah Code database for publication by:

(1) amending Subsection 77-20-1(6)(b)(ii) in H.B. 220 to read:

"(ii) would not unnecessarily intrude on the rights of the victim or place an undue burden on the victim.";

(2) not making the changes to Subsection 77-20-1(3) in H.B. 47; and

(3) adding a new Subsection 77-20-1(11) to read:

"(11) Notwithstanding any other provisions of this section, there is a rebuttable presumption that an individual is a substantial danger to the community:

(a) as long as the individual has a blood or breath alcohol concentration of .05 grams or greater if the individual is arrested for or charged with the offense of driving under the influence and the offense resulted in death or serious bodily injury to an individual; or

(b) if the individual has a measurable amount of controlled substance in the individual's body, the individual is arrested for or charged with the offense of driving with a measurable controlled substance in the body, and the offense resulted in death or serious bodily injury to an individual.".

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Approved March 16, 2021
Effective May 5, 2021

COUNTY LAND USE AND DEVELOPMENT AMENDMENTS

Chief Sponsor: Jordan D. Teuscher
Senate Sponsor: Lincoln Fillmore

LONG TITLE

General Description:

This bill amends provisions related to county land use and development.

Highlighted Provisions:

This bill:

- provides that a provision in a county development agreement is unenforceable if the provision requires the initiation of annexation processes as a condition for issuing building permits or otherwise regulating development activities within an unincorporated area of the county.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

17-27a-102, as last amended by Laws of Utah 2019, Chapter 384

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 17-27a-102 is amended to read:

17-27a-102. Purposes -- General land use authority -- Limitations.

(1) (a) The purposes of this chapter are to:

(i) provide for the health, safety, and welfare;

(ii) promote the prosperity;

(iii) improve the morals, peace, good order, comfort, convenience, and aesthetics of each county and each county's present and future inhabitants and businesses;

(iv) protect the tax base;

(v) secure economy in governmental expenditures;

(vi) foster the state's agricultural and other industries;

(vii) protect both urban and nonurban development;

(viii) protect and ensure access to sunlight for solar energy devices;

(ix) provide fundamental fairness in land use regulation;

(x) facilitate orderly growth and allow growth in a variety of housing types; and

(xi) protect property values.

(b) [~~To~~] Except as provided in Subsection (4), to accomplish the purposes of this chapter, a county may enact all ordinances, resolutions, and rules and may enter into other forms of land use controls and development agreements that the county considers necessary or appropriate for the use and development of land within the unincorporated area of the county or a designated mountainous planning district, including ordinances, resolutions, rules, restrictive covenants, easements, and development agreements governing:

(i) uses;

(ii) density;

(iii) open spaces;

(iv) structures;

(v) buildings;

(vi) energy-efficiency;

(vii) light and air;

(viii) air quality;

(ix) transportation and public or alternative transportation;

(x) infrastructure;

(xi) street and building orientation and width requirements;

(xii) public facilities;

(xiii) fundamental fairness in land use regulation; and

(xiv) considerations of surrounding land uses to balance the foregoing purposes with a landowner's private property interests and associated statutory and constitutional protections.

(2) Each county shall comply with the mandatory provisions of this part before any agreement or contract to provide goods, services, or municipal-type services to any storage facility or transfer facility for high-level nuclear waste, or greater than class C radioactive waste, may be executed or implemented.

(3) (a) Any ordinance, resolution, or rule enacted by a county pursuant to its authority under this chapter shall comply with the state's exclusive jurisdiction to regulate oil and gas activity, as described in Section 40-6-2.5.

(b) A county may enact an ordinance, resolution, or rule that regulates surface activity incident to an oil and gas activity if the county demonstrates that the regulation:

(i) is necessary for the purposes of this chapter;

(ii) does not effectively or unduly limit, ban, or prohibit an oil and gas activity; and

(iii) does not interfere with the state's exclusive jurisdiction to regulate oil and gas activity, as described in Section 40-6-2.5.

(4) (a) This Subsection (4) applies to development agreements entered into on or after May 5, 2021.

(b) A provision in a county development agreement is unenforceable if the provision requires an individual or an entity, as a condition for issuing building permits or otherwise regulating development activities within an unincorporated area of the county, to initiate a process for a municipality to annex the unincorporated area in accordance with Title 10, Chapter 2, Part 4, Annexation.

(c) Subsection (4)(b) does not affect or impair the enforceability of any other provision in the development agreement.

CHAPTER 433
H. B. 294
Passed March 5, 2021
Approved March 24, 2021
Effective March 24, 2021

PANDEMIC EMERGENCY POWERS AMENDMENTS

Chief Sponsor: Paul Ray
Senate Sponsor: Derrin R. Owens
Cosponsors: Cheryl K. Acton
Carl R. Albrecht
Melissa G. Ballard
Stewart E. Barlow
Walt Brooks
Scott H. Chew
Matthew H. Gwynn
Stephen G. Handy
Dan N. Johnson
Marsha Judkins
Karianne Lisonbee
Kelly B. Miles
Merrill F. Nelson
Candice B. Pierucci
Adam Robertson
Douglas V. Sagers
Rex P. Shipp
V. Lowry Snow
Keven J. Stratton
Christine F. Watkins

LONG TITLE

General Description:

This bill provides for the termination of emergency powers and certain public health orders related to COVID-19 upon reaching certain thresholds of positivity rates, vaccination, and other criteria.

Highlighted Provisions:

This bill:

- provides for the termination of certain emergency powers and public health orders related to COVID-19 upon reaching certain thresholds of positivity rates, case rates, intensive care facility capacities, and vaccine doses;
- allows health and safety measures in a K-12 school under certain circumstances;
- allows a local health department, with approval from the county legislative body, to take certain health and safety measures;
- allows a public health emergency declared by the Department of Health or a local health department to remain in effect;
- allows the governor and the Department of Health to issue a public health order related to the distribution of COVID-19 vaccines;
- provides an automatic repeal date; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

63I-2-226, as last amended by Laws of Utah 2020, Chapters 154, 187, 215, and 354
63I-2-253, as last amended by Laws of Utah 2020, Sixth Special Session, Chapter 13

ENACTS:

26-6-33, Utah Code Annotated 1953
26A-1-130, Utah Code Annotated 1953
53-2a-218, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 26-6-33 is enacted to read:

26-6-33. (Codified as 26-6-41) Termination of public health emergency powers pertaining to COVID-19.

(1) As used in this section:

(a) "COVID-19" means:

(i) severe acute respiratory syndrome coronavirus 2; or

(ii) the disease caused by severe acute respiratory syndrome coronavirus 2.

(b) "COVID-19 emergency" means the spread of COVID-19 that the World Health Organization declared a pandemic on March 11, 2020.

(2) Except as provided in Subsections (3), (4), and (5), any public health order in effect pertaining to any response to COVID-19 and the COVID-19 emergency issued pursuant to a public health emergency declared by the Department of Health or a local health department is terminated on the day on which the following thresholds are met:

(a) the state's 14-day case rate is less than 191 per 100,000 people;

(b) the statewide seven-day average COVID-19 ICU utilization is less than 15%; and

(c) the Department of Health provides notice that 1,633,000 prime doses of a COVID-19 vaccine have been allocated to the state.

(3) (a) Subject to Subsection (3)(b), a public health order issued by the Department of Health issued pursuant to a public health emergency declared by the Department of Health pertaining to response to COVID-19 and the COVID-19 emergency that pertains to public health safety measures in a K-12 school may remain in place.

(b) A public health order or health and safety requirement described in Subsection (3)(a) shall be terminated no later than July 1, 2021.

(4) (a) Except as provided in Subsection (4)(b) or (c), a public health order issued by the Department of Health pertaining to a statewide mask requirement in response to the COVID-19 emergency is terminated on April 10, 2021.

(b) Notwithstanding Subsection (4)(a), but subject to Subsection (4)(d), a public health order pertaining to the wearing of a mask issued by the Department of Health may remain in effect if:

(i) the mask requirement pertains only to a gathering of 50 or more people; and

(ii) an individual at the gathering of 50 or more people is unable to physically distance at least six feet from another individual who is not a member of the individual's party.

(c) Subject to Subsection (4)(d), a local health department, with approval from the relevant county legislative body, may issue a public health order requiring the wearing of a mask.

(d) A public health order described in Subsection (4)(b) or (c) is terminated on the date the thresholds described in Subsection (2) are met.

(5) Notwithstanding Subsections (2), (3), or (4):

(a) a declaration of a public health emergency issued by the Department of Health in response to COVID-19 or the COVID-19 emergency may remain in effect; and

(b) the governor and the Department of Health may issue a public health order related to the distribution of COVID-19 vaccines.

Section 2. Section 26A-1-130 is enacted to read:

26A-1-130. Termination of local public health emergency powers pertaining to COVID-19.

(1) As used in this section:

(a) "COVID-19" means:

(i) severe acute respiratory syndrome coronavirus 2; or

(ii) the disease caused by severe acute respiratory syndrome coronavirus 2.

(b) "COVID-19 emergency" means the spread of COVID-19 that the World Health Organization declared a pandemic on March 11, 2020.

(2) Except as provided in Subsections (3), (4), and (5), any public health order in effect pertaining to any response to COVID-19 and the COVID-19 emergency issued pursuant to a public health emergency declared by the Department of Health or a local health department is terminated on the day on which the following thresholds are met:

(a) the state's 14-day case rate is less than 191 per 100,000 people;

(b) the statewide seven-day average COVID-19 ICU utilization is less than 15%; and

(c) the Department of Health provides notice that 1,633,000 prime doses of a COVID-19 vaccine have been allocated to the state.

(3) (a) Subject to Subsection (3)(b), a public health order issued by the Department of Health or a local health department issued pursuant to a public health emergency declared by the Department of Health or a local health department pertaining to response to COVID-19 and the COVID-19 emergency that pertains to public health safety measures in a K-12 school may remain in place.

(b) A public health order or health and safety requirement described in Subsection (3)(a) shall be terminated no later than July 1, 2021.

(4) (a) Except as provided in Subsection (4)(b) or (c), a public health order issued by the Department of Health or a local health department pertaining to a statewide mask requirement in response to the COVID-19 emergency is terminated on April 10, 2021.

(b) Notwithstanding Subsection (4)(a), but subject to Subsection (4)(d), a public health order pertaining to the wearing of a mask issued by the Department of Health or a local health department may remain in effect if:

(i) the mask requirement pertains only to a gathering of 50 or more people; and

(ii) an individual at the gathering of 50 or more people is unable to physically distance at least six feet from another individual who is not a member of the individual's party.

(c) Subject to Subsection (4)(d), a local health department, with approval from the relevant county legislative body, may issue a public health order requiring the wearing of a mask.

(d) A public health order described in Subsection (4)(b) or (c) is terminated on the date the thresholds described in Subsection (2) are met.

(5) Notwithstanding Subsections (2), (3), or (4):

(a) a declaration of a public health emergency issued by the Department of Health or a local health department in response to COVID-19 or the COVID-19 emergency may remain in effect; and

(b) the governor, the Department of Health, or a local health department may issue a public health order related to the distribution of COVID-19 vaccines.

Section 3. Section 53-2a-218 is enacted to read:

53-2a-218. (Codified as 53-2a-220) Termination of emergency powers pertaining to COVID-19.

(1) As used in this section:

(a) "COVID-19" means:

(i) severe acute respiratory syndrome coronavirus 2; or

(ii) the disease caused by severe acute respiratory syndrome coronavirus 2.

(b) "COVID-19 emergency" means the spread of COVID-19 that the World Health Organization declared a pandemic on March 11, 2020.

(2) Except as provided in Subsections (3), (4), and (5), a state of emergency and any executive order issued pursuant to this part pertaining to any response to COVID-19 and the COVID-19 emergency is terminated on the day on which the following thresholds are met:

(a) the state's 14-day case rate is less than 191 per 100,000 people;

(b) the statewide seven-day average COVID-19 ICU utilization is less than 15%; and

(c) the Department of Health provides notice that 1,633,000 prime doses of a COVID-19 vaccine have been allocated to the state.

(3) (a) Subject to Subsection (3)(b), a public health order issued by the Department of Health or a local health department issued pursuant to a public health emergency declared by the Department of Health or a local health department pertaining to response to COVID-19 and the COVID-19 emergency that pertains to public health safety measures in a K-12 school may remain in place.

(b) A public health order or health and safety requirement described in Subsection (3)(a) shall be terminated no later than July 1, 2021.

(4) (a) Except as provided in Subsection (4)(b) or (c), a public health order issued by the Department of Health or a local health department pertaining to a statewide mask requirement in response to the COVID-19 emergency is terminated on April 10, 2021.

(b) Notwithstanding Subsection (4)(a), but subject to Subsection (4)(d), a public health order pertaining to the wearing of a mask issued by the Department of Health or a local health department may remain in effect if:

(i) the mask requirement pertains only to a gathering of 50 or more people; and

(ii) an individual at the gathering of 50 or more people is unable to physically distance at least six feet from another individual who is not a member of the individual's party.

(c) Subject to Subsection (4)(d), a local health department, with approval from the relevant county legislative body, may issue a public health order requiring the wearing of a mask.

(d) A public health order described in Subsection (4)(b) or (c) is terminated on the date the thresholds described in Subsection (2) are met.

(5) Notwithstanding Subsections (2), (3), or (4):

(a) a declaration of a public health emergency issued by the Department of Health or a local health department in response to COVID-19 or the COVID-19 emergency may remain in effect; and

(b) the governor, the Department of Health, or a local health department may issue a public health order related to the distribution of COVID-19 vaccines.

Section 4. Section 63I-2-226 is amended to read:

63I-2-226. Repeal dates, Title 26.

(1) Subsection 26-1-7(1)(c), in relation to the Air Ambulance Committee, is repealed July 1, 2024.

(2) Section 26-6-33, in relation to termination of public health emergency powers pertaining to COVID-19, is repealed on July 1, 2021.

[~~(2)~~] (3) Subsection 26-7-8(3) is repealed January 1, 2027.

[~~(3)~~] (4) Section 26-8a-107 is repealed July 1, 2024.

[~~(4)~~] (5) Subsection 26-8a-203(3)(a)(i) is repealed January 1, 2023.

[~~(5)~~] (6) Section 26-8a-211 is repealed July 1, 2023.

[~~(6)~~] (7) In relation to the Air Ambulance Committee, on July 1, 2024, Subsection 26-8a-602(1)(a) is amended to read:

"(a) provide the patient or the patient's representative with the following information before contacting an air medical transport provider:

(i) which health insurers in the state the air medical transport provider contracts with;

(ii) if sufficient data is available, the average charge for air medical transport services for a patient who is uninsured or out of network; and

(iii) whether the air medical transport provider balance bills a patient for any charge not paid by the patient's health insurer; and".

[~~(7)~~] (8) Subsection 26-18-2.4(3)(e) is repealed January 1, 2023.

[~~(8)~~] (9) Subsection 26-18-411(8), related to reporting on the health coverage improvement program, is repealed January 1, 2023.

[~~(9)~~] (10) Subsection 26-18-420(5), related to reporting on coverage for in vitro fertilization and genetic testing, is repealed July 1, 2030.

[~~(10)~~] (11) Subsection 26-21-28(2)(b) is repealed January 1, 2021.

[~~(11)~~] (12) In relation to the Air Ambulance Committee, July 1, 2024, Subsection 26-21-32(1)(a) is amended to read:

"(a) provide the patient or the patient's representative with the following information before contacting an air medical transport provider:

(i) which health insurers in the state the air medical transport provider contracts with;

(ii) if sufficient data is available, the average charge for air medical transport services for a patient who is uninsured or out of network; and

(iii) whether the air medical transport provider balance bills a patient for any charge not paid by the patient's health insurer; and".

[~~(12)~~] (13) Subsection 26-33a-106.1(2)(a) is repealed January 1, 2023.

[~~(13)~~] (14) Title 26, Chapter 46, Utah Health Care Workforce Financial Assistance Program, is repealed July 1, 2027.

[~~(14)~~] (15) Subsection 26-55-107(8) is repealed January 1, 2021.

[~~(15)~~] (16) Subsection 26-61-202(4)(b) is repealed January 1, 2022.

[~~(16)~~] (17) Subsection 26-61-202(5) is repealed January 1, 2022.

(18) Section 26A-1-130, in relation to termination of public health emergency powers pertaining to COVID-19, is repealed on July 1, 2021.

Section 5. Section 63I-2-253 is amended to read:

63I-2-253. Repeal dates -- Titles 53 through 53G.

(1) (a) Section 53-2a-217, regarding procurement during an epidemic or pandemic emergency, is repealed on December 31, 2021.

(b) When repealing Section 53-2a-217, the Office of Legislative Research and General Counsel shall, in addition to the office's authority under Subsection 36-12-12(3), make necessary changes to subsection numbering and cross references.

(2) Section 53-2a-218, in relation to termination of emergency powers pertaining to COVID-19, is repealed on July 1, 2021.

[~~(2)~~] (3) Section 53B-2a-103 is repealed July 1, 2021.

[~~(3)~~] (4) Section 53B-2a-104 is repealed July 1, 2021.

[~~(4)~~] (5) (a) Subsection 53B-2a-108(5), regarding exceptions to the composition of a technical college board of trustees, is repealed July 1, 2022.

(b) When repealing Subsection 53B-2a-108(5), the Office of Legislative Research and General Counsel shall, in addition to its authority under Subsection 36-12-12(3), make necessary changes to subsection numbering and cross references.

[~~(5)~~] (6) Section 53B-6-105.7 is repealed July 1, 2024.

[~~(6)~~] (7) (a) Subsection 53B-7-705(6)(b)(ii)(A), the language that states "Except as provided in Subsection (6)(b)(ii)(B)," is repealed July 1, 2021.

(b) Subsection 53B-7-705(6)(b)(ii)(B), regarding comparing a technical college's change in performance with the technical college's average performance, is repealed July 1, 2021.

[~~(7)~~] (8) (a) Subsection 53B-7-707(3)(a)(ii), the language that states "Except as provided in Subsection (3)(b)," is repealed July 1, 2021.

(b) Subsection 53B-7-707(3)(b), regarding performance data of a technical college during a fiscal year before fiscal year 2020, is repealed July 1, 2021.

[~~(8)~~] (9) Section 53B-8-114 is repealed July 1, 2024.

[~~(9)~~] (10) (a) The following sections, regarding the Regents' scholarship program, are repealed on July 1, 2023:

(i) Section 53B-8-202;

(ii) Section 53B-8-203;

(iii) Section 53B-8-204; and

(iv) Section 53B-8-205.

(b) (i) Subsection 53B-8-201(2), regarding the Regents' scholarship program for students who graduate from high school before fiscal year 2019, is repealed on July 1, 2023.

(ii) When repealing Subsection 53B-8-201(2), the Office of Legislative Research and General Counsel shall, in addition to its authority under Subsection 36-12-12(3), make necessary changes to subsection numbering and cross references.

[~~(10)~~] (11) Section 53B-10-101 is repealed on July 1, 2027.

[~~(11)~~] (12) Title 53B, Chapter 18, Part 14, Uintah Basin Air Quality Research Project, is repealed July 1, 2023.

[~~(12)~~] (13) Section 53E-3-519 regarding school counselor services is repealed July 1, 2020.

[~~(13)~~] (14) Section 53E-3-520 is repealed July 1, 2021.

[~~(14)~~] (15) Subsection 53E-5-306(3)(b)(ii)(B), related to improving school performance and continued funding relating to the School Recognition and Reward Program, is repealed July 1, 2020.

[~~(15)~~] (16) Section 53E-5-307 is repealed July 1, 2020.

[~~(16)~~] (17) Subsection 53E-10-309(7), related to the PRIME pilot program, is repealed July 1, 2024.

[~~(17)~~] (18) In Subsections 53F-2-205(4) and (5), regarding the State Board of Education's duties if contributions from the minimum basic tax rate are overestimated or underestimated, the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

[~~(18)~~] (19) Subsection 53F-2-301(1), relating to the years the section is not in effect, is repealed July 1, 2023.

[~~(19)~~] (20) In Subsection 53F-2-515(1), the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

[~~(20)~~] (21) Section 53F-4-207 is repealed July 1, 2022.

[~~(21)~~] (22) In Subsection 53F-9-302(3), the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

[~~(22)~~] (23) In Subsection 53F-9-305(3)(a), the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

[~~(23)~~] (24) In Subsection 53F-9-306(3)(a), the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

[~~(24)~~] (25) In Subsection 53G-3-304(1)(c)(i), the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

[~~(25)~~] (26) Subsections 53G-10-204(1)(c) through (e), and Subsection 53G-10-204(7), related to the civics engagement pilot program, are repealed on July 1, 2023.

[~~(26)~~] (27) On July 1, 2023, when making changes in this section, the Office of Legislative Research and General Counsel shall, in addition to the office's authority under Subsection 36-12-12(3), make corrections necessary to ensure that sections and subsections identified in this section are complete sentences and accurately reflect the office's perception of the Legislature's intent.

Section 6. Effective date.

If approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

CHAPTER 434
S. B. 104
Passed March 4, 2021
(Passed into law without governor's signature)
Effective July 1, 2021

TAX LEVY FOR ANIMAL CONTROL

Chief Sponsor: Todd D. Weiler
House Sponsor: Stephen G. Handy

LONG TITLE

General Description:

This bill creates authority for a county to impose a property tax levy to fund animal welfare services.

Highlighted Provisions:

This bill:

- authorizes a county to impose a property tax levy for animal welfare services under certain circumstances;
- requires a county or a municipality that receives animal welfare services from the county to reduce the rate of property tax that the county or the municipality imposes for general tax purposes to offset the revenue generated by the animal welfare services levy for the first year in which the county imposes an animal welfare services levy; and
- exempts a county levy for animal welfare services from the limitation on the aggregate amount of property tax levies that a county may impose.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

10-5-112, as last amended by Laws of Utah 2019, Chapter 322
10-6-133, as last amended by Laws of Utah 2019, Chapter 322
17-36-31, as last amended by Laws of Utah 2014, Chapter 176
59-2-911, as last amended by Laws of Utah 2014, Chapter 270

ENACTS:

11-46-104, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 10-5-112 is amended to read:

10-5-112. Property tax levy set by ordinance -- Maximum -- Certification.

(1) Not later than June 22 of each year, or September 1 in the case of a property tax increase under Sections 59-2-919 through 59-2-923, the council, at a regular meeting or special meeting called for that purpose, shall by ordinance or resolution set the real and personal property tax levy for town purposes, but the levy may be set at an appropriate later date with the approval of the State Tax Commission.

(2) The combined levies for each town, for all purposes in any year, excluding the retirement of general obligation bonds and the payment of any interest, and taxes expressly authorized by law to be levied in addition, may not exceed .007 per dollar of taxable value of taxable property.

(3) The town clerk shall certify the ordinance or resolution setting the levy to the county auditor, or auditors, if the town is located in more than one county, not later than June 22 of each year.

(4) For the first fiscal year after the year in which a county imposes a levy under Section 11-46-104, a town shall reduce the levy imposed under this section for general tax purposes by the amount necessary to offset the revenue described in Subsection 11-46-104(5)(c)(iii).

Section 2. Section 10-6-133 is amended to read:

10-6-133. Property tax levy -- Time for setting -- Computation of total levy -- Apportionment of proceeds -- Maximum levy.

(1) (a) Before June 22 of each year, or September 1 in the case of a property tax rate increase under Sections 59-2-919 through 59-2-923, the governing body of each city, including charter cities, at a regular meeting or special meeting called for that purpose, shall by ordinance or resolution set the real and personal property tax levy for various municipal purposes.

(b) Notwithstanding Subsection (1)(a), the governing body may set the levy at an appropriate later date with the approval of the State Tax Commission.

(2) In [~~its~~] the governing body's computation of the total levy, the governing body shall determine the requirements of each fund for which property taxes are to be levied and shall specify in [~~its~~] the governing body's ordinance or resolution adopting the levy the amount apportioned to each fund.

(3) The proceeds of the levy apportioned for city general fund purposes shall be credited as revenue in the city general fund.

(4) The proceeds of the levy apportioned for special fund purposes shall be credited to the appropriate accounts in the applicable special funds.

(5) For the first fiscal year after the year in which a county imposes a levy under Section 11-46-104, a city shall reduce the levy imposed under this section for general tax purposes by the amount necessary to offset the revenue described in Subsection 11-46-104(5)(c)(iii).

[~~(5)~~] (6) The combined levies for each city, including charter cities, for all purposes in any year, excluding the retirement of general obligation bonds and the payment of any interest, and taxes expressly authorized by law to be levied in addition, may not exceed .007 per dollar of taxable value of taxable property.

Section 3. Section 11-46-104 is enacted to read:

11-46-104. County tax for provision of animal welfare services.

(1) As used in this section:

(a) "County" means a county:

(i) of the second, third, fourth, fifth, or sixth class; and

(ii) in which the county is the sole provider of animal welfare services under this part.

(b) "Municipality" means a city or a town that receives animal welfare services from the county.

(2) Subject to Subsections (5) and (6), a legislative body in a county may levy annually a tax not to exceed .0002 of taxable value of taxable property in the county to provide the services described in this chapter.

(3) (a) Except as provided in Section 17-36-31, the levy described in this section is in addition to other taxes that the county is authorized to levy.

(b) The levy described in this section is not subject to the aggregate maximum levy limitation described in Section 59-2-908.

(4) (a) The county shall levy and collect the tax described in this section in the same manner as other general taxes of the county.

(b) The county shall deposit revenue collected from the levy described in this section into a fund known as the county animal welfare fund.

(5) Before a county that provides animal welfare services on behalf of one or more municipalities may impose a tax under this section for the first time:

(a) the county shall notify each municipality of:

(i) the total cost to the county for providing animal welfare services; and

(ii) the total amount of revenue the county will generate by imposing a levy under this section;

(b) the county and the municipalities shall determine the county's and each municipality's percentage share of the county's cost for providing animal welfare services; and

(c) the county shall notify the State Tax Commission of:

(i) the names of the municipalities;

(ii) the revenue calculated by multiplying the county's percentage share of the cost for providing animal welfare services by the total amount of revenue the county will generate by imposing a levy under this section; and

(iii) for each municipality described in Subsection (5)(c)(i), the revenue calculated by multiplying the municipality's percentage share of the cost for providing animal welfare services by the total amount of revenue the county will generate by imposing a levy under this section.

(6) A county, as a condition of providing animal welfare services, may not prohibit a municipality from imposing a local animal control ordinance within the municipality that is different than a county animal control ordinance.

Section 4. Section 17-36-31 is amended to read:

17-36-31. Tax levy -- Amount.

(1) (a) Before June 22 of each year, the county legislative body shall levy a tax on the taxable real and personal property within the county.

(b) In the legislative body's computation of the total levy subject to Sections 59-2-908 and 59-2-911, [~~it~~] the legislative body shall determine the requirements for each fund and specify the amount of the levy apportioned to each fund.

(2) The proceeds of the tax apportioned for purposes of the county general fund shall be credited in the county general fund.

(3) The proceeds of the tax apportioned for utility and other special fund purposes shall be credited to the appropriate accounts in the utility or other special funds.

(4) For the first calendar year in which a county imposes a levy under Section 11-46-104, the county shall reduce the levy imposed under this section for general tax purposes by the amount necessary to offset the revenue described in Subsection 11-46-104(5)(c)(ii).

Section 5. Section 59-2-911 is amended to read:

59-2-911. Exceptions to maximum levy limitation.

(1) The maximum levies set forth in Section 59-2-908 do not apply to and do not include:

(a) levies made to pay outstanding judgment debts;

(b) levies made in any special improvement districts;

(c) levies made for extended services in any county service area;

(d) levies made for county library services;

(e) levies made for county animal welfare services;

[~~(e)~~] (f) levies made to be used for storm water, flood, and water quality control;

[~~(f)~~] (g) levies made to share disaster recovery expenses for public facilities and structures as a condition of state assistance when a Presidential Declaration has been issued under the Disaster Relief Act of 1974, 42 U.S.C. Sec. 5121;

[~~(g)~~] (h) levies made to pay interest and provide for a sinking fund in connection with any bonded or voter authorized indebtedness, including the bonded or voter authorized indebtedness of county service areas, special service districts, and special improvement districts;

[~~(h)~~] (i) levies made to fund local health departments;

[~~(i)~~] (j) levies made to fund public transit districts;

[~~(j)~~] (k) levies made to establish, maintain, and replenish special improvement guaranty funds;

[~~(k)~~] (l) levies made in any special service district;

[~~(l)~~] (m) levies made to fund municipal-type services to unincorporated areas of counties under Title 17, Chapter 34, Municipal-Type Services to Unincorporated Areas;

[~~(m)~~] (n) levies made to fund the purchase of paramedic or ambulance facilities and equipment and to defray administration, personnel, and other costs of providing emergency medical and paramedic services, but this exception only applies to those counties in which a resolution setting forth the intention to make those levies has been duly adopted by the county legislative body and approved by a majority of the voters of the county voting at a special or general election;

[~~(n)~~] (o) the multicounty and county assessing and collecting levies under Section 59-2-1602; and

[~~(o)~~] (p) all other exceptions to the maximum levy limitation pursuant to statute.

(2) (a) Upon the retirement of bonds issued for the development of a convention complex described in Section 17-12-4, and notwithstanding Section 59-2-908, any county of the first class may continue to impose a property tax levy equivalent to the average property tax levy previously imposed to pay debt service on those retired bonds.

(b) Notwithstanding that the imposition of the levy described in Subsection (2)(a) may not result in an increased amount of ad valorem tax revenue, the levy is subject to the notice requirements of Section 59-2-919.

(c) The [~~revenues~~] revenue from this continued levy shall be used only for the funding of convention facilities as defined in Section 59-12-602.

Section 6. Effective date.

This bill takes effect on July 1, 2021.

CHAPTER 435
S. B. 107
Passed March 4, 2021
Approved March 24, 2021
Effective March 24, 2021

IN-PERSON INSTRUCTION PRIORITIZATION

Chief Sponsor: Todd D. Weiler
House Sponsor: Paul Ray

LONG TITLE

General Description:

This bill requires the Department of Health to support widespread testing of a school's students for COVID-19 under certain conditions to facilitate a requirement for in-person instruction.

Highlighted Provisions:

This bill:

- requires the Department of Health to provide support to a local education agency (LEA) that initiates widespread COVID-19 testing for a school (test to stay program);
- requires that guidance that the Department of Health provides to LEAs related to test to stay programs complies with certain statutory provisions;
- requires an institution of higher education to provide a certain number of in-person courses during the 2021-2022 academic year, with certain exceptions;
- requires an LEA to ensure that certain schools within the LEA continue to provide in-person instruction;
- establishes the case threshold in a school above which the LEA is required to initiate a "test to stay program" for the school; and
- enacts provisions related to a "test to stay program," including provisions related to parental consent for COVID-19 testing for the parent's student.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

ENACTS:
26-6-33, Utah Code Annotated 1953
53B-16-111, Utah Code Annotated 1953
53G-9-210, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 26-6-33 is enacted to read:

26-6-33. (Codified as 26-6-42) Department support for local education agency test to stay programs -- Department guidance for local education agencies.

(1) As used in this section:

(a) "Case threshold" means the same as that term is defined in Section 53G-9-210.

(b) "COVID-19" means the same as that term is defined in Section 53G-9-210.

(c) "Local education agency" or "LEA" means the same as that term is defined in Section 53G-9-210.

(d) "Test to stay program" means the same as that term is defined in Section 53G-9-210.

(2) At the request of an LEA, the department shall provide support for the LEA's test to stay program if a school in the LEA reaches the case threshold, including by providing:

(a) COVID-19 testing supplies;

(b) a mobile testing unit; and

(c) other support requested by the LEA related to the LEA's test to stay program.

(3) The department shall ensure that guidance the department provides to LEAs related to test to stay programs complies with Section 53G-9-210, including the determination of whether a school meets a case threshold described in Subsection 53G-9-210(3).

Section 2. Section 53B-16-111 is enacted to read:

53B-16-111. In-person instruction.

(1) As used in this section:

(a) "Course" means each section of a course that an institution of higher education offers as:

(i) part of a program of instruction; or

(ii) a general education requirement.

(b) "Institution of higher education" means an institution described in Section 53B-1-102.

(c) "Program of instruction" means the same as that term is defined in Section 53B-16-102.

(2) Except as provided in Subsection (3):

(a) for fall semester in 2021, an institution of higher education shall offer a number of in-person courses that is at least 75% of the number of in-person courses that the institution of higher education offered for the analogous semester that began immediately on or after August 1, 2019; and

(b) for spring semester in 2022, an institution of higher education shall offer a number of in-person courses that is at least 75% of the number of in-person courses that the institution of higher education offered at the beginning of the analogous semester that began on or immediately after January 1, 2020.

(3) An institution of higher education may offer fewer in-person courses than the number of courses described in Subsection (2):

(a) in proportion to the institution of higher education's decline in enrollment if the institution has a decline in enrollment between the analogous semesters described in Subsection (2);

(b) for courses that are designed to accommodate nontraditional students who need to participate in online learning; or

(c) if a number of vaccinations against COVID-19, as that term is defined in Section 53-2c-102, that would allow all willing members of the institution's faculty and staff to be vaccinated has not been available in the state before the beginning of the semester in question.

Section 3. Section 53G-9-210 is enacted to read:

53G-9-210. Requirement for in-person instruction -- Test to stay programs.

(1) As used in this section:

(a) "Case threshold" means as applicable, the number of students in a school, or percentage of students in a school who meet the conditions described in Subsection (3).

(b) "COVID-19" means:

(i) severe acute respiratory syndrome coronavirus 2; or

(ii) the disease caused by severe acute respiratory syndrome coronavirus 2.

(c) "In-person instruction" means instruction offered by a school that allows a student to choose to attend school in-person at least four days per week if the student:

(i) is enrolled in a school that is not implementing a test to stay program; or

(ii) (A) is enrolled in a school that is implementing a test to stay program; and

(B) meets the test to stay program's criteria for attending school in person.

(d) "Local Education Agency" or LEA means:

(i) a school district;

(ii) a charter school, other than an online-only charter school; or

(iii) the Utah Schools for the Deaf and the Blind.

(e) "School" means a school other than an online-only charter school or an online-only public school.

(f) "Test to stay program" means a program through which an LEA provides testing for COVID-19 for students during an outbreak of COVID-19 at a school in order to:

(i) identify cases of COVID-19; and

(ii) allow individuals who test negative for COVID-19 to attend school in person.

(2) (a) An LEA shall:

(i) except as provided in Subsection (2)(b), beginning on March 22, 2021, ensure that a school offers in-person instruction; and

(ii) require a school that reaches the case threshold to:

(A) fulfill the requirement described in Subsection (2)(a)(i) by initiating a test to stay program for the school; and

(B) provide a remote learning option for students who do not wish to attend in person.

(b) The requirement to provide in-person instruction described in Subsection (2)(a) does not apply for a temporary period if the governor, the president of the Senate, the speaker of the House of Representatives, and the state superintendent of public instruction jointly concur with an LEA's assessment that due to public health emergency circumstances, the risks related to in-person instruction temporarily outweigh the value of in-person instruction.

(3) (a) For purposes of determining whether a school has reached the school's case threshold, a student is included in positive cases for the school if the student:

(i) within the preceding 14 days:

(A) attended at least some in-person instruction at the school; and

(B) tested positive for COVID-19; and

(ii) did not receive the student's positive COVID-19 test results through regular periodic testing required to participate in LEA-sponsored athletics or another LEA-sponsored extracurricular activity.

(b) (i) A school with 1,500 or more students meets the case threshold if at least 2% of the school's students meet the conditions described in Subsection (3)(a).

(ii) A school with fewer than 1,500 students meets the case threshold if 30 or more of the school's students meet the conditions described in Subsection (3)(a).

(4) (a) An LEA may not test a student for COVID-19 who is younger than 18 years old without the consent of the student's parent.

(b) An LEA may seek advance consent from a student's parent for future testing for COVID-19.

Section 4. Effective date.

If approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

CHAPTER 436
S. B. 167
Passed March 4, 2021
(Passed into law without governor's signature)
Effective May 5, 2021

UTAH FILM ECONOMIC INCENTIVES

Chief Sponsor: Ronald M. Winterton
House Sponsor: Michael L. Kohler

LONG TITLE

General Description:

This bill modifies provisions related to motion picture incentives.

Highlighted Provisions:

This bill:

- changes the maximum amount that the Governor's Office of Economic Development may award in refundable motion picture tax credit certificates during a year.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63N-8-103, as last amended by Laws of Utah 2019, First Special Session, Chapter 3

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63N-8-103 is amended to read:

63N-8-103. Motion Picture Incentive Account created -- Cash rebate incentives -- Refundable tax credit incentives.

(1) (a) There is created within the General Fund a restricted account known as the Motion Picture Incentive Account, which the office shall use to provide cash rebate incentives for state-approved productions by a motion picture company.

(b) All interest generated from investment of money in the restricted account shall be deposited in the restricted account.

(c) The restricted account shall consist of an annual appropriation by the Legislature.

(d) The office shall:

(i) with the advice of the board, administer the restricted account; and

(ii) make payments from the restricted account as required under this section.

(e) The cost of administering the restricted account shall be paid from money in the restricted account.

(2) (a) A motion picture company or digital media company seeking disbursement of an incentive allowed under an agreement with the office shall follow the procedures and requirements of this Subsection (2).

(b) The motion picture company or digital media company shall provide the office with an incentive request form, provided by the office, identifying and documenting the dollars left in the state and new state revenues generated by the motion picture company or digital media company for state-approved production, including any related tax returns by the motion picture company, payroll company, digital media company, or loan-out corporation under Subsection (2)(d).

(c) For a motion picture company, an independent certified public accountant shall:

(i) review the incentive request form submitted by the motion picture company; and

(ii) provide a report on the accuracy and validity of the incentive request form, including the amount of dollars left in the state, in accordance with the agreed upon procedures established by the office by rule.

(d) The motion picture company, digital media company, payroll company, or loan-out corporation shall provide the office with a document that expressly directs and authorizes the State Tax Commission to disclose the entity's tax returns and other information concerning the entity that would otherwise be subject to confidentiality under Section 59-1-403 or Section 6103, Internal Revenue Code, to the office.

(e) The office shall submit the document described in Subsection (2)(d) to the State Tax Commission.

(f) Upon receipt of the document described in Subsection (2)(d), the State Tax Commission shall provide the office with the information requested by the office that the motion picture company, digital media company, payroll company, or loan-out corporation directed or authorized the State Tax Commission to provide to the office in the document described in Subsection (2)(d).

(g) Subject to Subsection (3), for a motion picture company the office shall:

(i) review the incentive request form from the motion picture company described in Subsection (2)(b) and verify that the incentive request form was reviewed by an independent certified public accountant as described in Subsection (2)(c); and

(ii) based upon the independent certified public accountant's report under Subsection (2)(c), determine the amount of the incentive that the motion picture company is entitled to under the motion picture company's agreement with the office.

(h) Subject to Subsection (3), for a digital media company, the office shall:

(i) ensure the digital media project results in new state revenues; and

(ii) based upon review of new state revenues, determine the amount of the incentive that a digital media company is entitled to under the digital media company's agreement with the office.

(i) Subject to Subsection (3), if the incentive is in the form of a cash rebate, the office shall pay the

incentive from the restricted account to the motion picture company, notwithstanding Subsections 51-5-3(23)(b) and 63J-1-105(6).

(j) If the incentive is in the form of a refundable tax credit under Section 59-7-614.5 or 59-10-1108, the office shall:

(i) issue a tax credit certificate to the motion picture company or digital media company; and

(ii) provide a duplicate copy of the tax credit certificate to the State Tax Commission.

(k) A motion picture company or digital media company may not claim a motion picture tax credit under Section 59-7-614.5 or 59-10-1108 unless the motion picture company or digital media company has received a tax credit certificate for the claim issued by the office under Subsection (2)(j)(i).

(l) A motion picture company or digital media company may claim a motion picture tax credit on the motion picture company's or the digital media company's tax return for the amount listed on the tax credit certificate issued by the office.

(m) A motion picture company or digital media company that claims a tax credit under Subsection (2)(l) shall retain the tax credit certificate and all supporting documentation in accordance with Subsection 63N-8-104(6).

(3) (a) Subject to [~~Subsection (3)(b)~~] Subsections (3)(b) and (c), the office may issue $6,793,700 in tax credit certificates under this part in [~~a~~] each fiscal year.

(b) For the fiscal year ending June 30, 2022, the office may issue $8,393,700 in tax credit certificates under this part.

[~~(b)~~] (c) If the office does not issue tax credit certificates in a fiscal year totaling the amount authorized under [~~Subsection (3)(a)~~] Subsections (3)(a) and (b), the office may carry over that amount for issuance in subsequent fiscal years.

CHAPTER 437
S. B. 195
Passed March 5, 2021
Approved March 24, 2021
Effective May 5, 2021

EMERGENCY RESPONSE AMENDMENTS

Chief Sponsor: Evan J. Vickers
House Sponsor: Val L. Peterson
Cosponsors: J. Stuart Adams
Jacob L. Anderegg
Curtis S. Bramble
David G. Buxton
Kirk A. Cullimore
Luz Escamilla
Lincoln Fillmore
Keith Grover
David P. Hinkins
Don L. Ipson
Jani Iwamoto
John D. Johnson
Michael S. Kennedy
Derek L. Kitchen
Karen Mayne
Ann Millner
Derrin R. Owens
Kathleen A. Riebe
Scott D. Sandall
Jerry W. Stevenson
Daniel W. Thatcher
Todd D. Weiler
Chris H. Wilson
Ronald M. Winterton

LONG TITLE

General Description:

This bill amends provisions related to emergency powers and public health emergencies.

Highlighted Provisions:

This bill:

- defines terms;
- limits Department of Health and local health department powers related to public health emergency declarations and orders of constraint by:
  - limiting the time period for which certain orders or declarations may remain in place;
  - requiring notification of certain elected officials before taking certain actions;
  - allowing certain elected officials to terminate public health emergency declarations or orders of constraint; and
  - prohibiting declaration of a public health emergency after a previous declaration for the same public health emergency expires;
- limits emergency powers of the governor and chief executives of local governments by:
  - prohibiting the declaration of a state of emergency after a previous state of emergency expires, absent exigent circumstances;
  - clarifying how a declared state of emergency expires or is terminated; and
  - allowing the Legislature and local legislative bodies to terminate an executive order;
- allows the governor to declare a new state of emergency based on the same disaster or occurrence only when exigent circumstances warrant such a declaration;
- provides a process for the Legislature to limit certain executive emergency powers during a long-term state emergency;
- creates an ad hoc legislative committee to review emergency circumstances that could lead to a long-term state of emergency;
- prohibits a restriction of a gathering of a religious institution that is more restrictive than any other relevantly similar gathering during an emergency;
- prohibits a government burden on the practice of religion unless the burden is the least restrictive means available to accomplish a compelling government interest;
- requires reasonable accommodations be provided for certain religious practices or rites;
- requires notification from the governor before taking certain executive actions during a long-term state of emergency;
- amends provisions related to the Administrative Rules Review Committee, including:
  - a requirement for certain information about rules made pursuant to emergency rulemaking procedures be provided to the members of the Administrative Rules Review Committee; and
  - review of certain rules and executive orders made or issued during a state of emergency or public health emergency; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

26-1-10, as enacted by Laws of Utah 1981, Chapter 126
26-1-30, as last amended by Laws of Utah 2019, Chapter 87
26-6-2, as last amended by Laws of Utah 2012, Chapter 150
26-6-3, as last amended by Laws of Utah 2019, Chapter 349
26-6b-3, as last amended by Laws of Utah 2015, Chapter 73
26-23-6, as last amended by Laws of Utah 2009, Chapter 347
26-23b-102, as last amended by Laws of Utah 2008, Chapter 3
26-23b-104, as last amended by Laws of Utah 2011, Chapter 297
26-23b-108, as enacted by Laws of Utah 2002, Chapter 155
26A-1-102, as last amended by Laws of Utah 2018, Chapter 68
26A-1-114, as last amended by Laws of Utah 2011, Chapters 14 and 177
26A-1-121, as last amended by Laws of Utah 2012, Chapter 307

53-2a-104, as last amended by Laws of Utah 2020, Chapter 85
53-2a-203, as last amended by Laws of Utah 2019, Chapter 136
53-2a-204, as last amended by Laws of Utah 2020, Fifth Special Session, Chapter 7
53-2a-205, as renumbered and amended by Laws of Utah 2013, Chapter 295
53-2a-206, as renumbered and amended by Laws of Utah 2013, Chapter 295
53-2a-208, as last amended by Laws of Utah 2015, Chapter 352
53-2a-209, as last amended by Laws of Utah 2016, Chapter 193
53-2a-215, as enacted by Laws of Utah 2020, Third Special Session, Chapter 13
53-2a-216, as enacted by Laws of Utah 2020, Third Special Session, Chapter 13
53-2a-217, as enacted by Laws of Utah 2020, Fifth Special Session, Chapter 7
53-2a-703, as last amended by Laws of Utah 2018, Chapter 202
63G-3-304, as last amended by Laws of Utah 2016, Chapter 193
63G-3-501, as last amended by Laws of Utah 2019, Chapter 454
63G-3-502, as renumbered and amended by Laws of Utah 2008, Chapter 382

ENACTS:
53-2a-218, Utah Code Annotated 1953
53-2a-219, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 26-1-10 is amended to read:

26-1-10. Executive director -- Enforcement powers.

[~~The~~] Subject to the restrictions in this title, the executive director is empowered to issue orders to enforce state laws and rules established by the department except where the enforcement power is given to a committee created pursuant to Section 26-1-7.

Section 2. Section 26-1-30 is amended to read:

26-1-30. Powers and duties of department.

[~~The~~] Subject to the restrictions in this title, the department shall exercise the following powers and duties, in addition to other powers and duties established in this chapter:

(1) enter into cooperative agreements with the Department of Environmental Quality to delineate specific responsibilities to assure that assessment and management of risk to human health from the environment are properly administered;

(2) consult with the Department of Environmental Quality and enter into cooperative agreements, as needed, to ensure efficient use of resources and effective response to potential health and safety threats from the environment, and to prevent gaps in protection from potential risks from the environment to specific individuals or population groups;

(3) promote and protect the health and wellness of the people within the state;

(4) establish, maintain, and enforce rules necessary or desirable to carry out the provisions and purposes of this title to promote and protect the public health or to prevent disease and illness;

(5) investigate and control the causes of epidemic, infectious, communicable, and other diseases affecting the public health;

(6) provide for the detection, reporting, prevention, and control of communicable, infectious, acute, chronic, or any other disease or health hazard which the department considers to be dangerous, important, or likely to affect the public health;

(7) collect and report information on causes of injury, sickness, death, and disability and the risk factors that contribute to the causes of injury, sickness, death, and disability within the state;

(8) collect, prepare, publish, and disseminate information to inform the public concerning the health and wellness of the population, specific hazards, and risks that may affect the health and wellness of the population and specific activities which may promote and protect the health and wellness of the population;

(9) establish and operate programs necessary or desirable for the promotion or protection of the public health and the control of disease or which may be necessary to ameliorate the major causes of injury, sickness, death, and disability in the state, except that the programs may not be established if adequate programs exist in the private sector;

(10) establish, maintain, and enforce isolation and quarantine, and for this purpose only, exercise physical control over property and individuals as the department finds necessary for the protection of the public health;

(11) close theaters, schools, and other public places and forbid gatherings of people when necessary to protect the public health;

(12) abate nuisances when necessary to eliminate sources of filth and infectious and communicable diseases affecting the public health;

(13) make necessary sanitary and health investigations and inspections in cooperation with local health departments as to any matters affecting the public health;

(14) establish laboratory services necessary to support public health programs and medical services in the state;

(15) establish and enforce standards for laboratory services which are provided by any laboratory in the state when the purpose of the services is to protect the public health;

(16) cooperate with the Labor Commission to conduct studies of occupational health hazards and occupational diseases arising in and out of employment in industry, and make recommendations for elimination or reduction of the hazards;

(17) cooperate with the local health departments, the Department of Corrections, the Administrative Office of the Courts, the Division of Juvenile Justice Services, and the Crime Victim Reparations Board to conduct testing for HIV infection of alleged sexual offenders, convicted sexual offenders, and any victims of a sexual offense;

(18) investigate the causes of maternal and infant mortality;

(19) establish, maintain, and enforce a procedure requiring the blood of adult pedestrians and drivers of motor vehicles killed in highway accidents be examined for the presence and concentration of alcohol;

(20) provide the Commissioner of Public Safety with monthly statistics reflecting the results of the examinations provided for in Subsection (19) and provide safeguards so that information derived from the examinations is not used for a purpose other than the compilation of statistics authorized in this Subsection (20);

(21) establish qualifications for individuals permitted to draw blood pursuant to Subsection 41-6a-523(1)(a)(vi), 53-10-405(2)(a)(vi), 72-10-502(5)(a)(vi), or 77-23-213(3)(a)(vi), and to issue permits to individuals it finds qualified, which permits may be terminated or revoked by the department;

(22) establish a uniform public health program throughout the state which includes continuous service, employment of qualified employees, and a basic program of disease control, vital and health statistics, sanitation, public health nursing, and other preventive health programs necessary or desirable for the protection of public health;

(23) adopt rules and enforce minimum sanitary standards for the operation and maintenance of:

(a) orphanages;

(b) boarding homes;

(c) summer camps for children;

(d) lodging houses;

(e) hotels;

(f) restaurants and all other places where food is handled for commercial purposes, sold, or served to the public;

(g) tourist and trailer camps;

(h) service stations;

(i) public conveyances and stations;

(j) public and private schools;

(k) factories;

(l) private sanatoria;

(m) barber shops;

(n) beauty shops;

(o) physician offices;

(p) dentist offices;

(q) workshops;

(r) industrial, labor, or construction camps;

(s) recreational resorts and camps;

(t) swimming pools, public baths, and bathing beaches;

(u) state, county, or municipal institutions, including hospitals and other buildings, centers, and places used for public gatherings; and

(v) any other facilities in public buildings or on public grounds;

(24) conduct health planning for the state;

(25) monitor the costs of health care in the state and foster price competition in the health care delivery system;

(26) adopt rules for the licensure of health facilities within the state pursuant to Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act;

(27) license the provision of child care;

(28) accept contributions to and administer the funds contained in the Organ Donation Contribution Fund created in Section 26-18b-101;

(29) serve as the collecting agent, on behalf of the state, for the nursing care facility assessment fee imposed under Title 26, Chapter 35a, Nursing Care Facility Assessment Act, and adopt rules for the enforcement and administration of the nursing facility assessment consistent with the provisions of Title 26, Chapter 35a, Nursing Care Facility Assessment Act;

(30) establish methods or measures for health care providers, public health entities, and health care insurers to coordinate among themselves to verify the identity of the individuals they serve;

(31) (a) designate Alzheimer's disease and related dementia as a public health issue and, within budgetary limitations, implement a state plan for Alzheimer's disease and related dementia by incorporating the plan into the department's strategic planning and budgetary process; and

(b) coordinate with other state agencies and other organizations to implement the state plan for Alzheimer's disease and related dementia;

(32) ensure that any training or certification required of a public official or public employee, as those terms are defined in Section 63G-22-102, complies with Title 63G, Chapter 22, State Training and Certification Requirements, if the training or certification is required:

(a) under this title;

(b) by the department; or

(c) by an agency or division within the department; and

(33) oversee public education vision screening as described in Section 53G-9-404.

Section 3. Section 26-6-2 is amended to read:

26-6-2. Definitions.

As used in this chapter:

(1) "Ambulatory surgical center" is as defined in Section 26-21-2.

(2) "Carrier" means an infected individual or animal who harbors a specific infectious agent in the absence of discernible clinical disease and serves as a potential source of infection for man. The carrier state may occur in an individual with an infection that is inapparent throughout its course, commonly known as healthy or asymptomatic carrier, or during the incubation period, convalescence, and postconvalescence of an individual with a clinically recognizable disease, commonly known as incubatory carrier or convalescent carrier. Under either circumstance the carrier state may be of short duration, as a temporary or transient carrier, or long duration, as a chronic carrier.

(3) "Communicable disease" means illness due to a specific infectious agent or its toxic products which arises through transmission of that agent or its products from a reservoir to a susceptible host, either directly, as from an infected individual or animal, or indirectly, through an intermediate plant or animal host, vector, or the inanimate environment.

(4) "Communicable period" means the time or times during which an infectious agent may be transferred directly or indirectly from an infected individual to another individual, from an infected animal to man, or from an infected man to an animal, including arthropods.

(5) "Contact" means an individual or animal having had association with an infected individual, animal, or contaminated environment so as to have had an opportunity to acquire the infection.

(6) "End stage renal disease facility" is as defined in Section 26-21-2.

(7) "Epidemic" means the occurrence or outbreak in a community or region of cases of an illness clearly in excess of normal expectancy and derived from a common or propagated source. The number of cases indicating an epidemic will vary according to the infectious agent, size, and type of population exposed, previous experience or lack of exposure to the disease, and time and place of occurrence. Epidemicity is considered to be relative to usual frequency of the disease in the same area, among the specified population, at the same season of the year.

(8) "General acute hospital" is as defined in Section 26-21-2.

(9) "Incubation period" means the time interval between exposure to an infectious agent and appearance of the first sign or symptom of the disease in question.

(10) "Infected individual" means an individual who harbors an infectious agent and who has manifest disease or inapparent infection. An infected individual is one from whom the infectious agent can be naturally acquired.

(11) "Infection" means the entry and development or multiplication of an infectious agent in the body of man or animals. Infection is not synonymous with infectious disease; the result may be inapparent or manifest. The presence of living infectious agents on exterior surfaces of the body, or upon articles of apparel or soiled articles, is not infection, but contamination of such surfaces and articles.

(12) "Infectious agent" means an organism such as a virus, rickettsia, bacteria, fungus, protozoan, or helminth that is capable of producing infection or infectious disease.

(13) "Infectious disease" means a disease of man or animals resulting from an infection.

(14) "Isolation" means the separation, for the period of communicability, of infected individuals or animals from others, in such places and under such conditions as to prevent the direct or indirect conveyance of the infectious agent from those infected to those who are susceptible or who may spread the agent to others.

(15) "Order of constraint" means the same as that term is defined in Section 26-23b-102.

[~~(15)~~] (16) "Quarantine" means the restriction of the activities of well individuals or animals who have been exposed to a communicable disease during its period of communicability to prevent disease transmission.

[~~(16)~~] (17) "School" means a public, private, or parochial nursery school, licensed or unlicensed day care center, child care facility, family care home, headstart program, kindergarten, elementary, or secondary school through grade 12.

[~~(17)~~] (18) "Sexually transmitted disease" means those diseases transmitted through sexual intercourse or any other sexual contact.

[~~(18)~~] (19) "Specialty hospital" is as defined in Section 26-21-2.

Section 4. Section 26-6-3 is amended to read:

26-6-3. Authority to investigate and control epidemic infections and communicable disease.

(1) [~~The~~] Subject to Subsection (3) and the restrictions in this title, the department has authority to investigate and control the causes of epidemic infections and communicable disease, and shall provide for the detection, reporting, prevention, and control of communicable diseases and epidemic infections or any other health hazard which may affect the public health.

(2) (a) As part of the requirements of Subsection (1), the department shall distribute to the public and to health care professionals:

(i) medically accurate information about sexually transmitted diseases that may cause infertility and sterility if left untreated, including descriptions of:

(A) the probable side effects resulting from an untreated sexually transmitted disease, including infertility and sterility;

(B) medically accepted treatment for sexually transmitted diseases;

(C) the medical risks commonly associated with the medical treatment of sexually transmitted diseases; and

(D) suggested screening by a private physician or physician assistant; and

(ii) information about:

(A) public services and agencies available to assist individuals with obtaining treatment for the sexually transmitted disease;

(B) medical assistance benefits that may be available to the individual with the sexually transmitted disease; and

(C) abstinence before marriage and fidelity after marriage being the surest prevention of sexually transmitted disease.

(b) The information required by Subsection (2)(a):

(i) shall be distributed by the department and by local health departments free of charge;

(ii) shall be relevant to the geographic location in which the information is distributed by:

(A) listing addresses and telephone numbers for public clinics and agencies providing services in the geographic area in which the information is distributed; and

(B) providing the information in English as well as other languages that may be appropriate for the geographic area.

(c) (i) Except as provided in Subsection (2)(c)(ii), the department shall develop written material that includes the information required by this Subsection (2).

(ii) In addition to the written materials required by Subsection (2)(c)(i), the department may distribute the information required by this Subsection (2) by any other methods the department determines is appropriate to educate the public, excluding public schools, including websites, toll free telephone numbers, and the media.

(iii) If the information required by Subsection (2)(b)(ii)(A) is not included in the written pamphlet developed by the department, the written material shall include either a website, or a 24-hour toll free telephone number that the public may use to obtain that information.

(3) (a) The Legislature may at any time terminate by joint resolution an order of constraint issued by the department as described in this section in response to a declared public health emergency.

(b) A county governing body may at any time terminate by majority vote an order of constraint issued by the relevant local health department as described in this section in response to a declared public health emergency.

Section 5. Section 26-6b-3 is amended to read:

26-6b-3. Order of restriction.

(1) [~~The~~] Subject to Subsection (5), the department having jurisdiction over the location where an individual or a group of individuals who are subject to restriction are found may:

(a) issue a written order of restriction for the individual or group of individuals pursuant to Section 26-1-30 or Subsection 26A-1-114(1)(b) upon compliance with the requirements of this chapter; and

(b) issue a verbal order of restriction for an individual or group of individuals pursuant to Subsection (2)(c).

(2) (a) A department's determination to issue an order of restriction shall be based upon the totality of circumstances reported to and known by the department, including:

(i) observation;

(ii) information that the department determines is credible and reliable information; and

(iii) knowledge of current public health risks based on medically accepted guidelines as may be established by the Department of Health by administrative rule.

(b) An order of restriction issued by a department shall:

(i) in the opinion of the public health official, be for the shortest reasonable period of time necessary to protect the public health;

(ii) use the least intrusive method of restriction that, in the opinion of the department, is reasonable based on the totality of circumstances known to the health department issuing the order of restriction;

(iii) be in writing unless the provisions of Subsection (2)(c) apply; and

(iv) contain notice of an individual's rights as required in Section 26-6b-3.3.

(c) (i) A department may issue a verbal order of restriction, without prior notice to the individual or group of individuals if the delay in imposing a written order of restriction would significantly jeopardize the department's ability to prevent or limit:

(A) the transmission of a communicable or possibly communicable disease that poses a threat to public health;

(B) the transmission of an infectious agent or possibly infectious agent that poses a threat to public health;

(C) the exposure or possible exposure of a chemical or biological agent that poses a threat to public health; or

(D) the exposure or transmission of a condition that poses a threat to public health.

(ii) A verbal order of restriction issued under the provisions of Subsection (2)(c)(i):

(A) is valid for 24 hours from the time the order of restriction is issued;

(B) may be verbally communicated to the individuals or group of individuals subject to restriction by a first responder;

(C) may be enforced by the first responder until the department is able to establish and maintain the place of restriction; and

(D) may only be continued beyond the initial 24 hours if a written order of restriction is issued pursuant to the provisions of Section 26-6b-3.3.

(3) Pending issuance of a written order of restriction under Section 26-6b-3.3, or judicial review of an order of restriction by the district court pursuant to Section 26-6b-6, an individual who is subject to the order of restriction may be required to submit to involuntary examination, quarantine, isolation, or treatment in the individual's home, a hospital, or any other suitable facility under reasonable conditions prescribed by the department.

(4) The department that issued the order of restriction shall take reasonable measures, including the provision of medical care, as may be necessary to assure proper care related to the reason for the involuntary examination, treatment, isolation, or quarantine of an individual ordered to submit to an order of restriction.

(5) (a) The Legislature may at any time terminate by joint resolution an order of restriction issued by the department as described in this section in response to a declared public health emergency.

(b) A county governing body may at any time terminate by majority vote an order of restriction issued by the relevant local health department as described in this section issued in response to a declared public health emergency.

Section 6. Section 26-23-6 is amended to read:

26-23-6. Criminal and civil penalties and liability for violations.

(1) (a) Any person, association, or corporation, or the officers of any of them, who violates any provision of this chapter or lawful orders of the department or a local health department in a criminal proceeding is guilty of a class B misdemeanor for the first violation, and for any subsequent similar violation within two years, is guilty of a class A misdemeanor, except this section does not establish the criminal penalty for violation of Section 26-23-5.5.

(b) Conviction in a criminal proceeding does not preclude the department or a local health department from assessment of any civil penalty, administrative civil money penalty or to deny, revoke, condition, or refuse to renew a permit, license, or certificate or to seek other injunctive or equitable remedies.

[~~(2) Any person, association, or corporation, or the officers of any of them, who violates any provision of this title or lawful orders of the department or a local health department, or rules adopted under this title by the department:~~]

[~~(a) shall be assessed, in a judicial civil proceeding, a penalty not to exceed the sum of $10,000 per violation; or~~]

[~~(b) in an administrative action in accordance with Title 63G, Chapter 4, Administrative Procedures Act, or similar procedures adopted by local or county government, a penalty not to exceed the sum of $10,000 per violation.~~]

(2) (a) Subject to Subsections (2)(c) and (d), any association, or corporation, or the officers of any of them, who violate any provision of this title or lawful orders of the department or a local health department, or rules adopted under this title by the department:

(i) may be assessed, in a judicial civil proceeding, a penalty not to exceed the sum of $5,000 per violation; or

(ii) may be assessed, in an administrative action in accordance with Title 63G, Chapter 4, Administrative Procedures Act, or similar procedures adopted by local or county government, a penalty not to exceed the sum of $5,000 per violation.

(b) Subject to Subsections (2)(c) and (d), an individual who violates any provision of this title or lawful orders of the department or a local health department, or rules adopted under this title by the department:

(i) may be assessed, in a judicial civil proceeding, a penalty not to exceed the sum of $150 per violation; or

(ii) may be assessed, in an administrative action in accordance with Title 63G, Chapter 4, Administrative Procedures Act, or similar procedures adopted by local or county government, a penalty not to exceed the sum of $150 per violation.

(c) (i) Except as provided in Subsection (2)(c)(ii), a penalty described in Subsection (2)(a) or (b) may only be assessed against the same individual, association, or corporation one time in a calendar week.

(ii) Notwithstanding Subsection (2)(c)(i), an individual, an association, a corporation, or the officers of any of them, that willfully disregard or recklessly violate a provision of this title or lawful orders of the department or a local health department, or rules adopted under this title by the department, may be assessed a penalty as described in Subsection (2)(a) for each day of violation if it is

determined that the violation is likely to result in a serious threat to public health.

(d) Upon reasonable cause shown in judicial civil proceeding or an administrative action, a penalty imposed under this Subsection (2) may be waived or reduced.

(3) Assessment of any civil penalty or administrative penalty does not preclude the department or a local health department from seeking criminal penalties or to deny, revoke, impose conditions on, or refuse to renew a permit, license, or certificate or to seek other injunctive or equitable remedies.

(4) In addition to any penalties imposed under Subsection (1), the person, association, or corporation, or the officers of any of them is liable for any expense incurred by the department in removing or abating any health or sanitation violations, including any nuisance, source of filth, cause of sickness, or dead animal.

[~~(5) Each day of violation of a provision of this title, lawful orders of the department or a local health department, or rules adopted by the department under it is a separate violation.~~]

Section 7. Section 26-23b-102 is amended to read:

26-23b-102. Definitions.

As used in this chapter:

(1) "Bioterrorism" means:

(a) the intentional use of any microorganism, virus, infectious substance, or biological product to cause death, disease, or other biological malfunction in a human, an animal, a plant, or another living organism in order to influence, intimidate, or coerce the conduct of government or a civilian population; and

(b) includes anthrax, botulism, small pox, plague, tularemia, and viral hemorrhagic fevers.

(2) "Department" means the Department of Health created in Section 26-1-4 and a local health department as defined in Section 26A-1-102.

(3) "Diagnostic information" means a clinical facility's record of individuals who present for treatment, including the reason for the visit, chief complaint, presenting diagnosis, final diagnosis, and any pertinent lab results.

(4) "Epidemic or pandemic disease":

(a) means the occurrence in a community or region of cases of an illness clearly in excess of normal expectancy; and

(b) includes diseases designated by the Department of Health which have the potential to cause serious illness or death.

(5) "Exigent circumstances" means a significant change in circumstances following the expiration of a public health emergency declared in accordance with this title that:

(a) substantially increases the threat to public safety or health relative to the circumstances in existence when the public health emergency expired;

(b) poses an imminent threat to public safety or health; and

(c) was not known or foreseen and could not have been known or foreseen at the time the public health emergency expired.

[~~(5)~~] (6) "Health care provider" [~~shall have the meaning provided for~~] means the same as that term is defined in Section 78B-3-403.

(7) "Legislative emergency response committee" means the same as that term is defined in Section 53-2a-203.

(8) (a) "Order of constraint" means an order, rule, or regulation issued in response to a declared public health emergency under this chapter, that:

(i) applies to all or substantially all:

(A) individuals or a certain group of individuals; or

(B) public places or certain types of public places; and

(ii) for the protection of the public health and in response to the declared public health emergency:

(A) establishes, maintains, or enforces isolation or quarantine;

(B) establishes, maintains, or enforces a stay-at-home order;

(C) exercises physical control over property or individuals;

(D) requires an individual to perform a certain action or engage in certain behavior; or

(E) closes theaters, schools, or other public places or prohibits gatherings of people to protect the public health.

(b) "Order of constraint" includes a stay-at-home order.

[~~(6)~~] (9) "Public health emergency" means an occurrence or imminent credible threat of an illness or health condition, caused by bioterrorism, epidemic or pandemic disease, or novel and highly fatal infectious agent or biological toxin, that poses a substantial risk of a significant number of human fatalities or incidents of permanent or long-term disability. Such illness or health condition includes an illness or health condition resulting from a natural disaster.

[~~(7)~~] (10) "Reportable emergency illness and health condition" includes the diseases, conditions, or syndromes designated by the [~~Utah~~] Department of Health.

(11) "Stay-at-home order" means an order of constraint that:

(a) restricts movement of the general population to suppress or mitigate an epidemic or pandemic disease by directing individuals within a defined

geographic area to remain in their respective residences; and

(b) may include exceptions for certain essential tasks.

Section 8. Section 26-23b-104 is amended to read:

26-23b-104. Authorization to report -- Declaration of a public health emergency -- Termination of a public health emergency -- Order of constraint.

(1) A health care provider is authorized to report to the department any case of a reportable emergency illness or health condition in any person when:

(a) the health care provider knows of a confirmed case; or

(b) the health care provider believes, based on the health care provider's professional judgment that a person likely harbors a reportable emergency illness or health condition.

(2) A report pursuant to this section shall include, if known:

(a) the name of the facility submitting the report;

(b) a patient identifier that allows linkage with the patient's record for follow-up investigation if needed;

(c) the date and time of visit;

(d) the patient's age and sex;

(e) the zip code of the patient's residence;

(f) the reportable illness or condition detected or suspected;

(g) diagnostic information and, if available, diagnostic codes assigned to the visit; and

(h) whether the patient was admitted to the hospital.

(3) (a) [~~If~~] Subject to Subsections (3)(b) and (4), if the department determines that a public health emergency exists, the department may, with the concurrence of the governor and the executive director or in the absence of the executive director, the executive director's designee, [~~issue~~] declare a public health emergency [~~order~~], issue an order of constraint, and mandate reporting under this section for a limited reasonable period of time, as necessary to respond to the public health emergency.

(b) (i) During a public health emergency that has been in effect for more than 30 days, the department may not issue an order of constraint until the department has provided notice of the proposed action to the legislative emergency response committee no later than 24 hours before the department issues the order of constraint.

(ii) The department:

(A) shall provide the notice required by Subsection (3)(b)(i) using the best available method under the circumstances as determined by the executive director;

(B) may provide the notice required by Subsection (3)(b)(i) in electronic format; and

(C) shall provide the notice in written form, if practicable.

[~~(b)~~] (c) The department may not mandate reporting under this subsection for more than 90 days. [~~If more than 90 days is needed to abate the public health emergency declared under Subsection (3)(a), the department shall obtain the concurrence of the governor to extend the period of time beyond 90 days.~~]

(4) (a) Except as provided in Subsection (4)(b), a public health emergency declared by the department as described in Subsection (3) expires at the earliest of:

(i) the day on which the department or the governor finds that the threat or danger has passed or the public health emergency reduced to the extent that emergency conditions no longer exist;

(ii) 30 days after the date on which the department declared the public health emergency; or

(iii) the day on which the public health emergency is terminated by a joint resolution of the Legislature.

(b) (i) The Legislature, by joint resolution, may extend a public health emergency for a time period designated in the joint resolution.

(ii) If the Legislature extends a public health emergency as described in Subsection (4)(b)(i), the public health emergency expires on the date designated by the Legislature.

(c) Except as provided in Subsection (4)(d), if a public health emergency declared by the department expires as described in Subsection (4)(a) or (b), the department may not declare a public health emergency for the same illness or occurrence that precipitated the previous public health emergency declaration.

(d) (i) Notwithstanding Subsection (4)(c), subject to Subsection (4)(e), if the department finds that exigent circumstances exist, after providing notice to the Legislature, the department may declare a new public health emergency for the same illness or occurrence that precipitated a previous public health emergency declaration.

(ii) A public health emergency declared as described in Subsection (4)(d)(i) expires in accordance with Subsection (4)(a) or (b).

(e) If the Legislature terminates a public health emergency declared due to exigent circumstances as described in Subsection (4)(d)(i), the department may not declare a new public health emergency for the same illness, occurrence, or exigent circumstances.

(5) During a declared public health emergency declared under this title:

(a) the Legislature may:

(i) at any time by joint resolution terminate an order of constraint issued by the department; or

(ii) by joint resolution terminate an order of constraint issued by a local health department in response to a public health emergency that has been in effect for more than 30 days; and

(b) a county legislative body may at any time terminate an order of constraint issued by a local health department in response to a declared public health emergency.

(6) (a) (i) If the department declares a public health emergency as described in this chapter, and the department finds that the public health emergency conditions warrant an extension of the public health emergency beyond the 30-day term or another date designated by the Legislature as described in this section, the department shall provide written notice to the speaker of the House of Representatives and the president of the Senate at least 10 days before the expiration of the public health emergency.

(ii) If a local health department declares a public health emergency as described in this chapter, and the local health department finds that the public health emergency conditions warrant an extension of the public health emergency beyond the 30-day term or another date designated by the county governing body as described in this section, the local health department shall provide written notice to the county governing body at least 10 days before the expiration of the public health emergency.

(b) If the department provides notice as described in Subsection (6)(a)(i) for a public health emergency within the first 30 days from the initial declaration of the public health emergency, the speaker of the House of Representatives and the president of the Senate:

(i) shall poll the members of their respective bodies to determine whether the Legislature will extend the public health emergency; and

(ii) may jointly convene the committee created in Section 53-2a-218.

(c) If the department provides notice as described in Subsection (6)(a)(i) for a public health emergency that has been extended beyond the 30 days from the initial declaration of the public health emergency, the speaker of the House of Representatives and the president of the Senate shall jointly convene the committee created in Section 53-2a-218.

(7) If the committee created in Section 53-2a-218 is convened as described in Subsection (6), the committee shall conduct a public meeting to:

(a) discuss the nature of the public health emergency and conditions of the public health emergency;

(b) evaluate options for public health emergency response;

(c) receive testimony from individuals with expertise relevant to the current public health emergency;

(d) receive testimony from members of the public; and

(e) provide a recommendation to the Legislature whether to extend the public health emergency by joint resolution.

(8) (a) During a public health emergency declared as described in this title:

(i) the department or a local health department may not impose an order of constraint on a religious gathering that is more restrictive than an order of constraint that applies to any other relevantly similar gathering; and

(ii) an individual, while acting or purporting to act within the course and scope of the individual's official department or local health department capacity, may not:

(A) prevent a religious gathering that is held in a manner consistent with any order of constraint issued pursuant to this title; or

(B) impose a penalty for a previous religious gathering that was held in a manner consistent with any order of constraint issued pursuant to this title.

(b) Upon proper grounds, a court of competent jurisdiction may grant an injunction to prevent the violation of this Subsection (8).

(c) During a public health emergency declared as described in this title, the department or a local health department shall not issue a public health order or impose or implement a regulation that substantially burdens an individual's exercise of religion unless the department or local health department demonstrates that the application of the burden to the individual:

(i) is in furtherance of a compelling government interest; and

(ii) is the least restrictive means of furthering that compelling government interest.

(d) Notwithstanding Subsections (8)(a) and (c), the department or a local health department shall allow reasonable accommodations for an individual to perform or participate in a religious practice or rite.

[~~(4)~~] (9) (a) Unless the provisions of Subsection (3) apply, a health care provider is not subject to penalties for failing to submit a report under this section.

(b) If the provisions of Subsection (3) apply, a health care provider is subject to the penalties of Subsection 26-23b-103(3) for failure to make a report under this section.

Section 9. Section 26-23b-108 is amended to read:

26-23b-108. Investigation of suspected bioterrorism and diseases -- Termination of orders of constraint.

(1) [~~The~~] Subject to Subsection (6), the department shall:

(a) ascertain the existence of cases of an illness or condition caused by the factors described in Subsections 26-23b-103(1) and 26-23b-104(1);

(b) investigate all such cases for sources of infection or exposure;

(c) ensure that any cases, suspected cases, and exposed persons are subject to proper control measures; and

(d) define the distribution of the suspected illness or health condition.

(2) (a) Acting on information received from the reports required by this chapter, or other reliable information, the department shall identify all individuals thought to have been exposed to an illness or condition described in Subsection 26-23b-103(1).

(b) The department may request information from a health care provider concerning an individual's identifying information as described in Subsection 26-23b-103(2)(b) when:

(i) the department is investigating a potential illness or condition described in Subsection 26-23b-103(1) and the health care provider has not submitted a report to the department with the information requested; or

(ii) the department has received a report from a pharmacist under Section 26-23b-105, a medical laboratory under Section 26-23b-106, or another health care provider under Subsection 26-23b-104(1) and the department believes that further investigation is necessary to protect the public health.

(c) A health care provider shall submit the information requested under this section to the department within 24 hours after receiving a request from the department.

(3) The department shall counsel and interview identified individuals as appropriate to:

(a) assist in the positive identification of other cases and exposed individuals;

(b) develop information relating to the source and spread of the illness or condition; and

(c) obtain the names, addresses, phone numbers, or other identifying information of any other person from whom the illness or health condition may have been contracted and to whom the illness or condition may have spread.

(4) The department shall, for examination purposes, close, evacuate, or decontaminate any facility when the department reasonably believes that such facility or material may endanger the public health due to a condition or illness described in Subsection 26-23b-103(1).

(5) The department will destroy personally identifying health information about an individual collected by the department as a result of a report under this chapter upon the earlier of:

(a) the department's determination that the information is no longer necessary to carry out an investigation under this chapter; or

(b) 180 days after the information is collected.

(6) (a) The Legislature may at any time terminate by joint resolution an order of constraint issued by the department in response to a declared public health emergency.

(b) A county governing body may at any time terminate by majority vote an order of constraint issued by the relevant local health department in response to a declared public health emergency.

Section 10. Section 26A-1-102 is amended to read:

26A-1-102. Definitions.

As used in this part:

(1) "Board" means a local board of health established under Section 26A-1-109.

(2) "County governing body" means one of the types of county government provided for in Title 17, Chapter 52a, Part 2, Forms of County Government.

(3) "County health department" means a local health department that serves a county and municipalities located within that county.

(4) "Department" means the Department of Health created in Title 26, Chapter 1, Department of Health Organization.

(5) "Local health department" means:

(a) a single county local health department;

(b) a multicounty local health department;

(c) a united local health department; or

(d) a multicounty united local health department.

(6) "Mental health authority" means a local mental health authority created in Section 17-43-301.

(7) "Multicounty local health department" means a local health department that is formed under Section 26A-1-105 and that serves two or more contiguous counties and municipalities within those counties.

(8) "Multicounty united local health department" means a united local health department that is formed under Section 26A-1-105.5 and that serves two or more contiguous counties and municipalities within those counties.

(9) (a) "Order of constraint" means an order, rule, or regulation issued by a local health department in response to a declared public health emergency under this chapter that:

(i) applies to all or substantially all:

(A) individuals or a certain group of individuals; or

(B) public places or certain types of public places; and

(ii) for the protection of the public health and in response to the declared public health emergency:

(A) establishes, maintains, or enforces isolation or quarantine;

(B) establishes, maintains, or enforces a stay-at-home order;

(C) exercises physical control over property or individuals;

(D) requires an individual to perform a certain action or engage in a certain behavior; or

(E) closes theaters, schools, or other public places or prohibits gatherings of people to protect the public health.

(b) "Order of constraint" includes a stay-at-home order.

(10) "Public health emergency" means the same as that term is defined in Section 26-23b-102.

[~~(9)~~] (11) "Single county local health department" means a local health department that is created by the governing body of one county to provide services to the county and the municipalities within that county.

(12) "Stay-at-home order" means an order of constraint that:

(a) restricts movement of the general population to suppress or mitigate an epidemic or pandemic disease by directing individuals within a defined geographic area to remain in their respective residences; and

(b) may include exceptions for certain essential tasks.

[~~(10)~~] (13) "Substance abuse authority" means a local substance abuse authority created in Section 17-43-201.

[~~(11)~~] (14) "United local health department":

(a) means a substance abuse authority, a mental health authority, and a local health department that join together under Section 26A-1-105.5; and

(b) includes a multicounty united local health department.

Section 11. Section 26A-1-114 is amended to read:

26A-1-114. Powers and duties of departments.

(1) [~~A~~] Subject to Subsections (7) and (8), a local health department may:

(a) subject to the provisions in Section 26A-1-108, enforce state laws, local ordinances, department rules, and local health department standards and regulations relating to public health and sanitation, including the plumbing code administered by the Division of Occupational and Professional Licensing under Title 15A, Chapter 1, Part 2, State Construction Code Administration Act, and under Title 26, Chapter 15a, Food Safety Manager Certification Act, in all incorporated and unincorporated areas served by the local health department;

(b) establish, maintain, and enforce isolation and quarantine, and exercise physical control over property and over individuals as the local health department finds necessary for the protection of the public health;

(c) establish and maintain medical, environmental, occupational, and other laboratory services considered necessary or proper for the protection of the public health;

(d) establish and operate reasonable health programs or measures not in conflict with state law which:

(i) are necessary or desirable for the promotion or protection of the public health and the control of disease; or

(ii) may be necessary to ameliorate the major risk factors associated with the major causes of injury, sickness, death, and disability in the state;

(e) close theaters, schools, and other public places and prohibit gatherings of people when necessary to protect the public health;

(f) abate nuisances or eliminate sources of filth and infectious and communicable diseases affecting the public health and bill the owner or other person in charge of the premises upon which this nuisance occurs for the cost of abatement;

(g) make necessary sanitary and health investigations and inspections on its own initiative or in cooperation with the Department of Health or Environmental Quality, or both, as to any matters affecting the public health;

(h) pursuant to county ordinance or interlocal agreement:

(i) establish and collect appropriate fees for the performance of services and operation of authorized or required programs and duties;

(ii) accept, use, and administer all federal, state, or private donations or grants of funds, property, services, or materials for public health purposes; and

(iii) make agreements not in conflict with state law which are conditional to receiving a donation or grant;

(i) prepare, publish, and disseminate information necessary to inform and advise the public concerning:

(i) the health and wellness of the population, specific hazards, and risk factors that may adversely affect the health and wellness of the population; and

(ii) specific activities individuals and institutions can engage in to promote and protect the health and wellness of the population;

(j) investigate the causes of morbidity and mortality;

(k) issue notices and orders necessary to carry out this part;

(l) conduct studies to identify injury problems, establish injury control systems, develop standards for the correction and prevention of future occurrences, and provide public information and instruction to special high risk groups;

(m) cooperate with boards created under Section 19-1-106 to enforce laws and rules within the jurisdiction of the boards;

(n) cooperate with the state health department, the Department of Corrections, the Administrative Office of the Courts, the Division of Juvenile Justice Services, and the Crime Victim Reparations Board to conduct testing for HIV infection of alleged sexual offenders, convicted sexual offenders, and any victims of a sexual offense;

(o) investigate suspected bioterrorism and disease pursuant to Section 26-23b-108; and

(p) provide public health assistance in response to a national, state, or local emergency, a public health emergency as defined in Section 26-23b-102, or a declaration by the President of the United States or other federal official requesting public health-related activities.

(2) The local health department shall:

(a) establish programs or measures to promote and protect the health and general wellness of the people within the boundaries of the local health department;

(b) investigate infectious and other diseases of public health importance and implement measures to control the causes of epidemic and communicable diseases and other conditions significantly affecting the public health which may include involuntary testing of alleged sexual offenders for the HIV infection pursuant to Section 76-5-502 and voluntary testing of victims of sexual offenses for HIV infection pursuant to Section 76-5-503;

(c) cooperate with the department in matters pertaining to the public health and in the administration of state health laws; and

(d) coordinate implementation of environmental programs to maximize efficient use of resources by developing with the Department of Environmental Quality a Comprehensive Environmental Service Delivery Plan which:

(i) recognizes that the Department of Environmental Quality and local health departments are the foundation for providing environmental health programs in the state;

(ii) delineates the responsibilities of the department and each local health department for the efficient delivery of environmental programs using federal, state, and local authorities, responsibilities, and resources;

(iii) provides for the delegation of authority and pass through of funding to local health departments for environmental programs, to the extent allowed by applicable law, identified in the plan, and requested by the local health department; and

(iv) is reviewed and updated annually.

(3) The local health department has the following duties regarding public and private schools within its boundaries:

(a) enforce all ordinances, standards, and regulations pertaining to the public health of persons attending public and private schools;

(b) exclude from school attendance any person, including teachers, who is suffering from any communicable or infectious disease, whether acute or chronic, if the person is likely to convey the disease to those in attendance; and

(c) (i) make regular inspections of the health-related condition of all school buildings and premises;

(ii) report the inspections on forms furnished by the department to those responsible for the condition and provide instructions for correction of any conditions that impair or endanger the health or life of those attending the schools; and

(iii) provide a copy of the report to the department at the time the report is made.

(4) If those responsible for the health-related condition of the school buildings and premises do not carry out any instructions for corrections provided in a report in Subsection (3)(c), the local health board shall cause the conditions to be corrected at the expense of the persons responsible.

(5) The local health department may exercise incidental authority as necessary to carry out the provisions and purposes of this part.

(6) Nothing in this part may be construed to authorize a local health department to enforce an ordinance, rule, or regulation requiring the installation or maintenance of a carbon monoxide detector in a residential dwelling against anyone other than the occupant of the dwelling.

(7) (a) Except as provided in Subsection (7)(c), a local health department may not declare a public health emergency or issue an order of constraint until the local health department has provided notice of the proposed action to the chief executive officer of the relevant county no later than 24 hours before the local health department issues the order or declaration.

(b) The local health department:

(i) shall provide the notice required by Subsection (7)(a) using the best available method under the circumstances as determined by the local health department;

(ii) may provide the notice required by Subsection (7)(a) in electronic format; and

(iii) shall provide the notice in written form, if practicable.

(c) (i) Notwithstanding Subsection (7)(a), a local health department may declare a public health emergency or issue an order of constraint without approval of the chief executive officer of the relevant county if the passage of time necessary to obtain approval of the chief executive officer of the relevant county as required in Subsection (7)(a) would substantially increase the likelihood of loss of life due to an imminent threat.

(ii) If a local health department declares a public health emergency or issues an order of constraint as described in Subsection (7)(c)(i), the local health department shall notify the chief executive officer of

the relevant county before issuing the order of constraint.

(iii) The chief executive officer of the relevant county may terminate a declaration of a public health emergency or an order of constraint issued as described in Subsection (7)(c)(i) within 72 hours of declaration of the public health emergency or issuance of the order of constraint.

(d) The relevant county governing body may at any time terminate a public health emergency or an order of constraint issued by the local health department by majority vote of the county governing body in response to a declared public health emergency.

(8) (a) Except as provided in Subsection (8)(b), a public health emergency declared by a local health department expires at the earliest of:

(i) the local health department or the chief executive officer of the relevant county finding that the threat or danger has passed or the public health emergency reduced to the extent that emergency conditions no longer exist;

(ii) 30 days after the date on which the local health department declared the public health emergency; or

(iii) the day on which the public health emergency is terminated by majority vote of the county governing body.

(b) (i) The relevant county legislative body, by majority vote, may extend a public health emergency for a time period designated by the county legislative body.

(ii) If the county legislative body extends a public health emergency as described in Subsection (8)(b)(i), the public health emergency expires on the date designated by the county legislative body.

(c) Except as provided in Subsection (8)(d), if a public health emergency declared by a local health department expires as described in Subsection (8)(a), the local health department may not declare a public health emergency for the same illness or occurrence that precipitated the previous public health emergency declaration.

(d) (i) Notwithstanding Subsection (8)(c), subject to Subsection (8)(f), if the local health department finds that exigent circumstances exist, after providing notice to the county legislative body, the department may declare a new public health emergency for the same illness or occurrence that precipitated a previous public health emergency declaration.

(ii) A public health emergency declared as described in Subsection (8)(d)(i) expires in accordance with Subsection (8)(a) or (b).

(e) For a public health emergency declared by a local health department under this chapter or under Title 26, Chapter 23b, Detection of Public Health Emergencies Act, the Legislature may terminate by joint resolution a public health emergency that was declared based on exigent circumstances or that has been in effect for more than 30 days.

(f) If the Legislature or county legislative body terminates a public health emergency declared due to exigent circumstances as described in Subsection (8)(d)(i), the local health department may not declare a new public health emergency for the same illness, occurrence, or exigent circumstances.

(9) (a) During a public health emergency declared under this chapter or under Title 26, Chapter 23b, Detection of Public Health Emergencies Act:

(i) except as provided in Subsection (9)(b), a local health department may not issue an order of constraint without approval of the chief executive officer of the relevant county;

(ii) the Legislature may at any time terminate by joint resolution an order of constraint issued by a local health department in response to a declared public health emergency that has been in effect for more than 30 days; and

(iii) a county governing body may at any time terminate by majority vote of the governing body an order of constraint issued by a local health department in response to a declared public health emergency.

(b) (i) Notwithstanding Subsection (9)(a)(i), a local health department may issue an order of constraint without approval of the chief executive officer of the relevant county if the passage of time necessary to obtain approval of the chief executive officer of the relevant county as required in Subsection (9)(a)(i) would substantially increase the likelihood of loss of life due to an imminent threat.

(ii) If a local health department issues an order of constraint as described in Subsection (9)(b), the local health department shall notify the chief executive officer of the relevant county before issuing the order of constraint.

(iii) The chief executive officer of the relevant county may terminate an order of constraint issued as described in Subsection (9)(b) within 72 hours of issuance of the order of constraint.

(c) (i) For a local health department that serves more than one county, the approval described in Subsection (9)(a)(i) is required for the chief executive officer for which the order of constraint is applicable.

(ii) For a local health department that serves more than one county, a county governing body may only terminate an order of constraint as described in Subsection (9)(a)(iii) for the county served by the county governing body.

(10) (a) During a public health emergency declared as described in this title:

(i) the department or a local health department may not impose an order of constraint on a religious gathering that is more restrictive than an order of constraint that applies to any other relevantly similar gathering; and

(ii) an individual, while acting or purporting to act within the course and scope of the individual's

official department or local health department capacity, may not:

(A) prevent a religious gathering that is held in a manner consistent with any order of constraint issued pursuant to this title; or

(B) impose a penalty for a previous religious gathering that was held in a manner consistent with any order of constraint issued pursuant to this title.

(b) Upon proper grounds, a court of competent jurisdiction may grant an injunction to prevent the violation of this Subsection (10).

(c) During a public health emergency declared as described in this title, the department or a local health department shall not issue a public health order or impose or implement a regulation that substantially burdens an individual's exercise of religion unless the department or local health department demonstrates that the application of the burden to the individual:

(i) is in furtherance of a compelling government interest; and

(ii) is the least restrictive means of furthering that compelling government interest.

(d) Notwithstanding Subsections (8)(a) and (c), the department or a local health department shall allow reasonable accommodations for an individual to perform or participate in a religious practice or rite.

Section 12. Section 26A-1-121 is amended to read:

26A-1-121. Standards and regulations adopted by local board -- Local standards not more stringent than federal or state standards -- Exceptions for written findings -- Administrative and judicial review of actions.

(1) (a) [~~The~~] Subject to Subsection (1)(g), the board may make standards and regulations:

(i) not in conflict with rules of the Departments of Health and Environmental Quality; and

(ii) necessary for the promotion of public health, environmental health quality, injury control, and the prevention of outbreaks and spread of communicable and infectious diseases.

(b) The standards and regulations under Subsection (1)(a):

(i) supersede existing local standards, regulations, and ordinances pertaining to similar subject matter; and

(ii) except as provided under Subsection (1)(c) and except where specifically allowed by federal law or state statute, may not be more stringent than those established by federal law, state statute, or administrative rules adopted by the [~~Utah~~] Department of Health in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(c) (i) The board may make standards and regulations more stringent than corresponding federal law, state statute, or state administrative rules for the purposes described in Subsection (1)(a), only if the board makes a written finding after public comment and hearing and based on evidence in the record, that corresponding federal laws, state statutes, or state administrative rules are not adequate to protect public health and the environment of the state.

(ii) The findings shall address the public health information and studies contained in the record, which form the basis for the board's conclusion.

(d) The board shall provide public hearings prior to the adoption of any regulation or standard. Notice of any public hearing shall be published at least twice throughout the county or counties served by the local health department. The publication may be in one or more newspapers, if the notice is provided in accordance with this Subsection (1)(d).

(e) The hearings may be conducted by the board at a regular or special meeting, or the board may appoint hearing officers who may conduct hearings in the name of the board at a designated time and place.

(f) A record or summary of the proceedings of a hearing shall be taken and filed with the board.

(g) (i) During a declared public health emergency declared under this chapter or under Title 26, Chapter 23b, Detection of Public Health Emergencies Act:

(A) except as provided in Subsection (1)(h), a local health department may not issue an order of constraint without approval of the chief executive officer of the relevant county;

(B) the Legislature may at any time terminate by joint resolution an order of constraint issued by a local health department in response to a declared public health emergency that has been in effect for more than 30 days; and

(C) a county governing body may at any time terminate, by majority vote of the governing body, an order of constraint issued by a local health department in response to a declared public health emergency.

(ii) (A) For a local health department that serves more than one county, the approval described in Subsection (1)(g)(i)(A) is required for the chief executive officer for which the order of constraint is applicable.

(B) For a local health department that serves more than one county, a county governing body may only terminate an order of constraint as described in Subsection (1)(g)(i)(C) for the county served by the county governing body.

(h) (i) Notwithstanding Subsection (1)(g)(i)(A), a local health department may issue an order of constraint without approval of the chief executive officer of the relevant county if the passage of time necessary to obtain approval of the chief executive officer of the relevant county as required in

Subsection (1)(g)(i)(A) would substantially increase the likelihood of loss of life due to an imminent threat.

(ii) If a local health department issues an order of constraint as described in Subsection (1)(h)(i), the local health department shall notify the chief executive officer of the relevant county before issuing the order of constraint.

(iii) The chief executive officer of the relevant county may terminate an order of constraint issued as described in Subsection (1)(h)(i) within 72 hours of issuance of the order of constraint.

(i) (i) During a public health emergency declared as described in this title:

(A) a local health department may not impose an order of constraint on a public gathering that applies to a religious gathering differently than the order of constraint applies to any other relevantly similar gathering; and

(B) an individual, while acting or purporting to act within the course and scope of the individual's official local health department capacity, may not prevent a religious gathering that is held in a manner consistent with any order of constraint issued pursuant to this title, or impose a penalty for a previous religious gathering that was held in a manner consistent with any order of constraint issued pursuant to this title.

(ii) Upon proper grounds, a court of competent jurisdiction may grant an injunction to prevent the violation of this Subsection (1)(i).

(iii) During a public health emergency declared as described in this title, the department or a local health department shall not issue a public health order or impose or implement a regulation that substantially burdens an individual's exercise of religion unless the department or local health department demonstrates that the application of the burden to the individual:

(A) is in furtherance of a compelling government interest; and

(B) is the least restrictive means of furthering that compelling government interest.

(iv) Notwithstanding Subsections (1)(i)(i) and (ii), the department or a local health department shall allow reasonable accommodations for an individual to perform or participate in a religious practice or rite.

(j) If a local health department declares a public health emergency as described in this chapter, and the local health department finds that the public health emergency conditions warrant an extension of the public health emergency beyond the 30-day term or another date designated by the local legislative body, the local health department shall provide written notice to the local legislative body at least 10 days before the expiration of the public health emergency.

(2) (a) A person aggrieved by an action or inaction of the local health department relating to the public health shall have an opportunity for a hearing with the local health officer or a designated representative of the local health department. The board shall grant a subsequent hearing to the person upon the person's written request.

(b) In an adjudicative hearing, a member of the board or the hearing officer may administer oaths, examine witnesses, and issue notice of the hearings or subpoenas in the name of the board requiring the testimony of witnesses and the production of evidence relevant to a matter in the hearing. The local health department shall make a written record of the hearing, including findings of facts and conclusions of law.

(c) Judicial review of a final determination of the local board may be secured by a person adversely affected by the final determination, or by the Departments of Health or Environmental Quality, by filing a petition in the district court within 30 days after receipt of notice of the board's final determination.

(d) The petition shall be served upon the secretary of the board and shall state the grounds upon which review is sought.

(e) The board's answer shall certify and file with the court all documents and papers and a transcript of all testimony taken in the matter together with the board's findings of fact, conclusions of law, and order.

(f) The appellant and the board are parties to the appeal.

(g) The Departments of Health and Environmental Quality may become a party by intervention as in a civil action upon showing cause.

(h) A further appeal may be taken to the Court of Appeals under Section 78A-4-103.

(3) Nothing in the provisions of Subsection (1)(b)(ii) or (c), shall limit the ability of a local health department board to make standards and regulations in accordance with Subsection (1)(a) for:

(a) emergency rules made in accordance with Section 63G-3-304; or

(b) items not regulated under federal law, state statute, or state administrative rule.

Section 13. Section 53-2a-104 is amended to read:

53-2a-104. Division duties -- Powers.

(1) [~~The~~] Subject to limitation by the Legislature as described in Subsection 53-2a-206(5), the division shall:

(a) respond to the policies of the governor and the Legislature;

(b) perform functions relating to emergency management as directed by the governor or by the commissioner, including:

(i) coordinating with state agencies and local governments the use of personnel and other resources of these governmental entities as agents

of the state during an interstate disaster in accordance with the Emergency Management Assistance Compact described in Section 53-2a-402;

(ii) coordinating the requesting, activating, and allocating of state resources during an intrastate disaster or a local state of emergency;

(iii) receiving and disbursing federal resources provided to the state in a declared disaster;

(iv) appointing a state coordinating officer who is the governor's representative and who shall work with a federal coordinating officer during a federally declared disaster; and

(v) appointing a state recovery officer who is the governor's representative and who shall work with a federal recovery officer during a federally declared disaster;

(c) prepare, implement, and maintain programs and plans to provide for:

(i) prevention and minimization of injury and damage caused by disasters;

(ii) prompt and effective response to and recovery from disasters;

(iii) identification of areas particularly vulnerable to disasters;

(iv) coordination of hazard mitigation and other preventive and preparedness measures designed to eliminate or reduce disasters;

(v) assistance to local officials, state agencies, and the business and public sectors, in developing emergency action plans;

(vi) coordination of federal, state, and local emergency activities;

(vii) coordination of emergency operations plans with emergency plans of the federal government;

(viii) coordination of urban search and rescue activities;

(ix) coordination of rapid and efficient communications in times of emergency; and

(x) other measures necessary, incidental, or appropriate to this part;

(d) coordinate with local officials, state agencies, and the business and public sectors in developing, implementing, and maintaining a state energy emergency plan in accordance with Section 53-2a-902;

(e) administer Part 6, Disaster Recovery Funding Act, in accordance with that part;

(f) conduct outreach annually to agencies and officials who have access to IPAWS; and

(g) coordinate with counties to ensure every county has the access and ability to send, or a plan to send, IPAWS messages, including Wireless Emergency Alerts and Emergency Alert System messages.

(2) Every three years, organizations that have the ability to send IPAWS messages, including emergency service agencies, public safety answering points, and emergency managers shall send verification of Federal Emergency Management Agency training to the Division.

(3) (a) The Department of Public Safety shall designate state geographical regions and allow the political subdivisions within each region to:

(i) coordinate planning with other political subdivisions, tribal governments, and as appropriate, other entities within that region and with state agencies as appropriate, or as designated by the division;

(ii) coordinate grant management and resource purchases; and

(iii) organize joint emergency response training and exercises.

(b) The political subdivisions within a region designated in Subsection (3)(a) may not establish the region as a new government entity in the emergency disaster declaration process under Section 53-2a-208.

(4) The division may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:

(a) establish protocol for prevention, mitigation, preparedness, response, recovery, and the activities described in Subsection (3);

(b) coordinate federal, state, and local resources in a declared disaster or local emergency; and

(c) implement provisions of the Emergency Management Assistance Compact as provided in Section 53-2a-402 and Title 53, Chapter 2a, Part 3, Statewide Mutual Aid Act.

(5) The division may consult with the Legislative Management Committee, the Judicial Council, and legislative and judicial staff offices to assist the division in preparing emergency succession plans and procedures under Title 53, Chapter 2a, Part 8, Emergency Interim Succession Act.

(6) The division shall report annually in writing not later than October 31 to the Law Enforcement and Criminal Justice, and Political Subdivisions Interim Committees regarding the status of the emergency alert system in the state. The report shall include:

(a) a status summary of the number of alerting authorities in Utah;

(b) any changes in that number;

(c) administrative actions taken; and

(d) any other information considered necessary by the division.

Section 14. Section 53-2a-203 is amended to read:

53-2a-203. Definitions.

As used in this part:

(1) "Chief executive officer" means:

(a) for a municipality:

(i) the mayor for a municipality operating under all forms of municipal government except the council-manager form of government; or

(ii) the city manager for a municipality operating under the council-manager form of government;

(b) for a county:

(i) the chair of the county commission for a county operating under the county commission or expanded county commission form of government;

(ii) the county executive officer for a county operating under the county-executive council form of government; or

(iii) the county manager for a county operating under the council-manager form of government; [~~or~~]

(c) for a special service district:

(i) the chief executive officer of the county or municipality that created the special service district if authority has not been delegated to an administrative control board as provided in Section 17D-1-301;

(ii) the chair of the administrative control board to which authority has been delegated as provided in Section 17D-1-301; or

(iii) the general manager or other officer or employee to whom authority has been delegated by the governing body of the special service district as provided in Section 17D-1-301; or

(d) for a local district:

(i) the chair of the board of trustees selected as provided in Section 17B-1-309; or

(ii) the general manager or other officer or employee to whom authority has been delegated by the board of trustees.

(2) "Executive action" means any of the following actions by the governor during a state of emergency:

(a) an order, a rule, or a regulation made by the governor as described in Section 53-2a-209;

(b) an action by the governor to suspend or modify a statute as described in Subsection 53-2a-204(1)(j); or

(c) an action by the governor to suspend the enforcement of a statute as described in Subsection 53-2a-209(4).

(3) "Exigent circumstances" means a significant change in circumstances following the expiration of a state of emergency declared in accordance with this chapter that:

(a) substantially increases the threat to public safety or health relative to the circumstances in existence when the state of emergency expired;

(b) poses an imminent threat to public safety or health; and

(c) was not known or foreseen and could not have been known or foreseen at the time the state of emergency expired.

(4) "Legislative emergency response committee" means the Legislative Emergency Response Committee created in Section 53-2a-218.

[~~(2)~~] (5) "Local emergency" means a condition in any municipality or county of the state which requires that emergency assistance be provided by the affected municipality or county or another political subdivision to save lives and protect property within its jurisdiction in response to a disaster, or to avoid or reduce the threat of a disaster.

(6) "Long-term state of emergency" means a state of emergency:

(a) that lasts longer than 30 days; or

(b) declared to respond to exigent circumstances as described in Subsection 53-2a-206(3).

[~~(3)~~] (7) "Political subdivision" means a municipality, county, special service district, or local district.

Section 15. Section 53-2a-204 is amended to read:

53-2a-204. Authority of governor -- Federal assistance -- Fraud or willful misstatement in application for financial assistance -- Penalty.

(1) In addition to any other authorities conferred upon the governor, if the governor issues an executive order declaring a state of emergency, subject to limitation by the Legislature as described in Subsection 53-2a-206(5), the governor may:

(a) utilize all available resources of state government as reasonably necessary to cope with a state of emergency;

(b) employ measures and give direction to state and local officers and agencies that are reasonable and necessary for the purpose of securing compliance with the provisions of this part and with orders, rules, and regulations made pursuant to this part;

(c) recommend and advise the evacuation of all or part of the population from any stricken or threatened area within the state if necessary for the preservation of life;

(d) recommend routes, modes of transportation, and destination in connection with evacuation;

(e) in connection with evacuation, suspend or limit the sale, dispensing, or transportation of alcoholic beverages, explosives, and combustibles, not to include the lawful bearing of arms;

(f) control ingress and egress to and from a disaster area, the movement of persons within the area, and recommend the occupancy or evacuation of premises in a disaster area;

(g) clear or remove from publicly or privately owned land or water debris or wreckage that is an immediate threat to public health, public safety, or

private property, including allowing an employee of a state department or agency designated by the governor to enter upon private land or waters and perform any tasks necessary for the removal or clearance operation if the political subdivision, corporation, organization, or individual that is affected by the removal of the debris or wreckage:

(i) presents an unconditional authorization for removal of the debris or wreckage from private property; and

(ii) agrees to indemnify the state against any claim arising from the removal of the debris or wreckage;

(h) enter into agreement with any agency of the United States:

(i) for temporary housing units to be occupied by victims of a state of emergency or persons who assist victims of a state of emergency; and

(ii) to make the housing units described in Subsection (1)(h)(i) available to a political subdivision of this state;

(i) assist any political subdivision of this state to acquire sites and utilities necessary for temporary housing units described in Subsection (1)(h)(i) by passing through any funds made available to the governor by an agency of the United States for this purpose;

(j) subject to Sections 53-2a-209 and 53-2a-214, temporarily suspend or modify by executive order, during the state of emergency, any public health, safety, zoning, transportation, or other requirement of a statute or administrative rule within this state if such action is essential to provide temporary housing described in Subsection (1)(h)(i);

(k) upon determination that a political subdivision of the state will suffer a substantial loss of tax and other revenues because of a state of emergency and the political subdivision so affected has demonstrated a need for financial assistance to perform its governmental functions, in accordance with Utah Constitution, Article XIV, Sections 3 and 4, and Section 10-8-6:

(i) apply to the federal government for a loan on behalf of the political subdivision if the amount of the loan that the governor applies for does not exceed 25% of the annual operating budget of the political subdivision for the fiscal year in which the state of emergency occurs; and

(ii) receive and disburse the amount of the loan to the political subdivision;

(l) accept funds from the federal government and make grants to any political subdivision for the purpose of removing debris or wreckage from publicly owned land or water;

(m) subject to Section 53-2a-217, upon determination that financial assistance is essential to meet expenses related to a state of emergency of individuals or families adversely affected by the state of emergency that cannot be sufficiently met from other means of assistance, apply for, accept, and expend a grant by the federal government to fund the financial assistance, subject to the terms and conditions imposed upon the grant;

(n) recommend to the Legislature other actions the governor considers to be necessary to address a state of emergency; or

(o) authorize the use of all water sources as necessary for fire suppression.

(2) A person who fraudulently or willfully makes a misstatement of fact in connection with an application for financial assistance under this section shall, upon conviction of each offense, be subject to a fine of not more than $5,000 or imprisonment for not more than one year, or both.

Section 16. Section 53-2a-205 is amended to read:

53-2a-205. Authority of chief executive officers of political subdivisions -- Ordering of evacuations.

(1) (a) In order to protect life and property when a state of emergency or local emergency has been declared, subject to limitation by the Legislature as described in Subsection 53-2a-206(5), and subject to Section 53-2a-216, the chief executive officer of each political subdivision of the state is authorized to:

(i) carry out, in the chief executive officer's jurisdiction, the measures as may be ordered by the governor under this part; and

(ii) take any additional measures the chief executive officer may consider necessary, subject to the limitations and provisions of this part.

(b) The chief executive officer may not take an action that is inconsistent with any order, rule, regulation, or action of the governor.

(2) [~~When~~] Subject to Section 53-2a-216, when a state of emergency or local emergency is declared, the authority of the chief executive officer includes:

(a) utilizing all available resources of the political subdivision as reasonably necessary to manage a state of emergency or local emergency;

(b) employing measures and giving direction to local officers and agencies which are reasonable and necessary for the purpose of securing compliance with the provisions of this part and with orders, rules, and regulations made under this part;

(c) if necessary for the preservation of life, issuing an order for the evacuation of all or part of the population from any stricken or threatened area within the political subdivision;

(d) recommending routes, modes of transportation, and destinations in relation to an evacuation;

(e) suspending or limiting the sale, dispensing, or transportation of alcoholic beverages, explosives, and combustibles in relation to an evacuation, except that the chief executive officer may not restrict the lawful bearing of arms;

(f) controlling ingress and egress to and from a disaster area, controlling the movement of persons within a disaster area, and ordering the occupancy or evacuation of premises in a disaster area;

(g) clearing or removing debris or wreckage that may threaten public health, public safety, or private property from publicly or privately owned land or waters, except that where there is no immediate threat to public health or safety, the chief executive officer shall not exercise this authority in relation to privately owned land or waters unless:

(i) the owner authorizes the employees of designated local agencies to enter upon the private land or waters to perform any tasks necessary for the removal or clearance; and

(ii) the owner provides an unconditional authorization for removal of the debris or wreckage and agrees to indemnify the local and state government against any claim arising from the removal; and

(h) invoking the provisions of any mutual aid agreement entered into by the political subdivision.

(3) (a) If the chief executive is unavailable to issue an order for evacuation under Subsection (2)(c), the chief law enforcement officer having jurisdiction for the area may issue an urgent order for evacuation, for a period not to exceed 36 hours, if the order is necessary for the preservation of life.

(b) The chief executive officer may ratify, modify, or revoke the chief law enforcement officer's order.

(4) Notice of an order or the ratification, modification, or revocation of an order issued under this section shall be:

(a) given to the persons within the jurisdiction by the most effective and reasonable means available; and

(b) filed in accordance with Subsection 53-2a-209(1).

Section 17. Section 53-2a-206 is amended to read:

53-2a-206. State of emergency -- Declaration -- Termination -- Commander in chief of military forces.

(1) A state of emergency may be declared by executive order of the governor if the governor finds a disaster has occurred or the occurrence or threat of a disaster is imminent in any area of the state in which state government assistance is required to supplement the response and recovery efforts of the affected political subdivision or political subdivisions.

[~~(2) A state of emergency shall continue until the governor finds the threat or danger has passed or the disaster reduced to the extent that emergency conditions no longer exist.~~]

[~~(3) A state of emergency may not continue for longer than 30 days unless extended by joint resolution of the Legislature, which may also terminate a state of emergency by joint resolution at any time.~~]

(2) (a) Except as provided in Subsection (2)(b), a state of emergency described in Subsection (1) expires at the earlier of:

(i) the day on which the governor finds that the threat or danger has passed or the disaster reduced to the extent that emergency conditions no longer exist;

(ii) 30 days after the date on which the governor declared the state of emergency; or

(iii) the day on which the Legislature terminates the state of emergency by joint resolution.

(b) (i) The Legislature may, by joint resolution, extend a state of emergency for a time period designated in the joint resolution.

(ii) If the Legislature extends a state of emergency in accordance with this subsection, the state of emergency expires on the date designated in the joint resolution.

(c) Except as provided in Subsection (3), if a state of emergency expires as described in Subsection (2), the governor may not declare a new state of emergency for the same disaster or occurrence as the expired state of emergency.

(3) (a) After a state of emergency expires in accordance with Subsection (2), and subject to Subsection (4), the governor may declare a new state of emergency in response to the same disaster or occurrence as the expired state of emergency, if the governor finds that exigent circumstances exist.

(b) A state of emergency declared in accordance with Subsection (3)(a) expires in accordance with Subsections (2)(a) and (b).

(c) After a state of emergency declared in accordance with Subsection (3)(a) expires, the governor may not declare a new state of emergency in response to the same disaster or occurrence as the expired state of emergency, regardless of whether exigent circumstances exist.

(4) (a) (i) If the Legislature finds that emergency conditions warrant the extension of a state of emergency beyond 30 days as described in Subsection (2)(b), the Legislature may extend the state of emergency and specify which emergency powers described in this part are necessary to respond to the emergency conditions present at the time of the extension of the state of emergency.

(ii) Circumstances that may warrant the extension of a state of emergency with limited emergency powers include:

(A) the imminent threat of the emergency has passed, but continued fiscal response remains necessary; or

(B) emergency conditions warrant certain executive actions, but certain emergency powers such as suspension of enforcement of statute are not necessary.

(b) For any state of emergency extended by the Legislature beyond 30 days as described in Subsection (2)(b), the Legislature may, by joint resolution:

(i) extend the state of emergency and maintain all of the emergency powers described in this part; or

(ii) limit or restrict certain emergency powers of:

(A) the division as described in Section 53-2a-104;

(B) the governor as described in Section 53-2a-204;

(C) a chief executive officer of a political subdivision as described in Section 53-2a-205; or

(D) other executive emergency powers described in this chapter.

(c) If the Legislature limits emergency powers as described in Subsection (4)(b), the Legislature shall:

(i) include in the joint resolution findings describing the nature and current conditions of the emergency that warrant the continuation or limitation of certain emergency powers; and

(ii) clearly enumerate and describe in the joint resolution which powers:

(A) are being limited or restricted; or

(B) shall remain in force.

[~~(4)~~] (5) [~~The~~] If the Legislature terminates a state of emergency by joint resolution, the governor shall issue an executive order ending the state of emergency on receipt of the Legislature's resolution.

[~~(5)~~] (6) An executive order described in this section to declare a state of emergency shall state:

(a) the nature of the state of emergency;

(b) the area or areas threatened; and

(c) the conditions creating such an emergency or those conditions allowing termination of the state of emergency.

[~~(6)~~] (7) During the continuance of any state of emergency the governor is commander in chief of the military forces of the state in accordance with Utah Constitution Article VII, Section 4, and Title 39, Chapter 1, State Militia.

Section 18. Section 53-2a-208 is amended to read:

53-2a-208. Local emergency -- Declarations -- Termination of a local emergency.

[~~(1) (a) A local emergency may be declared by proclamation of the chief executive officer of a municipality or county.~~]

[~~(b) A local emergency shall not be continued or renewed for a period in excess of 30 days except by or with the consent of the governing body of the municipality or county.~~]

[~~(c) Any order or proclamation declaring, continuing, or terminating a local emergency shall be filed promptly with the office of the clerk of the affected municipality or county.~~]

(1) A chief executive officer of a municipality or county may declare by proclamation a state of emergency if the chief executive officer finds:

(a) a disaster has occurred or the occurrence or threat of a disaster is imminent in an area of the municipality or county; and

(b) the municipality or county requires additional assistance to supplement the response and recovery efforts of the municipality or county.

(2) A declaration of a local emergency:

(a) constitutes an official recognition that a disaster situation exists within the affected municipality or county;

(b) provides a legal basis for requesting and obtaining mutual aid or disaster assistance from other political subdivisions or from the state or federal government;

(c) activates the response and recovery aspects of any and all applicable local disaster emergency plans; and

(d) authorizes the furnishing of aid and assistance in relation to the proclamation.

(3) A local emergency proclamation issued under this section shall state:

(a) the nature of the local emergency;

(b) the area or areas that are affected or threatened; and

(c) the conditions which caused the emergency.

(4) The emergency declaration process within the state shall be as follows:

(a) a city, town, or metro township shall declare to the county;

(b) a county shall declare to the state;

(c) the state shall declare to the federal government; and

(d) a tribe, as defined in Section 23-13-12.5, shall declare as determined under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. Sec. 5121 et seq.

(5) Nothing in this part affects:

(a) the governor's authority to declare a state of emergency under Section 53-2a-206; or

(b) the duties, requests, reimbursements, or other actions taken by a political subdivision participating in the state-wide mutual aid system pursuant to Title 53, Chapter 2a, Part 3, Statewide Mutual Aid Act.

(6) (a) Except as provided in Subsection (6)(b), a state of emergency described in Subsection (1) expires the earlier of:

(i) the day on which the chief executive officer finds that:

(A) the threat or danger has passed;

(B) the disaster reduced to the extent that emergency conditions no longer exist; or

(C) the municipality or county no longer requires state government assistance to supplement the response and recovery efforts of the municipality or county;

(ii) 30 days after the day on which the chief executive officer declares the state of emergency; or

(iii) the day on which the legislative body of the municipality or county terminates the state of emergency by majority vote.

(b) (i) (A) The legislative body of a municipality may at any time terminate by majority vote a state of emergency declared by the chief executive officer of the municipality.

(B) The legislative body of a county may at any time terminate by majority vote a state of emergency declared by the chief executive officer of the county.

(ii) The legislative body of a municipality or county may by majority vote extend a state of emergency for a time period stated in the motion.

(iii) If the legislative body of a municipality or county extends a state of emergency in accordance with this subsection, the state of emergency expires on the date designated by the legislative body in the motion.

(c) Except as provided in Subsection (7), after a state of emergency expires in accordance with this Subsection (6), the chief executive officer may not declare a new state of emergency in response to the same disaster or occurrence as the expired state of emergency.

(7) (a) After a state of emergency expires in accordance with Subsection (2), the chief executive officer may declare a new state of emergency in response to the same disaster or occurrence as the expired state of emergency, if the chief executive officer finds that exigent circumstances exist.

(b) A state of emergency declared in accordance with Subsection (7)(a) expires in accordance with Subsections (6)(a) and (b).

(c) After a state of emergency declared in accordance with Subsection (7)(a) expires, the chief executive officer may not declare a new state of emergency in response to the same disaster or occurrence as the expired state of emergency, regardless of whether exigent circumstances exist.

Section 19. Section 53-2a-209 is amended to read:

53-2a-209. Orders, rules, and regulations having force of law -- Filing requirements -- Suspension of state agency rules -- Suspension of enforcement of certain statutes during a state of emergency.

(1) [~~All~~] Subject to Section 53-2a-216, all orders, rules, and regulations promulgated by the governor, a municipality, a county, or other agency authorized by this part to make orders, rules, and regulations, not in conflict with existing laws except as specifically provided in this section, shall have the full force and effect of law during the state of emergency.

(2) A copy of the order, rule, or regulation promulgated under Subsection (1) shall be filed as soon as practicable with:

(a) the Office of Administrative Rules, if issued by the governor or a state agency; or

(b) the office of the clerk of the municipality or county, if issued by the chief executive officer of a municipality or county.

(3) The governor may suspend the provisions of any order, rule, or regulation of any state agency, if the strict compliance with the provisions of the order, rule, or regulation would substantially prevent, hinder, or delay necessary action in coping with the emergency or disaster.

(4) (a) Except as provided in Subsection (4)(b) and subject to Subsections (4)(c) and (d), the governor may by executive order suspend the enforcement of a statute if:

(i) the governor declares a state of emergency in accordance with Section 53-2a-206;

(ii) the governor determines that suspending the enforcement of the statute is:

(A) directly related to the state of emergency described in Subsection (4)(a)(i); and

(B) necessary to address the state of emergency described in Subsection (4)(a)(i);

(iii) the executive order:

(A) describes how the suspension of the enforcement of the statute is:

(I) directly related to the state of emergency described in Subsection (4)(a)(i); and

(II) necessary to address the state of emergency described in Subsection (4)(a)(i); and

(B) provides the citation of the statute that is the subject of suspended enforcement;

(iv) the governor acts in good faith;

(v) the governor provides notice of the suspension of the enforcement of the statute to the speaker of the House of Representatives and the president of the Senate no later than 24 hours after suspending the enforcement of the statute; and

(vi) the governor makes the report required by Section 53-2a-210.

(b) (i) Except as provided in Subsection (4)(b)(ii), the governor may not suspend the enforcement of a criminal penalty created in statute.

(ii) The governor may suspend the enforcement of a misdemeanor or infraction if:

(A) the misdemeanor or infraction relates to food, health, or transportation; and

(B) the requirements of Subsection (4)(a) are met.

(c) A suspension described in this Subsection (4) terminates no later than the date the governor terminates the state of emergency in accordance with Section 53-2a-206 to which the suspension relates.

(d) The governor:

(i) shall provide the notice required by Subsection (4)(a)(v) using the best available method under the circumstances as determined by the governor;

(ii) may provide the notice required by Subsection (4)(a)(v) in electronic format; and

(iii) shall provide the notice in written form, if practicable.

(e) If circumstances prevent the governor from providing notice to the speaker of the House of Representatives or the president of the Senate, notice shall be provided in the best available method to the presiding member of the respective body as is reasonable.

Section 20. Section 53-2a-215 is amended to read:

53-2a-215. Requirements for long-term emergency response -- Notice.

[~~(1) As used in this section:~~]

[~~(a) "Epidemic or pandemic disease" means the same as that term is defined in Section 26-23b-102.~~]

[~~(b) "Executive action" means any of the following actions in response to an epidemic or pandemic disease:~~]

[~~(i) a declaration of a state of emergency as described in Section 53-2a-206;~~]

[~~(ii) an order, a rule, or a regulation made by the governor as described in Section 53-2a-209;~~]

[~~(iii) an action by the governor to suspend or modify a statute as described in Subsection 53-2a-204(1)(j); or~~]

[~~(iv) an action by the governor to suspend the enforcement of a statute as described in Subsection 53-2a-209(4).~~]

[~~(c) "Legislative pandemic response team" means:~~]

[~~(i) the speaker of the House of Representatives;~~]

[~~(ii) the president of the Senate;~~]

[~~(iii) the minority leader of the House of Representatives; and~~]

[~~(iv) the minority leader of the Senate.~~]

[~~(2) The Legislature finds and acknowledges that existing and increasing threats of the occurrence of an epidemic or pandemic disease emergency could greatly affect the health, safety, and welfare of the people of this state, and subject to provisions of this section, the Legislature recognizes the important role of the governor to respond to an epidemic or pandemic disease emergency through executive action.~~]

[~~(3)~~] (1) (a) (i) Except as provided in Subsection [~~(4)~~] (2), and in accordance with Subsection [~~(3)(b)~~] (1)(b), during a long-term state of emergency, the governor may not take an executive action in response to [~~an epidemic or pandemic disease~~] the emergency until the governor has provided notice of the proposed action to the legislative [~~pandemic response team~~] emergency response committee no later than 24 hours before the governor issues the executive action.

(ii) The governor:

(A) shall provide the notice required by Subsection [~~(3)~~] (1)(a)(i) using the best available method under the circumstances as determined by the governor;

(B) may provide the notice required by Subsection [~~(3)~~] (1)(a)(i) in electronic format; and

(C) shall provide the notice in written form, if practicable.

(b) Except for any conflicting provision in this section, the governor shall comply with the requirements of this chapter to take an executive action in response to a long-term emergency.

(c) If the governor takes executive action in response to [~~an epidemic or pandemic disease~~] a long-term emergency as described in this Subsection [~~(3)~~] (1), the governor is not required to provide:

(i) the notice described in Subsection 53-2a-209(4)(a)(v); or

(ii) the report described in Section 53-2a-210.

[~~(4)~~] (2) (a) The governor may take executive action in response [~~to an epidemic or pandemic disease~~] during a long-term emergency without complying with Subsection [~~(3)~~] (1) only if the governor finds that:

(i) there is an imminent threat of serious bodily injury, loss of life, or substantial harm to property; and

(ii) compliance with Subsection [~~(3)~~] (1) would increase the threat of serious bodily injury, loss of life, or substantial harm to property.

(b) If the governor takes executive action in response to [~~an epidemic or pandemic~~] a long-term emergency without complying with the requirements of Subsection [~~(3)~~] (1)(a), the governor shall provide in the executive action an explanation why the requirements of Subsection [~~(3)~~] (1)(a) were not met.

[~~(5)~~] (3) This section supersedes any conflicting provisions of Utah law.

[~~(6)~~] (4) Notwithstanding any other provision of law, the governor may not suspend the application or enforcement of this section.

Section 21. Section 53-2a-216 is amended to read:

53-2a-216. Termination of an executive action or directive.

(1) The Legislature may at any time terminate by joint resolution:

(a) an order, a rule, ordinance, or action by a chief executive officer of a county or municipality as described in Section 53-2a-205 in response to a state of emergency that has been in effect for more than 30 days;

(b) a local declaration of emergency described in Section 53-2a-208 that has been in effect for more than 30 days;

[~~(a)~~] (c) an order, a rule, or a regulation made by the governor, a municipality, county, or other agency as described in Section 53-2a-209;

[~~(b)~~] (d) an action by the governor to suspend the enforcement of a statute as described in Subsection 53-2a-209(4); or

[~~(c)~~] (e) an executive action as described in Section 53-2a-215.

(2) Notwithstanding any other provision of law, the governor may not suspend the application or enforcement of this section.

Section 22. Section 53-2a-217 is amended to read:

53-2a-217. Procurement process during an epidemic or pandemic emergency.

(1) As used in this section, "epidemic or pandemic disease" means the same as that term is defined in Section [~~53-2a-215~~] 26-23b-102.

(2) (a) During a state of emergency declared as described in Section 53-2a-206 that is in response or related to an epidemic or pandemic disease emergency, or during a national epidemic or pandemic emergency, the governor shall provide notice to the Legislature within 24 hours after an expenditure or procurement, if the expenditure or procurement:

(i) uses federal funds received as described in Subsection 53-2a-204(1)(m);

(ii) totals more than $2,000,000 or includes a line item of more than $2,000,000; and

(iii) is made using emergency procurement processes as described in Section 63G-6a-803.

(b) The governor may not divide an expenditure or procurement into multiple expenditures or procurements to fall below the $2,000,000 threshold described in Subsection (2)(a)(ii).

Section 23. Section 53-2a-218 is enacted to read:

53-2a-218. Legislative Emergency Response Committee.

(1) There is created an ad hoc committee known as the Legislative Emergency Response Committee.

(2) (a) The committee membership includes:

(i) the same membership as the Executive Appropriations Committee as constituted at the time the committee is convened;

(ii) between four and six additional members designated by the speaker of the House of Representatives, chosen from the following:

(A) one or more members of the House of Representatives that serve as chair or vice-chair of a legislative committee with a subject matter focus relevant to the current emergency;

(B) one or more members of the House of Representatives with relevant expertise or experience relevant to the current emergency; or

(C) one or more members of the House of Representatives from a minority party that serves on a relevant legislative committee or that has expertise and experience relevant to the current emergency; and

(iii) between four and six additional members designated by the president of the Senate, chosen from the following:

(A) one or more members of the Senate that serve as chair or vice-chair of a legislative committee with a subject matter focus relevant to the current emergency;

(B) one or more members of the Senate with relevant expertise or experience relevant to the current emergency; or

(C) one or more members of the Senate from a minority party that serves on a relevant legislative committee or that has expertise and experience relevant to the current emergency.

(b) The speaker of the House of Representatives and the president of the Senate shall coordinate to ensure they each appoint the same number of legislators as described under Subsections (2)(a)(ii) and (iii).

(3) The speaker of the House of Representatives and the president of the Senate shall serve as chairs of the committee.

(4) The Office of Legislative Research and General Counsel shall provide staff support to the committee.

(5) (a) If the governor declares a state of emergency as described in this chapter, and the governor finds that the emergency conditions warrant an extension of the state of emergency beyond the 30-day term or another date designated by the Legislature as described in Section 53-2a-206, the governor shall provide written notice to the speaker of the House of Representatives and the president of the Senate at least 10 days before the expiration of the state of emergency.

(b) If the speaker of the House of Representatives and the president of the Senate receive notice as described in Subsection (5)(a) for a state of emergency within the first 30 days from the initial declaration of the state of emergency, or from the Department of Health as described in Section

26-23b-104, or from a local health department as described in Section 26A-1-121, the speaker of the House of Representatives and the president of the Senate:

(i) shall poll the members of their respective bodies to determine whether the Legislature will extend the state of emergency; and

(ii) may jointly convene the committee.

(c) If the speaker of the House of Representatives and the president of the Senate receive notice as described in Subsection (5)(a) for a state of emergency that has been extended beyond 30 days from the initial declaration of a state of emergency, the speaker of the House of Representatives and the president of the Senate shall jointly convene the committee.

(6) If the committee is convened as described in Subsection (5), the committee shall conduct a public meeting to:

(a) discuss the nature of the emergency and conditions of the emergency;

(b) evaluate options for emergency response;

(c) receive testimony from individuals with expertise relevant to the current emergency;

(d) receive testimony from members of the public; and

(e) provide a recommendation to the Legislature whether to extend the state of emergency by joint resolution.

Section 24. Section 53-2a-219 is enacted to read:

53-2a-219. Religious practice during a state of emergency.

(1) During a state of emergency declared as described in this chapter:

(a) the governor or chief executive officer of a political subdivision may not impose a restriction on a religious gathering that is more restrictive than a restriction on any other relevantly similar gathering; and

(b) an individual, while acting or purporting to act within the course and scope of the individual's official government capacity, may not:

(i) prevent a religious gathering that is held in a manner consistent with any order or restriction issued pursuant to this part; or

(ii) impose a penalty for a previous religious gathering that was held in a manner consistent with any order or restriction issued pursuant to this part.

(2) Upon proper grounds, a court of competent jurisdiction may grant an injunction to prevent the violation of this section.

(3) During a state of emergency declared as described in this title, the governor or the chief executive of a political subdivision shall not issue an executive order or impose or implement a regulation that substantially burdens an individual's exercise of religion unless the governor or chief executive officer of the political subdivision demonstrates that the application of the burden to the individual:

(a) is in furtherance of a compelling government interest; and

(b) is the least restrictive means of furthering that compelling government interest.

(4) Notwithstanding Subsections (1) and (3), an executive order shall allow reasonable accommodations for an individual to perform or participate in a religious practice or rite.

Section 25. Section 53-2a-703 is amended to read:

53-2a-703. Hazardous materials emergency -- Recovery of expenses.

(1) (a) The Hazardous Chemical Emergency Response Commission may recover from those persons whose negligent actions caused the hazardous materials emergency, expenses directly associated with a response to a hazardous materials emergency taken under authority of this part, Title 53, Chapter 2a, Part 1, Emergency Management Act, or Title 53, Chapter 2a, Part 2, Disaster Response and Recovery Act, that are incurred by:

(i) a state agency;

(ii) a political subdivision as defined in [~~Subsection 53-2a-203(3)~~] Section 53-2a-203; or

(iii) an interlocal entity, described in Section 11-13-203, providing emergency services to a political subdivision pursuant to written agreement.

(b) The payment of expenses under this Subsection (1) is not an admission of liability or negligence in any legal action for damages.

(c) The Hazardous Chemical Emergency Response Commission may obtain assistance from the attorney general or a county attorney of the affected jurisdiction to assist in recovering expenses and legal fees.

(d) Any recovered costs shall be deposited in the General Fund as dedicated credits to be used by the division to reimburse an entity described in Subsection (1)(a) for costs incurred by the entity.

(2) (a) If the cost directly associated with emergency response exceeds all available funds of the division within a given fiscal year, the division, with approval from the governor, may incur a deficit in its line item budget.

(b) The Legislature shall provide a supplemental appropriation in the following year to cover the deficit.

(c) The division shall deposit all costs associated with any emergency response that are collected in subsequent fiscal years into the General Fund.

(3) Any political subdivision may enact local ordinances pursuant to existing statutory or constitutional authority to provide for the recovery of expenses incurred by the political subdivision.

Section 26. Section 63G-3-304 is amended to read:

63G-3-304. Emergency rulemaking procedure.

(1) All agencies shall comply with the rulemaking procedures of Section 63G-3-301 unless an agency finds that these procedures would:

(a) cause an imminent peril to the public health, safety, or welfare;

(b) cause an imminent budget reduction because of budget restraints or federal requirements; or

(c) place the agency in violation of federal or state law.

(2) (a) When finding that its rule is excepted from regular rulemaking procedures by this section, the agency shall file with the office and the members of the Administrative Rules Review Committee:

(i) the text of the rule; and

(ii) a rule analysis that includes the specific reasons and justifications for its findings.

(b) The office shall publish the rule in the bulletin as provided in Subsection 63G-3-301(4).

(c) The agency shall notify interested persons as provided in Subsection 63G-3-301(10).

(d) [~~The~~] Subject to Subsection 63G-3-502(4), the rule becomes effective for a period not exceeding 120 days on the date of filing or any later date designated in the rule.

(3) If the agency intends the rule to be effective beyond 120 days, the agency shall also comply with the procedures of Section 63G-3-301.

Section 27. Section 63G-3-501 is amended to read:

63G-3-501. Administrative Rules Review Committee.

(1) (a) There is created an Administrative Rules Review Committee of the following 10 permanent members:

(i) five members of the Senate appointed by the president of the Senate, no more than three of whom may be from the same political party; and

(ii) five members of the House of Representatives appointed by the speaker of the House of Representatives, no more than three of whom may be from the same political party.

(b) Each permanent member shall serve:

(i) for a two-year term; or

(ii) until the permanent member's successor is appointed.

(c) (i) A vacancy exists when a permanent member ceases to be a member of the Legislature, or when a permanent member resigns from the committee.

(ii) When a vacancy exists:

(A) if the departing member is a member of the Senate, the president of the Senate shall appoint a member of the Senate to fill the vacancy; or

(B) if the departing member is a member of the House of Representatives, the speaker of the House of Representatives shall appoint a member of the House of Representatives to fill the vacancy.

(iii) The newly appointed member shall serve the remainder of the departing member's unexpired term.

(d) (i) The president of the Senate shall designate a member of the Senate appointed under Subsection (1)(a)(i) as a cochair of the committee.

(ii) The speaker of the House of Representatives shall designate a member of the House of Representatives appointed under Subsection (1)(a)(ii) as a cochair of the committee.

(e) Three representatives and three senators from the permanent members are a quorum for the transaction of business at any meeting.

(f) (i) Subject to Subsection (1)(f)(ii), the committee shall meet at least once each month to review new agency rules, amendments to existing agency rules, and repeals of existing agency rules.

(ii) The committee chairs may suspend the meeting requirement described in Subsection (1)(f)(i) at the committee chairs' discretion.

(2) The office shall submit a copy of each issue of the bulletin to the committee.

(3) (a) The committee shall exercise continuous oversight of the rulemaking process.

(b) The committee shall examine each rule, including any rule made according to the emergency rulemaking procedure described in Section 63G-3-304, submitted by an agency to determine:

(i) whether the rule is authorized by statute;

(ii) whether the rule complies with legislative intent;

(iii) the rule's impact on the economy and the government operations of the state and local political subdivisions;

(iv) the rule's impact on affected persons;

(v) the rule's total cost to entities regulated by the state;

(vi) the rule's benefit to the citizens of the state; and

(vii) whether adoption of the rule requires legislative review or approval.

(c) The committee may examine and review:

(i) any executive order issued pursuant to Title 53, Chapter 2a, Part 2, Disaster Response and Recovery Act; or

(ii) any public health order issued during a public health emergency declared in accordance with Title

26, Utah Health Code, or Title 26A, Local Health Authorities.

[~~(c)~~] (d) (i) To carry out these duties, the committee may examine any other issues that the committee considers necessary.

(ii) The committee may also notify and refer rules to the chairs of the interim committee that has jurisdiction over a particular agency when the committee determines that an issue involved in an agency's rules may be more appropriately addressed by that committee.

[~~(d)~~] (e) In reviewing a rule, the committee shall follow generally accepted principles of statutory construction.

(4) When the committee reviews an existing rule, the committee chairs shall invite the Senate and House chairs of the standing committee and of the appropriation subcommittee that have jurisdiction over the agency whose existing rule is being reviewed to participate as nonvoting, ex officio members with the committee.

(5) The committee may request that the Office of the Legislative Fiscal Analyst prepare a fiscal note on any rule.

(6) In order to accomplish the committee's functions described in this chapter, the committee has all the powers granted to legislative interim committees under Section 36-12-11.

(7) (a) The committee may prepare written findings of the committee's review of a rule or policy and may include any recommendation, including legislative action.

(b) When the committee reviews a rule, the committee shall provide to the agency that enacted the rule:

(i) the committee's findings, if any; and

(ii) a request that the agency notify the committee of any changes the agency makes to the rule.

(c) The committee shall provide a copy of the committee's findings, if any, to:

(i) any member of the Legislature, upon request;

(ii) any person affected by the rule, upon request;

(iii) the president of the Senate;

(iv) the speaker of the House of Representatives;

(v) the Senate and House chairs of the standing committee that has jurisdiction over the agency that made the rule; and

(vi) the Senate and House chairs of the appropriation subcommittee that has jurisdiction over the agency that made the rule.

(8) (a) (i) The committee may submit a report on the committee's review of state agency rules to each member of the Legislature at each regular session.

(ii) The report shall include:

(A) any finding or recommendation the committee made under Subsection (7);

(B) any action an agency took in response to a committee recommendation; and

(C) any recommendation by the committee for legislation.

(b) If the committee receives a recommendation not to reauthorize a rule, as described in Subsection 63G-3-301(13)(b), and the committee recommends to the Legislature reauthorization of the rule, the committee shall submit a report to each member of the Legislature detailing the committee's decision.

Section 28. Section 63G-3-502 is amended to read:

63G-3-502. Legislative reauthorization of agency rules -- Extension of rules by governor.

(1) All grants of rulemaking power from the Legislature to a state agency in any statute are made subject to the provisions of this section.

(2) (a) Except as provided in Subsection (2)(b), every agency rule that is in effect on February 28 of any calendar year expires on May 1 of that year unless it has been reauthorized by the Legislature.

(b) Notwithstanding the provisions of Subsection (2)(a), an agency's rules do not expire if:

(i) the rule is explicitly mandated by a federal law or regulation; or

(ii) a provision of Utah's constitution vests the agency with specific constitutional authority to regulate.

(3) (a) The Administrative Rules Review Committee shall have omnibus legislation prepared for consideration by the Legislature during its annual general session.

(b) The omnibus legislation shall be substantially in the following form: "All rules of Utah state agencies are reauthorized except for the following:".

(c) Before sending the legislation to the governor for the governor's action, the Administrative Rules Review Committee may send a letter to the governor and to the agency explaining specifically why the committee believes any rule should not be reauthorized.

(d) For the purpose of this section, the entire rule, a single section, or any complete paragraph of a rule may be excepted for reauthorization in the omnibus legislation considered by the Legislature.

(4) (a) The Administrative Rules Review Committee may have legislation prepared for consideration by the Legislature in the annual general session or a special session regarding any rule made according to emergency rulemaking procedures described in Section 63G-3-304.

[~~(4)~~] (5) The Legislature's reauthorization of a rule by legislation does not constitute legislative approval of the rule, nor is it admissible in any proceeding as evidence of legislative intent.

[~~(5)~~] (6) (a) If an agency believes that a rule that has not been reauthorized by the Legislature or that will be allowed to expire should continue in full force and effect and is a rule within their authorized rulemaking power, the agency may seek the governor's declaration extending the rule beyond the expiration date.

(b) In seeking the extension, the agency shall submit a petition to the governor that affirmatively states:

(i) that the rule is necessary; and

(ii) a citation to the source of its authority to make the rule.

(c) (i) If the governor finds that the necessity does exist, and that the agency has the authority to make the rule, the governor may declare the rule to be extended by publishing that declaration in the Administrative Rules Bulletin on or before April 15 of that year.

(ii) The declaration shall set forth the rule to be extended, the reasons the extension is necessary, and a citation to the source of the agency's authority to make the rule.

(d) If the omnibus bill required by Subsection (3) fails to pass both houses of the Legislature or is found to have a technical legal defect preventing reauthorization of administrative rules intended to be reauthorized by the Legislature, the governor may declare all rules to be extended by publishing a single declaration in the Administrative Rules Bulletin on or before June 15 without meeting requirements of Subsections [~~(5)~~] (6)(b) and (c).

CHAPTER 438
S. B. 224
Passed March 4, 2021
Approved March 17, 2021
Effective May 5, 2021
(Exception clause)

FUND OF FUNDS AMENDMENTS

Chief Sponsor: Scott D. Sandall
House Sponsor: Steve Waldrip

LONG TITLE

General Description:

This bill modifies provisions of the Utah Venture Capital Enhancement Act.

Highlighted Provisions:

This bill:

- defines terms;
- modifies the authorized uses of redemption reserves by the Utah Capital Investment Corporation (corporation);
- creates the Utah Capital Investment Restricted Account;
- directs the corporation to transfer $20,000,000 to the state treasurer for deposit into the Utah Capital Investment Restricted Account;
- modifies the authority of the corporation to issue certificates for contingent tax credits;
- requires the corporation to provide a written report making recommendations regarding the future of the corporation;
- modifies provisions related to the corporation's board of directors; and
- makes technical changes.

Monies Appropriated in this Bill:

This bill appropriates in fiscal year 2022:

- to the Division of Parks -- Capital Budget -- Renovation and Development, as a one-time appropriation:
  - from the General Fund Restricted -- Utah Capital Investment Restricted Account, $10,000,000.

Other Special Clauses:

This bill provides retrospective operation.

Utah Code Sections Affected:

AMENDS:

63J-1-602.1, as last amended by Laws of Utah 2020, Fifth Special Session, Chapter 4
63N-6-103, as last amended by Laws of Utah 2019, Chapter 214
63N-6-301, as last amended by Laws of Utah 2017, Chapter 18
63N-6-303, as last amended by Laws of Utah 2015, Chapter 420 and renumbered and amended by Laws of Utah 2015, Chapter 283
63N-6-402, as renumbered and amended by Laws of Utah 2015, Chapter 283
63N-6-406, as last amended by Laws of Utah 2019, Chapter 214

ENACTS:

63N-6-204, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63J-1-602.1 is amended to read:

63J-1-602.1. List of nonlapsing appropriations from accounts and funds.

Appropriations made from the following accounts or funds are nonlapsing:

(1) The Utah Intracurricular Student Organization Support for Agricultural Education and Leadership Restricted Account created in Section 4-42-102.

(2) The Native American Repatriation Restricted Account created in Section 9-9-407.

(3) The Martin Luther King, Jr. Civil Rights Support Restricted Account created in Section 9-18-102.

(4) The National Professional Men's Soccer Team Support of Building Communities Restricted Account created in Section 9-19-102.

(5) Funds collected for directing and administering the C-PACE district created in Section 11-42a-106.

(6) Money received by the Utah Inland Port Authority, as provided in Section 11-58-105.

(7) The "Latino Community Support Restricted Account" created in Section 13-1-16.

(8) The Clean Air Support Restricted Account created in Section 19-1-109.

(9) The "Support for State-Owned Shooting Ranges Restricted Account" created in Section 23-14-13.5.

(10) Award money under the State Asset Forfeiture Grant Program, as provided under Section 24-4-117.

(11) Funds collected from the program fund for local health department expenses incurred in responding to a local health emergency under Section 26-1-38.

(12) The Children with Cancer Support Restricted Account created in Section 26-21a-304.

(13) State funds for matching federal funds in the Children's Health Insurance Program as provided in Section 26-40-108.

(14) The Children with Heart Disease Support Restricted Account created in Section 26-58-102.

(15) The Nurse Home Visiting Restricted Account created in Section 26-63-601.

(16) The Technology Development Restricted Account created in Section 31A-3-104.

(17) The Criminal Background Check Restricted Account created in Section 31A-3-105.

(18) The Captive Insurance Restricted Account created in Section 31A-3-304, except to the extent that Section 31A-3-304 makes the money received under that section free revenue.

(19) The Title Licensee Enforcement Restricted Account created in Section 31A-23a-415.

(20) The Health Insurance Actuarial Review Restricted Account created in Section 31A-30-115.

(21) The Insurance Fraud Investigation Restricted Account created in Section 31A-31-108.

(22) The Underage Drinking Prevention Media and Education Campaign Restricted Account created in Section 32B-2-306.

(23) The School Readiness Restricted Account created in Section 35A-15-203.

(24) Money received by the Utah State Office of Rehabilitation for the sale of certain products or services, as provided in Section 35A-13-202.

(25) The Oil and Gas Administrative Penalties Account created in Section 40-6-11.

(26) The Oil and Gas Conservation Account created in Section 40-6-14.5.

(27) The Electronic Payment Fee Restricted Account created by Section 41-1a-121 to the Motor Vehicle Division.

(28) The Motor Vehicle Enforcement Division Temporary Permit Restricted Account created by Section 41-3-110 to the State Tax Commission.

(29) The Utah Law Enforcement Memorial Support Restricted Account created in Section 53-1-120.

(30) The State Disaster Recovery Restricted Account to the Division of Emergency Management, as provided in Section 53-2a-603.

(31) The Department of Public Safety Restricted Account to the Department of Public Safety, as provided in Section 53-3-106.

(32) The Utah Highway Patrol Aero Bureau Restricted Account created in Section 53-8-303.

(33) The DNA Specimen Restricted Account created in Section 53-10-407.

(34) The Canine Body Armor Restricted Account created in Section 53-16-201.

(35) The Technical Colleges Capital Projects Fund created in Section 53B-2a-118.

(36) The Higher Education Capital Projects Fund created in Section 53B-22-202.

(37) A certain portion of money collected for administrative costs under the School Institutional Trust Lands Management Act, as provided under Section 53C-3-202.

(38) The Public Utility Regulatory Restricted Account created in Section 54-5-1.5, subject to Subsection 54-5-1.5(4)(d).

(39) Funds collected from a surcharge fee to provide certain licensees with access to an electronic reference library, as provided in Section 58-3a-105.

(40) Certain fines collected by the Division of Occupational and Professional Licensing for violation of unlawful or unprofessional conduct that are used for education and enforcement purposes, as provided in Section 58-17b-505.

(41) Funds collected from a surcharge fee to provide certain licensees with access to an electronic reference library, as provided in Section 58-22-104.

(42) Funds collected from a surcharge fee to provide certain licensees with access to an electronic reference library, as provided in Section 58-55-106.

(43) Funds collected from a surcharge fee to provide certain licensees with access to an electronic reference library, as provided in Section 58-56-3.5.

(44) Certain fines collected by the Division of Occupational and Professional Licensing for use in education and enforcement of the Security Personnel Licensing Act, as provided in Section 58-63-103.

(45) The Relative Value Study Restricted Account created in Section 59-9-105.

(46) The Cigarette Tax Restricted Account created in Section 59-14-204.

(47) Funds paid to the Division of Real Estate for the cost of a criminal background check for a mortgage loan license, as provided in Section 61-2c-202.

(48) Funds paid to the Division of Real Estate for the cost of a criminal background check for principal broker, associate broker, and sales agent licenses, as provided in Section 61-2f-204.

(49) Certain funds donated to the Department of Human Services, as provided in Section 62A-1-111.

(50) The National Professional Men's Basketball Team Support of Women and Children Issues Restricted Account created in Section 62A-1-202.

(51) Certain funds donated to the Division of Child and Family Services, as provided in Section 62A-4a-110.

(52) The Choose Life Adoption Support Restricted Account created in Section 62A-4a-608.

(53) Funds collected by the Office of Administrative Rules for publishing, as provided in Section 63G-3-402.

(54) The Immigration Act Restricted Account created in Section 63G-12-103.

(55) Money received by the military installation development authority, as provided in Section 63H-1-504.

(56) The Computer Aided Dispatch Restricted Account created in Section 63H-7a-303.

(57) The Unified Statewide 911 Emergency Service Account created in Section 63H-7a-304.

(58) The Utah Statewide Radio System Restricted Account created in Section 63H-7a-403.

(59) The Employability to Careers Program Restricted Account created in Section 63J-4-703.

(60) The Utah Capital Investment Restricted Account created in Section 63N-6-204.

[~~(60)~~] (61) The Motion Picture Incentive Account created in Section 63N-8-103.

[~~(61)~~] (62) Certain money payable for expenses of the Pete Suazo Utah Athletic Commission, as provided under Section 63N-10-301.

[~~(62)~~] (63) Funds collected by the housing of state probationary inmates or state parole inmates, as provided in Subsection 64-13e-104(2).

[~~(63)~~] (64) Certain forestry and fire control funds utilized by the Division of Forestry, Fire, and State Lands, as provided in Section 65A-8-103.

[~~(64)~~] (65) The Transportation of Veterans to Memorials Support Restricted Account created in Section 71-14-102.

[~~(65)~~] (66) The Amusement Ride Safety Restricted Account, as provided in Section 72-16-204.

[~~(66)~~] (67) Certain funds received by the Office of the State Engineer for well drilling fines or bonds, as provided in Section 73-3-25.

[~~(67)~~] (68) The Water Resources Conservation and Development Fund, as provided in Section 73-23-2.

[~~(68)~~] (69) Funds donated or paid to a juvenile court by private sources, as provided in Subsection 78A-6-203(1)(c).

[~~(69)~~] (70) Fees for certificate of admission created under Section 78A-9-102.

[~~(70)~~] (71) Funds collected for adoption document access as provided in Sections 78B-6-141, 78B-6-144, and 78B-6-144.5.

[~~(71)~~] (72) Funds collected for indigent defense as provided in Title 78B, Chapter 22, Part 4, Utah Indigent Defense Commission.

[~~(72)~~] (73) Revenue for golf user fees at the Wasatch Mountain State Park, Palisades State Park, Jordan River State Park, and Green River State Park, as provided under Section 79-4-403.

[~~(73)~~] (74) Certain funds received by the Division of Parks and Recreation from the sale or disposal of buffalo, as provided under Section 79-4-1001.

[~~(74)~~] (75) The Drinking While Pregnant Prevention Media and Education Campaign Restricted Account created in Section 32B-2-308.

Section 2. Section 63N-6-103 is amended to read:

63N-6-103. Definitions.

As used in this part:

(1) "Board" means the Utah Capital Investment Board.

(2) "Certificate" means a contract between the board and a designated investor under which a contingent tax credit is available and issued to the designated investor.

(3) (a) Except as provided in Subsection (3)(b), "claimant" means a resident or nonresident person.

(b) "Claimant" does not include an estate or trust.

(4) "Commitment" means a written commitment by a designated purchaser to purchase from the board certificates presented to the board for redemption by a designated investor. Each commitment shall state the dollar amount of contingent tax credits that the designated purchaser has committed to purchase from the board.

(5) "Contingent tax credit" means a contingent tax credit issued under this part that is available against tax liabilities imposed by Title 59, Chapter 7, Corporate Franchise and Income Taxes, or Title 59, Chapter 10, Individual Income Tax Act, if there are insufficient funds in the redemption reserve and the board has not exercised other options for redemption under Subsection 63N-6-408(3)(b).

(6) "Corporation" means the Utah Capital Investment Corporation created under Section 63N-6-301.

(7) "Designated investor" means:

(a) a person who makes a private investment; or

(b) a transferee of a certificate or contingent tax credit.

(8) "Designated purchaser" means:

(a) a person who enters into a written undertaking with the board to purchase a commitment; or

(b) a transferee who assumes the obligations to make the purchase described in the commitment.

(9) "Estate" means a nonresident estate or a resident estate.

(10) "Person" means an individual, partnership, limited liability company, corporation, association, organization, business trust, estate, trust, or any other legal or commercial entity.

(11) "Private investment" means:

(a) an equity interest in the Utah fund of funds; or

(b) a loan to the Utah fund of funds initiated before July 1, 2014, including a loan that was originated before July 1, 2014, and that is refinanced one or more times on or after July 1, 2014.

(12) "Redemption reserve" means the reserve established by the corporation to:

(a) facilitate the cash redemption of certificates[~~.~~]; and

(b) provide money for the state as directed by statute.

(13) "Restricted account" means the Utah Capital Investment Restricted Account created in Section 63N-6-204.

[~~(13)~~] (14) "Taxpayer" means a taxpayer:

(a) of an investor; and

(b) if that taxpayer is a:

(i) claimant;

(ii) estate; or

(iii) trust.

[~~(14)~~] (15) "Trust" means a nonresident trust or a resident trust.

[~~(15)~~] (16) "Utah fund of funds" means a limited partnership or limited liability company established under Section 63N-6-401 in which a designated investor purchases an equity interest.

Section 3. Section 63N-6-204 is enacted to read:

Part 2. Utah Capital Investment Board and Restricted Account

63N-6-204. Utah Capital Investment Restricted Account.

(1) There is created a restricted account within the General Fund known as the Utah Capital Investment Restricted Account.

(2) The restricted account shall be funded by:

(a) redemption reserve money and other money from the corporation as directed by statute; and

(b) appropriations made to the account by the Legislature.

(3) The state treasurer shall:

(a) invest money in the restricted account in accordance with Title 51, Chapter 7, State Money Management Act; and

(b) deposit interest or other earnings derived from investment of restricted account money into the restricted account.

(4) Subject to appropriations by the Legislature, the restricted account shall be administered by the Governor's Office of Economic Development for economic development, infrastructure, state parks, recreation, education innovation, or other purposes as directed by the Legislature.

(5) An appropriation from the restricted account is nonlapsing.

Section 4. Section 63N-6-301 is amended to read:

63N-6-301. Utah Capital Investment Corporation -- Powers and purposes -- Reporting requirements.

(1) (a) There is created an independent quasi-public nonprofit corporation known as the Utah Capital Investment Corporation.

(b) The corporation:

(i) may exercise all powers conferred on independent corporations under Section 63E-2-106;

(ii) is subject to the prohibited participation provisions of Section 63E-2-107; and

(iii) is subject to the other provisions of Title 63E, Chapter 2, Independent Corporations Act, except as otherwise provided in this part.

(c) The corporation shall file with the Division of Corporations and Commercial Code:

(i) articles of incorporation; and

(ii) any amendment to its articles of incorporation.

(d) In addition to the articles of incorporation, the corporation may adopt bylaws and operational policies that are consistent with this chapter.

(e) Except as otherwise provided in this part, this part does not exempt the corporation from the requirements under state law which apply to other corporations organized under Title 63E, Chapter 2, Independent Corporations Act.

(2) The purposes of the corporation are to:

(a) organize the Utah fund of funds;

(b) select an investment fund allocation manager to make venture capital and private equity fund investments by the Utah fund of funds;

(c) negotiate the terms of a contract with the investment fund allocation manager;

(d) execute the contract with the selected investment fund manager on behalf of the Utah fund of funds;

(e) receive funds paid by designated investors for the issuance of certificates by the board for private investment in the Utah fund of funds;

(f) receive investment returns from the Utah fund of funds; and

(g) establish the redemption reserve to be used by the corporation to:

(i) redeem certificates[~~.~~]; and

(ii) provide money for the state as directed by statute.

(3) The corporation may not:

(a) exercise governmental functions;

(b) have members;

(c) pledge the credit or taxing power of the state or any political subdivision of the state; or

(d) make its debts payable out of any money except money of the corporation.

(4) The obligations of the corporation are not obligations of the state or any political subdivision of the state within the meaning of any constitutional or statutory debt limitations, but are

obligations of the corporation payable solely and only from the corporation's funds.

(5) The corporation may:

(a) engage consultants and legal counsel;

(b) expend funds;

(c) invest funds;

(d) issue debt and equity, and borrow funds;

(e) enter into contracts;

(f) insure against loss;

(g) hire employees; and

(h) perform any other act necessary to carry out its purposes.

(6) (a) The corporation shall, in consultation with the board, publish on or before September 1 an annual report of the activities conducted by the Utah fund of funds and submit, in accordance with Section 68-3-14, the written report to:

(i) the governor;

(ii) the Business, Economic Development, and Labor Appropriations Subcommittee;

(iii) the Business and Labor Interim Committee; and

(iv) the Retirement and Independent Entities Interim Committee.

(b) The annual report shall:

(i) be designed to provide clear, accurate, and accessible information to the public, the governor, and the Legislature;

(ii) include a copy of the audit of the Utah fund of funds described in Section 63N-6-405;

(iii) include a detailed balance sheet, revenue and expenses statement, and cash flow statement;

(iv) include detailed information regarding new fund commitments made during the year, including the amount of money committed;

(v) include the net rate of return of the Utah fund of funds from the inception of the Utah fund of funds, after accounting for all expenses, including administrative and financing costs;

(vi) include detailed information regarding:

(A) realized gains from investments and any realized losses; and

(B) unrealized gains and any unrealized losses based on the net present value of ongoing investments;

(vii) include detailed information regarding all yearly expenditures, including:

(A) administrative, operating, and financing costs;

(B) aggregate compensation information for full- and part-time employees, including benefit and travel expenses; and

(C) expenses related to the allocation manager;

(viii) include detailed information regarding all funding sources for administrative, operations, and financing expenses, including expenses charged by or to the Utah fund of funds, including management and placement fees;

(ix) review the progress of the investment fund allocation manager in implementing its investment plan and provide a general description of the investment plan;

(x) for each individual fund that the Utah fund of funds is invested in that represents at least 5% of the net assets of the Utah fund of funds, include the name of the fund, the total value of the fund, the fair market value of the Utah fund of funds' investment in the fund, and the percentage of the total value of the fund held by the Utah fund of funds;

(xi) include the number of companies in Utah where an investment was made from a fund that the Utah fund of funds is invested in, and provide an aggregate count of new full-time employees in the state added by all companies where investments were made by funds that the Utah fund of funds is invested in;

(xii) include an aggregate total value for all funds the Utah fund of funds is invested in, and an aggregate total amount of money invested in the state by the funds the Utah fund of funds is invested in;

(xiii) describe any redemption or transfer of a certificate issued under this part;

(xiv) include actual and estimated potential appropriations the Legislature will be required to provide as a result of redeemed certificates or tax credits during the following five years;

(xv) include an evaluation of the state's progress in accomplishing the purposes stated in Section 63N-6-102; and

(xvi) be directly accessible to the public via a link from the main page of the Utah fund of fund's website.

(c) The annual report may not identify a specific designated investor who has redeemed or transferred a certificate.

(7) (a) On or before December 1, 2021, the corporation shall provide a written report to the president of the Senate and the speaker of the House of Representatives that includes a detailed plan, time line, and recommendations for the future of the corporation.

(b) The plan shall include recommendations describing:

(i) the divestment of the state from any future liability of the corporation and a time line for realizing gains and winding down all investments from the current Utah fund of funds;

(ii) any plans that the corporation has to raise capital for a fund similar to the current Utah fund of funds that does not require certificates, contingent tax credits, or other guarantees from the state to be provided to equity investors;

(iii) whether the corporation should continue as an independent quasi-public nonprofit corporation under Title 63E, Chapter 2, Independent Corporations Act;

(iv) if the corporation recommends continuing as an independent quasi-public nonprofit corporation, why the corporation should continue, and what benefits the corporation will provide to the state in terms of economic development, job growth, or other benefits;

(v) whether the corporation should be liquidated or dissolved under Section 63N-3-306;

(vi) if the corporation recommends that the corporation be liquidated or dissolved, a detailed plan and time line for dissolution that includes recommendations regarding how assets and realized gains of the corporation should be distributed;

(vii) whether the corporation should be privatized in accordance with Title 63E, Chapter 1, Part 4, Privatization of Independent Entities; and

(viii) if the corporation recommends that the corporation be privatized, a detailed plan and time line for privatization that includes recommendations regarding the distribution of assets and realized gains of the corporation.

(8) In relation to the written report described in Subsection (7), the corporation:

(a) may seek potential commitments through letters of intent or other means to demonstrate the viability of raising capital for a new fund as described in Subsection (7)(b)(ii); and

(b) may not enter into any binding commitments related to a new fund as described in Subsection (7)(b)(ii), unless the corporation receives specific authorization through legislation passed by the Legislature after the report described in Subsection (7) is provided.

Section 5. Section 63N-6-303 is amended to read:

63N-6-303. Board of directors.

(1) The initial board of directors of the corporation shall consist of five members.

(2) The persons elected to the initial board of directors by the appointment committee shall include persons who have an expertise, as considered appropriate by the appointment committee, in the areas of:

(a) the selection and supervision of investment managers;

(b) fiduciary management of investment funds; and

(c) other areas of expertise as considered appropriate by the appointment committee.

(3) After the election of the initial board of directors, vacancies in the board of directors of the corporation shall be filled by election by the remaining directors of the corporation.

(4) (a) Board members shall serve four-year terms, except that of the five initial members:

(i) two shall serve four-year terms;

(ii) two shall serve three-year terms; and

(iii) one shall serve a two-year term.

(b) Board members shall serve until their successors are elected and qualified and may serve up to a maximum of two successive terms.

(c) A majority of the board members may remove a board member for cause.

(d) (i) The board shall select a chair by majority vote.

(ii) The chair's term is for one year, which may be extended annually by a majority vote of the members of the board of directors.

(5) Three members of the board are a quorum for the transaction of business.

(6) Members of the board of directors:

(a) are subject to any restrictions on conflicts of interest specified in the organizational documents of the corporation;

(b) shall annually disclose any venture capital and private equity interests to the corporation; and

(c) may not participate in a vote by the board of directors related to an investment by the Utah fund of funds, if the member has an interest in the investment.

(7) Directors of the corporation:

(a) shall be compensated for direct expenses and mileage; and

(b) may not receive a director's fee or salary for service as directors.

Section 6. Section 63N-6-402 is amended to read:

63N-6-402. Compensation from the Utah fund of funds to the corporation -- Redemption reserve.

(1) The corporation shall be compensated for its involvement in the Utah fund of funds through the payment of the management fee described in Section 63N-6-305.

(2) Before any returns may be reinvested in the Utah fund of funds:

(a) any returns shall be paid to designated investors, including the repayment by the Utah fund of funds of any outstanding loans;

(b) any returns in excess of those payable to designated investors shall be deposited in the redemption reserve and shall be:

(i) held by the corporation as a first priority reserve for the redemption of certificates; and

(ii) used by the corporation to provide money for the state as directed by statute;

(c) any returns received by the corporation from investment of amounts held in the redemption

reserve that are not used to provide money for the state as directed by statute shall be added to the redemption reserve until [~~it~~] the redemption reserve has reached a total of $250,000,000; and

(d) if at the end of a calendar year the redemption reserve exceeds the $250,000,000 limitation referred to in Subsection (2)(c), the corporation may reinvest the excess in the Utah fund of funds.

(3) Funds held by the corporation in the redemption reserve shall be invested in accordance with Title 51, Chapter 7, State Money Management Act.

(4) (a) By June 30, 2021, the corporation shall transfer $20,000,000 from the redemption reserve or other assets of the corporation to the state treasurer.

(b) The state treasurer shall deposit the money described in Subsection (4)(a) into the restricted account.

Section 7. Section 63N-6-406 is amended to read:

63N-6-406. Certificates and contingent tax credits.

(1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the board, in consultation with the State Tax Commission, shall make rules governing the application for, form, issuance, transfer, and redemption of certificates.

(2) The board's issuance of certificates and related contingent tax credits to designated investors is subject to the following:

(a) the aggregate outstanding certificates may not exceed a total of:

(i) $130,000,000 of contingent tax credits used as collateral or a guarantee on loans for the debt-based financing of investments in the Utah fund of funds initiated before July 1, 2014, or $120,000,000 of contingent tax credits for a loan refinanced using debt- or equity-based financing as described in Subsection (2)(e); and

(ii) $100,000,000 used as an incentive for equity investments in the Utah fund of funds;

(b) the board shall issue a certificate contemporaneously with a debt-based investment in the Utah fund of funds by a designated investor, including a refinanced loan as described in Subsection (2)(e);

(c) the board shall issue contingent tax credits in a manner that not more than $20,000,000 of contingent tax credits for each $100,000,000 increment of contingent tax credits may be redeemable in a fiscal year;

(d) the credits are certifiable if there are insufficient funds in the redemption reserve to make a cash redemption and the board does not exercise its other options under Subsection 63N-6-408(3)(b);

(e) the board may not issue additional certificates as collateral or a guarantee on a loan for the debt-based financing of investments in the Utah fund of funds that is initiated after July 1, 2014, except for a loan that was originated before July 1, 2014, and that is refinanced one or more times using debt- or equity-based financing [~~on or after July 1, 2014, that was originated before July 1, 2014; and~~]:

(i) on or after July 1, 2014; and

(ii) before January 1, 2021;

(f) after July 1, 2014, the board may issue certificates that represent no more than 100% of the principal of each equity investment in the Utah fund of funds[~~.~~]; and

(g) after January 1, 2021, the board may no longer issue certificates:

(i) as collateral or a guarantee on a loan for debt-based financing on investments in the Utah fund of funds; or

(ii) related to equity-based private investments in the Utah fund of funds.

(3) For an equity-based private investment initiated on or after July 1, 2015, and before January 1, 2021, the applicable designated investor may apply for a tax credit if the following criteria are met:

(a) the Utah fund of funds has received payment from the designated investor as set forth in the investor's agreement with the Utah fund of funds;

(b) the designated investor has not received a return of the initial equity investment in the time established in the investor's agreement with the Utah fund of funds;

(c) there are insufficient funds in the redemption reserve to make a cash redemption and the board does not exercise its other options under Subsection 63N-6-408(3)(b); and

(d) there is a demonstrated positive impact on economic development in the state related to the Utah fund of funds' investments or the success of the corporation's economic development plan in the state, which shall be measured by:

(i) a method to calculate the impact on economic development in the state, established by rule; and

(ii) the corporation, with approval of the board, engaging an independent third party to evaluate the Utah fund of funds and determine the economic impact of the Utah fund of funds and the activities of the corporation as further described in Section 63N-6-203 and board rules.

(4) In determining the maximum limits in Subsections (2)(a)(i) and (ii) and the $20,000,000 limitation for each $100,000,000 increment of contingent tax credits in Subsection (2)[~~(b)~~](c):

(a) the board shall use the cumulative amount of scheduled aggregate returns on certificates issued by the board to designated investors;

(b) certificates and related contingent tax credits that have expired may not be included; and

(c) certificates and related contingent tax credits that have been redeemed shall be included only to the extent of tax credits actually allowed.

(5) Contingent tax credits are subject to the following:

(a) a contingent tax credit may not be redeemed except by a designated investor in accordance with the terms of a certificate from the board;

(b) a contingent tax credit may not be redeemed prior to the time the Utah fund of funds receives full payment from the designated investor for the certificate as established in the agreement with the Utah fund of funds;

(c) a contingent tax credit shall be claimed for a tax year that begins during the calendar year maturity date stated on the certificate;

(d) an investor who redeems a certificate and the related contingent tax credit shall allocate the amount of the contingent tax credit to the taxpayers of the investor based on the taxpayer's pro rata share of the investor's earnings; and

(e) a contingent tax credit shall be claimed as a refundable credit.

(6) In calculating the amount of a contingent tax credit:

(a) the board shall certify a contingent tax credit only if the actual return, or payment of principal and interest for a loan initiated before July 1, 2014, including a loan refinanced one or more times on or after July 1, 2014, that was originated before July 1, 2014, to the designated investor is less than that targeted at the issuance of the certificate;

(b) the amount of the contingent tax credit for a designated investor with an equity interest may not exceed the difference between the actual principal investment of the designated investor in the Utah fund of funds and the aggregate actual return received by the designated investor and any predecessor in interest of the initial equity investment and interest on the initial equity investment;

(c) the rates, whether fixed rates or variable rates, shall be determined by a formula stipulated in the certificate; and

(d) the amount of the contingent tax credit for a designated investor with an outstanding loan to the Utah fund of funds initiated before July 1, 2014, including a loan refinanced one or more times on or after July 1, 2014, that was originated before July 1, 2014, may be equal to no more than the amount of any principal, interest, or interest equivalent unpaid at the redemption of the loan or other obligation, as stipulated in the certificate.

(7) The board shall clearly indicate on the certificate:

(a) the targeted return on the invested capital, if the private investment is an equity interest;

(b) the payment schedule of principal, interest, or interest equivalent, if the private investment is a loan initiated before July 1, 2014, including a loan refinanced one or more times on or after July 1, 2014, that was originated before July 1, 2014;

(c) the amount of the initial private investment;

(d) the calculation formula for determining the scheduled aggregate return on the initial equity investment, if applicable; and

(e) the calculation formula for determining the amount of the contingent tax credit that may be claimed.

(8) Once a certificate is issued, a certificate:

(a) is binding on the board; and

(b) may not be modified, terminated, or rescinded.

(9) Funds invested by a designated investor for a certificate shall be paid to the corporation for placement in the Utah fund of funds.

(10) The State Tax Commission may, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and in consultation with the board, make rules to help implement this section.

Section 8. Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2021, and ending June 30, 2022. These are additions to amounts previously appropriated for fiscal year 2022. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 1

To Division of Parks -- Capital Budget

From General Fund Restricted —
Utah Capital Investment Restricted Account, One-time $10,000,000

Schedule of Programs:

Renovation and Development $10,000,000

The Legislature intends that the appropriation described in ITEM 1:

(1) not lapse at the close of fiscal year 2022 under Section 63J-1-603; and

(2) be used by the Division of Parks for the Utahraptor State Park and the Lost Creek State Park.

Section 9. Retrospective operation.

The changes to Section 63N-6-406 in this bill have retrospective operation for a taxable year beginning on or after January 1, 2021.

CHAPTER 439
H. B. 2
Passed March 2, 2021
Approved March 25, 2021
Effective March 25, 2021
(Exception clause in Section 10)

PUBLIC EDUCATION BUDGET AMENDMENTS

Chief Sponsor: Steve Eliason
Senate Sponsor: Lincoln Fillmore

LONG TITLE

General Description:

This bill supplements or reduces appropriations otherwise provided for the support and operation of public education for the fiscal year beginning July 1, 2020, and ending June 30, 2021, and for the fiscal year beginning July 1, 2021, and ending June 30, 2022.

Highlighted Provisions:

This bill:

- provides appropriations for the use and support of school districts, charter schools, and state education agencies;
- directs the State Board of Education on how to execute certain funding programs;
- provides appropriations for other purposes as described;
- amends and enacts provisions related to certain appropriations for public education, including:
  - allowing the State Board of Education (state board) to use data from fiscal year 2020 for certain funding formulas in certain circumstances;
  - allowing the state board to distribute funds to mitigate funding losses associated with the elimination of the Administrative Cost Program;
  - requiring the state board to allocate funds for English language learner software; and
  - providing the State Charter School Board with increased budgetary autonomy;
- makes technical and conforming changes; and
- provides intent language.

Monies Appropriated in this Bill:

This bill appropriates $50,561,400 in operating and capital budgets for fiscal year 2021, including:

- $3,851,200 from the Education Fund; and
- $46,710,200 from various sources as detailed in this bill. This bill appropriates $2,270,000 in transfers to unrestricted funds for fiscal year 2021. This bill appropriates $100,384,400 in operating and capital budgets for fiscal year 2022, including:
- $100 from the General Fund;
- $28,288,700 from the Uniform School Fund;
- $29,786,500 from the Education Fund; and
- $42,309,100 from various sources as detailed in this bill.

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

53E-5-302, as last amended by Laws of Utah 2019, Chapter 186
53F-2-304, as last amended by Laws of Utah 2020, Sixth Special Session, Chapter 9
53F-2-706, as enacted by Laws of Utah 2020, Fifth Special Session, Chapter 14
53G-5-202, as last amended by Laws of Utah 2018, Chapter 383 and renumbered and amended by Laws of Utah 2018, Chapter 3

ENACTS:

53F-2-209, Utah Code Annotated 1953
53F-2-418, Utah Code Annotated 1953

REPEALS:

53F-5-212, as last amended by Laws of Utah 2020, Chapters 354 and 408

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53E-5-302 is amended to read:

53E-5-302. State board to designate low performing schools -- Needs assessment.

(1) Except as provided in Subsection (4), the state board shall:

(a) annually designate a school as a low performing school; and

(b) conduct a needs assessment for a low performing school by thoroughly analyzing the root causes of the low performing school's low performance.

(2) The state board may use up to 5% of the appropriation provided under this part to hire or contract with one or more individuals to conduct a needs assessment described in Subsection (1)(b).

(3) A school that was designated as a low performing school based on 2015-2016 school year performance that is not in the lowest performing 3% of schools statewide following the 2016-2017 school year is exempt from the provisions of this part.

(4) (a) The state board is not required to designate as a low performing school a school for which the state board is not required to assign an overall rating in accordance with Section 53E-5-204.

(b) The requirement to designate a school as a low-performing school described in Subsection (1) does not apply in the school year immediately following the 2020-2021 or 2021-2022 school year.

Section 2. Section 53F-2-209 is enacted to read:

53F-2-209. (Codified as 53F-2-210) Use of data to determine funding in fiscal years 2021 and 2022.

(1) For fiscal years 2021 and 2022, if data necessary for programmatic funding distributions to LEAs is inconsistent due to adjustments related to effects of the COVID-19 emergency, the state board may use the analogous data from fiscal year 2020 or the 2019-2020 school year, at the state

board's discretion to execute programmatic funding distributions to LEAs.

(2) The state board shall report to the Public Education Appropriations Subcommittee before September 30, 2021, on instances in which the board used fiscal year 2020 data under Subsection (1).

Section 3. Section 53F-2-304 is amended to read:

53F-2-304. Necessarily existent small schools -- Computing additional weighted pupil units -- Consolidation of small schools.

(1) As used in this section, "necessarily existent small schools funding balance" means the difference between:

(a) the amount appropriated for the necessarily existent small schools program in a fiscal year; and

(b) the amount distributed to school districts for the necessarily existent small schools program in the same fiscal year.

(2) (a) Upon application by a local school board, the state board shall, in consultation with the local school board, classify schools in the school district as necessarily existent small schools, in accordance with this section and state board rules adopted under Subsection (3).

(b) An application must be submitted to the state board before April 2, and the state board must report a decision to a local school board before June 2.

(3) The state board shall adopt standards and make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:

(a) govern the approval of necessarily existent small schools consistent with principles of efficiency and economy that serve the purpose of eliminating schools where consolidation is feasible by participation in special school units; and

(b) ensure that school districts are not building secondary schools in close proximity to one another where economy and efficiency would be better served by one school meeting the needs of secondary students in a designated geographical area.

(4) The state board shall prepare and publish objective standards and guidelines for determining which small schools are necessarily existent after consultation with local school boards.

(5) (a) Additional weighted pupil units for schools classified as necessarily existent small schools shall be computed using distribution formulas adopted by the state board.

(b) The distribution formulas establish the following maximum sizes for funding under the necessarily existent small school program:

(i) an elementary school	160
(ii) a one or two-year secondary school	300
(iii) a three-year secondary school	450
(iv) a four-year secondary school	500
(v) a six-year secondary school	600

(c) An elementary school with fewer than 10 students shall receive the same add-on weighted pupil units as an elementary school with 10 students.

(d) A secondary school with fewer than 15 students shall receive the same add-on weighted pupil units as a secondary school with 15 students.

(e) If a necessarily existent small school generates ADM in both elementary and secondary grades, the state board may divide the school's ADM between an elementary and secondary distribution formula.

(f) The state board shall prepare and distribute an allocation table based on the distribution formula to each school district.

(6) (a) To avoid penalizing a school district financially for consolidating the school district's small schools, additional weighted pupil units may be allowed a school district each year, not to exceed two years.

(b) The additional weighted pupil units may not exceed the difference between what the school district receives for a consolidated school and what the school district would have received for the small schools had the small schools not been consolidated.

(7) (a) The state board may allocate up to 208 weighted pupil units to support schools that:

(i) have isolating conditions, as defined by the state board, including geographic isolation; and

(ii) do not qualify for necessarily existent small schools funding due to formula limitations.

(b) The state board shall review funding allocations under this Subsection (7) at least once every five calendar years.

(8) If the state board classifies a school as a necessarily existent small school in accordance with this section, the state board shall, subject to legislative appropriation, distribute small district base funding to the relevant school district in the following amounts:

(a) for a district with 500 students or less, 83 additional weighted pupil units;

(b) for a district with 501 to 1,000 students, 28 additional weighted pupil units; and

(c) for a district with 1,001 to 2,000 students, 14 additional weighted pupil units.

(9) Subject to legislative appropriation, the state board shall give first priority from an appropriation made under this section to funding an expense approved by the state board as described in Subsection 53G-6-305(3)(a).

(10) (a) Subject to Subsection (10)(b) and after a distribution made under Subsection (9), the state board may distribute a portion of necessarily existent small schools funding:

(i) in accordance with a formula adopted by the state board that considers the tax effort of a local school board; or

(ii) to isolated small schools, as identified by the state board.

(b) The amount distributed in accordance with Subsection (10)(a) may not exceed the necessarily existent small schools fund in balance of the prior fiscal year.

(11) A local school board may use the money allocated under this section for maintenance and operation of school programs or for other school purposes as approved by the state board.

(12) (a) Notwithstanding this section and subject to legislative appropriations, the state board may, in accordance with Subsection (12)(b), distribute one-time funding that the Legislature appropriates to mitigate funding losses as described in legislative appropriations.

(b) The state board may make the distribution described in Subsection (12)(a) to school districts that:

(i) enroll fewer than 5,000 students; and

(ii) do not pay local property tax proceeds into the Uniform School Fund as described in Section 53F-2-301.5.

Section 4. Section 53F-2-418 is enacted to read:

53F-2-418. (Codified as 53F-2-419) English language learner software.

(1) Subject to legislative appropriations, the state board shall:

(a) allocate funds to LEAs for English language learner software; and

(b) make the allocation described in Subsection (1)(a) using a formula that provides:

(i) a base amount for each LEA that has English language learner students; and

(ii) a distribution of remaining funding in proportion to the LEA's share of statewide English language learner students.

(2) An LEA shall use an allocation the LEA receives under Subsection (1) to select a vendor and pay for software licenses for English language learner instruction.

Section 5. Section 53F-2-706 is amended to read:

53F-2-706. Small charter school base funding.

(1) Subject to legislative appropriation, the state board shall distribute small charter school base funding in the following amounts to charter schools with 2,000 or less students:

(a) for a charter school with 300 students or less, $40,000;

(b) for a charter school with 301 to 400 students, $35,000;

(c) for a charter school with 401 to 500 students, $30,000;

(d) for a charter school with 501 to 600 students, $25,000;

(e) for a charter school with 601 to 1,000 students, $20,000; and

(f) for a charter school with 1,001 to 2,000 students, $15,000.

(2) A charter school's eligibility for small charter school base funding is determined by the charter school's student enrollment on October 1 of a given year.

(3) Notwithstanding this section and subject to legislative appropriations, the state board may distribute to charter schools, regardless of size, one-time funding that the Legislature appropriates to mitigate funding losses as described in legislative appropriations.

Section 6. Section 53G-5-202 is amended to read:

53G-5-202. Status and powers of State Charter School Board.

(1) The State Charter School Board may:

[~~(1)~~] (a) enter into contracts;

[~~(2)~~] (b) sue and be sued; and

[~~(3) (a)~~] (c) (i) at the discretion of the charter school, provide administrative services to, or perform other school functions for, charter schools authorized by the State Charter School Board; and

[~~(b)~~] (ii) charge fees for the provision of services or functions.

(2) The state board shall:

(a) approve the annual budget and expenditures of the State Charter School Board; and

(b) otherwise grant autonomy to the State Charter School Board to manage the State Charter School Board's budget.

Section 7. Repealer.

This bill repeals:

Section 53F-5-212, Grants for additional educators for high-need schools.

Section 8. Fiscal Year 2021 Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2020, and ending June 30, 2021. These are additions to amounts otherwise appropriated for fiscal year 2021.

Subsection 8(a). Operating and Capital Budgets.

Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

Public Education

State Board of Education – Minimum School Program

Item 1 To State Board of Education – Minimum School Program – Basic School Program

From Education Fund, One-time 15,000,000

Schedule of Programs:

Grades 1 – 12 15,000,000

Item 2 To State Board of Education – Minimum School Program – Voted and Board Local Levy Programs

From Education Fund, One-time (15,000,000)

Schedule of Programs:

Voted Local Levy Program (7,500,000)

Board Local Levy Program (7,500,000)

State Board of Education

Item 3 To State Board of Education – Child Nutrition

From Federal Funds, One-time 48,927,100

Schedule of Programs:

Child Nutrition 48,927,100

Item 4 To State Board of Education – Initiative Programs

From Beginning Nonlapsing Balances (2,170,000)

Schedule of Programs:

Contracts and Grants (670,000)

ELL Software Licenses (1,500,000)

Item 5 To State Board of Education – MSP Categorical Program Administration

From Beginning Nonlapsing Balances (100,000)

Schedule of Programs:

Dual Immersion (100,000)

Item 6 To State Board of Education – State Administrative Office

From Education Fund, One-time 4,000,000

Schedule of Programs:

Statewide Financial Management System Grants 4,000,000

The Legislature intends that the State Board of Education use one-time funds appropriated to support Statewide Financial Management System Grants to provide grants to local education agencies in fiscal year 2021, fiscal year 2022, or fiscal year 2023 to make changes to local data systems to facilitate data transfers between the LEA and the state.

Item 7 To State Board of Education – General System Support

From Education Fund, One-time (95,700)

Schedule of Programs:

Student Achievement (95,700)

Item 8 To State Board of Education – State Charter School Board

From Education Fund, One-time (53,100)

Schedule of Programs:

From Closing Nonlapsing Balances 53,100

Subsection 8(b). Transfers to Unrestricted Funds.

The Legislature authorizes the State Division of Finance to transfer the following amounts to the unrestricted General Fund, Education Fund, or Uniform School Fund, as indicated, from the restricted funds or accounts indicated. Expenditures and outlays from the General Fund, Education Fund, or Uniform School Fund must be authorized by an appropriation.

Public Education

Item 9 To Education Fund

From Nonlapsing Balances – Transfer from Dual Language Program 100,000

From Nonlapsing Balances – Transfer from ELL Software Licenses 1,500,000

From Nonlapsing Balances – Transfer from Initiative Programs 670,000

Schedule of Programs:

Education Fund, One-time 2,270,000

Section 9. Fiscal Year 2022 Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2021, and ending June 30, 2022. These are additions to amounts otherwise appropriated for fiscal year 2022

Subsection 9(a). Operating and Capital Budgets.

Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

Public Education

State Board of Education – Minimum School Program

Item 10 To State Board of Education – Minimum School Program – Basic School Program

From Uniform School Fund 500,000

From Uniform School Fund, One-time 3,600,000

Schedule of Programs:

Necessarily Existent Small Schools (131 WPUs) 4,100,000

The Legislature intends that the State Board of Education distribute funds in accordance with Subsection 53F-2-304(12) to mitigate funding losses associated with the elimination of the Administrative Cost Program.

Item 11 To State Board of Education - Minimum School Program - Related to Basic School Programs

From Uniform School Fund	16,688,700
From Uniform School Fund, One-time	7,500,000
From Beginning Nonlapsing Balances	(11,400)
From Closing Nonlapsing Balances	11,400
Schedule of Programs:	
Pupil Transportation To and From School	2,500,000
Beverley Taylor Sorenson Elementary Arts Learning Program	2,000,000
Early Intervention	7,000,000
Grants for Educators in High-need Schools	(500,000)
National Board Certified Teacher Program	(246,300)
Grants for Professional Learning	3,935,000
Charter School Funding Base Program	5,000,000
English Language Learner Software	4,500,000

(1) The Legislature intends that the expenditures upon which state funding is contingent under Items 2, 9, 22, and 33 in S.B. 1, Public Education Base Budget Amendments, be modified to include all of the federally allowed activities for the Federal Coronavirus Relief for Public Education funds except:

(a) school facility repairs and improvements to enable operation of schools to reduce risk of virus transmission and exposure to environmental health hazards, and to support student health needs; and

(b) inspection, testing, maintenance, repair, replacement, and upgrade projects to improve the indoor air quality in school facilities, including mechanical and non-mechanical heating, ventilation, and air conditioning systems, filtering, purification and other air cleaning, fans, control systems, and window and door repair and replacement.

(2) The Legislature further intends that the State Board of Education distribute funds in accordance with Subsection 53F-2-706(3) to mitigate funding losses associated with the elimination of the Administrative Cost Program.

State Board of Education

Item 12 To State Board of Education - Educator Licensing

From Education Fund	246,300
From Beginning Nonlapsing Balances	11,400
From Closing Nonlapsing Balances	(11,400)
Schedule of Programs:	
National Board-Certified Teachers	246,300

Item 13 To State Board of Education - Fine Arts Outreach

From Education Fund	250,000
Schedule of Programs:	
Provisional Program	250,000

Item 14 To State Board of Education - Initiative Programs

From Education Fund	6,800,000
From Education Fund, One-time	5,408,100
From Beginning Nonlapsing Balances	2,988,400
Schedule of Programs:	
Computer Science Initiatives	5,000,000
Contracts and Grants	3,300,000
Early Warning Pilot Program	125,000
Electronic Elementary Reading Tool	1,500,000
ProStart Culinary Arts Program	300,000
School Turnaround and Leadership Development Act	(4,028,500)
UPSTART	9,000,000

Item 15 To State Board of Education - MSP Categorical Program Administration

From Education Fund	1,065,000
Schedule of Programs:	
Early Learning Training and Assessment	1,065,000

Item 16 To State Board of Education - Science Outreach

From Education Fund	475,000
Schedule of Programs:	
Informal Science Education Enhancement	475,000

Item 17 To State Board of Education - State Administrative Office

From General Fund	100
From Education Fund	(3,448,300)
From Education Fund, One-time	29,100
From Federal Funds, One-time	37,178,400
From General Fund Restricted - Mineral Lease	1,900

From Revenue Transfers	28,900
From Uniform School Fund Restricted – Trust Distribution Account	170,000
From Uniform School Fund Restricted – Trust Distribution Account, One-time	105,000
From Beginning Nonlapsing Balances	(1,625,500)
From Closing Nonlapsing Balances	1,376,900
Schedule of Programs:	
Board and Administration	37,193,900
Financial Operations	112,300
Indirect Cost Pool	196,000
School Trust	275,000
Special Education	(50,000)
Statewide Online Education Program	(4,610,700)
Student Support Services	700,000

The Legislature intends that the State Board of Education:

(1) report to the Public Education Appropriations Subcommittee, on or before September 30, 2021, regarding how school-level data included in the Annual Financial Reports (AFRs) and Annual Program Reports (APRs) will be reported in a public-facing format; and

(b) (i) develop a fee for service schedule for certifying the special education programs of residential treatment centers; and

(ii) report the schedule to the Public Education Appropriations Subcommittee on or before October 1, 2021.

Item 18 To State Board of Education – General System Support

From Education Fund	78,500
From Education Fund, One-time	7,864,900
Schedule of Programs:	
Teaching and Learning	926,500
Assessment and Accountability	7,016,900

(1) The Legislature intends that the Utah State Board of Education use any revenue or nonlapsing balances generated from the licensing of Readiness Improvement Success Empowerment (RISE) questions to develop additional assessment questions for all state assessments, provide professional learning for Utah educators, and for risk mitigation expenditures.

(2) The Legislature intends that, of the appropriations provided to State Board of Education – Teaching and Learning, $225,000 be used to implement the provisions of American Indian and Alaskan Native Education, S.B. 124, Chapter 269, Laws of Utah 2020, General Session.

(3) The Legislature intends that, of the appropriations provided by this item, $800,000 one-time be used to implement the provisions of Concurrent Enrollment Certificate Pilot Program, H.B. 336, Chapter 321, Laws of Utah 2020, General Session.

(4) The Legislature intends that, of the appropriations provided by this item, $7,016,900 be used:

(a) in fiscal years 2022, 2023, and 2024; and

(b) to contract for professional learning related to improving student achievement.

Item 19 To State Board of Education – State Charter School Board

From Education Fund	1,600
Schedule of Programs:	
State Charter School Board	1,600

Item 20 To State Board of Education – Utah Schools for the Deaf and the Blind

From Education Fund	300
From Education Fund, One-time	1,825,000
From Revenue Transfers	100
Schedule of Programs:	
Support Services	400
Administration	1,325,000
Utah State Instructional Materials Access Center	500,000

The Legislature intends that the Utah Schools for the Deaf and the Blind charge a fee to out-of-state schools for instructional materials produced by the Utah State Instructional Materials Access Center (USIMAC) to cover actual costs of reprinting and shipping per volume. The estimated fee amount is $150 per braille volume and $15 shipping.

Item 21 To State Board of Education – Statewide Online Education

From Education Fund	4,390,100
From Education Fund, One-time	4,800,900
From Revenue Transfers	(28,900)
From Beginning Nonlapsing Balances	1,625,500
From Closing Nonlapsing Balances	(1,376,900)
Schedule of Programs:	
Statewide Online Education	9,410,700

The Legislature intends that the State Board of Education use one-time funding appropriated to the Statewide Online Education Program to meet the following priorities:

(1) fully fund requests for enrollment from homeschool students; and

(2) use remaining funding to support enrollment requests from students accessing the program through a private school.State Board of Education

Item 22 To School and Institutional Trust Fund Office

From School and Institutional Trust Fund Management Account 1,865,300

Schedule of Programs:

School and Institutional Trust Fund Office 1,865,300

Section 10. Effective date.

(1) Except as provided in Subsection (2), if approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

(2) The following sections of this bill take effect on July 1, 2021:

(a) Section 53E-5-302;

(b) Section 53F-2-209;

(c) Section 53F-2-304;

(d) Section 53F-2-418;

(e) Section 53F-2-706;

(f) Section 53G-5-202;

(g) Section 7, Repealer;

(h) Section 9, Fiscal Year 2022 Appropriation; and

(i) Subsection 9(a), Operating and Capital Budgets.

CHAPTER 440
H. B. 3
Passed March 2, 2021
Approved March 25, 2021
Effective March 25, 2021

CURRENT FISCAL YEAR SUPPLEMENTAL APPROPRIATIONS

Chief Sponsor: Bradley G. Last
Senate Sponsor: Jerry W. Stevenson

LONG TITLE

General Description:

This bill supplements or reduces appropriations otherwise provided for the support and operation of state government for the fiscal year beginning July 1, 2020 and ending June 30, 2021.

Highlighted Provisions:

This bill:

- provides appropriations for the use and support of higher education and certain state agencies;
- provides appropriations for other purposes as described; and
- provides intent language.

Money Appropriated in this Bill:

This bill appropriates $739,971,701 in operating and capital budgets for fiscal year 2021, including:

- ($51,403,900) from the General Fund;
- $49,913,700 from the Education Fund; and
- $741,461,901 from various sources as detailed in this bill.

This bill appropriates ($6,807,900) in expendable funds and accounts for fiscal year 2021.

This bill appropriates $28,667,800 in business-like activities for fiscal year 2021.

This bill appropriates ($88,403,700) in restricted fund and account transfers for fiscal year 2021, including:

- ($11,747,200) from the General Fund;
- ($83,517,700) from the Education Fund; and
- $6,861,200 from various sources as detailed in this bill.

This bill appropriates $134,200 in transfers to unrestricted funds for fiscal year 2021.

This bill appropriates $24,460,100 in capital project funds for fiscal year 2021.

Other Special Clauses:

This bill takes effect immediately.

Utah Code Sections Affected:

ENACTS UNCODIFIED MATERIAL

Be it enacted by the Legislature of the state of Utah:

Section 1. FY 2021 Appropriations. The following sums of money are appropriated for the fiscal year beginning July 1, 2020 and ending June 30, 2021. These are additions to amounts otherwise appropriated for fiscal year 2021.

Subsection 1(a). Operating and Capital Budgets. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

EXECUTIVE OFFICES AND CRIMINAL JUSTICE

ATTORNEY GENERAL

Item 1
To Attorney General - State Settlement Agreements
From General Fund, One-Time 500,000
Schedule of Programs:
State Settlement Agreements 500,000

UTAH DEPARTMENT OF CORRECTIONS

Item 2
To Utah Department of Corrections - Programs and Operations
From General Fund, One-Time ..... (1,262,000)
From Revenue Transfers, One-Time .. 2,736,000
Schedule of Programs:
Adult Probation and Parole Programs 324,000
Department Executive Director .... (1,500,000)
Programming Skill Enhancement ... 2,500,000
Programming Treatment 150,000

The Legislature intends that, if the Department of Corrections is able to reallocate resources internally to fund additional Adult Probation and Parole Agents and AP&P Supervisors, for every two agents and for every one supervisor hired, the Legislature grants the authority to purchase one vehicle with Department funds for FY2021 and FY2022.

Item 3
To Utah Department of Corrections - Department Medical Services
From General Fund, One-Time 1,500,000
Schedule of Programs:
Medical Services 1,500,000

JUDICIAL COUNCIL/STATE COURT ADMINISTRATOR

Item 4
To Judicial Council/State Court Administrator - Administration
From General Fund, One-Time ..... (113,800)
Schedule of Programs:
District Courts ..... (113,800)

Item 5
To Judicial Council/State Court Administrator - Contracts and Leases

The Legislature intends that Courts study the proposed Sanpete County Courthouse project with a focus on reducing cost per square foot and increasing utilization of spaces within the proposed facility, and that Courts report on the study to the Infrastructure and General Government Appropriations Subcommittee before October 1, 2021.

Item 6
To Judicial Council/State Court Administrator – Jury and Witness Fees
From General Fund, One-Time ..... (423,300)
Schedule of Programs:
Jury, Witness, and Interpreter ..... (423,300)

The Legislature intends that the appropriations provided to the Judicial Council/State Court Administrator–Juror, Witness, Interpreter line item for the 2021 Fiscal Year may be used for the payment of temporary employees supporting remote jury trials.

GOVERNORS OFFICE

Item 7
To Governors Office – CCJJ – Salt Lake County Jail Bed Housing

The Legislature intends that any payments from the Commission on Criminal and Juvenile Justice for housing prisoners from Salt Lake County in other counties be limited to the rate of $26 per day, per prisoner.

Item 8
To Governors Office – Commission on Criminal and Juvenile Justice
From General Fund, One-Time ..... (175,500)
From Crime Victim Reparations Fund, One-Time 156,000
Schedule of Programs:
CCJJ Commission ..... (175,500)
Utah Office for Victims of Crime 156,000

Item 9
To Governors Office – Governor's Office

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations of up to $1,500,000 provided for the Governor's Office in Item 60 of Chapter 4 Laws of Utah 2020 not lapse at the close of Fiscal Year 2021. The use of any unused funds is limited to one-time expenditures of the Lieutenant Governor's Offices to reimburse counties for voting equipment.

DEPARTMENT OF HUMAN SERVICES - DIVISION OF JUVENILE JUSTICE SERVICES

Item 10
To Department of Human Services – Division of Juvenile Justice Services – Programs and Operations
From General Fund, One-Time ..... (105,600)
From Federal Funds, One-Time 288,000
From Dedicated Credits Revenue, One-Time 904,900
From Expendable Receipts, One-Time 27,400
From Revenue Transfers, One-Time 723,100
Schedule of Programs:
Administration 1,398,100
Community Programs 19,000
Correctional Facilities 75,000
Early Intervention Services 36,600
Case Management 144,400
Community Provider Payments 164,700

DEPARTMENT OF PUBLIC SAFETY

Item 11
To Department of Public Safety – Division of Homeland Security – Emergency and Disaster Management
From General Fund Restricted – State Disaster Recovery Restricted Acct, One-Time 1,006,000
From Closing Nonlapsing Balances ... (1,006,000)

Item 12
To Department of Public Safety – Driver License
From Public Safety Motorcycle Education Fund, One-Time 50,000
Schedule of Programs:
Motorcycle Safety 50,000

Item 13
To Department of Public Safety – Emergency Management
From General Fund, One-Time ..... (300,000)
From Federal Funds, One-Time 15,652,500
Schedule of Programs:
Emergency Management 15,352,500

Item 14
To Department of Public Safety – Programs & Operations
From General Fund, One-Time ..... (1,378,800)
From Federal Funds, One-Time 1,800,000
From Department of Public Safety Restricted Account, One-Time 59,700
From Revenue Transfers, One-Time .. 1,000,000
Schedule of Programs:
CITS Communications ..... (347,600)
Department Grants 2,800,000
Highway Patrol – Field Operations ..... (1,031,200)
Highway Patrol – Safety Inspections 59,700

The Legislature intends that the Department of Public Safety is authorized to increase its fleet by the same number of new officers or vehicles authorized and funded by the Legislature for Fiscal Year 2021 and Fiscal Year 2022.

The Legislature intends that the State Bureau of Investigations within the Department of Public Safety be able to use $279,188.69 of unclaimed and abandoned seized funds for purposes of public interest. Examples of public interest include payment of court awarded attorney fees and interest charges. Legislative authority is required under Section 24-3-103(7).

Item 15
To Department of Public Safety – Bureau of Criminal Identification
From General Fund, One-Time ..... (2,300,000)
From Dedicated Credits Revenue, One-Time ..... (1,000,000)
From General Fund Restricted – Concealed Weapons Account, One-Time 2,300,000
From Revenue Transfers, One-Time .. 1,000,000

INFRASTRUCTURE AND GENERAL GOVERNMENT

DEPARTMENT OF ADMINISTRATIVE SERVICES

Item 16
To Department of Administrative Services – DFCM Administration
From Dedicated Credits Revenue, One-Time 329,500
Schedule of Programs:
DFCM Administration 329,500

Item 17
To Department of Administrative Services – Finance – Mandated
From Federal Funds – Coronavirus Relief Fund, One-Time 110,740,200
From Expendable Receipts, One-Time 3,000,000
From Interest Income, One-Time 3,000,000
Schedule of Programs:
Emergency Disease Response 116,740,200

Item 18
To Department of Administrative Services – Finance Administration
From General Fund, One-Time 2,500,000
From Dedicated Credits Revenue, One-Time 10,000
Schedule of Programs:
Financial Information Systems 2,500,000
Payroll 10,000

Item 19
To Department of Administrative Services – Judicial Conduct Commission
From General Fund, One-Time 52,000
Schedule of Programs:
Judicial Conduct Commission 52,000

STATE BOARD OF BONDING COMMISSIONERS - DEBT SERVICE

Item 20
To State Board of Bonding Commissioners – Debt Service – Debt Service

The Legislature intends that, if amounts appropriated from the Transportation Investment Fund of 2005 and the County of the First Class Highway Projects Fund to debt service exceed the amounts needed to cover payments on the debt, the Division of Finance transfer from these funds only the amounts needed for debt service.

DEPARTMENT OF TECHNOLOGY SERVICES

Item 21
To Department of Technology Services – Chief Information Officer
From General Fund, One-Time ..... (72,100)
From Closing Nonlapsing Balances 72,100

Item 22
To Department of Technology Services – Integrated Technology Division
From Federal Funds, One-Time 12,800
Schedule of Programs:
Automated Geographic Reference Center 12,800

TRANSPORTATION

Item 23
To Transportation – Aeronautics
From Federal Funds, One-Time 806,000
Schedule of Programs:
Airport Construction 806,000

Item 24
To Transportation – Highway System Construction
From Federal Funds, One-Time 84,879,900
Schedule of Programs:
Federal Construction 84,357,200
State Construction 522,700

Notwithstanding intent language in H.B. 3, 2018 General Session, Item 133, the Legislature intends that the Seven County Infrastructure Coalition may use any amount remaining of the $3,200,000 that was transferred in FY 2019 and FY 2020 to the coalition by the Department of Transportation to conduct an environmental impact study for the proposed Eastern Utah Connector Highway to also be used for improvements to or maintenance of any completed portions of the highway.

The Legislature intends that if the Department of Transportation determines that land owned by the department near the Calvin L. Rampton Complex is surplus to the department's needs, a portion of proceeds from the sale of the surplus property may be used to help mitigate traffic impact associated with the Taylorsville State Office Building.

Item 25
To Transportation – Cooperative Agreements
From Expendable Receipts, One-Time 25,000,000
Schedule of Programs:
Cooperative Agreements 25,000,000

Item 26
To Transportation – Engineering Services
From Transportation Fund, One-Time 896,800
From Federal Funds, One-Time 11,985,000
Schedule of Programs:
Program Development 11,985,000
Research 896,800

Item 27
To Transportation – Operations/ Maintenance Management
From Transportation Fund, One-Time 222,400
From Federal Funds, One-Time ..... (323,400)
From Dedicated Credits Revenue, One-Time 1,147,900
Schedule of Programs:
Lands and Buildings 1,100,000
Maintenance Planning ..... (101,000)
Traffic Safety/Tramway 47,900

Item 28
To Transportation – Region Management
From Transportation Fund, One-Time 480,300

From Federal Funds, One-Time ..... (519,300)
Schedule of Programs:
Region 2 ..... (39,000)

Item 29
To Transportation - Support Services
From Transportation Fund, One-Time .. 214,400
From Federal Funds, One-Time 1,097,400
Schedule of Programs:
Comptroller 54,000
Human Resources Management 172,800
Ports of Entry 1,085,000

Item 30
To Transportation - Transportation Investment Fund Capacity Program
From Transportation Investment Fund of 2005, One-Time 27,868,000
Schedule of Programs:
Transportation Investment Fund Capacity Program 27,868,000

Item 31
To Transportation - Railroad Crossing Safety
From Rail Transportation Restricted Account, One-Time 1,372,500
Schedule of Programs:
Railroad Crossing Environmental Impact Studies 152,500
Railroad Crossing Improvements 1,220,000

The Legislature intends that the Railroad Crossing Safety Grants line item be renamed as the Railroad Crossing Safety line item.

Notwithstanding intent language in H.B. 3, 2020 General Session, Item 316, the Legislature intends that the Department of Transportation use $1,372,500 appropriated in this item to partner with Brigham City on engineering, design, environmental analysis, and construction of a grade separated rail crossing project on Forest Street to make safety improvements and address traffic delays associated with railroad operations. Furthermore, the Legislature intends that under Section 63J-1-603 of the Utah Code this appropriation shall not lapse at the close of FY 2021. The use of any nonlapsing funds is limited to the purposes stated herein.

BUSINESS, ECONOMIC DEVELOPMENT, AND LABOR

DEPARTMENT OF COMMERCE

Item 32
To Department of Commerce - Commerce General Regulation
From Federal Funds, One-Time 60,000
From General Fund Restricted - Commerce Service Account, One-Time 377,000
From Revenue Transfers, One-Time .. 1,000,000
Schedule of Programs:
Occupational and Professional Licensing 1,377,000
Real Estate 60,000

GOVERNOR'S OFFICE OF ECONOMIC DEVELOPMENT

Item 33
To Governor's Office of Economic Development - Business Development
From General Fund, One-Time 20,000,000
Schedule of Programs:
Corporate Recruitment and Business Services 20,000,000

The Legislature intends that the Governors Office of Economic Development use $20 million provided by this item to: 1. Assist small businesses that experienced a high level of revenue decline in a consecutive four month period in 2019 compared to the same period in 2020 or began operations after January 1, 2020 and can demonstrate the effects of COVID-19 on the business and provide evidence of solvency; and (2) in consultation with the Department of Heritage and Arts, assist organizations that host live events, or provide live event or entertainment services that promote and support economic opportunity in Utah.

Under Section 63J-1-603 of the Utah Code, the Legislature intends that the $20,000,000 provided by this item to the Governors Office of Economic Development - Business Development line item not lapse at the end of FY 2021.

Item 34
To Governor's Office of Economic Development - Pass-Through
From General Fund, One-Time 1,085,000
Schedule of Programs:
Pass-Through 1,085,000

Item 35
To Governor's Office of Economic Development - Inland Port Authority
From General Fund, One-Time 1,100,000
Schedule of Programs:
Inland Port Authority 1,100,000

Item 36
To Governor's Office of Economic Development - Point of the Mountain Authority
From General Fund, One-Time 1,500,000
Schedule of Programs:
Point of the Mountain Authority 1,500,000

DEPARTMENT OF HERITAGE AND ARTS

Item 37
To Department of Heritage and Arts - Administration
From Dedicated Credits Revenue, One-Time 70,000
From Expendable Receipts, One-Time ... 500,000
Schedule of Programs:
Administrative Services 500,000
Information Technology ..... (30,000)
Utah Multicultural Affairs Office 100,000

Notwithstanding intent language passed in House Bill 4 item 22, under section 63J-1-603 of the Utah Code, the Legislature intends that up to $550,000 of the General

Fund provided by Item 110, Chapter 8, Laws of Utah 2020 for the Department of Heritage and Arts – Administration Division not lapse at the close of Fiscal Year 2021. These funds are to be used for special projects, building maintenance, renovation, and outreach.

Notwithstanding intent language passed in House Bill 4 item 22, under section 63J-1-603 of the Utah Code, the Legislature intends that up to 625,000 of the General Fund provided by Item 110, Chapter 8, Laws of Utah 2020 for the Department of Heritage and Arts – Administration Division not lapse at the close of Fiscal Year 2021. These funds are to be used for digital, IT, and innovation purposes.

Item 38

To Department of Heritage and Arts – Division of Arts and Museums
From General Fund, One-Time 5,000,000
From Federal Funds, One-Time 400,000
From Dedicated Credits Revenue, One-Time 25,000
From Transfer for COVID-19 Response, One-Time 17,500,000
Schedule of Programs:
Administration 200,000
Grants to Non-profits 22,525,000
Museum Services 200,000

Notwithstanding intent language passed in House Bill 4 item 23, under Section 63J-1-603 of the Utah Code, the Legislature intends that up to $500,000 of the General Fund provided by Item 111, Chapter 8, Laws of Utah 2020 for the Department of Heritage and Arts – Division of Arts and Museums not lapse at the close of Fiscal Year 2021. These funds are to be used for cultural outreach, community programming, and the purchase of art.

Under Section 63J-1-603 of the Utah Code, the Legislature intends that $5,000,000 provided for the Create in Utah grants program in the Department of Heritage and Arts – Division of Arts and Museums not lapse at the close of Fiscal Year 2021. These funds will be used as grants to nonprofits impacted by the COVID-19 pandemic.

Item 39

To Department of Heritage and Arts – Commission on Service and Volunteerism
From Federal Funds, One-Time 214,000
From Dedicated Credits Revenue, One-Time 50,000
Schedule of Programs:
Commission on Service and Volunteerism 264,000

Notwithstanding intent language passed in House Bill 4 item 24, under Section 63J-1-603 of the Utah Code, the Legislature intends that up to $150,000 of the General Fund provided by Item 112, Chapter 8, Laws of Utah 2020 for the Department of Heritage and Arts – Commission on Service and Volunteerism not lapse at the close of Fiscal Year 2021. These funds will be used for community outreach and programming.

Item 40

To Department of Heritage and Arts – Pass-Through
From General Fund, One-Time 600,000
From Transfer for COVID-19 Response, One-Time 6,500,000
Schedule of Programs:
Pass-Through 7,100,000

Item 41

To Department of Heritage and Arts – State History
From General Fund, One-Time 15,000
From Transfer for COVID-19 Response, One-Time 1,000,000
Schedule of Programs:
Library and Collections 15,000
Public History, Communication and Information 1,000,000

Notwithstanding intent language passed in House Bill 4 item 28, under Section 63J-1-603 of the Utah Code, the Legislature intends that up to $225,000 of the General Fund provided by Item 116, Chapter 8, Laws of Utah 2020 for the Department of Heritage and Arts – State History Division not lapse at the close of Fiscal Year 2021. These funds will be used for operations, application maintenance, projects, and community outreach.

Item 42

To Department of Heritage and Arts – State Library
From Federal Funds, One-Time 500,000
From Dedicated Credits Revenue, One-Time ..... (200,000)
From Revenue Transfers, One-Time 129,000
Schedule of Programs:
Administration ..... (200,000)
Library Development 629,000

Notwithstanding intent language passed in House Bill 4 item 29, under Section 63J-1-603 of the Utah Code, the Legislature intends that up to $700,000 of the General Fund provided by Item 117, Chapter 8, Laws of Utah 2020 for the Department of Heritage and Arts – Division of State Library not lapse at the close of Fiscal Year 2021. These funds will be used for operations, application maintenance, projects, and community outreach.

Item 43

To Department of Heritage and Arts – Stem Action Center
From Dedicated Credits Revenue, One-Time ..... (1,288,900)
Schedule of Programs:
STEM Action Center ..... (603,800)
STEM Action Center – Grades 6-8 .. (685,100)

Notwithstanding intent language passed in House Bill 4 item 30, under Section 63J-1-603 of the Utah Code, the Legislature intends that up to $1,400,000 of the General Fund provided by Item 118, Chapter 8, Laws of Utah 2020 for the Department of Heritage and Arts – STEM Action Center Division not

lapse at the close of Fiscal Year 2021. These funds will be used for contractual obligations and support.

INSURANCE DEPARTMENT

Item 44
To Insurance Department – Insurance Department Administration
From General Fund Restricted – Captive Insurance, One-Time 440,000
From General Fund Restricted – Insurance Department Acct., One-Time 373,100
Schedule of Programs:
Administration 373,100
Captive Insurers 440,000

LABOR COMMISSION

Item 45
To Labor Commission
From Transfer for COVID-19 Response, One-Time 2,500,000
Schedule of Programs:
Administration 2,500,000

PUBLIC SERVICE COMMISSION

Item 46
To Public Service Commission
From Revenue Transfers, One-Time 900
Schedule of Programs:
Administration 900

UTAH STATE TAX COMMISSION

Item 47
To Utah State Tax Commission – Tax Administration
From Dedicated Credits Revenue, One-Time 4,000
Schedule of Programs:
Property Tax Division 4,000

Under the terms and conditions of Utah Code Title 63J Chapter 1 and other fee statutes as applicable, the following fee is approved for the use and support of the government of the State of Utah: Renewal Notice Postage – up to $2.00.

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided to the Tax Commission – Administration up to $1 million not lapse at the close of FY 2021. The use of nonlapsing funds is limited to protecting and enhancing the State's tax and motor vehicle systems and processes; paying for mailed postcard reminders; continuing to protect the State's revenues from tax fraud, identity theft, and security intrusions; and litigation and related costs, $1,000,000.

SOCIAL SERVICES

DEPARTMENT OF HEALTH

Item 48
To Department of Health – Children's Health Insurance Program
From General Fund, One-Time ..... (559,100)
From Federal Funds, One-Time 68,152,600
From Federal Funds – Enhanced FMAP, One-Time 3,290,000
From Expendable Receipts – Rebates, One-Time 383,600
From General Fund Restricted – Medicaid Restricted Account, One-Time 14,640,000
Schedule of Programs:
Children's Health Insurance Program 85,907,100

The Legislature intends that the Department of Health report to the Social Services Appropriations Subcommittee by June 1, 2021 on the financial impact to the State for ending the Children's Health Insurance Program during the federal maintenance of effort requirements and after it expires. Additionally, the report shall include how many current clients on the Children's Health Insurance Program could qualify for other programs and how those programs compare to current coverage.

The Department of Health may use up to a combined maximum of $14,640,000 from the General Fund Restricted – Medicaid Restricted Account and associated federal matching funds provided for Medicaid Services and Children's Health Insurance Program only in the case that non-federal fund appropriations provided for FY 2021 in all other items of appropriation within the respective line item are insufficient to pay appropriate claims within the respective line item for FY 2021 when combined with federal matching funds.

Item 49
To Department of Health – Disease Control and Prevention
From General Fund, One-Time 221,800
From Federal Funds, One-Time 44,141,400
From Dedicated Credits Revenue, One-Time 124,700
From Expendable Receipts, One-Time ... 144,900
From Expendable Receipts – Rebates, One-Time 585,500
From Revenue Transfers, One-Time .. 1,714,900
Schedule of Programs:
Clinical and Environmental Lab Certification Programs 124,300
Epidemiology 45,172,300
General Administration ..... (200)
Health Promotion 1,454,200
Utah Public Health Laboratory ..... (400)
Office of the Medical Examiner 183,000

The Legislature intends that the Department of Health report to the Health and Human Services Interim Committee by June 1, 2021, on options to have the medical

examiner reduce its mandatory caseload as well as reduce autopsies to allow completion of the mandated cases in a timely manner. Additionally, the Legislature intends that the Department work with applicable professional associations to recommend an appropriate time frame for unattended deaths where the treating physicians can certify cause of death.

Item 50

To Department of Health - Executive Director's Operations
From General Fund, One-Time ..... (19,000)
From Federal Funds, One-Time 264,100
From Dedicated Credits Revenue, One-Time 345,500
From Expendable Receipts, One-Time 1,000,001
From Revenue Transfers, One-Time .. 2,568,100
Schedule of Programs:
Center for Health Data and Informatics 2,700,600
Executive Director ..... (5,200)
Office of Internal Audit ..... (3,400)
Program Operations 1,466,701

The Legislature intends that the Department of Health develop one proposed performance measure for each new funding item of $10,000 or more from the General Fund, Education Fund, or Temporary Assistance for Needy Families (TANF) federal funds by May 1, 2021. For FY 2021 items, the department shall report the results of the measures, plus the actual amount spent and the month and year of implementation, by August 31, 2021. The department shall provide this information to the Office of the Legislative Fiscal Analyst.

The Legislature intends that the Department of Health provide a written report to the Social Services Appropriations Subcommittee by June 1, 2021 on vulnerabilities that were exacerbated by COVID that still need to be addressed, including programs that had increased demand, areas where the agency had to deny people services, and recommended areas for further funding; for these programs, agencies should include information on performance metrics and caseload information.

The Legislature intends that the Department of Health provide a written report to the Social Services Appropriations Subcommittee June 1, 2021 on what the Legislature can do to better prepare our citizens, employees, and most vulnerable populations for times of crises, including identifying programs the agency has determined are effective for preparing citizens that could not operate at full capacity; for these programs, agencies should indicate if this was due to inadequate funding and provide recommendations for how to improve the program.

Item 51

To Department of Health - Family Health and Preparedness
From General Fund, One-Time ..... (64,600)
From Federal Funds, One-Time 18,470,600
From Dedicated Credits Revenue, One-Time 169,600
From Expendable Receipts, One-Time ... 177,600
From Revenue Transfers, One-Time 338,900
From Beginning Nonlapsing Balances ..... (1,065,900)
From Closing Nonlapsing Balances 1,065,900
Schedule of Programs:
Children with Special Health Care Needs 303,100
Director's Office 223,100
Health Facility Licensing and Certification ..... (400)
Maternal and Child Health 18,622,300
Primary Care ..... (56,000)

Item 52

To Department of Health - Medicaid and Health Financing
From General Fund, One-Time ..... (6,400)
From Federal Funds, One-Time 8,078,300
From Expendable Receipts, One-Time ... 142,000
From Ambulance Service Provider Assess Exp Rev Fund, One-Time 20,000
From General Fund Restricted - Medicaid Restricted Account, One-Time 300,000
From Revenue Transfers, One-Time .. 2,567,200
Schedule of Programs:
Long-term Services and Supports .... (12,300)
Healthcare Policy and Authorization ... (2,900)
Director's Office ..... (3,500)
Eligibility Policy ..... (1,100)
Financial Services 2,995,600
Managed Health Care ..... (6,700)
Medicaid Operations 8,132,000

The Legislature intends that the Department of Health provide a written report to the Social Services Appropriations Subcommittee within two weeks of any U.S. Supreme Court ruling on the viability of work requirements in Medicaid and its implication on work requirement options for Utah Medicaid populations.

The Legislature intends that the Department of Health report to the Social Services Appropriations Subcommittee by June 1, 2021 on the results of negotiations with Medicaid accountable care organizations to include or not autism services.

Pursuant to Section 63J-1-603 of the Utah Code, the Legislature intends that up to $300,000 from the Medicaid Restricted Account provided for the Department of Health's Medicaid and Health Financing line item shall not lapse at the close of Fiscal Year 2021. The use of any nonlapsing funds is limited to the development and implementation of the Social Determinants of Health Electronic Referral System and Long Term Fiscal and Operational Plan.

Item 53
To Department of Health - Medicaid Sanctions
From Beginning Nonlapsing Balances 1,065,900
From Closing Nonlapsing Balances ... (1,065,900)

Item 54
To Department of Health - Medicaid Services
From General Fund, One-Time .... (17,115,000)
From Federal Funds, One-Time ... (69,708,900)
From Federal Funds - Enhanced FMAP, One-Time 57,740,000
From Expendable Receipts, One-Time 59,231,600
From General Fund Restricted - Cigarette Tax Restricted Account, One-Time 8,700
From Medicaid Expansion Fund, One-Time 11,507,600
From General Fund Restricted - Medicaid Restricted Account, One-Time 14,640,000
From Revenue Transfers, One-Time 311,000
Schedule of Programs:
Accountable Care Organizations ... 53,500,000
Home and Community Based Waivers ..... (23,100)
Medicaid Expansion 51,786,400
Nursing Home 8,400,000
Other Services ..... (63,662,900)
Pharmacy ..... (500)
Physician and Osteopath 6,600,000
Provider Reimbursement Information System for Medicaid ..... (17,100)
School Based Skills Development 32,200

The Department of Health may use up to a combined maximum of $14,640,000 from the General Fund Restricted - Medicaid Restricted Account and associated federal matching funds provided for Medicaid Services and Children's Health Insurance Program only in the case that non-federal fund appropriations provided for FY 2021 in all other items of appropriation within the respective line item are insufficient to pay appropriate claims within the respective line item for FY 2021 when combined with federal matching funds.

Item 55
To Department of Health - Rural Physicians Loan Repayment Assistance
From General Fund, One-Time ..... (13,800)
Schedule of Programs:
Rural Physicians Loan Repayment Program ..... (13,800)

DEPARTMENT OF HUMAN SERVICES

Item 56
To Department of Human Services - Division of Aging and Adult Services
From General Fund, One-Time ..... (358,600)
From Federal Funds, One-Time 125,000
From Expendable Receipts, One-Time 20,000
Schedule of Programs:
Administration - DAAS ..... (11,300)
Adult Protective Services 12,900
Aging Alternatives ..... (800)
Aging Waiver Services ..... (339,400)
Local Government Grants - Formula Funds 125,000

Item 57
To Department of Human Services - Division of Child and Family Services
From General Fund, One-Time ..... (1,034,900)
From Federal Funds, One-Time 8,503,200
From Expendable Receipts, One-Time ... 451,700
Schedule of Programs:
Administration - DCFS ..... (19,700)
Adoption Assistance ..... (205,100)
Domestic Violence ..... (900)
Minor Grants ..... (3,600)
Out-of-Home Care 247,500
Service Delivery ..... (108,400)
Special Needs ..... (1,500)
Provider Payments 8,011,700

Item 58
To Department of Human Services - Executive Director Operations
From General Fund, One-Time ..... (16,000)
From Federal Funds, One-Time 1,497,500
From Dedicated Credits Revenue, One-Time 800
Schedule of Programs:
Executive Director's Office 1,148,200
Information Technology 79,400
Legal Affairs ..... (900)
Local Discretionary Pass-Through 68,700
Office of Licensing ..... (4,500)
Office of Quality and Design 191,400

The Legislature intends that the Department of Human Services develop one proposed performance measure for each new funding item of $10,000 or more from the General Fund, Education Fund, or Temporary Assistance for Needy Families (TANF) federal funds by May 1, 2021. For FY 2021 items, the department shall report the results of the measures, plus the actual amount spent and the month and year of implementation, by August 31, 2021. The department shall provide this information to the Office of the Legislative Fiscal Analyst.

The Legislature intends that the Department of Human Services provide a written report to the Social Services Appropriations Subcommittee by June 1, 2021 on vulnerabilities that were exacerbated by COVID that still need to be addressed, including programs that had increased demand, areas where the agency had to deny people services, and recommended areas for further funding; for these programs, agencies should include information on performance metrics and caseload information.

The Legislature intends that the Department of Human Services provide a written report to the Social Services Appropriations Subcommittee by June 1, 2021 on what the Legislature can do to better prepare our citizens, employees, and most vulnerable populations for times of crises, including identifying programs the agency

has determined are effective for preparing citizens that could not operate at full capacity; for these programs, agencies should indicate if this was due to inadequate funding and provide recommendations for how to improve the program.

Item 59
To Department of Human Services - Office of Public Guardian
From General Fund, One-Time ..... (3,800)
Schedule of Programs:
Office of Public Guardian ..... (3,800)

Item 60
To Department of Human Services - Office of Recovery Services
From General Fund, One-Time ..... (10,800)
From Federal Funds, One-Time 3,138,200
From Expendable Receipts, One-Time 3,689,600
Schedule of Programs:
Administration - ORS 2,667,300
Attorney General Contract ..... (5,500)
Child Support Services 3,689,200
Children in Care Collections 116,500
Electronic Technology 350,100
Medical Collections ..... (600)

Item 61
To Department of Human Services - Division of Services for People with Disabilities
From General Fund, One-Time .... (11,435,500)
From Revenue Transfers, One-Time .. 1,545,800
Schedule of Programs:
Administration - DSPD ..... (6,000)
Community Supports Waiver ..... (9,667,300)
Service Delivery ..... (12,100)
Utah State Developmental Center ... (204,300)

Item 62
To Department of Human Services - Division of Substance Abuse and Mental Health
From General Fund, One-Time ..... (279,600)
From Federal Funds, One-Time 13,068,300
From Dedicated Credits Revenue, One-Time 70,000
From Expendable Receipts, One-Time ... 891,100
From Revenue Transfers, One-Time 318,700
Schedule of Programs:
Administration - DSAMH ..... (15,600)
Community Mental Health Services 9,222,400
Drug Courts ..... (2,100)
State Hospital 113,900
State Substance Abuse Services 4,749,900

DEPARTMENT OF WORKFORCE SERVICES

Item 63
To Department of Workforce Services - Administration
From General Fund, One-Time 100,000
From Federal Funds, One-Time 20,000
From Federal Funds - CARES Act, One-Time 926,400
From Medicaid Expansion Fund, One-Time 1,200
From Olene Walker Housing Loan Fund, One-Time 15,000
From OWHTF-Low Income Housing, One-Time 15,000
From Revenue Transfers, One-Time .. 2,021,900
From Unemployment Compensation Fund, One-Time 93,200
Schedule of Programs:
Administrative Support 1,722,200
Communications 1,079,800
Executive Director's Office 72,600
Human Resources 144,200
Internal Audit 173,900

The Legislature intends that the Department of Workforce Services provide a written report to the Social Services Appropriations Subcommittee by June 1, 2021 on vulnerabilities that were exacerbated by COVID that still need to be addressed, including programs that had increased demand, areas where the agency had to deny people services, and recommended areas for further funding; for these programs, agencies should include information on performance metrics and caseload information.

The Legislature intends that the Department of Workforce Services provide a written report to the Social Services Appropriations Subcommittee June 1, 2021 on what the Legislature can do to better prepare our citizens, employees, and most vulnerable populations for times of crises, including identifying programs the agency has determined are effective for preparing citizens that could not operate at full capacity; for these programs, agencies should indicate if this was due to inadequate funding and provide recommendations for how to improve the program.

The Legislature intends that the Department of Workforce Services develop one proposed performance measure for each new funding item of $10,000 or more from the General Fund, Education Fund, or Temporary Assistance for Needy Families (TANF) federal funds by May 1, 2021. For FY 2021 items, the department shall report the results of the measures, plus the actual amount spent and the month and year of implementation, by August 31, 2021. The department shall provide this information to the Office of the Legislative Fiscal Analyst.

Item 64
To Department of Workforce Services - General Assistance
From General Fund, One-Time ..... (1,777,400)
From Federal Funds, One-Time 15,000
Schedule of Programs:
General Assistance ..... (1,762,400)

The Legislature intends that up to $777,400 of the FY 2021 beginning nonlapsing balance for the Department of Workforce Services' General Assistance line item may be used in FY 2021 for normal operating and program costs to cover one-time reductions in General Fund.

Item 65
To Department of Workforce Services – Housing and Community Development
From General Fund, One-Time ..... (112,500)
From Federal Funds, One-Time 2,171,600
From Federal Funds – CARES Act, One-Time 17,275,100
From Revenue Transfers, One-Time 30,790,000
Schedule of Programs:
Community Development 7,796,000
Community Development Administration 100,000
Community Services 190,000
HEAT 1,786,300
Homeless Committee 9,704,900
Housing Development 30,550,000
Weatherization Assistance ..... (3,000)

The Legislature intends that up to $112,500 of the FY 2021 beginning nonlapsing balances for the Department of Workforce Services' Housing and Community Development line item may be used in FY 2021 for normal operating and program costs to cover one-time reductions in General Fund.

Item 66
To Department of Workforce Services – Operation Rio Grande
From Beginning Nonlapsing Balances ..... (34,900)
Schedule of Programs:
Operation Rio Grande ..... (34,900)

Item 67
To Department of Workforce Services – Operations and Policy
From General Fund, One-Time 647,600
From Federal Funds, One-Time 30,420,000
From Federal Funds – CARES Act, One-Time 5,876,900
From Olene Walker Housing Loan Fund, One-Time 38,000
From OWHTF-Low Income Housing, One-Time 30,900
From Qualified Emergency Food Agencies Fund, One-Time 1,000
From Revenue Transfers, One-Time .. 1,175,000
From Unemployment Compensation Fund, One-Time 1,520,300
Schedule of Programs:
Child Care Assistance 15,573,100
Eligibility Services 8,359,100
Facilities and Pass-Through 57,300
Information Technology 3,134,600
Workforce Development 12,516,200
Workforce Research and Analysis 69,400

The Legislature intends that up to $217,800 of the FY 2021 beginning nonlapsing balances for the Department of Workforce Services' Operation and Policy line item may be used in FY 2021 for normal operating and program costs to cover one-time reductions in General Fund.

Item 68
To Department of Workforce Services – State Office of Rehabilitation
From General Fund, One-Time 5,200
From Federal Funds, One-Time 38,600
From Federal Funds – CARES Act, One-Time 137,300
From Expendable Receipts, One-Time ... 100,000
From Medicaid Expansion Fund, One-Time 200
From Revenue Transfers, One-Time 124,500
From Unemployment Compensation Fund, One-Time 9,300
Schedule of Programs:
Deaf and Hard of Hearing 252,800
Executive Director 53,300
Rehabilitation Services 109,000

Item 69
To Department of Workforce Services – Unemployment Insurance
From General Fund, One-Time 29,400
From Federal Funds, One-Time 459,200
From Federal Funds – CARES Act, One-Time 3,346,800
From Dedicated Credits Revenue, One-Time 130,000
From Medicaid Expansion Fund, One-Time 100
From Olene Walker Housing Loan Fund, One-Time 500
From OWHTF-Low Income Housing, One-Time 500
From Revenue Transfers, One-Time .. 1,800,000
From Unemployment Compensation Fund, One-Time 7,700
Schedule of Programs:
Adjudication 526,800
Unemployment Insurance Administration 5,247,400

HIGHER EDUCATION

UNIVERSITY OF UTAH

Item 70
To University of Utah – Education and General
From Dedicated Credits Revenue, One-Time ..... (879,800)
Schedule of Programs:
Education and General ..... (879,800)

Item 71
To University of Utah – School of Medicine
From Dedicated Credits Revenue, One-Time 1,073,100
Schedule of Programs:
School of Medicine 1,073,100

Item 72
To University of Utah – School of Dentistry
From Dedicated Credits Revenue, One-Time ..... (50,100)
Schedule of Programs:
School of Dentistry ..... (50,100)

UTAH STATE UNIVERSITY

Item 73
To Utah State University – Education and General
From General Fund, One-Time ..... (5,000,000)
From Education Fund, One-Time 4,982,400
From Dedicated Credits Revenue, One-Time 2,159,300

Schedule of Programs:
Education and General 2,057,300
USU – School of Veterinary Medicine 102,000
Operations and Maintenance ..... (17,600)

Item 74
To Utah State University – USU – Eastern Education and General
From Dedicated Credits Revenue, One-Time 650,100
Schedule of Programs:
USU – Eastern Education and General 650,100

Item 75
To Utah State University – USU – Eastern Career and Technical Education
From Dedicated Credits Revenue, One-Time 732,000
Schedule of Programs:
USU – Eastern Career and Technical Education 732,000

Item 76
To Utah State University – Regional Campuses
From Dedicated Credits Revenue, One-Time ..... (1,534,100)
Schedule of Programs:
Uintah Basin Regional Campus .... (1,716,100)
Brigham City Regional Campus 720,500
Tooele Regional Campus ..... (538,500)

Item 77
To Utah State University – Blanding Campus
From Dedicated Credits Revenue, One-Time 505,700
Schedule of Programs:
Blanding Campus 505,700

WEBER STATE UNIVERSITY

Item 78
To Weber State University – Education and General
From Dedicated Credits Revenue, One-Time 1,300,600
Schedule of Programs:
Education and General 1,300,600

SOUTHERN UTAH UNIVERSITY

Item 79
To Southern Utah University – Education and General
From Dedicated Credits Revenue, One-Time 1,075,000
Schedule of Programs:
Education and General 1,075,000

UTAH VALLEY UNIVERSITY

Item 80
To Utah Valley University – Education and General
From General Fund, One-Time .... (45,000,000)
From Education Fund, One-Time 45,000,000
From Dedicated Credits Revenue, One-Time 593,000
Schedule of Programs:
Education and General 593,000

SNOW COLLEGE

Item 81
To Snow College – Education and General
From Dedicated Credits Revenue, One-Time ..... (814,900)
Schedule of Programs:
Education and General ..... (814,900)

DIXIE STATE UNIVERSITY

Item 82
To Dixie State University – Education and General
From Education Fund, One-Time ..... (68,700)
From Dedicated Credits Revenue, One-Time 3,241,500
Schedule of Programs:
Education and General 3,241,500
Operations and Maintenance ..... (68,700)

SALT LAKE COMMUNITY COLLEGE

Item 83
To Salt Lake Community College – Education and General
From Dedicated Credits Revenue, One-Time 295,200
Schedule of Programs:
Education and General 293,500
Operations and Maintenance 1,700

UTAH BOARD OF HIGHER EDUCATION

Item 84
To Utah Board of Higher Education – Administration
From Education Fund, One-Time 46,200
Schedule of Programs:
Administration 46,200

Item 85
To Utah Board of Higher Education – Medical Education Council
From Dedicated Credits Revenue, One-Time ..... (15,000)
Schedule of Programs:
Medical Education Council ..... (15,000)

UTAH SYSTEM OF TECHNICAL COLLEGES

Item 86
To Utah System of Technical Colleges – Davis Technical College
From Dedicated Credits Revenue, One-Time ..... (109,700)
Schedule of Programs:
Davis Technical College ..... (109,700)

Item 87
To Utah System of Technical Colleges – Dixie Technical College
From Dedicated Credits Revenue, One-Time 63,900
Schedule of Programs:
Dixie Technical College 63,900

Item 88
To Utah System of Technical Colleges – Ogden-Weber Technical College
From Dedicated Credits Revenue, One-Time ..... (1,700)

Schedule of Programs:
Ogden-Weber Technical College ..... (1,700)

Item 89
To Utah System of Technical Colleges - Southwest Technical College
From Dedicated Credits Revenue, One-Time ..... (21,000)
Schedule of Programs:
Southwest Technical College ..... (21,000)

Item 90
To Utah System of Technical Colleges - Tooele Technical College
From Dedicated Credits Revenue, One-Time ..... (400)
Schedule of Programs:
Tooele Technical College ..... (400)

Item 91
To Utah System of Technical Colleges - Uintah Basin Technical College
From Dedicated Credits Revenue, One-Time ..... (500)
Schedule of Programs:
Uintah Basin Technical College ..... (500)

Item 92
To Utah System of Technical Colleges - USTC Administration
From Education Fund, One-Time ..... (46,200)
Schedule of Programs:
Administration ..... (46,200)

NATURAL RESOURCES, AGRICULTURE, AND ENVIRONMENTAL QUALITY

DEPARTMENT OF AGRICULTURE AND FOOD

Item 93
To Department of Agriculture and Food - Administration
From General Fund, One-Time 98,200
From General Fund Restricted - Cat and Dog Community Spay and Neuter Program Restricted Account, One-Time 200
From General Fund Restricted - Horse Racing, One-Time 25,000
Schedule of Programs:
General Administration 98,400
Utah Horse Commission 25,000

Item 94
To Department of Agriculture and Food - Animal Industry
From Federal Funds, One-Time 158,900
Schedule of Programs:
Meat Inspection 158,900

Item 95
To Department of Agriculture and Food - Plant Industry
From Federal Funds, One-Time ..... (400,000)
Schedule of Programs:
Plant Industry ..... (400,000)

Item 96
To Department of Agriculture and Food - Regulatory Services
From Federal Funds, One-Time 400,000
From Dedicated Credits Revenue, One-Time 148,000
Schedule of Programs:
Regulatory Services Administration ... 450,000
Egg Grading and Inspection 98,000

Item 97
To Department of Agriculture and Food - Medical Cannabis
From Qualified Production Enterprise Fund, One-Time 790,000
Schedule of Programs:
Medical Cannabis 790,000

Item 98
To Department of Agriculture and Food - Industrial Hemp
From Dedicated Credits Revenue, One-Time 20,000
Schedule of Programs:
Industrial Hemp 20,000

DEPARTMENT OF ENVIRONMENTAL QUALITY

Item 99
To Department of Environmental Quality - Drinking Water
From General Fund, One-Time 75,000
From Dedicated Credits Revenue, One-Time ..... (291,800)
From Revenue Transfers, One-Time ... (23,800)
Schedule of Programs:
Drinking Water Administration 75,000
Safe Drinking Water Act ..... (315,600)

Item 100
To Department of Environmental Quality - Environmental Response and Remediation
From Federal Funds, One-Time 3,769,500
Schedule of Programs:
Environmental Response and Remediation 3,769,500

Item 101
To Department of Environmental Quality - Executive Director's Office
From General Fund, One-Time ..... (75,000)
From Dedicated Credits Revenue, One-Time 1,000
Schedule of Programs:
Executive Director Office Administration ..... (74,000)

Item 102
To Department of Environmental Quality - Waste Management and Radiation Control
From Waste Tire Recycling Fund, One-Time ..... (151,500)
Schedule of Programs:
Waste Management and Radiation Control ..... (151,500)

Item 103
To Department of Environmental Quality - Water Quality
From Federal Funds, One-Time 402,100
From Dedicated Credits Revenue, One-Time 28,700
From Revenue Transfers, One-Time 137,900

Schedule of Programs:
Water Quality Support 568,700

The Legislature intends that ongoing funds appropriated to the Division of Water Quality for independent scientific review during the 2016 General Session be used on activities to support the Water Quality Act as outlined in R317-1-10.

Item 104
To Department of Environmental Quality - Air Quality
From Federal Funds, One-Time 2,179,400
Schedule of Programs:
Air Quality Administration 2,179,400

DEPARTMENT OF NATURAL RESOURCES

Item 105
To Department of Natural Resources - Contributed Research
From Dedicated Credits Revenue, One-Time ..... (1,510,800)
Schedule of Programs:
Contributed Research ..... (1,510,800)

Item 106
To Department of Natural Resources - Cooperative Agreements
From Dedicated Credits Revenue, One-Time ..... (1,122,600)
From Expendable Receipts, One-Time 8,122,600
Schedule of Programs:
Cooperative Agreements 7,000,000

Item 107
To Department of Natural Resources - Forestry, Fire and State Lands
From General Fund, One-Time 1,500,000
From Dedicated Credits Revenue, One-Time 1,500,000
From Revenue Transfers, One-Time 10,000,000
Schedule of Programs:
Fire Management 1,500,000
Fire Suppression Emergencies 10,000,000
Project Management 1,500,000

Item 108
To Department of Natural Resources - Parks and Recreation
From Federal Funds, One-Time 500,000
From Revenue Transfers, One-Time 100,000
Schedule of Programs:
Executive Management 500,000
Park Operation Management 100,000

Item 109
To Department of Natural Resources - Parks and Recreation Capital Budget
From Federal Funds, One-Time 1,500,000
From General Fund Restricted - State Park Fees, One-Time 1,500,000
Schedule of Programs:
Renovation and Development 1,500,000
Trails Program 1,500,000

Item 110
To Department of Natural Resources - Utah Geological Survey
From General Fund, One-Time 750,000
From Federal Funds, One-Time 756,100
From Dedicated Credits Revenue, One-Time ..... (267,200)
From Revenue Transfers, One-Time 709,800
Schedule of Programs:
Energy and Minerals 685,700
Geologic Hazards 73,300
Geologic Information and Outreach 125,000
Geologic Mapping 244,500
Ground Water 820,200

The Legislature intends that the funding for Great Salt Lake groundwater studies shall not lapse at the close of FY 2021.

Item 111
To Department of Natural Resources - Water Resources
From General Fund, One-Time 270,000
Schedule of Programs:
Planning 270,000

The Legislature intends that the funding for integrated water planning and land use planning shall not lapse at the close of FY 2021.

Item 112
To Department of Natural Resources - Wildlife Resources
From Dedicated Credits Revenue, One-Time ..... (111,100)
Schedule of Programs:
Director's Office ..... (111,100)

EXECUTIVE APPROPRIATIONS

LEGISLATURE

Item 113
To Legislature - Senate
From General Fund, One-Time 12,000
Schedule of Programs:
Administration 12,000

Item 114
To Legislature - House of Representatives
From General Fund, One-Time 18,000
Schedule of Programs:
Administration 18,000

DEPARTMENT OF VETERANS AND MILITARY AFFAIRS

Item 115
To Department of Veterans and Military Affairs - Veterans and Military Affairs
From General Fund, One-Time 30,000
From Federal Funds, One-Time 2,989,400
Schedule of Programs:
Administration 30,000
Cemetery 2,989,400

Subsection 1(b). Expendable Funds and Accounts. The Legislature has reviewed the following expendable funds. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts

as indicated. Outlays and expenditures from the funds or accounts to which the money is transferred may be made without further legislative action, in accordance with statutory provisions relating to the funds or accounts.

SOCIAL SERVICES

DEPARTMENT OF HUMAN SERVICES

Item 116
To Department of Human Services –
Utah State Developmental Center
Long–Term Sustainability Fund
From Closing Fund Balance ..... (7,307,900)
Schedule of Programs:
Utah State Developmental Center
Long–Term Sustainability Fund .. (7,307,900)

DEPARTMENT OF WORKFORCE SERVICES

Item 117
To Department of Workforce Services –
Olene Walker Low Income Housing
From Federal Funds, One–Time 500,000
Schedule of Programs:
Olene Walker Low Income Housing 500,000

Subsection 1(c). Business-like Activities. The Legislature has reviewed the following proprietary funds. Under the terms and conditions of Utah Code 63J–1–410, for any included Internal Service Fund, the Legislature approves budgets, full–time permanent positions, and capital acquisition amounts as indicated, and appropriates to the funds, as indicated, estimated revenue from rates, fees, and other charges. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated.

INFRASTRUCTURE AND GENERAL GOVERNMENT

DEPARTMENT OF HUMAN RESOURCE MANAGEMENT

Item 118
To Department of Human Resource Management –
Human Resources Internal Service Fund
Budgeted FTE 7.0

DEPARTMENT OF ADMINISTRATIVE SERVICES INTERNAL SERVICE FUNDS

Item 119
To Department of Administrative Services Internal Service Funds – Division of Facilities Construction and Management – Facilities Management
From Dedicated Credits Revenue,
One–Time 937,000
Schedule of Programs:
ISF – Facilities Management 937,000

Item 120
To Department of Administrative Services Internal Service Funds – Division of Finance
From Dedicated Credits Revenue,
One–Time 112,700
Schedule of Programs:
ISF – Purchasing Card 112,700

Item 121
To Department of Administrative Services Internal Service Funds – Risk Management
From Dedicated Credits Revenue,
One–Time 300,400
From Premiums, One–Time 2,353,800
From Other Financing Sources,
One–Time 113,900
Schedule of Programs:
ISF – Risk Management Administration 300,400
ISF – Workers' Compensation 341,900
Risk Management – Liability 1,908,300
Risk Management – Property 217,500

DEPARTMENT OF TECHNOLOGY SERVICES INTERNAL SERVICE FUNDS

Item 122
To Department of Technology Services Internal Service Funds – Enterprise Technology Division
From Dedicated Credits Revenue,
One–Time 1,484,000
Schedule of Programs:
ISF – Enterprise Technology Division 1,484,000

SOCIAL SERVICES

DEPARTMENT OF WORKFORCE SERVICES

Item 123
To Department of Workforce Services –
Unemployment Compensation Fund
From Federal Funds, One–Time 678,300
Schedule of Programs:
Unemployment Compensation Fund ... 678,300

NATURAL RESOURCES, AGRICULTURE, AND ENVIRONMENTAL QUALITY

DEPARTMENT OF ENVIRONMENTAL QUALITY

Item 124
To Department of Environmental Quality – Water Development Security Fund – Drinking Water
From Federal Funds, One–Time 2,200,000
From Dedicated Credits Revenue,
One–Time ..... (1,125,300)
From Repayments, One–Time 418,200
Schedule of Programs:
Drinking Water 1,492,900

Item 125
To Department of Environmental Quality – Water Development Security Fund – Water Quality
From Dedicated Credits Revenue,
One–Time 1,734,800
From Repayments, One–Time 19,460,000
Schedule of Programs:

Water Quality 21,194,800

Subsection 1(d). Restricted Fund and Account Transfers. The Legislature authorizes the State Division of Finance to transfer the following amounts between the following funds or accounts as indicated. Expenditures and outlays from the funds to which the money is transferred must be authorized by an appropriation.

EXECUTIVE OFFICES AND CRIMINAL JUSTICE

Item 126
To Post Disaster Recovery and Mitigation Rest Account
From General Fund Restricted - State Disaster Recovery Restr Acct, One-Time 300,000
Schedule of Programs:
Post Disaster Recovery and Mitigation Rest Account 300,000

INFRASTRUCTURE AND GENERAL GOVERNMENT

Item 127
To Education Budget Reserve Account
From Education Fund, One-Time .. (83,517,700)
Schedule of Programs:
Education Budget Reserve Account ..... (83,517,700)

Item 128
To General Fund Budget Reserve Account
From General Fund, One-Time .... (11,747,200)
Schedule of Programs:
General Fund Budget Reserve Account ..... (11,747,200)

SOCIAL SERVICES

Item 129
To Medicaid Expansion Fund
From Dedicated Credits Revenue, One-Time ..... (7,700,000)
From Closing Fund Balance 14,261,200
Schedule of Programs:
Medicaid Expansion Fund 6,561,200

Item 130
To Adult Autism Treatment Account
From Dedicated Credits Revenue, One-Time ..... (500,000)
From Expendable Receipts, One-Time ... 500,000

Subsection 1(e). Transfers to Unrestricted Funds. The Legislature authorizes the State Division of Finance to transfer the following amounts to the unrestricted General Fund, Education Fund, or Uniform School Fund, as indicated, from the restricted funds or accounts indicated. Expenditures and outlays from the General Fund, Education Fund, or Uniform School Fund must be authorized by an appropriation.

SOCIAL SERVICES

Item 131
To General Fund
From General Fund Restricted - Psychiatric Consultation Program Account, One-Time 99,300
From Nonlapsing Balances - Workforce Services - Operation Rio Grande 34,900
Schedule of Programs:
General Fund, One-time 134,200

Subsection 1(f). Capital Project Funds. The Legislature has reviewed the following capital project funds. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated.

INFRASTRUCTURE AND GENERAL GOVERNMENT

TRANSPORTATION

Item 132
To Transportation - Transportation Investment Fund of 2005
From Transportation Fund, One-Time 9,056,900
From Designated Sales Tax, One-Time 15,403,200
Schedule of Programs:
Transportation Investment Fund ... 24,460,100

Section 2. Effective Date.

If approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the Governor, or the day following the constitutional time limit of Utah Constitution Article VII, Section 8 without the Governor's signature, or in the case of a veto, the date of override.

CHAPTER 441
S. B. 2
Passed March 2, 2021
Approved March 25, 2021
Effective July 1, 2021

NEW FISCAL YEAR SUPPLEMENTAL APPROPRIATIONS ACT

Chief Sponsor: Jerry W. Stevenson
House Sponsor: Bradley G. Last

LONG TITLE

General Description:

This bill supplements or reduces appropriations otherwise provided for the support and operation of state government for the fiscal year beginning July 1, 2021 and ending June 30, 2022.

Highlighted Provisions:

This bill:

- provides budget increases and decreases for the use and support of certain state agencies;
- provides budget increases and decreases for the use and support of certain institutions of higher education;
- provides budget increases and decreases for other purposes as described;
- authorizes capital outlay amounts for certain internal service funds;
- authorizes full time employment levels for certain internal service funds; and
- provides intent language.

Money Appropriated in this Bill:

This bill appropriates $1,598,311,600 in operating and capital budgets for fiscal year 2022, including:

- ($97,752,000) from the General Fund;
- $485,141,200 from the Education Fund; and
- $1,210,922,400 from various sources as detailed in this bill.

This bill appropriates $32,120,700 in expendable funds and accounts for fiscal year 2022, including:

- $39,045,000 from the General Fund; and
- ($6,924,300) from various sources as detailed in this bill.

This bill appropriates $20,901,500 in business-like activities for fiscal year 2022, including:

- $7,636,300 from the General Fund; and
- $13,265,200 from various sources as detailed in this bill.

This bill appropriates $270,280,600 in restricted fund and account transfers for fiscal year 2022, including:

- $157,421,200 from the General Fund;
- $60,117,700 from the Education Fund; and
- $52,741,700 from various sources as detailed in this bill.

This bill appropriates $100,000 in transfers to unrestricted funds for fiscal year 2022.

This bill appropriates $25,300 in fiduciary funds for fiscal year 2022.

This bill appropriates $261,246,800 in capital project funds for fiscal year 2022, including:

- $7,987,000 from the General Fund;
- $199,786,800 from the Education Fund; and
- $53,473,000 from various sources as detailed in this bill.

Other Special Clauses:

This bill takes effect on July 1, 2021.

Utah Code Sections Affected:

ENACTS UNCODIFIED MATERIAL

Be it enacted by the Legislature of the state of Utah:

Section 1. FY 2022 Appropriations. The following sums of money are appropriated for the fiscal year beginning July 1, 2021 and ending June 30, 2022. These are additions to amounts otherwise appropriated for fiscal year 2022.

Subsection 1(a). Operating and Capital Budgets. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

EXECUTIVE OFFICES AND CRIMINAL JUSTICE

ATTORNEY GENERAL

Item 1
To Attorney General
From General Fund ..... (3,082,600)
From Dedicated Credits Revenue ..... (6,248,100)
Schedule of Programs:
Administration 142,800
Child Protection 5,700
Civil 124,400
Criminal Prosecution ..... (9,603,600)

Item 2
To Attorney General - Children's Justice Centers
From General Fund 150,000
From General Fund, One-Time 250,000
Schedule of Programs:
Children's Justice Centers 400,000

BOARD OF PARDONS AND PAROLE

Item 3
To Board of Pardons and Parole
From General Fund 738,000
From General Fund, One-Time 11,400
Schedule of Programs:
Board of Pardons and Parole 749,400

UTAH DEPARTMENT OF CORRECTIONS

Item 4
To Utah Department of Corrections - Programs and Operations
From General Fund 11,688,100
From General Fund, One-Time ..... (1,988,500)
From Revenue Transfers, One-Time 150,000
Schedule of Programs:
Adult Probation and Parole Administration 36,500
Adult Probation and Parole Programs 6,501,900
Department Administrative Services ... 11,100

Department Executive Director 88,500
Department Training 34,500
Prison Operations Administration 35,000
Prison Operations Central
Utah/Gunnison 1,026,700
Prison Operations Draper Facility ... 1,715,400
Prison Operations Inmate Placement ... 52,300
Programming Skill Enhancement 173,300
Programming Treatment 174,400

The Legislature intends that, if the Department of Corrections is able to reallocate resources internally to fund additional Adult Probation and Parole Agents and AP&P Supervisors, for every two agents and for every one supervisor hired, the Legislature grants the authority to purchase one vehicle with Department funds for FY2021 and FY2022.

The Legislature intends that the Department of Corrections may transfer up to $6 million of operational funding in the Programs and Operations – Adult Probation and Parole Programs appropriation unit for the Behavioral Health Transition Facility to the Division of Facilities Construction and Management in FY 2022 to complete construction of the facility. The Legislature further intends that the Department of Corrections submit an electronic written report to the Executive Offices and Criminal Justice Appropriations Subcommittee no later than one week prior to the transfer on the amount that will be transferred.

Item 5
To Utah Department of Corrections – Department Medical Services
From General Fund 765,100
From General Fund, One–Time 1,419,300
Schedule of Programs:
Medical Services 2,184,400

JUDICIAL COUNCIL/ STATE COURT ADMINISTRATOR

Item 6
To Judicial Council/State Court Administrator – Administration
From General Fund 870,600
From General Fund, One–Time 802,000
Schedule of Programs:
Data Processing 1,452,000
District Courts 220,600

GOVERNORS OFFICE

Item 7
To Governors Office – CCJJ – Salt Lake County Jail Bed Housing

The Legislature intends that any payments from the Commission on Criminal and Juvenile Justice for housing prisoners from Salt Lake County in other counties be limited to the rate of $26 per day, per prisoner.

Item 8
To Governors Office – Commission on Criminal and Juvenile Justice
From General Fund ..... (9,000)
From General Fund, One–Time 250,000
From Federal Funds 800
From Crime Victim Reparations Fund ... 295,600
Schedule of Programs:
CCJJ Commission 241,300
Utah Office for Victims of Crime 296,100

Item 9
To Governors Office – Governor's Office
From General Fund 235,900
From Dedicated Credits Revenue 400
Schedule of Programs:
Administration ..... (57,000)
Governor's Residence 130,000
Lt. Governor's Office 163,300

Item 10
To Governors Office – Office of Management and Budget
From General Fund 166,300
Schedule of Programs:
Administration 71,300
Planning and Budget Analysis 95,000

Item 11
To Governors Office – Indigent Defense Commission
From Federal Funds, One–Time 106,400
From General Fund Restricted – Indigent Defense Resources ..... (6,200)
From General Fund Restricted – Indigent Defense Resources, One–Time 105,600
Schedule of Programs:
Office of Indigent Defense Services 205,800

Item 12
To Governors Office – Quality Growth Commission – LeRay McAllister Program
From General Fund, One–Time 1,000,000
Schedule of Programs:
LeRay McAllister Critical Land Conservation Program 1,000,000

DEPARTMENT OF HUMAN SERVICES - DIVISION OF JUVENILE JUSTICE SERVICES

Item 13
To Department of Human Services – Division of Juvenile Justice Services – Programs and Operations
From General Fund, One–Time ..... (40,600)
From Federal Funds 31,600
From Federal Funds, One–Time 12,100
From Dedicated Credits Revenue 904,900
From Expendable Receipts 27,400
From Revenue Transfers 76,700
Schedule of Programs:
Administration 750,000
Community Programs 19,000
Correctional Facilities 76,700
Early Intervention Services 36,600
Case Management 144,400
Community Provider Payments ..... (14,600)

OFFICE OF THE STATE AUDITOR

Item 14
To Office of the State Auditor – State Auditor

From General Fund 1,500
From Dedicated Credits Revenue 1,200
Schedule of Programs:
State Auditor 2,700

DEPARTMENT OF PUBLIC SAFETY

Item 15
To Department of Public Safety – Division of Homeland Security – Emergency and Disaster Management
From Beginning Nonlapsing Balances 1,006,000
From Closing Nonlapsing Balances ... (1,006,000)

Item 16
To Department of Public Safety – Driver License
From General Fund 100
From Federal Funds 200
From Department of Public Safety Restricted Account 10,100
From Public Safety Motorcycle Education Fund 165,000
Schedule of Programs:
DL Federal Grants 200
Driver Services 10,200
Motorcycle Safety 165,000

Item 17
To Department of Public Safety – Emergency Management
From General Fund, One-Time 500,000
Schedule of Programs:
Emergency Management 500,000

Item 18
To Department of Public Safety – Highway Safety
From Federal Funds 281,600
Schedule of Programs:
Highway Safety 281,600

Item 19
To Department of Public Safety – Peace Officers' Standards and Training
From General Fund 2,000
Schedule of Programs:
POST Administration 2,000

Item 20
To Department of Public Safety – Programs & Operations
From General Fund 3,490,800
From General Fund, One-Time 10,399,800
From Federal Funds 2,033,600
From Dedicated Credits Revenue 454,600
From Department of Public Safety Restricted Account 119,800
From General Fund Restricted – Firefighter Support Account 118,000
From Gen. Fund Rest. – Motor Vehicle Safety Impact Acct., One-Time 3,500,000
From General Fund Restricted – Public S afety Honoring Heroes Account 100,000
From Revenue Transfers 1,000,000
From General Fund Restricted – Utah Law Enforcement Memorial Support Restricted Account 32,500
Schedule of Programs:
Aero Bureau 6,275,000
CITS Communications 1,054,300
CITS State Bureau of Investigation 955,100
CITS State Crime Labs 600,000
Department Commissioner's Office 138,200
Department Grants 3,033,600
Department Intelligence Center 5,100
Fire Marshal – Fire Operations 118,000
Highway Patrol – Administration 3,400
Highway Patrol – Field Operations 4,447,000
Highway Patrol – Safety Inspections ... 119,400
Highway Patrol – Technology Services 4,500,000

The Legislature intends that the Department of Public Safety is authorized to increase its fleet by the same number of new officers or vehicles authorized and funded by the Legislature for Fiscal Year 2021 and Fiscal Year 2022.

The Legislature intends that any proceeds from the sale of the salvaged helicopter parts and any insurance reimbursements for helicopter repair are to be used by the department for its Aero Bureau operations.

Item 21
To Department of Public Safety – Bureau of Criminal Identification
From General Fund ..... (120,000)
From Dedicated Credits Revenue .... (1,000,000)
From General Fund Restricted – Concealed Weapons Account 120,000
From Revenue Transfers 1,000,000

STATE TREASURER

Item 22
To State Treasurer
From General Fund 800
From Dedicated Credits Revenue 600
From Land Trusts Protection and Advocacy Account 1,200
From Unclaimed Property Trust 1,000
Schedule of Programs:
Advocacy Office 1,200
Money Management Council 200
Treasury and Investment 1,200
Unclaimed Property 1,000

In accordance with UCA 63J-1-201, the Legislature intends that the Treasurer's Office report performance measures for the Utah Land Trusts Protection and Advocacy Office, whose mission is to protect the beneficiaries' interests in the trust lands and funds and advocate for policies and resources to maximize the trust. The Treasurer's Office shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measures for FY 2022: 1) The dollar increase of the permanent fund balance; 2) The number of positive news stories, volume, reach, and engagement; and 3) The financial return of new unique projects compared to projects in previous years.

INFRASTRUCTURE AND GENERAL GOVERNMENT

UTAH EDUCATION AND TELEHEALTH NETWORK

Item 23
To Utah Education and Telehealth Network
From Education Fund 2,372,000
From Education Fund, One-Time 3,000,000
From Federal Funds 200
Schedule of Programs:
Administration 400
Technical Services 5,371,800

DEPARTMENT OF ADMINISTRATIVE SERVICES

Item 24
To Department of Administrative Services - Administrative Rules
From General Fund 1,600
Schedule of Programs:
DAR Administration 1,600

Item 25
To Department of Administrative Services - Building Board Program
From Capital Projects Fund 1,900
Schedule of Programs:
Building Board Program 1,900

Item 26
To Department of Administrative Services - DFCM Administration
From General Fund 700
From Education Fund 200
From Dedicated Credits Revenue 329,900
From Capital Projects Fund 600
Schedule of Programs:
DFCM Administration 331,400

Item 27
To Department of Administrative Services - Executive Director
From General Fund 800
Schedule of Programs:
Executive Director 800

Item 28
To Department of Administrative Services - Finance Administration
From General Fund 1,510,300
From General Fund, One-Time 4,300,000
From Dedicated Credits Revenue 10,000
Schedule of Programs:
Finance Director's Office 10,300
Financial Information Systems 5,800,000
Payroll 10,000

Item 29
To Department of Administrative Services - Inspector General of Medicaid Services
From General Fund 1,600
From Revenue Transfers 3,100
Schedule of Programs:
Inspector General of Medicaid Services 4,700

Item 30
To Department of Administrative Services - Judicial Conduct Commission
From General Fund 12,000
Schedule of Programs:
Judicial Conduct Commission 12,000

Item 31
To Department of Administrative Services - Purchasing
From General Fund 6,200
Schedule of Programs:
Purchasing and General Services 6,200

Item 32
To Department of Administrative Services - State Archives
From General Fund 800
From General Fund, One-Time 100,000
Schedule of Programs:
Archives Administration 100,800

Item 33
To Department of Administrative Services - Finance Mandated - Paid Postpartum Recovery Leave Program
From General Fund, One-Time 512,300
Schedule of Programs:
Paid Postpartum Recovery Leave Program 512,300

CAPITAL BUDGET

Item 34
To Capital Budget - Capital Development - Higher Education
From Capital Projects Fund, One-Time 188,248,100
Schedule of Programs:
Bridgerland Technical College Health Science and Technology Building 38,059,600
SLCC Herriman Building 32,674,800
SUU Academic Classroom Building 43,013,700
UU Applied Sciences Building 60,000,000
USU Heravi Global Teaching and Learning Center 14,500,000

The Legislature intends that before commencing construction of a capital development project funded for an institution of higher education during the 2021 General Session, the Division of Facilities Construction and Management (DFCM) and the institution shall report to the Infrastructure and General Government Appropriations Subcommittee and the Higher Education Appropriations Subcommittee on the status and cost of the project, and that DFCM and the institution shall seek feedback from the committees before committing funds for demolition or construction. The legislature further intends that prior to committing funds for construction that DFCM, the institution, and the Board of Higher Education shall certify to the committees that the institution (1) has developed a plan that will utilize each classroom space in the building an average of

33.75 hours of instruction per week for spring and fall semesters with 66.7 percent seat occupancy, and will work to increase utilization of classroom space during the summer; and (2) has presented a plan to implement space utilization of non-classroom areas as per industry standards.

Item 35
To Capital Budget - Capital Development - Other State Government
From Capital Projects Fund, One-Time 7,525,700
Schedule of Programs:
Brigham City Consolidated Public Safety Building 7,525,700

The Legislature intends that Courts study the proposed Sanpete County Courthouse project with a focus on reducing cost per square foot and increasing utilization of spaces within the proposed facility, and that Courts report on the study to the Infrastructure and General Government Appropriations Subcommittee before October 1, 2021.

Item 36
To Capital Budget - Capital Improvements
From General Fund ..... (7,369,600)
From General Fund, One-Time 4,000,000
From Education Fund 7,369,600
Schedule of Programs:
Capital Improvements 4,000,000

Item 37
To Capital Budget - Property Acquisition
From Education Fund, One-Time 15,000,000
Schedule of Programs:
Dixie State University Land Bank .. 15,000,000

STATE BOARD OF BONDING COMMISSIONERS - DEBT SERVICE

Item 38
To State Board of Bonding Commissioners - Debt Service - Debt Service

The Legislature intends that, if amounts appropriated from the Transportation Investment Fund of 2005 and the County of the First Class Highway Projects Fund to debt service exceed the amounts needed to cover payments on the debt, the Division of Finance transfer from these funds only the amounts needed for debt service.

DEPARTMENT OF TECHNOLOGY SERVICES

Item 39
To Department of Technology Services - Chief Information Officer
From General Fund 70,000
Schedule of Programs:
Chief Information Officer 70,000

Item 40
To Department of Technology Services - Integrated Technology Division
From General Fund 100
From Dedicated Credits Revenue 100
Schedule of Programs:
Automated Geographic Reference Center .. 200

TRANSPORTATION

Item 41
To Transportation - Aeronautics
From Federal Funds 984,900
Schedule of Programs:
Airport Construction 984,900

The Legislature intends that the Department of Transportation calculate an hourly aircraft rental rate for each aircraft that would be needed to recover (1) the direct operating cost and (2) the sum of the acquisition price less the projected proceeds from the sale of the aircraft at the end of its service divided by the projected number of billed hours for the aircraft, and that the department report its findings to the Infrastructure and General Government Appropriations Subcommittee before October 1, 2021.

Item 42
To Transportation - Highway System Construction
From Transportation Fund, One-Time 8,768,300
From Federal Funds 70,269,700
From Federal Funds, One-Time 66,124,000
Schedule of Programs:
Federal Construction 135,871,000
State Construction 9,291,000

The Legislature intends that if the Department of Transportation determines that land owned by the department near the Calvin L. Rampton Complex is surplus to the department's needs, a portion of proceeds from the sale of the surplus property may be used to help mitigate traffic impact associated with the Taylorsville State Office Building.

The Legislature intends that the Department of Transportation plan to improve traffic flow through improvements to or redesign of roadways near the Bluffdale railroad trestle, and that the department report on the plan to the Infrastructure and General Government Appropriations Subcommittee before October 1, 2021.

Item 43
To Transportation - Cooperative Agreements
From Federal Funds 15,000,000
From Expendable Receipts 25,000,000
Schedule of Programs:
Cooperative Agreements 40,000,000

Item 44
To Transportation - Engineering Services
From General Fund ..... (900,000)
From Transportation Fund 1,925,900
From Transportation Fund, One-Time 1,250,000
From Federal Funds 5,990,700
From Federal Funds, One-Time 3,705,500
Schedule of Programs:

Program Development 9,796,200
Research 2,175,900

Item 45
To Transportation – Operations/ Maintenance Management
From Transportation Fund 470,600
From Transportation Fund, One-Time 6,000,000
From Federal Funds ..... (323,400)
From Dedicated Credits Revenue 1,147,900
Schedule of Programs:
Lands and Buildings 1,100,000
Maintenance Administration 48,200
Maintenance Planning ..... (101,000)
Traffic Operations Center 6,200,000
Traffic Safety/Tramway 47,900

Item 46
To Transportation – Region Management
From Transportation Fund 480,300
From Federal Funds ..... (519,300)
Schedule of Programs:
Region 2 ..... (39,000)

Item 47
To Transportation – Support Services
From Transportation Fund 1,083,000
From Federal Funds 775,100
From Federal Funds, One-Time 684,000
Schedule of Programs:
Administrative Services 88,400
Comptroller 99,000
Data Processing 685,200
Human Resources Management 151,000
Ports of Entry 1,518,500

Item 48
To Transportation – Transportation Investment Fund Capacity Program
From General Fund, One-Time 35,000,000
From Transportation Investment Fund of 2005 31,998,600
Schedule of Programs:
Transportation Investment Fund Capacity Program 66,998,600

The Legislature intends that the department use the $35,000,000 one-time appropriation from the General Fund in this item for paved pedestrian or paved nonmotorized transportation projects, contingent on the political subdivision where a project takes place providing a contribution equal to or greater than 20 percent of the costs needed for construction, reconstruction, or renovation of the paved pedestrian or paved nonmotorized transportation project.

Item 49
To Transportation – Pass-Through
From General Fund 900,000
From Education Fund, One-Time 5,000,000
Schedule of Programs:
Pass-Through 5,900,000

Item 50
To Transportation – Railroad Crossing Safety

The Legislature intends that the Railroad Crossing Safety Grants line item be renamed as the Railroad Crossing Safety line item.

BUSINESS, ECONOMIC DEVELOPMENT, AND LABOR

DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL

Item 51
To Department of Alcoholic Beverage Control – DABC Operations
From General Fund, One-Time 35,000
From Liquor Control Fund 5,796,700
From Liquor Control Fund, One-Time 2,783,500
Schedule of Programs:
Executive Director 53,100
Operations 2,783,500
Stores and Agencies 5,555,700
Warehouse and Distribution 222,900

DEPARTMENT OF COMMERCE

Item 52
To Department of Commerce – Commerce General Regulation
From Federal Funds 61,300
From Dedicated Credits Revenue ..... (499,600)
From General Fund Restricted – Commerce Service Account 2,913,200
From General Fund Restricted – Public Utility Restricted Acct. 30,800
From Single Sign-On Expendable Special Revenue Fund, One-Time 300,000
From Revenue Transfers 1,000,000
Schedule of Programs:
Administration 2,836,200
Occupational and Professional Licensing 877,000
Office of Consumer Services 16,300
Public Utilities 16,200
Real Estate 60,000

GOVERNOR'S OFFICE OF ECONOMIC DEVELOPMENT

Item 53
To Governor's Office of Economic Development – Administration
From General Fund 7,400
Schedule of Programs:
Administration 7,400

Item 54
To Governor's Office of Economic Development – Business Development
From General Fund 645,000
From General Fund, One-Time 10,000,000
Schedule of Programs:
Corporate Recruitment and Business Services 445,000
Outreach and International Trade 10,200,000

Item 55
To Governor's Office of Economic Development – Pass-Through
From General Fund 3,672,500

From General Fund, One-Time 50,336,000
Schedule of Programs:
Pass-Through 54,008,500

Item 56
To Governor's Office of Economic Development - Talent Ready Utah Center
From General Fund, One-Time 2,000,000
Schedule of Programs:
Talent Ready Utah Center 2,000,000

Item 57
To Governor's Office of Economic Development - Inland Port Authority
From General Fund 800,000
From General Fund, One-Time 6,900,000
Schedule of Programs:
Inland Port Authority 7,700,000

Item 58
To Governor's Office of Economic Development - Point of the Mountain Authority
From General Fund 800,000
From General Fund, One-Time 6,500,000
Schedule of Programs:
Point of the Mountain Authority 7,300,000

Item 59
To Governor's Office of Economic Development - Rural County Grants Program
From General Fund 4,250,000
Schedule of Programs:
Rural County Grants Program 4,250,000

FINANCIAL INSTITUTIONS

Item 60
To Financial Institutions - Financial Institutions Administration
From General Fund Restricted - Financial Institutions 1,100
From General Fund Restricted - Financial Institutions, One-Time 35,000
Schedule of Programs:
Administration 36,100

DEPARTMENT OF HERITAGE AND ARTS

Item 61
To Department of Heritage and Arts - Administration
From General Fund 456,900
From Dedicated Credits Revenue 70,900
Schedule of Programs:
Administrative Services 207,800
Information Technology ..... (30,000)
Utah Multicultural Affairs Office 350,000

Item 62
To Department of Heritage and Arts - Division of Arts and Museums
From General Fund 4,152,200
From Dedicated Credits Revenue 25,000
Schedule of Programs:
Administration 152,200
Community Arts Outreach 4,000,000
Grants to Non-profits 25,000

The Legislature intends that agencies report on relevant items recommended for follow-up in the 2021 Fiscal Note and Building Block Item Follow-up Report presented in the October 19th Interim BEDL Subcommittee meeting, by the final October 2021 Interim subcommittee meeting.

Item 63
To Department of Heritage and Arts - Commission on Service and Volunteerism
From General Fund 8,900
From Federal Funds 214,000
From Dedicated Credits Revenue, One-Time 50,000
Schedule of Programs:
Commission on Service and Volunteerism 272,900

Item 64
To Department of Heritage and Arts - Indian Affairs
From General Fund, One-Time 250,000
Schedule of Programs:
Indian Affairs 250,000

The Legislature intends that the appropriation of $250,000 in this item be nonlapsing and used for a Bears Ears Visitor Center Master Plan. The Legislature further intends that, if H.B. 341, 2021 General Session passes, the Division of Indian Affairs may only spend this $250,000 in consultation with the Bears Ears Visitor Center Advisory Committee.

Item 65
To Department of Heritage and Arts - Pass-Through
From General Fund, One-Time 1,335,000
Schedule of Programs:
Pass-Through 1,335,000

Item 66
To Department of Heritage and Arts - State History
From General Fund 293,000
Schedule of Programs:
Administration 278,000
Library and Collections 15,000

Item 67
To Department of Heritage and Arts - State Library
From General Fund 189,400
From Dedicated Credits Revenue ..... (200,000)
Schedule of Programs:
Administration ..... (10,600)

Item 68
To Department of Heritage and Arts - Stem Action Center
From General Fund 391,200
From Dedicated Credits Revenue .... (1,288,900)
Schedule of Programs:
STEM Action Center ..... (212,600)
STEM Action Center - Grades 6-8 .. (685,100)

INSURANCE DEPARTMENT

Item 69
To Insurance Department - Insurance Department Administration
From Federal Funds 600
From General Fund Restricted - Captive Insurance 440,000
From General Fund Restricted - Insurance Department Acct. 457,200

Schedule of Programs:
Administration 457,800
Captive Insurers 440,000

Notwithstanding the fee amount authorized in line 4671 of S.B. 8, State Agency Fees and Internal Service Fund Rate Authorization and Appropriations for "Captive Initial License Issuance," the Legislature intends that this fee be set at $6,125.00 for FY 2022.

Notwithstanding the fee amount authorized in line 4672 of S.B. 8, State Agency Fees and Internal Service Fund Rate Authorization and Appropriations for "Captive Annual Renewal," the Legislature intends that this fee be set at $6,125.00 for FY 2022.

Notwithstanding the fee amount authorized in line 4674 of S.B. 8, State Agency Fees and Internal Service Fund Rate Authorization and Appropriations for "Captive Reinstatement," the Legislature intends that this fee be set at $6,130.00 for FY 2022.

LABOR COMMISSION

Item 70
To Labor Commission
From General Fund 113,300
From Employers' Reinsurance Fund 100
Schedule of Programs:
Administration 13,400
Antidiscrimination and Labor 100,000

The Legislature intends that the Labor Commission purchases up to three vehicles through the Division of Fleet Operations in FY 2022 based on availability of federal funds.

PUBLIC SERVICE COMMISSION

Item 71
To Public Service Commission
From Revenue Transfers 1,000
Schedule of Programs:
Administration 1,000

UTAH STATE TAX COMMISSION

Item 72
To Utah State Tax Commission – Liquor Profit Distribution
From General Fund Restricted – Alcoholic Beverage Enforcement and Treatment Account 713,600
Schedule of Programs:
Liquor Profit Distribution 713,600

Item 73
To Utah State Tax Commission – Tax Administration
From General Fund 33,200
From Education Fund 43,700
From Federal Funds 2,700
From Dedicated Credits Revenue 5,300
From General Fund Restricted – Motor Vehicle Enforcement Division Temporary Permit Account 900
From General Fund Rest. – Sales and Use Tax Admin Fees 17,700
From Revenue Transfers 700
Schedule of Programs:
Administration Division 900
Auditing Division 60,700
Motor Vehicle Enforcement Division 900
Motor Vehicles 2,000
Property Tax Division 28,800
Tax Payer Services 10,900

The Legislature intends that the Utah State Tax Commission report on all special group license plate activity in the state, including the type of different group license plates, quantity sold, year created, and costs associated with this production, by the October 2021 Interim Subcommittee meeting.

Under the terms and conditions of Utah Code Title 63J Chapter 1 and other fee statutes as applicable, the following fee is approved for the use and support of the government of the State of Utah: Renewal Notice Postage – up to $2.00.

SOCIAL SERVICES

DEPARTMENT OF HEALTH

Item 74
To Department of Health – Children's Health Insurance Program
From General Fund 787,600
From General Fund, One-Time ..... (1,672,100)
From Federal Funds 2,966,500
From Federal Funds, One-Time ..... (7,867,900)
From Federal Funds – Enhanced FMAP, One-Time 1,570,000
From Expendable Receipts – Rebates 383,600
Schedule of Programs:
Children's Health Insurance Program ..... (3,832,300)

Item 75
To Department of Health – Disease Control and Prevention
From General Fund ..... (650,000)
From General Fund, One-Time 341,600
From Federal Funds 80,082,000
From Dedicated Credits Revenue 127,200
From Expendable Receipts 164,900
From Expendable Receipts – Rebates 591,600
From Revenue Transfers 2,019,200
Schedule of Programs:
Clinical and Environmental Lab Certification Programs 127,200
Epidemiology 81,466,300
Health Promotion 833,000
Utah Public Health Laboratory 250,000

The Legislature directs the Department of Environmental Quality to use this funding to procure at least $900,000 in services from the Utah Public Health Laboratory in FY2022. The Legislature directs the Utah Department of Environmental Quality and the Utah

Department of Health (the Departments) to develop a comprehensive plan for 1) the most cost-effective mechanisms to procure high volume environmental chemistry analyses with emphasis on the states ambient water quality monitoring needs, 2) a structure for development of new laboratory methods that are not commercially available but would benefit the public interest, and 3) an optimal governance structure to oversee state environmental testing resources. Based on this plan and structure the funding allocation between the two Departments will be updated to take effect FY2023. If no new plan or structure is finalized, beginning in FY2023, the ongoing funds become unencumbered.

Item 76

To Department of Health - Executive Director's Operations
From General Fund 112,400
From General Fund, One-Time 31,000
From Federal Funds 6,152,600
From Dedicated Credits Revenue 143,300
From Dedicated Credits Revenue, One-Time 13,500
From Revenue Transfers 818,900
Schedule of Programs:
Adoption Records Access 13,500
Center for Health Data and Informatics 878,500
Executive Director 48,900
Program Operations 6,330,800

The Legislature intends that the Department of Health develop one proposed performance measure for each new funding item of $10,000 or more from the General Fund, Education Fund, or Temporary Assistance for Needy Families (TANF) federal funds by May 1, 2021. For FY 2022 items, the department shall report the results of the measures, plus the actual amount spent and the month and year of implementation, by August 31, 2022. The department shall provide this information to the Office of the Legislative Fiscal Analyst.

The Legislature intends that the Department of Health report on the efficiencies, impacts, process changes, and accompanying cost impacts achieved by completing the Master Person Index project by January 2022 to the Social Services Appropriations Subcommittee.

Notwithstanding the target of 90% listed on line 924 of S.B. 7 Social Services Base Budget, the Legislature intends that the target be 80%.

Item 77

To Department of Health - Family Health and Preparedness
From General Fund 1,491,500
From General Fund, One-Time 100,000
From Federal Funds 72,735,300
From Dedicated Credits Revenue 133,200
From Expendable Receipts 13,300
From Gen. Fund Rest. - Children's Hearing Aid Pilot Program Account, One-Time 139,300
From Revenue Transfers 30,000
Schedule of Programs:
Children with Special Health Care Needs 1,847,700
Director's Office ..... (166,000)
Maternal and Child Health 72,860,900
Primary Care 100,000

Item 78

To Department of Health - Medicaid and Health Financing
From General Fund ..... (800)
From Federal Funds 6,069,500
From Federal Funds, One-Time 5,048,800
From Expendable Receipts ..... (126,800)
From General Fund Restricted - Medicaid Restricted Account, One-Time 100,000
From Revenue Transfers 4,377,300
Schedule of Programs:
Financial Services 1,000,000
Managed Health Care ..... (1,600)
Medicaid Operations 14,469,600

The Legislature intends that the income eligibility ceiling shall be the following percent of federal poverty level for UCA 26-18-411 Health Coverage Improvement Program: i. 5% for individuals who meet the additional criteria in 26-18-411 Subsection (3) ii. the income level in place prior to July 1, 2017 for an individual with a dependent child.

The Legislature intends that the $500,000 in beginning nonlapsing provided to the Department of Health's Medicaid and Health Financing line item for state match to improve existing application level security and provide redundancy for core Medicaid applications is dependent upon up to $500,000 funds not otherwise designated as nonlapsing to the Department of Health's Medicaid Services line item or Medicaid and Health Financing line item or a combination from both line items not to exceed $500,000 being retained as nonlapsing in Fiscal Year 2021.

The Legislature authorizes the Department of Health to spend all available money in the Ambulance Service Provider Assessment Expendable Revenue Fund 2242 for FY 2022 regardless of the amount appropriated as allowed by the fund's authorizing statute.

The Legislature authorizes the Department of Health to spend all available money in the Hospital Provider Assessment Expendable Special Revenue Fund 2241 for FY 2022 regardless of the amount appropriated as allowed by the fund's authorizing statute.

The Legislature authorizes the Department of Health to spend all available money in the Medicaid Expansion Fund 2252 for FY 2022 regardless of the amount

appropriated as allowed by the fund's authorizing statute.

The Legislature authorizes the Department of Health to spend all available money in the Nursing Care Facilities Provider Assessment Fund 2243 for FY 2022 regardless of the amount appropriated as allowed by the fund's authorizing statute.

The Legislature intends that the Department of Health provide a written report to the Social Services Appropriations Subcommittee within two weeks of any U.S. Supreme Court ruling on the viability of work requirements in Medicaid and its implication on work requirement options for Utah Medicaid populations.

Item 79
To Department of Health – Medicaid Services
From General Fund 17,705,600
From General Fund, One-Time ..... (3,258,900)
From Federal Funds 39,990,200
From Federal Funds, One-Time 18,782,800
From Federal Funds – Enhanced FMAP, One-Time 29,220,000
From Expendable Receipts 41,245,700
From Medicaid Expansion Fund 43,091,200
From Medicaid Expansion Fund, One-Time 2,630,000
From Nursing Care Facilities Provider Assessment Fund 250,000
From Revenue Transfers 311,000
Schedule of Programs:
Accountable Care Organizations 3,000,000
Intermediate Care Facilities for the Intellectually Disabled 758,000
Medicaid Expansion 43,250,000
Nursing Home ..... (139,000)
Other Services 80,916,400
Provider Reimbursement Information System for Medicaid 62,150,000
School Based Skills Development 32,200

The Legislature intends that the Department of Health report to the Social Services Appropriations Subcommittee on the status of replacing the Medicaid Management Information System replacement by September 30, 2021. The report should include an updated estimate of net ongoing impacts to the State from the new system. The Department of Health should work with other agencies to identify any impacts outside its agency.

The Legislature authorizes the Department of Health to spend all available money in the Ambulance Service Provider Assessment Expendable Revenue Fund 2242 for FY 2022 regardless of the amount appropriated as allowed by the fund's authorizing statute.

The Legislature authorizes the Department of Health to spend all available money in the Hospital Provider Assessment Expendable Special Revenue Fund 2241 for FY 2022 regardless of the amount appropriated as allowed by the fund's authorizing statute.

The Legislature authorizes the Department of Health to spend all available money in the Medicaid Expansion Fund 2252 for FY 2022 regardless of the amount appropriated as allowed by the fund's authorizing statute.

The Legislature authorizes the Department of Health to spend all available money in the Nursing Care Facilities Provider Assessment Fund 2243 for FY 2022 regardless of the amount appropriated as allowed by the fund's authorizing statute.

Item 80
To Department of Health – Primary Care Workforce Financial Assistance
From General Fund 300,000
Schedule of Programs:
Primary Care Workforce Financial Assistance 300,000

Item 81
To Department of Health – Rural Physicians Loan Repayment Assistance
From General Fund ..... (13,800)
Schedule of Programs:
Rural Physicians Loan Repayment Program ..... (13,800)

Item 82
To Department of Health – Vaccine Commodities
From Federal Funds 27,277,100
Schedule of Programs:
Vaccine Commodities 27,277,100

DEPARTMENT OF HUMAN SERVICES

Item 83
To Department of Human Services – Division of Aging and Adult Services
From General Fund ..... (7,600)
From General Fund, One-Time ..... (50,600)
From Federal Funds 6,476,500
From Expendable Receipts 30,000
Schedule of Programs:
Administration – DAAS ..... (6,100)
Adult Protective Services 731,000
Aging Alternatives ..... (800)
Aging Waiver Services ..... (48,200)
Local Government Grants – Formula Funds 5,772,400

Item 84
To Department of Human Services – Division of Child and Family Services
From General Fund 5,127,700
From General Fund, One-Time 1,347,500
From Federal Funds 7,676,100
From Federal Funds, One-Time 264,700
From Expendable Receipts 452,000
Schedule of Programs:
Administration – DCFS 89,500
Adoption Assistance ..... (130,300)
Domestic Violence 999,500
Facility-Based Services 750,000
Minor Grants ..... (1,600)
Out-of-Home Care 809,100
Selected Programs 321,100

Service Delivery 5,560,300
Special Needs ..... (800)
Provider Payments 6,471,200

Item 85
To Department of Human Services – Executive Director Operations
From General Fund ..... (58,700)
From Federal Funds 2,403,200
From Dedicated Credits Revenue 5,100
From Revenue Transfers 1,900
Schedule of Programs:
Executive Director's Office 1,862,900
Information Technology 1,900
Legal Affairs 29,800
Office of Licensing 2,300
Office of Quality and Design 417,500
Utah Developmental Disabilities Council 37,100

The Legislature intends that the Department of Human Services develop one proposed performance measure for each new funding item of $10,000 or more from the General Fund, Education Fund, or Temporary Assistance for Needy Families (TANF) federal funds by May 1, 2021. For FY 2022 items, the department shall report the results of the measures, plus the actual amount spent and the month and year of implementation, by August 31, 2022. The department shall provide this information to the Office of the Legislative Fiscal Analyst.

Item 86
To Department of Human Services – Office of Public Guardian
From General Fund ..... (2,000)
Schedule of Programs:
Office of Public Guardian ..... (2,000)

Item 87
To Department of Human Services – Office of Recovery Services
From General Fund 486,300
From General Fund, One-Time 300,000
From Federal Funds 1,423,900
From Federal Funds, One-Time 533,300
From Expendable Receipts 3,689,600
Schedule of Programs:
Administration – ORS 1,935,500
Attorney General Contract 868,500
Child Support Services 3,689,400
Children in Care Collections 93,700
Electronic Technology ..... (21,700)
Medical Collections ..... (132,300)

Item 88
To Department of Human Services – Division of Services for People with Disabilities
From General Fund 10,580,700
From General Fund, One-Time ..... (4,236,200)
From Dedicated Credits Revenue 56,500
From Dedicated Credits Revenue, One-Time 210,800
From Expendable Receipts 200,000
From Revenue Transfers 21,220,100
From Revenue Transfers, One-Time .. 3,403,700
Schedule of Programs:
Administration – DSPD ..... (3,200)
Community Supports Waiver 30,196,600
Service Delivery ..... (33,700)
Utah State Developmental Center ... 1,136,900
Community Transitions Waiver 139,000

Item 89
To Department of Human Services – Division of Substance Abuse and Mental Health
From General Fund 944,100
From General Fund, One-Time 1,314,900
From Federal Funds 200,600
From Dedicated Credits Revenue 124,100
From Expendable Receipts 450,000
From Revenue Transfers 240,100
From Revenue Transfers, One-Time 206,900
Schedule of Programs:
Administration – DSAMH 192,300
Community Mental Health Services 9,100
Drug Courts ..... (1,100)
Local Substance Abuse Services 985,700
Mental Health Centers 648,000
State Hospital 1,201,400
State Substance Abuse Services 445,300

The Legislature intends that funding provided for the item "Family Resource Facilitator and Prevention Request" be spent over three fiscal years, FY 2022–24, and that the Department of Human Services request nonlapsing authority as needed to retain the funding for that period of time.

The Legislature intends that the Department of Human Services provide to the Social Services Appropriations Subcommittee no later than August 15, 2022 the following information for the medication assisted treatment (MAT) program: 1) cost per client; 2) changes in employment, housing, education, and income among clients; 3) number of new charges/bookings for clients; 4) a best effort to describe savings to the State (lower unemployment benefits, uncompensated healthcare, etc.); and 5) options for other funding sources to defray state costs.

DEPARTMENT OF WORKFORCE SERVICES

Item 90
To Department of Workforce Services – Administration
From Federal Funds, One-Time 1,000
From Medicaid Expansion Fund 1,200
From Olene Walker Housing Loan Fund 15,000
From OWHTF-Low Income Housing 15,000
From General Fund Restricted – Special Admin. Expense Account, One-Time 67,500
From Revenue Transfers 921,900
From Unemployment Compensation Fund, One-Time 69,500
Schedule of Programs:
Administrative Support 960,600
Communications 100
Executive Director's Office 10,100
Human Resources 20,200
Internal Audit 100,100

The Legislature intends that $68,000 of the Unemployment Compensation Fund appropriation provided for the Administration line item is limited to one-time projects associated with Unemployment Insurance modernization.

The Legislature intends that the Department of Workforce Services develop one proposed performance measure for each new funding item of $10,000 or more from the General Fund, Education Fund, or Temporary Assistance for Needy Families (TANF) federal funds by May 1, 2021. For FY 2022 items, the department shall report the results of the measures, plus the actual amount spent and the month and year of implementation, by August 31, 2022. The department shall provide this information to the Office of the Legislative Fiscal Analyst.

Item 91

To Department of Workforce Services - General Assistance

Notwithstanding the targets of 58% and 90% listed on lines 1554 and 1556 of S.B. 7 Social Services Base Budget, the Legislature intends that the targets be 65% and 95%.

Item 92

To Department of Workforce Services - Housing and Community Development
From General Fund 900
From General Fund, One-Time 750,000
From Federal Funds 3,996,600
From Federal Funds - CARES Act, One-Time 28,211,400
From Dedicated Credits Revenue 300
From Gen. Fund Rest. - Pamela Atkinson Homeless Account 200
From General Fund Restricted - Homeless Shelter Cities Mitigation Restricted Account 600
From Housing Opportunities for Low Income Households 800
From Olene Walker Housing Loan Fund 800
From OWHT-Fed Home 800
From OWHTF-Low Income Housing 800
From Permanent Community Impact Loan Fund 800
Schedule of Programs:
Community Development 11,633,500
Community Development Administration 92,000
Community Services 3,294,100
HEAT 1,979,100
Homeless Committee 14,539,600
Housing Development 755,700
Weatherization Assistance 670,000

The Legislature intends that the prioritized list of Homeless Shelter Cities Mitigation Program grant requests, including the recommended grant amount for each grant-eligible entity, be approved as submitted to the Social Services Appropriations Subcommittee by the State Homeless Coordinating Committee in accordance with Utah Code 63J-1-802.

Item 93

To Department of Workforce Services - Nutrition Assistance - SNAP
From Federal Funds 166,244,900
Schedule of Programs:
Nutrition Assistance - SNAP 166,244,900

Item 94

To Department of Workforce Services - Operations and Policy
From General Fund 23,900
From Education Fund 3,000,000
From Education Fund, One-Time 500,000
From Federal Funds 28,315,100
From Federal Funds, One-Time 4,610,300
From Olene Walker Housing Loan Fund 38,000
From OWHTF-Low Income Housing 30,900
From Qualified Emergency Food Agencies Fund 1,000
From General Fund Restricted - Special Admin. Expense Account, One-Time 2,843,500
From Revenue Transfers 400
From Unemployment Compensation Fund, One-Time 2,594,600
Schedule of Programs:
Child Care Assistance 15,573,100
Eligibility Services 2,860,700
Facilities and Pass-Through 500
Information Technology 4,087,000
Other Assistance 2,773,500
Temporary Assistance for Needy Families 4,604,100
Workforce Development 12,064,400
Workforce Research and Analysis ..... (5,600)

The Legislature intends that $2,591,200 of the Unemployment Compensation Fund appropriation provided for the Operations and Policy line item is limited to one-time projects associated with Unemployment Insurance modernization.

The Legislature authorizes the Department of Workforce Services to spend all available money, as authorized by the Department of Health, in the Medicaid Expansion Fund (fund 2252) for FY 2021 regardless of the amount appropriated as allowed by the fund's authorizing statute.

Authorize Temporary Assistance for Needy Families (TANF) federal funds one-time in FY2022 in the Department of Workforce Services - Operations and Policy line item for the following programs: (1) Domestic Violence, Essential Victim Services Funding $1,723,100; and (2) RESPECT (RESpite, Parent Education, Care informed by Trauma) $2,881,000. The Legislature intends that the funds provided in the Department of Workforce Services - Operations and Policy line item for these programs from Temporary Assistance for Needy Families (TANF) federal funds are dependent upon the availability of and qualification of each program for Temporary Assistance for Needy Families federal funds.

Authorize Temporary Assistance for Needy Families (TANF) federal funds one-time in FY2022 in the Department of Workforce Services - Operations and Policy line item for the following program: Statewide Sexual Assault and Interpersonal Violence Prevention Program $3,594,400. The Legislature intends that the funds provided in the Department of Workforce Services - Operations and Policy line item for this program from Temporary Assistance for Needy Families (TANF) federal funds are dependent upon the availability of and qualification of the program for Temporary Assistance for Needy Families federal funds.

Notwithstanding the target of 72% listed on line 1670 of S.B. 7 Social Services Base Budget, the Legislature intends that the target be 78%.

Item 95

To Department of Workforce Services - State Office of Rehabilitation
From General Fund 5,200
From Federal Funds 2,000
From Federal Funds, One-Time 100
From Expendable Receipts 150,000
From Medicaid Expansion Fund 200
From General Fund Restricted - Special Admin. Expense Account, One-Time 1,500
From Revenue Transfers 24,500
From Unemployment Compensation Fund, One-Time 1,800
Schedule of Programs:
Deaf and Hard of Hearing 18,600
Disability Determination 2,000
Executive Director 5,700
Rehabilitation Services 159,000

The Legislature intends that $1,500 of the Unemployment Compensation Fund appropriation provided for the State Office of Rehabilitation line item is limited to one-time projects associated with Unemployment Insurance modernization.

Item 96

To Department of Workforce Services - Unemployment Insurance
From General Fund 157,500
From Federal Funds 6,868,900
From Federal Funds, One-Time 25,000
From Dedicated Credits Revenue 130,000
From Medicaid Expansion Fund 100
From Olene Walker Housing Loan Fund 500
From OWHTF-Low Income Housing 500
From General Fund Restricted - Special Admin. Expense Account, One-Time 837,500
From Revenue Transfers 200
From Unemployment Compensation Fund, One-Time 550,900
Schedule of Programs:
Adjudication 1,599,800
Unemployment Insurance Administration 6,971,300

Notwithstanding the targets of 95.5% and 95% listed on lines 1772 and 1779 of S.B. 7 Social Services Base Budget, the Legislature intends that the targets be 98.5% and 98%.

The Legislature intends that $539,300 of the Unemployment Compensation Fund appropriation provided for the Unemployment Insurance line item is limited to one-time projects associated with Unemployment Insurance modernization.

HIGHER EDUCATION

UNIVERSITY OF UTAH

Item 97

To University of Utah - Education and General
From General Fund, One-Time ... (200,000,000)
From Education Fund 7,596,400
From Education Fund, One-Time ... 198,880,100
From Dedicated Credits Revenue 3,900
Schedule of Programs:
Education and General 6,953,800
Operations and Maintenance ..... (473,400)

The Legislature authorizes the University of Utah to purchase seven vehicles for its motor pool.

In accordance with UCA 63J-1-201, the Legislature intends that the University of Utah report performance measures for the Education and General line item, whose mission is: "To foster success by preparing students from diverse backgrounds for lives that impact as leaders and citizens. Share new knowledge, discoveries, and innovations, and engage local and global communities to promote education, health, and quality of life": The University of Utah shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measures for FY 2022: (1) Degrees and certificates awarded (Target = 1% improvement over the average of the previous five years), (2) Degrees and certificates awarded to underserved students (Target = 1% improvement over the average of the previous five years), (3) Degrees and certificates awarded in high market demand fields (Target = 1% improvement over the average of the previous five years), (4) Degrees and certificates awarded per full-time equivalent student (Target = 1% improvement over the average of the previous five years), (5) Total research expenditures (Target = 1% improvement over the average of the previous five years).

Item 98

To University of Utah - Educationally Disadvantaged

In accordance with UCA 63J-1-201, the Legislature intends that the University of report performance measures for the

Educationally Disadvantaged line item, whose mission is: "A college student who requires special services and assistance to enable them to succeed in higher education The University of Utah shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measures for FY 2022: (1) Students with disabilities registered and receiving services (Target = 2%-5% of total university enrollment), (2) Provision of alternative format services, including Braille and Video Captioning (Target = provide accessible materials in a timely manner - prior to materials being needed/utilized in coursework), and (3) Provide Interpreting Services for Deaf and Hard of Hearing students (Target = Maintain a highly qualified and 100% certified interpreting staff. Achieve 100% delivery of properly requested interpreting needs).

Item 99

To University of Utah - School of Medicine

In accordance with UCA 63J-1-201, the Legislature intends that the University of Utah report performance measures for the School of Medicine line item, whose mission is: "The University of Utah School of Medicine serves the people of Utah and beyond by continually improving individual and community health and quality of life. This is achieved through excellence in patient care, education, and research. Each is vital to our mission and each makes the others stronger". The University of Utah shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measures for FY 2022: (1) Number of medical school applications (Target = Exceed number of applications as an average of the prior three years), (2) Number of student enrolled in medical school (Target = Maintain full cohort based on enrollment levels), (3) Number of applicants to matriculates (Target = Maintain healthy ratio to insure a class of strong academic quality), (4) Number of miners served (Target = Maintain or exceed historical number served), and (5) Number of miners enrolled (Target = Maintain or exceed historical number enrolled).

Item 100

To University of Utah - Cancer Research and Treatment

From General Fund, One-Time 9,000,000

Schedule of Programs:

Cancer Research and Treatment 9,000,000

To purchase new Cyclotron equipment in order to maintain Utah's leadership role in radiopharmaceuticals and to ensure reliable supply of this critical imaging compounds needed for research and other clinical care purposes.

In accordance with UCA 63J-1-201, the Legislature intends that the University of Utah report performance measures for the Cancer Research and Treatment line item, whose mission is: "To understand cancer from its beginnings, to use that knowledge in the creation and improvement of cancer treatments, to relieve the suffering of cancer patients, and to provide education about cancer risk, prevention, and care". The University of Utah shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measures for FY 2022: (1) Extramural cancer research funding help by HCI investigators (Target = Increase funding by 5%), (2) Support development of cancer training programs through promotion of student professional development and experiential learning opportunities designed for cancer research trainees, and securing new extramural funding for cancer training at HCI and (3) Increase outreach and research support of rural, frontier, and underserved populations.

Item 101

To University of Utah - University Hospital

In accordance with UCA 63J-1-201, the Legislature intends that the University of Utah report performance measures for the University Hospital line item, whose mission is: "The University of Utah Health Sciences Center serves the people of Utah and beyond by continually improving individual and community health and quality of life. This is achieved through excellence in patient care, education, and research, each is vital to our mission and each makes the others stronger". The University of Utah shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measures for FY 2022: (1) Number of annual residents in training (Target = 578), (2) Number of annual resident training hours (Target = 2,080,800), and (3) Percentage of total resident training costs appropriated by the legislature (Target = 20.7%).

Item 102

To University of Utah - School of Dentistry

In accordance with UCA 63J-1-201, the Legislature intends that the University of Utah report performance measures for the School of Dentistry line item, whose mission is: "To improve the oral and overall health of the community through education, research, and service". The University of Utah shall

report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measures for FY 2022: (1) Number of applications to SOD, and (2) Number of SOD students accepted.

Item 103
To University of Utah - Public Service
From Education Fund, One-Time 200,000
Schedule of Programs:
Natural History Museum of Utah 200,000

In accordance with UCA 63J-1-201, the Legislature intends that the University of Utah report performance measures for the Seismograph Stations Program, whose mission is: "Reducing the risk from earthquakes in Utah through research, education, and public service". The University of Utah shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measures for FY 2022: (1) Timeliness of response to earthquakes in the Utah region. (Target = For 100% of earthquakes with magnitude 3.5 or greater that occur in the Utah region UUSS will transmit an alarm to the Utah Department of Emergency Management within 5 minutes and post event information to the web within 10 minutes), (2) Publications and presentations related to earthquakes. (Target = Each year UUSS researchers will publish at least five papers in peer-reviewed journals. Make at least ten presentations at professional meetings and make at least ten oral presentations to local stakeholders), and (3) External funds raised to support UUSS mission (Target = Each year UUSS will generate external funds that equal or exceed the amount provided by the State of Utah.)

Item 104
To University of Utah - Poison Control Center

In accordance with UCA 63J-1-201, the Legislature intends that the University of Utah report performance measures for the Poison Control Center line item, whose mission is: "To prevent and minimize adverse health effects from a poison exposure through education, service, and research". The University of Utah shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measures for FY 2022: (1) Poison Center Utilization (Target = exceed Nationwide Average), (2) Health care costs averted per dollar invested (Target = $10.00 savings for every dollar invested in the center), and (3) Service level - speed to answer (Target = answer 85% of cases within 20 seconds).

Item 105
To University of Utah - Center on Aging

In accordance with UCA 63J-1-201, the Legislature intends that the University of Utah report performance measures for the Center on Aging line item, whose mission is: "To provide educational and research programs in gerontology at the University of Utah". The University of Utah shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measures for FY 2022: (1) Increased penetration of UCOA influence by measuring how many stakeholders including UCOA members, community guests, engaged in meetings, events, consults directly as a result of UCOA efforts and facilitation (Target = Annual increase of 25% of qualified UCOA engagements with aging stakeholders), (2) Access to the ADRC - Cover to Cover Program (Target = To provide services to 100% of the people of Utah over age 65), and (3) Increased penetration of iPods placed through facilities and service organizations throughout the state of Utah (Target = Annual increase of 15% of aggregated placements of iPods through the Music & Memory program).

Item 106
To University of Utah - Rocky Mountain Center for Occupational and Environmental Health

In accordance with UCA 63J-1-201, the Legislature intends that the University of Utah report performance measures for the Rocky Mountain Center for Occupational and Environmental Health line item, whose mission is: "To maintain with our customers an impeccable reputation for professionalism, objectivity, promptness, and evenhandedness. To promote, create and maintain a safe and healthful campus environment". The University of Utah shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measures for FY 2022: (1) Number of Students in the degree programs (Target = Greater than or equal to 45 students), (2) Number of students trained (Target = Greater than or equal to 600), and (3) Number of businesses represented in continuing education courses (Target = Greater than or equal to 1,000).

Item 107
To University of Utah - SafeUT Crisis Text and Tip

In accordance with UCA 63J-1-201, the Legislature intends that the University of Utah report performance measures for the SafeUT Crisis Text and Tip line item, whose mission is "To provide a statewide service that provides real-time crisis intervention to youth through live chat and a confidential tip program." The University of Utah shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measures for FY 2022: 1) Sources of funding and categories of expenditures (Target=Increase non-state funding sources); and 2) Increase availability of app (Target=Increase downloads of app during FY22 over FY21).

UTAH STATE UNIVERSITY

Item 108
To Utah State University - Education and General
From General Fund, One-Time ... (100,000,000)
From Education Fund 5,385,800
From Education Fund, One-Time 99,877,900
From Dedicated Credits Revenue 1,900
Schedule of Programs:
Education and General 4,584,100
Operations and Maintenance 681,500

In accordance with UCA 63J-1-201, the Legislature intends that Utah State University report performance measures for the Education and General line item, whose mission is: "to be one of the nations premier student-centered land-grant and space-grant universities by fostering the principle that academics come first, by cultivating diversity of thought and culture and by serving the public through learning, discovery and engagement". Utah State University shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measures for FY 2022: (1) Degrees and certificates awarded (Target = 1% improvement over the average of the previous five years), (2) Degrees and certificates awarded to underserved students (Target = 1% improvement over the average of the previous five years), (3) Degrees and certificates awarded in high market demand fields (Target = 1% improvement over the average of the previous five years), (4) Degrees and certificates awarded per full-time equivalent student (Target = 1% improvement over the average of the previous five years), (5) Total research expenditures (Target = 1% improvement over the average of the previous five years).

Item 109
To Utah State University - USU -
Eastern Education and General
From Education Fund ..... (2,249,000)
Schedule of Programs:
USU - Eastern Education
and General ..... (2,249,000)

In accordance with UCA 63J-1-201, the Legislature intends that Utah State University report performance measures for the USU Eastern Education and General line item, whose mission is: "with efficiency, innovation, and excellence, Utah State University Eastern prepares the people who create and sustain our region". Utah State University shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measures for FY 2022: (1) Degrees & certificates awarded by USUE (Target = 365), (2) FTE student enrollment (Fall Day-15 Budget-Related) (Target = 950), and (3) IPEDS Overall Graduation Rate [150%] for all first-time, full-time, degree-seeking students, this includes all bachelors and associate degree seeking students who complete within 150% of when they start their program of study (within 6 yrs. for Bachelors and 3 yrs. For Associates) (Target 49% with a 0.5% increase per annum).

Item 110
To Utah State University -
Educationally Disadvantaged

In accordance with UCA 63J-1-201, the Legislature intends that Utah State University report performance measures for the Educationally Disadvantaged line item, whose mission is: "A college student who requires special services and assistance to enable them to succeed in higher education." Utah State University shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measures for FY 2022: (1) Students served (Target = 20), (2) Average aid per student (Target = $4,000), and (3) Transfer and retention rate (Target = 80%) by October 1, 2021.

Item 111
To Utah State University - USU -
Eastern Educationally Disadvantaged

In accordance with UCA 63J-1-201, the Legislature intends that Utah State University report performance measures for the Eastern Educationally Disadvantaged line item, whose mission is: "A college student who requires special services and assistance to enable them to succeed in higher education." Utah State University shall

report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measures for FY 2022: (1) Students served (Target = 275), (2) Average aid per student (Target = $500), and (3) Transfer and retention rate (Target = 50%).

Item 112
To Utah State University - USU - Eastern Career and Technical Education
From Education Fund 2,855,500
Schedule of Programs:
USU - Eastern Career and Technical Education 2,855,500

In accordance with UCA 63J-1-201, the Legislature intends that Utah State University report performance measures for the Eastern Career and Technical Education line item, whose mission is: "to provide open-entry, open-exit competency-based career and technical education programs, and emphasize short-term job training and retraining for southeastern Utah". Utah State University shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measures for FY 2022: (1) CTE licenses and certifications (Target = 100), (2) CTE Graduate placements (Target = 45), and (3) CTE Completions (Target = 50).

Item 113
To Utah State University - Regional Campuses
From Education Fund 267,600
Schedule of Programs:
Administration 847,300
Uintah Basin Regional Campus ..... (178,100)
Brigham City Regional Campus ..... (225,700)
Tooele Regional Campus ..... (175,900)

In accordance with UCA 63J-1-201, the Legislature intends that Utah State University report performance measures for the Brigham City Regional Campus line item, whose mission is: "To provide education opportunities to citizens in Brigham City and surrounding communities". Utah State University shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measures for FY 2022: (1) Degrees and certificates awarded by RC/AIS (Target = 850), (2) FTE student enrollment (Fall Day-15 Budget-Related) (Target = 650), and (3) IPEDS Overall Graduation Rate [150%] for all first-time, full-time, degree-seeking students, this includes all bachelors and associate degree seeking students who complete within 150% of when they start their program of study (within 6 yrs. For Bachelors and 3 yrs. For Associates) (Target = 49% with a 0.5% increase per annum).

In accordance with UCA 63J-1-201, the Legislature intends that Utah State University report performance measures for the Tooele Regional Campus line item, whose mission is: "To provide education opportunities to citizens in Tooele and along the Wasatch Front". Utah State University shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measures for FY 2022: (1) Degrees and certificates awarded by RC/AIS (Target = 850), (2) FTE student enrollment (Fall Day-15 Budget-Related) (Target = 1,200), and (3) IPEDS Overall Graduation Rate [150%] for all first-time, full-time, degree-seeking students, this includes all bachelors and associate degree seeking students who complete within 150% of when they start their program of study (within 6 yrs. For Bachelors and 3 yrs. For Associates) (Target 49% with a 0.5% increase per annum).

In accordance with UCA 63J-1-201, the Legislature intends that Utah State University report performance measures for the Uintah Basin Regional Campus line item, whose mission is: "to provide education opportunities to citizens in the Uintah Basin". Utah State University shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measures for FY 2022: (1) Degrees and certificates awarded by RC/AIS (Target = 850), (2) FTE student enrollment (Fall Day-15 Budget-Related) (Target = 375), and (3) IPEDS Overall Graduation Rate [150%] for all first-time, full-time, degree-seeking students, this includes all bachelors and associate degree seeking students who complete within 150% of when they start their program of study (within 6 yrs. For Bachelors and 3 yrs. For Associates) (Target 49% with a 0.5% increase per annum).

Item 114
To Utah State University - Agriculture Experiment Station
From Education Fund 51,200
Schedule of Programs:
Agriculture Experiment Station 51,200

Item 115
To Utah State University - Cooperative Extension
From Education Fund 254,500

Schedule of Programs:
Cooperative Extension 254,500

In accordance with UCA 63J-1-201, the Legislature intends that Utah State University report performance measures for the Cooperative Extension line item, whose mission is: "To deliver research-based education and information throughout the State in cooperation with federal, state, and county partnerships". Utah State University shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measures for FY 2022: (1) Direct contacts (Adult and Youth) (Target = 722,000 - 3 year rolling average), (2) Faculty-delivered activities and events (Target = 2,000 - 3 year rolling average), and (3) Faculty publications (Target = 300 - 3 year rolling average).

Item 116
To Utah State University - Blanding Campus
From Education Fund ..... (277,000)
Schedule of Programs:
Blanding Campus ..... (277,000)

In accordance with UCA 63J-1-201, the Legislature intends that Utah State University report performance measures for the Blanding Campus line item, whose mission is: "with efficiency, innovation, and excellence, Utah State University Eastern prepares the people who create and sustain our region". Utah State University shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measures for FY 2022: (1) Degrees & certificates awarded by USUE (Target = 365), (2) FTE student enrollment (Fall Day-15 Budget-Related) (Target = 375), and (3) IPEDS Overall Graduation Rate [150%] for all first-time, full-time, degree-seeking students, this includes all bachelors and associate degree seeking students who complete within 150% of when they start their program of study (within 6 yrs. for Bachelors and 3 yrs. For Associates) (Target 49% with a 0.5% increase per annum).

Item 117
To Utah State University - USU - Custom Fit
From Education Fund 273,100
Schedule of Programs:
USU - Custom Fit 273,100

WEBER STATE UNIVERSITY

Item 118
To Weber State University - Education and General
From Education Fund 3,363,500
From Education Fund, One-Time ..... (439,200)
From Dedicated Credits Revenue 800
Schedule of Programs:
Education and General 3,584,300
Operations and Maintenance ..... (659,200)

The Legislature authorizes Weber State University to purchase two new vehicles for its motor pool.

In accordance with UCA 63J-1-201, the Legislature intends that Weber State University report performance measures for the Education and General line item, whose mission is: "To ensure quality academic experiences for students to be successful and graduate with an associate, bachelor, or master degree from programs that are responsive to community needs". Weber State University shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measures for FY 2022: (1) Degrees and certificates awarded (Target = 1% improvement over the average of the previous five years), (2) Degrees and certificates awarded to underserved students (Target = 1% improvement over the average of the previous five years), (3) Degrees and certificates awarded in high market demand fields (Target = 1% improvement over the average of the previous five years), (4) Degrees and certificates awarded per full-time equivalent student (Target = 1% improvement over the average of the previous five years).

Item 119
To Weber State University - Educationally Disadvantaged

In accordance with UCA 63J-1-201, the Legislature intends that Weber State University report performance measures for the Educationally Disadvantaged line item, whose mission is: "A college student who requires special services and assistance to enable them to succeed in higher education." Weber State University shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measures for FY 2022: (1) Awarding degrees to underrepresented students (Target = Increase to average of 15% of all degrees awarded), (2) Bachelor's degrees within six years (Target = Average 5 year graduation

rate of 25%), (3) First year to second year enrollment (Target = 55%).

SOUTHERN UTAH UNIVERSITY

Item 120
To Southern Utah University - Education and General
From Education Fund 3,647,200
From Education Fund, One-Time ..... (806,400)
From Dedicated Credits Revenue 1,900
Schedule of Programs:
Education and General 2,842,700

The Legislature authorizes Southern Utah University to purchase four new vehicles for its motor pool.

In accordance with UCA 63J-1-201, the Legislature intends that the Southern Utah University report performance measures for the Education and General line item, whose mission is: "Southern Utah University leads students to successful educational outcomes". Southern Utah University shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measures for FY 2022: (1) Degrees and certificates awarded (Target = 1% improvement over the average of the previous five years), (2) Degrees and certificates awarded to underserved students (Target = 1% improvement over the average of the previous five years), (3) Degrees and certificates awarded in high market demand fields (Target = 1% improvement over the average of the previous five years), (4) Degrees and certificates awarded per full-time equivalent student (Target = 1% improvement over the average of the previous five years).

The Legislature intends that Southern Utah University provide annual progress reports to the Higher Education Appropriations Committee each year on October 1st on the implementation of the 3-Year Bachelor's Degree Pilot Program funded in this legislation. This report shall include the following information: (1) Total annual budget and expenditures of the program, (2) Progress of each cohort of students towards accelerated degree completion, (3) Evaluation of the pilot program and any modifications proposed for or implemented in the pilot program.

Item 121
To Southern Utah University - Educationally Disadvantaged

In accordance with UCA 63J-1-201, the Legislature intends that Southern Utah University report performance measures for the Educationally Disadvantaged line item, whose mission is: "A college student who requires special services and assistance to enable them to succeed in higher education." Southern Utah University shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measures for FY 2022: (1) Students served (Target = 100), (2) Average aid per student (Target = $500), and (3) Minimum 33% of ED scholarships offered to minority students (Target = 33% Min.).

Item 122
To Southern Utah University - Shakespeare Festival

In accordance with UCA 63J-1-201, the Legislature intends that Southern Utah University report performance measures for the Shakespeare Festival line item, whose mission is: "The Utah Shakespeare Festival through its Education department cultivates creative communities and human development through Shakespeare and instructional play for individuals, schools and communities with emphasis on at-risk and low income populations". Southern Utah University shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measures for FY 2022: (1) Professional outreach program in the school's instructional hours (Target = 25% increase in 5 years), (2) Education seminars & orientation attendees (Target = 25% increase in 5 years), and (3) USF annual fundraising (Target = 50% increase in 5 years).

Item 123
To Southern Utah University - Rural Development
From Education Fund, One-Time 232,000
Schedule of Programs:
Rural Development 232,000

In accordance with UCA 63J-1-201, the Legislature intends that Southern Utah University report performance measures for the Rural Development line item, whose mission is: "Southern Utah University through the Office of Regional Services assists our rural Utah communities with economic and business development". Southern Utah University shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measures for FY 2022: (1) Number of Rural Healthcare Programs Developed (Target = 47), (2) Rural Healthcare Scholar Participation (Target = 1,000), and (3) Graduate Rural Clinical Rotations (Target = 230).

UTAH VALLEY UNIVERSITY

Item 124
To Utah Valley University – Education and General
From General Fund 300,000
From General Fund, One-Time ... (100,000,000)
From Education Fund 5,558,100
From Education Fund, One-Time 99,755,500
From Dedicated Credits Revenue 800
Schedule of Programs:
Education and General 5,858,900
Operations and Maintenance ..... (244,500)

In accordance with UCA 63J-1-201, the Legislature intends that Utah Valley University report performance measures for the Education and General line item, whose mission is: "Utah Valley University is an integrated university and community college that educates every student for success in work and life through excellence in engaged teaching, services, and scholarship.". Utah Valley University shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measures for FY 2022: (1) Degrees and certificates awarded (Target = 1% improvement over the average of the previous five years), (2) Degrees and certificates awarded to underserved students (Target = 1% improvement over the average of the previous five years), (3) Degrees and certificates awarded in high market demand fields (Target = 1% improvement over the average of the previous five years), (4) Degrees and certificates awarded per full-time equivalent student (Target = 1% improvement over the average of the previous five years).

Item 125
To Utah Valley University –
Educationally Disadvantaged

In accordance with UCA 63J-1-201, the Legislature intends that Utah Valley University report performance measures for the Educationally Disadvantaged line item, whose mission is: "A college student who requires special services and assistance to enable them to succeed in higher education." Utah Valley University shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measures for FY 2022: (1) Portion of degree-seeking undergraduate students receiving need-based financial aid (Target = 45%), (2) Number of students served in mental health counseling (Target = 4,000), and (3) Number of tutoring hours provided to students (Target = 22,000).

Item 126
To Utah Valley University – Fire
and Rescue Training
From Education Fund 18,800
From Dedicated Credits Revenue ..... (18,800)

SNOW COLLEGE

Item 127
To Snow College – Education and General
From Education Fund 1,085,800
From Dedicated Credits Revenue 1,100
Schedule of Programs:
Education and General 1,086,900

The Legislature authorizes Snow College to purchase one new vehicle for its motor pool.

Over the past 5 years Snow College has expanded the concurrent enrollment program statewide to accommodate need. This has required investment of capital beyond the allocated state funding. The intent of this one time RFA is to repay Snow College for the state program.

In accordance with UCA 63J-1-201, the Legislature intends that the Snow College report performance measures for the Education and General line item, whose mission is: "Snow College centralizes its mission around a tradition of excellence, a culture of innovation, and an atmosphere of engagement to advance students in the achievement of their educational Targets". Snow College shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measures for FY 2022: (1) Degrees and certificates awarded (Target = 1% improvement over the average of the previous five years), (2) Degrees and certificates awarded to underserved students (Target = 1% improvement over the average of the previous five years), (3) Degrees and certificates awarded in high market demand fields (Target = 1% improvement over the average of the previous five years), (4) Degrees and certificates awarded per full-time equivalent student (Target = 1% improvement over the average of the previous five years).

Item 128
To Snow College – Educationally Disadvantaged

In accordance with UCA 63J-1-201, the Legislature intends that Snow College report performance measures for the Educationally Disadvantaged line item, whose mission is: "A college student who requires special services and assistance to enable them to succeed in higher education". The Snow College shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of

the following performance measures for FY 2022: (1) Aggregate completion rate of first generation, non-tradition (aged 25 or older), minority (not including non-resident, alien/international students), and Pell awarded students. (Target = 35%), (2) Percent of remedial math students who successfully complete Math 1030, Math 1040, or Math 1050 (college-level math) within 5 semesters of first-time enrollment (Target = 35%), and (3) Percent of remedial English students who successfully complete English 1010 or higher (college level English) within 3 semesters of first-time enrollment (Target = 65%).

Item 129
To Snow College - Career and Technical Education
From Education Fund 1,031,800
Schedule of Programs:
Career and Technical Education 1,031,800

In accordance with UCA 63J-1-201, the Legislature intends that Snow College report performance measures for the Career and Technical Education line item, whose mission is: "Provide relevant technical education and training that supports local and statewide industry and business development". Snow College shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measures for FY 2022: (1) percent of students per program capacity with the goal of a 2% increase in respective program capacity each year (Target = 60%). (2) Number of CTE degrees and certificates awarded (Target = 200), and (3) Percentage of students who successfully pass their respective state of Utah licensing exam (programs include Automotive, Cosmetology, and Nursing). (Target = 80% pass rate) by October 1, 2022.

Item 130
To Snow College - Snow College - Custom Fit
From Education Fund 298,100
Schedule of Programs:
Snow College - Custom Fit 298,100

DIXIE STATE UNIVERSITY

Item 131
To Dixie State University - Education and General
From Education Fund 3,142,900
From Education Fund, One-Time 300,000
From Dedicated Credits Revenue 1,900
Schedule of Programs:
Education and General 3,444,800

The Legislature authorizes Dixie State University to purchase one new vehicle for its motor pool.

In accordance with UCA 63J-1-201, the Legislature intends that Dixie State University report performance measures for the Education and General line item, whose mission is: "Dixie State University is a public comprehensive university dedicated to rigorous learning and the enrichment of the professional and personal lives of its students and community by providing opportunities that engage the unique Southern Utah environment and resources". Dixie State University shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measures for FY 2022: (1) Degrees and certificates awarded (Target = 1% improvement over the average of the previous five years), (2) Degrees and certificates awarded to underserved students (Target = 1% improvement over the average of the previous five years), (3) Degrees and certificates awarded in high market demand fields (Target = 1% improvement over the average of the previous five years), (4) Degrees and certificates awarded per full-time equivalent student (Target = 1% improvement over the average of the previous five years).

Item 132
To Dixie State University -
Educationally Disadvantaged

In accordance with UCA 63J-1-201, the Legislature intends that Dixie State University report performance measures for the Educationally Disadvantaged line item, whose mission is: "A college student who requires special services and assistance to enable them to succeed in higher education". Dixie State University shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measures for FY 2022: (1) Number of students served (Target = 20), (2) Number of minority students served (Target = 15), and (3) Expenditures per student (Target = $1,000).

SALT LAKE COMMUNITY COLLEGE

Item 133
To Salt Lake Community College -
Education and General
From Education Fund 3,017,600
From Education Fund, One-Time ..... (1,026,500)
From Dedicated Credits Revenue 1,900
Schedule of Programs:
Education and General 1,685,000
Operations and Maintenance 308,000

In accordance with UCA 63J-1-201, the Legislature intends that Salt Lake Community College report performance measures for the Education and General line item, whose mission is: "Salt Lake Community College is your community college. We engage and support students in educational pathways leading to successful

transfer and meaningful employment". Salt Lake Community College shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measures for FY 2022: (1) Degrees and certificates awarded (Target = 1% improvement over the average of the previous five years), (2) Degrees and certificates awarded to underserved students (Target = 1% improvement over the average of the previous five years), (3) Degrees and certificates awarded in high market demand fields (Target = 1% improvement over the average of the previous five years), (4) Degrees and certificates awarded per full-time equivalent student (Target = 1% improvement over the average of the previous five years).

Item 134
To Salt Lake Community College -
Educationally Disadvantaged

In accordance with UCA 63J-1-201, the Legislature intends that Salt Lake Community College report performance measures for the Educationally Disadvantaged line item, whose mission is: "A college student who requires special services and assistance to enable them to succeed in higher education". Salt Lake Community College shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measures for FY 2022: (1) Number of Needs-based scholarships awarded (Target = 200), (2) Percentage of needs-based recipients returning (Target = 50%), and (3) Graduation rate of needs based scholarship recipients (Target = 50%).

Item 135
To Salt Lake Community College -
School of Applied Technology
From Education Fund 1,873,700
Schedule of Programs:
School of Applied Technology 1,873,700

In accordance with UCA 63J-1-201, the Legislature intends that Salt Lake Community College report performance measures for the School of Applied Technology line item, whose mission is: "Developing innovative, short-term, competency-based education to create a skilled workforce for Salt Lake County and the State of Utah". Salt Lake Community College shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measures for FY 2022: (1) Membership hours (Target = 350,000), (2) Certificates awarded (Target = 200), and (3) Pass rate for certificate or licensure exams (Target 85%).

Item 136
To Salt Lake Community College -
SLCC - Custom Fit
From Education Fund 460,800
Schedule of Programs:
SLCC - Custom Fit 460,800

UTAH BOARD OF HIGHER EDUCATION

Item 137
To Utah Board of Higher Education -
Administration
From General Fund 5,101,600
From Education Fund 2,618,400
From Education Fund, One-Time 2,922,000
Schedule of Programs:
Administration 10,642,000

Legislature intends that, when preparing the Fiscal Year 2023 base budget and compensation bills, the Legislative Fiscal Analyst shall include in the compensation bill a 75% General Fund-Education Fund / 25% Dedicated Credits mix for each Education and General line item and other instructional line items containing General Fund, Education Fund, and Dedicated Credits, with the exception that the Salt Lake Community College School of Applied Technology and Utah Valley University Fire and Rescue Training line items shall include 100% General Fund-Education Fund. The Legislature also intends that the Legislative Fiscal Analyst shall include in the compensation bill for the Technical Colleges within the Utah System of Higher Education 100% General Fund-Education Fund.

The Legislature intends that all charter schools that are housed within higher education facilities shall pay the cost of operations and maintenance for the spaces they utilize beginning in FY 2023. The Legislature further intends that the Utah Board of Higher Education work with institutions housing charter schools to identify all schools, and the full cost of operations and maintenance for these facilities in FY 2022 and report to the subcommittee by October 1, 2021.

Of the appropriations provided by this item, $5,101,600 is to implement the provisions of Emerging Technology Talent Initiative (Senate Bill 96, 2020 General Session).

Of the appropriations provided by this item, $2 million is to implement the provisions of Higher Education Financial Aid Amendments (Senate Bill 117, 2020 General Session).

One-time Funds to the Board of Higher Education for development of campus-wide strategies at technical colleges that support

mental health and prevent substance abuse and suicide.

Funding shall be used to provide college access advisors to school prioritizing schools with the highest rates of economically disadvantaged students.

In accordance with UCA 63J-1-201, the Legislature intends that the Utah Board of Higher Education report performance measures for the Administration line item, whose mission includes: "Support the Utah Board of Higher Education in all responsibilities". The Utah Board of Education shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measures for FY 2022: (1) Educators reached through professional development, (2) Students reached through outreach events, (3) Students receiving outreach materials, (4) Percentage of enrolled high school students obtaining an accredited postsecondary certificate prior to and within one year of high school graduation; (5) Composite graduation rates considering all programs and those identified as leading to high-wage/high-demand careers, each stratified by comparable program lengths; and (6) Percentage of students belonging to underserved populations who graduate with an accredited postsecondary certificate.

Item 138
To Utah Board of Higher Education -
Student Assistance

In accordance with UCA 63J-1-201, the Legislature intends that the Utah Board of Higher Education report performance measures for the Student Assistance line item, whose mission is: "To process, award, and appropriate student scholarships and financial assistance, including Regents Scholarship, New Century Scholarship, Student Financial Aid, Veterans Tuition Gap Program, Success Stipend, and WICHE". The Utah Board of Higher Education shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measures for FY 2022: (1) Regents Scholarship (Target = Allocate all appropriations to qualified students, less overhead), (2) New Century (Target = Allocate all appropriations to qualified students, less overhead), (3) WICHE (Target = Allocate all appropriations to qualified students, less overhead).

Item 139
To Utah Board of Higher Education -
Student Support
From Education Fund ..... (4,559,200)
Schedule of Programs:
Custom Fit ..... (4,559,200)

In accordance with UCA 63J-1-201, the Legislature intends that the Utah Board of Higher Education report performance measures for the Student Support line item, whose mission is: "Programmatic support for students with special needs, including Hearing Impaired, Engineering Initiative, Technology, Performance Funding (as defined in 53B-7-706), and transfer students". The Utah Board of Higher Education shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measures for FY 2022: (1) Hearing Impaired (Target = Allocate all appropriations to institutions), , and (2) Engineering Initiative degrees (Target 6% annual increase) (3) HETI Group purchases (Target = $3.4M savings), (4) UALC additive impact on institutional library collections budgets as reported to IPEDS, (5) Resource downloads (articles, book chapters, etc.) from UALC purchased databases. (Target = rolling average of last three years 3,724,474).

Item 140
To Utah Board of Higher Education -
Education Excellence

In accordance with UCA 63J-1-201, the Legislature intends that the Utah Board of Higher Education report performance measures for the Education Excellence line item. The Utah Board of Higher Education shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measures for FY 2022: (1) Increase college participation rates with Utah College Advising Corp (Target = 5% increase), (2) Completions (Target = Increase 5 year rolling average by 1%), and (3) 150% Graduation rate (Target = Increase 5 year rolling average by 1%).

Item 141
To Utah Board of Higher Education -
Math Competency Initiative

In accordance with UCA 63J-1-201, the Legislature intends that the Utah Board of Higher Education report performance measures for the Math Competency line item, whose mission is: "Increase the number of high school students taking QL mathematics." The Utah Board of Higher Education shall report to the Office of the

Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measures for FY 2022: (1) Increase the number of QL students taking math credit through concurrent enrollment (Target = Increase 5%).

Item 142
To Utah Board of Higher Education –
Medical Education Council

In accordance with UCA 63J-1-201, the Legislature intends that the Utah Board of Higher Education report performance measures for the Medical Education Council line item, whose mission is: "to conduct health care workforce research, to advise on Utah's health care training needs, and to influence graduate medical education financing policies." The Utah Board of Higher Education shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measures for FY 2022: (1) Graduate medical education growth (Target = 2.1% growth), (2) Retention for residency and fellowship programs (Target = 45%, 32%), and (3) Utah health provider to 100,000 population ratio (Target = 271).

UTAH SYSTEM OF TECHNICAL COLLEGES

Item 143
To Utah System of Technical Colleges –
Bridgerland Technical College
From Education Fund 1,725,500
From Education Fund, One-Time ..... (624,000)
Schedule of Programs:
Bridgerland Tech Equipment 301,500
Bridgerland Technical College 800,000

In accordance with UCA 63J-1-201, the Legislature intends that Bridgerland Technical College report on the following performance measures, the mission of which is, "To meet the needs of Utah's employers for technically-skilled workers and to promote local and statewide economic development by providing market-driven technical education to secondary and adult students". Bridgerland Technical College shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measures for FY 2022: (1) Total number of graduates produced; (2) Percentage of enrolled secondary students obtaining an accredited postsecondary certificate prior to and within one year of high school graduation; and (3) Composite graduation rates considering all programs and those identified as leading to high-wage/high-demand careers, each stratified by comparable program lengths.

Item 144
To Utah System of Technical Colleges –
Davis Technical College
From Education Fund 1,034,000
From Education Fund, One-Time 140,000
Schedule of Programs:
Davis Tech Equipment 261,000
Davis Technical College 913,000

In accordance with UCA 63J-1-201, the Legislature intends that Davis Technical College report on the following performance measures, the mission of which is, "To meet the needs of Utah's employers for technically-skilled workers and to promote local and statewide economic development by providing market-driven technical education to secondary and adult students". Davis Technical College shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measures for FY 2022: (1) Total number of graduates produced; (2) Percentage of enrolled secondary students obtaining an accredited postsecondary certificate prior to and within one year of high school graduation; and (3) Composite graduation rates considering all programs and those identified as leading to high-wage/high-demand careers, each stratified by comparable program lengths.

Item 145
To Utah System of Technical Colleges –
Dixie Technical College
From Education Fund 692,300
Schedule of Programs:
Dixie Tech Equipment 172,300
Dixie Technical College 520,000

In accordance with UCA 63J-1-201, the Legislature intends that Dixie Technical College report on the following performance measures, the mission of which is, "To meet the needs of Utah's employers for technically-skilled workers and to promote local and statewide economic development by providing market-driven technical education to secondary and adult students". Dixie Technical College shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measures for FY 2022: (1) Total number of graduates produced; (2) Percentage of enrolled secondary students obtaining an accredited postsecondary certificate prior to and within one year of high school graduation; and (3)

Composite graduation rates considering all programs and those identified as leading to high-wage/high-demand careers, each stratified by comparable program lengths.

Item 146
To Utah System of Technical Colleges - Mountainland Technical College
From Education Fund 2,627,100
Schedule of Programs:
Mountainland Tech Equipment 321,600
Mountainland Technical College 2,305,500

In accordance with UCA 63J-1-201, the Legislature intends that Mountainland Technical College report on the following performance measures, the mission of which is, "To meet the needs of Utah's employers for technically-skilled workers and to promote local and statewide economic development by providing market-driven technical education to secondary and adult students". Mountainland Technical College shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measures for FY 2022: (1) Total number of graduates produced; (2) Percentage of enrolled secondary students obtaining an accredited postsecondary certificate prior to and within one year of high school graduation; and (3) Composite graduation rates considering all programs and those identified as leading to high-wage/high-demand careers, each stratified by comparable program lengths.

Item 147
To Utah System of Technical Colleges - Ogden-Weber Technical College
From Education Fund 1,042,200
From Education Fund, One-Time 140,000
Schedule of Programs:
Ogden-Weber Tech Equipment 306,300
Ogden-Weber Technical College 875,900

In accordance with UCA 63J-1-201, the Legislature intends that Ogden-Weber Technical College report on the following performance measures, the mission of which is, "To meet the needs of Utah's employers for technically-skilled workers and to promote local and statewide economic development by providing market-driven technical education to secondary and adult students". Ogden-Weber Technical College shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measures for FY 2022: (1) Total number of graduates produced; (2) Percentage of enrolled secondary students obtaining an accredited postsecondary certificate prior to and within one year of high school graduation; and (3) Composite graduation rates considering all programs and those identified as leading to high-wage/high-demand careers, each stratified by comparable program lengths.

Item 148
To Utah System of Technical Colleges - Southwest Technical College
From Education Fund 502,600
Schedule of Programs:
Southwest Tech Equipment 158,100
Southwest Technical College 344,500

In accordance with UCA 63J-1-201, the Legislature intends that Southwest Technical College report on the following performance measures, the mission of which is, "To meet the needs of Utah's employers for technically-skilled workers and to promote local and statewide economic development by providing market-driven technical education to secondary and adult students". Southwest Technical College shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measures for FY 2022: (1) Total number of graduates produced; (2) Percentage of enrolled secondary students obtaining an accredited postsecondary certificate prior to and within one year of high school graduation; and (3) Composite graduation rates considering all programs and those identified as leading to high-wage/high-demand careers, each stratified by comparable program lengths

Item 149
To Utah System of Technical Colleges - Tooele Technical College
From Education Fund 553,200
Schedule of Programs:
Tooele Tech Equipment 50,200
Tooele Technical College 503,000

In accordance with UCA 63J-1-201, the Legislature intends that Tooele Technical College report on the following performance measures, the mission of which is, "To meet the needs of Utah's employers for technically-skilled workers and to promote local and statewide economic development by providing market-driven technical education to secondary and adult students". Tooele Technical College shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measures for FY 2022: (1) Total number of graduates produced; (2) Percentage of enrolled secondary students obtaining an accredited postsecondary certificate prior to and within one year of high school graduation; and (3)

Composite graduation rates considering all programs and those identified as leading to high-wage/high-demand careers, each stratified by comparable program lengths.

Item 150
To Utah System of Technical Colleges -
Uintah Basin Technical College
From Education Fund 688,000
Schedule of Programs:
Uintah Basin Tech Equipment 183,200
Uintah Basin Technical College 504,800

In accordance with UCA 63J-1-201, the Legislature intends that Uintah Basin Technical College report on the following performance measures, the mission of which is, "To meet the needs of Utah's employers for technically-skilled workers and to promote local and statewide economic development by providing market-driven technical education to secondary and adult students". Uintah Basin Technical College shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measures for FY 2022: (1) Total number of graduates produced; (2) Percentage of enrolled secondary students obtaining an accredited postsecondary certificate prior to and within one year of high school graduation; and (3) Composite graduation rates considering all programs and those identified as leading to high-wage/high-demand careers, each stratified by comparable program lengths.

Item 151
To Utah System of Technical Colleges -
USTC Bridgerland - Custom Fit
From Education Fund 500,000
Schedule of Programs:
USTC Bridgerland - Custom Fit 500,000

Item 152
To Utah System of Technical Colleges -
USTC Davis - Custom Fit
From Education Fund 684,600
Schedule of Programs:
USTC Davis - Custom Fit 684,600

Item 153
To Utah System of Technical Colleges -
USTC Ogden-Weber - Custom Fit
From Education Fund 684,600
Schedule of Programs:
USTC Ogden-Weber - Custom Fit 684,600

Item 154
To Utah System of Technical Colleges -
USTC Uintah Basin - Custom Fit
From Education Fund 410,000
Schedule of Programs:
USTC Uintah Basin - Custom Fit 410,000

Item 155
To Utah System of Technical Colleges -
USTC Mountainland - Custom Fit
From Education Fund 684,600
Schedule of Programs:
USTC Mountainland - Custom Fit 684,600

Item 156
To Utah System of Technical Colleges -
USTC Southwest - Custom Fit
From Education Fund 345,000
Schedule of Programs:
USTC Southwest - Custom Fit 345,000

Item 157
To Utah System of Technical Colleges -
USTC Dixie - Custom Fit
From Education Fund 345,000
Schedule of Programs:
USTC Dixie - Custom Fit 345,000

Item 158
To Utah System of Technical Colleges -
USTC Tooele - Custom Fit
From Education Fund 325,000
Schedule of Programs:
USTC Tooele - Custom Fit 325,000

NATURAL RESOURCES, AGRICULTURE, AND ENVIRONMENTAL QUALITY

DEPARTMENT OF AGRICULTURE AND FOOD

Item 159
To Department of Agriculture and Food -
Administration
From General Fund ..... (76,500)
From Federal Funds 2,700
From Dedicated Credits Revenue ..... (96,800)
From General Fund Restricted -
Horse Racing ..... (21,700)
From Revenue Transfers 400
Schedule of Programs:
Chemistry Laboratory ..... (352,100)
General Administration 160,200

In accordance with UCA 63J-1-201, the Legislature intends that the Department of Agriculture and Food report performance measures for the Administration line item, whose mission is "Promote the healthy growth of Utah agriculture, conserve our natural resources and protect our food supply." The Department of Agriculture and Food shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measures for FY 2022: 1) Sample turnaround time (Target = 12 days); 2) Cost per sample (Target = $220); and 3) Cost per test (Target = $80).

Item 160
To Department of Agriculture and Food -
Animal Industry
From General Fund 539,300
From Education Fund 250,000
From Education Fund, One-Time 250,000
From Federal Funds 211,900
From General Fund Restricted -
Horse Racing 46,700

Schedule of Programs:
Animal Health 874,000
Meat Inspection 423,900

In accordance with UCA 63J-1-201, the Legislature intends that the Department of Agriculture and Food report performance measures for the Animal Health line item, whose mission is "Deny a market to potential thieves & to detect the true owners of livestock. It is the mission of the Livestock Inspection Bureau to provide quality, timely, and courteous service to the livestock men and women of the state, in an effort to protect the cattle and horse industry." The Department of Agriculture and Food shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measures for FY 2022: 1) Increase education to industry and public on correct practices to verify and record changes of ownership when selling or buying livestock in the State of Utah (Target = 40 hours of training); 2) Meat Inspectors ensure 70% of all sanitation tasks are performed (Target = 70%); 3) Increase number of animal traces completed in under one hour (Target = Increase by 5%); 4) Decrease the amount of hours taken to rid nuisance predator animals (Target = 1% decrease); 5) Increase total attendance at animal health outreach events (Target = 10% increase).

The Legislature intends that the Department of Agriculture and Food's Brand Inspection Program is authorized to charge the following three fees in the amounts shown: 1) Brand Recording: $75; and 2) Brand Verification of Ownership at Slaughter: $10 per animal; 3) Aquaculture Inspection: Supplemental Health Inspection: $100.

Item 161
To Department of Agriculture and Food - Invasive Species Mitigation
From General Fund, One-Time 1,000,000
Schedule of Programs:
Invasive Species Mitigation 1,000,000

In accordance with UCA 63J-1-201, the Legislature intends that the Department of Agriculture and Food report performance measures for the Invasive Species Mitigation line item, whose mission is "Help government and private entities control noxious weeds in the state through providing project funding and help those entities meet the requirements of the Noxious Weed Act." The Department of Agriculture and Food shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measures for FY 2022: 1) SUCCESS QT (Target = 25%); (2) EDRR Points treated (Target = 40% increase); and (3) Monitoring results for 1 and 5 years after treatment (Target = 100%).

Item 162
To Department of Agriculture and Food - Marketing and Development

In accordance with UCA 63J-1-201, the Legislature intends that the Department of Agriculture and Food report performance measures for the Marketing and Development line item, whose mission is "Promoting the healthy growth of Utah agriculture." The Department of Agriculture and Food shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measures for FY 2022: 1) UDAF website session duration (Target = 2 minutes 45 seconds); 2) UDAF social media follower increase (Target = 5%); 3) Utah's Own website session duration (Target = 1 minute 45 seconds); 4) Utah's Own social media follower increase (Target = 10%).

Item 163
To Department of Agriculture and Food - Plant Industry
From General Fund ..... (2,343,300)
From General Fund, One-Time 1,000,000
From Federal Funds ..... (400,000)
From Dedicated Credits Revenue ..... (101,500)
Schedule of Programs:
Grazing Improvement Program .... (1,000,000)
Plant Industry ..... (844,800)

Item 164
To Department of Agriculture and Food - Predatory Animal Control
From General Fund, One-Time 212,500
Schedule of Programs:
Predatory Animal Control 212,500

The Legislature intends that the Utah Department of Agriculture and Food utilize General Fund appropriations for the purchase of two (2) predator control vehicles and related equipment.

In accordance with UCA 63J-1-201, the Legislature intends that the Department of Agriculture and Food report performance measures for the Predatory Animal Control line item, whose mission is "Protecting Utah's agriculture including protecting livestock, with the majority of the program's efforts directed at protecting adult sheep, lambs and calves from predation." The Department of Agriculture and Food shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measures

for FY 2022: 1) Decrease the amount of predation from bears, by increasing count of animals and decreasing staff hours (Target = 68 hours per bear); 2) Decrease the amount of predation from lions, by increasing count of animals and decreasing staff hours (Target = 92 hours per lion); 3) Decrease the amount of predation from coyotes, by increasing count of animals and decreasing staff hours (Target = 24 hours per 10 coyotes).

Item 165

To Department of Agriculture and Food – Rangeland Improvement
From Gen. Fund Rest. – Rangeland Improvement Account 2,000,000
Schedule of Programs:
Rangeland Improvement 2,000,000

In accordance with UCA 63J-1-201, the Legislature intends that the Department of Agriculture and Food report performance measures for the Rangeland Improvement line item, whose mission is "Improve the productivity, health and sustainability of our rangelands and watersheds." The Department of Agriculture and Food shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measures for FY 2022: 1) Number of Animal Unit Months Affected by GIP Projects per Year (Target = 160,000; 2) Number of Projects with Water Systems Installed Per Year (Target =50/year); and 3) Number of GIP Projects that Time, Timing, and Intensity Grazing Management to Improve Grazing Operations (Target = 15/year).

Item 166

To Department of Agriculture and Food – Regulatory Services
From General Fund ..... (999,200)
From Federal Funds 398,400
From Dedicated Credits Revenue 848,000
From Dedicated Credits Revenue, One-Time 50,000
Schedule of Programs:
Regulatory Services Administration ..... (6,815,809)
Bedding & Upholstered 267,625
Weights & Measures 2,020,574
Food Inspection 2,743,337
Dairy Inspection 404,917
Egg Grading and Inspection 1,676,556

In accordance with UCA 63J-1-201, the Legislature intends that the Department of Agriculture and Food report performance measures for the Regulatory Services line item, whose mission is "Through continuous improvement, become a world class leader in regulatory excellence through our commitment to food safety, public health and fair and equitable trade of agricultural and industrial commodities." The Department of Agriculture and Food shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measures for FY 2022: 1) Reduce the number of "Critical" violations observed on dairy farms and thereby reduce the number of follow up inspections required (Target =25% of current); 2) Reduce the number of retail fuel station follow up inspections by our weights and measures program (Target = increase to 85% compliance); and 3) Reduce the number of observed Temperature Control violations observed by our food program inspectors at retail (Target = 25% improvement).

The Legislature intends that the Department of Agriculture and Food's Regulatory Services Division is authorized to charge the following four fees in the amounts shown: 1) Operate milk manufacturing plant: $1,000; 2) Operate a milk processing plant: $2,000; 3) Dairy products distributor: $500; and 4) Fuel Dispenser Inspection, including LPG/CNG: $50.

Item 167

To Department of Agriculture and Food – Resource Conservation
From General Fund, One-Time 3,000,000
Schedule of Programs:
Resource Conservation 3,000,000

In accordance with UCA 63J-1-201, the Legislature intends that the Department of Agriculture and Food report performance measures for the Resource Conservation line item, whose mission is "Assist Utah's agricultural producers in caring for and enhancing our states vast natural resources." The Department of Agriculture and Food shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measures for FY 2022: 1) Number of Utah conservation commission projects completed (Target = 0); 2) Reduction in water usage after Water Optimization project completion (Target = 10%); and 3) Real time measurement of water for each of Water Optimization project (Target = 100%).

Item 168

To Department of Agriculture and Food – Utah State Fair Corporation
From General Fund, One-Time 450,000
Schedule of Programs:
State Fair Corporation 450,000

In accordance with UCA 63J-1-201, the Legislature intends that the Department of Agriculture and Food report performance measures for the Utah State Fair Corporation line item, whose mission is "Maximize

revenue opportunities by establishing strategic partnerships to develop the Fairpark." The Department of Agriculture and Food shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measures for FY 2022: 1) Develop new projects on the fair grounds and adjacent properties, create new revenue stream for the Fair Corporation (Target = $150,000 dollars in new incremental revenue); 2) Annual Fair attendance (Target = 5% increase in annual attendance); 3) Increase Fairpark net revenue (Target = 5% increase in net revenue over FY 2020).

Item 169

To Department of Agriculture and Food – Medical Cannabis
From Qualified Production Enterprise Fund 2,500
Schedule of Programs:
Medical Cannabis 2,500

In accordance with UCA 63J-1-201, the Legislature intends that the Department of Agriculture and Food report performance measures for the Medical Cannabis line item, whose mission is "Ensure and facilitate an efficient, responsible, and legal medical marijuana industry to give patients a safe and affordable product." The Department of Agriculture and Food shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measures for FY 2022: 1) Inspect Medical Cannabis Production Establishments to validate compliance with state statute and rules (Target = 100% of licensees inspected twice a year), 2) Use sampling procedures to ensure medical cannabis products are safe for consumption (Target = <5% of inspected products violate safety standards), and 3) Support the Medical Cannabis industry in distributing products to pharmacies by responding to Licensed Cannabis Facility and Agent requests within 5 business days (Target = 90% of responses within 5 business days).

Item 170

To Department of Agriculture and Food – Industrial Hemp
From Dedicated Credits Revenue ..... (17,500)
Schedule of Programs:
Industrial Hemp ..... (17,500)

In accordance with UCA 63J-1-201, the Legislature intends that the Department of Agriculture and Food report performance measures for the Industrial Hemp line item, whose mission is "Support Utah's industrial hemp cultivators, processors and retail establishments by ensuring compliance with state law and providing for the safety of consumers through regulatory oversight within the supply chain." The Department of Agriculture and Food shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measures for FY 2022: 1) Conduct inspections of licensed industrial hemp processors in order to validate inbound and outbound material both originates from and is delivered to an authorized licensee (Target = 80% of licensed processors in the state inspected each year); 2) Conduct product potency inspections throughout the calendar year to measure accuracy in marketing (Target = 6% of all retail products); and 3) Ensure that hemp products introduced into the Utah marketplace are registered, as measured by retail inspections resulting in a non-registered product rate of less than 15 percent, annually (Target = <15% products unregistered)

Item 171

To Department of Agriculture and Food – Analytical Laboratory
From General Fund 993,900
From Federal Funds 2,000
From Dedicated Credits Revenue 279,300
From Qualified Production Enterprise Fund 387,500
Schedule of Programs:
Analytical Laboratory 1,662,700

DEPARTMENT OF ENVIRONMENTAL QUALITY

Item 172

To Department of Environmental Quality – Drinking Water
From General Fund 75,300
From Federal Funds 412,500
From Dedicated Credits Revenue ..... (290,800)
From Revenue Transfers ..... (23,800)
From Water Dev. Security Fund – Drinking Water Loan Prog. 200
Schedule of Programs:
Drinking Water Administration .... (5,959,500)
Safe Drinking Water Act 2,237,100
System Assistance 3,072,900
State Revolving Fund 822,900

In accordance with UCA 63J-1-201, the Legislature intends that the Department of Environmental Quality report performance measures for the Drinking Water line item, whose mission is "Cooperatively work with drinking water professionals and the public to ensure a safe and reliable supply of drinking water." The Department of Environmental Quality shall report to the Office of the Legislative Fiscal Analyst and to

the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measures for FY 2022: 1) Percent of population served by Approved public water systems (Target = 95%); 2) Percent of water systems with an Approved rating (Target = 95%); and 3) Percentage of identified significant deficiencies resolved by water systems within the deadline established by the Division of Drinking Water (Target = 25% improvement over FY 2021 baseline by FY 2025).

Item 173

To Department of Environmental Quality –
Environmental Response and Remediation
From General Fund 1,300
From Federal Funds 7,000
From Federal Funds, One-Time 3,759,300
From Dedicated Credits Revenue 1,000
From General Fund Restricted –
Petroleum Storage Tank 100
From Petroleum Storage Tank
Cleanup Fund 900
From Petroleum Storage Tank
Trust Fund 2,600
From General Fund Restricted –
Voluntary Cleanup 1,000
Schedule of Programs:
Environmental Response and
Remediation ..... (9,664,100)
Voluntary Cleanup 682,300
CERCLA 8,430,900
Tank Public Assistance 53,200
Leaking Underground Storage
Tanks 2,591,400
Underground Storage Tanks 1,679,500

In accordance with UCA 63J-1-201, the Legislature intends that the Department of Environmental Quality report performance measures for the Environmental Response and Remediation line item, whose mission is "Protect public health and Utah's environment by cleaning up contaminated sites, helping to return contaminated properties to a state of beneficial reuse, ensuring underground storage tanks are managed and used properly, and providing chemical usage and emission data to the public and local response agencies." The Department of Environmental Quality shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measures for FY 2022: 1) Percent of UST facilities in Significant Operational Compliance at time of inspection, and in compliance within 60 days of inspection (Target = 70%), (2) Leaking Underground Storage Tank (LUST) site release closures, (Target = 80), (3) Issued brownfields tools facilitating cleanup and redevelopment of impaired properties, (Target = 18).

Item 174

To Department of Environmental Quality –
Executive Director's Office
From General Fund 106,000
From Federal Funds 1,500
From Dedicated Credits Revenue 1,000
From General Fund Restricted –
Environmental Quality 4,700
Schedule of Programs:
Executive Director Office
Administration ..... (1,162,000)
Local Health Departments 1,118,400
Radon 156,800

In accordance with UCA 63J-1-201, the Legislature intends that the Department of Environmental Quality report performance measures for the Executive Directors Office line item, whose mission is "Safeguarding and improving Utah's air, land and water through balanced regulation." The Department of Environmental Quality shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measures for FY 2022: 1) Percent of systems within the Department involved in a continuous improvement project in the last year (Target = 100%); 2) Percent of customers surveyed that reported good or exceptional customer service (Target = 90%); and 3) Number of state audit findings/Percent of state audit findings resolved within 30 days (Target = 0 and 100%).

Item 175

To Department of Environmental Quality –
Waste Management and Radiation Control
From General Fund 151,100
From Federal Funds 1,800
From Dedicated Credits Revenue 3,200
From General Fund Restricted –
Environmental Quality 180,000
From Gen. Fund Rest. - Used
Oil Collection Administration 1,000
From Waste Tire Recycling Fund ..... (151,300)
Schedule of Programs:
Waste Management and
Radiation Control ..... (12,457,800)
Hazardous Waste 5,532,500
Solid Waste 1,254,200
Radiation 1,668,400
Low Level Radioactive Waste 2,599,800
WIPP 149,200
Used Oil 936,800
Waste Tire 151,500
X-Ray 351,200

In accordance with UCA 63J-1-201, the Legislature intends that the Department of Environmental Quality report performance measures for the Waste Management and Radiation Control line item, whose mission is "Protect human health and the environment

by ensuring proper management of solid wastes, hazardous wastes and used oil, and to protect the general public and occupationally exposed employees from sources of radiation that constitute a health hazard." The Department of Environmental Quality shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measures for FY 2022: 1) Percent of x-ray machines in compliance (Target = 90%); 2) Percent of permits and licenses issued/modified within set timeframes (Target = 90%) and 3) Compliance Assistance for Small Businesses (Target = 65 businesses).

Item 176

To Department of Environmental Quality - Water Quality
From General Fund 3,500
From Federal Funds ..... (42,900)
From Dedicated Credits Revenue 2,000
From Revenue Transfers 300
From Gen. Fund Rest. - Underground Wastewater System 100
From Water Dev. Security Fund - Utah Wastewater Loan Program. 1,600
From Water Dev. Security Fund - Water Quality Orig. Fee 100
Schedule of Programs:
Water Quality Support ..... (10,047,700)
Water Quality Protection 6,604,100
Water Quality Permits 3,327,300
Onsite Waste Water 81,000

In accordance with UCA 63J-1-201, the Legislature intends that the Department of Environmental Quality report performance measures for the Water Quality line item, whose mission is "Protect, maintain and enhance the quality of Utah's surface and underground waters for appropriate beneficial uses; and protect the public health through eliminating and preventing water related health hazards which can occur as a result of improper disposal of human, animal or industrial wastes while giving reasonable consideration to the economic impact." The Department of Environmental Quality shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measures for FY 2022: 1) Percent of permits renewed "On-time" (Target = 95%); and 2) Percent of permit holders in compliance (Target = 90%); and 3) Municipal wastewater effluent quality measured as mg/L oxygen consumption potential (Target = state average attainment of 331 mg/L oxygen consumption potential by 2025).

The Legislature intends that ongoing funds appropriated to the Division of Water Quality for independent scientific review during the 2016 General Session be used on activities to support the Water Quality Act as outlined in R317-1-10.

Item 177

To Department of Environmental Quality - Air Quality
From General Fund 7,200
From General Fund, One-Time 200,000
From Federal Funds 7,200
From Federal Funds, One-Time 10,906,300
From Dedicated Credits Revenue 5,500
From Clean Fuel Conversion Fund 100
Schedule of Programs:
Compliance 4,601,600
Permitting 3,270,800
Planning 32,629,400
Air Quality Administration ..... (29,375,500)

In accordance with UCA 63J-1-201, the Legislature intends that the Department of Environmental Quality report performance measures for the Air Quality line item, whose mission is "Protect public health and the environment from the harmful effects of air pollution." The Department of Environmental Quality shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measures for FY 2022: 1) Percent of facilities inspected that are in compliance with permit requirements (Target = 100%); 2) Percent of approval orders that are issued within 180-days after the receipt of a complete application (Target = 95%); 3) Percent of data availability from the established network of air monitoring samplers for criteria air pollutants (Target = 100%); and 4) Per Capita Rate of State-Wide Air Emissions (Target = 0.63).

Item 178

To Department of Environmental Quality - Laboratory Services
From General Fund 900,000
Schedule of Programs:
Laboratory Services 900,000

GOVERNOR'S OFFICE

Item 179

To Governor's Office - Office of Energy Development
From General Fund 1,100
From General Fund, One-Time 500,000
From Education Fund 245,000
From Federal Funds 500
From Dedicated Credits Revenue 200
From Ut. S. Energy Program Rev. Loan Fund (ARRA) 200
Schedule of Programs:
Office of Energy Development 747,000

In accordance with UCA 63J-1-201, the Legislature intends that the Office of Energy Development report performance measures for the Office of Energy Development line item, whose mission is "Advance Utah's energy and minerals economy through energy policy, energy infrastructure and business development, energy efficiency and renewable energy programs, and energy research, education and workforce development." The Office of Energy Development shall report to the Office of the Legislative Fiscal Analyst and to the Governors Office of Management and Budget before October 1, 2021 the following status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measures for FY 2022: 1) Private investment leveraged (Target = $39 for every tax credit dollar issued through Office of Energy Development incentive programs); 2) Constituents directly educated (Target = 18,686); and 3) Percent of annual objectives achieved in U.S. D.O.E. funded programs. (Target = 100%).

The Legislature intends that the $500,000 one-time General Fund appropriation fto the Office of Energy Development be used to support the Coal to Materials project at the University of Utah for for research and project development.

DEPARTMENT OF NATURAL RESOURCES

Item 180

To Department of Natural Resources - Administration
From General Fund 133,700
From General Fund, One-Time 5,200
Schedule of Programs:
Administrative Services 99,200
Executive Director 39,700

The Legislature intends that the Department of Natural Resources (DNR) work with the Division of Fleet Operations to install telematics devices on DNR vehicles in FY 2022.

In accordance with UCA 63J-1-201, the Legislature intends that the Department of Natural Resources report performance measures for the Executive Director line item, whose mission is "to facilitate economic development and wise use of natural resources to enhance the quality of life in Utah." The Department of Natural Resources shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measures for FY 2022: 1) To keep the ratio of total employees in DNR in proportion to the employees in DNR administration at greater than or equal to 55:1 (Target = 55:1), 2) To continue to grow non-general fund revenue sources in order to maintain a total DNR non-general fund ratio to total funds at 80% or higher (Target = 80%), 3) To perform proper and competent financial support according to State guidelines and policies for DNR Administration by reducing the number of adverse audit findings in our quarterly State Finance audit reviews (Target = zero with a trend showing an annual year-over-year reduction in findings).

Item 181

To Department of Natural Resources - Building Operations
From General Fund ..... (25,000)
From General Fund, One-Time ..... (7,200)
Schedule of Programs:
Building Operations ..... (32,200)

In accordance with UCA 63J-1-201, the Legislature intends that the Department of Natural Resources report performance measures for the Building Operations line item, whose mission is "to properly pay for all building costs of the DNR headquarters located in Salt Lake City." The Department of Natural Resources shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measures for FY 2022: 1) Despite two aging facilities, we have a goal to request DFCM keep our O&M rates at the current cost of $4.25 (Target = $4.25), 2) To have the DFCM O&M rate remain at least 32% more cost competitive than the private sector rate (Target = 32%), 3) To improve building services customer satisfaction with DFCM facility operations by 10% (Target = 10%).

Item 182

To Department of Natural Resources - Contributed Research
From Dedicated Credits Revenue .... (1,510,800)
From Expendable Receipts 1,510,800

In accordance with UCA 63J-1-201, the Legislature intends that the Department of Natural Resources report performance measures for the Contributed Research line item, whose mission is "to serve the people of Utah as trustee and guardian of states wildlife." The Department of Natural Resources shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measures for FY 2022: 1) Percentage of mule deer units at or exceeding 90% of their population objective (Target = 50%), 2) Percentage of elk units at or exceeding 90% of their population objective (Target = 75%), and 3) Maintain positive hunter satisfaction index for general season deer hunt (Target = 3.3).

Item 183
To Department of Natural Resources – Cooperative Agreements
From Federal Funds 2,627,500
From Dedicated Credits Revenue .... (1,121,700)
From Expendable Receipts 8,121,700
Schedule of Programs:
Cooperative Agreements 9,627,500

In accordance with UCA 63J-1-201, the Legislature intends that the Department of Natural Resources report performance measures for the Cooperative Agreements line item, whose mission is "to serve the people of Utah as trustee and guardian of states wildlife." The Department of Natural Resources shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measures for FY 2022: 1) Aquatic Invasive Species containment – number of public contacts and boat decontaminations (Targets = 400,000 contacts and 10,000 decontaminations), 2) Number of new wildlife species listed under the Endangered Species Act (Target = 0), and 3) Number of habitat acres restored annually (Target = 180,000).

Item 184
To Department of Natural Resources – DNR Pass Through
From General Fund, One-Time 9,800,000
Schedule of Programs:
DNR Pass Through 9,800,000

In accordance with UCA 63J-1-201, the Legislature intends that the Department of Natural Resources report performance measures for the DNR Pass Through line item, whose mission is "to carry out pass through requests as directed by the Legislature." The Department of Natural Resources shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measures for FY 2022: 1) To pass funding from legislative appropriations to other entities, such as zoos, counties, and other public and non-public entities. The goal is to complete these transactions in accordance with legislative direction (Target = 100%), 2) To provide structure and framework to ensure funds are properly spent and keep the costs of auditing and administering these funds at 8% or less of the funding appropriated for pass through (Target = 8%), 3) To complete the project(s) within the established timeframe(s) and budget (Target = 100%).

The Legislature intends that the $9.8 million one-time from the General Fund shall be used as follows: 1) $1 million for algae bloom remediation, of which $406,100 is to be used by Utah Valley University; 2) $4.4 million for Walkara Way Phase 2, the development of the trail system between the Provo Airport and Provo River Delta Project, to include $850,000 for fencing, $250,000 for a maintenance/staging area, and $3.3 million for the trail system, including environmental considerations where applicable; 3) $800,000 for shoreline restoration; 4) $2.6 million for marina upgrades; 5) $1 million for invasive species remediation (animal feeding operation).

Item 185
To Department of Natural Resources – Forestry, Fire and State Lands
From General Fund 250,000
From General Fund, One-Time 2,400,000
From Dedicated Credits Revenue 1,500,000
From General Fund Restricted – Sovereign Lands Management 30,700
From General Fund Restricted – Sovereign Lands Management, One-Time 8,400
From Revenue Transfers 10,000,000
Schedule of Programs:
Division Administration 39,100
Fire Management 1,500,000
Fire Suppression Emergencies 10,000,000
Project Management 2,650,000

In accordance with UCA 63J-1-201, the Legislature intends that the Department of Natural Resources report performance measures for the Forestry, Fire and State Lands line item, whose mission is "to manage, sustain, and strengthen Utah's forests, range lands, sovereign lands and watersheds for its citizens and visitors." The Department of Natural Resources shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measures for FY 2022: 1) Fuel Reduction Treatment Acres (Target = 4,495), 2) Fire Fighters Trained to Meet Standards (Target = 3,190), and 3) Communities With Tree City USA Status (Target = 89).

The Legislature intends that the $1.5 million one-time from the General Fund be used for reconstructing approximately 500 ft of the Jordan River channel for safe navigation and passage over the North Point Brighton Canal Diversion Structure.

Item 186
To Department of Natural Resources – Oil, Gas and Mining
From General Fund 3,800
From General Fund, One-Time 1,100
Schedule of Programs:
Administration 4,900

In accordance with UCA 63J-1-201, the Legislature intends that the Department of Natural Resources report performance measures for the Oil, Gas, and Mining line

item, whose mission is "the Division of Oil, Gas and Mining regulates and ensures industry compliance and site restoration while facilitating oil, gas and mining activities." The Department of Natural Resources shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measures for FY 2022: 1) Timing of Issuing Coal Permits (Target = 100%), 2) Average number of days between well inspections (Target = 365 days or less), and 3) Average number of days to conduct inspections for Priority 1 sites (Target = 90 days or less).

Item 187

To Department of Natural Resources –
Parks and Recreation
From Federal Funds 500,000
From Expendable Receipts 267,100
From General Fund Restricted –
State Park Fees 45,400
From General Fund Restricted –
State Park Fees, One-Time 12,400
From Revenue Transfers 100,000
Schedule of Programs:
Executive Management 500,000
Park Operation Management 424,900

In accordance with UCA 63J-1-201, the Legislature intends that the Department of Natural Resources report performance measures for the Parks and Recreation line item, whose mission is "to enhance the quality of life by preserving and providing natural, cultural, and recreational resources for the enjoyment, education, and inspiration of this and future generations." The Department of Natural Resources shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measures for FY 2022: 1) Total Revenue Collections (Target = $48,000,000), (2) Gate Revenue (Target = $30,500,000), and (3) Expenditures (Target = $43,000,000).

Item 188

To Department of Natural Resources –
Parks and Recreation Capital Budget
From General Fund, One-Time 67,000,000
From Federal Funds 1,500,000
From Dedicated Credits Revenue ..... (175,000)
From Expendable Receipts 175,000
From General Fund Restricted –
State Park Fees, One-Time 16,150,000
Schedule of Programs:
Region Renovation 750,000
Renovation and Development 82,400,000
Trails Program 1,500,000

In accordance with UCA 63J-1-201, the Legislature intends that the Department of Natural Resources report performance measures for the Parks and Recreation Capital line item, whose mission is "to enhance the quality of life by preserving and providing natural, cultural, and recreational resources for the enjoyment, education, and inspiration of this and future generations." The Department of Natural Resources shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measures for FY 2022: 1) Donations Revenue (Target = $140,000, (2) Capital renovation projects completed (Target = 15), and (3) Boating projects completed (Target = 5).

Item 189

To Department of Natural Resources –
Species Protection

In accordance with UCA 63J-1-201, the Legislature intends that the Department of Natural Resources report performance measures for the Species Protection line item, whose mission is "to create innovative solutions to transform government services." The Department of Natural Resources shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measures for FY 2022: 1) Delisting or Downlisting (Target = one delisting or downlisting proposed or final rule published in the Federal Register per year), 2) Red Shiner Eradication (Target = Eliminate 100% of Red Shiner from 37 miles of the Virgin River in Utah), and 3) June Sucker Population Enhancement (Target = 5,000 adult spawning June Sucker).

Item 190

To Department of Natural Resources –
Utah Geological Survey
From General Fund 200
From General Fund, One-Time 100,100
From Federal Funds 656,700
From Dedicated Credits Revenue ..... (263,800)
From Revenue Transfers 709,800
Schedule of Programs:
Energy and Minerals 879,200
Geologic Hazards 7,600
Geologic Information and Outreach 8,300
Geologic Mapping 109,900
Ground Water 198,000

In accordance with UCA 63J-1-201, the Legislature intends that the Department of Natural Resources report performance measures for the Utah Geological Survey line item, whose mission is "to provide timely, scientific information about Utah's geologic environment, resources, and hazards." The Department of Natural Resources shall

report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measures for FY 2022: 1) Total number of individual item views in the UGS GeoData Archive (Target = 1,700,000), 2) Total number of website user requests/queries to UGS interactive map layers (Target = 9,000,000), and 3) Public engagement of UGS reports and publications (Target = 65,000 downloads).

The Legislature intends that the $100,000 one-time from the General Fund be used to fund a comprehensive economic impact study of Utah's natural resources and energy sectors.

Item 191

To Department of Natural Resources – Water Resources
From Water Resources Conservation and Development Fund, One-Time 18,000,000
Schedule of Programs:
Construction 18,000,000

In accordance with UCA 63J-1-201, the Legislature intends that the Department of Natural Resources report performance measures for the Water Resources line item, whose mission is "plan, conserve, develop and protect Utah's water resources." The Department of Natural Resources shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measures for FY 2022: 1) Water conservation and development projects funded (Target = 15), 2) Reduction of per capita M&I water use (Target = 25%), and 3) Percentage of precipitation increase due to cloud seeding efforts (Target = 7%).

Item 192

To Department of Natural Resources – Water Rights
From General Fund 2,000
From General Fund, One-Time 800
From Dedicated Credits Revenue 1,000
From Dedicated Credits Revenue, One-Time 300
Schedule of Programs:
Applications and Records 4,100

In accordance with UCA 63J-1-201, the Legislature intends that the Department of Natural Resources report performance measures for the Water Rights line item, whose mission is "to promote order and certainty in the beneficial use of public water." The Department of Natural Resources shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measures for FY 2022: 1) Timely Application processing (Target = 80 days for uncontested applications), 2) Use of technology to provide information (Target = 1,500 unique web users per month), and 3) Parties that have been noticed in comprehensive adjudication (Target = 20,000).

Item 193

To Department of Natural Resources – Watershed

In accordance with UCA 63J-1-201, the Legislature intends that the Department of Natural Resources report performance measures for the Watershed Restoration Initiative line item, whose mission is "rehabilitation or restoration of priority watershed areas in order to address the needs of water quality and yield, wildlife, agriculture and human needs." The Department of Natural Resources shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measures for FY 2022: 1) Number of acres treated (Target = 120,000 acres per year), 2) State of Utah funding leverage with partners for projects completed through WRI (Target = 3), and 3) Miles of stream and riparian areas restored (Target = 150 miles).

Item 194

To Department of Natural Resources – Wildlife Resources
From General Fund, One-Time 500,000
From Federal Funds 888,700
From Dedicated Credits Revenue ..... (110,700)
From Expendable Receipts 110,700
From General Fund Restricted – Wildlife Resources 93,400
From General Fund Restricted – Wildlife Resources, One-Time 25,600
Schedule of Programs:
Administrative Services 119,000
Aquatic Section 500,000
Wildlife Section 888,700

In accordance with UCA 63J-1-201, the Legislature intends that the Department of Natural Resources report performance measures for the Wildlife Resources Operations line item, whose mission is "to serve the people of Utah as trustee and guardian of states wildlife." The Department of Natural Resources shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measures for FY 2022: 1) Number of people participating in hunting and fishing in Utah

(Target = 800,000 anglers and 380,000 hunters), 2) Percentage of law enforcement contacts without a violation (Target = 90%), and 3) Number of participants at DWR shooting ranges (Target = 90,000).

Item 195

To Department of Natural Resources – Wildlife Resources Capital Budget
From Federal Funds 300,000
Schedule of Programs:
Fisheries 300,000

In accordance with UCA 63J-1-201, the Legislature intends that the Department of Natural Resources report performance measures for the Wildlife Resources Capital line item, whose mission is "to serve the people of Utah as trustee and guardian of states wildlife." The Department of Natural Resources shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measures for FY 2022: 1) Average score from annual DFCM facility audits (Target = 90%), (2) New Motor Boat Access projects (Target = 10), and (3) Number of hatcheries in operation (Target = 12).

PUBLIC LANDS POLICY COORDINATING OFFICE

Item 196

To Public Lands Policy Coordinating Office
From General Fund 236,700
From General Fund, One-Time 5,900,000
From General Fund Restricted – Constitutional Defense 13,700
Schedule of Programs:
Public Lands Policy Coordinating Office 6,150,400

In accordance with UCA 63J-1-201, the Legislature intends that the Public Lands Policy Coordinating Office report performance measures for the Public Lands Policy Coordinating Office line item, whose mission is "Preserve and defend rights to access, use and benefit from public lands within the State." The Public Lands Policy Coordinating Office shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measures for FY 2022: 1) Percentage of Utah Counties which reported PLPCOs work as "very good" (Target = 70%); 2) Percentage of State Natural Resource Agencies working with PLPCOs which reported PLPCOs work as "good" (Target = 70%); and 3) Percentage of Administrative comments and legal filings prepared and submitted in a timely manner (Target = 70%).

The Legislature intends that $400,000 of the one-time General Fund appropriation in the Public Lands Policy Coordinating Office be used to conduct grazing utilization surveys and pre-NEPA analysis on Monroe Mountain.

The Legislature intends that $5,000,000 of the one-time General Fund appropriation to the Public Lands Policy Coordinating Office be used to address imminent policy, multi-use issues on federal lands and for coordination and litigation actions.

The Legislature intends that $500,000 of the General Fund appropriation to the Public Lands Policy Coordinating Office be utilized to review the State and County Resource Management Plans to address Access to Public Lands, Renewable Energy Resources, Utility Corridors, Critical Mineral Resources and Rare Earth Element, and Pipeline and Infrastructure.

SCHOOL AND INSTITUTIONAL TRUST LANDS ADMINISTRATION

Item 197

To School and Institutional Trust Lands Administration

In accordance with UCA 63J-1-201, the Legislature intends that the School and Institutional Trust Lands Administration report performance measures for the Operations line item, whose mission is "Generate revenue in the following areas by leasing and administering trust parcels." The School and Institutional Trust Lands Administration shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measures for FY 2022: 1) Oil and Gas gross revenue (Target =$20,360,000); 2) Mining gross revenue (Target = $8,700,000); and 3) Surface gross revenue (Target = $17,830,000).

Item 198

To School and Institutional Trust Lands Administration – Land Stewardship and Restoration

In accordance with UCA 63J-1-201, the Legislature intends that the School and Institutional Trust Lands Administration report performance measures for the Land Stewardship and Restoration line item, whose mission is "Mitigate damages to trust parcels or preserve the value of the asset by preventing degradation." The School and Institutional Trust Lands Administration shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measures for FY

2022: 1) Mitigation, facilitation of de-listing or preventing the listing of sensitive species such as Sage Grouse, Penstemon and the Utah Prairie Dog (Target = $200,000); 2) Fire rehabilitation on trust parcels (Target = up to $600,000); and 3) Rehabilitation on Lake Mountain Block (Target = $50,000).

Item 199
To School and Institutional Trust Lands Administration - School and Institutional Trust Lands Administration Capital

In accordance with UCA 63J-1-201, the Legislature intends that the School and Institutional Trust Lands Administration report performance measures for the Land Stewardship and Restoration line item, whose mission is "Administering trust lands prudently and profitably for Utah's schoolchildren and other trust beneficiaries." The School and Institutional Trust Lands Administration shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measures for FY 2022: 1) Planning and Development revenue (Target => $16,200,000); 2) Acquire water rights for use in future projects (Target = $1,500,000); and 3) Begin planning and infrastructure expenditures for the Northwest Quadrant (Target = $500,000).

EXECUTIVE APPROPRIATIONS

LEGISLATURE

Item 200
To Legislature - Senate
From General Fund 252,000
From General Fund, One-Time 9,600
Schedule of Programs:
Administration 261,600

Of the appropriations provided by this item, $9,600 is to implement the provisions of Outdoor Adventure Commission Amendments (House Bill 283, 2020 General Session).

Item 201
To Legislature - House of Representatives
From General Fund 258,000
From General Fund, One-Time 9,600
Schedule of Programs:
Administration 267,600

Of the appropriations provided by this item, $9,600 is to implement the provisions of Outdoor Adventure Commission Amendments (House Bill 283, 2020 General Session).

Item 202
To Legislature - Office of Legislative Research and General Counsel
From General Fund 471,500
From General Fund, One-Time 383,500
Schedule of Programs:
Administration 855,000

Of the appropriations provided by this item, $383,500 is to implement the provisions of Outdoor Adventure Commission Amendments (House Bill 283, 2020 General Session).

Item 203
To Legislature - Office of the Legislative Fiscal Analyst
From General Fund 410,000
Schedule of Programs:
Administration and Research 410,000

Item 204
To Legislature - Office of the Legislative Auditor General
From General Fund 282,500
Schedule of Programs:
Administration 282,500

Item 205
To Legislature - Legislative Services
From General Fund 356,000
Schedule of Programs:
Administration 23,400
Pass-Through 156,200
Information Technology 176,400

UTAH NATIONAL GUARD

Item 206
To Utah National Guard
From General Fund 400
From General Fund, One-Time 1,115,000
From General Fund Restricted - West Traverse Sentinel Landscape Fund, One-Time 3,500,000
Schedule of Programs:
Operations and Maintenance 1,115,400
West Traverse Sentinel Landscape 3,500,000

DEPARTMENT OF VETERANS AND MILITARY AFFAIRS

Item 207
To Department of Veterans and Military Affairs - Veterans and Military Affairs
From General Fund 200
From General Fund, One-Time 1,500,000
From Federal Funds 100
From Federal Funds, One-Time 1,281,200
Schedule of Programs:
Administration 1,000,100
Cemetery 1,281,200
Outreach Services 500,100
State Approving Agency 100

Subsection 1(b). Expendable Funds and Accounts. The Legislature has reviewed the following expendable funds. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated. Outlays and expenditures from the funds or accounts to which the money is transferred may be made without further

legislative action, in accordance with statutory provisions relating to the funds or accounts.

EXECUTIVE OFFICES AND CRIMINAL JUSTICE

GOVERNORS OFFICE

Item 208
To Governors Office – Municipal Incorporation Expendable Special Revenue Fund
From General Fund, One-Time 45,000
Schedule of Programs:
Municipal Incorporation Expendable Special Revenue Fund 45,000

INFRASTRUCTURE AND GENERAL GOVERNMENT

DEPARTMENT OF ADMINISTRATIVE SERVICES

Item 209
To Department of Administrative Services – State Debt Collection Fund
From Dedicated Credits Revenue 15,500
Schedule of Programs:
State Debt Collection Fund 15,500

BUSINESS, ECONOMIC DEVELOPMENT, AND LABOR

GOVERNOR'S OFFICE OF ECONOMIC DEVELOPMENT

Item 210
To Governor's Office of Economic Development – Outdoor Recreation Infrastructure Account
From General Fund, One-Time 4,000,000
Schedule of Programs:
Outdoor Recreation Infrastructure Account 4,000,000

The Legislature intends that the $4,000,000 appropriated to the Outdoor Recreation Infrastructure Account in this item be used in FY 2022 to provide recreation infrastructure development grants.

SOCIAL SERVICES

DEPARTMENT OF HUMAN SERVICES

Item 211
To Department of Human Services – Utah State Developmental Center Long-Term Sustainability Fund
From Beginning Fund Balance 7,307,900
From Closing Fund Balance ..... (14,998,100)
Schedule of Programs:
Utah State Developmental Center Long-Term Sustainability Fund ..... (7,690,200)

DEPARTMENT OF WORKFORCE SERVICES

Item 212
To Department of Workforce Services – Olene Walker Low Income Housing
From General Fund, One-Time 35,000,000
From Federal Funds 750,000
Schedule of Programs:
Olene Walker Low Income Housing 35,750,000

The Legislature intends that up to $10 million of the appropriation provided by this item be used for gap financing of private activity bond financed multi-family housing. The Legislature further intends that up to $25 million of the appropriation be used to match private dollars for the preservation and rehabilitation of affordable housing units for low-income individuals through the Utah Housing Preservation Fund.

Of the appropriations provided by this item, $5,000,000 is to implement the provisions of Affordable Housing Amendments (Senate Bill 39, 2020 General Session).

NATURAL RESOURCES, AGRICULTURE, AND ENVIRONMENTAL QUALITY

DEPARTMENT OF ENVIRONMENTAL QUALITY

Item 213
To Department of Environmental Quality – Waste Tire Recycling Fund

In accordance with UCA 63J-1-201, the Legislature intends that the Department of Environmental Quality report performance measures for the Waste Tire Recycling Fund, funding shall be used "For partial reimbursement of the costs of transporting, processing, recycling, or disposing of waste tires and payment of administrative costs of local health departments or costs of the Department of Environmental Quality in administering and enforcing this fund." The Department of Environmental Quality shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measures for FY 2022: 1) Number of Waste Tires Cleaned-Up (Target = 50,000).

DEPARTMENT OF NATURAL RESOURCES

Item 214
To Department of Natural Resources – Wildland Fire Preparedness Grants Fund

In accordance with UCA 63J-1-201, the Legislature intends that the Department of Natural Resources report performance measures for the Wildland Fire Suppression Fund line item, managed by the Division of Forestry, Fire, and State Lands, whose mission is "to manage, sustain, and strengthen Utah's forests, range lands, sovereign lands and watersheds for its citizens and visitors." The Department of Natural Resources shall report to the Office of

the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measures for FY 2022: 1) Non-federal wildland fire acres burned (Target = 67,116), 2) Human-caused wildfire rate (Target = 50%), and 3) Number of counties and municipalities participating with the Utah Cooperative Wildfire system (Target = all 29 counties, and an annual year- over increase in the number of participating municipalities).

EXECUTIVE APPROPRIATIONS

DEPARTMENT OF VETERANS AND MILITARY AFFAIRS

Item 215
To Department of Veterans and Military Affairs - Utah Veterans Nursing Home Fund
From Federal Funds 400
Schedule of Programs:
Veterans Nursing Home Fund 400

Subsection 1(c). Business-like Activities. The Legislature has reviewed the following proprietary funds. Under the terms and conditions of Utah Code 63J-1-410, for any included Internal Service Fund, the Legislature approves budgets, full-time permanent positions, and capital acquisition amounts as indicated, and appropriates to the funds, as indicated, estimated revenue from rates, fees, and other charges. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated.

EXECUTIVE OFFICES AND CRIMINAL JUSTICE

ATTORNEY GENERAL

Item 216
To Attorney General - ISF - Attorney General
From Dedicated Credits Revenue 3,327,200
Schedule of Programs:
ISF - Attorney General ..... (47,550,900)
Civil Division 31,337,700
Child Protection Division 9,513,300
Criminal Division 10,027,100
Budgeted FTE 69.0

The Legislature intends that, before October 1, 2021, the Office of the Attorney General submit to the rate committee described in Section 67-5-34 a proposed rate and fee schedule for legal services rendered by the Office of the Attorney General to an agency.

Notwithstanding ISF-Attorney General fees found in H.B. 8, "State Agency Fees and Internal Service Fund Rate Authorization and Appropriations" and under the terms and conditions of Utah Code Title 63J Chapter 1 and other fee statutes as applicable, the following fees and rates are approved for the use and support of the government of the State of Utah for the Fiscal Year beginning July 1, 2020 and ending June 30, 2021: Child Protection Attorney I-II - Co-Located Rate 80.00; Child Protection Attorney I-II - Office Rate 83.00; Child Protection Attorney III-IV - Co-Located Rate 100.00; Child Protection Attorney III-IV - Office Rate - 103.00; Child Protection Attorney V - Co-located Rate - 124.00; Child Protection Attorney V - Office Rate - 128.00; Child Protection Paralegal - Co-Located Rate - 59.00; Child Protection Paralegal - Office Rate - 61.00; Civil Attorney I - II - Co-Located Rate - 86.00; Civil Attorney I - II - Office Rate - 89.00; Civil Attorney III - IV - Co-Located Rate - 106.00; Civil Attorney III - IV - Office Rate - 109.00; Civil Attorney I-II - Litigation Rate - 100.00; Civil Attorney III-IV - Litigation Rate - 119.00; Civil Attorney V - Co-Located Rate - 130.00; Civil Attorney V - Litigation Rate - 143.00; Civil Attorney V - Office Rate - 134.00; Civil Paralegal - Co-Located Rate - 65.00; Civil Paralegal - Litigation Rate - 66.00; Civil Paralegal - Office Rate - 67.00; Criminal Division Attorney I-II - Co-Located - 108.00; Criminal Division Attorney I-II - Office Rate - 112.00; Criminal Division Attorney III-IV - Co-Located Rate - 123.00; Criminal Division Attorney III-IV - Office Rate - 127.00; Criminal Division Attorney V - Co-Located Rate - 139.00; Criminal Division Attorney V - Office Rate - 144.00; Criminal Division Investigator - Co-Located Rate - 70.00; Criminal Division Investigator - Office Rate - 73.00; Criminal Division Paralegal - Co-Located Rate - 56.00; Criminal Division Paralegal - Office Rate - 58.00. The Legislature intends that the aforementioned fees apply for the Attorney General Internal Service Fund.

INFRASTRUCTURE AND GENERAL GOVERNMENT

DEPARTMENT OF HUMAN RESOURCE MANAGEMENT

Item 217
To Department of Human Resource Management - Human Resources Internal Service Fund
Budgeted FTE 7.0

DEPARTMENT OF ADMINISTRATIVE SERVICES INTERNAL SERVICE FUNDS

Item 218
To Department of Administrative Services Internal Service Funds - Division of Facilities Construction and Management - Facilities Management
From Dedicated Credits Revenue 3,540,200
Schedule of Programs:
ISF - Facilities Management 3,540,200

Item 219
To Department of Administrative Services Internal Service Funds - Division of Finance

From Dedicated Credits Revenue 149,400
Schedule of Programs:
ISF – Purchasing Card 149,400

Item 220
To Department of Administrative Services Internal Service Funds – Risk Management
From General Fund, One-Time 7,636,300
From Dedicated Credits Revenue 482,600
From Premiums 6,235,200
From Interest Income 6,100
From Other Financing Sources 113,900
Schedule of Programs:
ISF – Risk Management Administration 482,600
ISF – Workers' Compensation 728,300
Risk Management – Liability 7,927,000
Risk Management – Property 5,336,200
Authorized Capital Outlay 250,000

The Legislature intends that the appropriation of $7,636,300 in this item be used to pay for excess damages that have resulted from a personal injury claim against the state. The Legislature further intends that the funds be paid in installments through an annuity or trust arrangement, and that in the event of the claimant's untimely death, all funds remaining in the annuity or trust shall be returned to the state.

DEPARTMENT OF TECHNOLOGY SERVICES INTERNAL SERVICE FUNDS

Item 221
To Department of Technology Services Internal Service Funds – Enterprise Technology Division
From Dedicated Credits Revenue 100,900
Schedule of Programs:
ISF – Enterprise Technology Division 100,900

SOCIAL SERVICES

DEPARTMENT OF HEALTH

Item 222
To Department of Health – Qualified Patient Enterprise Fund

In accordance with UCA 63J-1-201, the Legislature intends that the Department of Health report on the following performance measures for the Qualified Patient Enterprise Fund, whose mission is "cover expenses related to carrying out the departments duties under the Utah Medical Cannabis Act. Duties include establishing a medical cannabis verification and inventory control system, drafting rules required for implementation of the new law, educating stakeholders and the public, and processing applications." The Department of Health shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measures for FY 2022: License 7 pharmacies by the end of March 2021 (Target = seven).

DEPARTMENT OF WORKFORCE SERVICES

Item 223
To Department of Workforce Services – Unemployment Compensation Fund
From Federal Funds 16,800
Schedule of Programs:
Unemployment Compensation Fund 16,800

NATURAL RESOURCES, AGRICULTURE, AND ENVIRONMENTAL QUALITY

DEPARTMENT OF AGRICULTURE AND FOOD

Item 224
To Department of Agriculture and Food – Agriculture Loan Programs

In accordance with UCA 63J-1-201, the Legislature intends that the Department of Agriculture and Food report performance measures for the Agricultural Loan Programs line item, whose mission is "Serve and deliver financial services to our agricultural clients and partners through delivery of effective customer service and efficiency with good ethics and fiscal responsibility." The Department of Agriculture and Food shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measures for FY 2022: 1) Keep UDAF Agriculture Loan default rate lower than average bank default rates of 3% per fiscal year (Target = 2% or less); 2) Receive unanimous commission approval for every approved loan (Target = 100%); and 3) Receive commission approval within 3 weeks of application completion (Target = 100%).

DEPARTMENT OF ENVIRONMENTAL QUALITY

Item 225
To Department of Environmental Quality – Water Development Security Fund – Drinking Water
From Dedicated Credits Revenue .... (1,125,300)
From Repayments 418,200
Schedule of Programs:
Drinking Water ..... (707,100)

DEPARTMENT OF NATURAL RESOURCES

Item 226
To Department of Natural Resources – Internal Service Fund

In accordance with UCA 63J-1-201, the Legislature intends that the Department of Natural Resources report performance measures for the DNR Internal Service Fund

line item, whose mission is "to provide a convenient and efficient low cost source of uniforms and supplies for DNR employees and programs." The Department of Natural Resources shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measures for FY 2022: 1) The number of complaints received by the director overseeing warehouse operations (Target = zero with a trend showing an annual year-over-year reduction in complaints), 2) The number of uniform items sold (Target = 10,000), 3) To adjust rates such that retained earnings are within plus or minus 5% of annual revenues (Target = plus or minus 5% of revenues).

Item 227
To Department of Natural Resources - Water Resources Revolving Construction Fund

In accordance with UCA 63J-1-201, the Legislature intends that the Department of Natural Resources report performance measures for the Water Resources Revolving Construction Fund line item, whose mission is "to plan, conserve, develop and protect Utah's water resources." The Department of Natural Resources shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measures for FY 2022: 1) Dam Safety minimum standards upgrade projects funded per fiscal year (Target = 2), 2) Percent of appropriated funding to be spent on Dam Safety projects (Target = 100%), and 3) Timeframe by which all state monitored high hazard dams will be brought up to minimum safety standards (Target = year 2084).

Subsection 1(d). Restricted Fund and Account Transfers. The Legislature authorizes the State Division of Finance to transfer the following amounts between the following funds or accounts as indicated. Expenditures and outlays from the funds to which the money is transferred must be authorized by an appropriation.

EXECUTIVE OFFICES AND CRIMINAL JUSTICE

Item 228
To General Fund Restricted - Indigent Defense Resources Account
From General Fund 1,600
From Revenue Transfers 9,400
From Revenue Transfers, One-Time ..... (105,600)
Schedule of Programs:
General Fund Restricted - Indigent Defense Resources Account ..... (94,600)

INFRASTRUCTURE AND GENERAL GOVERNMENT

Item 229
To Long-term Capital Projects Fund
From General Fund, One-Time 115,000,000
Schedule of Programs:
Long-term Capital Projects Fund 115,000,000

Item 230
To Education Budget Reserve Account
From Education Fund, One-Time 83,517,700
Schedule of Programs:
Education Budget Reserve Account 83,517,700

Item 231
To General Fund Budget Reserve Account
From General Fund, One-Time 11,747,200
Schedule of Programs:
General Fund Budget Reserve Account 11,747,200

BUSINESS, ECONOMIC DEVELOPMENT, AND LABOR

Item 232
To General Fund Restricted - Industrial Assistance Account
From General Fund, One-Time 10,000,000
Schedule of Programs:
General Fund Restricted - Industrial Assistance Account 10,000,000

The Legislature intends that $10 million provided by this item for the Industrial Assistance Fund be used to facilitate loans that support the Utah Lake Restoration Project.

SOCIAL SERVICES

Item 233
To Medicaid Expansion Fund
From General Fund 56,630,200
From General Fund, One-Time .... (56,630,200)
From Dedicated Credits Revenue .... (3,700,000)
From Closing Fund Balance 56,537,900
Schedule of Programs:
Medicaid Expansion Fund 52,837,900

Item 234
To Adult Autism Treatment Account
From Dedicated Credits Revenue ..... (500,000)
From Expendable Receipts 500,000

Item 235
To General Fund Restricted - Homeless to Housing Reform Account
From General Fund, One-Time 15,000,000
Schedule of Programs:
General Fund Restricted - Homeless to Housing Reform Restricted Account 15,000,000

The Legislature intends that $15 million provided by this item for the Homeless to Housing Reform Restricted Account be used

in combination with an equal matching amount of $15 million from philanthropic, community and local government sources to support direct homeless services and associated homeless service system needs statewide as determined by the new Utah Homeless Council and state homeless coordinator, based on the new statewide homelessness planning and budgeting process and accountability metrics.

NATURAL RESOURCES, AGRICULTURE, AND ENVIRONMENTAL QUALITY

Item 236
To General Fund Restricted – Rangeland Improvement Account
From General Fund 2,000,000
Schedule of Programs:
General Fund Restricted – Rangeland Improvement Account .. 2,000,000

Item 237
To General Fund Restricted – Environmental Quality
From General Fund 172,400
Schedule of Programs:
GFR – Environmental Quality 172,400

PUBLIC EDUCATION

Item 238
To Uniform School Fund Restricted – Public Education Economic Stabilization Restricted Account
From Education Fund ..... (23,400,000)
Schedule of Programs:
Public Education Economic Stabilization Restricted Account (23,400,000)

EXECUTIVE APPROPRIATIONS

Item 239
To West Traverse Sentinel Landscape Fund
From General Fund, One-Time 3,500,000
Schedule of Programs:
West Traverse Sentinel Landscape Fund 3,500,000

Subsection 1(e). Transfers to Unrestricted Funds. The Legislature authorizes the State Division of Finance to transfer the following amounts to the unrestricted General Fund, Education Fund, or Uniform School Fund, as indicated, from the restricted funds or accounts indicated. Expenditures and outlays from the General Fund, Education Fund, or Uniform School Fund must be authorized by an appropriation.

SOCIAL SERVICES

Item 240
To General Fund
From Qualified Patient Enterprise Fund, One-Time 100,000
Schedule of Programs:
General Fund, One-time 100,000

Subsection 1(f). Fiduciary Funds. The Legislature has reviewed proposed revenues, expenditures, fund balances, and changes in fund balances for the following fiduciary funds.

BUSINESS, ECONOMIC DEVELOPMENT, AND LABOR

LABOR COMMISSION

Item 241
To Labor Commission – Uninsured Employers Fund
From Dedicated Credits Revenue 19,600
From Interest Income 400
From Trust and Agency Funds 5,300
Schedule of Programs:
Uninsured Employers Fund 25,300

Subsection 1(g). Capital Project Funds. The Legislature has reviewed the following capital project funds. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated.

INFRASTRUCTURE AND GENERAL GOVERNMENT

CAPITAL BUDGET

Item 242
To Capital Budget – Capital Development Fund
From General Fund, One-Time 7,525,700
From Education Fund, One-Time ... 188,248,100
Schedule of Programs:
Capital Development Fund 195,773,800

Item 243
To Capital Budget – DFCM Capital Projects Fund
From General Fund, One-Time 461,300
From Education Fund, One-Time 11,538,700
Schedule of Programs:
DFCM Capital Projects Fund 12,000,000

The Legislature intends that the Division of Facilities Construction and Management (DFCM) may use the money appropriated in this item to pay for costs of a capital development project approved by the Legislature in the 2021 General Session that exceed the amount appropriated for the project, but not to exceed six percent more than the amount appropriated for the project. The Legislature further intends that if the estimated completion cost of an approved project exceeds 106 percent of the amount appropriated for the project, that the DFCM director report the estimated cost to the Executive Appropriations Committee and receive the committees recommendation before proceeding with the project.

TRANSPORTATION

Item 244
To Transportation – Transportation Investment Fund of 2005
From Transportation Fund 13,542,100
From Licenses/Fees 1,841,500
From Interest Income 1,168,900
From County of First Class Highway Projects Fund 300

From Designated Sales Tax 36,920,200
Schedule of Programs:
Transportation Investment Fund . . . 53,473,000

Section 2. Effective Date.
This bill takes effect on July 1, 2021.

CHAPTER 442
S. B. 3
Passed March 5, 2021
Approved March 25, 2021
Effective July 1, 2021
(Line Items 73, 122, 179, 209, 263, and 351 vetoed)

APPROPRIATIONS ADJUSTMENTS

Chief Sponsor: Jerry W. Stevenson
House Sponsor: Bradley G. Last

LONG TITLE

General Description:

This bill supplements or reduces appropriations otherwise provided for the support and operation of state government for the fiscal year beginning July 1, 2020 and ending June 30, 2021 and for the fiscal year beginning July 1, 2021 and ending June 30, 2022.

Highlighted Provisions:

This bill:

- provides budget increases and decreases for the use and support of certain state agencies;
- provides budget increases and decreases for the use and support of certain public education programs;
- provides budget increases and decreases for the use and support of certain institutions of higher education;
- provides funds for the bills with fiscal impact passed in the 2021 General Session;
- provides budget increases associated with the employer pick up of certain public safety related retirement costs;
- provides budget increases and decreases for other purposes as described;
- provides a mathematical formula for the annual appropriations limit; and,
- provides intent language.

Money Appropriated in this Bill:

This bill appropriates $145,537,800 in operating and capital budgets for fiscal year 2021, including:

- ($117,070,800) from the General Fund;
- $137,254,000 from the Education Fund; and
- $125,354,600 from various sources as detailed in this bill.

This bill appropriates $22,200 in expendable funds and accounts for fiscal year 2021, including:

- $5,700 from the General Fund; and
- $16,500 from various sources as detailed in this bill.

This bill appropriates $1,400 in business-like activities for fiscal year 2021.

This bill appropriates $0 in restricted fund and account transfers for fiscal year 2021, including:

- ($23,400,000) from the Education Fund; and
- $23,400,000 from various sources as detailed in this bill.

This bill appropriates $41,902,000 in transfers to unrestricted funds for fiscal year 2021.

This bill appropriates $610,272,900 in operating and capital budgets for fiscal year 2022, including:

- ($318,652,900) from the General Fund;
- $3,975,500 from the Uniform School Fund;
- $329,133,100 from the Education Fund; and
- $595,817,200 from various sources as detailed in this bill.

This bill appropriates $2,887,500 in expendable funds and accounts for fiscal year 2022, including:

- $500,000 from the General Fund; and
- $2,387,500 from various sources as detailed in this bill.

This bill appropriates $594,500 in business-like activities for fiscal year 2022, including:

- $70,000 from the General Fund; and
- $524,500 from various sources as detailed in this bill.

This bill appropriates $8,495,000 in restricted fund and account transfers for fiscal year 2022, including:

- $20,095,000 from the General Fund; and
- ($11,600,000) from various sources as detailed in this bill.

This bill appropriates $12,500,000 in transfers to unrestricted funds for fiscal year 2022.

This bill appropriates $136,000,000 in capital project funds for fiscal year 2022, including:

- $29,846,200 from the General Fund;
- ($3,846,200) from the Education Fund; and
- $110,000,000 from various sources as detailed in this bill.

Other Special Clauses:

Section 1 of this bill takes effect immediately. Section 2 and Section 3 of this bill take effect on July 1, 2021.

Utah Code Sections Affected:

ENACTS UNCODIFIED MATERIAL

Be it enacted by the Legislature of the state of Utah:

Section 1. FY 2021 Appropriations. The following sums of money are appropriated for the fiscal year beginning July 1, 2020 and ending June 30, 2021. These are additions to amounts otherwise appropriated for fiscal year 2021.

Subsection 1(a). Operating and Capital Budgets. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

EXECUTIVE OFFICES AND CRIMINAL JUSTICE

ATTORNEY GENERAL

Item 1
To Attorney General
From GFR Public Safety and Firefighter Tier II Retirement Benefits Account, One-Time 1,700
Schedule of Programs:
Criminal Prosecution 1,700

BOARD OF PARDONS AND PAROLE

Item 2
To Board of Pardons and Parole

From GFR Public Safety and
Firefighter Tier II Retirement
Benefits Account, One-Time 5,800
Schedule of Programs:
Board of Pardons and Parole 5,800

UTAH DEPARTMENT OF CORRECTIONS

Item 3
To Utah Department of Corrections - Programs and Operations
From GFR Public Safety and
Firefighter Tier II Retirement
Benefits Account, One-Time 934,600
Schedule of Programs:
Adult Probation and Parole
Administration 13,100
Adult Probation and Parole
Programs 218,900
Department Administrative Services 2,000
Department Executive Director 1,300
Department Training 2,500
Prison Operations Administration 1,200
Prison Operations Central
Utah/Gunnison 212,600
Prison Operations Draper Facility 454,300
Prison Operations Inmate Placement 1,200
Programming Skill Enhancement 16,100
Programming Treatment 11,400

Item 4
To Utah Department of Corrections - Department Medical Services
From GFR Public Safety and
Firefighter Tier II Retirement
Benefits Account, One-Time 5,500
Schedule of Programs:
Medical Services 5,500

JUDICIAL COUNCIL/ STATE COURT ADMINISTRATOR

Item 5
To Judicial Council/State Court Administrator - Administration
From General Fund, One-Time 2,300
Schedule of Programs:
District Courts 2,300

To implement the provisions of 24-7 Sobriety Program Expansion (House Bill 26, 2021 General Session).

Item 6
To Judicial Council/State Court Administrator - Administration
From General Fund, One-Time 32,500
Schedule of Programs:
Data Processing 32,500

To implement the provisions of Criminal Justice Modifications (House Bill 260, 2021 General Session).

Item 7
To Judicial Council/State Court Administrator - Administration
From General Fund, One-Time 18,600
Schedule of Programs:
Data Processing 18,600

To implement the provisions of Juvenile Recodification (House Bill 285, 2021 General Session).

Item 8
To Judicial Council/State Court Administrator - Administration
From General Fund, One-Time 18,000
Schedule of Programs:
Data Processing 18,000

To implement the provisions of Expungement Revisions (House Bill 329, 2021 General Session).

GOVERNORS OFFICE

Item 9
To Governors Office - Commission on Criminal and Juvenile Justice
From General Fund, One-Time 105,000
Schedule of Programs:
CCJJ Commission 105,000

Item 10
To Governors Office - Governor's Office
From General Fund, One-Time 38,500
Schedule of Programs:
Administration 38,500

To implement the provisions of Voter Affiliation Amendments (House Bill 197, 2021 General Session).

OFFICE OF THE STATE AUDITOR

Item 11
To Office of the State Auditor - State Auditor
From General Fund, One-Time 40,900
Schedule of Programs:
State Auditor 40,900

To implement the provisions of Privacy Protection Amendments (House Bill 243, 2021 General Session).

DEPARTMENT OF PUBLIC SAFETY

Item 12
To Department of Public Safety - Driver License
From General Fund, One-Time 7,500
Schedule of Programs:
Driver Services 7,500

To implement the provisions of Ballot Tracking Amendments (House Bill 70, 2021 General Session).

Item 13
To Department of Public Safety - Driver License
From Department of Public Safety
Restricted Account, One-Time 37,800
Schedule of Programs:
Driver Services 37,800

To implement the provisions of Driver License and State Identification Card Amendments (Senate Bill 14, 2021 General Session).

Item 14
To Department of Public Safety - Emergency Management
From Federal Funds, One-Time 40,000,000

Schedule of Programs:
Emergency Management 40,000,000

Item 15
To Department of Public Safety – Programs & Operations
From GFR Public Safety and Firefighter Tier II Retirement Benefits Account, One-Time 288,700
Schedule of Programs:
CITS Communications 40,400
CITS State Bureau of Investigation 13,000
Fire Marshal – Fire Operations 1,700
Highway Patrol – Commercial Vehicle ... 3,500
Highway Patrol – Field Operations 198,400
Highway Patrol – Protective Services ... 12,500
Highway Patrol – Special Enforcement 14,200
Highway Patrol – Special Services 5,000

Item 16
To Department of Public Safety – Programs & Operations
From General Fund, One-Time 7,500
From Department of Public Safety Restricted Account, One-Time 28,100
Schedule of Programs:
Highway Patrol – Federal/State Projects 35,600

To implement the provisions of 24-7 Sobriety Program Expansion (House Bill 26, 2021 General Session).

Item 17
To Department of Public Safety – Programs & Operations
From General Fund, One-Time 500,000
Schedule of Programs:
Highway Patrol – Special Services 500,000

To implement the provisions of Public Official and State Capitol Protection Amendments (Senate Bill 222, 2021 General Session).

INFRASTRUCTURE AND GENERAL GOVERNMENT

DEPARTMENT OF ADMINISTRATIVE SERVICES

Item 18
To Department of Administrative Services – Finance – Mandated
From General Fund, One-Time 12,500,000
From Closing Nonlapsing Balances . (12,500,000)

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to $10,000,000 provided for Public Health Emergency Response in Item 11, Chapter 440, Laws of Utah 2020 shall not lapse at the close of FY 2021. The funding is to be used for the state's response to Coronavirus. The Legislature further intends that any nonlapsing amount from this appropriation be included in the FY 2022 beginning nonlapsing balances in Department of Government Operations – Finance – Mandated.

The Legislature intends that the $12.5 million appropriated in this item shall not lapse at the close of FY 2021. The Legislature further intends that any nonlapsing amount from this appropriation be included in the FY 2022 beginning nonlapsing balances in Department of Government Operations – Finance – Emergency Disease Response.

Item 19
To Department of Administrative Services – Finance Administration

Under terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for the FINET Statewide Accounting System Upgrade in H.B. 3, Item 18, 2021 General Session shall not lapse at the close of FY 2021. The Legislature further intends that any nonlapsing amount from this appropriation be included in the FY 2022 beginning nonlapsing balances in the Department of Government Operations – Finance Administration.

CAPITAL BUDGET

Item 20
To Capital Budget – Capital Improvements
From General Fund, One-Time 3,600,000
Schedule of Programs:
Capital Improvements 3,600,000

BUSINESS, ECONOMIC DEVELOPMENT, AND LABOR

GOVERNOR'S OFFICE OF ECONOMIC DEVELOPMENT

Item 21
To Governor's Office of Economic Development – Pass-Through
From General Fund, One-Time 200,000
Schedule of Programs:
Pass-Through 200,000

Item 22
To Governor's Office of Economic Development – Point of the Mountain Authority

The Legislature intends that the $1,500,000 appropriation for Point of the Mountain Authority in House Bill 3, Item 36, not lapse at the close of FY 2021.

DEPARTMENT OF HERITAGE AND ARTS

Item 23
To Department of Heritage and Arts – Administration
From Transfer for COVID-19 Response, One-Time 1,000,000
Schedule of Programs:
Administrative Services 1,000,000

Item 24
To Department of Heritage and Arts – Administration
From General Fund, One-Time 300
Schedule of Programs:

Administrative Services 300

To implement the provisions of State Flag Amendments (Senate Bill 48, 2021 General Session).

Item 25
To Department of Heritage and Arts – Division of Arts and Museums

The Legislature intends to delete intent language passed in House Bill 3 item 38 stating, "These funds will be used as grants to nonprofits impacted by the COVID–19 pandemic" and replace with, "These funds will be used as grants to cultural nonprofits as well as cultural for–profit organizations that support Utah based artists impacted by the COVID–19 pandemic".

Item 26
To Department of Heritage and Arts – Pass–Through
From General Fund, One–Time 1,130,000
Schedule of Programs:
Pass–Through 1,130,000

Item 27
To Department of Heritage and Arts – State History
From Transfer for COVID–19 Response, One–Time ..... (1,000,000)
Schedule of Programs:
Public History, Communication and Information ..... (1,000,000)

INSURANCE DEPARTMENT

Item 28
To Insurance Department – Insurance Department Administration
From GFR Public Safety and Firefighter Tier II Retirement Benefits Account, One–Time 3,300
Schedule of Programs:
Insurance Fraud Program 3,300

UTAH STATE TAX COMMISSION

Item 29
To Utah State Tax Commission – Tax Administration
From GFR Public Safety and Firefighter Tier II Retirement Benefits Account, One–Time 1,200
Schedule of Programs:
Motor Vehicle Enforcement Division 1,200

Item 30
To Utah State Tax Commission – Tax Administration
From General Fund, One–Time 127,300
Schedule of Programs:
Motor Vehicles 127,300

To implement the provisions of Vehicle Registration Renewal Notice Requirements (House Bill 170, 2021 General Session).

SOCIAL SERVICES

DEPARTMENT OF HEALTH

Item 31
To Department of Health – Executive Director's Operations
From Revenue Transfers, One–Time 90,000,000
Schedule of Programs:
Executive Director 90,000,000

Pursuant to Section 63J–1–603 of the Utah Code, the Legislature intends that up to $33,500 General Fund provided in this line item for the Department of Health's Executive Director's Operations line item shall not lapse at the close of Fiscal Year 2021. The use of any nonlapsing funds is limited to the implementation of S.B. 107, In–person Instruction Prioritization.

Item 32
To Department of Health – Executive Director's Operations
From General Fund, One–Time 67,000
Schedule of Programs:
Executive Director 67,000

To implement the provisions of In–person Instruction Prioritization (Senate Bill 107, 2021 General Session).

Item 33
To Department of Health – Family Health and Preparedness
From General Fund, One–Time ..... (9,560,700)
From Education Fund, One–Time 9,560,700

Item 34
To Department of Health – Family Health and Preparedness
From Gen. Fund Rest. – Children's Hearing Aid Pilot Program Account, One–Time 1,500
Schedule of Programs:
Children with Special Health Care Needs 1,500

To implement the provisions of Children's Hearing Aid Program Amendments (House Bill 118, 2021 General Session).

Item 35
To Department of Health – Family Health and Preparedness
From General Fund, One–Time 5,400
Schedule of Programs:
Emergency Medical Services and Preparedness 5,400

To implement the provisions of Behavioral Emergency Services Amendments (Senate Bill 53, 2021 General Session).

Item 36
To Department of Health – Medicaid Services
From General Fund, One–Time 250,000
Schedule of Programs:
Other Services 250,000

Pursuant to Section 63J–1–603 of the Utah Code, the Legislature intends that up to $80,000 General Fund provided in this line

item for the Department of Health's Medicaid Services line item shall not lapse at the close of Fiscal Year 2021. The use of any nonlapsing funds is limited to the costs of the state's medical and dental clinics.

DEPARTMENT OF HUMAN SERVICES

Item 37
To Department of Human Services – Division of Child and Family Services
From General Fund, One-Time .... (60,368,800)
From Education Fund, One-Time 60,368,800
From Federal Funds, One-Time 2,296,700
From GFR Public Safety and Firefighter Tier II Retirement Benefits Account, One-Time 900
Schedule of Programs:
Minor Grants 2,296,700
Service Delivery 900

Item 38
To Department of Human Services – Division of Services for People with Disabilities
From General Fund, One-Time .... (51,692,100)
From Education Fund, One-Time 52,792,100
From Revenue Transfers, One-Time .. 2,304,500
Schedule of Programs:
Community Supports Waiver 3,404,500

Item 39
To Department of Human Services – Division of Substance Abuse and Mental Health
From Federal Funds, One-Time 2,859,000
From GFR Public Safety and Firefighter Tier II Retirement Benefits Account, One-Time 4,600
Schedule of Programs:
Community Mental Health Services 2,859,000
State Hospital 4,600

DEPARTMENT OF WORKFORCE SERVICES

Item 40
To Department of Workforce Services – Housing and Community Development
From OWHTF-Low Income Housing, One-Time 5,700
Schedule of Programs:
Housing Development 5,700

To implement the provisions of Single-family Housing Modifications (House Bill 82, 2021 General Session).

Item 41
To Department of Workforce Services – State Office of Rehabilitation
From General Fund, One-Time .... (14,532,400)
From Education Fund, One-Time 14,532,400

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to $10,500,000 of Education Fund appropriations provided in this item, for the Department of Workforce Services' State Office of Rehabilitation line item, shall not lapse at the close of Fiscal Year 2021. The use of any nonlapsing funds is limited to the purchase of equipment and software, including assistive technology devices and items for the low vision store; one-time studies; one-time projects associated with client services; and one-time projects to enhance or maintain State Office of Rehabilitation facilities and to facilitate co-location of personnel.

HIGHER EDUCATION

UTAH BOARD OF HIGHER EDUCATION

Item 42
To Utah Board of Higher Education – Student Support
From Education Fund Restricted – Performance Funding Rest. Acct., One-Time ..... (1,005,800)
Schedule of Programs:
Performance Funding — Colleges and Universities ..... (1,005,800)

NATURAL RESOURCES, AGRICULTURE, AND ENVIRONMENTAL QUALITY

DEPARTMENT OF ENVIRONMENTAL QUALITY

Item 43
To Department of Environmental Quality – Air Quality
From General Fund, One-Time 200
Schedule of Programs:
Air Quality Administration 200

To implement the provisions of Air Quality Policy Advisory Board (Senate Bill 20, 2021 General Session).

DEPARTMENT OF NATURAL RESOURCES

Item 44
To Department of Natural Resources – Forestry, Fire and State Lands
From GFR Public Safety and Firefighter Tier II Retirement Benefits Account, One-Time 1,100
Schedule of Programs:
Program Delivery 1,100

Item 45
To Department of Natural Resources – Parks and Recreation
From GFR Public Safety and Firefighter Tier II Retirement Benefits Account, One-Time 32,400
Schedule of Programs:
Park Operation Management 32,400

Item 46
To Department of Natural Resources – Water Rights
From GFR Public Safety and Firefighter Tier II Retirement Benefits Account, One-Time 800
Schedule of Programs:
Adjudication 800

Item 47
To Department of Natural Resources – Wildlife Resources
From GFR Public Safety and Firefighter Tier II Retirement Benefits Account, One-Time 39,500
Schedule of Programs:
Administrative Services 1,000
Law Enforcement 38,500

PUBLIC EDUCATION

STATE BOARD OF EDUCATION - MINIMUM SCHOOL PROGRAM

Item 48
To State Board of Education – Minimum School Program – Basic School Program
From Beginning Nonlapsing Balances ..... (12,285,400)
From Closing Nonlapsing Balances ... 12,285,400

Item 49
To State Board of Education – Minimum School Program – Related to Basic School Programs
From Beginning Nonlapsing Balances ..... (12,714,600)
From Closing Nonlapsing Balances ... 12,714,600

EXECUTIVE APPROPRIATIONS

LEGISLATURE

Item 50
To Legislature – Senate
From General Fund, One-Time 800
Schedule of Programs:
Administration 800

To implement the provisions of *Veterans and Military Affairs Commission Amendments* (House Bill 16, 2021 General Session).

Item 51
To Legislature – Senate
From General Fund, One-Time 400
Schedule of Programs:
Administration 400

To implement the provisions of *Mental Health Protections for First Responders* (House Bill 25, 2021 General Session).

Item 52
To Legislature – Senate
From General Fund, One-Time 400
Schedule of Programs:
Administration 400

To implement the provisions of *Education and Mental Health Coordinating Council* (House Bill 288, 2021 General Session).

Item 53
To Legislature – Senate
From General Fund, One-Time 8,700
Schedule of Programs:
Administration 8,700

To implement the provisions of *Joint Resolution Authorizing Pay of In-session Employees* (House Joint Resolution 3, 2021 General Session).

Item 54
To Legislature – Senate
From General Fund, One-Time 1,200
Schedule of Programs:
Administration 1,200

To implement the provisions of *Criminal Code Evaluation Task Force Extension* (Senate Bill 17, 2021 General Session).

Item 55
To Legislature – Senate
From General Fund, One-Time 1,200
Schedule of Programs:
Administration 1,200

To implement the provisions of *State Flag Amendments* (Senate Bill 48, 2021 General Session).

Item 56
To Legislature – House of Representatives
From General Fund, One-Time 1,200
Schedule of Programs:
Administration 1,200

To implement the provisions of *Veterans and Military Affairs Commission Amendments* (House Bill 16, 2021 General Session).

Item 57
To Legislature – House of Representatives
From General Fund, One-Time 400
Schedule of Programs:
Administration 400

To implement the provisions of *Mental Health Protections for First Responders* (House Bill 25, 2021 General Session).

Item 58
To Legislature – House of Representatives
From General Fund, One-Time 400
Schedule of Programs:
Administration 400

To implement the provisions of *Education and Mental Health Coordinating Council* (House Bill 288, 2021 General Session).

Item 59
To Legislature – House of Representatives
From General Fund, One-Time 13,800
Schedule of Programs:
Administration 13,800

To implement the provisions of *Joint Resolution Authorizing Pay of In-session Employees* (House Joint Resolution 3, 2021 General Session).

Item 60
To Legislature – House of Representatives
From General Fund, One-Time 1,200
Schedule of Programs:
Administration 1,200

To implement the provisions of *Criminal Code Evaluation Task Force Extension* (Senate Bill 17, 2021 General Session).

Item 61
To Legislature – House of Representatives

From General Fund, One-Time 1,200
Schedule of Programs:
Administration 1,200

To implement the provisions of *State Flag Amendments* (Senate Bill 48, 2021 General Session).

Item 62
To Legislature - Office of Legislative Research and General Counsel
From General Fund, One-Time 1,000
Schedule of Programs:
Administration 1,000

To implement the provisions of *Education and Mental Health Coordinating Council* (House Bill 288, 2021 General Session).

Item 63
To Legislature - Office of Legislative Research and General Counsel
From General Fund, One-Time 300
Schedule of Programs:
Administration 300

To implement the provisions of *Criminal Code Evaluation Task Force Extension* (Senate Bill 17, 2021 General Session).

Item 64
To Legislature - Legislative Services
From General Fund, One-Time 400,000
Schedule of Programs:
Information Technology 400,000

UTAH NATIONAL GUARD

Item 65
To Utah National Guard
From GFR Public Safety and Firefighter Tier II Retirement Benefits Account, One-Time 7,000
Schedule of Programs:
Operations and Maintenance 7,000

Subsection 1(b). Expendable Funds and Accounts. The Legislature has reviewed the following expendable funds. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated. Outlays and expenditures from the funds or accounts to which the money is transferred may be made without further legislative action, in accordance with statutory provisions relating to the funds or accounts.

EXECUTIVE OFFICES AND CRIMINAL JUSTICE

DEPARTMENT OF PUBLIC SAFETY

Item 66
To Department of Public Safety - Alcoholic Beverage Control Act Enforcement Fund
From GFR Public Safety and Firefighter Tier II Retirement Benefits Account, One-Time 16,500
Schedule of Programs:
Alcoholic Beverage Control Act Enforcement Fund 16,500

SOCIAL SERVICES

DEPARTMENT OF WORKFORCE SERVICES

Item 67
To Department of Workforce Services - Olene Walker Low Income Housing
From General Fund, One-Time 5,700
Schedule of Programs:
Olene Walker Low Income Housing 5,700

To implement the provisions of *Single-family Housing Modifications* (House Bill 82, 2021 General Session).

Subsection 1(c). Business-like Activities. The Legislature has reviewed the following proprietary funds. Under the terms and conditions of Utah Code 63J-1-410, for any included Internal Service Fund, the Legislature approves budgets, full-time permanent positions, and capital acquisition amounts as indicated, and appropriates to the funds, as indicated, estimated revenue from rates, fees, and other charges. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated.

EXECUTIVE OFFICES AND CRIMINAL JUSTICE

UTAH DEPARTMENT OF CORRECTIONS

Item 68
To Utah Department of Corrections - Utah Correctional Industries
From GFR Public Safety and Firefighter Tier II Retirement Benefits Account, One-Time 1,400
Schedule of Programs:
Utah Correctional Industries 1,400

Subsection 1(d). Restricted Fund and Account Transfers. The Legislature authorizes the State Division of Finance to transfer the following amounts between the following funds or accounts as indicated. Expenditures and outlays from the funds to which the money is transferred must be authorized by an appropriation.

PUBLIC EDUCATION

Item 69
To Uniform School Fund Restricted - Public Education Economic Stabilization Restricted Account
From Education Fund, One-Time .. (23,400,000)
From Closing Fund Balance 23,400,000

Subsection 1(e). Transfers to Unrestricted Funds. The Legislature authorizes the State Division of Finance to transfer the following amounts to the unrestricted General Fund, Education Fund, or Uniform School Fund, as indicated, from the restricted funds or accounts indicated. Expenditures and outlays from the General Fund, Education Fund, or Uniform

School Fund must be authorized by an appropriation.

EXECUTIVE OFFICES AND CRIMINAL JUSTICE

Item 70
To General Fund
From Attorney General Litigation Fund, One-Time 16,902,000
Schedule of Programs:
General Fund, One-time 16,902,000

PUBLIC EDUCATION

Item 71
To Education Fund
From Nonlapsing Balances - Basic School Program - Administrative Cost 159,000
From Nonlapsing Balances - Basic School Program - Career & Technical Education 546,200
From Nonlapsing Balances - Basic School Program - Class Size Reduction 1,287,200
From Nonlapsing Balances - Basic School Program - Foreign Exchange 35,300
From Nonlapsing Balances - Basic School Program - Grades 1-12 5,726,500
From Nonlapsing Balances - Basic School Program - Kindergarten 567,500
From Nonlapsing Balances - Basic School Program - Professional Staff 594,900
From Nonlapsing Balances - Basic School Program - SpEd Add-on 2,228,800
From Nonlapsing Balances - Basic School Program - SpEd Preschool 730,800
From Nonlapsing Balances - Basic School Program - SpEd Self Contained 409,200
From Nonlapsing Balances - Related to Basic - Adult Education 102,200
From Nonlapsing Balances - Related to Basic - Centennial Scholarships 237,600
From Nonlapsing Balances - Related to Basic - Charter School Local Replacement 8,216,400
From Nonlapsing Balances - Related to Basic - Digital Teaching & Learning ... 344,000
From Nonlapsing Balances - Related to Basic - Early Intervention 90,000
From Nonlapsing Balances - Related to Basic - Elementary Counseling 300,000
From Nonlapsing Balances - Related to Basic - Enhancement for Accelerated Students 17,100
From Nonlapsing Balances - Related to Basic - Enhancement for At-Risk Students 277,200
From Nonlapsing Balances - Related to Basic - High Need Schools 88,200
From Nonlapsing Balances - Related to Basic - Public Education Job Enhancement 262,800
From Nonlapsing Balances - Related to Basic - Pupil Transportation 517,200
From Nonlapsing Balances - Related to Basic - School Health and Safety 1,392,100
From Nonlapsing Balances - Related to Basic - Teacher and Student Success 248,500
From Nonlapsing Balances - Related to Basic - USTAR Centers 621,300
Schedule of Programs:
Education Fund, One-time 25,000,000

Section 2. FY 2022 Appropriations. The following sums of money are appropriated for the fiscal year beginning July 1, 2021 and ending June 30, 2022. These are additions to amounts otherwise appropriated for fiscal year 2022.

Subsection 2(a). Operating and Capital Budgets. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

EXECUTIVE OFFICES AND CRIMINAL JUSTICE

ATTORNEY GENERAL

Item 72
To Attorney General
From GFR Public Safety and Firefighter Tier II Retirement Benefits Account 1,700
Schedule of Programs:
Criminal Prosecution 1,700

Under Section 63-J-1-603 of the Utah Code, the Legislature intends that the General Fund, One-Time appropriations to the Attorney General's Office, Department of Corrections, and Courts provided for in this S.B. 3 to implement provisions of Senate Bill 215, "Sex Offender Registry Amendments" not lapse at the close of Fiscal Year 2022.

Item 73
To Attorney General
From General Fund, One-Time 43,600
Schedule of Programs:
Civil 43,600

To implement the provisions of *Firearm Preemption Amendments* (House Bill 76, 2021 General Session).

Item 74
To Attorney General
From General Fund 67,500
From Federal Funds 202,500
Schedule of Programs:
Criminal Prosecution 270,000

To implement the provisions of *Medicaid Fraud Control Unit Amendments* (House Bill 332, 2021 General Session).

Item 75
To Attorney General
From General Fund 5,300
From General Fund, One-Time 34,800
Schedule of Programs:
Criminal Prosecution 40,100

To implement the provisions of *Conviction Reduction Amendments* (House Bill 373, 2021 General Session).

Item 76
To Attorney General
From General Fund 105,400
From General Fund, One-Time 295,100
Schedule of Programs:
Criminal Prosecution 400,500

To implement the provisions of *Sex Offender Registry Amendments* (Senate Bill 215, 2021 General Session).

Item 77
To Attorney General - Prosecution Council
From Dedicated Credits Revenue, One-Time 20,000
Schedule of Programs:
Prosecution Council 20,000

To implement the provisions of *Asset Forfeiture Amendments* (Senate Bill 98, 2021 General Session).

BOARD OF PARDONS AND PAROLE

Item 78
To Board of Pardons and Parole
From GFR Public Safety and Firefighter Tier II Retirement Benefits Account 5,800
Schedule of Programs:
Board of Pardons and Parole 5,800

Item 79
To Board of Pardons and Parole
From General Fund 72,300
From General Fund, One-Time 4,300
Schedule of Programs:
Board of Pardons and Parole 76,600

To implement the provisions of *Criminal Justice Modifications* (House Bill 260, 2021 General Session).

Item 80
To Board of Pardons and Parole
From General Fund 2,800
From General Fund, One-Time ..... (2,100)
Schedule of Programs:
Board of Pardons and Parole 700

To implement the provisions of *Human Smuggling Amendments* (Senate Bill 117, 2021 General Session).

Item 81
To Board of Pardons and Parole
From General Fund 700
Schedule of Programs:
Board of Pardons and Parole 700

To implement the provisions of *Criminal Offense Amendments* (Senate Bill 156, 2021 General Session).

UTAH DEPARTMENT OF CORRECTIONS

Item 82
To Utah Department of Corrections - Programs and Operations
From GFR Public Safety and Firefighter Tier II Retirement Benefits Account 934,600
Schedule of Programs:
Adult Probation and Parole Administration 13,100
Adult Probation and Parole Programs 218,900
Department Administrative Services 2,000
Department Executive Director 1,300
Department Training 2,500
Prison Operations Administration 1,200
Prison Operations Central Utah/Gunnison 212,600
Prison Operations Draper Facility 454,300
Prison Operations Inmate Placement 1,200
Programming Skill Enhancement 16,100
Programming Treatment 11,400

Under Section 63-J-1-603 of the Utah Code, the Legislature intends that the General Fund, One-Time appropriations to the Attorney General's Office, Department of Corrections, and Courts provided for in this S.B. 3 to implement provisions of Senate Bill 215, "Sex Offender Registry Amendments" not lapse at the close of Fiscal Year 2022.

Item 83
To Utah Department of Corrections - Programs and Operations
From General Fund ..... (122,600)
From General Fund, One-Time 41,700
Schedule of Programs:
Adult Probation and Parole Programs ..... (80,900)

To implement the provisions of *Criminal Justice Modifications* (House Bill 260, 2021 General Session).

Item 84
To Utah Department of Corrections - Programs and Operations
From General Fund 128,000
From General Fund, One-Time ..... (96,000)
Schedule of Programs:
Prison Operations Draper Facility 32,000

To implement the provisions of *Human Smuggling Amendments* (Senate Bill 117, 2021 General Session).

Item 85
To Utah Department of Corrections - Programs and Operations
From General Fund 59,000
From General Fund, One-Time ..... (18,000)
Schedule of Programs:
Adult Probation and Parole Administration 9,000
Prison Operations Draper Facility 32,000

To implement the provisions of *Criminal Offense Amendments* (Senate Bill 156, 2021 General Session).

Item 86
To Utah Department of Corrections - Programs and Operations
From Dedicated Credits Revenue, One-Time ..... (1,100)
Schedule of Programs:
Adult Probation and Parole Programs .. (1,100)

To implement the provisions of *Sex Offender Registry Revisions* (Senate Bill 165, 2021 General Session).

Item 87
To Utah Department of Corrections – Programs and Operations
From General Fund 63,900
From General Fund, One-Time 32,400
Schedule of Programs:
Adult Probation and Parole Administration 96,300

To implement the provisions of *Sex Offender Registry Amendments* (Senate Bill 215, 2021 General Session).

Item 88
To Utah Department of Corrections – Department Medical Services
From GFR Public Safety and Firefighter Tier II Retirement Benefits Account 5,500
Schedule of Programs:
Medical Services 5,500

Item 89
To Utah Department of Corrections – Jail Contracting

The Legislature intends that appropriations in this S.B. 3 to implement provisions of Senate Bill 249, "County Jail Amendments" cover program costs until the repeal date of June 30, 2024 stated in Section 1 of Senate Bill 249, and under Section 63J-1-603 of the Utah Code not lapse at the close of Fiscal Year 2022.

Item 90
To Utah Department of Corrections – Jail Contracting
From General Fund, One-Time 3,097,200
Schedule of Programs:
Jail Contracting 3,097,200

To implement the provisions of *County Jails Amendments* (Senate Bill 249, 2021 General Session).

JUDICIAL COUNCIL/ STATE COURT ADMINISTRATOR

Item 91
To Judicial Council/State Court Administrator – Administration
From General Fund, One-Time 120,000
Schedule of Programs:
Administrative Office 340,600
District Courts ..... (220,600)

Under Section 63-J-1-603 of the Utah Code, the Legislature intends that the General Fund, One-Time appropriations to the Attorney General's Office, Department of Corrections, and Courts provided for in this S.B. 3 to implement provisions of Senate Bill 215, "Sex Offender Registry Amendments" not lapse at the close of Fiscal Year 2022.

Item 92
To Judicial Council/State Court Administrator – Administration
From General Fund 18,100
Schedule of Programs:
District Courts 18,100

To implement the provisions of *24-7 Sobriety Program Expansion* (House Bill 26, 2021 General Session).

Item 93
To Judicial Council/State Court Administrator – Administration
From General Fund ..... (12,300)
Schedule of Programs:
District Courts ..... (12,300)

To implement the provisions of *Conceal Carry Firearms Amendments* (House Bill 60, 2021 General Session).

Item 94
To Judicial Council/State Court Administrator – Administration
From General Fund, One-Time 6,000
Schedule of Programs:
District Courts 6,000

To implement the provisions of *Pretrial Detention Amendments* (House Bill 220, 2021 General Session).

Item 95
To Judicial Council/State Court Administrator – Administration
From General Fund 3,000
Schedule of Programs:
District Courts 3,000

To implement the provisions of *Self Defense Amendments* (House Bill 227, 2021 General Session).

Item 96
To Judicial Council/State Court Administrator – Administration
From General Fund 1,100
Schedule of Programs:
District Courts 1,100

To implement the provisions of *Online Impersonation Prohibition* (House Bill 239, 2021 General Session).

Item 97
To Judicial Council/State Court Administrator – Administration
From General Fund, One-Time 118,000
From Dedicated Credits Revenue 24,000
Schedule of Programs:
Data Processing 142,000

To implement the provisions of *Public Access to Court Records* (House Bill 249, 2021 General Session).

Item 98
To Judicial Council/State Court Administrator – Administration
From General Fund 658,000
From General Fund, One-Time ..... (197,000)
Schedule of Programs:
District Courts 461,000

To implement the provisions of *Criminal Justice Modifications* (House Bill 260, 2021 General Session).

Item 99
To Judicial Council/State Court Administrator – Administration

From General Fund 2,800
From General Fund, One-Time 18,500
Schedule of Programs:
District Courts 21,300

To implement the provisions of *Conviction Reduction Amendments* (House Bill 373, 2021 General Session).

Item 100
To Judicial Council/State Court Administrator - Administration
From General Fund 8,200
Schedule of Programs:
District Courts 8,200

To implement the provisions of *Criminal Offense Amendments* (Senate Bill 156, 2021 General Session).

Item 101
To Judicial Council/State Court Administrator - Administration
From General Fund 36,000
From General Fund, One-Time 99,600
Schedule of Programs:
District Courts 135,600

To implement the provisions of *Sex Offender Registry Amendments* (Senate Bill 215, 2021 General Session).

Item 102
To Judicial Council/State Court Administrator - Administration
From General Fund 82,000
Schedule of Programs:
District Courts 82,000

To implement the provisions of *Joint Resolution Dissolving Smithfield City Justice Court* (Senate Joint Resolution 3, 2021 General Session).

GOVERNORS OFFICE

Item 103
To Governors Office - CCJJ - Jail Reimbursement

The Legislature intends that appropriations in this S.B. 3 to implement provisions of Senate Bill 249, "County Jail Amendments" cover program costs until the repeal date of June 30, 2024 stated in Section 1 of Senate Bill 249, and under Section 63J-1-603 of the Utah Code not lapse at the close of Fiscal Year 2022.

Item 104
To Governors Office - CCJJ - Jail Reimbursement
From General Fund, One-Time 196,800
Schedule of Programs:
Jail Reimbursement 196,800

To implement the provisions of *County Jails Amendments* (Senate Bill 249, 2021 General Session).

Item 105
To Governors Office - Commission on Criminal and Juvenile Justice
From General Fund 122,500
Schedule of Programs:
CCJJ Commission 122,500

Item 106
To Governors Office - Commission on Criminal and Juvenile Justice
From General Fund ..... (12,600)
From General Fund, One-Time 4,300
Schedule of Programs:
Utah Office for Victims of Crime ..... (8,300)

To implement the provisions of *Criminal Justice Modifications* (House Bill 260, 2021 General Session).

Item 107
To Governors Office - Commission on Criminal and Juvenile Justice
From General Fund 500
Schedule of Programs:
Sentencing Commission 500

To implement the provisions of *Probation and Parole Amendments* (House Bill 290, 2021 General Session).

Item 108
To Governors Office - Commission on Criminal and Juvenile Justice
From General Fund Restricted - Criminal Forfeiture Restricted Account, One-Time 30,000
Schedule of Programs:
State Asset Forfeiture Grant Program 30,000

To implement the provisions of *Asset Forfeiture Amendments* (Senate Bill 98, 2021 General Session).

Item 109
To Governors Office - Commission on Criminal and Juvenile Justice
From General Fund, One-Time 48,600
Schedule of Programs:
CCJJ Commission 48,600

To implement the provisions of *Law Enforcement Data Management Requirements* (Senate Bill 159, 2021 General Session).

Item 110
To Governors Office - Governor's Office
From General Fund 151,200
Schedule of Programs:
Lt. Governor's Office 151,200

To implement the provisions of *Ballot Tracking Amendments* (House Bill 70, 2021 General Session).

Item 111
To Governors Office - Office of Management and Budget
From Transfer for COVID-19 Response, One-Time 3,000,000
Schedule of Programs:
Administration 3,000,000

Item 112
To Governors Office - Office of Management and Budget
From General Fund 160,000
From General Fund, One-Time ..... (160,000)

To implement the provisions of *Performance Reporting and Efficiency*

Requirements (House Bill 326, 2021 General Session).

Item 113
To Governors Office – Indigent Defense Commission
From General Fund Restricted – Indigent Defense Resources 1,000,000
From General Fund Restricted – Indigent Defense Resources, One–Time 1,000,000
Schedule of Programs:
Office of Indigent Defense Services 1,000,000
Indigent Appellate Defense Division 1,000,000

Item 114
To Governors Office – Colorado River Authority of Utah
From General Fund Restricted – Colorado River Authority of Utah Restricted Account 600,000
From General Fund Restricted – Colorado River Authority of Utah Restricted Account, One–Time 9,000,000
Schedule of Programs:
Colorado River Authority of Utah ... 9,600,000

To implement the provisions of *Colorado River Amendments* (House Bill 297, 2021 General Session).

OFFICE OF THE STATE AUDITOR

Item 115
To Office of the State Auditor – State Auditor
From General Fund 230,700
Schedule of Programs:
State Auditor 230,700

To implement the provisions of *Privacy Protection Amendments* (House Bill 243, 2021 General Session).

Item 115A To Office of the State Auditor - State Auditor

The Legislature intends that the State Auditor report to the Revenue and Taxation Interim Committee by November 30, 2021, and a second report as necessary to cover the reporting of all fees by November 30, 2022, the status of the appropriate use of fees by state agencies, state offices, state courts, state institutions (including institutions of higher education), local education agencies, and other local government entities, based on the definition of fees as determined by V–1 Oil Co. v Utah State Tax Commission (1966), Banberry Dev. Corp. v South Jordan City (1981), and Larson v Pleasant Grove City (2020).

DEPARTMENT OF PUBLIC SAFETY

Item 116
To Department of Public Safety – Emergency Management
From Federal Funds, One–Time 100,000,000
Schedule of Programs:
Emergency Management 100,000,000

Item 117
To Department of Public Safety – Peace Officers' Standards and Training
From General Fund 5,000
From General Fund, One–Time 35,000
Schedule of Programs:
Regional/Inservice Training 40,000

To implement the provisions of *Domestic Violence Training Amendments* (House Bill 301, 2021 General Session).

Item 118
To Department of Public Safety – Peace Officers' Standards and Training
From General Fund 2,000
From Dedicated Credits Revenue, One–Time 10,000
Schedule of Programs:
Basic Training 12,000

To implement the provisions of *Asset Forfeiture Amendments* (Senate Bill 98, 2021 General Session).

Item 119
To Department of Public Safety – Programs & Operations
From GFR Public Safety and Firefighter Tier II Retirement Benefits Account 288,700
Schedule of Programs:
CITS Communications 40,400
CITS State Bureau of Investigation 13,000
Fire Marshal – Fire Operations 1,700
Highway Patrol – Commercial Vehicle ... 3,500
Highway Patrol – Field Operations 198,400
Highway Patrol – Protective Services ... 12,500
Highway Patrol – Special Enforcement 14,200
Highway Patrol – Special Services 5,000

Item 120
To Department of Public Safety – Programs & Operations
From General Fund, One–Time 214,500
From Federal Funds 57,300
From Federal Funds, One–Time 100,000
From Dedicated Credits Revenue 100,000
From Dedicated Credits Revenue, One–Time ..... (100,000)
Schedule of Programs:
Highway Patrol – Federal/State Projects 371,800

To implement the provisions of *24–7 Sobriety Program Expansion* (House Bill 26, 2021 General Session).

Item 121
To Department of Public Safety – Programs & Operations
From General Fund 680,000
Schedule of Programs:
Highway Patrol – Special Services 680,000

To implement the provisions of *Public Official and State Capitol Protection Amendments* (Senate Bill 222, 2021 General Session).

Item 122
To Department of Public Safety –
Bureau of Criminal Identification
From Revenue Transfers 16,700
From Revenue Transfers, One-Time 16,700
Schedule of Programs:
Law Enforcement/Criminal
Justice Services 33,400

To implement the provisions of *Hemp Regulation Amendments* (Senate Bill 39, 2021 General Session).

Item 123
To Department of Public Safety – Bureau
of Criminal Identification
From Revenue Transfers 3,300
From Revenue Transfers, One-Time 5,000
Schedule of Programs:
Non-Government/Other Services 8,300

To implement the provisions of *Behavioral Emergency Services Amendments* (Senate Bill 53, 2021 General Session).

Item 124
To Department of Public Safety – Bureau
of Criminal Identification
From General Fund ..... (400)
From Dedicated Credits Revenue ..... (300)
Schedule of Programs:
Non-Government/Other Services ..... (700)

To implement the provisions of *Emergency Services Amendments* (Senate Bill 109, 2021 General Session).

INFRASTRUCTURE AND GENERAL GOVERNMENT

DEPARTMENT OF GOVERNMENT OPERATIONS

Item 125
To Department of Government Operations –
DFCM Administration
From Capital Projects Fund 1,900
Schedule of Programs:
DFCM Administration 1,900

Item 126
To Department of Government Operations –
Finance – Mandated
From Federal Funds – Coronavirus
Relief Fund, One-Time 40,000,000
Schedule of Programs:
Emergency Disease Response 40,000,000

Item 127
To Department of Government Operations –
Building Board Program
From Capital Projects Fund 1,900
Schedule of Programs:
Building Board Program 1,900

Item 128
To Department of Government Operations –
Finance – Mandated
From General Fund ..... (355,200)
From General Fund, One-Time 355,200

To implement the provisions of *Government Insurance Amendments* (House Bill 50, 2021 General Session).

Item 129
To Department of Government Operations –
Finance Administration
From General Fund 300
From General Fund, One-Time 700
Schedule of Programs:
Financial Reporting 1,000

To implement the provisions of *Laboratory Equipment Amendments* (House Bill 185, 2021 General Session).

Item 130
To Department of Government Operations –
Inspector General of Medicaid Services
From General Fund 2,600
From General Fund, One-Time ..... (2,600)
From Federal Funds 7,600
Schedule of Programs:
Inspector General of Medicaid
Services 7,600

To implement the provisions of *Fertility Treatment Amendments* (House Bill 192, 2021 General Session).

Item 131
To Department of Government Operations –
Executive Director
From General Fund 145,700
From General Fund, One-Time 1,500
Schedule of Programs:
Executive Director 147,200

To implement the provisions of *Privacy Protection Amendments* (House Bill 243, 2021 General Session).

Item 132
To Department of Government Operations –
Finance Administration
From General Fund ..... (12,600)
From General Fund, One-Time 4,300
Schedule of Programs:
Finance Director's Office ..... (8,300)

To implement the provisions of *Criminal Justice Modifications* (House Bill 260, 2021 General Session).

Item 133
To Department of Government Operations –
Finance Administration
From General Fund, One-Time 28,900
Schedule of Programs:
Payroll 1,500
Financial Reporting 7,300
Financial Information Systems 20,100

To implement the provisions of *Natural Resources Entities Amendments* (House Bill 346, 2021 General Session).

Item 134
To Department of Government Operations –
Finance – Mandated
From General Fund 156,300
Schedule of Programs:
State Employee Benefits 156,300

To implement the provisions of Expanded *Infertility Treatment Coverage Pilot Program*

Amendments (Senate Bill 19, 2021 General Session).

Item 135
To Department of Government Operations – Finance – Mandated
From General Fund 112,300
From General Fund, One-Time ..... (112,300)

To implement the provisions of *Storage Tanks Amendments* (Senate Bill 40, 2021 General Session).

Item 136
To Department of Government Operations – Inspector General of Medicaid Services
From General Fund 1,300
From Federal Funds 3,900
Schedule of Programs:
Inspector General of Medicaid Services 5,200

To implement the provisions of *Caregiver Compensation Amendments* (Senate Bill 63, 2021 General Session).

Item 137
To Department of Government Operations – Finance – Mandated
From General Fund 19,400
Schedule of Programs:
State Employee Benefits 19,400

To implement the provisions of *Pharmacy Benefit Amendments* (Senate Bill 140, 2021 General Session).

Item 138
To Department of Government Operations – Executive Director
From General Fund 800
Schedule of Programs:
Executive Director 800

To implement the provisions of *Department of Government Operations* (Senate Bill 181, 2021 General Session).

Item 139
To Department of Government Operations – Administrative Rules
From General Fund 1,600
Schedule of Programs:
DAR Administration 1,600

To implement the provisions of *Department of Government Operations* (Senate Bill 181, 2021 General Session).

Item 140
To Department of Government Operations – DFCM Administration
From General Fund 700
From Education Fund 200
From Dedicated Credits Revenue 329,900
From Capital Projects Fund 600
Schedule of Programs:
DFCM Administration 331,400

To implement the provisions of *Department of Government Operations* (Senate Bill 181, 2021 General Session).

Item 141
To Department of Government Operations – State Archives
From General Fund 800
From General Fund, One-Time 100,000
Schedule of Programs:
Archives Administration 100,800
Records Services 100
Open Records ..... (100)

To implement the provisions of *Department of Government Operations* (Senate Bill 181, 2021 General Session).

Item 142
To Department of Government Operations – Finance Administration
From General Fund 1,510,300
From General Fund, One-Time 4,300,000
From Dedicated Credits Revenue 10,000
Schedule of Programs:
Finance Director's Office 10,300
Payroll 10,000
Financial Information Systems 5,800,000

To implement the provisions of *Department of Government Operations* (Senate Bill 181, 2021 General Session).

Item 143
To Department of Government Operations – Inspector General of Medicaid Services
From General Fund 1,600
From Revenue Transfers 3,100
Schedule of Programs:
Inspector General of Medicaid S ervices 4,700

To implement the provisions of *Department of Government Operations* (Senate Bill 181, 2021 General Session).

Item 144
To Department of Government Operations – Judicial Conduct Commission
From General Fund 12,000
Schedule of Programs:
Judicial Conduct Commission 12,000

To implement the provisions of *Department of Government Operations* (Senate Bill 181, 2021 General Session).

Item 145
To Department of Government Operations – Finance Mandated – Paid Postpartum Recovery Leave Program
From General Fund, One-Time 512,300
Schedule of Programs:
Paid Postpartum Recovery Leave Program 512,300

To implement the provisions of *Department of Government Operations* (Senate Bill 181, 2021 General Session).

Item 146
To Department of Government Operations – Purchasing
From General Fund 6,200
Schedule of Programs:
Purchasing and General Services 6,200

To implement the provisions of *Department of Government Operations* (Senate Bill 181, 2021 General Session).

Item 147
To Department of Government Operations – Chief Information Officer
From General Fund 70,000
Schedule of Programs:
Chief Information Officer 70,000

To implement the provisions of *Department of Government Operations* (Senate Bill 181, 2021 General Session).

Item 148
To Department of Government Operations – Integrated Technology Division
From General Fund 100
From Dedicated Credits Revenue 100
Schedule of Programs:
Automated Geographic Reference Center .. 200

To implement the provisions of *Department of Government Operations* (Senate Bill 181, 2021 General Session).

DEPARTMENT OF ADMINISTRATIVE SERVICES

Item 149
To Department of Administrative Services – Administrative Rules
From General Fund ..... (1,600)
Schedule of Programs:
DAR Administration ..... (1,600)

To implement the provisions of *Department of Government Operations* (Senate Bill 181, 2021 General Session).

Item 150
To Department of Administrative Services – Building Board Program
From Capital Projects Fund ..... (1,900)
Schedule of Programs:
Building Board Program ..... (1,900)

Item 151
To Department of Administrative Services – DFCM Administration
From General Fund ..... (700)
From Education Fund ..... (200)
From Dedicated Credits Revenue ..... (329,900)
From Capital Projects Fund ..... (600)
Schedule of Programs:
DFCM Administration ..... (331,400)

To implement the provisions of *Department of Government Operations* (Senate Bill 181, 2021 General Session).

Item 152
To Department of Administrative Services – Executive Director
From General Fund ..... (800)
Schedule of Programs:
Executive Director ..... (800)

To implement the provisions of *Department of Government Operations* (Senate Bill 181, 2021 General Session).

Item 153
To Department of Administrative Services – Finance Administration
From General Fund ..... (1,510,300)
From General Fund, One-Time ..... (4,300,000)
From Dedicated Credits Revenue ..... (10,000)
Schedule of Programs:
Finance Director's Office ..... (10,300)
Financial Information Systems ..... (5,800,000)
Payroll ..... (10,000)

To implement the provisions of *Department of Government Operations* (Senate Bill 181, 2021 General Session).

Item 154
To Department of Administrative Services – Inspector General of Medicaid Services
From General Fund ..... (1,600)
From Revenue Transfers ..... (3,100)
Schedule of Programs:
Inspector General of Medicaid Services ..... (4,700)

To implement the provisions of *Department of Government Operations* (Senate Bill 181, 2021 General Session).

Item 155
To Department of Administrative Services – Judicial Conduct Commission
From General Fund ..... (12,000)
Schedule of Programs:
Judicial Conduct Commission ..... (12,000)

To implement the provisions of *Department of Government Operations* (Senate Bill 181, 2021 General Session).

Item 156
To Department of Administrative Services – Purchasing
From General Fund ..... (6,200)
Schedule of Programs:
Purchasing and General Services ..... (6,200)

To implement the provisions of *Department of Government Operations* (Senate Bill 181, 2021 General Session).

Item 157
To Department of Administrative Services – State Archives
From General Fund ..... (800)
From General Fund, One-Time ..... (100,000)
Schedule of Programs:
Archives Administration ..... (100,800)

To implement the provisions of *Department of Government Operations* (Senate Bill 181, 2021 General Session).

Item 158
To Department of Administrative Services – Finance Mandated – Paid Postpartum Recovery Leave Program
From General Fund, One-Time ..... (512,300)
Schedule of Programs:
Paid Postpartum Recovery Leave Program ..... (512,300)

To implement the provisions of *Department of Government Operations* (Senate Bill 181, 2021 General Session).

CAPITAL BUDGET

Item 159
To Capital Budget - Capital Development - Other State Government
From Capital Projects Fund, One-Time 140,000,000
Schedule of Programs:
Capitol Hill North Building 140,000,000

Item 160
To Capital Budget - Capital Improvements
From General Fund, One-Time ..... (4,000,000)
Schedule of Programs:
Capital Improvements ..... (4,000,000)

Item 161
To Capital Budget - Property Acquisition
From Education Fund, One-Time 1,000,000
Schedule of Programs:
Davis Tech Land Purchase 1,000,000

DEPARTMENT OF TECHNOLOGY SERVICES

Item 162
To Department of Technology Services - Chief Information Officer
From General Fund ..... (70,000)
Schedule of Programs:
Chief Information Officer ..... (70,000)

To implement the provisions of *Department of Government Operations* (Senate Bill 181, 2021 General Session).

Item 163
To Department of Technology Services - Integrated Technology Division
From General Fund ..... (100)
From Dedicated Credits Revenue ..... (100)
Schedule of Programs:
Automated Geographic Reference Center ..... (200)

To implement the provisions of *Department of Government Operations* (Senate Bill 181, 2021 General Session).

TRANSPORTATION

Item 164
To Transportation - Aeronautics
From Aeronautics Restricted Account, One-Time 75,000
Schedule of Programs:
Administration 75,000

To implement the provisions of *Aviation Amendments* (Senate Bill 218, 2021 General Session).

Item 165
To Transportation - B and C Roads

The Department of Transportation and Division of Finance shall not apportion state funds appropriated for class B and class C roads for FY 2022 to counties or municipalities unless and until those counties and municipalities have shown in a report to the Legislative Fiscal Analyst and Governor's Office of Planning and Budget how the counties and municipalities plan to use federal funds provided under the American Rescue Plan and why those federal funds cannot be used for infrastructure improvements like class B and C roads.

Item 166
To Transportation - Highway System Construction

The Legislature intends that the Department of Transportation is authorized, if the Board of Examiners reviews, approves, and designates the payment amount, to use up to $439,400 from project funds made available for a project on SR-85, SR-73 to 2100 North, to resolve a dispute for relocation of two farm buildings.

The Legislature intends that the Department of Transportation use $225,000 from the Transportation Fund for improvements to a road accessing a new state park in Morgan County.

Item 167
To Transportation - Transportation Investment Fund Capacity Program

Notwithstanding the intent language in S.B. 2, Item 48, 2021 General Session, the Legislature intends that the Department of Transportation use $2,500,000 of the appropriation in that item for completion of the final gap of the Parley's Trail, contingent on the political subdivision(s) where the project takes place providing a contribution equal to or greater than 20 percent of the costs needed for the project.

Item 168
To Transportation - Amusement Ride Safety
From General Fund, One-Time 50,000
Schedule of Programs:
Amusement Ride Safety 50,000

To implement the provisions of *Amusement Ride Safety Amendments* (House Bill 322, 2021 General Session).

Item 169
To Transportation - Pass-Through
From General Fund, One-Time 550,000
Schedule of Programs:
Pass-Through 550,000

The Legislature intends that the $50,000 of the appropriation in this item for Grand Boulevards be used in a city of the first class by a nonprofit group for project management, working to enhance and modernize existing shared state and city roads.

BUSINESS, ECONOMIC DEVELOPMENT, AND LABOR

DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL

Item 170
To Department of Alcoholic Beverage Control - DABC Operations
From General Fund, One-Time ..... (35,000)
From Liquor Control Fund ..... (1,971,500)

From Liquor Control Fund,
One-Time 2,006,500

Item 171
To Department of Alcoholic Beverage Control - DABC Operations
From Liquor Control Fund 84,900
Schedule of Programs:
Operations 84,900

To implement the provisions of *Alcoholic Beverage Control Amendments* (House Bill 371, 2021 General Session).

Item 172
To Department of Alcoholic Beverage Control - DABC Operations
From Liquor Control Fund 4,300,000
From Liquor Control Fund,
One-Time ..... (4,300,000)

To implement the provisions of *Alcoholic Beverage Control Retail Store Amendments* (Senate Bill 137, 2021 General Session).

Item 173
To Department of Alcoholic Beverage Control - DABC Operations
From Liquor Control Fund 86,200
From Liquor Control Fund,
One-Time ..... (86,200)

To implement the provisions of *Revenue Bond and Capital Facilities Amendments* (Senate Bill 143, 2021 General Session).

Item 174
To Department of Alcoholic Beverage Control - Parents Empowered
From Liquor Control Fund 660,300
Schedule of Programs:
Parents Empowered 660,300

To implement the provisions of *Alcoholic Beverage Control Amendments* (House Bill 371, 2021 General Session).

DEPARTMENT OF COMMERCE

Item 175
To Department of Commerce - Commerce General Regulation
From General Fund Restricted - Commerce Service Account 700
From General Fund Restricted - Commerce Service Account, One-Time 5,200
Schedule of Programs:
Occupational and Professional Licensing 5,900

To implement the provisions of *Pharmacy Practice Modifications* (House Bill 178, 2021 General Session).

Item 176
To Department of Commerce - Commerce General Regulation
From General Fund Restricted - Commerce Service Account 27,000
From General Fund Restricted - Commerce Service Account, One-Time 2,800
Schedule of Programs:
Occupational and Professional Licensing 29,800

To implement the provisions of *Physician Assistant Act Amendments* (Senate Bill 27, 2021 General Session).

Item 177
To Department of Commerce - Commerce General Regulation
From General Fund Restricted - Commerce Service Account 2,800
From General Fund Restricted - Commerce Service Account, One-Time 5,300
Schedule of Programs:
Occupational and Professional Licensing 8,100

To implement the provisions of *Physician Assistant Mental Health Practice Amendments* (Senate Bill 28, 2021 General Session).

Item 178
To Department of Commerce - Commerce General Regulation
From General Fund Restricted - Commerce Service Account 6,500
From General Fund Restricted - Commerce Service Account, One-Time 6,000
Schedule of Programs:
Occupational and Professional Licensing 12,500

To implement the provisions of *Professional Licensing Amendments* (Senate Bill 87, 2021 General Session).

Item 179
To Department of Commerce - Commerce General Regulation
From General Fund Restricted - Commerce Service Account 88,200
From General Fund Restricted - Commerce Service Account, One-Time 2,000
Schedule of Programs:
Consumer Protection 90,200

To implement the provisions of *Electronic Free Speech Amendments* (Senate Bill 228, 2021 General Session).

GOVERNOR'S OFFICE OF ECONOMIC DEVELOPMENT

Item 180
To Governor's Office of Economic Development - Administration
From General Fund 50,000
From General Fund, One-Time 26,500
Schedule of Programs:
Administration 76,500

To implement the provisions of *Regulatory Sandbox Program Amendments* (House Bill 217, 2021 General Session).

Item 181
To Governor's Office of Economic Development - Administration
From General Fund 67,100
Schedule of Programs:
Administration 67,100

To implement the provisions of *Economic Development Amendments* (House Bill 348, 2021 General Session).

Item 182
To Governor's Office of Economic Development – Administration
From General Fund 10,000
Schedule of Programs:
Administration 10,000

To implement the provisions of *Rural Economic Development Tax Increment Financing* (House Bill 356, 2021 General Session).

Item 183
To Governor's Office of Economic Development – Administration
From General Fund 5,000
Schedule of Programs:
Administration 5,000

To implement the provisions of *Utah Main Street Program* (Senate Bill 194, 2021 General Session).

Item 184
To Governor's Office of Economic Development – Business Development
From General Fund 185,600
From Dedicated Credits Revenue 16,100
Schedule of Programs:
Outreach and International Trade 201,700

Item 185
To Governor's Office of Economic Development – Business Development
From General Fund 285,000
From General Fund, One-Time 35,000
Schedule of Programs:
Corporate Recruitment and Business Services 275,000
Outreach and International Trade 45,000

To implement the provisions of *Regulatory Sandbox Program Amendments* (House Bill 217, 2021 General Session).

Item 186
To Governor's Office of Economic Development – Business Development
From General Fund ..... (67,100)
Schedule of Programs:
Corporate Recruitment and Business Services ..... (67,100)

To implement the provisions of *Economic Development Amendments* (House Bill 348, 2021 General Session).

Item 187
To Governor's Office of Economic Development – Business Development
From General Fund 270,000
From General Fund, One-Time 50,000
Schedule of Programs:
Corporate Recruitment and Business Services 320,000

To implement the provisions of *Rural Economic Development Tax Increment Financing* (House Bill 356, 2021 General Session).

Item 188
To Governor's Office of Economic Development – Business Development
From General Fund 350,300
Schedule of Programs:
Corporate Recruitment and Business Services 350,300

To implement the provisions of *Utah Main Street Program* (Senate Bill 194, 2021 General Session).

Item 189
To Governor's Office of Economic Development – Office of Tourism
From General Fund, One-Time 500,000
Schedule of Programs:
Film Commission 500,000

Item 190
To Governor's Office of Economic Development – Pass-Through
From General Fund 250,000
From General Fund, One-Time 7,339,900
Schedule of Programs:
Pass-Through 7,589,900

The Legislature intends that the $600,000 one-time appropriation for BioHive in Senate Bill 2, Item 55, be matched 1:1 by industry, and that funds be distributed through GOED only when the industry provides matching funds.

The Legislature intends that the ongoing appropriation in Senate Bill 2, Item 55 for Utah Industry Resource Alliance (Alliance) be distributed to Utah State University on behalf of the Alliance and that Utah State University consult with the Alliance when further distributing the funds.

The Legislature intends that the appropriation of $5,000,000 in this item for Outdoor Recreation be used for the Bonneville Shoreline Trail.

The Legislature intends that the Governor's Office of Economic Development pass-through $2,071,100 appropriated for the Sparrowhawk building to the Military Installation Development Authority. The Legislature further intends that the Military Installation Development Authority use the funding received from the Governor's Office of Economic Development to finalize the purchase of the Sparrowhawk building, pay remaining ground lease payments, demolition fund, and bonds secured by the building and transfer any remaining funds along with building furniture, fixtures, and equipment to Weber State University.

Item 191
To Governor's Office of Economic Development – SBIR/STTR Center
From General Fund ..... (385,600)
From Dedicated Credits Revenue ..... (16,100)
Schedule of Programs:
SBIR/STTR Center ..... (401,700)

FINANCIAL INSTITUTIONS

Item 192
To Financial Institutions – Financial Institutions Administration
From General Fund Restricted – Financial Institutions 343,500
Schedule of Programs:
Administration 343,500

DEPARTMENT OF HERITAGE AND ARTS

Item 193
To Department of Heritage and Arts – Administration
From General Fund, One–Time 1,500
Schedule of Programs:
Administrative Services 1,500

To implement the provisions of *State Flag Amendments* (Senate Bill 48, 2021 General Session).

Item 194
To Department of Heritage and Arts – Pass–Through
From General Fund 400,000
From General Fund, One–Time 200,000
Schedule of Programs:
Pass–Through 600,000

INSURANCE DEPARTMENT

Item 195
To Insurance Department – Insurance Department Administration
From GFR Public Safety and Firefighter Tier II Retirement Benefits Account 3,300
Schedule of Programs:
Insurance Fraud Program 3,300

UTAH STATE TAX COMMISSION

Item 196
To Utah State Tax Commission – Tax Administration
From GFR Public Safety and Firefighter Tier II Retirement Benefits Account 1,200
Schedule of Programs:
Motor Vehicle Enforcement Division 1,200

Item 197
To Utah State Tax Commission – Tax Administration
From General Fund 419,200
Schedule of Programs:
Motor Vehicles 419,200

To implement the provisions of *Vehicle Registration Renewal Notice Requirements (*House Bill 170, 2021 General Session).

Item 198
To Utah State Tax Commission – Tax Administration
From General Fund, One–Time 15,200
Schedule of Programs:
Technology Management 15,200

To implement the provisions of *Vehicle Registration Checkoff and Fee Amendments* (Senate Bill 73, 2021 General Session).

SOCIAL SERVICES

DEPARTMENT OF HEALTH

Item 199
To Department of Health – Children's Health Insurance Program
From Federal Funds 574,300
Schedule of Programs:
Children's Health Insurance Program 574,300

To implement the provisions of *Children's Health Insurance Amendments* (House Bill 262, 2021 General Session).

Item 200
To Department of Health – Children's Health Insurance Program
From General Fund 490,000
From Federal Funds 1,610,000
Schedule of Programs:
Children's Health Insurance Program 2,100,000

To implement the provisions of *Children's Health Insurance Plan Amendments* (House Bill 292, 2021 General Session).

Item 201
To Department of Health – Disease Control and Prevention
From General Fund 305,000
From Federal Funds 72,830,600
Schedule of Programs:
Epidemiology 72,489,000
Office of the Medical Examiner 305,000
Hepatitis C Pilot Program 341,600

Item 202
To Department of Health – Disease Control and Prevention
From General Fund, One–Time 4,600
Schedule of Programs:
Office of the Medical Examiner 4,600

To implement the provisions of *Suicide Prevention Amendments* (House Bill 336, 2021 General Session).

Item 203
To Department of Health – Disease Control and Prevention
From General Fund ..... (80,000)
Schedule of Programs:
Office of the Medical Examiner ..... (80,000)

To implement the provisions of *Medical Examiner Revisions* (House Bill 380, 2021 General Session).

Item 204
To Department of Health – Executive Director's Operations
From General Fund, One–Time 150,000
From Revenue Transfers, One–Time 191,000,000
From Transfer for COVID–19 Response, One–Time 42,000,000

Schedule of Programs:
Executive Director 233,150,000

Item 205
To Department of Health - Executive Director's Operations
From General Fund, One-Time 84,400
Schedule of Programs:
Executive Director 84,400

To implement the provisions of *In-person Instruction Prioritization* (Senate Bill 107, 2021 General Session).

Item 206
To Department of Health - Family Health and Preparedness
From General Fund 200,000
From General Fund, One-Time .... (16,768,200)
From Education Fund, One-Time 16,668,200
From Federal Funds ..... (72,830,600)
From General Fund Restricted - Emergency Medical Services System Account 500,000
Schedule of Programs:
Emergency Medical Services and Preparedness 500,000
Maternal and Child Health ..... (72,830,600)
Primary Care 100,000

Item 207
To Department of Health - Family Health and Preparedness
From Gen. Fund Rest. - Children's Hearing Aid Pilot Program Account 800
Schedule of Programs:
Children with Special Health Care Needs . 800

To implement the provisions of *Children's Hearing Aid Program Amendments* (House Bill 118, 2021 General Session).

Item 208
To Department of Health - Family Health and Preparedness
From Dedicated Credits Revenue 2,100
From Dedicated Credits Revenue, One-Time 1,300
Schedule of Programs:
Emergency Medical Services and Preparedness 3,400

To implement the provisions of *Emergency Medical Services Revisions* (House Bill 303, 2021 General Session).

Item 209
To Department of Health - Family Health and Preparedness
From Revenue Transfers 3,000
From Revenue Transfers, One-Time 3,000
Schedule of Programs:
Emergency Medical Services and Preparedness 6,000

To implement the provisions of *Hemp Regulation Amendments* (Senate Bill 39, 2021 General Session).

Item 210
To Department of Health - Family Health and Preparedness
From General Fund 4,000
From General Fund, One-Time 4,800
From Dedicated Credits Revenue 19,800
From Dedicated Credits Revenue, One-Time ..... (200)
Schedule of Programs:
Emergency Medical Services and Preparedness 28,400

To implement the provisions of *Behavioral Emergency Services Amendments* (Senate Bill 53, 2021 General Session).

Item 211
To Department of Health - Family Health and Preparedness
From Dedicated Credits Revenue ..... (12,000)
Schedule of Programs:
Emergency Medical Services and Preparedness ..... (12,000)

To implement the provisions of *Emergency Services Amendments* (Senate Bill 109, 2021 General Session).

Item 212
To Department of Health - Medicaid and Health Financing
From Federal Funds 130,100
From Federal Funds, One-Time ..... (97,500)
From Medicaid Expansion Fund 85,300
From Medicaid Expansion Fund, One-Time ..... (63,900)
Schedule of Programs:
Healthcare Policy and Authorization 54,000

To implement the provisions of *Medical Respite Care Pilot Program* (House Bill 34, 2021 General Session).

Item 213
To Department of Health - Medicaid and Health Financing
From General Fund 86,500
From Federal Funds 131,300
Schedule of Programs:
Long-term Services and Supports 217,800

To implement the provisions of *Caregiver Compensation Amendments* (Senate Bill 63, 2021 General Session).

Item 214
To Department of Health - Medicaid and Health Financing
From General Fund 1,100
From General Fund, One-Time ..... (1,100)
From Federal Funds 1,100
From Federal Funds, One-Time ..... (1,100)

To implement the provisions of *Dental Hygienist Amendments* (Senate Bill 103, 2021 General Session).

Item 215
To Department of Health - Medicaid Services
From General Fund 775,000
From General Fund, One-Time 1,225,000
From Federal Funds ..... (20,140,900)
From Federal Funds, One-Time 22,625,900
Schedule of Programs:
Intermediate Care Facilities for the Intellectually Disabled 3,710,000
Other Services 775,000

Item 216
To Department of Health - Medicaid Services

From Federal Funds 1,260,000
From Federal Funds, One-Time ..... (898,200)
From Medicaid Expansion Fund 140,000
From Medicaid Expansion Fund, One-Time ..... (99,800)
Schedule of Programs:
Medicaid Expansion 350,000
Provider Reimbursement Information System for Medicaid 52,000

To implement the provisions of *Medical Respite Care Pilot Program* (House Bill 34, 2021 General Session).

Item 217
To Department of Health - Medicaid Services
From General Fund 355,200
From General Fund, One-Time ..... (350,200)
From Federal Funds 1,357,700
From Federal Funds, One-Time ..... (1,312,700)
From Medicaid Expansion Fund 68,600
From Medicaid Expansion Fund, One-Time ..... (68,600)
Schedule of Programs:
Provider Reimbursement Information System for Medicaid 50,000

To implement the provisions of *Fertility Treatment Amendments* (House Bill 192, 2021 General Session).

Item 218
To Department of Health - Medicaid Services
From General Fund 1,290,000
From Federal Funds 2,620,000
Schedule of Programs:
Home and Community Based Waivers 3,910,000

To implement the provisions of *Caregiver Compensation Amendments* (Senate Bill 63, 2021 General Session).

Item 219
To Department of Health - Medicaid Services
From General Fund 110,500
From General Fund, One-Time ..... (110,500)
From Federal Funds 240,000
From Federal Funds, One-Time ..... (240,000)
From Expendable Receipts 7,400
From Expendable Receipts, One-Time ... (7,400)
From Medicaid Expansion Fund 100
From Medicaid Expansion Fund, One-Time ..... (100)

To implement the provisions of *Dental Hygienist Amendments* (Senate Bill 103, 2021 General Session).

Item 220
To Department of Health - Medicaid Services
From Federal Funds 3,324,600
From Federal Funds, One-Time ..... (3,315,600)
From Expendable Receipts 1,161,600
From Expendable Receipts, One-Time ..... (1,161,600)
From Revenue Transfers, One-Time 1,000
Schedule of Programs:
Provider Reimbursement Information System for Medicaid 10,000

To implement the provisions of *988 Mental Health Crisis Assistance* (Senate Bill 155, 2021 General Session).

DEPARTMENT OF HUMAN SERVICES

Item 221
To Department of Human Services - Division of Child and Family Services
From General Fund, One-Time ... (132,374,500)
From Education Fund, One-Time ... 132,874,500
From Federal Funds, One-Time 2,296,700
From GFR Public Safety and Firefighter Tier II Retirement Benefits Account 900
Schedule of Programs:
Domestic Violence 500,000
Minor Grants 2,296,700
Service Delivery 900

Item 222
To Department of Human Services - Division of Child and Family Services
From General Fund ..... (17,000)
Schedule of Programs:
Child Welfare Management Information System ..... (8,200)
Service Delivery ..... (8,800)

To implement the provisions of *Child Protection Unit Amendments* (House Bill 37, 2021 General Session).

Item 223
To Department of Human Services - Division of Child and Family Services
From General Fund ..... (57,800)
Schedule of Programs:
In-Home Services ..... (57,800)

To implement the provisions of *Drug Testing Amendments* (House Bill 73, 2021 General Session).

Item 224
To Department of Human Services - Division of Child and Family Services
From General Fund 593,200
Schedule of Programs:
Service Delivery 593,200

To implement the provisions of *Child and Family Services Investigative Amendments* (Senate Bill 246, 2021 General Session).

Item 225
To Department of Human Services - Executive Director Operations
From Dedicated Credits Revenue ..... (300,000)
Schedule of Programs:
Utah Marriage Commission ..... (300,000)

To implement the provisions of *Marriage Commission Amendments* (House Bill 55, 2021 General Session).

Item 226
To Department of Human Services - Executive Director Operations
From General Fund, One-Time 600
Schedule of Programs:
Office of Licensing 600

To implement the provisions of *Congregate Care Program Amendments* (House Bill 135, 2021 General Session).

Item 227
To Department of Human Services –
Executive Director Operations
From General Fund 534,400
From Federal Funds 55,600
From Revenue Transfers 48,400
Schedule of Programs:
Office of Licensing 638,400

To implement the provisions of *Human Services Program Amendments* (Senate Bill 127, 2021 General Session).

Item 228
To Department of Human Services –
Office of Recovery Services
From Federal Funds 66,000
From Revenue Transfers ..... (66,000)

Item 229
To Department of Human Services –
Office of Recovery Services
From General Fund ..... (3,300)
From Revenue Transfers ..... (3,300)
Schedule of Programs:
Medical Collections ..... (6,600)

To implement the provisions of *Medicaid Recovery Amendments* (House Bill 389, 2021 General Session).

Item 230
To Department of Human Services – Division
of Services for People with Disabilities
From General Fund, One-Time ... (146,889,900)
From Education Fund, One-Time ... 146,889,900

Item 231
To Department of Human Services – Division
of Services for People with Disabilities
From General Fund 1,563,500
From Revenue Transfers 3,003,500
Schedule of Programs:
Community Supports Waiver 4,240,000
Service Delivery 327,000

To implement the provisions of *Caregiver Compensation Amendments* (Senate Bill 63, 2021 General Session).

Item 232
To Department of Human Services – Division
of Substance Abuse and Mental Health
From General Fund 4,885,500
From General Fund, One-Time ..... (3,250,000)
From Federal Funds, One-Time 2,859,000
From GFR Public Safety and
Firefighter Tier II Retirement
Benefits Account 4,600
Schedule of Programs:
Community Mental Health
Services 2,859,000
State Hospital 1,640,100

The Legislature intends that, of the $985,700 appropriated for the item "Vivitrol Medication Assisted Treatment Program" in S.B. 2, Item 89, the Division of Substance Abuse and Mental Health may expend up to $250,000 on a program that researches the connection between exercise and substance use disorder recovery.

Item 233
To Department of Human Services – Division
of Substance Abuse and Mental Health
From General Fund Restricted –
Psychiatric Consultation
Program Account 47,800
Schedule of Programs:
Community Mental Health Services 47,800

To implement the provisions of *Child Mental Health Amendments* (House Bill 337, 2021 General Session).

Item 234
To Department of Human Services – Division
of Substance Abuse and Mental Health
From General Fund Restricted –
Statewide Behavioral Health
Crisis Response Account 15,903,100
From General Fund Restricted –
Statewide Behavioral Health Crisis
Response Account, One-Time ..... (8,955,900)
Schedule of Programs:
Community Mental Health
Services 6,947,200

To implement the provisions of *988 Mental Health Crisis Assistance* (Senate Bill 155, 2021 General Session).

DEPARTMENT OF WORKFORCE SERVICES

Item 235
To Department of Workforce Services –
Operations and Policy
From Federal Funds 11,940,000
From Federal Funds, One-Time 164,100
Schedule of Programs:
Child Care Assistance 12,000,000
Workforce Development 104,100

To implement the provisions of *Child Care Eligibility Amendments* (House Bill 277, 2021 General Session).

Item 236
To Department of Workforce Services –
State Office of Rehabilitation
From General Fund, One-Time .... (22,261,800)
From Education Fund, One-Time 22,261,800

Item 237
To Department of Workforce Services –
Office of Homeless Services
From Gen. Fund Rest. – Homeless Housing
Reform Rest. Acct, One-Time 15,000,000
Schedule of Programs:
Homeless Services 15,000,000

Item 238
To Department of Workforce Services –
Office of Homeless Services
From General Fund ..... (100,000)
From General Fund, One-Time 75,000
Schedule of Programs:
Homeless Services ..... (25,000)

To implement the provisions of *Medical Respite Care Pilot Program* (House Bill 34, 2021 General Session).

HIGHER EDUCATION

UNIVERSITY OF UTAH

Item 239
To University of Utah – Education and General
From General Fund ..... (4,995,000)
From General Fund, One-Time 17,500,000
From Education Fund 5,000,000
From Education Fund, One-Time .. (16,881,200)
Schedule of Programs:
Education and General 623,800

Item 240
To University of Utah – University Hospital
From Revenue Transfers 18,915,900
From Revenue Transfers,
One-Time ..... (12,096,100)
Schedule of Programs:
University Hospital 6,819,800

To implement the provisions of *988 Mental Health Crisis Assistance* (Senate Bill 155, 2021 General Session).

Item 241
To University of Utah – Public Service
From General Fund 500,000
From General Fund, One-Time 500,000
Schedule of Programs:
Innovation District at the Point 1,000,000

Item 242
To University of Utah – Center on Aging
From Education Fund 1,800
Schedule of Programs:
Center on Aging 1,800

To implement the provisions of *Utah Commission on Aging Amendments* (Senate Bill 30, 2021 General Session).

UTAH STATE UNIVERSITY

Item 243
To Utah State University – Education and General
From General Fund ..... (17,600,000)
From Education Fund 17,475,000
From Education Fund, One-Time 800,000
Schedule of Programs:
Education and General 675,000

Item 244
To Utah State University – Cooperative Extension
From Dedicated Credits Revenue 250,000
Schedule of Programs:
Cooperative Extension 250,000

To implement the provisions of *Marriage Commission Amendments* (House Bill 55, 2021 General Session).

WEBER STATE UNIVERSITY

Item 245
To Weber State University – Education and General
From General Fund 267,700
Schedule of Programs:
Operations and Maintenance 267,700

UTAH VALLEY UNIVERSITY

Item 246
To Utah Valley University – Education and General
From General Fund ..... (300,000)
From Education Fund, One-Time 50,000
Schedule of Programs:
Education and General ..... (300,000)
Operations and Maintenance 50,000

Item 247
To Utah Valley University – Fire and Rescue Training
From General Fund 300,000
Schedule of Programs:
Fire and Rescue Training 300,000

DIXIE STATE UNIVERSITY

Item 248
To Dixie State University – Education and General

The Legislature intends that, if House Bill 278, Name Change Process for Dixie State University passes, the General Fund one-time appropriation of $500,000 in the bill shall only be released if the heritage committee is established as provided under 53B-16-502.

Item 249
To Dixie State University – Education and General
From Education Fund 300,000
Schedule of Programs:
Education and General 300,000

To implement the provisions of *Higher Education for Incarcerated Youth* (House Bill 279, 2021 General Session).

UTAH BOARD OF HIGHER EDUCATION

Item 250
To Utah Board of Higher Education – Administration
From Education Fund 225,000
From Education Fund, One-Time 1,000,000
Schedule of Programs:
Administration 1,225,000

NATURAL RESOURCES, AGRICULTURE, AND ENVIRONMENTAL QUALITY

DEPARTMENT OF AGRICULTURE AND FOOD

Item 251
To Department of Agriculture and Food – Administration
From General Fund 127,500
Schedule of Programs:
General Administration 127,500

Item 252
To Department of Agriculture and Food – Administration
From General Fund ..... (2,800)
Schedule of Programs:
General Administration ..... (2,800)

To implement the provisions of *Agricultural Advisory Board Amendments* (House Bill 163, 2021 General Session).

Item 253
To Department of Agriculture and Food – Administration
From Closing Nonlapsing Balances 118,200
Schedule of Programs:
Chemistry Laboratory 118,200

To implement the provisions of *Laboratory Equipment Amendments* (House Bill 185, 2021 General Session).

Item 254
To Department of Agriculture and Food – Animal Industry
From General Fund ..... (250,000)
Schedule of Programs:
Animal Health ..... (374,000)
Horse Racing Commission 124,000

The legislature intends that $100,000 of the one-time Education Fund appropriation in S.B. 2 (Item 160) to the Division of Animal Industry be used by the Utah Veterinary Diagnostic Laboratory to study additional veterinarian and lab needs in the state of Utah.

Item 255
To Department of Agriculture and Food – Invasive Species Mitigation
From General Fund, One-Time ..... (1,000,000)
From General Fund Restricted – Invasive Species Mitigation Account, One-Time 1,000,000

Item 256
To Department of Agriculture and Food – Marketing and Development
From General Fund, One-Time 112,500
Schedule of Programs:
Marketing and Development 112,500

Item 257
To Department of Agriculture and Food – Plant Industry
Schedule of Programs:
Grazing Improvement Program ..... (343,300)
Plant Industry 343,300

In accordance with UCA 63J-1-201, the Legislature intends that the Department of Agriculture and Food report performance measures for the Plant Industry line item, whose mission is "Ensuring consumers of disease free and pest free plants, grains, seeds, as well as properly labeled agricultural commodities, and the safe application of pesticides and farm chemicals." The Department of Agriculture and Food shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2021 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measures for FY 2022: 1) Pesticide Compound Enforcement Action Rate (Target = 20%); 2) Fertilizer Compliance Violation Rate (Target = 5%); and 3) Seed Compliance Violation Rate (Target = 10%).

Item 258
To Department of Agriculture and Food – Predatory Animal Control
From General Fund 122,500
Schedule of Programs:
Predatory Animal Control 122,500

Item 259
To Department of Agriculture and Food – Resource Conservation

Under the terms of 63J-I-603 of the Utah Code, the Legislature intends that appropriations provided for Pollinator Amendments (H.B. 224, 2021 General Session), shall not lapse at the close of FY 2022. Expenditure of these funds are limited to implementation costs of the legislation: $140,000.

Item 260
To Department of Agriculture and Food – Resource Conservation
From General Fund, One-Time 210,000
From Closing Nonlapsing Balances .... (140,000)
Schedule of Programs:
Resource Conservation 70,000

To implement the provisions of *Pollinator Amendments* (House Bill 224, 2021 General Session).

Item 261
To Department of Agriculture and Food – Resource Conservation
From General Fund 190,500
From General Fund, One-Time 28,400
From Federal Funds 52,400
From Federal Funds, One-Time 5,500
Schedule of Programs:
Conservation Commission 276,800

To implement the provisions of *Soil Health Amendments* (House Bill 296, 2021 General Session).

Item 262
To Department of Agriculture and Food – Utah State Fair Corporation
From General Fund, One-Time 200,000
Schedule of Programs:
State Fair Corporation 200,000

Item 263
To Department of Agriculture and Food – Industrial Hemp
From Dedicated Credits Revenue 177,500
From Dedicated Credits Revenue, One-Time 6,000
Schedule of Programs:
Industrial Hemp 183,500

To implement the provisions of *Hemp Regulation Amendments* (Senate Bill 39, 2021 General Session).

Item 264
To Department of Agriculture and Food – Analytical Laboratory
From Qualified Production Enterprise Fund 140,000
From Qualified Production Enterprise Fund, One-Time 392,000

Schedule of Programs:
Analytical Laboratory 532,000

The Legislature intends that the $392,000 one-time appropriation from the Qualified Production Enterprise Fund be used by the Department of Agriculture and Foods Analytical Laboratory for the purchase of equipment and services solely in support of the Medical Cannabis program and to obtain ISO 17025:2017 certification in compliance with Utah Code R68-29.

The Legislature intends that the $140,000 ongoing appropriation from the Qualified Production Enterprise Fund be used by the Department of Agriculture and Foods Analytical Laboratory to hire two laboratory technicians solely to support the Medical Cannabis program.

DEPARTMENT OF ENVIRONMENTAL QUALITY

Item 265
To Department of Environmental Quality - Environmental Response and Remediation
From Dedicated Credits Revenue 177,000
From Dedicated Credits Revenue, One-Time ..... (45,500)
From Petroleum Storage Tank Trust Fund 19,100
From Petroleum Storage Tank Trust Fund, One-Time ..... (19,100)
Schedule of Programs:
Underground Storage Tanks 131,500

To implement the provisions of *Storage Tanks Amendments* (Senate Bill 40, 2021 General Session).

Item 266
To Department of Environmental Quality - Waste Management and Radiation Control
From Dedicated Credits Revenue, One-Time 28,300
Schedule of Programs:
Solid Waste 28,300

To implement the provisions of *Joint Resolution Approving Energysolutions Constructing and Operating a Landfill for Nonhazardous Solid Waste* (Senate Joint Resolution 7, 2021 General Session).

Item 267
To Department of Environmental Quality - Water Quality
From General Fund 200,000
From General Fund, One-Time 2,000,000
Schedule of Programs:
Water Quality Support 2,200,000

The Legislature intends that the $2,000,000 one-time General Fund appropriation to the Division of Water Quality be used for a voluntary, incentive-based agricultural nutrient management program.

Item 268
To Department of Environmental Quality - Water Quality
From General Fund ..... (98,000)
From General Fund, One-Time ..... (2,000)
From General Fund Restricted - GFR - Division of Water Quality Oil, Gas, and Mining 98,000
From General Fund Restricted - GFR - Division of Water Quality Oil, Gas, and Mining, One-Time 2,000

To implement the provisions of *Severance Tax Revenue Amendments* (Senate Bill 133, 2021 General Session).

Item 269
To Department of Environmental Quality - Air Quality
From General Fund, One-Time 80,000
Schedule of Programs:
Air Quality Administration 80,000

The Legislature intends that the $200,000 one-time General Fund appropriation in S.B. 2 (Item 177) to the Division of Air Quality be used to address air quality issues in Box Elder County.

Item 270
To Department of Environmental Quality - Air Quality
From General Fund 2,200
Schedule of Programs:
Air Quality Administration 2,200

To implement the provisions of *Air Quality Policy Advisory Board* (Senate Bill 20, 2021 General Session).

Item 271
To Department of Environmental Quality - Air Quality
From General Fund ..... (675,000)
From General Fund, One-Time ..... (10,000)
From General Fund Restricted - GFR - Division of Air Quality Oil, Gas, and Mining 675,000
From General Fund Restricted - GFR - Division of Air Quality Oil, G as, and Mining, One-Time 10,000

To implement the provisions of *Severance Tax Revenue Amendments* (Senate Bill 133, 2021 General Session).

Item 272
To Department of Environmental Quality - Laboratory Services

The Legislature intends that the Department of Environmental Quality use the funding provided for the Laboratory Services line item in S.B. 2 (Item 178) to procure at least $900,000 in services from the Utah Public Health Laboratory in FY2022. The Legislature directs the Utah Department of Environmental Quality and the Utah Department of Health (the Departments) to develop a comprehensive plan for 1) the most cost-effective mechanisms to procure high volume environmental chemistry analyses with emphasis on the states ambient water quality monitoring needs, 2) a structure for development of new laboratory methods that are not commercially available but would benefit the public interest, and 3) an optimal

governance structure to oversee state environmental testing resources. Based on this plan and structure the funding allocation between the two Departments will be updated to take effect FY2023. If no new plan or structure is finalized, beginning in FY2023, the ongoing funds become unencumbered.

GOVERNOR'S OFFICE

Item 273
To Governor's Office – Office of Energy Development
From General Fund ..... (1,100)
From General Fund, One-Time ..... (500,000)
From Education Fund ..... (245,000)
From Federal Funds ..... (500)
From Dedicated Credits Revenue ..... (200)
From Ut. S. Energy Program Rev. Loan Fund (ARRA) ..... (200)
Schedule of Programs:
Office of Energy Development ..... (747,000)

To implement the provisions of *Natural Resources Entities Amendments* (House Bill 346, 2021 General Session).

DEPARTMENT OF NATURAL RESOURCES

Item 274
To Department of Natural Resources – DNR Pass Through
From General Fund, One-Time 500,000
Schedule of Programs:
DNR Pass Through 500,000

The Legislature intends that the $350,000 one-time appropriation for Bear Lake improvements be used for a regional recreation and access plan for Bear Lake.

Item 275
To Department of Natural Resources – Forestry, Fire and State Lands
From GFR Public Safety and Firefighter Tier II Retirement Benefits Account 1,100
Schedule of Programs:
Program Delivery 1,100

Item 276
To Department of Natural Resources – Oil, Gas and Mining
From General Fund ..... (2,306,300)
From General Fund, One-Time ..... (12,600)
From General Fund Restricted - GFR - Division of Oil, Gas, and Mining 2,306,300
From General Fund Restricted - GFR - Division of Oil, Gas, and Mining, One-Time 12,600

To implement the provisions of *Severance Tax Revenue Amendments* (Senate Bill 133, 2021 General Session).

Item 277
To Department of Natural Resources – Parks and Recreation
From Federal Funds ..... (500,000)
From Expendable Receipts ..... (267,100)
From General Fund Restricted – State Park Fees ..... (45,400)
From General Fund Restricted – State Park Fees, One-Time ..... (12,400)
From Revenue Transfers ..... (100,000)
Schedule of Programs:
Executive Management ..... (500,000)
Park Operation Management ..... (424,900)

To implement the provisions of *Natural Resources Entities Amendments* (House Bill 346, 2021 General Session).

Item 278
To Department of Natural Resources – Parks and Recreation Capital Budget
From General Fund, One-Time .... (67,000,000)
From Federal Funds ..... (1,500,000)
From Dedicated Credits Revenue 175,000
From Expendable Receipts ..... (175,000)
From General Fund Restricted – State Park Fees, One-Time ..... (16,150,000)
Schedule of Programs:
Region Renovation ..... (750,000)
Renovation and Development .... (82,400,000)
Trails Program ..... (1,500,000)

To implement the provisions of *Natural Resources Entities Amendments* (House Bill 346, 2021 General Session).

Item 279
To Department of Natural Resources – Utah Geological Survey
From General Fund ..... (613,000)
From General Fund, One-Time ..... (9,000)
From General Fund Restricted – Utah Geological Survey Oil, Gas, and Mining Restricted Account 613,000
From General Fund Restricted – Utah Geological Survey Oil, Gas, and Mining Restricted Account, One-Time ... 9,000

To implement the provisions of *Severance Tax Revenue Amendments* (Senate Bill 133, 2021 General Session).

Item 280
To Department of Natural Resources – Water Resources
From General Fund ..... (600,000)
From General Fund, One-Time ..... (9,000,000)
Schedule of Programs:
Interstate Streams ..... (9,600,000)

To implement the provisions of *Colorado River Amendments* (House Bill 297, 2021 General Session).

Item 281
To Department of Natural Resources – Water Rights
From GFR Public Safety and Firefighter Tier II Retirement Benefits Account 800
Schedule of Programs:
Adjudication 800

Item 282
To Department of Natural Resources – Water Rights
From General Fund ..... (500)
From General Fund, One-Time 500

To implement the provisions of *State Engineer Electronic Communications* (House Bill 24, 2021 General Session).

Item 283
To Department of Natural Resources – Wildlife Resources
From GFR Public Safety and Firefighter Tier II Retirement Benefits Account 39,500
Schedule of Programs:
Administrative Services 1,000
Law Enforcement 38,500

Item 284
To Department of Natural Resources – Division of Parks
From GFR Public Safety and Firefighter Tier II Retirement Benefits Account 32,400
Schedule of Programs:
Park Operation Management 32,400

Item 285
To Department of Natural Resources – Division of Parks
From General Fund Restricted – State Park Fees 798,500
From General Fund Restricted – State Park Fees, One–Time ..... (798,500)

To implement the provisions of *Utah State Park Amendments* (House Bill 257, 2021 General Session).

Item 286
To Department of Natural Resources – Division of Parks
From General Fund Restricted – State Park Fees 45,400
From General Fund Restricted – State Park Fees, One–Time 12,400
From Revenue Transfers 100,000
From Revenue Transfers, One–Time 100,000
Schedule of Programs:
Park Operation Management 257,800

To implement the provisions of *Natural Resources Entities Amendments* (House Bill 346, 2021 General Session).

Item 287
To Department of Natural Resources – Division of Parks – Capital
From General Fund, One–Time .... (10,000,000)
Schedule of Programs:
Renovation and Development .... (10,000,000)

To implement the provisions of *Utah State Park Amendments* (House Bill 257, 2021 General Session).

Item 288
To Department of Natural Resources – Division of Parks – Capital
From General Fund, One–Time 67,000,000
From Dedicated Credits Revenue ..... (175,000)
From Expendable Receipts 175,000
From General Fund Restricted – State Park Fees, One–Time 16,150,000
Schedule of Programs:
Region Renovation 750,000
Renovation and Development 82,400,000

To implement the provisions of *Natural Resources Entities Amendments* (House Bill 346, 2021 General Session).

Item 289
To Department of Natural Resources – Division of Parks – Capital
From General Fund, One–Time 1,200,000
Schedule of Programs:
Renovation and Development 1,200,000

To implement the provisions of *Concurrent Resolution Regarding the Bridal Veil Falls Area* (House Concurrent Resolution 13, 2021 General Session).

Item 290
To Department of Natural Resources – Division of Recreation
From General Fund, One–Time 383,500
From Federal Funds 500,000
From Federal Funds, One–Time 500,000
Schedule of Programs:
Recreation Management 1,000,000
Recreation Administration 383,500

To implement the provisions of *Natural Resources Entities Amendments* (House Bill 346, 2021 General Session).

Item 291
To Department of Natural Resources – Division of Recreation– Capital
From Federal Funds 1,500,000
From Federal Funds, One–Time 1,500,000
Schedule of Programs:
Trails Program 3,000,000

To implement the provisions of *Natural Resources Entities Amendments* (House Bill 346, 2021 General Session).

Item 292
To Department of Natural Resources – Office of Energy Development
From General Fund 1,100
From General Fund, One–Time 500,000
From Education Fund 245,000
From Federal Funds 500
From Dedicated Credits Revenue 200
From Ut. S. Energy Program Rev. Loan Fund (ARRA) 200
Schedule of Programs:
Office of Energy Development 747,000

To implement the provisions of *Natural Resources Entities Amendments* (House Bill 346, 2021 General Session).

Item 293
To Department of Natural Resources – Public Lands Policy Coordination
From General Fund 236,700
From General Fund, One–Time 6,400,000
From General Fund Restricted – Constitutional Defense 13,700
Schedule of Programs:
Public Lands Policy Coordination 6,650,400

PUBLIC LANDS POLICY COORDINATING OFFICE

Item 294
To Public Lands Policy Coordinating Office
From General Fund ..... (236,700)
From General Fund, One-Time ..... (5,900,000)
From General Fund Restricted - Constitutional Defense ..... (13,700)
Schedule of Programs:
Public Lands Policy Coordinating Office ..... (6,150,400)

The Legislature intends that the $500,000 General Fund, one-time appropriation to the Public Lands Policy Coordination Office be used to educate critical audiences on the importance of public land and wildlife management, multiple use practices, and similar efforts.

PUBLIC EDUCATION

STATE BOARD OF EDUCATION - MINIMUM SCHOOL PROGRAM

Item 295
To State Board of Education - Minimum School Program - Basic School Program
From Uniform School Fund 51,440,900
From Uniform School Fund, One-Time 2,600,000
Schedule of Programs:
Students At-Risk Add-on (13,505 WPUs) 54,040,900

To implement the provisions of *Public Education Funding Amendments* (Senate Bill 142, 2021 General Session).

Item 296
To State Board of Education - Minimum School Program - Related to Basic School Programs
From Uniform School Fund 438,000
Schedule of Programs:
Effective Teachers in High Poverty Schools Incentive Program 438,000

The State Board of Education shall not apportion state funds appropriated to the Related to Basic School Program for FY 2022 to local education agencies unless and until the State Board of Education has shown in a report to the Legislative Fiscal Analyst and the Governors Office of Management and Budget how the local education agencies plan to use federal funds provided under the American Rescue Plan.

Item 297
To State Board of Education - Minimum School Program - Related to Basic School Programs
From Uniform School Fund ..... (50,540,900)
Schedule of Programs:
Enhancement for At-Risk Students ..... (50,540,900)

To implement the provisions of *Public Education Funding Amendments* (Senate Bill 142, 2021 General Session).

The Legislature intends that, if Senate Bill 142, Public Education Funding Amendment is enacted, the Division of Finance change name references for the Enhancement for At-Risk Students program in the Minimum School Program - Related to Basic School Programs to the Students At-Risk - Gang Prevention Grant Program.

Item 298
To State Board of Education - Minimum School Program - Related to Basic School Programs
From Uniform School Fund 37,500
Schedule of Programs:
Teacher Salary Supplement 37,500

To implement the provisions of *Teacher Salary Supplement Program Amendments* (Senate Bill 154, 2021 General Session).

STATE BOARD OF EDUCATION

Item 299
To State Board of Education - State Administrative Office

The State Board of Education shall not apportion state funds appropriated to the Related to Basic School Program for FY 2022 to local education agencies unless and until the State Board of Education has shown in a report to the Legislative Fiscal Analyst and the Governors Office of Management and Budget how the local education agencies plan to use federal funds provided under the American Rescue Plan.

Item 300
To State Board of Education - State Administrative Office
From Education Fund ..... (3,000)
Schedule of Programs:
Board and Administration ..... (3,000)

To implement the provisions of *Education Agency Report Process Amendments* (House Bill 42, 2021 General Session).

Item 301
To State Board of Education - State Administrative Office
From Education Fund 500,000
Schedule of Programs:
Student Support Services 500,000

To implement the provisions of *Youth Suicide Prevention Programs Amendments* (House Bill 93, 2021 General Session).

Item 302
To State Board of Education - State Administrative Office
From Education Fund, One-Time 39,000
Schedule of Programs:
Financial Operations 39,000

To implement the provisions of *Reporting Requirements for Local Education Agencies* (House Bill 300, 2021 General Session).

Item 303
To State Board of Education - State Administrative Office
From Education Fund, One-Time 20,000

Schedule of Programs:
Student Support Services 20,000

To implement the provisions of *School Resource Officers Amendments* (House Bill 345, 2021 General Session).

Item 304
To State Board of Education – State Administrative Office
From Education Fund, One-Time 6,300
Schedule of Programs:
Financial Operations 6,300

To implement the provisions of *Education Deadline and Fiscal Flexibility* (Senate Bill 178, 2021 General Session).

Item 305
To State Board of Education – State Administrative Office
From Education Fund, One-Time 50,000
Schedule of Programs:
Information Technology 50,000

To implement the provisions of *Statewide Online Education Program Amendments* (Senate Bill 234, 2021 General Session).

Item 306
To State Board of Education – General System Support

Notwithstanding the intent language in Subsection (4) under Item 18 in House Bill 2, Public Education Budget Amendments, the Legislature intends that, of the appropriation provided by Item 18, in House Bill 2, Public Education Budget Amendments, $7,016,900 be used: (1) in fiscal years 2022, 2023, 2024; and (2) for an existing program for professional learning related to improving student achievement.

Item 307
To State Board of Education – General System Support
From Education Fund ..... (11,200)
Schedule of Programs:
Teaching and Learning ..... (11,200)

To implement the provisions of *Education Agency Report Process Amendments* (House Bill 42, 2021 General Session).

Item 308
To State Board of Education – Utah Schools for the Deaf and the Blind
From Education Fund 700,000
Schedule of Programs:
Administration 700,000

Item 309
To State Board of Education – Statewide Online Education
From Education Fund 1,767,000
From Education Fund, One-Time .... (1,600,000)
Schedule of Programs:
Statewide Online Education 167,000

To implement the provisions of *Statewide Online Education Program Amendments* (Senate Bill 234, 2021 General Session).

SCHOOL AND INSTITUTIONAL TRUST FUND OFFICE

Item 310
To School and Institutional Trust Fund Office
From School and Institutional Trust Fund Management Acct. ..... (1,000)
Schedule of Programs:
School and Institutional Trust Fund Office ..... (1,000)

To implement the provisions of *School and Institutional Trust Fund Office Amendments* (Senate Bill 169, 2021 General Session).

EXECUTIVE APPROPRIATIONS

LEGISLATURE

Item 311
To Legislature – Senate
From General Fund 4,000
Schedule of Programs:
Administration 4,000

To implement the provisions of *Veterans and Military Affairs Commission Amendments* (House Bill 16, 2021 General Session).

Item 312
To Legislature – Senate
From General Fund 1,600
Schedule of Programs:
Administration 1,600

To implement the provisions of *Mental Health Protections for First Responders* (House Bill 25, 2021 General Session).

Item 313
To Legislature – Senate
From General Fund, One-Time 4,800
Schedule of Programs:
Administration 4,800

To implement the provisions of *Point of the Mountain Development Commission Act Modifications* (House Bill 52, 2021 General Session).

Item 314
To Legislature – Senate
From General Fund 3,200
Schedule of Programs:
Administration 3,200

To implement the provisions of *Education and Mental Health Coordinating Council* (House Bill 288, 2021 General Session).

Item 315
To Legislature – Senate
From General Fund 8,700
Schedule of Programs:
Administration 8,700

To implement the provisions of *Joint Resolution Authorizing Pay of In-session Employees* (House Joint Resolution 3, 2021 General Session).

Item 316
To Legislature – Senate
From General Fund, One-Time 8,400

Schedule of Programs:
Administration 8,400

To implement the provisions of *Criminal Code Evaluation Task Force Extension* (Senate Bill 17, 2021 General Session).

Item 317
To Legislature – Senate
From General Fund, One-Time 4,800
Schedule of Programs:
Administration 4,800

To implement the provisions of *State Flag Amendments* (Senate Bill 48, 2021 General Session).

Item 318
To Legislature – Senate
From General Fund 1,500
Schedule of Programs:
Administration 1,500

To implement the provisions of *Higher Education Performance Funding* (Senate Bill 193, 2021 General Session).

Item 319
To Legislature – Senate
From General Fund, One-Time 4,800
Schedule of Programs:
Administration 4,800

To implement the provisions of *County Jails Amendments* (Senate Bill 249, 2021 General Session).

Item 320
To Legislature – House of Representatives
From General Fund 6,000
Schedule of Programs:
Administration 6,000

To implement the provisions of *Veterans and Military Affairs Commission Amendments* (House Bill 16, 2021 General Session).

Item 321
To Legislature – House of Representatives
From General Fund 1,600
Schedule of Programs:
Administration 1,600

To implement the provisions of *Mental Health Protections for First Responders* (House Bill 25, 2021 General Session).

Item 322
To Legislature – House of Representatives
From General Fund, One-Time 4,800
Schedule of Programs:
Administration 4,800

To implement the provisions of *Point of the Mountain Development Commission Act Modifications* (House Bill 52, 2021 General Session).

Item 323
To Legislature – House of Representatives
From General Fund 3,200
Schedule of Programs:
Administration 3,200

To implement the provisions of *Education and Mental Health Coordinating Council* (House Bill 288, 2021 General Session).

Item 324
To Legislature – House of Representatives
From General Fund 13,800
Schedule of Programs:
Administration 13,800

To implement the provisions of *Joint Resolution Authorizing Pay of In-session Employees* (House Joint Resolution 3, 2021 General Session).

Item 325
To Legislature – House of Representatives
From General Fund, One-Time 8,400
Schedule of Programs:
Administration 8,400

To implement the provisions of *Criminal Code Evaluation Task Force Extension* (Senate Bill 17, 2021 General Session).

Item 326
To Legislature – House of Representatives
From General Fund, One-Time 4,800
Schedule of Programs:
Administration 4,800

To implement the provisions of *State Flag Amendments* (Senate Bill 48, 2021 General Session).

Item 327
To Legislature – House of Representatives
From General Fund 2,300
Schedule of Programs:
Administration 2,300

To implement the provisions of *Higher Education Performance* Funding (Senate Bill 193, 2021 General Session).

Item 328
To Legislature – House of Representatives
From General Fund, One-Time 4,800
Schedule of Programs:
Administration 4,800

To implement the provisions of *County Jails Amendments* (Senate Bill 249, 2021 General Session).

Item 329
To Legislature – Office of Legislative Research and General Counsel
From General Fund 7,700
Schedule of Programs:
Administration 7,700

To implement the provisions of *Education and Mental Health Coordinating Council* (House Bill 288, 2021 General Session).

Item 330
To Legislature – Office of Legislative Research and General Counsel
From General Fund, One-Time ..... (383,500)
Schedule of Programs:
Administration ..... (383,500)

To implement the provisions of *Natural Resources Entities Amendments* (House Bill 346, 2021 General Session).

Item 331
To Legislature – Office of Legislative Research and General Counsel
From General Fund, One-Time 2,500
Schedule of Programs:
Administration 2,500

To implement the provisions of *Criminal Code Evaluation Task Force Extension* (Senate Bill 17, 2021 General Session).

Item 332
To Legislature – Office of the Legislative Fiscal Analyst

The Legislature intends that, if FY 2022 ongoing Education Fund revenue estimates adopted by the Executive Appropriations Committee in December 2021 remain at or above the target adopted by the Executive Appropriations Committee in May 2021, when preparing the Infrastructure and General Government base budget for FY 2023, the Legislative Fiscal Analyst shall include $100 million ongoing from the Education Fund for the Higher Education Capital Projects Fund and $20 million ongoing from the Education Fund for the Technical Colleges Capital Projects Fund.

Item 333
To Legislature – Office of the Legislative Fiscal Analyst
From General Fund 485,500
From General Fund, One-Time ..... (485,500)

To implement the provisions of *Joint Rules Resolution – Legislative Procedure Modifications* (House Joint Resolution 6, 2021 General Session).

Item 334
To Legislature – Office of the Legislative Auditor General
From General Fund 307,500
From General Fund, One-Time ..... (307,500)

To implement the provisions of *Joint Rules Resolution – Legislative Procedure Modifications* (House Joint Resolution 6, 2021 General Session).

Item 335
To Legislature – Office of the Legislative Auditor General
From General Fund 300,000
Schedule of Programs:
Administration 300,000

To implement the provisions of *State Audit Amendments* (Senate Bill 160, 2021 General Session).

Item 336
To Legislature – Legislative Services
From General Fund, One-Time 30,000
Schedule of Programs:
Pass-Through 30,000

To implement the provisions of *Point of the Mountain Development Commission Act Modifications* (House Bill 52, 2021 General Session).

UTAH NATIONAL GUARD

Item 337
To Utah National Guard
From GFR Public Safety and Firefighter Tier II Retirement Benefits Account 7,000
Schedule of Programs:
Operations and Maintenance 7,000

Subsection 2(b). Expendable Funds and Accounts. The Legislature has reviewed the following expendable funds. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated. Outlays and expenditures from the funds or accounts to which the money is transferred may be made without further legislative action, in accordance with statutory provisions relating to the funds or accounts.

EXECUTIVE OFFICES AND CRIMINAL JUSTICE

DEPARTMENT OF PUBLIC SAFETY

Item 338
To Department of Public Safety – Alcoholic Beverage Control Act Enforcement Fund
From GFR Public Safety and Firefighter Tier II Retirement Benefits Account 16,500
Schedule of Programs:
Alcoholic Beverage Control Act Enforcement Fund 16,500

INFRASTRUCTURE AND GENERAL GOVERNMENT

DEPARTMENT OF GOVERNMENT OPERATIONS

Item 339
To Department of Government Operations – State Debt Collection Fund
From Dedicated Credits Revenue 15,500
Schedule of Programs:
State Debt Collection Fund 15,500

To implement the provisions of *Department of Government Operations* (Senate Bill 181, 2021 General Session).

DEPARTMENT OF ADMINISTRATIVE SERVICES

Item 340
To Department of Administrative Services – State Debt Collection Fund
From Dedicated Credits Revenue ..... (15,500)
Schedule of Programs:
State Debt Collection Fund ..... (15,500)

To implement the provisions of *Department of Government Operations* (Senate Bill 181, 2021 General Session).

TRANSPORTATION

Item 341
To Transportation – County of the
First Class Highway Projects Fund

The Legislature intends that after the Department of Transportation has distributed funds in accordance with H.B. 244, 2021 General Session, the department shall use up to $1,000,000 from any unallocated funds from FY 2021 and FY 2022 in the County of the First Class Highway Projects Fund for the design, environmental work, and right-of-way acquisition for a road connecting Rose Park Lane to Redwood Road at 2600 North in Salt Lake City.

SOCIAL SERVICES

DEPARTMENT OF HUMAN SERVICES

Item 342
To Department of Human Services –
Suicide Prevention and Education Fund
From General Fund Restricted –
Concealed Weapons Account 43,500
From General Fund Restricted –
Concealed Weapons Account,
One-Time 2,000,000
Schedule of Programs:
Suicide Prevention and
Education Fund 2,043,500

To implement the provisions of *Conceal Carry Firearms Amendments* (House Bill 60, 2021 General Session).

DEPARTMENT OF WORKFORCE SERVICES

Item 343
To Department of Workforce Services –
Olene Walker Low Income Housing
From General Fund, One-Time 500,000
Schedule of Programs:
Olene Walker Low Income Housing 500,000

To implement the provisions of *Single-family Housing Modifications* (House Bill 82, 2021 General Session).

NATURAL RESOURCES, AGRICULTURE, AND ENVIRONMENTAL QUALITY

DEPARTMENT OF AGRICULTURE AND FOOD

Item 344
To Department of Agriculture and Food – Dept.
Agriculture and Food Laboratory Equip. Fund
From Dedicated Credits Revenue 118,200
Schedule of Programs:
Dept. Agriculture and Food
Laboratory Equip. Fund 118,200

To implement the provisions of *Laboratory Equipment Amendments* (House Bill 185, 2021 General Session).

DEPARTMENT OF ENVIRONMENTAL QUALITY

Item 345
To Department of Environmental Quality –
Waste Tire Recycling Fund
From Waste Tire Recycling Fund 209,300
Schedule of Programs:
Waste Tire Recycling Fund 209,300

To implement the provisions of *Waste Tire Recycling Amendments* (House Bill 236, 2021 General Session).

Subsection 2(c). Business-like Activities. The Legislature has reviewed the following proprietary funds. Under the terms and conditions of Utah Code 63J-1-410, for any included Internal Service Fund, the Legislature approves budgets, full-time permanent positions, and capital acquisition amounts as indicated, and appropriates to the funds, as indicated, estimated revenue from rates, fees, and other charges. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated.

EXECUTIVE OFFICES AND CRIMINAL JUSTICE

ATTORNEY GENERAL

Item 346
To Attorney General – ISF – Attorney General
From Dedicated Credits Revenue 168,300
Schedule of Programs:
Civil Division 168,300
Budgeted FTE 1.0

Item 347
To Attorney General – ISF – Attorney General
From Dedicated Credits Revenue ..... (50,400)
From Dedicated Credits Revenue,
One-Time 17,200
Schedule of Programs:
Criminal Division ..... (33,200)

To implement the provisions of *Criminal Justice Modifications* (House Bill 260, 2021 General Session).

Item 348
To Attorney General – ISF – Attorney General
From Dedicated Credits Revenue 21,800
From Dedicated Credits Revenue,
One-Time 17,400
Schedule of Programs:
Civil Division 39,200
Budgeted FTE 0.3

To implement the provisions of *Soil Health Amendments* (House Bill 296, 2021 General Session).

Item 349
To Attorney General – ISF – Attorney General
From Dedicated Credits Revenue 67,100
Schedule of Programs:
Civil Division 67,100
Budgeted FTE 0.3

To implement the provisions of *Economic Development Amendments* (House Bill 348, 2021 General Session).

Item 350
To Attorney General – ISF – Attorney General
From Dedicated Credits Revenue,
One–Time 201,200
Schedule of Programs:
Civil Division 201,200
Budgeted FTE 1.0

To implement the provisions of *State Agency Realignment* (House Bill 365, 2021 General Session).

Item 351
To Attorney General – ISF – Attorney General
From Dedicated Credits Revenue 30,200
Schedule of Programs:
Civil Division 30,200
Budgeted FTE 0.2

To implement the provisions of *Hemp Regulation Amendments* (Senate Bill 39, 2021 General Session).

Item 352
To Attorney General – ISF – Attorney General
From Dedicated Credits Revenue 50,300
Schedule of Programs:
Civil Division 50,300
Budgeted FTE 0.3

To implement the provisions of *Utah Main Street Program* (Senate Bill 194, 2021 General Session).

UTAH DEPARTMENT OF CORRECTIONS

Item 353
To Utah Department of Corrections – Utah Correctional Industries
From GFR Public Safety and Firefighter Tier II Retirement Benefits Account 1,400
Schedule of Programs:
Utah Correctional Industries 1,400

INFRASTRUCTURE AND GENERAL GOVERNMENT

DEPARTMENT OF GOVERNMENT OPERATIONS

Item 354
To Department of Government Operations – Human Resources Internal Service Fund
From General Fund, One–Time 49,000
Schedule of Programs:
Administration 49,000

To implement the provisions of *Workforce Solutions for Air Quality Amendments* (Senate Bill 15, 2021 General Session).

Item 355
To Department of Government Operations – Human Resources Internal Service Fund
Budgeted FTE 129.0
Authorized Capital Outlay 1,500,000

To implement the provisions of *Department of Government Operations* (Senate Bill 181, 2021 General Session).

DEPARTMENT OF GOVERNMENT OPERATIONS - ISF

Item 356
To Department of Government Operations – ISF – Division of Fleet Operations
From General Fund, One–Time 21,000
Schedule of Programs:
ISF – Fuel Network 21,000

To implement the provisions of *Storage Tanks Amendments* (Senate Bill 40, 2021 General Session).

Item 357
To Department of Government Operations – ISF – Division of Finance
From Dedicated Credits Revenue 149,400
Schedule of Programs:
ISF – Purchasing Card 149,400
Budgeted FTE 2.5

To implement the provisions of *Department of Government Operations* (Senate Bill 181, 2021 General Session).

Item 358
To Department of Government Operations – ISF – Division of Purchasing and General Services
Budgeted FTE 97.3
Authorized Capital Outlay 4,070,000

To implement the provisions of *Department of Government Operations* (Senate Bill 181, 2021 General Session).

Item 359
To Department of Government Operations – ISF – Division of Fleet Operations
Budgeted FTE 41.0
Authorized Capital Outlay 21,000,000

To implement the provisions of *Department of Government Operations* (Senate Bill 181, 2021 General Session).

Item 360
To Department of Government Operations – ISF – Risk Management
From General Fund, One–Time 7,636,300
From Dedicated Credits Revenue 482,600
From Premiums 6,235,200
From Interest Income 6,100
From Other Financing Sources 113,900
Schedule of Programs:
ISF – Risk Management Administration 482,600
ISF – Workers' Compensation 728,300
Risk Management – Property 5,336,200
Risk Management – Liability 7,927,000
Budgeted FTE 32.0
Authorized Capital Outlay 750,000

To implement the provisions of *Department of Government Operations* (Senate Bill 181, 2021 General Session).

Item 361
To Department of Government Operations – ISF – Division of Facilities Construction and Management – Facilities Management
From Dedicated Credits Revenue 3,540,200
Schedule of Programs:
ISF – Facilities Management 3,540,200

Budgeted FTE 162.0
Authorized Capital Outlay 396,600

To implement the provisions of *Department of Government Operations* (Senate Bill 181, 2021 General Session).

Item 362
To Department of Government Operations – ISF – Enterprise Technology Division
From Dedicated Credits Revenue 100,900
Schedule of Programs:
ISF – Enterprise Technology Division .. 100,900
Budgeted FTE 730.6
Authorized Capital Outlay 6,000,000

To implement the provisions of *Department of Government Operations* (Senate Bill 181, 2021 General Session).

DEPARTMENT OF HUMAN RESOURCE MANAGEMENT

Item 363
To Department of Human Resource Management – Human Resources Internal Service Fund
Budgeted FTE ..... (129.0)
Authorized Capital Outlay ..... (1,500,000)

To implement the provisions of *Department of Government Operations* (Senate Bill 181, 2021 General Session).

DEPARTMENT OF ADMINISTRATIVE SERVICES INTERNAL SERVICE FUNDS

Item 364
To Department of Administrative Services Internal Service Funds – Division of Facilities Construction and Management – Facilities Management
From Dedicated Credits Revenue .... (3,540,200)
Schedule of Programs:
ISF – Facilities Management ..... (3,540,200)
Budgeted FTE ..... (162.0)
Authorized Capital Outlay ..... (396,600)

To implement the provisions of *Department of Government Operations* (Senate Bill 181, 2021 General Session).

Item 365
To Department of Administrative Services Internal Service Funds – Division of Finance
From Dedicated Credits Revenue ..... (149,400)
Schedule of Programs:
ISF – Purchasing Card ..... (149,400)
Budgeted FTE ..... (2.5)

To implement the provisions of *Department of Government Operations* (Senate Bill 181, 2021 General Session).

Item 366
To Department of Administrative Services Internal Service Funds – Division of Fleet Operations
Budgeted FTE ..... (41.0)
Authorized Capital Outlay ..... (21,000,000)

To implement the provisions of *Department of Government Operations* (Senate Bill 181, 2021 General Session).

Item 367
To Department of Administrative Services Internal Service Funds – Division of Purchasing and General Services
Budgeted FTE ..... (97.3)
Authorized Capital Outlay ..... (4,070,000)

To implement the provisions of *Department of Government Operations* (Senate Bill 181, 2021 General Session).

Item 368
To Department of Administrative Services Internal Service Funds – Risk Management
From General Fund, One-Time ..... (7,636,300)
From Dedicated Credits Revenue ..... (482,600)
From Premiums ..... (6,235,200)
From Interest Income ..... (6,100)
From Other Financing Sources ..... (113,900)
Schedule of Programs:
ISF – Risk Management Administration ..... (482,600)
ISF – Workers' Compensation ..... (728,300)
Risk Management – Liability ..... (7,927,000)
Risk Management – Property ..... (5,336,200)
Budgeted FTE ..... (32.0)
Authorized Capital Outlay ..... (750,000)

To implement the provisions of *Department of Government Operations* (Senate Bill 181, 2021 General Session).

DEPARTMENT OF TECHNOLOGY SERVICES INTERNAL SERVICE FUNDS

Item 369
To Department of Technology Services Internal Service Funds – Enterprise Technology Division
From Dedicated Credits Revenue ..... (100,900)
Schedule of Programs:
ISF – Enterprise Technology Division ..... (100,900)
Budgeted FTE ..... (730.6)
Authorized Capital Outlay ..... (6,000,000)

To implement the provisions of *Department of Government Operations* (Senate Bill 181, 2021 General Session).

Subsection 2(d). Restricted Fund and Account Transfers. The Legislature authorizes the State Division of Finance to transfer the following amounts between the following funds or accounts as indicated. Expenditures and outlays from the funds to which the money is transferred must be authorized by an appropriation.

EXECUTIVE OFFICES AND CRIMINAL JUSTICE

Item 370
To General Fund Restricted – Indigent Defense Resources Account
From General Fund 1,000,000
From General Fund, One-Time 1,000,000
From Revenue Transfers ..... (1,000,000)
From Revenue Transfers, One-Time ..... (1,000,000)

Item 371
To Colorado River Authority of Utah Restricted Account

From General Fund 600,000
From General Fund, One-Time 9,000,000
From Revenue Transfers ..... (600,000)
From Revenue Transfers,
One-Time ..... (9,000,000)

To implement the provisions of *Colorado River Amendments* (House Bill 297, 2021 General Session).

SOCIAL SERVICES

Item 372
To Emergency Medical Services System Account
From General Fund 500,000
Schedule of Programs:
Emergency Medical Services
System Account 500,000

Item 373
To Psychiatric Consultation Program Account
From General Fund 47,800
Schedule of Programs:
Psychiatric Consultation
Program Account 47,800

To implement the provisions of *Child Mental Health Amendments* (House Bill 337, 2021 General Session).

Item 374
To Statewide Behavioral Health Crisis Response Account
From General Fund 15,903,100
From General Fund, One-Time ..... (8,955,900)
Schedule of Programs:
Statewide Behavioral Health
Crisis Response Account 6,947,200

To implement the provisions of *988 Mental Health Crisis Assistance* (Senate Bill 155, 2021 General Session).

HIGHER EDUCATION

Item 375
To Performance Funding Restricted Account
From Education Fund 6,324,000
From Education Fund, One-Time .... (6,324,000)

To implement the provisions of *Higher Education Performance Funding* (Senate Bill 193, 2021 General Session).

NATURAL RESOURCES, AGRICULTURE, AND ENVIRONMENTAL QUALITY

Item 376
To General Fund Restricted - Invasive Species Mitigation Account
From General Fund, One-Time 1,000,000
Schedule of Programs:
General Fund Restricted - Invasive
Species Mitigation Account 1,000,000

PUBLIC EDUCATION

Item 377
To Uniform School Fund Restricted - Public Education Economic Stabilization Restricted Account
From Education Fund ..... (127,100,000)
From Education Fund, One-Time ... 127,100,000
From Uniform School Fund 127,100,000
From Uniform School Fund,
One-Time ..... (127,100,000)

Subsection 2(e). Transfers to Unrestricted Funds. The Legislature authorizes the State Division of Finance to transfer the following amounts to the unrestricted General Fund, Education Fund, or Uniform School Fund, as indicated, from the restricted funds or accounts indicated. Expenditures and outlays from the General Fund, Education Fund, or Uniform School Fund must be authorized by an appropriation.

INFRASTRUCTURE AND GENERAL GOVERNMENT

Item 378
To General Fund
From Nonlapsing Balances - From Department of Government Operations - Finance - Mandated - Emergency Disease Response 12,500,000
Schedule of Programs:
General Fund, One-time 12,500,000

The Legislature intends that $12.5 m in fiscal year 2021 General Fund appropriations to the Department of Administrative Services - Finance Mandated - Emergency Disease Response line item that are reflected as fiscal year 2022 Beginning Nonlapsing Balances in the Department of Government Operations - Finance Mandated - Emergency Disease Response in accordance with Department of Government Operations (Senate Bill 181, 2021 General Session) lapse to the General Fund in fiscal year 2022.

Subsection 2(f). Capital Project Funds. The Legislature has reviewed the following capital project funds. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated.

INFRASTRUCTURE AND GENERAL GOVERNMENT

CAPITAL BUDGET

Item 379
To Capital Budget - Capital Development Fund
From General Fund, One-Time 30,000,000
From Prison Project Fund,
One-Time 110,000,000
Schedule of Programs:
Capital Development Fund 140,000,000

The Legislature intends that, should appropriations for construction of the prison not be necessary to complete the project, the Division of Facilities Construction and Management transfer up to $110,000,000 from the Prison Project Fund to the Capital Projects Fund for construction of a new North building at the capitol hill complex.

Item 380
To Capital Budget - DFCM Capital Projects Fund
From General Fund, One-Time ..... (153,800)

From Education Fund, One-Time .... (3,846,200)
Schedule of Programs:
DFCM Capital Projects Fund ..... (4,000,000)

The Legislature intends that the Division of Facilities and Construction Management not expend funds appropriated in FY 2022 for the construction of a higher education capital development project until the Utah Board of Higher Education demonstrates, by providing a written report to the Executive Appropriations Committee and the Division of Facilities and Construction Management, that the institution of higher education at which the higher education capital development project is located offers students substantially equal opportunities to attend courses in-person as the institution of higher education offered before transitioning in-person courses to online or virtual in Spring 2020.

Notwithstanding intent language in Senate Bill 2, Item 243, 2021 General Session, the Legislature intends that the Division of Facilities Construction and Management (DFCM) may use the money appropriated in Senate Bill 2, Item 243, and this item to pay for costs of a capital development project approved by the Legislature in the 2021 General Session that exceed the amount appropriated for the project, but not to exceed four percent more than the amount appropriated for the project. The Legislature further intends that if the estimated completion cost of an approved project exceeds 104 percent of the amount appropriated for the project, that the DFCM director report the estimated cost to the Executive Appropriations Committee and receive the committee's recommendation before proceeding with the project.

Section 3. FY 2022 Appropriations Limit Formula.

The state appropriations limit for a given fiscal year, FY, shall be calculated by

$$ApporpLimit_{FY} = PerCapitaBase_{1985} \times Pop_{FY-2} \times Inflate_{FY-2} \times SumAdjust_{FY}$$

, where:

(a) $$Inflate_{Base} = \frac{GNPIndex_{vintage,1983}}{GNPIndex_{vintage,1989}} = \frac{(100.8+101.7+102.5+103.3)/4}{(121.9+123.3+124.5+125.9)/4} = \frac{102.075}{123.900}$$

(b) $$Inflate_{FY-2} = \frac{GNPIndex_{FY-2}}{GNPIndex_{1983}} \times Inflate_{Base}$$

(c) $$PerCapitaBase_{1985} = \frac{Appropriations_{1985} - Debt_{1985}}{Pop_{1983} \times Inflate_{Base}} = \frac{734,333,000 - 52,273,100}{1,594,943 \times \left(\frac{102.075}{123.900}\right)}$$

(d) $$SumAdjust_{FY} = \sum_{i=1985}^{FY} \left[Adjust_i \times \left(\frac{Inflate_{FY-2}}{Inflate_{i-2}} \right) \times \left(\frac{Pop_{FY-2}}{Pop_{i-2}} \right) \right]$$

(e) as used in the state appropriations limit formula:

(i) i is a variable representing a given fiscal year;

(ii) $Adjust_i$ is the net adjustments to the state appropriations limit for a given fiscal year due to program or service adjustments, as required under Section 63J-3-203;

(iii) $Appropriations_{1985}$ is the state capital and operations appropriations from the General Fund and non-Uniform School fund in fiscal year 1985;

(iv) $Debt_{1985}$ is the amount the state paid in debt payments in fiscal year 1985;

(v) $GNPIndex_{FY-2}$ is the average of the quarterly values of the Gross National Product Implicit Price Deflator for the fiscal year two fiscal years before FY, as published by the United States Federal Reserve by January 31 of each year;

(vi) $GNPIndex_{vintage,i}$ is the average of the quarterly values of the Gross National Product Implicit Price Deflator for a given fiscal year, as measured by the Gross National Product Implicit Price Deflator from the vintage series published by the United States Department of Commerce on January 26, 1990;

(vii) $Inflate_{i-2}$ is the change in the general price level of goods and services nationally from 1983 to two fiscal years before a given fiscal year, as measured by the most current Gross National Product Implicit Price Deflator series published by the United States Federal Reserve, adjusted to a 1989 basis;

(viii) $PerCapitaBase_{1985}$ is the amount of real per capita state appropriations for fiscal year 1985; and

(ix) Pop_{i-2} is:

(A) the population as of July 1 in the fiscal year two fiscal years before a given fiscal year, as estimated by the United States Census Bureau by January 31 of each year; or

(B) if the estimate described in Subsection (3)(e)(ix)(A) is not available, an amount determined by the Governor's Office of Management and Budget, estimated by adjusting an available April 1 decennial census count or by adjusting a fiscal year population estimate available from the United States Census Bureau.

Section 4. Effective Date.

If approved by two-thirds of all the members elected to each house, Section 1 of this bill takes effect upon approval by the Governor, or the day following the constitutional time limit of Utah Constitution Article VII, Section 8 without the Governor's signature, or in the case of a veto, the date of override. Section 2 and Section 3 of this bill take effect on July 1, 2021.

Resolutions

passed at the

General Session

of the

Sixty-Fourth Legislature

2021

H.C.R. 1
Passed February 18, 2021
Approved February 25, 2021
Effective February 25, 2021

CONCURRENT RESOLUTION ENCOURAGING A BALANCED APPROACH TO THE RELEASE OF WATER FROM FLAMING GORGE

Chief Sponsor: Scott H. Chew
Senate Sponsor: David P. Hinkins

LONG TITLE

General Description:

This concurrent resolution expresses support and recognition of the Green River Stakeholders and the need to reduce the adverse effects of current Flaming Gorge Dam operations to the local communities, recreational businesses, ranchers, farmers, landowners, and individuals who work and live within the river corridor.

Highlighted Provisions:

This resolution:

- describes the Green River Stakeholders and their concerns associated with the management of the Flaming Gorge Dam;
- describes an alternative method of managing the Flaming Gorge Dam;
- describes the need for investigations and cooperative discussions related to management of the Flaming Gorge Dam; and
- supports the creation of a new management plan.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:

WHEREAS, the "Green River Stakeholders" is a group of local communities, recreational businesses, ranchers, farmers, landowners, and individuals who work and live within the river corridor associated with the Flaming Gorge Dam and who are adversely affected by the current methods employed by the Western Area Power Administration, the Upper Colorado River Endangered Fish Recovery Program, and ultimately the Bureau of Reclamation because of releases of water from the Flaming Gorge Dam;

WHEREAS, the Green River Stakeholders, wishing to reduce the physical and economic impacts of current river flow management, propose an alternative method of protecting the endangered fish species, while complying with Section 7 of the Endangered Species Act, thus preserving the balance that has been desired in the Upper Colorado River Basin water rights discussions;

WHEREAS, the Green River Stakeholders, from the dam to the confluence of the Colorado River, propose partnerships with private landowners that provide for private landowner benefits, such as compensation or shore recovery, and that also provide for recovery of endangered fish in the river so that the fish would no longer be listed as endangered;

WHEREAS, the benefits of these partnerships with private landowners can be achieved with more predictable flushes of the Green River each year, allowing the local stakeholders to support and enhance the Upper Colorado River Endangered Fish Recovery Program;

WHEREAS, the economic impact to the communities along the entire length of the Green River is affected by the daily operations of the Flaming Gorge Dam dictated by the Bureau of Reclamation as guided by the 2006 "Record of Decision";

WHEREAS, current flow requirements have resulted in what may be unintended but are real consequences of the current management plan such as erosion of banks, issues with sediment, the sub-saturation of private land due to high water levels, and floods over banks of the Green River whenever highwater flows occur;

WHEREAS, it is essential that the government and private stakeholders participate in an investigation of how to mitigate the harms of the highwater releases to address the environment, recreation, and economic impacts related to these releases;

WHEREAS, private landowners may demonstrate loss of private property as erosion creates a dynamic stream bed along the river corridor, which has impacts such as recreation by the public on the sandbanks created by the erosion and on the adjacent private land and the loss of agricultural viability of the land;

WHEREAS, the amount of water that is bypassed through the dam system without going through turbines constitutes missed opportunities for producing low cost and carbon free power; and

WHEREAS, a new management plan for the Flaming Gorge Dam should be developed in the near future and would benefit from input from a diverse group of stakeholders, including local communities, recreational businesses, ranchers, farmers, and individuals who work and live within the river corridor associated with the Flaming Gorge Dam:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, supports the creation of a new management plan that allows stakeholders to participate in the development and implementation of the plan and provides a balanced approach to the release of water from the Flaming Gorge Dam.

BE IT FURTHER RESOLVED that a copy of the resolution be sent to the Commissioner for the Bureau of Reclamation, the director of the Upper Colorado River Endangered Fish Recovery Program, the administrator and CEO of the Western Area Power Administration, and the executive director of the Department of Natural Resources.

H. C. R. 2
Passed February 24, 2021
Approved March 9, 2021
Effective March 9, 2021

CONCURRENT RESOLUTION ON EFFECT OF FEDERAL LAND VALUATION MODEL

Chief Sponsor: Keven J. Stratton
Senate Sponsor: Lincoln Fillmore

LONG TITLE

General Description:

This concurrent resolution clarifies the lack of impact that a federal land valuation model has on greenbelt valuations.

Highlighted Provisions:

This resolution:

- addresses a federal land valuation model developed for the purpose of determining the fair market value of federal land in the state to demonstrate the inadequacy of money the state receives from the federal government as payments in lieu of taxes;
- describes the value of the federal land valuation model;
- distinguishes between the purpose and use of the federal land valuation model and the purpose and use of schedules for determining the value of greenbelt land; and
- affirms that the federal land valuation model does not and will not impact the determination of greenbelt land values.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:

WHEREAS, while Utah appreciates every dollar of money received from the federal government under the Payment in Lieu of Taxes (PILT) program, the harsh reality is that PILT money the federal government pays is substantially less than the amount the state would receive if PILT payments reflected the amount of property tax that would be generated from that land if it were taxed based on its true market value;

WHEREAS, accurately and persuasively determining the fair market value of federal land within the state is an important step in demonstrating the discrepancy between what the state would receive if federal land generated taxes based on the land's fair market value and what the federal government actually pays in PILT;

WHEREAS, the Federalism Commission was charged with overseeing the development of a federal land valuation model to provide a reliable and accurate tool for determining the market value of federal land within the state for purposes of demonstrating the inadequacy of PILT money received from the federal government;

WHEREAS, under the direction of the Federalism Commission a software program, or federal land valuation model, for determining the market value of federal land within the state was developed;

WHEREAS, this federal land valuation model is an effective tool for determining the fair market value of federal land within the state;

WHEREAS, the model does not value and is not intended to be used to value land in the state other than federal land;

WHEREAS, as allowed under the Utah Constitution, the Farmland Assessment Act, commonly referred to as the greenbelt law, provides for land used for agricultural purposes to be assessed on the basis of its value for agricultural use rather than at full market value;

WHEREAS, the State Tax Commission has developed complex rules under the greenbelt law to guide county assessors in their assessment of greenbelt land, and those rules require the Property Tax Division to update and publish schedules to determine the taxable value of greenbelt land;

WHEREAS, the Property Tax Division schedules are based in part on an annually updated university study relating to the different types of agricultural land and their value and are not related to the valuation of federal land in the state;

WHEREAS, the Property Tax Division has determined that: greenbelt land is valued and assessed based on its productive value for agricultural use without regard to the value the land may have for any other purpose; the model developed under the Federalism Commission's direction seeks to estimate the market value of federal land and estimates a very different value than the values determined under the Property Tax Division schedules for greenbelt land; and the federal land valuation model will not have any impact on the determination of greenbelt values in the state; and

WHEREAS, the Legislature, the Governor concurring therein, wants to dispel any concerns about the federal land valuation model having any impact on the valuation of agricultural land for greenbelt purposes:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, affirms that the federal land valuation model, developed under the direction of the Federalism Commission, is intended only to assist the state in establishing the fair market value of federal land within the state for purposes of demonstrating the inadequacy of PILT money received from the federal government and should not and will not be used in a way that has any impact on the valuation of land for purposes of the greenbelt law.

H. C. R. 6
Passed February 3, 2021
Approved February 15, 2021
Effective February 15, 2021

CONCURRENT RESOLUTION RECOGNIZING COVID-19 EFFORTS

Chief Sponsor: Raymond P. Ward
Senate Sponsor: Ann Millner

LONG TITLE

General Description:

This concurrent resolution recognizes and thanks the individuals who provide accurate data and information to the Legislature, the Governor, and Utah citizens in relation to the spread of COVID-19.

Highlighted Provisions:

This resolution:

- recognizes the widespread threat of COVID-19; and
- recognizes the admirable efforts of individuals in Utah's state and local health departments that provide the Legislature, the Governor, and all Utahns with timely and trusted information to address the threat.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:

WHEREAS, the COVID-19 pandemic has threatened the lives and livelihoods of Utahns old and young, healthy and feeble, wealthy and poor, and of every racial, ethnic, and cultural background;

WHEREAS, this deadly threat has required the production and dissemination of timely, accurate, and nuanced public health information;

WHEREAS, many individuals in the state's Department of Health and 13 county health departments have worked tirelessly to produce, publish, and promote accurate information in a manner that is understandable and practical for preventing the transmission of COVID-19;

WHEREAS, these individuals include:

- the state epidemiologist;
- state and local health department directors;
- local epidemiologists;
- contact tracers;
- data analysts;
- web designers;
- communication specialists; and
- public information officers;

WHEREAS, the provided information has allowed not only public health officials and healthcare providers, but also everyday Utahns, to identify individuals and communities at greatest risk of harm and economic displacement, and take appropriate steps to mitigate the risks; and

WHEREAS, the Legislature, the Governor, and county and city officials have used the same information to monitor the spread of COVID-19 and craft appropriate responses to preserve and safeguard the public health and maintain Utah's economy:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, express gratitude and thanks to the many unsung heroes in Utah's state and county health departments who have admirably provided Utahns with timely, trusted information, adding a measure of clarity in very unsettled times.

H. C. R. 7
Passed January 19, 2021
Approved January 21, 2021
Effective January 21, 2021

CONCURRENT RESOLUTION RECOGNIZING THE PUBLIC SERVICE OF REPRESENTATIVE LAWANNA LOU SHURTLIFF

Chief Sponsor: Carol Spackman Moss
Senate Sponsor: Ann Millner

LONG TITLE

General Description:

This concurrent resolution recognizes the public service of Representative LaWanna "Lou" Shurtliff.

Highlighted Provisions:

This resolution:

- recognizes the public service of Representative LaWanna "Lou" Shurtliff; and
- expresses appreciation for LaWanna "Lou" Shurtliff's many contributions to the state of Utah and deep sympathy at her passing.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:

WHEREAS, LaWanna Miles "Lou" Shurtliff was born in 1935 in the small Star Valley community of Smoot, Wyoming;

WHEREAS, during her childhood years LaWanna "Lou" Shurtliff learned the value of hard work, spending time on her grandpa's farm attending to farm duties such as milking cows, tending sheep, feeding the chickens, gathering eggs, and hauling hay;

WHEREAS, LaWanna "Lou" Shurtliff graduated from Star Valley High School in 1953 and graduated from Utah State University in 1957 with a degree in Business and a minor in English;

WHEREAS, in 1957 LaWanna "Lou" Shurtliff married Robert Hadley Shurtliff, and together they established a beautiful home in Roy, Utah;

WHEREAS, LaWanna "Lou" Shurtliff fostered many long-lasting relationships while pursuing a variety of interests. She was a wonderful

seamstress, played with a bridge club for over 60 years, played Mahjong, was an avid golfer and bowler, and loved to travel with her husband and friends, including escorting Ogden High seniors on their annual trip to Hawaii;

WHEREAS, LaWanna "Lou" Shurtliff taught English at Roy Junior High School and went on to teach Business and Accounting at Ogden High School for 28 years;

WHEREAS, LaWanna "Lou" Shurtliff was an advocate for her students both inside and outside the classroom;

WHEREAS, LaWanna "Lou" Shurtliff served as president of the Ogden Education Association, director of the Utah Education Association, and member of the National Education Association;

WHEREAS, LaWanna "Lou" Shurtliff served in the Utah House of Representatives, representing District 10, from 1999 to 2008 and again from 2019 until her death in December 2020, having just won reelection to another term;

WHEREAS, LaWanna "Lou" Shurtliff had a keen mind and a gift for developing relationships with representatives on both sides of the aisle and was loved and respected by legislators throughout the state;

WHEREAS, LaWanna "Lou" Shurtliff was a political mentor for elected officials and other people in her life and inspired people, young and old, to be more involved in bettering their community. She led by example with her steadfast commitment to her principles and by her personal touch, especially her candor and infectious laugh;

WHEREAS, LaWanna "Lou" Shurtliff was a member of The Church of Jesus Christ of Latter-day Saints, was a beloved teacher, and served in many positions serving the youth and women for many years;

WHEREAS, LaWanna "Lou" Shurtliff was deeply involved in the Ogden community, was a member of the Richards Institute of Ethics, the Social Sciences Advisory Council of Weber State University, the Ogden Weber ATC Foundation, the Ogden City School Board Foundation, the Junior League of Ogden, and Arts International;

WHEREAS, LaWanna "Lou" Shurtliff received the Alumni Merit Award from Utah State University, the Lieutenant Governor's Volunteer Recognition Certificate for her work with the Weber County League of Women Voters, the Lewis W. Shurtliff Award for Contributions to Education, the Utah Domestic Violence Council Award, the Weber County Commission's Hero Award, and the Golden Apple Award for Teaching Excellence, and was a member of the Order of the Pearl Kappa Delta Sorority and was on the Utah Education Association Honor Roll;

WHEREAS, a good friend stated that "Lou gave back to her community in such a way most people can only aspire to. Whether it was fighting for Utah schools, domestic violence victims, funding the George E. Wahlen Ogden Veterans Home, or protecting the Ogden Nature Center, the footprint she left on her community is one of giants"; and

WHEREAS, LaWanna "Lou" Shurtliff passed away on December 30, 2020:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, recognizes the many years of dedicated public service of LaWanna "Lou" Shurtliff to the people of the state of Utah, expresses great appreciation for her many contributions to the state, and expresses deep sympathy to her family, friends, and constituents at her passing.

BE IT FURTHER RESOLVED that a copy of this resolution be sent to the children and siblings of LaWanna "Lou" Shurtliff.

H. C. R. 8
Passed February 25, 2021
Approved March 9, 2021
Effective March 9, 2021

CONCURRENT RESOLUTION ON EDUCATION

Chief Sponsor: Karianne Lisonbee
Senate Sponsor: John D. Johnson
Cosponsors: Cheryl K. Acton
Carl R. Albrecht
Brady Brammer
Walt Brooks
Steve R. Christiansen
Joel Ferry
Francis D. Gibson
A. Cory Maloy
Jefferson Moss
Michael J. Petersen
Val L. Peterson
Candice B. Pierucci
Susan Pulsipher
Adam Robertson
Mike Schultz
Mark A. Strong
Jordan D. Teuscher
Norman K. Thurston
Steve Waldrip
Ryan D. Wilcox

LONG TITLE

General Description:

This concurrent resolution addresses issues relating to the education of children.

Highlighted Provisions:

This resolution:

- reaffirms that the state is secondary to and supportive of the primary role of a parent in educating the parent's children; and
- recognizes the importance of flexibility in education schedules and systems and commits to support options for parents and children.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:

WHEREAS, Section 62A-4a-201 of the Utah Code establishes that under "both the United States Constitution and the constitution of this state, a parent possesses a fundamental liberty interest in the care, custody, and management of the parent's children";

WHEREAS, Section 62A-4a-201 also states that a parent has the "right, obligation, responsibility, and authority" to educate the parent's children;

WHEREAS, the law also makes clear that the state's role in education is "secondary and supportive to the primary role of a parent";

WHEREAS, Utah's Public and Private Education Systems have demonstrated their ability to provide, and the importance of, flexibility in education schedules and systems and of adapting to different learning styles;

WHEREAS, Section 53G-6-204 fully exempts a child from compulsory education if the child's parent elects to enroll the child in private school or to home school the child;

WHEREAS, "pandemic pods," private schools, home schools, tutors, and other alternative educational systems have provided families additional options to support their child's education during the ongoing COVID-19 pandemic;

WHEREAS, state law regarding education should be accommodating of different learning options and family preferences, and always be "secondary and supportive" to the parent's decision; and

WHEREAS, parents and families are best served when they have many options from which to choose to match educational opportunities to the specific needs and interests of their children:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, reaffirms that the state of Utah is secondary and supportive to the primary role of a parent in educating the parent's children.

BE IT FURTHER RESOLVED that the Legislature, the Governor concurring therein, recognizes the importance of flexibility in education schedules and systems and commits to continue to support options for parents and children.

H. C. R. 9
Passed March 1, 2021
Approved March 17, 2021
Effective March 17, 2021

CONCURRENT RESOLUTION ENCOURAGING DEVELOPMENT OF A STATEWIDE ANTI-LITTERING CAMPAIGN

Chief Sponsor: Cheryl K. Acton
Senate Sponsor: Wayne A. Harper

LONG TITLE

General Description:

This concurrent resolution addresses littering in Utah and encourages the creation of a statewide, long-term anti-littering campaign.

Highlighted Provisions:

This resolution:

- recognizes the impact that littering has on our communities and environment;
- addresses the benefits to implementing a statewide, long-term anti-littering campaign;
- recognizes the opportunity to inform manufacturers, distributors, packagers, and retailers on ways they can help prevent littering; and
- encourages the Department of Transportation, Department of Natural Resources, Department of Environmental Quality, the Utah Association of Counties, and the Utah League of Cities and Towns to work with area experts and interested stakeholders to explore the creation of a statewide, long-term anti-littering campaign.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:

WHEREAS, Utah is universally recognized as a place rich in natural scenic beauty, with wetlands, forests, and alpine and desert biomes;

WHEREAS, Utah is home to over three million residents and more than 600 species of mammals, birds, fish, reptiles, and amphibians, and annually hosts millions of visitors, all of whom would benefit from renewed dedication to the cleanliness of our lands and waterways;

WHEREAS, trash, from plastic and paper cups, drink bottles and cans, snack wrappers, straws, plastic shopping bags, and other consumer waste line many of our streets and highways, lakes and rivers, and is scattered across parks, open spaces, and private properties creating visual blight, habitat disruption, and other harmful effects on humans, domestic animals, and wildlife;

WHEREAS, trash on the streets can clog storm water drains, exacerbate street flooding during storm events, choke waterways, and create other harmful impacts and pollution in rivers and lakes;

WHEREAS, the approximate annual cost to clean up litter on state highways in Utah has increased each year between 2016 and 2020 with the costs for 2020 being in excess of $2.5 million and these costs do not include similar costs for local highways and will likely continue to increase as the population in Utah increases if Utah does not pursue active measures to address littering;

WHEREAS, the Division of Wildlife Resources has found that littering on public lands is becoming a problem;

WHEREAS, the environmental cleanup of litter, once it has entered the storm water system, is far more costly than the preventive efforts through civic engagement and public awareness campaigns;

WHEREAS, a long-term anti-litter campaign provides a meaningful opportunity to clean up Utah's land and water;

WHEREAS, Utah has not had a coordinated anti-littering campaign since the 1990s - the "Don't Waste Utah" campaign;

WHEREAS, over the 30 continuous years since its launch, the "Don't Mess With Texas" anti-litter campaign has become an iconic expression of community and culture with signs dotting the highways and byways of the state, with friendly community "Trash-Off" clean up competitions across the state, and with businesses proudly brandishing the "Don't Mess With Texas" brand alongside their own;

WHEREAS, for the past four decades, New Mexico's anti-litter campaign, "Toss No Mas," has evolved through local and regional movements in many New Mexico communities to receive statewide support for the initiative;

WHEREAS, working unitedly for a clean environment is a solution in which every resident and visitor to Utah can participate;

WHEREAS, the impacts of litter particularly are not just about cleanliness and beautification, but have an important environmental effect as well;

WHEREAS, there is tremendous opportunity to work in partnership with manufacturers, distributors, packagers, and retailers to address the sources of much of our litter, exploring innovative and creative ways to reduce single-use disposable packaging and containers; and

WHEREAS, a long-term anti-littering campaign will increase pride in Utah by encouraging residents and visitors to be mindful of litter and its effects:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, encourages the Department of Transportation, the Department of Natural Resources, the Department of Environmental Quality, the Utah Association of Counties, and the Utah League of Cities and Towns to work with area experts and interested stakeholders to explore the creation of a statewide, long-term anti-littering campaign that addresses littering by residents and visitors and the negative impact that littering has on our environment, communities, and health.

BE IT FURTHER RESOLVED that a copy of this resolution be sent to the Department of Transportation, the Department of Natural Resources, the Department of Environmental Quality, the Utah Association of Counties, and the Utah League of Cities and Towns.

H. C. R. 11
Passed March 5, 2021
Approved March 17, 2021
Effective March 17, 2021

CONCURRENT RESOLUTION RECOGNIZING UTAH'S CLERKS AND ELECTION WORKERS FOR THEIR PERFORMANCE RELATED TO UTAH'S 2020 ELECTION

Chief Sponsor: Joel K. Briscoe
Senate Sponsor: Gene Davis

LONG TITLE

General Description:

This concurrent resolution recognizes the success of the 2020 election.

Highlighted Provisions:

This resolution:

- recognizes Utah's increase in voter turnout in the 2020 election; and
- recognizes the invaluable function that election workers provide to Utah.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:

WHEREAS, Utah had over 1.6 million registered voters during the 2020 election;

WHEREAS, Utah had the highest voter turnout in over 60 years with 90% of active registered voters casting a ballot in the 2020 election;

WHEREAS, Utah had the second highest increase in voter turnout in the nation from 2016-2020;

WHEREAS, over 92% of Utah voters cast a by-mail ballot;

WHEREAS, every signature of every voter is checked on vote-by-mail ballots by election officials to safeguard the system against fraud;

WHEREAS, centralized supervision of ballot processing in county clerks' offices maintains uniformity and strict compliance with laws throughout the state;

WHEREAS, elections are the foundation of our democracy and election officials work tirelessly to protect this critical infrastructure while maintaining public confidence in the outcome of our electoral processes;

WHEREAS, the COVID-19 pandemic has created complexities in the administration of elections requiring election officials to conduct accurate and timely elections while protecting the safety of election workers and the voting public:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, recognizes the efforts of Utah's county and municipal clerks to ensure the success of the 2020 election;

BE IT FURTHER RESOLVED that the Legislature of the state of Utah, the Governor

concurring therein, extends its appreciation and admiration for the election officials and workers of this state and the vital services that they perform in conducting this state's elections; and

BE IT FURTHER RESOLVED that a copy of this resolution be sent to the Utah Municipal Clerks Association, the Utah County Clerk and Auditor Association, the Utah League of Cities and Towns, the Utah Association of Counties, and the lieutenant governor's office.

H. C. R. 12
Passed March 5, 2021
Approved March 22, 2021
Effective March 22, 2021

CONCURRENT RESOLUTION ENCOURAGING COOPERATIVE ACTION REGARDING NATIONAL MONUMENTS

Chief Sponsor: Carl R. Albrecht
Senate Sponsor: David P. Hinkins

LONG TITLE

General Description:

This concurrent resolution encourages the President to work cooperatively with the state's congressional delegation, the state's legislative and executive branches, local communities, and tribes on action regarding national monuments.

Highlighted Provisions:

This resolution:

- outlines the state's stewardship of lands;
- addresses the federal government's creation of federal monuments in the state; and
- encourages the Biden administration to work with state leaders to create permanent solutions to the issues raised by federal monuments.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:

WHEREAS, the state is a wise steward of the land and is committed to conservation and continued recreational access for hunters, anglers, campers, and other recreationists, as well as allowing for productive uses, including agriculture, timber production, and energy and natural resource development, and traditional/historical uses like those of tribes;

WHEREAS, Utah, local residents, and tribes value the culturally and historically significant artifacts and sites in the state;

WHEREAS, Utah was the first state to provide state-managed resource management plans -- signaling Utah's commitment to responsible management;

WHEREAS, the state and federal government share interests, along with the tribes, in preserving sensitive areas and artifacts, in creating a balanced approach to managing national monuments, and in responsibly developing resources on public lands;

WHEREAS, for an extended period of time, Utah has been the center of controversial and divisive unilateral national monument decisions;

WHEREAS, although Utah's congressional delegation and many state and local leaders publicly opposed the designation of the Bears Ears National Monument, in December 2016, President Obama designated the Bears Ears National Monument, limiting public access to 1.35 million acres in San Juan County and affecting over 100,000 acres of land held by the School and Institutional Trust Lands Administration to which Utah should have a legal right to access;

WHEREAS, the Grand Staircase-Escalante National Monument was created in 1996 by President Clinton without input or support from Garfield or Kane counties, their citizens, their public officials, or the state legislature and without consideration of roads, local economies, customs, culture, and heritage;

WHEREAS, the designation of Utah lands as monuments has reduced the ability of the state to actively manage for land health issues such as vegetation treatments, erosion control, water management, grazing management, wildlife management activities, fire management, and invasive plant control;

WHEREAS, the tourism economy that national monuments create fails to offset the negative financial impacts of reduced natural resources related jobs and the state's ability to manage lands for future economic growth;

WHEREAS, Utah has an interest in protecting Utah's lands in a way that also protects the economy, development, custom, culture, heritage, educational opportunities, health, and well-being of local communities;

WHEREAS, both Grand Staircase-Escalante National Monument and Bears Ears National Monument were reduced in size in 2017, and new management plans have been written accordingly;

WHEREAS, President Biden issued an executive order on his first day in office calling for a study of enlarging both monuments;

WHEREAS, changing the size of these national monuments every four to eight years does not help anyone, particularly those whose life and livelihood are tied to the land;

WHEREAS, the nation, state, and tribes will benefit from a unified effort to address management of Utah's land;

WHEREAS, the only way to provide long-term stable management solutions is through federal legislation that includes returning broad land designation authority in Utah to Congress in consultation with the state legislature;

WHEREAS, legislation has the advantage of being able to provide solutions that a Presidential Proclamation under the Antiquities Act cannot,

such as addressing needs for education, interpretation, and enforcement;

WHEREAS, legislative solutions may promote greater innovation;

WHEREAS, the state legislature should work cooperatively with the federal delegation regarding the details of any land-related legislative action; and

WHEREAS, the state desires to find a collaborative, broadly supported, and long-term solution to the question of national monuments in Utah, including Grand Staircase-Escalante and Bears Ears National Monuments:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the State of Utah, the Governor concurring therein, encourages President Biden to work with Utah's congressional delegation, the state's legislative and executive branches, local communities, and the tribes to develop a long-term, sustainable solution.

BE IT FURTHER RESOLVED that copies of this resolution be sent to Utah's congressional delegation and the President of the United States.

H. C. R. 13
Passed March 2, 2021
Approved March 11, 2021
Effective March 11, 2021

CONCURRENT RESOLUTION REGARDING THE BRIDAL VEIL FALLS AREA

Chief Sponsor: Keven J. Stratton
Senate Sponsor: Curtis S. Bramble
Cosponsors: Nelson T. Abbott
Carl R. Albrecht
Brady Brammer
Walt Brooks
Jefferson S. Burton
Kay J. Christofferson
Francis D. Gibson
Marsha Judkins
A. Cory Maloy
Merrill F. Nelson
Val L. Peterson
Adam Robertson
Douglas R. Welton

LONG TITLE

General Description:

This concurrent resolution encourages the Division of Parks and Recreation to evaluate options for designating the Bridal Veil Falls area as a state monument or state park.

Highlighted Provisions:

This resolution:

- recognizes the beauty of the Bridal Veil Falls area and its use by thousands of visitors for sightseeing and recreation;
- acknowledges the efforts taken by Utah County to preserve and protect the Bridal Veil Falls area;
- acknowledges the Division of Parks and Recreation's expertise in managing Utah's state parks and recreation opportunities;
- discusses the Division of Parks and Recreation's plans for evaluating the options for improving and maintaining the Bridal Veil Falls area; and
- calls upon the Division of Parks and Recreation to present an analysis of the advantages and challenges of designating the Bridal Veil Falls area as a state monument, and alternatively as a state park, to the Natural Resources, Agriculture, and Environment Interim Committee.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:

WHEREAS, the Bridal Veil Falls area is one of Utah's most spectacular and beautiful natural waterfalls, conveniently located in Provo Canyon and easily accessible from both the Wasatch Front and the Heber Valley;

WHEREAS, each year thousands of visitors enjoy sightseeing and recreating at the Bridal Veil Falls area;

WHEREAS, Utah County has taken steps to preserve the public's ability to use and enjoy the Bridal Veil Falls area, including acquiring property around the falls;

WHEREAS, Utah County has set aside nearly $2 million to improve trails and safety at the Bridal Veil Falls area, and legislative efforts are being taken to secure additional funding to match the money set aside by Utah County;

WHEREAS, the Division of Parks and Recreation hosts millions of visitors each year at Utah's state parks and is the state's expert on recreation;

WHEREAS, the Division of Parks and Recreation is skilled at managing recreation services, hosting visitors, planning recreational opportunities, funding recreation, and developing recreation experiences, facilities, and programs throughout Utah;

WHEREAS, the Division of Parks and Recreation plans to conduct a feasibility study in coordination with Utah County to determine the costs associated with improving the visitor experience and resolving safety concerns at the Bridal Veil Falls area; and

WHEREAS, the Division of Parks and Recreation also plans to prepare an operations plan for the Bridal Veil Falls area that will include details regarding staffing needs, funding required for fixed and variable costs, and ongoing maintenance funding:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, intends to create either a state monument or a state park at the Bridal Veil Falls

area with Utah County's approval and the support of Provo City.

BE IT FURTHER RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, recognizes and appreciates the efforts by Utah County and the Division of Parks and Recreation to preserve and improve the Bridal Veil Falls area as a premier recreation and sightseeing destination.

BE IT FURTHER RESOLVED that the Legislature and the Governor express their appreciation for the Division of Parks and Recreation for being the state's leader in outdoor recreation.

BE IT FURTHER RESOLVED that the Legislature and the Governor applaud the Division of Parks and Recreation's plan to conduct a feasibility study and to prepare an operational plan for the Bridal Veil Falls area.

BE IT FURTHER RESOLVED that the Legislature and the Governor call on the Division of Parks and Recreation to use the information from the division's planned feasibility study and operations plan to prepare proposals evaluating the advantages and challenges of designating the Bridal Veil Falls area as a state monument, and alternatively as a state park.

BE IT FURTHER RESOLVED that the Legislature and the Governor call on Utah County, Provo City, and other stakeholders to cooperate with the Division of Parks and Recreation in the division's evaluation of the options for designating the Bridal Veil Falls area as a state monument, and alternatively as a state park.

BE IT FURTHER RESOLVED that the Legislature and the Governor suggest that the Division of Parks and Recreation submit proposals regarding the designation of the Bridal Veil Falls area as a state monument, and alternatively as a state park, to the Natural Resources, Agriculture, and Environment Interim Committee during the fall of 2021.

BE IT FURTHER RESOLVED that the Legislature and the Governor look forward to working with the Division of Parks and Recreation, Utah County, and Provo City to determine the best option for improving recreation opportunities at the Bridal Veil Falls area and for showcasing the unique beauty of the Bridal Veil Falls area to sightseers throughout Utah and the world.

BE IT FURTHER RESOLVED that a copy of this resolution be delivered to the Utah County Commission, Provo City Council, Provo City Mayor, the Division of Parks and Recreation, and the members of Utah's congressional delegation.

H. C. R. 15
Passed March 5, 2021
Approved March 22, 2021
Effective March 22, 2021

CONCURRENT RESOLUTION EMPHASIZING THE IMPORTANCE OF CIVICS EDUCATION

Chief Sponsor: V. Lowry Snow
Senate Sponsor: Ann Millner

LONG TITLE

General Description:

This bill recognizes the critical role of an engaged and informed citizenry in a healthy democratic government and the importance of civics education in preparing students with the tools necessary for civic engagement.

Highlighted Provisions:

This resolution:

- recognizes the vital role of civic engagement and the importance of informed and engaged citizens in a healthy democratic government;
- emphasizes the importance of teaching critical thinking and civic engagement tools to the next generation of citizens;
- outlines the current civics education requirements for students; and
- encourages state and education leaders and others interested in civics education to review how civics education is taught in Utah's public education system.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:

WHEREAS, the United States of America was established nearly 245 years ago and recognized by Abraham Lincoln in 1863 as a "government of the people, by the people, for the people";

WHEREAS, the United States Constitution is the foundational document for the nation's system of government;

WHEREAS, the United States Constitution includes a system of checks and balances for and among the three branches of the federal government;

WHEREAS, one of the pillars of a functioning and healthy democratic government is informed and engaged citizens;

WHEREAS, a robust understanding of the nation's system of government and the role of civic engagement in a functioning and healthy democratic government is particularly important in a deeply partisan and divided political climate;

WHEREAS, to preserve our republic, it is vital that civic engagement tools be taught to each succeeding generation of Americans;

WHEREAS, the Utah Core State Standards for Social Studies include standards for United States Government and Citizenship, and local education agencies determine how to teach those standards;

WHEREAS, Utah public high school students must take a half-credit U.S. Government and Citizenship course as a requirement for graduation;

WHEREAS, public school students in Utah are currently required to take a basic civics test prior to graduating, which includes questions used by the United States Citizenship and Immigration Services, or an alternative assessment;

WHEREAS, H.B. 334, enacted during the 2020 General Session and defunded during a subsequent Special Session, created a civics engagement pilot program requiring students in the pilot districts to complete a civics engagement project – aligned with the coursework for the U.S. Government and Citizenship course and the state's core standards – as a condition for receiving a high school diploma;

WHEREAS, it has been demonstrated through national data that there is a lack of basic knowledge and functional understanding about our system of government, both nationally and in Utah;

WHEREAS, this lack of knowledge and understanding is reflected in the current political environment, which is marked by a perpetual and pervasive stream of political rhetoric and content delivered through various media platforms, including social media, some of which is neither credible nor accurate;

WHEREAS, there is a need to prepare students with the tools necessary to evaluate and analyze the information being disseminated constantly through media channels, including social media platforms;

WHEREAS, Utah's students should be taught skills in constructive civil debate, critical thinking, media literacy, evaluating the credibility of sources, and recognizing the dangers of the dissemination of misinformation and sowing distrust in fundamental civic institutions;

WHEREAS, there is a need to prepare students to understand the right of free speech along with the right to peaceably assemble, including for the purpose of lawful protest; and

WHEREAS, parents and families can also provide important lessons through word and example about being informed and engaged citizens:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, hereby call for a renewed emphasis on civics education and teaching the skills necessary for students to become better educated and prepared to become the next generation of engaged citizens.

BE IT FURTHER RESOLVED that the Legislature and Governor encourage those who are interested and informed in civics education, potentially including legislators, Utah State Board of Education officials, educators, civic-minded leaders, journalists, other state education leaders, parents, and additional parties to work together as part of an informal working group to review how civics education is taught in Utah's public education system, and invite them to share what they have learned – along with any recommendations – with state education leaders, including the Legislature and the Governor.

H. C. R. 17
Passed March 5, 2021
Approved March 17, 2021
Effective March 17, 2021

CONCURRENT RESOLUTION RECOGNIZING AUGUST 31 AS OVERDOSE AWARENESS DAY

Chief Sponsor: Steve Eliason
Senate Sponsor: David G. Buxton

LONG TITLE

General Description:

This concurrent resolution declares August 31 as Overdose Awareness Day.

Highlighted Provisions:

This resolution:

- recognizes the impact of overdose on the state;
- describes the importance of recognizing Overdose Awareness Day; and
- declares August 31 as Overdose Awareness Day, and urges Utahns to remember, raise awareness, and do their part to support those impacted by overdose.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:

WHEREAS, International Overdose Awareness Day aims to raise awareness of overdose, to reduce the stigma surrounding overdose related fatalities, and to remember those who have died or suffered as a result of overdose;

WHEREAS, communities across our state continue to be impacted by overdose related fatalities, as well as by the struggles of loved ones with substance use disorders and mental health disorders;

WHEREAS, International Overdose Awareness Day is a global event recognized with local events and by lowering of the flag at all state buildings to half staff;

WHEREAS, the state of Utah has recognized the dire nature of the opioid crisis placing Utah as high as fourth in the nation for overdose fatalities;

WHEREAS, overdose claimed the lives of 495 Utahns in 2019;

WHEREAS, Utah has had widespread efforts from the Legislature, state agencies, the medical community, community-based organizations, the recovery community, first responders, and individual community members to recognize and act in this time of crisis; and

WHEREAS, through directed efforts such as implementation of naloxone education and access, broad opioid awareness and education campaigns, peer support services, access to treatment, and implementation of crisis receiving centers, the death toll is decreasing, and Utah is now one of only a few states with a decreasing overdose death rate:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, declares August 31 as Overdose Awareness Day and joins in the nationwide movement to raise awareness, reduce stigma, and remember those lost to overdose.

BE IT FURTHER RESOLVED that the Legislature and the Governor encourage citizens of Utah to observe Overdose Awareness Day as a time to remember, raise awareness, and do their part to be kind and supportive of those impacted in this manner.

BE IT FURTHER RESOLVED that a copy of this resolution be sent to the Lieutenant Governor for recognition of Overdose Awareness Day.

H. C. R. 18
Passed March 5, 2021
Approved March 17, 2021
Effective March 17, 2021

CONCURRENT RESOLUTION SUPPORTING EXTENSION AND EXPANSION OF THE RADIATION EXPOSURE COMPENSATION ACT

Chief Sponsor: Doug Owens
Senate Sponsor: Evan J. Vickers

LONG TITLE

General Description:

This concurrent resolution addresses the Radiation Exposure Compensation Act.

Highlighted Provisions:

This resolution:

- addresses the Radiation Exposure Compensation Act;
- discusses history of health effects from radiation exposure;
- discusses legislative statements related to past radiation exposure;
- outlines congressional efforts to extend and expand the Radiation Exposure Compensation Act; and
- supports congressional efforts to extend and expand the Radiation Exposure Compensation Act.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:

WHEREAS, Congress enacted the Radiation Exposure Compensation Act (RECA) in 1990 and broadened the act's scope in 2000 to provide compensation for the devastating and deadly health effects and the grave injustice inflicted upon unsuspecting civilians by exposure to radiation from fallout from atmospheric nuclear weapons tests and by exposures from working in the uranium industry;

WHEREAS, RECA was a bi-partisan bill, sponsored by Representative Wayne Owens and Senator Orrin Hatch and included amongst the compensation provisions eligibility for compensation for downwinders with certain cancers who lived in a limited number of counties in Utah, Nevada, and Arizona during specified years;

WHEREAS, the RECA terminates in 2022 and the RECA Trust Fund terminates after July 10, 2022, and claims not filed within 22 years after July 10, 2000, will be barred;

WHEREAS, over 23,000 downwinder claims, 4,749 onsite participant claims, and 8,785 uranium workers for compensation under RECA have been approved, according to the Congressional Research Service (2020), with 278 claims pending as of January 7, 2020;

WHEREAS, studies of the numbers of premature deaths due to fallout exposure from United States atmospheric nuclear weapons testing vary widely, but amount to tens to hundreds of thousands;

WHEREAS, people throughout Utah and neighboring western states have suffered and continue to suffer serious health consequences from exposure to fallout from past explosive nuclear testing;

WHEREAS, the Legislature has acknowledged the harms experienced by Utahns as the result of nuclear testing, for example:

(1) in 2001, the 54th Legislature of the state of Utah voted in support of H.C.R. 1, Resolution for a Day of Remembrance, marking the 50th anniversary of the beginning of nuclear testing at the Nevada Test Site, recognizing that "many Utahns and many other citizens of the United States of America living downwind of those tests suffered as a result of being 'active participants' in the nation's nuclear testing program"; and

(2) in 2010, the House of Representatives of the 58th Legislature of the state of Utah voted in support of H.R. 4, Resolution Urging Ratification of the Comprehensive Nuclear Test Ban Treaty, recognizing that "past nuclear weapons testing at the Nevada Test Site has devastated the health and livelihoods of thousands of Utahns";

WHEREAS, some of the highest recorded and documented exposures to fallout from some tests were in portions of Montana, Idaho, and northern Utah, which are not covered by RECA;

WHEREAS, bills sponsored by members of both parties have been introduced in both the United States House of Representatives and the Senate to extend and expand RECA in past sessions of Congress;

WHEREAS, a recent congressional bill proposed to extend the time for filing of claims under RECA for an additional 23 years (through 2045) and increase compensation for downwinders from $50,000 to $150,000;

WHEREAS, examples of other changes proposed by congressional legislation include:

(1) the geographical eligibility for compensation for exposure to atmospheric atomic testing to cover all of Utah, Arizona, Colorado, Idaho, Montana, Nevada, and New Mexico;

(2) geographical eligibility to cover persons present during atmospheric testing in the Pacific;

(3) to create a special geographical category for compensation of individuals physically present for two years in the area of the Trinity Test in New Mexico from June 30, 1945, until August 19, 1958; and

(4) to create eligibility for compensation for those present during the cleanup of Enewetak Atoll; and

WHEREAS, two bills to expand and extend RECA have been filed in the United States House of Representatives, H.R. 612 and H.R. 538, and there is every expectation that similar bi-partisan legislation will also be filed in 2021:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, supports congressional legislative efforts to extend and expand RECA.

BE IT FURTHER RESOLVED that copies of this resolution be sent to the Utah congressional delegation, the speaker of the United States House of Representatives, the majority leader of the United States Senate, and the President of the United States of America.

H. C. R. 19
Passed March 4, 2021
Approved March 22, 2021
Effective March 22, 2021

CONCURRENT RESOLUTION RECOGNIZING FARMERS FEEDING UTAH

Chief Sponsor: Scott H. Chew
Senate Sponsor: Luz Escamilla
Cosponsors: Cheryl K. Acton
Carl R. Albrecht
Melissa G. Ballard
Gay Lynn Bennion
Joel K. Briscoe
Walt Brooks
Steve R. Christiansen
Clare Collard
Jennifer Dailey-Provost
Joel Ferry
Matthew H. Gwynn
Stephen G. Handy
Suzanne Harrison
Sandra Hollins
Marsha Judkins
Michael L. Kohler
Karen Kwan
Rosemary T. Lesser
Carol Spackman Moss
Jefferson Moss
Calvin R. Musselman
Merrill F. Nelson
Doug Owens
Michael J. Petersen
Stephanie Pitcher
Mike Schultz
Rex P. Shipp
Casey Snider
V. Lowry Snow
Robert M. Spendlove
Andrew Stoddard
Keven J. Stratton
Jordan D. Teuscher
Raymond P. Ward
Christine F. Watkins
Elizabeth Weight
Ryan D. Wilcox
Brad R. Wilson

LONG TITLE

General Description:
This concurrent resolution addresses the Farmers Feeding Utah program.

Highlighted Provisions:
This resolution:
- outlines past difficulties for Utah's resilient agriculture community and Utah families;
- describes the creation of the Farmers Feeding Utah program; and
- recognizes the Farmers Feeding Utah program and its benefits to Utah.

Special Clauses:
None

Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:

WHEREAS, agriculture has always been a vital part of Utah's communities and culture;

WHEREAS, the trials of the year 2020 and COVID-19 showcased the resilience of Utah's agricultural community;

WHEREAS, Utah farmers and ranchers were no different than farmers and ranchers across the nation who were faced with difficulties of getting their products processed and delivered to market;

WHEREAS, many farmers and ranchers faced the very real possibility of the farmer's or rancher's products spoiling, ending up in a landfill, or being dumped onto the ground like many dairy farmers had to do;

WHEREAS, at the same time, many Utah families faced financial difficulties, many for the first time, and the state experienced a 300% increase in food assistance;

WHEREAS, the Utah Farm Bureau, which has been a part of Utah since Utah was a fledging state, has as the Utah Farm Bureau's mission to "Inspire all Utah Families to connect, succeed and grow through the Miracle of Agriculture";

WHEREAS, the Utah Farm Bureau partnered with Utah State University Extension and the university's Create Better Health Program and Hunger Solutions Institution to form the Farmers Feeding Utah program;

WHEREAS, the Farmers Feeding Utah is a program of the Miracle of Agriculture Foundation;

WHEREAS, the Miracle of Agriculture Foundation has partnered with local law enforcement to distribute food to families in need at events such as the recent "Cops & Crops" Thanksgiving Miracle Project in Weber County;

WHEREAS, this partnership created a way to facilitate the delivery of Utah produced food from Utah farmers and ranchers to Utah families in need;

WHEREAS, to date, Farmers Feeding Utah has raised more than $800,000, enabling them to deliver more than 1 million pounds of Utah produced food to 20,000 Utah families and over 24 food pantries throughout the state;

WHEREAS, the Navajo Nation, one of the hardest hit areas of the United States, was one of the first to receive Farmers Feeding Utah attention with deliveries of hundreds of live sheep along with food to the devastated residents;

WHEREAS, Farmers Feeding Utah was proactive in finding a way to both sustain Utah farmers and ranchers, as well as families throughout the state; and

WHEREAS, this process has helped unify communities through volunteer service and donation opportunities:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, recognizes the Farmers Feeding Utah program as a grassroots effort to care for the needs of Utah families that exemplifies the generous and caring spirit of Utah's farmers and ranchers, and consequently showcasing Utah Farm Bureau's mission of connecting Utah families with Utah's agriculture.

BE IT FURTHER RESOLVED that a copy of the resolution be sent to the Utah Farm Bureau, the Utah State University Extension, the Create Better Health Program, the Hunger Solutions Institution, and the Miracle of Agriculture Foundation.

H. C. R. 20
Passed March 5, 2021
Approved March 17, 2021
Effective March 17, 2021

CONCURRENT RESOLUTION SUPPORTING CREATION OF THE UTAH STATE UNIVERSITY INSTITUTE OF LAND, WATER, AND AIR

Chief Sponsor: Casey Snider
Senate Sponsor: Scott D. Sandall

LONG TITLE

General Description:

This resolution acknowledges Utah State University's dedication to research and community engagement throughout the state and commends the university's Institute of Land, Water, and Air for the institute's work in preserving and improving the quality of the state's land, water, and air.

Highlighted Provisions:

This resolution:

- recognizes Utah State University's dedication to research and community engagement throughout the state, including through the work of Utah State University Extension;
- highlights the past and current commitment of Utah State University in protecting and preserving the state's public lands;
- acknowledges that Utah State University is a long-standing national leader in research on agriculture, natural resources, and physical science; and
- commends the university for creating the Institute of Land, Water, and Air to promote research related to preserving and improving the quality of the state's land, water, and air.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:

WHEREAS, Utah State University is the land grant university for the state of Utah;

WHEREAS, federal legislation dictates that teaching, research, and extension are the three functional pillars of land grant institutions, and Utah State University's stated mission is to serve the public through learning, discovery, and community engagement;

WHEREAS, research and discovery have historically been and continue to be distinguishing characteristics of Utah State University, dating back to the creation of Utah Agricultural Experiment Station operations in 1890;

WHEREAS, a core characteristic of Utah State University is engagement with communities and individuals to stimulate economic development, improve quality of life, and prioritize development of human capital throughout the state of Utah;

WHEREAS, Utah State University's dedication to communities and individuals throughout Utah is exemplified by the university's creation and operation of the Utah Cooperative Extension Service, founded in 1914 and later renamed Utah State University Extension;

WHEREAS, Utah State University Extension provides research-based programs and resources, disseminates practical information, provides opportunities for university faculty and staff to engage with and learn from community members and leaders in each of Utah's 29 counties, offers educational opportunities through satellite facilities located throughout the state, and facilitates the creation of relationships and partnerships between members of the university,

public and private entities, and citizens of the state of Utah;

WHEREAS, Utah State University is a long-standing national leader in agriculture, natural resources, and physical and life sciences;

WHEREAS, public lands make up approximately 74.4% of the state of Utah, totaling approximately 40.4 million acres;

WHEREAS, Utah provides unparalleled opportunities for outdoor recreational activities and hosts an impressive array of scenic landscapes;

WHEREAS, the state of Utah has continuously demonstrated its commitment to and interest in the state's water quality, air quality, and public land protection and preservation;

WHEREAS, over the last 130 years, Utah State University has proved to be a key partner with the state of Utah in establishing quality research and scientific study in Utah, especially in areas related to land, water, and air;

WHEREAS, the Utah Research Water Lab, the Utah Climate Center, the Center for Colorado River Studies, the Utah Cooperative Fish and Wildlife Research Unit, and the Institute of Outdoor Recreation and Tourism are each located at Utah State University;

WHEREAS, over 140 Utah State University faculty members are currently engaged in academic scholarship and research related to the study and improvement of land, water, and air; and

WHEREAS, Utah State University has a demonstrated history of providing integral data to state agencies, such as the Division of Wildlife Resources, the Division of Forestry, Fire, and State Lands, the Division of Water Quality, and the Division of Air Quality:

NOW, THEREFORE, BE IT RESOLVED that the Legislature, the Governor concurring therein, support and celebrate Utah State University President Noelle E. Cockett and the Utah State University Board of Trustees in creating, developing, and operating the Institute of Land, Water, and Air, which will deliver a collaborative annual report to the Governor and the Legislature on the state of Utah's natural resources.

BE IT FURTHER RESOLVED that the Legislature, the Governor concurring therein, support the mission of the Institute of Land, Water, and Air to promote effective and practical research related to the preservation and quality improvement of land, water, and air, and to engage community and policy leaders in critical and productive conversations regarding these important topics.

H. C. R. 21
Passed March 2, 2021
Approved March 22, 2021
Effective March 22, 2021

CONCURRENT RESOLUTION RECOGNIZING THE 100TH YEAR ANNIVERSARY OF THE DEPARTMENT OF AGRICULTURE AND FOOD

Chief Sponsor: Michael L. Kohler
Senate Sponsor: David P. Hinkins

LONG TITLE

General Description:

This concurrent resolution recognizes and expresses appreciation to the Department of Agriculture and Food.

Highlighted Provisions:

This resolution:

- outlines the history of the Department of Agriculture and Food;
- addresses the many roles of the Department of Agriculture and Food and how these roles benefit the state; and
- recognizes the Department of Agriculture and Food at its 100th anniversary.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:

WHEREAS, the Department of Agriculture and Food's roots date back to the year of Utah's statehood when the 1896 Legislature formed the State Board of Horticulture;

WHEREAS, the Utah Legislature combined several agencies in 1921 to form the Department of Agriculture;

WHEREAS, the responsibility of the Department of Agriculture and Food is to facilitate the production, processing, distribution, and marketing of agricultural products by the private sector and to ensure that consumers have access to high-quality and wholesome food products;

WHEREAS, the Department of Agriculture and Food fulfills its mission to protect and promote agriculture by raising public awareness and demand for Utah agriculture and food products;

WHEREAS, the Department of Agriculture and Food serves Utah's farmers, ranchers, and food producers as they provide Utah with safe and delicious food, build our economy, and conserve our beautiful mountain valleys and desert landscapes;

WHEREAS, the Department of Agriculture and Food's mission is to promote the healthy growth of Utah agriculture, conserve its natural resources, and protect its food supply;

WHEREAS, agriculture is a critical part of Utah's economy and culture with millions of acres in farm and ranch production and over a billion dollars in cash receipts;

WHEREAS, Utah agriculture producers and processors account for more than 20% of the state's gross domestic product;

WHEREAS, agriculture workers are categorized as essential in emergency declarations and continued to work through the recent pandemic shutdown in spite of obvious health risks;

WHEREAS, agriculture benefits the environment through agriculture's ability to sequester carbon;

WHEREAS, the Department of Agriculture and Food provides food safety oversight and consumer protection of agricultural products and services;

WHEREAS, the Department of Agriculture and Food provides regulatory oversight to ensure product quality, accuracy of labeling, and equity in the marketplace;

WHEREAS, the Department of Agriculture and Food provides oversight to prevent and control animal disease and assure animal health on the range and in our food supply;

WHEREAS, the Department of Agriculture and Food provides oversight to preserve and protect Utah's soil and water for the betterment of Utah agriculture and its people;

WHEREAS, the Department of Agriculture and Food supports and provides continuing agriculture education throughout the state;

WHEREAS, the Department of Agriculture and Food has additional duties such as weights and measures and the regulation of bedding, upholstered furniture, and quilted clothing inspection; and

WHEREAS, the Department of Agriculture and Food is well positioned to serve Utah for the next 100 years:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, recognizes the Department of Agriculture and Food for the tremendous impact the department has had on driving agriculture and food commerce over the last 100 years, assuring a safe and secure food supply, and leading out on the conservation of critical open lands for food production, wildlife habitat, healthy watersheds, and the sustainability of our natural resources.

BE IT FURTHER RESOLVED that a copy of this resolution be sent to the Department of Agriculture and Food.

H. C. R. 22
Passed March 5, 2021
Approved March 17, 2021
Effective March 17, 2021

CONCURRENT RESOLUTION CELEBRATING THE CONTRIBUTIONS OF MULTILINGUAL AND MULTICULTURAL FAMILIES TO UTAH SCHOOLS

Chief Sponsor: Dan N. Johnson
Senate Sponsor: Daniel W. Thatcher
Cosponsors: Cheryl K. Acton
Melissa G. Ballard
Clare Collard
Jennifer Dailey-Provost
Sandra Hollins
Marsha Judkins
Karen Kwan
Rosemary T. Lesser
Ashlee Matthews
Carol Spackman Moss
Michael J. Petersen
Angela Romero
Norman K. Thurston
Christine F. Watkins
Mark A. Wheatley
Mike Winder

LONG TITLE

General Description:

This concurrent resolution of the Legislature and the Governor recognizes the contributions of multilingual and multicultural families to Utah's schools and recognizes the state's previous support for Utah's multilingual and multicultural families.

Highlighted Provisions:

This resolution:

- celebrates the contributions of multilingual and multicultural families to Utah's schools and recognizes the state's previous support for Utah's multilingual and multicultural families;
- encourages schools to utilize the "Parent and Family Engagement" self-reported indicators in the statewide school accountability system to highlight efforts to engage multilingual and multicultural families in conjunction with the federal Title I Compliance Cycle;
- encourages the State Board of Education to expand the "Parent and Family Engagement" sample indicators to include metrics specific to multilingual and newcomer family engagement; and
- encourages the Education Interim Committee to review the information made available through the Statewide School Accountability System regarding multilingual and newcomer family engagement and districts' family engagement policies in 2022.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:

WHEREAS, in 2018 HR 3, the Legislature has previously recognized the value and importance of international and linguistic education for:

1. Utah's "increased global awareness," including an "appreciation for differences among cultures and

a deeper understanding of the values and perspectives of other people";

2. Utah's ability to contribute to a "foreign trade market that international businesses seek out because of the state's workforce";

3. Utah's ability to contribute to "international collaboration that is required to make important breakthroughs in research and technology"; and

4. Utah's students' ability to successfully "seek careers in a global marketplace and enhance understanding of other nations' cultures, values, and beliefs";

WHEREAS, in 2008 SB 41, the Legislature has previously recognized the value of international and linguistic education for Utah's students' overall "academic, societal, and economic development";

WHEREAS, the Legislature has formerly invested in programming to celebrate and expand multilingualism across the state, including through the creation of dual immersion programs, the adoption of a biliteracy seal program, Adult Education English Language Acquisition resources, and software for English Learners;

WHEREAS, native Utahns similarly demonstrate support for multilingualism across the state, through their volunteer work to welcome refugees and newcomers, their acquisition of additional languages through volunteer religious service, and their work as translators and interpreters for both religious and secular organizations;

WHEREAS, as recognized in 2018 HR 3, newcomers and families learning English, similarly to international students, "contribute diversity to local communities, promote understanding of different cultures, and create important worldwide relationships";

WHEREAS, the language proficiency of English Learners and newcomer families is invaluable to our military, churches, and businesses, enabling them to communicate with the world, and extends to over 80 languages, including, Arabic, Amharic, Burmese, Chinese, Farsi, French, Hakha Chin, Karen, Kinyarwanda, Korean, Navajo, Nepali, Oromo, Pashto, Portuguese, Russian, Somali, Spanish, Swahili, Tigrinya, Ukrainian, and Vietnamese;

WHEREAS, 52,788 English Learner students were enrolled in Utah schools in 2021, which is approximately 8% of the total student population;

WHEREAS, newcomers and English Learners continually demonstrate a desire and ability to obtain English proficiency through participation in English as a Second Language classes and programs;

WHEREAS, the state demonstrates a commitment to prioritizing and accurately measuring English Learner progress in the Statewide School Accountability System, weighting English Learner progress as 9% of an elementary school's or middle school's overall score or 6% of a high school's overall score if a school has ten or more English Learners who took the WIDA ACCESS assessment in the current and prior year;

WHEREAS, the Legislature formerly codified the recognition, in Section 53E-2-301, that "parents are a child's first teachers and are responsible for the education of their children," and encourages "family engagement and adequate preparation so that students enter the public education system ready to learn";

WHEREAS, Section 53E-2-201 similarly describes the responsibility of the Legislature, the State Board of Education, local school boards, and charter school governing boards as respecting, protecting, and furthering "the interests of parents in their children's public education" and promoting and encouraging "full and active participation and involvement of parents at all public schools";

WHEREAS, the Utah Parent-Teacher's Association's resolution entitled, "Family Engagement in Education," affirms that "research has shown that the most significant predictor of a student's academic success is parental engagement in the student's education, regardless of socioeconomic status, ethnic/racial background, or parents' educational level";

WHEREAS, multilingual and newcomer families are also their children's first teachers, responsible for the education of their children, and have significant and unique contributions to make to Utah's public school system;

WHEREAS, the Legislature, the State Board of Education, local school boards, and charter school governing boards are obligated to respect, protect, and further the interests of multilingual and newcomer parents in their children's public education, and promote and encourage their full and active participation and involvement in all public schools;

WHEREAS, the Utah public school system has successfully invested in supporting newcomer and multilingual families through the Tumaini Welcome and Transition Center, family engagement centers, family-to-family mentorship programs, school community councils, paraeducators, home visits, and academic parent-teacher teams;

WHEREAS, multilingual and newcomer families contribute rigorously to their children's education and their schools, often overcoming significant barriers to engagement, including:

1. language barriers;

2. lack of familiarity with the United States school systems;

3. lack of formal education;

4. lack of access to digital devices, Internet service, digital literacy, or tech support;

5. varying cultural expectations;

6. limited transportation options;

7. childcare responsibilities; and

8. regular or extended work hours;

WHEREAS, the federal Title I compliance monitoring cycle will measure family engagement in December of 2022; and

WHEREAS, the state of Utah would benefit from a state-wide examination of newcomer and multilingual family engagement practices, particularly if this examination places no additional burden on teachers and administrators due to federal requirements, to identify existing best practices, to identify areas of improvement, and to ensure these families are supported in their efforts to contribute to the public school system:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, hereby celebrates and values the existing contributions of multilingual and newcomer families to Utah's public education system, despite the barriers they face in doing so.

BE IT FURTHER RESOLVED that the Legislature and the Governor recognize the critical importance of multilingual and newcomer family engagement to improving the academic outcomes of multilingual and newcomer students and their ability to contribute to Utah's economy, Utah's society, and follow their own dreams and aspirations.

BE IT FURTHER RESOLVED that the Legislature and the Governor commit to supporting the contributions of multilingual and newcomer families, with similar vigor as the state commits to other multilingual programming and family engagement efforts.

BE IT FURTHER RESOLVED that the Legislature and the Governor encourage all schools to utilize the "Parent and Family Engagement" self-reported indicators of the Statewide School Accountability System during the 2022 cycle, highlighting their efforts to support multilingual and newcomer families.

BE IT FURTHER RESOLVED that the Legislature and the Governor encourage the State Board of Education to expand the "Parent and Family Engagement" sample indicators to include metrics specific to multilingual and newcomer family engagement.

BE IT FURTHER RESOLVED that the Legislature and the Governor encourage the Education Interim Committee to review the information made available through the Statewide School Accountability System regarding multilingual and newcomer family engagement and districts' family engagement policies in 2022.

H. C. R. 23
Passed March 5, 2021
Approved March 17, 2021
Effective March 17, 2021

CONCURRENT RESOLUTION IN SUPPORT OF CRIMINAL JUSTICE RESTORATION AND REFORM

Chief Sponsor: Keven J. Stratton
Senate Sponsor: Kirk A. Cullimore

LONG TITLE

General Description:

This resolution highlights issues related to cost and effectiveness of the criminal justice system.

Highlighted Provisions:

This resolution:

- affirms the important role the criminal justice system plays in keeping our families and communities safe;
- highlights certain harms done by inefficiencies in the criminal justice system; and
- commits to seeking out and implementing criminal justice policies that cut costs while obtaining better outcomes, including eliminating excessive government regulation where inadvertent noncompliance has been deemed a criminal offense.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:

WHEREAS, the purpose of the criminal justice system is to make our communities safer while securing liberty and justice for all in a cost-effective manner;

WHEREAS, a report from the Prison Policy Initiative indicates Utah state prisons and jails currently incarcerate approximately 14,000 people;

WHEREAS, a report from the Annie E. Casey Foundation published in 2016 estimated that from 2011-2012, 44,000 children in the state of Utah had an absent parent due to incarceration;

WHEREAS, the same report notes that having an incarcerated parent contributes significantly to economic instability for the family, and in many instances, has led to a significant increase in child homelessness;

WHEREAS, corrections expenditures are the second fastest growing budget item for states, with over $1.3 billion in taxpayer dollars spent in 2010 on Utah's criminal justice system;

WHEREAS, lengthy prison terms increase recidivism rates for low-level offenders, with more than half of state offenders returning to prison within three years;

WHEREAS, many former offenders often face difficulties seeking gainful employment due to legal restrictions on those with a criminal history, including occupational licensing laws, which leads to increased recidivism rates;

WHEREAS, any government program with a failure rate this high would justifiably prompt serious reconsideration to determine potential efficiencies and areas for reform;

WHEREAS, conservative states, such as Utah, Texas, Alabama, Georgia, Kansas, Mississippi, North Carolina, Ohio, South Carolina, and South Dakota have adopted policies that have been proven to safely reduce incarceration rates, save billions in taxpayer dollars, significantly cut crime rates, and make our communities safer by reducing recidivism and allowing law enforcement to focus on serious and violent offenders; and

WHEREAS, these policies increase personal responsibility, remove government obstacles to putting ex-offenders back to work, and use proven and effective faith-based, educational, and rehabilitative programs which allow these individuals to pursue productive, crime-free lives:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, supports effective criminal justice reforms for nonviolent offenders at the state and federal level that protect our communities, respect crime victims, restore families, safely reduce prison populations, decrease the size and scope of government overreach and spending, and increase transparency and accountability.

BE IT FURTHER RESOLVED that the Legislature, the Governor concurring therein, supports efforts to coordinate with families and faith-based communities, provide substance abuse treatment to addicts, emphasize work and education, remove unnecessary barriers that limit a formerly incarcerated individual from gaining employment and housing, and implement policies that cut costs while obtaining better outcomes.

BE IT FURTHER RESOLVED that the Legislature, the Governor concurring therein, will work to eliminate excessive government regulation where inadvertent noncompliance has been deemed a criminal offense.

H. J. R. 1
Passed February 4, 2021
Effective February 4, 2021

JOINT RESOLUTION RECOGNIZING THE SUCCESS OF THE UTAH MEDICAID ACCOUNTABLE CARE PROGRAM

Chief Sponsor: Norman K. Thurston
Senate Sponsor: Michael S. Kennedy

LONG TITLE

General Description:

This joint resolution recognizes the success of Utah Medicaid's accountable care program.

Highlighted Provisions:

This resolution:

- highlights the history of Utah Medicaid's accountable care program;
- highlights the program's outcomes;
- recognizes the program's success;
- expresses the Legislature's support; and
- commends the Department of Health for its efforts.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah:

WHEREAS, in 2011 the Legislature of the state of Utah unanimously passed S.B. 180, Medicaid Reform, which required the Department of Health to maximize replacement of the Medicaid program's fee-for-service delivery model with one or more risk-based delivery models;

WHEREAS, since January 1, 2013, Medicaid services have been delivered to most program enrollees through risk-based accountable care organizations;

WHEREAS, today the Medicaid program contracts with four accountable care organizations for service delivery;

WHEREAS, during the two decades preceding the creation of accountable care organizations, the rate of growth in state spending for Utah's Medicaid program exceeded the rate of growth of the state's General Fund, raising concerns about the long-term sustainability of the program;

WHEREAS, the Legislature's stated goals for reforming Medicaid service delivery included reducing the rate of spending growth, aligning incentives to promote quality and value, and creating a budget stabilization account funded with reform savings to mitigate funding challenges during economic downturns; and

WHEREAS, as foreseen by the Legislature in 2011, the enactment of S.B. 180 has:

(1) slowed Medicaid spending and aligned the growth rates of Medicaid and the General Fund;

(2) produced a Budget Stabilization Account with an accumulated savings of over seventy million dollars;

(3) increased predictability for state budgeting; and

(4) incentivized the increased delivery of value-added services to Medicaid enrollees and the state through Medicaid accountable care organizations, including customer service, care management, social services and care coordination, standardized quality measurement and improvement programs, value-based payment programs, and provider support services:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, recognizes the successful implementation and accomplishments of Utah Medicaid's accountable care program.

BE IT FURTHER RESOLVED that the Legislature renews its commitment to and support for Utah Medicaid's accountable care program.

BE IT FURTHER RESOLVED that the Legislature commends the Department of Health

and the department's Division of Medicaid and Health Financing for their role in creating, and supporting ongoing efforts to sustain, a successful Medicaid accountable care program.

BE IT FURTHER RESOLVED that a copy of this resolution be sent to the Department of Health and the department's Division of Medicaid and Health Financing.

H. J. R. 3
Passed January 20, 2021
Effective January 20, 2021

JOINT RESOLUTION AUTHORIZING PAY OF IN-SESSION EMPLOYEES

Chief Sponsor: Francis D. Gibson
Senate Sponsor: Evan J. Vickers

LONG TITLE

General Description:

This joint resolution of the Legislature sets the compensation for legislative in-session employees for 2021.

Highlighted Provisions:

This resolution:

- sets the compensation for legislative in-session employees for the 2021 Legislative General Session.

Special Clauses:

This resolution provides retrospective operation to January 1, 2021.

Be it resolved by the Legislature of the state of Utah:

WHEREAS, the Legislature, acting under authority of Section 36-2-2, Utah Code Annotated 1953, is required to set the compensation of its in-session employees by joint resolution:

NOW, THEREFORE, BE IT RESOLVED by the Legislature of the state of Utah that the compensation of the legislative in-session employees for actual hours worked be set as follows:

Employees shall be paid the hourly rate as specified in this resolution.

Employees who are working their first annual general session shall be paid under the "Level 1" scale.

Employees who are working their second annual general session shall be paid under the "Level 2" scale.

Employees who are working their third annual general session shall be paid under the "Level 3" scale.

Employees who are working their fourth annual general session shall be paid under the "Level 4" scale.

Employees who are working their fifth to ninth annual general session shall be paid under the "Level 5" scale.

Employees who are working their 10th to 14th annual general session shall be paid under the "Level 6" scale.

Employees who are working their 15th to 19th annual general session shall be paid under the "Level 7" scale.

Employees who are working their 20th or more annual general session shall be paid under the "Level 8" scale.

Senate employees are designated with an "S." House of Representatives employees are designated with an "H."

The compensation schedule established by this resolution has retrospective operation to January 1, 2021.

Employee Position	Level 1 Wage	Level 2 Wage	Level 3 Wage	Level 4 Wage	Level 5 Wage	Level 6 Wage	Level 7 Wage	Level 8 Wage
Admin. Asst. to Third House (H)	$14.32	$14.68	$15.03	$15.32	$15.42	$16.22	$16.61	$17.04
Amending Clerk (H-S)	$16.13	$16.59	$16.94	$17.32	$17.74	$18.12	$18.53	$18.99
Assistant Page Supervisor (H-S)	$13.97	$14.32	$14.68	$15.06	$15.42	$15.80	$16.22	$16.61
Asst. Sergeant-at-Arms (H-S)	$13.97	$14.32	$14.68	$15.06	$15.42	$15.80	$16.22	$16.61
Calendar/Voting System Specialist (H)	$14.25	$14.68	$15.06	$15.42	$15.80	$15.82	$16.61	$17.04
Committee Secretary (H-S)	$15.58	$15.94	$16.33	$16.67	$17.07	$17.48	$18.12	$18.30
Docket Clerk/Legislative Aide (H-S)	$17.54	$17.99	$18.47	$18.94	$19.44	$19.96	$20.49	$21.01
Reading Clerk (S)	$12.98	$13.29	$13.64	$13.96	$14.32	$14.68	$15.06	$15.42
Kitchen Hostess (H-S)	$12.98	$13.29	$13.64	$13.96	$14.32	$14.68	$15.06	$15.42
IT Technician (S)	$15.82	$16.61	$17.04	$17.48	$17.91	$18.38	$18.87	$19.32
Page (H-S)	$12.98	$13.29	$13.64	$13.96	$14.32	$14.68	$15.06	$15.42
Page Supervisor (H-S)	$15.82	$16.61	$17.04	$17.48	$17.91	$18.38	$18.87	$19.32
Public Information Specialist (H-S)	$12.98	$13.29	$13.64	$13.96	$14.32	$14.68	$15.06	$15.42
Receptionist (H-S)	$12.98	$13.29	$13.64	$13.96	$14.32	$14.68	$15.06	$15.42
Receptionist and Legislative Aide (H-S)	$14.32	$14.68	$15.03	$15.32	$15.42	$16.22	$16.61	$17.04
Audio Specialist (H-S)	$13.61	$13.97	$14.32	$14.68	$15.06	$15.42	$15.80	$16.22
Rules Committee Secretary (H-S)	$16.27	$16.67	$17.08	$17.53	$17.96	$18.42	$18.91	$19.37
Security (H-S)	$12.98	$13.29	$13.64	$13.96	$14.32	$14.68	$15.06	$15.42
Sergeant-at-Arms (H-S)	$15.82	$16.61	$17.04	$17.48	$17.91	$18.38	$18.87	$19.32
Supply/Copy Room Specialist(H)	$12.98	$13.29	$13.64	$13.96	$14.32	$14.68	$15.06	$15.42
Tour Liaison (H-S)	$12.98	$13.29	$13.64	$13.96	$14.32	$14.68	$15.06	$15.42
Video Specialist (H-S)	$12.98	$13.29	$13.64	$13.96	$14.32	$14.68	$15.06	$15.42

The compensation schedule established by this resolution has retrospective operation to January 1, 2021.

H. J. R. 4
Passed January 21, 2021
Effective January 21, 2021

JOINT RESOLUTION APPROVING ACCEPTANCE OF FEDERAL FUNDS

Chief Sponsor: Jefferson Moss
Senate Sponsor: Don L. Ipson

LONG TITLE

General Description:

This joint resolution of the Legislature approves acceptance by the state of Utah of certain federal funds.

Highlighted Provisions:

This resolution:

- approves acceptance by the state of Utah of all federal funds from Public Law 116-260, Consolidated Appropriations Act, 2021.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah:

WHEREAS, on December 27, 2020, following Congressional approval, the President signed into law Public Law 116-260, Consolidated Appropriations Act, 2021;

WHEREAS, Consolidated Appropriations Act, 2021 makes appropriations related to COVID-19 emergency response and relief, including appropriations provided to the states through certain federal agencies;

WHEREAS, under Consolidated Appropriations Act, 2021, the state of Utah is to receive this year federal funds in excess of $10,000,000;

WHEREAS, Section 63J-5-204 of the Utah Code requires that the Legislature approve the state's receipt of new federal funds, if the state will receive total payments of $10,000,000 or more per year from the federal government:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah approves acceptance by the state of Utah of all new federal funds related to COVID-19 emergency response and relief granted to the state of Utah under Public Law 116-260, Consolidated Appropriations Act, 2021.

BE IT FURTHER RESOLVED that a copy of this resolution be sent to Governor Cox and the members of Utah's Congressional delegation.

H. J. R. 5
Passed March 5, 2021
Effective March 5, 2021

JOINT RULES RESOLUTION - TECHNICAL CORRECTIONS

Chief Sponsor: Timothy D. Hawkes
Senate Sponsor: David G. Buxton

LONG TITLE

General Description:

This resolution modifies provisions of joint legislative rules to make technical corrections.

Highlighted Provisions:

This resolution:

- modifies provisions of joint legislative rules to make technical corrections, including eliminating references to repealed rules provisions, eliminating redundant or obsolete language, making minor wording changes, adjusting certain budget deadlines to align with the new general session start date, and correcting errors.

Special Clauses:

None

Legislative Rules Affected:

AMENDS:
JR3-2-402
JR4-1-202
JR4-2-101
JR4-2-102
JR4-2-201
JR4-2-502
JR4-2-505
JR4-3-108
JR4-3-110
JR4-4-202
JR4-4-301
JR5-2-103
JR5-3-101
JR6-1-102
JR6-1-103
JR6-1-201
JR6-1-202
JR6-2-103.5
JR6-2-306
JR7-1-101
JR7-1-310

Be it resolved by the Legislature of the state of Utah:

Section 1. JR3-2-402 is amended to read:

JR3-2-402. Executive appropriations -- Duties -- Base budgets.

(1) (a) The Executive Appropriations Committee shall meet no later than the third Wednesday in December to:

(i) direct staff as to what revenue estimate to use in preparing budget recommendations, to include a forecast for federal fund receipts;

(ii) consider treating above-trend revenue growth as one-time revenue for major tax types and for federal funds;

(iii) hear a report on the historical, current, and anticipated status of the following:

(A) debt;

(B) long term liabilities;

(C) contingent liabilities;

(D) General Fund borrowing;

(E) reserves;

(F) fund balances;

(G) nonlapsing appropriation balances;

(H) cash funded infrastructure investment; and

(I) changes in federal funds paid to the state;

(iv) hear a report on:

(A) the next fiscal year base budget appropriation for Medicaid accountable care organizations according to Section 26-18-405.5;

(B) an explanation of program funding needs;

(C) estimates of overall medical inflation in the state; and

(D) mandated program changes and their estimated cost impact on Medicaid accountable care organizations;

(v) decide whether to set aside special allocations for the end of the session, including allocations:

(A) to address any anticipated reduction in the amount of federal funds paid to the state; and

(B) of one-time revenue to pay down debt and other liabilities;

(vi) approve the appropriate amount for each subcommittee to use in preparing its budget;

(vii) set a budget figure; and

(viii) adopt a base budget in accordance with Subsection (1)(b) and direct the legislative fiscal analyst to prepare one or more appropriations acts appropriating one or more base budgets for the next fiscal year.

(b) In a base budget adopted under Subsection (1)(a), appropriations from the General Fund, the Education Fund, and the Uniform School Fund shall be set as follows:

(i) if the next fiscal year ongoing revenue estimates set under Subsection (1)(a)(i) are equal to or greater than the current fiscal year ongoing appropriations, the new fiscal year base budget is not changed;

(ii) if the next fiscal year ongoing revenue estimates set under Subsection (1)(a)(i) are less than the current fiscal year ongoing appropriations, the new fiscal year base budget is reduced by the same percentage that projected next fiscal year ongoing revenue estimates are lower than the total of current fiscal year ongoing appropriations;

(iii) in making a reduction under Subsection (1)(b)(ii), appropriated debt service shall not be reduced, and other ongoing appropriations shall be reduced, in an amount sufficient to make the total ongoing appropriations, including the unadjusted debt service, equal to the percentage calculated under Subsection (1)(b)(ii); and

(iv) the new fiscal year base budget shall include an appropriation to the Department of Health for Medicaid accountable care organizations in the amount required by Section 26-18-405.5.

(c) The chairs of each joint appropriations subcommittee are invited to attend this meeting.

(2) All proposed budget items shall be submitted to one of the subcommittees named in JR3-2-302 for consideration and recommendation.

(3) (a) After receiving and reviewing subcommittee reports, the Executive Appropriations Committee may refer the report back to a joint appropriations subcommittee with any guidelines the Executive Appropriations Committee considers necessary to assist the subcommittee in producing a balanced budget.

(b) The subcommittee shall meet to review the new guidelines and report the adjustments to the chairs of the Executive Appropriations Committee as soon as possible.

(4) (a) After receiving the reports, the Executive Appropriations Committee chairs will report them to the Executive Appropriations Committee.

(b) The Executive Appropriations Committee shall:

(i) make any further adjustments necessary to balance the budget; and

(ii) complete all decisions necessary to draft the final appropriations bills no later than the [~~39th~~] last Friday before the 45th day of the annual general session.

Section 2. JR4-1-202 is amended to read:

JR4-1-202. Specific bill format requirements.

(1) Each bill shall contain:

(a) a designation containing the information required by Subsection (2);

(b) a short title, which provides a short common description of the bill;

(c) the year and type of legislative session in which the bill is to be introduced;

(d) the phrase "State of Utah";

(e) the sponsor's name, after the heading "Chief Sponsor:";

(f) if the bill is a House bill that has passed third reading in the House, the Senate sponsor's name after the heading "Senate Sponsor:";

(g) if the bill is a Senate bill that has passed third reading in the Senate, the House sponsor's name after the heading "House Sponsor:";

[~~(h) a list of cosponsors who are members of the same house as the chief sponsor, if any;~~]

[~~(i)~~] (h) a long title, which includes:

(i) a brief general description of the subject matter in the bill;

(ii) a list of each section of the Utah Code affected by the bill, which cites by statute number those statutes that the bill proposes be amended, enacted, repealed and reenacted, renumbered and amended, and repealed; and

(iii) for bills that contain an appropriation, the sum proposed to be appropriated by the bill unless the bill is an appropriation bill or supplemental appropriation bill whose single subject is the appropriation of money;

[~~(j)~~] (i) an enacting clause in the following form: "Be it enacted by the Legislature of the state of Utah:"; and

[~~(k)~~] (j) the subject matter, given in one or more sections.

(2) The designation shall be a heading that identifies the bill by its house of introduction and by unique number assigned to it by the Office of Legislative Research and General Counsel and shall be in the following form: "S.B." or "H.B." followed by the number assigned to the bill.

Section 3. JR4-2-101 is amended to read:

JR4-2-101. Requests for legislation -- Contents -- Timing.

(1) (a) A legislator wishing to introduce a bill or resolution shall file a Request for Legislation with the Office of Legislative Research and General Counsel within the time limits established by this rule.

(b) The request for legislation shall:

(i) designate the chief sponsor, who is knowledgeable about and responsible for providing pertinent information as the legislation is drafted;

(ii) if the request is for a general session, designate any supporting legislators from the same house as the chief sponsor who wish to cosponsor the legislation; and

(iii) (A) provide specific information concerning the change or addition to law or policy that the legislator intends the proposed legislation to make; or

(B) identify the specific situation or concern that the legislator intends the legislation to address.

(2) (a) Any legislator may file a request for legislation beginning 60 days after the Legislature adjourns its annual general session sine die.

(b) A legislator-elect may file a request for legislation beginning on:

(i) the day after the date the election canvass is completed; or

(ii) if the legislator-elect's election results have not been finalized as of the canvass date, the day after the date the election results for the legislator-elect's race are finalized.

(c) (i) An incumbent legislator may not file any requests for legislation as of the date that the legislator:

(A) fails to file to run for [~~reelection~~] election to a seat in the Legislature;

(B) resigns or is removed from office; or

(C) is ineligible to be included on the ballot for the election in which the legislator would have sought an additional term.

(ii) Subsection (2)(c)(i) does not apply to a request for legislation for a special session that occurs before the legislator leaves office.

(iii) The Office of Legislative Research and General Counsel shall abandon each request for legislation from the legislator that is pending on that date unless, within 30 days after that date, another member of the Legislature qualified to file a request for legislation assumes sponsorship of the legislation.

(d) (i) If, for any reason, a legislator who filed a request for legislation is unavailable to serve in the next annual general session, the former legislator shall seek another legislator to assume sponsorship of each request for legislation filed by the legislator who is unavailable to serve.

(ii) If the former legislator is unable to find another legislator to sponsor the legislation within 30 days, the Office of Legislative Research and General Counsel shall abandon each pending request for legislation from the legislator who is unavailable to serve.

(3) (a) Except as provided in Subsection (3)(c), a legislator may not file a Request for Legislation with the Office of Legislative Research and General Counsel after noon on the 11th day of the annual general session.

(b) Except as provided in Subsection (3)(c), by noon on the 11th day of the annual general session, each legislator shall, for each Request for Legislation on file with the Office of Legislative Research and General Counsel, either approve the request for numbering or abandon the request.

(c) After the date established by this Subsection (3), a legislator may file a Request for Legislation and automatically approve the legislation for numbering if:

(i) for House legislation, the representative makes a motion to request a bill or resolution for drafting and introduction and that motion is approved by a constitutional majority of the House; or

(ii) for Senate legislation, the senator makes a motion to request a bill or resolution for drafting and introduction and that motion is approved by a constitutional majority vote of the Senate.

(4) A legislator wishing to obtain funding for a project, program, or entity, when that funding request does not require that a statute be enacted, repealed, or amended, may not file a Request for Legislation but instead shall file a request for appropriation by following the procedures and requirements of JR3-2-701.

Section 4. JR4-2-102 is amended to read:

JR4-2-102. Drafting and prioritizing legislation.

(1) As used in this [~~section~~] rule, "interim committee" means a committee established under JR7-1-201.

(2) (a) Requests for legislation shall be drafted on a first-in, first-out basis, except for legislation that is prioritized under the provisions of this [~~section~~] rule.

(b) When sufficient drafting information is available, the following requests for legislation shall be drafted before other requests for legislation, in the following order of priority:

(i) a committee bill file, as defined in JR7-1-101; and

(ii) a request for legislation that is prioritized by a legislator under Subsection (3).

(3) (a) Beginning on the first day on which a request for legislation may be filed under JR4-2-101, a member of the House of Representatives may designate up to four requests for legislation as priority requests, and a member of the Senate may designate up to five requests for legislation as priority requests, subject to the following deadlines:

(i) priority request number one for representatives, and priority request numbers one and two for senators, must be requested on or before November 15, or the following regular business day if November 15 falls on a weekend or a holiday;

(ii) priority request number two for representatives, and priority request number three for senators, must be requested on or before the first Thursday in December, or the following business day if the first Thursday falls on a holiday;

(iii) priority request number three for representatives, and four for senators must be requested on or before the first Thursday in January, or the following business day if the first Thursday falls on a holiday; and

(iv) priority request number four for representatives, and five for senators must be requested on or before the first Thursday of the annual general session.

(b) A legislator who fails to make a priority request on or before a deadline loses that priority request. However, the legislator is not prohibited from using any remaining priority requests that are associated with a later deadline, if available.

(c) A legislator who begins serving or becomes eligible to request a bill file after a deadline has passed is entitled to use only those priority requests that are available under an unexpired deadline.

(d) A legislator may not designate a request for legislation as a priority request unless the request:

(i) provides specific or conceptual information concerning the change or addition to law or policy that the legislator intends the proposed legislation to make; or

(ii) identifies the specific situation or concern that the legislator intends the legislation to address.

(4) A legislator may not:

(a) revoke a priority designation once it has been requested;

(b) transfer a priority designation to a different request for legislation; or

(c) transfer a priority designation to another legislator.

(5) Except as provided under JR4-2-502 or as otherwise provided in these rules, the Office of Legislative Research and General Counsel shall:

(a) reserve as many bill numbers as necessary to number the bills recommended by an interim committee; and

(b) number all other legislation in the order in which the legislation is approved by the sponsor for numbering.

Section 5. JR4-2-201 is amended to read:

JR4-2-201. Definitions.

As used in this part:

(1) "Committee substitute" means a substitute bill or resolution that is prepared for introduction in a Senate or House standing committee.

(2) "Floor substitute" means a substitute bill or resolution that is prepared for introduction on the Senate or House floor.

(3) (a) "Germane" means that the substitute is relevant, appropriate, and in a natural and logical sequence to the subject matter of the original legislation.

(b) "Germane" includes a substitute that changes the effect or is in conflict with the spirit of the original legislation if the substance of the substitute can be encompassed within the [~~short title~~] subject of the underlying bill.

(4) "Replacement legislation" means a bill, resolution, or substitute that replaces the original because of a technical error.

(5) "Substitute" means a new bill or resolution that:

(a) replaces the old bill or resolution in title and body; and

(b) is germane to the subject of the original bill or resolution.

Section 6. JR4-2-502 is amended to read:

JR4-2-502. Reservation of bill numbers.

(1) In each annual general legislative session, House Bills 1 through the number of bill numbers specified under Subsection (2)(a) and Senate Bills 1 through the number of bill numbers specified under Subsection (2)(a) are reserved for other appropriations and funding bills.

(2) (a) By November 1, the Office of the Legislative Fiscal Analyst shall notify the Office of Legislative Research and General Counsel of the number of bill numbers to reserve in each house for fiscal legislation for the next annual general legislative session.

(b) The notice under Subsection (2)(a) shall include the short title and the chief sponsor of each bill number reserved.

(3) To the extent practicable, each bill reserved under this [~~section~~] rule shall alternate the sponsoring chamber between the House and Senate each year.

Section 7. JR4-2-505 is amended to read:

JR4-2-505. Bill information requirements on legislative website.

[~~In addition to other requirements of rule and law, and procedures established by the office, the~~] The Office of Legislative Research and General Counsel shall publicly provide the following information on the Legislature's website:

(1) a listing of each legislator's name and the number of bill files that are currently open in the name of that legislator for the current legislative session; and

(2) on the respective web page for each legislative committee or mixed committee, as those terms are defined in JR4-2-401:

(a) a listing of the short title of each piece of legislation that:

(i) is opened by the committee or the committee's chairs, as provided under JR7-1-602;

(ii) is adopted as a committee bill by the committee; or

(iii) is reviewed by the committee and receives a vote for committee recommendation; and

(b) if a vote to recommend a piece of legislation listed in Subsection (2)(a) was held:

(i) by a legislative committee:

(A) a notation as to whether the legislation was recommended by the committee or not; and

(B) a listing of the votes cast by the members of the committee, listed by name and vote; or

(ii) by a mixed committee:

(A) a listing of votes cast by the members of the committee as a whole, listed by name and vote; and

(B) a listing of only those votes cast by legislator members of the committee, listed by name and vote.

Section 8. JR4-3-108 is amended to read:

JR4-3-108. Consideration and action on amendments to legislation made in the other chamber.

(1) (a) If the Senate amends and passes, or substitutes and passes, a piece of House legislation, the House:

(i) must either "concur" or "refuse to concur" in the amendments or substitute; and

(ii) may not amend or substitute the legislation.

(b) (i) If the House concurs, the legislation shall be voted on for final passage in the House.

(ii) If the legislation passes, the chief clerk of the House shall notify the Senate, obtain the signatures required by [~~JR4-6-101~~] JR4-5-101, and send the legislation to the Office of Legislative Research and General Counsel for enrolling.

(c) If the House refuses to concur in the Senate amendments or substitute to a piece of House legislation, the chief clerk of the House and the House shall follow the procedures and requirements of Joint Rules Title 3, Chapter 2, Part 9, Conference Committees.

(2) (a) If the House amends and passes, or substitutes and passes, a piece of Senate legislation, the Senate:

(i) must either "concur" or "refuse to concur" in the amendments or substitute; and

(ii) may not amend or substitute the legislation.

(b) (i) If the Senate concurs, the legislation shall be voted on for final passage in the Senate.

(ii) If the legislation passes, the secretary of the Senate shall notify the House, obtain the signatures required by JR4-6-101, and send the legislation to the Office of Legislative Research and General Counsel for enrolling.

(c) If the Senate refuses to concur in the House amendments or substitute to a piece of Senate legislation, the secretary of the Senate and the Senate shall follow the procedures and requirements of Joint Rules Title 3, Chapter 2, Part 9, Conference Committees.

Section 9. JR4-3-110 is amended to read:

JR4-3-110. Legislation increasing legislative workload.

(1) [~~(a)~~] As used in this [~~section, "increases~~] rule:

(a) "Increases legislative workload" means to propose a statute, resolution, or rule that:

(i) places a member of the Legislature on a board, commission, task force, or other public body;

(ii) gives authority to a member of the Legislative Management Committee to appoint a member of a board, commission, task force, or other public body; or

(iii) requires a legislative staff office to staff a board, commission, task force, or other public body.

(b) "Increases legislative workload" includes reauthorizing an existing provision described in Subsection (1)(a).

(2) (a) The Office of Legislative Research and General Counsel shall:

(i) identify legislation that increases legislative workload before the legislation passes both houses of the Legislature; and

(ii) report legislation that increases legislative workload to the president of the Senate, speaker of

the House of Representatives, minority leaders, and the chairs of the Senate and House Rules Committees.

(b) In making the report required by Subsection (2)(a)(ii), the Office of Legislative Research and General Counsel may provide information and make recommendations about:

(i) the funding required by the legislation;

(ii) the staffing resources required to implement the legislation;

(iii) the time legislators and legislative staff will be required to commit as a result of the legislation;

(iv) if the legislation creates or reauthorizes a board, commission, task force, or other public body, whether the responsibilities of that board, commission, task force, or other public body could reasonably be accomplished through an existing entity or without legislation; and

(v) whether the legislation sunsets or repeals the board, commission, task force, or other public body created by the legislation.

Section 10. JR4-4-202 is amended to read:

JR4-4-202. Deadline for passing certain appropriations bills and school finance bills.

(1) Each legislator shall receive a copy of any general appropriations bills, any supplemental appropriations bills, and any school finance bills by calendared floor time on the [~~42nd~~] last Monday before the 45th day of the annual general session.

(2) Before the calendared closing time of the 43rd day of the annual general session, the Legislature shall either pass or defeat those general appropriations bills, supplemental appropriations bills, and school finance bills.

Section 11. JR4-4-301 is amended to read:

JR4-4-301. Deadline for passing bond bills.

(1) Each legislator shall receive a copy of any bond bill by noon on the [~~42nd~~] last Monday before the 45th day of the annual general session.

(2) Before the calendared closing time of the 43rd day of the annual general session, the Legislature shall either pass or defeat each bond bill.

Section 12. JR5-2-103 is amended to read:

JR5-2-103. Reimbursement for transportation costs.

(1) A legislator may receive reimbursement for any actual transportation costs incurred by the legislator in association with the legislator's official duties for an:

(a) authorized legislative day; or

(b) authorized legislative training day.

(2) Transportation costs reimbursed under this [~~section~~] rule shall be equal to:

(a) for travel by private vehicle, the actual mileage incurred by the legislator for the legislator's private automobile use to and from the legislative meeting, to be paid in accordance with the private vehicle mileage reimbursement rate that is applied when daily pool fleet vehicles are unavailable, as published in the administrative rules governing reimbursement of transportation expenses for state employees;

(b) for public transportation:

(i) the actual cost of the transportation incurred by the legislator to and from the legislative meeting;

(ii) the private vehicle mileage actually incurred by the legislator to and from the terminus of the public transportation; and

(iii) the cost of parking actually incurred by the legislator; or

(c) for commercial transportation:

(i) the actual cost of the transportation, which shall be limited to coach or standard economy class, incurred by the legislator to and from the legislative meeting;

(ii) the private vehicle mileage actually incurred by the legislator to and from the terminus of the commercial transportation; and

(iii) the cost of parking actually incurred by the legislator.

(3) Reimbursement for actual transportation costs incurred for a legislator for an authorized legislative day or an authorized legislative training day shall be as provided in procedures established by the Legislative Expenses Oversight Committee.

Section 13. JR5-3-101 is amended to read:

JR5-3-101. Legislator compensation -- Expense reimbursement.

(1) Except as provided under Subsection (2), a legislator shall receive daily compensation established in accordance with Utah Code Sections 36-2-2 and 36-2-3 for authorized legislative days as defined in [~~Section~~] JR5-1-101.

(2) The Legislative Management Committee may authorize compensation and expense reimbursement, or expense reimbursement only, for a legislator who attends a meeting on an authorized legislative day as defined in JR5-1-101.

Section 14. JR6-1-102 is amended to read:

JR6-1-102. Code of official conduct.

(1) Each legislator shall comply with the guidelines established in Subsection (2).

(2) In judging members of its house charged with an ethical violation, the Senate and House Ethics Committees shall consider whether or not the member has violated any of the following guidelines:

(a) Members of the Senate and House shall not engage in any employment or other activity that would destroy or impair their independence of judgment.

(b) Members of the Senate and House shall not be paid by a person, as defined in JR6-1-202, to lobby, consult, or to further the interests of any legislation or legislative matter.

(c) Members of the Senate and House shall not exercise any undue influence on any governmental entity. "Undue influence" means deceit or threat of violence.

(d) Members of the Senate and House shall not engage in any activity that would be an abuse of official position or a violation of trust.

(e) Members of the Senate and House shall not use any nonpublic information obtained by reason of their official position to gain advantage over any business or professional competition for activities with the state and its political subdivisions.

(f) Members of the Senate and House shall not engage in any business relationship or activity that would require the disclosure of confidential information obtained because of their official position.

(g) Members of the Senate and House shall not use their official position to secure privileges for themselves or others.

(h) While in session, members of the Senate and House shall disclose any conflict of interest on any legislation or legislative matter as provided in JR6-1-201.

(i) Members of the Senate and House may accept small gifts, awards, or contributions if these favors do not influence them in the discharge of official duties.

(j) [~~Except as provided in Subsection (3), members~~] Members of the Senate and the House may engage in business or professional activities with the state or its political subdivisions if the activities are entered into under the same conditions and in the same manner applicable to any private citizen or company engaged in similar activities.

(k) Legislators may enter into transactions with the state by contract by following the procedures and requirements of Utah Code Title 63G, Chapter 6a, Utah Procurement Code.

[~~(3) (a) As also required by Utah Code Section 36-19-1, a legislator, member of the legislator's household, or client may not be a party to or have an interest in the profits or benefits of a state contract when the state contract is the direct result of a bill sponsored by the legislator, unless the contract is let in compliance with state procurement policies and is open to the general public.~~]

[~~(b) Besides the penalties authorized by these rules, Utah Code Section 36-19-1 also provides that any person violating this section is guilty of a class B misdemeanor.~~]

Section 15. JR6-1-103 is amended to read:

JR6-1-103. Receipt of campaign donations.

(1) As used in this [~~section~~] rule:

(a) "Campaign contribution" means cash or a negotiable instrument contributed for a political purpose to a campaigner.

(b) "Campaigner" means:

(i) a legislative office candidate;

(ii) an individual who holds a legislative office;

(iii) a personal campaign committee of a person described in Subsection (1)(b)(i) or (ii);

(iv) a political action committee controlled by a person described in Subsection (1)(b)(i) or (ii); or

(v) a person acting on behalf of a person described in Subsections (1)(b)(i) through (iv).

(c) "Capitol hill" [~~is as~~] means the same as that term is defined in Utah Code Section 36-5-1.

(d) "Indirect campaign contribution" means a campaign contribution that is delivered to a campaigner:

(i) when the campaigner is not present; or

(ii) via a third party or delivery service.

(e) "Political purpose" [~~has the same meaning~~] means the same as "political purposes" [~~as~~] is defined in Utah Code Section 20A-11-101.

(2) (a) A campaigner may not accept receipt of a campaign contribution on capitol hill.

(b) A legislator who is in violation of this [~~section~~] rule is subject to an ethics complaint regardless of whether the violation occurred while the legislator was a legislative office holder or a legislative office candidate.

(3) Notwithstanding Subsection (2), a campaigner shall not be considered to have accepted receipt of a campaign contribution if:

(a) the campaign contribution is an indirect campaign contribution; and

(b) the campaigner promptly:

(i) returns the campaign contribution to the donor; or

(ii) refuses the campaign contribution in a written communication or other verifiable manner.

Section 16. JR6-1-201 is amended to read:

JR6-1-201. Declaring and recording conflicts of interest.

(1) As used in this [~~section~~] rule:

(a) "Conflict of interest" means the same as that term is defined in Utah Code Section 20A-11-1602.

(b) "Conflict of interest disclosure" means the same as that term is defined in Utah Code Section 20A-11-1602.

(2) A legislator shall file a conflict of interest disclosure by complying with the requirements of Utah Code Title 20A, Chapter 11, Part 16, Conflict of Interest Disclosures.

(3) (a) For a legislator who is a senator, the secretary of the Senate shall ensure that a link to

the legislator's conflict of interest disclosure is available to the public on the Senate's website.

(b) For a legislator who is a representative, the chief clerk of the House of Representatives shall ensure that a link to the legislator's conflict of interest disclosure is available to the public on the House of Representative's website.

(4) If a legislator has actual knowledge that the legislator has a conflict of interest that is not stated on the legislator's financial disclosure form filed under Subsection (2), that legislator shall, before or during a vote on legislation or any legislative matter, orally declare to the committee or legislative body:

(a) that the legislator may have a conflict of interest; and

(b) what that conflict is.

(5) A verbal declaration of a conflict of interest under Subsection (4) shall be recorded:

(a) for a declaration made on the floor, in the Senate or House Journal by the secretary of the Senate or the chief clerk of the House of Representatives; or

(b) for a declaration made in a committee or other meeting, in the minutes of the meeting.

(6) The requirements of this rule do not prohibit a legislator from voting on any legislation or legislative matter.

Section 17. JR6-1-202 is amended to read:

JR6-1-202. Disclosure of outside remuneration.

(1) As used in this [~~section~~] rule:

(a) "Person" includes an individual, partnership, association, organization, company, and bodies politic and corporate or a lobbyist from any of these.

(b) "Person" does not include a person who provides the legislator's primary source of income.

(2) If any person provides remuneration to a legislator to compensate that legislator for a loss of salary or income while the Legislature is in session, that legislator shall file a written disclosure identifying:

(a) that the legislator receives remuneration; and

(b) the name of the person who provides the remuneration.

(3) (a) The legislator shall file the disclosure by February 1 of each year with:

(i) the secretary of the Senate, if the legislator is a senator; or

(ii) the chief clerk of the House of Representatives, if the legislator is a representative.

(b) This disclosure is available to the public.

Section 18. JR6-2-103.5 is amended to read:

JR6-2-103.5. Motion to disqualify Independent Legislative Ethics Commission member for conflict of interest.

(1) A complainant may file a motion to disqualify one or more members of the Independent Legislative Ethics Commission from participating in proceedings relating to an ethics complaint if the individual files the motion within 20 days after the later of:

(a) the day on which the individual files the ethics complaint; or

(b) the day on which the individual knew or should have known of the grounds upon which the motion is based.

(2) A respondent may file a motion to disqualify one or more members of the commission from participating in proceedings relating to an ethics complaint if the respondent files the motion within 20 days after the later of:

(a) the day on which the respondent receives delivery of the ethics complaint; or

(b) the day on which the respondent knew or should have known of the grounds upon which the motion is based.

(3) A motion filed under this [~~section~~] rule shall include:

(a) a statement that the members to whom the motion relates have a conflict of interest that, under the circumstances, would lead a reasonable person to question the impartiality of the members;

(b) a detailed description of the grounds supporting the statement described in Subsection (3)(a); and

(c) a statement that the motion is filed in good faith, supported by an affidavit or declaration under penalty of Title 78B, Chapter 18a, Uniform Unsworn Declarations Act, stating that the motion and all accompanying statements and documents are true and correct to the best of the complainant's or respondent's knowledge.

(4) A party may not file more than one motion to disqualify, unless the second or subsequent motion:

(a) is based on grounds of which the party was not aware, and could not have been aware, at the time of the earlier motion; and

(b) is accompanied by a statement, included in the affidavit or declaration described in Subsection (3)(c), explaining how and when the party first became aware of the grounds described in Subsection (4)(a).

(5) The commission shall dismiss a motion filed under this [~~section~~] rule, with prejudice, if the motion:

(a) is not timely filed; or

(b) does not comply with the requirements of this [~~section~~] rule.

(6) A member of the commission may:

(a) on the member's own motion, disqualify the member from participating in proceedings relating to an ethics complaint if the member believes that the member has a conflict of interest that, under the circumstances, would lead a reasonable person to question the impartiality of the member; or

(b) ask the commission to disqualify another member of the commission if the member believes that the member has a conflict of interest that, under the circumstances, would lead a reasonable person to question the impartiality of the member.

(7) (a) When a party files a motion under this [~~section~~] rule, or when a commission member makes a request under Subsection (6)(b), the commission member for whom disqualification is sought may make the initial determination regarding whether the commission member has a conflict of interest.

(b) If a commission member described in Subsection (7)(a) determines that the commission member has a conflict of interest, the commission member shall disqualify the commission member from participating in the matter.

(c) If a commission member described in Subsection (7)(a) determines that the commission member does not have a conflict of interest, or declines to make the determination, the remainder of the commission shall, by majority vote, determine whether the commission member has a conflict of interest.

(d) A vote of the commission, under Subsection (7)(c), constitutes a final decision on the issue of a conflict of interest.

(8) In making a determination under Subsection (7)(c), the commission may:

(a) gather additional evidence;

(b) hear testimony; or

(c) request that the commission member who is the subject of the motion or request file an affidavit or declaration responding to questions posed by commission.

Section 19. JR6-2-306 is amended to read:

JR6-2-306. Communications of commission and committee members.

(1) As used in this [~~section~~] rule, "third party" means:

(a) for a member of the Independent Legislative Ethics Commission, a person who is not a member of the commission or staff to the commission; or

(b) for a member of an ethics committee, a person who is not a member of the committee or staff to the committee.

(2) While a complaint is under review by the commission or an ethics committee, a member of that commission or committee may not initiate or consider any communications concerning the complaint with a third party unless:

(a) the communication is expressly permitted under the procedures established by this title; or

(b) the communication is made by the third party, in writing, simultaneously to:

(i) all members of the commission or committee; and

(ii) a staff member of the commission or committee.

(3) (a) While the commission is reviewing a complaint under this title, a commission member may communicate outside of the meetings, hearing, or deliberations with another member of, or staff to, the commission, only if the member's communication does not materially compromise the member's responsibility to independently review and make decisions in relation to the complaint.

(b) While a committee is reviewing a complaint under this title, a committee member may communicate outside of the meeting, hearing, or deliberations with another member of, or staff to, the committee, only if the member's communication does not materially compromise the member's responsibility to independently review and make decisions in relation to the complaint.

(4) While a complaint is under review by an ethics committee, a member of the commission may not comment publicly or privately about the commission's decision, reasoning, or other matters relating to the ethics complaint, but may provide or refer a questioner to the commission's written recommendation.

Section 20. JR7-1-101 is amended to read:

JR7-1-101. Definitions.

As used in this chapter:

(1) "Anchor location" means the physical location from which:

(a) an electronic meeting originates; or

(b) the participants are connected.

(2) "Bill" means the same as that term is defined in JR4-1-101.

(3) "Chair" except as otherwise expressly provided, means:

(a) the member of the Senate appointed as chair of an interim committee by the president of the Senate under JR7-1-202;

(b) the member of the House of Representatives appointed as chair of an interim committee by the speaker of the House of Representatives under JR7-1-202;

(c) a member of a special committee appointed as chair of the special committee; or

(d) a member of a legislative committee designated by the chair of the legislative committee under Subsection (3)(a), (b), or (c) to act as chair under JR7-1-202.

(4) "Committee bill" means draft legislation that receives a favorable recommendation.

(5) "Committee bill file" means a request for legislation made by:

(a) a majority vote of a legislative committee; or

(b) the chairs of an interim committee, if the interim committee authorizes the chairs to open one or more committee bill files in accordance with JR7-1-602.

(6) "Committee note" means a note that the Office of Legislative Research and General Counsel places on legislation in accordance with JR4-2-401.

(7) "Draft legislation" means a draft of a bill or resolution before it is numbered by the Office of Legislative Research and General Counsel.

(8) "Electronic meeting" means a public meeting of a legislative committee that is partially convened or conducted by means of a voice telephone or computer web or video conference.

(9) "Electronic notice" means electronic mail or fax.

(10) "Favorable recommendation" means an action of a legislative committee by majority vote to favorably recommend legislation.

(11) "Legislative committee" means:

(a) an interim committee; or

(b) a special committee.

(12) "Interim committee" means a committee created under JR7-1-201.

(13) "Legislative sponsor" means:

(a) for a committee bill file, the chairs of the legislative committee that opened the committee bill file or the chairs' designee; or

(b) for a request for legislation that is not a committee bill file, the legislator who requested the request for legislation or the legislator's designee.

(14) "Majority vote" means:

(a) with respect to an interim committee, an affirmative vote of at least 50% of a quorum of members of the interim committee from one chamber and more than 50% of a quorum of members of the interim committee from the other chamber; or

(b) with respect to a special committee, an affirmative vote of more than 50% of a quorum.

(15) "Mixed special committee" means a special committee that is composed of one or more members who are legislators and one or more members who are not legislators.

(16) "Monitor" means to:

(a) hear live, by speaker, or by other equipment, all of the public statements of each member of the legislative committee who is participating in a meeting; or

(b) see and hear, by computer screen or other visual medium, all of the public statements of each member of the legislative committee who is participating in a meeting.

(17) "Original motion" means a nonprivileged motion that is accepted by the chair when no other motion is pending.

(18) "Participate" means the ability to communicate with all of the members of a legislative committee, either verbally or electronically, so that each member of the legislative committee can hear or see the communication.

(19) "Pending motion" means a motion described in JR7-1-307.

(20) "Privileged motion" means a motion to adjourn, set a time to adjourn, recess, end debate, extend debate, or limit debate.

(21) "Public statement" means a statement made in the ordinary course of business of a legislative committee with the intent that all other members of the legislative committee receive it.

(22) "Remote location" means a location other than the anchor location from which a member of a legislative committee may participate in the meeting.

(23) "Request for legislation" means the same as that term is defined in JR4-1-101.

(24) "Resolution" means the same as that term is defined in JR4-1-101.

(25) (a) "Special committee" means a committee, commission, or task force that is:

(i) created by legislation; and

(ii) staffed by:

(A) the Office of Legislative Research and General Counsel; or

(B) the Office of the Legislative Fiscal Analyst.

(b) "Special committee" does not include:

(i) an interim committee;

(ii) a standing committee created under SR3-2-201 or HR3-2-201; or

(iii) a Senate confirmation committee described in SR3-3-101 or SR3-3-201.

(26) "Subcommittee" means a subsidiary unit of a legislative committee formed in accordance with JR7-1-411.

(27) "Substitute motion" means a nonprivileged motion that a member of a legislative committee makes when there is a nonprivileged motion pending.

Section 21. JR7-1-310 is amended to read:

JR7-1-310. Chairs to verbally announce vote on motions -- Motions pass with majority vote.

(1) After a legislative committee votes on a motion, the chair shall:

[~~(1)~~] (a) determine and verbally announce whether the motion passed or failed; and

[~~(2)~~] (b) unless the vote on the motion is unanimous, verbally identify by name each committee member who voted "yes" or each committee member who voted "no."

(2) Unless otherwise specified, a motion passes with a majority vote.

H. J. R. 6
Passed March 3, 2021
Effective March 6, 2021

JOINT RULES RESOLUTION - LEGISLATIVE PROCEDURE MODIFICATIONS

Chief Sponsor: Jefferson Moss
Senate Sponsor: Don L. Ipson

LONG TITLE

General Description:

This rules resolution modifies joint rules related to certain legislative procedures.

Highlighted Provisions:

This resolution:

- defines terms;
- requires each legislative office to develop and report performance measures;
- requires the Office of the Legislative Auditor General and the Office of the Legislative Fiscal Analyst, in collaboration with the Governor's Office of Management and Budget, to establish a process to target government processes for efficiency improvements;
- prohibits a legislator from filing a request for appropriation that is intended to fund the fiscal impact of legislation;
- for certain legislation, requires the Office of the Legislative Fiscal Analyst to generate a request for appropriation to fund the fiscal impact of the legislation;
- addresses the date beginning on which a legislator may file a request for appropriation;
- modifies the information a legislator is required to provide when filing a request for appropriation;
- repeals from legislative rule the process by which the legislative fiscal analyst determines whether legislation creates a new agency or new program;
- repeals from legislative rule the process by which the legislative auditor general:
  - reviews a new agency or new program; and
  - reports the performance of the new agency or new program to the Executive Appropriations Committee;
- establishes a process for the consideration of legislation that affects workload; and
- makes technical and conforming changes.

Special Clauses:

This resolution provides a special effective date.

Legislative Rules Affected:

AMENDS:
JR3-2-701
JR3-2-702

ENACTS:
JR1-4-601
JR1-4-602
JR1-4-603
JR4-3-301
JR4-3-302
JR4-3-303

REPEALS:
JR4-2-404
JR4-2-405
JR4-3-110

Be it resolved by the Legislature of the state of Utah:

Section 1. JR1-4-601 is enacted to read:

Part 6. Performance Reporting and Government Efficiency Improvement Process

JR1-4-601. Definitions.

As used in this part:

(1) "Appropriated entity" means any entity that receives state funds.

(2) "Product or service" means an appropriated entity's final output or outcome.

(3) "Government process" means a set of functions and procedures by which an appropriated entity creates a product or service.

(4) "Legislative office" means:

(a) the Office of Legislative Research and General Counsel;

(b) the Office of the Legislative Auditor General;

(c) the Office of the Legislative Fiscal Analyst; or

(d) Legislative Services.

(5) "Performance measure" means a program objective, effectiveness measure, program size indicator, or other related measure.

(6) "Targeted efficiency evaluation" means an evaluation of a government process identified for efficiency improvements under this part.

Section 2. JR1-4-602 is enacted to read:

JR1-4-602 Performance reporting.

Each legislative office shall:

(1) develop performance measures to include in an appropriations act for each fiscal year; and

(2) annually submit to the Subcommittee on Oversight created in Utah Code Section 36-12-8.1 a report that contains:

(a) any recommendations for legislative changes for the next fiscal year to the office's previously adopted performance measures; and

(b) the final status of the office's performance measures included in the appropriations act for the fiscal year ending the previous June 30.

Section 3. JR1-4-603 is enacted to read:

JR1-4-603. Efficiency improvement process.

(1) By May 1, 2022, the Office of the Legislative Fiscal Analyst shall, in collaboration with the Governor's Office of Management and Budget:

(a) establish a process to conduct targeted efficiency evaluations; and

(b) submit a plan to the Legislative Management Committee that:

(i) prioritizes the government processes for which the Office of the Legislative Fiscal Analyst will conduct a targeted efficiency evaluation; and

(ii) establishes a schedule by which the Office of the Legislative Fiscal Analyst will conduct each targeted efficiency evaluation.

(2) (a) When conducting a targeted efficiency evaluation under this rule, the Office of the Legislative Fiscal Analyst may work with the Governor's Office of Management and Budget and the appropriated entity that administers the government process to identify:

(i) any operational inefficiencies in the government process and ways to eliminate the inefficiencies;

(ii) rewards or incentives for implementing recommendations of the targeted efficiency evaluation; and

(iii) any misalignment in the appropriated entity's products or services in relation to the appropriated entity's adopted performance measures.

(b) The Office of the Legislative Fiscal Analyst shall report to the Office of the Legislative Auditor General the results of each targeted efficiency evaluation.

(3) (a) The Office of the Legislative Auditor General shall independently review the results of each targeted efficiency evaluation and, based on that review, conduct further risk assessment to determine the extent to which the appropriated entity has implemented any recommendations from the targeted efficiency evaluation.

(b) Based on the review described in Subsection (3)(a), the Office of the Legislative Auditor General may recommend to the Audit Subcommittee created in Utah Code Section 36-12-8 that the Office of the Legislative Auditor General conducts an in-depth review of the appropriated entity.

(c) The Office of the Legislative Auditor General shall provide a copy of any in-depth review described in Subsection (3)(b) to the legislative interim committee and the legislative appropriations subcommittee with oversight responsibility for the appropriated entity.

(4) (a) Upon receipt of an in-depth review described in Subsection (3), a legislative interim committee shall:

(i) review the appropriated entity that is the subject of the in-depth review; and

(ii) if appropriate, recommend to the Legislature any legislation to improve the efficiency of the appropriated entity.

(b) Upon receipt of an in-depth review described in Subsection (3), a legislative appropriations subcommittee shall:

(i) review the appropriated entity that is the subject of the in-depth review;

(ii) determine whether the appropriated entity is appropriately using the appropriated entity's state funds; and

(iii) if appropriate, recommend to the Legislature any budgetary changes to improve the efficiency of the appropriated entity.

(5) As part of the efficiency improvement process described in this rule, the Office of the Legislative Fiscal Analyst or the Office of the Legislative Auditor General may, in consultation with the Governor's Office of Management and Budget:

(a) recommend that an appropriated entity receives training; or

(b) provide training to the appropriated entity.

(6) The efficiency improvement process described in this rule does not apply to a legislative department government process.

Section 4. JR3-2-701 is amended to read:

JR3-2-701. Request for appropriation -- Contents -- Timing.

(1) (a) A legislator wishing to obtain funding for a project[~~,~~] or program[~~, or entity~~] that has not previously been funded, or to obtain additional or separate funding for a project[~~,~~] or program, [~~or entity,~~] shall file a request for appropriation with the Office of the Legislative Fiscal Analyst in accordance with this rule.

(b) A legislator may not file a request for appropriation if the request is intended to fund the fiscal impact of legislation.

(c) The Office of the Legislative Fiscal Analyst shall automatically generate a request for appropriation to fund the fiscal impact of legislation if:

(i) the legislation has an expenditure impact of $1,000,000 or more from the General Fund or the Education Fund; and

(ii) the Office of the Legislative Fiscal Analyst knows the fiscal impact of the legislation before the deadline described in Subsection (3)(a).

(2) (a) A legislator may file a request for appropriation beginning 60 days after the day on which the Legislature adjourns its annual general session sine die.

(b) A legislator-elect may file a request for appropriation beginning on:

(i) the day after the day on which the election canvass is complete; or

(ii) if the legislator-elect's election results have not been finalized as of the canvass date, the day after the day on which the election results for the legislator-elect's race are final.

(c) An incumbent legislator may not file a request for appropriation as of the date that the legislator:

(i) fails to file to run for reelection;

(ii) resigns or is removed from office; or

(iii) is ineligible to be included on the ballot for the election in which the legislator would have sought an additional term.

[~~(2)~~] (3) (a) Except as provided in Subsection [~~(2)~~] (3)(b), a legislator may not file a request for appropriation with the Office of the Legislative Fiscal Analyst after noon on the 11th day of the annual general session.

(b) After the date established by this Subsection [~~(2)~~] (3), a legislator may file a request for appropriation if:

(i) for a request by a House member, the representative makes a motion to file a request for appropriation and that motion is approved by a constitutional majority of the House; or

(ii) for a request by a senator, the senator makes a motion to file a request for appropriation and that motion is approved by a constitutional majority vote of the Senate.

[~~(3) The request shall designate:~~]

[~~(a) the project, program, or entity to be funded;~~]

[~~(b) the source for the funding;~~]

[~~(c) the chief sponsor, who is knowledgeable about and responsible for providing pertinent information as the appropriation is processed;~~]

[~~(d) supporting legislators, if any, who wish to cosponsor the appropriation; and~~]

[~~(e) the joint appropriations subcommittee to which the sponsor wishes the request to be assigned, if any.~~]

(4) A legislator who files a request for appropriation:

(a) is the chief sponsor; and

(b) shall provide the following information related to the project or program that is the subject of the request for appropriation:

(i) the name and a description of the project or program;

(ii) the statewide purpose of the project or program;

(iii) if applicable, the legislator's designee who is knowledgeable about and responsible for providing pertinent information while the Office of the Legislative Fiscal Analyst processes the request;

(iv) the state funding source from which the legislator proposes to fund the project or program;

(v) the amount of the request and whether the amount is to be appropriated one-time, ongoing, or a combination of one-time and ongoing;

(vi) an itemized budget for the project or program;

(vii) the state agency that has jurisdiction over the project or program;

(viii) if the request is for pass through funding that a state agency will distribute, the type of entity or organization the legislator intends to receive the funding;

(ix) the scalability of the project or program; and

(x) one or more outcomes the legislator expects the project or program to achieve.

Section 5. JR3-2-702 is amended to read:

JR3-2-702. Review and action on requests for appropriation.

(1) (a) The legislative fiscal analyst shall review each request for appropriation.

(b) If the request requires that a statute be enacted, amended, or repealed, the legislative fiscal analyst shall immediately transfer the request to the Office of Legislative Research and General Counsel as a request for legislation.

(c) If the request contains each item described in JR3-2-701(4) and does not require that a statute be enacted, amended, or repealed, the legislative fiscal analyst shall number [~~and~~], title [~~the request~~], and refer the request to:

(i) the House chair of the Executive Appropriations Committee, if the sponsor is a House member; or

(ii) the Senate chair of the Executive Appropriations Committee, if the sponsor is a Senate member.

(2) The House or Senate chair of the Executive Appropriations Committee shall refer the request to the [~~appropriate~~] joint appropriations [~~subcommittees~~] subcommittee with oversight responsibility or to the Executive Appropriations Committee.

(3) Each joint appropriations subcommittee that receives a request for appropriation shall:

(a) allow the sponsor to present and discuss the request with the subcommittee;

(b) discuss the request; and

(c) do one of the following:

(i) include all or part of the requested appropriation in the budget recommendation made by the subcommittee or the Executive Appropriations Committee;

(ii) reject the request; or

(iii) recommend that all or part of the requested appropriation be placed on a funding prioritization list.

Section 6. JR4-3-301 is enacted to read:

Part 3. Legislation Affecting Workload

JR4-3-301. Definitions.

As used in this part:

(1) (a) "Affects workload" means:

(i) increases legislative workload; or

(ii) requiring:

(A) a state agency to staff a board, commission, task force, or other public body; or

(B) a person to submit or present a report to a legislative committee, a mixed committee, the Executive Appropriations Committee, or an appropriations subcommittee.

(b) "Affects workload" includes reauthorizing an existing requirement described in Subsection (1)(a)(ii).

(2) (a) "Increases legislative workload" means:

(i) placing a member of the Legislature on a board, commission, task force, or other public body;

(ii) giving authority to a member of the Legislative Management Committee to appoint a member of a board, commission, task force, or other public body; or

(iii) requiring a legislative staff office to staff a board, commission, task force, or other public body.

(b) "Increases legislative workload" includes reauthorizing an existing provision described in Subsection (2)(a).

(3) "Legislative committee" means the same as that term is defined in JR4-2-401.

(4) "Mixed committee" means the same as that term is defined in JR4-2-401.

(5) "State agency" means an office, department, agency, authority, commission, board, institution, hospital, college, university, or other instrumentality of the state.

Section 7. JR4-3-302 is enacted to read:

JR4-3-302. Considering legislation that affects workload.

(1) (a) The House shall refer any Senate legislation that affects workload to the House Rules Committee before giving the legislation a third reading.

(b) The Senate shall table on third reading any House legislation that affects workload.

(2) Before adjourning on the 45th day of the annual general session:

(a) each legislator shall prioritize legislation that affects workload in accordance with the process established by legislative leadership; and

(b) the Legislature may pass or defeat any legislation prioritized under Subsection (2)(a).

Section 8. JR4-3-303 is enacted to read:

JR4-3-303. Reporting legislation that increases legislative workload.

(1) The Office of Legislative Research and General Counsel shall:

(a) identify legislation that increases legislative workload before the legislation passes both houses of the Legislature; and

(b) report legislation that increases legislative workload to the president of the Senate, speaker of the House of Representatives, minority leaders, and the chairs of the Senate and House Rules Committees.

(2) In making the report required by Subsection (1)(b), the Office of Legislative Research and General Counsel may provide information and make recommendations about:

(a) the funding required by the legislation;

(b) the staffing resources required to implement the legislation;

(c) the time legislators and legislative staff will be required to commit as a result of the legislation;

(d) if the legislation creates or reauthorizes a board, commission, task force, or other public body, whether the responsibilities of that board, commission, task force, or other public body could reasonably be accomplished through an existing entity or without legislation; and

(e) whether the legislation sunsets or repeals the board, commission, task force, or other public body created by the legislation.

Section 9.

Repealer.

This resolution repeals:

JR4-2-404, Performance review notes -- Review of performance measures.

JR4-2-405, Review of programs -- Failure to meet performance measures -- Revocation of program or appropriation.

JR4-3-110, Legislation increasing legislative workload.

Section 10. Effective date.

This resolution takes effect on March 6, 2021.

H. J. R. 7
Passed March 5, 2021
Effective May 5, 2021

JOINT RESOLUTION AMENDING RULES OF CRIMINAL PROCEDURE ON MOTIONS

Chief Sponsor: Christine F. Watkins
Senate Sponsor: David P. Hinkins

LONG TITLE

General Description:

This resolution amends the Utah Rules of Criminal Procedure, Rule 12, regarding motions.

Highlighted Provisions:

This resolution:

- amends the Utah Rules of Criminal Procedure, Rule 12, regarding motions on the justifiable use

of force in 2021 General Session, House Bill 227; and

- makes technical and conforming changes.

Special Clauses:

This resolution provides a special effective date.

Utah Rules of Civil Procedure Affected:

AMENDS:

Rule 12, Utah Rules of Criminal Procedure

Be it resolved by the Legislature of the state of Utah, two-thirds of all members elected to each of the two houses voting in favor thereof:

As provided in Utah Constitution Article VIII, Section 4, the Legislature may amend rules of procedure and evidence adopted by the Utah Supreme Court upon a two-thirds vote of all members of both houses of the Legislature:

Section 1. Rule 12, Utah Rules of Criminal Procedure is amended to read:

Rule 12. Motions.

(a) Motions. An application to the court for an order shall be by motion, which, unless made during a trial or hearing, shall be in writing and in accordance with this rule. A motion shall state succinctly and with particularity the grounds upon which it is made and the relief sought. A motion need not be accompanied by a memorandum unless required by the court.

(b) Request to Submit for Decision. If neither party has advised the court of the filing nor requested a hearing, when the time for filing a response to a motion and the reply has passed, either party may file a request to submit the motion for decision. If a written Request to Submit is filed it shall be a separate pleading so captioned. The Request to Submit for Decision shall state the date on which the motion was served, the date the opposing memorandum, if any, was served, the date the reply memorandum, if any, was served, and whether a hearing has been requested. The notification shall contain a certificate of mailing to all parties. If no party files a written Request to Submit, or the motion has not otherwise been brought to the attention of the court, the motion will not be considered submitted for decision.

(c) Time for filing specified motions. Any defense, objection or request, including request for rulings on the admissibility of evidence, which is capable of determination without the trial of the general issue may be raised prior to trial by written motion.

(c) (1) The following shall be raised at least 7 days prior to the trial:

(c) (1) (A) defenses and objections based on defects in the indictment or information;

(c) (1) (B) motions to suppress evidence;

(c) (1) (C) requests for discovery where allowed;

(c) (1) (D) requests for severance of charges or defendants;

(c) (1) (E) motions to dismiss on the ground of double jeopardy; or

(c) (1) (F) motions challenging jurisdiction, unless good cause is shown why the issue could not have been raised at least 7 days prior to trial.

(c) (2) Motions for a reduction of criminal offense at sentencing pursuant to Utah Code § 76-3-402(1) shall be in writing and filed at least 14 days prior to the date of sentencing unless the court sets the date for sentencing within ten days of the entry of conviction. Motions for a reduction of criminal offense pursuant to Utah Code § 76-3-402(2) may be raised at any time after sentencing upon proper service of the motion on the appropriate prosecuting entity.

(c) (3) Motions on the justification of the use of force pursuant to Utah Code section 76-2-309 shall be filed:

(c) (3) (A) in writing; and

(c) (3) (B) at least 28 days before trial, unless there is good cause shown as to why the issue could not have been raised at least 28 days before trial.

(d) Motions to Suppress. A motion to suppress evidence shall:

(d) (1) describe the evidence sought to be suppressed;

(d) (2) set forth the standing of the movant to make the application; and

(d) (3) specify sufficient legal and factual grounds for the motion to give the opposing party reasonable notice of the issues and to enable the court to determine what proceedings are appropriate to address them.

If an evidentiary hearing is requested, no written response to the motion by the non-moving party is required, unless the court orders otherwise. At the conclusion of the evidentiary hearing, the court may provide a reasonable time for all parties to respond to the issues of fact and law raised in the motion and at the hearing.

(e) A motion made before trial shall be determined before trial unless the court for good cause orders that the ruling be deferred for later determination. Where factual issues are involved in determining a motion, the court shall state its findings on the record.

(f) Failure of the defendant to timely raise defenses or objections or to make requests which must be made prior to trial or at the time set by the court shall constitute waiver thereof, but the court for cause shown may grant relief from such waiver.

(g) A verbatim record shall be made of all proceedings at the hearing on motions, including such findings of fact and conclusions of law as are made orally.

(h) If the court grants a motion based on a defect in the institution of the prosecution or in the indictment or information, it may also order that bail be continued for a reasonable and specified time pending the filing of a new indictment or

information. Nothing in this rule shall be deemed to affect provisions of law relating to a statute of limitations.

Section 2. Contingent effective date.

This resolution takes effect upon approval by a constitutional two-thirds vote of all members elected to each house only if H.B. 227, Self Defense Amendments, 2021 General Session, passes the Legislature and becomes law on May 5, 2021.

H. J. R. 10
Passed March 3, 2021
Effective March 3, 2021

JOINT RESOLUTION APPROVING SETTLEMENT AGREEMENT

Chief Sponsor: Francis D. Gibson
Senate Sponsor: Jerry W. Stevenson

LONG TITLE

General Description:

This resolution approves a settlement agreement involving wrongful death and civil rights claims against the state of Utah and the University of Utah.

Highlighted Provisions:

This resolution:

- approves a settlement for claims related to the death of Lauren McCluskey in the following cases:
  - United States District Court, District of Utah, Civil No. 2:19-cv-00449-HCN-JCB; and
  - Third Judicial District Court, State of Utah, Civil No. 200903724.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah:

WHEREAS, following the tragic death of Lauren McCluskey, her parents, Jill and Matthew McCluskey, individually and on her behalf sued the state of Utah and the University of Utah, including certain current and former employees of the University, in both the United States District Court, District of Utah, Civil No. 2:19-cv-00449-HCN-JCB, and the Third Judicial District Court, State of Utah, Civil No. 200903724;

WHEREAS, the plaintiffs claimed the defendants' conduct during the period surrounding Lauren's death violated Title IX and the Fourteenth Amendment, entitling the plaintiffs to relief as well as giving rise to a "wrongful death" cause of action pursuant to Utah Code Section 78B-3-106;

WHEREAS, the plaintiffs sought at least $56,000,000 as relief for the defendants' alleged violations and on their "wrongful death" claim;

WHEREAS, the plaintiffs, in Lauren's honor, established the Lauren McCluskey Foundation to promote campus safety, and specifically the safety of women on campuses, among other goals;

WHEREAS, the University, in order to improve campus safety, established its new Center for Violence Prevention, among other initiatives;

WHEREAS, on October 21, 2020, the parties, mutually desiring to resolve all litigation between them fully and finally, signed a Settlement Agreement establishing the following;

WHEREAS, the defendants agreed to pay the plaintiffs a settlement of $10,500,000 no later than March 31, 2021;

WHEREAS, the University agreed to make a charitable donation to the Lauren McCluskey Foundation of $3,000,000 no later than March 31, 2021;

WHEREAS, the parties agreed that this donation and any earnings on it will be used exclusively to support the campus safety charitable activities of the Lauren McCluskey Foundation and no other purpose, including without limitation any political action;

WHEREAS, the University agrees to construct a new Athletics Department facility with an indoor track suitable for a Track & Field team to practice, compete, and host competitions, and that this facility will either bear the name of Lauren McCluskey or jointly the name of Lauren McCluskey and the name of a major donor to the construction of the building, no later than December 31, 2030;

WHEREAS, the plaintiffs acknowledge that the University's success in raising philanthropic funds to complete the Athletics Department facility will depend in large part on the plaintiff's participation in and support of these efforts;

WHEREAS, should the University be unsuccessful, despite its best and good faith efforts, in raising philanthropic funds to complete the Athletics Department facility by December 31, 2030, the University will make an additional donation to the Lauren McCluskey Foundation of $3,000,000;

WHEREAS, the University agrees to name its Center for Violence Prevention the "McCluskey Center for Violence Prevention," in perpetuity for the life of the center;

WHEREAS, within 15 days of receiving the settlement and donation, the plaintiffs agree to file all documents required and take all action necessary for dismissal with prejudice of the aforementioned cases, and furthermore, upon these payments, to release the state of Utah, its Board and Commissioner of Higher Education, the University of Utah, its trustees and independent reviewers, and their agents, their insurers, their current and former employees, and all parties to the Litigation, in their official capacities and individually, from all grievances, complaints, claims, or costs of any kind, including attorney fees, that the plaintiffs had, now have, or may have in the future in connection with events causing damages

of any kind relating in any way to Lauren, and any other matter known or unknown including, without limitation, claims under any governing policy, rule, regulation, or federal or state law;

WHEREAS, pursuant to Utah Code Section 63G-10-202, litigation settlements which will cost government entities more than $1,000,000 to implement require the Utah Legislature's approval before execution; and

WHEREAS, after the Legislature grants approval by means of this resolution, the state risk manager shall have authority to settle the above-referenced claims pursuant to Utah Code Subsection 63G-10-503(5):

NOW, THEREFORE, BE IT RESOLVED that the Utah Legislature approves the proposed settlement agreement for McCluskey v. Utah, Civil No. 2:19-cv-00449-HCN-JCB, and McCluskey v. Utah, Civil No. 200903724.

H. J. R. 11
Passed March 5, 2021
Effective March 5, 2021

JOINT RULES RESOLUTION - EXECUTIVE APPROPRIATIONS COMMITTEE

Chief Sponsor: Jefferson Moss
Senate Sponsor: Lincoln Fillmore
Cosponsor: Travis M. Seegmiller

LONG TITLE

General Description:

This rules resolution modifies joint rules related to the duties of the Executive Appropriations Committee.

Highlighted Provisions:

This resolution:

- requires the Executive Appropriations Committee to decide each year whether to set aside special allocations for legislation that will reduce taxes; and
- makes technical changes.

Special Clauses:

None

Legislative Rules Affected:

AMENDS:

JR3-2-402

Be it resolved by the Legislature of the state of Utah:

Section 1. JR3-2-402 is amended to read:

JR3-2-402. Executive appropriations -- Duties -- Base budgets.

(1) (a) The Executive Appropriations Committee shall meet no later than the third Wednesday in December to:

(i) direct staff as to what revenue estimate to use in preparing budget recommendations, to include a forecast for federal fund receipts;

(ii) consider treating above-trend revenue growth as one-time revenue for major tax types and for federal funds;

(iii) hear a report on the historical, current, and anticipated status of the following:

(A) debt;

(B) long term liabilities;

(C) contingent liabilities;

(D) General Fund borrowing;

(E) reserves;

(F) fund balances;

(G) nonlapsing appropriation balances;

(H) cash funded infrastructure investment; and

(I) changes in federal funds paid to the state;

(iv) hear a report on:

(A) the next fiscal year base budget appropriation for Medicaid accountable care organizations according to Section 26-18-405.5;

(B) an explanation of program funding needs;

(C) estimates of overall medical inflation in the state; and

(D) mandated program changes and their estimated cost impact on Medicaid accountable care organizations;

(v) decide whether to set aside special allocations for the end of the session, including allocations:

(A) to address any anticipated reduction in the amount of federal funds paid to the state; and

(B) of one-time revenue to pay down debt and other liabilities;

(vi) decide whether to set aside special allocations for legislation that will reduce taxes, including legislation that will reduce one or more tax rates;

[~~(vi)~~] (vii) approve the appropriate amount for each subcommittee to use in preparing its budget;

[~~(vii)~~] (viii) set a budget figure; and

[~~(viii)~~] (ix) adopt a base budget in accordance with Subsection (1)(b) and direct the legislative fiscal analyst to prepare one or more appropriations acts appropriating one or more base budgets for the next fiscal year.

(b) In a base budget adopted under Subsection (1)(a), appropriations from the General Fund, the Education Fund, and the Uniform School Fund shall be set as follows:

(i) if the next fiscal year ongoing revenue estimates set under Subsection (1)(a)(i) are equal to or greater than the current fiscal year ongoing appropriations, the new fiscal year base budget is not changed;

(ii) if the next fiscal year ongoing revenue estimates set under Subsection (1)(a)(i) are less than the current fiscal year ongoing appropriations,

the new fiscal year base budget is reduced by the same percentage that projected next fiscal year ongoing revenue estimates are lower than the total of current fiscal year ongoing appropriations;

(iii) in making a reduction under Subsection (1)(b)(ii), appropriated debt service shall not be reduced, and other ongoing appropriations shall be reduced, in an amount sufficient to make the total ongoing appropriations, including the unadjusted debt service, equal to the percentage calculated under Subsection (1)(b)(ii); and

(iv) the new fiscal year base budget shall include an appropriation to the Department of Health for Medicaid accountable care organizations in the amount required by Section 26-18-405.5.

(c) The chairs of each joint appropriations subcommittee are invited to attend this meeting.

(2) All proposed budget items shall be submitted to one of the subcommittees named in JR3-2-302 for consideration and recommendation.

(3) (a) After receiving and reviewing subcommittee reports, the Executive Appropriations Committee may refer the report back to a joint appropriations subcommittee with any guidelines the Executive Appropriations Committee considers necessary to assist the subcommittee in producing a balanced budget.

(b) The subcommittee shall meet to review the new guidelines and report the adjustments to the chairs of the Executive Appropriations Committee as soon as possible.

(4) (a) After receiving the reports, the Executive Appropriations Committee chairs will report them to the Executive Appropriations Committee.

(b) The Executive Appropriations Committee shall:

(i) make any further adjustments necessary to balance the budget; and

(ii) complete all decisions necessary to draft the final appropriations bills no later than the 39th day of the annual general session.

H. J. R. 12
Passed March 5, 2021
Effective date (if approved by voters)
January 1, 2023

PROPOSAL TO AMEND UTAH CONSTITUTION - SPECIAL SESSION APPROPRIATIONS

Chief Sponsor: Bradley G. Last
Senate Sponsor: Jerry W. Stevenson

LONG TITLE

General Description:

This joint resolution of the Legislature proposes to amend the Utah Constitution to modify a provision relating to a legislative session convened by the president and speaker.

Highlighted Provisions:

This resolution proposes to amend the Utah Constitution to:

- modify the amount of appropriations the Legislature may make during a session convened by the president and speaker.

Special Clauses:

This resolution directs the lieutenant governor to submit this proposal to voters.

This resolution provides a contingent effective date of January 1, 2023 for this proposal.

Utah Constitution Sections Affected:

AMENDS:

ARTICLE VI, SECTION 2

Be it resolved by the Legislature of the state of Utah, two-thirds of all members elected to each of the two houses voting in favor thereof:

Section 1. It is proposed to amend Utah Constitution, Article VI, Section 2, to read:

Article VI, Section 2. [Time and location of annual general sessions -- Location of sessions convened by the Governor or Legislature -- Sessions convened by the Legislature.]

(1) Annual general sessions of the Legislature shall be held at the seat of government and shall begin on the day in January designated by statute.

(2) A session convened by the Governor under Article VII, Section 6 and a session convened by the Legislature under Subsection (3) shall be held at the seat of government, unless convening at the seat of government is not feasible due to epidemic, natural or human-caused disaster, enemy attack, or other public catastrophe.

(3) (a) The President of the Senate and Speaker of the House of Representatives shall by joint proclamation convene the Legislature into session if a poll conducted by the President and Speaker of their respective houses indicates that two-thirds of all members elected to each house are in favor of convening the Legislature into session because in their opinion a persistent fiscal crisis, war, natural disaster, or emergency in the affairs of the State necessitates convening the Legislature into session.

(b) The joint proclamation issued by the President and Speaker shall specify the business for which the Legislature is to be convened, and the Legislature may not transact any business other than that specified in the joint proclamation, except that the Legislature may provide for the expenses of the session and other matters incidental to the session.

(c) The Legislature may not be convened into session under this Subsection (3) during the 30 calendar days immediately following the adjournment sine die of an annual general session of the Legislature.

(d) (i) In a session convened under this Subsection (3), the cumulative amount of [~~appropriations that~~

~~the Legislature makes~~] additional money appropriated by the Legislature may not exceed an amount equal to [~~1%~~] 5% of the total amount appropriated by the Legislature for the immediately preceding completed fiscal year.

(ii) The limit in Subsection (3)(d)(i) does not apply to:

(A) an appropriation that decreases the amount of money authorized for expenditure in a fiscal year; or

(B) an appropriation of money that the federal government provides to the State to address a fiscal, public health, or other emergency or crisis.

(e) Nothing in this Subsection (3) affects the Governor's authority to convene the Legislature under Article VII, Section 6.

Section 2. Submittal to voters.

The lieutenant governor is directed to submit this proposed amendment to the voters of the state at the next regular general election in the manner provided by law.

Section 3. Effective date.

If the amendment proposed by this joint resolution is approved by a majority of those voting on it at the next regular general election, the amendment shall take effect on January 1, 2023.

H. J. R. 15
Passed March 5, 2021
Effective March 5, 2021

JOINT RESOLUTION ON MILITARY SEXUAL TRAUMA

Chief Sponsor: Angela Romero
Senate Sponsor: Luz Escamilla

LONG TITLE

General Description:

This resolution designates November 2021 as "Military Sexual Assault Survivors Month."

Highlighted Provisions:

This resolution:

- provides an overview of military sexual trauma statistics;
- designates November 2021 as "Military Sexual Assault Survivors Month" in Utah; and
- honors the strength, resolve, and perseverance of sexual assault survivors serving in the military.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah:

WHEREAS, the United States Department of Defense's 2020 Annual Report on Sexual Assault in the Military (DOD report) revealed that an estimated 20,500 members of the United States Armed Forces, comprised of 13,000 women and 7,500 men, were victims of sexual assault in 2019, with 7,825 cases reported, which is a 3% increase over 2018;

WHEREAS, on average, according to the same 2020 report, only one out of every three sexual assault survivors in the armed forces come forward to report the assault;

WHEREAS, significant psychological impact due to the assault and resulting trauma may cause survivors to leave military service early;

WHEREAS, women, who make up 20% of the armed forces, are the targets of 63% of sexual assaults within the armed services;

WHEREAS, sexual assault within the armed forces is an issue for men who serve as well, with 1 in 12 who report sexual harassment experiencing sexual assault;

WHEREAS, according to statistics cited in the DOD report, since 2004 the United States Armed Forces has received 50,071 reports of sexual assault from male and female service members for incidents that occurred during military service;

WHEREAS, sexual assault survivors in the armed forces have many of the same reasons for deciding not to report sexual assault as sexual assault survivors outside of the armed forces, including embarrassment, stigma, and fear of retaliation;

WHEREAS, according to the DOD report, sexual assault is a serious problem that can have lasting, harmful effects on victims, military units, and international alliances;

WHEREAS, the unique pressures of military life cause additional anxiety and stress to military sexual assault survivors and can often cause complications in survivors' lives;

WHEREAS, each service member's and veteran's personal story underscores the need for meaningful change to provide healing to those affected by sexual trauma through adequate medical and mental health services;

WHEREAS, it is clear that much more must be done to combat sexual assault in the armed forces;

WHEREAS, by highlighting this epidemic, Utah policymakers can seek to bring about improved educational and preventative initiatives at a state level; and

WHEREAS, in the state of Utah, the Department of Military and Veterans Affairs, local veterans' centers, and VA medical centers are able to offer resources for those individuals that have survived sexual trauma in the military:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah designates November 2021 as "Military Sexual Assault Survivors Month" in Utah.

BE IT FURTHER RESOLVED that the Legislature honor the strength, resolve, and perseverance of sexual assault survivors within the military and work urgently to end sexual violence in the United States Armed Forces.

BE IT FURTHER RESOLVED that the Legislature recognize the efforts of the Department of Defense to acknowledge the issue of sexual assault in the military and to support those who have been victims of sexual assault.

H. J. R. 17
Passed March 5, 2021
Effective March 5, 2021

JOINT RULES RESOLUTION -- PROCEDURAL AMENDMENTS

Chief Sponsor: James A. Dunnigan
Senate Sponsor: David G. Buxton

LONG TITLE

General Description:

This rules resolution amends joint rules related to legislative procedure.

Highlighted Provisions:

This resolution:

- clarifies the process by which legislation is recalled after the legislation is signed by the president and the speaker; and
- makes technical and conforming changes.

Special Clauses:

None

Legislative Rules Affected:

AMENDS:
JR4-5-201

Be it resolved by the Legislature of the state of Utah:

Section 1. JR4-5-201 is amended to read:

JR4-5-201. Recalling legislation after the legislation is signed by the speaker and president.

[~~Legislation in the possession of the other house or the Office of Legislative Research and General Counsel may be recalled by a motion and a constitutional majority vote from the members of both houses.~~]

(1) As used in this rule:

(a) "Originating house" means the house in which a piece of legislation originates.

(b) "Non-originating house" means the house in which a piece of legislation does not originate.

(2) An originating house may recall legislation that is in the possession of the Office of Legislative Research and General Counsel by a motion and constitutional majority vote.

(3) (a) A non-originating house may, by motion and constitutional majority vote, request that the originating house recall legislation from the Office of Legislative Research and General Counsel.

(b) Upon receipt of a request described in Subsection (3)(a), the originating house may, by motion and constitutional majority vote, recall from the Office of Legislative Research and General Counsel the legislation that is the subject of the request.

(c) A non-originating house may not recall legislation from the Office of Legislative Research and General Counsel except as provided in this Subsection (3).

(4) The Office of Legislative Research and General Counsel shall return legislation recalled under this rule:

(a) for legislation recalled under Subsection (2), to the originating house; or

(b) for legislation recalled under Subsection (3), to the non-originating house.

H. R. 2
Passed February 12, 2021
Effective February 12, 2021

HOUSE RULES RESOLUTION - TECHNICAL CORRECTIONS

Chief Sponsor: Timothy D. Hawkes

LONG TITLE

General Description:

This resolution modifies provisions of House legislative rules to make technical corrections.

Highlighted Provisions:

This resolution:

- modifies parts of House legislative rules to make technical corrections, including eliminating references to repealed rules provisions, eliminating redundant or obsolete language, making minor wording changes, and correcting errors.

Special Clauses:

None

Legislative Rules Affected:

AMENDS:
HR1-1-101
HR1-5-301
HR2-2-106
HR2-4-103
HR2-5-101
HR3-1-102
HR3-2-312
HR3-2-401
HR3-2-405
HR3-2-406
HR4-1-101
HR4-3-301
HR4-4-202
HR4-7-101
HR4-8-101
HR4-9-101

Be it resolved by the House of Representatives of the state of Utah:

Section 1. HR1-1-101 is amended to read:

HR1-1-101. Adoption, amendment, or suspension of House Rules.

(1) The House of Representatives shall adopt House rules, by a constitutional two-thirds vote, at the beginning of each new Legislature convening in odd-numbered years.

(2) Except as provided in this [~~section~~] rule:

(a) (i) during an annual general session held in an even-numbered year, rules adopted by the House of Representatives during the immediately preceding general session, as amended during that general session and any intervening session, apply to the conduct of the House; and

(ii) during any special session, House rules apply as provided in JR2-1-101.

(b) for a session described in this Subsection (2), the chief clerk shall announce to the House that the previously adopted rules apply to the newly convened session.

(3) Except as provided in Subsection (4), additional rules may be adopted and existing rules may be suspended, amended, or repealed by a majority vote, except the following, which require a two-thirds vote to adopt, suspend, amend, or repeal:

(a) rules governing limitation of debate;

(b) rules governing a motion to end debate (call the previous question);

(c) rules governing motions for lifting tabled legislation from committee;

(d) rules governing consideration of legislation during the last three days of a session; and

(e) rules governing voting in Title 4, Chapter 7, Voting.

(4) (a) A rule that includes a voting requirement of more than a constitutional majority must be adopted and may only be amended, suspended, or repealed by a constitutional two-thirds vote of all representatives.

(b) If the suspension of any House rule is governed by the Utah Constitution or Utah statutes, the House may suspend that rule only as provided by that constitutional or statutory provision.

(5) If a motion to adopt the rules under Subsection (1) meets or exceeds a majority vote but fails to reach a constitutional two-thirds vote:

(a) rules adopted by the House of Representatives during the immediately preceding general session, as amended during that general session and any intervening session, apply to the conduct of the House; and

(b) the chief clerk shall announce to the House that the previously adopted rules apply to the newly convened Legislature.

Section 2. HR1-5-301 is amended to read:

HR1-5-301. Special order of business -- Time certain.

(1) (a) Except as provided in Subsection (2), a representative may make a motion, or the House Rules committee may recommend, that a piece of legislation become a special order of business on the time certain calendar.

(b) If the motion is approved by a majority of the members present, the chief clerk shall place the legislation on the time certain calendar.

(2) A motion to place a piece of legislation as a special order of business on the time certain calendar may not be made if the legislation has not yet been placed on the third reading calendar or the consent calendar.

(3) At the time set for consideration of the legislation, the presiding officer shall place the legislation before the House.

Section 3. HR2-2-106 is amended to read:

HR2-2-106. Smoking and electronic cigarettes prohibited.

(1) As used in this [~~section~~] rule, "electronic cigarette" means any device, other than a combustible cigarette or cigar, intended to deliver vapor containing nicotine into a person's respiratory system.

(2) A person may not smoke or use an electronic cigarette in the House chamber or other house controlled areas.

(3) The sergeant-at-arms shall enforce this rule.

Section 4. HR2-4-103 is amended to read:

HR2-4-103. Prohibitions on lobbying and fundraising.

(1) As used in this [~~section~~] rule, "fundraising" means:

(a) the solicitation of a monetary contribution for any purpose; or

(b) the announcement or promotion of an event that has as one of its purposes the collection of funds by means of a monetary contribution.

(2) Lobbying is prohibited on the House floor as provided under HR2-4-101.2.

(3) (a) Distribution of literature or any other information that announces or promotes fundraising is prohibited on the House floor.

(b) Notwithstanding Subsection (3)(a), a verbal announcement that involves or relates to fundraising is permitted on the House floor if the announcement is:

(i) publicly made to all members on the House floor; and

(ii) an official announcement from the third house or authorized by the speaker of the House.

Section 5. HR2-5-101 is amended to read:

HR2-5-101. Representatives may request and sponsor legislation -- Substituting a sponsor -- Withdrawing as a cosponsor.

(1) A representative may request and sponsor legislation as provided in Joint Rules Title 4, Bills and Resolutions.

(2) (a) After a piece of legislation has been introduced, the chief representative sponsor of the legislation may withdraw from sponsoring the legislation by:

(i) finding another representative to act as chief sponsor of the legislation; and

(ii) filing a substitution of sponsorship form with the chief clerk before final passage of the legislation in the House.

(b) A representative seeking to withdraw as the chief sponsor need not obtain permission from the House to withdraw.

(3) (a) [~~Before~~] During a general session, before final passage of [~~the~~] a piece of legislation in the House, a representative cosponsor of [~~a bill~~] the legislation may withdraw as a cosponsor [~~of that legislation~~].

(b) A representative seeking to withdraw as a cosponsor need not:

(i) obtain permission from the House to withdraw; or

(ii) provide a substitute cosponsor for the legislation.

Section 6. HR3-1-102 is amended to read:

HR3-1-102. House Rules Committee -- Assignment duties.

(1) The presiding officer shall submit all legislation introduced in the House of Representatives to the House Rules Committee.

(2) For all legislation not specified in HR3-1-103 that is referred to the House Rules Committee, the committee shall examine the legislation referred to it for proper form, including fiscal note and committee note, if any, and either:

(a) refer the legislation to the House with a recommendation that the legislation be:

(i) referred to a standing committee for consideration; or

(ii) read the second time and placed on the third reading calendar if:

(A) the bill has received a favorable recommendation from a House standing committee;

(B) the bill is exempted from the House standing committee review requirements under HR3-2-401;

(C) the bill has received a favorable recommendation from the House Rules Committee meeting as a standing committee as permitted under HR3-1-101;

(D) if the legislation is a nonbinding resolution as defined in HR3-2-405, read the second time and placed on the consent calendar; or

(E) the legislation was approved by a unanimous vote of the members present at an interim committee meeting and met the posting requirements of JR7-1-602.5; or

(b) hold the legislation.

(3) If the chair of the House Rules Committee receives a summary report from the Occupational and Professional Licensure Review Committee related to newly regulating an occupation or profession within the two calendar years immediately preceding the session in which a piece of legislation is introduced related to the regulation by the Division of Occupational and Professional Licensing of that occupation or profession:

(a) the chair of the House Rules Committee shall ensure that the House Rules Committee is informed of the summary report before the House Rules Committee takes action on the legislation; and

(b) if the House Rules Committee refers the legislation to the House as provided for in Subsection (2)(a):

(i) the Office of Legislative Research and General Counsel shall make the summary report reasonably available to the public and to legislators; and

(ii) if the legislation is referred to a standing committee, the House Rules Committee shall forward the summary report to the standing committee.

(4) In carrying out its functions and responsibilities under this rule, the House Rules Committee may not:

(a) table legislation without the written consent of the sponsor;

(b) report out any legislation that has been tabled by a standing committee;

(c) amend legislation without the written consent of the sponsor; or

(d) substitute legislation without the written consent of the sponsor.

(5) The House Rules Committee may recommend a time certain for floor consideration of any legislation when it is reported out of the House Rules Committee, or at any other time.

(6) When the committee is carrying out its functions and responsibilities under this rule, the committee shall:

(a) when the Legislature is in session, give notice of its meetings according to the requirements of HR3-1-106;

(b) when the Legislature is not in session, post a notice of meeting at least 24 hours before the meeting convenes;

(c) have as its agenda all legislation in its possession for assignment to committee or to the House calendars; and

(d) prepare minutes that include a record, by individual representative, of votes taken.

(7) [~~Rules committee~~] House Rules Committee meetings are open to the public, but comments and discussion are limited to members of the committee and the committee's staff.

Section 7. HR3-2-312 is amended to read:

HR3-2-312. Chair to accept all motions that are in order -- Once accepted, the motion is pending.

(1) The chair shall accept a motion requested by a member of a standing committee who has been properly recognized unless the motion is prohibited by this chapter or by parliamentary procedure.

(2) To properly accept a motion, the chair shall:

(a) restate each verbal motion;

(b) identify the number of each written motion to amend or substitute legislation; and

(c) [~~distribute copies of~~] ensure a copy of each written amendment or substitute [~~to members of the committee~~] is available online.

(3) When a chair properly accepts a motion under Subsection (2), the motion is pending.

Section 8. HR3-2-401 is amended to read:

HR3-2-401. Standing committee review required -- Exceptions.

(1) Except as provided in Subsection (2), the House of Representatives may not pass a bill, joint resolution, or concurrent resolution during the annual general session unless a House standing committee has given a favorable recommendation to the legislation.

(2) Subsection (1) does not apply to:

(a) a resolution regarding legislative rules or legislative personnel;

(b) legislation that has been approved by a unanimous vote of the members present at an interim committee meeting;

(c) the revisor's statute; or

(d) if the legislation was reviewed and approved by the Executive Appropriations Committee, legislation that:

(i) exclusively appropriates money;

(ii) amends Utah Code Title 53F, Chapter 2, State Funding -- Minimum School Program;

(iii) amends Utah Code Title 67, Chapter 22, State Officer Compensation; or

(iv) authorizes the issuance of general obligation or revenue bonds.

Section 9. HR3-2-405 is amended to read:

HR3-2-405. Consent calendar -- Nonbinding resolutions -- Committee recommendations -- Licensure review reports.

(1) As used in this [~~section~~] rule, "nonbinding resolution":

(a) means a resolution that:

(i) is primarily for the purpose of recognizing, honoring, or memorializing an individual, group, or event;

(ii) requests, rather than compels, action or awareness by an individual or group; or

(iii) is informational or promotional in nature; and

(b) does not mean:

(i) a rules resolution;

(ii) a resolution for a constitutional amendment; or

(iii) any resolution that approves or authorizes any action, requires any substantive action to be taken, or results in a change in law, policy, or funding.

(2) (a) A nonbinding resolution shall be placed on the consent calendar.

(b) A nonbinding resolution may be moved to the time certain calendar or other calendar by a majority vote of those present.

(3) A standing committee may recommend that legislation in [~~its~~] the standing committee's possession be placed on the consent calendar if:

(a) the committee approves a motion, by a unanimous vote of those present, to give the legislation a favorable recommendation;

(b) immediately subsequent to that action, the committee approves a separate motion, by a unanimous vote of those present, to recommend that the legislation be placed on the consent calendar; and

(c) the legislation has a fiscal note that is less than $10,000.

(4) If, in accordance with HR3-1-102, the House Rules Committee forwards a summary report from the Occupational and Professional Licensure Review Committee in conjunction with legislation referred to a standing committee, the chair shall ensure that the summary report is read orally to the committee before action is taken by the committee on the legislation that is related to the summary report.

Section 10. HR3-2-406 is amended to read:

HR3-2-406. Amending legislation -- Verbal amendments -- Amendments must be germane.

(1) (a) Subject to Subsection (2) and HR3-2-306, and if recognized by the chair during the sponsor

presentation phase or the committee action phase, a committee member may make a motion to amend the legislation that is under consideration.

(b) (i) A committee member may propose a verbal amendment to the legislation under consideration if the amendment contains 15 or fewer words.

(ii) [~~Before~~] Unless the amendment contains 15 or fewer words, before proposing a motion to amend, a committee member shall ensure that a copy of the proposed amendment [~~that contains more than 15 words is printed and distributed to committee staff and to all committee members present~~] is available online.

(iii) Each word inserted shall count as one of the 15 words permitted under a verbal amendment, except that:

(A) numbering shall not be counted as a word;

(B) instructions to delete a word or words shall not count as a word; and

(C) a word or an exact phrase that is inserted in multiple locations shall only be counted for the first insertion.

(2) (a) A committee member may only make a motion to amend that is germane to the subject of the legislation under consideration.

(b) A committee member who believes that an amendment is not germane to the subject of the legislation may make a point of order or appeal as described in HR3-2-506.

Section 11. HR4-1-101 is amended to read:

HR4-1-101. Definitions.

As used in this title:

(1) "Appropriations bill" means a bill that appropriates money and makes no change to statute.

(2) "Constitutional majority vote" means that the matter requires at least 38 votes to pass on the House floor.

(3) "Constitutional two-thirds vote" means that the matter requires at least 50 votes to pass on the House floor.

(4) "Majority vote" means that the matter requires the votes of at least a majority of a quorum to pass on the House floor.

(5) "Two-thirds vote" means that the matter requires the vote of at least two-thirds of a quorum to pass on the House floor.

(6) "Point of order" means a question raised by a representative about whether or not there has been a breach of order, a breach of rules, or a breach of established parliamentary practice.

(7) "Presiding officer" means the person presiding over the Utah House of Representatives and includes:

(a) the speaker;

(b) the speaker pro tempore; and

(c) any representative presiding under HR1-3-103.

(8) "Quorum" means that at least 38 members of the House of Representatives are present.

Section 12. HR4-3-301 is amended to read:

HR4-3-301. Amendments in order on third reading -- 15 word rule -- Passage of amendments by a majority vote.

(1) A motion to amend a piece of legislation is in order on third reading.

(2) (a) A representative may verbally propose an amendment to legislation if the amendment contains 15 or fewer words [~~or less~~].

(b) [~~A~~] Unless the amendment contains 15 or fewer words, before a representative makes a motion to amend, the representative shall ensure that a copy of the proposed amendment [~~containing more than 15 words is printed on pink paper and available to the chief clerk and each representative present before the motion to amend is made~~] is available online.

(c) Each word inserted shall count as one of the 15 words permitted under a verbal amendment, except that:

(i) numbering shall not be counted as a word;

(ii) instructions to delete a word or words shall not count as a word; and

(iii) a word or an exact phrase that is inserted in multiple locations shall only be counted for the first insertion.

(3) A constitutional amendment, resolution, or bill requiring a constitutional two-thirds vote for final passage, may be amended by a majority vote.

(4) When legislation is amended by the House, the chief clerk shall:

(a) for each page of the legislation modified by a House amendment, cause a new page to be printed that clearly identifies each House amendment to that page; and

(b) print that new page on lilac-colored paper.

Section 13. HR4-4-202 is amended to read:

HR4-4-202. Disposition of legislation voted on third reading.

(1) Except as provided in Subsection (2), the chief clerk or the chief clerk's designee shall:

(a) for a piece of House legislation passed by the House on third reading but not yet acted upon by the Senate, transmit the House legislation to the Senate for its further action;

(b) for a piece of House legislation that fails to pass the House on third reading, file the legislation;

(c) for a piece of House legislation that has passed both houses, follow the procedures and requirements of [~~JR4-6-101(1)(b)~~] JR4-5-101;

(d) for a piece of Senate legislation passed by the House on third reading and not amended or

substituted in the House, transmit the Senate legislation to the presiding officer of the House for the presiding officer's signature and return the legislation to the Senate for the signature of the president of the Senate;

(e) for a piece of Senate legislation passed by the House on third reading that was amended or substituted in the House, transmit the legislation to the Senate with the amendments or substitute for further action by the Senate; and

(f) for a piece of Senate legislation that fails to pass the House on third reading, transmit the legislation to the Senate with notice of the House's action.

(2) (a) The chief clerk shall ensure that the House retains possession of a piece of legislation for no more than one legislative day when:

(i) a representative gives notice of intention to move for reconsideration to the chief clerk;

(ii) a representative requests that the chief clerk hold the legislation; or

(iii) the House passes a motion to retain possession of the legislation.

(b) When a representative moves for reconsideration or requests a hold under Subsection (2)(a)(i) or (2)(a)(ii), the chief clerk shall give notice of the action to the speaker and to the sponsor of the legislation.

(c) Notwithstanding the requirements of Subsection (2)(a), a piece of legislation may be released earlier than 24 hours if the hold is released.

Section 14. HR4-7-101 is amended to read:

HR4-7-101. Definitions.

As used in this chapter:

(1) "Electronic vote" means that those representatives present vote using an electronic system that records and tallies their votes.

(2) "Roll call vote" means a verbal voting process where:

(a) the chief clerk or the chief clerk's designee verbally calls the name of each representative alphabetically, except the speaker, who is called last;

(b) each representative present votes "aye" or "no" when the representative's name is called;

(c) the chief clerk or the chief clerk's designee:

(i) tallies the vote;

(ii) records those representatives who are absent or not voting; and

(iii) gives a copy of the tally to the presiding officer; and

(d) the presiding officer announces the result of the vote.

(3) "Voice vote" means a verbal voting process where the presiding officer:

(a) poses the question to be voted upon in this form: "Those in favor (of the question) say aye." and "Those opposed, say no."; and

(b) based upon the representative's responses, announces that the question either passed or failed.

Section 15. HR4-8-101 is amended to read:

HR4-8-101. Definitions.

["~~Call~~] As used in this chapter, "call of the House" means the process by which the House may compel absent representatives to be present in the House chamber.

Section 16. HR4-9-101 is amended to read:

HR4-9-101. Motion to reconsider.

(1) As used in this [~~section~~] rule, "legislative day" means a day when the House of Representatives convenes in the House chamber and conducts House business.

(2) (a) Except as provided in Subsection (3), when a question has been decided on the floor of the House, a representative voting with the prevailing side may move for reconsideration after intervening business.

(b) If the motion to reconsider is to reconsider passage of a piece of legislation, the representative making the motion shall include the number and short title of the legislation as part of the motion.

(c) If a motion for reconsideration is made on the floor of the House after a piece of legislation has left the possession of the House, the chief clerk shall request that the legislation be returned to the House.

(d) The presiding officer shall rule a motion for reconsideration out of order unless the motion is made:

(i) before the 43rd legislative day;

(ii) before the House adjourns on the legislative day after the legislative day on which the action sought to be reconsidered occurred; and

(iii) by a representative who previously served notice.

(3) A representative may not make a motion to reconsider after the 42nd day of the annual general session of the Legislature.

H. R. 3
Passed January 26, 2021
Effective January 26, 2021

HOUSE RESOLUTION HONORING DONOVAN MITCHELL OVER SHAQUILLE O'NEAL

Chief Sponsor: Kera Birkeland

LONG TITLE

General Description:

This resolution honors Utah Jazz All-Star Donovan Mitchell.

Highlighted Provisions:

This resolution:

- recognizes the exemplary service of Donovan Mitchell to the Utah Jazz and the Utah community; and
- suggests consideration of making the "Spida" the official state arachnid.

Special Clauses:

None

Be it resolved by the House of Representatives of the state of Utah:

WHEREAS, the Utah Jazz are a beloved part of the Utah community and the National Basketball Assocation (NBA);

WHEREAS, in Utah, we support our players when they face awkward abuse during post-game interviews disguised as pep talks;

WHEREAS, the claim by Shaquille O'Neal (Shaq) on January 21, 2021, that Utah Jazz All-Star Donovan Mitchell Jr. (Donovan) doesn't have what it takes to get to the next level is even less accurate than his 50.4% playoff free-throw percentage (slightly worse than Donovan's 88.1%);

WHEREAS, the Jazz eliminated Shaq and the Los Angeles Lakers from the playoffs in 1997 (4-1) and 1998 (4-0);

WHEREAS, we are not talking about 2000, 2001, 2002, or 2006 right now, the years in which Kobe Bryant's Los Angeles Lakers and Dwayne Wade's Miami Heat won championships for Shaq;

WHEREAS, Kazaam has a 5% rating on rotten tomatoes;

WHEREAS, Shaq under-develops his hot takes almost as well as his 1990's "Shaq Fu" video game;

WHEREAS, Shaq correctly described Donovan as an elite scorer, given that in just his third NBA season during the 2020 playoffs, Donovan became the third player in NBA history to have at least two 50-point games in a single playoff series (joining Michael Jordan in his fourth season and Allen Iverson in his third season);

WHEREAS, on the same night that Shaq disparaged Donovan, Donovan made his 600th three-pointer earlier in his career than any other player in the history of the NBA;

WHEREAS, as of January 26, 2021, Donovan has drained 1,995 field goals, 604 3-pointers, and 894 free-throws;

WHEREAS, Donovan Mitchell is more than just a scorer, having grabbed 982 rebounds, swatted 79 blocks, and picked 306 steals for the Jazz, as of January 26, 2021;

WHEREAS, it is hard to pull down rebounds when All-Star Rudy Gobert is on your team, grabbing more rebounds than anyone else in the league as a two-time defensive player of the year (more than Shaq's zero), one-time league leader in blocks (more than Shaq's zero), and four-time All-Defensive 1st Teamer (more than Shaq's zero);

WHEREAS, although Shaq's "skill" was being bigger than everyone else, Donovan has progressively succeeded through talent, dedication, and constant effort;

WHEREAS, the following immortal words, once spoken by Bill Walton, apply equally to Donovan, "He is a champion of basketball and of the human spirit as well";

WHEREAS, Donovan has provided backpacks, school supplies, and most importantly, his time, to Utah students;

WHEREAS, Donovan launched the SPIDACARES, a foundation to empower women following the example set by his mother and sister; and

WHEREAS, Donovan has consistently demonstrated his decency by freely and abundantly giving to local communities and charities while volunteering his time to help his fellow Utahns:

NOW, THEREFORE, BE IT RESOLVED that the House of Representatives of the State of Utah recognizes the exemplary service of Donovan Mitchell Jr. to the Utah Jazz and to the people of the great state of Utah.

BE IT FURTHER RESOLVED that the House of Representatives consider making the "Spida" the official state arachnid.

BE IT FURTHER RESOLVED that the House of Representatives also recognizes the tremendous impact Shaquille O'Neal, one of the all-time NBA greats, has made in communities throughout the United States through generous donations of his time and resources.

BE IT FURTHER RESOLVED "Aight. That's it."

H. R. 5
Passed February 25, 2021
Effective May 5, 2021

HOUSE RULES RESOLUTION — STANDING COMMITTEE MODIFICATIONS

Chief Sponsor: Walt Brooks

LONG TITLE

General Description:

This rules resolution modifies House legislative rules related to standing committees.

Highlighted Provisions:

This resolution:

- repeals the House Retirement and Independent Entities Standing Committee.

Special Clauses:

This resolution provides a special effective date.

Legislative Rules Affected:

AMENDS:
HR3-2-201

Be it resolved by the House of Representatives of the state of Utah:

Section 1. HR3-2-201 is amended to read:

HR3-2-201. Standing committees -- Creation.

[~~(1)~~] There are created the following standing committees:

[~~(a)~~] (1) Business and Labor;

[~~(b)~~] (2) Economic Development and Workforce Services;

[~~(c)~~] (3) Education;

[~~(d)~~] (4) Government Operations;

[~~(e)~~] (5) Health and Human Services;

[~~(f)~~] (6) House Rules;

[~~(g)~~] (7) Judiciary;

[~~(h)~~] (8) Law Enforcement and Criminal Justice;

[~~(i)~~] (9) Natural Resources, Agriculture, and Environment;

[~~(j)~~] (10) Political Subdivisions;

[~~(k)~~] (11) Public Utilities, Energy, and Technology;

[~~(l)~~] (12) Revenue and Taxation; and

[~~(m)~~] (13) Transportation.

[~~(2) The members of the Retirement and Independent Entities Committee created in Utah Code Section 63E-1-201 comprise a House standing committee.~~]

Section 2. Effective date.

This rules resolution takes effect May 5, 2021.

H. R. 6
Passed February 25, 2021
Effective February 25, 2021

HOUSE RULES RESOLUTION — CHAMBER PROCEDURE

Chief Sponsor: James A. Dunnigan

LONG TITLE

General Description:

This rules resolution amends house standing committee procedures.

Highlighted Provisions:

This resolution:

- defines terms;
- establishes the order in which a standing committee chair allows response to a substitute motion; and
- makes technical and conforming changes.

Special Clauses:

None

Legislative Rules Affected:

AMENDS:
HR3-2-101
HR3-2-313
HR3-2-505

Be it resolved by the House of Representatives of the state of Utah:

Section 1. HR3-2-101 is amended to read:

HR3-2-101. Definitions.

As used in this chapter:

(1) "Chair" means:

(a) the chair of a standing committee; or

(b) a standing committee member who is authorized to act as chair under HR3-2-202.

(2) "Committee" means a standing committee created under HR3-2-201.

(3) "Dispose of legislation" refers to a committee action that transfers ownership of legislation to the House Rules Committee, to another standing committee, or to the House floor.

(4) "Favorable recommendation" refers to a committee action that transfers ownership of legislation to the House second reading calendar.

(5) "Legislation" means a Senate bill, House bill, Senate resolution, House resolution, joint resolution, or concurrent resolution.

(6) "Majority vote" means a majority of a quorum as provided in HR3-2-203.

(7) "Original motion" means a non-privileged motion that is accepted by the chair when no other motion is pending.

(8) "Pending motion" refers to a motion starting when a chair accepts a motion and ending when the motion is withdrawn or when the chair calls for a vote on the motion.

(9) (a) "Privileged motion" means a procedural motion to adjourn, set a time to adjourn, recess, end debate, extend debate, or limit debate.

(b) Privileged motions are not substitute motions.

(10) "Substitute motion" means a non-privileged motion that is made when [~~a non-privileged~~] an original motion is pending.

(11) "Under consideration" means the time starting when a chair opens a discussion on a subject or piece of legislation that is listed on a committee agenda and ending when the committee disposes of the legislation, moves on to another item on the agenda, or adjourns.

Section 2. HR3-2-313 is amended to read:

HR3-2-313. Chair to allow response to motions before placing motions for a vote.

(1) After [~~a motion has been accepted~~] the chair accepts an original motion, and before the chair places [~~a~~] the original motion for a vote, the chair shall permit:

[~~(1) members of the committee to ask the committee member who placed the motion questions about the motion;~~]

[~~(2) members of the committee~~] (a) committee members to debate the original motion;

[~~(3)~~] (b) the chief sponsor of the legislation that is affected by the original motion to respond to the original motion; and

[~~(4)~~] (c) the committee member who placed the original motion to have the final word on the motion.

(2) After a chair accepts a substitute motion, and before the chair places the substitute motion for a vote, the chair shall permit:

(a) the committee member who placed the original motion to respond to the substitute motion;

(b) committee members to debate the substitute motion;

(c) the chief sponsor of the legislation that is affected by the substitute motion to respond to the substitute motion; and

(d) the committee member who placed the substitute motion to have the final word on the motion.

Section 3. HR3-2-505 is amended to read:

HR3-2-505. Substitute motions in committee -- General requirements, procedure, and priority.

(1) Substitute motions:

(a) are debatable; and

(b) take precedence over original motions.

(2) (a) A committee member may make a substitute motion if an original motion is pending.

(b) A committee member may not make a substitute motion if:

(i) a privileged motion is pending; or

(ii) another substitute motion is pending.

(c) If a substitute motion is adopted, a substitute motion disposes of the original motion.

(d) If a substitute motion is not adopted, the original motion is pending.

(3) After a chair accepts a substitute motion, and before the chair places the substitute motion for a vote, the chair shall allow response to the substitute motion in accordance with HR3-2-313.

H. R. 8
Passed March 2, 2021
Effective March 2, 2021

RESOLUTION TO PROTECT UTAH'S INSTITUTIONS OF HIGHER EDUCATION FROM CHINESE COMMUNIST PARTY INFLUENCE

Chief Sponsor: Candice B. Pierucci

LONG TITLE

General Description:

This resolution calls on Utah's institutions of higher education to close their Confucius institutes and disclose certain information related to Confucius institutes to the Legislature.

Highlighted Provisions:

This resolution:

- describes the history, purpose, and breadth of Confucius institutes at United States institutions of higher education;
- describes concerns that government agencies and associations of scholars have regarding China's use of Confucius institutes to spread propaganda;
- commends Utah's institutions of higher education that have closed their Confucius institutes; and
- calls on Utah's institutions of higher education that have Confucius institutes to:
  - disclose information about the institutes, including contracts between the institution and China; and
  - close their Confucius institutes.

Special Clauses:

None

Be it resolved by the House of Representatives of the state of Utah:

WHEREAS, since 2004, Confucius institutes at United States institutions of higher education have offered a combination of Mandarin language classes, cultural programming, and outreach to kindergarten through grade 12 schools and communities more broadly;

WHEREAS, Confucius institutes are staffed in part with visiting teachers from China and are partially funded by the People's Republic of China government, under guidance from the Chinese Communist Party's United Front Work Department;

WHEREAS, as of August 2020, there were 75 Confucius institutes operating in the United States, of which 65 were active on United States university campuses;

WHEREAS, the United States Senate Permanent Subcommittee on Investigations found that the Confucius institute program is run by the Chinese government through the Ministry of Education's Office of Chinese Language Council International (Hanban);

WHEREAS, the United States Senate Permanent Subcommittee on Investigations found

that each United States university with a Confucius institute signs a contract with Hanban establishing the terms of hosting the institute, and those contracts generally contain provisions that:

- both United States and Chinese laws apply to the contract;
- limit public disclosure of the contract; and
- state that the Chinese director and teachers must "conscientiously safeguard national interests";

WHEREAS, in August 2020, the United States Department of State designated the Confucius Institute United States Center, which is the de facto headquarters of the Confucius institute network, as a foreign mission of the People's Republic of China and has stated that Confucius institutes "push out skewed Chinese language and cultural training for United States students as part of Beijing's multifaceted propaganda efforts";

WHEREAS, the director of the Federal Bureau of Investigation's Counterintelligence Division has warned of China's efforts to conduct espionage through Confucius institutes;

WHEREAS, the American Association of University Professors has decried the threat that Confucius institutes place on academic freedom;

WHEREAS, the National Association of Scholars has stated that Confucius institutes, "avoid Chinese political history and human rights abuses, portray Taiwan and Tibet as undisputed territories of China, and educate a generation of American students with selective knowledge of a major country";

WHEREAS, in 2010, China's then Minister of Propaganda reportedly described the country's foreign activity goal in the People's Daily, the largest newspaper group in China, as: "Coordinate the efforts of overseas and domestic propaganda, further create a favorable international environment for us... With regard to key issues that influence our sovereignty and safety, we should actively carry out international propaganda battles against issues such as Tibet, Xinjiang, Taiwan, Human Rights, and Falun Gong. Our strategy is to pro-actively take our culture abroad [w]e should do well in establishing and operating overseas cultural centers and Confucius institutes";

WHEREAS, since 2014, 45 American universities in 30 different states have already closed their Confucius institutes;

WHEREAS, several Utah institutions of higher education have Confucius institutes; and

WHEREAS, it is essential that students in Utah's higher education system have access to language and cultural offerings free from manipulation of the Chinese Communist Party and its proxies:

NOW, THEREFORE, BE IT RESOLVED that the House of Representatives commends Utah institutions of higher education that have closed or are in the process of closing Confucius institutes on their campuses.

BE IT FURTHER RESOLVED that the House of Representatives strongly encourages institutions of higher education in the state with Confucius institutes to close the institutes before December 1, 2022.

BE IT FURTHER RESOLVED that the House of Representatives discourages Utah institutions of higher education that do not have Confucius institutes from pursuing relationships with the Chinese Communist Party or opening Confucius institutes.

BE IT FURTHER RESOLVED that the House of Representatives requests that each institution of higher education with a Confucius institute disclose to the Legislature the contract for the institutes and any efforts by the institute to influence events hosted by the higher education institution related to issues that may be deemed sensitive to the Chinese Communist Party, such as events that are critical of Chinese Communist Party policies towards Taiwan, the Uyghur minority, Hong Kong, Tibet, or repression of other ethnic and religious minorities.

BE IT FURTHER RESOLVED that a copy of this resolution be sent to the Utah Board of Higher Education and each degree-granting institution that is part of the Utah system of higher education.

S. C. R. 1
Passed February 11, 2021
Approved February 25, 2021
Effective February 25, 2021

CONCURRENT RESOLUTION ON HOLOCAUST EDUCATION

Chief Sponsor: Evan J. Vickers
House Sponsor: Doug Owens

LONG TITLE

General Description:

This resolution highlights the importance of Holocaust and genocide education and encourages the State Board of Education and local education agencies to emphasize the importance of this course of study.

Highlighted Provisions:

This resolution:

- describes the components of Holocaust and genocide education;
- explains the importance of Holocaust and genocide education for students, schools, and communities; and
- encourages the State Board of Education and local education agencies to provide Holocaust and genocide education.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:

WHEREAS, to counteract and defend humanity against unspeakable acts, we must speak of and learn from past atrocities;

WHEREAS, "Holocaust" means the systemic, bureaucratic, state-sponsored persecution and murder of approximately 6,000,000 Jews and 5,000,000 other individuals by the Nazi regime and its collaborators;

WHEREAS, the term genocide was coined specifically to describe the unfathomable depth and breadth of atrocities perpetrated during the Holocaust;

WHEREAS, it is essential to provide students with knowledge of the Holocaust and other genocides to help them make informed choices as citizens and to help root out despicable acts of hatred, anti-Semitism, and other forms of prejudice;

WHEREAS, the study of the Holocaust and other genocides within the context of geography, history, and political systems provides students with essential learning experiences, helping students to:

- understand the root causes, consequences, and ramifications of prejudice, racism, stereotyping, and discrimination;
- confront the issues of moral dilemmas and conflicts of conscience posed by the Holocaust and other genocides;
- learn how the Holocaust contributed to the need for the term "genocide" and led to international legislation that recognized genocide as a crime; and
- contextualize and illuminate patterns of human behavior by individuals and groups and their choices of roles, including perpetrator, collaborator, bystander, victim, resister, and rescuer;

WHEREAS, the study of the Holocaust and other genocides also sharply illustrates the responsibilities of citizens in democratic societies to combat misinformation, indifference, and discrimination through tools of resistance such as protest, reform, and free and fair elections;

WHEREAS, Holocaust and genocide education encourages students to develop empathy and reaffirms the commitment of free people to never again allow genocides to occur;

WHEREAS, Holocaust education teaches universal lessons including: world history, fascism, extremism, the fragility of democracy, the history of the Jewish people, human capacity for the immorality, scapegoating and stereotyping, the role of perpetrators and bystanders, the importance of empathy, diversity, and efforts toward justice;

WHEREAS, Holocaust and genocide education can help nurture and protect democratic values and institutions;

WHEREAS, the study of these topics can lead students to examine what it means to be a responsible and respectful person and to understand the personal responsibility that all people have to fight racism and hatred whenever and wherever it happens; and

WHEREAS, the life lessons that students can learn from the study of the Holocaust and other genocides are transferable and beneficial in many areas of study, and these life lessons are central to the State Board of Education's mission and vision of public education:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, encourages the State Board of Education to continue its practice of adopting K-12 social studies standards that include the study of the Holocaust and other genocides at grade levels appropriate for such study, and in all other subject area standards as suitable.

BE IT FURTHER RESOLVED that every local education agency should include instruction on the Holocaust – including the systematic, planned annihilation of European Jews and other groups by Nazi Germany and its collaborators – and other genocides for all elementary and secondary school pupils with age-appropriate materials included in the curriculum.

BE IT FURTHER RESOLVED that the Legislature and Governor encourage the State Board of Education and local education agencies to continue providing and promoting professional learning activities for educators that include evidence-based pedagogical practices and access to high-quality teacher resources for providing instruction about the Holocaust and other genocides.

BE IT FURTHER RESOLVED that the Legislature and Governor encourage local education agencies and educators to use and disseminate instructional best practices and high-quality curricula of appropriate lengths and complexities – coordinated across grade levels and subject areas whenever possible – across the state that could form the basis for a Holocaust and Genocide Studies secondary elective course.

BE IT FURTHER RESOLVED that the Legislature and Governor encourage parents and families to reinforce the important lessons learned from this study by promoting civic virtues and beneficial character qualities.

BE IT FURTHER RESOLVED that the Legislature and Governor encourage community stakeholders, including parents, to continue collaborating with their local K-12 education systems to assess their needs for providing instruction on the Holocaust and other genocides, including: creating an appropriate informational website, promoting appropriate speakers, developing instructional resources, and conducting a teacher needs assessment.

BE IT FURTHER RESOLVED that the Legislature and Governor encourage institutions of higher education in the state to continue and expand programming for study, reflection, remembrance, and action around issues related to the Holocaust and other genocides.

BE IT FURTHER RESOLVED that the Legislature and the Governor recognize the importance of Holocaust and genocide education in helping the citizens of Utah to unite and to clearly and forcefully resolve that such atrocities will never be repeated.

S. C. R. 2
Passed February 17, 2021
Approved February 25, 2021
Effective February 25, 2021

CONCURRENT RESOLUTION HONORING THE LIFE OF WILLIAM E. CHRISTOFFERSEN

Chief Sponsor: Gene Davis
House Sponsor: Rosemary T. Lesser

LONG TITLE

General Description:

This concurrent resolution of the Legislature and the Governor honors the life and contributions of William E. Christoffersen.

Highlighted Provisions:

This resolution:

- recognizes the life of William E. Christoffersen;
- honors William E. Christoffersen as a dedicated advocate for veterans both in Utah and the nation; and
- commemorates William E. Christoffersen's lifelong service to the American Legion on both the national and local levels.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:

WHEREAS, William E. Christoffersen was born June 6, 1926, and grew up in Cache County, Utah;

WHEREAS, in 1944, Christoffersen joined the United States Army and served in the Philippines as an infantryman during World War II;

WHEREAS, during his military service, Christoffersen was awarded and presented with the Asiatic Pacific Campaign Medal, the World War II Victory Medal, the Good Conduct Medal, and the Philippine Independence Ribbon;

WHEREAS, upon receipt of an honorable discharge from military service in 1946, Christoffersen returned home, founded, and successfully managed a construction company in Logan, Utah;

WHEREAS, in 1945, Christoffersen joined the American Legion, one of the nation's largest veterans service organizations;

WHEREAS, in 1957, Christoffersen was elected Utah Department Vice Commander of the American Legion, and in 1959, Utah Department Commander;

WHEREAS, in 1963, his leadership and advocacy on behalf of veterans won him election to the highest state post representing Utah on the American Legion's National Executive Committee where he served until 1973, and again from 1975 to 2013;

WHEREAS, he remained an active member of the American Legion for 75 years;

WHEREAS, Christoffersen was a lifelong advocate for veterans, both in Utah and the nation;

WHEREAS, Christoffersen fought and lobbied in Washington, D.C. for veterans by meeting with members of Congress, armed forces leadership, and several United States presidents;

WHEREAS, Christoffersen brought three national conventions of the American Legion and distinguished visitors to Utah, including President George W. Bush in 2006;

WHEREAS, Christoffersen was instrumental in establishing the federal Transition Assistance Program, which provides information, tools, and training to service members and their families, to help prepare veterans for reintegration into civilian life;

WHEREAS, much of the legislation Christoffersen worked on continues to serve as the basis of policies for the United States Department of Veterans Affairs today;

WHEREAS, as a member of the American Legion's National Executive Committee, Christoffersen made it a goal to see that a veterans home was built in Utah to ensure veterans' long-term care;

WHEREAS, Christoffersen's construction background proved helpful in the realization of this goal;

WHEREAS, in 1998, after 35 years, the Salt Lake Veterans Home opened;

WHEREAS, in 2013, the Salt Lake Veterans Home was renamed the William E. Christoffersen Salt Lake Veterans Home in his honor;

WHEREAS, due to complications while battling COVID-19, he passed away on May 31, 2020, in the veterans home that bears his name; and

WHEREAS, distinguishing himself through lifelong service and commitment to the welfare of veterans, Christoffersen exemplified the values of duty and honor to his country:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, honors the memory and contributions of William E. Christoffersen and his legacy as a stalwart advocate for veterans.

BE IT FURTHER RESOLVED that a copy of this resolution be sent to Elaine Christoffersen, his wife of 47 years.

S. C. R. 4
Passed March 4, 2021
Approved March 17, 2021
Effective March 17, 2021

CONCURRENT RESOLUTION RECOGNIZING UTAH'S IMPORTANT RELATIONSHIP WITH WESTERN GOVERNORS UNIVERSITY

Chief Sponsor: Michael K. McKell
House Sponsor: V. Lowry Snow

LONG TITLE

General Description:

This concurrent resolution recognizes and encourages partnerships between the state and Western Governors University.

Highlighted Provisions:

This resolution:

- describes Utah's workforce needs;
- describes the history and purpose of Western Governors University (WGU);
- recognizes WGU for WGU's leadership in delivering high-quality and low-cost online postsecondary education; and
- encourages partnerships between the state and WGU to address issues that prevent Utah residents from participating in higher education.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:

WHEREAS, Utah is consistently ranked among the top states in the nation in measurements of states' economies and economic growth, including: best economic outlook, best state in which to do business, best managed state, best state for private sector job growth, best state for entrepreneurs, best state in which to start a business, and, perhaps most importantly, best state for income equality and the middle class;

WHEREAS, in spite of Utah's comparative economic successes, the state's economy has an identifiable workforce gap, and the demand for skilled labor for certain sectors falls far short of the supply;

WHEREAS, the United States Chamber of Commerce reports that Utah has the fifth lowest ratio of any state of job seekers to open positions, as Utah has 81,000 jobs open per month, but only 57,000 available people to fill those jobs;

WHEREAS, Utah needs more competent and licensed professional teachers to address consistent shortages in the education workforce;

WHEREAS, Utah needs more competent and licensed healthcare professionals to address consistent workforce shortages in the healthcare workforce;

WHEREAS, Utah recently ranked third in the nation in terms of the severity of the state's shortage of nurses;

WHEREAS, Utah's information technology sector consistently leads the nation in job growth and creates an insatiable demand for competent, credentialed candidates to fill jobs in that sector;

WHEREAS, approximately 370,000 Utah adults have some college experience, but have not received a degree, and 10% of those adults would likely gain a full degree through re-enrollment in higher education;

WHEREAS, the state of Utah seeks to partner with the best higher education institutions to help all adult learners seeking to better their lives participate in higher education to prepare for jobs in education, healthcare, information technology, and other high demand fields;

WHEREAS, the state of Utah seeks to make higher education equitable, accessible, flexible, high-quality, and affordable for adult learners;

WHEREAS, Western Governors University (WGU) was created to address modern workforce needs;

WHEREAS, WGU is a private, nonprofit, online university that was created in 1997 by 19 sitting western governors, led by Utah's then Governor Michael O. Leavitt, in anticipation of future labor needs in the growing areas of new technologies and practical workforce expectations;

WHEREAS, WGU is the largest nonprofit online university in the nation;

WHEREAS, WGU's headquarters are in Salt Lake City, Utah;

WHEREAS, over 200,000 students nationwide have graduated from WGU with either a bachelor's degree or master's degree over the past 23 years;

WHEREAS, WGU currently enrolls over 130,000 students nationwide;

WHEREAS, approximately 8,000 people in Utah are enrolled in WGU;

WHEREAS, as an outcome-oriented institution, WGU helps WGU students graduate faster than the national average with less student loan debt and with measurable improved employment opportunities;

WHEREAS, WGU invests in providing equity and access to higher education for the state's highest-need adult learners;

WHEREAS, as a nonprofit university, WGU is a guardian of the public interest and seeks to assist under-served populations, including minority, low-income, rural, and first-generation adult learners; and

WHEREAS, WGU pro-actively seeks state and local partnerships, both public and private, through projects designed to help those in need and advance fair treatment and equal opportunity for all Utahns:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, recognizes WGU as an integral partner with the state in achieving all goals related to bringing more Utahns within reach of obtaining a higher education degree.

BE IT FURTHER RESOLVED that the state of Utah recognizes the value of WGU's thought leadership in higher education and WGU's many innovations in delivering high-quality, low-cost, online education and looks forward to sharing WGU's practical experiences and innovations with Utah's public institutions of higher education.

BE IT FURTHER RESOLVED that the state of Utah seeks partnerships with WGU to address and solve a myriad of issues and barriers that prevent Utahns from participating in higher education including developing partnerships aimed at:

- contributing to community efforts to break the cycle of intergenerational poverty;
- increasing access to affordable broadband services;
- reforming prisons to help incarcerated individuals develop skills;
- encouraging responsible borrowing to reduce student-loan debt; and
- promoting competency-based hiring practices, including supporting new technologies that support those practices.

BE IT FURTHER RESOLVED that the Legislature and Governor view 2021 General Session H.B. 328, Adult Learners Grant Program, as complementary to this concurrent resolution because the program created in that bill would provide equity and access through needs-based grant assistance for Utah's online adult learners.

BE IT FURTHER RESOLVED that a copy of this resolution be sent to the Utah Department of Workforce Services and the Utah Board of Higher Education.

S. C. R. 5
Passed February 16, 2021
Approved February 25, 2021
Effective February 25, 2021

CONCURRENT RESOLUTION HONORING THE LIFE OF ALLYSON GAMBLE

Chief Sponsor: J. Stuart Adams
House Sponsor: Brad R. Wilson

LONG TITLE

General Description:

This concurrent resolution of the Legislature and the Governor honors the life and contributions of Allyson Gamble.

Highlighted Provisions:

This resolution:

- recognizes the life and public service of Allyson Gamble; and
- expresses appreciation for Allyson Gamble's many contributions to the state of Utah and deep sympathy at her passing.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:

WHEREAS, Allyson Gamble, an extraordinary wife, mother, friend, and director, passed away on December 4, 2020;

WHEREAS, Allyson Gamble was a member of the Capitol Preservation Board for 19 years and served as the executive director of the board for 11 of those years;

WHEREAS, Allyson Gamble was devoted to enhancing the Capitol and devoted her life to making sure it was truly The People's House;

WHEREAS, Allyson Gamble was known by many as the heart and soul of the Capitol;

WHEREAS, Allyson Gamble created a docent program to educate visitors of all ages and backgrounds regarding the building's history and meaning;

WHEREAS, Allyson Gamble helped in the creation of several history installations, rotating art exhibits, and movies on the front lawn to encourage people to visit the Capitol and share in the beauty of the building, the grounds, and its symbolism;

WHEREAS, Allyson Gamble had a deep passion for the historic building and those who occupied it;

WHEREAS, Allyson Gamble was the orchestrator and planner of hundreds of events at the Utah State Capitol that celebrated Utah's history, art, people, and accessible government;

WHEREAS, Allyson Gamble never missed a detail in putting events together whether for Utah's political leaders or Utah's school children;

WHEREAS, Allyson Gamble aimed to make sure all who entered the Capitol felt respected, heard, accommodated, special, and inspired;

WHEREAS, Allyson Gamble worked tirelessly to protect and preserve the Utah State Capitol despite numerous health challenges;

WHEREAS, in May of 2020, after a recent release from the hospital and with a weakened immune system, Allyson Gamble insisted on supporting the clean-up efforts after protestors defaced the Capitol grounds;

WHEREAS, Allyson Gamble, while short in stature was mighty in spirit;

WHEREAS, Allyson Gamble was an active participant and organizer for the Utah Heart Association;

WHEREAS, Allyson Gamble had two heart transplants in her life and knew that the extra time

she was given was because another family had experienced grief and sorrow and so she embraced the gift she was given;

WHEREAS, Allyson Gamble repaid the gift others had given her by being an organ donor herself;

WHEREAS, Allyson Gamble was the best type of friend to have, the kind that kept your confidences, celebrated your victories, and always made time to meet;

WHEREAS, in addition to being a tireless worker and selfless friend to many, Allyson Gamble was a loving wife to her husband, Jim, through their 21 years of marriage;

WHEREAS, Allyson Gamble was also a devoted mother who was exceedingly proud of her son, Ben, and his many accomplishments;

WHEREAS, Allyson Gamble valued her family deeply:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, honors the life of Allyson Gamble, recognizes her many years of dedicated public service, and expresses great appreciation for her many contributions to the state of Utah.

BE IT FURTHER RESOLVED that a copy of this resolution be sent to her husband, Jim, and her son, Ben.

S. C. R. 6
Passed March 5, 2021
Approved March 22, 2021
Effective March 22, 2021

CONCURRENT RESOLUTION SUPPORTING THE REMOVAL OF URANIUM MILL TAILINGS NEAR THE COLORADO RIVER IN MOAB

Chief Sponsor: David P. Hinkins
House Sponsor: Christine F. Watkins

LONG TITLE

General Description:

This concurrent resolution urges the Department of Energy to take appropriate action regarding removal of uranium mill tailings.

Highlighted Provisions:

This resolution:

- outlines the history of efforts to remove the uranium mill tailings;
- discusses the risks associated with not removing the uranium mill tailings in a timely manner; and
- urges the Department of Energy to expedite and fully fund the removal of the remaining uranium mill tailings from the banks of the Colorado River located at the Moab Uranium Mill Tailings Remedial Action (UMTRA) Project site.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:

WHEREAS, in October 2000, the Floyd D. Spence National Defense Authorization Act of 2001 assigned the United States Department of Energy responsibility to establish a remedial action program and stabilize, dispose of, and control uranium mill tailings and other contaminated material at the Moab, Utah uranium ore processing site and associated properties in the vicinity;

WHEREAS, the remedial action project involved the excavation of an estimated 16 million ton pile of uranium mill tailings from the Moab site near the Colorado River and transportation to and disposal at engineered disposal cells constructed at Crescent Junction, 30 miles north of Moab;

WHEREAS, in 2005, the Department of Energy released the Record of Decision to move the 16 million tons of uranium mill tailings to Crescent Junction;

WHEREAS, the National Defense Authorization Act of 2008, passed by the United States Congress on January 28, 2008, established a target completion date of 2019 for the Moab Uranium Mill Tailings Remedial Action (UMTRA) Project;

WHEREAS, remediation of the Moab UMTRA Project must be performed in accordance with Title I of the Uranium Mill Tailings Radiation Control Act and related federal cleanup standards;

WHEREAS, the Department of Energy established the strategic goal to meet the challenges of the twenty-first century and the nation's Manhattan Project and Cold War legacy responsibilities and to work aggressively to address cleanup at the Moab site;

WHEREAS, in federal fiscal years 2010 and 2011, the Moab UMTRA Project with additional funding from the American Recovery and Reinvestment Act from 2008 was able to move more than two millions tons of tailings annually to Crescent Junction for disposal;

WHEREAS, if 2010 and 2011 fiscal year funding levels had continued, the 2019 target date set by the National Defense Authorization Act would have been met;

WHEREAS, by fiscal year 2018 the available funding of $37.5 million was sufficient to transport only 480,000 tons per year;

WHEREAS, for both fiscal years 2019 and 2020, the Moab UMTRA Project's budget was increased to $45 million, and that following additional hiring and contracting, tailings transport increased to 709 thousand tons in federal fiscal year 2019 and 859 thousand tons in fiscal year 2020 and operated at an annual rate of 944,000 tons under continuing resolutions during the first quarter of fiscal year 2021;

WHEREAS, the additional funding authorized for fiscal years 2019 and 2020, following a three

month mobilization period at the start of 2019, made it possible for the Moab UMTRA Project to switch from normally sending two trainloads of tailings per week to sending four trainloads per week starting on February 4, 2019, and that the Moab UMTRA Project has also worked to increase tailings transport through equipment changes and modification of operating procedures;

WHEREAS, the increased budgets for fiscal years 2019 and 2020 have demonstrated that the Moab UMTRA Project can effectively use additional funding to increase the rate of annual tailings transport and disposal;

WHEREAS, by the end of 2020, the Moab UMTRA Project had transported about 11.2 million tons of tailings from the Moab site to Crescent Junction and thus completed an estimated 70% of uranium mill tailings removal;

WHEREAS, maintaining the Moab UMTRA Project's annual budget at a minimum of the 2018 inflation adjusted equivalent of $45 million per year will reduce the number of years necessary to fund full tailings removal and associated Moab UMTRA Project overhead;

WHEREAS, as long as the tailings are located along the Colorado River, there is potential for a major flood event to disrupt Moab UMTRA Project operations and contaminate the water supply for many of the Colorado River's 40 million users;

WHEREAS, the section of the Union Pacific rail line that the Moab UMTRA Project uses for its tailings loading operation was the scene of a major landslide that interrupted tailings transport for two months and resulted in over $1 million in mitigation costs;

WHEREAS, the geologic hazard to employees working under the cliff has been mitigated by construction of a reinforced concrete wall, continuous radar monitoring for rock movement, and procedures that reduce employee time beneath the most recent slide area, however the hazard to workers can be further mitigated by reducing the number of years workers are loading trains;

WHEREAS, the geologic hazards associated with the Moab UMTRA site will continue, which will increase the cost of the project to taxpayers;

WHEREAS, 485 acres of prime real estate cannot be used until the pile is removed and the land is remediated;

WHEREAS, until the project is completed, the acreage is a blight, rather than a benefit, to Grand County;

WHEREAS, the tailings pile can be viewed by the people who annually visit Arches and Canyonlands National Parks;

WHEREAS, the Department of Energy, upon completion of remedial action work at some of the Department of Energy's sites, has transferred the property to other governmental entities for future beneficial community uses;

WHEREAS, both Grand County and Moab City have passed resolutions affirming their desire to obtain title to the Moab UMTRA Project site so that the property may be used for future beneficial community uses;

WHEREAS, both Grand County and Moab City conducted public planning processes and approved their joint plan for future uses of the Moab UMTRA Project site in 2013 and the plan and guidelines for the development of future uses of the Moab UMTRA site were further refined in 2018 and scheduled for additional planning in 2023;

WHEREAS, the Legislature and Governor of the state of Utah are committed to the health, safety, and welfare of the citizens of Grand County, Utah, and the 40 million users of water from the Colorado River; and

WHEREAS, there is support for the prompt completion of the Moab UMTRA Project from Utah's congressional delegation as well as from members of the downstream congressional delegations from Arizona, California, and Nevada:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, joining with the states of Arizona, California, and Nevada in urging the United States Department of Energy to expedite and fully fund the removal of the estimated remaining 4.8 million tons of uranium mill tailings from the banks of the Colorado River located at the Moab UMTRA Project site by no later than 2025.

BE IT FURTHER RESOLVED that a copy of this resolution be sent to the United States Department of Energy, the United States Nuclear Regulatory Commission, the Grand County Council, and the congressional delegations of Utah, Arizona, California, and Nevada.

S. C. R. 7
Passed March 5, 2021
Approved March 22, 2021
Effective March 22, 2021

CONCURRENT RESOLUTION HONORING THE LIFE AND ACHIEVEMENTS OF JERRY SLOAN

Chief Sponsor: Lincoln Fillmore
House Sponsor: Mark A. Strong

LONG TITLE

General Description:

This concurrent resolution of the Legislature and the Governor honors the life and legacy of Jerry Sloan.

Highlighted Provisions:

This resolution:

- honors the life and legacy of Jerry Sloan, basketball player and coach, for his achievements and the positive impact he had on the state of Utah.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:

WHEREAS, early in his career as a basketball player, Jerry Sloan rose to fame not only for his talent on the court but also for his incredible work ethic;

WHEREAS, known as the Original Bull, Jerry Sloan was the first player to have his number retired by the Chicago Bulls;

WHEREAS, during his time with the Chicago Bulls, Jerry Sloan was a two-time NBA All-Star;

WHEREAS, Jerry Sloan brought his renowned work ethic to the Utah Jazz organization where he worked for 34 years in multiple roles, notably serving as the head coach of the Utah Jazz for 23 seasons;

WHEREAS, during his tenure as head coach, he led the Utah Jazz to 1,223 wins, 19 trips to the NBA Playoffs, seven division titles, and two NBA Finals appearances;

WHEREAS, in recognition of his many accomplishments, Jerry Sloan was inducted into the Naismith Memorial Basketball Hall of Fame in 2009;

WHEREAS, a banner hangs in Jerry Sloan's honor in the Vivint Smart Home Arena next to the retired numbers of five exceptional players he coached: Mark Eaton, Darrell Griffith, Jeff Hornacek, Karl Malone, and John Stockton;

WHEREAS, in 2016, he was the co-recipient of the Chuck Daly Lifetime Achievement Award, an honor bestowed by the National Basketball Coaches Association;

WHEREAS, beloved by generations of Utahns, Jerry Sloan's legacy extends far beyond the basketball court;

WHEREAS, he founded the Bobbye and Jerry Sloan Hand-in-Hand Foundation to help individuals and organizations reach their full potential, demonstrating not only his generosity but also his efforts to support his community;

WHEREAS, Jerry Sloan exemplified the values of Utah and brought fans from all walks of life together to take pride in the Utah Jazz:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, honor a great citizen of the state, Jerry Sloan, for his leadership of the Utah Jazz and the positive impact he has had not only on basketball but also on the citizens of Utah;

BE IT FURTHER RESOLVED that the Legislature and the Governor express their sincerest condolences to the family and loved ones of Jerry Sloan for their great loss;

BE IT FURTHER RESOLVED that a copy of this resolution be sent to Jerry Sloan's wife, Tammy Sloan, his children, Kathy Wood, Brian Sloan, and Harry Parrish, and his stepson Rhett Jessop.

S. C. R. 8
Passed March 5, 2021
Approved March 22, 2021
Effective March 22, 2021

CONCURRENT RESOLUTION SUPPORTING UTAH'S NATURAL RESOURCES AND ENERGY INDUSTRIES

Chief Sponsor: David P. Hinkins
House Sponsor: Keven J. Stratton

LONG TITLE

General Description:

This concurrent resolution addresses natural resources and energy in the state.

Highlighted Provisions:

This resolution:

- describes the benefits derived from the natural resources and energy resources in the state;
- reminds the federal government of the federal government's legal obligation to hold lease sales;
- reminds the federal government of Bureau of Land Management requirement to manage public lands for multiple uses and values;
- implores the federal government to consult with state, tribal, and other stakeholders;
- implores the federal government for a fair and balanced consideration in future federal land management decisions impacting the state; and
- reminds the federal government that Utah is a sovereign state.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:

WHEREAS, Utah is blessed with a rich and diverse mineral estate;

WHEREAS, Utahns have been developing mineral resources since territorial days;

WHEREAS, mineral resource development has driven community and economic development throughout the state;

WHEREAS, Utah currently produces or has active operations for crude oil, natural gas, copper, gold, silver, molybdenum, coal, phosphate, potash, magnesium, lithium, salt, beryllium, lime, rhenium, cement, gilsonite, uranium, vanadium, platinum, palladium, lead, clay, gypsum, oil shale, oil sands, frac sand, iron ore, utelite, and helium, with other mineral production under development;

WHEREAS, the Utah Geological Survey reports that Utah hosts 28 of the 35 minerals on the United States Department of Interior's list of critical minerals or material mineral groups that was published in the Federal Register on May 18, 2018, with current or historical production of many of those minerals;

WHEREAS, within the United States, Utah is currently the 9th largest oil producer and 13th largest natural gas producer, according to data from the United States Energy Information Administration, and the 11th largest coal producer and 7th largest nonfuel mineral producer, according to data from the United States Geological Survey;

WHEREAS, Utah has been a net energy exporter since 1980, producing on average 26% more energy than is consumed according to data from the Utah Geological Survey;

WHEREAS, in 2018, according to Utah Geological Survey data, Utah exported only 3% of Utah's energy as Utah's energy generation from coal and natural gas decreased significantly, and further production declines, from new restrictive federal land policies, risks turning the state into a net importer of energy rather than a net exporter;

WHEREAS, the federal government manages two-thirds of the land in Utah, following only Nevada amongst the states with the largest percentage of federally managed public lands, according to data from the Congressional Research Service;

WHEREAS, of energy-producing states, Utah has the largest percentage of federally managed public lands, making Utah disproportionately affected by federal land, mineral, and energy policy;

WHEREAS, according to data from the Utah Division of Oil, Gas, and Mining data, 56% of Utah's current oil and gas wells are on federally managed public lands and 92% of coal mined in Utah is federal coal;

WHEREAS, given the checkerboard nature of surface and mineral rights ownership, production prohibitions on federally managed public lands can impede the recovery of private, state, and tribally-owned resources;

WHEREAS, Utah's natural resources and energy industries provide the raw materials, fuels, and electricity that undergird the state's fast growing economy;

WHEREAS, Utah's natural resources are used in a plethora of critical products, supply chains, processes, and industries throughout the United States and the world;

WHEREAS, fossil fuels made up 89% of Utah's total electricity generation in 2019, supporting some of the consistently lowest electricity rates in the country;

WHEREAS, nearly two-thirds of Utah's electricity generation comes from coal, the majority of which is produced in Utah;

WHEREAS, Utah's fuels industry is highly integrated, with much of the gasoline fueling our state's economy being produced and refined within the state;

WHEREAS, Utah also has vast resources used in other forms of energy generation, including:

(1) uranium needed for nuclear power generation;

(2) unconventional resources such as oil shale and oil sands; and

(3) various feedstocks for hydrogen production;

WHEREAS, products derived from Utah petroleum are used in a multiplicity of applications, including in personal protective equipment critical to public health during the COVID-19 pandemic;

WHEREAS, products manufactured using Utah minerals are used in innumerable applications in modern society, testifying to the adage, "If it cannot be grown, it has to be mined";

WHEREAS, Utah has demonstrated that substantial natural resources and energy industries can coexist with robust tourism and outdoor recreation industries;

WHEREAS, natural resources industries play a key role in funding badly needed maintenance on our national parks, contributing a significant portion of the more than one billion dollars in oil and gas royalties that the Great American Outdoors Act, passed by the United States Congress in 2020, directs annually to fund park maintenance for the National Park Service;

WHEREAS, according to the Energy Information Administration, the United States is the leader in greenhouse gas reductions and has been since 2005;

WHEREAS, federal actions that discourage production on federally-managed lands will not change market demand for oil, gas, and minerals, but will encourage production in other locales and countries with less stringent environmental and labor protections;

WHEREAS, this off-shoring of energy and minerals production will transfer economic gains from the United States, the state, and our local communities to other nations, oftentimes those of our adversaries;

WHEREAS, Utah is an exemplar of innovation and problem solving, including through the voluntary proliferation of Tier 3 gas from the state's refiners, allowing for up to an 80% reduction in tailpipe emissions, Utah is clearing the way for the Wasatch Front to attain the PM 2.5 standard;

WHEREAS, Utah's natural resources industries are among the largest private employers in many rural parts of the state;

WHEREAS, the oil, gas, and mining industries pay hundreds of millions of dollars in direct production taxes, mineral royalties, and property taxes, including directly to the Utah School and Institutional Trust Lands Administration and indirectly to the state via the state's share of Mineral Leasing Act revenues realized from development of leaseable minerals on federal lands;

WHEREAS, oil, gas, mining, and energy jobs also support a substantial number of service and support jobs around the state;

WHEREAS, oil, gas, and mining jobs are among the highest paid wages in the state according to

Utah Department of Workforce Services data, well above the county averages in extractive industry communities; and

WHEREAS, these family and community sustaining wages cannot be readily replaced:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the State of Utah, the Governor concurring therein, reminds the federal government of the federal government's legal obligation to hold lease sales under the Mineral Leasing Act.

BE IT FURTHER RESOLVED that the Legislature and the Governor remind the federal government that the Federal Land Policy and Management Act requires the Bureau of Land Management to manage public lands for multiple uses and values.

BE IT FURTHER RESOLVED that the Legislature and the Governor implore the federal government to consult with state, tribal, and other stakeholders in the development and implementation of federal Resource Management Plans.

BE IT FURTHER RESOLVED that the Legislature and the Governor implore the federal government for a fair and balanced consideration, with state input and involvement, in future federal land management decisions impacting the state, including national monument boundaries and decisions, leasing and permitting policies, wildlife and habitat protection decisions, and other federal policies and initiatives that will have an immediate impact on Utah's economy and way of life.

BE IT FURTHER RESOLVED that the Legislature and the Governor remind the federal government that Utah is a sovereign state and implores that Utah's rights for energy self-determination and economic self-determination be respected.

S. J. R. 1

Effective May 12, 2021

JOINT RESOLUTION REAPPOINTING JOHN L. FELLOWS AS GENERAL COUNSEL TO THE UTAH LEGISLATURE

Chief Sponsor: J. Stuart Adams
House Sponsor: Brad R. Wilson
Cosponsor: Karen Mayne

LONG TITLE

General Description:

This resolution of the Legislature approves the reappointment of John L. Fellows as the Legislative General Counsel.

Highlighted Provisions:

This resolution:

- approves the reappointment of John L. Fellows as Legislative General Counsel for a six-year term.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah:

WHEREAS, pursuant to Utah Code Ann. Section 36-12-17, (1953), the Legislative Management Committee has recommended the reappointment of Mr. John L. Fellows as Legislative General Counsel for the Utah Legislature; and

WHEREAS, the reappointment of Mr. John L. Fellows in this position for a term of office of six years, beginning May 12, 2021, is subject to further approval of a majority vote of both the House of Representatives and the Senate:

NOW, THEREFORE, BE IT RESOLVED by the Legislature of the state of Utah that the reappointment of Mr. John L. Fellows as Legislative General Counsel for the Utah Legislature be approved for a six-year term of office beginning May 12, 2021.

S. J. R. 2

Passed February 3, 2021
Effective February 3, 2021

RETIREMENT AND INDEPENDENT ENTITIES COMMITTEE AMENDMENTS

Chief Sponsor: Wayne A. Harper
House Sponsor: Craig Hall

LONG TITLE

General Description:

This joint rules resolution modifies legislative rules governing appropriation subcommittees.

Highlighted Provisions:

This resolution:

- removes references to the Retirement and Independent Entities Joint Appropriations Subcommittee, having the effect of repealing the subcommittee; and
- makes technical changes.

Special Clauses:

None

Legislative Rules Affected:

AMENDS:
JR3-2-302
JR3-2-303

Be it resolved by the Legislature of the state of Utah:

Section 1. JR3-2-302 is amended to read:

JR3-2-302. Joint appropriations subcommittees -- Creation -- Membership.

The members of the Joint Appropriations Committee shall be divided into the following joint appropriations subcommittees:

(1) Infrastructure and General Government;

(2) Business, Economic Development, and Labor;

(3) Executive Offices and Criminal Justice;

(4) Social Services;

(5) Higher Education;

(6) Natural Resources, Agriculture, and Environmental Quality; and

(7) Public Education[~~; and~~].

[~~(8) Retirement and Independent Entities.~~]

Section 2. JR3-2-303 is amended to read:

JR3-2-303. President and speaker to appoint committee members, chairs, and vice chairs.

(1) (a) [~~Subject to Subsection (2), the~~] The president of the Senate and speaker of the House shall appoint their respective members to each committee.

(b) (i) The president of the Senate shall designate one senator in each committee as the Senate chair.

(ii) The speaker of the House shall designate one representative in each committee as the House chair and one representative in each committee as the House vice chair.

[~~(2) The Retirement and Independent Entities subcommittee shall have the same members as the Retirement and Independent Entities Committee created in Utah Code Section 63E-1-201.~~]

[~~(3)~~] (2) A vice chair may perform the duties of a chair:

(a) as requested by the chair; or

(b) in the absence of the chair.

[~~(4)~~] (3) The chair, or the vice chair as authorized under Subsection [~~(3)~~] (2), may designate a member of the committee to conduct a committee meeting when neither the chair nor the vice chair is able to attend a meeting.

[~~(5)~~] (4) A committee member designated under Subsection [~~(4)~~] (3) may conduct a committee meeting but may not perform the duties of a chair described in JR3-2-603 and JR3-2-604.

[~~(6)~~] (5) The Office of the Legislative Fiscal Analyst shall staff the joint appropriations subcommittees.

S. J. R. 3
Passed March 3, 2021
Effective March 3, 2021

JOINT RESOLUTION DISSOLVING SMITHFIELD CITY JUSTICE COURT

Chief Sponsor: Chris H. Wilson
House Sponsor: Michael J. Petersen

LONG TITLE

General Description:

This joint resolution approves the dissolution of the Smithfield City Justice Court.

Highlighted Provisions:

This resolution:

- approves the dissolution of the Smithfield City Justice Court.

Special Clauses:

This joint resolution provides an effective date.

Be it resolved by the Legislature of the state of Utah:

WHEREAS, the Smithfield City has had a justice court for many years;

WHEREAS, the Smithfield City has determined that it is no longer feasible for Smithfield City to operate a justice court;

WHEREAS, with the dissolution of the Smithfield City Justice Court, the caseload from the Smithfield City Justice Court will fall upon the First District Court in Cache County;

WHEREAS, the Smithfield City Council has given notice to the Utah Judicial Council of the Smithfield City Council's intent to dissolve the Smithfield City Justice Court, effective no later than April 1, 2021; and

WHEREAS, Section 78A-7-123 requires the Legislature to approve by joint resolution the dissolution of a justice court:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah approves the dissolution of the Smithfield City Justice Court.

BE IT FURTHER RESOLVED that a copy of this resolution be sent to the Utah Judicial Council and to Smithfield City.

BE IT FURTHER RESOLVED that this resolution takes effect upon approval by a constitutional majority vote of all members of the House of Representatives and the Senate.

S. J. R. 5
Passed February 12, 2021
Effective February 12, 2021

JOINT RULES RESOLUTION -- LEGISLATION AMENDMENTS

Chief Sponsor: David G. Buxton
House Sponsor: Timothy D. Hawkes

LONG TITLE

General Description:

This resolution modifies joint legislative rules related to legislation.

Highlighted Provisions:

This resolution:

- addresses the process for reassigning legislation sponsored by a legislator who dies while in office;
- provides that a legislator may not revive an abandoned request for legislation;
- allows a legislator-elect to designate the same number of priority requests as a sitting legislator;

- addresses the number of priority requests allowed for a newly appointed legislator;
- provides a deadline by which:
  - a representative-elect must designate priority request number one;
  - a senator-elect must designate priority request numbers one and two; and
  - a newly appointment legislator must designate the legislator's priority requests; and
- makes technical and conforming changes.

Special Clauses:

None

Legislative Rules Affected:

AMENDS:
JR4-2-101
JR4-2-102

Be it resolved by the Legislature of the state of Utah:

Section 1. JR4-2-101 is amended to read:

JR4-2-101. Requests for legislation -- Contents -- Timing.

(1) (a) A legislator wishing to introduce a bill or resolution shall file a [~~Request~~] request for [~~Legislation~~] legislation with the Office of Legislative Research and General Counsel within the time limits established by this rule.

(b) The request for legislation shall:

(i) designate the chief sponsor, who is knowledgeable about and responsible for providing pertinent information as the legislation is drafted;

(ii) designate any supporting legislators from the same house as the chief sponsor who wish to cosponsor the legislation; and

(iii) (A) provide specific information concerning the change or addition to law or policy that the legislator intends the proposed legislation to make; or

(B) identify the specific situation or concern that the legislator intends the legislation to address.

(2) (a) Any legislator may file a request for legislation beginning 60 days after the Legislature adjourns its annual general session sine die.

(b) A legislator-elect may file a request for legislation beginning on:

(i) the day after the date the election canvass is completed; or

(ii) if the legislator-elect's election results have not been finalized as of the canvass date, the day after the date the election results for the legislator-elect's race are finalized.

(c) (i) An incumbent legislator may not file any requests for legislation as of the date that the legislator:

(A) fails to file to run for reelection;

(B) resigns or is removed from office; or

(C) is ineligible to be included on the ballot for the election in which the legislator would have sought an additional term.

(ii) Subsection (2)(c)(i) does not apply to a request for legislation for a special session that occurs before the legislator leaves office.

(iii) The Office of Legislative Research and General Counsel shall abandon each request for legislation from the legislator that is pending on that date unless, within 30 days after that date, another member of the Legislature qualified to file a request for legislation assumes sponsorship of the legislation.

(d) (i) If, for any reason, a legislator who filed a request for legislation is unavailable to serve in the next annual general session, the former legislator shall seek another legislator to assume sponsorship of each request for legislation filed by the legislator who is unavailable to serve.

(ii) If the former legislator is unable to find another legislator to sponsor the legislation within 30 days, the Office of Legislative Research and General Counsel shall abandon each pending request for legislation from the legislator who is unavailable to serve.

(e) (i) If a legislator dies while in office and is the chief sponsor of one or more requests for legislation or pieces of legislation, the individual appointed to the legislator's seat may assume sponsorship of each request for legislation or piece of legislation.

(ii) If the individual appointed to the legislator's seat chooses not to assume sponsorship of one or more of the legislator's requests for legislation or pieces of legislation, the following individual shall seek another legislator to assume sponsorship of each request for legislation or piece of legislation:

(A) if the legislator was a member of the House majority caucus, the House majority leader;

(B) if the legislator was a member of the House minority caucus, the House minority leader;

(C) if the legislator was a member of the Senate majority caucus, the Senate majority leader; or

(D) if the legislator was a member of the Senate minority caucus, the Senate minority leader.

(iii) If the individual described in Subsection (2)(e)(i) does not find a new sponsor for a request for legislation, the Office of Legislative Research and General Counsel shall abandon the request for legislation.

(3) (a) Except as provided in Subsection (3)(c), a legislator may not file a [~~Request~~] request for [~~Legislation~~] legislation with the Office of Legislative Research and General Counsel after noon on the 11th day of the annual general session.

(b) Except as provided in Subsection (3)(c), by noon on the 11th day of the annual general session, each legislator shall, for each Request for Legislation on file with the Office of Legislative Research and General Counsel, either approve the request for numbering or abandon the request.

(c) After the date established by this Subsection (3), a legislator may file a Request for Legislation and automatically approve the legislation for numbering if:

(i) for House legislation, the representative makes a motion to request a bill or resolution for drafting and introduction and that motion is approved by a constitutional majority of the House; or

(ii) for Senate legislation, the senator makes a motion to request a bill or resolution for drafting and introduction and that motion is approved by a constitutional majority vote of the Senate.

(4) After a request for legislation is abandoned, a legislator may not revive the request for legislation.

[~~(4)~~] (5) A legislator wishing to obtain funding for a project, program, or entity, when that funding request does not require that a statute be enacted, repealed, or amended, may not file a Request for Legislation but instead shall file a request for appropriation by following the procedures and requirements of JR3-2-701.

Section 2. JR4-2-102 is amended to read:

JR4-2-102. Drafting and prioritizing legislation.

(1) As used in this section, "interim committee" means a committee established under JR7-1-201.

(2) (a) Requests for legislation shall be drafted on a first-in, first-out basis, except for legislation that is prioritized under the provisions of this section.

(b) When sufficient drafting information is available, the following requests for legislation shall be drafted before other requests for legislation, in the following order of priority:

(i) a committee bill file, as defined in JR7-1-101; and

(ii) a request for legislation that is prioritized by a legislator under Subsection (3).

(3) (a) Beginning on the first day on which a request for legislation may be filed under JR4-2-101, a member of the House of Representatives may designate up to four requests for legislation as priority requests, and a member of the Senate may designate up to five requests for legislation as priority requests, subject to the following deadlines:

(i) except as provided in Subsection (3)(b), priority request number one for representatives, and priority request numbers one and two for senators, must be requested on or before November 15, or the following regular business day if November 15 falls on a weekend or a holiday;

(ii) priority request number two for representatives, and priority request number three for senators, must be requested on or before the first Thursday in December, or the following business day if the first Thursday falls on a holiday;

(iii) priority request number three for representatives, and four for senators must be requested on or before the first Thursday in January, or the following business day if the first Thursday falls on a holiday; and

(iv) priority request number four for representatives, and five for senators must be requested on or before the first Thursday of the annual general session.

(b) (i) A representative-elect who is not a sitting legislator, shall designate priority request number one on or before the first Thursday in December, or the following business day if the first Thursday falls on a holiday.

(ii) A representative-elect who is a sitting senator shall designate each of the representative-elect's priority requests in accordance with the deadlines for representatives described in Subsection (3)(a).

(iii) (A) A senator-elect who is not a sitting legislator, shall designate priority request numbers one and two on or before the first Thursday in December, or the following business day if the first Thursday falls on a holiday.

(B) A senator-elect who is a sitting representative, shall designate priority request number one in accordance with Subsection (3)(a)(i), and priority request number two on or before the first Thursday in December, or the following business day if the first Thursday falls on a holiday.

(c) (i) A legislator who is appointed to replace a legislator who resigns or is otherwise unable to serve, may:

(A) if the legislator is a representative, designate up to four requests for legislation as priority requests, less the number of priority requests designated by the legislator's predecessor; or

(B) if the legislator is a senator, designate up to five requests for legislation as priority requests, less the number of priority requests designated by the legislator's predecessor.

(ii) The deadline for an appointed legislator to designate each priority request is the same as the deadline that would apply if the designation were made by the legislator's predecessor.

[~~(b)~~] (d) A legislator who fails to make a priority request on or before a deadline loses that priority request. However, the legislator is not prohibited from using any remaining priority requests that are associated with a later deadline, if available.

[~~(c) A legislator who begins serving or becomes eligible to request a bill file after a deadline has passed is entitled to use only those priority requests that are available under an unexpired deadline.~~]

[~~(d)~~] (e) A legislator may not designate a request for legislation as a priority request unless the request:

(i) provides specific or conceptual information concerning the change or addition to law or policy that the legislator intends the proposed legislation to make; or

(ii) identifies the specific situation or concern that the legislator intends the legislation to address.

(4) A legislator may not:

(a) revoke a priority designation once it has been requested;

(b) transfer a priority designation to a different request for legislation; or

(c) transfer a priority designation to another legislator.

(5) (a) Notwithstanding Subsection (4), a request for legislation designated as a priority request remains a priority request if the request for legislation is transferred to another legislator in accordance with Subsection JR4-2-101(2)(d) or (e).

(b) A priority request described in Subsection (5)(a) does not count against the number of priority designations to which the receiving legislator is entitled under Subsection (3).

[~~(5)~~] (6) Except as provided under JR4-2-502 or as otherwise provided in these rules, the Office of Legislative Research and General Counsel shall:

(a) reserve as many bill numbers as necessary to number the bills recommended by an interim committee; and

(b) number all other legislation in the order in which the legislation is approved by the sponsor for numbering.

S. J. R. 6
Passed February 10, 2021
Effective February 10, 2021

JOINT RULES RESOLUTION - CONCURRENT AND JOINT RESOLUTION MODIFICATIONS

Chief Sponsor: Jacob L. Anderegg
House Sponsor: James A. Dunnigan

LONG TITLE

General Description:

This joint resolution modifies legislative rules related to concurrent and joint resolutions.

Highlighted Provisions:

This resolution:

- provides that if the governor fails to approve a concurrent resolution within a specified time period, the concurrent resolution converts to a joint resolution;
- addresses the effective date and certain technical aspects of a concurrent resolution that converts to a joint resolution; and
- makes technical and conforming changes.

Special Clauses:

None

Legislative Rules Affected:

AMENDS:
JR4-1-301
JR4-1-302

ENACTS:
JR4-5-104

Be it resolved by the Legislature of the state of Utah:

Section 1. JR4-1-301 is amended to read:

JR4-1-301. General resolution format requirements.

(1) Each resolution shall be typewritten or printed on paper 8-1/2 by 11 inches.

(2) Each resolution shall contain:

(a) a designation containing the information required by Subsection (3);

(b) a short title;

(c) the year and type of legislative session in which the resolution is to be introduced;

(d) the phrase "State of Utah";

(e) the sponsor's name, after the heading "Chief Sponsor:";

(f) [~~if the resolution is a House resolution that has passed third reading in the House,~~] the Senate sponsor's name after the heading "Senate Sponsor:"[~~;~~] if the resolution:

(i) is a concurrent resolution or a joint resolution;

(ii) originated in the House of Representatives; and

(iii) has passed third reading in the House of Representatives;

(g) [~~if the resolution is a Senate resolution that has passed third reading in the Senate,~~] the House sponsor's name after the heading "House Sponsor:"[~~;~~] if the resolution:

(i) is a concurrent resolution or a joint resolution;

(ii) originated in the Senate; and

(iii) has passed third reading in the Senate;

(h) a long title, which shall include a list of constitutional sections, legislative rules, or the Utah Supreme Court's Rules of Procedure or Rules of Evidence affected, if applicable;

(i) a resolving clause containing the information required by Subsection (4);

(j) for joint resolutions, concurrent resolutions, Senate resolutions, and House resolutions:

(i) one or more paragraphs that begin with the word "Whereas" that function as the preamble; and

(ii) one or more paragraphs that begin with the words "Be it Resolved" that identify the statement of purpose or policy; and

(k) special clauses including, if necessary, an effective date.

(3) The designation shall be a heading that identifies the resolution by [~~its~~] the resolution's

house of introduction and by unique number assigned to [~~it~~] the resolution by the Office of Legislative Research and General Counsel and shall be in the following form:

(a) for [~~constitutional joint resolutions and joint resolutions~~] a joint resolution, unless the resolution converted to a joint resolution in accordance with JR4-5-104: "S.J.R." or "H.J.R." followed by the number assigned to the joint resolution;

(b) for [~~concurrent resolutions~~] a concurrent resolution, regardless of whether the concurrent resolution converts to a joint resolution in accordance with JR4-5-104: "S.C.R." or "H.C.R." followed by the number assigned to the concurrent resolution;

(c) for a Senate [~~resolutions~~] resolution: "S.R." followed by the number assigned to the Senate resolution; or

(d) for a House [~~resolutions~~] resolution: "H.R." followed by the number assigned to the House resolution.

(4) Each resolution shall contain a resolving clause in one of the following forms:

(a) in a constitutional joint resolution, or in a joint resolution proposing to amend the Utah Supreme Court's Rules of Procedure or Rules of Evidence: "Be it resolved by the Legislature of the state of Utah, with at least two-thirds of all members elected to each of the two houses concurring:";

(b) in a joint resolution: "Be it resolved by the Legislature of the state of Utah:";

(c) in a concurrent resolution: "Be it resolved by the Legislature of the state of Utah, with the Governor concurring:";

(d) in a Senate resolution: "Be it resolved by the Senate of the state of Utah:"; or

(e) in a House resolution: "Be it resolved by the House of Representatives of the state of Utah:".

Section 2. JR4-1-302 is amended to read:

JR4-1-302. Effective date of resolutions.

(1) Unless otherwise directed by the Legislature and subject to Subsections (2) and (3), a resolution becomes effective on:

(a) the day that the resolution receives final approval from:

[~~(a)~~] (i) the House of Representatives or the Senate, if [~~it~~] the resolution is a single house resolution;

[~~(b)~~] (ii) both the House of Representatives and the Senate, if [~~it~~] the resolution is a joint resolution;

[~~(c)~~] (iii) the House of Representatives, the Senate, and the governor, if [~~it~~] the resolution is a concurrent resolution; or

[~~(d)~~] (iv) the House of Representatives, the Senate, and the voters at the next general election, if [~~it~~] the resolution is a constitutional joint resolution[.]; or

(b) the day after the day on which the time period described in JR4-5-104 expires, if the resolution is a concurrent resolution that converts to a joint resolution in accordance with JR4-5-104.

(2) (a) The effective date of a resolution may not be a date later than December 31 of the calendar year immediately following the calendar year of the session at which the resolution is passed.

(b) A resolution with a contingent effective date is not subject to Subsection (2)(a).

(3) (a) If the effective date of a resolution is contingent, before the resolution may be introduced:

(i) the resolution sponsor shall inform the legislative general counsel of the contingent effective date; and

(ii) the legislative general counsel shall, on behalf of the resolution sponsor, request approval of the contingent effective date from the president and speaker.

(b) A resolution that has a contingent effective date that is not approved by the president and the speaker may not be introduced.

(c) Subsections (3)(a) and (b) do not apply to a resolution to amend the Utah Constitution that is contingent on approval by the voters.

(4) A rules committee, a standing committee, the Senate, or the House of Representatives [~~is prohibited from suspending~~] may not suspend the provisions of Subsection (2) or (3).

Section 3. JR4-5-104 is enacted to read:

JR4-5-104. Effect of governor's inaction on concurrent resolutions.

(1) If the governor does not approve a concurrent resolution before the expiration of the time limit described in Utah Constitution, Article VII, Section 8 that would apply if the concurrent resolution were a bill, the concurrent resolution converts to a joint resolution.

(2) The legislative general counsel may make technical revisions to convert a resolution described in Subsection (1) from a concurrent resolution to a joint resolution, including the revisions necessary to comply with JR4-1-301.

(3) For a resolution that converts to a joint resolution in accordance with Subsection (1), the Office of Legislative Research and General Counsel shall note in the Laws of Utah and on the final version of the joint resolution that the resolution converted from a concurrent resolution to a joint resolution in accordance with this rule.

(4) This rule does not apply to a constitutional joint resolution.

S. J. R. 7
Passed February 11, 2021
Effective February 11, 2021

JOINT RESOLUTION APPROVING ENERGY SOLUTIONS CONSTRUCTING AND OPERATING A LANDFILL FOR NONHAZARDOUS SOLID WASTE

Chief Sponsor: Scott D. Sandall
House Sponsor: Merrill F. Nelson

LONG TITLE

General Description:

This resolution grants provisional legislative approval for the construction and operation of a Class VI commercial nonhazardous solid waste landfill.

Highlighted Provisions:

This resolution:

- describes the purpose of the resolution;
- describes the proposed landfill;
- addresses the types of nonhazardous solid waste to be received by the landfill; and
- grants provisional legislative approval for the construction and operation of a Class VI commercial nonhazardous solid waste landfill.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah:

WHEREAS, S.J.R. 11, Joint Resolution Authorizing EnergySolutions to Create a Landfill for Non-radioactive Waste (2018 General Session), gave provisional legislative approval of a proposed plan by EnergySolutions to construct and operate a Class VI commercial landfill to receive certain nonhazardous solid waste for disposal;

WHEREAS, nonhazardous solid waste is defined in the rules made under Title 19, Chapter 6, Part 1, Solid and Hazardous Waste Act;

WHEREAS, the purpose of this resolution is to clarify that the Legislature's provisional approval is for disposal by EnergySolutions of nonhazardous solid waste that is described in the operation plan submitted to the Division of Waste Management and Radiation Control for approval;

WHEREAS, EnergySolutions has submitted an operation plan for the proposed Class VI landfill to the Division of Waste Management and Radiation Control for approval by the director that more fully describes the nature of the waste to be disposed of in the proposed Class VI landfill, including licensed material for which the director has authorized disposal in the Class VI landfill pursuant to Utah Administrative Code R313-15-1002;

WHEREAS, the proposed Class VI landfill will be located in Section 5, Township 2 South, Range 11 West, within Tooele County, Utah;

WHEREAS, EnergySolutions is currently licensed by the Division of Waste Management and Radiation Control to operate a low level radioactive waste disposal facility;

WHEREAS, the proposed Class VI landfill will be located within the same Tooele County designated hazardous waste corridor as the currently licensed low level radioactive waste disposal facility and the permitted Class V solid waste landfill operated by EnergySolutions in unincorporated Tooele County;

WHEREAS, the proposed Class VI landfill will enhance efficiencies for EnergySolutions clients by allowing EnergySolutions to receive nonhazardous solid waste from the decommissioning of nuclear power plants that currently use the EnergySolutions licensed low level radioactive waste disposal facility;

WHEREAS, a Class VI commercial landfill would have a favorable economic impact on Tooele County and the state in the form of additional jobs and tax revenue;

WHEREAS, Utah Code Section 19-6-108 requires that an applicant seeking authority to construct or operate a commercial landfill receive approval from the local government, the Legislature, and the governor;

WHEREAS, Utah Code Section 19-6-108 also requires that the applicant seeking authority to construct or operate a commercial landfill receive approval from the director of the Division of Waste Management and Radiation Control within the Department of Environmental Quality for an operation plan for the facility before receiving gubernatorial approval;

WHEREAS, EnergySolutions obtained approval from Tooele County for the proposed landfill;

WHEREAS, EnergySolutions will request gubernatorial approval after the operation plan is approved by the director of the Division of Waste Management and Radiation Control;

WHEREAS, because the waste to be disposed of in the Class VI landfill may have residual levels of radioactivity, the landfill may be considered a radioactive waste facility pursuant to Utah Code Subsection 19-3-105(1)(d);

WHEREAS, Utah Code Subsection 19-3-105(3) provides that before a person owns, constructs, modifies, or operates a radioactive waste facility, the person must obtain the approval of the governor and the Legislature after having first obtained the approval of the local government where the facility will be located; and

WHEREAS, the approval of the Legislature is provisional because the approval is subject to EnergySolutions obtaining the approval of the Division of Waste Management and Radiation Control and the governor:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah grants its provisional approval to EnergySolutions to construct and operate a Class VI commercial nonhazardous solid waste landfill as described in the proposed operation plan if the proposed operation plan is approved by the Division of Waste Management and Radiation Control and the Governor in accordance with Utah Code Subsection 19-3-105(3) and Section 19-6-108.

BE IT FURTHER RESOLVED that if there is a conflict between this resolution and S.J.R. 11 (2018 General Session), this resolution governs.

S. J. R. 9
Passed February 17, 2021
Effective February 17, 2021

JOINT RESOLUTION ON JAIL FACILITIES

Chief Sponsor: David P. Hinkins
House Sponsor: Carl R. Albrecht

LONG TITLE

General Description:

This joint resolution of the Legislature supports contracting for beds for state inmates at the Emery County correctional facility.

Highlighted Provisions:

This resolution:

- supports jail expansion as beneficial to both the state and the counties through a contract with the Department of Corrections; and
- approves contracting for beds dedicated to housing inmates in Emery County.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah:

WHEREAS, counties in Utah contract with the Department of Corrections to provide prison bed space for state prisoners;

WHEREAS, this contracting arrangement has proved beneficial to both the state and the counties that saved taxpayers from the burden of building new state correctional facilities while, at the same time, assisting counties to meet their own correctional space needs;

WHEREAS, in accordance with Utah Code Subsection 64-13e-103(6), the Department of Corrections may not enter into a contract with a county to house state inmates unless the Legislature has previously passed a joint resolution that includes the approximate number of beds to be contracted, the daily rate at which the county is paid to house a state inmate, the approximate amount of a county's long term debt, and the repayment time of the debt for the facility where inmates are to be housed;

WHEREAS, the Department of Corrections is authorized to contract for 50 beds in addition to the current 10 beds, in Emery County;

WHEREAS, the state daily incarceration rate that the Department of Corrections will pay the county per inmate is currently $54.46 per day;

WHEREAS, the facility that would house the inmates in Emery County has no facility debt;

WHEREAS, Emery County has sufficient facilities and beds to accommodate state inmates and has met the requirements of Utah Code Subsection 64-13e-103(6); and

WHEREAS, contracting with the Department of Corrections for additional jail bed space would assist the state in addressing projected bed space and treatment needs and Emery County's efforts to have sufficient capacity to house the Department of Corrections' jail populations:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah approves contracting for beds in the correctional facility located in Emery County in the amount specified in this resolution.

BE IT FURTHER RESOLVED that a copy of this resolution be sent to the Emery County Commission and the Department of Corrections.

S. J. R. 10
Passed February 24, 2021
Effective February 24, 2021

JOINT RESOLUTION COMMEMORATING THE NEW SALT LAKE CITY AIRPORT

Chief Sponsor: Karen Mayne
House Sponsor: Francis D. Gibson

LONG TITLE

General Description:

This resolution commemorates the opening of the new Salt Lake City International Airport.

Highlighted Provisions:

This resolution:

- recognizes the new Salt Lake City International Airport's financial and environmental sustainability features; and
- commemorates the opening of the first phases of the airport in 2020 and expresses support for the completion of the second phase by 2025.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah:

WHEREAS, the first phases of the new Salt Lake City International Airport opened on September 15, 2020, and October 27, 2020;

WHEREAS, the new Salt Lake City International Airport is the first new hub airport built in the United States in the 21st century;

WHEREAS, no local tax dollars are being spent on the new Salt Lake City International Airport and Salt Lake City's general fund revenue does not support the airport's operations;

WHEREAS, the Salt Lake City International Airport is financially self-sustaining because the Salt Lake City Department of Airports is an enterprise fund of the Salt Lake City Corporation; and

WHEREAS, the Salt Lake City International Airport is working to attain LEED Gold

Certification from the U.S. Green Building Council by connecting to public transit, using water-efficient plumbing fixtures, purchasing off-site green power through Rocky Mountain Power, procuring materials locally that contain recycled content, using certified wood, diverting construction waste from landfills, converting airlines to electric ground support equipment, expanding electric vehicle charging stations, and applying design features to increase efficiency:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah commemorates the opening of the first phases of the new Salt Lake City International Airport.

BE IT FURTHER RESOLVED that the Legislature expresses support for the completion of the second phase of the airport by 2025.

S. J. R. 11
Passed March 4, 2021
Effective March 4, 2021

JOINT RESOLUTION CELEBRATING THE 50TH ANNIVERSARY OF OFF-HIGHWAY VEHICLE USE IN UTAH STATE PARKS

Chief Sponsor: David P. Hinkins
House Sponsor: Stewart E. Barlow

LONG TITLE

General Description:

This joint resolution celebrates the 50th anniversary of off-highway vehicle use in Utah state parks.

Highlighted Provisions:

This resolution:

- describes the purpose and history of Utah's Off-Highway Vehicle Act;
- describes the achievements of the Division of Parks and Recreation's Off-Highway Vehicle Program;
- discusses the importance of responsible off-highway vehicle recreation to the state; and
- celebrates 2021 as the Year of the Off-Highway Vehicle Program.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah:

WHEREAS, it is the stated policy of Utah's Off-Highway Vehicle Act to "promote safety and protection for persons, property, and the environment connected with the use, operation, and equipment of off-highway vehicles, to promote uniformity of laws, to adopt and pursue a safety education program, and to develop trails and other facilities for the use of these vehicles";

WHEREAS, the Utah State Legislature passed the Off-Highway Vehicle Act in 1971;

WHEREAS, the Off-Highway Vehicle Act was an important step in creating motorized recreational trail infrastructure, developing safety and education programs, and protecting the natural resources of Utah;

WHEREAS, since 1971, the Division of Parks and Recreation's Off-Highway Vehicle Program has successfully:

- developed and coordinated over 80,000 miles of designated off-highway vehicle trails;
- educated over 250,000 youth and adults;
- created and recommended local community off-highway vehicle trail connectivity;
- implemented 13 statewide snowmobile trail grooming complexes that groom over 25,000 miles of snowmobile trails;
- participated in local, state, and federal Travel Management Planning for appropriate off-highway vehicles' use;
- promoted the economic importance of off-highway vehicles as a sustainable form of outdoor recreation in Utah; and
- created a grant program to support long-term maintenance, sustainable trail construction, and off-highway vehicle infrastructure;

WHEREAS, the Division of Parks and Recreation's Off-Highway Vehicle Program has committed to educational and outreach opportunities by partnering with off-highway vehicle clubs, dealers, rental companies, land managing agencies, private sector businesses, and individual enthusiasts;

WHEREAS, the Off-Highway Vehicle Program is vital to the success of our growing state and it is the responsibility of government agencies, the Legislature, and industry leaders to promote, practice, and educate others in responsible off-highway vehicle practices;

WHEREAS, the health, education, and economic opportunities of Utah families are directly impacted by where they recreate; and

WHEREAS, a diverse statewide off-highway vehicle trail system provides Utahns with stronger opportunities to access public lands and fosters future development of off-highway vehicle trails:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah commemorates the 50th anniversary of the Off-Highway Vehicle Act.

BE IT FURTHER RESOLVED that the Legislature declares and celebrates 2021 as the Year of the Off-Highway Vehicle Program.

S. J. R. 13
Passed March 5, 2021
Effective March 5, 2021

JOINT RESOLUTION ON FEDERAL AND STATE ROLES IN CRIMINAL JUSTICE

Chief Sponsor: Curtis S. Bramble
House Sponsor: Ryan D. Wilcox

LONG TITLE

General Description:

This joint resolution affirms the principle of federalism in the area of criminal justice.

Highlighted Provisions:

This resolution:

- affirms the state's commitment to the Tenth Amendment and the reservation of broad powers to the states to shape their criminal justice policy; and
- urges the federal government to respect states' authority to shape criminal justice policy.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah:

WHEREAS, it is the policy of the state of Utah and its local governments to advance and defend a balanced, dynamic criminal justice partnership with the federal government criminal justice system;

WHEREAS, Congress and the Administration should avoid federalizing crime policy and substituting national laws for state and local policy decisions affecting criminal and juvenile justice, and federal jurisdiction should be reserved for areas where a national problem has been identified and states are unable to adequately provide solutions due to scope, or where federal jurisdiction is required to protect federal constitutional rights;

WHEREAS, Congress and the Administration must recognize that states and local governments have the predominant responsibility to ensure public safety and the administration of justice, and must adhere to fundamental principles of federalism in all areas of criminal justice;

WHEREAS, states diligently strive to improve criminal justice systems and policies and recognize that federal funding is sometimes necessary to implement state reforms in this area, and assert that funding levels for Department of Justice grants and reimbursements to states should be maintained or increased;

WHEREAS, the state of Utah joins the National Conference of State Legislatures in opposing Congressional proposals or federal regulations that would withhold a portion of state criminal justice grants or other funding as a penalty for noncompliance with federal criminal justice policies and opposes the withholding of any federal criminal justice funding as a penalty for state policy choices; and

WHEREAS, the state of Utah urges the federal government to respect state criminal justice priorities and advance change through partnerships rather than mandates:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah affirms its commitment to the Tenth Amendment of the United States Constitution that is the cornerstone of constitutional federalism and reserves broad powers to the states and to the people and declares that Congress and the Administration must respect states' authority to shape public policy.

BE IT FURTHER RESOLVED that a copy of this resolution be sent to Governor Spencer J. Cox, the members of Utah's Congressional Delegation, and to the President of the United States.

S. J. R. 14
Passed March 5, 2021
Effective March 5, 2021

JOINT RESOLUTION ON SETTLEMENT OF FEDERAL RESERVED WATER RIGHT CLAIMS

Chief Sponsor: David P. Hinkins
House Sponsor: Christine F. Watkins
Cosponsor: Jani Iwamoto

LONG TITLE

General Description:

This joint resolution ratifies a settlement of certain federal reserved water right claims and approves the financial settlement subject to specified conditions.

Highlighted Provisions:

This resolution:

- outlines the development of the settlement of federal reserved water right claims with the Navajo Nation and the United States;
- specifies the steps that need to be taken for the state to ratify the settlement of the claims;
- addresses approvals required by statute; and
- ratifies the settlement conditioned on the specified events occurring.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah:

WHEREAS, the Governor of Utah and the President of the Navajo Nation, by a memorandum of understanding dated August 13, 2003, agreed to jointly explore settlement of federal reserved water right claims for the portion of the Navajo Nation located in southeastern Utah;

WHEREAS, over a period of years, representatives of Utah and the Navajo Nation worked in good faith to negotiate a proposed water claim settlement;

WHEREAS, those efforts produced a fair, equitable, and final settlement embodied in a

document entitled "Navajo Utah Water Rights Settlement Agreement" dated December 14, 2015;

WHEREAS, the United States Congress approved that agreement with passage of H.R. 133, the "Consolidated Appropriations Act, 2021," which contains, in Section 1102, the Navajo-Utah Water Rights Settlement, and which was signed by President Trump;

WHEREAS, the approved agreement provides some $200 million in funding for drinking water projects that will improve water supply and delivery to portions of the Navajo Nation located within Utah, of which Utah must provide $8 million;

WHEREAS, the state of Utah desires to complete all necessary conditions precedent contained in the 2015 Settlement Agreement and Section 1102 of the Consolidated Appropriations Act, 2021, as expeditiously as possible both to improve water delivery conditions for Utah citizens who live on the Navajo Nation and to avoid the implications of the expiration date that the Consolidated Appropriations Act contains;

WHEREAS, the Legislature has placed $2 million in Utah's Navajo Water Rights Negotiation Account and these funds that have been committed to the settlement are being held in anticipation of the settlement being finalized;

WHEREAS, the proposed settlement provides the Navajo Nation with 81,500 acre-feet of water annually, an appropriate and reasonable portion of Utah's Colorado River allocation, and contains provisions to minimize the settlement's impact on Utah water rights, particularly municipal rights;

WHEREAS, in exchange for providing most of the funds for construction of the drinking water projects that the agreement contemplates, the United States receives a valuable waiver of claims and other considerations; and

WHEREAS, to finalize the settlement, the 2021 Consolidated Appropriations Act requires the state of Utah to:

(1) add money to the amount in the Utah's Navajo Water Rights Negotiation Account so that a total of $8 million may be transferred into the Navajo Water Development Projects Account of the Navajo Utah Settlement Trust Fund established by the Secretary of the Interior;

(2) ratify the 2015 Navajo Utah Water Rights Settlement Agreement and have the Governor sign the forthcoming conformed agreement contemplated by Section 1102 of the Consolidated Appropriations Act, once the state determines in accordance with statute that the conformed agreement is consistent with the 2015 Agreement in all material respects; and

(3) present the settlement to the Seventh District Court general adjudication proceeding and seek and obtain an interlocutory decree confirming the Navajo water rights consistent with the 2015 Agreement and the 2021 Consolidated Appropriations Act;

WHEREAS, the Governor has given approval of the proposed financial settlement agreement as required by Section 63G-10-201;

WHEREAS, pursuant to Utah Code Section 63G-10-202, after the Governor's approval of a financial settlement, a financial settlement that will cost government entities more than $1,000,000 to implement requires the Utah Legislature's approval before execution; and

WHEREAS, the Legislature grants approval of the financial settlement by means of this resolution after the state takes the steps required by this resolution:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah ratifies the Navajo Utah Water Rights Settlement Agreement with the intent to:

(1) have the Governor sign the forthcoming conformed agreement contemplated by Section 1102 of the Consolidated Appropriations Act, when, according to statute, the state engineer determines that the conformed agreement is consistent with the 2015 Agreement in all material respects;

(2) obtain an interlocutory decree in the Seventh District Court general adjudication proceeding confirming the Navajo water rights consistent with the 2015 Agreement and the 2021 Consolidated Appropriations Act; and

(3) provide $8,000,000 to be transferred to the Navajo Water Development Projects Account.

BE IT FURTHER RESOLVED, that the Utah Legislature approves the proposed settlement agreement for purposes of Utah Code Section 63G-10-202 once the conditions specified in this resolution are met.

BE IT FURTHER RESOLVED, that a copy of this resolution be provided to Utah's congressional delegation and to the Navajo Nation.

S. J. R. 15
Passed March 5, 2021
Effective March 5, 2021

JOINT RESOLUTION ON PRESIDENTIAL EXECUTIVE ORDERS

Chief Sponsor: David P. Hinkins
House Sponsor: Phil Lyman

LONG TITLE

General Description:

This joint resolution recognizes and encourages adherence to the proper separation of powers and principles of federalism with regard to certain presidential executive orders.

Highlighted Provisions:

This resolution:

- recognizes the importance of the appropriate separation of powers among the branches of

government as established in the Constitution of the United States;
- recognizes the core functions of each branch of government, including the checks and balances among the three branches of government;
- recognizes that other states have introduced legislation intended to provide and maintain balance among the branches of government;
- requests that the Utah Attorney General review executive orders of the President of the United States and evaluate whether an executive order exceeds the President's power, violates the constitution, or unlawfully infringes on the rights and powers of the state of Utah; and
- requests that the Utah Attorney General initiate litigation if the Utah Attorney General finds that an executive order exceeds the President's power, violates the constitution, or unlawfully infringes on the rights and powers of the state of Utah.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah:

WHEREAS, the United States Constitution creates three distinct branches of government;

WHEREAS, the United States Constitution defines the powers of each branch of government;

WHEREAS, the power to legislate and enact law is reserved to Congress;

WHEREAS, the power to execute the law is granted to the executive branch;

WHEREAS, the power to interpret and apply the law is granted to the judicial branch;

WHEREAS, each branch is prohibited from exercising the core functions of another branch of government;

WHEREAS, each branch provides checks and balances on the other two branches of government;

WHEREAS, the principle of federalism provides a check and balance between the federal and state governments and ensures sovereignty of each state by protecting against federal overreach; and

WHEREAS, other states, including Nebraska, North Dakota, South Carolina, and South Dakota have introduced legislation intended to provide balance among the branches of government and between state and federal governments:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah requests that the Attorney General of the state of Utah review each executive order issued by the President of the United States if the executive order has not been affirmed by a vote of the Congress of the United States and evaluate whether that executive order exceeds the President's power, violates the constitution, or unlawfully infringes on the rights and powers of the state of Utah.

BE IT FURTHER RESOLVED that if the Attorney General determines that the executive order exceeds the President's power, violates the constitution, or unlawfully infringes on the rights and powers of the state of Utah, the Legislature encourages the Attorney General to commence litigation to protect against illegal, unconstitutional, or overreaching presidential executive orders.

BE IT FURTHER RESOLVED that the Legislature urges the Attorney General to closely scrutinize executive orders that relate to:
- a pandemic or other public health emergency;
- the regulation of natural resources;
- the regulation of the agricultural industry;
- the regulation of land use;
- the regulation of the financial sector through the imposition of environmental, social, or governance standards; and
- the regulation of the constitutional right to keep and bear arms.

BE IT FURTHER RESOLVED that the Legislature supports similar efforts of other states to provide appropriate checks and balances among the branches and levels of government.

S. R. 1
Passed March 2, 2021
Effective March 2, 2021

SENATE RULES RESOLUTION - TECHNICAL CORRECTIONS

Chief Sponsor: David G. Buxton

LONG TITLE

General Description:

This resolution modifies provisions of Senate legislative rules to make technical corrections.

Highlighted Provisions:

This resolution:
- modifies parts of Senate legislative rules to make technical corrections, including eliminating references to repealed rules provisions, eliminating redundant or obsolete language, making minor wording changes, and correcting errors.

Special Clauses:

None

Legislative Rules Affected:

AMENDS:
SR1-1-101
SR1-9-101
SR2-4-101
SR2-5-101
SR3-2-312
SR3-2-401
SR3-2-406
SR4-1-101
SR4-3-301
SR4-4-202
SR4-4-301
SR4-7-101
SR4-8-101
SR4-9-101

Be it resolved by the Senate of the state of Utah:

Section 1. SR1-1-101 is amended to read:

SR1-1-101. Adoption, amendment, or suspension of Senate rules.

(1) (a) The Senate shall adopt Senate rules, by a constitutional two-thirds vote, at the beginning of each new Legislature convening in an odd-numbered year.

(b) If a motion to adopt the rules under Subsection (1)(a) meets or exceeds a majority vote but fails to reach a constitutional two-thirds vote:

(i) rules adopted by the Senate during the immediately preceding annual general session, as amended during that general session and any intervening session, apply to the conduct of the Senate; and

(ii) the secretary of the Senate shall announce to the Senate that the previously adopted rules apply to the newly convened Legislature.

(2) (a) Except as provided in this [~~section~~] rule:

(i) during an annual general session held in an even-numbered year, rules adopted by the Senate during the immediately preceding general session, as amended during that general session and any intervening session, apply to the conduct of the Senate; and

(ii) during any special session, Senate rules apply as provided in JR2-1-101.

(b) For a session described in Subsection (2)(a), the secretary of the Senate shall announce to the Senate that the previously adopted rules apply to the newly convened session.

(3) Except as provided in Subsection (4), additional rules may be adopted and existing rules may be suspended, amended, or repealed by a majority vote, except for those rules that require a two-thirds vote to adopt, suspend, amend, or repeal, including:

(a) rules governing motions for lifting tabled legislation from committee under SR4-3-104; and

(b) rules governing consideration of legislation during the last three days of a session.

(4) (a) A rule that includes a voting requirement of more than a constitutional majority must be adopted and may only be amended, suspended, or repealed by a constitutional two-thirds vote.

(b) If the suspension of any Senate Rule is governed by the Utah Constitution or Utah statutes, the Senate may suspend that rule only as provided by that constitutional or statutory provision.

Section 2. SR1-9-101 is amended to read:

SR1-9-101. Informal poll on United States Senate candidates.

(1) In a year where there is an election for a seat in the United States Senate, the Senate shall conduct an informal poll of their members to determine each member's preferred candidate for each seat that is up for election.

(2) The poll required by this [~~section~~] rule shall:

(a) be conducted and completed within 30 days of the last day for filing for the office of United States Senator, as provided in Utah Code Section 20A-9-202;

(b) be voluntary on the part of each senator;

(c) be administered by the legislative auditor general, who shall:

(i) establish procedures and conduct the poll in a manner that assures that the poll is conducted fairly and accurately; and

(ii) act subject to the direction of the Audit Subcommittee;

(d) have a ballot containing the name of each person who has declared candidacy for the seat as of the conclusion of the last day for filing plus an option to select "none of the above"; and

(e) be conducted by secret ballot.

(3) Immediately after conducting the poll, the legislative auditor general shall make the results of the poll public by listing, for each seat that is up for election, the total number of votes cast for each candidate.

Section 3. SR2-4-101 is amended to read:

SR2-4-101. Admittance to the Senate chamber.

(1) (a) While the Senate is convened in annual general session or special session and except as specifically provided elsewhere in this [~~section~~] rule, only legislators, legislative officers and employees, professional staff, former legislators who are not registered as lobbyists, legal spouses of legislators, interns, and persons invited by senators are allowed in the Senate chamber, halls, and lounge.

(b) The president of the Senate may deny access to the Senate chamber, halls, and lounge to any person, other than a legislator, if the person uses that access to influence legislative decisions.

(2) (a) A senator or the senator's intern shall accompany each visitor in the chamber, lounge, or hallways and is responsible for that visitor.

(b) After the visit, the senator or the senator's intern shall ensure that the visitor leaves the chamber, lounge, or hallway.

(3) (a) A senator may invite a guest to accompany the senator on the Senate floor, provided that:

(i) the senator ensures that the guest does not encroach on a neighboring senator's desk space, impede staff work, or distract from the work of the Senate, and no neighboring senator makes such an objection;

(ii) the guest complies with the requirements of SR2-4-102, SR2-4-103, and Senate Handbook policies on decorum and access; and

(iii) if the guest is an adult, the guest complies with rules and Senate Handbook policies that relate to dress requirements.

(b) A senator who believes that a guest is intruding on desk space, is impeding staff work, or is distracting from the work of the Senate may communicate the senator's objection to the senator who has invited the guest, or through the majority leader, the minority leader, or the president of the Senate.

Section 4. SR2-5-101 is amended to read:

SR2-5-101. Senators may request and sponsor legislation -- Substituting a sponsor -- Withdrawing as a cosponsor.

(1) A senator may request and sponsor legislation as provided in Joint Rules Title 4, Bills and Resolutions.

(2) (a) After a piece of legislation has been introduced, the chief Senate sponsor of the legislation may withdraw from sponsoring the legislation by:

(i) finding another senator to act as chief sponsor of the legislation; and

(ii) filing a substitution of sponsorship form with the secretary of the Senate before final passage of the legislation in the Senate.

(b) A senator seeking to withdraw as the chief sponsor need not obtain permission from the Senate to withdraw.

(3) (a) [~~Before~~] During a general session, before final passage of [~~the~~] a piece of legislation in the Senate, a senator cosponsor of [~~a bill~~] the legislation may withdraw as a cosponsor [~~of that legislation~~].

(b) A senator seeking to withdraw as a cosponsor need not:

(i) obtain permission from the Senate to withdraw; or

(ii) provide a substitute cosponsor for the legislation.

Section 5. SR3-2-312 is amended to read:

SR3-2-312. Chair to accept all motions that are in order -- Once accepted, the motion is pending.

(1) The chair shall accept a motion requested by a member of a standing committee who has been properly recognized unless the motion is prohibited by this chapter or by parliamentary procedure.

(2) To properly accept a motion, the chair shall:

(a) restate each verbal motion;

(b) identify the number of each written motion to amend or substitute legislation; and

(c) [~~distribute copies~~] ensure a copy of each written amendment or substitute [~~to members of the committee~~] is available online.

(3) When a chair properly accepts a motion under Subsection (2), the motion is pending.

Section 6. SR3-2-401 is amended to read:

SR3-2-401. Standing committee review required -- Exceptions.

(1) Except as provided in Subsection (2), the Senate may not pass a bill, joint resolution, or concurrent resolution during the annual general session unless a Senate standing committee has given a favorable recommendation to the legislation.

(2) Subsection (1) does not apply to:

(a) a resolution regarding legislative rules or legislative personnel;

(b) legislation that has been approved by a unanimous vote of the members present at an interim committee meeting;

(c) the revisor's statute; or

(d) if the legislation was reviewed and approved by the Executive Appropriations Committee, legislation that:

(i) exclusively appropriates money;

(ii) amends Utah Code Title 53F, Chapter 2, State Funding -- Minimum School Program;

(iii) amends Utah Code Title 67, Chapter 22, State Officer Compensation; or

(iv) authorizes the issuance of general obligation or revenue bonds.

Section 7. SR3-2-406 is amended to read:

SR3-2-406. Amending legislation -- Amendments must be germane.

(1) (a) Except as provided in Subsection (2), and if recognized by the chair during the committee action phase, a committee member may make a motion to amend the legislation that is under consideration.

(b) (i) A committee member may propose a verbal amendment to the legislation under consideration if the amendment contains 25 or fewer words.

(ii) [~~Before~~] Unless an amendment contains 25 or fewer words, before proposing a motion to amend, a committee member shall ensure that a copy of the proposed amendment [~~that contains more than 25 words is printed and distributed to committee staff and to all committee members present~~] is available online.

(2) (a) A committee member may only make a motion to amend that is germane to the subject of the legislation under consideration.

(b) A committee member who believes that an amendment is not germane to the subject of the legislation may make a point of order or appeal as described in SR3-2-506.

Section 8. SR4-1-101 is amended to read:

SR4-1-101. Definitions.

As used in this title:

(1) (a) "Appropriations bill" means a bill that appropriates money and makes no change to statute.

(b) Notwithstanding Subsection (1)(a), "appropriations bill" includes the public education budget bills.

(2) "Constitutional majority vote" means that the matter requires 15 votes to pass on the Senate floor.

(3) "Constitutional two-thirds vote" means that the matter requires 20 votes to pass on the Senate floor.

(4) "Majority vote" means that the matter requires the votes of a majority of those present to pass on the Senate floor.

(5) "Point of order" means a question raised by a senator about whether or not there has been a breach of order, a breach of rules, or a breach of established parliamentary practice.

(6) "Presiding officer" means the person presiding over the Senate and includes:

(a) the president;

(b) the president pro tempore; and

(c) any senator presiding under SR1-3-103.

(7) "Two-thirds vote" means that the matter requires the vote of two-thirds of those present to pass on the Senate floor.

Section 9. SR4-3-301 is amended to read:

SR4-3-301. Amendments in order on second or third reading -- 10 word rule -- Passage of amendments by a majority vote.

(1) A motion to amend a piece of legislation is in order on second or third reading.

(2) (a) Except as provided in Subsection (3) or (4), a senator may, if recognized by the presiding officer while the Senate is debating a piece of legislation, make a motion to amend the legislation.

(b) (i) A senator may verbally propose an amendment to a piece of legislation if the amendment contains 10 [~~words~~] or fewer words.

(ii) [~~A~~] Unless the amendment contains 10 or fewer words, before a senator makes a motion to amend, the senator shall ensure that a copy of the proposed amendment [~~containing more than 10 words is printed and distributed to the secretary of the Senate and to all senators before the amendment is proposed~~] is available online.

(3) (a) The senator making the motion to amend shall ensure that the amendment is germane to the subject of the original legislation under consideration.

(b) If a senator believes that an amendment is not germane to the subject of the original legislation, the senator may raise a point of order alleging that the amendment is not germane.

(c) The presiding officer shall rule on the point of order by determining whether or not the amendment is germane to the subject of the original legislation.

(4) A constitutional amendment, resolution, or bill requiring a constitutional two-thirds vote for final passage may be amended by a majority vote.

(5) When legislation is amended by the Senate, the secretary of the Senate shall:

(a) for each page of the legislation modified by a Senate amendment, cause a new page to be printed that clearly identifies each Senate amendment to that page; and

(b) print that new page on tan paper on the second reading and on goldenrod-colored paper on the third reading.

Section 10. SR4-4-202 is amended to read:

SR4-4-202. Disposition of legislation voted on third reading.

(1) Except as provided in Subsection (2), the secretary of the Senate or the secretary's designee shall:

(a) for a piece of Senate legislation passed by the Senate on third reading but not yet acted upon by the House, transmit the Senate legislation to the House for its further action;

(b) for a piece of Senate legislation that fails to pass the Senate on third reading, file the legislation;

(c) for a piece of Senate legislation that has passed both houses in the same form, follow the procedures and requirements of [~~JR4-6-101(1)(b)~~] JR4-5-101;

(d) for a piece of House legislation passed by the Senate on third reading and not amended or substituted in the Senate, transmit the House legislation to the presiding officer of the House for the presiding officer's signature;

(e) for a piece of House legislation passed by the Senate on third reading that was amended or substituted in the Senate, transmit the legislation to the House with the amendment or substitute for further action by the House; and

(f) for a piece of House legislation that fails to pass the Senate on third reading, transmit the legislation to the House with notice of the Senate's action.

(2) When a senator gives notice of intention to move for reconsideration, the secretary of the Senate shall:

(a) record the notice in the journal; and

(b) keep possession of the bill until:

(i) the time for reconsideration has expired as provided in Title 4, Chapter 9, Reconsideration of Senate Action; or

(ii) the bill has been reconsidered.

Section 11. SR4-4-301 is amended to read:

SR4-4-301. Consent calendar.

(1) If a standing committee report recommends that a piece of legislation be placed on the consent calendar and the standing committee report is adopted by the Senate, the secretary of the Senate or the secretary's designee shall:

(a) read the legislation for the second time; and

(b) place the legislation on the consent calendar.

(2) (a) Whenever the consent calendar contains legislation, the presiding officer shall inform the Senate each day that:

(i) there are items on the consent calendar; and

(ii) if any senator objects to a piece of legislation on the consent calendar, three or more senators may move the legislation to the second reading calendar by notifying the secretary of the Senate verbally or in writing.

(b) If the secretary of the Senate receives requests to move a piece of legislation from the consent calendar to the second reading calendar from three or more senators, the secretary shall:

(i) remove the legislation from the consent calendar; and

(ii) place the legislation at the bottom of the second reading calendar.

(3) If, after three days during which the Senate has floor time, no more than two members have registered objections to the legislation, the legislation shall be:

(a) read the third time;

(b) placed before the Senate; and

(c) considered for final passage.

(4) (a) The presiding officer shall pose the question on each consent calendar bill in the following form:

"The presiding officer has determined that a quorum is present.

Those who favor the question say, 'aye.'

Does the chair hear a single dissenting nay to the question?"

(b) If the presiding officer hears no nays to the question, a unanimous vote of the senators present shall be recorded in favor of the legislation.

(c) If the presiding officer hears any nays to the question, a roll call vote shall be taken immediately.

(5) Notwithstanding the requirements of Subsection (4), any senator may, before the roll call vote is taken, make a motion to remove the bill from the consent calendar and place it on the bottom of the third reading calendar.

(6) Nothing in this [~~section~~] rule prevents a senator from challenging the ruling of the chair or asking for a vote on any question.

Section 12. SR4-7-101 is amended to read:

SR4-7-101. Definitions.

As used in this chapter:

(1) "Roll call vote" means a verbal voting process where:

(a) the secretary of the Senate or the secretary's designee verbally calls the name of each senator alphabetically, except the president, who is called last;

(b) each senator present votes "aye" or "nay" when the senator's name is called;

(c) the secretary of the Senate or the secretary's designee:

(i) tallies the vote;

(ii) records those senators who are absent or not voting; and

(iii) gives a copy of the tally to the presiding officer; and

(d) the presiding officer announces the result of the vote.

(2) "Voice vote" means a verbal voting process where the presiding officer:

(a) poses the question to be voted upon in this form: "Those in favor (of the question) say 'aye'." and "Those opposed say 'nay'."; and

(b) based upon the senator's responses, announces that the question either passed or failed.

Section 13. SR4-8-101 is amended to read:

SR4-8-101. Definitions.

["~~Call~~] As used in this chapter, "call of the Senate" means the process by which the Senate may compel absent senators to be present in the Senate chamber.

Section 14. SR4-9-101 is amended to read:

SR4-9-101. Motion to reconsider.

(1) As used in this [~~section~~] rule, "legislative day" means a day when the Senate convenes in the Senate chamber and conducts Senate business.

(2) (a) Except as provided in Subsection (3), when a question has been decided on the floor of the Senate, a senator voting with the prevailing side may:

(i) move for reconsideration after intervening business; or

(ii) give notice that a motion for reconsideration will be made.

(b) If a motion for reconsideration is made on the floor of the Senate after a piece of legislation has left the possession of the Senate, the secretary of the Senate shall request that the legislation be returned to the Senate.

(c) The presiding officer shall rule a motion for reconsideration out of order unless the motion is made:

(i) before the 43rd legislative day;

(ii) before the Senate adjourns on the legislative day after the legislative day on which the action sought to be reconsidered occurred; and

(iii) by a senator who previously served notice.

(3) A senator may not make a motion to reconsider after the 42nd day of the annual general session of the Legislature.

S. R. 2
Passed March 2, 2021
Effective May 5, 2021

SENATE RULES RESOLUTION - STANDING COMMITTEE MODIFICATIONS

Chief Sponsor: Wayne A. Harper

LONG TITLE

General Description:

This rules resolution modifies Senate legislative rules related to standing committees.

Highlighted Provisions:

This resolution:

- repeals the Senate Retirement and Independent Entities Standing Committee.

Special Clauses:

This resolution provides a special effective date.

Legislative Rules Affected:

AMENDS:
SR3-2-201

Be it resolved by the Senate of the state of Utah:

Section 1. SR3-2-201 is amended to read:

SR3-2-201. Standing committees -- Creation.

[~~(1)~~] There are created the following standing committees:

[~~(a)~~] (1) Business and Labor;

[~~(b)~~] (2) Economic Development and Workforce Services;

[~~(c)~~] (3) Education;

[~~(d)~~] (4) Government Operations and Political Subdivisions;

[~~(e)~~] (5) Health and Human Services;

[~~(f)~~] (6) Judiciary, Law Enforcement, and Criminal Justice;

[~~(g)~~] (7) Natural Resources, Agriculture, and Environment;

[~~(h)~~] (8) Revenue and Taxation;

[~~(i)~~] (9) Rules; and

[~~(j)~~] (10) Transportation, Public Utilities, Energy, and Technology.

[~~(2) The Senate members of the Retirement and Independent Entities Committee created in Utah Code Section 63E-1-201 comprise a Senate standing committee.~~]

Section 2. Effective date.

This rules resolution takes effect May 5, 2021.

LEGISLATION, LAW WITHOUT SIGNATURE, AND LINE ITEMS VETOED BY THE GOVERNOR

S.B. 39, S.B. 187, S.B. 228, and H.B. 98, were all vetoed by the Governor. See the letters outlining the vetoes on pages 3904 – 3938.

The Governor vetoed many line items in S.B. 3. See page 3939 for the Governor's letter that outlines the vetoed lines.
See Chapter 442, page 3784, for complete text.

S.B. 104, S.B. 167, and H.B. 197 became law without the Governor's signature. See Chapters 434, 436, 430, and pages 3677, 3682, and 3656, for complete text and page 3941 for the letter from the Governor.

S. B. 39
Passed March 5, 2021
Vetoed March 24, 2021

HEMP REGULATION AMENDMENTS

Chief Sponsor: David P. Hinkins
House Sponsor: Jennifer Dailey-Provost

LONG TITLE

General Description:

This bill amends provisions of Title 4, Chapter 41, Hemp and Cannabinoid Act, to provide clarity regarding existing and developing cannabinoids and regulate production and sale.

Highlighted Provisions:

This bill:

- defines terms;
- allows industrial hemp producers to procure background checks through a federal system;
- requires industrial hemp laboratories to demonstrate the ability to test for THC analogs;
- identifies an unlawful act for a person to:
  - distribute, sell, or market a product that exceeds the acceptable hemp THC level;
  - transport material outside of the state that exceeds the acceptable hemp THC level; or
  - produce, sell, or use a cannabinoid product that is added to an alcoholic beverage or food, enticing to children, or smokable flower;
- allows for increased flexibility in dosage forms;
- allows for the sale of unprocessed industrial hemp flower to an individual who is at least 21 years old under certain packaging and labeling requirements; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

4-41-102, as last amended by Laws of Utah 2020, Chapters 12 and 14
4-41-103.2, as enacted by Laws of Utah 2020, Chapter 14
4-41-103.4, as enacted by Laws of Utah 2020, Chapter 14
4-41-104, as enacted by Laws of Utah 2018, Chapter 227
4-41-105, as last amended by Laws of Utah 2020, Chapter 14
4-41-204, as enacted by Laws of Utah 2018, Chapter 446

ENACTS:

4-41-107, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 4-41-102 is amended to read:

4-41-102. Definitions.

As used in this chapter:

(1) "Acceptable hemp THC level" means total tetrahydrocannabinol concentration of not more than 0.3% on a dry weight basis if laboratory testing confirms a result within a measurement of uncertainty that includes the total tetrahydrocannabinol concentration of 0.3%.

(2) "Cannabidiol" or "CBD" means the cannabinoid identified as CAS# 3556-78-3.

(3) "Cannabidiolic acid" or "CBDA" means the cannabinoid identified as CAS# 1244-58-2.

[~~(1)~~] (4) "Cannabinoid product" means [~~a chemical compound extracted from a hemp product that~~] any product that:

(a) contains or is represented to contain naturally occurring, derivative, or synthetic cannabinoids; and

(b) contains less than 0.3% of delta-9-THC or 0.3% each of any THC analog.

[~~(a) is processed into a medicinal dosage form; and~~]

[~~(b) contains less than 0.3% tetrahydrocannabinol by dry weight.~~]

(5) "Delta-9-tetrahydrocannabinol" or "delta-9-THC" means the cannabinoid identified as CAS# 1972-08-03, the primary psychotropic cannabinoid in cannabis.

(6) "Derivative cannabinoid" means any cannabinoid that has been intentionally created using a process to convert a naturally occurring cannabinoid into another cannabinoid.

(7) "Dosage form" means the form in which a product is produced for individual dosage that is not specified as unlawful in this chapter.

[~~(2)~~] (8) "Industrial hemp" means any part of a cannabis plant, whether growing or not, with a concentration of less than 0.3% tetrahydrocannabinol by dry weight.

[~~(3)~~] (9) "Industrial hemp certificate" means a certificate that the department issues to a higher education institution to grow or cultivate industrial hemp under Subsection 4-41-103(1).

[~~(4)~~] (10) "Industrial hemp certificate holder" means a person possessing an industrial hemp certificate that the department issues under this chapter.

[~~(5)~~] (11) "Industrial hemp laboratory permit" means a permit that the department issues to a laboratory qualified to test industrial hemp under the state hemp production plan.

[~~(6)~~] (12) "Industrial hemp producer license" means a license that the department issues to a person for the purpose of cultivating or processing industrial hemp or an industrial hemp product.

[~~(7)~~] (13) "Industrial hemp retailer permit" means a permit that the department issues to a retailer who sells any industrial hemp product.

[~~(8)~~] (14) "Industrial hemp product" means a product derived from, or made by, processing industrial hemp plants or industrial hemp parts.

(15) "Industrial hemp product class" means a group of industrial hemp or cannabinoid products that:

(a) have all ingredients in common; and

(b) differ in dosage strength.

(16) "Key participant" means any individual who has access to raw hemp materials within the industrial hemp facility.

[~~(9)~~] (17) "Laboratory permittee" means a person possessing an industrial hemp laboratory permit that the department issues under this chapter.

[~~(10)~~] (18) "Licensee" means a person possessing an industrial hemp producer license that the department issues under this chapter.

[~~(11) "Medicinal dosage form" means:~~]

[~~(a) a tablet;~~]

[~~(b) a capsule;~~]

[~~(c) a concentrated oil;~~]

[~~(d) a liquid suspension;~~]

[~~(e) a sublingual preparation;~~]

[~~(f) a topical preparation;~~]

[~~(g) a transdermal preparation;~~]

[~~(h) a gelatinous cube, gelatinous rectangular cuboid, or lozenge in a cube or rectangular cuboid shape; or~~]

[~~(i) other preparations that the department approves.~~]

[~~(12)~~] (19) "Non-compliant material" means a hemp plant or hemp product that does not comply with this chapter, including a cannabis plant or product that contains a concentration of:

(a) 0.3% [~~tetrahydrocannabinol~~] total THC or greater by dry weight[~~.~~]; or

(b) 0.3% of any THC analog or greater by dry weight.

[~~(13)~~] (20) "Permittee" means a person possessing a permit that the department issues under this chapter.

[~~(14)~~] (21) "Person" means:

(a) an individual, partnership, association, firm, trust, limited liability company, or corporation; and

(b) an agent or employee of an individual, partnership, association, firm, trust, limited liability company, or corporation.

[~~(15)~~] (22) "Research pilot program" means a program conducted by the department in collaboration with at least one licensee to study methods of cultivating, processing, or marketing industrial hemp.

[~~(16)~~] (23) "Retailer permittee" means a person possessing an industrial hemp retailer permit that the department issues under this chapter.

[~~(17)~~] (24) "State hemp production plan" means a plan submitted by the state to, and approved by, the United States Department of Agriculture in accordance with 7 C.F.R. Chapter 990.

(25) "Synthetic cannabinoid" means any cannabinoid that:

(a) was chemically synthesized from starting materials other than a naturally occurring cannabinoid; and

(b) is not a derivative cannabinoid.

(26) "Tetrahydrocannabinol" or "THC" means a substance derived from cannabis or a synthetic cannabinoid equivalent as described in Subsection 58-37-4(2)(a)(iii)(AA).

(27) (a) "THC analog" means a substance that is structurally or pharmacologically substantially similar to, or is represented as being similar to, delta-9-THC.

(b) "THC analog" does not include the following substances or their naturally occurring acid forms:

(i) cannabichromene (CBC), CAS# 20675-51-8;

(ii) cannabicyclol (CBL), CAS# 21366-63-2;

(iii) cannabidiol (CBD), CAS# 13956-29-1;

(iv) cannabidivarol (CBDV), CAS# 24274-48-4;

(v) cannabielsoin (CBE), CAS# 52025-76-0;

(vi) cannabigerol (CBG), CAS# 25654-31-3;

(vii) cannabigerovarin (CBGV), CAS# 55824-11-8;

(viii) cannabinol (CBN), CAS# 521-35-7;

(ix) cannabivarin (CBV), CAS# 33745-21-0; or

(x) delta-9-tetrahydrocannabivarin (THCV), CAS# 31262-37-0.

(28) "Total cannabidiol" or "total CBD" means the combined amounts of cannabidiol and cannabidiolic acid, calculated as "total CBD = CBD + (CBDA x 0.877)."

(29) "Total tetrahydrocannabinol" or "total THC" means the sum of the determined amounts of delta-9 THC and tetrahydrocannabinolic acid, calculated as "total THC = delta-9 THC + (THCA x 0.877)."

Section 2. Section 4-41-103.2 is amended to read:

4-41-103.2. Industrial hemp producer license -- Background checks.

(1) The department or a licensee of the department may cultivate or process industrial hemp.

(2) A person seeking an industrial hemp producer license shall provide to the department:

(a) the legal description and global positioning coordinates sufficient for locating the fields or greenhouses the person uses to grow industrial hemp; and

(b) written consent allowing a representative of the department and local law enforcement to enter all premises where the person cultivates, processes, or stores industrial hemp for the purpose of:

(i) conducting a physical inspection; or

(ii) ensuring compliance with the requirements of this chapter.

(3) An individual who has been convicted of a drug-related felony within the last 10 years is not eligible to obtain an industrial hemp producer license.

(4) The department may set a fee in accordance with Subsection 4-2-103(2) for the application for an industrial hemp producer license.

(5) A licensee may only market industrial hemp that the licensee cultivates or processes.

(6) (a) Each applicant for a license to cultivate or process industrial hemp shall submit to the department, at the time of application, from each key participant:

(i) a fingerprint card in a form acceptable to the Department of Public Safety;

(ii) a signed waiver in accordance with Subsection 53-10-108(4) acknowledging the registration of the individual's fingerprints in the Federal Bureau of Investigation Next Generation Identification System's Rap Back Service; and

(iii) consent to a fingerprint background check by:

(A) the Bureau of Criminal Identification; and

(B) the Federal Bureau of Investigation.

(b) The Bureau of Criminal Identification shall:

(i) check the fingerprints the applicant submits under Subsection (6)(a) against the applicable state, regional, and national criminal records databases, including the Federal Bureau of Investigation Next Generation Identification System;

(ii) report the results of the background check to the department;

(iii) maintain a separate file of fingerprints that applicants submit under Subsection (6)(a) for search by future submissions to the local and regional criminal records databases, including latent prints;

(iv) request that the fingerprints be retained in the Federal Bureau of Investigation Next Generation Identification System's Rap Back Service for search by future submissions to national criminal records databases, including the Next Generation Identification System and latent prints; and

(v) establish a privacy risk mitigation strategy to ensure that the department only receives notifications for an individual with whom the department maintains an authorizing relationship.

(c) The department shall:

(i) assess an individual who submits fingerprints under Subsection (6)(a) a fee in an amount that the department sets in accordance with Section 63J-1-504 for the services that the Bureau of Criminal Identification or another authorized agency provides under this section; and

(ii) remit the fee described in Subsection (6)(c)(i) to the Bureau of Criminal Identification.

Section 3. Section 4-41-103.4 is amended to read:

4-41-103.4. Industrial hemp laboratory permit.

(1) The department or a laboratory permittee of the department may test industrial hemp and industrial hemp products.

(2) The department or a laboratory permittee of the department may dispose of non-compliant material.

(3) A laboratory seeking an industrial hemp laboratory permit shall:

(a) demonstrate to the department that:

(i) the laboratory and laboratory staff possess the professional certifications required by department rule;

(ii) the laboratory has the ability to test industrial hemp and industrial hemp products using the standards, methods, practices, and procedures required by department rule;

(iii) the laboratory has the ability to meet the department's minimum standards of performance for detecting delta-9 tetrahydrocannabinol (THC) concentration levels and THC analog concentration levels; and

(iv) the laboratory has a plan that complies with the department's rule for the safe disposal of non-compliant material; and

(b) provide to the department written consent allowing a representative of the department and local law enforcement to enter all premises where the laboratory tests, processes, or stores industrial hemp, industrial hemp products, and non-compliant plants for the purpose of:

(i) conducting a physical inspection; or

(ii) ensuring compliance with the requirements of this chapter.

(4) An individual who has been convicted of a drug-related felony within the last 10 years is not eligible to obtain a license under this chapter.

(5) The department may set a fee in accordance with Subsection 4-2-103(2) for the application for an industrial hemp laboratory permit.

Section 4. Section 4-41-104 is amended to read:

4-41-104. Product registration required for distribution -- Application -- Fees -- Renewal.

(1) An industrial hemp product that is not registered with the department may not be distributed in this state.

(2) A person seeking registration for an industrial hemp product shall:

(a) apply to the department on forms provided by the department; and

(b) submit an annual registration fee, determined by the department pursuant to Subsection 4-2-103(2), for each industrial hemp product class the person intends to distribute in this state.

(3) The department may conduct tests, or require test results, to ensure that any claim made by an applicant about an industrial hemp product is accurate.

(4) Upon receipt by the department of a proper application and payment of the appropriate fee, as described in Subsection (2), the department shall issue a registration to the applicant allowing the applicant to distribute the registered hemp product in the state [~~through June 30 of each year~~] for one year from the date of the payment of the fee, subject to suspension or revocation for cause.

(5) The department shall mail, either through the postal service or electronically, forms for the renewal of a registration to a registrant at least 30 days before the day on which the registrant's registration expires.

Section 5. Section 4-41-105 is amended to read:

4-41-105. Unlawful acts.

(1) It is unlawful for a person to:

(a) cultivate, handle, process, or market living industrial hemp plants, viable hemp seeds, leaf materials, or floral materials derived from industrial hemp without the appropriate license or permit issued by the department under this chapter[~~.~~];

[~~(2)~~] (b) [~~It is unlawful for any person to~~] distribute, sell, or market an industrial hemp or cannabinoid product that is not registered with the department pursuant to Section 4-41-104[~~.~~];

(c) distribute, sell, or market an industrial hemp or cannabinoid product that contains greater than 0.3% of either total THC or a THC analog under this chapter;

(d) transport outside the state extracted material or final product that exceeds the acceptable hemp THC level; or

(e) produce, sell, or use a cannabinoid product that is:

(i) added to a conventional food or alcoholic beverage if:

(A) the conventional food item is unpackaged; or

(B) the conventional food item contains more than 25mg of CBD per serving; or

(ii) marketed or manufactured to be enticing to children, as the department specifies in rule in accordance with Section 4-41-204; or

(f) for unprocessed industrial hemp flower:

(i) sell industrial hemp flower to an individual younger than 21 years old; or

(ii) possess, except for during actual use, or sell industrial hemp flower that is not packaged in accordance with Section 4-41-107.

[~~(3)~~] (2) The department may seize and destroy non-compliant material.

[~~(4)~~] (3) Nothing in this chapter authorizes any person to violate federal law, regulation, or any provision of this title.

Section 6. Section 4-41-107 is enacted to read:

4-41-107. Industrial hemp flower.

(1) For any industrial hemp flower that an industrial hemp producer produces for sale as unprocessed industrial hemp flower, the industrial hemp producer shall:

(a) package the industrial hemp flower in a container that:

(i) is tamper evident and tamper resistant;

(ii) does not appeal to children;

(iii) does not mimic a candy container;

(iv) is opaque; and

(v) complies with child-resistant effectiveness standards that the United States Consumer Product Safety Commission establishes;

(b) include a label on the container described in Subsection (1)(a) that:

(i) clearly and unambiguously states that the container contains industrial hemp flower;

(ii) clearly displays the weight of the industrial hemp flower and the amount of total THC in the labeled container;

(iii) does not display an image, word, or phrase that the facility knows or should know appeals to children; and

(iv) identifies the industrial hemp producer; and

(c) includes a warning label that states: "WARNING: KEEP OUT OF REACH OF CHILDREN. This product is for medical use only."

(2) For any industrial hemp flower that an industrial hemp retailer offers for sale, the industrial hemp retailer shall:

(a) ensure that the industrial hemp flower is in a sealed and labeled container described in Subsection (1);

(b) add a label to the container described in Subsection (1) that specifies:

(i) the date of purchase; and

(ii) the industrial hemp retailer;

(c) provide the purchaser with an opaque, child-resistant bag; or

(d) ensure that the unprocessed industrial hemp flower is registered in accordance with Sections 4-41-104 and 4-41-403.

(3) (a) An industrial hemp producer may not produce unprocessed industrial hemp flower for sale except as provided in Subsection (1).

(b) An industrial hemp retailer may not offer unprocessed industrial hemp flower for sale except as provided in Subsection (2).

(c) An individual may not:

(i) purchase, possess, or use unprocessed industrial hemp flower if the individual is younger than 21 years old;

(ii) purchase unprocessed industrial hemp flower for sale that is not in a sealed and labeled container described in Subsections (1) and (2);

(iii) possess or transport industrial hemp flower in public outside of a sealed and labeled container described in Subsections (1) and (2) that is contained within the bag described in Subsection (2)(c); or

(iv) sell or purchase unprocessed industrial hemp flower that is not registered in accordance with Sections 4-41-104 and 4-41-403.

Section 7. Section 4-41-204 is amended to read:

4-41-204. Department to make rules regarding cultivation and processing.

The department shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(1) to ensure:

(a) cannabis cultivated in the state pursuant to this chapter is cultivated from state-approved seed sources; and

(b) a private entity contracted to cultivate cannabis has sufficient security protocols; [~~and~~]

(2) governing an entity that puts cannabis into a [~~medicinal~~] dosage form, including standards for health and safety[~~.~~]; and

(3) regarding what constitutes a product that is marketed or manufactured to be enticing to children.

STATE OF UTAH

SPENCER J. COX
GOVERNOR

OFFICE OF THE GOVERNOR
SALT LAKE CITY, UTAH
84114-2220

DEIDRE M. HENDERSON
LIEUTENANT GOVERNOR

March 24, 2021

The Honorable Brad Wilson
Speaker of the House

and

The Honorable Stuart Adams
President of the Senate

Dear Speaker Wilson and President Adams:

This letter serves to inform you that I have vetoed Senate Bill 39, Hemp Regulation Amendments.

I appreciate the Legislature's efforts in passing S.B. 39 to address issues related to hemp production in Utah. Initially, S.B. 39 was introduced during the interim as a consensus bill recommended by the Utah Department of Agriculture and Food. However a number of changes made to the bill in the intervening time have raised concerns sufficient to warrant a veto. This is unfortunate because I believe other provisions of the bill contain good policy that would be beneficial to the state. If the issues raised below can be addressed, I would be pleased to include the bill in the call for a special session this year.

Of primary concern are provisions relating to the legalization of hemp flower, class registration of hemp products, and cannabidiol (CBD) in food and alcoholic beverages. First, the legalization of hemp flower as provided in the bill creates enforcement problems due to difficulties in distinguishing legal hemp flower from marijuana flower or hemp flower with unlawful concentrations of tetrahydrocannabinol (THC) or THC analog. Effective enforcement of the bill's hemp flower provisions would require additional personnel, scientific instruments, testing kits, and method development and validation.

Second, the bill permits hemp products to be registered as a class, which would allow products with the same ingredients but different dosage strengths to be in the same class. This is unwise. Dosage strength is one of the most important differences between cannabinoid products. Allowing products with different dosage strengths to be registered as the same product has serious implications for product review, registration, and enforcement, which would increase costs and impede the state's ability to guarantee that each product in a class is safe for the public.

Finally, I am concerned by the bill's provisions that appear to permit CBD in food and alcoholic beverages. These provisions are inconsistent with guidance from the Food and Drug Administration, which may jeopardize important federal funding to the state's food programs. Furthermore the Alcohol and Tobacco Tax and Trade Bureau will not approve labels or formulas for any alcoholic beverages that contain controlled substances under federal law, including CBD and products containing hemp ingredients other than those derived from hemp seeds or hemp oil. Because the Department of Alcoholic Beverage Control would not have the ability to determine whether an alcoholic beverage contained a permissible percentage of THC under S.B. 39, the bill would lead to inequitable and potentially dangerous results in terms of what alcoholic products may permeate off-premise markets. Given these issues, it is concerning that the Department of Alcoholic Beverage Control was not consulted as a stakeholder during the preparation of the bill.

For these reasons, I have vetoed S.B. 39, HEMP REGULATION AMENDMENTS, and returned it to the Senate.

Sincerely,

Spencer J. Cox
Governor

S. B. 187
Passed March 5, 2021
Vetoed March 24, 2021

LOCAL EDUCATION AGENCY POLICIES AMENDMENTS

Chief Sponsor: Ronald M. Winterton
House Sponsor: Norman K. Thurston

LONG TITLE

General Description:

This bill creates certain requirements for public health orders that directly affect local education agencies and private schools.

Highlighted Provisions:

This bill:

- requires the governor, the chief executive of a municipality or county, the Department of Health, or a local health department (authority) to:
  - notify a local education agency (LEA) or a private school that is directly affected by a public health order (affected LEA or private school) of the date and time of a meeting to discuss the public health order before issuing the order;
  - at the meeting, discuss certain issues with the affected LEA or private school representatives in attendance; and
  - notify an affected LEA or a private school at least 10 calendar days before a public health order expires if the authority intends to extend the public health order;
- provides that a public health order that directly affects an LEA is:
  - unenforceable unless the issuing authority complies with the meeting requirements before issuing the public health order; and
  - enforceable if the authority does not comply with the meeting requirements in the case of an imminent threat; and
- defines terms.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

53G-9-210, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53G-9-210 is enacted to read:53G-9-210. Public health orders affecting schools.

(1) As used in this section:

(a) "Authority" means the governor, the chief executive of a municipality or county, the Department of Health, or a local health department.

(b) "Local emergency" means a local emergency that the chief executive officer of a municipality or county declares by proclamation under Section 53-2a-208.

(c) "Public health order" means an order issued in response to a public health emergency that is:

(i) an executive order that the governor issues:

(A) declaring a state of emergency; or

(B) under a state of emergency;

(ii) a declaration of local emergency;

(iii) an order the chief executive officer of a municipality or county issues under a local emergency;

(iv) an order that the Department of Health issues under:

(A) a state of emergency; or

(B) a local emergency; or

(v) an order that a local health department issues under:

(A) a state of emergency; or

(B) a local emergency.

(d) "State of emergency" means a state of emergency the governor declares under Section 53-2a-206.

(2) (a) An authority may not issue a public health order unless, before the authority issues the public health order, the authority notifies an LEA or a private school that is directly affected by the public health order of the date and time of a meeting, in person or via a virtual platform, regarding the public health order.

(b) At the meeting described in Subsection (2)(a), a representative of the authority issuing the public health order shall discuss the public health order the authority intends to issue with LEA or private school representatives in attendance, including:

(i) the justification for the public health order;

(ii) who and what the public health order governs;

(iii) what entity is responsible for enforcing the public health order; and

(iv) planned enforcement measures.

(3) An authority shall notify an LEA or a private school that is directly affected by a public health order, at least 10 calendar days before the public health order expires, if the authority intends to extend the public health order.

(4) A public health order that directly affects an LEA or a private school is unenforceable if the issuing authority does not comply with the requirements described in Subsection (2).

(5) (a) An authority may issue a public health order without complying with the requirements of Subsection (2) if the time necessary to comply with Subsection (2) would substantially increase the likelihood of loss of life due to an imminent threat.

(b) Notwithstanding Subsection (4), a public health order that an authority issues under Subsection (5)(a) is enforceable.

STATE OF UTAH

SPENCER J. COX
GOVERNOR

OFFICE OF THE GOVERNOR
SALT LAKE CITY, UTAH
84114-2220

DEIDRE M. HENDERSON
LIEUTENANT GOVERNOR

March 24, 2021

The Honorable Stuart Adams
President of the Senate

and

The Honorable Brad Wilson
Speaker of the House

Dear President Adams and Speaker Wilson:

This letter serves to inform you that I have vetoed Senate Bill 187, Local Education Agency Policies Amendments.

During the past few months our office has negotiated in good faith with the legislature on determining the proper balance of emergency powers. We have agreed on the importance of retaining for our state and local health officials the ability to act quickly and appropriately in times of emergency. For example, S.B. 195 Emergency Response Amendments, which I signed, provides for necessary checks on this authority that are directly connected to the state and local legislative bodies. In contrast, S.B. 187 was not part of these negotiations, nor were the provisions that it contains.

Communication with affected entities is critical in an emergency, but S.B. 187 provides unnecessary and potentially problematic hurdles for health departments to respond to public health emergencies in their communities, which may hamper a timely response. While this bill was contemplated with the current scenario of a long term pandemic in mind, it will most likely be applied to different types of community health emergencies. I encourage all local health departments to develop strong relationships with their local stakeholders including and beyond schools. However, the burden placed on these departments under S.B. 187 is unnecessary and potentially dangerous.

For these reasons I have vetoed S.B. 187, LOCAL EDUCATION AGENCY POLICIES AMENDMENTS, and returned it to the Senate.

Sincerely,

Spencer J. Cox
Governor

S. B. 228
Passed March 4, 2021
Vetoed March 23, 2021

ELECTRONIC FREE SPEECH AMENDMENTS

Chief Sponsor: Michael K. McKell
House Sponsor: Brady Brammer
Cosponsor: Curtis S. Bramble

LONG TITLE

General Description:

This bill enacts provisions with respect to the regulation of social media corporations.

Highlighted Provisions:

This bill:

- defines terms;
- requires social media corporations to, for Utah account holders, provide:
  - clear information about the social media corporation's moderation practices;
  - notice to the account holder or the attorney general when the social media corporation uses a moderation practice with respect to a Utah account holder's account; and
  - an opportunity for a Utah account holder to appeal certain moderation practices that the social media corporation employs on a Utah account holder's account or post;
- provides, if a social media corporation violates its terms of use with respect to moderation practices:
  - a mechanism for a Utah account holder to make a complaint to the Division of Consumer Protection (division) and the attorney general;
  - a mechanism for the division to investigate alleged violations; and
  - an enforcement and penalty mechanism for the attorney general if the division refers a violation to the attorney general;
- creates a restricted account to deposit penalties and provides for the distributions from the account; and
- provides for severability if a provision is found to be invalid.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

13-2-1, as last amended by Laws of Utah 2020, Chapter 118

ENACTS:

13-58-101, Utah Code Annotated 1953
13-58-102, Utah Code Annotated 1953
13-58-201, Utah Code Annotated 1953
13-58-202, Utah Code Annotated 1953
13-58-203, Utah Code Annotated 1953
13-58-204, Utah Code Annotated 1953
13-58-301, Utah Code Annotated 1953
13-58-302, Utah Code Annotated 1953
13-58-303, Utah Code Annotated 1953
13-58-304, Utah Code Annotated 1953
13-58-401, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 13-2-1 is amended to read:

13-2-1. Consumer protection division established -- Functions.

(1) There is established within the Department of Commerce the Division of Consumer Protection.

(2) The division shall administer and enforce the following:

(a) Chapter 5, Unfair Practices Act;

(b) Chapter 10a, Music Licensing Practices Act;

(c) Chapter 11, Utah Consumer Sales Practices Act;

(d) Chapter 15, Business Opportunity Disclosure Act;

(e) Chapter 20, New Motor Vehicle Warranties Act;

(f) Chapter 21, Credit Services Organizations Act;

(g) Chapter 22, Charitable Solicitations Act;

(h) Chapter 23, Health Spa Services Protection Act;

(i) Chapter 25a, Telephone and Facsimile Solicitation Act;

(j) Chapter 26, Telephone Fraud Prevention Act;

(k) Chapter 28, Prize Notices Regulation Act;

(l) Chapter 32a, Pawnshop and Secondhand Merchandise Transaction Information Act;

(m) Chapter 34, Utah Postsecondary Proprietary School Act;

(n) Chapter 34a, Utah Postsecondary School State Authorization Act;

(o) Chapter 39, Child Protection Registry;

(p) Chapter 41, Price Controls During Emergencies Act;

(q) Chapter 42, Uniform Debt-Management Services Act;

(r) Chapter 49, Immigration Consultants Registration Act;

(s) Chapter 51, Transportation Network Company Registration Act;

(t) Chapter 52, Residential Solar Energy Disclosure Act;

(u) Chapter 53, Residential, Vocational and Life Skills Program Act;

(v) Chapter 54, Ticket Website Sales Act;

(w) Chapter 56, Ticket Transferability Act; [~~and~~]

(x) Chapter 57, Maintenance Funding Practices Act[.]; and

(y) Chapter 58, Freedom from Biased Moderation Act.

Section 2. Section 13-58-101 is enacted to read:

CHAPTER 58. FREEDOM FROM BIASED MODERATION ACT

Part 1. General Provisions

13-58-101. Title.

This chapter is known as the "Freedom from Biased Moderation Act."

Section 3. Section 13-58-102 is enacted to read:

13-58-102. Definitions.

In this chapter:

(1) "Account holder" means a Utah resident who has or opens an account to use a social media corporation's platform.

(2) (a) "Dangerous exigent content" means content that indicates the imminent threat or perpetration of a serious crime.

(b) "Dangerous exigent content" includes content that:

(i) indicates an imminent threat to a particular individual;

(ii) indicates an imminent terrorist threat;

(iii) indicates or depicts suicide or self-harm;

(iv) depicts the sexual exploitation of a minor; or

(v) indicates an imminent violation of a grievous sexual offense as that term is defined in Subsection 76-1-601(8).

(3) "Director" means the director of the division.

(4) "Division" means the Division of Consumer Protection in the Department of Commerce established in Section 13-2-1.

(5) "Flag" means the act of a social media corporation singling out a post because of the post's content.

(6) "Inequitable moderation practice" means:

(a) an inconsistent application of a social media corporation's terms of use to justify a moderation practice; and

(b) moderating content that does not violate a social media corporation's terms of use.

(7) (a) "Interactive computer service" means any information service, system, or access software provider that:

(i) provides or enables computer access by multiple users to a computer server; and

(ii) provides access to the Internet.

(b) "Interactive computer service" includes:

(i) a web service;

(ii) a web system;

(iii) a website;

(iv) a web application; or

(v) a web portal.

(8) (a) "Moderation practice" means a method a social media corporation employs to regulate a post.

(b) "Moderation practice" includes:

(i) flagging a post;

(ii) removing a post;

(iii) suspending an account holder's account; or

(iv) revoking an account holder's access to a platform.

(9) (a) "Platform" means an online forum that a social media corporation makes available for an account holder to:

(i) create a profile;

(ii) upload posts;

(iii) view the posts of other account holders; and

(iv) interact with other account holders or users.

(b) "Platform" does not include:

(i) electronic mail; or

(ii) an online service, website, or application on which:

(A) the majority of the content that is posted or created is posted or created by the provider of the online service, website, or application; and

(B) the ability to chat, comment, or interact with other users is directly related to the provider's content.

(10) "Post" means content that an account holder makes available on the account holder's account for other account holders or users to view.

(11) "Social media corporation" means any domestic corporation or foreign corporation that provides a platform that has at least 20,000,000 account holders and is an interactive computer service.

(12) "Terms of use" means the terms to which an account holder must agree before an account holder can open or continue to use an account on a platform.

(13) (a) "User" means an individual who has access to view the post of an account holder.

(b) "User" includes an account holder.

(14) (a) "Utah resident" means a person who lives or operates in Utah and:

(i) if the person is an individual, has a primary residence in Utah; or

(ii) if the person is a business, has a principal place of business in Utah.

(b) "Utah resident" does not include a person who has a primary residence or principal place of business in another state.

(15) "Violation" means a social media corporation's use of a moderation practice against an account holder that does not comply with the social media corporation's terms of use.

Section 4. Section 13-58-201 is enacted to read:

Part 2. Transparency

13-58-201. Communication of moderation practices.

(1) Beginning on July 1, 2022, and once every year following July 1, 2022, a social media corporation shall clearly communicate to account holders the social media corporation's moderation practices before the account holder continues to engage with the social media corporation's platform.

(2) A social media corporation shall ensure that the corporation's communication of moderation practices:

(a) provides a complete list of potential moderation practices to all account holders;

(b) informs an account holder about the social media corporation's terms of use regarding content that the social media corporation allows on the platform;

(c) explains the steps the social media corporation takes to ensure a post or account complies with the social media corporation's terms of use;

(d) explains the methods users can use to notify the social media corporation of content that may violate the terms of use; and

(e) includes information about the appeals process described in Section 13-58-204.

Section 5. Section 13-58-202 is enacted to read:

13-58-202. Prohibited moderation practices.

A social media corporation may not:

(1) employ inequitable moderation practices; or

(2) communicate the information described in Section 13-58-201 in a method that includes any information not specifically related to the social media corporation's moderation practices.

Section 6. Section 13-58-203 is enacted to read:

13-58-203. Notice requirement.

(1) Except as provided in Subsection (5), a social media corporation shall provide written notice to an account holder no more than 24 hours after moderating the account holder's post or account.

(2) The notice described in Subsection (1) shall include:

(a) a description of the post or account moderated;

(b) a description of the method the social media corporation used to moderate the post or account;

(c) a citation to the terms of use that the moderated post or account violated;

(d) information about the appeal process; and

(e) an appeal form.

(3) The account holder shall have 30 days to submit an appeal form.

(4) The social media corporation shall make the appeal form:

(a) simple to submit;

(b) contain an option for the account holder to submit up to five examples of similar content that the social media corporation has not moderated; and

(c) contain an option for the account holder to explain why the post or account should not have been moderated.

(5) (a) If the post or account that the social media corporation moderates is dangerous exigent content, the social media corporation shall provide written notice to the attorney general as soon as practicable, but no more than 24 hours after moderating the post or account.

(b) The written notice to the attorney general shall include:

(i) a description of the post or account moderated;

(ii) a description of the method the social media corporation used to moderate the post or account; and

(iii) a description of why the social media corporation determined that the moderated post or account qualifies as dangerous exigent content.

(c) If a social media corporation provides notice to the attorney general under this section, the social media corporation is not required to notify the account holder that the social media corporation has moderated the post or account.

Section 7. Section 13-58-204 is enacted to read:

13-58-204. Appeal process.

(1) A moderator who was not involved in the original moderation decision shall review each appeal form.

(2) The moderator shall provide to the account holder, in writing:

(a) an explanation of whether the post or account violates the social media corporation's terms of use;

(b) an explanation of why the social media corporation:

(i) treated the examples the account holder provided on the appeal form differently than the

social media corporation treated the account holder's post or account; or

(ii) will moderate the examples the account holder provided; and

(c) a conclusion stating whether:

(i) the social media corporation engaged in an inequitable moderation practice in moderating the post or account;

(ii) there is a possibility that the social media corporation engaged in an inequitable moderation practice in moderating the post or account; or

(iii) the social media corporation acted properly in moderating the post or account.

(3) The moderator shall provide the written response no more than 30 days after the day on which the social media corporation receives the appeal form.

(4) No more than 24 hours after the moderator concludes the social media corporation engaged in an inequitable moderation practice in moderating the post or account, the social media corporation shall reinstate the moderated post or account in the post or account's original form.

Section 8. Section 13-58-301 is enacted to read:

Part 3. Enforcement

13-58-301. Investigative powers of the division.

(1) The division shall establish and administer a system to receive consumer complaints regarding whether a social media corporation has committed a violation.

(2) (a) The division may investigate a consumer complaint to determine whether the social media corporation has committed a violation.

(b) If the results of the division's investigation give the director reasonable cause to believe that substantial evidence exists that a social media corporation identified in a consumer complaint has committed a violation, the director shall refer the matter to the attorney general.

(c) Upon request, the division shall provide consultation and assistance to the attorney general in enforcing this chapter.

Section 9. Section 13-58-302 is enacted to read:

13-58-302. Enforcement powers of the attorney general.

(1) Except as otherwise provided in this chapter, the attorney general has the exclusive authority to enforce this chapter.

(2) Nothing in this chapter creates a private right of action.

(3) Upon referral from the division, the attorney general may initiate an enforcement action against a social media corporation that commits a violation.

(4) (a) At least 30 days before the day on which the attorney general initiates an enforcement action against a social media corporation, the attorney general shall provide the social media corporation:

(i) written notice identifying each alleged violation; and

(ii) an explanation of the basis for each allegation.

(b) The attorney general may not initiate an action if the social media corporation:

(i) cures the noticed violation within 30 days after the day on which the social media corporation receives the written notice described in Subsection (4)(a); and

(ii) provides the attorney general an express written statement that:

(A) the social media corporation cured the violation; and

(B) no further violation will occur.

(c) The attorney general may initiate a civil action against a social media corporation that:

(i) fails to cure a violation after receiving the notice described in Subsection (4)(a); or

(ii) after curing a noticed violation and providing a written statement in accordance with Subsection (4)(b), commits another violation.

(d) In an action described in Subsection (4)(c), the attorney general may recover:

(i) actual damages to the consumer; and

(ii) for each violation, a civil penalty not to exceed $1,000 per consumer affected by the violation.

(5) The attorney general shall bring an action under this chapter in:

(a) the district court located in Salt Lake City; or

(b) the district court for the district in which resides a consumer who is affected by the violation.

(6) All civil penalties received from an action under this chapter shall be deposited into the Protecting Internet Speech Restricted Account established in Section 13-58-303.

Section 10. Section 13-58-303 is enacted to read:

13-58-303. Protecting Internet Speech Restricted Account.

(1) There is created within the General Fund a restricted account known as the "Protecting Internet Speech Restricted Account."

(2) The account shall be funded by money received through civil enforcement actions under this chapter.

(3) Upon appropriation, the division or the attorney general may use money deposited into the account for:

(a) investigation and administrative costs incurred by the division in investigating consumer complaints alleging violations of this chapter;

(b) recovery of costs and attorney fees accrued by the attorney general in enforcing this chapter; and

(c) providing consumer and business education regarding:

(i) consumer rights under this chapter; and

(ii) compliance with the provisions of this chapter for social media corporations.

(4) If the balance of the account exceeds $1,000,000 at the close of any fiscal year, the Division of Finance shall transfer the amount that exceeds $1,000,000 into the General Fund.

Section 11. Section 13-58-304 is enacted to read:

13-58-304. Attorney general report.

(1) The attorney general and the division shall compile a report:

(a) evaluating the liability and enforcement provisions of this chapter, including:

(i) the effectiveness of the attorney general's and the division's efforts to enforce this chapter; and

(ii) any recommendations for changes to this chapter; and

(b) summarizing the moderation practices protected and not protected by this chapter, including a list of alleged violations the attorney general and the division have received.

(2) The attorney general and the division may update the report as new information becomes available.

(3) The attorney general and the division shall submit the report to the Business and Labor Interim Committee before July 1, 2024.

Section 12. Section 13-58-401 is enacted to read:

Part 4. Severability

13-58-401. Severability.

If any provision of this chapter or the application of any provision to any person is held invalid by a final decision of a court of competent jurisdiction, the remainder of this chapter shall be given effect without the invalid provision or application.

Section 13. Effective date.

This bill takes effect on July 1, 2022.

STATE OF UTAH

SPENCER J. COX
GOVERNOR

OFFICE OF THE GOVERNOR
SALT LAKE CITY, UTAH
84114-2220

DEIDRE M. HENDERSON
LIEUTENANT GOVERNOR

March 23, 2021

The Honorable Brad Wilson
Speaker of the House

and

The Honorable Stuart Adams
President of the Senate

Dear Speaker Wilson and President Adams:

After great consideration and with some reluctance, I have vetoed Senate Bill 228, Electronic Free Speech Amendments.

Today the internet is our most important forum for public discourse and debate, and recent events raise serious questions about the power that private entities wield over the voice and reach of public officials and private citizens alike. The sponsors of this bill have raised valid questions about the impact social media platforms can have on public discourse and debate. Our country continues to grapple with very real and novel issues around freedom of speech, the rights of private companies and the toxic divisiveness caused by these new forms of connection, information and communication. The ability of social media companies to amplify some voices and silence others should give pause to all who treasure our most democratic value – the right of free speech. How we address the influence of private internet companies on speech will have far-reaching consequences for our democracy.

Whatever course of action we take to protect online speech should seek to fully uphold the values enshrined in the First Amendment. While it is clear that something must be done, I believe that S.B. 228 raises significant constitutional concerns. And while I am proud that Utah is leading the effort to protect individuals' speech on the internet, I believe we will be well served to continue further coordination with our sister states to ensure fair access to the nation's largest public square.

Notwithstanding my veto, S.B. 228 has sent a clear message. I appreciate the willingness of social media companies to work with us and I look forward to engaging directly with you and the bill sponsors over the next year to protect Utahns and find solutions that serve the interests of all – this is the Utah way.

For these reasons, I have vetoed Senate Bill 228, ELECTRONIC FREE SPEECH AMENDMENTS, and returned it to the Senate.

Sincerely,

Spencer J. Cox
Governor

H. B. 98
Passed March 4, 2021
Vetoed March 24, 2021

LOCAL GOVERNMENT BUILDING REGULATION AMENDMENTS

Chief Sponsor: Paul Ray
Senate Sponsor: Scott D. Sandall

LONG TITLE

General Description:

This bill amends provisions related to local government building regulation.

Highlighted Provisions:

This bill:

- allows a building permit applicant to engage an independent third-party building inspector to conduct inspections in certain circumstances;
- allows an independent third-party building inspector to issue a certificate of occupancy to a building permit applicant in certain circumstances;
- modifies requirements for a building permit application;
- exempts a construction project involving repairs to certain residential structures damaged by a natural disaster from specified State Construction Code and building permit requirements;
- prohibits a municipality or county from regulating certain building design elements; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

10-5-132, as last amended by Laws of Utah 2020, Chapters 354 and 441
10-6-160, as last amended by Laws of Utah 2020, Chapter 441
10-9a-403, as last amended by Laws of Utah 2020, Chapter 136
15A-1-104, as enacted by Laws of Utah 2014, Chapter 197
15A-1-202, as last amended by Laws of Utah 2020, Chapter 441
15A-1-204, as last amended by Laws of Utah 2020, Chapters 111 and 441
15A-3-102, as last amended by Laws of Utah 2019, Chapter 20
15A-5-104, as enacted by Laws of Utah 2020, Chapter 111
17-27a-403, as last amended by Laws of Utah 2020, Chapter 136
17-36-55, as last amended by Laws of Utah 2020, Chapter 441
38-1a-102, as last amended by Laws of Utah 2019, Chapter 250
58-56-2, as enacted by Laws of Utah 1989, Chapter 269
78B-2-225, as last amended by Laws of Utah 2020, Chapter 97

ENACTS:

10-9a-530, Utah Code Annotated 1953
17-27a-527, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 10-5-132 is amended to read:

10-5-132. Fees collected for construction approval -- Approval of plans.

(1) As used in this section:

(a) "Business day" means the same as that term is defined in Section 54-8c-1.

[~~(a)~~] (b) "Construction project" means the same as that term is defined in Section 38-1a-102.

(c) "Licensed building inspector" means an individual who is:

(i) licensed by the Division of Occupational and Professional Licensing under Title 58, Chapter 56, Building Inspector and Factory Built Housing Licensing Act; and

(ii) covered by liability insurance when providing private services as a licensed building inspector, in an amount established in rules made by the Division of Occupational and Professional Licensing in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

[~~(b)~~] (d) "Lodging establishment" means a place providing temporary sleeping accommodations to the public, including any of the following:

(i) a bed and breakfast establishment;

(ii) a boarding house;

(iii) a dormitory;

(iv) a hotel;

(v) an inn;

(vi) a lodging house;

(vii) a motel;

(viii) a resort; or

(ix) a rooming house.

[~~(c)~~] (e) "Planning review" means a review to verify that a town has approved the following elements of a construction project:

(i) zoning;

(ii) lot sizes;

(iii) setbacks;

(iv) easements;

(v) curb and gutter elevations;

(vi) grades and slopes;

(vii) utilities;

(viii) street names;

(ix) defensible space provisions and elevations, if required by the Utah Wildland Urban Interface Code adopted under Section 15A-2-103; and

(x) subdivision.

[~~(d)~~] (f) (i) "Plan review" means all of the reviews and approvals of a plan that a town requires to obtain a building permit from the town with a scope that may not exceed a review to verify:

(A) that the construction project complies with the provisions of the State Construction Code under Title 15A, State Construction and Fire Codes Act;

(B) that the construction project complies with the energy code adopted under Section 15A-2-103;

(C) that the construction project received a planning review;

(D) that the applicant paid any required fees;

(E) that the applicant obtained final approvals from any other required reviewing agencies;

(F) that the construction project complies with federal, state, and local storm water protection laws;

(G) that the construction project received a structural review;

(H) the total square footage for each building level of finished, garage, and unfinished space; and

(I) that the plans include a printed statement indicating that the actual construction will comply with applicable local ordinances and the state construction codes.

(ii) "Plan review" does not mean a review of a document:

(A) required to be re-submitted for a construction project other than a construction project for a one to two family dwelling or townhome if additional modifications or substantive changes are identified by the plan review;

(B) submitted as part of a deferred submittal when requested by the applicant and approved by the building official; or

(C) that, due to the document's technical nature or on the request of the applicant, is reviewed by a third party.

[~~(e)~~] (g) "State Construction Code" means the same as that term is defined in Section 15A-1-102.

[~~(f)~~] (h) "State Fire Code" means the same as that term is defined in Section 15A-1-102.

[~~(g)~~] (i) "Structural review" means:

(i) a review that verifies that a construction project complies with the following:

(A) footing size and bar placement;

(B) foundation thickness and bar placement;

(C) beam and header sizes;

(D) nailing patterns;

(E) bearing points;

(F) structural member size and span; and

(G) sheathing; or

(ii) if the review exceeds the scope of the review described in Subsection (1)[~~(g)~~](i)(i), a review that a licensed engineer conducts.

[~~(h)~~] (j) "Technical nature" means a characteristic that places an item outside the training and expertise of an individual who regularly performs plan reviews.

(2) (a) If a town collects a fee for the inspection of a construction project, the town shall ensure that the construction project receives a prompt inspection.

(b) If a town cannot provide a building inspection within three business days after the day on which the town receives the request for the inspection[~~,~~]:

(i) the town [~~shall~~] may promptly engage an independent inspector with fees collected from the applicant[~~.~~]; or

(ii) the applicant may engage an independent third-party licensed building inspector to complete each required inspection on the applicant's behalf in accordance with Subsection (2)(d), if the construction project is for a one to two family dwelling or townhome.

(c) If an inspector identifies one or more violations of the State Construction Code or State Fire Code during an inspection, the inspector shall give the permit holder written notification that:

(i) identifies each violation;

(ii) upon request by the permit holder, includes a reference to each applicable provision of the State Construction Code or State Fire Code; and

(iii) is delivered:

(A) in hardcopy or by electronic means; and

(B) the day on which the inspection occurs.

(d) (i) An applicant who engages an independent third-party licensed building inspector to complete each required inspection on the applicant's behalf under Subsection (2)(b)(ii) shall promptly notify the town in writing of the name and address of the licensed building inspector at the time the applicant engages the licensed building inspector.

(ii) The licensed building inspector described in Subsection (2)(d)(i) shall:

(A) complete each required inspection of the construction project on the applicant's behalf;

(B) provide written notification to the town after completing the final required inspection; and

(C) issue the applicant a certificate of occupancy for the construction project.

(3) (a) A town shall complete a plan review of a construction project for a one to two family dwelling or townhome by no later than 14 business days after the day on which the [~~plan is submitted~~] applicant submits a complete building permit application to the town.

(b) A town shall complete a plan review of a construction project for a residential structure built

under the International Building Code, not including a lodging establishment, by no later than 21 business days after the day on which the [~~plan is submitted~~] applicant submits a complete building permit application to the town.

(c) (i) Subject to Subsection (3)(c)(ii), if a town does not complete a plan review before the time period described in Subsection (3)(a) or (b) expires, an applicant may request that the town complete the plan review.

(ii) If an applicant makes a request under Subsection (3)(c)(i), the town shall perform the plan review no later than:

(A) for a plan review described in Subsection (3)(a), 14 days from the day on which the applicant makes the request; or

(B) for a plan review described in Subsection (3)(b), 21 days from the day on which the applicant makes the request.

(d) An applicant may:

(i) waive the plan review time requirements described in this Subsection (3); or

(ii) with the town's consent, establish an alternative plan review time requirement.

(4) [~~(a)~~] A town may not enforce a requirement to have a plan review if:

[~~(i)~~] (a) the town does not complete the plan review within the time period described in Subsection (3)(a) or (b); [~~and~~]

(b) the applicant makes a request under Subsection (3)(c)(i);

(c) the town does not complete the plan review within the time period described in Subsection (3)(c)(ii); and

[~~(ii)~~] (d) a licensed architect or structural engineer, or both when required by law, stamps the plan.

[~~(b)~~] (5) (a) A town may attach to a reviewed plan a list that includes:

(i) items with which the town is concerned and may enforce during construction; and

(ii) building code violations found in the plan.

[~~(c)~~] (b) A town may not require an applicant to redraft a plan if the town requests minor changes to the plan that the list described in Subsection [~~(4)(b)~~] (5)(a) identifies.

[~~(5) An applicant shall ensure that each construction project plan submitted for a plan review under this section has a statement indicating that actual construction will comply with applicable local ordinances and building codes.~~]

(c) A town may require a single resubmittal of plans for a one or two family dwelling or townhome if the resubmission is required to address deficiencies identified by a third-party review of a geotechnical report or geological report.

(6) If a town charges a fee for a building permit, the town may not refuse payment of the fee at the time the applicant submits a building permit application under Subsection (3).

(7) A town may not limit the number of building permit applications submitted under Subsection (3).

(8) For purposes of Subsection (3), a building permit application is complete if the application contains:

(a) the name, address, and contact information of:

(i) the applicant; and

(ii) the construction manager/general contractor, as defined in Section 63G-6a-103, for the construction project;

(b) a site plan for the construction project that:

(i) is drawn to scale;

(ii) includes a north arrow and legend; and

(iii) provides specifications for the following:

(A) lot size and dimensions;

(B) setbacks and overhangs for setbacks;

(C) easements;

(D) property lines;

(E) topographical details, if the slope of the lot is greater than 10%;

(F) retaining walls;

(G) hard surface areas;

(H) curb and gutter elevations as indicated in the subdivision documents;

(I) utilities, including water meter and sewer lateral location;

(J) street names;

(K) driveway locations;

(L) defensible space provisions and elevations, if required by the Utah Wildland Urban Interface Code adopted under Section 15A-2-103; and

(M) the location of the nearest hydrant;

(c) construction plans and drawings, including:

(i) elevations, only if the construction project is new construction;

(ii) floor plans for each level, including the location and size of doors and windows;

(iii) foundation, structural, and framing detail; and

(iv) electrical, mechanical, and plumbing design;

(d) documentation of energy code compliance;

(e) structural calculations, except for trusses;

(f) a geotechnical report, including a slope stability evaluation and retaining wall design, if:

(i) the slope of the lot is greater than 15%; and

(ii) required by the town; and

(g) a statement indicating that actual construction will comply with applicable local ordinances and building codes.

Section 2. Section 10-6-160 is amended to read:

10-6-160. Fees collected for construction approval -- Approval of plans.

(1) As used in this section:

(a) "Business day" means the same as that term is defined in Section 54-8c-1.

[~~(a)~~] (b) "Construction project" means the same as that term is defined in Section 38-1a-102.

(c) "Licensed building inspector" means an individual who is:

(i) licensed by the Division of Occupational and Professional Licensing under Title 58, Chapter 56, Building Inspector and Factory Built Housing Licensing Act; and

(ii) covered by liability insurance when providing private services as a licensed building inspector, in an amount established in rules made by the Division of Occupational and Professional Licensing in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

[~~(b)~~] (d) "Lodging establishment" means a place providing temporary sleeping accommodations to the public, including any of the following:

(i) a bed and breakfast establishment;

(ii) a boarding house;

(iii) a dormitory;

(iv) a hotel;

(v) an inn;

(vi) a lodging house;

(vii) a motel;

(viii) a resort; or

(ix) a rooming house.

[~~(c)~~] (e) "Planning review" means a review to verify that a city has approved the following elements of a construction project:

(i) zoning;

(ii) lot sizes;

(iii) setbacks;

(iv) easements;

(v) curb and gutter elevations;

(vi) grades and slopes;

(vii) utilities;

(viii) street names;

(ix) defensible space provisions and elevations, if required by the Utah Wildland Urban Interface Code adopted under Section 15A-2-103; and

(x) subdivision.

[~~(d)~~] (f) (i) " Plan review" means all of the reviews and approvals of a plan that a city requires to obtain a building permit from the city with a scope that may not exceed a review to verify:

(A) that the construction project complies with the provisions of the State Construction Code under Title 15A, State Construction and Fire Codes Act;

(B) that the construction project complies with the energy code adopted under Section 15A-2-103;

(C) that the construction project received a planning review;

(D) that the applicant paid any required fees;

(E) that the applicant obtained final approvals from any other required reviewing agencies;

(F) that the construction project complies with federal, state, and local storm water protection laws;

(G) that the construction project received a structural review;

(H) the total square footage for each building level of finished, garage, and unfinished space; and

(I) that the plans include a printed statement indicating that the actual construction will comply with applicable local ordinances and the state construction codes.

(ii) "Plan review" does not mean a review of a document:

(A) required to be re-submitted for a construction project other than a construction project for a one to two family dwelling or townhome if additional modifications or substantive changes are identified by the plan review;

(B) submitted as part of a deferred submittal when requested by the applicant and approved by the building official; or

(C) that, due to the document's technical nature or on the request of the applicant, is reviewed by a third party.

[~~(e)~~] (g) "State Construction Code" means the same as that term is defined in Section 15A-1-102.

[~~(f)~~] (h) "State Fire Code" means the same as that term is defined in Section 15A-1-102.

[~~(g)~~] (i) "Structural review" means:

(i) a review that verifies that a construction project complies with the following:

(A) footing size and bar placement;

(B) foundation thickness and bar placement;

(C) beam and header sizes;

(D) nailing patterns;

(E) bearing points;

(F) structural member size and span; and

(G) sheathing; or

(ii) if the review exceeds the scope of the review described in Subsection (1)[~~(g)~~](i)(i), a review that a licensed engineer conducts.

[~~(h)~~] (j) "Technical nature" means a characteristic that places an item outside the training and expertise of an individual who regularly performs plan reviews.

(2) (a) If a city collects a fee for the inspection of a construction project, the city shall ensure that the construction project receives a prompt inspection.

(b) If a city cannot provide a building inspection within three business days after the day on which the city receives the request for the inspection[~~,~~]:

(i) the city [~~shall~~] may promptly engage an independent inspector with fees collected from the applicant[~~.~~]; or

(ii) the applicant may engage an independent third-party licensed building inspector to complete each required inspection on the applicant's behalf in accordance with Subsection (2)(d), if the construction project is for a one to two family dwelling or townhome.

(c) If an inspector identifies one or more violations of the State Construction Code or State Fire Code during an inspection, the inspector shall give the permit holder written notification that:

(i) identifies each violation;

(ii) upon request by the permit holder, includes a reference to each applicable provision of the State Construction Code or State Fire Code; and

(iii) is delivered:

(A) in hardcopy or by electronic means; and

(B) the day on which the inspection occurs.

(d) (i) An applicant who engages an independent third-party licensed building inspector to complete each required inspection on the applicant's behalf under Subsection (2)(b)(ii) shall promptly notify the city in writing of the name and address of the licensed building inspector at the time the applicant engages the licensed building inspector.

(ii) The licensed building inspector described in Subsection (2)(d)(i) shall:

(A) complete each required inspection of the construction project on the applicant's behalf;

(B) provide written notification to the city after completing the final required inspection; and

(C) issue the applicant a certificate of occupancy for the construction project.

(3) (a) A city shall complete a plan review of a construction project for a one to two family dwelling or townhome by no later than 14 business days after the day on which the [~~plan is submitted~~] applicant submits a complete building permit application to the city.

(b) A city shall complete a plan review of a construction project for a residential structure built under the International Building Code, not including a lodging establishment, by no later than 21 business days after the day on which the [~~plan is submitted~~] applicant submits a complete building permit application to the city.

(c) (i) Subject to Subsection (3)(c)(ii), if a city does not complete a plan review before the time period described in Subsection (3)(a) or (b) expires, an applicant may request that the city complete the plan review.

(ii) If an applicant makes a request under Subsection (3)(c)(i), the city shall perform the plan review no later than:

(A) for a plan review described in Subsection (3)(a), 14 days from the day on which the applicant makes the request; or

(B) for a plan review described in Subsection (3)(b), 21 days from the day on which the applicant makes the request.

(d) An applicant may:

(i) waive the plan review time requirements described in this Subsection (3); or

(ii) with the city's consent, establish an alternative plan review time requirement.

(4) [~~(a)~~] A city may not enforce a requirement to have a plan review if:

[~~(i)~~] (a) the city does not complete the plan review within the time period described in Subsection (3)(a) or (b); [~~and~~]

(b) the applicant makes a request under Subsection (3)(c)(i);

(c) the city does not complete the plan review within the time period described in Subsection (3)(c)(ii); and

[~~(ii)~~] (d) a licensed architect or structural engineer, or both when required by law, stamps the plan.

[~~(b)~~] (5) (a) A city may attach to a reviewed plan a list that includes:

(i) items with which the city is concerned and may enforce during construction; and

(ii) building code violations found in the plan.

[~~(c)~~] (b) A city may not require an applicant to redraft a plan if the city requests minor changes to the plan that the list described in Subsection [~~(4)(b)~~] (5)(a) identifies.

[~~(5) An applicant shall ensure that each construction project plan submitted for a plan review under this section has a statement indicating that actual construction will comply with applicable local ordinances and building codes.~~]

(c) A city may require a single resubmittal of plans for a one or two family dwelling or townhome if the resubmission is required to address deficiencies identified by a third-party review of a geotechnical report or geological report.

(6) If a city charges a fee for a building permit, the city may not refuse payment of the fee at the time the applicant submits a building permit application under Subsection (3).

(7) A city may not limit the number of building permit applications submitted under Subsection (3).

(8) For purposes of Subsection (3), a building permit application is complete if the application contains:

(a) the name, address, and contact information of:

(i) the applicant; and

(ii) the construction manager/general contractor, as defined in Section 63G-6a-103, for the construction project;

(b) a site plan for the construction project that:

(i) is drawn to scale;

(ii) includes a north arrow and legend; and

(iii) provides specifications for the following:

(A) lot size and dimensions;

(B) setbacks and overhangs for setbacks;

(C) easements;

(D) property lines;

(E) topographical details, if the slope of the lot is greater than 10%;

(F) retaining walls;

(G) hard surface areas;

(H) curb and gutter elevations as indicated in the subdivision documents;

(I) utilities, including water meter and sewer lateral location;

(J) street names;

(K) driveway locations;

(L) defensible space provisions and elevations, if required by the Utah Wildland Urban Interface Code adopted under Section 15A-2-103; and

(M) the location of the nearest hydrant;

(c) construction plans and drawings, including:

(i) elevations, only if the construction project is new construction;

(ii) floor plans for each level, including the location and size of doors and windows;

(iii) foundation, structural, and framing detail; and

(iv) electrical, mechanical, and plumbing design;

(d) documentation of energy code compliance;

(e) structural calculations, except for trusses;

(f) a geotechnical report, including a slope stability evaluation and retaining wall design, if:

(i) the slope of the lot is greater than 15%; and

(ii) required by the city; and

(g) a statement indicating that actual construction will comply with applicable local ordinances and building codes.

Section 3. Section 10-9a-403 is amended to read:

10-9a-403. General plan preparation.

[~~(1) (a) As used in this section, "residential building design element" means for a single-family residential building:~~]

[~~(i) exterior building color;~~]

[~~(ii) type or style of exterior cladding material;~~]

[~~(iii) style or materials of a roof structure, roof pitch, or porch;~~]

[~~(iv) exterior nonstructural architectural ornamentation;~~]

[~~(v) location, design, placement, or architectural styling of a window or door, including a garage door;~~]

[~~(vi) the number or type of rooms;~~]

[~~(vii) the interior layout of a room; or~~]

[~~(viii) the minimum square footage of a structure.~~]

[~~(b) "Residential building design element" does not include for a single-family residential building:~~]

[~~(i) the height, bulk, orientation, or location of a structure on a lot; or~~]

[~~(ii) buffering or screening used to:~~]

[~~(A) minimize visual impacts;~~]

[~~(B) mitigate the impacts of light or noise; or~~]

[~~(C) protect the privacy of neighbors.~~]

[~~(2)~~] (1) (a) The planning commission shall provide notice, as provided in Section 10-9a-203, of its intent to make a recommendation to the municipal legislative body for a general plan or a comprehensive general plan amendment when the planning commission initiates the process of preparing its recommendation.

(b) The planning commission shall make and recommend to the legislative body a proposed general plan for the area within the municipality.

(c) The plan may include areas outside the boundaries of the municipality if, in the planning commission's judgment, those areas are related to the planning of the municipality's territory.

(d) Except as otherwise provided by law or with respect to a municipality's power of eminent domain, when the plan of a municipality involves territory outside the boundaries of the municipality, the municipality may not take action affecting that territory without the concurrence of the county or other municipalities affected.

[~~(3)~~] (2) (a) At a minimum, the proposed general plan, with the accompanying maps, charts, and descriptive and explanatory matter, shall include the planning commission's recommendations for the following plan elements:

(i) a land use element that:

(A) designates the long-term goals and the proposed extent, general distribution, and location of land for housing for residents of various income levels, business, industry, agriculture, recreation, education, public buildings and grounds, open space, and other categories of public and private uses of land as appropriate; and

(B) may include a statement of the projections for and standards of population density and building intensity recommended for the various land use categories covered by the plan;

(ii) a transportation and traffic circulation element that:

(A) provides the general location and extent of existing and proposed freeways, arterial and collector streets, public transit, active transportation facilities, and other modes of transportation that the planning commission considers appropriate;

(B) for a municipality that has access to a major transit investment corridor, addresses the municipality's plan for residential and commercial development around major transit investment corridors to maintain and improve the connections between housing, employment, education, recreation, and commerce;

(C) for a municipality that does not have access to a major transit investment corridor, addresses the municipality's plan for residential and commercial development in areas that will maintain and improve the connections between housing, transportation, employment, education, recreation, and commerce; and

(D) correlates with the population projections, the employment projections, and the proposed land use element of the general plan; and

(iii) for a municipality described in Subsection 10-9a-401(3)(b), a plan that provides a realistic opportunity to meet the need for additional moderate income housing.

(b) In drafting the moderate income housing element, the planning commission:

(i) shall consider the Legislature's determination that municipalities shall facilitate a reasonable opportunity for a variety of housing, including moderate income housing:

(A) to meet the needs of people of various income levels living, working, or desiring to live or work in the community; and

(B) to allow people with various incomes to benefit from and fully participate in all aspects of neighborhood and community life;

(ii) for a town, may include, and for other municipalities, shall include, an analysis of how the municipality will provide a realistic opportunity for the development of moderate income housing within the next five years;

(iii) for a town, may include, and for other municipalities, shall include, a recommendation to implement three or more of the following strategies:

(A) rezone for densities necessary to assure the production of moderate income housing;

(B) facilitate the rehabilitation or expansion of infrastructure that will encourage the construction of moderate income housing;

(C) facilitate the rehabilitation of existing uninhabitable housing stock into moderate income housing;

(D) consider general fund subsidies or other sources of revenue to waive construction related fees that are otherwise generally imposed by the city;

(E) create or allow for, and reduce regulations related to, accessory dwelling units in residential zones;

(F) allow for higher density or moderate income residential development in commercial and mixed-use zones, commercial centers, or employment centers;

(G) encourage higher density or moderate income residential development near major transit investment corridors;

(H) eliminate or reduce parking requirements for residential development where a resident is less likely to rely on the resident's own vehicle, such as residential development near major transit investment corridors or senior living facilities;

(I) allow for single room occupancy developments;

(J) implement zoning incentives for low to moderate income units in new developments;

(K) utilize strategies that preserve subsidized low to moderate income units on a long-term basis;

(L) preserve existing moderate income housing;

(M) reduce impact fees, as defined in Section 11-36a-102, related to low and moderate income housing;

(N) participate in a community land trust program for low or moderate income housing;

(O) implement a mortgage assistance program for employees of the municipality or of an employer that provides contracted services to the municipality;

(P) apply for or partner with an entity that applies for state or federal funds or tax incentives to promote the construction of moderate income housing;

(Q) apply for or partner with an entity that applies for programs offered by the Utah Housing Corporation within that agency's funding capacity;

(R) apply for or partner with an entity that applies for affordable housing programs administered by the Department of Workforce Services;

(S) apply for or partner with an entity that applies for programs administered by an association of governments established by an interlocal agreement under Title 11, Chapter 13, Interlocal Cooperation Act;

(T) apply for or partner with an entity that applies for services provided by a public housing authority to preserve and create moderate income housing;

(U) apply for or partner with an entity that applies for programs administered by a metropolitan planning organization or other transportation agency that provides technical planning assistance;

(V) utilize a moderate income housing set aside from a community reinvestment agency, redevelopment agency, or community development and renewal agency; and

[~~(W) reduce residential building design elements; and~~]

[~~(X)~~] (W) any other program or strategy implemented by the municipality to address the housing needs of residents of the municipality who earn less than 80% of the area median income; and

(iv) in addition to the recommendations required under Subsection [~~(3)~~] (2)(b)(iii), for a municipality that has a fixed guideway public transit station, shall include a recommendation to implement the strategies described in Subsection [~~(3)~~] (2)(b)(iii)(G) or (H).

(c) In drafting the land use element, the planning commission shall:

(i) identify and consider each agriculture protection area within the municipality; and

(ii) avoid proposing a use of land within an agriculture protection area that is inconsistent with or detrimental to the use of the land for agriculture.

(d) In drafting the transportation and traffic circulation element, the planning commission shall:

(i) consider the regional transportation plan developed by its region's metropolitan planning organization, if the municipality is within the boundaries of a metropolitan planning organization; or

(ii) consider the long-range transportation plan developed by the Department of Transportation, if the municipality is not within the boundaries of a metropolitan planning organization.

[~~(4)~~] (3) The proposed general plan may include:

(a) an environmental element that addresses:

(i) the protection, conservation, development, and use of natural resources, including the quality of air, forests, soils, rivers and other waters, harbors, fisheries, wildlife, minerals, and other natural resources; and

(ii) the reclamation of land, flood control, prevention and control of the pollution of streams and other waters, regulation of the use of land on hillsides, stream channels and other environmentally sensitive areas, the prevention, control, and correction of the erosion of soils, protection of watersheds and wetlands, and the mapping of known geologic hazards;

(b) a public services and facilities element showing general plans for sewage, water, waste disposal, drainage, public utilities, rights-of-way, easements, and facilities for them, police and fire protection, and other public services;

(c) a rehabilitation, redevelopment, and conservation element consisting of plans and programs for:

(i) historic preservation;

(ii) the diminution or elimination of a development impediment as defined in Section 17C-1-102; and

(iii) redevelopment of land, including housing sites, business and industrial sites, and public building sites;

(d) an economic element composed of appropriate studies and forecasts, as well as an economic development plan, which may include review of existing and projected municipal revenue and expenditures, revenue sources, identification of basic and secondary industry, primary and secondary market areas, employment, and retail sales activity;

(e) recommendations for implementing all or any portion of the general plan, including the use of land use ordinances, capital improvement plans, community development and promotion, and any other appropriate action;

(f) provisions addressing any of the matters listed in Subsection 10-9a-401(2) or (3); and

(g) any other element the municipality considers appropriate.

Section 4. Section 10-9a-530 is enacted to read:

10-9a-530. Regulation of building design elements prohibited -- Exceptions.

(1) As used in this section, "building design element" means:

(a) exterior color;

(b) type or style of exterior cladding material;

(c) style, dimensions, or materials of a roof structure, roof pitch, or porch;

(d) exterior nonstructural architectural ornamentation;

(e) location, design, placement, or architectural styling of a window or door;

(f) location, design, placement, or architectural styling of a garage door, not including a rear-loading garage door;

(g) number or type of rooms;

(h) interior layout of a room;

(i) minimum square footage over 1,000 square feet, not including a garage;

(j) rear yard landscaping requirements;

(k) minimum building dimensions; or

(l) a requirement to install front yard fencing.

(2) Except as provided in Subsection (3), a municipality may not impose a requirement for a building design element on a one to two family dwelling or townhome.

(3) Subsection (2) does not apply to:

(a) a dwelling located within an area designated as a historic district in:

(i) the National Register of Historic Places;

(ii) the state register as defined in Section 9-8-402; or

(iii) a local historic district or area, or a site designated as a local landmark, created by ordinance before January 1, 2021;

(b) an ordinance enacted as a condition for participation in the National Flood Insurance Program administered by the Federal Emergency Management Agency;

(c) an ordinance enacted to implement the requirements of the Utah Wildland Urban Interface Code adopted under Section 15A-2-103;

(d) building design elements agreed to under a development agreement;

(e) a dwelling located within an area that:

(i) is zoned primarily for residential use; and

(ii) was substantially developed before calendar year 1950;

(f) an ordinance enacted to implement water efficient landscaping in a rear yard;

(g) an ordinance enacted to regulate type of cladding, in response to findings or evidence from the construction industry of:

(i) defects in the material of existing cladding; or

(ii) consistent defects in the installation of existing cladding; or

(h) a land use regulation, including a planned unit development or overlay zone, that a property owner requests:

(i) the municipality to apply to the owner's property; and

(ii) in exchange for an increase in density or other benefit not otherwise available as a permitted use in the zoning area or district.

Section 5. Section 15A-1-104 is amended to read:

15A-1-104. Permit approval required -- Certificate of occupancy valid.

(1) As used in this section:

(a) "Compliance agency" is as defined in Section 15A-1-202.

(b) "Project" is as defined in Section 15A-1-209.

(2) A compliance agency for a political subdivision may not reject a permit, or otherwise withhold approval of a project whenever approval is required, for failure to comply with the applicable provisions of this title unless the compliance agency:

(a) cites with specificity the applicable provision with which the project has failed to comply; and

(b) describes how the project has failed to comply.

(3) If a compliance agency [~~or a~~], representative of a compliance agency, or building inspector that has the authority to issue a certificate of occupancy under Section 10-5-132, 10-6-160, or 17-36-55 issues a certificate of occupancy, the [~~compliance agency~~] individual or entity that issued the certificate of occupancy may not withdraw the certificate of occupancy or exert additional jurisdiction over the elements of the project for which the certificate was issued unless additional changes or modifications requiring a building permit are made to elements of the project after the certificate was issued.

Section 6. Section 15A-1-202 is amended to read:

15A-1-202. Definitions.

As used in this chapter:

(1) "Agricultural use" means a use that relates to the tilling of soil and raising of crops, or keeping or raising domestic animals.

(2) (a) "Approved code" means a code, including the standards and specifications contained in the code, approved by the division under Section 15A-1-204 for use by a compliance agency.

(b) "Approved code" does not include the State Construction Code.

(3) "Building" means a structure used or intended for supporting or sheltering any use or occupancy and any improvements attached to it.

(4) "Code" means:

(a) the State Construction Code; or

(b) an approved code.

(5) "Commission" means the Uniform Building Code Commission created in Section 15A-1-203.

(6) "Compliance agency" means:

(a) an agency of the state or any of its political subdivisions which issues permits for construction regulated under the codes;

(b) any other agency of the state or its political subdivisions specifically empowered to enforce compliance with the codes; or

(c) any other state agency which chooses to enforce codes adopted under this chapter by authority given the agency under a title other than this part and Part 3, Factory Built Housing and Modular Units Administration Act.

(7) "Construction code" means standards and specifications published by a nationally recognized code authority for use in circumstances described in Subsection 15A-1-204(1), including:

(a) a building code;

(b) an electrical code;

(c) a residential one and two family dwelling code;

(d) a plumbing code;

(e) a mechanical code;

(f) a fuel gas code;

(g) an energy conservation code;

(h) a swimming pool and spa code; and

(i) a manufactured housing installation standard code.

(8) "Construction project" means the same as that term is defined in Section 38-1a-102.

[~~(8)~~] (9) "Executive director" means the executive director of the Department of Commerce.

[~~(9)~~] (10) "Legislative action" includes legislation that:

(a) adopts a new State Construction Code;

(b) amends the State Construction Code; or

(c) repeals one or more provisions of the State Construction Code.

[~~(10)~~] (11) "Local regulator" means a political subdivision of the state that is empowered to engage in the regulation of construction, alteration, remodeling, building, repair, and other activities subject to the codes.

(12) "Membrane-covered frame structure" means a nonpressurized building with a structure composed of a rigid framework to support a tensioned membrane that provides a weather barrier.

(13) "Natural disaster" means:

(a) a flood;

(b) a storm;

(c) a tornado;

(d) winds;

(e) an earthquake;

(f) lightning; or

(g) any other adverse weather event.

[~~(11)~~] (14) "Not for human occupancy" means use of a structure for purposes other than protection or comfort of human beings, but allows people to enter the structure for:

(a) maintenance and repair; and

(b) the care of livestock, crops, or equipment intended for agricultural use which are kept there.

[~~(12)~~] (15) "Opinion" means a written, nonbinding, and advisory statement issued by the commission concerning an interpretation of the meaning of the codes or the application of the codes in a specific circumstance issued in response to a specific request by a party to the issue.

(16) "Remote yurt" means a membrane-covered frame structure that:

(a) is no larger than 710 square feet;

(b) is not used as a permanent residence;

(c) is located in an unincorporated county area that is not zoned for residential, commercial, industrial, or agricultural use;

(d) does not have plumbing or electricity;

(e) is set back at least 300 feet from any river, stream, lake, or other body of water; and

(f) is registered with the local health department.

[~~(13)~~] (17) "State regulator" means an agency of the state which is empowered to engage in the regulation of construction, alteration, remodeling, building, repair, and other activities subject to the codes adopted pursuant to this chapter.

Section 7. Section 15A-1-204 is amended to read:

15A-1-204. Adoption of State Construction Code -- Amendments by commission -- Approved codes -- Exemptions.

(1) (a) The State Construction Code is the construction codes adopted with any modifications in accordance with this section that the state and each political subdivision of the state shall follow.

(b) A person shall comply with the applicable provisions of the State Construction Code when:

(i) new construction is involved; and

(ii) the owner of an existing building, or the owner's agent, is voluntarily engaged in:

(A) the repair, renovation, remodeling, alteration, enlargement, rehabilitation, conservation, or reconstruction of the building; or

(B) changing the character or use of the building in a manner that increases the occupancy loads, other demands, or safety risks of the building.

(c) On and after July 1, 2010, the State Construction Code is the State Construction Code in effect on July 1, 2010, until in accordance with this section:

(i) a new State Construction Code is adopted; or

(ii) one or more provisions of the State Construction Code are amended or repealed in accordance with this section.

(d) A provision of the State Construction Code may be applicable:

(i) to the entire state; or

(ii) within a county, city, or town.

(2) (a) The Legislature shall adopt a State Construction Code by enacting legislation that adopts a nationally recognized construction code with any modifications.

(b) Legislation described in Subsection (2)(a) shall state that the legislation takes effect on the July 1 after the day on which the legislation is enacted, unless otherwise stated in the legislation.

(c) Subject to Subsection (6), a State Construction Code adopted by the Legislature is the State Construction Code until, in accordance with this section, the Legislature adopts a new State Construction Code by:

(i) adopting a new State Construction Code in its entirety; or

(ii) amending or repealing one or more provisions of the State Construction Code.

(3) (a) Except as provided in Subsection (3)(b), for each update of a nationally recognized construction code, the commission shall prepare a report described in Subsection (4).

(b) For the provisions of a nationally recognized construction code that apply only to detached one- and two-family dwellings and townhouses not more than three stories above grade plane in height with separate means of egress and their accessory structures, the commission shall:

(i) prepare a report described in Subsection (4) in 2021 and, thereafter, for every second update of the nationally recognized construction code; and

(ii) not prepare a report described in Subsection (4) in 2018.

(4) (a) In accordance with Subsection (3), on or before September 1 of the same year as the year designated in the title of a nationally recognized construction code, the commission shall prepare and submit, in accordance with Section 68-3-14, a written report to the Business and Labor Interim Committee that:

(i) states whether the commission recommends the Legislature adopt the update with any modifications; and

(ii) describes the costs and benefits of each recommended change in the update or in any modification.

(b) After the Business and Labor Interim Committee receives the report described in Subsection (4)(a), the Business and Labor Interim Committee shall:

(i) study the recommendations; and

(ii) if the Business and Labor Interim Committee decides to recommend legislative action to the Legislature, prepare legislation for consideration by the Legislature in the next general session.

(5) (a) (i) The commission shall, by no later than September 1 of each year in which the commission is not required to submit a report described in Subsection (4), submit, in accordance with Section 68-3-14, a written report to the Business and Labor Interim Committee recommending whether the Legislature should amend or repeal one or more provisions of the State Construction Code.

(ii) As part of a recommendation described in Subsection (5)(a)(i), the commission shall describe the costs and benefits of each proposed amendment or repeal.

(b) The commission may recommend legislative action related to the State Construction Code:

(i) on its own initiative;

(ii) upon the recommendation of the division; or

(iii) upon the receipt of a request by one of the following that the commission recommend legislative action related to the State Construction Code:

(A) a local regulator;

(B) a state regulator;

(C) a state agency involved with the construction and design of a building;

(D) the Construction Services Commission;

(E) the Electrician Licensing Board;

(F) the Plumbers Licensing Board; or

(G) a recognized construction-related association.

(c) If the Business and Labor Interim Committee decides to recommend legislative action to the Legislature, the Business and Labor Interim Committee shall prepare legislation for consideration by the Legislature in the next general session.

(6) (a) Notwithstanding the provisions of this section, the commission may, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, amend the State Construction Code if the commission determines that waiting for legislative action in the next general legislative session would:

(i) cause an imminent peril to the public health, safety, or welfare; or

(ii) place a person in violation of federal or other state law.

(b) If the commission amends the State Construction Code in accordance with this Subsection (6), the commission shall file with the division:

(i) the text of the amendment to the State Construction Code; and

(ii) an analysis that includes the specific reasons and justifications for the commission's findings.

(c) If the State Construction Code is amended under this Subsection (6), the division shall:

(i) publish the amendment to the State Construction Code in accordance with Section 15A-1-205; and

(ii) prepare and submit, in accordance with Section 68-3-14, a written notice to the Business and Labor Interim Committee containing the amendment to the State Construction Code, including a copy of the commission's analysis described in Subsection (6)(b)(ii).

(d) If not formally adopted by the Legislature at the next annual general session, an amendment to the State Construction Code under this Subsection (6) is repealed on the July 1 immediately following the next annual general session that follows the adoption of the amendment.

(7) (a) The division, in consultation with the commission, may approve, without adopting, one or more approved codes, including a specific edition of a construction code, for use by a compliance agency.

(b) If the code adopted by a compliance agency is an approved code described in Subsection (7)(a), the compliance agency may:

(i) adopt an ordinance requiring removal, demolition, or repair of a building;

(ii) adopt, by ordinance or rule, a dangerous building code; or

(iii) adopt, by ordinance or rule, a building rehabilitation code.

(8) Except as provided in Subsections (6), (7), (9), and (10), or as expressly provided in state law, a state executive branch entity or political subdivision of the state may not, after December 1, 2016, adopt or enforce a rule, ordinance, or requirement that applies to a subject specifically addressed by, and that is more restrictive than, the State Construction Code.

(9) A state executive branch entity or political subdivision of the state may:

(a) enforce a federal law or regulation;

(b) adopt or enforce a rule, ordinance, or requirement if the rule, ordinance, or requirement applies only to a facility or construction owned or used by a state entity or a political subdivision of the state; or

(c) enforce a rule, ordinance, or requirement:

(i) that the state executive branch entity or political subdivision adopted or made effective before July 1, 2015; and

(ii) for which the state executive branch entity or political subdivision can demonstrate, with substantial evidence, that the rule, ordinance, or requirement is necessary to protect an individual from a condition likely to cause imminent injury or death.

(10) The Department of Health or the Department of Environmental Quality may enforce a rule or requirement adopted before January 1, 2015.

(11) (a) Except as provided in Subsection (11)(b), a structure used solely in conjunction with agriculture use, and not for human occupancy, or a structure that is no more than 1,500 square feet and used solely for the type of sales described in Subsection 59-12-104(20), is exempt from the requirements of the State Construction Code.

(b) (i) Unless exempted by a provision other than Subsection (11)(a), a plumbing, electrical, and mechanical permit may be required when that work is included in a structure described in Subsection (11)(a).

(ii) Unless located in whole or in part in an agricultural protection area created under Title 17, Chapter 41, Agriculture, Industrial, or Critical Infrastructure Materials Protection Areas, a structure described in Subsection (11)(a) is not exempt from a permit requirement if the structure is located on land that is:

(A) within the boundaries of a city or town, and less than five contiguous acres; or

(B) within a subdivision for which the county has approved a subdivision plat under Title 17, Chapter 27a, Part 6, Subdivisions, and less than two contiguous acres.

[~~(12) (a) As used in this Subsection (12):~~]

[~~(i) "Membrane-covered frame structure" means a nonpressurized building wherein the structure is composed of a rigid framework to support a tensioned membrane that provides the weather barrier.~~]

[~~(ii) "Remote yurt" means a membrane-covered frame structure that:~~]

[~~(A) is no larger than 710 square feet;~~]

[~~(B) is not used as a permanent residence;~~]

[~~(C) is located in an unincorporated county area that is not zoned for residential, commercial, industrial, or agricultural use;~~]

[~~(D) does not have plumbing or electricity;~~]

[~~(E) is set back at least 300 feet from any river, stream, lake, or other body of water; and~~]

[~~(F) registers with the local health department.~~]

[~~(b)~~] (12) (a) A remote yurt is exempt from the State Construction Code including the permit requirements of the State Construction Code.

[~~(c)~~] (b) Notwithstanding Subsection (12)[~~(b)~~](a), a county may by ordinance require remote yurts to comply with the State Construction Code, if the ordinance requires the remote yurts to comply with all of the following:

(i) the State Construction Code;

(ii) notwithstanding Section 15A-5-104, the State Fire Code; and

(iii) notwithstanding Section 19-5-125, Title 19, Chapter 5, Water Quality Act, rules made under that chapter, and local health department's jurisdiction over onsite wastewater disposal.

(13) (a) Subsection (1)(b) does not apply to a person repairing damage caused by a natural disaster to an existing one to two family dwelling or townhome, if the sole purpose of the repairs is to restore the one to two family dwelling or townhome to the same or substantially the same condition as before the natural disaster.

(b) Subject to Subsection (13)(c), the permit requirements of the State Construction Code do not apply to a construction project involving repairs to an existing one to two family dwelling or townhome described in Subsection (13)(a).

(c) Upon the completion of a construction project involving repairs to an existing one to two family dwelling or townhome described in Subsection (13)(a), the owner shall, to determine compliance with Subsection (13)(a), ensure that the one to two family dwelling or townhome is inspected by:

(i) the local regulator within the political subdivision in which the construction project takes place; or

(ii) a licensed building inspector, as defined in Section 10-6-160, in accordance with:

(A) Subsection 10-5-132(2)(b)(ii), if the local regulator described in Subsection (13)(c)(i) is a town;

(B) Subsection 10-6-160(2)(b)(ii), if the local regulator described in Subsection (13)(c)(i) is a city; or

(C) Subsection 17-36-55(2)(b)(ii), if the local regulator described in Subsection (13)(c)(i) is a county.

Section 8. Section 15A-3-102 is amended to read:

15A-3-102. Amendments to Chapters 1 through 3 of IBC.

(1) IBC, Section 106, is deleted.

(2) In IBC, Section 110, a new section is added as follows: "110.3.5.1, Weather-resistant exterior wall envelope. An inspection shall be made of the weather-resistant exterior wall envelope as required by Section 1404.2, and flashing as required by Section 1404.4 to prevent water from entering the weather-resistive barrier."

(3) In IBC, Section 111.2, a new exception is added as follows: "Exception: A licensed building inspector who conducts an inspection on behalf of the owner or the owner's authorized agent in accordance with Utah Code, Section 10-5-132, 10-6-160, or 17-36-55 may issue a certificate of occupancy."

[~~(3)~~] (4) IBC, Section 115.1, is deleted and replaced with the following: "115.1 Authority. Whenever the building official finds any work regulated by this code being performed in a manner either contrary to the provisions of this code or other pertinent laws or ordinances or is dangerous or unsafe, the building official is authorized to stop work."

[~~(4)~~] (5) In IBC, Section 202, the following definition is added for Ambulatory Surgical Center: "AMBULATORY SURGICAL CENTER. A building or portion of a building licensed by the Utah Department of Health where procedures are performed that may render patients incapable of self preservation where care is less than 24 hours. See Utah Administrative Code R432-13."

[~~(5)~~] (6) In IBC, Section 202, the following definition is added for Assisted Living Facility: "ASSISTED LIVING FACILITY. See Residential Treatment/Support Assisted Living Facility, Type I Assisted Living Facility, and Type II Assisted Living Facility."

[~~(6)~~] (7) In IBC, Section 202, the definition for Foster Care Facilities is modified by deleting the word "Foster" and replacing it with the word "Child."

(8) In IBC, Section 202, the following definition is added for Licensed Building Inspector: "LICENSED BUILDING INSPECTOR. An individual who is licensed by the Utah Division of Occupational and Professional Licensing under Utah Code, Title 58, Chapter 56, Building Inspector and Factory Built Housing Licensing Act, and is covered by liability insurance when providing private services as a licensed building inspector."

[~~(7)~~] (9) In IBC, Section 202, the definition for "[F]Record Drawings" is modified by deleting the words "a fire alarm system" and replacing them with "any fire protection system."

[~~(8)~~] (10) In IBC, Section 202, the following definition is added for Residential Treatment/Support Assisted Living Facility: "RESIDENTIAL TREATMENT/SUPPORT ASSISTED LIVING FACILITY. A residential facility that provides a group living environment for four or more residents licensed by the Department of Human Services, and provides a protected living arrangement for ambulatory, non-restrained persons who are capable of achieving mobility sufficient to exit the facility without the physical assistance of another person."

[~~(9)~~] (11) In IBC, Section 202, the following definition is added for Type I Assisted Living Facility: "TYPE I ASSISTED LIVING FACILITY. A residential facility licensed by the Department of Health that provides a protected living arrangement, assistance with activities of daily living and social care to two or more ambulatory, non-restrained persons who are capable of mobility sufficient to exit the facility without the assistance of another person. Subcategories are:

Limited Capacity: two to five residents;

Small: six to sixteen residents; and

Large: over sixteen residents."

[~~(10)~~] (12) In IBC, Section 202, the following definition is added for Type II Assisted Living Facility: "TYPE II ASSISTED LIVING FACILITY.

A residential facility licensed by the Department of Health that provides an array of coordinated supportive personal and health care services to two or more residents who are:

A. Physically disabled but able to direct his or her own care; or

B. Cognitively impaired or physically disabled but able to evacuate from the facility, or to a zone or area of safety, with the physical assistance of one person. Subcategories are:

Limited Capacity: two to five residents;

Small: six to sixteen residents; and

Large: over sixteen residents."

[~~(11)~~] (13) In IBC, Section 305.2, the following changes are made:

(a) delete the words "more than five children older than 2 1/2 years of age" and replace with the words "five or more children 2 years of age or older";

(b) after the word "supervision" insert the words "child care services"; and

(c) add the following sentence at the end of the paragraph: "See Section 429, Day Care, for special requirements for day care."

[~~(12)~~] (14) In IBC, Section 305.2.2 and 305.2.3, the word "five" is deleted and replaced with the word "four" in all places.

[~~(13)~~] (15) A new IBC Section 305.2.4 is added as follows: "305.2.4 Child day care -- residential child care certificate or a license. Areas used for child day care purposes with a residential child care certificate, as described in Utah Administrative Code, R430-50, Residential Certificate Child Care, or a residential child care license, as described in Utah Administrative Code, R430-90, Licensed Family Child Care, may be located in a Group R-2 or R-3 occupancy as provided in Sections 310.3 and 310.4 comply with the International Residential Code in accordance with Section R101.2."

[~~(14)~~] (16) A new IBC Section 305.2.5 is added as follows: "305.2.5 Child care centers. Each of the following areas may be classified as accessory occupancies, if the area complies with Section 508.2:

1. Hourly child care centers, as described in Utah Administrative Code, R381-60, Hourly Child Care Centers;

2. Child care centers, as described in Utah Administrative Code, R381-100, Child Care Centers; and

3. Out-of-school-time programs, as described in Utah Administrative Code, R381-70, Out of School Time Child Care Programs."

[~~(15)~~] (17) In IBC, Table 307.1(1), footnote "d" is added to the row for Explosives, Division 1.4G in the column titled STORAGE - Solid Pounds (cubic feet).

[~~(16)~~] (18) In IBC, Section 308.2, in the list of items under "This group shall include," the words "Type-I Large and Type-II Small, see Section 308.2.5" are added after "Assisted living facilities."

[~~(17)~~] (19) In IBC, Section 308.2.4, all of the words after the first International Residential Code are deleted.

[~~(18)~~] (20) A new IBC, Section 308.2.5 is added as follows:

"308.2.5 Group I-1 assisted living facility occupancy groups. The following occupancy groups shall apply to assisted living facilities:

Type I assisted living facilities with seventeen or more residents are Large Facilities classified as an Institutional Group I-1, Condition 1 occupancy.

Type II assisted living facilities with six to sixteen residents are Small Facilities classified as an Institutional Group I-1, Condition 2 occupancy. See Section 202 for definitions."

[~~(19)~~] (21) In IBC, Section 308.3 Institutional Group I-2, the following changes are made:

(a) The words "more than five" are deleted and replaced with "four or more";

(b) The group "Assisted living facilities, Type-II Large" is added to the list of groups;

(c) The words "Foster care facilities" are deleted and replaced with the words "Child care facilities"; and

(d) The words "(both intermediate care facilities and skilled nursing facilities)" are added after "Nursing homes."

[~~(20)~~] (22) In IBC, Section 308.3.2, the number "five" is deleted and replaced with the number "four" in each location.

[~~(21)~~] (23) A new IBC, Section 308.3.3 is added as follows:

"308.3.3 Group I-2 assisted living facilities. Type II assisted living facilities with seventeen or more residents are Large Facilities classified as an Institutional Group I-2, Condition 1 occupancy. See Section 202 for definitions."

[~~(22)~~] (24) In IBC, Section 308.5, the words "more than five" are deleted and replaced with the words "five or more."

[~~(23)~~] (25) In IBC, Section 308.5.1, the following changes are made:

(a) The words "more than five" are deleted and replaced with the words "five or more."

(b) The words "2-1/2 years or less of age" are deleted and replaced with "under the age of two."

(c) The following sentence is added at the end: "See Section 429 for special requirements for Day Care."

[~~(24)~~] (26) In IBC, Sections 308.5.3 and 308.5.4, the words "five or fewer" are deleted and replaced with the words "four or fewer" in both places and the

following sentence is added at the end: "See Section 429 for special requirements for Day Care."

[~~(25)~~] (27) In IBC, Section 310.4, the following changes are made:

(a) The words "and single family dwellings complying with the IRC" are added after "Residential Group-3 occupancies."

(b) The words "Assisted Living Facilities, limited capacity" are added to the list of occupancies.

[~~(26)~~] (28) In IBC, Section 310.4.1, the following changes are made:

(a) The words "other than Child Care" are inserted after the words "Care facilities" in the first sentence.

(b) All of the words after the first "International Residential Code" are deleted.

(c) The following sentence is added at the end of the last sentence: "See Section 429 for special requirements for Child Day Care."

[~~(27)~~] (29) A new IBC Section 310.4.3 is added as follows: "310.4.3 Child Care. Areas used for child care purposes may be located in a residential dwelling unit under all of the following conditions and Section 429:

1. Compliance with Utah Administrative Code, R710-8, Day Care Rules, as enacted under the authority of the Utah Fire Prevention Board.

2. Use is approved by the Utah Department of Health, as enacted under the authority of the Utah Code, Title 26, Chapter 39, Utah Child Care Licensing Act, and in any of the following categories:

a. Utah Administrative Code, R430-50, Residential Certificate Child Care.

b. Utah Administrative Code, R430-90, Licensed Family Child Care.

3. Compliance with all zoning regulations of the local regulator."

[~~(28)~~] (30) A new IBC, Section 310.4.4 is added as follows: "310.4.4 Assisted living facilities. Type I assisted living facilities with two to five residents are Limited Capacity facilities classified as a Residential Group R-3 occupancy or are permitted to comply with the International Residential Code. See Section 202 for definitions."

[~~(29)~~] (31) In IBC, Section 310.5, the words "Type II Limited Capacity and Type I Small, see Section 310.5.3" are added after the words "assisted living facilities."

[~~(30)~~] (32) A new IBC, Section 310.5.3, is added as follows: "310.5.3 Group R-4 Assisted living facility occupancy groups. The following occupancy groups shall apply to Assisted Living Facilities: Type II Assisted Living Facilities with two to five residents are Limited Capacity Facilities classified as a Residential Group R-4, Condition 2 occupancy. Type I assisted living facilities with six to sixteen residents are Small Facilities classified as Residential Group R-4, Condition 1 occupancies. See Section 202 for definitions."

Section 9. Section 15A-5-104 is amended to read:

15A-5-104. Exemptions from State Fire Code.

(1) As used in this section, "remote yurt" means the same as that term is defined in [~~Subsection 15A-1-204(12)~~] Section 15A-1-202.

(2) A remote yurt is exempt from the State Fire Code unless otherwise provided by ordinance in accordance with Subsection 15A-1-204(12)[~~(e)~~](b).

(3) An owner of a remote yurt shall ensure that a fire extinguisher is in the remote yurt.

Section 10. Section 17-27a-403 is amended to read:

17-27a-403. Plan preparation.

(1) (a) The planning commission shall provide notice, as provided in Section 17-27a-203, of its intent to make a recommendation to the county legislative body for a general plan or a comprehensive general plan amendment when the planning commission initiates the process of preparing its recommendation.

(b) The planning commission shall make and recommend to the legislative body a proposed general plan for:

(i) the unincorporated area within the county; or

(ii) if the planning commission is a planning commission for a mountainous planning district, the mountainous planning district.

(c) (i) The plan may include planning for incorporated areas if, in the planning commission's judgment, they are related to the planning of the unincorporated territory or of the county as a whole.

(ii) Elements of the county plan that address incorporated areas are not an official plan or part of a municipal plan for any municipality, unless it is recommended by the municipal planning commission and adopted by the governing body of the municipality.

(iii) Notwithstanding Subsection (1)(c)(ii), if property is located in a mountainous planning district, the plan for the mountainous planning district controls and precedes a municipal plan, if any, to which the property would be subject.

(2) (a) At a minimum, the proposed general plan, with the accompanying maps, charts, and descriptive and explanatory matter, shall include the planning commission's recommendations for the following plan elements:

(i) a land use element that:

(A) designates the long-term goals and the proposed extent, general distribution, and location of land for housing for residents of various income levels, business, industry, agriculture, recreation, education, public buildings and grounds, open space, and other categories of public and private uses of land as appropriate; and

(B) may include a statement of the projections for and standards of population density and building intensity recommended for the various land use categories covered by the plan;

(ii) a transportation and traffic circulation element that:

(A) provides the general location and extent of existing and proposed freeways, arterial and collector streets, public transit, active transportation facilities, and other modes of transportation that the planning commission considers appropriate;

(B) addresses the county's plan for residential and commercial development around major transit investment corridors to maintain and improve the connections between housing, employment, education, recreation, and commerce; and

(C) correlates with the population projections, the employment projections, and the proposed land use element of the general plan;

(iii) a plan for the development of additional moderate income housing within the unincorporated area of the county or the mountainous planning district, and a plan to provide a realistic opportunity to meet the need for additional moderate income housing; and

(iv) before May 1, 2017, a resource management plan detailing the findings, objectives, and policies required by Subsection 17-27a-401(3).

(b) In drafting the moderate income housing element, the planning commission:

(i) shall consider the Legislature's determination that counties should facilitate a reasonable opportunity for a variety of housing, including moderate income housing:

(A) to meet the needs of people of various income levels living, working, or desiring to live or work in the community; and

(B) to allow people with various incomes to benefit from and fully participate in all aspects of neighborhood and community life; and

(ii) shall include an analysis of how the county will provide a realistic opportunity for the development of moderate income housing within the planning horizon, which may include a recommendation to implement three or more of the following strategies:

(A) rezone for densities necessary to assure the production of moderate income housing;

(B) facilitate the rehabilitation or expansion of infrastructure that will encourage the construction of moderate income housing;

(C) facilitate the rehabilitation of existing uninhabitable housing stock into moderate income housing;

(D) consider county general fund subsidies or other sources of revenue to waive construction related fees that are otherwise generally imposed by the county;

(E) create or allow for, and reduce regulations related to, accessory dwelling units in residential zones;

(F) allow for higher density or moderate income residential development in commercial and mixed-use zones, commercial centers, or employment centers;

(G) encourage higher density or moderate income residential development near major transit investment corridors;

(H) eliminate or reduce parking requirements for residential development where a resident is less likely to rely on the resident's own vehicle, such as residential development near major transit investment corridors or senior living facilities;

(I) allow for single room occupancy developments;

(J) implement zoning incentives for low to moderate income units in new developments;

(K) utilize strategies that preserve subsidized low to moderate income units on a long-term basis;

(L) preserve existing moderate income housing;

(M) reduce impact fees, as defined in Section 11-36a-102, related to low and moderate income housing;

(N) participate in a community land trust program for low or moderate income housing;

(O) implement a mortgage assistance program for employees of the county or of an employer that provides contracted services for the county;

(P) apply for or partner with an entity that applies for state or federal funds or tax incentives to promote the construction of moderate income housing;

(Q) apply for or partner with an entity that applies for programs offered by the Utah Housing Corporation within that agency's funding capacity;

(R) apply for or partner with an entity that applies for affordable housing programs administered by the Department of Workforce Services;

(S) apply for or partner with an entity that applies for services provided by a public housing authority to preserve and create moderate income housing;

(T) apply for or partner with an entity that applies for programs administered by a metropolitan planning organization or other transportation agency that provides technical planning assistance;

(U) utilize a moderate income housing set aside from a community reinvestment agency, redevelopment agency, or community development and renewal agency; and

[~~(V) reduce residential building design elements as defined in Section 10-9a-403; and~~]

[~~(W)~~] (V) consider any other program or strategy implemented by the county to address the housing needs of residents of the county who earn less than 80% of the area median income.

(c) In drafting the land use element, the planning commission shall:

(i) identify and consider each agriculture protection area within the unincorporated area of the county or mountainous planning district; and

(ii) avoid proposing a use of land within an agriculture protection area that is inconsistent with or detrimental to the use of the land for agriculture.

(d) In drafting the transportation and traffic circulation element, the planning commission shall:

(i) consider the regional transportation plan developed by its region's metropolitan planning organization, if the relevant areas of the county are within the boundaries of a metropolitan planning organization; or

(ii) consider the long-range transportation plan developed by the Department of Transportation, if the relevant areas of the county are not within the boundaries of a metropolitan planning organization.

(3) The proposed general plan may include:

(a) an environmental element that addresses:

(i) to the extent not covered by the county's resource management plan, the protection, conservation, development, and use of natural resources, including the quality of air, forests, soils, rivers and other waters, harbors, fisheries, wildlife, minerals, and other natural resources; and

(ii) the reclamation of land, flood control, prevention and control of the pollution of streams and other waters, regulation of the use of land on hillsides, stream channels and other environmentally sensitive areas, the prevention, control, and correction of the erosion of soils, protection of watersheds and wetlands, and the mapping of known geologic hazards;

(b) a public services and facilities element showing general plans for sewage, water, waste disposal, drainage, public utilities, rights-of-way, easements, and facilities for them, police and fire protection, and other public services;

(c) a rehabilitation, redevelopment, and conservation element consisting of plans and programs for:

(i) historic preservation;

(ii) the diminution or elimination of a development impediment as defined in Section 17C-1-102; and

(iii) redevelopment of land, including housing sites, business and industrial sites, and public building sites;

(d) an economic element composed of appropriate studies and forecasts, as well as an economic development plan, which may include review of existing and projected county revenue and expenditures, revenue sources, identification of basic and secondary industry, primary and secondary market areas, employment, and retail sales activity;

(e) recommendations for implementing all or any portion of the general plan, including the use of land use ordinances, capital improvement plans, community development and promotion, and any other appropriate action;

(f) provisions addressing any of the matters listed in Subsection 17-27a-401(2) or (3)(a)(i); and

(g) any other element the county considers appropriate.

Section 11. Section 17-27a-527 is enacted to read:

17-27a-527. Regulation of building design elements prohibited -- Exceptions.

(1) As used in this section, "building design element" means:

(a) exterior color;

(b) type or style of exterior cladding material;

(c) style, dimensions, or materials of a roof structure, roof pitch, or porch;

(d) exterior nonstructural architectural ornamentation;

(e) location, design, placement, or architectural styling of a window or door;

(f) location, design, placement, or architectural styling of a garage door, not including a rear-loading garage door;

(g) number or type of rooms;

(h) interior layout of a room;

(i) minimum square footage over 1,000 square feet, not including a garage;

(j) rear yard landscaping requirements;

(k) minimum building dimensions; or

(l) a requirement to install front yard fencing.

(2) Except as provided in Subsection (3), a county may not impose a requirement for a building design element on a one to two family dwelling or townhome.

(3) Subsection (2) does not apply to:

(a) a dwelling located within an area designated as a historic district in:

(i) the National Register of Historic Places;

(ii) the state register as defined in Section 9-8-402; or

(iii) a local historic district or area, or a site designated as a local landmark, created by ordinance before January 1, 2021;

(b) an ordinance enacted as a condition for participation in the National Flood Insurance Program administered by the Federal Emergency Management Agency;

(c) an ordinance enacted to implement the requirements of the Utah Wildland Urban Interface Code adopted under Section 15A-2-103;

(d) building design elements agreed to under a development agreement;

(e) a dwelling located within an area that:

(i) is zoned primarily for residential use; and

(ii) was substantially developed before calendar year 1950;

(f) an ordinance enacted to implement water efficient landscaping in a rear yard;

(g) an ordinance enacted to regulate type of cladding, in response to findings or evidence from the construction industry of:

(i) defects in the material of existing cladding; or

(ii) consistent defects in the installation of existing cladding; or

(h) a land use regulation, including a planned unit development or overlay zone, that a property owner requests:

(i) the county to apply to the owner's property; and

(ii) in exchange for an increase in density or other benefit not otherwise available as a permitted use in the zoning area or district.

Section 12. Section 17-36-55 is amended to read:

17-36-55. Fees collected for construction approval -- Approval of plans.

(1) As used in this section:

(a) "Business day" means the same as that term is defined in Section 54-8c-1.

[~~(a)~~] (b) "Construction project" means the same as that term is defined in Section 38-1a-102.

(c) "Licensed building inspector" means an individual who is:

(i) licensed by the Division of Occupational and Professional Licensing under Title 58, Chapter 56, Building Inspector and Factory Built Housing Licensing Act; and

(ii) covered by liability insurance when providing private services as a licensed building inspector, in an amount established in rules made by the Division of Occupational and Professional Licensing in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

[~~(b)~~] (d) "Lodging establishment" means a place providing temporary sleeping accommodations to the public, including any of the following:

(i) a bed and breakfast establishment;

(ii) a boarding house;

(iii) a dormitory;

(iv) a hotel;

(v) an inn;

(vi) a lodging house;

(vii) a motel;

(viii) a resort; or

(ix) a rooming house.

[~~(c)~~] (e) "Planning review" means a review to verify that a county has approved the following elements of a construction project:

(i) zoning;

(ii) lot sizes;

(iii) setbacks;

(iv) easements;

(v) curb and gutter elevations;

(vi) grades and slopes;

(vii) utilities;

(viii) street names;

(ix) defensible space provisions and elevations, if required by the Utah Wildland Urban Interface Code adopted under Section 15A-2-103; and

(x) subdivision.

[~~(d)~~] (f) (i) "Plan review" means all of the reviews and approvals of a plan that a county requires to obtain a building permit from the county with a scope that may not exceed a review to verify:

(A) that the construction project complies with the provisions of the State Construction Code under Title 15A, State Construction and Fire Codes Act;

(B) that the construction project complies with the energy code adopted under Section 15A-2-103;

(C) that the construction project received a planning review;

(D) that the applicant paid any required fees;

(E) that the applicant obtained final approvals from any other required reviewing agencies;

(F) that the construction project complies with federal, state, and local storm water protection laws;

(G) that the construction project received a structural review;

(H) the total square footage for each building level of finished, garage, and unfinished space; and

(I) that the plans include a printed statement indicating that the actual construction will comply with applicable local ordinances and the state construction codes.

(ii) "Plan review" does not mean a review of a document:

(A) required to be re-submitted for a construction project other than a construction project for a one to two family dwelling or townhome if additional

modifications or substantive changes are identified by the plan review;

(B) submitted as part of a deferred submittal when requested by the applicant and approved by the building official; or

(C) that, due to the document's technical nature or on the request of the applicant, is reviewed by a third party.

[~~(e)~~] (g) "State Construction Code" means the same as that term is defined in Section 15A-1-102.

[~~(f)~~] (h) "State Fire Code" means the same as that term is defined in Section 15A-1-102.

[~~(g)~~] (i) "Structural review" means:

(i) a review that verifies that a construction project complies with the following:

(A) footing size and bar placement;

(B) foundation thickness and bar placement;

(C) beam and header sizes;

(D) nailing patterns;

(E) bearing points;

(F) structural member size and span; and

(G) sheathing; or

(ii) if the review exceeds the scope of the review described in Subsection (1)[~~(g)~~](i)(i), a review that a licensed engineer conducts.

[~~(h)~~] (j) "Technical nature" means a characteristic that places an item outside the training and expertise of an individual who regularly performs plan reviews.

(2) (a) If a county collects a fee for the inspection of a construction project, the county shall ensure that the construction project receives a prompt inspection.

(b) If a county cannot provide a building inspection within three business days after the day on which the county receives the request for the inspection[~~,~~]:

(i) the county [~~shall~~] may promptly engage an independent inspector with fees collected from the applicant[~~.~~]; or

(ii) the applicant may engage an independent third-party licensed building inspector to complete each required inspection on the applicant's behalf in accordance with Subsection (2)(d), if the construction project is for a one to two family dwelling or townhome.

(c) If an inspector identifies one or more violations of the State Construction Code or State Fire Code during an inspection, the inspector shall give the permit holder written notification that:

(i) identifies each violation;

(ii) upon request by the permit holder, includes a reference to each applicable provision of the State Construction Code or State Fire Code; and

(iii) is delivered:

(A) in hardcopy or by electronic means; and

(B) the day on which the inspection occurs.

(d) (i) An applicant who engages an independent licensed building inspector to complete each required inspection on the applicant's behalf under Subsection (2)(b)(ii) shall promptly notify the county in writing of the name and address of the licensed building inspector at the time the applicant engages the licensed building inspector.

(ii) The licensed building inspector described in Subsection (2)(d)(i) shall:

(A) complete each required inspection of the construction project on the applicant's behalf;

(B) provide written notification to the county after completing the final required inspection; and

(C) issue the applicant a certificate of occupancy for the construction project.

(3) (a) A county shall complete a plan review of a construction project for a one to two family dwelling or townhome by no later than 14 business days after the day on which the [~~plan is submitted~~] applicant submits a complete building permit application to the county.

(b) A county shall complete a plan review of a construction project for a residential structure built under the International Building Code, not including a lodging establishment, by no later than 21 business days after the day on which the [~~plan is submitted~~] applicant submits a complete building permit application to the county.

(c) (i) Subject to Subsection (3)(c)(ii), if a county does not complete a plan review before the time period described in Subsection (3)(a) or (b) expires, an applicant may request that the county complete the plan review.

(ii) If an applicant makes a request under Subsection (3)(c)(i), the county shall perform the plan review no later than:

(A) for a plan review described in Subsection (3)(a), 14 days from the day on which the applicant makes the request; or

(B) for a plan review described in Subsection (3)(b), 21 days from the day on which the applicant makes the request.

(d) An applicant may:

(i) waive the plan review time requirements described in this Subsection (3); or

(ii) with the county's consent, establish an alternative plan review time requirement.

(4) [~~(a)~~] A county may not enforce a requirement to have a plan review if:

[~~(i)~~] (a) the county does not complete the plan review within the time period described in Subsection (3)(a) or (b); [~~and~~]

(b) the applicant makes a request under Subsection (3)(c)(i);

(c) the county does not complete the plan review within the time period described in Subsection (3)(c)(ii); and

[~~(ii)~~] (d) a licensed architect or structural engineer, or both when required by law, stamps the plan.

[~~(b)~~] (5) (a) A county may attach to a reviewed plan a list that includes:

(i) items with which the county is concerned and may enforce during construction; and

(ii) building code violations found in the plan.

[~~(c)~~] (b) A county may not require an applicant to redraft a plan if the county requests minor changes to the plan that the list described in Subsection [~~(4)(b)~~] (5)(a) identifies.

[~~(5) An applicant shall ensure that each construction project plan submitted for a plan review under this section has a statement indicating that actual construction will comply with applicable local ordinances and building codes.~~]

(c) A county may require a single resubmittal of plans for a one or two family dwelling or townhome if the resubmission is required to address deficiencies identified by a third-party review of a geotechnical report or geological report.

(6) If a county charges a fee for a building permit, the county may not refuse payment of the fee at the time the applicant submits a building permit application under Subsection (3).

(7) A county may not limit the number of building permit applications submitted under Subsection (3).

(8) For purposes of Subsection (3), a building permit application is complete if the application contains:

(a) the name, address, and contact information of:

(i) the applicant; and

(ii) the construction manager/general contractor, as defined in Section 63G-6a-103, for the construction project;

(b) a site plan for the construction project that:

(i) is drawn to scale;

(ii) includes a north arrow and legend; and

(iii) provides specifications for the following:

(A) lot size and dimensions;

(B) setbacks and overhangs for setbacks;

(C) easements;

(D) property lines;

(E) topographical details, if the slope of the lot is greater than 10%;

(F) retaining walls;

(G) hard surface areas;

(H) curb and gutter elevations as indicated in the subdivision documents;

(I) utilities, including water meter and sewer lateral location;

(J) street names;

(K) driveway locations;

(L) defensible space provisions and elevations, if required by the Utah Wildland Urban Interface Code adopted under Section 15A-2-103; and

(M) the location of the nearest hydrant;

(c) construction plans and drawings, including:

(i) elevations, only if the construction project is new construction;

(ii) floor plans for each level, including the location and size of doors and windows;

(iii) foundation, structural, and framing detail; and

(iv) electrical, mechanical, and plumbing design;

(d) documentation of energy code compliance;

(e) structural calculations, except for trusses;

(f) a geotechnical report, including a slope stability evaluation and retaining wall design, if:

(i) the slope of the lot is greater than 15%; and

(ii) required by the county; and

(g) a statement indicating that actual construction will comply with applicable local ordinances and building codes.

Section 13. Section 38-1a-102 is amended to read:

38-1a-102. Definitions.

As used in this chapter:

(1) "Alternate means" means a method of filing a legible and complete notice or other document with the registry other than electronically, as established by the division by rule.

(2) "Anticipated improvement" means the improvement:

(a) for which preconstruction service is performed; and

(b) that is anticipated to follow the performing of preconstruction service.

(3) "Applicable county recorder" means the office of the recorder of each county in which any part of the property on which a claimant claims or intends to claim a preconstruction or construction lien is located.

(4) "Bona fide loan" means a loan to an owner or owner-builder by a lender in which the owner or owner-builder has no financial or beneficial interest greater than 5% of the voting shares or other ownership interest.

(5) "Claimant" means a person entitled to claim a preconstruction or construction lien.

(6) "Compensation" means the payment of money for a service rendered or an expense incurred, whether based on:

(a) time and expense, lump sum, stipulated sum, percentage of cost, cost plus fixed or percentage fee, or commission; or

(b) a combination of the bases listed in Subsection (6)(a).

(7) "Construction lender" means a person who makes a construction loan.

(8) "Construction lien" means a lien under this chapter for construction work.

(9) "Construction loan" does not include a consumer loan secured by the equity in the consumer's home.

(10) "Construction project" means an improvement that is constructed pursuant to an original contract.

(11) "Construction work":

(a) means labor, service, material, or equipment provided for the purpose and during the process of constructing, altering, or repairing an improvement; and

(b) includes scheduling, estimating, staking, supervising, managing, materials testing, inspection, observation, and quality control or assurance involved in constructing, altering, or repairing an improvement.

(12) "Contestable notice" means a notice of preconstruction service under Section 38-1a-401, a preliminary notice under Section 38-1a-501, or a notice of completion under Section 38-1a-506.

(13) "Contesting person" means an owner, original contractor, subcontractor, or other interested person.

(14) "Designated agent" means the third party the division contracts with as provided in Section 38-1a-202 to create and maintain the registry.

(15) "Division" means the Division of Occupational and Professional Licensing created in Section 58-1-103.

(16) "Entry number" means the reference number that:

(a) the designated agent assigns to each notice or other document filed with the registry; and

(b) is unique for each notice or other document.

(17) "Final completion" means:

(a) the date of issuance of a permanent certificate of occupancy by the local government entity having jurisdiction over the construction project or building inspector that has the authority to issue a certificate of occupancy for the construction project under Section 10-5-132, 10-6-160, or 17-36-55, if a permanent certificate of occupancy is required;

(b) the date of the final inspection of the construction work by the local government entity having jurisdiction over the construction project or building inspector described in Subsection (17)(a), if an inspection is required under a state-adopted building code applicable to the construction work, but no certificate of occupancy is required;

(c) unless the owner is holding payment to ensure completion of construction work, the date on which there remains no substantial work to be completed to finish the construction work under the original contract, if a certificate of occupancy is not required and a final inspection is not required under an applicable state-adopted building code; or

(d) the last date on which substantial work was performed under the original contract, if, because the original contract is terminated before completion of the construction work defined by the original contract, the local government entity having jurisdiction over the construction project or building inspector described in Subsection (17)(a) does not issue a certificate of occupancy or perform a final inspection.

(18) "Final lien waiver" means a form that complies with Subsection 38-1a-802(4)(c).

(19) "First preliminary notice filing" means a preliminary notice that:

(a) is the earliest preliminary notice filed on the construction project for which the preliminary notice is filed;

(b) is filed on a construction project that, at the time the preliminary notice is filed, has not reached final completion; and

(c) is not cancelled under Section 38-1a-307.

(20) "Government project-identifying information" has the same meaning as defined in Section 38-1b-102.

(21) "Improvement" means:

(a) a building, infrastructure, utility, or other human-made structure or object constructed on or for and affixed to real property; or

(b) a repair, modification, or alteration of a building, infrastructure, utility, or object referred to in Subsection (21)(a).

(22) "Interested person" means a person that may be affected by a construction project.

(23) "Notice of commencement" means a notice required under Section 38-1b-201 for a government project, as defined in Section 38-1b-102.

(24) "Original contract":

(a) means a contract between an owner and an original contractor for preconstruction service or construction work; and

(b) does not include a contract between an owner-builder and another person.

(25) "Original contractor" means a person, including an owner-builder, that contracts with an

owner to provide preconstruction service or construction work.

(26) "Owner" means the person that owns the project property.

(27) "Owner-builder" means an owner, including an owner who is also an original contractor, who:

(a) contracts with one or more other persons for preconstruction service or construction work for an improvement on the owner's real property; and

(b) obtains a building permit for the improvement.

(28) "Preconstruction lien" means a lien under this chapter for a preconstruction service.

(29) "Preconstruction service":

(a) means to plan or design, or to assist in the planning or design of, an improvement or a proposed improvement:

(i) before construction of the improvement commences; and

(ii) for compensation separate from any compensation paid or to be paid for construction work for the improvement; and

(b) includes consulting, conducting a site investigation or assessment, programming, preconstruction cost or quantity estimating, preconstruction scheduling, performing a preconstruction construction feasibility review, procuring construction services, and preparing a study, report, rendering, model, boundary or topographic survey, plat, map, design, plan, drawing, specification, or contract document.

(30) "Private project" means a construction project that is not a government project.

(31) "Project property" means the real property on or for which preconstruction service or construction work is or will be provided.

(32) "Registry" means the State Construction Registry under Part 2, State Construction Registry.

(33) "Required notice" means:

(a) a notice of preconstruction service under Section 38-1a-401;

(b) a preliminary notice under Section 38-1a-501 or Section 38-1b-202;

(c) a notice of commencement;

(d) a notice of construction loan under Section 38-1a-601;

(e) a notice under Section 38-1a-602 concerning a construction loan default;

(f) a notice of intent to obtain final completion under Section 38-1a-506; or

(g) a notice of completion under Section 38-1a-507.

(34) "Subcontractor" means a person that contracts to provide preconstruction service or construction work to:

(a) a person other than the owner; or

(b) the owner, if the owner is an owner-builder.

(35) "Substantial work" does not include repair work or warranty work.

(36) "Supervisory subcontractor" means a person that:

(a) is a subcontractor under contract to provide preconstruction service or construction work; and

(b) contracts with one or more other subcontractors for the other subcontractor or subcontractors to provide preconstruction service or construction work that the person is under contract to provide.

Section 14. Section 58-56-2 is amended to read:

58-56-2. Chapter administration -- Duties.

(1) The provisions of this chapter shall be administered by the Division of Occupational and Professional Licensing.

(2) The division shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish the minimum amount of liability insurance coverage for a licensed building inspector to complete inspections under Subsection 10-5-132(2)(b)(ii), 10-6-160(2)(b)(ii), or 17-36-55(2)(b)(ii).

Section 15. Section 78B-2-225 is amended to read:

78B-2-225. Actions related to improvements in real property.

(1) As used in this section:

(a) "Abandonment" means that there has been no design or construction activity on an improvement for a continuous period of at least one year.

(b) "Action" means any claim for judicial, arbitral, or administrative relief for acts, errors, omissions, or breach of duty arising out of or related to the design, construction, or installation of an improvement, regardless of whether that action is based in tort, contract, warranty, strict liability, product liability, indemnity, contribution, or other source of law.

(c) "Completion" means the date of substantial completion of an improvement to real property as established by the earliest of:

(i) a [~~Certificate of Substantial Completion~~] certificate of substantial completion;

(ii) a [~~Certificate of Occupancy~~] certificate of occupancy issued by a governing agency or building inspector that has the authority to issue the certificate of occupancy under Section 10-5-132, 10-6-160, or 17-36-55; or

(iii) the date of first use or possession of the improvement.

(d) "Improvement" means any building, structure, infrastructure, road, utility, or other similar man-made change, addition, modification, or alteration to real property.

(e) "Person" means an individual, corporation, limited liability company, partnership, joint venture, association, proprietorship, or any other legal or governmental entity.

(f) "Provider" means any person:

(i) contributing to, providing, or performing:

(A) studies, plans, specifications, drawings, designs, value engineering, cost or quantity estimates, surveys, staking, construction, installation, or labor to an improvement; or

(B) the review, observation, administration, management, supervision, inspections, and tests of construction for or in relation to an improvement; or

(ii) providing or contributing materials, products, or equipment that is incorporated into an improvement.

(2) The Legislature finds that:

(a) exposing a provider to suits and liability for acts, errors, omissions, or breach of duty after the possibility of injury or damage has become highly remote and unexpectedly creates costs and hardships to the provider and the citizens of the state;

(b) these costs and hardships include liability insurance costs, records storage costs, undue and unlimited liability risks during the life of both a provider and an improvement, and difficulties in defending against claims many years after completion of an improvement;

(c) these costs and hardships constitute clear social and economic evils;

(d) the possibility of injury and damage becomes highly remote and unexpected seven years following completion or abandonment; and

(e) except as provided in Subsection (7), it is in the best interests of the citizens of the state to impose the periods of limitation and repose provided in this chapter upon all causes of action by or against a provider arising out of or related to the design, construction, or installation of an improvement.

(3) (a) Except as provided in Subsections (3)(b) and (c), an action by or against a provider based in contract or warranty shall be commenced within six years after the date of completion or abandonment of an improvement.

(b) If a provider is required by an express term of a contract or warranty to perform an obligation later than the six-year period described in Subsection (3)(a), and the provider fails to perform the obligation as required, an action for that breach of the contract or warranty shall be commenced within two years after the day on which the breach is discovered or should have been discovered.

(c) If a contract or warranty expressly establishes a different period of limitations than this section, the action shall be commenced within that limitations period.

(4) (a) All other actions by or against a provider shall be commenced within two years from the earlier of the date of discovery of a cause of action or the date upon which a cause of action should have been discovered through reasonable diligence.

(b) If the cause of action is discovered or discoverable before completion or abandonment of an improvement, the two-year period begins to run upon completion or abandonment.

(c) Notwithstanding Subsection (4)(a), and except as provided in Subsection (4)(d), an action under this Subsection (4) may not be commenced against a provider more than nine years after completion or abandonment of an improvement.

(d) If an action under Subsection (4)(a) is discovered or discoverable in the eighth or ninth year of the nine-year period, a claimant shall have two years from the date of discovery to commence an action.

(5) Subsection (4) does not apply to an action against a provider:

(a) who has fraudulently concealed the provider's act, error, omission, or breach of duty, or the injury, damage, or other loss caused by the provider's act, error, omission, or breach of duty; or

(b) for a willful or intentional act, error, omission, or breach of duty.

(6) If an individual otherwise entitled to bring an action did not commence the action within the periods prescribed by Subsections (3) and (4) solely because that individual was a minor or mentally incompetent and without a legal guardian, that individual shall have two years from the date the disability is removed to commence the action.

(7) This section shall not apply to an action for the death of or bodily injury to an individual while engaged in the design, installation, or construction of an improvement.

(8) This section does not apply to any action against any person in actual possession or control of the improvement as owner, tenant, or otherwise, at the time any defective or unsafe condition of the improvement proximately causes the injury for which the action is brought.

(9) This section does not extend the period of limitation or repose otherwise prescribed by law or a valid and enforceable contract.

(10) This section does not create or modify any claim or cause of action.

(11) This section applies to all causes of action that accrue after May 3, 2003, notwithstanding that the improvement was completed or abandoned before May 3, 2004.

STATE OF UTAH

SPENCER J. COX
GOVERNOR

OFFICE OF THE GOVERNOR
SALT LAKE CITY, UTAH
84114-2220

DEIDRE M. HENDERSON
LIEUTENANT GOVERNOR

March 24, 2021

The Honorable Brad Wilson
Speaker of the House

and

The Honorable Stuart Adams
President of the Senate

Dear Speaker Wilson and President Adams:

This letter serves to inform you that I have vetoed House Bill 98, Local Government Building Regulation Amendments.

Housing affordability in Utah continues to be a serious concern as housing prices outpace wage growth at unsustainable rates. I appreciate the legislature seeking to address this issue with multiple pieces of legislation this year, including H.B. 98. The goal of reducing unnecessary construction costs and delays is laudable and needed. I fully expect Utah's cities and counties to participate in these efforts and streamline their policies and procedures to meet this end for the good of their residents and our state.

After the conclusion of the legislative session, our office and the bill sponsor learned of concerns from FEMA regarding the bill's language and the requirements of the National Flood Insurance Program (NFIP). These concerns could place 226 of Utah's communities that participate in NFIP at risk of probation or suspension from the program. In light of this additional information, the most prudent path forward requires a redrafting of provisions specific to disaster recovery in the bill.

Utah's Division of Emergency Management is committed to working with the sponsor in the interim to craft language that can still address the core issues related to construction costs and delays while ensuring communities continue to qualify for flood insurance. Please note that I am supportive of this bill and fully anticipate adding it to an upcoming special session once these technical issues are resolved.

For these reasons I have vetoed H.B. 98, LOCAL GOVERNMENT BUILDING REGULATION AMENDMENTS, and returned it to the House of Representatives.

Sincerely,

Spencer J. Cox
Governor

STATE OF UTAH

SPENCER J. COX
GOVERNOR

OFFICE OF THE GOVERNOR
SALT LAKE CITY, UTAH
84114-2220

DEIDRE M. HENDERSON
LIEUTENANT GOVERNOR

March 25, 2021

The Honorable Stuart Adams
President of the Senate

and

The Honorable Brad Wilson
Speaker of the House

Dear President Adams and Speaker Wilson,

This letter serves to inform you that on March 25, 2021, I signed Senate Bill 3, Appropriations Adjustments, with the following line item vetoes:

- Item 73, lines 648-653, House Bill 76, Firearm Preemption Amendments did not pass
- Item 122, lines 1014-1020, Senate Bill 39, Hemp Regulation Amendments was vetoed
- Item 179, lines 1421-1427, Senate Bill 228, Electronic Free Speech Amendments was vetoed
- Item 209, lines 1647-1653, Senate Bill 39, Hemp Regulation Amendments was vetoed
- Item 263, lines 2051-2057, Senate Bill 39, Hemp Regulation Amendments was vetoed
- Item 351, lines 2760-2766, Senate Bill 39, Hemp Regulation Amendments was vetoed

Senate Bill 187 and House Bill 98 were also vetoed, but Senate Bill 3 did not include any appropriations to implement the provisions of those bills.

Sincerely,

Spencer J. Cox
Governor

STATE OF UTAH

SPENCER J. COX
GOVERNOR

OFFICE OF THE GOVERNOR
SALT LAKE CITY, UTAH
84114-2220

DEIDRE M. HENDERSON
LIEUTENANT GOVERNOR

March 24th

As the signing period comes to an end, the Governor has determined to allow the following bills to go into law without signature:

S.B. 167 Utah Film Economic Incentives
Empirical research studies have consistently demonstrated that Utah's Motion Picture Incentive Program as currently constituted does not provide a positive return on investment to Utah taxpayers. Previous analyses have quantified negative return on investment in the range of 30 to 35 cents for every dollar of incentives granted. As the new Governor's Office of Economic Opportunity is established, the Governor looks forward to re-evaluating the purpose and objectives of the state's economic development programs, and whether negative ROI interventions such as these serve to effectively leverage free market mechanisms for the growth and sustainability of Utah's economy.

H.B. 197 Voter Affiliation Amendments
The Governor and Lt. Governor are committed to increasing voter access and participation. This bill could limit the ability for a voter who may not readily know their affiliation from participating in the party primary of their choice. The Lt. Governor's Office will continue to ensure that Utahns understand these deadlines so they can participate fully with the political party of their choice.

S.B. 104 Tax Levy for Animal Control
New taxing authorities inevitably lead to new taxes for Utah residents. The Governor appreciates the Davis County Commission and their Mayors for coming together to solve a long standing local issue in a way that is tax neutral initially. However, the Governor is wary of these types of levies and the potential for tax increases on citizens in the future.

LAWS

of the

STATE OF UTAH, 2021

Passed at the
FIRST SPECIAL SESSION
of the
SIXTY-FOURTH LEGISLATURE

Convened at the State Capitol in the City of Salt Lake
and Adjourned Sine Die
May 19, 2021

STATE OF UTAH

OFFICE OF THE LIEUTENANT GOVERNOR

CERTIFICATE

THIS IS TO CERTIFY that the acts and resolutions published in this volume are, according to our best information and belief, full and correct copies of the originals passed at the 2021 First Special Session of the Sixty-fourth Legislature of the state of Utah, as they appear of record in the Office of the Lieutenant Governor; and

That the 2021 First Special Session of the Sixty-fourth Legislature of the state of Utah convened at the Capitol in Salt Lake City on the 19th of May, 2021, and adjourned on the 19th day of May, 2021.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the Great Seal of the State of Utah at Salt Lake City, this 18th day of November, 2021.

Deidre M. Henderson
Lieutenant Governor

CHAPTER 1
H. B. 1001
Passed May 19, 2021
Approved May 28, 2021
Effective May 28, 2021

PEACE OFFICER TRAINING AMENDMENTS

Chief Sponsor: Angela Romero
Senate Sponsor: Luz Escamilla

LONG TITLE

General Description:

This bill provides an effective date for certain peace officer training.

Highlighted Provisions:

This bill:

- provides an effective date for certain peace officer training; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

53-6-202, as last amended by Laws of Utah 2021, Chapters 56 and 275

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53-6-202 is amended to read:

53-6-202. Basic training course -- Completion required -- Annual training -- Prohibition from exercising powers -- Reinstatement.

(1) (a) The director shall:

(i) (A) suggest and prepare subject material; and

(B) schedule instructors for basic training courses; or

(ii) review the material and instructor choices submitted by a certified academy.

(b) The subject material, instructors, and schedules shall be approved or disapproved by a majority vote of the council.

(2) The materials shall be reviewed and approved by the council on or before July 1st of each year and may from time to time be changed or amended by majority vote of the council.

(3) The basic training in a certified academy:

(a) shall be appropriate for the basic training of peace officers in the techniques of law enforcement in the discretion of the director; and

(b) may not include the use of chokeholds, carotid restraints, or any act that impedes the breathing or circulation of blood likely to produce a loss of consciousness, as a valid method of restraint.

(4) (a) All peace officers shall satisfactorily complete the basic training course or the waiver process provided for in this chapter as well as annual certified training of not less than 40 hours as the director, with the advice and consent of the council, directs.

(b) A peace officer who fails to satisfactorily complete the annual training shall automatically be prohibited from exercising peace officer powers until any deficiency is made up.

(c) (i) [~~The~~] Beginning July 1, 2021, the annual training shall include no less than 16 hours of training focused on mental health and other crisis intervention responses, arrest control, and de-escalation training.

(ii) Standards for the training shall be determined by each law enforcement agency or department and approved by the director or designee.

(iii) Each law enforcement agency or department shall include a breakdown of the 16 hours within the annual audit submitted to the division.

(5) [~~The~~] Beginning July 1, 2021, the director shall ensure that annual training covers intervention responses for mental illnesses, autism spectrum disorder, and other neurological and developmental disorders.

Section 2. Effective date.

If approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

CHAPTER 2
H. B. 1002
Passed May 19, 2021
Approved May 28, 2021
Effective May 28, 2021
(Exception clause in Section 16)

JUVENILE JUSTICE AMENDMENTS

Chief Sponsor: V. Lowry Snow
Senate Sponsor: Todd D. Weiler

LONG TITLE

General Description:

This bill amends provisions related to juvenile justice.

Highlighted Provisions:

This bill:

- defines terms;
- provides that certain offenses are not subject to the presumptive time periods for termination and parole supervision for juvenile offenders;
- amends definitions related to minors who are adjudicated for certain kidnap or sexual offenses;
- requires that a minor who is under the jurisdiction of the district court for an offense be held in a juvenile detention facility;
- requires a minor who is committed to prison by the district court be provisionally housed with the Division of Juvenile Justice Services until the minor is 21 years old; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

This bill provides revisor instructions.

Utah Code Sections Affected:

AMENDS:

62A-7-404.5 (Superseded 09/01/21), as enacted by Laws of Utah 2020, Chapter 214
77-41-102, as last amended by Laws of Utah 2020, Chapter 108
78A-6-105 (Superseded 09/01/21), as last amended by Laws of Utah 2021, Chapter 231
78A-6-703.1 (Superseded 09/01/21), as enacted by Laws of Utah 2020, Chapter 214
78A-6-703.2 (Superseded 09/01/21), as enacted by Laws of Utah 2020, Chapter 214
78A-6-703.5 (Superseded 09/01/21), as enacted by Laws of Utah 2020, Chapter 214
78A-6-703.6 (Superseded 09/01/21), as enacted by Laws of Utah 2020, Chapter 214
78A-6-705 (Superseded 09/01/21), as last amended by Laws of Utah 2020, Chapter 214
80-1-102 (Effective 09/01/21), as last amended by Laws of Utah 2021, Chapter 231 and renumbered and amended by Laws of Utah 2021, Chapter 261
80-6-501 (Effective 09/01/21), as renumbered and amended by Laws of Utah 2021, Chapter 261
80-6-502 (Effective 09/01/21), as renumbered and amended by Laws of Utah 2021, Chapter 261
80-6-504 (Effective 09/01/21), as renumbered and amended by Laws of Utah 2021, Chapter 261
80-6-505 (Effective 09/01/21), as renumbered and amended by Laws of Utah 2021, Chapter 261
80-6-507 (Effective 09/01/21), as renumbered and amended by Laws of Utah 2021, Chapter 261
80-6-804 (Effective 09/01/21), as renumbered and amended by Laws of Utah 2021, Chapter 261

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 62A-7-404.5 (Superseded 09/01/21) is amended to read:

62A-7-404.5 (Superseded 09/01/21). Review and termination of commitment.

(1) If a juvenile offender has been committed to a secure facility, the juvenile offender shall appear before the authority within 45 days after the day on which the juvenile offender is committed to a secure facility for review of a treatment plan and to establish parole release guidelines.

(2) (a) If a juvenile offender is committed to a secure facility, the authority shall set a presumptive term of commitment for the juvenile offender that does not exceed three to six months.

(b) The authority shall release the juvenile offender on parole at the end of the presumptive term of commitment unless at least one the following circumstances exists:

(i) termination would interrupt the completion of a necessary treatment program; or

(ii) the juvenile offender commits a new misdemeanor or felony offense.

(c) The authority shall determine whether a juvenile offender has completed a program under Subsection (2)(b)(i) by considering the recommendations of the licensed service provider, the juvenile offender's consistent attendance record, and the juvenile offender's completion of the goals of the necessary treatment program.

(d) The authority may extend the length of commitment and delay parole release for the time needed to address the specific circumstance if one of the circumstances under Subsection (2)(b) exists.

(e) The authority shall:

(i) record the length of the extension and the grounds for the extension; and

(ii) report annually the length and grounds of extension to the commission.

(3) (a) If a juvenile offender is committed to a secure facility, the authority shall set a presumptive term of parole supervision that does not exceed three to four months.

(b) If the authority determines that a juvenile offender is unable to return home immediately upon release, the juvenile offender may serve the term of parole in the home of a qualifying relative or

guardian or at an independent living program contracted or operated by the division.

(c) The authority shall release a juvenile offender from parole and terminate jurisdiction at the end of the presumptive term of parole, unless at least one the following circumstances exists:

(i) termination would interrupt the completion of a necessary treatment program;

(ii) the juvenile offender commits a new misdemeanor or felony offense; or

(iii) restitution has not been completed.

(d) The authority shall determine whether a juvenile offender has completed a program under Subsection (2)(c) by considering the recommendations of the licensed service provider, the juvenile offender's consistent attendance record, and the juvenile offender's completion of the goals of the necessary treatment program.

(e) If one of the circumstances under Subsection (3)(c) exists, the authority may delay parole release only for the time needed to address the specific circumstance.

(f) The authority shall:

(i) record the grounds for extension of the presumptive length of parole and the length of the extension; and

(ii) report annually the extension and the length of the extension to the commission.

(g) In the event of an unauthorized leave lasting more than 24 hours, the term of parole shall toll until the juvenile offender returns.

(4) Subsections (2) and (3) do not apply to a juvenile offender committed to a secure facility for [~~a felony violation of~~]:

(a) Section 76-5-103, aggravated assault resulting in serious bodily injury to another;

(b) Section 76-5-202, aggravated murder or attempted aggravated murder;

(c) Section 76-5-203, murder or attempted murder;

(d) Section 76-5-205, manslaughter;

(e) Section 76-5-206, negligent homicide;

(f) Section 76-5-207, automobile homicide;

(g) Section 76-5-207.5, automobile homicide involving a handheld wireless communication device;

(h) Section 76-5-208, child abuse homicide;

(i) Section 76-5-209, homicide by assault;

[~~(d)~~] (j) Section 76-5-302, aggravated kidnapping;

[~~(e)~~] (k) Section 76-5-405, aggravated sexual assault;

[~~(f)~~] (l) a felony violation of Section 76-6-103, aggravated arson;

[~~(g)~~] (m) Section 76-6-203, aggravated burglary;

[~~(h)~~] (n) Section 76-6-302, aggravated robbery;

[~~(i)~~] (o) Section 76-10-508.1, felony discharge of a firearm;

[~~(j) an offense other than an offense listed in Subsections (4)(a) through (i) involving the use of a dangerous weapon:~~]

[~~(i) if the offense would be a felony had an adult committed the offense; and~~]

[~~(ii) the juvenile offender has been previously adjudicated or convicted of an offense involving the use of a dangerous weapon that would have been a felony had an adult committed the offense; or~~]

(p) (i) an offense other than an offense listed in Subsections (4)(a) through (o) involving the use of a dangerous weapon, as defined in Section 76-1-601, that is a felony; and

(ii) the juvenile offender has been previously adjudicated or convicted of an offense involving the use of a dangerous weapon, as defined in Section 76-1-601; or

[~~(k)~~] (q) an offense other than an offense listed in Subsections (4)(a) through [~~(j)~~] (p) and the [~~minor~~] juvenile offender has been previously committed to the custody of the Division of Juvenile Justice Services for secure confinement.

(5) (a) The division may continue to have responsibility over a juvenile offender, who is discharged under this section from parole, to participate in a specific educational or rehabilitative program:

(i) until the juvenile offender is:

(A) if the juvenile offender is a youth offender, 21 years old; or

(B) if the juvenile offender is a serious youth offender, 25 years old; and

(ii) under an agreement by the division and the juvenile offender that the program has certain conditions.

(b) The division and the juvenile offender may terminate participation in a program under Subsection (5)(a) at any time.

(c) The division shall offer an educational or rehabilitative program before a juvenile offender's discharge date in accordance with this section.

(d) A juvenile offender may request the services described in this Subsection (5), even if the offender has been previously declined services or services were terminated for noncompliance.

(e) Notwithstanding Subsection (5)(c), the division:

(i) shall consider a request by a juvenile offender under Subsection (5)(d) for the services described in this Subsection (5) for up to 365 days after the juvenile offender's effective date of discharge, even if the juvenile offender has previously declined services or services were terminated for noncompliance; and

(ii) may reach an agreement with the juvenile offender to provide the services described in this Subsection (5) until the juvenile offender is:

(A) if the juvenile offender is a youth offender, 21 years old; or

(B) if the juvenile offender is a serious youth offender, 25 years old.

(f) The division and the juvenile offender may terminate an agreement for services under this Subsection (5) at any time.

Section 2. Section 77-41-102 is amended to read:

77-41-102. Definitions.

As used in this chapter:

(1) "Bureau" means the Bureau of Criminal Identification of the Department of Public Safety established in section 53-10-201.

(2) "Business day" means a day on which state offices are open for regular business.

(3) "Certificate of eligibility" means a document issued by the Bureau of Criminal Identification showing that the offender has met the requirements of Section 77-41-112.

(4) "Department" means the Department of Corrections.

(5) "Division" means the Division of Juvenile Justice Services.

(6) "Employed" or "carries on a vocation" includes employment that is full time or part time, whether financially compensated, volunteered, or for the purpose of government or educational benefit.

(7) "Indian Country" means:

(a) all land within the limits of any Indian reservation under the jurisdiction of the United States government, regardless of the issuance of any patent, and includes rights-of-way running through the reservation;

(b) all dependent Indian communities within the borders of the United States whether within the original or subsequently acquired territory, and whether or not within the limits of a state; and

(c) all Indian allotments, including the Indian allotments to which the Indian titles have not been extinguished, including rights-of-way running through the allotments.

(8) "Jurisdiction" means any state, Indian Country, United States Territory, or any property under the jurisdiction of the United States military, Canada, the United Kingdom, Australia, or New Zealand.

(9) "Kidnap offender" means any individual, other than a natural parent of the victim [~~who~~]:

(a) who has been convicted in this state of a violation of:

(i) Subsection 76-5-301(1)(c) or (d), kidnapping;

(ii) Section 76-5-301.1, child kidnapping;

(iii) Section 76-5-302, aggravated kidnapping;

(iv) Section 76-5-308, human trafficking for labor and human smuggling;

(v) Section 76-5-308, human smuggling, when the individual smuggled is under 18 years [~~of age~~] old;

(vi) Section 76-5-308.5, human trafficking of a child for labor;

(vii) Section 76-5-310, aggravated human trafficking and aggravated human smuggling, on or after May 10, 2011;

(viii) Section 76-5-311, human trafficking of a vulnerable adult for labor; or

(ix) attempting, soliciting, or conspiring to commit any felony offense listed in Subsections (9)(a)(i) through (iii);

(b) (i) who has been convicted of any crime, or an attempt, solicitation, or conspiracy to commit a crime in another jurisdiction, including any state, federal, or military court that is substantially equivalent to the offenses listed in Subsection (9)(a); and

(ii) who is:

[~~(i)~~] (A) a Utah resident; or

[~~(ii)~~] (B) not a Utah resident, but who, in any 12-month period, is in this state for a total of 10 or more days, regardless of whether or not the offender intends to permanently reside in this state;

(c) (i) (A) who is required to register as a kidnap offender in any other jurisdiction of original conviction[~~,~~];

(B) who is required to register as a kidnap offender by any state, federal, or military court[~~,~~]; or

(C) who would be required to register as a kidnap offender if residing in the jurisdiction of the conviction regardless of the date of the conviction or any previous registration requirements; and

(ii) in any 12-month period, who is in this state for a total of 10 or more days, regardless of whether or not the offender intends to permanently reside in this state;

(d) (i) (A) who is a nonresident regularly employed or working in this state[~~,~~]; or

(B) who is a student in this state[~~,~~]; and

(ii) (A) who was convicted of one or more offenses listed in Subsection (9), or any substantially equivalent offense in another jurisdiction[~~,~~]; or

(B) as a result of the conviction, who is required to register in the individual's state of residence;

(e) who is found not guilty by reason of insanity in this state or in any other jurisdiction of one or more offenses listed in Subsection (9); or

(f) (i) who is adjudicated [~~delinquent based on~~] under Section 78A-6-117 for one or more offenses listed in Subsection (9)(a); and

(ii) who has been committed to the division for secure confinement for that offense and:

(A) the individual remains in the division's custody [~~30 days prior to~~] until 30 days before the individual's 21st birthday; or

(B) if the juvenile court extended the juvenile court's jurisdiction over the individual under Section 78A-6-703.4, the individual remains in the division's custody until 30 days before the individual's 25th birthday.

(10) "Natural parent" means a minor's biological or adoptive parent, and includes the minor's noncustodial parent.

(11) "Offender" means a kidnap offender as defined in Subsection (9) or a sex offender as defined in Subsection (17).

(12) "Online identifier" or "Internet identifier":

(a) means any electronic mail, chat, instant messenger, social networking, or similar name used for Internet communication; and

(b) does not include date of birth, social security number, PIN number, or Internet passwords.

(13) "Primary residence" means the location where the offender regularly resides, even if the offender intends to move to another location or return to another location at any future date.

(14) "Register" means to comply with the requirements of this chapter and administrative rules of the department made under this chapter.

(15) "Registration website" means the Sex and Kidnap Offender Notification and Registration website described in Section 77-41-110 and the information on the website.

(16) "Secondary residence" means any real property that the offender owns or has a financial interest in, or any location where, in any 12-month period, the offender stays overnight a total of 10 or more nights when not staying at the offender's primary residence.

(17) "Sex offender" means any individual:

(a) convicted in this state of:

(i) a felony or class A misdemeanor violation of Section 76-4-401, enticing a minor;

(ii) Section 76-5b-202, sexual exploitation of a vulnerable adult, on or after May 10, 2011;

(iii) Section 76-5-308, human trafficking for sexual exploitation;

(iv) Section 76-5-308.5, human trafficking of a child for sexual exploitation;

(v) Section 76-5-310, aggravated human trafficking for sexual exploitation;

(vi) Section 76-5-311, human trafficking of a vulnerable adult for sexual exploitation;

(vii) Section 76-5-401, unlawful sexual activity with a minor, except as provided in Subsection 76-5-401(3)(b) or (c);

(viii) Section 76-5-401.1, sexual abuse of a minor, except as provided in Subsection 76-5-401.1(3);

(ix) Section 76-5-401.2, unlawful sexual conduct with a 16 or 17 year old;

(x) Section 76-5-402, rape;

(xi) Section 76-5-402.1, rape of a child;

(xii) Section 76-5-402.2, object rape;

(xiii) Section 76-5-402.3, object rape of a child;

(xiv) a felony violation of Section 76-5-403, forcible sodomy;

(xv) Section 76-5-403.1, sodomy on a child;

(xvi) Section 76-5-404, forcible sexual abuse;

(xvii) Section 76-5-404.1, sexual abuse of a child or aggravated sexual abuse of a child;

(xviii) Section 76-5-405, aggravated sexual assault;

(xix) Section 76-5-412, custodial sexual relations, when the individual in custody is younger than 18 years [~~of age~~] old, if the offense is committed on or after May 10, 2011;

(xx) Section 76-5b-201, sexual exploitation of a minor;

(xxi) Section 76-5b-204, sexual extortion or aggravated sexual extortion;

(xxii) Section 76-7-102, incest;

(xxiii) Section 76-9-702, lewdness, if the individual has been convicted of the offense four or more times;

(xxiv) Section 76-9-702.1, sexual battery, if the individual has been convicted of the offense four or more times;

(xxv) any combination of convictions of Section 76-9-702, lewdness, and of Section 76-9-702.1, sexual battery, that total four or more convictions;

(xxvi) Section 76-9-702.5, lewdness involving a child;

(xxvii) a felony or class A misdemeanor violation of Section 76-9-702.7, voyeurism;

(xxviii) Section 76-10-1306, aggravated exploitation of prostitution; or

(xxix) attempting, soliciting, or conspiring to commit any felony offense listed in this Subsection (17)(a);

(b) (i) who has been convicted of any crime, or an attempt, solicitation, or conspiracy to commit a crime in another jurisdiction, including any state, federal, or military court that is substantially equivalent to the offenses listed in Subsection (17)(a); and

(ii) who is:

[~~(i)~~] (A) a Utah resident; or

[~~(ii)~~] (B) not a Utah resident, but who, in any 12-month period, is in this state for a total of 10 or more days, regardless of whether the offender intends to permanently reside in this state;

(c) (i) (A) who is required to register as a sex offender in any other jurisdiction of original conviction[~~,~~];

(B) who is required to register as a sex offender by any state, federal, or military court[~~,~~]; or

(C) who would be required to register as a sex offender if residing in the jurisdiction of the original conviction regardless of the date of the conviction or any previous registration requirements; and

(ii) who, in any 12-month period, is in the state for a total of 10 or more days, regardless of whether or not the offender intends to permanently reside in this state;

(d) (i) (A) who is a nonresident regularly employed or working in this state; or

(B) who is a student in this state; and

(ii) (A) who was convicted of one or more offenses listed in Subsection (17)(a), or any substantially equivalent offense in any jurisdiction[~~,~~]; or

(B) who is, as a result of the conviction, [~~is~~] required to register in the individual's jurisdiction of residence;

(e) who is found not guilty by reason of insanity in this state, or in any other jurisdiction of one or more offenses listed in Subsection (17)(a); or

(f) (i) who is adjudicated [~~delinquent based on~~] under Section 78A-6-117 for one or more offenses listed in Subsection (17)(a); and

(ii) who has been committed to the division for secure confinement for that offense and:

(A) the individual remains in the division's custody [~~30 days prior to~~] until 30 days before the individual's 21st birthday; or

(B) if the juvenile court extended the juvenile court's jurisdiction over the individual under Section 78A-6-703.4, the individual remains in the division's custody until 30 days before the individual's 25th birthday.

(18) "Traffic offense" does not include a violation of Title 41, Chapter 6a, Part 5, Driving Under the Influence and Reckless Driving.

(19) "Vehicle" means any motor vehicle, aircraft, or watercraft subject to registration in any jurisdiction.

Section 3. Section 78A-6-105 (Superseded 09/01/21) is amended to read:

78A-6-105 (Superseded 09/01/21). Definitions.

As used in this chapter:

(1) (a) "Abuse" means:

(i) (A) nonaccidental harm of a child;

(B) threatened harm of a child;

(C) sexual exploitation;

(D) sexual abuse; or

(E) human trafficking of a child in violation of Section 76-5-308.5; or

(ii) that a child's natural parent:

(A) intentionally, knowingly, or recklessly causes the death of another parent of the child;

(B) is identified by a law enforcement agency as the primary suspect in an investigation for intentionally, knowingly, or recklessly causing the death of another parent of the child; or

(C) is being prosecuted for or has been convicted of intentionally, knowingly, or recklessly causing the death of another parent of the child.

(b) "Abuse" does not include:

(i) reasonable discipline or management of a child, including withholding privileges;

(ii) conduct described in Section 76-2-401; or

(iii) the use of reasonable and necessary physical restraint or force on a child:

(A) in self-defense;

(B) in defense of others;

(C) to protect the child; or

(D) to remove a weapon in the possession of a child for any of the reasons described in Subsections (1)(b)(iii)(A) through (C).

(2) "Abused child" means a child who has been subjected to abuse.

(3) (a) "Adjudication" means a finding by the court, incorporated in a decree, that the facts alleged in the petition have been proved.

(b) "Adjudication" does not mean a finding of not competent to proceed in accordance with Section 78A-6-1302.

(4) (a) "Adult" means an individual who is 18 years old or older.

(b) "Adult" does not include an individual:

(i) who is 18 years old or older; and

(ii) whose case is under the continuing jurisdiction of the juvenile court in accordance with Section 78A-6-120.

(5) "Board" means the Board of Juvenile Court Judges.

(6) "Child" means an individual who is under 18 years old.

(7) "Child placement agency" means:

(a) a private agency licensed to receive a child for placement or adoption under this code; or

(b) a private agency that receives a child for placement or adoption in another state, which

agency is licensed or approved where such license or approval is required by law.

(8) "Clandestine laboratory operation" means the same as that term is defined in Section 58-37d-3.

(9) "Commit" means, unless specified otherwise:

(a) with respect to a child, to transfer legal custody; and

(b) with respect to a minor who is at least 18 years old, to transfer custody.

(10) "Court" means the juvenile court.

(11) "Criminogenic risk factors" means evidence-based factors that are associated with a minor's likelihood of reoffending.

(12) "Delinquent act" means an act that would constitute a felony or misdemeanor if committed by an adult.

(13) "Department" means the Department of Human Services created in Section 62A-1-102.

(14) "Dependent child" includes a child who is homeless or without proper care through no fault of the child's parent, guardian, or custodian.

(15) "Deprivation of custody" means transfer of legal custody by the court from a parent or the parents or a previous legal custodian to another person, agency, or institution.

(16) "Detention" means home detention and secure detention as defined in Section 62A-7-101 for the temporary care of a minor who requires secure custody in a physically restricting facility:

(a) pending court disposition or transfer to another jurisdiction; or

(b) while the minor's case is under the continuing jurisdiction of the court.

(17) "Detention risk assessment tool" means an evidence-based tool established under Section 78A-6-124, on and after July 1, 2018, that assesses a minor's risk of failing to appear in court or reoffending pre-adjudication and designed to assist in making detention determinations.

(18) "Developmental immaturity" means incomplete development in one or more domains which manifests as a functional limitation in the minor's present ability to consult with counsel with a reasonable degree of rational understanding and have a rational as well as factual understanding of the proceedings.

(19) "Division" means the Division of Child and Family Services.

(20) "Educational neglect" means that, after receiving a notice of compulsory education violation under Section 53G-6-202, the parent or guardian fails to make a good faith effort to ensure that the child receives an appropriate education.

(21) "Educational series" means an evidence-based instructional series:

(a) obtained at a substance abuse program that is approved by the Division of Substance Abuse and Mental Health in accordance with Section 62A-15-105; and

(b) designed to prevent substance use or the onset of a mental health disorder.

(22) "Evidence-based" means a program or practice that has had multiple randomized control studies or a meta-analysis demonstrating that the program or practice is effective for a specific population or has been rated as effective by a standardized program evaluation tool.

(23) "Forensic evaluator" means the same as that term is defined in Section 77-15-2.

(24) "Formal probation" means a minor is under field supervision by the probation department or other agency designated by the court and subject to return to the court in accordance with Section 78A-6-123 on and after July 1, 2018.

(25) "Formal referral" means a written report from a peace officer or other person informing the court that a minor is, or appears to be, within the court's jurisdiction and that the minor's case must be reviewed by the court's probation department or a prosecuting attorney.

(26) "Group rehabilitation therapy" means psychological and social counseling of one or more individuals in the group, depending upon the recommendation of the therapist.

(27) "Guardianship of the person" includes the authority to consent to:

(a) marriage;

(b) enlistment in the armed forces;

(c) major medical, surgical, or psychiatric treatment; or

(d) legal custody, if legal custody is not vested in another individual, agency, or institution.

(28) "Habitual truant" means the same as that term is defined in Section 53G-6-201.

(29) "Harm" means:

(a) physical or developmental injury or damage;

(b) emotional damage that results in a serious impairment in the child's growth, development, behavior, or psychological functioning;

(c) sexual abuse; or

(d) sexual exploitation.

(30) (a) "Incest" means engaging in sexual intercourse with an individual whom the perpetrator knows to be the perpetrator's ancestor, descendant, brother, sister, uncle, aunt, nephew, niece, or first cousin.

(b) The relationships described in Subsection (30)(a) include:

(i) blood relationships of the whole or half blood, without regard to legitimacy;

(ii) relationships of parent and child by adoption; and

(iii) relationships of stepparent and stepchild while the marriage creating the relationship of a stepparent and stepchild exists.

(31) "Intake probation" means a period of court monitoring that does not include field supervision, but is overseen by a juvenile probation officer, during which a minor is subject to return to the court in accordance with Section 78A-6-123 on and after July 1, 2018.

(32) "Intellectual disability" means a significant subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior that constitutes a substantial limitation to the individual's ability to function in society.

(33) "Legal custody" means a relationship embodying the following rights and duties:

(a) the right to physical custody of the minor;

(b) the right and duty to protect, train, and discipline the minor;

(c) the duty to provide the minor with food, clothing, shelter, education, and ordinary medical care;

(d) the right to determine where and with whom the minor shall live; and

(e) the right, in an emergency, to authorize surgery or other extraordinary care.

(34) "Material loss" means an uninsured:

(a) property loss;

(b) out-of-pocket monetary loss for property that is stolen, damaged, or destroyed;

(c) lost wages because of an injury, time spent as a witness, or time spent assisting the police or prosecution; or

(d) medical expense.

(35) "Mental illness" means:

(a) a psychiatric disorder that substantially impairs an individual's mental, emotional, behavioral, or related functioning; or

(b) the same as that term is defined in:

(i) the current edition of the Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association; or

(ii) the current edition of the International Statistical Classification of Diseases and Related Health Problems.

(36) "Minor" means, except as provided in Section 78A-6-703.1:

(a) for the purpose of juvenile delinquency:

(i) a child; or

(ii) an individual:

(A) who is at least 18 years old and younger than 25 years old; and

(B) whose case is under the jurisdiction of the juvenile court; and

(b) for all other purposes in this chapter:

(i) a child; or

(ii) an individual:

(A) who is at least 18 years old and younger than 21 years old; and

(B) whose case is under the jurisdiction of the juvenile court.

(37) "Mobile crisis outreach team" means a crisis intervention service for a minor or the family of a minor experiencing a behavioral health or psychiatric emergency.

(38) "Molestation" means that an individual, with the intent to arouse or gratify the sexual desire of any individual, touches the anus, buttocks, pubic area, or genitalia of any child, or the breast of a female child, or takes indecent liberties with a child as defined in Section 76-5-416.

(39) (a) "Natural parent" means a minor's biological or adoptive parent.

(b) "Natural parent" includes the minor's noncustodial parent.

(40) (a) "Neglect" means action or inaction causing:

(i) abandonment of a child, except as provided in Title 62A, Chapter 4a, Part 8, Safe Relinquishment of a Newborn Child;

(ii) lack of proper parental care of a child by reason of the fault or habits of the parent, guardian, or custodian;

(iii) failure or refusal of a parent, guardian, or custodian to provide proper or necessary subsistence or medical care, or any other care necessary for the child's health, safety, morals, or well-being;

(iv) a child to be at risk of being neglected or abused because another child in the same home is neglected or abused;

(v) abandonment of a child through an unregulated custody transfer; or

(vi) educational neglect.

(b) "Neglect" does not include:

(i) a parent or guardian legitimately practicing religious beliefs and who, for that reason, does not provide specified medical treatment for a child;

(ii) a health care decision made for a child by the child's parent or guardian, unless the state or other party to a proceeding shows, by clear and convincing evidence, that the health care decision is not reasonable and informed;

(iii) a parent or guardian exercising the right described in Section 78A-6-301.5; or

(iv) permitting a child, whose basic needs are met and who is of sufficient age and maturity to avoid harm or unreasonable risk of harm, to engage in independent activities, including:

(A) traveling to and from school, including by walking, running, or bicycling;

(B) traveling to and from nearby commercial or recreational facilities;

(C) engaging in outdoor play;

(D) remaining in a vehicle unattended, except under the conditions described in Subsection 76-10-2202(2);

(E) remaining at home unattended; or

(F) engaging in a similar independent activity.

(41) "Neglected child" means a child who has been subjected to neglect.

(42) "Nonjudicial adjustment" means closure of the case by the assigned probation officer without judicial determination upon the consent in writing of:

(a) the assigned probation officer; and

(b) (i) the minor; or

(ii) the minor and the minor's parent, legal guardian, or custodian.

(43) "Not competent to proceed" means that a minor, due to a mental illness, intellectual disability or related condition, or developmental immaturity, lacks the ability to:

(a) understand the nature of the proceedings against the minor or of the potential disposition for the offense charged; or

(b) consult with counsel and participate in the proceedings against the minor with a reasonable degree of rational understanding.

(44) "Physical abuse" means abuse that results in physical injury or damage to a child.

(45) "Probation" means a legal status created by court order following an adjudication on the ground of a violation of law or under Section 78A-6-103, whereby the minor is permitted to remain in the minor's home under prescribed conditions.

(46) "Prosecuting attorney" means:

(a) the attorney general and any assistant attorney general;

(b) any district attorney or deputy district attorney;

(c) any county attorney or assistant county attorney; and

(d) any other attorney authorized to commence an action on behalf of the state.

(47) "Protective supervision" means a legal status created by court order following an adjudication on the ground of abuse, neglect, or dependency, whereby the minor is permitted to remain in the minor's home, and supervision and assistance to correct the abuse, neglect, or dependency is provided by the probation department or other agency designated by the court.

(48) (a) "Related condition" means a condition that:

(i) is found to be closely related to intellectual disability;

(ii) results in impairment of general intellectual functioning or adaptive behavior similar to that of an intellectually disabled individual;

(iii) is likely to continue indefinitely; and

(iv) constitutes a substantial limitation to the individual's ability to function in society.

(b) "Related condition" does not include mental illness, psychiatric impairment, or serious emotional or behavioral disturbance.

(49) (a) "Residual parental rights and duties" means those rights and duties remaining with the parent after legal custody or guardianship, or both, have been vested in another person or agency, including:

(i) the responsibility for support;

(ii) the right to consent to adoption;

(iii) the right to determine the child's religious affiliation; and

(iv) the right to reasonable parent-time unless restricted by the court.

(b) If no guardian has been appointed, "residual parental rights and duties" includes the right to consent to:

(i) marriage;

(ii) enlistment; and

(iii) major medical, surgical, or psychiatric treatment.

(50) "Secure facility" means any facility operated by or under contract with the Division of Juvenile Justice Services, that provides 24-hour supervision and confinement for youth offenders committed to the division for custody and rehabilitation in accordance with Subsection 78A-6-117(2)(d).

(51) "Severe abuse" means abuse that causes or threatens to cause serious harm to a child.

(52) "Severe neglect" means neglect that causes or threatens to cause serious harm to a child.

(53) "Sexual abuse" means:

(a) an act or attempted act of sexual intercourse, sodomy, incest, or molestation by an adult directed towards a child;

(b) an act or attempted act of sexual intercourse, sodomy, incest, or molestation committed by a child towards another child if:

(i) there is an indication of force or coercion;

(ii) the children are related, as described in Subsection (30), including siblings by marriage while the marriage exists or by adoption;

(iii) there have been repeated incidents of sexual contact between the two children, unless the children are 14 years old or older; or

(iv) there is a disparity in chronological age of four or more years between the two children;

(c) engaging in any conduct with a child that would constitute an offense under any of the following, regardless of whether the individual who engages in the conduct is actually charged with, or convicted of, the offense:

(i) Title 76, Chapter 5, Part 4, Sexual Offenses, except for Section 76-5-401, if the alleged perpetrator of an offense described in Section 76-5-401 is a minor;

(ii) child bigamy, Section 76-7-101.5;

(iii) incest, Section 76-7-102;

(iv) lewdness, Section 76-9-702;

(v) sexual battery, Section 76-9-702.1;

(vi) lewdness involving a child, Section 76-9-702.5; or

(vii) voyeurism, Section 76-9-702.7; or

(d) subjecting a child to participate in or threatening to subject a child to participate in a sexual relationship, regardless of whether that sexual relationship is part of a legal or cultural marriage.

(54) "Sexual exploitation" means knowingly:

(a) employing, using, persuading, inducing, enticing, or coercing any child to:

(i) pose in the nude for the purpose of sexual arousal of any individual; or

(ii) engage in any sexual or simulated sexual conduct for the purpose of photographing, filming, recording, or displaying in any way the sexual or simulated sexual conduct;

(b) displaying, distributing, possessing for the purpose of distribution, or selling material depicting a child:

(i) in the nude, for the purpose of sexual arousal of any individual; or

(ii) engaging in sexual or simulated sexual conduct; or

(c) engaging in any conduct that would constitute an offense under Section 76-5b-201, sexual exploitation of a minor, regardless of whether the individual who engages in the conduct is actually charged with, or convicted of, the offense.

(55) "Shelter" means the temporary care of a child in a physically unrestricted facility pending court disposition or transfer to another jurisdiction.

(56) "Single criminal episode" means the same as that term is defined in Section 76-1-401.

(57) "Status offense" means a violation of the law that would not be a violation but for the age of the offender.

(58) "Substance abuse" means the misuse or excessive use of alcohol or other drugs or substances.

(59) "Substantiated" means the same as that term is defined in Section 62A-4a-101.

(60) "Supported" means the same as that term is defined in Section 62A-4a-101.

(61) "Termination of parental rights" means the permanent elimination of all parental rights and duties, including residual parental rights and duties, by court order.

(62) "Therapist" means:

(a) an individual employed by a state division or agency for the purpose of conducting psychological treatment and counseling of a minor in its custody; or

(b) any other individual licensed or approved by the state for the purpose of conducting psychological treatment and counseling.

(63) "Threatened harm" means actions, inactions, or credible verbal threats, indicating that the child is at an unreasonable risk of harm or neglect.

(64) "Unregulated custody transfer" means the placement of a child:

(a) with an individual who is not the child's parent, step-parent, grandparent, adult sibling, adult uncle or aunt, or legal guardian, or a friend of the family who is an adult and with whom the child is familiar, or a member of the child's federally recognized tribe;

(b) with the intent of severing the child's existing parent-child or guardian-child relationship; and

(c) without taking:

(i) reasonable steps to ensure the safety of the child and permanency of the placement; and

(ii) the necessary steps to transfer the legal rights and responsibilities of parenthood or guardianship to the individual taking custody of the child.

(65) "Unsupported" means the same as that term is defined in Section 62A-4a-101.

(66) "Unsubstantiated" means the same as that term is defined in Section 62A-4a-101.

(67) "Validated risk and needs assessment" means an evidence-based tool that assesses a minor's risk of reoffending and a minor's criminogenic needs.

(68) (a) "Victim" means a person that the court determines has suffered a material loss as a result of a minor's wrongful act or conduct.

(b) "Victim" includes the Utah Office for Victims of Crime.

(69) "Without merit" means the same as that term is defined in Section 62A-4a-101.

Section 4. Section 78A-6-703.1 (Superseded 09/01/21) is amended to read:

78A-6-703.1 (Superseded 09/01/21). Definitions.

As used in this part:

(1) "Minor" means:

(a) an individual:

(i) who is at least 18 years old and younger than 25 years old; and

(ii) whose case is under the continuing jurisdiction of the juvenile court; or

(b) an individual:

(i) who is younger than 21 years old;

(ii) who is charged with, or convicted of, an offense under Section 78A-6-703.2 or 78A-6-703.3; and

(iii) whose case is under the jurisdiction of the district court.

[~~(1)~~] (2) "Qualifying offense" means an offense described in Subsection 78A-6-703.3(1) or (2)(b).

[~~(2)~~] (3) "Separate offense" means any offense that is not a qualifying offense.

Section 5. Section 78A-6-703.2 (Superseded 09/01/21) is amended to read:

78A-6-703.2 (Superseded 09/01/21). Criminal information for a minor in district court.

(1) If a prosecuting attorney charges a minor with aggravated murder under Section 76-5-202 or murder under Section 76-5-203, the prosecuting attorney shall file a criminal information in the district court if the minor was the principal actor in an offense and the criminal information alleges:

(a) the minor was 16 or 17 years old at the time of the offense; and

(b) the offense for which the minor is being charged is:

(i) Section 76-5-202, aggravated murder; or

(ii) Section 76-5-203, murder.

(2) If the prosecuting attorney files a criminal information in the district court in accordance with Subsection (1), the district court shall try the minor as an adult, except:

(a) the minor is not subject to a sentence of death in accordance with Subsection 76-3-206(2)(b); and

(b) the minor is not subject to a sentence of life without parole in accordance with Subsection 76-3-206(2)(b) or 76-3-207.5(3) or Section 76-3-209.

(3) (a) Except for a minor who is subject to the authority of the Board of Pardons and Parole, a minor shall be held in a juvenile detention facility [~~until the district court determines where the minor will be held until the time of trial if:~~].

[~~(a) the minor is 16 or 17 years old; and~~]

[~~(b) the minor is arrested for aggravated murder or murder.~~]

[~~(4) In considering where a minor will be detained until the time of trial, the district court shall consider:~~]

[~~(a) the age of the minor;~~]

[~~(b) the nature, seriousness, and circumstances of the alleged offense;~~]

[~~(c) the minor's history of prior criminal acts;~~]

[~~(d) whether detention in a juvenile detention facility will adequately serve the need for community protection pending the outcome of any criminal proceedings;~~]

[~~(e) the relative ability of the facility to meet the needs of the minor and protect the public;~~]

[~~(f) the physical maturity of the minor;~~]

[~~(g) the current mental state of the minor as evidenced by relevant mental health or a psychological assessment or screening that is made available to the court; and~~]

[~~(h) any other factors that the court considers relevant.~~]

[~~(5)~~] (b) A minor [~~ordered to a juvenile detention facility under Subsection (4)~~] held in a juvenile detention facility under Subsection (3)(a) shall remain in the juvenile detention facility:

[~~(a)~~] (i) until released by the district court; or

[~~(b)~~] (ii) if convicted, until sentencing.

[~~(6)~~] (4) If a minor is held in a juvenile detention facility under Subsection [~~(4)~~] (3)(a), the court shall:

(a) advise the minor of the right to bail; and

(b) set initial bail in accordance with Title 77, Chapter 20, Bail.

[~~(7)~~] (5) If [~~the minor ordered to~~] a minor held in a juvenile detention facility under Subsection [~~(4)~~] (3)(a) attains the age of [~~18~~] 21 years old, the minor shall be transferred within 30 days to an adult jail until:

(a) released by the district court judge; or

(b) if convicted, sentencing.

[~~(8)~~] (6) If a minor is [~~ordered to~~] held in a juvenile detention facility under Subsection [~~(4)~~] (3)(a) and the minor's conduct or condition endangers the safety or welfare of others in the juvenile detention facility, the court may find that the minor shall be detained in another place of confinement considered appropriate by the court, including a jail or an adult facility for pretrial confinement.

[~~(9)~~] (7) If a minor is charged for aggravated murder or murder in the district court under this section, and all charges for aggravated murder or murder result in an acquittal, a finding of not guilty, or a dismissal:

(a) the juvenile court gains jurisdiction over all other offenses committed by the minor; and

(b) the Division of Juvenile Justice Services gains jurisdiction over the minor.

Section 6. Section 78A-6-703.5 (Superseded 09/01/21) is amended to read:

78A-6-703.5 (Superseded 09/01/21). Preliminary hearing.

(1) If a prosecuting attorney files a criminal information in accordance with Section 78A-6-703.3, the court shall conduct a preliminary hearing to determine whether a minor should be bound over to the district court for a qualifying offense.

(2) At the preliminary hearing under Subsection (1), the prosecuting attorney shall have the burden of establishing:

(a) probable cause to believe that a qualifying offense was committed and the minor committed that offense; and

(b) by a preponderance of the evidence, that it is contrary to the best interests of the minor and the public for the juvenile court to retain jurisdiction over the offense.

(3) In making a determination under Subsection (2)(b), the court shall consider and make findings on:

(a) the seriousness of the qualifying offense and whether the protection of the community requires that the minor is detained beyond the amount of time allowed under Subsection 78A-6-117(2)(h), or beyond the age of continuing jurisdiction that the court may exercise under Section 78A-6-703.4;

(b) the extent to which the minor's actions in the qualifying offense were committed in an aggressive, violent, premeditated, or willful manner;

(c) the minor's mental, physical, educational, trauma, and social history;

(d) the criminal record or history of the minor; and

(e) the likelihood of the minor's rehabilitation by the use of services and facilities that are available to the court.

(4) The amount of weight that each factor in Subsection (3) is given is in the court's discretion.

(5) (a) The court may consider any written report or other material that relates to the minor's mental, physical, educational, trauma, and social history.

(b) Upon request by the minor, the minor's parent, guardian, or other interested party, the court shall require the person preparing the report, or other material, under Subsection (5)(a) to appear and be subject to direct and cross-examination.

(6) At the preliminary hearing under Subsection (1), a minor may testify under oath, call witnesses, cross-examine witnesses, and present evidence on the factors described in Subsection (3).

(7) (a) A proceeding before the court related to a charge filed under this part shall be conducted in conformity with the Utah Rules of Juvenile Procedure.

(b) Title 78B, Chapter 22, Indigent Defense Act, and Section 78A-6-115 are applicable to the preliminary hearing under this section.

(8) If the court finds that the prosecuting attorney has met the burden of proof under Subsection (2), the court shall bind the minor over to the district court to be held for trial.

(9) (a) If the court finds that a qualifying offense has been committed by a minor, but the prosecuting attorney has not met the burden of proof under Subsection (2)(b), the court shall:

(i) proceed upon the criminal information as if the information were a petition under Section 78A-6-602.5;

(ii) release or detain the minor in accordance with Section 78A-6-113; and

(iii) proceed with an adjudication for the minor in accordance with this chapter.

(b) If the court finds that the prosecuting attorney has not met the burden under Subsection (2) to bind a minor over to the district court, the prosecuting attorney may file a motion to extend the court's continuing jurisdiction over the minor's case until the minor is 25 years old in accordance with Section 78A-6-703.4.

(10) (a) A prosecuting attorney may charge a minor with a separate offense in the same criminal information as the qualifying offense if the qualifying offense and separate offense arise from a single criminal episode.

(b) If the prosecuting attorney charges a minor with a separate offense as described in Subsection (10)(a):

(i) the prosecuting attorney shall have the burden of establishing probable cause to believe that the separate offense was committed and the minor committed the separate offense; and

(ii) if the prosecuting attorney establishes probable cause for the separate offense under Subsection (10)(b)(i) and the court binds the minor over to the district court for the qualifying offense, the court shall also bind the minor over for the separate offense to the district court.

(11) If a grand jury indicts a minor for a qualifying offense:

(a) the prosecuting attorney does not need to establish probable cause under Subsection (2)(a) for the qualifying offense and any separate offense included in the indictment; and

(b) the court shall proceed with determining whether the minor should be bound over to the district court for the qualifying offense and any separate offense included in the indictment in accordance with Subsections (2)(b) and (3).

(12) If a minor is bound over to the district court, the court shall:

(a) issue a criminal warrant of arrest for the minor to be held in a juvenile detention facility;

(b) advise the minor of the right to bail; and

(c) set initial bail in accordance with Title 77, Chapter 20, Bail.

[~~(13) (a) At the time that a minor is bound over to the district court, the court shall make an initial determination on where the minor is held until the time of trial.~~]

[~~(b) In determining where a minor is held until the time of trial, the court shall consider:~~]

[~~(i) the age of the minor;~~]

[~~(ii) the minor's history of prior criminal acts;~~]

[~~(iii) whether detention in a juvenile detention facility will adequately serve the need for community protection pending the outcome of any criminal proceedings;~~]

[~~(iv) the relative ability of the facility to meet the needs of the minor and protect the public;~~]

[~~(v) the physical maturity of the minor;~~]

[~~(vi) the current mental state of the minor as evidenced by relevant mental health or psychological assessments or screenings that are made available to the court; and~~]

[~~(vii) any other factors that the court considers relevant.~~]

[~~(14) If the court orders a minor to be detained in a juvenile detention facility under Subsection (13), the minor shall remain in the facility:~~]

(13) If the court orders a minor to be detained until the time of trial:

(a) the minor shall be held in a juvenile detention facility, except that a minor who is subject to the authority of the Board of Pardons and Parole may not be held in a juvenile detention facility; and

(b) the minor shall remain in the juvenile detention facility:

[~~(a)~~] (i) until released by a district court; or

[~~(b)~~] (ii) if convicted, until sentencing.

[~~(15)~~] (14) If [~~the court orders the minor to be detained~~] a minor is held in a juvenile detention facility under Subsection (13) and the minor attains the age of [~~18~~] 21 years old while detained at [~~the~~] a juvenile detention facility, the minor shall be transferred within 30 days to an adult jail to remain:

(a) until released by the district court; or

(b) if convicted, until sentencing.

[~~(16)~~] (15) Except as provided in Subsection [~~(17)~~] (16) and Section 78A-6-705, if a minor is bound over to the district court under this section, the jurisdiction of the Division of Juvenile Justice Services and the juvenile court over the minor is terminated for the qualifying offense and any other separate offense for which the minor is bound over.

[~~(17)~~] (16) If a minor is bound over to the district court for a qualifying offense and the qualifying offense results in an acquittal, a finding of not guilty, or a dismissal:

(a) the juvenile court regains jurisdiction over any separate offense committed by the minor; and

(b) the Division of Juvenile Justice Services regains jurisdiction over the minor.

Section 7. Section 78A-6-703.6 (Superseded 09/01/21) is amended to read:

78A-6-703.6 (Superseded 09/01/21). Criminal proceedings for a minor bound over to district court.

(1) If the juvenile court binds a minor over to the district court in accordance with Section 78A-6-703.5, the prosecuting attorney shall try the minor as if the minor is an adult in the district court except:

(a) the minor is not subject to a sentence of death in accordance with Subsection 76-3-206(2)(b); and

(b) the minor is not subject to a sentence of life without parole in accordance with Subsection 76-3-206(2)(b) or 76-3-207.5(3) or Section 76-3-209.

(2) A minor who is bound over to the district court to answer as an adult is not entitled to a preliminary hearing in the district court.

[~~(3) (a) If a minor is bound over to the district court by the juvenile court, the district court may reconsider the juvenile court's decision under Subsection 78A-6-703.5(13) as to where the minor is being held until trial.~~]

[~~(b) If the district court reconsiders the juvenile court's decision as to where the minor is held, the district court shall consider and make findings on:~~]

[~~(i) the age of the minor;~~]

[~~(ii) the minor's history of prior criminal acts;~~]

[~~(iii) whether detention in a juvenile detention facility will adequately serve the need for community protection pending the outcome of any criminal proceedings;~~]

[~~(iv) the relative ability of the facility to meet the needs of the minor and protect the public;~~]

[~~(v) the physical maturity of the minor;~~]

[~~(vi) the current mental state of the minor as evidenced by relevant mental health or psychological assessments or screenings that are made available to the court; and~~]

[~~(vii) any other factors the court considers relevant.~~]

[~~(4) A minor who is ordered to a juvenile detention facility under Subsection (3) shall remain in the facility:~~]

[~~(a) until released by a district court; or~~]

[~~(b) if convicted, until sentencing.~~]

[~~(5) If the district court orders the minor to be detained in a juvenile detention facility under~~

~~Subsection (3) and the minor attains the age of 18 while detained at the facility, the minor shall be transferred within 30 days to an adult jail to remain:~~]

[~~(a) until released by the district court; or~~]

[~~(b) if convicted, until sentencing.~~]

[~~(6)~~] (3) If a minor is bound over to the district court and detained in a juvenile detention facility, the district court may order the minor be detained in another place of confinement that is considered appropriate by the district court, including a jail or other place of pretrial confinement for adults if the minor's conduct or condition endangers the safety and welfare of others in the juvenile detention facility.

[~~(7)~~] (4) If the district court obtains jurisdiction over a minor under Section 78A-6-703.5, the district court is not divested of jurisdiction for a qualifying offense or a separate offense listed in the criminal information when the minor is allowed to enter a plea to, or is found guilty of, another offense in the same criminal information.

Section 8. Section 78A-6-705 (Superseded 09/01/21) is amended to read:

78A-6-705 (Superseded 09/01/21). Youth prison commitment.

[~~(1) (a) Before sentencing a minor, who was bound over to the district court under Section 78A-6-703.5 to be tried as an adult, to prison the district court shall request a report from the Division of Juvenile Justice Services regarding the potential risk to other minors if the minor were to be committed to the custody of the Division of Juvenile Justice Services.~~]

[~~(b) The Division of Juvenile Justice Services shall submit the requested report to the district court as part of the pre-sentence report or as a separate report.~~]

[~~(2) If, after receiving the report described in Subsection (1),~~] (1) When sentencing a minor, if the district court determines that probation is not appropriate and commitment to prison is an appropriate sentence[~~,~~]:

(a) the district court shall order the minor committed to prison; and

(b) the minor shall be provisionally housed in a secure facility operated by the Division of Juvenile Justice Services until the minor reaches [~~18~~] 21 years old, unless released earlier from incarceration by the Board of Pardons and Parole.

[~~(3) The district court may order the minor committed directly to the custody of the Department of Corrections if the court finds that:~~]

[~~(a) the minor would present an unreasonable risk to others while in the custody of the Division of Juvenile Justice Services;~~]

[~~(b) the minor has previously been committed to a prison for adult offenders; or~~]

[~~(c) housing the minor in a secure facility operated by the Division of Juvenile Justice Services would be contrary to the interests of justice.~~]

[~~(4)~~] (2) (a) The Division of Juvenile Justice Services shall adopt procedures by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, regarding the transfer of a minor provisionally housed in a division facility under Subsection [~~(2)~~] (1) to the physical custody of the Department of Corrections.

(b) If, in accordance with the rules adopted under Subsection [~~(4)~~] (2)(a), the Division of Juvenile Justice Services determines that housing the minor in a division facility presents an unreasonable risk to others or that it is not in the best interest of the minor, the Division of Juvenile Justice Services shall transfer the physical custody of the minor to the Department of Corrections.

[~~(5)~~] (3) (a) When a minor is committed to prison but [~~ordered by a district court to be~~] provisionally housed in a Division of Juvenile Justice Services facility under this section, the district court and the Division of Juvenile Justice Services shall immediately notify the Board of Pardons and Parole so that the minor may be scheduled for a hearing according to board procedures.

(b) If a minor who is provisionally housed in a Division of Juvenile Justice Services facility under this section has not been paroled or otherwise released from incarceration by the time the minor reaches [~~18~~] 21 years old, the Division of Juvenile Justice Services shall as soon as reasonably possible, but not later than when the minor reaches [~~18~~] 21 years and 6 months old, transfer the minor to the physical custody of the Department of Corrections.

[~~(6)~~] (4) Upon the commitment of a minor to the custody of the Division of Juvenile Justice Services or the Department of Corrections under this section, the Board of Pardons and Parole has authority over the minor for purposes of parole, pardon, commutation, termination of sentence, remission of fines or forfeitures, orders of restitution, and all other purposes authorized by law.

[~~(7)~~] (5) The Youth Parole Authority [~~may~~] shall:

(a) hold hearings, receive reports, or otherwise keep informed of the progress of a minor in the custody of the Division of Juvenile Justice Services under this section; and [~~may~~]

(b) forward to the Board of Pardons and Parole any information or recommendations concerning the minor.

[~~(8)~~] (6) Commitment of a minor under this section is a prison commitment for all sentencing purposes.

Section 9. Section 80-1-102 (Effective 09/01/21) is amended to read:

80-1-102 (Effective 09/01/21). Juvenile code definitions.

As used in this title:

(1) (a) "Abuse" means:

(i) (A) nonaccidental harm of a child;

(B) threatened harm of a child;

(C) sexual exploitation;

(D) sexual abuse; or

(E) human trafficking of a child in violation of Section 76-5-308.5; or

(ii) that a child's natural parent:

(A) intentionally, knowingly, or recklessly causes the death of another parent of the child;

(B) is identified by a law enforcement agency as the primary suspect in an investigation for intentionally, knowingly, or recklessly causing the death of another parent of the child; or

(C) is being prosecuted for or has been convicted of intentionally, knowingly, or recklessly causing the death of another parent of the child.

(b) "Abuse" does not include:

(i) reasonable discipline or management of a child, including withholding privileges;

(ii) conduct described in Section 76-2-401; or

(iii) the use of reasonable and necessary physical restraint or force on a child:

(A) in self-defense;

(B) in defense of others;

(C) to protect the child; or

(D) to remove a weapon in the possession of a child for any of the reasons described in Subsections (1)(b)(iii)(A) through (C).

(2) "Abused child" means a child who has been subjected to abuse.

(3) (a) "Adjudication" means a finding by the court, incorporated in a decree, that the facts alleged in the petition have been proved.

(b) "Adjudication" does not mean a finding of not competent to proceed in accordance with Section 80-6-402.

(4) (a) "Adult" means an individual who is 18 years old or older.

(b) "Adult" does not include an individual:

(i) who is 18 years old or older; and

(ii) who is a minor.

(5) "Attorney guardian ad litem" means the same as that term is defined in Section 78A-2-801.

(6) "Board" means the Board of Juvenile Court Judges.

(7) "Child" means an individual who is under 18 years old.

(8) "Child and family plan" means a written agreement between a child's parents or guardian and the Division of Child and Family Services as described in Section 62A-4a-205.

(9) "Child placement agency" means:

(a) a private agency licensed to receive a child for placement or adoption under this code; or

(b) a private agency that receives a child for placement or adoption in another state, which is licensed or approved where such license or approval is required by law.

(10) "Clandestine laboratory operation" means the same as that term is defined in Section 58-37d-3.

(11) "Commit" or "committed" means, unless specified otherwise:

(a) with respect to a child, to transfer legal custody; and

(b) with respect to a minor who is at least 18 years old, to transfer custody.

(12) "Community-based program" means a nonsecure residential or nonresidential program, designated to supervise and rehabilitate juvenile offenders, that prioritizes the least restrictive setting, consistent with public safety, and operated by or under contract with the Division of Juvenile Justice Services.

(13) "Community placement" means placement of a minor in a community-based program described in Section 80-5-402.

(14) "Correctional facility" means:

(a) a county jail; or

(b) a secure correctional facility as defined in Section 64-13-1.

(15) "Criminogenic risk factors" means evidence-based factors that are associated with a minor's likelihood of reoffending.

(16) "Department" means the Department of Human Services created in Section 62A-1-102.

(17) "Dependent child" or "dependency" means a child who is without proper care through no fault of the child's parent, guardian, or custodian.

(18) "Deprivation of custody" means transfer of legal custody by the juvenile court from a parent or a previous custodian to another person, agency, or institution.

(19) "Detention" means home detention or secure detention.

(20) "Detention risk assessment tool" means an evidence-based tool established under Section 80-5-203 that:

(a) assesses a minor's risk of failing to appear in court or reoffending before adjudication; and

(b) is designed to assist in making a determination of whether a minor shall be held in detention.

(21) "Developmental immaturity" means incomplete development in one or more domains

that manifests as a functional limitation in the minor's present ability to:

(a) consult with counsel with a reasonable degree of rational understanding; and

(b) have a rational as well as factual understanding of the proceedings.

(22) "Disposition" means an order by a juvenile court, after the adjudication of a minor, under Section 80-3-405 or 80-4-305 or Chapter 6, Part 7, Adjudication and Disposition.

(23) "Educational neglect" means that, after receiving a notice of compulsory education violation under Section 53G-6-202, the parent or guardian fails to make a good faith effort to ensure that the child receives an appropriate education.

(24) "Educational series" means an evidence-based instructional series:

(a) obtained at a substance abuse program that is approved by the Division of Substance Abuse and Mental Health in accordance with Section 62A-15-105; and

(b) designed to prevent substance use or the onset of a mental health disorder.

(25) "Emancipated" means the same as that term is defined in Section 80-7-102.

(26) "Evidence-based" means a program or practice that has had multiple randomized control studies or a meta-analysis demonstrating that the program or practice is effective for a specific population or has been rated as effective by a standardized program evaluation tool.

(27) "Forensic evaluator" means the same as that term is defined in Section 77-15-2.

(28) "Formal probation" means a minor is:

(a) supervised in the community by, and reports to, a juvenile probation officer or an agency designated by the juvenile court; and

(b) subject to return to the juvenile court in accordance with Section 80-6-607.

(29) "Group rehabilitation therapy" means psychological and social counseling of one or more individuals in the group, depending upon the recommendation of the therapist.

(30) "Guardian" means a person appointed by a court to make decisions regarding a minor, including the authority to consent to:

(a) marriage;

(b) enlistment in the armed forces;

(c) major medical, surgical, or psychiatric treatment; or

(d) legal custody, if legal custody is not vested in another individual, agency, or institution.

(31) "Guardian ad litem" means the same as that term is defined in Section 78A-2-801.

(32) "Harm" means:

(a) physical or developmental injury or damage;

(b) emotional damage that results in a serious impairment in the child's growth, development, behavior, or psychological functioning;

(c) sexual abuse; or

(d) sexual exploitation.

(33) "Home detention" means placement of a minor:

(a) if prior to a disposition, in the minor's home, or in a surrogate home with the consent of the minor's parent, guardian, or custodian, under terms and conditions established by the Division of Juvenile Justice Services or the juvenile court; or

(b) if after a disposition, and in accordance with Section 78A-6-353 or 80-6-704, in the minor's home, or in a surrogate home with the consent of the minor's parent, guardian, or custodian, under terms and conditions established by the Division of Juvenile Justice Services or the juvenile court.

(34) (a) "Incest" means engaging in sexual intercourse with an individual whom the perpetrator knows to be the perpetrator's ancestor, descendant, brother, sister, uncle, aunt, nephew, niece, or first cousin.

(b) "Incest" includes:

(i) blood relationships of the whole or half blood, without regard to legitimacy;

(ii) relationships of parent and child by adoption; and

(iii) relationships of stepparent and stepchild while the marriage creating the relationship of a stepparent and stepchild exists.

(35) "Indian child" means the same as that term is defined in 25 U.S.C. Sec. 1903.

(36) "Indian tribe" means the same as that term is defined in 25 U.S.C. Sec. 1903.

(37) "Indigent defense service provider" means the same as that term is defined in Section 78B-22-102.

(38) "Indigent defense services" means the same as that term is defined in Section 78B-22-102.

(39) "Indigent individual" means the same as that term is defined in Section 78B-22-102.

(40) (a) "Intake probation" means a minor is:

(i) monitored by a juvenile probation officer; and

(ii) subject to return to the juvenile court in accordance with Section 80-6-607.

(b) "Intake probation" does not include formal probation.

(41) "Intellectual disability" means a significant subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior that constitutes a substantial limitation to the individual's ability to function in society.

(42) "Juvenile offender" means:

(a) a serious youth offender; or

(b) a youth offender.

(43) "Juvenile probation officer" means a probation officer appointed under Section 78A-6-205.

(44) "Juvenile receiving center" means a nonsecure, nonresidential program established by the Division of Juvenile Justice Services, or under contract with the Division of Juvenile Justice Services, that is responsible for minors taken into temporary custody under Section 80-6-201.

(45) "Legal custody" means a relationship embodying:

(a) the right to physical custody of the minor;

(b) the right and duty to protect, train, and discipline the minor;

(c) the duty to provide the minor with food, clothing, shelter, education, and ordinary medical care;

(d) the right to determine where and with whom the minor shall live; and

(e) the right, in an emergency, to authorize surgery or other extraordinary care.

(46) "Mental illness" means:

(a) a psychiatric disorder that substantially impairs an individual's mental, emotional, behavioral, or related functioning; or

(b) the same as that term is defined in:

(i) the current edition of the Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association; or

(ii) the current edition of the International Statistical Classification of Diseases and Related Health Problems.

(47) "Minor" means, except as provided in Sections [~~80-6-901~~] 80-6-501, 80-6-901, and 80-7-102:

(a) a child; or

(b) an individual:

(i) (A) who is at least 18 years old and younger than 21 years old; and

(B) for whom the Division of Child and Family Services has been specifically ordered by the juvenile court to provide services because the individual was an abused, neglected, or dependent child or because the individual was adjudicated for an offense; or

(ii) (A) who is at least 18 years old and younger than 25 years old; and

(B) whose case is under the continuing jurisdiction of the juvenile court under Chapter 6, Juvenile Justice.

(48) "Mobile crisis outreach team" means the same as that term is defined in Section 62A-15-102.

(49) "Molestation" means that an individual, with the intent to arouse or gratify the sexual desire of any individual, touches the anus, buttocks, pubic area, or genitalia of any child, or the breast of a female child, or takes indecent liberties with a child as defined in Section 76-5-416.

(50) (a) "Natural parent" means a minor's biological or adoptive parent.

(b) "Natural parent" includes the minor's noncustodial parent.

(51) (a) "Neglect" means action or inaction causing:

(i) abandonment of a child, except as provided in Title 62A, Chapter 4a, Part 8, Safe Relinquishment of a Newborn Child;

(ii) lack of proper parental care of a child by reason of the fault or habits of the parent, guardian, or custodian;

(iii) failure or refusal of a parent, guardian, or custodian to provide proper or necessary subsistence or medical care, or any other care necessary for the child's health, safety, morals, or well-being;

(iv) a child to be at risk of being neglected or abused because another child in the same home is neglected or abused;

(v) abandonment of a child through an unregulated custody transfer; or

(vi) educational neglect.

(b) "Neglect" does not include:

(i) a parent or guardian legitimately practicing religious beliefs and who, for that reason, does not provide specified medical treatment for a child;

(ii) a health care decision made for a child by the child's parent or guardian, unless the state or other party to a proceeding shows, by clear and convincing evidence, that the health care decision is not reasonable and informed;

(iii) a parent or guardian exercising the right described in Section 80-3-304; or

(iv) permitting a child, whose basic needs are met and who is of sufficient age and maturity to avoid harm or unreasonable risk of harm, to engage in independent activities, including:

(A) traveling to and from school, including by walking, running, or bicycling;

(B) traveling to and from nearby commercial or recreational facilities;

(C) engaging in outdoor play;

(D) remaining in a vehicle unattended, except under the conditions described in Subsection 76-10-2202(2);

(E) remaining at home unattended; or

(F) engaging in a similar independent activity.

(52) "Neglected child" means a child who has been subjected to neglect.

(53) "Nonjudicial adjustment" means closure of the case by the assigned juvenile probation officer, without an adjudication of the minor's case under Section 80-6-701, upon the consent in writing of:

(a) the assigned juvenile probation officer; and

(b) (i) the minor; or

(ii) the minor and the minor's parent, legal guardian, or custodian.

(54) "Not competent to proceed" means that a minor, due to a mental illness, intellectual disability or related condition, or developmental immaturity, lacks the ability to:

(a) understand the nature of the proceedings against the minor or of the potential disposition for the offense charged; or

(b) consult with counsel and participate in the proceedings against the minor with a reasonable degree of rational understanding.

(55) "Parole" means a conditional release of a juvenile offender from residency in secure care to live outside of secure care under the supervision of the Division of Juvenile Justice Services, or another person designated by the Division of Juvenile Justice Services.

(56) "Physical abuse" means abuse that results in physical injury or damage to a child.

(57) (a) "Probation" means a legal status created by court order, following an adjudication under Section 80-6-701, whereby the minor is permitted to remain in the minor's home under prescribed conditions.

(b) "Probation" includes intake probation or formal probation.

(58) "Prosecuting attorney" means:

(a) the attorney general and any assistant attorney general;

(b) any district attorney or deputy district attorney;

(c) any county attorney or assistant county attorney; and

(d) any other attorney authorized to commence an action on behalf of the state.

(59) "Protective custody" means the shelter of a child by the Division of Child and Family Services from the time the child is removed from the home until the earlier of:

(a) the day on which the shelter hearing is held under Section 80-3-301; or

(b) the day on which the child is returned home.

(60) "Protective supervision" means a legal status created by court order, following an adjudication on the ground of abuse, neglect, or dependency, whereby:

(a) the minor is permitted to remain in the minor's home; and

(b) supervision and assistance to correct the abuse, neglect, or dependency is provided by an agency designated by the juvenile court.

(61) (a) "Related condition" means a condition that:

(i) is found to be closely related to intellectual disability;

(ii) results in impairment of general intellectual functioning or adaptive behavior similar to that of an intellectually disabled individual;

(iii) is likely to continue indefinitely; and

(iv) constitutes a substantial limitation to the individual's ability to function in society.

(b) "Related condition" does not include mental illness, psychiatric impairment, or serious emotional or behavioral disturbance.

(62) (a) "Residual parental rights and duties" means the rights and duties remaining with a parent after legal custody or guardianship, or both, have been vested in another person or agency, including:

(i) the responsibility for support;

(ii) the right to consent to adoption;

(iii) the right to determine the child's religious affiliation; and

(iv) the right to reasonable parent-time unless restricted by the court.

(b) If no guardian has been appointed, "residual parental rights and duties" includes the right to consent to:

(i) marriage;

(ii) enlistment; and

(iii) major medical, surgical, or psychiatric treatment.

(63) "Runaway" means a child, other than an emancipated child, who willfully leaves the home of the child's parent or guardian, or the lawfully prescribed residence of the child, without permission.

(64) "Secure care" means placement of a minor, who is committed to the Division of Juvenile Justice Services for rehabilitation, in a facility operated by, or under contract with, the Division of Juvenile Justice Services, that provides 24-hour supervision and confinement of the minor.

(65) "Secure care facility" means a facility, established in accordance with Section 80-5-503, for juvenile offenders in secure care.

(66) "Secure detention" means temporary care of a minor who requires secure custody in a physically restricting facility operated by, or under contract with, the Division of Juvenile Justice Services:

(a) before disposition of an offense that is alleged to have been committed by the minor; or

(b) under Section 80-6-704.

(67) "Serious youth offender" means an individual who:

(a) is at least 14 years old, but under 25 years old;

(b) committed a felony listed in Subsection 80-6-503(1) and the continuing jurisdiction of the juvenile court was extended over the individual's case until the individual was 25 years old in accordance with Section 80-6-605; and

(c) is committed by the juvenile court to the Division of Juvenile Justice Services for secure care under Sections 80-6-703 and 80-6-705.

(68) "Severe abuse" means abuse that causes or threatens to cause serious harm to a child.

(69) "Severe neglect" means neglect that causes or threatens to cause serious harm to a child.

(70) "Sexual abuse" means:

(a) an act or attempted act of sexual intercourse, sodomy, incest, or molestation by an adult directed towards a child;

(b) an act or attempted act of sexual intercourse, sodomy, incest, or molestation committed by a child towards another child if:

(i) there is an indication of force or coercion;

(ii) the children are related, as described in Subsection (34), including siblings by marriage while the marriage exists or by adoption;

(iii) there have been repeated incidents of sexual contact between the two children, unless the children are 14 years old or older; or

(iv) there is a disparity in chronological age of four or more years between the two children;

(c) engaging in any conduct with a child that would constitute an offense under any of the following, regardless of whether the individual who engages in the conduct is actually charged with, or convicted of, the offense:

(i) Title 76, Chapter 5, Part 4, Sexual Offenses, except for Section 76-5-401, if the alleged perpetrator of an offense described in Section 76-5-401 is a minor;

(ii) child bigamy, Section 76-7-101.5;

(iii) incest, Section 76-7-102;

(iv) lewdness, Section 76-9-702;

(v) sexual battery, Section 76-9-702.1;

(vi) lewdness involving a child, Section 76-9-702.5; or

(vii) voyeurism, Section 76-9-702.7; or

(d) subjecting a child to participate in or threatening to subject a child to participate in a sexual relationship, regardless of whether that sexual relationship is part of a legal or cultural marriage.

(71) "Sexual exploitation" means knowingly:

(a) employing, using, persuading, inducing, enticing, or coercing any child to:

(i) pose in the nude for the purpose of sexual arousal of any individual; or

(ii) engage in any sexual or simulated sexual conduct for the purpose of photographing, filming, recording, or displaying in any way the sexual or simulated sexual conduct;

(b) displaying, distributing, possessing for the purpose of distribution, or selling material depicting a child:

(i) in the nude, for the purpose of sexual arousal of any individual; or

(ii) engaging in sexual or simulated sexual conduct; or

(c) engaging in any conduct that would constitute an offense under Section 76-5b-201, sexual exploitation of a minor, regardless of whether the individual who engages in the conduct is actually charged with, or convicted of, the offense.

(72) "Shelter" means the temporary care of a child in a physically unrestricted facility pending a disposition or transfer to another jurisdiction.

(73) "Shelter facility" means the same as that term is defined in Section 62A-4a-101.

(74) "Single criminal episode" means the same as that term is defined in Section 76-1-401.

(75) "Status offense" means an offense that would not be an offense but for the age of the offender.

(76) "Substance abuse" means the misuse or excessive use of alcohol or other drugs or substances.

(77) "Substantiated" means the same as that term is defined in Section 62A-4a-101.

(78) "Supported" means the same as that term is defined in Section 62A-4a-101.

(79) "Termination of parental rights" means the permanent elimination of all parental rights and duties, including residual parental rights and duties, by court order.

(80) "Therapist" means:

(a) an individual employed by a state division or agency for the purpose of conducting psychological treatment and counseling of a minor in the division's or agency's custody; or

(b) any other individual licensed or approved by the state for the purpose of conducting psychological treatment and counseling.

(81) "Threatened harm" means actions, inactions, or credible verbal threats, indicating that the child is at an unreasonable risk of harm or neglect.

(82) "Ungovernable" means a child in conflict with a parent or guardian, and the conflict:

(a) results in behavior that is beyond the control or ability of the child, or the parent or guardian, to manage effectively;

(b) poses a threat to the safety or well-being of the child, the child's family, or others; or

(c) results in the situations described in Subsections (82)(a) and (b).

(83) "Unregulated custody transfer" means the placement of a child:

(a) with an individual who is not the child's parent, step-parent, grandparent, adult sibling, adult uncle or aunt, or legal guardian, or a friend of the family who is an adult and with whom the child is familiar, or a member of the child's federally recognized tribe;

(b) with the intent of severing the child's existing parent-child or guardian-child relationship; and

(c) without taking:

(i) reasonable steps to ensure the safety of the child and permanency of the placement; and

(ii) the necessary steps to transfer the legal rights and responsibilities of parenthood or guardianship to the individual taking custody of the child.

(84) "Unsupported" means the same as that term is defined in Section 62A-4a-101.

(85) "Unsubstantiated" means the same as that term is defined in Section 62A-4a-101.

(86) "Validated risk and needs assessment" means an evidence-based tool that assesses a minor's risk of reoffending and a minor's criminogenic needs.

(87) "Without merit" means the same as that term is defined in Section 62A-4a-101.

(88) "Youth offender" means an individual who is:

(a) at least 12 years old, but under 21 years old; and

(b) committed by the juvenile court to the Division of Juvenile Justice Services for secure care under Sections 80-6-703 and 80-6-705.

Section 10. Section 80-6-501 (Effective 09/01/21) is amended to read:

80-6-501 (Effective 09/01/21). Definitions.

As used in this part:

(1) "Minor" means:

(a) an individual:

(i) who is at least 18 years old and younger than 25 years old; and

(ii) whose case is under the continuing jurisdiction of the juvenile court; or

(b) an individual:

(i) who is younger than 21 years old;

(ii) who is charged with, or convicted of, an offense under Section 80-6-502 or 80-6-503; and

(iii) whose case is under the jurisdiction of the district court.

[~~(1)~~] (2) "Qualifying offense" means an offense described in Subsection 80-6-503(1) or (2)(b).

[~~(2)~~] (3) "Separate offense" means any offense that is not a qualifying offense.

Section 11. Section 80-6-502 (Effective 09/01/21) is amended to read:

80-6-502 (Effective 09/01/21). Criminal information for a minor in district court.

(1) If a prosecuting attorney charges a minor with aggravated murder under Section 76-5-202 or murder under Section 76-5-203, the prosecuting attorney shall file a criminal information in the district court if the minor was the principal actor in an offense and the criminal information alleges:

(a) the minor was 16 or 17 years old at the time of the offense; and

(b) the offense for which the minor is being charged is:

(i) Section 76-5-202, aggravated murder; or

(ii) Section 76-5-203, murder.

(2) If the prosecuting attorney files a criminal information in the district court in accordance with Subsection (1), the district court shall try the minor as an adult, except:

(a) the minor is not subject to a sentence of death in accordance with Subsection 76-3-206(2)(b); and

(b) the minor is not subject to a sentence of life without parole in accordance with Subsection 76-3-206(2)(b) or 76-3-207.5(3) or Section 76-3-209.

(3) (a) Except for a minor who is subject to the authority of the Board of Pardons and Parole, a minor shall be held in a detention facility [~~until the district court determines where the minor will be held until the time of trial if:~~].

[~~(a) the minor is 16 or 17 years old; and~~]

[~~(b) the minor is arrested for aggravated murder or murder.~~]

[~~(4) In considering where a minor will be detained until the time of trial, the district court shall consider:~~]

[~~(a) the age of the minor;~~]

[~~(b) the nature, seriousness, and circumstances of the alleged offense;~~]

[~~(c) the minor's history of prior criminal acts;~~]

[~~(d) whether the minor being detained in a detention facility will adequately serve the need for community protection pending the outcome of any criminal proceedings;~~]

[~~(e) the relative ability of the facility to meet the needs of the minor and protect the public;~~]

[~~(f) the physical maturity of the minor;~~]

[~~(g) the current mental state of the minor as evidenced by relevant mental health or a psychological assessment or screening that is made available to the district court; and~~]

[~~(h) any other factors that the district court considers relevant.~~]

[~~(5)~~] (b) A minor [~~ordered to a detention facility under Subsection (4)~~] held in a detention facility under Subsection (3)(a) shall remain in the facility:

[~~(a)~~] (i) until released by the district court; or

[~~(b)~~] (ii) if convicted, until sentencing.

[~~(6)~~] (4) If a minor is held in a detention facility under Subsection [~~(4)~~] (3)(a), the district court shall:

(a) advise the minor of the right to bail; and

(b) set initial bail in accordance with Title 77, Chapter 20, Bail.

[~~(7) If the minor ordered to~~] (5) If a minor held in a detention facility under Subsection [~~(4)~~] (3)(a) attains the age of [~~18~~] 21 years old, the minor shall be transferred within 30 days to an adult jail until:

(a) released by the district court; or

(b) if convicted, sentencing.

[~~(8)~~] (6) If a minor is [~~ordered to~~] held in a detention facility under Subsection [~~(4)~~] (3)(a) and the minor's conduct or condition endangers the safety or welfare of others in the detention facility, the district court may find that the minor shall be detained in another place of confinement considered appropriate by the district court, including a jail or an adult facility for pretrial confinement.

[~~(9)~~] (7) If a minor is charged for aggravated murder or murder in the district court under this section, and all charges for aggravated murder or murder result in an acquittal, a finding of not guilty, or a dismissal:

(a) the juvenile court gains jurisdiction over all other offenses committed by the minor; and

(b) the division gains jurisdiction over the minor.

Section 12. Section 80-6-504 (Effective 09/01/21) is amended to read:

80-6-504 (Effective 09/01/21). Preliminary hearing -- Grounds for transfer -- Detention of a minor bound over to the district court.

(1) If a prosecuting attorney files a criminal information in accordance with Section 80-6-503, the juvenile court shall conduct a preliminary hearing to determine whether a minor should be bound over to the district court for a qualifying offense.

(2) At the preliminary hearing under Subsection (1), the prosecuting attorney shall have the burden of establishing:

(a) probable cause to believe that a qualifying offense was committed and the minor committed that offense; and

(b) by a preponderance of the evidence, that it is contrary to the best interests of the minor and the public for the juvenile court to retain jurisdiction over the offense.

(3) In making a determination under Subsection (2)(b), the juvenile court shall consider and make findings on:

(a) the seriousness of the qualifying offense and whether the protection of the community requires that the minor is detained beyond the amount of time allowed under Subsection 80-6-802(1), or beyond the age of continuing jurisdiction that the juvenile court may exercise under Section 80-6-605;

(b) the extent to which the minor's actions in the qualifying offense were committed in an aggressive, violent, premeditated, or willful manner;

(c) the minor's mental, physical, educational, trauma, and social history;

(d) the criminal record or history of the minor; and

(e) the likelihood of the minor's rehabilitation by the use of services and facilities that are available to the juvenile court.

(4) The amount of weight that each factor in Subsection (3) is given is in the juvenile court's discretion.

(5) (a) The juvenile court may consider any written report or other material that relates to the minor's mental, physical, educational, trauma, and social history.

(b) Upon request by the minor, the minor's parent, guardian, or other interested party, the juvenile court shall require the person preparing the report, or other material, under Subsection (5)(a) to appear and be subject to direct and cross-examination.

(6) At the preliminary hearing under Subsection (1), a minor may testify under oath, call witnesses, cross-examine witnesses, and present evidence on the factors described in Subsection (3).

(7) (a) A proceeding before the juvenile court related to a charge filed under this part shall be conducted in conformity with the Utah Rules of Juvenile Procedure.

(b) Sections 80-6-602, 80-6-603, and 80-6-604 are applicable to the preliminary hearing under this section.

(8) If the juvenile court finds that the prosecuting attorney has met the burden of proof under Subsection (2), the juvenile court shall bind the minor over to the district court to be held for trial.

(9) (a) If the juvenile court finds that a qualifying offense has been committed by a minor, but the

prosecuting attorney has not met the burden of proof under Subsection (2)(b), the juvenile court shall:

(i) proceed upon the criminal information as if the information were a petition under Section 80-6-305;

(ii) release or detain the minor in accordance with Section 80-6-207; and

(iii) proceed with an adjudication for the minor in accordance with this chapter.

(b) If the juvenile court finds that the prosecuting attorney has not met the burden under Subsection (2) to bind a minor over to the district court, the prosecuting attorney may file a motion to extend the juvenile court's continuing jurisdiction over the minor's case until the minor is 25 years old in accordance with Section 80-6-605.

(10) (a) A prosecuting attorney may charge a minor with a separate offense in the same criminal information as the qualifying offense if the qualifying offense and separate offense arise from a single criminal episode.

(b) If the prosecuting attorney charges a minor with a separate offense as described in Subsection (10)(a):

(i) the prosecuting attorney shall have the burden of establishing probable cause to believe that the separate offense was committed and the minor committed the separate offense; and

(ii) if the prosecuting attorney establishes probable cause for the separate offense under Subsection (10)(b)(i) and the juvenile court binds the minor over to the district court for the qualifying offense, the juvenile court shall also bind the minor over for the separate offense to the district court.

(11) If a grand jury indicts a minor for a qualifying offense:

(a) the prosecuting attorney does not need to establish probable cause under Subsection (2)(a) for the qualifying offense and any separate offense included in the indictment; and

(b) the juvenile court shall proceed with determining whether the minor should be bound over to the district court for the qualifying offense and any separate offense included in the indictment in accordance with Subsections (2)(b) and (3).

(12) If a minor is bound over to the district court, the juvenile court shall:

(a) issue a criminal warrant of arrest for the minor to be held in a detention facility;

(b) advise the minor of the right to bail; and

(c) set initial bail in accordance with Title 77, Chapter 20, Bail.

[~~(13) (a) At the time that a minor is bound over to the district court, the juvenile court shall make an initial determination on where the minor is held until the time of trial.~~]

[~~(b) In determining where a minor is held until the time of trial, the juvenile court shall consider:~~]

[~~(i) the age of the minor;~~]

[~~(ii) the minor's history of prior criminal acts;~~]

[~~(iii) whether the minor being detained in a detention facility will adequately serve the need for community protection pending the outcome of any criminal proceedings;~~]

[~~(iv) the relative ability of the facility to meet the needs of the minor and protect the public;~~]

[~~(v) the physical maturity of the minor;~~]

[~~(vi) the current mental state of the minor as evidenced by relevant mental health or psychological assessments or screenings that are made available to the juvenile court; and~~]

[~~(vii) any other factors that the court considers relevant.~~]

[~~(14) If the juvenile court orders a minor to be detained in a detention facility under Subsection (13), the minor shall remain in the detention facility:~~]

(13) If the juvenile court orders the minor to be detained until the time of trial:

(a) the minor shall be held in a detention facility, except that a minor who is subject to the authority of the Board of Pardons and Parole may not be held in a detention facility; and

(b) the minor shall remain in the detention facility:

[~~(a)~~] (i) until released by a district court; or

[~~(b)~~] (ii) if convicted, until sentencing.

[~~(15)~~] (14) If [~~the juvenile court orders the minor to be detained~~] a minor is held in a detention facility under Subsection (13) and the minor attains the age of [~~18~~] 21 years old while detained at the detention facility, the minor shall be transferred within 30 days to an adult jail to remain:

(a) until released by the district court; or

(b) if convicted, until sentencing.

[~~(16)~~] (15) Except as provided in Subsection [~~(17)~~] (16) and Section 80-6-507, if a minor is bound over to the district court under this section, the jurisdiction of the division and the juvenile court over the minor is terminated for the qualifying offense and any other separate offense for which the minor is bound over.

[~~(17)~~] (16) If a minor is bound over to the district court for a qualifying offense and the qualifying offense results in an acquittal, a finding of not guilty, or a dismissal:

(a) the juvenile court regains jurisdiction over any separate offense committed by the minor; and

(b) the division regains jurisdiction over the minor.

Section 13. Section 80-6-505 (Effective 09/01/21) is amended to read:

80-6-505 (Effective 09/01/21). Criminal proceedings for a minor bound over to district court.

(1) If the juvenile court binds a minor over to the district court in accordance with Section 80-6-504, the prosecuting attorney shall try the minor as if the minor is an adult in the district court except:

(a) the minor is not subject to a sentence of death in accordance with Subsection 76-3-206(2)(b); and

(b) the minor is not subject to a sentence of life without parole in accordance with Subsection 76-3-206(2)(b) or 76-3-207.5(3) or Section 76-3-209.

(2) A minor who is bound over to the district court to answer as an adult is not entitled to a preliminary hearing in the district court.

[~~(3) (a) If a minor is bound over to the district court by the juvenile court, the district court may reconsider the juvenile court's decision under Subsection 80-6-504(13) as to where the minor is being held until trial.~~]

[~~(b) If the district court reconsiders the juvenile court's decision as to where the minor is held, the district court shall consider and make findings on:~~]

[~~(i) the age of the minor;~~]

[~~(ii) the minor's history of prior criminal acts;~~]

[~~(iii) whether the minor being detained in a detention facility will adequately serve the need for community protection pending the outcome of any criminal proceedings;~~]

[~~(iv) the relative ability of the detention facility to meet the needs of the minor and protect the public;~~]

[~~(v) the physical maturity of the minor;~~]

[~~(vi) the current mental state of the minor as evidenced by relevant mental health or psychological assessments or screenings that are made available to the district court; and~~]

[~~(vii) any other factors the district court considers relevant.~~]

[~~(4) A minor who is ordered to a detention facility under Subsection (3) shall remain in the facility:~~]

[~~(a) until released by a district court; or~~]

[~~(b) if convicted, until sentencing.~~]

[~~(5) If the district court orders the minor to be detained in a detention facility under Subsection (3) and the minor attains the age of 18 while detained at the detention facility, the minor shall be transferred within 30 days to an adult jail to remain:~~]

[~~(a) until released by the district court; or~~]

[~~(b) if convicted, until sentencing.~~]

[~~(6)~~] (3) If a minor is bound over to the district court and detained in a detention facility, the district court may order the minor be detained in another place of confinement that is considered appropriate by the district court, including a jail or other place of pretrial confinement for adults if the minor's conduct or condition endangers the safety and welfare of others in the detention facility.

[~~(7)~~] (4) If the district court obtains jurisdiction over a minor under Section 80-6-504, the district court is not divested of jurisdiction for a qualifying offense or a separate offense listed in the criminal information when the minor is allowed to enter a plea to, or is found guilty of, another offense in the same criminal information.

Section 14. Section 80-6-507 (Effective 09/01/21) is amended to read:

80-6-507 (Effective 09/01/21). Commitment of a minor by a district court.

[~~(1) (a) Before sentencing a minor, who was bound over to the district court under Section 80-6-504 to be tried as an adult, to prison, the district court shall request a report from the division regarding the potential risk to other minors if the minor were to be committed to the division.~~]

[~~(b) The division shall submit the requested report to the district court as part of the presentence report or as a separate report.~~]

[~~(2) If, after receiving the report described in Subsection (1),~~] (1) When sentencing a minor, if the district court determines that probation is not appropriate and commitment to prison is an appropriate sentence[~~,~~]:

(a) the district court shall order the minor committed to prison; and

(b) the minor shall be provisionally housed in a secure care facility until the minor reaches [~~18~~] 21 years old, unless released earlier from incarceration by the Board of Pardons and Parole.

[~~(3) The district court may order the minor committed directly to the legal and physical custody of the Department of Corrections if the district court finds that:~~]

[~~(a) the minor would present an unreasonable risk to others while in the custody of the division;~~]

[~~(b) the minor has previously been committed to a prison for adult offenders; or~~]

[~~(c) housing the minor in a secure care facility would be contrary to the interests of justice.~~]

[~~(4)~~] (2) (a) The division shall adopt procedures by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, regarding the transfer of a minor provisionally housed in a secure care facility under Subsection [~~(2)~~] (1) to the physical custody of the Department of Corrections.

(b) If, in accordance with the rules adopted under Subsection [~~(4)~~] (2)(a), the division determines that housing the minor in a secure care facility presents an unreasonable risk to others or that it is not in the best interest of the minor, the division shall transfer the physical custody of the minor to the Department of Corrections.

[~~(5)~~] (3) (a) When a minor is committed to prison but [~~ordered by a district court to be~~] provisionally housed in a secure care facility under this section, the district court and the division shall immediately notify the Board of Pardons and Parole so that the minor may be scheduled for a hearing according to board procedures.

(b) If a minor who is provisionally housed in a secure care facility under this section has not been paroled or otherwise released from incarceration by the time the minor reaches [~~18~~] 21 years old, the division shall as soon as reasonably possible, but not later than when the minor reaches [~~18~~] 21 years and 6 months old, transfer the minor to the physical custody of the Department of Corrections.

[~~(6)~~] (4) Upon the commitment of a minor to the custody of the division or the Department of Corrections under this section, the Board of Pardons and Parole has authority over the minor for purposes of parole, pardon, commutation, termination of sentence, remission of fines or forfeitures, orders of restitution, and all other purposes authorized by law.

[~~(7)~~] (5) The authority [~~may~~] shall:

(a) hold hearings, receive reports, or otherwise keep informed of the progress of a minor in the custody of the division under this section; and [~~may~~]

(b) forward to the Board of Pardons and Parole any information or recommendations concerning the minor.

[~~(8)~~] (6) Commitment of a minor under this section is a prison commitment for all sentencing purposes.

Section 15. Section 80-6-804 (Effective 09/01/21) is amended to read:

80-6-804 (Effective 09/01/21). Review and termination of secure care.

(1) If a juvenile offender is ordered to secure care under Section 80-6-705, the juvenile offender shall appear before the authority within 45 days after the day on which the juvenile offender is ordered to secure care for review of a treatment plan and to establish parole release guidelines.

(2) (a) If a juvenile offender is ordered to secure care under Section 80-6-705, the authority shall set a presumptive term of commitment for the juvenile offender from three to six months, but the presumptive term may not exceed six months.

(b) The authority shall release the juvenile offender on parole at the end of the presumptive term of commitment unless:

(i) termination would interrupt the completion of a treatment program determined to be necessary by the results of a validated risk and needs assessment under Section 80-6-606; or

(ii) the juvenile offender commits a new misdemeanor or felony offense.

(c) The authority shall determine whether a juvenile offender has completed a treatment program under Subsection (2)(b)(i) by considering:

(i) the recommendations of the licensed service provider for the treatment program;

(ii) the juvenile offender's record in the treatment program; and

(iii) the juvenile offender's completion of the goals of the treatment program.

(d) The authority may extend the length of commitment and delay parole release for the time needed to address the specific circumstance if one of the circumstances under Subsection (2)(b) exists.

(e) The authority shall:

(i) record the length of the extension and the grounds for the extension; and

(ii) report annually the length and grounds of extension to the commission.

(f) Records under Subsection (2)(e) shall be tracked in the data system used by the juvenile court and the division.

(3) (a) If a juvenile offender is committed to secure care, the authority shall set a presumptive term of parole supervision, including aftercare services, from three to four months, but the presumptive term may not exceed four months.

(b) If the authority determines that a juvenile offender is unable to return home immediately upon release, the juvenile offender may serve the term of parole in the home of a qualifying relative or guardian or at an independent living program contracted or operated by the division.

(c) The authority shall release a juvenile offender from parole and terminate the authority's jurisdiction at the end of the presumptive term of parole, unless:

(i) termination would interrupt the completion of a treatment program that is determined to be necessary by the results of a validated risk and needs assessment under Section 80-6-606;

(ii) the juvenile offender commits a new misdemeanor or felony offense; or

(iii) restitution has not been completed.

(d) The authority shall determine whether a juvenile offender has completed a treatment program under Subsection (2)(c)(i) by considering:

(i) the recommendations of the licensed service provider;

(ii) the juvenile offender's record in the treatment program; and

(iii) the juvenile offender's completion of the goals of the treatment program.

(e) If one of the circumstances under Subsection (3)(c) exists, the authority may delay parole release only for the time needed to address the specific circumstance.

(f) The authority shall:

(i) record the grounds for extension of the presumptive length of parole and the length of the extension; and

(ii) report annually the extension and the length of the extension to the commission.

(g) Records under Subsection (3)(f) shall be tracked in the data system used by the juvenile court and the division.

(h) If a juvenile offender leaves parole supervision without authorization for more than 24 hours, the term of parole shall toll until the juvenile offender returns.

(4) Subsections (2) and (3) do not apply to a juvenile offender committed to secure care for [~~a felony violation of~~]:

(a) Section 76-5-103, aggravated assault resulting in serious bodily injury to another;

(b) Section 76-5-202, aggravated murder or attempted aggravated murder;

(c) Section 76-5-203, murder or attempted murder;

(d) Section 76-5-205, manslaughter;

(e) Section 76-5-206, negligent homicide;

(f) Section 76-5-207, automobile homicide;

(g) Section 76-5-207.5, automobile homicide involving a handheld wireless communication device;

(h) Section 76-5-208, child abuse homicide;

(i) Section 76-5-209, homicide by assault;

[~~(d)~~] (j) Section 76-5-302, aggravated kidnapping;

[~~(e)~~] (k) Section 76-5-405, aggravated sexual assault;

[~~(f)~~] (l) a felony violation of Section 76-6-103, aggravated arson;

[~~(g)~~] (m) Section 76-6-203, aggravated burglary;

[~~(h)~~] (n) Section 76-6-302, aggravated robbery;

[~~(i)~~] (o) Section 76-10-508.1, felony discharge of a firearm;

[~~(j) an offense other than an offense listed in Subsections (4)(a) through (i) involving the use of a dangerous weapon:~~]

[~~(i) if the offense would be a felony had an adult committed the offense; and~~]

[~~(ii) the juvenile offender has been previously adjudicated or convicted of an offense involving the use of a dangerous weapon that would have been a felony had an adult committed the offense; or~~]

(p) (i) an offense other than an offense listed in Subsections (4)(a) through (o) involving the use of a dangerous weapon, as defined in Section 76-1-601, that is a felony; and

(ii) the juvenile offender has been previously adjudicated or convicted of an offense involving the use of a dangerous weapon, as defined in Section 76-1-601; or

[~~(k)~~] (q) an offense other than an offense listed in Subsections (4)(a) through [~~(j)~~] (p) and the [~~minor~~] juvenile offender has been previously committed to the division for secure care.

(5) (a) The division may continue to have responsibility over a juvenile offender, who is discharged under this section from parole, to participate in a specific educational or rehabilitative program:

(i) until the juvenile offender is:

(A) if the juvenile offender is a youth offender, 21 years old; or

(B) if the juvenile offender is a serious youth offender, 25 years old; and

(ii) under an agreement by the division and the juvenile offender that the program has certain conditions.

(b) The division and the juvenile offender may terminate participation in a program under Subsection (5)(a) at any time.

(c) The division shall offer an educational or rehabilitative program before a juvenile offender's discharge date in accordance with this section.

(d) A juvenile offender may request the services described in this Subsection (5), even if the offender has been previously declined services or services were terminated for noncompliance.

(e) Notwithstanding Subsection (5)(c), the division:

(i) shall consider a request by a juvenile offender under Subsection (5)(d) for the services described in this Subsection (5) for up to 365 days after the juvenile offender's effective date of discharge, even if the juvenile offender has previously declined services or services were terminated for noncompliance; and

(ii) may reach an agreement with the juvenile offender to provide the services described in this Subsection (5) until the juvenile offender is:

(A) if the juvenile offender is a youth offender, 21 years old; or

(B) if the juvenile offender is a serious youth offender, 25 years old.

(f) The division and the juvenile offender may terminate an agreement for services under this Subsection (5) at any time.

Section 16. Effective date.

(1) Except as provided in Subsection (2), if approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

(2) The changes to the following sections take effect on September 1, 2021:

(a) Section 80-1-102 (Effective 09/01/21);

(b) Section 80-6-501 (Effective 09/01/21);

(c) Section 80-6-502 (Effective 09/01/21);

(d) Section 80-6-504 (Effective 09/01/21);

(e) Section 80-6-505 (Effective 09/01/21);

(f) Section 80-6-507 (Effective 09/01/21); and

(g) Section 80-6-804 (Effective 09/01/21).

Section 17. Revisor instructions.

The Legislature intends that, on September 1, 2021, the Office of Legislative Research and General Counsel prepare the Utah Code database for publication by:

(1) replacing "secure confinement" with "secure care, as defined in Section 80-1-102," in Subsections 77-41-102(9)(f)(ii) and (17)(f)(ii);

(2) changing the cross-reference in Subsections 77-41-102(9)(f)(i) and (17)(f)(i) from Section 78A-6-117 to Section 80-6-701; and

(3) changing the cross-reference in Subsections 77-41-102(9)(f)(ii)(B) and (17)(f)(ii)(B) from Section 78A-6-703.4 to Section 80-6-605.

CHAPTER 3
H. B. 1003
Passed May 19, 2021
Approved May 28, 2021
Effective May 28, 2021
(Exception clause in Section 20)

GOVERNMENT BUILDING REGULATION AMENDMENTS

Chief Sponsor: Paul Ray
Senate Sponsor: Scott D. Sandall

LONG TITLE

General Description:

This bill amends provisions related to government building regulation.

Highlighted Provisions:

This bill:

- modifies requirements for a building permit application;
- prohibits a municipality or county from regulating certain building design elements;
- standardizes the name of the Utah Home Builders Association throughout the Utah Code; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

10-5-132, as last amended by Laws of Utah 2020, Chapters 354 and 441
10-6-160, as last amended by Laws of Utah 2020, Chapter 441
10-9a-401, as last amended by Laws of Utah 2021, Chapters 64 and 333
10-9a-403, as last amended by Laws of Utah 2020, Chapter 136
10-9a-404, as last amended by Laws of Utah 2021, Chapters 64 and 333
10-9a-408, as last amended by Laws of Utah 2021, Chapters 64 and 333
13-43-202, as last amended by Laws of Utah 2010, Chapter 286
15A-1-202, as last amended by Laws of Utah 2020, Chapter 441
15A-1-204 (Superseded 07/01/21), as last amended by Laws of Utah 2020, Chapters 111 and 441
15A-1-204 (Effective 07/01/21), as last amended by Laws of Utah 2021, Chapter 199
15A-5-104, as enacted by Laws of Utah 2020, Chapter 111
17-27a-403, as last amended by Laws of Utah 2021, Chapter 363
17-36-55, as last amended by Laws of Utah 2020, Chapter 441
19-5-125, as enacted by Laws of Utah 2020, Chapter 111
58-55-102, as last amended by Laws of Utah 2019, Chapter 215
58-55-302.5, as last amended by Laws of Utah 2019, Chapter 215
63N-3-603, as enacted by Laws of Utah 2021, Chapter 411

ENACTS:

10-9a-534, Utah Code Annotated 1953
17-27a-530, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 10-5-132 is amended to read:

10-5-132. Fees collected for construction approval -- Approval of plans.

(1) As used in this section:

(a) "Business day" means a day other than Saturday, Sunday, or a legal holiday.

[~~(a)~~] (b) "Construction project" means the same as that term is defined in Section 38-1a-102.

[~~(b)~~] (c) "Lodging establishment" means a place providing temporary sleeping accommodations to the public, including any of the following:

(i) a bed and breakfast establishment;

(ii) a boarding house;

(iii) a dormitory;

(iv) a hotel;

(v) an inn;

(vi) a lodging house;

(vii) a motel;

(viii) a resort; or

(ix) a rooming house.

[~~(c)~~] (d) "Planning review" means a review to verify that a town has approved the following elements of a construction project:

(i) zoning;

(ii) lot sizes;

(iii) setbacks;

(iv) easements;

(v) curb and gutter elevations;

(vi) grades and slopes;

(vii) utilities;

(viii) street names;

(ix) defensible space provisions and elevations, if required by the Utah Wildland Urban Interface Code adopted under Section 15A-2-103; and

(x) subdivision.

[~~(d)~~] (e) (i) "Plan review" means all of the reviews and approvals of a plan that a town requires to obtain a building permit from the town with a scope that may not exceed a review to verify:

(A) that the construction project complies with the provisions of the State Construction Code under Title 15A, State Construction and Fire Codes Act;

(B) that the construction project complies with the energy code adopted under Section 15A-2-103;

(C) that the construction project received a planning review;

(D) that the applicant paid any required fees;

(E) that the applicant obtained final approvals from any other required reviewing agencies;

(F) that the construction project complies with federal, state, and local storm water protection laws;

(G) that the construction project received a structural review;

(H) the total square footage for each building level of finished, garage, and unfinished space; and

(I) that the plans include a printed statement indicating that the actual construction will comply with applicable local ordinances and the state construction codes.

(ii) "Plan review" does not mean a review of a document:

(A) required to be re-submitted for a construction project other than a construction project for a one to two family dwelling or townhome if additional modifications or substantive changes are identified by the plan review;

(B) submitted as part of a deferred submittal when requested by the applicant and approved by the building official; or

(C) that, due to the document's technical nature or on the request of the applicant, is reviewed by a third party.

[~~(e)~~] (f) "State Construction Code" means the same as that term is defined in Section 15A-1-102.

[~~(f)~~] (g) "State Fire Code" means the same as that term is defined in Section 15A-1-102.

[~~(g)~~] (h) "Structural review" means:

(i) a review that verifies that a construction project complies with the following:

(A) footing size and bar placement;

(B) foundation thickness and bar placement;

(C) beam and header sizes;

(D) nailing patterns;

(E) bearing points;

(F) structural member size and span; and

(G) sheathing; or

(ii) if the review exceeds the scope of the review described in Subsection (1)[~~(g)~~](h)(i), a review that a licensed engineer conducts.

[~~(h)~~] (i) "Technical nature" means a characteristic that places an item outside the training and expertise of an individual who regularly performs plan reviews.

(2) (a) If a town collects a fee for the inspection of a construction project, the town shall ensure that the construction project receives a prompt inspection.

(b) If a town cannot provide a building inspection within three business days after the day on which the town receives the request for the inspection, the town shall promptly engage an independent inspector with fees collected from the applicant.

(c) If an inspector identifies one or more violations of the State Construction Code or State Fire Code during an inspection, the inspector shall give the permit holder written notification that:

(i) identifies each violation;

(ii) upon request by the permit holder, includes a reference to each applicable provision of the State Construction Code or State Fire Code; and

(iii) is delivered:

(A) in hardcopy or by electronic means; and

(B) the day on which the inspection occurs.

(3) (a) A town shall complete a plan review of a construction project for a one to two family dwelling or townhome by no later than 14 business days after the day on which the [~~plan is submitted~~] applicant submits a complete building permit application to the town.

(b) A town shall complete a plan review of a construction project for a residential structure built under the International Building Code, not including a lodging establishment, by no later than 21 business days after the day on which the [~~plan is submitted~~] applicant submits a complete building permit application to the town.

(c) (i) Subject to Subsection (3)(c)(ii), if a town does not complete a plan review before the time period described in Subsection (3)(a) or (b) expires, an applicant may request that the town complete the plan review.

(ii) If an applicant makes a request under Subsection (3)(c)(i), the town shall perform the plan review no later than:

(A) for a plan review described in Subsection (3)(a), 14 days from the day on which the applicant makes the request; or

(B) for a plan review described in Subsection (3)(b), 21 days from the day on which the applicant makes the request.

(d) An applicant may:

(i) waive the plan review time requirements described in this Subsection (3); or

(ii) with the town's consent, establish an alternative plan review time requirement.

(4) [~~(a)~~] A town may not enforce a requirement to have a plan review if:

[~~(i)~~] (a) the town does not complete the plan review within the time period described in Subsection (3)(a) or (b); and

[~~(ii)~~] (b) a licensed architect or structural engineer, or both when required by law, stamps the plan.

[~~(b)~~] (5) (a) A town may attach to a reviewed plan a list that includes:

(i) items with which the town is concerned and may enforce during construction; and

(ii) building code violations found in the plan.

[~~(c)~~] (b) A town may not require an applicant to redraft a plan if the town requests minor changes to the plan that the list described in Subsection [~~(4)(b)~~] (5)(a) identifies.

[~~(5) An applicant shall ensure that each construction project plan submitted for a plan review under this section has a statement indicating that actual construction will comply with applicable local ordinances and building codes.~~]

(c) A town may only require a single resubmittal of plans for a one or two family dwelling or townhome if the resubmission is required to address deficiencies identified by a third-party review of a geotechnical report or geological report.

(6) If a town charges a fee for a building permit, the town may not refuse payment of the fee at the time the applicant submits a building permit application under Subsection (3).

(7) A town may not limit the number of building permit applications submitted under Subsection (3).

(8) For purposes of Subsection (3), a building permit application is complete if the application contains:

(a) the name, address, and contact information of:

(i) the applicant; and

(ii) the construction manager/general contractor, as defined in Section 63G-6a-103, for the construction project;

(b) a site plan for the construction project that:

(i) is drawn to scale;

(ii) includes a north arrow and legend; and

(iii) provides specifications for the following:

(A) lot size and dimensions;

(B) setbacks and overhangs for setbacks;

(C) easements;

(D) property lines;

(E) topographical details, if the slope of the lot is greater than 10%;

(F) retaining walls;

(G) hard surface areas;

(H) curb and gutter elevations as indicated in the subdivision documents;

(I) utilities, including water meter and sewer lateral location;

(J) street names;

(K) driveway locations;

(L) defensible space provisions and elevations, if required by the Utah Wildland Urban Interface Code adopted under Section 15A-2-103; and

(M) the location of the nearest hydrant;

(c) construction plans and drawings, including:

(i) elevations, only if the construction project is new construction;

(ii) floor plans for each level, including the location and size of doors and windows;

(iii) foundation, structural, and framing detail; and

(iv) electrical, mechanical, and plumbing design;

(d) documentation of energy code compliance;

(e) structural calculations, except for trusses;

(f) a geotechnical report, including a slope stability evaluation and retaining wall design, if:

(i) the slope of the lot is greater than 15%; and

(ii) required by the town; and

(g) a statement indicating that actual construction will comply with applicable local ordinances and building codes.

Section 2. Section 10-6-160 is amended to read:

10-6-160. Fees collected for construction approval -- Approval of plans.

(1) As used in this section:

(a) "Business day" means a day other than Saturday, Sunday, or a legal holiday.

[~~(a)~~] (b) "Construction project" means the same as that term is defined in Section 38-1a-102.

[~~(b)~~] (c) "Lodging establishment" means a place providing temporary sleeping accommodations to the public, including any of the following:

(i) a bed and breakfast establishment;

(ii) a boarding house;

(iii) a dormitory;

(iv) a hotel;

(v) an inn;

(vi) a lodging house;

(vii) a motel;

(viii) a resort; or

(ix) a rooming house.

[~~(c)~~] (d) "Planning review" means a review to verify that a city has approved the following elements of a construction project:

(i) zoning;

(ii) lot sizes;

(iii) setbacks;

(iv) easements;

(v) curb and gutter elevations;

(vi) grades and slopes;

(vii) utilities;

(viii) street names;

(ix) defensible space provisions and elevations, if required by the Utah Wildland Urban Interface Code adopted under Section 15A-2-103; and

(x) subdivision.

[~~(d)~~] (e) (i) " Plan review" means all of the reviews and approvals of a plan that a city requires to obtain a building permit from the city with a scope that may not exceed a review to verify:

(A) that the construction project complies with the provisions of the State Construction Code under Title 15A, State Construction and Fire Codes Act;

(B) that the construction project complies with the energy code adopted under Section 15A-2-103;

(C) that the construction project received a planning review;

(D) that the applicant paid any required fees;

(E) that the applicant obtained final approvals from any other required reviewing agencies;

(F) that the construction project complies with federal, state, and local storm water protection laws;

(G) that the construction project received a structural review;

(H) the total square footage for each building level of finished, garage, and unfinished space; and

(I) that the plans include a printed statement indicating that the actual construction will comply with applicable local ordinances and the state construction codes.

(ii) "Plan review" does not mean a review of a document:

(A) required to be re-submitted for a construction project other than a construction project for a one to two family dwelling or townhome if additional modifications or substantive changes are identified by the plan review;

(B) submitted as part of a deferred submittal when requested by the applicant and approved by the building official; or

(C) that, due to the document's technical nature or on the request of the applicant, is reviewed by a third party.

[~~(e)~~] (f) "State Construction Code" means the same as that term is defined in Section 15A-1-102.

[~~(f)~~] (g) "State Fire Code" means the same as that term is defined in Section 15A-1-102.

[~~(g)~~] (h) "Structural review" means:

(i) a review that verifies that a construction project complies with the following:

(A) footing size and bar placement;

(B) foundation thickness and bar placement;

(C) beam and header sizes;

(D) nailing patterns;

(E) bearing points;

(F) structural member size and span; and

(G) sheathing; or

(ii) if the review exceeds the scope of the review described in Subsection (1)[~~(g)~~](h)(i), a review that a licensed engineer conducts.

[~~(h)~~] (i) "Technical nature" means a characteristic that places an item outside the training and expertise of an individual who regularly performs plan reviews.

(2) (a) If a city collects a fee for the inspection of a construction project, the city shall ensure that the construction project receives a prompt inspection.

(b) If a city cannot provide a building inspection within three business days after the day on which the city receives the request for the inspection, the city shall promptly engage an independent inspector with fees collected from the applicant.

(c) If an inspector identifies one or more violations of the State Construction Code or State Fire Code during an inspection, the inspector shall give the permit holder written notification that:

(i) identifies each violation;

(ii) upon request by the permit holder, includes a reference to each applicable provision of the State Construction Code or State Fire Code; and

(iii) is delivered:

(A) in hardcopy or by electronic means; and

(B) the day on which the inspection occurs.

(3) (a) A city shall complete a plan review of a construction project for a one to two family dwelling or townhome by no later than 14 business days after the day on which the [~~plan is submitted~~] applicant submits a complete building permit application to the city.

(b) A city shall complete a plan review of a construction project for a residential structure built under the International Building Code, not including a lodging establishment, by no later than 21 business days after the day on which the [~~plan is submitted~~] applicant submits a complete building permit application to the city.

(c) (i) Subject to Subsection (3)(c)(ii), if a city does not complete a plan review before the time period described in Subsection (3)(a) or (b) expires, an applicant may request that the city complete the plan review.

(ii) If an applicant makes a request under Subsection (3)(c)(i), the city shall perform the plan review no later than:

(A) for a plan review described in Subsection (3)(a), 14 days from the day on which the applicant makes the request; or

(B) for a plan review described in Subsection (3)(b), 21 days from the day on which the applicant makes the request.

(d) An applicant may:

(i) waive the plan review time requirements described in this Subsection (3); or

(ii) with the city's consent, establish an alternative plan review time requirement.

(4) [~~(a)~~] A city may not enforce a requirement to have a plan review if:

[~~(i)~~] (a) the city does not complete the plan review within the time period described in Subsection (3)(a) or (b); and

[~~(ii)~~] (b) a licensed architect or structural engineer, or both when required by law, stamps the plan.

[~~(b)~~] (5) (a) A city may attach to a reviewed plan a list that includes:

(i) items with which the city is concerned and may enforce during construction; and

(ii) building code violations found in the plan.

[~~(c)~~] (b) A city may not require an applicant to redraft a plan if the city requests minor changes to the plan that the list described in Subsection [~~(4)(b)~~] (5)(a) identifies.

[~~(5) An applicant shall ensure that each construction project plan submitted for a plan review under this section has a statement indicating that actual construction will comply with applicable local ordinances and building codes.~~]

(c) A city may only require a single resubmittal of plans for a one or two family dwelling or townhome if the resubmission is required to address deficiencies identified by a third-party review of a geotechnical report or geological report.

(6) If a city charges a fee for a building permit, the city may not refuse payment of the fee at the time the applicant submits a building permit application under Subsection (3).

(7) A city may not limit the number of building permit applications submitted under Subsection (3).

(8) For purposes of Subsection (3), a building permit application is complete if the application contains:

(a) the name, address, and contact information of:

(i) the applicant; and

(ii) the construction manager/general contractor, as defined in Section 63G-6a-103, for the construction project;

(b) a site plan for the construction project that:

(i) is drawn to scale;

(ii) includes a north arrow and legend; and

(iii) provides specifications for the following:

(A) lot size and dimensions;

(B) setbacks and overhangs for setbacks;

(C) easements;

(D) property lines;

(E) topographical details, if the slope of the lot is greater than 10%;

(F) retaining walls;

(G) hard surface areas;

(H) curb and gutter elevations as indicated in the subdivision documents;

(I) utilities, including water meter and sewer lateral location;

(J) street names;

(K) driveway locations;

(L) defensible space provisions and elevations, if required by the Utah Wildland Urban Interface Code adopted under Section 15A-2-103; and

(M) the location of the nearest hydrant;

(c) construction plans and drawings, including:

(i) elevations, only if the construction project is new construction;

(ii) floor plans for each level, including the location and size of doors and windows;

(iii) foundation, structural, and framing detail; and

(iv) electrical, mechanical, and plumbing design;

(d) documentation of energy code compliance;

(e) structural calculations, except for trusses;

(f) a geotechnical report, including a slope stability evaluation and retaining wall design, if:

(i) the slope of the lot is greater than 15%; and

(ii) required by the city; and

(g) a statement indicating that actual construction will comply with applicable local ordinances and building codes.

Section 3. Section 10-9a-401 is amended to read:

10-9a-401. General plan required -- Content.

(1) In order to accomplish the purposes of this chapter, each municipality shall prepare and adopt a comprehensive, long-range general plan for:

(a) present and future needs of the municipality; and

(b) growth and development of all or any part of the land within the municipality.

(2) The general plan may provide for:

(a) health, general welfare, safety, energy conservation, transportation, prosperity, civic activities, aesthetics, and recreational, educational, and cultural opportunities;

(b) the reduction of the waste of physical, financial, or human resources that result from either excessive congestion or excessive scattering of population;

(c) the efficient and economical use, conservation, and production of the supply of:

(i) food and water; and

(ii) drainage, sanitary, and other facilities and resources;

(d) the use of energy conservation and solar and renewable energy resources;

(e) the protection of urban development;

(f) if the municipality is a town, the protection or promotion of moderate income housing;

(g) the protection and promotion of air quality;

(h) historic preservation;

(i) identifying future uses of land that are likely to require an expansion or significant modification of services or facilities provided by each affected entity; and

(j) an official map.

(3) (a) The general plan of a municipality, other than a town, shall plan for moderate income housing growth.

(b) On or before December 1, 2019, each of the following that have a general plan that does not comply with Subsection (3)(a) shall amend the general plan to comply with Subsection (3)(a):

(i) a city of the first, second, third, or fourth class;

(ii) a city of the fifth class with a population of 5,000 or more, if the city is located within a county of the first, second, or third class; and

(iii) a metro township with a population of 5,000 or more.

(c) The population figures described in Subsections (3)(b)(ii) and (iii) shall be derived from:

(i) the most recent official census or census estimate of the United States Census Bureau; or

(ii) if a population figure is not available under Subsection (3)(c)(i), an estimate of the Utah Population Committee.

(4) Subject to Subsection 10-9a-403[~~(3)~~](2), the municipality may determine the comprehensiveness, extent, and format of the general plan.

Section 4. Section 10-9a-403 is amended to read:

10-9a-403. General plan preparation.

[~~(1) (a) As used in this section, "residential building design element" means for a single-family residential building:~~]

[~~(i) exterior building color;~~]

[~~(ii) type or style of exterior cladding material;~~]

[~~(iii) style or materials of a roof structure, roof pitch, or porch;~~]

[~~(iv) exterior nonstructural architectural ornamentation;~~]

[~~(v) location, design, placement, or architectural styling of a window or door, including a garage door;~~]

[~~(vi) the number or type of rooms;~~]

[~~(vii) the interior layout of a room; or~~]

[~~(viii) the minimum square footage of a structure.~~]

[~~(b) "Residential building design element" does not include for a single-family residential building:~~]

[~~(i) the height, bulk, orientation, or location of a structure on a lot; or~~]

[~~(ii) buffering or screening used to:~~]

[~~(A) minimize visual impacts;~~]

[~~(B) mitigate the impacts of light or noise; or~~]

[~~(C) protect the privacy of neighbors.~~]

[~~(2)~~] (1) (a) The planning commission shall provide notice, as provided in Section 10-9a-203, of its intent to make a recommendation to the municipal legislative body for a general plan or a comprehensive general plan amendment when the planning commission initiates the process of preparing its recommendation.

(b) The planning commission shall make and recommend to the legislative body a proposed general plan for the area within the municipality.

(c) The plan may include areas outside the boundaries of the municipality if, in the planning commission's judgment, those areas are related to the planning of the municipality's territory.

(d) Except as otherwise provided by law or with respect to a municipality's power of eminent domain, when the plan of a municipality involves territory outside the boundaries of the municipality, the municipality may not take action affecting that territory without the concurrence of the county or other municipalities affected.

[~~(3)~~] (2) (a) At a minimum, the proposed general plan, with the accompanying maps, charts, and descriptive and explanatory matter, shall include the planning commission's recommendations for the following plan elements:

(i) a land use element that:

(A) designates the long-term goals and the proposed extent, general distribution, and location of land for housing for residents of various income levels, business, industry, agriculture, recreation, education, public buildings and grounds, open space, and other categories of public and private uses of land as appropriate; and

(B) may include a statement of the projections for and standards of population density and building intensity recommended for the various land use categories covered by the plan;

(ii) a transportation and traffic circulation element that:

(A) provides the general location and extent of existing and proposed freeways, arterial and collector streets, public transit, active transportation facilities, and other modes of transportation that the planning commission considers appropriate;

(B) for a municipality that has access to a major transit investment corridor, addresses the municipality's plan for residential and commercial development around major transit investment corridors to maintain and improve the connections between housing, employment, education, recreation, and commerce;

(C) for a municipality that does not have access to a major transit investment corridor, addresses the municipality's plan for residential and commercial development in areas that will maintain and improve the connections between housing, transportation, employment, education, recreation, and commerce; and

(D) correlates with the population projections, the employment projections, and the proposed land use element of the general plan; and

(iii) for a municipality described in Subsection 10-9a-401(3)(b), a plan that provides a realistic opportunity to meet the need for additional moderate income housing.

(b) In drafting the moderate income housing element, the planning commission:

(i) shall consider the Legislature's determination that municipalities shall facilitate a reasonable opportunity for a variety of housing, including moderate income housing:

(A) to meet the needs of people of various income levels living, working, or desiring to live or work in the community; and

(B) to allow people with various incomes to benefit from and fully participate in all aspects of neighborhood and community life;

(ii) for a town, may include, and for other municipalities, shall include, an analysis of how the municipality will provide a realistic opportunity for the development of moderate income housing within the next five years;

(iii) for a town, may include, and for other municipalities, shall include, a recommendation to implement three or more of the following strategies:

(A) rezone for densities necessary to assure the production of moderate income housing;

(B) facilitate the rehabilitation or expansion of infrastructure that will encourage the construction of moderate income housing;

(C) facilitate the rehabilitation of existing uninhabitable housing stock into moderate income housing;

(D) consider general fund subsidies or other sources of revenue to waive construction related fees that are otherwise generally imposed by the city;

(E) create or allow for, and reduce regulations related to, accessory dwelling units in residential zones;

(F) allow for higher density or moderate income residential development in commercial and mixed-use zones, commercial centers, or employment centers;

(G) encourage higher density or moderate income residential development near major transit investment corridors;

(H) eliminate or reduce parking requirements for residential development where a resident is less likely to rely on the resident's own vehicle, such as residential development near major transit investment corridors or senior living facilities;

(I) allow for single room occupancy developments;

(J) implement zoning incentives for low to moderate income units in new developments;

(K) utilize strategies that preserve subsidized low to moderate income units on a long-term basis;

(L) preserve existing moderate income housing;

(M) reduce impact fees, as defined in Section 11-36a-102, related to low and moderate income housing;

(N) participate in a community land trust program for low or moderate income housing;

(O) implement a mortgage assistance program for employees of the municipality or of an employer that provides contracted services to the municipality;

(P) apply for or partner with an entity that applies for state or federal funds or tax incentives to promote the construction of moderate income housing;

(Q) apply for or partner with an entity that applies for programs offered by the Utah Housing Corporation within that agency's funding capacity;

(R) apply for or partner with an entity that applies for affordable housing programs administered by the Department of Workforce Services;

(S) apply for or partner with an entity that applies for programs administered by an association of governments established by an interlocal agreement under Title 11, Chapter 13, Interlocal Cooperation Act;

(T) apply for or partner with an entity that applies for services provided by a public housing authority to preserve and create moderate income housing;

(U) apply for or partner with an entity that applies for programs administered by a metropolitan planning organization or other transportation agency that provides technical planning assistance;

(V) utilize a moderate income housing set aside from a community reinvestment agency, redevelopment agency, or community development and renewal agency; and

[~~(W) reduce residential building design elements; and~~]

[~~(X)~~] (W) any other program or strategy implemented by the municipality to address the housing needs of residents of the municipality who earn less than 80% of the area median income; and

(iv) in addition to the recommendations required under Subsection [~~(3)~~] (2)(b)(iii), for a municipality that has a fixed guideway public transit station, shall include a recommendation to implement the strategies described in Subsection [~~(3)~~] (2)(b)(iii)(G) or (H).

(c) In drafting the land use element, the planning commission shall:

(i) identify and consider each agriculture protection area within the municipality; and

(ii) avoid proposing a use of land within an agriculture protection area that is inconsistent with or detrimental to the use of the land for agriculture.

(d) In drafting the transportation and traffic circulation element, the planning commission shall:

(i) consider the regional transportation plan developed by its region's metropolitan planning organization, if the municipality is within the boundaries of a metropolitan planning organization; or

(ii) consider the long-range transportation plan developed by the Department of Transportation, if the municipality is not within the boundaries of a metropolitan planning organization.

[~~(4)~~] (3) The proposed general plan may include:

(a) an environmental element that addresses:

(i) the protection, conservation, development, and use of natural resources, including the quality of air, forests, soils, rivers and other waters, harbors, fisheries, wildlife, minerals, and other natural resources; and

(ii) the reclamation of land, flood control, prevention and control of the pollution of streams and other waters, regulation of the use of land on hillsides, stream channels and other environmentally sensitive areas, the prevention, control, and correction of the erosion of soils, protection of watersheds and wetlands, and the mapping of known geologic hazards;

(b) a public services and facilities element showing general plans for sewage, water, waste disposal, drainage, public utilities, rights-of-way, easements, and facilities for them, police and fire protection, and other public services;

(c) a rehabilitation, redevelopment, and conservation element consisting of plans and programs for:

(i) historic preservation;

(ii) the diminution or elimination of a development impediment as defined in Section 17C-1-102; and

(iii) redevelopment of land, including housing sites, business and industrial sites, and public building sites;

(d) an economic element composed of appropriate studies and forecasts, as well as an economic development plan, which may include review of existing and projected municipal revenue and expenditures, revenue sources, identification of basic and secondary industry, primary and secondary market areas, employment, and retail sales activity;

(e) recommendations for implementing all or any portion of the general plan, including the use of land use ordinances, capital improvement plans, community development and promotion, and any other appropriate action;

(f) provisions addressing any of the matters listed in Subsection 10-9a-401(2) or (3); and

(g) any other element the municipality considers appropriate.

Section 5. Section 10-9a-404 is amended to read:

10-9a-404. Public hearing by planning commission on proposed general plan or amendment -- Notice -- Revisions to general plan or amendment -- Adoption or rejection by legislative body.

(1) (a) After completing its recommendation for a proposed general plan, or proposal to amend the general plan, the planning commission shall schedule and hold a public hearing on the proposed plan or amendment.

(b) The planning commission shall provide notice of the public hearing, as required by Section 10-9a-204.

(c) After the public hearing, the planning commission may modify the proposed general plan or amendment.

(2) The planning commission shall forward the proposed general plan or amendment to the legislative body.

(3) (a) The legislative body may adopt, reject, or make any revisions to the proposed general plan or amendment that it considers appropriate.

(b) If the municipal legislative body rejects the proposed general plan or amendment, it may provide suggestions to the planning commission for the planning commission's review and recommendation.

(4) The legislative body shall adopt:

(a) a land use element as provided in Subsection 10-9a-403[~~(3)~~](2)(a)(i);

(b) a transportation and traffic circulation element as provided in Subsection 10-9a-403[~~(3)~~](2)(a)(ii); and

(c) for a municipality, other than a town, after considering the factors included in Subsection 10-9a-403[~~(3)~~](2)(b)(iii), a plan to provide a realistic opportunity to meet the need for additional moderate income housing within the next five years.

Section 6. Section 10-9a-408 is amended to read:

10-9a-408. Reporting requirements and civil action regarding moderate income housing element of general plan.

(1) The legislative body of a municipality described in Subsection 10-9a-401(3)(b) shall annually:

(a) review the moderate income housing plan element of the municipality's general plan and implementation of that element of the general plan;

(b) prepare a report on the findings of the review described in Subsection (1)(a); and

(c) post the report described in Subsection (1)(b) on the municipality's website.

(2) The report described in Subsection (1) shall include:

(a) a revised estimate of the need for moderate income housing in the municipality for the next five years;

(b) a description of progress made within the municipality to provide moderate income housing, demonstrated by analyzing and publishing data on the number of housing units in the municipality that are at or below:

(i) 80% of the adjusted median family income;

(ii) 50% of the adjusted median family income; and

(iii) 30% of the adjusted median family income;

(c) a description of any efforts made by the municipality to utilize a moderate income housing set-aside from a community reinvestment agency, redevelopment agency, or community development and renewal agency; and

(d) a description of how the municipality has implemented any of the recommendations related to moderate income housing described in Subsection 10-9a-403[~~(3)~~](2)(b)(iii).

(3) The legislative body of each municipality described in Subsection (1) shall send a copy of the report under Subsection (1) to the Department of Workforce Services, the association of governments in which the municipality is located, and, if located within the boundaries of a metropolitan planning organization, the appropriate metropolitan planning organization.

(4) In a civil action seeking enforcement or claiming a violation of this section or of Subsection 10-9a-404(4)(c), a plaintiff may not recover damages but may be awarded only injunctive or other equitable relief.

Section 7. Section 10-9a-534 is enacted to read:

10-9a-534. Regulation of building design elements prohibited -- Exceptions.

(1) As used in this section, "building design element" means:

(a) exterior color;

(b) type or style of exterior cladding material;

(c) style, dimensions, or materials of a roof structure, roof pitch, or porch;

(d) exterior nonstructural architectural ornamentation;

(e) location, design, placement, or architectural styling of a window or door;

(f) location, design, placement, or architectural styling of a garage door, not including a rear-loading garage door;

(g) number or type of rooms;

(h) interior layout of a room;

(i) minimum square footage over 1,000 square feet, not including a garage;

(j) rear yard landscaping requirements;

(k) minimum building dimensions; or

(l) a requirement to install front yard fencing.

(2) Except as provided in Subsection (3), a municipality may not impose a requirement for a building design element on a one to two family dwelling.

(3) Subsection (2) does not apply to:

(a) a dwelling located within an area designated as a historic district in:

(i) the National Register of Historic Places;

(ii) the state register as defined in Section 9-8-402; or

(iii) a local historic district or area, or a site designated as a local landmark, created by ordinance before January 1, 2021;

(b) an ordinance enacted as a condition for participation in the National Flood Insurance Program administered by the Federal Emergency Management Agency;

(c) an ordinance enacted to implement the requirements of the Utah Wildland Urban Interface Code adopted under Section 15A-2-103;

(d) building design elements agreed to under a development agreement;

(e) a dwelling located within an area that:

(i) is zoned primarily for residential use; and

(ii) was substantially developed before calendar year 1950;

(f) an ordinance enacted to implement water efficient landscaping in a rear yard;

(g) an ordinance enacted to regulate type of cladding, in response to findings or evidence from the construction industry of:

(i) defects in the material of existing cladding; or

(ii) consistent defects in the installation of existing cladding; or

(h) a land use regulation, including a planned unit development or overlay zone, that a property owner requests:

(i) the municipality to apply to the owner's property; and

(ii) in exchange for an increase in density or other benefit not otherwise available as a permitted use in the zoning area or district.

Section 8. Section 13-43-202 is amended to read:

13-43-202. Land Use and Eminent Domain Advisory Board -- Appointment -- Compensation -- Duties.

(1) There is created the Land Use and Eminent Domain Advisory Board, within the Office of the Property Rights Ombudsman, consisting of the following seven members:

(a) one individual representing special service districts, nominated by the Utah Association of Special Districts;

(b) one individual representing municipal government, nominated by the Utah League of Cities and Towns;

(c) one individual representing county government, nominated by the Utah Association of Counties;

(d) one individual representing the residential construction industry, nominated by the Utah Home Builders Association;

(e) one individual representing the real estate industry, nominated by the Utah Association of Realtors;

(f) one individual representing the land development community, jointly nominated by the Utah Association of Realtors and the Utah Home Builders Association [~~of Utah~~]; and

(g) one individual who:

(i) is a citizen with experience in land use issues;

(ii) does not hold public office; and

(iii) is not currently employed, nor has been employed in the previous 12 months, by any of the entities or industries listed in Subsections (1)(a) through (f).

(2) After receiving nominations, the governor shall appoint members to the board.

(3) The term of office of each member is four years, except that the governor shall appoint three of the members of the board to an initial two-year term.

(4) Each mid-term vacancy shall be filled for the unexpired term in the same manner as an appointment under Subsections (1) and (2).

(5) (a) Board members shall elect a chair from their number and establish rules for the organization and operation of the board.

(b) Five members of the board constitute a quorum for the conduct of the board's business.

(c) The affirmative vote of five members is required to constitute the decision of the board on any matter.

(6) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(7) A member need not give a bond for the performance of official duties.

(8) The Office of the Property Rights Ombudsman shall provide staff to the board.

(9) The board shall:

(a) receive reports from the Office of the Property Rights Ombudsman that are requested by the board;

(b) establish rules of conduct and performance for the Office of the Property Rights Ombudsman;

(c) receive donations or contributions from any source for the Office of the Property Rights Ombudsman's benefit;

(d) subject to any restriction placed on a donation or contribution received under Subsection (9)(c), authorize the expenditure of donations or contributions for the Office of the Property Rights Ombudsman's benefit;

(e) receive budget recommendations from the Office of the Property Rights Ombudsman; and

(f) revise budget recommendations received under Subsection (9)(e).

(10) The board shall maintain a resource list of qualified arbitrators and mediators who may be appointed under Section 13-43-204 and qualified persons who may be appointed to render advisory opinions under Section 13-43-205.

Section 9. Section 15A-1-202 is amended to read:

15A-1-202. Definitions.

As used in this chapter:

(1) "Agricultural use" means a use that relates to the tilling of soil and raising of crops, or keeping or raising domestic animals.

(2) (a) "Approved code" means a code, including the standards and specifications contained in the code, approved by the division under Section 15A-1-204 for use by a compliance agency.

(b) "Approved code" does not include the State Construction Code.

(3) "Building" means a structure used or intended for supporting or sheltering any use or occupancy and any improvements attached to it.

(4) "Code" means:

(a) the State Construction Code; or

(b) an approved code.

(5) "Commission" means the Uniform Building Code Commission created in Section 15A-1-203.

(6) "Compliance agency" means:

(a) an agency of the state or any of its political subdivisions which issues permits for construction regulated under the codes;

(b) any other agency of the state or its political subdivisions specifically empowered to enforce compliance with the codes; or

(c) any other state agency which chooses to enforce codes adopted under this chapter by authority given the agency under a title other than this part and Part 3, Factory Built Housing and Modular Units Administration Act.

(7) "Construction code" means standards and specifications published by a nationally recognized code authority for use in circumstances described in Subsection 15A-1-204(1), including:

(a) a building code;

(b) an electrical code;

(c) a residential one and two family dwelling code;

(d) a plumbing code;

(e) a mechanical code;

(f) a fuel gas code;

(g) an energy conservation code;

(h) a swimming pool and spa code; and

(i) a manufactured housing installation standard code.

(8) "Construction project" means the same as that term is defined in Section 38-1a-102.

[~~(8)~~] (9) "Executive director" means the executive director of the Department of Commerce.

[~~(9)~~] (10) "Legislative action" includes legislation that:

(a) adopts a new State Construction Code;

(b) amends the State Construction Code; or

(c) repeals one or more provisions of the State Construction Code.

[~~(10)~~] (11) "Local regulator" means a political subdivision of the state that is empowered to engage in the regulation of construction, alteration, remodeling, building, repair, and other activities subject to the codes.

(12) "Membrane-covered frame structure" means a nonpressurized building with a structure composed of a rigid framework to support a tensioned membrane that provides a weather barrier.

[~~(11)~~] (13) "Not for human occupancy" means use of a structure for purposes other than protection or comfort of human beings, but allows people to enter the structure for:

(a) maintenance and repair; and

(b) the care of livestock, crops, or equipment intended for agricultural use which are kept there.

[~~(12)~~] (14) "Opinion" means a written, nonbinding, and advisory statement issued by the commission concerning an interpretation of the meaning of the codes or the application of the codes in a specific circumstance issued in response to a specific request by a party to the issue.

(15) "Remote yurt" means a membrane-covered frame structure that:

(a) is no larger than 710 square feet;

(b) is not used as a permanent residence;

(c) is located in an unincorporated county area that is not zoned for residential, commercial, industrial, or agricultural use;

(d) does not have plumbing or electricity;

(e) is set back at least 300 feet from any river, stream, lake, or other body of water; and

(f) is registered with the local health department.

[~~(13)~~] (16) "State regulator" means an agency of the state which is empowered to engage in the regulation of construction, alteration, remodeling, building, repair, and other activities subject to the codes adopted pursuant to this chapter.

Section 10. Section 15A-1-204 (Superseded 07/01/21) is amended to read:

15A-1-204 (Superseded 07/01/21). Adoption of State Construction Code -- Amendments by commission -- Approved codes -- Exemptions.

(1) (a) The State Construction Code is the construction codes adopted with any modifications in accordance with this section that the state and each political subdivision of the state shall follow.

(b) A person shall comply with the applicable provisions of the State Construction Code when:

(i) new construction is involved; and

(ii) the owner of an existing building, or the owner's agent, is voluntarily engaged in:

(A) the repair, renovation, remodeling, alteration, enlargement, rehabilitation, conservation, or reconstruction of the building; or

(B) changing the character or use of the building in a manner that increases the occupancy loads, other demands, or safety risks of the building.

(c) On and after July 1, 2010, the State Construction Code is the State Construction Code in effect on July 1, 2010, until in accordance with this section:

(i) a new State Construction Code is adopted; or

(ii) one or more provisions of the State Construction Code are amended or repealed in accordance with this section.

(d) A provision of the State Construction Code may be applicable:

(i) to the entire state; or

(ii) within a county, city, or town.

(2) (a) The Legislature shall adopt a State Construction Code by enacting legislation that adopts a nationally recognized construction code with any modifications.

(b) Legislation described in Subsection (2)(a) shall state that the legislation takes effect on the July 1 after the day on which the legislation is enacted, unless otherwise stated in the legislation.

(c) Subject to Subsection (6), a State Construction Code adopted by the Legislature is the State Construction Code until, in accordance with this section, the Legislature adopts a new State Construction Code by:

(i) adopting a new State Construction Code in its entirety; or

(ii) amending or repealing one or more provisions of the State Construction Code.

(3) (a) Except as provided in Subsection (3)(b), for each update of a nationally recognized construction code, the commission shall prepare a report described in Subsection (4).

(b) For the provisions of a nationally recognized construction code that apply only to detached one- and two-family dwellings and townhouses not more than three stories above grade plane in height with separate means of egress and their accessory structures, the commission shall:

(i) prepare a report described in Subsection (4) in 2021 and, thereafter, for every second update of the nationally recognized construction code; and

(ii) not prepare a report described in Subsection (4) in 2018.

(4) (a) In accordance with Subsection (3), on or before September 1 of the same year as the year designated in the title of a nationally recognized construction code, the commission shall prepare and submit, in accordance with Section 68-3-14, a written report to the Business and Labor Interim Committee that:

(i) states whether the commission recommends the Legislature adopt the update with any modifications; and

(ii) describes the costs and benefits of each recommended change in the update or in any modification.

(b) After the Business and Labor Interim Committee receives the report described in Subsection (4)(a), the Business and Labor Interim Committee shall:

(i) study the recommendations; and

(ii) if the Business and Labor Interim Committee decides to recommend legislative action to the Legislature, prepare legislation for consideration by the Legislature in the next general session.

(5) (a) (i) The commission shall, by no later than September 1 of each year in which the commission is not required to submit a report described in Subsection (4), submit, in accordance with Section 68-3-14, a written report to the Business and Labor Interim Committee recommending whether the Legislature should amend or repeal one or more provisions of the State Construction Code.

(ii) As part of a recommendation described in Subsection (5)(a)(i), the commission shall describe the costs and benefits of each proposed amendment or repeal.

(b) The commission may recommend legislative action related to the State Construction Code:

(i) on its own initiative;

(ii) upon the recommendation of the division; or

(iii) upon the receipt of a request by one of the following that the commission recommend legislative action related to the State Construction Code:

(A) a local regulator;

(B) a state regulator;

(C) a state agency involved with the construction and design of a building;

(D) the Construction Services Commission;

(E) the Electrician Licensing Board;

(F) the Plumbers Licensing Board; or

(G) a recognized construction-related association.

(c) If the Business and Labor Interim Committee decides to recommend legislative action to the Legislature, the Business and Labor Interim Committee shall prepare legislation for consideration by the Legislature in the next general session.

(6) (a) Notwithstanding the provisions of this section, the commission may, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, amend the State Construction Code if the commission determines that waiting for legislative action in the next general legislative session would:

(i) cause an imminent peril to the public health, safety, or welfare; or

(ii) place a person in violation of federal or other state law.

(b) If the commission amends the State Construction Code in accordance with this

Subsection (6), the commission shall file with the division:

(i) the text of the amendment to the State Construction Code; and

(ii) an analysis that includes the specific reasons and justifications for the commission's findings.

(c) If the State Construction Code is amended under this Subsection (6), the division shall:

(i) publish the amendment to the State Construction Code in accordance with Section 15A-1-205; and

(ii) prepare and submit, in accordance with Section 68-3-14, a written notice to the Business and Labor Interim Committee containing the amendment to the State Construction Code, including a copy of the commission's analysis described in Subsection (6)(b)(ii).

(d) If not formally adopted by the Legislature at the next annual general session, an amendment to the State Construction Code under this Subsection (6) is repealed on the July 1 immediately following the next annual general session that follows the adoption of the amendment.

(7) (a) The division, in consultation with the commission, may approve, without adopting, one or more approved codes, including a specific edition of a construction code, for use by a compliance agency.

(b) If the code adopted by a compliance agency is an approved code described in Subsection (7)(a), the compliance agency may:

(i) adopt an ordinance requiring removal, demolition, or repair of a building;

(ii) adopt, by ordinance or rule, a dangerous building code; or

(iii) adopt, by ordinance or rule, a building rehabilitation code.

(8) Except as provided in Subsections (6), (7), (9), and (10), or as expressly provided in state law, a state executive branch entity or political subdivision of the state may not, after December 1, 2016, adopt or enforce a rule, ordinance, or requirement that applies to a subject specifically addressed by, and that is more restrictive than, the State Construction Code.

(9) A state executive branch entity or political subdivision of the state may:

(a) enforce a federal law or regulation;

(b) adopt or enforce a rule, ordinance, or requirement if the rule, ordinance, or requirement applies only to a facility or construction owned or used by a state entity or a political subdivision of the state; or

(c) enforce a rule, ordinance, or requirement:

(i) that the state executive branch entity or political subdivision adopted or made effective before July 1, 2015; and

(ii) for which the state executive branch entity or political subdivision can demonstrate, with substantial evidence, that the rule, ordinance, or requirement is necessary to protect an individual from a condition likely to cause imminent injury or death.

(10) The Department of Health or the Department of Environmental Quality may enforce a rule or requirement adopted before January 1, 2015.

(11) (a) Except as provided in Subsection (11)(b), a structure used solely in conjunction with agriculture use, and not for human occupancy, or a structure that is no more than 1,500 square feet and used solely for the type of sales described in Subsection 59-12-104(20), is exempt from the requirements of the State Construction Code.

(b) (i) Unless exempted by a provision other than Subsection (11)(a), a plumbing, electrical, and mechanical permit may be required when that work is included in a structure described in Subsection (11)(a).

(ii) Unless located in whole or in part in an agricultural protection area created under Title 17, Chapter 41, Agriculture, Industrial, or Critical Infrastructure Materials Protection Areas, a structure described in Subsection (11)(a) is not exempt from a permit requirement if the structure is located on land that is:

(A) within the boundaries of a city or town, and less than five contiguous acres; or

(B) within a subdivision for which the county has approved a subdivision plat under Title 17, Chapter 27a, Part 6, Subdivisions, and less than two contiguous acres.

[~~(12) (a) As used in this Subsection (12):~~]

[~~(i) "Membrane-covered frame structure" means a nonpressurized building wherein the structure is composed of a rigid framework to support a tensioned membrane that provides the weather barrier.~~]

[~~(ii) "Remote yurt" means a membrane-covered frame structure that:~~]

[~~(A) is no larger than 710 square feet;~~]

[~~(B) is not used as a permanent residence;~~]

[~~(C) is located in an unincorporated county area that is not zoned for residential, commercial, industrial, or agricultural use;~~]

[~~(D) does not have plumbing or electricity;~~]

[~~(E) is set back at least 300 feet from any river, stream, lake, or other body of water; and~~]

[~~(F) registers with the local health department.~~]

[~~(b)~~] (12) (a) A remote yurt is exempt from the State Construction Code including the permit requirements of the State Construction Code.

[~~(c)~~] (b) Notwithstanding Subsection (12)[~~(b)~~](a), a county may by ordinance require remote yurts to comply with the State Construction Code, if the

ordinance requires the remote yurts to comply with all of the following:

(i) the State Construction Code;

(ii) notwithstanding Section 15A-5-104, the State Fire Code; and

(iii) notwithstanding Section 19-5-125, Title 19, Chapter 5, Water Quality Act, rules made under that chapter, and local health department's jurisdiction over onsite wastewater disposal.

Section 11. Section 15A-1-204 (Effective 07/01/21) is amended to read:

15A-1-204 (Effective 07/01/21). Adoption of State Construction Code -- Amendments by commission -- Approved codes -- Exemptions.

(1) (a) The State Construction Code is the construction codes adopted with any modifications in accordance with this section that the state and each political subdivision of the state shall follow.

(b) A person shall comply with the applicable provisions of the State Construction Code when:

(i) new construction is involved; and

(ii) the owner of an existing building, or the owner's agent, is voluntarily engaged in:

(A) the repair, renovation, remodeling, alteration, enlargement, rehabilitation, conservation, or reconstruction of the building; or

(B) changing the character or use of the building in a manner that increases the occupancy loads, other demands, or safety risks of the building.

(c) On and after July 1, 2010, the State Construction Code is the State Construction Code in effect on July 1, 2010, until in accordance with this section:

(i) a new State Construction Code is adopted; or

(ii) one or more provisions of the State Construction Code are amended or repealed in accordance with this section.

(d) A provision of the State Construction Code may be applicable:

(i) to the entire state; or

(ii) within a county, city, or town.

(2) (a) The Legislature shall adopt a State Construction Code by enacting legislation that adopts a nationally recognized construction code with any modifications.

(b) Legislation described in Subsection (2)(a) shall state that the legislation takes effect on the July 1 after the day on which the legislation is enacted, unless otherwise stated in the legislation.

(c) Subject to Subsection (6), a State Construction Code adopted by the Legislature is the State Construction Code until, in accordance with this section, the Legislature adopts a new State Construction Code by:

(i) adopting a new State Construction Code in its entirety; or

(ii) amending or repealing one or more provisions of the State Construction Code.

(3) (a) Except as provided in Subsection (3)(b), for each update of a nationally recognized construction code, the commission shall prepare a report described in Subsection (4).

(b) For the provisions of a nationally recognized construction code that apply only to detached one- and two-family dwellings and townhouses not more than three stories above grade plane in height with separate means of egress and their accessory structures, the commission shall prepare a report described in Subsection (4) in 2022 and, thereafter, for every second update of the nationally recognized construction code.

(4) (a) In accordance with Subsection (3), on or before September 1 of the year after the year designated in the title of a nationally recognized construction code, the commission shall prepare and submit, in accordance with Section 68-3-14, a written report to the Business and Labor Interim Committee that:

(i) states whether the commission recommends the Legislature adopt the update with any modifications; and

(ii) describes the costs and benefits of each recommended change in the update or in any modification.

(b) After the Business and Labor Interim Committee receives the report described in Subsection (4)(a), the Business and Labor Interim Committee shall:

(i) study the recommendations; and

(ii) if the Business and Labor Interim Committee decides to recommend legislative action to the Legislature, prepare legislation for consideration by the Legislature in the next general session.

(5) (a) (i) The commission shall, by no later than September 1 of each year in which the commission is not required to submit a report described in Subsection (4), submit, in accordance with Section 68-3-14, a written report to the Business and Labor Interim Committee recommending whether the Legislature should amend or repeal one or more provisions of the State Construction Code.

(ii) As part of a recommendation described in Subsection (5)(a)(i), the commission shall describe the costs and benefits of each proposed amendment or repeal.

(b) The commission may recommend legislative action related to the State Construction Code:

(i) on the commission's own initiative;

(ii) upon the recommendation of the division; or

(iii) upon the receipt of a request by one of the following that the commission recommend legislative action related to the State Construction Code:

(A) a local regulator;

(B) a state regulator;

(C) a state agency involved with the construction and design of a building;

(D) the Construction Services Commission;

(E) the Electrician Licensing Board;

(F) the Plumbers Licensing Board; or

(G) a recognized construction-related association.

(c) If the Business and Labor Interim Committee decides to recommend legislative action to the Legislature, the Business and Labor Interim Committee shall prepare legislation for consideration by the Legislature in the next general session.

(6) (a) Notwithstanding the provisions of this section, the commission may, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, amend the State Construction Code if the commission determines that waiting for legislative action in the next general legislative session would:

(i) cause an imminent peril to the public health, safety, or welfare; or

(ii) place a person in violation of federal or other state law.

(b) If the commission amends the State Construction Code in accordance with this Subsection (6), the commission shall file with the division:

(i) the text of the amendment to the State Construction Code; and

(ii) an analysis that includes the specific reasons and justifications for the commission's findings.

(c) If the State Construction Code is amended under this Subsection (6), the division shall:

(i) publish the amendment to the State Construction Code in accordance with Section 15A-1-205; and

(ii) prepare and submit, in accordance with Section 68-3-14, a written notice to the Business and Labor Interim Committee containing the amendment to the State Construction Code, including a copy of the commission's analysis described in Subsection (6)(b)(ii).

(d) If not formally adopted by the Legislature at the next annual general session, an amendment to the State Construction Code under this Subsection (6) is repealed on the July 1 immediately following the next annual general session that follows the adoption of the amendment.

(7) (a) The division, in consultation with the commission, may approve, without adopting, one or more approved codes, including a specific edition of a construction code, for use by a compliance agency.

(b) If the code adopted by a compliance agency is an approved code described in Subsection (7)(a), the compliance agency may:

(i) adopt an ordinance requiring removal, demolition, or repair of a building;

(ii) adopt, by ordinance or rule, a dangerous building code; or

(iii) adopt, by ordinance or rule, a building rehabilitation code.

(8) Except as provided in Subsections (6), (7), (9), and (10), or as expressly provided in state law, a state executive branch entity or political subdivision of the state may not, after December 1, 2016, adopt or enforce a rule, ordinance, or requirement that applies to a subject specifically addressed by, and that is more restrictive than, the State Construction Code.

(9) A state executive branch entity or political subdivision of the state may:

(a) enforce a federal law or regulation;

(b) adopt or enforce a rule, ordinance, or requirement if the rule, ordinance, or requirement applies only to a facility or construction owned or used by a state entity or a political subdivision of the state; or

(c) enforce a rule, ordinance, or requirement:

(i) that the state executive branch entity or political subdivision adopted or made effective before July 1, 2015; and

(ii) for which the state executive branch entity or political subdivision can demonstrate, with substantial evidence, that the rule, ordinance, or requirement is necessary to protect an individual from a condition likely to cause imminent injury or death.

(10) The Department of Health or the Department of Environmental Quality may enforce a rule or requirement adopted before January 1, 2015.

(11) (a) Except as provided in Subsection (11)(b), a structure used solely in conjunction with agriculture use, and not for human occupancy, or a structure that is no more than 1,500 square feet and used solely for the type of sales described in Subsection 59-12-104(20), is exempt from the requirements of the State Construction Code.

(b) (i) Unless exempted by a provision other than Subsection (11)(a), a plumbing, electrical, and mechanical permit may be required when that work is included in a structure described in Subsection (11)(a).

(ii) Unless located in whole or in part in an agricultural protection area created under Title 17, Chapter 41, Agriculture, Industrial, or Critical Infrastructure Materials Protection Areas, a structure described in Subsection (11)(a) is not exempt from a permit requirement if the structure is located on land that is:

(A) within the boundaries of a city or town, and less than five contiguous acres; or

(B) within a subdivision for which the county has approved a subdivision plat under Title 17, Chapter 27a, Part 6, Subdivisions, and less than two contiguous acres.

[~~(12) (a) As used in this Subsection (12):~~]

[~~(i) "Membrane-covered frame structure" means a nonpressurized building wherein the structure is composed of a rigid framework to support a tensioned membrane that provides the weather barrier.~~]

[~~(ii) "Remote yurt" means a membrane-covered frame structure that:~~]

[~~(A) is no larger than 710 square feet;~~]

[~~(B) is not used as a permanent residence;~~]

[~~(C) is located in an unincorporated county area that is not zoned for residential, commercial, industrial, or agricultural use;~~]

[~~(D) does not have plumbing or electricity;~~]

[~~(E) is set back at least 300 feet from any river, stream, lake, or other body of water; and~~]

[~~(F) registers with the local health department.~~]

[~~(b)~~] (12) (a) A remote yurt is exempt from the State Construction Code including the permit requirements of the State Construction Code.

[~~(c)~~] (b) Notwithstanding Subsection (12)[~~(b)~~](a), a county may by ordinance require remote yurts to comply with the State Construction Code, if the ordinance requires the remote yurts to comply with all of the following:

(i) the State Construction Code;

(ii) notwithstanding Section 15A-5-104, the State Fire Code; and

(iii) notwithstanding Section 19-5-125, Title 19, Chapter 5, Water Quality Act, rules made under that chapter, and local health department's jurisdiction over onsite wastewater disposal.

Section 12. Section 15A-5-104 is amended to read:

15A-5-104. Exemptions from State Fire Code.

(1) As used in this section, "remote yurt" means the same as that term is defined in [~~Subsection 15A-1-204(12)~~] Section 15A-1-202.

(2) A remote yurt is exempt from the State Fire Code unless otherwise provided by ordinance in accordance with Subsection 15A-1-204(12)[~~(c)~~](b).

(3) An owner of a remote yurt shall ensure that a fire extinguisher is in the remote yurt.

Section 13. Section 17-27a-403 is amended to read:

17-27a-403. Plan preparation.

(1) (a) The planning commission shall provide notice, as provided in Section 17-27a-203, of its intent to make a recommendation to the county legislative body for a general plan or a comprehensive general plan amendment when the planning commission initiates the process of preparing its recommendation.

(b) The planning commission shall make and recommend to the legislative body a proposed general plan for:

(i) the unincorporated area within the county; or

(ii) if the planning commission is a planning commission for a mountainous planning district, the mountainous planning district.

(c) (i) The plan may include planning for incorporated areas if, in the planning commission's judgment, they are related to the planning of the unincorporated territory or of the county as a whole.

(ii) Elements of the county plan that address incorporated areas are not an official plan or part of a municipal plan for any municipality, unless the county plan is recommended by the municipal planning commission and adopted by the governing body of the municipality.

(2) (a) At a minimum, the proposed general plan, with the accompanying maps, charts, and descriptive and explanatory matter, shall include the planning commission's recommendations for the following plan elements:

(i) a land use element that:

(A) designates the long-term goals and the proposed extent, general distribution, and location of land for housing for residents of various income levels, business, industry, agriculture, recreation, education, public buildings and grounds, open space, and other categories of public and private uses of land as appropriate; and

(B) may include a statement of the projections for and standards of population density and building intensity recommended for the various land use categories covered by the plan;

(ii) a transportation and traffic circulation element that:

(A) provides the general location and extent of existing and proposed freeways, arterial and collector streets, public transit, active transportation facilities, and other modes of transportation that the planning commission considers appropriate;

(B) addresses the county's plan for residential and commercial development around major transit investment corridors to maintain and improve the connections between housing, employment, education, recreation, and commerce; and

(C) correlates with the population projections, the employment projections, and the proposed land use element of the general plan;

(iii) a plan for the development of additional moderate income housing within the unincorporated area of the county or the mountainous planning district, and a plan to provide a realistic opportunity to meet the need for additional moderate income housing; and

(iv) before May 1, 2017, a resource management plan detailing the findings, objectives, and policies required by Subsection 17-27a-401(3).

(b) In drafting the moderate income housing element, the planning commission:

(i) shall consider the Legislature's determination that counties should facilitate a reasonable opportunity for a variety of housing, including moderate income housing:

(A) to meet the needs of people of various income levels living, working, or desiring to live or work in the community; and

(B) to allow people with various incomes to benefit from and fully participate in all aspects of neighborhood and community life; and

(ii) shall include an analysis of how the county will provide a realistic opportunity for the development of moderate income housing within the planning horizon, which may include a recommendation to implement three or more of the following strategies:

(A) rezone for densities necessary to assure the production of moderate income housing;

(B) facilitate the rehabilitation or expansion of infrastructure that will encourage the construction of moderate income housing;

(C) facilitate the rehabilitation of existing uninhabitable housing stock into moderate income housing;

(D) consider county general fund subsidies or other sources of revenue to waive construction related fees that are otherwise generally imposed by the county;

(E) create or allow for, and reduce regulations related to, accessory dwelling units in residential zones;

(F) allow for higher density or moderate income residential development in commercial and mixed-use zones, commercial centers, or employment centers;

(G) encourage higher density or moderate income residential development near major transit investment corridors;

(H) eliminate or reduce parking requirements for residential development where a resident is less likely to rely on the resident's own vehicle, such as residential development near major transit investment corridors or senior living facilities;

(I) allow for single room occupancy developments;

(J) implement zoning incentives for low to moderate income units in new developments;

(K) utilize strategies that preserve subsidized low to moderate income units on a long-term basis;

(L) preserve existing moderate income housing;

(M) reduce impact fees, as defined in Section 11-36a-102, related to low and moderate income housing;

(N) participate in a community land trust program for low or moderate income housing;

(O) implement a mortgage assistance program for employees of the county or of an employer that provides contracted services for the county;

(P) apply for or partner with an entity that applies for state or federal funds or tax incentives to promote the construction of moderate income housing;

(Q) apply for or partner with an entity that applies for programs offered by the Utah Housing Corporation within that agency's funding capacity;

(R) apply for or partner with an entity that applies for affordable housing programs administered by the Department of Workforce Services;

(S) apply for or partner with an entity that applies for services provided by a public housing authority to preserve and create moderate income housing;

(T) apply for or partner with an entity that applies for programs administered by a metropolitan planning organization or other transportation agency that provides technical planning assistance;

(U) utilize a moderate income housing set aside from a community reinvestment agency, redevelopment agency, or community development and renewal agency; and

[~~(V) reduce residential building design elements as defined in Section 10-9a-403; and~~]

[~~(W)~~] (V) consider any other program or strategy implemented by the county to address the housing needs of residents of the county who earn less than 80% of the area median income.

(c) In drafting the land use element, the planning commission shall:

(i) identify and consider each agriculture protection area within the unincorporated area of the county or mountainous planning district; and

(ii) avoid proposing a use of land within an agriculture protection area that is inconsistent with or detrimental to the use of the land for agriculture.

(d) In drafting the transportation and traffic circulation element, the planning commission shall:

(i) consider the regional transportation plan developed by its region's metropolitan planning organization, if the relevant areas of the county are within the boundaries of a metropolitan planning organization; or

(ii) consider the long-range transportation plan developed by the Department of Transportation, if the relevant areas of the county are not within the boundaries of a metropolitan planning organization.

(3) The proposed general plan may include:

(a) an environmental element that addresses:

(i) to the extent not covered by the county's resource management plan, the protection, conservation, development, and use of natural

resources, including the quality of air, forests, soils, rivers and other waters, harbors, fisheries, wildlife, minerals, and other natural resources; and

(ii) the reclamation of land, flood control, prevention and control of the pollution of streams and other waters, regulation of the use of land on hillsides, stream channels and other environmentally sensitive areas, the prevention, control, and correction of the erosion of soils, protection of watersheds and wetlands, and the mapping of known geologic hazards;

(b) a public services and facilities element showing general plans for sewage, water, waste disposal, drainage, public utilities, rights-of-way, easements, and facilities for them, police and fire protection, and other public services;

(c) a rehabilitation, redevelopment, and conservation element consisting of plans and programs for:

(i) historic preservation;

(ii) the diminution or elimination of a development impediment as defined in Section 17C-1-102; and

(iii) redevelopment of land, including housing sites, business and industrial sites, and public building sites;

(d) an economic element composed of appropriate studies and forecasts, as well as an economic development plan, which may include review of existing and projected county revenue and expenditures, revenue sources, identification of basic and secondary industry, primary and secondary market areas, employment, and retail sales activity;

(e) recommendations for implementing all or any portion of the general plan, including the use of land use ordinances, capital improvement plans, community development and promotion, and any other appropriate action;

(f) provisions addressing any of the matters listed in Subsection 17-27a-401(2) or (3)(a)(i); and

(g) any other element the county considers appropriate.

Section 14. Section 17-27a-530 is enacted to read:

17-27a-530. Regulation of building design elements prohibited -- Exceptions.

(1) As used in this section, "building design element" means:

(a) exterior color;

(b) type or style of exterior cladding material;

(c) style, dimensions, or materials of a roof structure, roof pitch, or porch;

(d) exterior nonstructural architectural ornamentation;

(e) location, design, placement, or architectural styling of a window or door;

(f) location, design, placement, or architectural styling of a garage door, not including a rear-loading garage door;

(g) number or type of rooms;

(h) interior layout of a room;

(i) minimum square footage over 1,000 square feet, not including a garage;

(j) rear yard landscaping requirements;

(k) minimum building dimensions; or

(l) a requirement to install front yard fencing.

(2) Except as provided in Subsection (3), a county may not impose a requirement for a building design element on a one to two family dwelling.

(3) Subsection (2) does not apply to:

(a) a dwelling located within an area designated as a historic district in:

(i) the National Register of Historic Places;

(ii) the state register as defined in Section 9-8-402; or

(iii) a local historic district or area, or a site designated as a local landmark, created by ordinance before January 1, 2021;

(b) an ordinance enacted as a condition for participation in the National Flood Insurance Program administered by the Federal Emergency Management Agency;

(c) an ordinance enacted to implement the requirements of the Utah Wildland Urban Interface Code adopted under Section 15A-2-103;

(d) building design elements agreed to under a development agreement;

(e) a dwelling located within an area that:

(i) is zoned primarily for residential use; and

(ii) was substantially developed before calendar year 1950;

(f) an ordinance enacted to implement water efficient landscaping in a rear yard;

(g) an ordinance enacted to regulate type of cladding, in response to findings or evidence from the construction industry of:

(i) defects in the material of existing cladding; or

(ii) consistent defects in the installation of existing cladding; or

(h) a land use regulation, including a planned unit development or overlay zone, that a property owner requests:

(i) the county to apply to the owner's property; and

(ii) in exchange for an increase in density or other benefit not otherwise available as a permitted use in the zoning area or district.

Section 15. Section 17-36-55 is amended to read:

17-36-55. Fees collected for construction approval -- Approval of plans.

(1) As used in this section:

(a) "Business day" means a day other than Saturday, Sunday, or a legal holiday.

[~~(a)~~] (b) "Construction project" means the same as that term is defined in Section 38-1a-102.

[~~(b)~~] (c) "Lodging establishment" means a place providing temporary sleeping accommodations to the public, including any of the following:

(i) a bed and breakfast establishment;

(ii) a boarding house;

(iii) a dormitory;

(iv) a hotel;

(v) an inn;

(vi) a lodging house;

(vii) a motel;

(viii) a resort; or

(ix) a rooming house.

[~~(c)~~] (d) "Planning review" means a review to verify that a county has approved the following elements of a construction project:

(i) zoning;

(ii) lot sizes;

(iii) setbacks;

(iv) easements;

(v) curb and gutter elevations;

(vi) grades and slopes;

(vii) utilities;

(viii) street names;

(ix) defensible space provisions and elevations, if required by the Utah Wildland Urban Interface Code adopted under Section 15A-2-103; and

(x) subdivision.

[~~(d)~~] (e) (i) "Plan review" means all of the reviews and approvals of a plan that a county requires to obtain a building permit from the county with a scope that may not exceed a review to verify:

(A) that the construction project complies with the provisions of the State Construction Code under Title 15A, State Construction and Fire Codes Act;

(B) that the construction project complies with the energy code adopted under Section 15A-2-103;

(C) that the construction project received a planning review;

(D) that the applicant paid any required fees;

(E) that the applicant obtained final approvals from any other required reviewing agencies;

(F) that the construction project complies with federal, state, and local storm water protection laws;

(G) that the construction project received a structural review;

(H) the total square footage for each building level of finished, garage, and unfinished space; and

(I) that the plans include a printed statement indicating that the actual construction will comply with applicable local ordinances and the state construction codes.

(ii) "Plan review" does not mean a review of a document:

(A) required to be re-submitted for a construction project other than a construction project for a one to two family dwelling or townhome if additional modifications or substantive changes are identified by the plan review;

(B) submitted as part of a deferred submittal when requested by the applicant and approved by the building official; or

(C) that, due to the document's technical nature or on the request of the applicant, is reviewed by a third party.

[~~(e)~~] (f) "State Construction Code" means the same as that term is defined in Section 15A-1-102.

[~~(f)~~] (g) "State Fire Code" means the same as that term is defined in Section 15A-1-102.

[~~(g)~~] (h) "Structural review" means:

(i) a review that verifies that a construction project complies with the following:

(A) footing size and bar placement;

(B) foundation thickness and bar placement;

(C) beam and header sizes;

(D) nailing patterns;

(E) bearing points;

(F) structural member size and span; and

(G) sheathing; or

(ii) if the review exceeds the scope of the review described in Subsection (1)[~~(g)~~](h)(i), a review that a licensed engineer conducts.

[~~(h)~~] (i) "Technical nature" means a characteristic that places an item outside the training and expertise of an individual who regularly performs plan reviews.

(2) (a) If a county collects a fee for the inspection of a construction project, the county shall ensure that the construction project receives a prompt inspection.

(b) If a county cannot provide a building inspection within three business days after the day on which the county receives the request for the inspection, the county shall promptly engage an independent inspector with fees collected from the applicant.

(c) If an inspector identifies one or more violations of the State Construction Code or State Fire Code during an inspection, the inspector shall give the permit holder written notification that:

(i) identifies each violation;

(ii) upon request by the permit holder, includes a reference to each applicable provision of the State Construction Code or State Fire Code; and

(iii) is delivered:

(A) in hardcopy or by electronic means; and

(B) the day on which the inspection occurs.

(3) (a) A county shall complete a plan review of a construction project for a one to two family dwelling or townhome by no later than 14 business days after the day on which the [~~plan is submitted~~] applicant submits a complete building permit application to the county.

(b) A county shall complete a plan review of a construction project for a residential structure built under the International Building Code, not including a lodging establishment, by no later than 21 business days after the day on which the [~~plan is submitted~~] applicant submits a complete building permit application to the county.

(c) (i) Subject to Subsection (3)(c)(ii), if a county does not complete a plan review before the time period described in Subsection (3)(a) or (b) expires, an applicant may request that the county complete the plan review.

(ii) If an applicant makes a request under Subsection (3)(c)(i), the county shall perform the plan review no later than:

(A) for a plan review described in Subsection (3)(a), 14 days from the day on which the applicant makes the request; or

(B) for a plan review described in Subsection (3)(b), 21 days from the day on which the applicant makes the request.

(d) An applicant may:

(i) waive the plan review time requirements described in this Subsection (3); or

(ii) with the county's consent, establish an alternative plan review time requirement.

(4) [~~(a)~~] A county may not enforce a requirement to have a plan review if:

[~~(i)~~] (a) the county does not complete the plan review within the time period described in Subsection (3)(a) or (b); and

[~~(ii)~~] (b) a licensed architect or structural engineer, or both when required by law, stamps the plan.

[~~(b)~~] (5) (a) A county may attach to a reviewed plan a list that includes:

(i) items with which the county is concerned and may enforce during construction; and

(ii) building code violations found in the plan.

[~~(c)~~] (b) A county may not require an applicant to redraft a plan if the county requests minor changes to the plan that the list described in Subsection [~~(4)(b)~~] (5)(a) identifies.

[~~(5) An applicant shall ensure that each construction project plan submitted for a plan review under this section has a statement indicating that actual construction will comply with applicable local ordinances and building codes.~~]

(c) A county may require a single resubmittal of plans for a one or two family dwelling or townhome if the resubmission is required to address deficiencies identified by a third-party review of a geotechnical report or geological report.

(6) If a county charges a fee for a building permit, the county may not refuse payment of the fee at the time the applicant submits a building permit application under Subsection (3).

(7) A county may not limit the number of building permit applications submitted under Subsection (3).

(8) For purposes of Subsection (3), a building permit application is complete if the application contains:

(a) the name, address, and contact information of:

(i) the applicant; and

(ii) the construction manager/general contractor, as defined in Section 63G-6a-103, for the construction project;

(b) a site plan for the construction project that:

(i) is drawn to scale;

(ii) includes a north arrow and legend; and

(iii) provides specifications for the following:

(A) lot size and dimensions;

(B) setbacks and overhangs for setbacks;

(C) easements;

(D) property lines;

(E) topographical details, if the slope of the lot is greater than 10%;

(F) retaining walls;

(G) hard surface areas;

(H) curb and gutter elevations as indicated in the subdivision documents;

(I) utilities, including water meter and sewer lateral location;

(J) street names;

(K) driveway locations;

(L) defensible space provisions and elevations, if required by the Utah Wildland Urban Interface Code adopted under Section 15A-2-103; and

(M) the location of the nearest hydrant;

(c) construction plans and drawings, including:

(i) elevations, only if the construction project is new construction;

(ii) floor plans for each level, including the location and size of doors and windows;

(iii) foundation, structural, and framing detail; and

(iv) electrical, mechanical, and plumbing design;

(d) documentation of energy code compliance;

(e) structural calculations, except for trusses;

(f) a geotechnical report, including a slope stability evaluation and retaining wall design, if:

(i) the slope of the lot is greater than 15%; and

(ii) required by the county; and

(g) a statement indicating that actual construction will comply with applicable local ordinances and building codes.

Section 16. Section 19-5-125 is amended to read:

19-5-125. Yurt exemption.

(1) As used in this section:

(a) "Backcountry waste containment and disposal system" means a pickle pail, rocket box, tube toilet, John-E partner, or similar container used to collect and carry out waste, including fecal matter.

(b) "Remote yurt" means the same as that term is defined in Subsection [~~15A-1-204(12)~~] 15A-1-202.

(2) Unless otherwise provided by ordinance in accordance with Subsection 15A-1-204(12)[~~(e)~~](b), a remote yurt is exempt from this chapter, rules made under this chapter, and local health department's jurisdiction over onsite wastewater disposal, except that the owner of a remote yurt shall ensure that an individual using the remote yurt uses a backcountry waste containment and disposal system and the local health department may enforce the provisions of this section.

Section 17. Section 58-55-102 is amended to read:

58-55-102. Definitions.

In addition to the definitions in Section 58-1-102, as used in this chapter:

(1) (a) "Alarm business or company" means a person engaged in the sale, installation, maintenance, alteration, repair, replacement, servicing, or monitoring of an alarm system, except as provided in Subsection (1)(b).

(b) "Alarm business or company" does not include:

(i) a person engaged in the manufacture or sale of alarm systems unless:

(A) that person is also engaged in the installation, maintenance, alteration, repair, replacement, servicing, or monitoring of alarm systems;

(B) the manufacture or sale occurs at a location other than a place of business established by the person engaged in the manufacture or sale; or

(C) the manufacture or sale involves site visits at the place or intended place of installation of an alarm system; or

(ii) an owner of an alarm system, or an employee of the owner of an alarm system who is engaged in installation, maintenance, alteration, repair, replacement, servicing, or monitoring of the alarm system owned by that owner.

(2) "Alarm company agent":

(a) except as provided in Subsection (2)(b), means any individual employed within this state by an alarm business; and

(b) does not include an individual who:

(i) is not engaged in the sale, installation, maintenance, alteration, repair, replacement, servicing, or monitoring of an alarm system; and

(ii) does not, during the normal course of the individual's employment with an alarm business, use or have access to sensitive alarm system information.

(3) "Alarm system" means equipment and devices assembled for the purpose of:

(a) detecting and signaling unauthorized intrusion or entry into or onto certain premises; or

(b) signaling a robbery or attempted robbery on protected premises.

(4) "Apprentice electrician" means a person licensed under this chapter as an apprentice electrician who is learning the electrical trade under the immediate supervision of a master electrician, residential master electrician, a journeyman electrician, or a residential journeyman electrician.

(5) "Apprentice plumber" means a person licensed under this chapter as an apprentice plumber who is learning the plumbing trade under the immediate supervision of a master plumber, residential master plumber, journeyman plumber, or a residential journeyman plumber.

(6) "Approved continuing education" means instruction provided through courses under a program established under Subsection 58-55-302.5(2).

(7) (a) "Approved prelicensure course provider" means a provider that is the Associated General Contractors of Utah, the Utah Chapter of the Associated Builders and Contractors, or the Utah Home Builders Association, and that meets the requirements established by rule by the commission with the concurrence of the director, to teach the 25-hour course described in Subsection 58-55-302(1)(e)(iii).

(b) "Approved prelicensure course provider" may only include a provider that, in addition to any other locations, offers the 25-hour course described in

Subsection 58-55-302(1)(e)(iii) at least six times each year in one or more counties other than Salt Lake County, Utah County, Davis County, or Weber County.

(8) "Board" means the Electrician Licensing Board, Alarm System Security and Licensing Board, or Plumbers Licensing Board created in Section 58-55-201.

(9) "Combustion system" means an assembly consisting of:

(a) piping and components with a means for conveying, either continuously or intermittently, natural gas from the outlet of the natural gas provider's meter to the burner of the appliance;

(b) the electric control and combustion air supply and venting systems, including air ducts; and

(c) components intended to achieve control of quantity, flow, and pressure.

(10) "Commission" means the Construction Services Commission created under Section 58-55-103.

(11) "Construction trade" means any trade or occupation involving:

(a) (i) construction, alteration, remodeling, repairing, wrecking or demolition, addition to, or improvement of any building, highway, road, railroad, dam, bridge, structure, excavation or other project, development, or improvement to other than personal property; and

(ii) constructing, remodeling, or repairing a manufactured home or mobile home as defined in Section 15A-1-302; or

(b) installation or repair of a residential or commercial natural gas appliance or combustion system.

(12) "Construction trades instructor" means a person licensed under this chapter to teach one or more construction trades in both a classroom and project environment, where a project is intended for sale to or use by the public and is completed under the direction of the instructor, who has no economic interest in the project.

(13) (a) "Contractor" means any person who for compensation other than wages as an employee undertakes any work in the construction, plumbing, or electrical trade for which licensure is required under this chapter and includes:

(i) a person who builds any structure on the person's own property for the purpose of sale or who builds any structure intended for public use on the person's own property;

(ii) any person who represents that the person is a contractor, or will perform a service described in this Subsection (13), by advertising on a website or social media, or any other means;

(iii) any person engaged as a maintenance person, other than an employee, who regularly engages in activities set forth under the definition of "construction trade";

(iv) any person engaged in, or offering to engage in, any construction trade for which licensure is required under this chapter; or

(v) a construction manager, construction consultant, construction assistant, or any other person who, for a fee:

(A) performs or offers to perform construction consulting;

(B) performs or offers to perform management of construction subcontractors;

(C) provides or offers to provide a list of subcontractors or suppliers; or

(D) provides or offers to provide management or counseling services on a construction project.

(b) "Contractor" does not include:

(i) an alarm company or alarm company agent; or

(ii) a material supplier who provides consulting to customers regarding the design and installation of the material supplier's products.

(14) (a) "Electrical trade" means the performance of any electrical work involved in the installation, construction, alteration, change, repair, removal, or maintenance of facilities, buildings, or appendages or appurtenances.

(b) "Electrical trade" does not include:

(i) transporting or handling electrical materials;

(ii) preparing clearance for raceways for wiring;

(iii) work commonly done by unskilled labor on any installations under the exclusive control of electrical utilities;

(iv) work involving cable-type wiring that does not pose a shock or fire-initiation hazard; or

(v) work involving class two or class three power-limited circuits as defined in the National Electrical Code.

(15) "Elevator" means the same as that term is defined in Section 34A-7-202, except that for purposes of this chapter it does not mean a stair chair, a vertical platform lift, or an incline platform lift.

(16) "Elevator contractor" means a sole proprietor, firm, or corporation licensed under this chapter that is engaged in the business of erecting, constructing, installing, altering, servicing, repairing, or maintaining an elevator.

(17) "Elevator mechanic" means an individual who is licensed under this chapter as an elevator mechanic and who is engaged in erecting, constructing, installing, altering, servicing, repairing, or maintaining an elevator under the immediate supervision of an elevator contractor.

(18) "Employee" means an individual as defined by the division by rule giving consideration to the definition adopted by the Internal Revenue Service and the Department of Workforce Services.

(19) "Engage in a construction trade" means to:

(a) engage in, represent oneself to be engaged in, or advertise oneself as being engaged in a construction trade; or

(b) use the name "contractor" or "builder" or in any other way lead a reasonable person to believe one is or will act as a contractor.

(20) (a) "Financial responsibility" means a demonstration of a current and expected future condition of financial solvency evidencing a reasonable expectation to the division and the board that an applicant or licensee can successfully engage in business as a contractor without jeopardy to the public health, safety, and welfare.

(b) Financial responsibility may be determined by an evaluation of the total history concerning the licensee or applicant including past, present, and expected condition and record of financial solvency and business conduct.

(21) "Gas appliance" means any device that uses natural gas to produce light, heat, power, steam, hot water, refrigeration, or air conditioning.

(22) (a) "General building contractor" means a person licensed under this chapter as a general building contractor qualified by education, training, experience, and knowledge to perform or superintend construction of structures for the support, shelter, and enclosure of persons, animals, chattels, or movable property of any kind or any of the components of that construction except plumbing, electrical work, mechanical work, work related to the operating integrity of an elevator, and manufactured housing installation, for which the general building contractor shall employ the services of a contractor licensed in the particular specialty, except that a general building contractor engaged in the construction of single-family and multifamily residences up to four units may perform the mechanical work and hire a licensed plumber or electrician as an employee.

(b) The division may by rule exclude general building contractors from engaging in the performance of other construction specialties in which there is represented a substantial risk to the public health, safety, and welfare, and for which a license is required unless that general building contractor holds a valid license in that specialty classification.

(23) (a) "General electrical contractor" means a person licensed under this chapter as a general electrical contractor qualified by education, training, experience, and knowledge to perform the fabrication, construction, and installation of generators, transformers, conduits, raceways, panels, switch gear, electrical wires, fixtures, appliances, or apparatus that uses electrical energy.

(b) The scope of work of a general electrical contractor may be further defined by rules made by the commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(24) (a) "General engineering contractor" means a person licensed under this chapter as a general engineering contractor qualified by education, training, experience, and knowledge to perform construction of fixed works in any of the following: irrigation, drainage, water, power, water supply, flood control, inland waterways, harbors, railroads, highways, tunnels, airports and runways, sewers and bridges, refineries, pipelines, chemical and industrial plants requiring specialized engineering knowledge and skill, piers, and foundations, or any of the components of those works.

(b) A general engineering contractor may not perform construction of structures built primarily for the support, shelter, and enclosure of persons, animals, and chattels.

(25) (a) "General plumbing contractor" means a person licensed under this chapter as a general plumbing contractor qualified by education, training, experience, and knowledge to perform the fabrication or installation of material and fixtures to create and maintain sanitary conditions in a building by providing permanent means for a supply of safe and pure water, a means for the timely and complete removal from the premises of all used or contaminated water, fluid and semi-fluid organic wastes and other impurities incidental to life and the occupation of such premises, and a safe and adequate supply of gases for lighting, heating, and industrial purposes.

(b) The scope of work of a general plumbing contractor may be further defined by rules made by the commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(26) "Immediate supervision" means reasonable direction, oversight, inspection, and evaluation of the work of a person:

(a) as the division specifies in rule;

(b) by, as applicable, a qualified electrician or plumber;

(c) as part of a planned program of training; and

(d) to ensure that the end result complies with applicable standards.

(27) "Individual" means a natural person.

(28) "Journeyman electrician" means a person licensed under this chapter as a journeyman electrician having the qualifications, training, experience, and knowledge to wire, install, and repair electrical apparatus and equipment for light, heat, power, and other purposes.

(29) "Journeyman plumber" means a person licensed under this chapter as a journeyman plumber having the qualifications, training, experience, and technical knowledge to engage in the plumbing trade.

(30) "Master electrician" means a person licensed under this chapter as a master electrician having the qualifications, training, experience, and knowledge to properly plan, layout, and supervise the wiring, installation, and repair of electrical

apparatus and equipment for light, heat, power, and other purposes.

(31) "Master plumber" means a person licensed under this chapter as a master plumber having the qualifications, training, experience, and knowledge to properly plan and layout projects and supervise persons in the plumbing trade.

(32) "Person" means a natural person, sole proprietorship, joint venture, corporation, limited liability company, association, or organization of any type.

(33) (a) "Plumbing trade" means the performance of any mechanical work pertaining to the installation, alteration, change, repair, removal, maintenance, or use in buildings, or within three feet beyond the outside walls of buildings, of pipes, fixtures, and fittings for the:

(i) delivery of the water supply;

(ii) discharge of liquid and water carried waste;

(iii) building drainage system within the walls of the building; and

(iv) delivery of gases for lighting, heating, and industrial purposes.

(b) "Plumbing trade" includes work pertaining to the water supply, distribution pipes, fixtures and fixture traps, soil, waste and vent pipes, the building drain and roof drains, and the safe and adequate supply of gases, together with their devices, appurtenances, and connections where installed within the outside walls of the building.

(34) "Ratio of apprentices" means the number of licensed plumber apprentices or licensed electrician apprentices that are allowed to be under the immediate supervision of a licensed supervisor as established by the provisions of this chapter and by rules made by the commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(35) "Residential and small commercial contractor" means a person licensed under this chapter as a residential and small commercial contractor qualified by education, training, experience, and knowledge to perform or superintend the construction of single-family residences, multifamily residences up to four units, and commercial construction of not more than three stories above ground and not more than 20,000 square feet, or any of the components of that construction except plumbing, electrical work, mechanical work, and manufactured housing installation, for which the residential and small commercial contractor shall employ the services of a contractor licensed in the particular specialty, except that a residential and small commercial contractor engaged in the construction of single-family and multifamily residences up to four units may perform the mechanical work and hire a licensed plumber or electrician as an employee.

(36) "Residential building," as it relates to the license classification of residential journeyman plumber and residential master plumber, means a single or multiple family dwelling of up to four units.

(37) (a) "Residential electrical contractor" means a person licensed under this chapter as a residential electrical contractor qualified by education, training, experience, and knowledge to perform the fabrication, construction, and installation of services, disconnecting means, grounding devices, panels, conductors, load centers, lighting and plug circuits, appliances, and fixtures in a residential unit.

(b) The scope of work of a residential electrical contractor may be further defined by rules made by the commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(38) "Residential journeyman electrician" means a person licensed under this chapter as a residential journeyman electrician having the qualifications, training, experience, and knowledge to wire, install, and repair electrical apparatus and equipment for light, heat, power, and other purposes on buildings using primarily nonmetallic sheath cable.

(39) "Residential journeyman plumber" means a person licensed under this chapter as a residential journeyman plumber having the qualifications, training, experience, and knowledge to engage in the plumbing trade as limited to the plumbing of residential buildings.

(40) "Residential master electrician" means a person licensed under this chapter as a residential master electrician having the qualifications, training, experience, and knowledge to properly plan, layout, and supervise the wiring, installation, and repair of electrical apparatus and equipment for light, heat, power, and other purposes on residential projects.

(41) "Residential master plumber" means a person licensed under this chapter as a residential master plumber having the qualifications, training, experience, and knowledge to properly plan and layout projects and supervise persons in the plumbing trade as limited to the plumbing of residential buildings.

(42) (a) "Residential plumbing contractor" means a person licensed under this chapter as a residential plumbing contractor qualified by education, training, experience, and knowledge to perform the fabrication or installation of material and fixtures to create and maintain sanitary conditions in residential buildings by providing permanent means for a supply of safe and pure water, a means for the timely and complete removal from the premises of all used or contaminated water, fluid and semi-fluid organic wastes and other impurities incidental to life and the occupation of such premises, and a safe and adequate supply of gases for lighting, heating, and industrial purposes.

(b) The scope of work of a residential plumbing contractor may be further defined by rules made by the commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(43) "Residential project," as it relates to an electrician or electrical contractor, means buildings primarily wired with nonmetallic sheathed cable, in accordance with standard rules and regulations governing this work, including the National Electrical Code, and in which the voltage does not exceed 250 volts line to line and 125 volts to ground.

(44) "Sensitive alarm system information" means:

(a) a pass code or other code used in the operation of an alarm system;

(b) information on the location of alarm system components at the premises of a customer of the alarm business providing the alarm system;

(c) information that would allow the circumvention, bypass, deactivation, or other compromise of an alarm system of a customer of the alarm business providing the alarm system; and

(d) any other similar information that the division by rule determines to be information that an individual employed by an alarm business should use or have access to only if the individual is licensed as provided in this chapter.

(45) (a) "Specialty contractor" means a person licensed under this chapter under a specialty contractor classification established by rule, who is qualified by education, training, experience, and knowledge to perform those construction trades and crafts requiring specialized skill, the regulation of which are determined by the division to be in the best interest of the public health, safety, and welfare.

(b) A specialty contractor may perform work in crafts or trades other than those in which the specialty contractor is licensed if they are incidental to the performance of the specialty contractor's licensed craft or trade.

(46) "Unincorporated entity" means an entity that is not:

(a) an individual;

(b) a corporation; or

(c) publicly traded.

(47) "Unlawful conduct" means the same as that term is defined in Sections 58-1-501 and 58-55-501.

(48) "Unprofessional conduct" means the same as that term is defined in Sections 58-1-501 and 58-55-502 and as may be further defined by rule.

(49) "Wages" means amounts due to an employee for labor or services whether the amount is fixed or ascertained on a time, task, piece, commission, or other basis for calculating the amount.

Section 18. Section 58-55-302.5 is amended to read:

58-55-302.5. Continuing education requirements for contractor licensees -- Continuing education courses.

(1) (a) Each contractor licensee under a license issued under this chapter shall complete six hours of approved continuing education during each two-year renewal cycle established by rule under Subsection 58-55-303(1).

(b) Each contractor licensee who has a renewal cycle that ends on or after January 1, 2020, shall complete one hour of approved continuing education on energy conservation as part of the six required hours.

(2) (a) The commission shall, with the concurrence of the division, establish by rule a program of approved continuing education for contractor licensees.

(b) Except as provided in Subsection (2)(e), beginning on or after June 1, 2015, only courses offered by any of the following may be included in the program of approved continuing education for contractor licensees:

(i) the Associated General Contractors of Utah;

(ii) Associated Builders and Contractors, Utah Chapter;

(iii) the Utah Home Builders Association [~~of Utah~~];

(iv) the National Electrical Contractors Association Intermountain Chapter;

(v) the Utah Plumbing & Heating Contractors Association;

(vi) the Independent Electrical Contractors of Utah;

(vii) the Rocky Mountain Gas Association;

(viii) the Utah Mechanical Contractors Association;

(ix) the Sheet Metal Contractors Association;

(x) the Intermountain Electrical Association;

(xi) the Builders Bid Service of Utah; or

(xii) Utah Roofing Contractors Association.

(c) An approved continuing education program for a contractor licensee may include a course approved by an entity described in Subsections (2)(b)(i) through (2)(b)(iii).

(d) (i) Except as provided in Subsections (2)(d)(ii) and (iii), an entity listed in Subsections (2)(b)(iv) through (2)(b)(xii) may only offer and market continuing education courses to a licensee who is a member of the entity.

(ii) An entity described in Subsection (2)(b)(iv), (vi), or (x) may offer and market a continuing education course that the entity offers to satisfy the continuing education requirement described in Subsection 58-55-302.7(2)(a) to a contractor in the electrical trade.

(iii) An entity described in Subsection (2)(b)(v) or (viii) may offer and market a continuing education course that the entity offers to satisfy the continuing education requirement described in Subsection 58-55-302.7(2)(b) to a contractor in the plumbing trade.

(e) On or after June 1, 2015, an approved continuing education program for a contractor licensee may include a course offered and taught by:

(i) a state executive branch agency;

(ii) the workers' compensation insurance carrier that provides workers' compensation insurance under Section 31A-22-1001; or

(iii) a nationally or regionally accredited college or university that has a physical campus in the state.

(f) On or after June 1, 2017, for a contractor licensee that is licensed in the specialty contractor classification of HVAC contractor, at least three of the six hours described in Subsection (1) shall include continuing education directly related to the installation, repair, or replacement of a heating, ventilation, or air conditioning system.

(3) The division may contract with a person to establish and maintain a continuing education registry to include:

(a) a list of courses that the division has approved for inclusion in the program of approved continuing education; and

(b) a list of courses that:

(i) a contractor licensee has completed under the program of approved continuing education; and

(ii) the licensee may access to monitor the licensee's compliance with the continuing education requirement established under Subsection (1).

(4) The division may charge a fee, as established by the division under Section 63J-1-504, to administer the requirements of this section.

Section 19. Section 63N-3-603 is amended to read:

63N-3-603. Applicability, requirements, and limitations on a housing and transit reinvestment zone.

(1) A housing and transit reinvestment zone proposal created under this part shall promote the following objectives:

(a) higher utilization of public transit;

(b) increasing availability of housing, including affordable housing;

(c) conservation of water resources through efficient land use;

(d) improving air quality by reducing fuel consumption and motor vehicle trips;

(e) encouraging transformative mixed-use development and investment in transportation and public transit infrastructure in strategic areas;

(f) strategic land use and municipal planning in major transit investment corridors as described in [~~Subsections 10-9a-403(3) and (4)~~] Subsection 10-9a-403(2); and

(g) increasing access to employment and educational opportunities.

(2) In order to accomplish the objectives described in Subsection (1), a municipality or public transit county that initiates the process to create a housing and transit reinvestment zone as described in this part shall ensure that the proposal for a housing and transit reinvestment zone includes:

(a) except as provided in Subsection (3), at least 10% of the proposed housing units within the housing and transit reinvestment zone are affordable housing units;

(b) a dedication of at least 51% of the developable area within the housing and transit reinvestment zone to residential development with an average of 50 multi-family dwelling units per acre or greater; and

(c) mixed-use development.

(3) A municipality or public transit county that, at the time the housing and transit reinvestment zone proposal is approved by the housing and transit reinvestment zone committee, meets the affordable housing guidelines of the United States Department of Housing and Urban Development at 60% area median income is exempt from the requirement described in Subsection (2)(a).

(4) A municipality or public transit county may only propose a housing and transit reinvestment zone that:

(a) subject to Subsection (5):

(i) (A) for a municipality, does not exceed a 1/3 mile radius of a commuter rail station; or

(B) for a public transit county, does not exceed a 1/3 mile radius of a public transit hub; and

(ii) has a total area of no more than 125 noncontiguous square acres;

(b) subject to Section 63N-3-607, proposes the capture of a maximum of 80% of each taxing entity's tax increment above the base year for a term of no more than 25 consecutive years on each parcel within a 45-year period not to exceed the tax increment amount approved in the housing and transit reinvestment zone proposal; and

(c) the commencement of collection of tax increment, for all or a portion of the housing and transit reinvestment zone, will be triggered by providing notice as described in Subsection (6).

(5) If a parcel is bisected by the 1/3 mile radius, the full parcel may be included as part of the housing and transit reinvestment zone area and will not count against the limitations described in Subsection (4)(a).

(6) The notice of commencement of collection of tax increment required in Subsection (4)(c) shall be sent by mail or electronically to:

(a) the tax commission;

(b) the State Board of Education;

(c) the state auditor;

(d) the auditor of the county in which the housing and transit reinvestment zone is located;

(e) each taxing entity affected by the collection of tax increment from the housing and transit reinvestment zone; and

(f) the Governor's Office of Economic Development.

Section 20. Effective date.

(1) Except as provided in Subsection (2), if approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

(2) Section 15A-1-204 (Effective 07/01/21) takes effect on July 1, 2021.

CHAPTER 4
H. B. 1004
Passed May 19, 2021
Approved May 28, 2021
Effective May 28, 2021
(Exception clause in Section 7)

COVID-19 GRANT PROGRAM AMENDMENTS

Chief Sponsor: Mike Schultz
Senate Sponsor: Kirk A. Cullimore

LONG TITLE

General Description:

This bill addresses grant programs responding to COVID-19.

Highlighted Provisions:

This bill:

- amends the grant program that allows the Governor's Office of Economic Development to respond to the COVID-19 pandemic by directing financial grants to institutions of higher education by:
  - modifying certain reporting and expenditure requirements; and
  - repealing the sunset date;
- creates a grant program within the Governor's Office of Management and Budget for local governments to receive grants for certain purposes related to COVID-19 recovery if the local government provides matching funds;
- requires the Governor's Office of Management and Budget to report information about the grant program to the Executive Appropriations Committee on an annual basis;
- establishes a review committee to make recommendations to the Governor's Office of Management and Budget regarding the allocation of grant funds and certain procedures, criteria, and requirements for the grant program; and
- provides for the appointment of review committee members.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

63I-2-263 (Effective 07/01/21), as last amended by Laws of Utah 2021, Chapters 64, 84, 205, 280, 282, 330, 382, and 401
63N-1b-307 (Effective 07/01/21), as renumbered and amended by Laws of Utah 2021, Chapter 282
63N-12-508 (Superseded 07/01/21), as last amended by Laws of Utah 2020, Sixth Special Session, Chapter 19

ENACTS:

63J-4-801, Utah Code Annotated 1953
63J-4-802, Utah Code Annotated 1953
63J-4-803, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63I-2-263 (Effective 07/01/21) is amended to read:

63I-2-263 (Effective 07/01/21). Repeal dates, Title 63A to Title 63N.

(1) Section 63A-3-111 is repealed June 30, 2021.

(2) Title 63C, Chapter 19, Higher Education Strategic Planning Commission is repealed July 1, 2021.

(3) Title 63C, Chapter 22, Digital Wellness, Citizenship, and Safe Technology Commission is repealed July 1, 2023.

(4) Section 63G-1-502 is repealed July 1, 2022.

(5) The following sections regarding the World War II Memorial Commission are repealed on July 1, 2022:

(a) Section 63G-1-801;

(b) Section 63G-1-802;

(c) Section 63G-1-803; and

(d) Section 63G-1-804.

(6) Section 63H-7a-303 is repealed July 1, 2024.

(7) Subsection 63J-1-206(3)(c), relating to coronavirus, is repealed July 1, 2021.

(8) Sections 63M-7-213 and 63M-7-213.5 are repealed on January 1, 2023.

(9) Section 63M-7-217 is repealed on July 1, 2022.

[~~(10) Subsection 63N-1b-307(3), which allows the Governor's Office of Economic Opportunity to respond to the COVID-19 pandemic by directing financial grants to institutions of higher education, is repealed December 31, 2021.~~]

[~~(11)~~] (10) Title 63N, Chapter 13, Part 3, Facilitating Public-private Partnerships Act, is repealed January 1, 2024.

[~~(12)~~] (11) Title 63N, Chapter 15, COVID-19 Economic Recovery Programs, is repealed December 31, 2021.

Section 2. Section 63J-4-801 is enacted to read:

Part 8. COVID-19 Local Assistance Matching Grant Program

63J-4-801. Definitions.

As used in this part:

(1) "American Rescue Plan Act" means the American Rescue Plan Act, Pub. L. 117-2.

(2) "COVID-19" means:

(a) severe acute respiratory syndrome coronavirus 2; or

(b) the disease caused by severe acute respiratory syndrome coronavirus 2.

(3) "COVID-19 emergency" means the spread of COVID-19 that the World Health Organization declared a pandemic on March 11, 2020.

(4) "Grant program" means the COVID-19 Local Assistance Matching Grant Program established in Section 63J-4-802.

(5) "Local government" means a county, city, town, metro township, local district, or special service district.

(6) "Review committee" means the COVID-19 Local Assistance Matching Grant Program Review Committee established in Section 63J-4-803.

Section 3. Section 63J-4-802 is enacted to read:

63J-4-802. Creation of COVID-19 Local Assistance Matching Grant Program -- Eligibility -- Duties of the office.

(1) There is established a grant program known as COVID-19 Local Assistance Matching Grant Program that is administered by the office.

(2) The office shall award financial grants to local governments that meet the qualifications described in Subsection (3) to provide support for:

(a) projects or services that address the economic impacts of the COVID-19 emergency on housing insecurity, lack of affordable housing, or homelessness;

(b) costs incurred in addressing public health challenges resulting from the COVID-19 emergency;

(c) necessary investments in water and sewer infrastructure; or

(d) any other purpose authorized under the American Rescue Plan Act.

(3) To be eligible for a grant under this part, a local government shall:

(a) provide matching funds in an amount determined by the office; and

(b) certify that the local government will spend grant funds:

(i) on a purpose described in Subsection (2);

(ii) within the time period determined by the office; and

(iii) in accordance with the American Rescue Plan Act.

(4) As soon as is practicable, but on or before September 15, 2021, the office shall, with recommendations from the review committee, establish:

(a) procedures for applying for and awarding grants under this part, using an online grants management system that:

(i) manages each grant throughout the duration of the grant;

(ii) allows for:

(A) online submission of grant applications; and

(B) auditing and reporting for a local government that receives grant funds; and

(iii) generates reports containing information about each grant;

(b) criteria for awarding grants; and

(c) reporting requirements for grant recipients.

(5) Subject to appropriation, the office shall award grant funds on a competitive basis until December 31, 2024.

(6) Before November 30 of each year, ending November 30, 2025, the office shall submit a report to the Executive Appropriations Committee that includes:

(a) a summary of the procedures, criteria, and requirements established under Subsection (4);

(b) a summary of the recommendations of the review committee under Section 63J-4-803;

(c) the number of applications submitted under the grant program during the previous year;

(d) the number of grants awarded under the grant program during the previous year;

(e) the aggregate amount of grant funds awarded under the grant program during the previous year; and

(f) any other information the office considers relevant to evaluating the success of the grant program.

(7) The office may use funds appropriated by the Legislature for the grant program to pay for administrative costs.

Section 4. Section 63J-4-803 is enacted to read:

63J-4-803. COVID-19 Local Assistance Matching Grant Program Review Committee.

(1) There is created the COVID-19 Local Assistance Matching Grant Program Review Committee composed of the following five members:

(a) one member of the Senate, appointed by the president of the Senate;

(b) one member of the House of Representatives, appointed by the speaker of the House of Representatives;

(c) one individual representing the office, appointed by the executive director;

(d) one individual representing the Utah Association of Counties, appointed by the Utah Association of Counties; and

(e) one individual representing the Utah League of Cities and Towns, appointed by the Utah League of Cities and Towns.

(2) The review committee shall make recommendations to the office for:

(a) the allocation of grant funds under this part; and

(b) the procedures, criteria, and requirements established under Subsection 63J-4-802(4).

(3) (a) A member serves an indeterminate term and may be removed from the review committee by the appointing authority at any time.

(b) A vacancy may be filled in the same manner as an appointment under Subsection (1).

(4) (a) The salary and expenses of review committee members who are legislators shall be paid in accordance with Section 36-2-2 and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.

(b) A review committee member who is not a legislator may not receive compensation or benefits for the member's service on the review committee, but may receive per diem and reimbursement for travel expenses incurred as a review committee member at the rates established by the Division of Finance under:

(i) Sections 63A-3-106 and 63A-3-107; and

(ii) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(5) The office shall provide any necessary staff support to the review committee.

Section 5. Section 63N-1b-307 (Effective 07/01/21) is amended to read:

63N-1b-307 (Effective 07/01/21). Utah Works Program.

(1) There is created the Utah Works Program.

(2) The program, under the direction of the talent subcommittee, shall coordinate and partner with the entities described below to develop short-term pre-employment training and short-term early employment training for student and workforce participants that meet the needs of businesses that are creating jobs and economic growth in the state by:

(a) partnering with the office, the Department of Workforce Services, and the Utah system of higher education;

(b) partnering with businesses that have significant hiring demands for primarily newly created jobs in the state;

(c) coordinating with the Department of Workforce Services, education agencies, and employers to create effective recruitment initiatives to attract student and workforce participants and business participants to the program;

(d) coordinating with the Utah system of higher education to develop educational and training resources to provide student participants in the program qualifications to be hired by business participants in the program; and

(e) coordinating with the State Board of Education and local education agencies when appropriate to develop educational and training resources to provide student participants in the program qualifications to be hired by business participants in the program.

(3) (a) Subject to appropriation, [~~beginning on August 5, 2020,~~] the office, in consultation with the talent subcommittee, may respond to the COVID-19 pandemic by directing financial grants to institutions of higher education described in Section 53B-2-101 to offer short-term programs to:

(i) provide training to furloughed, laid off, dislocated, underserved, or other populations affected by COVID-19 to fill employment gaps in the state;

(ii) provide training and education related to industry needs; and

(iii) provide students with certificates or other recognition after completion of training.

[~~(b) (i) As soon as is practicable but on or before July 31, 2020, the office shall report to the director of the Division of Finance about the grant program under this Subsection (3), including:~~]

[~~(A) the process by which the office shall determine which institutions of higher education shall receive financial grants; and~~]

[~~(B) the formula for awarding financial grants.~~]

[~~(ii) The office shall:~~]

[~~(A) participate in the presentation that the director of the Division of Finance provides to the president of the Senate, the speaker of the House of Representatives, the minority leader of the Senate, and the minority leader of the House of Representatives under Section 63A-3-111; and~~]

[~~(B) consider any recommendations for adjustments to the grant program from the president of the Senate, the speaker of the House of Representatives, the minority leader of the Senate, and the minority leader of the House of Representatives.~~]

(b) The office shall include the following information in the annual written report described in Section 63N-1-301:

(i) the process by which the office determines which institutions of higher education shall receive financial grants; and

(ii) the formula for awarding financial grants.

(c) [~~To implement Subsection (3)(a), an~~] An institution of higher education that receives grant funds under this Subsection (3):

(i) may use grant funds for:

(A) costs associated with developing a new program; or

(B) costs associated with expanding an existing program; and

(ii) shall demonstrate industry needs and opportunities for partnership with industry.

[~~(d) (i) The office shall award grant funds:~~]

[~~(A) after an initial application period that ends on or before August 31, 2020; and~~]

[~~(B) if funds remain after the initial application period, on a rolling basis until the earlier of funds being exhausted or November 30, 2020.~~]

[~~(ii) An institution of higher education that receives grant funds shall expend the grant funds on or before December 1, 2020.~~]

(d) The office shall award grant funds on a rolling basis, until the earlier of funds being exhausted or June 30, 2022.

(e) The office shall conduct outreach, including education about career guidance, training, and workforce programs, to the targeted populations.

(4) The office, in consultation with the talent subcommittee, may, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and in accordance with the provisions of this section, make rules regarding the development and administration of the Utah Works Program.

(5) The Utah Works Program shall report the following metrics to the office for inclusion in the office's annual report described in Section 63N-1a-306:

(a) the number of participants in the program;

(b) how program participants learned about or were referred to the program, including the number of participants who learned about or were referred to the program by:

(i) the Department of Workforce Services;

(ii) marketing efforts of the office or talent subcommittee;

(iii) a school counselor; and

(iv) other methods;

(c) the number of participants who have completed training offered by the program; and

(d) the number of participants who have been hired by a business participating in the program.

Section 6. Section 63N-12-508 (Superseded 07/01/21) is amended to read:

63N-12-508 (Superseded 07/01/21). Utah Works Program.

(1) There is created within the center the Utah Works Program.

(2) The program, under the direction of the center and the talent ready board, shall coordinate and partner with the entities described below to develop short-term pre-employment training and short-term early employment training for student and workforce participants that meet the needs of businesses that are creating jobs and economic growth in the state by:

(a) partnering with the office, the Department of Workforce Services, and the Utah system of higher education;

(b) partnering with businesses that have significant hiring demands for primarily newly created jobs in the state;

(c) coordinating with the Department of Workforce Services, education agencies, and employers to create effective recruitment initiatives to attract student and workforce participants and business participants to the program;

(d) coordinating with the Utah system of higher education to develop educational and training resources to provide student participants in the program qualifications to be hired by business participants in the program; and

(e) coordinating with the State Board of Education and local education agencies when appropriate to develop educational and training resources to provide student participants in the program qualifications to be hired by business participants in the program.

(3) (a) Subject to appropriation, [~~beginning on August 5, 2020,~~] the office, in consultation with the talent ready board, may respond to the COVID-19 pandemic by directing financial grants to institutions of higher education described in Section 53B-2-101 to offer short-term programs to:

(i) provide training to furloughed, laid off, dislocated, underserved, or other populations affected by COVID-19 to fill employment gaps in the state;

(ii) provide training and education related to industry needs; and

(iii) provide students with certificates or other recognition after completion of training.

[~~(b) (i) As soon as is practicable but on or before July 31, 2020, the office shall report to the director of the Division of Finance about the grant program under this Subsection (3), including:~~]

[~~(A) the process by which the office shall determine which institutions of higher education shall receive financial grants; and~~]

[~~(B) the formula for awarding financial grants.~~]

[~~(ii) The office shall:~~]

[~~(A) participate in the presentation that the director of the Division of Finance provides to the president of the Senate, the speaker of the House of Representatives, the minority leader of the Senate, and the minority leader of the House of Representatives under Section 63A-3-111; and~~]

[~~(B) consider any recommendations for adjustments to the grant program from the president of the Senate, the speaker of the House of Representatives, the minority leader of the Senate, and the minority leader of the House of Representatives.~~]

(b) The office shall include the following information in the annual written report described in Section 63N-1a-306:

(i) the process by which the office determines which institutions of higher education shall receive financial grants; and

(ii) the formula for awarding financial grants.

(c) [~~To implement Subsection (3)(a), an~~] An institution of higher education that receives grant funds under this Subsection (3):

(i) may use grant funds for:

(A) costs associated with developing a new program; or

(B) costs associated with expanding an existing program; and

(ii) shall demonstrate industry needs and opportunities for partnership with industry.

[~~(d) (i) The office shall award grant funds:~~]

[~~(A) after an initial application period that ends on or before August 31, 2020; and~~]

[~~(B) if funds remain after the initial application period, on a rolling basis until the earlier of funds being exhausted or November 30, 2020.~~]

[~~(ii) An institution of higher education that receives grant funds shall expend the grant funds on or before December 1, 2020.~~]

(d) The office shall award grant funds on a rolling basis, until the earlier of funds being exhausted or June 30, 2022.

(e) The center shall conduct outreach, including education about career guidance, training, and workforce programs, to the targeted populations.

(4) The office, in consultation with the talent ready board, may, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and in accordance with the provisions of this section, make rules regarding the development and administration of the Utah Works Program.

(5) The center shall report the following metrics to the office for inclusion in the office's annual report described in Section 63N-1-301:

(a) the number of participants in the program;

(b) how program participants learned about or were referred to the program, including the number of participants who learned about or were referred to the program by:

(i) the Department of Workforce Services;

(ii) marketing efforts of the center or talent ready board;

(iii) a school counselor; and

(iv) other methods;

(c) the number of participants who have completed training offered by the program; and

(d) the number of participants who have been hired by a business participating in the program.

Section 7. Effective date.

(1) Except as provided in Subsection (2), if approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

(2) (a) Section 63I-2-263 (Effective 07/01/21) takes effect on July 1, 2021.

(b) Section 63N-1b-307 (Effective 07/01/21) takes effect on July 1, 2021.

CHAPTER 5
H. B. 1005
Passed May 19, 2021
Approved May 28, 2021
Effective May 28, 2021

REDISTRICTING AMENDMENTS

Chief Sponsor: Paul Ray
Senate Sponsor: Scott D. Sandall

LONG TITLE

General Description:

This bill modifies the timeline relating to the duties of the Utah Independent Redistricting Commission.

Highlighted Provisions:

This bill:

- defines a term; and
- modifies the timeline relating to the duties of the Utah Independent Redistricting Commission.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

20A-20-102, as enacted by Laws of Utah 2020, Chapter 288

20A-20-301, as last amended by Laws of Utah 2021, Chapter 306

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 20A-20-102 is amended to read:

20A-20-102. Definitions.

As used in this chapter:

(1) "Commission" means the Utah Independent Redistricting Commission created in Section 20A-20-201.

(2) "Committee" means the Legislature's redistricting committee.

(3) "Decennial year" means a year during which the United States Bureau of Census conducts a national decennial census.

(4) "Linked PL94-171 data" means legacy file decennial census data for Utah, published by the United States Bureau of Census, that, after publication, is linked to Utah geographic data files in a manner that the data can be used to draw maps for the purpose of redistricting.

[~~(4)~~] (5) "Regular decennial redistricting" means redistricting required due to a national decennial census.

[~~(5)~~] (6) "Special redistricting" means redistricting that is not a regular decennial redistricting.

Section 2. Section 20A-20-301 is amended to read:

20A-20-301. Public hearings -- Private conversations.

(1) (a) The commission shall, by majority vote, determine the number, locations, and dates of public hearings to be held by the commission, but shall hold no fewer than seven public hearings throughout the state to discuss maps, as follows:

(i) one in the Bear River region, which includes Box Elder, Cache, and Rich counties;

(ii) one in the Southwest region, which includes Beaver, Garfield, Iron, Kane, and Washington counties;

(iii) one in the Mountain region, which includes Summit, Utah, and Wasatch counties;

(iv) one in the Central region, which includes Juab, Millard, Piute, Sanpete, Sevier, and Wayne counties;

(v) one in the Southeast region, which includes Carbon, Emery, Grand, and San Juan counties;

(vi) one in the Uintah Basin region, which includes Daggett, Duchesne, and Uintah counties; and

(vii) one in the Wasatch Front region, which includes Davis, Morgan, Salt Lake, Tooele, and Weber counties.

(b) The commission shall hold at least two public hearings in a first or second class county but not in the same county.

(c) The committee and the commission may coordinate hearing times and locations to:

(i) avoid holding hearings at, or close to, the same time in the same area of the state; and

(ii) to the extent practical, hold hearings in different cities within the state.

(2) Each public hearing must provide those in attendance a reasonable opportunity to submit written and oral comments to the commission and to propose redistricting maps for the commission's consideration.

(3) The commission shall hold the public hearings described in Subsection (1) [~~no later than November 1 of~~], during the year following a decennial year[~~.~~], no later than:

(a) October 17, if the commission receives the linked PL94-171 data on or before September 1; or

(b) 46 days after the day on which the commission receives the linked PL94-171 data, if the commission receives the linked PL94-171 data after September 1.

(4) (a) A member of the commission may not engage in any private communication with any individual other than other members of the commission or commission staff, including consultants retained by the commission, that is material to any redistricting map or element of a map pending before the commission or intended to

be proposed for commission consideration, without making the communication, or a detailed and accurate description of the communication including the names of all parties to the communication and the map or element of the map, available to the commission and to the public.

(b) A member of the commission shall make the disclosure required by Subsection (4)(a) before the redistricting map or element of a map is considered by the commission.

(5) The committee chairs and the chair of the commission shall, no later than two business days after the day on which the Legislature appoints a committee, under Subsection 20A-20-201(3)(a)(ii), for a special redistricting, jointly agree on a schedule for the commission that:

(a) reasonably ensures that the commission may complete the commission's duties in a timely manner, consistent with the time frame applicable to the committee and the Legislature;

(b) establishes deadlines for the following:

(i) holding the public hearings described in Subsection (1);

(ii) preparing and recommending maps under Subsection 20A-20-302(2);

(iii) submitting the maps and written report described in Subsection 20A-20-303(1); and

(iv) holding the public meeting described in Subsection 20A-20-303(2); and

(c) provides that the commission dissolves upon approval of the Legislature's redistricting maps by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

Section 3. Effective date.

If approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

CHAPTER 6
H. B. 1006
Passed May 19, 2021
Approved May 28, 2021
Effective May 28, 2021

SHERIFF RELEASE AMENDMENTS

Chief Sponsor: Karianne Lisonbee
Senate Sponsor: Todd D. Weiler

LONG TITLE

General Description:

This bill allows a sheriff or bail commissioner to release an individual from a county jail.

Highlighted Provisions:

This bill:

- defines terms;
- allows a county sheriff or county bail commissioner to release an individual from a county jail on the individual's own recognizance under certain circumstances; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

17-22-5.5, as last amended by Laws of Utah 2014, Chapter 120

17-32-1, as last amended by Laws of Utah 2015, Chapter 99

ENACTS:

77-20-3.2, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 17-22-5.5 is amended to read:

17-22-5.5. Sheriff's classification of jail facilities -- Maximum operating capacity of jail facilities -- Transfer or release of prisoners -- Limitation -- Records regarding release.

(1) (a) Except as provided in Subsection (4), a county sheriff shall determine:

(i) subject to Subsection (1)(b), the classification of each jail facility or section of a jail facility under the sheriff's control;

(ii) the nature of each program conducted at a jail facility under the sheriff's control; and

(iii) the internal operation of a jail facility under the sheriff's control.

(b) A classification under Subsection (1)(a)(i) of a jail facility may not violate any applicable zoning ordinance or conditional use permit of the county or municipality.

(2) Except as provided in Subsection (4), each county sheriff shall:

(a) with the approval of the county legislative body, establish a maximum operating capacity for each jail facility under the sheriff's control, based on facility design and staffing; and

(b) upon a jail facility reaching [~~its~~] the jail facility's maximum operating capacity:

(i) transfer prisoners to another appropriate facility:

(A) under the sheriff's control; or

(B) available to the sheriff by contract;

(ii) release prisoners:

(A) to a supervised release program, according to release criteria established by the sheriff; or

(B) to another alternative incarceration program developed by the sheriff; or

(iii) admit prisoners in accordance with law and a uniform admissions policy imposed equally upon all entities using the county jail.

(3) (a) The sheriff shall keep records of the release status and the type of release program or alternative incarceration program for any prisoner released under Subsection (2)(b)(ii).

(b) The sheriff shall make these records available upon request to the Department of Corrections, the Judiciary, and the Commission on Criminal and Juvenile Justice.

(4) This section may not be construed to authorize a sheriff to modify provisions of a contract with the Department of Corrections to house in a county jail [~~persons~~] an individual sentenced to the Department of Corrections.

(5) Regardless of whether a jail facility has reached the jail facility's maximum operating capacity under Subsection (2), a sheriff may release an individual from a jail facility in accordance with Section 77-20-3.2.

Section 2. Section 17-32-1 is amended to read:

17-32-1. Powers and duties of bail commissioners.

(1) The county executive, with the advice and consent of the county legislative body, may appoint one or more responsible and discreet members of the sheriff's department of the county as a bail commissioner.

(2) A bail commissioner may:

(a) receive bail for [~~persons~~] an individual arrested in the county for a felony; [~~and~~]

(b) fix and receive bail for [~~persons~~] an individual arrested in the county for a misdemeanor under the laws of the state, or for a violation of any of the county ordinances in accordance with the uniform bail schedule adopted by the Judicial Council or a reasonable bail for county ordinances not contained in the schedule[~~.~~]; and

(c) authorize the release of an individual from a jail facility on the individual's own recognizance in accordance with Section 77-20-3.2.

(3) [~~Any person~~] An individual who has been ordered by a magistrate, judge, or bail commissioner to give bail may deposit the amount with the bail commissioner:

(a) in money, by cash, certified or cashier's check, personal check with check guarantee card, money order, or credit card, if the bail commissioner has chosen to establish any of those options; or

(b) by a bond issued by a licensed bail bond surety.

(4) Any money or bond collected by a bail commissioner shall be delivered to the appropriate court within three days of receipt of the money or bond.

(5) The court may review the amount of bail ordered by a bail commissioner and may modify the amount of bail required for good cause.

Section 3. Section 77-20-3.2 is enacted to read:

77-20-3.2. Sheriff and bail commissioner's authority to release an individual from jail.

(1) As used in this section:

(a) "County bail commissioner" means a bail commissioner appointed in accordance with Section 17-32-1.

(b) "Qualifying offense" means the same as that term is defined in Section 78B-7-801.

(c) "Violent felony" means the same as that term is defined in Subsection 76-3-203.5(1)(c)(i).

(2) A county sheriff or a county bail commissioner may release an individual from a jail facility on the individual's own recognizance if:

(a) the individual was arrested without a warrant;

(b) the individual was not arrested for:

(i) a violent felony;

(ii) a qualifying offense;

(iii) the offense of driving under the influence or driving with a measurable controlled substance in the body if the offense results in death or serious bodily injury to an individual; or

(iv) an offense described in Subsection 76-9-101(4);

(c) law enforcement has not submitted a probable cause statement to a court or magistrate;

(d) the individual agrees in writing to appear for pending criminal charges; and

(e) the individual qualifies for release under the written policy described in Subsection (3) for the county.

(3) (a) A county sheriff shall create and approve a written policy for the county that governs the release of an individual on the individual's own recognizance.

(b) The written policy shall describe the criteria an individual shall meet to be released on the individual's own recognizance.

(c) A county sheriff may include in the written policy the criteria for release relating to:

(i) criminal history;

(ii) prior instances of failing to appear for a mandatory court appearance;

(iii) current employment;

(iv) residency;

(v) ties to the community;

(vi) an offense for which the individual was arrested;

(vii) any potential criminal charges that have not yet been filed;

(viii) the individual's health condition;

(ix) any potential risks to a victim, a witness, or the public; and

(x) any other similar factor a sheriff determines is relevant.

(4) Nothing in this section prohibits a district court and a county from entering into an agreement regarding release.

Section 4. Effective date.

If approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

CHAPTER 7
H. B. 1007
Passed May 19, 2021
Approved May 28, 2021
Effective May 28, 2021

FACE COVERING REQUIREMENTS

Chief Sponsor: Val L. Peterson
Senate Sponsor: Evan J. Vickers

LONG TITLE

General Description:

This bill prohibits a face covering requirement in the system of higher education and in the public education system.

Highlighted Provisions:

This bill:

- defines terms;
- prohibits an institution of higher education from requiring a face covering to participate in or attend instruction, activities, or in any other place on the campus of the institution after the end of the spring semester in 2021;
- prohibits the Utah Board of Higher Education from requiring a face covering to participate in or attend instruction, activities, or in any other place on the campus of the institution after the end of the spring semester in 2021; and
- prohibits a face covering requirement to participate in or attend instruction, activities, or in any other place on the school campus or facilities in the system of public education after the end of the 2020-2021 school year.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

53B-2-113, as enacted by Laws of Utah 2021, Chapter 258
53B-3-103, as last amended by Laws of Utah 2021, Chapter 258
53G-9-210, as enacted by Laws of Utah 2021, Chapter 435

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53B-2-113 is amended to read:

53B-2-113. Vaccination requirements -- Exemptions -- Face covering requirements.

(1) An institution of higher education described in Section 53B-2-101 may not require proof of vaccination as a condition for enrollment or attendance unless the institution allows for the following exemptions:

(a) a medical exemption if the student provides to the institution a statement that the claimed exemption is for a medical reason; and

(b) a personal exemption if the student provides to the institution a statement that the claimed exemption is for a personal or religious belief.

(2) An institution that offers both remote and in-person learning options may not deny a student who is exempt from a requirement to receive a vaccine under Subsection (1) to participate in an in-person learning option based upon the student's vaccination status.

(3) (a) For purposes of this Subsection (3), "face covering" means the same as that term is defined in Section 53G-9-210.

(b) An institution of higher education described in Section 53B-2-101 may not require an individual to wear a face covering to attend or participate in in-person instruction, institution-sponsored athletics, institution-sponsored extracurricular activities, in dormitories, or in any other place on a campus of an institution within the system of higher education at any time after the end of the spring semester in 2021.

[~~(3)~~] (4) Subsections (1) [~~and~~], (2), and (3) do not apply to a student studying in a medical setting at an institution of higher education.

[~~(4)~~] (5) Nothing in this section restricts a state or local health department from acting under applicable law to contain the spread of an infectious disease.

Section 2. Section 53B-3-103 is amended to read:

53B-3-103. Power of board to adopt rules and enact regulations.

(1) The board may enact regulations governing the conduct of university and college students, faculty, and employees.

(2) (a) The board may:

(i) enact and authorize higher education institutions to enact traffic, parking, and related regulations governing all individuals on campuses and other facilities owned or controlled by the institutions or the board; and

(ii) acknowledging that the Legislature has the authority to regulate, by law, firearms at higher education institutions:

(A) authorize higher education institutions to establish no more than one secure area at each institution as a hearing room as prescribed in Section 76-8-311.1, but not otherwise restrict the lawful possession or carrying of firearms; and

(B) authorize a higher education institution to make a rule that allows a resident of a dormitory located at the institution to request only roommates who are not licensed to carry a concealed firearm under Section 53-5-704 or 53-5-705.

(b) In addition to the requirements and penalty prescribed in Subsections 76-8-311.1(3), (4), (5), and (6), the board shall make rules to ensure that:

(i) reasonable means such as mechanical, electronic, x-ray, or similar devices are used to

detect firearms, ammunition, or dangerous weapons contained in the personal property of or on the person of any individual attempting to enter a secure area hearing room;

(ii) an individual required or requested to attend a hearing in a secure area hearing room is notified in writing of the requirements related to entering a secured area hearing room under this Subsection (2)(b) and Section 76-8-311.1;

(iii) the restriction of firearms, ammunition, or dangerous weapons in the secure area hearing room is in effect only during the time the secure area hearing room is in use for hearings and for a reasonable time before and after its use; and

(iv) reasonable space limitations are applied to the secure area hearing room as warranted by the number of individuals involved in a typical hearing.

(c) (i) The board may not require proof of vaccination as a condition for enrollment or attendance within the system of higher education unless the board allows for the following exemptions:

(A) a medical exemption if the student provides to the institution a statement that the claimed exemption is for a medical reason; and

(B) a personal exemption if the student provides to the institution a statement that the claimed exemption is for a personal or religious belief.

(ii) An institution that offers both remote and in-person learning options may not deny a student who is exempt from a requirement to receive a vaccine under Subsection (2)(c)(i) to participate in an in-person learning option based upon the student's vaccination status.

(iii) Subsections (2)(c)(i) and (ii) do not apply to a student studying in a medical setting at an institution of higher education.

(iv) Nothing in this section restricts a state or local health department from acting under applicable law to contain the spread of an infectious disease.

(d) (i) For purposes of this Subsection (2)(d), "face covering" means the same as that term is defined in Section 53G-9-210.

(ii) The board may not require an individual to wear a face covering as a condition of attendance for in-person instruction, institution-sponsored athletics, institution-sponsored extracurricular activities, in dormitories, or in any other place on a campus of an institution within the system of higher education at any time after the end of the spring semester in 2021.

(iii) Subsection (2)(d)(ii) does not apply to an individual in a medical setting at an institution of higher education.

(3) The board shall enact regulations that require all testimony be given under oath during an employee grievance hearing for a non-faculty employee of an institution of higher education if the grievance hearing relates to the non-faculty employee's:

(a) demotion; or

(b) termination.

(4) The board and institutions may enforce these rules and regulations in any reasonable manner, including the assessment of fees, fines, and forfeitures, the collection of which may be by withholding from money owed the violator, the imposition of probation, suspension, or expulsion from the institution, the revocation of privileges, the refusal to issue certificates, degrees, and diplomas, through judicial process or any reasonable combination of these alternatives.

Section 3. Section 53G-9-210 is amended to read:

53G-9-210. Requirement for in-person instruction -- Test to stay programs -- Face coverings.

(1) As used in this section:

(a) "Case threshold" means as applicable, the number of students in a school, or percentage of students in a school who meet the conditions described in Subsection (3).

(b) "COVID-19" means:

(i) severe acute respiratory syndrome coronavirus 2; or

(ii) the disease caused by severe acute respiratory syndrome coronavirus 2.

(c) "Extracurricular activity" means the same as that term is defined in Section 53G-7-501.

(d) "Face covering" means a mask, shield, or other device that is intended to be worn in a manner to cover the mouth, nose, or face to prevent the spread of COVID-19.

[~~(c)~~] (e) "In-person instruction" means instruction offered by a school that allows a student to choose to attend school in-person at least four days per week if the student:

(i) is enrolled in a school that is not implementing a test to stay program; or

(ii) (A) is enrolled in a school that is implementing a test to stay program; and

(B) meets the test to stay program's criteria for attending school in person.

[~~(d)~~] (f) "Local Education Agency" or LEA means:

(i) a school district;

(ii) a charter school, other than an online-only charter school; or

(iii) the Utah Schools for the Deaf and the Blind.

[~~(e)~~] (g) "School" means a school other than an online-only charter school or an online-only public school.

[~~(f)~~] (h) "Test to stay program" means a program through which an LEA provides testing for

COVID-19 for students during an outbreak of COVID-19 at a school in order to:

(i) identify cases of COVID-19; and

(ii) allow individuals who test negative for COVID-19 to attend school in person.

(2) (a) An LEA shall:

(i) except as provided in Subsection (2)(b), beginning on March 22, 2021, ensure that a school offers in-person instruction; and

(ii) require a school that reaches the case threshold to:

(A) fulfill the requirement described in Subsection (2)(a)(i) by initiating a test to stay program for the school; and

(B) provide a remote learning option for students who do not wish to attend in person.

(b) The requirement to provide in-person instruction described in Subsection (2)(a) does not apply for a temporary period if the governor, the president of the Senate, the speaker of the House of Representatives, and the state superintendent of public instruction jointly concur with an LEA's assessment that due to public health emergency circumstances, the risks related to in-person instruction temporarily outweigh the value of in-person instruction.

(3) (a) For purposes of determining whether a school has reached the school's case threshold, a student is included in positive cases for the school if the student:

(i) within the preceding 14 days:

(A) attended at least some in-person instruction at the school; and

(B) tested positive for COVID-19; and

(ii) did not receive the student's positive COVID-19 test results through regular periodic testing required to participate in LEA-sponsored athletics or another LEA-sponsored extracurricular activity.

(b) (i) A school with 1,500 or more students meets the case threshold if at least 2% of the school's students meet the conditions described in Subsection (3)(a).

(ii) A school with fewer than 1,500 students meets the case threshold if 30 or more of the school's students meet the conditions described in Subsection (3)(a).

(4) (a) An LEA may not test a student for COVID-19 who is younger than 18 years old without the consent of the student's parent.

(b) An LEA may seek advance consent from a student's parent for future testing for COVID-19.

(5) An LEA, an LEA governing board, the state board, the state superintendent, or a school may not require an individual to wear a face covering to attend or participate in in-person instruction, LEA-sponsored athletics, or another LEA-sponsored extracurricular activity, or in any other place on the campus of a school or school facility after the end of the 2020-2021 school year.

Section 4. Effective date.

If approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

CHAPTER 8
H. B. 1008
Passed May 19, 2021
Approved May 28, 2021
Effective May 28, 2021

BOND AUTHORIZATION AMENDMENTS

Chief Sponsor: Mike Schultz
Senate Sponsor: Kirk A. Cullimore

LONG TITLE

General Description:

This bill modifies provisions related to funding for certain transit projects.

Highlighted Provisions:

This bill:

- changes the funding source for the following transit projects:
  - double tracking strategic sections of the FrontRunner commuter rail system;
  - construction and improvements to the S-line streetcar facilities in Salt Lake City;
  - bus rapid transit in the Salt Lake midvalley area;
  - an environmental study at the point of the mountain area; and
  - a Utah Transit Authority and Sharp-Tintic railroad consolidation project; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

63B-31-101, as enacted by Laws of Utah 2021, Chapter 387

Uncodified Material Affected:

ENACTS UNCODIFIED MATERIAL

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63B-31-101 is amended to read:

63B-31-101. General obligation bonds -- Maximum amount -- Use of proceeds for projects.

(1) (a) Subject to the restriction in Subsection (1)(c), the total amount of bonds issued under this section may not exceed $264,000,000 for acquisition and construction proceeds, plus additional amounts as provided in Subsection (1)(b).

(b) When the Department of Transportation certifies to the commission the amount of bond proceeds needed to provide funding for the projects described in this section, the commission may issue and sell general obligation bonds in an amount equal to the certified amount, plus additional amounts necessary to pay costs of issuance, to pay capitalized interest, and to fund any existing debt service reserve requirements, not to exceed 1% of the certified amount.

(c) The commission may not issue general obligation bonds authorized under this section if the issuance of the general obligation bonds would result in the total current outstanding general obligation debt of the state exceeding 50% of the limitation described in the Utah Constitution, Article XIV, Section 1.

(2) Proceeds from the bonds issued under this section shall be provided to the Department of Transportation to pay for, or to provide funds in accordance with this section to pay for, the costs of right-of-way acquisition, construction, reconstruction, renovations, or improvements with respect to projects described in this section.

(3) It is the intent of the Legislature that as transportation projects are prioritized under Section 72-2-124, the Transportation Commission give consideration to projects beyond the normal programming horizon.

(4) (a) Two hundred thirty-two million dollars of the proceeds of bonds issued under this section shall be used to [~~pay for the following transit projects~~] double track strategic sections of the FrontRunner commuter rail system, to be repaid from the Transit Transportation Investment Fund under Subsection 72-2-124(9)[~~:~~].

[~~(i) subject to Subsection (4)(b), $200,000,000 to double track strategic sections of the FrontRunner commuter rail system;~~]

[~~(ii) $12,000,000 to pay for construction and improvements to the S-line streetcar facilities in Salt Lake City;~~]

[~~(iii) $11,000,000 for bus rapid transit in the Salt Lake midvalley area;~~]

[~~(iv) $5,000,000 for an environmental study at the point of the mountain area; and~~]

[~~(v) $4,000,000 for a Utah Transit Authority and Sharp-Tintic railroad consolidation project.~~]

(b) The issuance of the [~~$200,000,000 of~~] bonds for the purpose described in Subsection (4)(a)[~~(i)~~] is contingent upon the establishment of an agreement between the Department of Transportation and the Utah Transit Authority whereby the Utah Transit Authority agrees to pay $5,000,000 per year for 15 years toward repayment of the bonds.

(5) (a) Twenty-nine million dollars of the proceeds of bonds issued under this section shall be provided to the Department of Transportation to pass through to Brigham City to be used for a Forest Street rail bridge project in Brigham City.

(b) Payments shall be made from the Rail Transportation Restricted Account created in Section 72-2-131, from the amount designated under Subsection 72-2-131(4)(c), in the amount per year of the principal and interest payments due under the bonds issued under Subsection (5)(a) until those bonds have been repaid in full.

(6) (a) Three million dollars of the proceeds of bonds issued under this section shall be provided to the Department of Transportation to pass through to the city of North Salt Lake for an environmental

study for a grade separation at 1100 North in North Salt Lake.

(b) Payments shall be made from the Rail Transportation Restricted Account created in Section 72-2-131, from the amount designated under Subsection 72-2-131(4)(b), in the amount per year of the principal and interest payments due under the bonds issued under Subsection (6)(a) until those bonds have been repaid in full.

(7) The costs under Subsection (2) may include the costs of studies necessary to make transportation infrastructure improvements, the costs of acquiring land, interests in land, and easements and rights-of-way, the costs of improving sites and making all improvements necessary, incidental, or convenient to the facilities, and the costs of interest estimated to accrue on these bonds during the period to be covered by construction of the projects plus a period of six months after the end of the construction period, interest estimated to accrue on any bond anticipation notes issued under the authority of this title, and all related engineering, architectural, and legal fees.

(8) The commission or the state treasurer may make any statement of intent relating to a reimbursement that is necessary or desirable to comply with federal tax law.

(9) The Department of Transportation may enter into agreements related to the projects described in Subsection (4) before the receipt of proceeds of bonds issued under this section.

Section 2. Intent language.

Notwithstanding intent language in H.B. 433, 2021 General Session, Item 2, the Legislature intends that the Department of Transportation use money appropriated in that item as follows: $68,000,000 to double track strategic sections of the FrontRunner commuter rail system; $12,000,000 for construction and improvements to the S-line streetcar facilities in Salt Lake City; $11,000,000 for bus rapid transit in the Salt Lake midvalley area; $5,000,000 for an environmental study at the point of the mountain area; $4,000,000 for a Utah Transit Authority and Sharp-Tintic railroad consolidation project; and $1,600,000 for a rail station in the city of Vineyard.

Section 3. Effective date.

If approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

CHAPTER 9
H. B. 1009
Passed May 19, 2021
Approved May 28, 2021
Effective May 28, 2021
(Retrospective operation to May 5, 2021)

HEALTH SPA SERVICES PROTECTION ACT AMENDMENTS

Chief Sponsor: James A. Dunnigan
Senate Sponsor: Curtis S. Bramble

LONG TITLE

General Description:

This bill amends provisions of the Health Spa Services Protection Act.

Highlighted Provisions:

This bill:

- amends provisions regarding contracts for health spa services;
- amends requirements for a health spa to qualify for an exemption from a bond, letter of credit, or certificate of deposit; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides retrospective operation.

This bill provides a special effective date.Utah Code Sections Affected:

AMENDS:

13-23-3, as last amended by Laws of Utah 2021, Chapter 266
13-23-4, as last amended by Laws of Utah 2021, Chapter 266
13-23-6, as last amended by Laws of Utah 2021, Chapter 266
63I-2-213, as enacted by Laws of Utah 2011, Chapter 18

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 13-23-3 is amended to read:

13-23-3. Contracts for health spa services.

(1) (a) A contract for the purchase of a health spa service shall be in writing.

(b) The written contract described in Subsection (1)(a) shall constitute the entire agreement between the consumer and the health spa.

(2) (a) The health spa shall provide the consumer with a fully completed copy of the contract required by Subsection (1):

(i) at the time of the contract's execution; and

(ii) at any time, upon the consumer's request.

(b) The copy described in Subsection (2)(a) shall show:

(i) the date of the transaction;

(ii) the name and address of the health spa;

(iii) the name, address, and telephone number of the consumer; and

(iv) the consumer's primary location.

(3) (a) A contract described in Subsection (1):

(i) may not have a term in excess of 36 months; and

(ii) subject to Subsection (3)(b), may include an automatic renewal provision[~~,~~].

(b) An automatic renewal provision described in Subsection (3)(a) is effective if notice of the automatic renewal provision is provided to the consumer no sooner than 60 days before, and no later than 30 days before, the day on which the contract automatically renews.

[~~(b)~~] (c) Except for a lifetime membership sold before May 1, 1995, a health spa may not offer a lifetime membership.

(4) A contract described in Subsection (1) or an attachment to the contract shall clearly state each rule of the health spa that applies to:

(a) the consumer's use of the health spa's facilities and services; and

(b) cancellation and refund policies of the health spa.

(5) A contract described in Subsection (1) shall specify which equipment or facility of the health spa:

(a) is omitted from the contract's coverage; or

(b) may be changed at the health spa's discretion.

(6) A contract described in Subsection (1) shall clearly:

(a) state the consumer's rescission rights under Section 13-23-4; and

(b) provide an email address and a mailing address where the consumer can send the health spa a notice of intent to rescind the contract.

(7) [~~A~~] (a) Except as permitted under Subsection (7)(b), a health spa may not assign a contract for a health spa service to a health spa that requires the consumer to obtain a contracted health spa service at a health spa facility farther than five miles from the consumer's primary location, unless the health spa:

[~~(a)~~] (i) provides the consumer the option to cancel the contract; and

[~~(b)~~] (ii) receives approval from the consumer to assign the contract.

(b) A health spa may assign a consumer's contract for a health spa service without complying with Subsection (7)(a), if:

(i) during the 60-day period immediately before the day on which the health spa assigns the consumer's contract, the consumer uses a health spa facility operated by the assignee more frequently than the consumer's primary location;

(ii) the assignee changes the consumer's primary location to the health spa facility described in Subsection (7)(b)(i); and

(iii) the health spa has a reciprocity agreement with the assignee.

(8) [~~Before~~] (a) Except as permitted under Subsection (8)(b), before a health spa changes a consumer's primary location to a health spa facility farther than five miles from the consumer's primary location, the health spa shall provide the consumer the option to:

[~~(a)~~] (i) cancel the contract for a health spa [~~services~~] service; or

[~~(b) (i)~~] (ii) (A) continue the contract at the new [~~location~~] health spa facility; and

[~~(ii)~~] (B) designate the [~~newly located~~] new health spa facility as the consumer's primary location.

(b) A health spa may change a consumer's primary location without providing the consumer the option described in Subsection (8)(a), if:

(i) during the 60-day period immediately before the day on which the health spa changes the consumer's primary location, the consumer uses a health spa facility other than the consumer's primary location more frequently than the consumer's primary location; and

(ii) the health spa changes the consumer's primary location to the health spa facility described in Subsection (8)(b)(i).

(9) The provisions of this section apply regardless of when the execution of a contract described in Subsection (1)(a) occurs.

Section 2. Section 13-23-4 is amended to read:

13-23-4. Rescission.

(1) A consumer may rescind a contract for the purchase of a health spa service by emailing or mailing written notice of the consumer's intent to rescind:

(a) to the email address or mailing address the health spa provided in the contract, as described in Subsection 13-23-4(6)(b); and

(b) (i) before midnight of the third business day after the day on which the consumer and health spa execute the contract, as recorded by timestamp or postmark; or

(ii) if a consumer and health spa execute the contract when the consumer's primary location is not fully operational and available for use, before midnight of the third business day after the day on which the consumer's primary location becomes fully operational and available for use, as recorded by timestamp or postmark.

(2) (a) A consumer who rescinds a contract under this section is entitled to a refund of every payment the consumer made, less the reasonable value of any health spa service the consumer actually received.

(b) The preparation and processing of the contract or another document is not a health spa service that is deductible under Subsection (2)(a) from any refundable amount.

(c) In an enforcement action that the division initiates, a health spa has the burden of proving that any value the health spa retains under Subsection (2)(a) is reasonable.

(3) [~~(a)~~] The rescission of a contract under this section is effective upon the health spa's receipt of written notice of the consumer's intent to rescind the contract.

Section 3. Section 13-23-6 is amended to read:

13-23-6. Exemptions from bond, letter of credit, or certificate of deposit requirement.

(1) A health spa is exempt from Subsections 13-23-5(2) through (5) for a health spa facility, if the health spa only offers access to a health spa service at the health spa facility through:

(a) the purchase of an individual class or session;

(b) the purchase of a package:

(i) with a defined number of classes or sessions; and

(ii) for which the health spa may not hold more than $150 worth of a consumer's unused credit;

(c) the purchase of a monthly membership or pass, payment for which the health spa does not collect from a consumer more than two months in advance;

(d) an installment contract that:

(i) provides for the consumer to make all payments due under the contract, including a down payment, an enrollment fee, a membership fee, or any other payment to the health spa, in equal monthly installments spread over the entire term of the contract; and

(ii) contains the following clause: "If this health spa ceases operations at or [~~relocates~~] changes the consumer's primary location in violation of Utah Code Subsection 13-23-3(7) or (8), no further payments under this contract shall be due to anyone, including any assignee of the contract or purchaser of any note associated with or contained in this contract[~~, unless the consumer has been presented with the option to cancel the contract and has agreed to the assignment or sale of the consumer's contract~~].''; or

(e) a combination of health spa services described in Subsections (1)(a) through (d).

(2) A health spa that claims exemption from Subsections 13-23-5(2) through (5) bears the burden of proving to the division that the health spa meets the exemption criteria described in Subsection (1).

Section 4. Section 63I-2-213 is amended to read:

63I-2-213. Repeal dates -- Title 13.

(1) On July 1, 2022:

(a) Subsection 13-23-3(7)(a) is repealed and replaced with the following:

"(a) Except as permitted under Subsection (7)(b), a health spa may not assign a contract for a health spa service unless the health spa:

(i) provides the consumer the option to cancel the contract; and

(ii) receives approval from the consumer to assign the contract."; and

(b) Subsection 13-23-3(8)(a) is repealed and replaced with the following:

"(a) Except as permitted under Subsection (8)(b), before a health spa changes a consumer's primary location, the health spa shall provide the consumer the option to:

(i) cancel the contract for a health spa service; or

(ii) (A) continue the contract at the new health spa facility; and

(B) designate the new health spa facility as the consumer's primary location."

(2) Title 13, Chapter 47, Private Employer Verification Act, is repealed on the program start date, as defined in Section 63G-12-102.

Section 5. Retrospective operation.

This bill has retrospective operation to May 5, 2021.

Section 6. Effective date.

If approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

CHAPTER 10
S. B. 1001
Passed May 19, 2021
Approved May 28, 2021
Effective July 1, 2021
(Line Item 94 vetoed.)
(See page 4099 for veto letter.)

APPROPRIATIONS ADJUSTMENTS

Chief Sponsor: Don L. Ipson
House Sponsor: Bradley G. Last

LONG TITLE

General Description:

This bill supplements or reduces appropriations otherwise provided for the support and operation of state government for the fiscal year beginning July 1, 2020 and ending June 30, 2021 and for the fiscal year beginning July 1, 2021 and ending June 30, 2022.

Highlighted Provisions:

This bill:

- provides budget increases and decreases for the use and support of certain state agencies, public education programs, and institutions of higher education;
- appropriates federal funds associated with the American Rescue Plan Act;
- makes technical corrections in the fiscal year 2021 and fiscal year 2022 budgets;
- provides funds for the bills with fiscal impact passed in the 2021 First Special Session;
- establishes rates and fees;
- provides budget increases and decreases for other purposes as described;
- provides intent language.

Money Appropriated in this Bill:

This bill appropriates $107,770,199 in operating and capital budgets for fiscal year 2021, including:

- $122,500 from the General Fund; and
- $107,647,699 from various sources as detailed in this bill.

This bill appropriates $6,207,200 in expendable funds and accounts for fiscal year 2021.

This bill appropriates $203,062,500 in business-like activities for fiscal year 2021.

This bill appropriates $1,005,800 in restricted fund and account transfers for fiscal year 2021, all of which is from the Education Fund.

This bill appropriates $2,156,661,900 in operating and capital budgets for fiscal year 2022, including:

- ($4,278,800) from the General Fund;
- ($893,800) from the Education Fund; and
- $2,161,834,500 from various sources as detailed in this bill.

This bill appropriates $26,571,500 in expendable funds and accounts for fiscal year 2022.

This bill appropriates $217,703,800 in business-like activities for fiscal year 2022.

This bill appropriates ($40,000,000) in restricted fund and account transfers for fiscal year 2022, all of which is from the General Fund.

This bill appropriates $92,000,000 in capital project funds for fiscal year 2022, including:

- $2,000,000 from the General Fund; and
- $90,000,000 from various sources as detailed in this bill.

Other Special Clauses:

Section 1 of this bill takes effect immediately. Section 2 of this bill takes effect on July 1, 2021.

Utah Code Sections Affected:

ENACTS UNCODIFIED MATERIAL

Be it enacted by the Legislature of the state of Utah:

Section 1. FY 2021 Appropriations. The following sums of money are appropriated for the fiscal year beginning July 1, 2020 and ending June 30, 2021. These are additions to amounts otherwise appropriated for fiscal year 2021.

Subsection 1(a). Operating and Capital Budgets. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

EXECUTIVE OFFICES AND CRIMINAL JUSTICE

UTAH DEPARTMENT OF CORRECTIONS

Item 1

To Utah Department of Corrections - Programs and Operations

The Legislature intends that the Department of Corrections, Adult Probation and Parole Programs, is granted authority for Fiscal Year 2021 and Fiscal Year 2022 to purchase one truck with plow with Department funds.

JUDICIAL COUNCIL/STATE COURT ADMINISTRATOR

Item 2

To Judicial Council/State Court Administrator - Administration

Notwithstanding intent language passed in Executive Offices and Criminal Justice Base Budget (Senate Bill 6, 2021 General Session) Item 10, under Section 63J-1-603(3) of the Utah Code, the Legislature intends that appropriations of up to $3,500,000 provided to the Judicial Council/State Court Administrator - Administration in Laws of Utah 2020 Chapter 4, Item 91 shall not lapse at the close of Fiscal Year 2021. The use of nonlapsing funds is limited to training, education assistance, and incentives; translation and interpreter services; IT programming and contracted support; computer equipment and software; courts security; special projects and studies; temporary employees (law clerks); trial court program support and senior judge assistance; grant match; furniture and repairs; and purchase of Utah code and rules for judges.

DEPARTMENT OF HUMAN SERVICES - DIVISION OF JUVENILE JUSTICE SERVICES

Item 3
To Department of Human Services – Division of Juvenile Justice Services – Programs and Operations
From Federal Funds,
One–Time 26,000
Schedule of Programs:
Community Provider Payments 26,000

INFRASTRUCTURE AND GENERAL GOVERNMENT

DEPARTMENT OF ADMINISTRATIVE SERVICES

Item 4
To Department of Administrative Services – Finance – Mandated
From Federal Funds – American Rescue Plan, One–Time 8,900,000
Schedule of Programs:
Emergency Disease Response 8,900,000

The Legislature intends that before closing out fiscal year 2021, to the maximum extent allowable under applicable federal law or guidelines, the Department of Administrative Services use up to $8,900,000 in State Fiscal Relief grants provided by the American Rescue Plan Act for COVID–19 Response before using the General Fund appropriation provided for that purpose. The Department of Administrative Services shall lapse back to the General Fund all unused General Fund appropriations for COVID–19 Response up to $8,900,000 when closing–out fiscal year 2021 and shall provide a report showing the use of funds from the State Fiscal Relief Grants to the Governor's Office of Planning and Budget and to the Office of Legislative Fiscal Analyst.

The Legislature intends that funds appropriated by this item for COVID–19 Response may only be expended or distributed for purposes that comply with the legal requirements and federal guidelines under the American Rescue Plan Act of 2021.

TRANSPORTATION

Item 5
To Transportation – Engineering Services
From Federal Funds, One–Time 1,000,000
Schedule of Programs:
Program Development 1,000,000

BUSINESS, ECONOMIC DEVELOPMENT, AND LABOR

GOVERNOR'S OFFICE OF ECONOMIC DEVELOPMENT

Item 6
To Governor's Office of Economic Development – Administration
From Federal Funds – American Rescue Plan, One–Time 3,000,000
Schedule of Programs:
Administration 3,000,000

The Legislature intends that before closing out fiscal year 2021, to the maximum extent allowable under applicable federal law or guidelines, the Governor's Office of Economic Development use up to $3 million in State Fiscal Relief grants provided by the American Rescue Plan Act for InUtah Pandemic Outreach before using the General Fund appropriation provided for that purpose. The Governor's Office of Economic Development shall lapse back to the General Fund all unused General Fund appropriations for InUtah Pandemic Outreach up to $3 million when closing–out fiscal year 2021 and shall provide a report showing the use of funds from the State Fiscal Relief Grants to the Governor's Office of Planning and Budget and to the Office of Legislative Fiscal Analyst.

The Legislature intends that funds appropriated by this item for InUtah Pandemic Outreach may only be expended or distributed for purposes that comply with the legal requirements and federal guidelines under the American Rescue Plan Act of 2021.

Item 7
To Governor's Office of Economic Development – Business Development
From Federal Funds – American Rescue Plan, One–Time 15,000,000
Schedule of Programs:
Corporate Recruitment and Business Services 15,000,000

The Legislature intends that before closing out fiscal year 2021, to the maximum extent allowable under applicable federal law or guidelines, the Governor's Office of Economic Development use up to $15 million in State Fiscal Relief grants provided by the American Rescue Plan Act for Economic Development Grants before using the General Fund appropriation provided for that purpose. The Governor's Office of Economic Development shall lapse back to the General Fund all unused General Fund appropriations for Economic Development Grants up to $15 million when closing–out fiscal year 2021 and shall provide a report showing the use of funds from the State Fiscal Relief Grants to the Governor's Office of Planning and Budget and to the Office of Legislative Fiscal Analyst.

The Legislature intends that the Governor's Office of Economic Development, in accordance with the American Rescue Plan Act, use $15 million provided by this item to assist small businesses that experienced a high level of revenue decline in a consecutive four month period in 2020 compared to the same period in 2019 or began operations after January 1, 2020, and can demonstrate the effects of COVID–19 on the business and provide evidence of solvency.

Notwithstanding the intent language in *Current Fiscal Year Supplemental Appropriations* (House Bill 3, Item 33, 2021 General Session), the Legislature intends that $5,000,000 of the appropriation for Economic Development Grants in *Current Fiscal Year Supplemental Appropriations* (House Bill 3, Item 33, 2021 General Session) be used to assist Utah organizations that promote and support economic opportunity and provide services related to live events, industry, education, community, or infrastructure, giving priority to applications that create jobs and support target industries within the State.

Item 8
To Governor's Office of Economic Development – Talent Ready Utah Center
From Federal Funds – American Rescue Plan, One-Time 15,000,000
Schedule of Programs:
Talent Ready Utah Center 15,000,000

The Legislature intends that before closing out fiscal year 2021, to the maximum extent allowable under applicable federal law or guidelines, the Governor's Office of Economic Development use up to $15 million in State Fiscal Relief grants provided by the American Rescue Plan Act for Learn and Work before using the General Fund appropriation provided for that purpose. The Governor's Office of Economic Development shall lapse back to the General Fund all unused General Fund appropriations for Learn and Work up to $15 million when closing-out fiscal year 2021 and shall provide a report showing the use of funds from the State Fiscal Relief Grants to the Governor's Office of Planning and Budget and to the Office of Legislative Fiscal Analyst.

The Legislature intends that funds appropriated by this item for Learn and Work may only be expended or distributed for purposes that comply with the legal requirements and federal guidelines under the American Rescue Plan Act of 2021.

DEPARTMENT OF CULTURAL AND COMMUNITY ENGAGEMENT

Item 9
To Department of Cultural and Community Engagement – Administration
From Transfer for COVID-19 Response, One-Time 2,000,000
Schedule of Programs:
Administrative Services 2,000,000

Item 10
To Department of Cultural and Community Engagement – Division of Arts and Museums
From Federal Funds – American Rescue Plan, One-Time 5,000,000
From Federal Funds, One-Time 700,000
From Transfer for COVID-19 Response, One-Time 7,500,000
Schedule of Programs:
Grants to Non-profits 13,200,000

The Legislature intends that funds appropriated by this item for Create in Utah grants program may only be expended or distributed for purposes that comply with the legal requirements and federal guidelines under the American Rescue Plan Act of 2021.

The Legislature intends that before closing out fiscal year 2021, to the maximum extent allowable under applicable federal law or guidelines, the Department of Heritage and Arts use $5,000,000 in State Fiscal Relief grants provided by the American Rescue Plan Act for Create in Utah grants before using the General Fund appropriation provided for that purpose. The Department of Heritage and Arts shall lapse back to the General Fund all unused General Fund appropriations for Create in Utah up to $5,000,000 when closing-out fiscal year 2021 and shall provide a report showing the use of funds from the State Fiscal Relief Grants to the Governor's Office of Planning and Budget and to the Office of Legislative Fiscal Analyst.

Item 11
To Department of Cultural and Community Engagement – Pass-Through
From Transfer for COVID-19 Response, One-Time 3,500,000
Schedule of Programs:
Pass-Through 3,500,000

Item 12
To Department of Cultural and Community Engagement – State Library
From Federal Funds, One-Time 500,000
Schedule of Programs:
Library Development 500,000

Item 13
To Department of Cultural and Community Engagement – Stem Action Center
From Revenue Transfers, One-Time 100,000
Schedule of Programs:
STEM Action Center 100,000

SOCIAL SERVICES
DEPARTMENT OF HEALTH

Item 14
To Department of Health – Disease Control and Prevention
From Federal Funds, One-Time 10,930,000
From General Fund Restricted – Tobacco Settlement Account, One-Time 1,527,300
Schedule of Programs:
Epidemiology 10,000,000
Health Promotion 1,527,300
Utah Public Health Laboratory 930,000

The Legislature intends that the Department of Health use up to $1,527,300 to backfill any revenue shortfall in the $3,000,000 appropriation from the Electronic Cigarette Substance and Nicotine Product Tax Restricted Account for grants to local health departments as directed in UCA 59-14-807 (3)(d) for FY 2021. The combined

spending from the two funding sources for the purposes in UCA 59-14-807 (3)(d) shall not exceed $3,000,000 for FY 2021.

Item 15
To Department of Health - Executive Director's Operations
From Federal Funds, One-Time 1,000,000
From Expendable Receipts, One-Time ... 999,999
Schedule of Programs:
Executive Director 1,000,000
Program Operations 999,999

Pursuant to Section 63J-1-603 of the Utah Code, the Legislature intends that up to $2,000,000 from Expendable Receipts provided for the Department of Health's Executive Director's Operations line item shall not lapse at the close of Fiscal Year 2021. The use of any nonlapsing funds is limited to addressing coronavirus issues.

Item 16
To Department of Health - Family Health and Preparedness
From Federal Funds, One-Time 806,500
From Revenue Transfers, One-Time .. 6,000,000
Schedule of Programs:
Emergency Medical Services and Preparedness 6,000,000
Maternal and Child Health 806,500

DEPARTMENT OF HUMAN SERVICES

Item 17
To Department of Human Services - Division of Aging and Adult Services
From Federal Funds, One-Time 82,200
Schedule of Programs:
Local Government Grants - Formula Funds 82,200

Item 18
To Department of Human Services - Division of Child and Family Services
From Federal Funds, One-Time 726,700
Schedule of Programs:
Provider Payments 726,700

Item 19
To Department of Human Services - Executive Director Operations
From Federal Funds, One-Time 2,000
Schedule of Programs:
Utah Developmental Disabilities Council 2,000

Item 20
To Department of Human Services - Division of Substance Abuse and Mental Health

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to $5,500,000 of the ongoing appropriation provided in Item 3, Chapter 303, Laws of Utah 2020 for the Department of Human Services - Division of Substance Abuse and Mental Health not lapse at the close of FY 2021. The use of any nonlapsing funds is limited to expenditures for development and implementation of a behavioral health receiving center for which a grant was awarded under Section 62A-15-118.

DEPARTMENT OF WORKFORCE SERVICES

Item 21
To Department of Workforce Services - Unemployment Insurance
From Federal Funds, One-Time 22,203,100
Schedule of Programs:
Unemployment Insurance Administration 22,203,100

HIGHER EDUCATION

UNIVERSITY OF UTAH

Item 22
To University of Utah - Education and General
From Dedicated Credits - State Land Grants, One-Time 443,800
From Uniform School Fund Rest. - Trust Distribution Account, One-Time ..... (502,100)
Schedule of Programs:
Education and General ..... (58,300)

UTAH STATE UNIVERSITY

Item 23
To Utah State University - Education and General
From Dedicated Credits - State Land Grants, One-Time 257,000
From Uniform School Fund Rest. - Trust Distribution Account, One-Time ..... (150,600)
Schedule of Programs:
Education and General 106,400

UTAH BOARD OF HIGHER EDUCATION

Item 24
To Utah Board of Higher Education - Student Support
From Education Fund Restricted - Performance Funding Rest. Acct., One-Time 1,005,800
Schedule of Programs:
Performance Funding -- Colleges and Universities 1,005,800

NATURAL RESOURCES, AGRICULTURE, AND ENVIRONMENTAL QUALITY

DEPARTMENT OF AGRICULTURE AND FOOD

Item 25
To Department of Agriculture and Food - Predatory Animal Control
From General Fund, One-Time 122,500
Schedule of Programs:
Predatory Animal Control 122,500

The Legislature intends that under Section 63J-1-603 of the Utah Code this appropriation shall not lapse at the close of FY 2021. The use of any nonlapsing funds is limited to offsetting revenue shortfalls associated with the COVID-19 pandemic for

Fleece taxes collected under Utah Code 4-23-107.

Item 26
To Department of Agriculture and Food - Regulatory Services

Notwithstanding the intent language passed in the *New Fiscal Year Supplemental Appropriations Act* (Senate Bill 2, 2021 General Session), Item 166, the Legislature intends that the Department of Agriculture and Food's Regulatory Services line item is authorized to charge the following schedule of fees for Milk Processing Plants: Small (less than 10,000 lbs/week) $250; Medium (10,001 - 100,000 lbs/week) $500; Large (100,001 - 1 million lbs/week) $1,000; Very Large (more than 1 million lbs/week) $2,000.

DEPARTMENT OF ENVIRONMENTAL QUALITY

Item 27
To Department of Environmental Quality - Water Quality

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for Division of Water Quality in the Laws of Utah 2020, Chapter 3, Item 60 shall not lapse at the close of FY 2021. Expenditures of these funds are limited to Water Quality Monitoring and Testing for the Inland Port: $54,600. This is in addition to nonlapsing amounts previously authorized during the 2021 General Session.

GOVERNOR'S OFFICE

Item 28
To Governor's Office - Office of Energy Development
From Dedicated Credits Revenue, One-Time 90,000
Schedule of Programs:
Office of Energy Development 90,000

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that this supplemental appropriation shall not lapse at the close of FY 2021. Expenditures of Dedicated Credits are limited to: $90,000 for the Governor's Energy and Innovation Plan (EIP).

DEPARTMENT OF NATURAL RESOURCES

Item 29
To Department of Natural Resources - Forestry, Fire and State Lands

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that the $1.5 million for Jordan River Improvements appropriated in *Current Fiscal Year Supplemental Appropriations,* (House Bill 3, 2021 General Session), Item 107, shall not lapse at the close of FY 2021.

Item 30
To Department of Natural Resources - Species Protection

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for Species Protection in Item 100, Chapter 3, Laws of Utah 2020, shall not lapse at the close of FY 2021. Expenditures of these funds are limited to be used for the Red Cliffs Desert Reserve: $1.0 million.

Subsection 1(b). Expendable Funds and Accounts. The Legislature has reviewed the following expendable funds. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated. Outlays and expenditures from the funds or accounts to which the money is transferred may be made without further legislative action, in accordance with statutory provisions relating to the funds or accounts.

EXECUTIVE APPROPRIATIONS

DEPARTMENT OF VETERANS AND MILITARY AFFAIRS

Item 31
To Department of Veterans and Military Affairs - Utah Veterans Nursing Home Fund
From Federal Funds, One-Time 6,207,200
Schedule of Programs:
Veterans Nursing Home Fund 6,207,200

Subsection 1(c). Business-like Activities. The Legislature has reviewed the following proprietary funds. Under the terms and conditions of Utah Code 63J-1-410, for any included Internal Service Fund, the Legislature approves budgets, full-time permanent positions, and capital acquisition amounts as indicated, and appropriates to the funds, as indicated, estimated revenue from rates, fees, and other charges. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated.

SOCIAL SERVICES

DEPARTMENT OF WORKFORCE SERVICES

Item 32
To Department of Workforce Services - Unemployment Compensation Fund
From Federal Funds, One-Time 203,062,500
Schedule of Programs:
Unemployment Compensation Fund 203,062,500

Subsection 1(d). Restricted Fund and Account Transfers. The Legislature authorizes the State Division of Finance to transfer the following amounts between the following funds or accounts as indicated. Expenditures and outlays from the funds to which the money is transferred must be

authorized by an appropriation.

HIGHER EDUCATION

Item 33
To Performance Funding Restricted Account
From Education Fund, One-Time 1,005,800
Schedule of Programs:
Performance Funding Restricted Account 1,005,800

Section 2. FY 2022 Appropriations. The following sums of money are appropriated for the fiscal year beginning July 1, 2021 and ending June 30, 2022. These are additions to amounts otherwise appropriated for fiscal year 2022.

Subsection 2(a). Operating and Capital Budgets. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

EXECUTIVE OFFICES AND CRIMINAL JUSTICE

ATTORNEY GENERAL

Item 34
To Attorney General
From Federal Funds - American Rescue Plan, One-Time 218,400
Schedule of Programs:
Criminal Prosecution 218,400

The Legislature intends that funds appropriated by this item for Emergency Communications Equipment - Enhanced Interoperability may only be expended or distributed for purposes that comply with the legal requirements and federal guidelines under the American Rescue Plan Act of 2021.

Item 35
To Attorney General - Prosecution Council
From Dedicated Credits Revenue ..... (235,000)
From Revenue Transfers, One-Time 722,400
Schedule of Programs:
Prosecution Council 487,400

BOARD OF PARDONS AND PAROLE

Item 36
To Board of Pardons and Parole
From Federal Funds - American Rescue Plan, One-Time 39,200
Schedule of Programs:
Board of Pardons and Parole 39,200

The Legislature intends that funds appropriated by this item for Emergency Communications Equipment - Enhanced Interoperability may only be expended or distributed for purposes that comply with the legal requirements and federal guidelines under the American Rescue Plan Act of 2021.

UTAH DEPARTMENT OF CORRECTIONS

Item 37
To Utah Department of Corrections - Programs and Operations
From Federal Funds - American Rescue Plan, One-Time 6,900,600
Schedule of Programs:
Prison Operations Draper Facility ... 6,900,600

The Legislature intends that the Department of Corrections, Adult Probation and Parole Programs, is granted authority for Fiscal Year 2021 and Fiscal Year 2022 to purchase one truck with plow with Department funds.

The Legislature intends that the $6,900,600 appropriated by this item for Emergency Communications Equipment - Enhanced Interoperability may only be expended or distributed for purposes that comply with the legal requirements and federal guidelines under the American Rescue Plan Act of 2021.

JUDICIAL COUNCIL/ STATE COURT ADMINISTRATOR

Item 38
To Judicial Council/State Court Administrator - Administration
From Federal Funds - American Rescue Plan, One-Time 12,000,000
Schedule of Programs:
Data Processing 11,000,000
District Courts 1,000,000

The Legislature intends that funds appropriated by this item for Courts Technology/Electronic Access to Justice may only be expended or distributed for purposes that comply with the legal requirements and federal guidelines under the American Rescue Plan Act of 2021.

Item 39
To Judicial Council/State Court Administrator - Jury and Witness Fees

Notwithstanding intent language passed in Current Fiscal Year Supplemental Appropriations (House Bill 3, 2021 General Session) Item 6, the Legislature intends that the appropriations provided to the Judicial Council/State Court Administrator-Juror, Witness, Interpreter line item for Fiscal Year 2022 may be used for the payment of temporary employees supporting the remote jury process.

GOVERNORS OFFICE

Item 40
To Governors Office - Office of Management and Budget

Under section 63J-1-603 of the Utah Code, the Legislature intends that appropriations of up to $110,000 for the Governor's Office - Office of Management and Budget in Item 1 of Chapter 281 Laws of Utah 2021 not lapse at the close of Fiscal Year 2021. The use of any

funds is limited to the same purposes as the original appropriations.

Item 41
To Governors Office – Local Assistance Matching Grant Program
From Federal Funds – American Rescue Plan, One-Time 50,000,000
Schedule of Programs:
Local Assistance Matching Grant Program 50,000,000

To implement the provisions of *COVID-19 Grant Program Amendments* (House Bill 1004, 2021 First Special Session).

The Legislature intends that funds appropriated by this item for Local Matching Programs may only be expended or distributed for purposes that comply with the legal requirements and federal guidelines under the American Rescue Plan Act of 2021.

DEPARTMENT OF HUMAN SERVICES - DIVISION OF JUVENILE JUSTICE SERVICES

Item 42
To Department of Human Services – Division of Juvenile Justice Services – Programs and Operations
From Federal Funds, One-Time 5,000
Schedule of Programs:
Community Provider Payments 5,000

DEPARTMENT OF PUBLIC SAFETY

Item 43
To Department of Public Safety – Programs & Operations
From Federal Funds – American Rescue Plan, One-Time 3,197,600
From General Fund, One-Time 6,000,000
Schedule of Programs:
Aero Bureau 6,000,000
Highway Patrol – Field Operations 3,197,600

The Legislature intends that funds appropriated by this item for Emergency Communications Equipment – Enhanced Interoperability may only be expended or distributed for purposes that comply with the legal requirements and federal guidelines under the American Rescue Plan Act of 2021.

INFRASTRUCTURE AND GENERAL GOVERNMENT

DEPARTMENT OF GOVERNMENT OPERATIONS

Item 44
To Department of Government Operations – Finance – Mandated
From General Fund ..... (156,300)
Schedule of Programs:
State Employee Benefits ..... (156,300)

The Legislature intends that the appropriation of ($156,300) is to implement provisions of *Expanded Infertility Treatment Coverage Pilot Program Amendments* (Senate Bill 19, 2021 General Session).

Item 45
To Department of Government Operations – Chief Information Officer
From Federal Funds – American Rescue Plan, One-Time 25,000,000
Schedule of Programs:
Chief Information Officer 25,000,000

The Legislature intends that funds appropriated by this item for Network Enhancement, Data Security, and Broadband may only be expended or distributed for purposes that comply with the legal requirements and federal guidelines under the American Rescue Plan Act of 2021.

CAPITAL BUDGET

Item 46
To Capital Budget – Capital Development – Higher Education
From Capital Projects Fund, One-Time 90,000,000
Schedule of Programs:
UU Mental Health Facility 90,000,000

The Legislature intends that the Division of Facilities Construction and Management (DFCM) not expend funds appropriated for construction of the Mental Health Facility at the University of Utah until 1) the university presents a plan for how the facility will be utilized and DFCM reports the estimated cost for the project to the Infrastructure and General Government Appropriations Subcommittee and the Social Services Appropriations Subcommittee; 2) each subcommittee independently recommends whether to proceed with the project to the Executive Appropriations Committee (EAC); 3) the university presents the plan and DFCM reports the estimated cost to EAC; and 4) EAC authorizes the university and DFCM to proceed with the project.

The Legislature intends that funds appropriated by this item for the Mental Health Facility at the University of Utah may only be expended or distributed for purposes that comply with the legal requirements and federal guidelines under the American Rescue Plan Act of 2021.

Item 47
To Capital Budget – Capital Development – Other State Government
From Capital Projects Fund, One-Time 2,000,000
Schedule of Programs:
Sanpete County Courthouse 2,000,000

Item 48
To Capital Budget – Capital Improvements
From Federal Funds – American Rescue Plan, One-Time 10,000,000
Schedule of Programs:
Capital Improvements 10,000,000

The Legislature intends that funds appropriated by this item for Network

Enhancement, Data Security, and Broadband may only be expended or distributed for purposes that comply with the legal requirements and federal guidelines under the American Rescue Plan Act of 2021.

TRANSPORTATION

Item 49
To Transportation – Highway System Construction
From Federal Funds, One–Time 15,000,000
Schedule of Programs:
Rehabilitation/Preservation 15,000,000

Item 50
To Transportation – Engineering Services
From Federal Funds, One–Time 9,000,000
Schedule of Programs:
Program Development 9,000,000

BUSINESS, ECONOMIC DEVELOPMENT, AND LABOR

DEPARTMENT OF COMMERCE

Item 51
To Department of Commerce – Commerce General Regulation
From Federal Funds – American Rescue Plan, One–Time 78,400
Schedule of Programs:
Administration 78,400

The Legislature intends that funds appropriated by this item for Emergency Communications Equipment – Enhanced Interoperability may only be expended or distributed for purposes that comply with the legal requirements and federal guidelines under the American Rescue Plan Act of 2021.

GOVERNOR'S OFFICE OF ECONOMIC DEVELOPMENT

Item 52
To Governor's Office of Economic Development – Business Development
From Federal Funds – American Rescue Plan, One–Time 10,000,000
From General Fund, One–Time .... (10,000,000)

The Legislature intends that funds appropriated by this item for Rural Broadband may only be expended or distributed for purposes that comply with the legal requirements and federal guidelines under the American Rescue Plan Act of 2021.

Item 53
To Governor's Office of Economic Development – Pass–Through
From Federal Funds – American Rescue Plan, One–Time 36,000,000
From General Fund Restricted – Utah Capital Investment Restricted Account, One–Time 10,000,000
Schedule of Programs:
Pass–Through 46,000,000

The Legislature intends that the Governor's Office of Economic Development use $35 million provided by this item for a matching grant program to assist municipalities in building stronger communities through investment in housing and neighborhoods.

The matching program shall create incentives for municipalities to redevelop and rezone current commercial, retail, or industrial vacant land to a zone that will allow higher density housing as a permitted use. A municipality may qualify for a matching grant if:

(1) after January 1, 2021, the municipality rezones vacant, undeveloped land that is currently zoned commercial, industrial, or retail to a zone that allows for development of affordable residential housing (attached or detached) as a permitted use at a minimum density of eight units per acre, and the municipality can demonstrate that the municipality has approved a development application with a corresponding affordable residential component; or,

(2) after January 1, 2021, the municipality approves a redevelopment application that allows for the creation of new or additional affordable housing units (attached or detached) at a density of at least eight units to the acre.

By applying to GOED, a municipality that meets either of the foregoing qualifications may qualify for a grant of up to $2.5 million to match a like amount of municipality funds that the municipality demonstrates it has spent or will spend on the qualifying project. A municipality may utilize the grant money to help increase supply of affordable and high quality living units, provided that the grant money is spent or encumbered within six months and in accordance with the American Rescue Plan Act.

A municipality may not apply for a grant until the time allowed for the filing of a land use referendum has expired or until the municipality can demonstrate that the qualifying project is not the subject of any land use referendum or initiative.

In awarding a matching grant under this item, the Governor's Office of Economic Development shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establishing the eligibility and reporting criteria for a municipality to receive a matching grant, including: (1) the form and process of applying for a matching grant; (2) the method and formula for determining grant amounts; and (3) the reporting requirements of grant recipients.

The Governor's Office of Economic Development shall provide a report describing the distribution and uses of the grant money to the Governor's Office of Planning and Budget and to the Office of the Legislative Fiscal Analyst. Additionally, the Governor's Office of Economic Development shall include information describing the

distribution and use of the grant money in the office's annual report currently described in Section 63N-1a-306.

The Legislature intends that funds appropriated for Redeveloping Matching Grant for Affordable Housing may only be expended or distributed for purposes that comply with the legal requirements and federal guidelines under the American Rescue Plan Act of 2021.

The Legislature intends that the Governor's Office of Economic Development direct the $1,000,000 appropriated for the Utah Women in Sports Collaborative to the Utah Sports Commission to create a program that promotes women's mental health and wellness. The Legislature further intends that funds appropriated for the Utah Women in Sports Collaborative may only be expended or distributed for purposes that comply with the legal requirements and federal guidelines under the American Rescue Plan Act of 2021.

The Legislature intends that the Governor's Office of Economic Development use $1,800,000 appropriated from the Utah Capital Investments Restricted Account by this item to partner with Southern Utah University on a new, online, fully immersive, course delivery mode that leverages artificial intelligence and automation. The Governor's Office of Economic Development shall not release this $1,800,000 to Southern Utah University until Southern Utah University secures $1 million in private donations for the effort. The Legislature further intends that the Governor's Office of Economic Development use the remaining $8,200,000 in cooperation with the State Board of Higher Education for similar efforts across the Utah System of Higher Education. For both the Southern Utah University project and the system-wide initiatives, the Governor's Office of Economic Development shall consult with public and private partners, including those in education, business, and technology, to establish benchmarks regarding the scope and scale of the online course delivery mode and shall expend funds appropriated under this item only as platform development reaches the identified benchmarks.

DEPARTMENT OF CULTURAL AND COMMUNITY ENGAGEMENT

Item 54
To Department of Cultural and Community Engagement - Division of Arts and Museums
From Federal Funds, One-Time 100,000
Schedule of Programs:
Grants to Non-profits 100,000

Item 55
To Department of Cultural and Community Engagement - State Library
From Federal Funds, One-Time 2,200,000
Schedule of Programs:
Library Development 2,200,000

INSURANCE DEPARTMENT

Item 56
To Insurance Department - Insurance Department Administration
From Federal Funds - American Rescue Plan, One-Time 50,400
Schedule of Programs:
Administration 50,400

The Legislature intends that funds appropriated by this item for Emergency Communications Equipment - Enhanced Interoperability may only be expended or distributed for purposes that comply with the legal requirements and federal guidelines under the American Rescue Plan Act of 2021.

UTAH STATE TAX COMMISSION

Item 57
To Utah State Tax Commission - Tax Administration
From Federal Funds - American Rescue Plan, One-Time 112,000
From Dedicated Credits Revenue, One-Time 7,500
Schedule of Programs:
Administration Division 16,800
Motor Vehicle Enforcement Division 95,200
Motor Vehicles 7,500

The Legislature intends that funds appropriated by this item for Emergency Communications Equipment - Enhanced Interoperability may only be expended or distributed for purposes that comply with the legal requirements and federal guidelines under the American Rescue Plan Act of 2021.

SOCIAL SERVICES

DEPARTMENT OF HEALTH

Item 58
To Department of Health - Disease Control and Prevention
From Federal Funds, One-Time 114,250,000
Schedule of Programs:
Epidemiology 113,320,000
Utah Public Health Laboratory 930,000

Item 59
To Department of Health - Executive Director's Operations
From Federal Funds - American Rescue Plan, One-Time 28,500,000
From Federal Funds, One-Time 15,580,000
Schedule of Programs:
Executive Director 44,080,000

The Legislature intends that the Departments of Health and Human Services report to the Social Services Appropriations Subcommittee by October 1, 2021 on the proposed uses and outcomes for the appropriations given via the funding item Public Health Information System Updates.

The Legislature intends that the appropriation for Vaccine Distribution/Access in Alternative Locations be used for increasing access to vaccines,

advertising, educational information, remote site implementation, purchase of vaccines, outreach and implementation of vaccine distribution, and similar expenses. However, monies appropriated by the legislature in this item, or by any other appropriation relating to COVID-19 vaccines, may not be used to provide financial incentives, awards, drawings or prizes, or any similar incentive to anyone for receiving a vaccination.

The Legislature intends that funds appropriated by this item for Public Health Information System Updates may only be expended or distributed for purposes that comply with the legal requirements and federal guidelines under the American Rescue Plan Act of 2021.

The Legislature intends that funds appropriated by this item for Vaccine Distribution/Access in Alternative Locations may only be expended or distributed for purposes that comply with the legal requirements and federal guidelines under the American Rescue Plan Act of 2021.

Item 60
To Department of Health - Family Health and Preparedness
From Federal Funds, One-Time 15,295,200
From Revenue Transfers, One-Time 10,000,000
Schedule of Programs:
Children with Special Health Care Needs 2,550,000
Health Facility Licensing and Certification 10,000,000
Maternal and Child Health 2,870,000
Public Health and Health Care Preparedness 9,875,200

DEPARTMENT OF HUMAN SERVICES

Item 61
To Department of Human Services - Division of Aging and Adult Services
From Federal Funds, One-Time 3,069,500
Schedule of Programs:
Local Government Grants - Formula Funds 3,069,500

Item 62
To Department of Human Services - Division of Child and Family Services
From Federal Funds, One-Time 1,719,500
Schedule of Programs:
Minor Grants 1,496,200
Provider Payments 223,300

Item 63
To Department of Human Services - Executive Director Operations
From Federal Funds - American Rescue Plan, One-Time 10,000,000
From Federal Funds, One-Time 90,700
Schedule of Programs:
Fiscal Operations 55,600
Information Technology 10,000,000
Utah Developmental Disabilities Council 35,100

The Legislature intends that the Departments of Health and Human Services report to the Social Services Appropriations Subcommittee by October 1, 2021 on the proposed uses and outcomes for the appropriations given via the funding item Public Health Information System Updates.

The Legislature intends that funds appropriated by this item for Public Health Information System Updates may only be expended or distributed for purposes that comply with the legal requirements and federal guidelines under the American Rescue Plan Act of 2021.

Item 64
To Department of Human Services - Division of Services for People with Disabilities
From Federal Funds - American Rescue Plan, One-Time 11,200
Schedule of Programs:
Utah State Developmental Center 11,200

The Legislature intends that funds appropriated by this item for Emergency Communications Equipment - Enhanced Interoperability may only be expended or distributed for purposes that comply with the legal requirements and federal guidelines under the American Rescue Plan Act of 2021.

Item 65
To Department of Human Services - Division of Substance Abuse and Mental Health
From Federal Funds - American Rescue Plan, One-Time 9,056,000
From Federal Funds, One-Time 29,613,000
Schedule of Programs:
Administration - DSAMH 493,000
Community Mental Health Services 11,903,300
Mental Health Centers 9,000,000
State Hospital 56,000
State Substance Abuse Services 17,216,700

The Legislature intends that funds appropriated by this item for Emergency Communications Equipment - Enhanced Interoperability may only be expended or distributed for purposes that comply with the legal requirements and federal guidelines under the American Rescue Plan Act of 2021.

The Legislature intends that funds appropriated by this item for Pandemic-Related Mental Health Services may only be expended or distributed for purposes that comply with the legal requirements and federal guidelines under the American Rescue Plan Act of 2021.

DEPARTMENT OF WORKFORCE SERVICES

Item 66
To Department of Workforce Services - Housing and Community Development
From Federal Funds - American Rescue Plan, One-Time 17,000,000

From Federal Funds, One-Time 222,367,800
From Dedicated Credits Revenue,
One-Time 57,739,900
Schedule of Programs:
Community Services 17,000,000
HEAT 40,603,300
Housing Development 239,504,400

The Legislature intends that funds appropriated by this item for Establish a Food Bank and Food Pantries in San Juan County and the Navajo Nation go to a food bank that provides services statewide to establish and operate a food bank in San Juan County to serve southeastern Utah and the Navajo Nation.

The Legislature intends that funds appropriated by this item for Food Bank Building Purchase go to a food bank in Salt Lake that provides services statewide to expand services through the purchase of a building adjacent to an existing food bank for the purpose of expanding freezer and cold storage operations.

The Legislature intends that funds appropriated by this item for Food Bank Building Purchase may only be expended or distributed for purposes that comply with the legal requirements and federal guidelines under the American Rescue Plan Act of 2021.

The Legislature intends that funds appropriated by this item for Establish a Food Bank and Food Pantries in San Juan County and the Navajo Nation may only be expended or distributed for purposes that comply with the legal requirements and federal guidelines under the American Rescue Plan Act of 2021.

Item 67
To Department of Workforce Services - Nutrition Assistance - SNAP
From Federal Funds, One-Time 105,999,300
Schedule of Programs:
Nutrition Assistance - SNAP 105,999,300

Item 68
To Department of Workforce Services - Operations and Policy
From Federal Funds, One-Time 441,435,500
Schedule of Programs:
Child Care Assistance 169,715,200
Eligibility Services 2,996,000
Temporary Assistance for Needy Families 7,334,800
Workforce Development 261,389,500

Item 69
To Department of Workforce Services - Unemployment Insurance
From Federal Funds, One-Time 33,983,800
Schedule of Programs:
Unemployment Insurance Administration 33,983,800

HIGHER EDUCATION

UNIVERSITY OF UTAH

Item 70
To University of Utah - Education and General
From Dedicated Credits - State Land Grants 443,800
From Federal Funds - American Rescue Plan, One-Time 212,800
From Education Fund 400,000
From Education Fund Restricted - Performance Funding Rest. Acct. 43,200
From Uniform School Fund Rest. - Trust Distribution Account ..... (502,100)
Schedule of Programs:
Education and General 597,700

The Legislature intends that funds appropriated by this item for Emergency Communications Equipment - Enhanced Interoperability may only be expended or distributed for purposes that comply with the legal requirements and federal guidelines under the American Rescue Plan Act of 2021.

Item 71
To University of Utah - Public Service
From Education Fund ..... (500,000)
From Education Fund, One-Time ..... (500,000)
Schedule of Programs:
Innovation District at the Point .... (1,000,000)

UTAH STATE UNIVERSITY

Item 72
To Utah State University - Education and General
From Dedicated Credits - State Land Grants 257,000
From Federal Funds - American Rescue Plan, One-Time 117,600
From Education Fund Restricted - Performance Funding Rest. Acct. 29,300
From Uniform School Fund Rest. - Trust Distribution Account ..... (150,600)
Schedule of Programs:
Education and General 253,300

The Legislature intends that funds appropriated by this item for Emergency Communications Equipment - Enhanced Interoperability may only be expended or distributed for purposes that comply with the legal requirements and federal guidelines under the American Rescue Plan Act of 2021.

WEBER STATE UNIVERSITY

Item 73
To Weber State University - Education and General
From Education Fund 200,000
From Education Fund, One-Time 22,000
From Education Fund Restricted - Performance Funding Rest. Acct. 15,500
Schedule of Programs:
Education and General 237,500

SOUTHERN UTAH UNIVERSITY

Item 74
To Southern Utah University – Education and General
From Education Fund Restricted – Performance Funding Rest. Acct. 8,200
Schedule of Programs:
Education and General 8,200

UTAH VALLEY UNIVERSITY

Item 75
To Utah Valley University – Education and General
From Federal Funds – American Rescue Plan, One–Time 78,400
From Education Fund Restricted – Performance Funding Rest. Acct. 23,400
Schedule of Programs:
Education and General 101,800

The Legislature intends that funds appropriated by this item for Emergency Communications Equipment – Enhanced Interoperability may only be expended or distributed for purposes that comply with the legal requirements and federal guidelines under the American Rescue Plan Act of 2021.

SNOW COLLEGE

Item 76
To Snow College – Education and General
From Education Fund Restricted – Performance Funding Rest. Acct. 4,200
Schedule of Programs:
Education and General 4,200

DIXIE STATE UNIVERSITY

Item 77
To Dixie State University – Education and General
From Education Fund Restricted – Performance Funding Rest. Acct. 7,100
Schedule of Programs:
Education and General 7,100

SALT LAKE COMMUNITY COLLEGE

Item 78
To Salt Lake Community College – Education and General
From Education Fund ..... (834,300)
From Dedicated Credits Revenue ..... (278,200)
From Education Fund Restricted – Performance Funding Rest. Acct. 12,800
Schedule of Programs:
Education and General ..... (973,800)
Operations and Maintenance ..... (125,900)

Item 79
To Salt Lake Community College – School of Applied Technology
From Education Fund ..... (59,500)
Schedule of Programs:
School of Applied Technology ..... (59,500)

UTAH BOARD OF HIGHER EDUCATION

Item 80
To Utah Board of Higher Education – Administration
From Education Fund ..... (2,100,000)
From Education Fund, One–Time 478,000
Schedule of Programs:
Administration ..... (1,622,000)

Item 81
To Utah Board of Higher Education – Student Assistance
From Federal Funds – American Rescue Plan, One–Time 15,000,000
From Education Fund 2,000,000
Schedule of Programs:
Regents' Scholarship 2,000,000
Education Re–engagement Scholarships 15,000,000

The Legislature intends that the funds appropriated for Education Reengagement Scholarships be used to provide one–year tuition and fee scholarships for individuals who, because of the Coronavirus pandemic, deferred or interrupted enrollment, or who were not enrolled in the 2020–2021 school year and seek additional training and education at technical colleges and degree–granting institutions within the Utah System of Higher Education. The Legislature further intends that the Utah Board of Higher Education develop procedures to award scholarships and distribute funding. The Legislature further intends that funds appropriated by this item for the Education Reengagement Scholarship program may only be expended or distributed for purposes that comply with the legal requirements and federal guidelines under the American Rescue Plan Act of 2021.

Item 82
To Utah Board of Higher Education – Student Support
From Education Fund Restricted – Performance Funding Rest. Acct. .... (381,100)
Schedule of Programs:
Performance Funding –– Colleges and Universities ..... (381,100)

UTAH SYSTEM OF TECHNICAL COLLEGES

Item 83
To Utah System of Technical Colleges – Bridgerland Technical College
From Education Fund Restricted – Performance Funding Rest. Acct. 29,700
Schedule of Programs:
Bridgerland Technical College 29,700

Item 84
To Utah System of Technical Colleges – Davis Technical College
From Education Fund Restricted – Performance Funding Rest. Acct. 29,700
Schedule of Programs:
Davis Technical College 29,700

Item 85
To Utah System of Technical Colleges – Dixie Technical College
From Education Fund Restricted – Performance Funding Rest. Acct. 29,700
Schedule of Programs:
Dixie Technical College 29,700

Item 86
To Utah System of Technical Colleges – Mountainland Technical College
From Education Fund Restricted – Performance Funding Rest. Acct. 29,700
Schedule of Programs:
Mountainland Technical College 29,700

Item 87
To Utah System of Technical Colleges – Ogden–Weber Technical College
From Education Fund Restricted – Performance Funding Rest. Acct. 29,700
Schedule of Programs:
Ogden–Weber Technical College 29,700

Item 88
To Utah System of Technical Colleges – Southwest Technical College
From Education Fund Restricted – Performance Funding Rest. Acct. 29,600
Schedule of Programs:
Southwest Technical College 29,600

Item 89
To Utah System of Technical Colleges – Tooele Technical College
From Education Fund Restricted – Performance Funding Rest. Acct. 29,600
Schedule of Programs:
Tooele Technical College 29,600

Item 90
To Utah System of Technical Colleges – Uintah Basin Technical College
From Education Fund Restricted – Performance Funding Rest. Acct. 29,700
Schedule of Programs:
Uintah Basin Technical College 29,700

NATURAL RESOURCES, AGRICULTURE, AND ENVIRONMENTAL QUALITY

DEPARTMENT OF AGRICULTURE AND FOOD

Item 91
To Department of Agriculture and Food – Animal Industry
From Federal Funds – American Rescue Plan, One–Time 50,400
Schedule of Programs:
Brand Inspection 50,400

The Legislature intends that funds appropriated by this item for Emergency Communications Equipment – Enhanced Interoperability may only be expended or distributed for purposes that comply with the legal requirements and federal guidelines under the American Rescue Plan Act of 2021.

Item 92
To Department of Agriculture and Food – Marketing and Development
From Federal Funds, One–Time 490,000
Schedule of Programs:
Marketing and Development 490,000

Item 93
To Department of Agriculture and Food – Predatory Animal Control
From General Fund, One–Time ..... (122,500)
Schedule of Programs:
Predatory Animal Control ..... (122,500)

Item 94
To Department of Agriculture and Food – Industrial Hemp
From Dedicated Credits Revenue 272,000
Schedule of Programs:
Industrial Hemp 272,000

To implement the provisions of *Hemp Amendments* (Senate Bill 1006, 2021 First Special Session).

DEPARTMENT OF NATURAL RESOURCES

Item 95
To Department of Natural Resources – Administration
From Federal Funds – American Rescue Plan, One–Time 5,600
Schedule of Programs:
Law Enforcement 5,600

The Legislature intends that funds appropriated by this item for Emergency Communications Equipment – Enhanced Interoperability may only be expended or distributed for purposes that comply with the legal requirements and federal guidelines under the American Rescue Plan Act of 2021.

Item 96
To Department of Natural Resources – Water Resources
From Federal Funds – American Rescue Plan, One–Time 100,000,000
Schedule of Programs:
Construction 100,000,000

The Legislature intends that the Division of Finance may not allocate any of the $100 million for Water Projects to the Department of Natural Resources until after the department presents a detailed written prioritization plan for the new funding to the Natural Resources, Agriculture, and Environmental Quality Appropriations Subcommittee by October 30, 2021 and to the Executive Appropriations Committee by November 30, 2021. Funds appropriated in this item may only be used in a manner that complies with the legal requirements and federal guidelines for use of funds appropriated under the American Rescue Plan Act of 2021.

Item 97
To Department of Natural Resources – Wildlife Resources
From Federal Funds – American Rescue Plan, One–Time 392,000

Schedule of Programs:
Law Enforcement 392,000

The Legislature intends that funds appropriated by this item for Emergency Communications Equipment – Enhanced Interoperability may only be expended or distributed for purposes that comply with the legal requirements and federal guidelines under the American Rescue Plan Act of 2021.

Item 98
To Department of Natural Resources – Division of Parks
From Federal Funds – American Rescue Plan, One–Time 369,600
Schedule of Programs:
Park Operation Management 369,600

The Legislature intends that funds appropriated by this item for Emergency Communications Equipment – Enhanced Interoperability may only be expended or distributed for purposes that comply with the legal requirements and federal guidelines under the American Rescue Plan Act of 2021.

PUBLIC EDUCATION

STATE BOARD OF EDUCATION - MINIMUM SCHOOL PROGRAM

Item 99
To State Board of Education – Minimum School Program – Related to Basic School Programs

The Legislature intends that expenditures upon which state funding is contingent under Item 11 of Public Education Budget Amendments (House Bill 2, 2021 General Session) be modified to allow Tintic School District, North Sanpete School District, Sevier School District, Wayne County School District, Garfield County School District, Piute County School District, or Emery County School District, to expend funding from the federal Elementary and Secondary School Emergency Relief Fund II, with agreement of the State Superintendent of Public Instruction, on items listed in paragraphs (1)(a) and (1)(b) of the intent language to facilitate efforts to address disrupted learning for students during summer 2021.

STATE BOARD OF EDUCATION

Item 100
To State Board of Education – State Administrative Office
From Federal Funds, One–Time 645,768,300
From Transfer for COVID–19 Response, One–Time 1,000,000
Schedule of Programs:
Board and Administration 1,000,000
Special Education 30,442,200
Federal Coronavirus Relief for Public Education 615,326,100

Item 101
To State Board of Education – Utah Schools for the Deaf and the Blind
From Federal Funds, One–Time 200,000
Schedule of Programs:
Administration 200,000

Subsection 2(b). Expendable Funds and Accounts. The Legislature has reviewed the following expendable funds. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated. Outlays and expenditures from the funds or accounts to which the money is transferred may be made without further legislative action, in accordance with statutory provisions relating to the funds or accounts.

SOCIAL SERVICES

DEPARTMENT OF WORKFORCE SERVICES

Item 102
To Department of Workforce Services – Olene Walker Low Income Housing
From Federal Funds, One–Time 26,571,500
Schedule of Programs:
Olene Walker Low Income Housing 26,571,500

Subsection 2(c). Business-like Activities. The Legislature has reviewed the following proprietary funds. Under the terms and conditions of Utah Code 63J–1–410, for any included Internal Service Fund, the Legislature approves budgets, full–time permanent positions, and capital acquisition amounts as indicated, and appropriates to the funds, as indicated, estimated revenue from rates, fees, and other charges. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated.

EXECUTIVE OFFICES AND CRIMINAL JUSTICE

ATTORNEY GENERAL

Item 103
To Attorney General – ISF – Attorney General

Notwithstanding ISF – Attorney General rates and fees found in "State Agency Fees and Internal Service Fund Rate Authorization and Appropriations" (Senate Bill 8, 2021 General Session) and intent language found in "New Fiscal Year Supplemental Appropriations Act" (Senate Bill 2, 2021 General Session) Item 215, and under the terms and conditions of Utah Code Title 63J Chapter 1 and other fee statutes as applicable, the following rates and fees are approved for the use and support of the government of the State of Utah for the Fiscal Year beginning July 1, 2021 and ending June 30, 2022: Child Protection Attorney I–II – Co–Located Rate – 80.00; Child Protection Attorney I–II – Office Rate – 83.00; Child Protection Attorney III–IV – Co–Located

Rate – 100.00; Child Protection Attorney III–IV – Office Rate – 103.00; Child Protection Attorney V – Co–located Rate – 124.00; Child Protection Attorney V – Office Rate – 128.00; Child Protection Paralegal – Co–Located Rate – 59.00; Child Protection Paralegal – Office Rate – 61.00; Civil Attorney I – II – Co–Located Rate – 86.00; Civil Attorney I – II – Office Rate – 89.00; Civil Attorney III – IV – Co–Located Rate – 106.00; Civil Attorney III – IV – Office Rate – 109.00; Civil Attorney I–II – Litigation Rate – 100.00; Civil Attorney III–IV – Litigation Rate – 119.00; Civil Attorney V – Co–Located Rate – 130.00; Civil Attorney V – Litigation Rate – 143.00; Civil Attorney V – Office Rate – 134.00; Civil Paralegal – Co–Located Rate – 65.00; Civil Paralegal – Litigation Rate – 66.00; Civil Paralegal – Office Rate – 67.00; Criminal Division Attorney I–II – Co–Located – 108.00; Criminal Division Attorney I–II – Office Rate – 112.00; Criminal Division Attorney III–IV – Co–Located Rate – 123.00; Criminal Division Attorney III–IV – Office Rate – 127.00; Criminal Division Attorney V – Co–Located Rate – 139.00; Criminal Division Attorney V – Office Rate – 144.00; Criminal Division Investigator – Co–Located Rate – 70.00; Criminal Division Investigator – Office Rate – 73.00; Criminal Division Paralegal – Co–Located Rate – 56.00; Criminal Division Paralegal – Office Rate – 58.00. The Legislature intends that the aforementioned fees apply for the Attorney General Internal Service Fund.

SOCIAL SERVICES

DEPARTMENT OF WORKFORCE SERVICES

Item 104
To Department of Workforce Services – State Small Business Credit Initiative Program Fund
From Federal Funds, One–Time 56,234,000
Schedule of Programs:
State Small Business Credit Initiative Program Fund 56,234,000

Item 105
To Department of Workforce Services – Unemployment Compensation Fund
From Federal Funds – American Rescue Plan, One–Time 100,000,000
From Federal Funds, One–Time 61,469,800
Schedule of Programs:
Unemployment Compensation Fund 161,469,800

The Legislature intends that the $100 million appropriated by this item from Federal Funds – American Rescue Plan for Replenish the Unemployment Compensation Fund may only be expended or distributed for purposes that comply with the legal requirements and federal guidelines under the American Rescue Plan Act of 2021.

Subsection 2(d). Restricted Fund and Account Transfers. The Legislature authorizes the State Division of Finance to transfer the following amounts between the following funds or accounts as indicated. Expenditures and outlays from the funds to which the money is transferred must be authorized by an appropriation.

INFRASTRUCTURE AND GENERAL GOVERNMENT

Item 106
To Long–term Capital Projects Fund
From General Fund, One–Time .... (40,000,000)
Schedule of Programs:
Long–term Capital Projects Fund ..... (40,00**0,000)**

Subsection 2(e). Capital Project Funds. The Legislature has reviewed the following capital project funds. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated.

INFRASTRUCTURE AND GENERAL GOVERNMENT

CAPITAL BUDGET

Item 107
To Capital Budget – Capital Development Fund
From Federal Funds – American Rescue Plan, One–Time 90,000,000
From General Fund, One–Time 2,000,000
Schedule of Programs:
Capital Development Fund 92,000,000

The Legislature intends that the Division of Facilities Construction and Management (DFCM) not expend funds appropriated for construction of the Mental Health Facility at the University of Utah until 1) the university presents a plan for how the facility will be utilized and DFCM reports the estimated cost for the project to the Infrastructure and General Government Appropriations Subcommittee and the Social Services Appropriations Subcommittee; 2) each subcommittee independently recommends whether to proceed with the project to the Executive Appropriations Committee (EAC); 3) the university presents the plan and DFCM reports the estimated cost to EAC; and 4) EAC authorizes the university and DFCM to proceed with the project.

The Legislature intends that funds appropriated by this item for the Mental Health Facility at the University of Utah may only be expended or distributed for purposes that comply with the legal requirements and federal guidelines under the American Rescue Plan Act of 2021.

Section 3. Effective Date.

If approved by two–thirds of all the members elected to each house, Section 1 of this bill takes effect upon approval by the Governor, or the day following the constitutional time limit of Utah Constitution Article VII, Section 8 without the

Governor's signature, or in the case of a veto, the date of override. Section 2 of this bill takes effect on July 1, 2021.

CHAPTER 11
S. B. 1002
Passed May 19, 2021
Approved May 28, 2021
Effective May 28, 2021

GROUP GANG ENHANCEMENT AMENDMENTS

Chief Sponsor: Daniel W. Thatcher
House Sponsor: Stephanie Pitcher

LONG TITLE

General Description:

This bill amends the offenses subject to enhancement for crimes committed in concert with multiple people.

Highlighted Provisions:

This bill:

- amends the offenses subject to enhancement for crimes committed in concert with multiple people; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

76-3-203.1, as last amended by Laws of Utah 2021, Chapter 207

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 76-3-203.1 is amended to read:

76-3-203.1. Offenses committed in concert with three or more persons or in relation to a criminal street gang -- Notice -- Enhanced penalties.

(1) As used in this section:

(a) "Criminal street gang" [~~has the same definition as~~] means the same as that term is defined in Section 76-9-802.

(b) "In concert with three or more persons" means:

(i) the defendant was aided or encouraged by at least three other persons in committing the offense and was aware of this aid or encouragement; and

(ii) each of the other persons:

(A) was physically present; and

(B) participated as a party to any offense listed in Subsection (4), (5), or (6).

(c) "In concert with three or more persons" means, regarding intent:

(i) other persons participating as parties need not have the intent to engage in the same offense or degree of offense as the defendant; and

(ii) a minor is a party if the minor's actions would cause the minor to be a party if the minor were an adult.

(2) A person who commits any offense in accordance with this section is subject to an enhanced penalty as provided in Subsection (4), (5), or (6) if the trier of fact finds beyond a reasonable doubt that the person acted:

(a) in concert with three or more persons;

(b) for the benefit of, at the direction of, or in association with any criminal street gang as defined in Section 76-9-802; or

(c) to gain recognition, acceptance, membership, or increased status with a criminal street gang as defined in Section 76-9-802.

(3) The prosecuting attorney, or grand jury if an indictment is returned, shall cause to be subscribed upon the information or indictment notice that the defendant is subject to the enhanced penalties provided under this section.

(4) (a) For an offense listed in Subsection (4)(b), a person may be charged as follows:

(i) for a class B misdemeanor, as a class A misdemeanor; and

(ii) for a class A misdemeanor, as a third degree felony.

(b) The following offenses are subject to Subsection (4)(a):

(i) criminal mischief as defined in Section 76-6-106; and

(ii) graffiti as defined in Section 76-6-107.

(5) (a) For an offense listed in Subsection (5)(b), a person may be charged as follows:

(i) for a class B misdemeanor, as a class A misdemeanor;

(ii) for a class A misdemeanor, as a third degree felony; and

(iii) for a third degree felony, as a second degree felony.

(b) The following offenses are subject to Subsection (5)(a):

(i) burglary, if committed in a dwelling as defined in Subsection 76-6-202(2);

(ii) any offense of obstructing government operations under Title 76, Chapter 8, Part 3, Obstructing Governmental Operations, except Sections 76-8-302, 76-8-303, 76-8-307, 76-8-308, and 76-8-312;

(iii) tampering with a witness or other violation of Section 76-8-508;

(iv) retaliation against a witness, victim, informant, or other violation of Section 76-8-508.3;

(v) extortion or bribery to dismiss a criminal proceeding as defined in Section 76-8-509;

(vi) any weapons offense under Title 76, Chapter 10, Part 5, Weapons; and

(vii) any violation of Title 76, Chapter 10, Part 16, Pattern of Unlawful Activity Act.

(6) (a) For an offense listed in Subsection (6)(b), a person may be charged as follows:

(i) for a class B misdemeanor, as a class A misdemeanor;

(ii) for a class A misdemeanor, as a third degree felony;

(iii) for a third degree felony, as a second degree felony; and

(iv) for a second degree felony, as a first degree felony.

(b) The following offenses are subject to Subsection (6)(a):

(i) assault and related offenses under Title 76, Chapter 5, Part 1, Assault and Related Offenses;

(ii) any criminal homicide offense under Title 76, Chapter 5, Part 2, Criminal Homicide;

(iii) kidnapping and related offenses under Title 76, Chapter 5, Part 3, Kidnapping, Trafficking, and Smuggling;

(iv) any felony sexual offense under Title 76, Chapter 5, Part 4, Sexual Offenses;

(v) sexual exploitation of a minor as defined in Section 76-5b-201;

(vi) robbery and aggravated robbery under Title 76, Chapter 6, Part 3, Robbery; and

(vii) aggravated exploitation of prostitution under Section 76-10-1306.

(7) The sentence imposed under Subsection (4), (5), or (6) may be suspended and the individual placed on probation for the higher level of offense.

(8) It is not a bar to imposing the enhanced penalties under this section that the persons with whom the actor is alleged to have acted in concert are not identified, apprehended, charged, or convicted, or that any of those persons are charged with or convicted of a different or lesser offense.

Section 2. Effective date.

If approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

CHAPTER 12
S. B. 1003
Passed May 19, 2021
Approved May 28, 2021
Effective May 28, 2021

ELECTRONIC CIGARETTE PRODUCT AND NICOTINE PRODUCT AMENDMENTS

Chief Sponsor: Curtis S. Bramble
House Sponsor: Paul Ray

LONG TITLE

General Description:

This bill amends provisions relating to the sale of electronic cigarette products and nicotine products.

Highlighted Provisions:

This bill:

- defines terms;
- requires the Department of Health to make certain requirements to sell manufacturer sealed electronic cigarette products;
- makes it unlawful for an employee of a tobacco retailer to sell or give a nicotine product to an individual who is younger than 21 years old; and
- amends provisions relating to the unlawful transfer or use of proof of age.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

26-57-101, as last amended by Laws of Utah 2020, Chapter 347
26-57-102, as last amended by Laws of Utah 2020, Chapter 347
26-57-103, as last amended by Laws of Utah 2020, Chapter 302
76-10-114, as enacted by Laws of Utah 2020, Chapter 302
76-10-115, as enacted by Laws of Utah 2020, Chapter 302

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 26-57-101 is amended to read:

CHAPTER 57. ELECTRONIC CIGARETTE PRODUCT AND NICOTINEPRODUCT REGULATION ACT

26-57-101. Title.

This chapter is known as the "Electronic Cigarette Product and Nicotine Product Regulation Act."

Section 2. Section 26-57-102 is amended to read:

26-57-102. Definitions.

As used in this chapter:

[~~(1) "Cigarette" means the same as that term is defined in Section 59-14-102.~~]

[~~(2)~~] (1) "Electronic cigarette" means the same as that term is defined in Section 76-10-101.

[~~(3)~~] (2) "Electronic cigarette product" means the same as that term is defined in Section 76-10-101.

[~~(4)~~] (3) "Electronic cigarette substance" means the same as that term is defined in Section 76-10-101.

[~~(5)~~] (4) "Local health department" means the same as that term is defined in Section 26A-1-102.

[~~(6)~~] (5) "Manufacture" includes:

(a) to cast, construct, or make electronic cigarettes; or

(b) to blend, make, process, or prepare an electronic cigarette substance.

[~~(7)~~] (6) "Manufacturer sealed electronic cigarette substance" means an electronic cigarette substance that is sold in a container that:

(a) is prefilled by the electronic cigarette substance manufacturer; and

(b) the electronic cigarette manufacturer does not intend for a consumer to open.

(7) "Manufacturer sealed electronic cigarette product" means:

(a) an electronic cigarette substance or container that the electronic cigarette manufacturer does not intend for a consumer to open or refill; or

(b) a prefilled electronic cigarette as that term is defined in Section 76-10-101.

(8) "Nicotine" means the same as that term is defined in Section 76-10-101.

(9) "Nicotine product" means the same as that term is defined in Section 76-10-101.

Section 3. Section 26-57-103 is amended to read:

26-57-103. Electronic cigarette products -- Labeling -- Requirements to sell -- Advertising.

(1) The department shall, in consultation with a local health department[~~, as defined in Section 26A-1-102,~~] and with input from members of the public, establish by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the [~~standards for~~] requirements to sell an electronic cigarette substance that is not a manufacturer sealed electronic cigarette substance regarding:

(a) labeling;

(b) nicotine content;

(c) packaging; and

(d) product quality.

(2) On or before January 1, 2021, the department shall, in consultation with a local health department[~~, as defined in Section 26A-1-102,~~] and with input from members of the public, establish by rule made in accordance with Title 63G, Chapter 3,

Utah Administrative Rulemaking Act, the [~~standards for~~] requirements to sell a manufacturer sealed electronic cigarette [~~substance~~] product regarding:

(a) labeling;

(b) nicotine content;

(c) packaging; and

(d) product quality.

(3) (a) A person may not sell an electronic cigarette substance unless the electronic cigarette substance complies with the [~~standards~~] requirements established by the department under Subsection (1).

(b) Beginning on July 1, 2021, a person may not sell a manufacturer sealed electronic cigarette [~~substance~~] product unless the manufacturer sealed electronic cigarette [~~substance~~] product complies with the [~~standards~~] requirements established by the department under Subsection (2).

(4) (a) A local health department may not enact a rule or regulation regarding electronic cigarette substance labeling, nicotine content, packaging, or product quality that is not identical to the [~~standards~~] requirements established by the department under Subsections (1) and (2).

(b) Except as provided in Subsection (4)(c), a local health department may enact a rule or regulation regarding electronic cigarette substance manufacturing.

(c) A local health department may not enact a rule or regulation regarding a manufacturer sealed electronic cigarette [~~substance~~] product.

(5) A person may not advertise an electronic cigarette product[~~: (a)~~] as a tobacco cessation device[~~;~~].

[~~(b) if the person is not licensed to sell an electronic cigarette product under Section 59-14-803; or~~]

[~~(c) during a period of time when the person's license to sell an electronic cigarette product under Section 59-14-803 has been suspended or revoked.~~]

Section 4. Section 76-10-114 is amended to read:

76-10-114. Unlawful sale of a tobacco product, electronic cigarette product, or nicotine product.

(1) As used in this section:

(a) "Compensatory service" means service or unpaid work performed by an employee, in lieu of the payment of a fine or imprisonment.

(b) "Employee" means an employee or an owner of a tobacco retailer.

(2) It is unlawful for an employee to knowingly or intentionally sell or give a tobacco product [~~or~~], an electronic cigarette product, or a nicotine product in the course of business to an individual who is under 21 years old.

(3) An employee who violates this section is:

(a) on a first violation:

(i) guilty of an infraction; and

(ii) subject to:

(A) a fine not exceeding $1,000; or

(B) compensatory service;

(b) on any subsequent violation:

(i) guilty of a class C misdemeanor; and

(ii) subject to:

(A) a fine not exceeding $2,000; or

(B) compensatory service.

Section 5. Section 76-10-115 is amended to read:

76-10-115. Unlawful transfer or use of proof of age.

(1) As used in this section:

(a) "Proof of age" means:

(i) a valid identification card issued under Title 53, Chapter 3, Part 8, Identification Card Act;

(ii) a valid identification that:

(A) is substantially similar to an identification card issued under Title 53, Chapter 3, Part 8, Identification Card Act;

(B) is issued in accordance with the laws of a state other than Utah in which the identification is issued;

(C) includes date of birth; and

(D) has a picture affixed;

(iii) a valid driver license certificate that is issued under Title 53, Chapter 3, Uniform Driver License Act, or in accordance with the laws of the state in which the valid driver license is issued;

(iv) a valid United States military identification card that:

(A) includes date of birth; and

(B) has a picture affixed; or

(v) a valid passport.

(b) "Proof of age" does not include a driving privilege card issued in accordance with Section 53-3-207.

(2) An individual [~~who~~] is guilty of a class B misdemeanor if the individual knowingly and intentionally transfers that individual's proof of age to another individual to aid that individual in:

(a) purchasing a tobacco product [~~or~~], an electronic cigarette product, or a nicotine product; or [~~in~~]

(b) gaining admittance to any part of the premises of a retail tobacco specialty business[~~, is guilty of a class B misdemeanor~~].

(3) An individual [~~who~~] is guilty of a class A misdemeanor if the individual knowingly and intentionally uses proof of age containing false information with the intent to:

(a) purchase a tobacco product [~~or~~], an electronic cigarette product, or a nicotine product; or [~~to~~]

(b) gain admittance to any part of the premises of a retail tobacco specialty business[~~, is guilty of a class A misdemeanor~~].

(4) Subsections (2) and (3) do not apply to an individual who uses a false identification in accordance with Subsection 77-39-101(4) at the request of a peace officer.

Section 6. Effective date.

If approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

CHAPTER 13
S. B. 1004
Passed May 19, 2021
Approved May 28, 2021
Effective May 28, 2021

PEACE OFFICER TRAINING QUALIFICATIONS AMENDMENTS

Chief Sponsor: Karen Mayne
House Sponsor: Paul Ray

LONG TITLE

General Description:

This bill amends requirements for certain peace officer and dispatcher applicants.

Highlighted Provisions:

This bill:

- amends requirements a non-citizen applicant is required to meet to become a peace officer or dispatcher; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

17-30-7, as enacted by Statewide Initiative A, Nov. 8, 1960
17-30a-303, as enacted by Laws of Utah 2014, Chapter 366
53-6-203, as last amended by Laws of Utah 2021, Chapter 233
53-6-302, as last amended by Laws of Utah 2021, Chapter 233

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 17-30-7 is amended to read:

17-30-7. Disqualification of applicant for examination -- Appeal to commission.

(1) The commission shall disqualify an applicant for examination who:

(a) [~~Does~~] does not meet advertised qualifications[~~.~~];

(b) [~~Has~~] has been convicted of a criminal offense inimical to the public service, or involving moral turpitude[~~.~~];

(c) [~~Has~~] has practiced or attempted deception or fraud in [~~his~~] the applicant's application or examination, or in securing eligibility for appointment[~~.~~]; or

(d) [~~Is~~] is not:

(i) a citizen of the United States[~~.~~]; or

(ii) a lawful permanent resident of the United States who:

(A) has been in the United States legally for the five years immediately before the day on which the application is made; and

(B) has legal authorization to work in the United States.

(2) If an applicant is rejected, [~~he~~] the applicant shall be notified by mail at [~~his~~] the applicant's last known address.

(3) At any time [~~prior to the date of~~] before the day on which the examination is held, an applicant may correct a defect in [~~his~~] the applicant's application, or appeal in writing to the commission.

Section 2. Section 17-30a-303 is amended to read:

17-30a-303. Disqualification of applicant for examination -- Appeal to commission.

(1) In accordance with this section and rules adopted by the commission, an applicant may be disqualified if the applicant:

(a) does not meet minimum qualifications;

(b) has been convicted of a criminal offense inimical to the public service or involving moral turpitude;

(c) has practiced or attempted deception or fraud in the application or examination process or in securing eligibility for appointment; or

(d) is not:

(i) a citizen of the United States[~~.~~]; or

(ii) a lawful permanent resident of the United States who:

(A) has been in the United States legally for the five years immediately before the day on which the application is made; and

(B) has legal authorization to work in the United States.

(2) If an applicant is rejected, the applicant shall be promptly notified.

(3) At any time [~~prior to the date of~~] before the day on which the examination is held, an applicant may correct a defect in the applicant's application.

(4) An applicant may file a written appeal regarding the application process with the commission at any time before the [~~date of the exam~~] day on which the examination is held.

Section 3. Section 53-6-203 is amended to read:

53-6-203. Applicants for admission to training programs or for certification examination -- Requirements.

(1) Before being accepted for admission to the training programs conducted by a certified academy, and before being allowed to take a certification examination, each applicant for admission or certification examination shall meet the following requirements:

(a) be either:

(i) a United States citizen; or

(ii) a lawful permanent resident of the United States who:

(A) has been in the United States legally for [~~at least~~] the five years immediately before the day on which the application is made; and

(B) has legal authorization to work in the United States;

(b) be at least:

(i) 21 years old at the time of certification as a special function officer; or

(ii) as of July 1, 2019, 19 years old at the time of certification as a correctional officer;

(c) be a high school graduate or furnish evidence of successful completion of an examination indicating an equivalent achievement;

(d) have not been convicted of a crime for which the applicant could have been punished by imprisonment in a federal penitentiary or by imprisonment in the penitentiary of this or another state;

(e) have demonstrated good moral character, as determined by a background investigation;

(f) be free of any physical, emotional, or mental condition that might adversely affect the performance of the applicant's duties as a peace officer; and

(g) meet all other standards required by POST.

(2) (a) An application for admission to a training program shall be accompanied by a criminal history background check of local, state, and national criminal history files and a background investigation.

(b) The costs of the background check and investigation shall be borne by the applicant or the applicant's employing agency.

(3) (a) Notwithstanding any expungement statute or rule of any other jurisdiction, any conviction obtained in this state or other jurisdiction, including a conviction that has been expunged, dismissed, or treated in a similar manner to either of these procedures, may be considered for purposes of this section.

(b) This provision applies to convictions entered both before and after the effective date of this section.

(4) Any background check or background investigation performed [~~pursuant to~~] under the requirements of this section shall be to determine eligibility for admission to training programs or qualification for certification examinations and may not be used as a replacement for any background investigations that may be required of an employing agency.

(5) An applicant shall be considered to be of good moral character under Subsection (1)(e) if the applicant has not engaged in conduct that would be a violation of Subsection 53-6-211(1).

(6) An applicant seeking certification as a law enforcement officer, as defined in Section 53-13-103, shall be qualified to possess a firearm under state and federal law.

Section 4. Section 53-6-302 is amended to read:

53-6-302. Applicants for certification examination -- Requirements.

(1) Before being allowed to take a dispatcher certification examination, each applicant shall meet the following requirements:

(a) be either:

(i) a United States citizen; or

(ii) a lawful permanent resident of the United States who:

(A) has been in the United States legally for [~~at least~~] the five years immediately before the day on which the application is made; and

(B) has legal authorization to work in the United States;

(b) be 18 years old or older at the time of employment as a dispatcher;

(c) be a high school graduate or have a G.E.D. equivalent;

(d) have not been convicted of a crime for which the applicant could have been punished by imprisonment in a federal penitentiary or by imprisonment in the penitentiary of this or another state;

(e) have demonstrated good moral character, as determined by a background investigation;

(f) be free of any physical, emotional, or mental condition that might adversely affect the performance of the applicant's duty as a dispatcher; and

(g) meet all other standards required by POST.

(2) (a) An application for certification shall be accompanied by a criminal history background check of local, state, and national criminal history files and a background investigation.

(b) The costs of the background check and investigation shall be borne by the applicant or the applicant's employing agency.

(3) (a) Notwithstanding Title 77, Chapter 40, Utah Expungement Act, regarding expungements, or a similar statute or rule of any other jurisdiction, any conviction obtained in this state or other jurisdiction, including a conviction that has been expunged, dismissed, or treated in a similar manner to either of these procedures, may be considered for purposes of this section.

(b) Subsection (3)(a) applies to convictions entered both before and after May 1, 1995.

(4) Any background check or background investigation performed [~~pursuant to~~] under the requirements of this section shall be to determine eligibility for admission to training programs or qualification for certification examinations and may not be used as a replacement for any

background investigations that may be required of an employing agency.

(5) An applicant is considered to be of good moral character under Subsection (1)(e) if the applicant has not engaged in conduct that would be a violation of Subsection 53-6-309(1).

Section 5. Effective date.

If approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

CHAPTER 14
S. B. 1005
Passed May 19, 2021
Approved May 28, 2021
Effective May 28, 2021

UPSTART AMENDMENTS

Chief Sponsor: Lincoln Fillmore
House Sponsor: Bradley G. Last

LONG TITLE

General Description:

This bill expands the scope of the UPSTART program for the 2021–2022 school year.

Highlighted Provisions:

This bill:

- permits children enrolled in kindergarten or eligible for enrollment in kindergarten to participate in UPSTART in the 2021–2022 school year.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

53F–4–401, as last amended by Laws of Utah 2019, Chapters 186 and 342
53F–4–404, as last amended by Laws of Utah 2019, Chapters 186 and 342
63I–2–253, as last amended by Laws of Utah 2021, Chapters 6, 64, 187, 239, 251, 319, 341, 351, 402, and 433

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53F-4-401 is amended to read:

53F-4-401. Definitions.

As used in this part:

(1) "Contractor" means the educational technology provider selected by the state board under Section 53F–4–402.

(2) "Intergenerational poverty" means the same as that term is defined in Section 35A–9–102.

(3) "Preschool child" means a child who is:

(a) (i) [~~age~~] four or five years old; and

[~~(b)~~] (ii) not eligible for enrollment under Subsection 53G–4–402(6)[~~.~~]; or

(b) in the 2021–2022 school year, eligible for enrollment in kindergarten or enrolled in kindergarten.

(4) (a) "Private preschool provider" means a child care program that:

(i) (A) is licensed under Title 26, Chapter 39, Utah Child Care Licensing Act; or

(B) except as provided in Subsection (4)(b)(ii), is exempt from licensure under Section 26–39–403; and

(ii) meets other criteria as established by the state board, consistent with Utah Constitution, Article X, Section 1.

(b) "Private preschool provider" does not include:

(i) a residential certificate provider described in Section 26–39–402; or

(ii) a program exempt from licensure under Subsection 26–39–403(2)(c).

(5) "Public preschool" means a preschool program that is provided by a school district or charter school.

(6) "Qualifying participant" means a preschool child who:

(a) resides within the boundaries of a qualifying school as determined under Section 53G–6–302; or

(b) is enrolled in a qualifying preschool.

(7) "Qualifying preschool" means a public preschool or private preschool provider that:

(a) serves preschool children covered by child care subsidies funded by the Child Care and Development Block Grant Program authorized under 42 U.S.C. Secs. 9857–9858r;

(b) participates in a federally assisted meal program that provides funds to licensed child care centers as authorized under Section 53E–3–501; or

(c) is located within the boundaries of a qualifying school.

(8) "Qualifying school" means a school district elementary school that:

(a) has at least 50% of students who were eligible to receive free or reduced lunch the previous school year;

(b) is a school with a high percentage, as determined by the Department of Workforce Services through rule and based on the previous school year enrollments, of students experiencing intergenerational poverty; or

(c) is located in one of the following school districts:

(i) Beaver School District;

(ii) Carbon School District;

(iii) Daggett School District;

(iv) Duchesne School District;

(v) Emery School District;

(vi) Garfield School District;

(vii) Grand School District;

(viii) Iron School District;

(ix) Juab School District;

(x) Kane School District;

(xi) Millard School District;

(xii) Morgan School District;

(xiii) North Sanpete School District;

(xiv) North Summit School District;

(xv) Piute School District;

(xvi) Rich School District;

(xvii) San Juan School District;

(xviii) Sevier School District;

(xix) South Sanpete School District;

(xx) South Summit School District;

(xxi) Tintic School District;

(xxii) Uintah School District; or

(xxiii) Wayne School District.

(9) "UPSTART" means the project established by Section 53F-4-402 that uses a home-based educational technology program to develop school readiness skills of preschool children.

Section 2. Section 53F-4-404 is amended to read:

53F-4-404. Family participation in UPSTART -- Priority enrollment.

(1) The contractor shall:

(a) solicit families to participate in UPSTART through a public information campaign and referrals from participating school districts; and

(b) work with the Department of Workforce Services and the state board to solicit participation from families of qualifying participants to participate in UPSTART.

(2) Preschool children who participate in UPSTART shall:

(a) be from families with diverse socioeconomic and ethnic backgrounds;

(b) reside in different regions of the state in both urban and rural areas; and

(c) be given preference to participate if the preschool children are qualifying participants.

(3) (a) In a contract entered into with an educational technology provider as described in Section 53F-4-402, the state board shall require the provider to prioritize enrollment of qualified participants based on a first come, first served basis.

(b) The state board shall provide a list of qualifying schools and qualifying preschools and other applicable information to the contractor for verification of qualifying participants.

(c) The contractor shall annually provide participant information to the state board as part of the verification process.

(d) A qualifying participant may obtain a computer and peripheral equipment on loan and receive free Internet service for the duration of the qualified participant's participation in UPSTART if the qualifying participant:

(i) is eligible to receive free or reduced lunch; and

(ii) the qualifying participant participates in UPSTART at home.

(4) (a) The contractor shall make the home-based educational technology program available to families at a cost agreed upon by the state board and the contractor if the number of families who would like to participate in UPSTART exceeds the number of participants funded by the legislative appropriation.

(b) The state board and the contractor shall annually post on their websites information on purchasing a home-based educational technology program as provided in Subsection (4)(a).

(c) ~~[A]~~ Except as provided in Subsection (4)(d), a preschool child may only participate in UPSTART through legislative funding once.

(d) Subsection (4)(c) does not apply to a preschool child who, in the 2021-2022 school year:

(i) is eligible for enrollment in kindergarten; or

(ii) is enrolled in kindergarten.

Section 3. Section 63I-2-253 is amended to read:

63I-2-253. Repeal dates -- Titles 53 through 53G.

(1) Section 53-1-106.1 is repealed January 1, 2022.

(2) (a) Section 53-2a-217, regarding procurement during an epidemic or pandemic emergency, is repealed on December 31, 2021.

(b) When repealing Section 53-2a-217, the Office of Legislative Research and General Counsel shall, in addition to the office's authority under Subsection 36-12-12(3), make necessary changes to subsection numbering and cross references.

(3) Section 53-2a-219, in relation to termination of emergency powers pertaining to COVID-19, is repealed on July 1, 2021.

(4) (a) Subsection 53B-2a-108(5), regarding exceptions to the composition of a technical college board of trustees, is repealed July 1, 2022.

(b) When repealing Subsection 53B-2a-108(5), the Office of Legislative Research and General Counsel shall, in addition to its authority under Subsection 36-12-12(3), make necessary changes to subsection numbering and cross references.

(5) Section 53B-6-105.7 is repealed July 1, 2024.

(6) (a) Subsection 53B-7-705(6)(b)(iii)(A), the language that states "Except as provided in Subsection (6)(b)(iii)(B)," is repealed July 1, 2021.

(b) Subsection 53B-7-705(6)(b)(iii)(B), regarding comparing a technical college's change in performance with the technical college's average performance, is repealed July 1, 2021.

(7) (a) Subsection 53B-7-707(3)(a)(ii), the language that states "Except as provided in Subsection (3)(b)," is repealed July 1, 2021.

(b) Subsection 53B-7-707(3)(b), regarding performance data of a technical college during a

fiscal year before fiscal year 2020, is repealed July 1, 2021.

(8) Section 53B-7-707 regarding performance metrics for technical colleges is repealed July 1, 2023.

(9) Section 53B-8-114 is repealed July 1, 2024.

(10) The following sections, regarding the Regents' scholarship program, are repealed on July 1, 2023:

(a) Section 53B-8-202;

(b) Section 53B-8-203;

(c) Section 53B-8-204; and

(d) Section 53B-8-205.

(11) Section 53B-10-101 is repealed on July 1, 2027.

(12) Title 53B, Chapter 18, Part 14, Uintah Basin Air Quality Research Project, is repealed July 1, 2023.

(13) Section 53E-1-202.2, regarding a Public Education Appropriations Subcommittee evaluation and recommendations, is repealed January 1, 2024.

(14) Section 53E-3-520 is repealed July 1, 2021.

(15) Subsection 53E-10-309(7), related to the PRIME pilot program, is repealed July 1, 2024.

(16) In Subsections 53F-2-205(4) and (5), regarding the State Board of Education's duties if contributions from the minimum basic tax rate are overestimated or underestimated, the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

(17) Section 53F-2-209, regarding local education agency budgetary flexibility, is repealed July 1, 2024.

(18) Subsection 53F-2-301(1), relating to the years the section is not in effect, is repealed July 1, 2023.

(19) Section 53F-2-302.1, regarding the Enrollment Growth Contingency Program, is repealed July 1, 2023.

(20) Subsection 53F-2-314(4), relating to a one-time expenditure between the at-risk WPU add-on funding and previous at-risk funding, is repealed January 1, 2024.

(21) Section 53F-2-418, regarding the Supplemental Educator COVID-19 Stipend, is repealed January 1, 2022.

(22) In Subsection 53F-2-515(1), the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

(23) Section 53F-4-207 is repealed July 1, 2022.

(24) Subsection 53F-4-401(3)(b), regarding a child enrolled or eligible for enrollment in kindergarten, is repealed July 1, 2022.

(25) In Subsection 53F-4-404(4)(c), the language that states "Except as provided in Subsection (4)(d)" is repealed July 1, 2022.

(26) Subsection 53F-4-404(4)(d) is repealed July 1, 2022.

[~~(24)~~] (27) In Subsection 53F-9-302(3), the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

[~~(25)~~] (28) In Subsection 53F-9-305(3)(a), the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

[~~(26)~~] (29) In Subsection 53F-9-306(3)(a), the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

[~~(27)~~] (30) In Subsection 53G-3-304(1)(c)(i), the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

[~~(28)~~] (31) Subsections 53G-10-204(1)(c) through (e), and Subsection 53G-10-204(6), related to the civics engagement pilot program, are repealed on July 1, 2023.

[~~(29)~~] (32) On July 1, 2023, when making changes in this section, the Office of Legislative Research and General Counsel shall, in addition to the office's authority under Subsection 36-12-12(3), make corrections necessary to ensure that sections and subsections identified in this section are complete sentences and accurately reflect the office's perception of the Legislature's intent.

Section 4. Effective date.

If approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

CHAPTER 15
S. B. 1007
Passed May 19, 2021
Approved May 28, 2021
Effective May 28, 2021
(Exception clause in Section 52)

PUBLIC NOTICE AMENDMENTS

Chief Sponsor: Karen Mayne
House Sponsor: Joel Ferry

LONG TITLE

General Description:

This bill modifies provisions relating to public notice requirements.

Highlighted Provisions:

This bill:

- provides publishing in a newspaper of general circulation as an option to other methods of providing notice, under certain circumstances;
- limits the number of notices required to be posted under a method of posting if that posting of notice option applies; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

10-2-406 (Superseded 07/01/21), as last amended by Laws of Utah 2021, Chapters 84 and 355
10-2-406 (Effective 07/01/21), as last amended by Laws of Utah 2021, Chapters 84, 345, and 355
10-2-407 (Superseded 07/01/21), as last amended by Laws of Utah 2021, Chapters 84, 112, and 355
10-2-407 (Effective 07/01/21), as last amended by Laws of Utah 2021, Chapters 84, 112, 345, and 355
10-2-415 (Superseded 07/01/21), as last amended by Laws of Utah 2021, Chapters 84 and 355
10-2-415 (Effective 07/01/21), as last amended by Laws of Utah 2021, Chapters 84, 345, and 355
10-2-418 (Superseded 07/01/21), as last amended by Laws of Utah 2021, Chapters 84 and 355
10-2-418 (Effective 07/01/21), as last amended by Laws of Utah 2021, Chapters 84, 345, and 355
10-2-419 (Superseded 07/01/21), as last amended by Laws of Utah 2021, Chapters 84 and 355
10-2-419 (Effective 07/01/21), as last amended by Laws of Utah 2021, Chapters 84, 345, and 355
10-2-502.5 (Superseded 07/01/21), as last amended by Laws of Utah 2021, Chapters 84 and 355
10-2-502.5 (Effective 07/01/21), as last amended by Laws of Utah 2021, Chapters 84, 345, and 355
10-2-703 (Superseded 07/01/21), as last amended by Laws of Utah 2021, Chapters 84 and 355
10-2-703 (Effective 07/01/21), as last amended by Laws of Utah 2021, Chapters 84, 344, and 355
10-2-708 (Superseded 07/01/21), as last amended by Laws of Utah 2021, Chapters 84 and 355
10-2-708 (Effective 07/01/21), as last amended by Laws of Utah 2021, Chapters 84, 345, and 355
10-2a-210 (Superseded 07/01/21), as last amended by Laws of Utah 2021, Chapters 84, 112, and 355
10-2a-210 (Effective 07/01/21), as last amended by Laws of Utah 2021, Chapters 84, 112, 345, and 355
10-2a-213 (Superseded 07/01/21), as last amended by Laws of Utah 2021, Chapters 84 and 355
10-2a-213 (Effective 07/01/21), as last amended by Laws of Utah 2021, Chapters 84, 345, and 355
10-2a-214 (Superseded 07/01/21), as last amended by Laws of Utah 2021, Chapters 84 and 355
10-2a-214 (Effective 07/01/21), as last amended by Laws of Utah 2021, Chapters 84, 345, and 355
10-2a-215 (Superseded 07/01/21), as last amended by Laws of Utah 2021, Chapters 84 and 355
10-2a-215 (Effective 07/01/21), as last amended by Laws of Utah 2021, Chapters 84, 345, and 355
10-2a-404, as last amended by Laws of Utah 2021, Chapter 355
10-2a-405 (Superseded 07/01/21), as last amended by Laws of Utah 2021, Chapters 84 and 355
10-2a-405 (Effective 07/01/21), as last amended by Laws of Utah 2021, Chapters 84, 345, and 355
10-2a-410, as last amended by Laws of Utah 2021, Chapter 355
10-18-203 (Superseded 07/01/21), as last amended by Laws of Utah 2021, Chapters 84 and 355
10-18-203 (Effective 07/01/21), as last amended by Laws of Utah 2021, Chapters 84, 345, and 355
11-14-202 (Superseded 07/01/21), as last amended by Laws of Utah 2021, Chapters 84 and 355
11-14-202 (Effective 07/01/21), as last amended by Laws of Utah 2021, Chapters 84, 345, and 355
17B-1-643 (Superseded 07/01/21), as last amended by Laws of Utah 2021, Chapters 84 and 355
17B-1-643 (Effective 07/01/21), as last amended by Laws of Utah 2021, Chapters 84, 345, and 355

17B-2a-705 (Superseded 07/01/21), as last amended by Laws of Utah 2021, Chapters 84 and 355
17B-2a-705 (Effective 07/01/21), as last amended by Laws of Utah 2021, Chapters 84, 345, and 355
20A-1-206, as last amended by Laws of Utah 2021, Chapter 355
20A-3a-604 (Superseded 07/01/21), as last amended by Laws of Utah 2021, Chapters 84 and 355
20A-3a-604 (Effective 07/01/21), as last amended by Laws of Utah 2021, Chapters 84, 345, and 355
20A-4-104 (Superseded 07/01/21), as last amended by Laws of Utah 2021, Chapters 62, 84, and 355
20A-4-104 (Effective 07/01/21), as last amended by Laws of Utah 2021, Chapters 62, 84, 345, and 355
20A-4-304 (Superseded 07/01/21), as last amended by Laws of Utah 2021, Chapters 84 and 355
20A-4-304 (Effective 07/01/21), as last amended by Laws of Utah 2021, Chapters 84, 345, and 355
20A-5-101 (Superseded 07/01/21), as last amended by Laws of Utah 2021, Chapters 84 and 355
20A-5-101 (Effective 07/01/21), as last amended by Laws of Utah 2021, Chapters 84, 345, and 355
20A-5-403.5 (Superseded 07/01/21), as last amended by Laws of Utah 2021, Chapters 84 and 355
20A-5-403.5 (Effective 07/01/21), as last amended by Laws of Utah 2021, Chapters 84, 345, and 355
20A-5-405 (Superseded 07/01/21), as last amended by Laws of Utah 2021, Chapters 84 and 355
20A-5-405 (Effective 07/01/21), as last amended by Laws of Utah 2021, Chapters 84, 345, and 355
20A-9-203 (Superseded 07/01/21), as last amended by Laws of Utah 2021, Chapters 84, 183, and 355
20A-9-203 (Effective 07/01/21), as last amended by Laws of Utah 2021, Chapters 84, 183, 345, and 355

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 10-2-406 (Superseded 07/01/21) is amended to read:

10-2-406 (Superseded 07/01/21). Notice of certification -- Providing notice of petition.

(1) After receipt of the notice of certification from the city recorder or town clerk under Subsection 10-2-405(2)(c)(i), the municipal legislative body shall [~~publish~~] provide notice:

(a) within the area proposed for annexation and the unincorporated area within 1/2 mile of the area proposed for annexation, no later than 10 days after the day on which the municipal legislative body receives the notice of certification:

(i) by posting one notice, and at least one additional notice per 2,000 population within the combined area, in places within the combined area that are most likely to give notice to the residents within, and the owners of real property located within, the combined area, subject to a maximum of 10 notices; or

(ii) by mailing the notice to each residence within, and to each owner of real property located within, the combined area;

(b) by posting notice on the Utah Public Notice Website, created in Section 63A-12-201, for three weeks, beginning no later than 10 days after the day on which the municipal legislative body receives the notice of certification;

(c) within 20 days after the day on which the municipal legislative body receives the notice of certification, by mailing written notice to each affected entity; and

(d) if the municipality has a website, by posting notice on the municipality's website for the period of time described in Subsection (1)(b).

(2) The notice described in Subsection (1) shall:

(a) state that a petition has been filed with the municipality proposing the annexation of an area to the municipality;

(b) state the date of the municipal legislative body's receipt of the notice of certification under Subsection 10-2-405(2)(c)(i);

(c) describe the area proposed for annexation in the annexation petition;

(d) state that the complete annexation petition is available for inspection and copying at the office of the city recorder or town clerk;

(e) state in conspicuous and plain terms that the municipality may grant the petition and annex the area described in the petition unless, within the time required under Subsection 10-2-407(2)(a)(i), a written protest to the annexation petition is filed with the commission and a copy of the protest delivered to the city recorder or town clerk of the proposed annexing municipality;

(f) state the address of the commission or, if a commission has not yet been created in the county, the county clerk, where a protest to the annexation petition may be filed;

(g) state that the area proposed for annexation to the municipality will also automatically be annexed to a local district providing fire protection, paramedic, and emergency services or a local district providing law enforcement service, as the case may be, as provided in Section 17B-1-416, if:

(i) the proposed annexing municipality is entirely within the boundaries of a local district:

(A) that provides fire protection, paramedic, and emergency services or law enforcement service, respectively; and

(B) in the creation of which an election was not required because of Subsection 17B-1-214(3)(c); and

(ii) the area proposed to be annexed to the municipality is not already within the boundaries of the local district; and

(h) state that the area proposed for annexation to the municipality will be automatically withdrawn from a local district providing fire protection, paramedic, and emergency services or a local district providing law enforcement service, as the case may be, as provided in Subsection 17B-1-502(2), if:

(i) the petition proposes the annexation of an area that is within the boundaries of a local district:

(A) that provides fire protection, paramedic, and emergency services or law enforcement service, respectively; and

(B) in the creation of which an election was not required because of Subsection 17B-1-214(3)(c); and

(ii) the proposed annexing municipality is not within the boundaries of the local district.

(3) (a) The statement required by Subsection (2)(e) shall state the deadline for filing a written protest in terms of the actual date rather than by reference to the statutory citation.

(b) In addition to the requirements under Subsection (2), a notice under Subsection (1) for a proposed annexation of an area within a county of the first class shall include a statement that a protest to the annexation petition may be filed with the commission by property owners if it contains the signatures of the owners of private real property that:

(i) is located in the unincorporated area within 1/2 mile of the area proposed for annexation;

(ii) covers at least 25% of the private land area located in the unincorporated area within 1/2 mile of the area proposed for annexation; and

(iii) is equal in value to at least 15% of all real property located in the unincorporated area within 1/2 mile of the area proposed for annexation.

Section 2. Section 10-2-406 (Effective 07/01/21) is amended to read:

10-2-406 (Effective 07/01/21). Notice of certification -- Providing notice of petition.

(1) After receipt of the notice of certification from the city recorder or town clerk under Subsection 10-2-405(2)(c)(i), the municipal legislative body shall [~~publish~~] provide notice:

(a) within the area proposed for annexation and the unincorporated area within 1/2 mile of the area proposed for annexation, no later than 10 days after the day on which the municipal legislative body receives the notice of certification:

(i) by posting one notice, and at least one additional notice per 2,000 population within the combined area, in places within the combined area that are most likely to give notice to the residents within, and the owners of real property located within, the combined area, subject to a maximum of 10 notices; or

(ii) by mailing the notice to each residence within, and to each owner of real property located within, the combined area;

(b) by posting notice on the Utah Public Notice Website, created in Section 63A-16-601, for three weeks, beginning no later than 10 days after the day on which the municipal legislative body receives the notice of certification;

(c) within 20 days after the day on which the municipal legislative body receives the notice of certification, by mailing written notice to each affected entity; and

(d) if the municipality has a website, by posting notice on the municipality's website for the period of time described in Subsection (1)(b).

(2) The notice described in Subsection (1) shall:

(a) state that a petition has been filed with the municipality proposing the annexation of an area to the municipality;

(b) state the date of the municipal legislative body's receipt of the notice of certification under Subsection 10-2-405(2)(c)(i);

(c) describe the area proposed for annexation in the annexation petition;

(d) state that the complete annexation petition is available for inspection and copying at the office of the city recorder or town clerk;

(e) state in conspicuous and plain terms that the municipality may grant the petition and annex the area described in the petition unless, within the time required under Subsection 10-2-407(2)(a)(i), a written protest to the annexation petition is filed with the commission and a copy of the protest delivered to the city recorder or town clerk of the proposed annexing municipality;

(f) state the address of the commission or, if a commission has not yet been created in the county, the county clerk, where a protest to the annexation petition may be filed;

(g) state that the area proposed for annexation to the municipality will also automatically be annexed to a local district providing fire protection, paramedic, and emergency services or a local district providing law enforcement service, as the case may be, as provided in Section 17B-1-416, if:

(i) the proposed annexing municipality is entirely within the boundaries of a local district:

(A) that provides fire protection, paramedic, and emergency services or law enforcement service, respectively; and

(B) in the creation of which an election was not required because of Subsection 17B-1-214(3)(c); and

(ii) the area proposed to be annexed to the municipality is not already within the boundaries of the local district; and

(h) state that the area proposed for annexation to the municipality will be automatically withdrawn from a local district providing fire protection, paramedic, and emergency services or a local district providing law enforcement service, as the case may be, as provided in Subsection 17B-1-502(2), if:

(i) the petition proposes the annexation of an area that is within the boundaries of a local district:

(A) that provides fire protection, paramedic, and emergency services or law enforcement service, respectively; and

(B) in the creation of which an election was not required because of Subsection 17B-1-214(3)(c); and

(ii) the proposed annexing municipality is not within the boundaries of the local district.

(3) (a) The statement required by Subsection (2)(e) shall state the deadline for filing a written protest in terms of the actual date rather than by reference to the statutory citation.

(b) In addition to the requirements under Subsection (2), a notice under Subsection (1) for a proposed annexation of an area within a county of the first class shall include a statement that a protest to the annexation petition may be filed with the commission by property owners if it contains the signatures of the owners of private real property that:

(i) is located in the unincorporated area within 1/2 mile of the area proposed for annexation;

(ii) covers at least 25% of the private land area located in the unincorporated area within 1/2 mile of the area proposed for annexation; and

(iii) is equal in value to at least 15% of all real property located in the unincorporated area within 1/2 mile of the area proposed for annexation.

Section 3. Section 10-2-407 (Superseded 07/01/21) is amended to read:

10-2-407 (Superseded 07/01/21). Protest to annexation petition -- Planning advisory area planning commission recommendation -- Petition requirements -- Disposition of petition if no protest filed.

(1) A protest to an annexation petition under Section 10-2-403 may be filed by:

(a) the legislative body or governing board of an affected entity;

(b) an owner of rural real property;

(c) for a proposed annexation of an area within a county of the first class, an owner of private real property that:

(i) is located in the unincorporated area within 1/2 mile of the area proposed for annexation;

(ii) covers at least 25% of the private land area located in the unincorporated area within 1/2 mile of the area proposed for annexation; and

(iii) is equal in value to at least 15% of all real property located in the unincorporated area within 1/2 mile of the area proposed for annexation; or

(d) an owner of private real property located in a mining protection area.

(2) Each protest under Subsection (1) shall:

(a) be filed:

(i) no later than 30 days after the municipal legislative body's receipt of the notice of certification under Subsection 10-2-405(2)(c)(i); and

(ii) (A) in a county that has already created a commission under Section 10-2-409, with the commission; or

(B) in a county that has not yet created a commission under Section 10-2-409, with the clerk of the county in which the area proposed for annexation is located;

(b) state each reason for the protest of the annexation petition and, if the area proposed to be annexed is located in a specified county, justification for the protest under the standards established in this chapter;

(c) if the area proposed to be annexed is located in a specified county, contain other information that the commission by rule requires or that the party filing the protest considers pertinent; and

(d) contain the name and address of a contact person who is to receive notices sent by the commission with respect to the protest proceedings.

(3) The party filing a protest under this section shall on the same date deliver or mail a copy of the protest to the city recorder or town clerk of the proposed annexing municipality.

(4) Each clerk who receives a protest under Subsection (2)(a)(ii)(B) shall:

(a) immediately notify the county legislative body of the protest; and

(b) deliver the protest to the boundary commission within five days after:

(i) receipt of the protest, if the boundary commission has previously been created; or

(ii) creation of the boundary commission under Subsection 10-2-409(1)(b), if the boundary commission has not previously been created.

(5) (a) If a protest is filed under this section:

(i) the municipal legislative body may, at its next regular meeting after expiration of the deadline under Subsection (2)(a)(i), deny the annexation petition; or

(ii) if the municipal legislative body does not deny the annexation petition under Subsection (5)(a)(i),

the municipal legislative body may take no further action on the annexation petition until after receipt of the commission's notice of its decision on the protest under Section 10-2-416.

(b) If a municipal legislative body denies an annexation petition under Subsection (5)(a)(i), the municipal legislative body shall, within five days after the denial, send notice of the denial in writing to:

(i) the contact sponsor of the annexation petition;

(ii) the commission; and

(iii) each entity that filed a protest.

(6) If no timely protest is filed under this section, the municipal legislative body may, subject to Subsection (7), approve the petition.

(7) Before approving an annexation petition under Subsection (6), the municipal legislative body shall hold a public hearing and [~~publish~~] provide notice of the public hearing:

(a) (i) at least seven days before the day of the public hearing, by posting one notice, and at least one additional notice per 2,000 population within the municipality and the area proposed for annexation, in places within that combined area that are most likely to give notice to the residents within, and the owners of real property located within, the combined area, subject to a maximum of 10 notices; or

(ii) at least 10 days before the day of the public hearing, by mailing the notice to each residence within, and to each owner of real property located within, the combined area described in Subsection (7)(a)(i);

(b) by posting notice on the Utah Public Notice Website, created in Section 63A-12-201, for seven days before the day of the public hearing; and

(c) if the municipality has a website, by posting notice on the municipality's website for seven days before the day of the public hearing.

Section 4. Section 10-2-407 (Effective 07/01/21) is amended to read:

10-2-407 (Effective 07/01/21). Protest to annexation petition -- Planning advisory area planning commission recommendation -- Petition requirements -- Disposition of petition if no protest filed.

(1) A protest to an annexation petition under Section 10-2-403 may be filed by:

(a) the legislative body or governing board of an affected entity;

(b) an owner of rural real property;

(c) for a proposed annexation of an area within a county of the first class, an owner of private real property that:

(i) is located in the unincorporated area within 1/2 mile of the area proposed for annexation;

(ii) covers at least 25% of the private land area located in the unincorporated area within 1/2 mile of the area proposed for annexation; and

(iii) is equal in value to at least 15% of all real property located in the unincorporated area within 1/2 mile of the area proposed for annexation; or

(d) an owner of private real property located in a mining protection area.

(2) Each protest under Subsection (1) shall:

(a) be filed:

(i) no later than 30 days after the municipal legislative body's receipt of the notice of certification under Subsection 10-2-405(2)(c)(i); and

(ii) (A) in a county that has already created a commission under Section 10-2-409, with the commission; or

(B) in a county that has not yet created a commission under Section 10-2-409, with the clerk of the county in which the area proposed for annexation is located;

(b) state each reason for the protest of the annexation petition and, if the area proposed to be annexed is located in a specified county, justification for the protest under the standards established in this chapter;

(c) if the area proposed to be annexed is located in a specified county, contain other information that the commission by rule requires or that the party filing the protest considers pertinent; and

(d) contain the name and address of a contact person who is to receive notices sent by the commission with respect to the protest proceedings.

(3) The party filing a protest under this section shall on the same date deliver or mail a copy of the protest to the city recorder or town clerk of the proposed annexing municipality.

(4) Each clerk who receives a protest under Subsection (2)(a)(ii)(B) shall:

(a) immediately notify the county legislative body of the protest; and

(b) deliver the protest to the boundary commission within five days after:

(i) receipt of the protest, if the boundary commission has previously been created; or

(ii) creation of the boundary commission under Subsection 10-2-409(1)(b), if the boundary commission has not previously been created.

(5) (a) If a protest is filed under this section:

(i) the municipal legislative body may, at its next regular meeting after expiration of the deadline under Subsection (2)(a)(i), deny the annexation petition; or

(ii) if the municipal legislative body does not deny the annexation petition under Subsection (5)(a)(i), the municipal legislative body may take no further action on the annexation petition until after receipt

of the commission's notice of its decision on the protest under Section 10-2-416.

(b) If a municipal legislative body denies an annexation petition under Subsection (5)(a)(i), the municipal legislative body shall, within five days after the denial, send notice of the denial in writing to:

(i) the contact sponsor of the annexation petition;

(ii) the commission; and

(iii) each entity that filed a protest.

(6) If no timely protest is filed under this section, the municipal legislative body may, subject to Subsection (7), approve the petition.

(7) Before approving an annexation petition under Subsection (6), the municipal legislative body shall hold a public hearing and [~~publish~~] provide notice of the public hearing:

(a) (i) at least seven days before the day of the public hearing, by posting one notice, and at least one additional notice per 2,000 population within the municipality and the area proposed for annexation, in places within that combined area that are most likely to give notice to the residents within, and the owners of real property located within, the combined area, subject to a maximum of 10 notices; or

(ii) at least 10 days before the day of the public hearing, by mailing the notice to each residence within, and to each owner of real property located within, the combined area described in Subsection (7)(a)(i);

(b) by posting notice on the Utah Public Notice Website, created in Section 63A-16-601, for seven days before the day of the public hearing; and

(c) if the municipality has a website, by posting notice on the municipality's website for seven days before the day of the public hearing.

Section 5. Section 10-2-415 (Superseded 07/01/21) is amended to read:

10-2-415 (Superseded 07/01/21). Public hearing -- Notice.

(1) (a) If the results of the feasibility study or supplemental feasibility study meet the requirements of Subsection 10-2-416(3) with respect to a proposed annexation of an area located in a county of the first class, the commission shall hold a public hearing within 30 days after the day on which the commission receives the feasibility study or supplemental feasibility study results.

(b) At the public hearing described in Subsection (1)(a), the commission shall:

(i) require the feasibility consultant to present the results of the feasibility study and, if applicable, the supplemental feasibility study;

(ii) allow those present to ask questions of the feasibility consultant regarding the study results; and

(iii) allow those present to speak to the issue of annexation.

(2) The commission shall [~~publish~~] provide notice of the public hearing described in Subsection (1)(a) within the area proposed for annexation, the surrounding 1/2 mile of unincorporated area, and the proposed annexing municipality:

(a) (i) at least two weeks before the day of the public hearing, by posting one notice, and at least one additional notice per 2,000 population within the combined area, in places within the combined area that are most likely to give notice of the public hearing to the residents within, and the owners of real property located within, the combined area, subject to a maximum of 10 notices; or

(ii) by mailing notice to each residence within, and to each owner of real property located within, the combined area;

(b) by posting notice on the Utah Public Notice Website, created in Section 63A-12-201, for two weeks before the day of the public hearing;

(c) by sending written notice of the public hearing to the municipal legislative body of the proposed annexing municipality, the contact sponsor on the annexation petition, each entity that filed a protest, and, if a protest was filed under Subsection 10-2-407(1)(c), the contact person;

(d) if the municipality has a website, by posting notice on the municipality's website for two weeks before the day of the public hearing; and

(e) by posting notice on the county's website for two weeks before the day of the public hearing.

(3) The notice described in Subsection (2) shall:

(a) be entitled, "notice of annexation hearing";

(b) state the name of the annexing municipality;

(c) describe the area proposed for annexation; and

(d) specify the following sources where an individual may obtain a copy of the feasibility study conducted in relation to the proposed annexation:

(i) if the municipality has a website, the municipality's website;

(ii) a municipality's physical address; and

(iii) a mailing address and telephone number.

(4) Within 30 days after the time under Subsection 10-2-407(2) for filing a protest has expired with respect to a proposed annexation of an area located in a specified county, the boundary commission shall hold a hearing on all protests that were filed with respect to the proposed annexation.

(5) At least 14 days before the date of a hearing described in Subsection (4), the commission chair shall [~~publish~~] provide notice of the hearing:

(a) (i) by posting one notice, and at least one additional notice per 2,000 population within the area proposed for annexation, in places within the area that are most likely to give notice of the hearing to the residents within, and the owners of

real property located within, the area, subject to a maximum of 10 notices; or

(ii) by mailing notice to each resident within, and each owner of real property located within, the area proposed for annexation;

(b) by posting notice on the Utah Public Notice Website, created in Section 63A-12-201, for 14 days before the day of the hearing;

(c) if the municipality has a website, by posting notice on the municipality's website for two weeks before the day of the public hearing; and

(d) by posting notice on the county's website for two weeks before the day of the public hearing.

(6) Each notice described in Subsection (5) shall:

(a) state the date, time, and place of the hearing;

(b) briefly summarize the nature of the protest; and

(c) state that a copy of the protest is on file at the commission's office.

(7) The commission may continue a hearing under Subsection (4) from time to time, but no continued hearing may be held later than 60 days after the original hearing date.

(8) In considering protests, the commission shall consider whether the proposed annexation:

(a) complies with the requirements of Sections 10-2-402 and 10-2-403 and the annexation policy plan of the proposed annexing municipality;

(b) conflicts with the annexation policy plan of another municipality; and

(c) if the proposed annexation includes urban development, will have an adverse tax consequence on the remaining unincorporated area of the county.

(9) (a) The commission shall record each hearing under this section by electronic means.

(b) A transcription of the recording under Subsection (9)(a), the feasibility study, if applicable, information received at the hearing, and the written decision of the commission shall constitute the record of the hearing.

Section 6. Section 10-2-415 (Effective 07/01/21) is amended to read:

10-2-415 (Effective 07/01/21). Public hearing -- Notice.

(1) (a) If the results of the feasibility study or supplemental feasibility study meet the requirements of Subsection 10-2-416(3) with respect to a proposed annexation of an area located in a county of the first class, the commission shall hold a public hearing within 30 days after the day on which the commission receives the feasibility study or supplemental feasibility study results.

(b) At the public hearing described in Subsection (1)(a), the commission shall:

(i) require the feasibility consultant to present the results of the feasibility study and, if applicable, the supplemental feasibility study;

(ii) allow those present to ask questions of the feasibility consultant regarding the study results; and

(iii) allow those present to speak to the issue of annexation.

(2) The commission shall [~~publish~~] provide notice of the public hearing described in Subsection (1)(a) within the area proposed for annexation, the surrounding 1/2 mile of unincorporated area, and the proposed annexing municipality:

(a) (i) at least two weeks before the day of the public hearing, by posting one notice, and at least one additional notice per 2,000 population within the combined area, in places within the combined area that are most likely to give notice of the public hearing to the residents within, and the owners of real property located within, the combined area, subject to a maximum of 10 notices; or

(ii) by mailing notice to each residence within, and to each owner of real property located within, the combined area;

(b) by posting notice on the Utah Public Notice Website, created in Section 63A-16-601, for two weeks before the day of the public hearing;

(c) by sending written notice of the public hearing to the municipal legislative body of the proposed annexing municipality, the contact sponsor on the annexation petition, each entity that filed a protest, and, if a protest was filed under Subsection 10-2-407(1)(c), the contact person;

(d) if the municipality has a website, by posting notice on the municipality's website for two weeks before the day of the public hearing; and

(e) by posting notice on the county's website for two weeks before the day of the public hearing.

(3) The notice described in Subsection (2) shall:

(a) be entitled, "notice of annexation hearing";

(b) state the name of the annexing municipality;

(c) describe the area proposed for annexation; and

(d) specify the following sources where an individual may obtain a copy of the feasibility study conducted in relation to the proposed annexation:

(i) if the municipality has a website, the municipality's website;

(ii) a municipality's physical address; and

(iii) a mailing address and telephone number.

(4) Within 30 days after the time under Subsection 10-2-407(2) for filing a protest has expired with respect to a proposed annexation of an area located in a specified county, the boundary commission shall hold a hearing on all protests that were filed with respect to the proposed annexation.

(5) At least 14 days before the date of a hearing described in Subsection (4), the commission chair shall [~~publish~~] provide notice of the hearing:

(a) (i) by posting one notice, and at least one additional notice per 2,000 population within the area proposed for annexation, in places within the area that are most likely to give notice of the hearing to the residents within, and the owners of real property located within, the area, subject to a maximum of 10 notices; or

(ii) by mailing notice to each resident within, and each owner of real property located within, the area proposed for annexation;

(b) by posting notice on the Utah Public Notice Website, created in Section 63A-16-601, for 14 days before the day of the hearing;

(c) if the municipality has a website, by posting notice on the municipality's website for two weeks before the day of the public hearing; and

(d) by posting notice on the county's website for two weeks before the day of the public hearing.

(6) Each notice described in Subsection (5) shall:

(a) state the date, time, and place of the hearing;

(b) briefly summarize the nature of the protest; and

(c) state that a copy of the protest is on file at the commission's office.

(7) The commission may continue a hearing under Subsection (4) from time to time, but no continued hearing may be held later than 60 days after the original hearing date.

(8) In considering protests, the commission shall consider whether the proposed annexation:

(a) complies with the requirements of Sections 10-2-402 and 10-2-403 and the annexation policy plan of the proposed annexing municipality;

(b) conflicts with the annexation policy plan of another municipality; and

(c) if the proposed annexation includes urban development, will have an adverse tax consequence on the remaining unincorporated area of the county.

(9) (a) The commission shall record each hearing under this section by electronic means.

(b) A transcription of the recording under Subsection (9)(a), the feasibility study, if applicable, information received at the hearing, and the written decision of the commission shall constitute the record of the hearing.

Section 7. Section 10-2-418 (Superseded 07/01/21) is amended to read:

10-2-418 (Superseded 07/01/21). Annexation of an island or peninsula without a petition -- Notice -- Hearing.

(1) As used in Subsection (2)(b)(ii), for purposes of an annexation conducted in accordance with this section of an area located within a county of the first class, "municipal-type services" does not include a service provided by a municipality pursuant to a contract that the municipality has with another political subdivision as "political subdivision" is defined in Section 17B-1-102.

(2) Notwithstanding Subsection 10-2-402(2), a municipality may annex an unincorporated area under this section without an annexation petition if:

(a) for an unincorporated area within the expansion area of more than one municipality, each municipality agrees to the annexation; and

(b) (i) (A) the area to be annexed consists of one or more unincorporated islands within or unincorporated peninsulas contiguous to the municipality;

(B) the majority of each island or peninsula consists of residential or commercial development;

(C) the area proposed for annexation requires the delivery of municipal-type services; and

(D) the municipality has provided most or all of the municipal-type services to the area for more than one year;

(ii) (A) the area to be annexed consists of one or more unincorporated islands within or unincorporated peninsulas contiguous to the municipality, each of which has fewer than 800 residents; and

(B) the municipality has provided one or more municipal-type services to the area for at least one year;

(iii) the area consists of:

(A) an unincorporated island within or an unincorporated peninsula contiguous to the municipality; and

(B) for an area outside of the county of the first class proposed for annexation, no more than 50 acres; or

(iv) (A) the area to be annexed consists only of one or more unincorporated islands in a county of the second class;

(B) the area to be annexed is located in the expansion area of a municipality; and

(C) the county legislative body in which the municipality is located provides notice to each property owner within the area to be annexed that the county legislative body will hold a public hearing, no less than 15 days after the day on which the county legislative body provides the notice, and may make a recommendation of annexation to the municipality whose expansion area includes the area to be annexed after the public hearing.

(3) Notwithstanding Subsection 10-2-402(1)(b)(iii), a municipality may annex a portion of an unincorporated island or unincorporated peninsula under this section, leaving unincorporated the remainder of the unincorporated island or unincorporated peninsula, if:

(a) in adopting the resolution under Subsection (5)(a) the municipal legislative body determines that not annexing the entire unincorporated island

or unincorporated peninsula is in the municipality's best interest; and

(b) for an annexation of one or more unincorporated islands under Subsection (2)(b), the entire island of unincorporated area, of which a portion is being annexed, complies with the requirement of Subsection (2)(b)(ii) relating to the number of residents.

(4) (a) This [~~subsection~~] Subsection (4) applies only to an annexation within a county of the first class.

(b) A county of the first class shall agree to an annexation if the majority of private property owners within the area to be annexed give written consent to the annexation, in accordance with Subsection (4)(d), to the recorder of the annexing municipality.

(c) For purposes of Subsection (4)(b), the majority of private property owners is property owners who own:

(i) the majority of the total private land area within the area proposed for annexation; and

(ii) private real property equal to at least 1/2 the value of private real property within the area proposed for annexation.

(d) A property owner consenting to annexation shall indicate the property owner's consent on a form which includes language in substantially the following form:

"Notice: If this written consent is used to proceed with an annexation of your property in accordance with Utah Code Section 10-2-418, no public election is required by law to approve the annexation. If you sign this consent and later decide you do not want to support the annexation of your property, you may withdraw your signature by submitting a signed, written withdrawal with the recorder or clerk of [name of annexing municipality]. If you choose to withdraw your signature, you must do so no later than the close of the public hearing on the annexation conducted in accordance with Utah Code Subsection 10-2-418(4)(d).".

(e) A private property owner may withdraw the property owner's signature indicating consent by submitting a signed, written withdrawal with the recorder or clerk no later than the close of the public hearing held in accordance with Subsection (5)(b).

(5) The legislative body of each municipality intending to annex an area under this section shall:

(a) adopt a resolution indicating the municipal legislative body's intent to annex the area, describing the area proposed to be annexed; and

(b) hold a public hearing on the proposed annexation no earlier than 30 days after the adoption of the resolution described in Subsection (5)(a).

(6) A legislative body described in Subsection (5) shall [~~publish~~] provide notice of a public hearing described in Subsection (5)(b):

(a) (i) at least three weeks before the day of the public hearing, by posting one notice, and at least one additional notice per 2,000 population in the municipality and the area proposed for annexation, in places within the combined area that are most likely to give notice to the residents within, and the owners of real property located within, the combined area, subject to a maximum of 10 notices; or

(ii) at least three weeks before the day of the public hearing, by mailing notice to each residence within, and each owner of real property located within, the combined area described in Subsection (6)(a)(i);

(b) by posting a notice on the Utah Public Notice Website, created in Section 63A-12-201, for three weeks before the day of the public hearing;

(c) by sending written notice to:

(i) the board of each local district and special service district whose boundaries contain some or all of the area proposed for annexation; and

(ii) the legislative body of the county in which the area proposed for annexation is located; and

(d) if the municipality has a website, by posting notice on the municipality's website for three weeks before the day of the public hearing.

(7) The legislative body of the annexing municipality shall ensure that:

(a) each notice described in Subsection (6):

(i) states that the municipal legislative body has adopted a resolution indicating the municipality's intent to annex the area proposed for annexation;

(ii) states the date, time, and place of the public hearing described in Subsection (5)(b);

(iii) describes the area proposed for annexation; and

(iv) except for an annexation that meets the requirements of Subsection (8)(b) or (c), states in conspicuous and plain terms that the municipal legislative body will annex the area unless, at or before the public hearing described in Subsection (5)(b), written protests to the annexation are filed by the owners of private real property that:

(A) is located within the area proposed for annexation;

(B) covers a majority of the total private land area within the entire area proposed for annexation; and

(C) is equal in value to at least 1/2 the value of all private real property within the entire area proposed for annexation; and

(b) the first publication of the notice described in Subsection (6)(a) occurs within 14 days after the day on which the municipal legislative body adopts a resolution under Subsection (5)(a).

(8) (a) Except as provided in Subsections (8)(b)(i) and (8)(c)(i), upon conclusion of the public hearing described in Subsection (5)(b), the municipal legislative body may adopt an ordinance approving

the annexation of the area proposed for annexation under this section unless, at or before the hearing, written protests to the annexation have been filed with the recorder or clerk of the municipality by the owners of private real property that:

(i) is located within the area proposed for annexation;

(ii) covers a majority of the total private land area within the entire area proposed for annexation; and

(iii) is equal in value to at least 1/2 the value of all private real property within the entire area proposed for annexation.

(b) (i) Notwithstanding Subsection (8)(a), upon conclusion of the public hearing described in Subsection (5)(b), a municipality may adopt an ordinance approving the annexation of the area proposed for annexation under this section without allowing or considering protests under Subsection (8)(a) if the owners of at least 75% of the total private land area within the entire area proposed for annexation, representing at least 75% of the value of the private real property within the entire area proposed for annexation, have consented in writing to the annexation.

(ii) Upon the effective date under Section 10-2-425 of an annexation approved by an ordinance adopted under Subsection (8)(b)(i), the area annexed is conclusively presumed to be validly annexed.

(c) (i) Notwithstanding Subsection (8)(a), upon conclusion of the public hearing described in Subsection (5)(b), a municipality may adopt an ordinance approving the annexation of an area that the county legislative body proposes for annexation under this section without allowing or considering protests under Subsection (8)(a) if the county legislative body has formally recommended annexation to the annexing municipality and has made a formal finding that:

(A) the area to be annexed can be more efficiently served by the municipality than by the county;

(B) the area to be annexed is not likely to be naturally annexed by the municipality in the future as the result of urban development;

(C) annexation of the area is likely to facilitate the consolidation of overlapping functions of local government; and

(D) annexation of the area is likely to result in an equitable distribution of community resources and obligations.

(ii) The county legislative body may base the finding required in Subsection (8)(c)(i)(B) on:

(A) existing development in the area;

(B) natural or other conditions that may limit the future development of the area; or

(C) other factors that the county legislative body considers relevant.

(iii) A county legislative body may make the recommendation for annexation required in Subsection (8)(c)(i) for only a portion of an unincorporated island if, as a result of information provided at the public hearing, the county legislative body makes a formal finding that it would be equitable to leave a portion of the island unincorporated.

(iv) If a county legislative body has made a recommendation of annexation under Subsection (8)(c)(i):

(A) the relevant municipality is not required to proceed with the recommended annexation; and

(B) if the relevant municipality proceeds with annexation, the municipality shall annex the entire area that the county legislative body recommended for annexation.

(v) Upon the effective date under Section 10-2-425 of an annexation approved by an ordinance adopted under Subsection (8)(c)(i), the area annexed is conclusively presumed to be validly annexed.

(9) (a) Except as provided in Subsections (8)(b)(i) and (8)(c)(i), if protests are timely filed under Subsection (8)(a), the municipal legislative body may not adopt an ordinance approving the annexation of the area proposed for annexation, and the annexation proceedings under this section shall be considered terminated.

(b) Subsection (9)(a) does not prohibit the municipal legislative body from excluding from a proposed annexation under Subsection (2)(b) the property within an unincorporated island regarding which protests have been filed and proceeding under Subsection (3) to annex some or all of the remaining portion of the unincorporated island.

Section 8. Section 10-2-418 (Effective 07/01/21) is amended to read:

10-2-418 (Effective 07/01/21). Annexation of an island or peninsula without a petition -- Notice -- Hearing.

(1) As used in Subsection (2)(b)(ii), for purposes of an annexation conducted in accordance with this section of an area located within a county of the first class, "municipal-type services" does not include a service provided by a municipality pursuant to a contract that the municipality has with another political subdivision as "political subdivision" is defined in Section 17B-1-102.

(2) Notwithstanding Subsection 10-2-402(2), a municipality may annex an unincorporated area under this section without an annexation petition if:

(a) for an unincorporated area within the expansion area of more than one municipality, each municipality agrees to the annexation; and

(b) (i) (A) the area to be annexed consists of one or more unincorporated islands within or unincorporated peninsulas contiguous to the municipality;

(B) the majority of each island or peninsula consists of residential or commercial development;

(C) the area proposed for annexation requires the delivery of municipal-type services; and

(D) the municipality has provided most or all of the municipal-type services to the area for more than one year;

(ii) (A) the area to be annexed consists of one or more unincorporated islands within or unincorporated peninsulas contiguous to the municipality, each of which has fewer than 800 residents; and

(B) the municipality has provided one or more municipal-type services to the area for at least one year;

(iii) the area consists of:

(A) an unincorporated island within or an unincorporated peninsula contiguous to the municipality; and

(B) for an area outside of the county of the first class proposed for annexation, no more than 50 acres; or

(iv) (A) the area to be annexed consists only of one or more unincorporated islands in a county of the second class;

(B) the area to be annexed is located in the expansion area of a municipality; and

(C) the county legislative body in which the municipality is located provides notice to each property owner within the area to be annexed that the county legislative body will hold a public hearing, no less than 15 days after the day on which the county legislative body provides the notice, and may make a recommendation of annexation to the municipality whose expansion area includes the area to be annexed after the public hearing.

(3) Notwithstanding Subsection 10-2-402(1)(b)(iii), a municipality may annex a portion of an unincorporated island or unincorporated peninsula under this section, leaving unincorporated the remainder of the unincorporated island or unincorporated peninsula, if:

(a) in adopting the resolution under Subsection (5)(a) the municipal legislative body determines that not annexing the entire unincorporated island or unincorporated peninsula is in the municipality's best interest; and

(b) for an annexation of one or more unincorporated islands under Subsection (2)(b), the entire island of unincorporated area, of which a portion is being annexed, complies with the requirement of Subsection (2)(b)(ii) relating to the number of residents.

(4) (a) This [~~subsection~~] Subsection (4) applies only to an annexation within a county of the first class.

(b) A county of the first class shall agree to an annexation if the majority of private property owners within the area to be annexed give written consent to the annexation, in accordance with Subsection (4)(d), to the recorder of the annexing municipality.

(c) For purposes of Subsection (4)(b), the majority of private property owners is property owners who own:

(i) the majority of the total private land area within the area proposed for annexation; and

(ii) private real property equal to at least 1/2 the value of private real property within the area proposed for annexation.

(d) A property owner consenting to annexation shall indicate the property owner's consent on a form which includes language in substantially the following form:

"Notice: If this written consent is used to proceed with an annexation of your property in accordance with Utah Code Section 10-2-418, no public election is required by law to approve the annexation. If you sign this consent and later decide you do not want to support the annexation of your property, you may withdraw your signature by submitting a signed, written withdrawal with the recorder or clerk of [name of annexing municipality]. If you choose to withdraw your signature, you must do so no later than the close of the public hearing on the annexation conducted in accordance with Utah Code Subsection 10-2-418(4)(d).".

(e) A private property owner may withdraw the property owner's signature indicating consent by submitting a signed, written withdrawal with the recorder or clerk no later than the close of the public hearing held in accordance with Subsection (5)(b).

(5) The legislative body of each municipality intending to annex an area under this section shall:

(a) adopt a resolution indicating the municipal legislative body's intent to annex the area, describing the area proposed to be annexed; and

(b) hold a public hearing on the proposed annexation no earlier than 30 days after the adoption of the resolution described in Subsection (5)(a).

(6) A legislative body described in Subsection (5) shall [~~publish~~] provide notice of a public hearing described in Subsection (5)(b):

(a) (i) at least three weeks before the day of the public hearing, by posting one notice, and at least one additional notice per 2,000 population in the municipality and the area proposed for annexation, in places within the combined area that are most likely to give notice to the residents within, and the owners of real property located within, the combined area, subject to a maximum of 10 notices; or

(ii) at least three weeks before the day of the public hearing, by mailing notice to each residence

within, and each owner of real property located within, the combined area described in Subsection (6)(a)(i);

(b) by posting notice on the Utah Public Notice Website, created in Section 63A-16-601, for three weeks before the day of the public hearing;

(c) by sending written notice to:

(i) the board of each local district and special service district whose boundaries contain some or all of the area proposed for annexation; and

(ii) the legislative body of the county in which the area proposed for annexation is located; and

(d) if the municipality has a website, by posting notice on the municipality's website for three weeks before the day of the public hearing.

(7) The legislative body of the annexing municipality shall ensure that:

(a) each notice described in Subsection (6):

(i) states that the municipal legislative body has adopted a resolution indicating the municipality's intent to annex the area proposed for annexation;

(ii) states the date, time, and place of the public hearing described in Subsection (5)(b);

(iii) describes the area proposed for annexation; and

(iv) except for an annexation that meets the requirements of Subsection (8)(b) or (c), states in conspicuous and plain terms that the municipal legislative body will annex the area unless, at or before the public hearing described in Subsection (5)(b), written protests to the annexation are filed by the owners of private real property that:

(A) is located within the area proposed for annexation;

(B) covers a majority of the total private land area within the entire area proposed for annexation; and

(C) is equal in value to at least 1/2 the value of all private real property within the entire area proposed for annexation; and

(b) the first publication of the notice described in Subsection (6)(a) occurs within 14 days after the day on which the municipal legislative body adopts a resolution under Subsection (5)(a).

(8) (a) Except as provided in Subsections (8)(b)(i) and (8)(c)(i), upon conclusion of the public hearing described in Subsection (5)(b), the municipal legislative body may adopt an ordinance approving the annexation of the area proposed for annexation under this section unless, at or before the hearing, written protests to the annexation have been filed with the recorder or clerk of the municipality by the owners of private real property that:

(i) is located within the area proposed for annexation;

(ii) covers a majority of the total private land area within the entire area proposed for annexation; and

(iii) is equal in value to at least 1/2 the value of all private real property within the entire area proposed for annexation.

(b) (i) Notwithstanding Subsection (8)(a), upon conclusion of the public hearing described in Subsection (5)(b), a municipality may adopt an ordinance approving the annexation of the area proposed for annexation under this section without allowing or considering protests under Subsection (8)(a) if the owners of at least 75% of the total private land area within the entire area proposed for annexation, representing at least 75% of the value of the private real property within the entire area proposed for annexation, have consented in writing to the annexation.

(ii) Upon the effective date under Section 10-2-425 of an annexation approved by an ordinance adopted under Subsection (8)(b)(i), the area annexed is conclusively presumed to be validly annexed.

(c) (i) Notwithstanding Subsection (8)(a), upon conclusion of the public hearing described in Subsection (5)(b), a municipality may adopt an ordinance approving the annexation of an area that the county legislative body proposes for annexation under this section without allowing or considering protests under Subsection (8)(a) if the county legislative body has formally recommended annexation to the annexing municipality and has made a formal finding that:

(A) the area to be annexed can be more efficiently served by the municipality than by the county;

(B) the area to be annexed is not likely to be naturally annexed by the municipality in the future as the result of urban development;

(C) annexation of the area is likely to facilitate the consolidation of overlapping functions of local government; and

(D) annexation of the area is likely to result in an equitable distribution of community resources and obligations.

(ii) The county legislative body may base the finding required in Subsection (8)(c)(i)(B) on:

(A) existing development in the area;

(B) natural or other conditions that may limit the future development of the area; or

(C) other factors that the county legislative body considers relevant.

(iii) A county legislative body may make the recommendation for annexation required in Subsection (8)(c)(i) for only a portion of an unincorporated island if, as a result of information provided at the public hearing, the county legislative body makes a formal finding that it would be equitable to leave a portion of the island unincorporated.

(iv) If a county legislative body has made a recommendation of annexation under Subsection (8)(c)(i):

(A) the relevant municipality is not required to proceed with the recommended annexation; and

(B) if the relevant municipality proceeds with annexation, the municipality shall annex the entire area that the county legislative body recommended for annexation.

(v) Upon the effective date under Section 10-2-425 of an annexation approved by an ordinance adopted under Subsection (8)(c)(i), the area annexed is conclusively presumed to be validly annexed.

(9) (a) Except as provided in Subsections (8)(b)(i) and (8)(c)(i), if protests are timely filed under Subsection (8)(a), the municipal legislative body may not adopt an ordinance approving the annexation of the area proposed for annexation, and the annexation proceedings under this section shall be considered terminated.

(b) Subsection (9)(a) does not prohibit the municipal legislative body from excluding from a proposed annexation under Subsection (2)(b) the property within an unincorporated island regarding which protests have been filed and proceeding under Subsection (3) to annex some or all of the remaining portion of the unincorporated island.

Section 9. Section 10-2-419 (Superseded 07/01/21) is amended to read:

10-2-419 (Superseded 07/01/21). Boundary adjustment -- Notice and hearing -- Protest.

(1) The legislative bodies of two or more municipalities having common boundaries may adjust their common boundaries as provided in this section.

(2) The legislative body of each municipality intending to adjust a boundary that is common with another municipality shall:

(a) adopt a resolution indicating the intent of the municipal legislative body to adjust a common boundary; and

(b) hold a public hearing on the proposed adjustment no less than 60 days after the adoption of the resolution under Subsection (2)(a).

(3) A legislative body described in Subsection (2) shall [~~publish~~] provide notice of a public hearing described in Subsection (2)(b):

(a) (i) at least three weeks before the day of the public hearing, by posting one notice, and at least one additional notice per 2,000 population of the municipality, in places within the municipality that are most likely to give notice to residents of the municipality, subject to a maximum of 10 notices; or

(ii) at least three weeks before the day of the public hearing, by mailing notice to each residence in the municipality;

(b) by posting notice on the Utah Public Notice Website, created in Section 63A-12-201, for three weeks before the day of the public hearing;

(c) if the proposed boundary adjustment may cause any part of real property owned by the state to be within the geographic boundary of a different local governmental entity than before the adjustment, by providing written notice, at least 50 days before the day of the public hearing, to:

(i) the title holder of any state-owned real property described in this Subsection (3)(d); and

(ii) the Utah State Developmental Center Board, created under Section [~~62A-5-202.2~~] 62A-5-202.5, if any state-owned real property described in this Subsection (3)(d) is associated with the Utah State Developmental Center; and

(d) if the municipality has a website, by posting notice on the municipality's website for three weeks before the day of the public hearing.

(4) The notice described in Subsection (3) shall:

(a) state that the municipal legislative body has adopted a resolution indicating the municipal legislative body's intent to adjust a boundary that the municipality has in common with another municipality;

(b) describe the area proposed to be adjusted;

(c) state the date, time, and place of the public hearing described in Subsection (2)(b);

(d) state in conspicuous and plain terms that the municipal legislative body will adjust the boundaries unless, at or before the public hearing described in Subsection (2)(b), a written protest to the adjustment is filed by:

(i) an owner of private real property that:

(A) is located within the area proposed for adjustment;

(B) covers at least 25% of the total private land area within the area proposed for adjustment; and

(C) is equal in value to at least 15% of the value of all private real property within the area proposed for adjustment; or

(ii) a title holder of state-owned real property described in Subsection (3)(d);

(e) state that the area that is the subject of the boundary adjustment will, because of the boundary adjustment, be automatically annexed to a local district providing fire protection, paramedic, and emergency services or a local district providing law enforcement service, as the case may be, as provided in Section 17B-1-416, if:

(i) the municipality to which the area is being added because of the boundary adjustment is entirely within the boundaries of a local district:

(A) that provides fire protection, paramedic, and emergency services or law enforcement service, respectively; and

(B) in the creation of which an election was not required because of Subsection 17B-1-214(3)(c); and

(ii) the municipality from which the area is being taken because of the boundary adjustment is not within the boundaries of the local district; and

(f) state that the area proposed for annexation to the municipality will be automatically withdrawn from a local district providing fire protection, paramedic, and emergency services, as provided in Subsection 17B-1-502(2), if:

(i) the municipality to which the area is being added because of the boundary adjustment is not within the boundaries of a local district:

(A) that provides fire protection, paramedic, and emergency services; and

(B) in the creation of which an election was not required because of Subsection 17B-1-214(3)(c); and

(ii) the municipality from which the area is being taken because of the boundary adjustment is entirely within the boundaries of the local district.

(5) Upon conclusion of the public hearing described in Subsection (2)(b), the municipal legislative body may adopt an ordinance approving the adjustment of the common boundary unless, at or before the hearing described in Subsection (2)(b), a written protest to the adjustment is filed with the city recorder or town clerk by a person described in Subsection (3)(d)(i) or (ii).

(6) The municipal legislative body shall comply with the requirements of Section 10-2-425 as if the boundary adjustment were an annexation.

(7) (a) An ordinance adopted under Subsection (5) becomes effective when each municipality involved in the boundary adjustment has adopted an ordinance under Subsection (5).

(b) The effective date of a boundary adjustment under this section is governed by Section 10-2-425.

Section 10. Section 10-2-419 (Effective 07/01/21) is amended to read:

10-2-419 (Effective 07/01/21). Boundary adjustment -- Notice and hearing -- Protest.

(1) The legislative bodies of two or more municipalities having common boundaries may adjust their common boundaries as provided in this section.

(2) The legislative body of each municipality intending to adjust a boundary that is common with another municipality shall:

(a) adopt a resolution indicating the intent of the municipal legislative body to adjust a common boundary; and

(b) hold a public hearing on the proposed adjustment no less than 60 days after the adoption of the resolution under Subsection (2)(a).

(3) A legislative body described in Subsection (2) shall [~~publish~~] provide notice of a public hearing described in Subsection (2)(b):

(a) (i) at least three weeks before the day of the public hearing, by posting one notice, and at least one additional notice per 2,000 population of the municipality, in places within the municipality that are most likely to give notice to residents of the municipality, subject to a maximum of 10 notices; or

(ii) at least three weeks before the day of the public hearing, by mailing notice to each residence in the municipality;

(b) by posting notice on the Utah Public Notice Website, created in Section 63A-16-601, for three weeks before the day of the public hearing;

(c) if the proposed boundary adjustment may cause any part of real property owned by the state to be within the geographic boundary of a different local governmental entity than before the adjustment, by providing written notice, at least 50 days before the day of the public hearing, to:

(i) the title holder of any state-owned real property described in this Subsection (3)(d); and

(ii) the Utah State Developmental Center Board, created under Section [~~62A-5-202.2~~] 62A-5-202.5, if any state-owned real property described in this Subsection (3)(d) is associated with the Utah State Developmental Center; and

(d) if the municipality has a website, by posting notice on the municipality's website for three weeks before the day of the public hearing.

(4) The notice described in Subsection (3) shall:

(a) state that the municipal legislative body has adopted a resolution indicating the municipal legislative body's intent to adjust a boundary that the municipality has in common with another municipality;

(b) describe the area proposed to be adjusted;

(c) state the date, time, and place of the public hearing described in Subsection (2)(b);

(d) state in conspicuous and plain terms that the municipal legislative body will adjust the boundaries unless, at or before the public hearing described in Subsection (2)(b), a written protest to the adjustment is filed by:

(i) an owner of private real property that:

(A) is located within the area proposed for adjustment;

(B) covers at least 25% of the total private land area within the area proposed for adjustment; and

(C) is equal in value to at least 15% of the value of all private real property within the area proposed for adjustment; or

(ii) a title holder of state-owned real property described in Subsection (3)(d);

(e) state that the area that is the subject of the boundary adjustment will, because of the boundary adjustment, be automatically annexed to a local district providing fire protection, paramedic, and emergency services or a local district providing law enforcement service, as the case may be, as provided in Section 17B-1-416, if:

(i) the municipality to which the area is being added because of the boundary adjustment is entirely within the boundaries of a local district:

(A) that provides fire protection, paramedic, and emergency services or law enforcement service, respectively; and

(B) in the creation of which an election was not required because of Subsection 17B-1-214(3)(c); and

(ii) the municipality from which the area is being taken because of the boundary adjustment is not within the boundaries of the local district; and

(f) state that the area proposed for annexation to the municipality will be automatically withdrawn from a local district providing fire protection, paramedic, and emergency services, as provided in Subsection 17B-1-502(2), if:

(i) the municipality to which the area is being added because of the boundary adjustment is not within the boundaries of a local district:

(A) that provides fire protection, paramedic, and emergency services; and

(B) in the creation of which an election was not required because of Subsection 17B-1-214(3)(c); and

(ii) the municipality from which the area is being taken because of the boundary adjustment is entirely within the boundaries of the local district.

(5) Upon conclusion of the public hearing described in Subsection (2)(b), the municipal legislative body may adopt an ordinance approving the adjustment of the common boundary unless, at or before the hearing described in Subsection (2)(b), a written protest to the adjustment is filed with the city recorder or town clerk by a person described in Subsection (3)(d)(i) or (ii).

(6) The municipal legislative body shall comply with the requirements of Section 10-2-425 as if the boundary adjustment were an annexation.

(7) (a) An ordinance adopted under Subsection (5) becomes effective when each municipality involved in the boundary adjustment has adopted an ordinance under Subsection (5).

(b) The effective date of a boundary adjustment under this section is governed by Section 10-2-425.

Section 11. Section 10-2-502.5 (Superseded 07/01/21) is amended to read:

10-2-502.5 (Superseded 07/01/21). Hearing on request for disconnection -- Determination by municipal legislative body -- Petition in district court.

(1) No sooner than three weeks after notice is provided under Subsection 10-2-501(3), the legislative body of the municipality in which the area proposed for disconnection is located shall hold a public hearing.

(2) The municipal legislative body shall provide notice of the public hearing:

(a) at least seven days before the hearing date, in writing to the petitioner and to the legislative body of the county in which the area proposed for disconnection is located;

(b) (i) at least seven days before the hearing date, by posting one notice, and at least one additional notice per 2,000 population of the municipality, in places within the municipality that are most likely to give notice to residents within, and the owners of real property located within, the municipality, subject to a maximum of 10 notices; or

(ii) at least 10 days before the hearing date, by mailing notice to each residence within, and each owner of real property located within, the municipality;

(c) by posting notice on the Utah Public Notice Website, created in Section 63A-12-201, for seven days before the hearing date; and

(d) if the municipality has a website, by posting notice on the municipality's website for seven days before the hearing date.

(3) In the public hearing, any person may speak and submit documents regarding the disconnection proposal.

(4) Within 45 calendar days of the hearing, the municipal legislative body shall:

(a) determine whether to grant the request for disconnection; and

(b) if the municipality determines to grant the request, adopt an ordinance approving disconnection of the area from the municipality.

(5) (a) A petition against the municipality challenging the municipal legislative body's determination under Subsection (4) may be filed in district court by:

(i) the petitioner; or

(ii) the county in which the area proposed for disconnection is located.

(b) Each petition under Subsection (5)(a) shall include a copy of the request for disconnection.

Section 12. Section 10-2-502.5 (Effective 07/01/21) is amended to read:

10-2-502.5 (Effective 07/01/21). Hearing on request for disconnection -- Determination by municipal legislative body -- Petition in district court.

(1) No sooner than three weeks after notice is provided under Subsection 10-2-501(3), the legislative body of the municipality in which the area proposed for disconnection is located shall hold a public hearing.

(2) The municipal legislative body shall provide notice of the public hearing:

(a) at least seven days before the hearing date, in writing to the petitioner and to the legislative body of the county in which the area proposed for disconnection is located;

(b) (i) at least seven days before the hearing date, by posting one notice, and at least one additional notice per 2,000 population of the municipality, in

places within the municipality that are most likely to give notice to residents within, and the owners of real property located within, the municipality, subject to a maximum of 10 notices; or

(ii) at least 10 days before the hearing date, by mailing notice to each residence within, and each owner of real property located within, the municipality;

(c) by posting notice on the Utah Public Notice Website, created in Section 63A-16-601, for seven days before the hearing date; and

(d) if the municipality has a website, by posting notice on the municipality's website for seven days before the hearing date.

(3) In the public hearing, any person may speak and submit documents regarding the disconnection proposal.

(4) Within 45 calendar days of the hearing, the municipal legislative body shall:

(a) determine whether to grant the request for disconnection; and

(b) if the municipality determines to grant the request, adopt an ordinance approving disconnection of the area from the municipality.

(5) (a) A petition against the municipality challenging the municipal legislative body's determination under Subsection (4) may be filed in district court by:

(i) the petitioner; or

(ii) the county in which the area proposed for disconnection is located.

(b) Each petition under Subsection (5)(a) shall include a copy of the request for disconnection.

Section 13. Section 10-2-703 (Superseded 07/01/21) is amended to read:

10-2-703 (Superseded 07/01/21). Providing notice of election.

(1) Immediately after setting the date for the election, the court shall order for [~~publication~~] notice to be provided of the:

(a) petition; and

(b) date the election is to be held to determine the question of dissolution.

(2) The notice described in Subsection (1) shall be [~~published~~] provided:

(a) (i) at least four weeks before the day of the election, by posting one notice, and at least one additional notice per 2,000 population of the municipality, in places within the municipality that are most likely to give notice to the voters in the municipality, subject to a maximum of 10 notices; or

(ii) at least one month before the day of the election, by mailing notice to each registered voter in the municipality;

(b) by posting notice on the Utah Public Notice Website, created in Section 63A-12-201, for four weeks before the day of the election; and

(c) if the municipality has a website, by posting notice on the municipality's website for four weeks before the day of the election.

Section 14. Section 10-2-703 (Effective 07/01/21) is amended to read:

10-2-703 (Effective 07/01/21). Providing notice of election.

(1) Immediately after setting the date for the election, the court shall order for [~~publication~~] notice to be provided of the:

(a) petition; and

(b) date the election is to be held to determine the question of dissolution.

(2) The notice described in Subsection (1) shall be [~~published~~] provided:

(a) (i) at least four weeks before the day of the election, by posting one notice, and at least one additional notice per 2,000 population of the municipality, in places within the municipality that are most likely to give notice to the voters in the municipality, subject to a maximum of 10 notices; or

(ii) at least one month before the day of the election, by mailing notice to each registered voter in the municipality;

(b) by posting notice on the Utah Public Notice Website, created in Section 63A-16-601, for four weeks before the day of the election; and

(c) if the municipality has a website, by posting notice on the municipality's website for four weeks before the day of the election.

Section 15. Section 10-2-708 (Superseded 07/01/21) is amended to read:

10-2-708 (Superseded 07/01/21). Notice of disincorporation.

When a municipality has been dissolved, the clerk of the court shall [~~publish~~] provide notice of the dissolution:

(1) (a) by posting one notice, and at least one additional notice per 2,000 population of the county in places within the county that are most likely to give notice to the residents within, and the owners of real property located within, the county, including the residents and owners within the municipality that is dissolved, subject to a maximum of 10 notices; or

(b) by mailing notice to each residence within, and each owner of real property located within, the county;

(2) by posting notice on the Utah Public Notice Website, created in Section 63A-12-201, for four weeks;

(3) if the municipality has a website, by posting notice on the municipality's website for four weeks; and

(4) by posting notice on the county's website for four weeks.

Section 16. Section 10-2-708 (Effective 07/01/21) is amended to read:

10-2-708 (Effective 07/01/21). Notice of disincorporation.

When a municipality has been dissolved, the clerk of the court shall [~~publish~~] provide notice of the dissolution:

(1) (a) by posting one notice, and at least one additional notice per 2,000 population of the county in places within the county that are most likely to give notice to the residents within, and the owners of real property located within, the county, including the residents and owners within the municipality that is dissolved, subject to a maximum of 10 notices; or

(b) by mailing notice to each residence within, and each owner of real property located within, the county;

(2) by posting notice on the Utah Public Notice Website, created in Section 63A-16-601, for four weeks;

(3) if the municipality has a website, by posting notice on the municipality's website for four weeks; and

(4) by posting notice on the county's website for four weeks.

Section 17. Section 10-2a-210 (Superseded 07/01/21) is amended to read:

10-2a-210 (Superseded 07/01/21). Incorporation election -- Notice of election -- Voter information pamphlet.

(1) (a) If the lieutenant governor certifies a petition under Subsection 10-2a-209(1)(b), the lieutenant governor shall schedule an incorporation election for the proposed municipality described in the petition to be held on the date of the next regular general election described in Section 20A-1-201, or the next municipal general election described in Section 20A-1-202, that is at least 65 days after the day on which the lieutenant governor certifies the petition.

(b) (i) The lieutenant governor shall direct the county legislative body of the county in which the proposed municipality is located to hold the election on the date that the lieutenant governor schedules under Subsection (1)(a).

(ii) The county shall hold the election as directed by the lieutenant governor under Subsection (1)(b)(i).

(2) The county clerk shall [~~publish~~] provide notice of the election:

(a) (i) by publishing notice in a newspaper of general circulation within the area proposed to be incorporated at least once a week for three successive weeks before the election;

[~~(a) (i)~~] (ii) at least three weeks before the day of the election, by posting one notice, and at least one additional notice per 2,000 population of the area proposed to be incorporated, in places within the area proposed to be incorporated that are most likely to give notice to the voters within the area proposed to be incorporated, subject to a maximum of 10 notices; or

[~~(ii)~~] (iii) at least three weeks before the day of the election, by mailing notice to each registered voter in the area proposed to be incorporated;

(b) by posting notice on the Utah Public Notice Website, created in Section 63A-12-201, for three weeks before the day of the election;

(c) if the proposed municipality has a website, by posting notice on the proposed municipality's website for three weeks before the day of the election; and

(d) by posting notice on the county's website for three weeks before the day of the election.

(3) (a) The notice required by Subsection (2) shall contain:

(i) a statement of the contents of the petition;

(ii) a description of the area proposed to be incorporated as a municipality;

(iii) a statement of the date and time of the election and the location of polling places; and

(iv) except as provided in Subsection (3)(b), the feasibility study summary described in Subsection 10-2a-205(3)(c) and a statement that a full copy of the study is available on the lieutenant governor's website and for inspection at the Office of the Lieutenant Governor.

(b) Instead of [~~publishing~~] including the feasibility summary under Subsection (3)(a)(iv), the notice may include a statement that specifies the following sources where a registered voter in the area proposed to be incorporated may view or obtain a copy of the feasibility study:

(i) the lieutenant governor's website;

(ii) the physical address of the Office of the Lieutenant Governor; and

(iii) a mailing address and telephone number.

(4) (a) In addition to the notice required under Subsection (2), the county clerk shall publish and distribute, before the incorporation election is held, a voter information pamphlet:

(i) in accordance with the procedures and requirements of Section 20A-7-402;

(ii) in consultation with the lieutenant governor; and

(iii) in a manner that the county clerk determines is adequate, subject to Subsections (4)(a)(i) and (ii).

(b) The voter information pamphlet described in Subsection (4)(a):

(i) shall inform the public of the proposed incorporation; and

(ii) may include written statements, printed in the same font style and point size, from proponents and opponents of the proposed incorporation.

(5) An individual may not vote in an incorporation election under this section unless the individual is a registered voter who resides, as defined in Section 20A-1-102, within the boundaries of the proposed municipality.

(6) If a majority of those who vote in an incorporation election held under this section cast votes in favor of incorporation, the area shall incorporate.

Section 18. Section 10-2a-210 (Effective 07/01/21) is amended to read:

10-2a-210 (Effective 07/01/21). Incorporation election -- Notice of election -- Voter information pamphlet.

(1) (a) If the lieutenant governor certifies a petition under Subsection 10-2a-209(1)(b), the lieutenant governor shall schedule an incorporation election for the proposed municipality described in the petition to be held on the date of the next regular general election described in Section 20A-1-201, or the next municipal general election described in Section 20A-1-202, that is at least 65 days after the day on which the lieutenant governor certifies the petition.

(b) (i) The lieutenant governor shall direct the county legislative body of the county in which the proposed municipality is located to hold the election on the date that the lieutenant governor schedules under Subsection (1)(a).

(ii) The county shall hold the election as directed by the lieutenant governor under Subsection (1)(b)(i).

(2) The county clerk shall [~~publish~~] provide notice of the election:

(a) (i) by publishing notice in a newspaper of general circulation within the area proposed to be incorporated at least once a week for three successive weeks before the election;

[~~(a) (i)~~] (ii) at least three weeks before the day of the election, by posting one notice, and at least one additional notice per 2,000 population of the area proposed to be incorporated, in places within the area proposed to be incorporated that are most likely to give notice to the voters within the area proposed to be incorporated, subject to a maximum of 10 notices; or

[~~(ii)~~] (iii) at least three weeks before the day of the election, by mailing notice to each registered voter in the area proposed to be incorporated;

(b) by posting notice on the Utah Public Notice Website, created in Section 63A-16-601, for three weeks before the day of the election;

(c) if the proposed municipality has a website, by posting notice on the proposed municipality's website for three weeks before the day of the election; and

(d) by posting notice on the county's website for three weeks before the day of the election.

(3) (a) The notice required by Subsection (2) shall contain:

(i) a statement of the contents of the petition;

(ii) a description of the area proposed to be incorporated as a municipality;

(iii) a statement of the date and time of the election and the location of polling places; and

(iv) except as provided in Subsection (3)(b), the feasibility study summary described in Subsection 10-2a-205(3)(c) and a statement that a full copy of the study is available on the lieutenant governor's website and for inspection at the Office of the Lieutenant Governor.

(b) Instead of [~~publishing~~] including the feasibility summary under Subsection (3)(a)(iv), the notice may include a statement that specifies the following sources where a registered voter in the area proposed to be incorporated may view or obtain a copy of the feasibility study:

(i) the lieutenant governor's website;

(ii) the physical address of the Office of the Lieutenant Governor; and

(iii) a mailing address and telephone number.

(4) (a) In addition to the notice required under Subsection (2), the county clerk shall publish and distribute, before the incorporation election is held, a voter information pamphlet:

(i) in accordance with the procedures and requirements of Section 20A-7-402;

(ii) in consultation with the lieutenant governor; and

(iii) in a manner that the county clerk determines is adequate, subject to Subsections (4)(a)(i) and (ii).

(b) The voter information pamphlet described in Subsection (4)(a):

(i) shall inform the public of the proposed incorporation; and

(ii) may include written statements, printed in the same font style and point size, from proponents and opponents of the proposed incorporation.

(5) An individual may not vote in an incorporation election under this section unless the individual is a registered voter who resides, as defined in Section 20A-1-102, within the boundaries of the proposed municipality.

(6) If a majority of those who vote in an incorporation election held under this section cast votes in favor of incorporation, the area shall incorporate.

Section 19. Section 10-2a-213 (Superseded 07/01/21) is amended to read:

10-2a-213 (Superseded 07/01/21). Determination of number of council

members -- Determination of election districts -- Hearings and notice.

(1) If the incorporation proposal passes, the petition sponsors shall, within 60 days after the day on which the county conducts the canvass of the election under Section 10-2a-212:

(a) for the incorporation of a city:

(i) if the voters at the incorporation election choose the council-mayor form of government, determine the number of council members that will constitute the city council of the city; and

(ii) if the voters at the incorporation election vote to elect council members by district, determine the number of council members to be elected by district and draw the boundaries of those districts, which shall be substantially equal in population; and

(b) for the incorporation of any municipality:

(i) determine the initial terms of the mayor and members of the municipal council so that:

(A) the mayor and approximately half the members of the municipal council are elected to serve an initial term, of no less than one year, that allows the mayor's and members' successors to serve a full four-year term that coincides with the schedule established in Subsection 10-3-205(1); and

(B) the remaining members of the municipal council are elected to serve an initial term, of no less than one year, that allows the members' successors to serve a full four-year term that coincides with the schedule established in Subsection 10-3-205(2); and

(ii) submit in writing to the county legislative body the results of the determinations made by the sponsors under Subsections (1)(a) and (b)(i).

(2) A newly incorporated town shall operate under the five-member council form of government as defined in Section 10-3b-102.

(3) Before making a determination under Subsection (1)(a) or (b)(i), the petition sponsors shall hold a public hearing within the future municipality on the applicable issues described in Subsections (1)(a) and (b)(i).

(4) The petition sponsors shall [~~publish~~] provide notice of the public hearing described in Subsection (3):

(a) (i) at least two weeks before the day of the public hearing, by posting one notice, and at least one additional notice per 2,000 population of the future municipality, in places within the future municipality that are most likely to give notice to the residents within, and the owners of real property located within, the future municipality, subject to a maximum of 10 notices; or

(ii) at least two weeks before the day of the public hearing, by mailing notice to each residence within, and each owner of real property located within, the future municipality;

(b) by posting notice on the Utah Public Notice Website, created in Section 63A-12-201, for two weeks before the day of the public hearing;

(c) if the future municipality has a website, by posting notice on the future municipality's website for two weeks before the day of the public hearing; and

(d) by posting notice on the county's website for two weeks before the day of the public hearing.

Section 20. Section 10-2a-213 (Effective 07/01/21) is amended to read:

10-2a-213 (Effective 07/01/21). Determination of number of council members -- Determination of election districts -- Hearings and notice.

(1) If the incorporation proposal passes, the petition sponsors shall, within 60 days after the day on which the county conducts the canvass of the election under Section 10-2a-212:

(a) for the incorporation of a city:

(i) if the voters at the incorporation election choose the council-mayor form of government, determine the number of council members that will constitute the city council of the city; and

(ii) if the voters at the incorporation election vote to elect council members by district, determine the number of council members to be elected by district and draw the boundaries of those districts, which shall be substantially equal in population; and

(b) for the incorporation of any municipality:

(i) determine the initial terms of the mayor and members of the municipal council so that:

(A) the mayor and approximately half the members of the municipal council are elected to serve an initial term, of no less than one year, that allows the mayor's and members' successors to serve a full four-year term that coincides with the schedule established in Subsection 10-3-205(1); and

(B) the remaining members of the municipal council are elected to serve an initial term, of no less than one year, that allows the members' successors to serve a full four-year term that coincides with the schedule established in Subsection 10-3-205(2); and

(ii) submit in writing to the county legislative body the results of the determinations made by the sponsors under Subsections (1)(a) and (b)(i).

(2) A newly incorporated town shall operate under the five-member council form of government as defined in Section 10-3b-102.

(3) Before making a determination under Subsection (1)(a) or (b)(i), the petition sponsors shall hold a public hearing within the future municipality on the applicable issues described in Subsections (1)(a) and (b)(i).

(4) The petition sponsors shall [~~publish~~] provide notice of the public hearing described in Subsection (3):

(a) (i) at least two weeks before the day of the public hearing, by posting one notice, and at least one additional notice per 2,000 population of the future municipality, in places within the future municipality that are most likely to give notice to the residents within, and the owners of real property located within, the future municipality, subject to a maximum of 10 notices; or

(ii) at least two weeks before the day of the public hearing, by mailing notice to each residence within, and each owner of real property located within, the future municipality;

(b) by posting notice on the Utah Public Notice Website, created in Section 63A-16-601, for two weeks before the day of the public hearing;

(c) if the future municipality has a website, by posting notice on the future municipality's website for two weeks before the day of the public hearing; and

(d) by posting notice on the county's website for two weeks before the day of the public hearing.

Section 21. Section 10-2a-214 (Superseded 07/01/21) is amended to read:

10-2a-214 (Superseded 07/01/21). Notice of number of commission or council members to be elected and of district boundaries -- Declaration of candidacy for municipal office.

(1) Within 20 days after the day on which a county legislative body receives the petition sponsors' determination under Subsection 10-2a-213(1)(b)(ii), the county clerk shall [~~publish~~] provide a notice, in accordance with Subsection (2), [~~notice~~] containing:

(a) the number of municipal council members to be elected for the new municipality;

(b) except as provided in Subsection (3), if some or all of the municipal council members are to be elected by district, a description of the boundaries of those districts;

(c) information about the deadline for an individual to file a declaration of candidacy to become a candidate for mayor or municipal council; and

(d) information about the length of the initial term of each of the municipal officers.

(2) The county clerk shall [~~publish~~] provide the notice described in Subsection (1):

(a) (i) by posting one notice, and at least one additional notice per 2,000 population of the future municipality, in places within the future municipality that are most likely to give notice to the residents in the future municipality, subject to a maximum of 10 notices; or

(ii) by mailing notice to each residence in the future municipality;

(b) by posting notice on the Utah Public Notice Website, created in Section 63A-12-201, for two weeks;

(c) if the future municipality has a website, by posting notice on the future municipality's website for two weeks; and

(d) by posting notice on the county's website for two weeks.

(3) Instead of [~~publishing~~] including a description of the district boundaries [~~described in~~] under Subsection (1)(b), the notice may include a statement that specifies the following sources where a resident of the future municipality may view or obtain a copy of the district boundaries:

(a) the county website;

(b) the physical address of the county offices; and

(c) a mailing address and telephone number.

(4) Notwithstanding Subsection 20A-9-203(3)(a), each individual seeking to become a candidate for mayor or municipal council of a municipality incorporating under this part shall file a declaration of candidacy with the clerk of the county in which the future municipality is located and in accordance with:

(a) for an incorporation held on the date of a regular general election, the deadlines for filing a declaration of candidacy under Section 20A-9-202; or

(b) for an incorporation held on the date of a municipal general election, the deadlines for filing a declaration of candidacy under Section 20A-9-203.

Section 22. Section 10-2a-214 (Effective 07/01/21) is amended to read:

10-2a-214 (Effective 07/01/21). Notice of number of commission or council members to be elected and of district boundaries -- Declaration of candidacy for municipal office.

(1) Within 20 days after the day on which a county legislative body receives the petition sponsors' determination under Subsection 10-2a-213(1)(b)(ii), the county clerk shall [~~publish~~] provide a notice, in accordance with Subsection (2), [~~notice~~] containing:

(a) the number of municipal council members to be elected for the new municipality;

(b) except as provided in Subsection (3), if some or all of the municipal council members are to be elected by district, a description of the boundaries of those districts;

(c) information about the deadline for an individual to file a declaration of candidacy to become a candidate for mayor or municipal council; and

(d) information about the length of the initial term of each of the municipal officers.

(2) The county clerk shall [~~publish~~] provide the notice described in Subsection (1):

(a) (i) by posting one notice, and at least one additional notice per 2,000 population of the future municipality, in places within the future

municipality that are most likely to give notice to the residents in the future municipality, subject to a maximum of 10 notices; or

(ii) by mailing notice to each residence in the future municipality;

(b) by posting notice on the Utah Public Notice Website, created in Section 63A-16-601, for two weeks;

(c) if the future municipality has a website, by posting notice on the future municipality's website for two weeks; and

(d) by posting notice on the county's website for two weeks.

(3) Instead of [~~publishing~~] including a description of the district boundaries [~~described in~~] under Subsection (1)(b), the notice may include a statement that specifies the following sources where a resident of the future municipality may view or obtain a copy of the district boundaries:

(a) the county website;

(b) the physical address of the county offices; and

(c) a mailing address and telephone number.

(4) Notwithstanding Subsection 20A-9-203(3)(a), each individual seeking to become a candidate for mayor or municipal council of a municipality incorporating under this part shall file a declaration of candidacy with the clerk of the county in which the future municipality is located and in accordance with:

(a) for an incorporation held on the date of a regular general election, the deadlines for filing a declaration of candidacy under Section 20A-9-202; or

(b) for an incorporation held on the date of a municipal general election, the deadlines for filing a declaration of candidacy under Section 20A-9-203.

Section 23. Section 10-2a-215 (Superseded 07/01/21) is amended to read:

10-2a-215 (Superseded 07/01/21). Election of officers of new municipality -- Primary and final election dates -- County clerk duties -- Candidate duties -- Occupation of office.

(1) For the election of municipal officers, the county legislative body shall:

(a) unless a primary election is prohibited under Subsection 20A-9-404(2), hold a primary election; and

(b) unless the election may be cancelled in accordance with Section 20A-1-206, hold a final election.

(2) Each election described in Subsection (1) shall be held:

(a) consistent with the petition sponsors' determination of the length of each council member's initial term; and

(b) for the incorporation of a city:

(i) appropriate to the form of government chosen by the voters at the incorporation election;

(ii) consistent with the voters' decision about whether to elect city council members by district and, if applicable, consistent with the boundaries of those districts as determined by the petition sponsors; and

(iii) consistent with the sponsors' determination of the number of city council members to be elected.

(3) (a) Subject to Subsection (3)(b), and notwithstanding Subsection 20A-1-201.5(2), the primary election described in Subsection (1)(a) shall be held at the earliest of the next:

(i) regular primary election described in Subsection 20A-1-201.5(1); or

(ii) municipal primary election described in Section 20A-9-404.

(b) The county shall hold the primary election, if necessary, on the next election date described in Subsection (3)(a) that is after the incorporation election conducted under Section 10-2a-210.

(4) (a) Subject to Subsection (4)(b), the county shall hold the final election described in Subsection (1)(b):

(i) on the following election date that next follows the date of the incorporation election held under Subsection 10-2a-210(1)(a);

(ii) a regular general election described in Section 20A-1-201; or

(iii) a regular municipal general election under Section 20A-1-202.

(b) The county shall hold the final election on the earliest of the next election date that is listed in Subsection (4)(a)(i), (ii), or (iii):

(i) that is after a primary election; or

(ii) if there is no primary election, that is at least:

(A) 75 days after the incorporation election under Section 10-2a-210; and

(B) 65 days after the candidate filing period.

(5) The county clerk shall [~~publish~~] provide notice of an election under this section:

(a) (i) at least two weeks before the day of the election, by posting one notice, and at least one additional notice per 2,000 population of the future municipality, in places within the future municipality that are most likely to give notice to the voters within the future municipality, subject to a maximum of 10 notices; or

(ii) at least two weeks before the day of the election, by mailing notice to each registered voter within the future municipality;

(b) by posting notice on the Utah Public Notice Website, created in Section 63A-12-201, for two weeks before the day of the election;

(c) if the future municipality has a website, by posting notice on the future municipality's website for two weeks before the day of the election; and

(d) by posting notice on the county's website for two weeks before the day of the election.

(6) Until the municipality is incorporated, the county clerk:

(a) is the election officer for all purposes related to the election of municipal officers;

(b) may, as necessary, determine appropriate deadlines, procedures, and instructions related to the election of municipal officers for a new municipality that are not otherwise contrary to law;

(c) shall require and determine deadlines for municipal office candidates to file campaign financial disclosures in accordance with Section 10-3-208; and

(d) shall ensure that the ballot for the election includes each office that is required to be included in the election for officers of the newly incorporated municipality, including the term of each office.

(7) An individual who has filed as a candidate for an office described in this section shall comply with:

(a) the campaign finance disclosure requirements described in Section 10-3-208; and

(b) the requirements and deadlines established by the county clerk under this section.

(8) Notwithstanding Section 10-3-201, the officers elected at a final election described in Subsection (4)(a) shall take office:

(a) after taking the oath of office; and

(b) at noon on the first Monday following the day on which the election official transmits a certificate of nomination or election under the officer's seal to each elected candidate in accordance with Subsection 20A-4-304(4)(b).

Section 24. Section 10-2a-215 (Effective 07/01/21) is amended to read:

10-2a-215 (Effective 07/01/21). Election of officers of new municipality -- Primary and final election dates -- County clerk duties -- Candidate duties -- Occupation of office.

(1) For the election of municipal officers, the county legislative body shall:

(a) unless a primary election is prohibited under Subsection 20A-9-404(2), hold a primary election; and

(b) unless the election may be cancelled in accordance with Section 20A-1-206, hold a final election.

(2) Each election described in Subsection (1) shall be held:

(a) consistent with the petition sponsors' determination of the length of each council member's initial term; and

(b) for the incorporation of a city:

(i) appropriate to the form of government chosen by the voters at the incorporation election;

(ii) consistent with the voters' decision about whether to elect city council members by district and, if applicable, consistent with the boundaries of those districts as determined by the petition sponsors; and

(iii) consistent with the sponsors' determination of the number of city council members to be elected.

(3) (a) Subject to Subsection (3)(b), and notwithstanding Subsection 20A-1-201.5(2), the primary election described in Subsection (1)(a) shall be held at the earliest of the next:

(i) regular primary election described in Subsection 20A-1-201.5(1); or

(ii) municipal primary election described in Section 20A-9-404.

(b) The county shall hold the primary election, if necessary, on the next election date described in Subsection (3)(a) that is after the incorporation election conducted under Section 10-2a-210.

(4) (a) Subject to Subsection (4)(b), the county shall hold the final election described in Subsection (1)(b):

(i) on the following election date that next follows the date of the incorporation election held under Subsection 10-2a-210(1)(a);

(ii) a regular general election described in Section 20A-1-201; or

(iii) a regular municipal general election under Section 20A-1-202.

(b) The county shall hold the final election on the earliest of the next election date that is listed in Subsection (4)(a)(i), (ii), or (iii):

(i) that is after a primary election; or

(ii) if there is no primary election, that is at least:

(A) 75 days after the incorporation election under Section 10-2a-210; and

(B) 65 days after the candidate filing period.

(5) The county clerk shall [~~publish~~] provide notice of an election under this section:

(a) (i) at least two weeks before the day of the election, by posting one notice, and at least one additional notice per 2,000 population of the future municipality, in places within the future municipality that are most likely to give notice to the voters within the future municipality, subject to a maximum of 10 notices; or

(ii) at least two weeks before the day of the election, by mailing notice to each registered voter within the future municipality;

(b) by posting notice on the Utah Public Notice Website, created in Section 63A-16-601, for two weeks before the day of the election;

(c) if the future municipality has a website, by posting notice on the future municipality's website for two weeks before the day of the election; and

(d) by posting notice on the county's website for two weeks before the day of the election.

(6) Until the municipality is incorporated, the county clerk:

(a) is the election officer for all purposes related to the election of municipal officers;

(b) may, as necessary, determine appropriate deadlines, procedures, and instructions related to the election of municipal officers for a new municipality that are not otherwise contrary to law;

(c) shall require and determine deadlines for municipal office candidates to file campaign financial disclosures in accordance with Section 10-3-208; and

(d) shall ensure that the ballot for the election includes each office that is required to be included in the election for officers of the newly incorporated municipality, including the term of each office.

(7) An individual who has filed as a candidate for an office described in this section shall comply with:

(a) the campaign finance disclosure requirements described in Section 10-3-208; and

(b) the requirements and deadlines established by the county clerk under this section.

(8) Notwithstanding Section 10-3-201, the officers elected at a final election described in Subsection (4)(a) shall take office:

(a) after taking the oath of office; and

(b) at noon on the first Monday following the day on which the election official transmits a certificate of nomination or election under the officer's seal to each elected candidate in accordance with Subsection 20A-4-304(4)(b).

Section 25. Section 10-2a-404 is amended to read:

10-2a-404. Election.

(1) (a) Notwithstanding Section 20A-1-203, a county of the first class shall hold a local special election on November 3, 2015, on the following ballot propositions:

(i) for registered voters residing within a planning township:

(A) whether the planning township shall be incorporated as a city or town, according to the classifications of Section 10-2-301, or as a metro township; and

(B) if the planning township incorporates as a metro township, whether the metro township is included in a municipal services district; and

(ii) for registered voters residing within an unincorporated island, whether the island should maintain its unincorporated status or be annexed into an eligible city.

(b) (i) A metro township incorporated under this part shall be governed by the five-member council in accordance with Chapter 3b, Part 5, Metro Township Council Form of Municipal Government.

(ii) A city or town incorporated under this part shall be governed by the five-member council form of government as defined in Section 10-3b-102.

(2) Unless a person is a registered voter who resides, as defined in Section 20A-1-102, within the boundaries of a planning township or an unincorporated island, the person may not vote on the proposed incorporation or annexation.

(3) The county clerk shall [~~publish~~] post notice of the election on the Utah Public Notice Website, created in Section [~~63F-1-701~~] 63A-12-201, for three weeks before the election.

(4) The notice required by Subsection (3) shall contain:

(a) for residents of a planning township:

(i) a statement that the voters will vote:

(A) to incorporate as a city or town, according to the classifications of Section 10-2-301, or as a metro township; and

(B) if the planning township incorporates as a metro township, whether the metro township is included in a municipal services district;

(ii) if applicable under Subsection 10-2a-405(5), a map showing the alteration to the planning township boundaries that would be effective upon incorporation;

(iii) a statement that if the residents of the planning township elect to incorporate:

(A) as a metro township, the metro township shall be governed by a five-member metro township council in accordance with Chapter 3b, Part 5, Metro Township Council Form of Municipal Government; or

(B) as a city or town, the city or town shall be governed by the five-member council form of government as defined in Section 10-3b-102; and

(iv) a statement of the date and time of the election and the location of polling places;

(b) for residents of an unincorporated island:

(i) a statement that the voters will vote either to be annexed into an eligible city or maintain unincorporated status; and

(ii) a statement of the eligible city, as determined by the county legislative body in accordance with Section 10-2a-405, the unincorporated island may elect to be annexed by; and

(c) a statement of the date and time of the election and the location of polling places.

(5) (a) In addition to the notice required under Subsection (3), the county clerk shall post at least one notice of the election per 1,000 population in conspicuous places within the planning township or unincorporated island that are most likely to give notice of the election to the voters of the proposed incorporation or annexation, subject to a maximum of 10 notices.

(b) The clerk shall post the notices under Subsection (5)(a) at least seven days before the election under Subsection (1).

(6) (a) In a planning township, if a majority of those casting votes within the planning township vote to:

(i) incorporate as a city or town, the planning township shall incorporate as a city or town, respectively; or

(ii) incorporate as a metro township, the planning township shall incorporate as a metro township.

(b) If a majority of those casting votes within the planning township vote to incorporate as a metro township, and a majority of those casting votes vote to include the metro township in a municipal services district and limit the metro township's municipal powers, the metro township shall be included in a municipal services district and have limited municipal powers.

(c) In an unincorporated island, if a majority of those casting a vote within the selected unincorporated island vote to:

(i) be annexed by the eligible city, the area shall be annexed by the eligible city; or

(ii) remain an unincorporated area, the area shall remain unincorporated.

(7) The county shall, in consultation with interested parties, prepare and provide information on an annexation or incorporation subject to this part and an election held in accordance with this section.

Section 26. Section 10-2a-405 (Superseded 07/01/21) is amended to read:

10-2a-405 (Superseded 07/01/21). Duties of county legislative body -- Public hearing -- Notice -- Other election and incorporation issues -- Rural real property excluded.

(1) The legislative body of a county of the first class shall before an election described in Section 10-2a-404:

(a) in accordance with Subsection (3), [~~publish~~] provide notice of the public hearing described in Subsection (1)(b);

(b) hold a public hearing; and

(c) at the public hearing, adopt a resolution:

(i) identifying, including a map prepared by the county surveyor, all unincorporated islands within the county;

(ii) identifying each eligible city that will annex each unincorporated island, including whether the unincorporated island may be annexed by one eligible city or divided and annexed by multiple eligible cities, if approved by the residents at an election under Section 10-2a-404; and

(iii) identifying, including a map prepared by the county surveyor, the planning townships within the county and any changes to the boundaries of a planning township that the county legislative body proposes under Subsection (5).

(2) The county legislative body shall exclude from a resolution adopted under Subsection (1)(c) rural real property unless the owner of the rural real property provides written consent to include the property in accordance with Subsection (7).

(3) (a) The county clerk shall [~~publish~~] provide notice of the public hearing described in Subsection (1)(b):

(i) by mailing notice to each owner of real property located in an unincorporated island or planning township no later than 15 days before the day of the public hearing;

(ii) by posting notice on the Utah Public Notice Website, created in Section 63A-12-201, for three weeks before the day of the public hearing; and

(iii) by posting at least one notice of the hearing per 1,000 population in conspicuous places within the selected unincorporated island, eligible city, or planning township, as applicable, that are most likely to give notice of the hearing to the residents of the unincorporated island, eligible city, or planning township, subject to a maximum of 10 notices.

(b) The clerk shall post the notices under Subsection (3)(a)(iii) at least seven days before the hearing under Subsection (1)(b).

(c) The notice under Subsection (3)(a) shall include:

(i) (A) for a resident of an unincorporated island, a statement that the property in the unincorporated island may be, if approved at an election under Section 10-2a-404, annexed by an eligible city, including divided and annexed by multiple cities if applicable, and the name of the eligible city or cities; or

(B) for residents of a planning township, a statement that the property in the planning township shall be, pending the results of the election held under Section 10-2a-404, incorporated as a city, town, or metro township;

(ii) the location and time of the public hearing; and

(iii) the county website where a map may be accessed showing:

(A) how the unincorporated island boundaries will change if annexed by an eligible city; or

(B) how the planning township area boundaries will change, if applicable under Subsection (5), when the planning township incorporates as a metro township or as a city or town.

(d) The county clerk shall publish a map described in Subsection (3)(c)(iii) on the county website.

(4) The county legislative body may, by ordinance or resolution adopted at a public meeting and in accordance with applicable law, resolve an issue that arises with an election held in accordance with this part or the incorporation and establishment of a metro township in accordance with this part.

(5) (a) The county legislative body may, by ordinance or resolution adopted at a public meeting, change the boundaries of a planning township.

(b) A change to a planning township boundary under this Subsection (5) is effective only upon the vote of the residents of the planning township at an election under Section 10-2a-404 to incorporate as a metro township or as a city or town and does not affect the boundaries of the planning township before the election.

(c) The county legislative body:

(i) may alter a planning township boundary under Subsection (5)(a) only if the alteration:

(A) affects less than 5% of the residents residing within the planning advisory area; and

(B) does not increase the area located within the planning township's boundaries; and

(ii) may not alter the boundaries of a planning township whose boundaries are entirely surrounded by one or more municipalities.

(6) After November 2, 2015, and before January 1, 2017, a person may not initiate an annexation or an incorporation process that, if approved, would change the boundaries of a planning township.

(7) (a) As used in this Subsection (7), "rural real property" means an area:

(i) zoned primarily for manufacturing, commercial, or agricultural purposes; and

(ii) that does not include residential units with a density greater than one unit per acre.

(b) Unless an owner of rural real property gives written consent to a county legislative body, rural real property described in Subsection (7)(c) may not be:

(i) included in a planning township identified under Subsection (1)(c); or

(ii) incorporated as part of a metro township, city, or town, in accordance with this part.

(c) The following rural real property is subject to an owner's written consent under Subsection (7)(b):

(i) rural real property that consists of 1,500 or more contiguous acres of real property consisting of one or more tax parcels;

(ii) rural real property that is not contiguous to, but used in connection with, rural real property that consists of 1,500 or more contiguous acres of real property consisting of one or more tax parcels;

(iii) rural real property that is owned, managed, or controlled by a person, company, or association, including a parent, subsidiary, or affiliate related to the owner of 1,500 or more contiguous acres of rural real property consisting of one or more tax parcels; or

(iv) rural real property that is located in whole or in part in one of the following as defined in Section 17-41-101:

(A) an agricultural protection area;

(B) an industrial protection area; or

(C) a mining protection area.

Section 27. Section 10-2a-405 (Effective 07/01/21) is amended to read:

10-2a-405 (Effective 07/01/21). Duties of county legislative body -- Public hearing -- Notice -- Other election and incorporation issues -- Rural real property excluded.

(1) The legislative body of a county of the first class shall before an election described in Section 10-2a-404:

(a) in accordance with Subsection (3), [~~publish~~] provide notice of the public hearing described in Subsection (1)(b);

(b) hold a public hearing; and

(c) at the public hearing, adopt a resolution:

(i) identifying, including a map prepared by the county surveyor, all unincorporated islands within the county;

(ii) identifying each eligible city that will annex each unincorporated island, including whether the unincorporated island may be annexed by one eligible city or divided and annexed by multiple eligible cities, if approved by the residents at an election under Section 10-2a-404; and

(iii) identifying, including a map prepared by the county surveyor, the planning townships within the county and any changes to the boundaries of a planning township that the county legislative body proposes under Subsection (5).

(2) The county legislative body shall exclude from a resolution adopted under Subsection (1)(c) rural real property unless the owner of the rural real property provides written consent to include the property in accordance with Subsection (7).

(3) (a) The county clerk shall [~~publish~~] provide notice of the public hearing described in Subsection (1)(b):

(i) by mailing notice to each owner of real property located in an unincorporated island or planning township no later than 15 days before the day of the public hearing;

(ii) by posting notice on the Utah Public Notice Website, created in Section 63A-16-601, for three weeks before the day of the public hearing; and

(iii) by posting at least one notice of the hearing per 1,000 population in conspicuous places within the selected unincorporated island, eligible city, or planning township, as applicable, that are most likely to give notice of the hearing to the residents of the unincorporated island, eligible city, or planning township, subject to a maximum of 10 notices.

(b) The clerk shall post the notices under Subsection (3)(a)(iii) at least seven days before the hearing under Subsection (1)(b).

(c) The notice under Subsection (3)(a) shall include:

(i) (A) for a resident of an unincorporated island, a statement that the property in the unincorporated

island may be, if approved at an election under Section 10-2a-404, annexed by an eligible city, including divided and annexed by multiple cities if applicable, and the name of the eligible city or cities; or

(B) for residents of a planning township, a statement that the property in the planning township shall be, pending the results of the election held under Section 10-2a-404, incorporated as a city, town, or metro township;

(ii) the location and time of the public hearing; and

(iii) the county website where a map may be accessed showing:

(A) how the unincorporated island boundaries will change if annexed by an eligible city; or

(B) how the planning township area boundaries will change, if applicable under Subsection (5), when the planning township incorporates as a metro township or as a city or town.

(d) The county clerk shall publish a map described in Subsection (3)(c)(iii) on the county website.

(4) The county legislative body may, by ordinance or resolution adopted at a public meeting and in accordance with applicable law, resolve an issue that arises with an election held in accordance with this part or the incorporation and establishment of a metro township in accordance with this part.

(5) (a) The county legislative body may, by ordinance or resolution adopted at a public meeting, change the boundaries of a planning township.

(b) A change to a planning township boundary under this Subsection (5) is effective only upon the vote of the residents of the planning township at an election under Section 10-2a-404 to incorporate as a metro township or as a city or town and does not affect the boundaries of the planning township before the election.

(c) The county legislative body:

(i) may alter a planning township boundary under Subsection (5)(a) only if the alteration:

(A) affects less than 5% of the residents residing within the planning advisory area; and

(B) does not increase the area located within the planning township's boundaries; and

(ii) may not alter the boundaries of a planning township whose boundaries are entirely surrounded by one or more municipalities.

(6) After November 2, 2015, and before January 1, 2017, a person may not initiate an annexation or an incorporation process that, if approved, would change the boundaries of a planning township.

(7) (a) As used in this Subsection (7), "rural real property" means an area:

(i) zoned primarily for manufacturing, commercial, or agricultural purposes; and

(ii) that does not include residential units with a density greater than one unit per acre.

(b) Unless an owner of rural real property gives written consent to a county legislative body, rural real property described in Subsection (7)(c) may not be:

(i) included in a planning township identified under Subsection (1)(c); or

(ii) incorporated as part of a metro township, city, or town, in accordance with this part.

(c) The following rural real property is subject to an owner's written consent under Subsection (7)(b):

(i) rural real property that consists of 1,500 or more contiguous acres of real property consisting of one or more tax parcels;

(ii) rural real property that is not contiguous to, but used in connection with, rural real property that consists of 1,500 or more contiguous acres of real property consisting of one or more tax parcels;

(iii) rural real property that is owned, managed, or controlled by a person, company, or association, including a parent, subsidiary, or affiliate related to the owner of 1,500 or more contiguous acres of rural real property consisting of one or more tax parcels; or

(iv) rural real property that is located in whole or in part in one of the following as defined in Section 17-41-101:

(A) an agricultural protection area;

(B) an industrial protection area; or

(C) a mining protection area.

Section 28. Section 10-2a-410 is amended to read:

10-2a-410. Determination of metro township districts -- Determination of metro township or city initial officer terms -- Adoption of proposed districts.

(1) (a) If a metro township with a population of 10,000 or more is incorporated in accordance with an election held under Section 10-2a-404:

(i) each of the five metro township council members shall be elected by district; and

(ii) the boundaries of the five council districts for election and the terms of office shall be designated and determined in accordance with this section.

(b) If a metro township with a population of less than 10,000 or a town is incorporated at an election held in accordance with Section 10-2a-404, the five council members shall be elected at-large for terms as designated and determined in accordance with this section.

(c) If a city is incorporated at an election held in accordance with Section 10-2a-404:

(i) (A) the four members of the council district who are not the mayor shall be elected by district; and

(B) the boundaries of the four council districts for election and the term of office shall be designated and determined in accordance with this section; and

(ii) the mayor shall be elected at-large for a term designated and determined in accordance with this section.

(2) (a) No later than 90 days after the election day on which the metro township, city, or town is successfully incorporated under this part, the legislative body of the county in which the metro township, city, or town is located shall adopt by resolution:

(i) subject to Subsection (2)(b), for each incorporated metro township, city, or town, the council terms for a length of time in accordance with this section; and

(ii) (A) for a metro township with a population of 10,000 or more, the boundaries of the five council districts; and

(B) for a city, the boundaries of the four council districts.

(b) (i) For each metro township, city, or town, the county legislative body shall set the initial terms of the members of the metro township council, city council, or town council so that:

(A) except as provided in Subsection (2)(b)(ii), approximately half the members of the council, including the mayor in the case of a city, are elected to serve an initial term, of no less than one year, that allows their successors to serve a full four-year term that coincides with the schedule established in Subsection 10-3-205(1); and

(B) the remaining members of the council are elected to serve an initial term, of no less than one year, that allows their successors to serve a full four-year term that coincides with the schedule established in Subsection 10-3-205(2).

(ii) For a city that incorporated in a county of the first class in 2016, the term of office for the office of mayor is:

(A) three years for the initial term of office; and

(B) four years for each subsequent term of office.

(iii) For a metro township with a population of 10,000 or more, the county legislative body shall divide the metro township into five council districts that comply with Section 10-3-205.5.

(iv) For a city, the county legislative body shall divide the city into four council districts that comply with Section 10-3-205.5.

(3) (a) Within 20 days of the county legislative body's adoption of a resolution under Subsection (2), the county clerk shall [~~publish~~] provide a notice, in accordance with Subsection (3)(b), [~~notice~~] containing:

(i) if applicable, a description of the boundaries, as designated in the resolution, of:

(A) for a metro township with a population of 10,000 or more, the metro township council districts; or

(B) the city council districts;

(ii) information about the deadline for filing a declaration of candidacy for those seeking to become candidates for metro township council, city council, town council, or city mayor, respectively; and

(iii) information about the length of the initial term of city mayor or each of the metro township, city, or town council offices, as described in the resolution.

(b) The county clerk shall [~~publish~~] provide the notice required under Subsection (3)(a):

(i) by posting notice on the Utah Public Notice Website, created in Section [~~63F-1-701~~] 63A-12-201, for two weeks; and

(ii) by posting at least one notice per 1,000 population in conspicuous places within the future metro township, city, or town that are most likely to give notice to the residents of the future metro township, city, or town, subject to a maximum of 10 notices.

(c) The notice under Subsection (3)(b)(ii) shall contain the information required under Subsection (3)(a).

(d) The county clerk shall post the notices under Subsection (3)(b)(ii) at least seven days before the deadline for filing a declaration of candidacy under Subsection (4).

(4) A person seeking to become a candidate for metro township, city, or town council or city mayor shall, in accordance with Section 20A-9-202, file a declaration of candidacy with the clerk of the county in which the metro township, city, or town is located for an election described in Section 10-2a-411.

Section 29. Section 10-18-203 (Superseded 07/01/21) is amended to read:

10-18-203 (Superseded 07/01/21). Feasibility study on providing cable television or public telecommunications services -- Public hearings.

(1) If a feasibility consultant is hired under Section 10-18-202, the legislative body of the municipality shall require the feasibility consultant to:

(a) complete the feasibility study in accordance with this section;

(b) submit to the legislative body by no later than 180 days from the date the feasibility consultant is hired to conduct the feasibility study:

(i) the full written results of the feasibility study; and

(ii) a summary of the results that is no longer than one page in length; and

(c) attend the public hearings described in Subsection (4) to:

(i) present the feasibility study results; and

(ii) respond to questions from the public.

(2) The feasibility study described in Subsection (1) shall at a minimum consider:

(a) (i) if the municipality is proposing to provide cable television services to subscribers, whether the municipality providing cable television services in the manner proposed by the municipality will hinder or advance competition for cable television services in the municipality; or

(ii) if the municipality is proposing to provide public telecommunications services to subscribers, whether the municipality providing public telecommunications services in the manner proposed by the municipality will hinder or advance competition for public telecommunications services in the municipality;

(b) whether but for the municipality any person would provide the proposed:

(i) cable television services; or

(ii) public telecommunications services;

(c) the fiscal impact on the municipality of:

(i) the capital investment in facilities that will be used to provide the proposed:

(A) cable television services; or

(B) public telecommunications services; and

(ii) the expenditure of funds for labor, financing, and administering the proposed:

(A) cable television services; or

(B) public telecommunications services;

(d) the projected growth in demand in the municipality for the proposed:

(i) cable television services; or

(ii) public telecommunications services;

(e) the projections at the time of the feasibility study and for the next five years, of a full-cost accounting for a municipality to purchase, lease, construct, maintain, or operate the facilities necessary to provide the proposed:

(i) cable television services; or

(ii) public telecommunications services; and

(f) the projections at the time of the feasibility study and for the next five years of the revenues to be generated from the proposed:

(i) cable television services; or

(ii) public telecommunications services.

(3) For purposes of the financial projections required under Subsections (2)(e) and (f), the feasibility consultant shall assume that the municipality will price the proposed cable television services or public telecommunications services consistent with Subsection 10-18-303(5).

(4) If the results of the feasibility study satisfy the revenue requirement of Subsection 10-18-202(3), the legislative body, at the next regular meeting after the legislative body receives the results of the feasibility study, shall schedule at least two public hearings to be held:

(a) within 60 days of the meeting at which the public hearings are scheduled;

(b) at least seven days apart; and

(c) for the purpose of allowing:

(i) the feasibility consultant to present the results of the feasibility study; and

(ii) the public to:

(A) become informed about the feasibility study results; and

(B) ask questions of the feasibility consultant about the results of the feasibility study.

(5) (a) The municipality shall [~~publish~~] provide notice of the public hearings required under Subsection (4) by:

(i) posting the notice on the Utah Public Notice Website, created in Section 63A-12-201, for three weeks, at least three days before the first public hearing required under Subsection (4); and

(ii) posting at least one notice of the hearings per 1,000 residents, in a conspicuous place within the municipality that is likely to give notice of the hearings to the greatest number of residents of the municipality, subject to a maximum of 10 notices.

(b) The municipality shall post the notices at least seven days before the first public hearing required under Subsection (4) is held.

Section 30. Section 10-18-203 (Effective 07/01/21) is amended to read:

10-18-203 (Effective 07/01/21). Feasibility study on providing cable television or public telecommunications services -- Public hearings.

(1) If a feasibility consultant is hired under Section 10-18-202, the legislative body of the municipality shall require the feasibility consultant to:

(a) complete the feasibility study in accordance with this section;

(b) submit to the legislative body by no later than 180 days from the date the feasibility consultant is hired to conduct the feasibility study:

(i) the full written results of the feasibility study; and

(ii) a summary of the results that is no longer than one page in length; and

(c) attend the public hearings described in Subsection (4) to:

(i) present the feasibility study results; and

(ii) respond to questions from the public.

(2) The feasibility study described in Subsection (1) shall at a minimum consider:

(a) (i) if the municipality is proposing to provide cable television services to subscribers, whether the municipality providing cable television services in the manner proposed by the municipality will hinder or advance competition for cable television services in the municipality; or

(ii) if the municipality is proposing to provide public telecommunications services to subscribers, whether the municipality providing public telecommunications services in the manner proposed by the municipality will hinder or advance competition for public telecommunications services in the municipality;

(b) whether but for the municipality any person would provide the proposed:

(i) cable television services; or

(ii) public telecommunications services;

(c) the fiscal impact on the municipality of:

(i) the capital investment in facilities that will be used to provide the proposed:

(A) cable television services; or

(B) public telecommunications services; and

(ii) the expenditure of funds for labor, financing, and administering the proposed:

(A) cable television services; or

(B) public telecommunications services;

(d) the projected growth in demand in the municipality for the proposed:

(i) cable television services; or

(ii) public telecommunications services;

(e) the projections at the time of the feasibility study and for the next five years, of a full-cost accounting for a municipality to purchase, lease, construct, maintain, or operate the facilities necessary to provide the proposed:

(i) cable television services; or

(ii) public telecommunications services; and

(f) the projections at the time of the feasibility study and for the next five years of the revenues to be generated from the proposed:

(i) cable television services; or

(ii) public telecommunications services.

(3) For purposes of the financial projections required under Subsections (2)(e) and (f), the feasibility consultant shall assume that the municipality will price the proposed cable television services or public telecommunications services consistent with Subsection 10-18-303(5).

(4) If the results of the feasibility study satisfy the revenue requirement of Subsection 10-18-202(3), the legislative body, at the next regular meeting after the legislative body receives the results of the feasibility study, shall schedule at least two public hearings to be held:

(a) within 60 days of the meeting at which the public hearings are scheduled;

(b) at least seven days apart; and

(c) for the purpose of allowing:

(i) the feasibility consultant to present the results of the feasibility study; and

(ii) the public to:

(A) become informed about the feasibility study results; and

(B) ask questions of the feasibility consultant about the results of the feasibility study.

(5) (a) The municipality shall [~~publish~~] provide notice of the public hearings required under Subsection (4) by:

(i) posting the notice on the Utah Public Notice Website, created in Section 63A-16-601, for three weeks, at least three days before the first public hearing required under Subsection (4); and

(ii) posting at least one notice of the hearings per 1,000 residents, in a conspicuous place within the municipality that is likely to give notice of the hearings to the greatest number of residents of the municipality, subject to a maximum of 10 notices.

(b) The municipality shall post the notices at least seven days before the first public hearing required under Subsection (4) is held.

Section 31. Section 11-14-202 (Superseded 07/01/21) is amended to read:

11-14-202 (Superseded 07/01/21). Notice of election -- Voter information pamphlet option -- Changing or designating additional precinct polling places.

(1) The governing body shall [~~publish~~] provide notice of the election:

(a) (i) at least 21 days before the day of the election, by posting one notice, and at least one additional notice per 2,000 population of the local political subdivision, in places within the local political subdivision that are most likely to give notice to the voters in the local political subdivision, subject to a maximum of 10 notices; or

(ii) at least three weeks before the day of the election, by mailing notice to each registered voter in the local political subdivision;

(b) by posting notice on the Utah Public Notice Website, created in Section 63A-12-201, for three weeks before the day of the election; and

(c) if the local political subdivision has a website, by posting notice on the local political subdivision's website for at least three weeks before the day of the election.

(2) When the debt service on the bonds to be issued will increase the property tax imposed upon the average value of a residence by an amount that is greater than or equal to $15 per year, the governing body shall prepare and mail either a voter information pamphlet or a notification described in Subsection (8):

(a) at least 15 days, but not more than 45 days, before the bond election;

(b) to each household containing a registered voter who is eligible to vote on the bonds; and

(c) that includes the information required by Subsections (4) and (5).

(3) The election officer may change the location of, or establish an additional:

(a) voting precinct polling place, in accordance with Subsection (6);

(b) early voting polling place, in accordance with Subsection 20A-3a-603(2); or

(c) election day voting center, in accordance with Subsection 20A-3a-703(2).

(4) The notice described in Subsection (1) and the voter information pamphlet described in Subsection (2):

(a) shall include, in the following order:

(i) the date of the election;

(ii) the hours during which the polls will be open;

(iii) the address of the Statewide Electronic Voter Information Website and, if available, the address of the election officer's website, with a statement indicating that the election officer will post on the website the location of each polling place for each voting precinct, each early voting polling place, and each election day voting center, including any changes to the location of a polling place and the location of an additional polling place;

(iv) a phone number that a voter may call to obtain information regarding the location of a polling place; and

(v) the title and text of the ballot proposition, including the property tax cost of the bond described in Subsection 11-14-206(2)(a); and

(b) may include the location of each polling place.

(5) The voter information pamphlet required by this section shall include:

(a) the information required under Subsection (4); and

(b) an explanation of the property tax impact, if any, of the issuance of the bonds, which may be based on information the governing body determines to be useful, including:

(i) expected debt service on the bonds to be issued;

(ii) a description of the purpose, remaining principal balance, and maturity date of any outstanding general obligation bonds of the issuer;

(iii) funds other than property taxes available to pay debt service on general obligation bonds;

(iv) timing of expenditures of bond proceeds;

(v) property values; and

(vi) any additional information that the governing body determines may be useful to explain the property tax impact of issuance of the bonds.

(6) (a) Except as provided in Section 20A-1-308, the election officer may, after the deadlines described in Subsections (1) and (2):

(i) if necessary, change the location of a voting precinct polling place; or

(ii) if the election officer determines that the number of voting precinct polling places is insufficient due to the number of registered voters who are voting, designate additional voting precinct polling places.

(b) Except as provided in Section 20A-1-308, if an election officer changes the location of a voting precinct polling place or designates an additional voting precinct polling place, the election officer shall, as soon as is reasonably possible, give notice of the dates, times, and location of a changed voting precinct polling place or an additional voting precinct polling place:

(i) to the lieutenant governor, for posting on the Statewide Electronic Voter Information Website;

(ii) by posting the information on the website of the election officer, if available; and

(iii) by posting notice:

(A) of a change in the location of a voting precinct polling place, at the new location and, if possible, the old location; and

(B) of an additional voting precinct polling place, at the additional voting precinct polling place.

(7) The governing body shall pay the costs associated with the notice required by this section.

(8) (a) The governing body may mail a notice printed on a postage prepaid, preaddressed return form that a person may use to request delivery of a voter information pamphlet by mail.

(b) The notice described in Subsection (8)(a) shall include:

(i) the website upon which the voter information pamphlet is available; and

(ii) the phone number a voter may call to request delivery of a voter information pamphlet by mail.

(9) A local school board shall comply with the voter information pamphlet requirements described in Section 53G-4-603.

Section 32. Section 11-14-202 (Effective 07/01/21) is amended to read:

11-14-202 (Effective 07/01/21). Notice of election -- Voter information pamphlet option -- Changing or designating additional precinct polling places.

(1) The governing body shall [~~publish~~] provide notice of the election:

(a) (i) at least 21 days before the day of the election, by posting one notice, and at least one additional notice per 2,000 population of the local

political subdivision, in places within the local political subdivision that are most likely to give notice to the voters in the local political subdivision, subject to a maximum of 10 notices; or

(ii) at least three weeks before the day of the election, by mailing notice to each registered voter in the local political subdivision;

(b) by posting notice on the Utah Public Notice Website, created in Section 63A-16-601, for three weeks before the day of the election; and

(c) if the local political subdivision has a website, by posting notice on the local political subdivision's website for at least three weeks before the day of the election.

(2) When the debt service on the bonds to be issued will increase the property tax imposed upon the average value of a residence by an amount that is greater than or equal to $15 per year, the governing body shall prepare and mail either a voter information pamphlet or a notification described in Subsection (8):

(a) at least 15 days, but not more than 45 days, before the bond election;

(b) to each household containing a registered voter who is eligible to vote on the bonds; and

(c) that includes the information required by Subsections (4) and (5).

(3) The election officer may change the location of, or establish an additional:

(a) voting precinct polling place, in accordance with Subsection (6);

(b) early voting polling place, in accordance with Subsection 20A-3a-603(2); or

(c) election day voting center, in accordance with Subsection 20A-3a-703(2).

(4) The notice described in Subsection (1) and the voter information pamphlet described in Subsection (2):

(a) shall include, in the following order:

(i) the date of the election;

(ii) the hours during which the polls will be open;

(iii) the address of the Statewide Electronic Voter Information Website and, if available, the address of the election officer's website, with a statement indicating that the election officer will post on the website the location of each polling place for each voting precinct, each early voting polling place, and each election day voting center, including any changes to the location of a polling place and the location of an additional polling place;

(iv) a phone number that a voter may call to obtain information regarding the location of a polling place; and

(v) the title and text of the ballot proposition, including the property tax cost of the bond described in Subsection 11-14-206(2)(a); and

(b) may include the location of each polling place.

(5) The voter information pamphlet required by this section shall include:

(a) the information required under Subsection (4); and

(b) an explanation of the property tax impact, if any, of the issuance of the bonds, which may be based on information the governing body determines to be useful, including:

(i) expected debt service on the bonds to be issued;

(ii) a description of the purpose, remaining principal balance, and maturity date of any outstanding general obligation bonds of the issuer;

(iii) funds other than property taxes available to pay debt service on general obligation bonds;

(iv) timing of expenditures of bond proceeds;

(v) property values; and

(vi) any additional information that the governing body determines may be useful to explain the property tax impact of issuance of the bonds.

(6) (a) Except as provided in Section 20A-1-308, the election officer may, after the deadlines described in Subsections (1) and (2):

(i) if necessary, change the location of a voting precinct polling place; or

(ii) if the election officer determines that the number of voting precinct polling places is insufficient due to the number of registered voters who are voting, designate additional voting precinct polling places.

(b) Except as provided in Section 20A-1-308, if an election officer changes the location of a voting precinct polling place or designates an additional voting precinct polling place, the election officer shall, as soon as is reasonably possible, give notice of the dates, times, and location of a changed voting precinct polling place or an additional voting precinct polling place:

(i) to the lieutenant governor, for posting on the Statewide Electronic Voter Information Website;

(ii) by posting the information on the website of the election officer, if available; and

(iii) by posting notice:

(A) of a change in the location of a voting precinct polling place, at the new location and, if possible, the old location; and

(B) of an additional voting precinct polling place, at the additional voting precinct polling place.

(7) The governing body shall pay the costs associated with the notice required by this section.

(8) (a) The governing body may mail a notice printed on a postage prepaid, preaddressed return form that a person may use to request delivery of a voter information pamphlet by mail.

(b) The notice described in Subsection (8)(a) shall include:

(i) the website upon which the voter information pamphlet is available; and

(ii) the phone number a voter may call to request delivery of a voter information pamphlet by mail.

(9) A local school board shall comply with the voter information pamphlet requirements described in Section 53G-4-603.

Section 33. Section 17B-1-643 (Superseded 07/01/21) is amended to read:

17B-1-643 (Superseded 07/01/21). Imposing or increasing a fee for service provided by local district.

(1) (a) Before imposing a new fee or increasing an existing fee for a service provided by a local district, each local district board of trustees shall first hold a public hearing at which:

(i) the local district shall demonstrate its need to impose or increase the fee; and

(ii) any interested person may speak for or against the proposal to impose a fee or to increase an existing fee.

(b) Each public hearing under Subsection (1)(a) shall be held in the evening beginning no earlier than 6 p.m.

(c) A public hearing required under this Subsection (1) may be combined with a public hearing on a tentative budget required under Section 17B-1-610.

(d) Except to the extent that this section imposes more stringent notice requirements, the local district board shall comply with Title 52, Chapter 4, Open and Public Meetings Act, in holding the public hearing under Subsection (1)(a).

(2) (a) Each local district board shall give notice of a hearing under Subsection (1) as provided in Subsections (2)(b) and (c) or Subsection (2)(d).

(b) The local district board shall:

(i) post the notice required under Subsection (2)(a) on the Utah Public Notice Website [~~established~~], created in Section 63A-12-201; and

(ii) post at least one of the notices required under Subsection (2)(a) per 1,000 population within the local district, at places within the local district that are most likely to provide actual notice to residents within the local district, subject to a maximum of 10 notices.

(c) The notice described in Subsection (2)(b) shall state that the local district board intends to impose or increase a fee for a service provided by the local district and will hold a public hearing on a certain day, time, and place fixed in the notice, which shall be not less than seven days after the day the first notice is published, for the purpose of hearing comments regarding the proposed imposition or increase of a fee and to explain the reasons for the proposed imposition or increase.

(d) (i) In lieu of providing notice under Subsection (2)(b), the local district board of trustees may give the notice required under Subsection (2)(a) by mailing the notice to those within the district who:

(A) will be charged the fee for a district service, if the fee is being imposed for the first time; or

(B) are being charged a fee, if the fee is proposed to be increased.

(ii) Each notice under Subsection (2)(d)(i) shall comply with Subsection (2)(c).

(iii) A notice under Subsection (2)(d)(i) may accompany a district bill for an existing fee.

(e) If the hearing required under this section is combined with the public hearing required under Section 17B-1-610, the notice required under this Subsection (2):

(i) may be combined with the notice required under Section 17B-1-609; and

(ii) shall be posted or mailed in accordance with the notice provisions of this section.

(f) Proof that notice was given as provided in Subsection (2)(b) or (d) is prima facie evidence that notice was properly given.

(g) If no challenge is made to the notice given of a hearing required by Subsection (1) within 30 days after the date of the hearing, the notice is considered adequate and proper.

(3) After holding a public hearing under Subsection (1), a local district board may:

(a) impose the new fee or increase the existing fee as proposed;

(b) adjust the amount of the proposed new fee or the increase of the existing fee and then impose the new fee or increase the existing fee as adjusted; or

(c) decline to impose the new fee or increase the existing fee.

(4) This section applies to each new fee imposed and each increase of an existing fee that occurs on or after July 1, 1998.

(5) (a) This section does not apply to an impact fee.

(b) The imposition or increase of an impact fee is governed by Title 11, Chapter 36a, Impact Fees Act.

Section 34. Section 17B-1-643 (Effective 07/01/21) is amended to read:

17B-1-643 (Effective 07/01/21). Imposing or increasing a fee for service provided by local district.

(1) (a) Before imposing a new fee or increasing an existing fee for a service provided by a local district, each local district board of trustees shall first hold a public hearing at which:

(i) the local district shall demonstrate its need to impose or increase the fee; and

(ii) any interested person may speak for or against the proposal to impose a fee or to increase an existing fee.

(b) Each public hearing under Subsection (1)(a) shall be held in the evening beginning no earlier than 6 p.m.

(c) A public hearing required under this Subsection (1) may be combined with a public hearing on a tentative budget required under Section 17B-1-610.

(d) Except to the extent that this section imposes more stringent notice requirements, the local district board shall comply with Title 52, Chapter 4, Open and Public Meetings Act, in holding the public hearing under Subsection (1)(a).

(2) (a) Each local district board shall give notice of a hearing under Subsection (1) as provided in Subsections (2)(b) and (c) or Subsection (2)(d).

(b) The local district board shall:

(i) post the notice required under Subsection (2)(a) on the Utah Public Notice Website [~~established~~], created in Section 63A-16-601; and

(ii) post at least one of the notices required under Subsection (2)(a) per 1,000 population within the local district, at places within the local district that are most likely to provide actual notice to residents within the local district, subject to a maximum of 10 notices.

(c) The notice described in Subsection (2)(b) shall state that the local district board intends to impose or increase a fee for a service provided by the local district and will hold a public hearing on a certain day, time, and place fixed in the notice, which shall be not less than seven days after the day the first notice is published, for the purpose of hearing comments regarding the proposed imposition or increase of a fee and to explain the reasons for the proposed imposition or increase.

(d) (i) In lieu of providing notice under Subsection (2)(b), the local district board of trustees may give the notice required under Subsection (2)(a) by mailing the notice to those within the district who:

(A) will be charged the fee for a district service, if the fee is being imposed for the first time; or

(B) are being charged a fee, if the fee is proposed to be increased.

(ii) Each notice under Subsection (2)(d)(i) shall comply with Subsection (2)(c).

(iii) A notice under Subsection (2)(d)(i) may accompany a district bill for an existing fee.

(e) If the hearing required under this section is combined with the public hearing required under Section 17B-1-610, the notice required under this Subsection (2):

(i) may be combined with the notice required under Section 17B-1-609; and

(ii) shall be posted or mailed in accordance with the notice provisions of this section.

(f) Proof that notice was given as provided in Subsection (2)(b) or (d) is prima facie evidence that notice was properly given.

(g) If no challenge is made to the notice given of a hearing required by Subsection (1) within 30 days after the date of the hearing, the notice is considered adequate and proper.

(3) After holding a public hearing under Subsection (1), a local district board may:

(a) impose the new fee or increase the existing fee as proposed;

(b) adjust the amount of the proposed new fee or the increase of the existing fee and then impose the new fee or increase the existing fee as adjusted; or

(c) decline to impose the new fee or increase the existing fee.

(4) This section applies to each new fee imposed and each increase of an existing fee that occurs on or after July 1, 1998.

(5) (a) This section does not apply to an impact fee.

(b) The imposition or increase of an impact fee is governed by Title 11, Chapter 36a, Impact Fees Act.

Section 35. Section 17B-2a-705 (Superseded 07/01/21) is amended to read:

17B-2a-705 (Superseded 07/01/21). Taxation -- Additional levy -- Election.

(1) If a mosquito abatement district board of trustees determines that the funds required during the next ensuing fiscal year will exceed the maximum amount that the district is authorized to levy under Subsection 17B-1-103(2)(g), the board of trustees may call an election on a date specified in Section 20A-1-204 and submit to district voters the question of whether the district should be authorized to impose an additional tax to raise the necessary additional funds.

(2) The board shall [~~publish~~] provide notice of the election:

(a) (i) by posting one notice, and at least one additional notice per 2,000 population of the district, in places within the district that are most likely to give notice to the voters in the district, subject to a maximum of 10 notices; or

(ii) at least four weeks before the day of the election, by mailing notice to each registered voter in the district;

(b) by posting notice on the Utah Public Notice Website, created in Section 63A-12-201, for four weeks before the day of the election; and

(c) if the district has a website, by posting notice on the district's website for four weeks before the day of the election.

(3) No particular form of ballot is required, and no informalities in conducting the election may invalidate the election, if it is otherwise fairly conducted.

(4) At the election each ballot shall contain the words, "Shall the district be authorized to impose an additional tax to raise the additional sum of $____?"

(5) The board of trustees shall canvass the votes cast at the election, and, if a majority of the votes

cast are in favor of the imposition of the tax, the district is authorized to impose an additional levy to raise the additional amount of money required.

Section 36. Section 17B-2a-705 (Effective 07/01/21) is amended to read:

17B-2a-705 (Effective 07/01/21). Taxation -- Additional levy -- Election.

(1) If a mosquito abatement district board of trustees determines that the funds required during the next ensuing fiscal year will exceed the maximum amount that the district is authorized to levy under Subsection 17B-1-103(2)(g), the board of trustees may call an election on a date specified in Section 20A-1-204 and submit to district voters the question of whether the district should be authorized to impose an additional tax to raise the necessary additional funds.

(2) The board shall [~~publish~~] provide notice of the election:

(a) (i) by posting one notice, and at least one additional notice per 2,000 population of the district, in places within the district that are most likely to give notice to the voters in the district, subject to a maximum of 10 notices; or

(ii) at least four weeks before the day of the election, by mailing notice to each registered voter in the district;

(b) by posting notice on the Utah Public Notice Website, created in Section 63A-16-601, for four weeks before the day of the election; and

(c) if the district has a website, by posting notice on the district's website for four weeks before the day of the election.

(3) No particular form of ballot is required, and no informalities in conducting the election may invalidate the election, if it is otherwise fairly conducted.

(4) At the election each ballot shall contain the words, "Shall the district be authorized to impose an additional tax to raise the additional sum of $____?"

(5) The board of trustees shall canvass the votes cast at the election, and, if a majority of the votes cast are in favor of the imposition of the tax, the district is authorized to impose an additional levy to raise the additional amount of money required.

Section 37. Section 20A-1-206 is amended to read:

20A-1-206. Cancellation of local election -- Municipalities -- Local districts -- Notice.

(1) A municipal legislative body may cancel a local election if:

(a) (i) (A) all municipal officers are elected in an at-large election under Subsection 10-3-205.5(1); and

(B) the number of municipal officer candidates, including any eligible write-in candidates under Section 20A-9-601, for the at-large municipal offices does not exceed the number of open at-large municipal offices for which the candidates have filed; or

(ii) (A) the municipality has adopted an ordinance under Subsection 10-3-205.5(2);

(B) the number of municipal officer candidates, including any eligible write-in candidates under Section 20A-9-601, for the at-large municipal offices, if any, does not exceed the number of open at-large municipal offices for which the candidates have filed; and

(C) each municipal officer candidate, including any eligible write-in candidates under Section 20A-9-601, in each district is unopposed;

(b) there are no other municipal ballot propositions; and

(c) the municipal legislative body passes, no later than 20 days before the day of the scheduled election, a resolution that cancels the election and certifies that:

(i) each municipal officer candidate is:

(A) unopposed; or

(B) a candidate for an at-large municipal office for which the number of candidates does not exceed the number of open at-large municipal offices; and

(ii) a candidate described in Subsection (1)(c)(i) is considered to be elected to office.

(2) A municipal legislative body that cancels a local election in accordance with Subsection (1) shall give notice that the election is cancelled by:

(a) subject to Subsection (5), posting notice on the Statewide Electronic Voter Information Website as described in Section 20A-7-801, for 15 consecutive days before the day of the scheduled election;

(b) if the municipality has a public website, posting notice on the municipality's public website for 15 days before the day of the scheduled election;

(c) if the [~~municipality publishes a~~] elected officials or departments of the municipality regularly publish a printed or electronic newsletter or other periodical, publishing notice in the next scheduled newsletter or other periodical published before the day of the scheduled election;

(d) (i) publishing notice at least twice in a newspaper of general circulation in the municipality before the day of the scheduled election;

[~~(d) (i)~~] (ii) at least 10 days before the day of the scheduled election, posting one notice, and at least one additional notice per 2,000 population within the municipality, in places within the municipality that are most likely to give notice to the voters in the municipality, subject to a maximum of 10 notices; or

[~~(ii)~~] (iii) at least 10 days before the day of the scheduled election, mailing notice to each registered voter in the municipality; and

(e) posting notice on the Utah Public Notice Website, created in Section [~~63F-1-701~~] 63A-12-201, for at least 10 days before the day of the scheduled election.

(3) A local district board may cancel an election as described in Section 17B-1-306 if:

(a) (i) (A) any local district officers are elected in an at-large election; and

(B) the number of local district officer candidates for the at-large local district offices, including any eligible write-in candidates under Section 20A-9-601, does not exceed the number of open at-large local district offices for which the candidates have filed; or

(ii) (A) the local district has divided the local district into divisions under Section 17B-1-306.5;

(B) the number of local district officer candidates, including any eligible write-in candidates under Section 20A-9-601, for the at-large local district offices within the local district, if any, does not exceed the number of open at-large local district offices for which the candidates have filed; and

(C) each local district officer candidate, including any eligible write-in candidates under Section 20A-9-601, in each division of the local district is unopposed;

(b) there are no other local district ballot propositions; and

(c) the local district governing body, no later than 20 days before the day of the scheduled election, adopts a resolution that cancels the election and certifies that:

(i) each local district officer candidate is:

(A) unopposed; or

(B) a candidate for an at-large local district office for which the number of candidates does not exceed the number of open at-large local district offices; and

(ii) a candidate described in Subsection (3)(c)(i) is considered to be elected to office.

(4) A local district that cancels a local election in accordance with Subsection (3) shall [~~publish~~] provide notice that the election is cancelled:

(a) subject to Subsection (5), by posting notice on the Statewide Electronic Voter Information Website as described in Section 20A-7-801, for 15 consecutive days before the day of the scheduled election;

(b) if the local district has a public website, by posting notice on the local district's public website for 15 days before the day of the scheduled election;

(c) if the local district publishes a newsletter or other periodical, by publishing notice in the next scheduled newsletter or other periodical published before the day of the scheduled election;

(d) (i) by publishing notice at least twice in a newspaper of general circulation in the local district before the scheduled election;

[~~(d)~~] (ii) at least 10 days before the day of the scheduled election[~~: (i)~~], by posting one notice, and at least one additional notice per 2,000 population of the local district, in places within the local district that are most likely to give notice to the voters in the local district, subject to a maximum of 10 notices; or

[~~(ii)~~] (iii) at least 10 days before the day of the scheduled election, by mailing notice to each registered voter in the local district; and

(e) by posting notice on the Utah Public Notice Website, created in Section [~~63F-1-701~~] 63A-12-201, for at least 10 days before the day of the scheduled election.

(5) A municipal legislative body that posts a notice in accordance with Subsection (2)(a) or a local district that posts a notice in accordance with Subsection (4)(a) is not liable for a notice that fails to post due to technical or other error by the publisher of the Statewide Electronic Voter Information Website.

Section 38. Section 20A-3a-604 (Superseded 07/01/21) is amended to read:

20A-3a-604 (Superseded 07/01/21). Notice of time and place of early voting.

(1) Except as provided in Section 20A-1-308 or Subsection 20A-3a-603(2), the election officer shall, at least 19 days before the date of the election, [~~publish~~] provide notice of the dates, times, and locations of early voting:

(a) (i) by publishing notice in at least one issue of a newspaper of general circulation in the county;

[~~(a) (i)~~] (ii) by posting one notice, and at least one additional notice per 2,000 population of the county, in places within the county that are most likely to give notice to the residents in the county, subject to a maximum of 10 notices; or

[~~(ii)~~] (iii) by mailing notice to each registered voter in the county;

(b) by posting [~~the~~] notice at each early voting polling place;

(c) by posting notice on the Utah Public Notice Website, created in Section 63A-12-201, for 19 days before the day of the election; and

(d) by posting notice on the county's website for 19 days before the day of the election.

(2) Instead of [~~publishing~~] specifying all dates, times, and locations of early voting [~~under Subsection (1), the election officer may publish a statement that specifies~~], a notice required under Subsection (1) may specify the following sources where a voter may view or obtain a copy of all dates, times, and locations of early voting:

(a) the county's website;

(b) the physical address of the county's offices; and

(c) a mailing address and telephone number.

(3) The election officer shall include in the notice described in Subsection (1):

(a) the address of the Statewide Electronic Voter Information Website and, if available, the address of the election officer's website, with a statement

indicating that the election officer will post on the website the location of each early voting polling place, including any changes to the location of an early voting polling place and the location of additional early voting polling places; and

(b) a phone number that a voter may call to obtain information regarding the location of an early voting polling place.

Section 39. Section 20A-3a-604 (Effective 07/01/21) is amended to read:

20A-3a-604 (Effective 07/01/21). Notice of time and place of early voting.

(1) Except as provided in Section 20A-1-308 or Subsection 20A-3a-603(2), the election officer shall, at least 19 days before the date of the election, [~~publish~~] provide notice of the dates, times, and locations of early voting:

(a) (i) by publishing notice in at least one issue of a newspaper of general circulation in the county;

[~~(a) (i)~~] (ii) by posting one notice, and at least one additional notice per 2,000 population of the county, in places within the county that are most likely to give notice to the residents in the county, subject to a maximum of 10 notices; or

[~~(ii)~~] (iii) by mailing notice to each registered voter in the county;

(b) by posting [~~the~~] notice at each early voting polling place;

(c) by posting notice on the Utah Public Notice Website, created in Section 63A-16-601, for 19 days before the day of the election; and

(d) by posting notice on the county's website for 19 days before the day of the election.

(2) Instead of [~~publishing~~] specifying all dates, times, and locations of early voting [~~under Subsection (1), the election officer may publish a statement that specifies~~], a notice required under Subsection (1) may specify the following sources where a voter may view or obtain a copy of all dates, times, and locations of early voting:

(a) the county's website;

(b) the physical address of the county's offices; and

(c) a mailing address and telephone number.

(3) The election officer shall include in the notice described in Subsection (1):

(a) the address of the Statewide Electronic Voter Information Website and, if available, the address of the election officer's website, with a statement indicating that the election officer will post on the website the location of each early voting polling place, including any changes to the location of an early voting polling place and the location of additional early voting polling places; and

(b) a phone number that a voter may call to obtain information regarding the location of an early voting polling place.

Section 40. Section 20A-4-104 (Superseded 07/01/21) is amended to read:

20A-4-104 (Superseded 07/01/21). Counting ballots electronically.

(1) (a) Before beginning to count ballots using automatic tabulating equipment, the election officer shall test the automatic tabulating equipment to ensure that it will accurately count the votes cast for all offices and all measures.

(b) The election officer shall [~~publish~~] provide public notice of the time and place of the test:

(i) (A) by publishing notice at least 48 hours before the test in a newspaper of general circulation in the county, municipality, or jurisdiction where the equipment is used;

[~~(i)~~] (B) at least 10 days before the day of the test [~~: (A)~~] by posting one notice, and at least one additional notice per 2,000 population of the county, municipality, or jurisdiction, in places within the county, municipality, or jurisdiction that are most likely to give notice to the voters in the county, municipality, or jurisdiction, subject to a maximum of 10 notices; or

[~~(B)~~] (C) at least 10 days before the day of the test, by mailing notice to each registered voter in the county, municipality, or jurisdiction where the equipment is used;

(ii) by posting notice on the Utah Public Notice Website, created in Section 63A-12-201, for four weeks before the day of the test; and

(iii) if the county, municipality, or jurisdiction has a website, by posting notice on the website for four weeks before the day of the test.

(c) The election officer shall conduct the test by processing a preaudited group of ballots.

(d) The election officer shall ensure that:

(i) a predetermined number of valid votes for each candidate and measure are recorded on the ballots;

(ii) for each office, one or more ballots have votes in excess of the number allowed by law in order to test the ability of the automatic tabulating equipment to reject those votes; and

(iii) a different number of valid votes are assigned to each candidate for an office, and for and against each measure.

(e) If any error is detected, the election officer shall determine the cause of the error and correct it.

(f) The election officer shall ensure that:

(i) the automatic tabulating equipment produces an errorless count before beginning the actual counting; and

(ii) the automatic tabulating equipment passes the same test at the end of the count before the election returns are approved as official.

(2) (a) The election officer or the election officer's designee shall supervise and direct all proceedings at the counting center.

(b) (i) Proceedings at the counting center are public and may be observed by interested persons.

(ii) Only those persons authorized to participate in the count may touch any ballot or return.

(c) The election officer shall deputize and administer an oath or affirmation to all persons who are engaged in processing and counting the ballots that they will faithfully perform their assigned duties.

(3) If any ballot is damaged or defective so that it cannot properly be counted by the automatic tabulating equipment, the election officer shall ensure that two counting judges jointly:

(a) make a true replication of the ballot with an identifying serial number;

(b) substitute the replicated ballot for the damaged or defective ballot;

(c) label the replicated ballot "replicated"; and

(d) record the replicated ballot's serial number on the damaged or defective ballot.

(4) The election officer may:

(a) conduct an unofficial count before conducting the official count in order to provide early unofficial returns to the public;

(b) release unofficial returns from time to time after the polls close; and

(c) report the progress of the count for each candidate during the actual counting of ballots.

(5) Beginning on the day after the date of the election, if an election officer releases early unofficial returns or reports the progress of the count for each candidate under Subsection (4), the election officer shall, with each release or report, disclose an estimate of the total number of voted ballots in the election officer's custody that have not yet been counted.

(6) The election officer shall review and evaluate the provisional ballot envelopes and prepare any valid provisional ballots for counting as provided in Section 20A-4-107.

(7) (a) The election officer or the election officer's designee shall:

(i) separate, count, and tabulate any ballots containing valid write-in votes; and

(ii) complete the standard form provided by the clerk for recording valid write-in votes.

(b) In counting the write-in votes, if, by casting a valid write-in vote, a voter has cast more votes for an office than that voter is entitled to vote for that office, the poll workers shall count the valid write-in vote as being the obvious intent of the voter.

(8) (a) The election officer shall certify the return printed by the automatic tabulating equipment, to which have been added write-in and absentee votes, as the official return of each voting precinct.

(b) Upon completion of the count, the election officer shall make official returns open to the public.

(9) If for any reason it becomes impracticable to count all or a part of the ballots with tabulating equipment, the election officer may direct that they be counted manually according to the procedures and requirements of this part.

(10) After the count is completed, the election officer shall seal and retain the programs, test materials, and ballots as provided in Section 20A-4-202.

Section 41. Section 20A-4-104 (Effective 07/01/21) is amended to read:

20A-4-104 (Effective 07/01/21). Counting ballots electronically.

(1) (a) Before beginning to count ballots using automatic tabulating equipment, the election officer shall test the automatic tabulating equipment to ensure that it will accurately count the votes cast for all offices and all measures.

(b) The election officer shall [~~publish~~] provide public notice of the time and place of the test:

(i) (A) by publishing notice at least 48 hours before the test in a newspaper of general circulation in the county, municipality, or jurisdiction where the equipment is used;

[~~(i)~~] (B) at least 10 days before the day of the test [~~: (A)~~], by posting one notice, and at least one additional notice per 2,000 population of the county, municipality, or jurisdiction, in places within the county, municipality, or jurisdiction that are most likely to give notice to the voters in the county, municipality, or jurisdiction, subject to a maximum of 10 notices; or

[~~(B)~~] (C) at least 10 days before the day of the test, by mailing notice to each registered voter in the county, municipality, or jurisdiction where the equipment is used;

(ii) by posting notice on the Utah Public Notice Website, created in Section 63A-16-601, for four weeks before the day of the test; and

(iii) if the county, municipality, or jurisdiction has a website, by posting notice on the website for four weeks before the day of the test.

(c) The election officer shall conduct the test by processing a preaudited group of ballots.

(d) The election officer shall ensure that:

(i) a predetermined number of valid votes for each candidate and measure are recorded on the ballots;

(ii) for each office, one or more ballots have votes in excess of the number allowed by law in order to test the ability of the automatic tabulating equipment to reject those votes; and

(iii) a different number of valid votes are assigned to each candidate for an office, and for and against each measure.

(e) If any error is detected, the election officer shall determine the cause of the error and correct it.

(f) The election officer shall ensure that:

(i) the automatic tabulating equipment produces an errorless count before beginning the actual counting; and

(ii) the automatic tabulating equipment passes the same test at the end of the count before the election returns are approved as official.

(2) (a) The election officer or the election officer's designee shall supervise and direct all proceedings at the counting center.

(b) (i) Proceedings at the counting center are public and may be observed by interested persons.

(ii) Only those persons authorized to participate in the count may touch any ballot or return.

(c) The election officer shall deputize and administer an oath or affirmation to all persons who are engaged in processing and counting the ballots that they will faithfully perform their assigned duties.

(3) If any ballot is damaged or defective so that it cannot properly be counted by the automatic tabulating equipment, the election officer shall ensure that two counting judges jointly:

(a) make a true replication of the ballot with an identifying serial number;

(b) substitute the replicated ballot for the damaged or defective ballot;

(c) label the replicated ballot "replicated"; and

(d) record the replicated ballot's serial number on the damaged or defective ballot.

(4) The election officer may:

(a) conduct an unofficial count before conducting the official count in order to provide early unofficial returns to the public;

(b) release unofficial returns from time to time after the polls close; and

(c) report the progress of the count for each candidate during the actual counting of ballots.

(5) Beginning on the day after the date of the election, if an election officer releases early unofficial returns or reports the progress of the count for each candidate under Subsection (4), the election officer shall, with each release or report, disclose an estimate of the total number of voted ballots in the election officer's custody that have not yet been counted.

(6) The election officer shall review and evaluate the provisional ballot envelopes and prepare any valid provisional ballots for counting as provided in Section 20A-4-107.

(7) (a) The election officer or the election officer's designee shall:

(i) separate, count, and tabulate any ballots containing valid write-in votes; and

(ii) complete the standard form provided by the clerk for recording valid write-in votes.

(b) In counting the write-in votes, if, by casting a valid write-in vote, a voter has cast more votes for an office than that voter is entitled to vote for that office, the poll workers shall count the valid write-in vote as being the obvious intent of the voter.

(8) (a) The election officer shall certify the return printed by the automatic tabulating equipment, to which have been added write-in and absentee votes, as the official return of each voting precinct.

(b) Upon completion of the count, the election officer shall make official returns open to the public.

(9) If for any reason it becomes impracticable to count all or a part of the ballots with tabulating equipment, the election officer may direct that they be counted manually according to the procedures and requirements of this part.

(10) After the count is completed, the election officer shall seal and retain the programs, test materials, and ballots as provided in Section 20A-4-202.

Section 42. Section 20A-4-304 (Superseded 07/01/21) is amended to read:

20A-4-304 (Superseded 07/01/21). Declaration of results -- Canvassers' report.

(1) Each board of canvassers shall:

(a) except as provided in Part 6, Municipal Alternate Voting Methods Pilot Project, declare "elected" or "nominated" those persons who:

(i) had the highest number of votes; and

(ii) sought election or nomination to an office completely within the board's jurisdiction;

(b) declare:

(i) "approved" those ballot propositions that:

(A) had more "yes" votes than "no" votes; and

(B) were submitted only to the voters within the board's jurisdiction;

(ii) "rejected" those ballot propositions that:

(A) had more "no" votes than "yes" votes or an equal number of "no" votes and "yes" votes; and

(B) were submitted only to the voters within the board's jurisdiction;

(c) certify the vote totals for persons and for and against ballot propositions that were submitted to voters within and beyond the board's jurisdiction and transmit those vote totals to the lieutenant governor; and

(d) if applicable, certify the results of each local district election to the local district clerk.

(2) As soon as the result is declared, the election officer shall prepare a report of the result, which shall contain:

(a) the total number of votes cast in the board's jurisdiction;

(b) the names of each candidate whose name appeared on the ballot;

(c) the title of each ballot proposition that appeared on the ballot;

(d) each office that appeared on the ballot;

(e) from each voting precinct:

(i) the number of votes for each candidate;

(ii) for each race conducted by instant runoff voting under Part 6, Municipal Alternate Voting Methods Pilot Project, the number of valid votes cast for each candidate for each potential ballot-counting phase and the name of the candidate excluded in each canvassing phase; and

(iii) the number of votes for and against each ballot proposition;

(f) the total number of votes given in the board's jurisdiction to each candidate, and for and against each ballot proposition;

(g) the number of ballots that were rejected; and

(h) a statement certifying that the information contained in the report is accurate.

(3) The election officer and the board of canvassers shall:

(a) review the report to ensure that it is correct; and

(b) sign the report.

(4) The election officer shall:

(a) record or file the certified report in a book kept for that purpose;

(b) prepare and transmit a certificate of nomination or election under the officer's seal to each nominated or elected candidate;

(c) publish a copy of the certified report in accordance with Subsection (5); and

(d) file a copy of the certified report with the lieutenant governor.

(5) Except as provided in Subsection (6), the election officer shall, no later than seven days after the day on which the board of canvassers declares the election results, [~~publish~~] publicize the certified report described in Subsection (2):

(a) (i) by publishing notice at least once in a newspaper of general circulation within the jurisdiction;

[~~(a) (i)~~] (ii) by posting one notice, and at least one additional notice per 2,000 population of the jurisdiction, in places within the jurisdiction that are most likely to give notice to the residents of the jurisdiction, subject to a maximum of 10 notices; or

[~~(ii)~~] (iii) by mailing notice to each residence within the jurisdiction;

(b) by posting notice on the Utah Public Notice Website, created in Section 63A-12-201, for one week; and

(c) if the jurisdiction has a website, by posting notice on the jurisdiction's website for one week.

(6) Instead of [~~publishing~~] including a copy of the entire certified report [~~under Subsection (5), the election officer may publish~~], a notice required under Subsection (5) may contain a statement that:

(a) includes the following: "The Board of Canvassers for [indicate name of jurisdiction] has prepared a report of the election results for the [indicate type and date of election].": and

(b) specifies the following sources where an individual may view or obtain a copy of the entire certified report:

(i) if the jurisdiction has a website, the jurisdiction's website;

(ii) the physical address for the jurisdiction; and

(iii) a mailing address and telephone number.

(7) When there has been a regular general or a statewide special election for statewide officers, for officers that appear on the ballot in more than one county, or for a statewide or two or more county ballot proposition, each board of canvassers shall:

(a) prepare a separate report detailing the number of votes for each candidate and the number of votes for and against each ballot proposition; and

(b) transmit the separate report by registered mail to the lieutenant governor.

(8) In each county election, municipal election, school election, local district election, and local special election, the election officer shall transmit the reports to the lieutenant governor within 14 days after the date of the election.

(9) In a regular primary election and in a presidential primary election, the board shall transmit to the lieutenant governor:

(a) the county totals for multi-county races, to be telephoned or faxed to the lieutenant governor not later than the second Tuesday after the election; and

(b) a complete tabulation showing voting totals for all primary races, precinct by precinct, to be mailed to the lieutenant governor on or before the third Friday following the primary election.

Section 43. Section 20A-4-304 (Effective 07/01/21) is amended to read:

20A-4-304 (Effective 07/01/21). Declaration of results -- Canvassers' report.

(1) Each board of canvassers shall:

(a) except as provided in Part 6, Municipal Alternate Voting Methods Pilot Project, declare "elected" or "nominated" those persons who:

(i) had the highest number of votes; and

(ii) sought election or nomination to an office completely within the board's jurisdiction;

(b) declare:

(i) "approved" those ballot propositions that:

(A) had more "yes" votes than "no" votes; and

(B) were submitted only to the voters within the board's jurisdiction;

(ii) "rejected" those ballot propositions that:

(A) had more "no" votes than "yes" votes or an equal number of "no" votes and "yes" votes; and

(B) were submitted only to the voters within the board's jurisdiction;

(c) certify the vote totals for persons and for and against ballot propositions that were submitted to voters within and beyond the board's jurisdiction and transmit those vote totals to the lieutenant governor; and

(d) if applicable, certify the results of each local district election to the local district clerk.

(2) As soon as the result is declared, the election officer shall prepare a report of the result, which shall contain:

(a) the total number of votes cast in the board's jurisdiction;

(b) the names of each candidate whose name appeared on the ballot;

(c) the title of each ballot proposition that appeared on the ballot;

(d) each office that appeared on the ballot;

(e) from each voting precinct:

(i) the number of votes for each candidate;

(ii) for each race conducted by instant runoff voting under Part 6, Municipal Alternate Voting Methods Pilot Project, the number of valid votes cast for each candidate for each potential ballot-counting phase and the name of the candidate excluded in each canvassing phase; and

(iii) the number of votes for and against each ballot proposition;

(f) the total number of votes given in the board's jurisdiction to each candidate, and for and against each ballot proposition;

(g) the number of ballots that were rejected; and

(h) a statement certifying that the information contained in the report is accurate.

(3) The election officer and the board of canvassers shall:

(a) review the report to ensure that it is correct; and

(b) sign the report.

(4) The election officer shall:

(a) record or file the certified report in a book kept for that purpose;

(b) prepare and transmit a certificate of nomination or election under the officer's seal to each nominated or elected candidate;

(c) publish a copy of the certified report in accordance with Subsection (5); and

(d) file a copy of the certified report with the lieutenant governor.

(5) Except as provided in Subsection (6), the election officer shall, no later than seven days after the day on which the board of canvassers declares the election results, [~~publish~~] publicize the certified report described in Subsection (2):

(a) (i) by publishing notice at least once in a newspaper of general circulation within the jurisdiction;

[~~(a) (i)~~] (ii) by posting one notice, and at least one additional notice per 2,000 population of the jurisdiction, in places within the jurisdiction that are most likely to give notice to the residents of the jurisdiction, subject to a maximum of 10 notices; or

[~~(ii)~~] (iii) by mailing notice to each residence within the jurisdiction;

(b) by posting notice on the Utah Public Notice Website, created in Section 63A-16-601, for one week; and

(c) if the jurisdiction has a website, by posting notice on the jurisdiction's website for one week.

(6) Instead of [~~publishing~~] including a copy of the entire certified report [~~under Subsection (5), the election officer may publish~~], a notice required under Subsection (5) may contain a statement that:

(a) includes the following: "The Board of Canvassers for [indicate name of jurisdiction] has prepared a report of the election results for the [indicate type and date of election].": and

(b) specifies the following sources where an individual may view or obtain a copy of the entire certified report:

(i) if the jurisdiction has a website, the jurisdiction's website;

(ii) the physical address for the jurisdiction; and

(iii) a mailing address and telephone number.

(7) When there has been a regular general or a statewide special election for statewide officers, for officers that appear on the ballot in more than one county, or for a statewide or two or more county ballot proposition, each board of canvassers shall:

(a) prepare a separate report detailing the number of votes for each candidate and the number of votes for and against each ballot proposition; and

(b) transmit the separate report by registered mail to the lieutenant governor.

(8) In each county election, municipal election, school election, local district election, and local special election, the election officer shall transmit the reports to the lieutenant governor within 14 days after the date of the election.

(9) In a regular primary election and in a presidential primary election, the board shall transmit to the lieutenant governor:

(a) the county totals for multi-county races, to be telephoned or faxed to the lieutenant governor not later than the second Tuesday after the election; and

(b) a complete tabulation showing voting totals for all primary races, precinct by precinct, to be mailed to the lieutenant governor on or before the third Friday following the primary election.

Section 44. Section 20A-5-101 (Superseded 07/01/21) is amended to read:

20A-5-101 (Superseded 07/01/21). Notice of election.

(1) On or before November 15 in the year before each regular general election year, the lieutenant governor shall prepare and transmit a written notice to each county clerk that:

(a) designates the offices to be filled at the next year's regular general election;

(b) identifies the dates for filing a declaration of candidacy, and for submitting and certifying nomination petition signatures, as applicable, under Sections 20A-9-403, 20A-9-407, and 20A-9-408 for those offices; and

(c) contains a description of any ballot propositions to be decided by the voters that have qualified for the ballot as of that date.

(2) (a) No later than seven business days after the day on which the lieutenant governor transmits the written notice described in Subsection (1), each county clerk shall [~~publish~~] provide notice, in accordance with Subsection (3):

[~~(a) (i)~~] (i) by posting notice in a conspicuous place most likely to give notice of the election to the voters in each voting precinct within the county; [~~and~~]

[~~(ii) prepare an affidavit of the posting, showing a copy of the notice and the places where the notice was posted;~~]

(ii) (A) by publishing notice in a newspaper of general circulation in the county;

[~~(b) (i)~~] (B) by posting one notice, and at least one additional notice per 2,000 population of the county, in places within the county that are most likely to give notice of the election to the voters in the county, subject to a maximum of 10 notices; or

[~~(ii)~~] (C) by mailing notice to each registered voter in the county;

[~~(c)~~] (iii) by posting notice on the Utah Public Notice Website, created in Section 63A-12-201, for seven days before the day of the election; and

[~~(d)~~] (iv) by posting notice on the county's website for seven days before the day of the election.

(b) The county clerk shall prepare an affidavit of the posting under Subsection (2)(a)(i), showing a copy of the notice and the places where the notice was posted.

(3) The notice described in Subsection (2) shall:

(a) designate the offices to be voted on in that election; and

(b) identify the dates for filing a declaration of candidacy for those offices.

(4) Except as provided in Subsection (6), before each election, the election officer shall give printed notice of the following information:

(a) the date of election;

(b) the hours during which the polls will be open;

(c) the polling places for each voting precinct, early voting polling place, and election day voting center;

(d) the address of the Statewide Electronic Voter Information Website and, if available, the address of the election officer's website, with a statement indicating that the election officer will post on the website any changes to the location of a polling place and the location of any additional polling place;

(e) a phone number that a voter may call to obtain information regarding the location of a polling place; and

(f) the qualifications for persons to vote in the election.

(5) [~~To provide the printed notice described in Subsection (4), the~~] The election officer shall [~~publish~~] provide the notice described in Subsection (4):

(a) (i) by publishing the notice in a newspaper of general circulation in the jurisdiction to which the election pertains, at least two days before the day of the election;

[~~(a) (i)~~] (ii) at least two days before the day of the election, by posting one notice, and at least one additional notice per 2,000 population of the jurisdiction, in places within the jurisdiction that are most likely to give notice of the election to the voters in the jurisdiction, subject to a maximum of 10 notices; or

[~~(ii)~~] (iii) by mailing the notice to each registered voter who resides in the jurisdiction to which the election pertains at least five days before the day of the election;

(b) by posting notice on the Utah Public Notice Website, created in Section 63A-12-201, for two days before the day of the election; and

(c) if the jurisdiction has a website, by posting notice on the jurisdiction's website for two days before the day of the election.

(6) Instead of including the information described in Subsection (4) in the notice, the election officer may give printed notice that:

(a) is entitled "Notice of Election";

(b) includes the following: "A [indicate election type] will be held in [indicate the jurisdiction] on

[indicate date of election]. Information relating to the election, including polling places, polling place hours, and qualifications of voters may be obtained from the following sources:"; and

(c) specifies the following sources where an individual may view or obtain the information described in Subsection (4):

(i) if the jurisdiction has a website, the jurisdiction's website;

(ii) the physical address of the jurisdiction offices; and

(iii) a mailing address and telephone number.

Section 45. Section 20A-5-101 (Effective 07/01/21) is amended to read:

20A-5-101 (Effective 07/01/21). Notice of election.

(1) On or before November 15 in the year before each regular general election year, the lieutenant governor shall prepare and transmit a written notice to each county clerk that:

(a) designates the offices to be filled at the next year's regular general election;

(b) identifies the dates for filing a declaration of candidacy, and for submitting and certifying nomination petition signatures, as applicable, under Sections 20A-9-403, 20A-9-407, and 20A-9-408 for those offices; and

(c) contains a description of any ballot propositions to be decided by the voters that have qualified for the ballot as of that date.

(2) (a) No later than seven business days after the day on which the lieutenant governor transmits the written notice described in Subsection (1), each county clerk shall [~~publish~~] provide notice, in accordance with Subsection (3):

[~~(a) (i)~~] (i) by posting notice in a conspicuous place most likely to give notice of the election to the voters in each voting precinct within the county; [~~and~~]

[~~(ii) prepare an affidavit of the posting, showing a copy of the notice and the places where the notice was posted;~~]

(ii) (A) by publishing notice in a newspaper of general circulation in the county;

[~~(b) (i)~~] (B) by posting one notice, and at least one additional notice per 2,000 population of the county, in places within the county that are most likely to give notice of the election to the voters in the county, subject to a maximum of 10 notices; or

[~~(ii)~~] (C) by mailing notice to each registered voter in the county;

[~~(c)~~] (iii) by posting notice on the Utah Public Notice Website, created in Section 63A-16-601, for seven days before the day of the election; and

[~~(d)~~] (iv) by posting notice on the county's website for seven days before the day of the election.

(b) The county clerk shall prepare an affidavit of the posting under Subsection (2)(a)(i), showing a copy of the notice and the places where the notice was posted.

(3) The notice described in Subsection (2) shall:

(a) designate the offices to be voted on in that election; and

(b) identify the dates for filing a declaration of candidacy for those offices.

(4) Except as provided in Subsection (6), before each election, the election officer shall give printed notice of the following information:

(a) the date of election;

(b) the hours during which the polls will be open;

(c) the polling places for each voting precinct, early voting polling place, and election day voting center;

(d) the address of the Statewide Electronic Voter Information Website and, if available, the address of the election officer's website, with a statement indicating that the election officer will post on the website any changes to the location of a polling place and the location of any additional polling place;

(e) a phone number that a voter may call to obtain information regarding the location of a polling place; and

(f) the qualifications for persons to vote in the election.

(5) [~~To provide the printed notice described in Subsection (4), the~~] The election officer shall [~~publish~~] provide the notice described in Subsection (4):

(a) (i) by publishing the notice in a newspaper of general circulation in the jurisdiction to which the election pertains, at least two days before the day of the election;

[~~(a) (i)~~] (ii) at least two days before the day of the election, by posting one notice, and at least one additional notice per 2,000 population of the jurisdiction, in places within the jurisdiction that are most likely to give notice of the election to the voters in the jurisdiction, subject to a maximum of 10 notices; or

[~~(ii)~~] (iii) by mailing the notice to each registered voter who resides in the jurisdiction to which the election pertains at least five days before the day of the election;

(b) by posting notice on the Utah Public Notice Website, created in Section 63A-16-601, for two days before the day of the election; and

(c) if the jurisdiction has a website, by posting notice on the jurisdiction's website for two days before the day of the election.

(6) Instead of including the information described in Subsection (4) in the notice, the election officer may give printed notice that:

(a) is entitled "Notice of Election";

(b) includes the following: "A [indicate election type] will be held in [indicate the jurisdiction] on [indicate date of election]. Information relating to the election, including polling places, polling place hours, and qualifications of voters may be obtained from the following sources:"; and

(c) specifies the following sources where an individual may view or obtain the information described in Subsection (4):

(i) if the jurisdiction has a website, the jurisdiction's website;

(ii) the physical address of the jurisdiction offices; and

(iii) a mailing address and telephone number.

Section 46. Section 20A-5-403.5 (Superseded 07/01/21) is amended to read:

20A-5-403.5 (Superseded 07/01/21). Ballot drop boxes.

(1) An election officer:

(a) may designate ballot drop boxes for the election officer's jurisdiction; and

(b) shall clearly mark each ballot drop box as an official ballot drop box for the election officer's jurisdiction.

(2) Except as provided in Section 20A-1-308 or Subsection (5), the election officer shall, at least 19 days before the date of the election, [~~publish~~] provide notice of the location of each ballot drop box designated under Subsection (1):

(a) (i) by publishing notice in at least one issue of a newspaper of general circulation in the jurisdiction holding the election;

[~~(a) (i)~~] (ii) by posting one notice, and at least one additional notice per 2,000 population of the jurisdiction holding the election, in places within the jurisdiction that are most likely to give notice to the residents in the jurisdiction, subject to a maximum of 10 notices; or

[~~(ii)~~] (iii) by mailing notice to each registered voter in the jurisdiction holding the election;

(b) by posting notice on the Utah Public Notice Website, created in Section 63A-12-201, for 19 days before the day of the election; and

(c) by posting notice on the jurisdiction's website for 19 days before the day of the election.

(3) Instead of [~~publishing~~] including the location of ballot drop boxes, a notice required under Subsection (2)[~~, the election officer may publish a statement that specifies~~] may specify the following sources where a voter may view or obtain a copy of all ballot drop box locations:

(a) the jurisdiction's website;

(b) the physical address of the jurisdiction's offices; and

(c) a mailing address and telephone number.

(4) The election officer shall include in the notice described in Subsection (2):

(a) the address of the Statewide Electronic Voter Information Website and, if available, the address of the election officer's website, with a statement indicating that the election officer will post on the website the location of each ballot drop box, including any changes to the location of a ballot drop box and the location of additional ballot drop boxes; and

(b) a phone number that a voter may call to obtain information regarding the location of a ballot drop box.

(5) (a) Except as provided in Section 20A-1-308, the election officer may, after the deadline described in Subsection (2):

(i) if necessary, change the location of a ballot drop box; or

(ii) if the election officer determines that the number of ballot drop boxes is insufficient due to the number of registered voters who are voting, designate additional ballot drop boxes.

(b) Except as provided in Section 20A-1-308, if an election officer changes the location of a ballot box or designates an additional ballot drop box location, the election officer shall, as soon as is reasonably possible, give notice of the changed ballot drop box location or the additional ballot drop box location:

(i) to the lieutenant governor, for posting on the Statewide Voter Information Website;

(ii) by posting the information on the website of the election officer, if available; and

(iii) by posting notice:

(A) for a change in the location of a ballot drop box, at the new location and, if possible, the old location; and

(B) for an additional ballot drop box location, at the additional ballot drop box location.

(6) An election officer may, at any time, authorize two or more poll workers to remove a ballot drop box from a location, or to remove ballots from a ballot drop box for processing.

Section 47. Section 20A-5-403.5 (Effective 07/01/21) is amended to read:

20A-5-403.5 (Effective 07/01/21). Ballot drop boxes.

(1) An election officer:

(a) may designate ballot drop boxes for the election officer's jurisdiction; and

(b) shall clearly mark each ballot drop box as an official ballot drop box for the election officer's jurisdiction.

(2) Except as provided in Section 20A-1-308 or Subsection (5), the election officer shall, at least 19 days before the date of the election, [~~publish~~] provide notice of the location of each ballot drop box designated under Subsection (1):

(a) (i) by publishing notice in at least one issue of a newspaper of general circulation in the jurisdiction holding the election;

[~~(a) (i)~~] (ii) by posting one notice, and at least one additional notice per 2,000 population of the jurisdiction holding the election, in places within the jurisdiction that are most likely to give notice to the residents in the jurisdiction, subject to a maximum of 10 notices; or

[~~(ii)~~] (iii) by mailing notice to each registered voter in the jurisdiction holding the election;

(b) by posting notice on the Utah Public Notice Website, created in Section 63A-16-601, for 19 days before the day of the election; and

(c) by posting notice on the jurisdiction's website for 19 days before the day of the election.

(3) Instead of [~~publishing~~] including the location of ballot drop boxes, a notice required under Subsection (2)[~~, the election officer may publish a statement that specifies~~] may specify the following sources where a voter may view or obtain a copy of all ballot drop box locations:

(a) the jurisdiction's website;

(b) the physical address of the jurisdiction's offices; and

(c) a mailing address and telephone number.

(4) The election officer shall include in the notice described in Subsection (2):

(a) the address of the Statewide Electronic Voter Information Website and, if available, the address of the election officer's website, with a statement indicating that the election officer will post on the website the location of each ballot drop box, including any changes to the location of a ballot drop box and the location of additional ballot drop boxes; and

(b) a phone number that a voter may call to obtain information regarding the location of a ballot drop box.

(5) (a) Except as provided in Section 20A-1-308, the election officer may, after the deadline described in Subsection (2):

(i) if necessary, change the location of a ballot drop box; or

(ii) if the election officer determines that the number of ballot drop boxes is insufficient due to the number of registered voters who are voting, designate additional ballot drop boxes.

(b) Except as provided in Section 20A-1-308, if an election officer changes the location of a ballot box or designates an additional ballot drop box location, the election officer shall, as soon as is reasonably possible, give notice of the changed ballot drop box location or the additional ballot drop box location:

(i) to the lieutenant governor, for posting on the Statewide Voter Information Website;

(ii) by posting the information on the website of the election officer, if available; and

(iii) by posting notice:

(A) for a change in the location of a ballot drop box, at the new location and, if possible, the old location; and

(B) for an additional ballot drop box location, at the additional ballot drop box location.

(6) An election officer may, at any time, authorize two or more poll workers to remove a ballot drop box from a location, or to remove ballots from a ballot drop box for processing.

Section 48. Section 20A-5-405 (Superseded 07/01/21) is amended to read:

20A-5-405 (Superseded 07/01/21). Election officer to provide ballots.

(1) An election officer shall:

(a) provide ballots for every election of public officers in which the voters, or any of the voters, within the election officer's jurisdiction participate;

(b) cause the name of every candidate whose nomination has been certified to or filed with the election officer in the manner provided by law to be included on each ballot;

(c) cause any ballot proposition that has qualified for the ballot as provided by law to be included on each ballot;

(d) ensure that the ballots are prepared and in the possession of the election officer before commencement of voting;

(e) allow candidates and their agents and the sponsors of ballot propositions that have qualified for the official ballot to inspect the ballots;

(f) cause sample ballots to be printed that are in the same form as official ballots and that contain the same information as official ballots but that are printed on different colored paper than official ballots or are identified by a watermark;

(g) ensure that the sample ballots are printed and in the possession of the election officer at least seven days before commencement of voting;

(h) make the sample ballots available for public inspection by:

(i) posting a copy of the sample ballot in the election officer's office at least seven days before commencement of voting;

(ii) mailing a copy of the sample ballot to:

(A) each candidate listed on the ballot; and

(B) the lieutenant governor;

(iii) [~~publishing~~] publicizing a copy of the sample ballot:

(A) at least seven days before the day of the election, by posting one copy of the sample ballot, and at least one additional copy of the sample ballot per 2,000 population of the jurisdiction, in places within the jurisdiction that are most likely to give

notice to the voters in the jurisdiction, subject to a maximum of 10 notices; or

(B) at least 10 days before the day of the election, by mailing a copy of the sample ballot to each registered voter who resides in the jurisdiction holding the election;

(iv) [~~publishing~~] posting a copy of the sample ballot on the Utah Public Notice Website, created in Section 63A-12-201, for seven days before the day of the election; and

(v) if the jurisdiction has a website, [~~publishing~~] posting a copy of the sample ballot on the jurisdiction's website for at least seven days before the day of the election;

(i) deliver at least five copies of the sample ballot to poll workers for each polling place and direct them to post the sample ballots as required by Section 20A-5-102; and

(j) print and deliver, at the expense of the jurisdiction conducting the election, enough ballots, sample ballots, and instructions to meet the voting demands of the qualified voters in each voting precinct.

(2) Instead of [~~publishing~~] posting the entire sample ballot under Subsection (1)(h)(iii)(A), the election officer may [~~publish~~] post a statement that:

(a) is entitled, "sample ballot";

(b) includes the following: "A sample ballot for [indicate name of jurisdiction] for the upcoming [indicate type and date of election] may be obtained from the following sources:"; and

(c) specifies the following sources where an individual may view or obtain a copy of the sample ballot:

(i) if the jurisdiction has a website, the jurisdiction's website;

(ii) the physical address of the jurisdiction's offices; and

(iii) a mailing address and telephone number.

(3) (a) Each election officer shall, without delay, correct any error discovered in any ballot, if the correction can be made without interfering with the timely distribution of the ballots.

(b) (i) If the election officer discovers an error or omission in a manual ballot, and it is not possible to correct the error or omission, the election officer shall direct the poll workers to make the necessary corrections on the manual ballots before the ballots are distributed.

(ii) If the election officer discovers an error or omission in an electronic ballot and it is not possible to correct the error or omission by revising the electronic ballot, the election officer shall direct the poll workers to post notice of each error or omission with instructions on how to correct each error or omission in a prominent position at each polling booth.

(c) (i) If the election officer refuses or fails to correct an error or omission in a ballot, a candidate or a candidate's agent may file a verified petition with the district court asserting that:

(A) an error or omission has occurred in:

(I) the publication of the name or description of a candidate;

(II) the preparation or display of an electronic ballot; or

(III) in the printing of sample or official manual ballots; and

(B) the election officer has failed to correct or provide for the correction of the error or omission.

(ii) The district court shall issue an order requiring correction of any error in a ballot or an order to show cause why the error should not be corrected if it appears to the court that the error or omission has occurred and the election officer has failed to correct or provide for the correction of the error or omission.

(iii) A party aggrieved by the district court's decision may appeal the matter to the Utah Supreme Court within five days after the day on which the district court enters the decision.

Section 49. Section 20A-5-405 (Effective 07/01/21) is amended to read:

20A-5-405 (Effective 07/01/21). Election officer to provide ballots.

(1) An election officer shall:

(a) provide ballots for every election of public officers in which the voters, or any of the voters, within the election officer's jurisdiction participate;

(b) cause the name of every candidate whose nomination has been certified to or filed with the election officer in the manner provided by law to be included on each ballot;

(c) cause any ballot proposition that has qualified for the ballot as provided by law to be included on each ballot;

(d) ensure that the ballots are prepared and in the possession of the election officer before commencement of voting;

(e) allow candidates and their agents and the sponsors of ballot propositions that have qualified for the official ballot to inspect the ballots;

(f) cause sample ballots to be printed that are in the same form as official ballots and that contain the same information as official ballots but that are printed on different colored paper than official ballots or are identified by a watermark;

(g) ensure that the sample ballots are printed and in the possession of the election officer at least seven days before commencement of voting;

(h) make the sample ballots available for public inspection by:

(i) posting a copy of the sample ballot in the election officer's office at least seven days before commencement of voting;

(ii) mailing a copy of the sample ballot to:

(A) each candidate listed on the ballot; and

(B) the lieutenant governor;

(iii) [~~publishing~~] publicizing a copy of the sample ballot:

(A) at least seven days before the day of the election, by posting one copy of the sample ballot, and at least one additional copy of the sample ballot per 2,000 population of the jurisdiction, in places within the jurisdiction that are most likely to give notice to the voters in the jurisdiction, subject to a maximum of 10 notices; or

(B) at least 10 days before the day of the election, by mailing a copy of the sample ballot to each registered voter who resides in the jurisdiction holding the election;

(iv) [~~publishing~~] posting a copy of the sample ballot on the Utah Public Notice Website, created in Section 63A-16-601, for seven days before the day of the election; and

(v) if the jurisdiction has a website, [~~publishing~~] posting a copy of the sample ballot on the jurisdiction's website for at least seven days before the day of the election;

(i) deliver at least five copies of the sample ballot to poll workers for each polling place and direct them to post the sample ballots as required by Section 20A-5-102; and

(j) print and deliver, at the expense of the jurisdiction conducting the election, enough ballots, sample ballots, and instructions to meet the voting demands of the qualified voters in each voting precinct.

(2) Instead of [~~publishing~~] posting the entire sample ballot under Subsection (1)(h)(iii)(A), the election officer may [~~publish~~] post a statement that:

(a) is entitled, "sample ballot";

(b) includes the following: "A sample ballot for [indicate name of jurisdiction] for the upcoming [indicate type and date of election] may be obtained from the following sources:"; and

(c) specifies the following sources where an individual may view or obtain a copy of the sample ballot:

(i) if the jurisdiction has a website, the jurisdiction's website;

(ii) the physical address of the jurisdiction's offices; and

(iii) a mailing address and telephone number.

(3) (a) Each election officer shall, without delay, correct any error discovered in any ballot, if the correction can be made without interfering with the timely distribution of the ballots.

(b) (i) If the election officer discovers an error or omission in a manual ballot, and it is not possible to correct the error or omission, the election officer shall direct the poll workers to make the necessary corrections on the manual ballots before the ballots are distributed.

(ii) If the election officer discovers an error or omission in an electronic ballot and it is not possible to correct the error or omission by revising the electronic ballot, the election officer shall direct the poll workers to post notice of each error or omission with instructions on how to correct each error or omission in a prominent position at each polling booth.

(c) (i) If the election officer refuses or fails to correct an error or omission in a ballot, a candidate or a candidate's agent may file a verified petition with the district court asserting that:

(A) an error or omission has occurred in:

(I) the publication of the name or description of a candidate;

(II) the preparation or display of an electronic ballot; or

(III) in the printing of sample or official manual ballots; and

(B) the election officer has failed to correct or provide for the correction of the error or omission.

(ii) The district court shall issue an order requiring correction of any error in a ballot or an order to show cause why the error should not be corrected if it appears to the court that the error or omission has occurred and the election officer has failed to correct or provide for the correction of the error or omission.

(iii) A party aggrieved by the district court's decision may appeal the matter to the Utah Supreme Court within five days after the day on which the district court enters the decision.

Section 50. Section 20A-9-203 (Superseded 07/01/21) is amended to read:

20A-9-203 (Superseded 07/01/21). Declarations of candidacy -- Municipal general elections.

(1) An individual may become a candidate for any municipal office if:

(a) the individual is a registered voter; and

(b) (i) the individual has resided within the municipality in which the individual seeks to hold elective office for the 12 consecutive months immediately before the date of the election; or

(ii) the territory in which the individual resides was annexed into the municipality, the individual has resided within the annexed territory or the municipality the 12 consecutive months immediately before the date of the election.

(2) (a) For purposes of determining whether an individual meets the residency requirement of Subsection (1)(b)(i) in a municipality that was incorporated less than 12 months before the election, the municipality is considered to have been incorporated 12 months before the date of the election.

(b) In addition to the requirements of Subsection (1), each candidate for a municipal council position

shall, if elected from a district, be a resident of the council district from which the candidate is elected.

(c) In accordance with Utah Constitution, Article IV, Section 6, a mentally incompetent individual, an individual convicted of a felony, or an individual convicted of treason or a crime against the elective franchise may not hold office in this state until the right to hold elective office is restored under Section 20A-2-101.3 or 20A-2-101.5.

(3) (a) An individual seeking to become a candidate for a municipal office shall, regardless of the nomination method by which the individual is seeking to become a candidate:

(i) except as provided in Subsection (3)(b) or Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project, and subject to Subsection 20A-9-404(3)(e), file a declaration of candidacy, in person with the city recorder or town clerk, during the office hours described in Section 10-3-301 and not later than the close of those office hours, between June 1 and June 7 of any odd-numbered year; and

(ii) pay the filing fee, if one is required by municipal ordinance.

(b) Subject to Subsection (5)(b), an individual may designate an agent to file a declaration of candidacy with the city recorder or town clerk if:

(i) the individual is located outside of the state during the entire filing period;

(ii) the designated agent appears in person before the city recorder or town clerk;

(iii) the individual communicates with the city recorder or town clerk using an electronic device that allows the individual and city recorder or town clerk to see and hear each other; and

(iv) the individual provides the city recorder or town clerk with an email address to which the city recorder or town clerk may send the individual the copies described in Subsection (4).

(c) Any resident of a municipality may nominate a candidate for a municipal office by:

(i) except as provided in Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project, filing a nomination petition with the city recorder or town clerk during the office hours described in Section 10-3-301 and not later than the close of those office hours, between June 1 and June 7 of any odd-numbered year that includes signatures in support of the nomination petition of the lesser of at least:

(A) 25 registered voters who reside in the municipality; or

(B) 20% of the registered voters who reside in the municipality; and

(ii) paying the filing fee, if one is required by municipal ordinance.

(4) (a) Before the filing officer may accept any declaration of candidacy or nomination petition, the filing officer shall:

(i) read to the prospective candidate or individual filing the petition the constitutional and statutory qualification requirements for the office that the candidate is seeking;

(ii) require the candidate or individual filing the petition to state whether the candidate meets the requirements described in Subsection (4)(a)(i); and

(iii) inform the candidate or the individual filing the petition that an individual who holds a municipal elected office may not, at the same time, hold a county elected office.

(b) If the prospective candidate does not meet the qualification requirements for the office, the filing officer may not accept the declaration of candidacy or nomination petition.

(c) If it appears that the prospective candidate meets the requirements of candidacy, the filing officer shall:

(i) inform the candidate that the candidate's name will appear on the ballot as it is written on the declaration of candidacy;

(ii) provide the candidate with a copy of the current campaign financial disclosure laws for the office the candidate is seeking and inform the candidate that failure to comply will result in disqualification as a candidate and removal of the candidate's name from the ballot;

(iii) provide the candidate with a copy of Section 20A-7-801 regarding the Statewide Electronic Voter Information Website Program and inform the candidate of the submission deadline under Subsection 20A-7-801(4)(a);

(iv) provide the candidate with a copy of the pledge of fair campaign practices described under Section 20A-9-206 and inform the candidate that:

(A) signing the pledge is voluntary; and

(B) signed pledges shall be filed with the filing officer; and

(v) accept the declaration of candidacy or nomination petition.

(d) If the candidate elects to sign the pledge of fair campaign practices, the filing officer shall:

(i) accept the candidate's pledge; and

(ii) if the candidate has filed for a partisan office, provide a certified copy of the candidate's pledge to the chair of the county or state political party of which the candidate is a member.

(5) (a) The declaration of candidacy shall be in substantially the following form:

"I, (print name) ____, being first sworn and under penalty of perjury, say that I reside at ____ Street, City of ____, County of ____, state of Utah, Zip Code ____, Telephone Number (if any) ____; that I am a registered voter; and that I am a candidate for the office of ____ (stating the term). I will meet the legal

qualifications required of candidates for this office. If filing via a designated agent, I attest that I will be out of the state of Utah during the entire candidate filing period. I will file all campaign financial disclosure reports as required by law and I understand that failure to do so will result in my disqualification as a candidate for this office and removal of my name from the ballot. I request that my name be printed upon the applicable official ballots. (Signed) _____

Subscribed and sworn to (or affirmed) before me by ____ on this _____(month\day\year).

(Signed) _____ (Clerk or other officer qualified to administer oath)."

(b) An agent designated under Subsection (3)(b) to file a declaration of candidacy may not sign the form described in Subsection (5)(a).

(c) (i) A nomination petition shall be in substantially the following form:

"NOMINATION PETITION

The undersigned residents of (name of municipality), being registered voters, nominate (name of nominee) for the office of (name of office) for the (length of term of office)."

(ii) The remainder of the petition shall contain lines and columns for the signatures of individuals signing the petition and each individual's address and phone number.

(6) If the declaration of candidacy or nomination petition fails to state whether the nomination is for the two-year or four-year term, the clerk shall consider the nomination to be for the four-year term.

(7) (a) The clerk shall verify with the county clerk that all candidates are registered voters.

(b) Any candidate who is not registered to vote is disqualified and the clerk may not print the candidate's name on the ballot.

(8) Immediately after expiration of the period for filing a declaration of candidacy, the clerk shall:

(a) [~~publish~~] publicize a list of the names of the candidates as they will appear on the ballot:

(i) (A) by publishing the list in at least two successive publications of a newspaper of general circulation in the municipality;

[~~(i) (A)~~] (B) by posting one copy of the list, and at least one additional copy of the list per 2,000 population of the municipality, in places within the municipality that are most likely to give notice to the voters in the municipality, subject to a maximum of 10 lists; or

[~~(B)~~] (C) by mailing [~~notice~~] the list to each registered voter in the municipality;

(ii) by posting the list on the Utah Public Notice Website, created in Section 63A-12-201, for seven days; and

(iii) if the municipality has a website, by posting the list on the municipality's website for seven days; and

(b) notify the lieutenant governor of the names of the candidates as they will appear on the ballot.

(9) Except as provided in Subsection (10)(c), an individual may not amend a declaration of candidacy or nomination petition filed under this section after the candidate filing period ends.

(10) (a) A declaration of candidacy or nomination petition that an individual files under this section is valid unless a person files a written objection with the clerk before 5 p.m. within 10 days after the last day for filing.

(b) If a person files an objection, the clerk shall:

(i) mail or personally deliver notice of the objection to the affected candidate immediately; and

(ii) decide any objection within 48 hours after the objection is filed.

(c) If the clerk sustains the objection, the candidate may, before 5 p.m. within three days after the day on which the clerk sustains the objection, correct the problem for which the objection is sustained by amending the candidate's declaration of candidacy or nomination petition, or by filing a new declaration of candidacy.

(d) (i) The clerk's decision upon objections to form is final.

(ii) The clerk's decision upon substantive matters is reviewable by a district court if prompt application is made to the district court.

(iii) The decision of the district court is final unless the Supreme Court, in the exercise of its discretion, agrees to review the lower court decision.

(11) A candidate who qualifies for the ballot under this section may withdraw as a candidate by filing a written affidavit with the municipal clerk.

Section 51. Section 20A-9-203 (Effective 07/01/21) is amended to read:

20A-9-203 (Effective 07/01/21). Declarations of candidacy -- Municipal general elections.

(1) An individual may become a candidate for any municipal office if:

(a) the individual is a registered voter; and

(b) (i) the individual has resided within the municipality in which the individual seeks to hold elective office for the 12 consecutive months immediately before the date of the election; or

(ii) the territory in which the individual resides was annexed into the municipality, the individual has resided within the annexed territory or the municipality the 12 consecutive months immediately before the date of the election.

(2) (a) For purposes of determining whether an individual meets the residency requirement of

Subsection (1)(b)(i) in a municipality that was incorporated less than 12 months before the election, the municipality is considered to have been incorporated 12 months before the date of the election.

(b) In addition to the requirements of Subsection (1), each candidate for a municipal council position shall, if elected from a district, be a resident of the council district from which the candidate is elected.

(c) In accordance with Utah Constitution, Article IV, Section 6, a mentally incompetent individual, an individual convicted of a felony, or an individual convicted of treason or a crime against the elective franchise may not hold office in this state until the right to hold elective office is restored under Section 20A-2-101.3 or 20A-2-101.5.

(3) (a) An individual seeking to become a candidate for a municipal office shall, regardless of the nomination method by which the individual is seeking to become a candidate:

(i) except as provided in Subsection (3)(b) or Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project, and subject to Subsection 20A-9-404(3)(e), file a declaration of candidacy, in person with the city recorder or town clerk, during the office hours described in Section 10-3-301 and not later than the close of those office hours, between June 1 and June 7 of any odd-numbered year; and

(ii) pay the filing fee, if one is required by municipal ordinance.

(b) Subject to Subsection (5)(b), an individual may designate an agent to file a declaration of candidacy with the city recorder or town clerk if:

(i) the individual is located outside of the state during the entire filing period;

(ii) the designated agent appears in person before the city recorder or town clerk;

(iii) the individual communicates with the city recorder or town clerk using an electronic device that allows the individual and city recorder or town clerk to see and hear each other; and

(iv) the individual provides the city recorder or town clerk with an email address to which the city recorder or town clerk may send the individual the copies described in Subsection (4).

(c) Any resident of a municipality may nominate a candidate for a municipal office by:

(i) except as provided in Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project, filing a nomination petition with the city recorder or town clerk during the office hours described in Section 10-3-301 and not later than the close of those office hours, between June 1 and June 7 of any odd-numbered year that includes signatures in support of the nomination petition of the lesser of at least:

(A) 25 registered voters who reside in the municipality; or

(B) 20% of the registered voters who reside in the municipality; and

(ii) paying the filing fee, if one is required by municipal ordinance.

(4) (a) Before the filing officer may accept any declaration of candidacy or nomination petition, the filing officer shall:

(i) read to the prospective candidate or individual filing the petition the constitutional and statutory qualification requirements for the office that the candidate is seeking;

(ii) require the candidate or individual filing the petition to state whether the candidate meets the requirements described in Subsection (4)(a)(i); and

(iii) inform the candidate or the individual filing the petition that an individual who holds a municipal elected office may not, at the same time, hold a county elected office.

(b) If the prospective candidate does not meet the qualification requirements for the office, the filing officer may not accept the declaration of candidacy or nomination petition.

(c) If it appears that the prospective candidate meets the requirements of candidacy, the filing officer shall:

(i) inform the candidate that the candidate's name will appear on the ballot as it is written on the declaration of candidacy;

(ii) provide the candidate with a copy of the current campaign financial disclosure laws for the office the candidate is seeking and inform the candidate that failure to comply will result in disqualification as a candidate and removal of the candidate's name from the ballot;

(iii) provide the candidate with a copy of Section 20A-7-801 regarding the Statewide Electronic Voter Information Website Program and inform the candidate of the submission deadline under Subsection 20A-7-801(4)(a);

(iv) provide the candidate with a copy of the pledge of fair campaign practices described under Section 20A-9-206 and inform the candidate that:

(A) signing the pledge is voluntary; and

(B) signed pledges shall be filed with the filing officer; and

(v) accept the declaration of candidacy or nomination petition.

(d) If the candidate elects to sign the pledge of fair campaign practices, the filing officer shall:

(i) accept the candidate's pledge; and

(ii) if the candidate has filed for a partisan office, provide a certified copy of the candidate's pledge to the chair of the county or state political party of which the candidate is a member.

(5) (a) The declaration of candidacy shall be in substantially the following form:

"I, (print name) ____, being first sworn and under penalty of perjury, say that I reside at ____ Street,

City of ____, County of ____, state of Utah, Zip Code ____, Telephone Number (if any) ____; that I am a registered voter; and that I am a candidate for the office of ____ (stating the term). I will meet the legal qualifications required of candidates for this office. If filing via a designated agent, I attest that I will be out of the state of Utah during the entire candidate filing period. I will file all campaign financial disclosure reports as required by law and I understand that failure to do so will result in my disqualification as a candidate for this office and removal of my name from the ballot. I request that my name be printed upon the applicable official ballots. (Signed) _____

Subscribed and sworn to (or affirmed) before me by ____ on this _____(month\day\year).

(Signed) _____ (Clerk or other officer qualified to administer oath)."

(b) An agent designated under Subsection (3)(b) to file a declaration of candidacy may not sign the form described in Subsection (5)(a).

(c) (i) A nomination petition shall be in substantially the following form:

"NOMINATION PETITION

The undersigned residents of (name of municipality), being registered voters, nominate (name of nominee) for the office of (name of office) for the (length of term of office)."

(ii) The remainder of the petition shall contain lines and columns for the signatures of individuals signing the petition and each individual's address and phone number.

(6) If the declaration of candidacy or nomination petition fails to state whether the nomination is for the two-year or four-year term, the clerk shall consider the nomination to be for the four-year term.

(7) (a) The clerk shall verify with the county clerk that all candidates are registered voters.

(b) Any candidate who is not registered to vote is disqualified and the clerk may not print the candidate's name on the ballot.

(8) Immediately after expiration of the period for filing a declaration of candidacy, the clerk shall:

(a) [~~publish~~] publicize a list of the names of the candidates as they will appear on the ballot:

(i) (A) by publishing the list in at least two successive publications of a newspaper of general circulation in the municipality;

[~~(i) (A)~~] (B) by posting one copy of the list, and at least one additional copy of the list per 2,000 population of the municipality, in places within the municipality that are most likely to give notice to the voters in the municipality, subject to a maximum of 10 lists; or

[~~(B)~~] (C) by mailing [~~notice~~] the list to each registered voter in the municipality;

(ii) by posting the list on the Utah Public Notice Website, created in Section 63A-16-601, for seven days; and

(iii) if the municipality has a website, by posting the list on the municipality's website for seven days; and

(b) notify the lieutenant governor of the names of the candidates as they will appear on the ballot.

(9) Except as provided in Subsection (10)(c), an individual may not amend a declaration of candidacy or nomination petition filed under this section after the candidate filing period ends.

(10) (a) A declaration of candidacy or nomination petition that an individual files under this section is valid unless a person files a written objection with the clerk before 5 p.m. within 10 days after the last day for filing.

(b) If a person files an objection, the clerk shall:

(i) mail or personally deliver notice of the objection to the affected candidate immediately; and

(ii) decide any objection within 48 hours after the objection is filed.

(c) If the clerk sustains the objection, the candidate may, before 5 p.m. within three days after the day on which the clerk sustains the objection, correct the problem for which the objection is sustained by amending the candidate's declaration of candidacy or nomination petition, or by filing a new declaration of candidacy.

(d) (i) The clerk's decision upon objections to form is final.

(ii) The clerk's decision upon substantive matters is reviewable by a district court if prompt application is made to the district court.

(iii) The decision of the district court is final unless the Supreme Court, in the exercise of its discretion, agrees to review the lower court decision.

(11) A candidate who qualifies for the ballot under this section may withdraw as a candidate by filing a written affidavit with the municipal clerk.

Section 52. Effective date.

(1) Except as provided in Subsection (2), if approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

(2) The amendments to the following sections take effect on July 1, 2021:

(a) Section 10-2-406 (Effective 07/01/21);

(b) Section 10-2-407 (Effective 07/01/21);

(c) Section 10-2-415 (Effective 07/01/21);

(d) Section 10-2-418 (Effective 07/01/21);

(e) Section 10-2-419 (Effective 07/01/21);

(f) Section 10-2-502.5 (Effective 07/01/21);

(g) Section 10-2-703 (Effective 07/01/21);

(h) Section 10-2-708 (Effective 07/01/21);

(i) Section 10-2a-210 (Effective 07/01/21);

(j) Section 10-2a-213 (Effective 07/01/21);

(k) Section 10-2a-214 (Effective 07/01/21);

(l) Section 10-2a-215 (Effective 07/01/21);

(m) Section 10-2a-405 (Effective 07/01/21);

(n) Section 10-18-203 (Effective 07/01/21);

(o) Section 11-14-202 (Effective 07/01/21);

(p) Section 17B-1-643 (Effective 07/01/21);

(q) Section 17B-2a-705 (Effective 07/01/21);

(r) Section 20A-3a-604 (Effective 07/01/21);

(s) Section 20A-4-104 (Effective 07/01/21);

(t) Section 20A-4-304 (Effective 07/01/21);

(u) Section 20A-5-101 (Effective 07/01/21);

(v) Section 20A-5-403.5 (Effective 07/01/21);

(w) Section 20A-5-405 (Effective 07/01/21); and

(x) Section 20A-9-203 (Effective 07/01/21).

Resolutions

passed at the

First Special Session

of the

Sixty-Fourth Legislature

2021

H. J. R. 101
Passed May 19, 2021
Effective May 19, 2021

JOINT RESOLUTION EXTENDING STATE OF EMERGENCY DUE TO DROUGHT CONDITIONS

Chief Sponsor: Keven J. Stratton
Senate Sponsor: David P. Hinkins

LONG TITLE

General Description:

This joint resolution extends a state of emergency due to drought conditions.

Highlighted Provisions:

This resolution:

- extends, for a designated time period, a state of emergency declared by the governor due to drought conditions; and
- limits certain emergency powers related to the state of emergency.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah:

WHEREAS, the governor has recognized, and the facts demonstrate, that extreme drought conditions exist in the state;

WHEREAS, these drought conditions are expected to persist, increasing and prolonging the threat of wildfire across the state and adversely impacting agribusiness and livestock production, and wildlife and natural habitats;

WHEREAS, the Legislature modified the procedures for declaring and extending a state of emergency by passing S.B. 195 during the 2021 General Session, which took effect on May 5, 2021;

WHEREAS, on May 13, 2021, the governor issued Executive Order 2021-13 declaring a state of emergency due to drought conditions;

WHEREAS, Executive Order 2021-13 activated the state Emergency Operations Plan, the state Drought Response Plan, and the state Drought Response Committee;

WHEREAS, Executive Order 2021-13 articulates the governor's intent to have the state Drought Response Committee identify and recommend actions to meet needs caused by the drought;

WHEREAS, the state Drought Response Plan calls for the Drought Response Committee to make recommendations to the governor about how to meet unmet needs caused by the drought and to assemble data needed to support a request by the governor for federal drought assistance;

WHEREAS, under Subsection 53-2a-206(2)(b), the Legislature may extend, by joint resolution and for a designated time period, a state of emergency declared by executive order of the governor;

WHEREAS, under Subsection 53-2a-206(4)(b), the Legislature may limit or restrict the governor's emergency powers for a state of emergency that is extended by a joint resolution;

WHEREAS, pursuant to Subsection 53-2a-204(4)(c), the Legislature finds that emergency drought conditions in the state warrant certain executive actions, but that the following emergency powers of the governor are not necessary to respond to the emergency drought conditions present at the time of this joint resolution:

- the emergency powers described in Subsections 53-2a-204(1)(c) through (f), (h), (i), and (j); and
- the emergency power described in Subsection 53-2a-209(4);

WHEREAS, the Legislature finds that the nature and current condition of the state of emergency warrants the continuation of the governor's emergency powers except for those emergency powers enumerated in the preceding paragraph;

WHEREAS, under Subsection 53-2a-206(4)(b), the Legislature may limit or restrict the emergency powers of the Division of Emergency Management for a state of emergency that is extended by a joint resolution;

WHEREAS, pursuant to Subsection 53-2a-206(4)(c), the Legislature finds that emergency drought conditions in the state at the time of this joint resolution warrant the limitation or restriction of the Division of Emergency Management's exercise of emergency powers described in Section 53-2a-104;

WHEREAS, pursuant to Subsection 53-2a-206(4)(c), the Legislature finds that before the Division of Emergency Management may exercise any emergency power described in Section 53-2a-104 under the state of emergency due to drought conditions, the Division of Emergency Management should obtain the governor's approval;

WHEREAS, under Subsection 53-2a-206(4)(b), the Legislature may limit or restrict the emergency powers of a chief executive officer of a political subdivision for a state of emergency that is extended by a joint resolution;

WHEREAS, pursuant to Subsection 53-2a-206(4)(c), the Legislature finds that emergency drought conditions in the state at the time of this joint resolution warrant the limitation or restriction of the emergency powers described in Section 53-2a-205 for a chief executive officer of a local political subdivision;

WHEREAS, pursuant to Subsection 53-2a-206(4)(c), the Legislature finds that the chief executive officer of a local political subdivision should not be authorized to exercise the emergency powers described in Section 53-2a-205 under the state of emergency due to drought conditions unless a local emergency for drought conditions is declared for that local political subdivision under Section 53-2a-208; and

WHEREAS, nothing in the preceding paragraph affects a county legislative body's powers under Section 17-8-7:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah extends the state of emergency due to drought conditions, declared by Executive Order 2021-13, through October 31, 2021.

BE IT FURTHER RESOLVED that under the state of emergency due to drought conditions, the governor may not exercise the emergency powers described in Subsections 53-2a-204(1)(c) through (f), (h), (i), and (j), and Subsection 53-2a-209(4).

BE IT FURTHER RESOLVED that, except for those powers enumerated in the preceding paragraph, the emergency powers of the governor remain in force under the state of emergency due to drought conditions.

BE IT FURTHER RESOLVED that under the state of emergency due to drought conditions, the Division of Emergency Management must obtain the governor's approval before exercising any emergency power described in Section 53-2a-104.

BE IT FURTHER RESOLVED that under the state of emergency due to drought conditions, the chief executive officer of a local political subdivision may not exercise the emergency powers described in Section 53-2a-205 unless the local political subdivision declares a local emergency for drought conditions under Section 53-2a-208.

BE IT FURTHER RESOLVED that the preceding paragraph does not affect a county legislative body's powers under Section 17-18-7.

BE IT FURTHER RESOLVED that a copy of this resolution be sent to Governor Spencer J. Cox and the Division of Water Resources.

S. C. R. 101
Passed May 19, 2021
Approved May 27, 2021
Effective May 28, 2021

CONCURRENT RESOLUTION HONORING ASIAN AMERICAN AND PACIFIC ISLANDER COMMUNITIES

Chief Sponsor: Jani Iwamoto
House Sponsor: Karen Kwan

LONG TITLE

General Description:

This resolution highlights the importance of Asian American and Pacific Islander communities to the state of Utah, condemns attacks perpetrated specifically against those communities, and encourages education and empathy.

Highlighted Provisions:

This resolution:

- describes the contributions of Asian Americans and Pacific Islanders to the state of Utah;
- honors the cultural and economic contributions of Asian Americans and Pacific Islanders to the state of Utah; and
- condemns, and encourages education and empathy to combat, anti-Asian hate.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:

WHEREAS, over 24 million Americans are Asian American or Pacific Islander;

WHEREAS, with an increase of over 50% in the past decade, Asian Americans are the fastest-growing minority population in the state of Utah and in the nation, according to estimates from the United States Census Bureau;

WHEREAS, the state of Utah is home to the fifth-largest Native Hawaiian and Other Pacific Islander population in the nation, with nearly 38,000 individuals;

WHEREAS, two Utah cities -- Salt Lake City and West Valley City -- have the largest and second-largest population of Tongans of any city in the United States;

WHEREAS, the total population of Native Hawaiians and Other Pacific Islanders in Salt Lake City is proportionally greater than any other city in the continental United States;

WHEREAS, Asian Americans and Pacific Islanders encompass a wide range of diversity, consisting of more than 56 ethnic groups and speaking over 100 different languages;

WHEREAS, Asian American and Pacific Islander communities have brought forward meaningful cultural and economic contributions to the state of Utah through numerous means;

WHEREAS, Asian Americans and Pacific Islanders are an important and integral part of the country and state's history, having been part of Utah's history for the past 150-plus years;

WHEREAS, the state of Utah has continually supported educational sites and resources to preserve and recognize facets of Asian American history, including the establishment of the Topaz Museum and Education Center;

WHEREAS, the state of Utah has honored culturally significant practices and traditions that are important to many Asian and Southeast Asian cultures, including the Lunar New Year;

WHEREAS, the month of May is Asian Pacific American Heritage Month, which celebrates the contributions of generations of Asian Americans and Pacific Islanders;

WHEREAS, Asian Americans and Pacific Islanders have helped build and unite this country for generations, from laying railroad tracks, starting businesses, and serving the nation in uniform, such that Asian American and Pacific Islander communities are deeply rooted in the history of the country and the state of Utah; and

WHEREAS, the state of Utah has a remarkable tradition of practicing compassion and affirming the concept that race and ethnicity do not determine nor limit value, opportunity, and life outcomes:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, encourages all Utahns to join the Legislature and Governor in celebrating the history, people, and cultures of Asian Americans and Pacific Islanders this month.

BE IT FURTHER RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, condemns anti-Asian hate and calls for increased civility, understanding, and respect.

BE IT FURTHER RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, encourages Utahns to seek opportunities to appreciate the rich cultural heritage and contributions of Asian Americans and Pacific Islanders and educational institutions to share the accomplishments and contributions of those communities with the state of Utah and the country.

S. J. R. 101
Passed May 19, 2021
Effective May 19, 2021

JOINT RESOLUTION APPROVING THE ACCEPTANCE OF FEDERAL FUNDS

Chief Sponsor: Don L. Ipson
House Sponsor: Bradley G. Last

LONG TITLE

General Description:

This joint resolution of the Legislature approves acceptance by the state of Utah of certain federal funds.

Highlighted Provisions:

This resolution:

- approves acceptance by the state of Utah of all federal funds from Public Law 117-2, American Rescue Plan Act of 2021.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah:

WHEREAS, on March 11, 2021, following Congressional approval, the President signed into law Public Law 117-2, American Rescue Plan Act of 2021;

WHEREAS, the American Rescue Plan Act of 2021 makes appropriations related to the COVID-19 public health emergency and its fiscal effects, including appropriations provided to the states through certain federal agencies;

WHEREAS, under the American Rescue Plan Act of 2021, the state of Utah is to receive federal funds in excess of $10,000,000 this year;

WHEREAS, Section 63J-5-204 of the Utah Code requires that the Legislature approve the state's receipt of new federal funds, if the state will receive total payments of $10,000,000 or more per year from the federal government:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah approves acceptance by the state of Utah of all new federal funds related to the COVID-19 public health emergency granted to the state of Utah under Public Law 117-2, American Rescue Plan Act of 2021.

BE IT FURTHER RESOLVED that a copy of this resolution be sent to Governor Cox and the members of Utah's Congressional delegation.

STATE OF UTAH

SPENCER J. COX
GOVERNOR

OFFICE OF THE GOVERNOR
SALT LAKE CITY, UTAH
84114-2220

DEIDRE M. HENDERSON
LIEUTENANT GOVERNOR

May 27, 2021

The Honorable Stuart Adams
President of the Senate

Chapter 010

And

The Honorable Brad Wilson
Speaker of the House

Dear President Adams and Speaker Wilson:

This letter serves to inform you that on May 27, 2021, I signed, S.B. 1001, Appropriations Adjustments with the following veto:

- Item 94, lines 1058-1063. This is an appropriation for a bill that did not pass.

Sincerely,

Spencer J. Cox
Governor

UTAH CODE SECTION INDEX

The following Code Section Index lists, in section order, each Utah Code section affected by bills passed during the 2021 General Session. The first column lists the section affected. The second column lists the action taken with the following abbreviations: A = Amends, E = Enacts, F = Former Section Number, N = Renumbered and Amended, R = Repeals, T = Technical Renumbers, X = Repeals and Reenacts. The third column lists the bill number. The fourth column lists either the former number or the new number, if applicable. The fifth column lists the chapter number.

See Technical Action Index (page 4129) for explanations and clarifications of sections that were technically renumbered.

Section	Action	Bill Number	Former/ Renumber	Chapter Number
2020 Sixth Special Session				
4-18-106.1 (Repealed 05/31/21)	A	SB6009		019
9-6-901	A	SB6009		019
9-6-902	A	SB6009		019
10-2-402	A	HB6007		007
10-2-418	A	HB6007		007
10-8-41.6	A	SB6008		018
15A-5-202.5	A	HB6004		004
17-50-333	A	SB6008		018
17B-1-503	A	HB6007		007
17C-1-416	E	SB6001		011
19-1-207	E	SB6004		014
20A-1-310	E	SB6007		017
20A-3a-501	A	SB6007		017
26-1-9	A	SB6006		016
26-18-3.8	A	HB6003		003
26-62-202	A	SB6008		018
31A-48-103	A	HB6011		008
32B-5-202	A	HB6006		006
32B-6-803	A	HB6006		006
32B-10-206	A	HB6006		006
32B-10-302	A	HB6006		006
32B-10-303	A	HB6006		006
32B-10-304	A	HB6006		006
32B-10-305	E	HB6006		006
35A-8-2302	A	SB6009		019
40-6-22	E	SB6004		014
46-1-7	A	HB6001		001
53B-8-112	A	SB6003		013
53B-8-114	A	SB6003		013
53F-2-302	A	HB6012		009
53F-2-304	A	HB6012		009
53F-2-312	A	HB6012		009
53F-2-523	E	HB6012		009
53G-6-502	A	HB6012		009
53G-6-504	A	HB6012		009
58-11a-302.5	A	HB6005		005
59-7-101	A	SB6005		015
59-7-106	A	SB6005		015
59-7-110	A	HB6013		010
59-7-402	A	SB6005		015
59-10-103	A	SB6005		015
59-10-114	A	SB6005		015
63I-1-210	A	SB6008		018
63I-1-217	A	SB6008		018
63I-1-258	A	HB6005		005
63I-2-220	A	SB6007		017
63I-2-232	A	HB6006		006
63I-2-253	A	SB6003		013
63J-1-201.5	A	SB6002		012
63N-12-508	A	SB6009		019
63N-14-101	A	SB6009		019
63N-14-102	A	SB6009		019
63N-14-201	A	SB6009		019
63N-15-102	A	SB6009		019
63N-15-103	A	SB6009		019
63N-15-201	A	SB6009		019
63N-15-301	A	SB6009		019
63N-15-501	E	SB6009		019
63N-15-502	E	SB6009		019
75-2-1401	E	HB6001		001
75-2-1402	E	HB6001		001
75-2-1403	E	HB6001		001
75-2-1404	E	HB6001		001
75-2-1405	E	HB6001		001
75-2-1406	E	HB6001		001
75-2-1407	E	HB6001		001
75-2-1408	E	HB6001		001
75-2-1409	E	HB6001		001
75-2-1410	E	HB6001		001
75-2-1411	E	HB6001		001
78B-6-802	A	SB6009		019
2021 General Session				
Rule 12	A	HJR007		
A6 S2	A	HJR012		
4-2-108	A	HB0163		126
4-2-203	E	HB0185		131
4-2-502	A	HB0163		126
4-2-503	A	HB0163		126
4-2-504	A	HB0163		126
4-2-701	E	HB0224		375
4-4a-101	E	SB0147		323
4-4a-102	E	SB0147		323
4-4a-103	E	SB0147		323
4-4a-104	E	SB0147		323
4-4a-105	E	SB0147		323
4-4a-106	E	SB0147		323
4-4a-107	E	SB0147		323
4-10-102	A	HB0375		295
4-10-104	A	HB0375		295
4-10-106	A	HB0375		295
4-10-107	A	HB0375		295
4-10-112	A	HB0375		295
4-10-114	E	HB0375		295
4-16-102	A	HB0241		153
4-16-201	A	HB0241		153
4-17-104	A	HB0163		126
4-18-102	A	HB0296		178
4-18-301	E	HB0296		178
4-18-302	E	HB0296		178
4-18-303	E	HB0296		178
4-18-304	E	HB0296		178
4-18-305	E	HB0296		178
4-18-306	E	HB0296		178
4-18-307	E	HB0296		178
4-18-308	E	HB0296		178
4-19-104	A	HB0163		126
4-20-103	A	HB0368		382
4-21-106	A	HB0027		084
4-21-106	A	SB0182		345
4-22-103	A	HB0375		295
4-22-107	A	HB0027		084
4-22-107	A	SB0182		345
4-24-102	A	HB0375		295
4-24-201	A	HB0375		295
4-24-202	A	HB0375		295
4-24-203	A	HB0375		295
4-24-204	A	HB0375		295
4-24-205	A	HB0375		295
4-24-303	A	HB0375		295
4-24-305	A	HB0375		295
4-24-306	A	HB0375		295
4-24-401	A	HB0375		295
4-24-402	A	HB0375		295
4-24-403	A	HB0375		295
4-24-405	A	HB0375		295
4-24-502	A	HB0375		295
4-24-504	A	HB0375		295
4-30-106	A	HB0027		084
4-30-106	A	SB0182		345
4-31-115	A	HB0375		295
4-37-104	A	HB0375		295
4-37-204	A	HB0375		295
4-37-502	A	HB0375		295
4-37-503	A	HB0375		295
4-39-108	A	HB0375		295
4-41a-102	A	SB0192		350
4-41a-102	A	SB0170		337
4-41a-107	A	SB0181		344
4-41a-201	A	SB0192		350
4-41a-201.1	E	SB0192		350
4-41a-203	A	SB0192		350
4-41a-204	A	SB0192		350
4-41a-301	A	SB0192		350
4-41a-403	A	SB0192		350
4-41a-501	A	SB0192		350
4-41a-602	A	SB0192		350
4-41a-602	A	SB0170		337
4-41a-603	A	SB0192		350
4-41a-701	A	SB0192		350
4-41a-702	A	SB0192		350
4-41a-901	A	SB0192		350
7-1-706	A	SB0182		345
7-1-706	A	HB0027		084
8-5-6	A	SB0201		355
9-1-101	A	HB0313		184
9-1-102	A	HB0313		184
9-1-201	A	HB0313		184
9-1-209	A	HB0313		184
9-1-209	A	HB0176		064
9-6-903	A	HB0176		064
9-6-903	A	HB0348		282
9-9-104.6	A	HB0348		282
9-9-104.6	A	HB0313		184
9-9-107	A	SB0010		189
9-9-112	E	SB0010		189
9-9-112	E	HB0341		380

Section	Action	Bill Number	Former/ Renumber	Chapter Number
9-9-113	T	SB0010	9-9-112	189
9-9-408	A	HB0346		280
9-20-201	A	HB0313		184
9-20-207	A	HB0313		184
9-22-102	A	HB0348		282
10-1-303	A	SB0058		210
10-1-304	A	SB0233		414
10-1-402	A	SB0058		210
10-1-403	A	SB0233		414
10-2-401	A	HB0115		112
10-2-401.5	A	HB0115		112
10-2-402	A	HB0115		112
10-2-402.5	E	HB0115		112
10-2-403	A	HB0115		112
10-2-405	A	HB0115		112
10-2-406	A	HB0027		084
10-2-406	A	SB0201		355
10-2-406	A	SB0182		345
10-2-407	A	SB0182		345
10-2-407	A	SB0201		355
10-2-407	A	HB0027		084
10-2-407	A	HB0115		112
10-2-408	A	HB0115		112
10-2-414	A	HB0115		112
10-2-415	A	HB0027		084
10-2-415	A	SB0201		355
10-2-415	A	SB0182		345
10-2-418	A	SB0182		345
10-2-418	A	SB0201		355
10-2-418	A	HB0027		084
10-2-419	A	HB0027		084
10-2-419	A	SB0201		355
10-2-419	A	SB0182		345
10-2-421	A	HB0141		054
10-2-501	A	HB0027		084
10-2-501	A	SB0182		345
10-2-502.5	A	SB0182		345
10-2-502.5	A	SB0201		355
10-2-502.5	A	HB0027		084
10-2-607	A	HB0027		084
10-2-607	A	SB0201		355
10-2-607	A	SB0182		345
10-2-703	A	SB0181		344
10-2-703	A	SB0201		355
10-2-703	A	HB0027		084
10-2-708	A	HB0027		084
10-2-708	A	SB0201		355
10-2-708	A	SB0182		345
10-2a-201.5	A	HB0115		112
10-2a-203	A	HB0115		112
10-2a-206	A	HB0115		112
10-2a-207	A	HB0115		112
10-2a-207	A	HB0027		084
10-2a-207	A	SB0182		345
10-2a-207	A	SB0201		355
10-2a-210	A	SB0201		355
10-2a-210	A	SB0182		345
10-2a-210	A	HB0027		084
10-2a-210	A	HB0115		112
10-2a-213	A	HB0027		084
10-2a-213	A	SB0182		345
10-2a-213	A	SB0201		355
10-2a-214	A	SB0201		355
10-2a-214	A	SB0182		345
10-2a-214	A	HB0027		084
10-2a-215	A	HB0027		084
10-2a-215	A	SB0182		345
10-2a-215	A	SB0201		355
10-2a-404	A	SB0201		355
10-2a-405	A	SB0201		355
10-2a-405	A	SB0182		345
10-2a-405	A	HB0027		084
10-2a-410	A	SB0201		355
10-3-301	A	SB0201		355
10-3-301	A	SB0182		345
10-3-301	A	HB0027		084
10-3-711	A	SB0201		355
10-3-818	A	SB0182		345
10-3-818	A	HB0027		084
10-3-913	A	HB0037		029
10-3-1105	A	HB0139		053
10-3c-204	A	SB0058		210
10-5-107.5	A	SB0182		345
10-5-107.5	A	HB0027		084
10-5-108	A	HB0027		084
10-5-108	A	SB0182		345
10-5-108	A	SB0201		355
10-5-112	A	SB0104		434
10-5-113	A	HB0128		052
10-6-113	A	HB0027		084
10-6-113	A	SB0182		345
10-6-113	A	SB0201		355
10-6-116	A	HB0128		052
10-6-133	A	SB0104		434
10-6-135.5	A	SB0182		345
10-6-135.5	A	HB0027		084
10-6-152	A	SB0201		355
10-7-16	A	SB0201		355
10-7-19	A	SB0201		355
10-7-19	A	SB0182		345
10-7-19	A	HB0027		084
10-8-2	A	HB0027		084
10-8-2	A	SB0182		345
10-8-2	A	SB0201		355
10-8-15	A	SB0201		355
10-8-15	A	SB0182		345
10-8-15	A	HB0027		084
10-8-41.6	A	SB0189		348
10-8-85.4	A	HB0082		102
10-8-501	E	SB0164		333
10-9a-103	A	HB0409		385
10-9a-103	A	HB0211		140
10-9a-203	A	HB0261		162
10-9a-203	A	HB0027		084
10-9a-203	A	SB0182		345
10-9a-204	A	SB0182		345
10-9a-204	A	SB0201		355
10-9a-204	A	HB0027		084
10-9a-205	A	HB0027		084
10-9a-205	A	SB0201		355
10-9a-205	A	SB0182		345
10-9a-208	A	SB0182		345
10-9a-208	A	HB0027		084
10-9a-302	A	HB0409		385
10-9a-304	A	SB0240		363
10-9a-305	A	HB0063		035
10-9a-401	A	HB0176		064
10-9a-401	A	SB0164		333
10-9a-404	A	SB0164		333
10-9a-404	A	HB0176		064
10-9a-408	A	HB0176		064
10-9a-408	A	SB0164		333
10-9a-501	A	HB0171		060
10-9a-505.5	A	HB0082		102
10-9a-507	A	HB0409		385
10-9a-509	A	HB0409		385
10-9a-509	A	HB0211		140
10-9a-510	A	HB0063		035
10-9a-511.5	A	HB0082		102
10-9a-523	A	HB0409		385
10-9a-524	A	HB0409		385
10-9a-528	A	HB0171		060
10-9a-529	A	HB0409		385
10-9a-530	E	HB0082		102
10-9a-530	E	HB0017		015
10-9a-530	E	HB0409		385
10-9a-531	E	HB0409		385
10-9a-531	T	HB0017	10-9a-530	015
10-9a-532	T	HB0409	10-9a-530	385
10-9a-601	A	HB0409		385
10-9a-603	A	SB0182		345
10-9a-603	A	HB0107		047
10-9a-603	A	HB0261		162
10-9a-604	A	HB0107		047
10-9a-608	A	HB0409		385
10-9a-609.5	A	HB0409		385
10-9a-701	A	HB0409		385
10-9a-801	A	HB0409		385
10-18-203	A	SB0182		345
10-18-203	A	SB0201		355
10-18-203	A	HB0027		084
10-18-302	A	HB0027		084
10-18-302	A	SB0201		355
10-18-302	A	SB0182		345
10-18-303	A	SB0201		355
11-13-204	A	SB0182		345
11-13-204	A	HB0027		084
11-13-219	A	SB0201		355
11-13-509	A	SB0182		345
11-13-509	A	HB0027		084
11-13-512	A	HB0128		052
11-13-531	A	HB0027		084
11-13-531	A	SB0182		345
11-13-603	A	HB0027		084
11-14-202	A	HB0027		084
11-14-202	A	SB0182		345
11-14-202	A	SB0201		355
11-14-301	A	HB0211		140

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11-14-315	A	SB0201		355
11-14-318	A	SB0201		355
11-14-318	A	SB0182		345
11-14-318	A	HB0027		084
11-14a-1	A	SB0201		355
11-17-18	A	HB0348		282
11-30-5	A	SB0201		355
11-36a-102	A	HB0063		035
11-36a-202	A	HB0063		035
11-36a-305	A	HB0063		035
11-36a-306	A	HB0063		035
11-36a-501	A	HB0027		084
11-36a-501	A	SB0181		344
11-36a-503	A	SB0182		345
11-36a-503	A	HB0027		084
11-36a-504	A	HB0027		084
11-36a-504	A	SB0182		345
11-38-102	A	SB0181		344
11-38-102	A	HB0305		181
11-38-201	A	HB0368		382
11-38-202	A	HB0305		181
11-38-203	A	HB0368		382
11-38-302	A	HB0305		181
11-39-103	A	SB0201		355
11-41-102	A	HB0030		367
11-42-102	A	SB0243		415
11-42-102	A	SB0037		314
11-42-106	A	SB0037		314
11-42-106	A	SB0243		415
11-42-201	A	SB0037		314
11-42-202	A	SB0182		345
11-42-202	A	SB0243		415
11-42-202	A	SB0201		355
11-42-202	A	HB0027		084
11-42-301	A	SB0201		355
11-42-402	A	SB0201		355
11-42-402	A	SB0182		345
11-42-402	A	HB0027		084
11-42-404	A	SB0201		355
11-42-411	A	SB0243		415
11-42-411	A	SB0037		314
11-42a-102	A	HB0346		280
11-42a-201	A	SB0201		355
11-45-102	A	HB0346		280
11-46-104	E	SB0104		434
11-48-101.5	E	HB0303		265
11-48-102	A	HB0303		265
11-48-103	E	HB0303		265
11-58-102	A	SB0243		415
11-58-106	E	SB0243		415
11-58-304	A	SB0243		415
11-58-502	A	SB0182		345
11-58-502	A	HB0027		084
11-58-503	A	HB0261		162
11-58-503	A	SB0182		345
11-58-801	A	SB0182		345
11-58-801	A	HB0027		084
11-58-901	A	HB0348		282
11-59-102	A	SB0243		415
11-59-104	E	SB0243		415
11-59-204	A	SB0243		415
11-59-302	A	HB0348		282
11-59-304	A	HB0348		282
11-59-401	A	HB0027		084
11-59-401	A	SB0182		345
11-59-501	A	HB0348		282
13-1-2	A	SB0182		345
13-1a-3	A	SB0181		344
13-2-1	A	HB0321		266
13-2-3	A	SB0181		344
13-2-6	A	SB0086		226
13-11-4	A	HB0242		154
13-11-4	A	HB0202		138
13-23-2	A	HB0321		266
13-23-3	A	HB0321		266
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13-23-6	A	HB0321		266
13-23-7	A	HB0321		266
13-25a-102	A	HB0360		289
13-25a-105	A	HB0360		289
13-25a-107	A	HB0360		289
13-32a-102	A	HB0199		066
13-32a-103	R	HB0199		066
13-32a-104	A	HB0199		066
13-32a-104.5	A	HB0199		066
13-32a-104.6	E	HB0199		066
13-32a-106	A	HB0199		066
13-32a-109	A	HB0199		066
13-32a-110	A	HB0199		066
13-34-105	A	HB0321		266
13-34a-102	A	HB0321		266
13-34a-204	A	HB0321		266
13-41-102	A	SB0086		226
13-41-201	A	SB0086		226
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13-55-102	A	HB0217		373
13-58-101	E	HB0202		138
13-58-101	E	HB0314		185
13-58-101	E	SB0227		361
13-58-102	E	SB0227		361
13-58-102	E	HB0314		185
13-58-102	E	HB0202		138
13-58-103	E	SB0227		361
13-58-201	E	SB0227		361
13-58-201	E	HB0202		138
13-58-201	E	HB0314		185
13-58-202	E	SB0227		361
13-58-301	E	SB0227		361
13-58-301	E	HB0314		185
13-58-302	E	HB0314		185
13-58-401	E	HB0314		185
13-58-402	E	HB0314		185
13-59-101	T	HB0202	13-58-101	138
13-59-102	T	HB0202	13-58-102	138
13-59-201	T	HB0202	13-58-201	138
13-60-101	T	SB0227	13-58-101	361
13-60-102	T	SB0227	13-58-102	361
13-60-201	T	SB0227	13-58-201	361
13-60-301	T	SB0227	13-58-301	361
15A-1-203	A	SB0033		199
15A-1-203	A	SB0181		344
15A-1-204	A	SB0033		199
15A-1-403	A	SB0033		199
15A-2-103	A	SB0033		199
15A-3-113	A	SB0033		199
15A-3-202	A	SB0033		199
15A-3-202	A	HB0082		102
15A-3-204	A	HB0082		102
15A-3-206	A	HB0082		102
15A-3-206	A	SB0033		199
15A-3-601	A	SB0033		199
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TECHNICAL ACTION INDEX

Subsection 36-12-12(2)(g) of the Utah code grants the legislative general counsel the power to "correct any technical errors . . . in order to enroll the legislation and prepare the laws for publication; . . . ." The following Technical Action Index lists Utah Code sections that were modified by the Office of Legislative Research and General Counsel after the 2021 General Session to resolve technical errors identified by the office. The modified sections are listed in order by the section numbers used to identify them in the bills.

Section Number Used In Bill	Codified as Section Number	Action	Bill Number	Chapter Number	Additional Information
9-9-112	9-9-113	T	S.B. 10	189	Technically renumbered to avoid duplication of section number also enacted in HB341, Chapter 380.
10-9a-530	10-9a-531	T	H.B. 17	15	Technically renumbered to avoid duplication of section number also enacted in HB82, Chapter 102, and HB409, Chapter 385.
10-9a-530	10-9a-532	T	H.B. 409	385	Technically renumbered to avoid duplication of section number also enacted in HB82, Chapter 102, and HB17, Chapter 15.
13-58-101	13-59-101	T	H.B. 202	138	Technically renumbered to avoid duplication of section number also enacted in HB314, Chapter 185, and SB227, Chapter 361.
13-58-101	13-60-101	T	S.B. 227	361	Technically renumbered to avoid duplication of section number also enacted in HB314, Chapter 185, and HB202, Chapter 138.
13-58-102	13-59-102	T	H.B. 202	138	Technically renumbered to avoid duplication of section number also enacted in HB314, Chapter 185, and SB227, Chapter 361.
13-58-102	13-60-102	T	S.B. 227	361	Technically renumbered to avoid duplication of section number also enacted in HB314, Chapter 185, and HB202, Chapter 138.
13-58-103	13-60-103	T	S.B. 227	361	Technically renumbered to for proper placement with chapter.
13-58-201	13-59-201	T	H.B. 202	138	Technically renumbered to avoid duplication of section number also enacted in HB314, Chapter 185, and SB227, Chapter 361.
13-58-201	13-60-201	T	S.B. 227	361	Technically renumbered to avoid duplication of section number also enacted in HB314, Chapter 185, and HB202, Chapter 138.
13-58-202	13-60-202	T	S.B. 227	361	Technically renumbered to for proper placement with chapter.
13-58-301	13-60-301	T	S.B. 227	361	Technically renumbered to avoid duplication of section number also enacted in HB314, Chapter 185.

Section Number Used In Bill	Codified as Section Number	Action	Bill Number	Chapter Number	Additional Information
17-27a-526	17-27a-527	T	H.B. 17	15	Technically renumbered to avoid duplication of section number also enacted in HB82, Chapter 102, and HB409, Chapter 385.
17-27a-526	17-27a-528	T	H.B. 409	385	Technically renumbered to avoid duplication of section number also enacted in HB82, Chapter 102, and HB17, Chapter 15.
26-6-33	26-6-41	T	H.B. 294	433	Technically renumbered for proper placement in title.
26-6-33	26-6-42	T	S.B. 107	435	Technically renumbered for proper placement in title.
26-18-424	26-18-425	T	H.B. 34	27	Technically renumbered to avoid duplication of section number also enacted in SB155, Chapter 76, and SB63, Chapter 212.
26-18-424	26-18-426	T	S.B. 63	212	Technically renumbered to avoid duplication of section number also enacted in SB155, Chapter 76, and HB34, Chapter 27.
53-2a-218	53-2a-220	T	H.B. 294	433	Technically renumbered to avoid duplication of section number also enacted in SB195, Chapter 437.
53B-2-112	53B-2-113	T	H.B. 233	258	Technically renumbered to avoid duplication of section number also enacted in HB318, Chapter 187.
53B-16-502	53B-31-401	T	H.B. 278	169	Coordination Clause from HB278, Chapter 169 to renumber Section.
53B-27-401	53B-27-405	T	S.B. 244	364	Technically renumbered to avoid duplication of section number also enacted in HB159, Chapter 125.
53B-30-101	53B-31-101	T	H.B. 279	379	Technically renumbered to avoid duplication of section number also enacted in SB172, Chapter 425, and HB348, Chapter 282.
53B-30-101	53B-32-101	T	H.B. 348	282	Technically renumbered to avoid duplication of section number also enacted in SB172, Chapter 425, and HB279, Chapter 379.

Section Number Used In Bill	Codified as Section Number	Action	Bill Number	Chapter Number	Additional Information
53B-30-102	53B-32-102	T	H.B. 348	282	Technically renumbered to for proper placement with chapter.
53B-30-201	53B-31-201	T	H.B. 279	379	Technically renumbered to avoid duplication of section number also enacted in SB172, Chapter 425, and HB348, Chapter 282.
53B-30-201	53B-32-201	T	H.B. 348	282	Technically renumbered to avoid duplication of section number also enacted in SB172, Chapter 425, and HB279, Chapter 379.
53B-30-301	53B-31-301	T	H.B. 279	379	Technically renumbered to for proper placement with chapter.
53F-2-209	53F-2-210	T	H.B. 2	439	Technically renumbered to avoid duplication of section number also enacted in SB178, Chapter 341.
53F-2-418	53F-2-419	T	H.B. 2	439	Technically renumbered to avoid duplication of section number also enacted in HB450, Chapter 310, and HB421, Chapter 307.
53F-2-418	53F-2-420	T	H.B. 421	307	Technically renumbered to avoid duplication of section number also enacted in HB450, Chapter 310, and HB2, Chapter 439.
53G-9-210	53G-9-211	T	H.B. 426	309	Technically renumbered to avoid duplication of section number also enacted in SB107, Chapter 435.
59-10-1042	59-10-1043	T	S.B. 11	68	Technically renumbered to avoid duplication of section number also enacted in HB86, Chapter 428.
62A-2-123	62A-2-125	T	H.B. 135	117	Technically renumbered for proper placement in title.
62A-15-120	62A-15-121	T	H.B. 336	277	Technically renumbered to avoid duplication of section number also enacted in HB248, Chapter 156, HB337, Chapter 278, and SB155, Chapter 76.
62A-15-120	62A-15-122	T	H.B. 337	278	Technically renumbered to avoid duplication of section number also enacted in HB248, Chapter 156, HB336, Chapter 277, and SB155, Chapter 76.

Section Number Used In Bill	Codified as Section Number	Action	Bill Number	Chapter Number	Additional Information
62A-15-120	62A-15-123	T	S.B. 155	76	Technically renumbered to avoid duplication of section number also enacted in HB248, Chapter 156, HB336, Chapter 277, and HB337, Chapter 278.
63A-16-101	63A-18-101	T	H.B. 27	84	Technically renumbered to avoid duplication of section number also enacted in SB181, Chapter 344.
63A-16-102	63A-18-102	T	H.B. 27	84	Technically renumbered to avoid duplication of section number also enacted in SB181, Chapter 344.
63A-16-201	63A-18-201	T	H.B. 27	84	Technically renumbered to avoid duplication of section number also enacted in SB181, Chapter 344.
63A-16-202	63A-18-202	T	H.B. 27	84	Technically renumbered to avoid duplication of section number renumbered and amended in SB181, Chapter 344.
63B-31-101	63B-31-102	T	H.B. 244	420	Technically renumbered to avoid duplication of section number also enacted in HB433, Chapter 387.
63B-31-102	63B-31-103	T	H.B. 244	420	Technically renumbered for proper placement in title.
63C-23-101	63C-24-101	T	H.B. 243	155	Technically renumbered to avoid duplication of section number also enacted in HB288, Chapter 171.
63C-23-102	63C-24-102	T	H.B. 243	155	Technically renumbered to avoid duplication of section number also enacted in HB288, Chapter 171.
63C-23-201	63C-24-201	T	H.B. 243	155	Technically renumbered to avoid duplication of section number also enacted in HB288, Chapter 171.
63C-23-202	63C-24-202	T	H.B. 243	155	Technically renumbered to avoid duplication of section number also enacted in HB288, Chapter 171.
63F-1-108	63A-16-107	T	H.B. 27	84	Technically renumbered for proper placement in Title.
63M-14-101	63M-15-101	T	H.B. 55	91	Technically renumbered to avoid duplication of section number also enacted in HB297, Chapter 179.

Section Number Used In Bill	Codified as Section Number	Action	Bill Number	Chapter Number	Additional Information
63M-14-102	63M-15-102	T	H.B. 55	91	Technically renumbered to avoid duplication of section number also enacted in HB297, Chapter 179.
63M-14-201	63M-15-201	T	H.B. 55	91	Technically renumbered to avoid duplication of section number also enacted in HB297, Chapter 179.
63M-14-202	63M-15-202	T	H.B. 55	91	Technically renumbered to avoid duplication of section number also enacted in HB297, Chapter 179.
63M-14-203	63M-15-203	T	H.B. 55	91	Technically renumbered to avoid duplication of section number also enacted in HB297, Chapter 179.
63M-14-204	63M-15-204	T	H.B. 55	91	Technically renumbered to avoid duplication of section number also enacted in HB297, Chapter 179.
63M-14-205	63M-15-205	T	H.B. 55	91	Technically renumbered to avoid duplication of section number also enacted in HB297, Chapter 179.
63M-14-206	63M-15-206	T	H.B. 55	91	Technically renumbered to avoid duplication of section number also enacted in HB297, Chapter 179.
63N-3-601	63N-3-701	T	S.B. 194	407	Technically renumbered to avoid duplication of section number also enacted in SB217, Chapter 411.
63N-3-602	63N-3-702	T	S.B. 194	407	Technically renumbered to avoid duplication of section number also enacted in SB217, Chapter 411.
63N-3-603	63N-3-703	T	S.B. 194	407	Technically renumbered to avoid duplication of section number also enacted in SB217, Chapter 411.
63N-16-101	63N-17-101	T	H.B. 348	282	Technically renumbered to avoid duplication of section number also enacted in HB217, Chapter 373, and HB404, Chapter 304.
63N-16-101	63N-18-101	T	H.B. 404	304	Technically renumbered to avoid duplication of section number also enacted in HB217, Chapter 373, and HB348, Chapter 282.

Section Number Used In Bill	Codified as Section Number	Action	Bill Number	Chapter Number	Additional Information
63N-16-102	63N-17-102	T	H.B. 348	282	Technically renumbered to avoid duplication of section number also enacted in HB404, Chapter 304, and HB217, Chapter 373.
63N-16-102	63N-18-102	T	H.B. 404	304	Technically renumbered to avoid duplication of section number also enacted in HB348, Chapter 282, and HB217, Chapter 373.
63N-16-103	63N-18-103	T	H.B. 404	304	Technically renumbered to avoid duplication of section number also enacted in HB217, Chapter 373.
63N-16-104	63N-18-104	T	H.B. 404	304	Technically renumbered to avoid duplication of section number also enacted in HB217, Chapter 373.
63N-16-201	63N-17-201	T	H.B. 348	282	Technically renumbered to avoid duplication of section number also enacted in HB217, Chapter 373.
63N-16-202	63N-17-202	T	H.B. 348	282	Technically renumbered to avoid duplication of section number also enacted in HB217, Chapter 373.
63N-16-301	63N-17-301	T	H.B. 348	282	Technically renumbered to avoid duplication of section number also enacted in HB217, Chapter 373.
63N-16-302	63N-17-302	T	H.B. 348	282	Technically renumbered to for proper placement with chapter.
67-3-12	67-3-13	T	H.B. 243	155	Technically renumbered to avoid duplication of section number renumbered and amended in HB27, Chapter 84.
67-19-12.6	63A-17-109	T	H.B. 65	97	Technically renumbered for proper placement in title.
67-19-12.6	63A-17-110	T	H.B. 252	158	Technically renumbered for proper placement in title.
67-19-46	63A-17-111	T	S.B. 15	192	Technically renumbered for proper placement in title.

SUBJECT INDEX

The following topical or subject index is intended to aid in locating a bill according to its subject matter. Titles of bills are listed under the subject heading and are followed by the page numbers on which they begin.

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